

1 abusing B.S., who is less than 13 years of
2 age.

3 Sir, you have a right to a
4 preliminary hearing on these matters, and we
5 will proceed at this time.

6 THE DEFENDANT: Thank you.

7 THE COURT: Yes, ma'am.

8 MS. ASHWORTH: I will call [REDACTED]
9 [REDACTED]

10 THE COURT: Come forward, ma'am, and
11 have a seat right there at the witness stand
12 -- or, actually, if you'd stand right there.
13 Stand right there, please, ma'am. Raise your
14 right hand.

15 Please, have a seat. Adjust that
16 microphone so you can speak into it, please.

17 Yes, ma'am.

18 WHEREUPON,
19 [REDACTED]

20 WAS CALLED AS A WITNESS BY AND ON BEHALF OF
21 THE COMMONWEALTH AND, AFTER HAVING BEEN FIRST
22 DULY SWORN, WAS EXAMINED AND TESTIFIED AS

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1 FOLLOWS:

2 DIRECT EXAMINATION

3 BY MS. ASHWORTH:

4 Q Good afternoon, [REDACTED] Could you
5 state your name, please, for the record?

6 A [REDACTED]

7 THE COURT: I'm going to have to
8 interrupt you. So sorry.

9 Are you involved in this case?

10 MS. MILLER: Not on the
11 Commonwealth's side, no, on the other side.

12 THE COURT: Okay. Would you just
13 speak with the Commonwealth or counsel
14 quickly, please, so that she knows. She's made
15 a motion to remove parties.

16 MS. MILLER: Okay, well I can leave.

17 THE COURT: No, no, no, no. I'm not
18 asking that.

19 THE DEFENDANT: Judge, if I could
20 briefly be heard. I can't see the witness.
21 I'm not sure if that's because of --

22 THE COURT: (INTERPOSING) I will

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1 tell you, that is just all about the
2 courthouse construction set-up. If you can
3 move your chair a little bit, however you can
4 manage, so that you can see the witness.

5 THE DEFENDANT: (CONTINUING) --

6 Thank you, Judge.

7 THE COURT: I apologize to you.

8 THE DEFENDANT: It's that way in
9 every case, in other words.

10 THE COURT: Yes, sadly. It's just a
11 matter of the building of the courthouse
12 bench.

13 Yes, ma'am.

14 BY MS. ASHWORTH:

15 Q And, I believe you just stated your
16 name for the record.

17 What's your date of birth?

18 A [REDACTED] 1994.

19 Q And, that makes you how old today?

20 A I am 15.

21 Q Where do you go to school?

22 A I go to [REDACTED] High School.

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1 Q And, what grade are you in?

2 A 10th.

3 Q Where do you live right now?

4 A I live with my mom at [REDACTED]

5 [REDACTED].

6 Q And, where is that?

7 A Montclair.

8 Q And, prior to that, did you live at

9 [REDACTED]?

10 A Yes.

11 Q Is that in [REDACTED], Virginia?

12 A Yes.

13 Q Is that in Prince William County?

14 A Yes.

15 Q The State of Virginia?

16 A Yes.

17 Q And, who did you live there with?

18 A My dad and my mom.

19 Q What's your mother's name?

20 A [REDACTED].

21 Q And, your father's name?

22 A [REDACTED].

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1 Q Do you have any brothers and
2 sisters?

3 A I have one sister.

4 Q Is she older or younger?

5 A Older.

6 Q What's her name?

7 A [REDACTED]

8 Q [REDACTED] I'm going to ask you to
9 tell the Judge about an incident that occurred
10 in December of 2003, during your winter break
11 from school. Do you remember that winter
12 break?

13 A Yes.

14 Q Okay. Was there something
15 significant that occurred during that time
16 period?

17 A Yes.

18 Q Okay. Can you tell the Judge what
19 happened at that time?

20 A Yes. My dad normally didn't come
21 and tuck me in, it was normally my mom who did
22 that. And, it was like the 22nd, it was some

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1 day before Christmas, and he came in and
2 tucked me in, and started fingering me.

3 Q Okay.

4 THE COURT: How old were you at that
5 time?

6 THE WITNESS: Nine.

7 THE COURT: Nine, okay.

8 BY MS. ASHWORTH:

9 Q And, did you -- how were you
10 dressed, do you remember?

11 A I was wearing a nightgown, my sister
12 and I were wearing matching nightgowns that
13 night before Christmas.

14 Q Okay. And, did you have any pants
15 or panties?

16 A I had underwear on me.

17 Q Okay. And, when you -- was this in
18 your bedroom?

19 A Yes, ma'am.

20 Q Did you share a bedroom with
21 anybody?

22 A No.

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1 Q What kind of bed was it?

2 A It was a bed, and it had four posts
3 on it, and a canopy.

4 Q Okay. Was it a twin bed, or full?

5 A I believe a twin.

6 Q Okay. And, this night in
7 particular, you said it was the Sunday before
8 Christmas, or some day?

9 A Some day.

10 Q Okay. But, you remember that it was
11 before Christmas?

12 A Yes, ma'am.

13 Q Okay. And, how did you know it was
14 your father?

15 A I saw him.

16 Q Okay. And, did he say anything?

17 A No.

18 Q Okay. Did he -- how -- did any of
19 your -- you said you just had panties on, did
20 those come off, or did they stay on?

21 A They came off.

22 Q Okay. How did that happen?

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1 A He took them off.

2 Q All right. Did he say anything at
3 that time?

4 A No.

5 Q All right. And, you said he began
6 to finger you, what does that mean?

7 A He put his fingers into my vagina.

8 Q Okay. Did you say anything at that
9 time?

10 A No.

11 Q Do you recall if you felt anything
12 at that time?

13 A It was painful.

14 Q Okay. Did you move or do anything
15 at that time?

16 A I tried to get away, but he was
17 stronger than me.

18 Q Okay. How did you -- what do you
19 mean you tried to get away?

20 A I just tried to get out from under
21 him, because he was like at the end of the
22 bed, but he just held me down.

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1 Q Okay. What happened after he
2 finished?

