VOL. I of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Lexington County

Honorable Kristi F. Curtis, Circuit Court Judge

HEATHER MARIE LAWSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001806

APPENDIX

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State of South Carolina)	In the Court
)	Of General Sessions
County of Lexington)	

Indictment No.: 2017-GS-32-02364

State of South Carolina, Plaintiff.)	
vs.)	Transcript of Record
Heather Marie Lawson, Defendant.)	

August 7-10, 2017
Lexington, South Carolina

B E F O R E:

The Honorable R. Knox McMahon, Judge and a jury.

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Brenda J. Sigwald, Circuit Court Reporter
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THE COURT: All right. Solicitor, if you would please call your first case for trial.

MS. MAYES: Your Honor, this is Indictment Number 2017GS3202364. May it please the Court. The State of South Carolina versus Heather Marie Lawson. This indictment is for homicide by child abuse.

Your Honor, the State is ready for trial. Ms. Lawson is present in the courtroom represented by counsel.

THE COURT: Thank you. Thank you, Solicitor.

Mr. Williams, you represent Heather Marie Lawson?

MR. WILLIAMS: I do, Your Honor.

THE COURT: And as the solicitor said, Ms. Lawson is present in the courtroom?

MR. WILLIAMS: She is, Your Honor.

THE COURT: And is Ms. Lawson ready for trial?

MR. WILLIAMS: She is, Your Honor.

THE COURT: Thank you, thank you very much.

JURY VOIR DIRE

THE COURT: Ladies and gentlemen of the jury panel, if you would please give me your complete and undivided attention. We're -- as you're aware, previously you were qualified to serve as jurors in this Court. We're now going through a procedure whereby we select a trial jury for this particular case. I will ask you certain questions

to determine your eligibility and your qualifications to serve as jurors, again in this particular case.

The purpose of this procedure is to select a trial jury that will be able to be fair and impartial to both Heather Marie Lawson and the State. As part of that process, I will read or publish to you the indictment. The indictment is the formal charging document by which an individual is placed on notice of charges that have been brought against him or her. The indictment is not evidence. The indictment contains mere allegations that are in no way evidence of the allegations contained therein. I read this indictment to you because of certain questions I must ask you to determine your qualifications.

Indictment 2017GS3202364 reads as follows: That Heather Marie Lawson did in Lexington County, South Carolina, on or about 26 June 2016 cause the death of a child who was under the age of 11 years at the time of her death; and that the defendant did cause the death of said child while committing child abuse or neglect; and the death of said child occurred under circumstances manifesting an extreme indifference to human life, such being an act or omission which caused harm to the child's physical health or welfare, to wit, the child's physical abuse including but not limited to blunt force trauma to the head and/or medical neglect of the child; furthermore,

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that aforesaid child abuse or neglect caused the death of Minor 1 date of birth, [redacted] 2015, in violation of Section 16-3-85(a)1 and (b) of the South Carolina Code of Laws, 1976 as amended.

That is an indictment for homicide by child abuse. Again this is the formal charging document. It contains mere allegations and is not evidence of any of the allegations contained therein.

To begin with, the solicitor's office is represented by Assistant Solicitors Mayes and McNair.

If y'all would please stand, introduce yourselves to the jury panel and any other members of the solicitor's office staff that will assist you during the trial of this case.

MS. MAYES: May it please the Court?

THE COURT: Yes, ma'am.

MS. MAYES: My name is Suzanne Mayes. I'm Deputy Solicitor of the 11th Judicial Circuit, which includes Lexington County, Saluda, Edgefield, and McCormick.

MR. MCNAIR: Good morning, I'm Robbie McNair, I'm assistant solicitor here in Lexington County.

MS. MAYES: Also present in the courtroom are Detective Tracie Barr, she is a sergeant with the major crimes unit in Lexington County.

Also present is Detective Adam Creech, with the

Lexington County Sheriff's Department Major Crimes Unit.

Also present in the courtroom is Investigator Jill Smith, also employed by the 11th Judicial Circuit Solicitor's Office.

THE COURT: Thank you, thank you, Solicitor.

Ms. Lawson is represented by Mr. Theo Williams of the Lexington County Bar.

If you would please stand and introduce yourself, Mr. Williams; and your client.

MR. WILLIAMS: I'm Theo Williams. I work here in Lexington on the corner of Number 1 and Number 6, right across the street at the firm of Williams, Stitely, and Brink. The Stitely being my law partner, Ben Stitely; the Brink being my wife Lisa Brink; and there's one other lawyer by the name of Lisa Williams who happens to be my daughter.

This is my client --

Heather, will you stand here.

This is my client, the person who's charged with the events. Her name is Heather Lawson.

THE COURT: Thank you, thank you, Mr. Williams.

Thank you, Ms. Lawson.

To begin with, ladies and gentlemen, the attorneys. Is any member of the jury panel related by blood or marriage, personal friends --

THE JUROR: I have --

THE COURT: If I could finish my question, please. Thank you, though. And I'll get right back to you.

Again, is any member of the jury panel related by blood or marriage, close personal friends, have any social, business, professional relationship with any of the attorneys in the matter, either Assistant Solicitor Mayes, Assistant Solicitor McNair, or Mr. Williams? If so, please stand.

(Several jurors stood.)

THE COURT: All right. And your -- yes, sir, your number, please.

THE JUROR: 116.

THE COURT: And which of the attorneys?

THE JUROR: Right there.

THE COURT: Mr. Williams?

MR. WILLIAMS: He said the defendant.

THE COURT: Excuse me.

MR. WILLIAMS: He said the defendant, Your Honor.

THE COURT: I didn't ask about the defendant. I asked about the attorneys. But I will give that to you, young man. Thank you. Thank you very much.

Yes, your number, please.

THE JUROR: 105.

THE COURT: 105. And which one of the attorneys?

THE JUROR: I'm just neighbors with Robbie McNair.

THE COURT: With Mr. McNair. How long have you been a neighbor of Mr. McNair?

THE JUROR: About three years, sir.

THE COURT: All right. The fact that you are a neighbor of Mr. McNair, can you be a fair and impartial in the trial of this case for both Ms. Lawson and the State?

THE JUROR: Yes, sir.

THE COURT: Thank you. You may stay with us.

Yes, your number, please.

THE JUROR: Number 14.

THE COURT: 14.

THE JUROR: My wife works with the McNair Law Firm.

THE COURT: I apologize, I can't quite hear you.

THE JUROR: My wife works for the McNair Law Firm in Columbia, downtown. I don't think there's any kin to Mr. McNair or anything.

THE COURT: I don't know, either. We can find out.

Mr. McNair? Or solicitor?

MR. MCNAIR: That's my grandfather, Your Honor; but I don't know his wife.

THE COURT: Okay. So the McNair Law Firm, that's your granddaddy?

MR. MCNAIR: Yes, sir.

THE COURT: All right. McNair is his granddaddy

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and he says he does not know your wife.

THE JUROR: Yes, sir.

THE COURT: The fact -- the fact that your wife works at the McNair Law Firm, can you be a fair and impartial juror in the trial of this case for both Ms. Lawson and the State?

THE JUROR: Yes, I could.

THE COURT: Thank you, I believe you can stay with us.

Yes, ma'am, your number, please.

THE JUROR: 19. My husband used Mr. Williams --

THE COURT: I apologize, sometimes I can't hear from the front or from the back. I apologize.

THE JUROR: My husband, about 20 years ago, he's deceased now, he used Mr. Williams as an attorney, a long time ago.

THE COURT: 20 years ago wasn't that long ago. But be that as it may, the fact that your husband knew Mr. Williams, can you be a fair and impartial juror in the trial of this case for both Ms. Lawson and the State?

THE JUROR: Yes.

THE COURT: All right. And that was number 19?

THE JUROR: Yes, sir.

THE COURT: All right. Thank you.

MS. MAYES: And, Your Honor, if it may please the

Court, I believe she indicated that was how long ago?

THE COURT: I thought she said 20 years ago.

MS. MAYES: Thank you, Judge.

THE COURT: All right. And that question also includes if you've ever been a party to a lawsuit or a witness in a lawsuit where either Mr. Williams was the attorney or one of the assistant solicitors, Mr. McNair or Ms. Mayes was one of the attorneys. If so, please stand.

(No one stood.)

THE COURT: My next question: Is any member of the jury panel related by blood or marriage, have any social, business, or professional relationship with the named defendant, Heather Marie Lawson?

(A juror stood.)

THE COURT: Yes, sir, and your number, please?

THE JUROR: 116.

THE COURT: And what is that friendship or relationship or --

THE JUROR: Family.

THE COURT: Family. And what degree of kinship.

THE JUROR: Cousin.

THE COURT: Cousins. First cousins?

THE JUROR: First cousins.

THE COURT: All right. Given the fact that you're first cousins to Heather Marie Lawson, can you be a fair

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and impartial juror in the trial of this case for both the State and Ms. Lawson?

THE JUROR: No, sir.

THE COURT: Thank you, thank you very much. I will excuse you from the trial of this case. You may be seated.

Any others?

(No one stood.)

THE COURT: The named alleged victim in the case is Minor 1 DOB [redacted], 2015. Is any member of the jury panel related by blood or marriage or knew Minor 1 ? If so, please stand.

(A juror stood.)

THE COURT: Thank you, yes, sir, you may remain seated. I have excused you from the trial of this case. Thank you.

THE COURT: The indictment alleges homicide by child abuse which occurred on or about 26, June, 2016. Does any member of the jury panel have any knowledge about the facts of the case? If so, please stand.

(No one stood.)

THE COURT: Does any member of the jury panel have any bias or prejudice towards the parties, that either being Ms. Lawson or the State or the subject matter involved in the case? If so, please stand.

(No one stood.)

THE COURT: Has any member of the jury panel heard or know anything about the case from any source whatsoever? Radio? Newspaper? Internet? Hearsay? Any source whatsoever? If so, please stand.

(No one stood.)

THE COURT: I'm going to call a rather -- I think before I do that, let me ask this question: Has any member of the jury panel or any member of your immediate family ever been a victim of or investigated or charged with an offense involving child abuse or neglect? If so, please stand.

(Several jurors stood.)

THE COURT: All right. Yes, if y'all would just come to the middle aisle for me, please, those of you standing.

(There was a bench conference on the record with the jurors out of the hearing of the jury venire.)

THE COURT: All right. Yes.

THE BAILIFF: 212, Your Honor.

THE COURT: 212. Good morning. Tell me your response to that, please.

THE JUROR: I've been a party to --

THE COURT REPORTER: Judge, I can't --

THE COURT: Step up here a little bit.

THE JUROR: I've been a party to or one of the

victims of child abuse as a child.

THE COURT: You were a victim?

THE JUROR: Yes.

THE COURT: And can you give me kind of a time frame; if you don't mind?

THE JUROR: Yes, I was 11 years old. My stepfather was sexually molesting me and it lead to other things of violence.

THE COURT: Given those facts can you be a fair and impartial juror in the trial of this case for both Ms. Lawson and the State?

THE JUROR: No, I cannot.

THE COURT: And tell me your number again.

THE JUROR: 212.

THE COURT: All right. Thank you. Thank you, Ms. Washington; is that correct?

THE JUROR: Yes.

THE COURT: I'm going to set you aside for the trial of this case.

THE JUROR: Okay.

THE COURT: Please do not say anything to your fellow jurors.

THE JUROR: Okay.

THE COURT: All right. Thank you.

Yes, sir.

THE BAILIFF: 216, Your Honor.

THE COURT: 216.

THE BAILIFF: Yes, sir.

THE COURT: All right. And this is Ms. Wiggins?

THE JUROR: Yes, sir.

THE COURT: And tell me your response to that.

THE JUROR: Three years ago in 2014, my late husband was arrested on two counts of criminal sexual conduct with a minor. Suzanne Mayes was his solicitor. Approximately one year after his arrest, he was killed in a tragic accident. I contacted Ms. Mayes's office and sent them a certified letter. I was just looking for some kind of closure. She never responded to me at all.

THE COURT: Let's -- go right ahead.

THE JUROR: I just -- it's still an open wound even though it's been three years.

THE COURT: Let's -- let me ask you some questions. Given the fact that your deceased husband was charged with the offenses of criminal sexual conduct, could you be a fair and impartial juror in the trial of this case for both Ms. Lawson and the State?

THE JUROR: I don't know about the State part.

THE COURT: And explain that. Explain that to me. You're referring now to Ms. Mayes?

THE JUROR: Yes. Because I felt like she should

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have responded to me. Some way.

THE COURT: So --

THE JUROR: She knew I was his widow. All I was asking for was five minutes of her time and her office just flat told me that she would not meet with me.

THE COURT: So given the fact that Ms. Mayes was one of the prosecutors, can you be a fair and impartial juror in the trial of this case for both Ms. Lawson and the State?

THE JUROR: I don't think so.

THE COURT: And when you say, I don't think so, that may be semantics. Maybe you've never been on jury duty --

THE JUROR: I never have been on a jury before.

THE COURT: And, you know, I guess I'm trying to push you into whether is that a yes or a no because, I don't think so -- whatever your response is, is the right response. I mean there's no right or wrong answer. It's just your answer. You know our purpose is to get a fair and impartial jury in the trial of this case with no bias and no prejudice to Ms. Lawson or the State.

THE JUROR: All I know is when they said Suzanne Mayes, my heart starting beating real fast. It's still beating real fast. I started breathing really fast and I feel really nervous.

THE COURT: Okay.

THE JUROR: So, I feel like, you know, I'm a citizen, a resident of this county, have been since 1992 and I feel like Ms. Mayes did not do me right. She should have given me five minutes of her time and she did not.

THE COURT: All right. Ms. Wiggins, I'm going to set you aside for the trial of this case. Please do not say anything to your fellow jurors. Okay?

THE JUROR: So just go back and sit down?

THE COURT: Yes, ma'am. Thank you.

THE JUROR: Thank you.

THE COURT: All right. Number 216 is set aside. Yes, sir.

THE BAILIFF: Number 73, Your Honor.

THE COURT: 73, thank you. This is Ms. Gates?

THE JUROR: Yes, sir.

THE COURT: And tell me your response, Ms. Gates.

THE JUROR: My niece and her son --

THE COURT: And tell me -- can you give me a time frame.

THE JUROR: Actually it's -- she had him taken about three times. He's disabled, but she's gotten her act together and she's doing real great, so...

THE COURT: Given those facts, can you be a fair and impartial juror in the trial of this case for both --

THE JUROR: Yes, sir.

THE COURT: -- Ms. Lawson and the State?

THE JUROR: Yes, sir.

THE COURT: Any doubt in your mind about that?

THE JUROR: No, sir.

THE COURT: All right. I believe you can stay with us. Do not say anything about that incident to any of your fellow jurors.

THE JUROR: Yes, sir.

THE COURT: Thank you very much.

MR. MAYES: Judge, what was her response? I could not hear that.

THE COURT: She -- her response to what?

MS. MAYES: I believe she said her niece --

MR. MCNAIR: Her niece had her son taken away three times.

THE COURT: Three times, that's right. I didn't know her response to can she be fair and impartial and that's what I wasn't tracking.

Yes, sir.

THE BAILIFF: Juror 202, Your Honor.

THE COURT: 202. This is Ms. Tillman?

THE JUROR: Yes.

THE COURT: All right. Ms. Tillman, speak up just a little bit so my court reporter can hear.

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THE JUROR: Yes, sir, due to a family situation with being -- finding out that close family, you know, was charged with that and the fact that we had to, as grandparents, well -- which we still have a grand baby, we keep him a lot. We had to go through that as a family. I would ask if you would please excuse me from this case.

THE COURT: So you feel like because of your family situation --

THE JUROR: Yes.

THE COURT: You, knowing yourself best --

THE JUROR: Yes, sir.

THE COURT: -- could not be a fair and impartial juror in the trial of this case for both parties, for both Ms. Lawson and the State?

THE JUROR: Yes, sir, because emotionally it would take a toll.

THE COURT: Okay. I'm going to set you aside for the trial of this case, Ms. Tillman. Please do not say anything to your fellow jurors.

THE JUROR: Okay.

THE COURT: Okay?

THE JUROR: Okay. Thank you, sir.

THE COURT: Thank you, just go back and have a seat.

Yes, sir.

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THE BAILIFF: Number 9, Your Honor.

THE COURT: All right. This is Ms. Bagnall?

THE JUROR: Yes, sir.

THE COURT: Tell me your situation.

THE JUROR: My father was the chief investigator for the attorney general for neglect and abuse of elderly and disabled and my cousin is an investigator for the solicitor's office.

THE COURT: All right. Given the fact that you have relatives that serve or served in those positions, can you be a fair and impartial juror in the trial of this case for both Ms. Lawson and the State?

THE JUROR: Absolutely.

THE COURT: Any doubt in your mind about that?

THE JUROR: No, sir.

THE COURT: All right. I believe you can stay with us. Thank you, Ms. Bagnall.

THE BAILIFF: 132, Your Honor.

THE COURT: 132. Give me just a second, please. This is Mr. McBride?

THE JUROR: Yes, sir.

THE COURT: All right. And tell me your situation.

THE JUROR: I don't know if it pertains to the question you asked, but about 20 years ago, my brother pleaded guilty to a murder of a child.

THE COURT: Okay. And was that in this County?

THE JUROR: It was in Orangeburg.

THE COURT: Orangeburg County. All right. How old would you have been?

THE JUROR: 10 or 11.

THE COURT: You recall much about it?

THE JUROR: No, sir.

THE COURT: Given that fact can you be a fair and impartial juror in the trial of this case for both Ms. Lawson and the State?

THE JUROR: Yes, sir.

THE COURT: Any doubt in your mind about that?

THE JUROR: No, sir.

THE COURT: I believe you can stay with us. Thank you. Thank you very much.

Yes, sir.

THE BAILIFF: Number 6, Your Honor.

THE COURT: This is Mr. Ashmore?

THE JUROR: Yes, sir.

THE COURT: All right. And tell me your response.

THE JUROR: I'm involved right now -- my son's court ordered to go to LRADAC and mental health; and we just went before Judge Smithdeal in June and we're involved right now with him and DSS trying to get parental custody of my grand kids. And that's an ongoing thing. So I

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wasn't sure --

THE COURT: How long has it been ongoing.

THE JUROR: Since July of last year.

THE COURT: So you're trying to get custody of your grandchildren.

THE JUROR: Yes, sir. He's more or less said we can have temporary custody, but the mother was in jail in Augusta, so she wasn't able to make the Court hearing.

THE COURT: Has your son been charged with anything criminal or --

THE JUROR: No, sir.

THE COURT: -- it's all in family court.

THE JUROR: Yes, sir, it's family.

THE COURT: And DSS is involved?

THE JUROR: And that was because he was off mentally and when they came to the house, he had a sword. So they were worried about the welfare of the kids.

THE COURT: Given those facts, can you be a fair and impartial juror in the trial of this case for both Ms. Lawson and the State?

THE JUROR: Yes, sir.

THE COURT: Any doubt in your mind?

THE JUROR: No, sir.

THE COURT: Can you set aside whatever may be going on in your family and personal life and decide the case

based on the evidence you hear in the courtroom?

THE JUROR: I believe so, sir.

THE COURT: Any question at all about that?

THE JUROR: I don't think so.

THE COURT: Okay. I believe you can stay with us. Thank you, thank you very much.

Yes, sir.

THE BAILIFF: Number 29, Your Honor.

THE COURT: This is Ms. Cannon?

THE JUROR: Yes, sir.

THE COURT: And tell me your response.

THE JUROR: Well, I was a victim of child abuse by my mother.

THE COURT: And can you give me a time frame.

THE JUROR: Well, I'm 46, so I can remember back probably as early as 4 or 5 and then I ended up running away at 15.

THE COURT: Given those facts, can you be a fair and impartial juror in the trial of this case for both Ms. Lawson and the State.

THE JUROR: I don't know. I don't believe in child abuse. I don't know the facts of the --

THE COURT: You said a couple of things, I guess as far as you don't believe in child abuse. I don't think anybody does or should. But you don't know the facts.

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THE JUROR: Correct.

THE COURT: You understand if you were selected as a member of the jury panel, you along with the other 11 members would be the judges of the facts in the case and you would make that decision based on the evidence you hear from the witness stand and any physical items of evidence that may be introduced and then the law as I tell you the law is.

THE JUROR: Uh-huh.

THE COURT: Can you set aside whatever may have happened to you personally and decide the case based on the facts --

THE JUROR: Yes, sir.

THE COURT: -- as they're presented in this courtroom?

THE JUROR: Yes, sir.

THE COURT: Any doubt in your mind about that?

THE JUROR: No doubt.

THE COURT: All right. I believe you can stay with us.

THE JUROR: Okay.

THE COURT: Thank you very much.

THE JUROR: Uh-huh.

THE COURT: Yes, ma'am.

All right. Yes, sir.

THE BAILIFF: Number 44, Your Honor.

THE COURT: 44. This is Ms. Curtis?

THE JUROR: Yes, sir.

THE COURT: Tell me your response, please, Ms. Curtis.

THE JUROR: Several members of my husband's family were victims of child abuse.

THE COURT: Okay. Can you give me a time frame?

THE JUROR: 40 or 50 years ago.

THE COURT: Okay.

THE JUROR: Yeah.

THE COURT: Given those facts, can you be a fair and impartial juror in the trial of this case for both Ms. Lawson and the State?

THE JUROR: Yes, sir.

THE COURT: Any doubt in your mind about that?

THE JUROR: No, sir.

THE COURT: I believe you can stay with us.

THE JUROR: Thank you.

THE COURT: Any others?

(There was no response.)

THE COURT: Thank you.

MS. MAYES: Judge, Juror Number 180. His record showed that he had an assault on a child which was some kind of military action, but it didn't show a disposition,

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but he did not come forward in response to this question.

THE COURT: Juror Number 180. 180, Mr. Scott. Would you step up here for me, please.

Good morning, good morning, Mr. Scott.

THE JUROR: Hey.

THE COURT: Are you retired military?

THE JUROR: Yes.

THE COURT: All right. Did you have a charge in the military?

THE JUROR: Yes, it been about a minute, yes.

THE COURT: And what was that.

THE JUROR: It was for domestic violence.

THE COURT: Did it involve a child?

THE JUROR: Well, the child was there.

THE COURT: The child was present.

THE JUROR: Uh-huh.

THE COURT: It did not involve the child as the victim?

THE JUROR: No.

THE COURT: How long ago was that? You said it had been a minute.

THE JUROR: 30 years.

THE COURT: Sir?

THE JUROR: 30 years.

THE COURT: 30 years. Given those facts, can you

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be a fair and impartial juror in the trial of this case.

THE JUROR: Yeah.

THE COURT: Any doubt in your mind about that?

THE JUROR: Huh-huh.

THE COURT: How long were you in the military?

THE JUROR: 20 years.

THE COURT: And what was your rank.

THE JUROR: E-7.

THE COURT: E-7? In the army?

THE JUROR: Yes, sir.

THE COURT: Sargent first class?

THE JUROR: Uh-huh.

THE COURT: What was your MOS.

THE JUROR: Logistics.

THE COURT: Logistics. Tell me the number.

THE JUROR: 7658.

THE COURT: I know you're not going to forget that. The only time you forget it is you're 11 BRAVO, huh?

THE JUROR: Yeah.

THE COURT: All right. Thank you. I believe you can stay with us.

THE JUROR: Thank you.

THE COURT: Thank you. Thank you very much.

(The following was a bench conference out of the hearing of the jury.)

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THE COURT: Anything further?

MS. MAYES: It says assault on child, so I don't think he's being truthful, but...

THE COURT: Now, tell me about Ms. Martinez -- what is her name? Sanchez? 178?

MR. MCNAIR: Yes, sir, it carried up to a year in prison and five years probation.

MS. MAYES: So in California they split their sentences up and you can get a different amount of time for probation than for incarceration, so it carries up to five on probation and up to a year on incarceration.

THE COURT: Juror 178, Ms. Sanchez?

I'm going to see about her verbal skills.

(There was a bench conference on the record, out of the hearing of the jury venire.)

THE COURT: I wanted to ask you a little bit more. You were talking about your language skills so to speak. Explain that to me a little bit.

THE JUROR: I understand English and I speak Spanish too. But I have a hard time hearing or reading.

THE COURT: Okay.

THE JUROR: I just have a little problem with reeding. I can read, but I cannot -- I'm not that good.

THE COURT: So if you're on a jury panel, if someone's not speaking up, you need for them to speak up?

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Are you able to hear them? And you understand the English language.

THE JUROR: Yeah, I do.

THE COURT: And you can read English.

THE JUROR: I have a hard time reading, but I can read certain stuff.

THE COURT: Okay. Well, if you are selected as a member of the jury panel and there's a witness on the stand and you can't hear, just let the judge know, okay.

THE JUROR: All right.

THE COURT: I believe you can stay with us.

THE JUROR: I don't have transportation.

THE COURT: You see those two fellows over there? I can get you transportation.

THE JUROR: That's all right.

THE COURT: Okay?

THE JUROR: All right.

THE COURT: So you don't have transportation daily?

THE JUROR: No.

THE COURT: What -- just tell me what area of the county you live in.

THE JUROR: I live in Leesville.

THE COURT: Leesville. That's a great area.

THE JUROR: I'm between Gilbert and Leesville.

THE COURT: You live around Summit.

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THE JUROR: Something like that.

THE COURT: Something like that?

THE JUROR: Yeah.

THE COURT: Well, I can get you transportation. Is that okay?

THE JUROR: I'll try and get my own. I'll try to get my own.

THE COURT: You want me to tell them that?

THE JUROR: No.

THE COURT: I think you can stay with us. Okay? All right. Thank you.

(The Court returned to the bench.)

THE COURT: Does any member of the jury panel have a family member who is employed by or involved with law enforcement or the Department of Social Services? If so, please stand.

(Jurors stood.)

THE COURT: All right. Same as before, is that Juror Number 9? The family members you relayed to us before?

THE JUROR: (The juror nodded head.)

THE COURT: Any others?

THE JUROR: No, sir.

THE COURT: All right. Thanks, I believe you may be seated.

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Let me start on this side. Is that a blue shirt?

THE JUROR: Yes, sir, Your Honor.

THE COURT: Well, I just call it whatever it is. I can't tell colors. Tell me your number.

THE JUROR: Juror 112, Travis Laffin.

THE COURT: All right. Family member?

THE JUROR: My brother William James is a U.S. Marshall in the Florence area.

THE COURT: Okay.

THE JUROR: And my ex-wife is Captain Tara Laffin.

THE COURT: She's what?

THE JUROR: Captain Tara Laffin of the South Carolina Highway Patrol.

THE COURT: All right. Given those facts can you be a fair and impartial juror in the trial of this case for both Ms. Lawson and the State?

THE JUROR: Most certainly, Your Honor.

THE COURT: Sir?

THE JUROR: Most certainly, Your Honor.

THE COURT: All right. Thank you. Thank you very much. I believe you can stay with us.

Yes, sir, your number?

THE JUROR: 51.

THE COURT: All right.

THE JUROR: My brother-in-law works for DSS in the

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Counties of this state.

THE COURT: All right. Given that fact, can you be a fair and impartial juror in the trial of this case for both the State and Ms. Lawson?

THE JUROR: Yes, sir.

THE COURT: Thank you.

Green shirt?

THE JUROR: Juror Number 1. My cousin by marriage is a lieutenant with the City of Columbia. And my second cousin is a police officer in Houston, Texas.

THE COURT: Given those facts can you be a fair and impartial juror in the trial of this case for both the State and Ms. Lawson?

THE JUROR: Yes, sir.

THE COURT: Thank you, you may be seated.

Yes, sir?

THE JUROR: Number 213. My wife works for the Department of Justice.

THE COURT: Given that fact can you be a fair and impartial juror many the trial of this case for both the State and Ms. Lawson?

THE JUROR: Yes, sir.

THE COURT: Thank you, you may be seated.

And is this -- I can't hear nor see. Is this Ms. Tillman?

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THE JUROR: Yes, sir.

THE COURT: Hot dog, I get the gold star for that. Didn't I set Ms. Tillman aside?

THE CLERK: Yes, sir.

THE COURT: I set you aside Ms. Tillman, you may be seated. Thank you.

Number?

THE JUROR: 189. My son is a SRT and a K-9 deputy for Richland County.

THE COURT: Given those facts can you be a fair and impartial juror in the trial of this case for both Ms. Lawson and the State?

THE JUROR: Yes, sir.

THE COURT: Thank you, you may be seated.

I'm trying to remember your number.

THE JUROR: Juror 44.

THE COURT: Say again?

THE JUROR: 44.

THE COURT: All right. And your response?

THE JUROR: My husband is a captain with Peer Protective Services.

THE COURT: Given that fact can you be a fair and impartial juror for both Ms. Lawson and the State?

THE JUROR: Yes, sir.

THE COURT: Any others? Thank you.

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I'm going to call, ladies and gentlemen, a rather lengthy list of potential witnesses in the trial of this case. The question, of course, will be is any member of the jury panel related by blood or marriage, have any social, business, professional relationship with any of these parties whose names I call.

I would advise if any of the witnesses are present when your names are called if you would please stand and face the jury panel. I would further advise the jury panel that witnesses are not required to be present during this proceeding, therefore, names may be called and no one stands.

Again, the question: Does any member of the jury panel have any social, business, professional relationship with any of these potential witnesses whose names I shall call.

Nikki Rodgers, she is with the Lexington County Communication 9-1-1 Center; Angela Gunter, also with 9-1-1; and Amy Blease, Blease, B-L-E-A-S-E, also with 9-1-1; Anthony D'Onofrio, O-N-O-F-R-I-O, with the Lexington County Fire Department and Joe Burns, Lexington County Fire Department.

The next five names: The first two are with the Lexington County Fire Department, Joe Burns, and Michael Hammer. The next two names with Lexington County EMS,

Sergeant Chris Bernard; PFC Brandon Garon, G-A-R-O-N. The fifth name, Detective Adam Creech, Lexington County Sheriff's Department.

The next five names, all with the Lexington County Sheriff's Department: Sergeant Traci Barr.

Please stand for me Sergeant Barr.

Sergeant Barr in the courtroom.

Thank you.

Lieutenant Scottie Frier; Megan Dabkowski.

Yes, your number, please?

THE JUROR: 189. I know Scottie Frier from the past.

THE COURT: Scottie Frier?

THE JUROR: Yes.

THE COURT: And what -- tell me the past.

THE JUROR: Years ago he coached my son's baseball team.

THE COURT: All right. And given that fact, can you be a fair and impartial juror in the trial of this case for both the State and Ms. Lawson?

THE JUROR: Yes, sir.

THE COURT: Thank you, you may be seated.

James Kemfort and Ben Booth.

The next five --

Yes, your number, please?

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THE JUROR: Number 1.

THE COURT: And your response?

THE JUROR: James Kemfort.

THE COURT: All right. And how do you know Mr. Kemfort?

THE JUROR: He used to work with me for the City of Columbia.

THE COURT: And what period of time are we talking about?

THE JUROR: It's been better than 10 years.

THE COURT: Given that fact can you be a fair and impartial juror in the trial of this case for both Ms. Lawson and the State?

THE JUROR: Yes, sir.

THE COURT: Thank you, you may be seated.

The next five, all with the Lexington County Sheriff's Department: Candy Kyzer; Margaret Beth Holliman; Shelby Derrick; Colby Gallagher; Detective Sandy Black.

Again is any member of the jury panel a friend, have any social, business, professional relationship with any of those individuals whose names I have called? If so, please stand.

(No one stood.)

THE COURT: The next five names: Simone Sammler, RN Lexington Medical Center; April Sykes, with the State

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Law Enforcement Division; Charlene Mooneyhan, Lexington County Department of Social Services; Kimberly Simpson, Lexington County Coroner's Office; and Richard Tuckus of Lexington.

The next five names: Emily Rachelle Gray Tuckus; Monica Wise, Tamir Patel; Keith Sprinkle, CSI Lexington County Sheriff's Department; and Brenda Vancil Snellgrove, Lexington County Sheriff's Department.

And this will be the last six names: Dr. Susan Luberoff, Palmetto Health Richland; Michael O'Neil, Dr. Michael O'Neil, Lexington Medical Center; Dr. Janice Ross, Newberry Pathology Associates; Michael Phipps, Lexington County Sheriff's Department; Kelly Bugden, State Law Enforcement Division; and the custodian of the records of the BP Station, Forest Drive location, Columbia. That would just be someone to come in and certify records. I do not know a name on that.

So again, is any member of the jury panel related by blood or marriage, close personal friends, have any social, business, professional relationship with any of those individuals whose names I called and/or who stood before you? If so, please stand.

Your number please.

THE JUROR: Yes, I just want to ask for clarification. Did you say Scottie Frierson?

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THE COURT: Scottie Frierson, yes, ma'am.

THE JUROR: I believe I do know his mother.

THE COURT: I know his daddy's name is David. I know his mama, but I can't call her name. So you think you knew Lieutenant Frier's mother?

THE JUROR: Right.

THE COURT: All right. Given -- can you give me a time frame.

THE JUROR: I think I know her now.

THE COURT: Okay. Given that fact, can you be a fair and impartial juror in the trial of this case for both Ms. Lawson and the State?

THE JUROR: Yes, sir.

THE COURT: And did I get your number? I'm sorry.

THE JUROR: 59.

THE COURT: All right. Thank you. You may be seated.

Yes, your number, please.

THE JUROR: 173, and I know Nikki Rodgers.

THE COURT: Nikki Rodgers. Ms. Rodgers at 9-1-1?

THE JUROR: Yes.

THE COURT: And tell me a time frame.

THE JUROR: I've known her parents for several years; and I see her occasionally socially.

THE COURT: Okay. Given that fact can you be a

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fair and impartial juror in the trial of this case for both Ms. Lawson and the State?

THE JUROR: Yes, I can.

THE COURT: All right. Thank you, you may be seated.

Any others?

(No one stood.)

THE COURT: Did I miss any names by the way? I have a tendency to do that.

MS. MAYES: No, sir, Your Honor. May we approach on another matter?

THE COURT: Yes, sir -- yes, ma'am. I don't know where my mind's at. Yes, ma'am.

(There was a bench conference out of the hearing of the jury and the Court Reporter.)

THE COURT: All right. Thank you, Solicitor.

Thank you, Mr. Williams.

Any -- was there another witness list by the way?

MR. WILLIAMS: It's up there, Your Honor on your right to the side.

THE COURT: All right. Thank you. How did you know that?

MR. WILLIAMS: That's where I put it, Your Honor.

THE COURT: All right. Ladies and gentlemen, I think a couple of these names have previously been called.

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Well, I've already called the name Heather Marie Lawson. I did call the name Richard Tuckus, but this says Richard Wade Tuckus. I did call the name Monica Wise. And then Lula Mae Lawson.

Is any member of the jury panel related by blood or marriage, have any social, business, professional relationship with those names which I have now called? If so, please stand.

(A juror stood.)

THE COURT: Yes, sir, and I have set you aside. Thank you, thank you very much.

Any others?

(No one stood.)

THE COURT: Any additional requested voir dire from the defense, Mr. Williams?

MR. WILLIAMS: None from the defendant, Your Honor.

THE COURT: From the State, Solicitor?

MS. MAYES: None from the State, Your Honor.

THE COURT: All right. So finally, ladies and gentlemen, I have read the indictment to you concerning an allegation that occurred 26, June, 2016 as to Minor 1

You've been introduced to Ms. Lawson.

You've been introduced at least to the allegations in the indictments, to certain witnesses that were present

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in the courtroom, and have heard quite a list of potential witnesses in the trial of this case.

You know the charges involved in the case. I've asked you questions about your previous knowledge of it from any source whatsoever.

I have found people know themselves best. Given these number and types of questions, knowing yourselves best, does any member of the jury panel know any reason whatsoever why you feel like you could not be a fair and impartial juror in the trial of this case for both Ms. Lawson and the State? If so, please stand.

If it concerns you, it concerns me. I want to deal with it now and not when you're sitting over here in the jury box as a member of the jury. So if you know of any reason whatsoever why you feel like you could not be a fair and impartial juror in the trial of this case for both the parties, please stand.

(A juror stood.)

THE COURT: Is this Ms. Till man?

THE JUROR: Yes, sir.

THE COURT: All right. Thank you, you may be seated, Ms. Tillman. I have set you aside for the trial of this case. Thank you again, Ms. Tillman.

Any others?

(No one stood.)

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THE COURT: All right. I find our panel is qualified.

Strikes, Solicitor?

MS. MAYES: Five and ten, Your Honor.

THE COURT: Mr. Williams?

MR. WILLIAMS: I think that's correct, Your Honor, five and ten.

THE COURT: All right. Five for the State, ten for the defense.

Madame Clerk, would you prepare us a jury?

THE CLERK: How many alternates, Your Honor?

THE COURT: Alternates?

MS. MAYES: We would need two, Your Honor.

MR. WILLIAMS: I agree, Your Honor.

THE CLERK: Thank you.

THE COURT: Thank you, thank you, Madam Clerk.

(The clerk was pulling the jury strike list.)

JURY SELECTION

THE CLERK: As I call your name, please bring your personal items with you. Come forward like I told you about earlier, to the box here. Once you get to the center box, turn around and face back out that direction and remain there until I tell you to have a seat in the jury box or to return to your seat in the audience.

Proceed, Your Honor?

THE COURT: Yes, ma'am, please.

THE CLERK: Number 31, Russell Chambers (white male).

What say for the State?

MS. MAYES: Please excuse the juror from the trial of this case.

THE CLERK: Return to your seat, please, sir.

184, Roberta Sinner (white female).

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please excuse the juror from the trial of this case.

THE CLERK: Return to your seat, please, ma'am.

Number 2, Myra Adams (black female).

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please swear the juror.

THE CLERK: Have a seat in the jury box, ma'am.

(The juror started returning to her seat.)

THE CLERK: No, no, other way.

THE BAILIFF: Over this way.

THE COURT: That was a good try.

THE CLERK: Number 54, Lisa Drury-Brizek (white

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female).

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Swear the juror.

THE CLERK: Have a seat in the jury box, ma'am.

Number 117, Randolph Learn (white male).

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please swear the juror.

THE CLERK: Have a seat in the jury box, sir.

Number 35, Suzanne Clark (white female).

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please excuse the juror from the trial of this case.

THE CLERK: Return to your seat, please, ma'am.

132, Craig McBride (black male).

What say for the State?

MS. MAYES: Please excuse the juror from the trial of this case.

THE CLERK: Return to your seat, please, sir.

Number 15, Paul Bessinger (black male).

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What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please swear the juror.

THE CLERK: Have a seat in the jury box, please, sir.

Number 11, Agnes Barroll (white female).

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please swear the juror.

THE CLERK: Have a seat in the jury box, ma'am.

Number 14, James Berry (white male).

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please excuse the juror from the trial of this case.

THE CLERK: Return to your seat, please, sir.

105, Michael Jones (white male).

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please excuse the juror from the trial of this case.

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THE CLERK: Return to your seat, please, sir.
110, Brian Kopp (white male).
What say for the State?
MS. MAYES: Please present the juror.
THE CLERK: What say for the defense?
MR. WILLIAMS: Please swear the juror.
THE CLERK: Have a seat in the jury box, sir.
210, Donna Wall (white female).
What say for the State?
MS. MAYES: Please present the juror.
THE CLERK: What say for the defense?
MR. WILLIAMS: Please excuse the juror from the trial of this case.
THE CLERK: Return to your seat, please, ma'am.
Number 1, Kenneth Adams (white male).
What say for the State?
MS. MAYES: Please present the juror.
THE CLERK: What say for the defense?
MR. WILLIAMS: Please excuse the juror for the trial of this case.
THE CLERK: Return to your seat, sir.
142, Margaret Mueller (white female).
What say for the State?
MS. MAYES: Please present the juror.
THE CLERK: What say for the defense?

MR. WILLIAMS: Please swear the juror.

THE CLERK: Have a seat in the jury box, ma'am.

41, Stephanie Crosby (white female).

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please excuse the juror from the trial of this case.

THE CLERK: Return to your seat, please, ma'am.

Number 9, Elizabeth Bagnall (white female).

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please excuse the juror from the trial of this case.

THE CLERK: Return to your seat, please, ma'am.

186, Adam Smith (white male).

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please swear the juror.

THE CLERK: Have a seat in the jury box, sir.

53, Travis Driggers (white male). Back up just a little bit furtherer for me, sir.

What say for the State?

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MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please swear the juror.

THE CLERK: Have a seat in the jury box, sir.

59, Cynthia Edge (white female).

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please excuse the juror from the trial of this case.

THE CLERK: Return to your seat, please, ma'am.

206 Gary Uwanawich (white male).

What say for the State?

MS. MAYES: Please excuse the juror from the trial of this case.

THE CLERK: Return to your seat, please, sir.

29, Marchell Cannon (white female).

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please excuse the juror from the trial of this case.

THE CLERK: Return to your, seat, please, ma'am.

THE COURT: What are the strikes, Madam Clerk?

THE CLERK: Strikes, three for the State, ten for

the defense.

THE COURT: Thank you.

THE CLERK: 85, Gregory Gunter (white male.

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense.

MR. WILLIAMS: Please swear the juror.

THE CLERK: Have a seat in the jury box, sir.

88, Dorothy Hart (black female).

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please swear the juror.

THE CLERK: Have a seat in the jury box, ma'am.

Number 123, Ella Lucas (white female).

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please swear the juror.

THE CLERK: Have a seat in the jury box, ma'am.

Proceed into the alternates, Your Honor?

THE COURT: Yes, ma'am.

THE CLERK: Number 166, Manning Reynolds (white male).

What say for the State?

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MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please swear the juror.

THE CLERK: Have a seat in the jury box.

That's alternate one, Your Honor.

51, Lawrence Derrick (white male).

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please excuse the juror from the trial of this case.

THE CLERK: Return to your seat, please, sir.

34, Christopher Chisholm (black male).

What say for the State?

MS. MAYES: Please present the juror.

THE CLERK: What say for the defense?

MR. WILLIAMS: Please swear the juror.

THE CLERK: Have a seat in the jury box, sir.

That's alternate number two, Your Honor.

THE COURT: Thank you.

Any motions regarding the jury selection process from the State?

MS. MAYES: None from the State, Your Honor.

THE COURT: From the defense?

MR. WILLIAMS: None, from the defendant, Your

Honor.

THE COURT: All right. Thank you.

Madam Clerk, the remainder of the panel?

(There was a bench conference out of the hearing of the jury and the Court Reporter.)

THE COURT: Solicitor, Mr. Williams?

(There was a bench conference out of the hearing of the jury and the Court Reporter.)

THE COURT: Ladies and gentlemen of the jury panel, momentarily I'm going -- that were selected for the trial of this case -- momentarily I'm going to release you from your jury service. I would say for the remainder of the morning, but I've taken care of that already; but for the remainder of the afternoon and evening and ask you to report back at 9:30 in the morning.

This case is like many others. There are pretrial matters that I must hear before we begin the trial of the case and the taking of testimony in front of the jury. Rather than try to estimate a time, say 2:30, 3:30, 4:30, and then bring you back and hold you captive while I continue to hear those pretrial matters, we'll just start with the jury afresh in the morning and hopefully be able to clear the legal deck, so to speak to get that fresh start.

I do need to advise you of certain requirements of

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you that you must follow throughout your service as jurors in the case. During the trial of this case, you may not discuss this case with others. That includes your family members, fellow jurors, friends, or anyone else. You would not be authorized to discuss the case until you've heard all of the evidence, all of the testimony given by the sworn witnesses under oath from the witness stand, the legal instructions given to you by the Court and then directed by the Court to begin your deliberations with your fellow jurors in your jury room. That's at the conclusion of the case. You may not discuss it whatsoever with anyone during the trial of the case.

You may not read, watch, listen to any news reports about the case, should there be any. You may not, of course, use your computer, cellar phone, or any other electronic device with communication capabilities while in attendance at trial or during deliberations. You may, of course, as we go through the trial of the case use them during your lunch breaks and, of course, have access to them, obviously, over the evening hours, but you may not use those devices to obtain or disclose information which is prohibited.

Information which is prohibited includes, but is not limited to the following: Information about a party, a witness, an attorney, or a court officer; news accounts

about the case, past or present should there have or should there be any; information collected through juror research on any topics raised or testimony offered by any witnesses; or information collected through juror research on any other topic the juror might think would be helpful in deciding the case.

You decide the case based on the evidence and testimony presented in the courtroom and you are the judges of the facts and then the law as I tell you the law is. You don't do any independent investigation. You don't do any investigation on the internet or otherwise. You base it on what you hear in the courtroom, your determination of the credibility and the believability of the witnesses. You determine what the facts are. You then apply those facts as you, the jury, have found them to be to the standard of the law as I tell you what the law is and you reach that verdict of guilty or not guilty.

I'm going to ask you again to please be back promptly at 9:30 in the morning. Are there any questions?

Yes, ma'am?

A JUROR: Do we come to this room?

THE COURT: And he -- your bailiff will show you -- when I release you, you'll go out like this secret back door and he'll show you how to get out and how to come back in the morning.

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A JUROR: Are we allowed to tell our employer we were picked as a juror on a homicide? Can that be it?

THE COURT: Sure. Yes. And if you -- if at any time you need documentation for your employer concerning your jury service, you -- the clerk, Sergeant Major Frick, over there will take care of it for you. And that will be a delightful experience, as a matter of fact. But, yes -- that wasn't a joke. You may -- you may, of course, tell your employers what your status is.

Tell me your number, please.

THE JUROR: 110.

THE COURT: And your occupation?

THE JUROR: Field Consultant Inspector for storm water systems.

THE COURT: And what do you actually --

THE JUROR: I work -- I walk around construction sites making sure there's no pollution leaving the site.

THE COURT: All right. While we have spoken, I've had an election. All right? So I'm going to appoint you foreperson of this jury panel. All right.

And I will give you further instructions about that as we go through and at the conclusion of the case. Thank you, thank you very much for volunteering for that very important position.

That was a joke. People get confused when I do and

when I don't.

All right. Any other questions?

(There was no response.)

THE COURT: All right. Thank you, thank you very much, I look forward to serving with y'all throughout this trial.

If you will show them the way out and I'm going to have another bailiff come out and speak with one of them.

(The jury left the courtroom at 12:29 p.m.)

THE COURT: All right. Anything before we take -- we, not the jury, but we, in this trial, take our luncheon recess, Solicitor?

MR. WILLIAMS: Your Honor, I do have two motions I can go ahead and --

THE COURT: I've got to go to Gilbert during lunch. Is it all right if we start back at 2:30?

MR. WILLIAMS: Absolutely, Your Honor.

THE COURT: I've got the -- I've got a commitment in Gilbert that I need to go take care of. And really, actually, when I go the Gilbert, I don't like to leave Gilbert, but I will get back by 2:30. Any objections to that Mr. Williams?

MR. WILLIAMS: No, Your Honor.

THE COURT: And what is Ms. Lawson's custody status? Is she in custody?

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MR. WILLIAMS: She is not, Your Honor. And perhaps I could speak to the Court about what her current status is. She is -- she is -- may we approach?

THE COURT: No, let's do this. The jury has not yet been sworn. If she is not the custody at this time, I'll address that at the end of the day.

MR. WILLIAMS: Thank you, Your Honor.

THE COURT: All right. So she can remain out and then I'll address it at the end of the day.

(The remaining jury venire were sent home or sent to another courtroom for jury selection.)

THE COURT: All right. Anything else?

MS. MAYES: Nothing, Your Honor.

MR. WILLIAMS: No, sir, Your Honor.

THE COURT: I'll see y'all at 2:30.

(A recess for lunch was observed.)

PRETRIAL MOTIONS

THE COURT: All right. Are there certain motions, Solicitor? Mr. Williams?

MS. MAYES: Yes, sir, Your Honor.

THE COURT: All right.

MS. MAYES: First, Your Honor, we have some verbal statements that were made by the defendant, Heather Lawson, at the hospital. Those verbal statements were made to Detective Adam Creech. And then we have a written

statement that was made to Detective Adam Creech and Sergeant Tracie Barr and then two days later there is an additional witness statement that was made to Detective Barr as well. And so we do foresee a Jackson v. Denno for those statements.

In addition, Your Honor, I'm going to go ahead and pass up some motions. I think we got them to your clerk earlier today, but one is a motion from the State in support of offering photographic evidence in this case. And then the second would be a motion in limine regarding an unrelated event and we just want to make sure that the defense is not -- pursue any line of inquiry regarding that and that would be a third-party-guilt issue pursuant to Coat and Gregory.

So I'll go ahead and pass up those motions.

THE COURT: All right.

MS. MAYES: And we would be ready to proceed on the issue of Jackson v. Denno whenever the Court is ready.

THE COURT: All right. Thank you.

All right. You can call your first witness, Solicitor.

JACKSON VERSUS DENNO HEARING

MS. MAYES: The State calls Detective Adam Creech.

THE COURT: Come around and be sworn, Detective Creech.

ADAM CREECH,

having been duly sworn, testified as follows:

THE CLERK: Have a seat, sir. Once you're seated, state your full name, spelling your last, please.

THE WITNESS: Detective Anthony Adam Creech. Creech is C-R-E-E-C-H.

DIRECT EXAMINATION IN CAMERA

BY MS. MAYES:

Q All right. And Detective Creech, tell us a little bit about yourself. Where are you employed?

A I'm employed with the Lexington County Sheriff's Department.

Q All right. And what's your current job description there?

A I'm a criminal investigator with the major crimes unit, special victim's unit.

Q All right. And how long have you been a detective there?

A I've been a detective for three years.

Q Now, I want to refer you back to June 26, 2016, of last year. Can you tell us whether or not you were working in the capacity of detective on that date?

A I was.

Q And specifically, how you became aware of an investigation involving the death of a 7-month-old infant

by the name of Minor 1 ?

A I was contacted by Sergeant Barr by phone. We were the on-call major crime shift for the weekend. It was a Sunday afternoon. She called me to inform me that there was a 7-month-old child that was reported deceased at Lexington Medical Center and she informed me that I would be lead investigator and instructed me to respond to Lexington Medical Center.

Q All right. And did you do so?

A I did.

Q Now, at that point in time, how much information did you actually have about what had occurred?

A I knew that the decedent was a 7-month-old female child. I knew that the child's mother's name was Heather and I knew that there was an initial cause of death given by the mother to dispatch that she believed the other two children had caused the child's death.

Q All right. And what were the ages of those other two children?

A They were one-and-three-years old.

Q All right. So just to clarify, when you say she had given that information to dispatch, specifically in what format?

A At the time I didn't have access to the actual 9-1-1 call. But I was told -- they used the -- I was given

the word stomped --

Q All right.

A -- is what was described to me.

Q All right. So just to back up, there was a 9-1-1 call.

A That's correct.

Q And in that 9-1-1 call, an explanation for the injuries was given; is that correct?

A That was my understanding at the time, yes.

Q And the explanation was that the three-year-old and the one-year-old had stomped the infant?

A Yes.

Q All right. And so you went to Lexington Medical Center?

A That is correct.

Q And tell us about your initial contact there with the mother of the child.

A So upon my arrival I made contact with Ms. Lawson, who I identified at the hospital as Heather Lawson. I asked her what happened and she told me that she had put Minor 1 , who is the 7-month-old child, down for a nap that afternoon and became concerned when she realized Minor 1 was taking a longer than usual nap. Heather then told me that she went to check on Minor 1 and discovered the comforter from her one-year-old daughter Minor 3's bed was in

Minor 1 's crib. Heather then told me she pulled the comforter out and could feel Minor 1 roll around inside the blanket. Heather then said she found Minor 1 face up underneath the blanket, not breathing. She --

Q Now, if you could, slow down a little bit.

A Okay. Heather then told us that when she put Minor 1 down for her nap the only two items present in the crib were a baby bottle containing approximately eight ounces of formula and a bumblebee toy that played music. Heather said she then went and got the child's father, after which time Lexington County Communications was contacted. A short time later, I asked her -- within several minutes, I asked her to go over the days events for me from the beginning. This time, Heather told me she got home late from work the night before around 11:44 p.m. and she said she woke up around 9 a.m. on June 26th. Heather said Minor 1 and her other two children also were out until around the same time because they'd been at work with her the night before and did not go to bed until very late as a result. Heather told us she fed Minor 1 breakfast that morning which consisted of a small amount of baby food and some formula. And the rest of the day was without incident until she put Minor 1 down for a nap between approximately 1:40 p.m. and 2:30 p.m.

Q All right. So let me stop you right there.

