

STATE OF MICHIGAN

IN THE SUPREME COURT

(ON APPEAL FROM THE MICHIGAN COURT OF APPEALS)

SAMUEL JEROME,

Plaintiff-Appellant,

v

LIEUTENANT MICHAEL CRUM, in his individual
and representative capacity, and the CITY OF
BERKLEY, a municipal entity,

Defendants-Appellees.

SC No. 159093
COA No. 335328
LC No. 15-148401-CZ
(Oakland County Circuit Court)

APPENDIX – VOLUME I
APPENDIX TO DEFENDANTS-APPELLEES
LIEUTENANT MICHAEL CRUM AND THE CITY OF BERKLEY’S
SUPPLEMENTAL BRIEF ON APPEAL

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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.

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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

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Dated: August 5, 2015

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

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

Defendants.

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**DEFENDANTS LIEUTENANT MICHAEL CRUM AND CITY OF BERKLEY'S
ANSWER TO COMPLAINT**

NOW COME Defendants, Lieutenant Michael Crum and City of Berkley, by and through their attorneys, PLUNKETT COONEY, and for their Answer to Complaint, state as follows:

1. In response to said allegations, Defendants neither admit nor deny same for lack of information, leaving Plaintiff to his proofs.
2. Defendant Crum was and is a law enforcement officer a/k/a public safety officer a/k/a police officer with the Berkley Public Safety Department a/k/a Berkley Police

Department. As to the remaining allegations, implications, and characterizations herein, Defendants neither admit nor deny same in the form and manner stated, for lack of information, leaving Plaintiff to his proofs.

3. No contest.

4. In response to said allegations, Defendants neither admit nor deny same for lack of information at this time, leaving Plaintiff to his proofs.

5. In response to said allegations, Defendants neither admit nor deny same in the form and manner stated, for lack of information at this time, leaving Plaintiff to his proofs.

6. Defendants deny this paragraph in the form and manner stated, leaving Plaintiff to his proofs.

7. Defendants deny this paragraph in the form and manner stated, leaving Plaintiff to his proofs.

8. In response to said allegations, Defendants neither admit nor deny same for lack of information at this time, leaving Plaintiff to his proofs.

9. In response to said allegations, Defendants neither admit nor deny same for lack of information at this time, leaving Plaintiff to his proofs.

10. Defendants deny this paragraph, leaving Plaintiff to his proofs.

11. Defendants deny this paragraph in the form and manner stated, leaving Plaintiff to his proofs.

12. Defendants deny this paragraph in the form and manner stated, leaving Plaintiff to his proofs.

13. Defendants deny this paragraph, leaving Plaintiff to his proofs.

14. In response to said allegations, Defendants neither admit nor deny same for lack of information at this time, leaving Plaintiff to his proofs.

15. In response to said allegations, Defendants neither admit nor deny same for lack of information at this time, leaving Plaintiff to his proofs.

16. In response to said allegations, Defendants neither admit nor deny same for lack of information at this time, leaving Plaintiff to his proofs.

17. Admitted that Lt. Crum testified at said trial on the referenced date.

18. In response to said allegations, Defendants neither admit nor deny same in the form and manner stated, for lack of information at this time, leaving Plaintiff to his proofs.

19. Defendants deny this paragraph in the form and manner stated, leaving Plaintiff to his proofs.

20. Defendants deny this paragraph leaving Plaintiff to his proofs.

21. In response to said allegations, Defendants neither admit nor deny same for lack of information at this time, leaving Plaintiff to his proofs.

22. In response to said allegations, Defendants neither admit nor deny same for lack of information at this time, leaving Plaintiff to his proofs.

23. In response to said allegations, Defendants neither admit nor deny same for lack of information at this time, leaving Plaintiff to his proofs.

24. Defendants deny this paragraph, leaving Plaintiff to his proofs.

25. In response to said allegations, Defendants neither admit nor deny same for lack of information at this time, leaving Plaintiff to his proofs.

26. Defendants deny this paragraph in the form and manner stated, leaving Plaintiff to his proofs.

27. Defendants deny this paragraph, leaving Plaintiff to his proofs.
28. Defendants deny this paragraph, leaving Plaintiff to his proofs.
29. Defendants deny this paragraph, leaving Plaintiff to his proofs.
30. Further answering, said Defendants neither admit nor deny allegations of damages or other losses for lack of information at this time, leaving Plaintiff to his proofs. However, Defendants deny the alleged misconduct and proximate causation, and further state they are not liable for any alleged damages.

Count I:

State Claim - Unlawful Arrest - Defendants Crum and Berkley

31. Defendants hereby repeat their answers to the corresponding paragraphs one through thirty of Plaintiff's Complaint as if set forth herein in their entirety.
32. Defendants deny this paragraph, leaving Plaintiff to his proofs.
33. In response to said allegations, Defendants neither admit nor deny same in the form and manner stated, for lack of information, leaving Plaintiff to his proofs.
34. Defendants admit only that Plaintiff was arrested pursuant to an arrest warrant, and Defendants deny all other allegations, implications, characterizations and alleged motivations, leaving Plaintiff to his proofs.
35. Defendants deny this paragraph, leaving Plaintiff to his proofs.
36. Further answering, said Defendants neither admit nor deny allegations of damages or other losses for lack of information at this time, leaving Plaintiff to his proofs. However, Defendants deny the alleged misconduct and proximate causation, and further state they are not liable for any alleged damages.

WHEREFORE, Defendants, **Lt. Michael Crum** and **City of Berkley**, seek a judgment of no cause for action against Plaintiff, together with costs and attorney fees.

Count II:

State Claim – Malicious Prosecution – Defendants Crum and Berkley

37. Defendants hereby repeat their answers to the corresponding paragraphs one through thirty-six of Plaintiff's Complaint as if set forth herein in their entirety.

38. Defendants deny this paragraph in the form and manner stated, leaving Plaintiff to his proofs.

39. In response to said allegations, Defendants neither admit nor deny same in the form and manner stated, for lack of information at this time, leaving Plaintiff to his proofs.

40. Defendants deny this paragraph, leaving Plaintiff to his proofs.

41. Defendants deny this paragraph, leaving Plaintiff to his proofs.

42. Further answering, said Defendants neither admit nor deny allegations of damages or other losses for lack of information at this time, leaving Plaintiff to his proofs. However, Defendants deny the alleged misconduct and proximate causation, and further state they are not liable for any alleged damages.

WHEREFORE, Defendants, **Lt. Michael Crum** and **City of Berkley**, seek a judgment of no cause for action against Plaintiff, together with costs and attorney fees.

Count III:

State Claim – False Imprisonment – Defendants Crum and Berkley

43. Defendants hereby repeat their answers to the corresponding paragraphs one through forty-two of Plaintiff's Complaint as if set forth herein in their entirety.

44. Defendants deny this paragraph, leaving Plaintiff to his proofs.

45. In response to said allegations, Defendants neither admit nor deny same for lack of information at this time, leaving Plaintiff to his proofs.

46. In response to said allegations, Defendants neither admit nor deny same in the form and manner stated, for lack of information at this time, leaving Plaintiff to his proofs.

47. Defendant Crum intended only to follow the law pursuant to the arrest warrant, and as to all other allegations, implications, and characterizations, this paragraph is denied, leaving Plaintiff to his proofs.

48. Defendants deny this paragraph, leaving Plaintiff to his proofs.

49. Further answering, said Defendants neither admit nor deny allegations of damages or other losses for lack of information at this time, leaving Plaintiff to his proofs. However, Defendants deny the alleged misconduct and proximate causation, and further state they are not liable for any alleged damages.

WHEREFORE, Defendants, **Lt. Michael Crum** and **City of Berkley**, seek a judgment of no cause for action against Plaintiff, together with costs and attorney fees.

Count IV:

State Claim – Gross Negligence – Defendants Crum and Berkley

50. Defendants hereby repeat their answers to the corresponding paragraphs one through forty-nine of Plaintiff's Complaint as if set forth herein in their entirety.

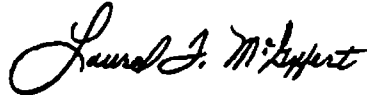
51. This paragraph refers to matters of law (i.e., "duty") to which no answer is required by the Court Rules. However, Defendant Crum contend that he complied with each and every duty which he may have owed to Plaintiff.

52. Defendants deny this paragraph, leaving Plaintiff to his proofs.

53. Further answering, said Defendants neither admit nor deny allegations of damages or other losses for lack of information at this time, leaving Plaintiff to his proofs. However, Defendants deny the alleged conduct and proximate causation, and further state they are not liable for any alleged damages.

WHEREFORE, Defendants, **Lt. Michael Crum** and **City of Berkley**, seek a judgment of no cause for action against Plaintiff, together with costs and attorney fees.

PLUNKETT COONEY,



By:

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DATED: September 3, 2015

Open.00560.52022.15889093-1

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

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Plaintiff,

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Case No. 15-148401-CZ

Hon. DENISE LANGFORD MORRIS

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**DEFENDANTS LIEUTENANT MICHAEL CRUM AND CITY OF BERKLEY'S
SPECIAL AND/OR AFFIRMATIVE DEFENSES**

NOW COME Defendants, Lieutenant Michael Crum and City of Berkley, by and through their attorneys, Plunkett Cooney, and for their Special and/or Affirmative Defenses, state as follows:

1. Plaintiff has failed to state a claim upon which relief can be granted and, at the appropriate time, Defendants will move for Summary Judgment accordingly.
2. At all times relevant to this action, Defendants and their agents and employees acted reasonably and in good faith, and their actions were legal and proper.

DEFENDANTS' ANSWER TO COMPLAINT - OAKLAND COUNTY CIRCUIT COURT

3. Investigation and/or discovery may reveal that any injury, damage or losses suffered by Plaintiff was proximately caused by his comparative negligence, and/or wrongful, improper and/or illegal conduct.

4. Investigation and/or discovery may reveal that Plaintiff failed to mitigate damages.

5. Defendants and their employees and agents are entitled to qualified immunity and statutory privilege herein.

6. Defendants are entitled to governmental immunity and employee/individual immunity from tort liability.

7. Defendants object to the extent that Plaintiff has not joined every requisite claim against Defendants as required.

8. Defendants reserve the right to amend their Special and/or Affirmative Defenses as discovery and/or investigation may warrant.

Respectfully submitted,

PLUNKETT COONEY

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DATED: September 3, 2015

Open.00560.52022.15889128-1

DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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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DEFENDANT MICHAEL CRUM'S AND CITY OF BERKLEY'S
MOTION FOR SUMMARY DISPOSITION

NOW COME Defendants, **Michael Crum** and **City of Berkley**, by and through their attorneys, PLUNKETT COONEY, and for their Motion for Summary Disposition, state as follows.

1. On May 7, 2013, a claim was made to the Berkley Police Department that Plaintiff had inappropriately touched his stepdaughter in a sexual manner, thus prompting the initiation of an investigation of this claim.

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2. After a series of events and extensive investigation (detailed in Defendants' Brief), a request for a warrant was forwarded to the Oakland County Prosecutor's Office by Deputy Chief Michael Crum.¹

3. After consideration by the Prosecutor's Office, the Prosecutor found probable cause to charge Plaintiff with criminal sexual conduct, and requested and received an arrest warrant from the district court judge.

4. On September 18, 2013, Defendant Crum arrested Plaintiff pursuant to said warrant.

5. On October 9, 2013, the Preliminary Examination occurred, at which time, the victim testified, and based on her testimony, the Honorable James Wittenberg of 45A District Court made a finding of probable cause, and bound Plaintiff over for trial.

6. Plaintiff remained incarcerated in the Oakland County jail until his trial commenced on August 4, 2014.

7. On August 5th and 7th, Defendant Crum testified. Part of his testimony included his indication that he was not aware of any of his interviews of the victim was being video recorded, and it was the practice of his department not to video record interviews of sexual assault victim.

8. Subsequent to his testimony, Defendant Crum learned that on August 21, 2013, the DVR video recorder had been turned on by someone else before his interviews started --- and not turned off --- so a video record of his interview of the victim (and her sister and grandmother) did indeed exist.

¹ Defendant Michael Crum was a Detective Sergeant (D/Sgt.) at the time these events began, was promoted to Detective Lieutenant (D/Lt.) in the interim, and now holds the rank of Deputy Chief of the City of Berkley Police Department (a/k/a City of Berkley Public Safety Department). He will be referred to in this Brief as "Deputy Chief Crum" or "Defendant Crum", but it should be noted that his job position/title was different at the time of the events in question.

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9. Upon learning this information, Defendant Crum immediately arranged to have disks made for the parties and the trial court, notified the Prosecutor, and produced the recordings.

10. As a result of the timing of the recordings after the three video recorded interviewees had already testified at trial, a mistrial was declared and Plaintiff was released from jail.

11. Subsequently the Prosecutor decided not to re-try Plaintiff.

12. On August 5, 2015, Plaintiff filed his Complaint in this Court, alleging four (4) claims. [Plaintiff has a case pending in federal court as well, asserting federal claims against these same Defendants].

13. The claims against Defendants before this Honorable Court are: Count I – unlawful arrest, Count II – malicious prosecution, Count III – false imprisonment, and Count IV – gross negligence.

14. Probable cause exists which vitiates the claims against Defendant Crum in Counts I, II and III.

15. In addition, Defendant Crum is shielded by governmental/individual immunity from these tort claims as well.

16. Moreover, there are several bases why the purported gross negligence claim against Defendant Crum in Count IV must be dismissed.

17. There are numerous other bases for Summary Disposition on Defendants' behalf.

18. The City of Berkley is entitled to dismissal of all counts because it is entitled to governmental immunity.

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19. Defendants are thus entitled to Summary Disposition in their favor as discussed in more detail in the supporting Brief annexed hereto.

20. Defendants sought concurrence from Plaintiff's attorney on July 8, 2016, and concurrence was denied.

WHEREFORE, Defendants, **City of Berkley** and **Michael Crum** respectfully request that this Honorable Court grant their Motion for Summary Disposition, and dismiss Plaintiff's Complaint in its entirety with prejudice.

Respectfully submitted,

PLUNKETT COONEY

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DATED: July 8, 2016

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DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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 MICHAEL CRUM AND CITY OF BERKLEY'S
BRIEF IN SUPPORT OF MOTION FOR SUMMARY DISPOSITION**

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Introduction:

In response to allegations by 13-year-old Alyxis Krahe ("Allie") that her stepfather Samuel Jerome (Plaintiff herein) inappropriately touched her vagina and breasts, then-Detective Michael Crum initiated an investigation of the allegations. After a series of events that are detailed below (and in attached documents), Defendant Crum submitted a warrant request to the Prosecutor's Office, which was approved after the Prosecutor's determination that probable cause existed to charge Plaintiff with Criminal Sexual Conduct ("CSC"). Plaintiff was arrested pursuant to the arrest warrant. Subsequently at Plaintiff's Preliminary Exam, the District Court Judge also made a finding of the existence of probable cause. Plaintiff was tried, which ended in a mistrial, and the Prosecutor subsequently decided not to re-try him.

Plaintiff has filed the instant lawsuit against Defendant Crum and the City of Berkley, alleging numerous state claims, all of which should be dismissed as a matter of law for the reasons set forth below.

Statement of Pertinent Facts:

On **May 7, 2013**, 13-year-old Alyxis Krahe (referred to herein as "Allie") reported to her mother, Stacey Krahe Jerome ("Stacey"), that her stepfather, Samuel Jerome (Plaintiff herein) had sexually abused her by inappropriately touching her. Stacey notified her mother (i.e., Allie's grandmother), Judy Stiltner ("Judy"), of the alleged abuse, and Judy drove Allie to the Berkley Police Department¹ to report the alleged crime. Detective/Sergeant ("D/Sgt") Michael Crum became the investigating detective. [Since that time, D/Sgt. Crum was promoted to the rank of Lieutenant ("L/Det"), and is now the Deputy Chief of the Department.]. Allie reported to Defendant Crum that Plaintiff had started by rubbing her stomach, then inappropriately touched her vagina on two (2) occasions and her breasts on the second occasion.

¹ Also known as the "Berkley Public Safety Department".

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Defendant Crum obtained basic information from Allie in order to classify the alleged crime, prepare a report, and establish a basis for referring Allie to Care House for a forensic interview. As required by law, he notified Child Protective Services (“CPS”) of the alleged assault. He scheduled Allie for a Care House forensic interview on May 16th. [See **Exhibit A**, police reports regarding CSC (“criminal sexual conduct” case) for support of these facts and additional facts in ensuing paragraphs].

Although not summoned, Plaintiff appeared at the station on that day (**May 7th**) and asked to speak with Defendant Crum. Plaintiff admitted to Defendant Crum that he rubbed Allie’s stomach, but denied the inappropriate touching. He agreed to submit to a polygraph examination, which Defendant Crum scheduled for May 21st, and confirmed with Plaintiff. As of May 15th, Stacey advised Defendant Crum that she had allowed Plaintiff to move back into the residence, and Allie was staying with her grandmother (Judy).

On **May 16th**, at Care House, when Allie was interviewed by a forensic interviewer, she described the same two incidents, except she indicated that when Plaintiff rubbed below her hip bones near her pubic line, she asked him to stop and he stopped and did not touch her vagina, and that he accidentally rubbed her breast.

On **May 20th**, Plaintiff notified Defendant Crum that he would not be taking the polygraph exam. On **June 9th**, Defendant Crum asked Stacey if he could talk to Allie to discuss the change in her story, and Stacey refused. Defendant Crum took no further action at that time.

On **July 11th**, Judy came to the station to talk to Defendant Crum, and notified him that Stacey was telling everyone that Plaintiff had passed the police department’s polygraph with “flying colors” and that Defendant Crum did not believe Allie. Judy, who was Stacey’s legal

guardian² now had temporary custody and guardianship of Allie and her 10-year-old sister Sabrina because Stacey was confined to a mental hospital in Texas. Judy authorized Defendant Crum to discuss the case with Allie. [See also **Exhibit F**, Crum's deposition excerpts, pp 164-166, and **Exhibit G**, Crum's Affidavit, ¶ 7].

On that date (**July 11th**), Allie told Defendant Crum that her mother had made her change her story at Care House, telling her (at least 4 times a day leading up to the Care House interview) that she (Stacey) would commit suicide if Allie testified against Sam, Allie would be responsible for Stacey's death, and Allie and Sabrina would be placed in a foster home and raped daily. Allie advised Defendant Crum that she felt intimidated and was afraid of causing her mother to commit suicide, and of her and her younger sister being raped in a foster home. She then confirmed to Defendant Crum that Plaintiff had inappropriately touched her, describing the two incidents again, and expressing her concern and fear that Plaintiff's attention was now being turned to Sabrina.

On **July 14th**, it was reported to Defendant Crum that en route home from her Texas hospitalization, Stacey had learned about Allie talking to Defendant Crum and had called and threatened Allie with "severe consequences", prompting Allie to run away from Judy's residence. A runaway report was filed and entered into the LEIN ("law enforcement information network") system. [See **Exhibit B**, police reports regarding Runaway incident].

On **July 15th**, Stacey notified the Berkley police that she had found Allie. Officers asked to see Allie to confirm her return so they could take her out of the LEIN system. In response, Stacey sent the police on a "wild goose chase", first saying she was taking Allie to Beaumont Hospital (but when they arrived there, she was not there), then changing it to Providence

² Stacey Krahe's mother, Judy Stiltner, had been her legal guardian for many years due to Stacey's mental illness.

Hospital (but when they arrived there, she was not there), then finally notifying Defendant Crum that she was south of Toledo going to Georgia (for a “fresh start”). She refused his request to allow him to see Allie to confirm she was safe. At that point, Defendant Crum did not do anything further to actively pursue the case.

In fact, he was not aware that the Jerome family was back in Michigan until police were called by Judy regarding a disturbance that occurred at the Jerome residence shortly after midnight on **August 2nd**. Officers who were dispatched to the home witnessed (and photographed) injuries to Allie consistent with her account that she was physically assaulted by both her mother and Plaintiff. As a result of this incident, both Plaintiff and Stacey were arrested later that day (**August 2nd**) for Domestic Violence. [See **Exhibit C**, police reports regarding Family Trouble/Domestic Violence case].³

On **August 6th**, Defendant Crum forwarded the Domestic Violence case to the Prosecutor’s Office for consideration. The Prosecutor decided to pursue the action against Plaintiff, but not against Stacey because Stacey was anticipated to be a witness in the CSC case.

On **August 9th**, Defendant Crum forwarded the CSC case to the Prosecutor’s Office for consideration, providing all the pertinent evidence to the Prosecutor of which he was aware. On **August 21st**, the Prosecutor requested “further” information and asked Defendant Crum to obtain the answers to specific questions. [See **Exhibit A**, pages 54-56, and **Exhibit F**, Crum’s deposition, pp 175-176]. On that date (**August 21st**), Judy arrived at the police station (without having been contacted) with Allie and Sabrina, and Defendant Crum interviewed all three of the witnesses in order to obtain the information that the Prosecutor had requested.

³ Photographs of Allie’s injuries will be provided to the Court if requested, but are not made part of this public record.

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On **September 18th**, after having determined that probable cause existed, the Oakland County Prosecutor sought and obtained an arrest warrant from the Honorable James Wittenberg (45A District Court). [**Exhibit A**, pages 51-52]. Pursuant to the arrest warrant, Defendant Crum arrested Plaintiff on that date. Plaintiff was incarcerated in the Oakland County jail.

On **October 9, 2013**, the Preliminary Exam was held before Judge Wittenberg. At that time, the only evidence Judge Wittenberg considered was Allie's testimony. [See **Exhibit D**, 10/9/13 Preliminary Examination transcript]. Allie testified about the two incidents of inappropriate touching, and was cross-examined by Plaintiff's defense attorney. Defendant Crum did not testify or actively participate in that proceeding. After hearing Allie's testimony and determining that probable cause existed ("based on her testimony"), Judge Wittenberg bound the matter over to the circuit court for trial on the CSC charges. [See **Exhibit D**, pages 45-46].

After a number of pretrial hearings and trial adjournments, Plaintiff's criminal trial commenced before the Honorable Rudy Nichols on **August 4, 2014**, and proceeded on **August 5 and 7, 2014**. Numerous witnesses testified during the course of the trial; and Defendant Crum testified on August 5th and 7th. He testified that it is his department's practice not to video record interviews of sexual assault victims, and that he had not video recorded any of his interviews of Allie in the CSC case.

After he had testified, Defendant Crum learned that, in fact, unbeknownst to him, the DVR video recorder had been on during his August 21, 2013 interviews of Allie, Sabrina and Judy. As soon as he became aware of this information, Defendant Crum had disks made of the interviews, promptly notified the Assistant Prosecutor, and they notified the Court (and the parties) early the morning of **August 8th**. [See **Exhibit G**, Crum's Affidavit, ¶¶ 24-27]. Because the existence of these recordings had not been known and presented before, a mistrial was

declared. Subsequently, the Prosecutor's Office decided not to re-try Plaintiff and on **October 6, 2014**, an Order of *Nolle Prosequi* was entered. [See **Exhibit G**, Crum's Affidavit, ¶¶ 28-29].

For the various reasons set forth below, Summary Disposition in favor of both Defendants on all Counts/claims is mandated. MCR 2.116(C)(7),(8),(10).

Procedural History

On June 24, 2015, Plaintiff filed a Complaint in federal court (U.S. District Court, Eastern Division), alleging eight (8) counts against Defendants. On July 27, 2015, the USDC Judge entered an "Order of Partial Dismissal", dismissing Plaintiff's state claims of unlawful arrest, malicious prosecution, false imprisonment, and gross negligence that were set forth in Plaintiff's Complaint. On August 5, 2015, Plaintiff filed his Complaint (**Exhibit E**) in this Court, asserting the state claims of unlawful arrest (Count I), malicious prosecution (Count II), false imprisonment (Count III), and gross negligence (Count IV).

The federal claims remain pending in federal court, asserting federal claims against these same defendants (Counts I – False Arrest and False Imprisonment, II – Malicious Prosecution, III – Denial of Due Process, and against Berkley only, IV – Unconstitutional Policy or Custom).

For the reasons set forth below, both Defendants are entitled to Summary Judgment in their favor in this state court case, and dismissal of Plaintiff's Complaint herein in its entirety.

Standard of Review

A Motion for Summary Disposition brought under MCR 2.116(C)(8), for failure to state a claim upon which relief can be granted, is tested by the pleadings alone, and examines only the legal basis of the Complaint. *Maiden v Rozwood*, 461 Mich 109 (1999).

Summary Disposition is proper when immunity granted by law bars a claim. MCR 2.116(C)(7). The applicability of governmental immunity is a question of law for the Court to decide. *Bennett v City of Detroit*, 274 Mich App 307, 310-311 (2007).

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A Motion brought pursuant to MCR 2.116(C)(10) tests the factual support of a plaintiff's claim. *Smith v Globe Life Ins Co*, 460 Mich 446 (1999). The party opposing summary disposition has the burden of showing that a genuine issue of material fact exists and may not rest upon the mere allegations contained in the Complaint, but must set forth specific facts supported by affidavits, depositions, or other documentary evidence which would be admissible at trial. *Smith, supra*; *Tope v Howe*, 179 Mich App 91 (1989). In *Quinto v Cross & Peters Co*, 451 Mich 358 (1996), the court quoted a portion of the Supreme Court's decision in *Celotex v Catrett*, 477 US 317, 331 (1986) as follows:

If the non-moving party cannot muster sufficient evidence to make out its claim, a trial would be useless and the moving party is entitled to summary judgment as a matter of law.
Quinto, supra at 362.

Legal Argument:

I. Plaintiff's Unlawful Arrest And False Imprisonment Claims Against Defendant Crum Must Be Dismissed.

A. Defendant Crum Is Entitled To Governmental/Individual Immunity As To Plaintiff's Unlawful Arrest And False Imprisonment Claims.

With regard to Plaintiff's intentional tort claims of unlawful arrest and false imprisonment (set forth in Counts I and III), Defendant Crum is entitled to governmental/individual immunity. In *Odom v Wayne County*, 482 Mich 459 (2008), the Michigan Supreme Court stated that the proper method for determining whether governmental immunity applies to intentional torts is to apply the test set forth in *Ross v Consumers Power Co*, 420 Mich 567 (1984). The *Ross* test sets forth that a governmental employee is entitled to immunity for intentional torts if:

- (1) the employee undertook the action during the course of his employment and was acting, or reasonably believed he was acting, within the scope of his authority,

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- (2) the employee undertook the acts in good faith or without malice, and
- (3) the acts were discretionary, rather than ministerial, in nature.
Odom, supra at 479-480.

Clearly, component (1) is met without a doubt. Defendant Crum was acting in his police capacity in his conduct that is complained of, and Plaintiff admits as much in his Complaint. [See **Exhibit E**, ¶ 2].

Component (3) is also indisputably present. It is obvious that Plaintiff complains about the manner in which Defendant Crum utilized his discretionary decision making with regard to conducting his investigation and the evidence he produced to the prosecutor, which Plaintiff claims led to his arrest, incarceration, and prosecution. Discretionary acts require personal deliberation, decision and judgment; and a discretionary act implies the right to be wrong. *Id.* at 476. “Granting immunity to an employee engaged in discretionary acts allows the employee to resolve problems without constant fear of legal repercussions.” *Id.* “Police officers perform many discretionary acts every day. An officer must use his judgment to determine whether there is reasonable suspicion to investigate or probable cause to arrest and to determine the amount of force necessary to effectuate an arrest.” *Id.* In light of the unusual and extraordinary nature of police work, it is improper to second-guess the exercise of a police officer’s discretionary professional duty with the benefit of 20/20 hindsight. *Norris v City of Lincoln Park*, 292 Mich App 574, 579-580 (2011), quoting from *White v Beasley*, 453 Mich 308, 321 (1996).

Despite Plaintiff’s argument to the contrary, the evidence in the instant case also supports the existence of component (2); i.e., good faith/lack of malice. “The good faith element of the *Ross* test is subjective in nature. It protects a defendant’s honest belief and good-faith conduct with the cloak of immunity while exposing to liability a defendant who acts with malicious intent.” *Odom, supra* at 481-482. The Michigan Supreme Court has described a lack of good

faith as “malicious intent, capricious activity or corrupt conduct” or “willful and corrupt misconduct” (citations omitted). *Id.* at 474. The Michigan Supreme Court Justices pronouncement in *Odom* is especially significant with regard to the facts in the instant case:

A police officer would be entitled to immunity under *Ross* if he acted in good faith and honestly believed that he had probable cause to arrest, even if he later learned that he was mistaken. [Emphasis added]. *Id.* at 481.

The standard in evaluating the governmental immunity question is not whether, when viewing the facts objectively with the benefit of hindsight, the police officers’ conduct was justified; rather, the standard is a subjective one from the perspective of the defendant with respect to whether he was acting in good faith. *Latits v Phillips*, 298 Mich App 109, 116 (2012). In the instant case --- much like in *Latits, supra* --- the substance of Plaintiff’s argument is that Defendant Crum exercised poor judgment and/or was mistaken about his justification for his actions. Much like the ruling in *Latits*, even if the Court were to agree with Plaintiff’s argument in this regard, “it would not affect the immunity analysis”. *Id.* at 114-115.

Although Plaintiff may disagree with the results of Defendant Crum’s decision-making, the evidence supports the fact that he undertook his actions in good faith and without malice; and there is no competent evidence to the contrary. [See **Exhibit G**, Crum’s Affidavit, ¶¶ 30-31].

Defendant Crum has been trained in interview and interrogation techniques as a police officer, and has interviewed many children in his career. In his work as a detective, although he is charged with being objective, there are occasions when he needs to assess whether he feels there is enough credible evidence being presented to him to support a reasonable suspicion that the alleged crime has been committed, and at the time he felt probable cause existed for him to refer the case to the prosecutor’s office for consideration, realizing from experience that after the prosecutor’s consideration of the evidence, sometimes they accept and sometimes they reject his recommendation --- depending on whether they determine probable cause exists after they make

their own determination. At the time of his actions, he took into consideration all the facts and circumstances of which he was aware. [See **Exhibit F**, Crum's deposition, pp 158, 168-169, 171, 177-178, and **Exhibit G**, Crum's Affidavit, ¶ 12].

Plaintiff complains that Defendant Crum was in possession of "undisclosed and exculpatory evidence" (**Exhibit E**, ¶ 35). However, Plaintiff cannot show that Defendant Crum intentionally withheld any information from the Prosecutor or the Court, and the evidence indicates the contrary. Deputy Chief Crum testified at deposition that he did not video record his August 21, 2013 interviews of witnesses, and he was unaware that the interviews had been taped, consistent with his sworn testimony in August 2013. [See **Exhibit F**, Crum's deposition excerpts, pp 159-163, 174]. His Affidavit remains consistent in that regard as well. [See **Exhibit G**, ¶¶ 24-15]. Logically, that makes sense because as soon as Defendant Crum learned that the video recording existed, it was he --- not anyone else, but he --- who promptly brought it to the Prosecutor's attention, and they in turn, brought it to the trial Court's attention as soon as court resumed. If he had withheld the video recording initially, there would be no reason why he would later choose to voluntarily disclose and produce it! There is absolutely no evidence that Defendant Crum intentionally suppressed or concealed that information.

Based on the fact that he was acting within the scope of his employment, and acting in good faith during the performance of discretionary acts and decisions, Defendant Crum is entitled to governmental/individual immunity as to the intentional tort claims of both false arrest and false imprisonment.

B. Defendant Crum Is Also Entitled To Dismissal Of Plaintiff's False Arrest And False Imprisonment Claims Based On Probable Cause.

In addition to Defendant Crum's immunity defense, yet another independent basis for dismissal of the false arrest and false imprisonment claims is the existence of probable cause. A

false arrest is an illegal or unjustified arrest; and false imprisonment is an unlawful restraint on a person's liberty or freedom of movement. *Peterson Novelties v City of Berkley*, 269 Mich App 1, 17-18 (2003). To prevail on either claim a plaintiff must show that there was no probable cause. *Id.* at 18. "Whether the plaintiff could actually have been convicted is irrelevant, because actual innocence is not an element of false arrest." [Emphasis added]. *Id.* Probable cause to arrest exists where the facts and circumstances within an officer's knowledge is sufficient to warrant a person of reasonable caution in the belief that an offense has been or is being committed. *People v Champion*, 452 Mich 92, 115 (1996). Where the facts are undisputed, the determination whether probable cause exists is a question of law for the court to decide. *Peterson Novelties*, *supra* at 18. It is well settled that if an arrest is legal, plaintiff cannot maintain a claim of false arrest or false imprisonment. *Id.*

With regard to Defendant Crum's involvement in activities that preceded the Prosecutor's determination of probable cause, he conducted an investigation of the allegations that were brought to his attention, considered all the evidence (both arguably incriminating and exculpatory) in its totality, produced all the pertinent evidence to the Prosecutor of which he was aware, and then formulated a reasonable belief that probable cause existed that the accused (Plaintiff) had committed the alleged crime. [See **Exhibits A** (and **B** and **C**), police reports, **Exhibit F**, Crum's deposition, pp 169, 177-178, and **Exhibit G**, Defendant Crum's Affidavit (¶¶ 1-11, 13), all of which are consistent].

In this particular case, Allie's initial account to Defendant Crum (on **May 7, 2013**) provided evidence to support probable cause, and other than to deny that he committed the crime, Plaintiff changed his mind about taking the lie detector test and did not offer any further counter-evidence to Defendant Crum. After Allie changed her story at Care House, Defendant Crum discontinued actively pursuing the case until Allie gave him an explanation (on **July 11th**)

of why she changed her story (i.e., threats and coercion from her mother) and reaffirmed the initial account she had given him. Only after that point (and subsequent to other ensuing events as reference above) did he re-activate his investigation, make a reasonable judgment that probable cause existed, and refer the matter to the Prosecutor for further consideration.

As long as he considered all the evidence (which he did) and then made his determination of probable cause, he is not liable for false arrest/imprisonment even if his judgment, in retrospect, should turn out to be wrong. *Odom, supra* at 481. This is the case even where there are allegations that an officer made false statements --- as long as there exists remaining evidence to support a finding of probable cause, in which case, a plaintiff's § 1983 claim would still fail. *Id.* At 459-460. In this case, sufficient evidence exists that establishes probable cause by both the Prosecutor and the District Judge --- independent of Defendant Crum's involvement.

Moreover, independent of that video recording, probable cause was established; and that video recording was not material to the finding of probable cause. Recall that the interviews on August 21, 2013 were for the sole purpose of obtaining additional information that the Prosecutor's Office asked Crum to obtain, which he did obtain and provide to them in his report of that date. [**Exhibit A**, pages 11-13]. As noted above, probable cause exists where the facts and circumstances known to the officer at the time are sufficient to warrant a person of reasonable caution in the belief that the alleged crime was committed. *People v Champion, supra* at 115. In this instance, the facts and circumstances support such a finding on behalf of Defendant Crum. In addition, Chief Daniel Grant of the City of Wyandotte Police Department, whose experience is significant and whose credentials are impeccable, has attested to the reasonableness and appropriateness of Defendant Crum's conduct, further substantiating the "reasonableness" of Defendant Crum's probable cause determination. [See **Exhibit H**, Chief Grant's Affidavit].

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In this instance, probable cause did exist for Defendant Crum to seek an arrest warrant from the Prosecutor's Office based on numerous factors including, but not necessarily limited to:

- Alleged facts presented to Crum by the victim when she was brought to the station by her grandmother and spoke to him on May 7, 2013. [**Exhibit A**, pages 4-6].
- Consideration by Crum of the victim's changed account at the Care House interview on May 16, 2013, with subsequent explanation provided to him regarding the coercion that led to the discrepancies (see below). [**Exhibit A**, pages 7-9].
- Alleged facts presented to Crum by the victim when she came to the station to talk to him on July 11, 2013, which were consistent with her May 7th account, and explanation to him that she had been coerced by her mother into lying about the events at the Care House interview. [**Exhibit A**, pages 7-9].

Then Defendant Crum left the matter to the prosecutor and did not intervene in the process until the prosecutor explicitly asked him to obtain answers to some specific questions. On August 21st, Allie reiterated to Defendant Crum that the events that formed the elements of the alleged crime had indeed occurred. To the extent that there were some differences in what Allie said to Defendant Crum on May 7th as compared to what she said to him on August 21st, he did not recognize the differences as material inconsistencies that invalidated the probable cause determination that had already been made based on the totality of the circumstances. Whatever purported inconsistencies may have existed between what Allie told Defendant Crum on May 7th and what she told him on August 21st (as reflected in the video recording) had nothing to do with the probable cause determination. Her accounts remained consistent in terms of what she reported that had been done (e.g., touching of her vagina, etc.) that formed the elements of the alleged crime(s). What she said on August 21st did not change the probable cause determination that had already been established. The August 21st interview of Allie was for the sole purpose of obtaining answers to the questions the prosecutor asked Defendant Crum to obtain --- not to establish the existence (or non-existence) of probable cause. [See **Exhibit G**, Crum's Affidavit, ¶¶ 14-18].

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After subsequently obtaining and providing the additional information that the Prosecutor's Office requested, Defendant Crum left the matter to the Prosecutor's Office. Probable cause then became an issue for the Prosecutor, who after careful consideration, also found probable cause to arrest Plaintiff. The Prosecutor then sought an arrest warrant from the Court, which was issued by the Honorable James Wittenberg on September 18, 2013, more than six (6) weeks after Crum's request to the Prosecutor's Office, and almost one month after Crum obtained the "further" information the Prosecutor requested. This was the second layer of probable cause consideration and determination --- by the Prosecutor. Then --- and only then --- did Crum arrest Plaintiff pursuant to the search warrant. [See **Exhibit G**, Crum's Affidavit, ¶¶ 19-20].

The third layer of probable cause consideration was at the October 9, 2013 Preliminary Exam, where Judge Wittenberg determined the existence of probable cause based solely on Allie's testimony --- untainted and unaffected by Defendant Crum's involvement! [See **Exhibit D**, especially pages 45-46]. Allie was the only one who testified at that proceeding; and she was cross-examined by Plaintiff's attorney at that time. Plaintiff (i.e., the criminal defendant) had the opportunity to offer his testimony, but chose not to. No exhibits (e.g., police reports, etc.) were offered to the Court or requested by the Court. Based on the account of the incident(s) that Allie gave the Judge --- not what she did or did not say to Defendant Crum --- the Judge determined there was probable cause, and bound the matter over for Plaintiff to be prosecuted at trial. [See **Exhibit F**, Crum's deposition, pp 169-170, and **Exhibit G**, Crum's Affidavit, ¶¶ 21-23].⁴ This probable cause finding by the Judge at the preliminary exam should be dispositive and foreclose

⁴ Even Plaintiff's criminal defense attorney articulated his recognition that there was a factual issue for the trier of fact regarding Plaintiff's prosecution. [See **Exhibit D**, p 45].

re-litigation of that finding in this action. Probable cause has already been established **three (3) times**, and should be deemed a matter of law, not a question of fact, herein.

Thus, in addition to governmental/individual immunity that shields Defendant Crum from tort liability, the existence of probable cause defeats the false arrest and false imprisonment claims as a matter of law as well.

**II. Plaintiff's Malicious Prosecution Claim
Against Defendant Crum Must Be Dismissed.**

Elements of a *prima facie* claim of malicious prosecution include the defendant: (1) initiating a criminal prosecution against plaintiff, (2) criminal proceedings terminating in the plaintiff's favor, (3) lack of probable cause, and (4) malice by the defendant or a purpose other than bringing the offender to justice. *Walsh v Taylor*, 263 Mich App 618, 632-633 (2004); *Payton v City of Detroit*, 211 Mich App 375, 394-395 (1995). In this case, the existence of governmental/individual immunity and probable cause, as established and referenced above, defeats Plaintiff's malicious prosecution claim in Count II of Plaintiff's Complaint. Moreover, the lack of evidence of malice defeats this claim as well.

**III. Plaintiff's Gross Negligence Claim
Against Defendant Crum Must Be Dismissed.**

A. Plaintiff Has Failed To State A Gross Negligence Claim Upon Which Relief Can Be Granted.

The gravamen of Plaintiff's gross negligence claim (in Count IV of Plaintiff's Complaint) is based on Plaintiff's allegation that that Defendant Crum was grossly negligent because he allegedly "withheld undisclosed and exculpatory evidence against Samuel". [See **Exhibit E**, Plaintiff's Complaint, ¶ 52]. In other words, this purported gross negligence claim is merely a restatement of Plaintiff's unlawful arrest and false imprisonment claims (set forth in Counts I and III). This scenario is addressed explicitly and definitively in *Norris, supra* at 582:

A party's choice of label for a cause of action is not dispositive. We are not bound by the choice of label because to do so "would exalt form over substance. A party cannot avoid the dismissal of a cause of action through artful pleading. The gravamen of plaintiff's claim is determined by examining the entire claim. The courts must look beyond the procedural labels in the complaint and determine the exact nature of the claim. A review of the amended complaint reveals that the gross negligence claim is premised on the alleged assault of plaintiff. Elements of intentional torts may not be transformed into gross negligence claims. (citations omitted) Accordingly, the trial court erred by denying summary disposition of the gross negligence count for failure to state a claim. [Emphasis added].
Norris, supra at 582, quoting *VanVorous v Burmeister*, 262 Mich App 467, 483 (2004).

In *Norris, supra* and *VanVorous, supra*, the court(s) rejected the plaintiff's attempt to transform an intentional tort claim (assault) into a gross negligence claim, and the Court of Appeals dismissed the gross negligence claim pursuant to MCR 2.116(C)(8).

In *Latits, supra* at 119-120, the Court of Appeals concluded that the allegations on which the plaintiff purportedly founded the gross negligence claim was actually an intentional tort (i.e., assault/shooting), not reckless or accidental conduct. Likewise, in the instant case, Plaintiff claims that Defendant Crum's intentional conduct led to his arrest, incarceration and prosecution. These decisions could theoretically form the basis for the intentional torts of "false arrest" and "false imprisonment", but not even arguably form the basis for a "gross negligence claim".

Much like in the above-referenced cases, Plaintiff's attempt herein to redundantly restate and transform his intentional tort claims of false arrest and false imprisonment into a gross negligence claim warrants dismissal of the gross negligence claim for failure to state a claim upon which relief can be granted. MCR 2.116(C)(8).

B. Moreover, The Facts Do Not Support A Prima Facie Claim of Gross Negligence.

The "gross negligence" exception to the shield of governmental immunity is found in MCL 691.1407 (2) (c), with "gross negligence" being defined as "conduct so reckless as to

demonstrate a substantial lack of concern for whether an injury results.” MCL 691.1407(7)(a). Gross negligence has been characterized as a willful disregard of safety measures and a singular disregard for substantial risks. *Oliver v Smith*, 290 Mich App 678, 685 (2010).

With regard to the requirements for finding “gross negligence”, *Tarlea v Crabtree*, 263 Mich App 80, 90 (2004) aptly notes:

Simply alleging that an actor could have done more is insufficient under Michigan law, because, with the benefit of hindsight, a claim can always be made that extra precautions could have influenced the result. However, saying that a defendant could have taken additional precautions is insufficient to find ordinary negligence, much less recklessness.

Likewise, in the instant case, there are no facts to support the “so reckless” threshold that would create a question of fact for a jury to determine. Plaintiff’s claim that Defendant Crum’s investigation should have been more thorough or he should have used better judgment in assessing the evidence or he should have given more weight to purported inconsistencies in Allie’s various accounts, etc. does not suffice to establish the requisite conduct that can be characterized as “so reckless”. Therefore, Plaintiff’s gross negligence claim must be dismissed on this basis also.

C. Defendant Crum’s Actions Were Not “The” Proximate Cause of Plaintiff’s Alleged damages

In order for Plaintiff to prevail on a gross negligence claim, Defendant Crum’s conduct would have to be “the proximate cause” of Plaintiff’s injury or damage. MCL 691.1407(2)(c); *Robinson v City of Detroit*, 462 Mich 439 (2000). The Michigan Supreme Court has interpreted “the proximate cause” to mean the “most immediate, efficient, and direct cause” of the injury. *Robinson, supra* at 462. The Supreme Court Justices continue to recognize that gross negligence that is the proximate cause of injury is “a very narrow exception” to immunity, and that

exceptions to governmental immunity “must be narrowly construed”. *Beals v Michigan*, 497 Mich 363, 370, 378 (2015).

In the instant case, with the prosecutor having conducted its own consideration of probable cause --- and finding same existed, and even more so with the district court judge having found probable cause existed solely on Allie’s testimony at the probable cause hearing, Defendant Crum’s conduct can by no stretch of the imagination be considered the proximate cause (i.e., the most immediate, efficient and direct cause) of Plaintiff’s arrest, incarceration and/or prosecution.

Much like in *Beals, supra*, Defendant Crum is protected from tort liability by governmental immunity because the “gross negligence” exception to immunity is inapplicable in this case to defeat his immunity protection on not one, but three (3) separate bases. One basis would suffice to defeat Plaintiff’s gross negligence claim; all three bases exist.

IV. Plaintiff’s Claims Against The City Of Berkley Must Be Dismissed Based On Governmental Immunity.

As a municipality, the City of Berkley is a governmental agency that is statutorily immune from tort liability pursuant to MCL 691.1407 (1) while engaged in the operation of a governmental function. The operation of a police force, including activities of arresting and detaining criminal suspects, is indisputably a governmental function that is immune from tort liability. *Bennett v City of Detroit*, 274 Mich App 307, 315 (2007); *Payton v City of Detroit*, 211 Mich App 375, 391-393 (1995); *Hill v City of Saginaw*, 155 Mich App 161, 170 (1987). Plaintiff’s Complaint (**Exhibit E**) admits that the City of Berkley is a “municipal corporation” (¶ 3) and that its participation in the events in question was “via its police department” (¶ 6) and as the employer of Defendant Crum (¶ 2). Plaintiff’s shotgun approach to gather the City of Berkley into every claim asserted against Defendant Crum is improper and ineffective to

DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

establish liability against the City, which is governmentally immune with regard to the false arrest/imprisonment, malicious prosecution, and gross negligence claims asserted against it in Plaintiff's Complaint.

Conclusion:

Plaintiff's four-count Complaint has been dissected and addressed above, utilizing well-settled legal authority (both statutory and judicial/case law) and undisputed facts. Based on same, Defendants are entitled to Summary Disposition as to all claims, and dismissal of Plaintiff's Complaint in its entirety. MCR 2.116(C)(7),(8),(10).

WHEREFORE, Defendants, **Michael Crum** and **City of Berkley**, respectfully request that this Honorable Court grant their Motion for Summary Disposition, and dismiss Plaintiff's Complaint in its entirety with prejudice.

Respectfully submitted,

PLUNKETT COONEY

By: /s/Laurel F. McGiffert

LAUREL F. MCGIFFERT (P31667)
Attorneys for Defendants
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Detroit, MI 48226
(313) 983-4751
lmcgiffert@plunkettcooney.com

DATED: July 8, 2016

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DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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

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

Defendants.

S. JAY AHMAD (P43206)
VEN R. JOHNSON (P39219)
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PROOF OF SERVICE

The undersigned certifies that a copy of Defendants City of Berkley and Michael Crum's Motion for Summary Disposition, Brief in Support of Motion for Summary Disposition, Notice of Hearing and Proof of Service were served upon S. Jay Ahmad, Johnson Law PLC, 535 Griswold - Ste. 2632, Detroit, MI 48226, on July 8, 2016 by: electronic filing with the Clerk of the Court using the 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.