3 A He put my underwear back on, tucked
4 me in, and said "I love you, and good night."

5 Q Okay. Did you ever say anything to
6 him about that?

7 A No, ma'am.

8 Q Had it ever occurred before?

9 A No.

10 Q All right. Did you tell, that day
11 or the next day, anybody about it?

12 A No.

13 Q How old is your father, do you know?

14 A No, I don't.

15 Q Approximately?

16 A Approximately, 49, 48.

17 Q Okay. Is it fair to say he was over
18 the age of 18 when this occurred?

19 A He was?

20 Q Yes.

21 A Yes.

22 Q Okay. And, you were nine years old?

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1 A Yes, ma'am.

2 Q Please answer any questions that Mr.
3 Leibig has for you.

4 THE COURT: Yes, sir.

5 CROSS EXAMINATION

6 BY MR. LEIBIG:

7 Q Good morning. It's part of my job
8 to ask you some questions, too.

9 First, I just wanted to ask, would
10 you prefer that I call you [REDACTED] or
11 [REDACTED]?

12 A [REDACTED] is fine.

13 Q Okay, thank you.

14 I'm going to ask you just a couple
15 of questions about the house you lived in with
16 your whole family. That was [REDACTED]
17 [REDACTED]?

18 A Yes.

19 Q And, the people that lived there
20 were your dad, your mom, you and [REDACTED]?

21 A Yes.

22 Q No one else ever lived there?

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1 A No, not at that time.

2 Q Did you have any pets?

3 A Yes, we have quite a few.

4 Q Dogs?

5 A Yes.

6 Q Okay. Were dogs -- was more than

7 one dog living in teh house on the date of the

8 incident you described?

9 A No.

10 Q Just one?

11 A Yes.

12 Q Okay. Is it -- how many stories are

13 in the house?

14 A Three.

15 Q And, where are the bedrooms?

16 A Upstairs.

17 Q All three bedrooms upstairs?

18 A Yes.

19 Q And, what's in the middle floor?

20 A A living room and a kitchen.

21 Q And, what's in the basement?

22 A Just the computer and a storage

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1 room.

2 Q Is it kind of like an office?

3 A Yes.

4 Q Is it your dad's office, your mom's
5 office, or everybody's office?

6 A Everybody's.

7 Q Everybody can use the computer?

8 A Yes.

9 Q Okay.

10 MR. LEIBIG: Your Honor, may I
11 approach briefly?

12 THE COURT: You may.

13 BY MR. LEIBIG:

14 Q [REDACTED] I'm going to hand you
15 first what's been marked as Defendant's
16 Exhibit B, and I'll tell you this is not a
17 picture of your house.

18 (WHEREUPON, THE DOCUMENT
19 REFERRED TO WAS MARKED AS
20 DEFENDANT'S EXHIBIT B FOR
21 IDENTIFICATION.)

22 BY MR. LEIBIG:

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1 Q I just wondered is that a picture
2 that fairly and accurately depicts the way the
3 front of your house looks?

4 A Yes.

5 Q And then I'm going to hand you --
6 that's Defendant's Exhibit B, Defendant's
7 Exhibit A, and take your time.

8 (WHEREUPON, THE DOCUMENT
9 REFERRED TO WAS MARKED AS
10 DEFENDANT'S EXHIBIT A FOR
11 IDENTIFICATION.)

12 BY MR. LEIBIG:

13 Q Is that a fair and accurate layout
14 of the bedroom floor, the top floor, of the
15 house?

16 A Yes.

17 Q It shows your parents' bedroom, your
18 bedroom, and your sister's bedroom, and the
19 bathroom.

20 A Yes.

21 Q Would you put your initials on
22 Defendant's Exhibit A that that's an accurate

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1 -- roughly accurate depiction?

2 A Would I -- I don't understand what
3 you are asking me.

4 Q I'm asking you to just initial it,
5 so we know that that's the one you said was
6 the accurate depiction.

7 A Okay.

8 Q Okay. During the period of time,
9 did both of your parents work?

10 A Yes.

11 Q Okay. And, was it the sort of thing
12 where everybody would -- they would come home
13 around the same time from work, and the four
14 of you would have dinner together, that kind
15 of thing?

16 A No.

17 Q How would that work?

18 A My dad worked til like 6:00 at
19 night, and my mom was a teacher at that time,
20 she teaches pre-school, so she was home
21 earlier than he was.

22 Q Okay. He was home around 6:00?

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1 A Yes, sir.

2 Q And, he would usually be home for
3 the rest of the night?

4 A Yes, sir, for the most part.

5 Q Prior to the incident you described,
6 had there been any abusive behavior from your
7 father towards you?

8 A No --

9 MS. ASHWORTH: (INTERPOSING)
10 Object, it's overly broad in defining abusive
11 behavior.

12 MR. LEIBIG: (CONTINUING) -- I can
13 narrow it.

14 BY MR. LEIBIG:

15 Q Prior to the night you described,
16 had there been any sexually abusive behavior
17 from your father towards you?

18 A No, just looks.

19 Q Could you expand on that, what do
20 you mean by looks?

21 A He would look at me weird, that kind
22 of gave me a creepy feeling, like he was

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1 looking at me in a sexual way.

2 Q Did you ever tell your mom or anyone
3 about that?

4 A No, I did not.

5 Q Did he ever -- what about physical
6 abuse, did he ever hit you or anything?

7 A No.

8 Q Did he ever scream at you, curse at
9 you, that sort of thing?

10 A He yelled at me a lot.

11 Q Cursing?

12 A No, he never cursed.

13 Q Okay. What would the yelling be
14 about?

15 A He got mad over really little
16 things. It would be over spilled milk, not
17 doing a chore, being in the way of the TV,
18 anything like that.

19 Q Literally, spilled milk, like if you
20 spilled some milk?

21 A Yes, or a coke.

22 Q Okay. Did he also behave that way

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1 towards your sister, [REDACTED]?

2 A Yes.

3 Q Okay, equal treatment?

4 A Yes.

5 Q Did you ever see him giving those
6 kind of looks to your sister, [REDACTED]?

7 A Sometimes I did, yes.

8 Q Eventually your father moved -- you
9 moved out of your father's house, right?

10 A True.

11 Q And, you moved out with your mom and
12 your sister?

13 A Yes.

14 Q Why did you move out?

15 A We moved out because they were
16 getting a divorce.

17 Q Okay. You didn't move out because
18 of what your father -- you testified that your
19 father had done to you, right?

20 A I had never told my mom about it, so
21 she didn't know.

22 Q Okay. All you had told your mother

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1 -- you hadn't told your mother about the looks
2 either at that point, right?