A Okay.
Q At this point in time, did you have a cause of death?
A I did not.
Q All right. And at this point in time did you necessarily know that it was a homicide as opposed to an accidental death caused by a toddler or siblings.
A We couldn't rule anything one way or the other at this stage.
Q At this point in time, did you know how many people had been in and out of a home that day?
A I did not.
Q At this point in time did you know who all resided with Heather or may have been visiting the home of Heather Lawson on that day?
A I did not.
Q All right. So at this point in time how important, if at all, is it for you to develop a timeline and develop basic facts?
A It's extremely important in these types of investigations.
Q All right. What was the general purpose of your interview and contact with Ms. Lawson at this stage?
A At this stage, it's what I would call just a basic fact finding investigation to try to develop any kind of

picture of what was going on. As I said, initially all I knew was that her first name was Heather and that we were dealing with a 17 month -- 7-month-old child who was found deceased. There's certainly a number of variables, some of those being timelines, who was in the home, who had access to the home. Who may have seen the child that day. Obviously, testimony from medical experts down the road to inform us of the cause and nature of those injuries in question as well.

Q All right. But at this point in time during this initial contact with the caregiver, Ms. Lawson, at the hospital, had you consulted with any medical experts yourself?

A I had not.

Q All right. So did you question her regarding a timeline of events?

A I did.

Q And did you question her regarding who all may have had contact with Minor 1 that day?

A I did.

Q Including the siblings?

A I did.

Q All right. And the information that you've already provided and read into the record, how is that documented during the course of your interview with Ms. Lawson?

A So at the scene I'll take extensive notes and then as soon as possible once an incident is resolved, I then go and I write myself a note on everything that's in my notes makes its way into the supplemental in chronological order.

Q Is that the same supplemental report that you're referring to today?

A It is.

Q And the information that you've previously read into the record, are those statements the statements made by Ms. Lawson at the hospital as you recall them to be?

A They are.

Q What, if anything, further did Ms. Lawson state verbally in response to your questions regarding a timeline for that day?

A So just to back up, she said she had put Minor 1 down for a nap around 1:40 to 2:30 that afternoon. She said she spent the rest of the afternoon doing housework, preparing dinner for the other two children, Minor 3 and Minor 2. She said Minor 3 was taking a nap when she put Minor 1 down for hers. She said Minor 3 and Minor 2 were in and out of the bedroom that afternoon while Minor 1 was sleeping. Heather told me that both children were in the with Minor 1 for approximately 30 mens before she went in and discovered Minor 1 in her pack 'n play with Minor 3's blanket. When this happened, Heather described Minor 2 and Minor 3 standing silently

at the bedroom doorway into the kitchen. She described them as quote, acting the way they would if they knew they were in trouble, end quote. I asked Heather if either of the children said anything and she said no.

Heather said she then ran to the house to quote get the father, end quote; after which time she called 9-1-1.

Q All right. And just to clarify that, during the course of this conversation with Ms. Lawson, was she able to relate whether the father actually resides there in the home with her?

A We would get into that, but she did not explain that to me yet.

Q Okay. Please continue.

A After she said she ran to the house to get Minor 1 's father, Heather said Minor 2 and Minor 3 were standing in the same place when she returned to her trailer. Heather told me Minor 2 was mean toward Minor 3 and she thought that Minor 3 in return had been acting mean toward Minor 1 .

Q And let me stop you right there. Minor 2 is the toddler who was how old?

A The three-year-old sibling.

Q And Minor 3 is the toddler who is how old?

A The one-year-old sibling.

Heather said she'd come in before on at least one occasion to find Minor 3 in Minor 1 's playpen sitting on top

of her. I asked Heather what she'd been doing while Minor 1 napped. And she said she'd been vacuuming, doing laundry, and picking up around the house. I asked Heather who the father was and she told me Minor 1 's father was Richard Tuckus who lived at [redacted] Weaver Drive, [redacted] Heather went onto explain that she and Richard were together but don't live together. Heather told me that Richard lived in [redacted] with an ex of his named Rachelle who he also had a one-year-old child with.

Heather said Richard lived with Rachelle and his other child because the child had health issues. I commented that this seemed like a very unusual dynamic for a relationship. Heather agreed but said that she and Richard did not have more than normal arguments like more traditional couples. Heather said she and Richard only got to see each other for about 15 minutes a day because of their busy work schedules.

Heather told me she and Richard were both store managers at local BP convenient stores. Then Heather told me she worked at the store at 2501 Forest Drive, Columbia, South Carolina. Heather told me she'd been recently promoted to a managerial position, which it was a stress full situation and she'd had to fire several employees without having the ability to staff the store properly with the remaining employees. Heather said manpower issues are

what forced her to have to go to work the previous night and take the children with her.

I asked Heather about Minor 1 's health history and she told me the child had a history of crying, had --

Q Okay. Let me stop you right there. Now, in an investigation such as this where a child has sustained injuries and there is a law enforcement involvement, how important, if at all, is it to obtain some type of health history on the child?

A It's extremely important.

Q Is that a normal question for a caregiver?

A Yes, it is.

I asked Heather about Minor 1 's health history and she told me the child had a history of crying, bowel movement issues, and stomach pains which she'd undergone medical treatment for. Heather also mentioned that the child may have had RSV. Heather also said Minor 1 was crawling and had started to pull up on objects around her. While I was speaking with Heather Coroner Fisher arrived as I was still talking to Heather.

Q All right. And you're referring to the coroner, Margaret Fisher?

A That is correct.

I then sat back and listened initially while Heather related the same events to Coroner Fisher.

Q All right. And let me stop you again.
A Okay.
Q You've been at other scenes involving the death whether a death of a person, whether it was a child or an adult?
A That is correct.
Q And how common or uncommon is it for a member of the coroner's office to arrive and also obtain facts?
A It's standard procedure.
Q All right. Regarding factual events for the day and for the deceased person?
A Yes.
Q Okay. Please continue.
A Heather largely told the same story initially although she added that while Minor 1 was napping she thought she had heard a thud coming from the bedroom which sounded like Minor 3 may have throne a toy at the wall. I asked how -- Heather if Minor 1 had any known injuries when she put her down for a nap. Heather said Minor 1 had a small injury to the left side of her forehead from when she was pushed over by Minor 2 the previous Thursday or Friday causing her to hit her head on a toy. This was the first time Heather had mentioned Minor 1 having any injuries.

Heather also said that Minor 1 had an incident where she fell out of her playpen on Thursday. Nothing

Heather told us appeared to reasonably account for the visible injuries present on Minor 1 's head.

Q All right. So let me stop you there. Have you had a chance to actually view the body of Minor 1 ?

A I have.

Q All right. And where did you observe injuries to Minor 1 ?

A I observed injuries to her forehead, the crown of her head, the back of her head and then the left base of her neck.

Q All right. And can you tell us whether or not part of an investigation would be to inquire as to any accidents the child may have sustained?

A Absolutely.

Q And is that part of what you questioned Ms. Lawson about as her caregiver or one of her caregivers?

A It is.

Q Please continue.

A I asked Heather point-blank what she thought happened to Minor 1 and she said, quote, I think my one-year-old climbed in and accidentally smothered her, end quote. Heather told us the babysitter she normally used was Monica Wise. And she said her grandmother, Debra Hall had seen the children the morning before. Heather said Richard came by her trailer earlier on Minor 3 26th as well

and Heather said he was only, quote, only there for 15 minutes, end quote. He had some pressing matters to deal with, which meant he was unable to stay longer.

I asked Heather if Richard saw Minor 1 while they were there. She said he did not. I asked Heather if any other adults were in the home with access to Minor 1 that day and she said there were not. I asked Heather what matters Richard had to leave for. She told me Richard was meeting someone to try to sell an old cell phone and meeting a friend to go for a walk at the dam.

Q All right. Do you also question her about her relationship with Richard?

A I did.

Q And she gave you information in that regard?

A She did.

Q All right. And then did you also ask her additional questions about her own history, such as whether or not she had sustained or suffered any type of postpartum depression?

A I did.

Q And what was her response to that?

A I asked Heather if she'd been experiencing any post partum depression with Minor 1 and she said she had had postpartum depression with Minor 2 and Minor 3, but she said, quote, I was able to bond properly with Minor 1 when she was

born so I haven't had any with her, end quote. She and I also spoke briefly about her prior involvement with the Lexington County Department of Social Services. Talking about DSS appeared to make Heather uneasy, although she told me there had been an active DSS against her earlier in the year.

Heather had a hard time explaining what the case was about, who her caseworker was, and what the ultimate disposition of the case was based on. I was able to discern that the incident appeared to involve her sister who appeared to have possibly been reporting -- the reporting party with DSS.

Q All right. Now, what can you tell us about Ms. Lawson's demeanor as you were obtaining some basic facts from her about the events of that day.

A She appeared to be extremely nervous the entire time I spoke with her. She was grabbing tissue paper from a nearby tissue box and she was shredding it into tiny pieces, which noticeably began to pile up on the floor next to her. This behavior appeared to escalate the longer I spoke with her. She didn't cry the entire time, although there were occasional outbursts of crying and emotion. It was notable that Heather never asked about Minor 1 's condition.

Q All right. Did at any point in time she appear to

have difficulty communicating with you?

A She did not.

Q At any point in time did she appear to not be able to communicate a response because of any type of emotional condition?

A No, she was very clear and lucid the entire time she spoke with me.

Q And when you say clear and lucid, what do you mean by that?

A Communication wasn't a factor. She appeared to understand me very clearly. I understood her very clearly. She never appeared to have any difficult articulating herself. Certain -- certainly when she would get upset, it was not so much that it prevented us from talking to one another.

Q Based on her responses to your questions, did she appear to be processing those questions and thinking rationally?

A She did.

Q Now, at this point in time, you have spoken with her about the events of that day. She's been able to give you a timeline. She's explained her thoughts as to what happened to Minor 1 . And she's been able to tell you who was in and out of the home that day.

What, if any, efforts were made at that point to

question her further?

A At that point based on what we had, we knew we needed to do a more formal interview with her. Looking at her as a potential suspect in this case now. So the decision was made between me and Sergeant Barr to try to speak with her further at the Lexington County Sheriff's Department.

Q Okay. And at this point having developed a timeline, obtained some basic facts, and determined who was with the child that day, where did you make a decision to actually have that interview in which she may be a potential suspect?

A We chose the sheriff's department, largely due to the fact that the hospital is not a very controlled environment. There are lots of distractions between chaplains, medical staff, family members, et cetera. And it's just easier to conduct a more proper interview that we could do with her alone.

Q Okay. And who spoke with Ms. Lawson specifically about taking part in a more extensive interview at the sheriff's department?

A Myself and Sergeant Barr both spoke with her about that.

Q All right. And did she appear to understand the request?

A She did.
Q Did she appear to understand that more information may be needed in regards to what may have happened with Minor 1 that day?
A She did.
Q And did she agree to speak with you at the sheriff's department?
A She did. Her only concern was transportation and we offered to give her a ride that resolved that issue.
Q All right. And for purposes of this hearing, let me go ahead and ask you, did you receive information from the officer who would have done the transport as to whether or not she was advised of Miranda at any stage in that process?
A I did. Upon my arrival at the sheriff's department I was told that she had been given her Miranda Rights verbally, which she had waived.
Q All right. And that would have been -- who actually informed you of that?
A Sergeant Barr.
Q All right. And what was your understanding of who had actually provided those verbal Miranda Rights to Ms. Lawson?
A My understanding was that Sergeant Barr had also given those rights verbally to Ms. Lawson.

Q All right. And that would have taken place at what location and what process?

A It happened in the car ride from LMC to the sheriff's department.

Q All right. And then on arrival at the sheriff's department, what's the next step in the process of actually following up for more information from the defendant Heather Lawson about what may have happened to Minor 1 ?

A So then this time Sergeant Barr and I both spoke with Ms. Lawson. We were in Interview Room 3 at the sheriff's department and we went over her rights with her again, this time in writing on the page 1 of our suspect written statement forms.

Q All right. Now, you've arrived at the sheriff's department. I believe your testimony was she was transported there by Detective Barr. You mentioned Interview Room 3. Who actually escorts her in there?

A I believe we both did it together.

Q Okay.

A We wouldn't have been far apart.

Q Okay. At any point in time were you or Detective Barr using any type of coercion in order to have her participate in this interview?

A No, we were not.

Q Was she promised anything in exchange for this interview?

A She was not.

Q Did she at any point in time ask to not partake in this interview?

A She did not.

Q Did she appear to understand the purpose of the interview?

A She did.

Q All right. Do you have with you the actual original statements and Miranda form that you've referred to?

A Yes.

Q They're present in the courtroom?

A (Witness nodded head.)

MS. MAYES: Your Honor, if may approach?

THE COURT: Yes, ma'am.

BY MS. MAYES:

Q I'll ask you to take a look at these documents and ask you whether or not you recognize them.

A I do recognize these documents.

Q Okay. And specifically the first written statement that you referred to that you were a part of as well as the Miranda Rights associated with that written statement?

A That is correct.

Q How is it that you recognize that?
A I recognize it because it's got myself and Sergeant Barr's name on it; but then some of the questions in the question and answer are actually in my handwriting --
Q All right.
A -- which I recognize.
Q All right. And whose handwriting is the content of this statement in?
A It's in Ms. Lawson's.
Q All right. And whose signature is obtained on each page?
A That would be Ms. Lawson's signature.
Q All right. And Detective Creech if you could give us the date and time in which this statement began?
A We began this statement at 5:41 p.m. on June 26, 2016.
Q All right.
MS. MAYES: Your Honor, at this time we would have this marked as a Court's exhibit.
THE COURT: All right. Mr. Williams?
MR. WILLIAMS: No objection to that, Your Honor.
THE COURT: Court's 1?
MS. MAYES: Yes, sir, Your Honor.
THE COURT: Without objection.
(Court's Exhibit 1 was marked for identification.)

BY MS. MAYES:

Q And Detective Creech, do you have with you a true and accurate copy of that same written statement?

A I do.

Q Obtained on June 26, 2016?

A I do.

Q Now what time was the 9-1-1 call received in this case?

A It was received right around 5:18, 5:19 p.m.

Q All right. So at 5:19 p.m., 9-1-1 is called and then from there Ms. Lawson would have gone to what location after EMS arrived at the scene and transported the infant onto the hospital?

A It's my understanding she rode with the -- her daughter, on the ambulance to Lexington Medical Center.

Q Okay. And then upon arriving at Lexington Medical Center, Minor 1 -- there would have been some typed of resuscitative efforts made towards Minor 1 ?

A That would be my understanding, yes.

Q And then ultimately she was pronounced dead at Lexington Medical Center?

A That is correct.

Q And then you've testified previously about your involvement with some fact finding questions of Ms. Lawson there at the hospital. So by the time you make it into

Interview Room 3 and begin this statement, it is what time?

A It is 9:41 p.m.

Q Okay. Now, despite that -- that time period, did she at any point in time appear to be overcome with emotion to the point that she could not think rationally?

A She did not.

Q Did she appear to be able to communicate freely with you throughout this process?

A She did.

Q All right. I'm going to take you to that statement, that first statement. It is seven pages in length, but at the outset of that questioning there at 9:41 p.m., were you present when her Miranda Rights were read?

A I was.

Q And who was the person actually administering those Miranda Rights?

A I honestly don't recall if it was myself or Sergeant Barr who read those to her out loud.

Q Okay. Did she appear to understand each right?

A She did.

Q How, if at all, did she acknowledge her understanding of each right?

A It's normal procedure for them to verbally acknowledge and then to just shore that up, near each of the five rights listed in bullet point form, there's a line

for someone's initials and Heather put her initials in each of those marks.

Q Okay. And in this particular case, I'm going to ask you to start at the beginning where it says I, the undersigned, you've already told us the date of June 16 at 9:41 p.m. The location is the sheriff's department, but if you could start at the beginning of I, the undersigned, and proceed from there slowly into the record, what you recall Ms. Lawson being advised of on this date.

A I'm sorry could you clarify the question, again.

Q Yes. I, the undersigned, Heather Lawson?

A Yes. And then, duly informed that I have to right to remain silent, anything I say can and will be used against me in a court of law; I have the right the talk to a lawyer for advice before asked any questions and to have him or her present with me during questioning; if I have no money for lawyer's fees, the Court will appoint one to represent me without cost if I wish; if I decide to answer questions now without a lawyer present, I will still have the right the stop answering questions at any time; I also have the right to stop answering questions at any time until I speak with a lawyer; I've read this statement of my rights and I understand what my rights are. I make the following statement.

Q All right. Throughout this time did her speech

appear to be okay coherent?

A It did.

Q Was she able to respond to each question along the way.

A She was.

Q And the advice of each right?

A She was.

Q Did she, beyond putting her initials there, did she appear to understand each right?

A She did.

Q And again, at this stage, was she promised anything in exchange for giving a statement?

A She was not.

Q Was she coerced in any way --

A She was not.

Q -- in giving this statement?

Did she appear the be under the influence of any type of alcohol or controlled substance?

A She did not.

Q At any point in time did she request that questioning stop?

A She did not.

Q Did she ever request an attorney?

A She did not.

Q Did she proceed with the interview and make a

statement?

A She did.

Q Based on all of your observations did this willingness to talk with you and proceed with the interview appear to be free and voluntary?

A It did.

Q Whose handwriting is the actual witness statement in that begins: On Thursday Minor 1 fell out of her playpen?

A That would be Heather's handwriting.

Q Was she given an opportunity to make any corrections along the way?

A She was.

Q Are there locations in the statement where she does, in fact, make corrections.

A There are. There are sections where you can see words were scratched out and she put her initials to acknowledge that that correction was done by her.

Q All right. And then moving on through this statement, there are various questions that are posed. Who is posing the questions?

A That would be myself and Sergeant Barr.

Q All right. So your actually writing the questions out in a formal format?

A Yes.

Q And who is providing the answers?

A Heather would provide the answer to each question.
Q Meaning verbally or also in her handwriting?
A Typical procedure is for them to verbally provide an answer and then to also write an answer.
Q And did she do so?
A She did.
Q Throughout this seven page statement?
A She did.
Q And was she given an opportunity to make any changes along the way?
A She was.
Q And ultimately what was the last question that was posed to her?
A The last question was has anyone made threats, promises, or coercions to you for this statement.
Q And what was her response to that?
A Her response was no.
Q And until that final question and the final response, Detective Creech, did Ms. Lawson appear to understand her rights?
A She did.
Q And did she appear to be clear headed?
A She did.
Q Did she appear to be rationally thinking?
A She did.

Q And appropriately responding to all of your communications?

A She did.

Q Now, following that written statement, can you tell us whether or not Detective Barr also had a opportunity to do a followup interview with Ms. Lawson two days later?

A She did.

Q All right. And were you present for that?

A I was not.

Q Based upon all of your observations, Detective Creech, from the time of your first interaction with Ms. Lawson at the hospital until the waiver of her Miranda Rights at 9:41 p.m. at the law enforcement center to the final entry of her seven page statement, based upon those observations, did Ms. Lawson's waiver of those rights and willingness to speak to you appear to be free and voluntary?

A It did.

MS. MAYES: Nothing further a at this time, Your Honor.

THE COURT: Thank you.

Mr. Williams?

MR. WILLIAMS: Just couple of questions, Your Honor.

CROSS-EXAMINATION IN CAMERA

BY MR. WILLIAMS:

Q As I understand it, there was an oral statement which was taken at the hospital and then subsequently she was transported to the jail, which the written statement was given; is that correct?

A That's correct.

Q In your oral statement -- in the oral statement which my client reportedly gave, was there a recording of this made?

A There was not.

Q So your reflection of what alledgedly she said is based, really just your reflection on what was said?

A Yes, and that would be why I would have asked her to go through it several times for accuracy's sake.

Q And since you didn't record that, were there any other witnesses present during that oral statement that was given?

A The first time Lieutenant Scottie Frier was with me. The second time she repeated it was just me, her, and a chaplain. And then the third time Coroner Margaret Fisher was present.

Q All right. At any point in time was she under arrest or was she free to leave or -- she wasn't under arrest?

A Absolutely not.

Q She could do anything she wanted to do?
A Absolutely.
Q Were any of her relatives or -- present with her?
A They were not.
Q So the only individuals -- where was -- where are these oral statements alledgedly made?
A We were in a small waiting room that's in the ER at the hospital. It's got a name for it, but I don't what the room's called.
Q And just periodically various police officers would come in when you were asking her questions; is that correct?
A Once I was in there, nobody really came in and interrupted me from the sheriff's department.
Q And the only evidence of recordation would be those notes that you put down in your book; is that right?
A That's correct.
Q Had she been examined or been treated or been seen by any doctor or anyone at the hospital?
A Not to my knowledge.
Q And who gave her her Miranda warnings at the hospital?
A She was given her Miranda warnings on the way to the sheriff's department --
Q So --

A -- after she left the sheriff's department -- I mean -- I'm sorry, left the hospital with Sergeant Barr to go to the sheriff's department.

Q And is there a record of the Miranda warnings being given to her in the car while she was with Sergeant Barr going to the sheriff's department?

A That would be a question for Sergeant Barr.

MR. WILLIAMS: That's all the questions I have, Your Honor.

THE COURT: Redirect, Solicitor?

MS. MAYES: Yes, sir, Your Honor.

REDIRECT EXAMINATION IN CAMERA

BY MS. MAYES:

Q And just to follow up, Detective Creech. This initial contact with Ms. Lawson at the hospital, was she considered the suspect at that point in time?

A She was not because we didn't have enough information to develop suspects at that stage.

Q All right. And in any type of death investigation involving a child, can you tell us whether or not it's routine to speak with a caregiver for basic fact finding?

A It's absolutely routine.

Q Okay. And to determine who had contact with the child that day?

A Yes, and develop a timeline of the day's events.

Q And what may have happened to the child?

A Yes.

MS. MAYES: Nothing further, Your Honor.

THE COURT: Recross, Mr. Williams?

MR. WILLIAMS: None, Your Honor.

THE COURT: Thank you very much, Detective Creech. You may step down.

MS. MAYES: The State calls Detective Sergeant Traci Barr.

THE COURT: All right. If you would come around and be sworn for us, please.

TRACI BARR,

having been duly sworn, testified as follows:

THE CLERK: Have a seat, once you're seated state your full name, spelling your last.

DIRECT EXAMINATION IN CAMERA

BY MS. MAYES:

Q Good afternoon, Sergeant Barr. How long have you been with the investigative unit at the sheriff's department?

A I've been employed with the Lexington County Sheriff's Department for nearly 17 years.

Q All right.

A I believe I need to state my name for the record.

Q Okay.

A It's Traci, T-R-A-C-I, Michele, with one L, Barr, B-A-R-R.

Q All right. And Sergeant Barr, how long of that period of time, of that 17 years, have you spent actually in -- as a detective or an investigator?

A Nearly 15 years.

Q All right. Does that include cases involving injuries to children?

A Yes, it does.

Q And in this particular case on June 26, 2016, how did you initially become involved?

A I was the on call supervisor for that weekend for the major crime call out. Lieutenant -- he was a watch commander at the time, Scottie Frier contacted me in reference to a deceased child upon arrival at the hospital. At that point in time it's my responsibility as a major crimes sergeant, I dispatched detectives to various places in order to followup on this investigation.

Q All right. What time, if you can tell us by referencing any information you have in front of you, approximately what time would you have arrived at Lexington Medical Center?

A I arrived at the Lexington Medical Center after, shortly after 6 p.m. -- 6:45.

Q Okay. And what was your initial contact with the

defendant, Heather Lawson?

A If I can real quick go back to that time where I responded. I believe it was 1641.

Q 1641?

A 1841, I'm sorry.

Q All right. Let's break that down to civilian time. That's going the be 6:41, correct?

A If I'm not mistaken, yes.

Q All right. Was Ms. Lawson already at the hospital?

A She was.

Q All right. Can you tell us whether Detective Creech was already at the hospital?

A He was.

Q Had Detective Creech already began communications with Ms. Lawson as the caretaker or caregiver for Minor 1?

A Yes.

Q Who do you recall seeing upon your arrival?

A Once I arrived to the hospital, I met with Lexington County Patrol, Lieutenant Scottie Frier, the coroner's office, and nursing staff at the ER.

Q Okay. And by the time you made contact with Ms. Lawson who do you recall seeing in a room with her when you had initial contact?

A I remember seeing the chaplain and Detective Creech and I believe Coroner Fisher, Margaret Fisher.

Q All right. And so those communications that Detective Creech has described have already -- are already underway, correct?

A Correct.

Q What was your contact with Ms. Lawson? What was the purpose of you making verbal contact with her?

A Detective Creech and I knew that we needed to ask her additional questions in a more controlled environment with less interruptions. I met with Heather and gave her the opportunity to discuss this further with us at the sheriff's department. Prior to leaving the hospital, I met with her family April Lawson and Mae Lawson, and advised them that we were en route to the hospital to further discuss this -- and answer questions that we had.

Q Okay. You said en route to the hospital, but you mean --

A I'm sorry, en route to the sheriff's department, yes.

Q All right. So you arrived at 6:41. I believe you stated that you met with other personnel with the sheriff's department?

A Correct.

Q You met with nursing staff; and then ultimately you went to a room where Ms. Lawson was located with Detective Creech, the coroner, and the chaplain?

A Correct.
Q And approximately how long was it after that that you would have approached her about coming to the sheriff's department for an interview.
A It was shortly thereafter.
Q Okay. And shortly thereafter she's given the option to come to the sheriff's department. What was her response to that?
A She agreed to go with us voluntarily.
Q Okay. And when you say voluntarily, can you tell us whether she appeared -- what was her state of mind based on your observations?
A She was lucid. She was able to articulate her thoughts in a rational manner.
Q Okay. Was she able to respond to questions in a way that seemed rational?
A Yes.
Q She agreed to go to the sheriff's department for followup interview?
A Yes. I offered to give her a ride.
Q All right. Was anyone else in the vehicle other than yourself and Ms. Lawson?
A Just the two of us.
Q All right. And what happened upon her entry into your patrol vehicle?

A I advised dispatch that we were going to head to the sheriff's department, I was giving escort and gave out that mileage.

Q And what time was that, if you can tell us? And you can refer to any information you may have in your file.

A At 9:10 p.m.

Q All right. You're actually departing Lexington Medical Center at that time; correct?

A Yes.

Q All right. Now, what happened upon the two of you getting into your vehicle?

A While we were pulling out of the parking lot, I advised Heather of her verbal Miranda Rights, that she didn't have to speak with law enforcement, she could have an attorney present. If she could not afford an attorney one would be appointed to her at no cost to her if she wished. I asked her if she understood these rights and if she would like to speak with us further and she said yes.

Q Okay. You say that you advised her of her Miranda Rights -- Miranda Rights verbally --

A Yes.

Q -- there in the vehicle?

A Yes.

Q Was she under arrest at this time?

A She was not under arrest.

Q Was she in cuffs or any type of control --
A No.
Q -- mechanisms being used for her?
A No. She was in the front seat with me.
Q Okay. And again if you could state for the record what she was advised of by you?
A Okay. I gave her verbal Miranda and I explained those Miranda Rights as the fact that she was not under arrest, but she did have the right to remain silent, anything she say -- she did say could be used against her in a court of law. She had a right to talk to a lawyer for advice before we ask her any questions or have him or her present with her during questioning. She had a right to stop answering questions at any time.
Q Did she appear to understand those rights?
A She did.
Q Did she agree to continue onto the sheriff's department with you?
A She did.
Q Okay. And upon arrival at the sheriff's department, again, did -- at any point in time did she request an attorney?
A No, she did not.
Q Did she ask not to partake in the interview?
A No, she did not.

Q Did she ever state an unwillingness to participate in the interview?
A She did not.
Q Once you and Detective Creech and Ms. Lawson were in an interview room, what occurred?
A At this point in time, we used our typical suspect Miranda form, statement form. We advised her of those Miranda Rights.
Q All right. So let me ask you this. Do you have a copy of the seven-page-written statement that's previously been marked as Court's Exhibit 1 in this case?
A I do.
Q All right. And that is the statement that began at 9:41 p.m.?
A Correct.
Q And that is the statement that contains her initials and also a signature and a signature of Detective Creech?
A Correct.
Q Is your signature also on that --
A It is.
Q -- at any location?
A Yes.
Q All right. And were you present for that interview and then the followup written statement that was taken

contemporaneously?

A Yes, I was.

Q At any point in time during the course of this seven-page-written statement did Ms. Lawson request an attorney?

A Never.

Q Or request that the interview stop?

A Not one time.

Q Okay. And throughout this process, did she appear to be clear headed?

A She did.

Q Was she promised anything in exchange for that statement?

A She was not.

Q Was she coerced in any way?

A She was not.

Q Based upon all of your observations, did it appear to be freely and voluntarily given?

A Yes, it was.

Q Did her waiver of any of those Miranda Rights contained there on the written form appear to be freely and voluntarily given?

A Yes.

Q She appeared to understand those rights?

A Yes.

Q Now, following that statement at 9:41 on June 26, 2016, what, if any, opportunity did you have to conduct a second interview?

A On June 28th, around 10 a.m. Detective Livingston and I followed up an additional interview after autopsy findings were released.

Q Now, you say after autopsy findings were released. Let me stop you right there. During this initial interview with Ms. Lawson on June 26, at 9:41 p.m., did you even have a cause of death at that point?

A I did not.

Q The child had not yet had an autopsy, although she had been pronounced deceased at Lexington Medical Center?

A Correct.

Q But in between that event and the statement on June 28th, you received what information? Well, let me ask it like this: Did she receive an autopsy?

A She did.

Q Would you have been privy to those results?

A Yes.

Q At this point in time, did you consider the case to be a homicide.

A I did.

Q Okay. And for what purpose did you go back for the second interview with Ms. Lawson on June 28?

A We wanted to advise her of the followup autopsy results and we also needed to determine exactly what happened to Minor 1 .

Q All right. Did you feel that the explanation that you had been provided in the original statement on June 26 gave an adequate explanation for the extent of Minor 1 's injuries?

A No, I did not.

Q All right. And can you tell us whether or not that's routine to follow up with an individual?

A It is.

Q Now, following that statement that was provided on June 26, had she been placed under arrest?

A After the interview with Detective Creech, we placed her under arrest at that time.

Q All right. On June 26, 20 -- actually it would be the early morning hours.

A 26th, yes.

Q Okay. Do you know what time that warrant was actually served on her?

A I do not.

Q Okay. But it would have been after the completion of that seven-page-written statement on June 26th?

A Correct.

Q Possibly the early morning hours of June 27?

A Correct, yes.
Q So at this point in time, she's located where?
A She's located at the Lexington County Detention Center.
Q All right. Now, when you went back for followup contact with Ms. Lawson, she's now an inmate. She's now been arrested for the death of Minor 1 , correct?
A Correct.
Q Was the charge homicide by child abuse?
A Correct.
Q What's the process in making contact with her and once again advising her of her rights?
A So Detective Livingston and I went to the detention center and escorted her to room -- Interview Room 3 at the sheriff's department. From there, I advised her that her initial Miranda Rights still applied. She clearly understood that; and I then followed up by reading them again from the original statement she had provided to Detective Creech and I.
Q Okay. I'm going to stop you right there. On this occasion, did she also put information in writing?
A She did.
Q I'm going to show you a document and ask you whether or not you recognize it.
A Yes. That's the original statement.

Q All right. And it consists of how many pages?
A Four.
Q All right. And whose handwriting is noted throughout this statement?
A The questions asked were between Detective Livingston and I; and the answers given were Heather Lawson's writing.
Q All right.
MS. MAYES: This would be Court's Exhibit 2, Your Honor.
MR. WILLIAMS: Without objection.
THE COURT: Court's 2 is without objection.
(Court's Exhibit Number 2 was marked for identification.)
BY MS. MAYES:
Q And do you have a copy of that four-page statement dated 6/28/2016?
A Yes, I do. Yes.
Q Is the copy you have now a true and accurate copy of the original?
A It is.
Q All right. So looking at that statement, you said she was once again advised of her Miranda Rights?
A That's correct.
Q How so?

A I gave her Miranda Rights from the original statement form that I had with me in the interview. I had the case file present as well.

Q And what were those rights that she was advised of?

A You have a right to remain silent; anything you say can and will be used against you in a court of law; you have the right to talk to a lawyer for advice before we ask you any questions and have him or her present during questioning; if you have no money for a lawyer's fee, the Court will appoint one to represent you at no cost to you if you wish; if you decide to answer questions now without a lawyer present, you still have the right to stop answering questions at any time; you also have the right to stop answering questions at any time until you talk to a lawyer.

I've read these statements of my rights and understand what my rights are and I make the following statement.

Q All right. And once again did she appear to understand each of those Miranda Rights?

A She did.

Q Did she appear to be thinking rationally?

A She was.

Q And clear headed?

A Yes.

Q Did she agree to speak with you further?
A She was -- she did.
Q And waived her Miranda Rights?
A Yes.
Q Was she promised anything on this occasion?
A No, she was not.
Q Was she coerced in any way on this occasion?
A No, she was not.
Q And during the course of this followup interview, did you advise her of the autopsy findings?
A We did.
Q And did she attempt to provide a further explanation for the head injuries that were sustained by Minor 1 ?
A She did.
Q All right. And again, each of those questions were given in whose handwriting?
A The answers given were provided by Heather Lawson.
Q All right. And is she also given the opportunity to make any changes or additions as she goes?
A She was.
Q And what's the final question that was posed?
A Has anyone else made threats, promises, or coercions to you for this statement.
Q All right. And what was her response to that?

A No.

Q Did the entirety of that four-page statement appear to be freely and voluntarily given?

A Yes.

MS. MAYES: Nothing further of Sergeant Barr at this time, Your Honor.

THE COURT: Thank you, Solicitor.

Mr. Williams?

MR. WILLIAMS: May it please the Court.

CROSS-EXAMINATION IN CAMERA

BY MR. WILLIAMS:

Q Sergeant Barr, in the ride from the hospital to the sheriff's department, you were in a -- I assume it was an unmarked vehicle?

A Yes, sir.

Q And being unmarked, you didn't have any recording devices available?

A No, sir.

Q Meaning like patrol cars, you'd be able to record everything going on in the car?

A Correct.

Q So there's no recording of you giving her Miranda warnings?

A No, sir.

Q So she was sitting next to you when you gave her

Miranda warnings going down the road?

A Yes, sir.

Q When you got to the sheriff's department, you went to -- I think it was Interview Room 3; is that correct?

A Correct.

Q What is distinctive about Interview Room 3?

A It's just one of the rooms closest to the main doorway to investigations.

Q Is it the one on the left or the one on the right?

A I'm not sure what your question is.

Q When you walk in the hallway, is it the first one on the left if you're coming in from the outside? Is it the first one on the left or is it the first one on the right?

A We escorted her through investigations.

Q Okay.

A And at that point, that's the first door you come to in that hallway.

Q The reason I ask is because when you -- later in your testimony when you talk about the second interview, you talk about meeting her, or taking her into Interview Room Number 3 again.

A Yes.

Q And I was curious as to whether there was recording devices available in Interview Room 3 or not?

A At the time we had no recording devices available in any interview room.

Q Do you have them now in the interview rooms there?

A They're in the process, but they're not working, no, sir.

Q Okay. Were they installed then but they're not working now?

A No, sir, they weren't installed at the time.

Q All right. Now, as I understand it, you said that you were informed of the autopsy results prior to the second interview, which is on 6/28?

A Correct.

Q And you went and got her out of the cell when she was located at the Lexington County Sheriff's Department and brought her down?

A Correct.

Q Did you notice she was on suicide watch when you went to get her out of the cell?

A I don't believe I was ever told that.

Q Did you check on how she was housed in the sheriff's department?

A I don't remember.

Q Do you know whether or not she had been before a judge for a possibility of bond?

A Her bond was not until later that afternoon from my

understanding.

Q Okay. So she had not been before a judge even though she'd been in jail for over 48 hours?

A No, sir, she had not been in jail for 48 hours.

Q How long had she been in jail?

A The interview on the 27th ended at, I believe it was after 1 a.m. and then that following day was --

Q I'm sorry I thought the interview began at 6:26 -- on 6/26 at 9 something at night, correct?

A Correct.

Q So she did not appear before a judge on the morning of 6/27, correct?

A Correct.

Q She did not appear before a judge in the afternoon of 6/27; is that correct?

A I'm not certain if she had that bond hearing or not. That's what I'm saying.

Q And she didn't have a bond hearing to your knowledge on the morning of 6/28?

A I can't say at this time.

Q Do you know when she ever had a hearing before a judge to determine whether or not she was going to get bond?

A I'm not certain.

Q Okay. So did you physically go to get her from the

cell where she was located?

A We have a booking area where the jail staff go and get them and escort them to the front where we stood and waited for her.

Q Okay. And when she came in, you took her to the interview room and then you said that you went over her Miranda warnings again; is that correct?

A Correct.

Q I note that when you were going over the Miranda warnings, the first time when you and the other officer were together you had a sheet which had information, you had a Miranda warnings, you ticked off her initials and things like that.

A Correct.

Q Did you have the same sheet of paper available for the second set of -- second statement which she gave on 6/28?

A That is the Miranda warnings that I referred to as I was speaking with her for that second interview.

Q Did she fill out another second sheet noting that she understood these rights and ticked those off?

A She put her initials prior to me writing Miranda still applies and was understood and she initialed at the end of that sentence as well.

Q Could I see what you're referring to?

A Sure.

MR. WILLIAMS: May I approach the bench, Your Honor?

THE COURT: Yes, sir.

(Mr. Williams took a look at a form the witness had.)

BY MR. WILLIAMS:

Q Now having looked at that, the first written form that you have contains a initial page which has a list of the Miranda warnings?

A Correct.

Q And she has to initial each and every one to determine whether or not she understands it, doesn't she?

A She does.

Q And the second Miranda -- the second statement which you gave does not provide that?

A Again, I referred to this first initial statement and said you do understand that these Miranda warnings still apply.

Q Is there a -- is there a reason why you wouldn't have her just simply fill out the first page to affirm that she understands the Miranda warnings?

A It's my common practice not to have repeat first page written statements. Once I write that in there and explain the Miranda warnings.

Q And at the conclusion of these -- of the -- of course, none of this was recorded either, right?
A No, sir.
Q Do you know whether or not she'd been allowed phone access at this point in time?
A I can't say.
MR. WILLIAMS: That's all the questions I have, Your Honor.
THE COURT: Thank you, thank you, Mr. Williams. Solicitor?
MS. MAYES: Yes, sir, Your Honor.

REDIRECT EXAMINATION IN CAMERA

BY MS. MAYES:

Q Now, regarding those Miranda Rights, you indicate that she initialed the portion where she said she understood her Miranda Rights and that does still apply --
A Correct.
Q -- was she advised of each individual Miranda right once again?
A She was.
Q How so what document did you use?
A I used the initial first page of the original statement form that began on the 26th.
Q All right. And again verbally, did she acknowledge to you that she understood those rights.

A She did.
Q And wished to proceed with the interview?
A Yes.
Q Did she ever request that the questioning stop?
A No, she did not.
Q All right. Now, can you tell us whether or not it's routine for a person with a major charge such as murder or homicide to be placed on suicide watch?
A It is sometimes routine, yes.
Q And during the course --
THE COURT: Now, say that question and answer again. Say that again, Solicitor.
MS. MAYES: Yes, sir, Your Honor.
BY MS. MAYES:
Q Whether or not it's routine for a person charged with a major crime such as murder or homicide to be placed on suicide watch.
A Typically when they're on suicide watch, they have to dress out in a particular outfit and so once we see that, that lets the officer know that they are under suicide watch. She was in regular -- she wasn't in that outfit.
Q All right. Now, during the course of her interviews with you had she ever related that she had had suicidal thoughts in the past?

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A Yes.
Q All right. During the course of this interview, did she ever indicate that she had present or current suicidal thoughts?
A No, she did not.
Q Throughout this second interview, did she appear to be clear headed?
A Yes.
Q She appear to have rational intellect?
A Yes.
MS. MAYES: Nothing further.
MR. WILLIAMS: No questions on recross-examination, Your Honor.
THE COURT: Thank you, thank you, Sergeant.
All right. Solicitor?
MS. MAYES: That's all the witnesses on this matter of the Jackson v. Denno, Your Honor, regarding the verbal statements made to Detective Creech at the hospital and also regarding the written statement dated June 26 and the second written statement dated June 28th.
THE COURT: Thank you.
All right. Mr. Williams? Any evidence or testimony.
MR. WILLIAMS: We have none on this point, Your Honor.

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THE COURT: All right. Thank you.

Solicitor, I'll be glad to hear from you.

MS. MAYES: Yes, sir, Your Honor. I'm going to go ahead and pass up two cases, U.S. versus Kristebah (phonetic) and Colorado versus Conelly, which deal with statements, and which there may be some type of underlying emotional or medical condition. Here, Your Honor, there's been no showing of any type of emotional or medical condition that would interfere with her rights to waive her Miranda Rights --

THE COURT: Connelly, is Connelly the one where a guy flew out to California and just confessed to some officer that God told him to do it? Is that Connelly?

MS. MAYES: Your Honor, I believe Connelly is the one that sets forth the criteria that the mental state must not interfere with rational intellect or free will. And here there's just been no showing that there was any type of condition that would have interfered with her rational intellect.

THE COURT: Yeah, that's the one. He flew from Boston. He flew from Boston to Denver and went out there and went up to some officer on the beach and confessed to murder, Connelly. I guess some people have a conscience.

Any way, go right away, Solicitor. I didn't mean to interrupt. I can only remember cases sometimes.

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MS. MAYES: And, Your Honor, as to the verbal statements that were made at the hospital, at that point in time, it's indicated by the testimony of Detective Creech she -- they didn't have enough information yet to even develop a firm suspect. She was a caregiver and was able to give fact finding information that's always going to be necessary and relevant in this type of investigation. What's the child's medical history; what happened; what did she see; what did she know; who's been in and out of the house; and who may have harmed the child.

And throughout that time she was freely and voluntarily answering those questions, providing information, and alternative explanations for what may have happened to Minor 1 .

So it was only after those initial fact finding questions by Detective Creech that ultimately the decision and determination was made to get a more formal followup interview with her at the sheriff's department. And at that point, upon entry into the vehicle with Detective Barr, she was advised of her Miranda Rights verbally; and she's not under arrest at this time, but if custody has attached, she is appropriately advised of her Miranda Rights, waives them, and agrees to proceed on.

Once at the sheriff's department at the outset of that interview at 9:41, she is once again advised of her

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Miranda Rights and this time waives them in a formal manner there on the Miranda waiver form, acknowledging each right and proceeding on with a seven-page-written statement.

From there, Your Honor, she gives the second statement two days later. After once again being advised of her Miranda Rights, each right individually.

THE COURT: Thank you, Solicitor.

Mr. Williams?

MR. WILLIAMS: Your Honor, after consulting with my client, I don't know that we have argument to put on this point.

THE COURT: All right. Thank you, thank you, Mr. Williams.

Colorado versus Connelly is actually a fascinating case factually. There was an off-duty Denver police officer working in uniform in downtown Denver on 18 August 1983 when he was approached by Francis Barry Connelly and without any prompting stated that he had murdered someone and wanted to talk about it. He was then advised by this off duty uniformed Denver police officer of his Miranda warnings. He stated he still wanted to talk about the murder.

Officer Anderson understandably bewildered by this confession asked several questions: Had he been drinking, taking drugs. He then called -- the officer called

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homicide Detective Steven Antuna. Respondent was again advised of his rights and Detective Antuna asked him what is one of the classic questions that in constitutional questioning, quote, What he had on his mind, unquote. Respondent then answered he'd come all the way from Boston to confess to the murder of Mary Ann Junta, the young girl that he had killed in Denver sometime during November of '82, not quite, but almost a year previous.

Said he'd come all the way from Boston to confess to that murder. They then took him to police headquarters. The search of records revealed that the body of an unidentified female had been found in April of '83.

The respondent openly detailed his story, agreed to take officers to the scene and pointed out the location of the crime and the exact location of the murder.

The allegation was his mental state deteriorated overnight and he began hearing voices and that he revealed to a psychiatrist that Connelly was following, quote, the voice of God, unquote. This voice instructed respondent to withdraw money from the bank, to buy an airplane ticket, to fly from Boston to Denver. When respondent arrived from Boston, God's voice became stronger and told respondent either A to confess to the killing or B to commit suicide. Reluctantly, he followed the command of the voice; approached Officer Anderson and confessed.

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Of course, this case, looking at State versus Washington and State versus Parker, it appears there was no custodial interrogation as far as the verbal statements at the hospital. The officer, as typically occurs, had very limited knowledge at that point. It was investigative. Doesn't know cause of death. Knows of a 9-1-1 call because information was conveyed to him, but does not know the sum -- sum and substance of it.

Thereafter -- so as far as the verbal statements, I would find they are admissible and they're not a result of any custodial interrogation.

As to the written statement -- it depends on how you look at it, they're either one or two written statements or there's one written statement, the second of which is indicated as a continuing, continued statement from 6/26/16. It appears the first one began on 6/26/16 at 2141 hours and lasted until 0125 hours on 6/27/16. Court's Exhibit Number 1, it appears Ms. Lawson indicates the grade she completed at school, that she can read and write. It is initialed. Each and every right, one through five, are initialed by Ms. Lawson on page one of seven.

Further, she indicates by initials that she understands her rights. I have read the statement of my rights and I understand what my rights are. Each and every page, again, one through seven, appears to be signed by

Ms. Lawson. And as is pointed out, question number -- I don't know the number, I can't read it, has anyone made threats, promises or coercions to you for this statement. Her answer is no. That is individually initialed.

Throughout it looks like there are corrections also that are initialed. When you come to Court's Exhibit Number 2, which is the statement that began 6/28/16, 10:30 a.m., as Sergeant Barr has indicated it's a continued statement from 6/26/16 incident. Miranda still applies and was understood. That's initialed by Ms. Lawson. Each and every page is initialed and signed by Ms. Lawson.

Taking into account the totality of all the circumstances: The place; the nature of the detention; the age, which is indicated, born in May of '94; location; the facts no request for an attorney; no request for -- no promises and such made. Under State versus Roy Lee Parker, I would find it is admissible. It complies with Miranda and it is voluntary under the standard of the preponderance of the evidence.

All right. Thank you, Solicitor. Mr. Williams.

You have another motion, Solicitor?

MS. MAYES: Your Honor, I would just like to add that in addition to the statements there were search warrants conducted at the residence of Ms. Lawson where the infant resided. Photographs were taken as well as some

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household items and the child's pack 'n play in which Ms. Lawson reported that she was found deceased. The State does plan to introduce items taken pursuant to that search warrant.

And also, a phone was seized from Ms. Lawson pursuant or -- to her arrest -- incident to her arrest. And individual search warrants were done for the content of that phone and extraction of that phone which the State also intends to introduce. Mr. Williams has been provided copies of each of these search warrants as well as the contents that were obtained pursuant to the returns on those search warrants, so I don't know if there are any additional motions in that regard.

THE COURT: All right. Thank you, Solicitor.

Mr. Williams?

MR. WILLIAMS: Your Honor, one of the motions, I guess, that was served on me earlier dealt with the photographic evidence coming in and -- and while I looked at it, I spoke with the solicitor about which -- which photographs that she sought to introduce. Your Honor, in looking at the photographs -- and I assume that she's still of the same opinion that there -- that there's several that are right descriptive of the body.

THE COURT: Let me -- I'm not cutting you off, Mr. Williams.

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MR. WILLIAMS: Yes, sir.

THE COURT: But I always preface that by cutting you off, okay?

MR. WILLIAMS: Okay.

THE COURT: That make sense?

MR. WILLIAMS: It does.

THE COURT: It shouldn't. I always wait until there's testimony, analyze it under State versus Collins, analyze it under 403. As y'all do. I mean we can't -- we can't really hear that in a vacuum. I'll listen to it at this point. If there's some y'all can agree to, I -- obviously, that's fine. But typically, I won't look at those pretrial unless they're going to put up pretrial testimony. I just think it's easier so to speak, to do it that way.

MR. WILLIAMS: Yes, sir.

THE COURT: That suit you, Solicitor?

MS. MAYES: It does, Your Honor.

THE COURT: Suit you Mr. Williams?

MS. MAYES: And I believe there's probably 60 or 70 photographs total, but in reality we're going to use probably less than 12. And then I believe Mr. Williams -- which we can most likely reach an agreement on. I believe there's one photograph that Mr. Williams indicates he may object to that deal specifically with the testimony of the

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forensic pathologist, Dr. Ross, and we would not take that up until probably Wednesday.

THE COURT: I learned a new word last week in civil court, Mr. Williams. I think the word's -- what was that word, Brenda, you typed it myop --

THE COURT REPORTER: Myopic.

THE COURT: Myopic. I didn't know what it was. I think it means if you focused down -- if y'all focus down on what I need to look at -- and I would -- and if you don't, I'll look at 60 or 70 photographs.

MR. WILLIAMS: All right, sir.

THE COURT: All right. Thank you.

How was the word -- how you spell it?

THE COURT REPORTER: M-Y-O-P-I-C.

THE COURT: Did you already know how to spell it?

THE COURT REPORTER: Yes, sir.

THE COURT: I knew you would.

All right. What's next?

MS. MAYES: So, Your Honor. There's also a motion that the State submitted, State's motion in limine regarding, un --

THE COURT: Third-party guilt?

MS. MAYES: Yes, sir, Your Honor.

THE COURT: How about that, Mr. Williams?

MR. WILLIAMS: Your Honor, that's an interesting

concept. I've always found third-party guilt --

THE COURT: It is very interesting. Yes, sir. I agree.

MR. WILLIAMS: Judge, one of the cases that -- that I was looking at was the U.S. Supreme Court case Holmes versus South Carolina.

THE COURT: That was Bobby Holmes?

MR. WILLIAMS: It would be --

THE COURT: Union County?

MR. WILLIAMS: Yes, sir.

THE COURT: Yes, sir. That is a fascinating case.

MR. WILLIAMS: I guess, Your Honor, the issue I have with -- I don't know how close things can be similar and not be admissible because -- and what she -- what she is going to argue is that in -- I know the Court is not familiar with the facts surrounding the death of an infant.

THE COURT: The prior infant?

MR. WILLIAMS: Yes.

THE COURT: Yes, I read that. And the prior infant by the same father, different mother with -- as a result of sleeping with the adult.

MR. WILLIAMS: Your Honor, I believe the other child actually died after this particular child.

THE COURT: Okay. After. I've read her brief. I read the solicitor's brief on that.

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MR. WILLIAMS: Yes, sir. Well, the -- the father of both children -- the father was the last person to see the child as we would argue in this particular case because what occurred on June 26th was the father came over and subsequently left.

THE COURT: That's in her confession -- her statement, I should say.

MR. WILLIAMS: Her statement.

THE COURT: Let me be correct.

MR. WILLIAMS: Her statement. It's in her statement that the father came over and they had some sort of sexual encounter and that the father left and in leaving he was the last adult to see this child in the crib. The death certificates actually show that the child -- that this child died from blunt injury, slash, suffocation.

The other child, which is the child of the fiance died sometime later in another household from suffocation. Both instances involved the child being in a different bed other than what the father was in, meaning in the first -- and I agree it's somewhat speculative because the mother supposedly her fault because she rolled over and the young child suffocated. But there's -- the fact that both children suffocated when the father wasn't there but had been the last person perhaps to have seen this child is such a strange coincidence that perhaps it is -- should be

subject to the solicitor's cross-examination whether he was there, whether or not he saw the child, what we saw, what was the condition of the child.

Yeah, she should be able to put up evidence saying that it's not directly related, but I don't know that the defendant should be hamstrung in not being able to say anything at all about the fact that there's at least one other child who has died under -- I mean what are the odds? Under those similar circumstances where suffocation was involved, involving the same father.

THE COURT: Thank you.

MR. WILLIAMS: Thank you, Your Honor.

THE COURT: Solicitor?

MS. MAYES: Yes, sir, Your Honor, as noted in the State's motion in limine, it's the specific event that the child Harrison Tuckus died on September 29th, 2016, that the State would move to exclude any reference to -- in -- that case was thoroughly investigated by law enforcement, as well as the coroner's office and ultimately the certificate of death was rendered which found that it was suffocation from okay sleeping with an adult, that adult being the infant's mother, Emily Gray.

The father of the child, Richard Tuckus, although he resided in the home, was not even present in the bedroom and did not have any role whatsoever in that co-sleeping

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incident. Mr. Williams has been provided with all of these documents. I'm going to go ahead and pass them up at this time for the Court's benefit.

Your Honor, we do not object to the fact that the defense can raise the issue that Richard Tuckus had access to Minor 1 on the day of her death. That is absolutely admissible. If he wants to make the argument that because Richard Tuckus came over to the home and had relations with Ms. Lawson during the daytime hours of June 26, that he somehow could have participated in some type of injury towards Minor 1 , that is fair game. He was at the house, although the evidence presented by the State throughout this trial will be that Minor 1 's death is not consistent with that time frame at all.

He left the home before one p.m. and the evidence that's presented during the course of our case is going to be that Minor 1 was alive and well for some time after one p.m. In fact, the statements of Ms. Lawson herself have her placing the child down for a nap between 1:30 p.m. -- or 1:40 p.m. and 2:30. And she also states that in the 9-1-1 call. And ultimately she does not find the child in its condition and call 9-1-1 until 5:19 p.m.

