

1 DISTRICT COURT, COUNTY OF ELBERT, COLORADO
Elbert County District Court
2 751 Ute Avenue, PO Box 232
Kiowa, Colorado 80117

3

^COURT USE ONLY^

4

5 PEOPLE OF THE STATE OF COLORADO,

6 v.

CASE NO. 08CR50

7

Division 1

8 WARREN BLAKE PILGREEN,

9 Defendant.

10

11

REPORTER'S TRANSCRIPT

12

13 APPEARANCES:

14 For the People: LARRY L. BAILEY, ESQ., #30605

15 JASON SIERS, ESQ., #28835

16 For the Defendant: TERRY O'MALLEY, ESQ., #20931

17 THE DEFENDANT APPEARS IN PERSON ON BOND.

18

19 This matter comes on for continued jury trial

20 before the HONORABLE JEFFREY K. HOLMES, Judge of the

21 District Court, on Wednesday, April 7, 2010.

22 This is a partial transcript of the proceedings

23 had in the case on that date and at that time.

24

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3	WITNESS:	
4	On Behalf of the People:	
5	SUVI MILLER	
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1 WHEREUPON, the following proceedings are had and entered
2 of record on Wednesday, April 7, 2010, and transcribed
3 partially as requested:

4 THE COURT: Your next witness, please.

5 MR. SIERS: People call Suvi Miller.

6 SUVI MILLER,

7 called as a witness on behalf of the People, being first
8 duly sworn to tell the truth, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. SIERS:

11 Q Good morning.

12 A Good morning.

13 Q Could you state your full name and spell your
14 last name for the record?

15 A My name is Suvi, S U V I, last name Miller, M I
16 L L E R.

17 Q Ms. Miller, what do you do for a living?

18 A I am a licensed clinical social worker.

19 Q What does that mean?

20 A In the area that I practice it means I am a
21 clinical therapist. I work with clients to do therapy
22 with them; children, adolescents, families, and adults.

23 Q You said you were licensed?

24 A Yes.

25 Q Who are you licensed by?

1 A I'm licensed by the State of Colorado.

2 Q When did you obtain your license?

3 A I was a licensed clinical social worker in New
4 York starting in 1992, and then in Colorado since 1995.

5 Q Let's jump back and talk about your degrees.
6 What degrees do you hold?

7 A I have an undergraduate degree in speech
8 communications from Syracuse University, and then I
9 obtained by my Master's degree in social work from New
10 York University in 1992.

11 Q You indicated that you are licensed both in New
12 York and Colorado?

13 A I was for a period of time, but now I am
14 licensed only in Colorado.

15 Q In terms of your practice now, do you actually
16 maintain an active patient list?

17 A Yes, I do.

18 Q Do you specialize in any type of area?

19 A Yes. My specialization is in work with children
20 and adults who have been victims of trauma; more
21 specifically, sexual abuse, some domestic violence. I
22 have done other kinds of trauma work as well.

23 Q Over the years do you know how many children you
24 have worked with that have been the victim of sexual
25 abuse?

1 A I don't have an exact number, but the number
2 that I would give would be upwards of 300 that I have
3 worked with individually myself in my 18-plus years of
4 practice. I also supervised for a period of time other
5 therapists who did the same work, so I worked with a
6 number of other cases in terms of consultation.

7 Q Understanding your work with these types of
8 patients, do you have other experience in the field of
9 sexual assaults on children?

10 A Well, I have worked in the field since my
11 graduation date primary with children, adolescents, and
12 families, and a significant portion of that was with
13 children who were victims of trauma, specifically, sexual
14 abuse. In Denver, I had worked with an organization
15 called the Denver Children's Advocacy Center for
16 approximately nine and a half years as a therapist and as
17 a clinical supervisor, and that organization does
18 assessments and also treatment of children who are victims
19 of trauma, mostly sexual abuse. I have also done
20 trainings in that area both -- I have attended trainings
21 and have presented on treatment issues, and also, on
22 issues related to children's disclosure of sexual abuse.

23 Q Do you know how many trainings you have given in
24 that field or that area?

25 A In that general area, I don't have a specific

1 number. I would say five.

2 Q Do you know who you presented to?

3 A The last presentation that I did in that area
4 was at the Colorado Organization of Victims Assistance.
5 It's a statewide conference that takes place in Keystone
6 every year, and I did a workshop there on the disclosure
7 of sexual abuse in children.

8 Q Do you have any other education specific to
9 sexual assault on children that you haven't discussed?

10 A I don't believe so.

11 Q Have you published in this field?

12 A I have not published, no.

13 Q Is there a reason for that?

14 A I am not a researcher. My work has been
15 primarily in the area of practice, not research.

16 Q Do you regularly review research and literature
17 in the field specifically with relation to sexual assaults
18 on children?

19 A Yes, I do.

20 Q What type of materials do you review?

21 A Well, because of the work that I have done over
22 the years I have tried to stay abreast of textbooks and
23 other kinds of materials, including journal articles,
24 research around how children respond to sexual abuse, what
25 we see in terms of disclosure, how it impacts them, all of

1 those kinds of things. So journal publications that are
2 peer reviewed, textbooks that are also reviewed, as well
3 as attending workshops in the area.

4 Q Have you previously testified as an expert in
5 the field of sexual assaults on children and disclosures
6 related to that?

7 A Yes.

8 Q Do you know how many times?

9 A I believe the number is 49.

10 Q And out of those 49 times, do you know who you
11 have testified for?

12 A The counties?

13 Q Yes.

14 A Denver County, Larimer County, Jefferson County,
15 Douglas County -- and I'm missing one -- Arapahoe County.
16 As well as I testified in a trial in a county in
17 Wyoming.

18 Q Has it always been in criminal cases or in other
19 types of cases?

20 A Criminal cases around sexual assaults.

21 Q And has it always been for the prosecution?

22 A It has.

23 Q Has the defense ever asked you to testify for
24 them?

25 A No, the defense has never asked me to testify

1 for them.

2 Q Have you ever been contacted by the defense and
3 asked to review materials for them?

4 A No, I have not.

5 MR. SIERS: Judge, at this time I would offer
6 Ms. Miller as an expert in the field of child sexual abuse
7 and child sexual abuse with regard to disclosure
8 patterns.