3 A No.

4 Q Had you told anyone about either
5 event?

6 A No.

7 Q Before your father moved out, did he
8 have involvement in your life, for example,
9 attending Girl Scouts with you, anything like
10 that?

11 A No, he rarely attended anything I
12 did.

13 Q Okay. What about sports, that kind
14 of stuff?

15 A He once was my coach for softball,
16 but that's the only thing he was a part of
17 with me.

18 Q Okay. So, the way you would
19 describe it, other than the time he was your
20 coach for softball, he didn't take an active
21 role in your life.

22 A No, sir.

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1 Q And, your mother did?

2 A Yes.

3 Q Were you allowed to have friends
4 over after school?

5 A Not if anyone was not home.

6 Q Okay, but if your parents were home.

7 A Yes, sir.

8 Q And, were you allowed to have
9 friends spend the night sometimes?

10 A Yes, sir.

11 Q And, that's if your parents were
12 home?

13 A Yes, sir.

14 Q Were there ever any problems with
15 your father and any of your friends that came
16 over?

17 A Only with my sister's friends. He
18 would give them the same look, but I didn't
19 notice any of the looks with my friends.

20 Q Did you see the looks with your
21 sister's friends?

22 A Yes, sir.

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1 Q Did you speak to them about it or
2 anything?

3 A No, sir.

4 Q Did you speak to your sister about
5 it?

6 A No, sir.

7 Q Or your mother?

8 A No, sir.

9 Q You got along with your sister
10 pretty well, right?

11 A Yes.

12 Q You are close?

13 A Yes.

14 Q Four years apart?

15 A Five years.

16 Q Okay, five years apart, it's a
17 trusting relationship?

18 A Yes.

19 Q Your parents were -- were you about
20 13 when you moved out of your father's house?

21 A Yes.

22 Q And, your parents were getting a

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1 divorce, right?

2 A Yes.

3 Q Weren't getting along at all.

4 A No.

5 Q And, they have a bad relationship up
6 until now.

7 A They've always had a bad
8 relationship. They've always fought over
9 little things.

10 Q You noticed that since you were a
11 kid?

12 A Yes, sir.

13 Q Unrelated to anything that happened
14 to you.

15 A Yes, sir.

16 Q Did you go on vacations during this
17 period of time?

18 A Yes, sir.

19 Q Did you go every summer?

20 A Yes, sir.

21 Q Your whole family went?

22 A Yes, sir.

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1 Q Did any kind of sexual abuse happen
2 on these vacations?

3 A No.

4 Q Okay. Did your mother ever go out
5 of town and leave you alone with your father?

6 A No. The only time she left me alone
7 was when she started her work at Wegman's.

8 Q When was that?

9 A That was when I was in 9th grade, so
10 last year.

11 Q Okay. That work would be at night?

12 A Well, at that time it was training,
13 so she was during the day.

14 Q So, you were nine years old when
15 this abuse began, right?

16 A Yes, sir.

17 Q The incident you described for the
18 court, according to you, is not the last time
19 that happened, right?

20 A No, sir.

21 Q How often did it happen after that?

22 A Almost every night.

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1 Q Almost every night for how long?

2 A Til about when we moved out.

3 Q So, about four years?

4 A Yes, sir.

5 Q Was it about the same every night?

6 A Yes, sir.

7 Q So, he would -- was there any
8 substantial difference between -- I'm not
9 going to make, you know, go over every night,
10 but was there any substantial difference
11 between what you described in the first night
12 and all the other nights?

13 A What does substantial mean?

14 Q Was there a big difference between
15 what happened the first night and any other
16 night?

17 A Sometimes he would use objects, but
18 that's all.

19 Q How often would he use an object?

20 A He only did once.

21 Q What was that?

22 A He tied me to the bed.

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1 Q When was that?

2 A When I was about 11.

3 Q Okay. Was there ever any other time
4 when there was a substantial difference, aside
5 from when he tied you to the bed?

6 A No.

7 Q Okay. When he would come in, he
8 wouldn't say anything?

9 A No.

10 Q He would just begin to do what you
11 described?

12 A Yes, sir.

13 Q Would you sit up or remain lying
14 down?

15 A I would be lying down until he asked
16 me to sit up.

17 Q And then, you would sit up?

18 A Yes, sir.

19 Q And, what would happen when he asked
20 you to sit up?

21 A He kissed me on the forehead, and
22 asked me to pull down my underwear, and I said

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1 no, so he did it for me.

2 Q And, you'd have your nightgown on?

3 A Yes.

4 Q But, he never removed your
5 nightgown?

6 A No, sir.

7 Q He never made you completely naked.

8 A Only when I was wearing like a shirt
9 and shorts he did, but not when I was wearing
10 a nightgown.

11 Q Did the time he made you completely
12 naked happen only once?

13 A It happened once I turned 11 to 13.

14 Q All the time?

15 A Yes, sir.

16 Q And, from then on he would take all
17 of your clothes off?

18 A Yes, sir.

19 Q Would he take any of his clothes
20 off?

21 A No.

22 Q And, he only used the rope one time?

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- 1 A Yes, sir.
- 2 Q What kind of rope was it?
- 3 A I don't remember.
- 4 Q Well, do you remember the color of
5 it, the thickness of it, anything?
- 6 A It was thick.
- 7 Q A thick rope?
- 8 A Yes, and I believe the color was
9 white.
- 10 Q Did he tie your wrists?
- 11 A Yes, sir.
- 12 Q To the bed post?
- 13 A Yes, sir.
- 14 Q Can you explain how it happened, was
15 it separate, each hand on each bed post?
- 16 A They were both on one bed post.
- 17 Q Did you struggle while he was typing
18 you?
- 19 A Yes, sir.
- 20 Q Did it hurt?
- 21 A Yes, sir.
- 22 Q You were pulling your wrists against

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1 the rope?

2 A Yes, sir.

3 Q Did he tie your feet, too?

4 A Yes, sir.

5 Q Okay. Did you cry out while he was
6 doing that?

7 A No.

8 Q Did you cry out on any of the
9 occasions during the four years?

10 A No.

11 Q And, during this entire period of
12 time, he didn't talk?

13 A No. Sometimes he would make
14 threats.

15 Q Just to make sure we have -- know
16 which time, we've talked about the first time,
17 during the first time he came in your room did
18 he make a threat?

