STATE OF MINNESOTA DISTRICT COURT
COUNTY OF [redacted] [redacted] DISTRICT

STATE OF MINNESOTA,

Plaintiff,

vs. Court File [redacted]

[redacted]

Defendant.

The above-entitled matter came on for hearing before the Honorable [redacted] one of the judges of the above Court, at the [redacted] Minnesota, on the 9th day of [redacted]

A P P E A R A N C E S

[redacted] Assistant County Attorney, [redacted] County, [redacted] Minnesota, appeared on behalf of the State.

ALEX DEMARCO, Esq., appeared with and on behalf of the Defendant.

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EXHIBITS:

Number 1	Marked 4		Received 4
Number 2	Marked 4		Received 4
Number 3	Marked 20		Received 21
Number 4	Marked 20		Received 22
Number 5	Marked 54		Received 54
Number 6	Marked 54		Received 54

STATE v. DANIEL [redacted]
File No. [redacted]

THE COURT: Okay. We are going to go on the record in the matter of State of Minnesota versus Daniel [redacted]

Counsel, would you note your appearances, please?

MS. [redacted] Your Honor, Tori [redacted] on behalf of the State.

MR. DeMARCO: Your Honor, Alex DeMarco on behalf of Mr. [redacted] who appears to my right.

THE COURT: Good morning, Mr. [redacted] We have had an off-the-record discussion regarding what issues are going to be dealt with today. And we are going to have testimony from two witnesses.

The first issues are the testimony of Nurse Jarvis, both as a fact witness and as an expert witness. And I guess the testimony, however, that will be given today will be as it relates to Nurse Jarvis as an expert witness, the qualifications, and how the opinions are important to this case.

And then, secondly, we have a witness testifying about the statement taken of Mr. [redacted] shortly or sometime after the -- the events involved here.

So with that, let's begin with the expert, Nurse Jarvis. And go ahead, Miss [redacted]

MS. [redacted] I just, I want to clarify, because we had a lot of discussion off the record. I just want to clarify for the record, that the state is not intending to elicit any testimony regarding the actual examination of the alleged victim in this case, as the state believes that that is the fact part of Ms. Jarvis's testimony.

If this Court would like, I was willing to file or ask that an exhibit be marked of Ms. Jarvis's sexual assault exam report to go to the fact portion of what she did in this case. If this Court is familiar -- I know this Court is familiar with the facts of this case as all of the discovery has been submitted to this Court and this Court is doing a PC determination. I'm just not sure if this Court needs that exam to determine the relevancy of Ms. Jarvis for her as a fact witness.

THE COURT: Okay. You said you don't intend to elicit testimony about her examination of the, of the alleged victim? You mean today or at trial?

MS. [redacted] Today.

THE COURT: At trial?

MS. [redacted] Correct.

THE COURT: Oh, I guess I would like to see that report.

MR. DE MARCO: I have no objection to the receipt of the report.

MS. [redacted] Your Honor, can I have that sealed, given the nature of what's in that report?

THE COURT: Sure.

MR. DE MARCO: I have no objection to that.

THE COURT: Note that the report will be marked confidential and sealed.

MS. [redacted] So I would offer Exhibit Number 1 as Ms. Jarvis's sexual assault exam report in regard to the alleged victim in this case and that it would be sealed.

THE COURT: Okay. Thank you.

(Exhibit Number 1 was marked for identification.)

MR. DE MARCO: Your Honor, as long as we are submitting exhibits, I would like to submit a transcript of my interview of Ms. [redacted].

THE COURT: Bring that up and have it marked as an exhibit, too. Do you have any objection, Ms. [redacted]

MS. [redacted] No, Your Honor.

THE COURT: Okay.

(Exhibit Number 2 was marked for identification.)

THE COURT: Exhibit 2 will be received.

(Exhibits 1 and 2 were received into evidence.)

MR. DE MARCO: Your Honor, my defendant informs me that I might have misspoke on the record. The transcript is of Ms. Jarvis, not Ms. [redacted]

THE COURT: Okay. Thank you.

MS. [redacted] So to be clear then, the state will then proceed on whether Ms. Jarvis is an expert under Minnesota Rules of Evidence 702. And so I'll provide that foundation and then my intent is to elicit any opinion that she would have in regard to the facts of this case.

THE COURT: Okay.

MS. [redacted] Is that the Court's understanding of what the state is about to do?

THE COURT: That's my understanding. Is that yours, Mr. DeMarco?

MR. DE MARCO: Yes.

THE COURT: Okay.

MS. [redacted] The state would like to call Ms. Kristi Jarvis.

THE COURT: Okay. Come on up, Ms. Jarvis.

KRISTI JARVIS,

Being duly sworn, was examined and testified as follows:

THE CLERK: For the record, state your full name, spell your last name.

THE WITNESS: Kristi Jarvis, K-R-I-S-T-I, Jarvis, J-A-R-V-I-S.

THE CLERK: Okay. You may be seated.

THE COURT: Good morning, Ms. Jarvis.

THE WITNESS: Good morning.

THE COURT: Ms. [redacted] proceed whenever you're

ready.

EXAMINATION

BY MS. [redacted]

Q. Ms. Jarvis, where do you currently work?

A. I currently work at both Hennepin County Medical Center and Regions Hospital.

Q. And what's your -- and in what capacity do you work at Hennepin County Medical Center?

A. I work as a sexual assault nurse examiner, and I'm also the program coordinator for the sexual assault program.

Q. What is your capacity at Regions?

A. I'm a sexual assault nurse examiner there as well.

Q. And what is your education that you had to become a sexual assault nurse examiner?

A. I started out as a registered nurse, that I got from Normandale Community College, and from there I went on and obtained my sexual assault nurse examiner course training that I took in 2009 in adults and adolescents. After that I got a bachelor's degree in criminology and criminal justice. I also hold a master's certificate in forensic nursing. And after that I got my sexual assault nurse examiner training in pediatrics.

