

**STATE OF MICHIGAN
IN THE SUPREME COURT
On Appeal from the Michigan Court of Appeals
(Judges Gleicher, Boonstra and Tukul)**

SAMUEL JEROME,

Plaintiff-Appellant,

Case No. 15-148401-CZ
Hon. Denise Langford Morris
COA No. 335328
MSC No. 159093

v

LIEUTENANT MICHAEL CRUM, in his
Individual and Representative Capacity,
And the CITY OF BERKLEY, a
Municipal entity,

Defendants-Appellees.

APPELLANT'S APPENDIX

Johnson Law, PLC
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Dated: November 15, 2019

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CR No: 130005558



BERKLEY PSD

 2995 12 MILE RD
 BERKLEY MI 48072
 2486583393


Case Report

Administrative Details:

CR No	Subject
130005558	C3324 - Suspicious Circumstances
Report Date/Time	Occurrence Date/Time
08/08/2013 10:44	08/08/2013 10:44
Location	Call Source
3600 PHILLIPS AVE	TELEPHONE
Dispatched Officer	Visited Officer
C3324 SUSP CIRCUMSTA	1171 CSC 1st Degree - Penetration Penis/Vagina
Officer	Officer Control Number
Crum, Michael (BECRUMME-01038)	
County	City/Town/Village
63 - Oakland	88 - Berkeley
Division	
Investigation	
Action Requested:	
<input checked="" type="checkbox"/> Arrest warrant	<input type="checkbox"/> Review only
<input type="checkbox"/> Search warrant	<input type="checkbox"/> Forfeiture
<input type="checkbox"/> Juvenile petition	<input type="checkbox"/> Other
Agency Contact: Sgt Mike Crum	Contact Number: 248.658.3393

001

CR No: 13005555



Offenses:		
11A - CSC 1st Degree - Penetration Penis/Vagina		
IR Code / IR Group	Offense File Class	
11A - Forcible Rape / A	11001 - SEXUAL PENETRATION PENIS/VAGINA - CSC 1ST DEGREE	
Crime Against	Location Type	Offense Completed
PE	20 - Residence/Home	Completed
Domestic Violence	Race/Bias	
No	00 - None (No Bias)	
Using		Cargo Theft
A-Alcohol: No C-Computer Equipment: No D-Drugs/Narcotics: No		
Weapons		
00 - None		
Criminal Activity		
N - None/Unknown		

4805 - Witness - Dissuading [BECRUMME (01036)]		
IR Code / IR Group	Offense File Class	
80Z - All Other Offenses / B	48000 - OBSTRUCTING POLICE	
Crime Against	Location Type	Offense Completed
20 - Residence/Home	Completed	
Domestic Violence	Race/Bias	
No	00 - None (No Bias)	
Using		Cargo Theft
A-Alcohol: No C-Computer Equipment: No D-Drugs/Narcotics: No		

People:									
JEROME, SAMUEL JAMES (S-SUSPECT) [BECRUMME (01039)]									
Last Name	First Name	Middle Name	State	Aliases					
Jerome	Samuel	James							
Aliases	Driver License	DL State	DL Country	Personal ID					
		MI	USA						
DOB (Age)	Sex	Race	City	Birth City & State	Birth Country	Country of Citizenship			
05/19/1972 (40)	M	WHITE	Unknown						
Complexion	Build	Height	Weight	Age					
		5' 11"							
Street Address	Apartment	County	Country	Home Phone	Work Phone				
[REDACTED]		Oakland	USA						
City	State	Zip	Cell Phone	Email					
Berkeley	MI	48072	[REDACTED]						

KRAHE, STACEY LYNN (S-SUSPECT) [BECRUMME (01038)]									
Last Name	First Name	Middle Name	State	Aliases					
Krahe	Stacey	Lynn							
Aliases	Driver License	DL State	DL Country	Personal ID					
		MI	USA						
DOB (Age)	Sex	Race	City	Birth City & State	Birth Country	Country of Citizenship			
04/11/1977 (38)	F	WHITE	Unknown						
Complexion	Build	Height	Weight	Age					
		5' 3"							
Street Address	Apartment	County	Country	Home Phone	Work Phone				
[REDACTED]		Oakland	USA						
City	State	Zip	Cell Phone	Email					
Berkeley	MI	48072	[REDACTED]						

[REDACTED] [BECRUMME (01038)]									

CR No: 12000555



Victim Type		Victim of					
I - Individual		1171 - C&C 1st Degree Penetration Penis/Vagina, 4805 - Witness - Dissuading					
PE	W Type	Last Name	First Name	Middle Name	Sex	Maiden Name	
	VC						
Aliases		Driver License		DL State	DL Country	Personal ID#	
A11a							
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship	
	F	WHITE	Unknown				
Street Address		Apt #	County	Country	Home Phone	Work Phone	
			Oakland	USA			
City	State	Zip	Cell Phone	Email			
Berkeley	CA	48072					
Victim Injury							
N - None							

Victim Offender Relationships

Offender	Type	Relationship
Jerome, Samuel James	S-SUSPECT	10-Victim Was Stepchild
Krue, Stacey Lynn	S-SUSPECT	05-Victim Was Child

MILLER, COREY (O-OTHER) (L-POLICE OFFICER) [BECRUMME (01036)]

PE	W Type	Last Name	First Name	Middle Name	Sex	Maiden Name	
	OF	Miller	Corey				
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship	
		UNKNOWN					
Phone/Email							
Type				Description			
BU-Business Phone #1							
Notes							
Detective							

SCHUSTER, TRICIA (O-OTHER) (L-POLICE OFFICER) [BECRUMME (01036)]

PE	W Type	Last Name	First Name	Middle Name	Sex	Maiden Name	
	MS	Schuster	Tricia				
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship	
	F	WHITE	Unknown				
Phone/Email							
Type				Description			
BU-Business Phone #1							
Notes							
CARE house Forensic Interviewer							

CRUM, MICHAEL (O-OTHER) (L-POLICE OFFICER) [BECRUMME (01036)]

PE	W Type	Last Name	First Name	Middle Name	Sex	Maiden Name	
	OC	Crum	Michael				
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship	
		UNKNOWN					
Street Address		Apt #	County	Country	Home Phone	Work Phone	
			OAKLAND	USA			
City	State	Zip	Cell Phone	Email			
Berkeley	CA	48072					
Phone/Email							
Type				Description			

003

CR No: 130005555



BU-Business Phone #1	2486683393
Notes	
OC	

STILTNER, JUDITH ANN (O-OTHER) (X-MISCELLANEOUS) [BECRUMME (01036)]							
PI	W.Type	Last Name	First Name	Middle Name	Birth	Marital	
		Stiltner	Judith	Ann			
Address	Driver License		DL Class	DL Country	Personal ID		
			MI	USA			
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship	
03/17/1940 (73)	F	WHITE	Unknown				
Street Address	Apt #	County	City	State	Home Phone	Work Phone	
			Oakland	USA	248.543.0952		
City	State	Zip	Cell Phone	Limit			
Berkley	MI	48072					

Narrative:

CR No: 130005555-001 Written By: BECRUMME (01036) Date: 05/08/2013 01:03 PM

DETECTIVE BUREAU INVESTIGATION**CRIME:**

Criminal Sexual Conduct

SUSPECT:

Samuel James Jerome

W/M, 05-19-1972

VICTIM:

W/F, 07-21-1999

DATE/TIME:

May 7, 2013 at 1000 Hours

VENUE:

3600 Phillips, City of Berkley, County of Oakland, State of Michigan.

SUMMARY:

[REDACTED] reported sexual abuse from her step-father, Sam Jerome.

INVESTIGATION:

May 7, 2013

I received a report from [REDACTED] that her step-father, Sam Jerome had sexual abused her on several occasions. [REDACTED] was brought to the station by her maternal grandmother, Judith Stiltner.

Judith Stiltner

Judith advised she was advised of the abuse by her daughter, Stacey Krahe, who is the mother of [REDACTED]

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Upon hearing of the alleged abuse, Judith picked [REDACTED] up from her residence and transported her directly to the police station. Stacey had remained home to confront Sam, her husband, of the abuse.

According to Judith, Sam has touched [REDACTED] on at least two occasions. Judith was unsure of the times or dates of the molestations.

Stacey Krahe

Stacey Krahe responded to the station for an interview. Stacey is the biological mother of [REDACTED]. She married Sam Jerome approximately one year ago after meeting him online. Stacey has not observed any activities that would make her suspicious prior to [REDACTED] reporting the abuse.

[REDACTED] and Stacey were discussing [REDACTED]'s recent behavior on May 7, 2013. [REDACTED] became upset and advised Stacey she was molested by her step-father, Sam Jerome. According to Stacey, [REDACTED] advised Sam had touched her vagina on at least two occasions. Both times the touching occurred while [REDACTED] was lying on the couch in the living room of the family home. Sam would begin by rubbing [REDACTED]'s stomach. He would then slowly rub lower until he was touching her vagina on the outside of her clothing. [REDACTED] would repeatedly tell him to stop during the assault. [REDACTED] described Sam as "holding her down" with his free hand while rubbing her vagina.

During the most recent assault, Sam slipped his hand under her "Yoga" pants and directly touched her vagina. [REDACTED] described his finger as separating her "lips". This assault happened when Stacey was at a class for her employment. Stacey advised she would attempt to get the date of the class for the investigation. The first assault happened when Stacey was in the hospital for an extended stay. Stacey is also trying to get the dates of the hospitalization for the investigation. [REDACTED] advised Sam felt her breasts on the most recent occasion over her clothing.

Stacey advised she would like Sam to leave the residence while the investigation was ongoing.

[REDACTED]

I spoke to [REDACTED] in the second floor detective bureau. D/Sgt Miller was present in the detective bureau during the interview.

First Incident

[REDACTED] advised the first incident occurred while her mother was hospitalized around Christmas time (2012). Sam was home alone with [REDACTED] during the hospitalization. [REDACTED] was on the couch in the rear of the family residence watching television. Sam sat on the couch with her and began rubbing her stomach. [REDACTED] advised she hates her stomach touched and requested Sam stop touching her.

Sam continued touching her until his hand was touching her vagina. Sam rubbed her vagina from outside of her clothing. [REDACTED] requested Sam stop but he continued rubbing her vagina. [REDACTED] attempted to get up from the couch but Sam held her down with his free hand. The touching lasted for several minutes and Sam let her get up and leave the family room.

Stacey Krahe was released from the hospital and Sam did not touch [REDACTED] while Stacey was home. Sam did buy her headbands and earrings to keep her quiet about the assault.

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CR No: 130005553

**Second Incident**

In late April, Stacey was away at a conference for her employment with the Berkeley Schools. Sam was alone with [REDACTED] during this time. [REDACTED] was on the couch in the family room watching television during the second incident. She advised Sam sat next to her again and began rubbing her stomach. [REDACTED] panicked and attempted to get up and leave the room. Sam held her down with his free hand and rubbed her vagina again.

During the second incident, Sam placed his hand under her clothing and directly touched her vagina. [REDACTED] described his fingers as inserted between her "lips." She advised he did not insert his finger inside of her but definitely spread her lips apart with his fingers. On the second occasion, Sam rubbed her breasts. Sam rubbed her breasts on both the outside and inside of her clothing. [REDACTED] advised he rubbed directly on her nipples.

Sam did not say anything during either assault. He simply held her down against her will and assaulted her. [REDACTED] begged him to stop on both occasions but Sam would not comply.

Sam Jerome

I interviewed Sam Jerome in the second floor detective bureau office. Sam denied any inappropriate touching. Sam did admit to rubbing [REDACTED]'s belly, at [REDACTED]'s request. Sam agreed to leave the residence for the remainder of the investigation. Sam also agreed to submit to a polygraph examination.

CareHouse

I scheduled a CareHouse forensic interview for May 16, 2013 at 1315 hours.

Child Protective Service

I will contact CPS and advise them of the alleged assault.

STATUS:

Active Investigation

CR No: 130005556-002 Written By: BECRUMME (01036) Date: 07/12/2013 09:52 AM

DETECTIVE BUREAU INVESTIGATION**CRIME:**

750.520C1B -- Criminal Sexual Conduct -- Second Degree

750.1227B - Criminal Sexual Conduct -- First Degree

750.1227B -- Witness Intimidation / Interfering

SUSPECT #1:

Samuel James Jerome

W/M, 05-19-1972

SUSPECT #2:

Stacey Lynn Krahe

006

CR No: 136905386

W/F, 04-11-1977

VICTIM:

W/F, 07-21-1999

DATE/TIME:

December 2012 and April 2012

VENUE:

City of Berkley, County of Oakland, State of Michigan.

INVESTIGATION:**Criminal Sexual Conduct Investigation**

May 15, 2013

I contacted Deputy Chris Lanfear and scheduled a polygraph for May 21, 2013 at 9 AM.

I contacted Sam Jerome and advised him on the scheduled polygraph. Sam advised the date worked well for him and he would be at the polygraph.

I spoke to Stacey Krahe about the scheduled CARE house interview for May 16th. Stacey advised she would be transporting [REDACTED] to the interview. Stacey advised she had allowed Sam to move back into the residence. [REDACTED] was staying with her Grandmother, Judith Stiltner, until after the polygraph. Stacey also advised she did not believe [REDACTED] anymore concerning the assault. Stacey advised she believed [REDACTED] was making up the story for attention.**CARE house**

May 16, 2013

Stacey Krahe transported [REDACTED] to the CARE house facility for the forensic interview (2013-366). Sabree Pryor from CPS was present filing in for Amber Davis. Tricia Schuster conducted the Forensic Interview with Yvonne Cameron working as Crisis Counselor.

Stacey Krahe advised she suffers from Dissociative Identity Disorder, previously known as multiple personality disorder. According to Stacey, she was being hospitalized for the disorder when the first assault occurred. Stacey again advised she did not believe [REDACTED] and thought we were all, "being played" by a very intelligent 13 year old.

[REDACTED] was interviewed by Tricia Schuster in the North Room. During the interview [REDACTED]'s story changed when discussion turned to touching her vagina. Everything remained consistent about the dates and where she was positioned. She advised Sam rubbed her stomach and rubbed lower. When recalling the incident at CARE house, [REDACTED] advised he did not touch her vagina, either above or below her clothing. She recalled him rubbing her breast but made it sound like an accident.

[REDACTED] advised Sam's hand rubbed below her hip bones near her pubic line. She asked him to stop and Sam stopped rubbing her. [REDACTED] made excuses for Sam and took most of the blame for the incident. From my perspective, it was a complete reversal of her recollection of the assaults in my office just a few days prior.

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CR No: 130005566



After the interview, Stacey spoke with me about the incident. Stacey immediately asked if I still believed [REDACTED]. I simply advised that I did. Stacey was upset and pressing about what [REDACTED] had said and if she had changed her story. I refused to answer her questions and simply reiterated the need for the polygraph.

May 20, 2013

I received a phone call from Sam Jerome advising he would not be attending the scheduled polygraph on the advice of his attorney.

I received a telephone call from Mark Herron advising he was Sam Jerome's attorney and he was not allowing his client to submit to the polygraph.

I cancelled the scheduled polygraph with Deputy Lanfear.

I left several unanswered messages with Stacey Krahe concerning the incident and the cancelled polygraph.

June 9, 2013

I spoke with Stacey Krahe concerning the incident. I requested to meet with [REDACTED] to discuss the drastic change in her story. Stacey refused stating it would be best for the family to just drop the case. She advised [REDACTED] had admitted to her that the whole story was made up. Stacey advised Sam and [REDACTED] are both living in the same residence without any incident. Stacey requested I close the case and to have no further police involvement. I reiterated my desire to speak with [REDACTED] prior to closing the case as she was the victim.

July 11, 2013

Judy Stiltner

Judy Stiltner is the maternal grandmother to [REDACTED]. Judy met me at my office to discuss the case. I advised Judy it was still an open investigation and I could not discuss it with her. Judy was surprised to hear that. Judy advised Stacey was telling everyone Sam had passed the police department's polygraph with "flying colors" and that Sgt Crum said he did not believe [REDACTED]. I advised Judy this was not true and that I had wanted to discuss the case with [REDACTED] prior to closing the case.

Several hours later, [REDACTED] knocked on my office door and asked to discuss her case with me. [REDACTED] advised her mother was hospitalized in Texas for her mental health disorder. She advised her grandmother was her guardian while her mother was being hospitalized. Judy confirmed this and advised she was Stacey Krahe's legal guardian as well. Judy advised it was ok to discuss the case with Allie.

[REDACTED] immediately advised her mother had made her change her story at CARE house. [REDACTED] advised her mother would tell her they were going to put her into a Foster Home and she would be raped daily. [REDACTED] said her mother told her this at least four times a day leading up to the CARE house interview. When [REDACTED] continued to say Sam had assaulted her, Stacey told her she would commit suicide if she testified against Sam. Stacey asked her 13 year old daughter how she would feel to be responsible for her mother's death. Allie advised she felt intimidated and became fearful what would happen if she told the truth. [REDACTED] decided to back away from her story because she was afraid of being raped in a foster home and causing her mother to commit suicide. [REDACTED] advised she was more fearful of what would happen to her 10 year old

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CR No: 138005555



sister as Stacey advised she would be raped as well and it would be [REDACTED]'s fault. [REDACTED] confirmed her original description of the incident was the truth. [REDACTED] advised Sam had touched her vagina on two occasions and inserted his finger between her lips on the second occasion. [REDACTED] confirmed Sam had directly rubbed her breasts and played with her nipples. [REDACTED] confirmed Sam would buy her gifts to keep her quiet about the assault. [REDACTED] advised Stacey had threatened her into changing her story at CARR house. And most concerning, [REDACTED] advised Sam has turned his attention to her ten year old sister, Sabrina. [REDACTED] has witnessed Sam touching and rubbing her stomach in the same fashion he had rubbed her stomach. [REDACTED] has also observed Sam buying Sabrina gifts and spending all of his free time with her. [REDACTED] is very fearful her sister may be being sexually assaulted by Sam.

July 14, 2013

On July 14th, Stacey Krahe was scheduled to return from her hospitalization in Texas. Stacey called [REDACTED] on her way home and advised there would be severe consequences for ruining the family. [REDACTED] interpreted this to mean her accusation against Sam Jerome for sexual assault. [REDACTED] fled her grandmother's residence and hid from her mother. A runaway report was filed (13-8466) and [REDACTED] was entered into LEIN as missing. [REDACTED] was discovered by Stacey Krahe on July 15th around 0500 hours. Stacey called the Berkeley Police to report [REDACTED] found. Officers requested to make the residence to confirm her return. Stacey advised she was taking [REDACTED] to Beaumont Hospital because she had been drinking.

PSO Tanghe went to Beaumont hospital to confirm [REDACTED]'s return. PSO Tanghe was advised by Beaumont staff that [REDACTED] Krahe had not been to their facility. PSO Tanghe went to the residence at 3600 Phillips and found the residence empty. Sgt Miller contacted Stacey Krahe who advised she had decided to go to Providence instead of Beaumont for insurance reasons. PSO Tanghe arrived at Providence to discover [REDACTED] Krahe had not been to their facility either.

Approximately one hour later, I received a telephonic call from Sam Jerome advising Stacey had taken [REDACTED] and left Michigan. Sam would not advise me where she was taking [REDACTED]. I advised Sam I only needed to confirm [REDACTED] had been returned before I could take her out of LEIN and that Stacey was interfering with yet another investigation.

Stacey Krahe called my office approximately two minutes after my conversation with Sam to advise she was south of Toledo and refused to return to Michigan so I could confirm [REDACTED] was safe and had returned. She allowed me to speak to [REDACTED] on the speaker phone in the vehicle. I was unable to determine if I was in fact speaking with [REDACTED].

According to Stacey, [REDACTED] admitted to coming to the police station and speaking with me about Sam assaulting her. Stacey was furious [REDACTED] had spoken with me. Stacey advised she did not believe [REDACTED] and was traveling to Georgia so the family could get a fresh start. I advised Stacey that [REDACTED] was a victim in a reported sexual assault and I needed to speak with her about the case. Stacey refused to allow me to speak to her daughter about the assault. Stacey confirmed she had lied about the hospital in order to get out of Michigan before I realized she was taking her daughter away so I couldn't speak with her.

August 2, 2013

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CR No: 130005555



Stacey Krahe and Sam Jerome were both arrested by Berkeley Police for Domestic Violence (13-9252). A warrant was authorized by the Oakland County Prosecutors Office (PO# 13-05789). The family had recently returned to Michigan. The fight started over supposed narcotic use by [REDACTED] but quickly turned to the "false" accusations. Officers on scene search for narcotic equipment with negative results. Stacey later admitted she had absolutely no proof [REDACTED] had ever used narcotics. [REDACTED] advised she has been assaulted on numerous occasions since "telling on Sam." During the assault [REDACTED] was punched, choked, and dragged up the stairs by her hair. According to [REDACTED], these are very common occurrences.

When interviewing Stacey about the domestic assault, she adamantly wanted me to listen to messages on her phone. The messages were of her and [REDACTED] discussing various topics. I could immediately tell the messages were suspicious at best. I spoke to [REDACTED] about the messages after. [REDACTED] immediately advised she had been forced to say the things on the messages. Stacey would make her practice until she had it just as Stacey wanted. She would then record the conversation and pretend it was real. [REDACTED] advised they would record several times before Stacey would be satisfied with the way it sounded. Stacey threatened and did assault [REDACTED] if she did not say the things on the recordings.

Stacey Krahe has interfered with my investigation from the beginning by threatening and intimidating a 13 year old victim into changing her story and then assaulting her to make sure she does not tell the truth. It is this investigators opinion that Stacey Krahe is a danger to her children.

CONCLUSION

In December of 2012, Samuel James Jerome, born May 19, 1972 did engage in sexual contact with [REDACTED] by rubbing her vagina. Sam is [REDACTED] stepfather and a member of the same household at [REDACTED] in the City of Berkeley.

In addition, in April of 2013, Sam Jerome did engage in sexual penetration by placing his finger inside the labia majora of [REDACTED], his 13 year old stepdaughter.

In addition, Stacey Lynn Krahe, born April 11, 1977, did by threat or intimidation, influence the testimony of [REDACTED], born July 21, [REDACTED] by threatening to commit suicide and threatening [REDACTED] she would be raped daily if she testified against Sam Jerome in a criminal sexual conduct case with a possible penalty 15 years and/or life.

PROSECUTION REQUESTED:

Sam Jerome

750.520C1B - Criminal Sexual Conduct - Second Degree

750.1227B - Criminal Sexual Conduct - First Degree

Stacey Krahe

750.1227B - Witness Intimidation / Interfering

STATUS:

Case forwarded to the Oakland County Prosecutors Office.

CR No: 130005555-003 Written By: BECRUMME (01035) Date: 09/11/2013 01:35 PM

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Clt No: 130005565

S1=Samuel JeromeS2=Stacey KraheCRIME:

Criminal Sexual Conduct

Interfere with Criminal Investigation

DB FOLLOW-UPFurtherAugust 21, 2013

I received a request for further information from APA S. Lynch of the Oakland County Prosecutors Office. Sabrina Krahe

I interviewed [redacted] in the second floor detective bureau. [redacted] was brought to the station by her maternal grandmother, Judith Stiltner.

[redacted] had left me a message on my department voicemail on August 20, 2013. I could not make out the content of the message but could determine it was [redacted] on the telephone. Initially, I discussed the voicemail with [redacted]. [redacted] advised she was afraid to tell me the truth because she thought I would be mad at her. [redacted] advised she had been lying to me at her mothers' request. [redacted] was afraid of the punishment her mother would give her if she did not lie. [redacted] had been instructed to lie, by Stacey Krahe, about the domestic violence that had occurred on August 2, 2013. [redacted] did observe Stacey pulling [redacted] up the stairs by her hair. [redacted] had also witnessed Stacey covering [redacted] mouth and nose with her hand. [redacted] believed [redacted] could not breathe and had screamed for Stacey to stop so [redacted] could breathe. After the incident, Stacey advised her to lie to the police or [redacted] would be adopted out.

[redacted] has observed the lock on the exterior of [redacted]s bedroom door and has observed [redacted] locked in the room. [redacted] has observed Stacey use various pressure points on [redacted] at different times as punishment, leaving bruises. [redacted] observed Stacey punch [redacted] directly in the face, on August 2, 2013 during the domestic assault.

[redacted] was not aware of either incident of sexual assault by Samuel Jerome on [redacted]. [redacted] did not recall any incident when Sam had touched her that made her feel inappropriate. [redacted] did remember him rubbing her stomach but did not feel it was inappropriate. [redacted] recalled Sam taking her out for special shopping sprees. She recalled him taking her to Claires for jewelry, Justice for clothing, and lunch at a restaurant. According to [redacted], it was after [redacted] had gotten Sam in trouble and he stopped liking her. [redacted] did not have any further information about the sexual assault.

I spoke with [redacted] in the detective bureau on the second floor of the public safety building. [redacted] advised she has only told her mother, Stacey Krahe, and grandmother, Judy Stiltner, about the sexual assault. [redacted] told Stacey everything on May 7, 2013, the same day she was brought to the police station. [redacted] has told her grandmother, Judy Stiltner, small parts of the assault. According to [redacted], her grandmother has not pried and she was too embarrassed by what had happened to her. [redacted] has never

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CR No: 140008556

discussed the sexual assault with [REDACTED]. According to [REDACTED], when Sam was sexually assaulting her he would buy her Phish's Ice Cream from 7-11. Sam would not buy [REDACTED] anything on the days he brought her ice cream. Once she disclosed the sexual assault, Sam stopped bringing her ice cream and turned his attention to [REDACTED]. She believed Sam bought [REDACTED] earrings and clothing. These purchases began, for [REDACTED], after [REDACTED] would no longer allow him to rub her vagina.

Sexual Assault

I interviewed [REDACTED] about the sexual assault by Sam Jerome. I asked [REDACTED] to start from the beginning and tell me everything that had happened. [REDACTED] described the first incident exactly as she had on May 7, 2013 in my office. She recalled Sam rubbing her vagina on the exterior of her clothing. [REDACTED] recalled [REDACTED] being at Judy Stillner's residence at the time of the assault.

[REDACTED] recalled the second incident of sexual assault exactly as she had on May 7, 2013. She recalled [REDACTED] being grounded in her room during the sexual assault. She recalled Sam pinning her down and coming into direct contact with her vagina, including penetration.

I asked [REDACTED] what had changed at CAREhouse. [REDACTED] reiterated the pressure her mother placed upon her. According to [REDACTED] Stacey told her, "I will always chose Sam over you", "You will be placed in a foster home and raped repeatedly everyday", and that Stacey would commit suicide if she testified against Sam. Stacey advised [REDACTED] she would have to tell her sister [REDACTED] why she had, "Killed their mother." [REDACTED] has observed her mother attempt suicide on multiple occasions and feared if she testified her mother would kill herself. [REDACTED] also felt it was better to be molested by Sam than to be raped by strangers. [REDACTED] was most fearful of her sister being raped in foster care. She advised she did not testify against Sam because Stacey had promised it would stop and never happen again. [REDACTED] believed her mother until she observed Sam rubbing [REDACTED]'s stomach and buying her gifts. [REDACTED] felt this was the same behavior Sam had exhibited just prior to sexually assaulting her.

Judy Stillner

I interviewed Judy Stillner in the second floor detective bureau. Judy advised she knew very little about the actual sexual assault. Judy did not want to make [REDACTED] relive the experience and has kept her questions to a minimum.

Judy did advise of two separate occasions when she believed Sam had admitted to sexually assaulting [REDACTED]. The first incident happened shortly after [REDACTED] made the disclosure. Stacey admitted herself into Beaumont hospital after confronting Sam. While in the hospital, Judy had Stacey's phone in case [REDACTED] or [REDACTED] called. Judy observed the following text, from Sam to Stacey. The text stated, "It's not your fault, I did it, I'm sorry, it will never happen again, I'll go far far away if you want me too." After reading the text, Judy brought the phone to Stacey. Stacey read the text and immediately called Sam. During the telephone conversation, Stacey stated, "I know you did it, just admit it. You were rubbing her stomach and you got horny and went farther." Judy feels Stacey is upset that Sam wanted [REDACTED] sexually and not upset that Sam touched [REDACTED]. In her opinion, Stacey is blaming [REDACTED] for Sam touching her vagina.

012

CR No: 130005555



The second incident occurred when Sam and Judy were talking on the phone about [REDACTED]. Sam asked Judy, "What are we going to do about [REDACTED] attitude?" Judy told Sam it was his fault for touching her inappropriately. Sam responded, "Well, she wanted me too."

Judy is fearful of her daughter and fearful for her granddaughters. Judy fears they will flee the state and Sam will continue to molest both granddaughters. Judy knows any involvement on her part means she will never be allowed to see the grandchildren again.

Judy advised she had personally observed Stacey making her daughters say something against their will. She is fearful Stacey has forced them to make statements about Sam against their will and recorded them.

When asked why, Judy advised both [REDACTED] and [REDACTED] had indicated to her that Stacey made them "rehearse" things about Sam. Stacey would make them practice until she was satisfied with their answers. This happened in Georgia right after Stacey found out Sam may still be charged with a crime.

DHS 154 Report

I received the DHS report from DHS supervisor Eliza Kendall. A copy of the report is attached to this follow up report.

STATUS:

Additional questions answered and case returned to the OCPO for review.

CR No: 130005555-004 Written By: BEKEMPSKIM (00408) Date: 09/25/2013 09:11 AM

Conditional Bond entered in LEIN as per Court, Jerome/Samuel/James/.

CR No: 130005555-005 Written By: BECRUMME (01028) Date: 11/24/2014 10:51 AM

S-Samuel Jerome

CRIME:

CSC 1st Degree

CSC 2nd Degree

DB FOLLOW-UP**CWS**

September 18, 2013

I received a complaint, warrant, and subpoena from the Oakland County Prosecutors Office for MCL 750.520B1B - Criminal Sexual Conduct First Degree and MCL 750.520C1B Second Degree.

I swore to the CWS before Judge James Wittenberg.

Arraignment

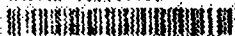
September 18, 2013

Jerome was arraigned before Judge Wittenberg with bond set at \$500,000 (no 10%) and a pre-exam conference scheduled for October 1, 2013.

Pre-Exam Conference

013

CR No: 130005535

**October 1, 2013**

A pre-exam conference was held before Judge Wittenberg with an Examination scheduled for October 9, 2013 at 9AM. Judge Wittenberg denied Jerome's request to modify the bond and lower the amount or allow contact with his wife, Stacey Krahe.

I called Judy Stiltner and advised her of the date for the exam. I also requested a date and time to meet with [REDACTED] and Sabrina prior to the court date.

October 2, 2013

I confirmed with Chris George and Judy Stiltner a meeting for Friday, October 4, 2013 at 3:30 PM.

I contacted Stacey Krahe by telephone and advised her of the Exam scheduled for October 9, 2013 at 1 PM. Stacey was advised she was subpoenaed to attend the exam. Stacey refused to tell me where she was currently living so I could personally serve the subpoena.

Examination**October 9, 2013**

The Exam was held before Judge Wittenberg with testimony from [REDACTED]. [REDACTED] testified to the facts of the case. After hearing testimony from [REDACTED], Judge Wittenberg bound the case over to the Circuit Court as charged.

Circuit Court**Arraignment****October 18, 2013**

Jerome was arraigned before Judge Rudy Nichols with a pretrial scheduled for November 8, 2013 at 0830 hours.

Pretrial**November 8, 2013**

The pretrial was adjourned by Judge Nichols for discovery with a new pretrial scheduled for November 22, 2013 at 0830 hours.

November 22, 2013

The Domestic Violence trial (13-9252) was dismissed in the Berkley 45a District Court and added in this CSC complaint. The domestic was a direct result of the victim accusing Jerome of CSC. The Pretrial was adjourned until December 13, 2013 for both cases.

December 13, 2013

A pretrial was held before Judge Nichols with a trial scheduled for February 3, 2014.

Trial**February 5, 2014**

The trial was adjourned by Judge Nichols until March 26, 2014 at 1000 hours.

March 26, 2014

A pretrial was held before Judge Nichols with a trial scheduled for June 9, 2014 at 0830 hours.

Trial

014

CR No: 150005535

150005535

June 9, 2014

The defense attorney was not available for trial and Judge Nichols adjourned the trial until August 4, 2014.

August 4, 2014

Jury selection began and continued for a majority of the day. Opening statements were made by both attorneys and the jury was dismissed until August 8, 2014 for the first witness.

August 5, 2014

[REDACTED] took the stand and testified until approximately 1040 ours when she was allowed to leave the stand to review her Carehouse video.

Judith Stiltner, PSO Michael Bunting, DHS Jason Rotenheber, and Lt Crum all took the stand on the first day, with Allie finishing after reviewing the video.

August 6, 2014

No court

August 7, 2014

Lt Crum continued and finished the prosecutions witness'

Defense

The defense began after lunch with Brett Chudzinski, Jayne Chudzinski, Mary Jerome Whiting, Sabrina Krahe and Stacey Krahe.

August 8, 2014

Judge Rudy Nichols declared a mistrial and reduced Jerome's bond to \$1,000 (10%).

October 6, 2014

An order of Nolle Prosequi was filed by APA George.

STATUS:

Closed

015

05/22/2013 11:05 2409755766

OAKLAND DHS OPS

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05/19/2013@ 01:16 PM Successful Documentation Contact - Detective Crum
Initial police report received from Detective Crum. The following was taken from the report:

On May 7, 2013, a report was made alleging sexual abuse of [REDACTED] by her stepfather, Samuel Jerome, on several different occasions. Judith Stillner, grandmother of [REDACTED], stated that she was advised of the abuse by her daughter, Stacey Krahe, who is the mother of [REDACTED]. After hearing of the abuse, Ms. Stillner picked [REDACTED] up from her home and drove her to the police department. Ms. Krahe remained home to confront her husband. According to Ms. Stillner, Mr. Jerome has touched [REDACTED] on at least two occasions but is unsure of the times or dates of the molestations.

Stacey Krahe was interviewed at the Police Station. Ms. Krahe denied observing any activities that would make her suspicious prior to [REDACTED] reporting the abuse. Ms. Krahe and [REDACTED] were discussing [REDACTED] recent behavior and [REDACTED] became upset and advised her mother that she was molested by her stepfather, Samuel Jerome. [REDACTED] reported that Mr. Jerome touched her vagina at least two times. Both times occurred while [REDACTED] was lying on the living room couch. Mr. Jerome would begin by rubbing [REDACTED] stomach and then he would slowly rub lower until he was touching her vagina on the outside of her clothing.

05/19/2013@ 04:12 AM Successful Documentation Contact - DHS-3200
This SW contact was entered by Centralized Intake:

Documentation associated with this complaint was received at CPS-CI. It has been scanned and attached in SYSS/Utility Menu/CPS Scanned Documents.

05/28/2013@ 08:00 AM Unsuccessful Phone Contact - STACEY KRAHE
Telephone call placed to Stacey Krahe. A voice message was left requesting a return call.

05/28/2013@ 11:00 AM Unsuccessful Phone Contact - Detective Crum
Telephone call placed to Detective Crum. A voice message was left requesting a return call.

05/28/2013@ 11:30 AM Successful Documentation Contact - Berkeley Police Department
Police reports requested from the Berkeley Police Department.

05/28/2013@ 02:37 PM Unsuccessful Phone Contact - STACEY KRAHE
Voice message received from Ms. Stacey Krahe requesting a return call.

05/28/2013@ 03:20 PM Unsuccessful Phone Contact - STACEY KRAHE
Telephone call placed to Ms. Stacey Krahe. A voice message was left requesting a return call.

05/28/2013@ 03:32 PM Successful Phone Contact - STACEY KRAHE
Telephone call received from Ms. Stacey Krahe. A home visit is scheduled for June 5, 2013 at [REDACTED] of the family home.

05/31/2013@ 10:00 AM Successful Face to Face Contact - Ashleigh Brotherson-CPS Supervisor
Case conference held with CPS Supervisor, Ashleigh Brotherson.

06/03/2013@ 09:45 AM Unsuccessful Phone Contact - Detective Crum
Telephone call placed to Detective Crum. A voice message was left.

054-124 (SYSS 10/2007)

034

08/22/2013 11:05

2489753765

OAKLAND DHS CP3

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08/03/2013@ 02:46 PM Successful Phone Contact - STACEY KRAHE
Telephone call received from Ms. Stacy Krahe. Ms. Krahe provided a telephone number for Ma. Tracy Byrne, mother of Cassandra and Nicholas Jerome. Ms. Byrne's telephone number is 313.693.2291.

08/03/2013@ 03:30 PM Unsuccessful Phone Contact - TRACY BYRNE
Telephone call placed to Ms. Tracy Byrne, mother of Cassandra and Nicholas Jerome. A voice message was left.

08/04/2013@ 09:00 AM Unsuccessful Phone Contact - TRACY BYRNE
Unsuccessful telephone call to Ms. Tracy Byrne.

08/06/2013@ 09:00 AM Successful Letter Contact - TRACY BYRNE
A letter was mailed to Ms. Tracy Byrne requesting that she contact DHS upon receipt of the letter.

08/06/2013@ 11:30 AM Successful Face to Face Contact - Stacey Krahe
Successful face to face contact took place at Angel Elementary School with Stacey Krahe. Krahe was observed to be neat and clean. She was dressed in weather appropriate clothing.

Krahe was forensically interviewed. Krahe reported that she lived with her mother and stepfather. She indicated that on the weekends, her step-siblings, Nicholas and Cassandra come over. Krahe reported that things are going well at home and she has no concerns. Krahe indicated that when she is in trouble, she is put in a time out and her privileges are taken away. Krahe denied being physically disciplined. Krahe reported that she felt safe at home and had no concerns.

08/06/2013@ 01:45 PM Successful Face to Face Contact - Nicholas Jerome
Successful face to face contact took place at Brownstown Middle School with Nicholas Jerome. Jerome was observed to be neat and clean. He was dressed in weather appropriate clothing. There were no marks, scars, bruises or injuries observed on Jerome's body.

Jerome was forensically interviewed. Jerome reported that he lived with his mother during the week and visited his father on the weekends. He stated that he has a good relationship with his mother, father and stepmother. Jerome reported that when he is in trouble, his privileges are taken away. He denied being physically disciplined. Jerome denied that he has ever witnessed inappropriate behaviors between any of his family members. Jerome reported that he felt safe at home and had no concerns.

08/06/2013@ 02:10 PM Successful Face to Face Contact - [REDACTED]
Successful face to face contact took place at Woodhull Elementary School with [REDACTED]. [REDACTED] was observed to be neat and clean. She was dressed in weather appropriate clothing. There were no marks, scars, bruises or injuries observed on [REDACTED]'s body.

[REDACTED] was forensically interviewed. [REDACTED] reported that she lived with her mother. She indicated that she visited her father every weekend. [REDACTED] reported that she enjoys visiting her father, but does not like her stepmother or stepfather. [REDACTED] denied that Mr. Krahe has ever physically disciplined her, but indicated that she "just doesn't like her". [REDACTED] reported that when she is in trouble, her privileges are taken away. She denied being physically disciplined. [REDACTED] reported that she feels safe at both homes. She denied having any concerns.

08/06/2013@ 02:48 PM Successful Phone Contact - Detective Crum
A voice message was received from Detective Crum.

08/06/2013@ 02:50 PM Successful Phone Contact - Detective Crum
Telephone call placed to Detective Crum. Det. Crum indicated that his case will be closed as [REDACTED] recanted during her forensic interview. He stated that when the report was initially filed, [REDACTED] reported that Mr. Jerome touched [REDACTED].

OHS-124 (6/2/88 10/2007)

08/22/2013 11:05 2489756766

OAKLAND DHS CPS

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under her clothing and touched her vagina. He stated that during the forensic interview, [redacted] only disclosed being touched over her clothing and did not report that Mr. Jerome touched her in an attempt to sexually abuse her. Det. Crum indicated that Mr. Jerome did not take a polygraph. He stated that Mr. Jerome retained an attorney and did not show up for his polygraph.

Detective Crum stated that the family will no longer answer his calls or return his calls. He was informed that a home visit was scheduled for this afternoon at 4pm. He indicated that he would be present. Det. Crum asked for CPS to meet him at the Berkeley Police Department.

08/09/2013@ 03:45 PM Successful Phone Contact - Detective Crum

Telephone call to Detective Crum. Det. Crum indicated that he received a new case and is unable to attend the home visit. He indicated that he did not feel that it would be safe for CPS to travel to the home alone. He stated that an officer will travel to the home as well.

08/09/2013@ 04:00 PM Successful Face to Face Contact - STACEY KRAHE, Samuel Jerome, Berkeley Police Department

Successful face to face contact took place at the family home. The home was observed to be neat and clean. There was an adequate supply of food and working utilities in the home. Appropriate sleeping arrangements were observed for all minor children.

Mrs. Stacey Krahe and Mr. Samuel Jerome were interviewed regarding the allegations. Mr. Jerome was reluctant to speak about the allegations as he retained an attorney. However, Mr. Jerome denied that he has ever done anything inappropriate to Alyxis. Mr. Jerome would not speak more about the allegations.

Mr. Jerome denied having any Native American heritage. He denied having any history of mental illness, substance abuse, domestic violence or criminal history. He denied being a licensed foster parent or being affiliated with a daycare provider.

Ms. Stacey Krahe indicated that her husband has retained an attorney and was advised not to speak about the allegations. Ms. Krahe reported that her method of discipline is to put the children in time out and take away their privileges. She denied using physical discipline.

Ms. Krahe denied having any Native American heritage. She denied having any history of substance abuse or domestic violence. Ms. Krahe indicated that she has anxiety but denied any other mental health issues. Ms. Krahe denied being a licensed foster parent or being affiliated with a daycare provider. Ms. Krahe denied that she checked herself into a mental health facility on May 16, 2013.

10. DISPOSITIONAL FINDINGS:

This family came to the attention of the Michigan Department of Human Services when a complaint was received alleging sexual abuse against [redacted] by her stepfather, Samuel Jerome. [redacted] was forensically interviewed at Carahouse of Oakland County. [redacted] disclosed that her stepfather rubbed her belly and touched her over her clothing on her vagina. [redacted] denied that her stepfather touched her bare skin underneath her clothing or did anything more than rub her belly and touch her over her clothing. According to MCLA 750.520a, "Sexual contact" includes the intentional touching of the victim's or actor's intimate parts or the intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal. [redacted] did not disclose that her stepfather intentionally touched her vaginal area over her clothing or attempted to do anything sexual to her. She indicated that he was rubbing her belly and touched over her vagina, did nothing more and stopped when she asked him to. Therefore, there is insufficient evidence that Mr. Samuel Jerome sexually abused his minor stepdaughter, [redacted] he.

A DHS-1450 will be mailed to Mr. Ray Krans, Ms. Stacy Krahe, Mr. Samuel Jerome and Ms. Tracy Byrne.

A criminal investigation was conducted by the Berkeley Police Department. The criminal investigation will be closed due to Alyxis recanting.

DHS-134 (AW) 08/15/2013

08/22/2013 11:05

2409755765

OAKLAND DHS CPS

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the risk level is low. No one will be placed on Central Registry. This case will be denied as a Category IV.

WORKER SIGNATURE AND DATE

Disposition Date

06/05/2013

SUPERVISOR SIGNATURE AND DATE

Disposition Review Date

6-20-13 with addendum

CONFIDENTIAL

"The confidentiality of information in this document is protected by the Michigan Child Protection Law. Anyone who violates this protection is guilty of a misdemeanor and is civilly liable for damages. (Act No. 238, Public Acts of 1976, as amended, being sections 722.821-722.836, Michigan Compiled Laws, Sections 7 and 13.)"

Department of Human Services (DHS) will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, height, weight, marital status, political beliefs or disability. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you are invited to make your needs known to a DHS office in your area.

08/22/2013 11:35

2489755768

OAKLAND DHS OFC

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08/20/13 1:51 PM

CHILDREN PROTECTIVE SERVICES

Log ID: 3154750
Case Name: KRAHE, STACEY
Case#: X3432991P

SOCIAL WORK CONTACTS:

08/17/2013 @ 11:00 AM Successful Letter Contact - Ray Krahe
A letter was mailed to Mr. Ray Krahe, legal father of both [REDACTED] and [REDACTED], at 128 Wilkie Dr.,
Columblaville, MI, 49421. Mr. Krahe was asked to contact DHS so that the allegations could be
discussed with him.

038

NAME: JEROME, SAMUEL, JAMES / DOB: 05/19/1972
 RAC: WHITE SEX: MALE HGT: 511 WGT: 220
 HAIR: BROWN EYE: BROWN GLN: 7650-718-367-379 DLS: MI SOC: [REDACTED]
 FBI: 255517W07 SID: 47152309
 SMT: TAT OL ARM (ARM, LEFT UPPER)
 ADDNL SMT: TAT UR ARM (ARM, RIGHT UPPER)
 ADD: [REDACTED] BERKLEY MI 48072 POB: MI
 PROHIBITED FROM PURCHASING/POSSESSING FIREARM

PROHIBITED FROM PURCHASING A PISTOL OR
 OBTAINING A LICENSE TO CARRY A PISTOL CONCEALED.

INJUNCTIVE ORDER
 "BOND CONDITIONAL RELEASE" ORDER FOR PROTECTIVE CONDITIONS
 ISSUED PURSUANT TO MCL 785.6b, 784.13a, and 780.582a.
 DO NOT ARREST UNLESS A VIOLATION OF THIS ORDER HAS BEEN VERIFIED.
 CONTACT ORI FOR SPECIFIC CONTENT OF ORDER.

EXPIRATION - 09/18/2014
 PROTECTED PERSON: [REDACTED]
 OCC: 13-2525 DOB: 09/19/2013
 CEURTORI: N15325050- CATCHCRO: 13-08117

REMARKS: NO CONTACT WITH [REDACTED] / OR ANYONE UNDER THE AGE OF 18, MUST BE
 FITTED WITH GPS TETHER UPON RELEASE FROM JAIL.

ENTERED LHM 109/20/2013 0957 HRS
 MODIFIED 09/20/2013 0928 HRS
 SYSID: 00130322139

CONFIRM SPECIFIC CONTENT OF ORDER WITH N16325100-PD BERKLEY

08/20/13 | 08:43:09 | LEIN | INQUIRY ON SID: 21122102

11267

A LEIN 11267 58428 08/20/13 0843 KLEINSCOPF

MIS222102

PUR: CQSCC RESPONSE TO INQUIRY ON SID: 21122102

OFF: BEKEMPSHIM

FOR: BEKEMPSHIM/BEPO

OCC: 12-5595

REMARKS: WITH REPORT

CRIMINAL HISTORY RECORD RESPONSES ARE DEPENDENT UPON ORIGINAL HISTORY RECORD

INFORMATION (CHRI) BEING REPORTED TO THE CENTRAL REGISTRY.

USERS SHOULD CONTACT LOCAL CRIMINAL JUSTICE AGENCIES TO DETERMINE CASE THAT

COULD BE IN LOCAL FILES.

MICHIGAN CRIMINAL HISTORY RECORD INFORMATION MEETING DISSEMINATION CRITERIA

FOR SID: 21122102 AS OF 08/20/2013

NAME: JEROME, SAMUEL JAMES

RAC: W

SEX: M

DOB: 08/18/1972

SID: 21122102

HGT: 511

WGT: 220

HAIR: GRY

FBI: 285617ND7

EYE: BRN

POB: MI

ILL: MICHIGAN ONLY

DMN:

MMU:

PHU:

SOC:

CYS:

APPS PRINTS AVAILABLE: YES

PALM PRINTS AVAILABLE: YES

PHOTO AVAILABLE: YES

DNA RECORD AVAILABLE: NO

ADDITIONAL IDENTIFIERS AND COMMENTS:

TCN/OCK: M3132370828/1309253
NAME USED: JEROME, SAMUEL JAMES

INCIDENT CASE: 08/08/2013

ARREST SEGMENT

CHARGE SEGMENT

OFFICIAL SEGMENT

DATE: 08/02/2013

NO DATA RECEIVED

NO DATA RECEIVED

MIS222102

BERKLEY OPS

OCC: 125225

1. CMT OF 1300

MISDEMEANOR

ASSAULT EXCLODING

SEXUAL

0100 WARRANT REQUESTED

DISSEMINATION OF CRIMINAL HISTORY INFORMATION IS SUBJECT TO MICHIGAN AND FEDERAL
RULES AND REGULATIONS. REFER TO THIS ADMINISTRATIVE RULES AND TITLE 30, USC
USE OF THIS RECORD IS LIMITED TO THE PURPOSE OF INQUIRY.

** SPECIAL ATTENTION **

PER MCL 26.242A, THIS RECORD CONTAINS ALL CRIMINAL HISTORY INFORMATION THAT IS SUPPORTED BY FINGERPRINT IMPRESSIONS, INCLUDING CONVICTION AND NON-CONVICTION DATA. EXCEPT AS PROVIDED BY LAW, THIS RECORD DOES NOT INCLUDE CRIMINAL HISTORY INFORMATION THAT IS NON-PUBLIC BY STATUTE OR COURT ORDER. NAME NOT INCLUDED NOT FORWARDED TO NCIC III. END MSG.

09/20/13 | 09:43:08 | Criminal History

QHW.M16325100.80.4715230P.77:50.16:13-5522.32:C/CSS.41:WITH REPORT.55:HEKEMPEKIM.75:HEKEMPEKIM/HEPD.

09/20/13 | 09:42:39 | NCIC | JEROME,SAMUEL

35840

A NCIC 8522 58254 09/20/13 0942 CDEMISCOMP3.
M16325100

THIS NCIC INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR INQUIRY ON NAM/JEROME,SAMUEL JAMES SEX/M FAS/U DOB/19720515 FOR/P

NAME	FBI NO.	INQUIRY DATE
JEROME,SAMUEL JAMES	256617WD7	2013/09/20

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	PHOTO
M	M	1972/05/15	511	220	BRN	GRY	1

BIRTH PLACE
MICHIGAN

FINGERPRINT CLASS

PATTERN CLASS

OC	UC	UC	UC	UC	OC	UC	UC	UC	UC	UC	UC
UC	UC	UC	UC	UC	UC	UC	UC	UC	UC	UC	UC
UC	UC	UC	UC	UC	UC	UC	UC	UC	UC	UC	UC

SCARS-MARKS-

TATTOOS

TAT UL ARM

TAT UR ARM

SOCIAL SECURITY

IDENTIFICATION DATA UPDATED 2013/09/18

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE FOLLOWING:
MICHIGAN - STATE ID/M16715230P

THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE IDENTIFICATION INDEX BY USING THE APPROPRIATE NCIC TRANSACTION.

END

09/20/13 | 09:42:38 | LEIN INQUIRY ON NAM: JEROME,SAMUEL JAMES 05/19/1972 M U

11230
 A LEXN 11230 58249 09/20/13 09:42 CLEMISCOMES.
 MISS25100
 PUB: C/CSC RESPONSE TO INQUIRY ON NAME JEROME, SAMUEL JAMES 05/18/1972 25 U
 OPS: BERKEPSKIN
 FOR: BERKEPSKIN/BERD
 QCA: 13-5555
 REMARKS: WITH REPORT
 CRIMINAL HISTORY (HROCK) RESPONSES ARE DEPENDENT UPON CRIMINAL HISTORY RECORD
 INFORMATION (CHRI) BEING REPORTED TO THE CENTRAL REPOSITORY.
 USERS SHOULD CONTACT LOCAL CRIMINAL JUSTICE AGENCIES TO DETERMINE CHRI THAT
 COULD BE IN LOCAL FILES.

YOUR INQUIRY HAS RESULTED IN THE FOLLOWING POSSIBLE CRIMINAL HISTORY RECORD(S)
 MEETING DISSEMINATION CRITERIA. SUBMIT AN INQUIRY BY SID (30) USING THE SAME
 FORDOSE CODE (52) TO OBTAIN THE CRIMINAL HISTORY RECORD.

POSSIBLE RECORDS MAY NOT MATCH EXACTLY THE NAME AND DATE OF BIRTH IN YOUR
 INQUIRY.

NAME ON FILE	S/S DOB	NET	HAT	CXK	SID	MATCHED ON ID NUMBER CRIMINAL HISTORY
JEROME, SAMUEL JAMES FORWARDED TO NCIC LIT END MSG.	M M 05/18/1972	511	GRY	BR0111X30E		

09/20/13 09:42:38 JEROME, SAMUEL JAMES: Criminal History

QRY MISS25100.1: JEROME, SAMUEL JAMES / 2: U M. 7: 19720518. 77: 1. 16: 13-5555. 52: C/CSC. 4
 1: WITH REPORT. 33: BERKEPSKIN. 55: BERKEPSKIN/BERD.

Case Actions - Court Explorer

Page 1 of 3



Back Print

Case Number: 2013-247841-FC
 Entitlement: PEOPLE vs. JEROME SAMUEL JAMES
 Judge Name: RUDY J. NICHOLS
 Case Filed: 10/09/2013
 Case Disposed: 00/00/0000
 Case E-Filed: NO

Date	Code	Description
10/06/2014	ORD	ORDER - NOLLE PROSEQUI
10/06/2014	ONP	PETITION/ORDER TO NOLLE PROS FILED
08/12/2014	BRC	BOND REC/POSTED BY: CODY JEROME \$1,000 10% OCSO
08/12/2014	OTH	BOND RECEIPT FILED
08/11/2014	ORD	ORDER FILED GRANT MTN TO REDUCE BOND
08/11/2014	ORD	ORDER FILED GRANT MTN FOR MISTRIAL
08/08/2014	JTE	JURY TRIAL ENDED 1.00
08/08/2014	MIS	MISTRIAL
08/08/2014	DM	DEFENSE MOTION TO AMEND BOND GRT
08/08/2014	OTH	BOND SET AT \$10,000 C/S WITH 10%
08/08/2014	APR	DATE SET FOR TRIAL ON 10082014 10 00 AM Y 11
08/07/2014	JTC	JURY TRIAL CONTINUED DAY 1.00 (CONT TO 8/8/14)
08/05/2014	JTC	JURY TRIAL CONTINUED DAY 1.00 (CONT TO 8-7-14)
08/04/2014	JTB	JURY TRIAL BEGUN 0.50 (CONT TO 8-5-14)
08/04/2014	STO	STIP/ORD FILED PROTECTIVE FOR COPY OF DVD
08/01/2014	APR	DATE SET FOR TRIAL ON 08042014 01 00 PM Y 11
05/29/2014	REQ	REQUEST FILED FOR DISCOVERY
05/29/2014	POS	AFFIDAVIT/PROOF OF SERVICE FILED
05/18/2014	POS	AFFIDAVIT/PROOF OF SERVICE FILED
05/15/2014	NTC	NOTICE FILED INTRO STATEMENTS
04/23/2014	DM	DEFENSE MOTION RELEASE ON PERSONAL RECOG DENIED

043

Case Actions - Court Explorer

Page 2 of 3

Date	Code	Description
04/21/2014	POS	AFFIDAVIT/PROOF OF SERVICE FILED
04/21/2014	POS	AFFIDAVIT/PROOF OF SERVICE FILED
04/18/2014	PRF	PEOPLES RESP FILED TO MTN FOR RELEASE
04/09/2014	MPR	MOTION PRAECIPE FILED FOR 04232014 JUDGE 11
04/09/2014	MTN	MOTION FILED RELEASE ON PERSONAL RECOGNIZANCE
04/02/2014	PTH	PRE-TRIAL HELD
04/02/2014	APR	DATE SET FOR TRIAL ON 06092014 08 30 AM Y 11
03/18/2014	REQ	REQUEST FILED FOR DISCOVERY/PEOPLE
03/18/2014	POS	AFFIDAVIT/PROOF OF SERVICE FILED
03/10/2014	CAA	ORDER COURT APPOINTED ATTORNEY FILED
03/03/2014	PAY	PAYMNT SERV/ORD PYMNT OF CAA FILED
02/04/2014	AID	ADJOURN FOR INVESTIGATION/DISCOVERY
02/04/2014	APC	ADJ-COUNSEL 03262014 TO 04022014
02/04/2014	APR	DATE SET FOR TRIAL ON 04022014 10 00 AM Y 11
01/10/2014	AID	ADJOURN FOR INVESTIGATION/DISCOVERY
01/10/2014	APC	ADJ-COUNSEL 02052014 TO 03262014
01/10/2014	APR	DATE SET FOR TRIAL ON 03262014 10 00 AM Y 11
12/13/2013	PTH	PRE-TRIAL HELD
12/13/2013	APR	DATE SET FOR TRIAL ON 02052014 10 00 AM Y 11
12/06/2013	O	REQUEST FOR ATTORNEY/REIMBURSEMENT FILED
11/22/2013	POS	AFFIDAVIT/PROOF OF SERVICE FILED
11/19/2013	APR	DATE SET FOR PRETRIAL ON 12132013 08 30 AM Y 11
11/08/2013	AID	ADJOURN FOR INVESTIGATION/DISCOVERY
11/08/2013	APC	ADJ-COUNSEL 11082013 TO 11222013 BY NOTICE
11/08/2013	APR	DATE SET FOR PRETRIAL ON 11222013 08 30 AM Y 11
11/07/2013	GIF	GEN INFO FILED 1ST AMD
11/06/2013	MPR	MOTION PRAECIPE FILED FOR 11132013 JUDGE 11
11/06/2013	MTN	MOTION FILED AMD GIF
11/01/2013	DCR	DISTRICT COURT RETURN FILED
10/25/2013	TRN	TRANSCRIPT FILED PRELIM 10/09/13

034

Case Actions - Court Explorer

Page 3 of 3

Date	Code	Description
10/24/2013	APR	DATE SET FOR PRETRIAL ON 11082013 08 30 AM Y 11
10/18/2013	ARR	ARRAIGNMENT IN COURT
10/16/2013	GIF	GEN INFO FILED
10/10/2013	N	NTC CT ADMN FILED
10/09/2013	N	NOTICE FROM COURT ADMINISTRATOR FILED
10/09/2013	A	PROSECUTORS ORDER 13-05884
10/09/2013		ARRESTING AGENCY: BERKLEY POLICE DEPT.
10/09/2013		45/A DISTRICT COURT 13-0881FY
10/09/2013	CTN	CENTRAL TRACT 63-13-005884-01
10/09/2013	SID	STATE ID 4715230P
10/09/2013	DOF	DATE OF OFFENSE //
10/09/2013	CCA	ARRAIGNMENT - FRI, 10182013 AT 0830AM
10/09/2013	DCX	EXAM FOR 10/09/13 HAD
10/09/2013	DOB	BIRTH YEAR - 72
10/09/2013	CHG	750.520B1B 1ST DEG CSC (RELATION)
10/09/2013		BOUND OVER AS CHARGED
10/09/2013	CHG	750.520C1B 2ND DEG CSC (RELATION)
10/09/2013		BOUND OVER AS CHARGED
10/09/2013	BON	BOND POSTED BY: NOT FURNISHED
10/09/2013		CITY UNKNOWN
10/09/2013		TYPE: CASH/SURETY
10/09/2013		AMOUNT: \$500,000
10/09/2013	APR	DATE SET FOR ARRAIGNMEN ON 10182013 08 30 AM Y

045

Arrest Slip for Confinement in the Oakland County Jail

This form must be filled out completely by the arresting officers or their department before leaving a prisoner at the booking desk for registration. This is not a report but the information requested enables this department to fill out the booking card correctly and keep a modus operandi file on various crimes at your disposal. Your attention given to each detail in this matter is essential.



TCN #: _____

GPS# a

PCN: 68992784

Subject's Name: JEROME, SAMUEL JAMES

Maiden Name: _____

Address: _____

City: BERKLEY

State: MI

Zip: 48072

Home Phone: _____ Cell Phone: _____

Work Phone: _____

U.S. Citizen: _____

DOB: 05/19/1972 Race: WHITE

Sex: MALE

Birth City: DETROIT

Birth State: MI

Hgt: 511 Wgt: 230 Eye: BROWN

Hair: BROWN

Glasses/Contacts: NONE

Driver's License #: _____

State: MI

Sec. Sec. #: _____

Scars/Marks/Tattoos: TATTOOS-TAT ARM, LEFT UPPER-TRIBAL SYMBOL/TATTOOS-TAT ARM, RIGHT UPPER-KIDS NAMES AND DOBSI-

Emergency Contact: STACEY KRAHE

Relationship: WIFE

Home Phone: _____

Address: _____

City: BERKLEY

State: MI

Cell Phone: _____

Notes: CSC WARRANT

Date: 09/13/2013 Arresting Officer: MGRUM

Badge# _____

Officer's Work Location: BERKLEY DPS

I.B.A.C.: _____

Release Time: _____

Interim Bond Posted with Arresting Agency: _____

If Yes, Amount: \$ _____

Receipt #: _____

Department: BERKLEY DPS

City/Twp. of Arrest: 45A DISTRICT COURT

Dist. Court: 45TH DIST CT BERKLEY

Warrants from other Police Depts: NO / If yes: _____

Indicate whether the Charges are State Law (Felony) (Misdemeanor) or (Ordinance)

1) Charge Desc.: Enter PACC & CTN Below

(F) / Incident Number: 5553

2) Charge Desc.: _____

() / Incident Number: _____

3) Charge Desc.: _____

() / Incident Number: _____

4) Charge Desc.: _____

() / Incident Number: _____

Sheriff's

Warrant

Arrests:

1) CTN: 631300588401 PACC: 750/52001B

2) CTN: _____

PACC: _____

3) CTN: _____

PACC: _____

4) CTN: _____

PACC: _____

Property taken at Booking: _____

/ If yes, list property: _____

Cash taken at Booking: _____

/ If yes, \$ _____

Clothing taken for evidence: _____

/ If yes, list articles: _____

Accident or injured: _____

Medical Treatment: _____

NO

Hospital Clearance Form: _____

MEDICAL PRECAUTIONS: POLLEN, GRASS IRREGULAR HEARTBEAT

Arresting Officer's _____

Bond Requirements:

Ticket # _____

45 - A Court Date: _____

046

09/23/13 | 16:09:47 | LEIN | INQUIRY ON SID: 4715230P

39020

A LEIN 39020 133040 09/23/13 1609 CLEMISCOMP3.

MIG325100

PUR: C/CSC RESPONSE TO INQUIRY ON SID:4715230P

QFR: BECRUMME

FOR: BECRUMME/BEPO

OCC: 13-5555

REMARKS: DB

CRIMINAL HISTORY RECORD RESPONSES ARE DEPENDENT UPON CRIMINAL HISTORY RECORD INFORMATION (CHRI) BEING REPORTED TO THE CENTRAL REPOSITORY. USERS SHOULD CONTACT LOCAL CRIMINAL JUSTICE AGENCIES TO DETERMINE CHRI THAT COULD BE IN LOCAL FILES. MICHIGAN CRIMINAL HISTORY RECORD INFORMATION MEETING DISSEMINATION CRITERIA FOR SID:4715230P AS OF 09/23/2013

NAM: JEROME, SAMUEL JAMES

RAC: W

SEX: M

DOB: 05/19/1972

SID: 4715230P

FBI: 255617WD7

HGT: 511

WGT: 230

HAIR: BRO

ILL: MICHIGAN ONLY

EYE: BRO

POB: MI

OLN: MI

MND:

PRN:

SOC: 278 278 278

CIZ:

APIS PRINTS AVAILABLE: YES

PALM PRINTS AVAILABLE: YES

PHOTO AVAILABLE: YES

DNA RECORD AVAILABLE: NO

SCAR/MARK/TATTOO:

TAT UL ARM

TAT UR ARM

ADDITIONAL IDENTIFIERS AND COMMENTS:

CRIMINAL TRACKING NUMBER: 631500589401

INCIDENT DATE: 12/25/2012

TCN/OCA: M13266002H/13 5555

NAME USED: JEROME, SAMUEL JAMES

ARREST SEGMENT

CHARGE SEGMENT

JUDICIAL SEGMENT

DATE: 09/13/2013

DATE: 12/25/2012

NO DATA RECEIVED

MIG325100

MIG30013A

BENKLEY DPS

OAKLAND COUNTY

OCC: 13 5555

PROSECUTING ATT

1 CNT OF 1130

1 CNT MCL 750:520514

FELONY

FELONY

SEXUAL ASSAULT

CRIMINAL SEXUAL

DISP: CHD BY PROSECUTOR

CONDUCT 1ST DEGREE

(RELATIONSHIP)

INCIDENT DATE: 05/05/2013

TCN/OCA: M13219003L/13092212

047

NAME USED: JENOME, SAMUEL JAMES

ARREST SEGMENT	CHARGE SEGMENT	JUDICIAL SEGMENT
DATE: 08/02/2013	NO DATA RECEIVED	NO DATA RECEIVED
MIS325100		
BERKLEY DSS		
OCA: 1309252		
1 CNT OF 1300		
MISDEMEANOR		
ASSAULT EXCLUDING		
SEXUAL		
DISP: WARRANT REQUESTED		

DISSEMINATION OF CRIMINAL HISTORY INFORMATION IS SUBJECT TO MICHIGAN AND FEDERAL RULES AND REGULATIONS. REFER TO LEIN ADMINISTRATIVE RULES AND TITLE 28, USC. USE OF THIS RECORD IS LIMITED TO THE PURPOSE OF INQUIRY.

** SPECIAL ATTENTION **

PER RCL 28.242A, THIS RECORD CONTAINS ALL CRIMINAL HISTORY INFORMATION THAT IS SUPPORTED BY FINGERPRINT IMPRESSIONS, INCLUDING CONVICTION AND NON-CONVICTION DATA. EXCEPT AS PROVIDED BY LAW, THIS RECORD DOES NOT INCLUDE CRIMINAL HISTORY INFORMATION THAT IS NON-PUBLIC BY STATUTE OR COURT ORDER. FORWARDED TO NCIC LII. END MSG.

01/17/2013 SMJ/AW

Page 1 of 2

STATE OF MICHIGAN

PROS. ORDER NO. 13-05884

THE DISTRICT COURT/JUDICIAL DISTRICT NO. 451A

County of OAKLAND

WARRANT

THE PEOPLE OF THE STATE OF MICHIGAN
VS.Date of Offense: ON OR ABOUT DECEMBER 2012
THROUGH APRIL 2013

SAMUEL JAMES JEROME /63-13-005684-01

Location: CITY OF BERKLEY

Berkley, MI 48072

Complainant: [REDACTED]

Complainant
Witness: LT. CRUM

Defendant(s):

WITNESSES

LT. M. CRUM, c/o BERKLEY POLICE DEPT.

DET. C. MILLER

[REDACTED]

STACEY LYNN KRAHE

[REDACTED]

JUDITH ANN STILTNER

REP. OF DHS

REP. OF DHS

(DT) RE: 154 REPORT OF KRAHE FAMILY

STATE OF MICHIGAN, COUNTY OF OAKLAND

Any peace officer or court officer authorized to make arrest: The complaining witness has filed a sworn complaint in this court stating that on the date and the location described, the defendant, contrary to law,

COUNT 1

engage in sexual penetration, to-wit: digital penetration - vagina, with a 13 year old child, [REDACTED] and the defendant was related to the victim by blood or affinity to the 4th degree, contrary to MCL 750.520b(1)(b). [750.520B1B]

SORA NOTICE: This is a Tier III Offense under the Sex Offender Registration Act (SORA) unless the court finds that the victim was between the ages of 13 to 15 inclusive, consented to the conduct, and the defendant was not more than 4 years older than the victim, MCL 28.722(w)(iv).

HIV/STD TESTING NOTICE

Take notice that pursuant to MCL 333.8129, upon binder to circuit court or recorder's court, the district court judge shall order the defendant to be tested for venereal disease, hepatitis B infection, and for the presence of HIV or an antibody to HIV if the judge determines there is reason to believe the violation involved sexual penetration or exposure to a body fluid of the defendant. If the district judge determines that testing is not required, upon conviction, the court must order the defendant to be tested.

FELONY: Life; mandatory lifetime electronic monitoring; mandatory AIDS/STD testing; DNA to be taken upon arrest. The Court may impose a consecutive sentence under MCL 750.520.b(3).

CRIMINAL SEXUAL CONDUCT - FIRST DEGREE (Relationship)

049

9/17/2013 SML/AW

Page 2 of 2

STATE OF MICHIGAN

PROS. ORDER NO. 13-05884

THE DISTRICT COURT JUDICIAL DISTRICT NO. 45/A

County of OAKLAND

WARRANT

COUNT 2

did engage in sexual contact with a child, [REDACTED] who was at least 13 but less than 16 years of age, and the defendant was related to the victim by blood or affinity to the 4th degree, contrary to MCL 750.520c(1)(b). [750.520C(1B)]

SORA NOTICE: This is a Tier II Offense under the Sex Offender Registration Act (SORA). It is a Tier III Offense if the defendant has a prior conviction for a Tier II Offense. MCL 28.722(u) & (v).

HIV/STD TESTING NOTICE

Take notice that pursuant to MCL 333.6129, upon bindover to circuit court or recorder's court, the district court judge shall order the defendant to be tested for venereal disease, hepatitis B infection, and for the presence of HIV or an antibody to HIV if the judge determines there is reason to believe the violation involved sexual penetration or exposure to a body fluid of the defendant. If the district judge determines that testing is not required, upon conviction, the court must order the defendant to be tested.

FELONY: 16 Years; mandatory AIDS/STD testing; DNA to be taken upon arrest.

CRIMINAL SEXUAL CONDUCT - SECOND DEGREE (Relationship)

WHEREAS on nomination of said sworn COMPLAINT by me, it appears to me that said offense has been committed and there is just cause to suspect that said Defendant(s) are guilty thereof. THEREFORE IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN, you and each of you are hereby commanded forthwith to take the said Defendant(s) and bring them before this Court, to be dealt with according to law.

Dated: 9/16/13

District Judge/Magistrate

No. 62525

RETURN ON WARRANT

BY VIRTUE OF THIS WARRANT, I HEREBY CERTIFY AND RETURN THAT I HAVE TAKEN THE SAID DEFENDANT BEFORE THE SAID DISTRICT COURT, AS COMMANDED

Dated: 20

Signed:

DEPUTY SHERIFF, COURT OFFICER OR POLICE OFFICER

050

032a

8/17/2013 SML/AVV

Page 1 of 2

STATE OF MICHIGAN

PROS. ORDER NO.

13-05884

THE DISTRICT COURT JUDICIAL DISTRICT NO.

451A

County of OAKLAND

COMPLAINT/GENERAL
INFORMATIONTHE PEOPLE OF THE STATE OF MICHIGAN
VS.Date of Offense: ON OR ABOUT DECEMBER 2012
THROUGH APRIL 2013

SAMUEL JAMES JEROME /63-13-005884-01

Location: CITY OF BERKLEY

Berkley, MI 48072

Complainant: [REDACTED]

Complaining
Witness: LT. CRUM

Defendant(s)

WITNESSES

LT. M. CRUM, c/o BERKLEY POLICE DEPT.

DET. C. MILLER

STACEY LYNN KRAHE

JUDITH ANN STILTNER

REP. OF DHS

REP. OF DHS

(DT) RE: 154 REPORT OF KRAHE FAMILY

STATE OF MICHIGAN, COUNTY OF OAKLAND

The COMPLAINING WITNESS says that on the date and at the location described, the defendant, contrary to law,

COUNT 1

engage in sexual penetration, to-wit: digital penetration - vagina, with a 13 year old child, [REDACTED] and the defendant was related to the victim by blood or affinity to the 4th degree, contrary to MCL 260.520b(1)(b). [750.520B1B]

SCRA NOTICE: This is a Tier III Offense under the Sex Offender Registration Act (SCRA) unless the court finds that the victim was between the ages of 13 to 16 inclusive, consented to the conduct, and the defendant was not more than 4 years older than the victim. MCL 28.722(w)(iv).

HM/STD TESTING NOTICE

Take notice that pursuant to MCL 533.5120, upon conviction to circuit court or recorder's court, the district court judge shall order the defendant to be tested for venereal disease, hepatitis B infection, and for the presence of HIV or an antibody to HIV if the judge determines there is reason to believe the violation involved sexual penetration or exposure to a body fluid of the defendant. If the district judge determines that testing is not required, upon conviction, the court must order the defendant to be tested.

FELONY: Life; mandatory lifetime electronic monitoring; mandatory AIDS/STD testing; DNA to be taken upon arrest. The Court may impose a consecutive sentence under MCL 760.620 b(3).

CRIMINAL SEXUAL CONDUCT - FIRST DEGREE (Relationship)

051

033a

8/17/2013 SML/AW

Page 2 of 2

STATE OF MICHIGAN

PROS. ORDER NO.

13-05884

THE DISTRICT COURT-JUDICIAL DISTRICT NO. 45/A

County of OAKLAND

COMPLAINT/GENERAL
INFORMATION

COUNT 2

did engage in sexual contact with a child, [REDACTED] who was at least 13 but less than 16 years of age, and the defendant was related to the victim by blood or affinity to the 4th degree; contrary to MCL 750.520c(1)(b). [750.520C1B]

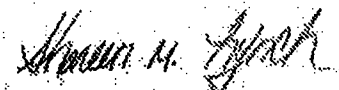
SORA NOTICE: This is a Tier II Offense under the Sex Offender Registration Act (SORA). It is a Tier III Offense if the defendant has a prior conviction for a Tier II Offense. MCL 28.722(u) & (v).

HIV/STD TESTING NOTICE

Take notice that pursuant to MCL 323.5129, upon bindover to circuit court or recorder's court, the district court judge shall order the defendant to be tested for venereal disease, hepatitis B infection, and for the presence of HIV or an antibody to HIV if the judge determines there is reason to believe the violation involved sexual penetration or exposure to a body fluid of the defendant. If the district judge determines that testing is not required, upon conviction, the court must order the defendant to be tested.

FELONY: 15 Years; mandatory AIDS/STD testing; DNA to be taken upon arrest.

CRIMINAL SEXUAL CONDUCT - SECOND DEGREE (Relationship)

WARRANT AUTHORIZED BY
THE OAKLAND COUNTY PROSECUTING ATTORNEY


Assistant Prosecuting Attorney

This complaining witness asks that defendant be apprehended and dealt with according to law.

Dated:

9/18/13

No:

Subscribed and Sworn to on this day by

Complaining Witness

Before the above-named District Judge/Deputy Clerk/Magistrate

052

034a

SUBPOENA FOR WITNESSES IN CRIMINAL CASES		9/17/13 SMJAWV	Page 1 of 1
STATE OF MICHIGAN		PROB. ORDER NO.	13-05884
THE DISTRICT COURT JUDICIAL DISTRICT NO. 46/A		CASE NO.	13-5555
County of OAKLAND		SUBPOENA	
Court Address			

THE PEOPLE OF THE STATE OF MICHIGAN
VS.

