

1 DISTRICT COURT
COUNTY OF JEFFERSON
2 STATE OF COLORADO
100 Jefferson County Parkway
3 Golden, Colorado 80401

4
5 PEOPLE OF THE STATE
OF COLORADO

6 v. FOR COURT USE ONLY
Case No. 06CR2779
Division 8
7 SHANNON DJUAN JOHNSON

8
9 REPORTER'S PARTIAL TRANSCRIPT

10
11 The hearing in the above-entitled matter
commenced on June 5, 2007, before the HONORABLE
12 MARGIE ENQUIST, Judge of the District Court.
This is a partial transcript of the
13 proceedings had on this date in the aforementioned
matter.
14

15
16 A P P E A R A N C E S

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21
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I N D E X

FOR THE PEOPLE:

WITNESSES:	PAGE
JEAN McALLISTER	
Direct by Ms. Stavig	3
Cross by Ms. Reiff	56
Redirect by Ms. Stavig	66

1 P R O C E E D I N G S

2 (Previous proceedings were had not herein
3 transcribed.)

4 MS. STAVIG: Your Honor, The People call
5 Jean McAllister to the stand.

6 (The witness was duly sworn.)

7 DIRECT EXAMINATION

8 BY MS STAVIG:

9 Q Good afternoon.

10 A Good afternoon.

11 Q Would you state your full name and spell
12 your last name, please, for the reporter.

13 A Yes. My name is Jean McAllister,
14 M-c-A-l-l-i-s-t-e-r.

15 Q What is your occupation?

16 A I work as a consultant and trainer in the
17 areas of domestic violence and sexual assault and
18 offender management.

19 Q How long have you been doing that?

20 A I've been doing that, part time, for many
21 years, but full time, as my occupation, for about
22 four years.

23 Q Could you describe your professional
24 experience.

25 A Yes. I have worked in the arena of

1 interpersonal violence and trauma my entire career.
2 I -- previous to becoming a full-time consultant and
3 trainer, I administered a program at the Colorado
4 Coalition Against Sexual Assault.

5 Prior to that I administered a program at
6 the State Department of Human Services that was
7 called the Domestic Abuse Assistance Program. And it
8 funded all of the battered women's shelters in the
9 state, and offered services to women and children who
10 were -- and male victims -- of domestic violence.
11 And we set standards for those programs as well.

12 Prior to that I administered our state's
13 Sex Offender Management Board for the Division of
14 Criminal Justice.

15 Prior to that I worked as a psychotherapist
16 with victims of trauma at West Pines Lutheran Medical
17 Center in the Adult Survivor's Assistance Program for
18 eight years.

19 Prior to that I worked briefly at a senior
20 center for the Jefferson County Senior Resource
21 Center.

22 Prior to that I worked for almost
23 eight years at Gateway Battered Women's Shelter. I
24 started as a caseworker and became a supervisor of
25 all the direct services staff, the staff that

1 interacted with all of our clients.

2 Prior to that I did child protection for
3 Arapahoe County Department of Social Services and
4 worked in residential treatment for adolescents at
5 Excelsior Youth Center. And then I've done other
6 things; adjunct faculty at a number of schools.

7 And I provided consultation and training
8 for the people who intervened with the victims after
9 the Columbine High School shootings.

10 The Colorado Organization for Victim
11 Assistance asked me to coordinate the on-site victim
12 assistance response for the evacuees of Hurricanes
13 Katrina and Rita when people came into Colorado
14 evacuating from those hurricanes.

15 So I've done a number of additional sorts
16 of things.

17 Q Could you describe your educational
18 background as well.

19 A Yes. I have a Bachelor's degree in
20 Sociology from the University of Northern Colorado,
21 and a Master's degree in Social Work from the
22 University of Denver.

23 Q Have you been involved in professional
24 development or community service?

25 A Yes, I have.

1 Q Could you describe that for the jurors.

2 A Yes.

3 I have -- in terms of professional
4 development, I assume you mean training that I've
5 done or training that I've attended or both?

6 Q Yes. And I'm looking at your CV on that.

7 A I actually -- in terms of professional
8 development, I served on a number of committees and
9 commissions and boards throughout the years.

10 And just a few of those are -- I trained
11 with the Antiviolence Against Women Training Team for
12 the State of Colorado which addresses sexual assault
13 and domestic violence.

14 I've trained with the American Prosecutor's
15 Research Institute in the National Judicial Education
16 Programs. I was invited to do the senior leadership
17 training at the Air Force Academy immediately after
18 the sexual assault scandal broke.

19 I was appointed to the University of
20 Colorado Independent Investigating Commission when
21 they were looking at issues of drinking and sexual
22 assault in their recruitment program.

23 I have served as program chair in some
24 different areas at the Colorado Organization for
25 Victim Assistance Conference for the last four or

1 five years.

2 I sit on the Colorado Organization for
3 Victim Assistance Academy and Advisory Board and
4 their faculty.

5 I developed and taught a course in domestic
6 violence intervention at the graduate school of
7 social work at the University of Denver. That's just
8 a few of the things -- more recent things that I've
9 done.

10 Q Have you testified in court before?

11 A Yes, I have.

12 Q And what -- have you testified in court as
13 an expert and been qualified as an expert?

14 A Yes, I have.

15 Q And in what areas have you been qualified
16 as an expert?

17 A Victim trauma, victim reactions, domestic
18 violence, sexual assault, offender dynamics in both
19 domestic violence and sexual assault. And the words
20 change slightly, but typically it's those arenas:
21 Domestic violence, sexual assault, and victim trauma
22 reactions.

23 Q And could you estimate about how many times
24 you have testified as an expert?

25 A I know it's well over fifty.

1 Q Do you testify on both sides of the issue?
2 Are you available for consultation to both the
3 prosecution and defense?

4 A Yes, I am, although primarily I testify for
5 the prosecution. I have received calls from defense
6 attorneys often, and am used rarely by the defense.
7 So periodically I do either consult with or testify
8 for the defense, but it's much more rare than
9 testifying for the prosecution.

10 MS. STAVIG: Your Honor, at this time I
11 would move to qualify Ms. McAllister as an expert in
12 domestic violence and trauma.

13 MS. REIFF: If I could voir dire?

14 THE COURT: Yes.

15 VOIR DIRE

16 BY MS. REIFF:

17 Q Ms. McAllister, did you have a chance to go
18 over your curriculum vitae with the District
19 Attorney's office?

20 A Yes, just now.

21 Q And you submitted a copy to them?

22 A Yes.

23 Q And I'm going to ask you a few questions
24 about that.

25 A Okay.

1 Q From 2004 to the present time you've been
2 acting as a witness, consultant, and trainer; is that
3 correct?

4 A Yes. I provided expert testimony as a part
5 of that, yes.

6 Q And in that capacity you conduct no neutral
7 and objective scientific or sociological studies?

8 A Not in that capacity; I didn't do any
9 research.

10 Q From 1985 to the present you've been
11 qualified as an expert witness, according to your
12 curriculum vitae, correct?

13 A Yes. 1985 is the first time I was
14 qualified.

15 Q Okay. And in your capacity as a witness,
16 you conduct no neutral and objective scientific or
17 sociological studies in preparation for your work; is
18 that correct?

19 A I don't conduct them, no.

20 Q Before that, in 2005, you worked as an
21 on-site coordinator of the victim advocacy service
22 project, Safe Haven; is that correct?

23 A That's correct.

24 Q And you did no neutral objective scientific
25 or sociological studies; is that right?

1 A I did not.

2 Q Prior to that, in 2004, you worked for the
3 Colorado Coalition Against Sexual Assault; is that
4 correct?

5 A That's correct.

6 Q You were executive director?

7 A Yes.

8 Q And in that capacity you conducted no
9 neutral objective scientific or sociological studies?

10 A I did not personally serve as lead
11 researcher, but when I worked with the Colorado
12 Coalition Against Sexual Assault, we were involved
13 in, and I was responsible for overall supervision of
14 the staff involved in those projects with studies
15 with the Colorado Department of Public Health and
16 Environment that were looking at youth responses to
17 sexual assault, youth understanding of sexual
18 assault, and sexual assault behavior.