19 A No.

20 Q Okay. Did he make any threats during
21 the first two years, you said that's 9 up to
22 11, during that period was he making threats?

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1 A Yes.

2 Q What was the threat?

3 A One of the threats he used was if I
4 had said anything to anybody he would have
5 hurt me or my family.

6 Q Your family, you took that to mean
7 your sister or your mother?

8 A Yes, sir.

9 Q Did he say kill you?

10 A Once or twice.

11 Q He said he would kill you once or
12 twice?

13 A Yes.

14 Q And, he said he would kill the whole
15 family?

16 A Yes, sir.

17 Q Was that when you were nine?

18 A That started happening when I was
19 ten.

20 Q Okay. What was the first threat, do
21 you remember?

22 A The first threat was that he would

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1 find me if I had said anything and hurt me.

2 Q Did he ever touch himself in a
3 sexual way while he was in your room?

4 A No.

5 Q How long would these incidents last,
6 usually?

7 A Usually, from two to three hours.

8 Q Two to three hours each time?

9 A Yes, sir.

10 Q And so, if you are talking about
11 four years, almost every night, that's more
12 than a 1,000 times, fair to say?

13 A Yes.

14 Q And, with each incident, almost all
15 of them were two to three hours long?

16 A Yes.

17 Q Are you sure about -- you are pretty
18 sure about the times?

19 A Yes, sir.

20 Q What time would this type of thing
21 begin in the night?

22 A It would happen from -- begin around

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1 2:00 in teh morning.

2 Q Okay. So, it would be 2:00 to 5:00
3 in the morning, pretty much?

4 A Yes, sir.

5 Q Every night?

6 A Yes, sir.

7 Q And, from age 11 to age 13, until
8 you moved out, you'd be completely naked?

9 A Yes, sir.

10 Q And then -- and before that just
11 your underwear would be off, and that's all?

12 A Yes, sir.

13 Q And, only once with the rope?

14 A Yes, sir.

15 Q Ever any weapon or anything?

16 A No.

17 Q Did you ever speak to your father
18 during any of these times?

19 A A few times I asked him to stop.

20 Q One or two, how many is it?

21 A Five or six.

22 Q Were those times near the beginning,

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1 middle, end, do you remember?

2 A Near the beginning.

3 Q Okay, so maybe five or six times
4 near the beginning you asked him to stop, and
5 every other time after that you were silent?

6 A Yes.

7 Q And, didn't call out?

8 A No.

9 Q Did you struggle most of the time?

10 A Yes.

11 Q All the way through the four years?

12 A Up until I was 11.

13 Q And, after 11 did you stop
14 struggling?

15 A Yes, sir.

16 Q Between 9 and 11, would he -- would
17 he stop your struggling by holding your
18 wrists?

19 A Yes.

20 Q And, would that hurt?

21 A Yes.

22 Q You'd be pulling your wrists against

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1 his grip?

2 A Yes.

3 Q Any of the times that you were
4 pulling your wrists against the rope or
5 against his grip, did any bruises develop?

6 A No.

7 Q Okay. Would it be sore the next
8 day?

9 A Yes, sir.

10 Q Sore, but no bruise?

11 A Yes.

12 Q And, this was pretty painful when it
13 happened, right?

14 A Yes.

15 Q Did you ever try to hit him or punch
16 him or anything?

17 A No, sir.

18 Q When he was telling you that he was
19 going to hurt you, or kill you, or kill the
20 family, was he speaking in a stern voice?

21 A Yes.

22 Q Authoritative?

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1 A Yes.

2 Q Pretty loud?

3 A Yes.

4 Q That would happen at the end of the
5 two to three hours?

6 A Yes.

7 Q Did he ever touch your breast?

8 A Yes.

9 Q Would you have your eyes open most
10 of the time?

11 A Yes.

12 Q Okay, and what would you be watching
13 during these two to three hours?

14 A The ceiling.

15 Q You wouldn't be looking at what he
16 was doing?

17 A No, sir.

18 Q And, do you remember what he was
19 doing was, as the prosecutor said, fingering
20 you?

21 A Yes.

22 Q Was he touching you anywhere else,

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1 or just fingering you?

2 A The first time it happened he was
3 just fingering me.

4 Q After that, did it change?

5 A Yes.

6 Q How did it change?

7 A He started touching my breasts.

8 Q After the very first time?

9 A Yes, sir.

10 Q Okay, under your nightgown or over
11 your nightgown?

12 A Under.

13 Q Okay. So you didn't -- your eyes
14 weren't watching when he was fingering you.

15 A No, sir.

16 Q You were feeling it.

17 A Yes.

18 Q Is it possible that he had his hand
19 or fingers on but not inside your vagina?

20 A No.

21 Q Do you know how -- did every time he
22 came in include fingering?

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1 A Yes.

2 Q And, how many times in total would
3 you say that he made the threat, the verbal
4 threat to hurt or kill you and the family?

5 A Over the course of time, maybe 40.

6 Q Okay. Near the end, when you were
7 13, was he still making that threat?

8 A Yes, but not as often.

9 Q Okay, he kind of calmed down and you
10 stopped struggling as well?

11 A Yes, sir.

12 Q Did you ever discuss that threat
13 with him?

14 A No, I did not.

15 Q Like ask him if he really meant
16 that?

17 A No, I did not.

18 Q Or, did you say anything to him at
19 all, like how could you say that, or would you
20 really hurt [REDACTED]?

21 A No.

22 Q Did you believe that he really would

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1 kill the whole family?

2 A At the time I did.

3 Q When you say "at the time," you mean
4 the whole four years?

5 A Yes..

6 Q And, did you -- you believed that he
7 would kill your sister, [REDACTED], if you told
8 anyone?

9 A I did.

10 Q Had you ever seen him act in a way
11 that was cruel enough to [REDACTED] to make you
12 think he would kill her?

13 A I did not, but I was scared at his
14 temper that anything that would anger him
15 would make him that made to kill somebody.

16 Q And, when he was in your room during
17 these incidents, you would see that, would you
18 see that temper flaring?

19 A Yes.

20 Q And, he would be aggressive?

21 A Yes, sir.

22 Q And, stern?

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1 A Yes.

2 Q And, loud?

3 A Yes.

4 Q I'm going to ask you some questions
5 about how he acted to you outside of your
6 room.

7 Well, first of all, did any sexual
8 abuse ever happen anyplace other than in your
9 room?

10 A No.

11 Q Outside the room, let's say the next
12 day when you would see your father at dinner,
13 or watching TV, or just in the house, would he
14 act normal?

