

STATE OF MICHIGAN

SEVENTEENTH JUDICIAL CIRCUIT COURT (KENT COUNTY)

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THE PEOPLE OF THE
STATE OF MICHIGAN

-v-

Case No. 93-63014-FCA

DANIEL ARTHUR TURNER,

Defendant.

_____ /

mj

**JURY TRIAL
VOLUME III of VIII**

BEFORE THE HONORABLE DENNIS C. KOLENDA, CIRCUIT JUDGE

Grand Rapids, Michigan - Monday, December 6, 1993

- - -

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People's Exhibit 12
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1 Grand Rapids, Michigan

2 Monday, December 6, 1993

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5 (At about 10:06 a.m. - Court back in
6 session, in the absence of both juries)

7 THE COURT: We'll convene without the
8 jury in combined cases, the People versus Stephen
9 Turner and Daniel Turner, 93-63014-FCA and
10 93-63014-FCB.

11 We're convened to deal with some issue
12 involving statements made by Mr. Daniel Turner to
13 the police.

14 Mr. Mirque?

15 MR. MIRQUE: Thank you, your Honor. The
16 police report by Officer Baar indicated that when
17 he first encountered Mr. Turner, he was asked to
18 give his side of the version, his side of the
19 story in this incident, and that Mr. Turner
20 replied, "I think I better talk to a lawyer
21 first."

22 I think it can be said quite clear that
23 Mr. Turner was invoking his right to be silent
24 under the Fifth Amendment at that time.

25 Mr. Turner was subsequently taken into a

1 police car and was told some things by the
2 officers, and was asked whether or not he would
3 consent to a search of his apartment.

4 Mr. Turner declined and the police were
5 forced to obtain a search warrant.

6 What we ask, your Honor, is that
7 Officer Baar or any of the officers who may have
8 been within earshot of that statement by
9 Mr. Turner not be allowed to say that, because,
10 quite frankly, if Mr. Turner exercises his rights
11 and the prosecutor is able to use that against
12 Mr. Turner, then what right is it of worth.

13 I don't think declining consent to a
14 search warrant should be permitted, or any comment
15 regarding that.

16 THE COURT: Mr. Bramble?

17 MR. BRAMBLE: Your Honor, as I indicated
18 to the Court in chambers, I do not intend to bring
19 into evidence the statement the defendant made
20 indicating that before he went any further he
21 probably should talk to an attorney; also
22 regarding the statement -- the defendant's refusal
23 to allow a consent search of his apartment.

24 I also indicated to the Court in
25 chambers that I did not intend to introduce that

1 into evidence, as well.

2 Again, unless either of these are made
3 an issue during the trial, and as I have done in
4 the past, I guess I would probably approach the
5 Court and discuss it off the record before I made
6 any such attempt.

7 Any other statement, though, and there
8 will be other statements made by the defendant, I
9 believe are admissible.

10 MR. MIRQUE: There is one other
11 statement. Mr. Turner asked whether, if evidence
12 from other crimes that they find "can be used
13 against me," and Officer Baar answered "yes."

14 Mr. Turner submits that that statement
15 really has no relevancy in this particular
16 matter. If he said if evidence from this
17 particular crime can be used, certainly it would
18 be relevant. But the fact that he's asked about
19 evidence from other crimes would be irrelevant and
20 certainly would be prejudicial, if in fact no
21 other evidence from other crimes was found.

22 THE COURT: Mr. Bramble?

23 MR. BRAMBLE: Your Honor, I think this
24 Court indicated in chambers you didn't see the
25 relevancy of that statement, so I'm at least at

1 this point not going to argue its admissibility.

2 THE COURT: Since the prosecution has
3 indicated it does not anticipate using any of
4 these statements, unless the proverbial door is
5 opened by the defense, the matters are deemed to
6 be resolved.

7 If the prosecutor thinks that the doors
8 have been opened, I will expect him, as has been
9 his practice, to approach the bench and we'll
10 conduct a hearing outside the presence of the
11 jury, one or the other, to get permission to go
12 back and introduce this evidence on the finding by
13 the Court that something has been done by the
14 defense which makes it relevant and overcomes the
15 reasons why at this point it is not admissible.

16 MR. MIRQUE: Thank you, your Honor.

17 THE COURT: Anything else before we're
18 ready to get started? Who's going to be the first
19 witness this morning?

20 MR. BRAMBLE: Paul Mesman.

21 THE COURT: Is this a witness that only
22 one jury should hear the direct of and one should
23 hear the cross? What should we do with this
24 witness?

25 MR. BRAMBLE: While they're deciding

1 that, based on the Court's ruling, I have both the
2 witnesses here, Baar and Mesman, and I'm going to
3 inform them they cannot come in this court.

4 THE COURT: Your list of witnesses to be
5 excluded, Miss Krause, does identify
6 Officer Mesman as somebody who will be testifying
7 to incriminating statements by Daniel Turner, and
8 should therefore not be heard by the Stephen
9 Turner jury.

10 If you think otherwise, we can, of
11 course, proceed otherwise.

12 MS. KRAUSE: Your Honor, I think at this
13 point, probably the safest thing to do, given the
14 nature that both Officers Mesman and Baar will be
15 testifying to things stated by both defendants,
16 it's probably the wiser course here to have the
17 jury separate for cross-examination.

18 THE COURT: What about direct
19 examination, as well? I would think we should do
20 that separately.

21 If the concern here is statements made
22 by these defendants, we need to separate things on
23 direct examination, as well.

24 MS. KRAUSE: I would prefer it's done
25 that way. I believe that, both to Officer Baar

1 and Officer Mesman, there are incriminating
2 statements made by Daniel Turner that I don't
3 think should be brought in in front of Stephen
4 Turner's jury.

5 THE COURT: Do they at all implicate
6 your client? Because, of course, as we've known
7 it several times, the prosecution has to prove
8 Mr. Daniel Turner's guilt in order to be able to
9 sustain its aiding and abetting charge against
10 Mr. Stephen Turner. Therefore, statements made by
11 Daniel Turner which implicate himself bear on that
12 burden.

13 If, however, something said by Daniel
14 Turner also implicates his brother, other than, of
15 course, simply by proving his own guilt and
16 therefore aiding the aiding and abetting charge,
17 we could deal with them separately.

18 MS. KRAUSE: To my knowledge at this
19 point, your Honor, that is not going to be a
20 problem.

21 I don't believe -- there's nothing in
22 the reports to indicate Daniel said anything to
23 implicate Stephen, and I guess I would ask the
24 prosecutor to acknowledge at this point whether or
25 not he is aware if the officers will say anything

1 differently than what's in the report in that
2 regard.

3 THE COURT: What we're talking about,
4 Mr. Bramble, is concern as to whether
5 Officer Mesman and Officer Baar, when they testify
6 to statements by one defendant, are also going to
7 be testifying to statements by that defendant
8 which implicate the other.

9 If all they do is implicate the speaker,
10 then we don't have a Bruton problem here, as
11 that's been interpreted, particularly since the
12 charge here is aiding and abetting. Then you have
13 to establish one person's guilt in order to
14 establish the other.

15 But if Daniel says, "I did it and my
16 brother helped me," then, of course, we have to
17 separate the juries here.

18 MR. BRAMBLE: I don't believe that's
19 going to be the case. I think the statements
20 attributed to Daniel Turner will be -- do not
21 implicate the co-defendant Stephen Turner in any
22 way. I see them simply as implicating himself.

23 THE COURT: All right, then let's get
24 both juries in, but we'll cross-examine them
25 separately.

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MS. KRAUSE: Thank you, your Honor.

MR. MIRQUE: Thank you.

(At about 10:17 a.m. - The Daniel Turner Jury returned to the courtroom)

(At about 10:17 a.m. - The Stephen Turner jury returned to the courtroom)

THE COURT: Mr. Bramble, before you call your next witness, I think the jurors have a question just as to what's hearsay. They've heard, apparently, that term used several times and legitimately are curious. I'll see what I can do to explain it.

It's one of those things that the lawyers and I know when we see, but explaining in words exactly what it is is not that easy.

One of the fundamental Rules of Evidence, ladies and gentlemen, is that people can testify only to those things which they themselves observe. For example, a person standing on a street corner who witnessed an automobile accident can testify as to what they saw.

Because they saw it, you can assess how reliable that testimony is. You have that person in front of you, and you can determine how good of an observer they are, how good of a memory they

1 have. You can watch them testify and decide
2 whether in their demeanor is revealed something
3 that helps you assess their credibility.

4 Ordinarily, a person cannot report what
5 somebody else testified to. For example, you
6 can't have someone say, "I was having coffee and
7 overheard the person next to me describe the
8 accident which happened on the corner," and the
9 reason for not allowing that is the obvious
10 inability to assess the credibility of that
11 testimony.

12 You don't have in front of you the
13 declarant. You don't have the person who says
14 they saw it and so you can assess their memory,
15 their ability to observe, their bias, et cetera.

16 The only person you have in front of you
17 is the person who overheard it, and no matter what
18 you assess about them, it doesn't tell you
19 anything about the source of the information. Of
20 course, the source is the much more significant.

21 So we have a rule called the hearsay
22 rule, which says, as a general principle, one
23 person cannot come into court and repeat what
24 somebody else told them, because we just can't
25 assess the accuracy and credibility of the

1 ultimate source of the information.

2 So whatever is said outside of this room
3 is hearsay, if someone comes in here and tries to
4 repeat it. Even when a person themselves say it,
5 if they said it out in the hall and said, "Well,
6 out in the hall I said this," that's still
7 hearsay.

8 There are, however, as is the case with
9 all rules, a lot of exceptions. For example,
10 anything a person says about themselves can be
11 introduced. That's not hearsay.

12 Things that are said under certain
13 circumstances to a physician, for example, to get
14 medical treatment are not hearsay. Things said
15 while you're observing something, which you're in
16 the middle of a startling event, can be admitted,
17 and there are reasons for all of that.

18 For example, with regard to a startling
19 event, the assumption is that if something is
20 going on right around you and you're reporting it
21 as you see it under the emotion of the moment, a
22 lot of things that might affect a person's
23 accuracy or credibility don't come into play.
24 There just isn't time for those to come into
25 play.

1 You can't in the middle of it think
2 about fabricating. It takes a little effort and
3 it isn't usually going to happen in the middle of
4 it.

5 So if you don't have the person here to
6 observe, that's not a great big loss because a lot
7 of the things you're going to be looking for
8 probably aren't going to exist in this case. So,
9 therefore, most statements made outside this
10 courtroom by somebody cannot be repeated here
11 because that's hearsay.

12 Basically, a statement is anything said
13 outside of the courtroom that's being repeated in
14 the courtroom. There are, however, 25 or 26
15 exceptions to that particular rule which have
16 developed over time, and that's my job, to decide
17 whether one of those exceptions applies.

18 So if you hear one of the lawyers object
19 to hearsay and I sustain the objection, remember,
20 don't speculate as to what the answer would be,
21 ignore it.

22 On the other hand, if you hear an
23 objection to hearsay and I overrule the objection
24 and let the evidence be introduced, then you go
25 ahead and consider it evidence and assess it for

1 whatever you think it's worth. But that's what
2 hearsay is, any report by one person of what
3 somebody else told them.

4 But, as I said, there are times when
5 that's legitimate, and so if you should hear that
6 here, that's because one of those exceptions
7 applies, and don't you start worrying about
8 whether to discount it or highlight it because it
9 is or isn't hearsay.

10 If you get it from the witness stand,
11 it's evidence that you can consider and we'll deal
12 with it beforehand. If it's not legitimate
13 evidence and if it isn't, you won't be getting
14 it.

15 Mr. Bramble, do you want to call your
16 next witness?

17 MR. BRAMBLE: Thank you, your Honor.
18 The State would call Paul Mesman.

19 **OFFICER PAUL MESMAN,**
20 called by the People at 10:25 a.m. and sworn by
21 the Court, testified:

22 **DIRECT EXAMINATION**

23 **BY MR. BRAMBLE:**

24 Q Would you again state your full name, please?

25 A It's Paul Robert Mesman.

1 Q You're employed with the City of Grand Rapids as a
2 police officer?
3 A That's correct.
4 Q How long have you been employed in that capacity?
5 A Two years, five months.
6 Q What are your duties and responsibilities, please?
7 A Basically, patrol.
8 Q You respond to a variety of calls?
9 A Yes, I do.
10 Q On July 7th, 1993, were you working in this
11 capacity as a patrol officer?
12 A Yes, I was.
13 Q Did you respond to a scene at 4130 Oak Park,
14 Apartment 204?
15 A Yes, I did.
16 Q That's here in the city of Grand Rapids, County of
17 Kent, State of Michigan?
18 A Yes, it is.
19 Q Now, what did you do upon your arrival?
20 A I made contact with a man with a crowbar.
21 Q What'd you tell him to do?
22 A I told him -- I ordered him to drop the crowbar at
23 this time.
24 Q Did he do that?
25 A Yes, he did.

1 Q Did you have an opportunity to have contact with a
2 young girl named Lakeysha Cage?

3 A Yes, I did.

4 Q Where did that contact take place?

5 A Right in front of the address I just stated, 4130.

6 Q What was your purpose of having contact with
7 Lakeysha Cage?

8 A Her father, Mr. Marble, stated that she was --

9 MS. KRAUSE: Objection as to what the
10 father said, it's hearsay.

11 THE COURT: Sustained.

12 **BY MR. BRAMBLE:**

13 Q Without getting into what the father said, did you
14 talk to Lakeysha?

15 A Yes, I did.

16 Q And you said this conversation took place right
17 outside the apartment, 204?

18 A Yes, it did.

19 Q And how did -- did you ask Lakeysha what happened?

20 A Yes, I did.

21 Q How did she respond?

22 THE COURT: Before you answer that,
23 Officer, ladies and gentlemen, given the question,
24 this is a good example.

25 What her father said to the officer

1 doesn't satisfy any of the exceptions to the rule,
2 so that's not going to be the source of testimony
3 here.

4 What she said to the officer, however,
5 does satisfy one of the exceptions, and I'm going
6 to explain exactly which one and why, but it does,
7 so you may hear what she said, although just a
8 moment ago you wouldn't hear what the father
9 said.

10 Trust me, there are good reasons for all
11 of those exceptions and the distinction drawn from
12 one to the other.

13 A Exactly what was said, "Those men inside touched
14 me."

15 **BY MR. BRAMBLE:**

16 Q "Those men"?

17 A Yes.

18 Q Now, did you ask her to -- what did you do then?

19 A I then had her explain further what happened.

20 Q What did Lakeysha say happened?

21 MS. KRAUSE: Your Honor, again, I'm
22 going to object based on hearsay.

23 THE COURT: Overruled.

24 A A direct quote again, Keysha stated to me she was
25 sitting against the wall "When the long-haired guy

1 with the lipstick came up to me," referring to
2 Daniel, "grabbed me, and pulled me into his
3 apartment."

4 **BY MR. BRAMBLE:**

5 Q Okay. Did she go on and explain further what
6 happened?

7 A Yes, she did.

8 Q What did she describe, please?

9 A "The guy with the lipstick on took me into the
10 house." And Keysha then stated the guy with the
11 lipstick took her into the bedroom, touched her
12 chest, began to undress her. "He," referring to
13 Daniel, "also touched my private before
14 undressing."

15 Q Did he state what Defendant Daniel Turner did
16 after he undressed her?

17 A "After undressing me, Daniel laid on top of me,"
18 was her direct quote.

19 Q Those are what?

20 A Direct quotes.

21 Q Were you interrupted after this exchange?

22 A Yes, I was.

23 Q Who were you interrupted by?

24 A Officer Baar then arrives at the scene.

25 Q You were there first and then Officer Baar

1 arrives?

2 A That's correct.

3 Q Did you go back to talking to Lakeysha?

4 A Yes, I did.

5 Q Okay, and what did she say happened?

6 A After Officer Baar arrived, Lakeysha and I
7 continued to talk. Lakeysha then stated that
8 while she was in the bedroom, Stephen came in and
9 said, "I want to do it, too," and began to feel
10 her breasts. Daniel then told Stephen, "No."

11 Lakeysha stated that she moved her arm,
12 and Stephen grabbed both her arms while Daniel
13 laid on top of her --

14 MS. KRAUSE: Your Honor, excuse me for
15 interrupting at this point, but I would inquire
16 before there's any further testimony whether
17 Officer Mesman is reading from a police report.

18 If he is, I believe a foundation needs
19 to be established whether this officer needs his
20 recollection refreshed.

21 MR. BRAMBLE: I can do that, your Honor,
22 if necessary.

23 **BY MR. BRAMBLE:**

24 Q Officer, are you reading direct quotes?

25 A Yes, I am.

1 Q Those are direct quotes from who?

2 A From Lakeysha.

3 Q Would you be able to remember those direct quotes
4 without referring to your police report?

5 A No, I would not.

6 Q Does reading your police report refresh your
7 memory and allow you to do so?

8 A Yes, it would.

9 THE COURT: You may proceed.

10 MR. BRAMBLE: Thank you.

11 **BY MR. BRAMBLE:**

12 Q Is there a direct quote regarding the Defendant
13 Stephen Turner telling Daniel what to do with
14 Lakeysha?

15 A Yes, there is.

16 Q What was that?

17 A Lakeysha told me that Stephen then told Daniel to
18 get out of the room with her.

19 Q Where did Lakeysha say they went?

20 A Into the living room.

21 Q What goes on in the living room?

22 A Lakeysha has to try on Daniel's bras and panties.

23 Q And?

24 A She did so.

25 Q Did Lakeysha say what else Daniel might have done

1 to her?

2 A She told me later that he had urinated on her.

3 Q Did you ask Lakeysa to describe the layout of the

4 apartment?

5 A Yes, I did.

6 Q Was she able to do so?

7 A Yes, she was.

8 Q And what did she describe regarding this layout?

9 A Keysha stated that in the living room was a bed.

10 On the opposite side of the room was a table.

11 There are lots of boxes and a TV on a stand with

12 skinny square tapes in the room.

13 The bedroom was in the back, had a bed

14 in it, along with a desk and a basket and a

15 dresser. There was also a knife on the kitchen

16 counter.

17 Q Did you actually go inside the apartment at a

18 later point?

19 A No, I did not.

20 Q Okay. Did Lakeysa state what would happen or

21 what Daniel told her would happen if she told

22 anyone?

23 A He would kill her.

24 Q Did Lakeysa describe where she went after this?

25 A Yes, she did.

1 Q And where did she say she went?

2 A She said she went to the apartment complex and
3 told a girl named India what had happened.

4 Q Now, Officer, when you're doing an initial
5 interview like this at the scene, is it your
6 intent to get a full-depth interview with a
7 ten-year-old child?

8 A No, not at all.

9 Q Can you explain to the jury why not?

10 A It is my intent to basically find if a crime has
11 been committed. If a crime has been committed,
12 cover the basic elements of the crime enough for
13 arrest, and let the investigatory detectives
14 continue from there.

15 Q Just so that the jury understands the process, how
16 things develop in your office, is this case then
17 assigned to a detective?

18 A That's correct.

19 Q And would you expect a detective to do a more
20 fully-developed interview of the child?

21 A Yes.

22 Q Are you trained to interview child witnesses?

23 A Not at all.

24 Q Okay, was that one of the reasons you kind of
25 turned it over to the detectives?

1 A Yes, they're fully trained in that.

2 Q Okay. Do you have contact later with -- along
3 with Officer Baar, do you actually have contact
4 with Daniel Turner?