19 And those were based on scientific
20 principles, and were considered to be strong studies.

21 Q And my question was: In that capacity as
22 executive director you conducted no neutral and
23 objective scientific or sociological studies?

24 A I participated in, but I did not -- I was
25 not personally responsible for conducting the study.

1 Q And that had to do with sexual assault?

2 A That one did, yes.

3 Q And you realize that's not the allegation
4 here?

5 A Yes, I understand that.

6 Q In 2004 you served as adjunct faculty at
7 the University of Denver?

8 A Yes, that's correct.

9 Q And that was in the school of social work?

10 A The graduate school of social work, yes.

11 Q And in that capacity you conducted no
12 neutral objective scientific or sociological studies;
13 is that correct?

14 A That's correct.

15 Q Prior to -- from 2001 to 2004 you're with
16 the Colorado Department of Human Services?

17 A Yes.

18 Q And you worked as program administrator in
19 the Domestic Abuse Assistance Program?

20 A That's correct.

21 Q And you conducted no neutral and objective
22 scientific or sociological studies?

23 A That's correct.

24 Q Prior to that you -- from 2000 to 2004 you
25 were on the faculty at the American Prosecutor's

1 Research Group; is that correct?

2 A That's correct.

3 Q And in that capacity there were no neutral
4 and objective scientific or sociological studies; is
5 that correct?

6 A That's correct.

7 Q Prior to that, from 1994 to 2002, you
8 worked for Denver C.A.R.E.S. Counselor Trainer
9 Program?

10 A That's correct.

11 Q In that capacity you conducted no neutral
12 and objective scientific or sociological studies; is
13 that correct?

14 A I did not.

15 Q Prior to that, from 1997 to 2001, you
16 worked for the Colorado Department of Public Safety;
17 is that right?

18 A That's correct.

19 Q You were a program administrator?

20 A Yes.

21 Q And in that capacity you conducted no
22 neutral objective scientific or sociological studies;
23 is that right?

24 A Actually, in that capacity I was charged by
25 the Legislature, in the board that I administered, to

1 participate in studies on risk of sex offenders in
2 Colorado, and to develop standards based on those
3 studies of risk. And I did participate in gathering
4 data.

5 I sat on the research review committees and
6 participated in presenting the findings of those
7 studies to the Legislature. And our board used those
8 studies to develop the sexually violent predator risk
9 assessment at that time.

10 So I did participate directly and was
11 directly responsible, through my position, for
12 utilizing those research studies.

13 The lead researcher was the Director of the
14 Office of Research and Statistics at the Division of
15 Criminal Justice.

16 Q That research was on sex offenders and
17 sexual assaults?

18 A Yes.

19 Q You realize that's not an issue in this
20 case?

21 A I do.

22 Q From 1999 to 2000 you served as a
23 consultant and trainer for the Columbine Connection
24 Victim Advocates, correct?

25 A That's correct.

1 Q And in that capacity you conducted no
2 neutral or objective scientific or sociological
3 studies; is that right?

4 A That's correct.

5 Q Prior to that, in 1989 to 1997, you worked
6 with the Adult Survivors Assistance Program at West
7 Pines as a therapist?

8 A Yes.

9 Q And in that capacity you conducted no
10 neutral or objective scientific or sociological
11 studies, correct?

12 A Again, I was not lead researcher, but I did
13 participate in assisting the Colorado Department of
14 Public Health and Environment with developing
15 questions on victimization for our state's behavioral
16 health survey.

17 I tested those questions with groups of
18 victims that I worked with as well, and participated
19 in doing peer review of the research that came out of
20 that study. We were the first state to do it. And
21 other states followed our model.

22 Q My question was: In that capacity you
23 conducted no neutral and objective scientific or
24 sociological studies?

25 MS. STAVIG: Your Honor, I'm going to

1 object, asking a witness -- particularly during voir
2 dire -- to try to determine expertise is one thing,
3 but asking her what she hasn't done is not an
4 appropriate method of cross-examination.

5 MS. REIFF: Judge, what she hasn't done --

6 THE COURT: The objection is overruled.

7 Q (By Ms. Reiff) Prior to that you're in the
8 Victim Assistance Program at the Community College of
9 Aurora; is that right?

10 A That's correct.

11 Q And in that capacity you conducted no
12 neutral and objective scientific or sociological
13 studies; is that correct?

14 A That's correct.

15 Q Prior to that you were an instructor in
16 Aurora, Colorado?

17 A Yes, for the Aurora Community College.

18 Q You did program development for a victim
19 assistance program and taught a course in domestic
20 violence, correct?

21 A That's correct.

22 Q And in that capacity you conducted no
23 neutral and objective scientific or sociological
24 studies?

25 A That's correct.

1 Q You were with the Senior's Resource Center
2 in Wheat Ridge, Colorado?

3 A Correct.

4 Q And you worked in that capacity as a social
5 worker?

6 A That is correct.

7 Q And in that capacity you conducted no
8 neutral and objective scientific or sociological
9 studies; is that correct?

10 A That's correct.

11 Q Prior to that you worked at the Gateway
12 Battered Women's Shelter as a program supervisor; is
13 that right?

14 A That's correct.

15 Q And you conducted no neutral and objective
16 scientific or sociological studies; is that correct?

17 A I did not participate as lead researcher in
18 conducting studies, but our staff and myself
19 personally worked with a number of researchers who
20 did conduct studies with our clients and with other
21 domestic violence victims, both adults and children,
22 during that time.

23 Q Prior to that you worked at Gateway
24 Battered Women's Shelter as a caseworker?

25 A Yes. That was the same program, different

1 position.

2 Q Okay. So the same answer applies?

3 A Yes.

4 Q Prior to that you're were at the Arapahoe
5 County Department of Social Services, right?

6 A That's correct.

7 Q You worked with them as a caseworker?

8 A That's correct.

9 Q And in that capacity you conducted no
10 neutral and objective scientific or sociological
11 studies?

12 A That is correct.

13 Q Prior to that you worked for Excelsior
14 Youth Center in Aurora?

15 A Yes.

16 Q As a group living counselor?

17 A That's correct.

18 Q And in that capacity you conducted no
19 neutral and objective scientific or sociological
20 studies, did you?

21 A That's correct.

22 Q And lastly, prior to that you worked with
23 the Weld County Division of Human Resources with the
24 CETA Youth Program?

25 A That's correct.

1 Q And that was work as a summer youth
2 counselor, correct?

3 A Yes.

4 Q And in that capacity you conducted no
5 neutral and objective scientific or sociological
6 studies; is that correct?

7 A That's correct.

8 Q You've not interviewed Jill Johnson?

9 A No, I have not.

10 Q You've not looked at the discovery, the
11 police reports and so forth in this case?

12 A The only document I've seen related to the
13 case is the subpoena I received.

14 Q And your Master's is in social work, I
15 believe you said; is that correct?

16 A That's correct.

17 Q But you've never been licensed?

18 A No. I chose not to be licensed.

19 Q Okay.

20 MS. REIFF: I'm objecting to this witness
21 as an expert. And I would seek to admit her
22 curriculum vitae as an exhibit, Exhibit G.

23 Q (By Ms. Reiff) Ms. McAllister, could you
24 look over this -- and I apologize, I made a pen mark
25 when I was speaking, but aside from that pen mark, do

1 you have any additions or corrections that you wanted
2 to make to that?

3 A Do you want me to actually read the whole
4 thing? Because in order to answer that I would have
5 to read the whole thing.