15 A Yes.

16 Q Did he ever bring anything up to you
17 about this?

18 A No.

19 Q No words ever exchanged about the
20 incident ever, except inside the room?

21 A No.

22 Q That's right?

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1 A That's right.

2 Q Did he act normal to [REDACTED] and
3 your mother during this period, too?

4 A Yes.

5 Q Did you ever see him act with any
6 violence towards your mother?

7 A She was very -- he would scream a
8 lot at her.

9 Q You never saw him hit her, though?

10 A No.

11 Q And, was he somebody that got drunk
12 at night, that you saw?

13 A No.

14 Q Use drugs?

15 A No.

16 Q He always earned a living, right?

17 A Yes.

18 MR. LEIBIG: Judge, may I approach
19 with the map briefly again?

20 THE COURT: Yes.

21 BY MR. LEIBIG:

22 Q When you were -- beginning at the

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1 beginning of nine years old, would you sleep
2 with your door open or shut?

3 A I don't remember.

4 Q Okay. During the whole four years,
5 do you remember when you went to bed, you
6 would go to bed with the door open or shut?

7 A Shut.

8 Q You would shut it.

9 A Yes, sir.

10 Q Every night?

11 A Yes, sir.

12 Q And, [REDACTED] is five years older,
13 right?

14 A Yes, sir.

15 Q Who went to bed first, normally?

16 A Me.

17 Q Okay. And, when you are 13, when
18 he's coming in your room for two to three
19 hours, your sister is 18, right?

20 A Yes.

21 Q And, she still lived there?

22 A Yes.

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1 Q And, she stayed up late then, right?

2 A Yes, but she wasn't home a lot at
3 that time.

4 Q Okay. But, before she was 18 she'd
5 be home every night, right?

6 A Yes.

7 Q And, she would be asleep in her room
8 right next to yours, when your father came in
9 your room?

10 MS. ASHWORTH: Objection as to how
11 this witness would know what Heather was
12 doing.

13 MR. LEIBIG: As far as she knows.

14 BY MR. LEIBIG:

15 Q Did you believe her to be asleep in
16 the room next to you most nights?

17 A Yes.

18 Q And, did you believe your mother to
19 be asleep down the hallway in her bedroom most
20 nights?

21 A Yes.

22 Q And, did your parents leave their

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1 door open or shut when they went to bed?

2 A I don't know, I went to sleep before
3 they did.

4 Q Okay, and did Heather leave her door
5 open or shut?

6 A Shut.

7 Q Both you and Heather left them shut?

8 A Yes, sir.

9 Q When your father came in, did he
10 open your shut down, and then shut it again?

11 A Yes, sir.

12 Q You and [REDACTED] had the same two
13 rooms growing up always, right?

14 A Yes.

15 Q And, you have a close relationship,
16 right?

17 A Yes.

18 Q Would you sometimes talk to each
19 other during the night through the wall?

20 A No.

21 Q That never happened?

22 A No.

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1 Q Did you hear her doing things in her
2 room, if she was doing something, like the
3 radio?

4 A Only if her door was open.

5 Q Okay. You never heard her radio
6 playing in her room, while you were in your
7 room?

8 A No.

9 Q Okay. Who was the first person you
10 told about this, [REDACTED]?

11 A My best friend.

12 Q What's her name?

13 A [REDACTED].

14 Q When did you tell her?

15 A July 16th of 2009.

16 Q You didn't tell anyone in April of
17 2009?

18 A No.

19 Q Did anyone at school, or at CPS, or
20 someone from the city, ever ask you in April
21 of 2009 if you had been abused?

22 A Yes.

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1 Q And, what did you say?

2 A I said no.

3 Q Okay, and to your knowledge, what
4 was the -- why did they ask you that?

5 MS. ASHWORTH: Objection, as to
6 whether she -- that she can testify as to why
7 somebody asked her the question.

8 MR. LEIBIG: Okay.

9 BY MR. LEIBIG:

10 Q Did one of your friends tell CPS
11 that they thought you had been abused, and
12 then you were asked about it?

13 A That could have been a possibility,
14 I was asked about it.

15 Q By a person from the city, from the
16 county.

17 A Yes, CPS officers.

18 Q Came to your school and asked you?

19 A Yes.

20 Q And, you said no?

21 A Yes.

22 Q And, that was after your father had

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1 moved out.

2 A Yes.

3 Q And, at that point did you think --
4 were you still thinking he would kill the
5 whole family if you said anything?

6 A Yes.

7 Q Did your father own a gun?

8 A Not that I know of.

9 Q Never heard him talk about owning a
10 gun?

11 A No.

12 Q Ever heard of him using a gun?

13 A No.

14 Q This was after he had moved out and
15 you were separated, right?

16 A Yes.

17 Q So, the first person you told was
18 [REDACTED] and did you tell your mother any
19 time around then?

20 A I did not.

21 Q I'm sorry, this is July of this
22 year?

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1 A Yes.

2 Q And then, eventually, you did bring

3 --

4 THE COURT: (INTERPOSING) Last
5 year, not this year.

6 BY MR. LEIBIG:

7 Q (CONTINUING) -- sorry, 2009 --
8 eventually, you did bring it to the attention
9 of your mother?

10 A She found out in September --
11 whenever that all came out, she didn't know
12 anything of it before.

13 Q When you told your friend about
14 this, it was in July, right before July your
15 father got charged with a crime, right?

16 A Yes.

17 Q And, you heard about that, right?

18 A Yes.

19 Q And, he was charged with involved
20 pornography on his computer, correct?

21 A Correct.

22 Q And, you heard about that.

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1 A Yes.

2 Q And, did that upset you?

3 A No.

4 Q Did you -- had you not been -- let
5 me ask you this, from your personal knowledge
6 was one of the reasons your parents got
7 divorced because your mother didn't like your
8 father looking at pornography?

9 A Yes.

10 Q Did you know about that at the time
11 that you guys moved out?

12 A Yes.

13 Q Okay. Did it set you back then,
14 that he looked at pornography, your dad?

15 A Well, I don't understand the
16 question.

17 Q Did it upset you that your father
18 looked at pornography?

19 A Yes.

20 Q It did back then when you moved out?

21 A Yes.

22 Q It lowered your opinion of him.

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1 A Yes.