So regardless of that, which is all factual in nature, we fully concede that Richard Tuckus will be a witness in the case. He can certainly be questioned about

his contact with Minor 1 that day, what he saw, whether he could have done anything to harm her; but it's the subsequent event involving another child who died accidentally in a death that has been confirmed an accidental death, both as the autopsy, which found no signs of physical trauma, only a death that resulted from an accidental co-sleeping event and this then secondly, the fact that Ms. Gray, the mother of the child had maintained throughout the investigation that she was with the infant. She rolled over on the infant. He found the infant and she called 9-1-1.

Your Honor, to go beyond that certainly would be beyond mere speculation, so pursuant to the Gregory analysis and State v Coat and all other case law on this third-party guilt issue, that would be highly prejudicial. It's unrelated, and it does not even amount to mere speculation. That's the State's position, Your Honor.

THE COURT: Thank you.

MR. WILLIAMS: Nothing, further, Your Honor.

THE COURT: Coat's the one where the codefendant had four other assault charges against women and they were trying the stepfather? Is that Coats?

MS. MAYES: Yes, sir, Your Honor.

THE COURT: That's like double first cousins. That's like third-party guilt coupling with prior bad acts

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under 404(b) trying to say the codefendant committed the others; then 404(b) would get into also being able to point the finger at a codefendant and away from Coats.

MS. MAYES: And we also looked up at a 404(b) analysis here, although Mr. Tuckus is merely a witness and not the defendant, so probably not true 404 analysis but even under 404(b), admission would require clear and convincing evidence. And there's nothing here that even remotely rises to the level of clear and convincing evidence of his guilt. In fact, all of the evidence obtained during that investigation is that it was Ms. Gray who, unfortunately, Your Honor, was involved in that accidental death of that infant. So it would not meet clear and convincing evidence or a preponderance of the evidence and the State's position, again, is that it doesn't even arise to the mere speculation level. We're even below that. Because there's no one that can put Richard Tuckus even with that child at the time of that co-sleeping incident.

THE COURT: With Ms. Gray's child?

MS. MAYES: Yes, sir, Your Honor. And then secondly, under the Gregory analysis, the evidence would have to be inconsistent with her guilt and it also fails in that regard, in that she still remains as the sole caregiver, adult caregiver for Minor 1 between the hours of

one and 5:19. And Minor 1 is found deceased, according to her, at 5:19 p.m. The evidence presented by the State's experts will be that those injuries could not have been delivered by a three-year-old or a one-year-old, that they are consistent with an adult fist and the timeline as presented by the State during the course of this trial will be that Ms. Lawson is the only adult present who could have delivered those injuries.

That's not to say they can't raise the argument that Richard Tuckus could have committed that crime while he was there. We certainly acknowledge that. It has to be with the unrelated incident involving the accidental death of another child that we move to exclude.

THE COURT: Let me make sure I'm tracking this. The incident -- the subsequent incident, Mr. Tuckus was the -- what would Ralph King Anderson say, an ultimate person to be with the child because Ms. Gray was the ultimate person to be with their child when that child succumbed to an accidental death.

MR. WILLIAMS: Based on what we know to be the date and time of the death of the child --

THE COURT: All I'm doing is finding like it's being sold to me.

MR. WILLIAMS: Yes, sir --

THE COURT: There's no one charged, no -- no --

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what I'm being told, that is a -- this wasn't a crime. It was ruled an accident. It's been investigated. Not been reopened.

MR. WILLIAMS: Not yet.

THE COURT: So if I kind of transfer in the standard, it clearly wouldn't make clear and convincing and it wouldn't be probable cause at this stage to believe that a crime had been committed and someone committed the crime -- or Mr. Tuckus committed the crime that they don't even know is a crime. And therefore, since he was the then ultimate person to see -- adult, adult person to see Minor 1 , I clearly agree that you can go into the timeline of the presence of Mr. Tuckus or whoever else was there, Minor 2 , Minor 3 , whether a three-year-old, one-year-old or any other adults, there's no question about that in my mind. But from what I've heard thus far, the -- the subsequent act of Ms. Gray and Mr. Tuckus's child from what I'm hearing so far is not admissible.

Now, if there comes a time you think that landscape changes, Mr. Williams, you know me well enough, all you have to say is you have a matter of law and I will be glad to hear it outside of the presence --

MR. WILLIAMS: All right, sir.

THE COURT: -- of the jury, but clearly, like the solicitor said, like you know, the timeline -- well the

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detective, Detective Creech testified to the importance of a timeline. We all know that; how important that is and who all was present.

MR. WILLIAMS: The only thing I was thinking about the timeline, Your Honor, is obviously, that's something which the jury would determine exactly when they think the events occurred. And obviously, you'll hear, there will be testimony that Mr. Tuckus had two keys to the trailer and even though that's the last time that she recalls him being there, he certainly had access to be there even later than that.

MS. MAYES: And we don't dispute that that's all proper.

THE COURT: Yeah.

MR. WILLIAMS: I understand what Your Honor's saying.

THE COURT: I think access to a crime scene as far as looking at a suspect or suspects, I think that's important.

MR. WILLIAMS: Yes, sir.

THE COURT: I mean, I know y'all do. I think that is important. And, you know, her testimony, whether she testifies or not, whatever she testifies to, I saw him at X time, or I don't remember seeing him, or whatever. I don't know. I don't know.

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MR. WILLIAMS: All right, sir.

THE COURT: All right. But if you think that landscape changes, just ask for it to be heard outside of the presence of the jury.

Anything further, Solicitor, as far as pretrial?

MS. MAYES: No, sir, Your Honor, as stated previously, Mr. Williams does have all of the search warrants, all of the returns and he's aware of the items that we would be offering pursuant to those. My understanding is there is no motion at this time.

THE COURT: Mr. Williams?

MR. WILLIAMS: I think she's correct, Your Honor. We'll just -- we'll try to simplify it.

THE COURT: And tell me -- tell me about -- Solicitor, tell me about Ms. Lawson's custody, please.

MS. MAYES: Your Honor, she initially was denied bond and then she had bond set by Judge Hayes and was placed on house arrest with --

THE COURT: By judge who?

MS. MAYES: Hayes.

THE COURT: Hayes, okay.

MS. MAYES: -- with a GPS monitor. However, Your Honor, given the current state of things, this particular crime does carry life. The State would move at this time to have her taken into custody for the remainder of the

week.

MR. WILLIAMS: And, Your Honor, she has remained on the GPS monitoring since the date that bond was set. I have a statement from her bonding company --

THE COURT: Yes, sir.

MR. WILLIAMS: -- which in essence says that she was -- she was let out on bond of $150,000 on or about December 18th of 2016, so that's a timeline of how long she's actually been out on GPS monitoring. And if I may approach the Court, Your Honor, I would hand Your Honor a copy of the written certificate saying that they can stay on her bond. And she certainly knew, yes, Your Honor, this weekend because we met Friday and went over everything, that she was coming to court today and she showed up bright and early along with her family and -- Your Honor, for the Court's edification, these individuals on the first and second row consists of her family. Mama, grandmama -- on both sides.

THE COURT: Thank you, thank you, Mr. Williams.

MR. WILLIAMS: Thank you, Your Honor.

THE COURT: I'll take it under advisement until the jury's been sworn. They have not yet been sworn.

Thank you, Solicitor.

Thank you, Mr. Williams.

Now, I would advise Ms. Lawson that should you fail

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to appear at any time until I readdress your bond, for example if you fail to appear at 9:30 in the morning, the case has been called for trial, the trial will go forward in your absence and I would also issue a bench warrant for your arrest. You understand that, Ms. Lawson?

THE DEFENDANT: Yes, sir.

THE COURT: Thank you, thank you very much.

All right. Anything further, Solicitor?

MS. MAYES: Nothing further from the State at this time, Your Honor.

THE COURT: Thank you, thank you very much. 9:30 in the morning? Thank you thank you very much.

(Court was in recess for the day.)

TUESDAY, AUGUST 8, 2017

THE COURT: All right. Anything before we bring in our jury from the State, Solicitor?

MS. MAYES: Nothing from the State, Your Honor.

THE COURT: Defense?

MR. WILLIAMS: Nothing from the defense, Your Honor.

(The jury entered the courtroom at 9:51 a.m.)

THE COURT: Foreperson is you? You will always maintain this seat right here where this young lady is sitting.

(The jurors swapped seats.)

THE COURT: Thank you.

These are my two alternates?

THE BAILIFF: Yes, sir.

THE COURT: All right. Thank you. Thank you very much.

Good morning, ladies and gentlemen of the jury. I apologize for the delay in getting you out in the courtroom. I assure you it was all my fault. I'll embrace it. I apologize. Your time is very important to me and I will try my best to manage it more efficiently.

Madam Clerk, would you swear our jury, please.

THE CLERK: Yes, sir, Your Honor.

Please stand and raise your right hand.

(The jury was sworn at 9:53 a.m.)

THE CLERK: Be seated, please.

OPENING REMARKS BY THE COURT

THE COURT: Ladies and gentlemen of the jury, the case we're about to try is the case of Heather Marie Lawson, the defendant. What I will now say is intended to serve as an introduction to the trial of this case. These remarks are not an instruction on the law in this case. I will instruct you on the law applicable to this case at the end of the trial and somewhat during the trial before you retire to consider your verdict. This is merely an explanation of the procedure that we will follow in the

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trial so that you may better understand what may be happening.

The defendant is charged by an indictment filed in this court with the crime of homicide by child abuse; the elements of which will be explained to you later. Again, ladies and gentlemen, the indictment is simply the charge, the formal document by which the case is brought before the Court and it is no in any sense evidence of any of the allegations contained therein.

The defendant has pled not guilty to the indictment. The State, the party to my front right, therefore, has the burden of proving each of the elements of the indictment beyond a reasonable doubt and it will be your duty, ladies and gentlemen, to decide whether the State has met that burden.

Your purpose as jurors is to find and determine the facts. You are the sole judges of the facts of this case. If at any time I make any comment regarding the facts, you must disregard it. You are to determine the facts from the testimony you hear and the other evidence that may be introduced in the court. It is up to you to determine the inferences which you feel may properly be drawn from the evidence. It is especially important that you perform your duty of determining the facts diligently and conscientiously because ordinarily, there is no way to

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correct an erroneous determination of the facts by a jury. And on the other hand, and with equal emphasis, the same law that makes you the judges of the facts, makes me the judge of the law. The law that is given by the Court is the only law you may consider. You must accept it and follow it even though you may disagree with it. I cannot tell you what the facts are; you cannot disagree with me about what the law is or what the law should be. Your job is to take the law as I give it to you, apply it to the facts as you find them from the testimony of the witnesses and any other evidence that is introduced. After doing that, you will render your verdict, a true and just verdict, under the solemn oath that you have just taken as jurors.

Until I advise you to begin your deliberations, you must not discuss this case with anyone, including your fellow jurors, friends, family members, or anyone else. After the case is submitted to you, you must discuss it only in the jury room with your fellow jurors.

The attorneys, the parties in this case have been advised that should they see you in the hallway or the like, that they are not to talk with you at all. So if you see anyone involved in the case and they do not even say hello, they're not being unfriendly; they are just following my instructions.

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Again, during the trial, do not read listen to or watch any news reports about this case, should there be any. This includes anything that may be in the newspapers or on the internet, radio or television. You must not consider anything you may have read or heard about the case outside of the courtroom, whether before or during the trial. It is important that you keep an open mind and not decide any issue in the case until all of the evidence has been presented, the parties have made their closing arguments to you, and I have instructed you on the law in this case; and then directed you to begin your deliberations with your fellow jurors.

It is your solemn responsibility to determine the guilt or innocence of the defendant and your verdict must be based solely on the evidence as it is presented to you in this trial and on the law as I instruct you during and at the close of the trial.

Now in just a moment, the solicitor will make what is called an opening statement in which the solicitor will explain to you the issues in this case or at least what the solicitor thinks the issues are in the case. Mr. Williams, the attorney for Ms. Lawson, may also make an opening statement although he is not required to do so. A criminal defendant in South Carolina is always presumed to be innocent and has no burden whatsoever to prove herself or

himself innocent.

What the attorneys tell you during their opening statements is not evidence in the case. What the attorneys tell you in their closing arguments is not evidence in the case. The questioning by the attorneys is not evidence in the case. That's the framework by which the testimony is extracted from the witnesses. The responses of the witnesses is the evidence in the case. That is how it will be presented by the testimony of those sworn witnesses from this witness stand and by any exhibits that may be introduced into evidence.

From time to time during the trial, you may hear one of the attorneys say something like, Your Honor, I believe we have a question of law or a matter of law to discuss with you; or, Your Honor, may we approach the bench; or sometime, I, myself, might find it necessary to excuse you from the courtroom for a short while so the attorneys and I can discuss a matter of law. This is not to hide anything from you. The reason for this is because you are the judges of the facts in the case and sometimes, when I am discussing matters of law with the attorneys, it may be necessary for me to make some comment as to the facts in connection with ruling whether or not a particular law applies. I am not supposed to tell you what I think the facts are, so I will excuse you from the courtroom

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while these discussions take place so that in no way will you be influenced by anything that I might say or do in connection with the facts.

In determining what the true facts are in this case, in using your individual and collective good judgement and common sense, you must decide whether or not testimony of witnesses is believable. It will be my responsibility to rule as a matter of law, whether certain testimony is admissible at all or not; in other words, whether it is presented to you as a jury. Once the testimony is admitted, whether or not you believe it, is solely your decision to determine the believability or credibility of the testimony of the witnesses.

In deciding whether to believe a witness, you have the right to consider the interest of any witness, the bias of any witness, the prejudice of any witness, the opportunity for the witness to have seen the matters and things about which the witness may testify, the way the witness acts, the demeanor of the witness on the witness stand, if a witness's testimony is corroborated by testimony from other witnesses, or if it is inconsistent with testimony of other witnesses, if a witness's testimony is impeached by prior inconsistent statements or made stronger. You have a right to consider anything in the record that will help you evaluate the testimony of the

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witnesses. That means it will be your duty to pay close attention to the witnesses, to observe them, to listen to them, to pay close attention to the attorneys and to the Court.

Don't let your thoughts wander, but give strict attention to the testimony in this case so that at the end of all the testimony, after the closing arguments by the attorneys and the instruction on the law by the Court, you will then be in that position to determine what the facts are and to apply the law to those facts and thus render a true and just verdict.

It will be your added duty, Mr. Foreman, to preside in the jury room and be the jury spokesperson here in court. It will also be your duty to write the verdict, but I will give you further instructions about that at the conclusion of the case.

Just a few administrative matters, ladies and gentlemen, if you cannot hear a witness appropriately or see a witness, please get my attention or the attention of one of the fine bailiffs. Of course, we do have a speaker system in here, but it can still be hard to hear sometimes. We will have that witness sit up and speak up.

I don't know what may be introduced into evidence, charts, diagrams, photographs, or the like, or nothing as far as exhibits. If a photograph, for example, is

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introduced, many times it may be displayed on the screen, sometimes it may be handed to our foreperson and passed among members of the jury while you're in the courtroom in your jury box. You may look at those items all you wish. Please keep in mind, if I allow an item into evidence, you will also have that item with you in your jury room at the time of your deliberations. Therefore, just seeing it out here in the courtroom in the jury box will not be the only opportunity you will get to see any items, physical items, of evidence that may be introduced.

Also from time to time, you may see me on my computer. I tell you this because a juror in the past complained about me; imagine that. And what I do is legal research. These are very good trial attorneys. I look down that dusty, bumpy, legal trail and see what I think a legal issue may be lurking down there, I do -- I do research on the computer. I don't peat, I don't repeat, I don't know what hashrag is, I'm not on Facebook; I'm faceless. I stay focused on the case. If it annoys you, please -- well, my law clerk does the heavy lifting -- but if it distracts you, anything I say or do, please, please let me know and I will take the appropriate action.

So finally, what am I really in charge of; I'm in charge of taking breaks, that's what I'm in charge of and I have a real simple rule. When I want to take a break, we

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take a break. It works great that way. That's really not my rule; it can be very difficult to stay focused and attentive sitting and listening to every question and listening to every answer and focusing with all your senses on the testimony of witnesses. If at any time, any of you need a break, please raise your hand. If you sit out here too long, your thoughts get to wandering, you're not going to be able to determine what the facts are. I guarantee you if you need a break, you're not the only one in that jury box that needs a break. So at any time, please, don't be shy about that, raise your hand and y'all will take y'all's break and we will take our break.

Any objections to anything I've told the jury from the State, Solicitor?

MS. MAYES: None from the State, Your Honor.

THE COURT: Defense, Mr. Williams?

MR. WILLIAMS: None from the Defendant, Your Honor.

THE COURT: Thank you. Thank you very much.

Again, ladies and gentlemen, if you'll please give the parties your complete and undivided attention. This is an important case. It's important for Heather Lawson and it's important for the State of South Carolina. Please give them your complete and undivided attention. Thank you. Thank you very much.

Solicitor, you may address the jury.

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OPENING STATEMENTS

MR. MCNAIR: Thank you, Your Honor, may it please the Court?

THE COURT: Yes, sir.

MR. MCNAIR: A mother's hands, something we typically think of as a symbol of love, nurturing, and caring. But in this case, a mother's hands were used as instruments of evil. Heather Lawson bludgeoned her seven-month-old baby to death with her own hands. She beat her repeatedly in the head with her fists until there was no life left. Minor 1 was seven months old. People called her Minor 1. She died of blunt force trauma to the head on June 26th, 2016. The only people present in the home at the time of her death were Ms. Lawson, her one-year-old daughter, Minor 3, and her three-year-old son, Minor 2.

According to Ms. Lawson, she found Minor 1 in her pack 'n play rolled up in Minor 3's blanket not breathing around 5:15 p.m. that day. And after supposedly finding her baby not breathing, she didn't pick her up and hold her, she didn't attempt CPR, she didn't call 911; she called the man she was infatuated with, Richard Tuckus, her boyfriend and Minor 1 's father.

He lived in the same mobile home park a few doors down with another woman named Rachelle, who he had children

with. And when Richard didn't answer the phone, she left her one- and three-year-old in the house with her dead baby and ran to Richard. Are those the actions of a mother who just discovered her baby dead? Before she attempted to do anything to save that child's life, she ran to Richard.

She didn't just discover that child dead. She knew she was dead, because she had done it. She just knew the time had come where she had to come up with some story and report it. So when she gets to Richard's house, she tells him her two other children, Minor 2 and Minor 3, were in the pack 'n play and had a heavy blanket over Minor 1.

Rachelle, Richard's girlfriend, who lived with him at the time, called 9-1-1. Richard takes Heather back to her house, instructs her to call 9-1-1 with her phone. She gets on the phone with the 9-1-1 operator and says, I think my other two kids smothered her. She said Minor 1 had a big bruise on her soft spot on her head; I'm sure my other two children jumped on her. She just killed one child and she's now blaming her two other innocent children.

The first responders get there, they discover Minor 1 with bruising all over her head, slight rigor mortis had already begun to set in. They attempt all life-saving procedures anyway, they rush her to the hospital, until it becomes painfully obvious she's not coming back.

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Detective Creech speaks to Ms. Lawson at the hospital to find out more details. She's still trying to spin this story about her one- and three-year-old doing it. She tells Detective Creech that Minor 1 did fine that whole day. She told him that she had laid Minor 1 down for a nap between 1:40 and 2:30 that day, that there was no bruises; she didn't see any bruising on Minor 1 prior to laying her down for the nap. She said when she found Minor 1 , she is rolled up in her one-year-old daughter's blanket.

Detective Creech asked her point blank, what do you think happened; she says I think my one-year-old smothered her. How unbelievable. My one-year-old got in the pack 'n play and smothered her.

Dr. Luberoff, a Forensic Pediatrician, who is an expert in child abuse cases, came to the hospital to see Minor 1 . She confirmed the obvious; there is no way a one- or three-year-old could have caused these injuries. The degree of force required and the fact there is bruising all over the head, indicates it was done by an adult and the only adult present in the house during the relevant timeframe that day is Ms. Lawson.

At that point, Detective Creech and Detective Barr take Ms. Lawson to the Sheriff's Department and they conduct a second interview. They tell her, we don't believe your story that a one- and three-year-old did this.

She then disclosed, Well, the night before when I was working at the gas station, I took Minor 1 with me, she fell out of a box and hit her head on a concrete floor.

She then admits that she lied previously to Detective Creech at the hospital and says, Oh, I did see the bruising that morning. Minor 1 was acting lethargic and she vomited after I fed her about 10:00 a.m. that morning. Detective Creech says, Well you saw all that bruising, if she was throwing up, why didn't you take her to the doctor? Her excuse, I was too tired and I didn't want DSS to get involved. That sums up this case in a nutshell. She doesn't care.

She then starts changing her timeframe. She initially said I put Minor 1 down for a nap between 1:40 and 2:30; she's now saying, Well, I think the last time I saw her was noon. She also says that after Minor 1 's fall at the gas station that night, when she's carrying her into the house in her arms, she trips and in her words, dumps Minor 1 into the playpen from 2 to 3 feet away. She said Minor 1 was crying loudly. You know what she did; she admits this, she turned on Family Guy and turned up the volume to drown out the crying like she always does. Absence of love.

After that interview at the sheriff's department, Dr. Ross, the Forensic Pathologist, did the autopsy and

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determined the cause of death to be a homicide by blunt force trauma to the head.

They go to talk to Heather one more time to inform her of the autopsy results. She just starts throwing out other stuff to see if it would stick. She says, Well, at the gas station before she fell out the box, I may have hit her head on the door frame. Then after she fell out of the box and I picked her up, I think I hit her head on the door frame again. Then when I was leaving and putting in the car, I hit her head on the door frame of my car. Just trying to see what would stick.

The only thing we do know happened was that fall at the gas station because that's on video. She took Minor 1 to work, put her in a cardboard box on the floor of the gas station. Minor 1 pulls up, the box falls over, she initially kind of falls into a padded chair, which kind of breaks her fall, then falls to the floor and hits her head. On video, she appears fine after that fall; you can't see any apparent bruising on her head. Anybody who has kids, has had an incident like that where your child has fallen and hit the floor -- hit their head on the floor. That did not cause her death. Dr. Luberoff will tell you that didn't cause her death nor any other fall Ms. Lawson described.

The problem for Ms. Lawson in this case is that no

one else was in that house during the relevant timeframe other than her and her two young children. Richard had come by earlier that day around noon to have sex and he left before one o'clock that day. Dr. Ross, the pathologist, will tell you the time of death is well after 1:00 p.m. In addition, Heather told law enforcement that no one else even had interaction with Minor 1 that day other than her.

She had given multiple stories that I've just told you about. She has never accused Richard of this or pointed the finger at Richard. If you hear something from the defense during this trial that points the finger at Richard, that's going to be the first time that story has ever been told. How convenient now that Richard is married to Rachelle. In a case like this, everybody wants to know why would somebody do something like this; how do you explain that? I don't know, I don't have the words to explain it. We can't dissect her mind to see what she was thinking. All we can do is focus on her words and her actions.

She told law enforcement that she never wanted kids, she wasn't a baby person; they messed up her plans for the future. She admitted she was stressed out, she had overdue bills, and she was in a toxic relationship with Richard. You will see during this trial, her life revolved

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around Richard Tuckus. Like I said, it was her boyfriend, Minor 1 's father, lived in the same mobile home park with another woman named Rachelle, who he had children with.

She made statements about Richard that obviously she's not happy about that living arrangement; she's jealous of the time he's spending with Rachelle, she wants him to spend more time with she and Minor 1; that's a point of contention, obviously, in their relationship. Then on the day prior to this incident, she texted Richard and says you don't even spend an F'ing hour with me. And on the day Minor 1 died, Richard come over when it was convenient for him to have sex and he left in less than an hour.

Then look at her actions after she supposedly found Minor 1 dead like I mentioned. Before she attempted to do anything to save her own child's life, she ran to Richard. Ladies and gentlemen, this case is as simple and straight forth as they come. There are three people in that house when Minor 1 died; a one-year-old, a three-year-old, and Heather Lawson. There's only one reasonable explanation.

I'm going to talk about two legal concepts before I sit down. Judge McMahon is going to instruct you on the law in this trial. He is regarded as one of the best judges in the State. He is the authority on the law.

But very briefly I want to talk to you about

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reasonable doubt, because a lot of people have misconceptions about what that means. I heard somebody on the radio the other day say the prosecution did not prove their case beyond a shadow of a doubt. That's not the standard. It does not require us to prove our case beyond all doubt you may have, or any doubt. There are very few things in this world that we can know to an absolute certainty and the law does not require that. All that's required is that you be firmly convinced of this defendant's guilt and if you are, you've taken an oath to find her guilty.

The other thing I want to talk to you about is circumstantial evidence. You don't have to have an eyewitness to something or have something on video to prove a case. The best analogy I've heard to describe circumstantial evidence is it's like snow. You go to bed one night and you wake up the next morning and the ground is covered in snow. You don't have to have seen the snow falling that night to know it did in fact snow. You can use your common sense to connect the dots. You can convict somebody based on circumstantial evidence. All we ask is that you use your common sense during this trial. Use it to connect your dots. Use it to separate fact from fiction in determining what the truth is. Use it to determine what's reasonable and what's not and I submit to you,

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there's only one reasonable verdict in this case. There's only one verdict that's going to speak the truth and there's only one verdict that's going to do justice and that's guilty. Thank you.

THE COURT: Thank you. Thank you, Solicitor.

Mr. Williams.

MR. WILLIAMS: May it please the Court?

THE COURT: Yes, sir.

MR. WILLIAMS: Mr. Foreman, ladies and gentlemen of the jury, I'm Theo Williams. I talked to you earlier and met you earlier and you've met my client over there, Heather Lawson. That's her family over there behind her.

I've heard a lot of things in the opening argument from the State and His Honor told you that when you hear things in opening argument that obviously it's not evidence. It's a framework, it is an argument, something trying to convince you as to how you should think or how you should feel or how you should vote or how you should look at things. And I've learned over the years that -- that jurors are very clever individuals. They -- regardless of what we as lawyers tell you, you have a tendency to use your common sense and it always amazes me. I've been doing this 41 years and it always amazes me because you jurors will do the right thing. You may not know it now, but you will examine the evidence as His Honor

has told you. I know when we were picking jurors to serve on this case, probably many of you were squeamish because you knew what type of case it was and being a homicide case is the most, I guess, emotionally draining, serious case you can be involved in. And I didn't see a lot of happy faces when you were chosen; but you'll note, that as you look around the jury box, you'll see that you have people from all walks of life. And you have older people, you have younger people, you have people from all over the county. Whether you're from Cayce, West Columbia, Batesburg, like I am, or wherever you are; but there's one thing that the legal system knew when it set this procedure up, is that when you're trying to prove that someone is guilty beyond a reasonable doubt, that those twelve individuals and the two alternates are the individuals that you want to look at that -- that evidence or determine what the evidence is and to adjudicate what the truth is in this particular case.

I thought about it a little while ago when we were talking or when it was being said something about that my client does not care and something about abusive love. And I thought about the words, particularly since I was dealing with jurors who are probably on a case that they don't want to be on, I thought about responsibility and I thought about how that word is used in the English language to mean

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two different things sometimes. As a layman or as someone who is not a wordsmith, perhaps maybe we would say that someone is responsible for the death of someone. It's a word that's used often.

But when I think of responsible and responsibility, I think of people who see a situation and they take on that situation to see that the job is handled as best they can handle it.

And when I look at my client, I see her as a responsible person. You've heard in opening argument about all the bad things that one could ever say about an individual and when I say that, to think that a parent would ever kill a child is a terrible thing to say. But when I look at Heather, I look at a 23-year-old girl. I know I used the word girl, because when you get my age, I have daughters that are older than that, and she's got three children, had three children. She has two left. And she was living in this trailer and you'll see pictures of that and if I could caution you to this, when -- you don't judge somebody's guilt or innocence based on the squalor that they live in or their living conditions. And I know I'm embarrassing her when I say that. You judge that on what that person does, how that person acts. She takes on the responsibility of three children, no child support, no one taking care of these children except her and she gets a

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job at a convenience store or gas station; she works and it gets to be almost like a manager and she's working 50 hours a week.

That's not something to be ashamed of. That's something to be proud of. She's a responsible person taking care -- the question that you always come back to in this type of case is why. You spend all your existence thinking of no one but those three children, which you have to take care of. Why would you -- why would you do anything to that child.

You know as a parent, we often think that it's my fault, I must have done something. When your child doesn't do well in school, you say must be my fault; I must not have stayed up late with that child. When your child is sick, it must be my fault because I didn't give the child the vitamins that the child needs. And you do that because you feel like you're responsible and when she came in and she found that child dead and couldn't explain it. Well, it must have been those ruffian children that I have because she didn't know. She didn't know what happened to her child and what was missing in the early part of the -- of the -- of the State's argument is talking about Richard Tuckus because indeed, he was the last adult to see this child before the child was found deceased.

You'll learn as the case goes on that Richard

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Tuckus was a maintenance person there, had keys to all of the trailers and what's interesting in the -- and this is how you as jurors determine the facts and determine what you believe, to a certain extent, the only way that anyone could have gotten into the residence where that child was is by using a key. The door knob is broken. So the person has to have a key to get in and get out of the residence. There were three people with keys; there was a babysitter, there was Heather and the maintenance man, who happened to have two keys.

And when he came and saw her that day, he possessed two keys. He unlocked -- he let himself in. She didn't let him in. So when you say who has access, who was there when it happened, there is an individual who has something to gain or lose. She -- she took care of that child every day.

Now there is a video in this case where the child fell and bumped her head and you can look at that video. She had to take all three children to work because she didn't have a babysitter. She has the other two there and then she has the child sitting in the box playing around, the child falls over and bumps her head, which is something that happens unfortunately. She should have taken better care of that, but that's not the reason why this child is dead now.

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And what I want you to focus on is when you look at what happened the day before, you look at how she treats that child as she gently picks the child up, calms the child, comforts the child.

Now, I'm going to sit down here because I think you hear too much in opening arguments and -- and you know, His Honor has already told you that really what we're saying really is, it's not evidence. I want you to do your job and that is to evaluate the testimony, to look at the evidence. Some of it may be not pretty to look at. I apologize for that. As an attorney, I've had to look at pictures sometimes in the line of work that I do, which bothers me and it will bother you. So I ask that you step aside from your emotions when you look at those pictures and use, I guess the brain which we all possess, or our common sense when you evaluate what you want to determine from those pictures.

I really do want to thank you for being on this case. I guess you could have come up with some -- you could find some kind of excuse to get out of this, but you didn't and that's because you're responsible. You took on this responsibility. I took this case on to defend this young lady as a responsible person I hope. She's a responsible -- was a responsible mother; still is a responsible mother. She doesn't -- she doesn't harm her

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own children.

Determine what the facts are in the case and remember that there's a difference between responsible versus guilt. To be guilty as the -- as the solicitor has already told you, they have to prove to you beyond a reasonable doubt the guilt of the person charged. You have to be firmly convinced of that guilt. So you're determining something different from responsible; you're determining guilt or innocence. And you know what, you don't determine guilt versus innocence, you really don't. You really only determine guilt because she's already innocent.

So you look at this evidence and see if you're firmly convinced of her guilt and I feel certain that if you use what's inside of you, everything that's inside of you, you'll determine that she's not guilty. We can't prove -- we can't prove that she's innocent because sometime a person's charged with something and they just can't prove their innocence, which is why the State has to prove the guilt of the person charged. She's not sure who harmed her child. She can only guess as to how this child got harmed. She has her own ideas, but that's all we know. Thank you.

THE COURT: Thank you, Mr. Williams.

Solicitor, you may call your first witness.

MS. MAYES: The State calls Nikki Rodgers.

THE COURT: All right. Ms. Rodgers, if you'd come around and be sworn for us.

NIKKI RODGERS,

having been duly sworn, testified as follows:

THE CLERK: Have a seat, ma'am. Once you're seated, state your full name spelling your last on the record, please.

THE WITNESS: Nikki Rodgers, R-O-D-G-E-R-S.

DIRECT EXAMINATION

BY MS. MAYES:

Q Good morning, Ms. Rodgers. Tell us a little bit about yourself; where are you employed?

A I am employed with Lexington County 9-1-1.

Q And in what capacity?

A I am the Chief Communications Department Head.

Q All right. Now, you said Lexington County 9-1-1, tell us a little bit about the Lexington County 9-1-1 Center and what type of services you offer.

A Lexington county 9-1-1 is the Consolidated 9-1-1 Center for Lexington County and we dispatch all of the EMS, fire, and law enforcement calls for all the jurisdictions in the county except for Cayce, West Columbia Police, and Batesburg Police.

Q All right. And can you tell us whether or not you

cover the area of Weaver Drive in Lexington County?

A We do for all fire, EMS, and law enforcement calls.

Q All right. So if someone at that location makes a call to 9-1-1, it comes in where?

A It comes into the 9-1-1 Center on Ball Park Road.

Q All right. Now, as Director, are you also known as the custodian of records?

A Yes, ma'am.

Q Are calls recorded at the 9-1-1 center?

A They are recorded, all lines.

Q And once they are recorded, are they maintained in any type of data base for certain periods of time?

A They're maintained on the, normal county -- in the Data Center on the network. And we keep them for 90 days.

Q Can you tell us whether or not you have retrieved calls regarding [redacted] Weaver Drive?

A Yes, ma'am.

Q And specifically, as to the date of June 26, 2016?

A Yes, ma'am, June 26, 2016.

Q How many calls were made to the 9-1-1 center on that date regarding Weaver Drive?

A Looks like two calls.

Q All right. And do you have the date and time, Ms. Rodgers, for that first call?

A The first call was on the 26th of June at 1718

hours --

Q All right.

A -- which is 5:18 p.m.

Q Okay. And so 1718 hours would be 5:18 p.m. And specifically, what address was requested for assistance?

A It was [redacted] Weaver Drive.

Q All right. And what is the first name of the caller on that first call?

A The first caller is Emily Graves.

Q Okay.

A G-R-A-V-E-S.

Q Okay. First name is Emily?

A Correct.

Q All right. So the first call at 5:18 p.m. is made by Emily.

Now, once you retrieved those calls, can you tell us whether or not you had an opportunity to review that audio recording of the first call?

A Yes, ma'am, I have.

Q And as custodian of records, can you tell us whether or not that is a true and accurate representation of the call that you retrieved?

A Yes, it is.

(State's Exhibit Number 1 was marked for identification.)

BY MS. MAYES:

Q I show you this item and ask you whether or not you recognize it?

A Yes, ma'am.

Q How so?

A It has my initials on it.

Q All right. And that's regarding that first call there at 5:18 p.m., correct?

A Correct.

Q Now, what is the time of the second call that you mentioned?

A The second call is at 5:18 and 58 seconds.

Q All right. So this is 5:18, 18 seconds and what was the exact timing of that first one?

A 5:18 and 6 seconds.

Q Okay. So just a little bit apart there?

A Yes, ma'am.

Q And what is the first name of the caller for this second call?

A Heather is the second caller.

Q All right. Now, once these calls came in, can you tell us whether or not 9-1-1 dispatched EMS or fire or any other type of first responder to that scene at [redacted] Weaver Drive?

A Yes, ma'am, we dispatched the EMS units, then there

was the Lexington County Sheriff's Department and Lexington County Fire Service.

Q All right. And do your records indicate who actually arrived first?

A That would be the EMS Unit, Unit 13, which would have arrived at 1725.

Q And just to break that down to, a lay person's term, that's going to be 5:25, correct?

A Correct, 5:25.

Q All right.

MS. MAYES: Having identified this recording, Your Honor, the State would offer this CD as State's Exhibit 1 for evidence and would request permission to publish.

MR. WILLIAMS: Without objection.

THE COURT: State's 1 is in evidence without objection.

(State's Exhibit Number 1 was entered into evidence.)

(The solicitor was trying to play the CD for the jury and experienced technical difficulties.)

THE COURT: All right. Ladies and gentlemen, I think what we have is known as technical difficulties. Other than having you sit out here and held captive, I'll let you go to your jury room and be held captive and in your absence, I am sure I will get that operating properly.

All right. So if you'll please step to your jury room. Do not discuss the case during this brief recess.

(The jury left the courtroom at 10:45 a.m.)

THE COURT: I'm going to allow Ms. Rodgers to step down.

THE WITNESS: Do I leave my papers here?

THE COURT: You can leave them.

THE WITNESS: Thank you.

THE COURT: I'm going to step out. Just let me know when you're ready to go, Solicitor.

MS. MAYES: Yes, sir, Your Honor.

THE COURT: Thank you. I'd be glad to fix it for you, but...

(There was a brief recess.)

THE COURT: Thank you. Please be seated. Thank you.

All right. Anything before we bring in the jury, Solicitor?

MS. MAYES: Nothing from the State, Your Honor.

THE COURT: Mr. Williams?

MR. WILLIAMS: Nothing from the defendant, Your Honor.

(The jury entered the courtroom at 11:09 a.m.)

THE COURT: All right. I understand from the bailiff, some members of the jury would like to take notes;

is that correct, Mr. Foreman?

THE FOREPERSON: Yes.

THE COURT: Would you hand out the pads and the writing utensils and then I have special instructions to give you concerning that.

(Pads and pens provided to the jury by the bailiff.)

THE COURT: All right. Mr. Foreman, ladies and gentlemen, you may take notes during the trial of this case. However, please remember that some people are better note takers than others. Jurors notes should not be given any greater weight than the recollection of other jurors. The recollections of individual jurors should be considered as reliable as notes taken by any other juror. I would also advise that when you are taking notes, you may not notice body language, demeanor or the like of a witness, which can be used -- could be used by you in deciding the witness's credibility. Further, anytime, um, I would ask you to please write your jury number on your notes. Anytime you take a break, please leave them upside down on your chairs. They will be there upon your return. During the luncheon recess, they will taken up by the Clerk; also during the overnight recess and secured. You would not be authorized to have your notes with you in the jury room until after I've instructed you on the law during your --

during your deliberations.

So -- and I forgot to tell you this earlier. I have noticed over the course of sitting up here over the years that many jurors are very territorial; They like to sit in the same seat, the same location each and every time. You know, I like it, so I understand it. You may sit in the same seat each and every time; it may be easier because your notes would always be there when you come back from a break. All right. Of course, I always need our foreperson and our alternates in their chairs.

Thank you. Thank you very much, ladies and gentlemen.

All right. Solicitor, you may continue.

MS. MAYES: Yes, sir, Your Honor. The State will resume at this time with the publishing of the 9-1-1 call by Emily.

THE COURT: All right.

(The 9-1-1 call being played for the jury.)

MS. MAYES: Nothing further, Ms. Rodgers --

At this time, Your Honor.

THE COURT: Thank you. Thank you, Solicitor.

Mr. Williams.

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q Ms. Rodgers, do you have the -- a recorded second

call from to the 9-1-1 also?

A We do, yes, sir.

Q And that would be the one with Ms. Lawson?

A Yes, sir.

Q That's all the questions I have.

THE COURT: Redirect, Solicitor?

MS. MAYES: Nothing further at this time, Your Honor.

THE COURT: Thank you. Thank you, Ms. Rodgers. Thank you for being with us today. You may step down and you may be excused.

MS. MAYES: The State calls Angela Gunter.

ANGELA GUNTER,

having been duly sworn testified as follows:

THE CLERK: Have a seat please, ma'am. Once you're seated, state your full name spelling your last please.

THE WITNESS: Angela Gunter, G-U-N-T-E-R.

DIRECT EXAMINATION

BY MS. MAYES:

Q All right. And, Ms. Gunter, tell us a little bit about yourself; where are you employed?

A Lexington County 9-1-1.

Q All right. And specifically in what capacity?

A I'm a captain, the shift supervisor captain there.

Q And as captain, do you take dispatch calls?

A Yes, ma'am.
Q All right. Let me refer you back to the date of June 26, 2016 and ask you what, if any, involvement you had in this case regarding a 9-1-1 call and a request for assistance at [redacted] Weaver Drive?
A I took a call from Heather saying that her baby was dead.
Q All right. I need you to refer directly to your report. Do you have the report in front of you?
A I do. Hang on one second for me though. I have it.
Q All right. And again, what time is this call?
A Time received 1718:58.
Q All right. And, we have there on the board 5:18 p.m.; is that correct?
A Yes, ma'am.
Q That would be it, 5:18 p.m.?
A Uh-huh.
Q And the 58 would signify what?
A The seconds or time --
Q Milliseconds?
A -- yeah, milliseconds, I'm sorry.
Q Okay. And who was the caller in this particular case?
A I was speaking to Heather.

Q All right. Now, have you had an opportunity to listen to the audio recording of that call?
A Yes.
Q The call in which it's your voice and the voice of someone who identified themselves as Heather?
A Yes, ma'am.
Q Currently marked as State's Exhibit 1?
A Yes.
Q Is the audio recording a fair and accurate representation of that conversation that you had with Heather?
A Yes.
Q Or the person who identified herself as Heather?
A Yes.
Q And, did you initial that CD as well as Ms. Rodgers, who we heard from previously?
A I did.
Q Now, in addition to that have you also had an opportunity to review a court transcript or court reporter's transcript of that 9-1-1 call?
A I did.
Q And do you have that with you?
A I do.
Q Specifically, the transcript that is certified by the court reporter, being Computerists, Incorporated?

A Yes.

Q And having reviewed this transcription of that audio recording, can you tell us whether or not this transcript between yourself as the 9-1-1 caller -- 9-1-1 operator and the caller is a fair and accurate representation of that conversation?

A Yes, it is.

MS. MAYES: Your Honor, at this time, we would mark as State's Exhibit 2, the court reporter's transcript and also request permission to publish our copies?

(State's Exhibit Number 2 was marked for identification.)

THE COURT: Mr. Williams?

MR. WILLIAMS: Your Honor, I was listening to whether or not she was moving it into evidence. She said she was marking it.

MS. MAYES: Yes, we would be offering the certified copy as evidence and then we would request permission to use copies of the transcripts as demonstrative aids.

MR. WILLIAMS: We have no objection to her placing those into evidence and then publishing.

THE COURT: All right. So it's in evidence without objection.

(State's Exhibit Number 2 was entered into evidence.)

MR. WILLIAMS: It is, Your Honor.

THE COURT: Thank you, Mr. Williams. This is State's 2?

MS. MAYES: State's Exhibit 2, Your Honor.

THE COURT: All right. Yes, ma'am.

MS. MAYES: Your Honor, I believe there was also no objection to the use of publishing demonstrative aids with our copies?

MR. WILLIAMS: We don't object to that.

THE COURT: All right.

MS. MAYES: If I may approach, Your Honor?

THE COURT: Thank you, Solicitor.

MS. MAYES: Having identified State's Exhibit 1, Your Honor, at this time the State will publish the audio.

THE COURT: All right. Yes, ma'am.

(The 9-1-1 call was published to the jury.)

BY MS. MAYES:

Q And Ms. Gunter, did that complete your conversation with the caller who identified herself as Heather?

A Yes.

Q Nothing further of this witness at this time, Your Honor?

THE COURT: Thank you, Solicitor. Mr. Williams?

MR. WILLIAMS: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q Ms. Gunter, that was your voice that was talking to Ms. Lawson on the phone; is that correct?

A Yes.

Q And, we had just heard, I know you were in the courtroom, heard another 9-1-1 call?

A Uh-huh (affirmative response).

Q That was not you on the phone talking to the other individual who was on the phone, was it?

A No, it was not me.

Q Were both you and the other individual in the same room at the time that these 9-1-1 calls were coming in?

A Yes.

Q So I guess the reason I'm really trying to ask you is that I did the calculations and it's like 44 seconds difference between the two calls. At the time that the other person is on the phone, did you signal -- did you signal the other 9-1-1 operator and let her know that you had Ms. Lawson on the phone also?

A No, not that I remember doing that, but the -- how it works is it'll pop up and you can add information and stuff in. So you can recognize by looking at the computer?

Q So the other individual knew by looking at the computer that you were talking to someone in reference to

the same act?
A Yes.
Q Okay. Because it shows the address?
A Uh-huh (affirmative response). No, it'll -- I started typing -- when I took the second call.
Q Right?
A Our system pops up as a duplicate call, so to make sure it is, I close my original one out and started typing into hers and that's how she recognized that I put speaking to Heather and the call card.
Q Okay. So you were typing this information in and that's how we got this designation that it was coming from, what was it, [redacted] Weaver Drive?
A Yes, [redacted] Weaver Drive.
Q All right. So the time which is reflected on these -- this information is the time that you're inserting or is it the time that you pick up?
A Yes, it shows when I open a call card up, time, date received, and then it shows where I cleared out the duplicate and then started typing into the other one.
Q So it's actually a manual operation in regards to the exact time that it comes in?
A What do you mean a manual operation?
Q Well, I'm trying to figure out the 44 seconds. So the 44 seconds difference between these two calls, is that

something that you type in or is that something that the computer automatically places?

A The computer will do it. We don't type in a time; the computer does it.

Q All right.

A It timestamps everything.

Q So -- and the computer knows to do that based on what?

A When you open up a call card.

Q Okay. And then it realizes that you have a -- a call which is identical to the other call that you're receiving?

A By the location.

Q By the location?

A Uh-huh (affirmative response).

Q Which you physically type in, right?

A Yes, you have to type the location.

Q Because in today's world of cell phones, you don't just pick that up like if it was a landline, y'all might have the ability to have those calls come straight in on a landline, but with cell phones, you could be anywhere and call something in, couldn't you?

A You could.

Q You could?

A You could be anywhere. I mean that's why you get a

location.

Q Right. And you get that information from the caller?

A Yes, sir.

Q That's all the questions I have for her.

THE COURT: Redirect, Solicitor?

MS. MAYES: Yes, sir, Your Honor, just briefly.

REDIRECT EXAMINATION

BY MS. MAYES:

Q So to clarify, Ms. Gunter, at the time that your call came in with request for assistance at [redacted] Weaver Drive, there was already another call being dispatched to [redacted] Weaver Drive?

A I'd like to look at something please. I mean as far as the first -- I'm sorry, repeat the question for me again?

Q Right. Okay. So at the time you entered your information about [redacted] Weaver Drive --

A Uh-huh (affirmative response).

Q -- there's already another request for assistance at [redacted] Weaver Drive?

A Yes.

Q Okay. Thank you. Nothing further.

THE COURT: Recross?

MR. WILLIAMS: No questions on that, Your Honor.

THE COURT: Thank you, Ms. Gunter, for being with us today. You may step down and you may be excused.

All right. Solicitor?

MS. MAYES: The State calls Anthony D'Onofrio.

THE COURT: All right. Come around and be sworn for us please.

ANTHONY D'ONOFRIO,

having been duly sworn, testified as follows:

THE CLERK: Have a seat, sir. Once you're seated, state your full name spelling your last for the record please.

THE COURT: All right. You need to take up those transcripts, Solicitor.

MS. MAYES: Yes, sir, Your Honor.

THE WITNESS: My name is Anthony D'Onofrio. Last name is spelled D-'-O-N-O-F-R-I-O.

DIRECT EXAMINATION

BY MS. MAYES:

Q All right. If you can give us a little bit of information about yourself; where are you currently employed?

A I'm currently employed with Lexington County Fire Service?

Q All right. And are you a firefighter?

A Yes, ma'am.

Q How long have you been with the Lexington County Fire Department?

A I've been with Lexington County Fire Service for about seven years.

Q Now, how is it that as a fireman, as a firefighter, you also respond as a first responder to certain calls for assistance such as medical distress?

A We are cross trained in medical response as well. I'm currently certified as a first responder, certified to do CPR and use the AED through the American Heart Association.

Q All right. And do you also have access to any dispatched calls for EMS assistance so that you can -- you can respond in your fire truck?

A Yes, ma'am, there is something set up through our headquarters. We also work with Lexington County EMS. Certain kinds of EMS calls, they'll require a fire truck to respond as well as some time we can get there quicker than EMS can and we can also help EMS do some of the things that they do on the scene, it's kind of like extra hands to help them out.

Q Okay. I'm going to take you to the date of June 26, 2016. Can you tell us whether or not you had the opportunity to respond as a first responder there at the scene at Weaver Drive?

A Yes, ma'am, we did.
Q What can you tell us about the time of your arrival there on the scene; do you have an actual report that goes along with the response of your fire truck?
A Yes, ma'am. We were dispatched at 5:19 and we arrived on scene at 5:25.
Q You get there at 5:25; and we've had previous testimony that EMS also arrived about 5:25. How many people were on that fire truck with you?
A There was myself and two other individuals, two other firefighters.
Q Kind of take us through what you do as a first responder when you first arrive at the scene such as this?
A If we come upon a, an individual that's in cardiac arrest, we check the vital signs and make sure that if they are or are not breathing. We check their pulse to see if they have any kind of heartbeats and then we'll go into CPR and giving rescue breaths or something like that. We were unable to, at the scene, EMS kind of arrived on the scene within a couple of seconds of us, you know, making initial contact.
Q All right. Now you used the term cardiac arrest, but just to kind of break it down for -- in layperson's terms, cardiac arrest means what?
A The individual is not breathing and there's no

pulse, meaning the heart is not beating to circulate blood throughout the system.

Q All right. And did you have an opportunity to actually enter the residence at [redacted] Weaver Drive?

A Yes, ma'am.

Q Tell us about that, what you saw upon your arrival?

A We arrived on the scene, I was actually the one driving the truck and the house was actually on the driver's side when we parked the truck. I was met in the front yard by a lady who was later identified as the mother of the children. She was visibly upset and she stated to me that, She's dead. I wasn't really able to get any other information out of her. So myself and Firefighter --

Q All right. And so just to stop you right there. So it was the mother of the child who was already outside the residence to meet you?

A Uh-huh (affirmative response).

Q And her -- the only information you got out of her was?

A She's dead.

Q All right. And did you enter the residence?

A Yes, ma'am.

Q And what did you see upon arrival or entry into the residence?

A I observed the -- I observed the -- the house was

kind of in disarray. There was a bunch of toys and stuff scattered throughout the house and then as we entered the door to the right-hand side, there was a pack 'n play and the infant was lying actually on the floor of the house next to the -- next to the pack 'n play.

Q All right. Let me show you a photograph and ask you whether or not you recognize it?

MS. MAYES: If I may approach, Your Honor?

THE COURT: Yes, ma'am.

(State's Exhibit Number 3 was marked for identification.)

THE WITNESS: Yes, ma'am.

BY MS. MAYES:

Q Can you tell us whether or not this photograph is a fair and accurate representation of the interior of the residence at [redacted] Weaver Drive as you recall it?

A Yes, ma'am.

MS. MAYES: Your Honor, at this time, this would be State's Exhibit 3 for evidence?

MR. WILLIAMS: Without objection, Your Honor.

THE COURT: State's 3 is in evidence without objection.

(State's Exhibit Number 3 was entered into evidence.)

BY MS. MAYES:

Q Now, you mentioned that you observed the infant on the floor. What was your first step in actually treating that patient?

A Our first steps as -- with the fire service, I'm going to make sure to see if the patient is breathing, which she was not; and also checked for a pulse, which there was none.

Q All right. Was there any other first responder around Minor 1 until you actually approached her?

A Until I approached her, no. No, ma'am.

Q So you were the first to approach?

A Yes, ma'am.

Q And did you observe any signs of life?

A No, ma'am. There was, like I said, there was no breathing; there was no pulse, and there was also some lividity around the buttocks region and she was cold to the touch and she had rigor mortis in her extremities, which means extremities were kind of stiff.

Q So I'm going to ask you a little bit more about that.

A Okay.

Q You mentioned the word rigor mortis.

A Yes, ma'am.

Q Or rigor.

A Uh-huh.

Q Is that a term that you're familiar with in your training and your certification as a first responder?
A Yes, ma'am.
Q Have you ever, prior to this date, had the opportunity to respond to a scene where there was a deceased patient?
A Yes, ma'am.
Q And so when you use that term rigor, where do you recall her having signs of rigor?
A Like I said, in her extremities and in legs and her arms.
Q All right. So I'm going to move you through. What's your next step after you actually observed no signs of life?
A My next step would have been to start CPR, but EMS had arrived on scene and kind of took over patient care so we were unable to do any kind of medical interactions.
Q Okay. So you're inside the residence, you're the first to her and EMS actually entered behind you?
A Well, right behind me was the firefighter that was on my truck, Joe Burns; and then behind him by a couple of seconds, I'm not exactly sure of the timeframe, but they were pretty much within a couple of minutes behind us in the door.
Q And did you remain present until Minor 1 was

removed there from the scene, from the living room area?

A Yes, ma'am.

Q And after you remained present, did you see where she went next?

A The EMS crew took her to the back of the ambulance and began their patient care.

Q All right. And during the entire time that you were present and tending to Minor 1, did anyone else enter the residence or tamper with any evidence here in the area of the front room?

A No, ma'am.

MS. MAYES: Beg the Court's indulgence.

THE COURT: Yes, ma'am.

BY MS. MAYES:

Q If you have the laser there, if you could show us by using the laser what we're looking, what you've identified as the pack 'n play and then where you recall seeing Minor 1 ?