9 THE COURT: Mr. O'Malley.

10 MR. O'MALLEY: No objection, Judge.

11 THE COURT: The Court will qualify Ms. Miller as
12 an expert in the offered field. She may give opinion
13 testimony within her field of expertise.

14 MR. SIERS: Thank you.

15 Q (BY MR. SIERS) Ma'am, in preparation for your
16 testimony today, what materials were you given for
17 review?

18 A I wasn't given any materials.

19 Q Why is that?

20 A Because when I work on these cases, my
21 understanding of my role is to provide information that I
22 have or experience that I have that would reflect on that
23 to the jury around patterns that we see with children when
24 they have experienced sexual abuse. So I ask for very
25 minimal material because I am not making a statement about

1 whether or not the victim is credible. I am just
2 generally offering what I know about how children respond
3 to being sexually abused and what patterns we see with
4 that.

5 Q Just so I'm clear, then with regard to this case
6 have you read any police reports?

7 A No.

8 Q Have you watched what we've referred to as a
9 Sungate videotape?

10 A No.

11 Q Have you seen any videotapes with regard to this
12 case?

13 A No.

14 Q Have you ever met Moriah Lee?

15 A No.

16 Q You indicated that you are able to talk about
17 what you've seen over the years; is that right?

18 A Yes, in part, my testimony is based on what I
19 have seen in my practice, and also, what I have reviewed
20 in the literature around these issues.

21 Q And you said based on your understanding and
22 expertise in the field, are there certain patterns or
23 certain expected responses or behaviors that you see with
24 regard to children who suffer this type of abuse?

25 A Yes.

1 Q Is it a simple checklist where you can say yes
2 or no with a certain child going down a certain list of
3 criteria?

4 A No.

5 Q Why is that?

6 A Because children respond very differently to
7 each circumstance based on the child. So based on how
8 well that child has coped prior to the trauma, how
9 supportive their family is, who they are, their
10 temperament, the extent of the abuse, all of those types
11 of things.

12 Q Just so I'm clear then, again, hypothetically,
13 say, in one case a child discloses immediately and in
14 another case a child never discloses, does that mean just
15 because they are completely polar opposites that one is
16 more credible than the other -- I'm sorry, I don't mean to
17 use the word credible -- that that impacts your opinion
18 with regard to that child and the disclosures?

19 A No, it would not.

20 Q In fact, do we have circumstances like that?

21 A Yes, we do.

22 Q So fair to say that there is some sort of range
23 or continuum of behaviors that you would normally see in
24 regard to the behaviors?

25 A Yes.

1 Q If you would, could you explain to the jury kind
2 of your general understanding with regard with what you
3 expect to see with regard to disclosure patterns when it
4 comes to children who are the victims of sexual
5 assaults?

6 A Well, again, through my observations and what
7 the research shows is that, depending on the child's age,
8 depending on their relationship to the perpetrator, and
9 depending on oftentimes the length of the abuse, the
10 duration of the abuse, those can all play a role in
11 whether or not a child discloses or if, in fact, they ever
12 disclose. And what we see is that the majority, in fact,
13 of children do not disclose sexual abuse immediately after
14 it has happened. What we see is that a majority of
15 children actually delay, don't tell right away about what
16 has happened to them, and there can be a number of things
17 that could impact that.

18 What we look at in general is there is this kind
19 of umbrella item of fear; fear of harm coming to them or
20 coming to the perpetrator either because the perpetrator
21 has told them something bad is going to happen or that
22 they just worry that something bad will happen if they
23 tell. Loss of affection, that children in most cases are
24 sexually abused by someone that is known to them and that
25 the relationships often have a lot of positive elements to

1 them, that children can be attached to these people who
2 end up sexually abusing them and that even during the
3 relationship when the sexual abuse might be happening,
4 there can be positive things going on. This person is
5 nice to them or supportive of them or takes them places or
6 is someone who is kind to them in general and that
7 children worry that if they tell about what's happening
8 that this person might not like them or love them anymore
9 and this can be a tremendous factor for a number of
10 children who worry about telling.

11 We also see children worrying about negative
12 reactions from other people if they tell; other people are
13 going to be mad at me, other people are going to be upset,
14 maybe there could be consequences like, you know, certain
15 people aren't going to talk to me anymore or I won't get
16 to see people anymore, certain individuals aren't going to
17 like me, and these can play a significant role, again,
18 depending on this child and what they understand of what
19 they think might happen if they tell. And what we see
20 across the board with children is that when sexual abuse
21 has happened, they feel a tremendous amount of shame
22 around what has happened. Even with young children where
23 we think, well, maybe they wouldn't understand what this
24 really is, even if they don't have a context for sex and
25 sexuality, that they understand something about this isn't

1 okay, that it's wrong, that it's dirty, that it's nasty --
2 any of those kind of words that kids use -- and so they
3 feel ashamed of what has happened and we also see them
4 feeling guilty or taking responsibility for some measure
5 of it -- I must have done something to make this happen; I
6 should have told right away; since I didn't, it happened
7 again; something about what I'm doing is making this
8 happen -- and that can play a very significant role
9 because the child thinks somehow they have some
10 responsibility for it and they feel like telling somehow
11 is, they are going to have to tell about their role in
12 that as well.

13 And then finally, we see children having a
14 tremendous fear of not being believed. That even if there
15 hasn't been a pattern where they haven't always been
16 believed in the past that we see children saying, well, I
17 just didn't think anybody would believe me about this, I
18 just didn't think anybody would think this person would do
19 something like this. So we often hear from kids that one
20 of the reasons I didn't tell is I just didn't think
21 anybody would believe me.

22 So a number of those factors certainly come into
23 play for children and any and all of them can be part of
24 why they might not tell right away.

25 Q In the beginning of your answer you indicated

1 that age, relationship, and length of abuse can influence
2 whether there is reporting by children. How do those
3 three factors -- age, relationship, and length of
4 disclosure -- what do you expect to see with regard to or
5 how do those dynamics play out?

