CLERK
SUPREME COURT OF VIRGINIA
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RICHMOND, VIRGINIA

IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD NO. 771736

LEWIS ARTHUR SCHRUM,

.....Appellant

v.

COMMONWEALTH OF VIRGINIA,

.....Appellee

JOINT APPENDIX

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VIRGINIA } **In the Circuit Court of the County of Henrico**

CLERK
SUPREME COURT OF VIRGINIA
FEB 1 1978
RICHMOND, VIRGINIA

JANUARY 3, 1977

The grand jury charges that:

On or about August 22, 1976, in the County of Henrico, Lewis Schrum did rape Cheri Gene Rice, age 14,

against the peace and dignity of the Commonwealth of Virginia. Virginia Code Section 18.2-61

T. L. Howell

Witnesses sworn and sent by the Court to the Grand Jury to give evidence.

M. L. Tyler, D. C.

A TRUE BILL

R. C. Baker

FOREMAN

Pursuant to adjournment on July 28, 1977, came again the attorney for the Commonwealth and the accused in person and Conrad E. Lewane, his attorney, and came also the jury which had been empaneled and sworn.

Whereupon, the jury received the instructions of the Court and after hearing argument of counsel, were sent to their room to consult upon their verdict and after some time returned into Court and presented their verdict in the following words, to-wit:

> "We, the jury, on the issue joined, find the defendant, Lewis Arthur Schrum, guilty of rape as charged in the indictment and fix his punishment at 5 years in the penitentiary.
>
> /s/ Robert C. Courain, Jr.,
> Foreman

Counsel for the defendant moved the Court to set aside the verdict for the reasons stated to the record, which motion was overruled.

It being demanded of the accused if anything for himself he had or knew to say why judgment should not be pronounced against him according to law, and nothing being offered or alleged in delay of judgment, it is accordingly the judgment of this Court that the defendant be and he is hereby sentenced to confinement in the penitentiary of this Commonwealth for the term of five (5) years, the period ascertained as aforesaid and that the Commonwealth recover against the defendant the sum of $593.85, its costs by it about its prosecution in this behalf expended.

And the defendant in person having indicated his intention to appeal to the Supreme Court of Virginia, it is ordered that execution of sentence be suspended for thirty (30) days and such additional time as may be necessary for counsel to perfect his appeal.

Counsel for the defendant moved the Court to allow the defendant to remain on bond pending appeal to the Supreme Court of Virginia, whereupon the Court set bond for the defendant at $100,000.00 cash.

The Court certifies that at all times during the trial of this case the

Entered July 28, 1977

defendant was present in person and his attorney was likewise present in person and represented him capably.

Thereupon, the defendant was remanded to the custody of the Sheriff.

At the expiration of thirty (30) days from the date of this order if the judgment of this Court has not been appealed, it is ordered that the Clerk of this Court shall dispose of the nightgown admitted into evidence as Commonwealth's Exhibit No. 1 in this case in any manner she considers appropriate.

lt

A COPY TESTE:
MARGARET B. BAKER
Margaret B. Baker
Clerk

Upon the petition of Lewis Schrum, sometimes known as Lewis Arthur Schrum, a writ of error and supersedeas is awarded him to a judgment rendered by the Circuit Court of Henrico County on the 29th day of July, 1977, in a prosecution by the Commonwealth against the said petitioner for a felony; but said supersedeas, however, is not to operate to discharge the petitioner from custody, if in custody, or to release his bond if out on bail.

This writ of error, however, is limited to the consideration of assignments of error Nos. 1, 2, 6 and 7 which read as follows:

1. The court erred in overruling objections duly made to testimony of witnesses for the Commonwealth.

2. The court erred in overruling defense motions for a mistrial.

6. The court erred in overruling objections duly made to testimony of a witness to the Commonwealth who testified that the defendant surrendered himself to Police Headquarters while in the company of his attorney and after being advised of his constitutional rights to remain silent the defendant did exercise his constitutional right to remain silent and this fact was made known to the jury.

7. That the court erred in overruling defense counsel's motion to set aside the guilty verdict as being contrary to the law and the evidence.

On further consideration whereof, it is ordered that the parts of the record to be printed or reproduced in the appendix are to be limited to those parts of the record germane to assignments of error Nos. 1, 2, 6 and 7, and the briefs to be filed shall be limited to such discussion as is relevant to the assignments of error upon which this writ of error is awarded.

The petition for writ of error is refused as to the remaining assignments of error.

A Copy,

Teste:

Allen L. Lucy

Clerk

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guilty or not guilty?

DEFENDANT: Not guilty.

THE CLERK: Do you make this plea after consulting with your attorney?

DEFENDANT: Uh-huh.

THE CLERK: Do you wish to be tried by the Court or a Jury.

DEFENDANT: A jury.

THE CLERK: A now to be called is to pass between you and the Commonwealth upon your trial now to be had. If you have a mind to challenge any of them you must do so as they come to the book to be sworn, and you shall be heard. Have a seat.

THE COURT: All right, Madam Clerk, please, and ask them to come the Jury box, Sheriff.

(The jorors were then called by the Clerk by lot and were examined on the coir dire by the Judge until a panel of twenty qualified jurors, free from exception, was made up and completed; then the Attorney for the Commonwealth and the Attorney for the Defense, having each alternately stricken from the panel

the names of four of said jurors; the remaining twelve were sworn on the issue.)

THE COURT: All right, Sheriff, call forward all witnesses who will testify in the case, please.

(The witnesses to be called on behalf of the Commonwealth and the Defense were called to the bench and were sworn. Motion was made by the Defense Counsel for separation of witnesses. Motion was granted.)

THE COURT: I'm addressing myself to all of you witnesses at this time; in a minute each of you will leave the Courtroom and by the left rear door, and will wait in the corridor until you are sent for. And you are usually asked to come in by one of the Deputy Sheriffs. And when you come in you will come in and take this witness chair. This is the witness chair; that's the one you will sit in. The lawyers know all about the case, and the Jury doesn't know anything about the case, so consequently you are going to face the Jury. When you answer the questions you're going to talk to the

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Jury and you're going to speak up loud enough so that you can - the Jury can hear you. And you're going to tell them the truth, the whole truth and nothing but the truth. And when you are through testifying it will be the endeavor of the Court to try to excuse you permanently. On the other hand, you cannot leave the Courthouse until you are excused by the presiding Judge. Now in the event that any of you go back out, regardless of whether you are excused permanently or whether you're told to wait outside, you must not discuss with any other witness any questions you were asked or any answers you gave while you were in the Courtroom. All right, at this time, Sheriff, see that all witness leave the Courtroom by the left rear door. File out, please, there's an exit over there. Wait and be called if he is to be called -

MR. LEWANE: Not to my knowledge, and I don't object.

THE COURT: Well, in any event, it will likewise apply that no one else in the Courtroom would have any communication whatsoever with any witness outside, as to what took place in the Courtroom. Is that understood?

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MR. LEWANE: Judge, I have one question. I noticed a young lady over there with a pad and pencil in her hand, and I was curious -

THE COURT: You haven't been around enough. She's here quite constantly, I understand she's interested in law and may be preparing to study it, or is studying it, whichever. She's been coming here for six months or a year. All right, members of the Jury, may I have your attention, please? This case will proceed in the following order: The Assistant Commonwealth's Attorney assigned to this case, Mr. Albert Nance, has a right to make an opening statement, outlinging what he expects the evidence to be. Likewise, Mr. Conrad Lewane has a right to make - Attorney for the defendant has a right to make a statement indicating what he thinks the evidence will be. Now, bear in mind from the beginning that lawyers are not witnesses, so what they say now is what the evidence might be; and what they may say finally in their final arguments, after all the evidence is in is what they may say, what they recall the evidence is thus so and so. What they say is not evidence. You all

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1 listen to the evidence. You're called to try
2 as the facts. That's why you've got to
3 listen carefully. We don't go over it by
4 once. So listen carefully. All right, once
5 the opening statements are over, then the
6 Commonwealth's Attorney proceeds to put on
7 evidence of the people of the Commonwealth.
8 And after that the defendant has a right to
9 put on evidence, and then sometimes after that
10 the Commonwealth's Attorney may even want to
11 put on what they call final, or rebuttal,
12 evidence, and that's proper, too. All right,
13 now, at the conclusion of all this evidence,
14 when at that time I'm going to give you further
15 instructions, instructions of really the legal
16 principles applicable to the evidence that
17 you'll hear in this case as applicable to this
18 type case. Now, if you do not go outside of
19 what the evidence is and you don't go outside
20 of what the Judge tells you what the law is,
21 to either dream up what the evidence is or
22 what the law is. You see, that's - you decide
23 on the evidence. I'll tell you what the law
24 is, based on what I interpret what the Supreme
25 Court of Virginia to say on this sort of thing.

COPY

1 Now, when the last instructions are given to
2 you, then that's followed by the final argu-
3 ments. And once the arguments are made, then
4 you go to your Jury room and you elect a fore-
5 man to conduct your deliberations and then you
6 make a decision. You must make a decision in
7 this case. That's your duty - your verdict.
8 And it must be unanimous. And a faithful per-
9 formance of you by your duties is vital to
10 the administration of justice, and you're not
11 to be influenced in any degree by any personal
12 feeling or sympathy for or prejudice against
13 any party that's in this case, but each party
14 that's in this case, but each party's entitled
15 to the same fair, impartial consideration. So
16 it's your duty to determine the facts. You
17 determine the facts from the evidence and
18 reasonable inference from the evidence, and
19 likewise in doing this you cannot indulge in
20 any guess work or speculation. What is the
21 evidence? The evidence consists primarily of
22 the testimony of the witnesses. A witness is
23 anybody that testifies in the case, whether
24 he's a party or not, or in addition there are
25 sometimes documents or something like that

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1 that might come in as an exhibit, and they
2 are marked as Exhibit 1, 2, 3, or something
3 of that sort. Exhibits go to the Jury room
4 with you, and you can look at them in detail
5 if any come in, and if it's of your desire.
6 On the other hand, you hear the evidence once,
7 so listen to it carefully. Take your recol-
8 lection of that evidence with you. During
9 the course of the trial it may be necessary
10 for a lawyer to raise some objection - make
11 an objection to the line of questioning of
12 admissibility of the evidence, and at that
13 time I advise the Judge to come to the referee
14 or umpire to decide that, and let's decide it
15 according to the rules of admissibility of
16 evidence decided by the Supreme Court of Va.,
17 and other applicable courts, and it's not
18 decided by television rules, which get pretty
19 glamorous at times, but we're not dealing with
20 that. Now, you don't concern yourself with
21 the reasons behind the ruling of the Court,
22 and the Court suggests that - tells you to
23 disregard something that's blurted out, then
24 disregard it. It shouldn't have come in in
25 the first place. Now, these opening

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1 statements, as I mentioned earlier by the
2 lawyers, often their closing arguments are
3 really intended to sort of help you understand
4 what's coming and sort of look back on what
5 did take place here in the Courtroom, but
6 they, of course, are not evidence themselves,
7 what the lawyers say. Now, members of the
8 Jury, no statement or remark or ruling that I
9 may happen to make during the course of this
10 trial is intended to indicate in any way what
11 my opinion is as to what the facts are. You
12 alone determine the facts. You all will try
13 as the facts. So in this determination, you
14 alone must decide upon the believability of
15 the evidence and the weight and value of it,
16 and considering the weight and value of the
17 testimony of any witness you take into consider-
18 ation the appearance and the attitude and be-
19 havious of the witness. Take into consideration
20 the interest of the witness and the outcome
21 of the suit in relation to the witness to any
22 of the parties in the suit, in connection with
23 the witness to speak truthfully or not,
24 probability or improbability of the witness'
25 statement and other facts and circumstances

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in evidence. Thus, you give testimony of any witness, just such weight and value as you believe the testimony of the witnesses is entitled to receive. Until all of this case is completely submitted to you and you're all assembled back in the Jury room, after all of the evidence and instruction of the Court, and all the arguing and everything, do not - and you've selected your foreman and deliberate the case, do not make any final decision until all twelve of you are, of course, together in the Jury room. All right, at this time, Sheriff, you may move the lecturn around in case counsel desires to use it. Members of Jury will now hear the opening statement. Mr. Nance, proceed, sir.

(Mr. Nance presented his opening statement to the Jury.)

THE COURT: All right, Mr. Lewane, your opening statement, please, sir.

(Mr. Lewane presented his opening statement to the Jury.)

THE COURT: All right, I believe it would be better if we went ahead and took a recess now, counsel. Members of the Jury, when you take a recess

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1 you will leave by this door and there's a
2 Jury room directly opposite this exit door
3 from the Courtroom, and that's where you
4 would normally go. And the lavatories are
5 down to the right, and unless you have good
6 reason to use the phone would normally ask
7 you not to go out in the other direction at
8 this - during the course of this trial.
9 Furthermore, during any recess, whatever it
10 be, there's the luncheon recess; you heard me
11 admonish the witnesses not to, you know, talk
12 to each other, or they should not, of course,
13 in any way talk to you or in your presence at
14 all during the trial. No one should be talk-
15 ing to you in any way, including any witnesses
16 or parties, lawyers or anything, about this
17 case or in your presence during the entire
18 course of the trial, outside this Courtroom.
19 If there's any violation of that let me know
20 and I'll deal with it promptly. All right,
21 Sheriff, we'll take a recess for about ten
22 minutes after eleven.
23 (Court Recesses)
24 First witness for the Commonwealth, Mr. Nance.
25 MR. NANCE: Your Honor, the Commonwealth calls

Dr. Wanda Radford.

THE COURT: All right.

DIRECT EXAMINATION: Dr. Wanda Radford by Mr. Albert Nance

Q Dr. Radford, I'd ask that you direct your answers to the ladies and gentlemen of the Jury, if you will, please. Would you state your full name and your occupation?

A Wanda Radford. I'm a physician at the Medical College of Virginia, in obstretrics and gynecology.

Q Dr. Radford, could you tell the ladies and gentlemen of the Jury what obstretics and gynecology entails basically?

A Well, basically, obstetrics means the well-being and care of a pregnant lady in the delivery and the postnatal care. Gynecology means the specialty of the female genital tract and the care of that.

Q If Your Honor please, there has been a stipulation between defense counsel, Mr. Lewane and myself, as to the qualifications of Dr. Radford to testify here today. Is that not correct, sir?

A That's correct.

THE COURT: All right. Members of the Jury, this is a quick way of saying that the witness is qualified without having to prove the qualifications of an expert witness, by starting off practice from high school and going all the way through college and med school, and so

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1 forth and so forth. They admit stipulate,
2 which is an agreement that she has qualified
3 in the fields in which she has just mentioned
4 as are her specialties. Go ahead then, with
5 the examination.
6 Q Dr. Radford, were you so employed and working at MCV on
7 or about August 22, 1976?
8 A Yes, I was.
9 Q And were you employed in respective fields that you related
10 to the Court in Obstetrics and Gynecology?
11 A Yes, in the obstetrics and Gynecology Emergency Room.
12 Q At that time, Dr. Radford, did you have an occasion to see
13 a patient by the name of Cheri Jean Rice?
14 A I did.
15 Q Would you tell the Court and the ladies and gentlemen of
16 the Jury when you first saw that patient, what time and
17 under what circumstances.
18 A She was admitted through the obstetrics and gynecology
19 emergency room at MCV on 8/22/76 at 11:05 p.m.
20 Q Could you tell the ladies and gentlemen of the Jury under
21 what circumstances you saw her?
22 A Miss Rice came to the emergency room on the 22nd, because
23 of a alleged assault by the father of the children she had
24 babysat for on the 21st. She told me that the assault
25 occurred around midnight. That she had taken a bath since

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1 the time that the assault had occurred. She claimed that
2 there was only vaginal intermission, meaning vaginal inter-
3 course, that there was no trauma, in other words, no one
4 hit her or beat her at the time. That she had no method
5 of birth control and no previous sexual experience. I
6 didn't examine her at that time. Do you want the results
7 now?
8 Q Yes, M'am, I'd like for you to briefly tell the Court and
9 the ladies and gentlemen of the Jury what your examination
10 entailed, in fact, what you actually did in the examination
11 and what the results were.
12 A We, generally, at MCV, have a policy in which we take care
13 of alleged rape victims in which we fill out a kit, it's
14 a PERK Kit. And this particular kit that we fill out
15 includes vaginal secretions for the pathologist, pubic
16 hair, hair from the patient and a general physical exam,
17 and I do what is called a - just a general complete exam
18 to make sure there are not any traumatic areas. We take
19 siliva from the mouth, and it's just a generalized kit that
20 goes to the pathologist. The nurse and I are both present,
21 and a chaplain is if indeed the patient wants one.
22 Q Could you tell the ladies and gentlemen of the Jury what
23 that PERK Kit is used for?
24 A Well, the PERK kit is a physical evidence kit, and it is
25 taken by the policeman to the pathologist and the pathol-

COPY

1 ogist and the pathologist looks at the slides for semen,
2 can type and cross semen, can look for pubic hairs from the
3 alleged assailant, and this sort of thing.
4 Q I see. I just want to call your attention to one thing.
5 You said that she was an alleged victim of an assault. Is
6 that - could you relate to the ladies and gentlemen of the
7 Jury what you mean by the term "assault".
8 A Meaning that she told me that she had been raped.
9 Q I see. Now. Would you describe the type of examination
10 to the ladies and gentlemen of the Jury that you gave her?
11 A Okay. I did a general exam body wide. And then I did a
12 pelvic exam. Her general exam was not remarkable. As far
13 as the pelvic exam was concerned, the only positive findings
14 she had, she had the hymenal ring, which is the inside the
15 opening to the vagina. She had some small lacerations
16 along the edge of the hymenal ring, and by lacerations I
17 mean that the covering which is the mucosa, or epithelium,
18 was torn, somewhat like you would tear a little area inside
19 your mouth that was torn open along the edges. Otherwise,
20 the exam was normal. Her rectum was fine and her mouth
21 was fine, and the rest of her exam was normal.
22 Q Is this - you described the hyman - where is that in regard
23 to the other - any exterior genitalia that are on the
24 anatomy?
25 A Well, in the anatomy of the female there are what they

COPY

1 call labia, which are little folds of skin that cover the
2 outside of the opening to the vagina. There are two folds.
3 There's a large fold called the labia majora, and there's
4 another fold more internally that's called a labia minora.
5 Then inside this fold there is but a little bit inside,
6 maybe about 1/4th of a centimeter to maybe a little bit
7 more, depending on the person. There is a hymenal ring.
8 Very often in virgins it's completely in tact, or, well,
9 has just small holes in it. But it is inside these outer
10 folds.
11 Q It is an internal part of the anatomy, as opposed to the
12 labia minora.
13 A Yes.
14 Q All right. Dr. Radford, the lacerations that you observed,
15 in your medical opinion, was there any determination as to
16 when those lacerations may have occurred?
17 A They appeared to be recent lacerations, and that's very
18 difficult to tell exactly when they occurred. They had to
19 be fairly recent, and I would say in my medical opinion
20 they would have to be within 48 hours, and more likely
21 more recent than that.
22 Q Dr. Radford, what, in regard to the lacerations that
23 occurred - you mentioned that a bath had been - had taken
24 place. It was a bath?
25 A She told me that a bath had taken place, yes.

COPY

1 Q Would a bath have any effect on what you observed as to
2 the bleeding that you related to the ladies and geneltmen
3 of the Jury?
4 A I think it's possible, yes, and it can remove evidence, of
5 course, of pubic hairs and semen that might be external -
6 and blood if there is blood.
7 Q And in regard to the healing processes of these mucosal
8 membranes around the hymen, could you describe to the ladies
9 and gentlemen of the Jury the rapidity, if any, of the
10 healing processes of the bleeding that you observed?
11 A I can't tell you exactly, to tell you the truth, but it is
12 a very rapidly healing membrane. It's much like, if you've
13 experienced a cut in your mouth it heals very rapidly.
14 That's an area, also, that has rapid proliferating cells,
15 and therefore, it's not like an area on your skin that is
16 maintained for weeks or a couple weeks, you know, or so.
17 It does heal very rapidly and evidence does disappear, you
18 know, in that particular area fairly fast.
19 Q Is it possible for a healing to occur to some degree over
20 a period of let's say, 24 hours?
21 A It's - oh, it's very unlikely that I couldn't see those
22 areas within 24 hours, no.
23 Q When you take the PERK Kit, Dr. Radford, would you describe
24 to the ladies and gentlemen of the Jury, what do you do
25 with it after you obtain that evidence?

COPY

A I obtain the evidence and I- every piece of the evidence is wrapped individually and put in and I sign it, initial it, put into a paper container, and that's also signed, and then it's given to the policeman that happens to be there at the time.

Q What was Cheri Rice's appearance to you when you observed her?

A She was nervous, I think more than anything else, at the time. And a bit upset.

Q Do you know Cheri Jean Rice, other than observing her as a patient?

A No, I don't.

Q The defendant, Lewis Arthur Schrum, do you know him? Other than in Court?

A No, I do not.

Q If - in your medical opinion - if taking physical condition of the hymen, if, and the walls that you examined in the lining inside the vagina of Cheri Rice, if there is a relaxed - if it be relaxed sexual intercourse, is it medically possible or medically likely that apparent lacerations will not occur?

