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COURT OF APPEALS NO. 81213-1-I

THE SUPREME COURT STATE OF WASHINGTON

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STATE OF WASHINGTON,

Respondent,

v.

CHRISTOPHER POINDEXTER,

Petitioner.

---

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF  
WASHINGTON  
COUNTY OF WHATCOM

---

PETITION FOR REVIEW

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TABLE OF CONTENTS

	<u>Page</u>
A. IDENTITY OF PETITIONER.....	1
B. OPINION BELOW.....	1
C. ISSUES PRESENTED.....	1-2
D. STATEMENT OF THE CASE.....	3-6
E. ARGUMENT.....	6-20
<u>1.The trial court denied Poindexter his constitutional rights to present a defense and to confront witnesses by refusing to permit him to cross-examine the alleged victim’s credibility.....</u>	6
<u>2.Poindexter was denied his constitutional right to be apprised of the nature of the criminal charge and to defend against the allegation by the dilatory amendment. ....</u>	12
<u>3.Poindexter was denied his constitutional right to a fair trial when the testimony of multiple witnesses vouched for the veracity of other witnesses and stated an opinion of guilt. ....</u>	16
F. CONCLUSION... ..	20

**TABLE OF AUTHORITIES**

	<b><u>Page</u></b>
<b><u>WASHINGTON CONSTITUTION</u></b>	
WASH. CONST. Art. I, § 22 .....	12, 13,
.....	15
 <b><u>WASHINGTON STATE SUPREME COURT</u></b>	
<i>State v. Brooks</i> , 195 Wn.2d 91 (2020) .....	15
<i>State v. Carr</i> , 97 Wn.2d 436(1982 .....	13
<i>State v. Darden</i> , 145 Wn.2d 612, 619, 41 P.3d 1189 (2002).....	7
<i>State v. Gehrke</i> , 193 Wn.2d 1 (2019) .....	12, 15
<i>State v. Jones</i> , 168 Wn. 2d 713, 720, 230 P.3d 576 (2010).....	7,8
<i>State v. Kirkman</i> , 159 Wn. 2d 918 (2007) .....	16
<i>State v. Koslowksi</i> , 166 Wn.2d 409 (2009) .....	18
<i>State v. Montgomery</i> , 163 Wn.2d 577 (2008) .....	17
<i>State v. Orn</i> , No. 98056-0, slip opinion (Wash. Mar. 18 2021) .....	7,8
<i>State v. Pelkey</i> , 109 Wn.2d 484 (1987) ... ..	13, 15,
.....	16
<i>State v. Rafay</i> , 168 Wn. App. 734 (2011) .....	15
<i>State v. Thack</i> , 126 Wn. App. 297 (2005). .....	16

**UNITED STATES SUPREME COURT**

*Chambers v. Mississippi*, 410 U.S. 284, 294, 93 S. Ct. 1038, 35 L. Ed. 2d 297 (1973) .....7

*Delaware v. Van Arsdall*, 475 U.S. 673, 678, 106 S. Ct. 1431, 89 L.Ed.2d 674 (1986) ... .....7

**UNITED STATES CONSTITUTION**

US CONST, 6<sup>th</sup> AMDT .....7

**COURT RULES**

ER 403 .....8

CrR 2.1 .....12, 13

**A. IDENTITY OF PETITIONER**

Christopher Poindexter asks this Court to accept review of the opinion in the Court of Appeals in *State v. Poindexter*, 81213-1-1.

**B. OPINION BELOW**

Christopher Poindexter (herein “Poindexter”) appealed his conviction of three counts of first-degree child molestation and one count of second-degree child molestation. In part, Poindexter averred retrial was necessary because a) the trial court denied his constitutional right to confront witnesses and violative of the Sixth Amendment of the United States Constitution, b) as well the trial court’s allowance of an amendment of the Information that was substantially prejudicial to Poindexter, c) and the trial court erred by admitting impermissible opinions from witnesses concerning the guilt of Poindexter. The Court of Appeals affirmed Poindexter’s conviction erroneously.

**C.ISSUES PRESENTED**

1. The Sixth Amendment to the United States Constitution guarantees an accused person the right to present a defense and meet the charges against him. The trial court prevented the Petitioner from relevant cross-examination of the alleged victim(s) that directly contradicted the allegations of the State. The Court of Appeals incorrectly concluded the

trial court was within its discretion to limit such scope of cross-examination of the alleged victim on central issue of memory and recall and credibility.

2. A fundamental constitutional right is to be apprised of the nature of the criminal charge and opportunity to defend against the allegation. The dilatory amendment permitted by the trial court substantially changed the nature of the allegations and creating substantial prejudice in defense of the allegations. The Court of Appeals incorrectly analyzed the issue as an essential elements' amendment, not correcting evaluating or weighing the constitutional right to be apprised of the allegation and opportunity to defend and the substantial prejudice created by the amendment.

3. The constitutional right to a fair trial and an independent determination of facts by the jury is violated when opinion evidence of the veracity of other witnesses or the guilt of the defendant is admitted. The testimony permitted by the trial court of the opinion of the veracity of other witnesses and the guilt of the defendant violated the constitutional right to a fair trial. The Court of Appeals failed to apply the constitutional standards properly in assessing the prejudicial effects of such admitted evidence.

### **C. STATEMENT OF THE CASE**

Respondent (herein “State”) extensively examined both alleged victims as to all allegations. Verbatim Report of Proceedings (herein “RP”), at pp 58-186 (J.D.); at 199-234 (K.S.).

Respondent robustly examined alleged victims on virtually unbounded subject matters, to exhaustion of any relevant subject matter, including credibility issues and determinations such as memory and ability to recall alleged facts. RP at page 58-186 (J.D.); RP at 199-234 (K.S.). In turn, Poindexter commenced cross-examination concerning such witnesses memory, and the lack of memory of particular events, memories of other events that would be time-related to the alleged allegations seeking to challenge the credibility, recall, perceptions, of the alleged victim during the time-span she alleged these events occurred. RP at page 238, line 1-25 (alleged to have occurred over a two-year time span). Poindexter’s relevant examination was to test the memory, and credibility, of the alleged victim by inquiring of memory of other events or persons during this same time period. RP at page 240, L 1-25. Upon Respondent general objection to Poindexter’s examination as to the related time frame memories of the alleged victim, the trial court stated the court had “indulged these questions and I think you’re getting to the end or your questions.” RP at page 240 line 23-25.

The trial court specifically limited Poindexter's cross-examination on memory, recall, credibility issues to "one or two more questions of this sort," after Poindexter's counsel responded that "Your Honor, I'm testing her memory. I have broad latitude on cross-examination." RP at page 240, line 18-25.

Further, over objection, the trial court permitted a Second Amendment of the Information during the Respondent's re-direct examination of a witness which expanded the charging periods. RP at page 283, line 3-22. Poindexter objected because the Second Amendment Information implicated a time that he was not a resident of the home where the alleged acts occurred and expanded the time period scope of remaining counts expanded the scope of the allegations not contained in the original charges. Id; see also, RP page 283, line 22-25; RP page 284, line 1-7. The Respondent framed the issue as an "adjustment of the charging period." RP page 284, line 17-18. Poindexter's objection upon which the Court was informed the basis of the objection included not only the substantive change expanding the time period but other potential witnesses or evidence that may be available because of the Court's granting and expanding the time period of the alleged events during the State's case-in-chief. RP at page 389, line 7-13. The Court permitted the Second Amended Information and further indicated that the defense must have



any evidence it wished to introduce based upon the new charges and new charging period in the morning because the Court was sending the matter to the jury the next day. RP at page 390, line 6-14.

Overnight Poindexter located one witness implicated by the new charge and new charging period and presented that singular person for testimony in the morning as ordered by the Court. RP at page 536. This witness did support the defense raised by Poindexter to the new charge and new charging period that he was not living at the residence during the amended charging period. RP at page 537, line 14-21.

Additionally, the mother of the alleged victims was permitted to express her direct opinion on the credibility of the alleged victims by her answer to the State's direct examination query as her opinion as to the direct guilt of Poindexter. *Id.* RP at page 331, line 1-16. Poindexter objected to the question posed by the Respondent. The State in a speaking objection response attested to the core credibility of the alleged victim's herein by opining that his question to the victim's mother about the alleged victim's testimony was relevant to "their willingness or desire to make up an allegation." RP at page 330, line 11-25. *Id.* . The witness, mother of the alleged victim, and ex-spouse of Poindexter, was permitted to testify in response to the State's question and comment on the credibility of the two alleged victim by a speaking objection "[a]ny

question in your mind about who had done this to your daughters?,” and the answer from the mother witness “no.” Such extremely prejudicial question and answer were not struck by the Court despite Poindexter’s continued objections to this line of question and answer on multiple layers expressing credibility by counsel for the alleged victim, the mothers response to her individual opinions as to the alleged victims’ credibility, her daughters, and her own individual opinion as the specific guilty of Poindexter. Id.

Further expression of opinions of the guilt of Poindexter were made directly by the investigating Detective, who expressed his direct, core opinion about the credibility of the testimony of the two alleged victims. RP at 341 line 1-14. The Detective indicated to the jury that “I think they all presented pretty accurately in the way they testified.” Id. The Court permitted this direction expression and comment on the accuracy and veracity of the alleged victim’s testimony and thus the guilt of Poindexter. Id.

#### **D. ARGUMENT**

1. The trial court denied Poindexter his constitutional rights to present a defense and to confront witnesses by refusing to permit him to cross-examine the alleged victim’s credibility.

The Sixth Amendment of the United States Constitution guarantees a defendant the right to confront the witnesses against him through cross-examination. *Delaware v. Van Arsdall*, 475 U.S. 673, 678, 106 S. Ct. 1431, 89 L.Ed.2d 674 (1986). The more essential a witness the greater the latitude afforded the defendant to cross-examination to expose bias, credibility determinations. *State v. Darden*, 145 Wn.2d 612, 619, 41 P.3d 1189 (2002). Further, the quintessence, intrinsic central element of due process is “the right to a fair opportunity to defend against the State’s accusations.” *Chambers v. Mississippi*, 410 U.S. 284, 294, 93 S. Ct. 1038, 35 L. Ed. 2d 297 (1973).

If evidence sought to be admitted has ‘minimal’ relevance it is required to be admitted unless the State can prove the evidence is so “prejudicial as to disrupt the fairness of the fact-finding process at trial.” *State v. Jones*, 168 Wn. 2d 713, 720, 230 P.3d 576 (2010). Thus, the court must balance such evidence exclusion under this standard. *Id.*

Further, the Court recently in *State v. Orn*, No. 98056-0, slip opinion (Wash. Mar. 18 2021), reiterated these well-established principles affirming that restrictions on the scope of cross-examination (therein bias evidence) is error unless the State articulates a compelling interest for excluding it. *Id.* The trial court’s finding in *Orn* to disallow such examination was found to be an abuse of discretion and in violation of

constitutional protections but the *Orn* court found the State had carried the burden beyond a reasonable doubt such violation was harmless. *Id.*

Herein, there was no finding by the trial court as to relevance or balancing under ER 403. *Id.* The trial court merely indicated that trial counsel had reached the end of its questioning concerning the alleged victim's ability to recall *anything* of any significance whatsoever during the period of alleged abuse. The prosecutor objection did not satisfy any finding whatsoever that the admission of cross-examination questions specifically designed to illustrate, illuminate, and establish the lack of any memory, thus credibility of the alleged victim, would prejudice the fact-finding process. *Jones, supra*, at 168 Wn. 2d 720. There was no such showing or demonstration whatsoever. RP PP 240, LL 18-25. The record is bare. *Id.* There is no argument of the overriding unfairness to judicial proceedings, or that it would pose any risk whatsoever of "harassment, prejudice" or "confusion of the issues." *Id.*; see also, ER 403. *See also, Orn, supra.*

Thus, the exclusion from admission of such evidence violates Poindexter's Sixth and Fourteenth Amendment rights. The Court of Appeals below misapplied this Court's recent reiteration of constitution principles as expressed in *Orn, supra*. Specifically, the Court of Appeals' decision below illustrates that Poindexter asked six (06) cross-examination

questions of the alleged victim concerning her ability to recall anything significant in the time period of the allegations and held that was sufficient for the trial court to curtail examination on memory and thus credibility when there was an objection by the State. There was no basis articulated by the State, no balancing test applied by the trial court, no ER 403 analysis, in finding further questions of “undue delay, waste of time, or needless presentation of cumulative evidence.”

The Court of Appeals’ faulty analysis is clearly evident: it was not the ‘same’ evidence Poindexter was seeking to elicit. Poindexter was not asking the same question repetitively. Poindexter was seeking to broadly cross-examine across the spectrum of the alleged victim’s experiences and then her ability to recall any or a specific event during the charging period. RP PP 240, LL 23-25. Of course, the trial court’s role is not to “stop” counsel from potentially effective litigation in defense of the accused, but to determine if there is a lawful basis to restrict the scope of constitutionally protected cross-examination. There is no record of that evidentiary assessment. *Id.*

Herein, the six (06) questions the Court of Appeals relies upon to approve the trial court “to stop” Poindexter demonstrate the cross-examination was not repetitive-they are a different nature and context. While the *conclusion* may be the same, i.e., the witness recalls absolutely

nothing except the alleged allegations acts, there is no constitutional limitation that can or should be imposed on the defense's attempt to defend himself by effective demonstration as to the lack of credibility of an alleged victim(s) or attack the credibility of the alleged victim(s) herein.

The trial court placed an actual, specific numerical limit on cross-examination questions that could be asked by Poindexter in challenging the credibility of the alleged victim(s), without regard to the substance of such examination. RP PP 240 PP 18-25. The Court of Appeals was similarly influenced that a numerical limitation was the appropriate standard to apply vice the evaluation of the substantive cross-examination question, the weighing of such evidence for relevancy, and the meeting of the State's burden in justifying exclusion, all of which are absent from the bare record.

Importantly, this issue of memory recall, and hence credibility could not be more central. the Court of Appeals approvingly cites the incredibility specific and detailed recall of the alleged victims in other areas of Poindexter appellate challenges. The Court of Appeals approvingly notes that the alleged victim(s) had *specific* recall that the alleged acts occurred when "others were home," and that the other was "in the room," and that specifically Poindexter alleged committed an act when

the “mother and sister were home,” and that the acts would “most often” occur “after coming home from work.” The Court of Appeals erroneous decision below in upholding the curtailment of cross-examination speaks loudest here: the State cannot be permitted to its complete satisfaction to ask each and every question of the alleged victim’s to describe the alleged acts, when, where, how and frequency, location, who was home who was not, the time of day, the alleged circumstances, where Poindexter is bluntly prohibited, as well as numerically prohibited, to six (06) questions, as illustrated by the Court of Appeals in affirming the trial courts ruling, without regard to the substance and content and subject matter of the questions, or the application of constitutional standards of protection of the accused, or the evidentiary court rule application, to challenge the same credibility that the State so broadly enjoyed and the Court of Appeals precisely quoted to uphold Poindexter’s conviction as to the credibility of the alleged victims which Poindexter was bluntly prohibited from challenging.

Credibility, and the challenge to credibility of the State’s case, is the defense’s entire defense, but were it even just a small part of the defense’s defense, the widest possible latitude is constitutionally afforded to the defense in cross examination and challenge to credibility of proffered witnesses.

Thus, the Court of Appeals decision herein is contrary to established decisional law illustrated herein.

2. Poindexter was denied his constitutional right to be apprised of the nature of the criminal charge and to defend against the allegation by the dilatory amendment.

WASH. CONST. Art. I, § 22 provides in material part:

“[i]n criminal prosecutions the accused shall have the right ... to demand the nature and cause of the accusation against him.”

This fundamental right is the set upon clearest principle of justice that “[t]he accused, in criminal prosecutions, has a constitutional right to be apprised of the nature and cause of the accusation against him ... [t]his doctrine is elementary and of universal application, and is founded on the plainest principle of justice.” *State v. Gehrke*, 193 Wn.2d 1 (2019).

CrR 2.1 protects a charged individual from amendment of the charging instrument if substantial rights are prejudiced. In particular, CrR 2.1(d) provides:

Amendment. The court may permit any information or bill of particulars to be amended at any time before verdict or finding if substantial rights of the defendant are not prejudiced.

To be fully informed of the charge so that the accused can present a competent defense is the benchmark and requirement of the constitutional mandate of WASH. CONST. art. I, § 22. *State v. Gehrke*,



supra (quoting *State v. Carr*, 97 Wn.2d 436(1982)) While the Court has defined a bright-line rule of reversible error per se where the State has finished or de facto finished its case-in-chief, unless the amendment is to lesser included offense allegation, the Court has focused on the central purpose of WASH. CONST. art. I, § 22 of those amendments which prejudice capable competent defense by failure or nonexistence of notice of or to the amended charge. *State v. Pelkey*, 109 Wn.2d 484 (1987).

The Court has also reasoned that the *timing* of an amendment is central to the considerations of prejudice and notice to prepare a competent defense. The Court noted:

*The constitutionality of amending an information after trial has already begun presents a different question. All of the pretrial motions, voir dire of the jury, opening argument, questioning and cross examination of the witnesses are based upon the precise nature of the charge alleged in the information. Where a jury has already been empaneled, the defendant is highly vulnerable to the possibility that jurors will be confused or prejudiced by a variance from the original information. *State v. Pelkey, supra*, at 490. (Emphasis & underlining supplied.)*

Further, during a jury trial and when “amendment occurs late in the State's case, impermissible prejudice could be more likely.” *State v. Pelkey, supra*, at 490. The Court has also held that a mid-trial amendment “necessarily prejudices this substantial constitutional right, within the meaning of CrR 2.1(e)” (now CrR 2.1(d)).

Over Poindexter's objection, the trial court permitted a substantive Second Amendment of the Information during the State's re-direct examination of a witness which expanded the charging periods. RP at page 283, line 1-22; see also RP at page 284, line 5-7. Poindexter objected because the Second Amendment Information implicated a time period not previously charged and where he was not a resident of the home where the alleged acts purportedly occurred, thus it changed the nature of the charge and expanded the time period scope of remaining counts by expanding the scope of the allegations not contained in the original charges. *Id.*; see also, RP page 283, line 18-22-25; RP page 284, line 1-7; see also, RP at 409-410. Poindexter's objection included not only the substantive change expanding the time period but other potential witnesses or evidence because of the Court's granting and expanding the time period of the alleged events during the State's case-in-chief. RP at page 389, line 7-13; RP at 390. The trial court permitted the Second Amended Information and further indicated that the defense must have any evidence it wished to introduce based upon the new charges and new charging period the very next day because the Court was sending the matter to the jury the very next day. RP at page 390, line 6-14. This was defense by edict without Poindexter's ability to prepare for the expanded and changed case levied against him.

Succinctly, the trial court erred in permitting the Second Amended Information to be filed as the Second Amended Information expanded the time frame of the allegations and substantively altered the charge substantively and significant to a new charge, as it expanded the charging period, now an allegation with new potential evidence, which were not relevant before the amendment, and potentially additional defenses, became relevant. RP at page 389-390; RP at 284, line 507; RP at 283, Line 18-22.

The Court's granting the Second Amended Information deprived Poindexter one of the most fundamental aspects of justice: to be advised of the nature of the charge levied against you and to competently prepare a defense. See, *State v. Rafay*, 168 Wn. App. 734 (2011) (reasoning that a "criminal defendant's constitutional right to present a defense "is, in essence, the right to a fair opportunity to defend against the State's accusations"" and includes the right to offer testimony and examine witnesses.") WASH. CONST. art. I, § 22.; CrR 2.1(d); *State v. Gehrke*, *supra*.

The Court of Appeals erroneously simply characterized the amendment of the Information as primarily implicating the matter as an "essential element" issue. *State v. Brooks*, 195 Wn.2d 91 (2020). The Court of Appeals failed to even cite the seminal case on the issue, *State v.*

*Pelkey*, supra, which expressively, exactly details the substantial prejudicial issues that Poindexter argued were experienced by the dilatory amendment; to wit., the substantial prejudicial impact on ‘pretrial motions,’ ‘voir dire,’ ‘opening argument,’ ‘questioning’ and ‘cross-examination’ are all strategically and tactically based upon the “precise nature of the charge.” *State v. Pelkey*, supra. The Court of Appeals erroneously misapprehended this issue entirely.<sup>1</sup>

3. Poindexter was denied his constitutional right to a fair trial when the testimony of multiple witnesses vouched for the veracity of other witnesses and stated an opinion of guilt.

No witness may offer an opinion about the veracity of the defendant or another witness because it denies the right to a fair trial and invades the province of the jury. *State v. Kirkman*, 159 Wn. 2d 918 (2007); *State v. Thack*, 126 Wn. App. 297 (2005); see also *State v. Black*, 109 Wn.2d 336 (1987) (holding “no witness may testify to his opinion as to guilt of a defendant by direct statement or inference.”). As further

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<sup>1</sup> The Court of Appeals notes in Footnote 3 of the Opinion below, as support its holding that Poindexter was not prejudiced by the Amendment challenged herein: “Poindexter does not argue he was prejudiced by the State’s decision to drop two of the charges against him.” FN 3, Opinion, Court of Appeals. This footnote suggests the Court of Appeals fails to accurately understand the procedural history on this issue. Namely, the charges were not “dismissed.” Amended Information’s had been previously filed in the case, while the trial was in progress, but not motioned by Respondent or granted by the trial court; the Respondent never made motion to amend on those filed charges. The Respondent filed multiple amendment during the trial as the trial progressed. The Respondent then filed another motion to amend, then motioned to have the charges amended, which was granted over Poindexter’s objections for the reasons argued herein and because of the charging as modified herein as argued below and herein. As well, even were there substantive, filed charges, upon which Poindexter was defending, and they were then subsequently dismissed by the Respondent, that occurrence would have no bearing whatsoever

reasoned, “impermissible opinion testimony regarding a defendant’s guilt may be reversible error because such evidence violates the defendant’s constitutional right to a jury trial which includes the independent determination of facts by the jury.” *State v. Montgomery*, 163 Wn.2d 577 (2008) ( The Court reasoning that the bedrock of independent fact determination by the jury, which should remain unsullied by opinion evidence of witnesses, is a time immemorial principle, with the Washington State Supreme Court citation to the reported ostensible practice and tradition of the Greek Gods themselves, in upholding this key principal of a jury: “[t]he concept of the jury as the arbiter of disputed facts appears to predate recorded history. Ancient Greek tradition credits Athena, the goddess of wisdom, with convening the first jury. LLOYD E. MOORE, THE JURY: TOOL OF KINGS, PALLADIUM OF LIBERTY 1 (1973). But 750 years before the mythological trial of Orestes, recounted by Greek playwright Aeschylus, the Egyptian New Kingdom was already resolving minor disputes among workers on the necropolises using a “Kenbet,” a council of eight members, four from each side of the Nile. ”)

Respondent asked the victim’s mother and Poindexter’s ex-wife about the testimony of her daughters and “their willingness or desire to make up an allegation.” RP at page 330, line 11-25. *Id.* Over objection,

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whether Poindexter was prejudiced by a subsequent amendment, as seems to be the implication of

the witness was permitted to express her opinion on the credibility of the alleged victims by her answer. Id. RP at page 331, line 1-16. Over repeated objection this witness asked if there was “any question who had done this to your daughters?” to which the mother of the alleged victim’s said “no.” RP at 331.

Further, the primary investigating detective in the case was also permitted to also express his direct, core opinion about the affirmative credibility of the testimony of the two alleged victims, over objection. RP at 341 line 1-14 The Detective indicated to the jury that “I think they all presented pretty accurately in the way they *testified*.” Id. (emphasis supplied.)

The Court of Appeals failed to apply the constitutional standards properly in assessing the prejudicial effects of such admitted evidence. While the Court of Appeals recognized the Respondent conceded to the improper testimony and opinion of the mother and ex wife witness, the Court of Appeals failed to properly conclude the Respondent meet its burden in establishing harmless error. *State v. Koslowksi*, 166 Wn.2d 409 (2009).

Specifically, the classification of witnesses who expressed their direct opinion either to the credibility of the alleged victims and to the

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contained in FN 3.

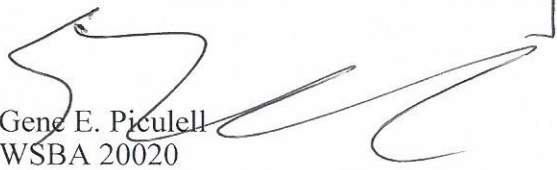
direct guilt of Poindexter could not be more prejudicial to Poindexter, and an independent jury. The *mother* of the alleged victim *ex-wife* of Poindexter is a particular poignant witness to both lay direct opinion blame and direct veracity opinion of the alleged victims. It is incalculable the adverse prejudicial effect this had on the jury. The *primary investigating Detective* opinion vouching for the credibility of the alleged victims either out of their out of court statements or in-court testimony, or comparison of both, is independently devastatingly prejudicial to Poindexter, and an independent jury.

The substantial prejudicial impact to Poindexter by this permitted testimony was further exacerbated because Poindexter was bluntly prohibited from examining the alleged victims as to their credibility in the limitation of cross-examination (see Issues Presented #1, herein), yet unfettered opinion testimony of two witnesses was permitted to vouch for credibility and express an opinion as to guilt. Herein, there was no forensic evidence introduced in this case-at all; no expert witnesses; no physical or trace evidence. The case rose and fell on the subjective issues of witness credibility. The Court of Appeals opinion is in error in finding the Respondent met its burden in finding harmless error.

**F. CONCLUSION**

The opinion of the Court of Appeals herein is contrary to decisions of this Court and the Issues Presented independently and collectively present significant constitutional issues and therefore respectfully this Court should accept review under RAP 13.4.

DATED this 16<sup>th</sup> day of May, 2021.

  
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**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

STATE OF WASHINGTON,	)	No. 81213-1-I
	)	
Respondent,	)	DIVISION ONE
	)	
v.	)	
	)	
CHRISTOPHER POINDEXTER,	)	UNPUBLISHED OPINION
	)	
Appellant.	)	
_____	)	

MANN, C.J. — Christopher Poindexter appeals his conviction of three counts of first degree child molestation and one count of second degree child molestation. He argues retrial is required because (1) the court admitted inadmissible hearsay, (2) his constitutional right to confront the witnesses against him was violated, (3) the court erred by admitting impermissible opinions from witnesses, and (4) the court prejudiced him by allowing an amendment to the charging document. We affirm.

FACTS

In May 2018, the State charged Poindexter with five counts of first degree child molestation and two counts of second degree child molestation for acts committed years earlier on his stepdaughters, J.D. and K.S. Trial began in November of 2019. J.D. and K.S., who were 21 and 18 years old respectively at the time of trial, both testified.

Citations and pin cites are based on the Westlaw online version of the cited material.

J.D. testified that when she, K.S., their mother, and Poindexter lived on Grove Street in Bellingham, “[e]verything was going normal, then it started to get weird.” When J.D. was 10 or 11, she and Poindexter were watching television in his bedroom. Poindexter told J.D. to come closer, climb on top of him, and lay on him. J.D. complied. Poindexter held her hips and rubbed her behind against his genitals for 20 to 25 minutes. She told no one about it because Poindexter said to keep it just between themselves, and, as her father, she listened to him.

In early 2010, the family moved to a house in Sudden Valley. J.D. was now in sixth grade, and K.S. was in third grade. J.D. testified that when she was 12 or 13, Poindexter molested her again. K.S. testified that when they lived in Sudden Valley, Poindexter molested her 10 to 15 times, “like a routine.” She was not yet 12. Poindexter would call her over to sit on his lap after he arrived home from work. He would caress K.S.’s body, including her vagina, over her clothes. Poindexter would also rub K.S. against his genitals, as he did to J.D. On several occasions, including once when J.D. and her mother were in an adjacent room, Poindexter open-mouthed kissed K.S. with his tongue. K.S. did not tell anyone about being molested.

After Poindexter and the victims’ mother separated in 2014, J.D. and K.S. disclosed Poindexter’s predations to each other. They did not tell their mother, however, because they were afraid of hurting her. J.D. continued to communicate with Poindexter because he “was all I had as a father, so I didn’t want to lose it.” They communicated through text or Facebook messages. Poindexter sometimes sent messages to J.D. that made her uncomfortable, such as calling her “hot stuff,” asking what she was wearing, and asking for a picture of her wearing body paint. J.D.

eventually showed the messages to her boyfriend, who told her to stop communicating with him because Poindexter was a “creep.” J.D. texted Poindexter to say “good-bye” and explain her boyfriend’s reaction. That strong reaction also prompted J.D. to disclose Poindexter’s molestation.

J.D. and K.S. simultaneously disclosed to their mother that Poindexter molested them. The same day, their mother reported to the police that J.D. and K.S. had been molested. After a three-month investigation, Poindexter was arrested and charged.

During the State’s case-in-chief, it moved to amend the information by dropping two charges against Poindexter and expanding the charging periods on the remaining counts. The court allowed the amendment over Poindexter’s objection. Poindexter also objected to testimony from J.D. and her mother on hearsay grounds. The jury found Poindexter guilty on three counts of first degree child molestation, guilty on one count of second degree child molestation, and not guilty on one count of first degree child molestation.

Poindexter appeals.

## ANALYSIS

### A. Hearsay

Poindexter challenges testimony from J.D. and her mother as prejudicial and inadmissible hearsay. We disagree.

We review the court’s decision to admit evidence for abuse of discretion. State v. Thomas, 150 Wn.2d 821, 856, 83 P.3d 870 (2004). A court abuses its discretion when its decision rests on untenable grounds or reasons. State v. Lee, 188 Wn.2d 473, 486, 396 P.3d 316 (2017).

Hearsay is generally inadmissible. ER 802. “Whether a statement is hearsay depends upon the purpose for which the statement is offered. Statements not offered to prove the truth of the matter asserted, but rather as a basis for inferring something else, are not hearsay.” State v. Garcia, 179 Wn.2d 828, 845, 318 P.3d 266 (2014).

Poindexter argues the court erred by letting J.D. testify to her boyfriend’s reaction to Poindexter’s messages. J.D. testified to her boyfriend’s statements to explain why she finally disclosed Poindexter’s history of abuse. J.D.’s boyfriend’s statements were not admitted to prove the matter asserted and were, therefore, not hearsay. Garcia, 179 Wn.2d at 845.

Poindexter contends the court erred when the victims’ mother was allowed to testify to statements made by J.D. and K.S. when disclosing Poindexter’s abuse. A prior consistent statement admitted through ER 801(d)(1)(ii) “is not hearsay if it is consistent with the declarant’s testimony and is used to rebut an allegation of recent fabrication.” Peralta v. State, 191 Wn. App. 931, 952, 366 P.3d 45 (2015), rev’d on other grounds, 187 Wn.2d 888, 904, 389 P.3d 596 (2017).

In relevant part, the victims’ mother testified:

That there had been instances where if she was alone with him that there, you know, it was suggested that she—and both cases—go change clothes or go change into something different other than pants, maybe shorts. There was touching, inappropriate touching. Having her—and this goes for both—to sit on his lap or come lay next to him. I can’t recall the exact instances. . . . But that’s, that was, you know, the brunt of what they had told me. And it was multiple instances, it wasn’t just one or two times. . . . It had started in Grove Street . . . I don’t recall, you know, bedrooms or places. They didn’t go into that kind of detail. Sudden Valley it was like downstairs in the rec room, or, I’m not sure exactly what locations they were in.

. . . .

They wanted to try to keep that semblance of normalcy. They also didn't know how to tell me. I asked them why, what took so long. They didn't know. They were scared. They didn't know how to tell me. They said they didn't know, either one of them, about the other's.

J.D. and K.S. both testified extensively about Poindexter's predations and testified about disclosing them to their mother, including why they did not disclose having been molested until years later. Poindexter cross-examined both victims and repeatedly questioned their recall of the years when they had been molested. Poindexter also asked many pointed questions to highlight inconsistencies between J.D.'s trial testimony, text and Facebook messages, and her pretrial interview responses. He did the same with K.S. It was apparent Poindexter's defense theory, as he explained in closing argument, was that J.D. and K.S.'s inconsistencies demonstrated they lied and had a motive to lie:

Kids don't lie, right? Kids don't lie. We heard that initially in this case. Kids don't lie and they should be believed. Well, we heard a different dimension of that, which is really the fundamental request the prosecutor makes that you believe for proof that kids don't lie and they have nothing to gain, ergo, Mr. Poindexter is guilty. That's essentially his argument: they have nothing to gain and that kids don't lie.

. . . .

Now, you have to ask yourself[,] are the hallmarks of credibility inconsistencies, internal [inconsistencies] with yourself? . . . Is that a hallmark of credibility? . . . Is a hallmark of credibility [a] complete lack of recollection of anything at all, anything at all in that time period by either alleged victim of anything else? One of the instructions says that you are the sole judges of credibility and can consider the manner in which someone testifies, their memory as to the alleged events.

. . . .

So, you have to ask yourself why would that attorney representing [Poindexter] illustrate that [J.D.] made additional allegations [in pretrial interviews] that she didn't say in testimony? Well, for the simple reason is that it illustrates, it illuminates, it demonstrates that she is not consistent. We have the same thing with [K.S.] as well.

The circumstances here are similar to Thomas. In Thomas, an employee convicted of burglary and murder argued that ER 801(d)(1)(ii) did not permit testimony from his girlfriend about having previously told others about his crimes because he did not allege she was lying. 150 Wn.2d at 830, 864-66. The girlfriend had helped the employee execute his plan to rob and murder his employer. Thomas, 150 Wn.2d at 831, 835-36. The girlfriend later told her sister and a friend that the employee had murdered and robbed his employer. Thomas, 150 Wn.2d at 837. The girlfriend later pleaded guilty to robbery and rendering criminal assistance in exchange for testifying against the employee. Thomas, 150 Wn.2d at 839. At trial, the girlfriend testified about the employee's role in the murder and about telling others of his role. Thomas, 150 Wn.2d at 864. On cross-examination, the employee asked a series of questions about the girlfriend's plea agreement and the sentenced she received. Thomas, 150 Wn.2d at 865-66. He also pointed out inconsistencies between the girlfriend's pretrial interviews and trial testimony. Thomas, 150 Wn.2d at 866. Because his series of questions implied she had a motive to fabricate her testimony, the Supreme Court held that ER 801(d)(1)(ii) applied. Thomas, 150 Wn.2d at 866.

Like Thomas, Poindexter's cross-examination was intended to demonstrate both victims were inconsistent because they had fabricated their allegations. ER 801(d)(1)(ii) applied.

Poindexter cites State v. Bates, 196 Wn. App. 65, 383 P.3d 529 (2016), to argue that the confrontation clause permits testimony about prior consistent statements from the declarant only. Poindexter misunderstands Bates.

In Bates, Division Three of this court quoted State v. Rohrich, 132 Wn.2d 472, 478, 939 P.2d 697 (1997) to explain the confrontation clause requires that “the declarant [must] have been generally subject to cross-examination,” specifically “subject to cross-examination concerning the out-of-court declaration.” 196 Wn. App. at 74-75. In Rohrich, our Supreme Court concluded retrial was required where the victim testified, but all of the testimony about the alleged sexual acts was introduced through third-party witnesses. 132 Wn.2d at 474, 481. But the Bates court affirmed the defendant’s convictions on two counts of child rape because the victim’s testimony on direct examination was sufficient to allow the defendant to cross-examine her about statements also testified to by third-party witnesses and admitted under ER 801(d)(1)(ii). 196 Wn. App. at 75-77. Thus, the apt understanding of Bates is that ER 801(d)(1)(ii) allows a prior consistent statement to be admitted regardless of which witness testifies to it when the declarant is also a witness and gives testimony sufficient to allow cross-examination about the statement. 196 Wn. App. at 71, 76-77.

J.D. and K.S. testified about being molested and about disclosing the molestation to their mother. Poindexter strongly implied they fabricated the allegations. The victims’ mother’s testimony of her daughters’ prior consistent statements was properly admitted for nonhearsay purposes through ER 801(d)(1)(ii). The court did not abuse its discretion.

#### B. Right to Confrontation

Poindexter contends three evidentiary rulings violated his right to confront the witnesses against him. We disagree.

We review alleged violations of the confrontation clause de novo. Bates, 196 Wn. App. 65, 72, 383 P.3d 529 (2016). The confrontation clause prohibits admission of testimonial hearsay from an absent witness whom the defendant has not had an opportunity to cross-examine. State v. Scanlan, 2 Wn. App. 2d 715, 724, 413 P.3d 82 (2018). It also prevents the State from introducing adverse testimony using tactics that deprive a defendant of the opportunity to cross-examine the declarant about their accusations. Bates, 196 Wn. App. at 75.

Poindexter argues the State violated his right to confrontation by eliciting testimony from the victims' mother recounting her daughters' disclosure about Poindexter molesting them. As discussed, this testimony was admissible under ER 801(d)(1)(ii) and, therefore, not hearsay. The confrontation clause was not implicated. Scanlan, 2 Wn. App. 2d at 724. Even if the testimony was hearsay, Poindexter had ample opportunity to cross-examine J.D. and K.S. about their allegations. Testimony from the victims' mother about her daughters' disclosures did not violate the confrontation clause. Scanlan, 2 Wn. App. 2d at 724.

Poindexter also argues his confrontation clause rights were violated when J.D. testified about her boyfriend's reaction to Poindexter's messages. As discussed, J.D.'s boyfriend's statements were not hearsay. They were admitted to show how they affected J.D. and not to prove the truth of the matter asserted. These statements did not implicate the confrontation clause. Scanlan, 2 Wn. App. 2d at 724.

Poindexter contends his right to confrontation and right to present a defense were violated by the court limiting his cross-examination of K.S. about her memory. The scope of cross-examination is within the trial court's discretion, and the court abuses its



discretion by restricting a defendant's cross-examination without lawful justification.

Garcia, 179 Wn.2d at 844 (citing State v. Lamb, 121, 127, 285 P.3d 27 (2012); State v. Darden, 145 Wn.2d 612, 619, 41 P.3d 1189 (2002)).

The right to confrontation and the right to present a defense are not unlimited. State v. Blair, 3 Wn. App. 2d 343, 349, 415 P.3d 1232 (2018). "The defendant's right to present a defense is subject to 'established rules of procedure and evidence designed to assure both fairness and reliability in the ascertainment of guilt and innocence.'" Blair, 3 Wn. App. 2d at 350 (quoting Chambers v. Mississippi, 410 U.S. 284, 302, 93 S. Ct. 1038, 35 L. Ed. 2d 297 (1973)). The right to confrontation does not allow the introduction of otherwise inadmissible evidence. Blair, 3 Wn. App. 2d at 349 ("and 'the Constitution permits judges to exclude evidence that is repetitive . . . only marginally relevant' or poses an undue risk of 'harassment, prejudice, [or] confusion of the issues.'") State v. Orn, No. 98056-0, slip op. at 9 (Wash. Mar. 18, 2021) (alterations in original) (internal quotation marks omitted) (quoting Holmes v. South Carolina, 547 U.S. 319, 326-27, 126 S. Ct. 1727, 164 L. Ed. 2d 503 (2006)), <https://www.courts.wa.gov/opinions/pdf/980560.pdf>.

Poindexter cross-examined K.S. extensively about her memory and recall of the time period she alleged having been molested. He questioned her inability to specify a date or season of the year when she was first molested. He asked about her teachers' names and the subjects she studied during fourth and fifth grade. He asked where she celebrated Christmas during those years. K.S. remembered her teachers' names but otherwise could not recall or gave uncertain answers. Poindexter then asked K.S. general questions about fourth and fifth grade:

Q: Can you tell us one thing that you did in fourth grade, one thing of significance that you remember about fourth grade?

A: Of significance, I cannot recall.

Q: Do you have best friends in fourth grade that you remember?

A: Yes, her name was [K.R.].

Q: Okay. And then how about fifth grade? Can you tell us anything of significance that you remember about fifth grade, apart [from] what you've testified to?

A: I can't remember anything significant from fifth grade.

Q: Okay. And did you have a best friend in fifth grade?

A: I did. Her name was [R.].

Q: Okay. How about other friends in fifth grade that you can recall?

At this point, the State objected, and the court limited Poindexter to "one or two more questions of this sort," explaining "you're getting to the end of this line of questioning."

The parties do not dispute that K.S.'s credibility and memory were relevant.

Thus, the question is whether a lawful justification existed to restrict cross-examination. Darden, 145 Wn.2d at 625. Under ER 403, relevant evidence may be excluded if its probative value is outweighed "by considerations of undue delay, waste of time, or needless presentation of cumulative evidence."

K.S.'s credibility was central to the charges against Poindexter and her ability to recall being molested was closely related. But the court gave Poindexter considerable latitude to demonstrate that K.S. struggled to recall details from the two years when Poindexter allegedly molested her. With each new question about K.S.'s memories, Poindexter made the same point: K.S. was not credible because her recall was faulty. He made this point repeatedly. Under these circumstances, the court had the discretion

to stop Poindexter from continuing to elicit the same evidence on cross-examination. See Orn, slip op. at 9 (the constitution permits exclusion of repetitive evidence).

### C. Opinion Testimony

Poindexter argues that Detective Francis and the victims' mother improperly bolstered the victims' credibility, thus requiring a retrial.<sup>1</sup>

We review a court's decision to admit testimony for abuse of discretion. Thomas, 150 Wn.2d at 856. "A witness may not offer testimony in the form of an opinion regarding the guilt or veracity of the defendant." State v. Notaro, 161 Wn. App. 654, 661, 255 P.3d 774 (2011). "[T]estimony that is not a direct comment on the defendant's guilt or on the veracity of a witness, is otherwise helpful to the jury, and is based on inferences from the evidence is not improper opinion testimony." City of Seattle v. Heatley, 70 Wn. App. 573, 578, 854 P.2d 658 (1993).

During direct examination of Detective Francis, the prosecutor asked, "Do you recall anything about your initial impression of meeting [the victims' mother] and the girls?" and Detective Francis responded, "No, I think they all presented pretty accurately with the way they testified." Poindexter objected to this answer for commenting on the victims' credibility.

Understood in context, it is clear Detective Francis was commenting on the victims' demeanor, not their testimony or credibility. Just before Detective Francis testified, the State asked the victims' mother about K.S.'s demeanor during her police interview. Before asking the question that yielded the objectionable response, the

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<sup>1</sup> Poindexter appears to argue the prosecutor also commented on the victims' credibility. He does not argue the prosecutor committed misconduct nor does he allege any specific prejudice, so we decline to review it.

prosecutor asked about the circumstances in which Detective Francis and his partner first met and interviewed the victims. After the court overruled Poindexter's objection, the prosecutor asked, "Do you remember anything in particular about either [the victims' mother] or the girls' demeanor when you first met them going to do the interviews?" When Detective Francis's partner testified, the prosecutor asked about K.S.'s demeanor in his interview with her. Because Detective Francis's response was an inference from his observations and did not touch on the victims' veracity, he did not comment on their credibility. Heatley, 70 Wn. App. at 578.

Poindexter argues the victims' mother improperly opined about his guilt. The prosecutor asked, "Any question in your mind about who had done this to your daughters?" The victims' mother replied, "No." The State concedes the response was improper and opined on Poindexter's guilt.<sup>2</sup>

We review admission of an improper opinion on guilt using the constitutional harmless error standard. City of Seattle v. Levesque, 12 Wn. App. 2d 687, 711, 460 P.3d 205 (2020). Under this standard, we presume the error was prejudicial, and the State bears the burden of establishing the error was harmless. Levesque, 12 Wn. App. 2d at 711. "If the untainted evidence is so overwhelming that it necessarily leads to a finding of the defendant's guilt, the error is harmless." State v. Koslowski, 166 Wn.2d 409, 431, 209 P.3d 479 (2009).

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<sup>2</sup> The State urges review under the "manifest constitutional error" standard, contending Poindexter did not object to this question. The record does not support it. Poindexter objected twice to this line of questioning, including for comment on the victims' credibility. His second objection was to "all of this testimony" and was made moments before the question at issue on appeal. Poindexter preserved this issue for review. See State v. Black, 109 Wn.2d 336, 340, 745 P.2d 12 (1987) (citing ER 103(a)(1)) (review of a question not specifically objected to is proper when the "ground for objection is readily apparent from the circumstances").

In Levesque, this court concluded a driver convicted of driving under the influence was prejudiced by several police officers' improper opinion testimony. 12 Wn. App. 2d at 691. Two officers were dispatched to a car accident, and one arrested the driver. Levesque, 12 Wn. App. 2d at 691-92. At trial, the arresting officer opined the driver had appeared "impaired by a stimulant" and "was definitely impaired at the time of the accident." Levesque, 12 Wn. App. 2d at 693. The driver's defense theory was that he was on prescription medication for past injuries, and a reaction to that medication explained his appearance and behavior when arrested. Levesque, 12 Wn. App. 2d at 694. The driver's physician testified in his defense about his medical conditions, his medications, and how the two could cause the driver to appear impaired, consistent with the officer's testimony. Levesque, 12 Wn. App. 2d at 711-12.

The Levesque court concluded the State failed to demonstrate the arresting officer's opinion was harmless. 12 Wn. App. 2d at 711. First, the opinion was from a police officer, whom a jury may view as particularly reliable. Levesque, 12 Wn. App. 2d at 711. Second, the officer's credibility was bolstered by his role as the arresting officer and by the State's questioning about his training and experience, including with field sobriety testing. Levesque, 12 Wn. App. 2d at 692, 711. Third, the physician's testimony could have reasonably let the jury accept the driver's defense theory. Levesque, 12 Wn. App. 2d 711-12.

Unlike the police officer in Levesque, whose experience and objectivity lent an aura of reliability, the victims' mother was not presented as specially trained or objectively reliable. She testified that she reported Poindexter to the police after her

daughters disclosed his predations. The jury knew she believed her daughters and, therefore, also believed in Poindexter's guilt.

Also unlike Levesque, the State presented overwhelming evidence demonstrating Poindexter's guilt absent the improper comment and rebutting his defense theory. J.D. and K.S. both testified about Poindexter molesting them when they were children. The jury could have found them credible and convicted Poindexter on their testimony alone.

The State's evidence effectively rebutted Poindexter's defense theory, which was that both victims were lying because he "simply wasn't there" and lacked the opportunity to molest them. Poindexter testified that he was never alone with either victim, despite being their stepfather. He explained he was never home alone with the victims because he worked for ten hours each day for five or six days every week, commuting from Sudden Valley to Seattle, and returning home around six or seven o'clock at night. But J.D. and K.S. testified consistently that Poindexter would regularly be alone in the house with them. Poindexter's theory does not account for testimony from both victims explaining that he molested them when others were home. J.D. testified Poindexter first molested her when K.S. was in the room but was too young to realize anything inappropriate was happening. K.S. testified Poindexter molested her at least once when her mother and sister were home. And even if the jury believed Poindexter was never home alone with the victims because he worked long hours, K.S. testified Poindexter would most often molest her after coming home from work. Under these circumstances, the State demonstrates the error from admitting the comment on Poindexter's guilt was harmless beyond a reasonable doubt.

D. Amended Charging Document

After J.D. and K.S. testified about when and how frequently they were molested, the State moved to amend the information by dropping two counts alleging Poindexter molested J.D. when they lived on Grove Street and by extending the charging periods for the remaining counts to include the entire time they lived in Sudden Valley. The court granted the motion. Poindexter argues the amendment was a substantive change affecting his entire trial strategy. We disagree.

CrR 2.1(d) allows amendment of an information any time before the verdict if the substantial rights of the defendant will not be prejudiced. We review a decision to grant a motion to amend an information for abuse of discretion. State v. Brooks, 195 Wn.2d 91, 96, 455 P.3d 1151 (2020) (citing Lamb, 175 Wn.2d at 130; State v. Brett, 126 Wn.2d 136, 155, 892 P.2d 29 (1995)).

A constitutionally permissible charging document must allege “all essential elements of a crime to inform a defendant of the charges against him and to allow for preparation of his defense.” Brooks, 195 Wn.2d at 97 (citing U.S. CONST. amend. VI; WASH. CONST. art. I, § 22). Neither first nor second degree child molestation include time as an essential element. See RCW 9A.44.083 (“a person is guilty of child molestation in the first degree when the person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is less than twelve years old and not married to the perpetrator and the perpetrator is at least thirty-six months older than the victim.”); RCW 9A.44.086 (same but prohibiting sexual contact with a person between 12 and 14); see also State v. Goss, 186 Wn.2d 372, 379, 378 P.3d 154 (2016) (essential elements are those necessary to establish the illegality

of the behavior charged). Where, as here, time is not an element of the crime charged, “amendment of the date is a matter of form rather than substance, and should be allowed absent an alibi defense or a showing of other substantial prejudice to the defendant.” State v. DeBolt, 61 Wn. App. 58, 60-62, 808 P.2d 794 (1991). Poindexter has the burden of proving prejudice because essential elements of the charges were not amended. Brooks, 195 Wn.2d at 98.

Poindexter is incorrect that amending the charging periods prejudiced him by substantively changing the crimes charged.<sup>3</sup> Poindexter did not raise an alibi defense and fails to demonstrate any prejudice from the amendment. Although he argues the amendment implicated “[a]ll aspects of trial preparation, trial strategy, voir dire, [and] cross-examination,” Poindexter knew he had been charged with several counts of molesting J.D. and K.S. “on or about . . . and/or between” the dates in the first information. Those dates encompassed when the family moved to Sudden Valley and the first year they lived there. Poindexter was apprised he was being charged for allegedly molesting his stepdaughters when living in Sudden Valley. Amending the information to reflect the two years the victims lived in Sudden Valley did not change the substance of the charges. Poindexter fails to show prejudice from the amendment.

Affirmed.

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<sup>3</sup> Poindexter does not argue he was prejudiced by the State’s decision to drop two of the charges against him.



Mann, C.J.

WE CONCUR:

Smith, J.

Verellen, J.



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2 NOVEMBER 13, 2019

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4 (Beginning of requested proceedings.)

5 THE CLERK: Christopher Poindexter  
6 18-1-00679-37.

7 THE COURT: Good morning, Mr. Jones.

8 MR. JONES: Good morning.

9 THE COURT: Good morning, Mr. Piculell.

10 MR. PICULELL: Good morning.

11 THE COURT: And counsel, would you  
12 introduce yourself and pronounce your name for  
13 the record, please.

14 MR. PICULELL: Yes, thank you very much,  
15 Your Honor. Gene Piculell for Mr. Poindexter,  
16 who is present out of custody to my left.

17 THE COURT: All right, thank you.

18 MR. PICULELL: Thank you.

19 THE COURT: I understand we're here for  
20 pretrial motions. I've received the State's  
21 motions in limine and have reviewed them. I  
22 just received the Defense trial memorandum so I  
23 have not yet viewed it, but I have it. And what  
24 do the parties anticipate in the way of pretrial  
25 motions?

1           MR. JONES: Thank you, Your Honor. So I,  
2           it was my anticipation that we would go through  
3           one-by-one each of the motions made by either  
4           side and address those preliminarily. In review  
5           of them I don't, this is, I would say that I  
6           don't think there is much of real contention or  
7           substance there, it's just somewhat standard  
8           motions I think for the most part, so we should  
9           be able to get through them one-by-one fairly  
10          quick and get a ruling from the Court, that's  
11          what I would say.

12                 I also have an issue with the Information  
13          I'd like to address with the Court briefly so  
14          whenever the Court wants me to do that I can.

15                 THE COURT: All right. Why don't you  
16          begin with that.

17                 MR. JONES: So I was seeking to file  
18          today the State's First Amended Information,  
19          give the Court a copy of that. I just went over  
20          this with Mr. Piculell, I would say this  
21          addresses some scrivener's errors on the  
22          original Information. Count, excuse me, Count 4  
23          of the original Information had contained a  
24          parenthetical that just said "insert victim  
25          initials here" and that's from our template

1 charging language, so I've changed that and  
2 inserted the victim's initials that apply but,  
3 so that's one change I made.

4 And the other is a timeframe on Counts 6  
5 and 7, which is changed from August 4, 2010, to  
6 August 5, 2010. I was off one day on the  
7 victim's date of birth.

8 So those are the only three changes I've  
9 made, and I don't think they are changes of  
10 substance, and I don't think they effect  
11 preparation of the case by either side and would  
12 ask the Court to accept it.

13 THE COURT: Any objection?

14 MR. PICULELL: Thank you, Your Honor.

15 Mr. Jones did explain those technical  
16 amendments before the court commenced. I would  
17 concur, I think they are scrivener's errors,  
18 technical fixes. I explained that to my client,  
19 there is no prejudice to him by the filing of  
20 the First Amended Information. We do  
21 acknowledge receipt of the First Amended  
22 Information and waive formal reading and ask the  
23 Court to maintain the pleas previously entered  
24 of not guilty.

25 THE COURT: All right. The Court will

1 accept the filing of the First Amended  
2 Information. Madam clerk, do you have a copy?

3 THE CLERK: No.

4 MR. JONES: I think the one I gave Your  
5 Honor is the original.

6 THE COURT: The one you gave the Court is  
7 the original? Unfortunately the Court didn't  
8 realize that so I marked it with some notes.  
9 The notes are simply indicating the changed  
10 portions.

11 MR. JONES: I'll file this.

12 THE COURT: We'll accept a photocopy. In  
13 that case could you, I guess I don't really need  
14 the original back, I'll have it in the  
15 electronic file so that's fine. All right.

16 MR. JONES: Okay. All right.

17 And, Your Honor, Detective Francis just  
18 got here, he'll be seated with me in the trial.  
19 This is Judge Garrett, this is Detective  
20 Francis.

21 THE COURT: Good morning, Detective.

22 All right. Let's view the State's  
23 motions in limine. Any objection from the  
24 Defense to the granting of the first motion in  
25 limine?

1 MR. PICULELL: There is not, Your Honor.

2 THE COURT: All right. That will be  
3 granted. Neither party may conduct an  
4 examination that invites one witness to comment  
5 on another witness's accuracy or credibility.

6 Second motion; reference to the  
7 consequences of a conviction. Any objection?

8 MR. PICULELL: No objection, Your Honor,  
9 except with the caveat as contained in the WPIC  
10 instruction as it may tend to make them careful.

11 THE COURT: Yes, the Court will give that  
12 instruction on the request of either party. The  
13 Court will not give that instruction sua sponte,  
14 though it will be part of instructions given to  
15 the jury as part of a package.

16 MR. PICULELL: Understood, Your Honor.

17 THE COURT: Okay. Reference to the  
18 procedural history of the case. Any objection  
19 to the Court's excluding that?

20 MR. PICULELL: There is not.

21 THE COURT: That motion is granted.

22 Any objection to No. 4 regarding a  
23 missing witness argument?

24 MR. PICULELL: Your Honor, I don't  
25 anticipate a missing witness instruction or

1 argument. But I think it's, there will be some  
2 examination concerning the detective's failure  
3 to follow up on a particular individual, a hue  
4 and cry witness, that apparently was not  
5 followed up on. I think that is potentially  
6 relevant examination.

7 THE COURT: And can you explain what you  
8 mean by the term "hue and cry witness"?

9 MR. PICULELL: Yes. The, on the alleged  
10 victim there was a report that her boyfriend was  
11 the instigator of this series of events in terms  
12 of reporting the allegation to the mother and  
13 subsequently to the police. But the detective  
14 inquired about that person, indicated on the  
15 interview that he may need to ask the person  
16 that person's information to contact, that it  
17 was important that that person be contacted and  
18 there was no further investigation. So I think  
19 that it goes to the sufficiency of the  
20 investigation.

21 THE COURT: All right. Any response?

22 MR. JONES: Sure, Your Honor. I think it  
23 is appropriate. I don't have a problem with  
24 questions concerning the investigation. What I  
25 hope would be included in the granting of this



1 motion is any inference from that, that that  
2 person would somehow be negative to the State's  
3 case or contain information that would be  
4 harmful to the case, and that's what a typical  
5 missing witness would say. I don't anticipate  
6 the Court being asked to give one, or one being  
7 granted in this case. So I wouldn't want any  
8 argument based on what that person who was never  
9 spoken to would have said or could have said.

10 MR. PICULELL: And just brief rebuttal to  
11 that, we may be ahead of ourselves in terms of  
12 what the evidence may show, if the Court permits  
13 that cross-examination, and of course reasonable  
14 doubt can arise from the evidence or the lack of  
15 evidence, and so in terms of those types of  
16 inquiry or arguments I think that those might be  
17 appropriate.

18 I don't foresee, as I've indicated, a  
19 missing witness instruction because the  
20 government has no particular control over that  
21 individual or does not meet the other criteria  
22 for missing witness instruction, but it goes to  
23 the sufficiency, the adequacy, and thoroughness  
24 or, from our perspective, lack of thoroughness  
25 or lack of investigation.

1           THE COURT: So at this point it sounds  
2           like that any testimony about what that person  
3           who was not contacted would have said would be  
4           objectionable as speculation. Am I correct from  
5           the State's perspective?

6           MR. JONES: I think so, yes, Your Honor.

7           MR. PICULELL: Right. And we're not  
8           seeking to, we don't know, but as a profer we  
9           know that the alleged victim Jacee indicated  
10          that that person was the instigator of the hue  
11          and cry of the complaint of complainant and it  
12          was just never followed up on as far as an  
13          investigative action by the detective.

14          THE COURT: All right. I'm going to  
15          grant the motion as stated in the motion in  
16          limine with the understanding that this does not  
17          preclude an argument that the investigation was  
18          inadequate or incomplete. That argument though  
19          should not include testimony or argument as to  
20          what any person who was not spoken with would  
21          have said since that's not within the realm of  
22          personal knowledge in any event.

23                    Any objection to motion five regarding  
24                    speaking objections?

25           MR. PICULELL: There is not, Your Honor.

1 THE COURT: That will be granted.

2 Any objection to six?

3 MR. PICULELL: There is not.

4 THE COURT: Six will be granted.

5 Any objection to seven?

6 MR. PICULELL: There is not.

7 THE COURT: All right. And I note that  
8 there is a condition here that any potential 404  
9 evidence be previously approved by the Court.  
10 That is correct, the motion is granted with that  
11 condition, and any request for such approval  
12 should be made outside the presence of the jury.

13 Motion eight, personal belief arguments.  
14 Any objection to prohibiting them?

15 MR. PICULELL: There are none.

16 THE COURT: That motion is granted.

17 And motion nine as to out-of-court  
18 statements by the Defendant offered by the  
19 Defendant?

20 MR. PICULELL: Your Honor, I think that's  
21 well taken in terms of self-serving hearsay.

22 THE COURT: So you would not object?

23 MR. PICULELL: Correct.

24 THE COURT: And the Court will grant  
25 that.

1 MR. JONES: I do want to, maybe a little  
2 discussion there is warranted, although the  
3 Court has granted it. There was a series of  
4 text messages that purported to be the  
5 Defendant's words that were sent to me by  
6 Defense counsel ahead of time. I appreciate  
7 that, but those would be, those out-of-court  
8 statements from him would be included I believe  
9 in this ruling.

10 THE COURT: All right.

11 MR. JONES: In case there is discussion  
12 on that. I think to some extent they are going  
13 to be admitted, if there are other reasons to  
14 admit them perhaps they will come in. I'm  
15 thinking of those in this motion, Your Honor.

16 THE COURT: All right. So you'd like the  
17 Court to classify those statements as hearsay  
18 rather than as admissions?

19 MR. JONES: Yes.

20 THE COURT: Yes.

21 MR. JONES: To the extent Defense seeks  
22 to introduce them, yes.

23 THE COURT: Mr. Piculell, any --

24 MR. PICULELL: I understand the  
25 prosecutor's position and I understand the

1 Court's ruling.

2 THE COURT: All right.

3 Ten, any objection to ten?

4 MR. PICULELL: Thank you, none.

5 THE COURT: Eleven; reference to  
6 differing burdens of proof?

7 MR. PICULELL: Your Honor, there is no  
8 authority on that. I don't generally, my usual  
9 style is not to generally get into a description  
10 of civil versus criminal, but I do think it's  
11 appropriate from time to time. I have sunken  
12 into that this is a criminal case, beyond a  
13 reasonable doubt, this is not a case where  
14 you're suing your doctor or something like that,  
15 and certainly the jurors are aware of a civil  
16 case versus a criminal case, and so I would ask  
17 the Court to deny that motion.

18 THE COURT: Do you wish to address that?

19 MR. JONES: Yeah, I think the argument as  
20 to other burdens of proof expands upon what's  
21 otherwise contained in the instructions about  
22 the burden of proof. I think it asks the jury  
23 to, to understand other burdens of proof then be  
24 able to apply some other comparison between  
25 other burdens, and in this case all of that is

1 extraneous to what the instructions, which is  
2 the criminal burden of proof, and I think the  
3 Court should stick with the instructions rather  
4 than the extraneous stuff.

5 THE COURT: I'm going to reserve on this  
6 motion, and the reason is this; I've often heard  
7 lawyers in jury selection talking with jurors  
8 about the burden of proof they may have seen  
9 when they served on a civil trial, I don't want  
10 to preclude that. If there is discussion of the  
11 differing standards of proof in specific ways,  
12 however, and especially if the discussion goes  
13 past the difference between civil and criminal  
14 standards and gets into nuances like clear and  
15 convincing evidence, I will instruct the jury at  
16 that point that the instructions on the law will  
17 be those that come from the Court and that the  
18 Court will be instructing as to a reasonable  
19 doubt standard.

20 So the ruling is reserved, but the  
21 parties know the Court's position on that issue.

22 MR. JONES: Thank you.

23 THE COURT: Twelve; it's generally my  
24 practice to make general orders in limine  
25 applicable to both parties. Here not all of the

1 orders are applicable to both parties, for  
2 example, nine regarding out-of-court statements  
3 by the Defendant requires a different rule for  
4 their introduction by opposing party as it does  
5 for the Defense, but I generally make motions or  
6 make orders equally applicable to both sides and  
7 it seems that many of these motions are phrased  
8 in those terms.

9 What I would propose is that motion be  
10 granted as rephrased, and rephrased that any  
11 pretrial, any of these orders in limine apply to  
12 both parties with the exception of order nine.  
13 What response?

14 MR. PICULELL: I'll defer to the Court,  
15 thank you.

16 THE COURT: Mr. Jones?

17 MR. JONES: No comments on that. That  
18 makes sense to me, Your Honor.

19 THE COURT: All right. And I'm going to  
20 assume that the pretrial evidentiary rulings  
21 that this motion refers to means the court  
22 orders on these motions in limine?

23 MR. JONES: Yes.

24 THE COURT: All right. All right, I've  
25 taken out that, all the language of that motion

1 and substituted the orders in limine shall apply  
2 to both parties except for number nine. On  
3 those terms, the motion is granted.

4 Thirteen?

5 MR. PICULELL: No objection.

6 THE COURT: Thirteen is granted.

7 And fourteen?

8 MR. PICULELL: No objection.

9 THE COURT: Fourteen is granted.

10 And then, Mr. Jones, have you had time to  
11 review the Defense trial memorandum?

12 MR. JONES: Yes, it was sent to me last  
13 week, plenty of time for me. Thank you.

14 THE COURT: I've not had the opportunity  
15 to review it. I'm going to take that  
16 opportunity right now without leaving the bench,  
17 I think that's probably the most efficient  
18 approach.

19 All right. I'm ready to discuss the  
20 issues raised by the Defense' trial memorandum.  
21 First is the motion to exclude witnesses prior  
22 to their testimony.

23 MR. JONES: That's fine. I've talked to  
24 my witnesses. I do want to explain a little of  
25 the dynamic here; the three civilian witnesses



1 the State has is a mother with her two children,  
2 her two daughters, and they are very close to  
3 one another I would say and use each other for  
4 emotional support hearing what is hard for them  
5 in this trial. The mother specifically has  
6 expressed the desire to be here after she  
7 testifies to watch portions of the trial and be  
8 as supportive as she can.

9 I've explained to them that the Court  
10 would most likely rule that prior to testifying  
11 they can't be in the courtroom to support one  
12 another but, so as long as the ruling of the  
13 Court's limited in that respect, I do anticipate  
14 there will be some people in the courtroom  
15 following their testimony.

16 THE COURT: All right. Any objection to  
17 that?

18 MR. PICULELL: And, Your Honor, certainly  
19 I'll absolutely have the utmost respect in  
20 regard for witnesses testifying under a  
21 difficult allegation. But if their mother is  
22 going to be a witness in the case, or she is,  
23 and we've asked that witnesses not be released  
24 until there is agreement of the Defense on their  
25 subpoena in the event that I anticipate or

1           perceive potential additional testimony, and  
2           certainly I'll exercise that position in good  
3           faith, but I'm just a little concerned about the  
4           sort of nebulous, that the mother will be  
5           present following. She may still be a necessary  
6           witness from the Defense' perspective.

7                   THE COURT: All right. I'm going to  
8           permit witnesses to remain in the courtroom  
9           after they testify. And that does not effect,  
10          of course, the right of the Defense to call a  
11          witness as a rebuttal witness, but the Defense  
12          may also exceed the scope of direct as a  
13          substitution for bringing the witness in as a  
14          rebuttal witness if the circumstances make that  
15          appropriate. All right.

16                  MR. JONES: I think the motion is correct  
17          that the 3.5 and 3.6, those court rules I don't  
18          have any issues for the Court under those two  
19          court rules.

20                  THE COURT: All right. And it doesn't  
21          appear that a ruling is required from the Court  
22          as to that on that, it's simply an observation.

23                  MR. JONES: No.

24                  THE COURT: All right. C as to excited  
25          utterances?

1           MR. JONES: I don't anticipate any of  
2           this sort of evidence, although I'd like the  
3           Court to reserve on it. Occasionally a witness  
4           will testify in a way that, where they had  
5           something to say, it's not planned for. That I  
6           think can be analyzed under the evidence rules  
7           in realtime by the Court after being aware of  
8           what it is and what foundation has been laid or  
9           not. None of this is anticipated, but it could  
10          happen. I'd ask the Court to reserve on that.  
11          The parties can make objections to excited  
12          utterance hearsay evidence as necessary.

13          MR. PICULELL: Thank you, Your Honor.  
14          With that qualification, the State expects the  
15          same type of evidence the Defense expects, we'll  
16          withdraw that or reserve, ask the Court to  
17          reserve on this.

18          THE COURT: The Court will reserve. We,  
19          of course, will asses any such proffered  
20          evidence according to the standards of  
21          admissibility and relevance.

22          Any objection from the State as to the  
23          first motion, the first formal motion in limine  
24          to exclude booking and arrest photos?

25          MR. JONES: No, Your Honor.

1 THE COURT: All right, that is granted.

2 And the second formal motion in limine on  
3 Page 4; evidence related to alleged use of  
4 drugs?

5 MR. JONES: So I do want to talk about  
6 this one a bit, Your Honor. I'm going to ask  
7 the Court to deny the motion. What's true here  
8 is that these girls who were young, young girls  
9 around the ages of 10, 11, 12 in the timeframe  
10 when the alleged molestation was occurring, they  
11 identify time in some, to some extent by when  
12 their dad, their step-dad was, started using  
13 again, when he went to treatment. That is a  
14 reference point in their mind as far as the  
15 timing of when acts of molestation occurred and,  
16 for the girls, but even more particularly for  
17 the mother who judges, you know, has that event  
18 as a reference point. I have to establish  
19 timeframes at trial beyond a reasonable doubt  
20 and to the extent the witnesses refer to the  
21 use, the starting of the relapse on drugs, the  
22 starting to use drugs, the going to treatment as  
23 a time reference, I think the Court should allow  
24 that and not kind of pull that rug out from  
25 under the victim's recollection of their life

1 during this time.

2 MR. PICULELL: Thank you, Your Honor.  
3 What's underlying that, the profer on that is  
4 that I concur with Mr. Jones that in the  
5 interviews, both by the detective and by the  
6 Defense, the alleged victims do reference his  
7 use of narcotic, narcotics and then rehab or  
8 treatment. However, I think that that, there is  
9 no indication, there is no allegation from the  
10 alleged victims that the events were caused by  
11 the use of drugs or that he was under the  
12 influence of the use of drugs. So I think the  
13 relevancy is not present, at least on the  
14 investigation from both sides of this.

15 And then secondly, it is I think more  
16 prejudicial than probative of any issue in these  
17 allegations, and I agree with the prosecuting  
18 attorney in terms of the temporal reference or  
19 that he was in treatment or he left the house,  
20 but I think from the prosecutor's perspective  
21 it's an easy cure that the witnesses can be  
22 instructed when he left the house, or he wasn't  
23 there, or he was leaving, or he left the  
24 residence without a reference as to  
25 methamphetamine use or other narcotic use and

1           that preserves the prejudicial versus probative  
2           impact analysis and doesn't prejudice  
3           Mr. Poindexter in terms of defending the issue  
4           that he is a methamphetamine addict in the  
5           context of these charges.

6                         THE COURT: My concern is that a  
7           reference to the Defendant simply not being  
8           there or having left the house may not be  
9           sufficient for the witness to associate that  
10          with particular events. On the other hand,  
11          testimony regarding Defendant's use of, and  
12          rehabilitation from, controlled substances is  
13          prejudicial and should be minimized.

14                        What I'm hoping, Mr. Jones, is that your  
15          questions to the witnesses can be in terms of  
16          times stated more objectively. For example, was  
17          it, you know, let's move forward to, I don't  
18          know, June of 2010, or whatever the month is  
19          that you're talking about. And if the witness  
20          says, well, I can't, I can't remember by  
21          calendar date, is there an important event that  
22          would have occurred around there? We'll deal  
23          with that in context, but what I'm hoping is  
24          that in your witness preparation you can work  
25          with the witnesses to see the correlation

1           between the dates or the timing of events that  
2           they believe are important, in other words the  
3           events to which they, with which they associate  
4           an instance of drug use or treatment, I'm hoping  
5           that you can work with them to tie that to, tie  
6           those events and their memories to more specific  
7           dates.

8                        If not, then I'll consider the testimony  
9           in context mindful of the fact that the State  
10          does have the burden of proving the time  
11          elements in certain contexts. It may be that in  
12          that context the parties could make a  
13          stipulation as to a date as opposed to having  
14          the witness testify, but I think these are  
15          in-context questions. So I'm inclined to  
16          reserve ruling on this motion while making it  
17          clear to both parties that reference to drug use  
18          or rehabilitation should come into the testimony  
19          only as a last resort.

20                       MR. JONES: I understand. And I will  
21          speak with my witnesses ahead of time. If I  
22          anticipate a specific problem, I'll bring it to  
23          everyone's attention before they testify.

24                       THE COURT: All right, thank you,  
25          Mr. Jones.

1           And to prohibit evidence publication to  
2           the jury absent proper evidentiary foundation.  
3           I think, Mr. Piculell, if I'm not being too  
4           assuming, I think that what you're asking is  
5           that evidence not be published to the jury until  
6           it's been admitted; is that correct?

7           MR. PICULELL: That's correct, Your  
8           Honor.

9           THE COURT: Any objection to that from  
10          the State?

11          MR. JONES: No.

12          THE COURT: Okay, that's granted.

13          There are two specifics that are raised  
14          on Page 5 of the Defense' trial memo, and  
15          obviously the ruling will apply to them. Do the  
16          parties have a dispute as to the admissibility  
17          of these pieces of evidence, the texts and the  
18          alleged data from social media?

19          MR. JONES: I don't anticipate a dispute  
20          about that. To the extent I'm going to seek to  
21          introduce them, I think I'll be able to  
22          establish the necessary foundation between  
23          recipient and the text messages to one of the  
24          alleged victims in the case, so that's my plan.

25          THE COURT: All right. Do you expect an



1 issue, Mr. Piculell?

2 MR. PICULELL: Just maybe a caveat in  
3 terms of the prosecutor's earlier position  
4 concerning text messages and statements and, of  
5 course, I don't know how the government is going  
6 to try its case, but potentially the rule of  
7 completeness and substantive issue may arise,  
8 but in terms of authenticity, no.

9 THE COURT: All right. All right, I've  
10 granted the motion as to specific issues that  
11 arise they will, I will address them in context,  
12 but the procedural aspects of the motion, which  
13 is that evidence not be shown to the jury until  
14 it's been admitted, that will apply to all  
15 evidence and proffered evidence.

16 MR. JONES: Thank you.

17 THE COURT: And I believe the last  
18 substantive, second to last substantive issue is  
19 testimony regarding texts sent to Crystal  
20 Meyers, who I understand to be the mother of the  
21 two alleged victims; is that correct?

22 MR. JONES: That's correct.

23 THE COURT: All right. Does the State  
24 object to the Court's granting this motion?

25 MR. JONES: No, I have no objection to

1           that.

2                   THE COURT: All right. That motion is  
3           granted.

4                   And then the last substantive motion is  
5           actually a procedural motion, it's simply if the  
6           State believes that the door has been opened to  
7           any otherwise inadmissible evidence, that the  
8           issue be raised with the Court outside the  
9           presence of the jury.

10                   MR. JONES: Okay.

11                   THE COURT: Any objection to that?

12                   MR. JONES: No.

13                   THE COURT: And that will be, that will  
14           be granted and that will be granted as to both  
15           parties. So both parties if they believe there  
16           has been an opening of the door must raise that  
17           outside the presence of the jury before bringing  
18           in any evidence the Court has ruled is not  
19           admissible.

20                   MR. PICULELL: I understand. Thank you,  
21           Your Honor.

22                   THE COURT: All right. I have the  
23           State's witness list. I understand in the  
24           Defense trial memo that the Defense will not be  
25           introducing the testimony of any other witness.

1 Do you anticipate at this point, Mr. Piculell,  
2 that you'll be calling Mr. Poindexter as a  
3 witness?

4 MR. PICULELL: Yes, Your Honor. I did  
5 advise Mr. Jones last week for his planning  
6 purposes the case has been prepared with the  
7 anticipation that he, Mr. Poindexter, would be  
8 called. However, of course, we ask to reserve  
9 that final decision until conclusion of the  
10 government's case.

11 THE COURT: Yes. All right. Any other  
12 pretrial motions that the Court should address?

13 MR. JONES: Yes, Your Honor. I don't  
14 know if there will be a better time to do this,  
15 but there are some, there are a few photographs  
16 that I plan to use during my case, in particular  
17 two photographs of the alleged victims that I  
18 plan to show the jury during my opening  
19 statement when I'm speaking about these young  
20 ladies. So I wanted to put that before the  
21 Court ahead of time in case there were  
22 objections to that. So I can show Mr. Piculell  
23 those photographs.

24 MR. PICULELL: Okay, thank you.

25 MR. JONES: And then I've also prepared

1 as demonstrative exhibits a timeline of the  
2 events, the events in this case span, you know,  
3 over about 15 years from 2004 up through 2018,  
4 and so I had prepared some demonstrative  
5 exhibits. If there is any objection to me using  
6 these, I wanted to have the Court to have a  
7 chance to rule on those.

8 THE COURT: If you haven't already, will  
9 you give them to Mr. Piculell to review?

10 MR. JONES: I'll show them to the Court  
11 here. I apologize, those are my only copies at  
12 this point. But you can make notes on them,  
13 Your Honor.

14 THE COURT: I'm quick with a pen.

15 MR. JONES: Yeah.

16 THE COURT: All right.

17 MR. PICULELL: Thank you, Your Honor.

18 In terms of the images and the prosector,  
19 I think maybe it was just an oversight, he  
20 provided me as well with copies of the  
21 residence. I have no objection to the images  
22 that he has provided to us in discovery or to  
23 photos that the Court is reviewing.

24 In terms of demonstrative evidence, it  
25 appears that it's the prosecutor's summary of

1 anticipated testimony, and so from that  
2 perspective if there is going to be an  
3 illustrative exhibit rather than potentially  
4 characterized that as a summary of anticipated  
5 testimony, so from that perspective I have an  
6 objection.

7 THE COURT: An objection to?

8 MR. PICULELL: An objection to if it's  
9 the prosecutor's summary of anticipated  
10 testimony provided to a witness who has not  
11 testified on the subject, and then the witness  
12 testifies from that document the prosecutor has  
13 prepared as to testimonial elements or  
14 testimonial issues, then I would object to that.

15 THE COURT: I see, I see. Is that the  
16 intended use?

17 MR. JONES: No, no. It isn't, Your Honor.  
18 I anticipate these dates and times and locations  
19 and ages will come from the witnesses themselves  
20 from their memory, not from my demonstrative.

21 THE COURT: All right. And the point you  
22 raise is a good one, Mr. Piculell, and I will  
23 prohibit the State from using the demonstrative  
24 evidence or the demonstrative exhibit  
25 essentially to refresh recollection, but the use

1 of demonstrative exhibits is appropriate and is  
2 approved, all right, and that's as to both the  
3 summaries the State wishes to introduce.

4 MR. JONES: Thank you. And that's all I  
5 have, Your Honor. Well, to the extent the  
6 Court's interested, I could give the Court some  
7 timing predictions that I have about the case,  
8 my witnesses, when I have them scheduled.

9 THE COURT: Why don't you do that because  
10 we'll be asking the potential jurors about that.

11 MR. JONES: Okay. So I did anticipate  
12 that today would be spent between motions in  
13 limine and video dire. I would be prepared to  
14 go to opening statements later this afternoon if  
15 we get done with voir dire more quickly. And  
16 but, as far as witnesses I've told them to be  
17 here tomorrow starting first thing in the  
18 morning and I have five, the three civilians and  
19 two detectives, and I anticipate no problem  
20 getting through all five of those on Thursday  
21 starting whenever the Court tells us to be here.

22 The three civilians are traveling up from  
23 down south together so I've told them all to  
24 come in the morning rather than split them  
25 between today and tomorrow morning.

1 THE COURT: All right. And at this point  
2 the State contemplates resting at the conclusion  
3 of those five witnesses' testimony?

4 MR. JONES: Yes, yes.

5 THE COURT: All right. And that will be  
6 some time Thursday and you're probably, sounds  
7 like it will be afternoon, but you're not sure?

8 MR. JONES: Probably no later than end of  
9 day Thursday.

10 THE COURT: All right. And then the  
11 State will rest and what are your plans at this  
12 time, Mr. Piculell?

13 MR. PICULELL: Thank you, Your Honor. We  
14 haven't filed a witness list as the Court has  
15 observed and so it's just potentially  
16 Mr. Poindexter as I've indicated. I would  
17 anticipate that his testimony would certainly be  
18 concluded in the morning when we resume on next  
19 week, on Monday I assume.

20 THE COURT: That is when we'll resume on  
21 Monday the 18th. The weekend break is not ideal  
22 but the Court's schedule makes it necessary as  
23 Friday is taken up with the civil calendars and  
24 civil motions. All right. So the parties, do  
25 you anticipate at this point calling any

1 witnesses other than Mr. Poindexter?

2 MR. PICULELL: I do not, Your Honor,  
3 perhaps reserving for a witness that has  
4 testified.

5 THE COURT: Yes.

6 MR. PICULELL: Thank you.

7 THE COURT: All right. So it sounds like  
8 the parties expect to do closing arguments and  
9 submission of the case to the jury some time  
10 Monday?

11 MR. JONES: Yes.

12 THE COURT: All right.

13 MR. JONES: And instructions.

14 THE COURT: So it sounds like we would  
15 want jurors who will be able to serve certainly  
16 through the close of business Monday and  
17 probably on Tuesday in case the deliberations go  
18 into Tuesday. Do the parties agree?

19 MR. JONES: Yes.

20 MR. PICULELL: Concur.

21 THE COURT: All right. And as to an  
22 alternate juror, would the parties be  
23 comfortable with one alternate juror?

24 MR. JONES: I am, Your Honor.

25 MR. PICULELL: Concur.



1           THE COURT: That's good. The seat for  
2           the 14th juror is not comfortable at all. We  
3           have 13 seats in the jury box so that works much  
4           better. All right.

5           MR. JONES: Does Your Honor have a  
6           preference between trying to put in, get opening  
7           statements done this afternoon versus starting  
8           with the openings and witnesses tomorrow morning  
9           instead? Does Your Honor have a preference with  
10          that?

11          THE COURT: Do the parties expect  
12          extensive openings?

13          MR. JONES: Maybe 20 minutes or 25  
14          minutes for the State.

15          MR. PICULELL: I'll defer to the  
16          prosecutor.

17          THE COURT: All right. I'd like to see  
18          where we are and when we're there, if the jury  
19          has been selected by say 3:00, I think it makes  
20          sense to do openings this afternoon. If it's  
21          later than that perhaps, perhaps not. I just, I  
22          want, I'd like to get the openings in today if  
23          it's possible to do that, if it's reasonably  
24          possible, and I guess 3:30 would be the latest  
25          time that I'd want us to be going into openings.