5 A Do we have contact? Yeah, we seen him there.

6 Q Where do you see him?

7 A We knocked on the door and he came to the door.

8 Q And is a question posed to Mr. Turner, Daniel
9 Turner?

10 A From me?

11 Q Or Officer Baar.

12 A Yes, he asked him what happened.

13 Q Okay, and what does Daniel Turner respond, how
14 does he respond?

15 A "Just take me to jail," I think was his direct
16 quote.

17 Q And did Officer Baar ask him why?

18 A Yes, he did.

19 Q Do you know how the Defendant Daniel Turner
20 responded?

21 A Something to the effect of, "You know, what that
22 girl's accusing me of."

23 Q Did you or Officer Baar explain to him in any way
24 what he was being accused of at this point?

25 A Not at all, not at all.

1 Q What did you do, then, after these statements were
2 made?
3 A I went back out and talked to Lakeysha.
4 Q Now, is that when you continue the interview that
5 you've described with Lakeysha?
6 A Yes.
7 Q Just so I'm clear, you're talking to her
8 initially, Officer Baar interrupts you?
9 A Uh-huh.
10 Q You have contact with Defendant Daniel Turner, he
11 makes the statements you've described?
12 A That's correct.
13 Q And then you go back and finish up the rest of the
14 brief discussion with Lakeysha?
15 A Right.
16 Q Okay. Did you ever go in the apartment?
17 A The doorway only, never actually fully into the
18 apartment.
19 Q Did you ever see a knife or anything on the
20 kitchen counter?
21 A No.
22 Q Did Lakeysha describe that to you?
23 A Yes, she did.
24 Q Okay. You eventually have contact with the
25 Defendant Daniel Turner, as well as Stephen

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Turner?

A Very briefly, yes.

Q Okay, and you later transport them?

A Yes.

Q Okay, where do you transport them to?

A Metropolitan Hospital.

Q Okay. Later are they transported from Metropolitan Hospital?

A Yes, sir, back to the County Jail.

MR. BRAMBLE: I have nothing further at this time, your Honor.

THE COURT: Counsel, may I see you at the bench?

(Counsel approached the bench, and a discussion was held out of the hearing of the jury and off the record)

THE COURT: We're going to start, ladies and gentlemen, with Mr. Daniel Turner's jury, so will Stephen's step out? I don't think it will be very long.

Have a cup of coffee, but don't plan on being gone any longer than that.

(At about 10:37 a.m. - The Stephen Turner jury left the courtroom)

THE COURT: Mr. Mirque?

1 MR. MIRQUE: Thank you, your Honor.

2 **CROSS-EXAMINATION**

3 **BY MR. MIRQUE:**

4 Q Officer Mesman, when you go to a police scene, are
5 you assigned a specific person that you are to
6 talk to by a superior so that you don't do double
7 crossing overs or you speak with specific
8 individuals?

9 A Not usually.

10 Q Not usually?

11 A No.

12 Q Sometimes you are?

13 A Not that I can recall.

14 Q When you are in the field and you're taking down
15 the information from a young lady or anybody
16 involved in a crime, you said that a lot of the
17 material is direct quotes.

18 You take those direct quotes because you
19 want them to be as accurate as possible, right?

20 A Correct.

21 Q So when you say that they are direct quotes of
22 Lakeysha, they are direct quotes of Lakeysha?

23 A Yes.

24 Q And then later on when you get back to the
25 station, you transpose those direct quotes within

1 the framework of the entire story, and that's the
2 basis of the police report?

3 A Yes.

4 Q When you are done with that police report, what
5 happens to it then?

6 A It's filed.

7 Q It's filed. Does it get reviewed by anybody?

8 A Reviewed, probably not.

9 Q You don't turn it over to a detective in charge of
10 the case to make sure that it's a complete report
11 or accurate report, or maybe some of the wording
12 may have been clarified? That didn't happen in
13 this case?

14 A Not, not to check over, no. We're in charge of
15 our own reports.

16 Q You're in charge of your own reports?

17 A That's correct.

18 Q Why were there two reports in this case, then?
19 Why was one an original and the other one revised?

20 A There was an error in the addresses and the phone
21 numbers.

22 Q That's the only reason why?

23 A And a statement was made -- or I remembered seeing
24 blood on the collar of his shirt that I did not
25 put in the report, the first report.

1 Q There was blood?

2 A Yes -- or lipstick, I'm sorry, lipstick.

3 Q Approximately what time was the original report
4 completed?

5 A I'd say around two in the morning, I'd have to
6 say, something close to that.

7 Q And then the revised report?

8 A Probably four or five the next afternoon.

9 Q Four or five the next afternoon? Was the reason
10 why it was revised because you just had some new
11 information that you forgot about or you wanted to
12 amend some things?

13 A Partially new information, partially incorrect
14 address and phone number.

15 Q Did you talk to any of the detectives that would
16 be on this case between 2:00 and four or five p.m.
17 the next day?

18 A No, I personally did not talk to any.

19 Q You didn't speak to Detective Karpowicz about this
20 case?

21 A No.

22 Q So, okay, a report is completed, gets typed up by
23 you, or I believe a staff person?

24 A Correct.

25 Q And then where does it go?

1 A There's certain copies of the general incident
2 report that go to certain desks, it all depends.
3 Q And this report was done, first report, at 2:00?
4 A Around that, yes.
5 Q And it was impossible for anybody to have seen
6 this report prior to 2:00 because it hadn't been
7 prepared?
8 A Parts of -- I'm sorry, parts of it that I'd
9 written, but other than that, no. A complete
10 report, no.
11 Q And at 5:00 the next day, again, was that report
12 submitted to the detectives later on eventually?
13 A The detectives have a copy they get, I'm sorry.
14 It was not submitted directly to them, no.
15 Q The contents of the report -- do you have your
16 report there?
17 A Yes, I do.
18 Q You were reading what you say are direct
19 quotations. When you were talking with Lakeysa,
20 is there any direct quotation that Lakeysa
21 indicated there was more than just touching?
22 A As far as what I heard?
23 Q Uh-huh.
24 A To me? Well, the direct touching is the only
25 thing I have. No.

1 Q Was there any indication from Lakeyssha that he put
2 his penis in her mouth?
3 A No.
4 Q Were you the first police officer Lakeyssha spoke
5 to?
6 A Yes, I was.
7 Q And approximately what time was that?
8 A I'd have to say around quarter to six that night.
9 Q But you're the first police officer she spoke to?
10 A That's correct.
11 Q You said Lakeyssha said something about a red car
12 going by while she was being dragged off?
13 A Yes.
14 Q What did she say about that?
15 A Lakeyssha stated that a white male in his 20's
16 drove by and observed this happen. The white male
17 was driving a red four-door, small car, but did
18 not stop. She knew nothing further about the car.
19 Q Now, again, that's what Lakeyssha said and not --
20 it's not quotes, but that's a fairly accurate
21 summary of what she said?
22 A Right.
23 Q You've quoted Lakeyssha saying that the guy with
24 the lipstick took, "The guy with the lipstick on
25 took me into the house." I'm referring to page

1 two of your report. Do you see that up on the
2 top?

3 A Uh-huh.

4 Q And that, again, is a direct quotation of
5 Lakeysa?

6 A Yes, it is.

7 Q Then you go on to say, "The guy with the lipstick
8 took her into the bedroom." That again is a
9 direct quote?

10 A Uh-huh.

11 Q "Touched her chest, and then began to undress
12 her," again, direct words of Lakeysa.

13 So when you were taking this report, she
14 did not say to you that the man took her into the
15 living room first, did she?

16 A No, she did not.

17 Q And later on down the road, after taking Lakeysa
18 into the bedroom, she said that Daniel laid on top
19 of her, is that what she says?

20 A Yes.

21 Q Then you were interrupted by Officer Baar and had
22 some other business with the Turners, I would
23 imagine, then you came back and finished up with
24 Lakeysa, right?

25 A Yes.

1 Q And then Lakeysha said that while in the bedroom
2 Stephen Turner came into the room, is that what
3 she says next happened?
4 A Yes.
5 Q And that Stephen came in and said, "I want some of
6 that, too"? She said that?
7 A Direct quote? "I want to do it, too."
8 Q Well, okay. This isn't a direct quote now, but
9 you have there, "Lakeysha then stated" --
10 A That's directly quoted to me from her.
11 Q Okay. She said that, "Stephen said, 'I want to do
12 it, too' "?
13 A Right.
14 Q Okay. And then Lakeysha said that Daniel said,
15 "No," right?
16 A Yes.
17 Q And then Lakeysha, this is again a direct quote,
18 moved her arm and Stephen grabbed both of her arms
19 while Daniel laid on top of her. That was the
20 next little event in the sequence?
21 A Yes.
22 Q Again, it's a direct quote because you want it to
23 be as accurate as possible?
24 A That's correct.
25 Q Stephen then says, according to Lakeysha, "Get out

1 of the room with her"?

2 A Yes.

3 Q And then they went into the living room?

4 A Yes.

5 Q So from what you've gathered so far from Lakeysha,
6 the sequence of events is such that Lakeysha is
7 grabbed at the stairs, taken into the apartment,
8 taken into the bedroom, and then taken into the
9 living room?

10 A That's correct.

11 Q All right. And it was in the living room that
12 Lakeysha told you that Daniel Turner made her try
13 on some panties and some bras?

14 A Yes.

15 Q All right. You didn't go in the apartment, is
16 that correct?

17 A The doorway only.

18 Q The doorway only. But from what -- I know you
19 don't know whether this is the apartment because
20 you haven't been in it. But from what Lakeysha
21 says, if this was the doorway (indicating), she
22 was taken into the bedroom and then into the
23 living room?

24 A Right.

25 Q That's from what Lakeysha told you was the

1 sequence of events?

2 A Yes.

3 Q And then while she was in this room, she was

4 urinated on?

5 A Yes.

6 Q Did she say what it looked like? Was it white,

7 was it yellow, did she give any indication as to

8 what that was?

9 A Not at this time, she didn't.

10 Q Not at that time, okay. You asked Lakeysha about

11 the layout of the apartment, right?

12 A Yes, I did.

13 Q You asked her what this room looked like and this

14 room (indicating)?

15 A Yes.

16 Q And she described both rooms for you, didn't she?

17 A Yes, she did.

18 Q In your mind it appeared that she could

19 differentiate between the two?

20 A Yes.

21 Q Did she say at any time that the man put his penis

22 in her mouth in this room (indicating)?

23 A Not to me.

24 Q How about in this room (indicating)?

25 A Not to me.

1 Q Did she say anything about, I'm trying to think,
2 anything about Daniel Turner taking a picture
3 while she was holding a knife to Stephen Turner?
4 Did she mention that to you?

5 A I recall something slightly about that, but it was
6 not mentioned to me.

7 Q It was not mentioned to you?

8 A No.

9 Q But it was to another officer?

10 A Yes, it could very well be.

11 Q Do you remember if it was discussed while you were
12 on the scene or perhaps at the station?

13 A No, I do not recall.

14 Q Did she say at any time during the sequence of
15 events which happened in this apartment about
16 being slapped?

17 A No.

18 Q Being knocked out?

19 A I recall something about being possibly knocked
20 out or sleeping, I think she referred to it as.

21 Q What was that about?

22 A Again, that was not a direct quote to me. That
23 was not made to me.

24 Q Who was that made to?

25 A I'm not sure.

1 Q Did she mention at any time that she was hurt in
2 any of the events?

3 A Not to me.

4 Q So having been dragged in the apartment, taken
5 here, and then here, did she say what happened
6 after she was in this room (indicating)?

7 A (No response)

8 Q You can look on your report. Did she say she then
9 left?

10 A I think that's when they threatened her and she
11 left, if I remember correctly.

12 Q Now, you mentioned that while you were talking
13 with Lakeysha, you noticed something on her
14 collar?

15 A Yes.

16 Q What was that?

17 A It was lipstick.

18 Q Lipstick?

19 A Yes.

20 Q Why didn't you think to mention that in your
21 report?

22 A It was an eventful night, it slipped my mind. I
23 did mention it, however, to Sergeant Carrier, who
24 reminded me at the later date that it would be
25 important, put it in.

1 Q Put it in?

2 A Yes.

3 Q Lakeysha said throughout this whole event that
4 there was a man with lipstick, right?

5 A Yes.

6 Q Did you think that perhaps that lipstick on the
7 collar was somehow tied to the lipstick with the
8 man?

9 A Yes.

10 Q So you thought that that would be a relevant piece
11 of evidence in this case?

12 A Yes.

13 Q Did you follow up in the investigation? Given the
14 fact that Lakeysha said there was a red car, did
15 you do any follow-up on that?

16 A Yes, I asked the neighbors if they happened to see
17 any cars.

18 Q Any red cars?

19 A Looked through the area. No, I did not. We
20 observed red cars but nothing matching. I showed
21 her a couple and she pointed them out and said,
22 no, those were not the cars.

23 Q Given what Lakeysha said to you, was there
24 anything to indicate that there was more than just
25 touching and kissing? Did she indicate any type

1 of penetration?

2 A She didn't indicate any to me.

3 Q Okay, thank you.

4 THE COURT: Mr. Bramble, anything more?

5 MR. BRAMBLE: Yes, your Honor.

6 **REDIRECT EXAMINATION**

7 **BY MR. BRAMBLE:**

8 Q I'm going to show you what's marked Proposed
9 Exhibit 7. Do you recognize this, Officer?

10 A Yes, this was the shirt that Lakeysa was wearing.

11 Q Who was wearing?

12 A Lakeysa.

13 Q And there is now an area cut out along the collar
14 of that?

15 A Yes.

16 Q Can you describe what was different about that
17 area when the collar was not cut out?

18 A That was the area where the lipstick was.

19 Q Okay. And there was lipstick, you indicated, on
20 one of the defendants. Which one, please?

21 A Daniel.

22 Q Now, did someone -- I guess a detective, you
23 indicated, didn't review your report. Did
24 Sergeant Carrier review your report?

25 A Nobody's assigned to review my report. I don't

1 know if she read it or not.

2 Q What was your reason for -- what's the difference
3 between the first report and the second report?

4 A Three differences. There's a change of address in
5 the one report. The address I listed was
6 incorrect.

7 A change of phone number. I
8 misunderstood Lakeysha when she said "India." I
9 thought she said "Cynthia," so I put "Cynthia"
10 down and I had to change that.

11 And finally, the addition of the
12 lipstick on the shirt.

13 Q And what time, approximately, did you arrive
14 there?

15 A I'd have to say 5:45.

16 Q How long did it take you to get there once you
17 received the dispatch?

18 A Four or five minutes.

19 Q I want to make something clear. You drew some
20 information out of Lakeysha, and at that point,
21 again, were you fully intent on turning this
22 matter over to a detective and letting them
23 discuss this with Lakeysha?

24 A Yes.

25 Q Were you intent on bringing out every little

1 thing?

2 A Not at this time, no.

3 Q Okay. What were you intent on doing?

4 A Seeing if a crime had been committed, and if so,
5 the severity of the crime.

6 Q Once you received something to establish that,
7 even on a limited basis, you concluded your
8 interview with Lakeysha?

9 A Yeah.

10 Q Okay.

11 MR. BRAMBLE: I have nothing further,
12 your Honor.

13 THE COURT: Anything more, Mr. Mirque?

14 MR. MIRQUE: Yes, your Honor.

15 **RECROSS-EXAMINATION**

16 **BY MS. MIRQUE:**

17 Q Keysha was wearing a shirt and lipstick was on the
18 front?

19 A Yes.

20 Q So this is where, supposedly, a lipstick stain
21 was, is that correct?

22 A Yes.

23 Q And, to the best of your knowledge, this was
24 turned over to the authorities for analysis?

25 A Yes.

1 Q Okay. When you were interviewing Lakeysha, you
2 said that you weren't there for an in-depth
3 discussion of the events, but if Lakeysha had
4 something to tell you, you would have marked it
5 down, wouldn't you have?

6 A Okay, yes.

7 Q So if -- you were not simply just interrogating,
8 but you were receptive to whatever Lakeysha
9 thought was important, and if it was important
10 enough that you put in quotations, you certainly
11 would have put it down?

12 A Yes.

13 Q You didn't cut Lakeysha off at anything, did you?

14 A No.

15 Q Thank you.

16 THE COURT: Ladies and gentlemen --

17 MR. BRAMBLE: Could I ask just one
18 question, your Honor? I'm sorry to interrupt.

19 **REDIRECT EXAMINATION**

20 **BY MR. BRAMBLE:**

21 Q How would you describe Lakeysha's demeanor at this
22 time?

23 A She was very shaken up, quiet, crying. You could
24 tell she had been crying.

25 MR. BRAMBLE: I have nothing further,

1 Judge.

2 THE COURT: Mr. Mirque?

3 MR. MIRQUE: Nothing, your Honor.

4 THE COURT: Thank you, Officer. You
5 stay there.

6 Ladies and gentlemen, would you please
7 go to your jury room, and I'll get Mr. Stephen
8 Turner's jury. I'll be back in just a few
9 minutes.

10 (At about 11:00 a.m. - The Daniel Turner
11 Jury left the courtroom)

12 (At about 11:00 a.m. - The Stephen
13 Turner jury returned to the courtroom)

14 THE COURT: Miss Krause?

15 MS. KRAUSE: Thank you, your Honor.

16 **CROSS-EXAMINATION**

17 **BY MS. KRAUSE:**

18 Q Good morning, Officer Mesman.

19 A Good morning.

20 Q I believe you testified that you have been with
21 the Grand Rapids Police Department for two years,
22 five months?

23 A That's correct.

24 Q Prior to your employment with the Grand Rapids
25 Police Department, were you employed anywhere else

1 as a police officer?

2 A No, I was not.

3 Q Were you trained at the academy or at college?

4 A Both.

5 Q Do you have a Bachelor's?

6 A Not quite.

7 Q Okay, still working on it?

8 A Yup.

9 Q Okay. When did you go through the academy?

10 A 1988, '89, and '90.

11 Q Did I understand correctly that you were the first
12 officer on the scene?

13 A That's correct.

14 Q And when you were dispatched to the scene, it was
15 about a man with a crowbar, correct?

16 A Correct.

17 Q And when you arrived at the Oak Park Apartments,
18 you actually saw a man with a crowbar, correct?

19 A Yes, I did.

20 Q And, in fact, you ordered him to put it down?

21 A Yes, I did.

22 Q All right. Now, would it be fair to say, Officer
23 Mesman, that when you arrived on the scene, it
24 appeared to be at least a confusing situation?

25 A Yes.

1 Q Okay, the man appeared to you to be hostile?

2 A Very.

3 Q Did you see other people standing around?

4 A Yes.

5 Q Were people screaming?

6 A No, not really.

7 Q But at least for a period of time you were the
8 only officer on the scene?

9 A Yes.

10 Q Until Officer Baar arrived?

11 A That's correct.

12 Q Now, you indicated earlier that your intent was
13 not on doing a full-depth investigation, correct?

14 A Yes.

15 Q All right. Now, through all of your training at
16 the academy and the classes you have been working
17 on to work toward your Bachelor's degree, wouldn't
18 it be fair to say, Officer Mesman, that you're
19 trained that the first few moments on a crime
20 scene are crucial?

21 A To an extent, yes.

22 Q All right. You've also said that it was your
23 intent to turn the information over to the
24 investigating detective, correct?