SAMUEL JAMES JEROME /63-13-005884-01
[REDACTED]
Berkley, MI 48072

FAILURE TO OBEY THE COMMANDS OF THE
SUBPOENA OR REASONABLE DIRECTIONS
OF THE SIGNER AS TO TIME AND PLACE TO
APPEAR MAY SUBJECT YOU TO PENALTIES
FOR CONTEMPT OF COURT

Defendant(s)

TO:
LT. M. CRUM
DET. C. MILLER
[REDACTED]
STACEY LYNN KRAHE
[REDACTED]
JUDITH ANN STILNER
REP. OF DHS
REP. OF DHS
(DT) RE: 164 REPORT OF KRAHE FAMILY

In the Name of the People of the State of Michigan, You are commanded personally to appear before said District Court, in said County, on _____ at _____ o'clock in the _____ noon of that day at the address shown above to testify to the truth, according to your knowledge, in a certain cause now pending before said Court between the People of the State of Michigan, and said Defendant, on the part of the People of the State of Michigan/said Defendant. You may be required to appear from time to time and day to day until excused.

If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangements.

9/18/13
Date Judge/Clerk/Attorney Bar No.
STATE OF MICHIGAN)
County of OAKLAND)



RETURN OF OFFICER

I Herby Certify and return that on _____ 20____ in the _____
of _____ within the said County, I served the within Subpoena personally on
the within named _____
My Fees, \$ _____
Dated _____ 20____

053

JESSICA R. COOPER
Prosecuting Attorney



OAKLAND COUNTY
PROSECUTOR'S OFFICE
1200 N. TELEGRAPH RD.
PONTIAC, MI 48341
Phone: (248) 858-0656
Fax: (248) 452-2054

A Fax Transmission From: Office of the Prosecuting Attorney

To: Sgt CRUM From: Shayeen
Fax: _____ Date: 8-21-13
Phone: _____ Pages: 3 (Including Cover Sheet)

ROUTING PRECEDENCE:

☐ IMMEDIATE☒ ROUTINE

Further
on Is Krahe &
Jerome
Thank you!
Shayeen

CONFIDENTIALITY NOTICE

The information in this FAX transmission is intended only for the use of the individual or entity named above, and may be privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient, or the employee or agent responsible for delivering the FAX transmission to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of these documents are strictly prohibited. If you have received this fax transmission in error, please contact us immediately by telephone at (248) 858-0656. Thank you.

248 4522054 P.001

OAKLAND CTY PROCTING

AUG-21-2013 09:14

054

OFFICE OF THE PROSECUTING ATTORNEY
COUNTY OF OAKLAND

PO# 2013-05884

PROSECUTOR'S DISPOSITION RECORD

ALLEGED DEFENDANT(S): Krahe, Stacey
Jerome, Samuel
LAST FIRST

ALLEGED OFFENSE: CSC 1st and CSC 2nd

DATE OF OFFENSE: On or about December 2012 through April 2013

LOCATION: Berkley

VICTIM: [REDACTED]

POLICE OFFICER: Sgt. Crum

AND/OR DEPARTMENT: Berkley PD

CASE NUMBER: 13-5535

DISPOSITION:

1. DENIED ☐ 2. FURTHERED ☒ 3. REFERRED ☐

IF REQUEST NOT GRANTED OR FURTHER INVESTIGATION IS ORDERED, GIVE

REASONS: VC is 14 year old daughter of Defendant 1 and the step-daughter of Defendant 2. The VC recently disclosed of touchings to her vagina both under clothes and over clothes. She also disclosed a touching to her breasts. VC has stated Defendant 2 is the subject who sexually assaulted her and Defendant 1 has threatened her and told her to recant her allegation. Furthered for the following information: Need to know who is the very person the VC told about the sexual abuse? Need this person identified and interviewed. Need to know when the VC told this subject about the sexual abuse and what exactly the VC told them about it. The sister of the VC should be interviewed. (How old is this child? I did not see her listed on the 3200 form submitted to DHS) Does this child know anything about what happened to the VC? Was the sister home when the molestations occurred to the VC? If so, where in the house was she? Did the VC ever tell her what was going on? Was this child ever molested as well? (The VC seems to suggest that the Defendant was rubbing this child's stomach in the same fashion he did to her and appeared to be paying the younger sibling a lot of attention as well.) Can Defendant 1 corroborate the fact that the Defendant was buying the VC things in the last 6 months? Need the 154 report from DHS when completed. All of this information is critical to a determination being made on this warrant request.

055

1-002 2013-05884

OAKLAND CITY RECORDING

2013-05884

TOTAL P.003

IF FURTHER OLDER THAN 30 DAYS, PLEASE QUERY THE FOLLOWING:

PROMIS: _____

CCH: _____

WARRANT ISSUED: _____

SIGNED: Shareen Lynch

DATE: August 21, 2013

Received for Filing Oakland County Clerk 2016 AUG 24 PM 03:48

056

246 4522064 P.003

OAKLAND CTY PROJECTING

AUG-21-2013 09:12



Berkley DPS

Property Sheet

2355 W. Twelve Mile Berkley, MI 48072 248-658-3380

CFS #: 13-5555

PCN: 58992784

Name: JEROME, SAMUEL, JAMES

DOB: 5/19/1972

Address: [REDACTED]

City: BERKLEY

State: MI

Zip: 48072

H-Phone: [REDACTED]

SSN: [REDACTED]

D.L. State: MI D.L. # [REDACTED]

Race: WHITE

Sex: MALE

Height: 511

Weight: 230

Locker #: 003 (10, 11)

Arrest Charge:

CSC

QTY	Property	Description
2	SHOES	BROWN SHOES LACES
1	BELT	BLACK BELT
1	OTHER	GRIZZLY CHEW
1	SHIRT	Blue L/S
<div style="text-align: center;"> <h1>unclaimed</h1> <h1>Destroyed 5/18/14</h1> <h1>#11</h1> </div>		

Sign In: [Signature]

Sign Out: [Signature]

Sign out Date: [Signature]

Sign In Date: [Signature]

Or Release Property To: [Signature]

Address & Phone # [Signature]

If transported to another police agency, I understand it is my responsibility to have any property not sent with me picked up within 30 calendar days or it will be disposed of.

Release Information

Date / Time :

Officer Releasing:

Badge:

Bond Amount:

Bond Receipt #:

Released to:

Property Returned ? YES NO

Booking Officer MIKE CRUM 301

Arresting Officer: MCRUM

057

State of Michigan

Sixth Judicial Circuit Court
Family Division
County of OaklandTO: Sgt. Miller FAX NO: 248-658-3391
CC:FROM: Melissa Hoppe TEL NO: 248-858-0042
FAX NO: 248-858-1693SENDER'S PHONE NO: 248-858-0042DATE: August 2, 2013RE: PPO Requests PAGES: (including cover sheet) 23 pgsMESSAGE: 13-810784-PP
13-810783-PP
13-810782-PPIf you need anything else let me know.Thanks,
Melissa

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058

T11:07/25/13.14119102.51106

dm

Original - Court
13-810784-PP

Appointed, SCAD
STATE OF MICHIGAN
6TH JUDICIAL CIRCUIT
OAKLAND COUNTY

ORDER DENYING OR DISMISSING
PETITION FOR
PERSONAL PROTECTION ORDER

Court address
1200 North Telegraph Road, Pontiac, MI 48341

Judge Cheryl A. Matthews
KRAHS, STACEY, v. ST. LEE, JUDY
Court telephone no.
(248) 975-9211

Petitioner's name
STACEY KRAHS NFF [REDACTED] LYNNE KRAHS

Respondent's name, address, and telephone no.
JUDY ANN ST. LEE

Address and telephone no. where court can reach petitioner
[REDACTED], BERKLEY, MI 48072

[REDACTED], BERKLEY, MI 48072

Date: 07/23/2013 Judge: Cheryl A. Matthews

1. This order is entered ☒ without a hearing. ☐ after hearing.

THE COURT FINDS:

2. ☒ a. A petition was filed for a personal protection order by a domestic relationship.
(d) There is not reasonable cause to believe the respondent may commit one or more of the acts listed in MCL 200.2950(1).
☐ b. A petition was filed for a personal protection order in a non-domestic relationship.
☐ Respondent has not committed two or more acts of willful, unconsented contact.
☐ c. A petition was filed for a non-domestic sexual assault personal protection order.
☐ d. Other:

- ☒ 3. The petitioner requested an ex parte order.

- ☒ a. The petitioner has been interviewed, the petitioner's claims are sufficiently without merit, and the petition should be dismissed without a hearing.
☐ b. An ex parte order should not be issued, but the petitioner has been advised of the right to request a hearing on the petition.
☐ c. Other:

IT IS ORDERED:

4. ☒ a. The petition for a personal protection order is denied for the following reasons: (Specified below.)
☐ b. The petition for an ex parte personal protection order is denied with notice of the right to request a hearing for the following reasons: (Specified below.)
☒ c. The petition for an ex parte personal protection order is dismissed without notice of the right to request a hearing because the petitioner's claims are sufficiently without merit for the following reasons: (Specified below.)
Insufficient factual allegations.

07/23/2013

Date

(By Judge)

CERTIFICATE OF SERVICE

- ☐ I certify that on this date I personally served a copy of this order on the petitioner at _____ Location _____ at _____ Time _____.

- ☐ I certify that on this date I mailed a copy of this order to the petitioner by first-class mail addressed to his/her last known address.

- ☐ I certify that I ☐ personally served a copy of this order on the respondent at _____ Location _____ at _____ Time _____.

- ☐ served a copy of this order on the respondent by first-class mail addressed to his/her last known address because the respondent was served with a copy of the petition for a personal protection order.

Date

Court date

cc: jps (p/1) ORDER DENYING OR DISMISSING PETITION FOR PERSONAL PROTECTION ORDER

MCR 3.705(ANSI)
MCR 3.705 (BK1), (B)

DEN

059

042a

Received for Filing Oakland County Clerk 2016 AUG 24 PM 03:48

T11.07/24/13.15:52:08.59635

REFLECTIONS COUNSELING CENTER P.C.
MICHAEL GOVAN, MA, LLP, LPC
www.ReflectionsCounseling.com

2888 E. LONG LAKE, SUITE 170

TROY, MI 48063

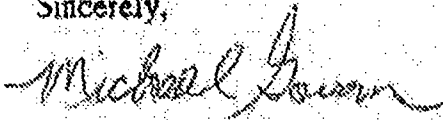
(248) 524-0050

(FAX) 524-0146

To whom it may concern:
Re: Stacey Krahe and family:

Stacey Krahe has been a patient of mine for over a year. She has two children [redacted] and [redacted]. I have met with her husband Sam Jerome multiple times. I have observed Stacey and Sam's interaction with the kids and vice-versa. They both have discussed in session very appropriate, caring, and well-rounded parenting skills. I have no concern in their ability to parent their children. Stacey deals with PTSD from repeated trauma as a child. I believe it is important for you to know that one of her perpetrators was her Mother (Judith Stiltner). We have tried to set boundaries with her Mother but her Mother refuses to stay within them. She is very controlling, threatening and emotional abusive towards Stacey and her children. Due to this, Stacey has been advised by professionals, including myself that it would be in her and the children's best interest to cut all ties with her Mother. Stacey has made the choice for herself and her family to walk away from what I see as a professional to be a very abusive relationship. My recommendation for Stacey and her family are to continue to have no contact with Judy Stiltner. (At least until we experience her mother having a large change of heart)

Sincerely,



Michael Govan MA LLP LPC

061

T11.07/24/13.15:52:08.59636

STATE OF MICHIGAN
6th JUDICIAL CIRCUIT
COUNTY OF OAKLANDVERIFIED STATEMENT
RE: PPO ACTION

1200 N. TELEGRAPH RD, PONTIAC, MI 48341

13-810784-PP

JUDGE CHERYL A. MATTHEWS
NAME: STACEY, v. STILTNER, ADY
Age

PETITIONER

Age

RESPONDENT

Age

~~Stacey, Cheryl A.~~

13

v. Judy Stiltner

72

1200 N. Telegraph Rd, Pontiac, MI 48341

Have you or respondent ever used any other names (now or in the past)? ☐ Yes ☒ No If yes, please list them.What county do you live in? OaklandRespondent lives in Oakland County.Do you or have you lived together? ☒ Yes ☐ No.

How do you know the person you are filing against?

GrandmaDo you and respondent have child(ren) together? ☐ Yes ☒ No If yes, list the children you have together.

NAME OF CHILD

DATE OF BIRTH

CURRENT ADDRESS

1.

2.

3.

(ATTACH EXTRA SHEETS IF NECESSARY)

Were you married to respondent when the child(ren) were born? ☐ Yes ☒ No If no, check one:

There has been a legal order of paternity entered. Case number:

A paternity case has been filed and is pending. Case number:

The father legally acknowledged paternity.

There has been no legal acknowledgment of paternity.

Is there a custody or parenting time order in effect regarding child(ren) that you and respondent have together?

☐ Yes If yes, fill out attached worksheet.☒ No If you and respondent have child(ren) together, fill out the attached worksheet regarding custody and parenting time.

List all other children that either of you have

Have you or respondent ever asked for a Personal Protection Order in another county? ☐ Yes ☒ No

What county

When

Why

Have you or respondent ever been in court in another county?

What county

When

Why

Does the respondent have a license to carry a firearm? ☒ Yes ☐ NoIs the respondent employed or in training for a position which will require him/her to carry a firearm? ☐ Yes ☒ NoIs the respondent an employee of a law enforcement agency? ☐ Yes ☒ No If yes, which agency?Is the respondent an employee of the Department of Corrections? ☐ Yes ☒ No If yes, which facility?

VERIFICATION UNDER MCR 2.114(2)(b): I declare that the statements above are true to the best of my information, knowledge and belief.

Date 7-24-13Signature of petitioner Sabrina K. Pate

VERIFIED STATEMENT-2 (101008)

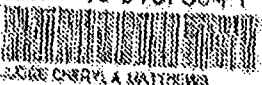
062

FILED 07/25/13 14:19:02 61185

Approved: SCAO

Original Court

Case No. 13-810783-PP

STATE OF MICHIGAN 6TH JUDICIAL CIRCUIT OAKLAND COUNTY	ORDER DENYING OR DISMISSING PETITION FOR PERSONAL PROTECTION ORDER	 JUDGE CHERYL A. MATTHEWS KRYVE STACEY, v. STILTNER JUDY
---	--	---

Court Address

1200 North Telegraph Road, Pontiac, MI 48341

Court telephone no.
(248) 875-9511

Petitioner's name
STACEY KRAHE NFF ALYXIS PAVE KRAHE
Address and telephone no., where court can reach petitioner
[REDACTED], BERKLEY, MI 48072

Respondent's name, address, and telephone no.
JUDY ANN STILTNER
[REDACTED], BERKLEY, MI 48072

Date: 07/24/2013

Judge: Cheryl A. Matthews

1. This order is entered ☒ without a hearing. ☐ after hearing.

THE COURT FINDS:

2. ☒ a. A petition was filed for a personal protection order in a domestic relationship.
☒ There is no reasonable cause to believe the respondent may commit one or more of the offenses listed in MCL 200.2950(1).
☐ b. A petition was filed for a personal protection order in a non-domestic relationship.
☐ Respondent has not committed two or more acts of willful, unauthorized contact.
☐ c. A petition was filed for a non-domestic sexual assault personal protection order.
☐ d. Other: _____
☒ 3. The petitioner requested an ex parte order.
☒ a. The petitioner has been interviewed, the petitioner's claims are sufficiently without merit and the order should be dismissed without a hearing.
☐ b. An ex parte order should not be issued, but the petitioner has been advised of the right to request a hearing on the petition.
☐ c. Other: _____

IT IS ORDERED:

4. ☒ a. The petition for a personal protection order is denied for the following reasons: (Specified below.)
☐ b. The petition for an ex parte personal protection order is denied with notice of the right to request a hearing for the following reasons: (Specified below.)
☒ c. The petition for an ex parte personal protection order is dismissed without notice of the right to request a hearing because the petitioner's claims are sufficiently without merit for the following reasons: (Specified below.)
 Insufficient factual allegations.

07/23/2013

Date

CERTIFICATE OF SERVICE

- ☐ I certify that on this date I personally served a copy of this order on the petitioner at _____
 at _____
☐ I certify that on this date I mailed a copy of this order to the petitioner by first-class mail addressed to his/her last-known address.
☐ I certify that I ☐ personally served a copy of this order on the respondent at _____
 at _____
☐ served a copy of this order on the respondent by first-class mail addressed to his/her last-known address.
 because the respondent was served with a copy of the petition for a personal protection order.

State

Court date

COPIES (3/1) ORDER DENYING OR DISMISSING PETITION FOR PERSONAL PROTECTION ORDER

MCR 3.705(A)(3)
MCR 3.705 (B)(1), (5)

063

T11.87/24/13.15:52:00.59626

Original - Court
1st copy - Judge/Assignment clerk (green)
2nd copy - Respondent (blue)

Assigned: 52160

STATE OF MICHIGAN
6th JUDICIAL CIRCUIT
OAKLAND COUNTY

PETITION FOR
PERSONAL PROTECTION ORDER
(DOMESTIC RELATIONSHIP)

Court address
1200 N. Telegraph Road, Pontiac, MI 48341-1043

Court telephone no.
(248) 925-0317

13-810783-PP

JUDITH CHEVY & MATTHEW
KIM E. STACEY, & SUTHERLAND

Petitioner name: [REDACTED] 1340 Sherrill Ave

Respondent name, address, and telephone no. Age: 72

Judy Stittner

Address and telephone no. where court can reach petitioner: [REDACTED] Berkley MI 48072

[REDACTED] Berkley 48072

1. The petitioner and respondent ☐ are husband and wife. ☐ were husband and wife. ☐ have a child in common.
☐ have or had a dating relationship. ☐ reside or resided in the same household.
2. ☐ The respondent is required to carry a firearm in the course of his/her employment. ☐ Unknown.
3. a. There ☐ are ☒ no other pending actions in this or any other court regarding the parties.
Case number: _____ Name of court and county: _____ Name of judge: _____
- b. There ☐ are ☒ no orders/judgments entered by this or any other court, regarding the parties.
Case number: _____ Name of court and county: _____ Name of judge: _____
4. I need a personal protection order because: Explain what has happened (attach additional sheets).
PLEASE SEE ATTACHED ADDENDUM
5. I ask the court to grant a personal protection order prohibiting the respondent from:
- ☒ a. entering onto the property where I live. I state that either I have a property interest in the premises, I am married to the respondent, or the respondent has no property interest in the premises.
- ☒ b. entering onto the property at _____
Address: _____
- ☒ c. assaulting, attacking, beating, molesting, or wounding _____
Name(s): _____
- ☒ d. removing the minor children from the petitioner who has legal custody, except as allowed by a custody or parenting time order as long as removal of the children does not violate other conditions of the personal protection order.
- ☒ e. stalking as defined under MCL 750.411h and MCL 750.411i, which includes but is not limited to:
☒ following me or appearing within my sight. ☐ appearing at my workplace or residence.
☒ sending mail or other communications to me. ☐ contacting me by telephone.
☒ approaching or confronting me in a public place or on private property.
☒ entering onto or remaining on property owned, leased, or occupied by me.
☒ placing an object on or delivering an object to property owned, leased, or occupied by me.
- ☐ f. interfering with efforts to remove my children/personal property from premises solely owned/leased by the respondent.
- ☐ g. threatening to kill or physically injure _____
- ☐ h. interfering with me at my place of employment or education or engaging in conduct that impairs my employment or educational relationship or environment.
- ☒ i. having access to information in records concerning a minor child of mine and the respondent that will reveal my address, telephone number, or employment address or that will reveal the child's address or telephone number.
- ☐ j. purchasing or possessing a firearm.
- ☐ k. other: _____
6. I make this petition under authority of MCL 600.2950/MCL 600.2950a and ask the court to grant a personal protection order.
- ☒ I request an ex parte order because immediate and irreparable injury, loss, or damage will occur between now and a hearing or because notice itself will cause irreparable injury, loss, or damage before the order can be entered.
- ☒ I have a next friend petitioning for me. I certify that the next friend is not disqualified by statute and is an adult.

7-24-13
Date

[REDACTED] wea. Tracy Krale
Petitioner's signature

T11:B7/24/13.15:52:08.59627

PRIOR CASES

PRIOR CASES BETWEEN PARTIES: *None*

CASE NUMBER	JUDGE
13-810782-PP	MATTHEWS
13-810784 PP	" "

PRIOR CASES WITH PETITIONER:

CASE NUMBER	JUDGE
03-682452 PP	
05-715569 PP	
06-716816 DA	

PRIOR CASES WITH RESPONDENT:

CASE NUMBER	JUDGE

068

TJL 07/24/13 10:52:00 59620

STATE OF MICHIGAN
6th CIRCUIT COURT
OAKLAND COUNTYADDENDUM TO PETITION
FOR PERSONAL PROTECTION ORDER
(DOMESTIC)

CASE NO.

Court address
1200 N. Telegraph Road, Pontiac, MI 48341-1045page 1 of 1
Court telephone no.
(248) 978-5511

Petitioner's name

Age

Respondent's name

Age

~~_____~~
1000 ~~_____~~
Sherry K. Kade

14

v

~~_____~~
Judy Stithner

72

☐ Check if co-stakeholder address filed with Court

I need a personal protection order because respondent:

- ☒ Entered onto my property.
☒ Assaulted, attacked, beat, molested, or wounded me on or about the following dates:
☒ Threatened to kill or physically injure me on or about the following dates:
☒ Removed minor child(ren) from the individual having physical custody of the child(ren) without a court order.
☒ Interfered with me at my job or is threatening my job relationship or environment.
☒ Interfered with my efforts to remove my child(ren) or personal property from defendant's property.
☒ Did the following things which make me fear violence or interfere with my freedom:

1. When at home 1 week ago
 Where at home
 What She said she was going to take me away from my mom

2. When 1 week ago
 Where at grandma's
 What she said I was away to get away from grandma because she told me to go about my mom

3. When I want her to stop threatening to take me away from my mom because they are not getting along
 Where _____
 What _____

4. When she has a guy that lives in her house, he ask me questions that make me feel uncomfortable
 Where _____
 What she hide her daycare kid and so does her assistant

she confused me and says I can do things(Attach extra sheets if necessary) my mom say I can't like drugs and sex
VERIFICATION UNDER MCR 2.114(2)(b): I declare that the statements above are true to the best of my information, knowledge and belief.DATED: 7-24-13

ADDENDUM DOMESTIC

Signature of signing party

066

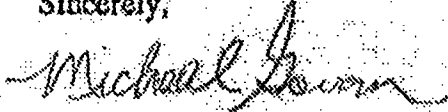
211.07/24/13. 15:52:08. 53629

REFLECTIONS COUNSELING CENTER P.C.
MICHAEL GOVAN, MA, LLP, LPC
www.ReflectionsCounseling.com
2668 E. LONG LAKE, SUITE 170
TROY, MI 48065
(248) 524-0050
(FAX) 524-0146

To whom it may concern:
Re: Stacey Krahe and family:

Stacey Krahe has been a patient of mine for over a year. She has two children, [REDACTED] and [REDACTED] Krahe. I have met with her husband Sam Jerome multiple times. I have observed Stacey and Sam's interaction with the kids and vice-versa. They both have discussed in session very appropriate, caring, and well-rounded parenting skills. I have no concern in their ability to parent their children. Stacey deals with PTSD from repeated trauma as a child. I believe it is important for you to know that one of her perpetrators was her Mother (Judith Stillner). We have tried to set boundaries with her Mother but her Mother refuses to stay within them. She is very controlling, threatening and emotional abusive towards Stacey and her children. Due to this, Stacey has been advised by professionals, including myself that it would be in her and the children's best interest to cut all ties with her Mother. Stacey has made the choice for herself and her family to walk away from what I see as a professional to be a very abusive relationship. My recommendation for Stacey and her family are to continue to have no contact with Judy Stillner. (At least until we experience her mother having a large change of heart)

Sincerely,



Michael Govan MA LLP LPC

067

7/11/2016 7:24/13 15:52:50 59631

STATE OF MICHIGAN
6th JUDICIAL CIRCUIT
COUNTY OF OAKLAND

CONSENT TO
APPOINT NEXT FRIEND

13-810783-PP
JUDGE CHERYL A. MATTHEWS
KRAUS, STACEY, V. STALNER, JOY

Court address: 1305 N. Telegraph Rd., Pontiac, MI 48341

Consent by Minor to Appoint Next Friend

RECEIVED FOR FILING
OAKLAND COUNTY CLERK
2016 JUL 24 PM 3:16
CLERK COUNTY CLERK

I, [Redacted], am a minor petitioner in a Personal Protection Order action who is over 14 years but under 17 years of age.

I consent to the appointment of Stacey Kraus as next friend for me in all matters related to this action.

7-24-13
Date

[Redacted Signature]
Signature of minor petitioner

7-24-13
Date

[Redacted Signature]
Signature of Next Friend

068

1 case, there was a no-contact order put in place between
2 Stacey and [REDACTED] and Sam and [REDACTED] correct?

3 A Correct.

4 Q All right. Now, subsequent to the district court putting
5 that order into place, did you ever happen to see [REDACTED]
6 again after that?

7 MS. KOSMATKA: Judge, may we have one moment?
8 Mr. George and myself first.

9 (At 8:52 a.m., brief off-the-record conference
10 between counsel)

11 MS. KOSMATKA: Thank you.

12 BY MR. GEORGE:

13 Q All right. My question, Lieutenant, was subsequent to
14 that you did see [REDACTED] again and you've seen her
15 subsequent to that, as well, correct?

16 A Many times, yes.

17 MR. GEORGE: No further questions. Thank you.

18 THE COURT: Cross-exam?

19 MS. KOSMATKA: Thank you.

20 CROSS-EXAMINATION

21 BY MS. KOSMATKA:

22 Q Lieutenant Crum, you stated that--And I'm going to tell
23 you--I know that you'll probably follow it a little bit
24 better; but because there's so many instances, if you
25 don't know specifically what time frame I'm talking about,

1 just let me know. Okay?

2 But kind of starting from the beginning of--with
3 your direct with Mr. George, you indicated that prior to
4 your involvement in this particular case that started on
5 May 7th of last year,--

6 A Yes.

7 Q --that you had had many contacts with Stacey Krahe. Is
8 that correct?

9 A Yes.

10 Q You had indicated that, in fact, that your involvement
11 with her started at the beginning of your career.

12 A Yes.

13 Q Okay. And obviously, you've had a fairly long career at
14 this point, right?

15 THE COURT: I think he said 18 years or 16.

16 THE WITNESS: I've been around awhile, yes.

17 BY MS. KOSMATKA:

18 Q Okay. So, at the time that this all came to your
19 attention initially on May 7th, you already had an opinion
20 formed about Stacey. Is that fair to say?

21 A When the report came--I'm sorry. Can you say that again?

22 Q Sure. This whole thing started to be a part of your life
23 on May 7th of 2013, right?

24 A This incident, yes.

25 Q All the stuff that happened with this family started May

1 seventh and kind of continued?

2 A Yes.

3 Q Okay. And at the time that that started, these weren't

4 strangers to you, right?

5 A Correct.

6 Q And so at that point, you had already had a formed opinion

7 about Stacey?

8 A That would be fair, yes.

9 Q Okay. Prior to this happening, again on May 7th, did you

10 know Judy, the grandmother?

11 A Before May 7th I believe I had met Judy one time.

12 Q Okay. So is it fair--

13 A Quite possibly twice. I'm sorry.

14 Q I apologize.

15 A Maybe twice.

16 Q Okay. So, is it fair to say that you did not have a

17 formed opinion about her?

18 A Correct.

19 Q Okay. Did you know Mr. Jerome before this?

20 A I knew of Mr. Jerome several months before this incident.

21 We had a different incident that Mr. Jerome was involved

22 in.

23 Q Okay. And how about Sabrina?

24 A I don't believe I had ever met Sabrina.

25 Q Okay. And now about [REDACTED]

- 1 A I take that back. I did meet Sabrina and [REDACTED] when they
2 were much younger.
- 3 Q Okay.
- 4 A Both of those. But I--I don't believe I talked to them
5 then.
- 6 Q Okay.
- 7 A And I had met [REDACTED] one time before this.
- 8 Q Okay. And would you agree or disagree with me that it's
9 part of the job of police officers to do an independent
10 investigation?
- 11 A Yes.
- 12 Q Obviously, part of your duties are to protect people who
13 allege or report that they've been victims of crime.
- 14 A Correct.
- 15 Q But it's also part of your job to do the same and protect
16 the rights of people who are accused of crimes.
- 17 A For everybody involved, yes.
- 18 Q Okay. Because you would agree with me, wouldn't you, that
19 a defendant or somebody who allegations are made against
20 or defendant, doesn't have the ability to collect the
21 information that you do?
- 22 A Correct.
- 23 Q You have search warrant powers, correct?
- 24 A Yes.
- 25 Q Ability to interview contacts, whoever you want, at least

1 whoever will agree to speak with you.

2 A If they'll--If they'll agree to come in, yes.

3 Q You are someone who is gathering all of the information,
4 things like that. You have--You're in a unique position
5 that's not available to laypeople?

6 A Yes.

7 Q Okay. And also as a police officer, and particularly as
8 an officer in charge of a case, it's up to you--or you're
9 making somewhat of a judgment call as to what you decide
10 to collect and what's important and what you decide isn't?

11 A I'm not sure I understand the question.

12 Q Sure. You're making decisions of what is important in
13 terms of collecting evidence and what you don't need.

14 A Yes.

15 Q And if you--Would you agree with me that if a police
16 officer, or you more specifically in this case, forms an
17 opinion of their own early on, that can affect the
18 decisions that you make as you go forward?

19 A Are you asking me if that's possible?

20 Q Yeah.

21 A Yes, that's possible.

22 Q Okay. And Mr. George asked you questions, too, kind of
23 about how the process works with charges.

24 A Yes.

25 Q And I just want to talk about that real briefly.

1 A Sure.

2 Q As a police officer, and particularly an officer in
3 charge, you aren't--it's your responsibility to kind of
4 collect all the reports and write some reports of your own
5 to do follow up?

6 A Generally speaking, yes.

7 Q Okay. And then at some point, police officers, or the
8 officer in charge of a case, fills out a packet that goes
9 over to the prosecutor's office?

10 A Yes.

11 Q And the purpose of that packet is requesting that a
12 warrant be issued?

13 A Yes.

14 Q Okay. So police officers kind of do the legwork, present
15 what they think it is, and then give it to lawyers who
16 decide whether or not a warrant will be issued; and if so,
17 what it will be?

18 A Yes.

19 Q Okay. In this particular case, you indicated--

20 And you've been in the courtroom for the other
21 witnesses' testimony, so you heard Jason, the CPS worker,
22 correct?

23 A Yes.

24 Q In this case, you had told CPS at least that you were
25 going to seek charges against Stacey for intimidating a

1 witness, correct?

2 A I presented that, yes.

3 Q And you told Stacey you were going to do that, as well,

4 correct?

5 A I believe I did. I'm not--I'm not sure about that, but I

6 believe I did.

7 Q Was that issued, once the prosecutor read your report?

8 A No.

9 Q You also indicated that after the night of the domestic

10 violence incident on August the 2nd of last year, you

11 reviewed the information and it was your choi--or your

12 decision to present that and ask the prosecutor's office

13 for a warrant on child abuse, correct?

14 A That's what I wrote, yes.

15 Q Which is a higher charge than domestic violence, isn't it?

16 A I believe the penalty is--is more severe, yes.

17 Q And was that approved after you made that request to the

18 prosecutor's office and they reviewed your information?

19 A No.

20 Q And you've indicated that you are currently the head of

21 the detective bureau for Berkley, correct?

22 A I am.

23 Q Okay. When witnesses--

24 A If I could--I'm sorry. If I--

25 Q Sure.

- 1 A --could clarify something. It was not at that time.
- 2 Q Okay.
- 3 A At the time we're talking, I was actually sergeant.
- 4 Q All right.
- 5 A So you may hear them refer to me as that.
- 6 Q Okay.
- 7 A So at that time, I was--I was not.
- 8 Q Okay. So you were a sergeant detective. There was a boss
- 9 about you--
- 10 A Yes.
- 11 Q --at that point? And now, since then, you've been
- 12 promoted and you--
- 13 A Yes.
- 14 Q Okay. When people come into the police department for
- 15 interviews, do you have the ability to tape record them?
- 16 A Yes. In certain parts of the building, yes.
- 17 Q All right. Who decides whether or not to do that?
- 18 A The detective, generally speaking.
- 19 Q Okay. And you interviewed [REDACTED] multiple times throughout
- 20 May 7th of 2013 through--past August 2nd, after the domestic
- 21 violence incident, correct?
- 22 A Yes.
- 23 Q And, in fact, you said you spoke to her many times.
- 24 Right?
- 25 A Yes.

1 Q And the majority of those times that you spoke to her were
2 at the police department?

3 A Yes.

4 Q And you were aware of the fact that there were allegations
5 going back and forth, about changing stories and why that
6 would be, or who was doing the influencing, or where that
7 was coming from. Correct?

8 A Yes.

9 Q Did you ever video tape any of those interviews?

10 A No.

11 Q So, rather than having it be something where a prosecutor
12 or a defense attorney or a jury or someone can see what
13 was said, you talked to her and then you use your words
14 and pick out what you think's important out of what she
15 said and put it in a report; is that fair to say?

16 A Yes.

17 Q 'Cause it's not written verbatim. Obviously, you can't
18 sit there and write verbatim everything--

19 A Correct.

20 Q --someone you're interviewing says. So you pick out what
21 you think should go in and you put that in a report?

22 A Correct.

23 Q And if someone alleges that something's missing from that
24 report or something different is said, there is no way to
25 dispute it. Correct?

1 A I don't understand what you mean.

2 Q Sure.

3 A They can dispute it, if they would like.

4 Q Is there any way for them to show that that's what

5 happened? They don't write a report, do they?

6 A No.

7 Q Do they get to write a report that goes to the

8 prosecutor's office that says, no, this is what I think I

9 said?

10 A They can write a witness statement, if they'd like to.

11 Some refuse to.

12 Q Did you ask anyone in this case to write one?

13 A I don't recall.

14 Q It's not reflected in your report that you asked anyone

15 to, is it?

16 A I don't believe so.

17 Q If you asked someone to and they refuse to, that'd be

18 worth noting, wouldn't it?

19 A Not generally.

20 Q Okay. Is there a reason you didn't ask anyone for a

21 written statement?

22 A I don't recall.

23 Q You would agree with me, and we heard Officer Bunting

24 testify, as well, that written statements are very

25 commonplace in police work when you're dealing with lay

1 witnesses; you'd agree with that, wouldn't you?

2 A Yes.

3 Q Because when we have somebody--And there's a couple
4 reasons why that's done. Right?

5 A Sure.

6 Q And that's something that's taught at the police academy?

7 A That was a long time. I don't remember.

8 Q Okay. Most certainly in 16 years you've taken a lot of
9 written statements, I would presume?

10 A When I was on the road, generally I took a lot of written
11 statement, yes.

12 Q Okay. Again, with the same issue that was going on in
13 this case in particular with different influences and just
14 different--Kind of a weird case, you'd agree with that,
15 right? I mean, not typical?

16 A Yes.

17 Q And again, as a way to have an independent source of
18 what's being said by a witness, you could have them write
19 out a written statement which would then mean it's in
20 their own words, something they wrote out as their own
21 words saying this is what happened. Correct?

22 A Yes.

23 Q But again, that wasn't done; so when you talked to them,
24 you just picked out what you thought was necessary or
25 important in your judgment, your professional judgment,

- 1 put--that's what went in the report?
- 2 A Yes.
- 3 Q Okay. At some point after the charges were brought,
- 4 Stacey had come into the police department to make a
- 5 statement, correct, about an unrelated issue? Regarding
- 6 her mother?
- 7 A Yes.
- 8 Q And that was videotaped?
- 9 A Yes.
- 10 Q Who decided to video tape it when Stacey talked?
- 11 A I did.
- 12 Q That was quite long, wasn't it?
- 13 A It was.
- 14 Q About five or six hours?
- 15 A I don't recall it being that long, but it's possible.
- 16 Q Several hours?
- 17 A Several hours.
- 18 Q And you decided when she's talking I'm going to video
- 19 record that?
- 20 A Yes.
- 21 Q So going along those same lines, as the person who's in
- 22 charge of the investigation, you indicated that at some
- 23 point you were made aware by Stacey, I believe, that there
- 24 were multiple recorded conversations; is that correct?
- 25 A Yes.

1 Q And when I say recorded conversations, they were recorded,
2 I believe, on a cell phone? If you know.

3 A The one I know of was on a cell phone, yes.

4 Q Did you only hear one?

5 A I don't recall. I know I heard one.

6 Q Okay. But she made you aware of the fact that there were
7 many?

8 A She said she had some on her phone. We listened to some
9 of those. But I--

10 Q Okay. Did you--

11 A --know I listened to one. I can't say for sure if I
12 listened to more than one. I don't recall.

13 Q Okay. And we'll get to that a little later. But did you
14 do anything to preserve those or take those into evidence
15 so that again a prosecutor or other lawyers or when we got
16 to this point would be able to have them?

17 A At that time, I did not.

18 Q Okay. Again you just decided that wasn't important?

19 A No, I indicated how we could do that to Stacey. But at
20 that exact time I did not preserve those.

21 Q Okay. Moving on from there, you were aware of the fact
22 that in addition to recorded conversations, that there
23 were a lot of text messages going back and forth between
24 the parties, as well, correct?

25 A Yes.

1 Q And, in fact, Ms. Stiltner, Judy Stiltner, the
2 grandmother, indicated that there was a text message from
3 Sam that she felt was an admission about this case.
4 Correct?

5 A At some point she did tell me that, yes.

6 Q Did you do anything to collect the text messages that were
7 involved in the case that were going back and forth?

8 A Contacted--We checked with the phone carrier, and they
9 didn't keep them for more than five days or ten days, I
10 don't recall.

11 Q Everyone's phone carrier?

12 A No.

13 Q There were a lot of phones here, right?

14 A There were, yes.

15 Q And if text messages are going back and forth, then
16 they're on both phones. Do you know what I mean by that?

17 A Absolutely.

18 Q If I text you, it's on your phone and it's on my phone,
19 unless we do--

20 A Yes.

21 Q --something to--

22 A Yes.

23 Q --delete it. So Stacey had a phone?

24 A Yes.

25 Q Sam had a phone?

- 1 A Yes.
- 2 Q [REDACTED] had a phone?
- 3 A At that time, I'm not sure if she did or not.
- 4 Q Did Sabrina have a phone, if you know?
- 5 A At some point she had one, yes.
- 6 Q Judy had a phone?
- 7 A Yes.
- 8 Q So did you check with all the carriers?
- 9 A I don't--I don't believe so.
- 10 Q Okay. And after the domestic violence case happened, you
- 11 said that you spoke to some of the parties at the police
- 12 department later that morning, on August the 2nd.
- 13 A Yes.
- 14 Q 'Cause again, as Mr. George indicated, this--the incident
- 15 that happened at the home happened somewhere around
- 16 midnight, so it could have been August 1st or it could have
- 17 been into August 2nd.
- 18 A We were called at 12:11.
- 19 Q Okay, so it was--
- 20 A Eleven minutes after.
- 21 Q --at night but it is--was technically August 2nd because it
- 22 was past midnight?
- 23 A Yes.
- 24 Q So that following morning, some hours later, is when you
- 25 had these conversations?

1 A I think Stacey was there around 8:30 in the morning, so,
2 yes.

3 Q Okay. And so did you speak to Stacey first?

4 A No.

5 Q Okay. So people were there early in the morning?

6 A Yes.

7 Q How did--Well, let me ask you--I'll kind of go through it
8 so that we don't get confused. You spoke to [REDACTED] that
9 morning?

10 A I did.

11 Q And you said that was a--these conversations took place at
12 the police department, too. Right?

13 A On--You're talking August 2nd?

14 Q Yes.

15 A Yes.

16 Q Okay. So you spoke to [REDACTED] Yes?

17 A Yes.

18 Q And then Sam--Did you call Stacey and ask her to come in
19 or did she just come in?

20 A I believe she just came in.

21 Q Okay. So she came up there on her own wanting to talk to
22 someone?

23 A I believe she was told to by the police officers the night
24 before, to come to the detective bureau and see me.

25 Q And she--If--If--

1 A And she did.

2 Q --If that's what happened.

3 A And she did, yes.

4 Q She came. Same with Sam.

5 A I don't know if I called Sam or not. I don't recall.

6 Q At some point following that, isn't it true that Judy, the
7 grandmother, and Stacey came to the police department
8 together wanting to speak with you and you refused to see
9 them?

10 A That I don't know.

11 Q You don't remember if these people came in and you didn't
12 see them?

13 A I don't believe that I ever refused to see them.
14 Sometimes I'm in court, like today; and the front desk
15 will tell them that I'm not available or I can't see them.
16 Sometimes I'm in interviews, and they'll say that he's not
17 available.

18 Q That's not what I'm speaking of. I'm speaking of you are
19 saying that there wasn't a time that they came in that you
20 were there, after you had already presented the warrant,
21 they came together, Judy and Stacey, and that you wouldn't
22 talk to them?

23 A I don't recall that.

24 Q Okay. Now I want to talk more specif--I want to try to go
25 in order now. Let's talk specifically about May 7th of

- 1 last year, 2013, when this kind of all started.
- 2 A Yes.
- 3 Q You said that the way you became aware that there was a
4 problem is because Judy came into the police department
5 with [REDACTED]
- 6 A Yes.
- 7 Q And it was your information that [REDACTED] had told her mother
8 something.
- 9 A Yes.
- 10 Q Okay. And that after that happened, basically Stacey, the
11 mother, called the grandma, and asked her to take her,
12 somehow [REDACTED] got to the police department?
- 13 A Yes.
- 14 Q So, there was never a time that [REDACTED] told her grandmother
15 first. She told her mom. Right?
- 16 A That's what my understanding is, yes.
- 17 Q So, initially, it was Stacey's decision to get the police
18 involved,--
- 19 A Yes.
- 20 Q --is your understanding?
- 21 A Yes.
- 22 Q And she came into the police department a little bit
23 later? Stacey?
- 24 A She was there that day, yes.
- 25 Q Okay. And it was your understanding that she had had a

1 conversation with Sam and told him he had to leave the
2 house till she could figure out what was going on.
3 Correct?
4 A Yes.
5 Q And she's not required to do that. That's something she
6 did on her own?
7 A At that time, yes.
8 Q Okay. And at that time, Stacey spoke to you voluntarily,
9 obviously; she came up there on her own again?
10 A Yes.
11 Q And she told you what [REDACTED] had told her, correct?
12 A She did.
13 Q And at that time, that morning that she first learned
14 about it, she told you things that were bad for Sam.
15 Right? I mean,--
16 A I would--
17 Q --she said my daughter says these things happened,--
18 A Yes.
19 Q --inappropriate touching.
20 A Yes.
21 Q Right? And as a result, I have my daughter at the police
22 department; I'm getting him out of the house?
23 A Yes.
24 Q Okay. And you indicated that at some point--
25 Was it that same day that you also spoke to Sam,

1 that--

2 A I believe it was.

3 Q --meaning May 7th?

4 A I believe it was. It was either May 7th or May 8th. But I

5 believe it was May 7th, yes.

6 Q Okay. So shortly thereafter, in any event?

7 A Yes.

8 Q And he came in voluntarily, as well?

9 A He did.

10 Q Okay.

11 A He did.

12 Q I mean, did you call him? Or he showed up?

13 A I did not.

14 Q He showed up?

15 A I didn't want to talk to him at that point.

16 Q Okay.

17 A So he--

18 Q But he wanted to talk to you?

19 A He did.

20 Q And you talked to him?

21 A I did.

22 Q And you said that when you talked to him, he admitted to

23 you that, yeah, he had rubbed [REDACTED] stomach because it

24 hurt?

25 A Yes.

- 1 Q So he didn't deny that--I mean, there was--that he had had
2 contact with her?
- 3 A Correct.
- 4 Q But he denied that anything inappropriate had happened?
- 5 A Correct.
- 6 Q Okay. Now, talking about when [REDACTED] came in initially to
7 speak to you on May 7th,--
- 8 A Okay.
- 9 Q --with her grandmother, did you speak to her with her
10 grandmother or by herself?
- 11 A I don't recall. Probably without grandma.
- 12 Q But you're not sure?
- 13 A 'Cause grandma indicated she's never heard what happened.
14 So I would--I'm only assuming at that point.
- 15 Q Okay. And you indicated that you are aware of what
16 forensic interviewing is.
- 17 A Yes.
- 18 Q And that's something that takes place at Care House.
- 19 A I've seen it at Care House and through CPS.
- 20 Q And CPS.
- 21 A Yes.
- 22 Q Correct. Some police officers are trained to do that,
23 right?
- 24 A That's correct.
- 25 Q But you have not been formally trained to do that?

- 1 A No.
- 2 Q So what is your understanding of the reason kids are sent
3 to Care House? I mean, obviously they speak to a police
4 officer, like anybody else;--
- 5 A Correct.
- 6 Q --and make statements to you and you make a report. So
7 why Care House?
- 8 A Care House provides more detail to our report. They have
9 the ability to ask questions and get more information than
10 we--or that I ever can ask.
- 11 Q They have the ability to ask more things? Or they are
12 trained--
- 13 A They're trained--
- 14 Q --in a different--
- 15 A --I'm sorry.
- 16 Q --technique--
- 17 A I misspoke.
- 18 Q --of getting information?
- 19 A They are trained to do it the proper way,--
- 20 Q Okay.
- 21 A --to get the information.
- 22 Q Right.
- 23 A So if we have questions, we ask them--I write out a list
24 of questions for Care House.
- 25 Q Right. So, as you indicated, you know that when a younger

1 person, a child or a minor, makes allegations of a sexual
2 nature, that you aren't supposed to ask them specific
3 questions--Obviously you said you get some information, so
4 you--I mean, you know what the general allegation is. But
5 then you turn it over to Care House?

6 A Correct.

7 Q And what you told the jury when the prosecutor asked you
8 was that when [REDACTED] came in that morning, because you've
9 watched these interviews, you did--you didn't do that, you
10 just asked her an open-ended question: Tell me why you're
11 here?

12 A Yes.

13 Q Do you have a copy of your report up there with you? I
14 know you have some portion of the domestic violence, but
15 I'm speaking of the May 7th date.

16 A I don't have that up here.

17 Q Is it in your binder?

18 A It's probably in that white binder, yes.

19 MS. KOSMATKA: May I approach, Judge.

20 BY MS. KOSMATKA:

21 Q I'm just going to bring it to you in case you need to
22 review it. Okay? If you do, feel free to do it.

23 A Thank you. I appreciate it.

24 Q I know that there's a lot of dates and a lot of different
25 times.

1 So you say that you just said to [REDACTED] Tell me
2 what happened. Why are you here? Right?
3 A That's how it started, yes.
4 Q That's how it started?
5 A That's--That was the conversation that day, yes.
6 Q Okay. That's how it started or that's how it went the
7 whole time?
8 A Are you talking about just May 7th?
9 Q Yes.
10 A Or other dates?
11 Q May 7th.
12 A May 7th was just open-ended: What happened? Why are you
13 here today?
14 Q Okay. So I'd like to direct your attention to your report
15 of May 7th. I don't know if your pages are numbered the
16 way mine and the prosecutor's are. Probably not.
17 A Probably not.
18 Q But it would be at the beginning of the report. It's
19 dated--The report's dated May 8th but it talks about what
20 happened on May 7th.
21 A Okay.
22 Q Have you found it?
23 A Yes, I believe so.
24 Q Okay. And it just kind of talks about that Judy came up
25 there with [REDACTED] and goes through what we've already

1 talked about. Right?

2 A Yes.

3 Q And then it goes through your conversations with [REDACTED]

4 A Yes.

5 Q And it's broken up into first incident and second

6 incident, isn't it?

7 A It is.

8 Q Have you had a chance to read it recently?

9 A Yes.

10 Q Okay. So, it's a few paragraphs long; is that fair to

11 say?

12 A Yes.

13 Q Typed, obviously. And it talks about when it happened,

14 correct?

15 A It does.

16 Q Where her mom was?

17 A Yes.

18 Q What area of the house she was in?

19 A Yes.

20 Q What she was doing?

21 A Yes.

22 Q How Sam came to be in any area she was in?

23 A Yes.

24 Q How she feels about having her stomach touched?

25 A Yes.

1 Q Then it talks about things they did after, in terms of
2 shopping. Correct? The last sentence, I believe, on that
3 page, or of that first paragraph? Yeah, it's the last
4 sentence on that page. And she gave you some specifics
5 about what happened after, what they--going shopping.

6 A I guess I don't see that. I'm--

7 Q Oh, I apologize.

8 A --(indiscernible) missing it.

9 Q No.

10 MS. KOSMATKA: May I approach, Judge, 'cause I
11 think our copies should be the same.

12 THE WITNESS: Am I looking at the right report?

13 BY MS. KOSMATKA:

14 Q Yeah, it's the last sentence of the--

15 A Oh, okay.

16 Q --first page.

17 A Yes.

18 Q So it talks about what they did after. Right?

19 A Yes.

20 Q And then it goes on to the second incident and it again
21 talks about when. Right?

22 A Yes.

23 Q Where her mom was?

24 A Yes.

25 Q Again how they came to be alone, where they were sitting,

1 all of those things. Right?

2 A It does.

3 Q And it also talks about whether or not he said something
4 during that time and what he said.

5 A I guess I don't see that but . . .

6 Q Okay. Give me a moment and I'll direct you to it, okay?

7 I'm sorry. It talks about what she said,
8 doesn't it?

9 A Yes.

10 Q Okay. And with all due respect, Detective Crum, are you
11 suggesting to this jury that you had a 14-year-old girl
12 that came in to a police department with her grandma after
13 just telling her mom something inappropriate happened, and
14 you just said generally, an open-ended: Tell me what
15 happened. And she rambled on through all of this with the
16 details about the TV and the couch and where her mom was
17 and all of these details?

18 A Can you ask your question again? I'm sorry.

19 Q Sure. I said with all due respect, are you telling this
20 jury that you asked an open-ended question based on what
21 you think the way it's supposed to be done after watching
22 it, knowing you're not supposed to ask specific questions
23 before someone goes to Care House,--

24 A Correct.

25 Q --that you simply said to this 14 year old: Tell me why

1 you're here and what happened. And she went through these
2 paragraphs in detail, just open-endedly of saying I was
3 sitting here, I was watching TV, then I sat here, then he
4 sat here, and my mom was here, and then this is what
5 happened, and then I said this and he said this, and we
6 went shopping, and she just said all of that after you
7 said: Tell me what happened?

8 A If you're asking me what specifically I said, I don't
9 recall.

10 Q Because you would agree with me, wouldn't you, Detective
11 Crum, that the way that police report reads, which is
12 yours, suggests a question and answer?

13 A It does, yes.

14 Q It doesn't suggest an open-ended question.

15 A Correct.

16 Q So, when you say you simply asked an open-ended question,
17 said tell me what happened, that's not true, is it?

18 A If you're asking what--when she came in what I asked her,
19 that's what I asked her:--

20 Q But you--

21 A --Tell me what happened.

22 Q Right. You told the prosecutor that's all you asked her,
23 because you know from watching these interviews and
24 knowing that you're supposed to send them to Care House to
25 experts to question them, you know you're not supposed to

1 ask specific questions at that point, right?

2 A Correct.

3 Q That's why they go to Care House. Right?

4 A Yes.

5 Q So you told the prosecutor on direct: I just said, Tell me
6 what happened, and then she talked. But the way that
7 report reads that you wrote does not at all suggest that,
8 does it?

9 A This appears more detailed, yes.

10 Q Like a question and answer?

11 A It appears more detailed.

12 THE COURT: We've been over that at least twice,
13 maybe three times. His recall is that he asked an open-
14 ended, it does appear to be yes and no--

15 BY MS. KOSMATKA:

16 Q So does that--

17 THE COURT: --or question and answer--

18 BY MS. KOSMATKA:

19 Q --refresh your recollection to whether or not you asked
20 her further follow-up and specific questions?

21 A Does this report? No,--

22 Q Yeah.

23 A --it does not.

24 Q Okay. And after you spoke to the parties that you spoke
25 to that morning, it was your understanding that there was

1 a decision made voluntarily and what's supposed to happen
2 at that point, which is that Sam's leaving the house--
3 A Correct.
4 Q --until this gets situated?
5 A That was my understanding, yes.
6 Q Okay. And at that point, this was on May 7th, and then the
7 Care House was set up for May 16th, correct?
8 A I'd have to look at my notes--
9 Q Go ahead.
10 A --for the dates--
11 Q Like I said,--
12 A --but that sounds--
13 Q --if you need to,--
14 A --right.
15 Q --feel free to look at (indiscernible).
16 A Yes, Care House was May 16th.
17 Q Okay. And I believe, and you can correct me if I'm wrong,
18 that you told the prosecutor that at some point after
19 May 7th or May 8th, the initial conversations that you had,
20 I believe they were all May 7th, but around that time
21 frame, that it was your understanding Sam was out of the
22 house. Correct?
23 A On May 7th, yes.
24 Q And did you tell--Do I understand correctly that you told
25 the prosecutor that at some point you learned that Sam had

1 moved in, it was your understanding, back into the house
2 before the Care House interview?

3 A I don't know if he had moved in. Sam was back in the
4 house, and I--I can't remember how it was working. It
5 was--It was one or the other: Either he was there in the
6 day and the girls were at grandma's and they would come
7 home at night; or the girls were there in the day and
8 would go to grandma's at night, he would come in at night.
9 They were--They were splitting it.

10 Q Okay.

11 A I can't remember how it went.

12 Q Okay. So maybe I misunderstood. It was your
13 understanding they were still being separated?

14 A Yes.

15 Q Okay. Was there--Let me ask you this, this is kind of
16 more straightforward: How did you learn what was going on
17 during that time frame? Obviously, you had to get that
18 information from somewhere that that time was being split.
19 Where--

20 A I called--

21 Q --did that come from?

22 A I called the day before to make sure everybody was going
23 to be at Care House, to make sure (indiscernible)
24 cancelled.

25 Q You called who?

1 A Stacey.

2 Q Okay.

3 A And my recollection is she indicated to me the--the change
4 in the--

5 Q Okay. So she told you?

6 A Sure.

7 Q And when you say that you called to make sure that no one
8 was going to cancel, parents taking their children to Care
9 House is voluntary.

10 A Absolutely.

11 Q There's nothing you can do to make her bring her there.

12 A Correct.

13 Q Okay. But you confirmed. Yes, you're coming? She said,
14 Yes, we are?

15 A Yes.

16 Q And then she showed up the next day?

17 A She did.

18 Q So [REDACTED] came with Stacey and Judy? If--

19 A I never--

20 Q --you know.

21 A --I never saw Judy.

22 Q Okay. You were there?

23 A I--I was there, yes.

24 Q Okay. And you already described for the jury how Care
25 House is set up, the room, and that there's a two-way

1 mirror, and people can sit in there real close, as you've
2 described--
3 A Yes.
4 Q --kind of as close as you are to the jurors?
5 A Yes.
6 Q And you've already described who's back there: yourself
7 and the--a CPS worker, perhaps.
8 A Yes.
9 Q And if you know, are the kids that are being interviewed
10 told that people are watching?
11 A They are.
12 Q Okay. Are they told who is watching?
13 A They are not.
14 Q But they are told that it's not a parent or a grandparent
15 or a family member?
16 A Generally that is the case, yes.
17 Q Okay. So they know there are other people watching?
18 A They know someone's back there, yes.
19 Q Okay. Now I want to move to talking about Care House,
20 okay?
21 A Okay.
22 Q First I want to talk about your interactions with Stacey--
23 A Yes.
24 Q --before and after the interview. You indicated in your
25 report that after the interview was done, Stacey had asked

- 1 you if [REDACTED] had changed her story?
- 2 A Yes.
- 3 Q You said you thought that's weird. Right?
- 4 A That's the first time it's ever happened to me that way,
- 5 yes.
- 6 Q Okay. But would you agree with me that it's possible that
- 7 if she was switching stories back and forth at home, she
- 8 may just want to know what's going on with my kid?
- 9 A It's possible, yes.
- 10 Q All right. But it--you thought it was important enough
- 11 that you noted it?
- 12 A I did.
- 13 Q But now when you come to court in front of the jury, you
- 14 now added on that after--I'm sorry--that before the
- 15 interview she asked you if she--if she changes her story,
- 16 this will just get dropped, right? You said that in
- 17 court, correct?
- 18 A That's my recollection, yes.
- 19 Q That'd be important, wouldn't it?
- 20 A Yes.
- 21 Q Is that in your report?
- 22 A I don't know. I'd have to--
- 23 Q Go ahead and take a look.
- 24 A (pause) Can you ask your question again? I'm sorry.
- 25 Q Sure. We already established that after the interview,

1 Stacey made a comment to you about--or just asked you:

2 Did she change her story? Right?

3 A Yes.

4 Q And you wrote that in your report 'cause whatever it meant
5 it was unusual for you?

6 A Correct.

7 Q But now when you come into court, you have said that she
8 also before the interview said: If she changes her story,
9 it's going to get dropped, right? And you said, yes, that
10 she said that. Right? This is a question I've already
11 asked you. I'm trying to get--

12 A Correct. I'm trying to recall the incident from memory.

13 Q Okay. Do you remember that you said to Mr. George during
14 your direct that before the interview, she said to you:
15 If she changes her story, it'll get dropped?

16 A Are you asked me if I specifically remember that?

17 Q You said it when we were here Tuesday. Do you remember
18 that?

19 A I don't remember saying that Tuesday, no.

20 Q Okay. Did it happen?

21 A Did she say exactly what you said?

22 Q Yeah. Before the interview.

23 A I don't recall that.

24 Q Okay. Okay. Is it in your report that she said anything
25 unusual to you before--

1 A It is, yes.

2 Q Before?

3 A Yes.

4 Q What?

5 A "Stacey again advised that she did not believe [REDACTED] and
6 thought we were being played by a very intelligent 13 year
7 old."

8 Q Okay. Did she say anything about what's going to happen
9 if she changes her story?

10 A I don't recall that.

11 Q She just gave her opinion that based on what had been
12 going on--

13 THE COURT: She's not asking you if you recall.
14 She's asking you if you read that in your--Did you see--
15 Did you--

16 THE WITNESS: Right.

17 THE COURT: --read that in the report?

18 THE WITNESS: If she indicated it'd be dropped?

19 THE COURT: Yes.

20 THE WITNESS: No, I did not. That's not in the
21 report.

22 BY MS. KOSMATKA:

23 Q Okay. And we already talked about the fact that when
24 [REDACTED] went to Care House and you were there watching, and
25 that is videotaped, correct?

- 1 A It is.
- 2 Q Do you know why they video tape it? If you know.
- 3 A I do not know.
- 4 Q Okay. But they have video equipment and they do tape
- 5 their interviews?
- 6 A Yes.
- 7 Q Okay. And when you were there and present to watch that
- 8 interview take place, [REDACTED] in fact, said it hadn't
- 9 happened?
- 10 A The--The touching of her vagina had not happened, yes.
- 11 Q Okay. No inappropriate touching had happened?
- 12 A Correct.
- 13 Q I mean, you--And I don't want to split hairs with you,
- 14 Detective, but you'd agree that in a parental
- 15 relationship, I mean, some touching takes place?
- 16 A I'd agree.
- 17 Q Parents hug kids,--
- 18 A Sure.
- 19 Q --brush kids' hair, or help kids get dressed, whatever--
- 20 The point is there's some touching--
- 21 A Sure.
- 22 Q --with parents and kids. So she disclosed at Care House
- 23 with a professional interviewer nothing inappropriate
- 24 happened, correct?
- 25 A I'd have to review my report. (pause)

1 THE COURT: She's not--She asked you a general
2 trait that parents do or don't do.

3 THE WITNESS: I believe she asked me if there
4 was any inappropriate touching.

5 BY MS. KOSMATKA:

6 Q Right. Well, if you're having trouble with that question,
7 let me ask one that might be a little more simple.

8 A Okay.

9 Q When this ended, you wrote another report and said she
10 recanted.

11 A Yes.

12 Q Okay. Recanted means change the story.

13 A Absolutely.

14 Q Okay. And based on the fact that she had recanted and
15 said something at Care House that was very different than
16 what she told you at the police department,--

17 A Yes.

18 Q --on the morning that she said this to her mom and came to
19 the police department, that case stops at that point.

20 A Shortly thereafter, yes.

21 Q Okay. So, my question is, What is said at Care House is
22 overriding to what is said to you at the police
23 department?

24 A Yes.

25 Q Okay.

1 A Yes.

2 Q And it was--your understanding was that not that when

3 [REDACTED] said this to her mom on the morning of the incident,

4 [REDACTED] told you it came up because they were arguing.

5 Right?

6 A At some point that came up, yes.

7 Q Okay. So Care House overrides what they say to you at the

8 police station. So, based on what she said at Care House,

9 that would have been a done deal.

10 A Correct.

11 Q Is it customary after a Care House, because it is

12 overriding to what is said there, for you to then go out

13 as a police officer and proactively try to re-interview

14 that person?

15 A For me?

16 Q Yeah.

17 A Is it customary for me? Yes.

18 Q Okay. So you're going to have to explain that to me,

19 Detective, because you talked to her and she says

20 something happened.

21 A Uh-hum.

22 Q Yes?

23 A Yes. I'm sorry.

24 Q And then she goes to the professional place where those

25 interviews take place and what is said there is what

1 decides what happens with the case. Right?

2 A At that point, yes.

3 Q Because there's a specific kind of interviewing that goes
4 on there?

5 A True. Yes.

6 Q So you're saying that once she goes there, it would make
7 sense that you would then go back and re-interview her
8 again? Try to.

9 A Not re-interview her, no.

10 Q But you tried to. You told Stacey after that, based on
11 what she said at Care House, I want to talk to her again.

12 A Yes.

13 Q Okay. And that's not customary.

14 A For the interview. You're correct. I don't generally
15 interview a second time, yes.

16 Q But you asked to.

17 A Yes.

18 Q And you were upset that Stacey wouldn't let you.

19 A Yes.

20 Q In fact, because she wouldn't let you, you took the fact
21 that they went to Georgia on a trip to mean she was trying
22 to avoid you and run and take off.

23 A I'm sorry. Can you ask the question again?

24 Q Sure. You did something that's not ordinary for police
25 officers--

1 THE COURT: He just needs the question.

2 MS. KOSMATKA: Sure.

3 THE COURT: You took this behavior as her
4 leaving to go to Georgia--

5 MS. KOSMATKA: Yeah.

6 THE COURT: --as an affront, is what she's
7 asking.

8 BY MS. KOSMATKA:

9 Q Yes, that is what I'm asking.

10 If you need to review your report--

11 A I don't really recall when she went to Georgia. I'm
12 sorry. I told her that I would not be able to close the
13 case until I was able to interview [REDACTED]

14 Q But that's not true, is it?

15 A What's that?

16 Q That's not true that you can't close a case until you
17 re-interview her 'cause you're not supposed to re-
18 interview her.

19 A I'm not supposed to?

20 Q She went to Care House--

21 A I'm not sure what you mean by not supposed to.

22 THE COURT: She's asking--You said you can't
23 close it, but that's not actually true, is it?

24 THE WITNESS: That I said I can't or that I
25 wouldn't?

1 BY MS. KOSMATKA:

2 Q You said you can't.

3 A I'm sorry. I misspoke. I wouldn't close the case until I

4 talked to [REDACTED]

5 Q Even though you already said it's not customary to re-

6 interview after someone goes to Care House. It's not

7 supposed to be a back and forth. You say this to me, now

8 you go to Care House, now it goes back to me. That's not

9 usually how it works.

10 A On a--On a normal case,--

11 Q Right.

12 A --you're correct.

13 Q And, in fact, the fact that Stacey wouldn't let you

14 interview her daughter again, after her daughter had

15 already talked to the people at Care House with Stacey's

16 consent, when she went to Georgia, you actually wrote in

17 reports that she was trying to avoid you, that she was

18 trying to run, didn't you?

19 A She indicated to me that she was going to Georgia and the

20 family was going to get a fresh start and put this all

21 behind them.

22 Q Okay. So they're going on a family trip and we're trying

23 to move on.

24 A And I had again requested that I inter--interview the

25 young lady so that I could close my case.

1 Q You had already closed the case, Detective Crum, hadn't
2 you?

3 A It's never been closed.

4 Q Okay. You heard Jason Rotenheber, the CPS worker, testify
5 here today, correct?

6 A Not today, but--

7 Q I'm sorry.

8 A --Tuesday.

9 Q On Tuesday? And that he writes reports. Yes?

10 A Yes.

11 Q And you get copies of those reports, do you or don't you?

12 A I generally don't, no.

13 Q And he just said that you had told him on June 5th, at
14 least you told him the case was closed out. She said
15 something different at Care House, case is closed out.

16 A I indicated to him that I'd be closing the case, yes.

17 Q Okay. And at that time, Stacey's dealing with CPS, right?
18 I mean, she's being investigated.

19 A I wasn't--I'm not sure of that. I don't know.

20 Q Okay. Well, you told CPS: case is closed out on June 5th.

21 A Correct.

22 Q This trip to Georgia didn't take place until late in July.
23 Right?

24 A I'm not sure when it took place. But that--that sounds
25 correct, yes.

- 1 Q After you had told--said it was closed out.
- 2 A After I indicated I was going to close the case, yes.
- 3 Q Uh-hum.
- 4 A Yes.
- 5 Q Okay. And when Stacey went to Georgia, that was after
- 6 [REDACTED] had run away, as well, correct?
- 7 A Yes.
- 8 Q So, when Stacey was going to Georgia, she told you where
- 9 she was going. Right?
- 10 A She did, yes.
- 11 Q And did you talk to family members there to confirm that
- 12 she'd been there?
- 13 A I talked to her sister at some point. Not sure when. I
- 14 don't know if she was already there or if I had called
- 15 before to find out if she was coming. I don't recall.
- 16 Q And did you find out that she was?
- 17 A I was told that's where she was going, yes.
- 18 Q Okay. In any event, whatever happened with that, they
- 19 came back, right? They went away for a week or a week and
- 20 a half, and they came back.
- 21 A I'm not sure when they came back.
- 22 Q They came back, right?
- 23 A They came back to Michigan, yes.
- 24 Q On their own?
- 25 A Yes.

1 Q And then at some point--
2 Let's talk about on July the 11th. That's before
3 the Georgia trip, right?
4 A I'd have to check my notes. I don't--
5 Q Go ahead.
6 A --I don't (indiscernible).
7 Q And if it helps at all, if I can speed it up,--
8 A Which--Which case is this?
9 Q I apologize?
10 A Which case is that?
11 Q Both. I'm asking you about July 11th when you talked to
12 [REDACTED] and asking if that was before Georgia,--
13 A Oh, okay.
14 Q --'cause the runaway report was July 14th, correct?
15 A I'm sorry. Correct. Correct.
16 Q And I don't want to make it any more confusing than I have
17 to, but the Georgia trip happened after the runaway
18 report, right?
19 A Yes.
20 Q The runaway report happened on July 14th. Right?
21 A Yes.
22 Q And you--So the Georgia trip happened after the runaway
23 report?
24 A Yes.
25 Q Okay. And when you met with [REDACTED] on July 11th, I believe

1 your report indicates that Judy, the grandmother, had
2 called your office. That's kind of how this came up
3 again.

4 A It doesn't indicate that, no.

5 Q Okay. I'm looking at your report. There's a date that
6 says May 20th, then June 9th, then June 11th. Do you--

7 A Yes.

8 Q --see where I'm at?

9 A Yes.

10 Q What's the first thing that it says?

11 A "Judy met me at my office."

12 Q Okay. So Judy came in?

13 A Yes.

14 Q And that's how this came up? Or you called? I guess I--

15 A I didn't call.

16 Q --don't understand. Okay, so my--

17 A She (indiscernible).

18 Q --question was: Judy came in to talk to you and that's--

19 A The question was, Judy called you?

20 Q Oh, I apologize. Judy came in to--

21 A And I--I said no.

22 Q Okay. She just walked in?

23 A She knocked on my door, yes.

24 Q And you saw her, right?

25 A Yes.

- 1 Q And your report indicates that she was asking questions
2 about what's going on with this case.
- 3 A Yes.
- 4 Q And you told her that you had already told Stacey--or, I'm
5 sorry--You told her that you told Stacey this is open and
6 ongoing, correct?
- 7 A Could I--
- 8 Q This is in the middle of July.
- 9 A --Could I review my report?
- 10 Q Sure. Sure.
- 11 A My recollection is I simply told her it was an open
12 investigation, I couldn't discuss it with her.
- 13 Q Okay. And that's after you told CPS it was closed?
14 Months after.
- 15 A I never told CPS it was closed.
- 16 Q Pardon?
- 17 A I told--I never told CPS it was closed. I told them I was
18 closing my report.
- 19 Q What's the difference?
- 20 A CPS, when they investigate crimes, if it's an open
21 investigation, they cannot--they're waiting for the police
22 department. When I indicated to Jason that my report--I
23 was going to close my report, he was able to then
24 investigate his incident.
- 25 Q Okay.

1 A My indication to him was more he can investigate his
2 incident, I don't have anything right now to investigate,
3 and I'll--I'll be closing my report at some point.

4 Q Okay.

5 A That was the discussion. It was--It was more of a CPS
6 logistical thing than it was my report. I never indicated
7 my report was closed but that I no longer had an open
8 investigation to actively--

9 Q It's kind of a technical term? I mean, is that fair to
10 say?

11 A Yes, ma'am. Yes, ma'am.

12 Q Okay. I understand what you're saying.

13 A Yes, it was not a closure. It was for his benefit, I
14 guess.

15 Q But there was nothing going on with it because Care House
16 overrides--

17 A It was--

18 Q --and that's--

19 A It was--

20 Q --where you're at.

21 A It was inactive, yes.

22 Q Okay. Fair enough.

23 So, Judy came in, was asking you questions, and
24 then I believe your report indicates that she--Did she
25 leave and then [REDACTED] came? Or how did that work?

1 A When I indicated it was still an open investigation, I
2 couldn't talk about, she was surprised and had said that
3 she was being told that it was--

4 MR. GEORGE: Well, let's--Judge, I'm going to
5 object to the--

6 MS. KOSMATKA: Okay. I'll--

7 MR. GEORGE: --reason why Judy thought this was
8 a closed case.

9 MS. KOSMATKA: Sure.

10 BY MS. KOSMATKA:

11 Q But she acted surprised, correct?

12 A She did. Yep. And had indicated that [REDACTED] thought that
13 --that I didn't believe her.

14 Q I--You know you can't say something that she said [REDACTED]
15 thought. You know that.

16 A Okay. So, all I said was that it's an open investigation.

17 Q Okay.

18 A Went back in my office. And then I never asked to talk to
19 [REDACTED] I didn't say anything else about the case.

20 Q Okay.

21 A And then my recollection is 45 minutes later, about, I had
22 another knock on my door; and it was [REDACTED] Krahe.

23 Q Okay. And in talking to those parties on that date, it
24 was your understanding that [REDACTED] was again staying with
25 her grandmother and Sabrina. Right? You came to learn

1 that?

2 A I didn't know that till that day, yes.

3 Q Right. Yeah, that's what I'm saying. On that day when

4 they came, you learned that?

5 A Yes.

6 Q That their mother had checked herself into treatment or

7 was getting treatment in Texas or out of state somewhere?

8 A That was I was--

9 Q Told.

10 A --led to believe.

11 Q Okay.

12 A I never confirmed that.

13 Q Okay. And so [REDACTED] came in and somehow indicated that she

14 wanted to talk to you; is that right?

15 A Yes. Yes.

16 Q So, obviously, when that happened you interviewed--I'm

17 sorry--you videotaped that interview because now she said

18 one thing to you, she said something different to Care

19 House, and you want to have some kind of proof of what

20 happened and how it happened, so that was videotaped,

21 right?

22 A No. No.

23 Q You had the option to do that,--

24 A We don't---

25 Q --didn't you?

1 A We don't talk to juveniles. We only had one--We have two
2 rooms in the building you can record. And one is my
3 current office, which I didn't hold at that time; and the
4 second is a very small interview room that his in the back
5 hall. And we never take juveniles into that room. We're
6 not allowed to.

7 Q Why?

8 A I don't know. You'd have to ask my--my boss that. I--I
9 really don't know. But we're not allowed to take
10 juveniles in the room--

11 Q But you're the boss now, right?

12 A The chief. I'm not the chief.

13 Q Okay, you're saying the--

14 A I don't--

15 Q --boss boss?

16 A --I don't get to set that rule.

17 Q Okay.

18 A I wish I did.

19 Q Okay.

20 A But his rule is that we're not allowed to interview
21 juveniles inside of a--in that small room by ourselves.

22 So we--

23 Q 'Cause you--Right, 'cause--

24 A --we don't take them in there.

25 Q Exactly. 'Cause you wouldn't want to be alone with

1 | someone who could say anything happened.

2 | A | That's always a fear. Yes.

3 | Q | Sure. You want--You want to protect yourself.

4 | A | Correct.

5 | Q | All right. So if videotaping it wasn't an option, then

6 | obviously you already know that you have a girl that has

7 | said one thing to you--

8 | A | Yes.

9 | Q | --once,--

10 | A | Yes.

11 | Q | --said something else when she went to Care House when you

12 | were there watching,--

13 | A | Yes.

14 | Q | --so obviously that day you had her write out a written

15 | statement so that she used her own words to say this is

16 | what I'm saying happened now and this is why there's

17 | differences or something to that effect, so that it was in

18 | her words so she could explain it. Right?

19 | A | Are you asking me?

20 | Q | Yeah. You had her write something out.

21 | A | No.

22 | Q | Okay. So what you did, again, was have a conversation

23 | with her when it's just you and she,--

24 | A | That's not true.

25 | Q | Okay. Who else was there?

- 1 A Sergeant Miller.
- 2 Q Okay. So in front of another officer. Did he write a
3 report?
- 4 A I don't believe he did.
- 5 Q Okay. So in terms of report or anything that's coming out
6 in terms of hard copy that anyone's going to see, the
7 prosecutor's office, defense attorneys, whoever, it's
8 again your words,--
- 9 A Yes.
- 10 Q --your impressions of how everything happened,--
- 11 A Yes.
- 12 Q --what you decide is important to put in the report,--
- 13 A Yes.
- 14 Q --and no way for anybody to go back and have--to check
15 that or have any independent way of knowing that.
- 16 A Correct.
- 17 Q Okay. So after--So she talked to you on that day, and she
18 then again made some statements to you about something had
19 happened again to you?
- 20 A She did.
- 21 Q So after that, what day was she sent back to Care House,
22 back to the professionals, to have her re-interviewed--
- 23 A She was not.
- 24 Q --so that she could talk to the professionals?
- 25 A She was not.

1 Q Okay.

2 A You need parental consent to send her, and Stacey would

3 not agree.