1           Openings will have to take place together so we  
2           won't stop after the State's opening and defer  
3           the Defense opening to the next day. They will  
4           be taken as a piece. I have a slight preference  
5           to this afternoon just in case witness testimony  
6           tomorrow lasts longer than the parties  
7           anticipated. I would like to get through all  
8           witness testimony tomorrow.

9                     MR. JONES: Okay.

10                    THE COURT: All right. A couple things  
11           I'd like to discuss but I want to be sure that  
12           I'm addressing everything that the parties are  
13           raising. Anything else from the State,  
14           Mr. Jones?

15                    MR. JONES: No, Your Honor.

16                    THE COURT: Mr. Piculell?

17                    MR. PICULELL: Thank you, none.

18                    THE COURT: All right. A couple things  
19           from the Court then. As the parties are aware,  
20           we generally have unlimited challenges for  
21           cause, six peremptory challenges for each side,  
22           and then an additional peremptory challenge for  
23           the alternate. I'll refer to the alternate as  
24           the 13th juror rather than as the alternate, but  
25           the 13th juror will be the alternate unless the

1 parties agree otherwise. If the parties agree  
2 otherwise, the Court will draw lots or whatever  
3 the parties agree to at the close of the  
4 evidence or at the close of closings just before  
5 deliberations to select the alternate, but if  
6 the parties don't agree on an alternate method  
7 then the alternate will be Juror 13 and the  
8 parties will each get one additional peremptory  
9 challenge as to that 13th juror.

10 The parties, counsel will alternate  
11 questioning of the jury panel. Do you have a  
12 preference as to the time of the questioning, 20  
13 minutes or 30 minutes?

14 MR. JONES: Twenty minutes seems fine  
15 with me as a start.

16 THE COURT: That's workable for you,  
17 Mr. Piculell?

18 MR. PICULELL: It is, thank you, Your  
19 Honor. Concur with the prosecutor.

20 THE COURT: All right. I'll give you,  
21 each of you a 3-minute warning when you get to  
22 the 17-minute mark.

23 As for a brief statement of the case by  
24 the Court to the panel, I think, unless the  
25 parties have a detailed statement they agree on,

1 my instincts would be to simply tell the panel  
2 the nature of the charges and indicate that the  
3 charges are denied and then follow the standard  
4 instruction as to the fact a denial puts all  
5 elements of the case into contest and before the  
6 jury for deliberation. So a statement of the  
7 case would simply be for the Court to recite the  
8 charges as stated in the amended information.  
9 Any objection from either party?

10 MR. JONES: No, Your Honor.

11 MR. PICULELL: Thank you, no, Your Honor.

12 THE COURT: And then lastly as to the  
13 peremptory challenges, I have a worksheet that  
14 I'm going to ask the parties to use as to their  
15 peremptory challenges. I'll pass it back to  
16 you, one or both of you may have used this in  
17 prior trials, but it's a written worksheet that  
18 the lawyers pass back and forth between each  
19 other. It requires the State to make the first  
20 peremptory challenge and then asks the opposing  
21 party to indicate whether that party is raising  
22 any challenge under *Batson vs. Kentucky* or *State*  
23 *vs. Saintcalle* and the Defense is to write yes  
24 or no and then the Defense indicates its first  
25 peremptory challenge and the State is given the

1 opportunity to raise any Batson's and Saintcalle  
2 challenge it wishes to raise.

3 So I'll pass it back to you if either of  
4 you would like to look at it, but give it back  
5 to me and I'll pass it back to you again when  
6 you do the peremptories. I usually do  
7 peremptories after hearing the lawyers on  
8 challenges for cause, which makes sense. So  
9 you'll be seeing that again, I'll pass it to you  
10 for the peremptories.

11 MR. JONES: Thank you.

12 THE COURT: Thank you, counsel.

13 All right. I understand that the jury  
14 panel is to join us at about 10:30. I'll tell  
15 all of you now that when the panel comes into  
16 the room you're not to have any interaction with  
17 the panel, you know that but I'm going to tell  
18 the panel that I've instructed you to that  
19 effect so I want to make sure that I actually  
20 have.

21 Ms. Raymond, our reporter, will be seated  
22 just to the, in the audience section of the  
23 courtroom so that she can hear the jurors'  
24 responses more easily. And all parties have the  
25 Court's permission to turn your back to the

1 Court and face the back of the courtroom as we  
2 conduct voir dire. We'll change positions back  
3 to the standard positions when voir dire has  
4 been finished.

5 Is there any other issue we need to  
6 address before the jury panel joins us?

7 We do have one spectator in the room.  
8 You're welcome to be here in the room but the  
9 jury panel will be sitting where you are so  
10 we'll ask you to just come up here and sit in  
11 the jury box or sit over here at one of these  
12 tables, okay?

13 UNIDENTIFIED PERSON: Okay.

14 THE COURT: All right.

15 MR. PICULELL: Just one procedural  
16 question, if I may, Your Honor. I'm looking  
17 around, I don't see a podium. Is it the Court's  
18 practice upon counsel examining the venire is  
19 from our chairs or can we, do we walk, are we  
20 able to move around the courtroom?

21 THE COURT: You'll be able to move around  
22 the courtroom, certainly. Not in the jury  
23 section of the courtroom, but you'll able to  
24 move around in the counsel table area. Believe  
25 it or not we have a podium, but it's shared

1           between two courtrooms. The other courtroom is  
2           not in session today so if you'd like the podium  
3           we can arrange to have it brought.

4                   MR. PICULELL: No, Your Honor. I just, I  
5           wondered if that was your practice. In some  
6           courts, of course, counsel have to stay at the  
7           podium or have to remain at their table.

8                   THE COURT: No, in this courtroom you may  
9           move around the section of the courtroom that  
10          is, you know, between the bar and the bench.

11                   MR. PICULELL: Thank you.

12                   THE COURT: And I do request that you ask  
13          the Court's permission before you approach a  
14          witness. And when it's time to address the jury  
15          most lawyers stand next to the counter that's in  
16          front of the bench here because it gives them a  
17          place to hold their papers and address the  
18          jurors. If you wish to move directly in front  
19          of the jury, you may do that. I don't permit  
20          that when we have a 14th juror, but we don't so  
21          that space is available if you wanted to stand  
22          directly in front of the jury.

23                   MR. PICULELL: Thank you.

24                   MR. JONES: Your Honor, I've noticed  
25          going through the surveys at least two of the

1 potential witnesses on the first page here are  
2 in a wheelchair or mobility scooter. Is the  
3 Court, I guess we can address that if those  
4 people are selected for the jury as far as their  
5 accessibility in and out of the jury box. I  
6 just want to...

7 THE COURT: Thank you for raising that  
8 issue. We will address that after jurors are  
9 selected.

10 MR. JONES: Okay.

11 THE COURT: And we should be able to  
12 accommodate, we will accommodate whatever is  
13 necessary.

14 Mr. Piculell, what I just told you about  
15 being able to stand in front of the jury box may  
16 not apply if we have jurors in wheelchairs.

17 MR. PICULELL: Understood.

18 THE COURT: All right. Anything further  
19 from either party?

20 MR. PICULELL: Thank you.

21 MR. JONES: No.

22 THE COURT: All right. I'll rejoin you  
23 then after the jury panel has joined you in the  
24 room.

25 (Brief break off the record.)



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JURY VOIR DIRE

(JURY WAS SEATED, INSTRUCTED AND JURY VENIRE EXCUSED.)

(The jury venire left the courtroom.)

THE COURT: Counsel, do you need anything from me before the break?

MR. JONES: No, Your Honor. So counsel and I were speaking about --

THE COURT: Please, be seated.

MR. JONES: So Mr. Piculell told me it's his practice and his duty in this case to reserve an opening statement, which would leave mine to do today. I'm fine doing that. But because it will only be about 20 minutes it also makes sense to me to put that over until tomorrow morning and have a better flow for the jury where I would give an opening statement and we would go right into witnesses rather than to separate my opening from the witnesses. So if it's just that 20 minutes both of us agree we would do it in the morning. We'll leave that up to the Court I think.

THE COURT: All right.

MR. PICULELL: And that's correct, Your Honor. Often I will reserve but sometimes I'm compelled in the moment to proceed after the

1 prosecutor's opening. I don't have a strict  
2 rule, I generally would reserve. I indicated  
3 that to Mr. Jones and certainly defer to his  
4 position on opening.

5 THE COURT: All right. And both counsel  
6 are agreed that the State's opening being given  
7 tomorrow morning, you're in agreement?

8 MR. JONES: I'm in agreement with that.

9 MR. PICULELL: I defer to the prosecutor.

10 THE COURT: And both counsel and your  
11 clients are able to start at 9:30 tomorrow  
12 morning?

13 MR. JONES: Yes.

14 MR. PICULELL: Of course, Your Honor.

15 THE COURT: All right. I'm going to,  
16 unless you have an objection, rather than  
17 calling the jury back in to tell them that, I'm  
18 going to ask the bailiff to simply let them know  
19 that they are free to go and that the opening  
20 statements will be tomorrow morning and have  
21 them return in time for a 9:30 start.

22 MR. PICULELL: Thank you.

23 THE COURT: All right.

24 MR. JONES: Thank you, Your Honor.

25 THE COURT: That's what we'll do. We'll

1           be in recess for the rest of today. I will be  
2           here and available at 9:20 and so if any issues  
3           arise that you need to talk to me about outside  
4           the presence of the jury, please let our clerks  
5           know. They will be here early as well so that I  
6           can be summoned, Ms. Raymond can be summoned,  
7           and we address that before 9:30 and start on  
8           time.

9                       MR. PICULELL: Thank you.

10                      MR. JONES: I'm going to want to set up  
11           like a projector thing so if the clerk will be  
12           here early to allow me in, I probably just need  
13           about ten minutes to set up a projector.

14                      THE CLERK: Quarter after.

15                      MR. JONES: Sure, okay. Thanks.

16                      THE COURT: We'll see you all in the  
17           morning then. Thank you.

18                      (End of requested proceedings.)

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF WHATCOM

STATE OF WASHINGTON,  
Plaintiff,

vs.

NO. 18-1-00679-37  
COA No. 81213-1

CHRISTOPHER POINDEXTER,  
Defendant.

NOTICE OF FILING

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Please take notice that on the 15th day of  
May, 2020, the original of the above numbered  
and named Verbatim Report of Proceedings, dated  
NOVEMBER 13, 2019 was electronically filed with the  
Court of Appeals Division I.

DATED this 15th day of May, 2020.

WENDY S. RAYMOND  
OFFICIAL COURT REPORTER  
WHATCOM COUNTY SUPERIOR COURT  
311 Grand Avenue  
Bellingham, WA 98225  
(360) 676-6748  
May 15th, 2020

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CERTIFICATE OF OFFICIAL COURT REPORTER

STATE OF WASHINGTON        )  
                                  )                SS.  
COUNTY OF WHATCOM        )

I, Wendy S. Raymond, Official Court Reporter,  
County of Whatcom, State of Washington, do hereby  
certify that the foregoing pages comprise a true and  
correct transcript of the proceedings had in the  
within-entitled matter, recorded by me by stenotype on  
the days herein written and thereafter transcribed into  
being by computer-aided transcription, and constitute my  
record on this matter.

DATED THIS 15th day of May, 2020.

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Wendy S. Raymond, CCR  
Official Court Reporter



INDEXWITNESS :PAGE :

JACEE	DIRECT EXAMINATION BY MR. JONES	58
DAMIEN	CROSS-EXAMINATION BY MR. PICULELL	120
	REDIRECT EXAMINATION BY MR. JONES	169
	RE-CROSS-EXAMINATION BY MR. PICULELL	182
	FURTHER REDIRECT EXAMINATION BY MR. JONES	186
KAELA SZE	DIRECT EXAMINATION BY MR. JONES	199
	CROSS-EXAMINATION BY MR. PICULELL	234

\*\*\*\*\*

Plaintiff's Exhibit Nos. 1 through 6 were marked for identification.	64
Plaintiff's Exhibit No. 1 was admitted.	65
Plaintiff's Exhibit Nos. 5 and 6 were admitted.	81
Plaintiff's Exhibit No. 7 was marked for identification.	86
Plaintiff's Exhibit No. 7 was admitted.	86
Plaintiff's Exhibit No. 8 was admitted.	107
Plaintiff's Exhibit No. 9 was admitted.	112
Defendant's Exhibit No. 10 was marked for identification	120
Defendant's Exhibit Nos. 11 and 12 were marked for identification	143
Defendant's Exhibit No. 13 was marked for identification	242

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2 NOVEMBER 14, 2019

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4 (Beginning of requested proceedings.)

5 THE COURT: I understand that the State  
6 has an issue that you would like to discuss  
7 before the jury comes in, Mr. Jones?

8 MR. JONES: Yeah, thank you, Your Honor.  
9 For the record, I sent an e-mail to both Your  
10 Honor and Defense counsel this morning with just  
11 what I think is some relevant case law, it's a  
12 statute that we should discuss in court and make  
13 a record of prior to proceeding with the seated  
14 Juror No. 24, who, for the record, is Elizabeth  
15 Gallery, she works in my office, in the  
16 prosecutor's office, although in a different  
17 division of that office.

18 So for the record, what I submitted was  
19 RCW 4.44.180, that's the definition of implied  
20 bias. I think it's, I think the Court should  
21 consider it and make some comments upon the,  
22 whether that statute is applicable or not to  
23 this situation. I think it's clear from the  
24 voir dire that Juror No. 24 did not express any  
25 actual bias, she was the subject of some



1 discussion during voir dire and during that  
2 there was no actual bias displayed from my  
3 perspective, although I would not want a  
4 situation where a court down the road finds  
5 that, even given no actual bias, there was some  
6 implied bias that exists.

7 So it's my preliminary comments for -- I  
8 would also like some record made in court that  
9 the seating of that juror as, or the Defense's  
10 decision to not make a peremptory challenge to  
11 Juror No. 24 was a strategic decision done for  
12 strategy in trial, not just a, just a slip. I  
13 think I'd like it put on record there is some  
14 questioning about that to confront any sort of  
15 potential challenges down the road if they come  
16 up.

17 And then also I'll say in the event that  
18 Juror No. 24 remains seated on the jury, which I  
19 think she should, my office has taken  
20 substantial steps yesterday to wall miss --  
21 Juror No. 24 off from having any information  
22 about this case. She indicated yesterday she  
23 knows nothing about it already. She has been,  
24 she has been told to not come into the office at  
25 all during the pendency of this case so I

1           suspect she will not be in the office at all  
2           from throughout the remainder of this case.

3                       There has also been instruction to the  
4           entire prosecutor's office, excluding Juror No.  
5           24, to not discuss this case in any of the open  
6           areas of the office and discussions of the case,  
7           if anything, were to be had would be behind  
8           closed doors and obviously not include Juror No.  
9           24, but I know, I don't expect her at the office  
10          at all during pendency on the case. I wanted to  
11          put all that on the record.

12                      THE COURT: All right. Thank you,  
13          counsel. Mr. Piculell, what's your view?

14                      MR. PICULELL: Sure. Your Honor, I think  
15          the issue's just a little late. I'm a little  
16          concerned that the prosecutor is bringing this  
17          up asking the Court at this stage to make a  
18          determination as to whether or not there is  
19          implied bias and whether the Court should  
20          exercise its authority to excuse Juror No. 24.  
21          If the Court does that, that could obviously  
22          influence the entire jury selection. If the  
23          Court does that, we're without an alternative  
24          juror if another juror does not appear. So I'm  
25          a little concerned about that.

1                   Additionally, I'm a little concerned  
2                   because the prosecutor took steps to qualify  
3                   this particular juror and I was listening  
4                   attentively. He indicated to her, Juror No. 24,  
5                   he indicated are we friends or something to that  
6                   effect, she indicated no, we have a professional  
7                   relationship. Then I think he indicated if you  
8                   return a not guilty would you have difficulty  
9                   talking to me, seeing me just on that decision  
10                  and she indicated no.

11                  And so at that point, if we take a look  
12                  at the statute, I assessed that she was  
13                  indicating that she could be fair and impartial.  
14                  There can be implied bias, but based upon her  
15                  response I did not make a for cause and, in  
16                  fact, I was specifically, when the Court asked I  
17                  think I indicated that there are no for cause  
18                  challenges twice, because I was specifically  
19                  thinking of Juror No. 24, and that there were  
20                  not, there was not a basis based upon her  
21                  response.

22                  I'm a little, I'm a little uncertain  
23                  whether the prosecutor's demand my, essentially  
24                  work product, what's in my mind as far as  
25                  peremptory challenges, and to make a record in

1           order to protect a potential appeal. I'm  
2           uncertain as to whether that's an appropriate  
3           motion before the Court. Certainly if the Court  
4           indicates that you want that, I will fully do  
5           that in terms of the exercise of peremptory  
6           challenges and the waiver. In fact, what I did  
7           when Juror No. 24, there was a waiver of my last  
8           peremptory challenge. So I can certainly  
9           explain that, but I'm not sure that that's a  
10          correct motion. And so the prosecutor is, I  
11          think he would be under an obligation, he  
12          certainly knew that she was in his office, he  
13          certainly knew that there was an implied bias  
14          statute that was potentially triggered. He  
15          qualified that juror.

16                   And then additionally I followed up with  
17          that, as the Court may recall, there was an  
18          issue with another juror in terms of my  
19          questioning about the presumption of innocence  
20          and whether Mr. Poindexter had an obligation to  
21          prove anything. That juror was essentially  
22          indicating he has to prove his innocence. I  
23          immediately went to Juror No. 24 and I asked her  
24          who has the burden of proof, what is that burden  
25          of proof, and does the Defendant have any burden

1 of proof? She answered quickly with alacrity  
2 and concisely to my questions. And that  
3 certainly weighed in on my determination.

4 So although I'm essentially infusing some  
5 of my thoughts, I'm not sure whether the  
6 prosecutor can make a motion to have me place on  
7 the record my thoughts concerning peremptory  
8 challenges at this stage absent something  
9 additional. And so I just think it's irregular  
10 that this motion is being made at this stage in  
11 order to make an appellate, potential appellate  
12 issue where I think the record would speak for  
13 itself.

14 THE COURT: All right. I'm not inclined  
15 to excuse the juror for implied bias and that's  
16 for a couple of reasons. Defense counsel has  
17 stated essentially the considerations that had  
18 to have been in his mind because Defense counsel  
19 accurately stated what occurred yesterday in the  
20 jury selection and specifically in the  
21 questioning of the juror at issue. And Defense  
22 counsel indicates that he was satisfied that the  
23 juror did not exhibit bias or other opinions  
24 that gave him concern about bias on the part of  
25 the juror. I note that the statute discusses

1           and defines implied bias, and I'm assuming that  
2           if the statute applies it would be subsection 4  
3           that applies, and that pertains to interest on  
4           the part of the juror in the event of the action  
5           or the principle question, accepting always the  
6           interest that any citizen would have in the  
7           subject matter. The other sections of the  
8           statute talk about consanguinity and talk about  
9           partnership or alliance with a party in the  
10          case. None of that is true of this juror.

11                   And the statute also indicates that a  
12          challenge for an implied bias may be taken, it  
13          does not say must be taken. I considered this  
14          yesterday during jury selection as well, simply  
15          the fact Juror 24 is a member of the prosecutor  
16          staff, but I did not excuse her sua sponte  
17          because I thought that it was an issue for  
18          determination by counsel, it was not that there  
19          was bias from the fact of the relationship, and  
20          certainly the juror's answers to questions did  
21          not indicate any such bias.

22                   So I note the case that counsel has  
23          provided the Court, but I note too that the  
24          facts were different in that case because the  
25          juror at issue either withheld or did not fully

1            reveal it during oral voir dire certain facts  
2            that were important. And those facts were at  
3            least implied in the juror questionnaire, but  
4            all in all there was not a frank and full  
5            discussion with the juror about her relationship  
6            with the key witness and the relationship was  
7            one of marriage. I note that the key witness  
8            was also the person who had reported the  
9            Defendant's statements and initiated the  
10           charges. None of that of course is present  
11           here.

12                    Putting all of the information together I  
13           don't find that there is an implied bias that  
14           is, that is so clear that the Court should take  
15           action. I note that the Defense having heard  
16           all of the information yesterday chose to  
17           proceed with this juror, and I note too that the  
18           motion to do whatever you're asking the Court to  
19           do is coming from the State and not from the  
20           Defense. Putting all the circumstances together  
21           I think Juror 24 should remain on the jury.

22                    And parenthetically, Mr. Jones, the steps  
23           that Mr. Jones, your office is taking to wall  
24           Juror 24 off from anything pertaining to this  
25           case that may occur in your office I think is a

1 very good thing and should continue through the  
2 remainder of the trial.

3 MR. JONES: Yes, Your Honor.

4 THE COURT: So I'm ready to proceed with  
5 the jury if both counsel are.

6 MR. JONES: I'm satisfied with the  
7 record, thank you. I'm ready to proceed.

8 MR. PICULELL: Thank you, Your Honor.  
9 There is just one additional matter, I confirmed  
10 it with Mr. Jones, I didn't have this on my  
11 motion in limine but I assumed because he had  
12 not identified it or given notice statutorily or  
13 404 (b) it wasn't going to be produced. In the  
14 interest of caution I asked him this morning, he  
15 indicates that a subject matter concerning  
16 Snohomish County will not be examined by the  
17 State.

18 THE COURT: What's the subject matter  
19 concerning Snohomish County?

20 MR. PICULELL: A similar allegation in  
21 Snohomish County.

22 THE COURT: I see. And that will not be  
23 raised by the parties?

24 MR. JONES: Yes, that's correct, Your  
25 Honor.



1           THE COURT: All right. And on the  
2 agreement of the parties I make that a formal  
3 order in limine as well.

4           MR. JONES: Thank you.

5           MR. PICULELL: Thank you.

6           THE COURT: And, Mr. Piculell, you're  
7 still opting not to make an opening statement at  
8 this time?

9           MR. PICULELL: Yes, Your Honor. I  
10 reviewed that with my client and he understands  
11 that I'm asking the Court to reserve until my  
12 case.

13          THE COURT: All right. I will ask you  
14 after Mr. Jones has finished if you wish to make  
15 an opening statement so you can say on the  
16 record that you'll defer.

17          MR. PICULELL: Thank you.

18          THE COURT: All right. We're ready for  
19 the jury then? All right.

20                 Will you bring the jury please,  
21 Ms. Martin.

22                         (The jury was seated.)

23          THE COURT: Good morning, ladies and  
24 gentlemen of the jury. I hope you all had a  
25 pleasant evening. We're ready to proceed now

1 with the presentation of evidence phase of the  
2 trial and that, in turn, begins with the opening  
3 statements. So I'll ask you to give your  
4 attention, please, to Mr. Jones who will be  
5 giving the opening statement on behalf of the  
6 State of Washington. Mr. Jones?

7 (OPENING STATEMENT BY THE STATE)

8 THE COURT: Thank you, Mr. Jones.

9 Mr. Piculell, do you wish to make an  
10 opening statement at this time?

11 MR. PICULELL: I think, Your Honor, with  
12 leave of the Court I'd like to reserve.

13 THE COURT: You'll reserve. All right,  
14 that will be done.

15 MR. PICULELL: Thank you.

16 THE COURT: Mr. Jones, is the State ready  
17 to call its first witness?

18 MR. JONES: I am, Your Honor.

19 THE COURT: All right. Would you do  
20 that, please.

21 MR. JONES: The State calls Jacee Damien  
22 to the stand. I'll be able to get her from the  
23 hall.

24 THE COURT: All right.

25 Hello, will you come forward please,

1 stand next to the witness stand for just a  
2 moment and raise your right hand.

3 **JACEE DAMIEN**

4 **Being first duly sworn, testifies as follows:**

5 THE COURT: Okay. You're under oath.  
6 Please, be seated. And with the microphone I  
7 think you'll find that if you stay about your  
8 hand's length away from it and talk a little  
9 louder than feels natural, that's what works  
10 best.

11 MS. DAMIEN: Okay.

12 THE COURT: Okay.

13 DIRECT EXAMINATION

14 MR. JONES: Okay, thank you, Your Honor.  
15 I'm going to get Jacee a cup of water.

16 THE COURT: Certainly.

17 DIRECT EXAMINATION

18 Q. (BY MR. JONES) Okay. Ms. Damien, good morning.  
19 Is it all right if I call you Jacee?

20 A. Uh-huh.

21 Q. Are you comfortable with that?

22 A. Yes.

23 Q. So Jacee, we'll start please and I'll have you  
24 state your full name and then spell your last name if  
25 you could?

1 A. Jacee Lenaea Damien, D-A-M-I-E-N.

2 Q. Okay.

3 MR. JONES: And can everybody hear Jacee  
4 alright? In the event that you can't hear,  
5 please say that and we'll speak up.

6 Q. (BY MR. JONES) Jacee, can you just begin by  
7 telling us a little bit about yourself; how old you are,  
8 what you do now, where you grew up, those sorts of  
9 things?

10 A. I'm 21, I live in Sedro-Woolley, I'm in school.

11 Q. Okay. Where are you in school?

12 A. At Northwest Indian College.

13 Q. What are you studying there?

14 A. I am finishing my diploma and then going for my  
15 AA.

16 Q. Great. All right. Do you work as well?

17 A. No.

18 Q. So just --

19 A. Not at the moment.

20 Q. -- a student?

21 A. Uh-huh.

22 Q. Who did you live with there?

23 A. I live with my girlfriend.

24 Q. Okay. And can you tell us please where you grew  
25 up?

1           A. I grew up in a few different places; Bellingham,  
2 Birch Bay, Mount Vernon, Burlington.

3           Q. Okay. And I'm going to ask you to speak just a  
4 little bit louder so we can hear your answers.

5                   Who was in your household when you were growing  
6 up, what family members?

7           A. My mom, Chris, my sister, and me.

8           Q. Okay. So the four of you for most of your  
9 memories; is that right?

10          A. Yes.

11          Q. Do you remember a time before -- you said Chris,  
12 are you referring to Christopher Poindexter?

13          A. Yes.

14          Q. Okay. Do you remember a time with the family  
15 before Christopher Poindexter was a part of the family?

16          A. Somewhat.

17          Q. Who was in the house household before  
18 Mr. Poindexter?

19          A. Just me and me sister and my mom.

20          Q. Okay. And did you live in Bellingham or Whatcom  
21 County then?

22          A. I think we lived in Mount Vernon.

23          Q. Okay. When was the first time you remember  
24 Christopher Poindexter being in your life?

25          A. I was super young. It was so long ago, I don't.

1 Q. I understand. Do you remember where you were  
2 living?

3 A. I think in Burlington at an apartment.

4 Q. Okay. Do you remember living at some point, as  
5 you got a little older, living up in Birch Bay or Blaine  
6 area of Whatcom County?

7 A. Yes.

8 Q. Can you tell us about the family at that point?

9 A. It was just like a regular family just at first  
10 and, I don't know.

11 Q. Okay. Were you in like elementary school at the  
12 time?

13 A. Yes.

14 Q. Okay.

15 A. I think that's elementary school.

16 Q. All right. Anything, and I'm focusing  
17 specifically on when you were living out at Birch Bay  
18 with the family, anything unusual about your upbringing  
19 at that point?

20 A. No.

21 Q. Okay. Felt like a normal family?

22 A. Yeah.

23 Q. Tell us about your sister if you could. She  
24 lived with you?

25 A. Yeah, she was way younger so not really much.

1 Q. How old is your sister?

2 A. She is 18, almost 19.

3 Q. So you're 21, she's 18?

4 A. Uh-huh.

5 Q. So not too much difference between you?

6 A. No.

7 Q. Are you and your sister close?

8 A. Yep, very close.

9 Q. And have you been close growing up?

10 A. Oh, yeah.

11 Q. So when you lived out in Birch Bay just nothing  
12 to report, you would describe it as a normal childhood?

13 A. Yeah, yeah.

14 Q. Okay. And do you recall a time after Birch Bay  
15 when you moved into town, into Bellingham?

16 A. Uh-huh.

17 Q. Can you tell us when this was, if you remember,  
18 how old you were or what grade you were in?

19 A. It's probably like elementary I think.

20 Q. Okay.

21 A. Maybe like 5th or 4th grade.

22 Q. So you believe you were in elementary school when  
23 you moved into Bellingham?

24 A. Uh-huh.

25 Q. Do you know where you moved when you moved into

1 Bellingham with your family?

2 A. Grove Street.

3 Q. Could you say that a little bit louder?

4 A. Grove Street.

5 Q. Grove Street.

6 MR. JONES: Is everyone being able to  
7 hear okay still? Okay.

8 Q. (BY MR. JONES) All right. And I know years are  
9 somewhat difficult, but do you know about when it was  
10 that you moved into Bellingham and started living on  
11 Grove Street?

12 A. No, I don't.

13 Q. Okay. And you think you were elementary school  
14 age?

15 A. Yes.

16 Q. Okay. Do you remember the house on Grove Street?

17 A. Yes.

18 Q. And do you remember moving there, like the  
19 project of moving the family and moving into there?

20 A. Kind of.

21 Q. Okay.

22 A. It's a lot harder to remember.

23 Q. Sure. All right.

24 So let's focus specifically on the Grove Street  
25 house when you lived there. Do you know for about how



1 long you lived there, was it one year, two years?

2 A. I think two to three years.

3 Q. Okay. So you remember being there for some time?

4 A. Yes.

5 Q. All right. And was it still just your mom, your  
6 sister, and Mr. Poindexter at the Grove Street house?

7 A. My grandma lived there for a little bit of time.

8 Q. Okay. All right. How much, how long did you  
9 think your grandma lived with you too there?

10 A. Maybe a year.

11 Q. Maybe a year?

12 A. Yeah, not even a year.

13 Q. Okay. All right.

14 So I want to talk a little about some of the,  
15 well, before we do that, let me show you...

16 MR. JONES: Your Honor, may I approach?

17 THE COURT: You may approach.

18 THE CLERK: Plaintiff's Exhibits 1  
19 through 6 marked.

20 (Plaintiff's Exhibit Nos. 1-6 were marked for  
21 identification.)

22 MR. JONES: Thank you.

23 Q. (BY MR. JONES) All right. Jacee, I'm going to  
24 show you what's been marked as Plaintiff's Exhibit 1.  
25 So the stickers that have numbers are on the back of the

1 page so you can look at them.

2 A. Uh-huh.

3 Q. Do you recognize Plaintiff's Exhibit 1?

4 A. Yes.

5 Q. Can you tell the jury what it shows, please?

6 A. This is the Grove Street house.

7 Q. Okay. And is that the house you remember living  
8 when you were in elementary school age?

9 A. Yes.

10 Q. Is it substantially similar as the photographs,  
11 substantially similar to how it was when you lived  
12 there?

13 A. Yeah.

14 MR. JONES: Your Honor, I move to admit  
15 Plaintiff's Exhibit 1.

16 MR. PICULELL: No objection.

17 THE COURT: Any objection? Exhibit 1 is  
18 admitted.

19 MR. JONES: Permission to publish this,  
20 Your Honor?

21 THE COURT: You may publish.

22 Q. (BY MR. JONES) Okay. So normal house, normal  
23 street, normal town?

24 A. Uh-huh.

25 Q. This is where you lived?

1 A. Uh-huh.

2 Q. Now, I want you to be, if you can, Jacee,  
3 describe for the jury just kind of just generally what  
4 was life like in your family when you were living on the  
5 Grove street address?

6 A. Um, well, it was good and my mom and Chris got  
7 married and it was pretty good, everything was going  
8 normal, then it started to get weird.

9 Q. Okay. So before we get to the times when things  
10 started to get weird, did you, were you going to school  
11 regularly?

12 A. Uh-huh.

13 Q. Do you remember what elementary school you went  
14 to?

15 A. I think it was Parkview.

16 Q. Parkview Elementary?

17 A. Uh-huh.

18 Q. Were you involved in anything outside of school,  
19 any sports or anything like that?

20 A. Not that I remember.

21 Q. Okay. All right.

22 So what kind of was a typical day like for you  
23 when you lived in the Grove Street house?

24 A. Get up, go to school, come home, have dinner,  
25 that's it.

1 Q. Okay. Did your, was your mom around a lot or  
2 not?

3 A. She worked, but she was around pretty often but  
4 not...

5 Q. Do you remember what she did for work while you  
6 were this young of age?

7 A. No, I don't remember.

8 Q. Okay. But she would go to work during the day?

9 A. Yeah.

10 Q. Was it a daytime work or nighttime work?

11 A. Daytime.

12 Q. What's that?

13 A. Daytime.

14 Q. Daytime work, okay. But you're not sure what it  
15 is that she did; is that right?

16 A. No, I don't remember.

17 Q. Okay. What about the, what about Mr. Poindexter,  
18 was he around a lot?

19 A. Um, yes, except for just work.

20 Q. Okay. Do you recall what kind of work hours,  
21 what kind of work he did during that time?

22 A. It would be leave early in the morning, come home  
23 around dinnertime, about five or six.

24 Q. Okay. Who do you remember generally watching you  
25 and your sister during this timeframe at Grove Street?

1           A.   Either, it wasn't really somebody that was  
2 watching, it was just general being there.

3           Q.   Okay.

4           A.   But it was not really just generally one person.

5           Q.   All right. Was it sometimes just you and your  
6 sister alone?

7           A.   Yeah, uh-huh.

8           Q.   Would that be often or common that you'd watch  
9 your sister and it would be, just be the two of you?

10          A.   Yeah.

11          Q.   Would sometimes Mr. Poindexter be the one that  
12 was the only adult that was there?

13          A.   Yes.

14          Q.   Okay. Would sometimes it just be your mom that  
15 was there?

16          A.   Yes.

17          Q.   Okay. All right. So no set schedule as far as  
18 who watched who when, that sort of thing?

19          A.   No, not really.

20          Q.   All right. Were you and your sister often, and  
21 just talking about Grove Street right now, I know you  
22 were young. Were you and your sister ever often alone  
23 with Mr. Poindexter being the only one in the house?

24          A.   Yes.

25          Q.   The only adult?

1 A. Yes.

2 Q. Do you remember that?

3 A. Yes.

4 Q. And would you say that was often or rare that it  
5 would just be him and you two girls?

6 A. It was pretty often I guess, yeah.

7 Q. Okay. Meaning what, like a couple times a week  
8 or?

9 A. Yeah.

10 Q. All right. Now, you mentioned while at the Grove  
11 Street house things were normal and good and then you  
12 said things got weird. Okay --

13 A. Uh-huh.

14 Q. -- can we talk about that?

15 A. Yeah --

16 Q. So let me ask you, sorry, I don't mean to  
17 interrupt.

18 A. That's fine.

19 Q. Can you tell us, when you use that word can you  
20 tell us kind of what you mean, what you're talking  
21 about?

22 A. Yeah. Well, everything was good and then it  
23 just, um, more tension I guess you would say came up. I  
24 don't know really what for, but I don't really know how  
25 to explain it.

1 Q. Okay. Tension in the house?

2 A. Yes.

3 Q. Okay. Was it, was it tension between your mom  
4 and Mr. Poindexter or?

5 A. Rarely.

6 Q. Okay. But you just, so you just kind of felt  
7 something different?

8 A. Yeah.

9 Q. Were you getting, you were getting older at this  
10 time too?

11 A. Yeah.

12 Q. Do you remember, do you remember kind of how old  
13 you were when you first started feeling things were  
14 different in the house?

15 A. It was probably a year before we moved out.

16 Q. Okay. Before you moved from Grove Street to the  
17 different house?

18 A. Uh-huh.

19 Q. Okay. All right. So were you about 10 or 11  
20 years old at this time, does that sound right to you,  
21 Jacee?

22 A. I think so.

23 Q. Okay. So as a 10 or 11 year old, you're getting  
24 bigger, it's the first time you notice something not  
25 quite right about the house?

1 A. Yeah.

2 Q. Okay. What about your relationship to  
3 Mr. Poindexter as a 10, 11 year old, can you describe  
4 that for us?

5 A. Um, it was pretty good. Just, um, when the  
6 tension started I started getting my distance, that's  
7 when it really started.

8 Q. All right. And I'm going to ask you to speak up  
9 if you can just a little bit. Okay?

10 So that's when it really started, that's what you  
11 said there. Can you tell us the first thing, the first  
12 time you remember anything, anything unusual happening  
13 between you and Mr. Poindexter?

14 A. Um, my mom was at work and we were all just  
15 watching movies. And at first it was just me and him  
16 and then my sister came in.

17 Q. Were you in a living room or in a bedroom?

18 A. In the bedroom.

19 Q. Okay. Was that otherwise a normal day, Jacee,  
20 where your mom was at work, you'd be watching movies in  
21 the bedroom?

22 A. Yeah.

23 Q. Anything different kind of leading up to what  
24 happened to you?

25 A. No.



1 Q. Okay. But it sounds like you remember it and  
2 it's just you and Christopher on a bed watching a movie?

3 A. Uh-huh.

4 Q. Okay. And then you said your sister came in?

5 A. Yeah.

6 Q. Can you tell us what happened next from your  
7 memory?

8 A. Um, well, she was just laying there, not really,  
9 she was too young so she didn't really understand what  
10 was going on. But we were just watching a movie and  
11 then he told me to come closer pretty much, and then had  
12 me get on top of him and then pretty much rubbed  
13 together.

14 Q. Okay. And you were young, 10 or 11 years old?

15 A. Uh-huh.

16 Q. I want to talk a little bit more about what  
17 happened here. Do you remember was Mr. Poindexter  
18 laying on the bed --

19 A. Yes.

20 Q. -- or standing?

21 Okay. Do you remember what he was wearing?

22 A. I think just boxers.

23 Q. Just boxers like --

24 A. I think so.

25 Q. Okay. And what did he say to you?

1 A. Maybe shorts.

2 Q. Do you remember?

3 A. He just told me to be quiet, pretty much not say  
4 anything.

5 Q. And take your time, Jacee, but what I need you to  
6 do is kind of describe for the jury this event, what  
7 happened to you, and I want you to do it from your  
8 memory. Okay?

9 A. Um, pretty much it was just after he asked me to  
10 start rubbing against him it just kept going until, I  
11 don't know if my mom came home or if I got up and left,  
12 I don't really remember after that.

13 Q. Okay. Can you specifically tell the jury what he  
14 asked you to do?

15 A. Uh-huh.

16 Q. Okay.

17 A. He asked me to climb on top of him and lay on him  
18 and pretty much just rubbed back and forth against him.

19 Q. Okay. What part of you was rubbing on what parts  
20 of him?

21 A. My butt onto his groin area.

22 Q. Okay. Do you, you were 10 or 11, do you remember  
23 what you were wearing during that?

24 A. No, I don't.

25 Q. Okay. Did he hold you and position you onto him?

1 A. Yes.

2 Q. So actually physically with his hands positioned  
3 you on him?

4 A. Yes.

5 Q. And can you describe how he held you, what, where  
6 he held you, what position you were in?

7 A. On my hips.

8 Q. On your hips, is that what you said?

9 A. Yeah.

10 Q. And, again, I'm sorry, I know -- we're going to  
11 have to make sure everybody can hear.

12 A. Yeah.

13 Q. And did he turn around so that your rear end was  
14 facing him?

15 A. Yes.

16 Q. And then where and how did he, what did he do  
17 with your body at that point?

18 A. Just moved me back and forth.

19 Q. Okay. Did you know what was happening?

20 A. Not really. I knew it wasn't right.

21 Q. So just the feeling at that age?

22 A. Uh-huh.

23 Q. Did you have any experience with adult sexuality  
24 or anything like that at that point?

25 A. No.

1 Q. Did you know what he was doing to you was sexual  
2 in nature?

3 A. I think so.

4 Q. Okay.

5 A. Because I was scared.

6 Q. Do you have any memories about his, about the  
7 part that he was having rubbed by you?

8 A. Yes.

9 Q. Can you tell us what was being rubbed on him?

10 A. Like what do you mean?

11 Q. Sure. What part was he rubbing you against?

12 A. Oh, his penis.

13 Q. Okay. Did you know that then or do you know that  
14 kind of thinking back about it?

15 A. Not, yes, but more like I didn't really know what  
16 was going on. It was just, I had that feeling it wasn't  
17 okay.

18 Q. Okay. You know more about sexuality now I assume  
19 than when you were 10?

20 A. Yeah, uh-huh.

21 Q. Do you, in remembering back about this happening  
22 to you, do you recall whether Mr. Poindexter had an  
23 erection or not?

24 A. Yes.

25 Q. Okay. What do you remember?

1           Did he?

2           A.    Yes.

3           Q.    Okay.  And is that, is his erection what he was  
4 using you to rub?

5           A.    Yes.

6           Q.    Could you see what was going on or just feel it  
7 from behind?

8           A.    Just feel.

9           Q.    And I know time and at a moment like this it's  
10 hard to estimate, but can you tell us about how long  
11 this went on, on this particular event?

12          A.    Maybe 20, 25 minutes.

13          Q.    Okay.  With the movie going in the room?

14          A.    Uh-huh, yes.

15          Q.    Do you know what your little sister was doing  
16 while this was happening to you?

17          A.    She was watching the movie.

18          Q.    Okay.  Did you say anything to Mr. Poindexter --

19          A.    No.

20          Q.    -- while this was happening?

21          A.    No.

22          Q.    Why not?

23          A.    Because I was told not to tell anybody and I was  
24 just scared to say something about it.

25          Q.    Okay.  All right.

1           Do you, while it's happening to you were you  
2 scared while it was happening?

3           A. Yes.

4           Q. Okay. Do you know why you were scared?

5           A. Because I didn't know what was going on.

6           Q. Did he say anything to you while it was  
7 happening?

8           A. Other than telling me what to do like go slower  
9 or faster, move this way or that way.

10          Q. Was he giving you instructions like that?

11          A. Uh-huh.

12          Q. Okay. Did you hear anything of what you would  
13 interpret as signs of pleasure from Mr. Poindexter  
14 during that?

15          A. No.

16          Q. So just the fact there was an erection is what  
17 you remember?

18          A. Yeah.

19          Q. Okay. And do you remember how it ended this  
20 particular event?

21          A. No, I think I just -- no, not really, no.

22          Q. Okay. And as far as timing I know it's  
23 difficult, you do remember eventually moving out of the  
24 Grove Street house, right?

25          A. Yep.

1 Q. And can you put this event on the bed in any sort  
2 of timeframe to visa vi when you moved; was it shortly  
3 before you moved or quite some time before you moved?

4 A. Shortly before we moved I think.

5 Q. Okay.

6 A. About a year.

7 Q. You think about a year before you moved?

8 A. I think so.

9 Q. All right. Did it just happen that one time,  
10 Jacee, at the Grove Street house?

11 A. I think so.

12 Q. That's all you can remember right now is a single  
13 event?

14 A. Yeah.

15 Q. Okay. All right.

16 Did Mr. Poindexter ever talk to you about, in the  
17 timeframe shortly after he did this to you, did he ever  
18 talk to you about what had happened on the bed?

19 A. No.

20 Q. Did you ever try to talk to him about it?

21 A. No.

22 Q. Okay. Talk to your mom about it?

23 A. No.

24 Q. Or your sister at that point?

25 A. No.

1 Q. Okay. All right. And do you remember that, are  
2 you sure you remember that being the only time at Grove  
3 Street that that happened to you or something similar?

4 A. At Grove Street?

5 Q. At Grove Street, yeah.

6 A. As far as I can remember right now I think so.

7 Q. All right. Okay, I know it's, you're kind of  
8 right here in the middle of a courtroom talking about  
9 this, it's hard I know.

10 All right. As you sit here today you don't  
11 remember any other events happening at Grove Street?

12 A. No.

13 Q. Besides that one?

14 A. Yes.

15 Q. Okay. And I'm going to show you what's been  
16 marked as Plaintiff's Exhibit 5 and 6. You can look at  
17 those. Do you recognize those photographs?

18 A. Yes.

19 Q. Can you tell us what they are?

20 A. That's the bedroom, the bedroom at the Grove  
21 Street house.

22 Q. Did the bedroom --

23 A. Uh-huh.

24 Q. Is that where the event that you just told us  
25 about happened?



1 A. Yes.

2 Q. And do the photographs, are they accurate as far  
3 as what the room would have looked like when this  
4 happened to you?

5 A. Yeah, yeah.

6 MR. JONES: Your Honor, I move to admit  
7 Plaintiff's Exhibit 5 and 6.

8 MR. PICULELL: Could I examine those,  
9 Your Honor?

10 THE COURT: Certainly.

11 Q. (BY MR. JONES) This is Plaintiff's Exhibit 5,  
12 Jacee.

13 A. Uh-huh.

14 Q. And I know you just got done saying this, can you  
15 tell us what Plaintiff's Exhibit No. 5 shows?

16 A. This is the bedroom.

17 Q. Okay. And then how about Plaintiff's Exhibit 6,  
18 which I'm handing you now?

19 A. This is inside the bedroom.

20 Q. Was there a bathroom attached to the bedroom?

21 A. Yes.

22 Q. Is that what Plaintiff's Exhibit 6 shows?

23 A. Yes.

24 Q. Okay, thank you.

25 MR. JONES: Your Honor, I'd move to admit

1 Exhibits 5 and 6, please?

2 MR. PICULELL: No objection.

3 THE COURT: Exhibits 5 and 6 are  
4 admitted.

5 MR. JONES: And permission to publish  
6 these to the jury?

7 THE COURT: You may publish.

8 Q. (BY MR. JONES) Okay. Jacee, you said this is  
9 the bedroom where this happened; is that right?

10 A. Yes.

11 Q. And do you remember anyone else being home at  
12 that point besides Mr. Poindexter, you, and your little  
13 sister?

14 A. No.

15 Q. Okay. All right.

16 Was the bed similar to how we see it in this  
17 photograph?

18 A. Yes.

19 Q. And where would the tv have been, if you know, if  
20 you can tell?

21 A. In the closet.

22 Q. In the closet?

23 A. Yeah, on the shelves.

24 Q. So lets look at Plaintiff's Exhibit 6, it's a  
25 little dark. Tell us again what that shows, please?

1 A. The bathroom and closet inside the bedroom.

2 Q. Is that where the tv would have been?

3 A. Yes.

4 Q. So you recall being on that bed and watching the  
5 movie on the tv in the closet?

6 A. Uh-huh.

7 Q. Okay. All right.

8 I know you were only 10 or 11 during that time,  
9 you're getting a little older as we go through what  
10 happened to you.

11 So can you tell us, do you remember a time when  
12 you moved out of the Grove Street house?

13 A. Um, I was, I just went into middle school I  
14 think.

15 Q. Okay.

16 A. And then --

17 Q. Where did you go to middle school?

18 A. Kulshan, or I went to Whatcom and Kulshan.

19 Q. Okay. So would that move from Whatcom Middle  
20 School to Kulshan Middle School be because you moved  
21 from Grove Street to Sudden Valley?

22 A. No, that was, I moved from Whatcom to Kulshan  
23 because Whatcom burnt down.

24 Q. Okay, all right.

25 You were there at the time it caught on fire?

1 A. Yeah.

2 Q. Okay. All right. So do you remember when you  
3 started middle school, like the first day of 6th grade,  
4 were you living in Sudden Valley or living in Grove  
5 Street still?

6 A. I think we were at Grove Street still.

7 Q. All right. Why don't you tell us about the move  
8 to Sudden Valley. What, if anything, you remember about  
9 the decision to move?

10 A. We were searching for houses to buy and then we  
11 found one in Sudden Valley and bought it. And then we  
12 moved in.

13 Q. Okay. Were you excited about that as a young  
14 kid?

15 A. Yeah, yeah.

16 Q. You think you were about middle school age?

17 A. Yeah.

18 Q. Okay. All right. Had you, did you know anything  
19 about Sudden Valley or know any friends that lived out  
20 there?

21 A. No.

22 Q. Okay. So what do you remember about the Sudden  
23 Valley house? We can start with the good things that  
24 happened there.

25 A. Well, we just bought our first house so the whole

1 family was excited and it was really good.

2 Q. Okay. Did you and your sister play like around  
3 the house and around the neighborhood in Sudden Valley?

4 A. Yeah, we went like walking on trails and we had a  
5 pretty decent sized backyard, camped out in the  
6 backyard.

7 Q. Okay. I remind you to just keep your voice up, I  
8 know it's hard, if you can.

9 Was it just your mother, Christopher Poindexter,  
10 you and your sister that lived at the Sudden Valley  
11 house?

12 A. I think my grandma was there for like a half a  
13 year maybe.

14 Q. Okay. All right.

15 So can you describe the Sudden Valley house for  
16 us, like the layout of the house, upstairs, downstairs,  
17 the bedrooms?

18 A. Yeah, all the bedrooms were upstairs besides my  
19 grandmother's was downstairs.

20 Q. Okay. There was two stories in the house?

21 A. Yeah.

22 Q. Okay. And how about your bedroom, where was your  
23 bedroom?

24 A. Upstairs.

25 Q. Okay. And how about, did your parents share a

1 bedroom?

2 A. Yes.

3 Q. And so that would be Christopher Poindexter and  
4 your mom?

5 A. Yes.

6 Q. And where was their bedroom?

7 A. Next to mine.

8 Q. Upstairs?

9 A. Yes.

10 Q. Okay. And what was downstairs?

11 A. The downstairs living room and my grandmother's  
12 room and the garage.

13 Q. What about like places to hang out in the house,  
14 where would you watch tv?

15 A. Downstairs usually, yeah. There was no tv  
16 upstairs.

17 Q. Okay. So just tv downstairs?

18 A. Uh-huh.

19 Q. Any tv in any of the bedrooms upstairs?

20 A. Yes, in their bedroom. In Chris's and my mom's  
21 bedroom.

22 Q. Okay. So one tv in Christopher and your mom's  
23 bedroom?

24 A. Yes.

25 Q. Okay. All right.

1 THE CLERK: Exhibit No. 7 marked for  
2 Plaintiff.

3 (Plaintiff' Exhibit No. 7 was marked for  
4 identification.)

5 MR. JONES: This is one of the copies  
6 that I gave you.

7 THE COURT: Actually, I don't believe I  
8 have a court copy of Exhibit 7. And if you  
9 prefer, Mr. Jones, you can get that copy to the  
10 Court after the witness identifies the exhibit.  
11 All right, thank you.

12 MR. JONES: Uh-huh.

13 Q. (BY MR. JONES) All right, Jacee, so I'm going  
14 to show you what's been marked as Plaintiff's Exhibit 7.

15 A. Uh-huh.

16 Q. Do you recognize that?

17 A. Yeah, this is the Sudden Valley house.

18 Q. Okay. Is that how you remember it being when you  
19 moved in?

20 A. Yes.

21 MR. JONES: Your Honor, I moved to admit  
22 Plaintiff's No. 7.

23 MR. PICULELL: No objection.

24 THE COURT: All right. Exhibit 7 is  
25 admitted.

1 MR. JONES: Permission to publish this,  
2 Your Honor?

3 THE COURT: You may publish.

4 MR. JONES: Okay.

5 Q. (BY MR. JONES) This one is a little darker.  
6 All right, I apologize for it being dark.

7 Jacee, is this the Sudden Valley house that you  
8 remember?

9 A. Uh-huh, yes.

10 Q. Okay. All right. How many years or how long do  
11 you think you lived at the Sudden Valley house  
12 altogether?

13 A. I think two years.

14 Q. About two years you remember?

15 A. Yes.

16 Q. Do you remember anything similar to what happened  
17 to you at the Grove Street house happen again while you  
18 were in Sudden Valley?

19 A. Yes.

20 Q. Okay. So let's, I want to talk about that, all  
21 right? So what do you remember first happening to you  
22 when you were at the Sudden Valley house that involved  
23 Mr. Poindexter?

24 A. Can you repeat that?

25 Q. Sure. Can you tell us about the first event



1 between Mr. Poindexter and you that happened at the  
2 Sudden Valley house that you remember?

3 A. Uh-huh. I think it was in their bedroom and it  
4 was the same thing that happened at the Grove Street  
5 house, the same watching tv and then asking the same  
6 thing, to get on top and rub against him.

7 Q. Okay. All right. So your recollection is of a  
8 very similar event that happened to you?

9 A. Yeah, yeah.

10 Q. Okay. Do you remember, are you thinking of a  
11 particular time when you're telling me about this, when  
12 you're telling about what you remember in Sudden Valley?

13 Did it happen more than once to you?

14 A. As far as I remember right now I think I can only  
15 remember that one time.

16 Q. In Sudden Valley?

17 A. Uh-huh.

18 Q. Okay. So I know you described what happened to  
19 you Grove Street. Can you tell the jury about this  
20 event specifically?

21 A. Yeah.

22 Q. And I want you, I want you to really think back,  
23 okay, try to remember this event that you're thinking of  
24 and what happened to you. Okay?

25 A. Okay. Um, my mother was gone, I think she was

1 still at work, and I don't remember if my sister was  
2 there or not. But we were watching tv in the bedroom  
3 next to my room and he asked me the same thing, to climb  
4 on top and rub against his penis with my butt the same  
5 way.

6 Q. Okay. Do you remember doing that or having that  
7 done to you?

8 A. Yes, yes.

9 Q. Okay. What was he wearing during that?

10 A. I think shorts.

11 Q. Okay. Would that be common for him to lay on the  
12 bed in shorts and watch tv?

13 A. Yeah.

14 Q. And how about you, do you remember in this one  
15 event that you're thinking of what you were wearing?

16 A. No, I don't remember.

17 Q. Did you ever remove your clothes?

18 A. No.

19 Q. So just put you on top of him and rubbed back and  
20 forth?

21 A. Uh-huh, yes.

22 Q. Okay. Do you remember in this event whether he  
23 had an erection?

24 A. Yes, he did.

25 Q. All right. And how do you know that, Jacee?

1 A. I mean, you can feel it.

2 Q. Okay. How long did the rubbing in this instance  
3 go on?

4 A. About the same time, like 20, 25 minutes.

5 Q. Did he say anything to you while it was happening  
6 to you this time?

7 A. Instructions, just telling me to move here and  
8 there.

9 Q. Okay. Did you say anything back to him while he  
10 was doing this to you?

11 A. No, no.

12 Q. All right. And about how long do you think it  
13 happened in this time?

14 A. About 20, 25 minutes.

15 Q. Do you remember how it ended?

16 A. No, I don't.

17 Q. And did you say you think your sister wasn't  
18 there during this time?

19 A. I don't think she was.

20 Q. Okay. All right.

21 And you were middle school aged at this point.  
22 Do you remember thinking anything about what was  
23 happening to you?

24 A. Yeah.

25 Q. Okay. Tell us about that?

1           A. I was starting to like realize actually what was  
2 going on and after that situation at the Sudden Valley  
3 house I pretty much got more distant and didn't really,  
4 was as close because I didn't want it to happen again.  
5 I also didn't want to tell anybody because I was  
6 instructed not to.

7           Q. Okay. Can you tell the jury about being  
8 instructed not to, what you remember being told?

9           A. I was told not to tell anybody, not let anybody  
10 find out about this. It was just between me and him.

11          Q. Okay. And when did Mr. Poindexter tell you that,  
12 do you remember?

13          A. At the Grove Street house.

14          Q. You were at the Grove Street house?

15          A. Yes.

16          Q. Okay. Do you remember at any point thinking that  
17 that was odd that this was something that you should,  
18 weren't allowed to talk about, weren't allowed to tell?

19          A. Yeah.

20          Q. Okay. All right. But did you do what he told  
21 you?

22          A. Yes.

23          Q. And why?

24          A. That was my father figure.

25          Q. Okay.

1           A.    So I was also scared, I didn't know what would  
2 happen if I did.

3           Q.    Right.  At the Sudden Valley house when it  
4 happened to you do you remember thinking it was wrong?

5           A.    Yes.

6           Q.    But you still didn't tell?

7           A.    Yes.

8           Q.    Okay.  How, why did you kind of still not tell  
9 anybody?

10          A.    I was scared.  I just didn't know what was going  
11 to happen and I didn't know how he was going to react  
12 and I just was pretty much embarrassed.

13          Q.    Okay.  How about your little sister, was she  
14 someone that you would be able to talk to at this time  
15 about this sort of stuff?

16          A.    No, she had no idea.

17          Q.    Okay.  And how old do you remember her being when  
18 you were first living at Sudden Valley?

19          A.    She is two years younger than me, so I was  
20 probably 6th or 7th grade, she was probably like 4th or  
21 5th.

22          Q.    All right.  Okay.  So you described an incident  
23 at Sudden Valley while you were living in the Sudden  
24 Valley house that's similar to living on Grove Street?

25          A.    Uh-huh.

1 Q. Do you remember it only happening once at Sudden  
2 Valley or more than one?

3 A. Just one.

4 Q. One at Sudden Valley?

5 A. Yes.

6 Q. Okay. All right. And then you think one time at  
7 Grove Street?

8 A. Yes.

9 Q. Okay.

10 THE COURT: I think we'll take our  
11 morning recess at this point. Ladies and  
12 gentlemen of the jury, we'll take our recess and  
13 we'll be in recess for 20 minutes. We'll be  
14 back promptly at 11.

15 (The jury left the courtroom.)

16 THE COURT: Have a good break, we'll see  
17 you at 11.

18 (Brief break off the record.)

19 MR. JONES: I'm going to seek to submit  
20 during this next portion of testimony a series  
21 of text messages. So if Your Honor wants to  
22 have those now I can hand them to you. I gave  
23 them to counsel and they are --

24 THE COURT: All right. Counsel, will  
25 there be an objection?

1 MR. PICULELL: No, there, I want to make  
2 a clarification, this might impact the motions  
3 in limine. I thought the prosecutor was moving  
4 to suppress some of these as self-serving  
5 hearsay statements. The exhibit that he's  
6 provided me a copy of is exhibit, by my quick  
7 review of the trial exhibits here, appears to be  
8 copies of everything that I provided him, with  
9 the exception of the final page. And so I had  
10 interpreted all pages except the last one  
11 potentially being within his motion in limine,  
12 but I don't have any objection to consideration  
13 and substantive admission of those.

14 THE COURT: With the inclusion of the  
15 last page?

16 MR. PICULELL: With the inclusion of the  
17 last page. And just maybe for a profer is my,  
18 well, actually I'm not sure this profer is  
19 necessary, but the last page no objection as  
20 well.

21 THE COURT: All right. So what's the  
22 exhibit number on those counsel?

23 MR. JONES: I haven't had them marked  
24 yet.

25 THE COURT: All right. All right. So

1           when counsel moves to admit these text messages  
2           as an exhibit the Defense will not be objecting.  
3           Do I understand correctly?

4                     MR. PICULELL:  Yes, ma'am.

5                     THE COURT:  All right.  All right.  
6           Presumably the witness will identify these text  
7           messages.  It's not clear what they are as I  
8           look at them, they haven't been identified.

9                     MR. JONES:  Your Honor, I'm going to seek  
10          to mark them as two separate exhibits, one will  
11          be testified as a flowing, consistent  
12          conversation, and then one comes later at the  
13          time that the victim discloses the abuse.

14                    THE COURT:  And is the last page the  
15          second exhibit?

16                    MR. JONES:  Yes.

17                    THE COURT:  It starts with the phrase  
18          "good morning" at the top right?

19                    MR. JONES:  Correct.

20                    THE COURT:  All right.  And this is a  
21          separate, this second exhibit is a separate  
22          conversation from the conversation that's in the  
23          first?

24                    MR. JONES:  Yeah, the same parties to the  
25          conversation but its distinction it came at a



1 separate time from what I think the witness will  
2 testify to. It doesn't flow from the end of one  
3 exhibit into the next.

4 THE COURT: Okay. I think we should have  
5 separate exhibits then. And can you tell me the  
6 exhibit number so we can refer to them by  
7 number?

8 MR. JONES: Sure. The thicker package is  
9 Exhibit 8, and the single page, the final page  
10 is Exhibit 9.

11 THE COURT: All right. And I'll look to  
12 you to move to admit them after they have been  
13 properly identified.

14 MR. JONES: Thank you.

15 THE COURT: All right. You may summon  
16 the State's witness, Mr. Jones, and I'll ask  
17 Ms. Martin to bring the jury in, please.

18 (The jury was seated.)

19 THE COURT: Ladies and gentlemen of the  
20 jury, yesterday I told you there will be times  
21 when you are delayed in returning from a break  
22 or there is otherwise a need for the Court to be  
23 working outside your presence and that's what  
24 occurred this morning. That's why we're  
25 returning ten minutes late from our break. The

1 lawyers and I worked out a couple of procedural  
2 matters so I just wanted you to know that we  
3 didn't have an extended coffee break this  
4 morning.

5 All right. Will you proceed please,  
6 Mr. Jones?

7 MR. JONES: Yes, Your Honor. Thank you.

8 Q. (BY MR. JONES) Okay, Jacee, so we were talking  
9 about your life and your sister's life at the Sudden  
10 Valley house.

11 A. Yes.

12 Q. All right. Going back if we can for just a  
13 moment, going back to when you were quite a bit younger  
14 at the Grove Street house?

15 A. Uh-huh.

16 Q. You testified to one specific event that you  
17 remember there. Did this happen to you more than just  
18 that one specific time while at the Grove Street house?

19 A. It's really hard to remember, really hard.

20 Q. Okay.

21 A. I tend to block a lot of stuff out.

22 Q. All right. So I know you're trying hard, and I  
23 told you to remember a specific event and that's what  
24 you're talking about.

25 Do you think it happened to you more than that

1 time or, and you're just able right now to remember one  
2 time?

3 A. I think so.

4 Q. Okay. Can you tell us about how your, how your  
5 memory works?

6 A. It's just, I've gone through a lot so my mind  
7 tends to block things out that I don't even mean to.

8 Q. All right. Do you think if what happened to you  
9 was an isolated, one-time thing -- is that how you  
10 remember it as an isolated, one-time thing or more  
11 ongoing than that?

12 A. I think it was more ongoing.

13 Q. Okay. But then we move to Sudden Valley and you  
14 tell us about another event you remember there?

15 A. Yeah.

16 Q. Is that the only time it ever happened to you  
17 while at Sudden Valley?

18 A. Yes.

19 Q. You only remember, you think it was just that one  
20 time at Sudden Valley?

21 A. Yes.

22 Q. Okay. All right.

23 And it sounds like the events, the one at Grove  
24 Street that you're able to tell us about and the one at  
25 Sudden Valley that you're able to tell us about today,

1 that they were fairly similar to one another; is that  
2 fair to say?

3 A. Yes, yep.

4 Q. Okay. Do you ever remember anything different  
5 than what you've described?

6 A. No.

7 Q. Okay. All right. And can you tell us, again,  
8 please, you're 21 years old now?

9 A. Yes.

10 Q. What's your birthday?

11 A. August 5, 1998.

12 Q. Okay. And I know this is a silly question, but  
13 were you at the time Sudden Valley and the time at Grove  
14 Street, were you married to Mr. Poindexter?

15 A. No.

16 Q. Is he more than 36 years older than you? Is he  
17 older than you?

18 A. Yes.

19 Q. More than three years older than you?

20 A. Yeah.

21 Q. All right. Okay.

22 So going back to Sudden Valley if we can, you  
23 were able to tell us about the one event that happened  
24 there. Do you remember when that happened compared to  
25 when you moved in to Sudden Valley, was it soon after

1 you moved in or not?

2 A. It was right before we moved out so probably a  
3 year before we moved out. We were there for about two  
4 to three years.

5 Q. All right. So you think it was, you said you  
6 think it was about a year before you move out of Sudden  
7 Valley that it happened?

8 A. Yeah.

9 Q. Do you remember how old you were when this event  
10 happened to you at Sudden Valley?

11 A. Not exactly, no.

12 Q. Okay. So your birthday is in August?

13 A. Uh-huh.

14 Q. And you were middle school age, you would have  
15 turned 12 at some point while you lived in Sudden  
16 Valley; is that right?

17 A. Yeah.

18 Q. Do you remember this event happening in relation  
19 to your twelfth birthday at all?

20 A. No.

21 Q. Before it or after it?

22 A. No, I don't.

23 Q. Okay, all right.

24 So is that the best you're able to do here in  
25 court today is you think it was maybe about a year

1 before you moved out of Sudden Valley?

2 A. Yes.

3 Q. All right.

4 Now, both of these events that you told us about,  
5 Jacee, you said they both lasted about 20 to 25 minutes?

6 A. Yes.

7 Q. Do you remember how, let's think about the Sudden  
8 Valley event when you were a little older. Do you  
9 remember how you felt while this was happening to you?

10 A. Very scared, just always nervous and very aware  
11 of my surroundings, just worrying about if it would  
12 happen next.

13 Q. Okay. How did it feel like physically to you?

14 A. It felt almost like, almost like heartbreak, just  
15 from seeing him as a father figure and then just  
16 realizing that it's just not the same.

17 Q. Right. Was the relationship with Mr. Poindexter  
18 different after he started doing these things to you?

19 A. Yes.

20 Q. Can you tell us how it changed?

21 A. Um, well, I mean we were younger so we thought he  
22 was our dad and that's all we pretty much knew. And  
23 then it just, after this all happened it just didn't  
24 feel as close.

25 Q. Okay. Did you ever speak with Mr. Poindexter

1 directly about --

2 A. No.

3 Q. -- why he was doing this or what he was doing to  
4 you?

5 A. No.

6 Q. After you moved out of the Sudden Valley house  
7 did this ever happen again?

8 Let me ask a pretty direct question, is that the  
9 last, is that the last event that you remember is the  
10 one you've told us at the Sudden Valley house?

11 A. Yes.

12 Q. And an event like that didn't happen again after  
13 the Sudden Valley house; is that right?

14 A. Yes.

15 Q. All right. Okay.

16 Did your, did Mr. Poindexter and your mom  
17 eventually separate?

18 A. Yes.

19 Q. Do you remember about when that was?

20 A. After we moved out of the Sudden Valley house.

21 Q. Okay. And --

22 THE COURT: I'm sorry, I didn't hear your  
23 answer.

24 MS. DAMIEN: After we moved out of the  
25 Sudden Valley house.

1 THE COURT: Thank you.

2 Q. (BY MR. JONES) And after your mom and  
3 Mr. Poindexter separated what were the living  
4 arrangements, if you remember?

5 A. Me and my sister lived with my mom and he moved  
6 down south to Snohomish I think, yeah.

7 Q. So you said he had been, he was your dad growing  
8 up?

9 A. Uh-huh.

10 Q. Did you keep, were you able to keep communication  
11 with him after the separation?

12 A. Yes.

13 Q. Okay. Can you tell us about that, like why you  
14 kept talking to him?

15 A. That was all I had as a father so I didn't want  
16 to lose it.

17 Q. Okay. And how would you communicate with him?

18 A. Through Facebook or text.

19 Q. All right. And was it ongoing communication all  
20 the time with texting and Facebook?

21 A. Off and on.

22 Q. What?

23 A. Off and on.

24 Q. Off and on, all right.

25 Would he text or message you?



1 A. Yes.

2 Q. Was it common for him to initiate it or for you  
3 to initiate it?

4 A. For him.

5 Q. Okay. But would you respond to him when he sent  
6 you a message?

7 A. Yes.

8 Q. Generally can you kind of recall how those  
9 conversations would sound or what you would talk about?

10 A. Just ask how I was doing, what I was up to.

11 Q. Okay.

12 A. Sometimes it just got a little uncomfortable with  
13 the things that he would say. I'd try to just push it  
14 over and ignore it.

15 Q. All right. During this time when you were,  
16 Mr. Poindexter and your mom had separated and you're  
17 still kind of communicating with him, during that time  
18 had you told anybody yet what had happened to you?

19 A. No.

20 Q. Okay. Is it for the same reasons that you talked  
21 about not telling earlier?

22 A. Yes.

23 Q. How about your little sister, did you ever during  
24 this time, did you talk to her?

25 A. Yeah, I think it was after, in the middle of the

1 divorce that she came to me and told me and then I told  
2 her.

3 Q. Okay. Tell us about that conversation if you  
4 could?

5 A. She came to me and was just, I could tell she was  
6 really upset for a few days, and she came to me and was,  
7 started talking about it and just told me that she had  
8 to tell somebody because it was driving her crazy.

9 Q. Okay. And did she tell you Mr. Poindexter had  
10 done something sexual with her also?

11 A. Yes.

12 Q. Do you remember how you felt when your little  
13 sister told you that?

14 A. I felt heartbroken because just knowing that she  
15 went through what I went through was just, I didn't  
16 wanted her to feel that way.

17 Q. Okay. Before she told you that did you know at  
18 all she had been used by Mr. Poindexter too?

19 A. No.

20 Q. And did you say, I think you told her that  
21 happened to me also?

22 A. Yeah.

23 Q. Okay. Do you remember what you told her?

24 A. No, not exactly.

25 Q. All right. So sharing that with your sister, was

1 that an emotional thing between you two girls?

2 A. Yes, yes, very emotional. We kept it from my mom  
3 for a few years.

4 Q. Did you talk about keeping it from your mom?

5 A. She didn't want to tell anybody, so I mean, it's  
6 my sister, I'm not going to...

7 Q. All right. So you remember your little sister  
8 saying she didn't want to tell?

9 A. Uh-huh.

10 Q. Did she tell you why she didn't want to tell?

11 A. She was just scared. She didn't saying anything  
12 why, she told me not to say anything and eventually I  
13 told her it had to come out, we had to tell somebody.

14 Q. Okay. I'm going to show you what's been  
15 previously marked here as Plaintiff's Exhibit 8.  
16 There's 20 pages there so it might take a moment, but  
17 can you review those pages for me, please?

18 A. (Witness complies.)

19 Q. All right. Do you need some more water?

20 A. No, I'm okay.

21 Q. You're all right?

22 A. Thank you.

23 Q. Okay. So I'm glad to see you went through those.  
24 Can you tell us what those are in Plaintiff's Exhibit 8,  
25 please?

1 A. Text or Facebook messages.

2 Q. Okay. Is that, are those messages that you've  
3 just told us about between you and Mr. Poindexter?

4 A. Yes.

5 Q. Okay. And is that a good, is that a good  
6 reflection what we have here as how the conversations  
7 went between you and him?

8 A. Yes.

9 Q. Okay. And do you actually recognize these as  
10 coming from him to you?

11 A. Yes.

12 Q. Is there anything specific in there that makes  
13 you know that that was Mr. Poindexter talking to you  
14 from the other end?

15 A. A picture, some life details.

16 Q. Okay. So he actually sent a picture of himself  
17 in one of the messages?

18 A. Yes.

19 MR. JONES: Your Honor, I move to admit  
20 Plaintiff's Exhibit 8, please.

21 MR. PICULELL: No objection.

22 THE COURT: All right. Exhibit 8 is  
23 admitted.

24 Q. (BY MR. JONES) Now, if you can pick that up for  
25 me, Jacee, and one of the things that you've said

1 earlier is that sometimes the conversations would get,  
2 would get uncomfortable?

3 A. Uh-huh.

4 Q. I think you used the word uncomfortable?

5 A. Yeah.

6 Q. Can you kind of tell us generally what about  
7 these messages you found uncomfortable?

8 A. I don't know if they were meant to be  
9 uncomfortable, they were just not comfortable to me.

10 Q. Okay.

11 A. Especially what had happened in the past.  
12 Calling me names, not, just saying certain things about,  
13 like asking what I'm wearing or wanting pictures and  
14 stuff like that.

15 Q. All right. Now, a few times in those  
16 conversations he refers to you as hot stuff?

17 A. Uh-huh.

18 Q. Is that right?

19 A. Yes.

20 Q. Can you tell us is that a typical way he would  
21 refer to you?

22 A. No.

23 Q. Okay. And how did it make you feel when he was  
24 referring to you as hot stuff in messages to you?

25 A. It's kind of weird because that's, usually you

1 would call like, like someone that you're into I guess  
2 you would say.

3 Q. Okay. Was it weird all by itself in your mind or  
4 weird given what he had done to you in the past?

5 A. Uh-huh, yes.

6 Q. Is that more accurate?

7 A. Yeah.

8 Q. Okay. And what about the asking for pictures of  
9 you, or can you describe that from the messages?

10 A. I was going to an event that it was like a paint  
11 night and asking for pictures of me and my friends and  
12 asking what I was going to be wearing and what I was  
13 going to be doing.

14 Q. Okay. When he was talking to you this way in  
15 these messages, were you able to kind of stand up to him  
16 and tell him to knock it off at all?

17 A. No, I just kind of let it go over my head and  
18 just ignored it.

19 Q. Is there a reason why that was an easier way to  
20 deal with it then?

21 A. Because I didn't want to bring up the situation  
22 and have it turn into something. And eventually I did  
23 but...

24 Q. Okay. All right.

25 And you mentioned one time in these messages he

1 sent you a picture of himself?

2 A. Uh-huh.

3 Q. Is that the only time he sent you a picture of  
4 himself?

5 A. Yes.

6 Q. Okay. Do you remember getting that?

7 A. Yes.

8 Q. What did you think, if anything, when you  
9 received a photograph of him?

10 A. Um, well, it was after I think he asked me to  
11 send a picture to him, but I don't think I responded,  
12 and then he sent me a picture of himself. I don't know,  
13 it was just pretty much ignored it.

14 Q. Okay. I'm going to take this from you if I  
15 could.

16 MR. JONES: Your Honor, permission to  
17 publish a portion of this to the jury?

18 THE COURT: Portion of Exhibit 8?

19 MR. JONES: Yes, please.

20 THE COURT: You may do that.

21 Q. (BY MR. JONES) I hope this comes up. Is this  
22 the picture --

23 A. Yep.

24 Q. -- that you received from him?

25 A. Yeah.

1 Q. Okay. On this same page is he talking about you,  
2 about what are you wearing?

3 A. Yes.

4 Q. Was there any reason for him to be asking those  
5 questions in your mind?

6 A. Not necessarily.

7 Q. Okay. And final message on this page is this  
8 where he indicates he wants to see you painted?

9 A. Yes.

10 Q. I think you testified that in particular made you  
11 uncomfortable?

12 A. Yes.

13 Q. Can you tell us why that made you uncomfortable?

14 A. There would be no reason, I don't know, it was  
15 just not something really a dad would want I guess.

16 Q. Do you remember having those thoughts when you  
17 were receiving them?

18 A. Yes.

19 Q. Okay, okay.

20 I'm going to hand you what's been marked as  
21 Plaintiff's Exhibit 9. You told me, and you told us,  
22 Jacee, that you eventually kind of put a stop to this or  
23 stood up; is that right?

24 A. Yes.

25 Q. Okay. Can I have you look at Plaintiff's Exhibit



1 9 and tell me whether you recognize what is shown there?

2 A. Text messages between me and Chris.

3 Q. Okay. And are these, this is a different time  
4 where you were --

5 A. This was the last time.

6 Q. The last time you texted each other?

7 A. Yes.

8 Q. Okay. And do you recall this, what was going on  
9 during this conversation?

10 A. Yes.

11 Q. And does that accurately reflect the conversation  
12 that happened the last time?

13 A. Yes.

14 Q. Okay.

15 MR. JONES: Your Honor, I move to admit  
16 Plaintiff's Exhibit 9?

17 MR. PICULELL: No objection.

18 THE COURT: Exhibit 9 is admitted.

19 MR. JONES: Okay.

20 Q. (BY MR. JONES) I'm going to have you hold that  
21 a second longer.

22 A. Okay.

23 Q. Can you tell us what was happening in your mind  
24 when you stood up and said, you know, I can't do this  
25 any more?

1           A. I was scared because I didn't know what was going  
2 to happen next. I didn't know how it was going to go  
3 about or how people were going to react.

4           Q. Right. And what did you, what did you do to stop  
5 to say no more, to stop it?

6           A. Um, pretty much just texted him saying that I  
7 can't talk to him any more because I let my boyfriend  
8 know at the time, because he had seen messages from him  
9 that was shown that he didn't like, and then I explained  
10 what had happened in the past and he told me that I  
11 should stop talking to him or he was going to let my  
12 mother know what is going on.

13          Q. Okay.

14          A. And that's why I finally just --

15                   MR. PICULELL: Your Honor, I object to  
16 that hearsay. Move to strike.

17                   THE COURT: What's hearsay?

18                   MR. PICULELL: She is indicating what  
19 somebody said to her about what she said to him.

20                   MR. JONES: Your Honor, I don't -- those  
21 statements will not be offered for the truth of  
22 the matter, they are the effect on Jacee and how  
23 she then reacted by what we see in Plaintiff's  
24 Exhibit 9.

25                   THE COURT: The objection is overruled.

1 MR. JONES: Okay.

2 Q. (BY MR. JONES) All right, Jacee, so you  
3 mentioned that -- at this point how old were you now  
4 that you decided to tell in the way that you just told  
5 us?

6 A. Twenty.

7 Q. Okay. So it was more recent, you're grown now?

8 A. Yeah.

9 Q. Did that play a part in your kind of strength and  
10 ability to tell?

11 A. Yeah, yeah.

12 Q. You being grown?

13 A. Yes.

14 Q. Okay. And it sounded like at least one other  
15 person, your sister already knew, but it sounds like at  
16 least one other person you've told now what had happened  
17 to you?

18 A. Yes.

19 Q. Did that give you strength also to stand up?

20 A. Yeah, yes.

21 Q. And what did you say specifically to Christopher  
22 Poindexter in the messages here?

23 A. Now I can't talk to you because my boyfriend  
24 thinks you're a creep and what you say to me is not, is  
25 now, he's now pissed.

1 Q. Okay. And let me --

2 MR. JONES: Your Honor, permission to  
3 publish this exhibit please?

4 THE COURT: You may publish.

5 MR. JONES: We're going to look at this  
6 all together if we can.

7 Q. (BY MR. JONES) Can you tell the jury, just  
8 before we get started here, Jacee, which messages are  
9 you talking and which messages are Christopher talking?

10 A. Mine are on the left.

11 Q. Okay. So these (indicating)?

12 A. Those two, yes.

13 Q. Okay. All right. So is it Christopher  
14 Poindexter that initiated this conversation?

15 A. Yes.

16 Q. Okay. And then you tell him you can't talk to  
17 him?

18 A. Yes.

19 Q. All right. And then his response to that, did  
20 that make any sense to you his response?

21 A. Yes.

22 Q. Can you tell us why that, what you were thinking  
23 when you got his response back from that?

24 A. I knew he was going to be frustrated just because  
25 I've never said anything in the past so wondering why it

1 just came up now.

2 Q. Okay. All right. And then you actually  
3 specifically tell him in these messages that you told  
4 about what happened in the past?

5 A. Yes.

6 Q. Did you find anything interesting about his  
7 reaction to you saying I told, I finally told?

8 A. He never really denied it, he never said anything  
9 about it, he was just pissed about my boyfriend.

10 Q. Okay. What about this comment here that  
11 Christopher makes about rebuilding a relationship with  
12 him. Do you know what he meant there?

13 A. Because I never pulled back, I never like, I  
14 never stopped going to see him just because I didn't  
15 want anybody's feeling to get hurt at that point and I  
16 was needing a father figure and that's all I knew.

17 Q. All right. Did you think he meant kind of  
18 rebuilding what he had done, coming back from what he  
19 had done to you when you were a kid?

20 A. Uh-huh.

21 Q. Rebuilding the wrongs that you had told your  
22 boyfriend about?

23 A. Possibly.

24 Q. Okay. All right.

25 Okay, and this is your testimony that this is the

1 last time --

2 A. Yes.

3 Q. -- you've spoken to Mr. Poindexter?

4 A. Yes.

5 Q. Okay. Can you tell us about telling your mom  
6 about this, when that happened and what you remember  
7 about that?

8 A. It was very emotional. She was very shocked. Me  
9 and my sister went and told her at the same time. She  
10 said she didn't even realize it, what was going on, and  
11 she was very upset, very, very upset.

12 Q. Okay. Was the decision made by your mom or by  
13 you and your sister to report this to the police?

14 A. Yes.

15 Q. Okay. Do you remember who made that, how that  
16 decision was made to report this?

17 A. My mom mentioned it. We all talked about and  
18 decided we should.

19 Q. Were you, did you think that was a good idea --

20 A. Yeah.

21 Q. -- to report it?

22 A. Yeah.

23 Q. Okay. Why?

24 A. It was going on for, it was going on for too long  
25 and then finally we decided something needs to be done.

1 Q. Okay. And, you know, this might be a silly  
2 question; did you gain, did you, your mom or sister gain  
3 anything personally by reporting this?

4 A. Um, pretty much more strength to try to get it so  
5 it doesn't happen again.

6 Q. Okay. All right.

7 But by the time this happened the divorce was,  
8 the separation was done, the divorce was done by years  
9 and years; is that right?