25 A Right.

1 Q And you know through your training and work as a
2 police officer that the detectives you turn this
3 information over to are going to rely on the
4 information you use?
5 A Correct.
6 Q Fair to say?
7 A Yes.
8 Q All right. Now, the first thing you do, I
9 believe, is you talk to Lakeysa Cage, correct?
10 A Yes.
11 Q And you interview her --
12 A Yes.
13 Q -- correct? And that means you ask her some
14 questions?
15 A Yes, I do.
16 Q Were her mother or father standing around her
17 while you were asking her the questions?
18 A Both were in the near vicinity.
19 Q Close to her?
20 A Yes.
21 Q And did they appear to be upset while they were in
22 this close proximity to Lakeysa?
23 A Yes.
24 Q All right. Now, did you tape-record this
25 conversation?

1 A No, did not.

2 Q But you're telling us that your police report
3 includes direct quotes from Lakeysha?

4 A Yes, it does.

5 Q So would it be fair to say that you were taking
6 notes of this conversation as it was occurring?

7 A Yes.

8 Q And you were writing this down in what's called a
9 field notebook?

10 A Yeah.

11 Q A field notebook is paper that you carry as an
12 officer to take notes at a scene --

13 A Yes.

14 Q -- correct? Or write information that's important
15 about the case?

16 A Yes.

17 Q And then later, when you get back down to the
18 department, you will use those notes to prepare
19 your report?

20 A Uh-huh.

21 Q Fair to say?

22 A Correct.

23 Q All right. When you were writing, did you tell
24 Lakeysha to stop talking?

25 A No, I did not.

1 Q So while you were writing Lakeysha continued to
2 talk?

3 A Yes, she did.

4 Q While Lakeysha continued to talk, was her mother
5 or father in any way trying to give you input?

6 A Not input, no.

7 Q Were they making statements while Lakeysha was
8 trying to talk?

9 A They were very upset, and I quieted them both
10 down.

11 Q Officer Mesman, the question is, were the parents
12 making statements while you were talking to
13 Lakeysha, "yes" or "no"?

14 A Yes.

15 Q Thank you. Now, you testified about several
16 things that Lakeysha told you.

17 Just as a general statement, we'll break
18 it down into specifics in a few minutes, but as a
19 general statement, Officer Mesman, wouldn't it be
20 fair to say that the majority of what Lakeysha
21 told you about was the man with lipstick?

22 A Yes.

23 Q All right. And you have learned since then that
24 the man with lipstick is Daniel Turner?

25 A Yes.

1 Q She tells you that she was taken off the steps by
2 the man with lipstick, correct?

3 A Yes.

4 Q She does not say that Stephen Turner took her off
5 the steps, correct?

6 A Correct.

7 Q She tells you that she is taken by the man with
8 lipstick to his apartment, correct?

9 A Correct.

10 Q And she does not indicate to you that Stephen
11 Turner had anything to do with taking her to the
12 apartment, correct?

13 A Correct.

14 Q She tells you that when she gets inside the
15 apartment, Daniel Turner, the man with lipstick,
16 does things to her, correct?

17 A Yes.

18 Q And during those first portions of time in the
19 apartment she does not indicate anything about
20 Stephen, correct?

21 A That is correct.

22 Q Now, I believe, Officer Mesman, the only thing
23 that you have in your report about Stephen Turner
24 is a statement about holding her down, correct?

25 A Yes.

1 Q All right. Are you aware that she has testified
2 differently to that in court?
3 A No, I'm not.
4 Q No one working on the case has told you that?
5 A No.
6 Q She also indicated to you, according to your
7 testimony, that the man with lipstick threatened
8 to kill her, correct?
9 A Yes.
10 Q And that was if she told anybody?
11 A Yes.
12 Q Officer Mesman, isn't it true that Lakeysa did
13 not tell you that Stephen ever threatened her?
14 A That's true.
15 Q All right. In this particular case, Officer
16 Mesman, you have in fact filed two police reports,
17 correct?
18 A Yes.
19 Q I believe the Grand Rapids Police Department
20 refers to them as general incident reports?
21 A Yes.
22 Q One of those reports was your original report,
23 yes?
24 A Yes, it was.
25 Q The second report was a revised report?

1 A Yes, revised report, correct.

2 Q Yes, and I think you told us the reason there was
3 a revised report is because an address was wrong?

4 A Yes.

5 Q Was that something that you had taken down
6 incorrectly at the scene or was it typed
7 incorrectly by the secretary?

8 A Neither.

9 Q Okay, but it was incorrect information --

10 A Yes.

11 Q -- that needed to be changed?

12 A Yes.

13 Q One of the other things that caused you to revise
14 your report was that you had misunderstood
15 something Lakeysha said, correct?

16 A Yes.

17 Q All right. You thought she said "Cynthia," a name
18 "Cynthia"?

19 A Yes.

20 Q When in fact she said "India," correct?

21 A That is correct.

22 Q And once you realized that you had misunderstood
23 something she said, you wanted to make sure that
24 it was cleared up in your report?

25 A Right.

1 Q Now, you are what they call a road officer,
2 correct?
3 A You could call it that, yes.
4 Q Patrol officer?
5 A Uh-huh.
6 Q Is that a "yes"?
7 A Yes, it is.
8 Q Okay. Is this considered a major case?
9 A Yes, it is.
10 Q And the Grand Rapids Police Department has what's
11 called a Major Case Team, right?
12 A Yes, it does.
13 Q And it was your understanding that the report was
14 going to be turned over to the Major Case Team?
15 A Yeah, they'd get a copy of the report.
16 Q I'm sorry?
17 A Yes, they do receive a copy of the report.
18 Q And you believed that they would be handling the
19 case?
20 A Yes.
21 Q You knew that you wouldn't be following up on this
22 case?
23 A Right.
24 Q All right. Normally, when you're out on the road
25 and you encounter a situation where you have to

1 file a report, that is turned into who, your
2 sergeant or your lieutenant?

3 A It's turned in the day the lieutenant codes them
4 and sends them to the appropriate channel, either
5 the detective bureau or traffic unit.

6 Q And the reason your report had to be revised was
7 because it had already been turned in once,
8 correct?

9 A Yes.

10 Q Had the report not been turned in, it wouldn't
11 have been necessary to revise it?

12 A Oh, it would still need to be revised, it just
13 would not --

14 Q I didn't ask that question very well. Had you
15 remembered these things you needed to change prior
16 to it being turned into the desk lieutenant, it
17 wouldn't have had to have been labeled "revised,"
18 correct? You could have simply made the changes
19 and then filed the report?

20 A Yes.

21 Q Did you ever have any direct conversations with
22 Detective Karpowicz about this case?

23 A Not after, no.

24 Q During?

25 A She was there at the, during the search warrant,

1 but other than that, no.

2 Q One of the other things you changed about your
3 report was an item of red substance on Lakeysha's
4 shirt, correct?

5 A That's correct.

6 Q That was the third thing in your revised report?

7 A Yes, it was.

8 Q Correct me if I'm wrong, Officer Mesman, but the
9 entire time you were talking to Lakeysha she was
10 talking about the man with lipstick, right?

11 A Yes, she was.

12 Q So that was a pretty important fact?

13 A Yes, it was.

14 Q And you didn't remember that until you spoke with
15 Sergeant Carrier, is that correct?

16 A Did not remember that?

17 Q You did not think to put it in your report, into
18 your revised report until after you had spoken
19 with Sergeant Carrier?

20 A Yes.

21 Q Now, I also understood that you transported my
22 client, Stephen Turner, to Metropolitan Hospital?

23 A Yes.

24 Q One moment, Officer.

25 MS. KRAUSE: Your Honor, may I approach

1 the witness?

2 THE COURT: Yes.

3 BY MS. KRAUSE:

4 Q Officer, I'm showing you what's previously been
5 marked as People's Proposed Exhibit number 2. Do
6 you recognize the person in the picture?

7 A Yes, I do.

8 Q That is Stephen Turner?

9 A Yes, it is.

10 Q He is wearing a blue shirt?

11 A Yes, he is.

12 Q Some shade of blue?

13 A Uh-huh, yes.

14 Q And multicolored pants?

15 A Yes.

16 Q Is that what he was wearing when you transported
17 him to Metropolitan Hospital?

18 A The blue shirt I remember, the pants I do not.

19 Q But you do specifically remember the shirt?

20 A Yes.

21 Q Thank you.

22 MS. KRAUSE: I have no further questions
23 of this officer.

24 THE COURT: Mr. Bramble?

25

1 **REDIRECT EXAMINATION**

2 **BY MR. BRAMBLE:**

3 Q Officer, I believe you testified you changed a
4 couple things in your revised report. How many
5 things?

6 A Three.

7 Q What would they have been?

8 A An address that was incorrectly listed with phone
9 number, the "Cynthia" was actually "India," and
10 the lipstick was in at the end.

11 Q That would have been lipstick that you believe you
12 saw where?

13 A On the collar of the shirt.

14 Q Okay, and I'm showing you what's marked people's
15 proposed Exhibit 7. Is this the shirt you're
16 referring to?

17 A Yes, it is.

18 Q The area that's cut away, would that have been
19 where you observed the lipstick?

20 A Yes, it was.

21 Q Okay. What time did you arrive there?

22 A About quarter to six.

23 Q And how long did it take you to get there once you
24 were dispatched?

25 A About four or five minutes, I'd have to assume.

1 Q And you saw the defendant, Daniel Turner. Did you
2 observe him have any make-up or anything on?
3 A No, I did not observe any make-up On Daniel.
4 Q Did you observe any lipstick on him?
5 A No.
6 Q You don't recall seeing that?
7 A No.
8 Q How would you describe Lakeysha's demeanor when
9 you were doing this questioning of her?
10 A She was upset, she had been crying, scared.
11 Q And her parents were upset?
12 A Yes.
13 Q You attempted to explain that you calmed them
14 down.
15 A Yes.
16 Q And were you able to do so?
17 A Yes, I was. They were talking between each other
18 while I was talking to Lakeysha, and it was
19 distracting Lakeysha so I had to quiet them down.
20 Q Were either of them -- you have direct quotes in
21 your police report. Where did those come from?
22 A Directly from Lakeysha.
23 Q Okay, did it come from either of her parents --
24 A No.
25 Q -- telling her what to say, or anything of that

1 nature?
2 A Not at all.
3 Q Okay. You testified that Lakeysha was afraid or
4 appeared scared, she had been crying. Did she
5 appear reluctant -- do you know what I mean by
6 that -- to disclose stuff?
7 A More confused than reluctant.
8 Q Okay. This was right out in front of the
9 apartment where these allegations occurred?
10 A Yes, it was.
11 Q And the defendants at this time were still inside
12 that apartment, weren't they?
13 A During most of it, yes.
14 Q And again, this occurs right out, this discussion
15 occurs right outside this apartment, 204?
16 A Yes, it did.
17 Q Okay. When the defendants are taken initially out
18 of the apartment, where do you take them to?
19 A Officer Baar took them to the back of his patrol
20 car.
21 Q Both of them together?
22 A Yes.
23 MR. BRAMBLE: I have nothing further.
24 THE COURT: Miss Krause, anything more?
25 MS. KRAUSE: Thank you, your Honor.

1 **RECROSS-EXAMINATION**

2 **BY MS. KRAUSE:**

3 Q Officer Mesman, as the first officer on the scene,
4 you need to assess the situation, correct?

5 A Yes.

6 Q And as the first officer on the scene, if anyone
7 appears to need medical treatment, it's your
8 responsibility to call in the appropriate medical
9 people, for lack of a better --

10 A Yes, it is.

11 Q That could be an ambulance, correct?

12 A Correct.

13 Q Or an emergency team?

14 A Yes.

15 Q That was not done in this situation, was it?

16 A No, it was not.

17 MS. KRAUSE: No further questions.

18 THE COURT: Anything more, Mr. Bramble?

19 **REDIRECT EXAMINATION**

20 **BY MR. BRAMBLE:**

21 Q Was there any need for an ambulance or anything of
22 that nature, that you assessed?

23 A Not that I could find, no.

24 Q Either of the defendants require any medical
25 treatment or anything of that nature?

1 A Not at all.

2 Q So the reason they are taken to Metropolitan, or
3 wherever you took them, was for a different
4 purpose than getting them medical treatment?

5 A Yes, it was.

6 MR. BRAMBLE: I have nothing further.

7 MS. KRAUSE: Nothing further, your
8 Honor, thank you.

9 THE COURT: Thank you, Officer, you may
10 step down.

11 Who will be the next witness,
12 Mr. Bramble?

13 MR. BRAMBLE: I'm sorry, your Honor?

14 THE COURT: Who will be the next
15 witness.

16 MR. BRAMBLE: Your Honor, at this time
17 we'd call Pam Carrier. Daniel jury Daniel jury.

18 (At about 11:19 a.m. - The Daniel Turner
19 jury returned to the courtroom)

20 **SERGEANT PAMELA SUE CARRIER,**
21 called by the People at 11:19 a.m. and sworn by
22 the Court, testified:

23 **DIRECT EXAMINATION**

24 **BY MR. BRAMBLE:**

25 Q Would you state your full name and spell your last

1 name?
2 A Pamela Sue Carrier, C-A-R-R-I-E-R.
3 Q You're employed?
4 A Yes.
5 Q Where are you employed?
6 A Grand Rapids Police Department.
7 Q How long have you been employed?
8 A There, 13-and-a-half years.
9 Q Your duties and responsibilities?
10 A Sergeant on patrol unit, second shift.
11 Q How long have you been a sergeant?
12 A For two-and-a-half years.
13 Q You were a police officer for eleven years and
14 then became a sergeant?
15 A Yes, sir.
16 Q And prior to your 13-and-a-half years on the
17 patrol here in Grand Rapids, have you been a
18 police officer anywhere else?
19 A Yes, I worked for two years at Ferris State
20 College as a police officer.
21 Q Were you working in that capacity on July 7, 1993?
22 A Yes, sir, I was.
23 Q And did you respond to 4130 Oak Park, Apartment
24 204?
25 A Yes, sir.

1 Q And were you the sergeant on the scene?

2 A Yes, I was.

3 Q And can you describe to the jury, give them a
4 brief overview of what your duties, your
5 responsibilities as a sergeant are at a crime
6 scene?

7 A My responsibilities are to arrive at the crime
8 scene, talk to the officers who have already been
9 there to get a brief summary of what has
10 happened.

11 If there's victims, witnesses, I try to
12 talk to them to get a summary of what has
13 happened, and then at that time I make a
14 determination on whether or not arrests should be
15 made.

16 Q Do the officers look to you for that decision?

17 A Yes, they do.

18 Q I take it you were working in that capacity there
19 at 4130 Oak Park?

20 A Yes, I was.

21 Q What time did you approximately arrive at the
22 scene?

23 A I'm not sure of the exact time. The officers had
24 been there for probably 45 minutes to an hour. I
25 was tied up on another call.

1 Q When you arrived at the scene, did you have
2 contact with a number of officers?

3 A I talked to Officer Mesman and Officer Baar.

4 Q They were, as far as you knew, the first two
5 officers on the scene?

6 A Yes.

7 Q Okay. And did you have an opportunity to come in
8 contact with a Lakeysa Cage?

9 A Yes, I did.

10 Q Where would that have been?

11 A At the scene.

12 Q And that, in fact, would have been right outside
13 the apartment of 204, correct?

14 A Correct, right outside her apartment.

15 Q And what was your purpose in having contact with
16 Lakeysa Cage?

17 A To listen to what had happened to make a
18 determination on making an arrest.

19 Q Now, I want to make this clear, you're right out
20 in front of the apartment where this, Lakeysa
21 said this occurred?

22 A Lakeysa, I was standing by Lakeysa's apartment
23 when I got there, which is two or three doors
24 down.

25 Q Okay, and at this time are you intent on, when

1 you're at this apartment, intent on sitting her
2 down and developing a full interview at this time?
3 A No. My only intent is to get a brief summary of
4 what has happened so I can make a determination
5 from there what I need to do as a supervisor, as
6 far as approving arrests or anything else that
7 needs to be done.
8 Q Therefore, were you concerned, necessarily, with
9 eliciting every detail from Lakeysa Cage?
10 A No, I was not.
11 Q Are you concerned with what degree of criminal
12 sexual conduct she described?
13 A No, sir.
14 Q Did you listen to her?
15 A That's correct.
16 Q Who, basically, was asking the questions?
17 A Officer Mesman was.
18 Q And what did Lakeysa describe?
19 A When I was standing there with her, she described
20 that she had been outside of her apartment playing
21 on the steps, and at that time the subject had
22 grabbed her off the steps, taken her to his
23 apartment, and taken her into the bedroom and had
24 assaulted her at this time.
25 Q What words did she say to assault her?

1 A That he hurt her.

2 Q Did he indicate whether -- did she indicate
3 whether or not the defendant had urinated on her?

4 A Yes, she told me that after he had hurt her, that
5 he had urinated all over her.

6 Q Did she indicate any other type of touching?

7 A Yes, she had told me that he had touched her on
8 the breast, and that he had fondled her in the
9 private parts and on the breast, and that he had
10 actually sucked on her breasts.

11 Q Who was she referring to? Did she give a title or
12 a description of one of the individuals?

13 A What she kept telling me was the man with the
14 lipstick on.

15 Q Did she describe another individual?

16 A Yes, she stated that there was another subject in
17 the apartment who had come into the bedroom at the
18 time that the other subject was assaulting her,
19 and that that person drug her from the bedroom out
20 into the living room.

21 And that while he was doing that, that
22 he was touching her in the breast area and
23 fondling her.

24 Q Did she indicate whether or not she was required
25 to try on any type of clothing?

1 A Yes, she had told me that he had had her try on, I
2 think it was bras and panties.

3 Q Okay, by "he," who do you mean?

4 A The first subject, the one with the lipstick on.

5 Q You mentioned something in your report regarding
6 fake breasts. Did Lakeysa mention something
7 covering this material?

8 A Could I refer to my report? I think it was --

9 Q Does that refresh your memory?

10 A Yes. Yes, while she was there the subject with
11 the lipstick on had fake breasts and he had had
12 her touch them.

13 Q Are those your words, "fake breasts"?

14 A I think those are her words, that they were -- I
15 don't know, it was probably my words, that he had
16 had something that he had stuffed in the bra that
17 he had made her play with.

18 Q Okay. Is there any discussion -- do you recall
19 Lakeysa mentioning anything about video games?

20 A Yes, she told me that he had asked her if she
21 wanted to play video games, and she had told him
22 no. And that he was playing a video game, a video
23 strip poker, and that he had her sitting on his
24 lap while he was watching this and that he was
25 fondling her during that time.

1 Q Did Lakeysha state what -- again, so we're clear,
2 what defendant are we referring to?

3 A The one with the lipstick on.

4 Q Did Lakeysha indicate what the defendant, the man
5 with the lipstick on, told her what would happen
6 if she told her parents or the police or anyone?

7 A Yes, she told me that he told her that he would
8 kill her if she told her parents or the police.

9 Q Now, again, you get this from Lakeysha. Are you
10 concerned at this point about eliciting every last
11 detail and every last sexual act at that point?

12 A No, I'm just listening to Officer Mesman interview
13 her and getting the details that I need to make an
14 arrest.

15 Q Are you concerned with the chronological order, as
16 far as what took place where in what parts of the
17 apartment, or are you more concerned with the
18 acts?