2 Q And, that was when you were about
3 13, you moved out?

4 A Yes, sir.

5 Q Okay. And, it's fair to say that
6 right when they got separated you were upset
7 about the divorce, right?

8 A I wanted them to get a divorce.

9 Q Did you ever tell anyone else that
10 you were upset about them getting a divorce?

11 A I wasn't upset about them getting a
12 divorce.

13 Q Did you -- at some point when they
14 got separated you didn't get along with your
15 mom too well, right?

16 A We got in a lot of arguments.

17 Q And, during that period of time you
18 said you wanted to move in with your father,
19 right?

20 A I could have said that in an
21 argument, but I would never have acted on it.

22 Q Okay, but you did say that to your

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1 mother?

2 A I don't remember.

3 Q Did you say it to some other people,
4 too, that you wanted to live with your father
5 instead of your mother?

6 A No.

7 Q But, you could have said it during
8 an argument?

9 A Yes.

10 Q Okay. You did tell people that you
11 missed your father when you moved out of his
12 house, right?

13 A Yes.

14 Q And, during this same period of
15 time, or soon thereafter, is it fair to say
16 your opinion of him was getting lower because
17 you heard about the pornography, correct?

18 A Yes.

19 Q And then, when you heard he got
20 charged with a crime, your opinion of him got
21 even lower, right?

22 A Yes.

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1 Q That was in July of 2009.

2 A Yes.

3 Q Did your -- to your knowledge, did
4 your friend, [REDACTED], bring your matter to the
5 authorities?

6 A No.

7 Q How did that happen?

8 MS. ASHWORTH: Objection as to how
9 she would know.

10 MR. LEIBIG: Only if she knows,
11 Judge, if she was confronted about it in some
12 way.

13 THE COURT: Are you able to answer
14 the question?

15 THE WITNESS: Yes. We had a retreat
16 in November, and we had testimony night, and
17 I had shared with a few of the girls, and they
18 had told the pastor, and the pastor called
19 CPS.

20 BY MR. LEIBIG:

21 Q That was with your church?

22 A Yes, sir.

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1 Q Okay. You shared it during a
2 sharing session of sorts?

3 A Yes, sir.

4 Q That was in November?

5 A Yes.

6 Q After that time, did you ever tell
7 anyone it wasn't true?

8 A No.

9 Q When you guys moved out of your
10 father's house, your sister was about ready to
11 go to college, right?

12 A Yes.

13 Q And then, she was gone down at ODU?

14 A Yes.

15 Q And, your mom worked more, right?

16 A Yes.

17 Q So, you were at home alone a lot.

18 A Yes.

19 Q You would make phone calls to
20 friends and family members, and tell them that
21 you didn't like being alone a lot, fair
22 enough?

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1 A Yes.

2 Q Your father wasn't keeping up with
3 keeping in close contact with you, was he?

4 A No.

5 Q Fair to say you were lonely during
6 that period?

7 A Yes.

8 Q I'm going to ask you some questions
9 about the contacts you've had with you father
10 since you moved out.

11 Did you go to Ocean City with him in
12 July of 2008, right after the separation?

13 A Yes.

14 Q And, just the two of you rode down
15 together, right?

16 A Yes.

17 Q And, that would be two nights there,
18 because [REDACTED] and the others were late
19 getting there, right?

20 A Correct.

21 Q And, no abuse or anything happened
22 then, right?

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1 A No.

2 Q And, you didn't discuss anything
3 about anything, right?

4 A No.

5 Q And, you weren't afraid he was going
6 to kill you on that trip, were you?

7 A No.

8 Q You weren't afraid of him at all on
9 that trip.

10 A Only when he got angry.

11 Q Did he get angry on that trip?

12 A Yes.

13 Q About what?

14 A Someone had spilled coke on the
15 floor, and he got angry because it was all
16 carpet.

17 Q But, you didn't think he was going
18 to seriously hurt you for that, right?

19 A I wasn't sure.

20 Q He never punched you or anything
21 before, right?

22 A No.

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1 Q So, on the trip that happened after
2 your parents got separated, you spent two days
3 with your dad in Ocean City, and other than
4 the anger about the coke everything was fine.

5 A Yes.

6 Q Okay. Did he take -- since you've
7 been separated -- since your parents were
8 separated, did your father take you to
9 gymnastics now and then?

10 A I don't remember.

11 Q Is that possible, though?

12 A It is a possibility.

13 Q Okay. You never told your mother
14 that you didn't want to ride to gymnastics
15 with him, or to Ocean City with him, right?

16 A No.

17 Q And then, he took you down to Kings
18 Dominion to meet your sister in August of
19 2009, right?

20 A Yes.

21 Q You weren't afraid he was going to
22 hurt you during that ride, right?

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1 A No, he was not angry.

2 Q You drove alone together down to
3 Kings Dominion.

4 A Yes.

5 Q And, you stayed at your Aunt [REDACTED]'s
6 house that weekend?

7 A Yes.

8 Q Okay. Did you talk to anyone there
9 about the abuse that had happened?

10 A Yes.

11 Q And, who was that?

12 A [REDACTED].

13 Q And, you told her the truth?

14 A Yes.

15 Q Did you tell her everything?

16 A No.

17 Q Did you tell her most of everything?

18 A Yes.

19 Q Okay. Later that year, maybe
20 July/August time, you asked your father for
21 some money, right?

22 A Yes.

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1 Q And, he said no.

2 A Yes.

3 Q And, that's the last time you've
4 spoken to him, right?

5 A Yes.

6 Q Before your parents got separated,
7 you didn't have any problems with depression,
8 or anxiety, or hurting yourself, or anything,
9 right?

10 A No.

11 Q After your parents got separated,
12 did you began to have problems like that,
13 right?

14 A Yes.

15 Q And, you tried to kill yourself in
16 2008?

17 A Yes.

18 Q And, you were cutting yourself in
19 2008 and '09.

20 A Yes.

21 Q And, you began to see a therapist
22 and get treatment.

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1 A Yes.

2 Q And, none of that happened while
3 your parents lived together.

4 A No.

5 Q And, isn't it fair -- it's a fair
6 statement, [REDACTED], that you told quite a few
7 people that the reason you were having these
8 problems is because you were struggling with
9 your parents' divorce, fair enough?