A I'm not sure how you worded that, but let me try to answer it. In consenting intercourse that is relaxed and pleasant it's very unusual to have tears or lacerations. Does that

COPY

1 help?
2 Q Yes M'am. That was the answer to the question.
3 A It can happen. I'm not saying that it's not -
4 Q Yes, M'am.
5 A Possible.
6 Q But unusual.
7 A Except for the first intercourse. Sometimes that - the
8 hymenal ring will of course tear at the first intercourse.
9 Q How was Cheri Rice dressed when you saw her? If you re-
10 member?
11 A I'm not certain.
12 Q That's fine. Thank you, Dr. Radford. Appreciate your
13 testimony.
14 THE COURT: Cross examination, Mr. Lewane.
15 CROSS EXAMINATION: Dr. Radford by Mr. Lewane
16 Q Dr. Radford, Cheri Jean Rice have a hymen intact? I'm not
17 talking about the outer ring, I'm talking about an actual
18 hymen?
19 A She did not have a complete hymen intact, no.
20 Q No. Okay. Now. Would that be evidence of the fact that
21 she did not have a complete hymen intact would be evidence -
22 could be evidence of sexual intercourse. Correct?
23 A I could, but it's not necessary.
24 Q Okay. Now. Concerning the - what you classify as the ring,
25 the hymenal ring as such, am I correct in saying that a

COPY

1 woman who - mature woman married, who has had sexual inter-
2 course, does still have what is classified as a hymenal
3 ring?
4 A She has the remnants of a hymenal ring.
5 Q Right.
6 A She has little indentations. It has a name, it's not really
7 very important.
8 Q All right. Now. Could these lacerations, would you classi-
9 fy them as a - large, medium, or slight lacerations? The
10 ones in question here.
11 A They were just very small, superficial, tears along the
12 rim of the hymenal ring.
13 Q Now. If Cheri Jean Rice had had sexual intercourse roughly
14 60 hours before you examined her, would - could that have
15 caused this?
16 A That's possible, yes.
17 Q Okay. Now. If there was penetration - male penis penetra-
18 tion in sexual intercourse with Cheri, and there was semen
19 ejected at that time, would a normal bath remove that that
20 you could not discover from examination?
21 A Probably not.
22 Q Okay. Now.
23 A But the exam is not 100%. In other words, the finding of
24 semem post intercourse is not 100%, being able to pick it
25 up by the pathologist.
Q Okay.

COPY

1 A Depends on my skill in getting it. Depends on a number of
2 different things.
3 Q Okay. But the answer would be probably not, if there was
4 penetration within twenty-four hours and if she took a
5 normal bath.
6 A It's - that's not designed to remove it from up inside.
7 Q Okay. Now. You took a PERK Test. What was the result of
8 the PERK Test?
9 A I don't have the results from the PERK Test.
10 Q Do you know what the result?
11 A It was not given to me.
12 Q Okay.
13 A That goes to you.
14 Q Okay. Now. You mentioned that she had said something
15 about no prior sexual intercourse or sexual contact?
16 A What I have written down is "no previous sexual experience."
17 Q Okay. Now. These particular small, slight lacerations
18 that you referred to, could they have been caused by some-
19 thing other than sexual intercourse?
20 A I think that's possible, yes.
21 Q Okay. Now. Can you state with any reasonable medical
22 certainty if Cheri Jean Rice had had sexual intercourse
23 within 24 hours of the time that you examined her?
24 A All I can say is that that would be -
25 Q I'm talking about from your examination.

COPY

A From my examination it would appear that she has had some intermission into her vagina at some time within a very recent period. What that is, I can't tell you.

Q And that is based on the slight lacerations. Correct?

A Yes.

Q Okay. However, you have also stated that those lacerations could have been caused by some other cause, is that correct?

A Yes.

Q Okay. Were there any bruises in the vagina area? I mean on the outer part, on the outside as such?

A No, I found no trauma on the outside.

Q Did you find any trauma or any bruises on her arms or shoulders, where someone would be holding her down?

A No, as I said, the general exam was normal.

Q Okay. I'm going to try to cover parts of the body. What about her thighs of her legs, did you find any bruises?

MR. NANCE: Your Honor. I think she's answered that question. I think we're getting to the point of being repetitious and taking up time to subdue the answer.

THE COURT: Well, it may be, but I'll permit it this time.

MR. NANCE: All right, sir.

A No, I didn't find any other areas, sir.

Q Did you ask her about her underclothing that she was wearing at the time that the incident allegedly occurred?

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A I, personally, did not, but we try to obtain it. And the nurse probably did. If it was obtained. And we try to do it, even if it's at home we bring it in. It goes with the PERK Kit and it's included.

Q Now, Doctor, if the - someone that had sexual intercourse with their underwear on, and there was blood on the underwear, and those panties, woman's panties, girl's panties were washed - normal washing, and you obtained those - that pair of underwear within 24 hours, and they were washed normally within 24 hours, would you be able, from the examination, tell if there was blood in fact on those panties?

A I think you'd have to ask the pathologist that. I'm not that kind of expert.

Q Okay. No further questions.

THE COURT: All right, anything else, counsel? Let's move on.

MR. LEWANE: No further questions.

THE COURT: Any redirect?

MR. NANCE: Yes, sir, just one.

<u>REDIRECT EXAMINATION: Dr. Radford by Mr. Nance</u>

Q Dr. Radford, pursuant to a question asked by Mr. Lewane, is it anything unusual about a 14 year old young lady having a partial hymen, a hymen that is only partially intact?

A No. It's very frequently seen. I think that - I don't know

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1 the exact percentages, but a hymen that's not intact is
2 very frequently seen at that age.
3 Q And in particular, one that is only partially intact.
4 A Yes.
5 Q Is that correct?
6 A Yes. Yes.
7 Q Thank you, M'am.
8 RECROSS EXAMINATION: Dr. Wanda Radford by Mr. Lewane
9 Q I have one question. Dr. Radford, if a hymen that's par-
10 tially intact, and you have complete penetration of a male
11 sexual organ, would the likelihood be that the rest of the
12 hymen would in fact be ruptured, as such?
13 A Yes.
14 Q No further questions.
15 A But not always.
16 Q Okay.
17 A Can certainly even remain intact with that.
18 Q But the likelihood would be that it would be, is that
19 correct?
20 A Yes. The likelihood would be that.
21 Q Right.
22 SECOND REDIRECT: Dr. Radford by Mr. Nance
23 Q Dr. Radford, in that regard it is possible of course, for
24 the penis to enter to some degree, the female vagina, and
25 not break a hymen at all. Is that correct?

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1 A That's perfectly correct.

2 SECOND RECROSS: Dr. Radford by Mr. Lewane

3 Q I have one question. Dr. Hymen - I mean - excuse me, I'm
4 sorry. Dr. Radford, what did you - what was the dimensions
5 that you gave that the hymen is located inside the vagina
6 area? Approximately 1/4", was that, when you told, what
7 I thought?

8 A Well, about that.

9 Q About a 1/4".

10 A Yeah. Maybe a little tiny bit more. It just depends on
11 the patient. It's very variable. But it is inside.

12 Q Thank you.

13 THE COURT: All right. Witness can be excused, Counsel?

14 MR. NANCE: Your Honor, please, she can be excused.

15 THE COURT: All right, thank you, you can be excused.
16 You're free to leave. Don't discuss with
17 any other witness on the way out, questions
18 you were asked and answers you gave. Next
19 witness.

20 MR. NANCE: Your Honor, Commonwealth calls Cheri Jean Rice.

21 THE COURT: They've got a lot of questions and when you
22 answer, please, Miss Rice, face the Jury.
23 Talk to the last lady on the back row, and
24 then they can all hear you. All right.

25 DIRECT EXAMINATION: Cheri Jean Rice by Mr. Nance

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1 Q Cheri, tell these folks your full name, please.
2 A Cheri Jean Rice.
3 Q Ladies and Gentlemen, can you all hear the answer?
4 Cheri, how old are you now?
5 A 15.
6 Q What is your date of birth?
7 A February 15, 1962.
8 Q February 15, 1962. That's all right. On August 21 or
9 22, 1976 your age would have been?
10 A Age 14.
11 Q Cheri, are you nervous?
12 A No.
13 Q You're not nervous? Cheri, do you know the defendant,
14 Lewis Arthur Schrum?
15 A Yes.
16 Q Is the man that you know as Lewis Arthur Schrum in the
17 Courtroom?
18 A Yes.
19 Q Would you point him out, please?
20 A Yes.
21 Q The man sitting to the right of Mr. Lewane? That you indi-
22 cated? The record, please, I'd like for the record to
23 indicate that she's identified him.
24 THE COURT: So indicated for the record.
25 Q Cheri, I call your attention to August 21, 1976. Do you

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1 remember that day?
2 A Yes, sir.
3 Q Do you remember where you were on that day?
4 A Yes, sir.
5 Q Did you have an occasion to see the defendant on that day?
6 A Yes, sir.
7 Q Did you know the defendant prior to that day?
8 A What do you mean, did I just know him that day?
9 Q No, M'am, had you ever met him before, to the best of your
10 knowledge?
11 A No, sir.
12 Q Do you know a lady by the name of Bonnie Schrum?
13 A Yes.
14 Q Who is that to you?
15 A It's Mr. Schrum's wife.
16 Q Did you know that lady prior to that day?
17 A I had known her before that day.
18 Q Did you know her as a friend?
19 A I didn't really know her that well. I had just met her at
20 Carol's grandmother's house before. I just met her maybe
21 twice or something, seen her, but -
22 Q Tell these folks who Carol is.
23 A Carol Tyree is her name.
24 Q How old is Carol?
25 A She's 17 now.

1 Q At that time she would have been 16 or so?
2 A I think she was 17 then, too.
3 Q Cheri, on August 21st, would you tell the Court and the
4 ladies and gentlemen of the Jury where you saw Mr. Schrum?
5 A At his house.
6 Q The first time. At his home? Where is that home?
7 A It's in Varina.
8 Q Is that in Henrico County?
9 A Yes, sir.
10 Q Why were you at his home?
11 A I was going to babysit.
12 Q For whom?
13 A For Mr. Schrum and Bonnie Schrum.
14 Q You know what they were going to do while you were babysit-
15 ting?
16 A They were going to go out for the evening.
17 Q Who lives there at the home with Mr. Schrum?
18 A Betsy, his Aunt, and his four children.
19 Q Tell these ladies and gentlemen about Betsy.
20 A Betsy is about 81, and - would you like me to go on into
21 detail about her care - about -
22 Q Just, you say she was about 81.
23 A Uh-huh.
24 Q Was she there when you were there?
25 A Yes.

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1 Q Did she live at that house?
2 A Yes.
3 Q How about the children that were there. How old were they?
4 A Shiela was about 6, the other ones, it was a little infant
5 baby, and one was 9 and the other one was maybe 10 or 11.
6 Q Three, four children - right?
7 A Yes.
8 Q One about 6, 9 and 11. They Mr. Schrum's children?
9 A Two of them were Bonnie's children from another marriage,
10 but the other two were his real children.
11 Q What time, Cheri, did you get to the house?
12 A 'Bout 6:30.
13 Q How did you get there?
14 A Mrs. Schrum come picked me up.
15 Q At your house?
16 A Uh-huh.
17 Q How far was your house from Mr. and Mrs. Schrum's?
18 A 'Bout 5 or 6 miles, maybe more.
19 Q Had you ever been to the Schrum's house before?
20 A No.
21 Q Had you even ever been in that neighborhood before?
22 A Yes.
23 Q Tell these folks where.
24 A My mother has a friend that lives across the street from
25 them that I used to babysit for sometimes, and he lived

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1 across the street from her.
2 Q Who was that?
3 A Linda Davis.
4 Q Did you ever babysit for the Davis' anytime around
5 August 21st?
6 A No.
7 Q Was anybody else at the house when you arrived there on
8 August 21st?
9 A Yes. One - well, Bonnie's children were with us in the
10 car when we got there. There was Mr. Schrum and Betsy,
11 she was in the house, and two of his friends were there.
12 Q Do you remember what the friends were doing, and Mr. Schrum
13 was doing?
14 A They were sitting in the backyard talking and having a
15 few beers.
16 Q You know any of those friends that were with Mr. Schrum?
17 A No.
18 Q You ever seen them before?
19 A No.
20 Q Did, in fact, Mr. and Mrs. Schrum go out that night?
21 A Yes, but they left separately.
22 Q Separately?
23 A Yes.
24 Q You know why?
25 A No, she had planned on going out with his mother, and he

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1 had planned on going out with the boys that night.
2 Q Were they suppose to go out together?
3 A I -
4 MR. LEWANE: Judge, I think that he's asking the witness
5 for a lot of conclusions.
6 Q I withdraw the question. Had you ever babysat for them
7 before at all? The Schrums, I mean.
8 A Before August 21st?
9 Q Yes, M'am.
10 A No.
11 Q What time - what did Mr. Schrum do until the time he left,
12 do you remember? To go out?
13 A I don't know. I guess I was sitting in the kitchen talking
14 to the children, and he, I guess, I don't know what he was
15 doing. Him and his wife, I guess they were getting dressed
16 ready to go out.
17 Q Did he ever have an occasion to talk to you before he went
18 out?
19 A No more than to maybe say, "Hi."
20 Q What time did he and his wife leave?
21 A I can't remember, I guess it was about 7:30, I think.
22 Q Did they leave together, at the same time?
23 A Now, I can't - she told me that she was going out with his
24 mother and he said he was going out with the guys, but
25 they went out the door at the same time, but she told me

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1 they weren't leaving together.
2 Q Did you hear Mr. Schrum talk to his wife prior to leaving?
3 A No.
4 Q When did you see Mr. Schrum next time that night, if at all?
5 A About 11:00 o'clock when he came in.
6 Q Tell the ladies and gentlemen of the Jury what his appear-
7 ance was when he came in.
8 A His appearance was kind of normal, but you could tell
9 maybe he'd had a few drinks, but he wasn't stumbling or
10 knocking down things or nothing like that, but you could
11 tell, because he had even had a few drinks before he'd left,
12 with the boys out in the backyard.
13 Q Did he talk to you when he came home?
14 A Yes.
15 Q What did he talk about?
16 A He just said, "Hi," and then he went on back to the back
17 of the - to his room.
18 Q Were the children up?
19 A Yes.
20 Q How about this lady named Betsy?
21 A She was up, too. I was talking to her at the kitchen table.
22 Q What was Betsy's appearance?
23 A She couldn't hear too well, to me, and when I was talking
24 to her, when I was having conversation with her at the
25 kitchen table, I had a tendency to maybe have to repeat

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1 myself sometimes about - couldn't she couldn't hear as good.
2 Q Did you see her walk any?
3 A She could walk. She can make it. She didn't have to
4 crawl around, but she didn't walk very well.
5 Q You say she didn't walk very well. What do you mean by
6 that?
7 MR. LEWANE: Judge, that calls for a conclusion on the part
8 of the witness. She can describe -
9 THE COURT: Well she can describe -
10 MR. LEWANE: What she saw -
11 THE COURT: Just a minute.
12 Q What did you observe about her walking -
13 THE COURT: That's it.
14 Q That made you say that?
15 THE COURT: What manner did she walk? That's all you have
16 to tell.
17 A She walked kind of slow, and she maybe just kind of leaned
18 over some when she was walking and walked slow. That's
19 how she appeared to me.
20 Q Now, when Mr. Schrum came home was anybody with him?
21 A No, just him.
22 Q And was - do you know where Mrs. Schrum was at the time?
23 A Not at the time. She didn't come in with Mr. Schrum.
24 Q After you talked to Mr. Schrum when he first came in, what
25 did you do?

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1 A After I talked to Mr. Schrum when he first came in?
2 Q Yes, M'am. You said the children were up, and Betsy was
3 up, I believe.
4 A Yeah. Well, me and Betsy, we were still sitting at the
5 kitchen table talking and the kids were still up, and he
6 called them in there and he was just talking to them about
7 different things.
8 Q Did you hear him talking to them?
9 A Yeah. Well, no. I didn't hear him talk to them. I was
10 sitting in there.
11 Q What did he say to them?
12 A And evidently, he was mad about his wife.
13 MR. LEWANE: I object. That calls for a conclusion.
14 THE COURT: In a form it is. Objection sustained.
15 Q All right, go ahead. Did he say anything about his wife?
16 A When he first come in he denied saying nothing about his
17 wife, but this leads on with the other part of the story
18 that evidently when he brought his children back there in
19 the room and was talking to him - to the children about who
20 would they rather live with if they got a divorce.
21 MR. LEWANE: Judge, I object. She says she didn't hear
22 what the chil-
23 A I am just telling the story, how it happened.
24 MR. LEWANE: Judge.
25 THE COURT: Just, just a minute, counsel. We're not deal-

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1 ing with an adult witness, so we can expect
2 some deviations of the law. We're not inter-
3 ested in what evidently happened in the back
4 room unless you've heard it. As I understand
5 your testimony, is this correct, that he came
6 in and went to the bedroom and he called the
7 four children back there. Is that correct?
8 A That's correct?
9 THE COURT: Did you hear any of the conversation back there?
10 A No, not until Shiela, his daughter, came out of the bedroom
11 upset.
12 THE COURT: What, did both of - was he present when Shiela
13 came out, did he follow Shiela, or was there
14 any time that he came back out that you heard
15 any conversation?
16 A No, he was in the room, but when she - can I tell the story
17 about when Sheila came out of the bedroom and started talking
18 to me?
19 MR. LEWANE: I'm going to object to it.
20 Q Cheri, if you will, please, don't say what Shiela said.
21 Okay? I'll ask you. How old is Shiela?
22 A 6.
23 Q All right, now, when she came out, she came out the bedroom,
24 is that right? What bedroom was that?
25 A Mr. Schrum's bedroom.

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1 Q All right. What did you observe about Shiela when she came
2 out. Don't say what she said. What you observed.
3 A She was upset.
4 Q Now, what do you mean when you say, "Upset"?
5 A She - I could just tell that she was upset and something
6 was bothering her.
7 Q Okay, and then what happened?
8 A And then she came in there and started telling me what
9 Mr. Schrum was saying to her, and -
10 MR. LEWANE: Judge, I'm -
11 MR. NANCE: Your Honor, she hasn't made one comment about
12 what Shiela said.
13 MR. LEWANE: I would ask the Court to instruct the witness
14 not to comment what a 6 year old child says
15 at 11:00 o'clock at night.
16 THE COURT: Well, she's not mentioning the conversation
17 that took place in the other room, and conse-
18 quently, we don't have any basis for any
19 ground for objection at this time. And, when
20 the witness, when the lawyers ask you ques-
21 tions that took place, if the children were
22 around, then the defendant must have been
23 present also before you could tell us what
24 the conversation were. You see what I mean?
25 All right, go ahead, Mr. Nance.

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1 Q Cheri, after Shiela came out and talk to you, what happened?
2 A After she had talked to me.
3 Q Yes, M'am.
4 A He told - after she talked to me he, about five minutes
5 later, he told the children to get ready and go to bed,
6 and they went to bed.
7 Q What did you do?
8 A Well, me and Betsy, we were still sitting at the kitchen
9 table talking, and she said that she was going to get ready
10 and go to bed, and I said, "Well, I am too."
11 Q All right, what did you do then?
12 A Betsy, she got up and started - went into her room, and I
13 got up and I was walking down the hall to check on the
14 children and he called me back into his bedroom and he
15 goes, "Would you mind coming in here and talking to me?"
16 Q You say he. Who are you talking about?
17 A Mr. Schrum.
18 Q Tell these ladies and gentlemen how you were dressed at
19 the time.
20 A Street clothes.
21 Q Describe the clothes you had on.
22 A I had on a pair of slacks and a shirt - top.
23 Q Had on undergarments?
24 A Yes.
25 Q Tell them what?

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1 A I had on my underpants and my bra.
2 Q Did you go in his room?
3 A Yes.
4 Q What occurred there?
5 A He didn't really talk about - he was just talking, just a
6 little and then the phone started ringing and his wife
7 started calling.
8 Q Did you answer the phone any?
9 A Yes, I went into the kitchen and answered the phone. I
10 can't remember whether he answered the phone or I answered
11 the phone first, but anyway they were arguing back and
12 forth on the phone. They were hanging up in each other's
13 face, and she was calling and I was carrying messages back
14 and forth.
15 Q What did Mr. Schrum say to you in regard to those phone
16 calls?
17 A He said that he just didn't want to talk to her. That
18 she just kept on calling and he was mad at her, and he just
19 said he just didn't want to talk to her.
20 Q Did you ever hear him talk on the phone to whoever was on
21 the other side?
22 A Yes. He was -
23 Q What did he say to them?
24 A He was saying stuff like - about her going out; I can't
25 remember exactly what, but I got the idea that he didn't

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1 like her going out.
2 Q Now, had you seen him drink any since he'd come home?
3 A No, I didn't see him drink any at home.
4 Q All right. After these conversations went on over the
5 phone, what did you do? Were you going back into his bed-
6 room every time?
7 A Yes, I had to. I was going back and forth saying to them
8 what they were saying. In other words, I was like a mes-
9 sage carrier.
10 Q All right. Go ahead and tell the ladies and gentlemen
11 what happened.
12 A Okay. I was in there carrying phone calls and everything,
13 and he asked me to stay in there and talk to him and he
14 was just talking about different things. He was talking
15 about some of the things that happened with his girlfriends
16 like; and he was talking about Charles Manson, and he
17 was telling me some pretty scary things about some of the
18 things that he done to some of his ex-girlfriends like,
19 for instance, one time he told me that, well, he came in
20 the door and there was two glasses setting there and he
21 assumed that there was another man there. So he told her
22 to get her bags and get the hell out, and he pushed her
23 down the steps and understand what he told me and it was
24 pretty scary to me. He was going - he said that he be-
25 lieved in some of the things that Charles Manson did,

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1 which he even - murdering and everything else, and the only
2 Charles Manson that I know of is the one that killed
3 Sharon Tate and all them people - the murders.
4 Q Was this conversation going on the first time you were in
5 the bedroom?
6 A Second time.
7 Q The second time. When did you go in there the second time?
8 A After the phone calls that had been, then he called me in
9 there. I went back in there. Oh, I'm getting all mixed
10 up.
11 Q Just take your time. Tell these folks. Just take your
12 time. All I'm asking now is the first time you were in
13 there, just what he said to you and what you did.
14 A Well, none of that had occurred the first time that I was
15 in there. He was just talking about leaving his wife.
16 Q The first time?
17 A The first time.
18 Q What did he say about that?
19 A He said that he was tired of taking it from his wife. He
20 said all they ever did was argue and fight anyway, then he
21 said it would suit him, it seemed there won't any point in
22 taking it.
23 Q Go ahead, tell these folks. Just take your time. Think
24 back, get it right.
25 A Okay, after that I said that I was going to get ready and

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1 go to bed. I went into the bathroom, or to the kitchen,
2 I can't remember, got my nightclothes, went in the bathroom,
3 took off my streetclothes, put on my granny gown, and I
4 still had on my bra and I still had on my panties. And I
5 went, and I started walking back down the hall and he said,
6 "Would you still come back in here and talk to me, because
7 I hadn't finished talking to you, 'cause I still want to
8 talk to you." So, I don't think nothing by it because
9 before, I had gone into the bedroom. He talk about any
10 mean things like what he had done to his girlfriends and
11 about Charles Manson and everything. He didn't talk about
12 that until the second time. I was getting confused.
13 Q All right, now, when you went in there the second time,
14 Cheri, what did he first talk to you about, if anything?
15 A He started talking about his girlfriends, as I said, and
16 he was talking about Charles Manson and things I just told
17 the Jury.
18 Q Did you know any of his girlfriends?
19 A No.
20 Q Did you know what he was talking about?
21 A I really - he was talking about when he said that he had
22 beat - well, pushed -
23 Q Tell them, tell them exactly what he said.
24 A I said he knew - I knew what he was talking about and it
25 frightened me that when he was saying that some of the