4 Q Don't you need parental consent to interview a juvenile?

5 A Yes.

6 Q Was Stacey there?

7 A No.

8 Q She was in Texas or out of state. She wasn't there.

9 A Correct.

10 Q And you interviewed her.

11 A Yes.

12 Q You interviewed her 'cause Judy said you could.

13 A Judy had paperwork that she was the legal guardian of her

14 mother,--

15 Q Right.

16 A --Stacey.

17 Q Sure.

18 A And Stacey was out of the state at that time.

19 Q Right.

20 A And in the care of Judy, who had legal paperwork saying

21 she was the guardian;--

22 Q Uh-hum.

23 A --and so I used--I used that as my--

24 Q As your authority to interview her.

25 A --authority to do that.

1 Q Which would be the same authority that could be given to
2 take her back to Care House to the professionals, right?
3 A (Inaudible)
4 Q If she can give her authority to talk to you,--
5 A Yes.
6 Q --she can give her authority to talk to Care House.
7 A Yes, if I could have scheduled it that quickly.
8 Q Well, it took a week the other time.
9 A Yes. Stacey was back in two days?
10 Q Did you try? Did you contact Care House?
11 A I did not.
12 Q Okay. So you didn't try.
13 A I knew Stacey would not do that.
14 Q Stacey didn't have to. Right?
15 A If it would have been in a week and Stacey was coming home
16 in two days, she would have had to, yes.
17 Q So did you call to say, Hey, something's going on here?
18 A Did I call who?
19 Q Care House.
20 A No.
21 Q Because you know you've got conflicting statements going
22 on (indiscernible) going on, so, Hey, let's get her back
23 in and see what happens.
24 A Yes, that's my intention.
25 Q But you didn't even make a call to say, Is it possible to

1 get her in?

2 A I was told Stacey would be home in two or three days--

3 Q That's not what I asked you, Detective Crum.

4 A You're asking me--I'm sorry. Ask your question again.

5 Q Did you call Care House--

6 A I did not.

7 Q --at the time that you knew you had authority or you

8 believe you had authority because Judy gave you the

9 opportunity--

10 A I did not believe I had authority to do it.

11 Q But you thought you could talk to her at your office

12 'cause Judy said so, but you--

13 A Yes.

14 Q --didn't think you could go to Care House?

15 A Correct.

16 Q Why?

17 A Because when the--when the Care House would be scheduled--

18 Q You didn't know when it could be scheduled.

19 A It's always a week.

20 Q It's always a week?

21 A Unless it's--Unless it's an emergency and something bad

22 had happened that moment, that night, and they can get

23 them in--

24 Q Okay. Well,--

25 A --it's generally a week--

- 1 Q All right. Fair enough.
- 2 A --(indiscernible) indicated that Stacey would be home
- 3 before I could get that scheduled. And my intention was
- 4 to ask Stacey when she got back.
- 5 Q Okay. All right. So in the meantime, did you present to
- 6 the prosecutor's office at that time regarding the
- 7 allegations?
- 8 A I don't believe I did, no.
- 9 Q Why?
- 10 A At what time? After I--
- 11 Q After [REDACTED] had come back to your office on July 11th and
- 12 said, well, you know what, this did happen, did you go to
- 13 the prosecutor's office and say I'm requesting a warrant?
- 14 A No.
- 15 Q Why?
- 16 A On July 11th? There was--
- 17 Q After--Yeah.
- 18 A --there was still more to do in the case.
- 19 Q What?
- 20 A You just indicated and I believed that we had to
- 21 reschedule a Care House. There was--See if Mr. Jerome
- 22 would come in for an interview. Ther4e was--
- 23 Q Okay.
- 24 A --plenty of things to do.
- 25 Q Okay. So, the next thing that happens is that this

1 runaway report comes up, right?

2 A Yes. Yes.

3 Q Was that the first runaway report made in regards to [REDACTED]

4 that--

5 A It's the first one--

6 Q --you're aware of?

7 A --I'm aware of.

8 Q Okay. Where was she when she ran away from?

9 A Where was she (indiscernible)--

10 Q Where was she staying at the--

11 A Grandma's house.

12 Q --time of that she ran--

13 A Grandma's house.

14 Q So, did grandma call and report that [REDACTED] was missing?

15 A Yes.

16 Q Did Stacey call?

17 A Grandma called.

18 Q Did Stacey call you, as well, on her way back from--

19 A Oh.

20 Q --Texas inquiring about where is my daughter?

21 A I know she showed up at my office. I don't know if she

22 called or not. She may have. I don't--

23 Q Okay.

24 A --I don't recall.

25 Q In any event, she came, she wants to know: I'm out getting

1 treatment, where's my kid?

2 A She came right to my office, yes.

3 Q And was concerned and wanted to find her?

4 A Yes.

5 Q And at that point, she'd been gone overnight. [REDACTED] had

6 been missing overnight.

7 A No. I don't believe so.

8 Q Do you remember Judy Stiltner say that she was--that she

9 walked off or went for a walk, said she was going for a

10 walk around two in the afternoon? Right?

11 A I recall it was--Well, is that what Judy said: Two?

12 Q Yeah, I'm asking--

13 A I don't--I don't recall. My--My report indicates noon.

14 Q Okay.

15 A That's--

16 Q Okay. Well, so, noon. And she's not located until the

17 next morning.

18 A At 5:00 a.m., yes.

19 Q Right. So she's gone overnight?

20 A Correct.

21 Q She's fourteen.

22 A At the time, yes.

23 Q Did you mark in your report who made the runaway report?

24 A Which report?

25 Q The runaway report. Well, you said you're not sure if

1 they both contact you, right? If that's the answer.

2 A I recall Judy Stiltner contacting me, and I recall talking

3 to Stacey. I talked to both--

4 Q All right. Okay.

5 A --that day. I even talked to Mr. Jerome that day.

6 Q Okay. Everyone wanted to find her?

7 A Absolutely.

8 Q Everyone was very concerned?

9 A Yes.

10 Q In any event, the next morning the next person you heard

11 from was Stacey.

12 A In the morning?

13 Q Uh-hum. Who told you, [REDACTED] located?

14 A Sergeant Miller.

15 Q How'd he find out?

16 A I don't know.

17 Q Okay. Is he available to come in?

18 A He will be, yes.

19 Q Okay. So you don't know if it was Stacey that called?

20 A I do not.

21 Q Okay. Fair enough.

22 That could be important, wouldn't it, who [REDACTED]

23 would call or who she would contact or something of that

24 nature? Right?

25 A [REDACTED] would contact?

- 1 Q Or how you found her.
- 2 A Yes.
- 3 Q But that didn't make its way into the report.
- 4 A I believe it's in one of the reports. It is .2 of 138466,
5 it indicates that Stacey called.
- 6 Q So we do know it was Stacey who let the police know,
7 Okay,--
- 8 A And I (indiscernible)--
- 9 Q --I found her.
- 10 A --not Sergeant Miller. It was Detective Herriman.
- 11 Q Okay.
- 12 A I apologize.
- 13 Q And that's why it's important to note those things in the
14 reports, right?
- 15 A They wrote the report, yes.
- 16 Q Okay. In any event, now we've confirmed Stacey calls the
17 police department and says I found her. Right?
- 18 A Yes.
- 19 Q So for someone who's trying to keep her daughter from the
20 police or influence her, she's saying I know where she is;
21 she's not missing; I've got her?
- 22 A She said she has her, yes.
- 23 Q Okay. And did you have any conversation with Stacey about
24 the condition of [REDACTED] when she found her?
- 25 A Yes.

1 Q That she was disheveled-looking? Did you talk about that?

2 A I--

3 Q If you remember.

4 A I don't recall that specifically, no.

5 Q Do you recall talking about the fact that it appeared that

6 she was under the influence of some kind of substance?

7 A Stacey indicated that, yes.

8 Q Okay. And then you indicated that you needed to see her--

9 A Yes.

10 Q --to be able to confirm that she's found, to take her out

11 of the system as a runaway?

12 A Correct.

13 Q But you were told she wasn't going to be brought in right

14 then. Right?

15 A Eventually, yes.

16 Q And so you spoke to--Did you speak to [REDACTED] on the phone?

17 A I was put on speaker phone. And I don't recall what was

18 said. But I--I never was able to talk to anybody. I

19 just--Stacey had said, Say you're fine. She said she was

20 fine. And that was the extent of it. But I don't know

21 who I was talking to on the phone.

22 Q Okay. You'd--

23 A I believed it was--

24 Q --spoken to [REDACTED] a bunch of times, right?

25 A Correct.

1 Q And later--

2 A It did not--It did not sound like her on the phone.

3 Q Okay.

4 A But it was also speaker phone, so--

5 Q All right.

6 A --more difficult.

7 Q Okay. Were you told at that time that [REDACTED] had indicated

8 that she had been raped and drugged while she had run

9 away?

10 A If the question is specifically to that conversation with

11 Stacey, I don't recall if that's what she told me.

12 Q Well, there's some hesitation, so I'm--

13 A At some point she had indicated that, yes. I just don't

14 know when that was.

15 Q Is that anywhere in a report?

16 A I don't recall. I don't know. I'd have to go through all

17 the reports.

18 Q If you need to do that, I'm asking--That could be

19 important, couldn't it?

20 A Yes.

21 Q But it's something Stacey said. Right?

22 A It's something we'd have to investigate. If she said she

23 was raped, we would--I believe she was in Oak Park at the

24 time. We would have her go to Oak Park police, and we

25 would make a report, and we would start to investigate--

1 they would start to investigate what she had alleged.

2 Q But whether or not it's in one of those reports, you admit

3 that Stacey told you she said that, that you remember her

4 telling you that.

5 A I remember being told that, yes.

6 Q So was there any investigation?

7 A No.

8 Q Talk to her about that? Interview [REDACTED] about, Hey, you

9 said you were raped and drugged, what happened?

10 A I don't recall specifically, no.

11 Q You don't recall or it didn't happen?

12 A I don't recall.

13 Q If you had, it'd be in a report, wouldn't it? If you

14 talked to her, you'd have to write a report about it.

15 A Not--No, not necessarily.

16 Q 'Cause you would decide.

17 A Because I talked to [REDACTED] and to Stacey so many times.

18 And if I wrote down everything they said, this binder

19 would be taller than I am.

20 Q Right. But you already agreed that it would be awful

21 important if a girl who's changing her story back and

22 forth again says I ran away from home and I was raped and

23 drugged, you said that'd be important.

24 A If [REDACTED] was to tell me that, yes.

25 Q But--That's what I'm getting to. You decide anything

1 Stacey says, you're just not paying attention to.

2 A That's not true.

3 Q It's not making its way into the report.

4 A I asked her to bring her in so I could talk to her.

5 Stacey--

6 Q About that?

7 A --refused.

8 Q About that?

9 A The whole incident.

10 Q About that?

11 A Yes.

12 Q You did?

13 A About the whole incident, yes.

14 THE COURT: Lieutenant, she's asking about that,

15 not the whole incident.

16 MS. KOSMATKA: Right.

17 THE WITNESS: I guess I don't understand her

18 question.

19 BY MS. KOSMATKA:

20 Q Right. Okay. 'Cause if you need time to read your

21 report, let me know. But--

22 A Okay.

23 Q --everything surrounding that time frame says that you

24 were asking Stacey to come in to talk about Sam and the

25 fact that she had again said when her mom was away and she

1 was with her grandma, Hey, I lied to Care--I lied to Care
2 House. I lied to Care House about the fact that I lied to
3 you. You said you--all you were telling Stacey is: I
4 need to re-interview her about what she's saying about
5 Sam. That's what it says in your reports, doesn't it?
6 A It says we had to confirm that she was,--
7 Q Uh-hum.
8 A --in fact, safe.
9 Q Right.
10 A That she was there.
11 Q Right.
12 A And that I needed--We had to interview her about the case
13 again. Yes.
14 Q Nothing to do about her new allegations. There's nothing
15 about that in any report, is there, Lieutenant Crum?
16 A In the report?
17 Q Yeah.
18 A That's correct.
19 Q So because you decide what to collect and what not to
20 collect, unless an attorney is able later or somebody
21 tells them, there's no way to know that even happened,
22 that that was even said.
23 A Correct.
24 Q Thankfully you remember it.
25 A Correct.

1 Q And on that time frame of July 14th and those couple of
2 days where she's run away, she's picked up, and then the
3 family goes to Georgia, that's what I'm talking--

4 A Yes.

5 Q --about, okay?

6 Do you have any reason, and you can just say you
7 don't know, if you don't know, do you have any reason to
8 think Stacey would know that [REDACTED] come back in to talk
9 to you?

10 A At that time, I didn't know.

11 Q Okay. 'Cause she--Judy brought her in, right? She's in
12 Tex--out of state?

13 A Correct.

14 Q And then before she even gets home, her daughter's
15 missing.

16 A Right.

17 Q And she wants to find her daughter. Right?

18 A Correct.

19 Q So to your knowledge, no one told her, Hey, listen, she's
20 come back in and she said something new again?

21 A And you're asking me specifically on July 4th if I knew
22 that?

23 Q Not July 4th. July--

24 A Fourteenth.

25 Q Around the time of, like,--

1 A Right.

2 Q --after July 11th when she came in--

3 A Right.

4 Q --and Stacey's not home yet. You said she's coming home

5 in a couple days, right? And then [REDACTED] runs away. And

6 then they go to Georgia. Do you have any reason--

7 A I'd have to--I'd have to look at my report again.

8 Q Okay.

9 A At some point, Stacey indicated that to me. But I'm not

10 sure when that was.

11 Q Okay.

12 A (pause) Okay.

13 Q Have you found it?

14 A Repeat your question.

15 Q Your report indicates that what you said to Stacey is, I

16 need to talk to her because she's the alleged victim in a

17 sexual abuse case, right?

18 A Yes.

19 Q But there was no specifics as to there's new information,

20 and that was what had been being said since May 7th.

21 A Correct.

22 Q So you have no reason to think Stacey knew there was any

23 new information at that point, right?

24 A My report indicates that I--I recall having this

25 conversation with Stacey where she told me she was furious

- 1 that [REDACTED] came back to the police station.
- 2 Q Does it say it here, like in the--in the reports that are
- 3 happening around the time of the 14th when she's going to
- 4 Georgia?
- 5 A Yes.
- 6 Q Okay. Can you tell me where?
- 7 A On 9 of 13 on report 5555, it says accord--It's the last
- 8 paragraph: According to Stacey, [REDACTED] admitted to coming
- 9 to the police station and speaking with me about Sam
- 10 assaulting her. Stacey was furious [REDACTED] had spoken with
- 11 me. Stacey advised not to believe [REDACTED] and was traveling
- 12 to Georgia so the family could get a fresh start.
- 13 Q So it doesn't say specifically when she was upset about
- 14 her having talked to you, right?
- 15 A (Indiscernible)
- 16 Q It doesn't say what she--You're indicating it was just an
- 17 ongoing investigation, right?
- 18 A No, Stacey indicated she was furious that [REDACTED] came back
- 19 to the station to talk to me.
- 20 Q Okay. So you don't know how she knew that, either, right?
- 21 A I don't know how she knew that.
- 22 Q All right. So at that point, had a warrant been presented
- 23 for criminal sexual conduct?
- 24 A No.
- 25 Q So that's around the July 14th time frame, and the last

1 thing you know at that point is that the family's in
2 Georgia?

3 A Yes.

4 Q At some point you become aware of the fact that they're
5 back.

6 A Yes.

7 Q Did you become aware of the fact that they were back
8 because of the August 2nd domestic violence incident or did
9 you already know that before that?

10 A No. I--The incident.

11 Q Okay. That's the first time you became aware of the fact
12 they were back?

13 A I was called at home, yes.

14 Q Okay. Had you at some point told Judy Stiltner, the
15 grandmother, that if anything happened, call you directly?

16 A Not call me directly. I didn't give her my number. But I
17 did say to call the station and tell them to advise me.

18 Q Okay. Why'd you do that?

19 A That's something I do commonly. In cases like this or
20 cases that are more serious, if there's--if there's
21 concern for anybody, if I have victims that are concerned
22 for their safety, I tell them to call the station and
23 advise me. A lot of times the officers don't know the
24 back-story of what's going on when they respond to a call.
25 And I just let them know there's more going on than just

1 one incident.

2 Q Okay. So on August the 2nd, you got a call at home?

3 A I did.

4 Q Okay. From the police department, obviously; not from

5 Judy, the police depart--someone from the police

6 department--

7 A Correct.

8 Q --called you?

9 A Correct.

10 Q Have you heard the 911 call?

11 A I have not.

12 Q All right. Was it your understanding that Ms. Stiltner

13 was at least in some way indicating that she needed to

14 speak to you?

15 A I've heard that, yes.

16 Q Okay. And that would make sense because you told her to.

17 A I told her to make sure I was advised, yes.

18 Q Okay. All right. So you were advised that there was some

19 type of incident going on at the house?

20 A Yes.

21 Q And you spoke to officers--If I'm reading the reports

22 correctly, you spoke to officers that were on the scene.

23 A One officer in particular, yes.

24 Q Okay. Fair enough. There were several, but you spoke to

25 one?

- 1 A The sergeant, yes.
- 2 Q Sergeant would mean the person who's in charge at that
3 particular scene?
- 4 A Sergeant Combs, yes.
- 5 Q Sergeant Combs?
- 6 A Yes.
- 7 Q And have you--You've said that you've had an opportunity
8 to review Officer Bunting's report from that night?
- 9 A I have read it, yes.
- 10 Q And it indicates that after Sergeant Combs spoke with you,
11 that's when the decisions were made about what to do.
- 12 A Yes.
- 13 Q Okay. And you had said that Sergeant Combs--I'm sorry--
14 Officer Bunting's report wasn't super specific. I mean,
15 it said what happened, that there was an argument, it was
16 over a lighter,--
- 17 A Yes.
- 18 Q --and all those--and that there--what had happened in
19 terms of generally the physical contact but it wasn't what
20 you considered detailed?
- 21 A I'd have to look at it again to see. But I--He didn't
22 have all the things that happened in the report, no.
- 23 Q Okay. I mean, he--That's his job, isn't it?
- 24 A Yes.
- 25 Q Okay. But in any event, you thought that you could get

- 1 more information or you should fill in gaps?
- 2 A Yes.
- 3 Q Okay. And you wrote a report, as well?
- 4 A I did.
- 5 Q You spoke to Stacey--I'm sorry--to [REDACTED] the next day; is
- 6 that right?
- 7 A [REDACTED] Stacey and--
- 8 Q And Sam?
- 9 A --Mr. Jerome, yes.
- 10 Q Okay. And I apologize, Lieutenant, but I want to go back
- 11 for a moment, and I apologize for having to go backwards.
- 12 But I want to talk for a moment about the text message
- 13 that Judy said Sam sent Stacey.
- 14 A Yes.
- 15 Q So now we're going back to May 8th, correct? The day after
- 16 the initial allegation or thereabouts?
- 17 A When the text message came in?
- 18 Q Yeah.
- 19 A Somewhere in that week, yes.
- 20 Q Okay. And if you recall, Ms. Stiltner on the--when she
- 21 testified, paraphrased--or she said she remembers exactly
- 22 what it said because it was engrained in her brain.
- 23 Right?
- 24 A Correct.
- 25 Q Did somebody at that time give you that text message?

- 1 A In May? No.
- 2 Q But Judy Stiltner told you about it?
- 3 A I don't believe she told me till much after. Yes.
- 4 Q When you say much after, what do you mean?
- 5 A My notes indicate August 21st is when I was initially told
- 6 about the text message.
- 7 Q Okay. So after the domestic--way after the domestic
- 8 violence. Way after everything that we're here about in
- 9 charges?
- 10 A Yes.
- 11 Q So she indicated on August 21st, Hey, I think there's this
- 12 text message where he admits touching her.
- 13 A Yes.
- 14 Q I saw it back in May, and I just thought about telling
- 15 you?
- 16 A Yes.
- 17 Q Okay. So, I'm assuming at that point, you didn't try to
- 18 get it because so much time had elapsed?
- 19 A I've done this for a long time, and the longest a carrier
- 20 holds is 30 days.
- 21 Q Okay. But at the times that Stacey was trying to give you
- 22 information and at least she indicates that she wasn't
- 23 able to for whatever reason, were you ever made aware of
- 24 the fact that she made a copy of that text message?
- 25 A I've asked for that text message five times.

- 1 Q Have you ever seen it, as we sit here today?
- 2 A No.
- 3 Q The prosecutor hasn't shown it to you?
- 4 A I got a packet,--
- 5 Q Okay.
- 6 A --but I don't remember reading anything specific like
- 7 that.
- 8 Q Okay. And when you were writing your reports, Lieutenant,
- 9 and if you need to review, you can let me--There was an
- 10 awful lot of personal opinion in them. Would you agree
- 11 with me? And if you want me to go through specifics, I
- 12 can.
- 13 A That's fine.
- 14 Q And you would write things like, Stacey told me
- 15 information; it's not credible.
- 16 A I did write that, yes.
- 17 Q You would write that you believe [REDACTED] or things like
- 18 that, right?
- 19 A I believe I did put that in there, yes.
- 20 Q And police reports are supposed to, as we already talked
- 21 about, they're just supposed to be objective, right? It's
- 22 your job to collect information, preserve it, present it.
- 23 That's your job.
- 24 A Yes.
- 25 Q But these reports are riddled with your belief Stacey is

1 not believable and not credible; and that what [REDACTED] says,
2 you believe.

3 A Correct.

4 Q Okay. And, in fact, you even write your reports in a
5 fairly unique way; and you actually put conclusions at the
6 bottom about what did happen.

7 A Where's that at?

8 Q At the bottom of every report.

9 A Those are the--generally the PACC codes.

10 Q Uh-hum.

11 A The prosecutors, when they charge,--

12 Q Yeah.

13 A --we write off the PACC code,--

14 Q Okay.

15 A --and fill in for them. That's a request they have. In
16 our conclusion, they're supposed be the PACC code.

17 Q But you agree with that every report you wrote had your
18 opinions about who's telling the truth and who's not.

19 A That's possible. I'd have to read them all again, like I
20 said; but I know that it was in there, yes.

21 Q Okay. And that was your feeling? You wouldn't write it
22 if that's not what you thought.

23 A That's my opinion, yes.

24 Q Okay. And you--As we've already indicated, you wrote a
25 domestic violence report of your own.

- 1 A I did.
- 2 Q And just as a point of clarification, on the report that
3 you wrote, it doesn't indicate on the printout of that
4 report that you're the one who wrote it, does it?
- 5 A It's--No, it does not.
- 6 Q It has a different officer's name?
- 7 A It does, yes.
- 8 Q But as I indicated, you write your reports fairly
9 uniquely. So it's written the way all the--your other
10 reports are, right?
- 11 A Correct.
- 12 Q So did you become aware at some point that there was a
13 different name on it?
- 14 A Only two weeks ago.
- 15 Q Okay. So that--I mean, and I'm not trying to make it seem
16 like anything wrong happened, but somehow there was just
17 an error?
- 18 A Yes.
- 19 Q And this report, although it says a different officer's
20 name, is yours?
- 21 A It's whoever signs into that computer. Yes.
- 22 Q Okay. But does this even--I'm just trying to clarify that
23 although we have paperwork--
- 24 A Officer Geary's--
- 25 Q --that says some other officer wrote this, in fact,--

1 A It says Officer Geary, it's mine.

2 Q --you--it's yours? Okay.

3 And you were aware that on the night of the incident,
4 on August 2nd the night before, or early-morning hours,
5 when the domestic violence incident occurred, that there
6 were photographs taken?

7 A Yes.

8 Q By police officers?

9 A Yes.

10 Q Because you guys have the ability to do that?

11 A Correct.

12 Q You have evidence techs that do that, that are specially
13 trained, right?

14 A Correct.

15 Q Okay. And pictures were taken of [REDACTED]

16 A Yes.

17 Q And Stacey?

18 A Yes.

19 Q Were you aware of the fact that EMT officers had to be
20 told to take pictures of Stacey because the officers
21 wouldn't do it?

22 A I'm not aware of that.

23 Q Okay. But in any event, pictures of both of them existed.
24 Right?

25 A Yes.

1 Q So, then when they came back the next day, you said that
2 you observed some injuries to [REDACTED]
3 A Yes.
4 Q You said you saw some bruising starting around her eye
5 area.
6 A Correct.
7 Q And what else?
8 A She had a cut on one side of her forehead, a small cut on
9 her forehead. She had--I'd have to read my report to be
10 more specific, if that's okay.
11 Q Sure.
12 A Okay. (pause) I apologize. There's nothing more
13 specific in my report.
14 Q Well, didn't you say that there was injury to the back of
15 [REDACTED] head in your report?
16 A (pause) I see there were red marks on her upper chest. I
17 don't see anything about her head. But if you could--
18 Q Okay.
19 A --guide me there?
20 Q Sure. If you could give me a moment. (pause)
21 Well, Officer, let's move on and I'll look for
22 it.
23 But as you sit here today, you say you don't
24 remember there being an injury to the back of her head?
25 A I don't recall that, no.

1 Q Okay. No pictures were taken of the back of her head?

2 A No.

3 Q If officers would have believed there was injuries there,
4 they would have taken it?

5 A If she would have indicated that and they could see
6 something, yes.

7 Q And if she would have told you that the next day, you
8 would have done it?

9 A If I could see something to take, yeah, I'd take a
10 picture.

11 Q But there was nothing like that?

12 A I didn't take a picture, no.

13 Q Okay. But she told you what had happened as part of the
14 assault that her mom slammed her down a bunch of times and
15 she hit her head on the rail of the bed?

16 A Yes.

17 Q And then what she told you was that Sam slammed her down
18 into a chair six or seven times and she hit her head on
19 the wall every time?

20 A That's what she said, yes.

21 Q Okay. And there was no damage to the wall?

22 A I was--

23 Q That you're aware of?

24 A I was never at the residence. I don't know.

25 Q And you also--

1 MS. KOSMATKA: May I approach, Judge?

2 THE COURT: Yes.

3 BY MS. KOSMATKA:

4 Q I'm showing you the photographs that have been marked and
5 admitted, and you've seen these a bunch of times,--

6 A I have, yes.

7 Q --haven't you? And what happened that night is that the
8 officer took a general picture of her face and then close-
9 ups of the--like the more specific areas of injury; is
10 that fair to say?

11 A Yes, ma'am.

12 Q The first picture is what we talked about. It's the
13 picture of kind of just standing back a little bit of her
14 face and a little bit of her upper body?

15 A Yes.

16 Q And then there's a close-up of her eye area?

17 A Yes.

18 Q And then there's a close-up of her leg,--

19 A Yes.

20 Q --the small cut on her leg?

21 A Yes.

22 Q And there is no blood on her face, correct?

23 A I don't--I don't see any, no.

24 Q Okay. And there's no picture of a cut on a forehead or a
25 close-up of a cut on a forehead, is there?

- 1 A There's not.
- 2 Q Although you said you observed one?
- 3 A It's not indicated in my report. And I can't--
- 4 Q What's not?
- 5 A The cut on the forehead.
- 6 Q You just remembered that as you're sitting here?
- 7 A I don't specifically remember, so I can't say--
- 8 Q Judy said there was one, right?
- 9 A Yeah, I don't specifically remember.
- 10 Q Okay. But you never wrote it before. You're not sure
- 11 where it came from. But as you sit here now, you're kind
- 12 of remembering that there was one?
- 13 A I'm saying that I don't recall there being one.
- 14 Q But you just said that that was one of the injuries, was
- 15 this cut--
- 16 A I was--
- 17 Q --right here, you pointed up to your forehead.
- 18 A I was confusing--I was confusing the cut on her leg when I
- 19 remember seeing a cut. And when I saw the pictures, it
- 20 reminded me that the cut I saw was on her leg.
- 21 Q Okay.
- 22 A And I apologize for the--
- 23 Q Okay.
- 24 A It's been over a year.
- 25 Q And then there were pictures--

1 First let me just be more specific as it regards
2 to [REDACTED] All the injuries were to the front of her,
3 weren't they?
4 A That I recall, yes.
5 Q That you saw.
6 A Yes, ma'am.
7 Q And there were pictures taken of Stacey, as well,--
8 A Yes.
9 Q --right?
10 A Yes.
11 Q And they were injury to the front of her chest, correct?
12 A Yes.
13 Q And the back of her, her back?
14 A Yes.
15 Q And what Stacey--Or you had something--You had different
16 versions of what happened that night, right?
17 A Absolutely. Yes.
18 Q Sam didn't have any injuries that you knew of, did he?
19 A He didn't indicate any.
20 Q And you didn't see any?
21 A I did not.
22 Q So did you--Were any written statements taken since you
23 talked to all three parties when you spoke to them later
24 in the morning when this incident happened?
25 A No.

- 1 Q All right. But in any event, the majority of the
2 allegations--And you can tell me if you would disagree
3 with me. That's fair. But the majority of the
4 allegations that even [REDACTED] said happened that night were
5 about her mother, weren't they?
- 6 A Yes.
- 7 Q The inci--She indicated the incident started between her
8 and her mom?
- 9 A Correct.
- 10 Q Nothing to do with Sam, at least initially?
- 11 A Initially, no.
- 12 Q And it was about this thing she has in her hand and she
13 won't show it?
- 14 A Smoking and a lighter, yes.
- 15 Q It's smoking and then it's a lighter?
- 16 A Correct.
- 17 Q Okay. And she--But she--And [REDACTED] admitted to it, I
18 wouldn't show it to my mom. Right?
- 19 A I believe--Yes.
- 20 Q Okay. So in any event, it starts and what [REDACTED] tells you
21 is that she and her mom get into it for that reason?
- 22 A Yes.
- 23 Q And would you agree or disagree that it's fair for a
24 parent, especially where there's concerns--if there's
25 concerns about a child's behavior, to want to know if

- 1 they're hiding something?
- 2 A Sure.
- 3 Q Or why they have something they won't show you?
- 4 A Yes.
- 5 Q Okay. So in any event, they get into a scuffle and what
- 6 she says is that her mom slams her down into the bed and
- 7 hits her head on the bed frame?
- 8 A Yes.
- 9 Q Her mom's choking her. Right?
- 10 A Covering her airway, yes.
- 11 Q Oh, okay. I'm sorry. Covering her airway. Her mom
- 12 punches her in the face?
- 13 A Yes.
- 14 Q And then Sam is up there and what she says is he is
- 15 pushing her in a chair.
- 16 A She said he slammed her down into the chair. She would
- 17 try to get up, and he would slam her back into the chair.
- 18 Q Okay.
- 19 A And her head would hit the wall.
- 20 Q All right. But--Okay. Fair enough. It would make sense
- 21 that if these two when they're going at it, it would make
- 22 sense to get them separated, wouldn't it? I mean, that's
- 23 what police would do.
- 24 A I would agree.
- 25 Q Okay. And then she indicates that while all of this is

1 going on, and it sounds like it's kind of crazy in there,
2 right? I mean, that there's a lot going on? Everyone's--
3 A (Indiscernible)
4 Q --upset and it's kind of a heightened situation?
5 A It sounds that way, yes.
6 Q Okay. And what [REDACTED] says happened then is that somehow
7 she just said, excuse me, can I use the rest room, or I
8 need to use the rest room or something about using the
9 rest room?
10 A Just indicating that she was allowed to use the rest room,
11 is what I was told.
12 Q So in the middle of--And she said it's kind of in the
13 middle of all this, right? That she goes to the bathroom?
14 A She does use the rest room, yes.
15 Q And the only bathroom is downstairs?
16 A That I'm aware of in the home, yes.
17 Q Okay. There's not one upstairs?
18 A Not that I'm aware of.
19 Q Okay. Fair enough. So she goes downstairs and she says
20 it's her mom that goes down with her, right?
21 A Yes.
22 Q Sam just kind of stays where he is, from what you
23 understand?
24 A She never indicates what Sam does. I don't know--
25 Q Okay. So she didn't say he did anything to her?

- 1 A Correct.
- 2 Q And then she says this thing about she's going up the
3 stairs, Sam's counting, her mom picks her up and drags her
4 by her hair?
- 5 A Yes.
- 6 Q And that's when she cuts her leg--
- 7 A Yes.
- 8 Q --or scrape--you know, the small--the injury that's
9 bleeding on her leg that's in the pictures from that?
- 10 A Right.
- 11 Q So all of the injuries we're looking at in those pictures,
12 from [REDACTED] account, come from her mom?
- 13 A I would agree with that, yes.
- 14 Q And as you sit here today, you are aware, are you not,
15 that the allegations, the criminal charge against Stacey
16 for domestic violence were dismissed by the prosecutor's
17 office?
- 18 A Yes.
- 19 Q Were you aware that that was being done?
- 20 A The dismissal?
- 21 Q Uh-hum.
- 22 A Yes.
- 23 Q Okay. And again, in your report where it indicates that
24 you were speaking to Stacey and taking her version of
25 events and how she saw it, you again specifically wrote in

1 your report that she changed her story several times,
2 meaning Stacey; and so you deemed her incredible?
3 A She changed her story, yes.
4 Q Yeah, she changed her story, so don't believe her?
5 A On that incident?
6 Q Yeah.
7 A Correct.
8 Q And as we already indicated, Sam Jerome came in to speak
9 with you about what had happened, correct?
10 A He did.
11 Q Did you write down anything about what he said?
12 A I don't believe I did.
13 Q I mean, does Sam even get mentioned, like he showed up and
14 he wanted to tell me what he said? I mean, do we even
15 know he's there, if we just look at the report?
16 A I don't believe I-- I--I don't recall. I can look. I
17 don't--
18 Q Go ahead.
19 A (pause) There's very little. It doesn't indicate
20 anything about his and I's con--our conversation.
21 Q So there's nothing?
22 A Correct.
23 Q It doesn't even--If we just read this, or when you
24 submitted this to the prosecutor's office, and I got it,
25 there's nothing here that would never indicate he came in?

- 1 A To the police lobby.
- 2 Q Right. On his own, right? He came up. He didn't--He
- 3 wasn't brought there by police officers or in handcuffs.
- 4 He came up and--
- 5 A Right.
- 6 Q --said, I want to talk about what happened, too?
- 7 A I don't remember the reason why he came up. But he was up
- 8 at the lobby.
- 9 Q And we don't know, 'cause you didn't write anything.
- 10 A Correct.
- 11 Q And you decided that.
- 12 A Correct.
- 13 Q Because you already decided you believed [REDACTED] Stacey's
- 14 lying to you 'cause she keeps changing it up.
- 15 A On this incident?
- 16 Q Uh-hum.
- 17 A Correct.
- 18 Q Okay. So you just didn't--You just ignored the fact that
- 19 he has rights as a possible alleged victim to make a
- 20 statement, as well, and he's completely ignored.
- 21 A I don't recall the conversation Mr. Jerome and I had in
- 22 the police lobby. I do not.
- 23 Q But that's the reason we write--that reports are written,
- 24 so we know and we can remember later, right?
- 25 A Generally speaking, yes.

1 Q And now there's just no way to know that.

2 A Correct.

3 THE COURT: Are you almost done here?

4 MS. KOSMATKA: Yes, I am.

5 THE COURT: Okay, 'cause--

6 MS. KOSMATKA: I am, Judge. I think--I know

7 there are constraints, and I believe so. And I'll try to

8 move along.

9 THE COURT: You know what? We're going to take

10 a break.

11 MS. KOSMATKA: Okay.

12 THE COURT: Ladies and gentlemen, don't talk

13 about the case. Leave your notes on the floor. We'll

14 start up in about ten minutes.

15 All rise for the jury.

16 (At 10:23 a.m., jury excused)

17 (At 10:23 a.m., recess)

18 (At 10:43 a.m., jury present)

19 (At 10:43 a.m., court in session)

20 BY MS. KOSMATKA:

21 Q Detective, I think when we--I'm sorry. Lieutenant. I

22 believe when we concluded, we were talking about the--Sam

23 Jerome coming in and there just not being any mention of

24 it.

25 A Correct.

1 Q Do you remember if you did speak to him, though?

2 A I remember speaking to him in the police lobby, yes.

3 Q Okay. So we don't have any kind of indication of how you

4 deemed his story, 'cause you said in your notes you had

5 decided Stacey's not credible,--

6 A Correct.

7 Q --'cause she's changing her story; you decide [REDACTED] is;

8 but we don't know what you thought of Sam 'cause you

9 didn't write anything about him?

10 A Correct.

11 Q Okay. And as part of the information that Stacey was

12 trying to give you, did--do you know, and if you don't,

13 that's fine, that she was trying to give you pictures of

14 the bed that was in [REDACTED] room indicating that, yeah,

15 there was a lighter and they were arguing over it, and

16 that there was a large burn mark in the bed?

17 A Stacey never indicated anything about a bed.

18 Q Okay.

19 A Burn marks on a bed, no.

20 MS. KOSMATKA: I don't have anything further.

21 THE COURT: Redirect?

22 MR. GEORGE: Yes, your Honor. Thank you.

23 REDIRECT EXAMINATION

24 BY MR. GEORGE:

25 Q All right. Detec--or, excuse me--Lieutenant, there's been

1 a lot of, you know, questions about, you know,
2 investigating cases and, you know, doing--you know,
3 getting statements or recording statements and the like,
4 or bringing in people. You know, could you just very
5 quickly in thirty seconds or less just tell us sort of
6 what the approach is to investigate a case from start to
7 finish?

8 A Every case is--is quite different. In a case of a sexual
9 nature, we--we start with gathering statements, gathering
10 whatever evidence we can. Depending on the age of the
11 child or the victim, we set up our subsequent interviews.
12 And then once we gather most of our information, we then
13 interview the--the suspect in that crime.

14 Q All right. And when you go about to interview a case, you
15 know, what's the goal of investigating. What are you
16 trying to do?

17 A Just to--to find the truth, find what happened.

18 Q All right. And would it be fair to say that in doing that
19 you want to talk to everybody and find out what they have
20 to say?

21 A Everybody that's willing to talk to me, yes.

22 Q All right. And sometimes issues come up where you need to
23 re-interview people, correct?

24 A Yes.

25 Q All right. Now, in regards to this case, when you started

1 the investigation, you know, was your goal again to gather
2 as much information as you could?

3 A Yes.

4 Q All right. And did you try to do that?

5 A I did.

6 Q All right. And did you give [REDACTED] Stacey, Judy, the
7 defendant, and anybody else involved in this case, did you
8 give them an opportunity to come to you and talk to you
9 and give their full version, or give a full statement to
10 you?

11 A Yes.

12 Q All right. In this case, when you reached out
13 specifically to Stacey over the course of the
14 investigation, was that someone that was willing to meet
15 with you and cooperate with you and give you the
16 information that you were seeking?

17 A Generally, no.

18 Q All right. In fact, as you're investigating this case,
19 she did a number of things that frustrated this
20 investigation, correct?

21 A Correct.

22 Q Including taking the defendant's side and supporting him?

23 A Yes.

24 Q Now, if Stacey came to you, you know, even though she was
25 supporting the defendant against her daughter, if she came

1 to you--

2 MS. KOSMATKA: Judge, I'm going to object to
3 that--nature of that questioning. The facts on the record
4 are that she brought her daughter in, that she brought her
5 to Care House.

6 MR. GEORGE: Well, Judge, the witness just
7 testified Stacey frustrated the investigation--

8 MS. KOSMATKA: In his opinion--

9 MR. GEORGE: --and he followed that--

10 THE COURT: What was your question?

11 MR. GEORGE: My question, Judge, was given that
12 the witness just testified that Stacey, the mother,
13 frustrated the investigation, that she supported the
14 defendant over [REDACTED] my question was given that, was the
15 lieutenant willing to have her come in and write
16 statements or provide whatever information she wanted to?

17 MS. KOSMATKA: And that's what I'm objecting to.
18 It may be this witness's opinion that she was picking
19 sides, but--

20 THE COURT: See, you characterized it.

21 MS. KOSMATKA: Thank you.

22 THE COURT: You've characterized it. She stated
23 objective questions: Did you do this and did you do that;
24 and now you put a conclusory characterization to it. So I
25 mean, if you want to ask a factual question, you can. But

1 you character--

2 MR. GEORGE: I'll just ask it a different way,
3 Judge.

4 THE COURT: Yeah.

5 MR. GEORGE: I think I can do that.

6 BY MR. GEORGE:

7 Q All right. Lieutenant, given your contacts with mother
8 and what you knew about her, were you willing and happy to
9 talk to her and collect whatever information you wanted
10 from her?

11 A Yes.

12 Q And if Stacey brought you text messages or pictures or
13 written statements, if she came to you with those things,
14 are those things you would have looked at and incorporated
15 into your investigation?

16 A I--I attempted to, yes. She wouldn't provide statements.
17 She would talk about the things she had on her phone but
18 wouldn't--would not let me have her phone or even look at
19 her phone. She did provide--She let me listen to two
20 voice memos, I think they're called; and that's the extent
21 of what she provided.

22 Q All right. Now, the--You know, sort of following up with
23 Stacey, she--you know, you were asked about her going to
24 Georgia with the girls.

25 A Yes.

- 1 Q All right. And she went to Georgia with the girls, you
2 know, that immediately followed the run--that runaway
3 report and her picking up [REDACTED] correct?
- 4 A Yes.
- 5 Q Okay. And that was when Stacey was coming back from
6 Texas, [REDACTED] ran away?
- 7 A Yes.
- 8 Q Okay. But that next morning, mom found her?
- 9 A She did.
- 10 Q And then you were in contact with mother?
- 11 A On the phone, yes.
- 12 Q All right. And again, you wanted Stacey to bring [REDACTED] to
13 the police station to talk to her?
- 14 A Initially I wanted to confirm that [REDACTED] was, indeed,
15 found. And then we had an investigation again.
- 16 Q All right. And instead of cooperating with you, she
17 directly lies to you about going to Beaumont, correct?
- 18 A Beaumont and then Providence.
- 19 Q Okay. And so there was two separate lies?
- 20 A Yes.
- 21 Q Okay. So the Berkley Police Department's on a wild goose
22 chase?
- 23 A We sent officers to Beaumont, to Providence, and to the
24 residence, looking for [REDACTED]
- 25 Q All right. And when you realized you're being duped, you

- 1 talked to Stacey again, correct?
- 2 A I talked to Mr. Jerome first.
- 3 Q Okay. And then Stacey?
- 4 A Yes.
- 5 Q All right. And Stacey's response was that she laughed at
- 6 you?
- 7 A She laughed and said she was out of Michigan now, out of
- 8 my jurisdiction, I--there was nothing I could do.
- 9 Q Okay. And are those actions what you would consider
- 10 cooperating with the police?
- 11 A No.
- 12 Q Okay. And then it's my understanding while [REDACTED]
- 13 supposedly in the car with Stacey, looking all ragged and
- 14 drugged and raped, those words were Stacey's words,
- 15 correct?
- 16 A I don't know when I heard that. I don't know if Stacey
- 17 told me that during that conversation or not. But they
- 18 would have been Stacey's words.
- 19 Q All right. So,--
- 20 A I heard that from Stacey.
- 21 Q All right. So, what I'm trying to establish here is it
- 22 wasn't [REDACTED] that ever said she was out doing drugs or she
- 23 was raped?
- 24 A Not to me.
- 25 Q Okay. And you heard [REDACTED] in court say that was not the

1 case?

2 A Correct.

3 Q So the mom is telling a police officer that her daughter's

4 been drugged and raped.

5 MS. KOSMATKA: Judge, I--that she has said she

6 has been.

7 MR. GEORGE: Okay. I'll rephrase that, Judge.

8 BY MR. GEORGE:

9 Q So Stacey is telling you that [REDACTED] is telling her that

10 she's been drugged and raped?

11 A Correct.

12 Q And Stacey's response and what she does is lies to the

13 police about where [REDACTED] is at and flees to another state?

14 A Yes.

15 MS. KOSMATKA: Judge, again I'm going to object

16 to the characterization that she--

17 THE COURT: It's been asked and--

18 MS. KOSMATKA: --fled--

19 THE COURT: --answered. Too late, so . . .

20 MS. KOSMATKA: Well, and that she fled to

21 another state. There's no indication that she fled.

22 There's indication that she took her family to see their

23 aunt in another state.

24 THE COURT: All right. Would the two of you

25 approach the bench?

1 (From 10:52:42 a.m. to 10:53:21 a.m., off-the-
2 record bench conference with counsel)

3 THE COURT: Rephrase that question
4 (indiscernible).

5 BY MR. GEORGE:

6 Q All right, Lieutenant, let me re-ask that question. So,
7 Stacey lies about where [REDACTED] at.

8 A Correct.

9 Q Stacey tells you that her daughter's been drugged and
10 raped. And what does Stacey do?

11 A She continued to Georgia, as far as I know.

12 Q All right. And did she ever bring [REDACTED] in so you could
13 check her welfare, see how she's doing?

14 A She did not.

15 Q All right. Now, I want to talk to you a little bit about
16 report-writing and, you know, how that relates to an
17 investigation.

18 A Okay.

19 Q All right. You know, when you investigate a case, we
20 prepare police reports, correct?

21 A Correct.

22 Q All right. And then you in particular when you--Do you do
23 anything before you prepare your report? Well let me ask
24 it another way.

25 When you're interviewing witnesses, do you take

1 notes or do you do anything that would sort of refresh
2 your recollection?

3 A I generally take notes.

4 Q All right. And you know, do you rely on those, then, when
5 you then later prepare a written report?

6 A I do.

7 Q All right. Now, in general, when you are preparing
8 reports, you're conducting investigations, is it possible
9 or common to incorporate every single statement that's
10 ever made in a case into a police report?

11 A It's not--Generally, it's not possible.

12 Q All right. And in this case, you know, can you even
13 recall how many times you've talked to Stacey over the
14 years?

15 A No.

16 Q And would it have been--You know, I think--now looking
17 back, maybe there's things that maybe you think it would
18 have been better put in, you know, now and--you know,
19 hindsight's 20/20, but, you know, given this case, would
20 it have been possible for you to incorporate, you know,
21 every single detail over the course of, you know, almost a
22 year's investigation into the police report?

23 A It wouldn't be possible, no.

24 Q All right. And what's the purpose of the police reports?

25 A Our job is to, again, gather the facts. And

- 1 (indiscernible) the report, we are listening to the
2 prosecutor, what are the relevant facts of that case.
- 3 Q All right. And--All right. So the purpose of the report,
4 I think you said, is to sort of include, you know, the
5 pertinent facts of a case?
- 6 A To summarize it for the--the prosecutor.
- 7 Q All right. To summarize it. Because it's not possible to
8 put into a report a verbatim statement from every witness
9 that they've ever made?
- 10 A Correct.
- 11 Q All right. Now, it's possible, you know, it's possible
12 that you can record witnesses at times.
- 13 A Given where those interviews take place and who the person
14 is; yes, it is possible.
- 15 Q All right. And in this case, I think you indicated that
16 with children at the time that this was happening there
17 wasn't a location within your--in the police station that
18 was equipped with video? For children, is what I'm
19 getting at.
- 20 A We have a juvenile detective. When the--When the juvenile
21 is a suspect in the crime, they are recorded. When the
22 juvenile is the victim of the crime, they are not.
- 23 Q All right. And that's just your Berkley policy on that?
- 24 A Department policy.
- 25 Q All right. Now, when this case came in--

1 Well, let me talk to you a little bit about Care
2 House. You know, obviously you're familiar with Care
3 House.

4 A I am.

5 Q And I think you said on direct you've done--How many Care
6 House interviews have you been to?

7 A I don't recall. I've been to Care House well over 20
8 times. I've investigated these type crimes around 35
9 times. I'm not sure exactly how many of those went to
10 Care House.

11 Q All right. So you've seen forensic interviews, correct?

12 A I have.

13 Q And in the--in your 18 years or so, you know, how many
14 children have you interviewed?

15 A I can't count.

16 Q All right. Lots, right?

17 A Tons, yeah.

18 Q All right. And so, you know, when we're talking about
19 Care House being professional interviewers, I don't take
20 any dispute with that; but, you know, at the same time,
21 Lieutenant, would you consider yourself a professional
22 interviewer?

23 A It's a majority of what I do all day.

24 Q All right. You've talked to countless kids and you've
25 been to Care House, you know, so do you understand sort of

1 the, you know, how you interview children?

2 A I understand the--the--the process, yes.

3 Q All right. And what's the--you know, what's the big point
4 of a forensic interview, like they do at Care House?

5 A Very careful about leading children.

6 Q So--Okay, so you don't leading questions. What kind of
7 questions do you ask?

8 A Open-ended questions.

9 Q Okay. Who, what, why, when--

10 THE COURT: Mr. George, we've been over this so
11 many times. I'm not going to allow its repetition
12 (indiscernible). Okay. I mean, if you want to--

13 MR. GEORGE: All right. Well,--

14 THE COURT: --state that that's your topic
15 you're on, that's fine; but to go over this all over
16 again. Folks, we're done with that.

17 MR. GEORGE: All right, Judge.

18 BY MR. GEORGE:

19 Q Now, you know, the--Okay, the point is, you know, you've
20 interviewed kids. Now, Care House, you're aware that
21 there's a memorandum of understanding between Care House
22 and the different police agencies?

23 A Correct.

24 Q All right. And are you aware that the police agencies,
25 you know, pursuant to that agreement, are really only

1 required to bring a child to Care House if they're twelve
2 and under?

3 A That's what the mem--memorandum says, yes.

4 Q All right. So, in this case, [REDACTED] was 13 or 14 when she
5 talked to you?

6 A Thirteen at the time.

7 Q All right. So, really, pursuant to the forensic
8 interviewing protocol, there's no requirement for you even
9 to brought [REDACTED] to Care House?

10 A Not through the state of Michigan and their--their memo,
11 and then from Care House to us, correct.

12 Q All right. So, you know, you went ahead and did that
13 anyway. Could you tell us why you went ahead and had her
14 interviewed at Care House?

15 A Most of it was the history of the family. Just the
16 different cases I've had with the family, how those cases
17 have twisted and turned through the--the process, and I
18 wanted just that additional step.

19 Q All right. And, you know, we have [REDACTED] telling you one
20 thing. [REDACTED] tells something a little bit different at
21 Care House.

22 MS. KOSMATKA: Again, I'll object to tells
23 something a little bit different. We've--

24 MR. GEORGE: All right. I'll rephrase it.

25 MS. KOSMATKA: --(indiscernible)--

1 MR. GEORGE: I'll rephrase it, Judge.

2 MS. KOSMATKA: Thank you.

3 BY MR. GEORGE:

4 Q So, you went to Care House. And could you describe how
5 [REDACTED] statement differed? Or not--Did it differ? Let
6 me just ask that.

7 A It did differ, yes.

8 Q All right. And when you say it differed, could you tell
9 us, just quickly, how it differed? Not in the specifics
10 but more just generally. What was the nature of the
11 difference?

12 A To generalize it, the blame shifted from Sam to [REDACTED] A
13 lot of the facts were the same about where they were, what
14 was going on. Some of the touching was even included in
15 the interview but it was characterized as a mistake or as
16 tickling or--or fooling around.

17 Q All right. And during the interview you recall [REDACTED]
18 actually telling the interviewer, Trisha Shuster, that the
19 defendant, after five or ten minutes, got really low and
20 was touching on her vagina?

21 A And I believe that's in my report, yes.

22 Q All right. And that [REDACTED] told him to stop and he didn't
23 stop.

24 A If we're talking specifically about Care House, I'd have
25 to review my report on that. But she did--

- 1 Q All right. Well,--
- 2 A --tell him to stop, yes.
- 3 Q All right. And so when [REDACTED] went to Care House, she
- 4 didn't ever say that Sam didn't do something to her,
- 5 correct?
- 6 A She did not say that Sam did not touch her. She made it
- 7 more sound like an accident or like a--That was the big
- 8 change.
- 9 Q All right. And as an investigator, you have a, you know,
- 10 a case with a juvenile or child saying a stepfather did
- 11 something to her.
- 12 A Correct.
- 13 Q And now you have, you know, a statement at Care House
- 14 that's, you know, largely the same, just when it comes to
- 15 the sexual contact, it's different.
- 16 A Correct.
- 17 Q Does that, as an investigator, cause you any concern?
- 18 A It does.
- 19 Q What's your concern there?
- 20 A That children change their stor--Everybody changes their
- 21 story for different reasons. Sometimes it through fear
- 22 and intimidation, sometimes it's from--they're scared of
- 23 the process. I just wanted to make sure that this was not
- 24 actually going on inside that home.
- 25 Q All right. And as an investigator, do you think in your

1 professional opinion that as a detective in charge of a
2 case involving a child, that it would have been
3 professional for you to say, Okay, well, [REDACTED] changed
4 what she said about the sexual contact; so you know what,
5 Mom, take your daughter home to your step--or your
6 husband, and I'm done, I'm satisfied?

7 A I think I would have been remiss in--in what we do and for
8 the safety of just everybody in--involved, the children
9 involved. If I would have just dropped that case at that
10 point, knowing what she had said originally, how it had
11 changed slightly at Care House, and it did change a
12 little, and then the actions of her mother and not being
13 able to talk to her again to find out why it had changed,
14 and--I don't think I would have been doing my job at that
15 time.

16 Q All right. And correct me if I'm wrong, but the--sort of
17 the next step then, the next logical step would have been
18 to ask Stacey to bring her daughter in so you could ask
19 her about why she changed what she said?

20 A We would have asked why it changed, and--and we would have
21 went over the whole--the whole thing again to see what was
22 going on.

23 Q All right. And, you know, it's possible, you know, maybe
24 not with this case but just, for example, if the child
25 came--a child came in and said, Well, Detective, look, I'm

1 sorry; what I told you the first time wasn't true; you
2 know, I feel bad; I told the truth at Care House, and left
3 it at that.

4 A I've had that happen several times.

5 Q Okay, case closed, right?

6 A Case closed.

7 Q Okay. You know, that wasn't the situation here, though,
8 was it?

9 A Correct.

10 Q All right. And did you reach out to Stacey and ask her to
11 please bring [REDACTED] in so you could talk to her?

12 A I did.

13 Q All right. And was that done?

14 A No.

15 Q It wasn't until she was out of the state that [REDACTED] came
16 to talk to you, correct?

17 A Correct.

18 Q All right. And when [REDACTED] talked to you, she explained to
19 you why she said what she said at Care House?

20 A Yes.

21 Q And then when she again told you what happened, it was
22 entirely consistent with the first time she talked to you?

23 A Correct.

24 Q All right. So there's really no change in stories back
25 and forth. It was she told you what happened and then she

1 went to Care House and said something a little different
2 and then when she--

3 MS. KOSMATKA: Again, I'm going to object to a
4 little different.

5 BY MR. GEORGE:

6 Q All right. So she goes Care House, says something
7 different, and then you interview her a third time, and
8 it's the same as the first time?

9 A Then I interviewed her a subsequent time, and it was--the
10 fourth time was the same as the first and the third. And
11 that was--Each time there was a month in between. So I--I
12 waited until late, the fourth time, to interview her to
13 see--And when I had three times consistent with something
14 that had been said three or four months prior, that
15 started to show the consistency in the--in the case.

16 Q All right. Ms. Kosmatka, you know, asked you about some
17 text messages--

18 A Yes.

19 Q --that the defendant--or Stacey claim that--they claim
20 show what the actual text message was that Judy saw.

21 A Correct.

22 Q All right. You've never seen that, correct?

23 A I have not.

24 Q All right. You don't know anything about that?

25 A Only what I was told.

1 Q All right. Did you ask Stacey to bring you the phone?

2 A I did.

3 Q Okay. Did she do it?

4 A She did not.

5 Q Did she come to you and come to you at the police station

6 and ask you to look at the phone for her?

7 A She did not. Not on that text message.

8 Q On the--Right, on the text message.

9 A Correct.

10 Q All right. And with text-messagings, I mean, the way we

11 get records is directly from the phone company, correct?

12 A Correct.

13 Q All right. So if you want to know what's on my phone, you

14 could figure out which carrier I have, request the

15 records, and that's the official business record from AT&T

16 or Sprint or wherever, correct?

17 A Correct.

18 Q All right. And that wasn't done at all in this case,

19 true?

20 A It was not.

21 Q All right. And because--You know, you work with these

22 phone companies, you know they recycle the--the recycle or

23 delete that information after so many days?

24 A Each phone company has their set parameter. And we were--

25 When I learned of the message, I was well beyond the

1 longest of any of them. And there was--there was no
2 records to gather at that time.

3 Q All right. And so when someone, you know, shows you a
4 piece of paper or they, you know--without having actual
5 records, it's kind of hard to tell what that even is,
6 correct?

7 A I'd have no idea.

8 Q All right. But she didn't even bring you a piece of paper
9 showing you anything?

10 A I've never seen them, no.

11 Q All right. Now, you were also asked about the dismissal
12 of the domestic violence charge against Stacey.

13 A Yes.

14 Q That's something that Ms. Kosmatka asked you about. All
15 right. You were the detective in charge of that case,
16 correct?

17 A I was.

18 Q All right. And I happened to be the prosecutor on that
19 case?

20 A You were.

21 Q All right. And, you know, we talked, you know, at length
22 about, you know, how we want to approach this case and
23 what we want to do, correct?

24 A We did.

25 Q All right. And during the pendency of that case, we--you

1 recall that Stacey was ordered to undergo a psychiatric
2 evaluation?
3 A By Judge Wittenberg, yes.
4 Q All right. So the judge ordered her to the Center for
5 Forensic Psychiatry for a competency exam, correct?
6 A Yes.
7 Q All right. And do you recall us also asking for a
8 criminal-responsibility evaluation?
9 A We did.
10 Q Could you tell the jury quickly what a criminal-
11 responsibility evaluation is?
12 A That's usually more for the attorneys than for the police
13 officers; but the competency is can--are you competent to
14 --to help yourself or defend yourself in the case? Can I
15 talk to the attorney and say this is what happened or
16 didn't happen? The criminal responsibility is are they--
17 can they be held responsible for what they did based on
18 are you sane?
19 Is that--Does that (indiscernible)?
20 Q Right. Right.
21 MS. KOSMATKA: Judge, may Mr. George and I have
22 one moment?
23 THE COURT: You may what?
24 MS. KOSMATKA: Have one moment?
25 THE COURT: Yeah. I'm going to. . .

1 (At 11:08 a.m., brief off-the-record conference
2 between counsel)

3 MS. KOSMATKA: Okay. Okay.

4 BY MR. GEORGE:

5 Q All right. And, you know, so basically, you know, we got--
6 is the defendant competent to stand trial--

7 A Yes.

8 Q --and, you know, are they responsible for their actions?

9 A Yes.

10 Q All right. And when we asked Judge Wittenberg, do you
11 recall him indicating that the forensic--

12 MS. KOSMATKA: Judge, I'm going to object to--

13 THE COURT: You know, counsel,--

14 MS. KOSMATKA: --something that a judge said.

15 THE COURT: --approach the bench, will you?

16 (From 11:08:25 a.m. to 11:08:49 a.m., off-the-
17 record bench conference with counsel)

18 BY MR. GEORGE:

19 Q All right, Lieutenant Crum, but the--We weren't able to
20 have a criminal-responsibility exam done, correct?

21 A My understanding from previous cases and from this case is
22 you can't misdemeanor cases.

23 Q All right. But the bottom line is in this case with
24 Stacey Krahe, we could not do a criminal-responsibility
25 evaluation?

- 1 A It was not possible.
- 2 Q All right. So we get--She goes, she's evaluated, we come
3 back, we have a competency report, correct?
- 4 A Correct.
- 5 Q All right. And prior to her being sent to the forensic
6 center, do you recall her being in your office sometime in
7 February of 2014? With her attorney Mark Herron?
- 8 A Yes.
- 9 Q All right. And I'm not going to get into the allegation
10 of what she talked to you about, but basically she was
11 there with her attorney; and right before your very eyes,
12 she went from a 38 year old and transformed into a 6 year
13 old?
- 14 A Correct.
- 15 Q All right. And so she's talking to you, she's sniffing
16 her feet, and she's acting like a 6 year old?
- 17 A Correct.
- 18 Q All right. And when Ms. Kosmatka asked you about it being
19 unrelated to the case, I mean, it was a separate
20 allegation, but it involved the same people, correct? The
21 allega--
- 22 A Yes. Yes.
- 23 Q All right.
- 24 A Yes.
- 25 Q And so while this case is pending, February 2014, mom's in

1 your office smelling her feet, acting like a 6 year old?

2 A Yes.

3 Q All right. And subsequent to that, there were concerns
4 about whether she was mentally ill and even competent to
5 stand trial?

6 A Correct.

7 MS. KOSMATKA: Again, I'm going to object.
8 According to whom? The prosecutor makes the decision what
9 happens with a charge. It does not matter what the
10 detective thinks.

11 THE COURT: And I know. I mean, . . .
12 What's your next question?

13 MR. GEORGE: All right, Judge, I'm going to
14 finish up.

15 BY MR. GEORGE:

16 Q All right. So, Ms. Kosmatka asked you that, you know,
17 wasn't the domestic violence case against Stacey
18 dismissed. Do you recall that?

19 A I do.

20 Q All right. Now could you tell the jury why it was
21 dismissed?

22 MS. KOSMATKA: Again, I'm going to object. It's
23 dismissed by the prosecutor. The only that can say--

24 THE COURT: That's all--That's all they need to
25 know, don't they?

1 MS. KOSMATKA: That's--Correct.

2 MR. GEORGE: Well, Judge, I mean, it wasn't--

3 THE COURT: 'Cause that's just--

4 Is it hearsay or what is your objection?

5 MS. KOSMATKA: Well, at this--

6 MR. GEORGE: No, but--

7 MS. KOSMATKA: If I may?

8 This witness has no way to say why a charge is

9 or is not dismissed. We've already established police

10 officers ask for charges to be given by the prosecutor--

11 THE COURT: And they were denied.

12 MS. KOSMATKA: --and once that happens, the--

13 THE COURT: Yeah.

14 MS. KOSMATKA: --prosecutor's fully in charge of

15 what happens with charges, not police officers.

16 MR. GEORGE: The one difference, though, Judge,

17 is I agree with that except in this case we met, we

18 discussed it, and we made a decision together.

19 THE COURT: Objection sustained.

20 MS. KOSMATKA: Thank you.

21 THE COURT: Next question.

22 BY MR. GEORGE:

23 Q All right. But the bottom line is that after we talked, I

24 dismissed the case.

25 A You did.

1 THE COURT: Asked and answered.

2 MR. GEORGE: Nothing further, Judge.

3 THE COURT: Other than "I dismissed it." The
4 case was dismissed.

5 Ms. Kosmatka?

6 MS. KOSMATKA: Thank you, Judge.

7 RECROSS-EXAMINATION

8 BY MS. KOSMATKA:

9 Q Detective Crum, you said that you want to take--when
10 people come in, you want to take any information from them
11 that they want to give you, correct?

12 A Yes.

13 Q But when it came to Stacey, we've already established that
14 you took from her what you decided to take.

15 A She didn't provide us--

16 Q Okay. So let's--

17 A --I asked for things, and she would not provide.

18 Q And she tried to give you things that you didn't want?

19 A I don't recall that.

20 Q Okay. So let's talk specifically about those recordings
21 real briefly.

22 A Yes.

23 Q You said that she tried to play you some recordings.

24 A Yes.

25 Q You listened to a couple of them.

1 A I did.

2 Q You specifically again wrote in your report you deemed

3 that they were like somehow influenced, they weren't

4 credible, they didn't go with this case. You wrote that.

5 A I requested those recordings.

6 Q But you--

7 A I never received them.

8 Q Okay.

9 A And I did write that in my report, yes.

10 Q Okay. A bunch of times. I mean, it's riddled throughout

11 the report every time you talked to Stacey, she's not

12 credible. She's not believable. Her evidence isn't worth

13 anything. Right? You're writing it.

14 THE COURT: Yes or no. It's just a yes or no

15 answer, Lieutenant.

16 THE WITNESS: I'm sorry, your question is it's

17 riddled through? I don't--I don't agree with that.

18 BY MS. KOSMATKA:

19 Q At least three times, at least three times, just for--

20 A In--

21 Q --the sake of not going through every part of the report

22 for the jury.

23 A In the four or five reports that I have that--

24 Q Yes.

25 A --are probably combined, say 50 pages, you're saying

1 there's three times. You're--

2 Q At least. I--

3 A --probably right.

4 Q --And rather than go through every time--

5 A You're--

6 Q --it says it.

7 A You're correct, yes.

8 Q Okay. So that's your mindset when you're meeting with her

9 on multiple occasions. Fair to say she kind of gets that?

10 A I can't say what she gets or doesn't.

11 Q Okay. Do you like her?

12 A Stacey Krahe?

13 Q Uh-hum.

14 A There are--There are 10 different Stacey Krahes.

15 Q Okay. When you would meet with her--

16 A It depends on which one is in my office,--

17 Q Okay.

18 A --to be honest with you.

19 Q Okay.

20 A If it's 36, then it's 36. She's very--

21 Q Okay.

22 A --open.

23 Q So one more time--

24 A But your question is do I like her? When she's--

25 Q Okay. Let me--Let me--

1 A --When she's--

2 Q Okay.

3 THE COURT: (Indiscernible) can answer.

4 THE WITNESS: When she's other personalities,
5 including one that she refers to as Dominic, I would be
6 honest, I don't. It's very--very hard to get along with
7 that personality.

8 BY MS. KOSMATKA:

9 Q Yeah.

10 A But there are 10 different--And I've seen a majority of
11 those through my time with dealing with Stacy--

12 Q Okay.

13 A --that I'm never sure who I'm going to get. But when I
14 get the 36 year old, she's a very nice, young lady.

15 Q Fair enough. In your 50-or-so police reports, pages in
16 the--

17 A Pages, yes.

18 Q --police reports and all the multiple times you talked to
19 Stacey, you never know that you have any indication you're
20 talking to anyone other than what you refer to as a 36-
21 year-old Stacey, do you?

22 A I never know which one I'm talking to.

23 Q You never noted she seemed odd or she didn't seem with it
24 or she seemed to be acting like someone else. That
25 doesn't say anything like that.

1 A No.

2 Q It just says I don't believe her.

3 A Correct.

4 Q And in regards to her saying that she was going to

5 Beaumont or going to Providence or going to the hospital

6 when she picked up her daughter, who she told you looked

7 disheveled, said she was raped and drugged?

8 A Yes. Yes.

9 Q The prosecutor characterized that as a wild-geese chase

10 for you, correct?

11 A We did send--

12 Q (Indiscernible)

13 A --our police officers to various places.

14 Q Okay. But you don't know whether or not [REDACTED] told her

15 mom that she was lying or why there was a decision not to

16 do that?

17 A I don't know that.

18 Q Okay. And you said that the purpose of a police report

19 for police officers is to list for the prosecutor relevant

20 facts of the case or to summarize the relevant facts of

21 the case.

22 A Yes.

23 Q Which means there's no place for opinions, correct?

24 That's not relevant facts of the case.

25 A They often ask us for those.

1 Q But you--In this case they didn't ask for it. You just
2 volunteered it.

3 A That's not true.

4 Q You were asked to write a report indicating what you
5 thought, who you believed, what you thought was credible,
6 what you thought was incredible? Or you just did it?

7 A This report was sent out to be reviewed not for a--We
8 didn't request a complaint warrant subpoena. I drove it
9 up and reviewed it with the prosecutor.

10 Q Did you write it or did somebody--

11 THE COURT: Let him answer the question.

12 MS. KOSMATKA: Okay. Sure. Sorry.

13 THE WITNESS: After I--we reviewed it initially,

14 --

15 BY MS. KOSMATKA:

16 Q Uh-hum.

17 A --I was asked specific questions. Go find these things.

18 Q Right.

19 A When I did, one of them was--the specific question was, Do
20 you believe Stacey? Do you believe about this fact?

21 Q Uh-hum.

22 A And when I was asked that specific question, I
23 (indiscernible) that into my report.

24 Q Detective Crum, with all due respect, and if you need to
25 look, you let me know, you wrote it in the May 7th report,

1 --

2 A I didn't write that report--

3 Q --you wrote it--

4 A --on the 7th.

5 Q --in the Care House portion. It's not only after you

6 presented it.

7 A This report was not written until well after I met with

8 the prosecutor.

9 Q This entire report? I mean, they're dated May 8th, July

10 11th,--

11 A You can see--

12 Q --July 14th--

13 A --at the bottom the day it was submitted.

14 Q Submitted, but--

15 A They were written that day.

16 Q They were--Okay. Now I'm confused. Even though they say

17 they're written May 8th,--

18 A Correct. That's just me writing a narrative as the--as

19 the reports.

20 Q So you're saying--Now I'm really confused. You're saying

21 a year later, you went back and thought, What did I

22 remember from May 7th? I'll type that. What do I remember

23 from July 11th--

24 A Yeah, that's not how you write a police report. You open

25 up a Word document. You write down May 7th, we start to

1 write down what happened, you write down May 8th. When
2 something happens a month later that clarifies some--a
3 hole in our report or a question we have, we go back to
4 that day and clarify what's in our report.

5 Q Okay. And you also indicated that it--you found Stacey
6 frustrating and uncooperative to your case, right?

7 A Yes.

8 Q Although she's the one who brought her daughter in
9 initially. Yes? Yes?

10 A Stacey was frustrating when--She was cooperative for maybe
11 six days. This report went on for several months--

12 Q Okay. So I'll ask you questions, then. If you can answer
13 them yes or no, do; and if you can't you let me know.

14 She's the one who initiated the whole contact
15 with the police department about the sexual assault?

16 A Yes.

17 Q She's the one who brought her daughter to Care House?

18 A Yes.

19 Q Now we're well over a week into it, right? Because Care
20 House is over a week after the alleged--

21 A Yes.

22 Q --incident?

23 A Yes.

24 Q Then she came up and brought voice mails up, correct?

25 A (Inaudible)

1 Q I mean, she was coming up with--still meeting with you
2 after this, correct?

3 A No, she didn't meet with me after Care House until--

4 Q The re--I'm sorry, Detective, but your reports indicate
5 that the day she showed you the recordings were the DV
6 incident.

7 A Correct. That's the next time she came in to see me.

8 Q Okay. So--

9 A So this was August 2nd.

10 Q Okay. She came in--

11 A So May 7th, I started asking for information for further--
12 so I could do my investigation. August 2nd she finally
13 provided something that is--I'd been asking for for
14 months. That's the frustrating part of--

15 Q Okay.

16 A --trying to get an investigation--

17 Q So let's talk about before August 2nd, then. She's the one
18 who--Or at least she is one of the people that said her
19 daughter was missing, correct?

20 A I don't believe so. Judy Stiltner reported her missing,
21 if that's what you're asking.

22 THE COURT: Ms. Kosmatka, I think we're going
23 all over this again. And I am not going to allow it. I'm
24 not going to allow it.

25 MS. KOSMATKA: Fair enough.

1 THE COURT: We have the facts established, okay.
2 They recited one way.

3 MS. KOSMATKA: Sure.

4 THE COURT: We keep going over this, whether--
5 Whomever is questioning, we're just--it would be next to
6 impossible with the witness to do be able to do that, it
7 seems.

8 MS. KOSMATKA: I'll move on, Judge. Thank you.

9 BY MS. KOSMATKA:

10 Q And Detective, then correct me if I'm wrong, that on the
11 domestic violence incident the way the police came to be
12 at the Jerome/Krahe house is because Stacey called her
13 mother?

14 A We got there because Judy called us.

15 Q Was it--You wrote a report, didn't you?

16 A I'm sorry?

17 Q You wrote a report,--

18 A We went over--

19 Q --didn't you?

20 A --that, yes.

21 Q And the information was that Judy got a call from Stacey
22 asking her to come over.

23 A But that didn't indicate why we--She didn't call us.

24 Q I didn't ask you--

25 A Your question is--

1 Q --if she called the police.

2 A --the police came there because Stacey. No, the police
3 came there because Judy called the police. That's why we
4 arrived.

5 Q Okay. Because Stacey had called Judy, right?

6 A I don't know that.

7 Q Did you write it?

8 A You're asking me to say that's why we got there, and I
9 disagree.

10 Q Did you write it?

11 A I don't know how that's relevant to, Is that--

12 THE COURT: Lieutenant, she's asking you a
13 question. Did you write it?

14 THE WITNESS: Yes, I did write that.

15 BY MS. KOSMATKA:

16 Q Okay. And I just want to go briefly over it. You said at
17 Care House--The statement wasn't that different. And so
18 I'm going to--And this will be the last thing we do. You
19 wrote a report specifically about Care House, correct?

20 A I did.

21 Q And what you wrote was that she specifically advised on--
22 regarding the first incident--If you need a moment to find
23 that, I'll let you do that.

24 A Okay.

25 Q You wrote: [REDACTED] advised he did not touch her vagina

1 either above or below her clothing. Didn't you?

2 A I'm trying to find--

3 Q It's at the bottom of a page that lists victim, date,

4 time, venue, investigation, Care House.

5 A Okay.

6 Q The last--

7 A At the bottom?

8 Q Uh-hum. It's the fifth from the last line.

9 A I did write that, yes.

10 Q [REDACTED] also advised he did not touch her vagina either

11 above or below her clothing.

12 A Correct.

13 Q And then in three lines above, you said that she said

14 Sam's hand rubbed below her hip bones near her pubic line;

15 she asked him to stop; and he stopped.

16 A That's what I wrote, yes.

17 Q And you then went on to say in the very last line on that

18 page: From my perspective--meaning yours, right, 'cause

19 you're writing this?

20 A Yes.

21 Q From my perspective, it was a complete reversal of a

22 recollection of the assault in my office.

23 A Yes, I did write--

24 Q So it wasn't a little bit different. It's a complete

25 reversal.

1 A That's what I wrote, yes.

2 Q Okay, well, which is it?

3 A If you're asking me if that's what I wrote, that's what I
4 wrote.

5 Q And you also said that there's lots of reasons that people
6 change their stories, correct?

7 A Yes.

8 Q And you told--the two examples you gave the prosecutor
9 were fear and intimidation or fear or the process.

10 A Yes.

11 Q And sometimes it's 'cause they're lying. Right?

12 A Yes.

13 MS. KOSMATKA: Nothing further.

14 THE COURT: Ladies and gentlemen, we have to
15 break for lunch. I have two meetings scheduled, one with
16 the chief judge at 11:30, so I apologize for this hour and
17 a half. I usually try to keep it down to an hour for your
18 convenience. But I'm unable to do so. Today I have a
19 meeting after that. Several (indiscernible) meeting on a
20 couple issues that have come up.

21 Leave your notes in the folders and leave them
22 on the floor.

23 Go wherever you like for lunch. Just be back
24 in (indiscernible). Don't talk about the case. Don't
25 try to find out anything about it. Be back in the jury

1 room at 1:00 p.m. Okay?

2 Any questions?

3 All rise for the jury.

4 (At 11:23 a.m., jury excused)

5 THE COURT: You can step down, Lieutenant.

6 (At 11:23 a.m., witness excused)

7 THE COURT: You may be seated, folks.

8 The door is shut. We're going--

9 Do you have other witnesses you're going to

10 present?

11 MR. GEORGE: No, your Honor.

12 THE COURT: Okay. So you're ready to rest. And

13 we can tell that to the jury after they come back, right?

14 MR. GEORGE: Yes.

15 THE COURT: You had a motion?

16 MS. KOSMATKA'S MOTION FOR DIRECTED VERDICT

17 MS. KOSMATKA: Judge, as I indicated, I only

18 want to make the motion to preserve the record in regards

19 to a directed-verdict motion. We know that the standard

20 is that in the light taken most favorable to the

21 prosecutor whether or not there is evidence as to each

22 element that could allow a jury to find that there--that

23 there is enough evidence to at least go forward to a jury.