6 A Well, with age, we see with very young children,
7 say, a three-year-old maybe to a four-year-old, that those
8 children we see a higher incident of what we call
9 accidental disclosure. A child tells about what has
10 happened, not really realizing that they are telling or
11 not intending to tell, if you will. They just tell tell
12 the story. Uncle Johnny and I played this game and he
13 touched me and he touched me in my private parts. So we
14 would call that an accidental disclosure. But we see even
15 with children as young as four and five that they are
16 delaying in the disclosure, making a decision not to share
17 that information. And then all the way up through school
18 age, even again when we see children who really may not
19 have an understanding, they haven't gone through puberty
20 yet, they don't necessarily have a full understanding of
21 sex or sexuality, there is a sense of I don't want to tell
22 anybody about this because this shouldn't happen or
23 there's something about this that is wrong. So we see
24 that playing a role.

25 And then with adolescents, a different set of

1 circumstances in that they do start to develop an
2 understanding of sex and sexuality, and a different
3 understanding of what this means, that this happened to me
4 or that it is happening to me. So age can definitely play
5 a role. Relationship to the perpetrator, as I said
6 before, that the perpetrators are often known to the child
7 and who is this person to this child and their family and
8 their community. Oftentimes, it's someone that is well
9 liked by other people, respected by other adults, has a
10 strong connection to the child and/or to the family, and
11 that can play a significant role in, again, children's
12 willingness to talk about what has happened or to try to
13 worry that they are going to get this person in trouble.

14 And finally, the issue related to duration what
15 we see is that children who have been abused multiple
16 times, sometimes over years, may be much less likely to
17 disclose sooner rather than later or never disclose
18 because as the abuse goes on, it becomes more and more
19 difficult for them they feel to talk about what has
20 happened, again, related to this sense of responsibility
21 that they may feel.

22 Q And just so I understand with regards to that
23 last in terms of duration, the longer the duration, the
24 more you expect to see a delayed report; is that what
25 you're saying?

1 A We see with a single incident, again, a child
2 could easily not tell anybody about a single incident.
3 But we see sooner disclosures in terms of what the
4 research shows if there's a single incident. We see more
5 delays with multiple incidents, but again, it's on a
6 continuum.

7 Q I think that there's a belief in our society
8 that usually these things occur with the dirty old man who
9 is a stranger; is that what you've seen over the course of
10 your experience?

11 A No. What we know if that, again, the
12 significant majority of sexual abuse occurs between a
13 child and someone known to them; oftentimes, someone well
14 known to them. And that person is a trusted adult, rather
15 than a stranger; and again, often has a positive
16 relationship with this person which is a strong reason of
17 why it makes it more complicated and harder for children
18 to talk about what has happened to them.

19 Q When it comes to children is there, have you
20 noticed any patterns with regard to who they disclose to,
21 and is that affected by age?

22 A It definitely can be affected by age. What we
23 see is with younger children -- of course, very young
24 children -- three, four, five -- are very dependent upon
25 the adults around them, and obviously, would then look to

1 an adult to help them if they felt like they were in
2 trouble, but we also see that with school age children.
3 There's a little bit of a mix in school age children in
4 that the majority of the time we see that they will tell a
5 trusted adult first about what has happened to them
6 because, again, they rely on adults around them to help
7 them with circumstances where they are having trouble. We
8 sometimes see them disclose to a peer first, but in most
9 cases, we do see them talking to a trusted adult. And
10 then with adolescents, we might see them more typically
11 talk to a peer first because of how their relationships
12 have shifted and how they are more reliant upon their
13 peers before adults for help.

14 So we do see age as a factor playing a factor or
15 playing a role in to whom a child discloses. Again, the
16 biggest criteria is someone that they trust, someone that
17 they think will believe them. So that may be an immediate
18 parent. It also might be a teacher. It might be a best
19 friend. It might be somebody, you know, a close aunt or
20 another trusted adult in the community because this child
21 feels that this person is going to believe them and, in
22 general, their hope is that this person is going to help
23 them with what has happened, either to make it stop or to
24 help them figure out what to do next. So that piece, as
25 far as to whom they disclose, those criteria are some of

1 the bigger ones.

2 Q When you talk about peers, what would be a peer
3 for a child?

4 A Well, if we're talking about a child who's, say,
5 eight or nine years old, a peer could be a child of the
6 same age or within a couple of years of their age.
7 Usually, if we think of an eight- or nine-year-old
8 disclosing, say, to a 16-year-old, that isn't a peer;
9 that's a much older child. But somebody within a couple
10 of years age range of them, that's what we're talking
11 about.

12 Q Now, you've talked about peers and you've talked
13 adult family members. How about siblings? Have you
14 noticed any pattern with regard to disclosing to
15 siblings?

16 A We certainly do see children --

17 MR. O'MALLEY: Judge, I'll object. This is far
18 beyond the disclosure I've got. I don't think this is in
19 the disclosure. So I think it's inappropriate. I haven't
20 had an opportunity to prepare for this subject matter that
21 has not been disclosed. I would be happy to show the
22 Court the endorsement I've got.

23 THE COURT: Well, I think I've seen the
24 endorsement and I'll overrule the objection. You may
25 continue.

1 Q (BY MR. SIERS) Do you remember the question?

2 A I do. We certainly see children disclose to
3 siblings. Again, this is related to somebody that they
4 trust or that they rely on. So we see children who may
5 tell a sister or a brother, and oftentimes, in confidence,
6 they'll say, don't tell anybody, but I have to tell you
7 about something that's happened. And oftentimes, what
8 they are doing is hoping that this person will just
9 believe them and they can get some of this burden off of
10 their chest, if you will. But again, those are often
11 relationships where children have trust and feel that this
12 person will believe them and will support them even if
13 it's somebody that's -- a sibling that they know is not,
14 there's not necessarily anything they can do about it.
15 And then we also see kids sometimes they like kind of
16 hoped that person would go and tell another adult. It
17 just depends, again, on the circumstances.

18 Q In terms of the behavioral response or kind of
19 emotional response, to use that word, of a child during
20 the disclosure process, any patterns that you see in that
21 based on your experience?