6 Q Well, this is the curriculum vitae that was
7 supplied to the Public Defender's office by the --

8 MS. STAVIG: I have no objection.

9 A That's fine. It looks to be my CV.

10 THE COURT: Exhibit G is received.

11 A Yes.

12 MS. REIFF: I would ask the Court to rule
13 on my objection.

14 THE COURT: She'll be recognized as an
15 expert.

16 MS. STAVIG: Thank you, Your Honor.

17 Your Honor, at this time I believe it would
18 probably be appropriate to read an instruction to the
19 jury on the limited purpose. And if I may approach?

20 THE COURT: Yes.

21 Ladies and gentlemen, the testimony that
22 you are about to hear is admitted for the limited
23 purpose of explaining the dynamics of domestic
24 violence relationships, specifically the victim's
25 willingness to remain in the relationship. It is not

1 to be considered as evidence for any other purpose.

2 Such testimony must be weighed as with any
3 other evidence in the case, and you may accept it or
4 reject it in accordance with other instructions which
5 the Court will give you.

6 MS. STAVIG: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY MS. STAVIG:

9 Q Ms. McAllister, clearly, from your earlier
10 testimony, you've done a lot of work with domestic
11 violence victims and domestic violence cases. Could
12 you estimate about how many cases you've been
13 involved with over the course of your career?

14 A Somewhere around 3,000.

15 Q And you don't have any knowledge of this
16 case or the facts of this case in particular?

17 A The only thing I know is that it was a
18 domestic violence case, and that there's a severe --

19 MS. REIFF: Objection, Judge. It has not
20 been determined. That is the purview of the jury.

21 THE COURT: Sustained.

22 Q (By Ms. Stavig) You don't have any details
23 as to the facts of this case, do you?

24 A I do not. I was told it was related to
25 domestic violence.

1 Q Could you talk about the dynamics of a
2 domestic violence relationship, and in particular,
3 whether or not there's a typical pattern or cycle
4 which you see in domestic violence cases.

5 MS. REIFF: Objection, relevance, assumes
6 facts not in evidence also.

7 THE COURT: Overruled.

8 A Yes.

9 Domestic violence is considered to be a
10 pattern of behavior by one intimate partner against
11 another for the purpose of establishing power and
12 control over the victim. So it's a pattern of
13 behavior that's repetitive over time.

14 And typically we see what's called a cycle
15 in violent relationships. There are three stages to
16 the cycle that have been observed and recorded and
17 researched, and that I've also seen when I've worked
18 with victims and when I've been involved in offender
19 management.

20 The first stage of a domestic violence
21 cycle --

22 MS. REIFF: This is nonresponsive. She
23 answered the question with her first sentence.

24 Ms. Stavig needs to conduct direct examination.

25 THE COURT: Sustained.

1 Q (By Ms. Stavig) Could you describe the
2 different stages that you have seen through your
3 experience and through your research in the area of
4 domestic violence.

5 MS. REIFF: Objection, relevance. She has
6 not analyzed the facts of this case.

7 THE COURT: The objection is overruled.

8 A Yes.

9 The initial stage of the battering cycle is
10 identified as the tension-building stage. And during
11 this time one of the partners in a relationship will
12 begin to become especially tense and demanding, may
13 become jealous, very short-tempered, and blaming of
14 the other partner in the relationship.

15 The other partner in the relationship will
16 make attempts to placate the person who is developing
17 the tension in the relationship. Will try to please
18 them, comply with requests to help them be less
19 angry.

20 And at the beginning of a domestic violence
21 relationship this stage looks very much like an
22 argument that any of us might get in with a partner
23 where somebody is having a bad week and they're
24 really crabby and it feels bad. And so people don't
25 always identify it as potentially violent at the

1 beginning of their relationship.

2 The second stage, which follows, is called
3 the acute battering stage. And during an acute
4 battering stage what you see is the offender engaging
5 in acts that are designed to control the victim over
6 time.

7 We often think of those as either physical
8 or sexual assault. And those are things that can
9 happen -- during that stage, earlier on in the
10 relationship, they may be very minimal violent acts:
11 Pushing or shoving, restraining someone from leaving
12 the home.

13 They may include things like threats
14 against the victim, or children, or pets, or other
15 people the victim cares about. It may involve
16 destruction of property. So there's a range of
17 behaviors that happen during that second stage of the
18 battering incident.

19 And what we find is that without
20 intervention, those -- this stage -- the second stage
21 happens more frequently over time and becomes more
22 dangerous in terms of the possibility of serious
23 bodily injury or death to a victim.

24 The third stage, which is called the
25 honeymoon stage, or the hearts and flowers stage, is

1 where there is a reconciliation. What we find when
2 we work with offenders is that they have discharged
3 their distress and anger by the explosive behavior.

4 They're typically remorseful, to some
5 degree. And victims describe this time as being with
6 the person that they fell in love with, the person
7 they married, the person they chose to be with.

8 Often the offender will bring gifts and
9 apologize profusely, will promise to change behaviors
10 that they think contributed to the violence, such as
11 drinking, using drugs, or stress at work, or other
12 sorts of things.

13 Victims will often accept those apologies.
14 And typically there is a little twist between those
15 apologies. Offenders will say things like, I'm so
16 sorry I hurt you. If you just hadn't done X, Y, or
17 Z; if you had cooked dinner on time; or kept the kids
18 up; or whatever the issue is.

19 Victims, because they're really happy that
20 the violence is not happening, will agree and say, I
21 won't do that again.

22 What we find, over time, is that, then,
23 offenders tend to further and further blame victims
24 for any tension or distress that they're
25 experiencing. And victims tend to feel responsible

1 for the problems in the relationship when that
2 happens.

3 And it actually is a technique that's been
4 compared with psychological torture, as studied by a
5 psychiatrist in the military. And it's called -- the
6 technique is called "occasional indulgence," when the
7 victim believes that the violence or torture will
8 end. And so it's a way to hook someone back into
9 that cycle.

10 What happens, typically, in domestic
11 violence, is that's not a one-time thing. But
12 tension begins to build again. There's another
13 explosion. And during the process the offender will
14 use things like intimidation, threats, controlling
15 behavior, isolating the victim from people that the
16 victim normally has contact with.

17 And initially that won't look like, "You
18 can't see anyone." It may be that there's a fight
19 picked every time the victim spends time with her
20 family. It may be that any time the victim goes to
21 work there's an argument when she comes home because
22 she spent too long away from the house.

23 So, again, these are not things that, on
24 the front end, look like somebody is going to be real
25 violent.

1 So people typically don't leave
2 relationships when this cycle is building. And often
3 it will build through several cycles over an extended
4 period of time before there begins to be actual
5 physical violence.

6 Q (By Ms. Stavig) Now, you indicated that
7 some of these early battering stages can be fairly
8 minimal.

9 A They almost always are fairly minimal.

10 One of the things that we looked at
11 specifically, when I started doing this work, was why
12 do women sustain these relationships. Because often
13 when we see intervention is when there's been a
14 serious violent incident of some kind, serious enough
15 for law enforcement to be involved.

16 And as people did research on these kinds
17 of situations over time, they found that the early
18 stages are almost always very minimal violence. It
19 may begin with just threats and isolating people
20 subtly. Often it takes a year or two or more before
21 there's actually a physically violent incident. And
22 then it takes time for those incidents to become
23 dangerous.

24 What we do know is that incidents, when a
25 victim is attempting to leave, are often the most

1 serious. And that's the most likely time when a
2 victim is likely to be seriously injured or killed,
3 is when she's attempting to leave.

4 So we have a lot of misinformation, both in
5 our culture and -- victims and offenders have a lot
6 of misinformation.

7 In addition to being subject to this
8 ongoing controlling cycle that's happening, they are
9 really at greater risk when they attempt to leave a
10 violent relationship, and are much more likely for
11 themselves to be harmed or their children to be
12 harmed during that time.

13 Q Now, when you talk about some of these more
14 minimal kinds of battering stages, do even the
15 minimal ones find themselves in the cycles, so that
16 the honeymoon period would happen afterwards and you
17 can see the cycle starting early on in a
18 relationship?