24 I know that based on what we've heard, there is at least

25 that.

1 THE COURT: I understand.

2 MS. KOSMATKA: I just didn't want it to read as
3 an omission in a transcript.

4 THE COURT: Mr. George, you're saying there's
5 enough factual dispute to go to the jury?

6 MR. GEORGE: Yes, your Honor.

7 THE COURT: Your request is denied.

8 And deputies, we'll see you back at one o'clock.

9 MS. KOSMATKA: Thank you.

10 (At 11:24 a.m., recess)

11 (At 1:00 p.m., court in session)

12 (At 1:00 p.m., jury present)

13 THE COURT: You may be seated. Recalling People
14 versus Jerome, case number 13-247841-FC.

15 Mr. George is here for the People. Ms. Kosmatka
16 for defendant.

17 Mr. George, do you have any other witnesses?

18 MR. GEORGE: No, your Honor, no other witnesses
19 or evidence to present. The People rest.

20 (At 1:00 p.m., People rest)

21 THE COURT: Ladies and gentlemen, the People
22 have completed what's called their case-in-chief. Now
23 defendant may present witnesses and/or testify, if he
24 chooses. We'll go through that at this time.

25 Ms. Kosmatka, do you have any witnesses?

1 MS. KOSMATKA: Yes, your Honor.

2 THE COURT: Call your first witness.

3 MS. KOSMATKA: May I go get the witness?

4 THE COURT: Uh-hum.

5 (From 1:00:50 p.m. to 1:01:29 p.m., pause in
6 proceedings)

7 MS. KOSMATKA: Your Honor, the defense calls
8 Richard Chudzinski.

9 THE COURT: Okay.

10 MS. KOSMATKA: Come up here.

11 THE COURT: Sir, raise your right hand.

12 Do you swear or affirm to tell the truth, the
13 whole truth, nothing but the truth?

14 MR. CHUDZINSKI: Yep.

15 THE COURT: You may have a seat.

16 And would you remove that--

17 THE WITNESS: Yes, sir.

18 THE COURT: I thought it was a toothpick. I'm
19 sorry.

20 What is your first and last name for the record?

21 THE WITNESS: Richard (indiscernible).

22 THE COURT: Richard what?

23 THE WITNESS: (Indiscernible)

24 THE COURT: Spell the last name.

25 THE WITNESS: C-h-u-d-z-i-n-s-k-i.

OFFICE OF THE PROSECUTING ATTORNEY
COUNTY OF OAKLAND

PO# 2013-05884

PROSECUTOR'S DISPOSITION RECORD

ALLEGED DEFENDANT(S): Kralic, Stacey
Jerome, Samuel
LAST FIRST

ALLEGED OFFENSE: CSC 1st and CSC 2nd

DATE OF OFFENSE: On or about December 2012 through April 2013

LOCATION: Berkley

VICTIM: Alyxis

POLICE OFFICER: Sgt. Crum

AND/OR DEPARTMENT: Berkley PD

CASE NUMBER: 13-5555

DISPOSITION:

1. DENIED ☐ 2. FURTHERED ☒ 3. REFERRED ☐

IF REQUEST NOT GRANTED OR FURTHER INVESTIGATION IS ORDERED, GIVE

REASONS: VC is 14 year old daughter of Defendant 1 and the step-daughter of Defendant 2. The VC recently disclosed of touchings to her vagina both under clothes and over clothes. She also disclosed a touching to her breasts. VC has stated Defendant 2 is the subject who sexually assaulted her and Defendant 1 has threatened her and told her to recant her allegation. Furthered for the following information: Need to know who is the very person the VC told about the sexual abuse? Need this person identified and interviewed. Need to know when the VC told this subject about the sexual abuse and what exactly the VC told them about it. The sister of the VC should be interviewed. (How old is this child? I did not see her listed on the 3200 form submitted to DHS) Does this child know anything about what happened to the VC? Was the sister home when the molestations occurred to the VC? If so, where in the house was she? Did the VC ever tell her what was going on? Was this child ever molested as well? (The VC seems to suggest that the Defendant was rubbing this child's stomach in the same fashion he did to her and appeared to be paying the younger sibling a lot of attention as well.) Can Defendant 1 corroborate the fact that the Defendant was buying the VC things in the last 6 months? Need the 154 report from DHS when completed. All of this information is critical to a determination being made on this warrant request.

055

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OAKLAND CITY PROSECUTOR

1002-10-002

2009 7 11 01

IF FURTHER OLDER THAN 30 DAYS, PLEASE QUERY THE FOLLOWING:

PROMIS: _____

CCH: _____

WARRANT ISSUED: _____

SIGNED: Shareen Lynch

DATE: August 21, 2013

056

2009 7 11 01

OAKLAND CITY PROSECUTOR

AUG-21-2013 09:12

JEROME v. CRUM, ET AL.
DEPUTY CHIEF MICHAEL CRUM

May 18, 2016

Prepared for you by



Bingham Farms/Southfield • Grand Rapids
Ann Arbor • Detroit • Flint • Jackson • Lansing • Mt. Clemens • Saginaw

DEPUTY CHIEF MICHAEL CRUM
May 18, 2016

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Page 1	Page 3
<p>1 IN THE DISTRICT COURT OF THE UNITED STATES 2 FOR THE EASTERN DISTRICT OF MICHIGAN 3 SOUTHERN DIVISION 4 5 SAMUEL JEROME, 6 Plaintiff, 7 vs. Case No. 15-148401-CZ 8 Hon. Denise Langford Morris 9 LIEUTENANT MICHAEL CRUM, 10 in his Individual Representative 11 Capacity, and THE CITY OF BERKLEY, 12 a municipal entity, 13 Defendants. 14 / 15 16 17 The Deposition of DEPUTY CHIEF MICHAEL CRUM, 18 Taken at 150 W. Jefferson Avenue, Suite 800, 19 Detroit, Michigan, 20 Commencing at 2:11 p.m., 21 Wednesday, May 18, 2016, 22 Before Sabrina Smith, CSR-2129. 23 24 25</p>	<p>1 TABLE OF CONTENTS 2 3 WITNESS PAGE 4 DEPUTY CHIEF MICHAEL CRUM 5 6 EXAMINATION 7 BY MR. AHMAD: 4 8 EXAMINATION 9 BY MS. McGIFFERT: 157 10 RE-EXAMINATION 11 BY MR. AHMAD: 181 12 RE-EXAMINATION 13 BY MS. McGIFFERT: 187 14 RE-EXAMINATION 15 BY MR. AHMAD: 187 16 17 EXHIBITS 18 19 EXHIBITS PAGE 20 (Exhibits attached to transcript.) 21 22 DEPOSITION EXHIBIT 1 13 23 DEPOSITION EXHIBIT 2 70 24 DEPOSITION EXHIBIT 3 82 25 DEPOSITION EXHIBIT 4 82</p>
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<p>1 APPEARANCES: 2 3 S. JAY AHMAD 4 Johnson Law, PLLC 5 535 Griswold Street 6 Suite 2632 7 Detroit, Michigan 48226 8 313.324.8300 9 jahmad@venjohnsonlaw.com 10 Appearing on behalf of the Plaintiff. 11 12 13 LAUREL F. McGIFFERT 14 Plunkett Cooney 15 150 W. Jefferson Avenue 16 Suite 800 17 Detroit, Michigan 48226 18 313.983.4751 19 lmcgiffert@plunkettcooney.com 20 Appearing on behalf of the Defendants. 21 22 ALSO PRESENT: 23 Celeste Kinney 24 25</p>	<p>1 Detroit, Michigan 2 Wednesday, May 18, 2016 3 2:11 p.m. 4 5 DEPUTY CHIEF MICHAEL CRUM, 6 was thereupon called as a witness herein, and after 7 having first been duly sworn to testify to the truth, 8 the whole truth and nothing but the truth, was 9 examined and testified as follows: 10 EXAMINATION 11 BY MR. AHMAD: 12 Q. State your full name for the record? 13 A. Michael Crum, C-r-u-m. 14 Q. How should I address you, Lieutenant, Deputy? 15 A. Mike's fine. 16 Q. Mike, my name is Jay Ahmad. I represent Mr. Jerome in 17 this case. I'm going to be asking you a series of 18 questions this afternoon. 19 I assume you've been deposed before, is 20 that correct? 21 A. I have. 22 Q. You understand the basic ground rules to a deposition, 23 but I'll go over them briefly with you. My job is to 24 ask you questions, your job is to understand and 25 answer my questions as truthfully and accurately as</p>

DEPUTY CHIEF MICHAEL CRUM
May 18, 2016

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<p style="text-align: right;">Page 5</p> <p>1 you can, do you understand that?</p> <p>2 A. Yes.</p> <p>3 Q. If I ask you a question that you don't understand what</p> <p>4 I'm asking you or I confuse you or you don't hear me,</p> <p>5 don't answer the question. Let me stop, repeat,</p> <p>6 rephrase it until you do understand what I'm asking,</p> <p>7 is that okay?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Where are you currently working?</p> <p>10 A. I work for the City of Berkley in the Public Safety</p> <p>11 Department.</p> <p>12 Q. And what'd you do for them?</p> <p>13 A. I'm the deputy chief.</p> <p>14 Q. And what does that mean?</p> <p>15 A. I guess I'm second in charge of the City right now</p> <p>16 just under the director, and I'm in charge of the</p> <p>17 administration of the department.</p> <p>18 Q. So what do your job duties involve specifically?</p> <p>19 A. The budget, purchasing, scheduling, promotions for</p> <p>20 individuals, just the admin part of it.</p> <p>21 Q. So are your duties exclusively administrative at this</p> <p>22 point?</p> <p>23 A. No.</p> <p>24 Q. You have some law enforcement responsibilities?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 7</p> <p>1 months as a lieutenant?</p> <p>2 A. I was the, in charge of the Detective Bureau and</p> <p>3 scheduling at that time.</p> <p>4 Q. So what does that mean, being in charge of the</p> <p>5 Detective Bureau?</p> <p>6 A. I assign the cases to the various detectives, and then</p> <p>7 if there's a question about a case, they bring it to</p> <p>8 me and we discuss it.</p> <p>9 Q. How many detectives were there during the 27 months,</p> <p>10 and if it fluctuated, you can tell me that.</p> <p>11 A. We have two full-time detectives that work in the</p> <p>12 Detective Bureau, and then depending on kind of our</p> <p>13 case load, that could go up to four, not counting me.</p> <p>14 Q. So do you add detectives from other parts of the</p> <p>15 department?</p> <p>16 A. From patrol.</p> <p>17 Q. What's the difference between being a detective and</p> <p>18 just a regular patrol officer?</p> <p>19 A. The schedule's better, you work Monday to Friday but</p> <p>20 you don't wear uniform, you're not answering calls,</p> <p>21 you're not responsible for fire suppression, the</p> <p>22 things that we do in the patrol side of things.</p> <p>23 Q. Are you assigned different types of cases?</p> <p>24 A. I'm sorry?</p> <p>25 Q. If you're a detective, do you work up cases different</p>
<p style="text-align: right;">Page 6</p> <p>1 Q. Tell me about those.</p> <p>2 A. I have very little that I actually go on the road</p> <p>3 anymore, but there are times where I will go out in</p> <p>4 the capacity in a uniform and provide the, whatever we</p> <p>5 need at that time.</p> <p>6 Q. Why would you do that?</p> <p>7 A. If we're short. This weekend we had what's called</p> <p>8 Berkley Days and we were short for a few hours, so I</p> <p>9 went out in uniform and covered a few hours of it for</p> <p>10 our department.</p> <p>11 Q. Other than that, other than being short, you don't</p> <p>12 have any regularly-scheduled shifts where you work as</p> <p>13 a law enforcement officer?</p> <p>14 A. I guess I'm always a law enforcement officer.</p> <p>15 Q. Right.</p> <p>16 A. If you're patrol?</p> <p>17 Q. Yes.</p> <p>18 A. No, I do not.</p> <p>19 Q. When did you become deputy chief?</p> <p>20 A. October 5th of 2015.</p> <p>21 Q. And before that, what was your position?</p> <p>22 A. Lieutenant.</p> <p>23 Q. And how long were you a lieutenant?</p> <p>24 A. 27 months.</p> <p>25 Q. And what were your responsibilities during those 27</p>	<p style="text-align: right;">Page 8</p> <p>1 than what a patrol officer does?</p> <p>2 A. Patrol takes the initial report and turns it over to</p> <p>3 the detectives on any felony and any misdemeanor that</p> <p>4 we investigate.</p> <p>5 Q. And then the detective investigates it and works it up</p> <p>6 until it's decided to present to the prosecutor or</p> <p>7 just not to pursue it, correct?</p> <p>8 A. Correct.</p> <p>9 Q. What's your date of birth, please?</p> <p>10 A. 6-24-1975.</p> <p>11 Q. And you graduated from high school?</p> <p>12 A. I did.</p> <p>13 Q. From where?</p> <p>14 A. Warren Woods Tower.</p> <p>15 Q. What year?</p> <p>16 A. 1993.</p> <p>17 Q. After graduating from high school, did you continue</p> <p>18 your educational pursuits?</p> <p>19 A. I did.</p> <p>20 Q. Where at?</p> <p>21 A. Initially at Oakland Community College.</p> <p>22 Q. Did you obtain a degree or certificate from Oakland</p> <p>23 Community College?</p> <p>24 A. Associate's degree in criminal justice, I believe '97.</p> <p>25 Q. Were you working at all during that time?</p>

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<p style="text-align: right;">Page 9</p> <p>1 A. Since high school, yes.</p> <p>2 Q. Okay. Where were you working during the time you were</p> <p>3 at OCC?</p> <p>4 A. A lot of minimum wage jobs.</p> <p>5 Q. Such as? Tell me the ones you can remember.</p> <p>6 A. I can remember Blimpie Subs, I can remember Papa</p> <p>7 Joe's, Quality Die Sets. I was a roofer, and I think</p> <p>8 it was called Adler Roofing, Adler, A-d-l-e-r. That's</p> <p>9 really all I can recall right now.</p> <p>10 Q. So were you going to OCC part time then?</p> <p>11 A. Yes.</p> <p>12 Q. And then after obtaining your Associate's in criminal</p> <p>13 justice, did you continue your educational pursuits?</p> <p>14 A. Police academy in '97, and I was hired by the Wayne</p> <p>15 County Sheriff Department at the end of the police</p> <p>16 academy.</p> <p>17 Q. How long did you work at the Wayne County Sheriff's</p> <p>18 Department?</p> <p>19 A. Eight months, from January to August of '98.</p> <p>20 Q. And what was your position during those eight months?</p> <p>21 A. Sheriff deputy.</p> <p>22 Q. And then where'd you go?</p> <p>23 A. City of Berkley.</p> <p>24 Q. Why'd you leave Wayne County?</p> <p>25 A. I don't recall at this time. Pension maybe. I don't</p>	<p style="text-align: right;">Page 11</p> <p>1 Q. Did you have to undergo any additional training before</p> <p>2 you were hired into the City of Berkley Department?</p> <p>3 A. I did have to go to fire academy in 1998. I don't</p> <p>4 remember when I started. It was in August, and then</p> <p>5 we had FTO, which is 15 weeks, which is field training</p> <p>6 officer, so you ride around with another officer for</p> <p>7 15 weeks. And then there's a lot of training they put</p> <p>8 you through, medical first responder, radar training,</p> <p>9 data master, a lot of that initial training when you</p> <p>10 first get hired as a police officer.</p> <p>11 Q. Did any of that training include training on how to</p> <p>12 interview suspects or individuals or witnesses?</p> <p>13 A. In the first year I was there?</p> <p>14 Q. Yes.</p> <p>15 A. Not that I recall. Maybe in the academy there may</p> <p>16 have been some, but I don't recall a specific class.</p> <p>17 Q. Since then have you taken any classes or courses on</p> <p>18 the skills required to interview witnesses or</p> <p>19 suspects?</p> <p>20 A. I have a week in the basic detective school, one day</p> <p>21 was set aside for interrogation interviews. When I</p> <p>22 went to evidence tech school, there was a portion for</p> <p>23 interviews. I had one-day school through Oakland</p> <p>24 Community College, and then I had a five-day interview</p> <p>25 interrogation through Wicklander just before I became</p>
<p style="text-align: right;">Page 10</p> <p>1 really recall.</p> <p>2 Q. Were you terminated?</p> <p>3 A. No, no.</p> <p>4 Q. You left voluntarily?</p> <p>5 A. I did.</p> <p>6 Q. Something to do with the benefits package?</p> <p>7 A. Something, yes. It was a little better in Berkley.</p> <p>8 Q. How'd you get the job in Berkley?</p> <p>9 A. Just applied and went through the whole process,</p> <p>10 interview, background, and they offered me the job.</p> <p>11 Q. And what year was that?</p> <p>12 A. I started August 3rd of 1998 in the City of Berkley.</p> <p>13 Q. And your position at the time you were hired was?</p> <p>14 A. Public safety officer.</p> <p>15 Q. What were your duties then?</p> <p>16 A. Law enforcement and fire suppression.</p> <p>17 Q. So what would a typical shift be like for you as a</p> <p>18 public safety officer?</p> <p>19 A. At that time we worked eight-hour shifts, so most of</p> <p>20 the time I worked 11:00 p.m. to 7:00 a.m. midnight</p> <p>21 shift and I would just respond to calls on dispatch,</p> <p>22 things on patrol, and if we had a fire I would respond</p> <p>23 to the fire.</p> <p>24 Q. Did you have a partner that you worked with?</p> <p>25 A. No. Single-man car.</p>	<p style="text-align: right;">Page 12</p> <p>1 a detective, or as I was a detective.</p> <p>2 Q. Was that part of the requirement to become a</p> <p>3 detective?</p> <p>4 A. No.</p> <p>5 Q. What year did you become a detective?</p> <p>6 A. 19 -- no, 2008. 2008 I believe.</p> <p>7 Q. So you would have been a patrol officer for about</p> <p>8 ten years before becoming a detective?</p> <p>9 A. Yes.</p> <p>10 Q. And then you've been a detective or associated with</p> <p>11 the Detective Bureau up until the point you were</p> <p>12 appointed or made deputy chief?</p> <p>13 A. Correct.</p> <p>14 Q. You said you had a five-day interview course at</p> <p>15 Wicklander?</p> <p>16 A. That's the name of the, I guess the company that puts</p> <p>17 it on, Wicklander-Zulawski or something. I'm not</p> <p>18 sure.</p> <p>19 Q. Any other courses or training you've had in witness</p> <p>20 interrogation or witness interviews?</p> <p>21 A. Not that I recall at this time.</p> <p>22 Q. Did any of these courses or classes that you took</p> <p>23 involve the interrogation of minors who were alleging</p> <p>24 sexual abuse?</p> <p>25 A. Not that I recall.</p>

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1 Q. That is a specialized skill, is it not, the
2 interviewing by law enforcement of a minor,
3 particularly one that's claiming sexual abuse?
4 **A. I'm sorry, your question is?**
5 Q. That's a specialized skill, is it not?
6 **A. Of a minor who's claiming sexual abuse? I'm not sure**
7 **that's a special. What age are you saying, even a 17**
8 **year old?**
9 Q. Yes.
10 **A. I would disagree with you.**
11 Q. Is there not a forensic protocol that's put out by the
12 State regarding the interview of sexual abuse victims,
13 particularly interview of a minor for sexual abuse?
14 **A. There is a protocol for 12 year olds and under that**
15 **I'm aware of. If there's another one, I'd be happy to**
16 **see what you have there.**
17 MR. AHMAD: Why don't we mark this as
18 Number 1, Sabrina.
19 MARKED FOR IDENTIFICATION:
20 DEPOSITION EXHIBIT 1
21 2:24 p.m.
22 BY MR. AHMAD:
23 Q. You're looking at Exhibit 1, which I marked for the
24 deposition.
25 **A. Yes.**

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1 Q. We're going to talk a little bit more about that.
2 Before I get into that, have you gotten all of your
3 educational achievement, is your Associate's degree as
4 high as you've obtained?
5 **A. I have a Bachelor's degree from Siena Heights**
6 **University in public safety administration.**
7 Q. When did you obtain that?
8 **A. 2007, that area.**
9 Q. So while you were working as a patrol officer at
10 Berkley, you also continued to go to school?
11 **A. Correct. I have been to the Eastern University School**
12 **of Staff & Command that ended maybe October of last**
13 **year, and then I'm currently in the Master's program**
14 **through Eastern Michigan for emergency management.**
15 Q. Have you authored any law enforcement literature or
16 protocols?
17 **A. Literature, no.**
18 Q. Protocols?
19 **A. Are you talking internal policies for the department**
20 **or external?**
21 Q. Anything that you would consider to be protocols or
22 procedures that involve law enforcement work.
23 **A. Procedures for my own department, just the taser**
24 **policy that we're working on right now that I'm**
25 **authoring.**

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1 Q. Have you seen that document before?
2 **A. I don't recall.**
3 Q. Are you saying that you are not aware of that forensic
4 interview protocol that's put out by the State?
5 **A. I have been to a juvenile justice class where Oakland**
6 **County has one, and what I'm not sure is if Oakland**
7 **County just used this one or if they made their own is**
8 **what I'm not sure of.**
9 Q. Okay. So you think you've seen forensic interview
10 protocols previous to today, you're just not sure if
11 it's Exhibit 1 or if it's a different set of protocols
12 that Oakland County uses?
13 **A. Correct.**
14 Q. When would have been the last time that you reviewed
15 those forensic interview protocols?
16 **A. I couldn't tell you.**
17 Q. If you've ever done it.
18 **A. I couldn't tell you.**
19 Q. Have you actually ever reviewed any forensic evidence
20 protocols?
21 **A. I was at a juvenile justice, like I said, course and**
22 **they did cover this. I don't know when that was. I**
23 **may have a certificate showing that, I'm not sure, but**
24 **I have been to a several hour class on the protocol,**
25 **yes.**

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1 Q. Anything other than that?
2 **A. FTO manual. I rewrote the FTO manual in 2007 or '08.**
3 Q. What is the FTO manual?
4 **A. Field training officer. There's 65 different tasks**
5 **that the new officers trained in, and I authored that.**
6 **That's all I can think of.**
7 Q. Did any of that include interview techniques?
8 **A. It did not.**
9 Q. What did you review to prepare yourself for today's
10 deposition?
11 **A. My answers to, Interrogatory answers to the questions.**
12 Q. Anything else?
13 **A. Today?**
14 Q. Or any time to prepare you for your deposition.
15 **A. I glanced at my report and the, several weeks ago**
16 **looked at the Court transcripts.**
17 Q. Anything else that you've reviewed?
18 **A. Not that I'll, not that I can recall.**
19 Q. Did you review the August 21st, 2013 video interview
20 that you did?
21 **A. I have seen those, and I can't recall when exactly I**
22 **watched those.**
23 Q. You don't remember when you watched them?
24 **A. I do not.**
25 Q. Was it before or after the criminal trial against

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1 Mr. Jerome ended?
2 **A. After, after.**
3 Q. After? Have you taken any classes or courses in
4 interviewing minors?
5 **A. Not that I can recall.**
6 Q. What is your experience in interviewing children who
7 are alleging sexual abuse?
8 **A. What is my experience?**
9 Q. Yes. How often would you do it, how often have you
10 done it?
11 **A. That was unfortunately part of our job. We did it. I**
12 **probably interviewed less than 30.**
13 Q. Over the entire course of your career?
14 **A. Yes. Individuals that were minors that were claiming**
15 **sexual assault, probably less than 30.**
16 Q. Do you know what the term "forensic interview" means?
17 **A. I know my understanding of it is -- I guess I would**
18 **say no, I do not.**
19 Q. So when you're looking at Exhibit Number 1 and it says
20 Forensic Interview Protocols, you don't even know what
21 it means to do a, quote unquote, forensic interview,
22 do you?
23 **A. No, I would say that's not correct.**
24 Q. So you do understand what the term means?
25 **A. I know that at CARE House, they conduct forensic**

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1 **interviews, and I've watched plenty of those. If**
2 **you're asking me for a definition, which is what you**
3 **asked me, I don't have one.**
4 Q. If I asked you to say what, in your mind, forensic
5 interview means, you can't answer?
6 **A. You didn't ask me that question.**
7 Q. Okay. I'm asking you now.
8 What, in your mind, does forensic interview
9 mean?
10 **A. The forensic interview is not leading questions. The**
11 **interview gives options and stress-free for the kids.**
12 **They worry about the environment they're in. They**
13 **worry about the distractions. That is my**
14 **understanding of a forensic interview.**
15 Q. Are you certified to give or conduct forensic
16 interviews?
17 **A. No.**
18 Q. And you understand that there are people who are
19 certified to give forensic interviews, right?
20 **A. Correct.**
21 Q. So not being certified in that, I can presume, unless
22 you're going to correct me, that you've never given a
23 forensic interview, have you?
24 **A. Correct.**
25 Q. You've never been trained in forensic interviewing

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1 techniques, have you?
2 **A. I think I've answered that, but, correct.**
3 Q. What is your interview technique when you are
4 interviewing children who are claiming to have been
5 sexually abused, what is your style? How is it that
6 you get the information that you think you need?
7 MS. McGIFFERT: Well, that's -- objection,
8 compound question. Just give him one question.
9 BY MR. AHMAD:
10 Q. What is your technique?
11 **A. My technique to?**
12 Q. Interviewing children who are claiming sexual abuse?
13 **A. Interviewing children at what point?**
14 Q. The initial interview.
15 **A. The initial interview. Generally that disclosure is**
16 **made by another individual. We interview that person**
17 **first and ask the kids what happened.**
18 Q. Is that the question, "What happened?"
19 **A. I can't, there's absolutely no way I could answer**
20 **that.**
21 Q. Why can't you answer that?
22 **A. Because I've done over 30 of them, and to recall all**
23 **30, I couldn't do that.**
24 Q. I'm sorry, did you say you've done over 30?
25 **A. I'm sorry, I've done under 30.**

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1 Q. Okay. So if you're presented with a child who comes
2 into your office and you're going to interview them
3 concerning a claim of sexual abuse, what questions do
4 you ask specifically?
5 **A. Each one's different.**
6 Q. So you can't even tell me a single question you would
7 ask?
8 **A. I can't.**
9 MS. McGIFFERT: I'm just going to place an
10 objection. You mean above and beyond what he's
11 already testified to? Object as to form.
12 BY MR. AHMAD:
13 Q. Would you agree with me that the questions should be
14 open-ended?
15 **A. Are you asking me?**
16 Q. Yes.
17 **A. Yes.**
18 Q. You should not be suggesting answers to a minor who's
19 making a claim of sexual abuse, correct?
20 **A. I think that's what open-ended means, yes.**
21 Q. You should not be expressing any judgment about what
22 the minor's claims are, correct?
23 MS. McGIFFERT: Let me just place an
24 objection, Counsel. Are we still talking about -- you
25 were asking him questions about the initial interview.

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1 Is that still where we're going with this?
2 MR. AHMAD: Yes.
3 THE WITNESS: Before CARE House?
4 BY MR. AHMAD:
5 Q. Yes.
6 **A. Correct.**
7 Q. How many CARE House interviews have you witnessed?
8 **A. I really couldn't put a number on it.**
9 Q. Was it more than 100, less than 100?
10 **A. Less than 100.**
11 Q. Less than 50?
12 **A. Less than 50.**
13 Q. Less than 20?
14 **A. That I wouldn't know.**
15 Q. Do you remember testifying at the criminal trial
16 regarding Mr. Jerome?
17 **A. I do.**
18 Q. Do you remember being asked by the defense attorney
19 about what questions you ask a minor when they're
20 making a claim of sexual abuse, do you remember when
21 she asked you that?
22 **A. I do not.**
23 Q. Do you remember telling her at the time of trial that
24 you ask only one question, and that is "Tell me what
25 happened," do you remember saying that in the trial?

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1 Q. Stacey and Ray?
2 **A. Yes.**
3 Q. How did you come to meet them?
4 **A. Dispatch calls.**
5 Q. Involving?
6 **A. I don't remember what they were doing. We would get
7 called out to the address and I don't remember why.**
8 Q. You have no recollection of why you were called out
9 there any of the times?
10 **A. I know there's a lot of fights between their
11 employees. They owned a cleaning company, and
12 allegations of theft, allegations of assault or -- but
13 I really don't recall the first time we were called
14 out or if that was two years or three years later, I
15 don't recall.**
16 Q. So when you met them and dealt with them from a law
17 enforcement capacity, was it typically at their place
18 of business?
19 **A. Residence, which I think was both. I think it was
20 where they operated out of.**
21 Q. They operated and lived at, they operated their dry
22 cleaning business?
23 **A. Not dry cleaning. It was a residential commercial
24 cleaning business.**
25 Q. Oh, a cleaning business?

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1 **A. I don't remember saying that.**
2 Q. Do you deny that you said that?
3 **A. I don't have any recollection of it.**
4 Q. Well, does that sound like something you might say
5 that "I ask only one question, and it's tell me what
6 happened"?
7 **A. I'd have to guess.**
8 Q. So is it true or is it not true that you only ask one
9 question when you're interviewing a minor who's making
10 a claim of sexual abuse and that question is "Tell me
11 what happened"? Is that accurate or is it not
12 accurate?
13 **A. That I ask one question, that is "Tell me what
14 happened"?**
15 Q. Correct.
16 **A. That sounds accurate.**
17 Q. Okay. How do you know the Krahe family? Let me ask a
18 better question. How long have you known the Krahe
19 family?
20 **A. Most of my career in Berkley, most of my career in
21 Berkley.**
22 Q. Most of your law enforcement career in Berkley?
23 **A. Yes.**
24 Q. Who did you first meet from the family?
25 **A. Stacey and Ray.**

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1 **A. Yes.**
2 Q. Before [REDACTED] made her allegations of sexual assault
3 against my client, Mr. Jerome, how many times do you
4 think you had dealt with Stacey from a law enforcement
5 perspective? And if you can't give me an exact
6 number, which I assume you can't, give me an estimate.
7 **A. Over -- at the time of the allegation you're asking?**
8 Q. Yes. When [REDACTED] first came to see you, which was in
9 May of 2013, prior to that time, how many times had
10 you dealt with Stacey from a law enforcement
11 perspective?
12 **A. If I was to guess, I'd say between eight and ten
13 times.**
14 Q. Did any of these times involve any of the children
15 that Stacey had?
16 **A. Yes.**
17 Q. Tell me about how many times it involved Stacey's
18 children.
19 **A. The only one I recall, the children, the kids were
20 always involved one way or the other. They were
21 either there when an assault happened that we had to
22 deal with or missing at one point with grandma. They
23 were -- but they would always be at the residence when
24 we were there, so if you're asking me if they were
25 involved in the actual case that we're dealing with?**

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1 Q. Yes.
2 **A. Twice that I can recall.**
3 Q. What were those two times?
4 **A. One, grandma had them in a cabin or a hotel or**
5 **somewhere and Stacey called, they were missing or --**
6 **that was several years before. They were quite young**
7 **then. And more recently was dealing with a dog**
8 **rescue, and [REDACTED] was home alone, and dealt with**
9 **Stacey and [REDACTED] on that one.**
10 Q. Help me understand more about what that involved. You
11 said a dog rescue and Stacey and [REDACTED] were home
12 alone?
13 **A. [REDACTED] was home alone, and the claim was the dog rescue**
14 **came in and stole the dog out of the house.**
15 Q. What was the resolution of that?
16 **A. They owned the dog.**
17 Q. Who owned the dog?
18 **A. The rescue owned the dog.**
19 Q. So you had met Stacey's mother, the grandmother of
20 Alyxis or [REDACTED] and Sabrina, before May of 2013?
21 **A. Not that I recall. It's possible, but not that I**
22 **recall. They lived next door to each other, so for**
23 **some of that time when Ray lived there, they were**
24 **next-door neighbors, so I may have run into grandma at**
25 **that point.**

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1 Q. So the one time that the grandmother had her grandkids
2 and the grandkids were reported missing by Stacey, you
3 didn't have any contact with the grandmother at that
4 time?
5 **A. I did not.**
6 Q. Had you had any contacts with Samuel Jerome prior to
7 May of 2013 from a law enforcement perspective?
8 **A. The same rescue, dog rescue case, I talked to him on**
9 **that case.**
10 Q. What'd you talk to him about on that case?
11 **A. I don't recall. I just remember I talked to him on**
12 **the phone.**
13 Q. Anything other than the dog rescue matter where you
14 had law enforcement contact with Mr. Jerome?
15 **A. Not that I'm aware of.**
16 Q. Who else in the Krahe family did you know other than
17 Stacey and Ray and the two kids?
18 **A. Grandma. Ray's mom lives on Catalpa. She was a**
19 **crossing guard for the City. I knew of her. I don't**
20 **know that I've ever really met her. Talked to her**
21 **when she was a crossing guard for several years.**
22 Q. She was a crossing guard?
23 **A. Yes, for the schools.**
24 Q. Any other members of the family that you know?
25 **A. No. I don't know anybody else, no.**

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1 Q. Any members of Mr. Jerome's family that you know?
2 **A. I know his mom. Mary Jerome was a City dispatcher for**
3 **the City of Berkley prior to my time there. I never**
4 **worked with her. She was gone before I got there, but**
5 **I had met her over the years, but Cody I knew and --**
6 **just Cody. I thought there was a sister, but I'm not**
7 **sure.**
8 Q. How did you meet Cody?
9 **A. Cody went to Berkley High, just met him, calls or at**
10 **the house. I don't really recall. I knew who he was,**
11 **though, in high school.**
12 Q. Well, had he had any contact with law enforcement that
13 required you to see him or talk to him?
14 **A. I don't recall. I'm thinking of a case, but I'm not**
15 **sure it was him, so I wouldn't know for sure unless I**
16 **went back and checked his name.**
17 Q. You said Mary Jerome worked as a dispatcher at Berkley
18 but she was gone before you got there, correct?
19 **A. Correct.**
20 Q. But you met her over the years.
21 **A. Her husband was a Berkley police officer before I got**
22 **there, Steve Whiting, and just retirees coming back**
23 **around. Mary was still friendly with one of our**
24 **dispatchers who was still working at the time, so I'd**
25 **seen her at the station or I'd seen her at the**

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1 **retirement parties or I'd run across her prior to**
2 **this.**
3 Q. Do you know why she left the Berkley Police
4 Department?
5 **A. I do not.**
6 Q. And is Steve Whiting still there?
7 **A. No, he retired. He retired as well.**
8 Q. You said in response to one of my earlier questions
9 that you had reviewed your police report. It looks to
10 me like you drafted more than one report. Are you
11 referring to all of the reports that you authored in
12 relation to the case involving Samuel Jerome?
13 **A. I reviewed 5555, I think it's 13-5555.**
14 Q. That's the report number?
15 **A. Yes, sir. It should be at the top left corner, I**
16 **think.**
17 Q. I see it. In reviewing the police documents, the
18 Berkley police documents that you did review, did you
19 notice anything that you thought was missing from the
20 report or that you wanted to add to the report?
21 **A. Did I notice anything that was missing or that I**
22 **wanted to add? I'm not sure what your question is.**
23 Q. Sure. Did you look at your report and say "Darn, I
24 should have included that?" Were there any facts or
25 any actions that you thought should have been included

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- 1 in the report that you reviewed and were not?
2 **A. I did not have that thought, no.**
3 Q. Is it your belief that the reports that you wrote were
4 complete and accurate?
5 **A. Yes.**
6 Q. And if there were information that was important to
7 the investigation, I would imagine you would include
8 that in your report?
9 **A. Yes.**
10 Q. So everything that we should know that is important to
11 the investigation from your perspective has been
12 included in your reports?
13 **A. Correct.**
14 Q. You were first contacted with regard to the
15 allegations that [REDACTED] was making against her
16 stepfather, Samuel Jerome, on what day?
17 **A. I would have to review my report.**
18 Q. Please do. You're looking at a binder now, sir. What
19 is that in front of you?
20 **A. It's a binder that I was given by my attorney.**
21 **Ms. McGiffert.**
22 Q. What does it contain?
23 **A. The first thing I'm looking at is the report, 13-5555.**
24 **Would you like me to go through each page?**
25 Q. Have you been through that binder before?

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- 1 Q. Yes.
2 **A. You're correct, I haven't looked at this particular**
3 **binder.**
4 Q. So again, if I were to ask you what's in there other
5 than your report, would you be able to tell me?
6 **A. No. I'd be able to tell you the majority of it.**
7 Q. Okay. Tell me what you know is in there.
8 **A. I know there's 13-5555, I know there's 13-9252, which**
9 **is the domestic assault case. I know there's booking**
10 **documentation, Complaint, warrant, subpoenas. I know**
11 **there's a PPO, probably the report from CPS. Other**
12 **than that, I'm not aware. I'm not sure, I guess.**
13 Q. When [REDACTED] came to see you on May 7, 2013, who was
14 with her?
15 **A. Initially it was her grandmother, Judy Stiltner,**
16 **S-t-i-l-t-n-e-r.**
17 Q. This would have been the first time that you had
18 contact with Judy Stiltner that you can recall?
19 **A. I may have talked to her during the dog rescue case as**
20 **well, but I'm not, I'm not sure.**
21 Q. Is it your understanding that Ms. Stiltner brought
22 [REDACTED] to the Berkley police station?
23 **A. That's my understanding, yes.**
24 Q. Did you have an understanding as to why [REDACTED]
25 grandmother was bringing her as opposed to her mother?

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- 1 **A. No.**
2 Q. When were you first given it?
3 **A. Just before this meeting today.**
4 Q. And you didn't look through it?
5 **A. I reviewed my report out of here.**
6 Q. And that was it?
7 **A. That I recall, yes.**
8 Q. So you don't know what's in the rest of that binder,
9 sir?
10 **A. I believe these are Bates numbered, if that's the**
11 **correct term, and I received a copy of this months ago**
12 **with the same numbers.**
13 Q. Did you review it then?
14 **A. No.**
15 Q. Why not?
16 **A. No reason to.**
17 Q. How do you know there was no reason to?
18 **A. I didn't have a reason to review it at that time. Why**
19 **would I review it months ago?**
20 Q. And you haven't reviewed it at any time up to today,
21 have you, sir?
22 **A. No.**
23 Q. So it's not just that there was no reason to months
24 ago, you just haven't done it?
25 **A. This particular binder?**

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- 1 **A. Put in my report, it says that [REDACTED] I'm sorry,**
2 **Stacey wanted to confront Sam at their home.**
3 Q. Okay. But how does that prevent Stacey from bringing
4 [REDACTED] to the police station?
5 **A. You'd have to ask Stacey. I don't know.**
6 Q. So your understanding was that Stacey didn't bring
7 [REDACTED] because she wanted to confront Sam while her
8 mother brought [REDACTED] to the police station?
9 **A. That's my understanding, yes.**
10 Q. And you interviewed Alyxis or [REDACTED] on May 7, 2013, is
11 that correct?
12 **A. Yes, that's the date.**
13 Q. And if we look at the bottom of the document -- maybe
14 yours says the same thing. I'll come over. I don't
15 mean to hover over you.
16 Yes, if we look at the bottom of your
17 document, it says created on July 1, 2015 at 2:03 p.m.
18 What does that mean? Is that the date that it's just
19 printed on, or is there a change in the document that
20 was made, or was it actually created on that date?
21 **A. I don't know the answer to that question.**
22 Q. Do you think you created the document on July 1, 2015?
23 **A. No.**
24 Q. When do you think you created the report?
25 **A. This particular report?**

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1 Q. Yes.
2 **A. I think if you go to Page 6, it says 7-12-2013 at 9:52**
3 **a.m., written by me. That would be .2. .1 would be**
4 **made on 5-8 of '13 at 1:03 p.m.**
5 Q. The notes that you made regarding your interview with
6 [REDACTED] were made when?
7 **A. What are you referring to?**
8 Q. The notes that you made regarding your interview with
9 [REDACTED]
10 **A. What notes are you referring to?**
11 Q. Where it says "I spoke to Alyxis [REDACTED] on the second
12 floor of Detective Bureau," and then you describe the
13 first incident and second incident.
14 **A. Okay.**
15 Q. When were those notes made?
16 **A. I guess I don't understand your question.**
17 Q. When did you make those notes? What's confusing about
18 my question?
19 **A. What notes?**
20 Q. Okay. You made notes regarding your interview with
21 [REDACTED] Krahe, correct?
22 **A. On this interview?**
23 Q. Yes, sir. I'm talking about the first time you saw
24 [REDACTED] on May 7, 2013, you interviewed her, did you
25 not?

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1 **A. I wrote this report on the date I've indicated**
2 **already, it's 5-8-2013 at 1:03 p.m.**
3 Q. That's when you entered the notes about what your
4 interview was with [REDACTED] Krahe?
5 **A. That's when I wrote my report.**
6 Q. Sir, I don't know what that means. "That's when I
7 wrote my report." I'm specifically asking you about
8 these notes under the heading [REDACTED] Krahe.
9 **A. This is a report.**
10 Q. Okay. I don't really care what you call it.
11 **A. Well, I'll answer the question to what I call it.**
12 MS. McGIFFERT: Well, excuse me. Excuse
13 me. Counsel, I think you're getting argumentative and
14 he's responding to it. I mean, you don't care what he
15 calls it. It's a report. Now to communicate, you
16 guys either have to use your term and define it or let
17 him use his terms. I object.
18 MR. AHMAD: Sure.
19 BY MR. AHMAD:
20 Q. The notes or the statement that is under the heading
21 Alyxis Krahe, which starts with "I spoke to Alyxis
22 [REDACTED] Krahe on the second floor Detective Bureau,"
23 those are what you're referring to as part of your
24 report?
25 **A. Correct.**

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1 **A. I did.**
2 Q. Okay. And you made some notes from that interview?
3 **A. I'm not sure that I did.**
4 Q. Okay. So what I'm looking at -- I'll just come over
5 and show it so we make sure we're looking at the same
6 thing. There is a bold heading which indicates Alyxis
7 Krahe, correct?
8 **A. Um-hum.**
9 Q. And then it says "I spoke to Alyxis [REDACTED] Krahe on the
10 second floor Detective Bureau, and D. Sergeant Miller
11 was present in the Detective Bureau during the
12 interview," do you see that?
13 **A. Of course.**
14 Q. It's the same thing that's on your document, is it
15 not?
16 **A. It is.**
17 Q. When it says "I," that's you, is that correct?
18 **A. Yes.**
19 Q. Who entered that information in that document?
20 **A. I think I've indicated a few times to you that I wrote**
21 **the report. I don't understand why you're not able to**
22 **figure that out. It says my name here. I wrote the**
23 **report.**
24 Q. So when did you enter this information about the notes
25 regarding your interview with [REDACTED] Krahe?

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1 Q. Those were made on May 8, 2013?
2 **A. Yes.**
3 Q. Other than you and Sergeant Miller and [REDACTED] was
4 anyone else in the room during that interview?
5 **A. I don't recall.**
6 Q. Where was the interview done? It says second floor
7 Detective Bureau. Is there just an entire floor that
8 the interview was done in or was it in a specific
9 room?
10 **A. It would have been the Detective Bureau on the second**
11 **floor. It's where our offices are.**
12 Q. So is there a particular office in which it occurred
13 on the second floor?
14 **A. We share an office, two detectives share an office.**
15 Q. So would it have been in your and Detective Miller's
16 office?
17 **A. Yes.**
18 Q. The description of the first incident, is this a
19 verbatim recitation of what [REDACTED] told you?
20 **A. No, it would be a, just a collection at the end, a**
21 **synopsis of what she said.**
22 Q. Are you making written notes as she is talking to you
23 and telling you about the first incident?
24 **A. Sometimes I do, sometimes I don't. And this one I**
25 **can't recall.**

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1 Q. What would you do with the written notes if you did
2 make them?
3 **A. When I type the report?**
4 Q. Yes.
5 **A. I mark them off as I'm typing and then shred them when**
6 **I'm done.**
7 Q. Why would you shred them?
8 **A. I don't know. It's just what I've always done.**
9 Q. They don't stay in the file somewhere?
10 **A. No.**
11 Q. Do you -- strike that.
12 Did you record in any fashion this initial
13 interview with [REDACTED] Krahe?
14 **A. No.**
15 Q. And why don't you do that?
16 **A. Not our practice to record sexual assault victims.**
17 Q. When you say "not our practice," what practice are you
18 referring to?
19 **A. The City of Berkeley.**
20 Q. Why is that the practice of the City of Berkeley?
21 **A. I really don't know. That's how I was taught from the**
22 **other detectives when I went up there, and it's still**
23 **the practice today, as far as I know.**
24 Q. Well, we know that's not true.
25 **A. Why is that?**

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1 MS. McGIFFERT: I'm sorry, can I hear that
2 question again?
3 BY MR. AHMAD:
4 Q. Sure. The interview that you conducted with [REDACTED] was
5 recorded, correct?
6 **A. Yes.**
7 Q. So I'll ask you again: Was Berkeley police practice
8 violated by making that recording?
9 MS. McGIFFERT: Again, question's been
10 asked and answered, but you can answer again.
11 THE WITNESS: No.
12 BY MR. AHMAD:
13 Q. Why not?
14 **A. First person in that room is Sabrina Krahe. The**
15 **interview was about a domestic assault that happened**
16 **and she was a witness, not a victim to a domestic**
17 **assault. That's the first part of the interview.**
18 **The second part with [REDACTED] being there**
19 **would have been a violation. No one knew the recorder**
20 **was on.**
21 Q. How did no one know the recorder was on?
22 **A. I'm sorry, I didn't know the recorder was on.**
23 Q. Someone had to because somebody had to turn it on.
24 **A. Correct.**
25 Q. Who turned it on?

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1 Q. You recorded [REDACTED] and Sabrina in an interview?
2 **A. No, I didn't.**
3 Q. There is a recording of them, correct?
4 **A. There is a recording.**
5 Q. And you just said it's not the practice of the City of
6 Berkeley to do that.
7 **A. To record sexual assault victims, correct.**
8 Q. Right. So someone went against Berkeley Police
9 Department policy?
10 **A. No, they didn't.**
11 Q. If the Berkeley Department policy and practice is not
12 to record sexual assault victims and someone recorded
13 a sexual assault victim, aren't they going against
14 Berkeley police practice?
15 **A. In your hypothetical, if -- I don't know that I can**
16 **answer that.**
17 Q. Why can't you answer that hypothetical?
18 If the practice is not to record sexual
19 assault victims and a sexual assault victim is
20 recorded, are you going against practice?
21 **A. If you're aware of that, I guess you would be.**
22 Q. All right. In this case, [REDACTED] was claiming to be a
23 sexual assault victim, correct?
24 **A. She was.**
25 Q. All right. And her interview with you was recorded?

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1 **A. Sergeant Miller.**
2 Q. Who told him to turn it on?
3 **A. No one told him to turn it on.**
4 Q. Why did he turn it on?
5 **A. You'd have to ask Sergeant Miller that.**
6 Q. Well, you're his co-worker. Have you never asked him
7 that?
8 **A. He told me he turned it on because he was in the room**
9 **alone with Sabrina Krahe and he didn't feel**
10 **comfortable being in our office with no one there with**
11 **any female. He turned it on, I guess, to protect**
12 **himself.**
13 Q. Is that Sergeant Miller's practice whenever he's alone
14 with a female?
15 **A. You have to ask him.**
16 Q. You don't know if that's his practice?
17 **A. I've not known -- I don't know either way.**
18 Q. Do you do that?
19 **A. I'm not alone with anyone in there. We're always**
20 **together.**
21 Q. When you say "we're always together," who are you
22 referring to?
23 **A. Whoever my partner is at the time.**
24 Q. So you've never ever interviewed a female with just
25 you in the room?

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1 **A. If you're by yourself and you're doing an interview,**
2 **yes, you turn on the recorder. If you're going to --**
3 **if you have your other partner in there, you don't**
4 **need to turn on the recorder. Have I ever done it, I**
5 **don't really recall.**
6 Q. So is it Berkley police practice that you are never to
7 be alone when you're interviewing an individual of the
8 opposite sex?
9 **A. No.**
10 Q. Is it Berkley police practice to record any
11 conversation that you have with an individual of the
12 opposite sex if you are alone?
13 **A. I don't know if that's a policy or practice. I know**
14 **it's what most people do.**
15 MS. McGIFFERT: I'm going to place a
16 belated objection as to form. We're just talking
17 about generally, correct?
18 MR. AHMAD: Yes, we are, yes.
19 BY MR. AHMAD:
20 Q. So Sergeant Miller turned on the recording because he
21 was going to be alone in a room with a 10 year old?
22 **A. Yes.**
23 Q. Because he was afraid of what?
24 MS. McGIFFERT: Place an objection as to
25 foundation. Unless he specifically told him. Calls

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1 **again, how they activate it, I'm not sure. They -- I**
2 **really don't know. If they have to go in the other**
3 **room to activate it, if they can do it from their**
4 **desk. I was not in that office at that time.**
5 Q. When you say you weren't in that office at that time,
6 are you meaning to say that wasn't your office, so to
7 speak?
8 **A. Correct.**
9 Q. Where you would go and do your work?
10 **A. Correct.**
11 Q. So you don't know how that machine worked in terms of
12 getting a recording, turning it on, whether or not
13 some sort of disc had to be put in?
14 **A. I've never turned the machine on or off ever even to**
15 **this day, and I know it's a DVR system is all I know,**
16 **so it stores it internally. Unlike even my office**
17 **today, I still have to put a disc in, record it,**
18 **finalize it, pull it out. That's how I do it even**
19 **today in my office. The system up there is, again, a**
20 **DVR system.**
21 Q. Where is the camera located that the DVR records to or
22 records from?
23 **A. It's just in the middle of the room. It's, it looks**
24 **like a motion sensor.**
25 Q. When you say "in the middle of the room," I assume

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1 for speculation, if he was afraid of something.
2 BY MR. AHMAD:
3 Q. Your understanding, what was he afraid of?
4 **A. I didn't say he was afraid of anything.**
5 Q. If he was trying to protect himself, what was he
6 trying to protect himself from?
7 **A. Again, you have to ask him. I don't know his**
8 **motivation.**
9 Q. How is the recorder turned on?
10 **A. You know what, I don't know. I've never used that**
11 **recorder. That recorder was put in there after I left**
12 **that office. When I was up there, we would have a**
13 **disc, you put the disc in, you start, you have to**
14 **start the recording, at the end you have to finalize**
15 **the disc, pull it out. I moved downstairs during this**
16 **whole time. My office is on the first floor now.**
17 **Now they have a DVR system and there's like**
18 **a kill switch and they pull it, and I'm really not**
19 **sure how they flip it on.**
20 Q. But this system that was activated and recorded [REDACTED]
21 Sabrina and you back on August 21, 2013, that required
22 someone to put an actual compact disc in a machine?
23 **A. No, no.**
24 Q. Tell me how you obtained a recording again.
25 **A. That system on August 21st was a DVR system, and**

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1 it's on a wall or ceiling somewhere?
2 **A. The ceiling, yes.**
3 Q. Were you aware that there was a camera in the room
4 when you interviewed [REDACTED]
5 **A. It's the same camera we've had for ten years,**
6 **20 years, since I got up there. The camera itself is**
7 **the same. The recording system is different.**
8 Q. Okay. So you were aware on August 21, 2013, that
9 there was a camera in the room?
10 **A. Yes.**
11 Q. Was it your understanding that that camera is active
12 at all times?
13 **A. It's not active at all times.**
14 Q. So there's no monitor that someone is watching that
15 camera?
16 **A. The one in the office?**
17 Q. The one where [REDACTED] and Sabrina were interviewed on
18 August 21, 2013, is there a monitor that --
19 **A. There is.**
20 Q. There is?
21 **A. Yes.**
22 Q. And where is that monitor?
23 **A. It's in a closet behind Sergeant Miller's desk.**
24 Q. Is the monitor on at all times?
25 **A. I don't know. I really don't know the answer to that**

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1 **question. I don't know if it activates when the**
2 **camera's on or not. I don't know.**
3 Q. So your understanding is that the camera is not
4 recording 24/7?
5 **A. I know that to be true.**
6 Q. Whether or not the monitor is on and showing what's
7 going on in the room without recording, you don't
8 know?
9 **A. I don't know.**
10 Q. And it's your testimony under oath today that you did
11 not know or were aware that your interviews with [REDACTED]
12 and Sabrina were being recorded, either audio or
13 visually or both, on August 21, 2013?
14 **A. Correct.**
15 Q. If you had known you were being recorded, what would
16 you have done?
17 **A. I would have turned over a copy to the prosecutor in**
18 **the case.**
19 Q. So you still would have recorded it?
20 **A. If it's recorded, it's recorded. You have to turn it**
21 **over.**
22 Q. Let me start over.
23 If you had known prior to [REDACTED] walking in
24 the room that there was a recording being made, what
25 would you have done?

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1 Q. And that Sam continued touching her until his hand was
2 touching her vagina, correct?
3 **A. Correct.**
4 Q. And that Sam rubbed her vagina from outside of her
5 clothing, correct?
6 **A. Yes.**
7 Q. It says Alle requested Sam to stop but he continued
8 rubbing her vagina, correct?
9 **A. Yes.**
10 Q. [REDACTED] attempted to get up from the couch, but Sam held
11 her down with his free hand, correct?
12 **A. Yes.**
13 Q. And that the touching lasted for several minutes, and
14 then Sam let her get up and leave the family room,
15 correct?
16 **A. Yes.**
17 Q. Is that the complete description of the first incident
18 that [REDACTED] gave you on May 7, 2013?
19 **A. That's what I documented in the report, yes.**
20 Q. Well, do you recall anything that's not in this
21 report?
22 **A. I do not.**
23 Q. Okay. She then described a second incident, correct?
24 **A. Yes.**
25 Q. And this one she says that Stacey, her mother, was

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1 **A. Turned it off.**
2 Q. And you would have done that why?
3 **A. I wouldn't have recorded the sexual assault victim.**
4 Q. Because that's what Berkley Police Department
5 practices?
6 **A. Correct.**
7 Q. During the time that you interviewed [REDACTED] on
8 August 21, 2013, was Sergeant Miller in the room the
9 entire time?
10 **A. I'm sorry, what day, sir?**
11 Q. August 21, 2013.
12 **A. Yes, he was.**
13 Q. On May 7, 2013, the first interview with [REDACTED] was
14 Sergeant Miller with you the entire time?
15 **A. On May 7th?**
16 Q. Yes.
17 **A. I believe he was, yes. You said [REDACTED] correct?**
18 Q. Yes.
19 **A. Yes, he was.**
20 Q. And according to your report, [REDACTED] advised you that
21 she was sitting on the couch sometime around
22 Christmastime in the rear of the family residence
23 watching television when Sam sat on the couch with her
24 and began rubbing her stomach, correct?
25 **A. That's what my report says, yes.**

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1 away at a conference for her work and Sam was alone
2 with [REDACTED] during this time, correct?
3 **A. Yes.**
4 Q. And [REDACTED] was on the couch in the family room watching
5 television, correct?
6 **A. Yes.**
7 Q. Is it your understanding that she was in the same
8 place as the first incident?
9 **A. I don't know from reading this.**
10 Q. [REDACTED] told you that Sam sat next to her again and
11 began rubbing her stomach on this day, correct?
12 **A. Correct.**
13 Q. [REDACTED] says that she panicked and attempted to get up
14 and leave the room, but Sam held her down with his
15 free hand and rubbed her vagina again?
16 **A. Yes.**
17 Q. [REDACTED] further told you, according to your report, that
18 Sam placed his hand under her clothing and directly
19 touched her vagina, correct?
20 **A. Yes.**
21 Q. And that [REDACTED] described his fingers as inserted
22 between her, quote unquote, lips, correct?
23 **A. Correct.**
24 Q. [REDACTED] advised he did not insert his finger inside of
25 her, but definitely spread her lips apart with his

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1 fingers, correct?
2 **A. Yes.**
3 Q. It also says on the second occasion, Sam rubbed her
4 breasts, Sam rubbed her breasts on both the outside
5 and inside of her clothing, and [REDACTED] advised he
6 rubbed directly on her nipples, correct?
7 **A. Yes.**
8 Q. She said Sam did not say anything during either
9 assault, he simply held her down against her will and
10 assaulted her?
11 **A. Yes.**
12 Q. And that [REDACTED] begged him to stop on both occasions,
13 but Sam would not comply, correct?
14 **A. Correct.**
15 Q. Do you recall, is that a complete description of
16 everything that [REDACTED] told you concerning the second
17 incident on May 7, 2013?
18 **A. To my recollection, yes.**
19 Q. You don't recall anything else that [REDACTED] told you
20 that you did not include, correct?
21 **A. Correct.**
22 Q. And did you interview Samuel Jerome on that same day?
23 **A. I did.**
24 Q. And how is it that Sam came to be at the police
25 station?

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1 **A. No, I don't. I don't like to do interviews before**
2 **CARE House, I never have.**
3 Q. I know. You've told me that, and my question is: Why
4 do you like to do that, and is your answer you don't
5 know?
6 **A. My answer is that's my practice.**
7 Q. But you don't know why that's your practice?
8 MS. McGIFFERT: The question has been asked
9 and answered many times.
10 If you want to answer it one more time.
11 BY MR. AHMAD:
12 Q. Can you tell me, do you know why that's your practice?
13 **A. That is my practice. I don't know why.**
14 Q. So you're confident that you did not call Samuel
15 Jerome to come to the police station, correct?
16 **A. Correct.**
17 Q. Is it your understanding that he drove himself to the
18 police station?
19 **A. I don't know how he got there.**
20 Q. So how is it that you had contact with him? Did he
21 just come up to the Detective Bureau and find you?
22 **A. I don't recall. Usually when people come in the front**
23 **door, the dispatchers call us and tell us they're**
24 **there and we have them sent up to the second floor.**
25 **This particular family knows where my office is, so**

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1 **A. I don't recall. I know that I did not call him up. I**
2 **did not want to talk to him. I don't know if Stacey**
3 **made him come up or he came up, but he came up on his**
4 **own.**
5 Q. Why did you not want to talk to him?
6 **A. I don't like to discuss cases before CARE House.**
7 Q. Why not?
8 **A. I generally want to hear what they say at CARE House.**
9 Q. Why?
10 **A. Make sure it's consistent.**
11 Q. Why?
12 **A. This is how I do with cases.**
13 Q. Why do you do it that way?
14 **A. Because that's how I like to do it.**
15 Q. Why? Must be a reason why you liked to do it.
16 **A. I think I answered the question.**
17 Q. I didn't hear an answer.
18 **A. That's my answer.**
19 Q. Your answer was because it's your practice?
20 **A. That's how I do cases.**
21 Q. My question is: Why is it that you do cases like
22 that? There must be a reason.
23 **A. I'm not sure why.**
24 Q. You don't know why you wait for CARE House to
25 interview?

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1 **it's likely he could have, knowing where my door was,**
2 **just come up the elevator on his own.**
3 Q. How would Sam have known where your office was?
4 **A. With the last dog rescue or whatever the case was.**
5 Q. You met him at your office for that?
6 **A. I said the family knows where my office is.**
7 Q. Okay. But I'm asking about Sam.
8 **A. I don't know if Sam knows where my office is.**
9 Q. Okay.
10 **A. It was routine for Stacey to pass the dispatch and**
11 **just come up.**
12 Q. Right, but this isn't Stacey, it's Sam.
13 **A. Correct, her husband, yes.**
14 Q. So how did he know how to find you?
15 **A. I don't know how he knew how to find me.**
16 Q. All right. Do you remember him that day coming to
17 your office?
18 **A. Yes.**
19 Q. And where is it that he met you at?
20 **A. At my office door.**
21 Q. Okay. And did he say hi, did he greet you, did you
22 greet him?
23 **A. I don't recall what was said.**
24 Q. Okay. Did he knock on your door? Was the door open?
25 **A. Again, I don't recall.**

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1 Q. Is everything that you recall about that meeting in
2 your report?
3 **A. I believe it's a video of the meeting.**
4 Q. Okay. Is everything you recall about the meeting in
5 your report?
6 **A. Yes.**
7 Q. Why did you talk to Sam if it is your practice not to
8 talk to an alleged perpetrator of a minor before CARE
9 House?
10 **A. I don't know why I did.**
11 Q. Why didn't you just tell him "Mr. Jerome, I can't talk
12 to you until after your daughter is interviewed at
13 CARE House"?
14 **A. I don't know.**
15 Q. Shouldn't you have done that if that's your practice,
16 to wait?
17 **A. Shouldn't I have done that?**
18 Q. Right. Shouldn't you have done that?
19 **A. You're asking me something that happened three years**
20 **ago, what I should or shouldn't have done. I don't**
21 **recall.**
22 Q. Yes, sir, that's exactly what I'm asking you.
23 **A. Sometimes when they show up at my office -- the**
24 **majority of the time they show up at my office, the**
25 **guilt's got to them and they want to confess, so I'm**

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1 Q. So it's your understanding it's okay to ask the
2 alleged perpetrator to undergo a polygraph, but not
3 the person who's making the allegation?
4 **A. Correct.**
5 Q. And then it says you scheduled a CARE House forensic
6 interview for May 16, 2013 at 1315 hours?
7 **A. I did.**
8 Q. So you actually used that term in your report,
9 "forensic interview"?
10 **A. That's what they call them, yes.**
11 Q. And it says you will contact Child Protective Services
12 and advise them of the alleged assault, correct?
13 **A. Yes.**
14 Q. Are you required to --
15 **A. Mandatory report, yes.**
16 Q. What is CARE House?
17 **A. I guess I don't know exactly what you're looking for.**
18 **Do you want the location, do you want --**
19 Q. I didn't ask you where it was. I asked you what is
20 it.
21 **A. It's a building on Woodward, that's what it is.**
22 Q. What'd they do inside this building?
23 **A. They interview kids. They provide physical exams.**
24 **There's therapy. There's group sessions. There's**
25 **play sessions. There are a number of things that go**

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1 **not going to turn somebody away. You say should I,**
2 **why would I turn somebody away if they're possibly**
3 **going to confess? It's not my practice, I don't like**
4 **to do it, but if they come up on their own, I'll**
5 **listen to whatever they have to say.**
6 Q. Sam did not come to confess to any crime, did he?
7 **A. He did not.**
8 Q. In fact, he came and told you that he denied any
9 inappropriate touching, true?
10 **A. That's what he said.**
11 Q. It says Sam also agreed to submit to a polygraph
12 examination, correct?
13 **A. He did.**
14 Q. Did you request that [REDACTED] undergo a polygraph?
15 **A. I did not.**
16 Q. Why not?
17 **A. I believe that's against the law.**
18 Q. So you can -- well, when you say you believe it's
19 against the law --
20 **A. I've been told it's against the law. I've never read**
21 **the law. I've been told I'm not allowed to do that.**
22 Q. Who told you that?
23 **A. Prosecutor's office. I wanted to before, not this**
24 **case, I've wanted to before and they told me we cannot**
25 **do that.**

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1 **on inside CARE House.**
2 Q. Is this the only facility you use for forensic
3 interviews?
4 **A. It's the only one I'm aware of.**
5 Q. Are there other CARE House locations, or is this the
6 only one?
7 **A. Macomb County has one, but I don't know if they call**
8 **it CARE House. Wayne County has, again, the same**
9 **thing. It's not called CARE House in Wayne County,**
10 **I'm sure of that. The person who started this is now**
11 **in Grand Rapids starting one, and I'm not sure if it's**
12 **called CARE House.**
13 Q. How do you make an appointment for a forensic
14 interview at CARE House?
15 **A. We call and talk to one of the -- I don't know who we**
16 **talk to. I know her name is Yvonne, and we just**
17 **schedule their next appointment.**
18 Q. Did you communicate to someone that you would set up
19 this appointment?
20 **A. You need mom's permission, so I'm sure I asked mom.**
21 **My report indicates that I talked to Stacey Krahe, she**
22 **agreed to transport [REDACTED] to the interview.**
23 Q. Before the CARE House interview occurred, you had
24 another contact with Stacey, is that correct, looking
25 at your investigation, the heading dated May 15, 2013.

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- 1 **A. Okay.**
2 Q. Do you see where I'm looking at?
3 **A. I do.**
4 Q. And it says you spoke to Stacey about the scheduled
5 CARE House interview for May 16th, correct?
6 **A. Correct.**
7 Q. And it says Stacey advised that she would be
8 transporting [REDACTED] to the interview. Stacey advised
9 that she had allowed Sam to move back into the
10 residence. [REDACTED] was staying with her grandmother
11 until after the polygraph. Stacey also advised she
12 did not believe [REDACTED] anymore concerning the assault.
13 Stacey advised she believed [REDACTED] was making up the
14 story for attention. Is that what she told you?
15 **A. Correct.**
16 Q. Did you ask Stacey why she thought that?
17 **A. I don't recall if I asked or if she just told me, but**
18 **it had something to do with grades and a boy, I**
19 **recall.**
20 Q. Okay. Why didn't you put that in the report?
21 **A. I don't know.**
22 Q. I mean, the motivation for a victim to make up a story
23 is important, true?
24 **A. True.**
25 Q. So why would that not be in here?

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- 1 Q. Did Stacey have to bring [REDACTED] to CARE House for the
2 interview? In other words -- let me ask it better.
3 If Stacey had called you and said "I'm not
4 bringing her," would that have been a crime?
5 **A. No.**
6 Q. What would you have done if she had said that?
7 **A. Cancelled the appointment and called CPS.**
8 Q. And then CPS would have dealt with her refusal?
9 **A. Yes.**
10 Q. But Stacey brought [REDACTED] correct?
11 **A. She did.**
12 Q. And again, she said that she did not believe [REDACTED] and
13 thought, you say in your words, "We were all being
14 played by a very intelligent 13 year old"?
15 **A. Correct.**
16 Q. Stacey told you that before the interview began?
17 **A. She did.**
18 Q. And this is consistent with what she had told you the
19 day before?
20 **A. Correct.**
21 Q. Again, you don't indicate what the motivations were
22 that [REDACTED] would be doing this?
23 **A. I don't know that she told us anything more than being**
24 **played.**
25 Q. Did you agree that [REDACTED] is a very intelligent 13 year

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- 1 **A. I don't know.**
2 Q. Did you ask to speak with [REDACTED] at that time?
3 **A. No.**
4 Q. And then were you present at CARE House on May 16th
5 for the forensic interview?
6 **A. I was.**
7 Q. And that interview was conducted by Tricia Schuster?
8 **A. Yes.**
9 Q. Do you know who Tricia is, or did you know who she was
10 prior to this?
11 **A. I had met her before.**
12 Q. Had you been present for any forensic interviews she
13 had conducted previous to this interview?
14 **A. I had, yes.**
15 Q. Did you regard her as competent?
16 **A. I don't know if I'm qualified, but I would say I**
17 **thought she did a good job.**
18 Q. Do you know what her experience is in conducting
19 forensic interviews?
20 **A. That I do not.**
21 Q. Do you know or did you know on May 16, 2013, how many
22 of these she had done?
23 **A. No.**
24 Q. Stacey brought [REDACTED] to CARE House for the interview?
25 **A. She did.**

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- 1 old?
2 **A. At this point in the investigation, I didn't know**
3 **[REDACTED] well enough to make that determination.**
4 Q. Do you now think she's a very intelligent young lady?
5 **A. [REDACTED] -- I don't even know how I would answer that.**
6 **I don't really know what I would classify her.**
7 Q. Were you present for the entire forensic interview?
8 **A. I was.**
9 Q. Where were you in relation to where the interview was
10 taking place?
11 **A. I'm behind a mirror. It would almost be I was outside**
12 **of these doors and the interview would be here, so I**
13 **was just on the other side. There's a microphone in**
14 **there we can listen to and a monitor we can watch.**
15 Q. So are you watching the interview through the glass or
16 are you watching the interview on a monitor?
17 **A. We have both options.**
18 Q. And you can hear what the questions and the answers
19 are?
20 **A. Correct.**
21 Q. Does, to your knowledge, does [REDACTED] know that you were
22 watching?
23 **A. They're told that there are, that there may be people**
24 **behind the glass. I don't recall the terminology, but**
25 **they never used my name. They don't tell who's behind**

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1 the glass.
2 Q. My question was: Do you know if [REDACTED] knew that you
3 were watching?
4 A. At that time, I don't think she thought -- I have no
5 idea what she thought.
6 Q. You say at that time. Do you have a different
7 understanding now?
8 A. She knows I was back there now, yes.
9 Q. Okay. We might be talking about the same thing, we
10 might not.
11 She may know now that you were watching,
12 but do you know now that she knew then that you were
13 behind the glass?
14 A. Again, what she knew that day, I have no idea.
15 Q. Even as we sit here?
16 A. Even as we sit here today, I have no idea.
17 Subsequently, she point blank asked me the question
18 and I admitted to being behind there.
19 Q. During the interview, the forensic interview by
20 Tricia, [REDACTED] story changed by your own words,
21 correct?
22 A. Correct.
23 Q. [REDACTED] indicated during the forensic interview that Sam
24 did not touch her vagina, correct?
25 A. I believe that's correct. That is correct.

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1 that when she asked Sam to stop rubbing her, he
2 stopped.
3 A. I'm sorry, again, sir. What page are we on?
4 Q. Bottom of the page, last paragraph.
5 A. Should be by your left hand, 7 of 15, 8 of 15. What
6 does it say?
7 Q. 7 of 10 is what mine says. It's on the same page as
8 the CARE House, May 16, 2013.
9 A. Okay, all right.
10 Q. Last paragraph, it says, second sentence, "She asked
11 him to stop and Sam stopped."
12 A. Yes.
13 Q. Who else was in the room with you behind the glass?
14 A. I don't recall anybody being there.
15 Q. Just you?
16 A. Sometimes CPS would sit in. The only people allowed
17 back there are prosecutors, CPS workers and the
18 detectives.
19 Q. And you don't remember any prosecutors being there?
20 A. I know there wasn't a prosecutor.
21 Q. You don't recall a CPS member being there?
22 A. I don't recall a CPS member being there.
23 Q. And any family members present?
24 A. I usually indicate.
25 Q. It indicates that a Sabree Pryor from CPS was present

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1 Q. You indicate in your report that [REDACTED] recalled him
2 rubbing her breasts, but that she made it sound like
3 it was an accident and not intentional, correct?
4 A. Correct.
5 Q. And you indicate in your report or your summary of the
6 interview that you believed it was a complete reversal
7 of her recollection of the assaults that she had
8 relayed to you in your office back on May 7th,
9 correct?
10 A. I believe those were my words. I can't find it in my
11 report right now.
12 Q. It's right at the bottom, last sentence.
13 A. That's what I wrote in the report, yes.
14 Q. Do you still believe that today, that it was a
15 complete reversal?
16 A. My recollection of it is still consistent, that it was
17 a reversal. I have been told that I was wrong, that
18 I'm not able to review this interview, but I've been
19 told that she did say he touched her vagina and I
20 missed that or that I didn't hear that or that I made
21 that mistake. So I would like to review the video
22 again.
23 Q. And you haven't done that?
24 A. I'm not allowed to. I don't have access to it.
25 Q. [REDACTED] indicated that, in the CARE House interview,

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1 filling in for --
2 A. Then Sabree Pryor would have been in the room.
3 Q. That's what that means, that she was there in the
4 room?
5 A. Yes, yes.
6 Q. And are you making notes during this interview?
7 A. I am.
8 Q. Handwritten notes?
9 A. Yes.
10 Q. And what do you do with those notes after you're done
11 with them?
12 A. I go back to the station, write my report and shred
13 them.
14 Q. So you make handwritten notes on what, some sort of
15 notepad?
16 A. Legal pad or just a regular pad, right.
17 Q. And you make these notes contemporaneously with the
18 interview as it's taking place?
19 A. I do.
20 Q. And then after the interview, you indicate that Stacey
21 spoke with you. Was that at CARE House or later?
22 A. At CARE House, that's -- we met with the parents.
23 Trish, Tricia Schuster will come out, Yvonne will come
24 out, the CPS worker will be there. We all meet after
25 the interview.

<p style="text-align: right;">Page 65</p> <p>1 Q. And you noted that "Stacey immediately asked if I 2 still believed [REDACTED] 3 A. Correct. 4 Q. And you said "I simply advised that I did?" 5 A. Correct. 6 Q. Correct? So you believed what [REDACTED] had said to the 7 CARE House worker? 8 A. I didn't indicate either way what I believed. 9 Q. Well, Stacey asked if you believed [REDACTED] correct? 10 A. Correct. 11 Q. And you said "I did," as in I do believe [REDACTED] 12 correct? 13 A. That I do believe [REDACTED] yes. 14 Q. All right. And you had just watched [REDACTED] state that 15 she had had no inappropriate contact with Sam? 16 A. I did watch that, yes. 17 Q. And you believed that, true? 18 A. No, now you're putting words in my mouth. I didn't 19 believe that. 20 Q. What words am I putting in your mouth, sir? 21 A. That I believed the CARE House. You're trying to take 22 the words in the report and put them to what you want. 23 That's not accurate. 24 Q. I'm only quoting what you wrote in your report, which 25 is, again, "Stacey immediately asked if I still</p>	<p style="text-align: right;">Page 67</p> <p>1 Are you talking about what she said the first time or 2 what she said the second time? 3 MR. AHMAD: The question is clear. 4 MS. McGIFFERT: No, the question is not 5 clear. I object as to form. 6 BY MR. AHMAD: 7 Q. Why didn't you tell Stacey that, why didn't you tell 8 Stacey "I don't know what to believe at this point"? 9 A. I don't recall. 10 Q. Well, why would you have told her "I do believe her" 11 when you just told me you weren't sure? 12 A. Why I made the statement? 13 Q. Yes. 14 A. I don't know why I made the statement. 15 Q. There's an awful lot of statements in here that you 16 don't know why you made. Why is that? 17 A. It's three years ago. 18 Q. Are you allowed to tell Stacey what [REDACTED] said in the 19 interview? Is there anything that prohibits you from 20 doing that after the interview is done? 21 A. I don't know the answer to that. They generally talk 22 to the CARE House people, not me. I leave and they 23 can set up therapy or set up all the other issues with 24 CARE House, and I don't know what they tell them. 25 Q. So why are you staying and talking to Stacey?</p>
<p style="text-align: right;">Page 66</p> <p>1 believed [REDACTED] "and your statement in your own 2 report, in your words, sir, "I simply advised that I 3 did." 4 A. Correct. 5 Q. You believed [REDACTED] 6 A. Correct. 7 Q. After you had just watched [REDACTED] say that she had no 8 inappropriate contact with Sam, correct? 9 A. I did watch that, yes. 10 Q. All right. After you watched that, you told Stacey 11 that you believed [REDACTED] 12 A. I said that to Stacey, yes. 13 Q. Doesn't that mean that you believed what [REDACTED] had 14 just said to the CARE House worker? 15 A. No, that's not what that means. 16 Q. So you didn't believe what [REDACTED] just said? 17 A. Are you basing it on that statement right there? 18 Q. I'm not basing it on anything. 19 A. I don't recall. 20 Q. As you're sitting here right now? 21 A. I don't recall what I thought at that time. 22 Q. You don't know if you believed [REDACTED] or you didn't 23 believe [REDACTED] 24 A. Correct. 25 MS. McGIFFERT: I'll place an objection.</p>	<p style="text-align: right;">Page 68</p> <p>1 A. We always have a meeting directly after. My part of 2 that meeting is 5 or 10 minutes. We leave, and 3 generally the parents stay at CARE House to get 4 whatever they want set up, therapy or whatever else 5 for their kids. 6 Q. So when it says Stacey was upset and pressing about 7 what [REDACTED] had said, if she had changed her story, why 8 did you not just say you're going to talk to the CARE 9 House people and they're going to tell you? 10 A. Are you asking me what I said three years ago and why 11 I didn't say something else? I don't think there's 12 any way I could answer that. 13 Q. Well, as we sit here today, do you know why you 14 wouldn't tell someone "The CARE House people are going 15 to tell you what was said"? 16 A. I don't think I've ever said that. 17 Q. You just don't answer? 18 A. They generally just start talking to each other. 19 Q. Okay. But Stacey was asking you what [REDACTED] said. 20 A. Correct. 21 Q. And you refused to answer that question? 22 A. Correct. 23 Q. Why? 24 A. I don't recall. 25 Q. Why wouldn't you want to tell Stacey that [REDACTED] had</p>

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1 exonerated her husband?
2 **A. I don't recall.**
3 Q. I'm sorry, is there something funny?
4 **A. Did I laugh?**
5 Q. Yes.
6 MS. McGIFFERT: I didn't see him laugh.
7 THE WITNESS: I don't think I did.
8 MS. McGIFFERT: Counsel, don't try and
9 create a record here. There's no indication that he
10 laughed.
11 MR. AHMAD: I'm not trying to create a
12 record.
13 MS. McGIFFERT: I've seen you laugh
14 numerous times. I've not seen him laugh.
15 BY MR. AHMAD:
16 Q. So you didn't think it was important to tell Stacey,
17 who is married to someone who her child had claimed
18 had sexually abused her, that the child had just said
19 he didn't do it? Why didn't you want to tell her
20 that?
21 **A. I don't recall.**
22 MS. McGIFFERT: Whenever you find a place
23 for a quick break, but I can wait.
24 MR. AHMAD: You know what, this is as good
25 as any time probably.