22 A What we see with children in terms of their
23 emotions or their affect when they disclose can truly be
24 anywhere in the continuum. Sometimes children, we expect
25 children to be very, very emotional, and sometimes they

1 are -- very scared, very tearful, very distraught.
2 Sometimes, though, they can be very matter of fact, very
3 flat, very quiet, to sort of seem like they are not
4 particularly emotional about what they are telling. And
5 in my practice I have worked with children who when
6 talking to me about what has happened can play while they
7 are talking about very intense material, can smile, can
8 become sort of uncomfortable and anxious, tearful, or they
9 can become, again, sort of matter of fact presenting
10 information. So I think there isn't really a specific
11 emotion that we see with children across the board in how
12 they talk about material that we think would be very, very
13 distressing. It depends on how they're coping. Some
14 children cope by being very quiet and very serious and
15 other children get very emotional.

16 Q Is there some responses you would expect not to
17 see; in other words, you talked about continuum. Is there
18 something outside that continuum?

19 A Well, I guess I could say that I think that any
20 behavior certainly would be consistent. Certainly there
21 may be behaviors that are very, very extreme, that you'd
22 want to just consider in that whole process. But just
23 because a child became hysterical or very emotional or
24 very violent or a child became very flat or withdrawn or
25 even laughing and running around the room, which would be

1 sort of the counter of what we would think a child would
2 do, I would say none of those behaviors could rule out
3 what has happened. Again, just this piece about what is
4 this child dealing with and how are they coping in terms
5 of what is a very, very stressful experience talking about
6 sexual abuse.

7 Q So that just so I'm clear, again, because
8 there's no cookie cutter approach to this, is there any
9 circumstance where you may criticize a child based on the
10 way they are responding during a disclosure?

11 A Criticize, no. I suppose that some people might
12 question because they have ideas and expectations of how a
13 child might respond, but from what we know about children
14 and how they disclose and what I've certainly seen in my
15 practice, I don't think that a child's particular behavior
16 would by any means eliminate or invalidate their
17 disclosure.

18 Q And again, focusing on your expertise in the
19 field, you said that sometimes during disclosure children
20 may be very emotional. Could you explain how that is?

21 A Well, I think that we know as adults that
22 talking about sexual assault for adults is extremely
23 difficult. And if we think about being a child and being
24 much less emotionally mature and having many times less
25 developed coping skills that becoming really emotional may

1 just be a result of just having a really hard time talking
2 about something that is really difficult to talk about,
3 and again, children worrying about what the response of
4 the adults to whom they are giving this information is
5 going to be. Are they going to be angry at me? Are they
6 going to be mad at me? What's going to happen next? So I
7 think children can get very emotional or not very
8 emotional just depending on what their expectations are or
9 their concerns are or who they are.

10 Q Then the other end of that continuum, a child
11 that has no emotion, anything about what you just
12 described about why they may be in that state during a
13 disclosure?

14 A I think I covered it. I think that children,
15 again, can become very stoic and very flat when talking
16 about things that we would think would make them very
17 emotional because they are trying to communicate the
18 information. And again, to whom they are giving the
19 information will have an impact upon how they feel about
20 telling the information. So a child talking to a parent
21 may be look very different than a child talking to a
22 forensic interviewer, as an example, because that's a
23 known person in the first instance and an unknown person
24 in the second. So there is no real predictability about
25 what child's emotional range is going to look like in

1 terms of talking about that kind of material.

2 Q You talked about one factor that may affect the
3 way they respond is who they are talking to, the
4 audience?

5 A Yes.

6 Q How about time? Can time affect how a child
7 might react. Would time be a factor in whether a child
8 may respond to during the disclosure process?

9 A I think it certainly could be a factor, but
10 again, you know, with one child if there has been maybe a
11 year has gone by since a particular incident occurred and
12 maybe they have developed more coping skills around how to
13 talk about this or maybe when they start talking about it,
14 they become very tearful and very emotional. What we see
15 sometimes with children is if they have done some
16 processing, say, through therapy and things like that,
17 sometimes they can talk about things without becoming
18 extremely emotional just because they have been able to
19 develop some understanding of what has happened and how it
20 makes them feel. But again, that wouldn't necessarily be
21 the case, so I think that it certainly could play a role,
22 if this is something that happened to me a number of years
23 ago, it might be easier for me to get some distance from
24 it when I talk about it emotionally. But we see children
25 who become very distraught and upset even if there has

1 been a couple of years or adults where this has been 30
2 years ago and they become very, very emotional in talking
3 about what happened to them.

4 Q You talked a little bit about the person who a
5 child is speaking to and whether they are received or I
6 think you used the word believed. Can that impact how far
7 disclosure goes or whether there's even a continuing
8 disclosure?

9 A Absolutely.

10 Q In what way?

11 A As far as an example, if a child is giving
12 information to, say, a parent about something that has
13 happened and the parent becomes very, very upset, very
14 tearful, very sad, very emotional, what we'll see is that
15 sometimes children will stop talking about what has
16 happened or give limited information because they don't
17 want to further distress the person they are talking to; I
18 don't want Mom to be upset, I don't want Dad to be upset,
19 I don't want this other person to be upset. Or if the
20 person becomes angry or demonstrates disbelief -- how
21 could you say such a thing, that's a terrible thing to
22 say, that person would never do something like that, you
23 should never say things about so-and-so -- so that what we
24 talked about earlier, the child's fear of not being
25 believed has now come true and that children don't then

1 insist -- no, it really happened, it really happened, you
2 have to believe me because here they are feeling that,
3 okay, I've made this decision to finally tell and what I
4 feared might happen is really happening and no one is
5 going to believe me -- so at times you may get very
6 limited information there.

7 Finally, a child may give only part of the
8 information to begin with because it's very difficult to
9 talk about. So we'll see children sometimes give a little
10 bit of information about what's happened and not what we
11 call a full disclosure, but a gradual disclosure. So more
12 information or more detail or the extent to which the
13 sexual happened might come out later because the child has
14 processed it a little bit better, is talking to someone
15 where they feel more supported, that they feel that they
16 can trust the situation, and so, they feel then that they
17 can actually talk more about what has happened rather than
18 just say, well, this person touched me and I didn't like
19 it, or something like that. Most of the time children are
20 telling simply because they either want to tell someone or
21 they want it to stop, but they don't generally sit down
22 and say, let me give you the entire story of how this
23 happened and all the details. We often get that sometimes
24 from forensic interviewers because they ask open-ended
25 questions and they are neutral and the children may give

1 more information to this person because of how the
2 information is being received, which in general is by
3 somebody who is not becoming emotional and doesn't appear
4 to be impacted by it.