Q. When did you get your sexual assault nurse examination in pediatrics?

A. Early 2014.

Q. And you've been certified since 2009 in examining adults and adolescents?

A. I became certified in adults and adolescents in 2012. You can't be certified until you've worked in the field for at least a year. And I started working in 2011 as a sexual assault nurse examiner. And I took the test and became certified the following year.

Q. And maybe I misspoke with the certification. I think you originally indicated that you had some training in 2009?

A. That is correct.

Q. And then a certification followed after you completed so many examinations?

A. That is correct.

Q. Now let's go back to your employment at Hennepin County Medical Center. You said you're a program coordinator?

A. Yes.

Q. And you're a program coordinator over other sexual assault nurses?

A. Yes.

Q. And you used the term SANE, is that correct?

A. That is correct. That's the acronym that stands for sexual assault nurse examiner.

Q. And can you tell me what your duties are as a program nurse coordinator?

A. Yes. We currently have about 20 nurses that work for our program. And we cover 11 hospitals in three different counties. And as program coordinator I help develop the training for the nurses on our staff. I help maintain the relationships between the 11 different hospitals. I help do the hiring of the staff and training in of those new staff. I help write the protocols, and policies for our programs, and then I also go out and do the community education and coordination with law enforcement, prosecution, defense attorneys, and also colleges and universities within our community. And I also sit on the smart teams, which is the multi-disciplinary sexual assault teams within the three different counties that we cover.

Q. Now, do you also conduct examinations in your employment at Hennepin County Medical Center?

A. Yes, I do. I take call time along with the rest of the staff on our team.

Q. And what are your duties as a examiner, a SANE examiner?

A. We take call time and we respond to any hospital where a patient comes in and arrives and reports that they've been sexually assaulted. And then we go to that hospital and we initially check in with the emergency room staff or

wherever the patient might be. They might also be inpatient in a intensive care unit or another unit on the hospital. And we get a very brief report about what the patient came in with and then we go in and we meet with the patient and explain our role and what the examination consists of.

Q. And are your duties really similar at Regions?

A. Yes, they are.

Q. And at Regions you are also a SANE nurse there that responds to calls?

A. Yup. That is my role at Regions. I do the on call SANE nursing at Regions. I'm not the program coordinator there.

Q. Now let's go back to your SANE training. Can you tell me what that training consists of?

A. Yes. It consists of learning about the trauma response and sexual assault victims. It's learning about sexual assault in general, learning examination techniques, learning about injuries specific to trauma, learning about the speculum exam, and the anoscope or rectal examination with patients following trauma, specifically sexual assault trauma, learning how to document injuries, going through forensic photography, going through trauma responses and how to help with crisis intervention, learning about sexually transmitted infections, emergency contraception, HIV medications, the prophylaxis, and then also learning how to

work on a coordinated response team with prosecution, law enforcement, advocacy, and social work.

Q. And you first got this training in 2009?

A. That is correct.

Q. But at that time you were already a registered nurse?

A. That is correct.

Q. And what is the difference between the training for adults and adolescents and then the pediatric training?

A. So with pediatric training, that builds off of the adult and the adolescent training. With pediatrics you're learning much more about the different anatomy, differences between pediatric patients and the adults and adolescents. With pediatric patients they've not yet hit puberty so there is differences in their anatomy that you're evaluating. You're also looking more at long-term and chronic abuse situations versus the acute assault situations that we see more of with the adults and the adolescents. We also test patients for infections in pediatric populations rather than treat them. And because of that, there is differences in learning how to test them and why we're doing that, and their bodies are just made up differently. So those are the differences that we learn in the pediatric course versus the adults and the adolescents.

Q. In going back to your 2009 training for SANE exams

for adults and adolescents, how long was that training?

A. 40 hours.

Q. And is that the typical course for training?

A. Yes. And there are educational guidelines that are set up by the International Association of Forensic Nurses that these courses have to meet in order to be qualified as acceptable.

Q. And did your course follow these educational guidelines?

A. Yes, it did.

Q. And so you explained in 2012 you became certified --

A. Yes.

Q. -- in adults and adolescents. Can you explain what that certification process entails?

A. Yup. So after you take the 40-hour course and you're hired into a program, you have to work for at least a minimum of a year. And the beginning of that year, you work very closely with a mentor, somebody who's trained and experienced in this field, and you do a certain number of examinations under their close supervision until you are able to work on your own independently.

Once you work on your own, for about a year, until you're able to feel comfortable enough in this role, then you're qualified to sit for a examination through the International Association of Forensic Nurses.

Q. And did you sit for that examination?
A. Yes, I did.
Q. And then you became certified after you sat for that examination?
A. That is correct. And there are separate certification exams for adults and adolescents and then the pediatrics.
Q. And are you certified in both areas?
A. Yes, I am.
Q. And do you -- how many -- and do you call them SANE exams or do you call them something else?
A. Like depends on who we're talking to. But, yes, in general, we call them a SANE exam, but the specific legal term is a medical forensic examination.
Q. And how many medical forensic examinations have you done in your career?
A. Currently, roughly about 300.
Q. And that's between adult, adolescents and pediatrics?
A. That is correct.
Q. And you indicated as part of your employment with Hennepin County Medical Center you do training and education. Can you explain some -- what do you do on a regular basis for training?
A. Generally most of the topics that I cover include

teaching different groups about sexual assault, the sexual assault or the medical forensic exam in general, the role of the sexual assault nurse, and then the other topics that I typically teach on are domestic violence and strangulation and pediatric sexual assault or other topics within that area, such as sexually transmitted infections and HIV as well.