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1 asking me if I was going to close my case?
2 BY MR. AHMAD:
3 Q. Yes.
4 **A. No, I was not.**
5 Q. Why not?
6 **A. It's an investigation. We have to investigate it**
7 **until we're satisfied the case is, there's nothing**
8 **there. And even at the end we have to present it to**
9 **the prosecutor for their review. Even if the**
10 **individual does recant, we still have to contact the**
11 **prosecutor for a review, so at the very least I'd have**
12 **to contact the prosecutor, advise what happened, tell**
13 **them what happened at CARE House. At that point, if**
14 **they agreed, we could close our case.**
15 Q. So why didn't you do that, why didn't you contact the
16 prosecutor and say that "The alleged victim has
17 recanted her story under a forensic interview. What'd
18 you want to do" and allow the prosecutor to make a
19 decision?
20 **A. They want us to present to them, when our**
21 **investigation is complete. At that point, I did not**
22 **feel it was complete.**
23 Q. Isn't it typically complete after the forensic
24 interview?
25 **A. No.**

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1 (Off the record at 3:46 p.m.)
2 (Back on the record at 3:56 p.m.)
3 MARKED FOR IDENTIFICATION:
4 DEPOSITION EXHIBIT 2
5 3:56 p.m.
6 MR. AHMAD: I'm sorry, Sabrina, can you
7 read back my last question?
8 (The following portion of the record was
9 read by the reporter at 3:57 p.m.):
10 Q. So you didn't think it was important to
11 tell Stacey, who is married to someone who
12 her child had claimed had sexually abused
13 her, that the child had just said he didn't
14 do it? Why didn't you want to tell her
15 that?
16 "A. I don't recall."
17 BY MR. AHMAD:
18 Q. After [REDACTED] recanted the allegations of sexual abuse
19 of Mr. Jerome at CARE House during the forensic
20 interview, you were going to close the case, were you
21 not?
22 MS. McGIFFERT: I place an objection as to
23 form, but go ahead.
24 THE WITNESS: After [REDACTED] -- just to
25 reiterate your question. After the CARE House, you're

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1 Q. Do you typically ask for another interview with the
2 alleged victim after the CARE House interview?
3 **A. I have on every case, yes.**
4 Q. You ask to interview the alleged victim?
5 **A. I ask to meet with the victim, yes.**
6 Q. Why do you do that?
7 **A. I just do it in every case. Again, I don't know where**
8 **I learned that from. I don't recall where that became**
9 **part of the standard for me to do.**
10 Q. Do you remember testifying at the time -- strike that.
11 You do remember testifying in the criminal
12 case in this matter, correct?
13 **A. I do.**
14 Q. And you were sworn under oath at that point just like
15 you were sworn under oath here today, to tell the
16 truth?
17 **A. I was.**
18 Q. And you told the truth at the time of your testimony
19 in the criminal trial, didn't you?
20 **A. I did.**
21 Q. So if you testified in the criminal trial that it was
22 not your typical practice to interview an alleged
23 sexual assault victim after the forensic interview,
24 would that be accurate?
25 MS. McGIFFERT: Counsel, you know, if

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1 you're going to cross examine/impeach him from his
2 previous testimony, you really need to show that to
3 him. I mean, as you know, that's the appropriate way
4 to do it.
5 BY MR. AHMAD:
6 Q. Can you answer my question?
7 **A. I can't without reviewing.**
8 Q. Do you recall saying that in the criminal trial?
9 **A. I do not.**
10 Q. That it was not your practice to do that?
11 **A. I don't recall saying that, no. I'd have to put**
12 **context on it, of course. If the person tells us an**
13 **assault happened, they go to CARE House and they tell**
14 **us the same thing, there's no reason to interview that**
15 **person. So if the question is asked of me do I**
16 **interview them, no, I don't interview them, but we**
17 **meet with them all after CARE House back at my office,**
18 **we talk to all of them, explain the process, we**
19 **explain what the next step is. In the few cases that**
20 **have changed, we do meet with them and talk with them**
21 **and ask them again what the circumstances are, so I'd**
22 **have to read exactly what the question was asked. And**
23 **if she asked me if I interview people after CARE**
24 **House, we don't interview everyone after CARE House if**
25 **their story stays consistent, no, there's no reason**

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1 Q. They are trained in how to get information when
2 they're conducting a forensic interview of a child in
3 a sexual abuse case?
4 **A. They are.**
5 Q. That's what Tricia Schuster does?
6 **A. She does forensic interviews. She does not do**
7 **criminal investigations. There's a large difference**
8 **between a forensic interview and criminal examination.**
9 **She's a small part. Like a polygraph examiner is a**
10 **small part. There's a lot of moving parts in a**
11 **criminal investigation. Because Tricia Schuster said**
12 **something, that's not the investigation, that's the**
13 **forensic interview.**
14 Q. It's not Tricia Schuster saying anything.
15 **A. Her report, the part that she wrote, it's part of the**
16 **investigation.**
17 Q. It's [REDACTED] responses to the questions?
18 **A. Correct.**
19 Q. It says on May 20, you were told by Mr. Jerome that he
20 would not undergo the polygraph on the advice of his
21 lawyer, correct?
22 **A. He called me and told me that, yes.**
23 Q. And then on June 9 you spoke with Stacey again and you
24 requested to meet with [REDACTED] to discuss the, quote
25 unquote, drastic change in her story?

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1 **to.**
2 Q. But if the story changes, then you do?
3 **A. Then we want to meet with them and ask, because if**
4 **they tell us at that point "Listen, I made it up the**
5 **first time," then it's a lot easier to close our case**
6 **and send it to the prosecutor, and say "Hey, this**
7 **person told us A one day, B the next, confirmed that B**
8 **was what they say is accurate." Now, if I send it up**
9 **without that interview, the prosecutor is going to be**
10 **"Did you talk with them and ask why their story**
11 **changed," and the answer would be yes, if I did my**
12 **job, and no, if I didn't get around to asking them.**
13 Q. Well, what's the point of reinterviewing them if their
14 story changes at the forensic interview?
15 **A. What's the point?**
16 Q. Yes.
17 **A. To ask them why it changed. There's a big gap there**
18 **and we're interested in why that story changed. I've**
19 **had many reasons why, and it's our job to investigate**
20 **them. That's part of the investigation. It's part of**
21 **the case.**
22 Q. The forensic interviewer, though, is the expert in
23 obtaining information under a forensic interview,
24 correct?
25 **A. Correct.**

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1 **A. I requested to meet with [REDACTED] yes.**
2 Q. To discuss the, quote unquote, drastic change in her
3 story?
4 **A. I'm sorry?**
5 Q. Have I read --
6 **A. That's what my report says, yes.**
7 Q. And Stacey didn't want to do that. She said it was
8 best for the family to just drop the case, correct?
9 **A. She said that, yes.**
10 Q. She also told you that [REDACTED] had admitted to her that
11 the whole story was made up, correct?
12 **A. Yes.**
13 Q. And Stacey requested that you close the case and to
14 have no further police involvement?
15 **A. She did.**
16 Q. And you said no?
17 **A. I did.**
18 Q. You met with [REDACTED] again on July 11, 2013?
19 **A. I did.**
20 Q. How was it that you were able to meet with [REDACTED] when
21 Stacey told you no?
22 **A. Judy is the guardian of Stacey, the legal guardian of**
23 **Stacey. Stacey was out of state, and I was told that**
24 **that would suffice.**
25 Q. You were told by who?

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- 1 **A. The prosecutor told me that we could do that.**
2 Q. So you called the prosecutor?
3 **A. That was an ongoing discussion from the beginning of**
4 **this case, who could authorize what because Stacey**
5 **was, I don't know the legal term, why her mom was the**
6 **guardian, but she was unable to make her own decisions**
7 **or whatever her status was, and I asked the prosecutor**
8 **very early in the investigation what does this mean,**
9 **and they told me that Judy can give authority because**
10 **she is Stacey's guardian.**
11 Q. So why did you ask Stacey about the CARE House
12 interview?
13 **A. She's her mom.**
14 Q. So I think you testified earlier that Stacey had to
15 consent to the CARE House interview because she's her
16 mother?
17 **A. Correct.**
18 Q. So why would Stacey not have to consent to being
19 interviewed again by you?
20 **A. CARE House has their own rules. CARE House says mom**
21 **has to, mom or dad have to agree to it. So when I say**
22 **Stacey has to agree, that's Care House's rule to have**
23 **mom or dad bring her up and to agree. To come to my**
24 **office is a whole different issue. It has nothing to**
25 **do with CARE House nor mom's consent.**

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- 1 Q. Okay. So is it your understanding that if [REDACTED] shows
2 up at your office, you can speak to her irrespective
3 of what her parents want?
4 **A. At this time or today?**
5 Q. At this time, July, 2013.
6 **A. Yes, I can. She's not a criminal. She's not the**
7 **suspect. With the suspect, we have to ask the**
8 **parents' permission. With the kids we don't, victim,**
9 **I'm sorry, we don't.**
10 Q. So you spoke to [REDACTED] on July 11, 2013 with the full
11 knowledge that Stacey did not want you to talk to her
12 daughter anymore?
13 **A. With the knowledge that on May, whatever day I asked**
14 **Stacey, she did not, yes.**
15 Q. It wasn't May, it was June, correct, June 9th, 2013?
16 **A. Yes, correct, June 9th.**
17 Q. You met with [REDACTED] on July 11, 2013, when you knew
18 that Stacey had told you just a month earlier she did
19 not want you to have any further contact with her
20 family, correct?
21 **A. I have to read my report. I believe --**
22 Q. Your report says "Stacey requested I close the case
23 and have no further police involvement," correct?
24 **A. She said, yes, she wanted no further police**
25 **involvement.**

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- 1 Q. So you knew on July 11th, when you were meeting with
2 [REDACTED] that Stacey had told you that she did not want
3 any further police contact with her family?
4 **A. Correct.**
5 Q. And you still proceeded to meet with [REDACTED] and
6 reinterview her after that?
7 **A. I did.**
8 Q. And it was [REDACTED] grandmother, Judy Stiltner, again,
9 who brought [REDACTED] to the police station?
10 **A. I don't know that to be true. I know Judy was there**
11 **first and talked to me, left, and several hours later**
12 **[REDACTED] was at my station. They only live a few blocks**
13 **from the station, so I don't know if grandma brought**
14 **her or [REDACTED] walked up there. I don't know.**
15 Q. And you advised Judy it was still an open
16 investigation and you could not discuss it with her?
17 **A. Correct.**
18 Q. And then you proceeded to discuss it with her?
19 **A. With who?**
20 Q. With Judy.
21 **A. How so?**
22 Q. Well, it says "I advised Judy this was not true, that
23 Sam had passed the department's polygraph, and that I
24 had wanted to discuss the case with [REDACTED] prior to
25 closing the case.

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- 1 **A. Correct.**
2 Q. After telling Judy that you could not discuss the case
3 with her, you proceeded to discuss the case with her?
4 **A. I can't discuss -- Judy's asking me if he passed the**
5 **polygraph. I told her I couldn't discuss the case**
6 **with her. Maybe I misspoke and I can't discuss the**
7 **issues of the case, the facts of the case. I can't**
8 **talk about the investigation. When she asked if it's**
9 **open or closed, I can tell her if it's open or closed.**
10 Q. Let's be clear. Here's what your report says. "I
11 advised Judy it was still an open investigation and I
12 could not discuss it with her." That's what you
13 wrote, right?
14 **A. Correct.**
15 Q. Judy then says She's surprised to hear that. "Judy
16 advised Stacey was telling everyone Sam had passed the
17 Police Department polygraph with flying colors, and
18 that Sergeant Crum said he did not believe [REDACTED]"
19 **A. That's her words, yes.**
20 Q. And then you say to Judy, that was not true. Aren't
21 you then discussing the case with Judy?
22 **A. No.**
23 Q. You don't think telling Judy that Sam had not passed
24 the polygraph --
25 **A. There are certain things --**

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<p style="text-align: right;">Page 81</p> <p>1 MS. McGIFFERT: Let him finish his 2 question. 3 BY MR. AHMAD: 4 Q. Let me finish my question. 5 You don't think telling Judy about whether 6 Sam had passed the polygraph and whether you still 7 believed [REDACTED] was discussing the case with Judy? 8 A. Correct, that is not. An open investigation is what 9 is, can and cannot be released, say the rules of FOIA 10 or to the victims, to the -- we can't give a suspect's 11 name, date of birth, things like that before they're 12 arraigned. Everyone knows that. I can't give that 13 kind of information when I have an open investigation. 14 She was asking me specific questions that I could not 15 answer. When she said that I didn't believe [REDACTED] I 16 told her that's not true. I didn't want [REDACTED] to feel 17 that no one believed her. I didn't want her mom to 18 tell her that when all I wanted was to talk to her to 19 find out why the story changed. 20 Q. When you say "I advised Judy that is not true," are 21 you referring to Sam's passing the Police Department 22 polygraph with flying colors? 23 A. I'm referring to me closing the case. She said that I 24 closed the case. I advised that's not true, I had not 25 closed the case and I wanted to discuss it with [REDACTED]</p>	<p style="text-align: right;">Page 83</p> <p>1 gone. That's the same. That's the same. This is 2 different. Your page that has 14 on it is slightly 3 different than my page. They're the same, just yours 4 cuts off here. 5 BY MR. AHMAD: 6 Q. Does it pick up at the same place on the next page or 7 am I missing? 8 A. Yes, this part is here. 9 Q. It's on the next page? 10 A. Yes. And let me check. And some of the pages are 11 off. 12 Q. But am I missing any of the actual text? 13 A. But you have the content. And I don't see this. 14 MS. McGIFFERT: Counsel, yours was printed 15 on August 9th, 2013, and Deputy Chief Crum has 16 continued the report past that. 17 MR. AHMAD: So can we take a break and make 18 copies of the pages that I don't have so Exhibit 2 is 19 complete? 20 MS. McGIFFERT: Well, the spacing is off. 21 Do you want me to give you just a whole complete 22 report because I was already going to object to that 23 being an exhibit with all the highlighting on it in 24 the first place. 25 MR. AHMAD: Okay, then let's do a new</p>
<p style="text-align: right;">Page 82</p> <p>1 Q. I have marked as Exhibit 2 to your deposition what I 2 think is your complete report of 13-0005555. I'm 3 going to hand it to you and ask you to make sure this 4 is your complete report. 5 MR. AHMAD: Can we mark this as 3? 6 THE WITNESS: There's two reports in here, 7 9252 and 5555. 8 BY MR. AHMAD: 9 Q. Okay. Take out the 9252 so that I just have the 5555. 10 A. That's 9252. 11 MS. McGIFFERT: What you need to do is 12 compare that with yours. 13 MR. AHMAD: Let's mark this as Number 4. 14 MARKED FOR IDENTIFICATION: 15 DEPOSITION EXHIBIT 3 16 4:14 p.m. 17 MARKED FOR IDENTIFICATION: 18 DEPOSITION EXHIBIT 4 19 4:14 p.m. 20 THE WITNESS: You're missing Page 2, which 21 is the charge, the Sam Jerome, Stacey with Alyxis' 22 names on there. You don't have that page. 23 MS. McGIFFERT: And your goes from 1 of 10 24 to 3 of 10, so you're missing Page 2. 25 THE WITNESS: Yes, 1 of 10, 2 of 10 is</p>	<p style="text-align: right;">Page 84</p> <p>1 Exhibit 2 and you can give me the complete report and 2 we'll mark that. 3 BY MR. AHMAD: 4 Q. So we have marked a new exhibit as Exhibit Number 2, 5 and this is now a complete copy of report 13-0005555, 6 is that correct? 7 A. Yes. 8 Q. Did you review, and maybe you told me this, the CPS 9 records before today's deposition? 10 A. I did not. 11 Q. Did you tell CPS that you were closing this case? 12 A. I recall having a conversation with Jason, I don't 13 know that I can say his last name, regarding this 14 case, and he indicated he was waiting for me to close 15 it before he could take action. I don't recall that 16 conversation. I know it's written in my report that I 17 told him I was going to close it. It's something we 18 do routinely so they can do their job. 19 Q. Well, have you seen the CPS record regarding the 20 contact with you? 21 A. No. 22 Q. So let me show you what I've marked as Exhibit Number 23 3 and ask you to read the last entry. Just you can 24 read it to yourself. You don't need to read it for 25 the record.</p>

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1 MS. MCGIFFERT: For the record, I'm just
2 going to place an objection to an exhibit that has
3 your select highlighting on it.
4 MR. AHMAD: Why? That's all that's
5 important, Laurel, is my highlighting.
6 MS. MCGIFFERT: I'm objecting to this being
7 a part of this deposition record.
8 MR. AHMAD: Okay.
9 BY MR. AHMAD:
10 Q. Do you see at that entry that the individual says that
11 she made contact with you on June 6th, 2013 and you've
12 indicated that you will be closing the case?
13 **A. I do.**
14 MS. MCGIFFERT: Except it says June 5th.
15 THE WITNESS: June 5.
16 BY MR. AHMAD:
17 Q. Thank you for the correction.
18 So there's an entry from CPS indicating
19 that they talked to you and you said you're closing
20 the case?
21 **A. That it will be closed.**
22 Q. Do you remember that conversation?
23 **A. I do not.**
24 Q. Are you denying that it occurred or you just don't
25 remember?

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1 **A. Correct, but that's different than on a case, closed**
2 **case, an active case. That's terminology that we use**
3 **in the system as we move our cases around.**
4 Q. Okay. Why did you tell Judy Stiltner it was still an
5 open investigation?
6 **A. If a case is inactive or a case is in our active file,**
7 **those are all classified as open cases. Closed, they**
8 **disappear out of our queue, so we put them in inactive**
9 **when we are not actively investigating them. But it's**
10 **still, if it's not closed, it's open. It's just a**
11 **terminology within our department, how cases are**
12 **termed. The same thing when I put in inactive, I'm**
13 **not actively investigating the case, and that's what**
14 **Jason needed to do whatever he was going to do through**
15 **CPS.**
16 Q. But Jason writes in his report from CPS "Detective
17 Crum indicated that his case will be closed as Alyxis
18 recanted during her forensic interview."
19 **A. I can't answer what he wrote.**
20 Q. Well, did you tell him that, did you tell him "I'll be
21 closing the case because Alyxis recanted during her
22 forensic interview"?
23 **A. I don't recall saying that specifically, but I will**
24 **say that it's, he needs that case to be closed to go**
25 **to his next step.**

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1 **A. No, I talked to Jason quite a few times during that,**
2 **during this case. I know we talked at length, so I'm**
3 **not denying that we had the conversation. I just**
4 **don't independently recall telling him that.**
5 Q. Today you told me that you were never going to close
6 the case.
7 MS. MCGIFFERT: I'll object as to form.
8 And mischaracterization of the witness' testimony, but
9 go ahead.
10 BY MR. AHMAD:
11 Q. Is that what you told me, or did I misunderstand?
12 **A. I don't recall that I said I would never close the**
13 **case. At some point they're going to close, they're**
14 **all going to close.**
15 Q. No, but you told me at the point after the CARE House
16 interview, you were not going to close the case, it
17 was still an open investigation?
18 **A. At that point, yes.**
19 Q. In fact, on July 11th you told Judy Stiltner that it
20 was an open case, correct?
21 **A. I think that's what I told her, yes. It was**
22 **technically an inactive case at that point.**
23 Q. Well, on July 11th, in your report of July 11th it
24 says "I advised Judy it was still an open
25 investigation and I could not discuss it with her."

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1 Q. And apparently you told him you'd be closing it
2 because Alyxis recanted?
3 **A. That's what he said.**
4 Q. Again, are you denying that?
5 **A. I'm saying I don't recall that.**
6 Q. Wouldn't it be standard practice to close the case
7 after a witness recants after the forensic interview
8 process?
9 **A. No.**
10 Q. So that wouldn't be --
11 **A. No. In fact, if I did that, I wouldn't be detective**
12 **very long.**
13 Q. So why would you tell Jason that?
14 **A. I don't recall. Again, I don't think he can**
15 **interview. You have to ask Jason. I don't think he**
16 **can interview people while we're doing an**
17 **investigation. So if I left my case open for a year,**
18 **he wouldn't be able to do his job because my case is**
19 **getting in the way. The criminal investigation always**
20 **comes first, and so a lot of times we get out of their**
21 **way and let them do their job. There was nothing**
22 **stopping me from closing that case and reopening it**
23 **the week after. It's all, if I would have closed it**
24 **and [REDACTED] came back July 11th, it'll be reopened,**
25 **it'll be reopened.**

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1 Q. Right, but you didn't know [REDACTED] was coming back when
2 you told her that, when you told Judy that this was an
3 open case?
4 A. Correct, but if she would have came back two years
5 later, we could have opened it. It wouldn't -- the
6 time doesn't matter especially in a CSC where there's
7 no, the statute of limitations is a lot longer. So
8 whatever I termed the case is a computer system, it's
9 not really relevant to the actual investigation. At
10 any point she comes back and tells me, that case gets
11 opened.
12 Q. I understand that, but as of July 11 when Judy came in
13 and you told her it was an open investigation, [REDACTED]
14 had not come back?
15 A. Correct.
16 Q. Nor did you know she was ever going to come back?
17 A. Correct.
18 Q. The last contact you had had with [REDACTED] was when she
19 recanted her story at the CARE House?
20 A. Correct. This was an abnormal case. I've never had a
21 parent refuse. I've never had a parent not want to
22 find out what happened, not come in, sit down, all of
23 us have a conversation and discuss it. The case was
24 abnormal from the very beginning, and I was not going
25 to close that case until we found out what happened.

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1 time. I mischaracterized it and I'm wrong to say
2 wildly or drastic. The words I put on there are
3 completely wrong because her story was very, very
4 close except for one or two points. Those two points
5 are very relevant to the crime and they're very
6 relevant to the elements of the crime, but overall,
7 95, 96, 97 percent of that story stayed the same.
8 Q. Right. So why are you saying you really wanted to
9 talk to her because the story changed wildly? The
10 story didn't change wildly, so why were you so adamant
11 about reinterviewing [REDACTED] when she basically told the
12 same story? She just recanted the sexual
13 inappropriateness of what happened, so why did you
14 want to interview her again?
15 A. Because that is my job. That's what every
16 investigator would have to do. If I didn't do that,
17 I'm telling my boss -- I would not be detective. The
18 day he hears that, I would not be detective anymore.
19 We are not allowed just to take, when something
20 changes and just disregard it. We have to do a
21 thorough investigation, a complete investigation from
22 start to finish. And to keep -- you've asked me now
23 several times why we do that. That's what an
24 investigation is. It's the basic definition of
25 investigation.

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1 Q. Well, you found out what happened when [REDACTED] was at
2 CARE House and gave the forensic interview?
3 A. No, I didn't. I found out what [REDACTED] said, but when
4 the story changes that much, it's my job to find out
5 why. Regardless of what the allegation is or the
6 story is or the crime is, when a story changes that
7 wildly, we are obligated to keep investigating and
8 find out why did it change. I've had lots of cases
9 over the years and I've had lots of victims change
10 their story and recant and I've got a litany of
11 reasons why, but until we find out that this case is
12 going to stay open or would have stayed open.
13 Q. You say that her story changed wildly. It didn't
14 change wildly. I mean she, to the forensic interview,
15 repeated the two incidents of Sam rubbing her belly on
16 the couch at the house, correct?
17 A. You are right. Her case did not change wildly.
18 You're absolutely right. Her case --
19 Q. She recanted?
20 A. Let me finish.
21 Q. Go ahead.
22 A. Her case was very accurate all except two points
23 including times, locations, who was where, what they
24 were doing, that, her story stayed incredibly accurate
25 from the first time until even through court the last

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1 Q. Badgering a witness until they give you what you want?
2 MS. McGIFFERT: Don't answer that question.
3 BY MR. AHMAD:
4 Q. Is that what your practice is?
5 MS. McGIFFERT: Don't answer that question.
6 I object.
7 MR. AHMAD: What is objectionable about the
8 question?
9 MS. McGIFFERT: Because you're suggesting
10 he's badgering a witness. That's inappropriate.
11 MR. AHMAD: I don't think it's
12 inappropriate. That's my interpretation of what he
13 was doing.
14 MS. McGIFFERT: That's what I'm saying.
15 MR. AHMAD: He can deny that.
16 BY MR. AHMAD:
17 Q. Do you just interview a witness until you get the
18 story you want?
19 A. That's not been suggested. No, that's not what we do.
20 Q. Okay. What?
21 A. Investigation is to find out what happened, and we
22 start at the beginning and we ask and go through and
23 gather facts to find out what happened. When things
24 are not normal, when they don't add up, when you have
25 a case where the people are acting the way that Stacey

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1 **was acting, you have to investigate why did this story**
2 **change.**
3 Q. How many times would [REDACTED] have to tell you that
4 nothing inappropriate happened before you would close
5 the case?
6 **A. I would have, if she came to my office the day after**
7 **CARE House and discussed with me and told me nothing**
8 **happened, that case would have been closed that day**
9 **and that's the last time I would have looked at that**
10 **case.**
11 Q. Only if she had come back the next day and reaffirmed
12 everything that she told the forensic interviewer?
13 **A. That's what I just said. If she just came in and said**
14 **"Hey, I was wrong, this never happened," the case**
15 **would have been dropped. Stacey not bringing her in**
16 **is what kept this case open. It would have been**
17 **dropped the next day, but that's something that I have**
18 **to do and then present to the prosecutor. And I would**
19 **have said, hey, if she talked to me on Day A, Day B**
20 **she told me what she said in CARE House was**
21 **inaccurate, I would have called the prosecutor and**
22 **closed the case the next day.**
23 Q. Why would you not want her reinterviewed at
24 CARE House?
25 **A. I don't know if it was an option.**

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1 the experts in forensic examination to examine her
2 again if you questioned why the story had changed?
3 Why wouldn't you want them to interview her again, or
4 did you and you just didn't know how to go about doing
5 it?
6 **A. I don't know that I even thought about that. I don't**
7 **know that that thought crossed my mind to do so. I**
8 **can't answer why we would have or didn't.**
9 Q. So I guess if the ultimate motivation was to interview
10 [REDACTED] again, and let's say [REDACTED] goes back to her
11 original story, wouldn't you then think "Well, this is
12 someone that now needs to go back to CARE House
13 because she's altered her story again so let's get
14 another forensic interview to see if we can verify
15 what she's telling me or if she's going to go back to
16 what she told them originally"?
17 **A. You know, I do recall, and I'm glad you asked the**
18 **question because during this, we did talk to Stacey**
19 **about CARE House again and she refused.**
20 Q. Is that somewhere in your report?
21 **A. It is not, but we also talked about getting Sabrina**
22 **there. Eventually she did let Sabrina go through CPS,**
23 **I believe, but would not let us take her there.**
24 Q. Yes, it looks like Sabrina was forensically
25 interviewed -- I don't know -- it doesn't say if it

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1 Q. Why wouldn't it be an option? Why can't you just call
2 and set another appointment up?
3 **A. I've never done that. I mean, we've never had anybody**
4 **up there twice.**
5 Q. But you just told me --
6 MS. McGIFFERT: Finish your answer.
7 BY MR. AHMAD:
8 Q. But this is an unusual case. I'm sorry, I don't mean
9 to interrupt.
10 MS. McGIFFERT: Go ahead.
11 THE WITNESS: And we've had cases where
12 we've had kids up that did not disclose and they
13 refused to do it a second time. Her age, when she
14 came up, and she was 13, 14, at the time, they were
15 already questioning her age and being up there at
16 14 years old, 13, 14 years old.
17 MS. McGIFFERT: Counsel, before your next
18 question, do you have the exhibits over there?
19 BY MR. AHMAD:
20 Q. So am I correct in saying you did not make any attempt
21 to contact CARE House to conduct a second forensic
22 interview?
23 **A. I don't recall doing that, and I would have noted that**
24 **in my report, so I do not believe that happened.**
25 Q. And again, why is it that you would not have wanted

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1 was at CARE House or not under the CPS records, that
2 Sabrina had a forensic interview, were you aware of
3 that?
4 **A. I don't recall. I think I read that later.**
5 Q. Okay. It says it took place on June 5, and that
6 Sabrina reported that things are going well at home
7 and she has no concerns, and that Sabrina denied being
8 physically disciplined and that Sabrina felt safe at
9 home and had no concerns. Were you aware that's how
10 Sabrina felt in June of 2013?
11 **A. I read that at some point. Unfortunately, I can't**
12 **remember if I read that around that time or after.**
13 Q. "After" meaning when?
14 **A. After that date, around the trial date. I can't**
15 **remember when that --**
16 Q. Why would you not have known about this?
17 **A. I think that's a CPS record.**
18 Q. Why would you not have requested the CPS records?
19 **A. That's not something that's normally done.**
20 Q. Why not?
21 **A. I don't know.**
22 Q. It's not something that's normally done or something
23 that you don't normally do?
24 **A. They provide reports when they're done. They provide**
25 **their findings when they're done, fax them over. We**

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1 just don't request them in-between, I guess.
2 Q. Did you ask to interview any of Sam's kids?
3 A. I remember asking for their names and date of births,
4 but I never did talk to them.
5 Q. Were you aware that Sam's children, Nicholas and
6 Cassandra, were both forensically interviewed?
7 A. That I was not.
8 Q. So as we sit here today, you didn't know that? Am I
9 the first person to tell you that?
10 A. Quite possibly, yes. I don't have -- I don't recall
11 that.
12 Q. So you weren't aware, when you reported this case to
13 the prosecutor, that both Nicholas and Cassandra,
14 Sam's children, were forensically interviewed and both
15 indicated they had a great relationship with their
16 father and enjoyed spending time with them.
17 A. I was not. They were not part of my investigation.
18 Q. Why wouldn't they be? Why wouldn't you want to start
19 contacting other kids that Sam had contact with to see
20 if this is a pattern that would underscore what [REDACTED]
21 was telling you or is this something that was
22 completely unusual that no one had ever reported
23 before, which would perhaps undermine what [REDACTED] was
24 telling you? Why would you not be interested in that?
25 A. I don't know. It's his own kids, and my experience is

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1 lying. We think about it every single case. I don't
2 know that we can ever rule out, that's not really our
3 expertise, I guess.
4 Q. In the CPS records, in the dispositional findings,
5 I'll show you this, I'm not going to mark it because
6 it has, again, has my highlighting, you see at the
7 bottom where it says Dispositional Findings?
8 A. I do.
9 Q. And it talks about [REDACTED] statements at CARE House,
10 the forensic interview she had, correct?
11 A. I don't see that. Oh, I see that she was at CARE
12 House, yes.
13 Q. And then what's the last sentence that's on the page
14 below that paragraph?
15 A. The last sentence on this page is, the one you have
16 highlighted here?
17 Q. Yes.
18 A. It says "The criminal investigation will be closed due
19 to Alyxis recanting."
20 Q. It says "A criminal investigation was conducted by the
21 Berkley Police Department and the criminal
22 investigation will be closed due to Alyxis recanting,"
23 correct?
24 A. That's what it says, correct.
25 Q. Where would that information come from?

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1 usually when a stepfather molests a stepchild, it's
2 usually within the step family. If there were other
3 stepchildren out there, it would have been more
4 relevant, I guess, to the investigation, and it's not
5 something that's typically requested by the prosecutor
6 or something we normally put in reports. Again, why,
7 I'm not sure.
8 Q. Well, there was another stepchild and that was Sabrina
9 and she was forensically interviewed and she indicated
10 she had no problems with Sam?
11 A. That there was no issues, no.
12 Q. What does that tell you?
13 A. That he likes 13 years olds and not 10 year olds. I
14 don't know.
15 Q. Or that [REDACTED] lying?
16 A. That's another option. That's your option.
17 Q. Did you ever consider that?
18 A. Yes, I did.
19 Q. How were you able to rule that out?
20 A. My job is to gather as much evidence as I can and
21 present it to the prosecutor. I don't know that we
22 rule things in and out. We gather facts and we gather
23 evidence. We present that stuff, or we present that
24 information. It's always in the back of our mind with
25 every case, is somebody telling the truth or are they

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1 A. That's the author of this document. I don't know who
2 authored that.
3 Q. You don't know where that person got the information
4 that Berkley was closing the criminal investigation?
5 A. I don't even know who authored that.
6 Q. So that's two places in the CPS records, that they
7 indicate that Berkley is closing the investigation,
8 correct?
9 A. I don't know if that's a CPS record. I don't know
10 what you just gave me.
11 Q. I don't know if this means anything to you at the top,
12 but you can look at the top.
13 A. That doesn't mean anything.
14 Q. It says Oakland DHS, CPS, does it not?
15 MS. McGIFFERT: It means it's faxed from
16 there, Counsel.
17 THE WITNESS: I would have to --
18 BY MR. AHMAD:
19 Q. You don't think that's a CPS record?
20 A. I've never seen that before. I don't know if I could
21 say it is or it isn't.
22 Q. Going back to your report, Exhibit 2, under the
23 July 11th meeting.
24 MS. McGIFFERT: Are we looking at Exhibit 2
25 or are we looking at Exhibit 3?

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1 MR. AHMAD: We're looking at Exhibit 2.
2 That's the 5555, correct?
3 MS. McGIFFERT: I'll let him testify about
4 it, but I am objecting to it becoming part of the
5 record.
6 MR. AHMAD: Why?
7 MS. McGIFFERT: Because you -- it is not
8 his report. It's your report with --
9 MR. AHMAD: No, no, this is the one you
10 copied for me.
11 MS. McGIFFERT: Is that Exhibit 2?
12 MR. AHMAD: That is now Exhibit 2.
13 MS. McGIFFERT: Okay, sorry.
14 MR. AHMAD: That's confusing. That's my
15 fault.
16 BY MR. AHMAD:
17 Q. So looking at Exhibit 2 under the July 11, 2013
18 contact with Judy Stiltner, are you with me?
19 A. I am.
20 Q. Okay. In sort of the middle of the page, it says
21 "Several hours later Allie knocked on my door and
22 asked to discuss her case with me."
23 A. Yes.
24 Q. [REDACTED] advised that her mother was hospitalized in
25 Texas for her mental health disorder. She advised her

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1 consent?
2 A. No.
3 Q. But you do document her grandmother telling you it's
4 okay to talk to [REDACTED]
5 A. Correct.
6 Q. Which would carry more legal weight, the grandmother
7 telling you it was okay to talk to [REDACTED] or the
8 Oakland County prosecutor's office?
9 A. The prosecutor probably.
10 Q. So why would you not document this?
11 A. Because this report is for the Oakland County
12 prosecutor to read, so I'm not sure it's relevant to
13 tell them what they already know. They're the ones
14 that I discuss this with. Actually, the lady that
15 reviewed this is the person who told me that that was
16 okay. I wrote this in here clearly -- it's very clear
17 to me. I think you're just misunderstanding it. It's
18 very clear I wrote this in here for the benefit of the
19 prosecutor to read and let them know what's going on
20 at this moment in this family's life. This is what's
21 going on.
22 Q. Why would it matter if Judy advised you it was okay to
23 discuss the case with [REDACTED]
24 A. It probably isn't relevant.
25 Q. So why would you put that in the report?

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1 grandmother was her guardian while her mother was
2 being hospitalized. Judy confirmed this and advised
3 she was Stacey Krahe's legal guardian as well. Judy
4 advised it was okay to discuss the case with [REDACTED]
5 Do you see what you wrote there?
6 A. I do.
7 Q. You told me earlier that you had discussed this issue
8 early on with the prosecutor's office?
9 A. I did.
10 Q. And here it sounds like you're just aware of this for
11 the first time.
12 A. No, that's not true. I knew about that before this
13 case, that Judy was the guardian of Stacey. I've
14 known for years that Judy was the guardian of Stacey.
15 Q. So why did you need them to advise you of this and
16 confirm, and why are you writing that Judy confirmed
17 this if you already know this?
18 A. Probably for the prosecutor's benefit so that they
19 know. They're going to ask me that, so I put in here
20 this is what is going on.
21 Q. Anywhere in these documents do you document the
22 conversation that you had with the Oakland County
23 prosecutor's office?
24 A. No, sir.
25 Q. About talking to [REDACTED] based on her grandmother's

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1 A. I have no idea why I put that in there three years
2 ago.
3 Q. It didn't include the Oakland County prosecutor
4 telling you it's okay to talk to [REDACTED] just based upon
5 the grandmother's representation?
6 A. Again, I'll answer that, again, that this report is
7 for the Oakland County prosecutor, and I don't see why
8 I would tell them what they already know and discussed
9 with me. I don't write in there the process to get a
10 warrant. I don't write in there the conversations we
11 had. They're part of those conversations. They know
12 those conversations.
13 Q. So you wouldn't want to put in the report confirming
14 that "Hey, we talked about this and you said it was
15 okay and so I decided to proceed"?
16 A. I could have put that in there. Again, I don't write
17 things that we discuss personally with the person
18 getting this report.
19 Q. You proceeded to reinterview [REDACTED] is that correct?
20 A. I don't remember how that started.
21 Q. Well, based on your report, it looks like you
22 reinterviewed her.
23 A. No, it looks like she was advising me of a lot of
24 things. I'm not sure if I had a chance to interview
25 her or if she was up telling me what I have written

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1 down here.
2 Q. So you don't think you asked her any questions?
3 A. I'm sure I did at some point.
4 Q. Are you telling me that you don't characterize this as
5 an interview?
6 A. Not what I read so far.
7 MS. McGIFFERT: And you're still reading.
8 THE WITNESS: And I'm still reading. I do
9 believe on Page 9 where it says [REDACTED] confirmed her
10 original description," at that point, it would have
11 become an interview, yes.
12 BY MR. AHMAD:
13 Q. You indicate "And most concerning, [REDACTED] advised Sam
14 has turned his attention to her 10 year old sister,
15 Sabrina."
16 A. That's what she advised me, yes.
17 Q. Did you ever do anything to confirm that?
18 A. I did talk to Sabrina about that. She denied any of
19 that, denied that there was any gifts or -- I think
20 she did say they went shopping, but she denied the
21 touching. And that was reported to CPS as well.
22 Q. So [REDACTED] lied about that?
23 A. No, I wouldn't say that [REDACTED] lied about that. [REDACTED]
24 interpreted what she saw as the beginning stages of
25 grooming and she was -- if she saw what she said she

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1 remember him rubbing her stomach but did not feel it
2 was inappropriate. Sabrina recalled Sam taking her
3 out for special shopping sprees, she recalled him
4 taking her to Claire's for jewelry, Justice for
5 clothing and lunch at a restaurant. According to
6 Sabrina, it was after [REDACTED] had gotten Sam in trouble
7 and he stopped liking her. Sabrina did not have any
8 further information about the sexual assault." So I
9 did ask her and I did document that, what she told me.
10 BY MR. AHMAD:
11 Q. Anything wrong with the stepfather taking her, his
12 stepdaughter out shopping?
13 A. No. It's okay to take them out to Claire's and
14 Justice and lunch. It's even not illegal to rub their
15 belly, but when [REDACTED] is telling me that that's how
16 the grooming started with her and now she sees that
17 same grooming going on with her sister, and she didn't
18 use the term "grooming" because she didn't understand
19 that. When she describes "The same thing that
20 happened to me, he did to her," and when she said
21 "This is what it is," and then the girl, Sabrina,
22 confirms that that's what it is, I find it hard to
23 call [REDACTED] a liar. She's advising her fear, and her
24 fear is he's going to do this to her sister. And
25 based on what Sabrina told me, I think [REDACTED] is seeing

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1 saw, she was right. It never got to the point where
2 he was actually touching a vagina, so Sabrina didn't
3 see that as an issue. As far as rubbing her belly,
4 why he's rubbed the kid's belly, I don't know. But as
5 far as rubbing the belly, Sabrina didn't have a
6 problem with any of that.
7 Q. I thought you told me that Sabrina told you that he
8 wasn't touching her?
9 A. Touching her vagina. She indicated he was not
10 touching her vagina or her breasts. So there's no
11 crime. It's not a crime to rub somebody's belly.
12 Q. Where are the interview notes regarding Sabrina
13 telling you all this?
14 A. I think that's on the tape actually.
15 Q. On the August 21, 2013 tape?
16 A. I think it's, I think it's on the tape.
17 Q. Well, did you make a report about that?
18 MS. McGIFFERT: Take your time and look.
19 THE WITNESS: I don't know.
20 MS. McGIFFERT: Take your time and look.
21 THE WITNESS: Yes, it's on Page 11, and it
22 says "Sabrina was not aware of either incident of
23 sexual assault by Sam Jerome on [REDACTED] Krahe. Sabrina
24 did not recall any incident when Sam had touched her
25 that made her feel inappropriate. Sabrina did

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1 the same thing that happened to her happen to her
2 sister.
3 Q. Sam admits that he would rub [REDACTED] belly --
4 A. Correct.
5 Q. -- because she would have a stomachache?
6 A. I don't know his reason, but correct.
7 Q. Okay. So he wasn't denying doing that?
8 A. Correct.
9 Q. A few days later on July 14 you had another contact
10 with the family where Stacey had taken [REDACTED] and was
11 going to Georgia?
12 A. I think the trip to Georgia happened on the 15th, I
13 believe.
14 Q. Right. So Stacey had reported that what [REDACTED] was
15 missing or what happened?
16 A. Judy reported [REDACTED] missing on the 14th. Stacey found
17 her on the 15th, at five in the morning.
18 Q. And then you wanted confirmation of that and asked
19 Stacey where she was, and Stacey told you a couple
20 different hospitals?
21 A. Correct.
22 Q. And then by the time you realized Stacey wasn't
23 telling you what was going on, Stacey called you and
24 said "I'm leaving the State, I'm going to Georgia?"
25 A. The first time I talked to her, she indicated she was

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1 south of Toledo, so I took that as she was already in
2 Ohio.
3 Q. Sam wasn't involved in any of this?
4 A. No. Only that, I couldn't get ahold of her until I
5 called Sam. And when I told Sam I needed to speak to
6 her and told him why, he must have got a message to
7 her because she called me at that point.
8 Q. Well, you didn't call Sam. According to your report,
9 Sam called you.
10 A. That's, if that's what the report says, that's what
11 happened, because I don't recall.
12 Q. It says "I received a telephone call from Sam advising
13 Stacey had taken [REDACTED] and left Michigan."
14 A. Okay.
15 Q. So Sam voluntarily calls you and tells you what's
16 going on?
17 A. Yes, he did. He told me they were leaving. He
18 wouldn't tell me where they were going, according to
19 the report.
20 Q. Do you think Sam knew?
21 A. I don't know.
22 Q. And then approximately two minutes later or a few
23 minutes later Stacey calls you?
24 A. Correct.
25 Q. So Sam was trying to cooperate here, trying to help

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1 MS. McGIFFERT: Do you want to find your
2 report?
3 THE WITNESS: I'm right here. I cannot
4 recall. I know that they were discussing -- it had to
5 do with Sam but I can't recall. Boys, there was
6 something on there about boys and something about
7 smoking and Sam.
8 BY MR. AHMAD:
9 Q. You didn't think they were relevant?
10 A. At the time, no. We were discussing the domestic
11 assault. They was trying to play messages about Sam
12 and the sexual assault, and I advised her several
13 times we had time to listen to those, we had time to
14 do that. I needed to talk to her about the domestic
15 assault that happened the night before.
16 Q. Except you then say "I spoke with [REDACTED] about the
17 messages after," so if those weren't important to this
18 investigation, why were you immediately talking to
19 [REDACTED] about it?
20 A. I was giving Stacey a chance to describe what happened
21 the night before at the domestic. She took that
22 opportunity and all she wanted to talk about was a
23 sexual assault. I was trying to get through to Stacey
24 we can talk about that in 5 minutes or 10 minutes, but
25 right now we need to talk about the domestic assault.

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1 you?
2 MS. McGIFFERT: Place an objection. Calls
3 for speculation as to whatever his motivation was.
4 This witness can't answer that.
5 BY MR. AHMAD:
6 Q. Well, he voluntarily calls you to tell you what's
7 going on, and then it looks like he notified Stacey to
8 call you and she calls you?
9 A. What it appears, correct, yes.
10 Q. The next contact with the family would have been
11 August 2nd when there was a domestic situation at the
12 house?
13 A. Correct.
14 Q. Stacey believed that [REDACTED] was smoking pot or doing
15 some illegal drugs. [REDACTED] denied it and they had a
16 conflict?
17 A. Correct.
18 Q. Correct?
19 A. That's my understanding, yes.
20 Q. You indicated, when interviewing Stacey about the
21 domestic assault, "She adamantly wanted me to listen
22 to messages on her phone?"
23 A. Yes.
24 Q. The messages were of her and [REDACTED] discussing various
25 topics. What topics were those?

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1 They became relevant because Stacey brought them up,
2 but that still didn't answer the question I asked at
3 the time.
4 Q. The last paragraph says "Stacey Krahe has interfered
5 with my investigation from the beginning by
6 threatening and intimidating a 13 year old victim into
7 changing her story and then assaulting her to make
8 sure she does not tell the truth." Where in the world
9 did you come up with that conclusion?
10 A. That was, part of that is the changing of the story at
11 CARE House, the domestic assault she got arrested for
12 because she assaulted her.
13 Q. But you're concluding that she assaulted her to make
14 sure she does not tell the truth?
15 A. That's what I was told --
16 Q. Where --
17 A. -- by?
18 Q. By who?
19 A. [REDACTED]
20 Q. So you took [REDACTED] statement and assumed it to be
21 true and put it in your report as a conclusion, did
22 you not?
23 MS. McGIFFERT: I'm just going to place an
24 objection unless you're looking at something different
25 than mine. I don't see that paragraph below the

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1 conclusion.
2 MR. AHMAD: No, no, it's right above the
3 conclusion.
4 BY MR. AHMAD:
5 Q. But it is a conclusion. You conclude, because you say
6 "Stacey Krahe has interviewed with my investigation."
7 It's talking about you, your investigation, correct?
8 **A. She had, yes.**
9 Q. "From the beginning by threatening and intimidating a
10 13 year old victim into changing her story and then
11 assaulting her to make sure she does not tell the
12 truth." You are taking [REDACTED] word over the word of
13 everyone else, true?
14 **A. Not everyone else. Judy Stiltner would be someone**
15 **involved in this.**
16 Q. Stacey --
17 MS. McGIFFERT: Finish your answer.
18 THE WITNESS: And so this is what I was
19 told about the CARE House, why the story changed. And
20 then there's a domestic on August 2nd, and Stacey had
21 interfered with my investigation from the beginning,
22 and I had asked just to talk to Stacey and she
23 wouldn't come in and talk about the investigation.
24 And I believed at that point, that this was escalating
25 and getting worse and that we, we had to present at

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1 You did ask him a question.
2 THE WITNESS: You asked me a question and I
3 didn't finish.
4 BY MR. AHMAD:
5 Q. But you gave me an answer that I need to ask you
6 about.
7 MS. McGIFFERT: When he finishes his
8 answer, you can delve into that.
9 THE WITNESS: I'm sorry, what was the
10 question again?
11 BY MR. AHMAD:
12 Q. The question was how had Stacey interfered with the
13 investigation.
14 **A. So from the beginning, after CARE House, would not**
15 **allow me to talk to her, would not allow me to come to**
16 **the house to even talk to anyone, going to Georgia**
17 **when I asked her to come in and we could all have an**
18 **interview about it, she could be there, we could all**
19 **talk about it. Her response to me was she was leaving**
20 **Michigan where I could no longer, or I didn't have**
21 **jurisdiction or I could no longer, you know, get to**
22 **them. At that point, that would be all she had done**
23 **that I can recall.**
24 Q. She had this incident reported to you initially?
25 **A. She did.**

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1 that point. It was a little early for me to even
2 present at this point for a case, but we had to
3 because of the actions of the mother.
4 BY MR. AHMAD:
5 Q. Don't you think that you were responsible for the
6 escalation?
7 **A. No.**
8 Q. You don't think your continued involvement and
9 pressing [REDACTED] to come back and talk to you again
10 escalated the situation after Stacey told you "Stay
11 away, I don't want any more law enforcement
12 involvement"? You don't think you had a factor in
13 escalating this family's situation at all?
14 **A. No. I think the incident that happened and the fact**
15 **that the mom was interfering with the investigation or**
16 **not wanting to discuss any of the case is what led to**
17 **the escalation.**
18 Q. How did Stacey interfere with the investigation?
19 **A. She wouldn't let me talk to her.**
20 Q. Hold on.
21 **A. No, no, I'm not going to hold on. You asked me a**
22 **question and I'm going to answer the question and you**
23 **hold on.**
24 Q. No.
25 MS. McGIFFERT: Finish your answer.

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1 Q. Right? And had [REDACTED] come to the station and talk to
2 you initially?
3 **A. She did.**
4 Q. And then she brought [REDACTED] to CARE House for an
5 interview?
6 **A. She did.**
7 Q. After Alyxis recanted her story at CARE House, Stacey
8 said "I don't want any more law enforcement involved
9 in this," correct?
10 **A. Yes, at some point after that.**
11 Q. And CPS records indicate that you were closing the
12 case after CARE House, right?
13 **A. That's what they say, yes.**
14 Q. Okay. So how did Stacey interfere with an
15 investigation that you said you were closing and
16 didn't have any more legs because [REDACTED] had recanted?
17 How did she interfere?
18 MS. McGIFFERT: The question's been asked
19 and answered, but you can answer it again.
20 THE WITNESS: I had asked several times to
21 discuss it with [REDACTED] to discuss it with Sabrina, to
22 discuss it with Stacey, to talk to Sam. There was
23 many chances in there for us to get this case closed
24 and she interfered with it from the beginning. And
25 the part I don't think she understood was that if she

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1 would have come in and we would have discussed it, and
2 that would have been the outcome, it would have been a
3 closed case.
4 BY MR. AHMAD:
5 Q. Well, it should have been a closed case.
6 **A. But she refused to come in.**
7 Q. Well, it should have been a closed case after
8 CARE House.
9 **A. No, it shouldn't have. That's your opinion, but it's**
10 **obvious you don't understand police investigations.**
11 **We can't close it at that point.**
12 Q. Then why were you telling people you were?
13 **A. I didn't.**
14 Q. So CPS is making things up now?
15 **A. I didn't say they were making things up.**
16 Q. Why would they conceivably say that in their records,
17 that you're closing your case after CARE House because
18 Alyxis had recanted?
19 **A. Because for them to do their job, they can't interfere**
20 **with a criminal investigation. Again, if I close it**
21 **or not, as soon as she comes back and says something**
22 **happens, it has to get reopened. It's a technical**
23 **term through a Clemens (phonetic) system. It's all --**
24 **you're misinterpreting as being a closed case means it**
25 **can never be opened. That's not the terminology.**

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1 **You're taking a Clemens term and trying to make it**
2 **into something it's not.**
3 Q. Did Stacey say that she had threatened and intimidated
4 [REDACTED] into changing her story at CARE House?
5 **A. She did not tell me that.**
6 Q. Did Stacey say that she had assaulted [REDACTED] to make
7 sure she does not tell the truth?
8 **A. At that time?**
9 Q. At any time.
10 **A. She pled guilty to something through Oakland County**
11 **with child abuse, and at that point she admitted to**
12 **the actions that I'm describing here.**
13 Q. Did she admit that she had done that so that [REDACTED]
14 wouldn't tell the truth?
15 **A. I wasn't there that day, but I don't recall hearing**
16 **that.**
17 Q. So you, in your report, made a conclusion based on
18 your determination of what witnesses were telling you.
19 You decided to believe a 13 year old girl over her
20 parents and put that conclusion in your report?
21 **A. Yes.**
22 Q. Is that legitimate police work? Is that what you're
23 supposed to do as a police officer, is to take sides?
24 **A. In this case, the prosecutor, because of the story**
25 **changing, asked my opinion. It's not normal for me to**

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1 **put opinions inside of reports, nor would I without**
2 **being asked by the prosecutor what do you think about**
3 **A, B, C and D. When they ask me, I put in my opinion.**
4 Q. Where in your report does it indicate that the
5 prosecutor's office has asked for your opinion?
6 **A. Again, this report is for that prosecutor, so I**
7 **wouldn't ask you something and say what you asked me**
8 **and then my answer. I would just give you my answer.**
9 Q. So nowhere, the answer to my question is nowhere in
10 the report does it indicate that the Oakland County
11 prosecutor has asked you to take sides in this?
12 **A. I don't document that to them, no.**
13 MS. McGIFFERT: Just place an objection as
14 to form.
15 BY MR. AHMAD:
16 Q. Your job is to collect facts objectively and present
17 them to the prosecutor and let the prosecutor make a
18 decision, right?
19 **A. Yes.**
20 Q. Is "Stacey Krahe has interfered with my investigation
21 from the beginning by threatening and intimidating a
22 13 year old victim into changing her story and then
23 assaulting her to make sure she does not tell the
24 truth" an objective presentation of the facts?
25 **A. I don't know if I can answer that. That would be**

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1 **for --**
2 Q. It's not, is it?
3 **A. I don't know if I can answer that. That's for**
4 **somebody else to determine. I am asking questions for**
5 **the prosecutor.**
6 Q. Isn't an objective presentation of the facts Stacey
7 Krahe denies intimidating or threatening her daughter,
8 and [REDACTED] says that she did, wouldn't that be an
9 objective presentation as opposed to you saying
10 absolutely that Stacey threatened her and intimidated
11 her and assaulted her so she wouldn't tell the truth?
12 Why wouldn't you give both sides?
13 MS. McGIFFERT: Objection, compound. If
14 you've got one question.
15 BY MR. AHMAD:
16 Q. Why wouldn't you give both sides?
17 **A. The report is full of both sides. The report is where**
18 **she changed her story. The report is what Stacey**
19 **would tell me when she did tell me. The report is**
20 **documenting the information that I could gather. They**
21 **were not cooperating with the investigation. This is**
22 **what [REDACTED] told me. When I asked Stacey, she would**
23 **not discuss the matter with me. At some point I can**
24 **only put what I'm told, and I asked, or if I tried to**
25 **get somebody to come in and give their version, if**

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1 they don't want to give their side of the story, then
2 I can only put in what [REDACTED] told me.
3 Q. Well, Stacey didn't tell you that she had threatened
4 her daughter, did she?
5 A. I don't think she would discuss it with me.
6 Q. Well, she did discuss it with you. She told you
7 before and after the CARE House meeting that she
8 believed that [REDACTED] was making this up and that you
9 were being played.
10 A. But I didn't hear about the threats and intimidation
11 until July. And when I called Stacey and asked her to
12 come to my office and discuss that, she refused.
13 Q. And you chose to accept [REDACTED] word for it?
14 A. Yes. And if Stacey would have come in, I would have
15 been happy to write what Stacey wrote.
16 Q. And continue to pursue a criminal action against my
17 client, Mr. Jerome?
18 A. And continue what, I'm sorry?
19 Q. You made the decision to continue to pursue this
20 criminal action against Mr. Jerome after [REDACTED] had
21 recanted her story?
22 A. Yes.
23 Q. You decided "I'm going to continue to pursue the case
24 against this guy"?
25 MS. McGIFFERT: Let's just stop. That's

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1 June 9, 2013, "I spoke with Stacey Krahe concerning
2 the incident." This is after CARE House, correct?
3 A. Yes.
4 Q. "I requested to meet with [REDACTED] to discuss the drastic
5 change in her story," that's you writing that,
6 correct?
7 A. That's what I wrote.
8 Q. So you are continuing to pursue Mr. Jerome, my client,
9 after [REDACTED] recanted?
10 MS. McGIFFERT: The question's been asked
11 and answered, but you can answer it one more time.
12 MR. AHMAD: It's been asked, I'll grant you
13 that.
14 MS. McGIFFERT: It's been answered. You
15 want him to use your words.
16 MR. AHMAD: No, I want him to tell the
17 truth.
18 BY MR. AHMAD:
19 Q. You continued to pursue Mr. Jerome, didn't you, after
20 [REDACTED] recanted?
21 MS. McGIFFERT: The question's been asked
22 and answered, but you can answer it one more time.
23 THE WITNESS: I continued my investigation
24 as I would in any other case, because now my job was
25 to find out why this story had changed. That's a

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1 two questions. Wait. See which one he's going to
2 give you and then give your answer.
3 BY MR. AHMAD:
4 Q. That was your decision, to continue the criminal case
5 against Samuel Jerome after [REDACTED] recanted?
6 A. I did not close the case, but I didn't continue
7 anything. I was waiting for confirmation either way.
8 Q. You did continue. You called people and said "I want
9 to talk to [REDACTED] again." That was your decision to
10 continue to pursue this case against my client after
11 [REDACTED] had recanted.
12 MS. McGIFFERT: Is that a question?
13 MR. AHMAD: Yes.
14 THE WITNESS: Initially, I was trying to
15 confirm what [REDACTED] had said. I wasn't investigating
16 or pursuing a criminal case against Mr. Jerome, to be
17 honest, at the beginning. I just needed confirmation
18 from [REDACTED] about the story and why it changed and
19 close the case. Until July 11th, that's when the
20 determination was made to continue the criminal
21 investigation against Mr. Jerome.
22 BY MR. AHMAD:
23 Q. Okay.
24 A. I think that's the day she came back.
25 Q. On June 9th, and look back at your report again,

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1 basic investigation. It's what will happen on every
2 investigation, is why the story had changed. If
3 somebody makes an allegation and it's not true, it's
4 actually a crime to make a false accusation. There's
5 nothing that says -- and she's 13. She wouldn't have
6 been charged by the prosecutor, but in other cases
7 with adults, there have been adults charged with
8 making a false accusation on these exact type of
9 crimes, so to say I was pursuing a criminal
10 investigation of Mr. Jerome at this moment, on
11 June 9th, would be inaccurate. My job at that point
12 was to find out why the young lady had changed her
13 story. And I've had many young ladies change their
14 stories. Sometimes it's a boyfriend. Sometimes, but
15 sometimes the parents need that information to find
16 out what help they can give somebody. To say I was
17 pursuing a criminal investigation June 9th would be
18 inaccurate. I was trying to determine what, why the
19 story had changed.
20 BY MR. AHMAD:
21 Q. So when you say in the last sentence of that
22 paragraph, "I reiterated my desire to speak with [REDACTED]
23 prior to closing the case," that to you is not --
24 you're saying you're not pursuing the case against
25 Mr. Jerome at that point?

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1 **A. At that moment, I'm just asking [REDACTED] trying to**
2 **figure out why the story changed.**
3 Q. After that, did you continue to pursue the case
4 against Mr. Jerome?
5 **A. I did not. From June 9th to July 11th, I didn't do**
6 **anything with this case.**
7 Q. July 11th, did you continue to pursue the claim
8 against Mr. Jerome?
9 **A. July 11th she came in and told me that it was, why she**
10 **had changed her story at CARE House and what had**
11 **happened, and July 11th the investigation goes back**
12 **towards Mr. Jerome.**
13 Q. Even though [REDACTED] had previously recanted?
14 **A. Yes.**
15 Q. On July 11th, did you make any attempt to contact
16 Stacey and find out why she had threatened her to get
17 her to change her story at CARE House?
18 **A. On July 11th, my understanding was Stacey was in a**
19 **mental institution in Texas is what I was told.**
20 Q. Did you do anything to confirm that?
21 **A. No, I was told that by Judy.**
22 Q. And you believed that?
23 **A. I did.**
24 Q. You made no attempt to determine if that was accurate?
25 **A. I did not.**

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1 Q. It is the truth that you offered Mr. Jerome another
2 opportunity to take the polygraph?
3 MS. McGIFFERT: He didn't say that.
4 THE WITNESS: He was offered the polygraph
5 right up through the preliminary exam, and after the
6 preliminary exam, he was offered a polygraph by the
7 prosecutor and refused. He was offered multiple
8 polygraphs during this entire process.
9 BY MR. AHMAD:
10 Q. Mr. Crum, you just told me after July 11th, you were
11 going to start over. Do you remember you just
12 testified to that?
13 **A. Yes.**
14 Q. And Mr. Jerome was offered to take a polygraph?
15 MS. McGIFFERT: Object. I think the record
16 will reflect he did not say that happened.
17 BY MR. AHMAD:
18 Q. Clear it up.
19 Did you say that or did you not?
20 **A. I don't recall saying that.**
21 Q. Did you offer again Mr. Jerome the opportunity to take
22 another polygraph or take a polygraph after July 11th?
23 **A. I did.**
24 Q. And is that in your record somewhere?
25 **A. No.**

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1 Q. Did you call Sam?
2 **A. I made no attempt.**
3 Q. So those things were not important to you? All you
4 needed was [REDACTED] to change her story back to what you
5 wanted it to be and then you could continue pursuing
6 the case?
7 MS. McGIFFERT: Don't answer that question.
8 He's given you two. When he decides which one he
9 wants you to answer, then you can answer it.
10 BY MR. AHMAD:
11 Q. Isn't that true, sir, that all you needed was [REDACTED] to
12 change her story back to her original story and you
13 were going to continue to pursue this against
14 Mr. Jerome?
15 **A. No. When she came in and explained to me what**
16 **happened, we were going to start the process all over.**
17 **With offering Mr. Jerome a polygraph to give his side**
18 **of the story or come in and just give me his side of**
19 **the story, he refused to comply with any of that.**
20 Q. Where does it say that after July 11th?
21 **A. I don't believe I see it in the report.**
22 Q. So what you just told me, was that true or not?
23 **A. I'm sorry?**
24 Q. What you just told me, was that true or not?
25 **A. What I just told you was the truth.**

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1 Q. Since you were starting over, I assume then that you
2 were going to take her back to CARE House, correct?
3 **A. We've already been over that.**
4 Q. Well, is the answer -- am I correct or not?
5 **A. I said that we did not take her back to CARE House,**
6 **nor did we even think of taking her back to CARE**
7 **House.**
8 Q. Why, you just told me under oath that you were
9 starting over?
10 **A. Yes.**
11 Q. So why would you then not take her back to CARE House
12 if you're starting over?
13 **A. There was no need to.**
14 Q. Why?
15 **A. When I said "starting over," we offer everybody the**
16 **same opportunity to come in, talk to everyone about**
17 **the case, interview Stacey, interview Sam.**
18 Q. Okay. Where does it indicate that you offered Stacey
19 and Sam the opportunity to come in and talk to you
20 again about the allegations now that [REDACTED] had changed
21 her story again? Where does it indicate that, sir?
22 **A. I don't know if it's in there. I don't think it is.**
23 Q. So did you do that or did you not?
24 **A. I just told you I did.**
25 Q. Then why wouldn't it be in your report?

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1 **A. If I was to write everything in the report that**
2 **happened in the case, this file, this report would be**
3 **7 or 800 pages long. The prosecutor wants us to**
4 **synthesize what happened. I am writing this report for**
5 **the Oakland County prosecutor, not for you. I write**
6 **this report for the Oakland County prosecutor. They**
7 **review it. They determine if there's charges or not.**
8 **They tell us what they want in the reports. That's**
9 **how we write police reports.**
10 Q. So you write this report for the prosecutor, knowing
11 that that's what they are going to base their decision
12 on whether or not to issue a warrant?
13 **A. If there's probable cause or not, that's all they want**
14 **to know.**
15 Q. And they based that on what you put in your report?
16 **A. Yes.**
17 Q. So when you put in your report that Stacey Krahe
18 threatened and intimidated a 13 year old victim into
19 changing her story and then assaulting her to make
20 sure she does not tell the truth, you knew the
21 prosecutor was going to review that to make a
22 determination whether or not there was probable cause
23 against Mr. Jerome?
24 **A. Yes.**
25 Q. And nowhere after July 11th do you indicate on our

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1 **particular day was the day that I asked those**
2 **questions in the Further.**
3 Q. So when you presented it to the prosecutor, they
4 didn't accept the recommendation that you had made?
5 **A. Correct.**
6 Q. They wanted further information?
7 **A. Correct.**
8 Q. What specific information, do you recall?
9 **A. It's included in the documents. The Further is inside**
10 **the documents.**
11 Q. Where would I find that?
12 **A. I'm not sure where it's at in here.**
13 THE WITNESS: Did he receive these with all
14 the Bates numbers on it?
15 MS. McGIFFERT: Yes. For the record, the
16 binder that is in front of Deputy Chief Crum are the
17 Bates number documents that we produced or the City of
18 Berkeley produced in response to Request For Documents,
19 Pages 001 through 299.
20 THE WITNESS: I'm going to have to go
21 through this page by page to find it.
22 BY MR. AHMAD:
23 Q. Well, let's move on and we can -- let me just ask
24 this: Do you recall in general what you were asked to
25 get by the prosecutor?

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1 report that you offered any opportunity to Mr. Jerome
2 or Ms. Krahe to come in and discuss their side of the
3 story?
4 **A. Correct.**
5 Q. And your conclusion is that Sam did engage in sexual
6 penetration by placing his fingers in the labia majora
7 of [REDACTED] Krahe, his 13 year old stepdaughter, correct?
8 **A. Correct.**
9 Q. And did engage in sexual contact with [REDACTED] by rubbing
10 her vagina?
11 **A. Correct.**
12 Q. And you base that conclusion, or you came to that
13 conclusion after [REDACTED] had recanted that entire story
14 in terms of the sexual contact?
15 **A. This was written after CARE House, correct.**
16 Q. You came to the conclusion then, based on [REDACTED]
17 changing her story back and telling you that she had
18 been threatened by her mom and that's why she changed
19 her story at CARE House?
20 **A. Correct.**
21 Q. Why did you follow up with Sabrina and [REDACTED] on
22 August 21, 2013?
23 **A. The prosecutor sent me what's called a Further, and**
24 **when they further something, they give you a list of**
25 **questions that they want answered. And that**

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1 **A. In general, I know I was asked who the first person**
2 **that [REDACTED] told, was her sister present when it**
3 **happened, did her sister see or hear anything, those**
4 **are the questions I recall.**
5 Q. Did you ever have [REDACTED] write out a statement?
6 **A. No.**
7 Q. Why not?
8 **A. I don't know.**
9 Q. Wouldn't that be good police practice?
10 **A. I don't know if that would be good police practice. I**
11 **don't know why, but I don't recall ever having a CSC**
12 **victim write out a statement.**
13 Q. Because otherwise, it's your filter what the person's
14 telling you that's in this report, correct?
15 **A. In the report, correct.**
16 Q. So nowhere in the report do we get to actually hear
17 [REDACTED] herself. We just get to hear your version of
18 what you say she's telling you?
19 **A. Correct.**
20 Q. When you reinterviewed [REDACTED] or interviewed her for
21 the third time on August 21, is your objective the
22 same as your previous interviews, to ask open-ended
23 questions?
24 **A. No.**
25 Q. It's not?

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1 A. **It's not.**
2 Q. Why is it different this time?
3 A. **It's a Further from the prosecutor. She wants three**
4 **or four questions answered, so my objective is to get**
5 **those three or four questions answered by both Sabrina**
6 **and [REDACTED]**
7 Q. Is it your job to get that information by open-ended
8 questions or by suggesting answers to them?
9 A. **Not by suggesting answers.**
10 Q. Is it your job to discuss your opinion and judgment
11 about what's happened?
12 A. **In that time?**
13 Q. Yes.
14 A. **No.**
15 Q. But you did that, didn't you?
16 A. **I'd have to look at that interview again. It's been a**
17 **long time since I've seen that.**
18 Q. Well, do you remember telling Stacey, or I'm sorry,
19 [REDACTED] in the interview "We all know the horrible
20 things that Sam has done to you," do you remember
21 saying that to her?
22 A. **I don't recall that.**
23 Q. Let's assume that you said that to [REDACTED] Why in the
24 world would you ever tell that to a --
25 A. **I'm not going to assume anything.**

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1 **ago, and I made sure it worked here weeks ago, months**
2 **ago. I don't recall.**
3 Q. But you didn't review it to prepare for your
4 deposition?
5 A. **I've not reviewed it.**
6 Q. Why wouldn't you do that? You know I'm going to ask
7 you questions about it, right?
8 A. **I don't know what you're going to ask me.**
9 Q. You really showed up here thinking "I don't know if
10 Mr. Ahmad is going to ask me questions about the
11 August 21, 2013 interview"? Didn't know that?
12 A. **I have no idea what you're going to ask me.**
13 Q. And you didn't review it?
14 A. **I did not.**
15 Q. Are you denying that you said "We know all the
16 horrible things that Sam has done," or you just don't
17 remember saying it?
18 A. **I don't remember saying it.**
19 Q. Do you remember telling [REDACTED] during the interview
20 that "No one is questioning whether or not you're
21 telling the truth"?
22 A. **I don't recall saying that.**
23 Q. Why would you tell [REDACTED] during an interview that "No
24 one was questioning whether or not you were telling
25 the truth"?

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1 Q. Well, I'm asking you to assume it. I get to ask
2 hypothetical questions, whether you like it or not.
3 Let's assume you said that to a
4 sexually-abused victim who is claiming that they're
5 sexually abused by their stepfather, would you say "We
6 all know the horrible things that person did"?
7 MS. McGIFFERT: I'm going to place an
8 objection to form and foundation. You're asking him
9 why he would say that, but then you said he said that.
10 I don't think it's an appropriate hypothetical
11 question for him to answer.
12 BY MR. AHMAD:
13 Q. Can you answer, sir? Is there any circumstances where
14 you could imagine that you would say that to a sexual
15 abuse victim?
16 A. **It's a pretty open-ended question. Is there any**
17 **circumstance?**
18 Q. Yes. Is there any --
19 A. **Not that I can think of right now --**
20 Q. -- that would be appropriate?
21 A. **-- as we sit here in a deposition on Wednesday**
22 **afternoon.**
23 Q. When's the last time you looked at the interview or
24 saw the interview?
25 A. **We looked at it the day of the court and a few years**

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1 MS. McGIFFERT: Object as to form and
2 foundation.
3 THE WITNESS: I would say that there's --
4 I've read a lot of studies, and there's been a lot of
5 studies to sex victims that are minors, and the two
6 hardest things that come out of it and the things that
7 cause them problems later in life is that people don't
8 believe them and that they have to, they have to go
9 back and retell their story again and again in front
10 of different people and strangers. And so if I said
11 something along those lines, I know that I'm very
12 sensitive to how I question because I don't want young
13 kids to think that we don't believe them if they're
14 telling us the truth.
15 BY MR. AHMAD:
16 Q. Well, does the forensic interview protocol say that
17 that's one of the things you're supposed to tell the
18 minor that you're questioning, that "No one's
19 questioning whether or not you're telling the truth"?
20 A. **I don't know if it's in there or not.**
21 Q. In fact, it says the exact opposite, that you're
22 supposed to be objective and you're supposed to be
23 neutral.
24 You would agree that that's what your job
25 is, wouldn't you, to be objective and neutral?