5 Q You say they may give more information. Does
6 that mean under all circumstances you would expect a
7 forensic interview to reveal everything?

8 A No. Again, it varies. Even in my practice,
9 I've worked with children who a year into therapy will
10 talk about something that has happened in the course of
11 the abuse that they haven't revealed to anyone before --
12 to a forensic interview, to a parent -- because they feel
13 that they can or they remembered a specific piece or they
14 feel safe enough to talk about something that was really
15 hard for them before. So, you know, we see again children
16 giving more or less information to a number of different
17 people, again, depending on how they are feeling at the
18 time that information is being shared.

19 Q With regard to this issue of gradual versus full
20 disclosures, based on your experience have you seen
21 occasions where both of those things have been occurring
22 at the same time or close in time to each other?

23 A I don't think I understand the question.

24 Q In terms of -- let me ask it this way. Have
25 there been circumstances, based on your experience, where

1 there may be a full disclosure to, say, a peer or family
2 member, but then to other people outside the family only
3 gradual disclosures?

4 A Yes.

5 Q Why would that be?

6 A Again, because we're talking about very
7 difficult content. We might have a child who reveals to
8 Mom a lot of detail about what has happened or a lot of
9 information. And then when asked by a professional in the
10 field, they say, oh, it really was only that he touched me
11 outside of my clothes, because in large part why they
12 revealed the information to begin with is to make sure
13 that the abuse stops or to make sure someone is listening
14 to them. It isn't because they necessarily intend for a
15 criminal investigation to go forward or for this person to
16 go on trial or any of those kinds of things. So what
17 we'll see is children may give only as much information as
18 they feel like they have to and that they feel that they
19 don't want to talk about all of the other yuck stuff to
20 somebody else, so that a parent might actually get more
21 information than, say, a forensic interviewer or a
22 detective because of those reasons.

23 Q With regard to in your experience and expertise
24 in the field, when it comes to issues of, let's just talk
25 about gradual disclosures between different parties, do

1 you have an opinion about whether you would expect to see
2 the same details always occurring in those gradual
3 disclosures to different people?

4 A What I've seen and also certainly what research
5 supports is that when children talk about these traumatic
6 incidents we might see different details at different
7 times. We might see some blending of some details that
8 the abuse incidents, unless they happen exactly the same
9 way, exactly the same day of the week, at the exact same
10 time, the person is wearing the same clothes, it's in the
11 same room, everybody else is in the house and they are all
12 in the same places that children's ability to produce
13 detail, as well as adults for that matter, consistently
14 with that kind of information, they may use some of that.
15 So we may get a blend, like, I thought he was wearing a
16 green sweater, but maybe that was another time he was
17 wearing a green sweater, or I thought that my mom was at
18 home, but maybe she really wasn't, maybe it was one of the
19 nights she had to work.

20 So we get some of those details sometimes mixed
21 up or lost or confused over reporting to different
22 individuals or over time, but what stays consistent in
23 many circumstances, and those circumstances would be the
24 trauma itself, so I know who did these things to me.
25 Again, we may get some changing of what we call

1 minimizing, that it wasn't as extensive as what I said the
2 first time because this child feels like they don't want
3 to talk about intercourse or they don't want to talk about
4 oral sex or they just want to talk about it was just these
5 other things that happened, I don't want to talk about
6 these other pieces, but that children's ability to
7 remember what has happened to them in terms of the
8 traumatic event stays consistent over time.

9 MR. SIERS: If I could have a moment, Judge.

10 THE COURT: Yes.

11 Q (BY MR. SIERS) I wanted to switch gears a
12 little bit and talk to you about what type of effects,
13 primarily behavioral effects do you generally see when it
14 comes to children who are the victims of sexual abuse?

15 A Well, there is no one behavior that we see in a
16 child who's been sexually abused. In other words, just
17 because a child presents one specific behavior, we can't
18 say with certainty, oh, this child has been sexually
19 abused, even if it is sexual acting out, although, that's
20 obviously a bigger red flag. So we look at a collective
21 of behaviors and ask for those pieces of information,
22 certainly as a therapist, you know, what changes have you
23 seen, have you noticed any differences. And we do see a
24 wide spectrum of possible behaviors or children who have
25 experienced this type of trauma, which can look like

1 changes in sleep patterns, children who are having
2 difficulty sleeping, they are having nightmares, they are
3 having night terrors, they are bed wetting or they are
4 wetting or soiling during the day. With the children who
5 may have been previously very social becoming much more
6 clingy, needing to have certain individuals around them,
7 not wanting to participate in activities they might have
8 before. We see sometimes in children an increase in
9 depression, which can also look like aggression in a lot
10 of children, so more fighting with siblings or getting
11 into fights at school. We might see children who are just
12 much more hyper-vigilant. They need to know where people
13 are. They respond to noises and sounds. They become more
14 anxious, in general, and we may see more withdrawn
15 behavior even from family, issues relating to eating
16 patterns -- they're eating more, they're eating less,
17 insomnia, things like that. And then, as I had mentioned,
18 we might see sexual acting out behavior, so children who
19 have more sexual knowledge than would be expected for
20 their age or trying to engage others in sexual behaviors.
21 So those are some of the more extreme behaviors that we
22 might see, but we look at it from a collective standpoint
23 and not just one behavior.

24 Q Really when it comes to children who have been
25 abused, do you expect to see impacts in every one of those

1 areas that you've described?

2 A No. We see, sometimes in some children we see
3 multiple behavioral changes and very extreme behavioral
4 changes. With other children, we might see much more
5 subtle behavioral changes. And again, that might be for a
6 particular child who is coping differently than another
7 child or it may be that parents aren't noticing the
8 behavior changes as much as another parent might have.
9 There can be a number of factors. But no, we don't, we
10 certainly don't always see extreme behavioral changes in
11 every child, which we might expect to see, but we
12 definitely see some impact on them with that kind of
13 trauma coming out either emotionally or behaviorly.