10 A. Yeah, yeah.

11 Q. Okay. All right.

12 And, you know, have you enjoyed this process of  
13 having this reported?

14 A. Oh, no.

15 Q. Having to talk about this?

16 A. No.

17 Q. Okay. Why not? Why haven't you enjoyed it?

18 A. It's not something I like to talk about. It's  
19 not something that I like to bring back up from my life.

20 Q. All right. And just, Jacee, it might be kind of  
21 difficult, do you see Christopher Poindexter in the  
22 courtroom today?

23 A. Yes.

24 Q. Okay. And can you tell me where he is?

25 A. Sitting next to his attorney.

1 Q. Is this him over to my left shoulder here?

2 A. Yes.

3 MR. JONES: Your Honor, I'd like the  
4 record to reflect the witness has identified  
5 Christopher Poindexter.

6 MR. PICULELL: Your Honor, that's a  
7 factual question left to the province of the  
8 jury.

9 THE COURT: The record will reflect the  
10 fact that the witness has indicated that  
11 Mr. Piculell's client sitting next to him who  
12 has been introduced to the jury as Christopher  
13 Poindexter has been identified by the witness.

14 MR. JONES: Okay.

15 Q. (BY MR. JONES) Is this the same man that did  
16 the acts that, did the acts that you told us about to  
17 you?

18 A. Yes, yes.

19 Q. Okay.

20 MR. JONES: Just give me a moment. Your  
21 Honor, those are all my questions. Thank you.

22 THE COURT: Thank you counsel.

23 Mr. Piculell?

24 MR. PICULELL: I do have some, Your  
25 Honor. If I could request this to be marked for



1 identification.

2 THE CLERK: Exhibit 10 marked for  
3 defendant.

4 (Defendant's Exhibit No. 10 was marked for  
5 identification.)

6 CROSS-EXAMINATION

7 Q. (BY MR. PICULELL) And good morning. We've met  
8 before, correct?

9 A. Yes.

10 Q. Yes. We spoke in the prosecutor's office some  
11 months ago, right?

12 A. Yes.

13 Q. Okay. And at that meeting there were a number of  
14 people present, correct?

15 A. Yes.

16 Q. Including Mr. Evan [sic] the deputy prosecutor?

17 A. Yes.

18 Q. Myself?

19 A. Yes.

20 Q. And the victim advocate?

21 A. Yes.

22 Q. Now, when you were first contacted by the police  
23 and interviewed by a detective do you recognize the  
24 detective here today?

25 A. Yes.

1 Q. And who is that? Is that this gentleman over  
2 here (indicating)?

3 A. Yes.

4 Q. Do you recall his name?

5 A. I don't remember his name.

6 Q. Okay. You don't recall his name? Okay.

7 A. No.

8 Q. When you were interviewed by the detective did he  
9 ask you for any information such as texts that you had  
10 exchanged with Mr. Poindexter?

11 A. Yes.

12 Q. Okay. Did you provide those to him?

13 A. Yes.

14 Q. Okay. And how did you do that?

15 A. I sent them. I screen-shotted them and sent them  
16 through, or my mom sent them through e-mail.

17 Q. I'm sorry, could you tell us that again, please?

18 A. My mom sent them through e-mail after I  
19 screen-shotted them.

20 Q. Your mom sent them through e-mail to the  
21 detective?

22 A. Yes.

23 Q. But you screen-shotted them?

24 A. Yes.

25 Q. Okay. Did you screenshot, how did you determine

1 what to screenshot to the detective?

2 A. Anything that either made me feel uncomfortable  
3 that I thought was necessary that needed to be brought  
4 to the court.

5 Q. Okay. I'm so sorry, I couldn't hear that?

6 A. Anything that I thought that was necessary to be  
7 brought to the court or that I felt uncomfortable.

8 Q. Okay. Anything that you thought was necessary to  
9 be brought to the court?

10 A. Yes.

11 Q. Okay.

12 MR. PICULELL: So may I approach?

13 THE COURT: You may approach.

14 Q. (BY MR. PICULELL) Ma'am, I'm handing you what  
15 has been marked for identification as Exhibit No. 10.  
16 If you can take a look at that?

17 A. Uh-huh. (Witness complies.)

18 Q. And tell me whether you recognize that exhibit in  
19 full?

20 A. Yeah.

21 Q. Okay. And is that, is that or are those the  
22 screenshots that you provided to the detective through  
23 your mother?

24 A. Yes.

25 Q. Okay. And the prosecutor had you answer some

1 questions about what's Exhibit No. 9, I think it's over  
2 here.

3 MR. PICULELL: If I may approach?

4 THE COURT: You may approach.

5 Q. (BY MR. PICULELL) Exhibit 9, which is admitted,  
6 can you tell me whether Exhibit No. 9 is contained in  
7 Exhibit No. 10?

8 A. No, no. I don't see this one in here.

9 Q. Okay. You don't see it?

10 A. Okay.

11 Q. A couple questions about that. Is Exhibit No. 9  
12 sequential with what you have before you Exhibit No. 10  
13 as far as time period?

14 A. What do you mean by that?

15 Q. What do I mean in terms of, is it date  
16 sequential? Did the dates occur, the texts occur one  
17 after another?

18 A. Yes.

19 Q. Okay. Did they occur one after another  
20 immediately or are they spaced apart by days, hours?

21 A. Days.

22 Q. Days?

23 A. Uh-huh.

24 Q. So when is your recollection of the last text  
25 that you transmitted to Mr. Poindexter?

1           A.    Was in No. 9 when I told him, also I told him  
2 what happened in the past and he's pissed too.

3           Q.    Okay.  And did you as part of your testimony  
4 review any exhibits prior to testifying?

5           A.    What do you mean?

6           Q.    Did you look at anything, any documents before  
7 taking the stand today?

8           A.    Yes.

9           Q.    Okay.  And did you look at Exhibit No. 9 this  
10 morning or today?

11          A.    Not today.

12          Q.    Okay.  When did you look at that?

13          A.    Um, I think the last time I was here, which was,  
14 I'm not sure if I did see this one or not, but I think  
15 it was last Thursday or Friday that I was here.

16          Q.    Okay.  And is that the first time that you  
17 recollect seeing Exhibit No. 9?

18          A.    No.  I don't think so.

19          Q.    Okay.  Did you, do you think that you included  
20 Exhibit No. 9 or information on Exhibit No. 9 with what  
21 you screen-shotted and provided to your mother to  
22 provide to the prosecutor?

23          A.    I don't remember.

24          Q.    You don't remember?

25          A.    No.

1 Q. Okay. But it was shown to you last week?

2 A. Yes.

3 Q. Okay. Now --

4 A. I believe so.

5 Q. I'm sorry?

6 A. I think so. I can't really remember.

7 Q. Okay. But recently?

8 A. Yes.

9 Q. So Exhibit No. 9 was shown to you recently?

10 A. Yes.

11 Q. Okay. Now, at the top of Exhibit No. 9 it says  
12 good morning; is that correct?

13 A. Yes.

14 Q. And does Exhibit No. 9 have a date stamp --

15 A. No.

16 Q. -- next to it? Okay.

17 MR. PICULELL: If I may approach?

18 THE COURT: You may approach.

19 Q. (BY MR. PICULELL) Exhibit 8 that's been  
20 admitted, I'm going to ask you to take a look at that,  
21 that's an admitted exhibit. If I could ask you to turn  
22 to the final page of Exhibit No. 8?

23 A. (Witness complies.) Uh-huh.

24 Q. What does the final text on that page indicate?

25 A. Good morning.

1 Q. Good morning. Okay. And is that time or date  
2 stamped?

3 A. Yes.

4 Q. What is the time of that?

5 A. 2-9-30.

6 Q. 2-9-30?

7 A. That's what it says.

8 Q. That's what it says, okay. Does it give a time?

9 A. Yes, 6:45 a.m.

10 Q. How do you interpret that date 2-9-30?

11 A. I don't know.

12 Q. Okay. Who is sending good morning, is that you?

13 A. That's Chris.

14 Q. That's Chris?

15 A. Yes.

16 Q. Okay. If you look at Exhibit No. 9, does that  
17 have time and date stamp?

18 A. No, because these are Facebook messages. These  
19 are text messages.

20 Q. Okay. So you and Chris are, at the time you were  
21 communicating were going back and forth between Facebook  
22 and SMS or text messages?

23 A. Uh-huh. Yes.

24 Q. Yes? Okay.

25 So when you provided the information to the

1 detective you took screenshots of what, your phone or of  
2 Facebook?

3 A. Both.

4 Q. I'm sorry?

5 A. Both.

6 Q. Both? Okay.

7 Now, Exhibit No. 9, that is Facebook or text?

8 A. Text.

9 Q. Okay. And so the text is not identified by date  
10 however?

11 A. No.

12 Q. And then the Facebook is identified by date?

13 A. Yes.

14 Q. Okay. But you don't know what to conclude in  
15 terms of date that's referenced on here 2-9-30, correct?

16 A. No.

17 Q. In terms of your interpretation of Exhibit No. 9  
18 do you indicate; "I told him what happened in the past  
19 and he's pissed too, so I guess good-bye".

20 A. Uh-huh.

21 Q. Did you indicate on either platform, either  
22 Facebook or text message, that you were making an  
23 allegation against Chris for sexual assault?

24 A. Yes.

25 Q. Okay. Did you preserve that and give that to



1 your mother to give to the detective?

2 A. This text messages, these ones, No. 9.

3 Q. Okay. So Number 9 is where you're accusing him  
4 of sexual?

5 A. Yes.

6 Q. Can you read that where you indicate to Chris?

7 A. "Now I can't talk to you because my boyfriend  
8 thinks you're a creep for what you say to me and is now  
9 pissed."

10 He said; "W-T-F really?"

11 I said; "also I told him what happened in the  
12 past and he's pissed too, so I guess good-bye."

13 Q. Okay. So that's the sum of your allegation --

14 A. Yes.

15 Q. -- against him? There was nothing else?

16 A. No.

17 Q. Okay. And what does Chris respond? You said  
18 that he didn't deny anything. What does he say?

19 A. Are you fucking kidding me --

20 Q. Lets stop there. Are you fucking kidding me. So  
21 he is saying what, do you know?

22 A. No.

23 MR. JONES: Your Honor, objection, calls  
24 for speculation.

25 MR. PICULELL: I think she testified to

1           what his mental state was.

2                   MR. JONES:  I don't think she  
3           interpreted.

4                   THE COURT:  The objection is overruled.  
5           But the witness has indicated that she does not  
6           know.  I believe that was your answer, was it  
7           not, Ms. Damien?

8                   MS. DAMIEN:  Yes.

9                   MR. JONES:  Thank you.

10          Q.  (BY MR. PICULELL)  Okay.  What does he say after  
11          that?

12          A.  "Fuck him, he's lucky I got a broken leg.  I  
13          would be on my way to stomp his ass.  Well, I guess a  
14          piece of shit is better than rebuilding your  
15          relationship with your dad.  So what the fuck was said?"

16          Q.  So he asks you what the fuck was said.  So he  
17          wants to know what you said to the boyfriend, correct?

18          A.  Uh-huh, yes.

19          Q.  Yes, okay.

20                   Now, let's talk about the boyfriend for a moment.  
21          The detective asked you about the identity of that  
22          person, correct?

23          A.  Yes.

24          Q.  Okay.  And you indicate that because of your  
25          boyfriend's disagreement with the alleged relationship

1 with your former stepfather that he broke up with you,  
2 correct?

3 A. Yes.

4 Q. Now, did the detective tell you in your contact  
5 with him that he wanted his name?

6 A. Yes.

7 Q. Okay. And he also told you that he probably  
8 would want to contact him, correct?

9 A. Yes.

10 Q. And so you gave him, and this detective right  
11 here that's sitting here?

12 A. Yes.

13 Q. So you gave him your boyfriend's name, correct?

14 A. Yes.

15 Q. Did he ask how to contact him?

16 A. I don't remember.

17 Q. Okay. But he did that in a recorded interview,  
18 correct?

19 A. Yes.

20 Q. Okay. Okay.

21 Let's look at -- you still have Exhibit 8 in  
22 front of you, ma'am?

23 A. Yes.

24 Q. Okay. I just want to go through this in some  
25 detail. On Page 1 on Exhibit No. 8, now did you see

1 this exhibit for the first time last week and you think  
2 you saw Exhibit No. 9 last week for the first time?

3 A. Yes.

4 Q. Okay. Was it over the holiday weekend?

5 A. No, it was before.

6 Q. It was before? Okay.

7 So first page which starts with "I am" what's the  
8 date of that communication?

9 A. 1-2-30.

10 Q. With the date, just once again, is it coming from  
11 Facebook or text?

12 A. Facebook.

13 Q. Is that entire page Facebook?

14 A. Yes.

15 Q. On Page 1 of this exhibit does Chris Poindexter  
16 make any indication or innuendo of anything of a sexual  
17 nature in your viewpoint?

18 A. Can you repeat that?

19 Q. Sure. On Page 1 of Exhibit No. 8, are you  
20 holding Exhibit No. 8, ma'am?

21 A. Yes.

22 Q. Yes? Okay.

23 On Exhibit No. 8, does Chris Poindexter make any  
24 communication to you of anything of a sexual nature or  
25 sexual innuendo?

1 A. No.

2 Q. On Page 2 of Exhibit No. 8, if you could identify  
3 that as Facebook or text?

4 A. Facebook.

5 Q. Looking through that exhibit does Chris  
6 Poindexter make any sexual comment or sexual innuendo?

7 A. No.

8 Q. Page 3, is that Facebook or text?

9 A. Facebook.

10 Q. Okay. And does he on Page 3 make any statement  
11 of any sexual nature or sexual innuendo?

12 A. No.

13 Q. Okay. Now, I'd like you to pick up Exhibit No.  
14 10 that I handed you.

15 A. (Witness complies.)

16 Q. Okay. Now, there is, is there an image in there  
17 from you that you posted that you provided to the  
18 detective from Facebook that's, that you posted that  
19 says; "at least life wants to say fuck me"?

20 A. Uh-huh.

21 Q. Yes or no?

22 A. Just one second. No.

23 Q. No? Okay.

24 So when you were getting your screenshots  
25 together you didn't think that was relevant or important

1 in terms of providing that information to the detective?

2 A. Not necessarily because it was just a post on  
3 Facebook.

4 Q. It was just a post on Facebook? Okay.

5 Does Chris Poindexter respond to that post on  
6 Facebook?

7 A. Yes.

8 Q. Was, was this text, I'm sorry, this Facebook post  
9 in response by Chris Poindexter, was that sequential in  
10 terms of information that you provided the detective or  
11 was it omitted by you?

12 A. What do you mean by that?

13 Q. Sure. Did you delete that or did you just omit  
14 it?

15 A. I did not delete it.

16 Q. You did not delete it, okay.

17 Did the detective ever ask for your access to  
18 your Facebook?

19 A. No.

20 Q. Okay. I think we're on Page 3. Does Chris  
21 Poindexter ever say anything of a sexual nature or  
22 sexual innuendo on Page 3 of Facebook?

23 A. No.

24 Q. The answer is no?

25 A. No.

1 Q. Is that Page 4 Facebook or text?

2 A. Facebook.

3 Q. Okay. Any indication of, from your perspective,  
4 of a sexual nature or sexual innuendo?

5 A. Just besides calling me hot stuff, but that's it.

6 Q. Okay. So he says; "what you doing hot stuff"?

7 A. What was that?

8 Q. He says; "what you doing hot stuff"?

9 A. Yes.

10 Q. That's it?

11 A. Yes.

12 Q. Okay. Now, is there response to that?

13 A. No.

14 Q. Okay. What's directly below that?

15 A. Just says "why".

16 Q. Okay. Who is this from?

17 A. Chris.

18 Q. Okay. Is there anything "what you doing hot  
19 stuff" then he says "why", is there anything between  
20 those two communications on Facebook?

21 A. No.

22 Q. Okay. Is it because you're answering one another  
23 on texts?

24 A. No.

25 Q. Okay. So he says "what you doing hot stuff" and

1 then he asks you an interrogatory of why?

2 A. Yes.

3 Q. There is nothing between the two?

4 A. No.

5 Q. Okay. And then what is the, what is the next  
6 entry on that Facebook?

7 A. "Cause I want it".

8 Q. "Cause I want it"? Okay.

9 A. Yes.

10 Q. Who is that from?

11 A. Me.

12 Q. Okay. And what are you indicating?

13 A. I think it was about a quad, but I can't really  
14 remember.

15 Q. Okay. So what's a quad? Like an ATV,  
16 all-terrain vehicle?

17 A. Yes, yes.

18 Q. Okay. So he's referencing, or you're referencing  
19 a quad, is that because he's extended an invitation to  
20 come riding it?

21 A. I don't remember.

22 Q. So why do you think that he's talking, that  
23 you're talking about a quad when you say "cause I wanted  
24 it"?

25 A. I don't remember if I maybe posted something on



1 Facebook about it but I'm not sure.

2 Q. Okay. And then what's his response?

3 A. "No, you don't".

4 Q. Your response?

5 A. "Why".

6 Q. His response?

7 A. "Just sounded good".

8 Q. Okay. Next page, again, identified as Facebook  
9 or text, that page?

10 A. Facebook.

11 Q. Okay. Do you have a response to that?

12 A. It says "wow".

13 Q. His response?

14 A. Wow you, LOL, you don't even know how to ride it.

15 Q. That further supports your view it's a quad or  
16 ATV?

17 A. Yes.

18 Q. And then you say what?

19 A. I said "yes, I do".

20 Q. What does he say?

21 A. "You can come ride it though".

22 Q. So there is nothing that is, in your view, of a  
23 sexual nature or sexual innuendo in those texts; is that  
24 correct?

25 A. No. Yes, that's correct.

1 Q. Okay. So he says next on that page, what does he  
2 say?

3 A. "What you doing hot stuff".

4 Q. Okay. That is sequential in time?

5 A. Yes.

6 Q. Okay. And then his response?

7 A. After that I didn't respond and then it must have  
8 been days later he says "alrighty then" because I didn't  
9 respond.

10 Q. Okay. Well, days later, if you take a look at  
11 what's under the timestamp under "what you doing hot  
12 stuff" what's the timestamp?

13 A. 1-12-30.

14 Q. Time?

15 A. 2:09.

16 Q. Okay. "Alrighty then" is there a timestamp  
17 underneath that?

18 A. 1-12-30, 7:11.

19 Q. Is he saying alrighty then?

20 A. Yes.

21 Q. He's responding to something in that period, in  
22 that five hours and six minute time period. Is there  
23 any indication on Facebook of any further content?

24 A. I don't know.

25 Q. Okay. You have the Facebook dialogue in front of

1 you. Could you have been communicating with him on SMS  
2 text?

3 A. No.

4 Q. No. Could you have been talking to him on the  
5 phone?

6 A. No.

7 Q. Okay.

8 THE COURT: I think it's time for us to  
9 take our lunch break and we'll do that, we'll be  
10 in recess until 1:30.

11 (The jury left the courtroom.)

12 THE COURT: Do the parties need anything  
13 from the Court between now and when we start up  
14 again at 1:30?

15 MR. JONES: I don't believe so, Your  
16 Honor.

17 THE COURT: All right. We'll see you at  
18 1:30.

19 (Lunch break off the record.)

20 (The jury was seated.)

21 THE COURT: Good afternoon ladies and  
22 gentlemen of jury, I hope you all enjoyed the  
23 lunch hour, lunch hour-and-a-half in our case.

24 Ms. Damien, you remain under oath.

25 MS. DAMIEN: Okay.

1 THE COURT: So I will ask Mr. Piculell to  
2 resume questioning the witness.

3 MR. PICULELL: Thank you, Your Honor.  
4 With leave of the Court, may I reproach?

5 THE COURT: You may approach.

6 Q. (BY MR. PICULELL) Ma'am, I hand you what we were  
7 discussing absent Exhibit No. 10, Exhibit 8 and 9, which  
8 are admitted into evidence. And just for the record if  
9 you could reidentify those please?

10 A. Okay.

11 Q. And Exhibit No. 8 is what, ma'am?

12 A. The I am finally, the what's up, what are you  
13 doing, just saying hi.

14 Q. Okay.

15 A. And then 9 is the good morning is the text  
16 message.

17 Q. Okay. If I could bring your attention to Exhibit  
18 No. 8, I think we were on Page 5 when we ended. If I  
19 could ask you to turn to Page 6?

20 A. (Witness complies.)

21 Q. And if you could just identify where the content  
22 comes from again, is it from Facebook or SMS text?

23 A. Facebook.

24 Q. And on Page 6 of Exhibit No. 8 is there any  
25 content that you believe sexual in nature or sexual

1 innuendo?

2 A. No.

3 Q. Okay. Page 7?

4 A. Facebook.

5 Q. Facebook is the edification of the contents?

6 A. Yes.

7 Q. Is there any indication on there from your  
8 perspective of a sexual nature or sexual innuendo?

9 A. No.

10 Q. On Page 8, content?

11 A. Facebook.

12 Q. Same question, any content from Mr. Poindexter of  
13 any sexual nature or sexual innuendo?

14 A. No.

15 Q. Page 9, ma'am?

16 A. Facebook.

17 Q. And any content of the same nature?

18 A. No.

19 Q. Okay. Page 10, contents from?

20 A. Facebook.

21 Q. And any content of a sexual nature or innuendo?

22 A. No.

23 Q. Page 11?

24 A. Facebook.

25 Q. Contents of a sexual nature or innuendo?

1 A. No.

2 Q. Page 12, ma'am?

3 A. Facebook.

4 Q. Content of a sexual nature or innuendo?

5 A. No, besides the hot stuff, but that's it.

6 Q. Okay. Page 13?

7 A. Facebook.

8 Q. Any content --

9 A. No.

10 Q. Okay. Page 14, ma'am?

11 A. Facebook.

12 Q. Any content?

13 A. No.

14 Q. Page 15?

15 A. Facebook.

16 Q. Any content?

17 A. No.

18 Q. Page 16?

19 A. Facebook.

20 Q. Any content?

21 A. No.

22 Q. Page 17?

23 A. Facebook.

24 Q. Any content?

25 A. No, besides just what I was wearing but -- oh,

1 no, different page, sorry, but no.

2 Q. Well, on page, what I have as Page 17 is there a  
3 picture of Mr. Poindexter on that page?

4 A. Yes.

5 Q. Make sure we're both on the same page.

6 A. Yes.

7 Q. Okay. So your answer was no?

8 A. Yep.

9 Q. Page 18?

10 A. Facebook.

11 Q. Any content on there of a sexual nature or  
12 innuendo?

13 A. No.

14 Q. Okay. Is that the completion of the exhibit?

15 A. Yes.

16 Q. Okay. And then Exhibit No. 9 that you have if  
17 you could reidentify that, please?

18 A. Yes.

19 Q. And what is that again, ma'am?

20 A. The text messages.

21 Q. And these are texts and not Facebook?

22 A. Yes.

23 Q. And any content of sexual innuendo?

24 A. No.

25 MR. PICULELL: If I could ask these be

1 marked for identification, please?

2 THE CLERK: Exhibits 11 and 12 marked for  
3 defendants.

4 (Defendant's Exhibit Nos. 11 and 12 were marked for  
5 identification.)

6 MR. PICULELL: May I approach?

7 THE COURT: You may approach.

8 MR. PICULELL: Thank you.

9 Q. (BY MR. PICULELL) Actually if I could make an  
10 indication of this, ma'am, I'll hand you what's been  
11 marked as Exhibit 11 and 12. I'll place Exhibit 12  
12 down, and then I'm going to place Exhibit 11 down and  
13 then I may ask you to refer to those.

14 A. Okay.

15 Q. And you had given some testimony to the  
16 prosecutor this morning concerning the alleged events  
17 with Mr. Poindexter, correct?

18 A. Yes.

19 Q. Okay. And he had asked you to relate from your  
20 perspective cases of inappropriate contact between  
21 Mr. Poindexter and yourself, correct?

22 A. Correct.

23 Q. Correct? Okay.

24 And he divided the inquiry into locations where  
25 you lived with Mr. Poindexter, correct?



1 A. Yes.

2 Q. Okay. So one of the places that the prosecutor  
3 identified was a location called Grove Street?

4 A. Yes.

5 Q. Okay. And the other was referred to as Sudden  
6 Valley?

7 A. Yes.

8 Q. And so Grove Street was the location where you  
9 first in time lived with Mr. Poindexter as far as the  
10 allegations?

11 A. Yes.

12 Q. Okay. And Sudden Valley was secondary, correct?

13 A. Yes.

14 Q. Okay. Now, the prosecutor had asked you a couple  
15 of times, maybe five or six times, how many times the  
16 alleged events occurred at Grove Street; do you remember  
17 that?

18 A. Yes.

19 Q. Do you remember your testimony this morning?

20 A. Yes.

21 Q. And how many times did you indicate that the  
22 alleged inappropriate contact by Mr. Poindexter  
23 occurred?

24 A. Two.

25 Q. You said two this morning?

1 A. Yes.

2 Q. You think you said two?

3 A. Yes.

4 Q. Okay. You don't recall your testimony being one?

5 A. No.

6 Q. You don't?

7 A. No.

8 Q. Okay. And then how about Sudden Valley?

9 A. Oh, I thought you were meaning together. No, one  
10 at each.

11 Q. One at each? Okay.

12 A. Yes.

13 Q. Okay. Because your testimony this morning was  
14 that it just happened one time at Grove Street, correct?

15 A. Uh-huh, yes.

16 Q. Okay. Do you recall giving, sitting for an  
17 interview with the detective?

18 A. Yes.

19 Q. Okay. And that was recorded?

20 A. Yes.

21 Q. Okay. Do you recall sitting for an interview  
22 with myself?

23 A. Yes.

24 Q. And was that recorded?

25 A. Yes.

1 Q. And they were both recorded with your permission?

2 A. Yes.

3 Q. Okay. So you testified this morning that the  
4 alleged inappropriate contact with, by Mr. Poindexter  
5 happened one time at Grove Street. If I could ask you  
6 to pick up Exhibit No. 12?

7 A. (Witness complies.)

8 Q. And if you could just for a moment just read  
9 briefly through the first page of that and tell me  
10 whether you recognize that?

11 A. (Witness complies.) What was that?

12 Q. If you could read briefly the first page of that  
13 exhibit and tell me whether you recognize that exhibit?

14 A. Yes.

15 Q. And what does that exhibit contain?

16 A. The recording of me and the detective.

17 Q. Okay. And so your voice is kind of going a  
18 little softly but you said it contains the recording of  
19 me and the detective?

20 A. Yes.

21 Q. Okay. And that is the interview that I was just  
22 referencing, correct?

23 A. Yes.

24 Q. Okay. If I could ask you to turn to Page 9 of  
25 Exhibit No. 12?

1 A. (Witness complies.)

2 Q. And if I could ask you to review silently Line 14  
3 and 15 and 16.

4 A. (Witness complies.) Uh-huh.

5 Q. Okay. Have you done that, ma'am?

6 A. Yes.

7 Q. Okay. Does it say there that, you're responding  
8 to the detective, the detective says to you; so it  
9 sounds like you thought that it happened a couple of  
10 times on Grove Street?

11 A. Uh-huh.

12 Q. And then you respond uh-huh, m-mm?

13 A. Yes.

14 Q. You respond affirmatively that it was a couple of  
15 times on Grove Street?

16 A. Yes.

17 Q. Okay. If I could ask you to turn to Page 3 of  
18 Exhibit No. 12?

19 A. (Witness complies.)

20 Q. And are you there, ma'am?

21 A. Yes.

22 Q. If I could ask you to silently review on Line 20  
23 through 23 to yourself?

24 A. Uh-huh, yes.

25 Q. Yes. Does it say there the detective is

1 indicating fifth grade, okay. And you [sic] said there  
2 was one incident that occurred with you on Grove Street  
3 or more than this one? And you said it was like two?

4 A. Yes.

5 Q. Okay. And if I could ask you to maybe set down  
6 Exhibit No. 12 and reference Exhibit No. 11, please?

7 A. (Witness complies.) Okay.

8 Q. Okay. And if you could take a moment to review  
9 the cover page of the first indications and tell me  
10 whether you recognize what that exhibit references?

11 A. Yes.

12 Q. And does that reference the interview that you  
13 and I had in the presence of Mr. Jones?

14 A. Yes.

15 Q. Okay. And you consented to that recording?

16 A. Yes.

17 Q. If I could ask you to go to Page 10, Lines 13  
18 through 16?

19 A. (Witness complies.)

20 Q. And review that silently to yourself.

21 A. Yes.

22 Q. Okay. Does that exhibit reference my initials  
23 and then it says; okay, so how many events or instances  
24 do you think were at Grove Street?

25 And then the response from you; about three.

1           And then an indication from me; about three?

2           And then your affirmative indication; uh-huh.

3           A.    Yes.

4           Q.    Okay.  This morning do you recall testifying in  
5 response to the prosecutor's questions that you were  
6 told not to tell anyone and I was scared?

7           A.    Yes.

8           Q.    If I could ask that you turn to, put Exhibit No.  
9 11 down and pick up Exhibit No. 12?

10          A.    (Witness complies.)

11          Q.    And on Page 9, Lines 9 through 10.

12          A.    Okay.

13          Q.    And if you could silently review those.  And have  
14 you, ma'am, viewed those lines?

15          A.    Yes.

16          Q.    Okay.  And so does it say there DF, for the  
17 detective, and detective says; okay.  Did he ever tell  
18 you not to say anything?

19                And then your response was; no?

20          A.    Uh-huh.

21          Q.    I'm sorry; yes or no?

22          A.    Yes.

23          Q.    Okay.  You responded to query or question by the  
24 prosecutor this morning that he asked you what you  
25 thought was occurring when you were, I think when

1 Mr. Poindexter allegedly was having contact with you,  
2 and you responded; I think it was sexual in nature. Do  
3 you recall that response this morning, ma'am?

4 A. Yes.

5 Q. Yes?

6 A. Yes.

7 Q. If I could ask you to retrieve Exhibit No. 12 and  
8 go to Page 6?

9 A. (Witness complies.)

10 Q. And Lines 6 through 9. Let me know when you've  
11 silently viewed that, ma'am?

12 A. Okay.

13 Q. The detective, DF on the transcript, asks; what  
14 were you thinking at the time?

15 And your response; not, I was really confused. I  
16 didn't really know exactly what he was doing and exactly  
17 like what the purpose was.

18 Is that your response?

19 A. Yes.

20 Q. Okay. Do you recall your response to the  
21 prosecutor this morning when he told you, indicated that  
22 Christopher Poindexter told you to be quiet and not say  
23 anything; do you recall that testimony?

24 A. Yes, yes.

25 Q. If I could ask you to go to Exhibit No. 12, Page

1 9?

2 A. Okay (Witness complies.)

3 Q. Lines, I'm sorry, Lines 9 through 10 on...

4 A. Yes.

5 Q. Okay. And in this context as well the detective  
6 saying; did he ever tell you not to say anything?

7 You responded; no?

8 A. Yes.

9 Q. Okay. Now, turning to Sudden Valley, your  
10 testimony of, concerning Sudden Valley this morning.

11 A. Yes.

12 Q. As I think you just confirmed here this  
13 afternoon, you're indicating that you were now alleging  
14 a single instance of inappropriate contact by  
15 Mr. Poindexter to you at Sudden Valley?

16 A. Yes.

17 Q. Okay. And were you asked by the detective about  
18 Sudden Valley as well?

19 A. Yes.

20 Q. And myself?

21 A. Yes.

22 Q. Okay. And the number of instances at Sudden  
23 Valley according to your testimony today is how many,  
24 ma'am?

25 A. One.



1 Q. A single one?

2 A. Yes.

3 Q. Before I reference that, ma'am, if you could go  
4 to Page 9 of Exhibit 12?

5 A. (Witness complies.)

6 Q. Lines 23 to 24.

7 A. Yes.

8 Q. If you could silently review that?

9 A. Yes.

10 Q. You're indicating to the detective that the  
11 multiple incidents, they were all pretty much the same,  
12 correct?

13 A. Yes, yes.

14 Q. Okay. If I could ask you concerning Sudden  
15 Valley on Exhibit No. 12, Page 12, Lines 11 through 12,  
16 and if I could ask you to silently review that, ma'am?

17 A. Yes.

18 Q. Okay. And the detective is asking you there;  
19 it's okay. Okay, so at this point it had happened a  
20 couple of times already?

21 Is that correct?

22 A. Yes.

23 Q. If I could ask you to go to Exhibit No. 11 just  
24 to refresh at this point in the examination, that's the  
25 interview that I spoke with you at?

1 A. Yes.

2 Q. Okay. So Exhibit No. 11, ma'am, if I could ask  
3 you to go to Page 14?

4 A. (Witness complies.)

5 Q. And Lines 9 through 11.

6 A. Okay.

7 Q. And is it accurate, ma'am, that I asked you; how  
8 many events at Sudden Valley do you recall or think that  
9 there were?

10 And then your response is; two?

11 A. Yes.

12 Q. Okay. Then you go on to say on Line 15; it was  
13 always the same thing over and over?

14 A. Yes.

15 Q. And if I could ask you on Exhibit No. 12 in your  
16 interview with the detective turn to Page 18, Lines 11  
17 through 14?

18 A. (Witness complies.) Which lines?

19 Q. Yes, ma'am. Lines 11 through 14, Page 18,  
20 Exhibit 12.

21 A. Okay.

22 Q. Okay. And you indicate there in response to,  
23 well, the detective asked you; do you remember him ever  
24 saying anything to you in any sexual manner or anything  
25 in particular with you while this was happening?

1           And your response was; no?

2           A.    Yes.

3           Q.    Okay.  And, in fact, on Sudden Valley you  
4 indicated to that one event allegedly by Mr. Poindexter,  
5 we discussed Sudden Valley as well in our interview?

6           A.    Yes.

7           Q.    If I could ask you to look at Exhibit No. 11,  
8 please, Page 15?

9           A.    (Witness complies.)

10          Q.    Starting at Line 1 through 20.  If you could take  
11 a moment and just review that, ma'am?

12          A.    (Witness complies.)  Okay.

13          Q.    On top of that page on Line 1 I was asking you  
14 about the multiple events that you alleged in that  
15 interview.  I say; can you recall when the events  
16 occurred as far as months or a year?

17                And is it accurate, ma'am, I want to say -- is it  
18 accurate, ma'am, that you say; I want to say one was  
19 around Christmastime I want to say, the other was  
20 probably I think summer.

21                Is that an accurate indication from that exhibit?

22          A.    Yes.

23          Q.    And would you like some water?

24          A.    I have some.

25          Q.    Are you okay?

1 A. I'm good.

2 Q. You also say on Line 8; I want to say I just  
3 turned 11, yeah?

4 A. Yes.

5 Q. Okay. And then on line 11 I ask; and were you  
6 still 11 on the second event?

7 And then you respond; well, the first one was  
8 before Christmas. And then you say; in the summer?

9 Is that a correct response?

10 A. Yes.

11 Q. And then I go on to say; and then the second one  
12 was in the following year? On Line 15.

13 A. Yes.

14 Q. Okay. And then you say on Line 17; it was, well,  
15 we moved in I think like June or July?

16 A. Yes.

17 Q. Okay. And so we're talking about Sudden Valley  
18 there, correct?

19 Is that right, ma'am?

20 A. Yes.

21 Q. Okay. What's, I don't think that I asked you, if  
22 I could ask that you retrieve Exhibit No. 8?

23 A. (Witness complies.)

24 Q. In reference to that exhibit the final date  
25 that's referenced that you communicated with him was

1 what via Facebook?

2 A. The 2-9-30 at 6:45.

3 Q. Okay. If I could ask you to turn to Page 17, and  
4 for ease that's the second to the last page on that  
5 exhibit.

6 A. (Witness complies.)

7 Q. Now, the prosecutor had asked you, the prosecutor  
8 asked you a question and he said that there was a text  
9 that says "what are you wearing"?

10 A. Yes.

11 Q. Okay. On Page 17 is this the text that you're  
12 referencing when he said "what are you wearing"?

13 A. I'm not sure.

14 Q. If you could take a moment and just --

15 A. Yeah.

16 Q. -- review that.

17 A. (Witness complies.) No, but I can't seem to find  
18 it.

19 Q. You can't seem to find it?

20 A. That's not what I was talking about.

21 Q. I'm sorry, I can't hear you.

22 A. That's not what I was talking about.

23 Q. That's not what you were talking about?

24 So when you were responding to the prosecutor  
25 that says it was a text when he was examining you about

1 this exhibit and you say there was text "what are you  
2 wearing" you were referring to something that you didn't  
3 have in front of you?

4 A. Yes.

5 Q. So that text is out there somewhere --

6 A. Yes.

7 Q. -- else?

8 A. Yes.

9 Q. Yes? Okay.

10 Because this on Page 17 there is a text bubble  
11 where it indicates "what type of clothing do you wear  
12 and what size"?

13 A. Uh-huh.

14 Q. Is that right?

15 A. Yes.

16 Q. Okay. So the content of that is not what are you  
17 wearing, correct?

18 A. No. Correct.

19 Q. Okay. And did, in these texts, SMS or in  
20 Facebook, did Mr. Poindexter ever engage in sexting with  
21 you?

22 A. No.

23 Q. Did he ever image a photograph to you that was  
24 explicit?

25 A. No.

1 Q. How about you to him?

2 A. No.

3 Q. Okay. The photographs that the prosecutor showed  
4 you, I think they are exhibits, admitted exhibits 1  
5 through 7, the images of your prior residence, are those  
6 reflective of the exact image of your home or your  
7 residence at the time?

8 A. Yes.

9 Q. So somebody took those photographs within your  
10 family?

11 A. No.

12 Q. No. And so do you know who took those  
13 photographs?

14 A. No.

15 Q. No. Are they from Zillow?

16 A. I don't know.

17 Q. Okay. So that's what I was asking is if they  
18 actually evidence the condition of the residence?

19 If I may have -- you had indicated in response to  
20 one of the prosecutor's questions concerning the  
21 position of furniture...

22 MR. PICULELL: May I approach?

23 THE COURT: You may approach.

24 Q. (BY MR. PICULELL) Exhibit No. 4, ma'am, you  
25 indicated you recognize that. Is that the actual

1 photograph of your residence as it existed at some time?

2 A. No.

3 Q. Is the furniture in there actual furniture that  
4 you recognize?

5 A. No.

6 Q. Okay. Exhibit number -- and what residence is  
7 that?

8 A. Grove Street.

9 Q. Grove Street? Okay.

10 A. Yes.

11 Q. So that photograph could have been taken off of  
12 the internet or something?

13 A. I don't know.

14 Q. You have no idea? Okay.

15 MR. PICULELL: May I approach?

16 THE COURT: You may approach.

17 Q. (BY MR. PICULELL) Exhibit No. 6, what does that  
18 indicate?

19 A. The bathroom and the closet.

20 Q. Bathroom and the closet?

21 A. Yes.

22 Q. At which residence?

23 A. Grove Street.

24 Q. Grove Street.

25 And does that indicate any personal possessions



1 that --

2 A. No.

3 Q. -- you've ever seen?

4 A. No.

5 Q. You don't know who took that photograph?

6 A. No.

7 Q. Or when?

8 A. No.

9 Q. And then finally, you had indicated to the  
10 prosecutor, he asked you a direct question about Exhibit  
11 No. 5, what location is that referencing?

12 A. Grove Street.

13 Q. Grove Street? Okay.

14 He asked you if the bed was in the same location  
15 as the time and date that you were alleging. Is Exhibit  
16 No. 5, is that furniture that you recognize?

17 A. No.

18 Q. Okay. Is it the bed that was there when you  
19 lived there?

20 A. No.

21 Q. Okay. Do the same exist with these other  
22 photographs, Exhibit No. 7?

23 A. Yes.

24 Q. No one took that picture. The picture could have  
25 been taken yesterday?

1 A. Yeah, I don't know.

2 Q. Same with Exhibit No. 3?

3 A. Yes.

4 Q. Same thing with Exhibit No. 2?

5 A. Yes.

6 Q. Could have used a Zillow photograph?

7 Exhibit -- do you know what Zillow is?

8 A. Yes.

9 Q. Exhibit No. 1?

10 A. I have no idea.

11 Q. You have no idea.

12 Do you recognize those vehicles?

13 A. No.

14 Q. In these allegations that you're indicating by  
15 Mr. Poindexter did he ever remove his clothes?

16 A. No.

17 Q. Did he ever have you remove your clothes?

18 A. No.

19 Q. Did you ever remove your clothes?

20 A. No.

21 Q. Now, in terms of your memory, what's, on Grove  
22 Street, what is the date that you're indicating that  
23 Mr. Poindexter had inappropriate contact with you?

24 A. I was using 4th and fifth grade.

25 Q. Okay. So either 4th or fifth grade. What was

1 your age in 4th grade?

2 A. I'm not sure but I want to say 11, 10?

3 Q. Okay. And how about in fifth grade?

4 A. Either 11 or 10, I don't remember.

5 Q. Okay. So it could be at any time within that  
6 year period of being entirely when you're into 4th grade  
7 or entirely when you're in fifth grade, sometime within  
8 that 2-year span?

9 A. Probably 5th.

10 Q. Probably in 5th?

11 A. I think so.

12 Q. Okay.

13 A. It's about a year before we moved.

14 Q. Okay. But my question was it could be when you  
15 say --

16 A. It could be.

17 Q. -- it was either 4th or 5th, so on a calendar  
18 year from January 1st through December 31st, or January  
19 1st through December 31st it could be entirely within  
20 that 2-year period?

21 A. Yes, yes.

22 Q. I think I asked you this question when I  
23 interviewed you, I asked you if you could remember a  
24 year and you could not, right?

25 A. Yes.

1 Q. I asked you if you could remember a season and  
2 you could not; is that right?

3 A. Yes.

4 Q. I asked if you could remember a month and you  
5 could not; is that right?

6 A. I think so.

7 Q. You think so, okay.

8 Who was your teacher in 4th grade?

9 A. I don't remember.

10 Q. Who was your teacher in fifth grade?

11 A. I think her name was Ms. Bell.

12 Q. Ms. Bell?

13 A. I think.

14 Q. Okay. Who was your best friend in 4th grade?

15 A. I don't remember.

16 Q. You don't remember your best friend?

17 A. No.

18 Q. Who was your best friend in fifth grade?

19 A. I don't remember.

20 Q. Okay. Have you any recollection of any friend in  
21 4th grade?

22 A. No.

23 Q. No. And why don't you have a recollection of any  
24 friend in 4th grade?

25 A. My mind just tends to block things out that I

1 don't even realize so I don't, I don't realize a lot of  
2 things that I don't remember.

3 Q. Do you remember a friend? Can you give a  
4 friends's name in fifth grade?

5 A. Ivory.

6 Q. Ivory? Okay.

7 Any other friend?

8 A. I don't know.

9 Q. Okay. Now, when we had the interview we were  
10 asking about, both the detective independent some time  
11 before I spoke to you and then myself, and you answered  
12 questions about the events?

13 A. Uh-huh.

14 Q. Were you of the same mental state where you  
15 couldn't recall?

16 A. I think so.

17 Q. You think so.

18 Now, what is the first time that you spoke to  
19 your sister Kaela about these alleged events?

20 A. After the divorce.

21 Q. Okay. And what year was that approximately?

22 A. I don't remember.

23 Q. Okay. How long has it been since Chris  
24 Poindexter has resided with you?

25 A. I don't know.

1 Q. You don't know?

2 So it was after the divorce. How many years  
3 between you and your sister had a conversation about  
4 this and when you told your mother?

5 A. Me and my sister first had a conversation, it was  
6 maybe a couple months after the divorce, and then when  
7 we told my mom it was last year.

8 Q. Okay. And so in terms of the, in terms of the  
9 indication of what you told your sister was it you or  
10 was it your sister that initiated the conversation?

11 A. My sister.

12 Q. So your sister came to you and told you  
13 something?

14 A. Yes.

15 Q. Okay. And then you in turn told her?

16 A. Yes.

17 Q. Okay. And that happened after the divorce?

18 A. Yes.

19 Q. Okay. And you told her that Chris Poindexter had  
20 molested you?

21 A. Yes.

22 Q. When she told you?

23 A. Yes.

24 Q. Okay. So it wasn't at the end of 2016 that you  
25 first told your sister about this?

1 A. It could have been.

2 Q. Okay. But I thought you just said that it was  
3 your sister confiding in you?

4 A. No, I told her at the same time.

5 Q. So you told her at the same time?

6 A. Yes.

7 Q. Okay. Let me refresh your recollection as to the  
8 specifics of this that you told her at the same time.  
9 If I could ask that you turn to Page 26 of Exhibit No.  
10 11?

11 A. (Witness complies.)

12 Q. I'm sorry, 27, starts on 27.

13 A. (Witness complies.)

14 Q. And so that is where I asked you very similar  
15 questions and you were a little uncertain about it now,  
16 but it's accurate in that interview that you indicate  
17 that she came and told you first. Does that help  
18 refresh your recollection?

19 A. Yes.

20 Q. Okay. So I indicate to you on Line 4; and she  
21 told you about her experience?

22 A. Yes.

23 Q. And you say; she told me, yeah. Then I told her,  
24 well, that's weird because the same thing happened to  
25 me.

1           And then I asked; well, did she tell you what  
2 happened -- I'm sorry. To correct that I said; what did  
3 she tell you happened? And then you give a response.

4           Does that refresh your recollection as far as who  
5 told who?

6           A. Yes.

7           MR. JONES: Your Honor, objection to the  
8 characterization of that. It's just been  
9 expressed as an entirely consistent statement  
10 this witness to the prior interview that was  
11 done over year-and-a-half.

12           MR. PICULELL: It was to refresh the  
13 recollection, it was not impeachment, and I  
14 think I reference that.

15           MR. JONES: I don't think there was any  
16 deficiency in the recollection on that point,  
17 Your Honor.

18           THE COURT: The clarification has been  
19 made and the witness has answered the question  
20 so I think we're ready to proceed.

21           MR. JONES: Thank you.

22           Q. (BY MR. PICULELL) Now, did you have any further  
23 discussions with your sister over the ensuing time from  
24 then until today about the allegations?

25           A. Besides when we talked about it to tell our



1 mother and then with the detective and here.

2 Q. Okay. So have you talked about what purportedly  
3 happened to Kaela was, allegedly happened to you?

4 A. Yes.

5 Q. Okay. So you both talked about it?

6 A. Yes.

7 Q. Okay. And I think you indicated to the  
8 prosecutor that you're very close?

9 A. Yes.

10 Q. And so how many times do you think you talked  
11 about these alleged events?

12 A. Maybe twice.

13 Q. Maybe twice?

14 A. Yes.

15 Q. Since 2016?

16 A. Uh-huh.

17 Q. Maybe twice in three years?

18 A. Yeah.

19 Q. Okay.

20 MR. PICULELL: And that's all I have.

21 Thank you, Your Honor. Thank you.

22 THE COURT: Thank you, counsel.

23 Mr. Jones?

24 MR. JONES: Thank you, Your Honor.

25 REDIRECT EXAMINATION

1 Q. (BY MR. JONES) Okay, Jacee, thank you.

2 So there are a few things I want to go over with  
3 you. It sounds like including today you've had to talk  
4 about what happened to you quite a few times; is that  
5 fair?

6 A. Yeah.

7 Q. Okay. Has that been easy for you to talk about  
8 this those different times?

9 A. No.

10 Q. Can you tell the jury why it's difficult for you?

11 A. It's just a lot of, a lot of different things  
12 that we have to talk about and a lot of different like,  
13 how do I put it, like everything's just so jammed in my  
14 head I can't get everything all lined at once at the  
15 same time. I was in there thinking about it and all the  
16 stress from coming from trying to remember everything  
17 that I can.

18 Q. You're being asked very detailed questions about  
19 something that happened when you were 10, 11 years old;  
20 is that right?

21 A. Yes.

22 Q. And you've been asked by different people  
23 altogether as far as who is asking you questions, right?

24 A. Yes.

25 Q. Okay. You were asked about, almost two years ago

1 now by Detective Francis?

2 A. Yes.

3 Q. Okay. You were asked about a year ago now by the  
4 defense attorney here?

5 A. Yes.

6 Q. And then you're being talked to today by me and  
7 the defense attorney about the same thing; is that  
8 right?

9 A. Yes.

10 Q. Is it difficult to answer questions sometimes  
11 based on who is asking them and in kind of what way they  
12 are asking the questions?

13 A. Yes.

14 Q. Do you think that influences somewhat how you've  
15 been able to answer them by who is asking them?

16 A. Yes.

17 Q. And, you know, their specific questions?

18 A. Yes.

19 Q. At least in your testimony this morning, Jacee,  
20 it seems like what you've reverted to is the memories  
21 you have no doubt about; is that right?

22 A. Yes.

23 MR. PICULELL: I object, leading  
24 question.

25 MR. JONES: So, Your Honor, I'm trying to

1           develop the testimony. This is redirect, I  
2           think it's appropriate for me to lead to some  
3           extent to introduce the testimony.

4                   THE COURT: I agree that some leading is  
5           appropriate. I'll ask you to keep it to a  
6           minimum, counsel.

7                   MR. JONES: Thank you, Your Honor.

8           Q. (BY MR. JONES) Why is it today, Jacee, you were  
9           clear about those two instances of sexual contact?

10          A. Those are the two major incidents that I actually  
11          remember.

12          Q. Okay. Is there any doubt that those two  
13          incidents happened to you?

14          A. Yes -- or no, there is no doubt.

15          Q. Okay. And as you sit here today do you remember  
16          those two incidents happening to you?

17          A. Yes.

18          Q. Now, I want to look at the exhibits that the  
19          defense attorney went through with you. I know he had  
20          you flipping through lots of pages. I apologize, I'm  
21          going to have to do a little bit of the same.

22          A. That's fine.

23          Q. All right, thank you.

24          A. Uh-huh.

25          Q. We're going to start with Exhibit 11, this was

1 the interview that was done about year ago by the  
2 defense attorney, right?

3 A. Yes.

4 Q. Okay. Can I have you turn to Page 8 of that  
5 exhibit, please?

6 A. (Witness complies.)

7 Q. And if I can direct to you Line 15 of that  
8 exhibit. Are you there with me?

9 A. Yes.

10 Q. Okay. And do you see that the defense attorney  
11 there asks, he's asking you a pretty specific question,  
12 he's asking you your first memory or indication of when  
13 the sexual abuse started; do you see that?

14 A. Yes.

15 Q. And he tells you specifically there not to go  
16 into detail, but he just wants your memory of that  
17 event, right?

18 A. (Witness nods head.) Yes.

19 Q. And do you see where you said next; I think my  
20 mom was at work. We were watching a movie in the room,  
21 in their bedroom. And then he tells you; just in  
22 general what happened, tells you just in general what  
23 happened?

24 You say; he was just really quiet, he just kind  
25 of guided me on what to do.

1           Are you following along with me?

2           A.    Yes.

3           Q.    And then you acknowledge that your sister was  
4 there during that incident?

5           A.    Yes.

6           Q.    All right.

7           Now, still on the exhibit, we're on Page 9 of  
8 Exhibit 11, I want to go to line, down to 24, all the  
9 way at the bottom of that page.

10          A.    Yes.

11          Q.    Okay.  What do you tell the defense attorney in  
12 that sentence at the bottom of the page?

13          A.    They were pretty much the same every time that I  
14 can remember.

15          Q.    Is that true, Jacee, that when Mr. Poindexter  
16 chose to use you for was pretty much the same every  
17 time?

18          A.    Yes.

19          Q.    All right.  And the same in, to what you  
20 described to us in court about what he did to you?

21          A.    Yes.

22          Q.    Does that make it difficult when you're recalling  
23 10, 11 years old the fact that these were pretty much  
24 the same every time, does that make it difficult to  
25 distinguish them for you?

1 MR. PICULELL: Your Honor, I object to  
2 the suggested answer, leading.

3 THE COURT: I'm going to ask you both of  
4 you to stop for a moment. I want to be sure  
5 that our juror is all right. I hear lot's of  
6 coughing.

7 JUROR NO. 3: I think I'm okay.

8 THE COURT: Do you have water there in  
9 the bottle? Okay. I couldn't tell if there was  
10 water in the bottle. All right, if you need to  
11 take a break, let us know please.

12 JUROR NO. 3: Okay.

13 THE COURT: Back to your objection,  
14 Mr. Piculell. Could you repeat the objection?

15 MR. PICULELL: Leading, Your Honor,  
16 suggesting the answer.

17 MR. JONES: Your Honor, this line of  
18 questioning is specifically called for by the  
19 cross, it's rehabilitative. It's in reference  
20 to prior consistent statements that Jacee made  
21 throughout these interviews.

22 MR. PICULELL: Your Honor, this is a  
23 speaking objection. Motion in limine on  
24 speaking objections.

25 MR. JONES: Your Honor, I'm responding to

1 the objection. I feel it's necessary to  
2 describe why --

3 THE COURT: I will permit the  
4 questioning, the objection is overruled.

5 Again, though, Mr. Jones, I'll ask you to  
6 keep leading to a minimum.

7 MR. JONES: Okay, no problem.

8 Q. (BY MR. JONES) The fact you said yourself,  
9 Jacee, these events were pretty much the same in what  
10 Mr. Poindexter did, does that provide you any difficulty  
11 in distinguishing them or remembering details about  
12 them?

13 A. Yes.

14 Q. Okay. Why?

15 A. They were all the same so it's, it's hard to tell  
16 the difference between looking back that many years ago  
17 to tell the difference of how many times.

18 Q. Okay. Now, I want to look at, excuse me, Page 10  
19 if you could with me, and we're still on Plaintiff's  
20 Exhibit -- or Defense Exhibit 11.

21 A. Uh-huh.

22 Q. And looking down towards the bottom Line 21.

23 A. Yes.

24 Q. Okay. What did you tell the Defense attorney  
25 there?



1           A. I told him; no, because he told me I wasn't  
2 allowed to tell anybody.

3           Q. Okay. Is that, was that your testimony today as  
4 well?

5           A. Yes.

6           Q. That Mr. Poindexter told you that you should not  
7 tell anybody about this?

8           A. Yes.

9           Q. And do you remember him telling you that?

10          A. Yes.

11          Q. Okay. I'm going to direct your attention just  
12 for the moment here to trial Exhibit No. 12, okay. Is  
13 Exhibit 12 a transcript of the interview you did with  
14 Detective Francis about a year, almost two years ago  
15 now; is that right?

16          A. Yes.

17          Q. Okay. I'd like you to look at Page 7, please.

18          A. (Witness complies.)

19          Q. I'll draw your attention to Line 4.

20          A. Okay.

21          Q. Do you describe an incident of molestation that  
22 occurred to you starting in that line?

23          A. Yes.

24          Q. Okay. Can you tell us what you told the  
25 detective then?

1 A. Okay. On which line? Number 4 you said?

2 Q. Yeah. I'm sorry, the detective starts he says;  
3 so you described him on his back, then you were also I  
4 guess lying on your back on top of him looking straight  
5 up? And then you say; yes.

6 A. Oh, okay.

7 Q. Do you see that?

8 A. Yes. I said; he would, he would just like grab  
9 my hips and move me and tell me move like this.

10 Q. Is that consistent with your testimony today of  
11 how he would have sexual contact with you during those  
12 events?

13 A. Yes.

14 Q. Okay. And then if you could look at Page 9,  
15 please?

16 A. (Witness complies.)

17 Q. And Line 23, and I thank you for following along  
18 with me here.

19 A. Yeah.

20 Q. What do you tell the detective there?

21 A. They are all pretty much, they are all, they are  
22 pretty much were exactly the same.

23 Q. Okay, right.

24 Then if you could go to Page 13 with me, please?

25 A. (Witness complies.)

1 Q. And Line 3 at the top where it starts; and then  
2 he kind of got close and brought me; do you see that?

3 A. Uh-huh.

4 Q. Can you tell us what you told the detective  
5 there?

6 A. Then he kind of got close and brought me and he  
7 told me, well, not brought me but like tried to pick me  
8 up and tell me to get on top and I did. And then he  
9 would start like grabbing my hips and did the same thing  
10 like moving me and telling me to move like this, move  
11 like that, and then I think my sister got home and I got  
12 up and went upstairs.

13 Q. Okay. And is that consistent with what you  
14 remember happening to you?

15 A. Yes.

16 Q. Okay. Then turn to Page 14, please?

17 A. (Witness complies.) Okay.

18 Q. And then Line 11?

19 A. Yes.

20 Q. Can you tell us what you told detective there  
21 about what happened to you?

22 A. And he did it more. He didn't say anything, he  
23 did not say one word when she was there. He was kind of  
24 just, he picked me up slowly, put me on top of him and  
25 made me grind on him again.

1 Q. You use the word grind in that statement. Have  
2 you used that word to describe what happened to you  
3 before?

4 A. Yes.

5 Q. Can you tell us, you know, that's somewhat of a  
6 slang term, can you kind of tell us what that means?

7 A. Rub against.

8 Q. Okay. So it's consistent with what you described  
9 here today about how, what he would have you do to him?

10 A. Yes.

11 Q. Okay. Okay, thank you.

12 I want to go back and talk a bit about the  
13 Facebook and text messages that we looked about  
14 altogether.

15 A. Yes.

16 Q. Were you involved in the process of  
17 screen-shot'ing and getting as many messages as you  
18 could to the detective?

19 A. Yes.

20 Q. Can you tell the jury about, do you remember, was  
21 your mom there helping you try to do that?

22 A. Yeah, she was trying.

23 Q. Can you tell us how that came about, how that  
24 worked?

25 A. There was a lot and when I screenshot them and

1 how they were sent it was all mixed up all of them how  
2 they sent.

3 Q. Okay.

4 A. It's just, it was a lot of going and scrolling  
5 and scrolling and scrolling.

6 Q. Were you intentionally excluding some messages  
7 and including others?

8 A. No.

9 Q. Okay. What were you trying to do as far as  
10 getting the message to that detective?

11 A. Trying to get all the information that I thought  
12 that was needed.

13 Q. Okay. And then the Defense attorney went through  
14 with you, Jacee, all different pages of what the jury  
15 will see?

16 A. Uh-huh.

17 Q. And had you somewhat agreed with him about, you  
18 know, no sexual innuendo here, no sexual innuendo there;  
19 do you remember that?

20 A. Yes.

21 Q. In a general sense what did you feel about the  
22 type of communication Mr. Poindexter was trying to have  
23 with you?

24 A. It was just uncomfortable.

25 Q. Okay. And what in particular from those messages

1 did you find uncomfortable?

2 A. The calling me names, I don't know, just some  
3 things that the way it was said.

4 Q. Okay. In your mind, Jacee, is it normal for  
5 someone who is a father figure to call his daughter hot  
6 stuff?

7 A. No.

8 Q. Okay. And Mr. Poindexter did that repeatedly,  
9 didn't he?

10 A. Yes.

11 Q. Okay. And how about discussion of wanting to see  
12 your painted body, do you think that's normal?

13 A. No.

14 Q. When you discussed what had happened to you with  
15 your boyfriend, do you remember doing that, having the  
16 discussion with your boyfriend?

17 A. Yes.

18 Q. What did you tell him that had happened to you?

19 A. Just I told him there was a few incidents that  
20 were not okay and explained to him what had happened in  
21 detail and so.

22 Q. Did you want to have to tell him?

23 A. No.

24 Q. Why did you?

25 A. Because it was, I felt like it was needed to, it

1 was pretty much giving me that push to open up about it.

2 Q. How did he react?

3 A. He was sad, he was upset.

4 Q. Okay. Did he help you get strength to report  
5 that?

6 A. Yes.

7 MR. PICULELL: Your Honor, objection,  
8 asked and answered and relevance and hearsay.

9 THE COURT: I don't see the hearsay of  
10 the objection, overruled. I don't see hearsay.  
11 I do believe it's relevant and I don't believe  
12 it was asked in this form in any event. So the  
13 answer will stand.

14 MR. JONES: Okay. Thank you, Your Honor.  
15 Jacee, those are all my questions for you  
16 so thank you again.

17 THE COURT: Mr. Piculell?

18 MR. PICULELL: Thank you, Your Honor.

19 RECROSS-EXAMINATION

20 Q. (BY MR. PICULELL) Ma'am, do you still have --  
21 probably not. Let me get that to you.

22 MR. PICULELL: May I reproach?

23 THE COURT: You may approach, yes.

24 MR. PICULELL: Thank you.

25 Q. (BY MR. PICULELL) Ma'am, I re-hand you trial

1 Exhibit No. 8 admitted into evidence. The prosecutor  
2 just said that he asked you to define the texts that  
3 made you uncomfortable and that he said that what made  
4 you uncomfortable was Mr. Poindexter asking to see your  
5 painted body. Turning to Page 17 on this, which is the  
6 second to the last.

7 A. Uh-huh.

8 Q. Is the third bubble in there, is that the only  
9 indication in this entire exhibit of paint?

10 A. Yes.

11 Q. Okay. And so in that bubble he doesn't indicate  
12 I want to see your painted body as the prosecutor  
13 characterized, does he?

14 A. No.

15 Q. No, he doesn't.

16 He said I want to see you painted tomorrow night.  
17 I miss you. Is that right?

18 A. Yes.

19 Q. Okay. So he's not asking to see your body, it  
20 could very well be that he's asking to see your face?

21 A. Yes.

22 Q. Yes, okay.

23 The prosecutor brought to your attention a place  
24 in the interview that I conducted and I think he started  
25 off with saying that the way the question is asked or



1 who is asking the question can influence your response.

2 Is that kind of what you got from that question?

3 A. Kind of.

4 Q. Kind of.

5 Did you interpret that as him indicating that the  
6 questioning by either the detective or myself was  
7 overbearing or rude?

8 A. No.

9 Q. Or insistent?

10 A. No.

11 Q. How would you characterize the interview that you  
12 and I had?

13 A. It was fine.

14 Q. It was fine. You were comfortable throughout?

15 A. Yes.

16 Q. Okay. I told you at this beginning of that that  
17 you didn't have to answer any questions whatsoever,  
18 correct?

19 A. Yes.

20 Q. I think I told you that you could stop questions  
21 and talk to the prosecutor or advocate at any time and  
22 you were under no obligation to speak to me whatsoever,  
23 correct?

24 A. Yes.

25 Q. And you could ask for a recess if you didn't want

1 to answer any questions. And did I make you  
2 uncomfortable where you asked for a recess or asked to  
3 talk to the prosecutor or victim advocate?

4 A. No.

5 Q. Okay. And how about my intonation, was I rude or  
6 belittling or insistent in any way in asking you  
7 questions?

8 A. No.

9 Q. So the prosecutor asked or brought your attention  
10 to the interview that I did where you told me that, you  
11 indicated to me in my interview that Mr. Poindexter told  
12 you not to tell anybody, correct?

13 A. Yes.

14 Q. Okay. And that's what you just responded to him  
15 a few moments ago, correct?

16 A. Yes.

17 MR. PICULELL: Re-approaching?

18 THE COURT: You may approach.

19 Q. (BY MR. PICULELL) Handing you Exhibit No. 12,  
20 ma'am, if you recognize that again?

21 A. Yes.

22 Q. What is that?

23 A. The interview between me and the detective.

24 Q. Okay. And, again, the detective interviewed you  
25 first, correct, before me?

1 A. Yes.

2 Q. If I could ask you to turn to Page 9, Lines 9  
3 through 10?

4 A. (Witness complies.) Yes.

5 Q. So on this first interview Page 9, Lines 9  
6 through 10, the detective asked you, again, did he,  
7 referring to Chris Poindexter, ever tell you not to say  
8 anything? And your response was what?

9 A. No.

10 MR. PICULELL: Thank you. That's all I  
11 have.

12 FURTHER REDIRECT EXAMINATION

13 Q. (BY MR. JONES) Sorry, briefly, Jacee, while you  
14 still have Exhibit 12 in your hand, Page 9, and I'm  
15 looking right at the top couple lines of that page on  
16 Page 9. The question from Detective Francis was; do you  
17 remember what he was saying to you while this was  
18 happening?

19 A. Yes.

20 Q. Do you see that?

21 A. Yes.

22 Q. And you actually follow up, you say; like what?  
23 And Detective Francis says; well, was there ever any  
24 comments he was making to you, any sexual comments?

25 A. Yes.

1 Q. Is that where you say no?

2 A. Yes.

3 Q. Okay. And then there is followup after that, but  
4 those are the questions that immediately proceed --

5 A. Yes.

6 Q. -- the questions Defense counsel just asked you  
7 about?

8 A. Yes.

9 Q. Okay, thank you.

10 MR. JONES: That's all I have, Your  
11 Honor.

12 MR. PICULELL: I have a question based on  
13 that, Your Honor, if she could keep that  
14 exhibit.

15 FURTHER RECROSS-EXAMINATION

16 Q. (BY MR. PICULELL) So what the prosecutor just  
17 brought your attention to, ma'am, on Exhibit 9, Page 12  
18 beginning on Line 6, those are separate thoughts, right?  
19 The detective asked you this, just in full the detective  
20 says; well, was there any comments that he was making to  
21 you that, any sexual assault comments? And then you  
22 respond no?

23 A. Yes.

24 Q. Okay. That's the completed thought, correct?

25 A. Yes.

1 Q. The detective then says okay; is that right?

2 A. Yes.

3 Q. Then the detective says; did he ever tell you not  
4 to say anything?

5 A. Yes.

6 Q. And then you respond no, correct?

7 A. Yes.

8 Q. Those are two individual inquiries, correct?

9 A. Yes.

10 Q. Okay, thank you.

11 MR. JONES: Your Honor, no questions.

12 THE COURT: All right. Thank you,

13 Ms. Damien, you may step down.

14 MS. DAMIEN: Thank you.

15 THE COURT: This is probably a good time  
16 for us to take our afternoon break. We'll do  
17 that, we'll be in recess for 20 minutes.

18 THE BAILIFF: All rise.

19 (The jury left the courtroom.)

20 MR. JONES: Your Honor --

21 THE COURT: Let the record reflect that  
22 I'm taking Exhibits 10, 11 and 12 into chambers  
23 over the break. I wasn't given judge's copies,  
24 I want to review these exhibits.

25 MR. JONES: I had a quick matter.

1 THE COURT: Yes.

2 MR. JONES: I anticipate calling the  
3 sister Kaela next. Jacee is done testifying,  
4 she has been excused. She has expressed me a  
5 desire to be in the courtroom to be present and  
6 so I want to put that on the record now outside  
7 of the presence of the jury.

8 THE COURT: All right. Is there an  
9 objection?

10 MR. PICULELL: There is, Your Honor. I  
11 had the same opposition in limine that I had  
12 asked, the prosecutor says he released her,  
13 that's the discretion of the Court to release  
14 her. Some testimony that she gave could be  
15 rebuttal, I can't envision that currently, but  
16 to allow her to come in to the courtroom  
17 essentially influences her testimony because she  
18 is hearing another witness. I had made a 6.15  
19 motion and the prosecutor elected, as  
20 appropriate, to have law enforcement lead  
21 assisting throughout the trial. But to have the  
22 alleged victim come in and their mother listen  
23 to the testimony, I just suggest to the Court  
24 that their testimony could become relevant based  
25 upon Kaela's testimony.

1 I can certainly give a profer in terms of  
2 one area where it might and one of the  
3 examinations that I had with --

4 THE COURT: Please, be seated.

5 MR. PICULELL: Thank you for the Court's  
6 listening to my position.

7 The one area that I had was concerning  
8 the report, the first disclosure to the sister  
9 is I think is at issue. In Exhibit 11 she  
10 indicates to me that her sister had made the  
11 first report, she disclosed to her. I  
12 anticipate the next witness's testimony to be  
13 different from that and so that could be an area  
14 where she is recalled to testify about that.  
15 Her sister I would anticipate, I have to refresh  
16 my recollection, I haven't looked at it since  
17 yesterday that particular piece, I need to  
18 refresh my recollection, but I think what it  
19 says is that Kaela Sze says that she was first  
20 told by Jacee when she was arrested for the MIP.  
21 The MIP was filed on 1-17-18, and so I think  
22 that it would have been in 2017. And she says  
23 that she was told for the first time about her  
24 sister's alleged experience on that date.

25 So that's just one area obviously without

1 revealing --

2 THE COURT: Kaela says that who told her  
3 on that date, Jacee?

4 MR. PICULELL: Yes, on Jacee, I have what  
5 are going to be marked, these are not marked up,  
6 I haven't looked at that, but she says that to  
7 me. I believe she says it to me and not the  
8 detective. I could easily find them in my  
9 notes, I need to shift to that.

10 THE COURT: You know what, I'll tell you  
11 this; I can hear this objection more  
12 intelligently after I look at these exhibits,  
13 and it sounds like counsel could use some time  
14 to look at these papers now. We'll take this  
15 question up when we return from our break and  
16 we'll return from our break when our clerks are  
17 ready to do that. Can this be a 15 minute  
18 break? Okay. We'll have a 15 minute break for  
19 our clerks and we'll return and discuss this and  
20 resolve it and call the jury back in.

21 MR. PICULELL: Thank you, Your Honor.

22 MR. JONES: Thank you.

23 (Brief break off the record.)

24 THE COURT: Ms. Martin, will you let the  
25 jury know we're ironing out a procedural



1 question, we'll be asking them to join us  
2 shortly.

3 All right. Mr. Piculell, what exactly  
4 are the inconsistencies that you anticipate  
5 exploring or potentially exploring in rebuttal  
6 testimony?

7 MR. PICULELL: Yes, again, thank you for  
8 the opportunity to make this motion. It's not a  
9 huge deal, of course trials can, trials can turn  
10 on a word or a phrase or delay in an answer.  
11 And it concerns the report of Jacee to Kaela and  
12 Kaela to Jacee. We've heard the testimony from  
13 Jacee regarding the communication with Kaela  
14 concerning that. And, in fact, I was clarifying  
15 that, I had that in mind in general, I was  
16 clarifying that in terms of recollection  
17 refreshed. I asked her when she told her  
18 sister. And then I directed her to the segment  
19 of Exhibit 11 to refresh her recollection. I  
20 responded to the Court on objection that I was  
21 refreshing her recollection concerning the  
22 ambiguity or uncertainty in terms of her answer.  
23 So that was a predicate to inconsistent  
24 statement by another.

25 The testimony that I anticipate, of

1 course we don't know what she's going to testify  
2 to on the stand --

3 THE COURT: You're talking about Kaela  
4 not, we don't know what Kaela?

5 MR. PICULELL: Kaela, exactly.

6 So, and the Court has not seen this  
7 exhibit, I anticipate marking it, but it's the  
8 interview with the detective that occurred on  
9 12-21-18.

10 THE COURT: And the interview involving  
11 Kaela?

12 MR. PICULELL: That is correct.

13 THE COURT: All right.

14 MR. PICULELL: And on Page 30 of that  
15 exhibit as a profer, I'll read it directly into  
16 the record. Is says; all right -- this is the  
17 detective -- all right, when did you find out  
18 that something had happened to Jacee too?

19 KS: The night of her MIP. She was very  
20 distraught about, like, just Chris finding out  
21 that she had gotten in that much trouble. And  
22 she was kind of pouring out all of her emotions  
23 because she was scared and then she ended up  
24 telling me; "I don't want to go to Chris's  
25 because of what he did to me", and then she

1 ended up saying; "he molested me."

2 Detective: Okay. Did she go into any of  
3 the detail?

4 KS: No.

5 Detective: Okay. So you guys went to  
6 Chris's. Did you tell her that same night that  
7 he had been doing stuff to you?

8 KS: I told her a while before.

9 THE COURT: KS, could you read that last  
10 line? KS, I told her what?

11 MR. PICULELL: I told, yes, if I can  
12 reread that.

13 Detective: Okay. So you guys went to  
14 Chris's. Did you tell her that same night that  
15 he had been doing stuff to you?

16 KS: I told her a while before that.

17 So what we have is bifurcation at best of  
18 reporting, but an inconsistent statement from  
19 Kaela that she found out the night of the MIP.  
20 Now, I haven't been provided in discovery what  
21 night she received her MIP, I looked on court  
22 records on JIS and it reflects, my recollection  
23 I have, but it reflects a 1-17 filing date  
24 locally in the municipal court or district court  
25 here, so right around that time period.

1           But really the essence of that is having  
2           her in the room, even if it may seem a small  
3           matter, it just adds to inconsistencies and it  
4           could potentially be the only inconsistency. I  
5           don't know if it's going to happen obviously in  
6           testimony, but it could be an only inconsistency  
7           concerning reporting between the sisters. So I  
8           think it's relevant. And I don't see a reason  
9           that the State has to have her in the room  
10          listening in to testimony.

11           THE COURT: I understand.

12           MR. PICULELL: Thank you.

13           THE COURT: Mr. Jones, is it possible for  
14          you to call the mother of the girls first as a  
15          witness and have her remain in the courtroom  
16          instead of Jacee remaining in the courtroom?  
17          That may raise the same issue for the Defense, I  
18          don't know.

19           MR. JONES: I'd rather not upset what  
20          I've told people to expect --

21           THE COURT: I understand.

22           MR. JONES: -- how they are going to  
23          testify. If I could real briefly, Your Honor,  
24          the reason I'm raising that issue is this is  
25          included specifically in the victim bill of

1 rights. I don't know if Your Honor has  
2 referenced that portion of the statute, but it's  
3 an RCW titled victim bill of rights, and it  
4 states that the victim has a right to be present  
5 in the courtroom during the trial and it  
6 specifically says they have a right to be  
7 present after they have testified.

8 So there is some indication from the  
9 state through our laws that this is something  
10 that's important. And to preclude that on kind  
11 of a something-that-might-happen scenario I  
12 think would be inappropriate. She has  
13 expressed, the victim has expressed a desire to  
14 be present. She is our, Jacee is already on the  
15 record saying what she said, so that's not what  
16 I plan to do is going back to, it's not going to  
17 change that, her being in the courtroom.

18 I don't anticipate it would change, there  
19 is no indicating it will change what Kaela is  
20 going to testify to, which we can presume  
21 something that's similar to what's reflected in  
22 the interview that she did. In the event that  
23 Jacee has to be recalled, which I don't  
24 anticipate, but in the event that she does she  
25 can be cross-examined and questioned on the fact

1 that she was in the courtroom while her sister  
2 testifies if that becomes necessary.

3 So there are a lot of ways to address  
4 some sort of eventuality that probably won't  
5 happen other than precluding her right under the  
6 victim bill of rights statute.

7 THE COURT: Can you give me a site to the  
8 victim statute?

9 MR. JONES: Yeah, I wish I had it.  
10 It's... sorry, Your Honor. I think it's Title  
11 7, but that's not going to help you.

12 THE COURT: 68?

13 MR. JONES: Maybe.

14 THE COURT: No, that's the compensation  
15 assistance statute. 7.69.

16 MR. JONES: That might be it. I know  
17 it's subsection 11 whatever, I just looked at  
18 it.

19 THE COURT: Yes, 7.69.030.

20 MR. JONES: Yeah, 7.69, yes. It's  
21 subsection 11 of -- I want make sure we're  
22 looking at, 7.69.030 subsection 11.

23 THE COURT: Yes.

24 All right. I'm going to permit Jacee  
25 Damien to be in the room while her sister

1           testifies and if she is called as a witness  
2           later in these proceedings the fact that she was  
3           present when her sister was testifying may be  
4           referenced, if pertinent.

5                     MR. JONES: Thank you.

6                     THE COURT: Are we ready for the jury,  
7           counsel?

8                     MR. JONES: Yes.

9                     MR. PICULELL: The Defense is, Your  
10          Honor.

11                    THE COURT: All right. Ms. Martin, will  
12          you bring the jury in please?

13                    I'm returning to the clerk Exhibits 10,  
14          11 and 12.

15                             (The jury was seated.)

16                    THE COURT: Mr. Jones, are you ready to  
17          call the State's next witness?

18                    MR. JONES: I am, thank you, Your Honor.  
19          The State calls Kaela Sze to the stand.

20                    THE COURT: All right. Hello, you're  
21          Ms. Sze?

22                    MS. SZE: Hi.

23                    THE COURT: Hello. Will you stand next  
24          to the witness stand for just a moment and if  
25          you're holding anything put it down. It doesn't

1 look like it, okay, good enough. Will you raise  
2 your right hand please.

3 **KAELA SZE**

4 **Being first duly sworn, testifies as follows:**

5 THE COURT: Okay. You're under oath.  
6 Please take a seat, you can grab the piece of  
7 paper you were holding. And I think you'll see  
8 that if you stay about eight inches away from  
9 the microphone and talk louder than feels  
10 natural, that's what works best in this room.  
11 Okay?

12 MS. SZE: Okay.

13 THE COURT: All right.

14 DIRECT EXAMINATION

15 Q. (BY MR. JONES) Okay. Good afternoon, Kaela.

16 A. Hi.

17 Q. We've met before, right?

18 A. Yes.

19 Q. Okay. In fact, you've been able to be in this  
20 room before; is that right?

21 A. Correct.

22 Q. Do you remember that?

23 A. Yes.

24 Q. When you just came in to kind of take a look?

25 A. Uh-huh.



1 Q. Okay. So what I want to do is introduce you to  
2 the jury, okay?

3 A. Okay.

4 Q. Will you start by just telling me your name?

5 A. Kaela Sze.

6 Q. Okay. Spell your last name for us.

7 A. S-Z-E.

8 Q. Okay. It's pronounced "Zee"?

9 A. Yeah.

10 Q. Kaela, can you tell us how old are you right now?

11 A. I'm 18 years old.

12 Q. Okay. And how about your birthday, when were you  
13 born?

14 A. 12-4-2000, so December 4, 2000.

15 Q. So your birthday is coming up?

16 A. Yes.

17 Q. But you're 18 still now, for at least a couple  
18 more weeks?

19 A. Uh-huh.

20 Q. Okay. So Kaela, I want to go back and kind of  
21 talk about where you grew up and your family growing up  
22 in a general way. Can we do that?

23 A. Yes.

24 Q. Okay. Did you grow up in Whatcom County?

25 A. Well, it started in Blaine but, yeah, I grew up

1 in Whatcom County.

2 Q. Okay. Tell me about your, kind of your family in  
3 a general way growing up. Who did you live with, kind  
4 of where you lived?

5 A. I lived with my mom Crystal, my stepdad at the  
6 time Christopher, and my sister Jacee. It was a pretty  
7 good family bond we had.

8 Q. Okay. So in most of your memories as a child is  
9 it the four of you --

10 A. Yes.

11 Q. -- together?

12 A. Yes.

13 Q. Okay. Your mom Crystal, Christopher, and then  
14 your sister Jacee?

15 A. Yes.

16 Q. And we met Jacee in here. Are you and Jacee  
17 close as sisters?

18 A. Yes, we are.

19 Q. Can you tell us about your relationship with your  
20 sister?

21 A. I mean, other than the casual like sister fights  
22 it's always been a strong bond. I had an accident a  
23 while back and it grew us even closer. She is there  
24 whenever I need her, I'm there whenever she needs me.

25 Q. Okay. Do you always remember it being like that,

1 like growing up being close to her or have you grown  
2 more close as you've gotten older?

3 A. I'd say so, yeah, through the hardships as a  
4 family we grew closer.

5 Q. Okay. And are you still in school?

6 A. I am.

7 Q. Okay. Where do you go to school now?

8 A. I'm a freshman at Skagit Valley College.

9 Q. Oh, great. Did you graduate from high school in  
10 the area?

11 A. No, I graduated in Mount Vernon at Mount Vernon  
12 High School.

13 Q. All right. And so was that just last year that  
14 you graduated?

15 A. Yeah.

16 Q. And now you're going to college?

17 A. Yeah.

18 Q. All right. Congratulations.

19 A. Thank you.

20 Q. Are you interested in anything in particular  
21 studying?

22 A. Mostly the medical field, yeah.

23 Q. Okay, good.

24 So do you, so you're what, two or three years  
25 younger than Jacee, your sister?

1 A. Yeah.

2 Q. Do you remember a time when the family lived up  
3 in Blaine or Birch Bay, do you remember that house up  
4 there?

5 A. Yeah, it's kind of fuzzy because I was so young.

6 Q. Okay. Where is the first place that you lived  
7 that you kind of have what you would call significant  
8 memory being there?

9 A. I'd say Grove Street.

10 Q. Okay.

11 A. In Bellingham.

12 Q. All right. Do you recall living there in that  
13 house?

14 A. Yes. Yes, I do.

15 Q. And was it who you've told us you generally lived  
16 with; your mom and Christopher and your sister?

17 A. Yes.

18 Q. Okay. I'm going to show you what's already been  
19 admitted as Plaintiff's Exhibit 1, okay? You'll be able  
20 to see it up here. Okay. Do you recognize the  
21 photograph?