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<p style="text-align: right;">Page 137</p> <p>1 A. Yes.</p> <p>2 Q. Do you think telling an alleged abuse victim that "No</p> <p>3 one is questioning you" is objective and neutral?</p> <p>4 A. I think that when you ask somebody two and three and</p> <p>5 four and five times, they start to feel like you're</p> <p>6 calling them a liar, they start to feel like you don't</p> <p>7 believe them. And the objective of this particular</p> <p>8 interview on August 21st was to get the Further that</p> <p>9 the prosecutor wanted. I was trying to let them know,</p> <p>10 let [REDACTED] know that "My objective today is not to ask</p> <p>11 you about the incident and the touching again. My</p> <p>12 objective is to get these questions answered that the</p> <p>13 prosecutor wants answered." If I said anything along</p> <p>14 those lines, my reasoning for saying that was I didn't</p> <p>15 want a 13 year old girl to think "He's asking me for</p> <p>16 the fourth time or fifth time, that he obviously</p> <p>17 doesn't believe me."</p> <p>18 Q. But you did ask her?</p> <p>19 A. And that's what my concern was.</p> <p>20 Q. But you did ask her to repeat the stories, didn't you?</p> <p>21 A. I don't know -- I know I asked her the questions the</p> <p>22 prosecutor wanted answered, but I don't know what I</p> <p>23 asked her otherwise.</p> <p>24 Q. You asked her on August 21st, 2013 to repeat exactly</p> <p>25 what happened in the two incidents. Why did you do</p>	<p style="text-align: right;">Page 139</p> <p>1 jury they don't know who those individuals are,</p> <p>2 they're embarrassed, and it's hard enough. And I knew</p> <p>3 what the future held and I knew it was going to be</p> <p>4 difficult and I was concerned for her.</p> <p>5 Q. You assumed what she was telling you was true?</p> <p>6 A. At that point in the investigation, I assumed what she</p> <p>7 was telling me was true.</p> <p>8 Q. You disregarded what all the other evidence was and</p> <p>9 what all the other witnesses said that would make that</p> <p>10 not true and simply believed [REDACTED]</p> <p>11 A. I didn't disregard anything. No one provided much</p> <p>12 information on the other side. The only one that</p> <p>13 provided anything was [REDACTED] herself on one side and</p> <p>14 then back on the other, but all requests to talk to</p> <p>15 Mr. Jerome or to Stacey Krahe were denied.</p> <p>16 Q. Mr. Jerome came in and voluntarily spoke to you?</p> <p>17 A. Yes, he did.</p> <p>18 Q. Told you "I never touched her inappropriately"?</p> <p>19 A. He did say that.</p> <p>20 Q. Stacey told you "You're being played"?</p> <p>21 A. She said that, yes.</p> <p>22 Q. [REDACTED] recanted her allegations at the CARE House?</p> <p>23 A. She did.</p> <p>24 Q. And still through all this you wanted to believe [REDACTED]</p> <p>25 and pursue these charges?</p>
<p style="text-align: right;">Page 138</p> <p>1 that?</p> <p>2 A. I do not know. I really don't know why I would ask</p> <p>3 that on that day.</p> <p>4 Q. Do you remember telling [REDACTED] during the interview on</p> <p>5 August 21st, 2013 is that "One of the reasons we're</p> <p>6 doing this is to try and overcome the, quote unquote,</p> <p>7 legal crap that the defense attorney is trying to</p> <p>8 pull"?</p> <p>9 A. I do recall something about the defense attorney, yes.</p> <p>10 Q. Why would you tell someone, when you're supposed to be</p> <p>11 objective and neutral, that "We're here to try and</p> <p>12 overcome the legal crap the defense attorney is going</p> <p>13 to try to pull," is that being objective and neutral?</p> <p>14 A. That's me trying to calm down a 13 year old girl</p> <p>15 knowing that this process is just going to be horrible</p> <p>16 on her and knowing from the beginning what they're</p> <p>17 going to do to her, I was concerned for her to go</p> <p>18 through this.</p> <p>19 Q. Knowing what they were going to do to her? Knowing</p> <p>20 what who was going to do to her?</p> <p>21 A. In court, having to tell your story in open court in</p> <p>22 front of strangers, people that you don't know.</p> <p>23 That's the hardest thing. Everything I've read says</p> <p>24 that's the hardest thing for a young lady to do,</p> <p>25 especially a minor, to get up in front of a judge and</p>	<p style="text-align: right;">Page 140</p> <p>1 A. That's not true.</p> <p>2 Q. What's not true about what I just said?</p> <p>3 A. July 11th, when she came in, that changed the</p> <p>4 investigation.</p> <p>5 Q. Did [REDACTED] change her story on August 21, 2013?</p> <p>6 A. Not that I recall.</p> <p>7 Q. You don't recall any differences in her story on</p> <p>8 August 21, 2013, and the story that she had told you</p> <p>9 on July 11th or on May 7th?</p> <p>10 A. I don't recall.</p> <p>11 Q. Well, isn't it a fact, sir, that you believed that</p> <p>12 [REDACTED] had told you exactly what she had told you on</p> <p>13 May 7th? In fact, don't you state that in your report</p> <p>14 under Sexual Assault concerning the August 21st</p> <p>15 interview, and you say "I asked [REDACTED] to start from</p> <p>16 the beginning and tell me everything that had</p> <p>17 happened"?</p> <p>18 A. That's what I have in here, yes.</p> <p>19 Q. So we don't even need to look at the video to know</p> <p>20 that you did that, right?</p> <p>21 A. That's what it says, yes.</p> <p>22 Q. So earlier when you told me "I have no idea why I</p> <p>23 would ask her to repeat the story," you know you did</p> <p>24 do it, didn't you?</p> <p>25 A. I'm reading it right now that I asked her to tell me</p>

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1 everything that had happened.
2 Q. Well, sir, you told me before this, when we started
3 this deposition, you had already reviewed this to
4 prepare for your deposition, right?
5 **A. I, in no way, memorized this entire book in front of**
6 **me and I, in no way, could recall any of that.**
7 Q. Your statement is that [REDACTED] described the first
8 incident exactly as she had on May 7th, 2013 in my
9 office," correct?
10 **A. That's what I have in here, yes.**
11 Q. You told [REDACTED] during this interview on August 21st,
12 that "I know your mom made you change your story at
13 CARE House," do you remember saying that in the video?
14 **A. That I do. I recall saying something about her mom**
15 **not telling the truth, yes.**
16 Q. Is that being objective and neutral?
17 **A. No.**
18 Q. Is that consistent with forensic interview protocol?
19 **A. No. It's also not what I was doing that day, but -- I**
20 **wasn't conducting a forensic interview, and at that**
21 **point I only had four questions to ask her.**
22 Q. Well, was one of those questions "Tell me everything
23 that happened"?
24 **A. I don't recall.**
25 Q. Do you still not know why you were asking her again to

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1 under her clothes. Do you remember that?
2 **A. No, I don't.**
3 Q. Let's assume she said that in the video, that Sam
4 touched her over and under her clothes. That would
5 not be consistent with what she told you on May 7th,
6 would it?
7 **A. I'm going to be honest, I don't remember what she told**
8 **me on May 7th. I'd have to go back and take a look.**
9 Q. Why don't you take a look. Why don't you take a look.
10 **A. I don't recall.**
11 Q. Do you see your description of the first incident?
12 **A. I do.**
13 Q. Do you see where you write "Sam rubbed her vagina from
14 outside of her clothing"?
15 **A. I do.**
16 Q. Anywhere in there do you indicate in the first
17 incident that Sam had touched her from inside her
18 clothing?
19 **A. Not in the first incident, no.**
20 Q. So that would be inconsistent with something that
21 [REDACTED] told you in the first incident, when she
22 repeated her story on August 21st, she told you now
23 that it was outside and under the clothing?
24 **A. Are we assuming again?**
25 Q. Yes. If that's what she said on August 21st, that

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1 repeat her allegations?
2 **A. I really don't.**
3 Q. When [REDACTED] first told you about the incident -- well,
4 strike that.
5 One of the things that you said in your
6 report was that you didn't believe Stacey because her
7 story kept changing, do you remember saying that?
8 **A. I don't recall, but I'm sure it's in here somewhere.**
9 Q. Well, do you remember believing that, that you didn't
10 believe Stacey because her story kept changing?
11 **A. I really don't recall right now.**
12 Q. Is that the sign of somebody who's not telling the
13 truth when their story keeps changing?
14 **A. It can be, yes.**
15 Q. Was it important to you that [REDACTED] repeated her story
16 exactly as she told it to you on May 7th?
17 **A. At what point?**
18 Q. On August 21st, is it important to you, when you asked
19 [REDACTED] to repeat what had happened, that she repeated
20 it exactly the way she told you on May 7th?
21 **A. That would have been something I was looking for, yes.**
22 Q. So any inconsistencies would have been important to
23 you?
24 **A. Yes.**
25 Q. [REDACTED] says in the video that Sam touched her over and

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1 would be inconsistent with what she told you on
2 May 7th?
3 **A. On May 7th she told me the first one was over, the**
4 **second one was under, so if she said something**
5 **different, then I'd have to see that tape.**
6 Q. But if she said something that would be significant,
7 if she said that and it was inconsistent, it would be
8 significant to you?
9 **A. If it changed her story, it would be significant.**
10 Q. In the first incident which she described to you on
11 May 7th, she said that Sam held her down with his free
12 hand, correct?
13 **A. Yes.**
14 Q. And yet she doesn't mention that in the August 21st
15 interview. Do you remember that, that she never said
16 that Sam held her down?
17 **A. No, I don't. I don't recall that.**
18 Q. In her first statement on May 7th, [REDACTED] says Sam did
19 not say anything during either assault, and you made a
20 note of that, right, it's at the very end of the
21 second incident?
22 **A. Oh, second incident?**
23 Q. Last paragraph, "Sam did not say anything during
24 either assault."
25 **A. Either assault, correct.**

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1 Q. And you wrote that down, right?
2 **A. It's in the report, yes.**
3 Q. Because it was significant to you, right?
4 **A. It's in the report.**
5 Q. Well, like you said, if you included everything in the
6 report, it would be 700 pages long, so you only
7 included the really important stuff, right?
8 **A. I synopsize for the prosecutor.**
9 Q. And one of the things that you synopsized is that Sam
10 did not say anything in either assault?
11 **A. Correct.**
12 Q. That's what [REDACTED] told you?
13 **A. Yes.**
14 Q. On August 21st, she told you something completely
15 different?
16 **A. That I don't recall.**
17 Q. You don't recall that? You don't remember [REDACTED]
18 during the first incident when she told Sam to stop,
19 Sam said why, why, and kept asking why. Do you
20 remember [REDACTED] telling you that on August 21st about
21 the first incident?
22 **A. I don't recall that.**
23 Q. You don't recall that? Do you remember [REDACTED] telling
24 you about the second incident on August 21st, saying
25 Sam kept talking about her mom and also kept asking

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1 interview, she said that Sam sat next to her, second
2 incident, she advised Sam sat next to her again,
3 correct?
4 **A. That's what I have written down here, yes.**
5 Q. In the description of the first incident -- sorry.
6 In her description of the second incident
7 on May 7th, second paragraph, [REDACTED] says she advised
8 you he did not insert his finger inside of her, do you
9 remember her saying that on the first incident? You
10 wrote it down.
11 **A. Right.**
12 Q. And yet when she told you on August 21 regarding the
13 second incident, and you asked her did he penetrate
14 you and insert his finger inside you, she said yes, he
15 did. Do you remember that on August 21st?
16 **A. I do not.**
17 Q. That would be a significant departure again, would it
18 not?
19 **A. It would.**
20 Q. Is the reason that you did not include any of the
21 inconsistencies between the May 7th statement and the
22 August 21st statement is because you wanted to get
23 Mr. Jerome?
24 **A. No.**
25 Q. Then why didn't you, sir, why didn't you point out all

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1 her why when she kept saying stop? Do you remember
2 [REDACTED] telling you that during the August 21st
3 interview?
4 **A. I do not.**
5 Q. That would be significantly different than what she
6 told you on May 7th?
7 **A. It would be.**
8 Q. In the second incident, during the August 21st
9 interview, [REDACTED] said that Sam sat on her, do you
10 remember her telling you that on August 21st, in the
11 second interview, that Sam actually sat on her?
12 MS. McGIFFERT: I'm sorry, second?
13 MR. AHMAD: Second incident.
14 BY MR. AHMAD:
15 Q. The description of the second incident by [REDACTED] on
16 August 21st?
17 **A. I don't recall that either.**
18 Q. Okay. Because you didn't write that in your report on
19 August 21st, did you?
20 **A. I have Sam pinning her down is what I put down.**
21 Q. But in the interview, because thankfully it's
22 recorded, we can all hear or hear Sam sat on her, but
23 you don't remember that?
24 **A. I don't remember that.**
25 Q. But on May 7th when she described the second

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1 these inconsistencies that it took me about 10 minutes
2 to see?
3 **A. I don't know.**
4 Q. Did you go back and check? Did you go back to your
5 May 7th report and look to what she said to you after
6 her August 21st report?
7 **A. I believe I had the report, reviewed it after or**
8 **around the same time. I don't recall that day.**
9 Q. Why would you say in your report that [REDACTED] had told
10 you the exact same thing on August 21st that she told
11 you on May 7th when that wasn't true? Why would you
12 do that, sir?
13 **A. I don't know.**
14 Q. Were you trying to mislead the prosecutor so that they
15 would issue a warrant against Mr. Jerome?
16 **A. No.**
17 Q. Are you sure?
18 **A. I'm positive.**
19 Q. Then why wouldn't you include those inconsistencies?
20 Isn't it because --
21 **A. I don't know if I was aware of them.**
22 Q. You knew if you included those inconsistencies, the
23 prosecutor wasn't going to pursue this, you knew that?
24 **A. On the 21st?**
25 Q. Yes.

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<p style="text-align: right;">Page 149</p> <p>1 A. The prosecutor wasn't looking for any of that 2 information. 3 Q. Right, but you got it anyway. 4 A. The prosecutor was looking for the several questions 5 in the Further that they had asked. I'm not sure what 6 my mind was that day. I know that I was trying to 7 answer the questions that they presented to me. 8 Q. But you included in your report to the prosecutor, in 9 order to get the warrant, that [REDACTED] statement was 10 exactly the same as it was on May 7th? 11 A. By August 21st, the prosecutor called me and said "Get 12 these answered," she'd indicated to me she was going 13 to issue the warrant by the 21st. I knew before that 14 interview, that Shareen Lynch had determined that she 15 was going to issue the warrant. The Further was 16 questions I just forgot that I know they ask in every 17 case. "Who's the first person you told?" "How many 18 people did you tell?" "Who was home at the time?" 19 Things I didn't include in my report, but at that 20 point, when she called me, she had already said that 21 she was going to issue the warrant, so anything I 22 wrote after the 21st would not have been to try to get 23 her to write or not write. She was already going to 24 write is what she indicated to me. 25 Q. Where is that in any of your records?</p>	<p style="text-align: right;">Page 151</p> <p>1 MS. McGIFFERT: Objection. Lack of 2 foundation. 3 You can answer. 4 THE WITNESS: I can't tell you what they 5 would do. 6 BY MR. AHMAD: 7 Q. Isn't it your job to point out these inconsistencies, 8 sir? 9 A. It's my job to investigate the crime, gather the 10 facts. If there's inconsistencies, yes, I try to find 11 the inconsistencies. 12 Q. But you didn't note them here because you wanted that 13 warrant to issue? 14 A. I don't know which ones -- again, we have to review. 15 I don't like to assume, and I can't recall anything 16 about this case at that time. 17 Q. This case went to the criminal trial in front of Rudy 18 Nichols, Judge Rudy Nichols, is that correct? 19 A. I believe that's the judge, I'm not sure. 20 Q. And you testified at trial that you did not possess or 21 have any or perform any written, or I'm sorry, 22 recorded conversations or interviews with [REDACTED] 23 correct? 24 A. Correct. 25 Q. And that was not true?</p>
<p style="text-align: right;">Page 150</p> <p>1 A. There would be no reason for me to write in my report 2 to Shareen Lynch the conversation that Shareen Lynch 3 and I had. 4 Q. And you didn't indicate that to [REDACTED] during the 5 interview? 6 A. I don't believe I did. I'm not sure what I indicated 7 to [REDACTED] 8 Q. But you didn't include any of these inconsistencies in 9 your report because, if you had, the prosecutor would 10 likely not have pursued this? 11 A. I need to review that obviously to see what you're 12 assuming or indicating. 13 Q. I want you to assume that everything I'm telling you 14 is correct. I'm not making this up. I've watched the 15 interviews and I can read your reports and point out 16 those inconsistencies. 17 If you had pointed out those very same 18 inconsistencies to the prosecutor, which an objective 19 and neutral investigator is supposed to do, the 20 prosecutor wouldn't have pursued this, would they? 21 MS. McGIFFERT: Objection, lack of 22 foundation. He can't tell you what the prosecutor 23 would have done. 24 BY MR. AHMAD: 25 Q. You know they wouldn't have pursued this, would they?</p>	<p style="text-align: right;">Page 152</p> <p>1 MS. McGIFFERT: Are we talking about the 2 sexual assault, alleged sexual assault or about 3 anything? 4 BY MR. AHMAD: 5 Q. No. You were asked point blank at the time of trial 6 by the defense attorney whether or not you had 7 recorded any of the interviews with [REDACTED] correct? 8 A. I don't recall that. 9 Q. You don't recall being asked? 10 A. No. 11 Q. Okay. Do you remember testifying at trial that you 12 had not recorded any interviews of [REDACTED] 13 A. I don't recall that. 14 Q. If you did testify to that at the time of trial, that 15 was not true? 16 A. I'd have to read the transcript and see what the 17 question that they actually asked me before I could 18 say if it was true or not true. 19 Q. Well, I'll help you. 20 A. Do you have the transcript? 21 Q. Do you want to look at the transcript? 22 A. Do you have the transcript? 23 Q. I do, but I'd ask you to look at Page 62 and 63 of 24 your transcript, and you can see for yourself what you 25 testified to.</p>

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1 **A. Do you have that here?**
2 Q. I've got it on my computer, but let's assume that you
3 testified to that, that you didn't videotape, you
4 didn't record any of these conversations. When you
5 testified to that at the criminal trial, that would
6 not have been true because we know that you did record
7 it?
8 **A. Again, I'm not going to assume what the question was,**
9 **and if I answered the question at that time, I**
10 **answered to what I thought to be true at that moment.**
11 Q. Well, do you remember in the criminal trial where you
12 testified, and then the next day you came back and
13 said, well, the prosecutor said to the judge, "Judge,
14 I need to make a statement. Mr. Crum has just
15 presented me with a video of some interview recordings
16 that we were not aware of." Do you remember that
17 happening?
18 **A. I remember that, I remember that day, yes.**
19 Q. How is it that you found those recordings?
20 **A. I didn't find them.**
21 Q. Who did?
22 **A. Sergeant Hatfield.**
23 Q. What made Sergeant Hatfield look for them?
24 **A. When I was looking at my file, there's a missing,**
25 **there's a missing piece to what I fill out. When I**

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1 **saw that, I asked Sergeant Hatfield to look and see**
2 **why I don't have that. He found that the day of, the**
3 **day we turned it in, he found that, and we turned it**
4 **in the next day.**
5 Q. And how was it that you were not aware of that when
6 you testified in the criminal trial?
7 **A. Because I had asked two different people to produce**
8 **the videos of this case. They gave me the videos that**
9 **I turned over and I presented. When there was, when**
10 **there was -- something in that file made me wonder why**
11 **we don't have that filled out. The third person I**
12 **asked to look found it.**
13 Q. So were you aware of this missing piece before you
14 testified at trial?
15 **A. No.**
16 Q. It was after you testified?
17 **A. Yes.**
18 Q. Why would you not have reviewed your file before you
19 testified?
20 **A. I did. I reviewed that file many times before.**
21 Q. And you just missed it?
22 **A. This was a piece that was in my handwritten notes I**
23 **take. There's a form we made and we fill out and we**
24 **hand write it in. You have a copy of it. It came**
25 **through in this. Something was abnormal to what I do**

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1 **on every case.**
2 Q. And then the video was produced?
3 **A. Yes.**
4 Q. And you watched it at the courthouse?
5 **A. We did.**
6 Q. And then the judge did what after the video?
7 **A. Declared a mistrial, if I recall.**
8 Q. Do you remember why?
9 **A. No.**
10 Q. And then the prosecutor, after the mistrial, decided
11 to drop all the charges against Mr. Jerome?
12 **A. Correct.**
13 Q. Why?
14 **A. You'd have to ask Mr. George. I know I had**
15 **conversations with Mr. George and Mr. Walton from the**
16 **Oakland County prosecutor.**
17 Q. And what'd they tell you?
18 **A. They told me that the credibility of the witness was**
19 **shot, no good.**
20 Q. Based on the video?
21 **A. No, based on her testimony. Based on -- I don't want**
22 **to guess.**
23 Q. Well, don't guess. I just want to know what they told
24 you.
25 **A. It's something that happened in the trial from her**

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1 **testimony.**
2 Q. Well, then why didn't they drop the charges during the
3 trial?
4 **A. You have to ask Mr. George.**
5 Q. The charges were only dropped after everyone saw the
6 video?
7 **A. After the mistrial, correct.**
8 Q. And everyone would have been able to see the
9 inconsistencies between [REDACTED] version on August 21
10 and her versions in your report on May 7th?
11 **A. Mr. George at no time indicated that then, nor has he**
12 **now, indicated that that was the issue.**
13 Q. Right, but I'm correct in what I said? After viewing
14 the inconsistencies between her story on August 21 and
15 May 7th, the prosecutor decided not to pursue the
16 claim?
17 **A. No. That's not accurate. You're feeding your own**
18 **words into it. When the video -- before the video was**
19 **even seen, the defense attorney asked for a mistrial**
20 **because of the evidence and that was granted by Judge**
21 **Nichols. We did watch the video first, but nothing**
22 **you just said was ever mentioned when they declared**
23 **the mistrial. And in the meetings with Mr. Walton and**
24 **Mr. George, the video itself never was discussed. It**
25 **was the testimony and the uncooperative witness or**

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1 **uncooperative victim.**
2 Q. Do you still think [REDACTED] was sexually abused by
3 Mr. Jerome?
4 **A. I do.**
5 Q. So even after everything that we've talked about, you
6 still think Samuel Jerome is someone who sexually
7 abused [REDACTED]
8 **A. That's what I believe, yes.**
9 MR. AHMAD: That's all the questions I have
10 for you. Thank you.
11 MS. McGIFFERT: I have just a few. Do you
12 need to stretch?
13 THE WITNESS: I do need a minute, if I can.
14 (Off the record at 6:04 p.m.)
15 (Back on the record 6:09 p.m.)
16 EXAMINATION
17 BY MS. McGIFFERT:
18 Q. All right. Deputy Chief Crum, I do have some
19 follow-up questions for you.
20 You were asked some questions about
21 forensic interviewing and Exhibit Number 1, the
22 forensic interview protocol. Are you aware of any
23 legal requirement for you to be trained as a forensic
24 interviewer?
25 **A. I am not.**

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1 Q. Have you been trained as a forensic interviewer?
2 **A. I have not.**
3 Q. Did you, at any point in time, profess to be doing a
4 forensic interview on [REDACTED] Krahe?
5 **A. No.**
6 Q. Have you been trained in interview and interrogation
7 techniques as a police officer?
8 **A. I have.**
9 Q. And as a detective?
10 **A. Yes.**
11 Q. Would you say that you've had considerable experience
12 interviewing children?
13 **A. I have, I have interviewed many children in my career,**
14 **both victims and suspects.**
15 Q. Okay. And although I do understand that you referred
16 [REDACTED] for a forensic interview at CARE House, but
17 before you even get to that point, do you have any
18 responsibility to conduct a basic interview of her in
19 order to obtain some preliminary information to
20 establish the existence of a reasonable suspicion that
21 a crime has been committed?
22 **A. CARE House requests that we provide a police report,**
23 **and that's why my original report was written so**
24 **quickly. They request that we provide a police report**
25 **so they can read that and review it before the**

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1 **interview, so I do that to establish kind of the**
2 **parameters of what we, is being alleged so they can**
3 **read that initial report, CARE House.**
4 Q. So you do have to get enough information to classify
5 the alleged crime --
6 **A. They require a police report, yes.**
7 Q. -- and to prepare a report?
8 You had an opportunity to, not in detail,
9 but during the course of the deposition at least, go
10 through some of your reports. Based on your reports
11 at the time that you prepared them, did you consider
12 them to be accurate?
13 **A. I did.**
14 Q. Now, you were asked some questions about the video
15 recording, and I want to refer specifically to the
16 video recording of the August 21, 2013 interviews that
17 you conducted of [REDACTED] Sabrina and the grandmother,
18 Judith Stiltner.
19 **A. Yes.**
20 Q. Did you create the videotape?
21 **A. I did not turn on the recording.**
22 Q. Okay. Were you aware at the time that it was being
23 video recorded?
24 **A. No.**
25 Q. Okay. Did there come a point in time when you asked

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1 someone to pull the video recordings pertaining to
2 this matter?
3 **A. I did that three times during this process.**
4 Q. Okay.
5 **A. Initially my -- it indicates Dennis Geary, Geary,**
6 **G-e-a-r-y, he was loaned out to the Detective Bureau**
7 **at that time when we increased manpower. Sergeant**
8 **Hatfield, I'm sorry, Sergeant Miller, a second time,**
9 **and then in the trial, Sergeant Hatfield.**
10 Q. Before the end of trial -- let's go back to how many
11 times were tapes, discs, like DVD or CDs, generated as
12 a result of the search of the DVR equipment.
13 **A. Prior to trial?**
14 Q. Prior to trial.
15 **A. The system was a brand new system when this was going**
16 **on. I guess I don't know how many would have been --**
17 **you're asking department-wide or just this case?**
18 Q. Well, no, let me clarify the question.
19 At some point in time, did you ask someone
20 to search the DVR equipment and to pull off any
21 recordings pertaining to this case and create discs
22 from those?
23 **A. Yes, I did, two times prior to trial.**
24 Q. Okay. Do you know when the first time was?
25 **A. I don't recall the dates, but we have to turn**

<p style="text-align: right;">Page 161</p> <p>1 everything over at arraignment, so they would have 2 been 9252 and 5555 on the date of arraignment. Just 3 prior to that, I would have had them pull all those 4 tapes off for those cases. So if I look at the 5 dates -- 6 Q. Well, that's okay. I think it's going to take a while 7 for you to find it. 8 A. Yes. 9 Q. I guess the bottom line I want to know is during the 10 course of Mr. Jerome's trial, when you testified on, I 11 believe -- well, when you testified on two separate 12 days during the trial. 13 A. I recall that. 14 Q. At the time that you testified, were you aware that 15 there was a video recording that had been made on 16 August 21st, 2013? 17 A. I was not aware. 18 Q. So when you said that there was no video recording, 19 were you intentionally lying about that? 20 A. I was not. 21 Q. The first time that you learned of the existence of 22 the August 21, 2013 recordings, was that before, 23 during or after your testimony? 24 A. It was after. 25 Q. And I think you indicated that Sergeant Hatfield --</p>	<p style="text-align: right;">Page 163</p> <p>1 were aware? 2 A. Yes. That's something that, I mean, we're shown in 3 police academy, but more specifically in detective 4 school, and then all my interactions with the 5 prosecutor over the years, that's something that 6 they've reiterated and something that we had to 7 provide. 8 Q. Did you think that you had done that before this trial 9 began? 10 A. Yes. 11 Q. In any event, did you provide that, those copies to 12 the prosecutor? 13 A. I did. 14 Q. Of the August 21st, 2013 recordings? 15 A. I did. 16 Q. And was that on the morning of August 8th? 17 A. The morning of the mistrial, yes. 18 Q. Okay. Once you learned of the existence of that 19 recording, did it ever occur to you to destroy, 20 conceal or not disclose it? 21 A. No. I knew immediately I had to turn it in, and I 22 knew immediately that it was going to be a problem. 23 Q. You were asked some questions about the morning or the 24 day of, I should say, the day of the CARE House 25 interview and why you didn't provide information to</p>
<p style="text-align: right;">Page 162</p> <p>1 A. Sergeant Hatfield, yes. 2 Q. -- that he actually advised you of the recording? 3 A. Yes. 4 Q. And what did you do? When would that have been? Let 5 me just give you some dates. 6 August 8th, 2013 was the day that the 7 mistrial was declared, so using that date, when was it 8 that you first learned of the existence of the 9 August 21, 2013 videotape? 10 A. It was the day before as I was driving home from 11 court, he called me. He told me he found the video. 12 I drove directly to the station. I reviewed it. 13 After I reviewed it, I made three copies of the 14 videotape. 15 Q. Okay. And did you notify -- first of all, let me just 16 ask you at that point in time, what did you, why did 17 you make three copies? 18 A. Well, I knew I'd give one to the defense, one to the 19 prosecutor, and I had one for the Court, and I had an 20 original for myself. At that point I knew it would be 21 an issue, I knew it would be an issue in the Court 22 proceedings. 23 Q. Were you aware, either through training or other 24 information, that you were responsible for providing 25 to the prosecutor all pertinent evidence of which you</p>	<p style="text-align: right;">Page 164</p> <p>1 Stacey regarding what had happened during the 2 interview. Was that something that you would normally 3 do or something that you would normally leave to the 4 CARE House individuals to do? 5 A. At the CARE House facility, that's -- they have a 6 conversation with the parents after we leave and they 7 discuss the interview with the parents. It's not 8 something that we, as a police, routinely do. We sit 9 at the beginning, and generally what I do is schedule 10 the next appointment with that parent. So once that's 11 done, I leave. And that usually takes just a few 12 minutes. And then I really don't know how long they 13 stay after my time. The actual interview or covering 14 it, CARE House will do with the individual, but I'm 15 not sure how much they even disclose at that time. 16 Q. Okay. But in any event, you thought that was 17 something of the responsibility of CARE House as 18 opposed to your responsibility? 19 A. Correct. At that point, we wouldn't discuss that with 20 them, not in that setting at CARE House. We go back 21 to my office. 22 Q. Okay. I'd like to have you focus on July 11th, 2013. 23 Between June 9th, 2013 when you had a 24 conversation with Stacey and July 11th, 2013, had you 25 made any efforts to continue your investigation</p>

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1 between those two dates?
2 **A. No.**
3 Q. On July 11th, 2013, did you initiate any contact with
4 the family or did they initiate contact with you?
5 **A. They initiated with me.**
6 Q. Okay. And on that date, were you advised by [REDACTED]
7 grandmother that Stacey was unavailable because she
8 was hospitalized?
9 **A. That's what Judy told me, she was in Texas**
10 **hospitalized.**
11 Q. And did you understand that the children, [REDACTED] and
12 Sabrina, were staying in the custody of Judy at that
13 time?
14 **A. Yes, that was pretty standard for the two girls to be**
15 **at grandma's house even outside of the hospital.**
16 Q. And on that day, did Judy authorize you to talk to
17 [REDACTED]
18 **A. She did.**
19 Q. On that date, did [REDACTED] give you an explanation for
20 why she had recanted, at least with regard to some of
21 her story, when she was at CARE House?
22 **A. Yes.**
23 Q. And on that date, did [REDACTED] reaffirm what she had told
24 you on May 7th, 2013 about the inappropriate touching?
25 **A. Yes.**

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1 **somebody as missing in LEIN, we then are required to**
2 **physically see them to take them out of LEIN, and**
3 **that's why that really became important about chasing**
4 **her around to the different hospitals. I had to have**
5 **a hospital physically see her to take her out of LEIN.**
6 **And it seems like we were chasing around and there was**
7 **no reason for it, but that's really why we were trying**
8 **to find them, trying to find [REDACTED] so we could take**
9 **her out of the system as missing.**
10 Q. Okay. Now, the next time that there was any contact
11 with the family, am I correct, would have been when
12 there was a report to the department about a domestic
13 violence incident on August 2nd, 2013?
14 **A. With our department, yes.**
15 Q. Okay. Prior to that date, were you aware that they
16 were even, the family was even back in Michigan?
17 **A. I was not.**
18 Q. Now, you were asked some questions, and I'm looking in
19 particular, Deputy Chief Crum, on Page 10 of 15 of
20 your report, and you were asked some questions about
21 your statement in your report about Stacey interfering
22 with your investigation. And my question for you is:
23 If, in fact, Stacey had threatened [REDACTED] as [REDACTED]
24 said, in terms of threatening to kill herself if Sam
25 went to jail, threatening that [REDACTED] would be sexually

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1 Q. At that time, did you believe it was appropriate to
2 activate and continue your investigation?
3 **A. At that time, my case went from inactive back to**
4 **active and we began looking into it again.**
5 Q. Okay. Now, the only hypothetical I think I'm going to
6 give you is I want you to assume that, according to
7 the calendar, that day, July 11, 2013, was a Thursday,
8 and I want you to assume, according to the calendar,
9 July 14, 2013 was a Sunday. So am I to understand
10 that on, just a few days later on that Sunday,
11 July 14th, 2013, your department received a report
12 that Allie had run away?
13 **A. Yes.**
14 Q. And is that the same day that I understand that Stacey
15 took Allie out of state?
16 **A. On the 14th?**
17 Q. Yes. Check your report. Maybe it's the 15th.
18 **A. She left on the 14th, and according to the report, she**
19 **was found at 5:00 a.m. on the 15th, so it was**
20 **overnight.**
21 Q. And so at that point in time, once they left the
22 State, was there anything further in particular that
23 you could do with regard to any further interviewing?
24 **A. No. And just to clarify, the LEIN is the Law**
25 **Enforcement Information Network, and when we put**

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1 assaulted if she was put in foster home and so on and
2 so forth, would you consider that to be interference
3 of your investigation?
4 **A. Yes.**
5 Q. I know in your report on that very page, maybe about
6 six lines down, do you see where you reported Allie
7 advised she has been assaulted on numerous occasions
8 since "telling on Sam." Do you see that?
9 **A. I don't remember that. Okay.**
10 Q. Is that what Allie told you?
11 **A. Yes.**
12 Q. You were asked some questions about "taking sides"?
13 **A. Yes.**
14 Q. In your work as a detective, although you are charged
15 with being objective, etcetera, are there occasions
16 when you need to assess whether you feel that there's
17 enough credible evidence being presented to you to
18 support a reasonable suspicion of a crime?
19 **A. Yes.**
20 Q. And am I correct that you don't charge, the prosecutor
21 charges individuals?
22 **A. On felonies I do not charge.**
23 Q. And is it your understanding that before the
24 prosecutor charges anyone with a felony, that they
25 must have probable cause?

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1 **A. Correct.**
2 Q. Do you feel, even in hindsight, that you had probable
3 cause to refer this case to the prosecutor's office
4 for consideration?
5 **A. I do.**
6 Q. And did there come any point in time where the
7 prosecutor concluded that they had probable cause to
8 charge Mr. Jerome?
9 **A. They did.**
10 Q. Did there ever come a point in time when the Court,
11 the district court, determined that they had probable
12 cause to bind Mr. Jerome over for prosecution?
13 **A. Yes.**
14 Q. Were you present at the preliminary exam that took
15 place on October 9th, 2013?
16 **A. I was.**
17 Q. Did you actively participate in that proceeding at
18 all?
19 **A. I did not.**
20 Q. Did anybody, any witness testify other than [REDACTED]
21 Krahe?
22 **A. Just [REDACTED]**
23 Q. And at the conclusion of her testimony at the
24 preliminary exam, did the Court, the district court,
25 Judge Wittenberg, find probable cause to bind

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1 **A. I would have closed my case.**
2 Q. Have you had occasions, Deputy Chief Crum, where you
3 have provided information to the prosecutor's office
4 for a warrant request and, in fact, the warrant
5 request was rejected?
6 **A. Yes. In fact, in this case I did. In this particular**
7 **case, we submitted a warrant for Stacey and they**
8 **rejected that warrant.**
9 Q. So there are some times they accept your
10 recommendation after consideration and other times
11 they reject your recommendation after consideration?
12 **A. Absolutely.**
13 Q. So you do understand that they make their own
14 determination of the existence of probable cause
15 regardless of what you say or regardless of what you
16 recommend?
17 **A. Yes, absolutely.**
18 Q. Now, just to make sure I understand and the record's
19 not confusing, you offered a, or requested a warrant
20 for Stacey regarding the domestic violence?
21 **A. No. I requested a warrant for Stacey for witness**
22 **intimidation and interfering, 750.1227(B), and that's**
23 **right in the report. And the prosecutor denied that**
24 **warrant and indicated that they believed that Stacey**
25 **would ultimately be a witness for the victim, and they**

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1 Mr. Jerome over for trial?
2 **A. He did. And I would say on that pre-exam, Judge**
3 **Wittenberg doesn't review any of the reports. He**
4 **doesn't read anything that I say or that I -- he**
5 **listens only to testimony, and so he only listened to**
6 **what [REDACTED] had to say, and then anybody that**
7 **Mr. Jerome wanted to testify, could, to make his**
8 **determination.**
9 Q. Let me see if I understand this. You're saying that
10 it's your understanding that Judge Wittenberg didn't
11 review any of the reports, didn't review any of the
12 videos, but he just took testimony from [REDACTED] on that
13 occasion?
14 **A. That's my understanding, yes.**
15 Q. And am I correct that Mr. Jerome's attorney was there
16 and cross examined [REDACTED] while she was on the stand?
17 **A. He was.**
18 Q. If, in fact, on July 11, 2013 when [REDACTED] came to talk
19 to you the second time, she gave you an explanation
20 that she had lied to you and that's why her story was
21 different at CARE House, what would you have done?
22 **A. That she had lied to me?**
23 Q. The first time.
24 **A. So that CARE House was the truth?**
25 Q. Yes.

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1 **believed that if they charged her, they wouldn't be**
2 **able to interview her, she wouldn't be able to**
3 **testify. That's the indication they gave me why they**
4 **didn't charge her.**
5 Q. They believed she would ultimately be a witness for
6 her daughter?
7 **A. For her daughter, correct, and by charging her, she**
8 **could not be a witness to the crime.**
9 Q. I see because, in fact, [REDACTED] had first gone to her
10 mother?
11 **A. Correct.**
12 Q. And she was the first one she told about it?
13 **A. Right.**
14 Q. Okay. I want to move ahead to August 21st.
15 First of all, let me ask you, are you aware
16 of any law against video recording interviews of
17 witnesses in general?
18 **A. No.**
19 Q. Victims in general with regard to law?
20 **A. No.**
21 Q. Or even juveniles in particular?
22 **A. No. If they're victims?**
23 Q. Yes.
24 **A. No.**
25 Q. Okay. And I'm understanding you to say, and I think

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1 you said earlier somewhere, that your chief just has a
2 practice that if it's a sexual assault victim, that's
3 just a practice that you don't do that?
4 **A. My chief came from the City of Detroit for 33 years**
5 **and he investigated a lot of sex crimes in the city,**
6 **got more experience than I do and he, that's the**
7 **practice when he came to our department that he**
8 **brought from the City of Detroit.**
9 Q. Okay. To your knowledge, did anyone intentionally and
10 with purpose, purposefully record the interviews that
11 you conducted on August 21, 2013?
12 **A. I'm sorry, can you say that again?**
13 Q. Purposefully --
14 **A. Record the interview?**
15 Q. Yes.
16 **A. It's my understanding Sergeant Miller did, in fact,**
17 **turn the recorder on on purpose because of the**
18 **situation that was going on with the young lady in the**
19 **room. He did not turn it on -- [REDACTED] was not at the**
20 **building at that time. She came after the interview**
21 **with Sabrina, so I guess to try to answer, Sergeant**
22 **Miller turned it on on purpose because of the**
23 **situation, but not because [REDACTED] was there or he**
24 **interviewed [REDACTED]**
25 Q. Is it your understanding that he turned it on for the

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1 **recollection is you can hear Sergeant Miller and you**
2 **can see Sabrina, I believe, and then you hear me come**
3 **in the room several minutes later.**
4 Q. Okay. Now, on August 21st, I understand that you
5 received that morning a fax from the prosecutor's
6 office asking you to obtain further information.
7 **A. Correct.**
8 Q. And the interviews that were conducted later that day,
9 I want to know did you call those individuals in for
10 interviews or did they come in on their own?
11 **A. I did not call them in, and it was routine for that**
12 **family to be in my office once a week. They were in**
13 **there for whatever reason, and that's why it was so**
14 **common to see them in or out, or they would just come**
15 **to the office, so that particular day, Sabrina came**
16 **with Judy and knocked on our door.**
17 Q. Okay.
18 **A. It just happened to be hours after I got the Further**
19 **from the prosecutor.**
20 Q. Okay. Now, I believe I saw in here, but correct me if
21 I'm wrong, had Sabrina called you the previous day?
22 **A. She did. She left a voicemail on my station phone,**
23 **and I couldn't really make it out and I still don't**
24 **recall exactly what was said in the voicemail, but the**
25 **next day when I saw her, I assumed it was from the**

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1 purpose of having his presence in the room with a
2 juvenile captured on tape?
3 **A. Correct.**
4 Q. Did you have any understanding that he ever turned it
5 on for the purpose of actually memorializing the
6 interview that you were conducting?
7 **A. No, he didn't even realize that I would be in or out**
8 **of the office. I was not even in the office for**
9 **several months. My office at that time was actually**
10 **downstairs. He flipped it on because he was in the**
11 **room by himself.**
12 Q. Okay.
13 **A. I just chose to come up there at that point.**
14 Q. You've seen that, I think you said you watched it at
15 court, that particular video, from August 21, 2013?
16 **A. I did.**
17 Q. Once the video starts, are you even in the room?
18 **A. No, not for several minutes.**
19 Q. Okay. And then after several minutes, you enter the
20 room?
21 **A. I do.**
22 Q. Okay. So the video had to have been turned on before
23 you even entered the room?
24 **A. It was on, yes, for several minutes before I entered.**
25 **You can see, you can hear Sergeant Miller. My**

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1 **voicemail she had left me the day before.**
2 Q. When she called the day before, give us an idea, I
3 mean why couldn't you make it out? Was she emotional?
4 What was going on?
5 **A. I don't recall, and my report just says I could not**
6 **make out the content of the message but could**
7 **determine it was Sabrina on the telephone.**
8 Q. Okay. Now, once the prosecutor sent you the Further
9 and asked you to obtain answers to these specific
10 questions, were you, as the detective in charge of the
11 investigation, obliged to get answers to those
12 questions?
13 **A. Absolutely. We, technically we work for them on these**
14 **cases.**
15 Q. Okay. At the time that you interviewed [REDACTED] on
16 August 21st, 2013 and prepared your report, did you at
17 that point in time identify inconsistencies and
18 intentionally leave them out of your report?
19 **A. I don't recall any inconsistencies between -- the only**
20 **inconsistencies I remember in the case is CARE House,**
21 **the changes at CARE House. Other than that, I thought**
22 **that her story was very, stayed very accurate, what**
23 **was on television, what she was wearing, these things**
24 **stayed very accurate throughout the entire process,**
25 **and that's what we generally, we look for, the little**

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1 things like what's on TV or what you're wearing, and
2 those are questions we often ask, so.
3 Q. From your interview of [REDACTED] on August 21, 2013, did
4 you identify anything that you thought was
5 exculpatory, meaning something that tended to support
6 Mr. Jerome's story and his defense?
7 A. Even reviewing it during court, I didn't find anything
8 that would defend his position or show any innocence.
9 In fact, all I saw was that it contradicted what
10 Sabrina testified to was really the only difference
11 that I observed that day.
12 Q. But not with regard to [REDACTED] that you identified?
13 A. But Sabrina testified for Mr. Jerome in trial, and
14 that was the only changes I saw, what she testified to
15 and what she said on that day.
16 Q. Okay. At the time that you requested the warrant, did
17 you -- were you taking into consideration all the
18 facts and circumstances that you were aware of?
19 A. I was.
20 Q. Were you at that time even taking into consideration
21 the change in [REDACTED] story at the CARE House
22 interview?
23 A. Absolutely. I documented it in my report. I
24 documented whatever through there, you know, her story
25 changed or the fact she ran away was documented.

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1 Everything was documented inside the report for the
2 prosecutor to review.
3 Q. And Mr. Jerome told you on May 7, 2013, that he never
4 inappropriately touched [REDACTED]
5 A. He did.
6 Q. Did you document that for the prosecutor to read?
7 A. I did.
8 Q. And Stacey said that she didn't believe her daughter
9 and she thought that she was lying. Did you document
10 that in your report for the prosecutor to see?
11 A. I did.
12 Q. And you were aware that [REDACTED] changed her story when
13 she was interviewed at CARE House. Did you document
14 that in your report for the prosecutor to see?
15 A. I did.
16 Q. Now, on August 21, 2013 -- strike that.
17 If, in fact, on one occasion [REDACTED] told you
18 that during the events that she described as
19 inappropriate touching, Sam sat on her, and on another
20 occasion she described the events the same way but
21 said he pinned her down, would that be a significant
22 difference for you?
23 A. Not that, sat or pinned down would not be, no.
24 Q. Were there tapes of the -- strike that.
25 Were the interviews or some of the

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1 interviews involving the domestic violence issue that
2 arose out of events on August 2nd, 2013, were those
3 interviews videotaped?
4 A. Yes. Well, the ones that were possible to tape were
5 taped. At the time our police lobby did not have
6 videotape, so the interview with Stacey in the lobby
7 was not videotaped. Anything that was possible to
8 tape was recorded.
9 Q. Am I understanding you to say there's video recording
10 of those type of interviews and video recording of
11 Mr. Jerome's interview on May 7, 2013 as opposed to
12 the department's practice of not intentionally video
13 recording interviews with sexual assault victims?
14 A. Yes. We -- a domestic and CSC are obviously
15 different.
16 Q. Now, with regard -- so the record's clear, was
17 Mr. Jerome ever acquitted of the charges against him?
18 A. No.
19 MS. McGIFFERT: I need to take just a
20 three-minute break, and I think I'm almost through.
21 BY MS. McGIFFERT:
22 Q. Do you know, Deputy Chief Crum, whether the discs that
23 were created reflecting video recordings of interviews
24 in this case were first collected before August 21st,
25 2013? Did you make the request to someone to pull

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1 those tapes before August 21, 2013?
2 A. Yes. The arraignment of the 9252 is --
3 Q. Meaning the domestic violence case?
4 A. Yes. Was prior to that, prior to the interview on the
5 21st, and so the date of that arraignment for 9252, I
6 would have requested before that, and then the date of
7 this case, I would have requested videos. So the
8 arraignment on this date, on 5555, the arraignment
9 date is after the 21st.
10 Q. But were the tapes already created before the 21st?
11 Here, let me ask you this way: Your warrant request
12 was when?
13 A. For which case?
14 Q. The case against Mr. Jerome regarding the CSC.
15 A. The CSC, okay.
16 Q. When was the warrant request?
17 A. I asked on -- wait, I can't find that form. I
18 apologize.
19 Q. Take your time because I'd like you to find that for
20 me.
21 A. Okay. On 5555?
22 Q. Okay. So excuse me, 5555 is the case, CSC case
23 against Mr. Jerome?
24 A. Yes, yes.
25 Q. When was the warrant request?

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1 **A. I requested it on August 9th of '13.**
2 Q. Okay. Now, here's my question: At that time when you
3 made your warrant request to the Oakland County
4 prosecutor, would you have provided them with all your
5 reports as of that date and the video recordings?
6 **A. Just the reports.**
7 Q. Okay.
8 MS. McGIFFERT: Okay. I have nothing
9 further.
10 RE-EXAMINATION
11 BY MR. AHMAD:
12 Q. Your August 9 warrant request was not accepted?
13 **A. It was furthered and then issued on the 17th.**
14 Q. Of?
15 **A. 17th of September.**
16 Q. After you submitted the Further reports from your
17 interviews on August 21?
18 **A. Correct.**
19 Q. The prosecutor bases whether or not to issue a warrant
20 based exclusively on the information that you
21 provided?
22 **A. Correct. In this case they do have access to the CARE**
23 **House video, which I did not, so there's, I didn't**
24 **provide that. They have access to more than I have.**
25 Q. Do you know if they watched it?

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1 **A. Correct.**
2 Q. You were asked whether or not Mr. Jerome was acquitted
3 in this case, and the fact of the matter is there was
4 no verdict because the prosecutor decided they didn't
5 even have enough information or evidence to get to a
6 jury, right?
7 **A. No.**
8 Q. They had enough evidence to get to a jury?
9 **A. That was never discussed. I never heard them talk**
10 **about enough evidence to get to a jury.**
11 Q. Well, I thought you told me that they decided that
12 they couldn't pursue the case anymore because of the
13 lack of credibility of the victim.
14 **A. That's what they told me, yes.**
15 Q. So Mr. Jerome didn't get the benefit of the acquittal
16 because the prosecutor made the decision to take it
17 away from the jury?
18 MS. McGIFFERT: Object as to form. That
19 assumes he would have been acquitted. I don't know
20 how he can answer that question.
21 BY MR. AHMAD:
22 Q. Well, the prosecutor took the case away from the jury,
23 deciding "We're not even going to give it to the
24 jury," right?
25 **A. Well, the judge declared a mistrial and they decided**

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1 **A. I don't, I don't know.**
2 Q. Beyond that, they're looking to your report for all
3 the information?
4 **A. Correct.**
5 Q. And in your report, again, you exclude all of the
6 inconsistencies between the August 21 statement by
7 [REDACTED] and the May 7th interview?
8 MS. McGIFFERT: Object as to form. I mean,
9 you're saying inconsistencies.
10 BY MR. AHMAD:
11 Q. Well, let me put it an easier way.
12 In your August 21 report, you not only do
13 not note any inconsistency between [REDACTED] story on
14 May 7 and August 21, you told the prosecutor she's
15 told you exactly the same thing?
16 **A. Correct.**
17 Q. Didn't you?
18 **A. Correct.**
19 Q. And you didn't supply them the video so they could
20 make a decision based on what actually happened, did
21 you?
22 **A. I didn't know the video existed.**
23 Q. So the answer to my question is the only thing they
24 had to rely on was your statement about what [REDACTED]
25 told you. They couldn't look for themselves and see?

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1 **not to --**
2 Q. Not to even pursue it again?
3 **A. Correct.**
4 Q. So I guess Ms. McGiffert's question to you would be
5 like saying "I didn't get acquitted of this crime, but
6 I was never charged with it, just like Mr. Jerome
7 never got acquitted because he never got charged
8 again. The charges were just dropped, right?"
9 **A. Correct.**
10 Q. I think we've been over this but I want to make sure
11 that I understand.
12 The room where the recording was made on
13 August 21st, you were aware that that was a room where
14 videos could be recorded, you knew there was a camera
15 in that room?
16 **A. That room used to have the only camera in the**
17 **Detective Bureau. That camera was then moved to a**
18 **small interview room so there was a, there was a space**
19 **of time where it could not be recorded. And then we**
20 **got the DVR system, and one of the reasons we got the**
21 **DVR system is because you can record two rooms, so**
22 **then it could be recorded.**
23 **At the time, I don't recall what I knew or**
24 **didn't know. I know that right around that time there**
25 **was a long stretch where there was only one camera and**

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1 **it was in the interview room.**
 2 Q. Well, how would Sergeant Miller know that it could
 3 record and not you?
 4 **A. That's his office, it's not mine.**
 5 Q. But how would he know that you can record and not you
 6 know?
 7 **A. Because it's his office. The camera's in his office,**
 8 **the equipment's in his office. My office is on**
 9 **another floor of the building. I had not been in that**
 10 **office for quite some time and the transition happened**
 11 **when I left that office. From my last day there in**
 12 **that office, you could not record in that room, to**
 13 **when I came up that day, and that was Sergeant**
 14 **Miller's office, you could record.**
 15 Q. So anything in the video that would indicate that you
 16 knew that this was being recorded while this was being
 17 recorded would be explained how?
 18 **A. I don't know what you're referring to.**
 19 Q. You've watched the video, yes?
 20 **A. A long time ago.**
 21 Q. Do you believe there's anything in the video that
 22 indicates that you knew you were being recorded?
 23 **A. No.**
 24 Q. Because, again, if you knew you were being recorded,
 25 you would not have recorded [REDACTED]

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1 RE-EXAMINATION
 2 BY MS. McGIFFERT:
 3 Q. I just have two questions.
 4 On August 21st, 2013 when you conducted
 5 these interviews and particularly the interview of
 6 [REDACTED] did you know at that time that the interview
 7 was being recorded?
 8 **A. No.**
 9 Q. When you testified in court in August of 2014, did you
 10 know at that time that the August 21st, 2013
 11 interviews were recorded?
 12 **A. No.**
 13 MS. McGIFFERT: I don't have anything
 14 further.
 15 RE-EXAMINATION
 16 BY MR. AHMAD:
 17 Q. I just want to state for the record that we did mark
 18 as Exhibit Number 4 your report regarding the, it was
 19 when Stacey and Sam were accused of following [REDACTED]
 20 around. Do you remember that?
 21 MS. McGIFFERT: He needs to see the report.
 22 BY MR. AHMAD:
 23 Q. I can show you. You pulled this. We separated it. I
 24 marked it and we never talked about it.
 25 **A. Okay. This would be .11 of 9252, so it's written by**

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1 **A. Would not have.**
 2 Q. You understand that kids who make accusations
 3 sometimes make them up for ulterior motives?
 4 **A. I've had lots of these cases and I've dealt with that**
 5 **on many occasions.**
 6 Q. So the answer to my question is what, you understand
 7 kids make things up, making accusations?
 8 **A. Anything is possible, yes.**
 9 Q. Well, you've seen it in your own practice, haven't
 10 you?
 11 **A. I have.**
 12 Q. You've seen people make accusations against people for
 13 ulterior motives?
 14 **A. I have.**
 15 Q. You've seen kids do it for, they want to live with
 16 someone else, they don't like their parents, their
 17 parents are being mean to them, there's many reasons
 18 why that happens?
 19 **A. There's many reasons.**
 20 Q. Did you explore any of them?
 21 **A. Did I explore any of them?**
 22 Q. Did you explore any reasons why [REDACTED] might make up
 23 allegations against Sam?
 24 **A. I don't recall.**
 25 MR. AHMAD: That's all I have.

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1 **me. I did write this, yes.**
 2 Q. And did you make a warrant request to the prosecutor?
 3 **A. It's not a -- I mean just technicality it's not a**
 4 **warrant request. It's a bond violation, and I did**
 5 **present that to Chris George as a bond violation, yes.**
 6 Q. And what did the prosecutor do with it?
 7 **A. There was a hearing, a bond violation hearing in front**
 8 **of Judge Wittenberg, but I don't recall. I don't, I**
 9 **really don't know.**
 10 MR. AHMAD: That's all I have.
 11 MS. McGIFFERT: For the record, I just want
 12 to reassert my objection to exhibits that are
 13 highlighted. I have no objections to Exhibits 1
 14 through 4 being admitted, but if they're highlighted
 15 versions, I do have an objection.
 16 MR. AHMAD: I will just say in response to
 17 that, that I think Exhibits 1, 3 and 4 do have some
 18 highlighting on them. Exhibit 2 does not. If you
 19 want to make copies of which ones have the
 20 highlighting, the highlighting won't show up.
 21 MS. McGIFFERT: Let's go off the record for
 22 a moment.
 23 (Off the record at 6:58 p.m.)
 24 (Back on the record at 6:58 p.m.)
 25 MS. McGIFFERT: So we've agreed that

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1 Ms. Court Reporter, Ms. Smith, will make copies of the
2 four exhibits and put an original sticker on the
3 photocopy so that the highlighting will not show up.
4 MR. AHMAD: And so we're clear, it's 1, 3
5 and 4 will need to be copied and have fresh exhibit
6 stickers on them. Exhibit 2 is clean.
7 MS. McGIFFERT: Okay. Nothing further.
8 (The deposition was concluded at 6:59 p.m.
9 Signature of the witness was not requested by
10 counsel for the respective parties hereto.)
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1 CERTIFICATE OF NOTARY
2 STATE OF MICHIGAN)
3) SS
4 COUNTY OF OAKLAND)
5
6 I, SABRINA SMITH, certify that this
7 deposition was taken before me on the date
8 hereinbefore set forth; that the foregoing questions
9 and answers were recorded by me stenographically and
10 reduced to computer transcription; that this is a
11 true, full and correct transcript of my stenographic
12 notes so taken; and that I am not related to, nor of
13 counsel to, either party nor interested in the event
14 of this cause.
15
16
17
18
19
20
21
22 SABRINA SMITH, CSR 2129
23 Notary Public,
24 Oakland County, Michigan.
25 My Commission expires: August 16, 2018



PETITION TO NOLLE PROSEQUI

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

PEOPLE OF THE STATE OF MICHIGAN

NO. CR 13-247841-FC
CTN 63-13-005884-01

vs.

Samuel James Jerome

Now comes your petitioner, JESSICA R. COOPER, Prosecuting Attorney in and for the County of Oakland, by and through the undersigned Paul T. Walton, Chief Assistant Prosecutor, in and for said County and moves the Court for an order to Nolle Prosequi the above entitled cause for the following reasons:

1. The Defendant is charged with one count of Criminal Sexual Conduct – first Degree (Relationship), one count of Criminal Sexual Conduct – Second Degree (Relationship) and one count of Domestic Violence.
2. After further investigation, the People cannot sustain their burden of proving the case beyond a reasonable doubt at trial.
3. The interest of justice can best be served by dismissing this cause by an Order of Nolle Prosequi.

Wherefore petitioner prays that this Honorable Court grant an order to Nolle Prosequi the above entitled cause.

JESSICA R. COOPER
Prosecuting Attorney



Paul T. Walton
Chief Assistant Prosecutor

ORDER TO NOLLE PROSEQUI

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

PEOPLE OF THE STATE OF MICHIGAN

NO. CR 13-247841-FC
CTN 63-13-005884-01

vs.

Samuel James Jerome

At a session of said court held at the Courthouse in the City of Pontiac in said County this

6th day of October A.D., 20 .

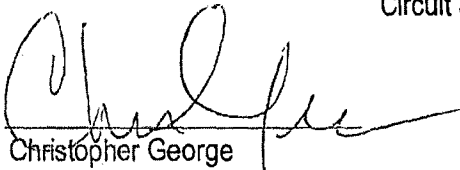
PRESENT: HONORABLE RUDY J. NICHOLS CIRCUIT JUDGE.

Upon reading and filing the attached petition and the Court being fully advised in the
premise; it is ordered that the above cause be and the same is hereby Nolle Prosequi.

RUDY J. NICHOLS
CIRCUIT JUDGE

Circuit Judge

Recommended
and Drafted by:


Christopher George
Assistant Prosecuting Attorney

Marsha M. Kosmatka
261 E. Maple Rd.,
Birmingham, MI 48009

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

THE PEOPLE OF THE
STATE OF MICHIGAN

v

Case No. 13-247841-FC

SAMUEL JAMES JEROME,

Defendant./

JURY TRIAL (CONTINUED)

BEFORE THE HONORABLE RUDY J. NICHOLS

Pontiac, Michigan - Friday, August 8, 2014

APPEARANCES:

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For Oakland County
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For the Defendant: MARSHA M. KOSMATKA (P57001)
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EXHIBITS

RECEIVED

None offered.

1 Pontiac, Michigan

2 Friday, August 8, 2014, at 10:11 a.m.

3 * * * * *

4 THE COURT: Mr. George is here for the People.

5 Ms. Kosmatka is here for the defendant.

6 The record will reflect that yesterday
7 afternoon, after the jury was dismissed, I had both
8 attorneys, the prosecutor and defense counsel, in
9 chambers.

10 Mr. George, this pertains to you.

11 MR. GEORGE: Yes, your Honor. I was--

12 THE COURT: I had the attorneys in chambers. I
13 discussed with the attorneys the way we were going through
14 credibility and character questions, the last question we
15 had just finished with cross-examination of mom here,
16 Stacey; and it was going back to rape issues probably 25,
17 30 years ago. And I indicated to the prosecutor that kind
18 of enough is enough. This is a court of law, not "Jerry
19 Springer."

20 Ms. Kosmatka, perhaps under--or understandably
21 so, raised a couple of issues of having to go back into
22 mom's history, going back years ago with voo-doo and
23 having to bring that up.

24 And then also of--the record should reflect that
25 on Tuesday, when I instructed [REDACTED] to go into the Court's

1 library with the advocate and listen to the Care House
2 report, that she refused. And she was defiant.

3 The Court did research in the evening and this
4 morning on both the issue of credibility and evidence of
5 character and conduct, 607 and 608. This comes from Ron
6 Longhofer, Courtroom Handbook on Michigan Evidence, at
7 pages 341 to 342:

8 In each of these instances of a 607, which is
9 the credibility of a--that indicates the credibility of a
10 witness may be attacked by any party, 608 deals with
11 evidence of character and conduct, he notes at those pages
12 that we are testing always, always, on these issues of
13 credibility and character the question of veracity. That
14 is a limitation that sharpens relevancy, reduces surprise,
15 waste of time and confusion. Rape issues which is not a
16 truth issue, veracity or--which--excuse me--defiance of a
17 daughter in a library is not veracity, is not
18 truthfulness. And voo-doo is not.

19 The Court is prohibiting any such type of
20 character or conduct questions. I've just made my ruling
21 very clear. I expect both of you to object accordingly.
22 We are dealing with any witness only with veracity. We're
23 not dealing with defiance of a 14 year old in a library of
24 which the Court believes the matter should be addressed
25 after this case is over.

1 Do you have any questions about this at all? We
2 will--

3 MS. KOSMATKA: I have a--

4 THE COURT: --not tolerate this any longer.

5 MS. KOSMATKA: I have--

6 THE COURT: I'm not--You know, a period of time
7 frame of two, three years here. You know, years beyond or
8 the like, uh-uh, don't plan on it.

9 MR. GEORGE: Yes, your Honor.

10 MS. KOSMATKA: Judge, I only have one question--

11 THE COURT: Uh-hum.

12 MS. KOSMATKA: --with that being said is that we
13 already did about 45 minutes of testimony on that
14 yesterday in regards to the prior rape transcript, and Mr.
15 George read the transcript--

16 THE COURT: Because that's in, you have a right
17 to make whatever rehabilitative efforts or whatever you
18 need to do.

19 MS. KOSMATKA: Or I would just ask that the jury
20 be told that it be stricken and not considered so that we
21 don't have to do that.

22 THE COURT: Actually, you know, an argument
23 could be made that it worked for you. So but--You know, I
24 mean, we'll talk about that more later.

25 MS. KOSMATKA: Okay.

1 THE COURT: All right.

2 MR. GEORGE: Judge, I,--you know, I have no
3 intention of going into that today. I'm going to move
4 this along and finish up.

5 THE COURT: Okay.

6 MR. GEORGE: There's one other--

7 THE COURT: I--I--I encourage both of you to
8 read Longhofer's remarks on 341 to 342,--

9 MR. GEORGE: Sure.

10 THE COURT: --that--the issue on credibility and
11 conduct. And believe me, this has been a lesson for the
12 Court, too, because heretofore or forthwith every case
13 that comes in here, which tends to go back years and
14 forward in years, uh-uh. We're going to always look at
15 the question on this incident matters that they weren't
16 truthful on, on this incident. Okay?

17 MR. GEORGE: Yes, your Honor.

18 THE COURT: Not a library incident. Not a rape
19 incident. No. Not going there.

20 MR. GEORGE: Yes, your Honor.

21 THE COURT: Okay?

22 MR. GEORGE: And Judge, there is one more thing
23 that I need to advise the Court and counsel of. This
24 morning, about 15 minutes ago, I was advised by Lieutenant
25 Crum that he did find a video interview of Sabrina. And

1 on that video is an interview of [REDACTED] This is nothing
2 that I've been aware. I didn't know it existed.
3 Obviously, Lieutenant didn't either. Apparently after the
4 testimony yesterday, he went back to the police station,
5 looked into it a little further, and he did bring the
6 videos with him. I learned about this about 15 minutes
7 ago. I'm just putting that on the record and letting all
8 parties know.

9 THE COURT: How long do they take?

10 MR. GEORGE: Judge, I've never seen them. I
11 don't know.

12 LIEUTENANT CRUM: I've not reviewed them, your
13 Honor. They were made by Sergeant Hadfield at my station.
14 While we were in court, he was looking it up and found
15 them. I received them this morning at about nine o'clock,
16 and have not had a chance to review them.

17 THE COURT: They're interviews of Sabrina and
18 [REDACTED] that have not been disclosed to the defendant
19 because they weren't disclosed to the prosecutor, and you
20 just found out about them this morning?

21 LIEUTENANT CRUM: Yes, sir.

22 THE COURT: And nobody knows if they exonerate--
23 could exonerate defendant, do they?

24 LIEUTENANT CRUM: I don't know what's on there,
25 your Honor.

1 THE COURT: I might have to declare a mistrial.

2 MR. GEORGE: Or Judge, I mean, obviously the
3 Court knows best but--

4 THE COURT: You can come in. Is that the
5 defendant? You can come in.

6 DEPUTY SHERIFF: I'm holding the door for him.

7 THE COURT: Oh.

8 DEPUTY SHERIFF: He's on his way, Judge.

9 THE COURT: You what?

10 MR. GEORGE: Obviously your Honor knows best.
11 But instead of a mistrial the Court could consider maybe a
12 continuance so that the parties could review the disk and
13 just adjourn today's trial over till Monday or later this
14 afternoon. I don't think the disk is--

15 MS. KOSMATKA: All witnesses would have to be
16 made re-available. We basically--And I'm fine with
17 whatever you decide. This is obviously extremely
18 disturbing for me.

19 And Mr. Jerome doesn't even know what we're
20 talking about yet 'cause he just walked in.

21 (At 10:17 a.m., defendant entered courtroom)

22 MS. KOSMATKA: But we'd have to recall everybody
23 and basically do it over. Every--

24 THE COURT: Well,--

25 MS. KOSMATKA: --single thing I asked Detective

1 Crum is--

2 THE COURT: --the possibility is we'd have to
3 recall (indiscernible)--

4 MS. KOSMATKA: Correct. Which is fine with--if
5 you want to do a continuance and keep this jury after
6 having heard Detective Crum say over and over they weren't
7 recorded and all the reasons why. And then re--subject to
8 recall of [REDACTED] and Sabrina.

9 THE COURT: There's no way that, if that
10 potential is a real potential, that I'm going to require
11 jurors to . . .

12 MS. KOSMATKA: And I think it would be ripe for
13 an appellate issue at that point,--

14 THE COURT: It sure would. (Indiscernible)--

15 MS. KOSMATKA: --as well.

16 THE COURT: --(indiscernible) disclosure.

17 MR. GEORGE: Judge, just so the record's clear,
18 I don't know if I made this clear, the interviews
19 Lieutenant Crum that are (indiscernible) those are--

20 Are those interviews that you personally did
21 with each of the girls or was it some other officer? Or
22 don't you know?

23 LIEUTENANT CRUM: I did.

24 MS. KOSMATKA: Regardless.

25 MR. GEORGE: All right.

1 THE COURT: So I'm not sure that's a distinction
2 that's important.

3 MR. GEORGE: No, I'm not--I just wanted to put
4 that out there, Judge. You know, when we're asking about
5 whether there's anything exonerating on there or not, you
6 know, my only point was the lieutenant was the one that
7 interviewed them, so, arguably he knows what's on that
8 video from his memory, but, you know, certainly,
9 obviously, you know, the parties should be able to review
10 that, and it should have been turned over as part of
11 discovery.

12 THE COURT: You know, there's another idea. And
13 that is that I do declare a mistrial, and just have you
14 come in Monday.

15 MS. KOSMATKA: That would create a very big
16 problem for me with scheduling because--

17 THE COURT: I bet it might, but--

18 MS. KOSMATKA: --of the--

19 THE COURT: --you know--He's been incarcerated
20 too long, though.

21 MS. KOSMATKA: Eleven months. So if this is
22 what's going to happen, I would ask to be--afford the
23 opportunity to make a bond motion, depending on the
24 Court's decision.

25 THE COURT: What's the bond at now?

1 MS. KOSMATKA: I don't know what the bond is set
2 at. I know he's been in for 11 months.

3 MR. GEORGE: I think it's around 500--I think
4 it's \$500,000, your Honor.

5 THE COURT: Well,--\$500,000?

6 MS. KOSMATKA: Yeah. I know it's extremely
7 high.

8 THE COURT: Who set it?

9 MR. GEORGE: Judge Wittenberg in Berkley.

10 THE COURT: In where? Berkley?

11 MR. GEORGE: Berkley, yes, sir.

12 THE COURT: The problem is is this is an unknown
13 and it could exonerate your client. And there's just--
14 And it could reflect, as Ms. Kosmatka said, the necessity
15 of recalling witnesses all over again.

16 MS. KOSMATKA: And basically--I'm sorry, Judge--
17 basically retrying a trial within a trial. I mean, I
18 don't know what they say. But potentially if it says
19 something different than what Detective Crum has said they
20 say or different than what the girls say that they would
21 say, it would be retrying an entire trial within a trial
22 that already has trial testimony under oath on it.

23 So I have no idea what to do with this. But I
24 asked Detective Crum, repeatedly when he testified, over
25 and over and over about the videos.

1 MR. GEORGE: Judge, obviously that was a mistake
2 on his part. The video may only be a half hour, an hour.
3 I mean, she may watch it and there might--there may be
4 nothing on there that would require the--us to go to these
5 great lengths--

6 THE COURT: You know what? Maybe I'll do--Maybe
7 in order to salvage this, maybe I will order the two of
8 you to stay here and make video equipment available for
9 you both to watch it.

10 MR. GEORGE: I'm prepared to watch it right now,
11 Judge. I have my computer. I have the video--

12 THE COURT: But send the jury home because--I
13 mean, it's going to take you a couple hours to do that,
14 for sure.

15 MS. KOSMATKA: Right. 'Cause we may not just
16 watch it once. When you--It depends. I don't know what's
17 on them. But sometimes you have--

18 THE COURT: Send the jury home--

19 MS. KOSMATKA: --to watch them multiple times.

20 THE COURT: --and have them back Monday morning.
21 Have them back Monday morning. And have their phone
22 numbers in the meantime. And if you can tell me by two
23 o'clock, Judge, we got to do this all over, or something,
24 we'll do the mistrial motion, which you would make, I
25 presume, if you figure--if you conclude professionally as

1 I might and she might that we got to. Or we can try and
2 salvage it by continuing it. But at least I could tell
3 the jury, if I excuse them today, Look it, we don't know;
4 and an issue's come up on evidence, and I need to adjourn
5 this till Monday morning, and have them back here. And
6 we'll call them if there's any change in that by the end
7 of the day.

8 MS. KOSMATKA: And Judge, if I may? And I'm--
9 Obviously, we were set to be here all day. I have no
10 problem watching the videos with Mr. George together.
11 That's fine. And if we are going to discuss it Monday, I
12 would like some time to research a mistrial issue because
13 in making that motion I would like to have some law in
14 front of me because--

15 THE COURT: Yeah.

16 MS. KOSMATKA: --Jeffries attached,--

17 THE COURT: Yeah.

18 MS. KOSMATKA: --and it would be arguably with
19 prejudice, if there is a mistrial that's attributable to
20 the prosecution.

21 THE COURT: That could happen. That could
22 happen.

23 MS. KOSMATKA: So--And I need some time to
24 research--

25 THE COURT: Well, you'll need till Monday,

1 anyways.

2 MS. KOSMATKA: Yeah. I--Yeah, I obviously
3 wasn't expecting to do this.

4 THE COURT: Okay, but you're going--both of you
5 are going to stay here and review this tape.

6 You have it--

7 MS. KOSMATKA: Yes.

8 THE COURT: --with you, right?

9 MR. GEORGE: And Judge, I did--I think the
10 lieutenant made a separate copy for Ms. Kosmatka, so--

11 THE COURT: Okay.

12 MR. GEORGE: --she--I mean, I could just give
13 her a copy--

14 THE COURT: Well, actually, I want--No, I want
15 you two together. You're professionals. And I want you
16 to--I mean--reviewing that together.

17 MR. GEORGE: Yes, your Honor.

18 THE COURT: So--I'm going to put you to work
19 during this time and let the jury go, though, because
20 whether or not we're going to be able to have them is just
21 problematical right now--

22 MS. KOSMATKA: Judge, may I ask one more
23 question?

24 THE COURT: Yeah.

25 MS. KOSMATKA: Obviously Mr. Jerome--

1 THE COURT: So what question--What other
2 questions you've had so far?

3 MS. KOSMATKA: That Mr. Jerome has a right to
4 review all of discovery that's been against him. And he
5 has. I have provided him--I've been working on this case
6 for quite some time. You know I wasn't the original
7 attorney.

8 THE COURT: Your point on this is what?

9 MS. KOSMATKA: He has right to see it, as well,
10 if he chooses--

11 THE COURT: Okay. Then you'll take it over--

12 MS. KOSMATKA: --to.

13 THE COURT: --to him this weekend. Okay. All
14 right.

15 MS. KOSMATKA: I need an--And I'll deal with
16 your staff. I need an order to be able to bring in video
17 equipment. But I'll do that with your staff.

18 THE COURT: There's that. You want to address
19 the question of bond, if it's put over till Monday or--

20 MS. KOSMATKA: No, I--

21 THE COURT: --or we decide one way or the other
22 you want to address the--today or Monday the question of
23 bond. And you want to address the question of whether or
24 not there is--

25 MS. KOSMATKA: A mistrial.

1 THE COURT: --going to be a mistrial motion
2 granted or not.

3 MS. KOSMATKA: Correct.

4 THE COURT: Okay. All right.

5 Deputies, you can take him back downstairs. In
6 fact,--

7 MS. KOSMATKA: Do you understand--

8 May I have one moment to speak--

9 THE COURT: But don't--

10 MS. KOSMATKA: --to him?

11 THE COURT: --if you--don't take him over till
12 lunchtime, in case we need to have him back up here.

13 DEPUTY SHERIFF: Yes, sir.

14 MS. KOSMATKA: Judge, may I speak to him for a
15 moment, since he came in after we started?

16 THE COURT: Yeah.

17 (At 10:23:39 a.m., off-the-record conference
18 began between Ms. Kosmatka and Mr. Jerome)

19 THE COURT: Ashley, we have all the jurors' cell
20 phone numbers and everything? Would you circulate that
21 and have them put any second phones they have on there, so
22 that we could get--call them, if we have to today and say
23 forget about Monday if I declare a mistrial?

24 (At 10:24:02 a.m., conference concluded between
25 Ms. Kosmatka and Mr. Jerome)

1 MS. KOSMATKA: Judge, and I don't--I think
2 that's a valid question, if--And I don't--I honestly don't
3 know how--Does Detective Crum interview it while--I'm
4 sorry--videotape it while he's--If he did the interviews
5 and it's recorded, how would he not know they're recorded?

6 THE COURT: I don't--I think he said he didn't
7 do them.

8 MR. JEROME: He said he did.

9 MS. KOSMATKA: Who recorded them?

10 LIEUTENANT CRUM: Sergeant Miller.

11 MS. KOSMATKA: But who--

12 THE COURT: Okay, so Miller recorded them, but
13 you were the interviewer?

14 LIEUTENANT CRUM: Yes, sir.

15 THE COURT: Oh, you were?

16 LIEUTENANT CRUM: It's a--

17 MS. KOSMATKA: Yeah.

18 LIEUTENANT CRUM: --different system. The
19 system was changed that month that this interview took
20 place. It went from a system where you had to go hit the
21 actual DVR and record it on a disk to a computer space--
22 computer-based system. I still don't know how to work
23 that system 'cause I moved offices within a week of this.
24 He turned it on--

25 THE COURT: So when you--You did the--You did

1 the interview,--

2 LIEUTENANT CRUM: Yes.

3 THE COURT: --but it was recorded by somebody
4 else?

5 LIEUTENANT CRUM: He's sitting in the same
6 office with me.

7 THE COURT: Okay. Did you make--

8 MS. KOSMATKA: And you didn't--

9 THE COURT: --Did you make a note of that
10 interview in a file or something?

11 LIEUTENANT CRUM: When I was reviewing my report
12 yesterday, there's a line that says I received a copy of
13 the recording. I don't recall ever receiving a copy of
14 the recording. But because I saw that line in my report,
15 I called back and said, Why is that there? They started
16 to research that yesterday and found this disk. 'Cause on
17 a DVR, we--the way I've always recorded, Judge, the way I
18 still do, is on a disk. My office has a disk. This
19 system's a DVR system so it goes onto a DVR, there's no
20 disk. They had to research back through the DVR to find
21 this interview.

22 THE COURT: Okay.

23 LIEUTENANT CRUM: I didn't know it existed. I
24 had asked for it early on--

25 THE COURT: Ms. Kosmatka, do you have any other

1 questions of the lieutenant?

2 MS. KOSMATKA: I just--I--

3 THE COURT: Questions. Questions. Any
4 questions?

5 MS. KOSMATKA: No, because I don't know that I'd
6 get a good answer.

7 THE COURT: Well, I get to determine that, not
8 you.

9 You can take--You can take the defendant.

10 MS. KOSMATKA: (to Mr. Jerome) I'll let you
11 know what's going on.

12 THE COURT: Ms. Kosmatka, you know the standard.
13 I have to find out, Was it intentional or was it an honest
14 mistake?