19 A Yes.

20 MS. REIFF: Judge, objection, relevance.
21 She's not analyzed this case.

22 MS. STAVIG: I'm speaking in general terms.
23 I'm certainly not asking about specific facts of this
24 case.

25 THE COURT: Hypothetical. The objection is

1 overruled.

2 A Yes. It's very common that you see that.

3 And initially the honeymoon periods, or the good

4 periods, are often much longer than the

5 tension-building periods; the periods of time when

6 both victim and offender describe the relationship as

7 good.

8 That honeymoon stage begins to get shorter

9 after the physical violence has started to escalate.

10 And the tension-building, over time, will get longer.

11 So in the beginning you're likely to see

12 short tension building stages, a very minimal

13 battering stage, and then a much longer honeymoon

14 stage.

15 And as the relationship progresses, you

16 will see greater lengths in the tension-building

17 stage, more use of controlling behaviors during that

18 tension-building stage, sometimes using economic

19 control, making threats, following the victim or

20 using other ways to isolate them.

21 And then you will see more explosive

22 battering incidents, and shorter honeymoon periods as

23 the violence escalates over time.

24 Q (By Ms. Stavig) What factors contribute to

25 a victim staying in this kind of a relationship?

1 MS. REIFF: Objection. Renew my objection
2 to the relevance.

3 THE COURT: Overruled.

4 A Well, there are a number of factors. One
5 is they often feel responsible for the problems in
6 the relationship, because of the kind of blaming
7 behavior that goes on over time.

8 Victims typically feel ashamed and
9 embarrassed about the violence, and so are reluctant
10 to ask other people for help. So they continue to be
11 believing that they're at fault. And offenders
12 continue to tell them they're at fault.

13 And it actually serves both people to
14 believe that the victim's responsible for the
15 violence when they're staying together.

16 Both victims and offenders minimize and
17 deny that the violence is happening.

18 MS. REIFF: Judge, relevance and
19 nonresponsive. This is not intended to be a lecture.
20 This is a direct examination.

21 THE COURT: I would ask that questions be
22 asked and that it be more of an interactive dialogue.

23 So, Ms. McAllister, try to answer the
24 question and then wait for the next question.

25 Q (By Ms. Stavig) You indicated that victims

1 often do start taking responsibility for the
2 problems, often see themselves to blame in a
3 situation like this, in domestic violence kind of
4 situations.

5 Could you talk a little bit about how
6 alcohol may play a role in a domestic violence
7 relationship.

8 A Yes.

9 We actually -- research indicates that
10 alcohol is present in about -- somewhere between 65
11 and 85 percent of domestic violence situations. And
12 it can be present in several different ways.

13 The first of those is that offenders may
14 use alcohol and/or drugs during or right before an
15 acute battering incident. It tends to disinhibit
16 behavior and may contribute to their feeling like
17 they're not responsible for whatever explosive
18 behavior happens.

19 You may see either a victim or offender
20 using alcohol throughout the relationship, either
21 because of some sort of substance dependence or
22 abuse, or in many cases, victims begin using alcohol
23 or drugs in ways that are negative, to cope with
24 their distress about the battering.

25 It helps them not think about the

1 battering. Helps them not feel so much. And they
2 tend to use substances to cope with living in a
3 situation where they're at risk, but they don't want
4 to think about being at risk.

5 Q Could you let us know how a victim's
6 feelings toward the defendant or toward the
7 perpetrator may actually contribute to their not
8 wanting to leave the relationship or take blame in
9 the relationship.

10 MS. REIFF: Objection, relevance, and
11 beyond the scope of expertise.

12 MS. STAVIG: I'm simply talking about
13 within the cycle of violence.

14 THE COURT: A hypothetical? Victim's
15 feelings for a hypothetical perpetrator?

16 MS. STAVIG: Certainly.

17 MS. REIFF: Objection on foundation, then.

18 THE COURT: Overruled.

19 A Actually, we find that one of the things
20 that contributes to victims staying in violent
21 relationships and repeating the experience of going
22 through the cycle is their caring for the offender.

23 As in most of these relationships, you
24 don't see extreme violence early on. You see people
25 who fall in love, who make a commitment to share a

1 life together. In many cases you see people who have
2 children together or who share parenting of children
3 in some way. And there are a lot of good things in
4 these relationships as well. That's part of what
5 serves to keep people involved in them.

6 If a complete stranger caused some harm, a
7 person doesn't have any feeling of responsibility or
8 connection and they can walk away.

9 But when you care about someone and have
10 made a commitment to spend your life with them, and
11 they, then, become violent, it's not the first thing
12 that you think about, to leave. You may want them to
13 get help.

14 Many victims express that they want their
15 offender to stop hitting them, or stop hurting them.
16 They want them to get help, but they don't want to
17 have to leave their relationship, their home, what
18 they built together.

19 They actually care for the offender. And
20 many offenders, as we know both from offender
21 research and victim research, believe that they are
22 emotionally dependent on the victim. And they feel
23 actually frightened and afraid at the thought of the
24 relationship --

25 MS. REIFF: Objection on relevance, and

1 cumulative relevance. This is not expert testimony.

2 This is common sense.

3 THE COURT: Overruled, but let's move on.

4 A Basically what happens is --

5 THE COURT: Ms. McAllister, I think you've
6 answered the question.

7 THE WITNESS: Thank you.

8 Q (By Ms. Stavig) And I guess I thought that
9 you were still talking a little bit about how the
10 feelings of a victim can remain positive, even in the
11 face of domestic violence, or at least that the
12 compassion and love is still there.

13 A That's accurate.

14 Q Did you finish that answer?

15 A There's just one more piece.

16 Many offenders feel somewhat helpless or
17 victimized by other situations in their lives.
18 Victims often sense that, and feel loyal to offenders
19 and want to protect them, and will often stay to try
20 to help them.

21 Q You touched just a little bit on the shame
22 and embarrassment that a victim may feel in their
23 situation. Could you tell the jurors whether that
24 may have an impact on the victim's decision whether
25 or not to stay in a relationship?

1 A Yes. Unfortunately, most victims don't
2 feel like they can talk to people in their social
3 circle when they begin being hurt in their
4 relationships.

5 MS. REIFF: Objection, relevance, Judge.
6 Most victims are not an issue in this trial.

7 THE COURT: That's true. Again, it's a
8 hypothetical. It was just used for the limited
9 purposes to which I instructed you.

10 Go ahead.

11 Q (By Ms. Stavig) And so you can go ahead
12 and continue your answer there about the shame and
13 the embarrassment and the --

14 A If a victim is involved in a domestic
15 violence situation, he or she may feel unable to talk
16 to other people about their relationship because they
17 feel ashamed and humiliated.

18 Remember, that they often feel like they're
19 responsible for causing the violence, and it's
20 something that they did that caused it.

21 They also don't want other people to think
22 badly of their partner, who they care about. So they
23 often won't talk to people for those reasons, and
24 feel ashamed about being able to disclose that
25 somebody they loved would treat them this way.

1 And, unfortunately, that's reinforced.
2 Because often people stop talking to someone who's
3 been a victim once they disclose. And often the
4 victim feels like she has to choose between --

5 MS. REIFF: Objection, relevance. There's
6 no evidence of anything like this in this case to
7 apply this testimony to.

8 THE COURT: Sustained.

9 Q (By Ms. Stavig) When is it most dangerous
10 for a domestic violence victim?

11 A At the time when he or she is attempting to
12 leave the relationship. Research clearly indicates
13 that is the time they are most likely to experience
14 serious bodily injury or death.

15 MS. STAVIG: Your Honor, at this point I
16 would ask the Court to read another limiting
17 instruction.

18 THE COURT: The testimony that you are
19 about to hear is admitted for the limited purpose of
20 explaining the dynamics of domestic violence
21 relationships, specifically the typical reactions of
22 a perpetrator after an assault. It should not be
23 considered as evidence for any other purpose.