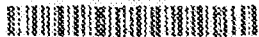
/s/ Laurel McGiffert

EXHIBIT A TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

EXHIBIT A

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CR No: 130005555



BERKLEY PSD

2395 12 MILE RD
BERKLEY MI 48072
2486583380



Case Report

Administrative Details:

CR No	Subject
130005555	C3324 - Suspicious Circumstances
Report Date/Time	Occurrence Date/Time
05/08/2013 10:44	05/08/2013 10:44
Location	Call Source
3600 PHILLIPS AVE	TELEPHONE
Dispatched Offense	Verified Offense
C3324 SUSP CIRCUMSTA	1171 CSC 1st Degree - Penetration Penis/Vagina
DIC	DIC Contact Number
Crum, Michael (BECRUMME-01036)	
County	City/Town/Village
63 - Oakland	66 - Berkley
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

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EXHIBIT A TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130605556



Offenses:

1171 - CSC 1st Degree -Penetration Penis/Vagina

ISR Code / ISR 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	Hate/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)]

ISR Code / ISR Group	Offense File Class	
90Z - All Other Offenses / B	48000 - OBSTRUCTING POLICE	
Crime Against	Location Type	Offense Completed
	20 - Residence/Home	Completed
Domestic Violence	Hate/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 (01036)]

Last Name	First Name	Middle Name	Suffix	Mr/Mrs/Ms
Jerome	Samuel	James		
Aliases	Driver License#	DL State	DL Country	Personal ID#
	J 650 758 367 379	MI	USA	
DOB (Age)	Sex	Race	Ethnicity	Birth City & State
05/19/1972 (40)	M	WHITE	Unknown	MI
Completion	Build	Teeth	Height	Weight
			5' 11"	
Street Address	Apt #	County	Country	Home Phone
3800 Phillips		Oakland	USA	
City	State	Zip	Cell Phone	Email
Berkeley	MI	48072	734.778.5658	

KRAHE, STACEY LYNN (S-SUSPECT) [BECRUMME (01036)]

Last Name	First Name	Middle Name	Suffix	Mr/Mrs/Ms
Krahe	Stacey	Lynn		
Aliases	Driver License#	DL State	DL Country	Personal ID#
	K 600 777 584 283	MI	USA	
DOB (Age)	Sex	Race	Ethnicity	Birth City & State
04/11/1977 (36)	F	WHITE	Unknown	MI
Completion	Build	Teeth	Height	Weight
			5' 3"	
Street Address	Apt #	County	Country	Home Phone
3800 Phillips		Oakland	USA	
City	State	Zip	Cell Phone	Email
Berkeley	MI	48072	248.240.6092	

KRAHE, ALYXIS FAY (V-VICTIM) [BECRUMME (01036)]

802

EXHIBIT A TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130005555

01/10/2016 10:10:10 AM

Victim Type		Victim of					
I - Individual		1171 - CSC 1st Degree - Penetration Penis/Vagina, 4805 - Witness - Dissuading					
PE:	W.Type:	Last Name	First Name		Middle Name	Suffix	Mr/Mrs/Ms
	VC	Krahe	Alyxis		Fay		
Aliases		Driver License#		DL State	DL Country	Personal ID#	
Alyxis							
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship	
07/21/1998 (13)	F	WHITE	Unknown				
Street Address		Apt #	County	Country	Home Phone		Work Phone
3600 Phillips			Oakland	USA			
City	State	Zip	Cell Phone		Email		
Berkley	MI	48072					
Victim Injury							
N - None							
Victim Offender Relationships							
Offender			Type		Relationship		
Jerome, Samuel James			S-SUSPECT		10-Victim Was Stepchild		
Krahe, 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	Suffix	Mr/Mrs/Ms SGT.
	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				248.658.3392			
Notes							
Detective							

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

PE:	W.Type:	Last Name	First Name		Middle Name	Suffix	Mr/Mrs/Ms
	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				248.333.0999			
Notes							
CARE house Forensic Interviewer							

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

PE:	W.Type:	Last Name	First Name		Middle Name	Suffix	Mr/Mrs/Ms SGT.
	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
2395 W. Twelve Mile			OAKLAND	USA			
City	State	Zip	Cell Phone		Email		
Berkley	MI	48072					
Phone/Email							
Type				Description			

003

EXHIBIT A TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130005555



BU-Business Phone #1	2488583393
Notes	
CIC	

STILTNER, JUDITH ANN (O-OTHER) (X-MISCELLANEOUS) [BECRUMME (01036)]									
PE:	W.Type:	Last Name	First Name	Middle Name	Suffix	Mr/Mrs/Ms			
		Stiltner	Judith	Ann					
Aliases		Driver License#		DL State	DL Country	Personal ID#			
		S 343 454 067 202		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	Country	Home Phone	Work Phone			
3310 Thomas			Oakland	USA	248.543.0952				
City	State	Zip	Cell Phone	Email					
Berkley	MI	48072	248.302.1827						

Narrative:

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

DETECTIVE BUREAU INVESTIGATIONCRIME:

Criminal Sexual Conduct

SUSPECT:

Samuel James Jerome

W/M, 05-19-1972

VICTIM:

Alyxis Fay Krahe

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:

Alyxis 'Allie' Krahe reported sexual abuse from her step-father, Sam Jerome.

INVESTIGATION:

May 7, 2013

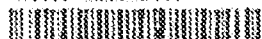
I received a report from Alyxis 'Allie' Krahe that her step-father, Sam Jerome had sexual abused her on several occasions. Allie was brought to the station by her maternal grandmother, Judith Stiltner.

Judith Stiltner

Judith advised she was advised of the abuse by her daughter, Stacey Krahe, who is the mother of Allie.

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Upon hearing of the alleged abuse, Judith picked Allie 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 Allie 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 Allie Krahe. 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 Allie reporting the abuse.

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

Alyxis Krahe

I spoke to Alyxis "Allie" Krahe in the second floor detective bureau. D/Sgt Miller was present in the detective bureau during the interview.

First Incident

Allie advised the first incident occurred while her mother was hospitalized around Christmas time (2012). Sam was home alone with Allie during the hospitalization. Allie 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. Allie advised she hates her stomach touched and requested Sam stop touching her.

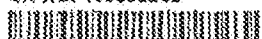
Sam continued touching her until his hand was touching her vagina. Sam rubbed her vagina from outside of her clothing. Allie requested Sam stop but he continued rubbing her vagina. Allie attempted to get up from the couch but Sam held her down with his free hand. The touching lasted for several minutes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

Stacey Krahe was released from the hospital and Sam did not touch Allie while Stacey was home. Sam did buy her headbands and earrings to keep her quite about the assault.

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EXHIBIT A TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130005555

**Second Incident**

In late April, Stacey was away at a conference for her employment with the Berkley Schools. Sam was alone with Allie during this time. Allie 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. Allie 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. Allie 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. Allie 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. Allie 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 Allie's belly, at Allie'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: 130005555-002 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: 130005555



W/F, 04-11-1977

VICTIM;

Alyxis Fay Krahe

W/F, 07-21-1999

DATE/TIME:

December 2012 and April 2012

VENUE:

3600 Phillips, 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 Allie to the interview. Stacey advised she had allowed Sam to move back into the residence. Allie was staying with her Grandmother, Judith Stiltner, until after the polygraph. Stacey also advised she did not believe Allie anymore concerning the assault. Stacey advised she believed Allie was making up the story for attention.

CARE house

May 16, 2013

Stacey Krahe transported Allie 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 Allie and thought we were all, "being played" by a very intelligent 13 year old.

Allie was interviewed by Tricia Schuster in the North Room. During the interview Allie'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, Allie 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.

Allie advised Sam's hand rubbed below her hip bones near her pubic line. She asked him to stop and Sam stopped rubbing her. Allie 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.

007

[illegible]

May 20, 2013

I cancelled the scheduled polygraph with Deputy Lanfear.

June 9, 2013

Jan 20 2023

Judy Stillner

Several hours later, Allie knocked on my office door and asked to discuss her case with me. Allie 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.

Allie immediately advised her mother had made her change her story at CARE house. Allie advised her mother would tell her they were going to put her into a Foster Home and she would be raped daily. Allie said her mother told her this at least four times a day leading up to the CARE house interview. When Allie 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. Allie 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. Allie advised she was more fearful of what would happen to her 10 year old

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sister as Stacey advised she would be raped as well and it would be Allie's fault.

Allie confirmed her original description of the incident was the truth. Allie advised Sam had touched her vagina on two occasions and inserted his finger between her lips on the second occasion. Allie confirmed Sam had directly rubbed her breasts and played with her nipples. Allie confirmed Sam would buy her gifts to keep her quiet about the assault. Allie advised Stacey had threatened her into changing her story at CARE house. And most concerning, Allie advised Sam has turned his attention to her ten year old sister, Sabrina. Allie has witnessed Sam touching and rubbing her stomach in the same fashion he had rubbed her stomach. Allie has also observed Sam buying Sabrina gifts and spending all of his free time with her. Allie 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 Allie on her way home and advised there would be severe consequences for ruining the family. Allie interpreted this to mean her accusation against Sam Jerome for sexual assault. Allie fled her grandmother's residence and hid from her mother. A runaway report was filed (13-8466) and Allie was entered into LEIN as missing. Allie was discovered by Stacey Krahe on July 15th around 0500 hours. Stacey called the Berkley Police to report Allie found. Officers requested to make the residence to confirm her return. Stacey advised she was taking Allie to Beaumont Hospital because she had been drinking.

PSO Tanghe went to Beaumont hospital to confirm Allie's return. PSO Tanghe was advised by Beaumont staff that Allie 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 Allie Krahe had not been to their facility either.

Approximately one hour later, I received a telephone call from Sam Jerome advising Stacey had taken Allie and left Michigan. Sam would not advise me where she was taking Allie. I advised Sam I only needed to confirm Allie 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 Allie was safe and had returned. She allowed me to speak to Allie on the speaker phone in the vehicle. I was unable to determine if I was in fact speaking with Allie.

According to Stacey, Allie admitted to coming to the police station and speaking with me about Sam assaulting her. Stacey was furious Allie had spoken with me. Stacey advised she did not believe Allie and was traveling to Georgia so the family could get a fresh start. I advised Stacey that Allie 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 hospitals 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

009

EXHIBIT A TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130005555

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Stacey Krahe and Sam Jerome were both arrested by Berkley 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 Allie 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 Allie had ever used narcotics. Allie advised she has been assaulted on numerous occasions since "telling on Sam." During the assault Allie was punched, choked, and dragged up the stairs by her hair. According to Allie, 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 Allie discussing various topics. I could immediately tell the messages were suspicious at best. I spoke to Allie about the messages after. Allie 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. Allie advised they would record several times before Stacey would be satisfied with the way it sounded. Stacey threatened, and did assault, Allie 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 Alyxis Fay Krahe, born July 21, 1999 by rubbing her vagina. Sam is Allie's stepfather and a member of the same household at 3600 Phillips in the City of Berkley.

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

In addition, Stacey Lynn Krahe, born April 11, 1977, did by threat or intimidation, influence the testimony of Alyxis Fay Krahe, born July 21, 1999 by threatening to commit suicide and threatening Allie 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 (01036) Date: 09/11/2013 01:35 PM

010

EXHIBIT A TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130885558

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 Sabrina Krahe in the second floor detective bureau. Sabrina was brought to the station by her maternal grandmother, Judith Stiltner.

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

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

Sabrina was not aware of either incident of sexual assault by Samuel Jerome on Allie Krahe. Sabrina did not recall any incident when Sam had touched her that made her feel inappropriate. Sabrina did remember him rubbing her stomach but did not feel it was inappropriate. Sabrina 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 Sabrina, it was after Allie had gotten Sam in trouble and he stopped liking her. Sabrina did not have any further information about the sexual assault.

Allie Krahe

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

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discussed the sexual assault with Sabrina.

According to Allie, when Sam was sexually assaulting her he would buy her Phish's Ice Cream from 7-11. Sam would not buy Sabrina 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 Sabrina. She believed Sam bought Sabrina earrings and clothing. These purchases began, for Sabrina, after Allie would no longer allow him to rub her vagina.

Sexual Assault

I interviewed Allie Krahe about the sexual assault by Sam Jerome. I asked Allie to start from the beginning and tell me everything that had happened. Allie 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. Allie recalled Sabrina being at Judy Stiltner's residence at the time of the assault.

Allie recalled the second incident of sexual assault exactly as she had on May 7, 2013. She recalled Sabrina 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 Allie what had changed at CAREhouse. Allie reiterated the pressure her mother placed upon her. According to Allie, 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 Allie she would have to tell her sister, Sabrina, why she had, "Killed their mother." Allie has observed her mother attempt suicide on multiple occasions and feared if she testified her mother would kill herself. Allie also felt it was better to be molested by Sam than to be raped by strangers. Allie 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. Allie believed her mother until she observed Sam rubbing Sabrina's stomach and buying her gifts. Allie felt this was the same behavior Sam had exhibited just prior to sexually assaulting her.

Judy Stiltner

I interviewed Judy Stiltner in the second floor detective bureau. Judy advised she knew very little about the actual sexual assault. Judy did not want to make Allie 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 Allie. The first incident happened shortly after Allie made the disclosure. Stacey admitted herself into Beaumont hospital after confronting Sam. While in the hospital, Judy had Stacey's phone in case Allie or Sabrina 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 Allie sexually and not upset that Sam touched Allie. In her opinion, Stacey is blaming Allie for Sam touching her vagina.

012

EXHIBIT A TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130005555



The second incident occurred when Sam and Judy were talking on the phone about Allie. Sam asked Judy, "What are we going to do about Allie's 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 Allie and Sabrina 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 (01036) 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

EXHIBIT A TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130005553

**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 Allie 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 Alyxis Krahe. Krahe testified to the facts of the case. After hearing testimony from Allie, 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 to 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 5, 2014.

Trial**February 5, 2014**

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

March 26, 2014

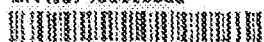
A pretrial was held before Judge Nichols with a trial scheduled for June 9, 2014 at 0830 hours.

Trial

014

EXHIBIT A TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130003555



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

Alyxis 'Allie' Krahe 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

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EXHIBIT A TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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9/17/2013 GML/AW

Page 1 of 2

STATE OF MICHIGAN

PROS. ORDER NO.

13-05884

THE DISTRICT COURT-JUDICIAL DISTRICT NO. 45/A

County of OAKLAND

COMPLAINT/GENERAL
INFORMATIONTHE PEOPLE OF THE STATE OF MICHIGAN
VS.Date of Offense: ON OR ABOUT DECEMBER 2012
THROUGH APRIL 2013SAMUEL JAMES JEROME /83-13-005884-01
3600 Phillips Ave
Berkley, MI 48072

Location: CITY OF BERKLEY

Complainant: ALYXIS KRAHE

Complaining
Witness: LT. CRUM

Defendant(s)

WITNESSES

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

DET. C. MILLER

ALYXIS FAY KRAHE

STACEY LYNN KRAHE

SABRINA 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, Alexis Krahe 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 333.5129, 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: 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)

051

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EXHIBIT A TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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

COMPLAINT/GENERAL
INFORMATION

COUNT 2

did engage in sexual contact with a child, Alyxis Krahe 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).

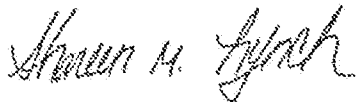
HIV/STD TESTING NOTICE

Take notice that pursuant to MCL 333.5129, 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



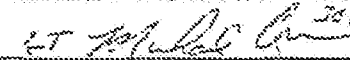
Assistant Prosecuting Attorney

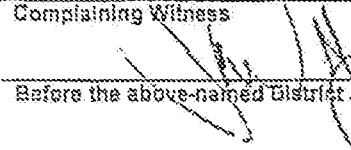
The complaining witness asks that defendant be apprehended and dealt with according to law.

Dated: 9/18/13

No: _____

Subscribed and Sworn to on this day by


Complaining Witness

 66523
Before the above-named District Judge/Deputy Clerk/Magistrate

052

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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: <u>Sgt CRUM</u>	From: <u>Shareen</u>
Fax:	Date: <u>8-21-13</u>
Phone:	Pages: <u>3</u> (including Cover Sheet)

ROUTING PRECEDENCE:

☐ IMMEDIATE☒ ROUTINE

Further
on Is Krahe &
Jerome
Thank you!
Shareen

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 this 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.

054

P.001 248 4522054

OAKLAND CTY PROSECING

AUG-21-2013 09:11

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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: 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

EXHIBIT A TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

TOTAL P.003

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

PROMIS: _____

CCH: _____

WARRANT ISSUED: _____

SIGNED: Shareen Lynch

DATE: August 21, 2013

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056

248 4522054 P.003

OAKLAND CTY PROSECUTOR

AUG-21-2013 05:12

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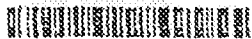
EXHIBIT B TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

EXHIBIT B

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000067b

CR No: 130008468



BERKLEY PSD

 2365 W. TWELVE MILE
 BERKLEY CA 94702
 2438583380


Case Report

Administrative Details

CR No	Subject
130008468	7070 - Runaway (70000)
Report Date/Time	Occurrence Date/Time
07/14/2013 18:52	07/14/2013 12:00
Location	Call Source
3800 PHILLIPS AVE	TELEPHONE
Dispatched Offense	Verified Offense
7070 RUNAWAY	7070 Runaway
County	City/Town/Village
63 - Oakland	68 - Berkeley
Division	
Investigation	
Action Requested	
<input 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	

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EXHIBIT B TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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CR No: 130098458



Offenses		
7070 - Runaway [BEPOUNDERSC (01174)]		
ISR Code / ISR Group	Offense File Class	
901 - Runaway / B	70000 - JUVENILE RUNAWAY	
Crime Against	Location Type	Offense Completed
NC	20 - Residence/Home	Completed
Domestic Violence	Hate/Bias	
No	00 - None (No Bias)	
Using		
A-Alcohol: No C-Computer Equipment: No D-Drugs/Narcotics: No		

People									
JEROME, STACEY (O-OTHER) [BEPOUNDERSC (01174)]									
PE:	W.Type:	Last Name	First Name	Middle Name	Suffix	Mr/Ms/Ms			
		JEROME	STACEY						
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship			
04/11/1977 (36)	F	WHITE							
Eye Color	Hair Color	Hair Style	Hair Length	Facial Hair					
Blue									
Complexion	Build	Teeth	Height	Weight	Arms				
			5' 3"	130					
Street Address	Apt #	County	Country	Home Phone	Work Phone				
3600 PHILLIPS		Oakland	USA						
City	State	Zip	Cell Phone	Email					
Berkeley	MI	48072	248-240-6092						

STILTNER, JUDY (O-OTHER) (R-REPORTED BY) [BEPOUNDERSC (01174)]									
PE:	W.Type:	Last Name	First Name	Middle Name	Suffix	Mr/Ms/Ms			
		STILTNER	JUDY						
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship			
03/17/1940 (73)	F	WHITE							
Street Address	Apt #	County	Country	Home Phone	Work Phone				
3310 THOMAS		Oakland	USA	248-643-0962					
City	State	Zip	Cell Phone	Email					
Berkeley	MI	48072	248-302-1827						

KRAHE, ALYXIS FAY (O-OTHER) (K-MISSING PERSON) [BEPOUNDERSC (01174)]									
PE:	W.Type:	Last Name	First Name	Middle Name	Suffix	Mr/Ms/Ms			
		KRAHE	ALYXIS	FAY					
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship			
07/21/1999 (13)	F	WHITE		ROYAL OAK Michigan	USA	USA			
Eye Color	Hair Color	Hair Style	Hair Length	Facial Hair					
	Brown	Straight	Long						
Complexion	Build	Teeth	Height	Weight	Arms				
	Thin				BLACK TANK TOP, JEAN SHORTS				
Street Address	Apt #	County	Country	Home Phone	Work Phone				
3600 PHILLIPS		Oakland	USA						
City	State	Zip	Cell Phone	Email					
Berkeley	MI	48072	248-794-0807						
MO	Gang Active		Gang Name						
	No								
Alerts	On Probation/Parole		Habitual Offender Status		085				

EXHIBIT B TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 13000E466



No

Narrative:

CR No: 13000E466-001 Written By: BEPOUNDERS (01174) Date: 07/14/2013 07:01 PM

DATE AND TIME:

July 14, 2013

1200 Hours

VENUE:

3310 Thomas

City of Berkley

County of Oakland

State of Michigan

MISSING JUVENILE:

Alyxis Fay Krahe

DOB: 07/21/1999

3600 Phillips

Berkley, MI 48072

248-794-0807

Last seen wearing- Black tank top with silk shirt over it, blue jean shorts, "DC" tennis shoes.

REPORTED BY:

Judy Stiltner

DOB: 03/17/1940

3310 Thomas

Berkley, MI 48072

248-543-0952

CIRCUMSTANCE:

Unit 410 (PSO Kobernick and I, PSO Pounders) was dispatched to 3310 Thomas for a missing juvenile report. Upon arrival we spoke to Judy Stiltner DOB: 03/17/1940 who said her granddaughter Aleyxis Fay Krahe DOB: 07/21/1999 has been missing since 12:00 on July 14, 2013. Stiltner stated Aleyxis has been staying at her house for the past three weeks due to the fact that Aleyxis's mother was in Texas. On today's date, Stiltner said Aleyxis was upset about her mother coming home. Stiltner stated Aleyxis asked to go for a walk to deal with her anxiety. Stiltner told Aleyxis to return in 30 minutes. Aleyxis called one time around 12:30 to ask for an extension, she was told no. Aleyxis never returned home or called after that. Stiltner said Aleyxis doesn't have many friends and doesn't know where she would have walked to or who she could possibly be with.

CONCLUSION:

Aleyxis was entered into LEIN by dispatcher Shirer (SYSID #43814263). Stiltner was advised to call if

086

EXHIBIT B TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130008466

07/15/2013 10:10 AM

Aleyxis made contact with her. Case forwarded to DB for further investigation.

CR No: 130008466-002 Written By: BEHERRIMANK (01168) Date: 07/15/2013 10:10 AM

Stacey Jerome called to say she found her daughter Alyxis Krahe who was reported missing. However, she refused to allow officers to confirm this. Krahe was prematurely removed in LEIN but was reentered due to our inability to confirm her status.

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EXHIBIT C

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EXHIBIT C TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130009252



BERKLEY PSD

 2385 12 MILE RD
 BERKLEY MI 48072
 2486583380


Case Report

Administrative Details:

CR No	Subject
130009252	Family Trouble (KRAHE)
Report Date/Time	Occurrence Date/Time
08/02/2013 00:11	08/02/2013 00:11
Location	Call Source
3600 PHILLIPS AVE	TELEPHONE
Dispatched Offense	Verified Offense
C3310 FAMILY TROUBLE	1399 Assault (Other)
DOC	DOC Contact Number
Crum, Michael (BECRUMME-01036)	
County	City/Twp/Village
63 - Oakland	66 - Berkley
Division	
Patrol	

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: D/Lt Mike Crum	Contact Number: 248.658.3383

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EXHIBIT C TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130003252

130003252

Offenses:		
1399 - Assault (Other)		
IBR Code / IBR Group	Offense File Class	
13A - Aggravated Assault / A	13002 - AGGRAVATED/FELONIOUS ASSAULT	
Crime Against	Location Type	Offense Completed
PE	20 - Residence/Home	Completed
Domestic Violence	Hate/Bias	
Yes	00 - None (No Bias)	
Using	Cargo Theft	
A-Alcohol: No C-Computer Equipment: No D-Drugs/Narcotics: No		
Weapons		
40 - Personal Weapons (Hands, Feet, Teeth, etc.)		
Criminal Activity		
N - None/Unknown		

People:									
JEROME, SAMUEL JAMES (A-ARRESTEE) [BEGEARYD 01046]									
Last Name		First Name		Middle Name		Suffix		Maiden Name	
JEROME		SAMUEL		JAMES					
Aliases		Driver License #		OL State	OL Country	Personal ID#			
		J650755367379		MI					
DOB (Age)	Sex	Race	ethnicity	Birth City & State	Birth Country	Country of Citizenship			
05/19/1972 (41)	M	UNKNOWN		Detroit Michigan	USA	USA			
Eyes Color		Hair Color		Hair Style		Hair Length		Facial Hair	
Brown		Brown		Straight		Short		Full Beard and Mustache	
Complexion		Build	Teeth	Height		Weight	Age		
				5' 11"		220			
Held For	Finger Prints	Photos	Miranda Read	Miranda Waived	Number of Warrants		DOB		
	Yes	Yes	No	No					
Street Address		Apt #	County	Country	Home Phone		Work Phone		
3600 PHILLIPS			Oakland	USA					
City		State	Zip	Cell Phone		Email			
BERKLEY		MI	48072	734.778.5655					
SSN		MOCOPR#							
378-68-3152									
Alerts				On Probation/Parole		Previous Offender Status			
				No					
Arrest Information									
Offenses			Details						
1399 - Assault (Other)			Arrest Date/Time:		02/02/2013 10:00				
			Location:		Berkley DPS				
			Arrest:		2013-02				
			Arrest Type:		Ordeal				
			CWI Arrest/BAC						
			Offense Type:		Felony				
			Court:						
			Arresting Officer 1:		BEGARNETT (Officer Michael 01027)				
Non-Clearance			Multi-Clearance Offense			Armed V/Un			
N - Not Applicable						01 - Unarmed			
Date/Time Booked		Booked Location							
08/02/2013 10:30		Berkley DPS							
Date/Time Released		Released Location		Released By		Release Reason			
08/03/2013 16:00		Berkley DPS		BEGARNETT (Garrett, Michael 00027)					

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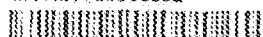
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CR No: 130003252



KRAHE, STACEY LYNN (A-ARRESTEE) [BEGEARYD (01046)]									
Last Name		First Name		Middle Name		Suffix		Mr/Mrs/Ms	
KRAHE		STACEY		LYNN					
Aliases				Driver License #		DL State		DL Country	
				K600777564283		MI		USA	
DOB (Age)		Sex	Race	Ethnicity	Birth City & State		Birth Country		Country of Citizenship
04/11/1977 (36)		F	WHITE		Royal Oak Michigan		USA		USA
Eye Color		Hair Color		Hair Style		Hair Length		Facial Hair	
Blue		Blond							
Complexion		Build	Teeth	Height	Weight	Aure			
				5' 3"	140				
Held For		Finger Print	Photos	Mugshot Read	Mugshot Waived	Number of Warrants		FBI#	
		Yes	Yes	No	No				
Street Address			Apt #	County		Country		Home Phone	
3600 PHILLIPS AVE				OAKLAND		USA		678.652.5392	
City			State	Zip	Cell Phone		Email		
BERKLEY			MI	48072	248.240.6092				
SSN			MOSC PRIN#						
366981944									
Arrest Information									
Offenses				Details					
1399 - Assault (Other)				Arrest Date/Time:		05/02/2013 09:30			
				Location:		Berkley OPS			
				Arrested:		2013-582			
				Arrest Type:		On/View			
				CWI Arrest/BAC:					
				Offense Type:		Felony			
				Count:					
				Arresting Officer 1		SECURIN/E (Crim/Michael 91036)			
MUC Clearance			Multi Clearance Offense			Armed With			
N - Not Applicable						01 - Unarmed			
Date/Time Booked			Booked Location						
08/02/2013 10:00			Berkley DPS						
Date/Time Released			Released Location			Released By		Release Reason	
08/02/2013 18:00			Berkley DPS			BEHADFIELDAW (Hadfield, Andrew 01160)		Temporary Transfers to Other Institutions	
KRAHE, ALYXIS FAY (V-VICTIM) [BEGEARYD (01046)]									
Victim Type			Victim of						
I - Individual			1399 - Assault (Other)						
PE	W Type	Last Name	First Name		Middle Name		Suffix		Mr/Mrs/Ms
VC		KRAHE	ALYXIS		FAY				
DOB (Age)		Sex	Race	Ethnicity	Birth City & State		Birth Country		Country of Citizenship
07/21/1999 (14)		F	WHITE		Royal Oak Michigan		USA		USA
Street Address			Apt #	County		Country		Home Phone	
3600 PHILLIPS AVE				Oakland		USA			
City			State	Zip	Cell Phone		Email		
BERKLEY			MI	48072					
Victim Injury									
M - Apparent Minor Injury									
Victim Offender Relationships									
Offender				Type		Relationship			
JEROME, SAMUEL JAMES				A-ARRESTEE		10-Victim Was Stepchild			
KRAHE, STACEY LYNN				A-ARRESTEE		05-Victim Was Child			

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EXHIBIT C TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130009252



ROTENHEBER, JASON (O-OTHER) (L-POLICE OFFICER) [BEGEARYD (01045)]									
FE	W Type	Last Name	First Name	Middle Name	Suffix	Mr/Ms/Ms			
	OF	Rotenheber	Jason						
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship			
	M	UNKNOWN							
Phone/Email									
Type					Description				
BU-Business Phone #1					248.701.8243				
Notes									
CPS									

GEARY, DENNIS (O-OTHER) (L-POLICE OFFICER) [BEGEARYD (01046)]									
FE	W Type	Last Name	First Name	Middle Name	Suffix	Mr/Ms/Ms OFFICER			
		Geary	Dennis						
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship			
		UNKNOWN							
Street Address			Ap #	Country	Country	Home Phone		Work Phone	
2395 W. Twelve Mile				OAKLAND	USA				
City			State	Zip	Cell Phone	Email			
Berkley			MI	48072					
Phone/Email									
Type					Description				
BU-Business Phone #1					2486583380				

CRUM, MICHAEL (O-OTHER) (L-POLICE OFFICER) [BEGEARYD (01046)]									
FE	W Type	Last Name	First Name	Middle Name	Suffix	Mr/Ms/Ms LT.			
		Crum	Michael						
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship			
		UNKNOWN							
Street Address			Ap #	Country	Country	Home Phone		Work Phone	
2395 W. Twelve Mile				OAKLAND	USA				
City			State	Zip	Cell Phone	Email			
Berkley			MI	48072					
Phone/Email									
Type					Description				
BU-Business Phone #1					2486583393				
Notes									
QIC									

(O-OTHER) (B-BUSINESS, ETC.) [BEBUNTINGM (01056)]									
FE	W Type	Name				Suffix	Mr/Ms/Ms		
		Rep of Alliance Mobile Health							
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship			
		UNKNOWN							

COMBS, PAUL (O-OTHER) (L-POLICE OFFICER) [BEBUNTINGM (01056)]									
FE	W Type	Last Name	First Name	Middle Name	Suffix	Mr/Ms/Ms			
		Combs	Paul						
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship			
		UNKNOWN							
Street Address			Ap #	Country	Country	Home Phone		Work Phone	
2395 W. Twelve Mile				OAKLAND	USA				
City			State	Zip	Cell Phone	Email			
Berkley			MI	48072					

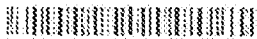
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CR No: 130009252



Berkley	MI	48072	
Phone/Email			
Type		Description	
BU-Business Phone #1		2486583380	

CORRADI, KURT (O-OTHER) (L-POLICE OFFICER) [BEBUNTINGM (01056)]									
PE	W Type	Last Name	First Name	Middle Name	Suffix	Birth Date			
		Corradi	Kurt						
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship			
		UNKNOWN							
Street Address		Apt #	County	Country	Home Phone	Work Phone			
2395 W. Twelve Mile			OAKLAND	USA					
City	State	Zip	Cell Phone	Email					
Berkley	MI	48072							
Phone/Email									
Type			Description						
BU-Business Phone #1			2486583380						

LAITY, BRIAN (O-OTHER) (L-POLICE OFFICER) [BEBUNTINGM (01056)]									
PE	W Type	Last Name	First Name	Middle Name	Suffix	Birth Date			
		Laity	Brian						
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship			
		UNKNOWN							
Street Address		Apt #	County	Country	Home Phone	Work Phone			
2395 W. Twelve Mile			OAKLAND	USA					
City	State	Zip	Cell Phone	Email					
Berkley	MI	48072							
Phone/Email									
Type			Description						
BU-Business Phone #1			2486583380						

BUNTING, MICHAEL (O-OTHER) (L-POLICE OFFICER) [BEBUNTINGM (01056)]									
PE	W Type	Last Name	First Name	Middle Name	Suffix	Birth Date			
		Bunting	Michael						
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship			
		UNKNOWN							
Street Address		Apt #	County	Country	Home Phone	Work Phone			
2395 W. Twelve Mile			OAKLAND	USA					
City	State	Zip	Cell Phone	Email					
Berkley	MI	48072							
Phone/Email									
Type			Description						
BU-Business Phone #1			2486583380						

STILTNER, JUDY (O-OTHER) (I-PERSON INTERVIEW) [BEBUNTINGM (01056)]									
PE	W Type	Last Name	First Name	Middle Name	Suffix	Birth Date			
		STILTNER	JUDY						
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship			
03/17/1940 (73)	F	WHITE							
Street Address		Apt #	County	Country	Home Phone	Work Phone			
3310 THOMAS					2485430952				

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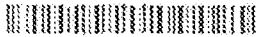
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EXHIBIT C TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130009252



City BERKLEY	State MI	Zip 48072	Cell Phone 2483021827	Email
Arrest			On Probation/Parole No	Historical Offender Status

Narrative:

CR No: 130009252-001 Written By: BEBUNTINGM (01056) Date: 08/02/2013 01:55 AM

Incident

On Friday, August 2nd 2013 at 0011hrs, Officers were dispatched to 3600 Phillips for a family trouble. Arriving officers met with mother Stacy KRAHE, age 36 who allowed officers into the home. We also contacted a visibly upset daughter Alyxis KRAHE, age 14 and husband/step-father Samuel JEROME, age 41.

Investigation

Investigating Officers spoke to Alyxis and Stacy. Alyxis states she was in her room, when Stacy and Samuel came in, believing Alyxis was smoking marijuana. Stacy said when she entered, Alyxis threw a cigarette pack out of her window, that contained marijuana. Officer's smelled Alyxis clothes and bedroom. No marijuana was detected. No cigarette pack was found outside, where Stacy said it was thrown.

The three argued, and a physical altercation began. Alyxis states she did have a lighter, and when she attempted to hide it, she was thrown down and hit in her face and thrown against a wall without provocation. Photos of Alexis face, upper chest, and leg were taken. See attached photos.

Stacy and Samuel then tore Alyxis room apart to find the marijuana. She bagged Alyxis clothes, and told me she was going to throw them away because Alyxis might have hidden "something" in them. When I pointed out that was unreasonable, Stacy looked confused. Stacy found NO marijuana in Alyxis' room.

Stacy version is that she believed Alexis was smoking marijuana. When she went in to confront Alexis, Alyxis went crazy and assaulted Stacy, and had to be restrained. During Alyxis assault, Stacy said she injured her finger, and was scratched. There are photos of scratches on Stacy's chest.

Stacy said she was having heart issues. Alliance arrived on scene, but the heart issues went away. There was no transport.

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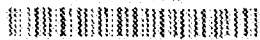
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CR No: 130009252

Alyxis

After Sgt Combs spoke to Lt Crum, Alyxis was turned over to her grandmother, Judy Stillner.

CR No: 130009252-002 Written By: BEGABRIELR (00012) ATTACHMENT ONLY REPORT - No Narrative

CR No: 130009252-003 Written By: BEGARNETTM (00027) ATTACHMENT ONLY REPORT - No Narrative

CR No: 130009252-004 Written By: BEFROSTS (00407) ATTACHMENT ONLY REPORT - No Narrative

CR No: 130009252-005 Written By: BEGEARYD (01046) Date: 08/05/2013 03:48 PM

DETECTIVE BUREAU INVESTIGATIONCRIME:

750.136b4 -- Child Abuse, 3rd Degree

SUSPECT #1:

Stacey Lynn Krahe

W/F, 04-11-1977

SUSPECT #2:

Samuel James Jerome

W/M, 03-17-1940

VICTIM:

Alyxis Fay Krahe

W/F, 07-21-1999

DATE/TIME:

August 2, 2013 at 0011 hours

VENUE:

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

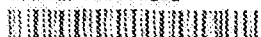
SUMMARY:

Alyxis (Allie) Krahe was assaulted by her mother, Stacey Krahe, and her stepfather, Samuel Jerome.

Parties were originally separated for the evening until reviewed by the detective bureau. After review, it

EXHIBIT C TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130009252



was determined Allie Krahe was still in danger from her parents and arrests were made in the case.

INVESTIGATION:**August 2, 2013**

PSO Bunting, PSO Corradi, and Sgt Combs were dispatched to 3600 Phillips on a family trouble. Officers on scene separated the parties and advised everyone to come to the detective bureau for interviews. I am currently investigating a criminal sexual conduct allegation (13-5553) involving the same parties.

Alyxis Fay Krahe (Allie)

I spoke with Allie Krahe regarding the assault. Allie advised Sam installed a lock on the exterior of her bedroom door so she can not leave her room. She was locked in her room on the night in question. Stacey entered her room and began making accusations of narcotic use. Allie denies any drug use, now or in the past. Allie advised she had a lighter in her room she used to light candles. When confronted by her mother, Allie denied the use of narcotics. Stacey became enraged and grabbed Allie by the face and hair. Stacey slammed Allie's head into the rail on her bed multiple times.

Stacey then grabbed Allie, covering her mouth and nose with her hand. Stacey advised Allie, "Eventually you will have to give up when you run out of air." Allie advised she could not breathe when Stacey was covering her airway. Eventually, Allie ran out of air and felt like she was going to pass out. Stacey continued to ask where the marijuana was while assaulting Allie. Stacey allowed her to breathe just as Allie felt she was passing out.

Stacey then began to press on pressure points in Allie's body. Stacey is a special needs teacher and learned the pressure points to control her students. She tried several pressure points on Allie during the assault. Allie showed me red marks on her left upper chest. Allie advised her mother was causing severe pain when pushing on the pressure points.

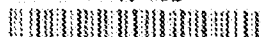
Sam Jerome entered the bedroom and "slammed" Allie into a chair in her room. When Sam threw Allie down, her head struck the wall behind the chair. Allie advised she had several personal items on the chair. One of the items was a signed picture of Johnny Depp she values. Allie attempted to get out of the chair to remove the picture. Sam threw her back into the chair each time she attempted to get up. Each time she slammed her head on the wall. Allie advised Sam threw her into the wall on seven (7) occasions.

Stacey Krahe then punched Allie directly in the face the last time Sam threw her into the chair. Allie stated it was Stacey's closed right fist that struck her directly in the right eye. Allie's eye was swollen and red with bruising starting to show around the eye. Allie advised her eye was hurting whenever she moved it. During the assault, Allie was allowed to use the bathroom on the first floor of the residence. Stacey went with her to use the restroom. After, Stacey shoved Allie down to the floor at the base of the stairs. Sam counted to "three" for Allie to get to her feet. When Allie was unable to get to her feet in time, Stacey grabbed her by the hair and dragged her up the stairs. While being dragged up the stairs, Allie struck her shin on the riser of the stair, causing it to bleed. A photo of the cut on her leg was taken by the officers on scene.

During the assault, one of her parents would hold Allie down, and the other was placing all of her

EXHIBIT C TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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belongings into plastic bags. Stacey was advising Allie they were throwing all of her clothing out because she didn't deserve clothing and would never be allowed to leave the residence again. Stacey also advised Allie she was going to throw her Hermit Crabs away. Although Stacey did not throw the crabs away, it is a constant threat from Stacey to harm Allie's living pets.

The maternal grandmother, Judy Stiltner was called by Stacey during the assault. Judy arrived at the residence and observed all of Allie's clothing in white plastic bags. Judy also observed Stacey assault Allie while Sam was holding her down. Judy advised Stacey often calls her as a witness when something is happening in the residence. Judy arrived before Stacey was aware this time and actually observed the assault in progress.

Allie advised the scratches on her mothers chest occurred when Stacey was covering her airway and she thought she was going to die. She began to move around attempting to clear her mother's hands from her mouth and nose to be able to breathe.

Stacey Krahe

I spoke to Stacey Krahe in the lobby of the police station. Stacey confirmed she was looking for marijuana in her daughter's room when the assault occurred. Stacey confirmed no marijuana was discovered and the officers could not smell marijuana when they arrived on scene. Stacey advised it was Allie's fault she was struck in the eye. She attempted to blame Allie for standing up and "running" into her finger. Stacey's story changed several times and was not deemed credible.

Stacey blamed Allie for lying and causing all of the turmoil in the residence. Stacey is upset Allie made allegations of sexual abuse against her stepfather, Sam Jerome. Since the allegation, Stacey has manipulated the entire investigation. Including refusing to allow me to speak to Allie without her present. On one occasion, Stacey actually drove to Georgia, interfering with my investigation into the sexual assault. Stacey allegedly told Allie she would be raped everyday if she testified against Sam. She threatened suicide another time if Allie testified. Allie has been forced to make a false PPO request against her grandmother, Judy, as a result of Stacey.

Stacey was arrested for assault, child abuse, and booked by Officer Garnett. It was determined Allie was not safe as a result of the assault that occurred at the residence and the fact Stacey has fled the state on prior occasions when a crime was being investigated.

Samuel Jerome

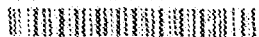
Sam Jerome was arrested in the police lobby for assault, child abuse. Sam pushed Allie into a chair in her room on at least seven occasions. Each time, Allie struck her head on the wall behind the chair.

Voice Memos

During the investigation, Stacey insisted I listen to several voice memos she had on her phone. All of the voice memos were recorded conversations she had with Allie. All of the voice memos appeared to be rehearsed and led by Stacey. In the past, Stacey has instructed her children how to answer questions to both the police and CPS. The voice memos were an obvious attempt by Stacey to manipulate the investigation. None of the information matched the facts of the case.

EXHIBIT C TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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I interviewed Allie about the voice memos on Stacey's phone. Allie immediately claimed she was forced to make any and all of the statements on the voice memos. Stacey threatened severe punishment unless Allie agreed to make the statements. I was unable to record the voice memos or detail what each said. They are not credible evidence. According to Allie, she had to repeat the voice memos several times until Stacey was satisfied with the results.

Michigan Department of Human Services

PSO Dennis Geary completed a DHS3200 form and faxed it to the Department of Human Services. Agent Jason Rotenheber responded to the Berkley Public Safety Department to interview Stacey Krahe. Stacy agreed to a safety plan where the children could stay with their maternal grandmother, Judy Stillner, until the case was decided by the Oakland County Prosecutor.

William Beaumont Hospital

Stacey advised she was having medical issues and needed to be seen by a doctor. Alliance Mobile Health was contacted and transported Stacey to Royal Oak Beaumont Hospital for evaluation. Stacey was released pending further investigation upon being transported to the hospital.

Sam Jerome

After Stacey was released pending further investigation, Sam Jerome was also released to care for his wife. Sam was advised to not contact the children for any reason and to stay away from Judy Stillner.

CONCLUSION

On August 2, 2013 at 0011 hours, Stacey Lynn Krahe, born April 11, 1977, did intentionally physically harm Alyxis Fay Krahe, born July 21, 1999 by punching her in the right eye causing a bruise and blocking her airway causing Alyxis to fear death.

In addition, Samuel James Jerome, born May 19, 1972, did slam Alyxis into a chair on at least seven occasions, each time causing her head to strike the wall behind the chair, leaving bruising and red marks on the back of Alyxis' head.

PROSECUTION REQUESTED:

750.136B4 - Child Abuse, 3rd Degree = Stacey Krahe

750.136B4 - Child Abuse, 3rd Degree = Samuel Jerome

STATUS:

Case forwarded to the Oakland County Prosecutors Office.

CR No: 130009252-005 Written By: BEMOSCHELLIM (01173) Date: 08/03/2013 01:13 AM

Ref: Jerome/Samuel/james// DOB:05/19/1972. Conditional Bond entered in LEIN as per court.

Ref: Krahe/Stacey/Lynn// DOB: 04/11/1977. Conditional Bond entered in LEIN as per court

CR No: 130009252-007 Written By: BEFROSTS (00407) ATTACHMENT ONLY REPORT - No Narrative

EXHIBIT C TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130009252



CR No: 130009252-008 Written By: BEFROSTS (00407) ATTACHMENT ONLY REPORT - No Narrative

CR No: 130009252-009 Written By: BEMOSCHELLIM (01173) ATTACHMENT ONLY REPORT - No

CR No: 130009252-010 Written By: BECRUMME (01036) Date: 09/12/2013 08:50 AM

S=Stacey KraheS=Samuel JeromeCRIME:

Domestic Violence

DB FOLLOW-UPCWSAugust 6, 2013

I received a complaint, warrant, and subpoena from the Oakland County Prosecutors Office for MCL 750.812 domestic violence for both Stacey Krahe and Samuel Jerome.

I swore to the CWS before Judge James Wittenberg with an arraignment date scheduled for August 7, 2013 at 9 AM.

I received a 911 recording and copies of the DB interviews of both Allie Krahe and Sabrina Krahe.

ArraignmentAugust 7, 2013

Stacey Krahe and Sam Jerome were arraigned before Judge Wittenberg. Both were issued personal recognizance bonds in the amount of \$5000 and a pretrial date of August 13, 2013 at 9 AM. Bond conditions were set for both to have no contact with the victim, Allie Krahe, or any child under the age of 18.

PreTrial ConferenceAugust 13, 2013

The pretrial was adjourned until August 27, 2013 by Judge Wittenberg. A bond hearing was heard with Judge Wittenberg refusing to change the terms of the bond without written notification from CPS.

August 27, 2013

A Pretrial was held before Judge Wittenberg. Judge Wittenberg followed the direction of the Juvenile Court Referee and CPS to allow Sabrina Krahe to be returned to Stacey Krahe. APA C. George advised Judge Wittenberg of the continued coercion by Stacey Krahe of her children. He advised to have to matter brought before the Juvenile Court for review. A Bench Trial date was scheduled for November 1, 2013 before Judge Wittenberg on the Domestic Violence.

August 28, 2013

120

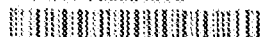
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EXHIBIT C TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130009252



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I testified before the Juvenile Court Referee regarding the custody of Sabrina Krahe. I testified to the fact Sabrina told me her mother, Stacey Krahe, made her lie about the domestic violence. I also testified regarding the physical abuse to Sabrina, including locking her in her room for days at a time. I testified to the possible grooming of Sabrina by Sam Jerome with Stacey's full knowledge and consent. I testified to my personal knowledge of Stacey Krahe being hospitalized for mental illness on at least four occasions. I testified to the fact Sabrina has been made to lie to CPS, the Police, her Teacher's, and Ministers by Stacey Krahe with extreme punishment for telling the truth. The Referee allowed Sabrina to be returned to Stacey.

September 3, 2013

A custody hearing was held before Judge Matthews at Oakland County Circuit Court. Judge Matthews temporarily suspended Stacey Krahe's parental rights and placed both Sabrina and Allie in the custody of Judy Stiltner, their maternal grandmother.

Stacey Krahe transported Sabrina to Judy's residence on Thomas. I confirmed she had been safely brought to the residence. I confirmed Sabrina and Allie both had separate bedrooms in their grandmothers residence and there was adequate food in the residence. I contacted Angell Elementary and confirmed Sabrina was enrolled for classes. Stacey had informed me she was planning on home schooling Sabrina and had not signed her up for school.

STATUS:

Case open awaiting trial.

CR No: 130009252-011 Written By: BECRUMME (01036) Date: 09/12/2013 10:34 AM

S=Stacey Krahe

S=Samuel Jerome

CRIME:

Domestic Violence

Conditional Bond Violation

DB FOLLOW-UP

September 10, 2013

I was contacted by Judy Stiltner and advised Sam Jerome and Stacey Krahe were following Allie around Berkley and photographing her again. According to Allie, she was extremely intimidated by Sam and Stacey following her and photographing her. Stacey confirmed this to Judy when she called and claimed to have seen Allie on several occasions in town doing drugs. Judy asked for proof which Stacey could not provide. I scheduled a meeting with Allie for September 11, 2013 at 1700 hours.

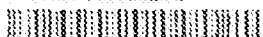
September 11, 2013

Alyxis 'Allie' Krahe

Allie Krahe was brought to the detective bureau by Judy Stiltner for an interview. I interviewed Allie in

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CR No: 130002252



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the second floor detective bureau with Sgt Miller present. Allie advised she felt her mother and Sam were stalking her. She routinely observes them driving by her and following her. She described three specific incidents when they (Jerome/Krahe) followed her very closely. While following her, Allie observed her mother, Stacey, holding her cell phone out of the window and taking photographs of her. All three of these incidents violate the no contact provision in Stacey and Sam's bond through the 45a District Court.

First Incident

The first incident happened during the week of August 26, 2013. Allie believes it was August 28, 2013. Allie was walking on the north side of 12 Mile near Buckingham. She initially observed Sam drive by, alone, in the family minivan. After a few minutes, the van returned and Stacey was sitting in the front passenger seat with Sam still driving. Sam and Stacey followed Allie down 12 Mile for approximately six (6) blocks. The entire time, Stacey was holding her iPhone out of the window and taking photographs of Allie. Allie also believed she was videotaping her as they followed her. After Allie passed their vehicle, Sam would drive past her very slowly and then park just in front of her. Each time, Allie had to pass right by the parked vehicle.

Allie tried to hide behind a vehicle parked on 12 Mile. Allie could hear Stacey laughing and telling her she could not hide. Allie eventually ran to the police station to get away from Sam and Stacey. The police station is ten blocks from where Allie initially observed Sam and Stacey following her. I spoke with Allie and drove her home. When I spoke with her she appeared very afraid. She told me she was "terrified" of what they would do to her. Allie felt they were trying to intimidate her into not testifying again. She described her mother as being very controlling when she manipulates her. Allie also felt like Stacey was trying to send a message to her that there is nothing the court can do to her.