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1 things he had done to some of his past girlfriends -
2 Q Tell them what he said he did.
3 A Pushing them - about pushing her down the steps and telling
4 her to get the hell out, and threw her clothes out down
5 the steps and everything else.
6 Q Did that scare you?
7 A Yes, it scared me, because -
8 MR. LEWANE: Your Honor, the Commonwealth Attorney is lead-
9 ing the witness. Did that scare you? I would
10 ask him to just ask what happened.
11 MR. NANCE: Your Honor, if I might, we've got a 14 year
12 old girl at the time. 15 now. And I would
13 respectfully ask the Court, and I don't mean
14 to be overly indulgent in leading questions
15 to a degree, but I believe that the Court could
16 entertain a diversion here and there, because
17 I don't believe this young lady, because of
18 her age at the time and because of the situa-
19 tion as it is in the very essence of the trial
20 we're about, can state as an adult - sophisti-
21 cated adult, or any adult, exactly what happened
22 without some degree of leading. I will try
23 not to abuse it - the privilege. I believe
24 there's ample authority for leading questions
25 to juveniles of a tender age, of tender mind,

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1 and I would especially ask that I be permitted
2 to do so.
3 THE COURT: Yes. I think there's a little more leeway
4 with a younger witness than it is for an adult
5 witness, but still we'll proceed with the
6 minimum amount of leading questions. I think
7 you can ask her what was the effect on her of
8 the discussions he had about whatever the
9 discussions were.
10 Q Cheri, when you head this discussion about what he had
11 allegedly done to girlfriends, did you react to it?
12 A Well, soon after he started talking about some of his past
13 girlfriends and everything, that's when things then occurred.
14 Soon afterwards that.
15 Q Did he talk about anything else, anything other than his
16 girlfriends?
17 A Charles Manson.
18 Q Do you know any Charles Manson?
19 A Only know one Charles Manson.
20 Q Did you react to that conversation?
21 MR. LEWANE: Judge, the Commonwealth Attorney has been going
22 over that point, over that point, and over the
23 same questions.
24 THE COURT: All right, that's overruled. This is a young
25 witness. He has a right to get the thing in

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1 orderly fashion. Go ahead, Mr. Nance.
2 MR. LEWANE: Your Honor, for the record, I want to balance
3 the record out that she's a 15 year old girl,
4 and I've asked the Court to ask her some
5 questions concerning her education, so the
6 record will be clear.
7 THE COURT: You can do that on your cross examination.
8 I'm not going to interfere. I want no unneces-
9 sary checks, you understand, with the young
10 witness. Go ahead, Mr. Nance.
11 Q Cheri, the conversations took place about Charles Manson.
12 What did he say about Charles Manson? Do you remember that?
13 A I can't remember. He went into more detail about his old
14 girlfriends more than he did Charles Manson. He said about
15 Charles Manson that he thought he was right about some of
16 the things he did and that he didn't disagree with the
17 things he did.
18 Q Do you know any Charles Manson?
19 A I just - I don't know him personally, but I just know of
20 one - the one that murdered all those people. Sharon Tate,
21 and that - I had seen the movie, and that right there
22 scared me because I knew that Charles Manson was crazy.
23 Q Do you remember when you'd seen that movie?
24 A It had been a couple months back.
25 Q Now, Sheriff Carraway's going to show you an item, and I'll

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1 ask you if you can identify it for the Jury, if you will.
2 A This is the nightgown that I had on August 21st.
3 Q Okay, would you stand up and show this to them, please?
4 Is that what you call a granny gown?
5 A Yes.
6 Q Thank you. I'd like to have that introduced as Common-
7 wealth's Exhibit 1.
8 THE COURT: All right, Commonwealth's Exhibit No. 1.
9 Q Cheri, do you know what the word "posture" means?
10 A Yes, it means what your position is in, how you sit.
11 Q Okay, would you tell the ladies and gentlemen of the Jury
12 what your posture was or where were you in that room?
13 A I was sitting against the wall with my back leaning against
14 the wall.
15 Q Where was Mr. Schrum sitting?
16 A On the side of his bed.
17 Q How far was he from you?
18 A About, I don't know.
19 Q Okay, just look at the ladies and gentlemen of the Jury
20 and from your position to some other position indicate how
21 far he was from you.
22 A 'Bout from here to half way to the microphone, not that
23 far, but to him in the yellow coat.
24 Q Okay. Mr. Courain? Was it that far?
25 A It seemed that far, not exactly. Sure. But I could show

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1 you better on the pictures.
2 Q Now. How was Mr. Schrum dressed?
3 A He had on a pair of slacks, no shirt, just a pair of slacks.
4 Q How 'bout shoes?
5 A Not that I can recall of any shoes, maybe socks.
6 Q Pardon?
7 A I said maybe socks, but I couldn't recall of any shoes. I
8 didn't - I don't think so.
9 Q Did he talk about anything else the second time you were
10 there?
11 A Not long after that that's when the incident happened. He
12 was talking about old girlfriends and he was talking about
13 Charles Manson and he just talking about things like that
14 that frightened me.
15 Q Why didn't you leave?
16 A Is because time when he was talking about that, time after
17 that I was just sitting there listening to his problems
18 'til what happened. He was talking about the divorce, I
19 mean that he wanted to divorce his wife and I don't know
20 why I didn't leave. He - and then after that, that's when
21 he raped me. He -
22 Q Tell the ladies and gentlemen of the Jury what occurred.
23 A He was sitting on the side of the bed and I was sitting
24 on the back to the wall and he started coming down on me
25 telling me that I was pretty, and it scared me, because he

COPY

1 was getting so close to me and I started scooting out to
2 the hall, and that's when it happened.
3 Q All right. You tell these folks exactly what happened.
4 A I was scooting out into the hall and he was holding me
5 down. I was trying to get away, but I couldn't 'cause he
6 was stronger than I was, and he somehow, I can't recall
7 exactly, but worked his self in - he didn't slip my pants
8 down, but the elastic was loose in them. He pushed them
9 aside and when I was pushing back - that's when he got his
10 penis out, I imagine, I didn't ever see his penis when he
11 was getting it out. But when it was in me I knew that it
12 was his penis because I could feel it and it was painful.
13 Q Did he say anything to you at the time?
14 A He was telling me to please be quiet. He wasn't threaten-
15 ing me, he wasn't hitting me, but I was scared, petrified,
16 of some of the things he was saying about he had done to
17 his old girl friends, and that was what was running through
18 my mind, and I was thinking to myself, "Well what would
19 I do if I would have hauled off and tried to hit him or
20 something, and his - you know, he could do something to me
21 that he had done to one of his girl friends." That's what
22 frightened me so bad.
23 Q Did you scream?
24 A No, I didn't scream, I just told him to please get off and
25 leave me alone, 'cause I was afraid if I were to scream he

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1 could have hit me, he could have done something.
2 Q Where were his hands during all this?
3 A Holding my wrists down.
4 Q Would you show the Jury where exactly your hands were and
5 where his hands were?
6 A He was holding my arms down like this and his arms were
7 right here holding mine down.
8 Q Where was he in relation to your body?
9 A On top of me.
10 Q You were on - you were laying on your back?
11 A Yes.
12 Q Did he take his pants off?
13 A Well, yes, he had to to get his penis out. He had done
14 that in order to - for the incident to have occurred.
15 Q Did you see him? How long did this incident last?
16 A About 6 or 7 minutes.
17 Q Did you do anything to get him off?
18 A I was trying to push, trying to struggle him off, but he
19 was stronger than I was. I'm not very strong person.
20 Q And he wasn't saying anything to you other than what you've
21 told the Court?
22 A That he was just saying, just be quiet.
23 Q Did you see him - did he ever get up?
24 A Yes, when he got up I seen him put his penis inside his
25 pants, so it wasn't no doubt in my mind that it wasn't his

COPY

1 penis, 'cause I seen it.
2 Q You say you felt it?
3 A I felt it, it was painful.
4 Q If I mentioned the term "semen", do you know what that is?
5 A What?
6 Q Semen.
7 A I don't know what that is.
8 Q After he got up, you said he put his penis in his pants.
9 What did he do?
10 A When he got up he put his penis back in his pants and I got
11 up, and I was crying and I was upset, I was scared, I went
12 in there and I got in bed with his daughter, Shiela.
13 Q Why didn't you leave then?
14 A It was because I wouldn't have no way to have - I was
15 planned on spending the night anyways, 'cause I was baby-
16 sitting for Mr. and Mrs. Schrum, and Mrs. Schrum, she was
17 suppose to have come home that night, but she never did.
18 Q Was that your understanding when you went over there?
19 A That was my understanding and my mother's understanding
20 when I went over there, that Mr. and Mrs. Schrum would both
21 be there at - not - a reasonable hour, and they were going
22 to both be there and spend the night. That's what I gather -
23 that's what I had gotten out of it, that they were going to
24 both stay there.
25 Q Did you mother know where you were?

COPY

1 A Yes.
2 Q Did you tell your mother you were going over there?
3 A Yes.
4 Q What time did this incident occur?
5 A The rape?
6 Q Yes, M'am.
7 A It was by the time, after all the talking and everything,
8 about quarter after twelve, twelve thirty.
9 Q You went and got in the bed with Shiela?
10 A Yes.
11 Q Did you attempt to call anybody?
12 A Wasn't no way I could call anybody because the phone was in
13 his bedroom and there was a phone in the kitchen and I
14 would have to walk by him either way I wanted to go to a
15 telephone.
16 Q What did Mr. Schrum do after the incident?
17 A He come there in the bedroom and he kept on saying that
18 I'm sorry and he also said that I'm sorry that I raped you.
19 Q Was he mad at you?
20 A Was he mad?
21 Q Yes, M'am, tell them, what was his demeanor toward - what
22 was he -
23 A He was kind of acting nice because I guess he was saying
24 well - he was saying that - he kept on and kept on saying
25 that he was sorry, he said that he was sorry that he had

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1 raped me, and he said to a point, he said, "If you took
2 me to Court saying that I had done this," he goes, "I
3 would plead guilty." That's what he said to me.
4 Q Where is Shiela's bed?
5 A In the bedroom. In her bedroom.
6 Q What was Betsy doing all this time?
7 A Betsy was in her room next to it, sleeping.
8 Q Cheri, I'm going to hand you a piece of paper, with the
9 Court's permission, and I'm going to ask you the best that
10 you can to draw a diagram or layout - you understand what
11 that means?
12 A Yes.
13 Q Of Mr. Schrum's house. Would you do that for the Jury?
14 A Yes.
15 Q I'm going to ask you to make some marks on it as to where
16 certain things were located. Your Honor, may the witness
17 stand up and approach the Jury?
18 THE COURT: Yes, you may. Is that going to be wide enough
19 to accommodate the paper. Oh, you have an
20 extra pad.
21 Q Cheri, would you come up here, please? On this paper I
22 want you, as best you can, to draw what the layout of
23 Mr. Schrum's house was. And if you will, make it in pro-
24 portion to the size of the paper. Make it as big as the
25 paper.

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1 A And then there was a little wall about that big and then
2 that.
3 Q Can you speak up, please, Cheri?
4 A You want me to name them?
5 Q Yes. Now, you've drawn on the paper what appear boxes of
6 some sort.
7 A I haven't finished.
8 Q Okay, go ahead. Now have you indicated - sorry. Have you
9 finished?
10 A Yes.
11 Q Okay. Have you indicated on there what Mr. Schrum's bed-
12 room is?
13 A Yes.
14 Q All right, could you put - just write the word "S.B."
15 Schrum's bedroom in that box. Now, I want you to draw in
16 that room, please, where the bed was. Now, mark on that
17 what you've - and put the word "bed" inside what you've
18 indicated as the bed. In regard to that - the bed, put an
19 "X" where Mr. Shrum was sitting. Now. Put your initials
20 where you were sitting and you indicated up against the
21 wall. Make your initials very small. All right. Now,
22 where's the doorway to that room.
23 A That was kind of like right beside the doorway and the door
24 went out like that.
25 Q Just put a "D" there for the doorway. Now. Shiela's room.

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1 THE COURT: Why can't we go out to the middle, I don't
2 know whether the witnesses, the Jurors, can
3 properly see.
4 A Right here?
5 Q Now. The room that you've indicated Shiela was in, just
6 write the word "Shiela" and put a "B" beside that. Now,
7 where was Shiela's bed? Where's the doorway to that room?
8 Is it safe to say that the doorways are almost opposite
9 each other, across from each other?
10 A Yes, they're across - they're right across from each other.
11 Q All right. Now. You've also indicated two lines between
12 the two rooms. What is that for?
13 A Those things? Oh, them. This right here is the hall.
14 Q Okay. Write the word "hall" in there. Now, Cheri, indi-
15 cate on there, please, with a letter "R", where you were
16 when this rape occurred.
17 A Halfway in the bedroom and halfway in the little hall. I
18 can't draw very -
19 Q All right. Now. Indicate, please, with a "T" where the
20 telephones were that were in that house.
21 A This is the kitchen.
22 Q Now. Indicate, please, with the letters "O.D." any outside
23 doors that exit, or that go outside that house, where were
24 they?
25 A Then there was like a pantry here, and then there was a

COPY

door.

Q All right. Okay. Thank you, Cheri, have a seat, please.

THE COURT: Is this offered as an exhibit?

MR. NANCE: Yes, sir.

THE COURT: All right. Let's have it marked at this time, Sheriff.

MR. NANCE: Commonwealth's Exhibit No. 2, Your Honor.

THE COURT: All right. So received. Members of the Jury, you will see there's a little tab here we use for these things, they usually have the case number on it and the date and initials of the presiding Judge Hening; Sheriff, on the right. When the exhibit comes in I think that's the proper time for the Jury to examine it. It will go to your Jury room and you can look at it in detail, plus the fact at this time you are to look over each other's shoulders or, you know, sideways, etc., as some of the Jurors in the back row may not have seen it as clearly, just pass it on down to - I was thinking about going - Mr. Taylor - I was thinking about going down this way to the end. You were a little further away than the rest of you were. You gentlemen on the back row able to see all right at this time? You can

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1 look at in detail in the Jury room. Back row
2 able to see all right at this time? Look at
3 it in detail in the Jury room. I've got it
4 on the insert. Okay. All right, continue the
5 examination.
6 Q Cheri, after Mr. Schrum made his comments to you about
7 being sorry, did you have occasion to see him anymore that
8 night?
9 A No.
10 Q Did you see him anymore at all?
11 A Yes.
12 Q When did you see him?
13 A The next morning when Mrs. Schrum came to the house to get
14 her children, to get me, take me home, and she was going
15 to go somewhere, I think, to the river or something, with
16 her mother.
17 Q You never - after he said he was sorry, you never saw him
18 anymore?
19 A Well, I had gone out of Shiela's bedroom and I had seen him,
20 but I heard him up all during the night, coughing.
21 Q Heard him up? Where was he when youheard him?
22 A It sounded like he was in the bedroom and then the kitchen.
23 I heard him up all night long, coughing. He was up all
24 night long, 'cause I could hear him moving around.
25 Q Do you know if that was Betsy?

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1 A It wasn't Betsy. It's because Mr. Schrum has a stronger
2 voice than Betsy.
3 THE COURT: Look toward the Jury, please, and talk to the
4 lady on the back row so she can hear you.
5 Q You say he was up all night?
6 A I heard him up all night.
7 Q Did you go to sleep?
8 A No. I was too upset to after that occurrence. Who could
9 go to sleep?
10 Q Did you stay in that room all night? Where did you stay
11 for the remainder of the night?
12 A The remainder of the night?
13 Q Yes, M'am. After the incident where did you stay?
14 A In the bed with Sheila, his daughter.
15 Q You never saw him anymore that night? How about early -
16 A Until the next morning. Real early the next morning, I
17 guess it was about 5:30, 6:00 o'clock he came in there and
18 handed me $5.00.
19 Q $5.00?
20 A And he said he was sorry, and that really - to top it off,
21 as upset as I was, makes you feel kind of cheap.
22 Q You know why he gave you $5.00?
23 A I don't have any idea. I guess to say that he was sorry.
24 Q Cheri, at any time during that night, did you ever encour-
25 age him to do what he did?

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1 A Never. I would never let him touch me, if it wouldn't have
2 been for him forcing himself on me. Never.
3 Q The next morning what time did Mrs. Schrum come?
4 A I'd say it would be about quarter to eight, eight, I can't
5 remember exactly, this thing's been going on for so long.
6 Q Did you see her when she came home?
7 A Yes, the next morning when she came into Shiela's bedroom.
8 Q What did you do?
9 A I was laying there on the bed and she came in there and
10 said that she was getting the children's clothes together,
11 a few things, just maybe like a pair shorts and top, and
12 she said that they were going to their grandmother's house
13 to go somewhere, I can't remember, to the river or some-
14 thing, and I got up, got dressed, and I got my clothes and
15 I went outside to the car, we all went inside the car, all
16 the children, and then we left.
17 Q Tell her what happened?
18 A No, I did not tell her what happened.
19 Q Why not?
20 A It was because, I don't know, I knew her a little bit, but
21 I didn't know her well, I had just met her maybe twice. Hey,
22 How could I know, she could have just turned the car right
23 back around and drove me back, mad or not at her husband.
24 Q Okay. Where was Mr. Schrum when y'all were departing?
25 A When we were where?

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1 Q When you were leaving the house.
2 A In the bed.
3 Q Where were the children?
4 A Where were the children when we were leaving the house?
5 Q Yes, M'am. Were they all with you?
6 A All the children were with me. I think that's what you
7 meant.
8 Q Mrs. Schrum came home and you said she got some clothes
9 and they were going - you were going. You got in the car
10 with somebody. Who was in there with you? You, Mrs. Schrum,
11 and who?
12 A The four children.
13 Q Had you said anything to Mr. Schrum that morning? You?
14 A I didn't say nothing to him.
15 Q Then after the incident was the $5.00. Did he say anything
16 to you more that day?
17 A He said he was sorry. And he just kind of looked down and
18 just went out.
19 Q Okay. Where did you go when you went with Mrs. Schrum?
20 A Well, we stopped by the 7-Eleven, 'cause she had a $20
21 bill and she had to get it changed, so she could pay me
22 for babysitting. So we stopped by the 7-Eleven and she
23 asked me would I run in and get change, and I said, "Yes,
24 and I went in there and got change. And she give me the
25 change.

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1 Q Where did you go then?
2 A Went back out to the car and got in and give her the money
3 and then we started for my house.
4 Q What was her appearance at that time?
5 A She still had on the same thing she had on last night. I
6 can't remember, but I remember it was the same thing. And
7 her appearance was - she wasn't drunk or anything, she
8 acted normal.
9 Q Did you talk to her?
10 A Yes, she asked me - she told me that she was going to get
11 a divorce from her husband, and she wasn't going to take it
12 no more and would I ever babysit for her again if she went
13 and got her own apartment. And I told her I would.
14 Q Never told her about what happened?
15 A Never told her about what happened.
16 Q What time - did you ever go home?
17 A Yes, I went home.
18 Q What time did you get there?
19 A 'Bout quarter after eight, or eight-thirty.
20 Q Who was there?
21 A My mother.
22 Q Anybody else?
23 A No.
24 Q Did you tell your mother anything?
25 A No.

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1 Q What did you do?
2 A When I came in I went upstairs, I took a shower, then I
3 went in my bedroom and just closed the door, and she came
4 in there when I was in the bedroom and asked me if anything
5 was wrong, and I said, "No."
6 Q What time was this?
7 A I couldn't tell you, it was early in the day. Time after
8 I got in I went and took a shower.
9 Q Why did you take a shower?
10 A Because I felt dirty and unclean from Mr. Schrum, from the
11 incident, and I wanted to wash it away.
12 Q What did you do with your clothes?
13 A I - well, I washed my underpants out, some other things,
14 and I washed them, too. But I didn't wash the nightgown.
15 Q There with your mother. Then what did you do? Just tell
16 these folks what you did for the rest of the day.
17 A We left, I guess it was about - oh, I couldn't tell you
18 what time it was, but we went over Fran's hourse - that's
19 my cousin, because I told Mama that I wanted to go over
20 there and visit for a little while. And -
21 Q Why did you want to go visiting?
22 A Well, I knew the real reason why, but I didn't tell Mama,
23 I wanted to go visit Fran 'cause I wanted to tell her about
24 the incident that happened.
25 Q Why didn't you tell your mother?