24 Such testimony must be weighed by you as
25 any other evidence in the case. And you may accept

1 it or reject it in accordance with other instructions
2 which the Court will give you.

3 Q (By Ms. Stavig) Could you talk a bit more
4 about what a perpetrator's reaction would typically
5 be after a battering incident.

6 MS. REIFF: Objection, relevance.
7 Ms. McAllister has not examined any reactions in this
8 case.

9 THE COURT: Objection is overruled.

10 A Typically offenders, as I said earlier, are
11 more calm after they've exploded. And they often
12 also genuinely care about their victims, which is
13 confusing for both of them.

14 So many offenders feel remorse, feel badly
15 that they've hurt the person, but have difficulty
16 accepting responsibility for what they've done. So
17 they apologize, but they apologize seeking to blame
18 the victim in some way. If you just wouldn't do
19 this, I wouldn't have to hurt you.

20 And they often are very conciliatory, kind,
21 take people out to dinner, buy gifts, do extra chores
22 around the house, and are really trying to
23 demonstrate that they care about the person, partly
24 because they have some genuine caring, in spite of
25 the fact that they're violent.

1 And partly they're afraid the victim will
2 leave, and they're trying to ensure that the victim
3 doesn't go away.

4 Q (By Ms. Stavig) And so with the genuine
5 caring and concern, a perpetrator will often try to
6 do nice things or kind things or help the victim
7 after an assault?

8 A Yes, that's very common. As I said, they
9 can buy gifts. They can be extra helpful with
10 chores. They can be kind to the children in the
11 family.

12 I actually have worked with people where
13 the kids can say, this is the time when daddy is
14 really nice and he makes mom feel really good about
15 everything, and we get to go to Elitchs.

16 And they know the cycle by when their
17 father is behaving in a loving and kind way toward
18 their mother and toward them.

19 Q And what is the perpetrator's response to
20 what they have done and the harm that they've caused?

21 A Well, there are two sorts of responses. As
22 I said, there's typically some degree of remorse when
23 they initially see what they've done, if they are
24 able to see actual physical injuries or destruction
25 of property.

1 There's also a strong need to deny and
2 minimize what they've done. And so over time they
3 will often initially be very, very remorseful,
4 apologetic, saying they're sorry, bringing Band-Aids
5 and clothes and trying to help the victim clean up
6 the injuries.

7 Over time they will not want to deal with
8 the injuries, not want to take responsibility. So
9 they may begin to deny, again, that things are not so
10 bad; saying things like, "You think this was violent,
11 I'll show you violent," or other things like that.
12 "This wasn't so bad. I don't behave that way."

13 And there's typically a strong system of
14 denial on their part.

15 MS. REIFF: Object to the hypothetical
16 perpetrator speaking through this witness.

17 THE COURT: Sustained.

18 Q (By Ms. Stavig) Could you tell us about
19 the typical denial that a perpetrator will be
20 feeling, I guess without putting words in that
21 hypothetical perpetrator's mouth. But could you
22 describe, through your research and experience, the
23 kinds of denial that a perpetrator tends to go
24 through.

25 A Yes.

1 Actually, offenders deny based on a number
2 of things. One is they deny responsibility for the
3 violence when it has been determined that it
4 happened. They deny that they are actually violent
5 people, and try to blame whatever has happened on
6 other people's provocation.

7 Offenders generally feel out of control of
8 their feelings and of their behavior. They don't
9 understand that they can be angry and choose to do
10 something other than harm someone else. They can
11 choose to leave. They could choose to be quiet.
12 They could choose to take a time out.

13 And, actually, when we do offender
14 treatment, those are the kinds of things that we try
15 to help people understand, is that their feelings
16 don't necessarily result in a violent behavior,
17 unless they choose to act that way.

18 So their denial is often about their
19 ability to be responsible for the violence. And then
20 they also want to maintain and hold on to the
21 relationship.

22 So they will, over time, minimize the
23 violence that they have committed and sort of rewrite
24 their personal history to say that it was very
25 minimal, or wasn't so bad, or that a victim may be

1 exaggerating, if the victim raises the issue.

2 Q And then you called this a cycle of
3 violence. How does the initial perpetrator's
4 reaction of remorse, shame, denial, going through the
5 honeymoon stage, then, evolve into the
6 tension-building stage again?

7 A Well, what happens during the honeymoon
8 stage is, as I said, the offender has dealt with
9 their difficult feelings by exploding.

10 And so during a period of time after
11 that -- and early on it's typically a longer period
12 of time -- but they don't feel as much tension. They
13 feel very connected. They feel in control of the
14 victim. They feel like they've established the
15 victim being able to stay with them.

16 And so what you see, then, is an offender's
17 feeling reasonably good about himself or herself over
18 a period of time.

19 And as the normal stresses of their lives
20 start to arise again, and they start feeling the
21 normal stresses that we all feel, that they don't
22 want to deal with, or know how to deal with, they
23 start doing what we call "externalizing." They blame
24 others for those problems. And so if they've had a
25 bad day at work, they come home and they're mad at

1 their victim and say, if you had had breakfast on the
2 table --

3 MS. REIFF: Judge, again, we're speaking.

4 THE COURT: Sustained.

5 THE WITNESS: I apologize, Your Honor.

6 THE COURT: That's all right.

7 A They will often blame a victim for the
8 kinds of things that happened to them during the day.

9 They place the blame on the victim, because
10 the victim is someone they feel like they can control
11 when they feel out of control in other areas of their
12 lives.

13 Q (By Ms. Stavig) Now, could you tell us
14 about your experience with trauma and how that
15 relates to -- actually, why don't we go ahead and
16 read this third limiting instruction, first.

17 MS. REIFF: Can we approach, Judge?

18 THE COURT: Yes.

19 (There was a discussion at the bench held
20 outside the hearing of the jury.)

21 MS. REIFF: Judge, the trauma response --
22 the only evidence we've had of any trauma responses
23 that were discussed during the hearing of this case,
24 was her loss of memory.

25 The District Attorney adopted the extensive

1 head injuries and asked as to the cause of memory
2 loss through Dr. Fried. He testified at length about
3 the amnesiac effects of the head injury.

4 At this point to, then, shift gears and say
5 it is now trauma, is a refutation of what they've
6 already adopted and established through a
7 professional doctor, qualified as an expert in loss
8 of memory. There is a risk of confusion under 403 as
9 well.

10 MS. STAVIG: Your Honor, there are a number
11 of things here. First of all, we have a victim who
12 initially --

13 (The bench conference was interrupted and
14 the following was held within the hearing of the
15 jury.)

16 THE COURT: Folks, I'm going to have you
17 step out for a minute. We're having some difficulty
18 communicating up here. Remember my prior
19 admonitions.

20 Unfortunately, I think the coffee cart is
21 closed. But if you want to run downstairs, let
22 Heather know. If you want this to be your afternoon
23 break, that's fine, otherwise we'll finish this
24 witness and then we'll take an afternoon recess.

25 So, all rise.

1 There's a sequestration order. Don't
2 discuss your testimony with any witnesses.

3 (The jury has exited the courtroom.)

4 THE COURT: You may be seated.

5 I think, Ms. Stavig, you had the mic.

6 MS. STAVIG: Yes, Your Honor. There are a
7 number of issues that relate to trauma on the part of
8 the victim.

9 First of all, she does say that this
10 happened at the Brickhouse Bar, originally. Then she
11 speaks in a very confused way and says that it's the
12 defendant. Says that to a number of different
13 people. But then after that, she's unable to recall
14 what happened that night.

15 Your Honor, she's inconsistent. Then she
16 says it's the defendant. Then she quits remembering
17 everything.

18 We did just have testimony from
19 Mr. Fontenot that the defendant, himself, said that
20 he had convinced the victim that she should not
21 testify in this case.