Second Incident

The second incident happened on Labor Day, September 2, 2013. Allie was walking on Beverly, which is a side street south of 12 Mile. She was approximately one block from her grandmother's residence when she observed Sam and Stacey slowly pass by her in the family minivan. Sam quickly turned around and stopped the van right next to her on Beverly. Stacey again began holding her phone out of the window and taking photographs of Allie. Allie tried to walk away from both of them and Sam continued to follow her. Allie moved her chair approximately four feet from me to show me how close they were to her. Stacey was shouting out the window at her and laughing at her. Allie could not recall exactly what was being said, but paraphrased the encounter. She remembers Stacey indicating Allie would be returned eventually and in "severe" trouble for getting them arrested.

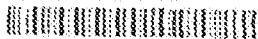
Again, Allie felt "terrified" of Stacey and Sam. She felt they were intimidating her and showing her she would never be safe. Allie described the encounter as "paralyzing".

Lt. Crum / Stacey Krahe

On September 3, 2013, Judge Matthews ordered Sabrina Krahe removed from Stacey Krahe's custody and turned to Judy Stillmer. Stacey transported Sabrina to Judy's residence to turn her over. I met the family at 3310 Thomas (Judy's residence) to confirm Sabrina was safely turned over. During the exchange, I met

EXHIBIT C TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130503252



with Stacey in the living room of the residence. During the conversation, I brought up the encounter with Allie and the photographs. Stacey did not confirm or deny she was violating her bond. I indicated I believed it was a violation of the bond. Stacey had indicated to Judy she felt she was due visitation with Allie during the process. I made it clear there would be no visitation. I confirmed this with both CPS and DHS in Stacey's presence.

Third Incident

The third incident happened on Monday, September 9, 2013. Allie was walking home from school with a fellow classmate, James. While walking down 12 Mile, east of the 7-11 at Oakshire, Allie observed Sam and Stacey drive by the family minivan. The vehicle slowed when they passed Allie and she observed Stacey holding out her iPhone. The van then pulled into the 7-11, less than a block from Allie's location. The parking lot for the 7-11 is directly connected to 12 Mile. Allie and James were forced to walk right next to Sam and Stacey. James called Judy Stiltner on his cell phone as they passed the van. Judy advised them to just ignore them and walk directly home.

Sam and Stacey followed them the five additional blocks to Thomas Street. Sam would position the van in the crosswalk so Allie would have to walk out into 12 Mile to pass the van. When she passed she was less than three feet from Stacey. She could hear Stacey calling her names and threatening her as she passed. Once on Thomas, Sam and Stacey followed them down the block and continued to drive around the block. Allie advised she "Literally felt like dying". She advised she felt like she could not longer put up with the constant harassment and intimidation. She was fearful to testify in court and just wanted to be left alone. Allie advised she no longer feels anyone can keep her safe from Sam and Stacey. They constantly torture her.

As soon as Allie and James entered Judy's residence, Stacey called Judy. Stacey admitted to being in the 7-11 parking lot and taking photos of Allie. Stacey claimed Allie was kissing James in the parking lot. She also admitted to following them home because she was trying to catch Allie smoking.

Sabrina Krahe

Sabrina Krahe was initially taken from Stacey Krahe the day after the domestic assault, August 3, 2013. Initially she told me she slept through the DV. Once out of the control of Stacey, Sabrina described the assault in great detail. Sabrina advised Stacey told her to lie to the police about the assault or she would be placed in foster care and never see her family again.

On August 27, 2013, Sabrina was returned to Stacey by court order. Within hours, Sabrina was saying she slept through the assault. It was very clear Stacey had manipulated her daughter once again.

On September 3, 2013, Sabrina was again removed from Stacey and returned to Judy Stiltner. I interviewed Sabrina seconds after Stacey dropped her off. I did not allow Judy to talk to Sabrina before I interviewed her. Sabrina described again what she had observed on the night of the assault. She again indicated her mother told her what to say when she was living with her. Sabrina was very upset she had been returned to Stacey.

As part of the court order, Stacey can still contact Sabrina by phone. Stacey uses the phone conversations

EXHIBIT C TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130009252



with Sabrina to have third party contact with Allie. One evening after Sabrina spoke with Stacey, Sabrina advised Allie she was going to be placed in a mental institution. According to Sabrina, as soon as Stacey gets Allie back, she will be locked up. Stacey claimed to already have the facility paid for. Stacey, through Sabrina, advised she will be locked up in the mental institution until her 18th birthday. Sabrina then told Allie she would have to undress in front of other people, including men. Allie felt this was another threat from her mother about being raped. Allie advised every time Stacey tries to manipulate her she tells Allie she is going to be raped. Allie has been told she is going to be raped since she was ten years old. Allie is terrified of being raped and Stacey constantly uses that to get her way.

Allie has caught Sabrina in her room tearing it a part. When confronted, Sabrina acknowledges she has been told to do it by Stacey to find evidence against Allie. Sabrina said she was looking for cigarettes or marijuana. If she finds them, Sabrina is to call Stacey immediately so she can "show the judge". Allie advised this is a daily occurrence as soon as Sabrina gets off of the phone with Stacey.

Allie Krahe

Allie advised she can no longer deal with the constant torture from Stacey and Sam. Allie advised she has nightmares every evening where she is being raped or killed. In every nightmare, Stacey and Sam are the ones raping and killing her. Allie has suicidal thoughts as a result of the intimidation and harassment. She advised she is paralyzed by fear when she sees them following her. Allie advised she knows why they are following her. According to Allie, Stacey wants her to drop all of the charges and she won't be punished. Allie does not believe they will ever stop tormenting her.

James

James is a friend of Allie's who attends Berkley High School. I have not been able to contact James as of this report for a statement. Once identified, I will contact James and forward his version of the events. I did confirm with Judy Stilner that James called her on September 9, 2013 about Stacey and Sam following them.

STATUS:

Case forwarded to APA Chris George to a possible bond violation.

CR No: 130009252-012 Written By: BEFROSTS (00407) ATTACHMENT ONLY REPORT - No Narrative

CR No: 130009252-013 Written By: BEKEMPSKIM (00408) Date: 11/20/2013 09:51 AM

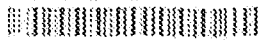
Conditional Bond cancelled in LEIN per recall notice from 45th Dist Court,
Jerome/Samuel/James/.

CR No: 130009252-014 Written By: BECRUMME (01035) Date: 03/04/2014 04:08 PM

S=Stacey Krahe

EXHIBIT C TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

CR No: 130009252



S= Samuel Jerome

CRIME:

Domestic Violence

DB FOLLOW-UPJury Trial

November 1, 2013

The jury trial for Stacey Krahe was adjourned at the prosecutors request for a psychological evaluation at the Forensic Center. A pretrial was scheduled for February 11, 2014 at 0900 hours for a status update.

The pretrial for Samuel Jerome was adjourned until November 19, 2013. It is the intention of the APA to join the Domestic case with the ongoing CSC case in Circuit court for Jerome.

Pretrial Jerome

November 19, 2013

Jerome's case in the district court was dismissed without prejudice and combined with his CSC case in the Circuit Court. The case against Stacey Krahe will still be adjudicated in the 45A District Court.

Pretrial

February 11, 2014

A pretrial was held before Judge Wittenberg. Krahe was found competent and requested a bench trial on March 4, 2014 at 0830 hours.

Trial

March 4, 2014

Krahe pled guilty at the Circuit Court to a related charge and the local misdemeanor was dismissed, without prejudice, as a result.

STATUS:

Closed with conviction and sentence.

CR No: 130009252-015 Written By: BEKEMPSKIM (00408) Date: 06/13/2014 06:15 PM

Conditional Bond cancelled in LEIN as per recall notice from 45th Dist Court.
Krahe/Stacey/Lynn/.

CR No: 130009252-016 Written By: BECRUMME (01036) ATTACHMENT ONLY REPORT - No Narrative

EXHIBIT C TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

REPORT OF ACTUAL OR SUSPECTED CHILD ABUSE OR NEGLECT
Michigan Department of Human Services

Was complaint phone to CHS? ☒ Yes ☐ No If yes, Log # 3171307 If no, contact Centralized Intake (855-444-3911) immediately

INSTRUCTIONS: REPORTING PERSON: Complete items 1-19 (20-28 should be completed by medical personnel, if applicable). Send to Centralized Intake at the address list on page 2. Date 8/2/13

2 List of child(ren) suspected of being abused or neglected (Attach additional sheets if necessary)

NAME	BIRTH DATE	SOCIAL SECURITY #	SEX	RACE
ALYXIS FAY KRAHE	07/21/99		F	W

3. Mother's name STACY KRAHE

4. Father's name

5. Child(ren)'s address (No. & Street) 3600 PHILLIPS

6. City Berkeley 7. County OAKLAND 8. Phone No.

9. Name of alleged perpetrator of abuse or neglect STACY KRAHE, SAMUEL JEROME 10. Relationship to child(ren) MOTHER, STEP FATHER

11. Person(s) the child(ren) living with whom abuse/neglect occurred STACY KRAHE, SAMUEL JEROME, KRAHE 12. Address, City & Zip Code where abuse/neglect occurred 3600 PHILLIPS

13. Describe injury or conditions and reason for suspicion of abuse or neglect
SCARACES on upper chest, abrasion on right leg
Bleeding on right eye, injuries on left arm
A confrontation between ALYXIS KRAHE and STACY KRAHE, SAMUEL JEROME

14. Source of Complaint (Add reporter code below)

01 Private Physician/Physician's Assistant	13 School Administrator	45 Private Agency Social Worker
02 Hospital/Clinic Physician/Physician's Assistant	14 School Counselor	46 Court Social Worker
03 Coroner/Medical Examiner	21 Law Enforcement	47 Other Social Worker
04 Dentist/Registered Dental Hygienist	22 Domestic Violence Providers	48 FICS/ES Worker/Supervisor
05 Audiologist	23 Friend of the Court	49 Social Services Specialist/Manager (CPS, FC, etc.)
06 Nurse (Not School)	25 Clergy	51 Hospital/Clinic Personnel
07 Paramedic/EMT	31 Child Care Provider	52 CHS Facility Personnel
08 Psychologist	41 Hospital/Clinic Social Worker	53 DMH Facility Personnel
09 Marriage/Family Therapist	42 DHS Facility Social Worker	54 Other Public Social Agency Personnel
10 Licensed Counselor	43 DMH Facility Social Worker	55 Private Social Agency Personnel
11 School Nurse	44 Other Public Social Worker	56 Court Personnel
12 Teacher		

15. Reporting person's name Dennis (1244) Report Code (see above) 21 15a. Name of reporting organization (school, hospital, etc.) Berkeley Public Safety

15b. Address (No. & Street) 2395 W 12 Mile Rd 15c. City Berkeley 15d. State MI 15e. Zip Code 48672 15f. Phone No. 248-559-3012

16. Reporting person's name Report Code (see above) 16a. Name of reporting organization (school, hospital, etc.)

16b. Address (No. & Street) 16c. City 16d. State 16e. Zip Code 16f. Phone No.

17. Reporting person's name Report Code (see above) 17a. Name of reporting organization (school, hospital, etc.)

17b. Address (No. & Street) 17c. City 17d. State 17e. Zip Code 17f. Phone No.

18. Reporting person's name Report Code (see above) 18a. Name of reporting organization (school, hospital, etc.)

18b. Address (No. & Street) 18c. City 18d. State 18e. Zip Code 18f. Phone No.

19. Reporting person's name Report Code (see above) 19a. Name of reporting organization (school, hospital, etc.)

19b. Address (No. & Street) 19c. City 19d. State 19e. Zip Code 19f. Phone No.

EXHIBIT D

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EXHIBIT D TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

STATE OF MICHIGAN

45-A JUDICIAL DISTRICT COURT FOR THE COUNTY OF OAKLAND

THE STATE OF MICHIGAN,

v

File No. 13-0681FY

SAMUEL JAMES JEROME,

Defendant.

PRELIMINARY EXAMINATION

BEFORE THE HONORABLE JAMES L. WITTENBERG, DISTRICT JUDGE

Berkley, Michigan - Wednesday, October 3, 2013

APPEARANCES:

For the People:

MR. CHRISTOPHER R. GEORGE (P65363)
Assistant Prosecuting Attorney
1200 N. Telegraph Road
Pontiac, Michigan 48341
(248) 858-0656

For the Defendant:

MR. LAWRENCE J. BUNTING (P27111)
PO Box 1683
Troy, Michigan 48099
(248) 683-4200

Reported by:

MS. Elizabeth Calabris, CER 0263
Certified Electronic Recorder
(248) 688-3405

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Cross-Examination by Mr. Sunting		24

<u>EXHIBITS:</u>	<u>Marked</u>	<u>Admitted</u>
None.		

1 Barkley, Michigan

2 Wednesday, October 9, 2013 - 1:40 p.m.

3 THE REPORTER: On the record, Judge.

4 THE COURT: All right. This is 13-0681, Jerome.

5 MR. GEORGE: Good afternoon, your Honor. Chris
6 George for the People.

7 MR. BUNTING: Good afternoon, your Honor. Larry
8 Bunting, P27111, on behalf of Mr. Jerome.

9 THE COURT: All right. Good afternoon. All right.
10 Today is the date and time set for an exam. It's my
11 understanding that both sides are ready to proceed this
12 afternoon.

13 MR. BUNTING: We are ready to proceed. There is a
14 couple things I'd like to put on the record.

15 THE COURT: Sure.

16 MR. BUNTING: I've asked the court recorder for the
17 dates of the swear-to, arraignment, pre-exam conference. I
18 have those, I'll be submitting a request for transcripts.
19 Obviously we don't need to delay the exam for that. I've also
20 spoken with the assistant prosecutor regarding itemization in
21 the preliminary -- excuse me -- the police report for five
22 attachments identified as being part of the reports that were
23 not provided to me. The prosecutor assures me he'll check
24 with the officer in charge as to what those are, we can
25 discuss it further; is that correct, Mr. Prosecutor?

1 MR. GEORGE: Yes.

2 MR. BUNTING: Other than that, your Honor, I'm ready
3 to proceed.

4 MR. GEORGE: Prior to proceeding, Judge, I would ask
5 the Court to close the courtroom given that this -- the
6 allegation involves a sexual assault and the witness is a
7 minor. I'm not sure if there's any objection to that but I
8 know in these types of cases when we have child witnesses on
9 sexual assault cases involving an adult, especially a parent,
10 that we typically will close the courtroom to any unnecessary
11 parties.

12 MR. BUNTING: I understand his intelllection in --
13 I'm just requesting that if you're going to close the court
14 then you close it all people other than the officer in charge,
15 the witness, the prosecutor, my client, and myself.

16 THE COURT: And we've got security too so there
17 would be no objection -- we've got a court officer and I think
18 we've got an officer that's watching the -- that's security
19 for the defendant so --

20 MR. BUNTING: I understand that, Judge --

21 THE COURT: But you're just --

22 MR. BUNTING: -- when I said court officer --

23 THE COURT: Yeah. We've got a court officer here, a
24 court recorder here, we've got -- we've got one officer that
25 is part of security because your client's in custody, and then

EXHIBIT D TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

1 It would just be the people at the table.

2 MR. BUNTING: I understand that.

3 THE COURT: Is there --

4 MR. BUNTING: That's --

5 THE COURT: Is there a victim advocate here?

6 MR. GEORGE: No, your Honor.

7 THE COURT: Okay. Okay. So we've got -- and again
8 -- so there's two other people that are in the courtroom then
9 that don't need to be here?

10 MR. BUNTING: Yeah.

11 THE COURT: So I will then -- I'll grant your
12 request. I'll have the people then wait outside. They -- If
13 there's any additional testimony that is not from a child --
14 that's not the child in question, they can certainly come back
15 in and hear the testimony if there's any other witnesses that
16 will be testifying.

17 MR. BUNTING: Thank you, your Honor. And obviously
18 we are going to have the one witness in here. Obviously it
19 doesn't pertain but if there are additional witnesses or
20 people come back in, I'd ask for a sequestration order for any
21 other witnesses the prosecutor is going to call.

22 THE COURT: That would be on both sides. Anyone
23 that you would like -- so it will be a mutual sequestration
24 them? There's really no one else in the courtroom so there
25 really -- the question is if somebody pops in --

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1 MR. BUNTING: Right.

2 THE COURT: -- we'll find out who they are, if
3 they're a potential witness. There really isn't any reason
4 anyone else should be in here. If there's a defendant that
5 comes in on a walk-in warrant, we'll have them wait in the
6 lobby. But it's -- I don't believe there needs to be anyone
7 else in this courtroom other than who we have?

8 MR. BUNTING: That's my understanding, Judge.

9 MR. GEORGE: Yes, sir.

10 THE COURT: Okay. All right.

11 MR. BUNTING: And --

12 THE COURT: So we're ready?

13 MR. BUNTING: I'm not trying to mislead the Court.
14 The prosecutor said there would only be one witness but I --
15 what I'm just trying to protect against is somebody coming in
16 later on if he -- if he does indeed call another witness that
17 it would be a prosecution witness at trial. I'm not trying to
18 foreclose him from calling anybody he wants, I just don't want
19 people sitting around for other people's testimony if they're
20 going to be called later on by the prosecutor at trial. I
21 don't have any witnesses here today.

22 THE COURT: Yeah. I granted a mutual sequestration.

23 MR. BUNTING: Oh.

24 THE COURT: Anyone that may be a potential witness
25 that testifies, I will have remain out of the courtroom then.

1 I will do that.

2 MR. BUNTING: Excluding the officer in charge,
3 obviously.

4 THE COURT: Excluding the officer in charge,
5 excluding the two officers that I have here; one, my own court
6 officer; the other one from the -- Berkley for security.

7 MR. BUNTING: Right. Thank you, Judge.

8 THE COURT: And for the record, there's no one else
9 in the courtroom --

10 MR. BUNTING: I --

11 THE COURT: -- other than --

12 MR. BUNTING: -- agree.

13 THE COURT: -- the court recorder and myself.

14 MR. BUNTING: Yes, sir.

15 THE COURT: Including even some chairs we're
16 missing. All right, we're ready to proceed then?

17 MR. GEORGE: Yes, your Honor, we are.

18 THE COURT: Okay. Any other preliminary matters?

19 MR. GEORGE: No, sir.

20 THE COURT: All right. Good afternoon. Can you
21 state your full name for the record, please.

22 MS. KRAYE: It's Alyxis Krahe.

23 THE COURT: And how do you spell your name?

24 MS. KRAYE: A-l-y-x-i-s, K-r-a-h-e.

25 THE COURT: All right. Do your best to speak up

1 because over there she's recording everything so -- I know
2 it's hard sometimes for witnesses to speak up in court but
3 just do your best. There may be sometimes where I may ask you
4 to speak up a little but just because we've got some recording
5 equipment in here and we just want to make sure everything is
6 recorded; okay?

7 MS. KRAHE: Okay.

8 THE COURT: Let me have you raise your right hand.
9 Do you swear or affirm that the testimony you're going to give
10 in this matter, this afternoon, will be the whole truth and
11 nothing but the truth?

12 MS. KRAHE: Yes.

13 THE COURT: You may proceed then.

14 MR. GEORGE: Thank you, Judge.

15 ALYXIS KRAHE

16 (At 1:45 p.m., called by Mr. George and sworn by the
17 Court, testified as follows)

18 DIRECT EXAMINATION

19 BY MR. GEORGE:

20 Q Alyxis, do you go by Aly?

21 A Yeah.

22 Q All right. And may I call you that this afternoon?

23 A Yes.

24 Q Thank you. Aly, can you tell us how old you are?

25 A I'm 14.

1 Q And when is your birthday, Aly?

2 A July 21st.

3 MR. BUNTING: I'm sorry. I can't hear, Judge.

4 THE WITNESS: July 21st.

5 BY MR. GEORGE:

6 Q Of what year?

7 A 1999.

8 Q And so you just recently turned 14 --

9 A Yes.

10 Q -- this August -- or July --

11 A July.

12 Q -- I'm sorry. And what grade are you in, Aly?

13 A I'm in 9th grade.

14 Q And where do you go to school?

15 A Berkley High School.

16 Q Do you have any brothers or sisters?

17 A Well I have Sabrina, she's my half-sister.

18 Q How old is Sabrina?

19 A She's 10.

20 Q Do you have any other brothers or sisters?

21 A I have a step-brother and sister, Nick and Cassie.

22 Q And how old are they?

23 A I think they're 12 and 13 now.

24 Q And your mother, what is her name?

25 A Stacey.

1 Q And do you know if Stacey is married?

2 A Yeah.

3 Q Who is she married to?

4 A Sam.

5 Q And that's Sam Jerome?

6 A Yeah.

7 Q All right. And the person that you've identified as Sam
8 Jerome, do you see that person in the courtroom today?

9 MR. BUNTING: Objection, Judge. She didn't identify
10 anybody as Sam Jerome. I apologize for not standing. He
11 said, is that Sam Jerome? She didn't give the last name so I
12 think it's a mistake.

13 THE COURT: I'll have him rephrase the -- the
14 question.

15 MR. GEORGE: Thank you.

16 BY MR. GEORGE:

17 Q Aly, do you know Sam's last name?

18 A Yeah. It's Jerome.

19 Q Thank you. And would you recognize if you saw him again?

20 A Yeah.

21 Q Do you see him in the courtroom today?

22 A Yes.

23 Q Could you point to him and tell us something that he's wearing
24 please?

25 A He's --

1 MR. BUNTING: Stipulate to identification, Judge.

2 THE COURT: Okay. We'll stipulate then -- you're
3 stipulating to the identification that the defendant is
4 Jerome?

5 MR. BUNTING: She would identify Mr. Jerome.

6 THE COURT: Okay. I'll note that.

7 BY MR. GEORGE:

8 Q Now, Aly, I want to bring you back to Christmas time, December
9 2012. Where were you living then?

10 A In my house on -- 3600 Phillips.

11 Q And what city is that in?

12 A Berkley.

13 Q Okay. Who did you live at that house with?

14 A My mom, Sam, Sabrina, and Nick and Cassie on weekends and
15 breaks. Some breaks, some like switch back and forth.

16 Q And do you know somebody by the name of Judy Stiltner?

17 A Yeah.

18 Q Who is that?

19 A She's my grandma.

20 Q All right. And -- and you're currently living with her now?

21 A Yeah.

22 Q Now, Aly, I want to bring you back to again around Christmas
23 of 2012, do you recall something happening around that time
24 with Sam that made you feel uncomfortable?

25 A Yes.

1 Q Could you tell us about that?

2 A Yeah. So my mom, she was in a hospital.

3 Q Do you know what she was in the hospital for?

4 A Mental illness.

5 Q All right. So your mom was in a -- in a hospital for mental
6 illness?

7 A Yeah.

8 Q And was she there for just a day or --

9 A She --

10 Q -- was she --

11 A -- was there--

12 Q -- there for multiple days?

13 A -- for, like, a few weeks.

14 Q All right.

15 A And --

16 Q And when your -- when your mom was away, who was living with
17 you at that time?

18 A Sam. And I was at my grandma's some of the time too.

19 Q Okay. So when your mom was in hospital you would stay at home
20 and then sometimes you would stay at your grandmother's?

21 A Yeah.

22 Q All right. And does she live nearby -- near or close to you?

23 A Yeah. She lived, like, four blocks away.

24 Q So your mom was in the hospital and you were at your house.

25 Tell us about what happened the first time that made you feel

1 uncomfortable.

2 A I was laying on the couch in the back of the house.

3 Q All right. Do you recall what you were doing on the couch?

4 A I was watching a movie.

5 Q And what happened then?

6 A Sam came over.

7 Q What did he do when he came over?

8 A He started rubbing my stomach.

9 Q And you were -- you were laying on the couch you said?

10 A Yeah.

11 Q And when he came -- did he come -- did he sit on the couch,
12 did he lay on the couch --

13 A He sat --

14 Q -- or do something different?

15 A -- like right next to me.

16 Q He sat -- he sat down on the couch with you?

17 A Yeah.

18 Q What did he start doing at that point?

19 A He was rubbing my stomach.

20 Q How did that make you feel when he was doing that?

21 A I didn't like it because I don't like my stomach touched.

22 Q And was he rubbing your stomach on top of your clothes or
23 under your clothes?

24 A Under my clothes.

25 Q All right. And you said you didn't like that?

1 A Yeah.

2 Q Did you tell him to stop?

3 A Yeah.

4 Q How did he respond?

5 A He said, "Why?"

6 Q And what did you say?

7 A I said, "Please stop."

8 Q And did he stop?

9 A No.

10 Q Tell us what he did, Aly?

11 A And he kept getting, like, lower to, like, where my hip bones
12 are.

13 Q Aly, I know this is hard but can you speak up just a little
14 for me.

15 A He --

16 Q He -- he was rubbing your -- your stomach?

17 A Yeah.

18 Q And what happened with -- he was rubbing with his hand?

19 A Yeah.

20 Q All right. And as he's rubbing your stomach, tell us what's
21 happening?

22 A He started, like, touching my vagina and I kept telling him to
23 stop and he wouldn't.

24 Q All right. And when he touched your vagina, did he do that --
25 were you wearing pants or shorts or something?

1 A I was wearing yoga pants.

2 Q All right. And when he touched you, did he do it on top of
3 your pants or under your pants?

4 A It was kind of both because they were yoga pants and they kept
5 getting like pushed down.

6 Q All right. And how were they getting pushed down?

7 A Because he was rubbing and, like, his hand kept almost going
8 under them and they would just be, like, pushed down.

9 Q All right. And you said his hand was touching your vagina?

10 A Yeah.

11 Q And what was his hand doing?

12 A It was just --

13 Q Was it moving, was it stopped?

14 A It was moving.

15 Q Okay. And how are you feeling at this point?

16 A I don't know.

17 Q Okay. What -- what did you do at that point as he was rubbing
18 your vagina?

19 A I closed my eyes.

20 Q And what do you remember happening next?

21 A I -- he stopped after a while. I don't really remember how
22 long it was.

23 Q Okay. But you -- but he did -- he -- but you remember him
24 stopping at some point?

25 A Yeah.

1 Q All right. And when you were on the couch, did he touch you
2 anywhere else? You say he touched your tummy and rubbed on
3 your vagina over your clothes?

4 A Yeah.

5 Q Did he touch you anywhere else?

6 A Not the first time.

7 Q All right. And after he stopped touching you, did he say
8 anything to you about telling or not telling or?

9 A No.

10 Q And after this happened did he treat you any differently? Did
11 he buy you anything or --

12 A Yeah.

13 Q -- take you places?

14 MR. BUNTING: Objection; leading, Judge.

15 MR. GEORGE: I don't think that's leading, Judge.

16 It's --

17 THE COURT: I'll allow the question.

18 BY MR. GEORGE:

19 A Yeah. He dyed my hair for me.

20 Q He dyed your hair for you?

21 A Yeah.

22 Q And did he do anything special other than that that you can
23 remember?

24 A I don't know. He just went out and would get my jewelry and
25 stuff and, like, pony tails and bracelets.

EXHIBIT D TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

1 Q All right. And as he's doing these things for you, does he
2 ever talk to you about what happened on the couch?

3 A No.

4 Q No?

5 A No.

6 Q All right. Now, Aly, the time that you just told us about
7 around Christmase 2012 and your mom was in the mental -- or in
8 the hospital, was that the first and only time he touched you
9 that way or did he touch you again?
10 A It happened again.

11 Q Do you recall approximately when it happened again?

12 A I think it was like May.

13 Q Of which year?

14 A 2013.

15 Q Okay. So this was -- so the first one happened Christmas of
16 2012, we're talking about a couple months or so after that?

17 A Yeah.

18 Q In between Christmas and May or so of 2013, had he touched you
19 that way or said anything to you about what had happened on
20 the couch?

21 A No.

22 Q And had your mom come back from the hospital by then?

23 A Yeah.

24 Q All right. And she came and moved back in with you and Sam
25 and your sister and your step-siblings?

1 A Yeah.

2 Q So in May, you said he touched you again in a way that made
3 you feel uncomfortable, could you tell us about that?

4 A I was laying on the couch.

5 Q All right. Is this the same couch or is this a different
6 couch?

7 A It was a different couch. It was in, like, the front of the
8 house.

9 Q All right. Was anyone -- were you at your house at the time?

10 A Yeah.

11 Q All right. And was anyone home?

12 A Yeah. Sam and Sabrina but Sabrina was grounded to her room so
13 he sent her to her room.

14 Q Okay. And so then it was Sabrina in her room and then you and
15 Sam?

16 A Yeah.

17 Q And tell us what happened?

18 A Well I was laying on the couch and I was reading a book
19 called, Wonder and --

20 Q What was the name of the book?

21 A Wonder. And he came over and he, like, sat on my legs and he
22 started rubbing my stomach again.

23 Q Did he say anything to you about --

24 A He was, like, I don't know. He was talking about Mom --
25 something about her.

1 Q And what -- you said she wasn't home or she wasn't there, do
2 you know where she was?

3 A She was at, like, a training for her work.

4 Q Was this a day training or did she spend the night --

5 A She --

6 Q --- or two?

7 A Well she was going to be back around 7:00 and it was like 4:00
8 in the afternoon.

9 Q All right. So he sits down on the couch with you?

10 A Yeah.

11 Q All right. You said he was rubbing your stomach again?

12 A Yeah.

13 Q Was this kind of the same way he rubbed it before?

14 A Yeah.

15 Q Was it over your shirt or under your shirt?

16 A It was under my shirt.

17 Q Did you say anything to him about that this time?

18 A I told him to stop.

19 Q Did he stop?

20 A No. And I tried to sit up but he pushed me back down.

21 Q What happened then?

22 A And then he started touching my vagina again but this time his
23 finger, like, actually went in between the lips of my vagina.

24 Q All right. So his hand, as he's rubbing your stomach -- it
25 went under your pants this time?

1 A Yeah.

2 Q All right. And that was different than the first time?

3 A Yeah.

4 Q All right. And his hand goes under your pants and you said
5 his hand touched your vagina?

6 A Yeah.

7 Q All right. And you said his fingers actually went inside you
8 this time?

9 A Yeah.

10 Q All right. I think you said they went between the lips of
11 your vagina?

12 A Yeah.

13 Q Is that how you described it? You just have to say, "yes or
14 no."

15 A Yes.

16 Q Okay. And as that's happening, Aly, what -- you know, what do
17 you do?

18 A When I get scared, I just close my eyes. That's what I did.

19 Q All right. And what happened then?

20 A Well he stopped again, like, after a while because he had to
21 make dinner.

22 Q Do you remember him touching any other parts of your body?

23 A When I sat up, he pushed my chest down.

24 Q All right. He pushed your chest?

25 A Yeah.

1 Q All right. And what part of your chest?

2 A My boobs.

3 Q Okay. And as he was touching your vagina, did you try to get
4 up again or did you just kind of lay there?

5 A Well after a while I gave up.

6 Q Okay. And after he stopped, did he talk to you about not
7 telling or?

8 A No.

9 Q Did he talk to you -- and after that incident, Aly, did he
10 treat you any differently by buying you things or letting you
11 have any kind of privileges or?

12 A Well he would play hide-and-seek with us at night.

13 Q Okay. When your mom came back from her training, did you talk
14 to her about what happened?

15 A Not until, like, two weeks later.

16 Q How come you didn't tell your mom when she came back from her
17 training?

18 A Because I knew she wouldn't have listened.

19 Q Was she the first person you told about what happened to you?

20 A Yeah.

21 Q All right. And you said it was a couple weeks later you
22 talked to your mom?

23 A Yeah.

24 Q What made you want to talk to her a couple weeks later? How
25 come you told her then?

1 A Because I got angry with her --

2 Q You got --

3 A -- because she --

4 Q -- angry --

5 A -- wouldn't listen to me --

6 Q -- with your mom?

7 A -- so I told her.

8 Q How did she respond when you talked to your mom about this?

9 A She took me over to grandma's and grandma took me to the
10 police station.

11 MR. SUMTING: I couldn't hear the end of that,
12 Judge.

13 THE WITNESS: She took me over to grandma's and
14 grandma brought me over to the police station.

15 BY MR. GEORGE:

16 Q All right. And you talked to a police officer about what
17 happened?

18 A Yes.

19 Q Okay. Now, Aly, when you talked to us about the defendant
20 rubbing your -- your stomach -- you have a sister, Sabine,
21 right?

22 A Yeah.

23 Q Have you ever seen him rub her stomach that way?

24 A Yeah. Like, the same day the first time it happened.

25 Q Do you know if Sam moved out of your house after you eloped

1 told your mom?

2 A For like a week.

3 Q Okay. What happened after the week?

4 A My mom let him move back in.

5 Q Okay. And, Aly, do you remember going to CARE House --

6 A Yeah.

7 Q -- and talking to somebody there about what happened to you?

8 A Yeah.

9 Q All right. And when you went to CARE House, did your mom talk
10 to you before you went to CARE House?

11 A Yeah.

12 Q All right. And did she -- did she tell -- talk to you at all
13 about what you should say at CARE House?

14 A Yeah. She told us that if I changed the story so he doesn't
15 go to jail then she won't kill herself.

16 Q And did you in fact do that?

17 A Yeah.

18 Q All right. And -- and as time had gone on, how did your mom
19 treat you as it relates to --

20 MR. BUNTING: Irrelevance.

21 MR. GEORGE: Well I don't think so, Judge.

22 MR. BUNTING: Objection, your Honor, on the basis of
23 relevance. This is an allegation against my client not her
24 mother.

25 MR. GEORGE: Well I think it's relevant in that the

1 mother directly influenced the child to change her -- her
2 statements during the CARE House interview and I just -- I'm
3 just trying to establish that. So I'm sure he'll no doubt
4 cross-examine her about inconsistencies between her CARE House
5 statement and her statements to the police.

6 MR. BUNTING: I may but then -- that's when he can
7 -- try to rehabilitate her not -- not beforehand.

8 THE COURT: Yeah. I'll sustain the objection.

9 MR. BUNTING: Thank you.

10 THE COURT: I -- yes. It's not that he can't do it,
11 I think now is not the time.

12 MR. GEORGE: Okay. Judge, I have no further
13 questions for, Aly.

14 THE COURT: Thank you.

15 MR. BUNTING: Thank you, your Honor.

16 CROSS-EXAMINATION

17 BY MR. BUNTING:

18 Q Good afternoon. My name is Larry Bunting, I represent Mr.
19 Jerome. Do you understand that, ma'am?

20 A Yeah.

21 Q You said you're 14 now?

22 A Yes.

23 Q You have a very soft voice, you'll have to excuse me I have
24 old ears. I'm going to ask you some questions you've already
25 answered so I can get the answers. Okay. You said you go to

1 school at Berkley High School and you're in 9th grade?

2 A Yeah.

3 Q Do you participate in any extra-curricular activities?

4 A No.

5 Q Okay. You say you live now with Ms. Stiltner, who is your
6 grandmother?

7 A Yeah.

8 Q Did you see her frequently last year -- this year?

9 A Yeah.

10 Q Before you started living with her?

11 A Yes.

12 Q Okay. How often would you see her before Sam moved out and
13 before you told your mother?

14 A All the time. Like, I'd go over there after school.

15 Q Every day?

16 A Pretty much.

17 Q Were you close with her?

18 A Yeah.

19 Q How far is her house from where you were living then?

20 A Like, four -- four blocks. I --

21 Q Four blocks?

22 A -- don't know the exact math from Phillips to Thomas.

23 Q Okay.

24 A I think it's four blocks.

25 Q When you were talking us about this you said the first

1 incident occurred around Christmas of last year, 2012?

2 A Yeah.

3 Q You remember what day Christmas was on, I mean, it's already
4 on the 25th but you remember Christmas Day, correct?

5 A Yeah.

6 Q Was it before Christmas Day or after?

7 A After.

8 Q How far after?

9 A Not long.

10 Q Okay. You know New Year's Day is always January 1st?

11 A Yup.

12 Q Was it before January 1st or after January 1st?

13 A I don't know.

14 Q Did you do anything special on January 1st?

15 A Yeah.

16 Q What did you do?

17 A Stayed up at my grandma's house and watched a movie and ate
18 Chinese food.

19 Q Who all was there?

20 A It was me, my cousin Brett, Ashley, Aunt Janie, and Sabrina.

21 Q Okay. So that -- you know that day now because you were at
22 your grandma's, you had Chinese food, and you stayed up late
23 probably to watch the ball drop in New York or wherever, is
24 that right?

25 A Yeah.

1 Q This incident that you told us about, was that before you
2 spent the evening at your grandma's house or after?

3 A I honestly don't remember.

4 Q You don't remember?

5 A Not really, like, the exact time it was --

6 Q No.

7 A -- at.

8 Q No. Not the exact time. I'm not saying, was it a Tuesday
9 afternoon at 2:00? What I'm saying is, it was a startling
10 event; right?

11 A Yeah.

12 Q For Sam to put his hand -- rubbing your stomach and putting
13 his hand down by your crotch?

14 A Yeah.

15 Q Did that startling event occur before New Year's night at your
16 grandma's or after?

17 A I don't know.

18 Q Okay. Now, you told us that this happened in a room in your
19 house, where you lived with your mom and Sam, where you were
20 watching TV?

21 A Yeah.

22 Q Right?

23 A Yeah.

24 Q Okay. Now, could you tell me a little bit about that room?
25 Was it the front of the house or the back?

1 A It was the back.

2 Q Okay. Is it -- Is it a room for, like -- dedicated to TV or
3 -- Is it called a family room or is it a den or what?

4 A It's called a family room.

5 Q Well what's all in the family room?

6 A A really big TV, a --

7 Q A really big TV?

8 A Yeah.

9 Q Okay.

10 A A sectional.

11 Q A sectional couch?

12 A Yeah. And a fireplace and, like, end tables.

13 Q Okay. Could that room be bigger than this room or smaller?
14 I'm just asking you to estimate.

15 A Like, three-quarters of the --

16 Q Three --

17 A -- size.

18 Q -- Quarters of it. Now, you say it's at the back of the
19 house. Is there an exit from that room out to the backyard?

20 A Yes.

21 Q Is that a patio door or what?

22 A What's a patio door?

23 Q A sliding door.

24 A Oh. No.

25 Q A --

1 A It was --

2 Q -- door that opens like a regular door?

3 A Yeah.

4 Q Okay. If I'm in that room -- looking at that room and looking
5 at the TV and the door to the backyard, where's the couch in
6 relationship to that?

7 A It's on the completely other side of the room.

8 Q So it's against the wall completely on the other side from the
9 back door?

10 A Yeah.

11 Q And where is the TV at?

12 A It's like -- okay, the couch is here and the TV's, like, right
13 here and the door is, like, over here.

14 Q Okay.

15 MR. BUNTING: Will you give me leave, Judge, just to
16 move around a little bit?

17 THE COURT: Yes.

18 MR. BUNTING: Thank you.

19 BY MR. BUNTING:

20 Q Now -- Aly, may I call you Aly?

21 A Aly.

22 Q Aly, may I call you that?

23 A Yeah.

24 Q Let's pretend that this room is your family room --

25 A Okay.

1 Q -- okay. Now when you're sitting there, what would be behind
2 you, the door?

3 A Yeah.

4 Q And where would the sectional couch be?

5 A It would be in that corner right there.

6 Q Over there where the TV is?

7 A Yeah.

8 Q And where would the T --

9 A Well no --

10 Q -- TV --

11 A -- the TV's not over there -- the couch -- it's -- the TV
12 would be over here.

13 Q Okay.

14 THE COURT: For the record, you're indicating --
15 she's indicating to her left where --

16 MR. BUNTING: Yes.

17 THE COURT: -- she's in position is where the couch
18 would be.

19 MR. BUNTING: I was just going to follow-up on that,
20 Judge --

21 THE COURT: Okay.

22 MR. BUNTING: -- but thank you.

23 BY MR. BUNTING:

24 Q So if you're standing with your back to the outside door;
25 correct?

1 A Yeah.

2 Q Then the sectional is to your left?

3 A Yeah.

4 Q And the TV is to the right?

5 A Yup.

6 Q How do you get to the rest of the house from there?

7 A There's a hallway and if I'm sitting where the door is the
8 hallway would right here.

9 Q To your left?

10 A Yes.

11 Q Closer to -- to the back than the TV is -- or the sectional
12 is?

13 A Yes.

14 Q Okay. And when you say you were sitting there on the
15 sectional watching TV, where did Sam sit? What side?

16 A On the side that -- that's farthest -- it would be like --
17 okay. If there's the couch like that --

18 Q Okay. To the left.

19 A -- it would be on that side of the, like --

20 Q He would be on the right side of the couch just to the left of
21 where the back door is; correct?

22 A Yes.

23 Q And which hand was he using?

24 A I don't know.

25 Q You don't know?

1 A No.
2 Q Was anybody else in the house?
3 A No.
4 Q How long did this last?
5 A Like, a half hour.
6 Q Half hour?
7 A Half hour, forty-five minutes.
8 Q Okay. Did his hand go below your clothing?
9 A For --
10 Q On that first occasion?
11 A For some of it, yes.
12 Q Did he touch your vagina?
13 A Yes.
14 Q Was there penetration? Did his hand go between the lips of
15 your vagina?
16 A Not the first time.
17 Q How long was your mother gone in that period between Christmas
18 -- around Christmas?
19 A I think two or three weeks. It might have been only two.
20 Q Pardon me?
21 A It might have only been two.
22 Q Two -- two or three, might have been only two?
23 A Yeah.
24 Q What were you watching?
25 A I was watching a movie. I don't remember what it was called

EXHIBIT D TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

1 but it was the one with the little girl who bedazzles her
2 dad's football and gives him cinnamon cookies.
3 Q Miss, I'm very sorry but I -- I --
4 Am I being --
5 Q -- really --
6 A -- too quiet again?
7 Q You have to keep your voice up, these old ears don't hear that
8 well.
9 A Okay.
10 Q You were watching a movie with a little girl --
11 A Who bedazzles her dad's football and gives him cinnamon
12 cookies because he's allergic.
13 Q Do you remember who the actress was?
14 A No.
15 Q Or the actor?
16 A No but he's, like, very famous.
17 Q Okay.
18 A I just -- I just can't think about --
19 Q It's fine.
20 A -- It right now.
21 Q I can't think of my name half the time. Okay. So when your
22 mom came home did you tell her about this?
23 A No.
24 Q Did you tell her any time in January of 2013? January of this
25 year?

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1 A No.

2 Q Did you tell her anytime in February of 2013?

3 A No.

4 Q Did you tell her anytime in March of 2013?

5 A No.

6 Q Did you tell her anytime in April of 2013?

7 A No.

8 Q But you did tell her -- according to you -- what you said to
9 us today -- in May of 2013?

10 A Yup.

11 Q And why did you say it then? You were mad at her you said?

12 A She was saying something about -- I don't remember what it was
13 but something happened and I just started crying and I told
14 her what happened.

15 Q Okay. Where were you when you told her?

16 A I was in her bedroom.

17 Q Where?

18 A In her bedroom.

19 Q In her bedroom?

20 A Yeah.

21 Q Did she share a bedroom with Sam?

22 A Yeah.

23 Q Do have any idea what it was about?

24 A Ruh?

25 Q Do you have any idea what you were mad at her about?

1 A Oh. No. She was just, like -- she was saying something about
2 Sam and then I just got, like, angry and sad at the same time.

3 Q Was she saying anything nice about Sam?

4 A No. I --

5 Q Bad about Sam?

6 A It was just, like -- I don't really remember what it was. I
7 just remember it was about her and Sam and some plan and
8 something --

9 Q Her --

10 A -- like that.

11 Q -- and Sam and some plans?

12 A Yeah.

13 Q Were they going on a trip?

14 A No.

15 Q Were they doing something around the house?

16 A I don't remember, like, exactly what it was about.

17 Q Okay. What were you wearing in December?

18 A I was wearing yoga --

19 Q Around Christmas time?

20 A I was wearing yoga pants.

21 Q Yoga pants?

22 A Yeah.

23 Q You got --

24 A And --

25 Q -- to help me out a little here, are those like sweatpants?

1 A They're like loose black pants with -- they had like a pink
2 (sic) or a purple --

3 Q Loose black pants?

4 A They were like loose pants that were made --

5 Q Loose?

6 A Yeah. They weren't like sweats.

7 Q Loose pants?

8 A Yeah.

9 Q And what else were you wearing?

10 A A black shirt.

11 Q Now, the second time this happened, when was it?

12 A It was in May.

13 Q May?

14 A Yeah.

15 Q How long before your -- you told your mother?

16 A Like two weeks.

17 Q Two weeks. And I couldn't quite hear what you were saying,
18 what room did this happen in?

19 A This happened in the front of the house on the couch in the
20 living room. That's what we call that room.

21 Q Okay. If you come in the front door of your house, you come
22 right in to that living room?

23 A Yeah.

24 Q Does the door in the middle of -- of the living room or at one
25 side?

1 A It's at one side.

2 Q Okay. Just -- just imagine if you would that I'm coming in
3 the front door of your house right here, okay, and this is
4 your front door.

5 A Okay.

6 Q I come through the front door, is the living room starting
7 here on this side or starting here towards my left or towards
8 my right?

9 A It would be on this side.

10 Q Towards the left of the front door?

11 A Yeah.

12 Q As you're standing there looking at it?

13 A Yeah.

14 Q Okay. And is there a -- what time of the day was this?

15 A Like 4:00 because I had a time limit I needed to get home from
16 school by.

17 Q I really am sorry.

18 A It was --

19 Q You said --

20 A -- 4:00.

21 Q -- 4:00 and something about school?

22 A Yeah I have -- I had a time limit that I had to get home from
23 school by.

24 Q You had a curfew, like?

25 A Yeah.

1 Q You have to be home by 4:00?

2 A Yeah.

3 Q And who set that curfew, your mom?

4 A My mom.

5 Q Okay. So your mom said you had to be home by 4:00 but she
6 wasn't home yet because she was at some kind of training?

7 A Yup.

8 Q Was it all day or?

9 A She was there since seven in the morning to --

10 Q So it would be all day?

11 A -- eight or -- to seven at night. She was there from seven to
12 seven.

13 Q Okay. So it would be all day essentially?

14 A Yeah.

15 Q Where was Sabrina?

16 A She was in her room -- well when they came home.

17 Q Okay. And if I come through the front door to your house and
18 off my left as I'm standing there in the doorway is the living
19 room, where is the couch?

20 A The couch would be where I'm sitting.

21 Q Okay. Off to the left of the front door?

22 A Yeah.

23 Q And is there a large window in the front?

24 A There's about six small windows.

25 Q Okay.

EXHIBIT D TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

1 A It's ---
2 Q By a small window --- I'm sorry, I didn't mean to interrupt.
3 A It's --- they're like normal-sized windows. It's pretty much
4 like that right there.
5 Q Are you talking --- pointing at the back ---
6 A Yeah. Like the windows right there is what it looked like but
7 they were all, like, normal-sized windows.
8 Q Okay. Were they covered with blinds like these are?
9 A They had white curtains.
10 Q Thick curtains you couldn't see through ---
11 A Yes.
12 Q -- or thin curtains you can see through?
13 A Thick curtains that you can't see through.
14 Q Thick that you cannot see through?
15 A Yes.
16 Q Is there a TV in that room?
17 A Yeah.
18 Q Was the TV on?
19 A Yeah.
20 Q What was on?
21 A Adventure Time.
22 Q Okay. Is that --- what program is that? Is that a ---
23 A It's a cartoon.
24 Q Okay. We're making progress. You were reading a book and Sam
25 came and sat beside you?

1 A He, like, sat on my legs.

2 Q Sat on your legs?

3 A Yeah.

4 Q He straddled you with both legs on one side and the other side
5 of your legs?

6 A Huh?

7 Q Okay. I'm -- I'm not being clear. He sat on your legs?

8 A Yes.

9 Q Were your legs on the couch?

10 A Yes. I was laying down. I was laying down.

11 Q You were laying down on the couch?

12 A Yes.

13 Q And he sat on top of your leg?

14 A Yes.

15 Q Did that hurt?

16 A No.

17 Q And then what happened?

18 A And then he started rubbing my stomach.

19 Q Okay. When you say you're -- go ahead.

20 A No.

21 Q I didn't --

22 A It's --

23 Q -- mean --

24 A -- okay.

25 Q -- to cut you off.

1 A It's okay.

2 Q When you say you're laying down, was your -- would your head
3 have been closer on the couch to the windows or further away
4 from the windows?