19 A I'm more concerned with the acts. That's my
20 determination to make the arrest.

21 Q Did you later then go and interview witnesses and
22 try gathering up more information?

23 A Yes.

24 Q Would that include interviewing a Jeana Scott and
25 Judy Dixon and those individuals?

1 A Yes. I believe there was five that I ended up
2 interviewing.

3 Q Now, I take it, as the sergeant on the scene, you
4 also, did you have an opportunity to review the
5 reports of Officers Mesman and Baar?

6 A Yes, I did.

7 Q Okay, and your purpose in doing so?

8 A I usually review them to make sure they have what
9 needs to be in there. Sometimes I don't get to
10 review them until the next day.

11 Q I take it that's part of your duties and
12 responsibilities as a sergeant?

13 A Sometimes it is.

14 Q Did you request that or note some different -- or
15 mistakes or something in either of these
16 individuals' reports?

17 A I didn't myself. That came from
18 Detective Karpowicz.

19 Q Did she tell you, then?

20 A Yes, she did, then, tell me that she saw some
21 clerical errors in Officer Mesman's report and
22 that she wanted more information in Officer Baar's
23 report.

24 Q And did you then convey that information to
25 Officers Baar and Mesman?

1 A Yes, the next day I sat down with them and had
2 them revise their reports.

3 Q And that's why another report was generated?

4 A That is right.

5 MR. BRAMBLE: I have nothing further.

6 THE COURT: Mr. Stephen Turner's jury
7 can step out for a moment in your jury room.
8 We'll call you back before lunch.

9 (At about 11:30 a.m. - The Stephen
10 Turner jury left the courtroom)

11 THE COURT: Mr. Mirque?

12 MR. MIRQUE: Thank you.

13 **CROSS-EXAMINATION**

14 **BY MR. MIRQUE:**

15 Q Sergeant Carrier, you didn't write up a revised
16 report, did you?

17 A No, sir, I did not.

18 Q So your report was complete and accurate the first
19 time?

20 A Yes.

21 Q When you put something in quotations, that would
22 indicate that it's a direct quote from whomever
23 you're speaking with?

24 A That's correct.

25 Q So if Lakeysha said that Daniel Turner hurt her,

1 that's because Lakeysha Cage said that to you?

2 A That is correct.

3 Q The reason why you put it in quotations is not for
4 a defense attorney or anybody else to accuse you
5 of misusing words?

6 A That's correct.

7 Q So it's very important that when there is a
8 quotation, you mark it as such, and when there
9 isn't, you just say it to the best of your
10 ability?

11 A That's correct.

12 Q Now, did you take any active participation in
13 interviewing Lakeysha at all or were you just
14 following the lead of Officer Mesman?

15 A I just stood by while Officer Mesman was talking
16 to her, and then I would ask questions if I wanted
17 something clarified.

18 Q When Lakeysha was describing how she was taken
19 from the stairs, how did you hear her describe how
20 she was taken from the stairs?

21 A When I was there, just to clarify something,
22 Officer Mesman had interviewed her before I got
23 there, and when I showed up it was just to get a
24 brief summary of what happened so I could make a
25 determination.

1 When I was there with her, she said that
2 she had been on the stairs and that he had grabbed
3 her and took her down to the apartment.

4 Q How did Daniel Turner grab her?

5 A Around the middle, is what she told me.

6 Q She told you or told Officer Mesman, which was it?

7 A Probably when she was talking to both of us there,
8 when I asked her to clarify.

9 Q So Lakeysha told either you or Officer Mesman or
10 both of you at the same time that she was grabbed
11 around the middle?

12 A Uh-huh.

13 Q She didn't say that she was grabbed around the
14 neck when she was being taken?

15 A Not that I recall.

16 Q She didn't say that she was -- had a hand over her
17 mouth when she was being taken?

18 A When I talked to her, no.

19 Q Having heard how she was taken and then taken into
20 the apartment, did she at any time say that the
21 first place in the sequence of events was the
22 living room, or did she say she was taken into the
23 back room?

24 A I think when I talked to her she said that she was
25 taken into the bedroom.

1 Q What happened while she was in this bedroom?

2 A What she told me was that he had taken her clothes
3 off, he had taken his own clothes off, he had laid
4 on top of her and that he had hurt her, and that
5 he had urinated on her, that he had sucked her
6 breasts and fondled her breasts.

7 Q Okay. It was clear from talking with her that
8 that all happened in the bedroom?

9 A That's what I remember.

10 Q And it was clear that Lakeysha said that Daniel
11 Turner, who she was describing as the man with the
12 lipstick, was sucking on her breast?

13 A That's true.

14 Q And that he hurt her?

15 A That's true.

16 Q And that he urinated on her?

17 A That's true.

18 Q When these events had happened in the bedroom,
19 then after talking with Lakeysha, what was the
20 next sequence of events that happened?

21 A Well, what she had told us, when I was talking to
22 her, is that she had been drug from the bedroom.

23 Q Excuse me?

24 A She had been drug, drugged, you know, dragged.

25 Q Oh, dragged from the bedroom?

1 A Right.

2 Q Down the hallway?

3 A Yes.

4 Q Did she say how she was dragged?

5 A If I review my report here, I think it was -- I
6 don't remember, it's not in the report. It just
7 says "she was dragged."

8 Q That she was dragged from here (indicating) --

9 A Uh-huh.

10 Q -- past the bathroom, down the hallway, past the
11 kitchen, and then into this living room area
12 (indicating)?

13 A Yes.

14 Q And once in the living room, what happened there?

15 A That she had been asked if she wanted to watch
16 video games, and at that point is when she had
17 been made to try on the bras and panties, and they
18 were watching a video strip poker. He had put her
19 on his lap at this time and was fondling her while
20 the video was going on.

21 Q You mentioned the fake breasts.

22 A Uh-huh.

23 Q In your report you also say he also had fake
24 breasts he had her touch. Now, was it "touch" or
25 was it "trying on"?

1 A The breast was touched.

2 Q Was touched, okay. So from what Lakeysa said,
3 there was nothing to indicate that he strapped
4 these things on her and made her wear them, just
5 touch them?

6 A Not from what she told me at the time that I
7 talked to her.

8 Q Later on in the report -- well, later on in what
9 happened in here, she said that Daniel Turner then
10 forced her into playing these video games?

11 A That's correct.

12 Q When you say "forced her to play," that's a very
13 important word. Now, that wouldn't be a word that
14 you would want to translate into -- a simple
15 invitation as to being an actual forcing event.

16 A No. My understanding was that he actually forced
17 her, that he was holding her down while they were
18 playing it.

19 Q Okay, actual manifestation of his strength upon
20 her?

21 A That's true.

22 Q And that comes from Lakeysa, or from what you --
23 after talking with her?

24 A That's true.

25 Q Then after the video game incident, she said she

1 left?

2 A That's true.

3 Q Now, you say that you don't want to ferret out the
4 entire information, that's not your job. You
5 leave that to a detective later on?

6 A That's correct.

7 Q But if Lakeysha had something to tell you, you
8 certainly wouldn't want to cut her off, would you?

9 A No.

10 Q If she had a story to say or any other pertinent
11 information to the investigation, you wouldn't
12 just say, "Oop, wait, that's for the detectives to
13 hear and I shouldn't be listening to that"?

14 A No, I would listen.

15 Q So if Lakeysha wanted to say that a man put his
16 penis in her mouth, that would be something you'd
17 want to put down?

18 A Yes.

19 Q If Lakeysha said that there was a photograph taken
20 by Daniel Turner setting her up to look like she
21 was stabbing Stephen Turner, you would have put
22 that down, also?

23 A If I would have heard that.

24 Q But again, you weren't fishing for those things.

25 If she wanted to spontaneously say that, you would

1 put it down?

2 A Right.

3 Q How was she when she was describing this incident,
4 pretty upset?

5 A Yes, she was.

6 Q When she talks -- obviously you didn't see her
7 talk here, but did you notice that she kind of
8 like just talks in like lots of sentences, like
9 entire pages, and then you kind of have to go
10 back? Did she just talk?

11 A No.

12 Q Does she like to talk?

13 A That night she was very subdued, very quiet. She
14 would tell a few things, but she was afraid and --
15 she would tell us what happened and then she would
16 withdraw for a while, and then she would talk
17 again.

18 Q When she was talking, did you encourage her to
19 just calm down and reflect back so that you could
20 make a report?

21 A Yes.

22 Q Just take it easy?

23 A It's the same when we talk to victims of any
24 kind. We want to get them to establish a rapport
25 with us so that they will tell us what happened so

1 we can determine, you know, what happened and what
2 we need to do.

3 Q Did you get a description from Lakeysa as to what
4 the individual -- what Daniel Turner was wearing?

5 A No, I did not.

6 Q Did you get a description from India Harris as to
7 what Daniel Turner was wearing?

8 A No, I don't remember getting a description from
9 India.

10 Q Did you talk with India?

11 A Yes, I did.

12 Q If it would refresh your memory, would you care to
13 look over what you spoke with India about and see
14 if you did get a description of Daniel Turner?

15 A She didn't give me a description of Daniel
16 Turner. She told me what Keysha had told her that
17 Daniel Turner had on.

18 Q What was that, I'm sorry?

19 A She didn't tell me or give me a description of
20 Daniel Turner. She told me what Lakeysa had told
21 her.

22 Q So --

23 A She didn't actually see him.

24 Q Okay, she said --

25 A She told me what Lakeysa told her.

1 Q India had told -- I'm sorry, Lakeysha said what
2 Daniel Turner was to India and you got that?

3 A That's correct.

4 Q Okay. Perhaps the reason why I'm not asking you
5 that is because it would be hearsay, wouldn't it?

6 A That's true.

7 Q What was Daniel Turner wearing that night?

8 A I don't know. I never saw Daniel.

9 Q You never saw Daniel?

10 A I never talked to him, no, I did not. He was
11 already in the police cruiser when I arrived.

12 Q You mentioned that you had a discussion with
13 Detective Karpowicz, and then later on went to
14 talk with Officer Baar and Mesman about this
15 incident?

16 A That's true.

17 Q What were some of the things that
18 Detective Karpowicz wanted you to go over with
19 Officer Baar and Officer Mesman?

20 A The main thing in Officer Mesman's report was that
21 he had some clerical errors. He had some
22 apartment numbers but the wrong people, telephone
23 numbers with the wrong people. Basically,
24 clerical errors.

25 And in his report he referred to India

1 as Cynthia, and so I had him change that to
2 India. Cynthia was the mother's name. India was
3 the witness's.

4 Q Do you remember correcting Officer Mesman's report
5 in regard to the lipstick on the collar?

6 A I could have, I don't --

7 Q You don't remember mentioning that to him?

8 A I had written down some things that needed to be
9 looked at, and that could be one of them.

10 Q And that came from Detective Karpowicz?

11 A That's correct.

12 Q So it wasn't by your own independent decision?

13 A No.

14 Q As with Officer Baar, all of the changes or
15 amendments came per Detective Karpowicz's desire
16 for you to correct those matters?

17 A Yes, most of them did. And most of Officer Baar's
18 were things that he had told the detectives and
19 thought that they had documented it and instead
20 had put it in his report.

21 Q At any time did Lakeysha say that the first
22 sequence of events started in the living room?

23 A Not while I was talking to her, and again, I only
24 talked to her briefly.

25 Q She didn't talk to you about any type of

1 penetration, did she?

2 A I didn't talk to her about that. The closest she
3 got when I was talking to her was that he hurt
4 her.

5 Q Just hurt her?

6 A Of course, we were outside the apartment, too.
7 She didn't go into detail.

8 Q But if she wanted to or if she had an opportunity
9 to, you certainly would have allowed her to?

10 A Yes. If I wanted to get more information, if I
11 wanted to interview her, basically, then I would
12 have taken that.

13 Q Thank you.

14 THE COURT: Mr. Bramble?

15 **REDIRECT EXAMINATION**

16 **BY MR. BRAMBLE:**

17 Q Now, during my examination of you, you spoke of
18 the fact that you were right outside this
19 apartment, a couple doors down from it.

20 A Yes, sir.

21 Q And that Lakeysa appeared upset and withdrawn or
22 something?

23 A Yes.

24 Q How would you describe that?

25 A That she was, you know, she was upset, she was

1 pretty withdrawn. She didn't talk freely about
2 what had happened.

3 Q And then you indicated in response to one of
4 defense counsel's questions that when you're
5 interviewing victims of crime, you try to
6 establish some rapport, and that that's part of
7 the process, is that right?

8 A That's true.

9 Q I take it by that, Sergeant Carrier, you've
10 interviewed a number of people?

11 A Yes, sir, I have.

12 Q Under scenes such as this?

13 A In the last two-and-a-half years, there's been a
14 number of this kind of scene, yes.

15 Q So there's a fair amount of commotion and it
16 happened -- and you're interviewing them at the
17 scene in close proximity to when it happened?

18 A Yes.

19 Q Is it unusual for victims to be upset?

20 A Oh, no.

21 Q Is it unusual for them not to disclose something
22 to you right there at the scene, but later when
23 they're able to sit down away from the scene when
24 it occurred and talk to detectives under other
25 circumstances, to have them describe the full

1 incident in more detail?

2 A No, it's not unusual at all.

3 Q Unusual when there's a ten-year-old child
4 involved, when there are children involved?

5 A That's not unusual at all for a ten year old.

6 Q Were the two defendants, were they placed in the
7 same police cruiser?

8 A Yes, sir, they were.

9 Q Is that standard procedure?

10 A If I would have been there, I probably would have
11 put them in separate cruisers.

12 Q Okay.

13 MR. BRAMBLE: I have nothing further,
14 your Honor.

15 THE COURT: Anything more, Mr. Mirque?

16 MR. MIRQUE: Yes.

17 **RECROSS-EXAMINATION**

18 **BY MR. MIRQUE:**

19 Q Officer Carrier, you spoke that you were
20 questioning the Marbles and Lakeysa outside of
21 their apartment?

22 A That's correct.

23 Q Do you recall where the Turners' apartment was?

24 A It's about three or four doors down, I believe.

25 Q Approximately how many feet is that?

1 A It's not far.

2 Q Give us a look here.

3 A It would not be, it would not be the full length
4 of this room. It would be closer than that.

5 Q Closer, approximately where that gentleman is
6 sitting (indicating)?

7 A That could be. I haven't been out there since
8 July, but from what I remember, it was in pretty
9 close proximity.

10 Q Okay.

11 MR. MIRQUE: Your Honor, a little help
12 here?

13 THE COURT: Well, there are 13
14 three-foot panels, so that's 39 feet, and there's
15 four inches between the panels, another four feet,
16 so roughly 44, 45 feet, total length.

17 **BY MR. MIRQUE:**

18 Q When you were investigating -- I'm sorry, when you
19 were talking with the Marbles, was it in a
20 conversational tone or did it have to be increased
21 because of the commotion from the people
22 downstairs?

23 A It was in a conversational tone. There was a lot
24 of people around the apartment complex. So we
25 were talking, basically, in a more hushed tone

1 than a normal conversation because of the people
2 around.

3 Q Okay, thank you.

4 MR. BRAMBLE: Nothing further.

5 THE COURT: Ladies and gentlemen, you
6 can go to lunch, since it's quarter to twelve, and
7 please be back here at 1:30 so that we can resume
8 the matter. We'll spend the rest of our morning
9 with Mr. Stephen Turner's jury. See you at 1:30.

10 (At about 11:47 a.m. - The Daniel Turner
11 jury left the courtroom)

12 MR. BRAMBLE: Your Honor, I assume
13 you're going to finish up this witness and then go
14 to lunch?

15 THE COURT: Yes.

16 (At about 11:48 a.m. - The Stephen
17 Turner jury returned to the courtroom)

18 THE COURT: Miss Krause?

19 MS. KRAUSE: Thank you, your Honor.

20 **CROSS-EXAMINATION**

21 **BY MS. KRAUSE:**

22 Q Good morning, Sergeant Carrier.

23 A Good morning.

24 Q How are you?

25 A Good. How are you?

1 Q Fine, thanks. As I understand, when you arrive at
2 the Oak Park Apartments there were already police
3 officers there?
4 A Yes.
5 Q Specifically, Officer Mesman?
6 A Yes.
7 Q And Officer Baar?
8 A Yes.
9 Q And it was your understanding that Officer Mesman
10 had already talked to the alleged victim,
11 Lakeysha?
12 A Yes.
13 Q And, as a supervisor, you wanted to make sure that
14 there was enough evidence to make arrests, if that
15 was what was necessary, correct?
16 A Yes.
17 Q So based on that, you wanted to hear what Lakeysha
18 had to say, as well?
19 A Yes.
20 Q Now, when you were listening to what Lakeysha
21 said, I believe you told us that Officer Mesman
22 was the one asking questions?
23 A Yes.
24 Q And you would only interrupt or interject if you
25 felt something needed to be clarified?

1 A This is true.

2 Q All right. Based on your report and your personal
3 understanding, would it be fair to say that the
4 majority of Lakeysha's attention was focused on
5 the man with the lipstick?

6 A Yes.

7 Q All right, and you now know that the man with
8 lipstick has been identified as Daniel Turner?

9 A That is correct.

10 Q When she talks about being taken off the stairs,
11 that's by the man with lipstick, correct?

12 A That is correct.

13 Q And not Stephen Turner?

14 A That is correct.

15 Q And when she talks about being dragged into an
16 apartment, that is by the man with lipstick,
17 correct?

18 A That is correct.

19 Q And not by Stephen Turner?

20 A Yes.

21 Q And when she talks about the initial sexual
22 touching in the apartment, she talks about the man
23 with lipstick?

24 A That's correct.

25 Q And not Stephen?

1 A That is correct.

2 Q When Lakeysha talks about playing video games,
3 that's with the man with lipstick, correct?

4 A That is correct.

5 Q And not Stephen?

6 A Yes.

7 Q When she talks about being threatened not to tell
8 anyone, that's by the man with lipstick, Daniel
9 Turner, correct?

10 A Yes.

11 Q And not Stephen?

12 A Yes.

13 Q The one thing that you indicate in your report you
14 told us about today that relates to Stephen is
15 that Lakeysha said Stephen came into the back
16 bedroom, correct?

17 A That's correct.

18 Q While Lakeysha and the man with lipstick were in
19 there?

20 A That's correct.

21 Q "There," being the back bedroom?

22 A Yes.

23 Q And Stephen makes a comment about, "I want some of
24 that, too," correct?

25 A That is correct.

1 Q The man with lipstick said, "No," correct?

2 A That's correct.

3 Q And then Stephen said he didn't want Lakeysa in
4 the bedroom, correct?

5 A That is correct.

6 Q Could the person who said "no" actually have been
7 Stephen? Could that have been switched around?

8 A From what she told me, he was -- she told me it
9 was the man with the lipstick, Daniel.

10 Q Are you aware she testified the other way around
11 in court?

12 A No, I'm not.

13 Q No one has told you about that?

14 A No.

15 Q I think you've also told us that according to
16 Lakeysa, Stephen dragged her out of the back
17 bedroom?

18 A That is true.

19 Q And that Stephen was feeling her breasts as he
20 dragged her?

21 A Yes.

22 Q Do you recall Lakeysa saying how she was dragged
23 out of the back bedroom?

24 A I don't recall.

25 Q Again, are you aware that she testified

1 differently?

2 A No, I'm not.

3 Q When you arrived at the scene, Sergeant Carrier,
4 were Lakeysha's parents still there?

5 A Yes, they were.

6 Q And they were in close proximity with Lakeysha,
7 correct?

8 A That is correct.

9 Q And while you were listening to Officer Mesman's
10 questions, did they try to talk at all?

11 A No.

12 Q Had the scene been calmed down by that point in
13 time?

14 A It was. The parents, of course, were still upset,
15 but the two subjects were in the car and there
16 were still a lot of neighbors around listening and
17 wanting to know what's going on.