22 A. I do.

23 Q. Okay. What is it?

24 A. It's the house on Grove Street.

25 Q. Okay. And do you have any recollection, Kaela,

1 about how long you lived at Grove Street?

2 A. From when I was in first grade until I want to  
3 say second grade.

4 Q. Okay. All right.

5 And do you remember having Christopher Poindexter  
6 in the household when you lived in Grove Street?

7 A. Yes.

8 Q. Can you tell us what you remember generally about  
9 growing up at Grove Street with Christopher there?

10 A. Just normal.

11 Q. Okay. Would you describe him as your dad during  
12 that time period?

13 A. I would.

14 Q. Okay. Was he generally nice to you as a kid?

15 A. He was.

16 Q. Okay. And how about to your sister, did you  
17 notice anything unusual about how he interacted with  
18 your sister?

19 A. Occasionally butt heads, but we all would at some  
20 point because that's just how families are.

21 Q. Sure. Anything significant about your  
22 relationship with Christopher Poindexter at Grove Street  
23 that you remember?

24 A. No.

25 Q. Okay. And how old do you think you were when you

1 were there?

2 A. If I was in first grade I'd say around seven  
3 maybe.

4 Q. Okay. Do you remember what elementary school you  
5 went to?

6 A. Parkview Elementary.

7 Q. Was that the same school as sister too, do you  
8 know?

9 A. I don't remember.

10 Q. Okay.

11 A. I don't remember her schooling at that time.

12 Q. All right.

13 Now, do you remember at some point the family  
14 group moving away from Grove Street?

15 A. Yes.

16 Q. Okay. Where did you guys all move to?

17 A. Sudden Valley.

18 Q. All right. I'm going to show you what's been  
19 admitted as Plaintiff's Exhibit 7, okay? Do you  
20 recognize this?

21 A. I do.

22 Q. Can you tell the jury what it shows us?

23 A. That's the house in Sudden Valley.

24 Q. All right. And how about your age or your grade  
25 when you moved to Sudden Valley; do you remember that?

1 A. I was in third grade.

2 Q. Okay. Did you stay at Parkview Elementary even  
3 though you moved to Sudden Valley?

4 A. I did not.

5 Q. What school did you move to?

6 A. Geneva.

7 Q. Does that help you somewhat remember kind of when  
8 you moved, what grade you were in?

9 A. Yeah, yeah.

10 Q. Okay, all right.

11 Okay. So I want to talk, Kaela, about living at  
12 Sudden Valley. And I know there are some difficult  
13 things to talk about there, okay. Do you remember about  
14 how long the family was in Sudden Valley living there?

15 A. From when I was in third grade until I want to  
16 say fifth grade.

17 Q. Okay. So maybe two years or so?

18 A. Yeah.

19 Q. Okay. All right. And third to fifth grade, do  
20 you know were you under the age of twelve during those  
21 years?

22 A. I was.

23 Q. Okay. Do you know how old you were in those  
24 grades?

25 A. Roughly eight or nine.

1 Q. Okay. So if I can take you back to living there,  
2 was your mom working at the time that you guys lived in  
3 Sudden Valley?

4 A. She was.

5 Q. Okay. Do you remember her being, was her being  
6 away at work a regular, common thing or not something  
7 that stood out to you?

8 A. Yeah, it was. It was usually when I was in  
9 school though.

10 Q. I see. Okay. Would you and your sister  
11 sometimes be home alone at the house?

12 A. Alone?

13 Q. Without any adults there, do you know?

14 A. I can't remember that.

15 Q. Okay. Would sometimes Christopher Poindexter be  
16 the only adult there if your mom was out?

17 A. Yes.

18 Q. Okay. Would that be a normal thing it would just  
19 be you, your sister, and Christopher at home?

20 A. Yeah.

21 Q. Okay. Nothing unusual about that?

22 A. No.

23 Q. All right. Okay.

24 I want to, I want to ask you during that time did  
25 anything, did anything happen between Christopher



1 Poindexter and yourself that you remember specifically?

2 A. Yes.

3 Q. Okay. And was there, is there a first time  
4 something happened that you can remember?

5 A. I can't remember a first time.

6 Q. Okay. All right.

7 But you remember a time something happened?

8 A. Yes.

9 Q. Can you tell the jury, please, your memory of  
10 what you're talking about then?

11 A. The first instance that I can recall is -- do you  
12 want me to go like through?

13 Q. Yes. Start at the beginning and just kind of  
14 what was happening in the house and what you remember  
15 happening to you, if anything?

16 A. Okay. I had realized that he had come home and I  
17 would go downstairs and I would say hi and say how was  
18 your day at work and he'd be downstairs sitting down.  
19 Then he'd say come here, come sit on my lap. So I would  
20 go and then we'd be talking, the tv was on, and then  
21 eventually it led to him moving his hand maybe like  
22 around my butt area or up at my chest area and even  
23 sometimes down by my vaginal area and he'd just caress.

24 Q. Okay. Did that happen more than once to you in  
25 that home?

1 A. It was like a routine.

2 Q. Routine being it happened often or?

3 A. (Witness nods head.)

4 Q. Is that right?

5 A. Yes.

6 Q. It happened often, always in the same way or  
7 different?

8 A. There were a few instances that I could remember,  
9 or one or two where it was wasn't in the downstairs, it  
10 was in, upstairs in their bedroom, my mom and Chris.

11 Q. Okay. So we had some kind of description of the  
12 home, but there is a downstairs living room; is that  
13 right?

14 A. Yeah.

15 Q. And then all the bedrooms are upstairs?

16 A. Yes.

17 Q. All right. And did that include the bedroom that  
18 Christopher and your mom used?

19 A. Yes.

20 Q. Okay. Is that bedroom where some of these events  
21 occurred?

22 A. Yes.

23 Q. Okay. So what you've already told us about is an  
24 event that occurred downstairs?

25 A. Yes.

1 Q. Is that a specific memory you have of him coming  
2 home from work and you going downstairs and that  
3 happening to you?

4 A. Yes.

5 Q. I'm going to have to ask you a little bit more  
6 details about it, okay?

7 A. Okay.

8 Q. You said he'd have you sit on his lap, was there  
9 a tv on?

10 A. Yes.

11 Q. Was your sister in the room?

12 A. No.

13 Q. Do you know where she was?

14 A. She'd either be maybe out with friends or she was  
15 at softball practice or she would be upstairs.

16 Q. Okay. When he asked you to come sit on his lap  
17 did you, you were a young girl?

18 A. I was.

19 Q. Did you know what that meant or what was coming  
20 next?

21 A. No, never.

22 Q. All right. And did you trust him at that point?

23 A. Yes.

24 Q. Do you remember being scared or having any  
25 hesitation about going and sitting on his lap?

1 A. Never.

2 Q. Okay. And then you said his hands would start to  
3 kind of touch you?

4 A. Yes.

5 Q. Can you tell us how you felt as a young kid when  
6 that started happening, the touching?

7 A. Confused, because out of all of the years that I  
8 knew him that never happened.

9 Q. Right. Do you know anything as a young kid, did  
10 you have any, did you know at all that this was sexual  
11 what he was doing to you?

12 A. I knew nothing of that sort.

13 Q. Now as an adult do you know that, do you know it  
14 to be sexual?

15 A. Yes.

16 Q. Okay. Can you describe that for us what he was  
17 doing that you now recognize as sexual?

18 A. Well, he was a father figure to me so, and I was  
19 a very young girl, and the way that he touched me in  
20 what I then called my private areas that no one else  
21 should touch, he was doing that, he was touching those  
22 places.

23 Q. Yeah. Did he say anything to you while he was  
24 touching you in those places?

25 A. No.

1 Q. Okay. Would he, so in this particular instance  
2 we're talking about when you went downstairs when he got  
3 home from work. Did he start in a less private area  
4 then move toward a private area, is that how it would  
5 happen?

6 A. Yes.

7 Q. Was the touching over your clothes or under your  
8 clothes?

9 A. Over.

10 Q. Always?

11 A. Yes.

12 Q. And do you remember him specifically touching you  
13 in the vaginal area during that time?

14 A. Yes.

15 Q. What do you remember about that, that particular  
16 touching?

17 A. It went slowly towards the area but it would  
18 never stay there for longer than I'd say around a  
19 minute.

20 Q. Okay. Was he holding his hand still or moving  
21 his hand?

22 A. Just like caressing, like moving it along all of  
23 the areas.

24 Q. Okay. And not saying anything to you during  
25 that; is that right?

1           A.  No.  I mean occasionally there would be, it would  
2 start off with just casual conversation like as if  
3 nothing was happening and then eventually it would fall  
4 silent.

5           Q.  Okay.  Would he be moving you at all, would you  
6 be moving at all on his lap?

7           A.  He would move me sometimes like back and forth  
8 maybe in a grinding motion.

9           Q.  All right.  But not all the time would he move  
10 you like that, but sometimes?

11          A.  Correct.

12          Q.  Okay.  Can you describe how he would be holding  
13 you in the times when he would move you back and forth?

14          A.  If I'm going into specifics there was multiple  
15 times where he would be on what, we had a futon, it was  
16 like a couch and he'd be sitting up like I am right now  
17 and I'd be laid face down across his lap, my vaginal  
18 area on top of his penis and he would move me back and  
19 forth.

20          Q.  Okay.  All right.  Would that be up in the,  
21 downstairs in the living room also on the futon?

22          A.  Yes.

23          Q.  Okay.  Do you remember anything about his, him  
24 physically while he was doing this to you?

25          A.  He had an erection.

1 Q. Do you recall feeling that as a young kid?

2 A. Yes, but I didn't know what it was.

3 Q. Okay. Do you ever saying anything to him or ask  
4 him why are you doing this, that sort of thing?

5 A. No. Even if I had the urge to, I'd be too  
6 scared.

7 Q. Okay. So you only know now as an adult what you  
8 were feeling was an erection on him?

9 A. Yes.

10 Q. Given what you know now was there ever a time  
11 when Mr. Poindexter would not only have an erection but  
12 would ejaculate?

13 A. No, not that I knew of.

14 Q. Okay. How would these events typically end?

15 A. That's more hard to remember, I can't recall  
16 ending. It was, my memory it was always just during.

17 Q. Okay. And was it always just the two of you were  
18 alone?

19 A. Yes.

20 Q. Okay. Never when your sister was around?

21 A. There was one instance where my sister and then  
22 my mom were in the, I don't know what you'd call it, so  
23 there is the downstairs and then there is a room  
24 attached to there, but there is a door separating it and  
25 they were in there talking. I don't remember what they

1 were doing, but me and Chris were on the couch watching  
2 tv and we were laying down and he turned me over and  
3 then he started kissing me with tongue.

4 Q. Okay. So that's something different than what  
5 you've told us about so far. Were there times he would  
6 kiss you like that as well?

7 A. Yes.

8 Q. More than that one time?

9 A. Yes.

10 Q. Okay. Tell us about that if you could?

11 A. Would you mind if I skipped ahead to?

12 Q. So let me ask you a more specific question, okay?

13 So that one time that you were just telling us  
14 about with your sister and mom in the other room, was  
15 that the first time you remember him kissing you?

16 A. No, that wasn't the only time.

17 Q. Was it the first time?

18 A. No, there were multiple times.

19 Q. Let's start if we can with the first time you  
20 remember him kissing you in that way. And can you  
21 explain for us kind of how the kissing would be, how it  
22 would go?

23 A. Well, I'd turn and he would grab me right here  
24 and then he'd pull me in and it would start out with a  
25 peck, if that's the right term I should be using.



1 Q. Sure.

2 A. And then he'd pull me in again and it would turn  
3 into tongue.

4 Q. So do you recall instances where he would  
5 actually insert his tongue into your mouth?

6 A. Yeah, I'd say around two or three times.

7 Q. Okay. Was that always during the times when he  
8 was touching you as well or sometimes would they be  
9 separate?

10 A. Separate.

11 Q. Okay. In the times when he was touching you  
12 would he ever also kind of transition into kissing you  
13 as well?

14 A. No.

15 Q. Separate times?

16 A. Yes.

17 Q. Okay. All right.

18 So I just want to go back, you mentioned a bunch  
19 of times that things like this happened to you. You  
20 said it was routine?

21 A. Yeah.

22 Q. During these about two years that you were in  
23 Sudden Valley you were always under the age of 12; is  
24 that right?

25 A. Correct.

1 Q. And how many times do you think Mr. Poindexter  
2 did touch you in this way?

3 A. Including the like kissing and everything like  
4 that?

5 Q. Yeah, including.

6 A. I'd say around a dozen times, maybe ten to  
7 fifteen.

8 Q. All right. So quite a few times?

9 A. Correct.

10 Q. Do any of these times do you remember like a  
11 specific date or anything like that, around any sort of  
12 event?

13 A. No.

14 Q. No? All right.

15 But all of these times happening at the Sudden  
16 Valley house; is that right?

17 A. All of the ones that I, yes.

18 Q. That we've talked about so far?

19 A. Yes.

20 Q. All right. So, Kaela, I want to kind of  
21 transition, well, let me ask you this before I do that:  
22 While you were living at Sudden Valley did you ever tell  
23 your mom what Christopher was doing to you?

24 A. No.

25 Q. And while you were living at Sudden Valley did

1 you ever tell your sister what was happening to you?

2 A. No.

3 Q. Did you know that anything was happening to your  
4 sister?

5 A. Not at all.

6 Q. Okay. So it never was discussed between the  
7 girls in the house?

8 A. No.

9 Q. Do you know why you never brought it up?

10 A. At that age I saw it as not anything that I  
11 should be worried about because I, again, I had no idea  
12 what it was at that age so.

13 Q. So you wouldn't even have known it was something  
14 you should tell about?

15 A. Not the slightest idea.

16 Q. Okay. Okay. And did you ever, never any  
17 questions asked from your mom or your sister about  
18 anything like this, is Christopher doing this, or any  
19 questions like that ever?

20 A. No.

21 Q. Okay.

22 MR. JONES: Your Honor, I have just a  
23 quick matter outside the presence of the jury if  
24 I could take a break and address the Court on  
25 something.

1 THE COURT: All right. Ladies and  
2 gentlemen of the jury, will you give us a  
3 moment, please?

4 THE BAILIFF: All rise.

5 (The jury left the courtroom.)

6 MR. JONES: So I just want to address a  
7 quick matter outside the presence of the jury,  
8 Your Honor. And Kaela can help us here, but I  
9 think one of the events Kaela wanted to talk  
10 about is an event that happened a little later  
11 in time when Mr. Poindexter kissed her and  
12 grabbed her rear-end; do you remember that,  
13 Kaela?

14 MS. SZE: I do.

15 MR. JONES: Okay.

16 That's not part of the charged  
17 allegations in the case, so I want to make sure  
18 that if the discussion goes to that as far as an  
19 answer that it's not going to be objectionable.  
20 I think she wants to relate that event in the  
21 context of what happened to her that make up the  
22 charged conduct.

23 THE COURT: The event that is not  
24 included in the charged conduct, did that event  
25 occur -- how old was Kaela when that event

1           happened?

2           Q.   (BY MR. JONES)   Do you know what event I'm  
3 talking about?

4           A.   I do.

5           Q.   Can you tell the Judge about that?

6           A.   My age first?

7           Q.   Yes.

8                         THE COURT:   Yes.

9                         MS. SZE:   So I was around 16 years old,  
10 he had come because at the time my mom and him  
11 were divorced or going through it, and he was  
12 dropping off the family dog and it was just me  
13 at home. And so he came inside to say good-bye  
14 to go back to Snohomish where he was living and  
15 he was coming in for a hug and then he proceeded  
16 to grab my face and then kiss me on the lips and  
17 then with tongue and then he reached behind me  
18 and he grabbed my butt.

19          Q.   (BY MR. JONES)   Where did that happen?

20          A.   At my last house in East Wind.

21          Q.   Oh, that's the Mt. Vernon house?

22          A.   Yeah, Mount Vernon house.

23          Q.   All right.

24                         MR. JONES:   So, Your Honor, I'm sorry, I  
25 guess I just want to make clear to Kaela that

1 we're only going to be talking about things that  
2 happened in Sudden Valley.

3 MS. SZE: Okay.

4 MR. JONES: And I'm comfortable with  
5 that. I felt like we might jump into a  
6 different event and I didn't want to do that.

7 THE COURT: All right. So you will not  
8 be asking questions to elicit that testimony?

9 MR. JONES: That's correct, I won't. And  
10 I think --

11 THE COURT: Let me tell you, Ms. Sze,  
12 that I appreciate you're letting the Court know.  
13 We have some pretty strict procedural rules in  
14 criminal cases and they address issues including  
15 relevance and they limit the testimony from all  
16 the things that you could say to those that  
17 pertain directly to what's charged.

18 MS. SZE: I understand.

19 THE COURT: And so Mr. Jones isn't going  
20 to be asking you about that incident because it  
21 occurred after you had turned 16 and so it's not  
22 pertinent to the charges here.

23 MS. SZE: Okay.

24 THE COURT: I appreciate your testimony  
25 and you describing that, but it wouldn't be

1 appropriate for you to describe that incident to  
2 the jury.

3 MS. SZE: I understand.

4 THE COURT: Thanks for telling me.  
5 Please, don't talk about it further.

6 MS. SZE: I won't.

7 THE COURT: All right, thank you.

8 MR. JONES: Thank you, Your Honor.

9 THE COURT: We're ready for the jury?

10 MR. JONES: Yes.

11 THE COURT: Okay.

12 (The jury was seated.)

13 THE COURT: Thank you, ladies and  
14 gentlemen of the jury. Will you please  
15 continue, Mr. Jones.

16 Q. (BY MR. JONES) Thank you, Your Honor.

17 Okay, Kaela, so just talking about Sudden Valley  
18 there and your time that you lived there, you've already  
19 told us about several times where Christopher would  
20 touch you in your private areas and you've described  
21 that as your vaginal area?

22 A. Yes.

23 Q. Would he ever touch you directly on your vagina?

24 A. Never directly on it.

25 Q. Okay. Was any part of him ever touching you

1 directly on that?

2 A. Yes, but clothed.

3 Q. Sure. So even given the existence of clothes  
4 when you remember these events what part of him was  
5 touching your vagina?

6 A. His penis.

7 Q. Is that when you recall his penis being erect?

8 A. Yes.

9 Q. Did Mr. Poindexter ever have you touch him?

10 A. No.

11 Q. So in your, when you think about these times you  
12 don't recall any time where he would have, not be  
13 touching you, but have you be touching him?

14 A. Not that I can recall.

15 Q. All right.

16 Now, I think you used the word grinding too, can  
17 you explain to us what that is?

18 A. Back and forth motion.

19 Q. Okay.

20 A. And in this specific case our, my vagina and his  
21 penis.

22 Q. Okay. Would you be facing away from him when  
23 that was going on or?

24 A. Well, I would be facedown on his lap.

25 Q. Okay. All right.



1           And did he say, was he saying anything to you  
2 during when that was happening?

3           A. No.

4           Q. Was he making any noises or any indication of  
5 what he was getting out of this?

6           A. Not that I can recall.

7           Q. So just the fact there was an erection?

8           A. Correct.

9           Q. Did Mr. Poindexter ever talk to you directly  
10 about what he was doing to you or anything like that?

11          A. No.

12          Q. Did he ever tell you not to tell or what you  
13 should do about what was happening to you?

14          A. No.

15          Q. All right. And so in your memory, Kaela, these  
16 events while they went on routinely they would just end,  
17 there would be no discussion about them?

18          A. Correct.

19          Q. Was there anything weird about that in your mind  
20 that these things weren't being discussed or talked  
21 about?

22          A. No, because it came off that it was just normal.

23          Q. All right. All right.

24                 So I want to, was there a time then that the,  
25 this behavior that you're talking, telling us about, was

1 there a time that it ended altogether between him doing  
2 it to you?

3 A. Yes, when we moved to Hopi Lane.

4 Q. Okay. So you moved out of Sudden Valley at some  
5 point?

6 A. Yes.

7 Q. And did things like what you're talking about  
8 right now, is that kind of a time in your head where it  
9 stopped more or less?

10 A. Yes.

11 Q. Okay. Even when, was there a time even further  
12 when Mr. Poindexter moved out of the house altogether,  
13 wasn't with the family any more?

14 A. Yes.

15 Q. And do you recall that, do you recall the  
16 separation between your mom and Mr. Poindexter?

17 A. I do.

18 Q. Can you tell us about that?

19 A. Like the time or?

20 Q. Yeah, just kind of how the family felt as it was,  
21 as Mr. Poindexter and your mom were separating?

22 A. There was a lot of tension. I can't recall  
23 anything like specific.

24 Q. Sure.

25 A. But I do remember, I don't know if I am supposed

1 to say it without you asking, but during at the Hopi  
2 house I did mention to my sister that something had been  
3 happening.

4 Q. Okay. So let's talk about that. I want to draw  
5 your attention to the first time that you remember  
6 starting to tell people what happened to you, okay? Was  
7 telling your sister the first person that you told?

8 A. Yes.

9 Q. Okay. Can you tell us about that, about what you  
10 told your sister and why?

11 Take your time, Kaela, okay?

12 A. Well, I was going through --

13 Q. There is a glass of water there if you want a  
14 sip. You can take your time, okay, we're not in a  
15 hurry.

16 A. At that time I was going through some depression  
17 that I never spoke to my family about but they did  
18 notice that I started lashing out at them, whether it be  
19 just blocking them out, and eventually I broke down and  
20 I went to my sister and I was very hesitant about it. I  
21 went to her and she begged me to tell her why I was so  
22 upset. And I told her, I said back at the old house  
23 which would be Sudden Valley --

24 Q. Right.

25 A. -- Chris had touched me, and that's all I said

1 about it.

2 Q. Do you remember what your sister said or did  
3 after you told her that?

4 A. She just, she said, and I knew, I could tell how  
5 upset she was, but she never said, said anything about  
6 it. I just, I felt that she felt bad.

7 Q. Okay. It sounds like that was a meaningful  
8 moment in your life?

9 A. It was.

10 Q. Okay. What did it feel like to tell someone?

11 A. It was a relief.

12 Q. Okay. Do you know if it was equally kind of  
13 meaningful to Jacee or did she know all that you were  
14 going through in your head?

15 MR. PICULELL: Your Honor, I object to  
16 what somebody else thought.

17 THE COURT: Sustained.

18 Q. (BY MR. JONES) Did she tell you, did she tell  
19 you, Jacee tell you at that point that anything had  
20 happened to her too?

21 A. No.

22 Q. She is just listening?

23 A. Yes.

24 Q. Okay. And was that just a single conversation  
25 that you had with your sister about that?

1 A. About me?

2 Q. About you telling her that Chris had been  
3 touching you?

4 A. Yes.

5 Q. And after that did you continue to talk with  
6 Jacee about what had happened or was it just that moment  
7 and then nothing for a while afterwards?

8 A. Nothing.

9 Q. Okay. Did you think about telling your mom at  
10 that point?

11 A. I did, but I couldn't.

12 Q. Why couldn't you?

13 A. I guess I didn't want to disappoint her by having  
14 hid it so long. I just felt that telling her now would  
15 do more damage.

16 Q. Did you know at that point when you talked to  
17 Jacee that what Christopher had done to you was wrong?

18 A. Yes.

19 Q. And how old do you think you were at Hopi Lane  
20 when you told Jacee?

21 A. I want to say I was around, maybe around 12.

22 Q. Okay. So getting a little older?

23 A. Yeah.

24 Q. All right. Okay.

25 And then I want to fast forward a little bit in

1 time if we can, Kaela. Do you recall the time when this  
2 is all completely come out in the open and both you and  
3 Jacee told what happened?

4 A. Yes.

5 Q. Can you tell how that, tell us how that came  
6 about?

7 A. Well, it came as a surprise to me, but I can  
8 remember what happened was my sister and her ex, or her  
9 current boyfriend at that time, had gotten into an  
10 argument and what I know is that my sister had called my  
11 mom and my mom was on speakerphone and my, to Jacee was  
12 seeking --

13 MR. PICULELL: Your Honor, I object to  
14 the hearsay.

15 MR. JONES: Your Honor, I think her  
16 description of what she remembers about the  
17 disclosure is important. I don't think it's  
18 offered for the truth of what anybody is saying  
19 but her recollection of that.

20 THE COURT: When Jacee and your mother  
21 were talking on the phone were you there?

22 MS. SZE: I was not.

23 THE COURT: So your knowledge of it comes  
24 from, how do you know about it?

25 MS. SZE: The events that I was

1 explaining it was, that was the buildup to it  
2 coming out because my mom had called me after  
3 that.

4 THE COURT: I see.

5 MS. SZE: And then told me that she knew.

6 THE COURT: Okay.

7 MR. JONES: All that would be for effect  
8 on Kaela.

9 THE COURT: I understand. And the  
10 question was, could you repeat precisely the  
11 question, Mr. Jones?

12 MR. JONES: Hoping you weren't going to  
13 ask me that, Your Honor. I think the court  
14 reporter is the only one who can do that  
15 precisely.

16 I was asking generally what she recalls  
17 about how this all came out in the open, that  
18 was my question. And I think the story began  
19 with her mom being called, her mom on  
20 speakerphone.

21 THE COURT: Yes, that's right, and Jacee  
22 was talking. All right. I think that answers  
23 the question about how the witness learned of  
24 these events. What was said between Jacee and  
25 her mother is not something that this witness

1           has personal knowledge of. The objection is  
2           sustained to that extent.

3                       MR. JONES: Okay, thank you.

4           Q. (BY MR. JONES) Did you after, did you get a  
5 chance during these events to talk directly to your mom  
6 about what had happened to you?

7           A. Yes. She had come home right away after finding  
8 out and we sat down and had a discussion. We didn't go  
9 into specifics but I did tell her basically what he had  
10 done.

11          Q. Okay, all right. Was she asking you questions  
12 about what had happened?

13          A. Yes.

14          Q. Okay.

15          A. She didn't ask for specifics, she just said,  
16 well, she asked what he had done but she said it's okay,  
17 you don't have to go into super specifics, but she was  
18 asking what he had done.

19          Q. What do you recall emotionally about, emotionally  
20 about that conversation with your mom?

21          A. Like how I felt about it?

22          Q. Yeah, how did you feel?

23          A. I was crying because I still felt like I  
24 disappointed her.

25          Q. Okay.



1 A. But she told me it was okay so I felt a relief.

2 Q. All right. After that were you aware that this  
3 became reported to the police?

4 A. Yes.

5 Q. And kind of all this has happened since?

6 A. Yes.

7 Q. Okay. Have you ever wanted to talk about what  
8 happened to you?

9 A. After it all came out?

10 Q. Yeah.

11 A. Yeah.

12 Q. Okay. Tell, can you tell us kind of how you felt  
13 since everything came out about talking about it?

14 A. Well, with my best friends I felt like there was  
15 something that like felt off and that I felt like I  
16 need, this was happening to me, I needed someone to talk  
17 to. And so I looked to my friend, her name a Cielo, and  
18 I talked to her about it. It felt good because she was  
19 really understanding.

20 Q. All right. Was it hard, thinking back on this,  
21 was it hard to keep it just to yourself all those years?

22 A. Definitely.

23 Q. All right. And do you recall a time when the  
24 detective came, a detective came and spoke with you  
25 about what had happened?

1 A. Yes.

2 Q. Do you remember that?

3 A. Yeah.

4 Q. And do you recall a time when you came to my  
5 office and the Defense attorney here behind me was able  
6 to ask you questions too?

7 A. Yes.

8 Q. Okay. Do you feel like in all those times you've  
9 been able to kind of talk about what happened?

10 A. Yeah.

11 Q. All right. So I do need to ask you if you  
12 recognize who we've been talking about, and we've been  
13 calling him Christopher or Mr. Poindexter. Do you  
14 recognize him in the courtroom today?

15 A. I do.

16 Q. Okay. And is this him behind me to, over my left  
17 shoulder?

18 A. Yes.

19 Q. Okay.

20 MR. JONES: And, Your Honor, I would like  
21 the record to reflect that I've gestured over my  
22 left shoulder to counsel table and  
23 Mr. Poindexter is seated next to his attorney.

24 THE COURT: The record will reflect that  
25 fact.

1 MR. JONES: Thank you. All right, Your  
2 Honor, those are all my questions. Thank you.

3 THE COURT: All right. Thank you,  
4 counsel.

5 MR. PICULELL: Thank you, Your Honor.

6 THE COURT: Cross-examine? Yes.

7 MR. PICULELL: Thank you.

8 CROSS-EXAMINATION

9 Q. (BY MR. PICULELL) And good afternoon. And we've  
10 met before, correct?

11 A. Yes.

12 Q. Okay. We met in the prosecutor's office some  
13 time ago where the prosecutor was present, I was  
14 present, the victim advocate was present, and we talked  
15 about the events, correct?

16 A. Correct.

17 Q. Okay. And how would you characterize that  
18 interview, did you feel that you were being pressured to  
19 answer any questions?

20 A. No.

21 Q. Okay. You felt comfortable answering the  
22 questions?

23 A. I did.

24 Q. Okay. And is it accurate, do you have  
25 recollection of me telling you that you did not have to

1 answer any questions, that you could decline to answer  
2 any question that you wanted to?

3 A. Yes.

4 Q. And that if you needed a break I would turn off  
5 the recording device at any time and you could speak as  
6 long as you wanted with Mr. Jones or your advocate?

7 A. Yes.

8 Q. Okay. And so I had your consent to record and  
9 you did not request a break?

10 A. Correct.

11 Q. Correct? Okay.

12 The interview with the police, do you remember  
13 having a discussion with a police officer concerning  
14 these issues?

15 A. Yes.

16 Q. Okay. Do you remember when that occurred  
17 approximately?

18 A. I want to say 2017.

19 Q. Okay. 2017? Okay.

20 And is the police officer or detective that you  
21 met, is he or she present in the courtroom today?

22 A. I wasn't specifically interviewed by him but it  
23 was a partner.

24 Q. Okay. So it wasn't this gentleman that is at  
25 counsel table?

1 A. Correct.

2 Q. Okay. I want to ask you a little bit, first I  
3 want to ask you about your use of the term "would". In  
4 all instances I think in terms of responding to  
5 Mr. Jones you used the word "would" in terms of  
6 describing alleged contacts with Mr. Poindexter. Is  
7 there a reason that you use that phrase "would" or  
8 instead of "did" or "had" or some affirmative?

9 A. That's just my grammar for referencing the past.

10 Q. Okay, okay. So it's not a conditional word, it's  
11 a word of fact in your use?

12 A. Correct.

13 Q. Okay. I wanted to ask you about, do you have a  
14 recollection of the date, same question the prosecutor  
15 asked you, the date of the first alleged contact between  
16 you and Mr. Poindexter?

17 A. I do not.

18 Q. Okay. So I'm a little curious about that. If  
19 you don't have a recollection of the first, do you  
20 have -- some event in your mind must be first or  
21 primary, right?

22 So are you inferring that there are other  
23 incidents that you don't remember?

24 A. Well, since I was so young I can't quite recall a  
25 first, but I do know a timeframe of when I can remember.

1 Q. Okay. So use of the term I can't remember the  
2 first, are you inferring there are things that occurred  
3 that you no longer remember or remembered at one time  
4 but now forget?

5 A. I'm not saying that there were instances before  
6 that, I doubt that there were, but from what I can  
7 recall and what effects me is what I can remember.

8 Q. Okay. So if the first thing that you recall,  
9 could we call that the first time of an allegation?

10 A. Yes.

11 Q. Okay. So as I understand from your responses you  
12 were living at Grove Street, correct?

13 A. From when it started?

14 Q. I'm sorry, at Sudden Valley, correct?

15 A. Correct.

16 Q. And how old were you, do you recall?

17 A. Around eight or nine.

18 Q. Okay. So I understand eight or nine, your grade  
19 that you might have been in was what grade?

20 A. Around fourth grade.

21 Q. Okay. Would it be fourth and fifth or fourth?

22 A. Fourth.

23 Q. Okay. Do you remember in terms of your  
24 allegation against Chris Poindexter a date when the  
25 event may have occurred?

1 A. Can you repeat the question?

2 Q. Sure. Is there a memory of a date that the event  
3 may have occurred?

4 A. No.

5 Q. Okay. So you have, if I could say you have no  
6 recollection of a date within the year of the  
7 allegation?

8 A. All I know is that it was sunny, that's all I  
9 know. I don't remember a date.

10 Q. Okay. So when you say eight or nine, could that  
11 be two full years that we're referencing here, any time  
12 when you were eight and any time when you were nine?

13 A. Yes.

14 Q. Okay. So within that two-year span can you  
15 remember a season?

16 A. A season pertaining to what?

17 Q. A season that an event may have occurred?

18 A. Maybe spring, summer.

19 Q. Is that just a guess?

20 A. It's a guess, but I would say I can't recall.

21 Q. Okay. How about a month? You can't remember or  
22 can you remember a month?

23 A. No, I cannot.

24 Q. Okay, okay.

25 And do you have any recall of who your fourth

1 grade teacher was?

2 A. Mrs. Bodine.

3 Q. Okay. And your fifth grade teacher?

4 A. I had two because I had moved.

5 Q. Okay. And do you recall?

6 A. I was with Mrs. Bodine again and then when we  
7 moved it was Mrs. Metcalf.

8 Q. Okay. And do you recall what subjects you were  
9 taught in fourth grade?

10 A. No.

11 Q. How about fifth grade?

12 A. It was just general, it was all included.

13 Q. Okay. Do you recall where you spent Christmas in  
14 fourth grade?

15 A. Like what house?

16 Q. Uh-huh.

17 A. Sudden Valley.

18 Q. So the family celebrated Christmas in Sudden  
19 Valley, you didn't go to a relative's house?

20 A. I actually can't recall.

21 Q. How about fifth grade, do you recall where you  
22 celebrated Christmas in fifth grade?

23 A. I cannot recall.

24 Q. Can you tell us one thing that you did in fourth  
25 grade, one thing of significance that you remember about



1 fourth grade?

2 A. Of significance, I cannot recall.

3 Q. Do you have best friends in fourth grade that you  
4 remember?

5 A. Yes, her name was Kashia Robertson.

6 Q. Okay. And then how about fifth grade, can you  
7 tell us anything of significance that you remember about  
8 fifth grade apart what you've testified to?

9 A. I can't remember anything significant from fifth  
10 grade.

11 Q. Okay. And did you have a best friend in fifth  
12 grade?

13 A. I did. Her name was Rochelle.

14 Q. Okay. How about other friends in fifth grade  
15 that you can recall?

16 MR. JONES: Your Honor, I'm going to  
17 object to relevance at this time.

18 MR. PICULELL: Your Honor, I'm testing  
19 her memory. I have a broad latitude on  
20 cross-examination.

21 THE COURT: I will give you that latitude  
22 but I'll ask you to limit yourself to one or two  
23 more questions of this sort. I've indulged  
24 these questions and I think you're getting to  
25 the end of this line of questioning. The

1 witness may answer --

2 MR. PICULELL: So you're limiting me at  
3 this point, Your Honor?

4 THE COURT: Yes.

5 MR. PICULELL: Okay, I understand.

6 Q. (BY MR. PICULELL) So you don't remember anything  
7 in terms of the date that these alleged events occurred,  
8 correct?

9 A. Correct.

10 Q. Nor anything significant from fourth or fifth  
11 grade, correct?

12 A. Correct.

13 Q. Okay.

14 Now, the prosecutor asked you in terms of when  
15 you and your sister first discussed this. And when was  
16 that?

17 A. If you mean discussing as in me telling her about  
18 it the first time?

19 Q. Exactly.

20 A. Yes, then that would be Hopi Lane.

21 Q. Okay. And who told who?

22 A. I told her.

23 Q. Okay. And did she tell you anything?

24 A. She did not.

25 Q. So she did not tell you anything that allegedly

1 happened; is that correct?

2 A. That's correct.

3 MR. PICULELL: If I could ask this be  
4 marked as an exhibit for identification.

5 THE CLERK: Yes. Defendant's Exhibit No.  
6 13 marked.

7 (Defendant's Exhibit No. 13 was marked for  
8 identification.)

9 MR. PICULELL: May I approach?

10 THE COURT: You may approach.

11 Q. (BY MR. PICULELL) Handing you what has been  
12 marked a Exhibit No. 13, can you tell me, if you can  
13 take a moment and review maybe the first page of that  
14 and tell me if you recognize what that is?

15 A. I do.

16 Q. And what is that?

17 A. That is the interview that we had.

18 Q. Okay. If I could ask you to turn to Page 6?

19 A. (Witness complies.)

20 Q. And review Lines 14 through 16?

21 A. (Witness complies.)

22 Q. And have you done that, ma'am?

23 A. I have.

24 Q. Okay. And had you answered whether you had  
25 disclosed anything to your sister when I asked you that

1 question?

2 A. I said no.

3 Q. You said no. And then you say; she was the one  
4 that told me it happened to her first, correct?

5 A. Correct.

6 Q. And then you say; I didn't say that it happened.  
7 She was just overwhelmed with emotion and it just came  
8 out, correct?

9 A. Correct.

10 Q. Okay. You were also interviewed by the  
11 detective, correct?

12 A. Correct.

13 Q. Okay. And when was that approximately?

14 A. 2017.

15 MR. PICULELL: If I could ask this be  
16 marked as an exhibit, please.

17 THE CLERK: Defendant's Exhibit No. 14  
18 marked.

19 (Defendant's Exhibit No. 14 was marked for  
20 identification.)

21 MR. PICULELL: Approaching?

22 THE COURT: You may approach.

23 Q. (BY MR. PICULELL) Exhibit No. 14, ma'am, do you  
24 recognize what that is?

25 A. Yes, I do.

1 Q. What's that?

2 A. That is an interview between me and the  
3 detective.

4 Q. Okay. And first could I ask you to turn to Page  
5 30, Line 3?

6 A. (Witness complies.)

7 Q. If you can silently review Line 3 through 5, the  
8 first sentence of Line 5.

9 A. (Witness complies.)

10 Q. Let me know when you've completed that.

11 A. I read it.

12 Q. Okay. And does that indicate the detective asked  
13 you, not this detective, but another detective asked  
14 you; when did you find out that something had happened  
15 to Jacee too? And you indicated; the night of her MIP?

16 A. That's correct.

17 Q. Is that right? Okay.

18 And then down to Line 12 and 13, if you could  
19 take moment to review that?

20 A. (Witness complies.)

21 Q. The detective asked you; did you go into any  
22 details? You said no?

23 A. Correct.

24 Q. Is that correct? Okay. Okay.

25 In terms of your statements to the detective and

1 myself how many alleged events do you think that you  
2 identified in terms of those interviews that had  
3 allegedly occurred with you by Chris Poindexter?

4 A. Around a dozen.

5 Q. Around a dozen? Okay.

6 And in those allegations did you provide any  
7 specifics of the allegation of a dozen or did you  
8 indicate that all the events were the same?

9 A. Can you rephrase that?

10 Q. Sure. Well, let me just break that question  
11 down. Did you indicate either in your law enforcement  
12 interview, well, let's start there. In terms of your  
13 law enforcement interview did you indicate specifics of  
14 the alleged event, the 20, 12 or 15 or whatever?

15 A. Yes, I did.

16 Q. You indicated specifics?

17 A. Yes.

18 Q. Different times and different sequences?

19 A. Yes.

20 Q. Okay. And did you indicate that they were all  
21 the same or that they had different factual  
22 descriptions?

23 A. I said that they were mostly the same other than  
24 when the kissing had happened.

25 Q. Okay. So you indicated that they were mostly the

1 same, in other words that all of the events were mostly  
2 the same of him having you on his lap?

3 A. Correct.

4 Q. Okay. Were there any that were different from  
5 that general description?

6 A. There was a time where he told me to change into  
7 less clothing.

8 Q. Okay. But anything as far as description of?

9 A. They were pretty much the same.

10 Q. Pretty much the same? Okay.

11 And in terms of the prosecutor had asked you a  
12 question that he said you did not, or did you recognize  
13 what was occurring at eight to nine that you now  
14 recognize it as an adult. When did you have a  
15 recognition of this allegation, when did that occur?

16 A. When did I become educated into what had actually  
17 happened?

18 Q. Yes.

19 A. Well, when I started learning about that type of  
20 stuff when I was in around fifth or sixth grade.

21 Q. When you were around fifth or sixth grade?

22 And so when did you come to the factual  
23 realization that, as you said in one instance, he had an  
24 erection?

25 When did you come to that realization in your

1 memory?

2 A. When I had learned about it in fifth or sixth  
3 grade.

4 Q. Okay. So in fifth or sixth grade when did you  
5 have the concrete understanding that that's what  
6 happened? In fifth or sixth grade or during a class in  
7 a discussion with somebody?

8 A. During a class.

9 Q. Okay. All right.  
10 So it was a year or so after the alleged event  
11 that you came to that understanding?

12 A. Or so, yes.

13 Q. Okay. And what was the description of, that you  
14 can recall of your testimony here this afternoon about  
15 where he moved his hand?

16 A. Around my chest area and my vaginal area.

17 Q. Okay. And you said it was near your vaginal  
18 area; is that correct?

19 A. Yes, sometimes it would go over it.

20 Q. Okay. But your testimony was, this afternoon was  
21 near the vaginal area; is that correct?

22 A. Yes, that is correct.

23 Q. Okay. So it was a year or so later that you  
24 believe that that touching, that you allege, was not  
25 appropriate?



1 A. Correct.

2 Q. Okay. Now, you talk about him kissing you. Now,  
3 did you indicate that in an interview or subsequently  
4 that his kissing of you was public?

5 A. Can you repeat that question?

6 Q. Sure. Let me ask you, was the kissing public or  
7 private?

8 A. It was private.

9 Q. So you never did that with anyone else present?

10 A. In that room? No.

11 Q. Okay. Now, you've also indicated to the  
12 prosecutor that Mr. Poindexter touched you or kissed you  
13 when your sister and your mother were in the other room,  
14 correct?

15 A. Correct.

16 Q. Okay. Did you make that allegation either in  
17 your interview with the detective or in the defense  
18 interview, if you recall?

19 A. I don't recall.

20 Q. Okay.

21 THE COURT: This is a good point for us  
22 to stop today. This finishes the court day and  
23 we will have to have Ms. Sze return on Monday  
24 morning and continue her testimony. You may  
25 step down now.

1 Ladies and gentlemen of the jury, thank  
2 you for your careful attention today. We'll be  
3 starting up just a little bit later on Monday  
4 morning. I'd like you to be here ready to go at  
5 10:15 if you're able to do that and we'll look  
6 forward to seeing you then. I hope you all have  
7 a good rest of the week and weekend and we'll  
8 see you Monday morning.

9 THE BAILIFF: All rise.

10 THE COURT: Let me just caution you and  
11 remind you all of the instructions that I gave  
12 you yesterday about not talking about, not only  
13 the case, but any of the issues of the case.  
14 All of those restrictions continue to apply over  
15 the weekend. So no discussion of the case and  
16 no research about any of the issues of the case  
17 and you'll be back to hearing more evidence  
18 Monday morning. Thank you all.

19 (The jury left the courtroom.)

20 THE COURT: All right, please be seated  
21 counsel. A couple of things; I'd like your  
22 proposed jury instructions just as soon as you  
23 can get them in. If it's possible to get them  
24 in tomorrow, I would appreciate having time with  
25 them over the weekend. I think we can make our

1 proceedings on Monday easier if I have some  
2 advanced time with the instructions.

3 I hope that the 10:15 start time for the  
4 jury Monday is workable for you. The Court has  
5 another calendar at 9:00 and I'd like for us to  
6 plan to start up at 10:00 without the jury  
7 because I suspect that something will come up  
8 given four days to think about it. So why don't  
9 we plan that, counsel, and Mr. Poindexter, of  
10 course, and Detective Francis, if you'd like to  
11 join us, but we will all start our proceedings  
12 at 10:00, that will be the default.

13 If you let me know ahead of time that you  
14 have no matters and we'll be able to go right  
15 into the jury, let me know and I won't plan to  
16 start up at 10 and you can be here for the 10:15  
17 start.

18 MR. PICULELL: Thank you, Your Honor. If  
19 I could delay the Court staff one second, could  
20 I request a receipt, I have three events in King  
21 County tomorrow so tomorrow is a rough day for  
22 me to get the jury instructions, but could I  
23 request receipt of the prosecutor's  
24 instructions, I'll review those over the weekend  
25 and then propose any supplement, sorry, long,

1 long day, any supplemental instructions that  
2 aren't congruent with the WPIC's or that I think  
3 are omitted.

4 THE COURT: That seems workable.

5 MR. JONES: That seems fine with me. I  
6 have a packet prepared, I want to look at it a  
7 little closer before I submit it.

8 THE COURT: Sure, that's just fine. Both  
9 counsel should file written versions of their  
10 instructions just as you always do, but if you  
11 would like to send judge's copies by e-mail you  
12 may do that. And since it will be over the  
13 weekend I'll give you my direct e-mail and  
14 caution both of you to copy each other on any  
15 e-mails that you send and, of course, limit the  
16 communications to simply telling me that the  
17 instructions are enclosed.

18 MR. PICULELL: Understood. Thank you,  
19 Your Honor.

20 THE COURT: All right, I'll give you each  
21 my card. I think I'm probably in Mr. Jones'  
22 e-mail directory but let's be sure.

23 MR. JONES: Okay, thank you.

24 MR. PICULELL: Thank you, Your Honor.

25 THE COURT: All right. Thank you to both

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counsel and to everyone else and we'll look forward to seeing you all on Monday morning.

MR. PICULELL: Thank you, Your Honor.

(End of requested proceedings.)

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF WHATCOM

STATE OF WASHINGTON,  
Plaintiff,

vs.

NO. 18-1-00679-37  
COA No. 81213-1

CHRISTOPHER POINDEXTER,  
Defendant.

NOTICE OF FILING

EVAN JONES  
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Division I  
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Please take notice that on the 15th day of  
May, 2020, the original of the above numbered  
and named Verbatim Report of Proceedings, dated  
NOVEMBER 14, 2019 was electronically filed with the  
Court of Appeals Division I.

DATED this 15th day of May, 2020.

WENDY S. RAYMOND  
OFFICIAL COURT REPORTER  
WHATCOM COUNTY SUPERIOR COURT  
311 Grand Avenue  
Bellingham, WA 98225  
(360) 676-6748  
May 15th, 2020

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CERTIFICATE OF OFFICIAL COURT REPORTER

STATE OF WASHINGTON        )  
                                  )                    SS.  
COUNTY OF WHATCOM        )

I, Wendy S. Raymond, Official Court Reporter,  
County of Whatcom, State of Washington, do hereby  
certify that the foregoing pages comprise a true and  
correct transcript of the proceedings had in the  
within-entitled matter, recorded by me by stenotype on  
the days herein written and thereafter transcribed into  
being by computer-aided transcription, and constitute my  
record on this matter.

DATED THIS 15th day of May, 2020.

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Wendy S. Raymond, CCR  
Official Court Reporter

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF WHATCOM

STATE OF WASHINGTON,	Plaintiff,	No. 18-1-00679-37
vs.		COA No. 81213-1
CHRISTOPHER POINDEXTER,	Defendant,	VOLUME III
		PAGES 255-396

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VERBATIM REPORT OF PROCEEDINGS  
NOVEMBER 18, 2019  
THE HONORABLE DEBORRA GARRETT, JUDGE

---

APPEARANCES:

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BELLINGHAM, WASHINGTON  
360-778-5610



INDEX

WITNESS :

PAGE :

3	KAELA SZE	REDIRECT EXAMINATION BY MR. JONES	290
4	CRYSTAL MEYERS	DIRECT EXAMINATION BY MR. JONES	295
5		CROSS-EXAMINATION BY MR. PICULELL	315
6		REDIRECT EXAMINATION BY MR. JONES	329
7	DETECTIVE ERIC FRANCIS	DIRECT EXAMINATION BY MR. JONES	334
8		CROSS-EXAMINATION BY MR. PICULELL	348
9		REDIRECT EXAMINATION BY MR. JONES	372
10		RECROSS-EXAMINATION BY MR. PICULELL	381

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11	Plaintiff's Exhibit No. 15 was marked for identification.	300
12	Plaintiff's Exhibit No. 16 was marked for identification.	307
13	Plaintiff's Exhibit No. 17 was marked for identification.	372

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2 NOVEMBER 18, 2019

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4 (Beginning of requested proceedings.)

5 THE COURT: Good morning, counsel. I  
6 know we have a couple of issues to sort out this  
7 morning. Let me first put on the record the  
8 information that I gave both lawyers informally  
9 this morning, which is that we've been joined  
10 by --

11 MR. JONES: I don't mean to interrupt,  
12 Your Honor, we don't have Mr. Poindexter here so  
13 I don't know if that's an initial matter that  
14 the Court wants to address?

15 THE COURT: I do want to address that  
16 initially but I just want to set the context.

17 MR. JONES: All right.

18 THE COURT: We've been joined by a  
19 business law class from Squalicum High School.  
20 Its members have been here talking with me and  
21 several other of the lawyers from our community  
22 and they will be observing our trial for a good  
23 bit of the morning. I had told counsel  
24 informally that I expected that the class would  
25 be moving on to other proceedings in the

1 courthouse, but that is not the case and the  
2 class wishes to remain observing our trial and  
3 that, so that's what we'll do.

4 Now, I understand that our first  
5 preliminary issue is the fact Mr. Poindexter has  
6 not joined us, and, Mr. Piculell, can you tell  
7 us the circumstances?

8 MR. PICULELL: Yes, good morning, Your  
9 Honor. Gene Piculell for Mr. Poindexter who is  
10 not present in the courtroom. I received a text  
11 this morning at 9:35 that I'll read completely;  
12 "I'm running behind. I couldn't get my truck  
13 started." I texted him right back within the  
14 same minute and I said how far behind? And then  
15 I had left my satchel here in the courtroom so I  
16 was out of communication, but I checked with him  
17 when I came into the courtroom, I spoke to him,  
18 he said when I spoke to him he was 45 minutes  
19 away at that time. I asked his geographic  
20 location, he said still in Marysville.

21 THE COURT: And what time was this when  
22 he responded still in Marysville?

23 MR. PICULELL: Let's see, one moment  
24 please. The time that I made that call was  
25 10:06, I spoke to him for 33 seconds.

1           THE COURT: Obviously the law gives the  
2           Defendant the right to be present in all  
3           material aspects of the trial, and I note that  
4           counsel have a couple of preliminary matters  
5           this morning. I don't, what's the position of  
6           each counsel as to whether the Court should hear  
7           the preliminary matters, which are a juror issue  
8           raised by the Defense and an amendment of the  
9           information issue raised by the State?

10           Don't argue the motions, simply tell me  
11           your positions on whether the Court can and  
12           should proceed on either of those motions.

13           MR. JONES: My position is we should wait  
14           for Mr. Poindexter.

15           THE COURT: Mr. Piculell?

16           MR. PICULELL: And, of course, I hate to  
17           be in this position defending my client's  
18           nonappearance here this morning at 10:17. I  
19           think they are both substantive and ask the  
20           Court to wait.

21           THE COURT: All right. I don't think  
22           Mr. Poindexter will be here until after 11 and  
23           I'm, the jury has been pretty timely. I think  
24           I'm going to let the jury know that we'll be  
25           starting up shortly after 11. They should be

1           here at 11 ready -- no, they shouldn't be here  
2           at 11 ready to go because we have pretrial  
3           matters or pre-court day matters.

4                   MR. JONES:  It's possible, boy, the  
5           witnesses are here too.

6                   THE COURT:  Go ahead.

7                   MR. JONES:  Is it possible to adjourn or  
8           send the jury with instructions to be back after  
9           lunch at 1:30?

10                   THE COURT:  That's what I'm considering.  
11           Do counsel agree?

12                   MR. PICULELL:  I think it's incumbent to  
13           address those issues.  Thank you, Your Honor.

14                   MR. JONES:  We could also with, given the  
15           extra time this morning prior to lunch we can go  
16           through the jury instructions also.  I'd be  
17           prepared to do that if we wanted to make good  
18           use of that time.

19                   THE COURT:  Are you prepared to do a  
20           preliminary run through jury instructions this  
21           morning, Mr. Piculell?

22                   MR. PICULELL:  And I hesitate to, the  
23           reason -- I can tell the Court Mr. Jones and I  
24           briefly spoke about the jury instructions, and  
25           that will be a very efficient process.  I don't

1           expect that to have any delay at all, and I have  
2           essentially adopted the State's and I have those  
3           for submission in hard copy form and then the  
4           only issue will relate to whether the Court  
5           permits the amendment motion that the prosecutor  
6           has. So from my perspective, that's the only  
7           issue.

8           THE COURT: Will that motion be opposed  
9           by the Defense?

10          MR. PICULELL: It is, Your Honor. The  
11          motion to amend is opposed.

12          THE COURT: All right. I think we will  
13          permit the jurors to leave and return at 1:30  
14          for our afternoon session. We can use the time  
15          most effectively I believe by discussing the  
16          jury instructions, and I won't make rulings on  
17          the instructions, but I will hear your  
18          arguments.

19          Then after Mr. Poindexter has joined us  
20          we'll take up the substantive issues of the  
21          amendment to the information and the juror issue  
22          that the Defense has raised.

23          MR. JONES: And, Your Honor, I'm sorry, I  
24          probably misspoke, but my suggestion, and I  
25          think Mr. Poindexter should be here for the

1 discussion about instructions also.

2 THE COURT: Even for the discussion?

3 MR. JONES: I just think it's a matter of  
4 waiting for 30 minutes and that's a lot more of  
5 a cautious thing for the Court to do than to try  
6 to get those 30 minutes used in a different way.  
7 That's what I think.

8 THE COURT: All right. I think it's a  
9 matter of waiting for closer to an hour, but  
10 that's a detail. The important point that  
11 you're making is that the Court should not  
12 proceed in his absence.

13 MR. JONES: Yes.

14 THE COURT: And Mr. Piculell, what's the  
15 Defense position?

16 MR. PICULELL: I concur. When I was  
17 saying I think it's incumbent, I was implying  
18 that it's incumbent to ask the Court to wait.

19 THE COURT: All right. I will ask  
20 counsel to use this time to discuss the jury  
21 instructions between yourself. Mr. Piculell, if  
22 you have instructions to present to the Court,  
23 I'd like to have them. I'll use the time to  
24 review the instructions as well, and I'll be  
25 ready to proceed when Mr. Piculell joins us.

1 MR. PICULELL: Mr. Poindexter.

2 THE COURT: Yes, Mr. Piculell is already  
3 here.

4 MR. PICULELL: I don't want to be held in  
5 contempt. I'm here, Your Honor.

6 THE COURT: You're doing fine.

7 MR. JONES: Your Honor, so maybe one  
8 thing I can hand forward before the Court leaves  
9 the bench is there was a proposed Second Amended  
10 Information. I included it as an exhibit to my  
11 motion, but this was the document that I'd be  
12 filing. The date is slightly different than the  
13 exhibit to my motion, one of the dates in the  
14 charging period, and that's based on information  
15 I have received this morning that the family  
16 moved out of the house in November, the Sudden  
17 Valley house in November of 2011. And so I  
18 actually reduced the charging period from what  
19 the exhibit in my motion is just by a few months  
20 and that's the only difference.

21 THE COURT: Can you direct me to the  
22 correct paragraph of the amended information?

23 MR. JONES: Sure.

24 THE COURT: So this would be the Third  
25 Amended Information?



1 MR. JONES: Well, no.

2 THE COURT: You haven't filed the second?

3 MR. JONES: I haven't filed. So in  
4 Counts 2, 3, 4, and the second alternative in  
5 Count 5 of the one Your Honor is looking at has  
6 the end date of the charging period of January  
7 31, 2012.

8 THE COURT: Yes.

9 MR. JONES: So the Second Amended  
10 Information I'd be filing, if allowed to do so,  
11 changes that to November 1st, 2011. So a few  
12 months earlier in time in all those counts.

13 THE COURT: All right.

14 MR. JONES: And that's meant to  
15 correspond with the testimony anticipated this  
16 morning from the mother who says the family  
17 moved out of the Sudden Valley on November 1st,  
18 2011.

19 THE COURT: All right.

20 MR. PICULELL: That may change my  
21 position, Your Honor, on objection. I'll use  
22 the recess to determine that based upon I  
23 received a proposed Second Amended Information  
24 over the weekend changing dates, but I'll  
25 review. The prosecutor says I guess the second

1 amended because it wasn't filed?

2 MR. JONES: Yes.

3 THE COURT: All right. That's good. I  
4 will let the parties know that I have an  
5 engagement between noon and 1:30 today so we'll  
6 need to finish our morning session by noon and I  
7 won't be able to start up early. Why don't we  
8 bring the jury out and I'll explain to the jury  
9 what the situation is in general terms and make  
10 sure they understand their responsibility to  
11 return by 1:30.

12 MR. JONES: Thank you.

13 THE COURT: In our court it's customary  
14 for everyone to rise when the jury comes into  
15 the room.

16 (The jury was seated.)

17 THE COURT: Good morning, ladies and  
18 gentlemen of the jury. I hope you all had a  
19 pleasant weekend. A couple of unforeseen  
20 changes have occurred in our schedule and I  
21 think that the best way and most efficient way  
22 to proceed is for the Court to give you some  
23 time, to give you the morning off rather than  
24 asking you to wait. And so that's what we'll  
25 do. You have the morning off and we'll be

1           resuming session at 1:30. So I'll ask you to  
2           return in time that you're ready to proceed at  
3           1:30. Thank you for your service, and believe  
4           me this was not intentional on the part of  
5           anyone involved, we respect your time but it's,  
6           the process is involving people and people are  
7           unpredictable and that's what's occurred today.

8                        So thank you for being here. We'll look  
9           forward to seeing you at 1:30.

10                      THE BAILIFF: All rise.

11                                (The jury left the courtroom.)

12                      THE COURT: All right. So counsel, I  
13           will be here and available in chambers and when  
14           Mr. Poindexter joins us, please let me know  
15           immediately and we'll address the issues pending  
16           before the Court.

17                      MR. PICULELL: Thank you, Your Honor.

18                      MR. JONES: Thank you, Your Honor.

19                      THE COURT: All right.

20                                (Brief break off the record.)

21                      THE COURT: Please, be seated.

22                      MR. JONES: So thank you for retaking the  
23           bench. Mr. Piculell can advise you about the  
24           communication he's had with his client. The  
25           short of it is Mr. Poindexter is not anywhere

1 closer to the courthouse, he's still I  
2 understand in Marysville. I, you know, he was  
3 expected to be here at 10:00 this morning, the  
4 jury is waiting. I think the Court should issue  
5 a bench warrant based on his failure to appear  
6 today.

7 I don't know where that leaves the jury,  
8 so we could have a discussion about that, but I  
9 think that should be the response of the Court  
10 at this point.

11 THE COURT: Mr. Piculell, what do you  
12 know?

13 MR. PICULELL: And, again, good morning,  
14 Your Honor. What I know, I certainly want to be  
15 careful in terms of the attorney-client  
16 communication that I have, but, of course, my  
17 duty to the Court is to provide the Court  
18 accurate information concerning my communication  
19 with my client. After the past recess Mr. Jones  
20 and the detective and I had had an informal  
21 discussion about if he was, as he was being  
22 reported, if he was in Marysville that  
23 potentially we could have law enforcement  
24 retrieve him and bring him here. We started a  
25 discussion, the detective volunteered to pick

1           him up, said he wouldn't have any conversation  
2           with him. And I said, well, in fact, I should  
3           go pick him up, that makes more sense. So  
4           following that at 10:36 I indicated to him what  
5           is your specific location and specific ability  
6           on transportation? Then I stepped out and over  
7           at the overlook there I called him back  
8           following that text and asked him his specific  
9           location because I was going to come pick him up  
10          and we anticipated to bringing that to the  
11          Court's attention as a solution. And I asked  
12          him to image to me, very easily of course, image  
13          me his location on his phone and I had no  
14          response to that.

15                 I then called him at, the calls I had  
16                 just for the record with the client this morning  
17                 were at 10:06, 10:32, 10:38, then I called him  
18                 at 10:49, I think that was the one where I was  
19                 indicating, again, I was going to pick him up  
20                 and then I wanted the image to where he was.  
21                 And then I spoke to him at 10:56 and I stepped  
22                 out into the hallway.

23                 In that conversation it came to, because  
24                 communication that he was in Arlington, and in  
25                 that conversation that I just had at 10:56 he

1 indicated that he was back in Marysville. And  
2 so that is the conclusion of my knowledge about  
3 his whereabouts.

4 THE COURT: Do you have, did you ever get  
5 specific information from him about his  
6 whereabouts?

7 MR. PICULELL: He did say, he did say to  
8 me that he was at the McDonalds, he was at the  
9 McDonalds. I said what exit in this last  
10 conversation and then he was unclear about that.  
11 Then he said I'm heading back to Marysville, or  
12 I'm in Marysville. I honestly cannot recall  
13 what verb he used. It was clear to me he was  
14 now in Marysville and I expressed surprise at  
15 that and then he said I told you I was returning  
16 to Marysville to get my ex-wife's car or my  
17 wife's car. I said no, you didn't. He swears  
18 this to me.

19 THE COURT: Where does Mr. Poindexter  
20 live?

21 MR. PICULELL: I can see where his  
22 address is. The address that we have on file is  
23 actually from public counsel intake where I  
24 appeared with him on his first appearance so  
25 that's the address that we have on file. I

1 don't think that I sent any hard correspondence  
2 to him there. So the address we have in the  
3 file is 5116 65th Drive Northeast, Marysville.

4 MR. JONES: That's the address that's on  
5 the court order, the release conditions, is a  
6 Marysville address.

7 MR. PICULELL: Of course I have no recall  
8 of that, I would have certainly asked the client  
9 if that's a correct address to represent that to  
10 the Court as far as release.

11 THE COURT: All right. So the State is  
12 suggesting that the Court issue a bench warrant  
13 at this point for Mr. Poindexter. What's your  
14 suggestion, Mr. Piculell?

15 MR. PICULELL: Well, Your Honor, the,  
16 obviously I wanted Mr. Poindexter here to  
17 litigate his rights and we had expected him to  
18 testify. I spoke with him over the weekend on  
19 Sunday just to review with him, make sure he had  
20 no questions for today, and he indicated that he  
21 did not and indicated that he still expected to  
22 testify. So obviously I would like him here.

23 The prosecutor and I discussed the  
24 absentia, I didn't know essentially what the  
25 next step would be, but certainly would like

1           there to be an opportunity to get him here in  
2           order to continue with the case with his  
3           presence.

4           THE COURT: Well, we had two suggestions  
5           discussed; one was that Mr. Piculell go to pick  
6           Mr. Poindexter up and bring him back to court,  
7           and one was that the detective do that. I would  
8           be in favor of any solution that has us resuming  
9           the trial at 1:30. We've got the jury, victims  
10          have done the bulk of their testimony, I want  
11          this trial to continue and go forward if it's at  
12          all possible to do that. It's 11:07 by my  
13          clock, I think there is time to --

14          MR. JONES: Drive to Marysville and back.

15          THE COURT: -- drive to Marysville, pick  
16          him up, and bring him back. Mr. Piculell, I'll  
17          permit you to do that if you wish to do so. If  
18          you don't, I'll issue a bench warrant and ask  
19          that Detective Francis go to pick him up, bench  
20          warrant in hand.

21          MR. PICULELL: I certainly appreciate the  
22          opportunity to attempt that.

23          THE COURT: Does that mean you're  
24          choosing that option?

25          MR. PICULELL: Yes. Yes, Your Honor.



1           THE COURT: I'll permit you to do that.  
2           If Mr. Poindexter is not here at 1:30, I will  
3           issue a bench warrant at that time. And I  
4           prefer not to do so so I hope you'll be  
5           successful in obtaining his presence.

6           MR. PICULELL: Thank you for the Court's  
7           patience.

8           THE COURT: All right.

9           MR. JONES: So then assuming the best  
10          here, Your Honor, that Mr. Poindexter is here at  
11          1:30 with counsel is it my correct understanding  
12          we'll address motions before the Court this  
13          morning and then move into witness testimony  
14          directly from there? I'm just telling witnesses  
15          where to be when.

16          MR. PICULELL: And I think, if I may  
17          speak out of turn, that I think we have a more  
18          efficient approach that we might have had if  
19          Mr. Jones had not had the ability to speak so I  
20          think that all will be very efficient, the jury  
21          instructions. My issue with the jury and the  
22          amendment, I think they will be very efficient.

23          MR. JONES: I agree with that.

24          THE COURT: All right. Yes, I don't  
25          think we can start any sooner than 1:30 because

1 we won't have Mr. Piculell who will be on his  
2 way to drive Mr. Poindexter. So I think that's  
3 probably the best procedure.

4 Please make every effort to be here  
5 precisely at 1:30 so that we can start on those  
6 motions.

7 MR. PICULELL: Absolutely, Your Honor.

8 THE COURT: And we'll proceed from there.

9 MR. PICULELL: Absolutely. And I have  
10 the Court's permission to leave my setup?

11 THE COURT: Yes, you do. I'll ask our  
12 clerk to lock the room. I think she'd be doing  
13 that any way, so the room will be locked until  
14 shortly before 1:30.

15 MR. PICULELL: Okay, thank you.

16 THE COURT: All right. If either of you  
17 needs access to the room before, shortly before  
18 1:30, stop up to the clerk's office and ask for  
19 Ms. Long or one of the other clerks, they can  
20 open the room for you.

21 MR. JONES: Thank you, Your Honor.

22 THE COURT: Or stop in here and  
23 Ms. Martin can do that.

24 All right. The Court is in recess.  
25 Thank you, counsel.

1 (Lunch break off the record.)

2 THE COURT: Counsel, I want to minimize  
3 the time that we make the jury wait. So  
4 Mr. Poindexter, I'm going to be talking to you  
5 specifically about the need to be here on time.  
6 I'm not going to do that now though because I'm  
7 not going to take the time away from the time we  
8 have with the jury.

9 And we have from, well, we have from the  
10 State a motion to amend the information. Is  
11 there an objection to that motion?

12 MR. PICULELL: Your Honor, there is not.  
13 I've amended that position based upon what will  
14 be now the third and formal second amendment.  
15 But I think it implicates, maybe first I'll say  
16 now, but it does implicate the motions in limine  
17 and a new discovery issue concerning the dates  
18 alleged. And I don't know if the Court wants to  
19 consider that before the motion is considered?

20 THE COURT: How does it effect the orders  
21 in limine?

22 MR. PICULELL: Because there was a motion  
23 in limine and an order in limine to exclude  
24 reference to his prior meth addiction and  
25 treatment. Mr. Poindexter indicates to me, he

1 had actually provided this information to me  
2 some time ago, that he was in treatment and he  
3 was not in the residence, he was, he had been  
4 asked to leave the residence by the mother of  
5 the alleged victims some time during calendar  
6 year '11 and so part of that now would modify my  
7 request to suppress that because he would be  
8 expected to testify that he was not in that  
9 house during this charging period.

10 And as far as the discovery issue, he had  
11 provided to my office some time ago, I don't  
12 know exactly when, but I do have a document in,  
13 it was some months ago, he had indicated to me  
14 that he was not in the house and had provided me  
15 a treatment report from that time period, so I  
16 do have that. I just don't have a hard form  
17 because I didn't anticipate that, this amendment  
18 obviously.

19 THE COURT: Mr. Jones, any response?

20 MR. JONES: Well, I haven't seen what the  
21 specific dates are or anticipated testimony of  
22 Mr. Poindexter as to when he left the house.  
23 You know, all of these dates more or less were  
24 charged in the original information. So if  
25 there is, if there is some sort of alibi defense

1           that there is an expectation that Defense  
2           provide that to the State prior to trial and I  
3           would, I guess I would like to see what that is  
4           before I make further comment to the Court.

5           MR. PICULELL:  And, Your Honor, actually  
6           I disagree with the dates on the original  
7           information, all of the counts are either '09 or  
8           '10.  On the First Amended Information, which  
9           was granted, they were all expiring in calendar  
10          year '10.  Now the prosecutor is seeking to  
11          amend on the Second Amended Information to  
12          calendar year '11, so that is different from the  
13          charging documents heretofore.

14          THE COURT:  All right.  So the Defense is  
15          objecting to the amendment of the information  
16          and the Defense is objecting that -- I still  
17          don't understand how this effects the Court's  
18          order in limine.

19          MR. PICULELL:  Sure.

20          THE COURT:  How, the Court's order was  
21          that there be no mention of Mr. Poindexter's  
22          participation in drug and alcohol treatment.  
23          Does the date of, do the changed dates somehow  
24          make that issue pertinent?

25          MR. PICULELL:  Yes, they do, because as

1 indicated the last date of any dated issue ended  
2 in calendar year '10. Now the prosecutor is  
3 seeking to amend that to calendar year '11. He  
4 was in treatment, it was a short in-patient  
5 treatment, but he indicates that he was out of  
6 the house because he was asked to leave by his  
7 ex-wife due to his drug use. And so, and I do  
8 have a treatment report indicating that. And it  
9 wasn't at issue because it was calendar year '11  
10 so it wasn't, it wasn't, in my view, I just put  
11 it in the file or just imaged it to the file  
12 without further because none of the dates are at  
13 issue, but they are at issue now.

14 THE COURT: Well, the amendment is to  
15 change a date to restrict the time period from a  
16 time period that was to end in January 2012  
17 instead to have that time period end in November  
18 2011.

19 MR. PICULELL: But no, Your Honor, the  
20 Court hasn't granted that yet.

21 THE COURT: Right.

22 MR. PICULELL: What the Court is looking  
23 at is the prosecutor was seeking to change it to  
24 2012 but now is seeking to change it to 20, one  
25 of the counts to 11-1-11.

1 THE COURT: Yes, four of the counts.

2 MR. PICULELL: Right. And so those time  
3 dates implicate what I'm indicating on counts  
4 what will now be Count 2 --

5 THE COURT: 3, 4 and 5, the second part  
6 of 5, yeah.

7 MR. PICULELL: The second part of 5, will  
8 now be implicated that my client asserts that he  
9 was not in the residence during the time period.

10 So I guess I'm not, I'm not, well, it  
11 doesn't --

12 THE COURT: Excuse me for interrupting  
13 you, counsel, but is this something that we need  
14 to resolve now before we hear testimony of the  
15 next witness?

16 MR. PICULELL: No.

17 MR. JONES: Well, maybe, Your Honor. I'd  
18 like to, I just, I think all we need to know is  
19 what those dates are that are anticipated he was  
20 in treatment. And once I learn those, that's  
21 discovery of that information to me now that  
22 it's at issue, I think that might satisfy this.

23 MR. PICULELL: Well, I think we're  
24 putting the cart before the horse. The problem  
25 is we're sort of trying the case with the

1 defense in mind so we're amending the  
2 information to expand it now to the three  
3 calendar years, now I'm indicating that he was  
4 out of the house in the years, at least calendar  
5 year '11.

6 THE COURT: I don't understand, what I  
7 see is a motion to restrict, to make shorter the  
8 time period at issue, but you keep referring to  
9 expanding the time period at issue and I'm not  
10 sure we're talking about the same amendment in  
11 that case.

12 MR. PICULELL: We may not be, Your Honor.  
13 I think the operative controlling amendment that  
14 I'm, I believe is the First Amended Information.  
15 That's the only amendment that's been granted.  
16 And all of those only go as far as calendar year  
17 '10.

18 If we look at the original information  
19 all of those go only as far as year '10.

20 Now, in his series of second proposed  
21 amendments that have been e-mailed to the Court  
22 and counsel, they are now seeking to expand it  
23 to calendar year '12, and now he's seeking to  
24 bring it back to calendar year '11. So there  
25 has been different iterations of the Second



1 Amended Information, which the Court hasn't  
2 ruled on. So he's not trying to restrict it,  
3 he's trying to expand it --

4 THE COURT: When you say "he" you mean  
5 Mr. Jones?

6 MR. PICULELL: Yes, the prosecutor.

7 THE COURT: Please refer to each other  
8 as --

9 MR. PICULELL: Oh, I'm sorry, that wasn't  
10 meant disrespectfully --

11 THE COURT: Counsel for the State,  
12 counsel for the Defense, yes.

13 MR. PICULELL: So the prosecutor is  
14 seeking to expand it from the First Amended  
15 Information.

16 THE COURT: All right. I understand.

17 MR. JONES: Your Honor could rule, so  
18 Your Honor could rule on my motion to amend the  
19 information. I think it's supported by case  
20 law, and that's what I briefed and provided over  
21 the weekend. I think it's a proper motion, the  
22 Court can rule on that.

23 Then the next step would be given the new  
24 timeframe alleged in the second information, if  
25 now we have the need to disclose an alibi

1 defense or reconsider the mention of treatment  
2 or not by witnesses. I think those are, can be  
3 handled in order that way, those issues.

4 MR. PICULELL: That's what I suggested,  
5 Your Honor, is that the Court rule on the  
6 amendment, but then it implicates these other  
7 issues. Rather than the Defense putting forward  
8 its profer based upon the proposed amendment.

9 THE COURT: Yes. And --

10 MR. JONES: What I handed forward just  
11 now is titled the Second Amended Information and  
12 it is what the State seeks to have the Court  
13 rule on. I think it's, the amendment is proper  
14 based on the *State vs. Goss* case laws that was  
15 submitted.

16 THE COURT: Are the parties are agreed  
17 these issues need to be resolved before we hear  
18 from the next witness?

19 MR. JONES: Yes.

20 THE COURT: All right. Do we have a  
21 First Amended Information?

22 MR. JONES: Yes, it was filed, well, it  
23 was filed, it would have been last Wednesday  
24 when we convened for the first day of trial.

25 THE COURT: All right. Thank you, it

1           hasn't made its way into the court file yet.

2                   All right. So really, Mr. Piculell,  
3           you're objecting to the First Amended  
4           Information as well; is that correct?

5                   MR. PICULELL: No, I didn't object to  
6           that. I think the, I don't think, I know the  
7           Court had granted that amendment. I did not  
8           object because they were essentially changing  
9           one as a bracket change that was a scrivener's  
10          error, the other were I think an error on the  
11          date of birth, and so I had no objection because  
12          they were procedural and not substantive. So  
13          the first amendment as far as my knowledge was  
14          granted by the Court.

15                  THE COURT: All right. Well, let's see,  
16          on the first count the time periods between the  
17          First Amended Information and the Second Amended  
18          Information are essentially the same. I'm not  
19          sure that one day makes a difference. Unless  
20          you can persuade me that one day makes a  
21          difference, I am going to permit that change.

22                  MR. PICULELL: On the first amendment,  
23          yes, I thought the Court had done that.

24                  THE COURT: That's on Count 1. I'm  
25          talking about the Second Amended Information.

1 MR. PICULELL: I'm sorry, Your Honor, I  
2 wasn't tracking. Thank you.

3 THE COURT: On Count 2 of the Second  
4 Amended Information the time span is January  
5 1st, 2010, to November 1st, 2011, and the  
6 Defense is objecting to that; is that correct?

7 MR. PICULELL: That's correct.

8 MR. JONES: That would be the same  
9 timeframe now alleged throughout the remainder  
10 of the information, and as I put forth in my  
11 briefing, that's meant to conform to the  
12 evidence that was presented at trial, which is  
13 that these girls had known that they were  
14 molested and they know it occurred while they  
15 lived at Sudden Valley, the Sudden Valley house.  
16 So that timeframe corresponds with the time that  
17 the family lived in Sudden Valley.

18 THE COURT: All right. It's during that  
19 time period that the Defense asserts that  
20 Mr. Poindexter was not present in the home,  
21 right, during part of that time period?

22 MR. PICULELL: Correct.

23 THE COURT: And then as to the other  
24 dates on the third count we have an expansion of  
25 the end period, in fact, on all three; the

1           third, fourth and fifth counts the end period is  
2           moved from December 31, 2010, to November 1st,  
3           2011, right?

4                     MR. JONES: Right, correct.

5                     THE COURT: And the Defense objects to  
6           that as well; is that right?

7                     MR. PICULELL: Yes, Your Honor.

8                     THE COURT: Am my understanding  
9           correctly, Mr. Jones, that the State's position  
10          is that the corrected dates, the dates must be  
11          corrected to conform to the testimony about the  
12          dates the family lived in the home in Sudden  
13          Valley?

14                    MR. JONES: That's exactly right, yes.  
15          The information does not allege that, different  
16          criminal conduct, it does not -- or additional  
17          conduct, it's merely an adjustment of the  
18          charging period.

19                    THE COURT: I understand. I'm going to  
20          permit the State to file and work with the  
21          Second Amended Information adjusting those  
22          dates. If that raises an alibi issue, I'll ask  
23          the parties to discuss it on this afternoon's  
24          court break and report to the Court as to  
25          whether there is an issue there before the end

1 of day today.

2 As for the issues that were raised  
3 regarding juror, I guess, inattention or  
4 counsel's concern about the expression on one  
5 juror's face, what are you asking the Court to  
6 do, Mr. Piculell?

7 MR. PICULELL: Yes, Your Honor. I think  
8 after reflection over the weekend I think what  
9 I'm just asking the Court to do based upon those  
10 perceptions just reread the recess instruction  
11 to the jury to keep an open mind etcetera rather  
12 than inquire of that particular juror, which may  
13 achieve the wrong objective, and so I think it's  
14 4.61 or 4.16, which is recess instruction.

15 THE COURT: All right. You're going to  
16 have to give me the precise recess instruction.  
17 I did not read the form instruction to the jury,  
18 I simply summarized it for them on Friday or  
19 when we were in our last day of trial.

20 MR. PICULELL: Okay. In fact, I do have  
21 a note here 4.61, WPIC 4.61 on the top of this  
22 issue page.

23 THE COURT: All right. Any objection  
24 from the State on the Court reading WPIC 4.61 to  
25 the jurors?

1           MR. JONES: No, Your Honor. I think it  
2 should be done in a general way and not  
3 individualize anybody.

4           MR. PICULELL: That's what I'm suggesting  
5 as well.

6           THE COURT: All right. All right, I will  
7 do that. I don't think 4.61 is really the  
8 instruction that you want me to read though,  
9 it's the instruction that tells the jurors not  
10 to talk about the case with anyone. I can give  
11 them that instruction at the end of day but I  
12 think the instruction that you want now is that  
13 the juror should maintain an open mind until  
14 they have heard all of the evidence.

15          MR. PICULELL: That's correct, Your  
16 Honor. That's my fault, I haven't looked at  
17 that since over the weekend there, but that's  
18 the one that I was requesting, keep an open mind  
19 until all of the evidence is in.

20          THE COURT: All right. I believe that's  
21 part of the introductory instruction that the  
22 Court gave the jurors at the beginning of the  
23 trial.

24          MR. JONES: I've got that, let's see.

25          THE COURT: All right. I'll simply read

1 the sentence from the introductory instruction  
2 that says; throughout the trial you must  
3 maintain an open mind, you must not form any  
4 firm or fixed opinion about any issue in the  
5 case until the entire case has been submitted to  
6 you for deliberation. As jurors and officers of  
7 the court, you must not let your emotions  
8 overcome your rational thought process. I'll  
9 read them those two paragraphs.

10 MR. PICULELL: Thank you.

11 THE COURT: All right. Any objection  
12 from the State?

13 MR. JONES: No.

14 THE COURT: Are we now ready to bring the  
15 jury in?

16 MR. JONES: Yes.

17 MR. PICULELL: Defense attorney is, yes,  
18 thank you.

19 THE COURT: I will remind counsel that  
20 the jurors have some conflicts, the soonest of  
21 which is Wednesday morning. One of the jurors  
22 has a spouse with a medical procedure due on  
23 Wednesday morning.

24 MR. JONES: Okay.

25 THE COURT: So we'll talk later about how



1           we're progressing.

2                           (The jury was seated.)

3                   THE COURT:   Good afternoon, ladies and  
4                   gentlemen of the jury, and welcome back to the  
5                   courtroom.  I can assure you that the lawyers  
6                   and I have done our level best to get you back  
7                   in here by 1:30.  We were able to resolve a  
8                   couple of matters that should be able, that  
9                   should help us progress more quickly though.

10                   I'm going to ask you to turn your  
11                   attention back to the witness testimony, but  
12                   before I do that I want to simply run through a  
13                   couple of important points of the initial  
14                   instructions I gave you.  As you know, you are  
15                   officers of the court, you remained officers of  
16                   the court over the weekend and you continue to  
17                   be officers of the court, and you'll continue in  
18                   that role until you're formally released from  
19                   the jury.  That means that you have some  
20                   responsibilities.  One of them is that  
21                   throughout the trial you must maintain an open  
22                   mind.  You must not form any firm or fixed  
23                   opinion about any issue in the case until the  
24                   entire case has been submitted to the jury for  
25                   deliberation.