I've also covered things such as mental illness within this population or suicide and psychological consequences as a result of sexual assault.

Q. And how long have you been conducting trainings?
A. About three years. I started early on in my career, but at that point it was only maybe a couple a year. And now I'm at the point that I do a few a month.
Q. So you've been doing a couple a month for about three years?
A. Yes.
Q. And do you go through any ongoing training as part of your SANE certification?
A. Yes, I do. We have to have at least 45 hours every three years to maintain our certification. And that's separate for adults and adolescents and then we have to have a separate 45 hours for pediatrics. Then we also have to have 24 hours to maintain our general nursing certification every two years. And all three of mine land on different

years. So that's 114 hours every five years that I have to have.
Q. And are all of your certifications up to date?
A. Yes, they are.
Q. Approximately how many times have you testified in court regarding your SANE examinations that you've conducted or these medical forensic examinations you've conducted?
A. About 12.
Q. Now you've been trained to do these medical forensic examinations as a SANE nurse. Now, what do these examinations entail?
A. So we always start out with discussing medical history and obtaining information about medications or allergies that patients have because medical history can play a role in our examination findings for the patient. So we just start by getting background from the patient. After that we go into a very detailed account from the patient about what happened during the assault or during the incident. We document that while the patient describes it. Following that, we have very detailed questions that we follow up and ask the patient. And that is specifically developed and designed from the crime lab in conjunction with our legal law enforcement, and our local prosecutors' offices to make sure that we're getting the information that we need in order to finish conducting our examination, because it

helps guide the rest of our exam with where we're going to collect evidence and look for specific injuries.

After we have that information, then we go into a very detailed and thorough head to toe examination, where we examine their body, looking for any areas of pain and any specific injuries, things such as bruises, abrasions, scratches, and any other injuries like that. We also document other findings such as scars, tattoos, and piercings as well. We document all those finding on a body diagram. We also photograph them if the patient is okay with that.

All of this is done with the patient's permission, and at any point in time they can decline any portion of this exam. They can also stop it at any time.

Q. Now, you -- you're talking about basically the patient being able to kind of direct. Why is that?
A. Because it allows them to have some control and power back over their body, because that's what was taken from them during the assault.
Q. So an examination could change based on their desires?
A. Correct.
Q. And do you talk about that with them as well during the exam?
A. We do. So if a patient says, you know, let's stop, I don't want to do any of this I don't want you to touch my

body, I don't want you to look at my body, we do respect that, but we also explain the importance of having and needing to look at their bodies for any injuries and documenting those injuries. We explain why we need to do it, why it's part of the exam and the importance so that they understand that and they can make an informed decision. We don't ever push it, but that way they have all the information about why we need to do it. We don't just automatically stop and walk away.

Q. In asking your questions to patients that present post sexual assault, is there a format you use? Is a linear format, do you ask sensory questions? Or how do you do that?

A. So when we start asking the patient about what happened during the assault, we open, we ask a very open ended question, with can you walk me through what happened? And every nurse may use a slightly different question, can you tell me about your experience? Can you tell me what happened? But it's a open ended question to have them explain what happened. And at that point we just let them talk and we document what they say.

We do follow up with sensory questions about, you know, do they remember smelling anything? Do they remember hearing anything? Do they remember tasting or feeling anything? How did they feel during this experience? But we

do that at the end. We try not to interrupt them while they're telling us what happened, so that they can, that way that allows them to describe the experience to us with how they're remembering it, and in whatever format that comes out.

The follow up questions that we ask them, those are on our form, they're on our report form and they are laid out in a specific order. And we ask them those questions the way they're on there. We don't ask them the way they're worded because they're very invasive. We ask them in a way that elicits our information, such as did ejaculation occur? We wouldn't necessarily ask it in those words. We would ask the question as far as, you know, whether or not ejaculation happened. And it would depend on the patient's age and their developmental order.

Q. So you will tailor the examination toward the experience of the patient?

A. That is correct.

Q. Now you indicated that you kind of start out with open ended questions. Why do you do that?

A. So that we can allow the patient to tell their experience with how they're remembering it.

Q. And then why do you ask sensory questions?

A. Because some patients aren't able to remember all the details about what happened to them. And the sensory

questions help them to trigger different senses and different memories about what happened based on those questions that we ask.

Some patients, after a trauma, because of what happens to the brain, it is sort of like throwing a thousand-piece puzzle in the air and it comes back all messed up and jumbled up, and they're not able to recall some of those pieces that have stuck back in the back. So when we ask those certain questions, it may bring back a piece of that that they weren't able to recall while talking about this. And that's the same with those other follow-up questions that we ask. When we ask questions such as did the suspect's mouth touch any other part of your body? That's one of the questions we ask. We may elicit different information that occurred during the assault by asking that question, and it did not come out when they were telling us that step-by-step detailed account that they were telling us, but when we ask that question it helps them remember other things that happened that didn't come out as they were telling us how they remember it because they don't remember things in a linear fashion, they don't come out that way, because, again, it's like that thousand-piece puzzle that gets thrown up and comes back down all jumbled up.

Q. Now getting back to the exam part. You indicated that kind of in the middle there's this head to toe physical

examination and you take pictures?

A. Correct.

Q. Do you then do a more detailed physical examination after the head to toe examination?

A. Yes. So depending on what the patient tells us occurred, everything is very tailored specific to each patient, so if the patient then reports vaginal penetration or rectal penetration, we then move towards doing a complete genital examination with a speculum exam, or a rectal examination as well if rectal penetration occurred, too.

At each of these steps along the way, we're also collecting swabs for potential DNA evidence. So after I'm completed with my head-to-toe physical exam, that is the point that I'm collecting swabs from the body.