A This picture looks like it's taken from the front door, you step in the front door and look to your right. There's a table here, this is the pack 'n play and Minor 1 was, on the floor here laying on her back.

Q All right. Was anyone else in the residence when you arrived?

A Yes, ma'am, there was a gentleman on the phone with

our communications, later identified as the father of the child.

Q All right. And you said previously that the person you believed to be the mother was outside the residence to meet you upon your arrival?

A Yes, ma'am, and they were also, the kids were in the house as well.

Q There were other children in the home?

A Yes, ma'am.

Q Where do you recall them being located?

A There was actually like a mattress or something over here on the left-hand side of this picture. They were -- they were kind of running around a little bit on the mattress and then kind of back behind the gentleman that was in the residence.

Q All right. Now you described the vital signs of Minor 1, that she was not breathing and that she did not have a pulse. What else did you notice about her physically in terms of any potential injuries?

A I noticed a big bruise on her forehead and she had, like I said, lividity in her buttocks.

(State's Exhibit Number 4 was marked for identification.)

BY MS. MAYES:

Q I'm going to show you a photograph and ask you

whether or not you recognize it?

A Yes, ma'am.

Q And can you tell us whether or not that's a fair and accurate representation of the bruising that you noted to Minor 1 on that date?

A Yes, ma'am.

MS. MAYES: Your Honor, this would be State's Exhibit 4 for ID at this point?

MR. WILLIAMS: I have no objection to the introduction of that, Your Honor.

THE COURT: All right.

MR. WILLIAMS: I know she's offering it as ID, but I have not objection if she wants to place that into evidence at this time.

THE COURT: All right. Solicitor? May I see it please.

MS. MAYES: Yes, sir, Your Honor.

THE COURT: Are you offering it into evidence at this time?

MS. MAYES: I will at this time, Your Honor, with there being no objection through this witness.

THE COURT: All right. State's 4 is in evidence without objection.

(State's Exhibit Number 4 was entered into evidence.)

BY MS. MAYES:

Q Now at this stage as a first responder, you're assisting EMS with the initial assessment. EMS actually takes her onto the truck. Do you have an opportunity to do what would be called a full physical assessment of Minor 1?

A No, ma'am.

Q But you did note that there was bruising to what areas of the body?

A Her forehead.

Q And this is the photograph that you have identified?

A Yes, ma'am.

Q And that's how you recall seeing Minor 1 as she was laying on her back?

A Correct.

MS. MAYES: Nothing further from this witness at this time, Your Honor.?

THE COURT: Thank you, Solicitor. Mr. Williams.

MR. WILLIAMS: May it please the Court?

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q D'Onofrio?

A D'Onofrio.

Q D'Onofrio. There were two exhibits, which you were asked to identify and I think the first, State's Exhibit

Number 3, which was a picture of the crib.

A Yes, sir.

Q And -- and you depicted or you said this was the way that you viewed everything when you came in there; is that correct?

A Yes, sir.

Q Nothing had been moved or nothing was moved while you were there that made this picture look any different than how it looked when you were there?

A Correct.

Q There appears to be some sort of a pink blanket?

A Yes, sir.

Q When you came in there, was the pink blanket just as it is now?

A I believe so, yes, sir.

Q All right. Did you look in the crib to see if there was anything in the crib when you --

A No, sir.

THE COURT: Is the crib -- I'm sorry to interrupt. The crib and pack 'n play; is that the same thing?

MR. WILLIAMS: No, sir.

THE COURT: Okay. Thank you.

MR. WILLIAMS: I don't believe it is.

THE COURT: Well he -- he --

MR. WILLIAMS: Is -- well I take that back, Your

Honor. I think you're absolutely correct.

THE COURT: I don't mean to comment on the fact, but I thought our firefighter here called it a pack 'n play.

Mr. D. I can't pronounce Smythe -- Smith.

I thought you referred to --

MR. WILLIAMS: -- as a pack 'n play.

THE COURT: -- a pack 'n play. I was just trying to get in my mind if it's the same thing or not; you can followup on that for me.

MR. WILLIAMS: Thank you, Your Honor.

THE COURT: Yes, sir.

BY MR. WILLIAMS:

Q So what I was calling a crib --

A Uh-huh (affirmative response).

Q -- is what you would call a pack 'n play?

A Yes, sir.

Q And you would call it a pack 'n play because you can pack it?

A Correct.

Q And then you can take it wherever you're going for your child to play in it?

A Correct.

Q Does it have another function besides being known as a pack 'n play?

A I believe that you can call it -- well not call it, but you can put a kid to sleep so they can nap in there.
Q So it can be treated as a crib?
A Correct.
Q Now, do you know whether or not if there was a mattress in the pack 'n play or not or did it have a bottom in the bottom of the pack 'n play? Would it help if you held that close up to you?
A I didn't get to peek inside the pack 'n play, so I'm not sure, exactly sure what was inside of it. So I can't testify that there was anything or not inside the pack 'n play.
MR. WILLIAMS: May I approach the witness, Your Honor?
THE COURT: Yes, sir, of course.
BY MR. WILLIAMS:
Q Looking at State's Exhibit Number 3, in the area where the pack 'n play is --
A Uh-huh (affirmative response).
Q Does there appear to be something in the pack 'n play that might be --
A Yes, sir, it does. It looks like there's something on the very bottom of it on the inside of it.
Q Could it possibly be like a thin, I don't know if you'd call it a mattress, but it maybe be a little plastic

deal that the child could lay on as opposed to the cardboard, which is normally in the bottom of those things?

A I'm not 100 percent sure. From this picture, I can't exactly tell what it is.

Q Do you have any children?

A Yes, sir.

Q All right. Do you have a pack 'n play?

A I used to, yes.

Q And did your pack 'n play have kind of like a hard -- a hard cardboard with a little hole area where you could just reach through with your hands and pull it straight up so that it folded together?

A Yes, sir, that would be underneath kind of like a mini-mattress. It wasn't really a mattress with foam on it, but just some kind of padding, very thin padding.

Q And -- and there would be something normally in the pack 'n play which was like a mattress or a cushion?

A Correct.

Q And the child could sleep on that?

A Correct.

Q And that's -- is that what you think you see in that pack 'n play?

A Again, I'm not 100 percent sure exactly what that is and I can't really -- I didn't visually see it, so I can't really say.

Q You weren't concerned about the pack 'n play when you were there?

A Correct.

Q You were concerned about that baby on the floor?

A Yes, sir.

MR. WILLIAMS: May I approach, Your Honor?

THE COURT: Of course.

MR. WILLIAMS: Thank you, sir.

BY MR. WILLIAMS:

Q You didn't take these pictures, right?

A No, sir.

Q Somebody else at some later date took these pictures?

A Yes, sir.

Q Now, referring to State's Exhibit Number 4, which is a picture of the -- of the child, when you said that's how the child appeared, clearly this is not the way the child appeared when you saw the child, is it?

A No, sir.

Q Because this is -- this is obviously when the child was at the hospital with all these --

A I believe those were taken at the hospital, yes, sir.

Q All right. Because you didn't see these little -- the items that are stuck on the child's chest, those are

for -- to use, you called it an AED; is that what you called it?

A There is -- I think EMS sticks things on people for the EKG which measures heart rhythm. I believe those are what you're looking at in that picture.

Q All right. So these would be to measure heart rhythm and would not actually be used to use the electrical shock to stimulate the child back?

A Correct, sir.

MR. WILLIAMS: May I approach again, Your Honor?

THE COURT: Yes, sir.

BY MR. WILLIAMS:

Q So when you're talking about those items on the child, they're little rounded plastic items with some sort of metal in the middle of those items?

A Yes, sir.

Q And you say that's what the EMS uses to check for --

A Some kind of heart rhythm.

Q And they -- they would check for the heart rhythm on the arm also?

A Yes, sir. I'm not exactly sure how that works. We don't -- the fire service doesn't deal with it, but I guess there's certain spots where they can stick them to try to get a rhythm.

Q Okay. Does there appear to be a large circular impression on the child's chest in that picture?
A Yes, sir.
Q Did you view any type of medical instrument when you were there that would have left that impression on the chest?
A Not at the time that I observed the child, there was nothing like that on the child itself.
Q And when you viewed the child, did the child have the same clothing on?
A Yes, sir.
Q So -- so the clothing, the little pink -- is it pink?
A Yes, sir, I'd say it was pink.
Q Okay. Was on it, but -- and you just -- you just pulled that back when you attempted to work on the child; is that right?
A Correct.
Q What did you actually do in terms of trying to resuscitate the child?
A We didn't take any medical interactions. We just checked her breathing and checked her pulse and I observed the lividity around the buttocks area, but other than that, we didn't do anything else because EMS was right behind us and they took over the patient care. They were the ones

that did pretty much any kind of medical interaction done for to the child.

Q Because they're more specialized than what you are; you're a firefighter?

A Correct.

Q All right, sir. And the two kids over on the other side -- when you look at the wall, can you -- can you tell me -- the doorway that you came in, would that have been a front door or a back door, or a side door, or what have you?

A The way that the house was laid out from the street, it would have been the first door that you approached from the road, so I would assume it was the front door which leads into the living room area. I guess I would normally say it was the front door of the residence.

Q So the first room that you went into would have been the same room where the child was located?

A Yes, sir.

Q And you said living room, did you mean to say that this room was the living room of the trailer?

A Yes, I would classify it as the living room of the trailer.

Q Was there a sofa in there?

A Not that I recall.

Q Was there a TV in there?
A Not that I recall.
Q Was there anything besides the pack 'n play and mattresses in that particular room?
A There was some toys and some clothes and some blankets and that was about it.
Q It was a living area?
A Correct.
Q And did you have to open the door to get inside the -- do you know if there was another way into that trailer? Let me ask you that, did you attempt any other doors to see if you could enter that trailer other than that door?
A That was the only door that I observed from the street and we did not leave that room when we went in the residence and then after the kid was taken away by EMS, we walked out the same door that we came in.
Q And do you recall whether or not the door locked or whether or not it had to be locked with a key or did you observe the locking and unlocking of the door?
A I believe the door was open when we had made entrance. I didn't really mess around with the door itself. So that would be my answer to that question.
MR. WILLIAMS: That's all the questions I have, Your Honor.
THE COURT: Redirect, Solicitor?

MS. MAYES: Yes, sir, Your Honor.

REDIRECT EXAMINATION

BY MS. MAYES:

Q Just to clarify, is your job as a first responder to investigate the crime scene?

A No, ma'am.

Q Or the pack 'n play?

A No, ma'am.

Q Or its contents?

A No, ma'am.

Q And can you tell us whether under those circumstances that you described, the medical emergency, was anyone there at the scene concerned with taking photos of Minor 1 as she was found there?

A I do believe the sheriff's office did that afterwards, but no, there was nobody on scene at that time when our service or EMS was there.

Q As Minor 1 was being treated?

A Correct.

Q So any photograph of her would have been later after she was transported from the scene?

A Yes, ma'am.

Q Nothing further.

THE COURT: Recross?

MR. WILLIAMS: No questions, Your Honor.

THE COURT: Thank you. Thank you, for being with us.

THE WITNESS: Yes, sir.

THE COURT: Any objections to the officer being excused?

MS. MAYES: None from the State, Your Honor.

MR. WILLIAMS: None from the defendant, Your Honor.

THE COURT: You may be excused.

THE WITNESS: Thank you.

THE COURT: All right. Solicitor.

MS. MAYES: The State calls Brandon Garon.

THE COURT: All right. If you'd come around and join us please.

BRANDON GARON,

having been duly sworn, testified as follows:

THE CLERK: Once you're seated, state your full name spelling your last on the record, please.

THE WITNESS: My name is Brandon Garon. Last name G-A-R-O-N.

DIRECT EXAMINATION

BY MS. MAYES:

Q Tell us a little bit about yourself; where are you employed?

A I am currently employed at Lexington County as an EMT Basic.

Q So tell us a little bit more about becoming an EMT, an emergency medical technician; what type of certifications do you hold?

A So to become an emergency medical technician, I initially took at a course at a junior college in California approximately ten years ago. After that course, we take a national test that makes us registered throughout the national -- to be able to work in any state within the -- the country. Two years ago, we moved back to South Carolina and I renewed my national registry and then got licensed here in the State of South Carolina.

Q So how long altogether have you worked as an EMT or emergency medical technician?

A Approximately nine years.

Q Can you tell us whether or not you were working on June 26, 2016?

A Yes, ma'am, I was.

Q What, if anything, do you recall about responding to the scene at [redacted] Weaver Drive where you had an infant patient?

A I do have my statement here; and I said on June 26, 2016, I was working Unit 13 for Lexington County EMS and we were dispatched to [redacted] Weaver Drive, [redacted].

Q All right. So let me stop you right there. How many people were in your unit, your ambulance with you?

A It was just me and my partner.
Q All right. And what is the partner's name?
A Sergeant Bernard.
Q Tell us what you recall about arriving on the scene; who was there first and what you did?
A So I write here: Upon arriving on scene, LCFS, which is Lexington County Fire Service, was on scene. One of the firefighters was in the doorway waving down EMS.
Q All right. Do you remember if there were any civilians?
A Yeah, I did note that there was a middle-age female, who was standing outside the residence that looked visibly upset.
Q All right. What was your first contact with the infant patient, Minor 1 ?
A My partner, Sergeant Bernard, entered the residence first. I always follow up behind him, and when I started approaching the residence, Sergeant Bernard came out holding the infant in his hands.
Q And what was your role in attempting to provide medical intervention?
A Sergeant Bernard informed me that the patient was in cardiac arrest and that I was to begin CPR with the patient.
Q Now, cardiac arrest means her heart's not beating?

A Correct.
Q What efforts did you take to try and assist or get her heart beating?
A My role in doing that was doing compressions on the infant as well as at times, when Sergeant Bernard was doing other things to assist with ventilations using a BVM, bag valve mouth which assists ventilations.
Q All right. Now is CPR different for an infant than it is for an adult?
A Yes, ma'am.
Q How so?
A When we're using it with an adult, you're going to be using two hands. When you're doing an infant, you -- when you're using two persons as we were because there were two of us in the back of the truck, you cradle the body with your hands and then your thumbs are placed on the chest and you use your thumbs to do compressions.
Q All right. And is that what you did in this case with Minor 1 ?
A Yes, ma'am.
Q How long did you continue to provide chest compressions using your thumbs or CPR, infant CPR, for Minor 1 in this case?
A All the way up until the point that we arrived at the hospital and transferred care to the staff.

Q All right. Now, there has been testimony that you arrived there at the scene at 5:25. Do you have a copy of your report with you?
A Yes, ma'am.
Q What time did EMS arrive at the hospital?
A Arrived at destination 1747.
Q You mean 5:47?
A That is correct.
Q You have arrived at destination; what was the destination?
A That would be Lexington County Medical Center.
Q And did you continue doing the thumb chest compressions throughout that time?
A That is correct.
Q Up until the time she was turned over to the care of emergency nurses and doctors?
A That is correct.
Q At any point in time, did she ever show any signs of life?
A No, ma'am.
Q Did she ever take a breath?
A No, ma'am.
Q Did you ever get a pulse or a heartbeat?
A No, ma'am.
Q What, if anything, did you note during the course

of her transport there in the ambulance? What, if anything, did you note about her physical condition?

A My main focus was doing CPR. I did try and make a quick rapid assessment and I do note here that there was large ecchymosis, which is bruising on the frontal region of the forehead; so the front. I also noted lividity, which is blood settling in the lower extremities of the body. Continued here, when I was doing compressions, I felt that the core of the body, which is the middle, main part of the body, felt warm. The extremities however, felt cool to the touch and I noticed that the patient's left fist is clinched shut.

Q Now, in addition to that, did you observe your partner, the paramedic, Bernard, did you observe him attempt to aid her with an airway?

A Yes. Yes, ma'am, I did.

Q What's the type of instrument that you observed him attempting to utilize?

A Initially they try and do intubation; is what he tried where you insert a tube that goes down into the lungs so that that way you can give adequate respirations. That was the first thing that he wanted to attempt.

Q And is that type of medical intervention, intubation, to assist with an airway, is that routine procedure in such a case when you have a patient who is not

breathing?

A Yes, ma'am.

Q Did you observe him try and open her mouth?

A Yes, ma'am.

Q What did you observe?

A He was appearing to have difficulty and he told me that --

MR. WILLIAMS: Objection to hearsay, Your Honor.

BY MS. MAYES:

Q All right. And don't repeat what anyone else has -- has said to you?

A Yes, ma'am.

Q Did you observe him attempting to open her mouth?

A Yes, ma'am.

Q That would be the jaw area?

A Yes, ma'am.

Q In order to insert that tube for intubation?

A Yes, ma'am.

Q Was he able to open her mouth?

A Not that I could see?

Q All right. And based upon your observations, how did her jaw appear?

A It would be described as clinched.

Q Have you worked other cases with patients who are deceased?

A Yes, ma'am.
Q Can you tell us whether or not that clinched jaw is something that you've seen before?
A Yes, ma'am, I have.
Q In regards to rigor mortis?
A Correct.
Q Now, you also mentioned that the core was warm?
A Yes, ma'am.
Q And is that also noted in your report?
A Yes, ma'am, it is.
Q And again, when you used the term core, you're referring to what area of the body?
A The main area of the body not including extremities; arms, legs.
Q The torso area?
A Correct.
Q You mentioned that you did a rapid assessment. Were you able to, under those circumstances, and reach the hospital, were you able to do a full assessment as you would a patient who may have been living and breathing?
A No, ma'am.
Q Were you ever able to turn her over and see what was on the back of her or underneath her?
A No, ma'am.
Q Or even the back of her head?

A No, ma'am.

Q This photograph is already in evidence, State's Exhibit 4. I'm going to ask you to take a look at that one and then also this photograph and ask you whether or not that's a fair and accurate representation of how you recall Minor 1 on the afternoon of June 26th?

A Yes, obviously there's medical treatment that was not applied by me, but everything else, yes.

Q All right. Was some of this -- was some of this medical equipment applied by you or your partner in your presence?

A Yes, ma'am.

Q All right. So I'm going to ask you a little bit more about that. In this photograph, can you tell us if that's a fair and accurate representation of how you recall her and how you recall a certain instrument being used?

A Yes.

MS. MAYES: Your Honor, this would be State's 5 for evidence?

(State's Exhibit Number 5 was marked for identification.)

MR. WILLIAMS: Your Honor, if I could see that for just a minute. If she's offering it -- I take that back, Your Honor. I don't think she's gone through all the questions yet that she's going to ask.

THE COURT: All right.

BY MS. MAYES:

Q All right. I'm going to ask you about this particular photograph. You described bruising to Minor 1 ?

A That's correct.

Q Do you see that in this particular photograph?

A Yes, the marks on her forehead.

Q All right. And then you also mentioned that there was certain intervention done by yourself and your partner. What types of medical intervention did you provide en route to the hospital?

A I did compressions as stated and then using the bag valve mouth to help -- to try and give breath to the patient.

Q All right. What else was done by your partner, Bernard?

A My partner, Bernard, would have placed the EKG leads on the patient to see if there was any cardiac rhythm. And then as well, down here we inserted a IO which is -- in order to gain access for patients in cardiac arrest, they drill into the bone and that way they give any type of medications necessary.

Q And do you recognize those items present in this photograph?

A Yes, ma'am.

MS. MAYES: Your Honor, this would be State's Exhibit 5 for evidence.

MR. WILLIAMS: Your Honor, I don't think she's laid the proper foundation for the introduction of this photograph yet.

THE COURT: Step up here, I'm not tracking.

(There was a bench conference out of the hearing of the jury and the court reporter.)

THE COURT: Thank you.

MR. WILLIAMS: Thank you, Your Honor.

THE COURT: Thank you, Solicitor. Solicitor, you may continue.

BY MS. MAYES:

Q And you recognize some of these devices, medical devices that were used in Minor 1 s care on that date --

A Yes, ma'am.

Q -- Having been placed by your partner in your presence?

A Yes, ma'am.

MS. MAYES: This would be State's Exhibit 5 for evidence, Your Honor, with 4 already being in evidence?

MR. WILLIAMS: Without objection, Your Honor.

THE COURT: State's 5 is in evidence without objection.

(State's Exhibit Number 5 was entered into

evidence.)

BY MS. MAYES:

Q You mentioned that there were also thumb compressions done by yourself?

A Yes, ma'am.

Q En route to the hospital?

A Yes, ma'am.

Q I want you to take a look at these photographs of Minor 1 and ask you whether or not any of those markings would have been caused by your care?

A I cannot confirm or deny whether or not the red mark on the chest was from my compressions.

Q Okay. I'm going to ask you a little bit more about that. But other than that one marking, are there any other markings or bruising to her head or face area that would have been caused by yourself or your partner in your presence?

A As far as markings, no?

Q So looking here at State's Exhibit 4, what are these items here?

A Those are going to be EKG leads as well.

Q They were placed by who?

A Those ones, from here it looks like those might be the hospital's. There are other ones that you see in the lower extremities that would be placed by us.

Q All right. You recognize these items?
A Correct.
Q And then you mentioned this location?
A Correct.
Q Is that the general area in which you would have applied CPR?
A Yes, ma'am.
Q Using your thumb compressions?
A Yes, ma'am.
Q Do you know for sure whether your compressions caused that marking or whether it preexisted?
A I do not.
Q And then looking here, were any of these injuries above the eye and across the forehead caused by yourself or your partner in your presence? Bernard?
A No.
Q Looking here at State's Exhibit 5. What are we looking at here in this area?
A That was the IO I was referring to that Sergeant Bernard placed where he drilled into the bone to place -- to get access to give fluids, medications, or anything necessary.
Q All right. Now, does that leave a marking or a scar?
A It will leave a hole where they drill.

Q All right. So anything in this area would have been caused by your partner in your presence -- Bernard, correct?

A The drill -- the drill mark would be, the IO would be. As far as any other markings there, I cannot confirm or deny.

Q All right. And then looking here at the various items placed on the chest; you recognize those items as well?

A Yes, ma'am.

Q And you continued those CPR compressions until she was turned over to the care of hospital staff?

A That is correct.

MS. MAYES: Nothing further of EMS Officer Garon at this time, Your Honor.

THE COURT: Thank you. Mr. Williams.

MR. WILLIAMS: May it please the Court.

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q Officer, the -- the item which is in the middle of the child's chest, which appears to be some sort of replica of some man or boy or something like that, this little white thing?

A Yes, sir.

Q What is that?

A That is what you would use as an EMT or in a hospital setting they put on in order to shock a patient if they are in a rhythm known as either ventricle fibrillation or ventricle tachycardia.

Q So that item was not on the child when you had the child?

A That is correct.

Q Now, in State's Exhibit -- and for the record, that was State's Exhibit Number 5?

A Yes, sir.

Q On State's Exhibit Number 4, which you were asked about, the mark in the center of the child, you said you didn't know if you had done that or not; couldn't admit or deny?

A Correct.

Q Then you showed the leads and you remarked that one of the leads, which would be on the shoulder would not have been one that you had placed; is that correct?

A Actually the opposite, the red ones you're looking at that you see there would have been the hospital's; the ones on the shoulder, if you look closer they have little, I think they're teddy bears or something, those would be our leads that we placed as well. There's the one on the left leg that you see; those are the ones that my partner placed on the patient.

MR. WILLIAMS: May I ask the witness to step down, Your Honor?

THE COURT: Yes, you may step down, but please keep your voice up. It shouldn't be too hard for you when you're away from -- move around Mr. Williams, please sir.

MR. WILLIAMS: All right, sir.

BY MR. WILLIAMS:

Q Really what I -- the person I really want to see this is the jury. So if you could just kind of move down the line and show the jury the teddy bears, which you were remarking would be the ones that you placed on the child, that y'all did and show the difference in the leads. Show the ones which the hospital was and tell them how you can tell that they're different because they are different.

A Correct. So these ones right here, as you can see they're a different pattern than the hospital uses.

MR. WILLIAMS: Show the judge too.

THE COURT: Thank you.

THE WITNESS: And there's more than likely another one underneath here as well that we cannot see.

BY MR. WILLIAMS:

Q And the teddy bears are the ones you put on and the 3X or 3, I think it says M something?

A 3M.

Q 3M are the ones that the hospital placed on?

A That is correct. My partner would have placed these on.

Q Thank you so much.

A You're welcome.

(The witness returned to the stand.)

BY MR. WILLIAMS:

Q You were describing that core of the child was warm whereas the extremities, which would be the legs and the arms, were cold; is that correct?

A That is correct.

Q Did you actually go inside of the trailer or house?

A No, sir.

Q You did not?

A No, sir.

Q So it was your partner who physically went inside the house?

A Correct.

Q So -- and you never went inside the house?

A Correct.

Q So you have no independent knowledge of how cold the inside of the house was or how warm the inside of the house was?

A No, sir.

Q All right, sir. Now, your determination of cold versus hot, was that based upon feel?

A Yes, sir.
Q So there was no attempt by the EMS to determine -- I'm not being derogatory -- but you didn't make an attempt to determine what the temperature was of the child?
A The exact temperature, no.
Q And if there was a temperature taken of the child, it would have been done at the hospital when the child got to the hospital?
A Correct.
Q Now, when the child was carried out to you, it would have been the partner that carried the child out to you?
A Correct.
Q And then you placed the child on the stretcher?
A My partner did.
Q And do you recall whether or not there would have been a blanket upon the child or not?
A A blanket, no, sir.
Q Would there have been any type of cloth or something on the child to keep the child warm?
A No, sir.
Q Would there have been anything on top of the child other than the child's shirt, which the child had on?
A No, sir.
Q Okay. And is that the point in time when you say

that it felt warm once you pulled the shirt back, then you felt the child's chest and it felt warm?

A When I went to do compressions, that's when I felt it, yes, sir.

Q Did you know whether or not anyone else had done any compressions on the child's chest or not?

A Not to my knowledge.

MR. WILLIAMS: That's all the questions I have, Your Honor.

THE COURT: Redirect, Solicitor?

MS. MAYES: Nothing further, Your Honor.

THE COURT: Thank you. Thank you very much for being with us.

THE WITNESS: Thank you, sir.

THE COURT: You may be excused.

All right. Solicitor.

MR. MCNAIR: The State calls Joe Burns.

THE COURT: All right. If you'd come around and be sworn for us please.

JOSEPH BURNS,

having been duly sworn, testified as follows:

THE CLERK: Have a seat, sir. Once you're seated, state your full name spelling your last on the record, please.

THE WITNESS: Joseph Burns, B-U-R-N-S.

DIRECT EXAMINATION

BY MR. MCNAIR:

Q Mr. Burns, where do you work?

A Lexington County Fire Service.

Q How long have you been there?

A Going on three years.

Q All right. Now, were you in that position in June of 2016?

A Yes, sir.

Q And on June 26th of 2016, were you on duty that night?

A Yes, sir.

Q Who were you working with that night?

A Anthony D'norio.

Q All right. Were y'all on the same truck?

A Yes, sir.

Q Now did you respond to [redacted] Weaver Drive?

A Yes, sir.

Q What time did y'all get there?

A 5:25.

Q Was anybody else on the scene when you first arrived?

A No, sir, EMS was pulling in right behind us.

Q Tell the jury what you did when you first arrived on the scene?

A When I first got there, I grabbed the AED because it was a medical call; that's typical. We proceeded to the front door and I saw Heather crying hysterically, but we proceeded to go on to the front door and I tried to make identification of the patient at that point.

Q All right. So when you first get there, you're referring to Heather Lawson?

A Yes, sir.

Q She was standing outside of the residence?

A Yes, sir.

Q Was anybody inside?

A Yes, sir, there was two small children and the father and the baby.

Q When you say the father, you're referring to Richard Tuckus?

A Yes, sir.

Q You assumed he was the father of those other two kids?

A Yes, sir.

Q He was inside the residence with the two other children and Ms. Lawson is standing outside?

A Yes, sir.

Q All right. And where was the baby?

A She was where Anthony had said that it was, just in between the pack 'n play and the front door --

Q All right.
A -- laying on its back.
Q And when you walk into the front door, where was that?
A To the right.
Q Okay. And you've obviously been sitting back there, you've seen these pictures?
A Yes, sir.
Q Of the baby?
A Yes, sir.
Q Is that kind of the way the baby appeared when you saw her that day?
A Yes, sir.
Q Now, did EMS arrive shortly after y'all?
A Yes, sir.
Q What happened when EMS arrived?
A That's when, I don't know the gentleman's name, but --
Q The gentleman that just testified?
A His partner came into the door and that's when Anthony D'Onofrio handed the baby to -- to him. He took over care and immediately transported from there.
Q Okay. And what -- and did you assist EMS?
A Yes, I was the one who drove the vehicle, the ambulance in.

Q Okay. So who was with you inside the ambulance?
A Heather.
Q Heather Lawson?
A Yeah, Heather Lawson.
Q Okay. Where was she sitting?
A In the passenger seat.
Q Now, I guess during the time she is riding with you in the ambulance, did you overhear her make any comments to anybody about what had -- what had happened to her child?
A Yeah, I believe she was speaking to her mother. And she said that the babies must have jumped on Minor 1, the infant's head, causing her death.
Q You could somewhat hear the voice on the other end of the phone?
A Somewhat, yeah.
Q And it appeared to be a female?
A Yes, sir.
Q She made the comment that her other kids must have jumped on her baby?
A (The witness nodded head.)
Q How long did it take you to get to the hospital?
A I'm not sure about the exact time, but, 10 to 15 minutes tops.
Q All right. And what happened at that point?
A Just they have a loading zone for the ambulances,

for the patients, and you just you pull up, park, and then I assisted with transporting the infant inside the facility to the ER.

Q All right. And other than that, do you have any other involvement in this case?

A No, sir.

MR. MCNAIR: No further questions, Your Honor.

THE COURT: Thank you, Solicitor.

Mr. Williams.

MR. WILLIAMS: If it please the Court.

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q Are you Officer Burns or are you --

A Just a firefighter.

Q All right. Firefighter Burns?

A Yes, sir.

Q As I understand it, you and your partner arrived on the fire truck; is that correct?

A Yes, sir, on the engine.

Q On the engine. And then once you got there, then you took over as a driver for the ambulance; is that correct?

A Yes, sir.

Q And then obviously your partner would have at sometime had driven the fire truck back?

A Yes, sir.
Q Now, you never went inside the residence; is that correct, or did you go inside?
A I did, yes, sir.
Q And I think you've already said that you observed the location of the child in the floor just like --
A (The witness nodded head.)
THE COURT: Say that out loud for me. Say that out loud, I didn't hear you. Was there an answer?
THE WITNESS: Yes, sir.
THE COURT: I just didn't hear you.
BY MR. WILLIAMS:
Q The you were saying that the child looked the same in these photographs as the child looked when you saw her. Obviously the child looked different because you've got all this medical equipment on and all this other stuff on the child?
A Right.
Q So when you were talking about that, you were talking about the fact that there appeared to be some bruising on the forehead?
A Yes, sir.
Q You didn't perform any medical treatment on the child, did you?
A No, sir.

Q You didn't touch the child in any way?
A No, sir?
Q So you don't know the temperature of the child, whether or not the child's core was warm or not, or whether or not the extremities were cold?
A No, sir.
Q You don't know how much lividity or rigidity or any type of stiffness the child's body may have exhibited because you didn't touch the child?
A Right.
Q The only thing you did was you came on the fire truck and then you drove the ambulance so that the two EMT professionals could be in the back and work on the child and you could take the mother to the hospital with them; is that correct?
A Yes, sir.
Q And what was the mother's condition; what was -- how did she act?
A Well, she was visibly upset and that's pretty much it. I mean she was -- when we got there, she was upset. So --
Q She remained upset?
A Correct.
Q Did you see Mr. Tuckus?
A Yes, sir.

Q How did he appear?

A I didn't -- I just saw him when I first came in and I went straight to the issue at hand. I didn't really focus much on his behavior.

MR. WILLIAMS: That's all I have, Your Honor.

THE COURT: Redirect.

MR. MCNAIR: Followup, Your Honor.

REDIRECT EXAMINATION

BY MR. MCNAIR:

Q Mr. Burns, have you responded to calls involving a child's death before?

A No, sir, this is the first.

Q Have you responded to calls obviously where somebody's family members had died?

A Yes, sir.

Q At any point when you were in the residence, did Mr. -- Ms. Lawson ever come inside to her child?

A No, sir.

Q Is that usual or unusual to you?

A It's unusual in most circumstances if there's someone there, a family member. Normally either fire personnel or EMS will direct someone to get them out of the room just because it's painful to watch it sometimes and things like that, so they get them out of the room and --

Q In previous calls, do they appear interested in

what's happening?

MR. WILLIAMS: Objection; leading, Your Honor.

THE COURT: Restate the question, Solicitor.

BY MR. MCNAIR:

Q In other calls that you have responded to where a family member had died, other -- your testimony was other family members are typically wanting to be present?

A Yes, sir.

MR. MCNAIR: Thank you, Your Honor.

THE COURT: Recross?

MR. WILLIAMS: Yes, Your Honor.

RECROSS-EXAMINATION

BY MR. WILLIAMS:

Q And she was doing the right thing by staying out of the way; you didn't want her there when y'all were working on the child, did you?

A My concern was for the patient, the baby.

Q Right. And if -- and if someone -- if they're too many people in the room, then that prevents y'all from doing your job; is that correct?

A In certain circumstances, yeah, it does.

Q And she was the one, as far as you know, that flagged down the ambulance or flagged down the fire truck, right?

A I'm not sure. I was inside. I don't know who -- I

thought it was Michael Hammer, the other volunteer firefighter, but I'm not sure who flagged down the ambulance, I was inside.

Q All right. When you arrived -- who was outside when you arrived?

A Heather.

Q And did she not flag -- didn't she flag the fire truck down and let you know where to be or -- stand out there to try to get your attention?

A We just pulled in and took a right and I mean it was her on the phone crying, so we pretty much assumed that was the location and we found out the address and --

Q And she remained in that condition all the way to the hospital?

A Yes, sir.

Q That's all the questions I have.

THE COURT: Thank you. Thank you very much, sir. You may step down and thank you for being with us. I appreciate it.

All right. Solicitor, you may call your next witness.

MR. MCNAIR: Your Honor, the State calls Megan Dabkowski.

THE COURT: Come around and join us please.

MEGAN DABKOWSKI,

having been duly sworn, testified as follows:

THE CLERK: Have a seat, ma'am. Once you're seated, state your full name spelling your last please.

THE WITNESS: My name is Investigator Megan Dabkowski. D-A-B-K-O-W-S-K-I.

DIRECT EXAMINATION

BY MR. MCNAIR:

Q Officer Dabkowski, where do you work?

A Lexington County Sheriff's Department.

Q How long have you been with the sheriff's department?

A I have been with the sheriff's department a little over three years.

Q What's your current position over there?

A I'm an investigator.

Q Do you have any other law enforcement experience prior to the sheriff's department?

A Prior to coming here to the sheriff's department, I was with Columbia Police Department for a little over four years.

Q All right. And what position were you in on June 26, 2016?

A I was a road deputy so I responded to calls for service.

Q All right. Were you on duty that day?

A I was.
Q Did you respond to [redacted] Weaver Drive, [redacted]?
A I did.
Q All right. And that is in Lexington County, correct?
A It is.
Q All right. What was that call in reference to?
A A cardiac arrest of a child, which just means that the child's not breathing or there's no pulse. It doesn't necessarily mean cardiac arrest it just means the child's not breathing or the heart's not beating.
Q Okay. It doesn't mean the child suffered from a heart attack?
A No, it's just -- yeah.
Q Okay. A dead child. All right. What time did you arrive on the scene that day?
A Based on the CAD System, I arrived on the scene at 5:33 p.m.
Q 5:33 p.m.?
A Uh-huh (affirmative response).
Q All right. And were you the first law enforcement personnel on the scene?
A One of my other -- one of the other guys I work on shift, he beat me by milliseconds. I pulled in very shortly after him.

Q Okay. So you saw him pulling in as you were pulling in?
A Yeah.
Q Now who -- who all was on scene when you arrived?
A When I arrived on scene, it was -- the fire truck was there, Firefighter D'Onofrio was on scene waiting for us to standby. EMS had already left with the child.
Q Okay. And was the mother on scene?
A No, she was not.
Q All right. So did you have any dealings with the mother?
A I did not deal with the mother.
Q What was your role once you got on the scene?
A Being the -- even though I was right behind and being the second officer on the scene, Deputy Hendrix was getting information from the firemen. I went ahead and set up crime-scene tape because it's standard procedure when we have an incident. We put crime-scene tape to make sure nothing gets contaminated. We also cleared the trailer to make sure there was nobody else inside.
Q Okay. So you cleared the trailer to make sure nobody was inside and then you set up crime -- crime -- crime-scene tape?
A Yes, sir.
Q And the purpose of that is what?

A It's just to secure the scene to make sure that we don't have anybody that's not supposed to be there walk on the scene and maybe tamper with anything or mess with anything on scene. It just enables us to, by the time our investigators get there or crime scene gets there that it is in the exact way it was when I arrived on scene.

Q Okay. And did you also start a crime-scene log?

A I did.

Q What's the purpose of that?

A It's just to document everybody that was actually on the scene so it documents everything from the EMS who was there, to firefighters, to us as well.

Q All right. And were you present on the scene when CSI arrived?

A I was.

Q And which CSI personnel arrived?

A It was CSI Sprinkle.

Q All right. And when he arrived had the scene changed in any way from when you first secured it?

A It had not.

Q It was in the same condition as you found it, correct?

A It was.

Q Okay. Now, did you have any interaction with anybody other than law enforcement while you were on the

scene?

A I did.

Q And who did you come in contact with?

A I came in contact, which was the father of the child, Richard.

Q Where was he?

A He -- when I arrived on scene, he was -- he was outside in the -- the way the trailer, mobile home park is, the dirt portion, which is like the main portion that I pulled in on, where everybody kind of pulls in, he was out there and he was pacing. I kept talking to him throughout just trying to keep him calm because he was visibly upset and he appeared to be in shock to me. He would stare off like at the trailer, like he couldn't believe what we all were here for and that this had happened.

Q Okay.

(State's Exhibit Number 6, Number 7, and Number 8 was marked for identification.)

BY MR. MCNAIR:

Q I'm going to show you photos that have been premarked as State's 6, 7 and 8. Would you take a look at those photos and tell me whether or not those are a fair and accurate representation of the scene as you saw it on June 26, 2016?

A They are.

MR. MCNAIR: Your Honor, we'd offer 6 through 8 into evidence at this point.

MR. WILLIAMS: Without objection, Your Honor.

THE COURT: State's 6, 7, 8 is in evidence without objection.

(State's Exhibit Number 6, Number 7, and Number 8 were entered into evidence.)

MR. MCNAIR: Permission to publish, Your Honor?

THE COURT: Yes, sir.

BY MR. MCNAIR:

Q All right. What are we looking at here in State's 6?

A That's the -- would be the backside of the trailer because all of those cars that you can see in the right far corner, that's going to be where we all parked.

Q All right. And you're referring to these cars right in this area?

A Yes. Yeah, that's where we were all -- that's like the main driveway coming in.

Q All right. And where would the door that y'all entered be?

A It's in that corner as well closer to where the cars are right there where the porch is.

Q Okay. So right where this porch is is where you entered the residence?

A Yes, sir.
Q And this tape that's visible in this picture, is that the crime-scene tape that you put up?
A Yes, sir, it is.
Q State's 7, what does this picture show?
A It's the very front side of the trailer as well as the crime-scene tape that I put up. I just simply remember that one because we try to expand the crime-scene tape to encompass a little more than what we need, so I had actually tied that part of the crime-scene tape to the front of my county marked vehicle.
Q Okay. Do you know whose vehicle this is right here?
A I believe it was Richard's.
Q Okay. Mr. Tuckus. And I guess the -- the door that you just mentioned in the prior photo with the porch, is this --
A It's right there on the left side where your finger was, yes, sir.
Q All right. And State's 8 is another photo and that again, just a picture of the tape you put around the trailer?
A Yes, sir.
(State's Exhibit Number 9 was marked for identification.)

BY MR. MCNAIR:

Q All right. I'm going to show you State's Exhibit 9; do you recognize that?

A I do. It's an aerial view of the entire mobile home park.

Q All right. And is that the way it appeared on June 26th of 2016?

A It is.

MR. MCNAIR: Your Honor, we'd offer State's 9 into evidence at this point.

MR. WILLIAMS: Without objection, Your Honor.

THE COURT: State's 9 is in evidence without objection.

(State's Exhibit Number 9 was entered into evidence.)

BY MR. MCNAIR:

Q All right. If you'd just point on here for the Judge where Lot 14 is.

A It's right there.

Q Okay.

MR. MCNAIR: Permission to step down?

THE COURT: Yes, you may step down. Keep your voice up when you're away from the mic.

THE WITNESS: Yes, sir.

(The witness stepped down in front of the jury.)

BY MR. MCNAIR:

Q All right. Now on State's 9, can you point out for the jury where [redacted] is, to be the residence of Heather Lawson?

A [redacted] is right here. This is actually Weaver Drive, so this is the main driveway everybody would have been coming into to go to the scene.

Q Okay. And where is the front door on that trailer that you just testified to earlier?

A It's right there.

Q All right. And did you go inside there?

A I did.

Q All right. And if you go in that front door, where would the pack 'n play be located?

A It would have been to my right.

Q Okay. So if you could point out on there where that would be.

A So there's the front door, so right to the right would be, right in here.

Q Okay. All right. And were you aware of where Mr. Tuckus lived?

A I've had, from my understanding, he was -- he lives down in this corner of the trailer park.

Q Okay. Thank you, ma'am. You can have a seat.

(The witness returned to the witness stand.)

BY MR. MCNAIR:

Q Now, you testified that when you arrived, Mr. Tuckus was not inside the residence at that time?

A He was not.

Q All right. And you also testified the fire personnel were still on scene?

A They were.

Q Even though EMS had left?

A Yes, sir. Firefighter D'Onofrio was on the scene.

Q And you testified that you arrived at 5:33, correct?

A Yes, sir.

Q All right. Thank you, ma'am. I have no further questions.

A Thank you.

THE COURT: Thank you, Solicitor.

Mr. Williams.

MR. WILLIAMS: May it please the Court?

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q When you arrived at 5:33, you arrived in close proximity in time to the other Lexington County Sheriff's Department individual?

A Yes, sir, we were within milliseconds of each other.

Q And when you arrived, the -- the fire truck, the two firemen were already there. The fire truck was there; is that correct?
A The fire truck was still there, yes, sir.
Q And where were the firemen when you arrived?
A Right by the front door. They were standing outside right by the front door?
Q Because the EMT individuals were already inside; is that correct?
A The EMT left prior to my arrival on the scene?
Q So the child had already left when you got there?
A Yes, sir.
Q Now, the picture, which we have looked at, which is State's Exhibit Number 7; is that -- you identified that and you identified Mr. Tuckus's vehicle with the plate LRD677 Chevrolet, you identified that as being Mr. Tuckus's car; is that correct?
A I believe so, sir, yes.
Q When you say you believe that, what is that based on?
A Based on the way it was on the scene because from what I could understand was that Heather's car was the white one in front and that was Mr. Tuckus's.
Q All right. And the picture that was actually taken showing both of those vehicles in there was taken by whom?

A That would have been our crime scene tech who arrived on scene. That was CSI Sprinkle.

Q So it was actually taken a little bit later. Mr. Sprinkle, Officer Sprinkle, CSI Sprinkle would have taken that later?

A Yes, sir.

Q And where was Mr. Tuckus, you say, when you arrived?

A When I arrived, he was in the dirt portion, that main road that leads into the trailer park and he was kind of pacing right there.

Q And where were the two children that resided in the trailer?

A They were not at the trailer. From my understanding, Mr. Tuckus's -- the female he lived with, his other children's mother, had come down and taken the kids up there so they would not be in the way, but they were -- there was nobody in the trailer at the time I arrived on the scene.

Q So you say based on your understanding, someone else had come and taken the two children from Mr. Tuckus; he didn't actually leave the scene and go back to his place with the children and then come back to the scene?

A Not that I'm aware of.

Q All right. But, of course, all you really know is

that when you got there, Mr. Tuckus was there; is that correct?

A He was outside, yes.

Q Was anybody outside with him?

A Not that I recall.

Q So it was just you and Mr. Tuckus?

A As well as the other deputy on scene, as well as the firefighters.

Q So Mr. Tuckus did not make an effort to go to the hospital to check on his daughter; is that correct?

A I know he had been in contact with Heather through the phone and then we also would not have allowed him to leave the scene because that's protocol for us. We had him there on scene, so we would have asked that he wait for the investigators.

Q Why would you have asked him to wait for the investigators, but you allowed Ms. Lawson to go to the hospital since she was the mother and he was the father?

A Heather left prior to our arrival on scene. The ambulance CAD history shows the ambulance left the scene to go en route to the hospital at 1729 hours, which is 5:29 p.m. Deputies did not arrive on scene until 5:33 p.m. So there would have been no way any of us who initially arrived on scene would have had any interaction with her at all.

Q So you would not have allowed Heather to leave if you had been on scene; is that right?
A Probably not, due to the fact that we try to gather all the intel that we can.
Q So you were -- okay. The reason Mr. Tuckus remained on scene is because he wasn't allowed to leave the scene?
A Yes, sir.
Q And how long did Mr. Tuckus remain on the scene?
A I couldn't tell you the exact time he left the scene.
Q Did you authorize his leaving the scene?
A I wouldn't have been the one to authorize it; it would have been one of the lead investigators on scene.
Q How long did you remain on the scene?
A I was on scene until 12:15 a.m. the next day. I believe they had me on CAD leaving at 12:16 a.m. on 6/27.
Q And you don't recall what time Mr. Tuckus was allowed to leave the scene?
A I do not.
Q Nor who told him he could leave?
A It would been one of our investigators because when my job -- my main job at that point is to secure the scene and hold it until investigators arrive. Investigators end up being in control of the scene. So that would be

something the investigators would have -- would have given him permission to do.

Q And he was pacing, acting nervous; is that right?

A No, I wouldn't say he was acting nervous. As I said, he was in shock. He was pacing, he was in shock. I did not say he was nervous.

Q Did you think that you needed to bring some sort of medical assistance since he was in shock; you used the word shock, are you saying -- was he crying?

A No, he was not. He was not crying, but he would just stare at the trailer like he couldn't comprehend what was going on. Like he didn't understand what was going on, couldn't believe what was going on. Again, not everybody cries. Everybody kind of reacts differently.

Q That's all the questions I have.

THE COURT: Redirect, Solicitor?

MR. MCNAIR: Nothing further, Your Honor.

THE COURT: Thank you. Thank you for being with us today.

THE WITNESS: Thank you, Your Honor.

THE COURT: You may step down. You may be excused.

Perhaps now would be a good time to take our luncheon recess, ladies and gentlemen. Please remember my instructions. Do not discuss the case with your fellow jurors, lunch mates, family, friends, or anyone else. Do

not read, listen to any news reports about the case, should there be any. Do not do any independent investigation or any investigation on the internet. With that being said, we'll take -- take about an hour and a half. Let's be back at let's say 2:15. Be back promptly at 1415 hours. Did I do my math right? 1415 hours, 2:15.

Thank you very much. I hope you all have a pleasant lunch.

(The jury left the courtroom at 12:48 p.m.)

THE COURT: Did they all leave their pads, Madam Clerk?

THE CLERK: I'll check.

THE COURT: Check on that for me please?

THE CLERK: I'll look.

THE COURT: All right. Anything further before we take our luncheon recess, Solicitor?

MS. MAYES: Nothing from the State, Your Honor.

THE COURT: Mr. Williams?

MR. WILLIAMS: A question in regards to the status of the Defendant.

THE COURT: All right. Yes, sir?

MR. WILLIAMS: Whether or not he will be allowed to leave, go get lunch and come back.

THE COURT: I'll be glad to hear from you, Mr. Williams.

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MR. WILLIAMS: Your Honor, she -- as presented yesterday, she -- the bonding company has agreed to stay on her bond or remain on her bond. It's $150,000 bond. She has appeared at any and all role calls. She appeared Monday knowing she was going to trial on the case. She appeared this morning. She -- she has a monitor which remains in effect. She has family, which she has remained in constant -- in the constant presence of throughout this entire time span. So we would suggest to the Court that she is not a threat to not show back up at 2:15.

THE COURT: All right. Thank you, Mr. Williams. Based on the nature and circumstances of the offenses charged and the potential penalty against the backdrop of course of the presumption of innocence and the fact that the jury has been sworn, testimony has been taken, she is in custody of the Lexington County Detention Center.

All right. Thank you. Thank you very much. 2:15.

MS. MAYES: Yes, sir, Your Honor.

THE CLERK: Your Honor, their pads are over there.

THE COURT: Just make sure the doors are locked.

THE CLERK: Yes, sir. They lock the doors.

(A recess was observed for lunch.)

THE COURT: Anything from the State before we bring in our jury?

MS. MAYES: Nothing from the State, Your Honor.

THE COURT: Anything from the defense?

MR. WILLIAMS: Nothing from the defense, Your Honor.

(The jury entered the courtroom at 2:30 p.m.)

THE COURT: All right. Welcome back, ladies and gentlemen. I hope y'all had a pleasant lunch.

We're continuing the trial of the case by the presentation of evidence and testimony by the State in its case in chief. If you'd please continue to give the parties your complete and undivided attention.

Solicitor, you may call your next witness.

MS. MAYES: The State calls Simone Sammler.

THE COURT: All right. Yes, ma'am, if you'd come around and be sworn for us please.

SIMONE SAMMLER,

having been duly sworn, testified as follows:

THE CLERK: Have a seat right up here, ma'am. Once you're seated, state your full name spelling your last on the record please.

THE WITNESS: My name is Simone Sammler. S-A-M-M-L-E-R.

DIRECT EXAMINATION

BY MS. MAYES:

Q And, Ms. Sammler, can you give us some information about yourself; where are you currently employed?

A I work at Lexington Medical Center in the ER.
Q All right. And how long have you been with the emergency room there at Lexington Medical Center?
A A total of seven-and-a-half years.
Q And what is your actual job description?
A I'm an RN.
Q And when you say RN, you're referring to?
A Registered Nurse.
Q And to become an RN what type of certification or licensing is required?
A You go to school, nursing school, and you either get an ADN or you get a Bachelor's Degree and then you need to pass the Nursing Board.
Q All right. And you have been a member of the Nursing Board or passed that certification with the Nursing Board and that allowed you to work there in the emergency room?
A Correct.
Q Now, can you tell us whether or not you were working in the capacity of a Registered Nurse on the late evening or afternoon hours of June 26, 2016?
A I was.
Q And can you tell us whether or not you had involvement with an infant patient by the name of Minor 1 ?

A I did.
Q What was your role as a -- as an RN, but what was your role specifically in documenting her medical chart?
A I was the recorder.
Q And what is meant by that term?
A You record what was going on into the medical chart and type it in.
Q All right. And can you tell us whether or not that's a routine protocol there in the emergency room when there is a patient who is in critical condition?
A That is routine.
Q And specifically, when we're talking about the contents of the medical chart, does that include vital statistics?
A Yes.
Q Such as heartbeat or heart rate and pulse if -- if a patient has one?
A Correct.
Q Does it also include things such as temperature?
A Correct.
Q Does it also include any notations you may observe concerning injury?
A Correct.
Q Now, do you have with you a copy of the medical chart that contains the information that you entered or

recorded?

A I do.

Q All right. And I'm going to start by showing you these 2 exhibits; State's Exhibit 4 and State's Exhibit 5. What, if anything, Nurse Sammler, did you note concerning injuries to Minor 1 ?

A I noted that there was bruising to the top of her forehead along with the top of her head and along the backside and over her eye as well. I also noticed the color of her body when she came in.

Q Looking here -- looking here at this item placed on the center of the patient. Can you recognize that type of medical device?

A It looks similar to what we would use for defibrillation.

Q All right. And according to your notes, there was injury to the forehead, but you also noted injury to other parts of the head; is that correct?

A Correct.

Q Including the top of the head?

A Correct.

Q And the back of the head?

A Correct.

Q Which are not shown in this particular photograph?

A Correct.

Q And then in addition to that, did you also record a body temperature of Minor 1 ?

A I did.

Q All right. Looking there at her chart, what did you note as her body temperature?

A 98.9 Fahrenheit.

Q 98.9 degrees Fahrenheit and does your chart also show the time in which that temperature was entered?

A 1808.

Q Okay. So 1808 would be 6:08 p.m.?

A Correct.

Q And then does your record also indicate the method in which that temperature was obtained?

A It was obtained rectally.

Q Okay. So that's a rectal temperature of 98.9 at 6:08 p.m., correct?

A Correct.

Q Ultimately, Ms. Sammler, was Minor 1 pronounced dead there in the emergency room?

A Yes, she was.

MS. MAYES: Nothing further of the witness at this time, Your Honor.

THE COURT: Thank you. Thank you, Solicitor.

Mr. Williams.

MR. WILLIAMS: May it please the Court.

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q Is it -- it's Ms. Sammler, correct?