1           And as jurors and officers of the court,  
2           you must not let your emotions overcome your  
3           rational thought process. You must reach your  
4           decision based on the facts that are proved to  
5           the jury and on the law that's given to you and  
6           not on sympathy or prejudice or personal  
7           preference.

8           To assure that all parties receive a fair  
9           trial you must act impartially and with an  
10          earnest desire to reach a just and proper  
11          verdict.

12          And those are the instructions I gave you  
13          in the beginning of the trial, but it's  
14          important to review them now and again so we all  
15          remember the ground rules. Thank you.

16          Mr. Jones, do you, what witness order do  
17          you plan to pursue this afternoon?

18          MR. JONES: Thank you, Your Honor I  
19          believe where we left off on Friday State's  
20          witness Kaela Sze was on the stand, she was  
21          being questioned by Defense counsel. I think  
22          that's where we're at procedurally.

23          THE COURT: All right. And Ms. Sze, is  
24          Ms. Sze present?

25          MR. JONES: Yes.

1 THE COURT: Will you summon her please?

2 MR. JONES: Sure.

3 THE COURT: Good afternoon, Ms. Sze.

4 MS. SZE: Good afternoon.

5 THE COURT: Will you come over to the  
6 witness stand. It's a new day so we'll give you  
7 a new oath. Will you raise your right hand,  
8 please.

9 **KAELA SZE**

10 **Being first duly sworn, testified as follows:**

11 THE COURT: Okay. You're under oath.  
12 Please, be seated.

13 MR. JONES: Okay. Your Honor, I  
14 understand the Defense has no further questions  
15 so I'm going to proceed with redirect.

16 MR. PICULELL: That is correct, Your  
17 Honor.

18 THE COURT: All right. Please proceed,  
19 counsel.

20 REDIRECT EXAMINATION

21 Q. (BY MR. JONES) Okay. Kaela, thank you for  
22 being back here today. So where we left off in the case  
23 on Friday you had told us about multiple events of  
24 sexual contact that occurred while you were living in  
25 Sudden Valley. Do you remember?

1 A. Correct.

2 Q. And you told us that all of those incidents of  
3 sexual contact occurred at the hand of Christopher  
4 Poindexter?

5 A. Correct.

6 Q. You remember seeing him in the courtroom?

7 A. Yes.

8 Q. Do you see him again today?

9 A. I do.

10 Q. All right.

11 Now, just as a way to orient us again, you  
12 testified to 10 or 15 incidents that you recall where  
13 Mr. Poindexter used you and your body for sexual  
14 gratification?

15 A. That is correct.

16 Q. Okay. And you testified that some of those  
17 included kissing with the tongue, but the majority of  
18 them included him moving your body to stimulate against  
19 his penis; is that right?

20 A. That's correct.

21 Q. Okay. Is it true, Kaela, that during all of  
22 those incidents that occurred at the Sudden Valley you  
23 were under the age of 12?

24 A. Yes, that's correct.

25 Q. Okay. And this is a silly question, you're not

1 now or have you ever been married to Mr. Poindexter?

2 A. No, I haven't.

3 Q. And are you more than three years younger than  
4 him?

5 A. Yes.

6 Q. Okay. Now, when you testified you mentioned when  
7 you were questioned by Defense counsel you mentioned  
8 that there was a time when Mr. Poindexter would put his  
9 hand near your vaginal area is what you said?

10 A. Yes.

11 Q. Did he ever put his hand directly actually on  
12 your vaginal --

13 A. It would move around, like including on top of,  
14 so it was all around that general area.

15 Q. All right. Always over the top of the clothes?

16 A. Correct.

17 Q. But touching your vagina through your clothes; is  
18 that correct?

19 A. That is correct.

20 Q. And when he would use you to rub against his  
21 penis, where was his penis touching your body; do you  
22 recall?

23 A. My vaginal area, so my vagina.

24 Q. Okay. Now, you also mentioned a time in your  
25 testimony last Friday where Mr. Poindexter had asked you

1 to change into less clothing; do you recall that?

2 A. Yes.

3 Q. Can you tell the jury about that instance?

4 A. Well, he told me in a nonchalant way, as if it  
5 was hot in the room that we were in, so he suggested  
6 changing into less clothing. And so I had proceeded to  
7 do so because I didn't see the harm in that at that age.  
8 I didn't know why.

9 Q. All right. During the time that you -- is it  
10 true that you don't recall anything happening to you  
11 while you were at the Grove Street address?

12 A. That's correct.

13 Q. Just after you moved to Sudden Valley?

14 A. Uh-huh.

15 Q. In all of these events that you told us about,  
16 did they all occur while you lived, the family lived in  
17 Sudden Valley?

18 A. Yes.

19 Q. Do you ever recall witnessing or seeing anything  
20 happen to your big sister Jacee at the hand of  
21 Mr. Poindexter?

22 A. Never.

23 Q. Okay. Do you recall times when Mr. Poindexter  
24 would be watching tv with Jacee, is that a normal thing?

25 A. Yes.

1 Q. When he was home watching you girls would  
2 watching tv be a normal thing that happened?

3 A. Yes.

4 Q. Okay. And would sometimes that be with both  
5 girls there?

6 A. Uh-huh.

7 Q. Sometimes just you or just your sister?

8 A. That's correct.

9 Q. Okay, okay.

10 MR. JONES: That was brief, but those are  
11 all my questions for you. Thank you.

12 MS. SZE: Thank you.

13 MR. PICULELL: No additional questions  
14 based on that.

15 THE COURT: All right. Thank you,  
16 Ms. Sze. You may step down.

17 MS. SZE: Thank you.

18 THE COURT: Mr. Jones, are you ready to  
19 call the State's next witness?

20 MR. JONES: Yes, Your Honor. The State  
21 calls Crystal Meyers to the stand. I will  
22 retrieve her from the hall.

23 THE COURT: All right. Hello, you're  
24 Ms. Meyers?

25 MS. MEYERS: Yes.

1 THE COURT: Will you stand next to the  
2 witness stand for just a moment, raise your  
3 right hand.

4 **CRYSTAL MEYERS**

5 **Being first duly sworn, testified as follows:**

6 THE COURT: Okay. You're under oath.  
7 Please, be seated.

8 DIRECT EXAMINATION

9 Q. (BY MR. JONES) Thank you, Your Honor.

10 Ms. Meyers, thank you for being here. So can you  
11 start please by stating your name and spelling your last  
12 name so that the court reporter can get that?

13 A. It's Crystal Leah Meyers. M-E-Y-E-R-S.

14 Q. Okay. And, Ms. Meyers, are you the mother to  
15 both Jacee Damien and Kaela Sze that we met?

16 A. Yes.

17 Q. Have those two girls, you're their mother, have  
18 they always lived with you?

19 A. Yes.

20 Q. Can you tell us your, briefly a little bit about  
21 yourself, where have you lived over your adulthood and  
22 kind of what you do for work?

23 A. Okay. My adulthood I've lived between Skagit  
24 County, Whatcom County, Bellingham and then back to  
25 Skagit County, and now I live in the Snohomish area.



1 I'm a registered nurse at Providence Hospital at the  
2 Everett clinic.

3 Q. Okay. How long have you had a job as a  
4 registered nurse?

5 A. Two and a half, almost three years.

6 Q. Okay. That takes some schooling?

7 A. It does.

8 Q. So can you tell us where you went to school?

9 A. Skagit Valley College. I'm currently a student  
10 at the University of Washington.

11 Q. Okay, great. And you work as a nurse currently  
12 at the Providence Hospital, is that what you said?

13 A. Providence in the Everett clinic.

14 Q. What kind of work do you do within the hospital?

15 A. In-patient thoracic vascular.

16 Q. Now, a lot of the events that we heard about in  
17 this trial date back to around 2010, 2011, 2012. Were  
18 you a nurse at that time?

19 A. I was not. I've been in the medical field but I  
20 worked in more like a business office setting.

21 Q. All right. So did you have employment during  
22 that time during 2010, 2011?

23 A. I did.

24 Q. Okay. And let's start, actually let's go back  
25 just a little bit before that starting in 2009. Do you

1 remember kind of what your employment situation looked  
2 like back then?

3 A. I do. I worked for Bellingham Urology.

4 Q. All right. In 2010 also?

5 A. Yes, until 2011.

6 Q. Okay. So most of the events we've heard about in  
7 this trial you would have been working at Bellingham  
8 Urology?

9 A. Correct.

10 Q. Can you tell us about what sort of hours you  
11 worked?

12 A. Usually Monday through Friday, business hours  
13 about eight to five roughly. I don't remember the exact  
14 hours.

15 Q. All right. At that time were you, 2009, 2010,  
16 2011, at that time were you married to Christopher  
17 Poindexter?

18 A. I was.

19 Q. All right. And do you recall what he did, if  
20 anything, for work during these years?

21 A. He was an iron worker.

22 Q. So was it you and him and the two girls that  
23 would have made up the household during that time  
24 period?

25 A. Correct.

1 Q. When you were at work during work hours during  
2 the week who would watch the girls?

3 A. They would usually be in school or with my mom or  
4 they would occasionally go to my uncle's house to visit.

5 Q. Were there times that Mr. Poindexter would watch  
6 the girls at home?

7 A. Yes, if I wasn't home and it was during school if  
8 he was home, or on the weekends if for some reason I had  
9 to work or did something else.

10 Q. Would that have been unusual in any sense that  
11 the girls would have been left home with Mr. Poindexter?

12 A. No.

13 Q. Okay. And did you have any concern during those  
14 years that you shouldn't be leaving the girls with  
15 Mr. Poindexter?

16 A. No.

17 Q. So can you go back for us please and kind of tell  
18 us the timeline of the relationship between yourself and  
19 Mr. Poindexter?

20 A. We met in 2004, were married in 2008, and then  
21 divorced, we legally separated in 2014 and then divorced  
22 officially in 2016.

23 Q. Okay. All right. And at that time you already  
24 had, you came to that relationship with two girls  
25 already that we've met?

1 A. Correct.

2 Q. Where did you initially, in 2004 do you recall  
3 where, when you started a relationship with  
4 Mr. Poindexter, do you recall where you were living or  
5 the family was living?

6 A. We were living in Burlington and then we moved to  
7 Birch Bay.

8 Q. Okay. And then at some point after being in  
9 Birch Bay did the family move into Bellingham at Grove  
10 Street address?

11 A. Correct.

12 Q. All right. And then from there to Sudden Valley?

13 A. Correct.

14 Q. And then from Sudden Valley down to Skagit County  
15 it sounds like?

16 A. Correct.

17 Q. Okay, all right.

18 So what I need to do with you, Ms. Meyers, and  
19 I'm hoping you can help us gather some of the dates and  
20 times that are relevant to this case as to events that  
21 we've heard about.

22 A. Okay.

23 Q. Have you had kind of an opportunity to think back  
24 over the time that we're talking about and think about  
25 certain dates with certain events?

1 A. I did. It took some note taking, I did.

2 Q. Now, you indicated you had taken some notes about  
3 the dates and times. I'm going to hand you --

4 A. Correct.

5 THE CLERK: Plaintiff's Exhibit 15 is  
6 marked.

7 (Plaintiff's Exhibit No. 15 was marked for  
8 identification.)

9 MR. JONES: Your Honor, permission to  
10 approach the witness?

11 THE COURT: You may approach.

12 Q. (BY MR. JONES) All right. So Ms. Meyers, this  
13 is marked as Plaintiff's Exhibit 15.

14 A. Okay.

15 Q. Do you recognize that?

16 A. I do.

17 Q. All right. Are those, well, tell us what it is  
18 please?

19 A. These are the timelines I put together with the  
20 year, the address, the girls' ages, and the grade and  
21 school that they went to.

22 Q. Okay. Now, you're holding Plaintiff's Exhibit  
23 15. I am going to ask you a lot of specific questions  
24 about dates and time. Would that document help you  
25 remember those dates and time sufficient to answer my

1 questions?

2 A. Yes.

3 Q. Okay.

4 MR. JONES: Your Honor, I'm asking  
5 permission that the Court allow Ms. Meyers to  
6 refer to her own notes as we go through my  
7 specific questions here.

8 THE COURT: Does Ms. Meyers have notes?  
9 What notes are you referring to?

10 MR. JONES: She's looking at Plaintiff's  
11 Exhibit 15. Those are marked, she has  
12 identified them as notes she herself took. I  
13 think she has also just testified they would  
14 assist in refreshing her recollection for dates  
15 and time.

16 THE COURT: Any objection, counsel?

17 MR. PICULELL: None.

18 THE COURT: Yes, she may.

19 Q. (BY MR. JONES) Now, Ms. Meyers, I'm hoping we  
20 can do this together, but you mentioned initially you  
21 met Mr. Poindexter and began a relationship with him in  
22 2004; is that right?

23 A. Correct.

24 Q. Okay, okay. And can you tell us, well let's  
25 see --

1 THE COURT: Just a minute here. Ladies  
2 and gentlemen of the jury, can you read that.

3 JURY MEMBERS: Not really.

4 THE COURT: That side?

5 MR. JONES: It's a little fuzzy.

6 THE COURT: Why don't you tell us what  
7 you're writing as you write it. The slide  
8 that's being projected is not, the image is not  
9 very well lit. I'm having trouble seeing it  
10 also, that's why I asked the jury.

11 MR. JONES: I don't know if that...

12 THE COURT: That does improve it a bit  
13 but I think you should still read it out loud.

14 MR. JONES: All right. And I planned to  
15 admit this as evidence and I think the jury  
16 would, in the event Your Honor admits it, the  
17 jury will have it available for them for  
18 deliberations.

19 THE COURT: All right. So the first  
20 entry there is next to the line that says 2004.

21 Q. (BY MR. JONES) 2004. And given your answer,  
22 Ms. Meyers, I wrote together with Mr. Poindexter in  
23 2004; is that accurate?

24 A. Correct.

25 Q. Can you tell us how old your daughter Jacee was

1 in 2004?

2 A. Six, roughly six.

3 Q. All right. So I'm going to include six next to  
4 Jacee. And then how about Kaela, can you tell us how  
5 old she would have been?

6 A. Almost four.

7 Q. All right. I'm going to include four next to  
8 Kaela there. Is that accurate?

9 A. Correct.

10 Q. Okay. And then so the next event is when the  
11 family, so the family lived out of the area then moved  
12 to Birch Bay during this time, and then in what year did  
13 the family move to the Grove Street address in  
14 Bellingham?

15 A. Around 2008.

16 Q. Okay.

17 A. It was 2007-2008.

18 Q. I'm going to write under 2008 Grove Street; is  
19 that accurate?

20 A. Yes, it was between those 2007, 2008.

21 Q. Okay.

22 A. I don't recall the exact date that we moved.

23 Q. All right. And then how old would the girls have  
24 been when the family moved to the Grove Street address?

25 A. Jacee would have been around ten and Kaela around



1 seven.

2 Q. Okay. I'm going to continue on the times that  
3 are relevant to this case. So when did the family move  
4 from the Grove Street address to Sudden Valley, the  
5 Sudden Valley address?

6 A. January or February of 2010.

7 Q. Okay. January 2010?

8 A. Correct.

9 Q. Okay. Can you tell us how old the girls would  
10 have been when the family moved to Sudden Valley?

11 A. About, Jacee would have been about twelve, Kaela  
12 about nine.

13 Q. Okay. All right.

14 All right. And just to be clear here, the family  
15 moved in January 2010, would Jacee have been eleven at  
16 that point?

17 A. Yes, about.

18 Q. And then she would have turned twelve?

19 A. Correct, in August.

20 Q. In August of 2010; is that right?

21 A. Correct, correct.

22 Q. Okay. Is that accurate as far as what we have  
23 been talking about so far?

24 A. Yes.

25 Q. Okay. And then if we can continue a little

1 further along the timeframe here. When did the family  
2 move out of the Sudden Valley address?

3 A. It was 2011. So I do believe November 1st we  
4 moved out, October, end of October beginning of  
5 November.

6 Q. Okay. So November 1st, 2011, you moved from  
7 Sudden Valley?

8 A. Correct.

9 Q. Okay. And can you tell us how old the girls were  
10 at that point?

11 A. Jacee was thirteen and Kaela was ten.

12 Q. Okay. All right. And then ever since that time  
13 that you've moved from Sudden Valley you've resided down  
14 in Skagit Valley, Mt. Vernon, in that area?

15 A. Correct.

16 Q. Okay. And let's go, I do want to ask you a few  
17 questions about these specific dates about what ages the  
18 girls were in school --

19 A. Okay.

20 Q. -- during that timeframe.

21 So in 2008 while the family resided at Grove  
22 Street can you tell us what grades the girls were in  
23 school?

24 A. That September Jacee would have been in fifth  
25 grade at Parkview.

1 Q. Okay.

2 A. And Kaela second grade at Parkview.

3 Q. Second?

4 A. Correct, correct.

5 Q. Okay. And how about in 2010 when the family  
6 moved to Sudden Valley?

7 A. Let's see, 2010 they would have been, I do  
8 believe Jacee was in, I think she was still in the sixth  
9 grade at Whatcom.

10 Q. Okay.

11 A. And Kaela was at Parkview until she switched to  
12 Geneva.

13 Q. Okay. So sixth, seventh grade for Jacee?

14 A. Uh-huh.

15 Q. And then, I'm sorry, what did you say for Kaela?

16 A. For Kaela we moved to Sudden Valley fourth grade,  
17 third and fourth grade. So beginning of the year she  
18 was in third grade then I just don't remember the exact  
19 dates that we switched their schools --

20 Q. Okay.

21 A. -- since we moved, if it was at the end of the  
22 school year or not.

23 Q. All right. Can you tell me what I have on the  
24 projector here --

25 A. Yes.

1 Q. -- does that appear to be accurate as far as ages  
2 of the two girls and what grade they were in at school  
3 at those locations?

4 A. Yes, correct.

5 Q. All right. I'm sorry, what year did you say you  
6 and Mr. Poindexter separated?

7 A. 2014.

8 Q. Okay. What year did you get divorced formally  
9 from Mr. Poindexter?

10 A. 2016.

11 Q. Okay.

12 MR. JONES: Your Honor, I'm going to have  
13 this marked if I could please.

14 THE CLERK: Plaintiff's Exhibit 16 is  
15 marked.

16 (Plaintiff's Exhibit No. 16 was marked for  
17 identification.)

18 MR. JONES: Okay. Your Honor, this has  
19 been marked a Plaintiff's Exhibit No. 16. I'm  
20 going to move to admit it into evidence. I  
21 think it is a reflection of Ms. Meyers'  
22 testimony and concerning these dates and times.

23 THE COURT: Any objection?

24 MR. PICULELL: I do. I think  
25 illustrative only, not substantive.

1 THE COURT: Do you want to respond?

2 MR. JONES: Well, I think it's a document  
3 that was prepared directly with her assistance  
4 in testifying to these dates and times and I  
5 think it reflects accurately as testified by her  
6 the dates and times. I think the jury should  
7 have access to that when they are deciding dates  
8 and times in the deliberation room.

9 THE COURT: Because it was prepared  
10 directly from testimony I'll count the exhibit  
11 as an illustrative exhibit. It will not go into  
12 the jury room with the jurors, but it may be  
13 used in testimony and in argument.

14 MR. JONES: Okay. Thank you, Your Honor.

15 Q. (BY MR. JONES) Okay. And before we leave this  
16 timeline, Ms. Meyers, any other events that you think  
17 are important through these years in reference to the  
18 girls or what addresses you folks lived at?

19 A. Between 2008 and 2011, no.

20 Q. No? Okay.

21 A. That's pretty accurate.

22 Q. All right, thank you.

23 Okay. So let me, let's go back a little bit. I  
24 want to talk about life when the family lived at Sudden  
25 Valley. It sounds like during that time you were

1 working at an office job in a medical office; is that  
2 right?

3 A. Yes.

4 Q. And was your mother residing in the home during  
5 that time too?

6 A. She did, she did. She lived in the downstairs  
7 bedroom.

8 Q. All right. Would she care for the girls at times  
9 also?

10 A. Yes.

11 Q. And then sometimes you would and sometimes  
12 Mr. Poindexter would?

13 A. Uh-huh, correct.

14 Q. Were you aware at that time of any sexual contact  
15 that was happening between Mr. Poindexter and your  
16 girls?

17 A. Absolutely not.

18 Q. Had you been aware of anything what would you  
19 have done about it do you think?

20 A. We would not be here today. This would have  
21 happened a long time ago.

22 Q. All right. So neither Jacee your older daughter  
23 or Kaela ever told you about anything that was  
24 happening?

25 A. No.

1 Q. When was the first time that you became aware  
2 that something had happened to these girls when they  
3 were younger?

4 A. It was the day I called to report it and I can't  
5 remember, I can't recall the exact date that was. It  
6 was, whether -- this has gone on for so long, it was,  
7 whether it was a year ago, a year-and-a-half ago. It  
8 was the very first time I called to report it.

9 Q. Can you tell us what you remember about learning  
10 about this, who told you when?

11 A. Both of the girls actually sat down and told me  
12 together. I don't recall the exact, you know, how it  
13 all came about, I just remember them being very, very  
14 upset and they just said they needed to share something  
15 with me. And that they had not told me sooner because  
16 they were afraid to hurt me, they were afraid, you know,  
17 they didn't want to hurt me, they didn't want me to feel  
18 bad and they were scared.

19 Q. Okay.

20 A. But they did sit down and tell me together.

21 Q. All right. Do you have recollection of how their  
22 demeanor, how they appeared to you emotionally or  
23 otherwise while they were telling you?

24 A. They were distraught, they were both very  
25 emotional, crying, tears. They were very nervous to

1 tell me.

2 Q. All right. And what did, did Jacee do the  
3 talking in that to you or Kaela, do you recall?

4 A. It's very hard to recall. I do believe it may  
5 have been mostly Jacee but I honestly, I don't recall  
6 either. Just knowing my daughters' demeanor, how both  
7 of them are, it was probably more Jacee, but honestly I  
8 don't completely recall.

9 Q. Do you remember what Jacee told you when she told  
10 you what had happened?

11 A. I, vaguely.

12 Q. Okay.

13 A. The general idea was that there was --

14 MR. PICULELL: I object to hearsay, Your  
15 Honor.

16 MR. JONES: Your Honor, I can respond.  
17 The consistency of both girls' statements has  
18 been challenged directly in court by Defense  
19 counsel and so the State's permitted to  
20 introduce prior consistent statements.

21 MR. PICULELL: That are within the same  
22 impeachment document.

23 MR. JONES: There is not that restriction  
24 under the evidence rules, Your Honor.

25 THE COURT: I believe the testimony can



1           be given because it goes to this witness's  
2           understanding of what the situation was.

3                   MR. JONES:   Okay.

4           Q.   (BY MR. JONES)   What did Jacee tell you about  
5           what had happened to her?

6           A.   That there had been instances where if she was  
7           alone with him that there, you know, it was suggested  
8           that she -- and both cases -- go change clothes or go  
9           change into something different other than pants, maybe  
10          shorts.  There was touching, inappropriate touching.  
11          Having her -- and this goes for both -- to sit on his  
12          lap or come lay next to him.  I can't recall exact  
13          instances.

14          Q.   Sure.

15          A.   But that's, that was, you know, the brunt of what  
16          they had told me and it was multiple instances, it  
17          wasn't just one or two times.

18          Q.   Did they tell you where there had, like how long  
19          ago and where this had happened to them?

20          A.   It had started in Grove Street.

21          Q.   Okay.

22          A.   I don't recall, you know, bedrooms or places.  
23          They didn't go into that kind of detail.

24                   Sudden Valley it was like downstairs in the rec  
25          room or, I'm not sure exactly what locations they were

1 in.

2 Q. Okay.

3 A. I waited to get, you know, immediately just  
4 called to report it and then the detectives just did  
5 most of the questioning. I just wanted to make sure I  
6 got a general idea of what they were talking about  
7 before we went further.

8 Q. Had, was this in 2018 when the girls told you  
9 what had happened?

10 A. I do believe it was, yeah, last year. It's hard  
11 to recall exactly which date because so much trying to  
12 keep things in order.

13 Q. Right. But 2018 did Mr. Poindexter have any  
14 access to your daughters at that point?

15 A. He did.

16 Q. Okay.

17 A. He did.

18 Q. In 2018?

19 A. At that time there was, you know, we had shared a  
20 dog together so the dog would go, you know, we would  
21 send the dog over there and the girls would go visit,  
22 but it was not very often any more.

23 Q. Okay. In your mind were you able to now keep the  
24 girls safe from Mr. Poindexter?

25 A. Absolutely.

1 Q. And was that your focus when your girls told you  
2 what happened?

3 A. Absolutely.

4 Q. Did you tell Mr. Poindexter that he was not to  
5 have any access to your girls any more?

6 A. Correct.

7 Q. You did?

8 A. I did.

9 Q. All right. Okay.

10 Now, you separated from Mr. Poindexter back in  
11 2014 and then were divorced in 2016; is that right?

12 A. Correct.

13 Q. Was there any indication from either of your  
14 girls during that timeframe about what he had done to  
15 them?

16 A. No. They were very, they kept it from me. They  
17 wanted to try to keep that semblance of normalcy. They  
18 also didn't know how to tell me. I asked them why, what  
19 took so long? They didn't know. They were scared, they  
20 didn't know how to tell me. They said they didn't know,  
21 either one of them knew about the other's.

22 MR. PICULELL: Your Honor, continuing  
23 objection to the hearsay.

24 THE COURT: Your objection is noted.

25 MR. JONES: Okay.

1 Q. (BY MR. JONES) Ms. Meyers, the Grove Street  
2 address, is that within Whatcom County?

3 A. Correct.

4 Q. Okay. And that's the State of Washington, right?

5 A. Correct.

6 Q. How about the Sudden Valley address, was that  
7 within Whatcom County?

8 A. Correct.

9 Q. Also the State of Washington?

10 A. Correct.

11 Q. Okay.

12 MR. JONES: Okay. That's all the  
13 questions I have for you.

14 MS. MEYERS: Okay.

15 THE COURT: Mr. Piculell?

16 MR. PICULELL: Thank you. I do have a  
17 few questions.

18 CROSS-EXAMINATION

19 Q. (BY MR. PICULELL) Good afternoon, ma'am. When  
20 did Chris Poindexter depart your shared residence, when  
21 was that?

22 A. Around October 2014. I don't recall the exact  
23 date.

24 Q. Okay. Was that the only time that he departed  
25 your shared residence?

1 A. Departed as in?

2 Q. Not live there?

3 A. Permanently or like for an extended period of  
4 time or?

5 Q. Yes, extended period of time. Was he absent for  
6 an extended period of time from 2014 backwards?

7 A. I do believe in 2011 there may have been a week  
8 or two but other than that.

9 Q. Okay. 2011 just a week or two?

10 A. Correct.

11 Q. He didn't live somewhere else with someone else?

12 A. Not that I recall.

13 Q. Okay.

14 MR. JONES: Your Honor, I'm sorry, I have  
15 brief, I hate to do this, a brief matter outside  
16 the presence of the jury.

17 THE COURT: All right. Ladies and  
18 gentlemen of the jury, would you give us a  
19 minute? We would appreciate it.

20 (The jury left the courtroom.)

21 MR. JONES: So I just think, I think we  
22 need some direction from the Court on this issue  
23 of whether Mr. Poindexter went to treatment  
24 because those are direct questions rather than  
25 are being asked by Mr. Piculell of Ms. Meyers if

1 he was gone during 2011. He's referring to the  
2 time Mr. Poindexter went to treatment. And I've  
3 told Ms. Meyers that she can't answer anything  
4 about treatment consistent with the motions in  
5 limine. So I think we're, we need some  
6 direction.

7 MR. PICULELL: Well, if I could be heard  
8 on that. Not answering about treatment is a  
9 different issue. I couched the question did he  
10 leave the house, did he reside elsewhere or did  
11 he reside with anyone else. The prosecutor has  
12 amended the information to reflect these dates.  
13 I think it's appropriate for cross-examination  
14 whether --

15 THE COURT: I agree, I agree it's  
16 appropriate for cross-examination. It's just a  
17 question of how to conduct that  
18 cross-examination in a manner that doesn't  
19 violate the order in limine.

20 MR. PICULELL: Sure. I think I did that  
21 precisely. I said was he living somewhere else.

22 THE COURT: Uh-huh.

23 MR. PICULELL: Was he absent from the  
24 home? Those are yes or no questions. Did he  
25 live with someone else? Those did not ask

1           questions that would cause the witness to  
2           indicate no, he's in treatment.

3                       THE COURT:   Is it workable for the  
4           parties and witnesses to instead of talking  
5           about Mr. Poindexter being in treatment or in  
6           rehabilitation for the parties to say that he  
7           was absent for some medical care, would that be  
8           workable?

9                       MR. JONES:   Well, we'll sanitize it in  
10          whatever way the Court sees fit.  I think it's  
11          going to be asserted, as to some extent, an  
12          alibi for the charging period.  It should be  
13          discussed where he was and why he left the home.  
14          I think Ms. Meyers should be free to answer  
15          those questions about when he was out of the  
16          home or for what.  That's my position.

17                      I mean that is reality here.  We're  
18          specifically asking her about that timeframe and  
19          her memory about that timeframe.  I don't think  
20          we need to sanitize it.

21                      THE COURT:   I'm getting concerned that  
22          the testimony needs to be precise and I don't,  
23          if there is going to be a question about the  
24          dates, and from counsel's remarks I'm inferring  
25          that there may well be a question about the

1           dates, then I want the testimony to be as clear  
2           as possible.

3                       I'm not to the point where I think it's  
4           necessary to refer to the reason for the absence  
5           as rehabilitation or drug treatment. I think an  
6           absence for medical reasons is sufficient at  
7           this point. If that interferes with the  
8           ultimate goal, which is the accurate reporting  
9           of dates, then I'll revisit the issue. But at  
10          this point I think if you refer to his absence,  
11          to the extent there is a reason for his absence  
12          testified to, if it's simply testified to as  
13          when he was out of home for medical treatment.

14                      MR. JONES: Do you have any questions  
15          about that, Ms. Meyers?

16                      MS. MEYERS: No, I was just under the  
17          impression living elsewhere like a permanent  
18          residence. It was temporary so that wasn't  
19          clear for me.

20                      THE COURT: Okay. And I think part of  
21          the reason it wasn't clear was that there was no  
22          reference to treatment and that's consistent  
23          with what the Court ordered. Now you understand  
24          the question?

25                      MS. MEYERS: Yes, I do.



1 THE COURT: Okay. I think we're set to  
2 proceed. Do the parties agree?

3 MR. JONES: Yeah. Thank you, Your Honor.

4 MR. PICULELL: Thank you.

5 (The jury was seated.)

6 THE COURT: Thank you, ladies and  
7 gentlemen of the jury. Would you continue,  
8 please.

9 MR. PICULELL: Thank you.

10 Q. (BY MR. PICULELL) And, ma'am, maybe just a  
11 followup to that. Do you have any recollection of  
12 whether Chris was gone from the house for medical  
13 treatment?

14 A. Yes.

15 Q. Okay. And what's your recollection of that?

16 A. It was I do believe approximately three weeks in  
17 October of 2011.

18 Q. In October of 2011? Okay. Any other periods of  
19 time for medical treatment that you recall?

20 A. No.

21 Q. Okay. Now, you participated in an interview  
22 setting with a detective interviewing one of your  
23 daughters, correct?

24 A. Correct.

25 Q. Who was that?

1 A. Detective Francis.

2 Q. Okay. And which -- Detective Francis?

3 A. I do believe it was Detective Francis.

4 Q. Okay. Could it have been another detective?

5 A. There were two detectives there and I can't  
6 recall the other detective's name.

7 Q. Okay. And which daughter?

8 A. Kaela.

9 Q. Okay.

10 A. But I can't recall which detective it was.  
11 Detective Francis is more familiar to me.

12 Q. Okay, sure.

13 And that interview of your daughter, that was  
14 recorded, correct?

15 A. Correct.

16 Q. Okay. So you sat in the interview, the recorded  
17 interview with that detective interviewing your daughter  
18 concerning the alleged events, correct?

19 A. Correct.

20 Q. And you participated in that interview with some  
21 responses, do you recall?

22 A. I do.

23 Q. Okay. So you answered some questions for the  
24 detective in that interview you think?

25 A. Yes.

1 Q. Okay. And so you heard what Kaela was indicating  
2 to the detective the allegation was, correct?

3 A. Correct.

4 Q. Okay. And prior to the interview did the  
5 detective talk to you and Kaela, with you present and  
6 Kaela, about the alleged events before starting the  
7 recording?

8 A. I don't believe so.

9 Q. You don't believe so. Just turned on the  
10 recorder?

11 A. Correct. He did let us know that this was going  
12 to be recorded.

13 Q. Okay.

14 A. But I don't recall much conversation about it  
15 prior to.

16 Q. Okay.

17 A. Yeah.

18 Q. Okay. And were you present in the interview of  
19 your other daughter?

20 A. No.

21 Q. Okay. Just with Kaela?

22 A. Correct. They were simultaneous.

23 Q. Okay. And they were occurring simultaneous?

24 A. Correct.

25 Q. Okay. And you indicated as well that your mother

1 lived at the residence?

2 A. Correct.

3 Q. Okay. Now, which residence did she live at?

4 A. Grove Street and Sudden Valley.

5 Q. Okay. And so over what periods of time was your  
6 mother there?

7 A. Oh, goodness, I don't recall the exact year that  
8 she moved into the Grove Street address. Approximately  
9 2009, but I'm not, I can't recall for sure.

10 And then I do believe she moved out of the Sudden  
11 Valley address beginning of 2011.

12 Q. Okay. So you think she lived there in calendar  
13 year '09, calendar year '10, and calendar year '11?

14 A. Approximately.

15 Q. And what was your mother's age during that time  
16 period, approximately?

17 A. Let's see, I have to do math, 50's. 50's.

18 Q. Okay. And was she employed at the time or was  
19 she there to assist with childcare?

20 A. I don't believe she was employed. She assisted  
21 with the childcare with the kids. I don't recall her  
22 being employed.

23 Q. Okay. And was she, did she have her own car?  
24 Would she come and go, would she stay at the house  
25 unless she left with somebody else?

1           A. I can't recall if she had her own car. I  
2 honestly don't recall.

3           She did, my apologies, she did. She had a truck.

4           Q. She had a vehicle?

5           A. Yes.

6           Q. Okay. And so the girls were going to, enrolled  
7 at school at this period of time?

8           A. Correct.

9           Q. Okay. And they were not home schooled during  
10 that period of time?

11          A. No.

12          Q. Okay. Now, what did your ex-husband do for  
13 employment? I think you said he was an iron worker?

14          A. Correct.

15          Q. And what were his, what's your recollection of  
16 his general work schedule?

17          A. Typically Monday through Friday from very early  
18 like 6 or 7 a.m. until 3 to 5 p.m. roughly. It was  
19 usually Seattle, between Bellingham and Seattle.

20          Q. Okay. So what time would he generally get home?

21          A. Between, any time between five and seven roughly.

22          Q. Okay. Did he, did he commute with other workers  
23 or co-workers or colleagues?

24          A. I do believe he did carpool quite a bit. There  
25 were times he would drive by himself.

1 Q. Okay. Generally what time would he get home  
2 during that time period?

3 A. Usually about the same unless they had stopped  
4 somewhere, about between five and seven. I don't  
5 specifically recall.

6 Q. Okay. And when would you normally get home in  
7 terms of the normal rhythm of the household, when would  
8 you normally get home?

9 A. Usually around 5, 5:30 roughly.

10 Q. Okay. Just in the terms of the normal rhythm,  
11 were you generally home before your ex-husband?

12 A. Not, not every day, no. There were times if he  
13 either didn't work for some reason that day, didn't have  
14 to work or if he got off earlier than normal depending  
15 on the job.

16 Q. Sure. And I didn't say that there weren't  
17 exceptions, I said in general. The normal rhythm would  
18 be you arrive home before him during this time span,  
19 this time period?

20 A. I'm trying to recall. I honestly don't recall.

21 Q. Okay. Was your mother there to greet the  
22 children when they came home, was that the normal  
23 rhythm?

24 A. For the most part, yeah.

25 Q. That was normal routine?

1 A. Uh-huh.

2 Q. I'm sorry, yes or no?

3 A. Yes.

4 Q. Okay. Anyone else in the residence?

5 A. No, not that lived with us.

6 Q. Okay. Do you recall if you told the detectives  
7 that there was a resident of the household other than  
8 yourself, your two daughters, and Chris Poindexter?

9 A. I don't believe I included my mom when we, during  
10 that interview. I don't believe so.

11 Q. Okay. Or at any time, not just during that  
12 interview, but at any time --

13 A. No, I don't believe so.

14 Q. Okay. Did detective, either detective, Detective  
15 Francis or the other detective, did either one ask to  
16 come see you, have you accompany them to the particular  
17 residence where this is alleged to have occurred?

18 A. Huh-uh.

19 Q. Okay. And you were at the time that you were  
20 interviewed along with Kaela, you were residing at what  
21 location?

22 A. On East Wind Street in Mt. Vernon.

23 Q. Okay. And did any of the detectives ask you to  
24 provide photographs or images of any of these  
25 households?

1 A. I don't recall.

2 Q. Okay. Have you provided any images that you  
3 recall to any law enforcement or anybody associated with  
4 the case?

5 A. The only images I think that I provided were the  
6 pictures of Jacee and Kaela.

7 Q. Their personal images?

8 A. Their photographs.

9 Q. Seated somewhere?

10 A. Correct.

11 Q. But not of the particular residences?

12 A. I don't, I don't recall sending or giving or  
13 providing any images.

14 Q. Okay. Did the detective to your personal  
15 knowledge ever ask for any digital device, cell phone or  
16 iPad or android or anything like that, ask you to  
17 produce that for investigative purposes?

18 A. To actually provide it to give to them to take?

19 Q. Yes, ma'am.

20 A. No.

21 Q. Okay. How about a request to access to any other  
22 platform or application, for instance Facebook or  
23 Instagram or anything like that?

24 A. Not from me personally, no.

25 Q. Okay. Now, were you involved in providing any



1 screenshot images from any digital device or any other  
2 digital artifact to the detective?

3 A. Yes.

4 Q. Okay. And tell me how that occurred?

5 A. I sent a, I provided a screenshot of text  
6 messages just stating a conversation between Chris and I  
7 regarding what had just transpired, what I just found  
8 out as far as the allegations asking --

9 Q. Let me scope that question a little bit better.  
10 Did you provide any information concerning a  
11 conversation between either of your daughters and Chris?

12 A. I can't recall if I provided that or if Jacee  
13 provided that herself.

14 Q. Okay. But you have some knowledge that some  
15 information was provided?

16 A. I do, I do.

17 Q. Okay. I am sorry, I got distracted a bit there  
18 trying to think of the next question.

19 When did your mother depart your shared  
20 residence?

21 A. I believe beginning of 2011.

22 Q. 2011? Okay.

23 A. It was either the beginning or summer-ish.

24 Q. Okay.

25 MR. PICULELL: Thank you, ma'am. Thank

1           you, Your Honor.

2                   THE COURT: Thank you, counsel.

3                   Mr. Jones?

4                   MR. JONES: Thank you, Your Honor.

5                                   REDIRECT EXAMINATION

6           Q.    (BY MR. JONES) If your mother moved out in the  
7 beginning of 2011, does that mean she was not residing  
8 there from that date all the way to November 2011 when  
9 the family moved out?

10          A.    Correct, she was in North Carolina.

11          Q.    All right. So for would you say the bulk of 2011  
12 it was just the four of you at the house; you,  
13 Mr. Poindexter, and the girls?

14          A.    Correct.

15          Q.    Okay. All right. With the exception of these,  
16 what, you said three weeks in October when he was  
17 residing somewhere else for medical treatment?

18          A.    Correct.

19          Q.    Okay, all right.

20                Now, the Defense lawyer asked you about you being  
21 present during the interview with your daughter. Do you  
22 remember why you kind of stayed around and were with her  
23 during that time when she was being interview?

24          A.    Because Kaela asked me, both girls asked me to be  
25 present, I could only be present with one. So Kaela had

1 asked me if I would sit with her.

2 Q. Okay. Do you know why she wanted you with her  
3 during that time?

4 A. Because she was scared.

5 Q. Had any of the girls met these particular police  
6 detectives that were there to interview them?

7 A. No.

8 Q. Did the girls appear to you that they wanted to  
9 have to sit down and talk with the detectives?

10 A. No.

11 Q. Okay. How have they been during the trial, the  
12 girls?

13 MR. PICULELL: Your Honor, I object to  
14 that. Relevance.

15 THE COURT: What's the relevance,  
16 counsel?

17 MR. JONES: Your Honor, I think it's  
18 relevant to their willingness or desire to make  
19 up an allegation.

20 MR. PICULELL: Your Honor, objection to  
21 that comment by the prosecutor regarding  
22 credibility of the alleged victim.

23 THE COURT: I'll permit the question as  
24 to the state of mind of the girls during the  
25 trial period.

1 Q. (BY MR. JONES) Thank you.

2 How have the girls been doing during the course  
3 of this trial?

4 A. Outside of coming to meetings and the trial, they  
5 are moving forward. When it comes to anything to do  
6 with the trial they do start to become anxious because  
7 they don't want to be here.

8 Q. Okay. Has that been clear to you as their  
9 mother?

10 A. Absolutely.

11 Q. All right.

12 A. They don't want to have to be here. They don't  
13 want to have to go through this.

14 MR. PICULELL: Your Honor, I object to  
15 all of this testimony for the record.

16 THE COURT: And your objection is noted.

17 Q. (BY MR. JONES) The Defense counsel asked you  
18 some questions about taking photographs of the house.  
19 When you sat in on the interview that Kaela gave, was  
20 there any question in your mind about where these events  
21 occurred?

22 A. No, they were, she was able to indicate the Grove  
23 Street house and Sudden Valley house.

24 Q. Any question in your mind about who had done this  
25 to your daughters?

1 A. No.

2 Q. Okay. And then just finally, Ms. Meyers, about  
3 the work schedule. It seems like you had some, you were  
4 trying to think back about how the house regularly  
5 worked during this timeframe, but is it accurate to say  
6 it doesn't sound like either you and Mr. Poindexter were  
7 home before the other more often or regularly?

8 A. Nothing significant. I can't recall who was home  
9 first on a more regular basis because I had a more  
10 regular schedule and his varied.

11 Q. Okay. Would there be some days he wouldn't have  
12 to work at all?

13 A. It wasn't the norm, but yes.

14 Q. Were there, looking back at that period, I know  
15 we're about eight or nine years ago now, but were there  
16 times when Mr. Poindexter was home alone with those two  
17 girls?

18 A. Yes.

19 Q. Okay.

20 MR. JONES: No further questions, Your  
21 Honor.

22 MR. PICULELL: Nor I, thank you.

23 THE COURT: All right. You may step  
24 down, Ms. Meyers. Thank you.

25 Ladies and gentlemen of the jury, we'll

1 take our afternoon break at this point. We'll  
2 be in recess for 15 minutes.

3 (The jury left the courtroom.)

4 THE COURT: Just briefly, counsel,  
5 witness order? The State's next witness will  
6 be?

7 MR. JONES: Detective Francis.

8 THE COURT: And any further witness after  
9 the detective?

10 MR. JONES: I plan at this time to call  
11 Detective Roff, Steve Roff next. Those are the  
12 remaining two witnesses I have and they should,  
13 I should be done easily by the end of day, Your  
14 Honor. I would think maybe 30 minutes of  
15 testimony from each detective and that's all.

16 THE COURT: All right. All right.

17 And then at this point, Mr. Picullel, are  
18 you planning any testimony other than that of  
19 Mr. Poindexter?

20 MR. PICULELL: Other, I need to talk to  
21 him about the dates currently, it's just  
22 Mr. Poindexter.

23 THE COURT: All right. A couple of  
24 jurors have expressed concern, but as I think I  
25 told you earlier one juror has a conflict

1 Wednesday morning and it's a conflict that may  
2 or may not be resolvable other than having the  
3 juror in attendance, but I think we're moving  
4 along well enough at this point that no action  
5 is needed from the Court. All right. Thank  
6 you, we'll see you after the break.

7 (Brief break off the record.)

8 (The jury was seated.)

9 THE COURT: Would you call the State's  
10 next witness please, Mr. Jones?

11 MR. JONES: Yes, thank you. Your Honor,  
12 the State calls Detective Eric Francis.

13 THE COURT: Good afternoon, detective.

14 DETECTIVE FRANCIS: Hello.

15 THE COURT: Will you stand next to the  
16 witness stand and raise your right hand, please.

17 **DETECTIVE ERIC FRANCIS**

18 **Being first duly sworn, testified as follows:**

19 THE COURT: Okay. You're under oath.  
20 Please, be seated.

21 MR. JONES: Okay, thank you, Your Honor.

22 DIRECT EXAMINATION

23 Q. (BY MR. JONES) State your full name for us,  
24 please, detective?

25 A. My name is Eric Francis.

1 Q. And spell your last name?

2 A. F-R-A-N-C-I-S.

3 Q. Are you a detective at the Whatcom County  
4 Sheriffs Office?

5 A. I am.

6 Q. How long have you had that job?

7 A. I've been employed since March of 1995. I've  
8 been a major crimes detective since January of 2013.

9 Q. Okay. So for the last, I guess, almost six years  
10 now you've been a detective in the major crimes division  
11 at the Whatcom County Sheriffs Office?

12 A. Correct.

13 Q. Can you tell us generally what your day looks  
14 like with that sort of assignment?

15 A. Typical day is interviews, I do a lot of child  
16 interviews or teenage interviews, adult interviews, but  
17 typically I work sex crimes. I'm on call usually six to  
18 ten weeks out of the year so when something comes in  
19 while I'm on call and I'll handle just about anything  
20 coming in off of patrol typically.

21 Q. Okay. How about, detective, your training to  
22 hold such a position in the sheriff's office, can you  
23 tell us a little bit about your training?

24 A. Overall training?

25 Q. Yeah, start at the beginning. Is there training



1 that's required to become a sheriff deputy in the first  
2 instance?

3 A. There is. There is basic law enforcement  
4 training academy, when I was hired three months, it's  
5 now six. I've held a lot different positions with the  
6 sheriff's office. I was a field training officer which  
7 was a week's training. I was crime scene, which is  
8 another week's training. I was a drug detective for  
9 seven years, I went to numerous trainings for that. I  
10 was a SWAT member for ten years, I had constant training  
11 for that monthly as well as annual training.

12 Q. Okay. And how about any trainings that's  
13 specific to child sex investigations?

14 A. I've been to two weeks of interview training both  
15 child interview training and then training as far as  
16 interviewing and dealing with victims of sex offenses.

17 Q. All right. And if you could, could you explain  
18 to the jury just in a general sense how a case might  
19 come into the sheriff's office and then be assigned to  
20 yourself as the detective?

21 A. Yeah. Typically, as was the case with Jacee and  
22 Kaela, there was a CPS referral. It started with  
23 Crystal who made a report to CPS, she also reported to  
24 Bellingham Police, she reported to Snohomish County  
25 Sheriff's Office, so there were actually three different

1 reports that I first had access to. That's atypical in  
2 the sense there is usually not that many, but Crystal  
3 wanted to make sure this was reported and handled the  
4 right way so that's why there were so many different  
5 agencies. When all told, there were four different  
6 agencies that had reports in this.

7 So typically I, there's a report that comes in  
8 from CPS, it's a referral, which was the case in this  
9 investigation. I view that, and typically we set up  
10 interviews from there.

11 Q. Do you recall when the referral or these  
12 different reports reached your desk?

13 A. I believe it was assigned to me February 15 of  
14 2018.

15 Q. All right. So about, well, getting close to two  
16 years ago now; does that sound right?

17 A. Correct, almost two years.

18 Q. So would you just, have just showed up to work on  
19 this particular day February and this would be a new  
20 case that's assigned to you?

21 A. Yes, typically I have a sergeant, a lieutenant,  
22 and chief that oversees our unit. Typically the  
23 sergeant will look at the referrals that come in  
24 overnight or during the day and typically it's first of  
25 morning we'll have referrals that he'll hand out. And I

1 don't recall exactly how I got this one, but that's  
2 typical.

3 Q. All right. So in a case like this where you  
4 become aware of a report that's been made to CPS and  
5 other agencies, do you recall what the first thing you  
6 did upon receiving the referral was in this case?

7 A. I read all the reports, again, there were three  
8 different reports from CPS, Bellingham Police and  
9 Snohomish County Sheriffs Office. I read the reports  
10 then I called Crystal and made arrangements to do  
11 interviews with her daughters.

12 Q. And is that a typical way you would approach an  
13 investigation like this?

14 A. That's typical, yes.

15 Q. Do you recall having a conversation with Crystal?

16 A. Vaguely over the phone, yes.

17 Q. All right. And was there, was there in this case  
18 ever a question of kind of where the acts occurred as  
19 far as what agency would have jurisdiction or have the  
20 lead in the investigation?

21 A. Not necessarily. I believe the only reason that  
22 Snohomish County was involved was because Mr. Poindexter  
23 lives in Snohomish County.

24 Q. All right.

25 A. And then Bellingham Police took a report because

1 Grove Street is within their city limits because of  
2 Sudden Valley being outside the city limits and in the  
3 county it's sheriff's office jurisdiction. However,  
4 it's not uncommon for, I've had several instances where  
5 I've had a case that takes place in the county as well  
6 as the city and I just assume the whole jurisdiction  
7 instead of having two agencies re-interviewing children  
8 and whatnot.

9 Q. All right. So in this case was the decision made  
10 it sounds like by you to investigate both the city of  
11 Bellingham address on Grove Street and the Sudden Valley  
12 address outside of the city?

13 A. That's correct.

14 Q. Okay. Please tell us about setting, or having  
15 the conversation with Ms. Meyers setting up the time to  
16 go visit the girls. Can you walk us through what  
17 happened there?

18 A. Yes. I believe the date was February 21st, 2018,  
19 so about 6 days later, which isn't uncommon. Usually we  
20 try to get the interviews done as soon as we can but it  
21 all depends on people's schedules and lives and whatnot.  
22 So I recall meeting her first, talking to her at the  
23 home while Jacee and Kaela I believe were in their  
24 bedrooms.

25 Q. Okay. Do you have, from reading a report did you

1 have a general sense of what had occurred in this case  
2 or what the allegations were about what had occurred?

3 A. Yes.

4 Q. Can you tell us what you understood kind of going  
5 in to meet the girls?

6 A. That there had been some inappropriate touching  
7 to both Jacee and Kaela by Mr. Poindexter, very similar  
8 to what both girls testified to.

9 Q. All right. So did you travel to the house where  
10 the girls were living on that date with their mom?

11 A. Yes. Detective Roff and I drove down to Mount  
12 Vernon and met Crystal and the girls at their apartment.

13 Q. All right. And explain, I think we're going to  
14 meet Detective Roff here in a minute, but was he working  
15 with you as a partner on this, can you explain that to  
16 us?

17 A. Yes. We don't necessarily have partners, but  
18 typically, I believe what happened in this instance was  
19 he knew that there was another individual to interview  
20 so he asked me if I needed some help. I said that would  
21 be great. So that was one of the reasons why he went  
22 with me.

23 Q. All right. So you and Detective Roff traveled to  
24 Mt. Vernon together and meet with Crystal and the girls?

25 A. Correct.

1 Q. Do you recall anything about your initial  
2 impression or meeting of Crystal and the girls?

3 A. No, I think they all presented pretty accurately  
4 with the way they testified.

5 MR. PICULELL: Your Honor, I object to  
6 that testimony. He's asserting his opinion  
7 about their credibility.

8 MR. JONES: Your Honor, I think Detective  
9 Francis was just trying to characterize how they  
10 appeared to him with a frame of reference  
11 consistent with how they appeared in court.

12 MR. PICULELL: He's not comparing the  
13 testimony and the report.

14 THE COURT: The objection is overruled  
15 but I will ask you to move on, Mr. Jones.

16 MR. JONES: Sure.

17 Q. (BY MR. JONES) Do you remember anything in  
18 particular about either of Crystal or the girls'  
19 demeanor when you first met them going to do the  
20 interviews?

21 A. Yes.

22 Q. Okay.

23 A. Crystal was pretty matter of fact, she was  
24 concerned, they, she seemed a little stressed. Jacee  
25 seemed much more, more subdued I guess. She came

1 across, again, a little more matter-of-factly, excuse  
2 me, a little more matter of fact as opposed to her  
3 sister Kaela who was, definitely appeared to me to be  
4 more emotional.

5 Q. Okay. Did you attribute that to just differences  
6 in their personalities?

7 A. I think so.

8 Q. Okay. So Crystal, the mother, Ms. Meyers and  
9 Jacee a little more subdued, then Kaela a little more  
10 emotional, that's how you remember them appearing?

11 A. Correct.

12 Q. Okay. Tell us what happened once you arrived  
13 there to conduct the interviews?

14 A. I don't remember specifically. I know that I  
15 spoke with, Detective Roff and I spoke with Crystal and  
16 kind of gave her an idea of what was going to happen.  
17 We had already talked on the phone but just reassured  
18 her we were there to talk to her daughters and we  
19 weren't going to be taking a whole lot of their day.  
20 She had schedules with school as I recall and just gave  
21 her a framework of what we were going to be doing, how  
22 long we were going to be there. They were all willing  
23 to assist.

24 Q. Okay. Was there a discussion made between in  
25 what manner both girls would be interviewed, who would

1 do what piece between you and Detective Roff?

2 A. I don't recall exactly why we chose one versus  
3 the other, but I think it just, I believe I was talking  
4 to Jacee first just introductions and whatnot. It was  
5 just decided that I would speak with her up in her  
6 bedroom and then I believe Detective Roff might have  
7 stayed down in the living room with Crystal.

8 Q. Okay. All right. So is that what happened then,  
9 you conducted an interview with Jacee and Detective Roff  
10 conducted an interview with Kaela?

11 A. That's correct.

12 Q. Do you recall about how long your interview was  
13 with Jacee?

14 A. I think mine was a little over 30 minutes. I  
15 believe Detective Roff's may have been a little bit  
16 longer.

17 Q. Was it just you speaking with Jacee directly just  
18 the two of you?

19 A. Correct.

20 Q. Did she have any trouble in your recollection of  
21 that interview kind of telling you what had happened to  
22 her when she was a little girl?

23 A. No.

24 Q. Okay. And was she able to relate to you the  
25 events that she told this jury too, about on Grove



1 Street and at Sudden Valley?

2 A. Correct.

3 Q. Okay. Were you able to ask any kind of followup  
4 questions you had of her?

5 A. I was.

6 Q. All right. Okay.

7 So during that, is it true that during that  
8 interview Jacee mentioned kind of talking to her sister  
9 about what had happened to her?

10 A. I'm sorry?

11 Q. During the interview did Jacee tell you that she  
12 had previously told her sister Kaela what had happened  
13 to her in the home?

14 A. Yes.

15 Q. And that Kaela had reciprocated and told Jacee  
16 what had happened to her?

17 A. That's correct.

18 Q. Okay. Did Jacee also tell you she had told a  
19 boyfriend of hers about what had happened?

20 A. Yes.

21 Q. Okay. Did you make a decision to -- tell us  
22 about the process of deciding kind of what followup, if  
23 any, needs to be done after you did an interview like  
24 this?

25 A. Well, she had mentioned a boyfriend and she only

1 gave me his first name, Junior, and it was pretty clear  
2 to me that she did not want me, I felt like she did not  
3 want me to talk to him.

4 Q. Okay.

5 A. So from what I recall there had been a breakup  
6 and I believe it was a result of him finding out about  
7 some Facebook messaging and text messaging that was  
8 shown earlier and he was upset and expected her to do  
9 something about it. And she was, from what I recall,  
10 reluctant to do anything about it, but he had continued  
11 to talk to her and influence her to. I had asked for  
12 his name, that was the name I was given. I later asked  
13 Crystal and she related to me that Junior was not going  
14 to cooperate with the investigation, which is not  
15 uncommon.

16 Q. All right. I want to talk about that a bit.  
17 When people are relating to you, detective, kind of very  
18 personal, sometimes embarrassing things that happen in  
19 their lives, is it uncommon they don't want you to kind  
20 of talk to other people in their lives about it?

21 A. It's not uncommon at all.

22 Q. Okay. Is that kind of the sense of what you were  
23 getting here from Jacee concerning Junior her boyfriend?

24 A. That's correct.

25 Q. Okay, all right.

1           Did you feel like you had sufficient opportunity  
2           though to question Jacee about everything that happened  
3           to her?

4           A.    I did.

5           Q.    All right.  And did Jacee allow you to record the  
6           interview as well?

7           A.    She did.

8           Q.    After you were done speaking with Jacee, did you  
9           speak directly to Kaela or not?

10          A.    I spoke with her briefly, but it wasn't about the  
11          investigation, it was just, again, kind of reassurance  
12          that Detective Roff and I were going to be available if  
13          they had any questions, we gave them contact  
14          information, and I think because of under the  
15          circumstances and stress and the unknowns for them, we  
16          just wanted them to feel comfortable especially talking  
17          to two complete strangers.  So it was more related to  
18          that conversation with her.

19          Q.    Okay.  Since the time of the interview have you  
20          been able to confirm the existence of the two locations  
21          that the girls talked about the molestation happening to  
22          them at?

23          A.    Yes.

24          Q.    So were you personally been able to go to the  
25          address on Grove Street?

1 A. I have.

2 Q. And you were the one that photographed that  
3 address; is that right?

4 A. That's correct.

5 Q. And how about you personally going to that  
6 address in Sudden Valley, did you do that?

7 A. Yes.

8 Q. Okay. And were you able to photograph that  
9 address also?

10 A. Yes.

11 Q. Are both those locations within the State of  
12 Washington?

13 A. They are.

14 Q. Okay. All right.

15 And following your investigation, your interview  
16 with the girls, detective, did you make a decision to  
17 arrest Mr. Poindexter?

18 A. I did.

19 Q. Okay. And did you accomplish that arrest?

20 A. I did.

21 Q. All right.

22 MR. JONES: Thank you, Your Honor. No  
23 further questions for the detective.

24 THE COURT: Mr. Piculell?

25 MR. PICULELL: I think I do have a couple

1 of questions.

2 CROSS-EXAMINATION

3 Q. (BY MR. PICULELL) Good afternoon, detective.

4 A. Hello.

5 Q. When you indicated to the prosecutor that you had  
6 training as part of your current assignment, you had two  
7 weeks of training concerning interviews of child,  
8 alleged child victims; is that correct?

9 A. That's correct.

10 Q. Okay. And do you have any certification in  
11 child, well, actually let me ask this; does Whatcom  
12 County have a child interview specialist?

13 A. They do.

14 Q. And tell me about that position or that person?

15 A. There is a CAC, a children's advocacy center, in  
16 Whatcom County, it's called Brigid Collins House, it's  
17 typically where children, there is adults that go there  
18 as well, but typically children under the age of 12 will  
19 go to the CAC and be interviewed. They have a couple of  
20 interviewers there.

21 Our protocol, informal protocol has changed in  
22 the last few years. We used to do most of the child  
23 interviews but now they're almost exclusively done by  
24 Brigid Collins.

25 Q. Okay. So have you attended or been an

1 investigating officer in attendance at any of those  
2 interviews?

3 A. Yes.

4 Q. Okay. And so what is the protocol for engaging  
5 the child interview specialist?

6 A. Again, typically under the age of 13 the CAC will  
7 be involved. But to give you an example, if there is a  
8 report right now that came in to 911 and there is a 14  
9 year old teen-ager who is reporting a crime, a lot of  
10 times the deputy will take that investigation and do  
11 that interview. Sometimes detectives are called out.

12 Q. Okay. So is it just the protocol, to clarify,  
13 the protocol is just aged-based or aged-based at the  
14 time of the allegation?

15 A. It's age-based. So children under the age of 13  
16 there is certain guidelines, there is a certain style of  
17 interview if you will that needs to be conducted with  
18 children under the age of 13.

19 Q. Okay. Are those interviews audio and video  
20 imaged?

21 A. They are.

22 Q. Recorded?

23 A. Typically they are.

24 Q. Okay. In terms of your training you have a  
25 certification in terms of interview of sexual assault

1 unit cases?

2 A. That's correct.

3 Q. Okay. And that consists on two weeks of  
4 training, correct?

5 A. Two separate trainings, two separate weeks.

6 Q. Okay. So how many SEU, sexual assault unit,  
7 cases have you investigated in your career do you think?

8 A. This is my 7th year, I would say it's probably 70  
9 percent of my workload, so this is just a rough guess,  
10 300, 400.

11 Q. Okay. And as part of that experience do you  
12 generally conduct an interview prior to recording any  
13 alleged victim as part of that process?

14 A. Interview prior to the recording?

15 Q. Yes. Or do you walk up to that person and say  
16 I'm going to take your statement and turn on the  
17 recorder, or do you interview the person about the  
18 alleged events?

19 A. There is typically an interview process. There  
20 has got to be like a meet and greet process, it's not  
21 just a formal, sit down and ask if they are giving  
22 consent for recording. There is more of a period to  
23 make sure that we get to know each other a little bit  
24 before we go right into the recording.

25 Q. Okay. And do you take notes of that initial meet

1 and greet of what the alleged victim is telling you?

2 A. Yes, I typically take notes.

3 Q. Okay. And did you take notes in this particular  
4 case?

5 A. I'm sure that I did.

6 Q. Okay. What did you do with those notes?

7 A. I destroyed them.

8 Q. Okay. So is there protocol for destruction of  
9 your notes?

10 A. It's what I was told when I was in the police  
11 academy almost 25 years ago when you're finished with  
12 your investigation and you have notes to destroy those.

13 Q. Okay. But isn't that the first information that  
14 you're taking down of an investigation in a criminal  
15 case?

16 A. Yeah, well, you take notes throughout. I do.

17 Q. Okay. And so it's the first thing that a person  
18 is telling you, correct?

19 A. Yes.

20 Q. Okay. And then you're destroying them?

21 A. When the investigation is complete and I've  
22 submitted my report to the prosecutor, then I destroy  
23 all my notes.

24 Q. The investigation is complete when you submit  
25 your report to the prosecutor?



1           A.  It's not always complete, that's when the initial  
2 part is complete and the reports have been filed,  
3 submitted to my segregant, which usually goes to the  
4 lieutenant, and usually makes its way up to the  
5 prosecutor's office.

6           Q.  Did you image -- I understand you destroyed those  
7 notes, did you image them and save them in any sort of  
8 file format, Pdf or otherwise?

9           A.  I did not.

10          Q.  Okay.  So you recorded the interview.  Now, there  
11 is different, just in general as far as your experience,  
12 there is different types of potential evidence in a  
13 criminal investigation, correct?

14          A.  That's correct.

15          Q.  Physical evidence, and what somebody says,  
16 testimonial evidence, correct?

17          A.  Correct.

18          Q.  So integrity of evidence is a paramount concern  
19 in terms of investigation, correct?

20          A.  That's correct.

21          Q.  Okay.  And why would, just in general in terms of  
22 investigation protocol, why would integrity of evidence  
23 be important?

24          A.  Well, there is a chain of custody that has to be  
25 followed.  So if I have, say, some DNA, some blood, and

1 I give it to Detective Roff, there needs to be some type  
2 of commentary or narrative about that. And eventually  
3 it gets booked into evidence and then you would have,  
4 say, potentially a third person. So it would go from  
5 me, to Detective Roff, to evidence, and then you'd have  
6 three different people that you would be able to see  
7 that they had the evidence and that would contain the  
8 chain of evidence and so that when the prosecution  
9 presents it, we would know it went from me, to Detective  
10 Roff, to somebody in evidence who would then potentially  
11 bring it down here and display it.

12 Q. Do the same considerations apply to other types  
13 of evidence such as testimonial evidence?

14 A. I'm not sure what you mean.

15 Q. Sure. I don't think the prosecutor asked you  
16 assume, but I assume that you had a lot of patrol time  
17 before you were advanced to detective?

18 A. I did. I had about ten years on patrol.

19 Q. Okay. And so you responded to I'm sure countless  
20 calls of altercations and reports of domestic violence  
21 and all types of things, correct?

22 A. That's correct.

23 Q. Okay. And is one of the first things that you  
24 did, would that be to separate involved parties?

25 A. On domestic calls, yes, absolutely.

1 Q. Okay. And the protocol for that would be you  
2 would interview those individuals separately; is that  
3 correct?

4 A. That's correct.

5 Q. Why would that interview, one of the reasons that  
6 the interviews be conducted separately?

7 A. Well, the hope is that if I'm interviewing say a  
8 victim, that victim isn't influenced by the suspect who,  
9 if they are not separated, then they may be getting some  
10 type of body language or even whispering or whatever.  
11 There is, those are the main reasons why we would  
12 separate them in the hopes that if I have a victim in  
13 another room that they are more likely to be honest with  
14 me than if they were in front of the subject who just  
15 assaulted them.

16 Q. Okay. Let's extend that to uninvolved parties.  
17 If you have two uninvolved parties let's call them,  
18 witnesses, involved parties over here, would you also  
19 separate them in order to not influence what one says to  
20 the other?

21 A. Sometimes.

22 Q. Okay. That would be the integrity part of  
23 evidence, right, testimonial evidence?

24 A. To always, to always isolate a witness, is that  
25 what you're asking?

1 Q. Well, I'm asking what your normal practice is.  
2 Would you sit in a group and say let's agree to what  
3 happened or would you separate folks and say what  
4 happened in order to have that person not influenced by  
5 what somebody else says?

6 A. Right. Okay, I follow you.

7 I think it depends on the circumstances, but  
8 typically I think your run-of-the-mill crime like say a  
9 robbery, we would want to separate witnesses, but not  
10 always. If there is a large number of witnesses, then  
11 sometimes the situation is such that we just need to get  
12 real brief witnesses, or I'm sorry, statements. So  
13 typically they are isolated, but not always.

14 Q. Okay. And the purpose of that would be to avoid  
15 contamination of statements, correct?

16 A. Yes.

17 Q. And to avoid the inclusion of extraneous  
18 information that one person may not know but can hear it  
19 from another person?

20 A. Correct.

21 Q. Okay. Now, and who is, you indicated to the  
22 prosecutor that you don't, you didn't have a partner,  
23 you don't have partners in terms of SAU assignments.  
24 But would you consider yourself the lead detective in  
25 this allegation?

1 A. In this case, yes.

2 Q. Okay. Now, prior to the interview where Crystal,  
3 and obviously you've been in the courtroom during the  
4 trial, prior to the interview that Crystal Meyers sat in  
5 of her other daughter, did you have any interaction with  
6 your colleague concerning her sitting in and  
7 participating in the same interview rather than being  
8 interviewed separately?

9 A. Let me make sure I'm following. Did Detective  
10 Roff and I discuss whether or not he should have the  
11 mother in the room with him while he interviewed?

12 Q. Yes.

13 A. We did not have that conversation, no.

14 Q. Okay. And did you have anyone in the room while  
15 you interviewed Jacee?

16 A. I did not.

17 Q. Okay. As part of your investigation as the lead  
18 here did you review the interview conducted by your  
19 colleague?

20 A. I did, I listened to it at one point.

21 Q. Okay. As part of your investigation did you, I'm  
22 sorry, did you review the interviews by the Defense of  
23 the two alleged victims?

24 A. I believe I read the transcripts. I never had a  
25 recorded copy.

1 Q. Okay. Now, the prosecutor had asked you a  
2 question concerning the boyfriend of Kaela; is that  
3 correct?

4 A. Correct. No, boyfriend of Jacee.

5 Q. I'm sorry, boyfriend of Jacee.

6 Now, she had indicated that that person was the  
7 impetus for the alleged, the disclosure of alleged  
8 actions, correct?

9 A. Correct.

10 Q. Okay. Now, when you interview her did you ask  
11 for that person's name?

12 A. Yes.

13 Q. Full name?

14 A. I asked for his name. I don't remember if I  
15 specifically say I need his full name. I did ask for  
16 his name.

17 Q. Did you, this is while you were being recorded?

18 A. Yes.

19 Q. And did you tell her that that person could be  
20 important and you were just going to contact that  
21 person?

22 A. I don't remember specifically what I asked but  
23 that sounds like something I would ask.

24 Q. Okay. And immediately, I think I understood the  
25 prosecutor's questioning, immediately after the

1 interview Crystal Meyers told you that person did not  
2 want to be contacted?

3 A. No, it wasn't immediately after. There had been  
4 probably a couple week's period. For example, I don't  
5 always, this isn't my sole investigation, I would  
6 potentially be working three or four different cases at  
7 the same time. So even though I had been in contact  
8 with Crystal about getting Junior's name and phone  
9 number, it didn't happen immediately. From what I  
10 recall we had a couple of text messages.

11 Q. Okay. And did it ever materialize?

12 A. It did not.

13 Q. Okay. And so what action did you take other than  
14 wait on a text from one of the alleged victims?

15 A. I took no action.

16 Q. Okay. Now, you have access -- you had the  
17 person's full name, right?

18 A. I had his first name, Junior.

19 Q. And you never had a last name?

20 A. I didn't get his last name, no.

21 Q. Okay. Did you ever ask for a last name?

22 A. I believe I asked for his name.

23 Q. Okay. And so in the ensuing communication with  
24 the alleged victim, did you ever try to ascertain a  
25 surname or last name?

1 A. I did.

2 Q. Okay. And was that surname, last name provided  
3 to you to your knowledge?

4 A. I was never given the surname, no.

5 Q. Okay. And so you were without options then with  
6 just a first name to attempt to contact this person I  
7 would then assume?

8 A. Yes, first name of Junior, I believe Hispanic  
9 male in Skagit County.

10 Q. That's the extent of the description of the  
11 person that was the impetus of all of this?

12 A. That's correct.

13 Q. Okay. And then when did Crystal Meyers indicate  
14 that this person would not be providing information to  
15 law enforcement?

16 A. I don't recall an exact date. I believe it was  
17 through a text message but there had been, there had  
18 been, it was, it was clear to me that Jacee did not want  
19 her ex-boyfriend involved.

20 Q. Okay. And is that, as the law enforcement  
21 officer in charge of a serious criminal investigation is  
22 that the determinative factor that a citizen will tell  
23 you how the investigation proceeds?

24 A. In a case like this it can weigh heavily for  
25 sure.



1 Q. Okay. Was that person, did you have any  
2 information about their age?

3 A. I believe he was about 20 years old.

4 Q. Okay. So he was an adult of the majority?

5 A. I believe so.

6 Q. Okay. And so you just didn't press the issue to  
7 contact this person?

8 A. After a few questions I did not. I did not want  
9 to put the added pressure on Jacee or her family. I  
10 didn't, to me it wasn't necessary at that time.

11 Q. Okay. Now, I think you indicated to the  
12 prosecutor that you spent about 30 minutes in the  
13 interview, recording the interview?

14 A. Correct.

15 Q. Thirty minutes, something like that. Other than  
16 that thirty minutes, did you have any other  
17 investigative contact with the alleged victim?

18 A. Most of my contact was with Crystal.

19 Q. Okay. So I'm assuming by the implied, the  
20 implied negative there that you did not have any other  
21 contact with her other than that 30 minutes?

22 A. No, I believe we texted, may have had a phone  
23 call or two, but the majority of my contact was with  
24 Crystal.

25 Q. Okay. And so what were, what were the time

1 duration you think that you interacted with her?

2 A. With Crystal?

3 Q. Yeah -- no, with the alleged victim?

4 A. With Jacee? I don't recall, I can't necessarily  
5 put a time on it. I believe the majority were text  
6 messages, but it was brief.

7 Q. Okay. So the majority were text messages. How  
8 many text messages are we talking about between you  
9 Jacee?

10 A. I don't remember.

11 Q. Okay. Five, ten?

12 A. I don't think it was, probably less than five.

13 Q. Less than five, okay.

14 Did you make any indication in your report how  
15 many times you had reached out?

16 A. Probably not.

17 Q. Probably not? Okay.

18 And then any phone calls with Jacee?

19 A. I believe I, at least, had one or two phone calls  
20 with Jacee, but I don't remember specifically. It may  
21 have been a phone call I was talking to Crystal and then  
22 Jacee got on the phone. I don't remember exactly.

23 Q. Okay. And then what about Kaela, what was your  
24 interaction with Kaela in an investigative way?

25 A. Outside of the initial response at the apartment

1 that day, I don't believe I spoke with Kaela again.

2 Q. Okay. Did you do the prerecording interview of  
3 her or did your colleague Detective Roff do that?

4 A. I'm sorry, the prerecorded interview?

5 Q. In other words, or the prerecorded, where you  
6 destroyed your notes on Jacee. Did you interview Kaela  
7 in the same manner, take notes, or was that your  
8 colleague?

9 A. I don't recall.

10 Q. Okay. And so, and then you don't recall any  
11 other contact with Kaela other than seeing her at the  
12 residence that they were living in at the time?

13 A. That's correct.

14 Q. Okay. The, I think Exhibit No. 10, you've  
15 obviously been in attendance in the trial, Exhibit No.  
16 10 is some SMS text messages were provided to you; is  
17 that correct?

18 A. That's correct.

19 Q. Okay. And who provided those to you, sir?

20 A. It was either Jacee or Crystal, I'm not sure. It  
21 may have been both of them, I'm not sure.

22 Q. How did that come about? Did you request those  
23 or was that on their own accord they e-mailed you or  
24 texted you those screenshots?

25 A. It was at my request.

1 Q. Okay. How did you do that? How did you  
2 request -- did you say give me, how did you define the  
3 scope of what you were looking for?

4 A. Well, one of them brought it up, I believe  
5 Crystal told me there was some messages or Facebook or  
6 text messaging and then Jacee also told me. I asked her  
7 about those and then she mentioned it and I believe she  
8 showed me her phone. I asked then if they could, if one  
9 of them could give me some screenshots and forward those  
10 to me, which they did.

11 Q. Okay. As part of your training, I'm guessing,  
12 but certain, that digital forensics is what you're  
13 trained on, correct?

14 A. I'm not trained in digital forensics, no.

15 Q. Do you have access to resources within the  
16 sheriff's office concerning that?

17 A. I do.

18 Q. Okay. And what is that access to resources  
19 concerning digital forensic evidence?

20 A. There is a detective that works those pretty  
21 regularly. There's a deputy that also works those kinds  
22 of cases.

23 Q. Okay. Well, you said those kind of cases, but  
24 any case can be, very commonly is, has digital forensic  
25 issues, correct?

1 A. Some cases, yes.

2 Q. Just like here?

3 A. Yes.

4 Q. The mobile phone.

5 Do you know what cellebrite is?

6 A. I do.

7 Q. What is cellebrite?

8 A. It's a program that you essentially can plug in  
9 the program into your phone and retrieve certain access.

10 Q. Okay. It creates, essentially interfaces and  
11 creates an image of what's on the phone, correct?

12 A. That's correct.

13 Q. Okay. Did you ask for anyone's phone in this  
14 case?

15 A. I did not.

16 Q. I'm sorry, either alleged victim?

17 A. I did not.

18 Q. Okay. Did you seek a search warrant for Chris  
19 Poindexter's phone?

20 A. I did not.

21 Q. Okay. Did you, you had information that there  
22 may have been some communication on Facebook on that  
23 platform, correct?

24 A. That's correct.

25 Q. Okay. What did you do in regard to that

1 information that you had that there was communication on  
2 Facebook between the Defendant and the alleged victims?

3 A. I got the information from either Crystal or  
4 Jacee.

5 Q. Okay. Was that Exhibit No. 10 that was being  
6 testified to?

7 A. I don't remember the number, but if it were, if  
8 it was the document that had some of the messages on  
9 those, I don't recall which ones were texts or Facebook.

10 Q. Okay. But that is the only information that you  
11 received from, concerning Facebook; is that correct?

12 A. That's correct.

13 Q. I need to correct myself. I've been referring to  
14 Exhibit No. 10.

15 MR. PICULELL: May I approach the  
16 witness?

17 THE COURT: Yes, you may approach.

18 Q. (BY MR. PICULELL) Sir, I'm handing what's been  
19 admitted as Exhibit No. 8 and Exhibit No. 9. I've been  
20 referring to something as Exhibit No. 10, but it's  
21 really Exhibit No. 8, correct?

22 A. There is a No. 9.

23 Q. Which is a single page?

24 A. Yep, and No. 8.

25 Q. And No. 8, okay.

1           If you could take a moment and indicate whether  
2 those are the items that you're referencing in terms of  
3 receipt of information from the family?

4           A. Yes. It looks like the items.

5           Q. Okay. And other than that you didn't take any  
6 action in regards to either law enforcement subpoena on  
7 Facebook or a search warrant for Facebook for anyone's  
8 account; is that correct?

9           A. That's correct.

10          Q. Did you request that internally, resources within  
11 Whatcom County Sheriff, to assist you with that?

12          A. I did not.

13          Q. Okay. Now, the prosecutor asked if you imaged or  
14 took pictures of the alleged event scene. You answered  
15 affirmatively that you did?

16          A. Correct.

17          Q. When did you do that?

18          A. I believe Mr. Jones asked for that, gosh, maybe  
19 two weeks ago.

20          Q. Okay. And did you go inside the residence?

21          A. I went inside the residence on Grove Street.

22          Q. Okay. And took pictures?

23          A. Yes.

24          Q. Okay. And with the permission of the folks that  
25 were there?

1 A. That's correct.

2 Q. Okay. And did you do a supplemental report that  
3 you had taken those images?

4 A. I did not.

5 Q. Did you make any notations those were not images  
6 at the time, this was somebody else's furniture,  
7 somebody else's bed, somebody else's clothes, anything  
8 like that?

9 A. I did not.

10 Q. You gave the pictures to the prosecuting  
11 authority?

12 A. That's correct.

13 Q. Okay. Now, did Crystal Meyers or anyone else  
14 tell you that there was another resident or occupant of  
15 the residence during the material times at issue here?

16 A. I don't remember hearing about another resident,  
17 no.

18 Q. Okay. And that's not in your report to your  
19 recollection?

20 A. I don't believe so.

21 Q. Okay. And was today the first time you were sort  
22 of cognizant of that?

23 A. I think it may have been last week's testimony.

24 Q. Last week's testimony, okay.

25 And in terms of your interview of the alleged



1 victim, did you attempt to ascertain who lived in the  
2 house?

3 A. Yes.

4 Q. Okay. And did Jacee disclose that her  
5 grandmother lived in the house?

6 A. I don't remember her talking about her  
7 grandmother, no.

8 Q. That's, that would have been in the recorded  
9 statement?

10 A. Had she mentioned it?

11 Q. Yes.

12 A. I don't believe it was in there, no, but I don't  
13 have transcripts with me.

14 Q. Okay. In terms of the event scene review, other  
15 than Mr. Jones requesting that you go to the location as  
16 part of your investigation, you did not seek to go to  
17 that location, correct?

18 A. I did not.

19 Q. Okay. Did you seek to determine the layout of  
20 the residence as far as where different rooms were  
21 located?

22 A. I did not.

23 Q. Okay. Now, in terms of the information that you  
24 had in your initial investigation, there were  
25 allegations that had occurred in different parts of the

1 residence, correct?

2 A. Correct.

3 Q. It was described in a certain way?

4 A. I believe there was a downstairs described in the  
5 Sudden Valley residence as well as bedrooms in both  
6 residences.

7 Q. Okay. And on certain floors?

8 A. I don't remember what floor.

9 Q. Okay. But you didn't take any action to  
10 determine the accuracy or inaccuracy of that  
11 information?

12 A. I did not.

13 Q. Okay. Now, you indicated that you viewed the  
14 reports of the other agencies that Crystal Meyers had  
15 contacted in addition to your agency, correct?

16 A. That's correct.

17 Q. Okay. And did you review any of the recorded 911  
18 calls that she made to initiate reports with those  
19 agencies?

20 A. I did not.

21 Q. Okay. In terms of the scope of your activity,  
22 investigative activity, other than the interview,  
23 exchange of text message, receipt of Exhibit No. 8 and  
24 9 -- I'm sorry, you didn't receive Exhibit No. 9, did  
25 you, or did you? Let me ask it that way.

1           A. I believe I got all of these documents at one  
2 point but I don't recall. I mean I can't remember  
3 verbatim what they said, there are several sheets here.  
4 I don't remember specifically but I believe they did  
5 screenshot me these documents.