So, for example, if somebody reports licking or kissing of the neck, at that point I would collect swabs of the neck, and before I move on to the genital examination. When I'm conducting my genital examination, my speculum exam, that's the point that I'm going to collect my swabs of the peroneal area, which is the outer genital portion. Then I would collect my vaginal and cervical swabs when I'm doing my speculum examination, prior to moving onto my rectal examination.

Q. Now, after this, the potential vaginal examination and rectal examination, do you collect additional things from

the patient?
A. Yes. We also collect blood and urine from them for toxicology as well.
Q. And then do you do anything with patients' clothing?
A. Yes. If the clothing was worn at the time of the assault, or following the assault, we would also collect that for evidence as well.
Q. And do you do any observation on clothing with light?
A. Yes.
Q. And what's that called?
A. We use what's called an alternate light source. And we actually use that to look at the patient. We also use it to look at the clothing for any potential biological substances, such as semen, sperm, saliva, and sweat. Those are the things that would fluoresce with this specific light. And we use that to evaluate the skin on the patient and the clothing.
Q. And then after using this alternative light source, is there more parts of this examination involving the patient?
A. Yes. So after we're all finished with the exam, that's the point that then ve talk with the patient, we educate them about their risk for acquiring any sexually

transmitted infections from the assault, as well as chances for getting pregnant and HIV. And then we offer them medications to protect them from all of those options and we offer them medications for that. If they're open to those, then we have the emergency room administer that medication. We educate them on any side effects and then provide them with any discharge information about follow-up testing they need to have done following that, our examination.
Q. And do you discuss placement of that patient after that?
A. We do. That's in conjunction with the advocate that is also at the exam. Sometimes it involves law enforcement as well. It really depends on the situation of each patient.
Q. Then what do you do with any evidence that you collected?
A. I maintain custody of the evidence at all times during the exam and after all of it's collected, it gets put into each kit that is collected, and it is sealed with evidence tape and then it is turned over to law enforcement if the case is reported to law enforcement. If it's not, it gets locked up into an evidence refrigerator.
Q. So is that generally the flow of a medical forensic examination by a SANE nurse?
A. Yes.

Q. And this is the training that you received, and this is how you should be conducting those examinations?
A. That is correct.
MS. [redacted] Your Honor, may I approach?
THE COURT: You may.
(Exhibit Number 3 and 4 were marked for identification.)
BY MS. [redacted]
Q. Ms. Jarvis, I'n showing you what's been marked for identification as Exhibit 3. Do you recognize that?
A. Yes, I do.
Q. What is that?
A. This is my curriculum vitae from November 10th, 14 2016.
Q. So is that your most current copy of your curriculum vitae?
A. Yes, it is.
Q. How many pages is that?
A. 22.
Q. And this indicates your experience throughout your career?
A. That is correct.
MS. [redacted] Your Honor, I would like to offer Exhibit Number 3.
THE COURT: Any objection?

MR. DE MARCO: I'm not objecting to Exhibit 3, Your Honor.
THE COURT: Exhibit 3 will be received.
(Exhibit No. 3 was received into evidence.)
BY MS. [redacted]
Q. I'm showing you what's been marked for identification as Exhibit Number 4. Do you recognize what this is?
A. Yes, I do.
Q. What is it?
A. It is a manuscript that I co-authored titled Debunking Three Rape Myths.
Q. And is it published?
A. Yes, it is. In the journal of forensic nursing.
Q. And what is the general topic of this article?
A. So it was done at Regions Hospital with the medical director Mary Karr, where we researched two years of patients that came through our program, and we looked at their time from assault to examination as well as genital and physical injuries and whether or not they resisted during the assault.
MS. [redacted] Your Honor, I would like to offer Exhibit Number 4 as an exhibit.
MR. DE MARCO: Which one is that?
MS. [redacted] Debunking Three Rape Myths, the article.

MR. DE MARCO: I have no objection.

THE COURT: Exhibit 4 will be received.

(Exhibit No. 4 was received into evidence.)

BY MS. [redacted]

Q. So based upon all of your training and experience, you have a lot of contact with people that report being rape victims. Is that fair to say?

A. That is correct.

Q. And based on that training and experience, you see a lot of individuals that exhibit different behaviors?

A. That is correct.

Q. And now you have stated information in your testimony about trauma, is that accurate?

A. Yes.

Q. Now, are you a brain scientist?

A. No, I'm not.

Q. And when -- and you said previously to Mr. DeMarco that you're not an expert in the neurobiology of trauma, is that accurate?

A. That is accurate.

Q. But you have had a lot of experience dealing with victims that -- sexual assault victims after the fact?

A. That is correct.

Q. And you've been able to observe their behavior and any trauma that has occurred?

A. Yes.

Q. Is that fair to say?

A. Yes.

Q. Now, based on your training and experience, do you have an opinion about how trauma can impact a sexual assault victim?

A. I would say that there's no one way that a sexual assault victim or a patient responds following trauma. There are a lot of different factors that come into play. If a patient has been abused as a child or previously in life as a adolescent or earlier in adulthood, that may change the way they respond to a subsequent sexual assault encounter.

Every victim, every patient that I've ever encountered has responded to this differently. And I've seen an array of responses. And this is also what I teach in my courses, too, that there is no one response.

I've seen patients have a complete flat affect during the exam, where they just sit there and tell their account, tell their report of what happened in a completely matter of fact way, with no emotional response on their face. I've seen patients sobbing hysterically through the entire exam. I've seen patients crouched over in the corner, sitting on the floor, scared to death to move. I've seen patients flinch at the mere sight of a male physician or a law enforcement officer. I've heard patients laugh

uncontrollably during an exam. And I've seen patients do all three of these within the four- or five-hour timeframe that I'm with them during the exam. So they have these emotional mood swings, they have these different flood of emotions, and that comes from the rush of hormones that's going through their body as their response factor to what's happening. And that's when I see from a behavioral side due to the response of the trauma that's happening to them.