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1 A Because -
2 MR. LEWANE: Judge, for the record, I want to make it clear
3 that I object to all the leading questions
4 that's been going on for the past 45 minutes.
5 THE COURT: Overruled. Go ahead, Mr. Nance.
6 Q Tell these folks -
7 A Tell these folks?
8 Q Tell them why you didn't tell your mother?
9 A I - I don't know why I didn't tell her, I was still a little
10 bit scared, I didn't know if I was going to even tell
11 Mama or Fran, that's why I wanted to go over there, I guess,
12 to find out if I was going to tell them, but I just didn't
13 know what I was going to do, but I guess something that
14 happens like that to a young girl I guess you would find it
15 kind of easy to talk to somebody that you've known all your
16 life and that you've been real close to.
17 Q Cheri, did you see Fran?
18 A No, she wasn't at home.
19 Q Did you come back home? When Fran wasn't home what did you
20 do?
21 A We stayed there for a little while and talked and then she,
22 then me and Mama, we left and we went to McDonald's and ate.
23 Or BurgerChef or somewhere. And then -
24 Q Then what did you do?
25 A And then after that we went home and not long after that I

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1 was talking on the telephone to one of my girlfriends, Ann,
2 and I was talking to her, and because she called me up, and
3 we were just general talking, and all of a sudden I just
4 got all upset and everything and I just told her. And she
5 told me that I should -
6 MR. LEWANE: I object.
7 Q All right, don't say what she said. What did you do after
8 you talked to her?
9 A What did I do after I talked to Ann?
10 Q Yes, M'am.
11 A I went downstairs and I sit on the sofa. Mama, she was
12 talking on the phone to my Nanny and I was sitting over
13 there and she could tell that I was upset, sitting on -
14 MR. LEWANE: I object, also, to opinion.
15 THE COURT: Go ahead. Disregard the fact that what - the
16 mother was upset. Be a matter for the mother
17 to state.
18 Q Okay, Cheri, tell these ladies and gentlemen what happened?
19 Down there and you said you're sitting on the sofa. What
20 happened then, if anything?
21 A Again, I'll say Mama come over there because she could tell
22 that I was upset, then all of a sudden -
23 MR. LEWANE: I object, it calls for an opinion.
24 THE COURT: All right, I'll sustain, and told the Jury to
25 disregard it. Let's don't do things redundant-

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1 ly. The Jury understands the situation.
2 A So, I just started crying, I just broke down and started
3 crying and she just started talking to me and I told her
4 what happened and then she got right in touch with the
5 police and - well, first of all she got in touch with my
6 uncle. Then I think my uncle advised her or somebody to
7 call the police, or something, and then everybody came over,
8 and later on that night Fran came over and I told her the
9 whole story. I was all upset and then that night I went
10 to the hospital and got examination.
11 Q You talked to Dr. who, Dr. Radford?
12 A Yes.
13 Q Cheri, what happened to the other garments, particularly
14 the pants that you were wearing at that time?
15 A Well, I had washed them, but later on I threw them away
16 because I didn't want to have nothing to do with them.
17 Q Do you remember when you threw them away?
18 A It was maybe the day after, or something like that, I can't
19 remember exactly. It might have been that night when I
20 threw them away. I can't remember. It's been so long.
21 Q Where did you throw them?
22 A In the trash can.
23 Q Do you remember who else your mother called, did you hear
24 her call anybody else?
25 A Yes, she was trying to get in touch with Fran for me, but

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1 Fran, she was down Cary Street.
2 MR. LEWANE: Judge, I object on hearsay.
3 MR. NANCE: I withdraw the question, Your Honor.
4 THE COURT: I don't think you need detail of every minute
5 of what was done. Can we get to the hospital
6 or to the end of it?
7 Q Yes, sir. Cheri, this happened almost a year ago, is that
8 correct?
9 A That's correct. And
10 Q And you talked to this - about this a great deal, have you
11 not, with me? And the authorities?
12 A Yes, I have.
13 Q And the police.
14 A Yes, I have.
15 Q You look at these folks. Tell them anything you said -
16 is a story or a lie. Look at them and tell them.
17 A Everything.
18 MR. LEWANE: Judge, he's instructing the witness what to
19 do and say. I object.
20 MR. NANCE: No, sir, I'm telling her, Your Honor, to tell
21 them if any of it is a lie. And if it is,
22 this minute I'll walk out of here right now.
23 THE COURT: It's a proper question.
24 Q Tell them, Cheri.
25 A None of this is a lie. Everything I've told is the truth

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1 because I would have no reason to lie about why this man
2 raped me and I couldn't go on with this thing if I had
3 made up this, ain't no way that I could go on for a year
4 to Court after and after, telling the same story. It
5 isn't no way you can remember everything right in detail,
6 if it wasn't true.
7 Q I have no further questions, Your Honor.
8 THE COURT: All right. How long do you think you'll be
9 on cross examination. It's a question of
10 whether we take a recess for lunch at this
11 time of later.
12 MR. LEWANE: It could be as long as an hour, Your Honor.
13 I'm giving the maximum time. I'm trying to
14 be realistic.
15 THE COURT: All right, I think we'll probably take a
16 luncheon recess at this time, although I don't
17 like to do it in the midst of somebody's testi-
18 mony, but possibility of taking an hour, then
19 we don't want to delay members of the Jury
20 that long in reaching their luncheon recess.
21 Members of the Jury, I'll ask you to be back
22 not later than 1:30 and ready to continue the
23 case, and during the course of recess let no
24 one discuss the case with you or in your
25 presence. If there's any violation of this,

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please let me know. You may exit through this door. We stand recessed until 1:30. Sheriff, make sure also all witnesses outside are notified of the same hours.

(Luncheon Recess)

All right, as we return from the luncheon recess the Court will show for the record the presence of the Assistant Commonwealth's Attorney, Mr. Nance, defense counsel, Mr. Lewane, the defendant in person, the Jury, all twelve in the jury box and likewise Cheri is on the witness stand. Commonwealth is finished direct examination?

MR. NANCE: Yes, sir, I have.

THE COURT: Then cross examination, please, Mr. Lewane.

CROSS EXAMINATION: Cheri Jean Rice by Mr. Lewane

Q Cheri, where do you go to school?

A Highland Springs High School.

Q And what grade are you in?

A Going in the 10th. I'm going into the 10th grade.

Q All right, thank you.

THE COURT: You're still talking to the Jury, even though he asked you the question.

Q In the ninth grade what type of grades did you receive? I mean, average grades, below average?

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1 MR. NANCE: Your Honor, I would object to this line of
2 questioning unless some foundation is laid
3 on it, I would submit that it's irrelevant
4 and immaterial at this stage.
5 MR. LEWANE: Judge, the purpose of it is to cover the point
6 where I objected to all the leading and sug-
7 gestive questions on the part of the Common-
8 wealth's Attorney to show that this girl is
9 in fact of mature age and that she can - the
10 normal type of questions could be asked her.
11 THE COURT: All right. Yeah, I think the question can
12 be asked about her - grade she was in or is
13 in and what progress of school was at the
14 time.
15 Q You can just say average, below average or above average.
16 A Average and sometimes below average.
17 Q Okay. Do you have any type of part time job?
18 A No.
19 Q Okay. Now. On the night in question, which started on
20 August 21, 1966, when Mr. and Mrs. Schrum left, did
21 Mrs. Schrum leave with another man?
22 A 1966?
23 Q I mean 1976. Excuse me.
24 A Did Mrs. Schrum leave with a man?
25 Q Yes. To get a ride or - did anyone else besides Mr. and

1 Mrs. Schrum leave the house when they left earlier that
2 evening?
3 A I couldn't tell you.
4 Q Okay. Now, at home there were the four children. Correct?
5 A Correct.
6 Q Plus Betsy.
7 A Correct.
8 Q Can you speak up a little louder, please? And face the
9 Jury.
10 THE COURT: To the lady on the back row, please. The
11 lawyers know all about this and Jury don't
12 know anything. You just look back to the
13 people on the back row, the farthest away.
14 Talk to them.
15 Q During the evening when you were babysitting, was anybody
16 watching television in the house?
17 A I don't think so.
18 Q Okay. Do you know what the children did when you were
19 babysitting?
20 A Yes, they played.
21 Q Okay.
22 A They raced their bicycles out in the backyard, I think, or
23 something.
24 Q Face the Jury please, so they can hear you, and speak louder.
25 Now, what was - did you carry on a conver - did you talk

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1 much to Betsy during the evening?
2 A So so.
3 Q Okay. Now, when Mr. Schrum came home it was approximately
4 what hour?
5 A 11:00 o'clock.
6 Q 11:00 o'clock. And Shiela, the 6 year old child was still
7 up, correct.
8 A Correct.
9 Q And all the other children were still up, correct?
10 A Correct.
11 Q Okay. Now, at that time you were in the kitchen carrying
12 on a conversation with Betsy when Mr. Schrum came in,
13 correct?
14 A Uh-uh.
15 Q Did Mr. Schrum come in after he put the children to bed,
16 come back and talk to Betsy, his aunt?
17 A No.
18 Q Okay. Now. From the time Mr. Schrum came into the house
19 until the time he got the children to bed, would that be
20 approximately 20 minutes to a half hour?
21 A Yeah. It didn't take but about five minutes to tell the
22 children to go to bed.
23 Q Okay. He is the one who put them to bed, is that correct?
24 A He told them to go to bed, yes.
25 Q Nobody put them to bed. He just told them.

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1 Q Okay. Now. You mention that you intended on spending the
2 night there, correct?
3 A Correct.
4 Q Now. Who did you - where did you intend to sleep when
5 you were spending the night there?
6 A With Shiela, his daughter. That's why his wife - that's
7 where his wife told me that I could sleep.
8 Q Okay. So the fact that the incident occurred had no effect
9 on you sleeping with Shiela, right?
10 A What do you mean?
11 Q About the alleged rape. You just didn't - you didn't sleep
12 with Shiela because of that. That's the way you intended
13 to sleep, correct?
14 A Yes, that's where I intended to sleep.
15 Q Okay. Now. Prior to you babysitting for Mr. and Mrs. Schrum,
16 did Mrs. Schrum ever give you a ride home and some other
17 friends from the skating rink or a movie?
18 A Yeah, I recall one time going skating. She give us a ride
19 up there, I think she give us a ride home, too.
20 Q Okay.
21 A It was about two years ago, that's a long time to remember.
22 Q All right. Okay. Now. Who do you know - who's your
23 friend that knows Mr. and Mrs. Schrum, that recommended
24 you as a babysitter to them.
25 A Gayle Tyree, his neice.

COPY

1 Q Gayle Tyree. And is Gayle Tyree a friend of yours?
2 A Not no more.
3 Q Was she at that time?
4 A Yes.
5 Q Okay. Now. In the home there are two telephones, one in
6 the kitchen and one in the bedroom, correct?
7 A Yes.
8 Q Okay. Now you had mentioned that Mr. Schrum had made these
9 remarks to you about what he had done to all of this girl
10 friends, and the one that I particularly recall is one that
11 he pushed her down the stairs and threw her clothes out.
12 What other threats did he make or act did he do to his girl
13 friends that you were referring to - you kept referring to
14 all these things that he said that he did to his girl
15 friends. What are they that these other things that he
16 has done to his girl friends?
17 A I'm sorry, I can't remember everything since this thing's
18 been carried on for almost a year, and that's hard to re-
19 member everything that his girl friends had said to him,
20 because I can't remember.
21 Q I'm not -
22 A But that is the main ideas that stuck in my head.
23 Q Was the one time that he said he threw his girl friends
24 down the steps.
25 A Not throw his girl friends, his girl friend.

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1 Q His girl friend. All right. In his house he has front
2 steps, correct?
3 A Correct. But -
4 Q Ho - I'm -
5 THE COURT: Just a minute. She hasn't finished her answer.
6 A But the steps, they were torn all down, everything. They
7 were going to be re-bricked up or something, but you
8 couldn't get down the steps unless you went out the front
9 door and jumped off.
10 Q How many feet would you have to jump off?
11 A I don't know.
12 Q Would it be as high as that pedestal, which is approximately
13 3-1/2 feet high, right in the center of the Courtroom,
14 or higher?
15 A I'd say it's about there. But, also, there was bricks
16 laying down the middle, if you jumped you could fall on a
17 brick and hurt yourself.
18 Q If I understand what you're saying is that at the time you
19 were babysitting that his front steps were being repaired.
20 A Or something, because the bricks were all mixed up and
21 everything.
22 Q Okay.
23 A I didn't ever look at it that close, but you could tell.
24 Q Okay. You came into the utility room door then?
25 MR. NANCE: Your Honor, please, I would object to this

COPY

1 line of questioning. At this point I think
2 that it's irrelevant and immaterial. I won't
3 comment any further.
4 THE COURT: Well, I have a little difficulty seeing it's
5 relevance and materiality, but will permit it
6 a little bit further, connect it up, other-
7 wise we're just wasting time. Go ahead.
8 Q Now, from the time that Mr. Schrum told the children to go
9 to bed, how long until the time that he allegedly raped
10 you, how long was that? Two hours, one hour, half hour,
11 twenty minutes?
12 A I'd say an hour.
13 Q One hour.
14 A But I'm not positive.
15 Q Okay.
16 A It was similar to that.
17 Q And how long after he put the children to bed did Betsy go
18 to bed?
19 A Almost about five minutes after that.
20 Q Okay. Why didn't you go to bed at that point?
21 A It is because Mr. Schrum called me in there and wanted to
22 talk to me and I don't see why I couldn't go in there and
23 talk.
24 Q Okay.
25 A That's why -

COPY

1 Q And so he spoke to you for approximately 40 minutes about
2 what he had done to all his girl friends, and what you
3 recall during this 40 minutes is that incident that he had
4 pushed his girl friend down - a girl friend down some
5 steps, or threw her out of the house and threw her clothes
6 out.
7 A Yes.
8 Q Now. How long were you in Mr. Schrum's bedroom with your
9 granny gown on?
10 A Before the rape happened?
11 Q Yes.
12 A Ten, fifteen minutes. Five. I just couldn't tell you.
13 Q And do you recall the conversation that Mr. Schrum had with
14 you from the time you were in his bedroom that you had your
15 granny gown on until the time of the alleged rape?
16 A Yes, he had stated that he was talking about some of his
17 girl friends and Charles Manson.
18 Q Okay. And this - and then he had done this previously when
19 you had your regular street clothes on, correct?
20 A I can't remember. I don't. No. He was talking about
21 divorcing his wife.
22 Q Okay. So he spoke about his girl friends and Charles Manson
23 for somewhere - five, ten, maybe fifteen minutes. Correct?
24 A Correct.
25 Q Now. At that time you were sitting on the floor and you

COPY

1 had your bra, your panties and your granny - and that
2 particular granny gown on. Correct?
3 A Correct.
4 Q Okay. Do you recall - not what someone told you, but did
5 you overhear what the argument that Mr. And Mrs. Schrum
6 had at - between the hours of 11 and 12:00 o'clock that
7 night?
8 A Of cource, I heard it because I was carrying -
9 Q Do you know what it was about, though?
10 A Yes. Would you like for me to tell you? It was about -
11 he was mad, it was because his wife went into the same
12 beer joint he just come out of and his buddies were teasing
13 him about it.
14 Q Okay.
15 A And that's what Mr. Schrum told me.
16 Q Now. After you were allegedly raped, what did Mr. Schrum
17 do? Did he go and lay in his bed?
18 A No, Mr. Schrum came into Shiela's room and said that he
19 was sorry and that he was sorry for raping me.
20 Q Is that the only time he told you he was sorry for raping
21 you?
22 A No. The next morning when he came in there and handed me
23 $5.00 he said he was sorry.
24 Q I don't mean to be crude, but in reference to penetration
25 by Mr. Schrum's penis, are you sure that there was a com-

COPY

1 plete penetration? You mentioned pain.
2 A I don't understand what you mean by that.
3 Q That his penis entered your vagina.
4 A I'm positive.
5 Q Did you bleed as a result of this?
6 A Maybe a little bit or something, but it's hard to tell, I
7 mean, I won't bleeding bleeding, but maybe a few drops.
8 Q And did a few drops get on your panties?
9 A Yes, and it was hardly any to amount to anything, but I
10 could tell that there was.
11 Q It was there.
12 A That's how I knew I had bled.
13 Q Okay. Now. When this rape allegedly occurred - I could be
14 wrong, but I have in my notes that there's a little bit of
15 a struggle him pinning you down for six or - it lasted for
16 six or seven minutes, the rape.
17 A Yes.
18 Q Okay. And what - did he jump off the bed and just pin you
19 down and hold you down with - did you say by your shoulders
20 or arms?
21 A He started coming down towards me and I started moving out
22 into the hall trying to get away and then he grabbed me and
23 started pinning me down.
24 Q And what part of the body - you can just state your arm or
25 shoulders - where did he grab you?

COPY

1 A My arms and my hands.
2 Q Pardon?
3 A My arms and my hands, and pinned me down.
4 Q Okay. And did you struggle and try to -
5 A Yes.
6 Q Okay. Did you have any bruises from where he grabbed you?
7 A No.
8 Q And you were struggling?
9 A Yes.
10 Q Okay. Did he threaten - the only thing when this alleged
11 rape occurred, what he told you was, "Be quiet."
12 A Yes.
13 Q He didn't say he was going to kill you, or beat you or
14 strike you?
15 A No. But, also, I'd like to add again the things there were
16 running through my mind.
17 Q Okay. Now. You must have like Mrs. Schrum, because you
18 told her you would babysit for her. Correct? Again, let's-
19 from your testimony that she was going to divorce her
20 husband.
21 A Yes.
22 Q Now.
23 A I felt sorry for her because she wanted something - she
24 said she was going to work and that she wouldn't have no-
25 body to keep her children anyways, and she said that she

COPY

1 wouldn't have - be able to pay me much.
2 Q All right. Now.
3 A But I hadn't definitely agreed to it that I would.
4 Q Okay. Now. How long - you live about five or six miles
5 from Mrs. Schrum's house. Correct?
6 A Correct.
7 Q And also, you stopped at the 7-Eleven Store. Correct?
8 A Correct.
9 Q All right. And you chose not to tell Mrs. Schrum, who had
10 told you that she was going to divorce her husband, that
11 her husband had just raped you the night before?
12 A Yes, 'cause still even though Mrs. Schrum was mad at
13 Mr. Schrum, how could I know, she could have just turned
14 me right back around. She could have wanted to stop and
15 talk to me, anything, I don't know.
16 Q Has she ever threatened you in any way?
17 A No. But I wasn't but 14 and I didn't know what to think.
18 I had never been through something like that before.
19 Q All right. You've never been through something like this
20 before, is that correct? What you just said?
21 A Yeah. I had never been through a rape before.
22 Q Right. You told Dr. Radford that you've never had any
23 prior sexual contact.
24 A True.
25 Q By prior sexual contact, I presume you've never had any

COPY

type of either sexual intercourse or oral sex or anything like that, is that correct?

MR. NANCE: Your Honor, I think this -

A Except from Mr. Schrum when I was raped.

Q Except from Mr. Schrum. Now. When you went home you testified that your mother knew that you were upset because she came up to your room after you took a shower, correct?

A She came to the bathroom and asked me was anything wrong and I said, "No."

Q And you chose not to tell your mother that you had been raped.

A At the time I was too upset to even talk about it. I wanted to just have some time to myself and think about it, about exactly what I was going to do.

Q Were you crying?

A No, I wasn't crying.

Q Did you stay home all that day except for later on in the afternoon?

A Yes.

Q Did you have contact with your mother during that day? How long - did you leave your home around 3:00 o'clock that afternoon to go over to your friend's house?

A To go over Fran's house?

Q Right. About what time?

A I couldn't tell you exactly, it's been a year ago.

Q Was it in the afternoon or mor -

A In the afternoon.

COPY

1 Q Okay. During the morning did you have other contact with
2 your mother?
3 A What do you mean did I have contact with my mother?
4 Q I mean did you talk to her, see her, eat breakfast, eat
5 lunch?
6 A No, we, I never did eat breakfast when I came in and we
7 ate kind of a lunch-supper in the afternoon about 5:00
8 o'clock or so.
9 Q All right. Now, in other words, you did not eat until you
10 had what you say a lunch-supper, until around 5:00 o'clock
11 in the afternoon?
12 A Yeah, it could - I get my times mixed up.
13 Q Okay.
14 THE COURT: Just a minute, what's the next plan?
15 MR. LEWANE: Next plan is I want to show these for identi-
16 fication if she recognizes the pictures.
17 THE COURT: Are they labeled in any way? Commonwealth
18 seen these?
19 MR. NANCE: Yes, sir, I have.
20 THE COURT: All right, then in the order in which they're
21 labeled hand it to her.
22 Q Do you recognize that picture?
23 A Yes.
24 Q Is that a picture of the -
25 THE COURT: Just a minute, just a minute, it's recognized.

COPY

1 All right. We'll now label it Exhibit -
2 Defendant's Exhibit 1. Is there another photo-
3 graph or something you wish to ask about?
4 Q Next picture. Do you recognize that picture?
5 A Yes.
6 Q Is that a picture of the Schrum home?
7 THE COURT: Do not ask the details or answer to the photo-
8 graph. Let's get them identified. It's
9 going to do no good at all for her to look at
10 the pictures. I want her in front of the Jury
11 when she looks at pictures. Next number?
12 Q Do you recognize that picture?
13 A Yes.
14 Q Is that a picture of the Schrum home?
15 A Yes.
16 THE COURT: All right, the Sheriff will now receive all
17 the exhibits 1, 2 and 3. Are there any more
18 so we can do this at this time?
19 MR. LEWANE: No, sir.
20 THE COURT: Good. All right, you wish to examine her with
21 regard to the pictures?
22 MR. LEWANE: Yes, sir.
23 THE COURT: All right, Sheriff, you keep 2 and 3. Hand
24 her 1. Miss Rice, would you step down near
25 the microphone over there, please?

COPY

Commonwealth's Attorney may come around. Take the picture with you, please and go over near the center before the Jury.

MR. LEWANE: This is Defendant's Exhibit No. 1.

THE COURT: Nobody can see it from that angle. Hold it up, please. Would you hold it up, please, Miss Rice? That's right. Hold it right there. That's good.

Q Can you point out which room is Mr. Schrum's bedroom?

A It's in there.

Q Could you mark that with an "S"?

THE COURT: We can't hear you on the recording device. Miss Rice, what have you identified in the picture?

A Mr. Schrum's bedroom.

THE COURT: All right, will you mark it with an "S" or something then, please?

Q Now. There was Betsy's bedroom. Could you mark where Betsy's bedroom was? I would like to have Exhibit No. 2, please.

THE COURT: All right, let's move the other one out of the way, sir. Hold it up, please.

Q What is that a picture of, Miss Rice?

A It's a picture of Mr. Schrum's bedroom and a picture of Shiela's bedroom.