15 MS. KOSMATKA: I understand.

16 THE COURT: You know I have to find that.

17 MS. KOSMATKA: I understand.

18 THE COURT: Okay?

19 MS. KOSMATKA: Yes.

20 (At 10:26 a.m., defendant left the courtroom)

21 THE COURT: So, given what he's told me so far,
22 and I have no reason to know he's lying to me, it appears
23 to be an honest mistake. A screw-up. Okay.

24 MS. KOSMATKA: Uh-hum.

25 THE COURT: What can I say? Life happens.

1 MS. KOSMATKA: Yep.

2 THE COURT: I'm going to call the jury in here
3 now and I'm going to excuse them until Monday morning.
4 And I'm going to tell them we have their phone numbers; if
5 there's any reason we need to get a hold of you before
6 Monday, my clerks will call them and let them know.

7 I will rule on the record, if you've had time,
8 and I would hope that within a couple hours, because it's
9 10:30 right now, you'll get through those videos, about
10 whether or not I'm going to grant a mistrial, bond, and
11 the like. I would like to have that completed, if we
12 could, no later than three, preferably two, preferably
13 two. I'll stay--

14 MS. KOSMATKA: Depending on--

15 THE COURT: --here during the lunch hour to do
16 it.

17 MS. KOSMATKA: Yes.

18 THE COURT: Okay?

19 MS. KOSMATKA: Uh-hum.

20 MR. GEORGE: Yes, your Honor.

21 THE COURT: All right.

22 Would you bring in the jury?

23 MS. KOSMATKA: But he's not here--For the
24 record, the defendant's not here.

25 THE COURT: Oh. Okay. Hold that, Ashley, for a

1 minute.

2 I'm not sure if that's required.

3 THE CLERK: He's right--

4 MS. KOSMATKA: If he hasn't gone yet, that'll

5 probably be--I don't know--

6 THE COURT: Okay. All right.

7 MS. KOSMATKA: --that it is or it isn't.

8 THE COURT: Deputy, if he's still there--

9 MS. KOSMATKA: I don't know. I really don't

10 know.

11 THE COURT: Is it too late?

12 THE CLERK: No, he just (indiscernible). I can

13 call.

14 THE COURT: (To the deputy) Will you call down

15 there, Chaney (ph sp)?

16 DEPUTY SHERIFF: They're coming.

17 THE COURT: Oh, great. Okay. We'd better have

18 him back here, deputies, during this time.

19 DEPUTY SHERIFF: Yes, your Honor.

20 (At 10:28 a.m., defendant present in courtroom)

21 MS. KOSMATKA: Judge, may I ask one more

22 question, in speaking to the deputy?

23 THE COURT: Uh-huh.

24 MS. KOSMATKA: He was just trying--hearing what

25 we had going on in regards to the video and expediting

1 everyone watching it; because if I have to take it over to
2 the defendant, I have to watch here and take time, and
3 then I have to go watch it with him there. I can't leave
4 him with a computer. The deputy said that they would be
5 able to leave Mr. Jerome in the courtroom with a deputy so
6 that he could watch it while I watch it and Mr. George
7 watches it, and--

8 THE COURT: Yeah, we can do that.

9 MS. KOSMATKA: --Lieutenant Crum watches it.

10 THE COURT: Thanks.

11 DEPUTY SHERIFF: Yeah.

12 MS. KOSMATKA: And that way that would take care
13 of that.

14 THE COURT: All right.

15 MS. KOSMATKA: Thank you.

16 THE CLERK: All rise for the jury.

17 (At 10:28 a.m., jury present)

18 THE COURT: You may be seated.

19 Recalling People versus Samuel Jerome, case
20 number 13-247841-FC.

21 Appearances for the record, please.

22 MR. GEORGE: Chris George for the People.

23 MS. KOSMATKA: Marsha Kosmatka appearing on
24 behalf of Mr. Jerome.

25 THE COURT: Ladies and gentlemen, I hate to tell

1 you this, but something just came up in the last ten
2 minutes that I have to release you for the day. I can't
3 correct it at the moment. It'll take a couple hours to
4 sift through it. And rather than waste your time, I'm
5 going to have you back Monday morning.

6 Now, as far as I know, I'm going to have you
7 back Monday morning. If there's any change in that, we
8 have your cell phone numbers. All I can tell you is that
9 (indiscernible) the trial, sometimes things come that I
10 have to work on behind the scenes, and this is one of
11 those.

12 And so, we're going to--I'm going to excuse for
13 the day. You're done for the weekend. You've got a
14 three-day weekend, whatever you want to call it. I am
15 sorry for the couple of hours here you may have lost. I
16 apologize. Nothing that could be done, other than--

17 Leave your notes here. Make sure we have phone
18 numbers for you because we will call you before the end of
19 the day to leave you a message if there's a change in
20 Monday morning. Okay? So make sure we have--Even if you
21 have a couple phones where you need to leave something--
22 leave it with my clerk.

23 Okay. Any questions about that?

24 Again, I apologize. We'll see you back Monday
25 morning at 8:30, unless you are called by my clerk and

1 told otherwise.

2 All rise for the jury.

3 (At 10:31 a.m., jury excused)

4 THE COURT: Ms. Kosmatka and Mr. George, because
5 this is attorney/client stuff, we're going to ask everyone
6 else to stay outside the courtroom. Of course, the
7 lieutenant can stay in--

8 MS. KOSMATKA: Yes.

9 THE COURT: --here. But--

10 MS. KOSMATKA: Yeah.

11 THE COURT: --everyone else has to be outside
12 the courtroom.

13 MS. KOSMATKA: Yes.

14 THE COURT: Dave-- Ashley, are you or Dave going
15 to run that in to--

16 THE CLERK: Are we using your--Mr. George, are
17 we using this laptop or would you like us to get one?

18 MS. KOSMATKA: We can use mine.

19 MR. GEORGE: Well, we have two laptops. So I
20 think we're good there.

21 THE CLERK: Okay.

22 MR. GEORGE: It's just--Does the Court want us
23 to do that right in the courtroom or in the back jury
24 room?

25 THE COURT: I don't think the jury--the deputies

1 can go back there with him, can they?

2 MS. KOSMATKA: We can stay in here.

3 THE CLERK: They can stay--

4 MS. KOSMATKA: We can close the courtroom and
5 stay in here.

6 THE COURT: I mean, just pull those two tables
7 together.

8 MS. KOSMATKA: Sure. We'll work it out. That
9 we can work out on our own.

10 THE COURT: Thanks, Deputies. I appreciate it.

11 THE CLERK: All rise.

12 THE COURT: Keep your seats.

13 THE CLERK: Are the jurors still in there?

14 UNIDENTIFIED SPEAKER: Yes.

15 ASHLEY: Okay.

16 DEPUTY SHERIFF: He's good right here. He said
17 he didn't have to use the bathroom or anything.

18 THE CLERK: So, I guess are we letting them go
19 with the instruction of further notice? If they don't
20 hear from--

21 THE COURT: The instruction is they're to be
22 back Monday morning at 8:30 unless we call them otherwise
23 today.

24 So, counsel, remember--

25 Where's Marsha?

1 THE CLERK: She had to run to the bathroom.

2 THE COURT: Yeah. Remember, we've got--I need
3 to make a decision whether or not, you know, we have to--
4 You need to keep me posted on what's happening here. I'll
5 be in chambers.

6 MR. GEORGE: Yes, sir.

7 THE COURT: So, is that clear, David?

8 THE CLERK: What's that?

9 THE COURT: Come back Monday morning unless we
10 contact them otherwise presumably today.

11 THE CLERK: Sure. I have the sheet--

12 THE COURT: Just make sure we have their phone
13 numbers.

14 THE CLERK: --to add secondary home numbers,--

15 THE COURT: Yeah.

16 THE CLERK: --second cell phones, whatever they
17 may have. Okay.

18 (At 10:33 a.m., recess)

19 (At 1:43 p.m., court in session)

20 THE COURT: Calling People versus Jerome, case
21 number 13-247841-FC.

22 Appearances for the record, please.

23 MR. GEORGE: Good afternoon, your Honor. Chris
24 George appearing on behalf of the People.

25 MS. KOSMATKA: Marsha Kosmatka appearing on

1 behalf of Sam Jerome.

2 THE COURT: I was going to entertain the
3 question of a mistrial.

4 MR. GEORGE: Yes, your Honor.

5 THE COURT: A mistrial, as I understand it, is
6 typically based on some irregularity that's prejudicial to
7 the rights of, in this case, Mr. Jerome.

8 You've reviewed it. What is your take on it,
9 Mr. George?

10 MR. GEORGE: Your Honor, for the record, over
11 the last couple hours we watched a video that contained
12 three interviews. The first interview was of child,
13 Sabrina Krahe. The second interview was of child, [REDACTED]
14 Krahe. And the third interview was of Judy Stiltner.

15 THE COURT: All three were with Lieutenant Crum?

16 MR. GEORGE: Yes, sir.

17 THE COURT: Recorded by a third individual?

18 MR. GEORGE: Yes, sir.

19 Based on--

20 THE COURT: And what date?

21 MS. KOSMATKA: 8/21/2013.

22 THE COURT: Thirteen?

23 MS. KOSMATKA: Yes.

24 THE COURT: So right around the time of the
25 domestic violence or following the--

1 MR. GEORGE: It would have been about two--
2 MS. KOSMATKA: Following it. When he--
3 MR. GEORGE: --about two weeks--
4 MS. KOSMATKA: --was still--
5 MR. GEORGE: --or so after the domestic
6 violence.
7 MS. KOSMATKA: When he was still trying to
8 follow up on--to get the CSC--
9 THE COURT: Okay.
10 MS. KOSMATKA: --charges written.
11 MR. GEORGE: Judge, I spoke with Ms. Kosmatka;
12 and based on her review of the interview, I believe it
13 would be her position that she would want to recall--
14 MS. KOSMATKA: I don't--No, that's not my
15 position. I'll--I'll--
16 THE COURT: You tell me your position--
17 MR. GEORGE: My--
18 THE COURT: --and whether or not you think a
19 mistrial needs to be granted.
20 MR. GEORGE: All right. You know, Judge, what I
21 would say is that the People have rested. I have no
22 further additional evidence to present. So I don't see
23 that the video now necessitates a mistrial.
24 However, my position would be dependent on
25 whether or not the defense intended to call further

1 witnesses and revisit this issue. If it was the defense's
2 position that witnesses need to be recalled,--

3 THE COURT: Let me ask Ms.--

4 MR. GEORGE: --testimony to be rehashed--

5 THE COURT: --Ms. Kosmatka, are you asking for
6 any corrective action or . . .

7 MS. KOSMATKA: Judge, it's clearly a mistrial.
8 I would state to the Court--From my position.

9 I would state to the Court that we didn't get
10 done watching the videos until about seven minutes before
11 the Court came back in.

12 I did try to make--After we watched the first
13 half of the video, we took a 20-minute break between us.
14 And I did try to make some calls, and I did reach some
15 appellate attorneys to try to get some guidance on this.
16 I had been given some direction of where to look. I'm
17 sure the Court has the books that--

18 THE COURT: Well,--

19 MS. KOSMATKA: And what I'm told is--

20 THE COURT: Yeah.

21 MS. KOSMATKA: --that the Court--that I should
22 not move for a mistrial at this point before doing a few
23 things. And I'll say what they are.

24 It's my understanding the Court can declare a
25 mistrial at any time. It does not have to be on motion of

1 the parties. It doesn't have to be the prosecutor. It
2 doesn't have to be the defense. If--

3 THE COURT: It helps if the parties consent or
4 manifest necessity, though.

5 MS. KOSMATKA: It does. But it's my
6 understanding that if there is alleged police misconduct,
7 that the rules--

8 THE COURT: Wait, wait. I've already ruled on
9 that. Okay?

10 MS. KOSMATKA: And we've watched the video.

11 THE COURT: Okay.

12 MS. KOSMATKA: And I can tell you that there is
13 some question about it.

14 I can also tell you--

15 THE COURT: What do you mean? What standard are
16 you using?

17 MS. KOSMATKA: You asked me to watch a video.

18 THE COURT: Uh-huh.

19 MS. KOSMATKA: You asked Lieutenant Crum some
20 questions before we did that. And we watched it. What
21 it--At the beginning of interviewing only the children,
22 not the grandmother, Lieutenant Crum starts by saying,
23 What's today's date? 8/21. What's the time? You need to
24 speak up. The other man's standing there. There are
25 indicators that there was knowledge that this was going

1 on.

2 Additionally, there's another--

3 THE COURT: Well, wait, wait. There's nothing,
4 per se, wrong with that.

5 MS. KOSMATKA: There--

6 THE COURT: What standard are you saying
7 governing that and saying, Judge, this was wrong? Tell me
8 the case--

9 MS. KOSMATKA: I'm saying I'm not--I don't--I am
10 not convinced that Lieutenant Crum didn't know this was
11 videotaped. And there's another officer in there who
12 could be questioned. I--I--There's too many things for me
13 to do for me to move for a mistrial at this point without
14 looking into it further. The Court always has the
15 authority to declare a mistrial. And--

16 THE COURT: Why do I declare a mistrial?

17 MS. KOSMATKA: Because discovery was not turned
18 over. The only other option--

19 THE COURT: Okay, but I found that that was an
20 innocent mistake. Okay?

21 MS. KOSMATKA: Well, there--there's clearly
22 manifest necessity here unless, as you indicated--

23 THE COURT: What is that--What is that reason?

24 MS. KOSMATKA: Judge, I don't think Mr. George
25 will dispute this. This is riddled with information.

1 This is riddled with--I've never seen--

2 THE COURT: The interview, you mean?

3 MS. KOSMATKA: --anything like it.

4 THE COURT: Okay.

5 MS. KOSMATKA: Everyone in this room I don't
6 think could say they've ever seen anything like what
7 happened in that--in these interviews. It is egregious.
8 It is outrageous. It is horrible.

9 THE COURT: Do you agree, Mr. George?

10 MR. GEORGE: Well, what I would say, Judge,--

11 THE COURT: I mean, these are all conclusions.
12 You know I need descriptive factual information, not a
13 bunch of hyperbole and I need--

14 MS. KOSMATKA: I could give a few.

15 THE COURT: --a description on what that means.

16 MR. GEORGE: Judge, my position is that there's
17 sufficient facts within these interviews that go to, for
18 example, the forensic interviewing protocols that we have,
19 and how interviews are supposed to be--the ideal interview
20 of a child, that there's forensic interviewing protocols
21 that are to be followed; and in watching the videos, it's
22 --I would agree with Ms. Kosmatka that there are points in
23 the interview that the interviewer appears not to be
24 following the protocol.

25 I would also agree that the defendant be able--

1 THE COURT: So--So, let me--let me get this
2 clear, though. We're not interviewing--Remember, we're
3 not interviewing the defendant. We're interviewing
4 potential witnesses. Okay?

5 MR. GEORGE: Right.

6 THE COURT: So we're not dealing with some high
7 standard like we are with the defendant who has certainly,
8 clearly, constitutionally defined rights. We have
9 witnesses. Okay? Now, you tell me the standard for a
10 witness that says--that indicates that I can objectively
11 say, Lieutenant, you violated the standard that he has to
12 follow.

13 MR. GEORGE: Well, I'm--Well, Judge, what I
14 would say is that I could--if the Court does not declare a
15 mistrial, what I think the defense would want to do, then,
16 is recall a number of witnesses: Trisha Shuster--They
17 would want to--They would recall Lieutenant Crum. They
18 would want to recall [REDACTED] They'd want to recall
19 Sabrina.

20 THE COURT: In your professional opinion, would
21 that be important?

22 MR. GEORGE: Yes, your Honor, I do. I think in
23 fairness to the defendant.

24 And I would also say that, you know, when the
25 defendant called Sabrina to the stand, they did--they

1 weren't on notice of what she said in this interview.

2 THE COURT: Okay.

3 MR. GEORGE: And that could be prejudicial to
4 them.

5 THE COURT: Okay.

6 MR. GEORGE: I mean, I hate to say that; and,
7 you know, I'd like to finish this and be done with it.
8 But at the same time, I just--I don't--From the defense
9 point of view, when they prepared this case, when they
10 presented their case, they didn't have these interviews.
11 And I think that there's--there's some things that they
12 have that they could have worked with quite effectively in
13 their defense.

14 THE COURT: Okay. Ms. Kosmatka, do you want to
15 say anything else?

16 MS. KOSMATKA: No.

17 THE COURT: Because it appears that witnesses
18 would have to be recalled and this case basically redone,
19 and more importantly because there may--there may be, I'm
20 not sure I agree with this, but there may be something
21 substantively in the way that the interviews were
22 conducted. Mark you, I say I'm not sure I'm in agreement
23 with that because this is not an interview of a defendant.
24 It's an--

25 MS. KOSMATKA: Judge,--

1 THE COURT: --interview of a witness--

2 MS. KOSMATKA: Of children, though. Of
3 children.

4 THE COURT: Okay. Children. Okay.

5 MS. KOSMATKA: Of children.

6 THE COURT: But there's--I'm aware of no law
7 that says that they--of children they have to follow a
8 Care House method of interview in a police department.
9 So,--

10 MS. KOSMATKA: For their--

11 THE COURT: --I mean, if you make me aware of
12 it, I'm happy to be educated. But I'm not aware of it
13 right now.

14 MS. KOSMATKA: Okay.

15 THE COURT: Okay?

16 MS. KOSMATKA: Yes.

17 THE COURT: And I'm saying there may be
18 something there, and I'll get--because of that that there
19 appears to be manifest necessity and a basis for granting
20 a mistrial.

21 And for the reasons I just enunciated, a
22 mistrial is declared.

23 Ms. Kosmatka, you wanted to address bond. It is
24 set at \$500,000; is that correct?

25 MS. KOSMATKA: I know it's set high, Judge. You

1 know I wasn't on this case originally, so I don't have any
2 paperwork that states exactly what the bond is.

3 So just as a point of clarification, is the
4 Court indicating without any further review or research by
5 the parties, that you are declaring a mistrial without
6 prejudice?

7 THE COURT: Yes.

8 MS. KOSMATKA: Okay. So I would like to make a
9 bond motion. And if there is something that I need to
10 bring to your attention if I find--

11 THE COURT: Because I'm going--I will follow up
12 on that, because I'm going to give you a new trial date.

13 MS. KOSMATKA: Okay. I--But--And I'll do some
14 research. Like I said, I wasn't able to do it with being
15 in here and having six minutes--

16 THE COURT: New research on . . . ?

17 MS. KOSMATKA: I told you I made a call to a
18 research attorney in this building at lunch and to State
19 Appellate Defender's Office asking what happens in a
20 situation like this. I was given multiple places to look
21 and told different information about whether it should be
22 with or without prejudice. I haven't had an opportunity
23 to read any of it, although I will look it up this
24 weekend. If there is something that I find based on what
25 I've been directed to--It's in the--It's in the MJ--It's

1 --

2 THE COURT: Well, if you're making an argument
3 about whether I'm doing this with prejudice or without
4 prejudice, it would be helpful for me to know what your
5 argument is before I make my decision.

6 MS. KOSMATKA: Well, right, but it'd be helpful
7 for me to have more than four minutes, which I'm talking
8 to Mr. George on, during--to find out. I--

9 THE COURT: Private trial work is being good on
10 your feet with understanding things and--

11 MS. KOSMATKA: I've never seen this happen. I
12 think I'm quite good on my feet, Judge.

13 THE COURT: I think you are. And I don't--

14 MS. KOSMATKA: And I've never seen anything like
15 it.

16 THE COURT: Ms. Kosmatka, I don't mean to imply
17 that you're not. But sometimes it's like a cop on the
18 beat that has to make a decision on an arrest. On an
19 evidentiary question and certainly a question during a
20 mistrial of a jury case when you've got 14 people waiting
21 for you to make a decision.

22 MS. KOSMATKA: Judge, I did a similar case to
23 this in front of Judge Kumar.

24 THE COURT: Okay.

25 MS. KOSMATKA: Not exactly but similar dealing

1 with a video that was--during a trial that had not been
2 turned over. We did a lot of research at that time. That
3 dismissal was with prejudice. I have plenty of
4 information I can look at.

5 I came here today to do a closing argument.

6 So I can do certain things but not without
7 access to anything and with such a limited time. I'd have
8 to--

9 THE COURT: So you want the opportunity to
10 address the question of whether or not there's sufficient
11 --

12 MS. KOSMATKA: I do.

13 THE COURT: --(indiscernible) prejudice or not.

14 MS. KOSMATKA: I do. You can still give us
15 another trial date and I--if I--I can do research and find
16 it,--

17 THE COURT: Okay.

18 MS. KOSMATKA: --but yes, I would like to
19 address bond, as well.

20 THE COURT: All right. So, I mean, right now
21 it's without prejudice; but if you motion me with a brief
22 that Mr. George can respond to--

23 MS. KOSMATKA: Correct.

24 THE COURT: --and ask it to be addressed, I--

25 MS. KOSMATKA: That's all I'm asking.

1 THE COURT: Okay.

2 MS. KOSMATKA: And I believe that we'll need a
3 trial date somewhat out because I will want to order
4 transcripts from this trial based on what I saw in this--
5 in these videos.

6 THE COURT: Well, as long as he's on bond,
7 that's going to be an easier decision than if he's not.

8 MS. KOSMATKA: Well, that's correct. But in any
9 event, he has indicated to me that he--

10 THE COURT: I need to know what it is right now.

11 THE CLERK: Five hundred thousand dollars,
12 cash/surety.

13 THE COURT: Okay. And he's been in jail for how
14 long?

15 MS. KOSMATKA: Over eleven months.

16 THE COURT: Okay. Okay.

17 MS. KOSMATKA: I can indicate to the Court that
18 even if he were to have been convicted of the highest
19 charge, which is CSC first, because he has absolutely no
20 criminal history whatsoever, we had guidelines that said I
21 believe 21 to 35, or something in that range. It's not
22 what we are typically used to seeing in a CSC one--

23 THE COURT: So things (indiscernible) well in
24 his favor if he has no priors.

25 MS. KOSMATKA: He has no priors.

1 THE COURT: Okay.

2 MS. KOSMATKA: He was employed at the time.

3 THE COURT: (Indiscernible) a conviction, I can
4 have a clue on that a little bit--

5 MS. KOSMATKA: Judge, I also--I'm in possession
6 of letters that were written as character letters in
7 regards to this trial that indi--and I have them with me--
8 from his employer indicating that at any time--

9 THE COURT: Any history of drug or alcohol
10 abuse?

11 MS. KOSMATKA: No. He has a job to go back to,
12 is what I was getting at. And I have letters--

13 THE COURT: Has a job.

14 MS. KOSMATKA: --from them saying it's waiting
15 for him. And they know about these charges and they have
16 held his job for him.

17 THE COURT: Job awaiting. Any mental health
18 issues?

19 MS. KOSMATKA: No.

20 THE COURT: Does Mr. George have any information
21 that he wants me to consider in terms of facts or granting
22 or denying--

23 MS. KOSMATKA: Judge, may I only say one other
24 thing--

25 THE COURT: Uh-hum.

1 MS. KOSMATKA: --before Mr. George goes? That
2 this case--these original allegations were made last May.
3 Mr. Jerome knew they were allegations. He came to court.
4 He came to district court. He came to circuit court.

5 Detective Crum was able to find him every time
6 that he wanted to for almost five or six months while he
7 was trying to pursue this case. Mr. Jerome never left.
8 So not only the factors you've already looked at, I don't
9 believe he's a flight risk. He stayed, knowing what was
10 going on. Now he has every reason to stay based on what
11 he has seen here today.

12 So I just wanted to cover the two parts of the
13 bond, which is protecting the community and assuring his
14 reappearance.

15 THE COURT: Okay.

16 MR. GEORGE: Judge, I guess for the record, I'd
17 ask that the bond be continued. But you know, I'm not
18 going to go over the facts. The Court knows the facts.
19 And as far as flight risk, the Court's heard the testimony
20 about how they went to Georgia. I'm not going to go over
21 that. So, you know, with that, Judge, I really have
22 nothing additional to add.

23 Ms. Kosmatka's correct. There's no criminal
24 history. He has appeared. I just have no additional
25 information I can offer the Court.

1 THE COURT: Mr. Jerome, where would you live if
2 I grant you bond?

3 MR. JEROME: My brother's.

4 MS. KOSMATKA: He's been here every day of the
5 trial, his brother.

6 THE COURT: Is that who that is--

7 MS. KOSMATKA: Cody Jerome.

8 Dave, \$500,000 cash/surety, no ten percent?

9 THE CLERK: No ten percent.

10 MS. KOSMATKA: Okay.

11 THE COURT: Would you approach the bench?

12 (From 1:57:21 p.m. to 1:59:01 p.m., off-the-
13 record bench conference with counsel)

14 THE COURT: Counsel, I'll set the new bond what
15 I think is reasonable: \$10,000, cash/surety, ten percent,
16 with the further provision--

17 This needs to be in writing, Ms. Kosmatka. We
18 need to make sure it's in writing. There's an order here.
19 You can fill it out. Ten thousand dollars, cash/surety,
20 ten percent.

21 No contact with [REDACTED] Sabrina, or Judith, the--

22 MS. KOSMATKA: Thank you.

23 THE COURT: --two daughters and the grandmother.

24 MS. KOSMATKA: And Judge, may I--may he remain
25 for just a moment so I can explain--

1 THE COURT: Uh-hum.

2 MS. KOSMATKA: --what the bond means?

3 THE COURT: Deputies, could you hold on that for
4 a minute?

5 DEPUTY SHERIFF: New court date, your Honor?

6 MS. KOSMATKA: And I will write it--

7 THE COURT: Pardon?

8 DEPUTY SHERIFF: New court date?

9 THE COURT: New court date will be October 8th,
10 two months from now.

11 MS. KOSMATKA: October 8th.

12 THE COURT: October 8th at 10:00 a.m.

13 MS. KOSMATKA: Thank you. And I'll write--

14 MR. GEORGE: Your Honor, I hate to--

15 MS. KOSMATKA: --an order--

16 MR. GEORGE: --I don't know if I can make this
17 request or not, but I'm scheduled for a jury trial in
18 Judge Anderson--

19 MS. KOSMATKA: That's just a final pretrial date
20 on that date.

21 MR. GEORGE: Oh. Oh, okay.

22 THE COURT: It's a final pretrial, but I would--
23 I'm hoping--

24 MR. GEORGE: I just know that I have a trial
25 that's going--

1 MS. KOSMATKA: Yeah, and I'm actually set to be
2 in--

3 THE COURT: I don't know, maybe Ms. Kosmatka can
4 convince me it should be with prejudice. I don't know.

5 MS. KOSMATKA: Yes, let's hold--I mean, let's
6 leave it for that date; and if we need to play with the
7 date, we'll do that.

8 THE COURT: Yeah, we'll work out--we'll work out
9 the--I'm not going to necessarily jam you; but I do--if
10 he's in custody he's still (indiscernible) thousand
11 dollars, then--I'm going to (indiscernible) something, so
12 we'll--

13 MR. GEORGE: Yes, your Honor.

14 THE COURT: --we'll work through it. You'll
15 have to give a little (indiscernible).

16 MR. GEORGE: Yes, your Honor.

17 (At 2:00 p.m., proceedings concluded)

18 * * * * *

STATE OF MICHIGAN)
COUNTY OF OAKLAND) ss.

I certify that this transcript is a true and accurate transcription to the best of my ability of the proceeding in this case before the Honorable Rudy J. Nichols, as recorded by the clerk.

Proceedings were recorded and provided to this transcriptionist by the Circuit Court and this certified reporter accepts no responsibility for any events that occurred during the above proceedings, for any inaudible and/or indiscernible responses by any person or party involved in the proceeding or for the content of the recording provided.

Dated: April 22, 2015

/S/ Susan G. Johnson

Susan G. Johnson, CER 3511

NOT RECOMMENDED FOR PUBLICATION

File Name: 17a0480n.06

No. 16-2281

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

FILED

Aug 17, 2017
DEBORAH S. HUNT, Clerk

SAMUEL M. JEROME,)	
)	
Plaintiff-Appellant,)	
)	
v.)	ON APPEAL FROM THE
)	UNITED STATES DISTRICT
LIEUTENANT MICHAEL CRUM; CITY OF)	COURT FOR THE EASTERN
BERKELY,)	DISTRICT OF MICHIGAN
)	
Defendants-Appellees.)	
)	

BEFORE: BOGGS, CLAY, and SUTTON, Circuit Judges.

BOGGS, Circuit Judge. An inconsistent recollection of an event is frequently taken as an indication of falsehood. Truth is, life is seldom that straightforward. In this case, Samuel Jerome seeks to establish that the variations in the story of his step-daughter regarding alleged sexual abuse meant that there was no probable cause to arrest him and that an alleged cover-up of those variations by Lieutenant Michael Crum violated his constitutional rights. But because sufficient probable cause existed to detain Jerome, we affirm the district court's grant of summary judgment against Jerome's lawsuit for, among other things, false arrest and malicious prosecution.

I

On May 7, 2013, Judith Stiltner brought her thirteen-year-old granddaughter A.K. to the police station of Berkely, Michigan. A.K. alleged that her stepfather, Samuel Jerome, had

sexually abused her on two occasions over the past six months. According to the notes of the interview prepared by Detective Sergeant Michael Crum (the encounter was not recorded), A.K. stated¹ that around Christmas-time of 2012, while her mother (Stacey Krahe) was in the hospital, Jerome sat next to her on the couch and began rubbing her stomach. A.K. alleged that she asked him to stop, but Jerome continued and lowered his hand until it reached her vaginal area, which he continued rubbing from the outside of A.K.'s clothing. A.K. requested that he stop once more and attempted to leave, but Jerome allegedly held her down with his free hand for several minutes. The second incident alleged by A.K. took place in late April, again while her mother was away. A.K. described being on the couch in the family room when Jerome sat next to her and began rubbing her stomach. When A.K. tried to get up in alarm, Jerome held her down and rubbed her vagina. On this occasion, A.K. stated that Jerome had gone under her clothes to touch her vagina and also rubbed her breasts from both outside and inside of her clothing. According to A.K., Jerome said nothing during either assault although A.K. begged him to stop. Allegedly, Jerome purchased jewelry for A.K. in an effort to buy her silence. Following the interview, Crum notified Child Protective Services and scheduled a forensic interview with CARE House (a social services organization that is trained in forensic interviewing of children) on May 16. Jerome arrived later that day at the police station unbidden and admitted only that he had rubbed A.K.'s stomach, claiming that it had been because her stomach hurt. He offered to take a polygraph examination, which was scheduled for May 21.

¹ Although "[i]t is well established that a court may not consider hearsay when deciding a summary judgment motion," *Tranter v. Orick*, 460 F. App'x 513, 514 (6th Cir. 2012), the subject of the current suit is whether the information available to Crum sufficed to constitute probable cause. As a result, the statements "were offered to demonstrate that [Crum]'s investigation of [Jerome] had been undertaken upon probable cause and without malice," rather than to establish their truth, and are not hearsay. *Shipp v. United States*, 212 F. App'x 393, 402 (6th Cir. 2006); Fed. R. Evid. 801(c).

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At the CARE House, however, A.K.'s description of events differed. A.K. was interviewed by Tricia Schuster. Although "[e]verything remained consistent about the dates and where she was positioned," A.K.'s "story changed" according to notes prepared by Crum, who was also in attendance at the interview. Now, A.K. explained that while Jerome had rubbed her stomach and rubbed lower, he did not touch her vagina, either above or below her clothing, and described Jerome's rubbing of her breast as accidental. Finally, when Jerome's hand had gone "below her hip bones near her pubic line," A.K. stated that she had asked him to stop and Jerome had done so. Crum observed that he considered it "a complete reversal of her recollection of the assaults . . . just a few days prior." Krahe, A.K.'s mother, asked Crum whether he still believed A.K.'s story and was upset when Crum responded affirmatively. Krahe emphasized that A.K. had changed her story and that they were "being played" by A.K. A few days later, Jerome cancelled the polygraph on the advice of his attorney.

About three weeks later, Crum requested to speak with A.K. to discuss the change in her story, but Krahe refused and told Crum that A.K. had confessed that the entire story had been false. She requested that Crum close the case, but Crum indicated that he preferred to speak to A.K. himself before closing the investigation.

Crum made no progress on the case until July 11, when Stiltner returned to the police office to inquire about the status of the investigation. According to Crum's notes, Stiltner informed him that Krahe was claiming Jerome had passed the polygraph test and that the police did not find A.K. credible and had closed the case. Crum disputed those points and again reiterated his desire to speak with A.K. before closing the case. Stiltner left and returned a few hours later with A.K. Stiltner informed Crum that her daughter was hospitalized out of state for an alleged dissociative-identity disorder, that Stiltner was the legal guardian of both Krahe and

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A.K., and that she was permitting Crum to discuss the case with her granddaughter, A.K. A.K. told Crum that her mother had pressured her into changing her story at the CARE House, threatening to commit suicide if A.K. testified against Jerome and warning that A.K. and her ten-year-old sister S.K. would be placed in foster care and raped.² A.K. repudiated her CARE House statements and reaffirmed her original statements about Jerome touching her on two occasions and having purchased gifts to keep her quiet. She also stated that Jerome had rubbed her ten-year-old sister's stomach in a similar way and bought her gifts, and expressed fear and concern that Jerome was sexually abusing her sister as well.

On July 14, Stiltner reported that A.K. was missing. Krahe was due to return shortly from her hospitalization. According to Crum's police report, Krahe called A.K. that day on the way home and told her that "there would be severe consequences for ruining the family." To flee from her mother, A.K. left her grandmother's house and did not return. A juvenile-runaway report was created. The next day, Krahe contacted the Berkely police and informed them that she had located A.K. In an attempt to confirm that A.K. had in fact been found, officers requested to see her in person. In what was eventually revealed to be a wild-goose chase, Krahe told officers that she was taking A.K. to Beaumont Hospital because her daughter had been drinking. When an officer arrived at the hospital, the staff explained that A.K. had not been at the facility. The officer next went to Krahe's residence, but no one was home. When contacted by police, Krahe explained that she had decided instead to bring A.K. to Providence Hospital for insurance reasons. But when the officer arrived at Providence, again the staff explained that A.K. had never been at the facility. Crum received a call from Jerome advising him that Krahe

² This interview was not recorded. According to Crum, it was the practice of the City of Berkely not to record sexual-assault victims' interviews. He also stated it was the department's policy not to record juvenile victims. He noted that there was an exception when officers performed a one-on-one interview with a juvenile of the opposite sex in a particular room at the police station.

had left the state with A.K. Two minutes later, Krahe called Crum, laughing, to inform him that she was already south of Toledo, Ohio, on her way to Georgia. She was furious that A.K. had spoken to Crum, did not believe her daughter, and told Crum that she had lied about the hospitals in order to be beyond Crum's jurisdiction before he could catch on. In Georgia, she explained, the family could "get a fresh start."

Sometime in the following weeks, Krahe returned to Michigan with A.K. (unbeknownst to Crum). Just after midnight on August 2, the police received a phone call and were dispatched to the Krahe residence to investigate "family trouble." After a disagreement over a lighter in A.K.'s room, there had been a physical altercation in the family. Krahe told the police she suspected her daughter of hiding marijuana and ransacked the room with Jerome. Neither the police nor Krahe found any trace of marijuana. A.K. was found with scratches on her chest, an abrasion on her leg, and bruising around her right eye. The parties' stories differed in their accounts of a fight: according to A.K., her mother slammed her head against the bed rail and began suffocating her, and then Jerome threw her against the wall many times. Finally, A.K. described being dragged by her hair upstairs and punched in the eye by Krahe. According to Krahe (through Crum's notes), A.K. scratched her and ran into her finger, causing the injury to her eye. Crum did not find Krahe credible. Krahe also played recordings on her phone of conversations between her and A.K. regarding the sexual assault. Crum was suspicious of the recordings based on past experience with Krahe, and A.K. alleged that the recordings had been staged and made under duress. Krahe and Jerome were arrested for child abuse. Crum also recommended that Krahe be prosecuted for witness intimidation. The Oakland County prosecutor brought charges of domestic violence against Krahe and Jerome. Crum shortly

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thereafter submitted the information he had on the case to the prosecutor's office for consideration of criminal-sexual-conduct charges against Krahe and Jerome.

On August 21, Crum received a message from the Oakland County Prosecutor's Office requesting further information about A.K.'s allegations of sexual assault, which was described as "critical to a determination being made on this warrant request." A.K., S.K., and Stiltner came to the police station to discuss the August 2 incident, and Crum used the opportunity to follow up on the sexual-assault claims. In his notes, Crum described A.K.'s recounting of the story as "exactly" the same as her description on May 7. She described Jerome rubbing her vagina from the outside of her clothing on the first incident, and Jerome pinning her down and coming into contact with her vagina below her clothing on the second incident. This interview was recorded, but Crum insists that he was unaware of that fact. Instead, he claims that his partner turned the camera on during an initial interview of S.K. and left it running through Crum's later interviews of Stiltner, A.K., and S.K. During his interview with A.K., Crum asked her to recount the story once more, informing her that no one was questioning her story, but they needed to prepare answers in response to the "legal crap that the defense attorney is trying to pull." He also reinforced her story of why she had recanted earlier: "I know . . . your mom made you change the story." In her description of events at this interview, A.K. stated that Jerome on the first incident had touched her both over and under her clothes. She also stated that Jerome kept asking her "Why?" when she pleaded for him to stop. In her description of where Jerome sat, A.K. stated that he sat on top of her. And finally, A.K. said that Jerome had inserted his finger inside of her. These descriptions were inconsistent in one manner or another with Crum's recorded notes of May 7.

The interview with S.K. provided some additional relevant information for the case. While with her mother, S.K. had claimed that she slept through the August 2 incident. Now that she was not living with her mother, S.K. provided a detailed description of the event, including corroborating A.K.'s story of being dragged by her hair by Krahe. She described changing her story because her mother threatened her.³ She confirmed that Jerome had been rubbing her stomach as well, but felt that it was not inappropriate and stated that she could not recall any time where Jerome had touched her inappropriately. Crum reported his additional information from the interviews and the prosecutor sought an arrest warrant, receiving it on September 18. Pursuant to this warrant, Jerome was arrested and arraigned, with bail set at \$500,000.

On October 9, the Michigan district court held a preliminary examination. At this hearing, A.K.—now fourteen—testified that Jerome had sat next to her on the couch and rubbed her stomach under her clothes. She stated that she told him to stop and he asked, “Why?,” and that he refused to stop and touched her vaginal area both on top of and under her yoga pants. She also testified that around May 2013, while the two were in the living room, Jerome also rubbed her stomach under her shirt and moved down to her vagina. She described his finger as coming into direct contact inside of her vagina. In addition, she said that Jerome touched her breasts as well. She also stated that she had changed her story at the CARE House because her mother had told her if she did not, she would kill herself. The judge determined, “based on [A.K.’s] testimony,” that probable cause existed and bound the case for trial.

Jerome’s trial began on August 4, 2014. After testimony by a number of witnesses, including A.K., Crum testified on August 5 and 7. During his testimony, he stated that he had

³ Some time after this interview, S.K. was returned to Krahe’s custody, at which point she again began asserting that she had slept through the incident. Once S.K. was removed from Krahe’s custody by court order on September 3, she again provided a description of the events of the night and indicated that she had been told what to say to the police by her mother.

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not recorded any of his interviews of A.K. and that it was department policy not to record juvenile victims. As Crum returned home from testifying on August 7, he learned that there had in fact been a recording made of the interviews on August 21, 2013. He returned to the police station and the next morning provided the prosecutor and defense counsel with copies of the recordings, which he had received at around 9 a.m. from a certain Sergeant Hadfield at the police station. After a recess, during which the prosecutor and defense counsel viewed the recordings, the judge asked whether a mistrial was warranted. The prosecutor observed that he did not believe a mistrial was necessary, but in fairness to the defendant, a number of witnesses ought to be recalled for further testimony in light of the video. The defense argued that there was police misconduct, important discovery was not provided, and the interviews were conducted in an inappropriate manner. The court found that there was no misconduct, but because the witnesses would have to be recalled and “this case basically redone,” as well as a potential substantive issue with Crum’s method of interviewing, it held that there was a manifest necessity for a mistrial without prejudice.⁴ Jerome’s bail was reduced to \$10,000, and a new pretrial date was set for October 8, 2014.

On October 6, the Oakland County prosecutor filed a motion for an order of *nolle prosequi*, on the basis that the State could no longer sustain its burden of proof beyond a reasonable doubt after further investigation. The motion was granted the same day.

On June 24, 2015, Jerome brought suit against Crum (in his individual and official capacities) and the City of Berkely in the United States District Court for the Eastern District of Michigan. His complaint included a number of federal claims—false arrest and false imprisonment, malicious prosecution, denial of due process, and failure to adequately train

⁴ It is unclear from the record whether the trial court watched the video before declaring a mistrial, but given that the court asked the parties for a description of facts and events contained therein, it seems unlikely.

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officers—and state claims—unlawful arrest, malicious prosecution, false imprisonment, and gross negligence. In July 2015, the district court dismissed the state-law claims without prejudice. After Crum moved for summary judgment, the district court held oral argument. Finally, the district court granted Crum’s motion, holding that (1) there was probable cause to prosecute Jerome and Crum was entitled to qualified immunity as he had not recklessly disregarded the truth; (2) Jerome could not satisfy the elements of a claim under *Brady v. Maryland*, 373 U.S. 83 (1963), because the criminal proceedings had been resolved in his favor; and (3) because there was no underlying constitutional violation, there could be no municipal liability of the City of Berkely. Jerome timely appealed the district court’s judgment.

II

We review a grant of summary judgment de novo. *Voyticky v. Village of Timberlake*, 412 F.3d 669, 675 (6th Cir. 2005). In our review, we view factual evidence and all reasonable inferences therefrom in the light most favorable to the nonmoving party. *Radvansky v. City of Olmsted Falls*, 395 F.3d 291, 301 (6th Cir. 2005). Summary judgment is proper where the movant can show “there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a).

A. False Arrest and False Imprisonment

Jerome first asserts a claim under 42 U.S.C. § 1983 for false arrest and false imprisonment. “A false arrest claim under federal law requires a plaintiff to prove that the arresting officer lacked probable cause to arrest the plaintiff.” *Sykes v. Anderson*, 625 F.3d 294, 305 (6th Cir. 2010) (quoting *Voyticky*, 412 F.3d at 677). Where, as here, a facially valid warrant was issued, a plaintiff must “prove by a preponderance of the evidence that in order to procure the warrant, [the defendant] ‘knowingly and deliberately, or with a reckless disregard for the

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truth, made false statements or omissions that create[d] a falsehood’ and ‘such statements or omissions [we]re material, or necessary, to the finding of probable cause.’” *Id.* (latter two alterations in original) (quoting *Wilson v. Russo*, 212 F.3d 781, 786–87 (3d Cir. 2000)). We have defined probable cause as knowledge “sufficient to warrant a prudent person[’s]” belief that a particular individual had committed an offense. *Id.* at 306. To determine whether probable cause existed, we normally examine the totality of the circumstances, including all inculpatory and exculpatory evidence. *Gardenhire v. Schubert*, 205 F.3d 303, 318 (6th Cir. 2000). And so in our determination of whether there was probable cause for Crum to seek Jerome’s arrest and detainment, we review with the benefit of all of the evidence at the time of the alleged violation.

To aid in this evaluation, a summary of the evidence at the time of the arrest is in order. First, A.K.’s initial description of events, which included the commission by Jerome of the elements of criminal sexual conduct in the first degree and second degree, Mich. Comp. Laws §§ 750.520b, .520c, was bolstered by Jerome’s own statements corroborating part of the story—he admitted to rubbing her stomach, although he denied any wrongdoing. In the usual case, “a victim’s accusation that she had been sexually assaulted . . . , standing alone, [can be] sufficient to establish probable cause.” *Klein v. Long*, 275 F.3d 544, 552 (6th Cir. 2001). But “the presumption of veracity applies only where the witness is ‘someone with respect to whom there is *no* apparent reason to question the person’s reliability.’” *Wesley v. Campbell*, 779 F.3d 421, 430 (6th Cir. 2015) (quoting *Logsdon v. Hains*, 492 F.3d 334, 343 (6th Cir. 2007)). Here, A.K. provided a different account at the CARE House, which (if true) was exculpatory for Jerome. Inconsistent descriptions of events are a factor weighing in favor of unreliability. *See id.* at 432. But A.K.’s later explanation of why her story changed—i.e., duress—is made more plausible by the fact that her sister S.K. also told police repeatedly that her mother had made S.K. change her

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own story, that her mother had repeatedly voiced an interest to Crum of his closing the case, and that A.K. suffered physical injuries from Krahe and Jerome in a later incident that she alleged was based in part on her providing her account of events to the police. *See United States v. Provost*, 969 F.2d 617, 621 (8th Cir. 1992) (“Recantation is particularly common when family members are involved and the child has feelings of guilt or the family members seek to influence the child to change her story.”). Together, this evidence would seem sufficient to constitute probable cause.

But there was further evidence that weighed against the culpability of Jerome. Even accounting for the recantation at CARE House, A.K.’s description of events in August did not match her initial description in May. Therefore, the question is whether the inconsistencies between the May 7 and August 21 descriptions are of a sufficient magnitude as to damage the credibility of A.K.’s version of events below the level required for probable cause. Considering all of the evidence, we do not believe so. “[I]nasmuch as [A.K.] persisted in her accusations that [Jerome] twice assaulted her to the extent of testifying under oath in trial [and at the preliminary examination], the alleged inconsistencies cannot reasonably be deemed to compel the conclusion that probable cause had ceased to exist.” *Johnson v. Moseley*, 790 F.3d 649, 655 (6th Cir. 2015). Because Jerome cannot demonstrate that there was no probable cause when his arrest warrant was issued, he cannot meet the required elements of a false-arrest and false-imprisonment claim. The district court’s judgment on these claims is therefore affirmed.

B. Malicious Prosecution

In *Sykes v. Anderson*, this court set out the elements of a malicious-prosecution claim under the Fourth Amendment. Those elements are (1) “that a criminal prosecution was initiated against the plaintiff and that the defendant ‘ma[d]e, influence[d], or participate[d] in the decision

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to prosecute”; (2) “that there was a lack of probable cause for the criminal prosecution”; (3) “that, ‘as a consequence of a legal proceeding,’ the plaintiff suffered a ‘deprivation of liberty’ . . . apart from the initial seizure”; and (4) “the criminal proceeding must have been resolved in the plaintiff’s favor.” 625 F.3d 294, 308–09 (6th Cir. 2010) (alterations in original) (first quoting *Fox v. DeSoto*, 489 F.3d 227, 237 (6th Cir. 2007), then quoting *Johnson v. Knorr*, 477 F.3d 75, 81 (3d Cir. 2007)). The crux of the case is whether there was a lack of probable cause for the prosecution. Where there is an indictment (or an independent probable-cause determination by a judge), that usually conclusively determines the existence of probable cause. *See, e.g., Sanders v. Jones*, 845 F.3d 721, 728 (6th Cir. 2017), *as amended on denial of reh’g* (Mar. 20, 2017). But in *King v. Harwood*, 852 F.3d 568 (6th Cir. 2017), we held that malicious pre-indictment nontestimonial acts by police that were material to the prosecution of a plaintiff could rebut the presumptive probable cause established by a grand-jury indictment. *Id.* at 588–89.

The malicious-prosecution claims with respect to the initial arrest of Jerome stand or fall with the probable-cause determination of his false-arrest and false-imprisonment claims. For the reasons we explained above in holding that probable cause existed for Jerome’s arrest, he cannot show the lack of probable cause required for a malicious-prosecution claim. And his claim for his continued detention and prosecution fails for other reasons in addition to the existence of probable cause. Jerome cannot show that Crum’s omission of the details of the August 21 interview was material to or strengthened the case against him because A.K. stated the same version of events in the preliminary examination that she did in the August 21 interview. As the district court explained, those discrepancies were made evident before the Michigan judge on October 9 by A.K.’s testimony and were made before probable cause was found on the charges.

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Crum did not testify at the preliminary examination, nor were his notes or reports used in the probable-cause determination at that hearing. Thus, there was an untainted finding of probable cause that was the source of Jerome's detention; Crum's report had nothing to do with it.

Moreover, even if Crum had maliciously misled the prosecutor into thinking that the August 21 interview had been identical to the initial May interview, A.K.'s testimony at the preliminary examination in October repeating all of the material differences in the August 21 interview removed any materiality of Crum's statements in the maintenance of Jerome's prosecution. The prosecution (and Jerome, for that matter) would have been aware that A.K.'s October testimony differed from her May testimony. Because those differences were the same differences from the August 21 interview, any diminution of probable cause based on those discrepancies would have already been revealed and Crum's contention of consistent testimony would have had little impact upon the decision to continue prosecution. Therefore, the withholding of the information within the August 21 interview was not material to the prosecution. And as a result the district court's grant of summary judgment on this count is affirmed.⁵

C. *Brady* Claim

The test for claims of denial of due process through the withholding of evidence is derived from *Brady v. Maryland*, 373 U.S. 83 (1963). As explained by the Supreme Court in *Kyles v. Whitley*, 514 U.S. 419 (1995), a due-process violation results where the State suppresses evidence favorable to a defendant, material to either his guilt or punishment, and of a nature that would have had a reasonable probability of changing the result of the proceeding. *See id.* at

⁵ These reasons being sufficient to affirm the judgment below, we need not explore further reasons that might have also sufficed, such as a failure to demonstrate malice rather than inadvertence to rebut any presumption of probable cause generated by the finding of probable cause at the preliminary examination, *see King*, 852 F.3d at 583, or collateral estoppel, *see, e.g., Molnar v. Care House*, 359 F. App'x 623, 627 (6th Cir. 2009).

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432–33. This court in *Moldowan v. City of Warren*, 578 F.3d 351 (2009), extended that obligation from prosecutors to police officers. *Id.* at 381, 397. But we have held that where “the underlying criminal proceeding terminated in [a defendant]’s favor, he has not been injured by the act of wrongful suppression of exculpatory evidence.” *McCune v. City of Grand Rapids*, 842 F.2d 903, 907 (6th Cir. 1988). Because here Jerome’s criminal proceeding ended in the prosecutor’s request for, and the trial court’s subsequent grant of, a *nolle prosequi* order, he cannot establish the required elements of a *Brady* claim. Accordingly, the district court’s grant of summary judgment on this claim is affirmed.

D. Municipal Liability

Municipal liability is predicated on the existence of a constitutional violation. *Voyticky*, 412 F.3d at 679. Because Jerome cannot establish that there was a constitutional violation, the district court’s grant of summary judgment on his municipal-liability claim is also affirmed.

III

Jerome’s claims depend upon a lack of probable cause to arrest, detain, and prosecute him and on the materiality of Crum’s misrepresentation of A.K.’s August 21 interview. But any way that you examine it, those claims fail. Objectively, reviewing all of the evidence ourselves, we can see that probable cause for arrest and detention existed. And what is more, it is clear that all of the arguments against probable cause were in view once A.K. gave her inconsistent testimony at the preliminary examination and yet probable cause was found independent of Crum. Jerome’s arguments ultimately are unavailing because nothing Crum did manufactured or removed probable cause. Consequently, the district court’s grant of summary judgment to Crum and the City of Berkely is **AFFIRMED**.

STATE OF MICHIGAN
COURT OF APPEALS

SAMUEL JEROME,

Plaintiff-Appellant,

v

MICHAEL CRUM and CITY OF BERKLEY,

Defendants-Appellees.

UNPUBLISHED

December 27, 2018

No. 335328

Oakland Circuit Court

LC No. 2015-148401-CZ

Before: GLEICHER, P.J., and BOONSTRA and TUKEL, JJ.

PER CURIAM.

In this case alleging police misconduct, plaintiff appeals the grant of summary disposition to defendants. For the reasons provided below, we affirm.

I. BASIC FACTS

Plaintiff was the target of a criminal investigation pertaining to alleged sexual abuse of his step-daughter, the complainant. Defendant Michael Crum was the officer in charge of the investigation and was employed by the City of Berkley, his codefendant. We set forth only the facts necessary to place the legally significant issues in context, but the full facts can be found in *Jerome v Crum*, 695 F Appx 935, 936-940 (CA 6, 2017).

The complainant participated in four different interviews during the course of the criminal investigation. Crum interviewed plaintiff three times: on May 7, July 11, and August 21, 2013. And the complainant was interviewed at CARE House on May 16, 2013, by other individuals. However, there were significant discrepancies between the interviews. On May 7, 2013, the complainant stated that plaintiff assaulted her two times, and provided details. But the following week, at CARE House, the complainant stated that there had been no assault. Indeed, according to Crum's notes, the complainant "made excuses for [plaintiff] and took most of the blame for the incident."¹

¹ The only record we have of this CARE House interview is from Crum's notes. Although Crum did not ask questions during the interview, he witnessed it and took notes.

On July 11, 2013, Crum interviewed the complainant to find out why her versions of events had changed. The complainant stated that her mother had made her change her story. Specifically, the complainant described her mother as saying that if she did not change her story, the mother, who already had a history of mental illness, would commit suicide. Further the mother purportedly threatened that the complainant and her younger sister would be sent to foster home, where they “would be raped daily.” The complainant further reiterated that plaintiff had sexually assaulted her twice.

Crum sent the case to the prosecutor’s office. However, the prosecutor requested further information from the complainant before authorizing an arrest warrant. As a result, Crum interviewed the complainant (and her sister) on August 21, 2013. In his written notes regarding that interview, Crum stated that the complainant’s story was “exactly” as she had previously described it in the May 7, 2013 interview. However, the August 21 interview was video recorded,² and the recording reveals that the complainant’s statements, rather than being exactly as she had said in May, diverged in some respects. The video shows that regarding the first alleged assault, the complainant stated that, in response to her telling plaintiff to stop, he kept saying “Why?”; in her May 7 description, by contrast, she stated that plaintiff said nothing during the encounter. Related to the second alleged assault, the video shows that the complainant stated that plaintiff “sat on [her]” and held her down, and that plaintiff “kept talking” about the complainant’s mother. These descriptions are different from what Crum noted the complainant as saying during the May 7 interview, where she stated that plaintiff “sat next to her” and said nothing during the encounter.

Following the filing of criminal charges, the complainant testified at an October 9, 2013 preliminary examination. There, the details she provided were similar to what the video of the August 21 interview revealed. Regarding her recantation at CARE House, plaintiff testified that she had changed her story on that occasion because her mother had pressured her to do so. Based on the complainant’s testimony at the preliminary examination alone, the court found probable cause to bind plaintiff over for trial.

However, Crum belatedly disclosed the existence of the videotape of the August 21 interview to the prosecutor, which resulted in the trial court declaring a mistrial. After the mistrial, the prosecution decided to not retry plaintiff.

Afterward, plaintiff filed a complaint in federal district court. He alleged federal claims of false arrest and imprisonment, malicious prosecution, denial of due process, and

² Crum claimed the recording was inadvertent, testifying that another officer ran the video machine, that Crum did not know how to do so, and that departmental policy prohibited the recording of juveniles such as the complainant.

unconstitutional policy or custom.³ With respect to these federal claims, defendants moved for summary judgment pursuant to FR Civ P 56.

On August 5, 2015, plaintiff filed the instant complaint in state court, alleging four counts: unlawful arrest, malicious prosecution, false imprisonment, and gross negligence. On July 8, 2016, defendants moved the state court for summary disposition on plaintiff's state claims. With respect to the intentional tort claims of unlawful arrest and false imprisonment, defendants argued that Crum was entitled to governmental/individual immunity. Defendants also argued that the existence of probable cause defeated the two claims. With respect to the claim of malicious prosecution, defendants argued that the existence of immunity and probable cause defeated plaintiff's claim. And with respect to the gross negligence count, defendants argued that the claim merely was a restatement of plaintiff's unlawful arrest and false imprisonment claims. Moreover, defendants argued that the facts did not demonstrate conduct that was "so reckless" as to constitute gross negligence and that Crum's actions were not "the" proximate cause of plaintiff's alleged damages.

On August 25, 2016, plaintiff filed a response to defendants' motion in state court. On that same day, the federal district court entered an opinion and order that granted defendants' motion for summary judgment on the federal claims. The federal district court ruled that there had been probable cause to prosecute plaintiff, which defeated the claims for false arrest and malicious prosecution. Further, because the evidence did not show that Crum acted with reckless disregard for the truth, he was entitled to qualified immunity. The federal court also dismissed the due-process claim, which was based on an alleged *Brady* violation,⁴ because the criminal proceedings ultimately resolved in plaintiff's favor. Finally, because plaintiff failed to demonstrate that Crum violated his constitutional rights, the court ruled that he could not show municipal liability on the part of defendant City of Berkley.

Subsequently, in their reply brief filed in the state trial court, defendants asserted for the first time that summary disposition was warranted because the federal judgment collaterally estopped plaintiff from litigating his state claims.

Two weeks later, the trial court held a hearing on defendants' motion. At the hearing, plaintiff's counsel commented on how he had not been afforded an opportunity to respond in writing regarding the collateral estoppel issue. Plaintiff's counsel argued that, in any event, collateral estoppel did not bar the state claims because (1) the federal judgment was under appeal and (2) the federal claims are completely separate from the state claims. The trial court entered an opinion and order granting defendants' motion for summary disposition. The trial court

³ Plaintiff also alleged certain state claims, but the federal court declined to exercise supplemental jurisdiction over them and consequently dismissed them.

⁴ "[T]he suppression of evidence that was favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." *Brady v Maryland*, 373 US 83, 87; 83 S Ct 1194; 10 L Ed 2d 215 (1963).

granted the motion solely on the basis that plaintiff was collaterally estopped from proceeding based on the adjudication of the federal claims.

Plaintiff subsequently filed his appeal of right in this Court. While this appeal was pending, the United States Sixth Circuit Court of Appeals affirmed the federal district court's decision to dismiss the federal claims. *Jerome*, 695 F Appx at 943.

II. STANDARD OF REVIEW

Summary disposition is proper under MCR 2.116(C)(7) if plaintiff's claims are barred on the basis of collateral estoppel. *Alcona Co v Wolverine Environmental Production, Inc*, 233 Mich App 238, 246; 590 NW2d 586 (1998). Summary disposition under MCR 2.116(C)(10) is properly granted if there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Transou v City of Pontiac*, 283 Mich App 71, 73; 769 NW2d 281 (2009). This Court reviews a trial court's decision on a motion for summary disposition de novo. *Id.* at 72-73. When considering a motion under MCR 2.116(C)(7) or (C)(10), a court must consider the pleadings, depositions, admissions, and documentary evidence then filed in the action in the light most favorable to the nonmoving party. MCR 2.116(G)(5); *Transou*, 283 Mich App at 73.

III. ANALYSIS

A. DUE PROCESS AT THE TRIAL COURT

Plaintiff first argues that the trial court erred when it granted summary disposition in favor of defendants without allowing him to submit a written response to defendants' request for summary disposition on the basis of collateral estoppel. He claims that such action deprived him of his right to procedural due process. Plaintiff is correct that no written response *normally* would have been permitted because the issue of collateral estoppel was first raised in defendants' reply brief. While plaintiff asked at the hearing that he be allowed to submit a brief *after* the hearing, he never argued that the failure to allow him to submit such a brief violated his right to due process. As a result, the issue raised on appeal is not preserved, see *Keenan v Dawson*, 275 Mich App 671, 681; 739 NW2d 681 (2007), and our review is limited to one for plain error affecting substantial rights, *In re Egbert R Smith Trust*, 274 Mich App 283, 285; 731 NW2d 810 (2007), *aff'd* 480 Mich 19 (2008).

On appeal, plaintiff claims that he was precluded from opposing defendants' motion "in a meaningful way" and that we should remand to allow him "the opportunity to fully and meaningfully respond to what is now the central issue in this case [collateral estoppel]." We disagree. Plaintiff fails to acknowledge that he was given an opportunity at the motion hearing in the trial court to orally contest the motion and in fact availed himself of the opportunity. At the hearing, plaintiff's counsel argued that collateral estoppel did not bar the claims because (1) at that time the federal judgment was under appeal; and (2) the federal claims were completely separate from the state claims. Under these circumstances, there is no plain error requiring reversal. "The fundamental requirements of procedural due process are notice and a meaningful opportunity to be heard before an impartial decision maker." *In re Beck*, 287 Mich App 400, 401-402; 788 NW2d 697 (2010). Here, plaintiff fails to explain how, in light of his having been

timely apprised of the issue in advance, being permitted to orally argue at the motion hearing did not constitute a meaningful opportunity to contest the motion. Indeed, hearings in open court routinely are sufficient to meet this requirement. See, e.g., *Klco v Dynamic Training Corp*, 192 Mich App 39, 42; 480 NW2d 596 (1991). Accordingly, we hold that plaintiff has failed to show how he was denied the basic requirements of due process.

B. MERITS OF TRIAL COURT'S DECISION

The trial court granted summary disposition on the basis of collateral estoppel. The term "collateral estoppel" refers to issue preclusion. *People v Gates*, 434 Mich 146, 154 n 7; 452 NW2d 627 (1990). By contrast, the term "res judicata" refers to "claim preclusion," *Bennett v Mackinac Bridge Auth*, 289 Mich App 616, 629; 808 NW2d 471 (2010), which addresses "the preclusive effect of a judgment upon a subsequent proceeding on the basis of the same cause of action," *Gates*, 434 Mich at 154 n 7. "Collateral estoppel precludes relitigation of an issue in a subsequent, different cause of action between the same parties when the prior proceeding culminated in a valid judgment and the issue was actually and necessarily determined in the prior proceeding." *Porter v Royal Oak*, 214 Mich App 478, 485; 542 NW2d 905 (1995). The doctrine of collateral estoppel is intended " 'to relieve parties of the cost and vexation of multiple lawsuits, conserve judicial resources, and, by preventing inconsistent decisions, encourage reliance on adjudication' " *Monat v State Farm Ins Co*, 469 Mich 679, 692-693; 677 NW2d 843 (2004) (citation omitted). "Generally, for collateral estoppel to apply three elements must be satisfied: (1) a question of fact essential to the judgment must have been actually litigated and determined by a valid and final judgment; (2) the same parties must have had a full and fair opportunity to litigate the issue; and (3) there must be mutuality of estoppel." *Id.* at 682-683 (quotation marks and citations omitted). Here, defendant argues that issues determined by the district court and court of appeals in plaintiff's federal lawsuit satisfy the requirements of collateral estoppel and thus bar the present case.

1. PRECLUSIVE EFFECT OF FEDERAL COURT RULING PENDING ITS APPEAL

In arguing that the trial court erred when it granted summary disposition in favor of defendant, plaintiff does not contend that the elements of collateral estoppel are not met. Instead, plaintiff contends that, because the federal district court's judgment was pending appeal in the Sixth Circuit at the time the trial court in this case granted summary disposition, the trial court should have stayed the matter until the Sixth Circuit rendered its decision. This issue is moot, as the Sixth Circuit has since then affirmed the federal district court's ruling. *Jerome*, 695 F Appx at 943. In any event, the federal district court's decision retained whatever preclusive effect it had during the pendency of the federal appeal. *Erebia v Chrysler Plastic Products Corp*, 891

F2d 1212, 1215 n 1 (CA 6, 1989).⁵ As a result, the trial court did not err when it failed to wait for plaintiff's appeal in the Sixth Circuit to resolve.⁶

2. COUNTS I, II, AND III

Plaintiff next argues, in summary fashion, that collateral estoppel does not bar Counts I, II, or III of his complaint. Count I alleged that plaintiff was unlawfully or falsely arrested, on the basis that there was not probable cause to arrest him. Count II alleged malicious prosecution, again based on the purported absence of probable cause for initiating or continuing the criminal proceedings. Count III alleged false imprisonment, also premised on an asserted lack of probable cause to arrest him.

Thus, each of Counts I, II, and III was predicated factually on there being an absence of probable cause to arrest plaintiff at the time the criminal charges issued. See *Matthews v Blue Cross & Blue Shield of Mich*, 456 Mich 365, 389; 572 NW2d 603 (1998) (“[T]he only situation in which an action for malicious prosecution would properly lie is where a police officer knowingly swears to false facts in a complaint, without which there is no probable cause.”); *Peterson Novelties, Inc v City of Berkley*, 259 Mich App 1, 18; 672 NW2d 351 (2003) (“To prevail on a claim of false arrest or false imprisonment, a plaintiff must show that the arrest was not legal, i.e., the arrest was not based on probable cause.”).

In plaintiff's federal lawsuit, the courts ruled that probable cause was in fact established and that even if Crum had disclosed the exculpatory recording of the August 21 interview to plaintiff, as he may have been required to, probable cause nevertheless would have continued to exist. See *Jerome*, 695 F Appx at 942. Thus, collateral estoppel applies to each of Counts I, II, and III because the federal court action was between the same parties, there was a valid judgment, and the issue of whether disclosure of the withheld video recording to plaintiff would have eviscerated probable cause was actually and necessarily determined in the prior proceeding.

⁵ This Court “must apply federal claim-preclusion law in determining the preclusive effect of a prior federal judgment.” *Pierson Sand & Gravel, Inc v Keeler Brass Co*, 460 Mich 372, 380-381; 596 NW2d 153 (1999) (quotation marks and citation omitted).

⁶ We note that to the extent the trial court erred when it granted summary disposition on the basis of collateral estoppel when that issue was initially raised in defendants' reply brief instead of their motion for summary disposition, any such error is harmless. It is important to recognize that in his brief on appeal in this Court, plaintiff simply asks that we remand to allow him to fully present his argument regarding collateral estoppel to the trial court. When, as here, all the facts necessary to resolve the issue have been presented to the trial court and therefore are available to us, the issue of collateral estoppel is one of law which we can decide without a remand. *Laurel Woods Apartments v Roumayah*, 274 Mich App 631, 640; 734 NW2d 217 (2007); *Minicuci v Scientific Data Mgt, Inc*, 243 Mich App 28, 34; 620 NW2d 657 (2000); see also *People v LeBlanc*, 399 Mich 31, 49 n 12; 248 NW2d 199 (1976) (stating that a reviewing court may decide an issue, although not properly raised at the trial court, “in the interest of justice and judicial efficiency”).

Porter, 214 Mich App at 485. Thus, based on collateral estoppel, plaintiff cannot prevail here because he may not relitigate the issue of probable cause. Because the lack of probable cause is an element of each of Counts I, II, and III, and because plaintiff cannot, as a matter of law, establish a lack of probable cause for his arrest, summary disposition was properly granted as to each of these counts.

3. COUNT IV

Plaintiff next argues that even if the federal decision is given full preclusive effect, while it might bar most of his claims, it cannot preclude his state-law claim of gross negligence. This is so, plaintiff maintains, because at most the federal decisions merely resulted in a conclusive determination that there was probable cause to arrest and imprison him, which is different than a determination that Crum did not act with gross negligence. While we agree that the determination of probable cause in the federal action does not equate to a finding regarding gross negligence, the claim is still barred under principles of collateral estoppel.

One of the elements of any negligence or gross negligence claim is causation. Indeed, under the governmental tort liability act, MCL 691.1401 *et seq.*, “[a]n employee of a governmental agency acting within the scope of his or her authority is immune from tort liability unless the employee’s conduct amounts to gross negligence *that is the proximate cause of the injury.*” *Kendricks v Rehfield*, 270 Mich App 679, 682; 716 NW2d 623 (2006) (emphasis added). A governmental employee’s gross negligence is the proximate cause of an injury if it is “ ‘the one most immediate, efficient, and direct cause’ preceding the injury.” *Love v Detroit*, 270 Mich App 563, 565; 716 NW2d 604 (2005), quoting *Robinson v Detroit*, 462 Mich 439, 446; 613 NW2d 307 (2000). Here, the Sixth Circuit expressly ruled that Crum’s failure to disclose the tape of the August 21 interview did not cause any harm to plaintiff. Specifically, the Sixth Circuit ruled that, assuming

Crum had maliciously misled the prosecutor into thinking that the August 21 interview had been identical to the initial May interview, [the complainant’s] testimony at the preliminary examination in October repeating all of the material differences in the August 21 interview removed any materiality of Crum’s statements in the maintenance of [plaintiff’s] prosecution. The prosecution (and [plaintiff], for that matter) would have been aware that [the complainant’s] October testimony differed from her May testimony. Because those differences were the same differences from the August 21 interview, any diminution of probable cause based on those discrepancies would have already been revealed and Crum’s contention of consistent testimony would have had little impact upon the decision to continue prosecution. Therefore, the withholding of the information within the August 21 interview was not material to the prosecution. [*Jerome*, 695 F Appx at 942-943.]

In other words, the federal court ruled that Crum’s failure to turn the tape of the August interview over to either the prosecution or plaintiff did not affect the continuation of the

prosecution against plaintiff and had no effect on plaintiff's continued confinement while awaiting trial.⁷ With the federal courts having already determined that the failure to turn over the tape of the interview had no effect on plaintiff's prosecution or imprisonment, plaintiff cannot relitigate the issue of causation anew. Therefore, the trial court properly granted defendant's motion for summary disposition on this count as well.

Moreover, assuming that collateral estoppel was not applicable as the dissent suggests, summary disposition would be appropriate under MCR 2.116(C)(10) for lack of a genuine issue of material fact. For the reasons already outlined, there is no evidence to show that Crum's failure to turn over the video recording of the August interview was a cause, let alone the proximate cause, of plaintiff's continued prosecution or imprisonment. Any suggestion that the prosecution would have dropped the case against plaintiff sooner if it had been aware of the tape earlier is to engage in impermissible speculation. See *Libralter Plastics, Inc v Chubb Group of Ins Cos*, 199 Mich App 482, 486; 502 NW2d 742 (1993) ("[P]arties opposing a motion for summary disposition must present more than conjecture and speculation to meet their burden of providing evidentiary proof establishing a genuine issue of material fact."). Any reliance on the prosecution's ultimate decision to decline pursuing the case after the mistrial is misplaced because there is nothing in the record to show that the prosecution's decision was based on the existence of the videotape. Indeed, there are a host of possible reasons not related to the late production of the videotape why the prosecution could have decided to forgo a second trial, including that the witnesses perhaps testified in an unexpected way at the first trial⁸ or that the complainant perhaps simply decided that she was not going to testify or cooperate any more after having already been subjected to several interviews and having already testified in court twice. Hence, plaintiff cannot maintain his claim of gross negligence, and summary disposition is properly entered in favor of defendants. Thus, assuming the trial court erred when it granted summary disposition on plaintiff's gross negligence claim on the basis of collateral estoppel, we nonetheless affirm because summary disposition was warranted under MCR 2.116(C)(10). See

⁷ The dissent claims that the Sixth Circuit's ruling did not address causation. Such an assertion is puzzling as the harm plaintiff complains of in his gross-negligence claim is his continued prosecution and incarceration. Thus, because the Sixth Circuit ruled that Crum's failure to turn the videotape over did not affect the prosecution's decision to prosecute the case and did not affect plaintiff's incarceration, see *Jerome*, 695 F Appx at 942-943, it clearly is a ruling on causation. In other words, because the failure to disclose the tape did not have an effect on plaintiff's confinement in jail, it necessarily did not cause his confinement. Also, the fact that the two involved claims are different (malicious prosecution vs. gross negligence) is of no consequence. The application of the doctrine of collateral estoppel is not limited to the same or similar claims because it involves *issue* preclusion, not *claim* preclusion. See *Ditmore v Michalik*, 244 Mich App 569, 577; 625 NW2d 462 (2001).

⁸ The full transcript of the criminal trial was not provided to this Court, so we do not know how the witnesses, including the complainant, testified at that trial.

Gleason v Dep't of Transp, 256 Mich App 1, 3; 662 NW2d 822 (2003) (“A trial court’s ruling may be upheld on appeal where the right result issued, albeit for the wrong reason.”).

Affirmed. Defendants, as the prevailing parties, may tax costs pursuant to MCR 7.219.

/s/ Mark T. Boonstra

/s/ Jonathan Tukel

STATE OF MICHIGAN
COURT OF APPEALS

SAMUEL JEROME,

Plaintiff-Appellant,

v

MICHAEL CRUM and CITY OF BERKLEY,

Defendants-Appellees.

UNPUBLISHED
December 27, 2018

No. 335328
Oakland Circuit Court
LC No. 2015-148401-CZ

Before: GLEICHER, P.J., and BOONSTRA and TUKEL, JJ.

GLEICHER, J. (*concurring in part and dissenting in part*).

The majority affirms the summary dismissal of Samuel Jerome's gross negligence claim on both collateral estoppel and causation grounds. The majority's analysis conflicts with binding precedent and reflects a profound misunderstanding of these concepts. I dissent.

I. BACKGROUND

This case arises from Jerome's prosecution for criminal sexual conduct involving his stepdaughter, AK. AK provided investigators with four different versions of the events underlying Jerome's prosecution. Jerome alleges that defendant Michael Crum, the detective in charge of the investigation, failed to provide the prosecutor or the defense with a videotape of AK's fourth and final interview. His complaint asserts that this omission constituted gross negligence resulting in his prolonged incarceration, public identification as a sex offender, mental anguish, and other tort damages.

In her initial interview with Crum, AK accused Jerome of having sexually assaulted her on two occasions. A forensic interview at CARE House followed, during which AK recanted her allegations. Crum observed AK's disavowal of any abuse during her forensic questioning and characterized it in his notes as "a complete reversal of her recollection of the assaults." A few months went by. Crum reinterviewed AK. He represented to the prosecutor that during her third interview, AK renewed her sexual assault allegations. Crum sought an arrest warrant.

A prosecutor advised Crum that she needed additional information "critical to a determination being made on this warrant request" before a warrant could issue. Crum again interviewed AK. This fourth interview was videotaped. In it, Crum asked leading questions and

directed AK's answers. AK contradicted her earlier statements in several ways.¹ Crum nevertheless advised the prosecutor that AK's interview was "identical" to the first one. He neglected to reveal to the prosecutor that this interview had been videotaped.

Armed with Crum's reassurance about the strength and consistency of AK's testimony, the prosecutor followed through with an arrest warrant. Jerome went to jail on September 18, 2013, and remained incarcerated for almost a full year until the criminal case mistried, his bond was reduced, and he was able to obtain release. The videotape of Crum's final interview with AK emerged only on the last day of Jerome's trial, after the prosecution had rested. According to Crum, "Sergeant Hadfield" found the videotaped interview and presented it to Crum after Crum testified.

Jerome alleges that the videotape precluded any possibility of a conviction and, if viewed before the trial, would have derailed the prosecution's case. The prosecuting attorney who tried the case agreed, commenting after the parties watched the newly emerged videotape, "[T]here's some things that they have [in the videotape] that they could have worked with quite effectively in their defense." A few weeks later, the prosecutor decided not to retry the case, explaining in a dismissal motion, "After further investigation, the People cannot sustain their burden of proving the case beyond a reasonable doubt at trial."