6           Q. Okay. Your interview, your receipt of  
7 screenshots, and the texts between you and Jacee; is  
8 there anything else that you did in an investigative  
9 manner on this case?

10           I'm sorry, photographs.

11           A. I don't believe so.

12           Q. Okay. And how much time do you think you spent  
13 in total investigating these allegations and is that  
14 logged anywhere?

15           A. It's not logged anywhere, no. I'm trying to make  
16 a best guest. I didn't arrest him until May of 2018, so  
17 3 months. So it's hard to quantify any specific or even  
18 a general, I mean, I worked off and on the case for  
19 about 3 months.

20           Q. Okay. In terms of what you were doing on the  
21 case, tell me what you were doing on the case in that  
22 three-month period, is there anything I've omitted?

23           A. I tried to contact your client.

24           Q. Right. Other than that. Other than that, sir?

25           A. Well, writing my report.

1 Q. Okay.

2 A. Reviewing the recordings.

3 Q. Okay. Pardon me?

4 A. Primarily the Jacee recording.

5 Q. Okay. Okay, and that's 30 minutes in length?

6 A. Correct.

7 Q. Okay. Is there anything else that you did?

8 A. Writing the report takes an awful long time  
9 unfortunately.

10 Q. In terms of an investigative step --

11 A. No.

12 Q. -- that I've omitted?

13 A. No.

14 Q. Okay. And just since you asked that in terms of  
15 contacting my client, he immediately got back to you or  
16 I, actually I did, right?

17 A. Um, I believe his wife did.

18 Q. Okay. But it wasn't very long, right?

19 A. Probably no more than two or three hours.

20 Q. Okay.

21 MR. PICULELL: That's all I have. Thank  
22 you.

23 THE COURT: Thank you, counsel.

24 MR. JONES: Okay. Thank you, Your Honor.

25 REDIRECT EXAMINATION

1 Q. (BY MR. JONES) So detective, you mentioned time  
2 spent drafting a police report in this case. And is  
3 this the report I'm looking at that's eight pages long?

4 A. Probably.

5 Q. You haven't seen it, I'm sorry.

6 MR. JONES: Let me get it marked.

7 THE CLERK: Plaintiff's Exhibit No. 17 is  
8 marked.

9 (Plaintiff's Exhibit No. 17 was marked for  
10 identification.)

11 Q. (BY MR. JONES) So, this is Plaintiff's Exhibit  
12 No. 17, detective. Is that in substance the report that  
13 you generated during your investigation?

14 A. Yes.

15 Q. Okay. And that report, it's evidenced in  
16 Plaintiff's Exhibit No. 17, that reflects the  
17 three-months worth of work that you put in in this case?

18 A. That's correct.

19 Q. The minute the referral came in from those three  
20 agencies to your arrest decision in the case; is that  
21 right?

22 A. That's correct.

23 Q. Okay. It also reflects the time, and tell me if  
24 I'm wrong here, it reflects the time that you first  
25 arrived at Crystal Meyers' house and met her and the

1 girls in February?

2 A. That's correct.

3 Q. Okay. Is that the same information that would  
4 have been reflected in any sort of handwritten notes you  
5 might have made?

6 A. Yes.

7 Q. Okay. So there was a bunch, excuse me, there was  
8 a bunch of talk about destroying your notes, why you do  
9 that. Can you tell us why it is that you do that?

10 A. It was what I was taught in the police academy  
11 almost 25 years ago and I don't know if they, I think  
12 there are some officers, detectives, who keep their  
13 notes for whatever reason. I know there are some  
14 agencies in different states that require them to submit  
15 their notes, federal agencies. I've worked with a lot  
16 of federal agencies when I worked with drugs and they  
17 were required to keep all their field notes for whatever  
18 reason. Law enforcement is not, so I don't keep them.  
19 It's just a guide. It helps me write my report then  
20 when I'm done with it I really don't need it because  
21 it's typically chicken scratch that maybe only I or  
22 somebody else who works close with me would be able to  
23 read.

24 Q. Let's talk about how that investigation looks.  
25 You have taken these notes, they are notes for yourself;

1 is that right?

2 A. That's correct.

3 Q. When those notes are gone, the information though  
4 that's contained in them isn't gone; is that correct?

5 A. That's correct.

6 Q. Where does that information go to after it's  
7 recorded in your notes, where does this then go to?

8 A. It then goes in the report.

9 Q. You use your notes for your own purposes to draft  
10 your police report?

11 A. Correct. A lot of times they're superfluous  
12 information that you have in there, the weather, it  
13 gives, sometimes if I write something like that then I  
14 read it again three months after when I'm writing my  
15 report I have a better image, that's right, it was  
16 raining that day, it was really cold that day. It helps  
17 me remember things better. But that, for example, has  
18 nothing to do with the investigation, the weather, but  
19 that's pretty common for me. I write a lot of  
20 superfluous stuff so it can assist me with my memory  
21 because there are so many investigations we have  
22 simultaneously. If I don't take good notes, then I'm  
23 not going to remember lot of things that I need for my  
24 report.

25 Q. Okay. Is that the process that works and what

1 happened in this case?

2 A. That's correct.

3 Q. Okay. And from your recollection of your  
4 interview here, is there any, any information that would  
5 have been included in notes that isn't properly  
6 reflected in your police report?

7 A. No.

8 Q. That police report goes to me, correct?

9 A. That's correct.

10 Q. It goes to the Defense attorney as well?

11 A. That's correct.

12 Q. Okay. So to imply there is missing information  
13 because those notes are gone, is that incorrect?

14 A. That's incorrect.

15 Q. Okay.

16 Now, I want to talk about your, how you chose to  
17 conduct the investigation, and maybe let's start with  
18 the initial interviews that took place. In your  
19 experience, 3 to 400 sexual assault cases, in your  
20 experience, detective, are there reasons to allow maybe  
21 a witness to have a support person with them while they  
22 are talking to law enforcement?

23 A. Yes.

24 Q. Is that how you'd characterize Crystal Meyers  
25 here, the mother, with her daughter that was reporting



1 this?

2 A. I believe so.

3 Q. Okay. Have you seen that in your time as a  
4 detective that someone of emotional support can be with  
5 a young girl who was having to talk about it to someone  
6 she doesn't know?

7 A. Yes, it happens quite often. There is a  
8 subagency or subgroup within Brigid Collins that  
9 typically has advocates, victim advocates that will sit  
10 in on interviews. Sometimes they insist on sitting in  
11 on interviews even if we don't necessarily want them  
12 there, so that's not uncommon.

13 Q. Okay. In this particular case is that the role  
14 that the mom, Crystal Meyers, played within the  
15 interview process?

16 A. I wasn't there. I was upstairs in the, talking  
17 to Jacee, so I don't know specifically why, but I  
18 believe so.

19 Q. Okay. As the detective assigned to this case did  
20 you have any concern about information being compromised  
21 or any of these things that could possibly happen, did  
22 you have any concerns about that in this case?

23 A. No.

24 Q. If you had, would you have done something  
25 different as far as talking to Detective Roff or talking

1 to Kaela yourself or something like that?

2 A. Absolutely.

3 Q. Okay. What about what else you could have  
4 possibly done, there has been some mention about  
5 tracking down this gentleman Junior from Skagit County?

6 A. Correct.

7 Q. Can you remind us again why you didn't think that  
8 was something that, an envelope that needed to be  
9 pressed in this particular investigation?

10 A. Well, I thought Jacee's statement stood well on  
11 its own. I, it was consistent with what her mother had  
12 said as well that this Junior had somehow been the  
13 impetus, but he wasn't going to provide me a statement  
14 about any type of sexual assault from what I understood,  
15 only Kaela and Jacee. I did not want to continuously  
16 ask Crystal, I didn't want to make it an issue so that  
17 she felt that I was implying that I didn't believe her  
18 daughters and potentially have them not show up.

19 So I'd rather have an advocate-type relationship  
20 with a victim who has been assaulted and molested and  
21 raped as opposed to somebody who is asking them to do  
22 something that they don't feel comfortable doing.

23 Q. Okay. Is it in your experience can you lose  
24 rapport with a particular victim by, I guess,  
25 embarrassing her by talking with people she didn't

1 really want you to talk to?

2 A. I believe so.

3 Q. Okay. Was that in your mind during this  
4 investigation?

5 A. Regarding Junior, yes.

6 Q. And is it true, detective, that Junior --

7 MR. PICULELL: Your Honor, I object to  
8 the form of that question, "is it true", it's  
9 leading.

10 MR. JONES: Okay. Your Honor, I can  
11 rephrase the question.

12 THE COURT: Please, rephrase.

13 MR. JONES: All right.

14 Q. (BY MR. JONES) From what you were told,  
15 detective, would Junior have had any firsthand knowledge  
16 of the molestation that occurred in this case?

17 A. Not that I'm aware of.

18 Q. Okay. His involvement was only eight, nine years  
19 after the molestation occurred?

20 A. That's correct.

21 Q. According to Jacee's statement?

22 A. Correct.

23 Q. All right. And, detective, what sort of  
24 information would Junior have had?

25 A. From what I understand Junior would have repeated

1 what Jacee and/or Crystal said.

2 Q. Okay. And both of those individuals already  
3 spoke to you; is that right, directly?

4 A. That's correct.

5 Q. So hearing it from a third person what they  
6 already told you, did that seem important to you in your  
7 investigation?

8 A. I didn't think it was necessary. I would have  
9 gladly talked to him, but when Crystal related that he  
10 was not going to cooperate, then that's when I stopped  
11 pressing it.

12 Q. Okay. And, in fact, you even had a little more  
13 information in this case, detective, wasn't the  
14 boyfriend mentioned to some extent in the text messages  
15 that you were able to review?

16 A. I believe so.

17 Q. Do you recall Jacee in her text messages to  
18 Mr. Poindexter saying my boyfriend thinks you're a creep  
19 because of what you're saying to me?

20 A. Correct.

21 Q. So some relation as to what the boyfriend, what  
22 position he has; is that right?

23 A. Yes, it was consistent with what Jacee had said.

24 Q. Okay. And is it also true that the two young  
25 kids, Jacee and her boyfriend, had been broken up by the

1 time that you were involved as well; is that what you  
2 were told?

3 A. I believe so, yes.

4 Q. Okay. All right.

5 Oh, and then you did meet with both Jacee and  
6 Kaela a second time in this, during this case, didn't  
7 you?

8 A. If you are referring to a couple of weeks ago,  
9 yes.

10 Q. Was that an opportunity for you to sit down with  
11 both of those girls again?

12 A. I did.

13 Q. Anything from those, the meeting with both the  
14 girls the second time that made you concerned about your  
15 investigation at all?

16 A. Not at all.

17 Q. Okay. All right.

18 So a sexual assault that occurs eight to ten  
19 years ago, what's, in your experience what sort of  
20 evidence exists in a case like that?

21 A. Typically none. The best evidence that I've  
22 found that I can get is the testimony specifically with  
23 two, to have two victims come forth and both testify  
24 truthfully, that's great evidence.

25 Q. Do you expect to find anything in the layout of,

1 the layout of a particular house eight to ten years  
2 later?

3 A. No.

4 Q. Besides just reminding the victims of these  
5 locations?

6 A. No, and there was no discrepancy from what I  
7 recall from Crystal as well who lived there and was the  
8 adult.

9 Q. Okay. All right.

10 MR. JONES: Thank you.

11 THE COURT: Mr. Piculell?

12 MR. PICULELL: Thank you, Your Honor. I  
13 have some questions based upon that.

14 RE-CROSS-EXAMINATION

15 Q. (BY MR. PICULELL) So it was just unimportant to  
16 contact this person Junior, right?

17 A. I didn't say it was unimportant. I said I didn't  
18 believe it was necessary.

19 Q. At one time did you believe it was necessary?

20 A. I would have liked to have talked to him because  
21 it was just one other person that could potentially  
22 corroborate, but when I was told he was not going to  
23 cooperate then I didn't pursue it any longer.

24 Q. Sure, but that wasn't my question.

25 My question was at one time did you think it

1 important to talk to him?

2 A. I didn't feel it was, I never felt it was  
3 necessary.

4 Q. My question was important.

5 MR. PICULELL: May I approach?

6 THE COURT: You may approach.

7 Q. (BY MR. PICULELL) Exhibit No. 12, if you can  
8 turn to Page 25?

9 A. Uh-huh (Witness complies.)

10 Q. Start on Line 13.

11 A. "Okay", this is me. "Okay, when did you tell  
12 your boyfriend" --

13 Q. I'm sorry, if you can just review that for the  
14 moment.

15 A. Okay.

16 Q. You recognize the exhibit, sir?

17 A. I do.

18 Q. Okay. On to Page 26, Lines 1 through 7. Have  
19 you had an opportunity to review that?

20 A. Is it okay for me to look at it right now?

21 Q. Yes, yes. I'm asking you to review that, Line 1  
22 through 7 on Page 26.

23 A. Okay.

24 Q. Bringing your attention to Line 2 on Page 26. Is  
25 it correct that you said, you're referencing Junior here

1 in this conversation with Jacee. You said; "but since  
2 he is someone that you did confide in, at some point it  
3 might be important that we at least document that he was  
4 contacted."

5 Do you say that?

6 A. I said it might be.

7 Q. Right.

8 A. Correct.

9 Q. So those are your words, correct?

10 A. That's correct.

11 Q. So at one point you did think it important?

12 A. I say said it might be.

13 Q. Okay. Page 25, Line 21, please, through 23.

14 A. (Witness complies.)

15 Q. Is it true, sir, you say; "I don't want to drag  
16 him into a lot of this, it would be more of a  
17 verification that, hey, this is what I saw, this is what  
18 she told me, and that's it."

19 Is that what you told Jacee?

20 A. That's correct.

21 Q. Okay. And then on Line 13 and 14 on Page 25, you  
22 are asking her when she told him, correct, and she said  
23 a month ago?

24 A. Yes.

25 Q. Okay. Now, do you still have a copy of your



1 report, the prosecutor didn't show it to me but --

2 A. I have a copy of mine.

3 Q. What exhibit number is it, sir?

4 A. Seventeen.

5 Q. Seventeen? Okay. If I could ask you to  
6 reference that. Did you, when you met with the alleged  
7 victims a couple weeks ago, did you do a supplemental  
8 report?

9 A. I did not.

10 Q. Okay. Just an off-the-record kind of thing?

11 A. Correct.

12 Q. And what did you discuss?

13 A. I believe the primary, primary reason for meeting  
14 was just so they could get familiar with the courtroom.

15 Q. Okay. Did you take any notes?

16 A. No.

17 Q. Okay. Did you re-interview them, did you discuss  
18 the substantive aspect of these allegations?

19 A. No. I just let them know I was going to be  
20 sitting there and they see me as a support system.

21 Q. Where did that meeting occur?

22 A. That was in the prosecutor's office.

23 Q. Okay. Looking at Exhibit No. 17, the prosecutor  
24 said that you had a 3-month investigation of this  
25 matter. I'd like to bring your attention to Exhibit No.

1 17. How many date entries do you have in that report  
2 starting with 2-15 of information that you're entering?

3 A. If I'm counting correctly, I don't have my  
4 glasses, sorry, I think there is eight.

5 Q. Okay.

6 A. Eight entries.

7 Q. Okay. What's the first date, on 2-15?

8 The subject matter that you were assigned the  
9 case and you spoke with Crystal Meyers, correct?

10 A. Yes, correct.

11 Q. On 2-22, that's the first one. On 2-22, second  
12 entry, is you responded to the residence. That's where  
13 the interview occurred, correct?

14 A. 2-21.

15 Q. 2-21? Okay. Sorry, my dyslexia there, 2-21.

16 A. Well, there's a 2-9 as well.

17 Q. Okay. What happened on 2-9?

18 A. That's when Crystal found out and reported the  
19 incident.

20 Q. Okay. No, the action that you took?

21 A. Okay.

22 Q. Not the operative, alleged operative events, the  
23 action that you took on your police report.

24 On 2-15 that's when you were assigned the case;  
25 is that correct?

1 A. That's correct.

2 Q. 2-21 you responded to Crystal Meyers' residence,  
3 correct?

4 A. Correct.

5 Q. 4-17 you contacted CPS, correct?

6 A. What page are you on?

7 Q. Um, I can refer you.

8 THE COURT: Counsel, I think this is the  
9 end of our day. I hoped we could finish with  
10 this witness, I don't think we're going to be  
11 able to do that. We'll resume tomorrow.

12 Ladies and gentlemen of the jury, there  
13 are a couple of items that I need to talk about  
14 with the lawyers before we proceed so I'm going  
15 to ask that you be here ready to proceed at  
16 10:00 and we should be ready to go at that time.  
17 Thank you for your service today and we'll look  
18 forward to seeing you tomorrow.

19 THE BAILIFF: All rise.

20 (The jury left the courtroom)

21 THE COURT: Please, be seated.

22 Detective, you can step down if you like.

23 DETECTIVE FRANCIS: Thank you.

24 THE COURT: Counsel, a couple of things  
25 for tomorrow; I have a hearing at 9:00, I expect

1           it to be finished by 9:20, I'd like to meet with  
2           you at 9:20 to review instructions. I've been  
3           through the instructions each of you has  
4           proposed. My revisions are quite minor and I'm  
5           inclined, essentially you both proposed the same  
6           set of instructions, except that the State is  
7           also proposing to convict instructions on each  
8           of the counts, I'm inclined to, I'm inclined to  
9           give the to conviction instructions. I'm  
10          telling you that now so you can think about that  
11          overnight in case you'd like to address that,  
12          I'm not telling you that I've made the decision,  
13          I'm telling you that preliminarily.

14                 MR. JONES: Your Honor -- I'm sorry, I  
15                 jumped in. I thought you were done.

16                 THE COURT: The only other things are  
17                 that we have an updated local instruction, you  
18                 both proposed the local instruction telling the  
19                 jurors that they are not to do research in  
20                 other, by other means. I simply prefer the one  
21                 that the Court has updated because it doesn't  
22                 refer to MySpace and a couple of other outdated  
23                 fora. I have that and I'll give it to you  
24                 tomorrow. I'm sure it will be acceptable to  
25                 both of you.

1           The concluding instruction you both have  
2 versions that have brackets in them, in the  
3 concluding instruction. I think you may have  
4 brackets in the introductory instructions, yes,  
5 you both do. Mr. Jones' office is closer so I'm  
6 going to ask you, Mr. Jones, to have those  
7 brackets removed. In each case the language  
8 within the brackets fits, the sole exception is  
9 that toward the end of the concluding  
10 instruction there is a reference to the verdict  
11 form and choice of whether the word form is  
12 singular or plural. We'll be using the singular  
13 form because we have simply the one form.

14           MR. JONES: Okay.

15           THE COURT: All right. I just wanted to  
16 let you know that for tomorrow. I think we can  
17 make short work of the instructions, that's good  
18 because I hope to be giving the instructions  
19 later tomorrow.

20           We'll finish Detective Francis's  
21 testimony tomorrow and then will Detective Roff  
22 be ready to go?

23           MR. JONES: Yes.

24           THE COURT: And then after that?

25           MR. JONES: I'll rest.

1 THE COURT: At this point the State  
2 intends to rest?

3 MR. JONES: Yes.

4 THE COURT: You'll be ready to proceed  
5 with Mr. Poindexter's testimony, if that's your  
6 choice, Mr. Piculell?

7 MR. PICULELL: It is, Your Honor. We do  
8 have an issue. I know it's very late in the  
9 day, maybe that can wait until tomorrow, but it  
10 concerns that amendment. My client may have a  
11 potential witness or other documentary evidence  
12 that he indicates that he was not in the house  
13 from March 2011 through October 2011. So that's  
14 the issue that we have. I've provided the  
15 prosecutor just with a strangely, says objective  
16 O or something JPEG, that was provided to me by  
17 my client as a title line. It's a treatment  
18 report, that's what I have my client had  
19 provided me back in February. The notes date  
20 says 2-8. I indicated to him it was not  
21 relevant because the dates had cut off in  
22 calendar year '10, now they become relevant. He  
23 indicates that he has treatment reports from  
24 Sundown Ranch where he was in there and he  
25 indicates to me as a profer that he was having

1 an affair with someone else and living in a  
2 motel and that person could be, he tried to  
3 contact her today. So in terms of him being out  
4 of the residence it's, that would be potential  
5 other evidence that is raised by the amendment.

6 THE COURT: All right. Well, I'll urge  
7 you and Mr. Poindexter to have whatever  
8 confirming evidence you wish the jury to  
9 consider here for presentation tomorrow because  
10 I expect the case to be to the jury tomorrow and  
11 that's what should happen where we've got a  
12 couple of jurors expressing concern about  
13 commitments later in the week and so I really  
14 want to get this case to the jury tomorrow.

15 MR. PICULELL: I understand.

16 THE COURT: All right.

17 MR. JONES: Your Honor, so a few things;  
18 one, Detective Francis spilled over from today  
19 and that's fine. He has a dentist appointment  
20 at 10:15 tomorrow morning. You'll be here by  
21 10:15? Okay. So it sounds like that will work  
22 with when you told the jury to be here, close  
23 enough. I think you told them to be here at  
24 10:00.

25 THE COURT: I did, yes.

1 MR. JONES: It's possible to call  
2 Detective Roff out of order for that 15 minutes.

3 THE COURT: That's what I recommend you  
4 do.

5 MR. JONES: I'm fine with doing that.  
6 I'll do that.

7 The other thing that I sent, and I  
8 apologize for this, but maybe this is what the  
9 Court's already gone through, but over the lunch  
10 break I was able to meet with appellate staff in  
11 my office. I was advised of some case law that  
12 was very relevant to what had previously been  
13 charged in the alternative as either child  
14 molestation first degree or child molestation  
15 second degree, depending on when the victim  
16 turned 12.

17 THE COURT: Yes, yes.

18 MR. JONES: Pursuant to that case law I  
19 was advised of, I removed that alternative  
20 language in both the charging document that's  
21 filed and the jury, proposed jury instructions  
22 and I resent that out to everybody over the  
23 lunch.

24 THE COURT: Yes.

25 MR. JONES: Okay. So I just wanted to



1           make sure we're all referring to the most  
2           current submission of the proposed instructions.  
3           It charges, Count 5 the charge is only Child  
4           Molestation in the Second Degree and the to  
5           convict instruction on that charge says you must  
6           find she was under the age of 14 and it has no  
7           lower limit on the age range.

8                     THE COURT:   Uh-huh.

9                     MR. JONES:   That's pursuant to *State vs.*  
10           *Goss* that was sent to everybody as well.

11                    THE COURT:   All right.  We'll discuss  
12           that briefly in the morning and I will have  
13           viewed your submission in more detail than I was  
14           able to immediately before coming in.

15                    MR. JONES:   Right, okay.  Thank you, Your  
16           Honor.

17                    THE COURT:   All right.  Anything further  
18           for tomorrow from either party?

19                    MR. PICULELL:  It seems like the Court is  
20           about to recess, I hate to bring up this issue  
21           but, about my client's continued release.  I can  
22           tell the Court I had a pretty intense discussion  
23           with him during our ride coming up here.  He  
24           tells me if the Court releases him on the same  
25           conditions that he is going to be staying up

1 here tonight at his girlfriend's mother's house  
2 and you will be here on time tomorrow?

3 MR. POINDEXTER: Yes, yes.

4 THE COURT: All right. Be aware,  
5 Mr. Poindexter, that I came very close to  
6 issuing a warrant for your arrest today when you  
7 weren't here. Mr. Piculell talked me out of it  
8 partly by persuading me to agree that he could  
9 go and pick you up. He was really quite  
10 dedicated, but I was very concerned at your not  
11 being here and the Court has a number of harsh  
12 remedies at its disposal if you're not here.  
13 I'd prefer not to use them. It sounds like  
14 you're making arrangements to be here. Please  
15 be here at 9:20, we can't proceed without you.  
16 So the jury will be here at 10, but the motions  
17 I'm going to hear are important so you should  
18 plan to be here, you should plan to be here at  
19 9:15, that way you're more likely to be here on  
20 time at 9:20.

21 MR. POINDEXTER: I apologize, Your Honor.

22 MR. PICULELL: Thank you very much, Your  
23 Honor.

24 THE COURT: All right. Thank you to both  
25 parties, I hope you enjoy the evening. We'll

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see you tomorrow.

(End of requested proceedings.)

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF WHATCOM

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STATE OF WASHINGTON,  
Plaintiff,

vs.

NO. 18-1-00679-37  
COA No. 81213-1

CHRISTOPHER POINDEXTER,  
Defendant.

---

NOTICE OF FILING

---

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Please take notice that on the 15th day of  
May, 2020, the original of the above numbered  
and named Verbatim Report of Proceedings, dated  
NOVEMBER 18, 2019 was electronically filed with the  
Court of Appeals Division I.

DATED this 15th day of May, 2020.

---

WENDY S. RAYMOND  
OFFICIAL COURT REPORTER  
WHATCOM COUNTY SUPERIOR COURT  
311 Grand Avenue  
Bellingham, WA 98225  
(360) 676-6748  
May 15th, 2020

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CERTIFICATE OF OFFICIAL COURT REPORTER

STATE OF WASHINGTON        )  
                                  )                SS.  
COUNTY OF WHATCOM        )

I, Wendy S. Raymond, Official Court Reporter,  
County of Whatcom, State of Washington, do hereby  
certify that the foregoing pages comprise a true and  
correct transcript of the proceedings had in the  
within-entitled matter, recorded by me by stenotype on  
the days herein written and thereafter transcribed into  
being by computer-aided transcription, and constitute my  
record on this matter.

DATED THIS 15th day of May, 2020.

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Wendy S. Raymond, CCR  
Official Court Reporter

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF WHATCOM

STATE OF WASHINGTON,	Plaintiff,	No. 18-1-00679-37
vs.		COA No. 81213-1
CHRISTOPHER POINDEXTER,	Defendant,	VOLUME IV
		PAGES 397-615

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VERBATIM REPORT OF PROCEEDINGS  
NOVEMBER 19, 2019  
THE HONORABLE DEBORRA GARRETT, JUDGE

---

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360-778-5610

INDEXWITNESS :PAGE :

1			
2			
3			
4	DETECTIVE	RE-CROSS-EXAMINATION BY MR. PICULELL	419
5	ERIC		
6	FRANCIS	FURTHER REDIRECT EXAMINATION BY MR.	430
7		JONES	
8		FURTHER RE-CROSS-EXAMINATION BY MR.	432
9		PICULELL	
10	DETECTIVE	DIRECT EXAMINATION BY MR. JONES	433
11	STEVEN ROFF		
12		CROSS-EXAMINATION BY MR. PICULELL	439
13		REDIRECT EXAMINATION BY MR. JONES	457
14		FURTHER RE-CROSS-EXAMINATION BY MR.	461
15		PICULELL	
16		FURTHER REDIRECT EXAMINATION BY MR.	462
17		JONES	
18		FURTHER CROSS-EXAMINATION BY MR.	462
19		PICULELL	464
20		FURTHER REDIRECT EXAMINATION BY MR.	
21		JONES	
22		FURTHER RE-CROSS-EXAMINATION BY MR.	464
23		PICULELL	
24		QUESTIONING OF JURY ON NEW DEFENSE	468
25		WITNESS	
26	CHRISTOPHER	DIRECT EXAMINATION BY MR. PICULELL	472
27	POINDEXTER		
28		CROSS-EXAMINATION BY MR. JONES	504
29		REDIRECT EXAMINATION BY MR. PICULELL	533
30		RE-CROSS-EXAMINATION BY MR. JONES	539
31		FURTHER REDIRECT EXAMINATION BY MR.	542
32		PICULELL	
33	CRYSTAL	REBUTTAL DIRECT EXAMINATION BY MR.	545
34	MEYERS	JONES	
35		INSTRUCTIONS TO THE JURY	550
36		CLOSING ARGUMENT FOR THE STATE BY MR.	566
37		JONES	
38		CLOSING ARGUMENT FOR THE DEFENSE BY MR.	587
39		PICULELL	
40		REBUTTAL CLOSING ARGUMENT FOR THE STATE	604
41		BY MR. JONES	

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NO EXHIBITS MARKED

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2 NOVEMBER 19, 2019

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4 (Beginning of requested proceedings.)

5 THE COURT: Good morning, counsel.

6 MR. PICULELL: Good morning, Your Honor.

7 THE COURT: And good morning,

8 Mr. Poindexter.

9 Mr. Piculell, have you had the chance to  
10 review the State's most recent iteration of  
11 instructions?

12 MR. PICULELL: I have not, Your Honor.  
13 The prosecutor had just handed those to me. I'm  
14 sure he e-mailed those to me, I was on the road.  
15 He indicated what he had done, I'm sure that  
16 they will be quick --

17 THE COURT: All right.

18 MR. PICULELL: -- quick review.

19 THE COURT: As I observed yesterday, it  
20 appears that unless you make any objection to  
21 the changes that the State has made most  
22 recently, the only areas in which there is  
23 disagreement between the parties are that the  
24 State is proposing to convict instructions on  
25 each of the counts. And your objection to the

1 changing of the dates in the information is  
2 noted, but of course the Court has permitted  
3 that and the dates listed in the new  
4 instructions are consistent with the dates in  
5 the amended information.

6 So really the unresolved issue is whether  
7 the Defense objects to the Court's giving a to  
8 convict instruction on each of the charges, each  
9 of the counts.

10 MR. PICULELL: Well, I think that to  
11 convict of course, is of course required. My  
12 objection was to the substantive implications of  
13 the amendment and so the Court has ruled on that  
14 and indicated this morning as well. So there is  
15 no reargument other than my objection before and  
16 the issues that may flow for that and I have  
17 information on that when the Court's ready to  
18 address.

19 THE COURT: All right. And then the  
20 State also has changed the charge in Count 1 to  
21 eliminate the alternative charge of first degree  
22 and only charge second degree. Am I  
23 understanding correctly?

24 MR. JONES: Yeah, to be clear it's in  
25 Count 5, not Count 1.

1 THE COURT: Did I say Count 1? I'm  
2 sorry.

3 MR. JONES: Uh-huh.

4 THE COURT: I meant Count 5. And I'm  
5 sure that the Defense has no objection to that,  
6 Mr. Piculell?

7 MR. PICULELL: That's correct, Your  
8 Honor.

9 THE COURT: All right.

10 MR. JONES: So that does, because the  
11 charge then eliminates the alternative charging  
12 situation, and that same change is reflected in  
13 the jury instructions on the to convict for  
14 Count 5 and the verdict form on Count 5 are  
15 consistent with the information.

16 THE COURT: All right. And the State  
17 retains --

18 MR. JONES: I'm sorry, Your Honor, I  
19 didn't mean to interrupt.

20 THE COURT: That's okay. The State  
21 retains the jury unanimity several distinct acts  
22 in the Petrich instruction, and both parties  
23 have proposed that instruction as well?

24 MR. JONES: Yeah. I forgot this, as a  
25 consequence of removing the alternative charging

1           scheme, I changed the standard WPIC on Child  
2           Molestation in the Second Degree, the definition  
3           of that crime, to instruct the jury that the  
4           definition is simply under the age of 14 rather  
5           than a lower age range within that definition.

6           THE COURT: I see.

7           MR. JONES: So I did make that change,  
8           also I just remembered that, which I think it  
9           makes the instructions internally consistent and  
10          with the, consistent with the information and  
11          the case law for this circumstance.

12          THE COURT: All right, I understand. And  
13          those changes are reflected in, this set of  
14          instructions isn't numbered, but it looks like  
15          at about 5 and 6, State's proposed 5 and 6?

16          MR. JONES: Yeah, it's WPIC 44.22; Child  
17          Molestation in the Second Degree definition. I  
18          don't have them numbered yet.

19          THE COURT: All right. I had numbered  
20          your earlier set. I'll number these as we go  
21          through them.

22          MR. JONES: All right.

23          THE COURT: Mr. Piculell, I think we can  
24          go through these instructions right now and if  
25          you need time to review any of the instructions

1 I'll give you that time. Most of them are  
2 duplicates of the previous instructions,  
3 although not completely. So let's go through  
4 the new set.

5 The first proposed instruction is the  
6 introductory instruction and I think I had asked  
7 that the brackets be eliminated in that  
8 instruction and it looks like they have been.  
9 All right. Any objection to the giving of  
10 Instruction 1?

11 MR. PICULELL: No objection.

12 THE COURT: All right. Instruction 2 is  
13 WPIC 4.01. I don't think there have been any  
14 changes to that and both parties proposed it.  
15 Any objection to the giving of Instruction 2?

16 MR. PICULELL: None.

17 THE COURT: Instruction 3 is the Petrich  
18 instruction 4.25. Any objection to the Court's  
19 giving that instruction?

20 MR. PICULELL: None.

21 THE COURT: Instruction 4 starts with the  
22 words a separate crime is charged in each count,  
23 in each count. Any objection to the giving of  
24 that instruction?

25 MR. PICULELL: None.

1           THE COURT:  Instruction 5 is the  
2           definition of child molestation first degree.  
3           Any objection --

4           MR. PICULELL:  No.

5           THE COURT:  -- to that instruction?

6           MR. PICULELL:  Sorry, no.

7           THE COURT:  And Instruction 6 is the  
8           second degree definition.  Any objection?

9           MR. PICULELL:  No objection.

10          THE COURT:  All right.  Instruction 7  
11          defines sexual contact.  Any objection?

12          MR. PICULELL:  None.

13          THE COURT:  And Instruction 8 defines the  
14          word married.  Any objection?

15          MR. PICULELL:  None.

16          THE COURT:  Instruction 9 is a to convict  
17          instruction on Count 1.  Any objection?

18          MR. PICULELL:  No objection to the form.

19          THE COURT:  All right.  Instruction 10 is  
20          the to convict instruction on Count 2.  I'm  
21          aware of your objection to the amended  
22          information.

23          MR. PICULELL:  Thank you.

24          THE COURT:  Other than that, any  
25          objection to the giving of this instruction?

1 MR. PICULELL: There is not, Your Honor.

2 THE COURT: All right. That will be  
3 given as Instruction 10.

4 Instruction 11 would be the to convict  
5 instruction on Count 3.

6 MR. PICULELL: No objection.

7 THE COURT: All right. And Instruction  
8 12 is the to convict instruction on Count 4.

9 MR. PICULELL: No objection.

10 THE COURT: Instruction 13 is the to  
11 convict instruction on Count 5.

12 MR. PICULELL: No objection.

13 THE COURT: All right. Instruction 14 is  
14 the direct versus circumstantial evidence.

15 MR. PICULELL: No objection.

16 THE COURT: And, okay, Instruction 15 is  
17 the juror's duty to consult. Any objection  
18 there?

19 MR. PICULELL: None.

20 THE COURT: Instruction 16 is the local  
21 instruction, and I prefer to use the Court's  
22 local instruction, I have copies for both  
23 counsel to review. I'm sure you won't have any  
24 objection. It saves the Court from reciting all  
25 the obsolete social media sources that I don't

1 think are at issue in any event.

2 MR. PICULELL: Thank you.

3 THE COURT: So does either party have an  
4 objection to the giving of that local  
5 instruction as Court's Instruction 16?

6 MR. JONES: No, I have no objection, Your  
7 Honor.

8 MR. PICULELL: Defense no objection.

9 THE COURT: All right. That will be 16  
10 then.

11 And Instruction 17 would then be the  
12 closing instruction WPIC 1.51. Any objection to  
13 17?

14 MR. PICULELL: No objection.

15 THE COURT: All right. And I believe  
16 that gets us through all the instructions. I  
17 don't believe there is any instruction that  
18 either party has proposed that the Court is not  
19 giving but you might want to both check your  
20 notes on that.

21 My question is do both parties, have both  
22 parties made all the objections they are going  
23 to make to the instructions as the Court has  
24 just described them?

25 MR. JONES: Yes, I have no objection to



1 the instructions as the Court just went through  
2 them.

3 THE COURT: All right. And Mr. Piculell?

4 MR. PICULELL: Thank you, Your Honor. No  
5 objections to the instruction packet as  
6 indicated and no exceptions for failure to give.

7 THE COURT: All right. And the verdict  
8 form, we do have a change to the verdict form.  
9 I would think the only change to the verdict  
10 form would be to Count 5; is that correct,  
11 Mr. Jones?

12 MR. JONES: That's correct.

13 THE COURT: All right. And does the  
14 Defense have any objection to the verdict form  
15 as proposed?

16 MR. PICULELL: Thank you, no, Your Honor.

17 THE COURT: All right. That's the  
18 verdict form that we will use. And that should  
19 finish our discussion of instructions.

20 Mr. Jones, have you submitted uncited  
21 copies of the instructions?

22 MR. JONES: No, I haven't, Your Honor,  
23 but I can do that.

24 THE COURT: Ms. Martin, could I talk with  
25 you for a moment, please.

1 (Brief break off the record.)

2 THE COURT: If you could have your office  
3 prepare an uncited set of instructions that  
4 would be a very good thing.

5 MR. JONES: Great.

6 THE COURT: I do think we'll have some  
7 time between now and when the jury comes in. I  
8 don't believe we have other issues remaining.  
9 Do the parties agree?

10 MR. PICULELL: No, we do have the issue  
11 concern be the amendment, Your Honor, and the  
12 additional defense based on the amendment. So  
13 we're, is the Court prepared to address that  
14 currently?

15 THE COURT: Yes.

16 MR. PICULELL: Where we left off on that  
17 I had indicated that my client was giving a  
18 profer based upon the amended --

19 THE COURT: Excuse me just a moment,  
20 Mr. Piculell. I'm sorry to interrupt, I realize  
21 I left my notes in chambers. I'll be right  
22 back.

23 (Brief break off the record.)

24 THE COURT: All right, you may continue.

25 MR. PICULELL: Thank you, Your Honor.

1           Based upon the amendments of what's now Count 2,  
2           Count 3 and Count 4 changing the date range to  
3           11-1-11, based upon that my client, there is a  
4           profer that my client was indicating that he was  
5           out of the residence from springtime through  
6           fall time of the alleged victim's residence, and  
7           the Court had indicated to have that information  
8           available in the morning. We do have that.

9                   His, I think I had indicated that he was  
10           having a relationship with another female and  
11           that he was with her periodically or during that  
12           time duration. I spoke to her last night, she  
13           had initially indicated that she would not be  
14           available to testify because she is undergoing  
15           chemotherapy and she also didn't want to lose  
16           her job because she needs healthcare coverage.  
17           She communicated this morning that she had  
18           prayed on it and would come to court today. I  
19           spoke to her briefly this morning, asked her  
20           when she could come in. She has indicated she's  
21           currently at the hospital, which is apparently  
22           close to the courthouse, in chemotherapy, but  
23           she'd be there for about another 45 minutes. I  
24           told her I did not know what time or if we can  
25           endorse this witness at this stage due to the

1           amendment, whether she would testify potentially  
2           this morning or this afternoon. I provided  
3           Mr. Jones with her phone number and her name and  
4           that is the profer of her testimony.

5                       We would expect Mr. Poindexter to testify  
6           consistent with that profer that I made  
7           yesterday that he had informed me he was out of  
8           residence for a significant portion calendar  
9           year '11.

10                      THE COURT: All right.

11                      MR. PICULELL: And also, I'm sorry, I'm  
12           remiss, I asked my client to retrieve his  
13           medical records. All I had yesterday was what  
14           he had, it was an intake or start statement but  
15           he has indicated that's brought all his  
16           documents and so I have from Sundown Ranch an  
17           admission in the fall of 9-14 to 10-5 for  
18           in-patient treatment at Sundown Ranch. I'll  
19           provide those to the prosecutor. I just have  
20           single copies. Thank you.

21                      THE COURT: All right. So it sounds like  
22           the witnesses you would anticipate calling now  
23           are two; Mr. Poindexter and the witness you've  
24           just described.

25                      MR. PICULELL: Correct, Your Honor.

1 THE COURT: All right.

2 MR. JONES: And I have no objection to  
3 Ms. Washburn testifying as to what the profer  
4 is, consistent with the profer. I would like  
5 just a moment when she arrives here, whenever we  
6 determine that to be, to speak with her in the  
7 hall. I think that would be sufficient as far  
8 as me having an opportunity to interview her.

9 THE COURT: All right.

10 MR. PICULELL: I guess one other  
11 logistical matter, and I was thinking about this  
12 yesterday, whether when the Court introduced the  
13 charges to the jury whether the Court had  
14 indicated to the timeframe or just indicated 7  
15 counts. Now that the charges have been amended  
16 I think the jury should be advised that the  
17 charging period has been amended and because of  
18 that there is an additional witness that wasn't  
19 disclosed or wasn't anticipated. We don't know  
20 if anybody on the jury potentially knows  
21 Ms. Washburn. I know nothing about her other  
22 than she had a relationship with my client, she  
23 is not married, and she is clean and sober and  
24 she is undergoing cancer treatment. That's all  
25 I know about her.

1 THE COURT: What is Ms. Washburn's first  
2 name?

3 MR. PICULELL: Erica. And so it's  
4 spelled E-R-I-C-A and then Washburn. The common  
5 spelling; is that correct?

6 MR. POINDEXTER: Yes.

7 THE COURT: She is a resident of  
8 Bellingham?

9 MR. POINDEXTER: Yes.

10 THE COURT: All right. That gets me to a  
11 subject that I wanted to discuss with you.  
12 Several of our jurors are concerned that they  
13 have commitments for tomorrow that are  
14 difficult, and in one case seemingly impossible,  
15 for them to break. I believe the conflict time  
16 for one of the jurors is tomorrow morning. I  
17 don't know the conflict time tomorrow for the  
18 other juror, but it's a lengthy conflict. It's  
19 a 24-hour conflict, begins some time tomorrow.

20 Are counsel prepared to submit the case  
21 to the jury and have the jury deliberate beyond  
22 the normal stopping point of the day?

23 MR. JONES: That's fine with me.

24 MR. PICULELL: Of course, Your Honor.

25 THE COURT: All right. I don't know that

1 the jury will be able to do that, of course, it  
2 will be a new question to them. If that's not  
3 possible, we have jurors with medical conflicts  
4 or medical-related conflicts tomorrow morning  
5 and Thursday morning and it would be, it would  
6 be my preference for them to begin deliberations  
7 today and, knowing that deliberations would  
8 resume at a time when they can all be there. It  
9 looks like that time is likely to be Thursday  
10 afternoon. Is that workable for the parties?

11 MR. JONES: Yes.

12 MR. PICULELL: And, of course, I'm under  
13 the Court's direction we commence the trial and  
14 then part of the reason, a significant causation  
15 of the reason for this is my client's  
16 nonappearance for three-quarters of a day  
17 yesterday. If we start on Thursday I just have  
18 some difficulty if we continue through, of  
19 course depending how long the deliberations are  
20 going to go, and I have two King County cases; a  
21 homicide sentencing on Friday, and an SAU  
22 sentencing on Friday as well. So if that was  
23 going to occur if I could have, if the Court was  
24 going to change that schedule, if I could just  
25 have that indication today so I can get a hold

1 of the prosecutor in King County on both of  
2 those cases and of course the alleged victims  
3 may be appearing in those. I can tell the Court  
4 on the homicide case that I'm going to try to  
5 reset that for other reasons but I'm not sure of  
6 the prosecutor's position on that. And on the  
7 SAU case there could be a number of individuals  
8 that appear so any advance notice I can give the  
9 State and advocates there would be appreciated.

10 THE COURT: All right. I'm going to  
11 explore the feasibility of that schedule and the  
12 schedule that I suggested, which is deliberation  
13 tonight and then a resumption of deliberations  
14 on Thursday at 1:30, which is the next, as I  
15 understand, is the next time that we have all 12  
16 jurors without conflict. I'm reluctant to bring  
17 the alternative in because the scheduling  
18 conflicts apply to several jurors and we only  
19 have one alternate. So I prefer to accommodate  
20 the jurors's schedules to the extent that we  
21 can.

22 I think it's fair to do that too because,  
23 as you know, when we selected this jury we told  
24 the jurors that we would finish by today at the  
25 latest. So the fact they have schedule



1 conflicts not previously known to the Court  
2 isn't an issue of fault on their part. And I  
3 don't mean to fault any party, these things  
4 happen.

5 All right, I think what we will do then  
6 is take a recess at this point and we'll be in,  
7 we'll make our morning recess a little bit  
8 shorter. We'll try to make this our morning  
9 recess and is that workable for you, Ms. Long?

10 THE CLERK: Sure. How come we're  
11 recessing early?

12 THE COURT: Because we told the jury to  
13 be here at 10:00.

14 THE CLERK: Oh, sure.

15 THE COURT: If the jury is all here, I  
16 know that they have --

17 THE BAILIFF: No.

18 THE COURT: We don't have all 12? All  
19 right. We'll recess at this point and we  
20 will --

21 THE CLERK: Are you saying this is our  
22 morning break, is that what you're saying?

23 THE COURT: That's what I was asking,  
24 whether that's workable for you?

25 THE CLERK: Sure.

1           THE COURT: We'll take this as a morning  
2 break, it will be a 15-minute break, we'll  
3 resume at 10:05.

4           MR. JONES: Thank you, Your Honor.

5           THE COURT: All right.

6                   (Brief break off the record.)

7                           (The jury was seated.)

8           THE COURT: Good morning, ladies and  
9 gentlemen of the jury. Before we begin our  
10 session today, I just, I want to reassure you.  
11 I know that several of you have expressed  
12 concerns that as the trial is going longer than  
13 you had anticipated and that's because some  
14 issues have risen that were not anticipated, and  
15 the Court has dealt with them as we've gone  
16 along, but it's set us back a bit in our pace.

17                   Let me assure you that things are going  
18 well and that we do expect that you'll hear  
19 closings arguments and begin your deliberations  
20 later today. And we may want to set our end  
21 time for today later than we normally do to  
22 permit you that time for deliberation and I'd  
23 like you all to think about that. I'll talk  
24 with you about that in more detail after you've  
25 had time to think about and perhaps make any

1 phone calls that you need to make to consider  
2 whether you're able to stay later tonight,  
3 tonight being after our normal stopping time of  
4 4:30.

5 If there is not sufficient time then what  
6 I'm tentatively planning is that we would resume  
7 our, you would resume your deliberations on  
8 Thursday afternoon given the conflicts that  
9 several people have on Wednesday and I believe  
10 on Thursday morning. So I'll be asking you  
11 about that also whether, if necessary, you're  
12 able to arrange your schedules to do that on  
13 Thursday afternoon. Why don't you make a note  
14 of it, give it some thought over the lunch  
15 break, and we'll talk about it further today.  
16 But I just wanted to let you know what's on my  
17 mind and where I think we're headed in terms of  
18 scheduling.

19 All right. And now would you give your  
20 full attention to Mr. Jones. Are you ready to  
21 call the next witness?

22 MR. JONES: Well, I believe where we  
23 were, Your Honor, Detective Francis was  
24 testifying. He was being asked questions by  
25 Mr. Piculell.

1 THE COURT: Oh, excuse me, that's  
2 correct. Detective, will you come back to the  
3 stand, please? It's a new day so I'll give a  
4 new oath.

5 **DETECTIVE ERIC FRANCIS:**

6 **Being first duly sworn, testified as follows:**

7 THE COURT: Okay. You're under oath.

8 MR. PICULELL: With leave of the Court?

9 THE COURT: Please, proceed.

10 RECROSS-EXAMINATION

11 MR. PICULELL: If I may approach?

12 THE COURT: You may approach.

13 Q. (BY MR. PICULELL) Good morning, detective.

14 Where we were yesterday on cross-examination, I'm sorry,  
15 recross-examination, the prosecutor had asked you some  
16 questions concerning your three-month investigation of  
17 these allegations and I had asked you in Exhibit No. 17  
18 what date entries that you had as far as action on the  
19 case. And I think I started, and maybe just to refresh  
20 your recollection, go back to the first date entry that  
21 you had. Is that on 2-15?

22 A. Correct.

23 Q. Okay. And that's where you were assigned the  
24 case and you made contact with Crystal Meyers, correct?

25 A. Correct.

1 Q. Okay. The next date temporally as far as action  
2 you took on the case was 2-21; is that correct?

3 A. Yes.

4 Q. Okay. That's where you responded to the  
5 residence and you and the other detective interviewed  
6 the alleged victims, correct?

7 A. Correct.

8 Q. Okay. And then the next, I think this is where  
9 we were at the recess, what was the next date temporally  
10 of action on that case?

11 A. It was February 22.

12 Q. February 22 -- okay, so February 22nd after the  
13 21st?

14 A. Correct.

15 Q. Okay. And what did you do on February 22nd?

16 A. We, Detective Roff and I responded to residence,  
17 talked to Crystal.

18 Q. Okay. So not the 21st, the 22nd?

19 A. It was both days.

20 Q. Both days? Okay.

21 A. Both dates we went to Mt. Vernon.

22 Q. Okay. And on the 22nd the interview was  
23 conducted or on the 21st?

24 A. Twenty-first the interview was conducted.

25 Q. Okay. And on the 22nd what did you do?

1           A.   We had Crystal place a phone call to  
2 Mr. Poindexter.

3           Q.   Okay.  The next date entry was what, sir?

4           A.   It was April 17th.

5           Q.   Okay.  And the summary of that, would you agree,  
6 is that you contacted CPS; is that right?

7           A.   No.

8           Q.   What did you do there?

9           A.   I contacted a detective in Snohomish County.

10          Q.   I'm sorry, I can't read my own handwriting here.

11                    You contacted a Snohomish County detective to  
12 make contact with Christopher Poindexter by going to his  
13 residence, correct?

14          A.   That's correct.

15          Q.   Okay.  And so how long did that contact take you?

16          A.   That took the better part of the day by the time  
17 I drove down to Everett, met with another detective,  
18 discussed the case, made an attempt at Mr. Poindexter's  
19 residence, left business cards, waited for several  
20 hours, received a phone call from a women whom I believe  
21 was his wife, spoke with Mr. Poindexter later that  
22 afternoon, I believe it was about 4:00, and he said he  
23 didn't know what it was about.

24          Q.   Right.  I didn't ask you what he said.

25          A.   Okay.

1 Q. The contact consisted of, just in summary?

2 A. That was it, but that was essentially an entire  
3 day.

4 Q. Okay. And the next date entry that you have for  
5 any action on the case was what?

6 A. April 27th.

7 Q. Okay. And that's CPS?

8 A. That's CPS.

9 Q. Okay. And the next date entry that you have is  
10 what, sir?

11 A. We have May 8th, May 9th and May 16th.

12 Q. Okay. And so would those, let's start with the  
13 8th. Was that a call to who?

14 A. That was a call to Mr. Poindexter.

15 Q. Okay. And then what was the next?

16 A. Another call to Mr. Poindexter.

17 Q. And when was that?

18 A. On the 9th.

19 Q. Okay. And then what's the next entry?

20 A. Then finally the 16th of May, which is when he  
21 turned himself in.

22 Q. Okay. Okay. Did you, I think I asked you this  
23 yesterday, but in the interest of caution did you do a  
24 police report when you imaged the residence at issue?  
25 Did you do a supplemental police report?

1 A. No.

2 Q. Okay.

3 Now, when you have evidence in a case, any  
4 evidence, do you book it into evidence, do you note it  
5 on a case report?

6 A. Evidence typically, yes.

7 Q. Okay. And you did that here with the alleged  
8 victims' interviews, correct?

9 A. Uh-huh.

10 Q. Did you download that or did you make some  
11 indication on your police report that this was potential  
12 evidence in the case?

13 A. I don't know if I listed it as evidence. I  
14 listed those as recordings and the recording that I took  
15 was imported into the database.

16 Q. Okay. And is that evidence, potential evidence  
17 in the case?

18 A. Potentially evidence if it had been played,  
19 correct.

20 Q. Okay. Or a transcript?

21 A. Or transcript.

22 Q. Okay. And so you didn't book or you didn't log,  
23 more appropriate, you didn't log any indication that you  
24 went out to the residence at Mr. Jones' instruction?

25 A. I did not.



1 Q. Okay. And so in terms of Mr. Jones'  
2 characterization of three months, it's a three-month  
3 time span of your actions, correct?

4 A. There was, from the time that I received the  
5 initial call, which was February 15th, it took nearly 3  
6 months until May 16th.

7 Q. I'm sorry to overtalk you, go ahead.

8 A. Nearly three months for the investigation to be  
9 completed, which included his arrest.

10 Q. Okay.

11 A. It didn't necessarily imply that I was working on  
12 it throughout the three months. It's just, that's the  
13 time, in addition to the other cases that I was working,  
14 to complete the investigation and have him actually  
15 arrested.

16 Q. Okay. And so the outline of investigative steps  
17 that you took were what I just went through, correct?

18 A. Correct.

19 Q. Nothing more, no other police report that's not  
20 drafted or submitted, that entails the investigative  
21 work?

22 A. Not necessarily. I don't document the time that  
23 it takes to write a report, I don't document the time  
24 that it takes to drive from Bellingham to Everett or  
25 back. So your implication is there wasn't any other

1 time put into that, and that's not necessarily true.

2 Q. Sure, I appreciate --

3 A. It takes time to drive, it takes time to talk to  
4 another detective, it takes time to make attempts to  
5 contact a suspect, it takes time to write a report, to  
6 review reports, to review other cases, to work on my  
7 other caseload.

8 Q. I appreciate your advocacy. The question was  
9 that I asked; did you perform any other task,  
10 investigative task other than what I've outlined?

11 A. No, I believe I've been able to cover fairly well  
12 what you've asked.

13 Q. So no matter how long it took, you took no other  
14 tasking on this investigation; is that right?

15 A. No other tasks that were in my report.

16 Q. Okay.

17 MR. PICULELL: Thank you.

18 THE COURT: Mr. Jones?

19 MR. JONES: Your Honor, I'd like to move  
20 to admit Plaintiff's Exhibit 17, which was the  
21 police report of Detective Francis, for the  
22 jury's consideration.

23 MR. PICULELL: I don't even think that's  
24 made in good faith. How can that come in?  
25 Objection, hearsay.

1 THE COURT: May I see Exhibit 17, please?

2 MR. JONES: Your Honor, if I could, I'm  
3 sorry, I don't mean to interrupt. If I could be  
4 heard, there was substantial questioning about  
5 the details of this investigation and there were  
6 implications --

7 MR. PICULELL: Your Honor, this is a  
8 speaking objection. I request to be heard  
9 outside the presence of the jury.

10 THE COURT: Here's the situation; I would  
11 like to discuss the objection outside the  
12 presence of the jury, I'm afraid so. It  
13 shouldn't be long.

14 (The jury left the courtroom.)

15 THE COURT: Thank you. Your objection,  
16 the Defense objection is noted. Your response?

17 MR. JONES: So, Your Honor, I appreciate  
18 the police report, given that it contains  
19 hearsay, would not typically be admitted into  
20 evidence. What happened in this case was  
21 something quite different I think where that  
22 almost seems the, well, a substantial portion of  
23 cross-examination focussed on the quality of  
24 Detective Francis's investigation or lack  
25 thereof as it was implied, questioning in detail

1 from this exhibit, what he did on what day with  
2 the implication to the jury that it was  
3 insufficient or incomplete.

4 Detective Francis in response to that  
5 relied entirely on what he documented completely  
6 in his report, which outlines his investigation,  
7 he testified to that. I think given the  
8 selective questioning that's been allowed so far  
9 about this exhibit that the jury, although it  
10 wouldn't regularly be, is now entitled to  
11 appreciate the scope of the investigation as  
12 evidenced in the report given what was talked  
13 about so far.

14 That by itself I believe makes it  
15 admissible into evidence and also the Rule of  
16 Completeness I think has implication here where  
17 we've been left otherwise with selective or  
18 cherry-picked portions of the report presented  
19 to the jury.

20 THE COURT: And Mr. Piculell?

21 MR. PICULELL: Your Honor, first, as far  
22 as I said in front of the jury, that I think  
23 this offer was made, there is no good faith. I  
24 did not hear the prosecutor have any basis for  
25 the admissibility of what was a hearsay

1 document. His remedy is to refresh  
2 recollection. And if I recall he went through  
3 my initial cross-examination, which obviously he  
4 thought was effective identifying that this  
5 detective did not have a thorough investigation,  
6 and my recross of him this morning, his remedy  
7 is not; I want the jury to see his police  
8 report. There is no basis whatsoever in any  
9 hearsay rule, any statute, any case law, and he  
10 hasn't identified anything. It is absolutely a  
11 preposterous argument that I want the jury to  
12 see what he did. His remedy is to refresh your  
13 recollection if I've omitted any date of action  
14 or any summary of action. That's what he should  
15 do, that's advocacy.

16 THE COURT: All right. Thank you,  
17 counsel. I'm not going to permit the exhibit to  
18 be introduced into evidence. It is hearsay and,  
19 frankly, it's detailed enough that it gives the  
20 Court some concern about the evidence that it  
21 contains that would not otherwise be admissible.  
22 Certainly the State has the right to question  
23 the detective in detail about what the  
24 investigation process was, what the dates were,  
25 who was consulted, all of that can be done

1 without admitting hearsay and that's what the  
2 Court would aim to do. So --

3 MR. JONES: Your Honor, before I begin  
4 doing that, if I choose to, is there any  
5 portions of this report that the Court feels is  
6 inadmissible? It would be my position that the  
7 entire contents of the report if, are subject to  
8 questioning then the detective about.

9 THE COURT: That's true, but the question  
10 that the detective is to be asked, for example,  
11 there is, later in the report there is a  
12 description of Detective Francis's consult with  
13 Detective Roff. The fact that the two talked to  
14 together is relevant or, and would be  
15 permissible. What was said in that discussion  
16 would not be admissible.

17 MR. JONES: Okay.

18 THE COURT: That's true of most of the  
19 detail in the report. I think you can ask about  
20 who was consulted, what was done, who was talked  
21 to without asking the detective to say what was  
22 said.

23 MR. JONES: Okay, Your Honor. I  
24 understand, thank you.

25 THE COURT: Unless what was said is not

1 hearsay, for example, if it's an admission or  
2 something like that.

3 MR. JONES: I understand.

4 THE COURT: We're ready for the jury?

5 MR. JONES: Yes.

6 MR. PICULELL: The Defense is.

7 THE COURT: All right.

8 (The jury was seated.)

9 MR. PICULELL: I'm sorry, Your Honor, was  
10 the objection sustained or overruled?

11 THE COURT: The objection was sustained  
12 as to admitting the report, but questioning  
13 regarding the report is permitted.

14 MR. PICULELL: Thank you, Your Honor.

15 FURTHER REDIRECT EXAMINATION

16 Q. (BY MR. JONES) So I'm going to hand you what  
17 we've been talking about, it's Plaintiff's Exhibit No.  
18 17, Detective. It reflects your entire investigation;  
19 is that correct?

20 A. That's correct.

21 Q. Okay. With the exception of the trial  
22 preparation work that was done taking photographs,  
23 meeting again with the victims of the case?

24 A. That's correct.

25 Q. Okay. In your, now yesterday you testified 3 to

1 400 different sexual assault cases you'd worked on over  
2 your career. Did you feel confident in the  
3 investigation you'd done in this case?

4 A. Yes.

5 Q. Okay. You were questioned extensively about  
6 decisions you made, investigative decisions about  
7 whether or not followup or not followup?

8 MR. PICULELL: Your Honor, I object.

9 This question is beyond the scope of my recross.

10 THE COURT: Overruled. You may proceed.

11 MR. JONES: Thank you.

12 Q. (BY MR. JONES) So you were questioned  
13 extensively about those decisions that you made. Do you  
14 have any concern about the decisions, the investigative  
15 decisions you made in this case?

16 A. No.

17 Q. Why is that?

18 A. I completed an investigation that was sound with  
19 the information that I had. I investigated the avenues  
20 that I thought were necessary and there was nothing else  
21 that I saw that was relevant that needed to be looked  
22 at.

23 I believe after reviewing Kaela's interview with  
24 Detective Roff, after listening in to Jacee and speaking  
25 with Crystal I felt very confident with the



1 investigation.

2 Q. Okay.

3 MR. JONES: Thank you, Your Honor. No  
4 further questions.

5 FURTHER RECROSS-EXAMINATION

6 MR. PICULELL: Just one question based on  
7 that.

8 Q. (BY MR. PICULELL) Detective, you said that you  
9 were confident with the investigative avenues that you  
10 took. Other than what you've identified, is there  
11 another avenue that you took that you haven't testified  
12 to?

13 A. I don't know what you're referring to.

14 Q. What you had just indicated is that you were  
15 comfortable with the investigative avenue that you took.

16 A. Correct.

17 Q. Other than the steps that have been outlined this  
18 morning and yesterday, is there anything else, any other  
19 avenue?

20 A. No. I'm not sure what you're implying, but I  
21 didn't do anything else regarding that. I don't know if  
22 that's what you're trying to ask me.

23 Q. Right. I'm using your term. You used the word  
24 investigative avenue.

25 A. Okay.

1 Q. Other than what we've outlined or what you've  
2 outlined yesterday or today, was there any other avenue  
3 that you took?

4 A. No.

5 MR. PICULELL: Okay, thank you.

6 MR. JONES: And no questions for me, Your  
7 Honor. Thank you.

8 THE COURT: You may step down, detective,  
9 thank you.

10 Would you call the State's next witness,  
11 please?

12 MR. JONES: Yes, Your Honor. The State  
13 calls Detective Steve Roff, Your Honor.

14 THE COURT: All right. Hello, detective.

15 DETECTIVE ROFF: Hello.

16 THE COURT: Could you stand next to the  
17 witness stand for just a moment and raise your  
18 right hand?

19 **DETECTIVE STEVEN ROFF:**

20 **Being first duly sworn, testified as follows:**

21 THE COURT: All right. You're under  
22 oath. Please be seated.

23 DIRECT EXAMINATION

24 Q. (BY MR. JONES) All right. Good morning,  
25 detective.

1 A. Good morning.

2 Q. Will you please start by providing to the jury  
3 your full name and then spell your last name, please?

4 A. It's Steven Aaron Roff, R-O-F-F as in Frank.

5 Q. All right. And are you a detective with the  
6 Whatcom County Sheriff's Office?

7 A. Yes, I am.

8 Q. How long have you had that employment?

9 A. I've been in law enforcement in the State of  
10 Washington for almost 21 years. I've been in  
11 detectives, I'm in my 11th year.

12 Q. So 11 years within the detective division of the  
13 Whatcom County Sheriff's Office?

14 A. Yes.

15 Q. Could you explain to the jury what some of your  
16 duties have been in those 11 years as a detective?

17 A. I'm primarily, what we do is we investigate major  
18 crimes, complex crimes, serious crimes in nature that  
19 include homicides, attempted homicides, robberies,  
20 burglaries, sexual assaults, physical and sexual child  
21 abuse, and sometimes we get involved in high dollar  
22 property crime cases.

23 Q. All right. And do those sorts of investigations  
24 just get assigned within the detectives division when  
25 they happen in the community?

1           A.    Yes.    Generally the detective sergeant -- let me  
2 step back.  Patrol takes the initial case and generally  
3 they will do a report, it will be approved by their  
4 sergeant.  If it meets the requirements or it needs  
5 followup from a detective, it will get sent to the  
6 detective sergeant and then the detective sergeant will  
7 then assign the case to a detective.

8           Q.    All right.  I'm not going to ask you to guess at  
9 the number of particular types of cases you've  
10 investigated in your career, unless you know, but do you  
11 have experience investigating sexual assault cases?

12          A.    Yes, I do.

13          Q.    Including allegations of child molestation?

14          A.    Yes, I do.

15          Q.    Are those cases that you've worked in your 11  
16 years?

17          A.    Yes, I have.

18          Q.    All right.  Let me ask you this, detective, is it  
19 the case occasionally within the sheriff's office  
20 detective division that detectives will work  
21 collaboratively on a particular case?

22          A.    Yes.

23          Q.    Can you explain kind of the circumstances?

24          A.    Um, you know, we're all very busy back there, we  
25 all carry quite a large caseload.  Me in particular, I

1 carry a caseload plus I'm one of our polygraph examiners  
2 so I have double duty. I'm in the office a lot. For  
3 instance, if someone needs help on a case with multiple  
4 interviews we may go out and assist with those  
5 interviews.

6 Q. So we're talking about this case in the case  
7 against Christopher Poindexter. Do you recall that  
8 investigation being within the detectives division?

9 A. Yes, I do.

10 Q. And who is assigned that case?

11 A. Detective Francis was assigned.

12 Q. All right. Are you familiar with Detective  
13 Francis?

14 A. Yes, I've worked with him for years.

15 Q. All right. Share a wall, offices next to each  
16 other in the sheriff's division?

17 A. We're in the same room but we're separated, if  
18 that makes sense, yeah.

19 Q. Okay. So on this particular case, the case  
20 against Mr. Poindexter, did you have an opportunity to  
21 help Detective Francis out with the investigation?

22 A. Yes, I did.

23 Q. Can you tell us how that came about and what you  
24 did to assist?

25 A. We had been working the last month or so on an

1 attempted murder case and we'd been pretty busy. I had  
2 heard Detective Francis say that he had to go to Mt.  
3 Vernon to do two interviews and I wanted to get out of  
4 the office. I think I offered to go help him do an  
5 interview.

6 Q. Was that in any way unusual how folks conduct  
7 investigation?

8 A. No, sometimes we interview people. I mean it can  
9 be draining, it can wear on you multiple interviews in a  
10 day. We just try to help each other out.

11 Q. So was that your role within the Poindexter  
12 investigation to help Detective Francis out in this  
13 specific task?

14 A. Yeah, I conducted one interview.

15 Q. Okay. So did you travel with Detective Francis  
16 to Mt. Vernon --

17 A. Yes, I did.

18 Q. -- in the interest of this case?

19 A. Yes, I did.

20 Q. And when you travelled with him to Mt. Vernon,  
21 did you, upon arriving in Mt. Vernon did you conduct an  
22 interview in this case?

23 A. Yes, I did.

24 Q. And who do you recall conducting an interview  
25 with?

1           A. I believe I interviewed Kaela, and I may  
2 mispronounce this, "See" or "Zee", in the presence of  
3 her mother Crystal.

4           Q. Okay. Can you tell us what you recall about  
5 arriving in Mt. Vernon and the process of conducting  
6 that interview with Kaela?

7           A. Yeah. So generally we go, we kind of do a meet  
8 and greet, do a brief introduction. Since Kaela was 17  
9 she is not an adult, she's still a child, I usually can  
10 ask hey, do you want your parent present? Kaela wanted  
11 her mom there so I allowed her, Crystal, to be present  
12 for the interview, and then I recorded the interview.

13          Q. All right. What do you recall, if anything,  
14 about Kaela's demeanor, how she was acting when she was  
15 being interviewed by you?

16          A. At times she cried. I think she started the  
17 interview out by saying I think I'm going to cry. At  
18 one point I had to offer her a tissue because she was  
19 crying. She appeared very emotional, soft spoken, you  
20 know, it's difficult in these types of cases I think for  
21 a victim, a female, to kind of disclose something so  
22 serious to a male detective.

23          Q. All right. And did you get that sense from Kaela  
24 as she was speaking with you?

25          A. I think initially, but I think she kind of, you

1 know, we had a pretty good conversation.

2 Q. All right. Okay. And did you, was it your  
3 belief at the end of the conversation with Kaela that it  
4 was a thorough interview that you had conducted about  
5 the allegation?

6 A. Yes, I did.

7 Q. And within the interview did she disclose  
8 instances where she had been molested?

9 A. Yes, she did.

10 Q. Okay. And molested by Mr. Poindexter?

11 A. Correct.

12 Q. All right. In addition to assisting Detective  
13 Francis with that interview, were you asked by him to do  
14 anything else in this case?

15 A. I think I went down with him the next day to the  
16 house and that was it.

17 Q. All right. Until two years later you're in trial  
18 on the case?

19 A. Yes, correct.

20 Q. All right.

21 MR. JONES: Those are all my questions  
22 for you. Thank you.

23 DETECTIVE ROFF: All right, thank you.

24 CROSS-EXAMINATION

25 Q. (BY MR. PICULELL) I have a couple of questions.



1 Good morning, sir.

2 A. Good morning. How are you?

3 Q. Good. How are you?

4 A. Good.

5 Q. As part of your assistance on this case with  
6 Detective Francis, he was the primary detective or the  
7 lead on the case?

8 A. Correct, sir.

9 Q. He was assigned it and then you were just  
10 assisting him as normal practice within the office?

11 A. Yes, correct.

12 Q. Okay. As part of your involvement did you do any  
13 paper on the case?

14 A. No, I did not write a report. I submitted the  
15 interview into our Spellman database.

16 Q. So your involvement was not memorialized in any  
17 way under the investigation case number, correct?

18 A. Correct.

19 Q. Okay. You didn't write any official  
20 investigative report concerning your contact with the  
21 alleged victim, correct?

22 A. I did not, sir.

23 Q. Okay. Did Detective Francis as the lead ask you  
24 to do that?

25 A. I can't remember if he did or not. It would

1 probably be, he would have probably just assumed that I  
2 wrote one.

3 Q. Okay. If you wrote, just hypothetically if you  
4 wrote an independent report as an assisting detective,  
5 would you link that to the lead detective or would you  
6 submit that within the system independently with a case  
7 number?

8 A. You can do it one of both ways when you go in  
9 there.

10 Q. Okay.

11 A. Generally you can, generally what I do is I will  
12 just submit it for approval by a supervisor and then the  
13 supervisor will either kick it back to Detective Francis  
14 for review or Detective Francis can go in there and  
15 look.

16 Q. Okay. And see if there was any work product?

17 A. Correct.

18 Q. Now, as part of your involvement when you first  
19 met Kaela Sze you, did you talk to her independently  
20 about the allegations?

21 A. No, I did not. I talked to her in front of her  
22 mother.

23 Q. Okay. And was that first discussion, was that  
24 with a recording or was that unrecorded?

25 A. It was unrecorded, it was just a meet and greet.

1 Q. Okay. And did you as a part of common interview  
2 training or technique to talk to someone prior to a  
3 recorded interview and essentially organize the  
4 allegation or organize the events in their mind?

5 A. I'm sorry, can you repeat that?

6 Q. Or to organize the allegation with events in  
7 their minds that they are talking to?

8 A. Oh, did we talk about it beforehand before the  
9 recorders?

10 Q. Yes, sir.

11 A. No, I don't generally like to do that especially  
12 in sex crime cases because I don't want to, I want to  
13 limit the number of times that the victim has to explain  
14 what happened. So generally I like to do the meet and  
15 greet and then just say, hey, I wanted to turn the  
16 recorder on, that way they are only telling me one time.

17 Q. Okay. So you wouldn't essentially organize their  
18 thoughts or what they are reporting, you would say I  
19 want to turn the recorder on, can we talk?

20 A. Correct.

21 Q. Okay. And did you do that in this instance?

22 A. Yes, I did.

23 Q. Okay. Did you take any notes as part of your  
24 interaction with Crystal Meyers or Kaela Sze?

25 A. Yeah, I usually do scribble down some notes.

1 Q. Okay. And what happened with those?

2 A. I probably destroyed them. I usually destroy my  
3 notes because my report would have been based off of the  
4 audio-video recording.

5 Q. Okay. So you destroyed, you did take notes but  
6 didn't preserve those in any manner?

7 A. Correct, sir.

8 Q. Okay. Now, in terms of the time that you devoted  
9 to this case, absent driving time, everybody has to get  
10 somewhere.

11 A. Uh-huh.

12 Q. What amount of time did that interview take?

13 A. The recording was approximately 53 minutes, I  
14 would say with the quick meeting beforehand and there  
15 are a couple minutes to kind of close everything out, an  
16 hour, maybe a little bit over an hour.

17 Q. Okay. Other than that involvement, were you  
18 tasked by the lead detective or a sergeant to take any  
19 other action in the case?

20 A. No, I was not.

21 Q. Okay. Other than that was there any other  
22 involvement that you had sua sponte on your own accord?

23 A. Just that I went down the next day for the phone  
24 call, that was it, with Detective Francis.

25 Q. Okay. And you didn't make a report concerning

1 that as well, no paper, right?

2 A. No, I believe he documented that in his report.

3 Q. Okay, all right.

4 Now, in, just to go back to the interview with  
5 Kaela Sze, her mother was present you've indicated.  
6 Now, did her mother respond to any questions or  
7 participate verbally in that interview?

8 A. She did at some times, yes, sir.

9 Q. Okay. And they were substantively responses  
10 regarding questions that you were asking Kaela Sze,  
11 correct?

12 A. I believe a couple of the, one of the responses  
13 was that she didn't know that had happened. And then I  
14 believe the other times were more like if a description  
15 of a location, Ms. Meyers may know the exact address of  
16 that location.

17 Q. Okay. Another response could it have been when  
18 the two sisters reported the allegation?

19 A. It could have been, yes.

20 Q. Now, in that interview did you have any  
21 investigative information regarding who was present in  
22 the residence during the period of the allegation?

23 A. Yeah, I believe one of Jacee's friends was  
24 present. Well, one of the allegations was down in  
25 Snohomish County and, I believe at Mr. Poindexter's

1 residence, and I believe that it was Kaela, Jacee,  
2 Ms. Meyers, Mr. Poindexter and I think it's one of  
3 Jacee's friends.

4 Q. Okay. So in terms of the interview of her did  
5 she provide a time period of the allegations at the  
6 shared residence?

7 A. She did.

8 Q. That was the question that I asked you. Yes?

9 A. I believe so, yes.

10 Q. Did you have any information as to anyone  
11 residing there other than the two sisters and mother?

12 A. I don't, I don't recall. I don't believe so.

13 Q. Okay. Did you review that report prior to  
14 testifying here today?

15 A. The transcripts, yes.

16 Q. The transcripts. Did you do that this morning?

17 A. I did that I think over the weekend and  
18 yesterday.

19 Q. Okay. Was that the only interview that you took,  
20 sir?

21 A. It was.

22 MR. PICULELL: If I may approach?

23 Q. (BY MR. PICULELL) Sir, handing you what has been  
24 marked as Exhibit 14, trial Exhibit 14.

25 A. Okay.

1 Q. Do you recognize that, sir?

2 A. I do, yes.

3 Q. And what is that?

4 A. This is a transcript I believe prepared by your  
5 office that was forwarded to me by Prosecutor Jones.

6 Q. Okay. Prepared by a court reporter, right, an  
7 official court reporter?

8 A. Yes.

9 Q. But submitted through the prosecutor's office?

10 A. Uh-huh.

11 Q. Okay. If you could take a moment to review that,  
12 and is that the exhibit that you reviewed this morning  
13 or prior to testifying?

14 A. Yeah, I didn't review it this morning, I think I  
15 reviewed it yesterday and over the weekend.

16 Q. Okay. And in terms of the allegation that she  
17 made, that Ms. Sze made at the --

18 Well, actually let me put it this way; where was  
19 the geographical location here in Whatcom County?

20 A. It would have been at 126-B Sudden Valley Drive  
21 in Sudden Valley.

22 Q. In Sudden Valley?

23 A. Yes.

24 Q. Okay. Now, as part of your interview of Ms. Sze  
25 in terms of allegations at Sudden Valley, did you ask

1 her any questions regarding the time period of when this  
2 allegation was alleged to have occurred at Sudden  
3 Valley?

4 A. I may have if it's in the transcript.

5 Q. If you could take quick look?

6 A. Do you have a specific page you want me to look  
7 at?

8 Q. I'm sort of asking you if you have any  
9 recollection of doing that or --

10 A. I want to say when she was 8 or 9 years old,  
11 right around that time. She would have been under 12 is  
12 what she told me.

13 Q. Okay, okay. And do you have an indication where  
14 you asked her that that you can point to?

15 MR. JONES: Your Honor, I'm going to make  
16 an observation here. I think it's fair to the  
17 witness to either direct him to a portion of the  
18 transcript, but to ask him to review the entire  
19 transcript, which is something around 30 pages.

20 MR. PICULELL: Well --

21 MR. JONES: I think he should give in  
22 that answer a specific question about that  
23 entire review of the transcript. I don't think  
24 that's fair to the witness.

25 MR. PICULELL: Well, it's concerning the



1           thoroughness of his understanding of the  
2           allegations, but I will direct him to Page 5,  
3           Line 25, Page 6, Line 22. So it's the beginning  
4           of the transcript.

5                     DETECTIVE ROFF: Yes, February 12, 2010.

6           Q.   (BY MR. PICULELL) So what, um, so other than  
7           that, refresh your recollection, other than that, is  
8           there any other indication of a timeframe?

9                     MR. JONES: Your Honor, objection.  
10           That's the same question. It calls for a  
11           complete review of the 30-page transcript.

12                    MR. PICULELL: He can say I don't know,  
13           Your Honor, in terms of that.

14                    THE COURT: Uh-huh.

15                    MR. PICULELL: I don't know what the  
16           objection is.

17                    THE COURT: I'm going to ask that if you  
18           have a specific area that you wish to discuss  
19           with the witness that you direct the witness to  
20           that. If your question is simply whether the  
21           witness remembers talking with you about that  
22           subject, then the question should be asked in  
23           those terms.

24                    MR. PICULELL: Okay.

25           Q.   (BY MR. PICULELL) And this interview, sir, it's

1 not with, it's with, it's not me and, Gene Piculell and  
2 the alleged victim, it's you and the alleged victim,  
3 correct?

4 A. Correct.

5 Q. And do you have an independent, other than me  
6 directing you to the page, do you have an independent  
7 recollection of what she indicated?

8 A. For a timeframe?

9 Q. Yes.

10 A. No, I don't.

11 Q. Okay. So going back to page, I think it's Page  
12 5, Line 25, does she identify what grade she was in?

13 A. I believe the 4th grade.

14 Q. Okay. What does she say? It is third or fourth  
15 or forth or fifth?

16 A. So Page 5 --

17 Q. I think so.

18 A. -- line 25? I have 126-B Sudden Valley Drive.

19 Q. Right. And then on Page 6, Line 2?

20 A. Line 2?

21 Q. That whole frame of --

22 A. Third or fourth grade.

23 Q. Third or fourth grade? Okay.

24 A. Uh-huh.

25 Q. And does she indicate an age, like you just

1 indicated eight or nine, or is it a grade?

2 A. I don't see an age, it's just grade.

3 Q. Okay. Just grade?

4 A. Yeah.

5 Q. Okay. And did you ask her, did she have any  
6 indication of -- did you ask her when it occurred  
7 allegedly?

8 Page 6, Line 9.

9 A. I'm looking at it here. Yes.

10 Q. Okay. And what was her response?

11 A. I asked her; do you happen to remember what time  
12 of year?

13 She said she had no idea.

14 Q. Okay. If I could ask you to turn to Page 18,  
15 Lines 8 or 9?

16 A. (Witness complies.) Yes, sir.

17 Q. You're discussing the Sudden Valley location. I  
18 think that's on Page 17, Line 3 where it starts.

19 A. Okay.

20 Q. Is that correct; you're discussing that issue?

21 A. Yeah, correct.

22 Q. Okay. You're discussing in particular her  
23 allegation of grinding, correct?

24 A. Correct.

25 Q. Okay. And you posed a question to her about what

1 you discussed, the first incident, and then you ask her  
2 if there was any other incidents of grinding?

3 A. Correct.

4 Q. And what does she say?

5 A. No.

6 Q. So that's a singular, you're saying one grinding  
7 from the first incident, then you ask her if there is  
8 any other and she says no?

9 A. Correct.

10 Q. Okay. Then the question that I asked you a few  
11 minutes ago concerning, so if you could turn to Page 25,  
12 Line 1 it starts. Maybe it's really that whole page.

13 A. Okay.

14 Q. If you could take a moment to silently review  
15 that, sir.

16 A. Okay.

17 Q. There is some discussion there regarding the time  
18 of the first recorded, the allegation, correct?

19 A. Correct.

20 Q. Okay. And Page 29, Line 1 I believe.

21 A. Uh-huh.

22 Q. And she had disclosed that it was at the time of  
23 an MIP I guess?

24 A. Correct, I believe it was Jacee got an MIP.

25 Q. Okay. At the time of Jacee's MIP?

1 A. Uh-huh.

2 Q. Okay. And did she indicate when that was, when  
3 that MIP was?

4 A. I don't see it in here. I just say 2:30 a.m.  
5 phone call.

6 Q. As part of any investigation or involvement in  
7 the case did you make a determination, an investigative  
8 determination and look that up to get a reference date?

9 A. I did not. No, sir.

10 Q. Okay. Now, it's during this sequence that I had  
11 asked you whether Crystal Meyers had participated in the  
12 interview substantively in terms of responding on the  
13 record. If I could ask you to review in particular  
14 Lines 16 through 25 on Page 29?