10 A Yes.

11 Q You were angry at your father,
12 correct?

13 A Correct.

14 Q And, he wasn't spending any
15 worthwhile time with you, right?

16 A No.

17 Q Do you remember meeting with
18 Detective Sansale in November 17, 2009, down
19 at the Government Building about this?

20 A Yes.

21 Q And, that was after you had just
22 closed your church group, and then CPS, and

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1 then the Detective asked you to come down,
2 right?

3 A Yes.

4 Q And, you had an interview with the
5 Detective, right?

6 A Yes.

7 Q And, did you tell her the truth?

8 A I did.

9 Q And, in as much detail as possible?

10 A Yes.

11 Q Okay. And, that was recorded,
12 correct?

13 A Yes.

14 Q Did you feel comfortable when you
15 were there?

16 A Yes.

17 Q Okay. Did you tell the detective
18 that your father had tried to prostitute you
19 out?

20 A I said that he had mentioned that he
21 had a few friends, but I never said he had
22 prostituted me out.

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1 Q What's the part -- what did he say
2 about having a few friends?

3 A That he could watch me and his
4 friends have sex, basically.

5 Q Was that on one occasion that he
6 mentioned that?

7 A Several.

8 Q Around what time frame, the early
9 part, middle part, or end part?

10 A The middle.

11 Q Is that around 11?

12 A Yes, sir.

13 Q Did you respond to that at all?

14 A I said no.

15 Q And then what happened?

16 A He dropped it, and then he kept
17 bringing it up on several different occasions.

18 Q During that same 11 year old period?

19 A Yes, sir.

20 Q And, did he give you any details,
21 like we are going to go here, and my friends
22 will be here, and this kind of thing?

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1 A No, he just said he would bring them
2 to me.

3 Q Into your bedroom?

4 A Yes, sir.

5 Q You took it to mean into your
6 bedroom in the middle of the night?

7 A Yes, sir.

8 Q Did he mention anybody by name?

9 A No.

10 Q Do you know any friends that he has?

11 A No.

12 Q Is it dark when he would come into
13 your room?

14 A Yes.

15 Q Lights out?

16 A Yes.

17 Q He wouldn't turn on the light.

18 A No.

19 Q You couldn't see, for example, to
20 read a book, let's say.

21 A No.

22 Q And, you couldn't see to like look

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1 at a picture, let's say.

2 A No.

3 Q Did he ever show you any pictures?

4 A Yes.

5 Q When was that?

6 A When I was around 12.

7 Q What did he show you?

8 A He showed me a picture of two people
9 having sex, and they had a really weird
10 expression on their face.

11 Q That was in your room, right?

12 A Yes, sir.

13 Q Only on one occasion?

14 A Yes, sir.

15 Q When you had this conversation with
16 your friend, [REDACTED] the first person you told
17 about it, was that after she had told you that
18 something like that happened to her?

19 A We shared the same night, but I was
20 the first one to share.

21 Q Is it fair to say you bonded over
22 that?

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1 A Yes.

2 Q Since this allegation came forward,
3 you've been appointed a guardian ad litem,
4 right?

5 A Yes.

6 Q That's Abigail Miller?

7 A Yes.

8 Q And, you have -- and your mother has
9 a lawyer, too, right?

10 A Yes.

11 Q And, you have a therapist?

12 A Yes.

13 Q And, you are getting to talk to the
14 therapist about this and other problems,
15 right?

16 A Yes.

17 Q And, this case, too, right?

18 A Yes.

19 Q And, Abigail Miller was appointed to
20 help you with the civil case that's related to
21 the facts of this case, right?

22 A Yes.

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1 Q And, before the allegation you
2 didn't have any of those people to talk to,
3 did you?

4 A No.

5 Q It's helpful to get to talk to a
6 therapist, and have people trying to help you,
7 isn't it?

8 A Yes.

9 Q Does your guardian ad litem or
10 therapist talk to you about testifying in
11 court?

12 A Yes.

13 Q And, have they told you it's
14 important to maintain this version of events
15 and to bring it forward?

16 A No.

17 Q Have they told you you could get in
18 trouble for retracting or changing your
19 version of the events?

20 A No.

21 Q Do you believe that if you are
22 testifying under oath that it's a serious

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1 matter?

2 A Yes.

3 Q Has anyone talked to you about that?

4 A Yes.

5 Q And, what have they -- have they
6 told you that testifying under oath is
7 something that once you do it you have to
8 stick with it?

9 A No.

10 Q No one has told you that?

11 A No.

12 Q You live with your mother now,
13 right?

14 A Yes, sir.

15 Q And, she says negative things about
16 your father to you, correct?

17 A No.

18 Q Never says that he's lazy?

19 A No.

20 Q Never talks about him with the
21 pornography?

22 A She's mentioned it a few times.

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1 Q Okay.

2 MR. LEIBIG: Judge, may I have the
3 Court's indulgence for one moment?

4 THE COURT: Yes, sir.

5 BY MR. LEIBIG:

6 Q Just a couple questions about the
7 picture your father showed you. Was it from a
8 book?

9 A No.

10 Q Like a Polaroid?

11 A No.

12 Q Magazine?

13 A No.

14 Q What kind of picture was it?

15 A It was printed off the internet.

16 Q Okay. Did you ever see that picture
17 again?

18 A No.

19 Q What do you mean by the "faces were
20 weird"?

21 A The expression they had while they
22 were having intercourse. He showed me the

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1 picture, saying this is something you could
2 do. And, the expression, the girl's
3 expression was painful.

4 Q When you told your friend, [REDACTED] and
5 your church group, and the detective, about
6 this allegation, at that point you weren't
7 afraid your father was going to kill you,
8 right?

9 A No.

10 Q Okay. And, aside from the fact that
11 he's in jail, you are not afraid he's going to
12 try to kill you right now, that's fair enough,
13 right?

14 A I am.

15 Q Based on what?

16 A Based on the anger that I'm sure he
17 has towards me.

18 Q Why would you be sure of that?

19 A For telling the truth, and not
20 keeping it a secret anymore.

21 Q Other than that, is there something
22 in the past that you've seen him do that would

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1 make you think that he would kill you or
2 anybody?