COPY

1 Q Okay. Now, there's two bunk beds in there, correct?
2 A Yeah.
3 Q Who slept in the two bunk beds?
4 A His two sons.
5 Q His two sons. Okay. Was the door to that bedroom open or
6 closed when the alleged rape occurred?
7 A Open.
8 Q Do you know if the door to Betsy's bedroom was open or
9 closed when the alleged rape occurred?
10 A It was half-way open and half-way closed.
11 Q Okay. And how old were the two sons who were sleeping in
12 this bunk bed?
13 A One was about 9 and the other one's about 11.
14 Q I'd like to have. Okay. On this particular picture, were
15 you -
16 THE COURT: Exhibit 3?
17 Q Exhibit 2. Will you please mark where the alleged rape
18 occurred?
19 A What do you want me to write?
20 Q Just draw a line where it occurred.
21 A Half-and-half right there.
22 Q Okay. By half and half, do you mean half in the bedroom
23 and half in the hall?
24 A Uh-huh.
25 Q I would like to have Exhibit. Can you show that to the

COPY

1 Jury, please? What is that a picture of?
2 A Picture of Mr. Schrum's bedroom.
3 THE COURT: Can't hear you.
4 A A picture of Mr. Schrum's bedroom.
5 THE COURT: Thank you.
6 Q Will you please mark on there with an "X" where you were
7 sitting when you were attacked? And where you were when
8 you were allegedly raped? Does that reflect half in the
9 bedroom and half out of the bedroom where you were allegedly
10 raped?
11 A That's the best way I could draw it.
12 MR. NANCE: Excuse me, Your Honor. May I have that for
13 just clarification marked with something other
14 than "X". There are two "X's" on there now.
15 Q That's right. Could you put a circle where you were sitting
16 around the "X". A circle around the "X" where you were
17 sitting, please.
18 A What, right here?
19 Q Wherever you would put the "X" mark where you were sitting
20 put a circle down there, please.
21 A That's where I was sitting before the alleged -
22 THE COURT: Can't hear you.
23 A This is where I was sitting before the rape happened.
24 THE COURT: That's the "X" with the circle around it, is
25 that right?

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1 A Uh-huh.
2 Q May I have the Commonwealth's Exhibit 1? In Commonwealth's
3 Exhibit 2 you reflect that between Mr. Schrum's bedroom
4 and Betsy's bedroom there was a small room. Why did you -
5 A Not small room - small - you know the little wood part that
6 goes in between. That's what I meant by a little small -
7 Q A little wood part. Okay. How many feet was this from
8 Mr. Schrum's bedroom door to Betsy's bedroom door? Just
9 a small wooden part that you referred to?
10 A Yes.
11 Q Where was Betsy's door. Will you mark that with my blue
12 ink pen?
13 THE COURT: On which exhibit?
14 Q On Commonwealth's Exhibit No. 2. Where Betsy's door was.
15 A It was right there.
16 Q It was right next to Mr. Schrum's door?
17 A Yeah, over the scant wall, like, yeah.
18 Q I have no further questions in reference to the exhibits.
19 THE COURT: All right, resume your seat in the witness
20 chair, please. Now resume speaking to the
21 person on the back row.
22 Q Now. During this alleged rape you were in pain for five -
23 for six or seven minutes. You didn't scream out -
24 THE COURT: Just a minute now, you're getting into a
25 multiple question thing. I'd note your

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1 objection.
2 Q Okay. You were in pain for six or seven minutes. Correct?
3 A Correct.
4 Q And you were -you started - the alleged rape started in the
5 bedroom and ended half-way in the hall. Correct?
6 A Correct.
7 Q And you did not make any noise?
8 A Yes, I did. I said, "Please get off me, please," and
9 you know, I was pushing him as hard as my strength would
10 push.
11 Q All right. Now. On direct examination by the Commonwealth
12 you didn't testify that you asked him to please get off you,
13 did you?
14 THE COURT: That's for the Jury's recollection, unless
15 you're doing it for impeachment. I know what
16 my notes say.
17 A Well, it's the same thing I was saying. I was saying,
18 "Please leave me alone." That is the same thing as saying,
19 "Please get off me."
20 Q During the evening when you were in the bedroom with Shiela,
21 did any of the children wake up?
22 A You mean when I left Mr. Schrum's bedroom?
23 Q Right.
24 A No.
25 Q All right. And when he came into your bedroom and told you

COPY

1 that he was sorry that he raped you, did any of the ch -
2 A None of the children woke up. Shiela was just laying
3 there like she was dead. She didn't roll over or nothing.
4 Q What about the two boys?
5 A I didn't hear them.
6 Q And what about in the morning when he allegedly came in
7 and offered you $5.00 and again told you he was sorry?
8 Did any of them wake up?
9 A No.
10 Q Did you discuss this case with a police officer on a
11 Sunday after you told your mother?
12 A Detective.
13 Q Do you recall his name?
14 A Detective Howell.
15 Q Okay.
16 A He asked me to write it down on a sheet of paper.
17 Q All right. Did Det. Howell ask you about your panties?
18 A He asked me did I have them and I said I washed them.
19 Q Right. And did he ask for them?
20 A No. He asked for my nightgown. I can't remember whether
21 he did or not. If it won't so long ago I can maybe remem-
22 ber some of these things.
23 Q Now, just to clarify one thing in my mind. He was holding
24 you down from the time he got on the bed and you sort of
25 rolled out into the hall or slid out into the hall.

COPY

1 Correct?
2 A He may have let go one time or something, I just can't
3 remember, it's so confusing to me, I can't remember, but
4 I do remember some how, I can't tell you how, 'cause I
5 can't remember, but he did get his penis out and rape me.
6 Q But you don't recall how he did it?
7 A No, it happened so quick, so
8 Q But you wrote it down for Det.
9 THE COURT: Just a minute, you're interrupting the witness.
10 I don't want it to happen any more. She's
11 got a right to make a complete answer. Take
12 a child of this age.
13 A I was scared and I can't remember exactly how it happened.
14 I can remember some things, but it was so long ago. I
15 can't remember exactly what I wrote down and exactly each
16 thing.
17 Q Would I be correct in saying that you have discussed this
18 case three to five times with the Police Department and
19 the Commonwealth's Attorney's Office?
20 A Correct.
21 Q And you discussed it right after the incident occurred?
22 A Correct.
23 Q No further questions.
24 THE COURT: You have redirect.
25 REDIRECT EXAMINATION: Cheri Jean Rice by Mr. Nance

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1 Q Cheri, do you have any idea how many times you've discussed
2 this case? Tell these folks up here.
3 A Seems like a hundred times.
4 Q Thank you. Do you remember it all, everything you've ever
5 said?
6 A Yes.
7 Q About this case?
8 A Yes.
9 Q Do you remember at all the exact details?
10 A I can't remember every exact detail because it's been going
11 on for so long and I've been through it so much.
12 Q Thank you.
13 THE COURT: It's not clear to me, please, Miss Rice, as
14 of August of last year when this event occurred,
15 you had just finished what grade, and what
16 grade were you going into?
17 A In August? That's in school, I was just going into the
18 9th grade.
19 THE COURT: And this school year coming up you'll be
20 getting in the 10th grade, is that it?
21 A Yes.
22 THE COURT: All right, step down, please.
23 MR. NANCE: CCommonwealth calls Mrs. Phyllis Jenkins.
24 DIRECT EXAMINATION: Mrs. Jenkins by Mr. Nance
25 Q Mrs. Jenkins, if you will, state your full name to these

1 folks and your occupation.
2 A Phyllis C. Jenkins. I'm a hairdresser.
3 Q Mrs. Jenkins, do you know Cheri Rice?
4 A She's my daughter.
5 Q How old is Cheri? Now?
6 A Now she's 15.
7 Q August 22, 1976 she would have been what age?
8 A 14.
9 Q Any men in your household at the present?
10 A No.
11 Q Any men in your household at all since 1976?
12 A No.
13 Q Support of your daughter?
14 A Me.
15 Q How long?
16 A I have supported my daughter for the past ten years alone.
17 Q Mrs. Jenkins, do you know Lewis Arthur Schrum?
18 A Only through the Court.
19 Q Do you know Bonnie Schrum?
20 A No. Through the Court. That's it.
21 Q I call your attention to on or above August 21, 1976. Do
22 you remember that date?
23 A Yes, I do.
24 Q Did you see your daughter that day?
25 A Yes.

COPY

1 Q Did you have an occasion to see her leave your house that
2 evening?
3 A Yes, I did.
4 Q Do you know where she was going?
5 A Yes, I do.
6 Q Tell these folks.
7 A She was going to babysit for Mr. and Mrs. Schrum.
8 Q Did you know if she's ever babysat for them before?
9 A No, she'd never babysat for them before.
10 Q Did you talk to her about babysitting with them?
11 A Yes, I did. I didn't want her to go.
12 Q Tell them why she went.
13 A At the time I was having a lot of financial difficulty.
14 And it was getting on time for school to start and my
15 daughter needed some new clothes. I couldn't give them
16 to her, and for this reason I let her babysit that night
17 because she said she could take that money and buy herself
18 maybe a new shirt to start school, and I let her go. And
19 I'm sorry.
20 Q What time did she leave.
21 A She left the house between 6 and 6:30.
22 Q Did you have any contact with her that night?
23 A Yes, I did. She telephone me.
24 Q About what time?
25 A It was around 8:00 o'clock, somewhere in there.

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1 Q Now. Did you have occasion to see your daughter later on
2 that evening, at all?
3 A No. She was going to spend the night with the Schrums.
4 They were going to be out late, together, and I thought
5 she was going to be all right. She called me let me know
6 that a friend of mine that I work with, Linda Davis, lived
7 directly across the street from Mr. and Mrs. Schrum, and
8 that she was all right and Mrs. Schrum had left for the
9 evening.
10 Q Where did you see your daughter next?
11 A The next morning.
12 Q Next morning?
13 A Yes. Sunday Morning.
14 Q About what time?
15 A Between 7:30 and 8:00 o'clock, I'd say.
16 Q Do you know how far it is between your house and Mr. Schrum's
17 house?
18 A Not exactly miles. They live in Varina. I live further up
19 in Henrico County off of Laburnum Ave. I'd say it's about,
20 to drive it I'd say it's about 15 minutes.
21 Q When you saw your daughter that morning first off, tell the
22 ladies and genelemen of the Jury what she looked like, if
23 you remember.
24 A When she came - when Mrs. Schrum brought her home?
25 Q Yes, M'am.

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1 A She was - I knew she was upset. I met her at the back
2 door and I asked her what the problem was, what was wrong
3 with her and she said that she was upset, and that she
4 hadn't slept all night long. And I asked her why, and she
5 said that Mr. and Mrs. Schrum had had some arguments and
6 I accepted that, and she went up - she went into the bath-
7 room.
8 Q Did you have an occasion to observe her during the day?
9 Later on during the day?
10 A I was with her all day.
11 Q Describe her appearance to you during the day.
12 A She was emotionally upset the whole day and I kept after
13 her all day long to tell me what was wrong with her, what
14 her problem was, and she just kept saying that she was
15 tired.
16 Q Did you have any - did you stay at home all that day?
17 A Not the whole entire day. No, we went to my sister's
18 house, Franny's mother. I went - Cheri wanted to talk to
19 Fran. I didn't know the reason, but she was after me quite
20 a bit to please take her to Fran's house, said she wanted
21 to see her. And I did.
22 Q Did you see Fran? Tell -
23 A Not at this time.
24 Q Who is Fran? What's her full name?
25 A Frances Loraine Gardner. She's my neice.

COPY

1 Q What's her age?
2 A 16.
3 Q Okay. Are she and Cheri close?
4 A Very close. From -
5 Q Did you - I'm sorry.
6 A From the time that Cheri was born on, she and Fran have
7 been like sisters. Cheri doesn't have any brothers or
8 sisters and my mother kept Cheri and Fran together an
9 awful lot when they were small and they were inseparable.
10 Q Mrs. Jenkins, did you see Fran?
11 A I didn't see Fran at that time, no. I saw her later that
12 evening.
13 Q All right. You said you - sorry, did you say you went over
14 there - to Fran's?
15 A Yes, yes, we were over there.
16 Q Did you see her then?
17 A I didn't see her then, no.
18 Q What did you do with her afterwards - when you left Fran's
19 where did you go?
20 A Cheri and I went to MacDonald's, one of the hamburger places
21 and got something to eat.
22 Q After you left there what did you do?
23 A Went home.
24 Q Did you have an occasion to talk to Cheri about what hap-
25 pened on the - what allegedly happened on the 21st or the

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1 22nd?
2 A Later that evening of the 22nd I did.
3 Q All right.
4 A I was on the telephone, and I was talking to my mother who
5 was in the hospital at the time, and all day long I'd been
6 trying to get Cheri, that I knew something was bothering
7 her. And all day I tried to get her to tell me what it is,
8 and I understand now why she didn't tell me, but she was
9 very reluctant to talk to me.
10 Q Just tell these folks what happened.
11 A I was talking to my mother on the telephone; I saw Cheri,
12 she had been upstairs, she came downstairs and my telephone
13 was in my kitchen. And my family room was off from my
14 kitchen, and she sat down on the sofa, and I noticed she
15 had her head down and I could see that she was sort of
16 wincing and crying. And I excused myself from talking to
17 my mother and went over to Cheri. I said, "Cheri, you've
18 been doing this all day long, now I'm not going to leave
19 you alone now until you tell me why are you crying. What
20 is your problem?" And she threw her arms around me and
21 told me that Mr. Schrum had raped her.
22 Q Are you okay?
23 A Just give me a second. And when she told me that, I had
24 the mother's instinct to kill.
25 Q What did you do. Immediately, what did you do?

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1 A I told Cheri that - I was terribly upset and I was trying
2 to console her and - and I told Cheri that I was going to
3 call the police, and Cheri got hysterical, because she
4 was afraid that Mr. Schrum was going to do something to me,
5 or to her.
6 Q What did you do?
7 A I called the poli- I called my brother first, and then he
8 advised me to call the police. In fact, he called the
9 police for me, and then I had the Schrum's telephone number
10 because Cheri had called me the night before and had given
11 it to me, and then I called him, and I told him what I'd
12 like to do to him.
13 Q Tell him why you were calling him?
14 A Yes, I did. I told him I was the mother of the girl that
15 he had raped the night before.
16 Q What did he say to you?
17 A His voice was a little shakey and he told me that he had -
18 hadn't raped her, that he hadn't touched my daughter.
19 Q Did you have an occasion to see him later?
20 A No, I didn't, but I was on my way to.
21 Q Did you see - or did you discuss - did you talk - excuse
22 me - did you talk to Mr. Schrum prior to talking to the
23 police?
24 A After I talked to the police? No.
25 Q No, M'am.

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1 A Before I had talked to the police?
2 Q Yes, M'am.
3 A Yes.
4 Q Did you have an occasion to see him -
5 A No.
6 Q Any other time after that, other than Court?
7 A No.
8 Q Did you have an occasion to see any members of his family?
9 Other than Court?
10 A No. Other than his wife. I saw his wife.
11 Q When did you see her?
12 A That night. She came to my house.
13 Q Did you have a conversation with her?
14 A Yes, I did. When she pulled up in my yard my neice -
15 another one of my neices were there, and she came into the
16 house and got me. And when I found out that this woman was
17 in my yard I went out to see her. And I asked her how she
18 could leave my 14 year old daughter and her children
19 together, unsupervised all night long. And she said that
20 she didn't have any idea that anything like this was going
21 to happen, that it had never happened before, and I told
22 her that she knew of, and that I felt lucky that my
23 daughter had even told me, because it's not a thing that
24 a young girl was that crazy about talking about.
25 Q You and your daughter have a good relationship?

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A I think we do, yes. There's not much that we can't talk about. Thank God.

Q Mr. Schrum contacted you since that incident? Since that Sunday?

A No. No.

Q How about his family?

A His family has. His wife also called me that night after we had gone to the hospital. It was about 3:00 o'clock in the morning when we got home. Fran came and spent the night with us. She stayed with Cheri for several days. And his wife called me on the phone and said that she had fallen asleep. She hoped it wasn't too late. She wanted to know how Cheri was and what her condition was. She kept apologizing to me for what had happened. I told her I had nothing to say to her, anything that she would have said to her for me from that point on would be through Court.

Q Thank you, M'am. You answer any of Mr. Lewane's questions.

A I'll be happy to.

CROSS EXAMINATION: Mrs. Phyllis Jenkins by Mr. Lewane

Q Mrs. Jenkins, haven't you made threats that you're going to get this man at all costs?

A Sir, if some of us don't do something to protect our children, who is? And yes.

Q I asked if you had made threats that you were going to get

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1 him at all costs.
2 A No, not at all costs. I want the man to have a fair trial.
3 And I think somebody's gotten -
4 Q You made threats against him, though, on other Court
5 appearances, correct?
6 A I have? Yes, that night I did. What I would like to have
7 done to him?
8 Q No. You have-
9 A What I would like to still do to -
10 Q When he's been in Court -
11 A I'd like to get my hands on him for a few minutes, if
12 that's what you're getting at, yes, I would. I would love
13 to.
14 Q Okay.
15 A Give me the opportunity.
16 Q Okay. Now. You mention when your daughter came home, when
17 Mrs. Schrum brought your daughter home that she was visibly
18 upset. Correct?
19 A Correct.
20 Q Was she crying at that point?
21 A No.
22 Q Okay. And at that point when she first came home you asked
23 her what was wrong and she told you what?
24 A She told me that the Schrums had been arguing the night
25 before and that she'd been up and she was tired.

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1 Q Okay. Now, when was the first time that you saw her crying?
2 A That night. The Sunday night, the 22nd.
3 Q 22nd. And is that the first time you saw her crying. Is
4 that when she told you that Mr. Schrum had raped her?
5 A Right.
6 Q Okay. And she told you, she asked you at that point not to
7 call the police?
8 A I told her I was going to call the police and then she got
9 hysterical and told me not to because she was afraid of
10 what he might do to me or her later, because he knew where
11 we lived.
12 Q Okay. Now. When you called Mr. Schrum about the alleged
13 rape initially, did he not tell you to call the police?
14 A No, he did not. No, he did not. His first phone call was
15 to you, according to his wife. If somebody had just accused
16 me -
17 Q Will you please answer my questions, that's all. Now. I
18 presume that that day that you had breakfast or lunch to-
19 gether, you and your daughter?
20 A No, we didn't have breakfast.
21 Q Did you have lunch together?
22 A Only when we went out later that afternoon, we had the one
23 meal, as I recall, at MacDonald's.
24 Q Did you have - during the day did you have any - did you
25 have contact with your daughter when she initially came

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1 home? What did she do then, after she came home?
2 A She went into the bathroom and she looked at herself in the
3 mirror, and I observed it.
4 Q You observed that. And then what did she do?
5 A Then she went upstairs and went into her room. She washed
6 some clothes, she took a shower.
7 Q Okay. And -
8 A And she washed her hair and -
9 Q She washed her hair. And did she get dressed?
10 A She put on something and laid across the bed.
11 Q And she stayed up the rest of the - that day upstairs,
12 across the bed, or what did she do?
13 A She stayed upstairs across the bed for a while, then I went
14 upstairs and asked her, you know, to see if she was asleep,
15 or if she wanted to do something, or go out and get some-
16 thing to eat, she said she wasn't hungry. Shortly after
17 that conversation she started in about getting me to take
18 her to see Fran.
19 Q Okay. When you say you saw her looking in the mirror, I
20 presume that is a, that's a bathroom, it must be downstairs,
21 correct?
22 A Yes.
23 Q And when -
24 A There's also one upstairs.
25 Q There's a bathroom upstairs. Did you observe her looking

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1 in the mirror upstairs when she was in that bathroom?
2 A No, because she went up there to take a shower, and I didn't
3 go in with her to take a shower.
4 Q Did you talk to her when she was taking a shower, or any-
5 thing like that, about her being upset?
6 A No. Not that I recall.
7 Q After she took her shower and she went into her bedroom,
8 did you talk to her then?
9 A Yes.
10 Q Was that after she had laid down on the bed for a while, or
11 immediately when she laid down?
12 A She'd laid down for a few minutes and I went in to check on
13 her to see why she was laying down. And I had some conver-
14 sation with her then.
15 Q Okay. So what I gather is a follows. You notice she was
16 upset when she came home. You saw her looking at herself
17 in the mirror downstairs. She went upstairs, took a shower,
18 washed some clothes, laid down on the bed for a while, then
19 you had a conversation with her at that point, wondering
20 why, how she was if she was upset or was something wrong
21 or why she was laying down. Correct?
22 A I'm sorry, I didn't follow the last part of that.
23 Q When was, from the time she went upstairs -
24 MR. NANCE: Your Honor, Mrs. Jenkins has already answered
25 this, once by me, once by Mr. Lewane, and now

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she's testifying again as to what I assume would be the third time. I think that's sufficient.

THE COURT: I would be the first to vote to eliminate repitition and it's not permitted either, because once over the same subject matter by each attorney is par for the course and sufficient. But the last question we're getting into so many multiple situations it would be impossible except for Houdini to answer it, so restate the question. You're not addressing an adult witness, you're addressing someone who is 15 years old. Let's phrase the question to someone of that age, so it cannot be misunderstood.

Q After your daughter went upstairs, when was the next time you had a conversation with her?

A When she was laying across the bed.

Q And you recall how long she was laying across the bed prior to your conversation?

A No, not exactly. I don't remember, you know, if you're asking was it a half an hour or an hour, I don't rmemmber exactly which of those it was, but I know she laid on the bed for a while, and I went up and talked with her.

Q Okay.

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1 A We're talking about something that happened almost a year
2 ago.
3 Q Okay. No further questions.
4 THE COURT: Redirect?
5 REDIRECT EXAMINATION: MRS. JENKINS BY MR. NANCE
6 Q Mrs. Jenkins, just a few questions. By your demeanor from
7 the stand, I got the impression you have contempt for this
8 man. Tell the truth.
9 A Yes, I do. I do. I can't help it, I do.
10 Q Is that contempt so much that you would lie under oath?
11 A No.
12 Q Acout anything that happened?
13 A No. In our own private conversations I have told you that
14 I wished for this man to have a fair trial.
15 Q Yes, M'am, I know that. That's all I have. Thank you.
16 RECROSS EXAMINATION: MRS. JENKINS BY MR. LEWANE
17 Q I have one further question. Your feelings are solely
18 based on what your daughter tells you. Correct?
19 A Right. And because I believe her. She's a good girl, and
20 I believe her, and you or nobody else is going to change
21 that. I've done a fantastic job those 14 years, and he
22 tried to ruin it for me. He tried, but she's still the
23 same sweet girl that she ever was.
24 MR. LEWANE: Judge, I just ask that all that be stricken
25 from the record, please.