14 Q You indicated that it wouldn't be uncommon to
15 issues referred to eating, sleeping, sexual behavior,
16 socialization. How about schooling?

17 A Well, it's interesting because we sometimes see
18 children who are really impacted at school in terms of
19 their academics. We see children who have been formerly
20 very good students and their grades fall off. But
21 sometimes, that's a respite, safe place for some children
22 and they continue to do very, very well, despite what they
23 have experienced. So we see could see an impact on a
24 child in terms of what's happening at school or in terms
25 of academics, but again, not necessarily so, but it's a

1 consideration.

2 Q When it comes to behavioral effects -- and I'll
3 use the words, do the words of avoidance behavior or
4 triggers have any type of special meaning to you?

5 A Yes.

6 Q What is that?

7 MR. O'MALLEY: Your Honor, again, objection.
8 This is totally outside disclosure. Even at paragraph
9 number ten, it's very clear that that's not included.
10 It's not near as specific enough as this witness is
11 testifying to. Paragraph ten is a very short disclosure
12 regarding behavior and I think this continues to be beyond
13 the scope of what was disclosed.

14 THE COURT: Objection overruled. You may
15 continue.

16 A In terms of what we think about a child who has
17 experienced a traumatic event, avoidant behaviors would
18 mean that a child is trying to avoid the situation or the
19 place or the person where this traumatic incident
20 happened. So we might see a child who is avoiding putting
21 themselves in that circumstance, even if it's not exactly
22 the same as just related. And when we talk about
23 triggers, what we mean in the world of therapy about that
24 is that something is triggered for an individual where
25 they have experienced something traumatic in the past. So

1 a child who may have been sexually abused during a
2 particular movie they were watching and then later sees a
3 movie or sees something similar to it or the same movie
4 may get triggered and may remember something or may become
5 overwhelmed emotionally. That happens for children and
6 adults. We can be triggered by all kinds of things that
7 sometimes seem very unrelated, but if we look at them a
8 little closer, we will see some similarity or crossover
9 with the traumatic event.

10 Q (BY MR. SIERS) Ms. Miller, earlier you
11 indicated or you specifically referenced place and
12 persons. Would that include even discussing the
13 situation?

14 A Oh, absolutely.

15 Q And again, is that a behavior that you would
16 expect to see in all children who have been subject to
17 sexual abuse?

18 A No, because there are a number of children who
19 don't want to talk about what has happened to them. In
20 fact, the majority of children that I work with in therapy
21 tend to not want to address those issues directly. We
22 find lots of ways to get to that material, but it is very
23 difficult for them, so they will avoid talking
24 specifically about what has happened. On the other hand,
25 I have worked with some children who very poor boundaries

1 and it's what they want to talk about all the time with
2 me, with anyone who will listen, but certainly, they are
3 coping differently than a child who might want to avoid
4 talking about it either in their family or with me or in
5 other circumstances.

6 MR. SIERS: If I can have a moment, Judge.

7 THE COURT: You may.

8 Q (BY MR. SIERS) Now, earlier you indicated some
9 of the occasions you are aware of where there's been
10 ongoing abuse. So I'm trying to reconcile this avoidance
11 behavior idea with kids who sometimes put themselves back
12 in that situation. Does that happen and why does that
13 happen?

14 A It absolutely does happen. I think, again, when
15 we think about how complicated it is, if a child has been
16 sexually abused by someone know to them, by someone they
17 have a relationship with, by other circumstances being
18 very positive, that the entire contact connection
19 relationship is not solely sexual abuse, like it might be
20 with a stranger; a stranger picks you up on the street,
21 sexually assaults you, drops you off somewhere else.

22 For children who are sexually abused by people
23 known to them, there is a history leading up to the sexual
24 abuse. It most often does not happen at the first
25 contact. That history tends to be positive in many

1 elements. It could be that if they have a positive
2 relationship that this person gives them special
3 attention, that this person is nice to them, that this
4 person takes care of them, that this person is emotionally
5 available for them. And again, this is a family friend
6 that they have been in contact with and have had social
7 experiences that have been very positive. And then sexual
8 abuse happens with that as the background to this
9 incident, it becomes very difficult for a child to say,
10 oh, this was bad and I'm going to separate this completely
11 out from everything else that has happened.

12 So we see children in many cases putting
13 themselves back in a situation where they might be at risk
14 for the behavior happening again. I have worked with
15 children who even post-criminal trial, even having been
16 through that entire process, will say, but I really want
17 to see this person again, I still want to be his friend,
18 or I still want him to be my dad because what they wanted
19 was for the sexual abuse to stop, not necessarily to not
20 have contact with that person or any other individuals
21 around them anymore.

22 So for some children they may, in fact, avoid
23 situations where they have concerns what might happen.
24 But in other circumstances, we see children placing
25 themselves back in those situations for many of those

1 reasons that I just mentioned.

2 Q In those types of situations, you know, and
3 again, focusing upon your experience and expertise in the
4 field, when it's a known person, is it generally that it
5 just jumps into a full-blown sexual assault or is there a
6 process based on your dealing with children?

7 A No, in most cases, there is a process leading up
8 to sexual contact because if, for perpetrators, one thing
9 that they have in common is that they don't want to get
10 caught, so part of the way that you can at least reduce
11 your risk for a child telling about what happened is if
12 you engage this child in a relationship where you build
13 trust and you build positive contact, and you have a
14 relationship building up to some kind of sexual contact,
15 and oftentimes, the contact may be at least initially
16 something very, so smaller or lesser on the continuum that
17 may be more easily confused if the child decided to tell.
18 So we played a tickling game and I grab you and grope you
19 and you just don't do anything and you don't tell anyone.
20 If I'm a perpetrator, that might make me think that I can
21 trust that I can maybe take it a step further next time.
22 If you tell, then I can say, oh, we were playing a game,
23 it got out of hand, I apologize, it really didn't mean
24 much.