18 Q So would it be fair to say there's still a certain
19 amount of confusion while you and Officer Mesman
20 were talking to Lakeysha, right?

21 A That is true.

22 Q Now, also, Sergeant Carrier, there's been talk
23 that both Daniel Turner and Stephen Turner were
24 placed into the same cruiser?

25 A Yes.

1 Q Whose cruiser was that, Mesman's or Baar's?
2 A Baar.
3 Q Was Officer Baar in the cruiser?
4 A He was when I got there.
5 Q Lakeysha was asked to identify which of the men in
6 the cruiser was the one who hurt her, isn't that
7 true?
8 A Yes.
9 Q And she said that it was the man with the
10 lipstick, correct?
11 A That is true.
12 Q As a sergeant, you're responsible for your
13 officers underneath you, correct?
14 A That's true.
15 Q As a general statement?
16 A Yes.
17 Q And one of the things in your responsibility is to
18 sometimes review their reports, correct?
19 A That is true.
20 Q And in this particular case you did review
21 Officer Mesman's report?
22 A The next day. I did not review it that night.
23 Q So the answer is "yes"?
24 A Yes.
25 Q And you reviewed the other officer's, Officer

1 Baar's --
2 A That's true.
3 Q -- correct? And you had a conversation with
4 Detective Karpowicz, correct?
5 A That is correct.
6 Q And based on the conversation with
7 Detective Karpowicz, a request was made by her
8 that Mesman's and Baar's reports be revised,
9 correct?
10 A That is correct.
11 Q And specifically as it relates to Officer Mesman's
12 report, something that had to be changed was the
13 fact that names and addresses did not correspond
14 correctly in his report?
15 A That is correct.
16 Q And another thing that had to be changed was in
17 Officer Mesman's report, he had misunderstood the
18 name "Cynthia" when it was supposed to have been
19 the name "India" --
20 A That is correct.
21 Q -- correct? No further questions of Sergeant
22 Carrier.

23 THE COURT: Anything more, Mr. Bramble?

24 MR. BRAMBLE: Very briefly.

25

1 **REDIRECT EXAMINATION**

2 **BY MR. BRAMBLE:**

3 Q How close was this interview or this brief
4 discussion with Lakeysha conducted from the
5 defendants's apartment?

6 A It was probably -- the apartments are about three
7 or four doors down, so it's in close proximity.

8 Q I take it you have, in your thirteen years of
9 being a police officer and your two-and-a-half
10 years as a sergeant, interviewed a number of
11 victims of crimes, both sexual assault and other
12 crimes?

13 A Yes, sir.

14 Q Does your purpose remain constant? In other
15 words, you're just trying to figure out if you
16 have enough to make a decision or base a decision?

17 A Yes.

18 Q Okay. And is it unusual for these victims to not
19 disclose to you everything that has occurred?

20 A Not at all.

21 Q Okay, and especially when you have a child?

22 A Especially when you have a child.

23 Q And is that the kind of thing you leave to the
24 detectives and the Major Case Team, or whatever?

25 A That's true, that is their responsibility.

1 Q Were both these individuals placed in the same
2 police car?

3 A Yes, they were.

4 MR. BRAMBLE: I have nothing further.

5 THE COURT: Miss Krause?

6 MS. KRAUSE: Nothing further.

7 THE COURT: Thank you, Officer. You can
8 go, ladies and gentlemen. Given the hour, let's
9 break for lunch and we'll resume here at 1:30.

10 (At about 11:56 a.m. - Recess taken)

11 (At about 1:45 p.m. - The Daniel Turner
12 jury returned to the courtroom)

13 (At about 1:45 p.m. - The Stephen Turner
14 jury returned to the courtroom)

15 THE COURT: Mr. Bramble, you may call
16 your next witness.

17 MR. BRAMBLE: Thank you, your Honor.
18 The State would call Officer Michael Baar.

19 **OFFICER MICHAEL BAAR,**
20 called by the People at 1:45 p.m. and sworn by the
21 Court, testified:

22 **DIRECT EXAMINATION**

23 **BY MR. BRAMBLE:**

24 Q Sir, you're employed?

25 A Yes, sir, I am.

1 Q With the Grand Rapids Police Department?

2 A Yes, sir.

3 Q How long have you been employed as a police
4 officer?

5 A Approximately four years now.

6 Q Were you employed at all as a police officer prior
7 to that?

8 A The security police in the air force.

9 Q And your duties and responsibilities as a police
10 officer?

11 A Are to respond to calls for emergency service and
12 citizen requests.

13 Q You were working in that capacity on July 7, 1993?

14 A Yes, sir.

15 Q Did you respond to a dispatch to 4130 Oak Park,
16 Southeast, Apartment 204?

17 A Yes, I was.

18 Q That's the city of Grand Rapids, County of Kent,
19 State of Michigan?

20 A Yes.

21 Q When you arrived there, what did you observe?

22 A When I arrived there, Officer Mesman was already
23 on the scene, and had called in a disturbance
24 where a man had been beating on the door of an
25 apartment with a crowbar.

1 Q By this time had all this been stopped?

2 A Yes, sir.

3 Q Did you knock on the door of Apartment 204?

4 A Yes, sir, I did.

5 Q Did someone respond to the knock on the door?

6 A Yes, Daniel Turner opened the door.

7 Q Is he present in the courtroom?

8 A Yes, he is.

9 Q And can you point where he is and describe what
10 he's wearing?

11 A He's seated at the defendant's table, light-blue
12 shirt, long dark hair.

13 Q Does he have the tie on?

14 A No tie.

15 MR. BRAMBLE: Your Honor, may the record
16 reflect the identification of Daniel Turner?

17 THE COURT: It may.

18 MR. BRAMBLE: Thank you.

19 **BY MR. BRAMBLE:**

20 Q What did this defendant, Daniel Turner, say to
21 you, initially?

22 A He invited myself and Officer Mesman into the
23 apartment, and then I stepped inside and
24 Officer Mesman kind of stood in the doorway behind
25 me.

1 Q Did you ask the Defendant Daniel Turner what
2 happened?

3 A Yes, I asked him what had happened here.

4 Q How did he respond?

5 A He says, "Just take me to jail."

6 Q What did you do when he said, "Just take me to
7 jail"?

8 A Well, I'm not just going to take somebody to jail
9 for no reason. I asked him why.

10 Q How did he respond?

11 A He responded, quote, "You know, what she's
12 accusing me of," end quote.

13 Q Where were you standing when the defendant made
14 this statement to you?

15 A Inside the apartment.

16 Q Did you have contact with another individual in
17 the apartment?

18 A Yes, Stephen Turner, also, was there.

19 Q Was he standing in the living room when the
20 defendant, the Co-defendant Daniel Turner made the
21 statement you just indicated?

22 A Yes, he was.

23 Q Did you talk to Mr. Stephen Turner and ask him
24 about his knowledge concerning this?

25 A I asked if he was present during the incident.

1 Q And what did he say?

2 A He said, "I have been here all day, but I have
3 been sleeping and just woke up."

4 Q Was he in the living room when he made that
5 statement?

6 A Yes, he was.

7 Q Can you describe what else was in this living
8 room, or just give a brief description?

9 A There was a mattress on the floor, sheets were
10 piled on top of it, kind of ruffled sheets in
11 disarray.

12 Q Did you get a look at, a close look at the
13 Defendant Daniel Turner?

14 A Yes, I did, I was within a couple feet of him.

15 Q And at some point did you believe he had a cut lip
16 or something?

17 A Yes, I thought his lip was bleeding or he'd been
18 hit or struck, and I asked him if his lip was cut
19 or bleeding, and he picked up a tissue, wiped his
20 lip, and he wiped off some lipstick and tossed the
21 tissue toward the kitchen.

22 Q Did he have any other make-up or anything like
23 that on that you could see?

24 A There was, I believe its eye shadow, black around
25 his eye that was beginning to run and smudged on

1 his face.

2 Q Was his lip bleeding?

3 A No, it was not. It was my misperception.

4 Q Did you have a chance to talk to Lakeysha?

5 A Yes, I did.

6 Q Where would that have been?

7 A That would have been on the balcony outside of
8 Apartment 204.

9 Q And had Officer Mesman already spoke with her?

10 A Yes.

11 Q Okay, and what at that point, what did you ask or
12 what do you believe you asked Lakeysha?

13 A I was trying to follow through on when I arrived,
14 I heard Lakeysha say to the extent of that the
15 suspect had laid on top of her and had touched her
16 private parts. I was asking her if he had touched
17 her vagina with his penis or tried to touch her
18 vagina with his penis to determine what degree of
19 CSC it would be.

20 Q Okay. I want to step back. You have had an
21 opportunity to review your report, have you not?

22 A Yes, sir.

23 Q You reviewed it prior to coming in to testify?

24 A Yes, I did.

25 Q These statements that you have attributed to the

1 Defendant Daniel Turner, how are they set forth in
2 your report? Do you have a copy of it?

3 A I asked Lakeysha if the man with the long hair and
4 lipstick penetrated her vagina with his penis.

5 Q Okay. I want to step back to Daniel Turner,
6 questions and answers of Daniel Turner, if you
7 could. I want to get to that.

8 A Okay. The questions in his apartment, what I
9 asked Daniel?

10 Q Yes.

11 A Okay. I'd asked both for their identification.
12 Both provided me a driver's license. I asked
13 them, "What has happened here?" Daniel replied,
14 quote, "Just take me to jail," end quote.

15 I asked Daniel why, and he replied,
16 quote, "You know, what she's accusing me of," end
17 quote.

18 I asked Daniel if he would like to tell
19 me his side of the incident --

20 Q No, let's go down to the statement of Stephen,
21 Stephen Turner, and is that also in quotation
22 marks, when you asked him what he knew about it?

23 A Yes.

24 Q Where he was?

25 A Yes.

1 Q What did he respond?

2 A I asked Stephen if he was here during the incident
3 and he replied, quote, "I have been here all day,
4 but I have been sleeping and just woke up," end
5 quote.

6 Q Are those direct quotations from these two
7 respective defendants?

8 A Yes, sir.

9 Q Now, you've had a chance to talk to Lakeysha --

10 A Yes.

11 Q -- to try to determine what went on, and so on.

12 And did you ask her concerning this incident where
13 he was, where you heard he was on top of her?

14 A Yes.

15 Q Okay. And do you recall exactly what you asked
16 her?

17 A Not verbatim, no.

18 Q Okay. What -- you reviewed your report and
19 everything. What did you ask her, what do you
20 believe you asked her?

21 A I believe I asked her if he had tried to penetrate
22 her vagina with his penis or if he had penetrated
23 her, to determine if we had a misdemeanor or
24 felony, or what degree.

25 Q Okay. And was this done -- who was present when

1 you were asking these questions?

2 A Lakeysha was there, her parents were there.

3 Lakeysha was by her parents' side, kind of just
4 been crying or very scared, by her parents.

5 Officer Mesman was there, kind of back
6 to my side, and that's all. The suspects were out
7 of range.

8 Q When you asked this question, how did she respond?

9 A She nodded her head, said, "Yes," and that was
10 all. She was very reluctant.

11 Q Now, there's been some testimony from both Officer
12 Carrier and -- Sergeant Carrier and Officer Mesman
13 regarding the functions of the officers on the
14 scene and then the detectives.

15 Is it your purpose to sit there and take
16 an entire, detailed statement from a victim at
17 this time, or do you leave it up to the
18 detectives?

19 A No, we're just getting enough to contain somebody
20 and call for detectives or a supervisor.

21 Q Is that your purpose in this stage?

22 A Yes, sir.

23 Q And how would you describe Lakeysha's demeanor
24 throughout your limited contact with her?

25 A She wasn't free-flowing, she wasn't talking to me

1 like a friend. She was -- she'd been traumatized,
2 obviously, and had been crying or was still in the
3 process of crying.

4 Q Where did your amount of contact with her, where
5 did it occur?

6 A Outside of the Apartment 204.

7 Q Right near 204, right near where this --

8 A Yes, or maybe five feet to the east of it, outside
9 of the balcony.

10 Q Okay.

11 MR. BRAMBLE: I have nothing further.

12 THE COURT: Why don't we do our usual
13 order. Let's have the Daniel jury stay in the
14 courtroom and have the Stephen Turner jury go to
15 the jury room, and we'll call you back very
16 shortly, I suspect.

17 (At about 1:54 p.m. - The Stephen Turner
18 jury left the courtroom)

19 THE COURT: Mr. Mirque?

20 MR. MIRQUE: Thank you.

21 **CROSS-EXAMINATION**

22 **BY MR. MIRQUE:**

23 Q Officer Baar, I see that you've submitted two
24 reports in this case, is that correct?

25 A Yes, it is.

1 Q Your first report is approximately a
2 page-and-a-half, is that right?

3 A I don't have a handwritten one. It's
4 approximately, yes, sir.

5 Q And your second report is close to four full
6 pages?

7 A Yes, sir.

8 Q What happened? Why is four pages or three pages
9 added to the report? What happened?

10 A I wrote my original report with the most pertinent
11 details in it that I felt other investigators
12 wouldn't have covered. Anything added to the
13 report -- I was asked by Officer Karpowicz to
14 write another report with the other facts I had
15 discussed with her it in.

16 I did not write them in the report
17 because I felt the other investigators would cover
18 them in their reports.

19 Q So you wrote a report with pertinent facts, the
20 first report, that you felt pertinent, and then
21 Officer Karpowicz had other information and felt
22 it to be pertinent and asked you to put it in your
23 report?

24 A No. I had the information and I just let her know
25 of it verbal, and she asked me to include it in

1 writing in the report.

2 Q Is that because she felt it was pertinent to the
3 case?

4 A Yes, sir.

5 Q But the first time you wrote it you didn't think
6 it was pertinent?

7 A I thought it would be covered by other
8 investigators in their reports.

9 Q You said that in asking Lakeysha, "Did he," being
10 Daniel Turner, "penetrate your vagina," you were
11 trying to determine the degree of CSC?

12 A Yes, sir.

13 Q So it was -- now, is that a common function for a
14 patrol officer to determine, given a CSC incident,
15 determine whether it's a first, where there's
16 penetration, or second, if it's just a touching?
17 Is that common?

18 A Not necessarily first or second, but to determine
19 misdemeanor or felony, whether we're going to
20 arrest somebody there.

21 Q Okay, so if it's a misdemeanor, like just -- what
22 would be a misdemeanor CSC?

23 A Maybe a totally unrelated person slapping a
24 woman's bottom with a hand.

25 Q So the extent of your investigation at least was

1 to determine whether or not there was forced
2 penetration versus casual touching?
3 A Not necessarily casual. There's other
4 circumstances come into play.
5 Q But you wanted to know whether there was
6 penetration?
7 A Yes.
8 Q And you said that Lakeysha was not very
9 conversational. She was sort of --
10 A Correct.
11 Q So you point-blank asked her, "Did he penetrate
12 your vagina"?
13 A Yes.
14 Q And did she understand that question?
15 A She kind of was quiet for a moment, and her mother
16 helped clarify for her.
17 Q What did the mother say?
18 A Her mother looked at her and said, "Your cat."
19 Q And then what?
20 A And then Lakeysha nods her head and says, "Yes."
21 Q So Lakeysha is asked did you penetrate -- "Did he
22 penetrate your vagina," and the response was,
23 "Yes"?
24 A Yes -- well, not those exact quotes, but
25 thereabouts.

1 Q Well, how does it differ?

2 A Like I say, I don't remember exactly what I asked
3 Lakeysha, but it was to the extent of, "Did he
4 penetrate your vagina or attempt to," and the
5 mother helped me clarify the word "vagina" to her
6 by saying, "Your cat."

7 Q And like Officer Mesman or any other officer, when
8 you put something in quotes, that is a direct
9 statement from a person whom you're speaking with?

10 A Yes, sir.

11 Q And that's so that we don't have any
12 misunderstanding as to what that person said?

13 A Yes, sir.

14 Q So when Lakeysha said "yes," there is no
15 misunderstanding as to what she said?

16 A That was a direct quote from Lakeysha.

17 Q When you gave -- when you told Daniel that you
18 thought his lip might be cut, where did he get the
19 tissue from?

20 A I --

21 Q Did you supply him with a tissue?

22 A No, I didn't supply him. It was somewhere on him
23 or his apartment.

24 Q And what did he do, just see if it was cut?

25 A No, he made an abrupt wipe across his mouth where

1 I could see lipstick on the tissue.

2 Q And lipstick did come off on the tissue?

3 A Yes.

4 Q And what happened with that piece of tissue?

5 A He turned around and threw it towards the kitchen
6 where I couldn't see where it landed, either in a
7 wastebasket or on the kitchen floor, I don't know.

8 Q Do you know what happened to that piece of tissue?

9 A No.

10 Q But you saw lipstick come off on that piece of
11 tissue?

12 A Yes, I did.

13 Q You've told us that when Daniel was arrested, or
14 when Daniel was being questioned by you as to what
15 happened here, he said just take her -- or "Just
16 take us, what she's accusing me of"?

17 A He said, "Just take me to jail."

18 Q Did you tell him what you were taking him to jail
19 for?

20 A No, I did not, not at that point.

21 Q Did you ever tell him what you were taking him to
22 jail for?

23 A Yes, I did.

24 Q At what point was that?

25 A After Sergeant Carrier had arrived on the scene,

1 talked with Lakeysha, and Sergeant Carrier made
2 the determination to arrest the suspects, I told
3 them in the jail that, "You are being arrested for
4 CSC First."

5 Q You told them in the jail?

6 A Excuse me, in the car on the way to the jail, as
7 we were leaving the apartment complex.

8 Q So while he was in the patrol car, you told him he
9 was being arrested for CSC First?

10 A Charged with.

11 Q Charged with CSC First. Well, then, why did he
12 ask whether he was being arrested for a
13 misdemeanor or a felony?

14 A I assume he didn't know which one it was.

15 Q Where did he ask that question?

16 A In the patrol car.

17 Q So in the patrol car, prior to you telling him
18 what he was being arrested for, he had no idea as
19 to whether this was a misdemeanor or a felony?

20 A I guess not.

21 Q So wouldn't you say at the time he was in the
22 apartment, he also didn't know whether he was
23 being charged with a misdemeanor or a felony?

24 A I didn't tell him he was being charged with
25 anything at that point. I was just trying to see

1 what happened there.

2 Q But if he didn't know in the patrol car what he
3 was being charged with, it would make since that
4 fifteen, twenty minutes earlier he also didn't
5 know, did he?

6 A I'm not sure what you're getting at. He may not
7 have known whether it was a misdemeanor or felony,
8 but he felt whatever he did was for to us take him
9 to jail.

10 Q But it wasn't until after he was in the patrol car
11 you informed him that he was being charged with a
12 felony rape?

13 A Correct.

14 Q Did you get any other statements from Lakeysha,
15 other than the fact that she said that Daniel
16 penetrated her vagina?

17 A There may have been some other small conversation,
18 and in my report I only listed one other
19 statement.

20 Q Do you have your report with you?

21 A Yes, I do.

22 Q Would you look at it, please, to see if you can
23 recall any other statements that you had with her?

24 A She nodded her head "yes." I asked Lakeysha what
25 room it happened in. Lakeysha said, "When I woke

1 up," and then she was abruptly cut off by her
2 mother, who was somewhat upset that she heard the
3 words "woke up" from her daughter, "woke up."
4 "Why were you sleeping in his apartment, where
5 were you asleep."