A Correct.

Q Ms. Sammler, you were the recorder; did you also, I guess, have hands on with the child that was there at the hospital; were you doing anything to -- to measure the temperature or check the baby out?

A No, I was just recording what other people were doing and what vital signs or temperatures were given to me.

Q So you didn't -- you didn't actually touch the child and you did nothing to determine if indeed that was the child's temperature at the time?

A I was in the room.

Q Who checked the temperature of the child?

A I'm not real sure. I can't recall.

Q Well, if you were -- what do you have that you're reading from that shows that that's what was the temperature of the child?

A The medical chart.

Q All right. Does it have on the medical chart who was the doctor in the room at the time?

A It does.

Q And who was the doctor in the room at the time?

A . It was Dr. O'Neil, Michael O'Neil.

Q Michael O'Neil. And does it -- Dr. O'Neil is -- would not be the one that would be checking the rectal temperature, would he?

A No, that would not be him.

Q What other nurses would be in the room at the time?

A There could be a lot of nurses in the room and technicians because it is a pediatric case. So we usually have a lot of nurses, a lot of hands on.

Q But you don't have any evidence of who actually did the hands on testing of this child to determine what the temperature was?

A Not in this chart, no.

Q Do you have it somewhere else?

A Not as I recall.

Q So someone said out loud the temperature of this child is 98.9?

A Correct.

Q But you don't know who and it's not recorded anywhere who said this figure?

A No.

Q I know what adult's normal temperature is, but have you received any training in infant care that allows you to be able to testify as to what the normal temperature in an infant that is seven months old would be?

A I have.
Q And what is the normal temperature of an infant who is seven months old would be?
A It is no different than an adult.
Q So it would be 98.6?
A Right.
Q So you're telling us that this dead baby had a temperature of 98.9 from somebody in the room?
A That's what the chart says, yes.

MR. WILLIAMS: That's all the questions I have, Your Honor.

THE COURT: Redirect, Solicitor?

MS. MAYES: Yes, sir, Your Honor.

REDIRECT EXAMINATION

BY MS. MAYES:

Q And do you also enter other information such as a pulse rate?
A Correct.
Q And what does it indicate for pulse rate?
A She did not have a pulse.
Q All right. And what did it indicate for number of breaths per second?
A She was not breathing on her own.
Q All right. And so that was also entered?
A Yes.

Q So that information is entered correctly by you and then you also entered the temperature, correct?

MR. WILLIAMS: Objection to the form of the question.

THE COURT: Restate the question, Solicitor.

BY MS. MAYES:

Q You were the one who entered the number of breaths per second?

A Correct.

Q Or per minute. And also the heart rate, if there had been one?

A Correct.

Q Which in this case, no pulse, no heart rate. And then you were also the person who entered the temperature, correct?

A Correct.

Q Nothing further.

THE COURT: Recross?

RECROSS-EXAMINATION

BY MR. WILLIAMS:

Q And who was the person who recorded the pulse of the child and recorded the fact that the child had no breath; who was the actual person who checked this child out for that?

A Okay. There's two separate questions.

Q Okay. I'll take them. Let me do one.
A Okay.
Q Who checked the person for her pulse?
A That is between the nurses and the doctor.
Q Do you know who did it?
A The doctor checked and the nurses checked.
Q And did -- did both of those individuals say out loud she has no pulse?
A Correct and she was also asystole on the monitor.
Q Who was the person who checked the breathing?
A Same.
Q But you don't know who checked the rectal temperature?
A No, because rectal temperature is checked after we pronounce them.
Q What do you mean after you pronounce them?
A Once the time of death is determined, we check a rectal temp; that's our practice. It's not something we would stop CPR for.
Q So after you determined the child was dead is when you checked the rectal temperature. You have no idea what it was before?
A No.
MR. WILLIAMS: That's all the questions I have, Your Honor.

THE COURT: Thank you. Thank you very much, Ms. Sammler, for being with us this afternoon.

THE WITNESS: Thank you.

THE COURT: You may step down and you may be excused. Again, thank you very much.

All right. Solicitor, you may call your next witness.

MR. MCNAIR: Thank you, Your Honor. The State calls Richard Tuckus.

THE COURT: Please come around and be sworn for us please, Mr. Tuckus.

RICHARD TUCKUS,

having been duly sworn, testified as follows:

THE CLERK: Have a seat, sir. Once you're seated, state your full name spelling your last on the record please.

THE WITNESS: My name is Richard Tuckus. My last name is T-U-C-K-U-S.

DIRECT EXAMINATION

BY MR. MCNAIR:

Q Mr. Tuckus, what do you currently do for a living?

A Right now I'm a convenience store manager.

Q Are you married?

A Yes.

Q Who are you married to?

A Emily Gray.

Q All right. Now Emily Tuckus?

A Emily Tuckus, yeah.

Q Does she go by any other names?

A Rachelle.

Q You and Rachelle have any kids together?

A Yes, we do.

Q How many?

THE COURT: Speak up for me a little bit please; speak up a little bit.

THE WITNESS: Two.

BY MR. MCNAIR:

Q What are their names?

A Nicholas and Jeremiah.

Q How old are they?

A Four and two.

Q All right. Now, do you know Ms. Lawson?

A Yes.

Q Can you explain to the jury a little bit about how you know her?

A Me and Ms. Lawson dated on and off in the past. We met when I worked at Walmart.

Q All right. And when did you first start dating Ms. Lawson?

A In 2015.

Q And where were you living at that time?
A I was still living in my house in [redacted]
Q That's that [redacted]?
A [redacted] Weaver Drive.
Q Did Ms. Lawson live with you at that time?
A She did at the very beginning of the relationship.
Q Okay. At some point, did y'all break up?
A We broke up in the middle of the year and she moved in Number 14.
Q Now, at some point did Ms. Lawson become pregnant with your child?
A Yes.
Q What was the child's name?
A Minor 1 .
Q And when was Minor 1 born?
A Minor 1 was born [redacted] 2015.
Q At the time Minor 1 was born, were you and Ms. Lawson living together?
A We were not.
Q She was living in Lot 14, you said?
A Yes.
Q You were in Lot 6?
A Yes.
Q Was anybody else living with you in Lot 6?
A Ms. Tuckus, Emily Tuckus.

Q Okay. She goes my Rachelle?
A Yes.
Q And did she -- did y'all have kids together at that time?
A Yes, we did.
Q Caroline and Nicholas?
A Yes.
Q Did they all still live with you at that residence?
A Yes.
Q All right. Now, at the time that Minor 1 was born in [redacted], were you and Ms. Lawson still in a relationship?
A We were not.
Q Y'all had broken up?
A We were broke up.
Q At some point after that, did y'all get back together?
A At the end of December 2015.
Q So December of 2015, you got back into a relationship with Ms. Lawson?
A Yes.
Q But you still lived in [redacted] -- [redacted] with Rachelle, correct?
A That's correct.
Q Now, I guess the obvious question is if you were in

a relationship with Ms. Lawson, why were you still living with Rachelle?

A I was still living with Rachelle for the simple fact that she was a single mother with both my kids; she wasn't working. I was helping support her. I didn't accept Heather's living conditions either.

Q So at that time, you were the sole provider for her and your two children?

A Yes.

Q And after, I guess, were you and Ms. Lawson still together in June of 2016?

A We were.

Q At some point, did y'all actually get engaged?

A Yes, in February of 2016.

Q All right. And you were still living with Rachelle at that point?

A Yes.

Q How did Ms. Lawson feel about your living arrangements?

A She didn't like it, very jealous.

Q Is it fair to say that was an issue in your relationship?

MR. WILLIAMS: Objection to leading.

MR. MCNAIR: I can rephrase it.

THE COURT: Just rephrase the question.

BY MR. MCNAIR:

Q Did Ms. Lawson express to you how she felt about your living arrangement?

A She did.

Q And what would she say?

A She didn't approve of it; she didn't like it because she wanted to know why I wouldn't I live with her.

Q Was that a frequent conversation in your relationship?

A Yes.

Q Were you able, I guess, because you were living with Rachelle and you had two kids with her, were you able to spend much time with Ms. Lawson and Minor 1?

A I was not. I worked multiple jobs; I stayed busy.

Q And did Ms. Lawson express her feelings about that to you?

A She did.

Q And what did she say?

A That I don't spend enough time with her or Minor 1 .

Q Was that a point of contention in y'all's relationship?

A Yes.

Q Was that an issue that frequently came up?

A Yes, it did.

Q At times, would you go over to Ms. Lawson's trailer

for the purpose spending time with Minor 1?

A I did.

Q And what typically would happen when you did that?

A There would be times that I would try to spend time with her, but we would end up in the other room doing something else.

Q Such as?

A Sex.

Q Now, where you working in June of 2016?

A I was working for Carolina Convenience. The store was located on Two Notch Road.

Q All right. What was your position at that time?

A I was the store manager of that store.

Q Did -- did Ms. Lawson have a job?

A She did.

Q Where did she work?

A She worked at Carolina Convenience as well. She was the store manager of my old store on Forest Drive.

Q What was her position?

A She was a store manager.

Q Now, who would typically take care of Ms. Lawson's kids while she was at work?

A She had a babysitter. The most recent one, Monica Wise.

Q Is that someone that you knew or that she knew?

A It was someone that I knew, that I trusted.
Q So you set Ms. Lawson up with Ms. Wise as a babysitter?
A That's correct.
Q Now, let's talk about June 25th, 2016. Were you working that night?
A I was doing Uber that night.
Q Was Ms. Lawson working?
A She was at the store, yes.
Q All right. Do you know whether or not she was actually scheduled to work that night?
A As far as I know, she was not scheduled. She was just short-staffed.
Q So -- so when you're short-staffed as a manager, you have to cover for whoever is not available?
A Yes, and she didn't have an Assistant Manager at the time, so it was left up to her.
Q Did she -- are you aware of whether or not she had child care that night?
A I was not aware of that at the time until I asked her why she's working.
Q Well, at some point, did you see her that night on the 25th?
A I did. I came by the store just before the shift was ending.

Q Okay. What store was that?
A On Forest Drive.
Q Okay. And who was with her at the store?
A The three children were.
Q Now, you mentioned three children. You are the father of Minor 1?
A Correct.
Q Were you the father of the other two?
A No.
Q What are their names?
A Minor 2 and Minor 3.
Q Does Minor 2 go by another name?
A Minor 2.
Q About what time did you go by the store?
A That had to be somewhere before 11 o'clock p.m. that night.
Q Now, were you there the whole -- I guess when Heather, Ms. Lawson, left the store that night?
A I was there until she left.
Q During any time, did she ever inform you that Minor 1 had fallen?
A She did not.
Q Did you see any injuries whatsoever on Minor 1 when you went to the store?
A I did not.

Q Did Minor 1 appear fine to you?
A Yes, she actually seemed like she was happy.
Q And you were with her and her children up until the time she left the store?
A Yes.
Q Did you watch her get into her vehicle?
A Yes, I did.
Q Did you watch her -- were you present when she loaded her children into the vehicle?
A Yes, I was.
Q Did you ever see her hit Minor 1 's head on the door frame of her car?
A I did not.
Q Did you ever see her hit Minor 1 's head on the door frame of the gas station?
A I did not.
Q Did you and Heather leave together that night?
A Yeah, but I didn't -- I didn't like -- I didn't go where she went.
Q Y'all left at the same time?
A We did leave at the same time, yeah.
Q You remember approximately what time that would have been?
A It had to be somewhere around 11:30 I believe.
Q And do you know where Heather was going?

A She should have been going home.
Q Where did you go?
A I was going to continue Ubering for the night, but I ended up going home to.
Q All right. And why did you end up going home?
A I decided to take her shift the next morning. So I didn't want to stay out until three in the morning, so I went home to get some sleep.
Q All right. So she was scheduled to work the next morning?
A She was.
Q And you made the decision to volunteer to take her shift?
A Yes.
Q At some point after y'all left the store, did you have a conversation with her?
A We did.
Q And where did that -- how did that conversation take place?
A She wanted me to stay the night at her house.
Q Was that a conversation you had in person or was it over the telephone?
A It was over the phone.
Q And she wanted you to stay the night?
A She wanted me to stay the night.

Q And what was your response?
A I told her I didn't want to, that I was just going to go home and stay at my own house.
Q What was her reaction to that?
A The same reaction she gave all the time. She wasn't happy.
Q The next morning, on the 26th, what time did you go into work?
A I went in at six in the morning.
Q All right. How long did that shift last?
A Up until about 11 o'clock in the morning.
Q Prior to leaving the store that morning, did you have a conversation with Ms. Lawson?
A Yeah, we spoke a couple of times on different issues at the store.
Q On the phone, did she ever mention anything to you about Minor 1 being lethargic or sick?
A She did not.
Q Did she ever mention anything about Minor 1 having any bruising that morning?
A She did not.
Q Now, did you make plans to go to her house at some point on the 26th?
A I did.
Q And did you, in fact, go to her house?

A I did.
Q That was after you left work?
A Yes.
Q What time did you get to her house?
A I would have gotten there around noon.
Q And what was the purpose of your visit?
A Just to visit. We -- I was there maybe about 30 minutes and we had sex.
Q Now, did she let you in the door or did you let yourself in?
A She let me in the door. She actually had it unlocked. The door was already unlocked and she warned me about it when I told her I was on the way.
Q All right. When you walked in the door, did you see the other kids?
A I did.
Q Where were they?
A They were all in the room asleep.
Q All three of them and that's the room when you first walk in?
A That's the room when you first walk in. That's the children's bedroom.
Q And then where did you and Heather go at that point?
A We went to the master which is on the other side of

the house.

Q And you had sex?

A Yes.

Q After y'all finished having sex, did y'all discuss anything?

A I just told her that I was leaving because I needed to get going. I had to go jogging with my friend, Mark.

Q Did she escort you out of the master bedroom?

A Yes.

Q Where were the kids at that point?

A I did notice Minor 2 was up. He was sitting on the couch in the living room. Minor 3 was still asleep and Minor 1 was awake.

Q All right. Now when you left, was Ms. Lawson with you?

A When I left, she walked me all the way outside.

Q She walked you all the way to the door?

A Yes.

Q And you just testified that Minor 3 was still asleep?

A Yes.

Q Did you see Minor 1?

A I did.

Q What was she doing?

A She was sitting up in her pack 'n play smiling.

Q And how far away is the pack 'n play from the door?

A Literally a couple of feet. The room is extremely small.

Q Could you see her clear as day?

A Yes.

Q Did you see any bruises whatsoever on her forehead?

A I did not.

Q She appear fine?

A Yes.

Q Did you and Ms. Lawson have any conversation prior to you leaving?

A Yeah, she didn't want me to go. She wanted me to stay. She said that I didn't need to go running with Mark.

Q Your plans were to go running with your friend, Mark?

A Yes.

Q And what time were you supposed to meet Mark?

A I was supposed to meet him at one o'clock at the dam.

Q What time did you leave Ms. Lawson's residence?

A I left between 12:40 and 12:45.

Q And did you inform her of what your plans were, to go running?

A Yes.

Q So what did you do after you left?

A I went straight home to see my other two children

before I left. I became exhausted and was really tired and I decided to go take a nap in the other bedroom.

Q So you went to your house?

A Yes.

Q Where Rachelle was?

A Yes.

Q And you took a nap?

A Yes.

Q You didn't go running?

A No.

Q Now, have you been in Ms. Lawson's trailer multiple times?

A That day?

Q No, just over the course of your relationship?

A Yeah.

Q Now, from Ms. Lawson's trailer, are you able to see where your trailer was?

A Yes.

Q And would you be able to see your vehicle still there?

A Yes, she could see my car because I parked behind Rochelle's vehicle.

Q I'm going to show you State's 9. Can you point out which trailer was Ms. Lawson's?

A This one.

Q All right. Can you point out where you live?
A This one right here. This is my car.
Q Okay. So that's not very far at all, is it?
A No.
Q After you left her trailer that day, when was the next time you communicated with her?
A I had some messages on my phone when I woke up around three and I responded back to the messages.
Q What type of messages were they?
A They were messages about why didn't I go running. I believe around one we did have some messages; I was asking about toilet paper if she had any. She said they were in her mom's vehicle and she asked me if I wanted to get them and she -- if she wanted to go get it and I said no, I'm fine.
Q Okay.
A She needed it too though.
Q The last message you recall receiving from her was around three?
A Yeah.
Q And what was the nature of that message?
A Why didn't I go running with Mark.
Q Okay. Was that a text message or --
A That was I believe a Facebook message.
Q All right. Well, after that when was the next time

you saw Ms. Lawson?

A It was a little after five. Someone's beating, shaking hard on the door and crying. So I opened the door and Heather was outside.

Q What did she say?

A Minor 1 is dead.

Q Did you ask her what happened?

A Me and Rachelle both asked her what happened. She said that she believed the kids were in the playpen.

Q She say anything else?

A No, she just told me the kids were in the playpen.

Q All right.

A And she believes that they had stomped her.

Q Do you recall giving a written statement to law enforcement?

A Yes.

Q You gave that on the day of the incident, correct?

A Yes, sir.

Q Would it help to refresh your memory as to exactly what she told you?

A Sure.

(Showing the witness his statement.)

BY MR. MCNAIR:

Q Just take a second and read over that.

A (Reading.)

Q Does that refresh your memory?
A Yes.
Q What exactly did Ms. Lawson tell you?
A She said she took the kids out and discovered the blanket was over them -- or over the baby. She took the blanket off and the baby was facing face down.
Q Okay. Did you observe her to have her phone with her?
A She did have her phone.
Q Are you sure about that?
A No.
Q Do you know whether 9-1-1 had been called yet?
A 9-1-1 was not called. I believe I saw the phone in her right hand.
Q All right. Well did somebody call 9-1-1 in your presence?
A Yes.
Q Who was it?
A Emily Gray did. Rachelle.
Q Rachelle called 9-1-1? All right. What did you do at that point?
A When she called 9-1-1, I proceeded to put Heather in my car and drove up the driveway back to the house -- back to her house. We both went inside and I asked her again what happened and she said the same thing. I told

her to call 9-1-1 immediately.

Q So she called 9-1-1 in your presence at her house?

A Right.

Q What did you do at that point?

A I just kind of stood there while she was on the phone with 9-1-1. When she started getting instructions on CPR, she handed me the phone and I tried to do the CPR myself with the operator's instruction.

Q Where was Minor 1 when you first got there?

A She was still in the pack 'n play.

Q Do you remember what position she was in?

A She was still face down.

Q Did you move Minor 1 at any point?

A By instruction of the 9-1-1 operator, I picked her up.

Q And where did you put her?

A I laid her on the floor as instructed.

Q Okay. And would that have been on the floor between the door and the pack 'n play?

A Yes.

Q Were you going to attempt to do CPR?

A Yes.

Q Were you on the scene when the first responders got there?

A I was.

Q At that point, did you go to anymore interaction with Minor 1?

A I did not. The first responder came in, picked her up off the floor, and right out the door.

(State's Exhibit Number 10 was marked for identification.)

BY MR. MCNAIR:

Q I'm going to show you what's been marked as State's Exhibit 10. Can you tell me whether or not that is a fair and accurate diagram of Ms. Lawson's trailer?

A It is.

MR. MCNAIR: Your Honor, we'd offer State's 10 into evidence at this point?

MR. WILLIAMS: Without objection, Your Honor.

THE COURT: State's 10 is in evidence without objection.

(State's Exhibit Number 10 was entered into evidence.)

MR. MCNAIR: Permission for the witness to step down, Your Honor?

THE COURT: Yes, sir.

Keep your voice up for me, Mr. Tuckus, please, sir.

THE WITNESS: Yes, sir.

THE COURT: Thank you.

(The witness stepped down in front of the jury.)

BY MR. MCNAIR:

Q Stand on this side over here.

All right. Can you show the jury where, I guess, the front door of the residence is that you would have entered?

A (Pointing.) --

THE COURT REPORTER: I can't hear him.

BY MR. MCNAIR:

Q Speak up.

A I'm sorry. This is the front of the entrance right here where I would have entered.

Q All right. And where is the pack 'n play where Minor 1 was?

A This is the pack 'n play right here.

Q All right. And where were the other kids sleeping?

A The other two beds were over here in the corners.

Q So all the kids were in that first room when you walk in the door?

A Yes.

Q All right. What is this room?

A This is the kitchen.

Q All right.

A That's the master bedroom.

Q Okay. So the master bedroom is where y'all had sex?

A Yes.
Q When you left you said you saw Minor 2 in the living room area?
A Yes, he was on the couch.
Q And Minor 3 and Minor 1 were still in this room?
A Yes.
Q Now, if you're in the master bedroom and a child was crying in this room, would you be able to hear that in this room?
A Yes.
Q The sound carries very well?
A Yes.
Q It's not a big trailer at all is it?
A No, it's the shortest one.
Q You may have a seat.

(The witness returned to the witness stand.)

(State's Exhibit Number 11, Number 12, Number 13, Number 14, Number 15, and Number 16 was marked for identification.)

BY MR. MCNAIR:

Q I show you what's been premarked as State's 11 through 16. Take a second and look at those and tell me whether or not you recognize those.
A I do.
Q All right. Are all of those photos fair and

accurate representations of the way Ms. Lawson's trailer looked on June 26th?

A Yes, sir.

MR. MCNAIR: Your Honor, we'd offer State's 11 through 16 into evidence at this time.

MR. WILLIAMS: Without objection, Your Honor.

THE COURT: State's 11 through 16 in evidence without objection.

(State's Exhibit Number 11, Number 12, Number 13, Number 14, Number 15, and Number 16 were entered into evidence.)

BY MR. MCNAIR:

Q I show you State's 11, can you tell the jury what that depicts?

A That is the front entrance of the -- of the children's bedroom and the front entrance of the house as well.

Q All right. That's the door you entered?

A Yes, sir.

Q State's 12?

A That would be the pack 'n play. And the pink bed would be the one Minor 2 slept on. The bed that's off to the left that you can't see is Minor 3's.

Q All right. This is the pack 'n play, correct?

A That's correct.

Q Where would the front door be?
A The front door would be to the right off the picture.
Q Right here somewhere?
A Yes.
Q This is the bed you said who slept in?
A Minor 2 did.
Q And that's Minor 3?
A Minor 3.
Q State's 13?
A That is the kitchen area.
Q And that is -- the kitchen is just adjacent to the room where the kids were?
A Yeah, over to the left is the entrance way to the kid's bedroom.
Q This right here is the kid's room?
A That's correct.
Q State's 14?
A That's standing in the kitchen area looking into the living room.
Q So the master bedroom would be on --
A All the way at the end to the right.
Q Okay. State's 15?
A The master.
Q State's 16?

A The bathroom.
Q In the master bedroom?
A Right. It's got two entrances; one is in the master and one is in the hallway.
Q Okay. Are you aware of whether or not Ms. Lawson had health insurance for Minor 1?
A She had medicaid for all the kids and herself.
Q Are you aware of whether or not she had benefits that would provide for baby food and formula and things of that nature?
A She did.
Q One more question. Did you do anything to harm Minor 1 ?
A No.
Q Thank you.

THE COURT: Thank you, Solicitor.

Mr. Williams.

MR. WILLIAMS: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q Mr. Tuckus, I'm going to ask you a couple of questions to make sure I understand. I want you to speak up because I was having a hard time kind of hearing you.
A I apologize.

Q You met Heather when?
A At the beginning of -- well I met her when I worked at Walmart; that was in 2014.
Q All right. You were working at Walmart?
A Yeah, for a few months.
Q And was Heather working at Walmart?
A At the same time, she was.
Q So that's where the two of y'all got together?
A That's where we met. She was with her ex John Pillsbury?
Q And she has two children with her ex, John Pillsbury, right?
A That's correct.
Q And y'all hit it off, so then y'all moved in together, right?
A At the beginning of 2015.
Q And y'all moved into together in which location?
A She moved in with me in my house.
Q Okay.
A Lot Number 6.
Q So she moved into your house with you?
A Right.
Q And she remained there until when?
A Until the middle of the year, which would have been around July.

Q And why -- and July what?
A 2015.
Q July of 2015. Why did she move out in July of 2015?
A I moved my -- at the time, my ex, Rachelle, I had moved her back in with me. She had some complications with a pregnancy that she was in. She was currently pregnant with Caroline.
Q All right. Let me -- let me back up here. So you and Heather, who was your girlfriend, were living together in your house and you moved in your ex in your house and she moved out because she didn't like that, right?
A She moved out. I kind of told her she had to move into the other house.
Q So you threw -- you told her to leave from where she was staying and she had to find another place so that your ex could stay there with you in that location?
A Right.
Q Because she was having complications with her child. Was this her child with you?
A Yes.
Q Well, now you said her child with you. When did -- when did she become your ex -- had y'all been married?
A No, we got married this year.
Q So was she pregnant at the time that you moved --

that you left her and then moved Heather into your trailer?

A She was pregnant with Caroline.

Q So you -- were y'all living together at some point in time?

A Me and Rachelle?

Q Yes.

A Yeah, from 2012.

Q So you were living with Rachelle from 2012 until at some point in time, 2015, and then she made you move out; is that right?

A No, I stayed there; Rachelle moved out. She went back home to Rock Hill.

Q Okay. So you -- so she moved to Rock Hill?

A Right.

Q And when she moved to Rock Hill --

A Heather moved in with me.

Q She was pregnant with your child?

A Right.

Q And did you have another child with her?

A Nicholas.

Q All right. But that would have been later on, right?

A No, Nicholas was the first born; Caroline was the second.

Q Okay. So you had two children with her and she

moved out, she went back home to Rock Hill, you met Heather, you moved Heather in, got Heather pregnant, and then sent Heather away while you let your ex move back into your trailer because she was having hard time?

A She was having complications and also she didn't have a job. Heather had a full-time job and she could support herself.

Q Well, did you have a full-time job?

A I did.

Q So you can support all the children if you wanted to, couldn't you?

A My children I could, yes.

Q Okay. Well, so you had those two children with her, then you get Heather pregnant and she has to leave to take care of that child, but you had -- you had another child with a woman by the name of Vera, didn't you?

A Yes, I did.

Q Now who is Vera?

A Vera was a girl that I had dated before me and my second wife split up, before Rachelle.

Q Who is your second wife?

A Melissa Tuckus or Melissa Harris now.

Q All right. All right. Let me take you sequentially back. You got a young lady that you moved in with you in 2015 and you moved Heather out; who was the

lady before this lady that you had two children with?

MR. MCNAIR: Judge, I'm going to object to relevance.

THE COURT: Overruled.

BY MR. WILLIAMS:

Q Who was this lady that you -- that you had before this child that was having trouble with her child and --

THE COURT: Identify who that is. You've said her name several times.

BY MR. WILLIAMS:

Q Is it Michelle?

THE COURT: Is it Rachelle or Michelle.

THE WITNESS: You're thinking of Rachelle, which is Emily.

BY MR. WILLIAMS:

Q It's Emily?

A Yeah, her actual name is Emily; she goes by Rachelle.

Q Okay. So I'll call her Rachelle. So you had two children with Rachelle. One of the children she was having trouble, you're talking about --

A She was having complications. Caroline wasn't born yet. She was still pregnant with Caroline. Caroline was born [redacted] 2015.

Q But you had -- had a child with another lady before

that. Would that be Vera?
A Yes.
Q So now where did Vera live?
A Vera lived in Irmo with her husband.
Q So Vera is married and she gets pregnant with your child by the name of Vera?
A Yes.
Q Okay. And when was this?
A I want to say Vera got pregnant in -- I'd say around 2012.
Q Okay. So Vera gets pregnant in 2012. You never lived with Vera because she was already married to somebody else?
A Right.
Q So you didn't have to pay child support for that one?
A No, I didn't.
Q Okay. So then you get Rachelle pregnant with two children. She can't take care of those two children, you move them in with you because you have a job and she doesn't have a job?
A That's correct.
Q And you said Heather --
THE COURT: Step up here for a minute. Step up here a minute.

(There was a bench conference out of the hearing of the jury and the court reporter.)

THE COURT: All right. Let's move along, Mr. Williams.

BY MR. WILLIAMS:

Q Okay. So -- so you had the child by the name of Vera in 2012, you and Rachelle get together and you have two children; you move her in in 2015 and move Heather out, who is pregnant, because she's got a job, correct?

A (Witness nodded head.)

Q But you now had another child, didn't you? You had a child by the name of Brandon?

A That was my first born.

Q Okay. Now --

THE COURT: When are we talking about. What year we talking about?

BY MR. WILLIAMS:

Q Yeah, what year was Brandon?

A Brandon was born in 2006.

THE COURT: That's a little -- that's eleven years old. That's not relevant.

BY MR. WILLIAMS:

Q Well, you made the comment that -- that Heather was taking care of your child, Minor 1, and that you had problems because -- with her because she wasn't a good housekeeper,

she didn't keep the place clean?

A That's correct.

Q Did you offer any money to help with the housekeeping, the food for the child?

A I offered to help several times and her family offered to help several times. Whenever the help is given, she didn't keep up with it.

Q So you -- so you were paying child support for Minor 1, right?

A I was not paying child support for Minor 1.

Q But you were concerned about Minor 1, you just weren't going to pay any money to support the child or have anybody help her with the child and she was working a job to take care of the child?

A Me and Heather had an agreement. As long as I gave her money to help her out every now and then, it was fine. That was the agreement that me and her had verbal.

Q What agreement did Minor 1 have?

THE COURT: I don't understand that question.

BY MR. WILLIAMS:

Q What did you do with Minor 1; what -- how did you take care of Minor 1?

A I spent time with her when I was actually there at the house when I could. Even if it was one minute or five minutes, I still spent some time with her.

Q And that's what you were saying when you said that you were upset because you came to visit with Minor 1 and she wanted to have sex with you; is that right?

A That's correct.

Q Okay. So, you are -- you had a job back then as an Uber driver, right?

A I did.

Q And when did you become an Uber driver?

A I became an Uber driver just before the incident of June happened. It was two weeks before that.

Q When was the first time that you drove any type of vehicle for Uber?

A It was in that month.

Q Was it before or after the death of Minor 1?

A It was before the death of Minor 1.

Q So you hadn't been collecting any money from Uber yet, right?

A They paid out every week. So the first -- the first week didn't pay, so the following week.

Q Now, at the -- what's the name of the convenience store you work for?

A Carolina Convenience.

Q And that's the same group of stores that -- that Heather works for, right?

A That's correct.

Q Now, is it against policy for the two of y'all to have children together and work for the same store?

A There is no set policy about children. There's a set policy about two managers dating or actually me being her supervisor when she was my assistant manager. There was nothing written about children; it's about me being over her and we didn't work together.

Q And so did you keep that secret when you were at work in regards to --

A We kept it secret.

Q So you never told anybody, even though you were her supervisor that, you know, that she had your child and you just didn't let everybody know that?

A That's correct.

Q Now, when you went to -- to Heather's house that day, you arranged that or she arranged that, how? Did y'all do that over the telephone that you would be there --

A We did it -- we did it over the phone and instant messaging.

Q And -- and that basically you were coming over to see the child, so that information will be in the messaging that you have. It will say that you're coming over to see the child, right?

A We were discussing us seeing each other not the children.

Q So the messaging that -- that -- that you had is really not going to say anything about coming over to see the child, is it?

A No, it's talking about me and her seeing each other.

Q So which one is a more accurate statement; were you going over to be with her or were you going over to be with the child?

A That day I was going over to be with her.

Q So why did you say earlier that you were going over there to see the child?

A I didn't say that. I said in the past, other times I visited her, I wanted to come see the child.

Q But just not on this particular occasion?

A That day we were coming to see each other.

Q And what was your purpose in going there?

A What me and her had talked about before that, just to have sex.

Q Now, the door -- there's only one door that you could go in at that trailer, right?

A There's one door in the front and there's one door in the rear. The rear door is not accessible.

Q So you can't go in the back door, the rear door, you can't go in or out that door?

A No, there is no steps.

Q And what is the status of the front door that you can go in?

A The front, there was nothing wrong with the front door. There was actually a maintenance guy that put that door on there with a new set of locks.

Q Well, had there been a problem that you had to use a dead bolt every time to keep the door firmly secure?

A With the previous door, yes, she had to use the dead bolt.

Q Let me ask you this: You mentioned a maintenance man?

A That's correct.

Q Do you have a job at the trailer park?

A I'm the property manager.

Q So you are the property manager, but you're not the maintenance manager?

A No, I'm not.

Q And as property manager, do you possess keys to Heather's trailer?

A The landlord possessed the keys in a locked facility in the shed.

Q Did you have access to the keys to Heather's trailer?

A I have access to all the units in the property.

Q And did you normally carry those keys on your belt?

A No, I did not.
Q Where did you carry the keys?
A I left the keys in the shed. If I went over to Heather's house, I got the keys out.
Q So if you went to Heather's house, you got the keys out; you didn't go over there and knock on the door and ask Heather to come meet you at the door, right?
A Me and her arranged beforehand every time that I would come over; I am coming over or I would send a message and say, Hey, I'm coming over.
Q So you didn't necessarily need her to open up the door because you had your own set of keys?
A I could use the set of keys if I needed to.
Q And have done it in the past?
A Pardon?
Q And have done it in the past?
A No, I've not done it in the past.
Q Well, on this particular day when you came over, is it your testimony that Heather met you at the door?
A The door was left unlocked.
Q So on June the 26th --
A She was in living room.
Q She did not meet you at the door then.
A No, she was in the living room.
Q So you come in?

A Uh-huh (affirmative response).
Q And you find her in the living room?
A That's correct.
Q And the children are all sleeping?
A That's correct.
Q And, then you take her from the living room and you go into -- into the master bedroom and you have sex with her; is that right?
A That's right.
Q Now, you indicated that the biggest argument that you had with her was that she wanted to see you all the time; is that right?
A Yes.
Q Do you find it unusual that the person you're having sex with and have your child, wants to see you?
A I guess not, no.
Q It doesn't sound quite as strange when you say it out loud, does it?
A No.
Q So when you -- when you have sex with her in the master bedroom, had y'all had any discussions about you having to pay child support?
A We had not.
Q You had not had any discussions with her --
A Not that day, no.

Q Well, tell me about another day; had you had discussions about having to pay child support another day?

A In the past, like I said before, we discussed about if I had the money, if she needed it, I would give it to her.

Q Well, did she have comments with you about that she was going to start making you pay child support?

A No, she did not.

Q How did you feel about the fact that she might make you pay child support for this child?

A I wouldn't have had a problem with it.

Q But you weren't going to volunteer?

A I take care of my children if I need to.

Q When is it that you determine you need to take care of the children? When have you shown that you would do that?

A If she told me that she needed the help, I would give her the help. I'm not there all day all the time to determine that.

Q Okay. So you tell her that you're going to go run the dam and sell a cell phone; is that right?

A That's correct.

Q But you had no intention of doing that, right?

A I had intentions to do that, but I was exhausted.

Q When is it --

A I was out until twelve o'clock the night before and then I had to be back at work at six in the morning.

Q So when you told her that, you did have the intention to go and meet some guy at the dam and sell him your cell phone; is that right?

A I had intentions to run with somebody. The person I was meeting to sell the cell phone was going to meet me at Walmart.

Q And when was it that you canceled those plans?

A When I got to the house.

Q So you went back to the house before you decided to cancel the plans?

A Yeah.

Q And -- and you made the comment --

A And actually -- and to make sure that's clarified, I went back to Lot 6, my own home. That's when I cancelled the plans.

Q Okay. So you stated that she could see your trailer?

A She can.

Q So that she can see that you were not going to the dam or going to sell the cell phone?

A That's correct.

Q Why -- why is that a point; why didn't you just tell her you weren't going to do it; why tantalize her with

that and just not go out there and let her see your car there?

A I didn't feel I had to.

Q You made note that she would be able to see that you weren't going to do it, right?

A Right.

Q Was that more like in your face or something or what was the purpose behind that?

A Just me not doing it? I just decided I wanted to go to sleep.

Q Okay. So is it your testimony that you never came back into that trailer?

A That is correct.

Q And the last time you saw your child, Minor 1, she was sitting up laughing?

A Smiling.

Q Had no bruises on her?

A No.

Q And then, Heather comes over, she's all upset and she's crying, right?

A Right, hysterically.

Q And she's talking about, it must have been the kids who done something to her?

A That's correct.

Q And then we go through this and you go in there and

you hear all of this about whose going to do the CPR. The bottom line is that neither you nor Heather actually performed CPR on this child?

A I tried to with the 9-1-1 operator's help, but just as I started the -- the EMS responder walked in the door or the firefighter responder.

Q What part of trying to do CPR did you do; what part of the process did you do?

A As instructed, I laid her down and then I was told to try and cradle her head. After that is when the guy walked in. So I didn't go any further.

Q So when you found the child, where was the child in the trailer; how was the child positioned in the trailer?

A She was in her pack 'n play and she was face down.

Q So you could see at that point in time if there was any injury on the back of the child's head, couldn't you?

A You could.

Q Did you tell anybody that there was an injury on the back of the child's head?

A I didn't notice it at first until she was turned over.

Q So the only thing you saw when you turned her over was the bruising that happened on her face?

A I saw the bruising on the front and I saw it over here and then I saw the blood at the bottom areas.

Q The blood?
A Yeah, like it looked like her blood or like the blood was cold in her or something, in her body. It was all like red.
Q Okay. And at that point, all the people come and they take the child away and you linger around the trailer, right?
A Yes, I was asked to stay by one of the officers that was out there.
Q And how long did you stay?
A I stayed there until I was allowed to leave by one of the detectives that was writing the case.
Q Who told you you could leave?
A That detective. He told me that once the crime scene officers were done taking pictures of my vehicle, I could leave.
Q Do you know who he was?
A I don't remember which detective it was.
Q How about the other two children that had been in the trailer; how did they -- how did they leave the trailer?
A I was asked by another officer to take them out. They questioned me where the mother was and I told them that she went to the hospital. They asked me if there was somewhere they could be and I said I could let them go stay

with Rachelle at my house.

Q So how did the children get to your house for Rachelle?

A I don't remember how they got there.

Q Could you possibly have left the crime scene and taken the children there?

A I don't remember.

Q Well, you heard the officer say that you weren't supposed to leave?

A Right.

Q But you don't remember whether or not you took them up there or not?

A No, I don't. I don't remember if somebody else came for them or if the officer escorted them up there.

Q So when you were allowed to leave, you went and got your car and drove away?

A I went back to my house at Lot 6. I got a BP shirt and I had to go and report to work because there was an emergency at the store that night.

Q And you drove your car to work that night?

A Yes.

Q So the tape was not up when you drove your car to work that night?

A The tape -- they -- they opened up the tape in front of my car.

Q They let you go?
A Yeah.
MR. WILLIAMS: That's all the questions I have, Your Honor.
THE COURT: Redirect, Solicitor?
MR. MCNAIR: Yes, sir, Your Honor.

REDIRECT EXAMINATION

BY MR. MCNAIR:

Q You mentioned previously that Ms. Lawson had EBT that provided food for her children?
A That's correct.
Q You know how much money she received from that?
A She got a little over $400 a month.
Q All right. And you never owed any child support or never paid any -- you were never ordered to pay child support?
A I was never ordered to pay.
Q So Minor 1 was no financial burden to you whatsoever, was she?
A No, I mean, like I said, if she needed diapers or something I paid for it if she asked me to.
Q If she asked you to help out, you would help out, but otherwise, she was not a financial burden to you?
A No.
Q As far as the child support, do you know whether or

not her first baby daddy owed child support?
A He did.
Q All right. What was his name?
A His name was John Pillsbury.
Q So he owed child support?
A He did.
Q And that was at the time this incident happened?
A Yes, he did.
Q Do you remember discussing that with her?
A Yes.
Q All right. Was she upset about that?
A Yeah, she made comments that she wished that he would pay her and stuff, but I didn't know about --
Q So she wanted John Pillsbury to pay her child support?
A That's correct.
Q For Minor 2 and Minor 3?
A That's right.
Q He asked you about your plans to go running. You worked -- how long did you work the night before on the 25th?
A Doing Uber, I stopped around midnight.
Q And you agreed to work her 6:00 a.m. shift the next morning, correct?
A That's correct.

Q So you were tired?
A Yeah.
Q Plans changed?
A Yes.
Q When you left the trailer that day, Minor 1 was fine?
A Yes, sir.
Q And Heather walked you out the door?
A Yes, she did.
Q No further questions.

THE COURT: Recross, Mr. Williams?

MR. WILLIAMS: No questions, Your Honor.

THE COURT: Excuse me?

MR. WILLIAMS: No questions, Your Honor.

THE COURT: Thank you. Thank you very much, Mr. Tuckus. You may step down.

How long is your next witness, Solicitor.

MR. MCNAIR: Not too long, Your Honor.

THE COURT: All right. Call your next witness please.

MR. MCNAIR: Your Honor, the State calls Emily Tuckus.

THE COURT: All right. If you'd come around, Ms. Tuckus.

EMILY ROCHELLE TUCKUS,

having been duly sworn, testified as follows:

THE CLERK: Have a seat please, ma'am. Once you're seated, state your full name spelling your last please.

THE WITNESS: My name is Emily Rachelle Tuckus. T-U-C-K-U-S.

DIRECT EXAMINATION

BY MR. MCNAIR:

Q Ms. Tuckus, you are currently married to Richard; is that correct?

A Yes, I am.

Q And your real name is Emily, but do you go by the name Rachelle?

A I do.

Q All right. What was your maiden name?

A Gray.

Q And were you the one who called 9-1-1 in this case initially?

A I did.

Q Now, when did you and Richard get married?

A We got married in January of 2017.

Q And how many kids do y'all have together?

A We have two.

Q Now, in June of 2016, what was the status of y'all's relationship?

A We were co-parents.

Q Okay. And you were aware of his relationship with Ms. Lawson?
A Yes.
Q And were you working at that time?
A I was working a part-time job, but nothing more than that.
Q Was Mr. Tuckus working?
A Yes.
Q And was he the primary provider for you and your children at that time?
A Yes, he was.
Q Now, on June 26th, 2016, were you home that day?
A I was.
Q Were you home all day?
A Yes, I was.
Q All right. Was Mr. Tuckus home that morning?
A He was not. He was at work.
Q When was -- when did -- were you aware of where he went after work?
A I did not know until he arrived at home where he had been.
Q And what time did he arrive home on the 26th?
A He got home between 12:45 and 1:00 p.m.
Q And what did he do after he got home?
A He spent time with our four-year old son, who was

-- he was three at the time. And then he went to bed. He took a nap.

Q And after he got home, did he ever leave the residence again that day?

A He didn't.

Q You were home all day?

A I was home all day.

Q And he was with you all day?

A Yes, he was in the bedroom. I was in the living room, which is right beside the bedroom. So if he had left, he would have had to pass me.

Q Okay. Now at some point, did Ms. Lawson come to y'all's house?

A Yes, she did.

Q Tell us what happened.

A It was about -- probably about 5:10, 5:15, there was banging on the door. I opened it, she was standing there hysterically crying, saying that Minor 1 was dead over and over and over and so Richard and I asked her what happened. She told us that she found Minor 2 or Minor 2, and Minor 3 in the pack 'n play with Minor 1. And that Minor 1 had a blanket over her. And then that's -- at that point, I called 9-1-1.

Q Okay. Do you recall if Ms. Lawson had her phone?

A I don't believe she did.

Q So you called 9-1-1?
A Yes.
Q And what did -- what did Richard and Ms. Lawson do at that point?
A They got in his car and then they went back to her house.
Q Did you ever go down to Ms. Lawson's house?
A I did not.
Q Did you ever see her other two kids?
A They were brought to me about 30 minutes to 45 minutes later, I think.
Q Do you know who brought them to you?
A I don't remember.
Q So you took custody of her other two kids?
A Yes, until about 11:00 p.m. that night.
MR. MCNAIR: I beg the Court's indulgence?
THE COURT: Yes, sir.
BY MR. WILLIAMS:
Q June 26th, 2016, your testimony was that Richard arrived home at what time?
A Between 12:45 and 1:00 p.m.?
Q Once he got home at 12:45 to 1:00 p.m., he never left the house again?
A He never left.
Q Until Ms. Lawson showed up, correct?

A Correct.

Q Thank you. No further questions.

THE COURT: Thank you, Solicitor.

Mr. Williams.

MR. WILLIAMS: May it please the Court.

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q Ms. Tuckus, did you ever give a witness statement to law enforcement?

A I did not.

Q So you would be the main person to corroborate what time your husband got home and nobody with law enforcement ever asked you to corroborate when he got home?

A I don't understand.

Q No one up until now has ever asked you to write a statement or to verify at what time your husband came home after the death of his child?

A That is correct.

Q How is that you remember that the child -- that your, and I call -- he's your husband now?

A Uh-huh (affirmative response).

Q That your husband came home between 12:45 and one o'clock?

A Our two year old, well she was one at the time, she was taking a nap, and I happened to look down at my phone

at one o'clock, it was a little after one, just to see how long she had been asleep and I know at that point he was already home.

Q And you remember that this extended period of time even though you really --

A I have a good memory.

Q So after you checked on your two year old and he was already in bed asleep; is that right?

A She, yes. She had gone down for a nap about an hour before then, so around then.

Q So she went to bed about noon, when your husband was over with her?

A Yes.

Q Then she woke up at one o'clock?

A No, she was not awake at that time.

Q Oh.

A I had checked the time to see how long she had been asleep for.

Q And your husband was already home?

A He was already home, yes.

Q And did you wake up when he came home?

A I was never asleep. I was sitting on the couch with our three-year old, Nicholas. We were watching movies.

Q Which movies were you watching?

A I think a Minion movie.
Q Okay. And did you have a conversation with Richard?
A Not really, no.
Q You didn't ask him --
A Sorry. I had basically just asked him how his day went and that was about it.
Q And how did he say his day had gone?
A He said it was fine, that he was tired from working that day.
Q He didn't tell you he was tired from doing something else, did he?
A No, he did not.
Q You had no idea that he was over there?
A I did not, until he told me.
Q Did you know he was still having a relationship with -- with her?
A I knew they were together, yes. Richard and I were not together at the time. So I knew that he and Heather were together.
Q And you didn't have any problems with that?
A It's his life. As long as he is there or was there for my children, what he did was his personal life was none of my business.
Q And that's the most important thing for you is

making sure that your children are taken care of?

A Yes.

Q That's why you married him this year?

A Yes.

Q To make sure that he's going to be around and take care of your children?

A Not necessarily. I married him because I love him. And yes, he's the father of my children, but if it had not worked out, then that's fine.

Q Now, you said you don't know who brought those children of Heather's back to you?

A Correct, I don't remember.

Q It happened 30 or 45 minutes after all this episode with the phone calls went on?

A The episode with the phone calls?

Q 9-1-1?

A Oh, yes. It was probably 30 to 45 minutes after, yes.

Q You have no idea who brought these children to your house?

A There were people coming in and out, including DSS We had sheriffs coming in and out, so I don't remember.

Q When was the first time you saw Richard after he ran down there?

A It was a few hours after.

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MR. WILLIAMS: That's all the questions I have, Your Honor.

MR. MCNAIR: Nothing further, Your Honor.

THE COURT: Thank you. Thank you, Ms. Tuckus, you may step down.

Let's take about a 15 minutes recess, ladies and gentlemen. Do not discuss the case during this brief recess. Remember to leave your notes in your chair.

(The jury left the courtroom at 3:50 p.m.)

THE COURT: All right. We'll take about a 15 minutes recess. Thank you.

(A recess was observed.)

THE COURT: Anything before we bring in the jury, Solicitor?

MS. MAYES: Nothing from the State, Your Honor.

MR. WILLIAMS: Nothing from the defendant, Your Honor.

(The jury entered the courtroom at 4:07 p.m.)

THE COURT: All right. Our jury is back in place. Solicitor, call your next witness.

MR. MCNAIR: Thank you, Your Honor. The State calls Tamir Patel.

TAMIR PATEL,

having been duly sworn, testified as follows:

THE CLERK: Be seated please, sir. Once you're

seated, state your full name spelling your last please.

THE WITNESS: My name is Tamir Patel. Last name is Patel, P-A-T-E-L.

THE COURT: All right. Solicitor?

MR. MCNAIR: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. MCNAIR:

Q Mr. Patel, where are you currently working?

A Currently right now I'm self employed. I bought a business in Florence County, South Carolina.

Q Where you working back in June of 2016?

A I was employed with Carolina Convenience Corporation which owns S-Mark gas stations.

Q How many gas stations do they own?

A We operated nine gas stations, five Hardees.

Q All right. Now, was Richard Tuckus employed by y'all?

A Yes, sir.

Q What was his position?

A Richard Tuckus was the general manager for one of our stores.

Q All right. Do you know which store hie was the general manager for?

A At the time he was at Forest Drive, but we transferred him over to Alpine Road, which is Alpine and

Two Notch.

Q What about Heather Lawson, was she also an employee of y'all's?

A Yes, sir. Heather Lawson was the general manager of the store on Forest Drive.

Q All right. Now, were you asked by law enforcement to provide surveillance video from the store Ms. Lawson worked on from the night of June 25th, 2016?

A Yes, sir.

Q All right. And what store is that again?

A We call it Store 107, which is the store on Forest Drive, the BP on Forest Drive.

Q All right. And was the surveillance system properly working that night?

A Yes, sir.

Q And did you confirm that the dates and times were working -- were correct?

A Yes, sir.

Q And you provided law enforcement with, I guess, a pretty lengthy video, correct?

A Yes, sir.

Q Do you know what -- how many hours that video was?

A I want to say it was an extended play, over three to four hours.

Q All right. And did that include all camera angles

at that store?

A It only included the camera angles pertaining to the area that -- that was wanted because the system is a DVR system and to burn everything on one CD or USB, you get too much information. So it didn't include like the parking lot, dumpster, or like images of the pumps. That's everything in the interior though.

Q Everything of the interior was on the video you provided law enforcement?

A Yes.

Q And since that time have you had time to watch an abbreviated version of that video, a cut-down version?

A Yes, sir.

Q All right. And was that consistent with what you provided to law enforcement?

A Yes, sir, it was.

Q I'm going to show you State's Exhibit Number 21 and ask you whether or not you can identify that?

A Yes, sir, I can identify it.

Q All right.

A It's the video with my initials.

Q Okay. And that's the abbreviated version of the video you provided law enforcement?

A Yes, sir.

MR. MCNAIR: Your Honor, we'd offer State's 21 into

evidence at this time.

MR. WILLIAMS: Without objection, Your Honor.

THE COURT: State's 21 is in evidence without objection.

(State's Exhibit Number 21 was entered into evidence.)

BY MR. WILLIAMS:

Q I show you what's been pre-marked as State's 20; do you recognize that?

A Yes, sir, that's the layout of the store.

Q And that's the layout of the store that you provided video for?

A Yes, sir.

MR. MCNAIR: Your Honor, we'd offer State's 20 into evidence at this point.

MR. WILLIAMS: Without objection, Your Honor.

THE COURT: 20 what?

MR. WILLIAMS: This is State's 20, I'm sorry.

THE COURT: State's 20 is in evidence without objection.

(State's Exhibit Number 20 was entered into evidence.)

BY MR. WILLIAMS:

Q Mr. Patel, would you mind sitting -- stepping down for a second.

A Sure.

Q Stand on this side over here please?

A Okay.

(The witness stepped down in front of the jury.)

BY MR. MCNAIR:

Q All right. Can you show the jury where the front doors to this store are?

A Yes, sir. This is the front doors right here.

Q All right. Can you show the -- explain what the other locations in this diagram are?

A Yes, sir, this is actually the front of the store, these are actually the glass doors, that's the front entry. So there are the beer cooler doors. This is the sales area right here. We have a cage so it's always down. So to enter the back foyer, you have to enter this doorway right here, which is a little bit tight on the hallway, so right here is where the entrance to the cooler is to stocking.

This is a small hallway where we have access to the office. And over here is the employee bathroom area. And over here is the access to the area for the cashier for the sales for the cigarettes and other items are. Back here is the access from the outside. This is actually a storage area.

Q Okay.

A Back in the day, way back in the day, this used to

be a bathroom, but it's locked up and dead bolted and it's full of back stock.

Q All right. So this area right here would be where the cash register is?

A The cash register and the cigarettes and other items.

Q Cigarettes and things of that nature?

A Yes, sir.

Q All right. And where is the office area?

A Located right here.

Q All right. And where is the bathroom?

A Right here.

Q Now does the bathroom in this facility have a changing station for babies or anything like that?

A No, sir. Unfortunately, it looks quite large, but you have a water heater, cleaning supplies, sink and then a commode. So you enter and there's a commode right here, a water heater and cleaning supplies and a sink and another commode right there.

Q So there wouldn't really be a place to change a baby in the bathroom?

A It's a very tight-fitting area.

Q All right. So where, I guess if you did have to change a baby, where would you have to change one?

A The only place available would be the sales floor.