I've also seen them make sort of some of these rash decisions of they come in and they don't know if they want to be examined, or they want the exam and then they don't want the exam. They kind of change their mind and they fluctuate or all of a sudden they decide that they have to leave right now because of something that's going on. And they're not making those rational decisions that somebody who hasn't gone through trauma would likely make.

The other thing that we've seen as well, with a lot of these patients is that linear thinking is lost in most of these patients.

Most patients that you see in a medical setting, whether it be the clinic or in my experience as a research nurse, when you would have patients come in and you would talk to them, and you would ask them to provide medical history, for example, they could tell you their list of medical conditions or their list of medications that they're

on. They could tell you a story about what's been going on with their current medical conditions in a linear fashion.

Patients that come in following sexual assault have a hard time piecing those things together in a one, two, three, four kind of fashion. To them it ends up being three, one, four, two kind of a story. So that the way it comes out in their brain is that what happened, number three in the story actually comes out first. And it happens -- that's how it comes out in their brain and then they start backtracking, and they say, no, wait, that's not how it happened, this happened first and then that happened, no, wait, this is how it happened now. And again, it's like that puzzle analogy, where because of the flood of emotions that come after a trauma, they aren't able to process all of that in their brain the way the rest of us are. And so it does not come out in a linear fashion. And even when you try to force it out that way, it doesn't work for them.

So one of the things, too, that I've found works is when we ask patients about do you have any chronic illnesses, and they say no, I leave that question blank for a minute, because then I ask them do you see a doctor for any illnesses or any medications? And then I follow it up with do you take any medications for anything? Then if they say something, then I follow that back up with, well, what do you take that for? Because sometimes it's just all in how you word things

and approach things in how they understand that. If that helps.

Q. So, in your opinion, is it common -- or maybe common's not the right word, but is it typical to see patients that are presenting themselves as sexual assault victims to tell a story that's not A, B, C, D, but mixed up like you just said?

A. Yes, it is very -- I would say it's very common.

Q. It's very common. Now, also, when you are talking with patients that present as sexual assault victims, do you -- do you see anything about -- or do they talk about whether they fought off or they stopped or can you address that?

A. Well, one of the questions we ask is did you scratch or injure the suspect in any way? It's one of the questions that we ask during our exam. And I would say that about half, maybe a little less than half of the patients say yes to that answer or to that question. And during the research that we did, most patients, about half, do not fight back during an assault. And it has a little bit to do with the fight or flight response and that rush of hormones.

Q. And so if someone has an expectation that all victims must fight or fight hard, what have you found with your research if someone thought everyone should be fighting constantly during a potential sexual assault?

A. Can you kind of rephrase it? I'm not quite sure what you're asking.

Q. So in your finding --

A. Mm-hum.

Q. -- not everyone has the same reaction about fighting or not fighting?

A. Correct.

Q. So there's not one way to respond?

A. Correct.

MR. DE MARCO: Your Honor, would the court afford counsel a brief recess? Five minutes?

THE COURT: Sure.

MR. DE MARCO: Be right back.

(A short break was taken.)

THE COURT: All right. Go ahead.

MS. [redacted] I'm done.

THE COURT: Pardon me?

MS. [redacted] I'm done.

THE COURT: Oh, you're done. You're not going to solicit any testimony about any opinions she intends to offer here, the foundation for those?

MS. [redacted] I thought I just did.

THE COURT: Okay. Without any foundation as to this particular alleged victim.

MS. [redacted] Can we approach?

THE COURT: Sure. Do you want to just go off the record?

MS. [redacted] Yes.

THE COURT: Okay. We're off the record.

(Off the record.)

THE COURT: Do you want to go back on the record?

BY MS. [redacted]

Q. So, Ms. Jarvis, based on your training and experience -- well, let's back up. You did an examination, a medical forensic examination with Ms. [redacted] is that accurate?

A. That is correct.

Q. And I believe that occurred on October 30th, 2014?

A. That is correct.

Q. And did she exhibit any of the non-linear thinking when you were interviewing her?

A. Yes, she did.

Q. And can you explain that?

A. She provided an account of the incident, but it was all over the board as far as how she provided the information. She provided the information about how things would have started that night, but then she would jump to the assault happening in a different room and then it would go back to things that were happening prior to when they were in that other room.

She also needed to take several breaks during providing that account. She broke down sobbing hysterically at one point, and at one point actually needed a complete break to go outside and have a cigarette break during the middle of that account, because she was so emotional and shook up during that.

Q. And as she was talking to you, did she remember things that she had not mentioned to the police?

A. Yes, she did.

Q. And she specifically told you that?

A. Yes, she did. There were also points in time that she provided information when asked a specific question where she said things such as I don't know for sure, I can't remember that exactly.

Q. And so in your training and experience do you believe that Ms. [redacted] was presenting as a sexual assault victim in the way she was describing this incident in a non-linear fashion?