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1 THE COURT: You invited it, my friend, and you got the
2 answer that the witness had a right to respond
3 to. Anything else of this witness at this
4 time?
5 MR. NANCE: No, sir.
6 THE COURT: You wish her to remain outside?
7 MR. NANCE: Yes, sir.
8 THE COURT: All right, wait outside, please, Mrs. Jenkins.
9 Do not discuss with any other witnesses any
10 questions you were asked or answers you gave.
11 Next witness.
12 MR. NANCE: Your Honor, the Commonwealth calls Detective
13 Thomas Howell.
14 DIRECT EXAMINATION: Det. Thomas Howell by Mr. Nance
15 Q Det. Howell, your name, please, sir.
16 A Thomas L. Howell.
17 Q Your occupation?
18 A Police Officer of Henrico County.
19 THE COURT: Let's have all your answers to the Jury.
20 Q How long have you been so employed, Mr. Howell.
21 A Approximately 9 years.
22 Q Det. Howell, were you so employed in the month of August,
23 1977, excuse me, 1976?
24 A Yes, sir, I was.
25 Q Did you have an occasion to investigate a alleged rape

1 involving a victim by the name of Cheri Rice? And an
2 alleged defendant by the name of Lewis Arthur Schrum?
3 A Yes, sir, I did.
4 Q Did you make contact with the victim of the alleged rape,
5 Mr. Howell? Det. Howell?
6 A Yes, sir, I did.
7 Q Would you tell the ladies and gentlemen of the Jury when
8 you first saw her.
9 A My first contact was on the evening of the 22nd of August,
10 1976 at approximately 8:00 p.m. or 8:30.
11 Q And you contacted her, sir, to take a statement from them
12 as to what had occurred?
13 A Yes, sir, I did.
14 Q Pursuant to your contact, what did you do, as far as your
15 investigative interests are concerned?
16 A After taking the statement, she was transported to MCV to
17 the OB-GYN Clinic, where the PERK Kit was taken, which is
18 the physical evidence recovery kit.
19 Q Could you briefly describe for the Jury what that amounts
20 to?
21 A Yes, sir. This is oral and vaginal swabs and pubic hair
22 combings that are taken by a doctor, and these are sealed
23 and put in the PERK Kit, and when a suspect is developed
24 they are compared against oral swabs and hair combings
25 from him.

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1 Q That PERK Kit was obtained by medical personnel at the
2 Medical College of Virginia, was it not?
3 A Yes, sir.
4 Q Pursuant to that you submitted the Kit to the Division of
5 Consolidated Laboratories?
6 A Yes, sir, I did.
7 Q Is that your normal procedure?
8 A Yes, sir.
9 Q At the time this kit was taken were you aware of whether
10 or not the victim had bathed?
11 A Yes, sir. She stated to me she had bathed.
12 Q You submitted the results to Consolidated Laboratories?
13 A Yes, sir.
14 MR. NANCE: If Your Honor please, there is a certificate
15 and photocopy of a certificate from the
16 Division of Consolidated Laboratories that
17 the Commonwealth is offering as Commonwealth's
18 Exhibit No. 3, showing the analysis conducted
19 on the Kit.
20 THE COURT: All right, I'm sure you've seen this, Mr. Lewane.
21 MR. LEWANE: Yes, sir.
22 THE COURT: Mark it, Madam Clerk, Commonwealth's Exhibit 3.
23 What do you intend to do at this time, please,
24 Mr. Nance?
25 MR. NANCE: Your Honor, I would introduce that and if the

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1 Court please I would let Det. Howell explain
2 what the results were and why.
3 THE COURT: All right, the - I'll also ask him to explain
4 to the Jury the top part of the - caption of
5 the thing so that they will know what was
6 chopped off in the photocopy process.
7 DET. HOWELL: This is a letterhead from the Division of
8 Consolidated Laboratories, which is state
9 operated.
10 THE COURT: Consolidated Laboratories of what? Commonwealth
11 of Virginia, State of New Jersey, or -
12 DET. HOWELL: Commonwealth of Virginia.
13 THE COURT: All right. The Jury don't know these things.
14 DET. HOWELL: The results of the examination were no semenal
15 fluid was detected on any of the swabs or
16 smears. No foreign hairs were noted in the
17 pubic combings.
18 Q That semenal swabs and pubic combings were taken from the
19 victim, is that correct?
20 A Yes, sir.
21 Q That is normal procedure?
22 A Yes, sir, this is standard procedure.
23 Q And were they compared with anything from Mr. Schrum?
24 A No, sir, they were not.
25 Q And do you know why?

1 A Yes, sir. due to the negative results on the examination.
2 Q Those pubic combings and vagina - and the swabs were taken
3 after the prosecutrix had bathed.
4 A Yes, sir, approximately 24 hours.
5 Q Det. Howell, if Your Honor please, I move to have - excuse
6 me, it's already in, Commonwealth's Exhibit No. 3.
7 Det. Howell, did you have an occasion at a later time to
8 attempt to recover any garments from the defendant - from
9 the victim?
10 A I talked to her that evening and she had stated that when
11 she'd come home that morning, that she had bathed and she
12 had laundered the underpants and that she had discarded
13 them.
14 Q Did not recover them?
15 A No, sir, they were not recovered.
16 Q Det. Howell, did at a later time you have an occasion to
17 talk to the defendant in regard to the matter before the
18 Court today.
19 A Yes, sir, I did.
20 Q Where did you see him, sir.
21 A He came to police headquarters on the 23rd day of August,
22 1976, in the company of his attorney.
23 Q Is that the first time you'd talked to him?
24 A That was my first contact, yes, sir.
25 Q At that time was a warrant outstanding against him?

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A No, sir, she advised me she had laundered them and later in the day she had discarded them, so I didn't ask her for them.

Q You did not ask her for them.

A No, sir.

Q Officer Howell, is it possible because of the length of time, that you don't recall the fact that Mr. Schrum may have told you that he was not guilty of this crime?

A It's possible.

Q Did you write down anything that was said?

A No, sir. I took no notes at that time.

Q So it is possible that he told you that he was not guilty.

A It's possible.

Q All right. Is it also not a fact that an arrangement was made to - for Mr. Schrum to appear at a convenient time for all parties, to the police department, in reference to these charges?

A Yes, sir. It was made - an appointment was made for him to come in.

Q It wasn't a situation where he was arrested or, you know, everything was all arranged?

A Yes, sir, it was voluntary.

Q No further questions.

MR. NANCE: No further questions of Officer Howell, Your Honor.

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1 MR. NANCE: No, sir, Your Honor, the Commonwealth's case
2 in chief is presented.
3 THE COURT: Commonwealth's case in chief has now been
4 presented. All right. I think it might be
5 desirable if the Jury took a recess at this
6 time. So you'll go back to your Jury room,
7 please, members of the Jury.
8 MR. LEWANE: I would respectively again move for a mistrial,
9 based on the fact that the fact that Mr. Schrum
10 made a statement, or did not make a - in fact
11 he did not after being advised of his rights,
12 when the police officer said he did not make
13 a statement, then said he wasn't sure, it was
14 highly prejuducial, and totally prejudiced on
15 the case, and I would just on that basis alone
16 I would ask for a mistrial.
17 THE COURT: It's overruled as being completely without
18 ground, and you had perfect right on cross
19 examination to get the whole thing in and since
20 you didn't, I did, in fairness to the defendant
21 where I ask the officer to tell the Jury it
22 was not unusual that a man could be told by
23 his lawyer not to make a statement, or that
24 the lawyer would tell the officer he didn't
25 want his client to make a statement. So there's

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1 nothing on that. Anything else, while the
2 Jury's out?
3 MR. LEWANE: No, sir.
4 THE COURT: Now, we'll be ready to proceed, gentlemen, at
5 ten minutes to three. We'll start promptly
6 at ten minutes to three.
7 (Court Recessed)
8 All right, who will be the first witness of
9 the defendant, please?
10 MR. LEWANE: First witness I'm calling is a Ricky Gilbert.
11 DIRECT EXAMINATION: RICKY GILBERT BY MR. LEWANE
12 Q Will you please state your full name?
13 A Richard J. Gilbert.
14 Q Mr. Gilbert, face the Jury so they can hear you.
15 A And -
16 Q How old are you?
17 A 16.
18 Q What is your date of birth?
19 A March 8,
20 Q 19 what?
21 A 61, I believe.
22 Q Do you go to school? Are you in school?
23 A No, sir.
24 Q Do you go to school in the fall?
25 A Maybe. I might go back.

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1 Q Do you know a Cheri Jean Rice?
2 A Yes, sir.
3 Q How long have you known her?
4 A 2, 3 years.
5 MR. NANCE: Your Honor, I don't mean to interrupt, but
6 with this juvenile present I don't want to
7 get in a position to in a later time come
8 back and he's going to make statements and
9 not be aware of whatever statements he makes
10 on this stand could subject him to purjury.
11 And I'd like a little more foundation laid
12 on his testimony and, especially, if his
13 parent was available such that a parent is
14 aware that he is going to testify, and has
15 permission, or whatever, whatever guidance a
16 parent may give a infant or a child who was
17 born, I believe, in 1961 as to the course of
18 the seriousness of this case.
19 THE COURT: I will leave it to cross examination.
20 MR. LEWANE: That is the parent - (Unintelligible conversa-
21 tion between parent and Mr. Lewane.)
22 THE COURT: All right. Any discourse between this and a
23 potential witness or a relative of witness, is
24 going to be in the hallway, not in here.
25 MR. LEWANE: Judge, I didn't mean to have a conversation.

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1 PARENT: No, I wanted to address you, Your Honor.
2 THE COURT: I don't know what the possible reason for
3 addressing me is, but I'll take a recess and
4 we'll send the Jury out, please, get this
5 thing straight right now.
6 (Jury Out)
7 Does counsel wish to confer with this witness
8 before Court gets into it?
9 MR. LEWANE: No, sir. I don't have anything. I would
10 assume he must be a parent.
11 THE COURT: All right, let this witness step down and go
12 in the hallway in the custody of the Sheriff.
13 All right, we'll have this gentleman come
14 forward. He had something he wanted to say
15 to the Court. All right, Madam Clerk, put
16 this gentleman under oath.
17 (Mr. Gilbert was duly sworn and
18 testified as follows:)
19 All right, sir, would you have a seat, sir.
20 All right, I want to ask you, please, sir, to
21 identify yourself.
22 A Charles B. Gilbert, Jr.
23 THE COURT: Now, I believe I noticed you were sitting in
24 the Courtroom here in the last few minutes,
25 at the same time that Richard J. Gilbert came

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1 into the Courtroom, is that correct?
2 A Come in when he did, sir.
3 THE COURT: All right, and your age, please, sir?
4 A 42.
5 THE COURT: And what relation, if any, are you to the
6 witness or Richard J. or Ricky Gilbert?
7 A His father.
8 THE COURT: All right, sir, now you had signaled the
9 Court that you wish to speak to the Court
10 apparently before your son, Ricky, testified.
11 What is - what did you wish to - why did you
12 signal to the Court?
13 A Well, as the Commonwealth's Attorney said, that, I don't
14 know too, I'm not a lawyer, so I don't know what extent
15 he can get involved in this situation. But the same token,
16 I'm familiar with the girl's parents. I have been out to
17 parties with them, dances, and I have been to their house,
18 and I was approached by the other party's relative, wanted
19 to know what went on right after this happened.
20 THE COURT: When you say you knew the girl's parents,
21 what parents are you referring to?
22 A Of, I know Rice and Jenkins. Rice is her name and the
23 mother is Jenkins, Richard Jenkins' wife.
24 THE COURT: And when was this that you -
25 A You mean date?

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1 THE COURT: Well, go ahead, we won't get down to detail
2 'til a little further later. What is it, why
3 did you signal the Court in any way? You
4 weren't summonsed as a witness here in any way?
5 A Yes, sir.
6 THE COURT: Huh?
7 A Yes, sir.
8 THE COURT: You were summonsed?
9 A Not as a wit - no, sir. I was summonsed to come with my
10 son to this Court because he's a juvenile.
11 THE COURT: And on whose instructions did you do that?
12 A I imagine this lawyer here in the green jacket. My wife
13 called him and talked with him, I did, too, and he said,
14 "Yes."
15 THE COURT: So you're saying Attorney Lewane over here's
16 the one that told you or your wife to come
17 with your son to Court?
18 A Well, we had a summons the Dep. Sheriff brought us, and it
19 said, "Ricky J. and Guardian or Parents", however it was
20 worded.
21 THE COURT: Well, what communication was given to you as
22 to why this was needed?
23 A Why for us to come?
24 THE COURT: Yes.
25 A Because we were summonsed.

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1 THE COURT: I don't see in the file anything relative to
2 the most recent subpoenas.
3 MR. LEWANE: Judge, I might clarify something, if the Court
4 would let me at this time.
5 THE COURT: You wish to make some statement purely on the
6 correction of whether or not this man was
7 summonsed. That's all I want you to say.
8 MR. LEWANE: Judge, I did not summons this man. He, I,
9 when he was summonsed, originally summonsed
10 for the first trial they were very upset
11 because they did not want him to get involved.
12 I spoke to Mr. Charley Sydnor, I believe, and
13 he had told me that he had been contacted by
14 a member of this, either this gentleman or his
15 wife, and he told me he advised them to follow
16 any court summonses. That's, I need, this is
17 a, I explained to this gentleman when he called
18 me up, he was very upset about his son getting
19 involved and I understood. Told me about his
20 job, taking off (unintel.) He says he doesn't
21 have to, but he can be here if he wants to.
22 Told him that Mr. Schrum faces a life sentence
23 in prison, and that was - when someone faces
24 a life sentence in prisonment I have no choice
25 but to do the best I can, and that's the situ-

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ation. But I never told him to be here, I could have told, I probably did, that he has a right to be here if he wants to.

THE COURT: All right, what - as it said, why did you signal the Court a moment ago and said you wanted to speak to me. I don't quite understand it.

A Well, I'm not familiar with the Court, so I wouldn't know who to speak to except the Judge.

THE COURT: Well, what is it that you wish to say? This is most unusual. It hasn't happened in 40 years, 20 of which I've been a lawyer and 20 of which I've been a Judge, so I don't understand it. Who told you to come in and signal the Judge, or come forward at all?

A No one told me, Your Honor. I just didn't want my son testifying in this because he's not involved in it, and I didn't think it was his place to get involved in something he's not involved in, and due to the fact that I know both sides and have - I'm in business in east Henrico and I know both sides of the people. And sometimes a young man can be swayed by working in the public like him and listen to stories on both sides. He's heard a whole lot of stories both ways, and kids have a tendance to talk more than what they know, or what to go by hearby, making a evidence out of it. It can hang this man here if he tells something he

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1 just heard.
2 THE COURT: Well, do you -
3 A And I don't want him to testify by choice.
4 THE COURT: You don't want what?
5 A If I had the choice, I don't want him to testify. When
6 he's 18 he can do as he pleases, you know. Put it that
7 way. If I had the choice, I'd rather for him not to.
8 THE COURT: Well, have you discussed with him, you son,
9 what, if anything he knows?
10 A Somewhat. He, like he's, you know, I said he's just a
11 neighborhood boy, been around a place of business and a lot
12 of people come in there and he hears a lot of, you know,
13 conversation about everything in the neighborhood, and
14 young people have a tendency to stretch the truth very far
15 about anything, and to twist a story around. So they can
16 be swayed and tell the, you know, believe in the wrong
17 thing.
18 MR. LEWANE: Judge, for the record I'll not have this - the
19 boy - son testify as to what he has heard.
20 I'm only going to have him what he has done
21 and what he has observed personally.
22 THE COURT: Like you said, you discussed the thing somewhat
23 with your boy. Do you know what, if anything,
24 he - not the detail of it, but what the nature
25 of what it is he's discussed with you?

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A Actually, what he discussed was that after this come up people have been summonsed, was going to be summonsed to Court, which scared half the young people in the neighborhood, that everybody's scared of Courts, as you're probably aware, and he just didn't want to come to Court. He didn't want to be involved. He didn't want to come today, but he t implied to me as he had to come. Whether he meant, said that directly, but that was the way my wife and myself, we were both had two phones listening to him talk, and we implied him to say we had to be here today, we're still under summons. That's the only reason he's here.

THE COURT: All right, now you know the defendant in this case, Mr. Schrum over here.

A Sir?

THE COURT: You know him?

A Him personally. No, sir. Met him out in the hall today.

THE COURT: Do you know anyone in his family in any way.

A Yes, sir.

THE COURT: Who?

A Carol Tyree.

THE COURT: And what is that, a neice of his or something?

A I - some relative of his, Your Honor, I don't know. She come to see me a few days after it happened, wanted to know what I knew about it. I told her nothing. That's when I was first enlightened about the situation. She

COPY

1 proceeded to tell what she knew, or what she wanted to tell
2 me.
3 THE COURT: Well how did you - how long have you known
4 Carol Tyree?
5 A She lives across the street from my place of business. I
6 don't know how many years, but, I don't know, I don't know
7 how old she is, I reckon 5, 6, 7 years, I don't know, Your
8 Honor. Kids grow up in the neighborhood and you don't pay
9 no attention to how long you've seen them around.
10 THE COURT: And she, Carol Tyree, came to you for what
11 purpose?
12 A Your Honor, I don't know what purpose she come to me for,
13 but she just come and discussed, and you know, wanted to
14 know what I knew and whether Ricky had been with this girl.
15 I told her I didn't know whether he had or he hadn't, that
16 that was, you know, not my business.
17 THE COURT: Well, I gather from the first part of the
18 evidence that has taken place while you were
19 in the Courtroom, that your son, Ricky, is 16,
20 at the age apparently he just turned on
21 March of this year, is that correct?
22 A Yes, sir.
23 THE COURT: So he was 15 this time last year, is that
24 correct? That would follow, wouldn't it?
25 A Yes, sir, you speaking to me?

COPY

1 THE COURT: Yes, sir.
2 A Yes, sir.
3 THE COURT: And consequently, since you are interested in
4 the boy, at that age did you know whether they
5 even dated, or who he even dated, if he dated
6 anyone at all?
7 A Well, he didn't bring - didn't bring her home, if you're
8 referring to this particular girl. No, sir, he didn't.
9 He has girls he has brought home. Still brings girls home.
10 THE COURT: So as far as you know he - you don't - do you
11 know whether he ever dated Cheri Rice or not?
12 A I never saw him with her, never heard him discuss her until
13 this come up.
14 THE COURT: Then what distance does this man - how far is
15 he from where you live or have a place of
16 business?
17 A Which person, sir?
18 THE COURT: The defendant.
19 A I don't know where he lives.
20 THE COURT: All right, what about Carol Tyree, why would
21 she - you say she lived across the street, or
22 something.
23 A I run a place of business on Williamsburg Road on the south
24 side, and they live on the north side right behind Lindy's
25 County Chicken.

COPY

1 THE COURT: What do you - what is your business?
2 A C. B. Gilbert, Jr., Inc., Towing Service, Service Station.
3 THE COURT: That's not down the Nine Mile Road in the 60
4 Intersection, is it?
5 A One block east of Eddie's Drive-In on 60.
6 THE COURT: All right, is there anything else you wish to
7 say?
8 A No, I reckon that's all.
9 THE COURT: All right. Now, I'll allow either counsel to
10 make any questions they wish, starting with
11 the Commonwealth's Attorney.
12 MR. NANCE: Your Honor, I have no questions. All I know
13 is this gentleman is Mr. Gilbert's father.
14 MR. LEWANE: I have no questions.
15 THE COURT: Now, I have down here when you said something
16 about you knew both sides of the case, I think
17 that really you're saying you sort of knew of
18 the parties on either side, is that what you're
19 saying. The people - is that a - I want to
20 make sure that you're not talking about that
21 you know what both sides of the case are say-
22 ing, or is it both? Do you know both the
23 parties or know who they are, or do you also
24 know what both of them are advocating in the
25 case?

COPY

1 A That's confusing. Like this gentleman, I never met him
2 until today, I met him out in the hall, I don't think I
3 met him, but just nodded at one another. And, of course,
4 Phyllis Jenkins and her husband, Richard, I know them.
5 Like I said, we've been out before and the reason I say I
6 knew - not knew him, but his neice, I reckon Carol is, come
7 c by the station and was discussing this matter. So I feel
8 that I'm kind of in the middle in the thing by being in
9 bueinss and people coming there talking to me. I don't
10 know why, but they always got to come around asking you
11 questions when you run a business, and want to know what
12 you know, what you've seen, who you've seen with who. So,
13 I feel we're kind of in the middle on the situation. I know
14 the Tyrees, which are his relatives. They live right down
15 there, I know the whole family.
16 THE COURT: What's the relationship, if any, between the
17 Tyrees, particularly the Tyree girl and your
18 son?
19 A The Tyree girl and my son?
20 THE COURT: Uh-huh.
21 A I reckon just raised up together and went to school together.
22 Played together when they were younger. Close neighborhood.
23 Fairly well. Right there.
24 THE COURT: Now, you mentioned knowing Phyllis Jenkins.
25 I was under the impression that - impression

COPY

1 by what she said, that she'd raised her
2 daughter and had supported her daughter during
3 the whole period of time the last ten years.
4 Has she not been separated from him or
5 divorced from her husband?
6 A Whether they're separated or not, Your Honor, I don't know,
7 but we went to a dance together.
8 THE COURT: When are we talking about?
9 A Within the last two years. Richard Jenkins is his name.
10 THE COURT: What does he do?
11 A I don't know, he used to be an insurance salesman. I don't
12 know what company, but I haven't seen him recently to talk
13 to him.
14 THE COURT: Do you know where their home is?
15 A I know where it was the last time I went to it; I don't
16 know whether she's moved since then, it was on Gay Avenue.
17 About the 3000 Block, 28, 29, 3000, 31. Two story new
18 house.
19 THE COURT: Are there any other questions by counsel?
20 MR. NANCE: Yes, sir.
21 DIRECT EXAMINATION: Charles B. Gilbert, Jr. by Mr. Nance.
22 Q Mr. Gilbert, you don't know whether Mr. Jenkins does any
23 support of his family, do you?
24 A No, sir, I don't.
25 Q In fact, you don't know whether he has or does not in the

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1 past, do you?
2 A No, sir.
3 Q Mr. Gilbert, I don't mean to be prying, does has anybody
4 threatened you if you testify?
5 A No, sir.
6 Q I got the impression from your comments to His Honor
7 originally, in regard to young folks stretching something,
8 you know, repeating what they've heard other than being
9 what they've seen and observed, that you may be concerned
10 that that might be what your son would do today?
11 A No. Uh-uh. No, sir, that would not worry me one bit, you
12 could threaten me all you want.
13 Q No, no, no. I'm not talking about -
14 A I'm not talking about you, I mean -
15 Q No, no, I'm not talking about -
16 A Him either.
17 Q I'm talking about - my initial question was that maybe
18 your hesitancy was because somebody had threatened you or
19 intimidated you to testify or not to testify-
20 A No, sir. That would make me testify if they did.
21 Q All right. Now my question is, leaving that part aside,
22 back to your original comments about young people and the
23 way they talk and what they hear and how they spread things,
24 I believe your terms, "Stretch things." Is what you're
25 in essence telling the Court that you have some concern

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1 about what your son may tell the Court that's true?
2 A No. From what you said there is that when kids - they -
3 one will have a tendency to claim that he has did something
4 with a person that he may have or may have not done.
5 Q Yes, sir.
6 A You were a kid, you remember that.
7 Q Yes, sir.
8 Q If you did something with a woman you wanted to be brave,
9 and brag about what you had done, and sometimes kids tell
10 things that's not true. And this is where the stories at
11 my station I've heard numerous times. One will testify
12 that he's - might have done something he hasn't done,
13 because the other one did it. And so that's hearsay - to
14 me. To me that gets you in a heap of trouble.
15 Q Yes, sir. Who can outshoot the other one.
16 A Right.
17 Q Thank you.
18 CROSS EXAMINATION: Mr. Charles B. Gilbert, Jr.
19 Q I, I have a question. Mr. Gilbert, to the best of your
20 knowledge, has anyone threatened your son about testifying
21 here?
22 A No, sir, I feel certain he's like me if you'd ever make
23 him mad.
24 Q And is your son basically a truthful person?
25 A Basically, yes. Very truthful.