22 I'm not -- I don't know whether she has any
23 memory of what happened that night, but I think it's
24 certainly suggested by testimony that the defendant,
25 in fact, has been able to convince her -- we know

1 that several letters did get through.

2 And we have testimony that he indicates
3 that she is not wanting to participate, won't testify
4 as to the results of that incident.

5 So basically the trauma testimony would
6 explain why she may not have a memory. And, granted,
7 the injuries certainly do contribute to that, but a
8 trauma event, in and of itself, also contributes to
9 why she might not remember what happened before and
10 what happened after.

11 I'm very concerned that the jurors are
12 going to, perhaps, buy that all the brain damage
13 would affect her memory of the event after she has
14 the brain damage.

15 But it is harder for a jury to understand
16 why she wouldn't remember the fight that led up to
17 it, why she didn't remember throwing a cell phone at
18 him, or whatever it was that happened right
19 beforehand.

20 And so the trauma testimony actually does
21 explain why the whole event may not be something that
22 she remembers, with or without the brain damage.

23 And, Your Honor, we just don't know, but I
24 think it's important for the jurors to have another
25 piece of this. It's important for them to hear that

1 even without the brain damage, that trauma, itself,
2 will affect a person's memory, and affect how they
3 may relate the incident itself.

4 We've got a lot of confusion out of Jill
5 Johnson, and a lot of inconsistent statements. And I
6 am concerned that not all of this contributed to
7 brain damage and being drunk. And there certainly is
8 another factor at play, and that is the psychological
9 impact of trauma itself.

10 MS. REIFF: Judge, my objection is
11 obviously, one, of relevance. Again, my continued
12 objections have been, I think, that the risk, in
13 terms of letting her testify to trauma, as in an
14 emotional kind of trauma -- because this is the
15 trauma we're talking about -- is not a medical impact
16 trauma. It is emotional trauma.

17 She is going to testify how that emotional
18 trauma can lead to loss of memory. What that is
19 doing is leading the jury to speculate on alternate
20 causes of loss of memory, when we already had an
21 expert medical doctor, a doctor trained in
22 neuroscience, a brain doctor testify, who has
23 examined Ms. Johnson, and examined this case --
24 examined the facts of her injury, at least, and he
25 has already testified that loss of memory and amnesia

1 in the whole period surrounding the assault is a
2 frequent side effect of head injuries.

3 That is a witness that was called by the
4 prosecution. That was a witness who was completely
5 neutral and objective. And that was a witness who
6 told this jury the probable medical reason for loss
7 of memory.

8 To now shadow that with speculation on some
9 kind of emotional trauma being the true cause of the
10 loss of memory is leading the jury to speculate in
11 lieu of the solid evidence that Dr. Fried provided.

12 With regard to the inconsistent statements
13 in the ambulance and at the hospital, the first
14 statement and the first person that Ms. Johnson
15 indicated assaulted her was Shannon Johnson.

16 And Jeremy Hill, the paramedic, quoted, "My
17 boyfriend. My boyfriend got mad at me." That was
18 from Mr. Hill.

19 With regard to the comments at the
20 hospital, I think we have adequate testimony from the
21 paramedic, from all the doctors, of the effects of a
22 head injury in terms of coherency, and in terms of
23 somebody making sense.

24 So conscious fabrications on Ms. Johnson's
25 part -- she's suffering from a severe head injury.

1 And she's also under the influence of alcohol. She
2 was two times the legal limit of intoxication several
3 hours after she stopped drinking.

4 So with regard to the risk that the jury is
5 going to accept Ms. Johnson's statement at the
6 hospital that this happened at a bar, that's not even
7 something the defense has addressed or argued.

8 So I don't think that's a risk the jury is
9 somehow going to go there just of their own volition
10 with all the testimony on how a head injury affects
11 somebody's state of mind and ability to make --

12 THE COURT: Well, what I heard -- what I
13 have heard from the testimony is that the doctor
14 testified that someone who suffered this sort of head
15 trauma would have a loss of memory surrounding the
16 incident both before and after.

17 The Court also heard testimony that
18 Ms. Johnson made some statements while Mr. Johnson
19 was in the room. And then the officer separated them
20 and that's when she made other statements.

21 So I think that makes this testimony more
22 relevant than otherwise it might have been. So the
23 Court is going to permit the witness to testify.

24 And the jury does not want a break. So the
25 objection is overruled. Let's bring her in and let's

1 try to wrap this up today.

2 (The jury has entered the courtroom.)

3 THE COURT: You may be seated.

4 Ms. McAllister, you're still under oath.

5 THE WITNESS: Yes, Your Honor.

6 THE COURT: Ladies and gentlemen, the
7 testimony that you are about to hear is admitted for
8 the limited purpose of explaining a victim's response
9 to trauma, specifically the trauma effect on memory
10 and the ability to relate the specifics of the
11 traumatic incident. It should not be considered as
12 evidence for any other purpose.

13 Such testimony must be weighed as with any
14 other evidence in the case, and you may accept it or
15 reject it in accordance with other instructions which
16 the Court will give you.

17 Q (By Ms. Stavig) Could you tell us how
18 trauma affects memory or the ability to relate facts
19 of an incident.

20 A Yes.

21 MS. REIFF: Objection, relevance. She has
22 not analyzed the victim in this case, and she's not a
23 medical doctor who is qualified to testify to
24 alternate causes of amnesia.

25 THE COURT: Understood. The objection is

1 overruled.

2 A In order to do that I need to speak just
3 briefly about how trauma is stored in the brain.
4 Trauma is identified as the experience of an event
5 that is either so powerful, harmful, threatening or
6 severe that it requires the use of extraordinary
7 coping behaviors.

8 And one of those behaviors, because our
9 brain perceives trauma as a threat, is that a
10 different part of our brain works with what some term
11 in the vernacular as the fear center of the brain.

12 MS. REIFF: Objection, beyond the scope of
13 expertise, Judge.

14 THE COURT: Overruled.

15 A It's the lower, more primitive part of the
16 brain that isn't connected to language and timelines
17 and meaning. Actually, there's been research out of
18 Harvard Medical School --

19 MS. REIFF: She is not a brain doctor with
20 regard to testifying about the function of the brain.

21 THE COURT: Understood. She can testify
22 considering the research that she studied.

23 A It's basically -- this research is done by
24 van der Kolk, initially, in the mid-nineties, and has
25 been replicated many times since by a number of other

1 researchers. Trauma actually works differently when
2 it's stored as memory in the brain.

3 Most normal experiences are stored in the
4 cortex, which is the part of the brain that has
5 language and timelines and things, and analyzing and
6 previous learning.

7 When someone experiences trauma, however,
8 the brain, again, perceives that as a threat and
9 wants to limit our action to very, very simple and
10 quick reactions.

11 And so it stores information that it
12 perceives as trauma in the fear part of the brain.
13 And it stores it as images, or visual pictures,
14 physical sensations or feelings, like sound, and
15 touch, smell, or feelings, or behaviors.

16 And it does that so that if we encounter
17 that threat again, we can react very quickly without
18 having to analyze it, according to thought or memory,
19 about all the things that we know.

20 MS. REIFF: Objection, this is based on
21 knowledge of the fear part of the brain. We did not
22 hear from the brain doctor in this case of any such
23 part of the brain; a fear lobe or any such thing.

24 THE COURT: Overruled.

25 A The actual name -- term for the part of the

1 brain is called the amygdala.

2 But, again, it's -- the reason that we
3 studied this is because many, many people who survive
4 trauma would have very spotty remembrance of the
5 traumatic situation, or they would have very vivid
6 memories of certain things and they wouldn't be in
7 the right order.

8 And so people started to study how it's
9 stored. And it literally is stored differently.
10 It's stored as images, physical sensation, feelings,
11 and behaviors that aren't subject to a victim's
12 voluntary recall or dismissal.

13 That means sometimes it can intrude on them
14 and be very distressing. And sometimes a reminder in
15 the environment might bring it up, which is another
16 reason why people don't talk about trauma
17 experiences, because they're very distressing. And
18 talking about it can remind them of those distressing
19 feelings.