Q Okay. That's the only room with enough space?
A There wouldn't be enough room here with a desk or even in here. The sales floor or actually the floor of the store itself.
Q All right. All right. And the -- the only entry and exit into the store --
A Is this way, the only way in and out. That's the only way.
Q All right. And what type of doors are those?
A They're both -- one's a magnetic swing, but they're both manual swing doors.
Q And they're swing doors?
A Yes.
Q Okay. All right. Have a seat please.
THE COURT: You used the phrase back in the day; I'm trying to figure what period of time are you talking about, back in the day?
THE WITNESS: I would say that, that it used to be a public restroom, but that was almost like ten or fifteen years ago.
THE COURT: Oh, I was talking about the '70s.
(Laughter.)
THE COURT: That's the area in front of the Providence Hospital, right?
THE WITNESS: Yes, sir, it's right in front of it,

yes, sir, pretty old.

THE COURT: It used to be Taste and Bake?

THE WITNESS: Yes, sir.

THE COURT: Do you remember that?

THE WITNESS: No, not really.

THE COURT: Thank you very much.

All right. Solicitor, you may ask your questions.

MR. MCNAIR: Thank you, Your Honor.

BY MR. MCNAIR:

Q Mr. Patel, let me show you some photos that have been marked State's 22 through 29. Take a moment and look at those.

A All right. (Looking.)

Q Can you identify those photos?

A Yes, sir. They're pictures of -- mainly of the hallway that enters into the employee only area and also the front of the store and the front entrance of the store as well.

Q All right. Are they all fair and accurate representations of the way the store where Ms. Lawson worked looked in June of 2016?

A Yes, sir.

MR. MCNAIR: Your Honor, we'd offer State's 22 through 29 into evidence at this point.

MR. WILLIAMS: Without objection, Your Honor.

THE COURT: All right. State's 22-29 into evidence without objection -- through 29.

(State's Exhibit Number 22, Number 23, Number 24, Number 25, Number 26, Number 27, Number 28, and Number 29 was entered into evidence.

BY MR. MCNAIR:

Q All right. State's 22, can you explain what this shows?

A That's the view of the front of the store from the office.

Q All right. And these are -- those are the doors you testified about earlier?

A Yes, sir.

Q The only way to get into -- in and out of that store?

A That's the only way in and out of that store.

Q State's 23?

A That is access to the employee only area, which is from this -- where the guests enter; and then to the left of the counter to the right of the beer coolers or the soda coolers, and that's how you get to the back area, which it gives you access to the hallway, the office, and other items.

Q Okay. State's 24, what does that show?

A That's showing the -- the entrance, but from the

inside of the store looking out towards the pumps.

Q State's 25?

A That is the view to the office. When you first enter that door in the employee only area, that's the door right there adjacent to it.

Q So this is the office area?

A Yes, sir.

Q State's 29, same thing?

A Yes, sir, it's the office area once you're inside the office looking outside the door.

Q State's 28?

A That's just entering into the -- the -- the employee only area, when you first enter, it shows how small the hallway is and that door is actually the door to the office with it closed.

Q This is the door that goes into the office?

A Yes, sir, that's the office door.

Q 27?

A The door straight ahead to you is the -- is the door to the bathroom. The door to the right, right in front is the door to the office.

Q Okay. And finally, State's 26?

A That's the employee only area door but looking inside the employee only area to the sales floor.

Q Okay. To the main area where --

A To the main area.

Q -- where customers would --

A Yes, sir, and you see the front door right there as well.

Q Okay. Mr. Patel, that's all the questions I have. Please answer any questions Mr. Williams has. Thank you.

A Okay.

THE COURT: Thank you, Solicitor.

Mr. Williams.

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q The pictures that you just identified, these -- since you did comment on back in the day, are these pictures accurate as to how the convenience store would look in June of 2016?

A Yes, sir.

Q That's all the questions I have.

THE COURT: Redirect?

MR. MCNAIR: Nothing further, Your Honor.

THE COURT: Thank you. Thank you for being here today, Mr. Patel. You may step down and you may excused.

All right. Solicitor?

MS. MAYES: The State calls Detective Adam Creech.

THE COURT: All right.

ADAM CREECH,

having been duly sworn, testified as follows:

THE CLERK: Have a seat, sir. Once you're seated, state your full name spelling your last please.

THE WITNESS: Detective Anthony Adam Creech. Creech is spelled C-R-E-E-C-H.

DIRECT EXAMINATION

BY MS. MAYES:

Q All right. And Detective Creech, tell us a little bit about yourself. Where are you employed and in what capacity?

A I'm employed with the Lexington County Sheriff's Department where I've worked for the last eight years as of this month. I've specifically been assigned to our major crime's unit for the last three years and within that unit, I currently work on the special victim's unit.

Q All right. Let me take you back a little bit further on that. How long have you actually been a law enforcement officer?

A As I mentioned, I've been a law enforcement officer for eight years as of August 24th.

Q All right. And tell us a little bit about your background and training that led you to becoming a law enforcement officer.

A Actually it's a funny story. Prior to becoming a law enforcement officer, I got a Bachelor's of Science from

USC in Biologic Anthropology and in a different time and place, I was going to go into grad school for Anthropology and stumbled into law enforcement with the one-time interest of working crime scene investigations. And since I got into law enforcement, not as interested in the crime scene investigations than the actual investigation.

So I worked for several years to work my way into criminal investigations where since getting in investigations, I've had substantial training in interview techniques in homicide investigations, child abuse investigations, child homicide investigations and numerous related trainings.

Q All right. So on this day of June 26th, 2016, I believe you said before that you were a detective within the major crimes unit?

A That is correct.

Q And specifically, within the major crimes unit, in the special victim's unit?

A That is correct, as well.

Q And can you tell us whether or not that includes crimes against children?

A That does include crimes against children.

Q Detective Creech, lead us up to the events in which you were notified of a death investigation involving

Minor 1 ?

A So on June 26th, 2016, it was a Sunday afternoon. I was actually doing some house projects and got a phone call from Sergeant Traci Barr, who was my supervisor at the time. We were the on-call shift, so that meant we had weekend duty. So we were on call 24/7 for any kind of major incident that came out that requested the services of major crimes. I was contacted by Sergeant Barr and notified that there had been a death of seven-month old, who is currently in route to Lexington Medical Center and I was notified that I would be the lead investigator on the case. And I was asked to respond to Lexington Medical Center to see the victim and go ahead and initiate my part of the investigation.

Q All right. What was your first action?

A My first action when getting to the -- well actually, let me back up. My first action was to contact the dispatcher who took the initial 9-1-1 call and try to get a little bit more background of what had happened. I was originally told that the caller was a woman named Heather and the seven-month old was her daughter -- her child and that there was an initial allegation that the on and the three-year old children in the home may have caused the fatal injuries to the child.

Obviously, that's not a whole lot to go on. I called the dispatcher and I spoke with Ms. Gunter, who you

heard from earlier today. She wasn't able to give me a whole lot of information because the call was still kind of fresh and there was a lot going on.

So then upon my arrival at Lexington Medical Center I made contact with our watch commander, who is Lieutenant Scottie Frier and I realize I'm talking a little fast, so I'm going to slow down. Lieutenant Frier and I, he directed me to where Minor 1 was located in ER Room 63, where I reviewed her -- her body and Lieutenant Frier kind of walked me through the initial injuries that had been identified. And at that time, he and I conferred that based on a lot of the unknown variables at the time the initial story that the children may have been involved, we didn't know what adults were in the home. We didn't know really the specific circumstances, but certainly the injuries made it appear that it was definitely a suspicious death.

So he and I conferred about arranging for the remaining two children that I had been notified were in the home, Minor 2 and Minor 2 , would be taken into emergency protective custody, pending the remainder of our investigation.

After doing so, he then directed me to where Ms. Lawson was located in a waiting room outside the ER, where I then proceeded to obtain statements from her about,

verbal statements, about the days events.

Q All right. Now when you say contact with Ms. Lawson there in the emergency room, were you aware that she had been a caregiver for the children during the day?

A It would be assumption that she would have been the caregiver being the mother of the decedent and the one who called 9-1-1. It would be very normal for us in those kind of circumstances to make contact with the parent or guardian and go ahead and start establishing timeline information, medical history, determining who else may or may not have been in the home and had access to the child, and any other relevant facts to help develop a suspect, should it prove to be a suspicious incident, which we were still working to determine.

Q All right. So that type of fact-finding information as to who was in the home and who had access to the child, can you tell us whether or not that's routine in such investigations?

A That is absolutely routine. The first step in any investigation is just to find who was in -- who was closely associated and ask them what happened.

Q All right. And tell us about your initial contact with Ms. Lawson, the defendant in this case.

A So when I made contact with Ms. Lawson at the hospital, she was not considered -- we didn't have a

suspect at the time. She was just the closest person who could begin to tell us what may have happened. When I asked her to tell me about what happened, she ultimately told me that she had gone home from work late the night before, about 11:44 p.m.

Q And I'm going to ask you to stop right there. I'm going further with that, so I'm going to ask you to slow down a little bit.

A Absolutely. So Ms. Lawson told me she had gotten home from work late the night before. She said it had been about 11:44 p.m. She said the next morning, which would be June 26th, the day in question --

Q All right. So let me stop you right there. Now where is this conversation with Ms. Lawson taking place?

A This is taking place in, for lack of a better description, a family waiting room in the ER.

Q And at this point in time, I believe you've already noted that you were able to actually observe Minor 1 ?

A Yes, I had seen Minor 1 prior to speaking with Ms. Lawson.

Q And at this point in time, she has been pronounced deceased?

A She -- she had been pronounced deceased upon my arrival at the hospital.

Q So I'm going to put ER.

Detective Creech, what time was it when you arrived?

A I checked that. I don't have an exact time. I had actually reviewed the call card. This is not unusual, because as an investigator, I don't have a mobile computer terminal with GPS tracking. I know I announced myself when I got to the hospital and I would have announced myself that I was clear from the hospital several hours later.

But for whatever reason, the dispatcher didn't note my radio track so there's not actually a log of me going to -- coming and going on the call card, if that makes any sense.

Q All right. You made contact with Ms. Lawson; who else is present?

A I initially spoke to her basically three back-to-back times. I kind of got Ms. Lawson to tell me what had happened. The first time was myself and Lieutenant Scottie Frier.

Q All right. And tell us about that, the information that she was able to provide specifically about the day of the event for the date of June 26th, 2016?

A So initially, she gave me a very broad story. She said she had put Minor 1 down for a nap that afternoon. She said she became concerned when she realized that Minor 1 was taking a longer nap than usual.

Q So let me stop you right there. She said that she had put Minor 1 down for a nap; did she give you a time for that?

A She did not.

Q All right. And are you taking notes during the course of this conversation?

A Yes, I'd be taking notes.

Q And the notes that you took during the course of this conversation with Ms. Lawson, ultimately, did you convert that into a report?

A Yes, I would have written my incident report based directly on these notes.

Q Please continue.

A So Ms. Lawson told me that she had checked on Minor 1 after putting her down for a longer nap than usual. She said that when she went to check on her, she found a comforter in her pack 'n play from her daughter, Minor 3's bed. Minor 3 was her on-year old daughter. She said she pulled the comforter out, she described that she could see Minor 1 rolling around inside the comforter as if she were wrapped up in it. She said that when she finished pulling the comforter out, she found Minor 1 lying face up underneath and not breathing.

Q All right. What else did she state?

A She said after finding Minor 1 like this, she said

she went to get the child's father, after which time, Lexington County Communication's Center was contacted.

Q All right. So went to get the child's father would refer to Richard Tuckus, who lived nearby, but not in the same residence, correct?

A That is correct. Initially, she only referred to him as the father, but she would go on to clarify that it was Richard Tuckus and she would explain the complex living arrangements.

Q All right. What else did she state?

A So Lieutenant Frier left shortly after that. Just standard procedure anytime somebody tells you something, you ask them to repeat it again, to see if they stay consistent, see if they remember anything else, see if you think of anything else that you didn't catch the first time. So I asked her again to go over what had happened and this time she told me that she had gotten home from work the night before at about 11:44 p.m. and she said she had woke up the next morning on June 26th about 9:00 a.m. along with the kids. She said they all slept in because they had gone to work with her the night before.

Q All right. She said she woke up around what time that morning?

A Around 9:00 a.m.

Q Okay.

A She said she fed Minor 1 breakfast, which she said was some baby food and some formula. She described it as being pretty normal. She noted, she described the rest of the day as being pretty uneventful until about between 1:40 and 2:30 p.m. she put Minor 1 down for a nap.

Q Okay. So at this point, she gave you a time for the nap?

A Yes, she was very precise; she said it was between 1:40 and 2:30 p.m.

Q Okay. She put her down for a nap?

A That is correct.

Q All right. What else?

A While Minor 1 was down for a nap, she said she spent the rest of the afternoon doing housework, which she described as vacuuming, laundry, picking up, bathing the older two children, Minor 2 and Minor 3, and then preparing dinner for Minor 2 and Minor 3.

Q All right. What else?

A She then went on to describe again how she discovered Minor 1 in the blanket that evening and this time while doing so, she said when she found Minor 1 in the pack 'n play wrapped up in Minor 3's blanket, she said -- she described Minor 2 and Minor 3, acting the way they would if they knew they were in trouble. I asked her if either of the children had actually said anything to her and she said

they did not.

Q All right. Please continue.

A Heather then repeated what she originally told me, that she ran to get the father, who at this time -- around this time she identified as Richard Tuckus. She said that she left Minor 2 and Minor 3 standing where they were in the trailer when she ran to Richard's trailer to get him.

Q All right. Did she state anything else to you in the emergency room during the course of this conversation?

A Not in the course of this conversation, but then she would repeat the story again a few minutes later. This time in the presence of Coroner Margaret Fisher.

Q All right. So the coroner also arrived?

A Yes, the coroner also arrived kind of in the process of me talking to Heather.

Q Okay. And can you tell us whether or not it's routine for the coroner also to ask the general fact finding questions as to what may have happened?

A Yes, that would be extremely routine. In an ideal situation, they are always there from the beginning when we -- and we try to do it together, so that we're not having to repeat effort. In this case, we didn't know when they were going to show up, so I went ahead and began my investigation, but then she got there and I was going to sit in while she basically conducted the same fact finding

interview. Just again, to kind of shore up that I had caught everything that I should have caught and to make sure nothing significantly changed or deviated or anything else was -- was otherwise brought to my attention.

Q All right. Now, in addition to telling you that she had put Minor 1 down for a nap between 1:40 and 2:30 p.m., did she ever indicate that Richard had come over at some point that day?

A Yes, at this point with the coroner, she did mention that Richard had come over that morning around noon, had been there, she said, about 15 minutes and she didn't really describe the interaction at that point, only that he hadn't been there very long and that he had to leave to deal with some, what she called at the time, pressing matters.

Q So her indication is that he had been there for approximately 15 minutes?

A That is correct.

Q And her statement to you was that that was before she had put Minor 1 down for a nap between 1:40 and 2:30 p.m.?

A Yes, that would be consistent with that previous timeline she gave me.

Q Did at any point Heather state anything to you about Minor 1 having bruises?

A No, and during this particular version of her

story, we asked her if there were any significant bruises on Minor 1 that she had noted that day and she -- she said that Minor 1 appeared fine. I think she talked about a small bruise from getting hit with a toy a few days before, but it sounded like it was nothing related to the injuries that I witnessed in the ER.

Q All right. So regarding the extensive discoloration of the forehead and other areas of the head?

A That is correct.

Q Okay. So no significant bruises were reported and you asked her specifically about that?

A I did.

Q At any point in time, did additional detectives arrive there at the hospital during the course of your communications with Ms. Lawson?

A They did. While I was speaking with Ms. Lawson, I later find out that Sergeant Barr had arrived at the hospital and was conducting a portion of this investigation while I was still interviewing Heather.

Q All right. And when you say Sergeant Barr, you're referring to Sergeant Traci Barr, who is present in the courtroom?

A That is correct.

Q All right. And Sergeant Barr was also, although not part of your conversation, she was also there to speak

with potential witnesses?

A That is correct.

Q Did that include medical staff?

A That is correct.

Q Now, based upon your work with law enforcement, who is Dr. Susan Luberoff?

A Dr. Susan Luberoff is a forensic pediatrician that we consult with extensively, typically in child abuse investigations and child death investigations. I'd say she is probably one of the -- the leading ---

Q All right. So let me -- let me ask you this: During the course of this investigation, do you have knowledge as to whether or not Dr. Susan Luberoff was consulted with there at the hospital?

A Yes, I was notified later on after speaking with Ms. Lawson, that Dr. Luberoff had been consulted.

Q All right. Do you know which detective made that call to her?

A It is my understanding that Sergeant Traci Barr made that phone call to Dr. Luberoff.

Q And so ultimately, did Dr. Luberoff arrive there at Lexington Medical Center after Minor 1 had been pronounced deceased?

A She did.

Q And do you know whether or not she had an

opportunity to examine Minor 1 ?

A She did.

Q Ultimately, following your verbal communications with Ms. Lawson, that you've indicated you took notes and converted to your report?

A Yes.

Q Did you have the opportunity to consult with Detective Barr as well as other members of law enforcement about how to proceed further?

A I did. Myself and Sergeant Barr and Lieutenant Frier all discussed the matter.

Q At this point in time, do you know whether or not they had had the opportunity to consult with Dr. Luberoff after she examined Minor 1 ?

A They did.

Q As a result, what decision was made about how to proceed?

A So based on Heather's initial statements that she had given, which didn't really seem to address the severity of the injuries that Minor 1 had, which were significant bruising to her forehead, the top of her head, the crown of her head, and the left base of her head, it just wasn't fitting with this notion that the one and three-year old could have done that. And by her own timeline, she was very insistent that nobody else had access to Minor 1 that

day or had interactions with Minor 1.

So obviously if we're going to start developing suspects in this case, we're going to start to look at Heather at this point. So now we needed to move for a more extensive interview and we didn't want to do that at the hospital, because it's not a very controlled environment; lots of people coming and going, lots of interruptions. We asked her if she would be willing to continue speaking with us at the Lexington County Sheriff's Department, which she freely agreed to do. She -- transportation was an issue, but she agreed to ride with Sergeant Barr to the sheriff's department. She didn't have shoes at the time, so we had to scrounge up some shoes from the ER staff that she could have. So we didn't want to walk her out barefooted. But in addition, the sheriff's department just offers us a more controlled environment to be able to resume these kind of interviews without interruption from hospital staff, family members, coroner's office, other personnel who would potentially be in and out.

Q And at this point in time, were appropriate measures taken to -- in consideration that she may now be a suspect?

A Yes. Upon my arrival at the sheriff's department, she and Sergeant Barr were already there. When we began speaking with Heather formally in one of the interview

rooms at the sheriff's department, she was given a -- a advisement of what we call her Miranda Rights and that was done in writing and she initialed and acknowledged those rights and she did waive them at that time.

Q All right. And so if you go back to those initial statements that were made to you in the emergency room, Detective Creech, did you specifically question Heather regarding whether anyone else had interaction with Minor 1 that day?

A Let me just glance real quick because I don't want to misstate. (Looking at notes.)

Yeah, I specifically wrote toward the end, I said I asked Heather if any other adults were in the home with access to Minor 1 that day and she said there were not. I also asked her point blank what she thought may have happened and her exact quote to me was, I think my one-year old climbed in and accidentally smothered her.

Q So now she's stating that the one-year old --

A That's correct.

Q -- according to her had climbed into the pack 'n play --

A Yes.

Q -- and smothered Minor 1 .

Now, you mentioned before that you did have a chance to actually see Minor 1 in the emergency room?

A That is correct.

(State's Exhibit Number 17, Number 18, and Number 19 was marked for identification.)

BY MS. MAYES:

Q Let me show you some photographs and ask you whether or not you recognize them. Detective Creech, are these photographs a fair and accurate representation of how Minor 1 appeared there at the Lexington Medical Center Emergency Room when you observed her?

A They are.

MS. MAYES: Your Honor, at this time, it would be State's 17, 18 and 19 for evidence.

MR. WILLIAMS: Without objection, Your Honor.

THE COURT: State's 17, 18, 19 in evidence.

(State's Exhibit Number 17, Number 18, and Number 19 was entered into evidence.)

BY MS. MAYES:

Q Now Detective Creech, you mentioned bruising that you observed to other areas of the head. I'm going to ask you about that specifically.

A Okay.

Q Starting with State's Exhibit 18.

A So the projector isn't doing this justice, I want to kind of explain.

Q If you could note ---

A So this is what we did. Initial bruising that you all have seen on the previous picture that was shown. In addition to that, you'll be able to see this -- when you see this picture up close, in person,, there is a similar bruise right here; you can kind of see the shadow of it in this picture, but you're losing some of that translation with the projector.

Q That was apparent to the naked eye as you observed Minor 1?

A That was absolutely apparent.

Q State's Exhibit 17?

A This gives you another view of that bruising on the top of the head and how sizeable it was and you can also see again, a similar bruise that's roughly at that outline there at kind of the crown of her head, per se.

Q State's Exhibit 19?

A In here was this kind of rectangular, almost linear bruise right here, basically at the base of her skull.

Q And at the top?

A And, yes, you can kind of see that top bruising a little bit. Here again, it's really hard to see with this projector view, but it would -- it's a little visible right there at the photo and the other one is going to be right there.

Q Now ---

A Again we can see this a little bit better here. You can kind of see, kind of right through in there, roughly tracing that outline in here. It's a little irregular. There's a few voided areas in there, but you can see all that dark, shadowed area; that's all bruising.

Q So you had the advantage now of observing these injuries leading into your formal interview with Heather Lawson there at the sheriff's department?

A That is correct.

Q All right. You indicated that she was transported to the sheriff's department by Detective Barr?

A Yes, she rode with Sergeant Barr to the sheriff's department.

Q All right. Now back at the hospital, did -- based upon your observations, did it appear that her willingness or can you tell us whether or not she appeared to be willing to come with you and Detective Barr to discuss the case?

A Yes, the entire time I spoke with her she was upset a bit, but for the most part, she was very, very cooperative in speaking with me; very clearly understood questions, responded to them appropriately; did seem a little nervous. I know the whole time I sat there, she was taking some tissue papers and shredding them into about a million pieces and they were just kind of piling up like

snow on the floor. But, I mean she seemed interested in talking with us, or at least didn't seem reluctant to. And that translated all the way to our interview with her at the sheriff's department.

Q Did she seem clear-minded?

A Oh, absolutely.

Q Did she appear to be under the influence of any type of alcohol or drugs?

A She did not.

Q Did she appear to understand the questions that were posed to her?

A She seemed, for all intents and purposes, to not have any issue understanding what we were asking.

Q All right. And so after she leaves with Detective Barr and you arrive back, or you arrive at the sheriff's department, tell us what happened next.

A So when we arrived at the sheriff's department, like I said, I met with her and Sergeant Barr. We then relocated to what we call Interview Room 3. In our interview room hallway, we've got three interview rooms at the sheriff's department that we use for these kind of interviews. At 9:41 p.m., we read her her Miranda Rights directly from what we call a suspect statement form. And next to each of her rights, which are broken down into five lines, there's a line for her to put her initials that she

acknowledges each of those rights.

And then at the end it says, I have read this statement of my rights and I understand what my rights are and I make the following statement.

Q All right. And this is 9:41 p.m.?

A That is correct.

Q I'm going to show you a document and ask you whether or not you recognize it.

Let me show you this document and ask you whether or not you recognize it.

A I do recognize this document.

Q And how so?

A This would be the original statement that Heather -- the original witness statement that Heather provided to myself and Sergeant Barr at the Lexington County Sheriff's Department.

Q All right. And is your signature on this document anywhere?

A My signature is not on it because it wouldn't be normal practice for us to sign the statements. But right here where it says person who identified himself as law enforcement, it's got Sergeant Bar and Detective A. Creech. And then as if there wasn't any question some of the questions, when we get into the question and answer section are in my handwriting and I can vouch for that 100 percent.

Q So you've reviewed this and recognize your own handwriting?

A Yes.

Q And you would have been present from the outset of this, which begins with Miranda Rights all the way through to the written portion of this statement?

A That is correct.

Q And does Ms. Lawson sign the statement?

A Yes, Ms. Lawson signs every page of the statement, and it's -- this initial statement is seven pages long.

Q Okay. And the content of the statement is handwritten by whom?

A The content is primarily written by Ms. Lawson, with the exception that being any questions that we asked her, we would write out by hand; and it's clearly indicated that that's a question from us and then she responds to those questions in her own handwriting.

MS. MAYES: Your Honor, at this time, we would offer what is Court's Exhibit 1 as State's Exhibit 30?

MR. WILLIAMS: Without objection.

THE COURT: State's 30, you say?

THE COURT REPORTER: Yes, sir.

THE COURT: State's 30 is in evidence without objection.

(State's Exhibit Number 30 was marked and entered

into evidence.)

BY MS. MAYES:

Q Now, do you have with you a copy of this particular statement?

A I do.

Q The copy you have is a fair and accurate representation of this?

A It is.

Q You mentioned she was advised of her rights; you were present for that?

A I was.

Q Start at the top of this document and ask you to take us through it. And -- I want to start here at the top, Detective Creech, where it says the date is 6/26/2016, the time is 9:41 p.m., I, the undersigned.

A It says, I, the undersigned, Heather Lawson, am 22 years of age and my date and place of birth being the 8th day of May, 1994 in South Carolina. My present address is [redacted] Weaver Drive, [redacted], Lexington, South Carolina.

I completed 12 grades in school. I can read and write. And she put her initials to acknowledge that she can read and write. She would put a contact number for herself, which in this case, she listed as [redacted]. She listed Richard Tuckus as an alternate contact and provided a phone number for him of [redacted], I believe

that's [redacted].

Q All right.

A Before answering any questions or making any statements, Sergeant T. Barr and Detective A. Creech, which is me, person who identified him or herself as a Lexington County Sheriff's Deputy duly warned and advised me that:

I have the right to remain silent.

Anything I say can and will be used against me in a court of law.

Q Let me stop you right there. Now, after each of these rights, such as I have the right to remain silent, there is a handwritten notation next to that; what is that handwritten notation?

A That handwritten notation -- so that is Heather's initials. So each of these lines -- so we read them her -- read her her rights and because she has that she can read and write, we also have her go back behind us and initial that just an additional acknowledgement that she did hear those rights and she is acknowledging those specific rights.

Q For -- for each one?

A Yes.

Q All right. I believe you had noted the second is, Anything I say can and will be used against me in a court of law.

A Yes.

And the third would be I have the right to talk to a lawyer for advice before asked any questions and to have him or her present with me during questioning.

And Number 4 would be if I have no money for lawyer's fees, the Court will appoint one to represent me without cost if I wish.

If I decide to answer questions now without a lawyer present, I will still have the right to stop answering questions at any time. I also have the right to stop answering questions at any time until I speak with a lawyer.

Q All right. And each of those are initialed by her?

A That is correct.

Q All right. What's next?

A The next is, I have read this statement of my rights and understand what my rights are. There are her initials again and she would have initialed all of these before we began the body of the statement.

Q All right. Now, for the body of the statement as you previously indicated, whose handwriting is this actually in?

A That is all going to be Heather Lawson's handwriting right there.

Q Okay. And the signature at the bottom?

A That is Heather Lawson's signature.
Q All right. And do you have a conversation after the waiver of rights?
A I do.
Q Let me go back to that. After acknowledging each of those rights with her initials, did she appear to understand those rights?
A She did.
Q Was she promised anything for exchange for a statement?
A She was not.
Q Was she threatened or coerced by yourself or Sergeant Barr in exchange for a statement?
A She was not.
Q Based upon your observations, did she appear to freely and voluntarily waive her Miranda Rights?
A She did.
Q And proceed with the interview?
A So these kind of interviews, we would typically conduct, so we'll talk for a little bit first and she'll kind of tell us all this again and then after she's done that, then we'll ask her to write it down. So typically how these statements start is we've already talked for a little bit and now this is the process of putting what we've talked about on paper.

Q Okay. And here she has written herself the beginning portion of this. And if you could please slowly read into the record what she related here in her handwritten statement?

A Yes. Her statement reads that: On Thursday, Minor 1 fell out of her playpen and landed on her back. I grabbed her and calmed her down and I thought she was fine and did not think to call 9-1-1 or take her to the hospital. On Friday, my middle child, Minor 3, pushed Minor 1 and she hit her head on a toy.

Q All right. So let me stop you right there. She's referring to a Thursday and Friday, what day was June 26th?

A June 26th was a Sunday.

Q All right. So Minor 1 is -- Minor 1 dies on Sunday?

A Yes.

Q She's going back to Thursday?

A That is correct.

Q Please continue.

A Minor 1 -- and she hit her head on a toy. She got a knot on her forehead and acted like she was fine. So I did not take her to the doctor. Last night, 6/25/16, Minor 1 fell around 10 o'clock and hit her head on concrete. I called -- calmed her down and thought she was fine.

Q All right. Now, up until this point in time, and going back to your original interview with her at the

sheriff's department -- I mean, I'm sorry -- at the hospital in the emergency room, had she ever indicated anything before about a fall?

A No, so this would be the first time at the sheriff's department where she starts to introduce this idea that Minor 1 had had this fall at work the night before.

Q All right.

A She also -- this is the first time she's described all these minor falls over previous days and it --

Q So what's the next sentence leading into the next page?

A The next sentence starts, there was --

Q There was. And here we have page two of seven.

A -- there was a chair by her that she could have hit her head on as well. When I found her, she was face down. This morning she had a bruise on her forehead. I did not look for another mark because I was exhausted. She threw up what she had eaten around 10:00 a.m.

Q All right. At the hospital, had she ever indicated that Minor 1 had thrown up?

A No, in addition to this being the first time she's mentioned this fall from the night before, this is also, she previously said Minor 1 seemed fine, ate breakfast without incident. She never described any illness whatsoever with the child.

Q Please continue.

A So she says threw up what she had eaten around 10 a.m. I laid her down for a nap around 1:40 or 2 p.m. and I cleaned and bathed my other two kids, cooked and ate supper. I realized Minor 1 hadn't -- hold on.

Let me go to my statement here.

I realized Minor 1 hadn't cried for a while and I went to check on her. I found a blanket on her and I knew that she wasn't moving or breathing. I panicked and ran for help. I couldn't get the words out of my mouth for a phone call.

Q All right. So in this portion, she is stating that she laid Minor 1 down for a nap around 1:40 or 2 p.m.?

A That is correct.

Q And did you attempt to followup on that timeframe?

A I'm sorry, can you clarify?

Q Did you attempt to followup with more details about that specific period of time in the afternoon and her interaction with Minor 1?

A Yes, we would go over more of that throughout the statement.

Q All right. And ultimately, what's your follow up question there?

A So the next question we asked was how was Minor 1 acting on Sunday.

Q All right. So where it says, How was Minor 1 acting on Sunday; that's a question from yourself or Sergeant Barr that you've handwritten and now giving her the opportunity to respond to.

A That is correct.

She responds she was not laughing or playing and she ate around 10, but threw it up. So I put her in the play pen because she wasn't acting right. She stayed in the play pen about all day. The last time I checked on her was around 12 or 1 and it looked like she was sleeping. Her stomach was moving, so I left her alone; she was on her back.

Q All right. So at this point, instead of the nap at 1:40 or 2, she's stating that the last time she checked on her would have been 12 or 1?

A That is correct.

Q Please continue.

A So the next question we then asked was to say, Describe in detail how Minor 1 got the bruise on her forehead Sunday. I believe it says 6/25 while at your house. So she responds, around 4:30 to 5 p.m. Minor 1 was sitting in the living room playing with a toy when Minor 3 walked by her and nudged her, she fell and hit her head on the front part of a toy truck.

Q All right. Let me just clarify. Are you actually

asking about the day before?

A Yeah, I think it's actually a 24 now that I'm looking at it.

Q All right. Okay. Please continue.

A So this means the incident on Friday before. So she says around 4:30 to 5 p.m. Minor 1 was sitting in the living room playing with a toy, when Minor 3 walked by her and nudged her. She fell and hit her head on the front part of a toy truck and when she fell over after hitting her head on the toy, there was a small thud noise from her head hitting -- hitting my floor. Before -- I grabbed her by the sides.

Q Now we're on page 3?

A Page 3. When I took her to Granny Debbie's on Saturday morning, she asked about the knot and I told her Minor 3 had pushed her the day before. It was an accident. Minor 3 walked by and nudged her causing her to fall over.

The next question we asked her, What toy are you referring to. And she responds, Minor 2 's toy truck, which we then followed up with, When you first noticed the bruises on Minor 1,'s head, why didn't you call 9-1-1 to take her to the ER?

Now again, we would be referring to her -- just to back up to the that first question. Now that she's telling us about this fall at the gas station, she's now telling us

that that morning when Minor 1 woke up, she had all this heavy bruising to her forehead, which at the hospital, she previously said the child had no injuries.

When we then asked her if the child did have these injuries that morning when she woke up, why didn't she call 9-1-1. Her response is -- oh, I'm sorry -- yeah, When I first saw the bruises, I did not think anything of it because she has had bruises before that went away.

The next follow up question we asked was, Describe in detail what happened after you and the kids got home -- this photocopy, I can't read what that word is. Describe in detail what happened after you and the kids --

Q After midnight.

A -- after midnight Saturday, Sunday, okay. So Heather responds to that, When I pulled up by the house, I called Richard because there was a car by his house. I got out the car and unlocked the door. I got my bookbag and stroller and I put the stroller on the porch while I took the bookbag inside.

Q Now would this be the night before Minor 1,'s death?

A That is correct. This would be the night before when she originally said she came home with the kids about 11:44 after taking them to work with her.

Q Okay.

A I went to the car and got Minor 2 out and told him to

go to the porch. I then unbuckled Minor 1 and Minor 3 and carried Minor 1 inside while I had Minor 3 walking beside me. Coming inside, I was fighting to keep the dog from getting out, while getting Minor 3 to step into the house. After I closed the door, I went to walk to the play pen and I tripped on the stroller and when I tried to squeeze Minor 1 so I would not drop her. When I got to the playpen, I went to lay her down and lost my grip. I dropped her into the play pen; the fall was about 2 to 3 feet. I then went outside and seen Minor 2 heading toward the end of the house. I yelled for him and got him inside. He climbed into his bed and I locked the door. I then went to the living room --

Q Proceeding onto page 4.

A -- and I turned Family Guy to block the crying. I passed out within 30 minutes of laying down and did not wake up until after 9 when Richard called me.

So just to clarify a little bit on that, she had told us that after she dropped Minor 1, that Minor 1 was crying real heavily and that she cried pretty much until Heather fell asleep.

Q Now, had she ever told you before anything about tripping over anything or dropping Minor 1 several feet down into the pack 'n play?

A Her -- her mentioning it in this interview was the first time we'd heard that.

Q All right. Please continue.

A The next question was when you did see the bruises, had you ever seen bruises this severe on Minor 1 before?

Again, I'm referring to those significant bruises on the forehead that you all saw the picture of.

Heather responds, I have never seen bruises as bad as what she had, but at the time, they were nowhere near as bad as when I found her.

The next question was what were your reasons for not taking her to a doctor? Heather's response was, I thought she was going to be fine. Every time she had fell, I was able to calm her down holding her. I thought she was crying because she wanted to be held like always.

The next question we asked was, Did you have any other concerns that prevented you from taking her to the doctor? Her response to this was I was worried about having my kids taken by DSS. I was also too concerned that I would fall asleep driving.

We then followed up with a question, Did anyone else see Minor 1 between you having her at work and calling 9-1-1 when you found her in the crib.

Q All right. So you're referring to the night before when she had her at work on Saturday night and then when ultimately --

MR. WILLIAMS: Objection to the leading.

MS. MAYES: I'll rephrase that, Your Honor.

THE COURT: All right. Please.

BY MS. MAYES:

Q When you state, Did anyone else see Minor 1 between you having her at work, what are you referring to, having her at work?

A I'm referring to her having the children at the convenience store with her the night before.

Q All right. Between that event the night before and calling 9-1-1?

A Yes, and her calling 9-1-1. Her response to this was Richard Tuckus and Richard Holmes saw her when I left work, referring to the children being at the convenience store the night before. After that, no one else saw her until the call was made to 9-1-1.

We then followed that up with the question of what did you and Richard do and talk about when he came by the house earlier in the day? She responds to this, When Richard got to the house, we went to the room to have sex. While we were having sex, he asked me when we was getting married and I told him when he gets his divorce and moves in with me. He told me he loved me and even though it may not seem like it, I was the only one he wants to be with. When we were done, Tamir called him to ask if one of the employees could help at another store tonight. We then

went to the living room, where he told he was selling my old phone and it did work with a guy's plan and after he was going to meet up with Mark to run the dam for an hour. He gave me a kiss and left.

Our next question in response to this was did you and Richard fight or argue while he was there? Heather's response, No, we did not fight all day. He asked why I did not call him when he called me at 9 something and I told him I was still asleep.

We then asked her, tell us about the recent stress you have been under since Minor 1 was born? To this Heather responded, Me and Richard had broken up shortly before Minor 1 was born. We got back together on December 24th, 2015, but he still lives with another woman that is pregnant by him. The worry that he is cheating on me. The engine in my car went out about two weeks ago. I do not receive child support from the kids oldest father -- my kids oldest father. I recently became a store manager and have had people quit on me and when I got people in and trained around -- I found out they were stealing and had to fire them. I'm behind in rent and also power. I'm either at work or home with my kids.

The next question we asked was, Clarify exactly what you saw when Minor 1 was found in the pack 'n -- playpen.

Q And when you say playpen, you're referring to?

A Yes, anytime you hear playpen, crib, or pack 'n play, we're all referring to the same Winnie the Pooh pack 'n play that you guys will see better pictures of later this week.

Q All right. Were there any other -- were there any other cribs or playpens other than that one at the front entrance?

A No, this was the only one in the home.

Q Okay.

A So our next question to Heather was, Clarify exactly what you saw when Minor 1 was dumped in the playpen?

MR. WILLIAMS: Your Honor, I would object to them not reading what's in the document itself.

THE COURT: I think that's what he's reading from.

MR. WILLIAMS: Well he keeps saying dumped in. The first part was dropped I thought and the second part was dumped.

THE WITNESS: I'm sorry, I'm reading from a photocopy and it's just hard to see some of the words.

BY MS. MAYES:

Q All right. And what you can do, Detective Creech --

MS. MAYES: Your Honor, if we could ask permission for the witness to step down and be able to view the document a little bit better.

THE COURT: All right. You may step down.

(The witness stepped down to the projector to read the original statement.)

BY MS. MAYES:

Q I need you to keep your voice up so that the court reporter can get everything that is said.

A Clarify exactly what you saw when Minor 1 was dropped in the playpen. When Minor 1 was dropped in the playpen, she fell on her back and may have also hit her head. It was dark in the room and I couldn't see very well. I was trying to hold her with my one arm and lay her in there when I lost my grip and she fell.

The next question we asked was, Tell us about Minor 1's medical history. To this Heather responds, Minor 1 had colic and had issues keeping milk down and pooping. She got RSV about two to three months old and kept it. She would stay congested all the time and I would have to suction her nose out about every other hour so she could breathe and eat. In March, while she was at the babysitters and left her unattended and she said my three-year old dragged her across the floor causing several carpet burns on both her knees and head. She wasn't given an appointment with a GI until April. They gave me a stool softener to help her go to the bathroom. She has been teething for about two months and it's causing her a lot of

pain.

We then followed up with the question, Is there anything else you need to tell us? After she threw up, I put her in the playpen. I neglected to call 9-1-1 when I seen the bruises. I put her in the playpen. I left her there. I checked on her around 12 and her stomach was moving, so I thought she was -- was asleep and left her there. I did not check on her again until a little after 5 and that is when I found her under the blanket.

We then followed up with, Describe what you saw when you found her under the blanket. Heather responded, when I moved the blanket, I felt her move -- her move and when I seen her, she had a snot bubble under her nose and her eyes barely open and her face and head was completely bruised.

The next question we asked was, Please explain further what you mean by blackout.

And I'm going to have to give a little context to this question. When we were interviewing her, Sergeant Barr asked her a question what, you know, at this point we're treating her like a suspect. We're asking some pretty uncomfortable questions. She's being confronted with some possibilities. One of the things Sergeant Barr suggested, which is very typical of child death investigations is she asked her did you suffocate her and

her response to that, just so it's clear, the statement was, If I did I blacked out. So that's why we're asking this question here, what do you mean by blackout. Is we're asking a followup question to something she said verbally.

Q All right. Just prior to that question being written out for a response, she requested specifically about whether or not she had suffocated Minor 1 and her response was, If I did I blacked out?

A Yes, that is correct.

Q Please continue.

A So in direct response to the question, Please explain further what you mean by blacked out? She responds, In the past I have fell asleep and moved room-to-room without remembering. I have been told by my mom that I have woke up drinking milk, went back to sleep. When walk -- when waking in the morning, I don't remember any of it.

And then here, the final question, and this is pretty standard in a lot of these statements, Has anyone made threats, promises, or coercions to you for this statement. And the answer that she gave was, No.

Q Thank you, Detective Creech. You may return.

(The witness returned to the stand.)

BY MS. MAYES:

Q All right. So I want to go back to this particular

portion where you're questioning about dropping her in the playpen.

A Okay.

Q And had she -- and the response is, When Minor 1 was dropped in the playpen, she fell on her back and may have also hit her head. Prior to this portion of the statement, had she ever indicated that Minor 1 had hit her head in the playpen or suffered a head injury in the playpen?

A No. Again, this is the first time she's mentioned this, just like she didn't bring up the fall at the gas station until this point. All of this was completely contrary to what she told me at the hospital previously. And like I said, I kind of got a repeat story three times at the hospital and now suddenly we've changed locations and the story has wildly diverged. I even actually directly confronted her about this at one point and said, you know, look, this is what you told us at the hospital and this is what you're telling us now. Her exact response to that was actually, quote, You had no reason to believe me because I lied, end quote.

Q And you note that specifically in your report?

A Again, I felt that was a very distinct statement, so I would have written it down and put it in quotes to reflect that as a direct statement by her.

Q All right. And when she stated, You have no reason

to believe me, I lied, what was she referring to that she had lied about?

A Ms. Lawson was referring that she had lied about all of her initial statements that she made to me at Lexington Medical Center.

Q All right. So at this point, she's telling you that everything that she had previously told you back in the emergency room is false?

A That is correct.

Q Now given this -- this information where she has acknowledged that her initial statements were false and now she is giving a different statement and series of events. What action was taken at the end of this interview?

A So obviously her initial statements at the hospital were not a reasonable accounting for the injuries we were looking at, which is why we were looking at her as a suspect. And then when he story does a complete 180 and turns into something wildly different than what she had previously told us, in my -- my experience if somebody is not going to go through -- being truthful is not going to have a certain set of facts and circumstances and then change those in a very short period of time. It didn't even sound like she was describing two similar incidents.

The only fact that she remained very consistent about, though, was that she had been the only person, the

only adult with any charge or care of Minor 1 that day. And so based on her statements, based on Minor 1 's injuries, which we felt pretty confident you could not account for with a one and three-year old, and Heather having the only -- being the only person we could put in the home that day, we made the decision at that point to make a, what we would call a onsite arrest for homicide by child abuse.

Q All right. So she is at the sheriff's department. At the conclusion of this written statement, was she actually held or detained there by members of law enforcement on the charge of homicide by child abuse?

A She was. The statement concluded at 1:25 a.m. on June 27th, 2016. That's a pretty normal length of time for one of these interviews. But immediately concluding the interview, we would have advised her that she was under arrest and we would have walked her immediately to the jail.

Q All right. Now, Detective Creech, following that involvement with Ms. Lawson, did you also have an opportunity to go to the actual residence there at the Hideaway Mobile Home Park?

A I did. So we held the crime scene until the following day because we were wanting to hold the scene until after the autopsy in case any additional questions

came up. So I attended the autopsy Monday morning, June 27th. Following my attending the autopsy I went to the crime scene at Weaver Drive, [redacted], Lot -- [redacted] and, no, I'm sorry, [redacted]; I'm getting the lots mixed up. We were still maintaining a crime scene, which is very typical for these kind of cases. I met CSI Sprinkle at the scene. He is the crime scene technician who handled the initial processing at the scene and he walked me through the scene.

We looked at it together to make sure there was not anything we were missing. He explained to me what had been taken and where it had been located at, and just did what we considered just a -- just an additional walkthrough to make sure we haven't missed anything because obviously nobody's perfect.

Q All right. And so just to clarify, you're still present at the sheriff's department into the early morning hours of what would now be June 27th of 2016 at the conclusion of that statement and the hold or arrest of Heather Lawson?

A That is correct.

Q And then you're present for the autopsy the following day?

A It would have been later that same day.

Q All right. During business hours?

A During business hours, yes.

Q And then you also go back to the crime scene, being Lot 14 and Hideaway Mobile Home Park, where law enforcement still has a crime scene maintained?

A Yes, that is correct.

Q I'm going to show you some photographs and ask you whether or not you recognize them. This will be State's Exhibit 6, State's Exhibit 11, State's Exhibit 3, 12, 13, 14, 15, and 16.

A I do recognize these photos.

Q All right. Can you tell us whether or not they are a fair and accurate representation of how you recall the scene when you were there?

A They are with a minor exception that obviously the pack 'n play distinction shown in one of those photos and the blanket. Those would be things that would have been collected by crime scene the previous night. So I was told where those things were and I had access to seeing pictures of those items, but those items would not have been at the scene when I viewed the scene. The remainder of the scene, so 98 percent of it, would have been exactly as it -- as it's photographed.

Q All right. So here we see the crime-scene tape and again, when you say the crime scene is maintained, are any civilians allowed to enter or interfere with evidence during the timeframe that law enforcement is maintaining a

crime scene?

A No, they are not. I'd say the only exception is we did have animal control respond that night to retrieve some cats from the home and we had to call him back out the second day when I did the walkthrough because there was a kitten running around that they missed the night before.

Q Law enforcement would have been present?

A We were present with animal control. So even they wouldn't have gone in the scene unattended.

Q All right. And then what are we looking at here in State's Exhibit 11?

A So that's going to be the front door to the residence, as everybody noted, you basically take that immediate right and you would see Minor 1 's pack 'n play in that corner.

Q All right. Now, in that statement that she had made to you back at the hospital that she had spent the day after putting Minor 1 down for that nap between 1:40 and 2, her statement of putting down for a nap between 1:40 and 2:30 p.m.; her statement was that she had spent the remainder of her time vacuuming, doing laundry, bathing her other children, Minor 3 and Minor 2, and then preparing dinner. Did you see any evidence of the home being freshly cleaned? We're going to look here at State's Exhibit 14, being the living room.

A I did not see any indications for what I would consider to have been cleaning or cooking dinner or doing laundry or any of those household tasks that were mentioned.

Q State's Exhibit 13 being the kitchen, any evidence of fresh dinner being prepared or anything along those lines?

A Not that I could tell.

Q Now, you've been in this home; have you had the opportunity to actually make measurements while in the home?

A I had made some measurements in the home, yes.

Q Looking here at the kitchen, specifically from this location being the entryway. The entryway here to the left between the kitchen, State's Exhibit 3, where you informed the pack 'n play had been to that corner of the bedroom, what is that distance?

A It's 15 feet as we measured it. It would probably be a little easier to see on the diagram of the trailer. But from the location of the pack 'n play to the corner door frame right there at the kitchen is 15 feet.

Q We'll refer to the diagram.

MS. MAYES: So, it may help if he'd step down, Your Honor, if he can have permission.

THE COURT: Yes, ma'am.

(The witness stepped down in front of the jury.)

BY MS. MAYES:

Q Keep your voice up so the court reporter can get everything.

A All right. As we were saying in case it wasn't clear, so this distance here is 15 feet. So it's not a large distance at all between the kitchen area and Minor 1 's pack 'n play.

Q All right. This would be the kitchen here and then this entryway leads into the room that is called the kid's room; that being the front entrance, that being the pack 'n play and that's a 15 foot -- 15 foot distance?

A That is correct.

Q What is the distance from the center area of the living room to where the pack 'n play was located?

A This distance -- it's going to look a little skewed because this drawing is not exactly to scale, but that is 31 feet from Minor 1 's pack 'n play to the very center of that living room. So if somebody is sitting on the couch watching TV, they're going to be within 31 feet from the pack 'n play.

Q All right. Now beyond that you've been inside this single-wide mobile home?

A That's correct.

Q What, if anything, have you had the opportunity to

observe regarding how sound travels between these distance?
A Sound travels very readily through here. Actually this is a doorway, but there's never any kind of barrier there. There's never been a blanket or sheet tacked up. So it's not like there's a door that's going to muffle any kind of sound. If you're standing here, you can hear what's playing on this TV plain as day. And if they were just in there watching TV, there's not a whole lot of protection from sound or anything going on.
Q All right. And have you had the opportunity to revisit this scene following Minor 1 's death?
A I have.
Q And did that include with the TV playing here in this living room?
A It does. The current occupant, a gentleman named Julius, was gracious enough to allow us in and kept his TV playing with an average volume and we could hear it plain as day in that front room.
Q You may return.
(The witness returned to the witness stand.)
BY MS. MAYES:
Q Now, given the information that was provided to you about Minor 1 in -- in this written statement about Minor 1 suffering a fall the night before and that that took place at the BP Station where she worked. What efforts did you

make to investigate that claim?

A So while we were interviewing Heather, we went ahead and made arrangements for somebody to get in touch with management at the BP Station in question to get that video. We were able to pretty quickly lay hands on a copy of that video as Mr. Patel was able to attest to earlier. So I was very quickly able to review the fall in question, which was a very, very clear video.

Q All right. And did you actually observe the fall?

A I did.

Q Did you show that videotape, which depicts the fall that occurred at the BP Station to Dr. Susan Luberoff as you mentioned previously?

A I did have a meeting after the fact with Dr. Luberoff after obtaining the video and I did show her the video in question.

Q All right. And can you tell us whether or not it's also -- whether -- whether or not you had the opportunity to make that available to the pathologist, who conducted the autopsy in this case?

A Yes, the pathologist in this case is Dr. Ross with Newberry Pathology. She has also reviewed this video.

Q All right. Were there ever any indications that based on your observations, that Minor 1 was injured during that fall?

A No.

MR. WILLIAMS: Objection; calling for hearsay.

MS. MAYES: I'm asking what he observed.

THE COURT: Excuse me. Sustained.

BY MS. MAYES:

Q Based on what you observed on the video --

THE COURT: I just sustained that objection. You may ask your next question, Solicitor.

MS. MAYES: Yes, sir, Your Honor.

BY MS. MAYES:

Q You watched the video in its entirety?

A I did.

Q Now, does that include to the point that they actually leave the store?

A It does.

Q After the close of her shift?

A That is correct.

Q At that point in time, do you ever witness any further injury to Minor 1 , whether accidental or otherwise.

MR. WILLIAMS: Objection; calling for hearsay.

THE COURT: That's a different question. Did he ever observe on the video any further injuries; I'll overrule that objection.

THE WITNESS: No, outside of the fall, which she was placed in a small cardboard box and she tips it over

and has a very insignificant fall onto the floor. I never witnessed any other strikes whatsoever and you never -- I mean you never see -- you see for quite a while after the fall on the video. It's very, very clear views of her head and you never see any kind of injuries whatsoever that are consistent with what we saw at the hospital the following evening.

MS. MAYES: I beg the Court's indulgence.

THE COURT: Yes, ma'am.

BY MS. MAYES:

Q Now at the point in time that you and Sergeant Barr were at the hospital conducting the followup investigation and then ultimately, you go back to the sheriff's department and do the actual written statement, can you tell us whether or not a search warrant had been obtained in this case?

A Yes, there had been a search warrant obtained for the residence at [redacted] Weaver Drive, [redacted], which is very standard in these kind of cases. You're always going to do a search warrant for the incident location.

Q All right. And then in addition to that search warrant, do you know whether or not a phone belonging to Heather Lawson, the defendant, was taken into evidence in this particular case?

A That would be correct, as well. So following her

arrest and the entering of her property into the jail at Lexington County Detention Center, it's normal procedure if we've got a case where a cell phone may can have material interest that we would seize that phone from that jail property, which we can do warrantless and then we would have later sought a search warrant, which I did, for the actual contents of the phone.

Q All right. That allows for what's called a cell phone extraction?

A That is correct.

Q And was that done in this case?

A That was done in this case.

Q And whose the officer who conducted that type of extraction?

A Crime Scene Investigator Michael Phipps is responsible for doing most of our cell phones and electronics.

Q Okay.

MS. MAYES: Your Honor, may we approach.

THE COURT: Yes, ma'am.

(There was a bench conference out of the hearing of the jury and the court reporter.)

THE COURT: Sergeant Creech, I'm going to ask you to step down. We're going to take our evening recess. During this recess, you may not discuss your testimony with

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anyone. You're subject to continuing direct, cross and redirect, and recross.

THE WITNESS: Yes, Your Honor.

THE COURT: Thank you. Thank you very much.

THE WITNESS: Yes, sir.