6 Lakeysha went off with her mother to try
7 to explain what she meant by "woke up."

8 Q And then what?

9 A Then I went back to the patrol car.

10 Q Well, what did she explain?

11 A She explained that one of the suspects had caused
12 her to bump her head against the wall and maybe
13 pass out, lose consciousness, something to that
14 extent.

15 Q Well, Officer, that's not what it says in your
16 report. It doesn't say that one of the suspects
17 caused her to bump her head on the wall.

18 A It says, "Lakeysha explained that one of the
19 suspects threw her against the wall, causing her
20 to hit her head and pass out."

21 Q "Threw her against the wall, causing her to pass
22 out," that's what Lakeysha said?

23 A Yes, sir.

24 Q And this was in response to the mother asking,
25 "Why were you sleeping? What do you mean you

1 woke up"?

2 A That's correct.

3 Q When you heard it, did you think that when she

4 woke up she was knocked out or actually physically

5 sleeping?

6 A That happened within maybe a moment of one

7 second. I didn't have time to think what she

8 meant by "woke up." I was more concerned that mom

9 was yelling at this little girl who had been

10 traumatized.

11 Q When you were talking with Lakeysha, and you were

12 determining whether this was a case of penetration

13 or not, did she say anything about a photograph

14 being taken by Daniel Turner?

15 A No.

16 Q What was Daniel Turner wearing when you went into

17 his apartment?

18 A I really don't remember.

19 Q While they're finding it, do you recall if he was

20 wearing a dress?

21 A I don't believe so.

22 Q You don't believe he was wearing a dress. Do you

23 recall if he was wearing a black wig?

24 A He had dark, longer hair. I didn't check to see

25 whether it was a wig or his hair.

1 Q In talking with Lakeysha, did you try to ferret
2 out the sequence of events that happened in this
3 apartment?

4 A No, I did not.

5 Q So you don't know what happened in the apartment,
6 other than the fact that Lakeysha said two things,
7 that he penetrated her vagina with his penis and
8 that he threw her against the wall, causing her to
9 be knocked out?

10 A And I heard her end of the conversation with
11 Officer Mesman where she mentioned that he had
12 touched her privates and laid on top of her,
13 something like that.

14 Q And you were relying on Sergeant Mesman to get
15 that information?

16 A Officer Mesman. I was standing -- just arriving
17 on the scene when he was discussing that with her.

18 Q Okay. So you didn't bother to put that in your
19 report?

20 A No, sir.

21 Q Does this look like Daniel Turner at the time of
22 the arrest (indicating)?

23 A Yes, it does.

24 Q And I've asked you whether he was wearing a
25 dress. Obviously, the answer is?

1 A No, he is definitely not.

2 Q And whether he was wearing a black wig you can't
3 tell, correct?

4 A No, but if it was, I'm sure I would have taken it
5 from him at the jail, knowing so.

6 Q What about the lipstick, anything unremarkable
7 (sic) about the lipstick? Is it dark, light?

8 A His lips appear red, but as red as they were when
9 I arrived on the scene.

10 Q When you were talking with Lakeysha, did you
11 notice any lipstick mark on her collar?

12 A No, I really didn't notice or look for one. I
13 don't know if there was or not.

14 Q Thank you, Officer.

15 THE COURT: Mr. Bramble?

16 MR. BRAMBLE: Thank you, your Honor.

17 (People's Exhibit 12 was marked for
18 identification by the Court Reporter)

19 **REDIRECT EXAMINATION**

20 **BY MR. BRAMBLE:**

21 Q Officer, the photograph you looked at a moment ago
22 is now marked People's Proposed Exhibit
23 Number 12.

24 Again, this is a photograph of the
25 Defendant --

1 A Yes.

2 Q -- Daniel Turner, and did you actually go inside
3 of the apartment?

4 A Yes, maybe four feet in.

5 Q Did you go through the closets at all?

6 A No, I did not.

7 Q Do you know whether there were dresses there or
8 not inside of the apartment?

9 A I have no idea.

10 Q And you don't know of other, whether it be pieces
11 of women's undergarments or whatever, were in the
12 apartment, as well?

13 A No, I have no idea.

14 Q Because you didn't get that information and didn't
15 know about it, is that correct?

16 A That's correct.

17 Q You indicated that your direct quotes are just
18 that, direct quotes from people, yet your
19 questions aren't in quotation marks, are they, in
20 your report, at least the questions to Lakeysha?

21 A No, the questions to Lakeysha are not.

22 Q Is Mrs. Marble standing right next to you when
23 you're asking her the questions you asked her?

24 A Yes.

25 Q And did -- if Mrs. Marble testified that she

1 remembered you asking, "Did he penetrate you or
2 attempt to penetrate you or try to penetrate you,"
3 would that be accurate?

4 A Yes, sir, she was right there.

5 Q You're not saying, again, "I want your
6 recollection"?

7 A Yes, that's true.

8 Q Okay. You know, someone had to explain to
9 Lakeysa what the word "vagina" meant. Did anyone
10 explain to her what a penis was?

11 A No, sir.

12 Q And so I'm clear, when you initially confront the
13 Defendant Daniel Turner, and he makes the
14 statement, "Take me to jail," and you ask why, he
15 responds how?

16 A He responds, quote, "You know, what she's accusing
17 me of," end quote.

18 Q Prior to him making this statement, had you
19 indicated anything to the Defendant Daniel Turner
20 as to what she was accusing him of?

21 A No, sir.

22 Q You were with Officer Mesman?

23 A Yes, I was.

24 Q He was right next to you, I take it?

25 A Correct.

1 Q At any time did he indicate to the Defendant
2 Daniel Turner what he was being charged with?

3 A No, he did not.

4 Q To your knowledge, were you the first law
5 enforcement officers that had been in the
6 apartment?

7 A Yes, we were.

8 Q The first ones to have contact with this
9 individual?

10 A Yes, sir.

11 MR. BRAMBLE: I have nothing further,
12 your Honor.

13 THE COURT: Mr. Mirque?

14 **RECROSS-EXAMINATION**

15 **BY MR. MIRQUE:**

16 Q Officer Baar, Mr. Bramble asked you whether you
17 indicated to Daniel Turner what he was being
18 accused of, and you said "no"?

19 A Correct.

20 Q In the apartment?

21 A Right.

22 Q And Officer Mesman did the same?

23 A That's correct.

24 Q Did not indicate as to what he was being charged
25 with?

1 A Right.

2 Q As a matter of fact, prior to that statement where
3 he says, "Just take me away," or whatever,
4 "whatever she's accusing me of," there's been no
5 mention as to what he's being charged with, is
6 that true?

7 A That's true.

8 Q And yet in the patrol car later on down the road
9 he says, "Am I being charged with a felony or a
10 misdemeanor," is that true?

11 A After I tell him of CSC First.

12 Q No, wait a second. Are you saying now that after
13 you informed him of the CSC First, that he then
14 asked, "Am I being charged with a felony or
15 misdemeanor," or was it prior to that?

16 A The sequences are which way did he ask. Did he
17 ask me before or after I informed him he was being
18 charged with CSC First?

19 Q Yes.

20 A I don't. I'm not positive as to which way. You
21 know, six months, I don't remember which one was
22 the statement first.

23 Q When I was first cross-examining you, you were
24 quite sure when he asked you whether it was a
25 felony or misdemeanor.

1 A No, I wasn't quite sure. I was pretty lost as to
2 what you were actually asking me, actually.

3 Q I'm trying to get the sequence of events here.

4 A Correct. I don't remember which one was asked,
5 which question first.

6 Q Would your report help you out?

7 A No.

8 Q Why wouldn't it help you out?

9 A Because I did list his statement as to Daniel
10 asked me if this charge was a felony or
11 misdemeanor, but I don't have the time sequence as
12 to when I informed him in the patrol car.

13 I know it was in the patrol car. I
14 don't know if it was before or after he made that
15 statement.

16 Q Why don't you know that?

17 A Because it was six months ago and I don't remember
18 which sentence was said first.

19 Q Well, the reason that you don't know that is
20 because you don't have anything in the report that
21 you indicated he was being arrested for a
22 CSC First.

23 A Correct, I remember saying it to him in the car.

24 Q This was six months ago, and you recall saying
25 that to him?

1 A I recall it because it was such a heinous
2 accusation that I opened my Steffels guide and
3 quoted to him the penalty for that.

4 Q That's not in the report, either?

5 A No, it's not, but I remember.

6 Q And this is a revised report?

7 A Correct.

8 Q So you've had an opportunity to look it over, the
9 first report?

10 A That's correct.

11 Q To make sure it's a complete and accurate report?

12 A It is complete and accurate.

13 Q Well, it isn't as far as the part about you
14 telling him when it was a CSC First, is it?

15 A I couldn't put every statement that every person
16 in the Grand Rapids Police Department talked about
17 for three hours down in writing. If I could
18 remember it, I didn't need to write it down to
19 remember it.

20 Q So, now, after this little soliloquy, are you
21 saying that you don't know whether you told him it
22 was a CSC First before or after he asked you
23 whether or not that's a felony or a misdemeanor?

24 A That is correct.

25 Q So you read him the what now, the penalties

1 involved?

2 A The penalties.

3 Q And, what, you read him the penalties of a
4 CSC First?

5 A Yes, sir.

6 Q And you told him that it was a --

7 MR. BRAMBLE: Objection, your Honor,
8 penalties shouldn't enter. This isn't relevant,
9 the actual penalty. He can talk about reading it
10 to him.

11 May I approach the bench?

12 THE COURT: Yes. Would you join us,
13 Miss Krause?

14 MS. KRAUSE: Absolutely, your Honor.

15 (Counsel approached the bench, and a
16 discussion was held out of the hearing of the jury
17 and off the record)

18 THE COURT: I believe during the
19 selection process, ladies and gentlemen, you were
20 told by one of the lawyers that possible penalties
21 is not something you need concern yourselves with,
22 and I want to emphasize that again.

23 You should not find anybody guilty or
24 not guilty because of what the penalty may or may
25 not be. You decide if they're guilty based on the

1 evidence and say so, and leave the penalty up to
2 me. And if you decide they're not guilty, you say
3 so and don't deduce anything from the possible
4 penalty that might cause you to say otherwise.

5 It's become somewhat of an issue here as
6 to the fact that penalty was mentioned, and,
7 frankly, to avoid violating that rule, I want to
8 keep the actual penalty out of the case. That
9 way, you don't know what it is and, therefore,
10 it's a lot harder to factor it in.

11 Let me simply tell you that the officer
12 read the right statement from the book that they
13 apparently carry that lists penalties. Criminal
14 sexual conduct in the first degree does carry a
15 potentially significant prison sentence, and that
16 you may make whatever deductions you want from
17 that in terms of the likely sequence of events
18 thereafter.

19 MR. MIRQUE: Thank you, your Honor.

20 **BY MR. MIRQUE:**

21 Q Officer Baar, when you were speaking with Daniel
22 in the car, you read him of his substantial
23 penalty that this crime carries?

24 A Yes, I did.

25 Q And are you telling us at that point or is it

1 possible at that point he said -- let me read your
2 language -- "Daniel asked me if this charge was a
3 felony or a misdemeanor"?

4 A It was at that point, I then read the charge to
5 him, the penalty, possible penalty.

6 Q So it was -- he asked the question, "Is this a
7 felony or a misdemeanor"?

8 A Yes.

9 Q And then it was at that point --

10 A Correct.

11 Q -- that you read him the penalty provision for
12 that particular crime?

13 A In response to his question, I answered by reading
14 the penalty that could be imposed.

15 Q So is that to say that prior to his question, are
16 we to say that you told him what he was being
17 charged with?

18 A In all likelihood, it makes sense that I would
19 have. That is why he would ask if that is a
20 felony or misdemeanor, but I don't remember at
21 which time and point I said that to him.

22 Q When you were inside the apartment, you said that
23 there was some mattresses and sheets in disarray?

24 A Yes.

25 Q You came in this room (indicating), correct?

1 A Correct.

2 Q The mattresses and sheets were where?

3 A I stood just inside the door, like I said, about
4 four feet, and the mattresses were just beyond me
5 another few feet more.

6 Q Where were the sheets that you saw?

7 A On the bed.

8 Q On the bed?

9 A On the mattress.

10 Q Did you smell any urine in that room?

11 A I didn't smell anything.

12 Q Thank you.

13 THE COURT: Mr. Bramble, anything
14 further?

15 MR. BRAMBLE: Just a couple questions.

16 **REDIRECT EXAMINATION**

17 **BY MR. BRAMBLE:**

18 Q Just so I'm clear, when the defendant makes,
19 Defendant Daniel Turner makes the initial
20 statement, "Take me to jail, you know, what she's
21 accusing me of," nothing had been spoken of any
22 charges at that point?

23 A No, they had not.

24 Q By you or Officer Mesman?

25 A Correct.

1 Q It is only sometime later, when you actually have
2 them in the patrol car, that this is discussed?

3 A That is correct.

4 Q You don't know where the Defendant Daniel Turner,
5 since you were the first law enforcement officer
6 there, where he got the information concerning
7 the --

8 A I have no idea.

9 MR. BRAMBLE: I have nothing further.

10 THE COURT: Mr. Mirque?

11 **RECROSS-EXAMINATION**

12 **BY MR. MIRQUE:**

13 Q Officer Baar, did you see the Marbles confronting
14 the Turners prior to you actually arriving up the
15 stairs to question them?

16 A Confronting them?

17 Q Yeah. Did you see either Larry Marble or Cynthia
18 Marble when they pulled up in the parking lot?
19 Did you see the Marbles up in the area of the
20 defendant?

21 A No, their door had not been opened yet when I
22 arrived.

23 Q Do you know that the Marbles had spoken with the
24 defendant prior to getting there?

25 A They may or may not have. I have no knowledge of

1 what went on before I got there.

2 Q Did anyone tell you that they spoke before?

3 A No, they did not.

4 Q Thank you, Officer Baar.

5 THE COURT: Anything more, Mr. Bramble?

6 MR. BRAMBLE: Nothing, thank you, your
7 Honor.

8 THE COURT: Ladies and gentlemen, let's
9 switch juries. Now that you've got the seats nice
10 and warm, we'll get the other jury in and I
11 suspect that we'll have you back soon.

12 (At about 2:25 p.m. - The Daniel Turner
13 jury left the courtroom)

14 (At about 2:26 p.m. - The Stephen Turner
15 jury returned to the courtroom)

16 THE COURT: Miss Krause?

17 MS. KRAUSE: Thank you, your Honor.

18 **CROSS-EXAMINATION**

19 **BY MS. KRAUSE:**

20 Q Good afternoon, Officer Baar.

21 A Hello.

22 Q It's my understanding that you have been a police
23 officer for four years.

24 A Yes, ma'am.

25 Q And that's with the Grand Rapids Police

1 Department?

2 A Yes, ma'am.

3 Q And prior to that you had some law enforcement
4 training in the air force?

5 A Yes, ma'am.

6 Q And, in fact, were involved in security?

7 A Yes, ma'am.

8 Q It would be fair to say, then, Officer Baar, that
9 you had a fair amount of training in how to
10 prepare a police report, correct?

11 A Yes, ma'am.

12 Q And a fair amount of training in how to respond to
13 the scene of a crime, correct?

14 A Yes, ma'am.

15 Q Now, on July 7th, 1993, you went to the Oak Park
16 Apartments, correct?

17 A Correct.

18 Q And you were dispatched there -- or the call,
19 dispatch that came through was about a man with a
20 crowbar, is that correct?

21 A Yes, ma'am.

22 Q That is the information you had available to you
23 when you went to the Oak Park Apartments?

24 A Yes.

25 Q Now, in your training as a police officer, would

1 it be fair to say that you've learned that the
2 first few moments on a crime scene are crucial?

3 A Yes.

4 Q Evidence can be lost or destroyed at that time,
5 correct?

6 A Sure.

7 Q And what happens at the initial time of an
8 investigation in fact can set the whole tone for
9 the rest of the investigation, correct?

10 A Yes, ma'am.

11 Q All right. Now, when you arrived at the scene, is
12 it my understanding that you do not encounter the
13 man with the crowbar?

14 A I was not the first one on the scene. I was a
15 couple minutes behind Officer Mesman.

16 Q Right. Mesman was the first one on the scene?

17 A Correct.

18 Q You arrive a few minutes later?

19 A Right.

20 Q When you arrived, Mesman had already calmed down
21 the man with the crowbar?

22 A Yes, ma'am.

23 Q Did the situation appear to be calmed down, to
24 you, by the time that you got there?

25 A Yes, it was.

1 Q All right. So the first thing you did was went to
2 Apartment 204?

3 A Actually, I was briefed by Officer Mesman first as
4 to what he had found out.

5 Q All right, and based on your conversation with
6 Officer Mesman, you then went to Apartment 204?

7 A Yes, ma'am.

8 Q Daniel Turner opened the door?

9 A Yes.

10 Q Stephen Turner did not?

11 A No, ma'am.

12 Q You proceeded to have a conversation with both
13 Daniel and Stephen Turner, is that correct?

14 A Yes, ma'am.

15 Q And I think there's been some discussion that you
16 put what they said in quotation marks?

17 A Yes, ma'am.

18 Q All right. Now, let's talk about your field
19 notes.

20 A Okay.

21 Q Were you writing down what they said at the time
22 they said it?

23 A Yes, ma'am.

24 Q And this is in a field notebook?

25 A No, this was on our, we call it an ONOT (sic), an

1 officer's note form. It carries our preprinted
2 forms on it.

3 Q And that was turned in to your supervisor?

4 A The actual report was. The notes are not.

5 Q And you were writing things down as people were
6 talking, correct?

7 A That is correct.

8 Q Did people quit talking when you were writing or
9 did they continue to talk?

10 A There was only a few signs of --

11 Q That wasn't my question, Officer Baar. My
12 question was, did people keep talking while you
13 were asking questions?

14 A They stopped talking.

15 Q And they specifically stopped when you were
16 writing?

17 A Yes.

18 Q Now, the statement that you're attributing to
19 Stephen Turner is, "I asked Stephen if he was here
20 during the incident and he replied, quote, 'I have
21 been here all day, but I have been sleeping and
22 just woke up' "?

23 A That is correct.

24 Q First of all, are you aware that the alleged
25 victim in this case has said that Stephen was out

1 of the apartment during part of the alleged crime?

2 A I'm not aware of anything she said, no.

3 Q So you wouldn't be aware that she has testified
4 that it did appear that Stephen woke up at some
5 point, and that was the first time she saw him?

6 A I don't know what she testified to, no.

7 Q Okay. By the way, that is -- strike that.

8 It's my understanding that no one has
9 told you what Lakeysa has said since then or what
10 she's testified to in court?

11 A That is correct.

12 MS. KRAUSE: No further questions.

13 THE COURT: Anything more, Mr. Bramble?

14 MR. BRAMBLE: Very briefly.

15 **REDIRECT EXAMINATION**

16 **BY MR. BRAMBLE:**

17 Q You indicated, I believe, that your purpose,
18 again, is to get some basic information, and you
19 leave the detailed investigation or interview for
20 a detective?

21 A That is correct.

22 Q Do you have any specialized training in
23 questioning or talking to child witnesses?

24 A None.

25 Q Is that why you leave it to the detectives?

1 A Yes, sir.

2 Q And I think I told you in front of the other jury,
3 there's been testimony from Mrs. Marble that she
4 was present when you questioned Lakeysha, correct?