15 A. Yeah.

16 Q. Okay. So that's where she substantively  
17 participated, correct?

18 Crystal Meyers responded?

19 A. She did respond, yes.

20 Q. Okay. And so Crystal Meyers, in fact, asks a  
21 question during the interview, correct, on Line 16?

22 She says; when did you tell Jacee?

23 A. Yeah, she did ask that.

24 Q. Okay. Maybe we could each speak independently so  
25 the court reporter gets an accurate record.

1           So Crystal Meyers asks a question; when did you  
2 tell Jacee, correct?

3           A.    Correct.

4           Q.    And then Kaela responds that I told her when we  
5 lived on Hopi Lane but she hadn't told me yet; is that  
6 correct?

7           A.    Correct.

8           Q.    Okay.  So Kaela then says she was in seventh or  
9 eighth grade, correct?

10          A.    Correct.

11          Q.    Okay.  And then Crystal goes on to give you other  
12 information as to, as far as when her and Christopher  
13 Poindexter separated, correct?

14          A.    Correct.

15          Q.    And then Crystal Meyers on Line 25 on Page 29  
16 offers an opinion as to the assessment of what's going  
17 on, correct?

18          A.    Yeah, she just said that they didn't know what  
19 was happening to each other and when it was happening.

20          Q.    So that was her opinion?

21          A.    Yeah.

22          Q.    Okay.  So in terms of -- you can set that down  
23 or, I have no additional questions that were on that  
24 exhibit, sir.

25                So when you're interviewing Kaela, I heard your

1 responses to the prosecutor, that she was upset, she  
2 asked her to be there. Do you think that Crystal Meyers  
3 was a potential witness in the case?

4 A. Um, I know at the time at the beginning she was  
5 the mother. Yes, she could have been a potential  
6 witness, but on one hand I didn't want to deny a  
7 juvenile having a parent present for an interview.

8 Q. Does Whatcom County have a child interview  
9 specialist?

10 A. We do, yes.

11 Q. How old was Kaela at the time of this?

12 A. She was 17.

13 Q. Okay. So not of the majority?

14 A. Correct. She would have not qualified for a  
15 forensic child interview.

16 Q. Because of, what's the protocol on that?

17 A. It's 12 or under.

18 Q. Twelve or under? Okay.

19 So in terms of, just in general in terms of  
20 interviewing witnesses, let's start with involved  
21 parties. I'm assuming you have lots of experience in  
22 patrol before you were advanced to detective, correct?

23 A. Correct.

24 Q. Okay. And in terms of that I'm sure you've had  
25 countless cases of involved parties when you arrive on

1 the scene and they may have different perspectives on  
2 what happened, so what do you do?

3 A. It depends on the circumstances. I can provide  
4 an example; obviously, if we show up on something in  
5 progress like a shooting or something like that, yes, we  
6 will separate everybody. We will do separate  
7 interviews. In cases like this what makes these  
8 different is when --

9 Q. But I'll interrupt, that wasn't the question,  
10 sir.

11 A. Okay.

12 Q. The question was what do you do on patrol. I'll  
13 give you an opportunity to answer that.

14 So what do you normally do with involved parties  
15 arriving on the scene?

16 A. Oh, we separate them and talk to them.

17 Q. Okay. Unless there is exigent circumstances,  
18 somebody with a gun or a knife and you need to make  
19 quick decisions about what to do?

20 A. Correct.

21 Q. How about uninvolved parties, somebody that may  
22 have information but they are not directly involved in  
23 the alleged event? Two people may have seen something,  
24 two people don't know each other, would you separate  
25 them or would you let them chit-chat?



1 A. We'd separate them.

2 Q. Okay. Why would you do those two things to  
3 separate either involved persons or uninvolved?

4 A. We would just want to get each individual  
5 statement of what occurred.

6 Q. Okay. Without essentially another person  
7 influencing what somebody else had to say?

8 A. Correct.

9 Q. Okay. So testimonial evidence can, well, let me  
10 ask you this; is the preservation of the integrity of  
11 evidence in general as an investigator, is that  
12 important?

13 A. Yes, it is.

14 Q. Okay. Physical evidence important?

15 A. Yes.

16 Q. Okay. And then what somebody says can also be  
17 evidence, correct?

18 A. Correct.

19 Q. So is preserving the integrity of that potential  
20 evidence important from an investigative standpoint?

21 A. Yes, it is.

22 Q. Okay. Now, in terms of the involvement of the  
23 case, you've indicated this was your limited  
24 involvement, and did you have any involvement in trial  
25 preparation with any involved party or uninvolved party?

1 A. Just Prosecutor Jones.

2 Q. Just Mr. Jones? Okay. Okay, thank you.

3 MR. PICULELL: Thank you, Your Honor.

4 THE COURT: Mr. Jones?

5 MR. JONES: Yeah, thank you, Your Honor.

6 REDIRECT EXAMINATION

7 Q. (BY MR. JONES) Detective, I think you were told  
8 you were going to be given an opportunity to explain  
9 what made this case different --

10 A. Yeah.

11 Q. -- than a regular patrol interview. Can you give  
12 us that explanation?

13 A. Again, it goes back to in these types of cases,  
14 especially when you're a male detective and you're  
15 contacting a female, let alone a juvenile, sometimes  
16 it's difficult for them to be comfortable talking to  
17 you. Kaela was a juvenile, she is about getting ready  
18 to tell me something, probably a very traumatic event or  
19 experience for her, and to tell a total stranger. So I  
20 had no problem with her mom being present for the  
21 interview.

22 Q. In your experience did you think that the  
23 presence of the mother for support compromised your  
24 interview?

25 A. No, not at all. And also we do numerous sexual

1 assault investigations where we would interview a victim  
2 and there will be a domestic violence advocate there.  
3 You know, I just recently attended a special training on  
4 trauma-based interviewing that, you know, we're going  
5 forward with these types of interviews and it's not  
6 uncommon for a victim to have somebody present with them  
7 for comfort, if they choose to.

8 Q. All right. So a little more complex of an  
9 analysis than just a regular patrol case that you might  
10 work?

11 A. Correct.

12 Q. So do you still have Exhibit 14 in front of you,  
13 detective?

14 A. I do.

15 Q. There was some discussion about that, and I'll  
16 make this brief, but if you could turn to Page 6, Line  
17 11?

18 A. (Witness complies.) Yes, sir.

19 Q. Okay. Defense counsel questioned you  
20 specifically about some of the questions and answers  
21 that you had with Kaela on this page. At Line 11 did  
22 she indicate to you the frequency of these sorts of  
23 molestation events within the home at that time?

24 A. It says; "I can't remember because things like  
25 that happened a lot at that house because that's where

1 it started, like the incidents".

2 Q. Okay. All right. Was that, from your  
3 recollection or from your review of those portions of  
4 the transcript, was that Kaela relating to you that the  
5 frequency of these events, or her attempt to distinguish  
6 the multiple events that she had suffered within this  
7 home?

8 A. Yes, it was.

9 Q. Okay. And then if you could turn to Page 10,  
10 please, and I'll direct your attention to Line 3?

11 A. (Witness complies.)

12 Q. There were some, I'll give you a second here. So  
13 there were some questions about reference to multiple  
14 events versus one event and this idea of grinding being  
15 involved in the different events. Do you see, does that  
16 provide you context around those quotes there?

17 A. Yes, uh-huh.

18 Q. Okay. Now, you asked a question starting at Line  
19 3 where you refer to just two incidents that you'd been  
20 told about already; the upstairs incident and the  
21 downstairs incident; is that right?

22 A. Correct.

23 Q. And you indicate in your question in both of  
24 those two incidents the hand, Mr. Poindexter's hand was  
25 over her private area but outside the clothing; is that

1 right?

2 A. It is.

3 Q. And then does Kaela qualify then in discussion of  
4 those two specific incidents, not all of them, but those  
5 two specific ones does she add the element of grinding  
6 to each of those starting at Line 6?

7 A. Yes.

8 Q. What does she say starting at Line 6?

9 A. "Yes, and then the grinding part was involved in  
10 both of them".

11 Q. Okay. And do you follow up on her discussion of  
12 those two incidents and grinding?

13 A. Yes. I said; "the grinding, tell me about that,  
14 please".

15 Q. Can you relate to us what she, how she answered  
16 your question there?

17 A. "He would move me to where my private area was on  
18 where his penis is and would make like a move back and  
19 forth over clothes".

20 Q. All right. So in review of these few lines of  
21 the transcript is she referring to, is Kaela referring  
22 there to the two incidents that you were talking about;  
23 the upstairs incident and the downstairs incident?

24 A. Yes.

25 MR. JONES: Those are all my questions,

1 Your Honor.

2 THE COURT: Thank you, counsel.

3 Mr. Piculell, further questions?

4 MR. PICULELL: Can I have ten seconds,  
5 Your Honor?

6 FURTHER RECROSS-EXAMINATION

7 Q. (BY MR. PICULELL) And you still have that  
8 exhibit, sir?

9 A. I do.

10 Q. And so the prosecutor brought your attention to  
11 Line 10, but if you turn to Page 18 where I had asked  
12 you the question, Line 4 through 9?

13 A. Yes, sir.

14 Q. And that's what I asked you about where you asked  
15 the question; were there other times of grinding and she  
16 said no?

17 A. Correct.

18 Q. Okay. So this interview on Page 10, so the  
19 prosecutor is asking you about a statement on Page 10  
20 and I asked you about a statement on Page 18?

21 A. Uh-huh.

22 Q. That, are they different in their viewpoint in  
23 the same interview?

24 A. I think she is talking about the same incident.

25 Q. Okay, okay.

1           And so you've asked her if there was any,  
2 anything additional on Page 18 and she said, were there  
3 other times you asked on Page 8. So what does that say  
4 in full, sir, read to us what your question is?

5           A. Okay, were there other times. I'm going to  
6 read --

7           Q. Let's stop right there, I couldn't hear you very  
8 good. Could you read that clearly, sir?

9           A. "Okay. But there were, were, but there were no  
10 other times?" Her response is no.

11          Q. Okay.

12                       MR. PICULELL: Nothing else.

13                               FURTHER REDIRECT EXAMINATION

14          Q. (BY MR. JONES) I'm sorry, detective, just the  
15 quote directly above that you ask a question. Could you  
16 start there rather than where you just started, and I'm  
17 looking at Line 4?

18          A. Yeah. "Sudden Valley, and is that it? We  
19 discussed some of the grinding during the first  
20 incident. Did we discuss that already or is there more  
21 information about that?"

22          Q. And what does Kaela say?

23          A. "I feel like it was discussed as much as I can  
24 remember."

25          Q. Okay. So you were referencing a particular

1 incident and the description of that particular incident  
2 when you had the next exchange with Kaela?

3 A. Correct.

4 Q. All right.

5 MR. JONES: That's all I have, Your  
6 Honor?

7 FURTHER RECROSS-EXAMINATION

8 Q. (BY MR. PICULELL) Sir, let's read the entire  
9 thing from Line 4 to, from Line 3 to Line 9, the entire  
10 thing again.

11 A. So this is Kaela: "Sudden Valley."

12 Me: "Sudden Valley. And is that, we discussed  
13 some of the grinding during the first incident. Did we  
14 discuss that already or is there more information about  
15 that?"

16 Kaela: "I feel like it was discussed as much as  
17 I can remember."

18 Me: "Okay. But there were no mother other  
19 times?"

20 Kaela: "No."

21 Q. Okay. So let me stop you there. You said on  
22 Line 8; "okay. But there were no other times?"  
23 Intonation and she said no, correct?

24 A. Correct.

25 Q. Okay. Is that the entirety of that sequence of



1 question and answer on that grinding issue on Page 18?

2 A. The next question is just about grinding and a  
3 description if it was fully clothed.

4 MR. PICULELL: Okay. Okay, thank you.

5 Nothing else.

6 FURTHER REDIRECT EXAMINATION

7 Q. (BY MR. JONES) Kaela did tell you about multiple  
8 times that it happened to her, didn't she?

9 A. Yes.

10 FURTHER RECROSS-EXAMINATION

11 Q. (BY MR. PICULELL) On Page 10, correct?

12 A. During the interview.

13 Q. Yes. Okay, thank you.

14 MR. PICULELL: Nothing else.

15 MR. JONES: Nothing for me, Your Honor.

16 THE COURT: All right. Thank you,  
17 detective. You may step down.

18 MR. JONES: All right. Your Honor, at  
19 this point the State rests.

20 THE COURT: All right.

21 Mr. Piculell?

22 MR. PICULELL: Thank you. If I could  
23 request a brief recess?

24 THE COURT: How much time do you need?

25 MR. PICULELL: Short.

1 THE COURT: Short break? All right.

2 Ladies and gentlemen of the jury, we'll be in  
3 recess, we'll try to keep it to ten minutes. It  
4 may be a little more, we'll do our best.

5 THE BAILIFF: All rise.

6 (The jury left the courtroom.)

7 THE COURT: Mr. Piculell, do you intend  
8 to do an opening statement?

9 MR. PICULELL: I may, I may and that's  
10 the purpose of my recess. I just wanted to  
11 review my client's decision with him to, on  
12 testimony.

13 THE COURT: All right. Certainly we'll  
14 give you that time. And if you do make an  
15 opening statement I'll ask you that keep it to  
16 about ten minutes, which is I think what the  
17 State did in its opening statement.

18 MR. PICULELL: Understood.

19 THE COURT: All right. And necessary  
20 obviously because of our scheduling  
21 considerations today. All right. We'll be in  
22 recess until we're ready to resume.

23 (Brief break off the record.)

24 THE COURT: Mr. Piculell, have you and  
25 your client had sufficient time to confer about

1 plans for the next phase of the trial?

2 MR. PICULELL: Yes, we have. Thank you  
3 for the recess to discuss my client's final  
4 decision. He does wish to maintain his right to  
5 testify and we're ready to proceed with him, but  
6 as indicated before, we have another witness,  
7 Erica Washburn, during the recess as well. I  
8 texted her and asked her if she could be ready  
9 at 1:30, I can't say Mr. Poindexter's testimony  
10 will be concluding before the noon hour, and she  
11 indicates that she can.

12 THE COURT: All right. We will recess  
13 for lunch at noon and we will start up again at  
14 1:30.

15 MR. PICULELL: I don't think the jury has  
16 been introduced to her as far as whether the  
17 jury, whether anybody on the jury might know  
18 her.

19 THE COURT: Would you like me to ask that  
20 question now? Perhaps I should when the jury  
21 comes in.

22 MR. PICULELL: Thank you. I would like  
23 to request that.

24 MR. JONES: And so, Your Honor, I'm  
25 sorry, maybe if the Court had suggested, and we

1 are now moving into the Defense case, and the  
2 Defense anticipates having two witnesses do any  
3 of the jury know this witness rather than  
4 implying that something different or new has  
5 happened in the trial?

6 MR. PICULELL: Well, Your Honor, I have  
7 difficulty with that. The jury at the beginning  
8 of the case, and that's why I asked to be  
9 advised of the nature of the charge, the dates  
10 of the charge, and now they have been amended to  
11 add an entirely different year where the Defense  
12 is, within the middle of the trial, trying to  
13 plug that hole of the allegation and then the  
14 prosecutor is trying to protect that he's  
15 amended it different from what they have been  
16 advised.

17 I think they need to be advised that the  
18 date on the information has been expanded,  
19 consequently there is an additional witness that  
20 wasn't disclosed. Why would we hide that from  
21 them? They are required to be advised what the  
22 nature of the charges are --

23 THE COURT: I'm simply going to tell the  
24 jury that there will be, that the Defense  
25 anticipates presenting two witnesses. I'll

1 point out that they're already met  
2 Mr. Poindexter and I'll ask them if any of them  
3 is acquainted with Erica Washburn with no  
4 further comment. All right. We're ready to  
5 proceed?

6 MR. PICULELL: Defense is ready.

7 THE COURT: All right. State's ready as  
8 well?

9 MR. JONES: Yes, thank you, Your Honor.

10 (The jury was seated.)

11 THE COURT: Ladies and gentlemen of the  
12 jury, as you know, the State has rested and now  
13 the Defense will begin to present its case.  
14 Mr. Poindexter has elected to testify and you'll  
15 be hearing from him. There will be another  
16 witness and her name is Erica Washburn, who is a  
17 resident of Bellingham. Does any of you are  
18 acquainted with Erica Washburn? Juror 13, yes,  
19 how do you know Ms. Washburn?

20 JUROR NO. 13: If it's the same Erica she  
21 works at Baron Heating, if that's true or not,  
22 she would be my dispatcher there. I worked with  
23 her there for four or five years. If that's the  
24 same person.

25 THE COURT: Sounds like it is the same

1 person. All right.

2 Is there anything about your connection  
3 with Ms. Washburn that would cause you to hear  
4 the case differently or hear her testimony  
5 differently than you otherwise would?

6 JUROR NO. 13: No, I wouldn't. We are  
7 friends at work but it's at work professionally  
8 so.

9 THE COURT: All right. So will you be  
10 able to keep, to follow all the instructions  
11 that the Court has given including to keep an  
12 open mind until deliberations begin?

13 JUROR NO. 13: Yeah.

14 THE COURT: All right. Does either party  
15 wish to ask questions of Juror 13?

16 MR. JONES: Good afternoon, just briefly,  
17 Juror 13, thank you for telling us that. Is the  
18 relationship confined to work --

19 JUROR NO. 13: Yeah.

20 MR. JONES: -- with Ms. Washburn?

21 You don't socialize out of work?

22 JUROR NO. 13: We casually text  
23 occasionally joking, but we don't hang out  
24 outside of work.

25 MR. JONES: All right. So a friendship

1 but a professional relationship, is that how  
2 you'd characterize it?

3 JUROR NO. 13: Yeah.

4 MR. JONES: All right. Okay. Do you  
5 think you would put more weight in what she  
6 might say versus anyone else that you have heard  
7 in the trial?

8 JUROR NO. 13: No.

9 MR. JONES: Okay. Thank you, that's all  
10 I have.

11 THE COURT: All right. Thank you.

12 MR. PICULELL: I have a question, Your  
13 Honor. I have a question.

14 THE COURT: Okay.

15 MR. PICULELL: Thank you.

16 Sir, as far as your knowledge or informal  
17 relationship with this person, do you have, have  
18 you formed an opinion as to, in general, her  
19 reliability or the nature of --

20 JUROR NO. 13: If you're asking if I  
21 trust her, is that what you're basically asking?

22 MR. PICULELL: Yeah. You work with  
23 somebody, you may not question them or you may  
24 question them.

25 JUROR NO. 13: Oh, yeah. I find her to

1 be a credible person I mean, yeah. I think she  
2 is a good friend.

3 MR. PICULELL: Okay.

4 JUROR NO. 13: Or, you know, associate.

5 MR. PICULELL: Okay. And so you text one  
6 another?

7 JUROR NO. 13: Memes.

8 MR. PICULELL: Okay.

9 JUROR NO. 13: Behind our employer's back  
10 occasionally, that's the truth. I mean, I don't  
11 know.

12 MR. PICULELL: Okay. And would the  
13 nature of that in terms of this is a credible  
14 person, would that cause you to weigh any  
15 potential testimony for or against the  
16 government here?

17 JUROR NO. 13: No.

18 MR. PICULELL: No? Okay.

19 JUROR NO. 13: Is it confirmed it's the  
20 same person?

21 MR. PICULELL: Thank you, Your Honor.

22 THE COURT: I think we know that it's the  
23 same person because there is a work association  
24 that's been confirmed.

25 JUROR NO. 13: All right.



1 THE COURT: Anything further?

2 MR. JONES: No, Your Honor.

3 THE COURT: All right.

4 MR. JONES: I'm not making any challenges  
5 to Juror 13.

6 THE COURT: All right.

7 MR. PICULELL: Same here, Defense is not  
8 making a challenge.

9 THE COURT: We'll proceed then.

10 And do you wish to make an opening  
11 statement?

12 MR. PICULELL: Defense will waive. We're  
13 ready to call Mr. Poindexter.

14 THE COURT: Mr. Poindexter, will you come  
15 forward please and stand next to the witness  
16 stand for just a moment, and would you raise  
17 your right hand?

18 **CHRISTOPHER POINDEXTER:**

19 **Being first duly sworn, testified as follows:**

20 THE COURT: All right. You're under  
21 oath. Please, be seated.

22 DIRECT EXAMINATION

23 Q. (BY MR. PICULELL) Thank you. Sir, please state  
24 you full name and spell your last name?

25 A. Christopher Poindexter, P-O-I-N-D-E-X-T-E-R.

1 Q. Your current mailing or residential address is  
2 what?

3 A. 5116 65th Drive Northeast in Marysville 98270.

4 Q. And what do you do for a living, sir?

5 A. I'm an iron worker.

6 Q. How long have you been an iron worker?

7 A. Twenty-one years.

8 Q. Okay. And I just wanted to bring your attention  
9 to Crystal Meyers. When did you meet Crystal?

10 A. 2004.

11 Q. Okay. And when did you get married?

12 A. 2006.

13 Q. And divorced?

14 A. 2014.

15 Q. Okay. The places that you lived with her, if you  
16 could just name the places that you resided with  
17 Ms. Meyers?

18 A. Birch Bay, two places in Birch Bay, one was a  
19 trailer and one was a three-bedroom home. We moved from  
20 the three bedroom and went to Grove Street, went from  
21 Grove Street to Sudden Valley, from Sudden Valley we  
22 went to Mt. Vernon and then that's where we separated  
23 from.

24 Q. Okay. And the individuals in your household or  
25 residence during that time were her daughters?

1 A. Correct.

2 Q. Okay. And obviously we have been talking about  
3 them, Kaela and Jacee?

4 A. Correct.

5 Q. Okay. Did they reside with their mother the  
6 entire time that you resided with her?

7 A. Yes.

8 Q. Okay. Did other individuals reside in your  
9 household along with Ms. Meyers, your wife, and her two  
10 daughters?

11 A. Yes, at one point in time her mother lived with  
12 us for a while.

13 Q. And when was that?

14 A. Grove Street and Sudden Valley.

15 Q. Okay. And did she reside there full time?

16 A. For the most part. She, maybe a couple months  
17 after we were ready to move she moved out before us.

18 Q. Okay. And then Grove Street, do you recall the  
19 dates that you lived there?

20 A. 2000 -- end of 2007, 2008 to 2009.

21 Q. And Sudden Valley?

22 A. 2010 to beginning of 2012.

23 Q. Okay. And then your divorce, when did you move  
24 out from that shared residence with Ms. Meyers?

25 A. In 2014.

1 Q. 2014?

2 A. Yeah.

3 Q. Okay. And that was pursuant to a break up?

4 A. Yeah, we separated at that time.

5 Q. Okay. And subsequently divorced?

6 A. Yes, in 2016.

7 Q. Do you ever move back in with Ms. Meyers and her  
8 family?

9 A. After that, no.

10 Q. Okay. Did you adopt her children?

11 A. No.

12 Q. Any legal responsibility for her children?

13 A. No.

14 Q. Okay, okay.

15 I want to bring your attention to after you  
16 ceased your relationship with Ms. Meyers. Did you  
17 maintain communication with Ms. Meyers?

18 A. A little bit. We were texting back and forth  
19 for, I don't know, maybe a couple of months or  
20 something.

21 Q. Okay. And how was that communication?

22 Why would you be communicating with your ex-wife?

23 A. For the dog and then the girls wanted to come and  
24 say hi.

25 Q. Okay. And where were you living at the time?

1 A. I was living in Snohomish.

2 Q. Okay. And that's where the police attempted to  
3 contact you?

4 A. No, that would be in Marysville.

5 Q. In Marysville, okay. So not Snohomish at all?

6 A. No.

7 Q. Okay. And did you communicate with Kaela or  
8 Jacee following the dissolution of your marriage?

9 A. Both of them.

10 Q. Okay. And how was that communication, was it by  
11 phone, in person?

12 A. It was both. They would come over or we'd be  
13 texting back and forth. We, both ways, they could come  
14 over and ride quads.

15 Q. What's the quads?

16 A. The ATV's that I had in the back yard.

17 Q. Okay. I know you're really nervous. You need to  
18 hesitate to do that. Would you do a me favor, put your  
19 feet like that. Okay, and just try to focus, I know  
20 you're very nervous, okay?

21 Are you okay?

22 A. Yeah, I'm fine.

23 Q. Okay. So let me ask that question again.

24 What was the communication with the girls?

25 A. Text messages and they would come over and visit

1 in person.

2 Q. Both?

3 A. Yep.

4 Q. Okay. And you were residing at the time where?

5 A. In Snohomish.

6 Q. Okay. So the quads, that's ATV's?

7 A. Yes.

8 Q. Okay. So how many times would they come to visit  
9 you?

10 A. Maybe once a month.

11 Q. Okay. And how old were -- Kaela, how old was  
12 Kaela when that was occurring?

13 A. Fifteen maybe.

14 Q. Okay. And --

15 A. Fourteen.

16 Q. And Jacee?

17 A. Jacee was just about 18. So it would be 15, 16  
18 Kaela was.

19 Q. Okay. And in terms of other communication with  
20 either Kaela or Jacee, did that occur through any other  
21 form?

22 A. No.

23 Q. Text or Facebook?

24 A. Just text and, or in person or texting.

25 Q. Okay. And the method of communication via text

1 or Facebook how did that, in general, how did that  
2 transpire or what were the reasons for that?

3 A. I would ask them if they were going to come over  
4 and visit and they would come back to me and say, yeah,  
5 we'll try to get down this weekend or something like  
6 that, and they would just never get back to me.

7 Q. Okay. And you would respond via text or  
8 Facebook?

9 A. Via text or phone call, yeah, or Facebook.

10 Q. Okay.

11 MR. PICULELL: If I may I approach?

12 THE COURT: You may approach.

13 Q. (BY MR. PICULELL) I'll hand you what's been  
14 admitted as Exhibit 8 and 9; do you recognize those,  
15 sir?

16 A. Yeah.

17 Q. And what are they?

18 A. They are text messages or Messenger, Facebook.

19 Q. Facebook messages?

20 A. Uh-huh.

21 Q. And you heard, obviously you were in the room,  
22 you heard some testimony about those exhibits from one  
23 of the witnesses. Do you recognize your responses or  
24 your communication on Exhibit 8 and 9?

25 A. Yep, uh-huh.

1 Q. I'm sorry, yes or no, sir?

2 A. Yes.

3 Q. Who were you communicating with in particular?

4 A. Jacee.

5 Q. Okay. And did any of those texts or Facebook  
6 messages evidence any communication with Kaela?

7 A. No.

8 Q. So just Jacee?

9 A. Yep.

10 Q. Okay. And what's the length of time as far as  
11 the timeframe on Exhibit 8, when did that, what does  
12 that evidence when did that start?

13 A. About an hour.

14 Q. Well, I mean in terms of days or a month or?

15 A. It started in the afternoon.

16 Q. No, sir. In terms of a day, is there a date  
17 stamp?

18 A. Yeah, January 2nd.

19 Q. Of what year?

20 A. It says 30.

21 Q. Okay. So that's an error?

22 A. Uh-huh.

23 Q. Yes or no?

24 A. Yes.

25 Q. Okay, all right.



1           And so if you could turn to Exhibit No. 9, which  
2 purportedly is the final page, when does that  
3 communication cease in terms of a date?

4           A. There is no date on it.

5           Q. There is no date on it?

6           A. (Witness shakes head).

7           Q. Okay.

8           Last page of Exhibit No. 8, is there a date on  
9 that?

10          A. Yes.

11          Q. And what is that date?

12          A. 2-7-30.

13          Q. 2-7-30?

14          A. Yeah.

15          Q. Yes or no?

16          A. Yes, sorry.

17          Q. All right.

18                 So I'd like you to look at Exhibit 8, Page 1.

19          A. (Witness complies.)

20          Q. Okay. And just review that quickly and silently.  
21 Let me know when you're done.

22          A. Yes.

23          Q. Is there any content on Exhibit 8 that is sexual  
24 in nature or sexual innuendo?

25          A. No.

1 Q. Page 2 of Exhibit 8. Review that independently.

2 A. (Witness complies.) No.

3 Q. Any communication sexual in nature, sexual  
4 innuendo?

5 A. No.

6 Q. Okay. Stop me when you get to an indication  
7 where you might use the word hot stuff, okay. Page 3 on  
8 that exhibit, any sexual nature or sexual innuendo?

9 A. Nope.

10 Q. Next page, Page 4, Exhibit 8. Any communication  
11 of a sexual nature or innuendo?

12 A. No, but it says hot stuff. What you doing hot  
13 stuff.

14 Q. Okay. Why are you using that term?

15 A. I was always joking around with people like that,  
16 it wasn't just, always just one person that I talked to  
17 like that. I talk to my friends like that. It was  
18 always in a joking way, nothing serious, nothing that  
19 would be in a sexual way at all at any point in time.

20 Q. Okay. Next page, sir. Any communication of a  
21 sexual nature or innuendo?

22 A. No.

23 Q. Okay. Next page on Exhibit No. 8.

24 A. (Witness complies.)

25 Q. And let me know when you get to, if there's any

1 other indication of the phrase hot stuff on any other  
2 page. Any sexual nature or sexual innuendo on that  
3 exhibit?

4 A. No.

5 Q. Okay. Next page on Exhibit No. 8?

6 A. No.

7 Q. Okay. Next page?

8 A. No.

9 Q. Okay. Next page?

10 A. No.

11 Q. Okay. Next page? Have you used the words hot  
12 stuff again?

13 A. I haven't.

14 Q. Okay. Next page?

15 A. No.

16 Q. Next page of Exhibit No. 8?

17 A. No.

18 Q. Okay. Next page?

19 A. Bottom one it said what you doing hot stuff.

20 Q. This is the second time in this series that you  
21 used that term?

22 A. Uh-huh. Yes.

23 Q. Next page?

24 And I'm sorry, I didn't ask you. Is there any  
25 indication of sexual nature or innuendo on that page?

1 A. No.

2 Q. Okay. Next page Exhibit No. 8?

3 A. No.

4 Q. Okay. Next page?

5 A. No.

6 Q. Next page?

7 A. No.

8 Q. Next page?

9 A. No.

10 Q. Next page?

11 A. No.

12 Q. Next page?

13 A. No.

14 Q. Next page?

15 A. No.

16 Q. Okay. Exhibit No. 9, if you could bring your  
17 attention to Exhibit No. 9. Any indication on Exhibit  
18 No. 9, anything of a sexual nature or innuendo?

19 A. No.

20 Q. Okay. And what's the, essentially the contents  
21 or the gist of Exhibit No. 9?

22 A. I was, she was telling me how her boyfriend was  
23 feeling and I was just acting back to it.

24 Q. Okay. And what essentially is occurring in  
25 Exhibit No. 9?

1           Actually if you could just read Exhibit No. 9?

2           A.   It says; good morning, I said. Now I can't talk  
3 to you because my boyfriend thinks you're a creep for  
4 what you say to me and is now pissed.

5           I said; what the "F", really?

6           As I told him what, this is her, as I told him  
7 what happened in the past and he is pissed so I guess  
8 good-bye.

9           I said; are you fucking kidding me? Fuck him.  
10 He's lucky I've got a broken leg. I would be on my way  
11 down there to stomp his ass. I guess a piece of shit is  
12 better than rebuilding a relationship with your dad.  
13 What was fuck was said that he didn't like?

14          Q.   Okay. So she is saying what you say to me, is  
15 that correct, is that what's in that bubble there?

16          A.   Yes.

17          Q.   I'm sorry?

18          A.   Say that again?

19          Q.   What's the first bubble, reread that?

20          A.   "Now I can't talk to you because my boyfriend  
21 thinks you're a creep for what you say to me and is now  
22 pissed".

23          Q.   Okay. She didn't say what you've done to me or  
24 any accusation of physicality, she says "say", correct?

25          A.   Correct.

1 MR. JONES: Objection, Your Honor.

2 That's a leading question.

3 THE COURT: That's correct. That was a  
4 leading question. Please keep your questions  
5 from being leading as you proceed.

6 MR. PICULELL: Sure.

7 Q. (BY MR. PICULELL) Asking you yes or no question;  
8 did she use the word "say"?

9 A. No.

10 Q. Yes or no?

11 A. No -- wait, yeah.

12 Q. Review that.

13 A. It says; "now I can't talk to you because my  
14 boyfriend thinks you're a creep for what you say to me  
15 and is now pissed."

16 Q. Okay. Now, did -- well, after you received that  
17 you responded, correct?

18 A. Correct.

19 Q. Okay. Let me ask you, Mr. Poindexter, did you  
20 ever have any sexual contact with Kaela Sze?

21 A. No.

22 Q. Ever have any sexual contact with Jacee Damien?

23 A. No.

24 Q. On both, both individuals did you ever have any  
25 physical contact of any nature where you were in bed

1 with either one of them?

2 A. No.

3 Q. Did you ever have any contact where you asked  
4 either one to disrobe or take off their clothing?

5 A. No.

6 Q. Did you ever have any physical contact where you  
7 made or suggested to either individual to have sexual  
8 contact with you?

9 A. No.

10 Q. Okay. Did you ever have any sexual contact or  
11 touching of their genital areas?

12 A. No.

13 Q. Did they ever have any contact with your genital  
14 areas?

15 A. No.

16 Q. Did you ever cause them to touch your genital  
17 area?

18 A. No.

19 Q. Did you ever cause any touching by you of their  
20 genital areas?

21 A. No.

22 Q. Did you have an erection in terms of physically  
23 touching either girl?

24 A. No.

25 Q. Okay. All right.

1           So I want to ask you, Mr. Poindexter, in terms of  
2 the individuals that were in the house at the Grove  
3 Street and Sudden Valley, let's start with Grove Street.  
4 Again, who all was in the house residing there?

5           A. Well, I also had a brother staying there when he,  
6 they first came up here and moved up here. They stayed  
7 with us here, each one of them stayed for a couple of  
8 months, there was three of them. I would go to work --

9           Q. Answer the question I asked you, sir, listen  
10 carefully.

11           Who resided there at those locations?

12           A. Oh, me, Crystal, the two girls and her mom, and  
13 grandma.

14           Q. And grandma?

15           A. Uh-huh.

16           Q. Yes or no?

17           A. Yes, sir.

18           Q. Okay, I'm sorry.

19           And you said brothers?

20           A. Yep.

21           Q. Okay. Who were they?

22           A. My brother Jerry, my brother David, and my little  
23 brother Michael.

24           Q. How long did they live there at that location?

25           A. They all came separate times so maybe a month or



1 two a piece.

2 Q. Okay. And how about Sudden Valley?

3 A. Sudden Valley was me, Crystal, the two girls and  
4 Caroline, the grandma.

5 Q. Okay. And did the grandma reside there the  
6 entire time?

7 A. Until maybe a few months before we moved out.  
8 She took off to South Carolina.

9 Q. Okay. And your residence at Sudden Valley, how  
10 long did you reside there?

11 A. I was only there a few months because she found  
12 out that I was doing medical things and she ended up  
13 making me leave the house so I was gone out of that  
14 house for, I don't know, ten months out of there.

15 Q. In what year was that?

16 A. 2011.

17 Q. In 2011 you were out of the residence at Sudden  
18 Valley?

19 A. Yeah.

20 Q. And where were you living?

21 A. I was living in a motel room with another girl.

22 Q. Okay. And when did that start?

23 A. About March.

24 Q. Okay.

25 A. March or April.

1 Q. Okay. And when did that end?

2 A. When I went to treatment, which is October.

3 Q. Okay. And maybe you can put that exhibit there,  
4 I know you're very nervous.

5 So in October, so let me ask that again. So when  
6 did you leave in March and when did you come back?

7 A. I would have to say it would be middle of March  
8 and I think back after, at the end of October.

9 Q. Okay. You indicated you were living with another  
10 person at another location?

11 A. Yes.

12 Q. Okay. Who was that person?

13 A. Erica Washburn.

14 Q. Okay. How long did you live with her?

15 A. It was nine, eight -- eight months, nine months.

16 Q. Okay, okay.

17 And did you ever return to the residence at  
18 Sudden Valley?

19 A. I would go during the day when nobody was home.  
20 I would get some clothes and I would wash some clothes  
21 and I would leave before anybody got home.

22 Q. Okay. And did you ever, in calendar year '11  
23 were you ever responsible for the care of either girl?

24 A. No, because Crystal wouldn't let me because I was  
25 using.

1 Q. Okay. Calendar year '10 were you employed as an  
2 iron worker as you normally would be?

3 A. Yes, sir.

4 Q. Okay. And what was your normal schedule as an  
5 iron worker?

6 A. My normal schedule I would leave about 3:30 in  
7 the morning, I wouldn't get home until about 6, 7:00 at  
8 night. Sometimes later because we were working 16-hour  
9 days at that time.

10 Q. Okay. And during those years where were you  
11 working?

12 A. Right about that time we were doing Spokane  
13 Street Bridge that went from I-5 to West Seattle.

14 Q. Okay. And did that, to your recollection did  
15 that happen over calendar year '10?

16 A. It was calendar '10 and '11.

17 Q. Calendar year '10 and '11?

18 A. Yes.

19 Q. So you're still working during calendar year '11?

20 A. Uh-huh.

21 Q. Yes or no?

22 A. Yes, sir.

23 Q. Calendar year '09 where were you working?

24 A. Calendar year '09 I was doing the SeaTac Parking  
25 Garage down in SeaTac Airport.

1 Q. So you're commuting south as well?

2 A. Yes.

3 Q. So what time would you leave?

4 A. I would leave about 3:30 in the morning and then  
5 I wouldn't get home until late.

6 Q. Okay. Such as? What time is late?

7 A. After dinner sometimes, it depends on traffic.  
8 If we hit traffic I wouldn't get home until 8:00.

9 Q. Okay. When you say "we hit traffic" did you have  
10 co-workers?

11 A. Yeah, co-workers, my brother that worked with me.  
12 We all worked together and we would drive together, we  
13 would go back to my house together. That's where we  
14 carpooled from. They would all get out of the car and  
15 we would go inside for about an hour and everybody would  
16 leave.

17 Q. Okay. And then calendar year '08, do you  
18 remember where you were working?

19 A. Yeah, rental car facility.

20 Q. Okay. Doing work, is that at SeaTac?

21 A. SeaTac, yeah.

22 Q. Okay. Same commuting schedule, same commute?

23 A. Yes, sir.

24 Q. How many days per week in general were you on  
25 this schedule?

1 A. Monday through Friday and sometimes Saturday.

2 But we were working ten-hour days down there.

3 Q. Okay. And you're commuting from?

4 A. Bellingham to SeaTac.

5 Q. Okay. And then how long did that generally take  
6 you to do that commute each day?

7 A. Maybe an hour there, but on the way home it was a  
8 couple of hours.

9 Q. Okay. And when you got home generally in the  
10 daily rhythm of the household who was home?

11 A. Crystal, the girls, and the grandma.

12 Q. Okay. And was there dinner that was ready or did  
13 you take care of yourself in terms of dinner, what  
14 happened there?

15 A. Sometimes it would be like hot because she would  
16 still be making it because she would ask what time I  
17 would be getting home, so she would kind of push dinner  
18 out a little bit.

19 Q. So other individuals were customarily home when  
20 you got home?

21 A. Yes.

22 Q. And then on the weekends, what about that?

23 A. We would, it would be a family thing. We would  
24 all be together.

25 Q. Okay. Were you ever customarily alone with

1 either Kaela or Jacee?

2 A. No, there was always somebody home.

3 Q. There was always somebody there?

4 A. Yep.

5 Q. Would you do things as a family go anywhere, was  
6 there any general activities or what would occur?

7 A. Well, there would be like a thing we'd go get ice  
8 cream, everybody would go.

9 Q. Okay.

10 A. And they knew if they see me put my shoes on,  
11 everybody would put their shoes on and follow me because  
12 they knew I was going to get ice cream and then the  
13 whole family would go.

14 Q. Okay. Any activities where the girls were doing  
15 sports where you took them in your car, anything like  
16 that?

17 A. No, I never had time for that. I was never home  
18 for that.

19 Q. Okay. Now, Crystal when you were away living  
20 somewhere else with Ms. Washburn, Crystal was,  
21 presumptively she was aware you were not returning to  
22 home?

23 A. I would tell her that I would come to the house  
24 because she knew I was washing clothes there.

25 Q. Okay. I mean other than that where you would

1 return during the day, was she aware of that?

2 A. Yes, she was aware of that.

3 Q. She was aware of that. But she knew that you  
4 were elsewhere with --

5 A. Yes.

6 Q. -- somebody else?

7 A. Yeah, I told her.

8 Q. Okay. So she knew that you weren't coming there  
9 at night, correct?

10 A. Correct.

11 Q. Okay. And other than maybe coming back to the  
12 residence to wash your clothes, did you ever stay any  
13 night at that residence from the date that you indicate  
14 in March through October?

15 A. No.

16 Q. Okay.

17 MR. PICULELL: Okay. Thank you, that's  
18 all I have.

19 THE COURT: All right. This is probably  
20 a good time for us to take our lunch break. I  
21 think that's what we'll do. Would you be back  
22 in time to start up promptly at 1:30 and I will  
23 ask all of you then whether it would be possible  
24 for the jury to begin its deliberations this  
25 afternoon and proceed later into the afternoon

1 or evening, and by that I mean at least 6:00,  
2 perhaps as late as 8:00, if necessary. We'll  
3 feed you during that time so you don't have to  
4 worry about starving, but I'd like to know when  
5 you come back whether those arrangements are  
6 workable, and also if more time is needed after  
7 this evening, whether Thursday is workable for  
8 all of you.

9 All right. I hope we have a little sun  
10 out there, I'm not sure, but I hope so and we'll  
11 see you at 1:30.

12 (The jury left the courtroom.)

13 THE COURT: Do counsel have any issues  
14 for the Court before I take the recess?

15 MR. JONES: Your Honor, I do briefly.  
16 It's my position, the Court made an in limine  
17 ruling regarding drug use and going to treatment  
18 and those things. Given the testimony of  
19 Mr. Poindexter where he specifically referenced  
20 his behavior during this time and his  
21 recollection of his behavior as being kicked out  
22 of the house by Ms. Meyers, things that I think  
23 weigh on both his credibility and recollection  
24 of the events.

25 It's also been reported another witness



1 will testify to his whereabouts during that  
2 time. That is, in my view, completely  
3 appropriate now for me to inquire about drug use  
4 during that period as it's relevant to the  
5 recollection and the reasons for the living  
6 arrangements being such as they were. I'm  
7 asking the Court specific permission to do that.

8 MR. PICULELL: Your Honor, just like  
9 Detective Roff apparently slipped with the  
10 prosecutor's instructions to him on 404(b) and  
11 the Snohomish County circumstances. Like that,  
12 I think in this situation it's a slip I'm  
13 assuming, without talking to Mr. Poindexter,  
14 that it was slip just like the detective. It  
15 only harms Mr. Poindexter in either circumstance  
16 to have that slip, but that's what happened.

17 THE COURT: I think earlier you  
18 represented to the Court, Mr. Piculell, that  
19 Mr. Poindexter was in treatment, in the  
20 residential part of treatment I assume, between  
21 September 14 and October 5, 2011; is that right?

22 MR. PICULELL: That's correct, September  
23 14th through 10, 10-5-11 is what he provided me  
24 from Sundown Ranch. I've provided that to the  
25 prosecutor.

1           THE COURT: All right. So that's a  
2           portion of the time that Mr. Poindexter's  
3           testimony is that he was not in the house, he  
4           was not residing in the house from March to  
5           October of that year, although he came to the  
6           house sometimes. So the treatment portion is a  
7           two or three week portion of this period of some  
8           seven months.

9           The State may inquire about  
10          Mr. Poindexter's leaving the home, whether it  
11          was at the request of Ms. Moor -- Ms. Meyers,  
12          although the Defendant has already testified to  
13          that. The door, in my view, is not opened  
14          widely enough for the State to question  
15          extensively, but the State may inquire as to  
16          whether Mr. Poindexter's memory of that period  
17          of time is, I was going to say the State could  
18          inquire as to whether or not memory is impaired.  
19          If the answer was no, it was not, then the State  
20          would obviously be looking to impeach and I  
21          think the thing to do that's correct is not to  
22          go further with this line of questioning.

23          MR. JONES: Your Honor, that prohibits me  
24          from questioning his credibility as to these  
25          events he's testifying to. He's taken the

1 stand, he's elected to testify to the  
2 recollection of these events, things that other  
3 people did in light of the situation, and the  
4 jury needs to understand the reality of that  
5 timeframe in order to judge the credibility of  
6 his statements about that timeframe.

7 I anticipate having a rebuttal witness at  
8 this point because I do not believe what  
9 Mr. Poindexter testified to is accurate as to  
10 that timeframe at all, that's because he was  
11 using methamphetamines during that timeframe.  
12 So I anticipate having to rebut, Ms. Meyers to  
13 testify as a rebuttal witness. I asked her not  
14 to be present in the courtroom during his  
15 testimony. I anticipate she will take the stand  
16 and have an entirely sober and different  
17 recollection of that timeframe.

18 THE COURT: All right. Well, it seems  
19 like, it seems like her memory of the timeframe  
20 is different in terms of dates, right?

21 MR. JONES: No, no. She will testify  
22 that it was not, it is not the case that from  
23 March to October he was never at the home and  
24 staying outside of the home.

25 THE COURT: That's right.

1 MR. JONES: Yes.

2 THE COURT: Okay. Well, I see that  
3 certainly the State has the right to bring that  
4 rebuttal testimony in. I think that's different  
5 though than testimony about drug use during that  
6 time or about rehabilitation during the latter  
7 phase of that time.

8 MR. JONES: The jury is going to be asked  
9 to weigh Mr. Poindexter's credibility as to his  
10 behavior during that timeframe and they are  
11 going to be asked to judge his statements about  
12 it and judge Ms. Meyers about her, during that  
13 period and her statements about the period, and  
14 juries are allowed to be told about things that  
15 would influence people's recollection during  
16 that time.

17 THE COURT: Yeah. All right, I'm going  
18 to take it under advisement over the lunch hour.

19 MR. PICULELL: If I could add one  
20 rebuttal to that? I think he said, if my  
21 recollection is correct, I think he said "I was  
22 using" I don't think he said I was using  
23 methamphetamine.

24 MR. JONES: I'm sorry to interrupt --

25 MR. PICULELL: That's okay.

1 THE COURT: That is correct, he said I  
2 was using, something to the effect of Crystal  
3 kicked me out because I was using, yes.

4 MR. PICULELL: That's a general  
5 description. Somebody could be using alcohol,  
6 somebody could be using prescription drugs.

7 THE COURT: There was also a reference to  
8 being in, I believe the word was rehabilitation,  
9 and then Mr. Poindexter clarified that with  
10 saying he said he was in treatment I believe and  
11 then said, that he was in rehabilitation and  
12 then said medical rehabilitation.

13 MR. JONES: He was qualifying what  
14 Ms. Meyers did, he said she found out I was  
15 doing medical stuff and kicked me out. That is  
16 a comment about Ms. Meyers' behavior during that  
17 period and she should be permitted to testify  
18 about why she did certain things during that  
19 period of time.

20 MR. PICULELL: Your Honor, then the  
21 rebuttal testimony to that would be my client  
22 would say Ms. Meyers was using prescription  
23 drugs. I mean it keeps getting on and on.  
24 Apparently they were both using. That's what  
25 he's proffering to me. So I would suggest

1 Mr. Poindexter is inadvertent, just like the  
2 last 404(b) I don't think it serves any purpose  
3 to try to work that. It happened with the  
4 detective where I'm sure he was instructed not  
5 to say anything about Snohomish, but there it  
6 is. And to try to work that once the jury hears  
7 that is just I think quicksand in terms of, I  
8 suggest we just leave that response where it is.

9 THE COURT: All right. I'm going to take  
10 this under advisement over the lunch hour.

11 All right. I will take it under  
12 advisement over the lunch hour. I'm inclined  
13 not to permit inquiry into drug use by anyone  
14 during that time period, but clearly the State  
15 is entitled to bring in a rebuttal witness as to  
16 the dates and whether or not Mr. Poindexter was  
17 completely out of the house during that time  
18 period or otherwise. That's what I'm inclined  
19 to rule. I'm going to think about it over the  
20 lunch hour.

21 MR. JONES: Yes, Your Honor.

22 THE COURT: We'll see you at 1:30.

23 (Lunch break off the record.)

24 THE COURT: Counsel, I've considered over  
25 the lunch break the ruling that I made regarding

1 the order in limine and I'm not inclined to  
2 change that ruling.

3 MR. JONES: Understood, Your Honor.

4 THE COURT: Are we ready for the jury?

5 MR. PICULELL: In, just with that ruling,  
6 Ms. Washburn is out in the hall, the prosecutor  
7 has interviewed her. I have not advised her of  
8 the orders in limine. May I have 60 seconds to  
9 do that?

10 THE COURT: You may. We're planning on,  
11 we'll resume Mr. Poindexter's testimony and then  
12 Ms. Washburn will testify after him?

13 MR. PICULELL: We will go right into that  
14 and the Defense will rest. Thank you.

15 THE COURT: All right.

16 (Brief break off the record.)

17 MR. PICULELL: Thank you, Your Honor.  
18 I've advised her of the Court's order in limine.

19 THE COURT: Thank you.

20 Ms. Martin, will you bring the jury in,  
21 please?

22 (The jury was seated.)

23 THE COURT: Good afternoon, ladies and  
24 gentlemen of the jury. Welcome back to the  
25 courtroom. I asked you to consider extending

1           our day into late afternoon or early evening  
2           today. Did you all have a chance to consider  
3           that?

4                     And is there any of you for whom that  
5           would not be possible?

6                     JUROR NO. 4: I have a commitment  
7           tonight.

8                     THE COURT: What time is your commitment?

9                     JUROR NO. 4: At 5:30.

10                    THE COURT: Is it a commitment that you  
11           can change?

12                    JUROR NO. 4: It's an event that involves  
13           my son. It's only once a year so, I mean I  
14           could not go.

15                    THE COURT: All right. I'll do what I  
16           can but I'm not, I can't say hey, it won't be  
17           necessary for you to have to work on the  
18           deliberations into the evening.

19                    JUROR NO. 4: Okay.

20                    THE COURT: I'm sorry. But I think it's  
21           likely to be necessary and I really want to make  
22           sure that the jury has sufficient time to do its  
23           deliberations. All right. And we'll discuss  
24           logistics again later in the proceedings.

25                    All right. Mr. Poindexter was on the



1 witness stand. Mr. Poindexter, we'll call you  
2 back and, of course, you remain under oath.

3 MR. POINDEXTER: Yes, ma'am.

4 MR. JONES: Permission to proceed, Your  
5 Honor?

6 THE COURT: You may proceed.

7 CROSS-EXAMINATION

8 Q. (BY MR. JONES) All right. Good afternoon,  
9 Mr. Poindexter.

10 A. Good afternoon.

11 Q. So your testimony just before we broke for lunch  
12 is that you were never alone with these two girls; is  
13 that correct?

14 A. Correct.

15 Q. Okay. So you got together with Ms. Meyers, these  
16 girls' mother, in 2004?

17 A. Yes.

18 Q. Okay. And you moved in in a timeframe the girls  
19 were four years old, Kaela, and/or about six years old,  
20 Jacee?

21 A. Correct.

22 Q. That was the timeframe when the family of the  
23 four of you resided out in Birch Bay?

24 A. Correct.

25 Q. Is that right?

1           And your testimony is during the years that you  
2 were in Birch Bay you were never alone with those two  
3 girls?

4           A. No, I worked. I was always, when I went to work  
5 I came home, she had the girls at daycare down where she  
6 worked at.

7           Q. All right. So during that time from 2004, in  
8 fact, you were in these girls' lives all the way until  
9 2014; is that right?

10          A. Right.

11          Q. In those ten years you were never alone with  
12 either of those girls?

13          A. There was always somebody at the house.

14          Q. Was that an unusual role that you played as the  
15 father figure in the house to never be alone with them?

16          A. I was always working. By the time I got home  
17 from work there was always somebody there.

18          Q. All right. So 2008 the family moved to the Grove  
19 Street address, correct?

20          A. Correct.

21          Q. Okay. And the girls were ten years old, seven  
22 years old at the time?

23          A. That's about right, yeah, correct.

24          Q. So school-age young girls. And did they often go  
25 places and do things?

1 A. No.

2 Q. So would it be fair to say they were home all the  
3 time, the girls?

4 A. Yeah, you could say that.

5 Q. And your testimony remains that you were never  
6 alone with either of these two girls?

7 A. Not with the hours that I worked, no.

8 Q. Okay. And why don't you explain, I think it  
9 might be necessary for you to explain some of your work  
10 hours again to the jury, please?

11 A. I would leave at 3:30 in morning, I would get  
12 home 6, 7:00 at night.

13 Q. All right. Were there ever days that you did not  
14 work?

15 A. Very far and few in between.

16 Q. Let's talk about those days. What would you do  
17 on those days?

18 A. I would work but I would probably get home about  
19 midday maybe 12, 1:00.

20 Q. What would you do when you got home?

21 A. Work in my garage or something.

22 Q. Would the girls be there?

23 A. No.

24 Q. Where would be girls be?

25 A. School.

1 Q. How about when they got home from school?

2 A. Mom would be home, grandma would be there.

3 Q. We heard from the testimony that Ms. Meyers, the  
4 mother, worked during this timeframe as well; is that  
5 your recollection?

6 A. Correct, correct.

7 Q. And she would get home some time after work hours  
8 were over?

9 A. Correct.

10 Q. So on these days that you did not work you were  
11 never alone with these two girls?

12 A. No.

13 Q. Okay. All right.

14 And so you've heard both Jacee and Kaela testify;  
15 is that right?

16 A. Correct.

17 Q. And both of them have recollection independently  
18 of one another of being home with you alone from time to  
19 time during these years. Did you hear that?

20 A. Yes.

21 Q. Okay. Do you have any idea why these girls would  
22 remember being home alone with you?

23 A. That's what I'm trying to understand myself  
24 because I never touched those girls.

25 Q. My specific question was something a little,

1 simply just you being there with them as their father  
2 during that timeframe?

3 A. They talked about watching tv. I would get home  
4 from work, I would take a shower, I would go to sleep.  
5 I wouldn't even watch tv.

6 Q. Let's talk a little bit about their testimony.  
7 So at the Grove Street house it was testified there was  
8 a tv in your bedroom; is that right?

9 A. Correct.

10 Q. Okay. And that tv could be watched from lying on  
11 the bed; do you recall?

12 A. Correct.

13 Q. Did you ever lay on the bed and watch tv?

14 A. I just told you I'd take a shower and I'd go to  
15 sleep. Crystal can testify to that too.

16 Q. I'm just asking you for your recollection of  
17 these years, okay? The jury's heard other witnesses  
18 testify.

19 A. Okay.

20 Q. So just from your recollection of these years is  
21 it your testimony you would never lay on that bed and  
22 watch tv?

23 A. I would lay on it.

24 Q. So consistent with how Jacee say testified?

25 A. No, not like that at all.

1 Q. Would you in your own room lay on that bed and  
2 watch tv?

3 A. With Crystal in it with the kids.

4 Q. Only if Crystal was home?

5 A. I wouldn't lay in that bed with any girls besides  
6 Crystal.

7 Q. Would Jacee or Kaela ever watch tv from that  
8 room?

9 A. They probably did. I'm sure they did.

10 Q. So is it your testimony that Jacee's accurate as  
11 to the location of the bedroom in the Grove Street  
12 house?

13 A. What do you mean by location of the bedroom?

14 Q. That that's where the bedroom was in the Grove  
15 Street house as she testified from her memory about it?

16 A. The bedroom or the bed?

17 Q. The bedroom, your bedroom in that house?

18 A. It's upstairs.

19 Q. Okay. And there was a tv in that room?

20 A. Correct, we said that.

21 Q. She testified to that?

22 A. Right.

23 Q. And that she would watch tv occasionally from  
24 that, on that bed?

25 A. She could have been in there with her mother.

1 Q. Okay. And she testified that you would lay there  
2 on the bed and watch tv?

3 A. Okay. Well, I don't watch tv.

4 Q. All right. So my question for you is she  
5 accurate about all of that testimony?

6 A. She is accurate that she could be laying there  
7 watching tv.

8 Q. So it's your testimony to the jury, which  
9 although she is accurate about all those things, it's  
10 just that last point that you and her were together on  
11 the bed --

12 A. I have never touched --

13 Q. -- is that accurate?

14 A. -- those girls. That's very inaccurate.

15 Q. Okay. All right.

16 So let's move, and you were there at the Grove  
17 Street house for several years; is that right?

18 A. No, about two years, year-and-a-half.

19 Q. From 2008 to 2010 you were the Grove Street  
20 address?

21 A. That's correct, yes, that's right.

22 Q. Okay.

23 A. That's two years.

24 Q. In that time the family was comprised of the four  
25 of you; is that right?

1 A. Correct, and grandma.

2 Q. Would the mother be in the bedroom watching tv?

3 A. I would never be in the room alone with those  
4 girls.

5 Q. Where did the mother live within the Grove Street  
6 house?

7 A. She had a little room out back.

8 Q. In a different residence altogether?

9 A. Yeah, just a little room out back, yes.

10 Q. All right. And so she would not be in your  
11 bedroom at any point; is that right?

12 A. I did not say that.

13 Q. What about your recollection of that?

14 A. There was always somebody in our room.

15 Q. Including the girls from time to time?

16 A. You can say that, yeah.

17 Q. Okay. So the family then moved from the Grove  
18 Street address to the Sudden Valley address, and when  
19 was that from your memory?

20 A. Beginning of 2010.

21 Q. Okay. So January 2010?

22 A. Uh-huh.

23 Q. You moved into the Sudden Valley?

24 A. '10, January to February, yes.

25 Q. Okay. And it was still you as the father figure



1 in the house at that time?

2 A. Correct.

3 Q. Ms. Meyers, the girls' mother?

4 A. Correct.

5 Q. And the two girls?

6 A. Correct.

7 Q. Is it your testimony that once you, upon moving  
8 to Sudden Valley you were never alone with the girls in  
9 Sudden Valley either?

10 A. No.

11 Q. Was that intentional on your part to never be  
12 alone with them?

13 A. No, it was never intentional. It was just the  
14 hours that I was working.

15 Q. And we all understand work, but you can  
16 understand my question that there is other hours that  
17 you're not working?

18 A. I also have it on papers that I was working 16  
19 hours a day that day, especially at Sudden Valley  
20 because we were doing the Spokane Street Bridge.

21 Q. So when you lived in Sudden Valley you heard  
22 Jacee testify about a downstairs area in Sudden Valley;  
23 is that accurate?

24 A. There was a room down there, grandma's room down  
25 there.

1 Q. Was there a tv in the downstairs area?

2 A. It was a rec room.

3 Q. It was a rec room?

4 A. Yeah.

5 Q. With a couch and a tv?

6 A. Correct.

7 Q. And how about your bedroom in that residence,  
8 where was that?

9 A. Upstairs.

10 Q. Was there a tv in your bedroom?

11 A. There was a tv in there.

12 Q. Okay. Would it be a common occurrence in the  
13 Sudden Valley house that the girls would watch tv in the  
14 rec room?

15 A. We all did.

16 Q. Including you?

17 A. Everybody watched tv.

18 Q. All right. So Jacee would be accurate, Kaela  
19 would be accurate describing watching tv in the  
20 downstairs rec room?

21 A. No, because they said they were doing it when I  
22 got home from work. I didn't get home from work until  
23 somebody else was home because I was working late. I  
24 didn't get home until dark time at that place.

25 Q. All right. Except for the days you weren't

1 working, Mr. Poindexter?

2 A. Far and few. No, we were working 16-hour days, 6  
3 days a week on that one.

4 Q. All right. Is it -- I'm sorry, I'm going to go  
5 back to your caveat that you gave to that earlier, which  
6 is that some days you wouldn't work; is that right?

7 A. Sure.

8 Q. And that persisted, continued through the time  
9 that you lived in the Sudden Valley house?

10 A. No, I just told you, we were working 16-hour  
11 days, 6 days a week.

12 Q. Would there be times at the Sudden Valley house  
13 that you weren't working?

14 A. No.

15 Q. You worked every single day for a two-year period  
16 of time?

17 A. But Sunday.

18 Q. All right. And you were never alone with the  
19 girls during any of that timeframe?

20 A. No.

21 Q. All right. Jacee's accurate as to everything  
22 else that she testifies to; is that your testimony?

23 A. As of?

24 Q. As of the location of the tv, rec room in the  
25 house?

1 A. Describe the location of the tv though?

2 Q. In the downstairs area.

3 A. Okay. Yeah, there was always tv downstairs.

4 Q. My question --

5 A. Well, I'm just saying describe the area of the  
6 tv.

7 Q. The downstairs room in the Sudden Valley house,  
8 the rec room that you described.

9 A. Yes, the tv was down there, yes.

10 Q. She is accurate about that?

11 A. Yeah.

12 Q. Accurate about where your bedroom was in the  
13 upstairs area of the house?

14 A. Yeah.

15 Q. And accurate there was tv up there as well?

16 A. Yeah.

17 Q. And according to your testimony and the girls',  
18 tv would be watched in both of those two locations?

19 A. I'm sure it would be, yeah.

20 Q. Including by yourself?

21 A. No.

22 Q. You watching the tv in those areas?

23 A. No. I wasn't there. It was either I was working  
24 or I was out of the house.

25 Q. You resided at both of those locations, the Grove

1 Street and Sudden Valley, right?

2 A. Correct.

3 Q. And you moved into Sudden Valley in January 2010?

4 A. Correct.

5 Q. Okay. Now, according to your testimony you  
6 resided in Sudden Valley with the girls and their mother  
7 throughout all of 2010; is that right?

8 A. Correct.

9 Q. With the examination of your work schedule that  
10 you've told us numerous times about, were you at that  
11 house, that was your residence?

12 A. Yes.

13 Q. You'd stay there, your clothes were there, you'd  
14 spend the night there, all those things?

15 A. Correct.

16 Q. From January of 2010 through all of 2010 you were  
17 there?

18 A. Correct.

19 Q. Okay. And the girls were young still at that  
20 point, right?

21 A. Uh-huh.

22 Q. Jacee was under 12 years old?

23 A. Yes.

24 Q. And Kaela at that time was under 12 years old?

25 A. Yes.

1 Q. Could you describe for the jury your  
2 relationship, your parenting relationship with those  
3 girls?

4 A. I really don't have a relationship with them. We  
5 were close, but we didn't have a relationship where I  
6 was like go to the dad-daughter dance, we weren't that  
7 close.

8 Q. Okay. So you were just, you just worked?

9 A. Basically, yes.

10 Q. Okay. So when the girls described you as a  
11 father figure to them in those years, does that make  
12 sense to you?

13 A. Yeah, it does.

14 Q. Why?

15 A. Because we were like, we were dad and daughters  
16 but we had a relationship where we were just, hi, bye,  
17 we'd give each other a kiss, that would be it. I'd be  
18 gone. I would go to work or something. There was no  
19 sexual contact ever with those girls.

20 Q. I understand you're taking that position,  
21 Mr. Poindexter.

22 So I think what would be regular to describe a  
23 father and daughter relationship is that there would be  
24 time that you would spend together?

25 A. Correct, if I was home.

1 Q. Okay. But your testimony is that that's not how  
2 this was?

3 A. No, I was never home to have that relationship  
4 with them.

5 Q. All right.

6 Let's talk a little bit more since you brought it  
7 up about your relationship with them. After the family  
8 moved out of Sudden Valley you continued a relationship  
9 with at least Jacee it sounds like; is that right?

10 A. Correct.

11 Q. And that was a text message relationship?

12 A. Text message, she would come over to the house.

13 Q. All right. And why was that important to you to  
14 continue that relationship?

15 A. Just to keep talking to them, see how they are  
16 doing.

17 Q. Was it important to you or did it seem important  
18 to Jacee?

19 A. I think it was just about as important to the  
20 both of us as we both just separated from each other.

21 Q. Okay. I'm going to show you what's been admitted  
22 as Plaintiff's Exhibit 10, and the jury's heard  
23 something about this. Can you tell us again what this  
24 is, please?

25 A. Those would be screenshots that me and Crystal

1 were talking about.

2 Q. You and who, I'm sorry?

3 A. Crystal.

4 Q. But what's reflected here in the exhibit is the  
5 ongoing communication you had with --

6 A. That's Crystal.

7 Q. -- with Jacee?

8 Let me turn the page for you. I know you spent  
9 some time with this exhibit but let's look a little bit  
10 more at the exhibit.

11 A. Okay. Now I see it.

12 Q. All right. All right. I'm going to show you,  
13 okay, so taking Crystal out of it for a moment, how  
14 about Exhibit 8 here I'm showing you?

15 A. Yeah, that's Jacee.

16 Q. Does this reflect the ongoing relationship you  
17 had with Jacee after divorcing or being divorced with  
18 the mother, Crystal?

19 A. Correct.

20 Q. Okay. And would you say this is accurate as to  
21 the tenor of that relationship throughout the years that  
22 followed?

23 A. Yes.

24 Q. Okay. Now, the Defense lawyer had you go through  
25 this page by page and had you opine that there was



1 nothing sexual about these, this communication; is that  
2 right?

3 A. Correct.

4 Q. Now, I'm just curious about a few things and I  
5 want to ask you directly about them. On the bottom of  
6 this second page of the exhibit we see you speaking to  
7 Jacee; is that correct?

8 A. Correct.

9 Q. And you're the text boxes that look a little  
10 green on the exhibit here --

11 A. Correct.

12 Q. -- on the right?

13 Now, you indicate on the bottom of this page "I  
14 had a dream about you last night."

15 A. Yeah, because we were talking about the quads, we  
16 were talking about riding and then when we go riding. I  
17 just had a dream that she was out riding with us.

18 Q. We don't see any of that clarification?

19 A. No, there is no clarification but that's what it  
20 was about. I'm not -- having a dream about your  
21 daughter or something, is that against the rules?

22 Q. This is your teenage daughter at this point; is  
23 that right?

24 A. Okay, yeah, you're correct.

25 Q. Okay. So Jacee was, what, 16, 17 years old?

1 A. No, she would be 18 right there.

2 Q. 18, okay. So while she is 18 here you're telling  
3 her in this message, without the clarification you just  
4 told us about, but that you had a dream about her?

5 A. Is that not right? Is that wrong?

6 Q. I'm just asking you the questions,  
7 Mr. Poindexter, so if you could answer them.

8 A. Yes, I did.

9 Q. Okay. All right.

10 And then as we continue, she doesn't respond to  
11 that, does she?

12 A. I don't know, there is no more paper there.

13 Q. Let's turn the page. Does she respond to you  
14 telling her you had a dream about her?

15 A. No.

16 Q. That's just you continuing to send messages on  
17 the right; is that right?

18 A. Correct.

19 Q. Okay. Now, I want to continue, and you went  
20 through these and told the jury what you thought the  
21 tenor of them were and so I want to look at them.

22 Okay. So now as we go on to Page 4 of Exhibit 8  
23 this is where you refer to your then 18 year old  
24 daughter as hot stuff?

25 A. That's the way I've always been throughout my

1 life. I give people crap throughout my life, that's  
2 just the way I am.

3 Q. And do you communicate with co-workers that way?

4 A. Yes, I do.

5 Q. Your testimony is you refer to co-workers as hot  
6 stuff?

7 A. Yes, I do.

8 Q. So what we're looking at and we don't, what we're  
9 looking at here is communication with your teenage  
10 daughter?

11 A. Okay.

12 Q. And you refer to her as hot stuff?

13 A. I mean nothing in a sexual way like that.

14 Q. All right. Is the term, maybe we need to explain  
15 this a bit to the jury, but is the term hot stuff in  
16 your mind not a sexual term?

17 A. No, not really. She was always in a down and out  
18 mood and I've always tried to get her to raise her eyes  
19 and laugh, raise her head a little bit, laugh, keep her  
20 head up.

21 Q. What are the circumstances generally that you  
22 would call someone hot or hot stuff?

23 A. You're blowing it way out of proportion here.  
24 It's just a saying. I mean nothing that it means  
25 anything.

1 Q. Does Jacee respond to you referring to her as hot  
2 stuff?

3 A. She responded but nothing that was sexual coming  
4 back.

5 Q. All right. So it's your comments that we see  
6 there to Jacee; is that right?

7 A. I'm just full of crap all the time and they know  
8 that. That's how I've always talked to everybody.

9 Q. All right. Okay.

10 So I turned the page on the exhibit, we're  
11 looking now on Page 5 of Exhibit 8, and we see you refer  
12 to her again as hot stuff?

13 A. Okay.

14 Q. Do you see her respond to you when you call her  
15 hot stuff again?

16 A. No.

17 Q. Now, I want to continue onto this page. Is this  
18 an entire page of you just trying to communicate with  
19 her?

20 A. Yeah. There is nothing wrong there.

21 Q. And this follows you referring to her as hot  
22 stuff, any response to that?

23 A. Is there a timeframe in it?

24 Q. Well, let's look. You tell me?

25 A. What's the date on it? It's about 1-12-30.

1 Q. So do we see this text, these texts --

2 A. That was started at the why, right?

3 Q. Sure. So one on January 12th?

4 A. Uh-huh.

5 Q. As we continue does the date change or is this  
6 all a part of one day where you continued to talk to her  
7 referring to her as --

8 A. But there is nothing leading there.

9 Q. Okay. All right.

10 So as we continue through the messages with her,  
11 this page, and my question was this reflects only you  
12 attempting to communicate with her, with Jacee?

13 A. Correct.

14 Q. Okay. And no response from her?

15 A. Correct.

16 Q. Okay. Now, as we continue and the text messages  
17 continue between you and her throughout this timeframe,  
18 we're all in January of --

19 A. How come you're only showing the one that I put  
20 out there?

21 Q. No, I'm happy to go through all of them with you,  
22 and the jury is going to see them, Mr. Poindexter.

23 A. Okay, thank you.

24 Q. But is this you continuing to communicate with  
25 her?

1 A. Correct.

2 Q. Okay. All right.

3 Now, because you went through them with your  
4 lawyer I'm going to go through some of the things that I  
5 want to ask you questions about. Okay?

6 A. Yep.

7 Q. Now, is this, as we move further into the exhibit  
8 did you refer to her a third time as hot stuff?

9 A. Yes.

10 Q. Okay. Okay.

11 And how about as we get here, you didn't mention  
12 this when you were with your lawyer, but you request  
13 that Jacee send a picture of yourself to you here?

14 A. I know that. I was sitting on a physical therapy  
15 bed with a broken leg, my leg is doing this (indicating)  
16 just chatting back and forth with her.

17 Q. Okay, we can see that. Is this the picture that  
18 you sent to Jacee?

19 A. Yeah, that's it. I'm sitting there with my  
20 physical therapist right over top of me.

21 Q. We can see that here. Did Jacee respond to you?

22 A. No, she didn't.

23 Q. She didn't send the picture that you asked for?

24 A. (Witness shakes head).

25 Q. No?

1 A. No.

2 Q. And now it's part of this same conversation where  
3 you ask her what type of clothing she wears and what  
4 size; is that right?

5 A. Correct.

6 Q. And then you go forward and say I want to see you  
7 painted tomorrow night?

8 A. Correct.

9 Q. Okay. And what were you referring to when you  
10 asked your teenage daughter there --

11 A. Because she was always going out, I've never seen  
12 her doing what she does. I just wanted to see a picture  
13 of her. I didn't say I needed to see her whole body,  
14 show me a picture. It could have been her face.

15 Q. And what does it mean to be painted?

16 A. I don't know. I haven't seen it.

17 Q. All right. So when you asked her, ask Jacee  
18 directly in these messages I want to see you painted  
19 tomorrow night, is it your testimony you just wanted her  
20 to send you a picture of her?

21 A. I wanted to see what she does. I don't know what  
22 she does. Always going to those raves, I wanted to see  
23 how she looked.

24 Q. Are you familiar with the concept of body paint?

25 A. No.

1 Q. You're not?

2 A. I don't do body paint. I've never seen anybody  
3 dressed up with it.

4 Q. Would you agree it is a rather odd comment if  
5 what you're asking for is just a picture of your  
6 daughter?

7 A. Why is that odd?

8 Q. You're referring to her being painted?

9 A. It could have been her face. I didn't ask for  
10 her whole body.

11 Q. Okay, all right. Is that your testimony to the  
12 jury, you were just talking about her face in this  
13 comment?

14 A. I didn't mean nothing else by it, I wasn't  
15 meaning nothing sexual by it.

16 Q. Okay. All right.

17 So let's move forward here in these messages and  
18 we're going to look at Plaintiff's Exhibit 9. And you  
19 testified you don't know when this occurred?

20 A. I testified what didn't occur?

21 Q. You don't know when this conversation occurred  
22 with Jacee?

23 A. This one here?

24 Q. Yeah, this one. Plaintiff's Exhibit 9.

25 A. Yes, I recall that one.



1 Q. You do?

2 A. Yeah.

3 Q. Is this a conversation where Jacee told you that  
4 she had told on you about what you had done?

5 A. Correct, she put it in a different way that he  
6 got it out of her.

7 Q. Okay.

8 A. That he had gotten it out of her and that's when  
9 she decided to say something.

10 Q. All right. And what did he get out of her?

11 A. I don't know.

12 Q. It's clear in the messages, Mr. Poindexter, that  
13 she is referring to the way you have spoken to her?

14 A. Well, maybe they did something wrong. I don't  
15 know, I don't know what they did to be honest with you.

16 Q. Did you think Jacee was referring to the  
17 inappropriate comments that you'd made to her throughout  
18 the text messages?

19 A. I didn't say that on there. I say I don't know  
20 what you're talking about.

21 Q. When she says, and excuse me, when she refers to  
22 you being a creep, or her boyfriend thinking you're a  
23 creep of what you're saying to me, did you have any  
24 indication of what she was talking about?

25 A. No. If you look down at the bottom it says what

1 is he talking about.

2 Q. All right. So you didn't, it didn't enter your  
3 mind that she was referring to being called hot stuff by  
4 her dad?

5 A. No.

6 Q. Or asking for pictures --

7 A. No.

8 Q. -- or any of that stuff?

9 All right. And how about when she gets a little  
10 more specific and says I told him what happened in the  
11 past?

12 A. Then you see where I went I didn't know. I don't  
13 know what she is talking about then.

14 Q. You remember this conversation, you just told us  
15 that. What were you thinking at this point when she  
16 tells, Jacee tells you that she has told on you about  
17 what you did in the past?

18 A. That's, I say right there; "are you fucking  
19 kidding me".

20 Q. Were you wondering what she was talking about?

21 A. Yes.

22 Q. Now, your response to that, let's look at it  
23 closely, your response is one of aggression towards the  
24 boyfriend; is that right?

25 A. No, it's aggression to just to what was being

1 said? What's being said and why is this coming out now.

2 Q. But that's not what you say here, Mr. Poindexter.

3 A. Correct.

4 Q. You said; "are you fucking kidding me. Fuck him.  
5 He's lucky I got a broken leg, I'd be on my way to stomp  
6 his ass."

7 A. So that has to do with what?

8 Q. Okay. What you testified is I don't know what  
9 she is talking about. That's not what you say here at  
10 the time that you're confronted with the allegation.

11 A. I didn't saying anything. What did I say there?  
12 I said I don't know what you are talking about.

13 Q. You become aggressive towards the person that she  
14 told, Jacee told?

15 A. No, I wasn't aggressive towards him. I was  
16 talking with Jacee, that's not aggressive toward him.

17 Q. All right. Did you tell Jacee you were going to  
18 stomp his ass?

19 A. I think it's right there.

20 Q. That he's lucky you have a broken leg?

21 A. It's right there talking to Jacee.

22 Q. And how about when we have, on to the next  
23 message there, Mr. Poindexter, when you refer to  
24 rebuilding a relationship with your dad?

25 A. That we --

1 Q. Can you tell us what that means?

2 A. Yeah, that we were growing apart. She was living  
3 back in Mt. Vernon, I was living in Snohomish.

4 Q. Does this imply in your mind when someone says,  
5 when you say rebuilding your relationship, does it imply  
6 in your mind that the relationship is broken --

7 A. Does it --

8 Q. -- between you and Jacee?

9 A. Does it say anything about sexual in there?

10 Q. I'm asking you is that what you meant when you  
11 referred to rebuilding your relationship?

12 A. Getting back in touch with each other and see how  
13 we're doing.

14 Q. We've just looked through a series of text  
15 messages where your testimony is there is no problem  
16 here?

17 A. There is no problem.

18 Q. Okay. And then in this statement you're asking  
19 Jacee to rebuild a relationship?

20 A. Because we had not talked to each other in a few  
21 months.

22 Q. Okay. Is it your testimony, Mr. Poindexter, that  
23 your description of rebuilding a relationship has  
24 nothing to do with "I told him what you did in the  
25 past"?

1 A. No, it doesn't.

2 Q. Is that your testimony?

3 A. I've never touched those girls.

4 Q. Okay, all right. And, in fact, you've never once  
5 in ten years of living with them been alone with them  
6 either; is that right?

7 A. I work. Try working like I do. Try working the  
8 hours that I do and you tell me if you're home all the  
9 time.

10 Q. Okay. So both of the girls that we've heard in  
11 this trial testified that you did, in fact, had sexual  
12 contact with them. Did you hear them testify to that?

13 A. I did.

14 Q. Okay. And both of them testified that when they  
15 were ages 10, 11, and 12 years old, little girls, that  
16 is when you chose to do that to them?

17 A. I did not touch those girls.

18 Q. Did you hear both girls independently tell the  
19 story that you did?

20 A. Yes, I did.

21 Q. Okay. Both of them told this jury that you would  
22 grab them on the hips, did you hear them say that?

23 A. I did not touch those girls.

24 Q. That you would rub your penis on them, that you  
25 would have an erection at the time?

1 A. I did not touch those girls.

2 Q. Both of those girls told us that you essentially  
3 used them at 10, 11 and 12 year old girls, to  
4 masturbate?

5 A. I did not touch those girls.

6 MR. JONES: Those are all my questions,  
7 Your Honor. Thank you.

8 THE COURT: Thank you, counsel.

9 MR. PICULELL: I have a couple of  
10 questions.

11 REDIRECT EXAMINATION

12 Q. (BY MR. PICULELL) Mr. Poindexter, where did  
13 that, you've been looking at exhibit, or I'm sorry,  
14 you've been referring to Exhibit No. 8. Could I request  
15 Exhibits 8 and 10. Thank you.

16 Where did Exhibit No. 8 come from as far as the  
17 actual production of Exhibit No. 8 and 10?

18 Let me ask you this; did you provide those,  
19 Exhibit No. 8, did you provide those to me recently?

20 A. Yes.

21 Q. Okay. When did you provide those to me?  
22 Within the last two weeks?

23 A. Yeah, like a week before the trial started, that  
24 weekend.

25 Q. Okay. Before --

1 A. Before the trial.

2 Q. You provide those to me?

3 A. Correct.

4 Q. Okay. Exhibit No. 10, was there some omissions  
5 in Exhibit No. 10 that was provided, that you reviewed,  
6 is that why you provided No. 8?

7 A. Correct.

8 Q. Okay. So there were, do you know how to delete a  
9 message that is sent to you?

10 A. Do I know how to delete one?

11 Q. Yeah, on your phone if you get a text message, do  
12 you know how to delete it?

13 A. Yeah.

14 Q. Yeah. And were there some deletions that you  
15 were aware of and that's why you provided No. 8 --

16 A. Correct.

17 Q. -- to me?

18 Okay. And the information that is on Exhibit No.  
19 8 you testified to me, and the prosecutor asked you some  
20 questions about whether they were of a sexual nature,  
21 you said no. You heard Jacee say no per page as well,  
22 correct?

23 A. Correct.

24 Q. Now, the prosecutor asked you if there were,  
25 between the messages whether there was a response. Do

1 you have any independent recollection whether particular  
2 responses were on Facebook or text between the two of  
3 you depending on a particular message?

4 A. No.

5 Q. Okay. Did they go back and forth, were you both  
6 communicating via Facebook and SMS text?

7 A. Yes.

8 Q. Okay. Would you talk to her by phone?

9 A. Very few and far between.

10 Q. Very few and far between?

11 A. Yeah.

12 Q. Okay, okay.

13 A. Not much though, through more text messaging.

14 MR. PICULELL: Okay. That's all the  
15 questions I have for you.

16 MR. JONES: I have no followup on that,  
17 Your Honor. Thank you.

18 THE COURT: All right. Thank you,  
19 Mr. Poindexter, you may step down.

20 MR. PICULELL: The Defense calls Erica  
21 Washburn.

22 THE COURT: All right. Hello, you're  
23 Ms. Washburn?

24 MS. WASHBURN: Yes.

25 THE COURT: Hello. Will you walk over to



1 the witness stand and put your things down and  
2 raise your right hand?