A. Her behavior was consistent with that of somebody having experienced trauma, yes.

Q. Now did Ms. [redacted] also talk to you about coming to a point where she just couldn't fight anymore?

A. I would have to review my chart. I apologize. I did not know that we were going to get into the details of the report and I've not seen it in --

Q. Would it refresh your recollection if you saw your report?
A. Yes, it would.
MS. [redacted] Your Honor, could I show her that exhibit?
THE COURT: Yes.
THE WITNESS: I don't want to misspeak.
MS. [redacted] You have it.
THE COURT: Oh.
THE WITNESS: Thank you. Okay.
BY MS. [redacted]
Q. Does that refresh your recollection?
A. Yes, it does.
Q. And what did she refer to you in regard to struggling or lack thereof?
A. She said that she finally just gave in so that she could get it over with.
Q. And based on your training and experience, what does that tell you?
A. That she gave up fighting.
Q. And is that something that is unusual in sexual assault victim cases?
A. No, it is not.
MS. [redacted] Your Honor, the state would offer Ms. Jarvis as an expert and those opinions to be offered in

trial. Is there any additional?
THE COURT: Just one question. It's probably obvious to everybody but me. The examination and the interaction you had, you described typically what you do. Is that the same interaction you had and the same exam you did of Ms. [redacted]
THE WITNESS: That is correct.
THE COURT: Anything in what you described that you didn't do with Ms. [redacted]
THE WITNESS: No. There were portions of the exam that Ms. [redacted] declined.
THE COURT: Okay. Did you do anything extra or anything you didn't describe as typical of the examination of Ms. [redacted]
THE WITNESS: No.
THE COURT: All right.
MS. [redacted] Based on that, can I just follow up?
THE COURT: Sure.
BY MS. [redacted]
Q. Ms. Jarvis, you indicated Ms. [redacted] did decline portions of your examination. Do you remember what portion she declined?
A. Yes. She declined the rectal exam with the anoscope.
Q. Okay.

A. She said she just could not take it anymore and she did not want me to insert what's called an anoscope into her rectum to examine for any injuries and findings.
Q. And did that come toward the end of your examination of Ms. [redacted]
A. Yes, it did.
Q. And how long did you examine Ms. [redacted]
A. May I refresh my recollection?
Q. Yes. Did that refresh your recollection?
A. Yes, it did.
Q. So how long did you examine Ms. [redacted]
A. For four and a half hours.
MS. [redacted] I have nothing further based on your question.
THE COURT: Mr. DeMarco.

EXAMINATION.

BY MR. DeMARCO:

Q. Ms. Jarvis, I do want to go back to something that you said earlier that was pretty important. You indicated -- and this is part of when you were discussing your role, when you were discussing your role as a sexual assault nurse examiner and why this level of detail is done. You indicated, this is a direct quote I got verbatim, part of it gives them, quote, control and power back over their body because that's what's been taken from them. Is that

correct?
A. Yes, it is.
Q. Okay. You've received a lot of training in a very short period of time and now you're basically leading this department, correct?
A. That is correct.
Q. Okay. Do you recall giving -- do you recall in 2014 giving a interview with the Pioneer Press regarding sexual assault nurse examinations?
A. Yes, I do.
Q. Okay. I only have it in digital form. I'm sorry about that.
MR. DE MARCO: Your Honor, may I approach the witness?
THE COURT: You may.
MS. [redacted] Can I see this?
MR. DE MARCO: This is all it is --
MS. [redacted] Oh, I --
MR. DE MARCO: I didn't know we were submitting articles today.
MS. [redacted] Okay. Can you resend this to me?
MR. DE MARCO: I can resend it to you. I can do it right now.
MS. [redacted] Okay.
BY MR. DE MARCO:

Q. I'm showing you on my Microsoft Surface, this article from Pioneer Press. It was used at a previous hearing, but I have it digitally here. In 2014, were you interviewed by a Ann Milibrand?

A. Yes, I was.

Q. Milerbernd, excuse me. And in asking you about your job, you indicated, quote, me being there, me giving all my -- giving my all to them and coming in and making it a priority helps them to know they're going to be okay and that this moment does not define them. Is that something that you said to her?

A. Within context, yes. It's not the full quote, but it's part of it.

Q. It never is.

A. I understand.

Q. Further down, you indicate the people that we deal with, the cases we deal with, they can kind of eat at your soul, you kind of see the worst of people and sometimes you go home thinking what is wrong with this world? Did I read that correctly?

A. That is what it says, yes.

Q. Okay. And would you say you said words pretty close to that effect in reporting?

A. Something along those lines, yes, but, again, that's not the full quote and it's a part of a much longer

conversation.

Q. Well, the bottom line is the people that come into your office are victims, right?

A. They're patients.

Q. They're patients. That is true. They're your patient, you have a fiduciary relationship with them, right?

A. I do not have a fiduciary relationship to them, no.

Q. I mean you have a privileged relationship with them, a confidential and privileged and medical relationship with them, correct?

A. That is correct.

Q. You may be a nurse, but the same as any doctor?

A. Correct.

Q. You have a duty to treat that person?

A. Absolutely.

Q. It's not your job to doubt that person?

A. Correct. And nor would I doubt somebody coming in and complaining of chest pain.

Q. Somebody comes in and you ask them about current conditions and they say I have cancer, it's not your job to tell them that they have cancer, right?

A. Correct.

Q. And yet your training, you have some interesting training in this, it's very much working very closely with

the Bureau of Criminal Apprehension, law enforcement, and various county attorney's offices, correct?

A. Yes.

Q. Okay. And specifically, other than the sexual assault nurse exam, you mentioned that this is also referred to as medical forensic exam?

A. Correct.

Q. You ever, you went on to get a bachelor's in criminology and what else?

A. Criminal justice. It's a combined degree.

Q. Okay. And a part of this is -- I mean you used the word forensic again and again. Forensics means that the purpose of this examination is they're being generated specifically for use in criminal litigation, correct?

A. Correct.

Q. Okay. And so you're the expert, you're the one that's leading all this band of experts, you're the expert for these criminal forensic exams of these individuals, okay, who are the alleged victims of defendants in the criminal justice system, but you are also their nurse, you're the person giving them power and control over their bodies, right?

A. Well, I'm going to just correct a couple of things because you said criminal forensic exams, and that is not what they are. They're medical forensic exams. And they're

our patients, they're not our victims.