Jerome brought suit against Crum in the federal district court asserting a claim under 42 USC § 1983, alleging unlawful arrest, malicious prosecution, false imprisonment, and denial of due process under *Brady v Maryland*, 373 US 83; 83 S Ct 1194; 10 L Ed 2d 215 (1963). He premised his allegations on Crum's failure to produce the videotaped interview during discovery in the criminal case. The complaint also stated state law claims for unlawful arrest, malicious prosecution, false imprisonment, and gross negligence. The federal district court declined to exercise supplemental jurisdiction over Jerome's state law claims and dismissed them without prejudice in an order issued on July 27, 2015.

The federal district court ultimately entered a summary judgment in favor of Crum regarding Jerome's federal claims. The federal Court of Appeals for the Sixth Circuit affirmed, finding that probable cause existed for Jerome's arrest and prosecution and that the *nolle prosequi* decision barred Jerome's *Brady* claim. I agree with the majority that collateral estoppel bars Jerome from pursuing the claims that rest on an absence of probable cause. Jerome's gross negligence claim does not fall within that category.

¹ Crum's "questioning" included suggestive statements, such as "we all know the horrible things that [Jerome] has done to you," "no one is questioning whether or not you're telling the truth," "we're here to try and overcome the legal crap the defense attorney is going to try to pull," and "I know your mom made you change your story at CARE House." AK's recollection of the assaults differed from the version she first provided regarding the extent of the touching, Jerome's location when he assaulted her, and several other pertinent details. The combination of Crum's improper techniques and AK's inconsistencies made the tape a powerful weapon—for the defense.

II. COLLATERAL ESTOPPEL

A party relying on the doctrine of “collateral estoppel must show that (1) a question of fact essential to the judgment was actually litigated and determined by a valid and final judgment, (2) the same parties had a full and fair opportunity to litigate the issue, and (3) there was mutuality of estoppel.” *People v Trakhtenberg*, 493 Mich 38, 48; 826 NW2d 136 (2012) (cleaned up).² Pertinent here is the first of these factors—that the factual issue was *actually litigated and determined* in the prior proceeding. To satisfy that requirement, the issue had to have been “essential” to the first court’s judgment, *People v Gates*, 434 Mich 146, 158; 452 NW2d 627 (1990), and “must be identical, and not merely similar” to the issue for which the application of collateral estoppel is sought. *Keywell & Rosenfeld v Bithell*, 254 Mich App 300, 340; 657 NW2d 759 (2002) (cleaned up). The rules governing collateral estoppel must be “strictly applied.” *Id.*

None of the factual or legal issues decided by the Sixth Circuit satisfy the legal standards for collateral estoppel, and none relate even remotely to the proximate cause element of Jerome’s gross negligence claim.

According to the majority, the Sixth Circuit determined that Crum’s withholding of the videotaped interview did not proximately cause Jerome any injury or damage, eliminating his ability to prove the necessary elements of gross negligence. Three fatal errors contaminate this conclusion. First, the Sixth Circuit never made such a finding. The majority has flatly mischaracterized that court’s opinion. Second, the Sixth Circuit never addressed whether proximate cause existed for Jerome’s gross negligence claim based on Crum’s withholding of the interview videotape; none of the legal aspects of this state law cause of action were “actually litigated” or determined in its opinion. Third, the snippets the majority cherry-picks from the Sixth Circuit opinion do not stand for the proposition for which the majority cites them.

The majority asserts that “the Sixth Circuit expressly ruled that Crum’s failure to disclose the tape of the August 21 interview did not cause any harm to plaintiff.” The Sixth Circuit “expressly” said no such thing. The portion of the Sixth Circuit’s opinion subsequently referenced by the majority addresses Crum’s § 1983 malicious prosecution claim. “The crux of [that] case,” the Sixth Circuit explained, “is whether there was a lack of probable cause for the prosecution.” *Jerome v Crum*, 695 Fed Appx 935, 942 (CA 6, 2017). A few sentences later, still within its discussion of the § 1983 malicious prosecution claim, the Court stated, “Jerome cannot show that Crum’s omission of the details of the August 21 interview was material to or strengthened the case against him because AK stated the same version of events in the preliminary examination that she did in the August 21 interview.” *Id.* The Sixth Circuit elaborated that because the prosecution was aware of inconsistencies in AK’s testimonies and “those differences were the same differences” as would have been revealed by the August 21 interview, “any diminution of probable cause based on those discrepancies would have already

² This opinion uses the new parenthetical (cleaned up) to improve readability without altering the substance of the quotation. The parenthetical indicates that nonsubstantive clutter such as brackets, alterations, internal quotation marks, and unimportant citations have been omitted from the quotation. See Metzler, *Cleaning Up Quotations*, 18 J App Pract & Process 143 (2017).

been revealed and Crum's contention of consistent testimony would have had little impact upon the decision to continue prosecution." *Id.* at 942-943.

These comments relate solely to whether probable cause existed to initiate and continue Jerome's prosecution. Probable cause is a complete defense to malicious prosecution. But not so for gross negligence. The legal standards for malicious prosecution differ from those that govern a gross negligence claim. Probable cause figures prominently in malicious prosecution but does not control whether a plaintiff can establish damages in a gross negligence case predicated on withheld evidence. This is but one reason that the Sixth Circuit's adjudication of Jerome's federal malicious prosecution claim has no bearing on his state law gross negligence averments.

A federal claim for malicious prosecution "encompasses wrongful investigation, prosecution, conviction, and incarceration." *Sykes v Anderson*, 625 F3d 294, 308 (CA 6, 2010) (cleaned up). To succeed on such a claim, a plaintiff must prove that "a criminal prosecution was initiated" and that "the defendant influenced or participated in the decision to prosecute," "*there was no probable cause for the prosecution*," the plaintiff was deprived of his liberty apart from the initial arrest, and the criminal proceeding was resolved in the plaintiff's favor. *Id.* at 308-309 (emphasis added) (cleaned up).

The Sixth Circuit held that Jerome's federal malicious prosecution claim failed because he could not show a lack of probable cause, and because probable cause existed for his continued detention regardless of AK's inconsistent statements. In upholding the dismissal of Jerome's malicious prosecution claim, the Court elaborated, "[T]here was an untainted finding of probable cause that was the source of Jerome's detention; Crum's report had nothing to do with it." *Jerome*, 695 Fed Appx at 942. The fact essential to the Sixth Circuit's malicious prosecution judgment was probable cause. Probable cause was the only issue "actually litigated" for collateral estoppel purposes.

Lack of probable cause is also an element of malicious prosecution under Michigan law. *Walsh v Taylor*, 263 Mich App 618, 632-633; 689 NW2d 506 (2004). That is why the Sixth Circuit's finding has preclusive effect as to Jerome's state law malicious prosecution claim.³

Jerome's gross negligence claim involves different elements and different proofs. Governmental employees engaged in a governmental function are generally immune from tort liability under Michigan law. A governmental actor's gross negligence is an exception to this rule. MCL 691.1407(2)(c). Gross negligence is "conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results." MCL 691.1407(7)(a). The elements of a gross negligence claim are gross negligence, proximate causation, and damages.

³ Collateral estoppel also bars Jerome's state law claims for unlawful arrest and false imprisonment because an element of these three torts is that the defendants lacked probable cause for Jerome's arrest. Whether probable cause existed was a fact essential to the Sixth Circuit's judgment of Jerome's § 1983 claims based on wrongful arrest, prosecution, and detention. Therefore, the Sixth Circuit's finding that probable cause existed collaterally estops Jerome from pursuing these analogous state law claims.

Under the governmental tort liability act (GTLA), a plaintiff must prove that a defendant's gross negligence was "the" proximate cause of his injuries and damages. MCL 691.1407(2)(c). The Supreme Court recently clarified that in the governmental immunity context, a proper proximate cause analysis focuses on "the foreseeability of the consequences of the conduct of human actors" rather than on weighing the *factual* causes of an injury. *Ray v Swager*, 501 Mich 52, 67; 903 NW2d 366 (2017).

Jerome's state court complaint alleges that Crum's grossly negligent failure to turn over the videotaped interview proximately caused Jerome's prolonged and "wrongful" incarceration, and avers that Jerome sustained typical tort damages (legal expenses, mental and emotional injury, etc.) as a result. Jerome's brief on appeal asserts that even if probable cause supported his arrest, imprisonment and prosecution, Crum "withheld evidence and information from the prosecutor and that when that information was disclosed, the charges . . . were dropped and the prosecution ceased." Given that the prosecution decided to forego its case against Jerome almost immediately after the tape emerged, a reasonable inference follows that if Crum had disclosed the tape's existence earlier, the case against Jerome would have ended earlier. The actions undertaken by the prosecution once the interview came to light supply the circumstantial evidence creating a jury question as to whether Crum's failure to timely disclose the videotape represented the "one most immediate, efficient, and direct cause preceding" Jerome's alleged injuries. See *Robinson v Detroit*, 462 Mich 439, 459; 613 NW2d 307 (2000). The Sixth Circuit did not reject this proximate causation theory; the Sixth Circuit never even considered it. In a nutshell, that is why the collateral estoppel doctrine has no relevance.

The majority professes to agree that "the determination of probable cause in the federal action does not equate to a finding of gross negligence," but proceeds to conflate probable cause and proximate cause. A finding of one is not the same thing as a finding of the other. Yes, the police had probable cause to arrest and prosecute Jerome. But this does not answer an entirely different question—assuming that Crum was grossly negligent, was his gross negligence the foreseeable cause of Jerome's prolonged incarceration? Collateral estoppel applies when the issues are "identical, and not merely similar." *Keywell & Rosenfeld*, 254 Mich App at 340. The majority overlooks this rule, just as it overlooks the obvious distinctions between the concepts of probable cause and proximate cause. The terms proximate cause and probable cause share a word, but not a meaning. Assessing facts to evaluate proximate cause is not the same as engaging in a probable cause analysis.

The majority commits an additional legal error, and an egregious one. The majority opines, "The application of the doctrine of collateral estoppel is not limited to the same or similar claims because it involves *issue* preclusion, not *claim* preclusion." (Emphasis in original). Therefore, the majority reasons, that Jerome brought a different claim in state court makes no difference. This pronouncement entirely misses the point. Collateral estoppel precludes the relitigation of an issue *actually* and *necessarily* determined in the prior proceeding. *Gates*, 434 Mich at 158. The *issues* must be identical. Further, "[a]n issue is necessarily determined only if it is 'essential' to the judgment." *Id.*

Different claims usually involve different facts and different legal issues. The elements of the claims supply a critical starting point because they establish the nature of the issues actually and necessarily involved in the case. Only by focusing on the nature of the claim and

the issues subsumed within that claim can a court determine whether an issue was actually and necessarily decided in a previous case.

The issue presented here—whether Crum’s gross negligence proximately caused Jerome’s damages—was not determined by the Sixth Circuit. The Sixth Circuit’s opinion never uses the words “gross negligence,” “causation,” or “proximate cause.” It never even uses the word “cause” apart from the modifier “probable.” And the case cited by the majority in support of its irrelevant proposition—*Ditmore v Michalik*, 244 Mich App 569, 577; 625 NW2d 462 (2001)—utterly refutes the majority’s position. In *Ditmore*, defendants sought to invoke collateral estoppel, claiming that a prior case brought by the plaintiffs involved the same issue as the case then before the court. In the earlier case, the plaintiffs sought a declaration that their neighbors had no rights in a certain parcel of land. We held that the record revealed “no indication that the trial court ever resolved the issue whether” the neighbors “had any claim or right” in the *plaintiffs’* land. *Id.* at 578.

Ditmore teaches that courts must scrutinize the prior and present claims with great care to determine whether the issues presented are truly identical. The majority fails to do so, holding that a ruling on an issue relevant only to Jerome’s malicious prosecution claim precludes a different claim presenting entirely different issues. The majority is oblivious to the relevant facts: the law governing the two claims (malicious prosecution and gross negligence) is different, the legal and factual issues involved are different, and the probable cause question decided by the federal court is distinct from the proximate cause issue presented here.⁴

Rather, the obvious federal corollary to Jerome’s gross negligence theory is the *Brady* claim. Both the federal *Brady* claim and the state law gross negligence claim are predicated on Crum’s failure to turn over the videotape. The critical distinction for collateral estoppel purposes is that the Sixth Circuit did *not* dispose of Jerome’s *Brady* claim because Jerome failed to prove that he had suffered *any* injuries or damages. The Sixth Circuit applied its precedent to hold that a favorable resolution of a plaintiff’s criminal trial nixes a federal *Brady* claim because a favorable trial result means that a plaintiff has not sustained a *constitutional* injury. That finding is the only finding to which collateral estoppel applies. And that finding is not relevant to

⁴ As Wright & Miller, *Defining the Issue Precluded*, 18 Fed Prac & Proc Juris § 4417 (3d ed), explains:

Courts have readily perceived that for purposes of preclusion, “[i]ssues are not identical if the second action involves application of a different legal standard, even though the factual setting of both suits be the same.” In many cases the differences in the legal standards are apparent and easily defeat claims of preclusion, particularly when new statutes have been adopted, when different plaintiffs may enjoy different rights, or when different choice-of-law standards apply. In other cases, careful examination has shown that different legal standards are masquerading behind similar legal labels, so that preclusion is again inappropriate. At times it may be possible to question the results of individual decisions, but the method of inquiry seems to be well understood. And of course similar legal labels may in fact present identical issues.

Jerome's gross negligence claim because it has nothing to do with proximate causation in his gross negligence action.⁵

III. CAUSATION

The majority's fallback position is that no evidence supports that Crum's failure to turn over the videotape was "a cause, let alone the proximate cause," of his damages. According to the majority, "any suggestion that the prosecution would have dropped the case against plaintiff sooner if it had been aware of the tape earlier is to engage in impermissible speculation." This alternative holding reflects a misunderstanding of basic evidentiary and causation principles. It also ignores the rules governing summary disposition analysis.

When considering a motion brought under MCR 2.116(C)(10), a trial court "must review the record evidence, make all reasonable inferences therefrom, and determine whether a genuine issue of material fact exists, giving the nonmoving party the benefit of reasonable doubt." *Bertrand v Alan Ford, Inc.*, 449 Mich 606, 617-618; 537 NW2d 185 (1995). As appellate judges, we must engage in precisely the same process. Specifically, we "must [also] make all reasonable inferences in the nonmoving party's favor." *Id.* And when the record leaves open an issue on which reasonable minds might differ, a genuine issue of material fact exists that precludes summary disposition. *West v General Motors Corp.*, 469 Mich 177, 183; 665 NW2d 468 (2003).

The majority declares that as a matter of law, Jerome's causation proofs amount to speculation, as "there are a host of possible reasons not related to the late production of the videotape why the prosecution could have decided to forgo a second trial, including that the witnesses *perhaps* testified in an unexpected way at the first trial or that the complainant *perhaps* simply decided that she was not going to testify or cooperate any more after having already been subjected to several interviews and having already testified in court twice." (Emphases added.)

Perhaps.

The majority has done a commendable job at conjuring some speculative refutations of proximate cause. No evidence of record supports any of them; they are entirely made-up. Perhaps defense counsel might offer some evidence supporting them at trial, and perhaps a jury would see it the majority's way. But the majority has constructed a proximate cause defense

⁵ The legal principle driving the Sixth Circuit's dismissal of Jerome's *Brady* claim is that the only injury relevant to a § 1983 claim is a *constitutional* injury. *Brady* concerns the right to a fair trial. "*Brady's* ultimate concern [is] ensuring that criminal defendants receive a fundamentally fair trial." *Moldowan v City of Warren*, 578 F3d 351, 378 (CA 6, 2009) (cleaned up). Therefore, "liability for a *Brady* violation only exists when evidence sufficient to " 'put the whole case in such a different light as to undermine confidence in the verdict' " is improperly withheld. *Johnson v Mitchell*, 585 F3d 923, 933 (CA 6, 2009), quoting *Kyles v Whitley*, 514 US 419, 435; 115 S Ct 1555; 131 L Ed 2d 490 (1995). That is why success on a federal *Brady* claim depends on a showing of "a reasonable probability that had the evidence been timely disclosed to the defense the outcome would have been different." *Snow v Nelson*, 634 Fed Appx 151, 156 (CA 6, 2015) (cleaned up). Translated to the language of tort law, this means that the only injury for which a *Brady* claim can compensate is that of an unfair trial.

from thin air and more importantly, it has utterly failed to view the evidence from the plaintiff's perspective.

Jerome has advanced a proximate cause argument that hinges on actual facts, not "perhaps." Both direct and circumstantial evidence supply the foundation for a reasonable, nonspeculative inference that had the videotape been disclosed sooner, Jerome would have avoided a prolonged incarceration and a trial. I turn to that evidence.

A jury could readily decide that Crum bore a continuing obligation to locate and turn over the videotape as the case against Jerome made its way through the system. It naturally follows that Crum's gross negligence foreseeably led to Jerome's inability to mount a compelling defense, and to the prosecution's inability to accurately evaluate the strengths and weaknesses of its case. Day after day, month after month passed while a key piece of exculpatory evidence remained concealed and Jerome remained jailed. The tape's revelation dramatically and quickly turned the parties' positions upside down. After the prosecuting attorney admitted to Judge Nichols that the tape was highly relevant to the defense and a mistrial necessary, Jerome's bond was promptly reduced from \$500,000 to \$10,000, with 10% to be posted. And 16 days later, the prosecution abandoned the case.

A mere coincidence? I think not. A "speculative" connection between the tape and the abrupt *nolle prosequi* decision? Hardly. Rather, reasonable inferences arising from the actual case facts support that Jerome created a jury-submissible issue of causation.

Causation in a negligence action requires proof of both cause in fact and proximate cause. *Reeves v Kmart Corp*, 229 Mich App 466, 479; 582 NW2d 841 (1998). Cause in fact "generally requires showing that 'but for' the defendant's actions, the plaintiff's injury would not have occurred." *Skinner v Square D Co*, 445 Mich 153, 163; 516 NW2d 475 (1994). Proximate cause involves an examination of the foreseeability of consequences, and a determination whether a defendant should be held legally responsible for those consequences. *Id.* at 163. Normally, the issue of causation belongs to the jury. *Reeves*, 229 Mich App at 480.

When a motion for summary disposition challenges causation under to subrule (C)(10), "the court's task is to review the record evidence, and all reasonable inferences therefrom, and decide whether a genuine issue of any material fact exists to warrant a trial." *Skinner*, 445 Mich at 161. "[I]f there is evidence which points to any 1 theory of causation, indicating a logical sequence of cause and effect, then there is a juridical basis for such a determination, notwithstanding the existence of other plausible theories with or without support in the evidence." *Kaminski v Grand Trunk Western R Co*, 347 Mich 417, 422; 79 NW2d 899 (1956) (cleaned up).

These general causation principles apply in a gross negligence setting, despite that the plaintiff must prove that a defendant's gross negligence was "the" proximate cause of his injuries and damages. MCL 691.1407(2)(c). The evidence substantiates that Crum's failure to bring the videotape to the prosecutor's attention at some point before the trial constituted a factual cause of Jerome's lengthy stay in jail. *Ray* dictates that the next question is whether Crum's conduct was also *the* proximate cause of Jerome's alleged damages. That determination hinges on "whether it

was foreseeable that the defendant's conduct could result in the harm to the victim." *Ray*, 501 Mich at 65. The Supreme Court emphasized in *Ray* that

[d]etermining whether an actor's conduct was "the proximate cause" under the GTLA does not involve a weighing of factual causes. Instead, so long as the defendant is a factual cause of the plaintiff's injuries, then the court should address legal causation by assessing foreseeability and whether the defendant's conduct was *the* proximate cause. [*Id.* at 74 (emphasis in original).]

The majority avoids this analysis, likely because engaging in it inevitably points to a conclusion that reasonable minds can differ. Was the withholding of the videotape the foreseeable cause of Jerome's damages? A jury could see it that way, given the cascade of events that transpired immediately after it was produced. A jury would also be charged with determining whether Crum's grossly negligent failure to timely produce the videotape was "the" proximate cause of Jerome's damages. See *id.* at 76. At this point, the majority's "perhaps" conjectures might come into play, assuming the defense placed in evidence some factual predicate for them. But we are not there yet. Rather, our job is to evaluate the evidence through Jerome's eyes. Viewed properly, the evidence points to a reasonable conclusion that Crum's failure to timely produce the videotape was "the" proximate cause of Jerome's prolonged incarceration.

IV. SUMMARY

The majority applies collateral estoppel to a proximate causation question that was neither litigated in the federal court nor determined by the Sixth Circuit. Instead the majority lifts various comments from the Sixth Circuit opinion, devoid of their context, and concludes that they establish collateral estoppel. The majority's approach flies in the face of the rule that we must strictly apply collateral estoppel principles where issues are identical, and not merely similar. There is no identity of issues here. In fact, when examined contextually and against the caselaw backdrop, there is not even any similarity. The majority compounds this error by invoking an alternative ground for affirmance rooted in proximate cause. Once again, however, the majority skips over the facts, turns a blind eye to controlling legal principle, and settles on an answer it favors.

I would reverse the trial court's grant of summary disposition regarding gross negligence, and remand for further proceedings.

/s/ Elizabeth L. Gleicher

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SAMUEL JEROME,

Plaintiff,

Case No. 15-12302

v.

Hon. John Corbett O'Meara

LIEUTENANT MICHAEL CRUM,
in his individual and representative
capacity, and the CITY OF BERKLEY,
a municipal entity,

Defendants.

ORDER OF PARTIAL DISMISSAL

On June 24, 2015, Plaintiff filed a complaint alleging the following counts:

Count I, federal false arrest and false imprisonment; Count II, federal malicious prosecution; Count III, federal due process; Count IV, federal unconstitutional policy or custom; Count V, state unlawful arrest; Count VI, state malicious prosecution; Count VII, state false imprisonment; Count VIII, state gross negligence.

Although Counts I through IV are cognizable in this court pursuant to 28 U.S.C. § 1331, the remaining allegations present claims based on state law. This court declines to exercise supplemental jurisdiction over Plaintiff's state law claims so as to avoid jury confusion. See 28 U.S.C. § 1367(c); United Mine Workers v.

Gibbs, 383 U.S. 715 (1966); Padilla v. City of Saginaw, 867 F. Supp. 1309 (E.D. Mich. 1994); Sanford v. Detroit Pub. Schs., 2014 WL 1922722 (E.D. Mich. 2014) (“Mixing federal-law claims with supplemental state-law claims can cause procedural and substantive problems; in the interest of judicial economy and convenience, these problems should be avoided.”).

Therefore, IT IS HEREBY ORDERED that Counts V, VI, VII, and VIII of Plaintiff’s complaint are DISMISSED WITHOUT PREJUDICE.

s/John Corbett O’Meara
United States District Judge

Date: July 27, 2015

I hereby certify that a copy of the foregoing document was served upon counsel of record on this date, July 27, 2015, using the ECF system.

s/William Barkholz
Case Manager

This case has been designated as an eFiling case. To review a copy of the Notice of Mandatory eFiling visit www.oakgov.com/clerkrod/efiling.

State Court Complaint

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

SAMUEL JEROME,

Plaintiff,

v

LIEUTENANT MICHAEL CRUM, in his
Individual and Representative Capacity,
And the CITY OF BERKLEY, a
Municipal entity,

Defendants.

2015-148401-CZ
JUDGE LANGFORD MORRIS

Case No.
Hon.

REBECCA H. FILIATRAUT (P46443)
VEN R. JOHNSON (P39219)
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COMPLAINT AND JURY DEMAND

There is a previously filed Complaint arising out of the same facts and circumstances currently pending in the United States District Court Eastern District of Michigan in front of Judge John Corbett O'Meara; case number 15-cv-12302 the state counts having been dismissed without prejudice due to the Court declining to exercise pendent jurisdiction.

/s/ Rebecca H. Filiatraut

REBECCA H. FILIATRAUT (P46443)

NOW COMES Plaintiff, SAMUEL JEROME, by and through his attorneys, JOHNSON LAW, PLC and for his Complaint against the defendants states as follows:

1. At all times relevant to this lawsuit, Plaintiff, Samuel Jerome (“Samuel”) was a resident of the City of Berkley, County of Oakland, State of Michigan.
2. At all times relevant to this lawsuit, Defendant, Lieutenant Michael Crum (“Crum”) was employed as a police officer with the Berkley Police Department; with regard to all of his actions complained of herein, Crum acted under color of state law and is being sued in his individual and representative capacities.
3. At all times relevant to this lawsuit, Defendant City of Berkley (“Berkley”) was a municipal corporation, duly organized in carrying on governmental functions in the City of Berkley, County of Oakland, State of Michigan.
4. The amount in controversy exceeds \$25,000.00, exclusive of costs, interest and attorney fees, and jurisdiction is otherwise proper before this court.
5. On May 7, 2013 at approximately 10:00 AM, Alyxis (“Allie”) Krahe was brought to the Berkley Police Station by her maternal grandmother Judith Stiltner with a report of being sexually abused by her stepfather Samuel Jerome on two occasions. According to what Allie reported to the Berkley Police, Samuel had touched her inappropriately on two occasions, the first being while her mother was hospitalized around Christmas time in 2012. The second incident of alleged inappropriate touching occurred shortly before Allie presented to the Berkley Police Department on May 7, 2013.
6. Berkley via its police department investigated this crime, which included Lieutenant Crum ordering an interview of Allie at Care House pursuant to Forensic Interviewing Protocol.

7. Although Lieutenant Crum had interviewed Allie at the police station with regard to the alleged sexual abuse on May 7, 2013, he admits that he is not qualified nor has he had any training in conducting forensic interviews of juveniles.
8. On May 16, 2013 Allie was taken to the Care House facility for a forensic interview by her mother, Stacey Krahe.
9. The Care House forensic interview was conducted by Tricia Schuster. During the interview Allie advised that Samuel did not touch her vagina, either above or below her clothing. She recalled him accidentally touching her breast. She further told the interviewer that although Samuel's hand rubbed her hip bones near her pubic line, she asked him to stop and Samuel stopped rubbing her.
10. Despite the fact that Allie recanted her previous statements and the case should have been closed at that time, Crum improperly and impermissibly attempted to go back and "re-interview" Allie for a third time.
11. Defendant Crum admitted during Samuel's criminal trial that is not customary to go back and re-interview an alleged juvenile victim following an interview conducted pursuant to the Forensic Interviewing Protocol, but he attempted to do so anyway.
12. Despite the fact that the Care House interview provided exculpatory evidence, Crum refused to close his case for Criminal Sexual Conduct until he was able to re-interview Allie.
13. Samuel was arrested on September 18, 2013 for the crime of Criminal Sexual Conduct (CSC) in the first degree and was held on a \$500,000.00 bond, despite the fact that Crum knew that the alleged victim had completely recanted her prior statement.

14. A preliminary examination was held in the 45 A Judicial District Court for the County of Oakland in the matter of the State of Michigan v Samuel James Jerome on October 9, 2013.
15. At the preliminary exam, Samuel was bound over on charges of Criminal Sexual Conduct in the first degree and his \$500,000.00 bond was continued.
16. Samuel remained in the Oakland County Jail from September 18, 2013 until his criminal trial began on August 4, 2014.
17. On August 7, 2014, Lieutenant Michael Crum was called to testify at Samuel's criminal trial.
18. On August 7, 2014 while on the witness stand and under oath, Crum denied videotaping any interviews of Allie in connection with the criminal case against Samuel.
19. Further on August 7, 2014 Crum admitted while under oath and on the witness stand that pursuant to the policies and procedures of the Berkley Police Department officers are not allowed to interview juveniles by themselves and, "videotaping is not an option."
20. On the last day of Samuel's criminal trial on August 8, 2014 Crum, for the first time, appeared and produced a disc containing a copy of three videotaped interviews he had improperly and impermissibly conducted of witnesses Allie Krahe, her sister Sabrina Krahe and her maternal grandmother Judith Stiltner.
21. Trial was adjourned by the Honorable Judge Rudy J. Nichols for the parties to review the previously undisclosed videotaped interviews.

22. Despite many requests by Samuel's criminal defense attorney, Marsha Kosmatka, during the course of discovery, these videotaped interviews were never disclosed and their actual existence was denied.
23. After reviewing the undisclosed videotaped interviews of the witnesses, Judge Nichols adjourned the trial and reduced Samuel's bond from \$500,000.00 to \$1,000.00 in order for him to get out of jail.
24. Berkley falsely arrested and imprisoned Samuel who was held in the Oakland County Jail from the date of his arrest on September 18, 2013 through August 8, 2014 when the trial was adjourned and his bond was reduced.
25. On October 6, 2014 when the parties returned for the continuation of Samuel's trial, the Oakland County Prosecutor's office moved the court for an Order of Nolle Prosequi for the reason that after further investigation, the People could not sustain their burden of proving the case beyond a reasonable doubt at trial and therefore the best interest of justice would be served by dismissing the case with prejudice and entering an Order of Nolle Prosequi.
26. Despite having the exculpatory evidence including the Case House interview and the three undisclosed and improperly videotaped witness interviews, neither Crum nor Berkley produced the interviews and affirmatively denied their existence while under oath.
27. Such actions are in violation of *Brady v Maryland*, 373 US 83 (1963)
28. Crum never disclosed the videos of the improperly conducted witness interview including the interview of Allie despite the fact that it was exculpatory and would necessarily lead to the dismissal of criminal charges against Samuel.

29. Crum and Berkley, negligently, grossly negligently and/or intentionally, knowingly failed to produce the exculpatory interviews of the witnesses taken on August 21, 2013 at the Berkley Police Department.
30. Because of Crums and/or Berkley's negligent, grossly negligent and/or intentional misconduct, Samuel was unlawfully arrested, incarcerated for nearly 11 months, maliciously prosecuted and deprived of due process for a crime that Crum and/or Berkley knew Samuel did not commit.

Count I:

State Claim-Unlawful Arrest-Defendants Crum and Berkley

31. Samuel reasserts and realleges each and every allegation contained in paragraphs 1 through 30 as if fully set forth herein.
32. Samuel was arrested as a result of Crum's and/or Berkley's investigation.
33. Samuel was aware of the arrest and it was against his will.
34. Crum and/or Berkley intended to have Samuel arrested as a result of the information compiled in their investigation.
35. Such an arrest was unlawful because Crum and/or Berkley did not have probable cause as Crum and/or Berkley were in possession of undisclosed and exculpatory evidence which exonerated Samuel.
36. As a direct and proximate result of the above misconduct by Crum and/or Berkley, Samuel suffered and will continue to suffer, damages in the future including but not limited to:
- a. Wrongful arrest for a crime he did not commit;
 - b. Wrongful incarceration for 11 months for a crime he did not commit;

- c. Being labeled in the media and in society as the perpetrator of a crime he did not commit;
- d. Physical pain and suffering;
- e. Mental anguish;
- f. Fright and shock;
- g. Denial of social pleasure and enjoyments;
- h. Embarrassment, humiliation and mortification;
- i. Lost wages and/or earning capacity;
- j. The legal expense incurred by Samuel in the defense of this frivolous case; and
- k. All other damages learned through the course of discovery.

WHEREFORE, Samuel respectfully requests that this Honorable Court enter Judgment in his favor and against Crum and Berkley in an amount in excess of \$25,000.00 and award costs, interest, and attorney fees so wrongfully incurred.

Count II:

State Claim-Malicious Prosecution- Defendants Crum and Berkley

- 37. Samuel reasserts and realleges each and every allegation contained in paragraphs 1 through 36 as if fully set forth herein.
- 38. Crum and/or Berkley caused or continued the prosecution of Samuel based upon their investigation.
- 39. The criminal proceeding was terminated in favor of Samuel when the court dismissed the case with prejudice and entered an Order of Nolle Prosequi.

40. There existed no probable cause for initiating or continuing the proceeding as Crum and/or Berkley were in possession of both undisclosed and exculpatory evidence which proved Samuel to be innocent.
41. The initiation or continuation of the proceeding was done with malice or a primary purpose other than that of bringing the alleged offender to justice.
42. As a direct and proximate result of the above misconduct by Crum and/or Berkley, Samuel suffered and will continue to suffer, damages in the future including but not limited to:
- a. Wrongful arrest for a crime he did not commit;
 - b. Wrongful incarceration for 11 months for a crime he did not commit;
 - c. Being labeled in the media and in society as the perpetrator of a crime he did not commit;
 - d. Physical pain and suffering;
 - e. Mental anguish;
 - f. Fright and shock;
 - g. Denial of social pleasure and enjoyments;
 - h. Embarrassment, humiliation and mortification;
 - i. Lost wages and/or earning capacity;
 - j. The legal expense incurred by Samuel in the defense of this frivolous case;
and
 - k. All other damages learned through the course of discovery.

WHEREFORE, Samuel respectfully requests that this Honorable Court enter Judgment in his favor and against Crum and Berkley in an amount in excess of \$25,000.00 and award costs, interest, and attorney fees so wrongfully incurred.

Count III:

State Claim- False Imprisonment- Defendants Crum and Berkley

43. Samuel reasserts and realleges each and every allegation contained in paragraphs 1 through 42 as if fully set forth herein.
44. Samuel was imprisoned by Crum and/or Berkley when he was arrested without probable cause and was thereby deprived of his personal liberty or freedom of movement.
45. Such imprisonment was against Samuel's will.
46. Crum and/or Berkley accomplished the imprisonment by force.
47. Crum and/or Berkley intended to deprive Samuel of his personal liberty or freedom of movement.
48. Such imprisonment was unlawful because the arrest was made without probable cause.
49. As the direct and proximate result of the above misconduct by Crum and/or Berkley, Samuel suffered and will continue to suffer, damages in the future including but not limited to:
- a. Wrongful arrest for a crime he did not commit;
 - b. Wrongful incarceration for 11 months for a crime he did not commit;
 - c. Being labeled in the media and in society as the perpetrator of a crime he did not commit;

- d. Physical Pain and suffering;
- e. Mental anguish;
- f. Fright and shock;
- g. Denial of social pleasure and enjoyments;
- h. Embarrassment, humiliation and mortification;
- i. Lost wages and/or earning capacity;
- j. The legal expense incurred by Samuel in the defense of this frivolous case;
and
- k. All other damages learned through the course of discovery.

WHEREFORE, Samuel respectfully requests that this Honorable Court enter Judgment in his favor and against defendant Crum and Berkley in an amount in excess of \$25,000.00 and award costs, interest, and attorney fees so wrongfully incurred.

Count IV:

State Claim- Gross Negligence- Defendants Crum and Berkley

- 50. Samuel reasserts and realleges each and every allegation contained in paragraphs 1 through 49 as if fully set forth herein.
- 51. Crum and/or Berkley had a duty to the general public and especially to Samuel, to refrain from grossly negligent conduct.
- 52. Crum and/or Berkley breached that duty and were grossly negligent, or were so reckless as to demonstrate a substantial lack of concern for whether an injury results, when Crum withheld undisclosed and exculpatory evidence against Samuel.
- 53. Crum's and/or Berkley's gross negligence a direct cause of the injury or damage, e.g. the proximate cause, of Samuel's damages and injuries, including but not limited to:

- a. Wrongful arrest for a crime he did not commit;
- b. Wrongful incarceration for 11 months for a crime he did not commit;
- c. Being labeled in the media and in society as the perpetrator of a crime he did not commit;
- d. Physical Pain and suffering;
- e. Mental anguish;
- f. Fright and shock;
- g. Denial of social pleasure and enjoyment;
- h. Embarrassment, humiliation and mortification;
- i. Lost wages and/or earning capacity;
- j. The legal expense incurred by Samuel in the defense of this frivolous case;
and
- k. All other damages learned through the course of discovery.

WHEREFORE, Samuel respectfully requests that this Honorable Court enter Judgment in his favor and against defendant Crum and Berkley in an amount in excess of \$25,000.00 and award costs, interest, and attorney fees so wrongfully incurred.

Respectfully submitted,

JOHNSON LAW, PLC

By: /s/ Rebecca H. Filiatraut
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Dated: August 5, 2015

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

SAMUEL JEROME,

Plaintiff,

v

LIEUTENANT MICHAEL CRUM, in his
Individual and Representative Capacity,
And the CITY OF BERKLEY, a
Municipal entity,

Defendants.

2015-148401-CZ
JUDGE LANGFORD MORRIS

Case No.
Hon.

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DEMAND FOR JURY TRIAL

NOW COMES Plaintiff, SAMUEL JEROME, by and through his attorneys, **JOHNSON LAW, PLC** and hereby demands a trial by jury within cause of action.

Respectfully submitted,

JOHNSON LAW, PLC

By: /s/ Rebecca H. Filiatraut
REBECCA H. FILIATRAUT (P46443)
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Dated: August 5, 2015

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SAMUEL JEROME,

Plaintiff,

Case No. 15-12302

v.

Hon. John Corbett O'Meara

LIEUTENANT MICHAEL CRUM, in his
individual and representative capacity,
and the CITY OF BERKLEY, a
municipal entity,

Defendants.

**OPINION AND ORDER GRANTING
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Before the court is Defendants' motion for summary judgment. The court held oral argument on July 7, 2016, and took the matter under advisement. For the reasons explained below, Defendants' motion is granted.

BACKGROUND FACTS

Plaintiff Samuel Jerome filed suit against Lieutenant Michael Crum and the City of Berkley, alleging federal claims of false arrest and imprisonment, malicious prosecution, a violation of due process, and municipal liability. Defendants seek summary judgment on Plaintiff's claims, arguing that Crum is entitled to qualified

immunity.

On May 7, 2013, Alyxis ("██████" Krahe, then thirteen years old, was brought to the Berkley Police Station by her grandmother, Judy Stiltner. ██████ alleged that her stepfather, Plaintiff Jerome, had sexually abused her. According to ██████ Jerome had started by rubbing her stomach, then touched her vagina on two occasions and her breasts on the second occasion. As the investigating officer, Defendant Crum obtained basic information from ██████ prepared a report, and referred her to Care House for a forensic interview.

Jerome also came to the police station on May 7, 2013, to speak to Crum. Jerome admitted that he rubbed ██████ stomach, but denied the inappropriate touching. He agreed to submit to a polygraph examination on May 21, 2013.

On May 16, 2013, ██████ was taken to Care House by her mother, Stacey Krahe. ██████ essentially recanted her allegations of abuse, stating that when Jerome rubbed below her hip bones near her pubic line, she asked him to stop and he did; she also stated that he touched her breast accidentally.

On May 20, 2013, Jerome notified Crum that he would not take the polygraph examination. On June 9, Crum asked ██████ mother if he could meet with ██████ to discuss the change in her story. Stacey refused, stating that ██████ had admitted that she had made up the allegations and that the family did not want any

further police involvement.

On July 11, 2013, [REDACTED] grandmother Judy Stiltner brought [REDACTED] to the Berkley Police Station. They informed Crum that Stacey was hospitalized in Texas as a result of mental illness, that Stiltner was Stacey's legal guardian, and Stiltner gave Crum permission to discuss the case with [REDACTED]. [REDACTED] told Crum that her mother made her change her story at Care House. Stacey allegedly told [REDACTED] that if she continued with her allegations against Jerome, [REDACTED] would be placed in a foster home and raped daily. Stacey also allegedly threatened to commit suicide. [REDACTED] stated that her original description of the two incidents was the truth and that she was fearful that her younger sister Sabrina would also be sexually assaulted by Jerome. She stated that she had changed her story at Care House as a result of her mother's threats.

On July 14, 2013, Stacey was scheduled to return home from her hospitalization in Texas. According to the police report, Stacey called [REDACTED] and threatened her with "severe consequences for ruining the family." [REDACTED] then ran away from her grandmother's home, where she had been staying. A runaway report was filed.

On July 15, 2013, Stacey informed the Berkely police that she had found [REDACTED]. Officers asked to see [REDACTED] so that they could confirm her return. In

response, Stacey sent officers on a wild goose chase, first saying she had taken [REDACTED] to Beaumont Hospital (but when officers arrived, they were not there), then Providence Hospital (they were not there), and then stating that she was on the road to Georgia for a “fresh start.” See Defs.’ Ex. A.

On August 2, 2013, police were called to the Jerome residence as a result of a domestic disturbance. [REDACTED] had been physically assaulted by both her mother and Plaintiff, sustaining injuries that were witnessed by the responding police officers. As a result of this incident, both Plaintiff and Stacey were arrested for domestic violence. Defs.’ Ex. C.

On August 6, 2013, Crum forwarded the domestic violence case to the Oakland County Prosecutor’s office for consideration. The prosecutor decided to pursue the case against Jerome, but not against Stacey because Stacey was anticipated to be a witness in the criminal sexual conduct case against Jerome.

On August 9, 2013, Crum forwarded the criminal sexual conduct case against Jerome to the prosecutor’s office. On August 21st, the prosecutor requested further information and provided specific questions for Crum to answer. On that date, Judy Stiltner arrived at the police station (before Crum could contact her) with [REDACTED] and Sabrina. Crum interviewed all three witnesses to obtain the information requested by the prosecutor.

In his report, Crum stated that [REDACTED] “described the first incident exactly as she had on May 7, 2013 in my office. She recalled Sam rubbing her vagina on the exterior of her clothing. . . . [REDACTED] recalled the second incident of sexual assault exactly as she had on May 7, 2013. . . . She recalled Sam pinning her down and coming in direct contact with her vagina, including penetration.” Defs.’ Ex. A. [REDACTED] also reiterated that she had changed her story at Care House as a result of threats from her mother.

On September 18, 2013, the Oakland County Prosecutor obtained an arrest warrant for Jerome from the Honorable James Wittenberg. Pursuant to the warrant, Crum arrested Jerome, who was taken to the Oakland County Jail.

On October 9, 2013, Jerome’s preliminary exam was held before Judge Wittenberg. At the hearing, [REDACTED] testified to the two incidents of inappropriate touching and was cross-examined by Jerome’s defense attorney. Crum did not testify. Based upon [REDACTED] testimony, Judge Wittenberg found probable cause and bound the matter over to circuit court for trial on the criminal sexual conduct charges. Jerome’s \$500,000 bond was continued and he remained in jail.

Jerome’s criminal trial started on August 4, 2014, and continued on August 5 and 7, 2014, before the Honorable Rudy Nichols. Defendant Crum testified on August 5 and 7. Pertinent to this matter, Crum testified that it was his

department's practice not to video record interviews of sexual assault victims, and that he had not video recorded any of his interviews with [REDACTED]

After he testified, Crum learned that the video recorder had been turned on during his August 21, 2013 interviews of [REDACTED] Sabrina, and Judy Stiltner. On August 8, 2014, Crum notified the prosecutor and produced disks of the recordings. The court declared a mistrial and reduced Jerome's bond to \$1,000, so that he could be released from jail. Subsequently, the prosecutor decided not to retry Jerome; an order of nolle prosequi was entered on October 6, 2014.

LAW AND ANALYSIS

I. Summary Judgment Standard

Summary judgment is appropriate if "there is no genuine issue as to any material fact and . . . the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c). When reviewing a motion for summary judgment, the facts and any reasonable inferences drawn from the facts must be viewed in the light most favorable to the nonmoving party. Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986). The party opposing summary judgment, however, must present more than a "mere scintilla" of evidence; the evidence must be such that a reasonable jury could find in favor of the plaintiff. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 252 (1986).

II. Qualified Immunity

Crum contends that he is entitled to qualified immunity. In determining whether a defendant is entitled to qualified immunity, the initial inquiry is as follows: “Taken in the light most favorable to the party asserting the injury, do the facts alleged show the officer’s conduct violated a constitutional right?” Saucier v. Katz, 533 U.S. 194, 201 (2001). “[I]f a violation could be made out on a favorable view of the parties’ submissions, the next, sequential step is to ask whether the right was clearly established. . . . The relevant, dispositive inquiry in determining whether a right is clearly established is whether it would be clear to a reasonable officer that his conduct was unlawful in the situation he confronted.” Id. at 201-202.

A. False Arrest and Imprisonment

With this standard in mind, the court considers whether Crum violated Jerome’s constitutional rights in seeking an arrest warrant. “A false arrest claim under federal law requires a plaintiff to prove that the arresting officer lacked probable cause to arrest the plaintiff.” Voyticky v. Village of Timberlake, Ohio, 412 F.3d 669, 677 (6th Cir. 2005). “An arrest pursuant to a facially valid warrant is normally a complete defense to a federal constitutional claim for false arrest or false imprisonment made pursuant to § 1983.” Id. To prevail on this claim,

plaintiff must show that in order to procure the warrant, Crum “knowingly and deliberately, or with reckless disregard for the truth, made false statements or omissions that create[d] a falsehood and such statements or omissions [we]re material, or necessary, to the finding of probable cause.” Sykes v. Anderson, 625 F.3d 294, 305 (6th Cir. 2010). “If the affidavit contains false statements or material omissions, we set aside the statements and include the information omitted in order to determine whether the affidavit is still sufficient to establish probable cause.” Id.

B. Malicious Prosecution

As with false arrest and imprisonment, “[i]n order to prove malicious prosecution under federal law, a plaintiff must show, at a minimum, that there is no probable cause to justify an arrest or a prosecution.” Voyticky, 412 F.3d at 675. The plaintiff must show that a criminal prosecution was initiated and that (1) the defendant made, influenced, or participated in the decision to prosecute; (2) there was a lack of probable cause; (3) the plaintiff suffered a deprivation of liberty apart from the initial seizure; and (4) the prosecution was resolved in the plaintiff’s favor. Sykes, 625 F.3d at 308-309. “A police officer violates a suspect’s clearly established right to freedom from malicious prosecution under the Fourth Amendment ‘only when his deliberate or reckless falsehoods result in arrest and

prosecution without probable cause.” Johnson v. Moseley, 790 F.3d 649, 655 (6th Cir. 2015).

Plaintiff contends that Crum’s account of [REDACTED] August 21 interview in his report to the prosecutor mischaracterized what actually appeared on the video of the interview. See Pl.’s Br. at 10-11. Plaintiff notes several inconsistencies between what [REDACTED] told Crum on May 7 and what [REDACTED] told Crum on August 21. See id. Crum did not point out these inconsistencies on August 21, but rather stated in his report that [REDACTED] described both incidents “exactly” as she had on May 7. See Defs.’ Ex. A at 12.

For example, on May 7, [REDACTED] stated that Plaintiff touched the outside of her clothing during the first incident. On August 21, she told Crum that Plaintiff touched her on the outside and underneath her clothing. On May 7, [REDACTED] told Crum that Plaintiff held her down with his free hand; she did not mention that on August 21. On May 7, [REDACTED] told Crum that Plaintiff did not say anything during either assault; on August 21, she said that he did. On May 7, she told Crum that Plaintiff sat next to her during the second assault; on August 21, she told Crum that Plaintiff sat on her legs. See Pl.’s Br. at 10-11. On May 7, [REDACTED] “described [Plaintiff’s] fingers as inserted between her ‘lips.’ She advised that he did not insert his fingers inside of her but definitely spread her lips apart with his fingers.”

Def.'s Ex. A at 6. On August 21, [REDACTED] stated that Plaintiff did insert his finger inside her, "not real far." Pl.'s Ex. E.

These inconsistencies, while relevant to [REDACTED] credibility and to whether the prosecutor could meet its ultimate burden, do not defeat probable cause. See Johnson, 790 F.3d at 655 (inconsistencies in domestic assault allegations "give cause to question the accuracy" and "credibility" of the complainant, but "the alleged inconsistencies cannot reasonably be deemed to compel the conclusion that probable cause had ceased to exist"). See also Lyons v. City of Xenia, 417 F.3d 565, 575 (6th Cir. 2005) ("In ascertaining whether a constitutional violation occurred, the only question is whether Officer Keith had probable cause – not whether the evidence would be sufficient to support a conviction.").

Further, Crum's omission of the inconsistencies in his report was not material to the finding of probable cause. In finding probable cause at the preliminary examination on October 9, the judge relied solely upon [REDACTED] testimony, not Crum's report. Crum did not testify at the preliminary examination. Moreover, [REDACTED] testified at the preliminary examination in a manner *consistent* with her interview with Crum on August 21. See Def.'s Ex. D (preliminary exam transcript) at 12-15, 18-20. Regarding the first incident, she testified that Plaintiff touched her "kind of both" under and over her pants and asked "why?" when she

asked him to stop. Id. at 13-15. Regarding the second incident, she testified that Plaintiff sat on her legs. She answered “yeah” when the prosecutor asked “and you said his fingers actually went inside you this time?” Id. at 18-20. To the extent this October 9 testimony was inconsistent with what ██████ told Crum on May 7, both Plaintiff’s defense counsel and the prosecutor had Crum’s report and the opportunity to explore those inconsistencies at the preliminary examination.

Viewing the totality of the circumstances – including ██████ statement and her explanation of recanting her allegations at Care House – Crum had probable cause to forward the case to the Oakland County prosecutor. Any inconsistencies between ██████ accounts of the alleged abuse were known to the prosecutor and defense attorney as of the time of the preliminary exam, yet the judge found probable cause based upon ██████ testimony. If the August 21 video had been available at the preliminary exam, Plaintiff cannot show that it would have changed the judge’s finding of probable cause.

Because there was probable cause to prosecute Plaintiff, he cannot prevail on his false arrest or malicious prosecution claims. Crum reasonably believed that he had sufficient probable cause to submit the case to the prosecutor. Because the court cannot conclude that Crum acted with reckless disregard for the truth, he is entitled to qualified immunity. See Ahlers v. Schebil, 188 F.3d 365, 373 (6th Cir.

1999).

III. Due Process

Plaintiff alleges that Crum violated his due process rights by failing to turn over the potentially exculpatory August 21 video as required by Brady v. Maryland. Crum testified that he was unaware that his interviews with [REDACTED] Sabrina, and Judy Stiltner had been recorded on August 21. Once he was aware that the video existed, he turned it over to the prosecutor, who made defense counsel and the court aware of its existence. The court declared a mistrial. Subsequently, the prosecutor chose not to re-try Plaintiff.

The elements of a Brady due process claim are as follows: “The evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; that evidence must have been suppressed by the State, either willfully or inadvertently; and prejudice must have ensued.” Strickler v. Greene, 527 U.S. 263, 281–82 (1999). Here, Plaintiff cannot demonstrate prejudice because his criminal proceedings resolved in his favor. See Offinier v. Kelly, 454 Fed. Appx. 407, 419 (6th Cir. 2011) (“Cases from this court confirm that due process claims based upon the wrongful suppression of exculpatory evidence are unavailable where, as here, the claimant was acquitted of his criminal charges.”).

IV. Municipal Liability

Because Plaintiff has not demonstrated that Crum violated his constitutional rights, he also cannot show municipal liability on the part of the City of Berkley. See Voyticky, 412 F.3d at 679 (“For municipal liability to exist, however, a constitutional violation must take place.”). The court will grant summary judgment in favor of Defendants.

ORDER

IT IS HEREBY ORDERED that Defendants’ motion for summary judgment is GRANTED.

s/John Corbett O’Meara
United States District Judge

Date: August 25, 2016

I hereby certify that a copy of the foregoing document was served upon counsel of record on this date, August 25, 2016, using the ECF system.

s/William Barkholz
Case Manager

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

SAMUEL JEROME,

Plaintiff,

v

Case No. 15-148401-CZ CM
Hon. DENISE LANGFORD MORRIS

LIEUTENANT MICHAEL CRUM, in his
Individual and Representative Capacity,
And the CITY OF BERKLEY, a
Municipal entity,

Defendants.

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DEFENDANTS CITY OF BERKLEY AND MICHAEL CRUM'S
REPLY BRIEF IN SUPPORT OF
MOTION FOR SUMMARY DISPOSITION

I. Plaintiff's Claims Are Barred by Collateral Estoppel

As stated in the "Procedural History" section of Defendants' Brief, Plaintiff had claims pending in federal court, including false arrest, false imprisonment, and malicious prosecution --- corresponding to state claims filed in this court. [See **Exhibit I**, Plaintiff's federal Complaint]. The federal court has now granted Summary Judgment to Defendants, finding that both probable cause and qualified immunity defeated those claims as a matter of law. [See **Exhibit J, 8/25/16** Opinion and Order]. That determination and ruling bar Plaintiff's corresponding state law claims of unlawful arrest, false imprisonment, malicious prosecution, and Plaintiff's gross negligence claim, on the basis of collateral estoppel or issue preclusion.

This proposition was well settled in *Vanvorous v Burmeister*, 262 Mich App 467 (2004), wherein the plaintiff's state claims were based on identical factual issues that were litigated --- and decided --- in federal court, thus barring re-litigation of the same issues in state court. Where a question of fact essential to the judgment has been actually litigated and determined by a valid and final judgment, collateral estoppel bars a litigant from pursuing the same issue again. *Id.* at 479-480. In *Vanvorous*, the federal court's determination that the defendants' conduct was reasonable ("or at the very least, the result of a reasonable mistake") barred the state court action for intentional infliction of emotional distress ("IIED") since the conduct element of the IIED claim was based on the same factual question already litigated in federal court regarding the federal claims of alleged excessive force and assault and battery. *Id.* at 481-483.

The same proposition applies herein, and bars the unlawful arrest, false imprisonment and malicious prosecution (state) claims since the existence of the requisite element of probable cause has already been adjudicated as barring the corresponding federal claims. [See **Exhibit J**, page 11].¹ In *Vanvorous*, the plaintiff's gross negligence claim was also dismissed:

As defendants correctly note, this Court has rejected attempts to transform claims involving elements of intentional torts not claims of gross negligence (citations omitted).

¹ Note also the corollary between the federal court adjudication that Crum is entitled to qualified immunity regarding the federal claims as it applies to his entitlement to governmental immunity as to the corresponding state claims.

Thus, plaintiff did not state a claim upon which relief could be granted. MCR 2.116(C)(8). Moreover, unveiling plaintiff's true claim of excessive force leads to the inevitable conclusion that the claim is also collaterally estopped. *Id.* at 483-484.

Likewise, in the instant case, Plaintiff's gross negligence claim must be dismissed because it is fully premised on Plaintiff's unlawful arrest, false imprisonment and/or malicious prosecution claims.

See also *Williams v City of Grosse Pointe Park*, 2008 WL 274872 (attached hereto as **Exhibit K**), *Dobrowski v Jay Dee Contractors*, 2010 WL 293069 (attached hereto as **Exhibit L**), and *Ghaith v Rauschenberger*, 2013 WL 195772 (attached hereto as **Exhibit N**) wherein plaintiff was collaterally estopped from proceeding in state court with claims based on issues that had already been adjudicated by the federal court. In both those cases as well, the trial court properly deferred to the federal determination, and properly granted defendant's motion for summary disposition. The same result is required herein.

II. Defendants' Reply to Plaintiff's Response Brief

Since Plaintiff was arrested pursuant to a judicially secured warrant and prosecuted pursuant to judicially determined probable cause, his burden to state the claims he purports to maintain is very high. Defendant Crum ("Crum") did not knowingly swear to false facts in a complaint, without which there is no probable cause, and no allegedly false or omitted information was material to the finding of probable cause.

Plaintiff cites *Sussman v. Dalton*, 2012 U.S. Dist. LEXIS 165259 (E.D. Mich. 2012), indicating, "the failure to adequately review video footage, and the misrepresentation of the contents of the video, can preclude a finding of probable cause and a corresponding claim of governmental immunity". However, **that opinion was soundly reversed** by *Sussman v. Dalton*, 552 Fed. Appx. 488 (2014) (**Exhibit M**), where immunity was found, and plaintiff's claim was dismissed. As in *Sussman* (2014), in this case, probable cause is independently based on evidence untainted by any arguable charge of falsification or omission.

In this case, there is absolutely no evidence to rebut the evidence that Crum did not initially know of the existence of the 8/21/13 video recording, and when he learned of it, he immediately produced it. Also, given the totality of the circumstances, Crum believed there was probable cause based on numerous

factors, including: (a) [REDACTED] accusation on 5/7/13, (b) her 7/11/13 explanation about why she changed her story at Care House and her reaffirmation on that date of the accusation of alleged criminal conduct by Plaintiff, and (c) her reiteration of the basic elements of the alleged crime again on 8/21/13. To the extent there were some differences in what she said to Crum on May 7th as compared to what she said to him on August 21st, he did not consider the differences to be material inconsistencies that invalidated the probable cause determination that was based on the totality of the circumstances. [See **Exhibit G**, Crum's Affidavit].

Moreover, [REDACTED] testimony at the 10/9/13 preliminary exam ("probable cause hearing") was consistent with what Plaintiff claims [REDACTED] told Crum on August 21st². At that hearing, neither the Prosecutor nor Plaintiff's defense attorney --- both of whom had Crum's May 7th report and were now clearly aware of the differences (between May 7th and October 9th) --- considered the differences material enough for the prosecutor to abandon the prosecution for lack of probable cause or even for Plaintiff's defense attorney to try to impeach [REDACTED] to challenge probable cause. Thus, for numerous specific reasons set forth below, Plaintiff's claim that Crum's August 21st report of [REDACTED] interview was not reflective of the information she provided on that date (per pp 11-13 of Plaintiff's Brief) is not material to the finding of probable cause.

- May 7th – Crum reported (1st incident) that [REDACTED] said, "Sam rubbed her vagina from outside of her clothing" (**Exhibit A**, Pg 005)³. At the probable cause hearing, when asked if he touched her vagina on top of or under her pants, she answered, "kind of both" and explained how his hand went below her clothing (**Exhibit D**, pp 14-15, 32 of transcript). With the May 7th report and thus even without the August 21st video recording or a detailed report regarding same, Plaintiff's attorney had opportunity to cross-examine and try to impeach [REDACTED] about any such alleged inconsistency -- but did not do so.
- May 7th – Crum reported (1st incident) that [REDACTED] said Plaintiff held her down with his free hand (**Exhibit A**, Pg 005), but did not mention this on August 21st or on 10/9 --- clearly not an "inconsistency". To the extent that it arguably is inconsistent, Plaintiff's attorney (and the prosecutor) were aware of same (from the May 7th report and the 10/9 testimony), and could have cross-examined and tried to impeach [REDACTED] --- but did not do so.

² Defendants do not specifically challenge Plaintiff's alleged "quotes" from Crum (on pp 11-12 of Plaintiff's Brief) upon risk of creating a "question of fact" that would defeat their Motion. The video recording is available to the Court to review and assess the accuracy and context of what Crum actually said. Numerous mis-statements and mischaracterizations in Plaintiff's Brief will be revealed during the Court's careful review of referenced exhibits.

³ Unless specified otherwise, all "exhibits" referenced in this Brief refer to Defendants' exhibits.

- At the probable cause hearing, [REDACTED] testified (1st incident), when she asked Plaintiff to stop, he asked, "why?" (**Exhibit D**, p 14 of transcript). Plaintiff claims that on the August 21st recording as well, [REDACTED] indicated that Plaintiff made statements in contrast to what she told Crum on May 7th. To the extent the August 21st statement is discrepant with [REDACTED] May 7th statement, again, Plaintiff's defense counsel was aware of the difference (based on her 10/9/13 testimony) and could have tried to impeach her accordingly --- but did not.
- At the probable cause hearing, [REDACTED] testified (2nd incident) that Plaintiff "sat on my legs" (**Exhibit D**, pp 18, 39-40, 43) like Plaintiff says [REDACTED] stated on the August 21st recording. To the extent this is arguably inconsistent with what she told Crum on May 7th, she could have been cross-examined and an attempt made to impeach her on 10/9, which was not done.
- At the probable cause hearing, [REDACTED] testified (2nd incident) that Plaintiff's fingers went "inside her", between the lips of her vagina (**Exhibit D**, pp 19-20 of transcript) --- like Plaintiff alleges that [REDACTED] told Crum on 8/21. To the extent that this was supposedly inconsistent with her May 7th account, Plaintiff's defense attorney had the opportunity to cross-examine and try to impeach [REDACTED] regarding same at the hearing --- but again, did not do so.

It is abundantly clear that nothing that Plaintiff alleges was on the August 21st video recording was material to the prosecutor's decision to proceed with prosecution because he was in possession of the police report of [REDACTED] account to Crum on May 7th, and privy to her testimony on 10/9/13.

Likewise, nothing that Plaintiff alleges was on the August 21st recording deprived him of an opportunity to prevail at the 10/9/13 hearing since his attorney heard [REDACTED] testimony at that hearing, yet did not elect to treat it as inconsistent with her May 7th account to Crum, and to use same to challenge probable cause! Having the August 21st recording, which was consistent with [REDACTED] preliminary exam testimony would have made absolutely no difference in Plaintiff's defense at the probable cause hearing.⁴

More importantly, Judge Wittenberg did not compare --- or even consider --- prior accounts by [REDACTED]. Instead, he based his determination solely on her testimony at that hearing. Thus, if the August 21st recording had been available to the Prosecutor and/or to Plaintiff's attorney, it would not have made a difference in Judge Wittenberg's determination that probable cause existed to prosecute Plaintiff as charged. Crum did not participate in that hearing at all! The Judge's probable cause determination was

⁴ Even Plaintiff's attorney articulated his recognition that there was a factual issue for the trier of fact regarding his prosecution (**Exhibit D**, p 45 of the Preliminary Exam transcript).

based solely on [REDACTED] testimony under examination and cross-examination on that date; and on that basis alone, Plaintiff is foreclosed from litigating the probable cause determination in this case.

Our case is clearly distinguishable from the following cases cited by Plaintiff: *Broadnax v. Double*, 2013 U.S. Dist. LEXIS 136342 (E.D. Mich. 2013) (where defendant was aware of additional video footage when he denied that it existed); *Sykes v. Anderson*, 625 F.3d 294 (6th Cir. 2010) (where the police officer testified --- and gave false statements --- at the preliminary exam and failed to turn over evidence of which he was aware).⁵ It was even stated in *Matthews v Blue Cross*, 456 Mich 365, 390 (1998): "This court has determined that it would place too much of a burden upon investigating police officers to require that they include all possibly mitigating items in their police reports in order to avoid potential liability".

Instead, in this case, Plaintiff was arrested pursuant to a warrant, Crum did not participate at the preliminary exam, and most certainly did not know the August 21st interview was recorded and was not aware of the existence of the video recording. [See **Exhibit F**, Crum's deposition, pp 159-163, 169; and Plaintiff's Exhibit D, pp 182, 187]. Despite unfounded argument(s) to the contrary, evidence shows that Crum was authorized by Judy ([REDACTED] custodian/grandmother and [REDACTED] mother/Stacey's guardian)⁶ to interview [REDACTED] on July 11th, considered all the facts in his probable cause assessment, did not consider differences in [REDACTED] account on August 21st to be exculpatory, significant or material to the probable cause determination, but felt he had enough credible evidence to support a reasonable suspicion that the alleged crime had been committed. [See **Exhibit F**, Crum's deposition, pp 164-178, **Exhibit G**, Crum's Affidavit, and Plaintiff's Exhibit B, p 66].

WHEREFORE, Defendants, **City of Berkley** and **Michael Crum** respectfully request Summary Disposition in their favor, and dismissal of Plaintiff's Complaint in its entirety with prejudice.

⁵ Nor is the 1929 case cited by Plaintiff [*Weiden v Weiden*, 246 Mich 347 (1929)] or the 7th (not 6th) Circuit case [*Jones v Chicago*, 856 F2d 985 (CA 7, 1988)] persuasive against Defendants' position.

⁶ The PPO petitions Plaintiff references occurred after Crum's 7/11/13 interview of [REDACTED] and both were denied by the court. [See Plaintiff's Exhibit A, pp 059 and 063].

Respectfully submitted,

PLUNKETT COONEY

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DATED: September 14, 2016

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of Defendant's City of Berkley and Michael Crum's Reply Brief in Support of Motion for Summary Disposition and Certificate of Service were served upon all counsel of record on September 14, 2016 by: electronic filing with the Clerk of the Court using the Odyssey ECF system, which will send notification of such filing. I declare that the above statements are true to the best of my knowledge, information and belief.

/s/Sharvell Holmes
SHARVELL HOLMES

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

SAMUEL JEROME,

Plaintiff,

v

Case No. 2015-148401-CZ

LIEUTENANT MICHAEL CRUM, in his
Individual and Representative Capacity,
And the CITY OF BERKLEY, a
Municipal entity,

Defendants./

MOTION FOR SUMMARY DISPOSITION

BEFORE THE HONORABLE DENISE LANGFORD MORRIS, CIRCUIT JUDGE

Pontiac, Michigan - Wednesday, September 28, 2016

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WITNESSES

None

EXHIBITS

None offered.

RECEIVED

1 Pontiac, Michigan

2 Wednesday, September 28, 2016 - 10:21 a.m.

3 * * * * *

4 THE CLERK: Calling docket number 32, Jerome
5 versus Crum, 15-148401-CZ.

6 MS. McGIFFERT: Good morning, your Honor.

7 THE COURT: Go ahead. I need your appearances
8 and you may be seated.

9 MS. McGIFFERT: Laurel McGiffert appearing on
10 behalf of the defendants, City of Berkley and Michael
11 Crum.

12 MR. AHMAD: Jay Ahmad on behalf of the
13 plaintiff, Samuel Jerome, your Honor.

14 THE COURT: Go ahead.

15 MS. McGIFFERT: Okay. As the Court knows, your
16 Honor, the defendants have a motion for summary
17 disposition before the Court this morning. And -- and
18 your Honor, I am going to rely on my briefs in terms of
19 the detailed argument with regard to probable cause, which
20 we believe is a controlling factor in governmental
21 immunity and just spend my time this morning speaking to
22 you briefly about the collateral estoppel issue because we
23 believe that that, first and foremost, is the deciding
24 factor in this case.

25 As the Court knows from our reply brief that the

1 corresponding false arrest, false imprisonment and
2 malicious prosecution claims that were pending in the
3 federal Court have been decided and Judge O'Meara has
4 granted summary judgment based on --

5 THE COURT: Is that Van Voorhis versus
6 Burmeister?

7 MS. MCGIFFERT: Yes. Yes, that's the primary
8 case we're relying on indicating that because probable
9 cause and qualified immunity have been adjudicated in
10 federal Court, that that is controlling with regard to the
11 probable cause issue in the governmental immunity case
12 issues in this Court.

13 Your Honor, we have also cited other cases,
14 Williams, Dabrowski (ph) and Gaith (ph) and I think the
15 Gaith case, even though it's unpublished, is very helpful
16 because the facts are almost identical; false arrest,
17 false imprisonment, malicious prosecution, and in that
18 case, there was a mistrial after which the prosecutor
19 dismissed the charges.

20 In all these cases, the decision has been pretty
21 clear that the plaintiff cannot relitigate those issues in
22 state Court that have already been adjudicated in federal
23 Court. And for that reason, we would ask the Court to,
24 first and foremost on that basis, den -- grant our motion
25 for summary disposition. Plaintiff may share with you

1 that as of this moment, they have appealed that ruling;
2 however, that does not make any difference, your Honor,
3 and in one of the cases that we presented to the Court, I
4 think it was Exhibit L, the Dabrowski case.

5 They dealt with that very issue and they said,
6 number one, in the federal Courts, a final judgment ret --
7 retains its preclusive effect while an appeal of the
8 judgment is pending, and that was the Erebia versus
9 Chrysler Plastic Products Corporation case, 891 F2d 1212,
10 a 6th Circuit 1989 case. And also, it said the Court must
11 apply federal claim preclusion law in determining the
12 preclusive effect of a prior federal judgment, and that
13 was Pierson Sand and Gravel versus Keeler Brass Company,
14 460 Mich 372, (1999) case.

15 So, we would ask the Court to -- first and
16 foremost, to grant our motion based on the collateral
17 estoppel issue and also as the Court knows, we have other
18 arguments regarding probable cause, governmental immunity
19 and we would think it would be beneficial for the Court to
20 decide those issues as well. It appears to me that the
21 plaintiff has abandoned their argument with regard to the
22 city and -- and -- and I didn't see any real substantive
23 response to our position that the city has governmental
24 immunity and should be dismissed on that basis. So, I'd
25 like to retain a few minutes for rebuttal, your Honor.

1 THE COURT: Certainly.

2 MS. MCGIFFERT: Thank you.

3 THE COURT: Any response?

4 MR. AHMAD: Thank you, your Honor, again, Jay
5 Ahmad on behalf of the plaintiff, your Honor. It -- in
6 terms of the collateral estoppel argument, your Honor, you
7 know, that was briefed only in the defendant's rebuttal
8 brief. Our brief -- their initial motion was brought on
9 the merits of the state law claim.

10 I would request, if this Court were so inclined,
11 to determine or rule on the collateral estoppel argument,
12 that we get an opportunity -- a fair opportunity to brief
13 that issue because it was again, only briefed in their
14 reply brief, which we don't get to reply to. So, that
15 would be number one.

16 At -- as Ms. McGiffert did explain to you
17 though, the -- the federal claim is under appeal and it
18 would be our position, your Honor, that the federal claims
19 and the state claims are completely separate from each
20 other. There is a different jurisprudence for the federal
21 claims and the state claims under false imprisonment,
22 false arrest, malicious prosecution and there is a state
23 claim with regard to gross negligence, which there was not
24 in the federal claim.

25 So even that -- just on that mere issue alone,

1 you can't decide, respectfully, your Honor, the state
2 claims just based on the federal law in this matter.
3 Dealing with the -- the merits of the -- the arguments
4 that were initially brought to this Court, it is our firm
5 belief that there are significant fact issues with regard
6 to the arguments that have been set forth by the
7 defendant, most notably, with regard to the issues of
8 probable cause and governmental immunity.

9 As this Court is aware, and as I've set forth in
10 my brief, particularly at page 11 and 12, the defendant in
11 this case, Detective Crum, interviewed in violation of his
12 own procedures and protocols, our client for a third and
13 fourth time after the -- the victim in this case, [REDACTED]
14 [REDACTED] -- the alleged victim, was put through a forensic
15 interview in which she recanted all of her allegations
16 against my client.

17 Detective Crum testified that it his -- it is
18 his practice to defer to what the findings are in the
19 forensic interview, but instead of doing that, instead of
20 closing his case as he indicated he was going to do, he
21 continued to pursue [REDACTED] and pursue the allegations
22 against my client. He interviewed her for a third time
23 without any parental consent because the grandmother had
24 brought her in, again in violation of his own policies and
25 protocols, and then, tried to submit the case to the

1 prosecutor for a warrant.

2 The prosecutor requested more information and
3 the detective interviewed her for a fourth time, this
4 time, videotaped, which he did not produce and that
5 videotape interview, your Honor, which we've provided to
6 the Court, has significant discrepancies, which we have
7 listed, I think there were almost a dozen of them, between
8 her first story and her videotaped story.

9 But instead of relating that to the prosecutor,
10 Detective Crum deliberately falsified what was in that
11 interview and said her stories were exactly the same to
12 the prosecutor. It was based upon that that the
13 prosecutor proceeded to trial. My client stayed in jail
14 for a year and then when Detective Crum "suddenly"
15 discovered this video and brought it to Judge Nichols'
16 attention and the prosecutor and the defense attorney had
17 a chance to view the videotape. A mistrial was declared.
18 Bless you.

19 MS. MCGIFFERT: Excuse me.

20 MR. AHMAD: A mistrial was declared and then,
21 the prosecutor declined to bring the charges again. It is
22 our position, your Honor, that based on those significant
23 discrepancies, that there was no probable cause here. The
24 only person who testified at the probable cause hearing
25 was the victim herself. Had the defense attorney been

1 armed with this knowledge about these discrepancies, then
2 the probable cause hearing could have been overcome though
3 it was unlikely that the prosecutor would have proceeded in
4 the first place.

5 In terms of governmental immunity, your Honor,
6 it's our position that there is no conceivable way that
7 the defendant can argue that he had good faith in
8 falsifying what the allegations were in this matter when
9 he knew that [REDACTED] had significant discrepancies in
10 her first story and her last story. So that -- that is
11 not a matter of good faith on the part of the detective,
12 nor is it a matter of discretion.

13 He is obligated, as he admits in his deposition,
14 to turn over all exculpatory evidence in this case, your
15 Honor. I think our brief adequately lays out the law and
16 the other factual aspects of this case and I would rely on
17 that. And if the Court has any questions in that regard,
18 but I do believe that there are significant factual issues
19 for a jury to resolve in this case regarding the merits of
20 the claim. Thank you.

21 THE COURT: Thank you. Any brief rebuttal?

22 MS. MCGIFFERT: Just -- yes, just briefly, your
23 Honor. With regard to the fact issues, as the Court
24 knows, that the federal Court was dealing with the very
25 same facts, very same factual context. And of course,

1 collateral estoppel has nothing to do with the claims
2 being different is -- has to do with the issues being the
3 same. I think -- I won't go into detail about the in --
4 alleged inconsistencies. There were no materials ones and
5 they were identified at the preliminary exam if either the
6 prosecutor or the defense attorney wanted to address them.

7 And finally with regard to gross negligence,
8 without being repetitive, I'll just basically say that
9 based on the collateral estoppel issue as well as the
10 issues we argued in our brief, we believe that that should
11 be dismissed as well. Thank you, your Honor.

12 THE COURT: Okay. You both did an excellent job
13 with your briefs. I -- I want to take a final look at
14 them and I'm going to issue a written decision. Thank
15 you.

16 MR. AHMAD: Thank you, your Honor.

17 MS. MCGIFFERT: Thank you, your Honor.

18 (At 10:31 a.m., proceedings concluded.)

19 * * * * *

STATE OF MICHIGAN)
COUNTY OF OAKLAND) ss.

I certify that this transcript is a true and accurate transcription to the best of my ability of the proceeding in this case before the Honorable Denise Langford Morris, as recorded by the clerk.

Proceedings were recorded and provided to this transcriptionist by the Circuit Court and this certified reporter accepts no responsibility for any events that occurred during the above proceedings, for any inaudible and/or indiscernible responses by any person or party involved in the proceeding or for the content of the recording provided.

Dated: February 27, 2017

/S/ Krista S. Michels

Krista S. Michels, CER #8490

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND**

SAMUEL JEROME,
Plaintiff,

v

Case No: 15-148401-CZ
Hon. Denise Langford Morris

MICHAEL CRUM and
CITY OF BERKLEY,
Defendants.

SUMMARY DISPOSITION OPINION AND ORDER

Defendants filed the instant Motion for Summary Disposition. The Court heard oral arguments and took the matter under advisement. After reviewing the Briefs and Exhibits and having considered the merits and being fully advised in the premises, the Court finds that summary disposition is appropriate. Plaintiff filed a Federal Court case with claims for false arrest, false imprisonment and malicious prosecution. The Federal Court granted Summary Judgment to Defendants finding that both probable cause and qualified immunity defeated Plaintiff's claims as a matter of law.

This Court finds that the Federal Court's determination and ruling bars Plaintiff's claims in this case of, unlawful arrest, false imprisonment, malicious prosecution and gross negligence on the basis of collateral estoppel and issue preclusion. *Vanvorous v Burmeister*, 262 Mich App 467 (2004). Plaintiff is collaterally estopped from proceeding in state court with claims based on issues that have already been adjudicated by the Federal Court.

Accordingly,

IT IS HEREBY ORDERED that Defendants' Motion for Summary Disposition pursuant to MCR 2.116(C) (7) is GRANTED.

This disposes of the last pending claim and closes the case.

IT IS SO ORDERED.

/s/Denise Langford Morris

DATED: SEP 29 2016

DENISE LANGFORD MORRIS
Circuit Court Judge

CM