5 A The whole couch is, like, right across from the windows so no
6 matter where I was, I was right by the windows.

7 Q Okay. Is the couch up next to the window?

8 A No. It's on the other side of the room.

9 Q How deep is that room?

10 A Like, big?

11 Q Yeah.

12 A It would be, like, from where you guys are --

13 Q From where I am?

14 A Yeah -- to that window back there.

15 Q Okay.

16 A It wasn't a big room.

17 Q From here to the back of the room -- room --

18 MR. EDWING: Mr. Prosecutor, would you estimate
19 about 15 feet according to the floor tiles -- the ceiling
20 tiles?

21 MR. GEORGE: Yes.

22 MR. EDWING: Okay.

23 BY MR. EDWING:

24 Q So the couch is all the way against the far wall?

25 A Yes.

1 Q And he sat -- Sam, according to your testimony, sat on your
2 legs while you were laying on the couch?

3 A Yes.

4 Q Since you had your head -- your feet were closer to the
5 window, which way would your head have been, closer to the --

6 A It would have been --

7 Q -- center of the room or the outside of the room?

8 A It would have been closer to -- I was laying on the arm rest
9 and the arm rest was, like, on the side by where the door
10 would be and that's at, like, the far end of the -- of the
11 room --

12 Q I'm not sure I understand you. I'm just going to ask you a
13 few more questions on that part. You said, closest to the
14 door. Are you talking about the front door?

15 A Yes.

16 Q So if the couch is going horizontally to the front door -- do
17 you know what the word horizontal means?

18 A Yeah.

19 Q Crossways. Then your head would have been closer to the main
20 entrance to the house as opposed to the outside wall; is that
21 right?

22 A Yes.

23 Q What were you wearing that day?

24 A I was wearing a blue pair of sweats.

25 Q What else?

1 A Jacket.

2 Q Jacket?

3 A That matched the pants. Yeah.

4 Q Had you just came in?

5 A Yeah because it was raining outside so I went upstairs and
6 changed my clothes.

7 Q And you say Sam sat on your legs?

8 A Yup.

9 Q And what hand did he use to put underneath your clothing?

10 A I don't know.

11 Q During all this period of time you're seeing Ms. Stiltner,
12 your grandmother, all the time; correct?

13 A Yeah.

14 Q Did you ever tell her?

15 A No.

16 Q What was her relationship with Sam if you can characterize it
17 for me?

18 A They were okay. They didn't talk much but they didn't, like,
19 argue either.

20 Q Okay. Were you startled that day?

21 A Yeah.

22 Q Is there any reason you didn't tell your grandmother?

23 A I just didn't tell anybody.

24 Q And you didn't tell your mother until you got upset with her
25 for something?

EXHIBIT D TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

1 A Well it wasn't because -- I was going to tell her anyways but
2 I kind of worked myself up and got upset with her because she
3 wouldn't, like, listen to me because we were getting ready for
4 school. And she was saying something about Sam when I went to
5 tell her and then she decided it was because of that that I
6 told her.

7 Q In the time in December -- I'll be -- I'm almost done. This
8 -- I don't want you to get the wrong impression, I'm not
9 going back to start over. In the time in December, did we
10 establish if anyone else was at the house?

11 A Yeah.

12 Q Who was there?

13 A Nobody.

14 Q But in May there was somebody else there?

15 A Yes.

16 Q Okay.

17 MR. BUNTING: Can I have just a moment to confer
18 with my client?

19 THE COURT: Yes.

20 MR. BUNTING: Nothing further, Judge.

21 MR. GEORGE: No further questions, Judge.

22 THE COURT: Okay. Ms. Krahe may be excused?

23 MR. GEORGE: Yes, sir.

24 THE COURT: Mr. Bunting, she can be excused?

25 MR. BUNTING: I'm sorry, Judge. I was trying my

1 shoe.

2 THE COURT: She can be excused; is that correct?

3 MR. BUNTING: No objection, your Honor.

4 THE COURT: Ms. Krahe, thank you for your testimony.

5 (At 2:24 p.m., witness excused)

6 THE COURT: All right. Any -- any other witnesses?

7 MR. GEORGE: No, your Honor.

8 THE COURT: Anything else from the defense?

9 MR. BUNTING: No witnesses.

10 THE COURT: Okay. Okay. All right. Anything else
11 then?

12 MR. GEORGE: I don't believe so, your Honor.

13 THE COURT: No other witnesses, no other exhibits.
14 All right. Go --

15 MR. GEORGE: No, sir.

16 THE COURT: -- ahead then.

17 MR. GEORGE: Judge, I know you just heard the
18 testimony. I believe it's a question of fact and I would
19 reserve any further argument for rebuttal if necessary.

20 MR. BUNTING: Judge, as I told my client, this (sic)
21 factual issue in front of a jury when we get to that level.

22 THE COURT: Yeah. That's correct. I agree. I
23 believe that at this point I have one witness and she -- she
24 testified as to the two incidents that the defendant is
25 charged with. The first one that took place on or about

1 Christmas 2012, the second one, approximately May or so of
2 2013. She did testify as to the two different incidents and I
3 agree with -- with both sides. I believe that this is a
4 question of fact, proper in front of the trier of fact. So I
5 will find that there has been -- based on her testimony --
6 probable cause as far as the two counts that the defendant is
7 charged with -- specifically Count 1 is CSC in the first
8 degree. That would be in regards to the -- really the second
9 incident. That would be the incident where Ms. Krabe
10 testified that there was penetration of the vagina, that would
11 be for Count 1. She did testify as far as her age, as far as
12 her relationship with the defendant. And then Count II was
13 the CSC 2nd degree, that would be the December incident where
14 there were some rubbing over the yoga pants, a bit of rubbing
15 on the vagina, under the pants, some rubbing on the stomach.

16 So again, based on her testimony, I do believe it is
17 a question of fact and I will bind this matter over as charged
18 in the complaint in warrant to the circuit court.

19 MR. BURRING: Thank you, your honor.

20 THE COURT: Anything else in this matter?

21 MR. BURNING: Yes, before the Court's leave, I
22 indicated at the pre-exam conference I was requesting a
23 personal bond for my client. You said you wanted to listen to
24 the testimony.

25 THE COURT: So -- are you -- you're asking me to

EXHIBIT D TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

1 address bond again?

2 MR. BUNTING: Yes. I don't want to re -- re-hit
3 that hammer again. I know you -- I know you know what I'm
4 asking for. My client is in custody, he has a job, he can go
5 back to work, you can put any restrictions on him you would
6 like but I'd ask that you put him out on bond.

7 THE COURT: Thank you. Anything?

8 MR. GEORGE: Your Honor, I would ask that the court
9 continue the bond as it is. I think it was reasonable when
10 set. The Court just heard from Aly. It's the People's
11 position that she's a credible witness but beyond that, there
12 was a lot going on with this family. I know the Court knows
13 some of what was going on but there's a lot going on here,
14 especially with the mother -- mother and -- and working
15 against an investigation, attempting to get these girls, at
16 the defendant's request, to not cooperate with the
17 investigation. She took them to Georgia. The Court heard a
18 -- a bond motion filed by the People where the defendant was
19 driving around following Aly. You know, given the
20 circumstances, Judge, I think that the bond as set is
21 reasonable.

22 THE COURT: We did address bond briefly back on
23 October -- October 1st. I didn't change the bond at that
24 point and as I said, I'll listen to any argument at any time.
25 You certainly have the right to address bond every time you're

1 in court. But I can tell you after hearing her testimony, I
2 really don't see any reason to change the bond, especially
3 considering on October 1st I had not heard any testimony but
4 now I've heard testimony where there clearly has been a
5 question of fact or at least probable cause as far as the two
6 crimes so if any -- if anything, I have more evidence now
7 presented to me today than I did on October 1st.

8 So again, I don't see any reason to lower the bond.
9 He has now been bound over on CSC-1 which again, is one of the
10 most serious charges, it's a life offense. It is actually an
11 offense that a court could set no bond.

12 MR. HUNTING: Yes.

13 THE COURT: I have set a bond. I don't see any
14 reason to change it -- either up or change it down so I will
15 keep the bond where it's at and I'm sure that you can
16 certainly raise that argument in circuit court if you believe
17 it's appropriate. And -- so I will continue the bond as
18 previously ordered.

19 He's also to have no contact with any of the
20 complaining witnesses. I know that was brought up -- or any
21 of the -- the complaining witness or any potential witness in
22 this case. I know that his -- last time it was brought up
23 briefly about his wife being on the witness list as a
24 prosecution witness and I think you were going to address that
25 as well --

1 MR. BUNTING: Yes.

2 THE COURT: -- Mr. Bunting?

3 MR. BUNTING: Sorry, Judge. When I was here the
4 last time I did not yet have the opportunity to get -- read
5 through the discovery which I received that day. The
6 discovery rules to the lady as a defendant and that's --
7 suspect -- excuse me -- suspect. I want to use the correct
8 language. That's crossed off and then she's listed as a
9 witness. However I'm sure you recall, the -- the assistant
10 prosecutor present on October 1st said there's still a
11 question whether she's going to be prosecuted on this case. I
12 think a fair-minded person could say, this is a subterfuge to
13 keep my client from speaking with his wife. There's no reason
14 to prevent my client from speaking with his wife. If the
15 court would allow it, I'd like my client to have the
16 opportunity to speak with his own wife on the telephone.
17 They're not going to be -- he's not going to be out to go with
18 her but there's no reason he shouldn't be allowed to talk to
19 her. Thank you, Judge. No valid reason I should say.

20 THE COURT: Okay.

21 MR. GEORGE: Well I can think of a number of valid
22 reasons, Judge. First of all, they're co-defendants on the
23 domestic violence case that's before this court. Both the
24 defendant as his wife, Stacey, are alleged to have assaulted
25 Aly. I know the Court hasn't heard the facts in that case

1 yet. There's been some motions but that fight involved not
2 only the mother bringing up the false allegation of marijuana
3 use but as it turns out -- what that altercation involved was
4 the mother being upset with Aly for brining these allegations.
5 And as -- the Court really didn't allow me to get into too
6 much but Aly first disclosed a sexual assault to her mother,
7 Stacey. Stacey at first took reasonable steps to protect the
8 child but then within a week or so, she allowed the defendant
9 to move back in and the two of them are then pressuring and
10 influencing Stac -- excuse me -- Aly to change her testimony.

11 The police reports indicate that the mother
12 threatened that if Aly comes forward and talks to police and
13 comes to court that Aly and her sister would be sent to foster
14 care where they would be repeatedly raped, that the mother
15 would kill herself, and essentially coerce this child into
16 minimizing much of her statements at CARE House. This is an
17 individual, who also along with the mother, bolts these
18 childs, Sabrina and Aly's, doors from the outside. The mother
19 -- also as these allegations were pending -- in an effort to
20 prevent Aly from coming forward -- lied to the Lieutenant
21 multiple times about her whereabouts and fled to Georgia so
22 that Aly couldn't speak with the police. Again, the defendant
23 is involved with that. So I think the fact that there
24 actively interfering with the case as well as they're co-
25 defendants for assaulting Aly, I think are really good reasons

1 to prohibit contact between the two of them.

2 Stacey is a prosecution witness, she is on our
3 witness list, I intend to keep her on our witness list. I
4 don't know to what extent she'll be cooperative down the road
5 but she was certainly the one that received the first
6 disclosure. When Stacey talked to the police initially she
7 corroborated -- and with the police -- Aly's initial
8 statements -- that -- were essentially consistent today, you
9 know, but then all of a sudden, she switches gears and -- and
10 is, you know, obviously changed her position with regard to
11 the defendants. I just think allowing them to have contact is
12 just asking for trouble and it's asking for additional
13 interference with the court proceedings and the prosecution of
14 these two cases.

15 MR. BUNTING: Your Honor, non-specific response --
16 asking for trouble, what's the trouble? My client is married
17 to the woman. Why can't my client speak to the woman on the
18 phone? The prosecutor indicates that he's prosecuting this
19 woman in one case and is going to keep her on his witness list
20 on another case so they can't communicate. That's the only
21 reason I can see, Judge.

22 THE COURT: Well I -- again, I don't want to get
23 into the -- the domestic violence case so much because this
24 case -- I know that they're tied in and both times we've been
25 in court on all these cases, they -- these cases -- both cases

1 get brought up at the same time.

2 I'm looking at the witness list, she is listed as a
3 witness. The testimony this afternoon -- the witness did
4 testify that the first person she told was her mother. So
5 again, based on the testimony, based on the -- the information
6 that I have here I'm going to keep the bond where it's at. I
7 don't want any contact. I usually set that in every case. As
8 far as any of the witnesses, he cannot have any contact with
9 any of the witnesses. Now if -- you're correct -- maybe if
10 she were to get charged or something else were to happen, you
11 might have a different argument. But at this point she has
12 not been charged. She is listed on the witness list. Not
13 only is she listed but again I have actually heard testimony
14 from the complaining witness at this point that she did
15 disclose to her mother. And clearly then she would absolutely
16 be a witness at that point. So I will continue it and
17 certainly that's another thing that can be brought up as you
18 get further along in this case but at this point, I don't see
19 any reason to change that. I'm going to keep it where it's
20 at. So I will continue the bond that I previously ordered
21 back on September 18th.

22 MR. BUNTING: Thank you, Judge.

23 THE COURT: Thank you.

24 MR. GEORGE: Thank you, Judge.

25 MR. BUNTING: Appreciate it.

1 THE COURT: Okay. Thank you both.

2 MR. BUNTING: Can I just have a moment to speak with
3 my client before they take him back?

4 THE COURT: Yeah. That's up to the -- up to the
5 officers. Sure.

6 (At 2:35 p.m., proceedings concluded)
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EXHIBIT D TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

STATE OF MICHIGAN)

)

COUNTY OF OAKLAND)

I certify that that this transcript, consisting of 54 pages,
is a complete, true, and correct transcript of the proceedings
and testimony taken in this case as recorded on Wednesday,
October 9, 2013.

OCT 22 2013

Date: _____

E Calabris

Elizabeth Calabris, CER 8263
45-A District Court
3338 Coolidge Highway
Berkley, Michigan 48072
(248) 658-3405

EXHIBIT E

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EXHIBIT E TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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 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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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:

EXHIBIT E TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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.

EXHIBIT E TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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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

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Dated: August 5, 2015

EXHIBIT E TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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 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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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

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Dated: August 5, 2015

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

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

Defendants.

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AFFIDAVIT OF MICHAEL CRUM

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

Michael Crum, being first duly sworn, states as follows:

1. I am currently employed by the City of Berkley in the capacity of Deputy Chief of the Public Safety Department, having previously served in the capacity of Lieutenant, Sergeant and prior to that, Public Safety Officer, after having been hired by the City of Berkley in 1998.

2. I attest to the following facts based on personal knowledge and/or review of documents.

EXHIBIT E TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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3. On May 7, 2013, 13-year-old Alyxis Krahe ("Allie") provided information to me, alleging that her stepfather, Samuel Jerome (the Plaintiff herein), had inappropriately touched her vagina and breasts, and I began my investigation of her allegations.

4. On that same date (May 7, 2013), Mr. Jerome denied inappropriately touching Allie, and indicated he would take a polygraph, but subsequently after I had scheduled the polygraph and confirmed the date with him, he changed his mind and advised me that he would not take a polygraph.

5. I scheduled Allie for a forensic interview at Care House.

6. On May 16, 2013, Allie changed her story at her Care House interview, and her mother would not let me talk to her to find out why her story changed, so at that time, my investigation became inactive.

7. On July 11, 2013, while Allie's mother was in a mental hospital in Texas and Allie's grandmother, who was Allie's mother's guardian and also the temporary guardian and custodian of Allie at the time, authorized me to talk to Allie; and Allie gave me an explanation of why her story had changed at Care House, describing threats and intimidation she received from her mother, which is referenced in more detail in my police report.

8. On that date (July 11, 2013), Allie confirmed to me her original account of two incidents of inappropriate sexual touching by Mr. Jerome. Her confirmation of the two incidents as well as her explanation regarding why she had changed her story at Care House appeared credible to me.

9. During my investigation of these allegations, I did not ignore any information that was provided to me, but instead considered the fact that Mr. Jerome had denied the

inappropriate touching, the fact that Allie had changed her story at Care House, and all the information and evidence that came to my attention.

10. Thereafter, in August 2013, after a series of additional events as detailed in my police reports, I reached the conclusion that there was probable cause sufficient to submit the case to the Prosecutor's Office for consideration of Criminal Sexual Conduct ("CSC") charges.

11. I formulated that conclusion by considering the totality of the circumstances and all evidence and information of which I was aware at that time including, but not limited to:

- a. Allie's May 7, 2013 accusations against Samuel Jerome
- b. Mr. Jerome's May 7, 2013 denial of same
- c. Allie's May 16, 2013 interview at Care House and her changed story at that time
- d. Allie's July 11, 2013 explanation to me regarding why she had changed her story at Care House, and her reaffirmation on that date of her accusations of alleged criminal conduct by Mr. Jerome
- e. Numerous other events, conversations and considerations.

12. It had been my experience that sometimes the Prosecutor's Office charged the suspect on my cases, and sometimes they did not, so I was aware that regardless of my warrant request submissions to their office, the Prosecutor would do their own consideration and determination regarding whether they felt sufficient probable cause existed.

13. I provided to the Prosecutor's Office all the pertinent information that I was aware of.

14. Upon subsequent request from the Prosecutor's Office for me to obtain "further" information, I again interviewed Allie related to these allegations on August 21, 2013. I did not video record the interviews that I conducted on that date, and I was not aware that the DVR video recording equipment had been turned on and left on by someone else. I was not aware that my interviews conducted on that date were recorded.

15. When I interviewed Allie on August 21, 2013, it was for the sole purpose of obtaining "further" information and answers to specific questions as requested of me by the Prosecutor's Office; and during that interview, I used foundational information in my questions to Allie based on information she had already provided to me.

16. Prior to that time, I had already reached the conclusion that there was probable cause sufficient to submit the case to the Prosecutor's Office for consideration of Criminal Sexual Conduct ("CSC") charges.

17. On August 21, 2013, Allie reiterated to me that the events that formed the elements of the alleged crime had indeed occurred. To the extent that there were differences in what Allie told me on August 21, 2013 as compared to what she told me on May 7, 2013, those differences did not appear to me --- and even now, do not appear to me -- to be material inconsistencies that invalidate the probable cause determination that I had made based on the totality of the circumstances.

18. Taking all information that I had into consideration, both before and after I interviewed Allie on August 21, 2013, I felt I had enough credible evidence to support a reasonable suspicion that the alleged crime had been committed.

19. Subsequently, the Prosecutor's Office made a determination that there was probable cause to charge Mr. Jerome, and the District Court issued an arrest warrant.

20. I arrested Mr. Jerome pursuant to that arrest warrant.

21. On October 9, 2013, because I was in charge of the police investigation, I was present at the Preliminary Examination before Judge James Wittenberg, but I did not testify at the hearing or actively participate in the hearing.

22. Allie testified at the hearing, and was cross-examined by Mr. Jerome's attorney. Although Mr. Jerome was present at the hearing, he did not testify on his own behalf. No other witnesses testified, and no exhibits were offered.

23. After Allie testified, Judge Wittenberg made a finding that there was probable cause for the two CSC charges, and indicated on the record that his finding was "based on her testimony" (referring to Allie), and Judge Wittenberg bound the matter over for trial in circuit court.

24. When I provided evidence to the Prosecutor and even when I testified at Mr. Jerome's criminal trial in August 2014, I was still not aware that my August 21, 2013 interviews had been recorded.

25. On August 7, 2014 after I had testified at Mr. Jerome's criminal trial, it was discovered and brought to my attention that video recordings of my August 21, 2013 interviews did exist and had been located on the DVR equipment.

26. At that time, upon learning for the first time of the existence of the recordings, it never occurred to me to withhold or not disclose this evidence. Having become aware of its existence, I knew I was obligated to produce it, and I immediately began efforts to do so.

27. I arranged to have enough copies made to give to the parties and to the Court, and early on the morning of August 8, 2013, I notified the Assistant Prosecutor in charge of the case of this development, and produced copies of the disks to be provided to the parties and the Court.

EXHIBIT E TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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28. Prior to the time that the Prosecutor filed their "Petition to Nolle Prosequi" on October 6, 2014, various events had occurred at trial (in August 2014) and numerous witnesses had testified at trial in ways that were not totally favorable to the Prosecutor prevailing if the case were to be tried again.

29. The Prosecutor's Petition to Nolle Prosequi did not indicate that their belief that they could not "sustain their burden of proving the case beyond a reasonable doubt at trial" was based in any way upon my August 21, 2013 interview of Allie, the video recording of same, or the timing regarding when I discovered the existence of said recording.

30. During the course of the underlying events, I believed that my actions were lawful; and even in hindsight, I now still believe that my actions were lawful.

31. I never attempted or intended to violate Mr. Jerome's legal or constitutional rights.

32. And if called upon to do so, I will testify accordingly in Court.

FURTHER DEPONENT STATES NOT.

Deputy Chief Michael Crum

Subscribed and sworn to before me
this _____ day of July, 2016.

Notary Public, _____ County
My commission expires: _____

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EXHIBIT F TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

EXHIBIT F

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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 Allie 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 Allie 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 Allie, 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

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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 --

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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

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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

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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

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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 Allie's
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, Allie 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 Allie?

18 A. She did.

19 Q. On that date, did Allie 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 Allie reaffirm what she had told
24 you on May 7th, 2013 about the inappropriate touching?

25 A. Yes.

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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 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 Allie, 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 Allie, as Allie
24 said, in terms of threatening to kill herself if Sam
25 went to jail, threatening that Allie would be sexually

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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 Allie
21 Krahe?

22 A. Just Allie.

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

DEPUTY CHIEF MICHAEL CRUM

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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 Allie 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 Allie 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 Allie while she was on the stand?

17 A. He was.

18 Q. If, in fact, on July 11, 2013 when Allie 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 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, 75Q.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 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, Allie 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 -- Allie 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 Allie was there or he
24 interviewed Allie.

25 Q. Is it your understanding that he turned it on for 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 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 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 Allie 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 Allie 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 Allie 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 Allie's 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 Allie?

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 Allie 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 Allie 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

EXHIBIT G

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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

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

Defendants.

S. JAY AHMAD (P43206)
VEN R. JOHNSON (P39219)
Johnson Law PLC
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150 W Jefferson, Suite 800
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AFFIDAVIT OF MICHAEL CRUM

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

Michael Crum, being first duly sworn, states as follows:

1. I am currently employed by the City of Berkley in the capacity of Deputy Chief of the Public Safety Department, having previously served in the capacity of Lieutenant, Sergeant and prior to that, Public Safety Officer, after having been hired by the City of Berkley in 1998.

2. I attest to the following facts based on personal knowledge and/or review of documents.

3. On May 7, 2013, 13-year-old Alyxis Krahe ("Allie") provided information to me, alleging that her stepfather, Samuel Jerome (the Plaintiff herein), had inappropriately touched her vagina and breasts, and I began my investigation of her allegations.

4. On that same date (May 7, 2013), Mr. Jerome denied inappropriately touching Allie, and indicated he would take a polygraph, but subsequently after I had scheduled the polygraph and confirmed the date with him, he changed his mind and advised me that he would not take a polygraph.

5. I scheduled Allie for a forensic interview at Care House.

6. On May 16, 2013, Allie changed her story at her Care House interview, and her mother would not let me talk to her to find out why her story changed, so at that time, my investigation became inactive.

7. On July 11, 2013, while Allie's mother was in a mental hospital in Texas and Allie's grandmother, who was Allie's mother's guardian and also the temporary guardian and custodian of Allie at the time, authorized me to talk to Allie; and Allie gave me an explanation of why her story had changed at Care House, describing threats and intimidation she received from her mother, which is referenced in more detail in my police report.

8. On that date (July 11, 2013), Allie confirmed to me her original account of two incidents of inappropriate sexual touching by Mr. Jerome. Her confirmation of the two incidents as well as her explanation regarding why she had changed her story at Care House appeared credible to me.

9. During my investigation of these allegations, I did not ignore any information that was provided to me, but instead considered the fact that Mr. Jerome had denied the

inappropriate touching, the fact that Allie had changed her story at Care House, and all the information and evidence that came to my attention.

10. Thereafter, in August 2013, after a series of additional events as detailed in my police reports, I reached the conclusion that there was probable cause sufficient to submit the case to the Prosecutor's Office for consideration of Criminal Sexual Conduct ("CSC") charges.

11. I formulated that conclusion by considering the totality of the circumstances and all evidence and information of which I was aware at that time including, but not limited to:

- a. Allie's May 7, 2013 accusations against Samuel Jerome
- b. Mr. Jerome's May 7, 2013 denial of same
- c. Allie's May 16, 2013 interview at Care House and her changed story at that time
- d. Allie's July 11, 2013 explanation to me regarding why she had changed her story at Care House, and her reaffirmation on that date of her accusations of alleged criminal conduct by Mr. Jerome
- e. Numerous other events, conversations and considerations.

12. It had been my experience that sometimes the Prosecutor's Office charged the suspect on my cases, and sometimes they did not, so I was aware that regardless of my warrant request submissions to their office, the Prosecutor would do their own consideration and determination regarding whether they felt sufficient probable cause existed.

13. I provided to the Prosecutor's Office all the pertinent information that I was aware of.

14. Upon subsequent request from the Prosecutor's Office for me to obtain "further" information, I again interviewed Allie related to these allegations on August 21, 2013. I did not video record the interviews that I conducted on that date, and I was not aware that the DVR video recording equipment had been turned on and left on by someone else. I was not aware that my interviews conducted on that date were recorded.

15. When I interviewed Allie on August 21, 2013, it was for the sole purpose of obtaining "further" information and answers to specific questions as requested of me by the Prosecutor's Office; and during that interview, I used foundational information in my questions to Allie based on information she had already provided to me.

16. Prior to that time, I had already reached the conclusion that there was probable cause sufficient to submit the case to the Prosecutor's Office for consideration of Criminal Sexual Conduct ("CSC") charges.

17. On August 21, 2013, Allie reiterated to me that the events that formed the elements of the alleged crime had indeed occurred. To the extent that there were differences in what Allie told me on August 21, 2013 as compared to what she told me on May 7, 2013, those differences did not appear to me --- and even now, do not appear to me -- to be material inconsistencies that invalidate the probable cause determination that I had made based on the totality of the circumstances.

18. Taking all information that I had into consideration, both before and after I interviewed Allie on August 21, 2013, I felt I had enough credible evidence to support a reasonable suspicion that the alleged crime had been committed.

19. Subsequently, the Prosecutor's Office made a determination that there was probable cause to charge Mr. Jerome, and the District Court issued an arrest warrant.

20. I arrested Mr. Jerome pursuant to that arrest warrant.

21. On October 9, 2013, because I was in charge of the police investigation, I was present at the Preliminary Examination before Judge James Wittenberg, but I did not testify at the hearing or actively participate in the hearing.

22. Allie testified at the hearing, and was cross-examined by Mr. Jerome's attorney. Although Mr. Jerome was present at the hearing, he did not testify on his own behalf. No other witnesses testified, and no exhibits were offered.

23. After Allie testified, Judge Wittenberg made a finding that there was probable cause for the two CSC charges, and indicated on the record that his finding was "based on her testimony" (referring to Allie), and Judge Wittenberg bound the matter over for trial in circuit court.

24. When I provided evidence to the Prosecutor and even when I testified at Mr. Jerome's criminal trial in August 2014, I was still not aware that my August 21, 2013 interviews had been recorded.

25. On August 7, 2014 after I had testified at Mr. Jerome's criminal trial, it was discovered and brought to my attention that video recordings of my August 21, 2013 interviews did exist and had been located on the DVR equipment.

26. At that time, upon learning for the first time of the existence of the recordings, it never occurred to me to withhold or not disclose this evidence. Having become aware of its existence, I knew I was obligated to produce it, and I immediately began efforts to do so.

27. I arranged to have enough copies made to give to the parties and to the Court, and early on the morning of August 8, 2013, I notified the Assistant Prosecutor in charge of the case of this development, and produced copies of the disks to be provided to the parties and the Court.

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28. Prior to the time that the Prosecutor filed their "Petition to Nolle Prosequi" on October 6, 2014, various events had occurred at trial (in August 2014) and numerous witnesses had testified at trial in ways that were not totally favorable to the Prosecutor prevailing if the case were to be tried again.

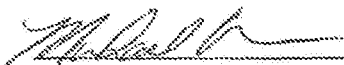
29. The Prosecutor's Petition to Nolle Prosequi did not indicate that their belief that they could not "sustain their burden of proving the case beyond a reasonable doubt at trial" was based in any way upon my August 21, 2013 Interview of Allie, the video recording of same, or the timing regarding when I discovered the existence of said recording.

30. During the course of the underlying events, I believed that my actions were lawful; and even in hindsight, I now still believe that my actions were lawful.

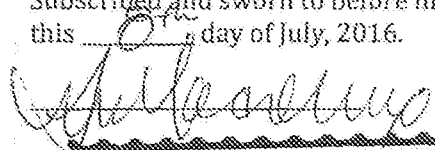
31. I never attempted or intended to violate Mr. Jerome's legal or constitutional rights.

32. And if called upon to do so, I will testify accordingly in Court.

FURTHER DEPONENT STATES NOT.


Deputy Chief Michael Crum

Subscribed and sworn to before me
this 01 day of July, 2016.


Notary Public, LISA VECCHIO County

My Commission Expires Aug 4, 2021
Macomb County

Open 1050
Acting in the County of Oakland

EXHIBIT H

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SAMUEL JEROME,

Plaintiff,

v

Case No. 15-cv-12302

Hon. John Corbett O'Meara

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

Defendants.

S. JAY AHMAD (P43206)
VEN R. JOHNSON (P39219)

Johnson Law PLC

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Detroit, MI 48226

(313) 983-4752

lmcgiffert@plunkettcooney.com

AFFIDAVIT OF DANIEL J. GRANT

STATE OF MICHIGAN)

) ss.

COUNTY OF WAYNE)

Daniel J. Grant, being first duly sworn, states as follows:

1. I am currently employed by the City of Wyandotte in the capacity of Chief of the Wyandotte Police Department, and I have served in said capacity since March 2007.

2. Prior to that time, I worked for the Brownstown Police Department from 1982 to 2007 as a Police Officer, Detective, Sergeant, Detective Lieutenant, Inspector, Deputy Chief, then Chief of the Police Department for thirteen (13) years.

3. Previous to my employment at Brownstown, I was a police officer at the City of Flat Rock from 1978 to 1982.

4. I have an Associates Degree in Criminal Justice from Henry Ford Community College, a Bachelors Degree in Public Administration from Eastern Michigan University, and a Masters Degree in Public Administration from the University of Michigan.

5. Since 2004, I have also held the position of part-time Adjunct Instructor at Schoolcraft College, teaching Criminal Justice at Schoolcraft College and at the Police Academy, as well as serving as the Chairperson of the College Law Enforcement Advisory Committee and Wayne County Regional Police Academy.

6. For further information regarding my background and experience, I attach my Curriculum Vitae.

7. I have reviewed materials in this case, and based thereon, I state the following.

8. Based on my education, training and vast experience in law enforcement at the officer level, management level and twenty-two (22) years as Chief, as well as my experience in an educational and advisory role, I attest to the following facts and opinions with regard to the City of Berkley's policies, procedures, practices and training, and the events that occurred involving Defendant Michael Crum that are the subject matter of this lawsuit.

9. The Michigan Commission on Law Enforcement Standards ("MCOLES") sets the standards for training of law enforcement officers in the State of Michigan, and MCOLES has no requirement to train law enforcement officers on the Forensic Interview Protocol.

10. Most police officers who conduct interviews and interrogations are not trained in the use of the Forensic Interview Protocol; and use of this Protocol by interviewing police personnel is not mandated by any legal authority.

11. It was reasonable that the City of Berkley did not require its personnel, who would be conducting interviews, to be trained in the use of the Forensic Interview Protocol or to be trained as forensic interviewers.

12. According to evidence in this case, Defendant Crum was trained in interview and interrogation techniques as a police officer and as a detective, and had experience interviewing children.

13. It was reasonable and appropriate for Defendant Crum to interview the victim on May 8, 2013; and upon being presented with her allegations, it was imperative that he conduct a basic interview of her in order to obtain preliminary information to establish the existence of a reasonable suspicion that a crime had been committed, classify the alleged crime, prepare a report, and establish a basis for a referral of the victim to Care House for a forensic interview.

14. Based on the results of the victim's interview at Care House on May 16, 2013, it was not uncommon or unusual for Defendant Crum to keep his file in inactive status rather than to close his file at that time.

15. Under the presenting circumstances, it was reasonable and appropriate for Defendant Crum to re-interview the victim on July 11, 2013, at which time the victim reaffirmed her accusation that a crime had been committed, and gave an explanation regarding the inconsistency between her prior two interviews and why her story changed at Care House.

16. Based on the events of August 2, 2013, and the information provided to Defendant Crum on that date, it was appropriate for Defendant

Crum to forward information to the Prosecutor's Office for consideration for prosecution.

17. When the Prosecutor asked Defendant Crum to obtain additional information for consideration by the Prosecutor's Office, Defendant Crum was obliged to do so, and the interviews he conducted on August 21, 2013 were appropriately undertaken.

18. There is no law against video recording interviews of witnesses, in general, or juveniles, in particular.

19. Under the law and the circumstances presented, Defendant Crum was compelled to investigate the allegations of criminal activity that were told to him, and it is my opinion that his conduct in doing so was reasonably prudent, responsible, and evidence of due diligence as a law enforcement officer.

20. The facts and circumstances presented to him in their totality constituted probable cause to believe that a crime had been committed; and thus his submission of the evidence of which he was aware to the Prosecutor's Office was also reasonable and appropriate.

21. Once the Prosecutor's Officer found probable cause and issued charges against Plaintiff and the district court authorized an arrest warrant,

Defendant Crum was compelled to execute the warrant and to arrest Plaintiff; and his arrest of Plaintiff pursuant to said arrest warrant was proper.

22. The court transcript indicates that Defendant Crum did not testify or actively participate in the Preliminary Exam that occurred on October 9, 2013, at which time the victim testified and was cross-examined; and therefore, Defendant Crum was not a factor in the district court judge's finding of probable cause at that proceeding and the judge's resulting decision to bind Plaintiff over for prosecution and trial.

23. There is evidence in this case that upon discovery of the video recording of the August 21, 2013 interviews, the existence of which he was not previously aware, Defendant Crum promptly turned over that evidence to the Prosecutor, which was in turn produced to the district court in a timely manner.

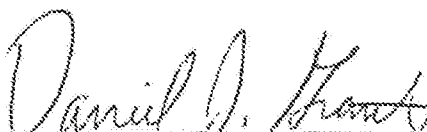
24. From the evidence in this case regarding what Defendant Crum turned over to the Prosecutor's Office, his conduct as referenced in paragraph 23 above, and also based on his Interrogatory Answer (# 11), it is clear that Defendant Crum had adequate training and knowledge regarding his *Brady* obligation, and that he complied with that obligation in this instance.

25. I find that Defendant Crum's training and his conduct, as reflected by the evidence in this case, was adequate, reasonable and appropriate.

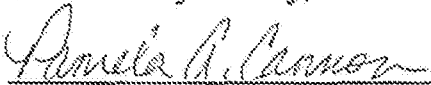
26. These opinions expressed in this Affidavit are only some, not all, of the opinions that I have formulated in this matter.

27. I reserve the right to modify my opinions to the extent warranted by additional information that is provided to me.

FURTHER DEPONENT STATES NOT.


Daniel J. Grant, Law Enforcement Consultant

Subscribed and sworn to before me
this 20th day of May, 2016.



PAMELA A. CANNON
NOTARY PUBLIC, WAYNE COUNTY
STATE OF MICHIGAN
COMMISSION EXPIRES 9/20/2018

Notary Public, Wayne County

My commission expires: 9/28/2018

Open:00560.52022.16942978-1

Daniel J. Grant

Work Experience

March 2007 to Present: Wyandotte Police Department
2015 Biddle Avenue
Wyandotte, Michigan 48192

Hired as Police Chief subsequent to retiring from previous Police Chief position.
Current Director of Downriver Mutual-Aid Task Force Police Services with
supervision over SWAT, Crisis Negotiators, Drug Team, and Underwater Search
& Recovery Teams.

December 2004 to Present: Schoolcraft College
18600 Haggerty Road
Livonia, Michigan 48150

Current Chair of College Law Enforcement Advisory Committee and Wayne
County Regional Police Academy.

March 1982 to 2007: Brownstown Police Department
23125 King Road
Brownstown, Michigan 48183

Since 1982, positions held have been uniformed Police Officer, Detective,
Sergeant, Detective Lieutenant, Inspector, Deputy Chief, and for thirteen years,
Chief of Police.

February 1978 to 1982: Flat Rock Police Department
25500 Gibraltar Road
Flat Rock, Michigan 48134

While employed with the Flat Rock Police Department, I held positions as a
Uniformed Police Officer and the last 1 ½ years as an undercover narcotics
officer assigned to the Michigan State Police.

Education HENRY FORD COMMUNITY COLLEGE, Dearborn, Michigan
Associates Degree in Criminal Justice

EASTERN MICHIGAN UNIVERSITY, Ypsilanti, Michigan
Bachelors Degree in Public Administration

UNIVERSITY OF MICHIGAN, Dearborn, Michigan
Masters in Public Administration

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EXHIBIT H TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

Professional Memberships

Downriver Mutual-Aid Police Services Division -- Director and current Board Chair of
Undercover Drug Team, S.W.A.T. and Crisis Negotiations Team
Michigan Association of Chiefs of Police -- past member Board of Directors and Chairman of
Asset Forfeiture Committee
International Association of Chiefs of Police
Southeastern Michigan Association of Chiefs of Police
Wayne County Association of Chiefs of Police -- past President
Wayne County Regional Police Training Center -- current Chairman of Advisory Committee
Wayne County Detectives Association
Current President of Wayne County Police Lieutenants, Sergeants, and Corporals Association
F.B.I. National Academy Association
Michigan Law Enforcement Action Forum -- past Chairman
Michigan Tactical Officers Association

Law Enforcement Training

Advanced 1 st Aid Training	Sept 1977
Mich. Dept. of Health/Extrication from Vehicles	Sept 1977
Detroit Police Department/Basic Police Academy	Aug. 1978
Detroit Police Department/Advanced Police Academy	May 1979
Traffic Radar Operations Certification	August 1979
Detroit Police Department/Advanced-Precision Driving	July 1979
DRMATP - Patrol Tactics Training	June 1981
PAAM- Update on laws of interrogation/confessions/etc.	April 1982
Michigan State Police/LEIN School	May 1983
Michigan State Police/Arson Investigation School	October 1983
Strategies for Handling the Problem Police Employee	February 1983
Training in Search and Seizure	November 1983
FEMA/Radiological Emergency Preparedness	March 1984
"One Minute Managing the Municipal Employee"	June 1984
Seminar in Aircraft Accident Investigation-FAA	June 1984
MACP - Management Symposium	October 1984
Mich. State Police -- Investigation of Violent Death	November 1984
Seminar in Forensic Homicide Investigation	November 1984
WCDA - Crime Scene Investigation	November 1985
Seminar in Use/Wearing of Soft Body Armor	December 1985
F.B.I. Firearms Instructor School	May 1986
Seminar in Managing Police Agencies/MML	June 1986
Seminar in Fundamentals of Collective Bargaining	January 1987
Police Computers/Record Systems Symposium/MACP	October 1987
Mich. State University/Grant Writing Seminar	December 1987
Emergency Response to Radiological Emergencies	February 1988
School of Police Staff & Command/Northwestern Univ.	November 1988
Seminar in Asset Forfeiture/Wayne Co. Prosecutor	May 1989
Seminar in Confiscation Laws and Procedures	May 1989
Basic SWAT School	May 1991
Michigan State Police LEIN Agency Coordinator	August 1991
Wayne County Prosecutor's Criminal Law Update	January 1992
Seminar in Managing the Use of Force/MML	November 1993
F.B.I. National Academy	December 1994

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EXHIBIT H TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

Managing Negativity in the Workplace	March 1995
FEMA/Course in Response to Domestic Terrorism	March 2000
Dealing with Unacceptable Employee Behavior	April 2000
Course in Cultural Diversity	May 2001
PPCT Training	March 2004
Taser Training	January 2006
Investigation of Child Homicides, NYPD	September 2006
Intro. To Incident Command System	January 2007
ICS for Single Resources & Initial Action Incidents	January 2007
National Incident Management System	January 2007
National Response Plan	January 2007
Response to CBRNE Incidents	August 2007
Militant Terrorism & Prevention Strategies	September 2007
ICS in Hazardous Chemical Scenario	September 2007
Anti-Terrorism Seminar, U.S. Department of Justice	November 2007
Update - Commercial Drivers licensing/fines/enforcement	February 2010
Drug Team Leadership Seminar -- Michigan State Police	May 2010
Management of Law Enforcement Critical Incidents	October 2010
Seminar in Community Oriented Policing, USDOJ	August 2011
Police Response to Individuals with Autism	February 2012
Taser Re-Certification	October 2012
Risk Management for Law Enforcement	May 2013
Active Shooter Training	September 2013
Emergency Response to Radiological Incidents	April 2014
Supervisor's Role in a Drug Free Workplace	December 2014
Seminar in Discipline & Termination	April 2015
Veteran's Mental Health First-Aid Training	October 2015
Michigan Assoc. of Chiefs of Police Investigative & Mgmt. Training attended twice per year since 1983	February 2016

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STATE OF MICHIGAN

IN THE SUPREME COURT

(ON APPEAL FROM THE MICHIGAN COURT OF APPEALS)

SAMUEL JEROME,

Plaintiff-Appellant,

v

LIEUTENANT MICHAEL CRUM, in his individual
and representative capacity, and the CITY OF
BERKLEY, a municipal entity,

Defendants-Appellees.

SC No. 159093
COA No. 335328
LC No. 15-148401-CZ
(Oakland County Circuit Court)

APPENDIX – VOLUME II
APPENDIX TO DEFENDANTS-APPELLEES
LIEUTENANT MICHAEL CRUM AND THE CITY OF BERKLEY’S
SUPPLEMENTAL BRIEF ON APPEAL

STATE OF MICHIGAN
IN THE SUPREME COURT
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**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND**

SAMUEL JEROME,

Plaintiff,

Case No. 15-148401-CZ CM
Hon. Denise Langford Morris

v

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

Defendants.

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**PLAINTIFF'S ANSWER TO DEFENDANTS'
MOTION FOR SUMMARY DISPOSITION**

NOW COMES Plaintiff by and through her attorneys, JOHNSON LAW, PLC and Answers
Defendants' Motion for Summary Disposition as follows:

1. Plaintiff admits the allegations in paragraph 1 of Defendants' Motion.
2. Plaintiff admits the allegations in paragraph 2 of Defendants' Motion.
3. Plaintiff admits that the prosecutor's office, based on the information provided by Defendant Crum, found probable cause to charge Plaintiff with criminal sexual conduct.
4. Plaintiff admits the allegations in paragraph 4 of Defendants' Motion.

5. Plaintiff admits the allegations in paragraph 5 of Defendants' Motion.
6. Plaintiff admits the allegations in paragraph 6 of Defendants' Motion.
7. Plaintiff admits the allegations in paragraph 7 of Defendants' Motion.
8. Plaintiff can neither admit nor deny that Defendant Crum "learned" after his trial testimony that there was a video recording of his interview with the alleged victim as Plaintiff lacks sufficient information to affirm or deny this allegation. Plaintiff would affirmatively state that it seems curious that Defendant Crum would not be aware that his interview was being recorded without his knowledge.
9. Plaintiff can neither admit nor deny that Defendant Crum made copies of the video recording "upon learning" that the interview had been recorded after his trial testimony for the reason that Plaintiff lacks sufficient information to affirm or deny.
10. Plaintiff admits that a mistrial was declared and Plaintiff was released from Jail.
11. Plaintiff admits the prosecutor's office decided not to retry Plaintiff.
12. Plaintiff admits the allegations in paragraph 12 of Defendants' Motion.
13. Plaintiff admits the allegations in paragraph 13 of Defendants' Motion.
14. Plaintiff denies that probable cause existed for the charges against Plaintiff for the reason that same is untrue.
15. Plaintiff denies that qualified immunity shields Defendant Crum from Plaintiff's claims.
16. Plaintiff denies that there is any basis for Summary Disposition as same is untrue.
17. Plaintiff denies the allegations in paragraph 17 of Defendants' Motion for the reason that same is untrue.
18. Plaintiff denies the allegations in paragraph 18 of Defendants' Motion for the reason

that same are untrue.

19. Plaintiff denies that Defendants are entitled to Summary Disposition.

20. Plaintiff admits that concurrence in Defendants' Motion was sought from Plaintiff and denied.

WHEREFORE, Plaintiff requests that this Honorable Court Deny Defendants' Motion for Summary Disposition.

Respectfully submitted,

By: /s/ S. Jay Ahmad
S. JAY AHMAD (P43206)
VEN R. JOHNSON (P39219)
Attorneys for Plaintiff
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August 23, 2016

Certificate of Service

The undersigned hereby certifies that on August 24, 2016, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to all counsel of record, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: none.

Respectfully Submitted

By: /s/ S. Jay Ahmad
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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

SAMUEL JEROME,

Plaintiff,

Case No. 15-148401-CZ CM

Hon. Denise Langford Morris

v

LIEUTENANT MICHAEL CRUM, in his
Individual and Representative Capacity,
And the CITY OF BERKLEY, a
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**BRIEF IN SUPPORT OF PLAINTIFF'S ANSWER TO DEFENDANTS' MOTION FOR
SUMMARY DISPOSITION**

I. STATEMENT OF FACTS

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. See **Exhibit A** at bates #s 4-6.

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.

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. See **Exhibit A**, bates #s 6-7; **Exhibit B**, 8/7/14 Trial Transcript at pp. 33-35 – testimony of Defendant Crum.

On May 16, 2013 Allie was taken to the Care House facility for a forensic interview by her mother, Stacey Krahe. 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. Allie essentially recanted the allegations of sexual wrong doing by Plaintiff Jerome during the expert forensic interview. See **Exhibit A** at bates # 7.

On June 5, 2013, during a phone contact with Oakland Child Protective Services, Defendant Crum indicated that because Allie had recanted her allegations against Plaintiff during the forensic interview, his case would be closed. Oakland CPS found there was insufficient evidence to proceed against Mr. Jerome. See **Exhibit A** at bates # 35-36, **Exhibit B** 8/7/14 trial testimony of Defendant Crum at p. 55.

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. 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. Defendant Crum further has testified that he is not supposed to interview a minor without parental consent (he did not have Allie's parents consent to interview or contact her again following the Care House interview), that a witness who changes her story is not credible, and, finally, what a minor says during a forensic interview at Care House "overrides" what the witness says to police. **Exhibit A**, bates #s 7-8; **Exhibit B**, 8/7/14 trial testimony of Defendant Crum at pp. 50, 52-54, 66, 99-100, 121, 142.

Despite having no parental consent to interview Allie, and indicating to CPS that he was closing his file, Detective Crum convinced Allie's maternal grandmother, Judy Stiltner that the investigation was still open and to allow Detective Crum to re-interview Allie on July 11, 2013. See **Exhibit A** at bates #s 7-9. Ms. Stiltner had been the target of several applications for protective orders by Allie's mother Stacey Krahe in which Stacey was identified as the next friend of Allie. See Exhibit A at bates #s 62-68. Further, Stacey's counselor from Reflections Counseling Center, advised that Ms. Stiltner was "abusive" and "controlling" towards his daughter and her children, and that he advised that Stacey and her children "cut all ties" with Ms. Stiltner. See **Exhibit A**, bates # 61.

Nevertheless, Detective Crum accepted Ms. Stiltner's representations continued in his pursuit of Plaintiff. Detective Crum, though, did not take Allie back to care house for a forensic interview, or have her submit a written statement, but rather wrote his own summary of the interview indicating that Allie re-iterated her earlier allegations of sexual assault against Plaintiff Jerome. **Exhibit A**, bates #s 7-9.

Following the third interview with Allie on July 11, 2013, Detective Crum submitted the case to the Oakland County Prosecutor. The prosecutor responded with a request for additional

information before issuing a warrant. See **Exhibit C**. Detective Crum then interviewed Allie for a FOURTH time, again without her parents consent, on August 21, 2013. According to Defendant Crum's response to the prosecutor's request for further information, the statement given by Allie in her August 21 interview was "identical" to her initial statement given to Detective Crum in May. See **Exhibit A**, bates #s 10-12.

There was no written statement to verify the conclusions of Defendant Crum which were provided to the prosecutor. Thus, the only information the prosecutor had to base the decision to issue a warrant for the arrest of Plaintiff was the information provided by Defendant Crum.

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.

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. 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. Samuel remained in the Oakland County Jail from September 18, 2013 until his criminal trial began on August 4, 2014.

On August 7, 2014, Lieutenant Michael Crum was called to testify at Samuel's criminal trial. 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. 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." **Exhibit B**, at pp. 21-23.

PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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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. Trial was adjourned by the Honorable Judge Rudy J. Nichols for the parties to review the previously undisclosed videotaped interviews. Despite many requests by Samuel's criminal defense attorney, Marsha Kosmatka, during the course of discovery, these videotaped were never disclosed and their actual existence was denied. 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. See **Exhibit G**, trial proceedings transcript of 8/8/14 pp. 6-45.

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.

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. **Exhibit A** at pp. 43-45; **Exhibit F**, Petition and Order for Nolle Prosequi.

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. Moreover, Defendant Crum falsely and intentionally mischaracterized the statements by Allie Krahe during her

interview with Defendant Crum on August 21, 2013 by describing her statement as “exactly” the same as she had made in her initial statement of May 7, 2013. In fact, there were a number of significant discrepancies made by Allie during her August statement of which the prosecutor was never informed in making the decision to issue an arrest warrant for Plaintiff. **See Exhibit D**, Deposition Testimony of Defendant Crum at pp. 130-155; **Exhibit E**, video interview of Allie Krahe on August 21, 2013.¹

STANDARD OF REVIEW

Defendants seek summary disposition under MCR 2.116(C)(10). A motion brought under MCR 2.116(C)(10) tests the factual support for a claim. *Downey v Charlevoix Co Rd Comm'rs*, 227 Mich App 621, 625; 576 NW2d 712 (1998). A party moving for summary disposition under MCR 2.116(C)(10) must specifically identify the undisputed factual issues and support its position with documentary evidence. MCR 2.116(G)(3)(b) and (4); *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999).

When reviewing a motion for summary disposition brought under MCR 2.116(C)(10), a court must examine the pleadings, affidavits, depositions, admissions, and any other documentary evidence submitted by the parties and, drawing all reasonable inferences in favor of the nonmoving party, determine whether a genuine issue of material fact exists. MCR 2.116(G)(5); *Maiden*, 461 Mich at 120; *Quinto v Cross & Peters Co*, 451 Mich 358, 361-362; 547 NW2d 314 (1996); *Downey*, 227 Mich App at 626; see also *Smith v Globe Life Ins Co*, 460 Mich 446, 454-455 & n 2; 597 NW2d 28 (1999). A question of fact exists when reasonable minds could differ as to the conclusions to be drawn from the evidence. *West v Gen Motors Corp*, 469 Mich 177, 183; 665 NW2d 468 (2003). The Michigan appellate courts are liberal in finding that a genuine issue does exist. *Jimkoski v Shupe*, 282 Mich App 1, 5; 763 NW2d 1 (2008).

Summary disposition may be granted under MCR 2.116(C)(8) when a plaintiff fails to state

¹ Plaintiff is filing a Motion to File an Exhibit in a Traditional Manner as to Exhibit E. The video interview is unable to be uploaded to the Odyssey E-filing System.

a claim on which relief can be granted. *Henry v Dow Chem Co*, 473 Mich 63, 71; 701 NW2d 684 (2005). A motion under MCR 2.116(C)(8) tests the legal sufficiency of a claim by the pleadings alone. *Feyz*, supra at 672. It may not be supported with documentary evidence. *Mable Cleary Trust v Edward-Marlah Muzyl Trust*, 262 Mich App 485, 491; 686 NW2d 770 (2004). All factual allegations in support of the claim are accepted as true, as well as any reasonable inferences or conclusions that can be drawn from the facts. *Dep't of Transportation v N Central Coop, LLC*, 277 Mich App 633, 636; 750 NW2d 234 (2008), rev'd on other grounds 481 Mich 862 (2008).

ARGUMENT

Defendant moves for Summary Disposition regarding the claims in Plaintiff's Complaint pursuant to Michigan law. Plaintiff will address those counts in turn.

I. Plaintiff's claims of false arrest and imprisonment

In Count I of his Complaint, Plaintiff alleges that Defendants are liable for false arrest and imprisonment pursuant. Defendants claim that summary disposition is proper regarding Plaintiff's State law claims for false arrest/imprisonment and malicious prosecution. "To prevail on a claim of false arrest or false imprisonment, a plaintiff must show that the arrest was not legal" *Peterson Novelties, Inc v City of Berkley*, 259 Mich App 1, 18; 672 NW2d 351 (2003). Defendants argue that the presence of probable cause rendered the arrest and imprisonment of Plaintiff lawful, which precludes the state law claims and that governmental immunity applies.

A. Probable Cause

"Probable cause to arrest is determined by whether or not the facts available to the police at the moment of arrest would have justified a fair-minded person of average intelligence and judgment in believing that [the arrestee] had committed a felony" *Brewer v. Perrin*, 132 Mich.

App. 520, 527 (1984) (internal quotation omitted). “To constitute probable cause . . . , there must be such reasonable ground of suspicion, supported by circumstances sufficiently strong in themselves to warrant an ordinarily cautious man in the belief that the person arrested is guilty of the offense charged.” *Matthews*, 456 Mich at 387. In *Matthews*, the Supreme Court cited, with approval, the proposition that a claim for malicious prosecution exists “where a police officer knowingly swears to false facts in a complaint, without which there is no probable cause.” “If police officers have been instrumental in the plaintiff’s continued confinement or prosecution, they cannot escape liability by pointing to the decisions of prosecutors or grand jurors or magistrates to confine or prosecute him. **They cannot hide behind the officials whom they have defrauded.**” *Jones v. City of Chicago*, 856 F.2d 985, 994 (7th Cir. 1988) (emphasis added).

Here, not only did Defendant Crum fail to disclose exculpatory video evidence, he deliberately and intentionally mischaracterized the content of the interview that was videotaped. When determining whether probable cause existed, the law obligated Defendant Crum to view the totality of the evidence available to him. It is undisputed that Crum failed to do so. As stated above, not only did Defendant Crum disavow his own beliefs and procedures by disregarding the Care House Interview, seeking additional interviews after a forensic interview, interviewing minors without parental consent, Defendant Crum deliberately and willfully mischaracterized the August 21, 2013 interview of Allie Krahe in, by his OWN admission, significant and important respects.

Allie’s statement on August 21, 2013 materially differed from her initial statement in the following in crucial respects and indicates Defendant Crum’s incredible bias against Plaintiff:

- Crum said to Allie “we all know the horrible things that Sam has done to you” (Crum admits in his deposition he cannot think of a circumstance where it would be

appropriate to say that (**Exhibit D** at pp. 134-135); **Exhibit E** video interview of Allie Krahe on August 21, 2013.

- Crum said to Allie “no one is questioning whether or not you’re telling the truth”. **Exhibit D** at pp. 135-137; **Exhibit E**.
- Crum said to Allie “we’re here to try and overcome the legal crap the defense attorney is going to try to pull”. **Exhibit D** at pp. 138-139; **Exhibit E**.
- Crum said to Allie “I know your mom made you change your story at Care House” (Crum admits he was not being objective and neutral with that statement). **Exhibit D** at p. 141; **Exhibit E**.
- Crum agrees any inconsistencies would be a sign of someone not telling the truth and would be important to him and significant. **Exhibit D** at p. 142 and 144.
- On August 21, Allie told Detective Crum that Plaintiff had touched her above and below her clothing. On May 7 Allie indicated that Sam only touched her outside her clothing. **Exhibit D** at p. 143; **Exhibit E**.
- On May 7, Allie told Defendant Crum that Plaintiff Jerome had held her down with his free hand. Allie makes no reference to that in her statement on August 21. **See Exhibit E**.
- On May 7, Allie told Crum Plaintiff Jerome did not say anything during either the first or second assault. On August 21, Allie told Crum that Sam was quite verbose during each assault. **Exhibit D**, pp. 144-146; **Exhibit E**.
- On May 7, Allie told Crum that Sam Jerome sat NEXT to her during the second incident. On August 21, Allie told Crum Plaintiff sat ON her during the second assault. **Exhibit D** pp. 146-147; **Exhibit E**.

- On May 7, Allie told Crum that Same Jerome did NOT insert his finger inside her during the second incident. On August 21, Allie told Crum that Plaintiff DID insert his finger inside her. **Exhibit D**, p. 147-8; **Exhibit E**.

Both the Sixth Circuit and the Eastern District of Michigan have recognized that the failure to adequately review video footage, and the misrepresentation of the contents of video, can preclude a finding of probable cause and a corresponding claim of governmental immunity. See *Sykes v. Anderson*, 625 F.3d 294, 305 (6th Cir 2010) and *Sussman v. Dalton*, 2012 U.S. Dist. LEXIS 165259, (E.D.Mich. November 20, 2012) (attached as **Exhibit N**). Those persuasive authorities should be followed in the present case.

Here, Detective Crum not only did not provide the video interview of Allie Krahe on August 21, 2013, he completely mischaracterized her statement as “exactly” matching her May 7 statement, knowing by his own admission that each discrepancy listed above would be significant and important.

As stated in *Sykes*, where an officer obtains a judicial finding of probable cause through misrepresentations or omissions, this Court is to essentially fill in the report with the omitted material to determine whether a warrant would have issued but for the omissions. It is difficult to believe that any magistrate would have issued a warrant for Plaintiff’s arrest if Defendant Crum had informed the prosecutor or magistrate of the serious discrepancies in Allie’s story, particularly given that she recanted all allegations against Mr. Jerome during a expertly conducted forensic interview. Indeed, we know this to be true given the declaration of a mistrial and failure of the prosecutor to re-try Mr. Jerome following disclosure of the contents of the video interview of August 21, 2013.

Moreover, as Defendants acknowledge, the ONLY person to testify at the preliminary

examination was Allie Krahe. Obviously, her credibility and consistency was crucial in determining whether to bind Mr. Jerome over for trial. Because Plaintiff's defense counsel lacked the critical information in the August 21, 2013 interview to cross examine and expose the inconsistencies in Ms. Krahe's stories, Mr. Jerome was bound over. The trial court even commented on the significance of the credibility issues. See **Exhibit G** at pp. 2-5.

In order to avoid liability for false arrest and false imprisonment, defendants will surely attempt to rely on the magistrate's finding that probable cause existed. Yet that determination was the result of Crum's own inadequate investigation and the reliance on Crum's inaccurate and misleading report. Crum cannot avoid liability by shielding himself with his own reckless disregard for the truth and his resulting material misrepresentations and omissions. There are significant issues of material fact as to whether Crum's reckless disregard for the truth precluded a finding of probable cause and, therefore, whether Plaintiff's civil rights were violated.

B. Governmental Immunity

In support of their argument that Detective Crum is entitled to governmental immunity on the state law claims, defendants must "establish that (1) the employee's challenged acts were undertaken during the course of employment and that the employee was acting, or reasonably believed he was acting, within the scope of his authority, (2) the acts were undertaken in good faith, and (3) the acts were discretionary, rather than ministerial, in nature." *Odom v. Wayne County*, 482 Mich. 459, 461 (Mich. 2008). Here, defendant cannot establish any, let alone all, of the required elements.

Defendants argue governmental immunity bars Plaintiff's tort claims. Under Michigan law, government employees are immune from intentional tort liability if the challenged acts were undertaken during the course of their employment, the acts were undertaken in good faith, and the acts were discretionary rather than

ministerial in nature. *Odom v. Wayne County*, 482 Mich. 459, 461, 760 N.W.2d 217 (2008) (citing *Ross v. Consumers Power Co.*, 420 Mich. 567, 633, 363 N.W.2d 641 (1984)). A government employee is acting within the scope of his employment when he is acting in the course of his employment and was acting or reasonably believes he was acting within the scope of his employment. *Id.* at 473. Good faith is the absence of malice, or wanton or reckless disregard for the rights of others. *Id.* at 474. An officer's conduct is wanton misconduct when his actions show indifference to whether harm will occur. *Burnett v. City of Adrian*, 414 Mich. 448, 455, 326 N.W.2d 810 (1982). Good faith is subjective. *Odom*, 482 Mich. at 461. Defendant's honest belief he is acting in good faith is protection from liability. *Id.* An act is ministerial in nature when it is done in obedience to orders or carried out by one who has little or no choice. *Ross*, 420 Mich. at 643. [*Broadnax v. Double*, 2013 U.S. Dist. LEXIS 136342, 26-29 (E.D. Mich. Sept. 24, 2013).]

Crum cannot prove that he reasonably believed that he was acting within the scope of his authority OR in "good faith". Crum had a legal duty to provide the Judge, prosecutor, and Mr. Jerome's Defense attorney with not only the videotaped interview with Allie, but also to accurately relay the contents of the interview to the prosecutor and Judge when seeking an arrest warrant. No officer could reasonably believe that he had the authority to falsely inform a prosecutor that no additional video evidence existed OR, more importantly, to deliberately MISCHARACTERIZE the contents of the interview with Allie in order to deceive the prosecutor and Judge as to the sufficiency of probable cause. Such actions vitiate any notion that Defendant Crum was acting in good faith.

Finally, Crum cannot show that his conduct was discretionary in nature. Again, for the past 50 years, the courts have recognized that law enforcement does not have the discretion to conceal exculpatory evidence. Rather, there is an absolute legal obligation to provide such evidence to the prosecutor and to the defendant. Indeed, Defendants' argument that this case involves discretionary acts only serves to reaffirm their failure to understand the constitutional rights that are at issue.

Plaintiff's claim of malicious prosecution

In order to maintain a cause of action for malicious prosecution, a Plaintiff must be able to show that “(1) the defendant initiated a criminal proceeding against the plaintiff; (2) the criminal proceedings terminated in the plaintiff’s favor; (3) the private person who instituted or maintained the prosecution lacked probable cause; and (4) the prosecution was undertaken with malice or a purpose in instituting the criminal claim other than bringing the offender to justice.” *Matthews v Blue Cross & Blue Shield*, 456 Mich 365, 378 (1998).

In the present case, Defendant Crum influenced and participated in the criminal prosecution of Samuel Jerome, which caused Mr. Jerome to be incarcerated for months. The prosecution resolved in Jerome’s favor when Judge Rudy Nichols declared a mistrial and the prosecutor subsequently dropped the charges. Consequently, the only issues in dispute are (1) whether probable cause existed for the prosecution and (2) whether defendant possessed malice toward Plaintiff.

Again, as stated above, “To constitute probable cause . . . , there must be such reasonable ground of suspicion, supported by circumstances sufficiently strong in themselves to warrant an ordinarily cautious man in the belief that the person arrested is guilty of the offense charged.” *Matthews*, 456 Mich at 387. In *Matthews*, the Supreme Court cited, with approval, the proposition that a claim for malicious prosecution exists “where a police officer knowingly swears to false facts in a complaint, without which there is no probable cause.”

Here, the record demonstrates that Crum could not have believed there was probable cause because the prosecutor, once in possession of Crum’s knowledge, concluded there was no probable cause. Crum’s failure to disclose the video of his interview with Allie (and outright denial of its existence), the gross mischaracterization of the August 21, 2013 interview with Allie Krahe, and his unprofessional and biased statements during the interview display a knowing disregard for the truth and clear malice towards Plaintiff. Because of Crum’s failure to produce requested, material

evidence to the prosecution and defense counsel, and his deliberate mischaracterization of the video statement he failed to produce, significant issues of material fact exist regarding the claim of malicious prosecution. A reasonable finder of fact could find that the post-arrest probable cause determination was related to the material misrepresentations and omissions that resulted from Crum's knowing disregard for the truth. Indeed, that conclusion is inescapable in light of the prosecution ceasing the criminal prosecution once Crum's misrepresentations came to light. Without the misrepresentations, there was no probable cause.

While Crum's intentional misconduct is a significant indicator of malice, case law establishes that the lack of probable cause in this case is itself all the evidence of malice this Court needs. Importantly, "[i]t is a recognized rule that malice may be inferred from want of probable cause..." Weiden v Weiden, 246 Mich 347, 352 (1929). In other words, if Plaintiff is able to demonstrate that there is a genuine issue of material fact regarding the existence of probable cause in this case, which he has done, this motion must be denied, because a jury could infer that defendant's conduct was motivated by malice.

Finally, the language from Double v. Broadnax in resolving both the federal AND state claims is again instructive:

The claim of malicious prosecution turns on whether there was probable cause to institute criminal proceedings. Sykes, 625 F.3d 308. A plaintiff bringing a malicious prosecution claim must prove a criminal prosecution was brought against the plaintiff and defendant influenced or participated in the decision to prosecute, there was a lack of probable cause for the criminal prosecution, plaintiff suffered a deprivation of liberty as a result of the legal proceeding, and the criminal proceeding must have been resolved in plaintiff's favor. Id. The malicious prosecution claim fails if there is probable cause to pursue charges against the plaintiff. Barnes, 449 F.3d at 716.

Defendants argue they are entitled to judgment as a matter of law on this claim because there was probable cause to arrest Plaintiff. Their argument is unavailing. In order to establish probable cause, Defendant Double intentionally omitted evidence to obtain a warrant. Moreover, once Defendants arrested Plaintiff, they

failed to investigate the facts they believed lead to probable cause. *Gerstein v. Pugh*, 420 U.S. 103, 114, 95 S. Ct. 854, 43 L. Ed. 2d 54 (1975). During the period between arrest and the preliminary hearing, the arrestee's need for a neutral probable cause finding increases greatly. *Id.* Double made no attempts to hand over the other angles to the prosecutor throughout the whole case. Furthermore, Double did not turn this evidence over to meet his Brady obligation. Instead, he gave the prosecutor the DVD to show the jury the same view at a normal speed. The prosecutor saw the other angles and immediately considered them exculpatory.

Defendants also argue collateral estoppel prevents Plaintiff from re-litigating the state court's probable cause determination in federal court. Collateral estoppel applies when there is identity of parties across proceedings, there was a valid and final judgment in the first preceding, the same issue was actually litigated and necessarily determined in the first preceding, and the party against whom the doctrine is asserted had a full and fair opportunity to litigate the issue in the earlier preceding. *Darrah v. City of Oak Park*, 255 F.3d 301, 311 (6th Cir. 2001). However, a previous finding of probable cause does not have a preclusive effect when based on a police officer supplying false information in order to obtain the warrant. *Peet v. City of Detroit*, 502 F.3d 557, 566 (6th Cir. 2007). In a §1983 claim for malicious prosecution, **there is no identity of issues being litigated when the plaintiff challenges the state court's finding of probable cause when the defendant-officers knowingly supplied misleading statements to the magistrate.** *Darrah*, 255 F.3d at 311.

The state brought criminal charges against Plaintiff and Defendants' reports influenced the decision to prosecute. Defendants failed to further investigate the facts that lead to probable cause for the arrest between the arrest and preliminary examination. Therefore, a reasonable jury could find there was a lack of probable cause for the criminal investigation. The criminal proceeding was resolved in Plaintiff's favor once the evidence Defendant Double turned over to the prosecutor showed footage containing addition angles. Plaintiff is challenging the state court's finding of probable cause based on omissions and false statements made in order to obtain probable cause to prosecute. This means there is no identity of issues. Therefore, collateral estoppel does not apply. Defendant is not entitled to judgment as a matter of law on Plaintiff's malicious prosecution claim. [*Broadnax v. Double*, 2013 U.S. Dist. LEXIS 136342, 10-19 (E.D. Mich. Sept. 24, 2013).]

At minimum, jury submissible issues exist regarding Detective Crum's motivations in his misguided and malicious pursuit of Plaintiff in this matter. Repeatedly interviewing Allie after her complete recantation; representing that the file was "closed", and yet continuing the investigation; failing to produce video evidence of his interview with Allie; repeatedly making statements to Allie in one on one interviews that he knows she is telling the truth and that he needs

to get evidence to dispute all the “legal crap defendant will try to pull”; deliberately mischaracterizing Allie’s third interview and failing to point out the significant inconsistencies in her statement to the prosecutor. ALL of this EVIDENCE shows a strong malicious motivation by Defendant Crum to pursue and prosecute Mr. Jerome no matter the evidence or the consequences.

II. State Law Claim of Gross Negligence

Lastly, defendants argue that Plaintiff cannot maintain a cause of action for gross negligence under state law because the allegations in the complaint sound in intentional tort. Defendants’ argument is without merit.

In support of their argument, defendants direct this Court to cases in which the plaintiff brought a cause of action for assault or excessive force and then also stated a claim of gross negligence. In such cases, courts have recognized that it is disingenuous to allege gross negligence in light of a factual allegation that the defendant intentionally attacked the plaintiff.

Unlike the excessive force/assault cases, the present case involves allegations that Crum falsely arrested, imprisoned and prosecuted Samuel Jerome. While those allegations do relate to intentional tort, there is an element of gross negligence or recklessness involved. As set forth above, a false arrest/imprisonment or malicious prosecution occurs when the defendant acts without probable cause. Probable cause can be destroyed by a showing that the defendant showed a reckless disregard for the truth, regardless of intentionality.

The Court in Double, again, under similar facts, found summary judgment inappropriate regarding Plaintiff’s claim of gross negligence:

Plaintiff argues Defendants’ conduct constitutes gross negligence under Michigan law. Government employees have immunity from tort liability for injuries they cause in the scope of their employment so long as their conduct does not amount to

gross negligence that is the proximate cause of the injury or damage. Mich. Comp. Laws § 691.1407(2)(c). Gross negligence is conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

The facts of this case demonstrate there are material questions of fact as to whether Double's conduct was grossly negligent. Defendants are not entitled to judgment as a matter of law on Plaintiffs gross negligence claim. [Broadnax v. Double, 2013 U.S. Dist. LEXIS 136342, 26-29 (E.D. Mich. Sept. 24, 2013).]

CONCLUSION

For the reasons set forth above, Plaintiff respectfully requests that this Honorable Court deny Defendants Motion for Summary Judgment. Genuine issues of material fact exist relating to the Counts discussed in detail above.

Respectfully submitted,

JOHNSON LAW, PLC

By: /s/ S. Jay Ahmad
S. JAY AHMAD (P43206)
VEN R. JOHNSON (P39219)
 Attorneys for Plaintiff
 535 Griswold Street, Suite 2632
 Detroit, Michigan 48226
 (313) 324-8300

August 23, 2016

PROOF OF SERVICE

STATE OF MICHIGAN)
)
 COUNTY OF WAYNE)

Maria A. Guerra, being first duly sworn, deposes and says that on the 24th of August, 2016, she served a copy of Plaintiff's Response to Defendants' Motion for Summary Disposition upon all interested parties along with Proof of Service via ECF Filing with the Clerk of the Court, and hereby declares under the penalties of perjury that the foregoing is true to the best of my knowledge, information and belief.

/s/Maria A. Guerra
 Maria A. Guerra

INDEX OF EXHIBITS

TO RESPONSE TO MOTION FOR SUMMARY DISPOSITION

- Exhibit A:** City of Berkley Police Records
- Exhibit B:** August 7, 2014 Trial Transcript
- Exhibit C:** Oakland County Prosecutor Request for Further Information
- Exhibit D:** Deposition transcript of Defendant Crum
- Exhibit E:** August 21, 2013 video interview
- Exhibit F:** Petition and Order for Nolle Prosequi
- Exhibit G:** August 8, 2014 Trial Transcript

EXHIBIT A

CR No: 130005555



BERKLEY PSD
2395 12 MILE RD
BERKLEY MI 48072
2486583380



Case Report

Administrative Details:

CR No	Subject
130005555	C3324 - Suspicious Circumstances
Report Date/Time	Occurrence Date/Time
05/08/2013 10:44	05/08/2013 10:44
Location	Call Source
3600 PHILLIPS AVE	TELEPHONE
Dispatched Offense	Verified Offense
C3324 SUSP CIRCUMSTA	1171 CSC 1st Degree -Penetration Penis/Vagina
OC	OC Contact Number
Crum, Michael (BECRUMME-01038)	
County	City/Twp/Village
63 - Oakland	66 - Berkley
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: 130005555



Offenses:		
1171 - CSC 1st Degree - Penetration Penis/Vagina		
IRF Code / IRF 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	Hate/Bias	
No	00 - None (No Bias)	
Using	Cargo Theft	
A-Alcohol: No C-Computer Equipment: No D-Drugs/Narcotics: No		
Weapons		
00 - None		
Control Activity		
N - None/Unknown		

4805 - Witness - Dissuading [BECRUMME (01036)]		
IRF Code / IRF Group	Offense File Class	
90Z - All Other Offenses / B	48000 - OBSTRUCTING POLICE	
Crime Against	Location Type	Offense Completed
	20 - Residence/Home	Completed
Domestic Violence	Hate/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 (01036)]									
Last Name	First Name	Middle Name	Suffix	Mr/Ms/Mr					
Jerome	Samuel	James							
Aliases	Driver License#	DL State	DL Country	Personal ID#					
	J 650 758 387 379	MI	USA						
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship			
05/19/1972 (40)	M	WHITE	Unknown						
Complexion	Build	Teeth	Height	Weight	Altra				
			5' 11"						
Street Address	Apt #	County	Country	Home Phone		Work Phone			
3600 Phillips		Oakland	USA						
City	State	Zip	Cell Phone	Email					
Berkeley	MI	48072	734.778.5655						

KRAHE, STACEY LYNN (S-SUSPECT) [BECRUMME (01036)]									
Last Name	First Name	Middle Name	Suffix	Mr/Ms/Mr					
Krahe	Stacey	Lynn							
Aliases	Driver License#	DL State	DL Country	Personal ID#					
	K 600 777 564 283	MI	USA						
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship			
04/11/1977 (38)	F	WHITE	Unknown						
Complexion	Build	Teeth	Height	Weight	Altra				
			5' 3"						
Street Address	Apt #	County	Country	Home Phone		Work Phone			
3600 Phillips		Oakland	USA						
City	State	Zip	Cell Phone	Email					
Berkeley	MI	48072	248.240.6092						

KRAHE, ALYXIS FAY (V-VICTIM) [BECRUMME (01036)]									
002									

CR No: 130005555



Victim Type		Victim of					
I - Individual		1171 - CSC 1st Degree - Penetration Penis/Vagina, 4805 - Witness - Dissuading					
PE	W. Type	Last Name	First Name		Middle Name	Suffix	Mr/Ms/Ms
	VC	Krahe	Alyda		Fay		
Aliases		Driver License#		DL State	DL Country	Personal E#	
Alle							
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship	
07/21/1999 (13)	F	WHITE	Unknown				
Street Address		Apt #	County	Country	Home Phone	Work Phone	
3600 Phillips			Oakland	USA			
City		State	Zip	Cell Phone	Email		
Berkeley		MI	48072				
Victim Injury							
N - None							
Victim Offender Relationships							
Offender		Type		Relationship			
Jerome, Samuel James		S-SUSPECT		10-Victim Was Stepchild			
Krahe, 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	Suffix	Mr/Ms/Ms
	OF	Miller	Corey				Sgt.
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship	
		UNKNOWN					
Phone/Email							
Type				Description			
BU-Business Phone #1				248.658.3392			
Notes							
Detective							

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

PE	W. Type	Last Name	First Name		Middle Name	Suffix	Mr/Ms/Ms
	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				248.323.0998			
Notes							
CARE house Forensic Interviewer							

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

PE	W. Type	Last Name	First Name		Middle Name	Suffix	Mr/Ms/Ms
	OC	Crum	Michael				Sgt.
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship	
		UNKNOWN					
Street Address		Apt #	County	Country	Home Phone	Work Phone	
2395 W. Twelve Mile			OAKLAND	USA			
City		State	Zip	Cell Phone	Email		
Berkeley		MI	48072				
Phone/Email							
Type				Description			

003

CR No: 130005555



BU-Business Phone #1

2486583393

Notes

OIC

STILTNER, JUDITH ANN (O-OTHER) (X-MISCELLANEOUS) [BECRUMME (01036)]

PE:	W. Type:	Last Name	First Name	Middle Name	Suffix	Min/Max/Mb
		Stiltner	Judith	Ann		
Aliases	Driver License#	DL State	DL Country	Personal ID#		
	S 343 454 067 202	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	Country	Home Phone	Work Phone	
3310 Thomas		Oakland	USA	248.543.0952		
City	State	Zip	Cell Phone	Email		
Berkley	MI	48072	248.302.1827			

Narrative:

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

DETECTIVE BUREAU INVESTIGATIONCRIME:

Criminal Sexual Conduct

SUSPECT:

Samuel James Jerome

W/M, 05-19-1972

VICTIM:

Alyxis Fay Krahe

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:

Alyxis 'Allie' Krahe reported sexual abuse from her step-father, Sam Jerome.

INVESTIGATION:

May 7, 2013

I received a report from Alyxis 'Allie' Krahe that her step-father, Sam Jerome had sexual abused her on several occasions. Allie 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 Allie.

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Upon hearing of the alleged abuse, Judith picked Allie 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 Allie 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 Allie Krahe. 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 Allie reporting the abuse.

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

Alyxis Krahe

I spoke to Alyxis "Allie" Krahe in the second floor detective bureau. D/Sgt Miller was present in the detective bureau during the interview.

First Incident

Allie advised the first incident occurred while her mother was hospitalized around Christmas time (2012). Sam was home alone with Allie during the hospitalization. Allie 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. Allie 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. Allie requested Sam stop but he continued rubbing her vagina. Allie 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 Allie while Stacey was home. Sam did buy her headbands and earrings to keep her quiet about the assault.

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**Second Incident**

In late April, Stacey was away at a conference for her employment with the Berkley Schools. Sam was alone with Allie during this time. Allie 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. Allie 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. Allie 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. Allie 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. Allie 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 Allie's belly, at Allie'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: 130005555-002 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: 136995386



W/F, 04-11-1977

VICTIM:

Alyxia Fay Krahe

W/F, 07-21-1999

DATE/TIME:

December 2012 and April 2012

VENUE:

3600 Phillips, 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 Allie to the interview. Stacey advised she had allowed Sam to move back into the residence. Allie was staying with her Grandmother, Judith Stiltner, until after the polygraph. Stacey also advised she did not believe Allie anymore concerning the assault. Stacey advised she believed Allie was making up the story for attention.

CARE house

May 16, 2013

Stacey Krahe transported Allie 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 Allie and thought we were all, "being played" by a very intelligent 13 year old.

Allie was interviewed by Tricia Schuster in the North Room. During the interview Allie'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, Allie 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.

Allie advised Sam's hand rubbed below her hip bones near her pubic line. She asked him to stop and Sam stopped rubbing her. Allie 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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After the interview, Stacey spoke with me about the incident. Stacey immediately asked if I still believed Allie. I simply advised that I did. Stacey was upset and pressing about what Allie 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 Allie 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 Allie had admitted to her that the whole story was made up. Stacey advised Sam and Allie 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 Allie prior to closing the case as she was the victim.

July 11, 2013

Judy Stiltner

Judy Stiltner is the maternal grandmother to Allie Krahe. 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 Cron said he did not believe Allie. I advised Judy this was not true and that I had wanted to discuss the case with Allie prior to closing the case.

Several hours later, Allie knocked on my office door and asked to discuss her case with me. Allie 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.

Allie immediately advised her mother had made her change her story at CARE house. Allie advised her mother would tell her they were going to put her into a Foster Home and she would be raped daily. Allie said her mother told her this at least four times a day leading up to the CARE house interview. When Allie 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. Allie 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. Allie advised she was more fearful of what would happen to her 10 year old

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sister as Stacey advised she would be raped as well and it would be Allie's fault.

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

July 14, 2013

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

PSO Tanghe went to Beaumont hospital to confirm Allie's return. PSO Tanghe was advised by Beaumont staff that Allie 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 Allie Krahe had not been to their facility either.

Approximately one hour later, I received a telephone call from Sam Jerome advising Stacey had taken Allie and left Michigan. Sam would not advise me where she was taking Allie. I advised Sam I only needed to confirm Allie 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 Allie was safe and had returned. She allowed me to speak to Allie on the speaker phone in the vehicle. I was unable to determine if I was in fact speaking with Allie.

According to Stacey, Allie admitted to coming to the police station and speaking with me about Sam assaulting her. Stacey was furious Allie had spoken with me. Stacey advised she did not believe Allie and was traveling to Georgia so the family could get a fresh start. I advised Stacey that Allie 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 hospitals 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

009

CR No: 130005555



Stacey Krahe and Sam Jerome were both arrested by Berkley 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 Allie 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 Allie had ever used narcotics. Allie advised she has been assaulted on numerous occasions since "telling on Sam." During the assault Allie was punched, choked, and dragged up the stairs by her hair. According to Allie, 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 Allie discussing various topics. I could immediately tell the messages were suspicious at best. I spoke to Allie about the messages after. Allie 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. Allie advised they would record several times before Stacey would be satisfied with the way it sounded. Stacey threatened, and did assault, Allie 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 Alyxis Fay Krahe, born July 21, 1999 by rubbing her vagina. Sam is Allie's stepfather and a member of the same household at 3600 Phillips in the City of Berkley.

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

In addition, Stacey Lynn Krahe, born April 11, 1977, did by threat or intimidation, influence the testimony of Alyxis Fay Krahe, born July 21, 1999 by threatening to commit suicide and threatening Allie 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 (01036) Date: 09/11/2013 01:35 PM

010

CR No. 138005225

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 Sabrina Krahe in the second floor detective bureau. Sabrina was brought to the station by her maternal grandmother, Judith Stiltner.

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

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

Sabrina was not aware of either incident of sexual assault by Samuel Jerome on Allie Krahe. Sabrina did not recall any incident when Sam had touched her that made her feel inappropriate. Sabrina did remember him rubbing her stomach but did not feel it was inappropriate. Sabrina 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 Sabrina, it was after Allie had gotten Sam in trouble and he stopped liking her. Sabrina did not have any further information about the sexual assault.

Allie Krahe

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

011

CR No: 130003555



discussed the sexual assault with Sabrina.

According to Allie, when Sam was sexually assaulting her he would buy her Phish's Ice Cream from 7-11. Sam would not buy Sabrina 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 Sabrina. She believed Sam bought Sabrina earrings and clothing. These purchases began, for Sabrina, after Allie would no longer allow him to rub her vagina.

Sexual Assault

I interviewed Allie Krahe about the sexual assault by Sam Jerome. I asked Allie to start from the beginning and tell me everything that had happened. Allie 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. Allie recalled Sabrina being at Judy Stiltner's residence at the time of the assault.

Allie recalled the second incident of sexual assault exactly as she had on May 7, 2013. She recalled Sabrina 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 Allie what had changed at CAREhouse. Allie reiterated the pressure her mother placed upon her. According to Allie, 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 Allie she would have to tell her sister, Sabrina, why she had, "Killed their mother." Allie has observed her mother attempt suicide on multiple occasions and feared if she testified her mother would kill herself. Allie also felt it was better to be molested by Sam than to be raped by strangers. Allie 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. Allie believed her mother until she observed Sam rubbing Sabrina's stomach and buying her gifts. Allie felt this was the same behavior Sam had exhibited just prior to sexually assaulting her.

Judy Stiltner

I interviewed Judy Stiltner in the second floor detective bureau. Judy advised she knew very little about the actual sexual assault. Judy did not want to make Allie 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 Allie. The first incident happened shortly after Allie made the disclosure. Stacey admitted herself into Beaumont hospital after confronting Sam. While in the hospital, Judy had Stacey's phone in case Allie or Sabrina 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 Allie sexually and not upset that Sam touched Allie. In her opinion, Stacey is blaming Allie for Sam touching her vagina.

012

CR No: 130005555



The second incident occurred when Sam and Judy were talking on the phone about Allie. Sam asked Judy, "What are we going to do about Allie's 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 Allie and Sabrina 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 (01036) 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: 130005555

**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 Allie 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 Alyxis Krahe. Krahe testified to the facts of the case. After hearing testimony from Allie, 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 to 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 5, 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: 130605535

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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

Alyxis 'Allie' Krahe 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

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06/22/2013 11:05 2405755756

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05/16/2013@ 01:15 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 Alyxis by her stepfather, Samuel Jerome, on several different occasions. Judith Sillner, grandmother of Alyxis, stated that she was advised of the abuse by her daughter, Stacey Krahe, who is the mother of Alyxis. After hearing of the abuse, Ms. Sillner picked Alyxis up from her home and drove her to the police department. Ms. Krahe remained home to confront her husband. According to Ms. Sillner, Mr. Jerome has touched Alyxis 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 Alyxis reporting the abuse. Ms. Krahe and Alyxis were discussing Alyxis' recent behavior and Alyxis became upset and advised her mother that she was molested by her stepfather, Samuel Jerome. Alyxis reported that Mr. Jerome touched her vagina at least two times. Both times occurred while Alyxis was lying on the living room couch. Mr. Jerome would begin by rubbing Alyxis' stomach and then he would slowly rub lower until he was touching her vagina on the outside of her clothing.

05/18/2013@ 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 SWSS/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 - Berkley Police Department
Police reports requested from the Berkley 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 4pm at 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.

08/22/2013 11:05 2489755765

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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 Ms. Tracy Byrne, mother of Cassandra and Nickolas 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 Nickolas Jerome. A voice message was left.

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

08/05/2013@ 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.

08/05/2013@ 11:30 AM Successful Face to Face Contact - Sabrina Krahe
Successful face to face contact took place at Angel Elementary School with Sabrina Krahe. Sabrina was observed to be neat and clean. She was dressed in weather appropriate clothing.

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

08/05/2013@ 01:45 PM Successful Face to Face Contact - NICKALAS JEROME
Successful face to face contact took place at Brownstown Middle School with Nickolas Jerome. Nickolas was observed to be neat and clean. He was dressed in weather appropriate clothing. There were no marks, scars, bruises or injuries observed on Nickolas' body.

Nickolas was forensically interviewed. Nickolas 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. Nickolas reported that when he is in trouble, his privileges are taken away. He denied being physically disciplined. Nickolas denied that he has ever witnessed inappropriate behaviors between any of his family members. Nickolas reported that he felt safe at home and had no concerns.

08/05/2013@ 02:10 PM Successful Face to Face Contact - Cassandra Jerome
Successful face to face contact took place at Wolcott Elementary School with Cassandra Jerome. Cassandra was observed to be neat and clean. She was dressed in weather appropriate clothing. There were no marks, scars, bruises or injuries observed on Cassandra's body.

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

08/05/2013@ 02:48 PM Successful Phone Contact - Detective Crum
A voice message was received from Detective Crum.

08/05/2013@ 02:56 PM Successful Phone Contact - Detective Crum
Telephone call placed to Detective Crum. Det. Crum indicated that his case will be closed as Alyxis recanted during her forensic interview. He stated that when the report was initially filed, Alyxis reported that Mr. Jerome touched Alyxis.

08/22/2013 11:05

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OAKLAND DHS CPS

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under her clothing and touched her vagina. He stated that during the forensic interview, Alyxis 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 Berkley Police Department.

08/05/2013@ 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.

08/05/2013@ 04:05 PM Successful Face to Face Contact - STACEY KRAHE, Samuel Jerome, Berkley 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.

Ms. 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 Alyxis Krahe by her stepfather, Samuel Jerome. Alyxis Krahe was forensically interviewed at Carehouses of Oakland County. Alyxis disclosed that her stepfather rubbed her belly and touched her over her clothing on her vagina. Alyxis 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. Alyxis 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, Alyxis Krahe.

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

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

EXHIBIT A TO PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

08/22/2013 11:05 2489755766

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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

Amber Harris 10/17/13
06/05/2013

SUPERVISOR SIGNATURE AND DATE
Disposition Review Date

Donna Brooker 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.

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EXHIBIT A TO PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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CHILDREN PROTECTIVE SERVICES

Log ID: 3154750
Case Name: KRAHE, STACEY
Case#: X3482981P

SOCIAL WORK CONTACTS:

06/17/2013 @ 11:00 AM Successful Letter Contact - Ray Krahe
A letter was mailed to Mr. Ray Krahe, legal father of both Abigail and Sabrina Krahe, at 125 Wilkow Dr.,
Columbiaville, MI. 49421. Mr. Krahe was asked to contact DHS so that the allegations could be
discussed with him.

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NAME: JEROME/SAMUEL/JAMES/
RAC: WHITE SEX: MALE HGT: 511 WGT: 220
HAIR: BROWN EYE: BROWN GLN: 3650-738-367-379 OLS: MT SOC: 378-68-3152
FBI: 255817WD7 SID: 47152309
SMT: TAT OL ARM (ARM, LEFT UPPER)
ADDNL SMT: TAT UR ARM (ARM, RIGHT UPPER)
ADD: 3600 PHILLIPS AVE BERKLEY MT 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 MCLs 765.15b, 764.15a, 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: KRAHE/ALYXIE/FAX/
OCA: 13-5555 DOW: 09/18/2013
COURTORY: MI6345057- CRTECUMETNO: 13-0861FY

REMARKS: NO CONTACT WITH KRAHE/ALYXIE/FAX/ OR ANYONE UNDER THE AGE OF 18. MUST BE
EQUIPPED WITH GPS TETHER UPON RELEASE FROM JAIL

ENTERED LEIN : 09/20/2013 0957 MRS
MODIFIED 09/20/2013 0958 MRS
SYSIDNO: 030322139

CONFIRM SPECIFIC CONTENT OF ORDER WITH MI6325100-PO BERKLEY

09/20/13 | 09:43:09 | LEIN | INQUIRY ON SID: 47122302

11267

A LEIN 11267 58429 09/20/13 0943 CLEMISCOMP3.

M163225100

PUR: C/CSC RESPONSE TO INQUIRY ON SID: 47122302

OPR: BEKEMPSKIM

FOR: BEKEMPSKIM/BEFO

OCA: 12-5555

REMARKS: WITH REPORT

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: 47122302 AS OF 09/20/2013

NAM: JEROME, SAMUEL JAMES

HAC: W

HGT: 511

EYE: BRN

DIN:

POB:

CIZ:

SEX: M

WGT: 220

POB: MI

DOB: 05/19/1972

HAIR: GRY

SID: 47122302

PSI: 255617ND7

ITI: MICHIGAN ONLY

MNU:

SOC: 378-68-1152

AFIS PRINTS AVAILABLE: YES

PALM PRINTS AVAILABLE: YES

PHOTO AVAILABLE: YES

DNA RECORD AVAILABLE: NO

ADDITIONAL IDENTIFIERS AND COMMENTS:

INCIDENT DATE: 08/06/2013

TCN/OCA: M163225100/1309255

NAME USED: JEROME, SAMUEL JAMES

ARREST SEGMENT

CHARGE SEGMENT

JUDICIAL SEGMENT

DATE: 08/02/2013

NO DATA RECEIVED

NO DATA RECEIVED

M163225100

BERKLEY OPS

OCA: 1309255

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 MCL 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. NAM NOT INCLUDED NOT FORWARDED TO NCIC III
END MSG.

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

QHW.MI6325100.50:4719230P.77:50.15:13-3555.52:C/CSC.41:WITH REPCRT.35:BEKEMPSKIM
.56:BEKEMPSKIM/BEED.

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

35640

A NCIC 4853 58254 09/20/13 0542 CLEMISCOMF3.
MI6325100

THIS NCIC INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR
INQUIRY ON NAM/JEROME,SAMUEL JAMES SEX/M RAC/O DOB/19720519 PUB/C
NAME FBI NO. INQUIRY DATE
JEROME,SAMUEL JAMES 255617WD7 2013/09/20

SEX RACE BIRTH DATE HEIGHT WEIGHT EYES HAIR PHOTO
M W 1972/05/19 511 220 BRO GRAY F

BIRTH PLACE
MICHIGAN

FINGERPRINT CLASS

PATTERN CLASS

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 UC UC UC

SCARS-MARKS-

TATTOOS

SOCIAL SECURITY

TAT UL ARM

378-58-3152

TAT UR ARM

IDENTIFICATION DATA UPDATED 2013/09/18

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE
FOLLOWING:
MICHIGAN - STATE ID/MI6715230P

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 LERN 11230 0823 09/20/13 0912 CLEMISCONC.
 M16325100
 PUR: C/CSC RESPONSE TO INQUIRY ON NAME: JEROME, SAMUEL JAMES 09/19/1972 M Q
 OFR: BERKENSIN
 OFR: BERKENSIN/REED
 CCA: 13-555
 REMARKS: WITH REPORT
 CRIMINAL HISTORY RECORD RESPONSES ARE DEPENDENT UPON CRIMINAL HISTORY RECORD
 INFORMATION (CHRI) BEING REQUESTED 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 (501) USING THE SAME
 PURPOSE CODE (521) TO OBTAIN THE CRIMINAL HISTORY RECORD.
 POSSIBLE RECORDS MAY NOT MATCH EXACTLY THE NAME AND DATE OF BIRTH IN YOUR
 INQUIRY.

NAME ON FILE	B/D DOB	HGT	WGT	HAIR	EYES	SIG	NOTCHED ON
JEROME, SAMUEL JAMES	M N 09/19/1972	511	ANY	BRN	BLU	BLU	DISMISSED CRIMINAL HISTORY

END MSG.

09/20/13 09:43:30 JEROME, SAMUEL JAMES Criminal History
 CWM M16325100 1 JEROME, SAMUEL, JAMES, 2:0 9-7-19720519-77:1,19:13-5555.52:C/CSC.9
 1 WITH REPORT 55:BERKENSIN.55:BERKENSIN/REED.



Back Print

Case Number 2013-247841-FC
Entitlement PEOPLE vs. JEROME SAMUEL JAMES
Judge Name RUDY J. NICHOLS
Case Filed 10/08/2013
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
05/16/2014	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

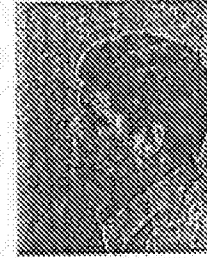
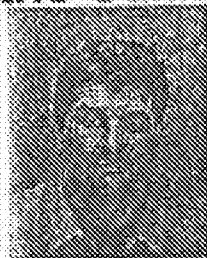
044

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 13-0681FY
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 #: _____

CPS#: a

PCN: 58992784

Subjects Name: JEROME, SAMUEL JAMES

Address: 3600 PHILLIPS

Maiden Name:

City: BERKLEY

State: MI Zip: 48072

Home Phone: (734) 778-5855 Cell Phone:

DOB: 05/19/1972 Race: WHITE

Sex: MALE

Work Phone:

U.S. Citizen:

Hgt: 511 Wgt: 230 Eye: BROWN

Hair: BROWN

Birth State: MI

Driver's License #: J650758387379

State: MI

Soc. Sec. #: 378-68-2152

Glasses/Contacts: NONE

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

Emergency Contact: STACEY KRAHE

Relationship: WIFE

Home Phone: (678) 852-5392

Address: 3600 PHILLIPS

City: BERKLEY

State: MI

Cell Phone:

Notes: CSC WARRANT

Date: 08/13/2013 Arresting Officer: MCRUM

Badge#:

Officer's Work Location: BERKLEY DPS

/ 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: 5555

2) Charge Desc.:

(I) / Incident Number:

3) Charge Desc.:

(I) / Incident Number:

4) Charge Desc.:

(I) / Incident Number:

Sheriff's
Warrant
Arrests

1) CTN: 831300588401 PACC:

750/520B1B

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:

046

Ticket #

45 - A Court Date:

000254b

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

39020

A LEIN 39020 133040 09/23/13 1609 CLEMISCOMP3.
MI6325100

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

OPR: BECRUMME

FOR: BECRUMME/BEPO

OCA: 13-5555

REMARKS: DH

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

RAI: BRO

III: MICHIGAN ONLY

EYE: BRO

POB: MI

OLN: MI/J650758367372

MNO:

FRN:

SOC: 378-68-3152

CIZ:

AFIS 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: 631300580401

INCIDENT DATE: 12/25/2012

TCN/OCA: H313268002H/13 5555

NAME USED: JEROME, SAMUEL JAMES

ARREST SEGMENT	CHARGE SEGMENT	JUDICIAL SEGMENT
DATE: 09/13/2013	DATE: 12/25/2012	NO DATA RECEIVED
MI6325100	MI630013A	
BEANLEY DRS	OAKLAND COUNTY	
OCA: 13 5555	PROSECUTING ATT	
1 CNT OF 1100	1 CNT MCL 750.520B1B	
FELONY	FELONY	
SEXUAL ASSAULT	CRIMINAL SEXUAL	
DISP: CHGD BY PROSECUTOR	CONDUCT 1ST DEGREE	
	(RELATIONSHIP)	

INCIDENT DATE: 08/08/2013

TCN/OCA: H313217005L/13589252

EXHIBIT A TO PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

RECEIVED by MSC 1/3/2020 1:26:48 PM

NAME USED: JEROME, SAMUEL JAMES

ARREST SEGMENT	CHARGE SEGMENT	JUDICIAL SEGMENT
DATE: 08/02/2013	NO DATA RECEIVED	NO DATA RECEIVED
MI6325100		
BERKLEY DPS		
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 MCL 28.342A, 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 III
END MSG.