Q. But forensic, I mean.

A. That is a portion of the exam. That's what they are. That's why we're specially trained nurses to do these exams.

Q. I appreciate that. And that special training is in forensic. You mentioned that again and again, in your interview with me, in your testimony here?

A. Correct.

Q. That's in preparation for criminal prosecution?

A. If that's where it goes, absolutely.

Q. At a minimum, criminal investigation?

A. Correct.

Q. Okay. And that is to prosecute individuals accused of assaulting your patient?

A. Correct.

Q. You have an article there and cited a number of studies regarding injuries in rape victims, et cetera. That study itself didn't compare the observations of -- talking about the physical observations of rape victims versus consensual sexual encounters, correct?

A. That is correct. No, we did not.

Q. That was exclusively on people who were presenting as rape victims?

A. Correct.

Q. Okay. We had talked about in our interview, et cetera -- well, let's go back in the beginning of your testimony when you were just outlining generally the process that you go through. You talked about the meticulous inventory of the human body, correct?

A. I believe so.

Q. Okay. You note -- and it's in my interview with you, and what you're saying here -- I mean every notable injury, or even less than injury, meaning unmeasurable punctate abrasions, the size of a pen, each one of those are documented in your reports, correct?

A. Correct.

Q. Okay. And so often some abrasions and things that might be very common on human skin from every day work and interaction, those are all noted, correct?

A. Yes, they are.

Q. Without regard to what caused them or what they're associated with, unless they say something, right?

A. Yes. If the patient notes what caused this specific injury, we document that in our chart as well.

Q. Okay. And even in that study that you did, even in the submission that was made, I'm noting in the examination that of these sexual assault victims, only 32 percent of them presented with genital injuries, correct?

A. That is correct.

Q. And so the majority of the sexual assault victims in the study exhibited no genital injury?

A. Correct.

Q. Okay. And that's pretty consistent with other studies that have been done in the past, would you agree?

A. Other studies vary significantly, depending on how they were done, how many patients they had, how they examined these patients. But the numbers vary widely, depending on which research study you look at when it comes to consensual sex injuries.

Q. In terms of other physical injury, non-genital physical injury, about, what, 55 percent of them had non-genital physical injuries, correct?

A. I believe so, yes.

Q. Okay. Age was also a big factor in that, in people over the age of -- people who were 31 to 72 reporting these physical injuries was only present in one percent of those people, correct?

A. I believe that is correct. But we also didn't have a huge number in that population.

Q. It was not a huge number. The overall samples -- I mean the overall sample size, I believe, was 317?

A. Yes.

Q. And the sexual assault victims 31 to 72 were 79 of those people?

A. Correct.

Q. In contrast, for example, people who -- victims who were younger, ages 13 to 17, were a lot more likely to exhibit genital injury, correct?

A. Correct.

Q. You talked about trauma. Let me ask it to you this way. Is there such a thing as a rape victim that is not traumatized, that isn't experiencing trauma?

A. Not sure what you're asking.

Q. Just, just what it says, is there such a thing as a rape victim that doesn't exhibit trauma?

A. I would say no.

Q. Okay. And so when we're talking about common responses to trauma, each one of these people's presented themselves to your office as a rape victim, but you indicated in testimony that their responses to the examination vary widely, correct?

A. I wouldn't say that their responsss to my exam. I would say their responses in general. So even when I walk into the room for the first time, that's what I'm describing, their responses, how I observed them walking into a room, everybody varies widely.

Q. You talked about the interview with me, the demeanor that some of these victims, these alleged victims, can get through their story in a very matter of fact type of way,

describe it to you very plainly?

A. Correct.

Q. And other, these people, they break down sobbing and crying, and some of them even just go catatonic for a little bit?

A. Yes.

Q. And some of them are just in between, some of them are kind of veepy at some point, but get through it like talking about an emotional death, right?

A. Yup.

Q. Okay. So there really isn't any one of those, there really isn't a particular demeanor or anything that is consistent with sexual assault?

A. There's a variety. So there is, I mean several different ways that I have seen them present. What I'm saying is that you can't put one type of emotion on all sexual assault victims. And that's what I was describing is that not every single sexual assault patient comes in and looks one specific way or acts one specific way.

Q. And in my examination of you, you also talked about, you generally put it at half that some of these people display injuries and some of them don't?

A. Correct.

Q. Okay. Talking about trauma, you're talking about rushes of hormones going through their body. Just to

clarify, you're not neurologically trained, right?
A. I'm not an expert in neurology.
Q. You're not an endocrinologist with hormones and things?
A. Correct.
Q. Okay. So, and even with that we're back to kind of this magic half term or magic 50 percent number, you would say about half of the patients report fighting off and half of them don't?
A. It's about that, correct.
Q. You mentioned as you were -- when you asked them to describe in linear fashion what occurred, you also talked to me during the interview I had with you that while you're conducting the exam a few times she described things, correct?
A. Correct.
Q. You don't prevent them from talking during the exam obviously?
A. No, we don't.
Q. And it would be when you get to a certain area that you were examining and she would mention things that might be associated with that, right?
A. Correct.
Q. She mentioned some of those things that she might have have not told the police?

A. I don't recall when she mentioned those specific things, if it was during her account or if it was during the exam.
Q. Do you -- this all occurs in very fast order. Do you even -- did you, in this case, review a police report before doing the exam?
A. No. And we would not do that.
Q. Okay. Just curious. You talked about sort of the jumbled thinking or the jumbled piecing together that people talk about events outside of the order in which they happened when they are in your office, correct?
A. Correct.
Q. But the fact is you're not a witness to any of these incidents? You don't know the order that it happened, right?
A. Correct.
Q. Okay. And so you were asked to render -- you were asked to talk about the ultimate opinion you talked about in this case, and that is essentially that due to some of her non-linear description, and that she would describe that it would be in this room, but then she would describe something that happened in this room and then go back to something described earlier, you're saying that that, I think what you called three, one, four, two thinking in description, in that opinion she was raped, correct, because on that basis?