THE COURT: All right. Ladies and gentlemen of the jury panel, perhaps now would be a good time to take our evening recess. I would remind you, of course you can repeat this back to me now, but do not discuss this case with others, including your fellow jurors, family, friends or anyone else. Do not read, watch, or listen to any news accounts about the case, past or present, should there have been or should there be any. Do not do any independent investigation or investigation on the internet. Remember you determine what the facts are based on the evidence and the testimony presented before you in this courtroom and any physical items of evidence and any reasonable inference that you think that may properly be drawn from the evidence.

Now with that being said, I will ask you to please be back at 9:30 in the morning; 9:30 in the morning. If you'll leave your notes, they will be secured by the clerk's office for the evening hours.

You are now excused until 9:30. I hope you all have a pleasant evening.

(The jury left the courtroom at 5:36 p.m.)

THE COURT: Mr. Williams, you and the Solicitor step up here for just a moment.

(There was a bench conference out of the hearing of the court reporter.)

THE COURT: All right. Thank you. Thank you, Solicitor. 9:30 in the morning. Court will be in recess until 9:30 in the morning.

(Court was in recess for the evening.)

WEDNESDAY, AUGUST 9, 2017

THE COURT: Good morning. Please be seated. Thank you.

All right. Anything before we bring in our jury?

MS. MAYES: Nothing for the State, Your Honor.

MR. WILLIAMS: Nothing from the defendant, Your Honor.

(Adam Creech returned to the witness stand.)

THE COURT: Good morning, Detective Creech.

THE WITNESS: Good morning, Your Honor.

(The jury entered the courtroom at 9:57 a.m.)

MS. MAYES: May it please the Court, Your Honor?

THE COURT: No, ma'am. I'm waiting for them to get there -- just give me a minute.

(The note pads and pencils were redistributed to the jurors.)

THE COURT: Everybody squared away with their notes? Did you look at your pads? Can you read your writing? So you know you have your notes.

All right. Welcome back, ladies and gentlemen. I hope you had a pleasant evening.

As you recall, when we broke, the State was still proceeding with the direct testimony of Detective Creech in its case in chief. If you will please give the parties your complete and undivided attention. Thank you. Thank you very much.

All right. Solicitor.

MS. MAYES: Yes, sir, Your Honor, may it please the Court.

THE COURT: Yes, ma'am.

DIRECT EXAMINATION CONTINUED

BY MS. MAYES:

Q Now, Detective Creech, there has been testimony in this case about the incident location being [redacted] Weaver Drive. Can you tell us whether or not that's within the jurisdiction of Lexington County?

A It is within the jurisdiction of Lexington County. It's in the Lexington area typically referred to as Red Bank.

Q All right. I'm going to show you State's Exhibit 21 currently in evidence and ask you whether or not you are

familiar with this item.

A I am familiar with this item.

Q And what does that contain?

A So this is a video of the surveillance video from the BP Gas Station. It's the three to four hour total video trimmed down to an 11 minutes 10 second clip.

Q All right. So I want to follow up on that a little bit more. You said that the original video that was obtained was several hours long?

A That is correct.

Q And can you tell us whether or not you viewed that video?

A Yes, I have viewed the entire video.

Q Can you tell us whether or not that contained all of the activity which was captured by video surveillance at the BP Station on the night of Saturday, June 25th of 2016?

A It captured everything for the camera angles we were given.

Q All right. Now how -- how did you go about selecting a portion to place on the edited version, which is 11 minutes in length; have you viewed that as well?

A I have viewed that as well.

Q Can you tell us whether or not that depicts Ms. Lawson entering the store with all three children?

A The clip, I can't remember if this specific clip

does, but it does depict her shortly after entering the store with all three children.

Q And exiting the store with all three children?

A Yes, it does have her exiting the store with all three children.

Q Including with Mr. Tuckus as well?

A That is correct.

Q And does it contain all relevant interaction between Ms. Lawson and her daughter, Minor 1 ?

A It does.

Q At any point in time, having viewed the full version of the video, did you observe any type of acts of aggression towards the infant, Minor 1 , by the siblings, being Minor 2 and Minor 3 ?

A I did not. You can see a little bit of interaction between the children and it's very innocent child interaction between siblings, but no aggression whatsoever.

Q All right. And again, other than the fall that you described from the cardboard box, was there ever, at any point during the course of that hours long --

MR. WILLIAMS: Your Honor, I'm going to object to this line of testimony. This is hearsay. What he sees, the best evidence of that would simply be to play it. What he says is on there.

THE COURT: Rephrase --

MS. MAYES: I can rephrase that.

THE COURT: Rephrase the question, please, Solicitor.

MS. MAYES: Yes, sir, Your Honor.

BY MS. MAYES:

Q Have -- if there -- Detective Creech, if there had been any other evidence of injury to Minor 1 , would that have been included in the edited version?

A It would have been included in. It would have been notated in my incident report.

Q All right. Now, that four-hours-long version that you've mentioned, was that made available to attorneys in this case, including the State and the defense?

A It was.

MS. MAYES: I beg the Court's indulgence.

THE COURT: Yes, ma'am.

MS. MAYES: Nothing further, Your Honor, concerning these matters; subject to recall potentially later.

THE COURT: Thank you, Solicitor. Mr. Williams?

MR. WILLIAMS: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q Detective, you were just asked about this tape that you have. It's in evidence, obviously, you're the one that

compiled the tape in regards to what transpired on that particular night, right?

A Yes, when I reviewed the original video, it's actually sort of a multi-layer process. What I did is I indicated all time codes that showed interactions involving Minor 1 and anybody in the store and we compiled it to a several-hour clip; and then we took that clip and we parsed it down further to the 11 minute version.

Q And it shows the child basically in a box and she falls over and bumps her head and mama comes and picks her back up and hugs her and that's essentially what happened in regards to this fall, right?

A Yes, that's correct.

Q And -- and that -- that is the fall, which -- which the -- which Heather had told you had happened at the store?

A That is correct. That would be the fall she described to us during her first written statement at the sheriff's department, that she, at that time, tried to say accounted for the injuries to Minor 1 's forehead.

Q Okay. But I mean it's accurate regards to what she told you in reference to the fall?

A Yes, it is.

Q All right. So that was certainly not a lie, because you have the physical evidence showing that that's

what occurred on that particular night?

A Yes, that fall did take place.

Q Now, let me ask you something. When you originally --

MR. WILLIAMS: I'll stand back here, Your Honor, to make sure -- I don't want to bother the jury.

BY MR. WILLIAMS:

Q When you initially took the stand, you -- you gave the jury a little information about yourself and -- and I noted that you said that you took a, is it a B.S. and a Degree in Anthropology and Biology?

A Yes, sir.

Q And that was at the University of South Carolina?

A That is correct.

Q And when did you get that degree?

A I graduated in 2005.

Q And did you take any further courses at USC or did you enhance that degree, if you will, on Anthropology or anything?

A I did. I worked in a molecular biology lab at the University for 2-and-a-half years, but never took any formal coursework in addition to that degree.

Q All right. And -- and Molecular Biology, I assume, one of the more important things you have to deal with in the science world has to do with maintaining information,

to have charts and notebooks showing cause and effect and what you're observing and what you're seeing; is that right?

A That is correct. Specially we work with plant genetics which is pretty mind-numbing and boring to be honest.

Q But you have to note that information down --

A Yes, you do.

Q -- you have to report it, don't you?

And even in Anthropology, did you -- did you do any Anthropology work maybe on sites in South Carolina or things like that?

A I did. And I did some independent lab studies, but I never do any field report.

Q All right. Obviously, what you would do with Anthropology is you would observe perhaps the surroundings and look for skulls and look for pottery and all sorts of things to indicate a history and determine when things occurred and -- and what occurred; is that correct?

A That is correct.

Q And of course, that would be -- recording is one of the major aspects dealing with Anthropology also, isn't it?

A That is correct.

Q So when we look on TV and see people with little strings out and taking pictures and -- and -- and sifting

things and that type of thing, all that is part of the art of Anthropology?

A That is. Specifically, that would be archaeological procedure.

Q So having that background, your being an investigator with Lexington County Sheriff's Department, it kind of fits hand-in-hand in regards to what your -- what you've been taught, doesn't it?

A It does. It certainly uses my degree and my education indirectly, yes.

Q So obviously, one of the more important things you learn as an investigator is, you learn to observe, you learn to use deductive reasoning and you learn to record that information so that you may see if you can connect the dots, as well as have a reference point for other individuals who are looking at your work?

A That is correct.

Q Now, in this particular case, you were the -- the detective or the investigator in charge of the file; is that correct?

A That is correct. I would be what we call the lead investigator and the case officer.

Q So for the jury's edification, what does that mean in terms of who keeps up with all the stuff and who manages all the stuff and who knows everything that's going on in

that file; who would that be?

A That would myself.

Q Okay. So you would know, for example, you would have a sheet; we saw the roped off area where the people were with the yellow tape showing it's -- would it say evidence on there or after the -- after the police were called in?

A Are you discussing the crime-scene log.

Q Yes. So you would have a crime-scene log indicating the number of people that actually visited the scene?

A Yes, I would have gotten a copy after the fact. As I indicated, I never came to the scene that night. So I would have had no direct involvement with the scene control.

Q Right. And you would have had a collection of all the pictures from the various CSI people that were involved in this particular case?

A That is correct.

Q Now, how many CSI people were involved in this case?

A I believe we had a total of three crime scene investigators -- correction four crime scene investigators involved at various stages of the investigation.

Q Why they -- why are they known as crime scene

investigators; what gives them that designation?

A So the purpose of the crime scene investigators, is to respond to scenes, photograph, and collect evidence, do any evidence processing on scene, which may include collecting DNA evidence and they include looking for latent fingerprints, many other similar forensic procedures needed to be done at the scene. The crime scene investigators, as you will see later today, are also responsible for doing some of our forensic examinations on phones and electronic devices. They attend the autopsy proceedings and take pictures and they'll respond to hospitals and photograph the victims and any other related tasks that we need them to do.

Q And in this particular case you had at least the CSI individuals would have obtained whatever blood that they found on the scene; they would have seized items to be tested?

A That is correct. They handled all the evidence collection at the scene.

Q All right. And to your knowledge, was there ever any blood found at the scene?

A There was not. There were some swabs taken from the scene, but they were later presumptively tested and found negative for any kind of blood.

Q Was there any evidence of DNA that was tested at

the scene?

A We don't do any presumptive tests for DNA at the scene. We can identify something that may or may not be blood presumptively and we can have that further tested, but we -- we didn't identify anything of that nature.

Q Because there was no blood at the scene?

A There was no blood at the scene.

Q Were any items seized that were tested to determine if they were instruments used in possible causation to injuries that this child suffered?

A There were numerous items seized, but they were seized by the crime scene investigator who had not seen Minor 1 himself. So he's conducting -- he's reviewing the scene based on the fact that he knows this child suffered head injuries. So he's collecting anything that he thinks, not knowing anything else could have been used to inflict possible injuries.

Q And of course, in those items that were seized at the scene, there was nothing which you tested that indicated there was blood on any of those items or anything to indicate that those items were used in the infliction of any damage to the child?

A That is correct. We -- the items that were seized were not consistent with Minor 1 's injuries, so we didn't submit them for any kind of additional forensic testing.

Q Now, also being in charge of this, you had search warrants which were issued to recover various items, which you would not be entitled to receive, I guess, without the use of a search warrant; is that right?
A That is correct.
Q And those included search warrant for various phones and phone logs?
A That is correct.
Q Whose phones did you seize in this case?
A The only phone we seized in this case was Ms. Lawson's phone and I did swear and issue two separate search warrants for that phone.
Q You did not seize the phone of Mr. Richard Tuckus; is that correct?
A It was not seized at the crime scene, no.
Q Did you ever seize Richard Tuckus's phone?
A I did not.
Q So any information on Richard Tuckus's phone was not subject to disclosure and you would have no -- no copies of texts or -- or e-mails or anything like that?
A No, we would not have anything from Richard's phone directly. We would have corresponding records of interactions between Richard and Heather from Heather's phone.
Q So you wouldn't have interactions from Richard

Tuckus to a third party other than Heather; is that right?
A We did not or would not.
Q But you knew early on that the -- the father of the child was Richard Tuckus?
A I did.
Q And you knew at some point, early in this investigation that Richard Tuckus had been to the house?
A We did know that.
Q And you did know early on that there had actually been some sort of communication from Heather to Richard Tuckus by the way of texting or e-mailing, didn't you?
A We needed to find out -- we knew that they had had interactions by text message and telephone. We learned, actually recently, that they had additional interactions via Facebook Messenger, but that was not something we knew at the time.
Q So in that you knew that there was Facebook Messaging, did you do a search warrant for his phone to pick up on his Facebook Messaging?
A So with Facebook -- can I bore the jury for a little bit. I also work internet crimes against children so social media issues are something I deal with constantly. Facebook records are only going to be attainable -- we did do a preservation for Facebook Pages that night at the interest that if we did develop

information, that we needed those, we could have gotten them by search warrant. Those preservations would have expired after 180 days.

By the time we found out that there had been any Facebook Messenger communications between the parties, which we actually learned from Mr. Tuckus. He informed us that he no longer had those records in his Facebook profile. The Facebook, once your records are deleted, they're no longer recoverable with search warrant or not.

So what we were able to do is we were able to issue a second search warrant for Ms. Lawson's phone, which had been placed in airplane mode, which means whatever stored electronic data was on that phone, it was not connecting to the internet to reflect any deletion of Facebook records. And CSI Phipps was then able, as he will testify later, able to go in to retrieve basically take screen shots per say of those messages, which we were able to recover.

Q So you learned this after 180 days; is that correct?

A That is correct. We learned this within the last couple of weeks.

Q Mr. Tuckus is the one that came and told you about this after the 180 days had lapsed on his phone and he no longer had that information?

A Yes, he said he had actually deleted those records

way back, which meant there would be no point in issuing legal process to try to recover them.

Q Now, who interviewed Mr. Tuckus when he originally gave his witness statement?

A The night Mr. Tuckus was interviewed, he was interviewed by Detective Kemper.

Q And to your knowledge, there was no other interview in recent proximity to the day that the child was injured?

A There was not because at the time, the testimony he had provided was relevant and there was no need, based on what we knew at the time after speaking with Heather, there was no need to elaborate on his testimony.

Q Well, in terms of the individuals and how they progressed at the crime scene, we've already heard the officer testify that she was first on the scene and we learned about the marking of the crime scene. We subsequently learned that some CSI officer, I believe it was Sprinkle, comes to the scene?

A Yes, sir.

Q And it was his job to seize all those items. Now the photographs which have been placed into evidence, those photographs were taken at what -- at what time?

A The photographs at the home were taken by CSI Sprinkle before he collected evidence.

Q All right. So it would be your understanding, of

course Sprinkle will be here to testify, that these photographs, these particular photographs, were done by him before anything was moved at the scene?

A That is correct.

Q Okay. What if -- would it be harmful if any of the items were moved prior to him photographing those items? In terms of your investigation; would it create a problem for you?

A It potentially could depending on what the items in question would be.

Q Now, we've learned that there is a coroner which has been involved in this, but she does her own investigation, doesn't she?

A That is correct.

Q Now, what is the relationship between the coroner's investigation and law enforcement's investigation?

A So the coroner's office, it's their job to come into any death investigation regardless of the circumstances and to determine cause and manner of death.

Q In this particular case was there an issue with the coroner? Because when the coroner came to the scene, all the items had been seized by Sprinkle and they were not in the location for her to take photographs and begin her investigation?

A I was not at the scene, but I do seem to recall

that there had been a issue about that because they had sent three coroners to the hospital and they sent no coroners to the crime scene. While in an ideal world, we'll wait on the coroner; at the end of the day, we do have a job to do and we've got to get it done. So somebody at the scene made the decision to go ahead and enact the processing of the scene.

Q And all of this -- all of this that we're doing in this investigation deals with recordation of information and maintaining that information so that it may be used at a later date?

A That is correct.

Q Having said that, let me take you to the hospital, when you go to the hospital and you meet Heather Lawson. She had been transported up there in the ambulance?

A She had.

Q She didn't even have time to get shoes, so she was barefooted and when you get there, you find out that she's in there with the chaplain; is that right?

A There was a chaplain present at one point. I can't remember if he was there from the very beginning or if he came in shortly after.

Q Well, who was in the room when you got there?

A I do recall Ms. Lawson was in the room. When I first spoke with Ms. Lawson, I knew it was myself, Ms.

Lawson, Lieutenant Frier, and the chaplain may have been present at that point or he may not have been. His presence wasn't relevant.

Q All right. And that's when you said that you began your investigation in the first conversation with her, right?

A Yes, it is.

Q And I believe you -- if you don't mind, if you'll indulge me, what was the first thing she told you then? When you first got there?

A I asked Heather what happened, as I testified to yesterday, and she said she had put Minor 1 down for a nap that afternoon and she became concerned when she realized Minor 1 was taking a longer nap than usual. She said that when she went to check on her, she found a comforter from Minor 3's bed; remember Minor 3 is the one-year old daughter.

She said the comforter was in Minor 1 's crib and she said she pulled that comforter out, she could feel Minor 1 roll around in it and Minor 1 fell out face up and she said after that, she went and located Richard, the father, and then called 9-1-1.

Q Well, you had indicated at some point in time yesterday, that -- that -- that Heather had indicated that she had lied when she was at the jail versus what she had said at the hospital. Well, that statement that she put

the child down for a nap and that she found the child and that she went to get Richard is consistent, isn't it, with all the other statements that she gave, at least those three items?

A Yes, so the contradictory facts that we confronted her with during that later interview were the statements that she made where Minor 1 had no injuries, general timeline of events. She talked about putting Minor 1 for a nap -- down for a nap about 1:30 to 1:40; and then she kind of backed off of that. She goes to no injuries to then describing this bruise to the forehead. She never mentions the fall from work the night before until we get to the sheriff's department. Just -- it's the little details that don't match. The only things that stayed consistent are her finding Minor 1 , her going to make contact with Mr. Tuckus and then calling 9-1-1.

Q Well, let's go to the second statement that you say that she made at the Lexington County Hospital. After you get through with this oral statement to her -- now, what time -- what time is this when she gives you this first kind of statement; here she is with no shoes, she's just lost her baby, she's crying?

A She's crying at points, but she's not crying the entire time I speak to her.

Q Well, it's hard to cry for that period of time

consecutive and talk, isn't it?

A Oh, absolutely.

Q So you had this conversation with her; and then -- you had -- you broke it down in your direct testimony that there was like another conversation that you had with her?

A Yes, because initially when I got that story I just related, Lieutenant Frier was with me. He stepped out because he was the watch commander that night. He had other matters he needed to deal with as watch commander. So once he stepped out, I asked Heather just to simply tell me again what had happened, which is very normal procedure.

Q So -- and the reason you wanted to have her go through it again with you was because you wanted to see if you could come up with some more details from what she had said?

A Yes, and just to make sure I had not missed anything relevant that she had told me the first time.

Q Well, did you have a tape recorder when you were up there talking to her?

A I did not. It's not really something that's ever been in place as standard practice for us to use tape recorders. Obviously in an ideal world, that would be great if we could record everything. With the current move to body cameras, that would be a long time before that ever gets to investigations, but it's certainly going to patrol,

which I think will be a great tool. But with these kind of investigations, everything is so dynamic and we're constantly moving and interacting with different people. It would be cumbersome to have a tape recorder and have to stop and tape record everybody we deal with. But like I said, it's not normal practice that we would use tape recorders during this kind of interview.

Q Well, in this particular case, where one of the main items that you're -- because we learn that you go through several conversations with her and -- and you're here testifying how it was -- differences in what she said, what you recall her saying. Wouldn't it be important in this homicide case that there would be some effort to record those conversations?

A In an ideal world, it would be great. I didn't have a tape recorder that night, so I mean it was not possible to record the interactions between myself and Heather, but that being said, I take very thorough notes when I have these kind of interviews and I use those notes to -- to create my incident report and I use lots of direct quotes and I make sure those quotes are true and accurate before I do my paperwork.

Q And I'm sure you do, but of course, when we record our notes, we record what we think is important, don't we?

A Of course.

Q And if we're all good students, we would all make A's and record all the notes, wouldn't we?
A Of course.
Q Do you have a cell phone?
A I do have a cell phone.
Q Do you have an app on the cell phone that allows you to record information?
A I have gotten one since then, but I did not have one at the time. And even then, it's not something that I put into standard practice for work purposes, but it's something I have to fool around with.
Q So -- so your current cell phone does allow you to record information just like -- I don't know if you -- if you call into an insurance company, they put you on notice that the call may be monitored even -- even in every part of life that we deal with, you hear that all the time, it may be monitored for quality purposes and just like you could have recorded this on a cell phone, couldn't you?
A I could have, but again going back to the three years that I've been in investigations, it's never -- with the Lexington County Sheriff's Department, it's never been a standard practice to audio record interviews.
Q It would be more accurate, wouldn't it?
A It would certainly be ideal in an ideal world.
Q You'd hear exactly what the person was saying,

you'd see exactly -- you could hear how the person was saying it, couldn't you?

A You could.

Q Let's talk about the second conversation that we had. You said she was in there having another conversation with you and who else was present in the second conversation that you were going through what she was saying?

A The second time, I believe it was primarily myself and her and I think the chaplain was present during that second interview, but he -- he wasn't participating; he was just sitting there in case she needed him.

Q What's his name?

A I didn't get the chaplain's name because at the time, his presence wasn't important.

Q Well, now his presence would have been important in terms of what she had said, wouldn't it?

A He wouldn't have been taking any kind of notes on the interaction and he's there to do a very specific job and I wouldn't put a chaplain out of his lane, so to speak, and ask him to have to testify in an investigation like this. It wasn't necessary.

Q But he is a potential witness as to what was said by her, wasn't he?

A Potentially, if he was paying attention in that

regard and again, he's a chaplain, so he's there for emotional support. It's not his -- his role to be concerned with a child death investigation.

Q Now, during this time span, where was her mother and grandmother at the hospital?

A I found out after I concluded speaking with Heather that they were present in another room of the ER; her grandmother was. I spoke with her grandmother very briefly. But I -- at the time I was speaking with Heather, I was not concerned with the location of the family members.

Q Well, why did you not invite the grandmother to be in there with her because it might have, I don't know, been there for the same purpose as the chaplain. The chaplain to comfort her and then she would have been there also as a potential witness to the questions that were asked and how she responded?

A It's not normal procedure. If I'm interviewing a mother or custodial guardian, parent, anybody involved in one of these kind of investigations, first off, I'm not going to want to talk to them with any other family members present. I'm not going to ask the chaplain to leave, but he -- he's just kind of background, but I'm going to want to speak with Heather directly one on one because in her emotional state it did not -- there was clearly no need to

have anybody come in to calm her down.

I mean, I'm also a trained crisis negotiator with the sheriff's department, so I've got significant training with dealing with people in emotional crises and elevated emotional states. And I've had investigations where family members were too upset to talk to at the time and there's certainly no harm if that's the case to say okay, we'll come back and talk to this person later when they've kind of calmed down a little bit.

Heather was very clear, communicative. She had no issues talking to us. She did cry a little bit here and there, but it wasn't enough it interfered with our ability to try to gather information and determine what had happened to her daughter.

Q So what did she say in her second conversation you were talking about?

A The second time, she added that she had taken the children to work the night before and that they had come home about 11:44 p.m. on the 25th. And she told us then or told myself then that they all woke up about 9:00 the next morning. And she said she fed Minor 1 breakfast that morning. That's the first time she mentioned feeding the child that morning. She said the day was uneventful. She said -- ended up telling me that Richard came over about 12 that day and then she later said she put down Minor 1 for a

nap between 1:40 and 2:30. She told me then that she spent the rest of the afternoon doing housework, which she described as vacuuming, picking up, dishes, bathing the other two children and cooking dinner for the other two children.

She then said the children were alone in the room with Minor 1 for about half an hour. She said when she did go in and find Minor 1 , she said the children were standing silently in the doorway to the kitchen, which should be -- the diagram, the kitchen doorway and the children's door -- bedroom is kind of right there together. She said again and I quoted her on this yesterday. She said, quote, They were acting the way would if they knew they were in trouble, end quote. And then she said she went to get Richard and called 9-1-1.

Q So the second statement, if you will, was simply more expansive than her first statement?

A Yes, it was.

Q Not contradictory, just more expansive?

A No, it's just more expansive at the hospital.

Q So you had that conversation with her and I believe yesterday, you testified that the reason why she was actually taken to the Lexington County Sheriff's Department is because that would allow you a better opportunity to get full details without interruptions?

A So we -- I spoke to her that time and then I spoke to her again in the presence of Coroner Fisher and then after -- what she tells myself and Coroner Fisher, is then later when we then consult with Dr. Luberoff at the hospital and then based on information we got from her, which she'll get into later in her testimony and the fact that Heather's story did not adequately account for the child's injuries, that's when we decided if we were going to have a suspect in this case that we're starting to develop, it is her because by her own testimony, she placed nobody else with the child that afternoon. So that's why we made the decision to then start to treat this like a suspect interview and to relocate to the sheriff's department, which she agreed to do. If she had told us she didn't want to go to the sheriff's department, we wouldn't have.

Q So -- so the reason you did that is because, not because people were interrupting you at the hospital, even though those individuals were not allowed to be in there. The reason you actually did that was because you thought maybe you could get her in a more secure environment where -- where you could get more information from her?

A Well, all those reasons would be true because the hospital is going to be rife with interruptions because we can't control the ultimate comings and goings at the

hospital. So yes, we do want it to be a more controlled environment, but we want to limit interactions and interruptions from family members, hospital staff, it's just not -- it's just not an environment -- good environment -- ideal environment for us to work and do what we have to do.

Q So the next meeting was when the coroner was present, right?

A That is correct.

Q And was it the coroner or was it an assistant coroner who was actually present at the Sheriff's -- I mean at the hospital?

A It was the coroner. She has an assistant coroners present in the hospital doing other things, but it was actually Coroner Fisher who sat in with the interview.

Q Do you know whether or not she had a tape recorder to record the conversation that was being conducted between you and Ms. Lawson?

A She did not and it's my understanding, it's also not standard practice for them to tape record interviews.

Q All right. And this particular conversation, Heather gave you more information; is that right?

A She gave a little bit more information. It was pretty similar to the previous story she had just told me.

Q Okay. At any point in time, did you think that now

is the time to go ahead and give Heather Miranda Warnings?
A No, because we still -- I had already gotten the information relayed to me from the forensic pathologist, who I didn't know at the time was at the hospital doing her own assessment of Minor 1 . She had been contacted by Sergeant Barr. I'm still processing these statements by Heather. She's not in custody. If she had said at any point, you know, I'm not going to talk to you, I'm leaving, we would have said okay. I mean there wouldn't have been anything we would have done to stop her. Even after speaking with Dr. Luberoff and we decided something's -- this just doesn't make sense. Heather is still at that point that if she said I don't want to talk to you guys, um, and we would have respected that. We couldn't have forced her to go to the sheriff's department and talk to us at that point. We still would have continued our investigation and I have no doubt we still would have resulted in this same outcome eventually, but she was certainly not a suspect at that time.
Q Not a suspect?
A Well --
Q Not a suspect?
A She was not a suspect initially when I spoke to her because I was still trying to figure out what happened. Let me clarify. By the time we asked -- Sergeant Barr

asked her if she'd be willing to go to the sheriff's department and continue to speak with us, we were then starting to view her as a suspect in this case. But before we spoke to her any further at the sheriff's department, as I said yesterday, she was given an advisement of her Miranda Rights, which she did waive.

Q And she was placed in a patrol car with Detective Barr and transported to the Lexington County Sheriff's Department?

A Yes, and the reason she rode with Sergeant Barr is because she didn't have her own transportation at the hospital.

Q Well, she had a mother and a grandmother there, didn't she?

A She did.

Q Well I mean, did you ask the mother or the grandmother if they could give her ride to the sheriff's department?

A I'm not going to testify to things that I can't answer to. I do believe that actually Sergeant Barr who discussed those logistics with her.

Q So you believe that Sergeant Barr is going to testify that she talked to the grandmother and the mother and asked them if they wanted to transport her to the sheriff's department; that's what you're stating right now?

A I'm not sure where Mr. Williams is going. Heather --

THE COURT: What -- whoa -- whoa -- whoa. The question was -- answer the question. Did you ask the mother or grandmother if they would transport her to the sheriff's department; that's a simple question; it's either yes, no, I don't remember.

THE WITNESS: Yes, Your Honor.

THE COURT: All right.

THE WITNESS: I did not ask them.

BY MR. WILLIAMS:

Q Now, when you go to the sheriff's department, was Heather Lawson already there with Detective Barr?

A She was.

Q And where was she located?

A She was actually -- they were sitting in Sergeant Barr's office when I got there.

Q And did you remain in Sergeant Barr's office?

A No, we then relocated to an interview room, specifically Interview Room 3 at the sheriff's department.

Q You say specifically Interview Room 3; why would you use the verb or the noun Interview Room 3; is there something particularly important about being Interview Room 3?

A There is not. We have three interview rooms;

Interview Room 1, which is adjacent to my office has a large table that can seat about 5 or 6 people; Interview Room 2 has a small table; and Interview Room 3 has a small table, and Interview Room 3 is the closest interview room when you're coming out the doorway to our investigation suite and you're walking into the interview room hallway, Interview Room 3 is the first interview room you get to.

Q So Interview Room 3 would be a lot smaller than Interview Room 1, so that depending on the number of persons in that room, it would be a lot closer to each other in Interview Room 3 versus 1?

A The rooms are the same size. Just there was a larger table in 1 and I don't like to use Interview Room 1 when there's only 2 or 3 people in the room because there's more furniture in the room than people at that point. It feels kind of crowded to me.

Q Are there recording devices in Interview Room 3?

A There were not at the time.

Q There are now?

A They're in the process of installing and working on a system for recording devices in those interview rooms, but it is policy that has not gone into effect and we haven't been through training on how to use them yet.

Q Why would -- why would they be putting these recording devices in Interview Room 3 now; do you know?

A You would have to speak with Sheriff Coon to find the answer to that.

Q All right. So it's you and Detective Barr and Ms. Lawson who are in the interview room and at that point in time is when you essentially go through an extended investigation or interrogation with her and she does a written statement?

A That is correct. This would be when she provided her first written statement.

Q Well, now why wouldn't you have allowed her to give a written statement when she was at the hospital so that what she is saying to you can actually be recorded in her own handwriting?

A I mean, that was simply a judgment call on my part. It's normal for my personal procedure, if I'm doing general fact finding or information gathering, especially in an investigation like this where initially I don't have a very good picture of what has occurred, it's very normal for me to conduct my initial interviews with people just taking good notes and letting them talk. People tend to tell you a lot more if you just sit and listen to them than if you immediately put a piece of paper in front of them and say, you know, start writing stuff down. This day and age, who does a whole lot of writing anymore?

Q The time in which you began this interview was what

time?

A This interview began at -- we started the statement form at 9:41 p.m.

Q So she found the child deceased, what was it a little after 5; is that right?

A Yes, I believe the testimony that the 9-1-1 call came in just before 5:19 p.m. yesterday.

Q So going through her finding the child, she runs out of the house without shoes on, she goes to Tuckus; she come back, all these fire trucks, law enforcement people get there, EMS people get there; she's transported in an ambulance with her deceased baby to the hospital; she's gone through three interviews with you and any number of other individuals there; she's transported in the sheriff's department car to the jail and then you sit down and say we're going to write down exactly what happened at 9:41 on a Sunday night?

A Yes.

Q Okay. Now, has she had anything to eat like for supper or anything?

A I seem to recall that we had offered her water. I believe she didn't want it. I don't recall whether we offered any food or not.

Q Well, how long does this interview last?

A We concluded the interview at 1:25 a.m. the morning

of the 27th. So --

Q Four hours?

A Three hours 45 minutes and some change probably.

Q About 1:30 in the morning?

A Give or take.

Q Five minutes?

A Yeah.

Q And you have, I believe the statement has been placed into evidence hasn't it?

A It has.

Q And of course, you didn't record this being taken at the time either, did you, meaning you didn't have a recording device or video camera recording this information, right?

A Correct, this would have fallen in line with our standard procedures at the time.

Q So do you have a copy of this statement?

A I do.

Q All right. So you first go through -- and I'm not real good at this -- but she starts talking about the child falling out of the playpen on Thursday. She goes through a litany of things in the first beginning part of her statement, doesn't she, about explaining possible causes for bumps and bruises on the child, right?

A That is correct.

Q And she moves on to the knot on the forehead and then she moves down, didn't take her to the doctor, then she says last night she fell and hit her head at work?
A That is correct.
Q You've got a video showing the actual fall?
A That is correct.
Q Showing the condition of the child when the child fell?
A That is correct.
Q There's nothing to indicate that this is not consistent with what the video says, correct?
A That is correct.
Q Then you go on, page 2, and she goes into, she could have hit her head as well, referring to things that could have happened to the child, right?
A That is correct.
Q Isn't she just going through a statement of things that maybe happened to the child, maybe that happened to the child; isn't that what she said?
A Yes, and at this point, she also -- this is where the first key change in her story takes place is where she had previously told me at the hospital repeatedly that Minor 1 was fine on the day of the 26th. Now she's telling me that -- she's telling us about these falls and this is when she now tells us that Minor 1 had that bruising to her

forehead the morning of the 26th, which is the biggest contradiction to her previous testimony.

Q What time did that come out in this four-hour long interview; what time did that -- did she ever sit down and write this at one time?

A No, it would have been typical for us to talk to her for a little bit and gone over everything verbally first. And then when we kind of felt like she was where she was going to be as far as what she was saying happened; that's then when we would have moved to the written statement.

Q What do you mean, where it got to the point where you decided that she was where she was going to be when she gave her statement; explain that statement?

A So if I asked any of you to tell me about your day, after a certain point, you would have told me about your day; and if nothing is changing now at that point about what you're telling me, there's no point for me to just keep asking you to describe your day over and over and over and over. So at that point, I'm going to ask you, Okay. Well, if you would please write that down for what we just -- what you just told me about.

Q So in essence, you're in control of what gets written down on this form when you determine that they're -- that you've gotten what information at that point in

time that you need to have recorded?

A Heather is ultimately who controls what she writes on the statement form. And the reason it's a question/answer format is we ask her to begin the statement and then whenever -- the reason we do the question/answer is we're then asking questions to address things that we had talked about to make sure she writes down what she's told us.

Q And again, you asked her specific questions about how she was acting. Would every place where you go into a different question, would that be after an extended period of time that you just said you had reached point where you think that's all you're going to get from her, then you would go to a different question?

A No, we -- so we probably talked, if I had to guess, because I mean we're not keeping exact, I don't have somebody scribing every minute of our interaction with her. If I had to guess, we would have probably sat around and talked with her for, you know, 30, 40, 45 minutes. Usually verbal interviews with people don't take very long. Written statements take a while because it just takes a while to get people to write and to be as detailed with writing as they are when they talk to you. So I would say probably three quarters of that interview time was probably her giving this written statement.

Q And obviously, if it was recorded, we wouldn't have to guess about how long it took and what was going on?

A No, potentially not depending on the recording system.

Q Now there's a reference in here that you were talking about how she got the bump on the forehead and she goes through with you a litany of a little truck, hit the truck, right?

A Yes, she had talked about Minor 1 had got hit in the head with a toy by one of her other children, I believe the previous Thursday or Friday.

Q And again, there's really nothing inconsistent about that, is there, just more detail than what she had told you before?

A Yes, it is.

Q So now we get to the third page and she tells you what kind -- she tells you what kind of toy it was, right?

A That is correct.

Q And then she goes into describing in detail what happened after you and the kids got home after midnight. Why did you write a question like that? It doesn't flow with all the other questions in terms of what's written down here in this statement?

A Actually Sergeant Barr wrote that specific question, but the reason we're asking about that is because

Heather had told us that when she had gotten home the night before that she had had this incident where -- let me make sure I'm not speaking out of turn here. Give me a second.

Where she had tripped and fallen with Minor 1 when she was bringing her in the house and then basically kind of dropped her in the pack 'n play and so we were -- she just told us that, but she had not included it in her statement at this point. So we were asking that question to prompt her to give us that statement that she had already given us verbally.

Q So now you have Detective Barr, whose -- she's also interviewing her, asking her questions and dictating what she wants recorded in this witness statement also, correct?

A Yes, because when you've got two detectives in an interview, we're kind of -- as you'll see, some of these questions she writes in her handwriting and some of the questions I write. So basically, when she's doing the question and answer, I'm thinking okay, what else do we need to make sure we ask that, you know, because everybody can make mistakes. If there's two of us, we're less likely to miss something as opposed to if it's just one of us.

Q Then you move on to page 4, where essentially you ask her about bruises and stuff like that and, and -- and the short answer to this is that whatever bruises she had, she didn't think that she needed to go to the doctor for

them?

A That is correct and my primary concern with asking about these questions is she's now telling me that when Minor 1 woke up that morning that she had those heavy bruises to the forehead, which to me were alarming and we were trying to figure out why she would not have sought out medical treatment for the child, if the child had woken up with those injuries.

Q Well -- well now, when you talk about how the child appeared in the morning, you're -- you've seen the child after the child was dead and after the photographs were taken, right?

A That's correct.

Q You didn't see the child in the morning to see how big those bruises were, whichever bruises she's referring to?

A Oh, that's correct.

Q So it could have been that the bruising that she was seeing was not the same bruising that we were talking about, could it?

A That's possible. Although she did tell me in her statement that she had never seen Minor 1 with bruises as bad as the bruises she saw.

Q Which is what? I don't -- what -- what definitive degree is that?

A That's a very qualitative statement, so --
Q You're a scientist, right?
A Yes, sir.
Q You wouldn't use those types of terms in your research in how you describe things, would you?
A No, but the --
Q Let move on to page 5. You go into, Did you and Richard fight or argue while he was here; you've already learned that Richard had come over, right?
A Yes, we had.
Q Why didn't you ask her to put in the fact that they had had sex that day or is this because you were afraid that something that happened at the store when Richard was at the store?
A She -- she actually mentioned in her statement they were having sex.
Q So I -- I guess, it doesn't -- your statement doesn't flow, does it?
A Well, that's not unusual for these kind of written statements. I mean, they're not an ideal translation of one-on-one interaction. It's just again, she would have talked to us for a while and we're wanting to make sure everything that she had told us then got translated to this statement, which is why some stuff may seem a little out of order because Sergeant Barr is thinking to make sure she

asks her things to make sure Heather mentions what she said. And I'm thinking of other things and there may be a bit of a flow issue with it because of it may seem a little disconnected as far as order, if that makes any sense.

Q Sure. Because you're in control of what she puts in the statement?

A No, she's in control of what she puts in the statement.

Q Now, you go on to talk about a question about what kind of stress she's been under?

A That is correct.

Q She didn't tell you that she hurt the child because she had been under any kind of stress, did she?

A No.

Q She never said that she actually hurt the child at any one of these many interviews that you have given with her, did she?

A No, she only indicated what she described as an accidental impact the child had while in her care, but she never directly said that she had hurt the child.

Q So why do you want to put in this question about stress and loaded up with stress that she's had in her life?

A Because we're still, I mean, despite what she's saying, especially when her statements are not really

matching from the hospital to what she's now telling us at the sheriff's department, she still hasn't reasonably accounted for what happened. So we're still seeing her as a suspect. So obviously, when you're looking at somebody as a suspect you want to kind of get some insight into their state of mind, what they're going through. Obviously, with an incident like this, we want to look at life stressors. She's a single parent, she's got a supervisory job that's giving her a lot of grief of work, she's got two other small kids. I mean she's got life stressors through the roof, so we want to make sure we document those issues because they're very relevant to this investigation.

Q Well, they're only relevant if they have something to do with what happens, aren't they; we all have stresses in our life, don't we?

A I think they're important to be aware of regardless, rather than to speculate about an actual fact.

Q Why did you decide at 1:30 in the morning that that was enough for the day?

A Normally I write this as a question; we didn't in this case, but a lot of time, I conclude these interviews by asking who I'm talking to is there anything else you can think of whatsoever that you want to tell us and make sure it ends up in this statement. But if she wants to keep

talking, we'll keep talking and this page 8 can turn into 14 or 20 pages easily. But in this case, we had asked her all the questions we could think of at the time. We talked about everything together.

She agreed that if we had additional questions later on, we could re-approach her and talk to her some more. But as of that night, she said she didn't have anything else to add, so we concluded the interview.

Q Then you arrested her?

A Yes, we did.

Q So she didn't go home?

A No, she didn't go home, but we never promised her that she was going to go home.

MR. WILLIAMS: That's all the questions I have, Your Honor.

THE COURT: Redirect, Solicitor?

MS. MAYES: Yes, sir, Your Honor.

REDIRECT EXAMINATION

BY MS. MAYES:

Q Detective Creech, taking a look here at State's Exhibit 30, being the written statement of Heather Lawson, the portion here on page 2 of 7, where she states, I laid her down for a nap around 1:40 or 2. Can you tell us whether or not that remained consistent even during the course of this written statement?

A I remember her changing her story to tell us that she had checked on her about 12, as looking in the crib and she could tell she was breathing, but then that was after her vomiting and throwing up that morning and so she originally told us in writing her statement, she put her down for a nap about 1:40 to 2 p.m., but then she later backed off of that and tells us that she looked in and could see that she was breathing and sleeping. And then she said she didn't check on her again until she found her after 5 o'clock. So then she gave us that window of roughly noon to 5 p.m. where she said she didn't check on the child.

Q All right. So in effect, that statement was retracted?

A Yes, it was.

Q And then Mr. Williams was asking you specifically about the questioning regarding the bruises and that occurs on page 3 of the statement. First with the question here, when you first noticed the bruises on Minor 1, why didn't you call 9-1-1 or take her to the ER, did she indicate that it was a single bruise or multiple bruises in the response?

A She actually referred to it in her response as bruises, plural.

Q Okay. And then again on page 4 of 7, Mr. Williams was asking you how you -- Mr. Williams was asking whether

or not these were the same bruises that are depicted in photographs. Did you ask specifically again about bruises and their severity?

A Yes, and that's when she said --

Q The question is when did you see the bruises; have you ever seen bruises that severe on Minor 1 before and what was her response?

A Her response was I have never seen bruises as bad as what she had, but at the time, they were nowhere near as bad as when I found her.

Q All right. So again, was she -- based upon your information and this conversation, was she referring to the same bruises depicted in the photographs?

A She appeared to be, yes.

Q And those are the bruises that originally she had stated were not present at all?

A Yes, that is correct.

Q I'm going to also ask you a little bit more about some of the search warrants that you've conducted in this case. You indicated that you also are an investigator in internet crimes?

A That is correct.

Q All right. Going into the events of that day, June 26th, 2016, can you tell us whether or not you obtained a search warrant to recover text messages between Ms. Lawson

and any other individual?

A So the only reason -- the search warrant would have been for her cell phone and we would have as part of that, recovered all of her text messages present on the cell phone itself.

Q All right. And that would include any communications she had with any other third party, correct?

A That is correct.

Q And that would include Richard Tuckus?

A That is correct and absolutely included Richard Tuckus.

Q All right. And then in addition, the text messages, can you tell us whether or not that phone extraction routinely includes call logs showing in-going and outgoing phone calls made from her phone to all other third parties?

A It does show her call logs as well.

Q And would that include any calls to or from Richard Tuckus?

A It did.

Q Now, in addition to the search warrant for the phone extraction, which actually shows you what activity was on the phone, can you tell us whether or not you also obtained actual hard copies of the phone records from the phone company?

A I did.
Q All right. And what phone company was that?
A The phone company was AT&T.
Q All right. And once you're actually viewing the hard copies of the phone records showing in-going and outgoing phone activity, can you tell us whether or not that can be used to compare against the results of the phone extraction?
A It can.
Q To account for any type of discrepancies?
A It can.
Q And then ultimately, I believe you indicated you also obtained an additional search warrant specific for Facebook activity?
A I didn't actually obtain a search warrant for Facebook activity. I initially submitted what we call a preservation request which is through an online law enforcement protocol that Facebook has. It's maintained for Facebook and Instagram records. I submitted that preservation request which is not a formal document, it's just me logging in, copying and pasting a Facebook URL, which is the link to somebody's Facebook page or their account number and I hit submit and Facebook will preserve those records as they are at that date and time for 180 days. If I don't submit any legal process or request an

extension of that, then after 180 days if those records change, they're not going to be available as they were at that date and time.

Q All right. So let me -- let me ask you another way. The actual search warrant, I believe you indicated once you go back and review the phone for Facebook activity; is that correct?

A Yes, we did an additional search warrant on the phone because, while discussing the case with my CSI Phipps, you will hear from later, we had gotten information from Richard, or Mr. Tuckus, that there had been Facebook Messenger communications and we realized that there may have been Facebook Messenger data that was not retrievable on the initial forensic exam, which is very common. He can explain the technical side of that. But again, we did an additional search warrant for the phone and you manually boot up that phone, go into Facebook Messenger app and still find her historical Facebook messages because nobody can delete them from that device and we were able to then take pictures of it to show the Facebook messages between her and Richard.

Q All right. So ultimately having her phone, were you able to recover her text messages for that day?

A Yes, we were.

Q And in-going and outgoing calls for that day?

A Yes, we were.
Q And Facebook messages and activities for that day?
A We were.
Q And then finally, Detective Creech, Mr. Williams was asking you about control of the interview. How do you go about making sure that she has control of the interview and ultimately of what she puts in her own statement?
A Well for starters, it's part of her Miranda Rights, which she acknowledged. She's aware that at any time she can stop talking to us; and that being said, we're very insistent that the statement is her words, her writing. This is what she wants to tell us and that's why even when the statement's complete, we have her go in and put her initials on the page and have her sign every page and she's acknowledging, Yes, this is my words; this is what I'm saying.

If at any point, she had decided I'm done talking to you guys; I don't like where this is going, she could have stopped this at any point. I mean this -- this could have -- we could have shown up at the sheriff's department and she could have said I want to go home and -- or we wouldn't have necessarily let her go home, because it was still an active crime scene, but we would have let her leave. So at no point would she be under any impression that she had to give this statement. So I would say from

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that point of view, she was absolutely 100 percent in control of what she put in the statement.

Q And every response to a question posed by law enforcement was in the handwriting of who?

A Every -- every response was in Heather's handwriting.

Q Nothing further.

MR. WILLIAMS: No questions on recross, Your Honor.

THE COURT: Thank you, Mr. Williams.

Thank you, Detective, you may step down.

All right. Ladies and gentlemen, I'm going to take about a 15 minute recess. Do not discuss the case during this brief recess. You may go with the bailiff.

(The jury left the courtroom at 11:02 a.m.)

THE COURT: All right. Court will be in recess 15 minutes. Thank you.

(A brief recess was observed.)

THE COURT: Anything before we bring in the jury, Solicitor?

MS. MAYES: Nothing from the State, Your Honor.

THE COURT: Mr. Williams?

MR. WILLIAMS: Nothing from the defendant, Your Honor.

(The jury entered the courtroom at 11:21 a.m.)

THE COURT: All right. Welcome back, ladies and

gentlemen. Continue to give the parties your complete and undivided attention.

Solicitor, you may call your next witness.

MR. MCNAIR: Thank you, Your Honor. The State calls Sergeant Traci Barr.

THE COURT: Sergeant Barr, can you come around and be sworn for us please?

TRACI BARR,

having been duly sworn, testified as follows:

THE CLERK: Have a seat ma'am. Once you're seated, state your full name spelling your last please.

THE WITNESS: Tracy Michelle Barr, B-A-R-R.

DIRECT EXAMINATION

BY MR. MCNAIR:

Q Will you give the jury a little bit of background on your law enforcement experience?

A Certainly. In January of 2000, I graduated from the South Carolina Criminal Justice Academy. Through the course of my investigation or career, I become a major crime detective in 2003 and obtained a Bachelor's Degree in Psychology. I've taken additional continuing education hours of training on cases involved with child homicide, physical and sexual abuse of children, and vulnerable adults.

Q How long have you been an investigator for?

A Since 2003, so roughly, nearly 15 years.

Q And are you in a special section of the major crimes unit with the sheriff's department?

A Correct. I'm the supervisor of the special victim's unit in the major crimes division.

Q And what types of cases do you investigate in the SVU?

A We investigate violent crimes against persons, child sexual and physical abuse cases, child pornography, and child homicides.

Q Now, when did you first become involved in the death investigation of Minor 1 ?

A My initial investigation began when Lieutenant Frier called me around 5:30 p.m. on June 26th, 2016. At that point in time, he had advised me that there was a death of a seven month old infant named Minor 1 at [redacted] Weaver Drive, [redacted].

Q All right. And what were the first actions you took on this case?

A At that point in time, once I was advised of the child death, it's routine for detectives to be called to the scene, gather a search warrant, collect evidence, and further the investigation. I contacted Detective Kempler and Detective Booth along with CSI Keith Sprinkle. I asked them to respond to the Weaver Drive location to gather any

statements and secure the scene while I obtained the search warrant.

Q All right. And did you, in fact, obtain a search warrant for that residence?

A I did.

Q And did you deliver it to that residence?

A I did.

Q Were you involved in the search?

A I was not.

Q All right. When did you actually leave that location?

A At that point, probably around 7:30 p.m. that night, I arrived at the Lexington Medical Center where I met with the Coroner Margaret Fisher, Lieutenant Scottie Frier, and the medical staff.

Q All right. Did you observe Minor 1 at that point?

A I did. I saw Minor 1 in ER Room 63. At that point in time, I noticed extensive trauma to her head, which is one of the worse cases I've ever seen. She had bruising to her front, back and left side of her head.

Q All right. Did you have -- had you talked to -- did you talk to Ms. Lawson at the hospital?

A I had not seen Ms. Lawson at that time.

Q Were you informed of what Ms. Lawson's version of

events was?

A Later that evening, yes.

Q All right. And after seeing Minor 1 and knowing what Ms. Lawson had stated, what did you do?

A At this point in time, after discussing this with Lieutenant Frier and Detective Creech, I had contacted Dr. Susan Luberoff, who was our forensic pediatrician. We often consult with her on child abuse cases.

Q All right. And did Dr. Luberoff come to the hospital that night?

A She did.

Q Did she examine Minor 1 ?

A She did.

Q Were you present during her examination?

A I was.

Q Did she inform you of her opinion?

A She did.

Q All right. And after speaking to Dr. Luberoff, what did you do?

A At this point in time, after learning that the force and impact could not have been caused from --

MR. WILLIAMS: Objection, Your Honor.

THE COURT: All right. That would be hearsay.

What did you do -- after your conversation with Dr. Luberoff, what did you then do?

THE WITNESS: At this point in time, Detective Creech and I discussed having a more appropriate location to interview Heather Lawson.

BY MR. MCNAIR:

Q All right. What did you do at that point?

A I had spoken with Heather Lawson and asked if she would be willing to ride with us to the sheriff's department for further investigation and she agreed to do so.

Q She indicated she would be willing to go to the sheriff's department?

A Yes. Prior to leaving the ER that night, I spoke with her mother, April Lawson, and Heather -- Heather's grandmother, May Lawson out of respect for them to let them know she agreed to ride with us to the sheriff's department.

Q All right. And how did Ms. Lawson get transported to the sheriff's department?

A She rode in the front seat with me.

Q All right. Was she in custody at that point?

A She was not. I even advised her she was not under arrest.

Q Okay. So she was not handcuffed?

A No.

Q Where did she ride in your vehicle?

A In the front seat.

Q Now, during the ride in your vehicle, did you advise her of anything?

A Yes, I -- at this point in time, I gave her verbal Miranda. I let her know that she did not have to speak with law enforcement. She could stop answering questions at any time. If she did agree to speak with us and could have an attorney present if she wished to.

At that point in time, after giving her verbal Miranda, she did not at any time ask for an attorney or ask to be taken back to her mother and grandmother.

Q All right. Did she appear to understand those rights when you informed her of those?

A She did. She was of clear mind.

Q And she indicated she was still willing to go to the sheriff's department and speak with you?

A Yes, she did.

Q Now, during the ride in your vehicle, did you attempt to ask her any questions about the case?

A No, I specifically did not ask her any questions directly related to Minor 1 s injuries, Minor 1 or the incident in question.

Q So what happened when y'all got to the sheriff's department?

A We met with Detective Creech at headquarters and at

that point in time, we went into the Interview Room 3. I'd let Heather know that, you know, at this point in time, we just needed to know exactly what had happened to Minor 1 because we were still unsure. She was not developed as a suspect. We were still trying to gather facts and -- and information to determine exactly who did something to Minor 1 and what happened to Minor 1

Q All right. And in your experience in handling investigations like this is establishing a timeline an important thing to do?

A It's critical, yes.

Q All right. And did you have a firm timeline at that point?

A We did not.

Q So you escorted Ms. Lawson into the interview room, correct?

A Yes.

Q And it was you, Detective Creech, and Ms. Lawson?

A Correct.

Q All right. Was she handcuffed?

A She was not.

Q Was she again advised of her Miranda Rights?