048

000256b

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

9/17/2013 SML/AW

Page 1 of 2

STATE OF MICHIGAN

PROS. ORDER NO. 13-05884

THE DISTRICT COURT-JUDICIAL DISTRICT NO. 45/A

County of OAKLAND

WARRANT

THE PEOPLE OF THE STATE OF MICHIGAN
VS.Date of Offense: ON OR ABOUT DECEMBER 2012
THROUGH APRIL 2013SAMUEL JAMES JEROME /63-13-005884-01
3600 Phillips Ave
Berkley, MI 48072

Location: CITY OF BERKLEY

Complainant: ALYXIS KRAHE

Complaining
Witness: LT. CRUM

Defendant(s)

WITNESSES

LT. M. CRUM, c/o BERKLEY POLICE DEPT.
DET. C. MILLER
ALYXIS FAY KRAHE
STACEY LYNN KRAHE
SABRINA KRAHE
JUDITH ANN STILTNER
REP. OF DHS
REP. OF DHS
(DT) RE: 154 REPORT OF KRAHE FAMILY

STATE OF MICHIGAN, COUNTY OF OAKLAND

In 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, Alexia Krahe 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 333.5129, 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: 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)

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, Alyxis Krahe 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 333.5129, 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)

WHEREAS an examination 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: 9/18/13District Judge/Magistrate 62325

No. _____

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

000258b

RECEIVED by MSC 1/3/2020 1:26:48 PM

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

9/17/2013 SML/AW

Page 1 of 2

STATE OF MICHIGAN

PROS. ORDER NO.

13-05884

THE DISTRICT COURT-JUDICIAL DISTRICT NO. 45/A

County of OAKLAND

COMPLAINT/GENERAL
INFORMATIONTHE PEOPLE OF THE STATE OF MICHIGAN
VS.Date of Offense: ON OR ABOUT DECEMBER 2012
THROUGH APRIL 2013SAMUEL JAMES JEROME /63-13-005884-01
3600 Phillips Ave
Berkley, MI 48072

Location: CITY OF BERKLEY

Complainant: ALYXIS KRAHE

Complaining
Witness: LT. CRUM

Defendant(s)

WITNESSES

LT. M. CRUM, c/o BERKLEY POLICE DEPT.
DET. C. MILLER
ALYXIS FAY KRAHE
STACEY LYNN KRAHE
SABRINA 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, Alexis Krahe 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 333.5129, 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: 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)

051

000259b

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

COMPLAINT/GENERAL
INFORMATION

COUNT 2

did engage in sexual contact with a child, Alyxis Krahe who was at least 13 but less than 18 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).

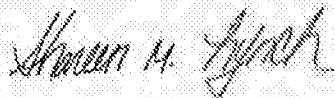
HIV/STD TESTING NOTICE

Take notice that pursuant to MCL 333.5129, 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

The 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



Complainant Witness

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

052

000260b

SUBPOENA FOR WITNESSES IN CRIMINAL CASES		9/17/13 SML/AW	Page 1 of 1
STATE OF MICHIGAN		PROS. 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
3600 Phillips Ave
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
ALYXIS FAY KRAHE
STACEY LYNN KRAHE
SABRINA KRAHE
JUDITH ANN STILTNER
REP. OF DHS
REP. OF DHS
(DT) RE: 184 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
STATE OF MICHIGAN)
County of OAKLAND)

Judge/Clerk/Attorney

Bar No.



RETURN OF OFFICER

I Hereby 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

000261b

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: Shaleen
Fax: Date: 8-21-13
Phone: Pages: 3 (Including Cover Sheet)

ROUTING PRECEDENCE: ☐ IMMEDIATE ☒ ROUTINE

for further
on Is Krahe &
D Jerome
Thank you!
Shaleen

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 this 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.

054

248 452-2054 P.001

OAKLAND CTY PROSECUTOR

AUG-21-2013 09:11

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: 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

EXHIBIT A TO PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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 by MSC 1/3/2020 1:26:48 PM

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

056

246 4622054 P.003

OAKLAND CTY PROSCTING

AUG-21-2013 09:12

000264b



Berkley DPS Property Sheet

2395 W. Twelve Mile Berkley, MI 48072 248-658-3380

CFS #: 13-5555

PCN: 58992784

Name: JEROME, SAMUEL, JAMES

DOB: 5/19/1972

Address: 3800 PHILLIPS

City: BERKLEY

State: MI

Zip 48072 H-Phone:

SSN: 378883152

D.L. State: MI D.L. # J650758307379

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
unclaimed		
Destroyed 5/18/14		
#11		

Sign In:

Sign Out:

Sign out Date:

Sign in Date:

Or Release Property To:

Address & Phone #

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

000265b

State of Michigan

Sixth Judicial Circuit Court
Family Division
County of OaklandTO: Sgt. Miller FAX NO: 248-658-3391

CC:

FROM:

TEL. NO: 248-858-0042

Melissa Hoppe

FAX NO: 248-858-1693

SENDER'S PHONE NO:

248-858-0042DATE: August 2, 2013RE: PPO Requests

PAGES:

(including cover sheet)

23 pgs

MESSAGE:

13-810784-PP13-810783-PP13-810782-PPIf you need anything else let me know.Thanks,
Melissa

This communication may contain confidential information that is intended only for the individual or entity named on this page. The recipient is prohibited from reading, disseminating, copying or distributing the information unless the recipient is the intended recipient, or the agency or employee of the intended recipient, who is responsible for delivering the message to the intended recipient.

The recipient is requested to immediately notify the sender of this document if it was transmitted in error.

The recipient is requested to immediately return all documents that were erroneously transmitted.

If you do not receive all pages indicated above, please call as soon as possible at the number listed above.

058

000266b

7/11/2013 14:19:02.61186

sm

Original - Court
13-810784-PP

Approved, 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

Petitioner's name
STACEY KRAHE NFF SABRINA RAY LYNN KRAHE
Address and telephone no. where court can reach petitioner
3608 PHILLIPS, BERKLEY, MI 48072
313-240-8992

Respondent's name, address, and telephone no.
JUDY ANN STILTNER
3318 THOMAS, BERKLEY, MI 48072
248-302-1827

JUDGE CHERYL A. MATTHEWS
KRAHE, STACEY, v. STILTNER, JUDY
Court telephone no.
(248) 975-9311

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.
☐ b. A petition was filed for a personal protection order in a nondomestic relationship.
☐ c. A petition was filed for a nondomestic 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 action 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 this 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 _____
 Location 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 _____
 _____ at _____
 Location 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 clerk

cc 303 (3/11) ORDER DENYING OR DISMISSING PETITION FOR PERSONAL PROTECTION ORDER

MCR 3.705(A)(5),
MCR 3.705(B)(1), (6)

059

000267b

T11.87/24/13.15:52:08.59632

Appended: SCAD

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

Not a true - Defendant (pink)

CLERK

13-810784-PP

2nd

STATE OF MICHIGAN
6th JUDICIAL CIRCUIT
OAKLAND COUNTYPETITION FOR
PERSONAL PROTECTION ORDER
(DOMESTIC RELATIONSHIP)JUDGE CHERYL A. MATTHEWS
KRAHE, STACY. v. STILNER, JUDY
(248) 975-9311Court address
1300 N. Telegraph Road, Pontiac, MI 48341-1043Petitioner name
Sabrina Krahe, VPL Stacey Krahe
Address and telephone no. where court can reach petitioner
3600 Phillip Berkley MI
48072Respondent name, address, and telephone no.
Judy Stiller
3310 Thomas 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 ☒ are not 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 ☒ are not 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. 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 entitled 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 Sabrina Krahe
 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.

☒ interfering with efforts to remove my child(ren) from premises solely owned/leased by the respondent.

☒ threatening to kill or physically injure Sabrina Krahe

☒ interfering with me at my place of employment or education or engaging in conduct that impairs my employment or educational relationship or environment.

☒ 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.

☒ purchasing or possessing a firearm.

☒ other:

6. I make this petition under authority of MCL 600.2850a, MCL 600.2850b 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

Sabrina Krahe, VPL Stacey Krahe
Petitioner's signature

MCL 600.2850, MCL 600.2850a, MCL 600.2850b

CC 375 (304) PETITION FOR PERSONAL PROTECTION ORDER (Domestic Relationship)

050

000268b

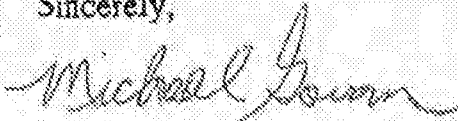
T11.87/24/13.15:52:88.59635

REFLECTIONS COUNSELING CENTER P.C.
MICHAEL GOVAN, MA, LLP, LPC
www.ReflectionsCounseling.com
2888 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 Alyxis and Sabrina 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 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

000269b

TIL 07/24/13, 15:52:08, 59636

STATE OF MICHIGAN
8th JUDICIAL CIRCUIT
COUNTY OF OAKLAND
1200 N. TELEGRAPH RD, PONTIAC, MI 48341

VERIFIED STATEMENT
RE: PPO ACTION

OAKLAND COUNTY 13-810784-PP
JUDGE CHERYL A. MATTHEWS
KRAHE, STACEY, v. STILTNER, ADY

PETITIONER Sabrina Krahe Age 13 v. RESPONDENT Judy Stiltner Age 72
Wife of Stacey Krahe

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? Oakland
Respondent lives in Oakland County. ☐ Yes ☒ No.
Do you or have you lived together? ☒ Yes ☐ No.
How do you know the person you are filing against?
Grandma

Do 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 to court in another county? ☐ Yes ☒ No
 What county _____
 When _____
 Why _____

Does the respondent have a license to carry a firearm? ☒ Yes ☐ No
 Is the respondent employed or in training for a position which will require him/her to carry a firearm? ☐ Yes ☒ No
 Is 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.

7-24-13
Date

Sabrina Krahe Wf Stacey Krahe
Signature of petitioner

T11.87/28/13.14:19:02.61185

Approved, SCAD

Original - Court

CHARGE DOCKET 13-810783-PP

STATE OF MICHIGAN
6TH JUDICIAL CIRCUIT
OAKLAND COUNTY

ORDER DENYING OR DISMISSING
PETITION FOR
PERSONAL PROTECTION ORDER

JUDGE CHERYL A. MATTHEWS
KRAHE, STACEY, v. STILTNER, JUDY

Court address
1200 North Telegraph Road, Pontiac, MI 48341

Court telephone no.
(248) 975-9511

Petitioner's name
STACEY KRAHE NFF ALYXIS FAYE KRAHE

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

Address and telephone no. where court can reach petitioner
3600 PHILLIPS, BERKLEY, MI 48072
248-240-6092

3310 THOMAS, BERKLEY, MI 48072
248-392-1827

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 not reasonable cause to believe the respondent may commit one or more of the acts listed in MCL 800.2950(1).
☐ b. A petition was filed for a personal protection order in a nondomestic relationship.
☐ Respondent has not committed two or more acts of willful, unconsented contact.
☐ c. A petition was filed for a nondomestic 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.

Date

Court date

cc 352 (3/11) ORDER DENYING OR DISMISSING PETITION FOR PERSONAL PROTECTION ORDER

MCR 3.705(A)(5),
MCR 3.705 (B)(1), (8)

063

000271b

TIL 87/24/13. 15:52:00.59626

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

Approved, SC&O

13-810783-PP

STATE OF MICHIGAN
6th JUDICIAL CIRCUIT
OAKLAND COUNTY

PETITION FOR
PERSONAL PROTECTION ORDER
(DOMESTIC RELATIONSHIP)

JUDGE CHERYL A. MATTHEWS
KRAHE, STACEY, v. STITTNER, JUDY

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

Court telephone no.
(248) 975-0311

Petitioner name
Alyxis Krahe-nee-Spray Krahe

Respondent name, address, and telephone no.
Judy Stittner

Age
72

Address and telephone no. where court can reach petitioner
3200 Phillips Berkley MI 48072

Address and telephone no. where court can reach respondent
3310 Thomas 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 ☒ are not 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 ☒ are not 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 my address
- ☒ c. assaulting, attacking, beating, molesting, or wounding Alyxis Krahe

- ☒ 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.

- ☐ interfering with efforts to remove my children/personal property from premises solely owned/leased by the respondent.
- ☒ g. threatening to kill or physically injure me - Alyxis Krahe

- ☐ 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

Alyxis Krahe-nee-Spray Krahe
Petitioner's signature

T11.87/24/13.15:52:08.59627

PRIOR CASES

PRIOR CASES BETWEEN PARTIES: *ADW*

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 DM	

PRIOR CASES WITH RESPONDENT:

CASE NUMBER	JUDGE

065

000273b

TIL 07/24/13 15:52:00 59620

STATE OF MICHIGAN 9 th CIRCUIT COURT OAKLAND COUNTY	ADDENDUM TO PETITION FOR PERSONAL PROTECTION ORDER (DOMESTIC)	CASE NO.
Court address 1200 N. Telegraph Road, Pontiac, MI 48341-1043	page	of Court telephone no. (248) 975-8311

Petitioner's name: Alyxis Krane Age: 14 Respondent's name: Judy Stiltner Age: 72

☐ Check if consensual cohabitation 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 in 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:

- When: at grandmother 1 week ago
Where: at grandmother
What: She said she was going to take me away from my mom
- When: 1 week ago
Where: at grandmother
What: she told I can come to get away from grandmother because she told me to be about my mom
- When: I want her to stop
Where: Threatening to take me
What: from my mom because they are not getting along
- When: she has a guy that lives in her house, he ask me
Where: questions that make me feel uncomfortable
What: she hits her day care kid and so does her assistant

(Attach extra sheets if necessary) she confused me and says I can do things
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

Alyxis Krane Judy Stiltner
 Signatures of moving party

ADDENDUM DOMESTIC

066

000274b

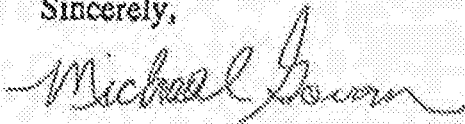
T11.07/24/13. 15:52:08.59629

REFLECTIONS COUNSELING CENTER P.C.
MICHAEL GOVAN, MA, LLP, LPC
www.ReflectionsCounseling.com
2888 E. LONG LAKE, SUITE 170
TROY, MI 48065
(248) 534-0650
(FAX) 534-0146

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 Alyxis and Sabrina 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 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

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STATE OF MICHIGAN
8th JUDICIAL CIRCUIT
COUNTY OF OAKLANDCONSENT TO
APPOINT NEXT FRIEND

Court address: 1200 N. Telegraph Rd., Pontiac, MI 48341

OAKLAND
COUNTY

13-810783-PP

JUDGE CHERYL A. MATTHEWS
KRAHS, STACEY, v. STATHER, JUDY

Consent by Minor to Appoint Next Friend

RECEIVED FOR FILING
MICHIGAN COUNTY CLERK
2013 JUL 24 PM 2:16
BY
DEPUTY COUNTY CLERKI, Alexis Krahe, 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 Krahe as next friend for me in all matters related to this action.7-24-13
DateAlexis Krahe
Signature of minor petitioner7-24-13
DateStacey Krahe
Signature of Next Friend

EXHIBIT B

1 case, there was a no-contact order put in place between
2 Stacey and Allie and Sam and Allie, 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 Allie
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 Allie 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 Allie?

1 A I take that back. I did meet Sabrina and Allie 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 Allie 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 Allie 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 Allie 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 Allie 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 Allie. 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 Allie.

6 A Yes.

7 Q And it was your information that Allie 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 Allie got to the police department?

13 A Yes.

14 Q So, there was never a time that Allie 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 Allie 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 Allie's 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 Allie 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 Allie 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 Allie: 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 Allie and goes through what we've already

- 1 talked about. Right?
- 2 A Yes.
- 3 Q And then it goes through your conversations with Allie.
- 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 Allie 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 Allie 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 Allie 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 Allie went to Care House and you were there watching, and
25 that is videotaped, correct?

STATE OF MICHIGAN

IN THE SUPREME COURT

(ON APPEAL FROM THE MICHIGAN COURT OF APPEALS)

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Plaintiff-Appellant,

v

LIEUTENANT MICHAEL CRUM, in his individual
and representative capacity, and the CITY OF
BERKLEY, a municipal entity,

Defendants-Appellees.

SC No. 159093
COA No. 335328
LC No. 15-148401-CZ
(Oakland County Circuit Court)

APPENDIX – VOLUME III
APPENDIX TO DEFENDANTS-APPELLEES
LIEUTENANT MICHAEL CRUM AND THE CITY OF BERKLEY’S
SUPPLEMENTAL BRIEF ON APPEAL

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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, Allie, 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 Allie said this to her mom on the morning of the incident,
4 Allie 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 Allie.

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 Allie.

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 Roteneber, 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 Allie 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 Allie 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 Allie 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 Allie 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 Allie thought that
13 --that I didn't believe her.

14 Q I--You know you can't say something that she said Allie
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 Allie. 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 Allie Krahe.

23 Q Okay. And in talking to those parties on that date, it
24 was your understanding that Allie 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 Allie 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 Allie 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. There 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 Allie
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 Allie 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. Allie 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, Allie's 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 Allie
23 would call or who she would contact or something of that
24 nature? Right?

25 A Allie 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 Allie 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 Allie 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 Allie 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 Allie 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 Allie 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 Allie 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 Allie 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 Allie's 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 Allie 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 Allie 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, Allie admitted to coming
9 to the police station and speaking with me about Sam
10 assaulting her. Stacey was furious Allie had spoken with
11 me. Stacey advised not to believe Allie 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 Allie 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 Allie the next day; is
6 that right?

7 A Allie, 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 Allie 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 Allie 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 Allie?

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 Allie.

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 Allie's 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 Allie. 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 Allie 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 Allie 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 Allie 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 Allie 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 Allie's 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 Allie. Stacey's
14 lying to you 'cause she keeps changing it up.

15 A On this incident?

16 Q Oh-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 Allie 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 Allie's 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 Allie, 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 Allie, 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 Allie, correct?

4 A Yes.

5 Q Okay. And that was when Stacey was coming back from
6 Texas, Allie 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 Allie to
13 the police station to talk to her?

14 A Initially I wanted to confirm that Allie 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 Allie.

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 Allie's
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 Allie that ever said she was out doing drugs or she
23 was raped?

24 A Not to me.

25 Q Okay. And you heard Allie 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 Allie 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 Allie 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?

(From 10:52:42 a.m. to 10:53:21 a.m., off-the-record bench conference with counsel)

THE COURT: Rephrase that question

(indiscernible).

BY MR. GEORGE:

Q All right, Lieutenant, let me re-ask that question. So, Stacey lies about where Allie's at.

A Correct.

Q Stacey tells you that her daughter's been drugged and raped. And what does Stacey do?

A She continued to Georgia, as far as I know.

Q All right. And did she ever bring Allie in so you could check her welfare, see how she's doing?

A She did not.

Q All right. Now, I want to talk to you a little bit about report-writing and, you know, how that relates to an investigation.

A Okay.

Q All right. You know, when you investigate a case, we prepare police reports, correct?

A Correct.

Q All right. And then you in particular when you--Do you do anything before you prepare your report? Well let me ask it another way.

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, Allie 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 Allie 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 Allie telling you one
20 thing. Allie 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 Allie's 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 Allie. 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 Allie
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 Allie 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 Allie 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, Allie 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 Allie 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 Allie came
16 to talk to you, correct?

17 A Correct.

18 Q All right. And when Allie 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. . .

(At 11:08 a.m., brief off-the-record conference
between counsel)

MS. KOSMATKA: Okay. Okay.

BY MR. GEORGE:

Q All right. And, you know, so basically, you know, we got--
is the defendant competent to stand trial--

A Yes.

Q --and, you know, are they responsible for their actions?

A Yes.

Q All right. And when we asked Judge Wittenberg, do you
recall him indicating that the forensic--

MS. KOSMATKA: Judge, I'm going to object to--

THE COURT: You know, counsel,--

MS. KOSMATKA: --something that a judge said.

THE COURT: --approach the bench, will you?

(From 11:08:25 a.m. to 11:08:49 a.m., off-the-
record bench conference with counsel)

BY MR. GEORGE:

Q All right, Lieutenant Crum, but the--We weren't able to
have a criminal-responsibility exam done, correct?

A My understanding from previous cases and from this case is
you can't misdemeanor cases.

Q All right. But the bottom line is in this case with
Stacey Krahe, we could not do a criminal-responsibility
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 you 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-goose 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 Allie 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,

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A I didn't write that report--
Q --you wrote it--
A --on the 7th.
Q --in the Care House portion. It's not only after you
presented it.
A This report was not written until well after I met with
the prosecutor.
Q This entire report? I mean, they're dated May 8th, July
11th,--
A You can see--
Q --July 14th--
A --at the bottom the day it was submitted.
Q Submitted, but--
A They were written that day.
Q They were--Okay. Now I'm confused. Even though they say
they're written May 8th,--
A Correct. That's just me writing a narrative as the--as
the reports.
Q So you're saying--Now I'm really confused. You're saying
a year later, you went back and thought, What did I
remember from May 7th? I'll type that. What do I remember
from July 11th--
A Yeah, that's not how you write a police report. You open
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: Allie 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 Allie 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?

MS. KOSMATKA: Yes, your Honor.

THE COURT: Call your first witness.

MS. KOSMATKA: May I go get the witness?

THE COURT: Uh-hum.

(From 1:00:50 p.m. to 1:01:29 p.m., pause in proceedings)

MS. KOSMATKA: Your Honor, the defense calls Richard Chudzinski.

THE COURT: Okay.

MS. KOSMATKA: Come up here.

THE COURT: Sir, raise your right hand.

Do you swear or affirm to tell the truth, the whole truth, nothing but the truth?

MR. CHUDZINSKI: Yep.

THE COURT: You may have a seat.

And would you remove that--

THE WITNESS: Yes, sir.

THE COURT: I thought it was a toothpick. I'm sorry.

What is your first and last name for the record?

THE WITNESS: Richard (indiscernible).

THE COURT: Richard what?

THE WITNESS: (Indiscernible)

THE COURT: Spell the last name.

THE WITNESS: C-h-u-d-z-i-n-s-k-i.

STATE OF MICHIGAN

IN THE SUPREME COURT

(ON APPEAL FROM THE MICHIGAN COURT OF APPEALS)

SAMUEL JEROME,

Plaintiff-Appellant,

v

LIEUTENANT MICHAEL CRUM, in his individual
and representative capacity, and the CITY OF
BERKLEY, a municipal entity,

Defendants-Appellees.

SC No. 159093
COA No. 335328
LC No. 15-148401-CZ
(Oakland County Circuit Court)

APPENDIX – VOLUME IV
APPENDIX TO DEFENDANTS-APPELLEES
LIEUTENANT MICHAEL CRUM AND THE CITY OF BERKLEY’S
SUPPLEMENTAL BRIEF ON APPEAL

STATE OF MICHIGAN
IN THE SUPREME COURT

(ON APPEAL FROM THE MICHIGAN COURT OF APPEALS)

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(Oakland County Circuit Court)

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EXHIBIT C

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: 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

EXHIBIT C TO PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

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 by MSC 1/3/2020 1:26:49 PM

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

950

348 4523051 P.003

OAKLAND CTY PROECTING

AUG-21-2013 09:12

000412b

EXHIBIT D

JEROME v. CRUM, ET AL.

DEPUTY CHIEF MICHAEL CRUM

May 18, 2016

Prepared for you by

 **BIENENSTOCK**
NATIONWIDE COURT REPORTING & VIDEO

Bingham Farms/Southfield • Grand Rapids
Ann Arbor • Detroit • Flint • Jackson • Lansing • Mt. Clemens • Saginaw

EXHIBIT D TO PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

DEPUTY CHIEF MICHAEL CRUM

May 18, 2016

Page 1

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SAMUEL JEROME,

Plaintiff,

vs.

Case No. 15-148403-CZ

Hon. Denise Langford Morris

LIEUTENANT MICHAEL CRUM,

in his Individual Representative

Capacity, and THE CITY OF BERKLEY,

a municipal entity,

Defendants.

The Deposition of DEPUTY CHIEF MICHAEL CRUM,
Taken at 150 W. Jefferson Avenue, Suite 800,
Detroit, Michigan,
Commencing at 2:11 p.m.,
Wednesday, May 18, 2016,
Before Sabrina Smith, CSR-2125.

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APPEARANCES:

S. JAY AHMAD

Johnson Law, PLLC

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Detroit, Michigan 48226

313.324.8300

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Appearing on behalf of the Plaintiff.

LAUREL F. McGIFFERT

Plunkett Cooney

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Appearing on behalf of the Defendants.

ALSO PRESENT:

Celeste Kinney

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Detroit, Michigan

Wednesday, May 18, 2016

2:11 p.m.

DEPUTY CHIEF MICHAEL CRUM,

was thereupon called as a witness herein, and after
having first been duly sworn to testify to the truth,
the whole truth and nothing but the truth, was
examined and testified as follows:

EXAMINATION

BY MR. AHMAD:

Q. State your full name for the record?

A. Michael Crum, C-r-u-m.

Q. How should I address you, Lieutenant, Deputy?

A. Mike's fine.

Q. Mike, my name is Jay Ahmad. I represent Mr. Jerome in
this case. I'm going to be asking you a series of
questions this afternoon.

I assume you've been deposed before, is
that correct?

A. I have.

Q. You understand the basic ground rules to a deposition,
but I'll go over them briefly with you. My job is to
ask you questions, your job is to understand and
answer my questions as truthfully and accurately as

EXHIBIT D TO PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

DEPUTY CHIEF MICHAEL CRUM

May 18, 2016

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- 1 you can, do you understand that?
- 2 **A. Yes.**
- 3 **Q. If I ask you a question that you don't understand what**
- 4 **I'm asking you or I confuse you or you don't hear me,**
- 5 **don't answer the question. Let me stop, repeat,**
- 6 **rephrase it until you do understand what I'm asking,**
- 7 **is that okay?**
- 8 **A. Yes, sir.**
- 9 **Q. Where are you currently working?**
- 10 **A. I work for the City of Berkeley in the Public Safety**
- 11 **Department.**
- 12 **Q. And what'd you do for them?**
- 13 **A. I'm the deputy chief.**
- 14 **Q. And what does that mean?**
- 15 **A. I guess I'm second in charge of the City right now**
- 16 **just under the director, and I'm in charge of the**
- 17 **administration of the department.**
- 18 **Q. So what do your job duties involve specifically?**
- 19 **A. The budget, purchasing, scheduling, promotions for**
- 20 **individuals, just the admin part of it.**
- 21 **Q. So are your duties exclusively administrative at this**
- 22 **point?**
- 23 **A. No.**
- 24 **Q. You have some law enforcement responsibilities?**
- 25 **A. Yes.**

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- 1 **Q. Tell me about those.**
- 2 **A. I have very little that I actually go on the road**
- 3 **anymore, but there are times where I will go out in**
- 4 **the capacity in a uniform and provide the, whatever we**
- 5 **need at that time.**
- 6 **Q. Why would you do that?**
- 7 **A. If we're short. This weekend we had what's called**
- 8 **Berkeley Days and we were short for a few hours, so I**
- 9 **went out in uniform and covered a few hours of it for**
- 10 **our department.**
- 11 **Q. Other than that, other than being short, you don't**
- 12 **have any regularly-scheduled shifts where you work as**
- 13 **a law enforcement officer?**
- 14 **A. I guess I'm always a law enforcement officer.**
- 15 **Q. Right.**
- 16 **A. If you're patrol?**
- 17 **Q. Yes.**
- 18 **A. No, I do not.**
- 19 **Q. When did you become deputy chief?**
- 20 **A. October 5th of 2015.**
- 21 **Q. And before that, what was your position?**
- 22 **A. Lieutenant.**
- 23 **Q. And how long were you a lieutenant?**
- 24 **A. 27 months.**
- 25 **Q. And what were your responsibilities during those 27**

Page 7

- 1 months as a lieutenant?
- 2 **A. I was the, in charge of the Detective Bureau and**
- 3 **scheduling at that time.**
- 4 **Q. So what does that mean, being in charge of the**
- 5 **Detective Bureau?**
- 6 **A. I assign the cases to the various detectives, and then**
- 7 **if there's a question about a case, they bring it to**
- 8 **me and we discuss it.**
- 9 **Q. How many detectives were there during the 27 months,**
- 10 **and if it fluctuated, you can tell me that.**
- 11 **A. We have two full-time detectives that work in the**
- 12 **Detective Bureau, and then depending on kind of our**
- 13 **case load, that could go up to four, not counting me.**
- 14 **Q. So do you add detectives from other parts of the**
- 15 **department?**
- 16 **A. From patrol.**
- 17 **Q. What's the difference between being a detective and**
- 18 **just a regular patrol officer?**
- 19 **A. The schedule's better, you work Monday to Friday but**
- 20 **you don't wear uniform, you're not answering calls,**
- 21 **you're not responsible for fire suppression, the**
- 22 **things that we do in the patrol side of things.**
- 23 **Q. Are you assigned different types of cases?**
- 24 **A. I'm sorry?**
- 25 **Q. If you're a detective, do you work up cases different**

Page 8

- 1 than what a patrol officer does?
- 2 **A. Patrol takes the initial report and turns it over to**
- 3 **the detectives on any felony and any misdemeanor that**
- 4 **we investigate.**
- 5 **Q. And then the detective investigates it and works it up**
- 6 **until it's decided to present to the prosecutor or**
- 7 **just not to pursue it, correct?**
- 8 **A. Correct.**
- 9 **Q. What's your date of birth, please?**
- 10 **A. 8-24-1975.**
- 11 **Q. And you graduated from high school?**
- 12 **A. I did.**
- 13 **Q. From where?**
- 14 **A. Warren Woods Tower.**
- 15 **Q. What year?**
- 16 **A. 1993.**
- 17 **Q. After graduating from high school, did you continue**
- 18 **your educational pursuits?**
- 19 **A. I did.**
- 20 **Q. Where at?**
- 21 **A. Initially at Oakland Community College.**
- 22 **Q. Did you obtain a degree or certificate from Oakland**
- 23 **Community College?**
- 24 **A. Associate's degree in criminal justice, I believe '97.**
- 25 **Q. Were you working at all during that time?**

May 18, 2016

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- 1 A. Since high school, yes.
- 2 Q. Okay. Where were you working during the time you were
- 3 at OCC?
- 4 A. A lot of minimum wage jobs.
- 5 Q. Such as? Tell me the ones you can remember.
- 6 A. I can remember Blimpie Subs, I can remember Papa
- 7 Joe's, Quality Die Sats. I was a roofer, and I think
- 8 it was called Adler Roofing, Adler, A-d-i-e-r. That's
- 9 really all I can recall right now.
- 10 Q. So were you going to OCC part time then?
- 11 A. Yes.
- 12 Q. And then after obtaining your Associate's in criminal
- 13 justice, did you continue your educational pursuits?
- 14 A. Police academy in '97, and I was hired by the Wayne
- 15 County Sheriff Department at the end of the police
- 16 academy.
- 17 Q. How long did you work at the Wayne County Sheriff's
- 18 Department?
- 19 A. Eight months, from January to August of '98.
- 20 Q. And what was your position during those eight months?
- 21 A. Sheriff deputy.
- 22 Q. And then where'd you go?
- 23 A. City of Berkeley.
- 24 Q. Why'd you leave Wayne County?
- 25 A. I don't recall at this time. Pension maybe. I don't

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- 1 really recall.
- 2 Q. Were you terminated?
- 3 A. No, no.
- 4 Q. You left voluntarily?
- 5 A. I did.
- 6 Q. Something to do with the benefits package?
- 7 A. Something, yes. It was a little better in Berkeley.
- 8 Q. How'd you get the job in Berkeley?
- 9 A. Just applied and went through the whole process,
- 10 interview, background, and they offered me the job.
- 11 Q. And what year was that?
- 12 A. I started August 3rd of 1998 in the City of Berkeley.
- 13 Q. And your position at the time you were hired was?
- 14 A. Public safety officer.
- 15 Q. What were your duties then?
- 16 A. Law enforcement and fire suppression.
- 17 Q. So what would a typical shift be like for you as a
- 18 public safety officer?
- 19 A. At that time we worked eight-hour shifts, so most of
- 20 the time I worked 11:00 p.m. to 7:00 a.m. midnight
- 21 shift and I would just respond to calls on dispatch,
- 22 things on patrol, and if we had a fire I would respond
- 23 to the fire.
- 24 Q. Did you have a partner that you worked with?
- 25 A. No. Single-man car.

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- 1 Q. Did you have to undergo any additional training before
- 2 you were hired into the City of Berkeley Department?
- 3 A. I did have to go to fire academy in 1998. I don't
- 4 remember when I started. It was in August, and then
- 5 we had FTO, which is 15 weeks, which is field training
- 6 officer, so you ride around with another officer for
- 7 15 weeks. And then there's a lot of training they put
- 8 you through, medical first responder, radar training,
- 9 data master, a lot of that initial training when you
- 10 first get hired as a police officer.
- 11 Q. Did any of that training include training on how to
- 12 interview suspects or individuals or witnesses?
- 13 A. In the first year I was there?
- 14 Q. Yes.
- 15 A. Not that I recall. Maybe in the academy there may
- 16 have been some, but I don't recall a specific class.
- 17 Q. Since then have you taken any classes or courses on
- 18 the skills required to interview witnesses or
- 19 suspects?
- 20 A. I have a week in the basic detective school, one day
- 21 was set aside for interrogation interviews. When I
- 22 went to evidence tech school, there was a portion for
- 23 interviews. I had one-day school through Oakland
- 24 Community College, and then I had a five-day interview
- 25 interrogation through Wicklander just before I became

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- 1 a detective, or as I was a detective.
- 2 Q. Was that part of the requirement to become a
- 3 detective?
- 4 A. No.
- 5 Q. What year did you become a detective?
- 6 A. 19 -- no, 2008. 2008 I believe.
- 7 Q. So you would have been a patrol officer for about
- 8 ten years before becoming a detective?
- 9 A. Yes.
- 10 Q. And then you've been a detective or associated with
- 11 the Detective Bureau up until the point you were
- 12 appointed or made deputy chief?
- 13 A. Correct.
- 14 Q. You said you had a five-day interview course at
- 15 Wicklander?
- 16 A. That's the name of the, I guess the company that puts
- 17 it on, Wicklander-Zulawski or something. I'm not
- 18 sure.
- 19 Q. Any other courses or training you've had in witness
- 20 interrogation or witness interviews?
- 21 A. Not that I recall at this time.
- 22 Q. Did any of these courses or classes that you took
- 23 involve the interrogation of minors who were alleging
- 24 sexual abuse?
- 25 A. Not that I recall.

EXHIBIT D TO PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION
 DEPUTY CHIEF MICHAEL CRUM
 May 18, 2016

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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 3:24 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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3 techniques, have you?
 4 **A. I think I've answered that, but, correct.**
 5 **Q. What is your interview technique when you are**
 6 **interviewing children who are claiming to have been**
 7 **sexually abused, what is your style? How is it that**
 8 **you get the information that you think you need?**
 9 **MS. MCGIFFERT: Well, that's -- objection,**
 10 **compound question. Just give him one question.**
 11 **BY MR. AHMAD:**
 12 **Q. What is your technique?**
 13 **A. My technique to?**
 14 **Q. Interviewing children who are claiming sexual abuse?**
 15 **A. Interviewing children at what point?**
 16 **Q. The initial interview.**
 17 **A. The initial interview. Generally that disclosure is**
 18 **made by another individual. We interview that person**
 19 **first and ask the kids what happened.**
 20 **Q. Is that the question, "What happened?"**
 21 **A. I can't, there's absolutely no way I could answer**
 22 **that.**
 23 **Q. Why can't you answer that?**
 24 **A. Because I've done over 30 of them, and to recall all**
 25 **30, I couldn't do that.**
 26 **Q. I'm sorry, did you say you've done over 30?**
 27 **A. I'm sorry, I've done under 30.**

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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 **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.**

1. **A. Yes.**

2. **Q.** Before Allie 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 Allie 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 Allie was home alone, and dealt with
- 9 Stacey and Allie on that one.
- 10 Q. Help me understand more about what that involved. You
- 11 said a dog rescue and Stacey and Allie were home
- 12 alone?
- 13 A. Allie 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 Alyse or Allie 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 Berkeley 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 Berkeley 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 Berkeley
- 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 Berkeley 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 Berkeley 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 Berkeley 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 "Dam, 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 Allie 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 **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 **girl?**
- 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 **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 13-8252, 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 Allie 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 **Allie to the Berkeley police station?**
- 23 **A. That's my understanding, yes.**
- 24 **Q. Did you have an understanding as to why Allie's**
- 25 **grandmother was bringing her as opposed to her mother?**

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- 1 **A. Put in my report, it says that Allie, I'm sorry,**
- 2 **Stacey wanted to confront Sam at their home.**
- 3 **Q. Okay. But how does that prevent Stacey from bringing**
- 4 **Allie 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 **Allie because she wanted to confront Sam while her**
- 8 **mother brought Allie to the police station?**
- 9 **A. That's my understanding, yes.**
- 10 **Q. And you interviewed Alyxis or Allie 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 9:53
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 Allie were made when?
7 A. What are you referring to?
8 Q. The notes that you made regarding your interview with
9 Allie.
10 A. What notes are you referring to?
11 Q. Where it says "I spoke to Alyxis Allie, 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 Allie Krahe, correct?
22 A. On this interview?
23 Q. Yes, sir. I'm talking about the first time you saw
24 Allie on May 7, 2013, you interviewed her, did you
25 not?

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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 Allie 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. When 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 Allie Krahe?

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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 Allie 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 Allie 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 Allie 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 Q. Those were made on May 8, 2013?
2 A. Yes.
3 Q. Other than you and Sergeant Miller and Allie, 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 Allie 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 Allie 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 Q. You recorded Allie 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, Allie 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 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 Allie 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 Allie 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 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 Berkeley 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 Berkeley 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 Allie,
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 Allie?

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 Allie 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 Allie
 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 Allie walking in
 24 the room that there was a recording being made, what
 25 would you have done?

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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 Berkeley Police Department
 5 practices?
 6 A. Correct.
 7 Q. During the time that you interviewed Allie 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 Allie, 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 Allie, correct?
 18 Q. Yes.
 19 A. Yes, he was.
 20 Q. And according to your report, Allie 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 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 Allie requested Sam to stop but he continued
 8 rubbing her vagina, correct?
 9 A. Yes.
 10 Q. Allie 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 Allie 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 away at a conference for her work and Sam was alone
 2 with Allie during this time, correct?
 3 A. Yes.
 4 Q. And Allie 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. Allie told you that Sam sat next to her again and
 11 began rubbing her stomach on this day, correct?
 12 A. Correct.
 13 Q. Allie 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. Allie 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 Allie described his fingers as inserted
 22 between her, quote unquote, lips, correct?
 23 A. Correct.
 24 Q. Allie 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 Allie 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 Allie 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 Allie 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 Allie 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. 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 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. McGUIFFERT: 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 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 crime 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 18, 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 Allie 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 Krahn, she
22 agreed to transport Allie 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 Allie to the interview. Stacey advised
9 that she had allowed Sam to move back into the
10 residence. Allie was staying with her grandmother
11 until after the polygraph. Stacey also advised she
12 did not believe Allie anymore concerning the assault.
13 Stacey advised she believed Allie 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 A. I don't know.
2 Q. Did you ask to speak with Allie 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 Allie to CARE House for the interview?
25 A. She did.

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- 1 Q. Did Stacey have to bring Allie 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 Allie, correct?
11 A. She did.
12 Q. And again, she said that she did not believe Allie 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 Allie 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 Allie is a very intelligent 13 year

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- 1 old?
2 A. At this point in the investigation, I didn't know
3 Allie well enough to make that determination.
4 Q. Do you now think she's a very intelligent young lady?
5 A. Allie's -- 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, in your knowledge, does Allie 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 Allie 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, Allie's story changed by your own words,
 21 correct?
 22 A. Correct.
 23 Q. Allie 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 Q. You indicate in your report that Allie 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. Allie indicated that, in the CARE House interview,

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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 15 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 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.

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1 Q: And you noted that "Stacey immediately asked if I
2 still believed Allie?"
3 A. **Correct.**
4 Q: And you said "I simply advised that I did?"
5 A. **Correct.**
6 Q: Correct? So you believed what Allie 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 Allie, correct?
10 A. **Correct.**
11 Q: And you said "I did," as in I do believe Allie,
12 correct?
13 A. **That I do believe Allie, yes.**
14 Q: All right. And you had just watched Allie 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

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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 Allie 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?

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1 believed Allie, "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 Allie?
6 A. **Correct.**
7 Q: After you had just watched Allie 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 Allie?
12 A. **I said that to Stacey, yes.**
13 Q: Doesn't that mean that you believed what Allie 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 Allie 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 Allie or you didn't
23 believe Allie?
24 A. **Correct.**
25 MS. McGIFFERT: I'll place an objection.

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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 Allie 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 Allie 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 Allie had

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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 (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 Allie 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 Allie -- just to
 25 reiterate your question. After the CARE House, you're

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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 **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 Allie's 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 Allie 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 Allie, 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 Allie 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 Allie again on July 11, 2013?
 19 A. I did.
 20 Q. How was it that you were able to meet with Allie 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 Allie 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 Allie 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 Allie 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 Allie, 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 Allie and
 6 reinterview her after that?
 7 A. I did.
 8 Q. And it was Allie's grandmother, Judy Siltner, again,
 9 who brought Allie 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 Allie 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 Allie 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 Allie 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 Allie."
 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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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 Allie 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 Allie, I
16 told her that's not true. I didn't want Allie 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 Allie.

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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 Alyxie
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

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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

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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.

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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. 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 Stinner 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 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 Stinner 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 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 Allie 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 Allie 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 come 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, Allie
 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 Allie was when she
 19 recounted 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 Q. Well, you found out what happened when Allie was at
 2 CARE House and gave the forensic interview?
 3 A. No, I didn't. I found out what Allie 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 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 Allie 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. Badgering a witness until they give you what you want?
 2 MS. McGIFERT: Don't answer that question.
 3 BY MR. AHMAD:
 4 Q. Is that what your practice is?
 5 MS. McGIFERT: Don't answer that question.
 6 I object.
 7 MR. AHMAD: What is objectionable about the
 8 question?
 9 MS. McGIFERT: 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. McGIFERT: 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 Allie 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 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 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 Allie again, and let's say Allie 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 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 Allie
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 Allie 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 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 Allie's 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 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 Allie's 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 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. "Allie 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 Allie?
 5 A. Correct.
 6 Q. Which would carry more legal weight, the grandmother
 7 telling you it was okay to talk to Allie 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 Allie?
 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 Allie."
 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 knew 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 Allie 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 Allie 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 Allie, 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 "Allie 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, Allie 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 Allie lied about that?

23 A. No, I wouldn't say that Allie lied about that. Allie

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 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 Allie Eraser. 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 remember him rubbing her stomach but did not feel it

2 was inappropriate. Sabrina recalled Sam taking her

3 out for special shopping spree, 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 Allie 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 Allie 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 Allie 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 Allie is seeing

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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 Allie's 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 Allie 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, Allie was

15 missing or what happened?

16 A. Judy reported Allie 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 Allie 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 Allie about the
17 messages after," so if those weren't important to this
18 investigation, why were you immediately talking to
19 Allie 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 Allie was smoking pot or doing
15 some illegal drugs. Allie 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 Allie 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. Allie.
20 Q. So you took Allie's 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 Allie's 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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4 You did ask him a question.
5 THE WITNESS: You asked me a question and I
6 didn't finish.
7 BY MR. AHMAD:
8 Q. But you gave me an answer that I need to ask you
9 about.
10 MS. McGIFFERT: When he finishes his
11 answer, you can delve into that.
12 THE WITNESS: I'm sorry, what was the
13 question again?
14 BY MR. AHMAD:
15 Q. The question was how had Stacey interfered with the
16 investigation.
17 A. So from the beginning, after CARE House, would not
18 allow me to talk to her, would not allow me to come to
19 the house to even talk to anyone, going to Georgia
20 when I asked her to come in and we could all have an
21 interview about it, she could be there, we could all
22 talk about it. Her response to me was she was leaving
23 Michigan where I could no longer, or I didn't have
24 jurisdiction or I could no longer, you know, get to
25 them. At that point, that would be all she had done
that I can recall.
Q. She had this incident reported to you initially?
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 Allie 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 Allie come to the station and talk to
2 you initially?
3 A. She did.
4 Q. And then she brought Allie 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 Allie 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 Allie, 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 Alexis 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 Allie into changing her story at CARE House?
 5 A. She did not tell me that.
 6 Q. Did Stacey say that she had assaulted Allie 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 Allie
 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 Allie 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 Allie 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 Allie 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 Allie 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 Allie's 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 Allie 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 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 Allie 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 Allie again." That was your decision to
 10 continue to pursue this case against my client after
 11 Allie had recanted.
 12 MS. McGIFFERT: Is that a question?
 13 MR. AHMAD: Yes.
 14 THE WITNESS: Initially, I was trying to
 15 confirm what Allie 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 Allie 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 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 Allie 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 Allie 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 Allie 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 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 Allie
 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 Allie, 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 Allie 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. 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 Allie 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 Allie 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. 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. 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 Allie 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 synopsise 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 Allie Krahe, his 13 year old stepdaughter, correct?
- 8 A. Correct.
- 9 Q. And did engage in sexual contact with Allie by rubbing
10 her vagina?
- 11 A. Correct.
- 12 Q. And you base that conclusion, or you came to that
13 conclusion after Allie 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 Allie
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 Allie 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 Allie 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 Allie 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 filler 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 Allie 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 Allie, 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 Allie.
- 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 Allie 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 Allie. 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 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 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 Allie 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 Allie during an interview that "No
- 24 one was questioning whether or not you were telling
- 25 the truth"?

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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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1 A. Yes.

2 Q. Do you think telling an alleged abuse victim that "No

3 one is questioning you" is objective and neutral?

4 A. I think that when you ask somebody two and three and

5 four and five times, they start to feel like you're

6 calling them a liar, they start to feel like you don't

7 believe them. And the objective of this particular

8 interview on August 21st was to get the further that

9 the prosecutor wanted. I was trying to let them know,

10 let Allie know that "My objective today is not to ask

11 you about the incident and the touching again. My

12 objective is to get these questions answered that the

13 prosecutor wants answered." If I said anything along

14 those lines, my reasoning for saying that was I didn't

15 want a 13 year old girl to think "He's asking me for

16 the fourth time or fifth time, that he obviously

17 doesn't believe me."

18 Q. But you did ask her?

19 A. And that's what my concern was.

20 Q. But you did ask her to repeat the stories, didn't you?

21 A. I don't know -- I know I asked her the questions the

22 prosecutor wanted answered, but I don't know what I

23 asked her otherwise.

24 Q. You asked her on August 21st, 2013 to repeat exactly

25 what happened in the two incidents. Why did you do

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1 jury they don't know who those individuals are,

2 they're embarrassed, and it's hard enough. And I knew

3 what the future held and I knew it was going to be

4 difficult and I was concerned for her.

5 Q. You assumed what she was telling you was true?

6 A. At that point in the investigation, I assumed what she

7 was telling me was true.

8 Q. You disregarded what all the other evidence was and

9 what all the other witnesses said that would make that

10 not true and simply believed Allie?

11 A. I didn't disregard anything. No one provided much

12 information on the other side. The only one that

13 provided anything was Allie herself on one side and

14 then back on the other, but all requests to talk to

15 Mr. Jerome or to Stacey Kraus were denied.

16 Q. Mr. Jerome came in and voluntarily spoke to you?

17 A. Yes, he did.

18 Q. Told you "I never touched her inappropriately"?

19 A. He did say that.

20 Q. Stacey told you "You're being played"?

21 A. She said that, yes.

22 Q. Allie recanted her allegations at the CARE House?

23 A. She did.

24 Q. And still through all this you wanted to believe Allie

25 and pursue these charges?

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1 that?

2 A. I do not know. I really don't know why I would ask

3 that on that day.

4 Q. Do you remember telling Allie during the interview on

5 August 21st, 2013 is that "One of the reasons we're

6 doing this is to try and overcome the, quote unquote,

7 legal crap that the defense attorney is trying to

8 pull?"

9 A. I do recall something about the defense attorney, yes.

10 Q. Why would you tell someone, when you're supposed to be

11 objective and neutral, that "We're here to try and

12 overcome the legal crap the defense attorney is going

13 to try to pull," is that being objective and neutral?

14 A. That's me trying to calm down a 13 year old girl

15 knowing that this process is just going to be horrible

16 on her and knowing from the beginning what they're

17 going to do to her, I was concerned for her to go

18 through this.

19 Q. Knowing what they were going to do to her? Knowing

20 what who was going to do to her?

21 A. In court, having to tell your story in open court in

22 front of strangers, people that you don't know.

23 That's the hardest thing. Everything I've read says

24 that's the hardest thing for a young lady to do,

25 especially a minor, to get up in front of a judge and

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1 A. That's not true.