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1 THE COURT: Your son indicated he wasn't in school at this
2 time. What - how far did he go to school.
3 When did he drop out of school if he did?
4 A He hasn't. He's debating whether he's going back or not.
5 He's still in school. The summer program right now. He's
6 debating whether to go back to school or not. At the
7 present he's working for me and he hasn't made up his mind
8 what he wants to do. I have two that's finished school,
9 one quit, and this one's thinking about quiting. If they
10 want to quit there ain't much you can do about it I don't
11 think. I didn't finish, so I'm not going to beat his head
12 in and make him finish. I'll give him the opportunity to
13 go, pay his way wherever he wants to go to school, but I
14 can't make him. So two and two, that's not bad, I reckon.
15 He works six days a week.
16 THE COURT: All right, under the circumstances, this wit-
17 ness may step down. Any further comment before
18 we proceed further? Comment?
19 MR NANCE: No, sir, not be the Commonwealth.
20 MR. LEWANE: Not by the defense.
21 THE COURT: All right, Sheriff, I presume you wish to con-
22 tinue examining the witness.
23 MR. LEWANE: Yes, sir.
24 THE COURT: All right, have him return to the Courtroom,
25 Sheriff. All right, bring the Jury back.

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(Jury In)

The Jury's returned to the Courtroom. All participants are currently by law present. Proceed with the examination of the witness.

DIRECT EXAMINATION: Ricky Gilbert by Mr. Lewane

Q Mr. Gilbert, where are you working now?

A With my Daddy.

Q Okay. And where, what, where have you been raised? I mean, east -

A East end.

Q East end of Henrico County? All right. And where did you go to elementary school?

A Montrose and Jacob L.

Q Okay. Do you know a Cheri Jean Rice?

A Yes, sir.

Q How long have you known her?

A Two or three years, I reckon.

Q Where did you first meet her?

A School.

Q Do you know of - a lot of her friends and a lot of people who know her?

A I don't know who knows her?

Q Okay. Have you ever dated her?

A No. No, sir.

Q Have you ever been with her? Together?

COPY

1 A What do you mean by "together"?
2 Q Either you and her by yourself or you and her and other
3 people?
4 A I've talked to her.
5 Q Did you ever go in the woods behind Montrose Elementary
6 School or Junior High with her?
7 THE COURT: Date, time and place?
8 Q In the - during the summer of 1976, last year?
9 A No, sir.
10 Q In the year 1976, did you ever go in the woods behind
11 Montrose School with her?
12 A With her?
13 Q With her and/or somebody else?
14 A No, sir.
15 Q Do you -
16 THE COURT: Anything else?
17 Q Yes, sir. What you're saying is except for talking with
18 her, you have never been out with her in any way, shape,
19 or form?
20 A I never took her out on a date.
21 Q Have you been out with her, though, in her presence?
22 A In her presence?
23 Q With her?
24 A I've walked her home before.
25 Q Besides going to her home, have you ever been with her

COPY

1 anywhere else?
2 A No. We've been up school. She's been there.
3 Q All right. When she's been in school have you ever observed
4 her perform any sexual acts?
5 MR. NANCE: Your Honor, I object. What's the relevancy
6 of that question?
7 THE COURT: All right. Let him answer it. I'll deal with
8 it later. You mean you're asking a question
9 as to whether some sexual activity he observed
10 in one of our schools? Is that the question?
11 MR. LEWANE: Well, I - if she - if he had ever observed her
12 perform any sexual acts?
13 THE COURT: Well, he just said he's never been with her
14 except on - when he was at school, and then
15 doesn't know who she was with. Doesn't know
16 even who she ran around with. How can he
17 answer the question?
18 MR. NANCE: Once that he walked her home from school.
19 Q All right, the question is did you ever observe her perform
20 any sexual acts?
21 A No, sir.
22 Q No further questions.
23 THE COURT: You ready to release the witness?
24 MR. NANCE: Yes, sir. Thank you, Mr. Gilbert.
25 THE COURT: All right, you're free to leave. Thank you,

COPY

1 sir. You may leave. You have any other wit-
2 ness?
3 MR. LEWANE: I'd like to call Mr. Wayne Van Staden.
4 THE COURT: Now, these lawyers are going to ask you ques-
5 tions, and I want you to look at that Jury
6 and tell them the truth.
7 DIRECT EXAMINATION: Wayne Van Staden by Mr. Lewane
8 Q Will you please state your full name?
9 A Wayne Thomas Van Staden.
10 Q How old are you?
11 A 20 years old.
12 Q What is your date of birth?
13 A April 23, 1957.
14 Q Where are you employed?
15 A Right now I'm a member of the Army National Reserves, and
16 I'm not working anywhere.
17 Q Where do you live?
18 A I live in Gilbert Gardens.
19 Q Is that in eastern Henrico County?
20 A Yes.
21 Q Do you know Cheri Jean Rice.
22 A Yeah, I know her.
23 Q How long have you known her?
24 A Well, I don't know. It was a couple years ago I saw her,
25 you know, once or twice.

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1 Q All right, and who - when you saw her, in whose presence
2 was she in?
3 A Uh - let me see, I saw her over Carol's house a couple of
4 times with Carol and Robin and them.
5 Q Carol who?
6 A Tyree.
7 Q Okay. And Robin who?
8 A Vaughan.
9 Q Okay.
10 A And I saw her a few times with Ricky Gilbert and Butch
11 Vaughan and Michael Turner and other people.
12 Q And when you observed her with Ricky Gilbert, where did
13 you observe her?
14 A At Montrose School - elementary School. It's a playground
15 right up from our house, where we all used to hang out,
16 before we had cars and all.
17 Q And did you observe her perform any sexual acts?
18 MR. NANCE: Objection, Your Honor.
19 THE COURT: Sustained.
20 Q What did you observe when you saw her?
21 A Well, uh.
22 Q Just tell the Jury what you saw.
23 A Okay, like -
24 MR. NANCE: Your Honor, could I have date, and time, please?
25 A Date and time?

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1 THE COURT: That's right. We want the date and the time.
2 A Well, uh, it was a couple of summers ago, I don't know the
3 exact day or nothing. It was in the evening, and I saw
4 her and Ricky and uh -
5 Q State the last names when you state.
6 A Ricky Gilbert. And uh, I'd already ran into Cheri a couple
7 times previously, so I knew who she was and so I told him,
8 I said let me go get a friend of mine named Mark Maxwell,
9 who now lives in Tennessee. He moved there about a year
10 ago. And so I went -
11 THE COURT: What are we talking about now. You started
12 of saying a couple of summers ago. Now you're
13 talking about something a year ago. Let's be
14 specific on what you're talking about, please
15 sir.
16 A Yeah, I'm telling them about Mark Maxwell, who's a friend
17 of mine who has just recently moved a year ago. But he was
18 there when all this happened, and I went and got him. I
19 took him to the playground.
20 THE COURT: A couple summers ago.
21 A Where Cheri and Ricky were at. And my girlfriend went up
22 ther with us. Her name is Robin Vaughan. And another girl
23 was there. Her name was Carrie Coleman. So, we went up
24 there, right? So -
25 MR. NANCE: This two years ago?

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A Yeah. And so uh, Ricky and me and Mark and Cheri, we went to this - lot of bamboos growing up over by the school, so we went over there and I left Robin and Carrie at the steps of the school. And this was like 50 yards, maybe, away. And we was in these bamboo, and uh, Cheri was having oral sex with Mark Maxwell, right? So I was alternating between talking to Mark while this was going on, and going over and talking to my girlfriend and then coming back and all. And that's what I saw.

Q Did you see anyone else involved?

A No, I never actually saw anybody else.

Q Okay. Do you know what Cheri's reputation is in reference to her sexual conduct in the community?

MR. NANCE: Your Honor, that question's absolutely irrelevant. Absolutely irrelevant.

THE COURT: Sustained.

Q Have you ever discussed with individuals Cheri Jean Rice's sexual conduct?

MR. NANCE: Your Honor, that question is irrelevant.

MR. LEWANE: I'm just trying to lay a foundation, Judge, to -

THE COURT: Sustained.

Q No further questions.

CROSS EXAMINATION: Wayne Van Staden by Mr. Nance

Q Mr. Van Staden, when's your birthday, sir?

COPY

1 A April 23, 1957.
2 Q When you say you're in the National Guard, you're in the
3 active, the regular?
4 A I'm inactive right now. I did my basic training and -
5 Q When's the next duty - when's your next duty assignment?
6 A August 5th. August 5th.
7 Q Where do you work when you're not in the guard?
8 A I don't work anywhere.
9 Q When was the last job you had, sir?
10 A Before I went in the guard.
11 Q What month was this when you saw this alleged activity in
12 the bamboo?
13 A I don't know, it was during the summertime. That's all I
14 know.
15 Q Who was there?
16 A Who was there?
17 Q Yes, sir.
18 A In the bamboo was myself and Mark Maxwell and Ricky Gilbert
19 and Cheri.
20 Q Where is Mark?
21 A Mark lives in Tennessee now. Lebanon, Tennessee.
22 Q You know his address?
23 A Uh. No.
24 Q When did you finish school?
25 A Uh, 1975.

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1 Q Do you know what the term purjury is?
2 A Yes.
3 Q What's that mean?
4 A Lying.
5 Q Lying under oath.
6 A Under oath, yes.
7 Q All you did, you said, was observe -
8 A Uh-huh.
9 Q You did not participate?
10 A That's true.
11 Q You saw Cheri Jean Rice. Did you see that, or did you hear
12 about it?
13 A Well, I saw that. I was standing, and talking to him while
14 he was having it.
15 Q You were talking to him?
16 A Oh, yes.
17 Q While this was going on?
18 A Uh-huh.
19 THE COURT: Who was it you were talking to?
20 A Ricky and Mark.
21 Q Ricky Gilbert?
22 A And Mark Maxwell.
23 Q And the participating party was Mr. Maxwell?
24 A That's true.
25 Q Mr. Van Staden, is that the correct pronunciation?

COPY

1 A Yes, sir.
2 Q Have you ever been convicted of a felony?
3 A No, sir.
4 Q Ever been convicted of a misdemeanor -
5 A Yes, sir.
6 Q Involving moral turpitude?
7 A Involving what?
8 Q Moral turpitude. Tell those folks.
9 A What is moral turpitude, or whatever?
10 Q Lying, cheating, stealing.
11 THE COURT: Theft of any kind.
12 A Uh - no, sir.
13 Q You sure?
14 A Yes, sir.
15 Q When did you finish school?
16 A 1975.
17 Q Did you graduate?
18 A Yes, sir.
19 Q From where?
20 A Highland Springs High School.
21 Q You know Mr. Schrum?
22 A Mr. who?
23 Q Schrum.
24 A Strum?
25 Q Schrum, the defendant.

COPY

A Oh. No.
Q You know Carol Tyree?
A Oh, yes.
Q It's your girl friend, isn't it?
A No.
Q Was it at one time?
A Uh - long time ago, yeah.
Q How about Robin Vaughan?
A Oh, yeah.
Q She your girl friend?
A No.
Q She ever been?
A Oh, yes.
Q How long have you known Ricky Gilbert?
A Uh - I don't know, 5 or 6 years, I guess.
Q How old is Cheri Rice?
A Cheri Rice?
Q Yes, sir.
A I don't know. I think somebody said that she's 15 now.
Q I mean do you know? You don't know how old she is?
A No, I don't know how old she is.
Q Do you know how old she was 2 years ago?
A No.
Q You don't know Mr. Maxwell's address?
A No, I can get it, but I don't know it right off-hand.

COPY

1 Q Do you know Mr. Gilbert's, Mr. Ricky Gilbert's, reputation
2 in the community?
3 A Uh -
4 Q Not yourself, but what other people think of him?
5 A What other people think of him?
6 Q Yes, sir. And what age group are these people?
7 A What people, the people that think of him?
8 Q Yes, sir, that would know his repuration in the community.
9 A Kids about his age, I guess.
10 Q Okay, what age is that?
11 A 15, 16.
12 Q How long have you known him, again, please?
13 A How long have I known Ricky?
14 Q Yes, sir.
15 A 5 or 6 years, I don't know.
16 Q And these folks in the community that would know him. How
17 long have you known them?
18 A The people that know him?
19 Q Yes, sir.
20 A Some of them I've known since I was little, some of them
21 I haven't known but a year or two. And some of them I
22 really don't know, I just heard them talk about it, but I
23 really don't know them.
24 Q Now. These people that know Ricky Gilbert in your community,
25 Have you ever heard them discuss, not yourself, discuss

COPY

1 among them what Ricky Gilbert's, I suppose what his reputa-
2 tion is? Truth in the community?
3 A Truth?
4 Q Truth, yes, sir.
5 A What they think, what they have said about him?
6 Q No, what their opinion of his reputation for the truth.
7 A Oh, you're talking about being honest?
8 Q Yes, sir.
9 A Oh, I don't know.
10 Q You don't know? Never heard that discussed?
11 A No. I've heard him called a liar before, if that's what
12 you want to hear. I've heard lots of people called liars,
13 though.
14 Q Have you ever heard yourself called a liar?
15 A Oh, sure.
16 Q Thank you.
17 A You're welcome.
18 REDIRECT EXAMINATION: Wayne Van Stadem by Mr. Lewane
19 Q I have one question. Why didn't you participate in the
20 situation, involving Cheri Rice?
21 A At the bamboo when we was up there?
22 Q Yes.
23 A 'Cause my girl friend was there. I don't think she would
24 have liked it.
25 Q Who was your girl friend?

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A Robin Vaughan.

Q At the time. Okay. No further questions.

THE COURT: Do I understand that this incident you referred to as 2 or 3 years ago, that you drove to the area of the Montrose Elementary School with your girl, Robin?

A Yes, sir.

THE COURT: And then you see what you told this Jury about, Cheri performing some sort of act with Ricky and this Mark Maxwell that's now in Tennessee, or something?

A Yes.

THE COURT: Your girl friend was along?

A Yes. She wasn't right there, she was off a ways.

THE COURT: And you didn't do anything about it?

A About what?

THE COURT: Well, did you report it to any police authorities, or did you report it to anyone?

A No.

THE COURT: You didn't? That's all.

MR. NANCE: May I ask some more questions, Your Honor?

THE COURT: Yes, you may.

<u>RECROSS EXAMINATION: Wayne Van Staden by Mr. Nance</u>

Q Did you enjoy what you saw?

A Did I enjoy what I saw?

COPY

1 Q Yes, sir.
2 A I don't know. It was funny.
3 Q It was funny?
4 A Uh-huh.
5 Q Is this Courtroom funny today?
6 A Is this Courtroom funny?
7 Q Yes, sir.
8 A No, I don't guess it is.
9 Q Are a lot of things funny to you?
10 A To me?
11 Q Yes, sir.
12 A I guess I have a pretty fair sense of humor, yes.
13 Q Why are you smiling now?
14 A Why? Why not.
15 Q I just wondered. This man could go to the penitentiary
16 for life. Sir? Tell these folks.
17 A Tell them what?
18 Q Thank you.
19 THE COURT: All right. I assume counsel will want him
20 excused permanently.
21 MR. LEWANE: All right, sir.
22 THE COURT: All right, you may leave the Courthouse. Don't
23 talk to anyone on the way out, about any
24 questions you were asked and any answers you
25 were given. See that he leaves the Courtroom

COPY

1 permanently, Sheriff.

2 MR. LEWANE: Your Honor, I'd like to speak to - call

3 Mr. Butch Vaughan.

4 DIRECT EXAMINATION: Mr. Butch Vaughan by Mr. Lewane

5 Q Would you please state your full name and face the Jury,

6 please?

7 A Odel Glen Vaughan, Jr.

8 Q Speak louder.

9 A Odel Glen Vaughan, Jr.

10 Q And how old are you?

11 A 17.

12 Q What is your date of birth?

13 A July 14, 1960.

14 Q Please speak louder so the last person -

15 A July 14, 1960.

16 Q Do you go to school or do you work?

17 A I work right now, at a Crown station.

18 Q What is the name of your sister?

19 A Robin Vaughan.

20 Q Do you know Ricky Gilbert?

21 A Yes, I do.

22 Q Do you know Wayne Van Staden?

23 A Yes, I do.

24 Q Do you know Cheri Jean Rice?

25 A Yes, I do.

COPY

1 Q Do you know Carol Tyree?
2 A Yes, I do.
3 Q How long have you known Cheri Jean Rice?
4 A About 3 years.
5 Q Where did you meet her?
6 A First time at school.
7 Q Where - what school are you referring to?
8 A Fairfield.
9 Q And when you met her there, in whose presence was she?
10 A What do you mean by that?
11 Q Who was she with when you first met Cheri Jean Rice?
12 A She was just at school. You know, in the classroom.
13 Q Have you ever been out with Cheri Jean Rice?
14 A No. You know, you could say that.
15 THE COURT: I can't hear you. Speak up clearly.
16 A Yes.
17 Q And how frequently have you ever - have you gone out with
18 Cheri Jean Rice?
19 A I really never went out with her, I seen her up at the
20 playground a lot, that's where we all hung out.
21 Q And what playground are you referring to?
22 A Montrose Elementary.
23 Q Have you ever seen Cheri Jean Rice at - when was the last
24 time you saw Cheri Jean Rice at Montrose Playground?
25 A About 2 years ago.

COPY

1 Q About how long?
2 A It was sometime, almost 2 years ago, I imagine.
3 Q Have you ever seen Cheri Jean Rice perform any sexual acts?
4 A With who?
5 Q With -
6 THE COURT: Just a minute. You don't suggest the answer
7 when you direct examine the witness. Just
8 ask these questions properly. What, if any-
9 thing did you ever see Cheri Jean Rice do with
10 anyone, that may be related to any kind of
11 sexual activity. Look at that Jury and tell
12 them.
13 A I don't understand the question.
14 THE COURT: I didn't think you did. The question is that
15 the lawyer was propounding to you is what
16 sexual activity, if any, you ever saw Cheri
17 Jean Rice and any other person engage in at
18 some vague time you're talking about 2 years
19 ago?
20 A Yes, she was with me before.
21 THE COURT: She was with you?
22 A Yes, sir.
23 THE COURT: But you just told us the last time you saw her
24 was two years ago at the elementary school.
25 What is correct?

COPY

A I seen her -

THE COURT: What is correct?

A I don't know the - I don't know what you're talking about. I don't understand the question.

THE COURT: All right. Anybody else want to ask him a question?

MR. LEWANE: I do, sir.

THE COURT: Go right ahead.

Q Where was the last time you were with Cheri Jean Rice?

A Where were you?

A Montrose Elementary.

Q And when was this?

A About 2 years ago, 2 summers ago.

Q Did you have any - perform any sexual acts with her at that time?

A Yes.

Q What did you do? State it.

A We had entercourse.

THE COURT: Just - huh? Just one minute. I think it's incumbent upon counsel first, and then of the Court, which counsel didn't do, to apprise this witness of the problem. Mr. Butch Vaughan, or whatever your name is, did you consult with any lawyer before you came in today?

A No, sir, I didn't.

COPY

1 THE COURT: You did not. Have you ever been told anything
2 about your Fifth Amendment Rights?
3 A Not really. No.
4 THE COURT: You don't know what they are, then? All right,
5 do you know that under the Fifth Amendment
6 Rights you do not - of the Constitution of
7 the United States, you don't have to answer
8 any questions that would partially involve
9 you in a crime. And if you answer any questions
10 under oath in which you admit any crime, the
11 Commonwealth's Attorney can prosecute you for
12 it and bring a warrant against you for such
13 crime. Were you aware of the fact before you
14 were called here by counsel that if you went
15 on this stand and admitted some lawful act in
16 answering any question, that you could be
17 proceeded against by the Commonwealth Attorney
18 on the appropriate warrant and be prosecuted
19 and punished for such crime?
20 A No, sir, I didn't.
21 THE COURT: All right. Then under those circumstances, if
22 this is likely, do you understand you don't
23 have to answer the question or testify at all.
24 Were you told that?
25 A No, sir.

COPY

1 THE COURT: Then, at your age you, do you think it's ad-
2 visable for you to answer some question that
3 might expose you to some possible prosecution
4 for crime?
5 A (Unintel.)
6 THE COURT: You do not?
7 A No.
8 THE COURT: Okay, then you do not have to answer any fur-
9 ther questions, concerning any sexual actifity.
10 MR. LEWANE: Judge, I would ask the Court that he - I
11 believe his age at the time in quesiton was 15.
12 I think he ought to be apprised of the fact
13 what type of offenses, I mean if he's only 15
14 years old at the time I think it's an entirely
15 different situation.
16 THE COURT: There's no difference if anybody 14 up commit-
17 ting any sort of crime, Mr. Lewane, for crying
18 out loud. It's just a question of where they
19 might often would be prosecuted. There's no
20 basis for this. This witness is excused. He
21 says he does not want to testify, and there-
22 fore he may step down and I don't want any
23 other witness called in this case when we get
24 to any type situation unless he's been fairly
25 apprised of his Fifth Amendment Rights.