20 We also see that they -- it's not subject
21 to their voluntary recall. So they can't just sit
22 there and start thinking about it without sometimes
23 it being triggered. Because one of the coping
24 mechanisms, in addition to how memory is stored
25 differently, is the dissociative response.

1 Q (By Ms. Stavig) Can you tell us, in a
2 practical sense, how does this different way that we
3 store trauma memory or experiences impact a person's
4 ability to relate the facts of what happened?

5 A Well, typically what we see with people who
6 have been traumatized is they will disclose parts of
7 their experience a little at a time. They often
8 don't have a direct timeline. They don't have an A,
9 B, C, D, E, because that's a cognitive function.

10 MS. REIFF: Objection, unless we are
11 talking about a hypothetical victim who's also under
12 the influence of a head injury at the time. That is
13 the only way this would be clear.

14 THE COURT: Sustained.

15 Q (By Ms. Stavig) So you would expect to see
16 trauma impact their ability to relate, whether or not
17 someone may have had a head injury, may or may not
18 have been under the influence of alcohol -- would the
19 trauma still have an impact on how a person might
20 relate the memory of the event?

21 A Yes. Head injuries can impact memory. And
22 you would see a different pattern of additional
23 behavior if you were looking --

24 MS. REIFF: Objection. She is not an
25 expert in head injury or neurosurgery or brain

1 injury.

2 THE COURT: Sustained as to foundation.

3 Q (By Ms. Stavig) Is your -- are the studies
4 on trauma considered for people who actually are
5 injured or not injured? Do they cover people with
6 head injuries, or -- you indicated that a lot of
7 people are under the influence of alcohol during
8 trauma events. Do you take those into account in
9 what you're talking about with trauma?

10 A Yes. The studies that I've seen about
11 trauma specifically do things to sort how trauma is
12 different from other things that might impact memory,
13 such as alcohol, or the use of alcohol, or other
14 substances, drugs or injuries.

15 Those sorts of things can also impact
16 memory. And so one of the things that the studies on
17 trauma did was try to look at a pattern of behavior
18 that would establish when disturbances in memory are
19 related to trauma rather than other things.

20 It's a way of screening out when you're
21 assessing people, what kinds of other things might be
22 present.

23 Q Now, you also talked earlier about victims
24 denying what happened or minimizing what happened,
25 not wanting to face the fact that they've been

1 assaulted, that there has been a traumatic event.

2 How does -- how does the trauma and the
3 reaction of the victim interplay with one another?

4 A Okay. There are two ways it does that.
5 One is that -- as I started to describe, the two
6 primary ways that human beings cope during trauma
7 incidents are the anxiety responses, which are those
8 things that are distressing and upsetting. And they
9 serve the same function that pain does in a physical
10 injury. It's a part of your brain that's saying,
11 something is wrong, do something.

12 The other coping behavior during trauma --
13 and again, any kind of trauma -- is called the
14 dissociative function. And those essentially are
15 described as compartmentalizing or setting aside all
16 or part of your reaction to a traumatic event.

17 It is protective during trauma. The same
18 way that physical shock is protective during physical
19 trauma, it protects our psyche from absorbing all of
20 the negative impact of the event and making us go
21 crazy, essentially.

22 So it's useful during trauma. And
23 typically what you see, over time, is people will
24 sort of be dissociative, not be thinking about the
25 event, set their feelings over here. Some people

1 even describe being numb or feeling like they were
2 dreaming when something bad happened to them.

3 What we know about people who continue to
4 be in an unsafe environment, over time, is --

5 MS. REIFF: Object on relevance.

6 THE COURT: Overruled.

7 Q (By Ms. Stavig) Can you talk about the
8 protective mechanism.

9 A If someone is continually exposed to trauma
10 over time, we find that they are more likely to,
11 instead of fluctuating between that anxiety coping,
12 and the dissociative coping, they are more likely to
13 continue to use disassociation as a way of coping.

14 And that means they're more likely to push
15 away their feelings and their thinking about their
16 experience of the negative events, and to try to
17 behave as if nothing bad has happened. That's how it
18 looks to those of us, externally, when that's going
19 on.

20 And so we know that when somebody has
21 repeated exposure to trauma, that's a more likely way
22 that they will end up coping. It also is more likely
23 to cause long-term negative effects, according to the
24 research.

25 MS. STAVIG: I have no further questions,

1 Your Honor.

2 THE COURT: Ms. Reiff.

3 CROSS-EXAMINATION

4 BY MS. REIFF:

5 Q Ms. McAllister, do you consider yourself to
6 be a present or past self-victim?

7 MS. STAVIG: Objection, Your Honor.

8 MS. REIFF: Goes to lack of personal
9 knowledge or bias in the case. I'll ask the same
10 question regarding perpetrator.

11 MS. STAVIG: Your Honor, I don't see the
12 relevance to this at all or to the expertise.

13 THE COURT: Well, I don't want the
14 argument. Objection is overruled.

15 A No, I'm not.

16 Q (By Ms. Reiff) Do you consider yourself to
17 be a present or past perpetrator of domestic
18 violence?

19 A No, I do not.

20 Q Ms. McAllister, you do consider yourself
21 more of an advocate than a neutral expert, don't you?

22 A Yes. I would consider myself an advocate
23 against violence.

24 Q Against domestic violence?

25 A Against domestic violence.

1 Q The terms "victim advocate" and "victim
2 advocacy" come up in your CV a total of 13 times; is
3 that correct?

4 A That's correct.

5 Q You base your expertise in that area on
6 your work with victims, correct?

7 A Partially my work with victims, partially
8 my work with offender management.

9 Q You do a lot of reading?

10 A Yes, I do.

11 Q You read about domestic violence?

12 A I do.

13 Q But you have no doctorate of psychology?

14 A I do not.

15 Q No masters in psychology?

16 MS. STAVIG: Objection. This could take
17 forever if we go through all the different
18 qualifications that Ms. McAllister doesn't have.

19 MS. REIFF: Two more questions.

20 THE COURT: Overruled.

21 A I do not.

22 Q (By Ms. Reiff) No doctorate in sociology?

23 A No.

24 Q No masters in psychology -- I mean,
25 sociology?

1 A No.

2 Q You do have a Master's in Social Work,
3 correct?

4 A That's correct.

5 Q And there is a process to get a license --
6 to be a licensed social worker in Colorado, right?

7 A There is.

8 Q You've never undergone that process,
9 correct?

10 A No. I chose not to.

11 Q You've never been licensed in any state; is
12 that correct?

13 A That's correct.

14 Q But you've read some books on trauma?

15 A I've read a number of books and articles
16 and been to a large number of trainings on trauma,
17 yes.

18 Q And domestic violence literature?

19 A Yes. I've read substantially in the
20 field -- both in the victim literature and the
21 offender literature.

22 Q Those are your areas of interest; is that
23 right?

24 A Yes, they are some of my areas of interest.

25 Q When it comes to trauma responses, you have

1 no higher education degree in physiology; is that
2 correct?