A. That was not my conclusion, no. My conclusion was that she was, her behavior was consistent with that of somebody who'd experienced trauma.
Q. Okay. Because of this description?
A. Correct.
Q. Okay. I mean obviously it's not --
A. As well as other things, but, yes.
Q. But I mean her demeanor, you just testified some people bawl all the way through it, and some people are emotional at times, some people are totally flat affect, some people get through it in a very matter-of-fact fashion, and some people laugh hysterically you even mentioned. I mean her demeanor doesn't tell you whether she was traumatized or not, right?
A. It is consistent with somebody who has been traumatized, because it's different than when I walk into a doctor's office and I'm complaining of stomach pain or a headache or being even kicked in the leg or having my, you know, ankle sprained after a triathalon even, for example. Those aren't traumatic events, so my behavior, affect, demeanor are different than that of somebody who has been traumatized and is coming in for a sexual assault exam. Whether these are different and vary between ten different types of emotions, they're still consistent with.
Q. Finally, and as you've indicated in your interview

with me, et cetera, that's all being informed by your, what you're claiming is your knowledge of trauma and responses and that, it's not, in terms of the physical observations, you agreed with me that these physical observations are no more consistent with consensual sex or nonconsensual sex, and the injuries to her body may have nothing to do with sex, correct?
A. I don't recall agreeing with you on that, but --
Q. Okay.
A. -- the injuries on her body, I -- no one can ever determine exactly where they came from. I can describe what may have caused them. I can describe what they're consistent with. I can describe what causes an abrasion. I can describe what causes a contusion. I was not there to observe them, no, to observe what caused them.
Q. But, to be fair, you wouldn't need any training as a sexual assault nurse examiner to simply state that an abrasion can be caused by a scratch on the skin, right?
A. There are multiple things that can cause an abrasion, so.
Q. Right. But other nurses and doctors would be familiar with those, correct?
A. Sometimes, yes.
Q. Okay. That's -- that isn't a sexual issue, that is how the organ of the human skin responds to a stimuli on its

surface, right?
A. Correct. But there's more that goes into understanding injuries and how they occur than just having a medical background. In nursing school you are not trained in understanding the intricacies of injuries and documentation of such injuries, including contusions, blunt force trauma.
Q. In the beginning of your testimony you did talk about your training and I think you mentioned there are, you know, among the other things that you're being trained for, you are looking for certain specific observations and injuries, correct?
A. Correct.
Q. Okay. There are traumas that do more commonly appear in sexual assaults -- and we talked about this in our review as well -- for example, trauma types or tears at the posterior fourchette, for example, correct?
A. Correct.
Q. Or the labia minora?
A. Correct.
Q. The hymen in younger patients, correct?
A. Correct.
Q. And the fossa navicularis, correct?
A. Correct.
Q. And those weren't observed in this case?
A. They were in this case.

Q. But there wasn't -- there were no tears observed? I said tears. Correct?
A. Can we look back at the report?
Q. Was -- what I am asking you is, I asked you about there is the curvilinear --
MS. [redacted] Your Honor --
BY MR. DE MARCO:
Q. -- abrasion --
MS. [redacted] -- are we going to be on the scope of this hearing, I think, with these questions? I believe --
THE COURT: Are we still on the expert issue?
MS. [redacted] I don't think we're on the expert issue anymore. And all of this stuff is in the --
MR. DE MARCO: It is. Counsel's right.
THE COURT: Okay.
MR. DE MARCO: I don't have any further questions.
THE COURT: Okay. Do you have any redirect?
MS. [redacted] No, Your Honor.
THE COURT: Okay. You can step down, Ms. Jarvis. Thank you. Is Ms. Jarvis free to go?
MS. [redacted] Yeah.
THE COURT: Thank you.
THE WITNESS: Thank you.
(Witness was excused).
THE COURT: Okay. Before we do this, do you want to

call your other witness?
MS. [redacted] Yes. Your Honor, the state calls Detective Matt [redacted]
THE CLERK: Raise your right hand.
MATTHEW ANDREW [redacted]
Being duly sworn, was examined and testified as follows:
THE CLERK: For the record, please state your full name, spell your last name.
THE WITNESS: Matthew Andrew [redacted] Last name is H-E-D-R-I-C-K.
THE CLERK: Thank you.
THE COURT: Go ahead.
EXAMINATION
BY MS. [redacted]
Q. Detective [redacted] are you currently employed by the City of [redacted]
A. I am.
Q. In what capacity?
A. I'm a police officer there.
Q. How long have you been a police officer with the [redacted] Police Department?
A. Since June of 2013.
Q. You're currently a detective?
A. Yes.
Q. And when were you promoted to detective?

A. August of 2014.
Q. So you started out as a patrol officer?
A. That's correct.
Q. And soon thereafter you were promoted to detective?
A. That's correct.
Q. Are you a licensed and certified police officer?
A. I am.
Q. And for how long?
A. Since June of 2013.
Q. And did you have employment, alternative employment, before you became a police officer?
A. I did.
Q. What were you?
A. I was a pastor at a local church for approximately 17 years, then had a short, brief time working dispatch with Scott County Sheriff's Office.
Q. And so did you get some training to become a peace officer?
A. I did.
Q. And what training did you obtain?
A. I received my associates of science degree in law enforcement from Inver Hills Community College.
MR. DE MARCO: I'm sorry, Your Honor. I would stipulate that the officer is a licensed peace officer in the