2 Q. What's not true about what I just said?

3 A. July 11th, when she came in, that changed the

4 investigation.

5 Q. Did Allie change her story on August 21, 2013?

6 A. Not that I recall.

7 Q. You don't recall any differences in her story on

8 August 21, 2013, and the story that she had told you

9 on July 11th or on May 7th?

10 A. I don't recall.

11 Q. Well, isn't it a fact, sir, that you believed that

12 Allie had told you exactly what she had told you on

13 May 7th? In fact, don't you state that in your report

14 under Sexual Assault concerning the August 21st

15 interview, and you say "I asked Allie to start from

16 the beginning and tell me everything that had

17 happened"?

18 A. That's what I have in here, yes.

19 Q. So we don't even need to look at the video to know

20 that you did that, right?

21 A. That's what it says, yes.

22 Q. So earlier when you told me "I have no idea why I

23 would ask her to repeat the story," you know you did

24 do it, didn't you?

25 A. I'm reading it right now that I asked her to tell me

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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 "Allie 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 Allie 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 Allie 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 Allie 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 Allie 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 Allie 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. Allie 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, Allie 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.**

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, Allie 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**

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 Allie 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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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 Allie's 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 know before that
14 interview, that Sharon 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?

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1 A. There would be no reason for me to write in my report
2 to Sharon Lynch the conversation that Sharon Lynch
3 and I had.
4 Q. And you didn't indicate that to Allie during the
5 interview?
6 A. I don't believe I did. I'm not sure what I indicated
7 to Allie.
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?

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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 Allie,
23 correct?
24 A. Correct.
25 Q. And that was not true?

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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 Allie, 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 Allie?
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.

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A. Do you have that here?

Q. I've got it on my computer, but let's assume that you testified to that, that you didn't videotape, you didn't record any of these conversations. When you testified to that at the criminal trial, that would not have been true because we know that you did record it?

A. Again, I'm not going to assume what the question was, and if I answered the question at that time, I answered to what I thought to be true at that moment.

Q. Well, do you remember in the criminal trial where you testified, and then the next day you came back and said, well, the prosecutor said to the judge, "Judge, I need to make a statement. Mr. Crum has just presented me with a video of some interview recordings that we were not aware of." Do you remember that happening?

A. I remember that, I remember that day, yes.

Q. How is it that you found those recordings?

A. I didn't find them.

Q. Who did?

A. Sergeant Hatfield.

Q. What made Sergeant Hatfield look for them?

A. When I was looking at my file, there's a missing, there's a missing piece to what I fill out. When I

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saw that, I asked Sergeant Hatfield to look and see why I don't have that. He found that the day of, the day we turned it in, he found that, and we turned it in the next day.

Q. And how was it that you were not aware of that when you testified in the criminal trial?

A. Because I had asked two different people to produce the videos of this case. They gave me the videos that I turned over and I presented. When there was, when there was -- something in that file made me wonder why we don't have that filled out. The third person I asked to look found it.

Q. So were you aware of this missing piece before you testified at trial?

A. No.

Q. It was after you testified?

A. Yes.

Q. Why would you not have reviewed your file before you testified?

A. I did. I reviewed that file many times before.

Q. And you just missed it?

A. This was a piece that was in my handwritten notes I take. There's a form we made and we fill out and we hand write it in. You have a copy of it. It came through in this. Something was abnormal to what I do

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on every case.

Q. And then the video was produced?

A. Yes.

Q. And you watched it at the courthouse?

A. We did.

Q. And then the judge did what after the video?

A. Declared a mistrial, if I recall.

Q. Do you remember why?

A. No.

Q. And then the prosecutor, after the mistrial, decided to drop all the charges against Mr. Jerome?

A. Correct.

Q. Why?

A. You'd have to ask Mr. George. I know I had conversations with Mr. George and Mr. Walton from the Oakland County prosecutor.

Q. And what'd they tell you?

A. They told me that the credibility of the witness was shot, no good.

Q. Based on the video?

A. No, based on her testimony. Based on -- I don't want to guess.

Q. Well, don't guess. I just want to know what they told you.

A. It's something that happened in the trial from her

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testimony.

Q. Well, then why didn't they drop the charges during the trial?

A. You have to ask Mr. George.

Q. The charges were only dropped after everyone saw the video?

A. After the mistrial, correct.

Q. And everyone would have been able to see the inconsistencies between Alie's version on August 21 and her versions in your report on May 7th?

A. Mr. George at no time indicated that then, nor has he now, indicated that that was the issue.

Q. Right, but I'm correct in what I said? After viewing the inconsistencies between her story on August 21 and May 7th, the prosecutor decided not to pursue the claim?

A. No. That's not accurate. You're feeding your own words into it. When the video -- before the video was even seen, the defense attorney asked for a mistrial because of the evidence and that was granted by Judge Nichols. We did watch the video first, but nothing you just said was ever mentioned when they declared the mistrial. And in the meetings with Mr. Walton and Mr. George, the video itself never was discussed. It was the testimony and the uncooperative witness or

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1 uncooperative victim.
 2 Q. Do you still think Allie 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 Allie?
 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 Allie 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 Allie 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 Allie, Sabrina and the grandmother,
 18 Judith Stillner.
 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

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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 --

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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

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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

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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

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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 Allie's**

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, Allie 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 **Allie?**

18 **A. She did.**

19 **Q. On that date, did Allie 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 Allie reaffirm what she had told**

24 **you on May 7th, 2013 about the inappropriate touching?**

25 **A. Yes.**

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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 **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 Allie, 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 18 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 Allie, as Allie**

24 **said, in terms of threatening to kill herself if Sam**

25 **went to jail, threatening that Allie would be sexually**

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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 Allie
 21 Krahe?
 22 **A. Just Allie.**
 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(8), 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 Allie 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 Allie 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 Allie while she was on the stand?
 17 **A. He was.**
 18 Q. If, in fact, on July 11, 2013 when Allie 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, Allie 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 -- Allie 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 Allie was there or he**
24 **interviewed Allie.**
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 Allie 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 Allie 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 Allie 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 Allie's 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 Allie?
 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 said 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 Allie 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 Allie 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. 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 Allie 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 Allie's 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 Allie
25 told you. They couldn't look for themselves and see?

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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 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 Allie?

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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 Allie 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 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 Allie, 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 Allie
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 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 technically 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 6:56 p.m.)
24 (Back on the record at 6:58 p.m.)
25 MS. McGIFFERT: So we've agreed that

EXHIBIT D TO PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

DEPUTY CHIEF MICHAEL CROM

May 18, 2016

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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 hereinafter 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
23
24
25



SABRINA SMITH, CSR 2129
Notary Public,
Oakland County, Michigan,
My Commission expires: August 16, 2018

EXHIBIT F

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

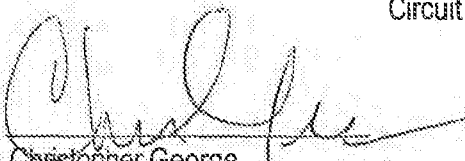
vs.

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 JudgeRecommended
and Drafted by:
Christopher George
Assistant Prosecuting AttorneyMarsha M. Kosmatka
261 E. Maple Rd.,
Birmingham, MI 48009

A TRUE COPY

LISA BROWN
Oakland County Clerk - Register of Deeds
By  Deputy

EXHIBIT F

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:

For the People:

CHRISTOPHER R. GEORGE (P65963)
Assistant Prosecuting Attorney
For Oakland County
1200 North Telegraph Road
Pontiac, MI 48341
(248) 858-0656

For the Defendant:

MARSHA M. KOSMATKA (P57001)
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(248) 895-8225

Transcript Provided by:

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Transcribed by:

Susan G. Johnson, CER 3511

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EXHIBITS

None offered.

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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 Allie 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 Allie. 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 Allie 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 Allie 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, Allie
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 Allie. 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 MJI--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 Allie, 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

STATE OF MICHIGAN

IN THE SUPREME COURT

(ON APPEAL FROM THE MICHIGAN COURT OF APPEALS)

SAMUEL JEROME,

Plaintiff-Appellant,

v

LIEUTENANT MICHAEL CRUM, in his individual
and representative capacity, and the CITY OF
BERKLEY, a municipal entity,

Defendants-Appellees.

SC No. 159093
COA No. 335328
LC No. 15-148401-CZ
(Oakland County Circuit Court)

APPENDIX – VOLUME V
APPENDIX TO DEFENDANTS-APPELLEES
LIEUTENANT MICHAEL CRUM AND THE CITY OF BERKLEY’S
SUPPLEMENTAL BRIEF ON APPEAL

STATE OF MICHIGAN
IN THE SUPREME COURT

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SAMUEL JEROME,

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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) Allie's 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, Allie's testimony at the 10/9/13 preliminary exam ("probable cause hearing") was consistent with what Plaintiff claims Allie 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 Allie to challenge probable cause. Thus, for numerous specific reasons set forth below, Plaintiff's claim that Crum's August 21st report of Allie's 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 Allie 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 Allie about any such alleged inconsistency -- but did not do so.
- May 7th – Crum reported (1st incident) that Allie 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 Allie --- 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, Allie 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, Allie 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 Allie's 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, Allie testified (2nd incident) that Plaintiff "sat on my legs" (**Exhibit D**, pp 18, 39-40, 43) like Plaintiff says Allie 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, Allie 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 Allie 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 Allie 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 Allie's 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 Allie's 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 Allie's 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 Allie. 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 Allie's 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 (Allie's custodian/grandmother and Allie's mother/Stacey's guardian)⁶ to interview Allie on July 11th, considered all the facts in his probable cause assessment, did not consider differences in Allie's 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 Allie, and both were denied by the court. [See Plaintiff's Exhibit A, pp 059 and 063].

Respectfully submitted,

PLUNKETT COONEY

By: /s/Laurel F. McGiffert
LAUREL F. MCGIFFERT (P31667)
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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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EXHIBIT I TO DEFENDANTS' REPLY BRIEF IN SUPPORT OF THEIR MOTION FOR SUMMARY DISPOSITION

EXHIBIT I

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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SAMUEL JEROME,

Plaintiff,

**Case No.
Hon.**

v

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

Defendants.

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COMPLAINT AND JURY DEMAND

There is no other pending civil action arising out
of the transaction or occurrence alleged in this Complaint.

/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 \$75,000.00, exclusive of costs, interest and attorney fees, and jurisdiction is otherwise conferred on this Court pursuant to the United States Constitution as well as 42 U.S.C § 1983.
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 it's 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 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:

Federal Claim-False Arrest and False Imprisonment-Defendants Crum and Berkley

31. Samuel reasserts and realleges each and every allegation contained in paragraphs 1-30 as if fully set forth therein.
32. Pursuant to 42 U.S.C. §1983, as well as the 4th, 8th and/or 14th Amendments to the United States Constitution, individuals are protected from detention without legal process.
33. In order to arrest and imprison Samuel, Crum and/or Berkley knowingly and deliberately, or with reckless disregard for the truth, made false statements or omissions that created a falsehood:
- a. Crum and/or Berkley failed to produce and/or consider exculpatory evidence including the interview of Allie at Care House and the videotaped interviews of Allie, Sabrina and Judith conducted by Crum at the Berkley Police Department on August 21, 2013;
 - b. Conducted improper and impermissible videotaped interviews of juveniles including Allie and her sister Sabrina in violation of the Forensic Interviewing Protocols as well as the policies and procedures of the Berkley Police Department; and

c. All other ways learned in the course of discovery.

34. Such statements or omissions were material to findings of probable cause because without those statements or omissions, there would be insufficient evidence to establish probable cause to arrest and detain Samuel because the evidence was exculpatory and proved that Samuel was absolutely not the perpetrator of this alleged crime.
35. The protection from detention without legal process is a clearly established constitutional right of which a reasonable person and /or officer would have known, hence Crum and/or Berkley's actions are objectively unreasonable in light of this clearly established constitutional right.
36. As a direct and proximate result of the above misconduct by Crum and Berkley, Samuel suffered and will continue to suffer, damages in the future, including but not limited to:
- a. Physical Pain and suffering;
 - b. Mental anguish;
 - c. Fright and shock;
 - d. Denial of social pleasures and enjoyments;
 - e. Embarrassment, humiliation or mortification;
 - f. Lost wages and/or earning capacity;
 - g. The legal expense incurred by Samuel in the defense of this frivolous case; and
 - h. 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/or Berkley in an amount in excess of \$75,000.00 and award costs, interest, punitive damages and attorney fees so wrongfully incurred.

Count II:

Federal Claim- Malicious Prosecution-Defendants Crum and Berkley

37. Samuel reasserts and realleges each and every allegation contained in paragraphs 1-36 as if fully set forth herein.

38. Pursuant to 42 U.S.C. § 1983, as well as the 4th, 8th and/or 14th Amendments to the United States Constitution, individuals are protected from criminal prosecution without probable cause.
39. A criminal prosecution was initiated against Samuel, and Crum and/or Berkley made, influenced or participated in the decision to prosecute because Crum and/or Berkley stated a deliberate falsehood or showed reckless disregard for the truth by failing to produce the improper and impermissible videotaped interviews of the minors including Allie and her sister Sabrina as well as completely disregarding the exculpatory evidence contained in the Care House interview.
40. The above false or omitted information was material to the court's finding of probable cause.
41. There was a lack of probable cause for the criminal prosecution because there existed exculpatory evidence that showed that Samuel was not the perpetrator.
42. Samuel suffered a deprivation of liberty as a consequence of the legal proceeding by being incarcerated for eleven months.
43. Samuel's criminal proceeding was resolved in Samuel's favor, when it was dismissed with prejudice and an Order of Nolle Prosequi was entered upon the discovery of the exculpatory evidence withheld by Crum and/or Berkley.
44. The protection from criminal prosecution without probable cause is a clearly established constitutional right of which a reasonable person would have known. Crum and/or Berkley's action are objectively unreasonable in light of this clearly established constitutional right.
45. As a direct and proximate result of the above misconduct by Crum and Berkley Samuel suffered, and will continue to suffer, damages in the future, including but not limited to:
- a. Physical pain and suffering;
 - b. Mental anguish;
 - c. Fright and shock;
 - d. Denial of social pleasure and enjoyments;

- e. Embarrassment, humiliation or mortification;
- f. Lost wages and/or earning capacity;
- g. The legal expense incurred by Samuel in the defense of this frivolous case; and
- h. 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/or Berkley in an amount in excess of \$75,000.00 and award costs, interest, punitive damages and attorney fees so wrongfully incurred.

Count III:

Federal Claim-Denial of Due Process-Defendants Crum and Berkley

- 46. Samuel reasserts and realleges each and every allegation contained in paragraphs 1 through 45 as if fully set forth herein.
- 47. At all relevant times herein, Samuel had a right under the due process clause of the state and federal constitution not to be deprived of his life, liberty or property.
- 48. At all times relevant to this lawsuit, Crum was a state actor and his conduct was subject to 42 U.S.C § 1983, 1985 and 1988.
- 49. Crum's acts of withholding exculpatory evidence and conducting improper and impermissible videotaped interviews of minors which violate the Forensic Interviewing Protocol violates a fundamental principle of liberty and justice which inheres in the very idea of a free government, and is the inalienable right of a citizen of such government.
- 50. The right to receive exculpatory evidence is of the very essence of a scheme of ordered liberty.
- 51. The absence of this right in Samuels trial was declared by the trial judge such that a dismissal with prejudice and an Order of Nolle Prosequi was granted by the trial judge for violating Samuels constitutional rights.
- 52. Crum and/or Berkley's actions were the proximate cause of Samuel's failure to receive exculpatory evidence in violation of due process of law.

53. As a result of Crum's and/or Berkley's unlawful and malicious conduct, Samuel was deprived of his rights to due process of law.
54. The right to due process and the right to receive exculpatory evidence are both clearly established constitutional rights of which a reasonable person would have known and Crum and/or Berkley's actions are objectively unreasonable in light of these clearly established constitutional rights.
55. As a direct and proximate result of the above misconduct by Crum and Berkley, Samuel suffered and will continue to suffer, damages in the future, including, but not limited to:
- a. Physical pain and suffering;
 - b. Mental anguish;
 - c. Fright and shock;
 - d. Denial of social pleasure and enjoyments;
 - e. Embarrassment, humiliation and mortification;
 - f. Lost wages and/or earning capacity;
 - g. The legal expense incurred by Samuel in the defense of this frivolous case; and
 - h. 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/or Berkley in an amount in excess of \$75,000.00 and award costs, interest, punitive damages and attorney fees so wrongfully incurred.

Count IV:

Federal Claim-Unconstitutional Policy or Custom-Defendant Berkley

56. Samuel reasserts and realleges each and every allegation contained in paragraphs 1 through 55 as if fully set forth herein.
57. At all times relevant herein, Samuel had a right under the due process clause of the state and federal constitutions not to be deprived of his life, liberty or property.

58. Crum's acts of withholding exculpatory evidence and violates a fundamental principle of liberty and justice which is inherent in the very idea of a free government and is the inalienable right of a citizen of such government.
59. Berkley had a policy or custom in its failure adequately train Crum and other officers in their *Brady* obligations to disclose exculpatory evidence and to refrain from conducting improper and impermissible videotaped interviews of juvenile interviews that violate Forensic Interviewing Protocol.
60. The need for adequate officer training in *Brady* obligation is obvious because police academy applicants are unlikely to be familiar with constitutional restraints and absent training, cannot obtain that knowledge.
61. In light of the duties assigned to investigating officers like Crum, including the gathering of evidence, the need adequate training in *Brady* obligations is so obvious, and the inadequacy so likely to result in a violation of constitutional rights, that Berkley was deliberately indifferent to the need.
62. The high degree of predictability that officers will discovery exculpatory evidence during an investigation supports and inference of causation that Berkley's indifference to adequate *Brady* training led directly to the very consequence that was so predictable: a violation of *Brady* obligations.
63. Berkley, through its conduct, acted as the "moving force" behind the deprivation of Samuels constitutional rights.
64. There is a direct causal link between the policy or custom and Samuels's injury.
65. As a direct and proximate result of the above misconduct by Crum and Berkley, Samuel suffered and will continue to suffer, damages in the future, including, but not limited to:
- a. Physical pain and suffering;
 - b. Mental anguish;
 - c. Fright and shock;

- d. Denial of social pleasure and enjoyments;
- e. Embarrassment, humiliation and mortification;
- f. Lost wages and/or earning capacity;
- g. The legal expense incurred by Samuel in the defense of this frivolous case; and
- h. 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/or Berkley in an amount in excess of \$75,000.00 and award costs, interest, punitive damages and attorney fees so wrongfully incurred.

Count V:

State Claim-Unlawful Arrest-Defendant Crum

- 66. Samuel reasserts and realleges each and every allegation contained in paragraphs 1 through 65 as if fully set forth herein.
- 67. Samuel was arrested as a result of Crum's investigation.
- 68. Samuel was aware of the arrest and it was against his will.
- 69. Crum intended to have Samuel arrested as a result of the information compiled in his investigation.
- 70. Such an arrest was unlawful because Crum did not have probable cause as Crum was in possession of undisclosed and exculpatory evidence which exonerated Samuel.
- 71. As the direct and proximate result of the above misconduct by Crum, Samuel suffered and will continue to suffer, damages in the future including but not limited to:
 - a. Physical pain and suffering;
 - b. Mental anguish;
 - c. Fright and shock;
 - d. Denial of social pleasure and enjoyments;
 - e. Embarrassment, humiliation and mortification;
 - f. Lost wages and/or earning capacity;

- g. The legal expense incurred by Samuel in the defense of this frivolous case; and
- h. 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 in an amount in excess of \$75,000.00 and award costs, interest, and attorney fees so wrongfully incurred.

Count VI:

State Claim-Malicious Prosecution- Crum

- 72. Samuel reasserts and realleges each and every allegation contained in paragraphs 1 through 71 as if fully set forth herein.
- 73. Crum caused or continued the prosecution of Samuel based upon his investigation.
- 74. The criminal proceeding was terminated in favor of Samuel when the court dismissed the case with prejudice and entered an Order of Nolle Prosequi.
- 75. There existed no probable cause for initiating or continuing the proceeding as Crum was in possession of both undisclosed and exculpatory evidence which proved Samuel to be innocent.
- 76. 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.
- 77. As the direct and proximate result of the above misconduct by Crum, Samuel suffered and will continue to suffer, damages in the future including but not limited to:
 - a. Physical pain and suffering;
 - b. Mental anguish;
 - c. Fright and shock;
 - d. Denial of social pleasure and enjoyments;
 - e. Embarrassment, humiliation and mortification;
 - f. Lost wages and/or earning capacity;
 - g. The legal expense incurred by Samuel in the defense of this frivolous case; and

h. 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 in an amount in excess of \$75,000.00 and award costs, interest, and attorney fees so wrongfully incurred.

Count VII:

State Claim- False Imprisonment- Defendant Crum

78. Samuel reasserts and realleges each and every allegation contained in paragraphs I through 77 as if fully set forth herein.
79. Samuel was imprisoned by Crum when he was arrested without probable cause and was thereby deprived of his personal liberty or freedom of movement.
80. Such imprisonment was against Samuel's will.
81. Crum accomplished the imprisonment by actual physical force.
82. Crum intended to deprive Samuel of his personal liberty or freedom of movement.
83. Such imprisonment was unlawful because the arrest was made without probable cause.
84. As the direct and proximate result of the above misconduct by Crum, Samuel suffered and will continue to suffer, damages in the future including but not limited to:
- a. Physical pain and suffering;
 - b. Mental anguish;
 - c. Fright and shock;
 - d. Denial of social pleasure and enjoyments;
 - e. Embarrassment, humiliation and mortification;
 - f. Lost wages and/or earning capacity;
 - g. The legal expense incurred by Samuel in the defense of this frivolous case; and
 - h. 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 in an amount in excess of \$75,000.00 and award costs, interest, and attorney fees so wrongfully incurred.

Count VIII:

State Claim- Gross Negligence- Defendant Crum

85. Samuel reasserts and realleges each and every allegation contained in paragraphs 1 through 84 as if fully set forth herein.
86. Crum had a duty to the general public and especially to Samuel, to refrain from grossly negligent conduct.
87. Crum breached that duty and was grossly negligent, or was so reckless as to demonstrate a substantial lack of concern for whether an injury results, when Crum withheld undisclosed and exculpatory evidence against Samuel.
88. Crums gross negligence was the one most immediate, and efficient and 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 six months for a crime he did not commit;
 - c. Being labeled in the media 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. 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 in an amount in excess of \$75,000.00 and award costs, interest, and attorney fees so wrongfully incurred.

Respectfully submitted,

JOHNSON LAW, PLC

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Dated: June 24, 2015

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EXHIBIT J TO DEFENDANTS' REPLY BRIEF IN SUPPORT OF THEIR MOTION FOR SUMMARY DISPOSITION

EXHIBIT J

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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 ("Allie") Krahe, then thirteen years old, was brought to the Berkley Police Station by her grandmother, Judy Stiltner. Allie alleged that her stepfather, Plaintiff Jerome, had sexually abused her. According to Allie, 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 Allie, 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 Allie's stomach, but denied the inappropriate touching. He agreed to submit to a polygraph examination on May 21, 2013.

On May 16, 2013, Allie was taken to Care House by her mother, Stacey Krahe. Allie 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 Allie's mother if he could meet with Allie to discuss the change in her story. Stacey refused, stating that Allie had admitted that she had made up the allegations and that the family did not want any

further police involvement.

On July 11, 2013, Allie's grandmother Judy Stiltner brought Allie to the Berkely 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 Allie. Allie told Crum that her mother made her change her story at Care House. Stacey allegedly told Allie that if she continued with her allegations against Jerome, Allie would be placed in a foster home and raped daily. Stacey also allegedly threatened to commit suicide. Allie 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 Allie and threatened her with "severe consequences for ruining the family." Allie 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 Allie. Officers asked to see Allie so that they could confirm her return. In

response, Stacey sent officers on a wild goose chase, first saying she had taken Allie 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. Allie 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 Allie and Sabrina. Crum interviewed all three witnesses to obtain the information requested by the prosecutor.

In his report, Crum stated that Allie “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. . . . Allie 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. Allie 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, Allie testified to the two incidents of inappropriate touching and was cross-examined by Jerome’s defense attorney. Crum did not testify. Based upon Allie’s 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 Allie.

After he testified, Crum learned that the video recorder had been turned on during his August 21, 2013 interviews of Allie, 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 re-try 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 Allie’s 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 Allie told Crum on May 7 and what Allie told Crum on August 21. See id. Crum did not point out these inconsistencies on August 21, but rather stated in his report that Allie described both incidents “exactly” as she had on May 7. See Defs.’ Ex. A at 12.

For example, on May 7, Allie 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, Allie told Crum that Plaintiff held her down with his free hand; she did not mention that on August 21. On May 7, Allie 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, Allie “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, Allie stated that Plaintiff did insert his finger inside her, "not real far." Pl.'s Ex. E.

These inconsistencies, while relevant to Allie's 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 Allie's testimony, not Crum's report. Crum did not testify at the preliminary examination. Moreover, Allie 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 Allie 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 Allie’s 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 Allie’s 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 Allie’s 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 Allie, 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 Offlineer 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

EXHIBIT K TO DEFENDANTS' REPLY BRIEF IN SUPPORT OF THEIR MOTION FOR SUMMARY DISPOSITION

EXHIBIT K

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2008 WL 274872

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UNPUBLISHED OPINION. CHECK
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UNPUBLISHED

Court of Appeals of Michigan.

Stephanie WILLIAMS, individually, and
as Next Friend of Terrance Williams,
Jr., a Minor, and Terrance Williams,
Individually, Plaintiffs-Appellants,

v.

CITY OF GROSSE POINTE PARK,
Officer Michael Miller, and Sergeant
James Hoshaw, Defendants-Appellees.

Docket No. 269211.

|

Jan. 31, 2008.

Wayne Circuit Court; LC No. 03-327778-NH.

Before: SERVITTO, P.J., and FITZGERALD and
TALBOT, JJ.

Opinion

PER CURIAM.

*1 Plaintiffs appeal as of right the trial court's grant of summary disposition in defendants' favor based upon collateral estoppel principles. Because collateral estoppel precludes plaintiffs' claims, we affirm.

This case arises out of serious injuries plaintiff, Terrance Williams, Jr. ("Williams"), a minor, sustained on August 17, 2003. On that date, defendants Miller and Hoshaw had received information that Williams was driving a stolen vehicle and that the occupants of the vehicle were jampering with other vehicles in the area. When Williams stopped his vehicle at a stop sign, defendant Hoshaw pulled his squad car in front of Williams and defendant Miller pulled his squad car behind Williams. As Hoshaw exited his police vehicle and began walking toward Williams, Williams backed his vehicle into Miller's police vehicle, then accelerated, driving away from Hoshaw. Hoshaw was knocked down as Williams drove away, prompting Miller to fire several shots at Williams.

Williams was struck in the neck with one of the bullets. He was taken to the hospital by ambulance after the incident.

Plaintiffs thereafter filed a five-count complaint against defendants alleging state law claims of gross negligence, assault and battery, and parental loss of services and expenses, as well as federal claims of 42 USC § 1983 violations (excessive force and failure to train). This case was then removed to federal court, but the federal judge declined to exercise pendent jurisdiction over the state claims and remanded those claims back to state court. Plaintiffs' 42 USC § 1983 claims were ultimately dismissed by the federal court. Defendants then moved for summary disposition on the state law claims, and the circuit court dismissed the claims, citing collateral estoppel.¹

We review a trial court's decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v. Burchell*, 249 Mich.App 468, 479; 642 NW2d 406 (2001). MCR 2.116(C)(7) permits summary disposition where the claim is barred because of any one of several occurrences, including prior judgment (such as by collateral estoppel, see *Alcona Co v. Wolverine Environmental Production, Inc.*, 233 Mich.App 238, 246; 590 NW2d 586 (1998)) or immunity granted by law. In reviewing a motion under MCR 2.116(C)(7), the Court accepts as true the plaintiff's well-pleaded allegations, construing them in the plaintiff's favor. *Hanley v. Mazda Motor Corp.*, 239 Mich.App 596, 600; 609 NW2d 203 (2000). The Court must consider affidavits, pleadings, depositions, admissions, and documentary evidence filed or submitted by the parties when determining whether a genuine issue of material fact exists. *Id.* Where no material facts are in dispute, whether the claim is barred is a question of law. *Kent v. Alpine Valley Ski Area, Inc.*, 240 Mich.App 731, 736; 613 NW2d 383 (2000). The applicability of collateral estoppel also presents a question of law that is reviewed de novo. *Barrow v. Pritchard*, 235 Mich.App 478; 597 NW2d 853 (1999).

*2 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 final judgment and the issue was actually and necessarily determined in the prior proceeding. *McMichael v. McMichael*, 217 Mich.App 723, 727; 552 NW2d 688 (1996). In analyzing whether an issue was "actually litigated" in the prior proceeding, the Court must look at more than what has been pled and argued.

Williams v. City of Grosse Pointe Park, Not Reported in N.W.2d (2008)

"We must also consider whether the party against whom collateral estoppel is asserted has had a full and fair opportunity to litigate the issue." *People v. Gates*, 434 Mich. 146, 156-157; 452 NW2d 627 (1990). An issue is necessarily determined only if it is "essential" to the judgment. 1 Restatement Judgments, 2d, § 27, p 250, comment h, p 258. Moreover, collateral estoppel applies only when the basis of the prior judgment can be clearly, definitely, and unequivocally ascertained. *Ditmore v. Michalik*, 244 Mich.App 569, 578; 625 NW2d 462 (2001).

On appeal, plaintiffs claim that collateral estoppel is inapplicable, as the issues in the present matter differ from those litigated in the federal court. We disagree.

This Court addressed nearly this identical argument in *VanVorous v. Burmeister*, 262 Mich.App 467; 687 NW2d 132 (2004). In that case, the plaintiff's decedent was shot and killed by police officers after a car chase and collision involving the decedent's and an officer's vehicle. Plaintiff then brought suit against the officers, claiming that the officers violated decedent's Fourth Amendment right to be free from excessive force. The district court ultimately granted the defendants' motion for summary judgment regarding the federal constitutional claim, finding that the officers' actions were objectively reasonable and that even if the defendants acted unreasonably, qualified immunity still protected the officers from suit. The district court additionally dismissed plaintiff's state law claims of assault and battery, gross negligence, and intentional infliction of emotional distress without prejudice. The plaintiff then pursued her state law claims in circuit court. The defendants moved for summary disposition of the state law claims under MCR 2.116(C)(7), claiming that the federal district court's determination that defendants' use of force was reasonable collaterally estopped relitigation of that issue, so plaintiff could not establish an essential element of her claims. The trial court agreed, granting summary disposition in the defendant's favor.

The precise issue raised before this Court on the plaintiff's subsequent appeal was whether the doctrine of collateral estoppel precluded the plaintiff's state law claims, where her Fourth Amendment excessive force claim had been adjudicated in federal court. This Court noted, "[f]or plaintiff to pursue her claim would require relitigating where on the spectrum of reasonableness defendants' actions fell. Under Michigan law, the officers pursuing VanVorous were entitled to use the amount of force

that was objectively reasonable under the circumstances. Similarly, the 'objective reasonableness' standard applied by the federal court also concerned the reasonableness of the conduct from the perspective of an objective police officer under the totality of the circumstances at the time" (internal citations omitted). *Id.* at page 42.

*3 The same holds true here. After reviewing the videotape from Miller's squad car and the parties' briefs, the federal court concluded that Miller's actions in shooting Williams were objectively reasonable. *Williams v. City of Grosse Pointe Park*, 2005 WL 2173686, (ED Mich, 2005). The federal court opined that defendants were attempting to stop and question suspected car thieves when Williams backed his vehicle into Miller's squad car, then accelerated around Hoshaw's squad car, throwing him to the ground. *Id.* Based upon Williams' conduct, the federal court found that Miller had probable cause to believe Williams posed a threat of serious physical harm to Hoshaw, himself, and other citizens. *Id.* The federal court thus concluded that defendants' actions were reasonable and that they did not use excessive force when they shot plaintiff. *Id.*

To prevail on the state law claim for assault, plaintiffs must show that there was an intentional unlawful offer of corporal injury to Williams by force, or force unlawfully directed toward him, under circumstances which create a well-founded apprehension of imminent contact, coupled with the apparent present ability to accomplish the contact. *Espinosa v. Thomas*, 189 Mich.App 110, 119; 472 NW2d 16 (1991). To recover civil damages for battery, a wilful and harmful or offensive touching of another person which results from an act intended to cause such a contact must be shown. *Id.* However, it has long been held that when effecting a lawful arrest, an officer has the right to use the amount of force that is reasonably necessary under the circumstances to effect the arrest. *Tope v. Howe*, 179 Mich.App 91,106; 445 NW2d 452 (1989). "[T]he measure of necessary force is that which an ordinarily prudent and intelligent person, with the knowledge and in the situation of the arresting officer, would have deemed necessary." *Brewer v. Perrin*, 132 Mich App 520, 528, 349 NW2d 198 (1984) (quoting *Barrett v. United States*, 64 F.2d 148, 149 (DC Cir1933) (internal quotation marks omitted).

This Court finds, as did the *Van Vorous* Court, that to find for plaintiffs on an assault and battery claim,

Williams v. City of Grosse Pointe Park, Not Reported in N.W.2d (2008)

"our courts would have to determine that the officers' actions were not justified because they were not objectively reasonable under the circumstances. Because the federal district court reached and decided the question, further litigation regarding this issue was collaterally estopped." The issue here was actually and necessarily determined in the prior proceeding. Because the federal court in this case decided that the facts showed both a lawful arrest and a lack of excessive force, plaintiff is collaterally estopped from relitigating these issues and, therefore, cannot establish a claim for assault and battery in this case.

Summary disposition with respect to plaintiffs' gross negligence claim was appropriate for similar reasons. In their allegations pertaining to gross negligence, plaintiffs contend that defendants owed Williams a duty to "not act grossly negligent and to act prudently and with reasonable care, and otherwise to avoid the use of unnecessary and/or unreasonable force." Because plaintiffs' claim of gross negligence is premised upon excessive force, and the federal court already determined that no excessive force occurred, plaintiffs are collaterally

estopped from relitigating this issue. Moreover, this Court has rejected attempts to transform claims involving elements of intentional torts into claims of gross negligence. *VanVorous, supra*, at pages 483-484.

*4 Plaintiffs also assert that the federal court's refusal to accept supplemental jurisdiction over plaintiffs' state law claims precludes application of collateral estoppel. Again, we disagree. Although the federal court refused to rule on the state law claims, the federal claims involved identical issues to those presented in this case. Plaintiffs cite to a multitude of cases on this and their other arguments which relate to res judicata. However, because collateral estoppel is distinct from res judicata in that it concerns issue preclusion, and not claim preclusion, the federal court's decision may properly be given deference under collateral estoppel.

Affirmed.

All Citations

Not Reported in N.W.2d, 2008 WL 274872

Footnotes

1

In a November 22, 2006 order, we held this matter in abeyance pending the decision in the Sixth Circuit Court of Appeals. On August 3, 2007, the Sixth Circuit Court of Appeals affirmed the federal court's decision and, on December 21, 2007 denied plaintiff's petition for rehearing en banc.

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EXHIBIT L TO DEFENDANTS' REPLY BRIEF IN SUPPORT OF THEIR MOTION FOR SUMMARY DISPOSITION

EXHIBIT L

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Dobrowski v. Jay Dee Contractors, Inc., Not Reported in N.W.2d (2010)

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 18, 2013

2010 WL 293069

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK
 COURT RULES BEFORE CITING.

UNPUBLISHED
 Court of Appeals of Michigan.

Daniel DOBROWSKI, Plaintiff-Appellant,
 v.
 JAY DEE CONTRACTORS,
 INC., Defendant-Appellee.

Docket No. 288206.

Jan. 26, 2010.

Synopsis

Background: Employee brought action against employer pursuant to Persons with Disabilities Civil Rights Act (PWDCRA) and Family Medical Leave Act (FMLA). Employer removed case the federal district court, which dismissed FMLA claim and remanded PWDCRA to federal court, 2008 WL 2266318, 156 Lab.Cas. P 35,443. The Circuit Court, Wayne County, granted summary disposition in favor of employer on PWDCRA claim. Employee appealed.

Holding: The Court of Appeals held that employee's claim pursuant to PWDCRA was precluded by federal ruling on FMLA claim due to collateral estoppel.

Affirmed.

Gleicher, J., dissented and filed opinion.

West Headnotes (1)

[1] **Judgment**

⊖ Operation and Effect

228 Judgment

228XVII Foreign Judgments

228k829 Effect of Judgments of United States
 Courts in State Courts

228k829(3) Operation and Effect

Employee's claim pursuant to Persons with Disabilities Civil Rights Act (PWDCRA) was precluded by federal ruling on Family Medical Leave Act (FMLA) claim due to collateral estoppel; collateral estoppel extended to alternate grounds for federal court's ruling FMLA, and federal court's alternative basis for dismissal of FMLA claim, that employee could not show connection between termination and leave, was fatal to PWDCRA claim. Family and Medical Leave Act of 1993, § 2, 29 U.S.C.A. § 2601; M.C.L.A. § 37.1101.

Cases that cite this headnote

Wayne Circuit Court; LC No. 06-622380-CZ.

Before: GLEICHER, P.J., and FITZGERALD and
 WILDER, JJ.

Opinion

PER CURIAM.

*1 Plaintiff appeals as of right from the circuit court's order granting summary disposition to defendant. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Plaintiff worked for defendant as an assistant project manager. He sought leave pursuant to the Family and Medical Leave Act (FMLA), 29 USC 2601 *et seq.*, in order to undergo elective surgery in hopes of ameliorating his epilepsy. Defendant deemed plaintiff eligible for such leave, and indicated that he would be reinstated after taking it. However, shortly after plaintiff returned to work, he was terminated, ostensibly for legitimate business reasons.

Plaintiff filed suit under the Persons with Disabilities Civil Rights Act (PWDCRA), MCL 37.1101 *et seq.*, and then added a claim under the FMLA. Defendant removed the case to federal district court, which dismissed the federal

claim on the grounds that (1) plaintiff was not an eligible employee for purposes of the FMLA,¹ and (2) plaintiff had failed to show that defendant's stated business reasons for the dismissal were mere pretext. *Dobrowski v. Jay Dee Contractors, Inc.*, Civil No. 07-13267 (E.D.Mich., June 3, 2008). Specifically, the district court concluded, "Defendant would not have retained Plaintiff if he had not taken medical leave," and, "Even if Plaintiff established his status as an eligible employee, he could not establish a causal connection between his FMLA leave and being laid off." The court expressly declined to decide the PWDCRA claim, and remanded this case to the circuit court.

On remand, the trial court expressed disagreement with the federal court's conclusion that plaintiff could not adequately show that the legitimate business reasons defendant put forward for terminating him were mere pretext, but deferred to that court's determination nonetheless, citing the doctrine of collateral estoppel. Because an element of the PWDCRA claim was thus defeated, the trial court granted summary disposition in an order dated September 9, 2008.

The Sixth Circuit Court of Appeals affirmed the federal case on the ground that plaintiff was not an eligible employee for purposes of the FMLA, but expressly declined to reach the district court's alternative basis for granting summary judgment. *Dobrowski v. Jay Dee Contractors, Inc.*, 571 F.3d 551, 554 (C.A.6, 2009). The district court's conclusion that plaintiff could not prove that defendant's putative business reasons for terminating plaintiff were pretext thus stands undisturbed.

Plaintiff presents authority for the proposition that, where a federal court expressly declines to exercise jurisdiction over a state claim, res judicata does not prevent adjudication of the state claim. However, the doctrine at work in this instance is collateral estoppel. Res judicata bars relitigation of claims or defenses that were, or could have been, raised in earlier litigation. See *Wayne Co. v. Detroit*, 233 Mich.App. 275, 277, 590 N.W.2d 619 (1998). Collateral estoppel bars relitigation of an issue that was in fact decided in earlier litigation. See *Leahy v. Orion Twp.*, 269 Mich.App. 527, 530, 711 N.W.2d 438 (2006).

*2 This Court has adopted a position of cooperation with determinations from federal courts. In *VanVorous v. Burmeister*, 262 Mich.App. 467, 473, 687 N.W.2d 132 (2004), the plaintiff brought a suit in federal district

court claiming her son's Fourth Amendment right to be free from excessive force was violated. When the district court dismissed the plaintiff's claim, it concluded that the defendants' conduct was reasonable or, at the very least, the result of a reasonable mistake. *Id.* at 482, 687 N.W.2d 132. When the plaintiff later filed a suit in Michigan claiming intentional infliction of emotional distress, this Court noted her burden to show the defendants' conduct was extreme and outrageous. *Id.* Because the conduct element of the plaintiff's intentional infliction of emotional distress claim, namely objective reasonableness, was "based on the identical question of fact litigated in the district court," this Court concluded that collateral estoppel barred that intentional infliction of emotional distress claim. *Id.*; see also *Stamp v. City of Flint*, unpublished opinion per curiam of the Court of Appeals, issued February 12, 2009 (Docket No. 208459).

Michigan courts have applied preclusion broadly in other contexts. In *Beyer v. Verizon N. Inc.*, 270 Mich.App. 424, 435-436, 715 N.W.2d 328 (2006), the Court recognized that preclusion doctrines operate in connection with state litigation following decisions in federal court.

In this case, the trial court did not declare that the whole PWDCRA claim was precluded by the adjudication of the FMLA claim, but instead determined that an issue decided in the federal claim was fatal to the state claim. The trial court correctly recognized that it was applying the doctrine of collateral estoppel. The trial court likewise correctly recognized that preclusion doctrines operate in connection with state litigation following decisions in federal court. *Beyer, supra* at 428-429, 715 N.W.2d 328.

The applicability of collateral estoppel is a question of law, calling for review de novo. *McMichael v. McMichael*, 217 Mich.App. 723, 727, 552 N.W.2d 688 (1996). "Collateral estoppel bars relitigation of an issue in a new action arising between the same parties or their privies when the earlier proceeding resulted in a valid final judgment and the issue in question was actually and necessarily determined in that prior proceeding." *Leahy, supra* at 530, 711 N.W.2d 438, citing 1 Restatement Judgments, 2d, § 27, p 250.

"To be necessarily determined in the first action, the issue must have been essential to the resulting judgment; a finding upon which the judgment did not depend cannot support collateral estoppel." *Bd of Co. Comm'rs v. Schultz*, 205 Mich.App. 371, 377, 521 N.W.2d 847 (1994).

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For the purposes of collateral estoppel, the question arises whether an alternate, but independently sufficient, basis for a judgment is deemed necessary to a decision. In this case, the federal district court dismissed plaintiff's claims on the alternative bases that he was not an eligible employee for purposes of FMLA and he failed to demonstrate that defendant's legitimate business reason for termination was mere pretext. The federal courts are divided regarding preclusion in this situation. See *Jean Alexander Cosmetics, Inc. v. L'Oreal USA, Inc.*, 458 F.3d 244 (C.A.3, 2006).

*3 According to 1 Restatement Judgments, § 68, comment n, courts should extend preclusion to each alternative basis:

Where the judgment is based upon the matters litigated as alternative grounds, the judgment is determinative on both grounds, although either alone would have been sufficient to support the judgment. [*Jean Alexander, supra* at 251.]

The Second, Third, Seventh, Ninth, and Eleventh Circuits extend preclusion to alternate, but independently sufficient, bases for a judgment. *Gelb v. Royal Globe Ins. Co.*, 798 F.2d 38, 45 (C.A.2, 1986); *Jean Alexander, supra*; *Magnus Elecs., Inc. v. La Republica Argentina*, 830 F.2d 1396, 1402 (C.A.7, 1987); *In re Westgate-California Corp.*, 642 F.2d 1174, 1176-1177 (C.A.9, 1981); *DeWeese v. Town of Palm Beach*, 688 F.2d 731, 734 (C.A.11, 1982).

Extending preclusion to alternative bases furthers the purposes of collateral estoppel by promoting judicial economy by preventing previously litigated issues from being relitigated. The Third Circuit noted, "Courts routinely decide cases on multiple grounds ... it would be curious to conclude that none of these findings were necessary to the judgment for purposes of collateral estoppel." *Jean Alexander, supra* at 253.

Opponents to extending preclusion to each alternative basis argue that an alternative basis may not have been as carefully or rigorously considered as it would have had it been necessary to the result. *Jean Alexander, supra* at 253. However, the Third Circuit rejected this argument. *Id.* It stated independently sufficient findings are not incidental or immaterial. It further stated, "it is reasonable to expect

that such a finding is the product of careful judicial reasoning." *Id.* In addition, the Third Circuit noted that the requirement that a finding be "actually litigated" assures that the finding would have been addressed by the parties and carefully deliberated by the court. *Id.* at 254.

According to 2 Restatement Judgments, § 27, comment i, courts should not extend preclusion to either alternative holding because such holdings are, "by definition, [] not 'necessary' to a judgment."

[I]f a judgment of a court of first instance is based on determinations of two issues, either of which standing independently would be sufficient to support the result, the judgment is not conclusive with respect to either issue standing alone.

The Tenth and Fifth Circuits refuse to extend preclusion to alternative holdings. *Turney v. O'Toole*, 898 F.2d 1470, 1472 n. 1 (C.A.10, 1990); *Hicks v. Quaker Oats Co.*, 662 F.2d 1115, 1168 (CA 5, 1981)

The Fourth Circuit generally declines to apply collateral estoppel to alternative findings of a prior court. *Tuttle v. Arlington County School Bd.*, 195 F.3d 698, 704 (C.A.4, 1999). However, it has carved out an exception to this general rule when the alternative finding is fully litigated. *Ritter v. Mt. St. Mary's College*, 814 F.2d 986, 993-994 (C.A.4, 1987); *Boston v. Stobbe*, 586 F. Supp. 2d 574 (D.S.C., 2008).

*4 The Sixth Circuit has not adopted either Restatement Rule. Rather, it has held that "where ... one ground for the decision is clearly primary and the other only secondary, the secondary ground is not 'necessary to the outcome' for the purpose of issue preclusion." *Natl Satellite Sports v. Eliadis*, 253 F.2d 900, 910 (CA 6, 2001).

We conclude that the First Restatement Rule represents the better-reasoned rule because it is consistent with the purposes of collateral estoppel. Thus, we hold that collateral estoppel extends to alternate grounds for a prior decision.

Among the elements that a claimant under the PWDCRA must prove is that the employer imposed an adverse employment action in response to the disability. See

Sabrowski v. Jay Dee Contractors, Inc., Not Reported in N.W.2d (2010)

Peden v. Detroit, 470 Mich. 195, 205, 680 N.W.2d 857 (2004). In this case, the adverse employment action was plaintiff's termination upon his return from medical leave. Accordingly, the federal district court's conclusion that plaintiff could not show that there was a connection between his termination and his having taken medical leave is fatal, because of operation of collateral estoppel, to his PWDCRA claim. The trial court properly deferred to that federal determination, and therefore properly granted defendant's motion for summary disposition.

The dissent places great emphasis on the fact that the Sixth Circuit affirmed the federal district court's order dismissing plaintiff's FMLA claim, but specifically declined to address the district court's alternative ground for granting summary judgment. Had the Sixth Circuit issued its opinion before the trial court addressed collateral estoppel in its decision in September 2008, the federal district court's determination that plaintiff failed to demonstrate that defendant's legitimate business reason for pretext would not have been conclusively established. *Amalgamated Transit Union, Local 1564, AFL-CIO v. Southeastern Michigan Transp. Auth.*, 437 Mich. 441, 453-454, 473 N.W.2d 249 (1991). However, the appeal of the federal district court's decision was pending in the Sixth Circuit at the time of the trial court's decision in this matter. In the federal courts, a final judgment retains its preclusive effect while an appeal of the judgment is pending. *Erebia v. Chrysler Plastic Products Corp.*, 891 F.2d 1212, 1215 n. 1 (C.A.6, 1989); see 18A Wright, Miller, & Cooper, Federal Practice & Procedure, Nature of Judgment, § 4433 (noting that a "second judgment may become conclusive even though it rested solely on a judgment that was later reversed"). Moreover and importantly, 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 N.W.2d 153 (1999). Thus, the Sixth Circuit's ruling in this matter is of no import in determining whether the trial court erred with regard to the case before us.

Affirmed.

GLEICHER, J. (dissenting).

*5 I respectfully dissent. In my view, the federal court's conclusions regarding the causation element of plaintiff's claim under the Family and Medical Leave Act (FMLA),

29 USC 2601 *et seq.*, do not preclude this Court's consideration of the merits of plaintiff's lawsuit premised on a violation of Michigan's Persons with Disabilities Civil Rights Act (PWDCRA), MCL 37.1101 *et seq.*

In August 2006, plaintiff commenced a PWDCRA action in the Wayne Circuit Court. Plaintiff asserted that he suffered from epilepsy, and that in violation of the PWDCRA defendant terminated plaintiff's employment after he underwent surgery during an approved medical leave. In July 2007, plaintiff added a claim under the FMLA. Defendant promptly removed the action to federal court, citing federal question jurisdiction, 28 USC 1331, and invoking the federal court's supplemental jurisdiction, 28 USC 1367.