5 A Yes.

6 Q And her testimony was that you asked her, "Did he
7 penetrate you with his penis, did he attempt to"?

8 A Yes.

9 Q And would you state that as being an accurate
10 rendition of what went on there?

11 A Yes, sir.

12 Q And did anyone explain to her what a penis was?

13 A No, they did not.

14 Q And I want to make one thing clear. The detective
15 talked about -- or the defense attorney talked
16 about statements being made in quotations in your
17 report. Do you recall that?

18 A Yes.

19 Q When the statements are made by Daniel Turner
20 that, number one, "Take me to jail" or "Arrest
21 me," what exactly did he say?

22 A I asked Daniel and Steve Turner for
23 identification, I asked, "What has happened here."
24 Daniel replied, quote, "Just take me to jail," end
25 quote.

1 Q You asked why?

2 A Yes.

3 Q And how does he respond?

4 A Quote, "You know, what she's accusing me of," end
5 quote.

6 Q Prior to him making this statement, had you or
7 Officer Mesman made any mention about what he's
8 being accused of?

9 A No, sir.

10 Q And yet it appeared by his response he knew?

11 A Yes, sir.

12 Q And then it's following that that the Co-defendant
13 Stephen Turner makes a statement that he has been
14 there all day?

15 A Yes, sir.

16 MR. BRAMBLE: I have nothing further,
17 your Honor.

18 THE COURT: Miss Krause?

19 **RE-CROSS-EXAMINATION**

20 **BY MS. KRAUSE:**

21 Q Just so we're clear, Officer Baar, when you
22 arrived, Officer Mesman had already been there?

23 A Yes.

24 Q Before you even talked to either Stephen or Daniel
25 Turner, you were briefed by Officer Mesman,

1 correct?

2 A Yes.

3 Q And when you were briefed, you learned that the
4 father of the alleged victim, Larry Marble, had
5 tried to beat his way into the apartment with a
6 crowbar, correct?

7 A Yes, ma'am.

8 Q You were aware by your briefing with
9 Officer Mesman that there had been a confrontation
10 between the Marbles and Mr. Daniel Turner,
11 correct?

12 A To the extent of beating on the door, yes.

13 MS. KRAUSE: I have no further
14 questions.

15 MR. BRAMBLE: I have nothing further.
16 Thank you, Judge.

17 THE COURT: Thank you, Officer. You're
18 free to go.

19 Who's the next witness, Mr. Bramble?

20 MR. BRAMBLE: I believe Dr. Perry is
21 here.

22 (At about 2:36 p.m. - The Daniel Turner
23 jury returned to the courtroom)

24 MR. BRAMBLE: Your Honor, at this time
25 the State would call Dr. Steven Perry.

1 **STEVEN PERRY, D.O.,**

2 called by the People at 2:36 p.m. and sworn by the
3 Court, testified:

4 **DIRECT EXAMINATION**

5 **BY MR. BRAMBLE:**

6 Q Dr. Perry, are you employed?

7 A Yes.

8 Q Where are you employed, please?

9 A The Grand River Emergency Medicine Group, working
10 out of St. Mary's Hospital.

11 Q How long have you been employed there?

12 A Three-and-a-half years.

13 Q What shift do you normally work there?

14 A The shifts vary.

15 Q From what to what, please?

16 A Seven in the morning to seven at night, seven at
17 night to seven in the morning, one in the morning
18 to one in the afternoon, one in the afternoon to
19 one in the morning.

20 Q You have an undergraduate degree?

21 A Yes.

22 Q Where from?

23 A Aquinas College.

24 Q You went to medical school?

25 A Yes.

1 Q Where, please?

2 A The College of Osteopathic Medicine and Surgery in
3 Iowa.

4 Q You graduated from there?

5 A Yes.

6 Q You have had to take some type of testing in order
7 to get certified?

8 A Correct.

9 Q What would that entail, please?

10 A I took a three-year residency in emergency
11 medicine and became Board-certified in emergency
12 medicine.

13 Q Are you Board-certified now in emergency medicine?

14 A Correct.

15 Q How does that differentiate you from an M.D.,
16 let's say?

17 A It doesn't.

18 Q Okay. What specialized training do you have to
19 have?

20 A Three years of emergency medicine.

21 Q And that would include your internship, and so on?

22 A Correct.

23 Q Where did you do that?

24 A That was at Metropolitan Hospital.

25 Q Now, were you working on July 7th, 1993?

1 A Yes.

2 Q Were you working in this capacity --

3 A Yes.

4 Q -- at St. Mary's?

5 A Yup.

6 Q Did you have contact with an individual named
7 Lakeysa Cage?

8 A Yes, I did.

9 Q Now, Doctor, can you explain to the jury, is there
10 a process whereby a nurse obtains a medical
11 history from the patient?

12 A Yes, there is. The patient presents to the
13 emergency department. They're initially seen by a
14 triage nurse, who assesses the complaint and the
15 patient's condition, and then from there they
16 determine the urgency with which the patient has
17 to be seen and the location of the emergency
18 department where the patient will be seen.

19 Q And do they take a medical history for treatment
20 and diagnosis?

21 A Yes, they do.

22 Q Do you rely on that, Doctor?

23 A Very much so.

24 Q You also attempt to obtain a little bit of that
25 history, as well, from the patient?

1 A Yes, we do.

2 Q Did you do that in this incident with Lakeysha
3 Cage?

4 A Yes.

5 Q Do you know who the nurse would have been who took
6 the initial history from her?

7 A The nurse's name is Judy Gill.

8 Q Now, Doctor, did you meet with Lakeysha?

9 A Yes, I did.

10 Q And did you take, again, some additional
11 information from her?

12 A Yes.

13 Q What would that have entailed, please?

14 A Essentially, reviewing a history of the patient's
15 complaint, and then performing a physical examine.

16 Q What was the history she provided you?

17 A The patient alleged that she had been assaulted by
18 a man.

19 Q Did she describe how that took place?

20 A Yes, she did.

21 Q Okay, and again, Doctor, how many patients do you
22 see in an average night you're working?

23 A Oh, somewhere between twenty-five and thirty.

24 Q And did you make notations to follow up in a
25 report?

1 A Yes.

2 Q And because of the number of patients, do you
3 often rely on those reports?

4 A Pardon me?

5 Q Because of the number of patients that you see, do
6 you rely on those reports to refresh your memory?

7 A Yes.

8 Q Is that what you're doing right now?

9 A That's what I have right now.

10 Q Have you had a chance to review that a little bit
11 before you came in?

12 A Yes.

13 Q Did she describe how this took place?

14 A The patient stated she was abducted by a neighbor
15 in her apartment building and was taken to his
16 apartment.

17 She stated that at one point he removed
18 his clothing and all her clothing, and he laid on
19 top of her, and she noted a wet material come out
20 of his penis on to her abdomen and into the
21 vaginal area.

22 Q Okay. At that time did she describe to you what
23 it was that went on to her abdomen?

24 A No.

25 Q Okay. Did she indicate whether or not she had --

1 the defendant penetrated her either vaginally or
2 penetrated her rectum?

3 A She said there was no penile penetration, but
4 there was an attempt to have oral intercourse with
5 her in the vaginal area.

6 Q Attempt to have oral?

7 A Contact.

8 Q His mouth on her vagina, I think?

9 A Right.

10 Q Okay. Did you do a gross evaluation of her?

11 A Yes, I did.

12 Q What did that reveal?

13 A In examination, her vital signs were all normal.
14 The neurologic examination showed the patient was
15 surprisingly composed. She had no deficits that I
16 could note as far as traumatic injuries.

17 Examination of her skin showed it was
18 warm and dry. There was no crusting. There were
19 no rashes. There were no injuries. There was no
20 sign of any seminal fluid present on the abdomen,
21 back, or in the pelvic area.

22 The chest showed no pain, no injuries.
23 There were no injuries or contusions noted of the
24 arms or legs, and the visual external examine of
25 the perineum, which is the vaginal area, showed no

1 signs of any injury.

2 Q Did you attempt to do an examination of her pelvic
3 area?

4 A Yes, I did.

5 Q Describe to the jury what took place, how that
6 happened.

7 A When I explained to the little girl about the
8 examination that we were going to attempt to
9 perform, she refused to allow the examination.
10 This was in the presence of her mother.

11 I talked at length with her mother and
12 then with her father regarding the potential for
13 recovery of information for her alleged complaint,
14 recovery of evidence, and the examination for any
15 potential injuries that may require additional
16 treatment.

17 The parents stated that they understood,
18 that they were unable to convince the young lady
19 to undergo the examination, at which point they
20 were offered the examination under an anesthetic,
21 with the young lady asleep, but understanding
22 potential risks with the anesthetic and --

23 Q The potential risks, Doctor?

24 A Potential risks of anesthetic are all potentially
25 very serious, such as losing oxygen to the brain,

1 having cardiac arrest, respiratory arrest.

2 Q So once faced with this, apparently the Marbles
3 made a decision that they weren't going to assume
4 those risks for their child?

5 A Correct.

6 Q Is it unusual, Doctor, for a woman who -- or a
7 young child to have been sexually assaulted to
8 refuse to allow you to touch them?

9 A No, very common.

10 MS. KRAUSE: Objection, your Honor. May
11 we approach the bench?

12 THE COURT: Yes.

13 (Counsel approached the bench, and a
14 discussion was held off the record and out of the
15 hearing of the jury)

16 THE COURT: Go ahead, Mr. Bramble.

17 MR. BRAMBLE: Thank you, your Honor.

18 **BY MR. BRAMBLE:**

19 Q Your answer was what, Doctor?

20 A I don't recall the question.

21 Q I think my question was something to the effect
22 that a child who may have experienced what was
23 contained in the history, in your training and
24 experience, is it unusual to have you -- or to
25 refuse to allow you to examine them in that area?

1 A No, that's common.

2 Q Did you explain to the Marbles, both Cynthia and
3 Larry Marble, of the possible effects of the
4 anesthetics?

5 A Yes.

6 MS. KRAUSE: Objection, asked and
7 answered.

8 THE COURT: Overruled, go ahead.

9 **BY MR. BRAMBLE:**

10 Q And both of them were present and made that
11 decision?

12 A Yes.

13 Q With the history obtained from Lakeysha by your
14 personnel and by you, did you explain to them the
15 possibility of whether or not you'd even find
16 anything, if you were to even make her go through
17 that process?

18 A Yes, I did. I explained to them that there's a
19 possibility that the information would be found,
20 there's a possibility that the information may not
21 be obtained.

22 It all would depend upon what the
23 findings were of the examination and whether or
24 not that would influence the treatment. I didn't
25 know. It would depend upon what we found.

1 Q And in order to expect to have findings in that
2 area, you'd have to -- you would expect that there
3 would be some allegations of penetration?

4 A Correct.

5 MR. BRAMBLE: I have nothing further.

6 THE COURT: Mr. Mirque?

7 MR. MIRQUE: Thank you.

8 **CROSS-EXAMINATION**

9 **BY MR. MIRQUE:**

10 Q Dr. Perry, you are a Board-certified emergency
11 room physician?

12 A Correct.

13 Q And have you had any training on recognizing the
14 signs and symptoms of physical trauma to the body?

15 A Yes.

16 Q And that would include recognition of bruises,
17 contusions, abrasions, and so forth?

18 A Correct.

19 Q When you are reviewing the subjective patient's
20 history for your own, I guess, diagnosis, I guess,
21 if that's the proper term in this case, do you
22 also review the progress notes that the nurses
23 write in making your determination?

24 A Yes.

25 Q In making your determination, did you review the

1 triage sheet from the E.R. room?

2 A Yes.

3 Q Did you review the subjective information taken by
4 Nurse Gill?

5 A Yes.

6 Q And you also, therefore, read that Nurse Gill had
7 gotten from Lakeysha, "Two men snatched me and
8 pulled my clothes off"?

9 A Yes, that's what she wrote.

10 Q You've also stated that you, in the process of
11 making your findings, you review the progress
12 notes?

13 A Correct.

14 Q And when you -- did you read those?

15 A Yes.

16 Q You then must have read at, I believe this is 2000
17 -- which would be 8:00 p.m.?

18 A Correct.

19 Q -- that the patient appeared relaxed and was very
20 pleasant?

21 A Correct.

22 Q And that there were no signs of anxiety noted?

23 A Yes.

24 Q And that the patient was laughing and smiling?

25 A Yes.

1 Q When you read that and you coupled it with your
2 statement in your own physician's note, that she
3 is surprisingly composed for her alleged
4 complaint --

5 A Uh-huh.

6 Q -- why did you write that? That sounds almost as
7 if you have some doubts about this.

8 MR. BRAMBLE: Objection, this is clearly
9 improper.

10 MR. MIRQUE: It could go to this --

11 MR. BRAMBLE: No, let's approach the
12 bench. You know exactly what you're trying to
13 do.

14 (Counsel approached the bench, and a
15 discussion was held off the record and out of the
16 hearing of the jury)

17 THE COURT: Yes, given the hour, and it
18 will take us a few minutes to organize things, let
19 us take our break and we'll come back in a few
20 minutes.

21 (At about 2:54 p.m. - Recess taken)

22 (At about 3:28 p.m. - Court back in
23 session, in the absence of both juries)

24 THE COURT: What precipitated taking our
25 afternoon break a few minutes earlier than planned

1 was a bench conference, at which two subjects were
2 discussed. The bench conference was initiated at
3 the request of the prosecutor objecting to a
4 question by Mr. Mirque that certainly sounded like
5 it was asking the witness on the stand, Dr. Perry,
6 to state that in light of certain comments that he
7 had made in his report, he doubted the accuracy or
8 veracity of some of what he was told by the
9 complainant in this particular case.

10 I ruled at the bench, reiterated it
11 during a chambers conference on this issue, and
12 have no doubt about the propriety now of
13 sustaining that objection.

14 To the extent things were placed in the
15 medical records, from which defense counsel can
16 argue later to the jury, that the doctor relayed a
17 lack of confidence in the accuracy of what he was
18 being told, that's perfectly legitimate.

19 But what has to be done and all that can
20 be done is putting out on the table, so to speak,
21 those things in the report from which such
22 argument can be made, but saving the argument for
23 the appropriate time.

24 That's why we have a legitimate
25 objection to argumentative questions, questions

1 which are attempting to draw the conclusions which
2 are, of course, for the jury to draw from the data
3 presented.

4 The other matter had to do with the door
5 being opened to rape trauma syndrome evidence.

6 In his direct testimony, not
7 particularly responsive, frankly, to a question
8 from the prosecutor, but nonetheless stated by the
9 doctor, was the observation that the child was
10 remarkably composed, at least during part of the
11 procedure. I think his interview of her.

12 On cross-examination Mr. Mirque, in
13 addition to the other things he was doing quite
14 legitimately, and again, this is legitimate, made
15 reference to the fact from the nurse's notes that
16 the child had in fact been in a waiting area,
17 where she had been interviewed and apparently was
18 not only composed but apparently quite happy,
19 laughing, playing, things of that sort.

20 The argument is advanced by the
21 prosecution that that opens the door to evidence
22 of the so-called rape trauma syndrome.

23 It does, in my judgment, in a limited
24 fashion. Evidence of the syndrome, of course, not
25 using that name, is admissible to rebut those

1 things which are out in the open in which a jury,
2 without the aid of the testimony about the
3 syndrome, might misread.

4 Accordingly, the prosecution is allowed,
5 in my judgment, if it chooses, but the choice is
6 its, to present properly-qualified expert
7 testimony as to the rape trauma syndrome, limited
8 to whether or not the specific kind of behavior
9 that was the subject of testimony of questions
10 here is consistent or inconsistent with being the
11 victim of a sexual abuse.

12 Of course, we'll adhere strictly to
13 Beckley versus Bedour, and be careful that the
14 term rape trauma syndrome is not used, because
15 that, frankly, tends to carry some conclusions
16 with it.

17 We'll do everything that that case says
18 we should do, but that case does say that once
19 counsel has made a point of something, and it can
20 do so in questions as well as anything else, an
21 appropriate response if covered by the syndrome is
22 available.

23 And I think with regard to the one
24 matter that's been raised, that response is
25 appropriate.

1 Now, there's a whole 'nother matter
2 here, and that is the doctor's observations of the
3 child. Of course, Mr. Mirque is free to inquire,
4 is free to inquire of him about the child's
5 behavior, and may also ask, based upon the
6 doctor's experience, whether that is consistent or
7 inconsistent with being sexually abused, if the
8 doctor can say.

9 But counsel can also bring out the lack
10 of bruises, the lack of other physical signs
11 consistent with what's being claimed here, and can
12 ask the doctor whether that's consistent or
13 inconsistent with the claimed trauma, but cannot
14 ask the doctor to draw the ultimate conclusion,
15 and certainly can't ask the doctor to state
16 whether he believes or doesn't believe the
17 complainant.

18 What is certainly appropriate to ask is
19 the lack of any scratch marks, for example,
20 consistent or inconsistent with the claim of being
21 dragged across a porch in to an apartment and the
22 like.

23 The other question we have to deal with
24 here, and I'd like to hear from Miss Krause on it
25 first, is the matter of severance, a cautionary

1 instruction or something.

2 Frankly, I understand the claim is that
3 Miss Krause has been very careful in this case and
4 has planned this case to avoid getting into rape
5 trauma syndrome evidence, and now because of
6 questions asked by co-counsel, perfectly
7 legitimate questions, she's concerned that the
8 strategy she's devised, a legitimate one, in these
9 cases is compromised.

10 And if these cases continue as they are,
11 if there's any further questioning on this
12 subject, she loses the benefit of having worked to
13 keep this evidence out.

14 And if the Court is going to not send
15 the jury out, or if, frankly, there is to be no
16 further pursuit of this issue at this time by
17 Mr. Mirque, which I'm told will be the case, there
18 is a request for a cautionary instruction.

19 Miss Krause?

20 MS. KRAUSE: Thank you, your Honor. I
21 think you've accurately summarized the majority of
22 my concerns.

23 I think I would like to go back before
24 the objection by Mr. Bramble to the objection I
25 made during Dr. Perry's direct examination.

1 Mr. Bramble asked a question that I
2 felt, for lack of a better phrase, jumped the gun
3 on this rape trauma syndrome. I believe he was
4 asked if her behavior was consistent with somebody
5 who had been sexually abused, and I objected. We
6 had a side bar at that time.

7 I also reiterated, as I had on days
8 previously, at that same side bar that I had made
9 a conscious decision not to bring this evidence
10 up.

11 I have also attempted in the course of
12 this case to, and again, for lack of a better
13 phrase, sanitize some of the evidence that was
14 coming in in Daniel Turner's case and keep it from
15 coming into Stephen Turner's case.

16 I specifically have made the decision up
17 until this point and have not entered into the
18 area of rape trauma syndrome and the
19 characteristics thereof.

20 I believe that because of that, because
21 of the implications that can end up being surmised
22 by the jury, I want my jury taken out of the
23 courtroom while Mr. Mirque continues to do his
24 cross-examination.

25 At the very least, I want a cautionary

1 instruction that, perhaps something to the extent
2 of inconsistent defenses or that that is not my
3 theory of the case.

4 I believe that this is different, this
5 issue presents a different characteristic than
6 evidence that the defendant -- excuse me, that the
7 prosecutor presents that implicates one defendant
8 and not the other.

9 This is an issue that can only be raised
10 by the defense as opposed to evidence that is in
11 possession of the State that they need to prove
12 their case against one or both of the defendants.