3 **ERICA WASHBURN:**

4 **Being first duly sworn, testified as follows:**

5 THE COURT: Okay. You're under oath.  
6 Please, be seated. I think you'll see that if  
7 you stay about eight inches from the microphone,  
8 talk a little louder than feels natural, that's  
9 what works.

10 MS. WASHBURN: Okay.

11 THE COURT: Perfect, okay.

12 DIRECT EXAMINATION

13 MR. PICULELL: Thank you, Your Honor,  
14 with leave of the Court.

15 Q. (BY MR. PICULELL) Good afternoon, ma'am. Please  
16 state your full name and spell your last name?

17 A. Erica Washburn W-A-S-H-B-U-R-N.

18 Q. And for the clerk the mailing address for you?

19 A. 1511 Willowbrook Place, Bellingham 98229.

20 Q. Okay. And do you know Mr. Poindexter?

21 A. Yes.

22 Q. Okay. And how do you know him?

23 A. I met him through a friend about ten years ago.

24 Q. Okay. What was the period of your friendship or  
25 relationship with Mr. Poindexter?

1           A.   From about spring -- are you talking about time  
2 wise?

3           Q.   Yeah, just the entire time you might have known  
4 him or talked to him or?

5           A.   Well, we had a relationship from about March 2011  
6 through about October of 2011.

7           Q.   Okay.  And did you reside with Mr. Poindexter or  
8 did he reside with you?

9           A.   He hung out at my house quite a bit or we would  
10 get a hotel.

11          Q.   Okay.  And so you had a romantic relationship  
12 with Mr. Poindexter?

13          A.   Yes.

14          Q.   Okay.  And I know it's a long time ago, but  
15 during that period, you said March of 2011?

16          A.   Yes.

17          Q.   Yes, okay.  Through the end period of October of  
18 2011?

19          A.   Yes.

20          Q.   Okay.  Now, during that period did he stay at  
21 your residence?

22          A.   Yes.

23          Q.   Okay.  And was anyone else residing there at that  
24 residence?

25          A.   My ex-boyfriend/roommate at the time.

1 Q. Okay. And did Mr. Poindexter stay with you  
2 during this period of time exclusively?

3 A. Fairly often.

4 Q. Okay.

5 A. Yes.

6 Q. I'm sorry, fairly often, yes?

7 A. Yes, yes.

8 Q. Do you recall anything about his schedule?

9 A. He worked iron work in Seattle. He'd leave  
10 around like 4 in the morning and didn't get back until  
11 five, six.

12 Q. Would he come to the residence where you lived?

13 A. Yes.

14 Q. At home?

15 A. Yeah.

16 Q. Okay. Do you know whether he would go back to  
17 his residence with Crystal Meyers?

18 A. To get clothing maybe.

19 Q. Okay.

20 A. Yeah.

21 Q. Okay. So I don't want to put words in your  
22 mouth, but during that period of spring to fall would  
23 you characterize that as an exclusive relationship where  
24 he was with you or no?

25 A. I would say yes, yes.

1 Q. Okay. Okay.

2 MR. PICULELL: Thank you ma'am, that's  
3 all I have. The prosecutor may have some  
4 questions for you.

5 MS. WASHBURN: Okay.

6 CROSS-EXAMINATION

7 Q. (BY MR. JONES) Thank you. Good afternoon,  
8 Ms. Washburn.

9 A. Good afternoon.

10 Q. So you testified that you would hang out with  
11 Mr. Poindexter?

12 A. Yes.

13 Q. Were there times then that he wasn't at work?

14 A. Well, maybe on the weekends.

15 Q. Okay. Would you hang out on the weekdays as  
16 well?

17 A. At night, yes, we'd do dating things.

18 Q. All right. So that there were times at least in  
19 these months that he was with you that you and him would  
20 have time to hang out?

21 A. Yes.

22 Q. And he wasn't working?

23 A. Yes.

24 Q. Okay. All right. And is it also true,  
25 Ms. Washburn, that you were not his keeper during this

1     timeframe; is that right?

2             A.    Not his keeper?

3             Q.    Did you know where he was 24 hours a day during  
4     that timeframe?

5             A.    I would assume work because he worked long hours  
6     in Seattle, so he left early and got home late.

7             Q.    And you indicated just to Defense counsel there  
8     that you also believe there were times that he would go  
9     back to the Sudden Valley house?

10            A.    Probably to get clothes.  I mean, I didn't have a  
11    tab on him 24-7, I don't with my husband either.

12            Q.    Okay, that's important.  So you were not with him  
13    24-7?

14            A.    Not 24-7.

15            Q.    Including not with him in times when he would go  
16    back to the Sudden Valley house?

17            A.    I didn't go to the Sudden Valley house.

18            Q.    So you didn't go with him to that house?

19            A.    No.

20            Q.    Were you aware that he had a residence in Sudden  
21    Valley?

22            A.    Yes.

23            Q.    And that he had a wife in Sudden Valley?

24            A.    Yes.

25            Q.    And he had two little girls that resided there

1 also in Sudden Valley?

2 A. Yes.

3 Q. And you were aware of that?

4 A. Yeah.

5 Q. Okay. Did you characterize that as a romantic  
6 relationship that you had with Mr. Poindexter?

7 A. Yes.

8 Q. Okay. Including a sexual relationship?

9 A. Yes.

10 Q. Would he ever refer to you as hot stuff,  
11 Ms. Washburn?

12 A. I can't remember.

13 Q. Is that a term that you've heard him say to you?

14 A. Probably yes.

15 Q. Okay. And how would you take that when he would  
16 call you hot stuff?

17 A. I don't know how to answer that. I mean a term  
18 of endearment.

19 Q. Right. In the context of a sexual relationship  
20 you were having with him?

21 A. Yes.

22 Q. Oh, and then your testimony is about  
23 Mr. Poindexter's, just exclusive to that March 2011  
24 through, what did you say, October of 2011?

25 A. I would say so, yes.

1 Q. Did you know about his activities or whereabouts  
2 prior to that?

3 A. I mean, I knew him prior to that.

4 Q. Okay. Do you know him to be residing out in  
5 Sudden Valley prior to that?

6 A. Yes.

7 Q. With the wife and girls?

8 A. Yes.

9 Q. Okay, thank you.

10 THE COURT: Mr. Piculell, do you have any  
11 questions?

12 MR. PICULELL: Thank you, Your Honor.

13 REDIRECT EXAMINATION

14 Q. (BY MR. PICULELL) In terms of the prosecutor  
15 asking you about hot stuff, would you consider that a  
16 compliment or sexual term?

17 A. Back then a compliment. Now I'd probably slap  
18 him.

19 Q. Okay. And was it a term, you said a term of  
20 endearment?

21 A. Yes.

22 Q. Okay. And how would he, do you even recall  
23 whether he used that term?

24 A. I couldn't give you an specific example. It's  
25 been a long time.

1 Q. Okay. So the prosecutor suggested that, do you  
2 know --

3 A. No, no.

4 Q. -- if he did?

5 So you're sort of going with the flow in terms  
6 of --

7 A. I would, I mean I assume that he called me that,  
8 he wasn't mean.

9 Q. Okay, okay. Would he use other terms of a  
10 compliment --

11 A. I don't recall.

12 Q. -- or endearment?

13 MR. PICULELL: That's all I have.

14 MS. WASHBURN: Okay.

15 MR. JONES: No followup for me. Thank  
16 you, Your Honor.

17 THE COURT: You may step down,  
18 Ms. Washburn. Thank you.

19 MR. PICULELL: Thank you, ma'am. You're  
20 released, thank you.

21 Nothing additional, Your Honor. The  
22 Defense rests.

23 THE COURT: All right. Do we have  
24 rebuttal from the State?

25 MR. JONES: Your Honor, if you could give



1 me a moment to inquire about that?

2 THE COURT: Yes.

3 MR. JONES: I'll be brief.

4 THE COURT: Ladies and gentlemen of the  
5 jury, we won't take our formal break until later  
6 in the afternoon. If you'd like to stand up and  
7 stretch while Mr. Jones is summoning the  
8 witness, feel free.

9 MR. JONES: I'm sorry, were we going to  
10 take a break? Is that what Your Honor said?

11 THE COURT: I was saying that we would  
12 take our break later in the afternoon. Oh,  
13 excuse me, I thought you were out of the room.  
14 I was telling the jury if they'd like to stand  
15 up and stretch, they can do that while you are  
16 out of the room getting the witness.

17 MR. JONES: Okay, thank you.

18 (Brief break off the record.)

19 MR. JONES: So, Your Honor, the State is  
20 going to pursue the rebuttal case. I should  
21 have come in here alone, but the State would  
22 like to call Crystal Meyers as a rebuttal  
23 witness.

24 THE COURT: All right. Ms. Meyers is  
25 with you?

1 MR. JONES: She is with me.

2 THE COURT: All right. Are we ready for  
3 Ms. Meyers' testimony?

4 MR. JONES: Yes.

5 THE COURT: All right. Will you come  
6 forward, please, Ms. Meyers. It's a new day so  
7 I'll give you a new oath. If you stand next to  
8 the witness stand and raise your right hand.

9 **CRYSTAL MEYERS:**

10 **Being first duly sworn, testified as follows:**

11 THE COURT: Okay. You're under oath.  
12 Please, be seated.

13 REBUTTAL DIRECT EXAMINATION

14 Q. (BY MR. JONES) Okay. Hello, again, Ms. Meyers,  
15 and good afternoon.

16 A. Hello.

17 Q. Okay. So as you're aware throughout trial we've  
18 been talking bout Mr. Poindexter and the timeframe from  
19 2004 when you began a relationship with Mr. Poindexter  
20 up through 2014 when you separated.

21 A. Correct.

22 Q. So I'm going to ask you some questions about that  
23 timeframe. Do you have recollection of those ten years  
24 of your life?

25 A. For the most part.

1 Q. Raising the girls in those ten years?

2 A. Yes.

3 Q. Is that primarily, besides working, what the  
4 family was engaged in during these ten years is raising  
5 the young girls?

6 A. Yes.

7 Q. Okay. So from 2004 to 2014, those 10 years, was  
8 Mr. Poindexter to your knowledge ever alone with Jacee  
9 and Kaela?

10 A. There were times, yes.

11 Q. Okay. Would that happen just in the course of  
12 parenting these young girls that he would be in charge  
13 of them?

14 A. Yes, with work schedules and if one was off work  
15 and the other one had to work.

16 Q. Okay. So if the statement was made that he was  
17 never alone with either of those two girls in those ten  
18 years, would you agree with that or disagree?

19 A. No, I wouldn't agree.

20 Q. Okay. Were there times, we understand  
21 Mr. Poindexter worked a lot during this time period, is  
22 that your recollection too?

23 A. Yes.

24 Q. Would there be days when he wouldn't work?

25 A. Yes.

1 Q. In those days would he be home just like you  
2 would expect an adult in a household to be home?

3 A. For the most part, yes, unless he had prior  
4 engagements.

5 Q. Okay. Let me ask you this; did Mr. Poindexter  
6 have other kind of parental responsibility like picking  
7 the girls up from activities they might be doing?

8 A. There were times like after school Boys & Girls  
9 Club, things like that.

10 Q. All right. Where, is it true that he was  
11 actually the emergency contact in some of these things  
12 that the girls did growing up?

13 A. Yes.

14 Q. So he would be the dad figure that would be  
15 called if anything happened, that sort of thing?

16 A. Yes.

17 Q. Okay. So I want to draw your attention to Sudden  
18 Valley specifically. We've heard about a rec room that  
19 was downstairs where there was a television. Do you  
20 remember that room?

21 A. Yes. Yes.

22 Q. Would it be an occurrence that you were familiar  
23 with in that house that Mr. Poindexter would watch tv in  
24 that rec room?

25 A. Yes.

1 Q. Would the girls watch tv in that rec room?

2 A. Yes.

3 Q. Do you have any recollection of coming in or  
4 being at the home when Mr. Poindexter was watching tv in  
5 the rec room with the two girls?

6 A. Yes, like cooking, if I'm upstairs cooking, the  
7 rec room was downstairs. The rest of the house was  
8 upstairs.

9 Q. And just so the jury has a picture of this, would  
10 that be at all unusual that that would be happening that  
11 Mr. Poindexter would be watching tv in the rec room with  
12 the girls?

13 A. No, not unusual.

14 Q. All right.

15 MR. JONES: Okay. That's all the  
16 followup I have for you so thank you.

17 THE COURT: Mr. Piculell?

18 MR. PICULELL: No questions.

19 THE COURT: All right. Both counsel have  
20 finished questioning?

21 MR. JONES: Yes.

22 THE COURT: All right. Thank you,  
23 Ms. Meyers, you may step down.

24 Ladies and gentlemen -- does that  
25 conclude the rebuttal portion of the State's

1 case?

2 MR. JONES: It does, Your Honor, yes.

3 Thank you.

4 THE COURT: All right. Any rebuttal from  
5 the Defense, Mr. Piculell?

6 MR. PICULELL: Not based on that. Thank  
7 you.

8 THE COURT: All right. Ladies and  
9 gentlemen of the jury, that concludes the phase  
10 of the trial in which evidence is presented to  
11 you. We're now moving into the jury  
12 instructions, which I'll be giving to you  
13 verbally and in writing in just a couple of  
14 minutes, after that I'll ask you to give both  
15 lawyers your attention while they make their  
16 closing arguments.

17 We'll take our afternoon recess a little  
18 bit early, we'll take it now because I prefer  
19 not to interrupt the process of the instructions  
20 and the closings. So we'll be in recess for  
21 approximately 15 minutes, it may take a little  
22 longer to organize the exhibits that our clerk  
23 is keeping track of. We'll be in recess for 15  
24 minutes and we'll return for closing arguments.

25 THE BAILIFF: All rise.

1 (The jury left the courtroom.)

2 THE COURT: Do counsel need anything from  
3 the Court before we take our break?

4 MR. JONES: No, Your Honor.

5 THE COURT: All right. Both counsel have  
6 copies of the jury instructions, right?

7 MR. PICULELL: We do, thank you.

8 THE COURT: Okay, that's good.

9 (Brief break off the record.)

10 (The jury was seated.)

11 INSTRUCTIONS TO THE JURY

12 THE COURT: Ladies and gentlemen of the  
13 jury, we'll begin with the Court's reading you  
14 the instructions about the law and you'll have  
15 written copies of these instructions with you in  
16 the jury room to refer to as well.

17 It is your duty to decide the facts in  
18 this case based upon the evidence presented to  
19 you during this trial. It is also your duty to  
20 accept the law from my instructions, regardless  
21 of what you personally believe the law is or  
22 what you personally believe the law should be.  
23 You must apply the law from my instructions to  
24 the facts that you decide have been proved and  
25 in this way decide the case.

1           Keep in mind that a charge is only an  
2           accusation. The filing of a charge is not  
3           evidence that the charge is true.

4           Your decisions as jurors must be made  
5           solely upon the evidence presented during these  
6           proceedings. The evidence that you are to  
7           consider during your deliberations consists of  
8           the testimony that you have heard from witnesses  
9           and the exhibits that I have admitted -- and the  
10          exhibits that I have admitted into evidence  
11          during the trial. If evidence was not admitted  
12          or was stricken from the record, then you may  
13          not consider it in reaching your verdict.  
14          Exhibits may have been marked by our clerk and  
15          given a number, but they do not go with you into  
16          the jury room during deliberations until they  
17          have been admitted into evidence. The exhibits  
18          that have been admitted will be available to you  
19          in the jury room.

20          One of my duties throughout the trial has  
21          been to rule on the admissibility of evidence.  
22          Please do not be concerned during your  
23          deliberations about the reasons for my rulings  
24          on the evidence. If I've ruled that any  
25          evidence is inadmissible or if I've asked you to



1           disregard any evidence, then you must not  
2           discuss that evidence during your deliberations  
3           or consider it in reaching your verdict. Do not  
4           speculate whether the evidence would have  
5           favored one party or the other.

6                     In order to decide whether any  
7           proposition has been proved, you must consider  
8           all of the evidence that I have admitted that  
9           relates to that proposition. Each party is  
10          entitled to the benefit of all the evidence,  
11          whether or not that party introduced it.

12                    You are the sole judges of credibility of  
13          each witness. You are also the sole judges of  
14          the value or weight to be given to the testimony  
15          of each witness. In assessing credibility you  
16          must avoid bias, conscious or unconscious,  
17          including any bias based on religion, ethnicity,  
18          race, sexual orientation, disability, economic  
19          class or any consideration that's not directly  
20          relevant to the issues in the case.

21                    In considering a witness's testimony you  
22          may consider these things; the opportunity of  
23          the witness to know or observe the things the  
24          witness testifies about, the ability of the  
25          witness to observe accurately, the quality of a

1 witness's memory while testifying, the manner of  
2 the witness while testifying, any personal  
3 interest that the witness might have in the  
4 outcome or the issues, any bias or prejudice  
5 that the witness may have shown, the  
6 reasonableness of the witness's statements in  
7 the context of all the other evidence, and any  
8 other factors that affect your evaluation or  
9 belief of a witness or your evaluation of his or  
10 her testimony.

11 The lawyers' remarks and statements and  
12 arguments are intended to help you understand  
13 the evidence and apply the law. It's important,  
14 however, for you to remember that the lawyers'  
15 statements are not evidence. The evidence is  
16 the testimony and the exhibits. The law is  
17 contained in these instructions to you. You  
18 must disregard any remarks, statement, or  
19 argument that is not supported by the evidence  
20 or the law in the Court's instructions.

21 You may have heard, you did hear  
22 objections made by the lawyers during the trial.  
23 Each party has the right to object to questions  
24 asked by the other party's lawyer, and in some  
25 cases, may have a duty to object. These

1 objections should not influence you. Please, do  
2 not make any assumptions or draw any conclusions  
3 based on a lawyer's objection.

4 Our state constitution prohibits a trial  
5 judge from making a comment on the evidence in  
6 any way. It would be improper for me to express  
7 by words or conduct any personal opinion about  
8 the value of testimony or about other evidence.  
9 I have not intentionally done this. If it  
10 appeared to you that I've indicated a personal  
11 opinion in some way, either during the trial or  
12 in giving these instructions, please know that  
13 this is completely involuntary on my part and  
14 please disregard entirely.

15 You will have nothing whatever to do with  
16 any punishment that may be imposed in the case  
17 of a violation of law. You may not consider the  
18 fact punishment may follow conviction, except  
19 insofar it may tend to make you careful.

20 The order of these instructions has no  
21 significance as to their relative importance.  
22 They are all important. In closing arguments  
23 the lawyers may properly discuss specific  
24 instructions. During your deliberations you  
25 must consider the instructions as a whole.

1           As jurors, you are officers of this  
2           court. You must not let your emotions overcome  
3           your rational thought process. You must reach  
4           your decision based on facts proved to you and  
5           on the law given to you and not on sympathy,  
6           prejudice, or personal preference. To assure  
7           that all parties receive a fair trial you must  
8           act impartially and with an earnest desire to  
9           reach a proper verdict.

10           The Defendant, Mr. Poindexter, has  
11           entered a plea of not guilty. That plea puts in  
12           issue every element of every crime that is  
13           charged. The State is the Plaintiff and has the  
14           burden of proving each element of each crime  
15           beyond a reasonable doubt. A Defendant has no  
16           burden of proving that a reasonable doubt exists  
17           as to these elements.

18           A Defendant is presumed innocent. This  
19           presumption continues throughout the entire  
20           trial, unless during your deliberations you find  
21           that it has been overcome by the evidence beyond  
22           a reasonable doubt.

23           A reasonable doubt is one for which a  
24           reason exists and it may arise from the evidence  
25           or lack of evidence. It is such a doubt as

1 would exist in the mind of a reasonable person  
2 after that person has fully, fairly, and  
3 carefully considered all of the evidence or lack  
4 of evidence. If from such consideration you  
5 have an abiding belief in the truth of the  
6 charge, you're satisfied beyond a reasonable  
7 doubt.

8 The State alleges that the Defendant  
9 committed acts of Child Molestation in the First  
10 Degree and/or Child Molestation in the Second  
11 Degree on multiple occasions. To convict the  
12 Defendant on any count of Child Molestation in  
13 the First Degree and/or Child Molestation in the  
14 Second Degree one particular act of Child  
15 Molestation in the First Degree and/or second  
16 degree must be proved beyond a reasonable doubt,  
17 and you must unanimously agree as to which act  
18 has been proved. You need not unanimously agree  
19 that the Defendant committed all the acts of  
20 Child Molestation in the First Degree and/or  
21 Child Molestation in the Second Degree.

22 A separate crime is charged in each count  
23 and we have five counts, which we'll review  
24 together. A separate crime is charged in each  
25 count, you must decide each count separately.

1 Your verdict on one count should not control  
2 your verdict on any other count.

3 A person commits the crime of Child  
4 Molestation in the First Degree when the person  
5 has sexual contact with a child who is less than  
6 12 years old, who is not married to the person,  
7 and who is at least 36 months younger than the  
8 person.

9 A person commits the crime of Child  
10 Molestation in the Second Degree when the person  
11 has sexual contact with a child who is less than  
12 14 years old, who is not married to the person,  
13 and who is at least 36 months younger than the  
14 person.

15 Sexual contact means any touching of the  
16 sexual or other intimate parts of a person done  
17 for the purpose of gratifying sexual desires of  
18 either party.

19 Married means one who is legally married  
20 to another, but does not include a person who is  
21 living separate and apart from his or her spouse  
22 and who has filed in court for legal separation  
23 or for dissolution of marriage.

24 To convict the Defendant of the crime of  
25 Child Molestation in the First Degree as charged

1 in Count 1, you must find that each of the  
2 following elements of that crime have been  
3 proved beyond a reasonable doubt: 1; that on or  
4 about or on and between January 1st, 2009, and  
5 January 1st, 2010, the Defendant had sexual  
6 contact with J.D. whose date of birth was August  
7 5, 1998; 2, that J.D. was less than 12 years old  
8 at the time of the sexual contact and was not  
9 married to the Defendant; 3, that J.D. was at  
10 least 36 months younger than the Defendant; and  
11 4, this act occurred in the State of Washington.

12 If you find from the evidence that each  
13 of those elements has been proved beyond a  
14 reasonable doubt, then it will be your duty to  
15 return a verdict of guilty on Count 1. On the  
16 other hand, if after weighing all the evidence  
17 you have a reasonable doubt as to any one of  
18 these elements, then it will be your duty to  
19 return a verdict of not guilty.

20 To convict the Defendant of the crime of  
21 Child Molestation in the First Degree as charged  
22 in Count 2, you must find that each of the  
23 following elements of that crime has been proved  
24 beyond a reasonable doubt: One; that on or  
25 about or between January 1st, 2010, and November

1 1st, 2011, the Defendant had sexual contact with  
2 K.S. whose date of birth is December 4, 2000; 2,  
3 that K.S. was less than 12 years old at the time  
4 of the sexual contact and was not married to the  
5 Defendant; 3, that K.S. was at least 36 months  
6 younger than the Defendant; and 4, that this act  
7 occurred in the State of Washington.

8 If you find from the evidence that each  
9 of these elements has been proved beyond a  
10 reasonable doubt, then it will be your duty to  
11 return a verdict of guilty. On the other hand,  
12 if after weighing all the evidence you have a  
13 reasonable doubt as to any one of these  
14 elements, then it will be your duty to return a  
15 verdict of not guilty.

16 To convict the Defendant of the crime of  
17 Child Molestation in the First Degree as charged  
18 in Count 3, each of the following elements of  
19 that crime must be proved beyond a reasonable  
20 doubt: One; that on or about or in between  
21 January 1st, 2010, and November 1st, 2011, the  
22 Defendant had sexual contact with K.S., date of  
23 birth is December 4, 2002, that K.S. was less  
24 than 12 years old at the time of the sexual  
25 contact and was not married to the Defendant; 3,





1 of these elements has been proved beyond a  
2 reasonable doubt, then it will be your duty to  
3 return a verdict of guilty. On the other hand,  
4 if after weighing all the evidence you have a  
5 reasonable doubt as to any one of these  
6 elements, then it will be your duty to return a  
7 verdict of not guilty.

8 To convict the Defendant of the crime of  
9 Child Molestation in the Second Degree as  
10 charged in Count 5, each of the following  
11 elements of that crime must be proved beyond a  
12 reasonable doubt: One; that on or about and/or  
13 between January 1st, 2010, and November 1st,  
14 2011, the Defendant had sexual contact with J.D.  
15 whose date of birth is August 5, 1998; 2, that  
16 J.D. was less than 14 years old at the time of  
17 the sexual contact and was not married to the  
18 Defendant; 3, that J.D. was at least 36 months  
19 younger than the Defendant; and 4, that this act  
20 occurred in the State of Washington.

21 If you find from the evidence that each  
22 of these elements has been proved beyond a  
23 reasonable doubt, then it will be your duty to  
24 return a verdict of guilty. On the other hand,  
25 if after weighing all the evidence you have a

1 reasonable doubt as to any one of these  
2 elements, then it will be your duty to return a  
3 verdict of not guilty.

4 The evidence that has been presented to  
5 you may be either direct or circumstantial. The  
6 direct evidence refers to evidence that is given  
7 by a witness who has directly perceived  
8 something at issue in the case. The term  
9 circumstantial evidence refers to evidence from  
10 which, based on common sense and experience, you  
11 may reasonable infer something that is at issue  
12 in the case. The law does not distinguish  
13 between direct and circumstantial evidence in  
14 terms of their weight or value in finding the  
15 facts in the case. One is not necessarily more  
16 or less valuable than the other.

17 As jurors you have a duty to discuss the  
18 case with one another and to deliberate in an  
19 effort to reach a unanimous verdict. Each of  
20 you must decide the case for yourself, but only  
21 after you consider the evidence impartially with  
22 your fellow jurors. During your deliberations  
23 you should not hesitate to reexamine your own  
24 views and to change your opinion based on  
25 further review of the evidence and these

1 instructions.

2 You should not, however, surrender your  
3 honest belief about the value or significance of  
4 evidence solely based on the opinions of your  
5 fellow jurors, nor should you change your minds  
6 just for the purpose of reaching a verdict.

7 These instructions are complete and until  
8 a verdict has been reached you are not permitted  
9 to go beyond these instructions to obtain any  
10 additional information about this case from any  
11 source whatsoever. This means that you may not  
12 utilize reference books or use cell phones,  
13 computers, or any other electronic device to  
14 consult any internet resource including social  
15 media or any website to obtain information or to  
16 communicate about any aspect of the case.

17 Until you are released from this jury you  
18 may not communicate with anyone except your  
19 fellow jurors about the case. These  
20 restrictions continue to apply during your  
21 deliberations because, as you were instructed  
22 earlier in the trial, the only information you  
23 may consider in your deliberations is the law  
24 contained in these instructions and the evidence  
25 that has been presented in court. Observing

1           these restrictions is essential to assure that  
2           all parties receive a fair trial in this case.

3                       When the jury begins deliberating you  
4           should first select a presiding juror. The  
5           presiding juror's duty is to see that the jury  
6           discusses the issues of the case in an orderly  
7           and reasonable manner, that you discuss each  
8           issue submitted for the jury's decision fully  
9           and fairly, and that each one of you has a  
10          chance to be heard on every question before the  
11          jury.

12                      During your deliberation you may discuss  
13          any notes that you've taken during the trial if  
14          you wish to do that. You've been -- as you  
15          know, you've been allowed to take notes to  
16          assist you in remembering clearly, not to  
17          substitute for your memory or the memories or  
18          notes of your fellow jurors. Do not assume that  
19          your notes are more or less accurate than your  
20          memory. You will need to rely on your notes and  
21          memories of the testimony that was presented  
22          during the case. Testimony will rarely, if  
23          ever, be repeated for you during your  
24          deliberations.

25                      If after carefully reviewing the evidence

1 and instructions you feel a need to ask the  
2 Court a legal or procedural question that you've  
3 been unable to answer, write the question out  
4 simply and clearly. For this purpose use the  
5 form that is provided in the jury room. In the  
6 question do not state how the jury has voted.  
7 The presiding juror should sign and date the  
8 question and give it to the bailiff, Ms. Martin.  
9 I will confer with the lawyers to determine  
10 whether a response can be given and, if so, what  
11 that response should be.

12 You will be given the exhibits admitted  
13 in evidence, these instructions, and a verdict  
14 form for recording your verdict. Some exhibits  
15 and visual aids may have been used in court, but  
16 will not go with you to the jury room. The  
17 exhibits that have been admitted into evidence  
18 will be available to you in the jury room.

19 You must fill in the blank provided in  
20 the verdict form with the words not guilty or  
21 the word guilty according to the decision that  
22 you reach. Because this is a criminal case each  
23 of you must agree for the jury to return a  
24 verdict. When all of you have agreed on a  
25 verdict, fill in the verdict form to express the

1 decisions that you have made. The presiding  
2 juror must then sign the verdict form and notify  
3 our bailiff, Ms. Martin, who will bring the jury  
4 into court to declare the verdict.

5 All right. I'll ask that you now give  
6 your attention, please, to Mr. Jones who will be  
7 delivering a closing argument on behalf of the  
8 State of Washington.

9 MR. JONES: Thank you, Your Honor.

10 THE COURT: Mr. Jones.

11 CLOSING ARGUMENT FOR THE STATE

12 MR. JONES: Okay, ladies and gentlemen,  
13 thank you for your attention during the trial.  
14 We did have testimony over several days. I want  
15 to remind you about whose story we're here to  
16 have heard, and that's these young ladies. You  
17 will remember them, the older sister Jacee  
18 Damien just referred to in your jury  
19 instructions as J.D., she is on the right, if  
20 you recall her while testifying, and then on the  
21 left here her little sister Kaela Sze, you'll  
22 see her referenced in your jury instructions as  
23 K.S. This case is about them. Make no mistake  
24 this is what we're here to talk about is these  
25 two young girls who tell us today nearly seven,

1           eight, nine years after the abuse what happened  
2           to them when they were girls growing up in a  
3           household that Mr. Poindexter was a part of, and  
4           they both came independently, they told you as a  
5           jury what happened to them.

6                     And this, I wanted to start this closing  
7           argument by reminding us of these two young  
8           ladies and what they told us and asking you to  
9           consider that's what this case is about. It's  
10          about them.

11                    You were told by the Judge just now, and  
12          it's true, that in our system you're the sole  
13          judges of credibility, the jury is. That's your  
14          primary duty as jurors is to determine the  
15          credibility of witnesses that you hear in a case  
16          like this. And make no mistake, it's going to  
17          be an important job in this case because you  
18          heard differing accounts of what happened.

19                    So you'll be called upon as you  
20          deliberate to make assessments as to  
21          credibility, and don't shy away from that,  
22          please, accept that as your role as a juror.  
23          And in specific, specifically what you'll be  
24          asked to consider is the credibility of these  
25          young ladies, Jacee and Kaela, in contrast to



1 the credibility of the Defendant, Mr.  
2 Poindexter, and those are the different stories  
3 that you heard. The girls who talked about the  
4 abuse that they had suffered in those homes that  
5 they grew up in versus Mr.  
6 Poindexter who took the stand and denied doing  
7 these things. Those are the different accounts  
8 that you heard, those are the credibility  
9 determinations that you'll be asked to make as a  
10 group. And please embrace that, go back through  
11 your notes, each of you, as to testimony that  
12 was provided and think about who and what  
13 account of this upbringing you find credible.  
14 And in the event that credibility is put in one  
15 side or the other, then I submit to you that's  
16 where your verdict can lie. And I submit to you  
17 that in recollecting the testimony by these  
18 young girls, that they are the ones that should  
19 have the benefit of the credibility here.

20 So I want to talk a little bit more  
21 specifically about that. These girls did not  
22 tell us, meaning us, what happened to them for  
23 some time after the abuse had ended, okay. We  
24 know in this household that started in 2004 with  
25 Mr. Poindexter as a father figure in the house,

1 up through the Grove Street address of 2008, up  
2 through the Sudden Valley address in 2010, up  
3 through the moving to Mt. Vernon, and ultimately  
4 the separation in 2014. This is, these are  
5 events that happened to these young girls that  
6 they did not tell about and I want you to have  
7 in your mind when you're thinking about this  
8 situation that these girls were ten, nine, ten,  
9 eleven years old at the time. So they are young  
10 girls who have their trust in a person such as  
11 Mr. Poindexter and given all of these  
12 opportunities they don't tell us about what's  
13 occurring to them, even through the separation.

14 So in 2014 you have girls that are  
15 somewhat older now, their mom is now separating  
16 from Mr. Poindexter, they don't tell what  
17 happened to them, given opportunities to tell  
18 what happened to them, through the divorce all  
19 the way through 2016 at the time when you might  
20 expect somebody to come forward and say this  
21 happened to me when I was young, they don't even  
22 at the time of the divorce.

23 It's not until they are themselves of an  
24 age they can take back some power and be  
25 confident in their strength, it's not until they

1 are older that they tell us what happened to  
2 them. And I bring that up because I submit to  
3 you that lends credibility to their story. This  
4 was not something that these girls might have  
5 gained something from telling us about, they  
6 could have gained something maybe at the time of  
7 separation or at the time of divorce when it was  
8 happening. They were not seeking, their stories  
9 are credible in large part, I submit to you,  
10 because they, because they are not seeking to  
11 gain anything in telling their story, okay.  
12 What they are seeking to gain is the truth and  
13 that's how I submit to you their testimony was  
14 portrayed in this courtroom. I asked them  
15 directly; are you happy about being here? Are  
16 you happy about having to talk to Detective  
17 Francis? Are you happy about having to talk to  
18 me? Are you happy about having to talk to the  
19 Defense attorney or come to the witness stand  
20 and confront Mr. Poindexter? And they told you  
21 directly that that's not it, they are not  
22 gaining anything from this. What they are  
23 gaining is only that this happened to them and  
24 they need to tell someone that it happened to  
25 them. And I'm arguing this to you because I

1 submit it lends credibility to their account,  
2 okay, that there is no personal interest that  
3 they have in fabricating any of this. What  
4 their story is motivated by is that it's the  
5 truth, that it happened to them and I submit to  
6 you that's the case and lends credibility to  
7 their account. And this is about that, this is  
8 about these two girls that suffered, that grew  
9 up in these same houses, suffered the same abuse  
10 at the hand of Mr. Poindexter.

11 And I want you to put that, when you go  
12 in the jury deliberation room, respectfully, I  
13 want to put that in contrast of what you saw  
14 from Mr. Poindexter himself. I submit what we  
15 saw from him is an unwillingness to accept any  
16 of the facts that were testified in this case up  
17 to and including the allegations against him.  
18 That he used these young girls as sexual props  
19 for himself while they were of an age where they  
20 could be manipulated in this way.

21 Up to and including Mr. Poindexter  
22 denying what I submit to you is somewhat  
23 unbelievable that he was never, ever in a  
24 position where he could be alone with these two  
25 girls. We actually heard the mother,

1 Ms. Meyers, testify to the contrary conclusion.  
2 So Mr. Poindexter I submit to you is not  
3 credible because he's telling you things that do  
4 not come forth with any of the other pieces of  
5 evidence in this case.

6 What I submit to you is more likely true  
7 is the story there was a household, like a  
8 household where you can imagine where the  
9 parents had access to the kids in the house, and  
10 Mr. Poindexter had access when he achieved his  
11 own sexual gratification using these young  
12 girls, girls that trusted him and did not tell  
13 on him at the time because of the power  
14 differential between them and him. Not until  
15 they were strong themselves do we get the story  
16 of what happened there, and I submit to you is  
17 an unbiased, motivated-by-truth story that they  
18 told us.

19 So what is Mr. Poindexter charged with as  
20 a consequence of what he did to these girls?  
21 That's reflected in the jury instructions.  
22 You're going to have the jury instructions back  
23 with you in the deliberation room. I want to  
24 spend some time with them now going through them  
25 and stating to you as a jury how I think, or

1           what I argue how the evidence comports with the  
2           specific crimes that Mr. Poindexter has been  
3           charged with.

4                        So what we know is that Mr. Poindexter's  
5           charged with five different crimes, and you'll  
6           see those reflected in the five different, what  
7           we call counts, criminal counts, that these  
8           charges include Child Molestation in the First  
9           Degree and Child Molestation in the Second  
10          Degree and several instances of that behavior.

11                      So the first of these what we call  
12          definitions of the crime is reflected in Jury  
13          Instruction No. 5, okay? This is the basic  
14          definition of the crime that you're working with  
15          as a jury once you establish what you believe  
16          the facts are of the case. This tells us that  
17          Child Molestation in the First Degree is, occurs  
18          when a person has sexual contact with a child  
19          who is less than 12 years old, who is not  
20          married to that person, who is at least 36  
21          months younger than the person, okay?

22                      So that's the basic working definition of  
23          the crime. It relies on some operative facts  
24          that I submit you'll be able to find beyond a  
25          reasonable doubt, which is that the victim,

1           either Jacee or Kaela, in whichever instance  
2           we're talking about, was under the age of 12  
3           years old at the time and was touched in a way  
4           that constitutes sexual contact by  
5           Mr. Poindexter. So that's Child Molestation in  
6           the First Degree.

7                         The second crime that you'll see alleged  
8           in the jury instructions is reflected in Jury  
9           Instruction No. 6, that's Child Molestation in  
10          the Second Degree, and that's a person commits  
11          the crime of Child Molestation in the Second  
12          Degree when they have sexual contact with a  
13          child who is less than 14 years old, not married  
14          to the person, 36 months younger, or the  
15          offender is 36 months older than the child that  
16          he does this to. So that's the operative  
17          definition of Child Molestation in the Second  
18          Degree. You'll see the difference there as we  
19          discussed in voir dire, seems like weeks ago, is  
20          the difference in the age of the victim at the  
21          time. So whether we have second degree here  
22          being a child 14 years old or younger, or first  
23          degree being 12 years old or younger.

24                         So we're going to need to do some work,  
25          I'm prepared to do that now with you in

1           determining the ages of these young girls at the  
2           time they were touched by Mr. Poindexter. Okay.

3           And then the final definition instruction  
4           that we're working with is sexual contact and  
5           that's, you saw that referenced just now in each  
6           of those crimes, and that's Jury Instruction No.  
7           7, that it occurs when there is any touching of  
8           the sexual or intimate parts of a person done  
9           for purposes of satisfying sexual gratification  
10          desires. And I think, I submit to you that's  
11          exactly what we heard Mr. Poindexter was doing  
12          to these young girls at that time that he chose  
13          to do it. He was using them as a prop for  
14          sexual gratification, to use their bodies to  
15          stimulate himself and to achieve sexual  
16          gratification in that way with their bodies.  
17          And whether the girls, well, they definitely at  
18          the time didn't know that was happening to them,  
19          whether they appreciate that now or not, that's  
20          exactly what I submit to you what Mr. Poindexter  
21          was doing was using those girls in that way to  
22          maintain an erection and to achieve  
23          gratification. Okay. So those are the  
24          operative definitions that you have of each of  
25          those crimes.



1           I want to look at, so I'm prepared now to  
2           talk about some of the timeframes around this  
3           behavior so that we, so my hope is that you'll  
4           have a firm grasp on that when you go back to  
5           the deliberation rooms, deliberation room. So  
6           we have Exhibit 16 that you'll recall I worked  
7           with the mother, Ms. Meyers, to achieve to put  
8           some timeframe around this behavior and so we  
9           can look at that together. We'll look at it  
10          just here in the courtroom, you won't have that  
11          available to you in the deliberation room  
12          because it was something we created in court,  
13          but we can look at it now together in closing  
14          argument.

15                 So we know the basic timeframe of this  
16          family started in 2004 when the relationship  
17          began between Mr. Poindexter and Ms. Meyers.  
18          The two girls were four and six at the time and  
19          they came with Ms. Meyers to the relationship.  
20          And then we have in 2008 the first kind of  
21          operative timeframe in this trial when the  
22          family moves into Grove Street. We know that  
23          the four members of this family unit were there  
24          at the Grove Street address. So I asked  
25          Ms. Meyers directly and she indicated from her

1 notes that she had taken that while living at  
2 Grove Street Jacee was ten years old, upon  
3 moving in Grove Street was ten years old, and  
4 Kaela was seven years old. They were in fifth  
5 and second grade respectively. So that is I  
6 submit to you reliable information as to what  
7 ages those girls were. We can do that just by  
8 math by their dates of birth, but we have their  
9 mother here talking about how old they were at  
10 the time. Okay.

11 So one of the things that Jacee told us  
12 about I'll remind you is that while living at  
13 Grove Street was the first instance or first  
14 time she recalls as a young girl being  
15 manipulated in this way by Mr. Poindexter where  
16 he took her and used her to rub on his erect  
17 penis, that occurred at the Grove Street  
18 address. That's the best she can do for us, and  
19 I submitted to you that's not unusual that we  
20 have somebody recalling an event that happened,  
21 you know, ten years ago plus.

22 MR. PICULELL: Your Honor, I object to  
23 that referring to matters outside the record,  
24 "it's not unusual".

25 MR. JONES: Your Honor, I'm allowed to

1 argue for instance from the evidence and submit  
2 argument to the jury about that.

3 MR. PICULELL: There is no expert witness  
4 in this case.

5 THE COURT: The jury will consider the  
6 facts that have been produced in the record.

7 MR. JONES: Thank you, Your Honor.

8 What I'll remind you of is that we have  
9 Jacee testifying in court to an event that  
10 happened over ten years ago when she was ten  
11 years old, okay. What she is able to tell us in  
12 court is that it occurred while she was living  
13 at Grove Street, she remembers where she was at  
14 this time, and that's what she told us. So we  
15 were thankful to have Ms. Meyers then come to  
16 court and put some timeframes around that  
17 location and she does that by telling us that  
18 Jacee was ten years old at the time that that  
19 would have happened. So that's the Grove Street  
20 address.

21 We have them moving, the family moving  
22 from the Grove Street address in January of  
23 2010, and what Jacee told us, if you recall from  
24 your notes or otherwise, was Jacee told us is  
25 that the touching of her that occurred at Grove

1 Street address she believes was within a year of  
2 moving out of that address. She said it was  
3 within a year, so the timeframe that you see  
4 reflected in the jury instructions is meant to  
5 correspond to her testimony, Jacee's testimony,  
6 that within a year of moving from the Grove  
7 Street address is when the sexual contact with  
8 her occurred at that address. And that's a  
9 count of Child Molestation in the First Degree  
10 because she was under 12 years old and she was  
11 touched in a sexual way by Mr. Poindexter.

12 Okay, then we move to the Sudden Valley  
13 address where I submit to you we heard about  
14 more instances of child molestation occurring  
15 both against Jacee, Jacee Damien, and now her  
16 younger sister who is an age, similar age to  
17 when the molestation occurred against Jacee.  
18 Now we have instances occurring against Kaela as  
19 well that she can recall and she can tell us  
20 about.

21 So that's when the family moves to Sudden  
22 Valley. It's January 2010, Ms. Meyers tells us  
23 that the family moved to sudden Valley, again,  
24 the girls say I don't know exactly when it was  
25 but we were living in Sudden Valley. So the



1 point of time that they are in Sudden Valley so  
2 you'll see the count of Child Molestation in the  
3 Second Degree referring to her as being under  
4 the age of 14 and that's where that comes from.  
5 That's reflected as Count 5, the count that  
6 refers to the molestation against Jacee that  
7 occurred in Sudden Valley.

8 The other 3 counts; Count 2, Count 3 and  
9 Count 4 in your instructions are, refer to Kaela  
10 and you'll see her name K.S. in the jury  
11 instructions. And those are 3 counts of Child  
12 Molestation in the First Degree because she was  
13 under the age of 12 that occurred to her at the  
14 Sudden Valley address while she was living  
15 there.

16 And if you recall from Kaela's testimony  
17 she testified 10 to 15 times this happened to  
18 her and she used the word routinely while at the  
19 Sudden Valley address she talked about the  
20 grinding and the rubbing, and in addition to  
21 what Jacee had told us she told us about kissing  
22 that was done as against her at the Sudden  
23 Valley address. So 10 to 15 times she  
24 testified, we've alleged crimes that refer to 3  
25 specific times.

1           You'll see in your instructions that you  
2 do not unanimously have to agree all the times  
3 this occurred, but you unanimously have to agree  
4 that those three instances that occurred against  
5 Kaela while at the Sudden Valley house.

6           So what I've done just for purposes of  
7 argument here is create a similar timeframe that  
8 refers, that adds in what I submit to you are  
9 the counts of the charged, the counts of the  
10 information relative to each girl, okay. So  
11 you'll see we have the family move into the  
12 Grove Street address, just like we looked at.  
13 Within a year of moving out of the Grove Street  
14 address we have the counts against Jacee, Count  
15 1 in your information, which she testified  
16 consisted of this rubbing of her and the  
17 grinding, using Mr. Poindexter's penis and  
18 rubbing against the intimate areas of Jacee.  
19 Okay, so that's Count 1 of the information  
20 within a year of moving out 2009.

21           Then we have the Sudden Valley counts,  
22 which are reflected in Counts 2, 3 and 4, that's  
23 the molestation that occurred against Kaela at  
24 the Sudden Valley house. She testified that it  
25 included grinding, touching, and kissing of her

1 and she was under the age of 12 the entire time.  
2 So that's Counts 2, 3 and 4 while at Sudden  
3 Valley and then Count 5 a count of Child  
4 Molestation in the Second Degree that refers to  
5 Jacee because she turned 12 during that period.  
6 So we're alleging that's under the age of 14 is  
7 when the crimes occurred against her.

8 So I submit to you that this is what the  
9 evidence showed and that that evidence should be  
10 found credible by you given that it's a  
11 firsthand account from the girls that suffered  
12 that abuse in both of those homes.

13 All right. So the other instructions  
14 that I submit you'll spend some time with in the  
15 jury deliberation room are what we call the to  
16 convict instructions and I will go, I will just  
17 show those to you briefly. You heard them read  
18 to you and I've argued already substantially  
19 about them, but they are Nos. 9 through 13 in  
20 your jury packets that you'll have there, and we  
21 call them the to convict instructions because  
22 they give you what you have to be satisfied with  
23 beyond a reasonable doubt in order to convict  
24 Mr. Poindexter of the particular instance, the  
25 particular crime that he's charged with.



1                   So they look like this (indicating).  
2                   This refers, this is Instruction No. 9, they go  
3                   through 13, so there is 5 of them referencing  
4                   each of the individual counts. So this is as to  
5                   Count 1, you'll see each one, Count 2, Count 3,  
6                   Count 4, Count 5. They tell you exactly what  
7                   you have to be convinced of. They have the  
8                   timeframe that I submit to you we just went over  
9                   and was testified to on the stand, it has the  
10                  child, the particular young girl that was abused  
11                  in that instance, so either J.D. Jacee Damien,  
12                  or Kaela, K.A., you'll see her -- or K.S.,  
13                  you'll see her initials and her particular age  
14                  at the time of the abuse, and then the facts  
15                  that I submit to you are not contested, that  
16                  these acts all occurred in the State of  
17                  Washington, that the ages were such that makes  
18                  the touching criminal.

19                  So this is what each of the to convict  
20                  instructions look like and are in large part  
21                  there is one for each count. So I submit to you  
22                  a way that you could deliberate is by getting  
23                  these out and going through the questions of are  
24                  we convinced beyond a reasonable doubt as to  
25                  each of these things. And to the extent that

1           you are, then you're in a position to fill out  
2           the verdict form that you're convinced beyond a  
3           reasonable doubt with the word guilty. So  
4           that's 9 through 13 in your jury packet.

5                        So what we have in this case is in large  
6           part the testimony provided by the girls that  
7           were eye-witnesses to what happened to them,  
8           both Jacee and Kaela. The additional piece of  
9           information we have here is the text messages  
10          that we spent some time talking about between  
11          Mr. Poindexter and Jacee. And from my  
12          perspective that was shown to you, ladies and  
13          gentlemen, as a window when nobody is known to  
14          be looking, a window into the relationship that  
15          Mr. Poindexter had crafted with a girl, in this  
16          case Jacee, that he had molested as a young  
17          girl, okay. So in the context of that having  
18          occurred, a girl that he had molested as a young  
19          child, he's talking to her in the way that we  
20          see in the text messages. And that's why, from  
21          my perspective, so this is shown to you to see  
22          this is not, this is a relationship that he had  
23          crafted, that Mr. Poindexter had crafted by his  
24          behavior and his choices. He refers to her in a  
25          way that's inappropriate for anything other than

1           that I submit to you. Calling her hot stuff  
2           repeatedly, asking to see pictures of her,  
3           asking her about her clothing, telling her he  
4           has dreams about her, asking to see her painted.  
5           Mr. Poindexter took the, while on the witness  
6           stand when I was asking him about that, wanted  
7           to say that that there is nothing unusual here,  
8           nothing to see here, look the other way here.  
9           But I submit to you that's not what you'll find  
10          when you read those and when you talk about them  
11          and talk about whether that shows us what  
12          Mr. Poindexter wants us to think or whether it  
13          shows us reality here that this is a girl that  
14          he had molested as a young child and is talking  
15          to her in that context. And I submit to you  
16          that provides some corroboration to the account  
17          of the girls that this behavior happened to them  
18          when they were 9, 10, 11 years old.

19                 So in the end after I sit down here,  
20                 which will just be in a moment, Defense has the  
21                 opportunity to argue their case to you and then  
22                 I have an opportunity to come back before you  
23                 and talk for a short time later about any  
24                 additional arguments I have. But really what I  
25                 want to leave with and what I want to say to you

1 is this is who we're here about is these girls  
2 and what happened to them. They had no motive  
3 to tell you anything other than the truth about  
4 what they suffered and I'm asking you that you  
5 believe Jacee and Kaela and that as a  
6 consequence you find Mr. Poindexter accountable  
7 for what he did and find him guilty of these  
8 acts of child molestation. Thank you.

9 THE COURT: Thank you, counsel.

10 Mr. Piculell? Before we begin,  
11 Mr. Piculell, ladies and gentlemen why don't we  
12 take just a quick break. We don't need to leave  
13 the room but, again, I keep imploring you to  
14 stretch, you may want to stand up and simply  
15 move just a little bit and then we'll ask  
16 Mr. Piculell to begin his closing.

17 (Brief break on the record.)

18 THE COURT: All right. Mr. Piculell,  
19 will you give closing argument for the Defense,  
20 please?

21 CLOSING ARGUMENT FOR THE DEFENSE

22 MR. PICULELL: Thank you, with leave of  
23 the Court: Kids don't lie, right? Kids don't  
24 lie. We heard that initially in this case.  
25 Kids don't lie and they should be believed.

1 Well, we heard a different dimension of that,  
2 which is really the fundamental request the  
3 prosecutor makes that you believe for proof that  
4 kids don't lie and they have nothing to gain;  
5 ergo, Mr. Poindexter is guilty. That's  
6 essentially his argument. They have nothing to  
7 gain and that kids don't lie. And what that  
8 rhetorical argument is designed to do is to  
9 avoid the scrutiny of the information in the  
10 case. The evidence in the case.

11 There is no question, and let me say  
12 that, there is no question that the nature of  
13 the allegations is what draws that rhetorical  
14 argument because of the hideous nature of the  
15 allegation means that it must be so. Who would  
16 make, and you heard him say, why would they  
17 make, what do they have to gain? So hideous,  
18 and engender such a visceral reaction of  
19 protection of children. That's the undercurrent  
20 here that is natural, that is absolutely  
21 natural. We started off with that in this case.

22 But you have to think, I have to suggest  
23 to you that you have to think, you have to  
24 acknowledge that and then look at this case as  
25 any other type of allegation and examine the

1 information, the evidence in the case for the  
2 hallmarks of credibility.

3 Now, you have to ask yourself is, are the  
4 hallmarks of credibility inconsistencies,  
5 internal inconsistency with yourself, with your  
6 own statements, and external inconsistency of  
7 your own statements with those of another. Is  
8 that a hallmark of credibility? Of course what  
9 the prosecutor suggests is it must be true  
10 because of the nature and what do they have to  
11 gain. But that's not, there is nowhere in the  
12 instructions that supports the prosecutor's  
13 suggestion that that that is proof of the  
14 allegation or that it relieves the prosecutor  
15 from the burden of proof beyond a reasonable  
16 doubt. Nowhere in those instructions, search  
17 every sentence, every paragraph.

18 So I suggest that we look at this  
19 understanding the nature of our reaction, the  
20 nature of the allegations, and look at the  
21 hallmarks of credibility. Is a hallmark of  
22 credibility complete lack of recollection of  
23 anything at all, anything at all in that time  
24 period by either alleged victim of anything  
25 else?

1           One of the instructions says that you are  
2           the soul judges of credibility and can consider  
3           the manner in which someone testifies, their  
4           memory as to the alleged events. So is a  
5           hallmark of consistency, and you've heard me ask  
6           questions about that to both alleged victims. I  
7           stood somewhere over here and I asked them  
8           questions that maybe on first blush, why is that  
9           attorney asking those questions; who was your  
10          teacher? Did you have a best friend? Did you  
11          go anywhere for Christmas? What did you do? No  
12          recollection whatsoever except the fuzzy  
13          allegations against Mr. Poindexter. Nothing.

14                 Now, if you're deciding, and we talked  
15          about, I asked these hypothetical questions in  
16          voir dire, if you're deciding whether a robbery  
17          occurred or a homicide or any other type of  
18          allegation where there was no recollection of  
19          anything accept those fuzzy allegations, how  
20          persuasive would that be? How credible would  
21          that be? But, of course, just due to the nature  
22          of the allegations and kids don't lie, that's  
23          sufficient proof. What do they have to gain?  
24          Who knows what the issue is. That's not here  
25          for decision.

1           You can look through the entire  
2           instructions, and in spite of the prosecutor's  
3           indication that that is the focal point, it is  
4           not legally the focal point. It's not the  
5           decision making consideration for the issues  
6           here.

7           So let's look at the individual testimony  
8           of the alleged victims. Now, Jacee we spent a  
9           lot of time, and I'm not going to repeat every  
10          question that was asked, but just to highlight  
11          the issue here that we're talking about we, of  
12          course, rely on the jury to receive the  
13          information, so it's not my job to, I never have  
14          perceived my job to stand here and reiterate the  
15          factual information, but to help analyze what  
16          was presented.

17          Now, in terms of Jacee in terms of her  
18          memory of the issues, so she comes in here and  
19          gives testimony concerning just from her  
20          perspective two events, which she says occurred,  
21          and the prosecutor is arguing that, in fact,  
22          they occurred. So I spent the better part of my  
23          questioning of her, if you recall, asking her;  
24          well, didn't she say, wasn't she interviewed by  
25          the detective, didn't she sit for two interviews



1 with the detective and Defense, and didn't she  
2 say other allegations? A very short time ago  
3 there were multiples allegations, multiples.

4 So you have to ask yourself why would  
5 that attorney representing that man illustrate  
6 that he she made additional allegations that she  
7 didn't say in testimony? Well, for the simple  
8 reason is that it illustrates, it illuminates,  
9 it demonstrates that she is not consistent.

10 We have the same thing with Kaela as well  
11 with her testimony and the detective who  
12 interviewed her, who testified that even in the  
13 same interview she is not consistent with  
14 herself. There was allegations, testimonial  
15 allegations of grinding, that Mr. Poindexter was  
16 having sexual contact with her and was grinding,  
17 and this was on a repetitive basis. So we asked  
18 the detective, I asked the detective Page 10, we  
19 have a lot of back and forth on that, but it  
20 was, she said a single event. Then she says  
21 multiple events in the same interview, 8 pages  
22 between. So just on that issue she is  
23 describing an essential component of the alleged  
24 sexual abuse and she is inconsistent with  
25 herself in the same interview.

1           Absent the type of allegation that we  
2           have or the suggestion of the prosecutor that  
3           "what do they have to gain" and the hideous  
4           nature of the allegation, she is not even  
5           self-reporting consistently. And we had the  
6           same thing throughout the testimony of both, and  
7           just as an illustrative, probably about 20  
8           minutes or so into her testimony, indicating to  
9           the prosecutor that "he told me to be quiet  
10          during this and not to say anything." So now  
11          she is saying in testimony that he's saying be  
12          quiet, don't say anything about what we're  
13          doing. I pointed out that this was an  
14          inconsistent statement with the detective where  
15          she, the detective asked the same question; did  
16          he ever tell you to be quiet, keep it a secret,  
17          not saying anything? And she said no. So her  
18          testimony under oath is not just slightly  
19          different, it's 180 different. It's a  
20          completely inconsistent statement.

21                 That's not the only issue, and these  
22                 aren't what color shorts were you wearing or  
23                 what shirt did he have on, these are significant  
24                 things. She said in response to the  
25                 prosecutor's question under oath that she

1 thought that this touching was sexual in nature.  
2 The detective asked her a very similar question  
3 in the interview, and I asked her this in open  
4 court, and she said she didn't know. She didn't  
5 know about the touching. When she was  
6 interviewed by the detective, asked a very  
7 similar question, she did not suggest that it  
8 was sexual in nature. Again, this is not what  
9 clothes someone is wearing or an immaterial  
10 issue.

11 She also indicates, again in testimony,  
12 she says; "I was told not to tell anyone and I  
13 was scared." That's inconsistent with the  
14 statement that she gave to the detective. She  
15 also indicated that; "he told me to move faster  
16 and move this way giving instructions." That  
17 was also diametrically opposed to the statement  
18 that she gave the detective, and you heard me  
19 illustrate on the transcript exactly the  
20 statements and I had her read those.

21 And she said that it happened one time at  
22 Grove Street, and that's also an inconsistent  
23 statement with the recorded statements that she  
24 gave. That's, I examined her and said; isn't it  
25 true that you made allegations that there were

1 multiple times? Yes. So, again, why would I  
2 ask that question? I'm not here to prosecute  
3 Mr. Poindexter, but I ask those questions  
4 because it shows and it demonstrate that she is  
5 inconsistent, and here the indication that she  
6 can't remember from way back when. She is  
7 giving this interview to the detective on  
8 2-21-18. She is giving the interview to the  
9 defense on 2-8-19. Those are recent statements.  
10 These aren't statements from years ago, so the  
11 detective and then to the defense. She  
12 indicates that there were multiple incidents at  
13 Sudden Valley and in testimony she says she only  
14 remembers one. Again, these are recent  
15 allegations and now they are changed in  
16 testimony.

17 Just as another illustration, she said  
18 that her sister had no idea. We've heard  
19 different testimony on when the girls allegedly  
20 told each other and they're also externally  
21 inconsistent. So would that lend itself to a  
22 view that the sisters are talking, the sisters  
23 are cross-talking about what is going to be  
24 alleged against Mr. Poindexter? Would it lead  
25 to that conclusion? Inconsistency in their

1 trial testimony, inconsistency with their  
2 recorded testimony recently, and they both do  
3 that.

4 Now, Kaela is probably more dramatically  
5 so, and there is, again, we spent a good part of  
6 last week on these same issues, there are a  
7 number of examples which were testified to. I  
8 stood here and I went page to page and had each  
9 one read the inconsistent statement that they  
10 made in the interview. And Kaela probably has  
11 the more, I think that her sister was able to  
12 identify one of her teachers in terms of her  
13 memory of that time period.

14 Now, Kaela has no recollection during  
15 that time period at all. She can't remember  
16 anything at all. I said can you tell a  
17 significant event? But let's forgive her, let's  
18 forgive that person for not being able to  
19 remember anything except the vagueness and  
20 fuzziness of an allegation that is inconsistent  
21 with recent interviews that she gave,  
22 dramatically and diametrically different  
23 statements. But when asked about it she has no  
24 recollection of anything else.

25 Now, where would that, other than within

1 the context and confines of this type of  
2 allegation, where would that not be something  
3 that is dispositive? I know, because kids do  
4 not lie; and what do they have to gain; and this  
5 is not a pleasant experience for them. They  
6 didn't want to come in here and be asked  
7 questions by that defense attorney. I know,  
8 that's when you're asked not to examine  
9 credibility. But there is no suspension or  
10 relief from examining credibility due to the  
11 nature of the case. And if I keep repeating  
12 that, that's because Mr. Jones is telling you  
13 what do they have to gain? It must be true.

14 Kaela, now her testimony I said was both  
15 internally inconsistent both with herself and  
16 her own statements and her sister. And an  
17 example of Kaela's inconsistencies with self is  
18 last week before her last examination before the  
19 recess Mr. Jones was examining her in an attempt  
20 to prove his case and he asked where the alleged  
21 touching was in terms of her genitals and she  
22 said, and this is where you have to, as members  
23 of the jury, she said, he asked her twice, and  
24 she said "near her vaginal area." And then  
25 after we came back from the recess on another

1 day she testified differently, that it was her  
2 vaginal area. She used the words "my vaginal  
3 area" instead of near. Now, the testimony has  
4 changed to "my". So she is saying that the  
5 touching was near, well, that doesn't quite  
6 prove an allegation. Then the next day she uses  
7 the pronoun "my" vaginal area. So here we are  
8 with more inexactitudes, lack of certainty,  
9 changing story, evolving story, evolving  
10 allegations in real-time, without a recollection  
11 beyond the allegation by either alleged victim,  
12 which is stunning.

13 Now, the prosecutor says that the texts  
14 are, well, he doesn't say smoking gun, let me  
15 call it the smoking gun, that it must be that he  
16 was having sexual contact with Jacee because of  
17 these texts. Well, and again, I'm not here to  
18 reiterate all the testimony, you heard the  
19 cross-examination on the two detectives and you  
20 have to decide the thoroughness and the  
21 attention that they devoted to this case in  
22 terms of an interview, and that's it, didn't  
23 seek cell phones, cell phone records, Facebook,  
24 nothing, and they got some screenshots and you  
25 heard the testimony under oath here of

1 Mr. Poindexter; they were incomplete, that's  
2 what you're looking at Exhibit No. 8. So  
3 Mr. Poindexter filled in that.

4 The issues concerning the texts the  
5 prosecutor, just as in he was examining and  
6 misstating when he was examining the witness, he  
7 was saying that it was asking to see her body.  
8 But I said to her show me where that is being  
9 asked? Well, it wasn't. It wasn't on any text.  
10 The prosecutor may ask it like that,  
11 characterize it like that, but it wasn't there.

12 So the prosecutor says here in closing,  
13 and I tried to listen attentively, that's what  
14 I'm here for, and I think that his  
15 characterization of the text was that it's this,  
16 this intent to further a sexual relationship  
17 because of the sexual nature of the text. Well,  
18 I stood right here approximately and I asked  
19 Jacee, I went through it every single page, had  
20 her read that and said; is there anything on  
21 this page, any bubble that you construe as  
22 sexual in nature or sexual innuendo? She said  
23 no to every single page.

24 Then I asked her on Exhibit No. 9 is  
25 there anything on Exhibit No. 9 that you think



1 is sexual in nature or sexual innuendo? No.

2 Mr. Poindexter, same thing, anything of a  
3 sexual nature or sexual innuendo? No.

4 Well, the only witness, there is no  
5 evidence, the prosecutor can argue what he wants  
6 based upon the evidence, but there is no witness  
7 to testify to that, not the government's witness  
8 and not Mr. Poindexter. And unequivocally it's  
9 incomplete, it's incomplete because there was no  
10 investigation. There was no attention on this  
11 issue. Easy to do, but not done. And so there  
12 are some screenshots that the prosecutor  
13 suggests is their smoking gun. Well, his  
14 witness does not believe that.

15 The prosecutor puts up the photographs,  
16 and I'm sensitive to, I'm sensitive to the issue  
17 of the defense of someone that is charged with  
18 this heinous allegation, believe me, I'm  
19 sensitive to that. And he puts pictures up  
20 there and says this is what we're here to  
21 decide. These girls now have the power, they  
22 have taken back some of their power, and now  
23 they can accuse this man. Right? That's what  
24 he said.

25 So let's apply the tools that are in the

1 jury instructions to look at this case in a  
2 manner in which any case should be looked at in  
3 terms of the evidence, beyond a reasonable  
4 doubt, the consistency, the credibility of the  
5 allegations, and the weight of that evidence.  
6 The quantum, it's not enough that a person could  
7 be guilty, it's not enough that they might be,  
8 the government has the burden beyond any  
9 reasonable doubt. And in addition, I thought I  
10 heard the prosecutor say that let's give them,  
11 let's give them the benefit of belief, he said  
12 something like that, I could be exactly wrong,  
13 misquoting that, but let's actually apply the  
14 jury instructions and give Mr. Poindexter what  
15 the jury instructions demands us to do and that  
16 is to give him the presumption of innocence and  
17 then the analysis based upon the consistency,  
18 the lack of consistency, the lack of any memory  
19 beyond what is alleged, which is peculiar at  
20 best. But maybe guilty, might be guilty, even  
21 probably guilty; the instruction says beyond a  
22 reasonable doubt. And a doubt is and can be  
23 from the evidence or the lack of evidence.

24 And although we might want to hoist upon  
25 Mr. Poindexter or any defendant an obligation to

1           prove their innocence, that's not what the law  
2           or what the instructions are. But  
3           Mr. Poindexter's testimony without question is  
4           to be examined by the same standard as any other  
5           witness.

6                       And as a concluding matter the issues  
7           concerning dates, now, that's been a moving  
8           piece throughout this case. Now, we now have  
9           the allegations of calendar year '11. And so  
10          that's why you heard from Ms. Washburn, Erica  
11          Washburn, is because she collaborates what  
12          Mr. Poindexter said that he essentially was out  
13          of the house during that time period. He was  
14          having an outside relationship and he was at  
15          another location. Nothing against the law  
16          concerning that, but that's where he was.

17                      But the prosecutor has alleged through  
18          November 1st calendar year '11, and that is like  
19          so much of this that's absolutely contradictory  
20          to the allegations. He simply wasn't there.

21                      And the same goes for his work schedule,  
22          the prosecutor examined him pretty ferociously  
23          on his work schedule, and that wasn't  
24          contradicted by Crystal Meyers, he was working  
25          all the time. He's a steel worker, I'm sorry,

1 iron worker. He's an iron worker and he was  
2 gone early morning to late at night. And how  
3 implausible is that to believe that an  
4 individual is working nonstop to support his  
5 family. How implausible is that? There is  
6 nothing, there is no contradictory evidence that  
7 he wasn't working exactly as he said he was. In  
8 fact, Ms. Washburn says when they were together  
9 that was the same schedule that he testified to,  
10 working nonstop.

11 And I will end it every time I make an  
12 argument I sit down, I say I should have said  
13 this, but I will end it here in 60 seconds, but  
14 it goes to the investigation is important here  
15 too because it goes to the issue of Junior,  
16 nothing was done about that, the detective said  
17 on the interview that at that time he thought it  
18 important.

19 Nobody; Crystal, Kaela, Jacee, nobody  
20 volunteers that there is somebody else in the  
21 house all the time, at all times. The  
22 grandmother. And was that controverted by the  
23 government? No. There was somebody else in the  
24 house at all times and they never volunteered it  
25 to either detective. Wouldn't that have been

1 important? Maybe not, because kids don't lie.  
2 And maybe not, because what do they have to  
3 gain? Thank you.

4 THE COURT: Thank you, counsel.

5 Mr. Jones?

6 REBUTTAL CLOSING ARGUMENT

7 MR. JONES: Thank you, Your Honor. So  
8 I'm not asking, and I have not asked, that you,  
9 as a jury, sweep under the rug or ignore things  
10 that you saw on the witness stand up to and  
11 including inconsistencies in testimony. I'm not  
12 asking you to ignore it and I submit to you it's  
13 not necessary in any sense to ignore that to  
14 reach a verdict beyond a reasonable doubt in  
15 this case. What I submit is the operative  
16 question, and what I'm asking you to do is to  
17 recognize who the people are that came in and  
18 told you what had happened to them and ask in  
19 your mind, you're not asked to check your common  
20 sense at the door, but ask in your mind are the  
21 accounts that are given to us by Jacee and  
22 Kaela, including their inconsistencies, I ask  
23 that you find that has happened. Is it more  
24 consistent with two young ladies, they are still  
25 young, young kids themselves, two young ladies

1           who have this event happen to them when they  
2           were 10 and 11 years old and then hung on to it  
3           and told when they were 18 and then have been  
4           put through the process of this trial that we've  
5           heard about; the detectives interviews, my  
6           interviews, the Defense interview, the testimony  
7           in trial, different people asking them questions  
8           about an event that happened when they were ten  
9           years old, is what we got in this trial more  
10          consistent with a true event, true molestation  
11          event that happened to them and then that  
12          process taking over? Is it more consistent with  
13          that or is it more consistent with what the  
14          Defense would have you believe that this is  
15          somehow fabricated or untrue or done for  
16          personal benefit of the girls. I submit to you  
17          what we heard is more consistent with, like we  
18          talked about in voir dire, trying to recall the  
19          specifics of a haunted house that you went to as  
20          a kid. You know what happened to you, you  
21          experienced these things happen to you, and now  
22          you're being asked, you're being put through a  
23          process that generates an account that might  
24          include inconsistencies or lack of memory or  
25          things that were discussed by Defense. And I

1 submit to you that that's what we had in this  
2 trial and that that, I'll add a twist here, I  
3 submit to you it may lend credence to these  
4 girls' story that that's what we got when they  
5 testified.

6 In the counter-narrative where the girls  
7 had collaborated somehow to make these up and do  
8 these things, don't you, I submit to you that  
9 what you'd have gotten is quite a bit more  
10 coherent a story from them if they had  
11 collaborated prior to coming to trial and to  
12 tell you something that happened, actually  
13 happened to them. They sure as heck would have  
14 had better memory about everything that had  
15 happened to them had they prepared to make a  
16 false accusation, but I submit to you that's not  
17 what happened. They are telling you when they  
18 were kids, when Mr. Poindexter also knowing that  
19 they were kids, took advantage of them sexually  
20 for his own personal gratification. So when you  
21 go into the deliberation room please do not  
22 think that I'm asking you to ignore any of the  
23 testimony that you heard, I'm asking you to  
24 embrace it. Do not check your common sense at  
25 the door and put that in light of reality. This

1 is a reality that these girls lived. Put it in  
2 light of that and recognize that it's entirely  
3 reasonable as a recollection of a true event  
4 that both these girls suffered in this home.

5 The final thing is one of the things that  
6 was argued to you is that personal benefit of  
7 coming and testifying is not something you'll  
8 see in the instructions, not something that you  
9 should consider. Right in Instruction No. 1 the  
10 Judge has given you and read to you and has  
11 given to you, we're told that, excuse me, we are  
12 told that the personal benefit -- and you'll see  
13 this in Jury Instruction No. 1 on Page 3, any  
14 personal benefit that someone might have in  
15 giving testimony is something that you can  
16 directly consider as to their credibility and  
17 that's what I was asking you is to consider,  
18 consistent with the instructions, that there is  
19 no personal benefit to either of these young  
20 ladies to tell you what happened to them when  
21 they were girls, but they did, and that it's  
22 consistent with how an allegation like this, how  
23 a truth like this would come to light and would  
24 come out and be presented to you in court. So I  
25 ask you to take all that, please consider it



1           thoroughly, talk to each other, review your  
2           notes and find Mr. Poindexter guilty of these  
3           charges. Thank you.

4                     THE COURT: Thank you, counsel.

5                     Ladies and gentlemen of the jury, this  
6           ends the formal courtroom proceedings in this  
7           case and you, as a jury, will be excused from  
8           the courtroom and asked to begin your  
9           deliberations in just a few moments. First  
10          though, Juror 13, I wanted to thank you for your  
11          service. You've served as an alternate juror in  
12          these proceedings, you may continue to serve as  
13          a juror in these proceedings. You are excused  
14          today. You're not released from your role as a  
15          juror in this case and you remain an officer of  
16          the court while the jury is deliberating. So,  
17          please, do not discuss this case with anyone  
18          else, do not attempt to visit the scene of any  
19          issue in the case or get any information about  
20          the case from any source. You will be contacted  
21          if you're needed to replace a juror during  
22          deliberations and that may well occur so,  
23          please, stay in touch with Ms. Martin and make  
24          sure that she has a phone number where you can  
25          be reached quickly. Thank you for your service

1           these last several days, and yes...

2                         (Juror No. 13 left the courtroom.)

3           THE COURT: Now, ladies and gentlemen of  
4           the jury, now that you've heard the Court's  
5           instructions, you've heard the closing  
6           arguments, you're almost ready to begin your  
7           deliberations. You're free to conduct your  
8           deliberations in any way that seems suitable to  
9           you and is consistent with the instructions I've  
10          given you, but I have a few suggestions that may  
11          help you proceed more smoothly. Unlike the  
12          instructions about the law, these remarks are  
13          only suggestions, they won't be given to you in  
14          writing.

15                        As you deliberate consider the following  
16                        guidelines; respect each other's opinions and  
17                        the different viewpoints each of you brings to  
18                        the process. Don't be afraid to speak up and  
19                        express your views. Be patient and generous in  
20                        allowing everyone an opportunity to speak.  
21                        Differences of opinion are healthy, they bring  
22                        the evidence into focus and bring out points you  
23                        might not have considered.

24                        Listen carefully to each other. It's  
25                        okay to change your mind, but don't allow

1           yourself to be bullied into doing so and don't  
2           bully anyone else. Don't rush into a verdict to  
3           save time. The parties to the case deserve your  
4           thoughtful deliberation and the jury system  
5           depends on it.

6                       Each of you must decide the case for  
7           yourself but you should do so only after you've  
8           reviewed the law carefully and considered all of  
9           the evidence, discussed the issues fully and  
10          fairly with the other jurors, and listened to  
11          their views. Discuss the laws and the evidence  
12          to your satisfaction before you take a vote.

13                      You should organize your discussions in  
14          whatever way you believe will be productive and  
15          fair. Some juries begin by reviewing the  
16          Court's instructions on the law because these  
17          instructions identify each claim and proposition  
18          the jury must consider. Other juries begin by  
19          proceeding around the table with each juror in  
20          turn identifying the issues or concerns that  
21          juror would like to have discussed because that  
22          encourages free expression by all jurors before  
23          positions are taken. It is helpful to list the  
24          issues on which there are differences of  
25          opinion. Whatever approach you take you should

1           separately consider each claim and examine the  
2           evidence, both the testimony and any exhibits,  
3           on each proposition that is part of the claim.

4                     There is no set way to conduct a vote.  
5           You might vote by a show of hands, by a voice  
6           vote, or by a written ballot. Use a method that  
7           will encourage each juror to freely express  
8           opinions and conclusions.

9                     Finally, I remind you that these remarks  
10          are merely suggestions. I hope they are helpful  
11          to you. Nothing that I've said or done should  
12          suggest to you what your verdict should be,  
13          that's entirely for you to decide.

14                    All right. And Ms. Martin should be  
15          joining us, yes, and I'll ask our clerk to  
16          administer the oath of bailiff to Ms. Martin.

17                    THE CLERK: Do you solemnly swear or  
18          affirm that you will take this jury in your  
19          care, that you will keep them separate from all  
20          other persons, that you will not communicate  
21          with them except to ask if they have agreed upon  
22          a verdict or by order of the Court, that when  
23          this case has been submitted to them you'll  
24          conduct them to the jury room where they will  
25          deliberate upon their verdicts, and that you

1 will not communicate to any person the state of  
2 their deliberations or the verdict agreed upon  
3 before the verdict is rendered in open court?

4 THE BAILIFF: I will.

5 THE CLERK: Okay.

6 THE COURT: All right. Again, thank you  
7 very much for your work in this case, ladies and  
8 gentlemen of the jury, the work that you've done  
9 and the work that you're about to do. Thank you  
10 very much.

11 (The jury left the courtroom.)

12 THE COURT: Please, be seated. Counsel,  
13 we'll let the jury proceed with deliberations  
14 for, at least until 6:00. I think at that point  
15 we'll check with the jury, if they would like to  
16 continue we'll accommodate that. If not, we'll  
17 make a definite plan for them to return to court  
18 at 1:30 on Thursday. Is that workable for you,  
19 Mr. Piculell?

20 MR. PICULELL: Of course, at the Court's  
21 direction. My look up to the bench was on  
22 another issue.

23 THE COURT: Okay. I'll ask all of you to  
24 make sure our clerks, Ms. Long and Ms. Peterson,  
25 have your telephone numbers so that they can

1 reach you if need be.

2 MR. JONES: Okay. Thank you, Your Honor.

3 THE COURT: All right. Are there other  
4 matters for the Court to address?

5 MR. PICULELL: I received the list of the  
6 exhibits with the court clerk and comparing that  
7 to my indication and I concur with the admitted  
8 exhibits and I didn't know what the local  
9 practice was, but I concur with what has been  
10 provided.

11 THE COURT: All right. And does the  
12 State concur as well, Mr. Jones?

13 MR. JONES: Yes, Your Honor.

14 THE COURT: All right. All right, thank  
15 you to both counsel for your hard work and  
16 courtesy throughout and we'll see you later this  
17 evening or later this week.

18 MR. JONES: Thank you, Your Honor.

19 MR. PICULELL: Thank you, Your Honor.

20 (End of requested proceedings.)

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF WHATCOM

STATE OF WASHINGTON,  
Plaintiff,

vs.

NO. 18-1-00679-37  
COA No. 81213-1

CHRISTOPHER POINDEXTER,  
Defendant.

NOTICE OF FILING

EVAN JONES  
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Court of Appeals  
Division I  
One Union Square  
600 University St  
Seattle, WA 98104-4170

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10900 NE 8th Street, Ste. 1670  
Bellevue, WA 98004-5159

Please take notice that on the 15th day of  
May, 2020, the original of the above numbered  
and named Verbatim Report of Proceedings, dated  
NOVEMBER 19, 2019 was electronically filed with the  
Court of Appeals Division I.

DATED this 15th day of May, 2020.

WENDY S. RAYMOND  
OFFICIAL COURT REPORTER  
WHATCOM COUNTY SUPERIOR COURT  
311 Grand Avenue  
Bellingham, WA 98225  
(360) 676-6748  
May 15th, 2020

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CERTIFICATE OF OFFICIAL COURT REPORTER

STATE OF WASHINGTON        )  
                                  )                SS.  
COUNTY OF WHATCOM        )

I, Wendy S. Raymond, Official Court Reporter,  
County of Whatcom, State of Washington, do hereby  
certify that the foregoing pages comprise a true and  
correct transcript of the proceedings had in the  
within-entitled matter, recorded by me by stenotype on  
the days herein written and thereafter transcribed into  
being by computer-aided transcription, and constitute my  
record on this matter.

DATED THIS 15th day of May, 2020.

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Wendy S. Raymond, CCR  
Official Court Reporter



# WASHINGTON CRIMINAL DEFENSE-BELLEVUE LAW

May 16, 2021 - 4:06 PM

## Transmittal Information

**Filed with Court:** Court of Appeals Division I  
**Appellate Court Case Number:** 81213-1  
**Appellate Court Case Title:** State of Washington, Respondent v. Christopher Poindexter, Appellant  
**Superior Court Case Number:** 18-1-00679-4

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# WASHINGTON CRIMINAL DEFENSE-BELLEVUE LAW

May 16, 2021 - 4:05 PM

## Transmittal Information

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**Appellate Court Case Number:** 81213-1  
**Appellate Court Case Title:** State of Washington, Respondent v. Christopher Poindexter, Appellant  
**Superior Court Case Number:** 18-1-00679-4

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# WASHINGTON CRIMINAL DEFENSE-BELLEVUE LAW

May 16, 2021 - 4:04 PM

## Transmittal Information

**Filed with Court:** Court of Appeals Division I  
**Appellate Court Case Number:** 81213-1  
**Appellate Court Case Title:** State of Washington, Respondent v. Christopher Poindexter, Appellant  
**Superior Court Case Number:** 18-1-00679-4

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# WASHINGTON CRIMINAL DEFENSE-BELLEVUE LAW

May 16, 2021 - 4:02 PM

## Transmittal Information

**Filed with Court:** Court of Appeals Division I  
**Appellate Court Case Number:** 81213-1  
**Appellate Court Case Title:** State of Washington, Respondent v. Christopher Poindexter, Appellant  
**Superior Court Case Number:** 18-1-00679-4

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# WASHINGTON CRIMINAL DEFENSE-BELLEVUE LAW

May 16, 2021 - 3:58 PM

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# WASHINGTON CRIMINAL DEFENSE-BELLEVUE LAW

May 16, 2021 - 3:56 PM

## Transmittal Information

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