3 A No, just his anger.

4 Q About the coke and the spilled milk
5 and stuff?

6 A Yes.

7 Q Anything else you've seen him get
8 angry about, besides things like that?

9 A No.

10 Q You testified that your mother
11 usually tucked you in?

12 A Yes.

13 Q She didn't do that at 2:00 in the
14 morning, right?

15 A No.

16 Q Did she ever come into your room
17 late at night at all?

18 A No.

19 Q Okay, or [REDACTED] -- did you ever
20 hear anybody walk into the bathroom?

21 A No.

22 Q Just one last piece, do you remember

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1 what your bedtimes were starting from age 9,
2 what time did you go to bed around age 9?

3 A Around 9:30 or 10:00.

4 Q Okay. And then, when you were
5 around 11, did that get later?

6 A Maybe 10:30 or 11:00, but I never
7 went to bed later than that.

8 Q What about when you were 13?

9 A Around 11:00.

10 Q Okay. Around 11:00?

11 A Yes.

12 Q And, [REDACTED] would still be awake
13 during the -- when you would usually go to
14 bed, right?

15 A Yes.

16 Q When would you wake up in the
17 morning during those times, age 9?

18 A Probably 7:30-ish, 8:00.

19 Q Age 11? Same?

20 A Yes.

21 Q You get up right before school,
22 whatever that time is.

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1 A Yes.

2 Q And so, is it fair to say -- how did
3 you do in school during the 9 to 13 year old
4 time period, pretty well?

5 A Yes.

6 Q Good grades, right?

7 A Yes.

8 Q Still getting good grades?

9 A Yes.

10 Q Have you had any problems since the
11 separation at school?

12 A No.

13 Q Grade-wise?

14 A No.

15 Q Okay. Ever any complaints from your
16 teachers about being tired at school?

17 A No.

18 Q But, you would be awake almost every
19 night during a four-year period from 2:00 to
20 5:00 in the morning, right?

21 A Yes.

22 Q That's all I have. Thank you.

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1 REDIRECT EXAMINATION

2 BY MS. ASHWORTH:

3 Q [REDACTED], did you ever look at the
4 clock when this started, and then check the
5 clock again?

6 A No.

7 Q You were talking about how long it
8 felt.

9 A How long it felt.

10 Q Okay. So, you are estimating --

11 MR. LEIBIG: (INTERPOSING)
12 Objection, leading.

13 MS. ASHWORTH: (CONTINUING) -- I'm
14 trying to clarify.

15 THE COURT: I understand, but it is
16 leading.

17 BY MS. ASHWORTH:

18 Q Did you love your dad?

19 A Yes.

20 Q Do you still love your dad?

21 A Yes.

22 Q Did you know that this was wrong, or

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1 bad?

2 A Yes.

3 Q You recall the meeting with
4 Detective Sansale?

5 A Yes, ma'am.

6 Q How long was that, approximately?

7 A About an hour and a half.

8 Q And, was it at the police station,
9 or was it at your house?

10 A It was at the station.

11 Q Okay. Now, this exhibit that
12 Counsel has given you, this house looks like
13 yours?

14 A For the most part, yes.

15 Q Okay. Was there just one window on
16 the top?

17 A Yes.

18 Q And, was that -- whose window was
19 that?

20 A My parents' bedroom.

21 Q Okay. And so, that would have been
22 up here?

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1 A Yes, ma'am.

2 Q Correct?

3 A Yes.

4 Q Where did this hallway lead to?

5 A The bedroom was longer, and the
6 hallway led to -- the hallway wasn't as long,
7 it was shorter, and it led to their room.

8 Q Okay. Do you know, if you went into
9 your parent's --

10 MS. ASHWORTH: May I have the
11 exhibit that --

12 BY MS. ASHWORTH:

13 Q Do you still have that picture?

14 A Yes, ma'am.

15 Q Can you draw on there how -- where
16 did the stairs come up? Did they come up --
17 in this diagram it shows being stairs the
18 entire length of the house. Did they start on
19 the first floor, and they came up, did they
20 come up toward the master bedroom or toward
21 your bedroom?

22 A Toward my bedroom.

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1 Q Okay, and so, where on this diagram
2 did the stairs come out? Where were you
3 upstairs on that diagram, when you came up to
4 the top of the stairs? Can you write top of
5 stairs there? Can you show us? Kind of in
6 the middle?

7 A Yes, ma'am.

8 Q Okay. Could you -- and then, can
9 you draw direction for down the stairs? If
10 you are standing there in the middle at the
11 top of the stairs, which direction goes down?
12 Is it toward the front of the house, where the
13 master bedroom is, or the back of the house?

14 A Towards the master bedroom.

15 Q Okay. So, when you came in that
16 front door, the stairs would be in front of
17 you or --

18 A (INTERPOSING) They would be to the
19 right.

20 Q (CONTINUING) -- okay, when you walk
21 in the door the stairs were on the right.

22 A Yes, ma'am.

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1 Q Okay. And then, did -- were there
2 any windows in your room?

3 A Yes.

4 Q How many?

5 A One.

6 Q Okay. How about in [REDACTED] room?

7 A Yes.

8 Q How many?

9 A One.

10 Q And, was there a separate bathroom
11 for you and [REDACTED], or did you share the
12 bathroom with your parents?

13 A We shared the bathroom.

14 Q Okay, and where was the door to the
15 bathroom?

16 A Do you want me to write it on here?

17 Q Sure. Okay.

18 And, where was the door to the
19 master bedroom? Okay.

20 MS. ASHWORTH: No further questions.

21 MR. LEIBIG: Judge, can I have a
22 brief recross, only on the diagram piece?

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1 RECROSS EXAMINATION

2 BY MR. LEIBIG:

3 Q Do you have a pen, [REDACTED]?

4 A No, I do not.

5 Q Okay. Can you draw in your room the
6 position of the bed?

7 And, are you familiar with the
8 position of the bed in [REDACTED] room?

9 And, your parents' room?

10 Thank you.

11 MR. LEIBIG: Judge, I have no
12 further questions, and I would move for
13 admission of Defendant's Exhibits A and B.

14 MS. ASHWORTH: I have no objection.

15 (WHEREUPON, THE DOCUMENTS
16 REFERRED TO, PREVIOUSLY
17 MARKED DEFENDANT'S EXHIBITS A
18 AND B FOR IDENTIFICATION, WERE
19 RECEIVED IN EVIDENCE.)

20 THE COURT: Any other questions of
21 this witness?

22 MS. ASHWORTH: No, sir.

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