3 A That's correct.

4 Q You're not a medical doctor?

5 A I am not a medical doctor.

6 Q Not a brain doctor?

7 A I am not a brain doctor.

8 Q Since 2004 you made your living as a
9 witness consultant and trainer for various agencies;
10 is that correct?

11 A Yes, primarily as a consultant and trainer.
12 Expert witness is also something that I do.

13 Q You testify for the District Attorney's
14 Office fairly regularly, correct?

15 A Yes, fairly regularly.

16 Q Also victim advocacy areas?

17 A Yes.

18 Q You spoke a little bit about your prior
19 times that you've testified on direct. Do you
20 remember that?

21 A Yes.

22 Q You said you testified and are available to
23 both the prosecution and the defense; is that
24 correct?

25 A That's correct.

1 Q You testified over fifty times for the
2 prosecution, correct?

3 A I believe so, yes.

4 Q You testified twice for the defense?

5 A Twice in the last few years is what I
6 talked about. That's not twice ever.

7 Q Okay. When was the last time?

8 A The last time I testified was --

9 Q For the defense.

10 A For the defense? Several years ago; not
11 recently.

12 Q Was one of the two cases you're talking
13 about a battered woman --

14 A Yes, it was a self-defending victim.

15 Q So almost all of your testimony,
16 professionally, has been for the prosecution; is that
17 right?

18 A The large percentage of it, yes.

19 Q And you get paid for that testimony,
20 correct?

21 A I do.

22 Q You get paid to consult, even if you don't
23 testify; is that right?

24 A In some cases, yes.

25 Q What's your consultation fee in this case?

1 A It's \$80 an hour while I'm testifying and
2 \$40 an hour while I'm waiting or outside the
3 courtroom.

4 Q So you bill hourly?

5 A Yes.

6 Q With regard to trauma response, people can
7 react to trauma by disassociating from it?

8 A That's one component of a pattern of
9 reaction, yes.

10 Q They can also react to trauma by being
11 subject to hyperarousal or increased fear?

12 A Hyperarousal is another component that's
13 required in a pattern of reaction to trauma.

14 Q If someone seemed to be suffering from
15 anxiety, you would not conclude from that alone that
16 they were suffering from an emotional trauma?

17 A No. Anxiety would need to be involved in a
18 pattern, with other things, to determine that there
19 might be trauma.

20 Q And we need to be clear about what we're
21 talking about when we say trauma here. There has
22 been testimony of physical trauma. That's not the
23 trauma we're talking about, is it?

24 A No. I'm testifying about psychological
25 trauma, which is different than physical trauma to

1 the body.

2 Q Okay. So it's an emotional, rather than a
3 physical, type of response that you're referencing?

4 A Yes, it is. It's physically based, but
5 it's emotionally expressed.

6 Q You talked a little bit about the battering
7 stage and this domestic violence cycle.

8 A Yes.

9 Q You talked about a common reaction being to
10 try and placate the offender, correct?

11 A During the tension-building stage,
12 typically, and to some degree in the honeymoon stage.
13 That's not always accurate during the acute battering
14 incident.

15 Q In your report that was provided to us you
16 indicated that during this tension-building phase a
17 victim often feel responsible for the perpetrator's
18 feelings, correct?

19 A That's correct.

20 Q They try to accept responsibility for all
21 the problems in the relationship?

22 A That's correct.

23 Q Nowhere in this or in your testimony does
24 it indicate that victims of domestic violence
25 typically blame the other party -- offender party for

1 the problems in the relationship in this
2 tension-building phase?

3 A In the tension-building phase that's not
4 typical. It's not unheard of, but it's not typical.

5 Q A single episode of violence is not
6 something you qualify as domestic violence, even if
7 it takes place between two intimate partners?

8 A That's correct.

9 Q Domestic violence has to have demonstrated
10 a cycle of control?

11 A It's a pattern of behavior.

12 Q The domestic violence cycle is this pattern
13 of behavior that you're talking about, correct?

14 A Yes.

15 Q And usually that cycle repeats itself?

16 A Yes, it does. Unless there's early
17 intervention, it does repeat itself.

18 Q And like you said, the whole premise of the
19 cycle is that there is a pattern for repetition,
20 correct?

21 A Yes.

22 Q There are couples who are just volatile
23 couples, aren't there?

24 A Yes.

25 Q And you realize that women can be, and

1 often are charged with domestic violence as well?

2 A I understand that.

3 Q You talked about denial a little bit on
4 direct examination.

5 A Yes.

6 Q Denial is defined as a defense mechanism in
7 which a person is faced with a fact that is too
8 painful to accept and rejects it, insisting it is not
9 true. Do you agree with that definition of denial?

10 A I would agree with that as one definition
11 of denial.

12 Q And victims can deny abuse, correct?

13 A Absolutely.

14 Q Perpetrators can deny abuse?

15 A Absolutely.

16 Q And that's a human reaction when we're
17 dealing with these complex emotional situations?

18 A That's a common reaction in domestic
19 violence situations.

20 Q Ms. McAllister, with regard to denial
21 that's also common in just a single episode; is that
22 correct?

23 A It could be present. I'm not aware of a
24 common pattern when there is a single episode.

25 Q That's not your area?

1 A I'm not aware that a single -- a single
2 episode can cause the same level of denial that
3 repeated violence does. Because of the presence --
4 or the lack of a safe environment post the trauma,
5 denial could take place, but it would be less likely
6 with a single incident and no additional incidents.

7 Q You're an expert in the cycle, but you are
8 not an expert in assault in general, correct?

9 A I would be -- I'm not sure what you mean by
10 an expert in assault, in general.

11 Q You're an expert in assault as it relates
12 to a domestic violence cycle or pattern?

13 A I have worked with a number of people who
14 have experienced assault by strangers, single sexual
15 assaults, single assaults with weapons, attempted
16 murders. So I have worked with a number of people
17 who have experienced simple assault, as well as
18 domestic violence.

19 Q And both victims and perpetrators can
20 experience denial in single assault as well?

21 A They can, yes.

22 Q Ms. McAllister, you consider yourself an
23 expert on domestic violence relationships; is that
24 fair to say?

25 A Yes.

1 Q And you were hired by the prosecution, not
2 the defense, correct?

3 A That's correct.

4 Q Yet the prosecution never asked you to
5 analyze the relationship in this case, did they?

6 A They did not.

7 MS. REIFF: I have nothing further.

8 THE COURT: Any redirect?

9 REDIRECT EXAMINATION

10 BY MS. STAVIG:

11 Q Ms. McAllister, you indicated on
12 cross-examination that often the victim will tend to
13 blame herself, and the perpetrator will tend to blame
14 the victim for problems in the relationship.

15 Does that often change if the victim is
16 able to leave the relationship after the acute
17 battering stage?

18 A Yes. What we see in a victim who is able
19 to escape the violence --

20 MS. REIFF: Objection, relevance. There's
21 no evidence of any leaving of the relationship on the
22 part Mr. Johnson. Mr. Johnson has been in jail since
23 this started.

24 THE COURT: Sustained.

25 Q (By Ms. Stavig) And what I'm asking about

1 is if a person is in a safe situation and no longer
2 threatened by the perpetrator, does that change this
3 tendency to blame themselves? Does that change a
4 victim's tendency to blame themselves?

5 A It can, over time. We know that safety is
6 a primary requirement for people to begin recovery
7 from trauma. And if they are in a safe environment
8 they are more likely to realistically attribute
9 responsibility or blame about many things in the
10 relationship, but specifically about the violence.
11 We do see a shift if someone has access to a safe
12 environment for an extended period of time.

13 MS. STAVIG: I have nothing further.

14 THE COURT: Any recross?

15 MS. REIFF: No, Judge.

16 THE COURT: Any questions for this witness
17 or may she be excused?

18 All right. Thank you. You're free to go.

19 MS. REIFF: Judge, could we approach
20 briefly?

21 THE COURT: Just a moment. There is a
22 sequestration order. Do not discuss your testimony
23 with anyone else.

24 THE WITNESS: I will not. Thank you.

25 (Further proceedings were had not herein

1 transcribed.)
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1 REPORTER'S CERTIFICATE

2 I, Ronda K. Dominguez, Registered
3 Professional Reporter and Notary Public in and for
4 the State of Colorado, duly appointed to take the
5 within hearing, certify that the hearing was reported
6 by me at the time and place hereinabove set forth and
7 was thereafter reduced to typewritten form by the use
8 of computer-aided transcription under my direct
9 supervision; that the same is a partial, true, and
10 correct transcription of my shorthand notes then and
11 there taken.

12

13 DATED this 18th day of July, 2007.

14

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Ronda K. Dominguez, RPR
Court Reporter

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