25 So leading up to sexual contact it is usually

1 very important to build a positive relationship because
2 the child then has some trust, has some ability to
3 connect, and therefore, is less likely to tell, to get you
4 or the child, if that's what they believed, in trouble for
5 what's happening. And certainly, in some instances,
6 perpetrators will tell children not to tell or will tell
7 them, you know, what kind of bad things are going to
8 happen if they tell. And again, if this is someone that
9 you have known over some period of time and have a
10 relationship with, you are much more likely to believe
11 them than if it's a person whom you simply met that
12 morning or the day before as to what things may happen if
13 you share.

14 So the lead up to the contact that is generally
15 very important in terms of building a child's trust and
16 hoping that the child won't reveal what's happened.

17 Q I'm going to switch gears a little bit, and if
18 you would, do you have opinions based on, again, your
19 experience and expertise in the field regarding memory
20 issues and difficulties in recalling trauma by children?

21 A Yes.

22 Q Explain that to the jury.

23 A Well, part of what we talked about before in
24 terms of being able to recall details, the ability to be
25 able to give and sequence of events from beginning to end.

1 When we talk about general instances, general memories, we
2 think of people's ability to be able to recall them and
3 sometimes we are able to recall them sequentially.
4 Sometimes we say, Oh, no this happened first, I forgot
5 this one part. Again, depending on how recently the event
6 happened and the circumstances around that particular
7 event, but when we think about traumatic events that
8 sometimes children may have extraordinary difficulty
9 talking about the specifics of what has happened if it has
10 been traumatic to them.

11 So they may have the ability to remember and may
12 not be able to recall it specifically. They may be trying
13 to work very hard to suppress it or forget it, and so
14 through time, only remember pieces of it. But certainly
15 when we look at memory as it relates to children's ability
16 to recall it, that we may see that there have been
17 difficulties sequencing that or that they simply don't
18 want to talk about some of these events so they say, I
19 didn't remember it before, but here's one thing else that
20 happened. Again, we aren't always so sure if it's
21 something that they really have been withholding in hopes
22 that there was enough information or that they had really
23 been trying to repress it.

24 Certainly we know that with adults we find that
25 they can have portions of traumatic events that they have

1 repressed, that they have, because they are so traumatic
2 they have, quote, unquote, forgotten about them, and
3 triggers can bring them back for them. So for children,
4 it's oftentimes just the desire to not remember or to not
5 have to talk about some of these incidents.

6 Q You talked about being traumatic to adults
7 obviously the one side. How about the way children do?
8 Have you ever seen a circumstance where children didn't
9 understand or didn't think it was a big deal?

10 A I think what you see with children is that they,
11 again, depending upon the extent of the abuse, what is
12 remarkable is that even if a child is quote, unquote, only
13 fondled, only groped, that sometimes children will say it
14 wasn't that big of a deal, but emotionally, when we talk
15 with them it tends to be very significant. It disrupts
16 their sense of safety. It disrupts their sense of being
17 able to trust people around them and trust their own
18 bodies. So they sometimes, they say, I didn't think it
19 was that big of a deal, in part, because maybe their sense
20 of what happened just physically wasn't a big deal, there
21 weren't lines crossed that way. But what we see is
22 psychologically that children are traumatized by some of
23 those lesser physical contacts and sometimes just as much
24 as a child who has been sexually assaulted in a more
25 extensive way.

1 MR. SIERS: May I have a moment, Judge?

2 THE COURT: Yes.

3 Q (BY MR. SIERS) Ma'am, I know you indicated that
4 you came into this process blind and I want to make sure I
5 understand, has anybody told you what Moriah has said or
6 how she has ever responded or reacted to the circumstances
7 of this case specifically?

8 A No.

9 MR. SIERS: I have nothing further of this
10 witness, Judge.

11 THE COURT: Cross-examination.

12 CROSS-EXAMINATION

13 BY MR. O'MALLEY:

14 Q Well, ma'am, did you talk to anybody from the
15 district attorney's office about what this case
16 involved?

17 A I did talk with the district attorney's office
18 and got some basic information, yes.

19 Q What was that basic information you got?

20 A That this was a female victim, that the
21 perpetrator was known to the child, I believe was a
22 neighbor or it could be that it was a friend's father. I
23 apologize. I'm not sure about that detail. That the
24 child was ten at the time the abuse occurred, and that
25 there was more than one incident of sexual abuse that

1 occurred.

2 Q Did they talk about the length of time that went
3 by between disclosures; did you learn about that?

4 A No.

5 Q Okay. You had a fair idea of what was going on
6 in this case before you came in as far as age of victim,
7 type of allegations, who the alleged perpetrator was,
8 things like that, right?

9 A I had those pieces of information, yes.

10 Q Okay. I want to know just a little bit about
11 your level of bias. You indicated I think on direct
12 examination that you testified 49 times for the
13 government; is that right?

14 A Yes.

15 Q And zero times for the defense; is that right?

16 A Correct.

17 Q Okay. Ma'am, do you think that part of the
18 reason that you don't testify for the defense is because
19 you've never met a child that wasn't sexually abused who
20 has come to you for any kind of treatment or any kind of a
21 treatment setting?

22 A I don't know what the reasons for the defense
23 not asking for my testimony would be.

24 Q Okay. Well, that's true, isn't it, that you
25 haven't had an occasion where a child, and you personally

1 saw them and that you'd worked with, was not abused or was
2 lying?

3 A I would say that's true, but part of that is
4 also because of the fact that in my almost ten years at
5 the agency that I mentioned, those children had been
6 referred to us after a Social Services investigation
7 during which there were allegations that were founded,
8 that the child was giving a disclosure that was credible,
9 so that my job was not to discern whether or not a child
10 was telling the truth or wasn't telling the truth or
11 perform the role of an investigator.

12 Q Well, that's never really been your role, has
13 it, in any of the work that you've done, in a truth
14 finding, fact finding process, correct?

15 A I'm not a forensic interviewer.

16 Q Thank you. So typically what you do when a
17 child comes or somebody says we think this child's been
18 abused, you just treat that child at that point as if they
19 have been abused; is that correct?