13 According to the case law of Michigan
14 that you've already referred to, Beckley and
15 Bedour, this is an issue that the Court only
16 gets -- that only comes up if the defense opens
17 the door.

18 I have not done that, and because of
19 that, I don't believe that it should come in
20 against Stephen.

21 So I guess I'm asking for several
22 different things here, either separately or in
23 conjunction with one another. I don't believe a
24 complete severance of the cases is appropriate,
25 but I ask that my jury be removed for the

1 remainder of the examination, and/or that my jury,
2 Stephen Turner's jury, be given a cautionary
3 instruction about what's happened thus far.

4 Thank you.

5 THE COURT: Mr. Bramble?

6 MR. BRAMBLE: I simply have a couple
7 very brief comments.

8 Regardless of whether or not it's
9 Miss Krause's theory, her jury, Defendant Stephen
10 Turner's jury, has been exposed to that theory by
11 the defense in Mr. Mirque's cross-examination.

12 So I think that is an issue the Court
13 has to deal with, and if I decide to deal with the
14 issue, the single issue, as the Court has framed
15 it, raised by Mr. Mirque, I submit that evidence
16 should come in before both juries.

17 THE COURT: Frankly, the complete
18 predicate of the arguments advanced by the defense
19 is an entitlement to severance.

20 The question then becomes how we go
21 about that. Do we exclude the jury or do we give
22 them a cautionary instruction to ignore what
23 they've just heard, at least, and excuse them for
24 the future, or some combination of those things.

25 It's my judgment, however, that

1 severance is not required with regard to this
2 particular issue, and that, therefore, the entire
3 predicate of the response fails.

4 As I understand the law, severance is to
5 be granted if we have a so-called Bruton problem,
6 which the courts have recently revisited and made
7 less expansive of a problem, but a problem that
8 involves a defendant's statement to the
9 authorities either implicating himself and a
10 co-defendant or, more commonly, exonerating
11 himself and implicating the co-defendant.

12 The other ground for severance is
13 antagonistic defenses, sometimes called
14 inconsistent. I don't see here that there is
15 anything antagonistic or inconsistent, as that
16 term is utilized, for severance purposes.

17 Nothing in the evidence with regard to
18 the child's behavior and possible response to it
19 in terms of so-called rape trauma syndrome
20 evidence points the finger at one defendant
21 exclusively or inconsistently with the other. It
22 simply is evidence of the occurrence of the crime
23 here.

24 And, frankly, that crime has to be
25 proven in both cases. In order for Mr. Stephen

1 Turner to be convicted, there has to be proof that
2 this jury is satisfied that indeed a criminal
3 sexual conduct was perpetrated by him which was
4 then assisted by his brother.

5 That's what this is directed to. It's
6 directed at establishing a common component of
7 each case. It is not establishing Mr. Stephen
8 Turner's guilt in any inappropriate fashion. It
9 is simply evidence.

10 And I don't believe that there's any law
11 which says that severance must be granted because
12 the defense attorneys, quite legitimately, choose
13 to pursue different strategies when it comes to
14 evidence.

15 Frankly, it would be too easy, not that
16 these people would do it, but it would be too easy
17 to set things up, have one lawyer object, and the
18 other say, "I want to let it in for one reason or
19 another," and we'd have constant problems.

20 When it is antagonistic within the
21 meaning of that word as used here, that's one
22 matter, but this doesn't qualify. So, frankly,
23 there being no need for any kind of severance, I
24 would not exclude the evidence, nor send the jury
25 out, nor at this point give a cautionary

1 instruction.

2 The only thing that's possible here, not
3 necessary, but may be useful to do is a cautionary
4 instruction, and I will revisit that matter when
5 I'm presented with a proposed instruction, and
6 with a proposed authority or argument that says
7 it's appropriate.

8 I would also note that the comments by
9 the doctor from his medical records about the
10 child being remarkably composed when he
11 interviewed her, and it having been reported to
12 him by others that she was laughing, et cetera,
13 were in the medical records that everybody has
14 had. And there was no request to have the juries
15 hear the doctors separately.

16 This came out in the course of his
17 direct, and I think now it can be appropriately
18 responded to by the prosecution, if it wishes, but
19 doesn't have to. It's up to the prosecution.

20 Now, it's my understanding that
21 Mr. Mirque isn't going to pursue the issue
22 anymore, if he wishes. But if he doesn't,
23 Mr. Bramble will have to decide whether he wishes
24 to pursue it with an appropriate expert, and if he
25 does pursue it, I will limit it as I've already

1 discussed, and defense counsel can respond however
2 they think is appropriate at that particular time.

3 Anything further, Miss Krause?

4 MS. KRAUSE: No, your Honor.

5 THE COURT: Anything you want to add,
6 Mr. Mirque?

7 MR. MIRQUE: Yes, your Honor. In regard
8 to Dr. Perry, you've correctly stated I won't
9 follow up on the matter, but I would like to
10 reserve the opportunity to revisit the issue with
11 Dr. Perry, depending on how far Mr. Bramble goes
12 with it in his case in chief.

13 THE COURT: Well, you certainly have the
14 right to get him back here. We may have to work
15 around a rather difficult schedule, but we will do
16 what we can if it becomes necessary.

17 MR. MIRQUE: Thank you.

18 THE COURT: Anything else we need to
19 deal with, Mr. Bramble or Miss Krause?

20 MR. BRAMBLE: No, thank you, your Honor.

21 MS. KRAUSE: No, your Honor.

22 THE COURT: All right, let's get the
23 jury back in here and we'll simply pick up where
24 we left off.

25 (At about 3:44 p.m. - The Daniel Turner

1 jury returned to the courtroom)

2 (At about 3:44 p.m. - The Stephen Turner
3 jury returned to the courtroom)

4 THE COURT: You may resume, Mr. Mirque.

5 MR. MIRQUE: Thank you, your Honor.

6 **BY MR. MIRQUE:**

7 Q Doctor, I want to go over some of your physical
8 findings that you've made on Lakeysha Cage.

9 Now, did you do them yourself or did you
10 have -- did this assistant or nurse do a thorough
11 examination?

12 A I performed the physical examination. The nurse
13 may collect some specimens for a sexual assault
14 kit, but I do the examination.

15 Q Okay. You mentioned here that the Woods light
16 showed negative. What's a "Woods light"?

17 A A Woods light is a fluorescent lamp that should
18 allow certain substances, such as yeast or seminal
19 fluid, to fluoresce a bright color when the light
20 is shined on it.

21 Q Seminal fluid?

22 A Correct.

23 Q It glows what color?

24 A It fluoresces almost a bluish-green.

25 Q And is there a specific amount that's required to

1 see that, or does it just fluoresce with any given
2 amount?

3 A It should fluoresce with almost any amount that's
4 present.

5 Q So if semen was present, seminal fluid, and you
6 ran a Woods light around an individual's body, it
7 would fluoresce?

8 A It should, yes.

9 Q When would semen not fluoresce?

10 A In the event that semen may have been washed or
11 there was such a thin amount available that it
12 would not be able to be picked up by the
13 fluorescence.

14 Q In your history of the patient, do you recall
15 asking or maybe the nurse asking whether the
16 patient indicated she had changed or had taken a
17 shower between the alleged assault and your
18 physical examination?

19 A No, I don't recall.

20 Q Would that information be in the report?

21 A It may be in the nurse's report. The patient
22 apparently did not change any clothing between the
23 assault, but there's no documentation as to
24 whether or not any washing occurred.

25 Q Okay. So I guess what I'm referring to is

1 question 44 of part B of the assault victim's
2 medical report. Is that what you're referring to?
3 A Correct.
4 Q And in signing on page, question 61, you can also
5 attest that no such changing had occurred?
6 A That she had not changed clothing, correct.
7 Q The Woods light, when you ran the Woods light --
8 did you physically run the Woods light?
9 A Yes.
10 Q Okay. Was Lakeysha, did she have any clothes on
11 when you did it?
12 A No.
13 Q When you ran the Woods light over Lakeysha, did
14 you go over the entire body?
15 A No, the area that I fluoresced was the, or
16 attempted to fluoresce was the perineum, which is
17 the vaginal and rectal area, the abdomen, and the
18 back.
19 Q Why did you only fluoresce those areas?
20 A Those are the only areas that there's any
21 admission to me that any fluid had gotten on to.
22 Q Did she say anything about any fluid in the oral
23 cavity?
24 A Not to me, but she did to the nurse.
25 Q Was an oral swab taken?

1 A Yes.

2 Q What were the results of the oral swab?

3 A Those are sent to the State Police Crime Lab and
4 we do not get the results.

5 Q Okay. Was a saliva smear also taken at that time?

6 A Not that I'm aware of, no.

7 Q And again, if one was taken, it would be analyzed
8 by the State Police Department Lab?

9 A Correct.

10 Q Your physician's note shows no pain to palpitation
11 in the chest area?

12 A Correct.

13 Q What are you looking for when you do that?

14 A Any signs of injury that may result in discomfort,
15 contusion, as well, ecchymotic areas of bruised
16 ribs or twisted cartilage, or anything like that.

17 Q And you're also aware that there was no pain when
18 you checked for that area?

19 A Correct.

20 Q Did you have an opportunity to look at her legs or
21 arms?

22 A Yes.

23 Q And what were your findings in regards to that?

24 A No evidence of any injury.

25 Q When you say "no evidence of any injury," does

1 that mean bruises?

2 A Correct.

3 Q Abrasions or scrapes?

4 A Correct.

5 Q Scratches, cuts?

6 A Correct.

7 Q What else could it mean, anything?

8 A People can complain of pain without any physical
9 appearance of injury.

10 Q And did she complain of any --

11 A There was no complaint of pain.

12 Q Okay. So not only was there no physical findings
13 of trauma, but she just simply didn't complain of
14 trauma in those particular areas?

15 A Not to me. She had mentioned to the nurse that
16 there had been an injury to a foot that during my
17 examination was no longer painful, and there was
18 no evidence of any injury.

19 Q Did you examine the head?

20 A Yes.

21 Q And were the results of the examination of the
22 head similar to the one done on the extremities?

23 A Correct.

24 Q No signs of bruises, abrasions, scrapes, or
25 anything in the hair area?

1 A That's correct.

2 Q Did she smell like she had urine on her, did you
3 notice any urine smell?

4 A No, I don't recall smelling any urine on her.

5 Q When you say "no crusting," what does that mean,
6 "no crusting"?

7 A She had no material on her body that would
8 consider, would be considered to be dried, any
9 foreign substance.

10 Q Would dry urine crust?

11 A Not necessarily.

12 Q Is there any test to determine whether or not
13 there ever was urine on an individual?

14 A Yeah, but -- there are in forensic circles, not
15 commercially available.

16 Q And you obviously didn't perform a forensic
17 evaluation on her?

18 A No.

19 Q So she -- did she show any rashes?

20 A No.

21 Q Any red marks, any color distortions?

22 A No.

23 Q In addition to the head, the arms and legs, did
24 you have an opportunity to look at the neck?

25 A Yes.

1 Q And did you observe anything on the neck?
2 A No.
3 Q Again, no scratches?
4 A No.
5 Q Abrasions, bruises?
6 A No.
7 Q Did she complain of any pain in the neck area?
8 A No, she didn't.
9 Q I've noticed that you made a notation that there
10 was a small lipstick stain on the collar.
11 A No, the nurse made that notation.
12 Q The nurse, okay.
13 A Yes. I did not see the clothing.
14 Q You didn't have an opportunity to examine her
15 vaginal area, is that correct?
16 A Only a visual examination of the external vaginal
17 area.
18 Q Was there anything unremarkable (sic) about that
19 area?
20 A There was nothing remarkable about it. It was a
21 normal examination.
22 Q Was there any redness?
23 A No.
24 Q Was there any lipstick down there?
25 A No.

1 Q Did you take the samples from Lakeysha, the hair
2 samples and so forth?

3 A No, those were collected by the nurse.

4 Q You said that in trying to get the history for
5 this case, that Lakeysha did not say that the
6 defendant or the suspect tried vaginal entry.

7 A No. When I asked her, point blank, if there had
8 been any penile-vaginal entry, she said no.

9 Q What about in the rectum?

10 A She also responded "no."

11 MR. MIRQUE: Thank you, Doctor.

12 THE COURT: Miss Krause?

13 MS. KRAUSE: Thank you, your Honor.

14 **CROSS-EXAMINATION**

15 **BY MS. KRAUSE:**

16 Q Good afternoon, Dr. Perry.

17 A (No response)

18 Q If a patient, generally speaking, had told you
19 that during the course of an alleged assault they
20 had been knocked out, would you order that patient
21 to be observed?

22 A Not necessarily.

23 Q But if a patient told you they had been knocked
24 out, that would cause you at least some concern,
25 correct?

1 A Correct.

2 Q And you were not told that in this particular
3 situation, were you?

4 A No, I was not.

5 Q In fact, I think your notes indicate no focal
6 neurologic deficits?

7 A Correct.

8 Q Now, when you examined Lakeysha, did you notice
9 any scrapes on her breasts?

10 A No.

11 Q Any cuts?

12 A No.

13 Q Any bruises?

14 A No.

15 Q Were there any marks on her neck that appeared
16 that an object had been held tightly against her
17 neck?

18 A I saw no evidence of any injuries to her neck.

19 Q When I say a "floor burn," do you know what I'm
20 referring to?

21 A Uh-huh.

22 Q Would a floor burn from carpeting and a floor burn
23 from cement appear similar?

24 A They could, yes.

25 Q And there was no evidence of that, correct?

1 A No.

2 MS. KRAUSE: I have no further questions
3 of the doctor.

4 THE COURT: Mr. Bramble?

5 **REDIRECT EXAMINATION**

6 **BY MR. BRAMBLE:**

7 Q Doctor, you can get your report back out. In your
8 cross-examination by Mr. Mirque, you relied on,
9 again, on not only that information taken by Nurse
10 Gill, but also by Miss Vandenhout?

11 A Correct.

12 Q Okay. Now, if I can draw your attention to the
13 information gleaned by Nurse -- and I believe it's
14 Vandenhout, is that how you pronounce it?

15 A Yes.

16 Q She's an RN?

17 A Yes.

18 Q Did you rely on that, as well?

19 A Yes.

20 Q I want to focus on a couple things here. Part of
21 the history relied on there was the history she
22 took where Lakeysha indicated he went to the
23 bathroom on her, is that correct, Doctor?

24 A Yes.

25 Q Did you rely on the part where she said, "He made

1 me suck his private parts"?

2 A Yes.

3 Q And further there, it's kind of written down right
4 underneath, "The patient stated, 'White stuff came
5 out of his penis in my mouth and I spit it out'?"

6 A Correct.

7 Q And you relied on that?

8 A Yes.

9 Q Okay. And if we have testimony that she says,
10 "The white stuff went on my mouth and the yellow
11 stuff went down here on my abdomen," taking all
12 those factors into consideration, what did you do
13 with the Woods lamp?

14 A I fluoresced her abdomen, her back, and her pelvic
15 area.

16 Q And you've already testified there was no
17 indication of any vaginal or rectal penetration?

18 A Correct.

19 Q With all the factors I described to you in the
20 history that you were relying on, were the results
21 you found surprising? There wasn't any seminal
22 stains in that area?

23 A No, it was not surprising.

24 Q Were you aware of all the facts, Doctor, or -- if
25 you could tell the jury, what's the reason for the

1 medical information kit?

2 A This is a kit that's been designed by the State
3 Police in an effort to allow medical professionals
4 to obtain evidence that may be used to try a case
5 of alleged criminal sexual assault.

6 Q I guess my purpose in asking the question is, are
7 you concerned mainly about the actual sexual
8 involvement, not the outlying, other factors
9 involved? Is the main purpose of the history to
10 get the history from the patient regarding the
11 sexual acts?

12 A The main focus of the physician is to find out the
13 patient's history of what allegedly occurred to
14 determine whether or not any physical injury or
15 damage or evidence exists.

16 Q Okay. Now, were you aware that the defendant male
17 had been wearing lipstick?

18 A No, I was not.

19 Q You weren't aware, so I assume you aren't looking
20 for it, then, is that safe?

21 A Correct.

22 Q Now, since there's questions regarding whether or
23 not Lakeysa was scratched, and so on, and you
24 have a medical history, Doctor, if there's also
25 testimony here that Lakeysa was involved in a

1 fight with, apparently, from everyone's account,
2 with a boy that made you want to fight 'em, can
3 you explain to the jury, if it involved a
4 wrestling match, a fight with a boy, other things
5 of this nature, there not being any physical
6 manifestation?

7 A Sure, yeah, that's correct. People can be injured
8 without any physical, external, obvious injury.

9 Q Thank you.

10 MR. BRAMBLE: I have nothing further.

11 THE COURT: Mr. Mirque, anything more?

12 MR. MIRQUE: Yes, your Honor.

13 **RE-CROSS-EXAMINATION**

14 **BY MR. MIRQUE:**

15 Q Doctor, how much information do you have from the
16 rape kit before you go into the examination?

17 A I'm not sure I understand what you mean.

18 Q I'm sorry. I guess, if you look on page A-2 of
19 the assault victim's medical report, question 27,
20 do you have at least that much information --

21 A Yes.

22 Q -- provided to you during your examination?

23 A Yes.

24 Q Therefore, I assume that you read this stuff
25 before do you an examination?

1 A Fair.

2 Q And you must have read that, "The patient stated
3 that white stuff came out of my penis (sic) and in
4 my mouth and then I spit it out"?

5 A That's correct.

6 Q And you did not do a Woods light of the mouth
7 area?

8 A No, that's correct. When I questioned the patient
9 about that, she was vague as to whether or not the
10 material was white or not.

11 Q Did you see any lipstick on the chest area?

12 A No.

13 Q Any on the breast?

14 A No.

15 Q Any lipstick on the body?

16 A No.

17 Q I know you weren't looking for it, but if you had
18 seen it there you would have noted it?

19 A Correct.

20 Q Thank you.

21 THE COURT: Miss Krause?

22 MS. KRAUSE: Nothing further.

23 THE COURT: Okay, thank you, Doctor.

24 You're free to go.

25 MR. BRAMBLE: Can we approach?

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THE COURT: Yes.

(Counsel approached the bench, and a discussion was held out of the hearing of the jury and off the record)

THE COURT: Ladies and gentlemen, we're making good progress. Let's adjourn a little bit early today.

Frankly, I have a meeting I have to go to. Let's reconvene at 10:00 and I think, frankly, if we continue to make progress as we have, we will achieve our objective of getting this case done this week.

Remember, please don't read anything in the paper about this case or any other case of a similar nature. Don't talk about the matter with anyone. Don't come to any conclusions. We'll pick up tomorrow where we left off.

See everybody in the morning.

(At about 4:05 p.m. - Proceedings adjourned)

-ooOoo-

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OFFICIAL REPORTER'S CERTIFICATE

STATE OF MICHIGAN)
) SS
COUNTY OF KENT)

I, Rebecca L. Russo, Court Reporter in and for the Circuit Court for the County of Kent, State of Michigan, do hereby certify that I reported stenographically the proceedings held in the above-entitled cause before the Honorable Robert A. Benson on December 6, 1993; and do further certify that the foregoing transcript is a true and correct transcript of my stenographic notes of said proceedings so reported and transcribed by me.

Rebecca L. Russo
Rebecca L. Russo, CSR-2759
Official Court Reporter

Dated: 3.2.94
Grand Rapids, Michigan