In August 2007, the United States District Court for the Eastern District of Michigan, Judge Lawrence P. Zatkoff, declined to exercise supplemental jurisdiction over plaintiff's PWDCRA claim and remanded it to the Wayne Circuit Court. In June 2008, Judge Zatkoff granted summary judgment of plaintiff's FMLA claim, holding that because defendant employed fewer than 50 employees within 75 miles of plaintiff's worksite, plaintiff did not qualify as an "eligible employee" for purposes of the FMLA, 29 USC 2611(2)(B)(ii). In his written opinion, Judge Zatkoff additionally rejected plaintiff's argument that equitable estoppel precluded defendant from denying plaintiff's eligibility under the FMLA.

After concluding that plaintiff had failed to state a claim under the FMLA, Judge Zatkoff proceeded to consider whether "[e]ven if Plaintiff were able to demonstrate that he was an eligible employee under an equitable-estoppel theory, he would still ... be entitled to relief on his claims." Judge Zatkoff found that defendant would have terminated plaintiff's employment even had plaintiff not taken a medical leave. Next, Judge Zatkoff additionally considered whether plaintiff could show that he endured a retaliatory action for exercising his rights under the FMLA, applying the burden shifting framework established in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973). Judge Zatkoff reasoned that defendant had set forth a legitimate business reason for plaintiff's termination: "Defendant sets forth 'lack of work' as its legitimate business reason for Plaintiff's termination because the project was slowing down when Plaintiff took his medical leave. Defendant's

Dobrowski v. Jay Dee Contractors, Inc., Not Reported in N.W.2d (2010)

position is supported by the fact that it laid off several other employees."¹

Plaintiff appealed to the United States Court of Appeals for the Sixth Circuit, *Dobrowski v. Jay Dee Contractors, Inc.*, 571 F.3d 551 (C.A.6, 2009). The Sixth Circuit observed, "All now agree that [plaintiff] was not in fact eligible for FMLA protection.... Instead, the dispute centers on whether Jay Dee's statements that Dobrowski was being given FMLA leave now bind the defendant under the doctrine of equitable estoppel such that we should treat him as entitled to the Act's protections." *Id.* at 554. The Sixth Circuit then embarked on a comprehensive equitable estoppel analysis, and ultimately held that plaintiff had failed to demonstrate his detrimental reliance on defendant's misstatement of FMLA eligibility. *Id.* at 554-557. The Sixth Circuit never considered the alternative grounds for dismissing plaintiff's FMLA case discussed by Judge Zatkoff.

*6 Here, the majority holds that "the federal district court's conclusion that plaintiff could not show that there was a connection between his termination and his having taken medical leave is fatal, because of operation of collateral estoppel, to his PWDCRA claim." *Ante* at 7. In my view, this Court should not afford preclusive effect to Judge Zatkoff's legal conclusion that defendant established a legitimate business reason for plaintiff's termination because that aspect of Judge Zatkoff's decision was unnecessary to his grant of summary judgment. In *Lumley v. Univ. of Michigan Bd. of Regents*, 215 Mich.App. 125, 132, 544 N.W.2d 692 (1996), this Court explained, "Collateral estoppel bars the relitigation of issues previously decided in a first action when the parties to the second action are the same; where the second action is a different cause of action, the bar is conclusive regarding issues actually litigated in the first action *and essential to the judgment.*" (Emphasis added). Judge Zatkoff's determination of the reason for plaintiff's termination simply does not qualify as essential to the federal court's judgment. That the Sixth Circuit never reached this issue confirms that the district court's conclusions were not necessary to uphold summary judgment of plaintiff's FMLA claim. For this reason alone, I would reverse the circuit court.²

Even assuming that Judge Zatkoff's FMLA causation analysis qualified as essential or necessary to his opinion, two further bases support my conclusion that

Judge Zatkoff's decision does not preclude a jury's consideration of plaintiff's PWDCRA claim. Section 27 of the Restatement of Judgments, 2d, entitled, "Issue Preclusion," explains, "When an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim." The comments to § 27 include two provisions that strongly counsel against affording Judge Zatkoff's opinion preclusive effect. Comment *i*, subtitled, "Alternative determinations by court of first instance," cautions, "If a judgment of a court of first instance is based on determinations of two issues, either of which standing independently would be sufficient to support the result, the judgment is not conclusive with respect to either issue standing alone." Consistent with comment *i*, Judge Zatkoff's alternative determinations concerning the legal sufficiency of plaintiff's FMLA claim do not conclusively preclude the circuit court's consideration of the merits of plaintiff's PWDCRA count.

Furthermore, comment *o* to § 27 of the Restatement of Judgments, 2d, subtitled "Effect of an appeal," sets forth the following:

If a judgment rendered by a court of first instance is reversed by the appellate court and a final judgment is entered by the appellate court (or by the court of first instance in pursuance of the mandate of the appellate court), this latter judgment is conclusive between the parties.

*7 If the judgment of the court of first instance was based on a determination of two issues, either of which standing independently would be sufficient to support the result, and the appellate court upholds both of these determinations as sufficient, and accordingly affirms the judgment, the judgment is conclusive as to both determinations....

If the appellate court upholds one of these determinations as sufficient but not the other, and accordingly affirms the judgment, the judgment is conclusive as to the first determination.

If the appellate court upholds one of these determinations as sufficient and refuses to consider whether or not the other is sufficient and accordingly affirms the judgment,

Dobrowski v. Jay Dee Contractors, Inc., Not Reported in N.W.2d (2010)

the judgment is conclusive as to the first determination.
[Emphasis added].

Once the Sixth Circuit rendered its decision, the scenario contemplated in the final paragraph of comment *a* came to pass. Because the Sixth Circuit upheld only one ground for Judge Zatkoff's dismissal of plaintiff's FMLA action and did not consider whether legitimate business reasons existed for plaintiff's termination, only the equitable estoppel ground for dismissal of the FMLA claim should be precluded from further consideration.

In *Amalgamated Transit Union, Local 1564, AFL-CIO v. Southeastern Michigan Transit Auth.*, 437 Mich. 441, 453-454, 473 N.W.2d 249 (1991), our Supreme Court applied the essence of comment *a* by adopting the following excerpt from 1B Moore, Federal Practice, ¶ 0.416(2), p.512:

"A judgment affirmed on appeal has conclusive effect, but if the appellate court affirms on grounds that differ from those relied upon by the lower court, the conclusiveness of the judgment as res judicata and as collateral estoppel are governed by the appellate decision. Thus if the trial court rests its judgment on two grounds, each of which is independently adequate to support it, the judgment is conclusive as to both; but if the appellate court affirms on one ground without passing on the other, the second ground is no longer conclusively established under the collateral estoppel doctrine." [Emphasis added].

Although our Supreme Court has not specifically adopted § 27 of the Restatement of Judgments, 2d, its holding in *Amalgamated Transit* is entirely consistent with the letter and the spirit of comment *a*. In my view, *Amalgamated Transit* constitutes controlling authority in this case, which the majority erroneously disregards.³ Furthermore, many authorities agree that comment *a* sets forth an appropriate rule. Wright, Miller & Cooper's *Federal Practice & Procedure* observes with regard to comment *a*, "As to matters passed over by the appellate court ... preclusion is not available on the basis of the

trial-court decision. This result is supported by the fact that the appellate choice of grounds for decision has made unavailable appellate review of the alternative grounds." C. Wright, A. Miller, and E. Cooper, 18 Fed Prac & Proc, § 4421. And "[i]t is a well-established principle of federal law that if an appellate court considers only one of a lower court's alternative bases for its holding, affirming the judgment without reaching the alternative bases, only the basis that is actually considered can have any preclusive effect in subsequent litigation." *Niagara Mohawk Power Corp. v. Tonawanda Band of Seneca Indians*, 94 F.3d 747 (C.A.2, 1996).

"§ Finally, I disagree with the majority's conclusion that "the Sixth Circuit's ruling in this matter is of no import in determining whether the trial court erred with regard to the case before us." *Ante* at 7. Plaintiff filed his Sixth Circuit appeal on June 3, 2008, and the appeal remained pending when the Wayne Circuit Court granted defendant summary disposition on September 5, 2008. Collateral estoppel "bars relitigation of issues when the parties had a full and fair opportunity to litigate those issues in an earlier action. A decision is final when all appeals have been exhausted or when the time available for an appeal has passed." *Leahy v. Orion Twp.*, 269 Mich.App. 527, 530, 711 N.W.2d 438 (2006) (citations omitted). Contrary to the majority's view that the Sixth Circuit's ruling on appeal "is of no import in determining whether the circuit court erred," *id.*, the Sixth Circuit's decision is critical for two reasons. First, as discussed *infra*, it conclusively demonstrates that Judge Zatkoff's finding of legitimate business reasons for plaintiff's termination was not necessary to his decision. Second, the circuit court clearly erred by ruling on defendant's summary disposition motion before the Sixth Circuit decided plaintiff's federal appeal. As this Court explained in *Leahy*, a decision lacks preclusive effect until "all appeals have been exhausted or when the time available for an appeal has passed." *Id.* Accordingly, the circuit court erred in two respects, by prematurely considering the claim-preclusive nature of Judge Zatkoff's decision rather than waiting for the Sixth Circuit's ruling, and by improperly granting summary disposition on the merits.

In *Gelb v. Royal Globe Ins. Co.*, 798 F.2d 38, 44 (C.A.2, 1986), the Second Circuit aptly observed, "Appellate review plays a central role in assuring the accuracy of decisions." Here, no appellate court has reviewed Judge Zatkoff's summary determinations regarding causation

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or that legitimate business reasons supported plaintiff's termination. In my view, the majority has elevated finality over fairness and economy over exacting review. I thus would reverse the circuit court's grant of summary disposition concerning plaintiff's PWDCRA claim.

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EXHIBIT M TO DEFENDANTS' REPLY BRIEF IN SUPPORT OF THEIR MOTION FOR SUMMARY DISPOSITION

EXHIBIT M

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Sussman v. Dalton, 552 Fed.Appx. 488 (2014)

552 Fed.Appx. 488

This case was not selected for
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Not for Publication in West's Federal Reporter.

See Fed. Rule of Appellate Procedure 32.1
generally governing citation of judicial decisions
issued on or after Jan. 1, 2007. See also
Sixth Circuit Rule 28. (Find CTA6 Rule 28)
United States Court of Appeals,
Sixth Circuit.

Alice SUSSMAN, Plaintiff--Appellee,

v.

Keith DALTON, Sheriff
Deputy, Defendant--Appellant.

No. 12--2684.

Jan. 16, 2014.

Synopsis

Background: Theft suspect brought action against law enforcement officer, alleging § 1983 claims for unreasonable seizure and prosecution and *Brady* violation, and related state claims of false arrest, false imprisonment, and malicious prosecution. The United States District Court for the Eastern District of Michigan, Victoria A. Roberts, J., 2012 WL 5874769, granted officer's summary judgment motion for malicious prosecution and due process claims but denied motion as to all other claims. Officer filed interlocutory appeal.

[Holding:] The Court of Appeals, Rogers, Circuit Judge, held that officer was entitled to qualified immunity from § 1983 claims.

Reversed and remanded.

West Headnotes (4)**[1] Criminal Law**

Defects and objections

110 Criminal Law

110XII Pretrial Proceedings

110k208 Preliminary Complaint or Affidavit

110k213 Defects and objections

Law enforcement officer was entitled to qualified immunity on theft suspect's claims under § 1983 for unreasonable seizure and prosecution without probable cause; suspect did not make substantial showing necessary to demonstrate that officer stated deliberate falsehood or showed reckless disregard for the truth. U.S.C.A. Const.Amend. 4; 42 U.S.C.A. § 1983.

Cases that cite this headnote

[2] Criminal Law

Defects and objections

110 Criminal Law

110XII Pretrial Proceedings

110k208 Preliminary Complaint or Affidavit

110k213 Defects and objections

Law enforcement officer did not make deliberate falsehood, which would have stripped officer of qualified immunity on theft suspect's claims under § 1983 for unreasonable seizure and prosecution without probable cause, by representing that surveillance video showed suspect returning to laundromat and placing wallet back where she had found it; officer made representation in section of report in which he reported witness observations, and he had no reason to suspect that witnesses were lying. U.S.C.A. Const.Amend. 4; 42 U.S.C.A. § 1983.

Cases that cite this headnote

[3] Criminal Law

Defects and objections

110 Criminal Law

110XII Pretrial Proceedings

110k208 Preliminary Complaint or Affidavit

110k213 Defects and objections

Law enforcement officer did not show reckless disregard for the truth, which would have stripped officer of qualified immunity on theft suspect's claims under § 1983 for unreasonable seizure and prosecution without probable cause, by failing to alert warrant officer about portions of surveillance video he did not view.

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U.S.C.A. Const.Amend. 4; 42 U.S.C.A. § 1983.

Cases that cite this headnote

[4] **Criminal Law**

~ Defects and objections

110 Criminal Law

110XII Pretrial Proceedings

110k208 Preliminary Complaint or Affidavit

110k213 Defects and objections

Theft suspect failed to establish that law enforcement officer's allegedly false statements were material to finding of probable cause, as required to strip officer of qualified immunity on claims under § 1983 for unreasonable seizure and prosecution without probable cause; probable cause could have been based on evidence in officer's report that was untainted by any charge of falsification or omission, including victim's statement to officer that her money was missing, suspect's admission that she was at scene of crime, and witness reports that surveillance video showed suspect leaving scene of crime with victim's wallet. U.S.C.A. Const.Amend. 4; 42 U.S.C.A. § 1983.

1 Cases that cite this headnote

*489 On Appeal from the United States District Court for the Eastern District of Michigan.

BEFORE: ROGERS, GRIFFIN, and DONALD, Circuit Judges.

Opinion

ROGERS, Circuit Judge.

Defendant deputy Keith Dalton appeals the district court's denial of qualified immunity in this malicious prosecution case, arguing that plaintiff Alice Sussman failed to provide evidence demonstrating that he had made a false statement knowingly and deliberately, or with a reckless disregard for the truth. Sussman alleges that, in writing a police report implicating Sussman in a theft at a laundromat, Dalton made false statements

and demonstrated a reckless disregard for the truth by relying on witness reports of what was on a surveillance tape and failing to review independently the entire surveillance tape. Although a more careful review of the tape would have revealed that Sussman was not the thief, the law imposed on Dalton no duty to comprehensively view the tape after establishing probable cause with the portion of the tape he did view. Furthermore, because an independent review of the surveillance tape reveals that Dalton did not make a substantial misrepresentation that would have been material to a finding of probable cause, he is entitled to qualified immunity on Sussman's federal claims. Accordingly, the district court should have dismissed the federal claims on qualified immunity grounds.

Deputy Dalton was dispatched to investigate a reported theft at a laundromat where a customer had discovered that money from her wallet had been stolen. She had left the wallet unattended on a laundry machine. At the laundromat, Dalton interviewed the victim Rachel Almos, the store manager Katelyn Gall, and another *490 witness from the scene Colleen Grinnell, who each identified Sussman as a potential suspect. Dalton wrote in his police report:

Gall and Almos reviewed the video tape and when they observed the suspect picking up the wallet; look through it; place the wallet in her coat pocket; leave the business; return to the business; and place the wallet right back where she took it from (on the washer). Almos called 911.

Interview witness, Katelyn Gall:

Gall gave the VHS tape to me and advised that she had it stopped where the suspect was picking up the wallet. Gall advised that the time on the tape is not correct, but she believes the incident occurred around 1pm.

...

Deputy's Actions and Observations:

I arrived and spoke with the victim and Gall regarding this incident.

I received the VHS tape from Gall.

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I made phone contact with Grinnell and ran the license plate through LEIN, which came back to [REDACTED]

I reviewed the tape from the point the suspect picked up the wallet; look through it; place it in her coat; and exit the business. I was able to clearing [sic] see a description of the suspect and the type of coat she was wearing. I proceeded to the suspect's residence and made contact.

Video was copied (from the point the victim set her wallet down to the point the suspect removed the wallet) to a DVD and the original VHS tape placed into evidence.

Interview with suspect, Alice Sussman:

I arrived and made contact with a [white female] matching the description from the video....

I asked Sussman if she had been at the laundry mat and she advised me that she was there earlier. I asked how earlier and she advised between 12-3pm....

I asked to see the coat and she brought out a black over coat with a fur collar and large front pockets. The coat matched the one the suspect was wearing on the video tape....

I asked her about the wallet and she advised she knew nothing about the wallet or the missing money. I asked her if she wanted to stick with this story, because I have her on video picking up a wallet; looking through it; and placing it in her front coat pocket. Sussman asked if she could see this video, because she is being set up. I advised that she would be able to review the video at a later time.

Four days later, Dalton interviewed Sussman again and wrote a supplemental report. During the interview, Sussman explained that the video probably showed her going through her own wallet. She showed her wallet to Dalton, and Dalton noted in his report that Sussman's wallet "looked similar to the victim's wallet." Dalton provided this supplemental report to the warrant officer assigned to the case, who put the supplemental report into the package that was given to the prosecutors for review.

Nine months later, Sussman was arrested, charged with larceny, and released on personal recognizance. While

copying the security footage in preparation for the preliminary hearing, Dalton noticed another suspect in the video taking money from the victim's wallet. He informed the prosecutor and defense attorney of the presence of another suspect in the footage, and the preliminary hearing was postponed. After further review of the video established that Sussman was not the culprit, *491 the charges against Sussman were dropped.

Sussman sued Dalton and the County of Washtenaw on federal claims, brought pursuant to 42 U.S.C. § 1983, for unreasonable seizure and prosecution without probable cause and for a violation of due process under *Brady*, and on related state-law claims of false arrest, false imprisonment, and malicious prosecution. Dalton moved for summary judgment on all of the claims, arguing that the facts did not support Sussman's claims and that Dalton was entitled to qualified immunity.

The district court granted Dalton's summary judgment motion for the malicious prosecution and due process claims but denied his motion as to all of the other claims. *Sussman v. Dalton*, No. 11-13247, 2012 WL 5874769, at *8-10 (E.D.Mich. Nov. 20, 2012). In rejecting Dalton's assertion of qualified immunity, the district court found that there were genuine issues of material fact regarding whether Dalton asserted a deliberate falsehood or showed reckless disregard for the truth by failing to view the surveillance video in its entirety and by writing a report that did not accurately report what was actually on the video. *Id.* at *6. The court also found that there was a genuine issue of material fact as to whether the alleged misrepresentations and omissions were material to the finding of probable cause. *Id.*

Dalton moved for reconsideration and presented an affidavit from the warrant officer assigned to the case that showed that Dalton had given his supplemental report to the warrant officer, controverting the district court's finding to the contrary upon which its original opinion had partially relied. The district court accepted the new fact but did not change its disposition.¹ The district court reiterated that a jury could find that Dalton was reckless in "not review[ing] the tape in its entirety until the day of Plaintiff's arraignment" and "put[ting] in his report—relied upon for the warrant—that witnesses and he saw something on the videotape that wasn't there." Dalton timely appealed.

Sussman v. Dalton, 552 Fed.Appx. 488 (2014)

1 Accordingly, the portions of the district court's original opinion that rely on Dalton's presumed failure to file the supplemental report will be disregarded.

We are required by the limitation on interlocutory appeals of denials of qualified immunity to accept the district court's findings on whether genuine disputes of material fact exist. *Romo v. Largen*, 723 F.3d 670, 674 (6th Cir.2013) (quoting *Johnson v. Jones*, 515 U.S. 304, 319–20, 115 S.Ct. 2151, 132 L.Ed.2d 238 (1995)). Since the district court relied predominantly upon Dalton's police report and the surveillance tape, we only second-guess the district court's factual findings and inferences to the extent that review of the report and the tape reveals “blatantly contradicted facts” relied upon in the district court's opinion. See *id.* at 674 n. 3 (discussing *Scott v. Harris*, 550 U.S. 372, 127 S.Ct. 1769, 167 L.Ed.2d 686 (2007)). Here, the district court made limited discrete factual findings, most of which we may scrutinize to the extent they are based upon the report and the tape, the contents of which are incontrovertible. For example, we are able to determine the accuracy of the district court's assertion that “the tape doesn't confirm what Defendant put in his report,” which is the most central and explicit finding that the district court made. *Sussman*, 2012 WL 5874769, at *5. To the extent the district court did not elaborate its factual findings or inferences in arriving at its legal conclusions, we make our best effort to assume those facts that the district court relied upon. See *Johnson*, 515 U.S. at 319, 115 S.Ct. 2151.

*492 [1] Since Sussman was arrested pursuant to a judicially secured arrest warrant, Sussman states a constitutional claim only if she establishes “(1) a substantial showing that the defendant stated a deliberate falsehood or showed reckless disregard for the truth and (2) that the allegedly false or omitted information was material to the finding of probable cause.” *Vakilian v. Shaw*, 335 F.3d 509, 517 (6th Cir.2003). Because Sussman has not made the substantial showing necessary to demonstrate that Dalton made a deliberate falsehood or showed a reckless disregard for the truth, Dalton is entitled to qualified immunity.

[2] First, Dalton did not make a deliberate falsehood by representing that the video shows Sussman returning to the laundromat and placing the wallet back where she had found it, because the only statement that this happened was in a section of the report in which Dalton reported

witnesses' observations. He had no reason to suspect that the witnesses were lying, so he was entitled to include their statements in his police report. It is generally permissible to establish probable cause based on hearsay. See *United States v. Kinison*, 710 F.3d 678, 682 (6th Cir.2013). Dalton did not describe observing Sussman returning with the wallet when he described his own observations of the video, which were made in a separate part of his report under the heading “Deputy's Actions and Observations.” There is no confusion in Dalton's report about which facts from the video he corroborated and which facts he established by hearsay.

[3] Second, Dalton did not show reckless disregard for the truth by failing to alert the warrant officer about portions of the tape he did not view. This court has consistently held that “[o]nce probable cause is established, an officer is under no duty to investigate further or to look for additional evidence which may exculpate the accused.” *Fradge v. City of Newport*, 501 Fed.Appx. 519, 527 (6th Cir.2012) (quoting *Ahlens v. Schebil*, 188 F.3d 365, 371 (6th Cir.1999)). The fact that further investigation would have exculpated Sussman is irrelevant; all that matters is whether what Dalton actually knew at the time he wrote the police report established probable cause. See *id.* at 527. Furthermore, Dalton cannot be said to have made an omission by failing to apprise the warrant officer about unreviewed portions of the tape. Probable cause determinations are made “based on the totality of information [the officer] had at the time.” *Gardenhire v. Schubert*, 205 F.3d 303, 318 (6th Cir.2000), and nothing indicates that Dalton was aware of what was on the portions of the videotape he did not review.

Lastly, comparison of the police report and the surveillance tape that Dalton actually viewed reveals no deliberate falsehood that would strip Dalton of qualified immunity. Dalton reported that he “reviewed the video tape from the point the suspect picked up the wallet; look through it; place it in her coat; and exit the business.” The portion of the video that Dalton reviewed shows Sussman walking up to and stopping in front of the laundry machine where the victim's wallet was located. The video then cuts away to another camera view from which Sussman cannot be seen. A few moments later, the video returns to Sussman, who can be seen rifling through a wallet. The video then shows Sussman putting the wallet into her coat pocket and slowly ambling out of the laundromat. Dalton reports this sequence of events

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accurately. Dalton's vague words "picked up the wallet" are neither a deliberate falsehood nor do they demonstrate a reckless disregard for the truth; instead, they amount to a fair description of the inferred sequence of events as shown on the video. Since Sussman must have picked up the *493 wallet from somewhere and the video is inconclusive about precisely where, Dalton was not bending the truth in affirmatively inferring that Sussman "picked up the wallet." Regardless, the report does not even say that Dalton *observed* Sussman pick up the wallet. Rather, it says that he "reviewed the video tape *from the point the suspect picked up the wallet.*"

[4] Sussman also failed to establish that the allegedly false statements were material to the finding of probable cause. Probable cause can be based on the following evidence in Dalton's report that is untainted by any charge of falsification or omission: The victim had told Dalton that her money was missing. Dalton had evidence that Sussman was at the scene of the crime—Sussman admits being in and out of the laundromat in the time frame in which the crime must have happened. Dalton had witness reports that the video showed Sussman leaving with the wallet and returning to place it back. Dalton used the video to verify that Sussman was seen leaving the laundromat with a wallet that appeared to be the victim's. Dalton also confirmed during his contact with Sussman at her residence that she was the woman in the video. These facts, which make no reference to Dalton's observing Sussman taking the wallet from a laundry machine, establish probable cause since together they "are sufficient to warrant a prudent person in believing" that Sussman committed the theft. See *Hinchman v. Moore*, 312 F.3d 198, 204 (6th Cir.2002) (alteration omitted) (stating the standard).

The district court and Sussman's arguments do not undermine this straightforward determination of probable cause. The facts actually known by Dalton established a "probability or substantial chance of criminal activity," and Dalton was not required to go any further to establish "an actual showing of criminal activity." See *Illinois v. Gates*, 462 U.S. 213, 243 n. 13, 103 S.Ct. 2317, 76 L.Ed.2d 527 (1983). Most importantly, Dalton's failure to view the entire video is, as a legal matter, not material to the finding of probable cause. As discussed above, Dalton had no duty to investigate further once probable cause was established. Moreover, probable cause cannot be defeated on the basis of knowledge that

an officer does not actually have. See *Ahlert v. Schabil*, 188 F.3d 365, 372 (6th Cir.1999). In *Ahlert*, this court held that officers had sufficient probable cause despite an investigation that "was no model of thoroughness and left many reasonable sources of evidence unexplored," suggesting that the officers simply could not be held "liable for evidence which they failed to collect and, therefore, of which they were unaware." *Id.* Similarly, a finding of probable cause based on what Dalton saw on the tape cannot be defeated by Dalton's failure to watch the rest of the tape. Also, the fact that fiddling with a wallet is common in a laundromat does not defeat probable cause. Given the totality of the circumstances, Dalton could have believed that Sussman's behavior in the video was suspicious enough to establish probable cause. "[I]nnocent behavior frequently will provide the basis for a showing of probable cause." *Gates*, 462 U.S. at 243 n. 13, 103 S.Ct. 2317.

Dalton was accordingly entitled to qualified immunity on the § 1983 claims. As to the state law claims, the district court should consider whether supplemental jurisdiction is appropriate in light of the dismissal of the federal claims. Generally, once a federal court has dismissed a plaintiff's federal law claim, it should not reach state law claims. See *Mine Workers of Am. v. Gibbs*, 383 U.S. 715, 726, 86 S.Ct. 1130, 16 L.Ed.2d 218 (1966). "Residual jurisdiction should be exercised only in cases where the interests of judicial economy *494 and the avoidance of multiplicity of litigation outweigh our concern over needlessly deciding state law issues." *Moon v. Harrison Piping Supply*, 465 F.3d 719, 728 (6th Cir.2006) (internal quotation marks omitted).

It is unfortunate that the innocent Sussman was arrested, but it appears from the record that her arrest was the result of bad luck rather than Dalton's deliberate overreaching. Sussman happened to stop right in front of the location of the stolen wallet at the moment the camera cut away, and when the camera cut back she could be seen with a wallet just like the victim's. It is remarkable how these minor circumstances arranged themselves in such a way that Sussman appeared guilty of the theft. Dalton, however, was entitled to qualified immunity.

We therefore reverse the district court's judgment denying qualified immunity and remand for further proceedings consistent with this opinion.

EXHIBIT N TO DEFENDANTS' REPLY BRIEF IN SUPPORT OF THEIR MOTION FOR SUMMARY DISPOSITION

EXHIBIT N

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2013 WL 195772

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UNPUBLISHED OPINION. CHECK
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Court of Appeals of Michigan.

Fawaz GHAIH, Plaintiff--Appellee,

v.

Don RAUSCHENBERGER,
Jr., Defendant--Appellant.

Docket No. 308717.

|

Jan. 17, 2013.

Bay Circuit Court; LC No. 11-003551-CZ.

Before: OWENS, P.J., and FITZGERALD and
RIORDAN, JJ.**Opinion****PER CURIAM.**

*1 In this intentional tort case, defendant Don Rauschenberger, Jr. appeals the trial court's denial of his motion for summary disposition under MCR 2.116(C)(7) (governmental immunity)¹ and MCR 2.116(C)(10) (issue of fact). We reverse and remand.

¹ Plaintiff asserts that the trial court did not deny defendant's motion, but instead called it "premature," which indicated that it was not a final order and that this Court does not have jurisdiction. We reject plaintiff's jurisdictional challenge.

At the time of the events leading to this lawsuit, plaintiff and Dawn Ghaith ("Dawn") were married with four children. Both plaintiff and Dawn were dual United States-Jordanian citizens with a permanent residence in Jordan. By August 2008, Dawn had decided that she wished to divorce Ghaith and return to the United States with their children to live closer to her mother and stepfather, Marion and Jerry Breasbois in Michigan. The main obstacle to her leaving was the fact that their youngest son, Samer, would not be able to leave Jordan until his expired Jordanian passport was renewed. Under

Jordanian law, Samer's passport could only be renewed by Samer's father, plaintiff, unless plaintiff was dead or in prison.

Hanan, the couple's eldest daughter, who had a valid passport, traveled to the United States in August 2008 to live with Marion and Jerry Breasbois. Hanan left Jordan after Ghaith's brother (Hanan's uncle) reportedly beat her at Ghaith's instruction for talking with boys on her mobile phone. Ghaith, who was in the United States at the time for work, called his daughter when he learned that she was in the country. They spoke several times between August 28 and September 2, 2008, and their conversations were described by Hanan as "threatening." Also during this time period, Ghaith received and accepted an invitation from his in-laws to have dinner at their house in Michigan on September 2, 2008.

The Breasboises contacted the Gladwin County Sheriff on August 29, 2008, to report that Ghaith was harassing and threatening them and Hanan. Plaintiff alleges that these reports were false and that his in-laws conspired with Dawn to have him arrested and prosecuted so that Dawn could renew Samer's passport under Jordanian law and return to Michigan with all of her children. Still unaware of the complaint against him, on September 1, 2008, Ghaith confirmed the invitation to have dinner at the Breasboises' house at 5:00 p.m. the following day. On September 2, 2008, the Breasboises contacted defendant Detective Don Rauschenberger of the Michigan State Police to report that Ghaith was coming to their home at 5:00 p.m. that evening to take Hanan back to Jordan and that Ghaith had threatened to kill them if they stood in his way.

Ghaith arrived at the Breasboises' home with groceries for dinner at about 5:00 p.m. on September 2. Once notified that Ghaith was at the house, Rauschenberger returned there with State Police Officers Michael Newsham and Mark E. Burch at about 7:20 p.m. The officers approached and arrested Ghaith, who was still waiting in his car in the driveway. There are factual disputes regarding what each party said and did after Ghaith was arrested. When told why he was being arrested, Ghaith reportedly told Rauschenberger that it was a misunderstanding based on a "communication error" and that "these people have no right to interfere with my family."

*2 After a preliminary hearing, Ghaith was charged with four counts of extortion, and transported to the Bay County Jail where he was held on a \$500,000 bond. Ghaith was tried on the extortion charges, but a mistrial resulted when the jury could not reach a verdict. On the eve of the new trial, the Bay County Prosecutor's Office dismissed all of the charges against Ghaith and released him from jail after investigators were unable to confirm the threatening phone calls Ghaith allegedly made because of discrepancies between the reported times of the calls and Ghaith's phone records. Ghaith had spent 196 days in custody.

Ghaith sued in federal court under 42 USC § 1983, asserting that his constitutional rights were violated by several state officials, including Rauschenberger and Bay County Prosecutors Richard Dresser and Scott Gordon.² Ghaith also filed the present lawsuit against Dawn and Rauschenberger alleging the following state law claims: false arrest, false imprisonment, malicious prosecution, concert of action, civil conspiracy, and ethnic intimidation. All claims were dismissed against Dawn. Rauschenberger then filed a motion for summary disposition asserting his entitlement to governmental immunity on all claims. The trial court concluded that it was not ready to make a decision on the motion, and was going to allow the case to continue to discovery. The court stated that it had not denied defendant's motion with finality, but merely found it premature. Defendant filed a claim of appeal with this Court, along with an emergency motion for a stay of all proceedings in the trial court. This Court granted both motions.

² The police officers and prosecutors filed motions for summary judgment, and the federal district court, finding that the defendants were entitled to qualified or absolute immunity because Ghaith's constitutional rights were not violated, granted the motions. The court also found that there was no question of material fact on the question of probable cause, and that Ghaith's claim of malicious prosecution was not supported by "evidence that Rauschenberger participated in the prosecution beyond investigating the crime and serving as a witness. Ghaith's appeal of this decision was denied by the 6th Circuit Court of Appeals, and his petition for rehearing en banc was also denied.

This Court reviews a trial court's decision on a motion for summary disposition de novo. *Jimkoski v. Shupe*, 282

Mich.App 1, 4, 763 NW2d 1 (2008). We also review questions of law regarding governmental immunity de novo. *Tellin v. Forsyth Twp.*, 291 Mich.App 692, 698; 806 NW2d 359 (2011). "In reviewing a(C)(7) motion, a court must accept all well-pleaded allegations as true and construe them in favor of the nonmoving party." *Id.* "[I]n order to determine whether defendant is entitled to summary disposition under MCR 2.116(C)(7), the proper inquiry is whether defendant has met his burden of proof in establishing that he is entitled to governmental immunity as a matter of law." *Oliver v. Smith*, 290 Mich.App 678, 684-685; 810 NW2d 57 (2010). "In reviewing a motion under MCR 2.116(C)(10), this Court considers the pleadings, admissions, affidavits, and other relevant documentary evidence of record in the light most favorable to the nonmoving party to determine whether any genuine issue of material fact exists to warrant a trial." *Walsh v. Taylor*, 263 Mich.App 618, 621; 689 NW2d 506 (2004). "A genuine issue of material fact exists when the record, drawing all reasonable inferences in favor of the nonmoving party, leaves open an issue upon which reasonable minds could differ." *Nuculovic v. Hill*, 287 Mich.App 58, 61-62; 783 NW2d 124 (2010).

*3 Generally, governmental immunity does not apply to intentional torts. However, governmental immunity does apply to intentional torts when the conduct at issue meets the following criteria: (1) the challenged acts were undertaken during the course of employment and the employees were acting, or reasonably believed that they were acting, within the scope of their authority, (2) the acts were undertaken in good faith, and (3) the acts were discretionary, as opposed to ministerial. *Odom v. Wayne Co.*, 482 Mich. 459, 461; 760 NW2d 217 (2008), citing *Ross v. Consumers Power Co. (On Rehearing)*, 420 Mich. 567; 363 NW2d 641 (1984).

The first element is met here, as Ghaith's claims arise out of Rauschenberger's exercise of police authority that he undertook while on duty and in the course of his public employment. Under the good faith requirement "there is no immunity when the governmental employee acts maliciously or with a wanton or reckless disregard of the rights of another." *Odom*, 482 Mich. at 474, (emphasis in original) (footnote omitted). Ghaith cannot establish that Rauschenberger acted outside of his authority or in bad faith because of estoppel. Thus, the second element is also met. The third element is met because, by definition, the investigatory police work challenged here is discretionary

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and not ministerial or operational. Collateral estoppel, also known as issue preclusion, "bars relitigation of an issue in a new action arising between the same parties or their privies when the earlier proceeding resulted in a valid final judgment and the issue in question was actually and necessarily determined in that prior proceeding." *Leahy v. Orion Twp.*, 269 Mich.App 527, 530; 711 NW2d 438 (2006), citing 1 Restatement Judgments, 2d, § 27 at pg. 250. "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.'" *Monat v. State Farm Ins. Co.*, 469 Mich. 679, 682-684; 677 NW2d 843 (2004), quoting *Storey v. Meijer, Inc.*, 431 Mich. 368, 373 n. 3; 429 NW2d 169 (1988).

Ghaith already had two opportunities to challenge probable cause: (1) at his preliminary examination and (2) in federal court. He failed both times and is not allowed to seek a different outcome here. The first element of collateral estoppel is met, because both determinations were valid and final. The second element is clearly present in the federal case, as the same parties before this court had the opportunity to brief and argue the issue of probable cause. Ghaith also had a full and fair opportunity to challenge probable cause in his criminal case.

Finally, there is mutuality of estoppel here because the prior judicial determinations of probable cause apply equally to Ghaith and Rauschenberger. Accordingly, the keystone of Ghaith's tort claims crumbles because he is barred as a matter of law from alleging that he was arrested or prosecuted without probable cause. His two earlier attempts to challenge probable cause were unsuccessful and he does not get a third opportunity in this court. As a result, there can be no genuine question of material fact for any claim that includes lack of probable cause as an essential element. More fundamentally, because Rauschenberger had probable cause, he is entitled to governmental immunity for any tort claim.

*4 To be sure, Ghaith's affidavit submitted in opposition to the motion for summary judgment creates numerous factual disputes in this case. But nearly every dispute involves purported statements or actions by the parties that took place *after* Ghaith was arrested, and none of

them significantly affects whether there was probable cause. The undisputed facts show that the police received credible reports of serious threats made by Ghaith and that the subsequent investigation corroborated those reports. And, more broadly, there is no evidence from which a reasonable jury could infer that Rauschenberger entered into a conspiracy with Ghaith's family to have him arrested without justification. In the end, the fact that one phone call was not mentioned in the report does not undermine all of the other facts known to the officers at the time indicating that Ghaith may have threatened his family.

The legal question for this Court to decide is not whether Ghaith's intentional tort claims under Michigan law were already litigated with finality. They plainly were not because the federal court declined supplemental jurisdiction over them after it dismissed with prejudice all of Ghaith's federal claims. The question here, rather, is whether the critical issue of probable cause was already litigated. *See Leahy*, 269 Mich.App at 530, citing 1 Restatement Judgments, 2d, § 27 at pg. 250; *see also Monat*, 469 Mich. at 682-84. We conclude that the answer is yes. The federal court expressly held that "the evidence that Rauschenberger was entitled to rely on in finding probable cause was *extensive*." *Ghaith v. Rauschenberger, et al.*, 778 F.Supp 2d 787, 798 (ED Mich.2011) (emphasis added). This is the *same* body of evidence relied upon here. The federal court also rejected as immaterial Ghaith's emphasis on alleged omissions or erroneous statements in Rauschenberger's police report.

While the claims are different in this forum, the undisputed facts and the issue of probable cause are the same. Because of that overlap, the doctrine of collateral estoppel applies. *Monat*, 469 Mich. at 682-684. Ghaith therefore may not re-litigate probable cause here. Without that necessary element, his claims fail as a matter of law and Rauschenberger is entitled to governmental immunity.

Probable cause is fatal to the claims of false arrest, false imprisonment, and malicious prosecution. The first category concerns claims that have lack of probable cause as an essential element. A claim of false arrest requires proof that the arrest lacked probable cause. *Burns v. Olde Discount Corp.*, 212 Mich.App 576, 581; 538 NW2d 686, 688 (1995), citing *Blase v. Appicelli*, 195 Mich.App 174, 177; 489 NW2d 129 (1992), *see also*

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Topo v. Howe, 179 Mich.App 91, 445 NW2d 452 (1989). Similarly, a malicious prosecution claim requires proof that there was no probable cause for the proceeding. *Burns*, 212 Mich.App at 581. While false arrest is an illegal or unjustified arrest, false imprisonment is the unlawful confinement of another person. *Lewis v. Farmer Jack Division, Inc.*, 415 Mich. 212, 218; 327 NW2d 893 (1982). Both causes of action require Ghaith to show that Rauschenberger instigated or participated in an unlawful arrest. *Id.* Ghaith cannot show that probable cause was lacking here.

*5 The trial court opined that Rauschenberger conducted an investigation and sought and obtained the requisite probable cause to arrest. The trial court further opined that this determination was sustained in district court at the preliminary examination and subsequently in circuit court during his criminal case. Also, the decision to confine Ghaith pending trial was not Rauschenberger's to make. Bail was for Ghaith and the prosecution to argue and the court to decide. Accordingly, Ghaith has presented no genuine question of material fact for his claims of false arrest or false imprisonment.

For malicious prosecution, Ghaith has the burden of proving (1) that the defendant has initiated a criminal prosecution against him, (2) that the criminal proceedings terminated in his favor, (3) that the private person who instituted or maintained the prosecution lacked probable cause for his actions, and (4) that the action was undertaken with malice or a purpose in instituting the criminal claim other than bringing the offender to justice. *Matthews v. Blue Cross and Blue Shield of Michigan*, 456 Mich. 365, 378; 572 NW2d 603 (1998).

This claim fails for the same reasons that probable cause existed. Ghaith, moreover, can show no question of fact on the other essential elements. The prosecutor decided whether Ghaith should be charged and the court determined whether he should go to trial. Accordingly, Rauschenberger did not initiate the prosecution. Nor, as the trial court noted, did the prosecution end in Ghaith's favor. There was a mistrial and the prosecutor dismissed the charges without prejudice. Favorable termination "is a missing element from this case of action ... which would be, I think, fatal to the—to the tort—or the count of malicious prosecution." Finally, Ghaith cannot show that Rauschenberger undertook any actions with malice or for any unlawful purpose.

To recover for abuse of process, Ghaith must plead and prove (1) an ulterior purpose, and (2) an act in the use of process that is improper in the regular prosecution of the proceeding. *Bonner v. Chicago Title Ins. Co.*, 194 Mich.App 462, 472; 487 NW2d 807 (1992). Ghaith simply cannot show that Rauschenberger had an ulterior purpose here. The record before the court is that he responded to credible crime victim reports and that he merely sought to ensure their safety and appropriately investigate the case. He had no stake and no role in the underlying family dispute. Nor is there any indication in the record that Rauschenberger did anything other than his job. Relatedly, once the process was instituted, Rauschenberger's role was limited to testifying as a witness. Ghaith identifies nothing in the record that shows Rauschenberger abused the criminal process for any personal advantage or other improper end. Further, the trial court ruled that any contact outside of court with the State Department or any other governmental entity simply does not constitute abuse of process.

*6 For concert of action and civil conspiracy, Ghaith must show some underlying tortious conduct. *Holliday v. McKeiver*, 156 Mich.App 214, 217–19; 401 NW2d 569 (2003); *Rencsok v. Rencsok*, 46 Mich.App 250, 252; 207 NW2d 910 (1973). As the trial court noted, these "aren't independent torts themselves." Ghaith cannot prove any underlying tort against defendant and thus cannot sustain claims of concert of action and civil conspiracy.

According to the applicable statute:

A person is guilty of ethnic intimidation if that person maliciously, and with specific intent to intimidate or harass another person because of that person's race, color, religion, gender, or national origin, does any of the following:

- (a) Causes physical contact with another person.
- (b) Damages, destroys, or defaces any real or personal property of another person.
- (c) Threatens, by word or act, to do an act described in subdivision (a) or (b), if there is reasonable cause to believe that an act described in subdivision (a) or (b) will occur. MCL 750.147b(1).

Ghaith cannot prove these elements for his claim against Rauschenberger. There is no evidence that he had the

requisite specific intent or animus outlined in the statute. In terms of causing physical contact, Ghaith claims that the arrest is sufficient. But where the arrest is lawful and justified, there can be no offensive contact that would be the subject of an ethnic intimidation claim. Nor is there any evidence that any of Ghaith's property was damaged, destroyed, or defaced. At best, some of Ghaith's property was properly seized and inventoried either as evidence or incident to arrest. But this falls far short of the destructive conduct that the statute requires.

Rauschenberger's entitlement to governmental immunity is grounded in admissible evidence and not, as Ghaith contends, on inadmissible hearsay. The core of that admissible evidence is the sworn testimony that Hanan and Dawn provided at the preliminary examination. Absent from Ghaith's brief on appeal is any discussion about this crucial evidence and the obvious independent and adequate basis that it provided for the trial court's probable cause determination. Ghaith instead focuses on the testimony of Rauschenberger, whom the prosecutor did not call to the stand and who answered no questions for the prosecutor. Ghaith's attorney called Rauschenberger to the stand to probe Ghaith's defense that Ghaith was "being treated differently because basically of [sic] the color of his skin and his religion." Additionally, Ghaith argues to no avail that the police reports should be stricken as inadmissible hearsay. The case law he cites is inapposite because in this case Rauschenberger has sworn an affidavit that (1) summarized his grounds for probable cause to arrest Ghaith and (2) generally attested to the truth and accuracy of the police reports.

As the federal district court concluded in Ghaith's earlier-filed case, "[t]he credible reports of Hanan, Dawn, and Marion Breasbois suggesting that plaintiff threatened to kill them if Hanan did not return to Jordan established probable cause to arrest plaintiff for extortion." *Ghaith*, 778 F.Supp.2d at 800. "Plaintiff has advanced little factual support for his assertion that the State Defendants knew or should have known that the allegations against him were false or that the State Defendants otherwise 'conspired' with Defendant Dawn and her family to have plaintiff arrested." *Id.* at 798.

*7 Equally fundamental is Ghaith's apparent misapprehension of the definition of hearsay and

the applicability of available exceptions. The bulk of the alleged hearsay is not in fact hearsay because Rauschenberger does not offer it to prove the truth of the matter asserted. MRE 801(c). The other purposes are (1) to show that the statements were uttered and (2) to demonstrate the effect that these statements had upon Rauschenberger's unfolding investigation. Accordingly, any such statements or writings by the complaining witnesses (Hanan, Dawn, Marion Breasbois and Jerry Breasbois) are admissible as non-hearsay. *See, e.g., People v. Knolton*, 86 Mich.App 424, 429; 272 NW2d 669 (1978). Equally, the conversation Rauschenberger had with John Stuenkel, Ghaith's primary trucking company manager, is admissible to show the effect that conversation had on the criminal investigation and Rauschenberger's conduct. Rauschenberger's affidavit, further, is admissible evidence that attests to his investigation, related personal observations, and the fact that certain utterances were made in his presence. Ghaith has offered no solid basis for excluding any of this evidence from the court's consideration.

Finally, Ghaith asserts a question of fact concerning his conversation with Rauschenberger post-arrest regarding collateral matters such as Miranda warnings, language barriers, and interference with Ghaith's family. But none of these proposed factual disputes are material because of the post-arrest timing of the conversation. At that point, probable cause to arrest was established and the universe of facts upon which Rauschenberger could rely was frozen. *People v. Oliver*, 417 Mich. 366, 374; 338 NW2d 167 (1983); *People v. O'Neal*, 167 Mich.App 274, 280-81; 421 NW2d 661 (1988). "Probable cause requires only the probability of criminal activity not some type of 'prima facie' showing." *Criss v. City of Kent*, 867 F.2d 259, 262 (CA 6, 1988). Any dispute about what happened or was said later is simply not relevant to the litany of bases that Rauschenberger had to suspect that Ghaith had threatened his family over the telephone. *See* MCL 750.213.

Reversed and remanded for proceedings consistent with this opinion. We do not retain jurisdiction.

All Citations

Not Reported in N.W.2d, 2013 WL 195772

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

APPEARANCES:

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WITNESSES

None

EXHIBITS

None offered.

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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, Ms.
14 Krahe -- 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 Ms. Krahe 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 Ms. Krahe 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

SUMMARY DISPOSITION OPINION AND ORDER

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

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Order

**Michigan Supreme Court
Lansing, Michigan**

October 4, 2019

159093

SAMUEL JEROME,
Plaintiff-Appellant,

v

MICHAEL CRUM and CITY OF BERKLEY,
Defendants-Appellees.Bridget M. McCormack,
Chief JusticeDavid F. Viviano,
Chief Justice Pro TemStephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
JusticesSC: 159093
COA: 335328
Oakland CC: 2015-148401-CZ

On order of the Court, the application for leave to appeal the December 27, 2018 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1).

The appellant shall file a supplemental brief within 42 days of the date of this order addressing whether the circuit court erroneously granted summary disposition to the defendants on the ground of collateral estoppel. In addition to the briefs, the appellant shall electronically file an appendix conforming to MCR 7.312(D)(2). In the brief, citations to the record must provide the appendix page numbers as required by MCR 7.312(B)(1). The appellees shall file a supplemental brief within 21 days of being served with the appellant's brief. The appellees shall also electronically file an appendix, or in the alternative, stipulate to the use of the appendix filed by the appellant. A reply, if any, must be filed by the appellant within 14 days of being served with the appellees' brief. The parties should not submit mere restatements of their application papers.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 4, 2019

Clerk

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