A She was. We have a suspect statement form, which has the Miranda outlined on that front page and we had one of those with us at the time.

Q All right. I'm going to show you State's Exhibit 30. Do you recognize that?

A Yes.

Q Is that the form you were referring to?

A Yes, sir.

Q All right. Detective Creech just recently testified about this, but do you -- tell the jury how she was advised of her rights?

A Okay. When we initially showed Heather the statement form, I put the date -- I wrote the address of [redacted] Gibson Road; and then I time stamped this as 9:41 p.m. as when we began our investigation -- our interview. At this point in time, I asked Heather -- I read this out: I the undersigned -- Heather put her name in her own handwriting -- am 22 years old.

I further stated that, My date and place of birth for Heather, she indicated that she was born on the 8th of May, 1994 in South Carolina. She further wrote her address where she resides at [redacted] Weaver Drive, [redacted] in Lexington County.

Q All right. Now, these enumerated rights, one through five, who warned her of those rights? Did you read those to her?

A I did.

Q All right. And whose initials are those beside

each and every right?

A Those are Heather Lawson's.

Q All right. And she indicated she wished to waive those rights and speak to you and Detective Creech at that time?

A Yes.

Q Now, Detective Creech has already testified extensively to the content of that first statement.

A Yes.

Q Specifically do you recall when she was asked about her activities the day of June 26th, 2016?

A Yes.

Q Do you recall what her response was?

A She said at around 1:40 to 2 p.m. she laid Minor 1. down for a nap. She cleaned and bathed the kids, her other two kids, and cooked supper.

Q Okay. Now after that interview was concluded, what decision was made?

A Based on the fact that she had inconsistent stories, admitted to lying, she was the only one in the home at the time capable of the cause these injuries, we made the decision to place her under arrest.

Q All right. And did you take her into custody at that point?

A We did. We escorted her from the interview room

back to the detention center.

Q All right. And what was the date and time when you took her into custody?

A That was June 27th around 1:25 a.m.

Q All right. At that point did you escort her to the detention center to be booked in?

A Yes, I did.

Q Were you present during that process?

A Detective Creech and I were there, yes, sir.

Q Now, when somebody is booked into the detention center, do they collect any personal property that may be on them?

A They do.

Q All right. And you were present when her personal property was collected from her?

A I was.

Q Was one of those items on her person a cell phone?

A Yes.

Q Did you collect that item?

A I did.

(State's Exhibit Number 31 was marked for identification.)

BY MR. MCNAIR:

Q I'm going to show you what's -- I'm going to you what's been pre-marked as State's Exhibit 31. Can you

identify this?

A Yes.

Q What is that?

A That's Heather's cell phone.

MR. MCNAIR: Your Honor, we'd offer State's 31 into evidence at this time?

MR. WILLIAMS: Without objection, Your Honor.

THE COURT: State's 31 is in evidence without objection.

(State's Exhibit Number 31 was entered into evidence.)

BY MR. MCNAIR:

Q Now, after Ms. Lawson was arrested on the 27th, did you have another occasion to speak to her?

A Yes.

Q When was that?

A On June 27th I learned of the autopsy findings that the cause of death was from blunt trauma to the head.

MR. WILLIAMS: Objection to that, Your Honor, it's hearsay.

THE COURT: Sustained.

BY MR. MCNAIR:

Q All right. After that first interview, did you have occasion to speak with the pathologist in this case?

A I learned from crime scene.

Q Okay. The results of the autopsy?
A Yes.
Q All right. And after you learned results of the autopsy, you went to go speak with Ms. Lawson again?
A Correct.
Q All right. And what was the date of that interview?
A This was on June 28th at around 10:30 a.m. the next -- the next morning, with Detective Livingston.
Q All right. Detective Livingston? It was you and Detective Livingston?
A Yes.
Q And where did that interview take place?
A In the Interview Room 3.
Q All right. And clearly at this time, she's in custody and she's under arrest, correct?
A Correct.
Q Did you advise her once again of her Miranda Rights?
A I did.
Q How did you do that?
A At this point in time, what I did was, because I had my case file with me, I had the original first statement she had given to Detective Creech and I. I reread and went over the Miranda Rights that she had

initialed previously because this was a continuation of the initial interview with her. At that point in time, on the secondary statement form, which was a continuation, I wrote Miranda still applies and was understood.

Heather was of clear mind. She was willing to speak with us and answer any questions and she even initialed where she understood that this was a continuation of that interview and that she understood those Miranda Rights.

Q All right. So she appeared to understand her rights?

A Yes.

Q Did she voluntarily waive those rights?

A Correct.

Q Now, I think Detective Creech testified about this earlier, but can you talk a little bit about the format of how you conduct an interview?

A Sure. Typically what we do in any situation of interviewing someone is that we -- we have a conversation first to try to gather facts and take notes during that interview at that time. At that point, we then go into a question and answer, which is what we did in this case also.

Q All right. So you talked to them just verbally?

A Yes.

Q And at the conclusion of that conversation you ask them put whatever y'all talked a into a written statement?
A Correct.
Q Are there some things that they may tell you verbally that don't necessarily make their way into the written statement?
A Yes, that happens often.
Q All right. And during this interview, were you taking notes?
A I was. I converted those notes into a word document on my computer to maintain that supplemental report.
Q All right. So will you tell the jury just the nature of that conversation and what you -- what you asked her about and what her responses were?
A So at this point in time, after I advised Miranda Rights to Heather, I asked her if she and Richard, while Richard was at the house that day, during his visit if he had seen Minor 1. Heather indicated that Richard saw Minor 1 when he walked in -- his way inside and outside, but at no time did she place him alone in the room with him. She even indicated that she had asked him not to bother Minor 1 because she was sleeping at the time and that she also knew this because of the way out of the home.
Q All right. So based on that statement, she

indicated she was with Richard when he left the home that day?

A Correct.

Q And then she had asked him not to bother Minor 1?

A Correct.

Q Because she was sleeping?

A Yes.

Q All right. And then?

A And then I further advised Heather of the autopsy results that Minor 1's death was from blunt force trauma to her head. I confronted her about her previous inconsistent statements and at this point in time, she began to cry. Heather stated that on Thursday the 23rd, Minor 1 fell forward from her playpen after pulling herself up and possibly striking her head on the floor. Heather continued to say that the playpen, Is in bad shape and probably gave out.

Heather also said she didn't feel that Minor 1's injuries were worth a doctor's visit and believed to be okay. Heather further stated that Minor 1 continued to act normal. And this was on Thursday and Friday the 24th.

Q All right. So the Friday would have been when? The 24th?

A Yes.

Q Okay. All right. Continue.

A At this point in time, we asked Heather did she

remember any other times where Minor 1. was injured. And she answered, on Saturday, around 8 to 9 p.m. I got Minor 1. out of her stroller and when walking into the office, she hit her head on the right back side of the doorway. After she fell, I grabbed her and I was in a hurry trying to get back up to the front, and in doing so, she may have hit the left side of her head on the doorway while I was closing it trying to get around up front, indicating that she was at the store at the time. Minor 1. and Minor 3, her older siblings, were playing on the floor.

And another instance Heather mentioned, she stated that Minor 3 had pushed her over causing Minor 1. to hit her head on the toy which was on the floor.

Q Can I stop you right there?

A Sure.

Q She said Minor 3 pushed Minor 1. and Minor 1. hit her head on a toy?

A Yes.

Q Is that consistent with the previous statement she gave concerning that incident?

A At this point, she had given numerous -- numerous statements or versions of how these injuries occurred and so it was -- it was difficult to followup on exactly which one she was referring to.

Q All right. Do you recall one time she said Minor 2

pushed Minor 1 over --

MR. WILLIAMS: Objection to leading.

THE COURT: Rephrase the question, Solicitor.

BY MR. MCNAIR:

Q Do you recall if she stated whether or not anybody else had pushed Minor 1 over?

A I learned from Lieutenant Creech that that had been mentioned.

Q Okay. All right. Please continue with what she told you.

A So at this point in time, Heather further advised that Minor 1 cried a little and acted fine shortly before she continued to play on the floor. Heather had mentioned taking Minor 1 to play with other children on Saturday the 25th. And again stated, Minor 1 appeared to be fine. Heather also mentioned during that conversation that she had taken a photo of Minor 1 and uploaded that photo to a Facebook account that she had and also sent her mother that image.

Q All right. And what did you do at that point?

A At that point in time, I used my phone to pull up the Facebook account to verify which photo she was actually describing and she pointed the particular photo in question out.

Q Okay. And when did she say that photo was taken?

A She said that that photo was taken Saturday on the

25th.

(State's Exhibit Number 32 was marked for identification.)

BY MR. MCNAIR:

Q Okay. I'm going to show you what's been premarked as State's Exhibit 32; can you identify that?

A That's the photo that she pointed out.

MR. MCNAIR: Your Honor, we'd offer State's 32 into evidence at this point.

MR. WILLIAMS: No objection, Your Honor.

THE COURT: May I see it please?

MR. MCNAIR: Yes, sir.

THE COURT: State's 32 is in evidence without objection.

(State's Exhibit Number 32 was entered into evidence.)

BY MR. MCNAIR:

Q All right. And she stated this photo was taken on the 25th?

A Yes.

Q And that would have been the day before Minor 1 died, correct?

A Correct.

Q Do you know which baby in this picture is Minor 1?

A Minor 1 in pink.

Q Did you observe bruising on the back of her head?
A I did not even question her about it.
Q All right. And she stated that Minor 1 was fine on the 25th?
A Yes.
Q All right. Please continue with the remainder of her statement.
A Heather went on to say that shortly after that play date, she had to go to work and was running behind. So while rushing to get the kids together for her shift, she quoted it was possible that she struck Minor 1's head on the door frame at the gas station. Heather also said that since she was running late, Addy seemed to be okay so she placed her in an upright cigarette box at the store.

While working her shift, she later heard Minor 1 crying. She went into the office where Minor 1 was in that cigarette box and found her lying on the floor. Heather then said that she snatched Minor 1 from the floor and rushed back to the customer counter.

Q Now, when you used the word snatched, is that your work or is that her word?
A She quoted that word.
Q Okay.
A At this point in time, Heather said, The office door, in a quote, The office door is very small. She

thinks she hit Minor 1's head against the corner of the door while leaving the office and then Minor 1 eventually stopped crying. She later asked Richard if she could take Minor 1 to the doctor; she thought Minor 1 needed to be taken to the doctor. He indicated she has stopped crying and seemed fine; she shouldn't take Minor 1 to the doctor.

Heather further advised that once she -- once she was off work that evening, she loaded the children in the car and may have it, I quote, may have hit Minor 1's head on the car while putting her in the car seat prior to driving home.

Q All right. Let me stop you right there. This is the first time any of those incidents have been disclosed by Ms. Lawson, correct?

A Yes.

Q Okay.

A Heather further advised that when she arrived home Minor 2 began running around the yard; this was approximately 11:44 p.m. She said while Minor 2 was running around the yard, she began to take Minor 3 and Minor 1 inside the house. Heather said that Minor 1 was crying uncontrollably, which she quoted and after waking up, when walking into the house, she tripped over the stroller and fell into the playpen.

Heather further indicated that she changed her story because she was frustrated and tired and then when

Minor 1 started to slip from her arms, I quote, she did nothing to stop it, she just dumped her into the playpen. And those were her words.

Q All right. What did she say she did after that?

A I'm sorry?

Q After she dumped her into the playpen, what did she say she did after that?

A Minor 1 said she -- Heather said she then went outside to get Minor 2 and to put him in the bed. Heather went into the living room, undressed and laid down on the couch. She further indicated that she turned on Family Guy and fell asleep. Heather also said that Minor 1 was still crying, so she turned on the volume of the TV, I quote, as I always do and drowned out the sound of crying.

Q Let me stop you now. The quote, let's quote her exactly. She said she --

A Always does, she turned on the TV as she always does to drowned out the sound of crying.

Q All right.

A Heather fell asleep around midnight and woke up when Richard called her between 9 and 9:30 the next morning. She spoke with Richard for a while and then went to change Minor 1's diaper. Heather then fed her about two tablespoons of baby food and Minor 1 spit this out. Heather gave her her bottle and left Minor 1 in her room for a little

while. At this point, Heather said that she came back in her room. Minor 1. had finished the bottle and when she went to get the bottle from the playpen, Minor 1. leaned over, I quote, leaned over and threw up everywhere.

After Minor 1. threw up, she appeared to be tired. So she left her in the room to sleep. Heather returned to the living room to watch TV and around 12, Heather went to check on Minor 1. in the playpen and said, quote, her stomach was moving, so I thought she was okay, end quote. At this point in time, she left the room and began to clean up the house, bathed the children and make supper.

Q All right. What did she say happened after that?

A Around 5 o'clock, Heather realized, quote, she realized she had not heard from Minor 1. in several hours, end quote. So she went to check on her. Heather stated she walked into the room, she observed a blanket on Minor 3's bed and the playpen completely covering Minor 1. Heather, quote, snatched the blanket from the playpen and heard Minor 1, quote, hit the bottom of the pen as if she were wrapped up in the blanket.

Q All right. Before you move on any further, she is now saying the last time she checked on Minor 1. was 12 noon?

A Correct.

Q And that she didn't -- the next time she checked on her was 5 o'clock?

A Correct.
Q And she felt her wrapped in a blanket?
A Correct.
Q Okay. Please continue.
A Heather said Minor 1. was lying on her back with her, quote, her face looked dead. Heather then called Richard on the phone, but he didn't answer. So she left the house with -- leaving Minor 1, Minor 2, and Minor 3 inside and went down to Richard's ex-girlfriend's house, where she, quote, knew he would be.

Heather told Richard that Minor 1. was dead and they both ran back to the house and called 9-1-1 at this point.

Heather thinks this was around about four minutes after 5 and Minor 1. -- when she called 9-1-1. She further said that the operator asked if she would do CPR, but I, quote, I knew she was dead, so I didn't want to try it; I didn't even move her.
Q That's a direct quote from Ms. Lawson?
A Correct.
Q I knew she was dead so I didn't want to try?
A Right.
Q I didn't even move her?
A Yes.
Q And that was in response to the 9-1-1 operator trying to get her to do CPR?

A Yes.

Q Okay.

A Heather first said that after speaking with the operator for a little while, Richard took Minor 1 out of the playpen and was going to do the CPR; was speaking to the operator and then at that point, EMS arrived while he was doing so.

Q What else did you ask her about?

A I asked Heather if she would be willing to write us a statement and she agreed. At that point in time, I stepped out of the room, I believe, and went to go get her a bottle of water. Detective Livingston, Haley Livingston, was in the room with her at that time, for a brief moment. When I returned, Detective Livingston instructed Heather to repeat what she had just stated while outside of my presence.

At this point in time, Heather states that, quote, I swear that's what happened. She hit her head a bunch of times; I didn't do anything to help her and she died; it's my fault, end quote.

Q What did you ask her after that?

A At this point of the conversation, I asked Heather if there were any other times where she hit her children accidentally or intentionally. Heather said she never wanted kids and there were several times she told Richard

to, quote, This is why I hate children, end quote. Heather mentioned that she has slapped Minor 3 and Minor 2 on the back of their heads when frustrated in the past. I asked her to further explain this and she said in the past, June and Minor 2 had eaten and drank about three sippy cups; they kept crying and the wanted more to eat. She would, quote, smack or pop them on the back of the head and tell them to shut up and hush, and that was a direct quote from her, to hush and shut up.

Q Popped them on the back of the head when they were crying?

A Correct.

Q What else did you ask her about?

A At this point in time, I asked her if she had ever hit Minor 1. that way. Minor 1. was seven months old and we knew that Minor 2 and Minor 3 were one and three years old, but Heather denied hitting Minor 1. this way. She said there were, quote, many times she just wanted to, quote, just strangle them, end quote. Heather said, quote -- Heather said, they messed up plans that she had for the future, which appeared to resent her children.

Heather continued to say that she, quote, never hit Minor 1. like that, end quote; and that Minor 1. was the only one that really wanted to do, she won't -- let me stop for a second. At this point, her additional quote was, Minor 1. was

the only one I really wanted anything to do with. She was the only one I wanted to hold and have near me as a baby, end quote. Heather stated, quote, I have never been a baby person; I wanted to adopt older children if I ever decided to have any, end quote.

At this point, Heather mentioned, she quoted, I wouldn't actually hurt any of my kids. I know I shouldn't have said some of those things, but they were just thoughts, end quote. Heather indicated that she was overwhelmed with everything in her life.

Q After you finished talking to her, did you then ask her to give a written statement?

A Yes, we did.

(State's Exhibit Number 33 was marked for identification.)

BY MR. MCNAIR:

Q I show you State's 33; do you recognize that?

A Yes, sir.

Q Is that the written statement you've previously testified to?

A Yes, sir.

Q That was done in the presence of you and Detective Livingston?

A Correct.

Q This was after you read her Miranda?

A Correct.
Q And She appeared to understand her rights.
A Yes.
Q To the best of your knowledge, she voluntarily waived all those rights?
A She did.
MR. MCNAIR: Your Honor, we'd offer State's 33 into evidence at this point.
MR. WILLIAMS: Without objection, Your Honor.
THE COURT: State's 33 is in evidence without objection.
MR. MCNAIR: It's Court's 2, Your Honor.
THE COURT: Excuse me?
MR. MCNAIR: It's Court's 2 as well.
THE COURT: All right.
(State's Exhibit Number 33, was entered into evidence.)
BY MR. MCNAIR:
Q Do you have a legible copy of that up there with you?
A Yes, I do.
MR. MCNAIR: Permission to publish, Your Honor?
THE COURT: Yes, sir, of course.
BY MR. MCNAIR:
Q All right. Would you just, I guess, when you did

this statement, I see there's writing there in blue and there's writing in black underneath that. So what's the format of that?

A Correct. So one of my common practices when I take statements from people, I use a blue pen and then I use them to use a black pen so you can differentiate whose writing what. Detective Livingston was also in the room at the time and so I believe this first sentence, the first question, Do you remember any other times Minor 1 was injured? This is a question written by Detective Livingston in my presence. If you -- above that, where it says Miranda still applies and was understood. Below the word understood, you can see the HL; that's Heather Lawson's initials, my initials are to the top of that next to the word understood and then Detective Henry Livingston's signature.

At the beginning of this -- what we do is we go through the entire written statement question and answer, and once that's complete, that's when we then obtain signatures and initials for any -- any scribble marks on the page where there's any errors that she had made.

Q All right. Will you just go through and read the questions and answers that Ms. Lawson gave?

A Sure. So the first question is, Do you remember any other times Minor 1 was injured? Heather's answer in her

own writing, On Saturday around 8 or 9 p.m. I got Minor 1 out of the stroller. When I'm walking to the office, she hit her head, the right back side on a doorway. After she fell and I grabbed her, I was in a hurry trying to get back to . the front and in doing so, she may have hit the left side of her head on the door while I was closing it trying to get around to get up front.

The second question, which is in my handwriting was, Which arm were you holding Minor 1 in? And again, Heather answered in her own handwriting, Minor 1 was in my right arm, she was looking towards my left side when I was walking into the office. After grabbing her, she was in my left arm and her head was facing my right side. The first. time hitting her head going into the office was before she fell. And the second time, the second leaving the office, was after she fell out of the cardboard box.

I then asked the next question. Do you remember any other time recently where you know of Minor 1 hitting her head. And Heather answered, Sometime in the last two weeks she was crawling on the kitchen -- heading into the living room and she fell and hit her -- fell head first off the 3-inch step. This was something that had been mentioned earlier at the hospital. I believe grandmother, May Lawson, had mentioned that. But at this point in time, based on what we had determined, that was not something

consistent with the injuries that she had sustained.

Q Well you saw a picture from the 25th of Minor 1 too, correct?

A Yes. Excuse me. The next question I asked was, Tell me about the last time you fed Minor 1. And Heather answered, Sunday between 9 a.m. and 10 a.m. I fed Minor 1 some pear baby food, about 2 tablespoons. She didn't take it that well. I gave her an 8 ounce bottle of formula and she ate it and threw it up -- then threw it up.

My next question to her was that, Did you take the photo of Minor 1 with Baby Bryson on Saturday, the photo I showed you and I was referencing a Facebook photo that she had mentioned to us in that interview. At this point in time, Heather answered, Yes, I took them for my mom between 1:30 and 2 p.m. because she hadn't seen them in a while. If you notice the initial next to the word while is in Heather Lawson's handwriting.

Going on to this next page, Describe what you remember about Minor 1 lying in her playpen on Sunday. Heather answered, Around 12 p.m. I checked on Minor 1. She was lying on her back with her shirt pulled up above her stomach. I seen her tummy moving and left her alone.

Through the course of our interview, she had mentioned some things about slapping Minor 3 and Minor 2 so I wanted to document that as well. You mentioned a history

of slapping Minor 3 and Minor 2 in the back of the head when frustrated. Please further explain. In the past, after Minor 3 and Minor 2 had eaten and drank about 3 sippy cups, they would keep crying for more. So I would finally, after telling them no, you will get sick if you drink and eat anymore, I would pop them on the back of the head and tell them to hush.

At this point in time, that's when we addressed that question, Was there any -- Was there ever a time when you hit Minor 1 in the head this way. Heather answered no.

My next question to Heather was, On Sunday after finding Minor 1 under the blanket, explain what steps you took next. Heather answered, After I seen Minor 1, I tried to call Richard; he did not answer; so I ran to him. It was about 5:14 when I called him. I couldn't get the words out. I ran to Richard's house and I collapsed on the porch. Rachelle helped tell Richard what I was trying to say. Me and Richard went back to the house and I called 9-1-1 still hardly able to get the words out. It was about 5:18 when I called 9-1-1.

I asked Heather, When you found her this way, did you pick her up or try CPR? Heather's answer, I did not move her. The lady on the phone was about to walk Richard through CPR. So he picked her up and laid her on the floor.

I asked Heather, Do you remember any other times that Minor 1. has fallen, been injured or been hit since Thursday? She answered, On Thursday afternoon, I was in the living room and I heard a loud noise and Minor 1. started screaming. I ran in there and she was lying on the floor, back down, crying. She was in the playpen and fallen out. I picked her up and held her; she stopped crying and carried her into the living room with me. She was back crawling around and laughing within 30 minutes. From Thursday to Sunday, she fell out of the playpen on Thursday, she hit her head on a toy on Friday, and on Saturday is when everything happened at work.

My next question to Heather was, Have you ever had thoughts or made comments about harming your three kids? Heather answered, I have never thought about hurting any of my kids. I have made comments I didn't mean. I said I hate kids and when they were bad, I have said I felt like strangling them, but I never thought about doing it. Before my son was born, I had never held a baby or changed a diaper. I was never a baby person. I had planned on never having kids of my own. I planned to adopt kids around 4 or 5 years of age.

At this point, I asked Heather, When you spoke about Minor 1. being put into the playpen, describe how this happened? Heather answered, When I was putting Minor 1. in the

playpen Saturday night after I tripped over the stroller, I went to the playpen, I felt her slipping but didn't try catching her; I just let her fall into the playpen.

I then asked Heather, Was this an accident of you basically dumping her into the playpen, because she didn't initially use the word dump, and previously used the word dropped prior to that. Heather answered, It started out an accident. I was tired and when I realized she was falling, I didn't do anything to stop it. I just let her fall into the playpen without doing anything to prevent it. She was already crying before she fell on the playpen and I didn't check on her. I just went outside to get Minor 2 Then when I got back in -- got inside, I locked the door and went to the living room, took my clothes off, put Family Guy on and laid down.

Was there any other time when you dumped her into the playpen, floor, or someplace else? Heather answered, No, that was the only time.

I generally give the question of, Is there anything else you'd like to say prior to ending my interviews so it gives someone an opportunity to fully express anything that we didn't cover that they want placed in their written statement. At this point in time, my question was, Is there anything else you need to tell us and Heather answered no.

I then asked her the question and referred back to the original statement where she had indicated no threats or promises or coercions were used against her. So I asked, Has anyone else made threats or promises or coercions to you for this statement. And Heather's answer was no and she initialed next to the word no.

Under -- Excuse me.

Q You can go.

A This ended at 11:11 p.m. on the 28th and those are my initials below that date.

Q Okay. And in all of your conversations with Ms. Lawson, did she appear clear headed and understand what she was doing?

A Yes, she did.

Q At any time, did anybody force, promise, or threaten her to give a statement?

A No, sir.

MR. MCNAIR: I have no further questions, Your Honor.

THE COURT: Thank you, Solicitor.

Mr. Williams?

MR. WILLIAMS: May it please the Court.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q Sergeant Barr, again, when these interviews were being done, there's no recordation that you did in terms of a tape recording or anything like that?

A No, sir.

Q And the statement, the oral recitation, which you gave was similar, but was not exact to the written statement that she wrote?

A Correct.

Q In any oral or written statement, did she ever say that she ever struck Minor 1. and harmed Minor 1 by striking Minor 1?

A She denied doing so.

Q In almost every statement we've heard so far, there's been a litany of she bumped her head so at this place, she bumped her head so at this place, she bumped her head at this place; correct?

A Correct. Yes.

Q And we know, don't we, that she had the child on June the 25th visiting with a cousin and she took a picture with Minor 1. along with this other child, it's a cousin of Minor 1,'s, so that she could send a copy of the picture to her mother, right?

A Correct.

Q And that would be State's Exhibit Number 32. So we have at least a physical -- a picture showing the physical condition of Minor 1,'s head on the date of June the 25th of

2016, right?

A Correct.

Q So when she said that she might have bumped her head or did something like that, obviously the bump wasn't that bad?

A Which bump are you referring to?

Q Well, let's talk about any of the bumps that she had because we have a picture of the child on June the 25th of 2016. We also have somewhere -- we have a video in the convenience store showing Minor 1, showing Heather, showing the child falling in the box. It clearly shows Minor 1's condition that night, doesn't it, because you've looked at it, haven't you?

A I have.

Q It shows her picking the child up and hugging the child, doesn't it?

A I believe so. It's been a while since I've seen that video.

Q And this -- this video was taken June the -- let's see, it would be Saturday; it would be Saturday night, so it's -- it's going to be the condition of Minor 1 on Saturday night all the way up until the child is leaving the workplace?

A Correct.

Q So all these bumps, all these might have done that,

might have done that; it's not reflective on these pictures, right?

A Which is what raised suspicions.

Q Okay. So that raised your suspicion that whatever damages happened to Minor 1, happened on Sunday, correct?

A Correct.

Q Okay. Now -- now I guess I'm simplifying things. So you've got -- you've got Heather saying that anything that she might have done would have been the bumping, the dropping and stuff like that; there's no evidence of that is there? No physical evidence of that?

A Correct.

Q Then you have a child which obviously has tremendous damages done to her?

A Yes.

Q Which would indicate that in every written statement, she says she didn't do it; she didn't harm the child, she didn't hit the child. The only thing she -- she's admitted that she's done, there's no physical evidence that that's harmed the child, is there?

A Her explanations just didn't add up.

Q But in terms of what she has said, what she's admitted to doing, there's no evidence that whatever she did, that would be considered incorrect; there's no physical evidence of that with this child. What she has

said on all these written statements and all these oral statements and every other statement she's given?

A She's never admitted to that, correct.

Q Now, on the written statements that you have, which you've introduced into evidence, one of the things in terms of the Miranda Warnings -- you said instead of having her fill out the form because you were present the first time when the written Miranda Warnings were given?

A Correct.

Q You went down each and every one --

A Yes.

Q -- and pointed it out. But you didn't have her do that on this one, correct?

A Correct. And that's a common practice of mine.

Q Because you're saving paper?

A No, sir.

Q Because --

A That's just how I was taught over the years.

Q That you don't have someone go through the Miranda Warnings before she gives a written statement?

A I did instruct her on those Miranda Warnings prior that second statement.

Q But you had a page, a written page that had the rights written down where they sign off on on the first statement?

A Correct. And at that point, that's where I indicated the initialed first page of her suspect statement form and re-addressed those Miranda Rights and read those to her and acknowledged that she had previously understood those.

Q I believe you said you had the original statement with you?

A I believe I did say that, but I can't be certain unless it was a copy.

Q Right.

A But I believe I did typically with that interview, I would have that original at the time.

Q But you can't say you had that original statement?

A I'm 99.9 percent sure.

Q You can't say that if you had that original statement that you would have had that little first sheet on the first original statement said this?

A No, sir, I would have had the entire copy of the first page and all seven pages.

Q But nothing in which she can sign saying that she acknowledges each and every right?

A She did sign where she acknowledged that Miranda still applied and was understood. She has understood that. She initialed by that in the first in the beginning of that sentence.

Q Do you normally run into people who know each and every Miranda Warning that they're entitled to?
A What's funny is people actually quote -- they watch Cops all the time or Law and Order and that's where they hear that I guess.
Q And it's normally not accurate is it?
A I wouldn't -- I mean it would be in reference to what they understand, so that's why we made sure that she was clear and understood each of those Miranda's, that she could stop at any time; didn't have to talk with us. She never once asked for a lawyer or asked to leave.
Q When did she ever see anybody other than -- she didn't see -- she didn't see family, she didn't see lawyers, she didn't even see a judge until at least two or three days after she'd been in jail, did she?
A I believe her bond hearing was on the 27th.
Q 27th?
A Yes, sir.
Q When you took her to the jail, you said out of courtesy, you talked to her mother and grandmother letting them know where she was going, right?
A No, sir. When we escorted her to headquarters to investigations for the interview, that's when I, out of respect, let her mom and her grandmother know.
Q Out of respect; I don't want to misquote you. Out

of respect, you let them know where you were taking her daughter?

A I let them know that she had agreed to voluntarily go with us to answer any questions.

Q And you used the word out of respect because you wanted them to know where you were taking their daughter?

A Well, they needed to know where she was going to be headed.

Q Right. So did you ask them if they wanted to take the daughter to the jail?

A Heather, at that time, had already agreed to ride with me to the sheriff's department voluntarily.

Q So I guess the question is, did you ask them whether or not they would take Heather to the jail?

A Since Heather had agreed to voluntarily go with me, I didn't think it was necessary to ask their permission.

Q The -- and you gave her some oral Miranda Warnings at that time?

A I did.

Q In the car?

A Sure.

Q And you gave them to her before she got in the car or riding in the car?

A As we were leaving the parking lot of the hospital, I advised her, you know you don't have to speak with us.

You have the right to remain silent. You're not under arrest, but you -- you have the right to remain silent and anything you say can and will be used against you in a court of law. You have the right to an attorney and have him or her present with you during questioning. And you also have the right to stop answering questions at any time until you have the chance to speak with an attorney.

Heather waived those rights, and again, never asked to have an attorney present, never said she wanted me to take her back to her mother and grandmother and she never asked to stop this interview at any point.

Q Did you tell her -- how did you tell her she was getting back from the jail?

A I don't think we discussed that.

Q Did you tell her she was coming -- she was going to leave the jail?

A I told her while we were driving to the jail, I told her she was not under arrest at that time. It wasn't until the 27th during the early morning hours, that Detective Creech and I, after that interview realized at this point in time, based on those inconsistencies, the totality of circumstances, and the fact she admitted to lying to us. We made that call to place her under arrest at that time.

Q At any point in time, driving to the jail, did you

tell her that she was not going to be staying at the jail or that she would be coming home or anything like that?

A No, sir, because I had no clue at that time. We had not developed her as the initial primary suspect during that part, as we were leaving the hospital. We still just had to develop a timeline, which is critical in these cases. It is very critical to establish who was last with this child, during that timeline and to understand exactly what happened and who inflicted those injuries.

Q Did you do any search warrant for Richard Tuckus's car or his home?

A After receiving that initial call from Lieutenant Frier that night, part of my responsibilities as a supervisor over that unit, I secured a search warrant and that was Judge Melton, prior to arriving at the hospital. That search warrant was for the residence at [redacted] Weaver Drive, [redacted] in Lexington County and that was signed by Judge Melton.

Q So in answering my question, you did not get a search warrant for the residence of Richard Tuckus or for his car?

A From my understanding, which I was not part of that process, the crime scene process at the scene because I was at the hospital. It's my understanding that Richard Tuckus's vehicle was at the scene within that premises at

the time of that search warrant, I did not followup with that search warrant at his residence because there was no indication that he was the last person with Minor 1 at that time and there was no indication she was at his residence.

Q So there was no search warrant?

A No, sir.

Q No search, no search warrant?

A No, sir.

Q No seizure of anything, right; him or his house?

A I don't recall.

Q You don't recall?

A Again, I was not part of that initial crime scene, so I'm not sure if he voluntarily turned anything over to law enforcement at the time.

MR. WILLIAMS: I don't have any other questions, Your Honor.

THE COURT: Redirect?

MR. MCNAIR: Real quick.

REDIRECT EXAMINATION

BY MR. MCNAIR:

Q Based on anything Ms. Lawson told you, is there any reason to suspect Richard Tuckus was involved?

A There was no indication that he was involved, no.

Q All right.

MR. MCNAIR: No further questions, Your Honor.

THE COURT: Recross?

MR. WILLIAMS: No questions, Your Honor.

THE COURT: Thank you. Thank you Sergeant; you may step down.

All right. Solicitor, you may call your next witness.

MS. MAYES: The State calls Dr. Janice Ross.

THE COURT: All right. If you'd come around and join us please, Dr. Ross.

JANICE ROSS,

having been duly sworn, testified as follows:

THE CLERK: Have a seat, Doctor. Once you're seated, state your full name spelling your last, please ma'am?

THE WITNESS: Janice Edwards Ross, R-O-S-S.

MS. MAYES: Your Honor, may we approach?

THE COURT: Yes. Yes, ma'am.

(There was a bench conference out of the hearing of the jury and the court reporter.)

THE COURT: Thank you, Mr. Williams.

Thank you, Solicitor.

Thank you, Dr. Ross.

DIRECT EXAMINATION

BY MS. MAYES:

Q Good day, Dr. Ross?

A Good day.

Q Can you give us some information about yourself beginning with -- with your educational background and training?

A Yes, I'm a forensic pathologist. I've been through four years of college at the University of South Carolina, where I got a Bachelor's of Science Degree in Biology. I've been through four years of medical school and then four plus years of training in the field of pathology. So I'm a doctor whose trained in Pathology. Pathology, as opposed to surgery or pediatrics, in Pathology we learn how to identify diseases by using the microscope and by using the laboratory in the hospital and we also learn how to do autopsies to find out the cause of death.

Forensic pathology is further training in identifying patterns of injury that would cause a death and then we -- from there, we can identify the manner of death. Cause of death is just what it says, cause of death. Manner of death is how that cause of death came about, whether it was a natural death, a suicide, homicide, accident, or sometimes we can't determine so we say undetermined.

And I'm board certified in three areas of pathology, including forensic pathology.

Q Dr. Ross, is it possible for you to estimate how

many autopsies you have conducted throughout your career?

A Over 11,000.

Q And can you tell us whether or not you've testified previously as an expert in the field of forensic pathology?

A Yes, I have.

Q Does that include your findings in homicide cases?

A Yes.

Q And does that include in the criminal courts of South Carolina?

A Yes.

MS. MAYES: Your Honor, at this time, the State would offer Dr. Janice Ross as an expert in the field of forensic pathology?

MR. WILLIAMS: No objection, Your Honor.

THE COURT: All right. Mr. Foreman, ladies and gentlemen of the jury, normally a person cannot give opinion testimony. Normally when a person testifies, they must testify as to either what they saw, heard, sensed by smell, or something of that nature. However, there is an exception when someone is qualified in a particular art, science, profession, or calling. They are permitted to give their opinion in certain areas if the Court qualifies them that way.

This witness, Dr. Janice Ross, will be qualified in the area of forensic pathology, to give opinion testimony

in that area and the basis for those opinions. That does not mean that you, the jury, must accept the opinion or opinions, but it is evidence for you, the jury, to use in any way you deem fit and appropriate.

Thank you, Solicitor.

BY MS. MAYES:

Q Dr. Ross, did you conduct an autopsy on Minor 1 ?

A Yes, I did.

Q On what date was the autopsy conducted?

A That was June 27th, 2016.

Q So that would be the day after her death?

A Yes.

Q Now, exactly how old was she at the date of her death?

A We were given the date or the date of birth as [redacted] 2015 making her seven months old.

Q What was her weight at the time of the autopsy?

A My scale showed 15 pounds.

Q And generally, when you begin an autopsy, did you conduct a physical assessment or examination of the deceased patient?

A Yes. We received the patient in the -- in the morgue in the body bag and we open it and we inventory all the clothing. And we do an external examination of the

entire body, taking photographs as well. And in babies, we also do full body x-rays.

Q And what were your general observations regarding her physical condition at the time you conducted this overall physical exam?

A She was a well-developed well-nourished young lady, but with a lot of injuries around her head in different parts of the head, including bruises and abrasions.

Q Were you able to make a determination as to the cause of her death?

A Yes.

Q What did you determine that to be?

A That was would be the blunt force injury of the head.

Q And specifically, were you able to make the determination as to the manner of death?

A Yes.

Q What was that?

A Homicide.

Q What is meant among medical professionals by the term blunt force injuries or blunt force trauma?

A It just means that there -- the injuries caused by an object that is flat or in other words, not sharp. So it's either being hit with something, an instrument; or falling and hitting your head on the floor or something

like that.

Q All right. And could blunt force trauma include hitting or striking by fists?

A Yes.

Q And what is it -- how does it affect the brain that may ultimately lead to death when someone has sustained blunt force injuries?

A The injury in this case did not cause a skull fracture, but it did cause swelling of the brain, edema is what we relate it to.

Q All right. So it's the swelling of the brain that occurs secondary to the blunt force trauma?

A Correct.

Q And then the swelling of the brain ultimately leads to death?

A Correct.

Q Now, were you able to actually chart out or diagram your findings of physical injury to Minor 1?

A Yes. We -- it's a rough draft. At the time of autopsy, the -- which is not totally patterned, but gives us an idea of where her injuries are.

(State's Exhibit Number 34 and Number 35 was marked for identification.)

BY MS. MAYES:

Q I'm going to show you these two documents and ask

you whether or not you recognize them.

A Yes, those are -- those are some rough draft depictions of where the injuries were on this baby.

Q And who actually prepared these diagrams?

A I did.

Q All right.

MS. MAYES: Your Honor, this would be State's for evidence.

MR. WILLIAMS: Without objection, Your Honor.

THE COURT: That's 34 and 5; 34 and 35?

MS. MAYES: Yes, sir, Your Honor.

THE COURT: Without objection you said, Mr. Williams?

MR. WILLIAMS: Yes, Your Honor.

THE COURT: All right. 34 and 35 is in evidence without objection.

(State's Exhibit Number 34 and Number 35 is entered into evidence.)

MS. MAYES: Your Honor, I would ask permission for Dr. Ross to step down from the stand briefly.

THE COURT: Yes, ma'am. If you'll give me a moment to get over there also.

(The witness stepped down in front of the jury.)

(The judge stepped over to see the witness.)

BY MS. MAYES:

Q Dr. Ross, I'm going to begin with State's Number 34 and I'm going to ask you, if you can, to step around to the other side so that the court reporter can catch your testimony.

Can you take us through -- this would be the front of the patient, being Minor 1. And if you could please take us through each diagram and what you have charted here.

A Yes, obviously there's almost a heart-shaped contusion of the mid forehead, there was a contusion over here on the left side of the forehead and one little tiny one over the right forehead that I left out that was very faint, but I -- when we reflected the scalp you could see it. Above that in the frontal scalp was more contusion and abrasions. And this is -- this would be it here, this is another contusion and abrasion over the left back of the head. This depicts more of this one.

Q All right.

A I'm sorry. There's one also -- at the base of the skull you can feel at the base of the skull there's a linear abrasion right here.

Q And now I'll ask you to take a look at State's Exhibit 35. This will be a diagram from a different perspective?

A Yes, this looks at the top of the head and this is

that one that was in the frontal of the scalp and more on the top of the head. And this is the one that's over the back of the head.

Q Thank you, you may return.

(The witness returned to the witness stand.)

BY MS. MAYES:

Q Now in addition to documenting your findings in the form of a diagram, did you also have an opportunity to take photographs of such injuries.

A Yes, I did.

Q And what means or methods do you use during the course of an autopsy to aid you in actually visualizing certain injuries better with the naked eye than maybe you would if you were in a hospital setting?

A Well, in this case, we shaved the head -- the hair off the areas of bruising so they could be better defined.

(State's Exhibit Number 36, Number 37, Number 38, Number 39, Number 40, Number 41, Number 42, and Number 43 was marked for identification.)

BY MS. MAYES:

Q I'm going to show you some photographs and ask you whether or not you recognize these?

A Yes, these are photographs I took at the x-ray -- or at the autopsy.

Q And what is it about your autopsy photographs, how

are they specifically marked so that you can identify those taken during the course of your autopsy?

A We have a 1 inch measurement on top of which is the autopsy number FA which means Forensic Autopsy 16, the year 2016 and it was our number 511th. And we always take it so that the number -- the top of the head is above the number.

Q And can you tell us whether or not you were able to photograph each of the injuries that you had previously noted there in your diagram?

A Yes, I did.

MS. MAYES: Your Honor, this would be State's Exhibit 36, 37, 38, 39, 40, 41, 42, and 43 for evidence.

MR. WILLIAMS: No objection to -- let me just look at them all. No objection to 43; no objection to 42; no objection 41; no objection to 40. I'm taking them backwards, I realize that. No objection to 39; no objection to 38; no objection to 37; and no objection to 36.

THE COURT: Thank you. Thank you, Mr. Williams. State's 36 through 43 inclusive are in evidence without objections.

(State's Exhibit Number 36, Number 37, Number 38, Number 39, Number 40, Number 41, Number 42, and Number 43 was entered into evidence.)

BY MS. MAYES:

Q And, Dr. Ross, as I publish these photos, I'll ask you to point out what, if anything, may be significant about your findings as we go. I'm going to start here with State's Exhibit 37.

A Yes, you can see the -- the injury to the middle of her forehead which is kind of heart-shaped. There's this more faint bruise on the right forehead and larger one on the left forehead, then you can see the spot on the top of the head.

Q State's Exhibit 38? At this point, you had mentioned before that you do have a process where you're able to shave the hair?

A Correct.

Q How, if at all, does that allow you to visualize such injuries? Better?

A Yes. This one is -- is the -- more of the part of the head that we -- this picture is on the top of the head down. This is more towards the front; it's the front of the scalp. This is one on the back of the scalp.

Q Now, here we see -- here we see an injury towards the back. Can you tell us what part of the head you would term that to be?

A The occipital area.

Q What we may commonly refer to as the crown?

A Well, it's a little bit further back. This is more

towards the top.

Q All right. And now here in 43, if you can tell us what we're looking at there towards -- towards the back?

A This is before the -- the hair was shaved. And it just shows the one on the back of the head and the one towards the front of the -- or top of the head.

Q All right. Now, Dr. Ross, when it comes to these injuries, can you tell us whether or not an adult fist could produce such injuries?

A It could.

Q And have you seen cases before where beating with a fist resulted in death?

A Correct, yes.

Q And specifically here, if you could tell us what we're looking at in Number 40 and what, if anything, may be significant about this photo in regards to potential use of fists as a weapon?

A This is bruising on the top front of the head. And we noted that there is -- there are some kind of linear marks here. When there's pressure on the skin, it pushes blood out of capillaries and out to the side of the weapon. So these -- it's consistent with, for instance, maybe some fingers or of a fist.

Q All right. And can you tell us when you're talking about pressure from -- from the weapon and if we're talking

about the use of a fist, that may involve knuckles that are linear --

MR. WILLIAMS: Objection to leading.

MS. MAYES: I can rephrase that, Your Honor.

THE COURT: Rephrase the question. Dr. Ross is -- but rephrase the question please, Solicitor.

MS. MAYES: Yes, sir, Your Honor.

BY MS. MAYES:

Q How may use of knuckles against skin produce such an injury as we're seeing here?

A Again, the -- the -- where the pressure is pushing down on the scalp and of course, this is on the head, so it's a thin skin against a hard scalp -- hard skull surface. So you are crushing blood vessels underneath there and the blood is disbursed out around the weapon. So it's possible that these could be fingers of a fist.

Q Now, what, if any type of injury, maybe produced when you have a weapon, such as a fist, that may leave knuckle marks. What type of imprint may you see underneath the skin with such an injury?

A When we look at the -- the brain and the skull we have to reflect the scalp and then we can see the same bruises underneath on the underside of the scalp.

Q And would that include if, for example, a fist is used with knuckle marks, can you tell us whether or not

that may produce individual findings there underneath the scalp?

A It could, yes.

(State's Exhibit Number 44 was marked for identification.

BY MS. MAYES:

Q I'm going to show you a photograph and ask you whether or not you recognize it. Can you tell us whether or not this photograph is a fair and accurate representation of the scalp reflection process that you have described?

A Yes, it is.

Q And was this taken pursuant to the same autopsy that you conducted on Minor 1 ?

A Yes.

Q And can you tell us whether or not this photograph would aid you in describing that pattern of imprint underneath the scalp further?

A It would, yes.

MS. MAYES: Your Honor, at this time, the State would offer I believe it's going to be 44?

THE COURT: Mr. Williams?

MR. WILLIAMS: Same objection as referenced at the Court's bench.

THE COURT: All right. I'll allow it into evidence

based on Rules of Evidence 401, 403, and State v. Collins that I will further supplement that record outside of the presence of the jury. Subject to your objection. 44?

MS. MAYES: 44, yes, sir, Your Honor.

THE COURT: All right.

(State's Exhibit Number 44 was entered into evidence.)

BY MS. MAYES:

Q I'll give you a moment to look at the photograph, Dr. Ross. You mentioned you have done autopsies in the past that did involve the use of a fist as weapons?

A Yes.

Q Can you tell us what we are looking at here in State's Exhibit 44?

A This is underneath -- the underside of the scalp, under the bruise which is more on the top of the head. And it shows pretty much three different areas of force and again, some phanching (phonetic) in between.

Q Can you tell us whether or not this type of imprint or injury may be consistent with an adult fist?

A It is, yes.

Q Thank you. Now I want to move on and ask you about this injury here to the base of the skull and also any additional injuries that are apparent?

A Yes, this -- you can see this is the left ear.

This is that abrasion at the base of the skull on the left and this is over the left shoulder; it's a small circular bruise there.

Q All right. How do you go about determining that that is actually a bruise as opposed to some form lividity or discoloration?

A We can cut into it and see the -- the actual bleeding under the skin.

Q Were you able to do that in this case?

A Yes.

Q And then looking there at the linear bruise, can you tell us whether or not that could also be caused human hands?

A It could, yes.

Q Now, Dr. Ross, having evaluated all of Minor 1 s injuries in their entirety, can you tell us whether or not you also had the opportunity to review a video or portion of a video taken from the convenience store where Minor 1 had suffered a fall from a cardboard box onto the floor the night before her death?

A Yes, I did.

Q Having viewed that video, can you tell us whether or not that fall would be consistent with the totality or constellation of injuries that you have observed in Minor 1 ?

A No, it would not. There are bruises on different sides of the head. One fall does not do that.

Q So one fall would not produce the injuries to the various locations of the head?

A Correct.

Q And then having observed these injuries, can you tell us whether or not you have an opinion as to whether such injuries would be caused by a three-year old or a one-year old toddler?

A I don't believe so, no.

Q And, Dr. Ross, when you talk about body temperature, in relation to someone's time of death, we have a child who presented in the emergency room and was pronounced deceased at 6:08 p.m. with a body temperature of 98.9 and some rigor in the jaw or jaw clinched from rigor, some rigor in the extremities, but the core of the body being warm; can you tell us whether or not that may be consistent with death within the last 90 minutes?

A Yes, it would be within 90 minutes or a couple of hours. Rigor mortis varies depending on the situation. It has to do with the energy used in muscles. So if you're -- before you die, if you're running or -- or very active then you're going to go into rigor mortis faster than if you're just lying in bed and die. So rigor mortis is difficult and rigor mortis will start in small muscles like the jaws

and the eyes, eyelids.

Q So the jaw is one of the first locations within the body to manifest rigor?

A Yes, small muscles.

Q All right.

A Temperature, of course, goes along with the temperature and the environment. And it's my understanding that this baby's room was around 70 degrees or so. So to go from normal temperature to down to 98.5, wouldn't take too long.

Q Okay. So in sum, with her being pronounced deceased at 6:08, death may have occurred within the last 90 minutes?

A Very likely.

Q All right. And with that body temperature, would you expect that death would have occurred earlier in the morning or later in the afternoon?

A Later in the afternoon; mid to late afternoon.

Q And what type of symptomology would an infant manifest having sustained such injuries, the blunt force injuries that you have described?

A Well, as the brain swells, of course, you're going to -- going to get -- eventually you're going to go unconscious, but before that, with the pain you can -- crying in a child like this, and maybe even some vomiting.

Q When we look at the extent of the injuries, is it possible or can you tell us to a reasonable degree of medical certainty, is it possible that Minor 1 would have become immediately unconscious?

A It's possible.

Q Do you have an opinion in looking at all of these injuries, when they were sustained in relation to one another?

A They all appear to be within seconds to minutes of each other.

Q All right. In other words, these -- can you tell us whether or not these injuries suggest that they were sustained days apart as opposed to simultaneously?

A More consistent with being more simultaneous.

Q So finally, Dr. Ross, when we're talking about this timeline here of a child being pronounced deceased at 6:08 p.m., EMS originally being called and the 9-1-1 at 5:18, can you tell us whether or not that's consistent with death occurring after 3:30 p.m.?

A It's consistent, yes.

Q Thank you.

MS. MAYES: Nothing further, Your Honor.

THE COURT: Thank you, Solicitor.

Mr. Williams.

MR. WILLIAMS: May it please the Court?

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q How you doing, Dr. Ross?

A Fine.

Q Good. Your reference of midafternoon, what is your -- when is your midafternoon time period?

A 3'ish.

Q 3'ish?

A Yes, sir.

Q And one of the things you were talking about when you were talking about the temperature inside of the house and the -- you're talking about a temperature of the body as was determined, I guess round 6 p.m. It was 98 point what when it was measured at the hospital?

A I believe it was 98.5 or something like that.

Q Okay. If it was 98.5; normal is what, 98.6?

A Yes.

Q Do you find it unusual that three hours after the -- the time period when the assault -- are you referencing the assault as being possibly at three o'clock and the death being at some later point in time?

A No. No, the -- the death would be within minutes.

Q Minutes?

A Minutes, yes.

Q So you're saying that the assault and the death

would have been around possibly three o'clock in the afternoon?

A Well you have to -- I don't know what happened from the scene at home between, say three o'clock and when the baby was found by the team. Was she moved to a different room, did they warm her up in the ambulance, et cetera. But one of the other things that we look for is, as far as time of death, is food in the stomach and the stomach was totally empty. So it was at least an hour after the last time the baby ate.

Q So -- so that's an indication that the child was not fed immediately prior to this occurring, right?

A Correct.

Q Now, is there a scale that talks about body temperature in terms of how quickly you lose your body temperature based on the time you're dead; is there a general scale like a degree in barely two hours or two degrees for every one hour or something like that?

A They used to map that out and -- I don't know what math, degrees per hour or something like that, but there's so many variables that they don't use that any more.

Q Because -- because of the temperature of the environment is so influential in regards to what the body temperature is going to be when you measure it, isn't it?

A Correct. And what the person has on, if they're

wrapped in a blanket for instance or otherwise protected from the external temperature.

Q So if the child is in a cold room or if anybody is in a cold room, any kind of dead body is in a cold room, then that throws off maybe the time of death based on whatever temperature reading is -- that's how you store bodies sometimes, if you don't have them with an embalmer, right?

A Correct.

Q You actually put them on ice?

A Yes.

Q Now, you were referencing the -- the pictures and -- and the words you kept using was it's possible, it could have. You don't know whether or not a fist was used in the death of this child, do you?

A There was no other pattern of injury other than that one that we looked at where there was some parallel lines, but otherwise, it's not -- in other words, it is not the pattern of a baseball bat or a linear weapon for instance.

Q So -- so your determination as to the possibility of using a fist is based on the linear pattern showing on the top of the head?

A Yes, and I've seen multiple beatings --

Q Okay.

A -- and injuries by fists that are witnessed, yes.
Q Right. But I guess what I'm trying to say it's how they appear that gives you the idea that it may be a fist which was used?
A Correct.
Q Now, one on the back of the neck, you indicated, could have been a fist also and it clearly is one straight bruise. It clearly doesn't have any capillaries pushed on it that would indicate that the, you know, white areas inside and it's just one streak.
A Correct.
Q How would the fist make that mark?
A Again it goes along the -- the bottom of the line or the bottom of the skull.
Q So how would a fist -- fist make that straight mark on the bottom of the skull?
A It would be -- just be a bruise.
Q So it doesn't have the white streaks that you talked about earlier on the top of the head that indicated the knuckles and the bruising and stuff like that. It's just a bruise on the bone.
A Correct.
Q How does that indicate to you that it's a fist?
A Is it -- well it could -- I said it could be. There's not other pattern to it.