20 A I wouldn't say that. I would say that I
21 certainly, again, don't play the role of trying to
22 investigate the case, but certainly if the child has been
23 presenting information to me around any area, I discuss
24 with them, you know, question that, if it seems
25 inconsistent or doesn't make sense or seems that it needs

1 further questioning, I don't avoid doing that. But again,
2 my job isn't to come in and give a forensic interview to a
3 child, because that would be a very different role.

4 Q You say you might challenge or ask some
5 questions if something a child says might be inconsistent
6 or not make sense. Well, ma'am, as I listened to your
7 testimony, it seemed to be that there was no abnormal
8 disclosure pattern. Let's just go through it a little
9 bit. There's really no abnormal disclosure patterns for
10 children, are there? I mean, everything is pretty much
11 normal as far as you are concerned?

12 A I think what we see in the research and practice
13 is that children disclose in a number of different ways,
14 and certainly those disclosures can follow a full
15 continuum, yes.

16 Q Okay. And a full continuum means anything is
17 possible; isn't that true?

18 A Well, I think anything is possible, but I
19 certainly think that there are more things that are
20 consistent within a tighter continuum of instances other
21 than anything.

22 Q To go more specifically, you indicated that if a
23 child discloses all at once, that's not abnormal. You can
24 explain that, can't you, reasons why a child would
25 disclose all at once?

1 A Yes.

2 Q And if a child disclosed slowly, you have an
3 explanation as to why a child might disclose slowly,
4 correct?

5 A Yes.

6 Q And if a child discloses in parts or makes a
7 gradual disclosure, you would have an explanation for why
8 they did that as well, correct?

9 A I think that there tend to be explanations for
10 that. I don't know that I would have one, but yes.

11 Q Okay. You were talking about behaviors and you
12 said there was a wide spectrum of behaviors for children
13 who have been abused, correct?

14 A Yes.

15 Q And so, pretty much again you are saying there
16 is no one behavior, so any behavior is possible, correct?

17 A I think that you wouldn't want to rule out a
18 child has been sexually abused based on the fact that they
19 didn't present a specific behavior.

20 Q Right. And so, as I indicated, all behaviors
21 are possible for children who have been victims of sexual
22 assault, correct?

23 A Yes.

24 Q Okay. And let's look at something you mentioned
25 specific in behaviors as grades. You indicated that,

1 yeah, sometimes grades can be affected and sometimes they
2 are not affected; is that correct as well?

3 A Correct.

4 Q Okay. And then as far as avoidant behaviors,
5 it's possible that a child could display or exhibit
6 avoidant behaviors if they have been sexually assaulted,
7 right?

8 A Yes.

9 Q But it's also possible that a child could be
10 just the opposite and want to talk to everybody; isn't
11 that correct?

12 A It's possible.

13 Q Okay.

14 MR. O'MALLEY: Nothing else. Thank you.

15 THE COURT: Redirect examination.

16 MR. SIERS: Briefly, Judge.

17 REDIRECT EXAMINATION

18 BY MR. SIERS:

19 Q Ma'am, Counsel asked you a little bit about what
20 information was provided to you?

21 A Yes.

22 Q Did that information in any way affect or change
23 your opinions? In other words, have you shaped your
24 opinion or testimony based on the information that you
25 were given?

1 A No.

2 Q Do you even know the extent of the sexual
3 touching that is alleged in this case?

4 A No, I do not.

5 Q And do you know any of the specifics in terms of
6 the disclosures and how many people are involved and over
7 what time period?

8 A No.

9 Q There was some discussion about testifying for
10 the government. Is the fact that you're testifying and
11 that the People have called you in some way affecting your
12 testimony or your opinions today?

13 A No.

14 Q If the defense were to contact you, would you
15 automatically tell them no?

16 A No, I would certainly talk to them, ask what
17 role I was being asked to play, and what makes sense.

18 Q Does it matter -- I mean, I guess the ultimate
19 question is, does it matter who calls you up or who is
20 paying you to testify and explain these dynamics to the
21 jury; in other words, if the defense called you, would you
22 change your opinions on these topics?

23 A No.

24 Q Are these things that you have seen in your
25 experience and based on your expertise and are you

1 tailoring it because we have called you in this case?

2 A I am not tailoring it because you called me, no.

3 Q There was a lot of discussion about that a lot
4 of these circumstances is kind of a range or a continuum;
5 is that in the nature of being human?

6 A It is and I think that because we have this
7 variation in children, this variation in circumstance,
8 that it's important to note that children don't always
9 respond in one particular way. That even if we expect a
10 child to respond in a particular way that there a number
11 of ways that children might respond to something that
12 could be very traumatic for them.

13 Q You said that they don't always respond in a
14 specific way. In fact, I want to go to the next level.
15 Do you expect every child to respond in the exact same
16 way?

17 A No.

18 Q Would that be, in fact, unusual?

19 A If every child responded in the same way, yes.

20 MR. SIERS: Judge, may I have one moment,
21 please?

22 THE COURT: Yes.

23 MR. SIERS: I have nothing further.

24 THE COURT: Recross-examination.

25 MR. O'MALLEY: No, thank you, Your Honor.

1 THE COURT: Any questions from the jurors?

2 (No affirmative response.)

3 THE COURT: Thank you for your testimony. You
4 may step down.

5 (Witness excused from the stand.)

6 (End of requested transcription.)

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1 REPORTER'S CERTIFICATE

2 STATE OF COLORADO)
3) ss.
4 COUNTY OF ARAPAHOE)

5 I, VICKI LW HARTMETZ, Registered Professional
6 Reporter and Official Court Reporter for the 18th Judicial
7 District Court, within the County of Arapahoe, State of
8 Colorado, do hereby certify that I reported the above
9 proceedings in machine shorthand on Wednesday, April 7,
10 2010, and that the foregoing transcript, pages 1 through
11 49 inclusive, is true and correct to the best of my
12 knowledge and ability.

13 IN WITNESS WHEREOF, I have hereunto set my hand this
14 20th day of June, 2010.

15

16

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VICKI LW HARTMETZ
FAPR, RPR, CSR-KS, CMRS, CLVS, CRI, CPE

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