COPY

1 MR. LEWANE: I'd like to call Robin Vaughan.

2 DIRECT EXAMINATION: Robin Vaughan by Mr. Lewane

3 Q Would you please state your full name?

4 A Robin Lynn Vaughan.

5 Q How old are you?

6 A 18.

7 Q What is your date of birth?

8 A November 21, '58.

9 Q Speak louder, please.

10 A November 24, '58.

11 Q Okay. Do you know Wayne Van Staden?

12 A Yes.

13 Q Do you know Butch Vaughan?

14 A He's my brother.

15 Q Okay. Do you know Ricky Gilbert?

16 A Yes.

17 Q Do you know Cheri Jean Rice?

18 A Yes.

19 THE COURT: I don't recall any answer audible enough to

20 be picked up by the machine. Did you answer

21 this or simply shake your head?

22 A Yes.

23 THE COURT: I'd like an audible answer, please, so that

24 your answer can be heard and recorded.

25 Q Two summers ago, were you at Montrose School Playground

COPY

1 with Butch Vaughan, Ricky Gilbert, Wayne Van Staden and
2 Cheri Jean Rice?
3 A Yes, sir. I wasn't with Cheri or - I come up there with
4 Wayne and Mark.
5 Q Okay. Could you face the Jury and tell the Jury what you -
6 not what someone told you, but what you saw, what occurred
7 there.
8 A Okay. Me and Mark and Wayne went over there.
9 Q Speak - mention last names.
10 A Me and Wayne Van Staden and Mark Maxwell went up to the
11 school and Cheri and Ricky was in the woods in the bamboos,
12 and uh, Wayne went back there with Mark, and they, you
13 know, it's like, you couldn't see what was happening, but
14 you knew what was going on. And he kept coming out and
15 laughing and talking about what was going on back there,
16 and then he went back and then Mark and Ricky and Cheri,
17 all of them came out and they came over to where we was at,
18 you know, and just told Cheri to leave because I didn't
19 want to be seen with her, I didn't want her around me any-
20 where. And she wouldn't leave, so I told her, you know, I
21 warned her she better leave and when I stood up Ricky goes,
22 "You better get out of here," so she just walked on.
23 MR. NANCE: Objection, Your Honor, that's hearsay.
24 Q Just say, not what someone told you, what you did and what
25 you saw.

COPY

1 A Okay. And then, so she just left.
2 THE COURT: What?
3 A She left. She walked away. And they was like standing
4 around talking about what was going on and laughing at her
5 and - in front of her face, but she was just a little ways
6 away. 'Cause she knew what was going on.
7 Q I have no further questions.
8 CROSS EXAMINATION: Robin Vaughan by Mr. Nance
9 Q Mrs. Vaughan - Miss Vaughan.
10 A Miss.
11 Q Miss Vaughan, how old are you, M'am?
12 A 18.
13 Q Where do you work?
14 A Ramada Inn.
15 Q What do you do there?
16 A Cocktail waitress.
17 Q How long have you been employed there, Miss Vaughan?
18 A Maybe a month. I worked at Holliday Inn as a daytime
19 waitress.
20 Q Is that just summer employment, Miss Vaughan?
21 A No.
22 Q Are you out of school now? When did you finish?
23 A I haven't finished yet.
24 Q You have not finished?
25 A No.

COPY

1 Q What grade are you in?
2 A I dropped out in the 11th grade.
3 Q You say you haven't finished. Are you going back to school?
4 A I don't know. I thought about it, but I'm not sure.
5 Q Miss Vaughan, you did not see what occurred?
6 A No, I wasn't actually standing and watching her, but -
7 Q Okay. Miss Vaughan, what allegedly occurred over there
8 at Montrose, is that right?
9 A (Unintel.)
10 Q Miss Vaughan, do you know Wayne Van Staden?
11 A Yes, sir.
12 Q How long have you known him, tell these folks.
13 A I've known him since 6th grade, 7th grade, something like
14 that. He's lived in my neighborhood all my life.
15 Q It's safe to say you all sort of grew up together. Is that
16 right?
17 A Yeah.
18 Q Was he ever your boy friend?
19 A He seems to like to think so, but we mostly just hung
20 around together.
21 Q Did you ever consider him your boy friend?
22 A I don't know. Yeah, I guess. We was like, in my neighbor-
23 hood it was never really girls my age except 3, and one of
24 them was - all of them were madly in love and two of them
25 was getting married, and there was nobody to really hang

COPY

1 around with except - no girls, so I was like one of the
2 boys.
3 Q So you grew up with Wayne Van Staden. Did you grow up
4 with most of the kids in the community there? At least
5 Van Staden?
6 A (Unintel.)
7 Q Do you know, or have you ever heard discussed, not what
8 they said, but discussed Wayne Van Staden's reputation
9 in the community?
10 A Discussed? I don't understand it.
11 Q You ever heard comments in the community from your associ-
12 ates and Wayne Van Staden.
13 A My Mama don't like him.
14 Q I know that. But how about your own associates?
15 A Not really. No. I mean, not as far as people putting him
16 down and talking about him, that sort of thing.
17 Q Do you know what his reputation is in the community, not
18 what you know?
19 THE COURT: I thought she said that she never heard the
20 reputation discussed. How could she possibly
21 know? Yes, M'am.
22 JUROR: I'm sorry, Judge, but I cannot hear what she
23 says.
24 THE COURT: Yes, M'am. I understand.
25 Q Miss Vaughan, in particular, in regard to Mr. Van Staden's

COPY

1 reputation for truth and veracity -
2 THE COURT: Excuse me, counsel. I understood the witness
3 to say she's never heard it discussed.in the
4 community, so that's the basic for the question.
5 MR. NANCE: Well, Your Honor, I asked her his reputation
6 and I want to refine that and I think perhaps
7 the witness misunderstood what I was driving
8 at.
9 THE COURT: Let's clarify it with the witness, and you
10 speak up, please, so the lady on the back row
11 can hear. We don't want whispering in here.
12 Q Miss Vaughan, did you have an occasion to hear
13 Mr. Van Staden's reputation in the community for truth and
14 veracity?
15 A Have I ever heard anybody call him a liar?
16 Q Yes, M'am.
17 A Not that I can remember. I've heard him, you know, tell
18 those white lies off the wall stuff, like everybody does,
19 you know, but not nothing serious. No.
20 Q Do you remember having a discussion with me a few days ago?
21 A Yeah, that's exactly what I told you a few days ago, what
22 I told you just now.
23 Q Do you remember having a discussion with me about what
24 Mr. Van Staden had said in regards to some things he had
25 done?

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1 A No.
2 Q You don't remember that?
3 A Would you repeat that?
4 Q You don't remember several days ago when I talked to you,
5 you remember that, do you not?
6 A Yeah.
7 Q I had a discussion with you -
8 A Just last night - night before last?
9 Q Yes. Your employer was whom?
10 A Mr. Jamison.
11 Q And I discussed with Mr. Jamison the opportunity to talk
12 with you. I just had a discussion with you about Wayne
13 Van Staden, how long you had known him, and do you remember
14 telling me that he had considered himself your boy friend
15 at the time. Do you remember telling me that he had at
16 times made untruths about you and things he had done with
17 you?
18 A No, I don't remember saying that.
19 Q You don't remember telling me that?
20 MR. LEWANE: Your Honor, I object. I think the Assistant
21 Commonwealth is testifying. I mean -
22 THE COURT: Well, I think he's laying the basis for
23 impeachment, but why should his - does he have
24 an impeaching witness. Otherwise, he can't
25 pursue it.

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1 Q You don't remember telling me that?
2 A No.
3 Q That Mr. Van Staden had lied about you?
4 A No, I don't remember.
5 Q On occasion.
6 A No.
7 Q About his activities.
8 A No.
9 Q Thank you.
10 THE COURT: Do you have any redirect?
11 MR. LEWANE: No, sir.
12 THE COURT: All right. What is the relationship you might
13 have to Carol Tyree?
14 A My relationship with Carol Tyree?
15 THE COURT: Yes.
16 A We've been best friends since second grade. You know, we -
17 THE COURT: Now, what is the relationship -
18 A Off and on best friends, you know, like right now I haven't
19 seen her in a while since the first time we was in Court,
20 because she moved into an apartment with her sister in
21 Highland Springs, and me and her sister don't get along.
22 THE COURT: Yeah, but you've all been best friends since
23 the second grade, right?
24 A Uh-huh.
25 THE COURT: What relationship is Carol Tyree to the

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1 defendant, Mr. Schrum?
2 A His neice.
3 THE COURT: That's his neice. Are you related in any way
4 to Mr. Schrum or any of his family?
5 A No, sir.
6 THE COURT: Now. I don't want you to mention particular
7 thing, act or anything by the term or name of
8 it - if you don't understand this question I
9 want to ask you, but assuming that occurrence
10 that occurred two summers ago, which you and
11 Van Staden and Ricky and this Mark Maxwell,
12 or whatever his name was, over at the elemen-
13 tary school, assuming that there was something
14 was - don't tell me what it was, but was any-
15 thing unlawful intimated that occurred - don't
16 tell me what it was, but was something unlaw-
17 ful intimated? Yes or no? Huh?
18 A Yes, sir.
19 THE COURT: So you heard what the accusations were, is
20 that it?
21 A Yes, sir.
22 THE COURT: But you didn't see a thing yourself?
23 A No.
24 THE COURT: Did you report this to anyone?
25 A No.

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1 THE COURT: All right. That's all. Counsel want the wit-
2 ness excused?
3 MR. LEWANE: Yes, sir.
4 THE COURT: All right, you may step down. You're free to
5 leave. See that she's escorted out, please.
6 MR. LEWANE: Call Bonnie Schrum.
7 THE COURT: Please face the Jury.
8 DIRECT EXAMINATION: Bonnie Schrum by Mr. Lewane
9 Q Would you please state your full name?
10 A Bonnie May Schrum.
11 Q What is your date of birth?
12 A October 21, 1947.
13 Q What is the name of your husband?
14 A Lewis Schrum.
15 Q Where do you live?
16 A Route 14, Box 218, Richmond, Va.
17 Q Okay. Is - what type of home do you - are you buying a
18 home or are you renting?
19 A We're buying.
20 Q How long have you been married?
21 A Eight years.
22 Q How many children do you have?
23 A Four.
24 Q How many children do you have by your present husband?
25 A Two girls.

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1 Q Would you please state their names and ages?
2 A I have a girl, Shiela Elizabeth Schrum, she's 7, and one,
3 Bonnie Gayle Schrum, she'll be 2 in September.
4 Q And by your previous marriage how many children do you
5 have?
6 A Two boys.
7 Q And will you state their names and ages?
8 A Robert Thomas Mangum, he's 11. Anthony Wayne Mangum, he's
9 10.
10 Q Do you know Cheri - on August 21, 1976, did you have a
11 babysitter?
12 A Yes, I did.
13 Q What was the name of the babysitter?
14 A Cheri Rice.
15 Q How did you obtain Cheri Rice as a babysitter?
16 A My neice was suppose to babysit for me that night. At the
17 last minute she called it off because her boy friend called
18 her and they wanted to go out.
19 Q What was the name of your neice?
20 A Gayle - Patricia Gayle Tyree.
21 Q Okay.
22 A And she said that she would get her girl friend - one of
23 the girl friends in the neighborhood to fill in for me,
24 'cause it was at the last minute, she let me know that she
25 couldn't do it. And so I wouldn't have to change plans

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1 she said, "Well, I'll get one of my girl friends in the
2 neighborhood to take my place." So she called me back and
3 she told me that Cheri, a friend of hers that lived right
4 behind my mother's and all, would do it for her and for me.
5 Q Had you ever met Cheri prior to the time that she babysat
6 for you?
7 A Yes, I had.
8 Q What were the circumstances?
9 A First time I met her was at my sister's house. She used
10 to come around and visit my neice.
11 Q What is the name of your neice?
12 A This was Carol Tyree. Her and Cheri went to school together.
13 And they hung around the neighborhood together, the way I
14 understand. And second time I met her was at my Mother's
15 house. She had spent the night there, visiting with Carol
16 Lynn. Carol had spent the night at my Mother's.
17 Q Now. On the night in question, could you tell the Jury, and
18 speak loud, how Cheri got to your house and what occurred.
19 A Right. After I talked to my neice, Gayle, she told me that
20 I could pick Cheri up at her house, that she would babysit
21 for me, but I would have to go get her, and I said, "Well,
22 that would be fine." She said I had to pick her up by
23 5:30 because she was suppose -
24 MR. NANCE: Your Honor, this lady is going into a lot of
25 hearsay, we're just wasting time. If we can

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1 get right down to what occurred, that'll be
2 fine.
3 THE COURT: We're not interested in who told you what, and
4 what you were told and when you were told to
5 pick up, we want to know what you saw or did,
6 alone. Not what as far as - from the time
7 you picked up Cheri. Let's take it from there,
8 please.
9 A Okay. I picked Cheri up around 6:00, a little before or
10 a little after. I carried her home, to my home. My
11 husband and some friends of ours were in the yard with him.
12 I went in, I told her, I said, "Still ham there, beans
13 that I'd cooked, corn bread," I said, "Help yourself, eat
14 whatever you want, just clean up your mess." I says, "And
15 I want you to meet my husband." You know, "He'll be going
16 out, you know, after I go out." So introduced her to my
17 husband and I introduced her to my husband and my aunt that
18 lives with us, and then I gave her the details what I wanted
19 done, you know, far as the children were - they were allowed
20 to doing this and that. And I got dressed and that's when
21 I left.
22 Q Where did you go?
23 A Well, I went first - the painter that come with my husband
24 home - my husband said, well, since his other friend had
25 came by and was talking to him, he asked me if I would give

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1 him a ride home, and I said, "Sure." I gave him a ride
2 home first, then I seen a good friend of mine and I stopped.
3 Her husband and her were celebrating their anniversary. I
4 stopped and I talked to them for a while, and then I was
5 suppose to go with - meet my Mother-in-law, we were going
6 to a dance. And by the time I finished talking to them and
7 all, I knew I'd missed her, 'cause we were suppose to meet,
8 'cause I didn't know how to get there. So that's when I
9 decided to go back down, you know, my way, see if I could
10 get in touch with my husband and get him to come on over
11 and celebrate with the other couple.
12 Q Did you have an argument that night with your husband?
13 A Yes, I did.
14 Q What was the nature of the argument?
15 A He had worked that Saturday and they'd come home. Well,
16 he was suppose to work that Sunday also. Well, I hadn't
17 been out nowhere in about six months and I wanted him to
18 come go with me over to our friends and help them celebrate
19 their anniversary. He said no, because he was coming home
20 early, because he knew he had to work that day to finish
21 his job up. I said, "Well, you worked Saturday, do you
22 have to work Sunday, too. Let's go once in six months and
23 have a good time." He said, "No, I told you I had to
24 finish that job." So I got mad at him.
25 Q What time - where did you spend that night?

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A Well, after I left - I mean, after I talked -

Q Face the Jury. Speak loud, please.

A Where do you want me to begin?

THE COURT: He just asked you where did you spend the night. Didn't ask you to begin any other place.

A I spent the night at my house.

Q What time did you get home?

A I'd say it was around 2:30 in the morning.

Q And did you take Cheri Jean Rice home?

A The next morning.

Q And what did she say to you, and how long did it take for you to drive her home?

A Well, I came home and that morning, I'd say around 8:00, 8:30, my Mother called me and they were going to Charlottesville to the mountains. Well I was still mad at him for not going with me over to our friend's house, so I was puffy and spoiled (?), I decided to take the children, I'd go ahead. So I went in there, I got the baby out the bed, the baby was in the bed with my husband, where she's always slept with us ever since she was born, picked her up and changed her diaper, and got us some clothes, and went and I woke my children up and I called Cheri and she didn't hear me, so I went over there and I shook her. I said, "Cheri, get up, Honey, I'm going to the mountains

COPY

1 and I'm going to have to carry you home now." She got up,
2 she went into the bathroom, put her clothes on. She had
3 her nightgown on or whatever, and we come back out and I
4 was getting the bathing suits and stuff together. You know,
5 I knew we were going swimming, and I went over and first I
6 stopped at the 7-Eleven, because I had to get some change
7 to pay her. We talked. I asked her were the children
8 good. She said, "Yes, considering there was four and she
9 hadn't watched that many at one time," or something of that
10 sort. And that they were pretty good. And she told me
11 that she didn't do much of nothing, that she would babysit
12 for me anytime I needed her, all I had to do was call her.
13 And she turned around and was talking to the children, she
14 gave my little girl a make-up kit to play with, some little
15 make-up bag, and told me she could keep that, and I stopped
16 at 7-Eleven and she took a $20 bill I give her and she went
17 into the 7-Eleven and brought me some change. I paid her,
18 carried her to her house, which is about three blocks from
19 my Mother's, and she thanked me, told me I could call her
20 if I needed her and I thanked her, and that was it. I
21 went to my Mother's and we went to the mountains.
22 Q Was anyone else in the home that evening, besides the four
23 children and the babysitter?
24 A Yes.
25 Q Who?

COPY

A My husband's aunt. Betsy L. Watson, who is now deceased. She lived with us.

Q And where was her bedroom?

A Next to mine.

Q And how was her hearing?

A Betsy could hear me talking if I was outside. If she wanted to hear you she could hear you, anything she wanted to hear she heard. She was in good health. The only thing was wrong with Betsy, and I took care of her for three years, so I feel like I should know, I carried her to the doctors and wherever she needed to go, she was in good health, she had asthma. She couldn't sleep good at night, or when it got hot, you know.

MR. NANCE: Objection, Your Honor. I think the doctor would be more qualified to testify as to Miss Betsy Watson's medical condition. In fact, he would be the only one to qualify.

THE COURT: All right. Sustained.

Q When did Betsy die?

A She died 22nd of February.

Q What year?

A This year.

Q Answer this gentleman's questions.

CROSS EXAMINATION: Bonnie Schrum by Mr. Nance

Q Mrs. Schrum, have you ever been convicted of a felony?

COPY

1 A Yes, sir.
2 Q You ever been convicted of a misdemeanor involving moral
3 turpitude, lying, cheating, and stealing?
4 A No.
5 Q What time did you get home that evening, again.
6 A After I'd went out, you're talking about.
7 Q Yes, M'am.
8 A Approximately 2:00, 2:30, somewhere in between there.
9 Q What was the man's man that you gave a ride to?
10 A Skeeter Godsey.
11 Q Skeeter Godsey?
12 A Yes, sir.
13 Q Did you have an occasion to call home and talk to your
14 husband any that night?
15 A Yes, sir, I did.
16 Q Does your husband drink?
17 A Didn't sound like he was drinking, to me.
18 Q Does he drink, M'am? Does he drink?
19 A Occasionally.
20 Q Do you know if he was drinking that night?
21 A I really don't know.
22 Q What does he drink?
23 A Pardon?
24 Q What does he drink? Any alcoholic beverages?
25 A When he drinks he'll drink a beer once in a while on a

COPY

1 Saturday. He's not a heavy drinker at all.
2 Q Was he drinking that evening, or do you know, prior to your
3 leaving?
4 A He wasn't drinking when I was at home.
5 Q You left to go one place, he left to go another?
6 A Yes.
7 Q Even though he said he had to work the next day?
8 A He was going - you misunderstood me.
9 Q No, M'am, I understood you.
10 A Or maybe I just said it wrong. He was going out with a
11 good friend of his that doesn't come to Richmond often,
12 but he said he wanted to be back early because he had to
13 work the next day. Where I was going, would come back
14 later. And that's why he wouldn't -
15 Q You said when you were out?
16 A Pardon?
17 Q Did you see your husband when you were out?
18 A No.
19 Q Never saw him?
20 A No.
21 Q Never saw him in a tavern?
22 A No.
23 Q Why didn't Betsy babysit if she was okay?
24 A Because Betsy was 80 years old. I had a baby a year, little
25 over a year old at that time, say 16 months, and I didn't

COPY

1 feel like she was, should be picking her up and have to
2 change her diaper, and a baby spoiled as mine was, and
3 you know, just running behind her every five minutes.
4 Q Careful about that baby?
5 A Pardon?
6 Q Are you particular about that baby?
7 A I'm particular about all my children.
8 Q So you get a babysitter for the first time you've been out
9 in six months, that you've never seen in your life.
10 A I had seen her before. And I had talked to her, and I had
11 give her a ride and she spent the night at my Mother's on
12 several occasions.
13 Q But she'd never babysat before for you?
14 A No me, no.
15 Q Did you intend to go out and spend all evening out?
16 A Not all evening, no.
17 Q Did you intend to stay out until 2:30?
18 A No.
19 Q You sure you didn't get back after 2:30?
20 A Pardon?
21 Q You sure you didn't get back after 2:30?
22 A Positive.
23 Q You and Mr. Schrum living together now?
24 A Yes, sir.
25 Q Been living together since this incident occurred?

COPY

1 A Yes.
2 Q Are you aware of the potential penalty if he's convicted of
3 this offense?
4 A Yes.
5 Q You said your husband only drinks how much beer? Occasion-
6 ally
7 A He drinks, usually if he drinks any, he'll drink on Satur-
8 days. He doesn't drink during the week. I work. He comes
9 home from work. He picks the children up. He cooks their
10 supper. He makes sure they get their bath and get them in
11 the bed. So he doesn't drink and do this, too.
12 Q Would you say he wasn't a heavy drinker?
13 A No.
14 Q What is a heavy drinker?
15 A He doesn't get drunk, or he doesn't know what he's doing or
16 nothing. He's the type he'll go sit around, he can set in
17 the yard, drink one or two beers, relax, the normal type
18 person I would call it.
19 Q That about all the beer he drinks, one or two?
20 A It depends on the occasion and where he's at and who's
21 driving.
22 Q How about this old buddy he went out with? Do you know
23 where they went?
24 A He's not a old buddy, he's a gentleman, a very nice person.
25 And he doesn't drink that, I mean, you know.

COPY

1 Q How about this gentleman he went out with. Do you know
2 where they went?
3 A No, I don't.
4 Q What's that gentleman's name?
5 A His name's Mr. Davis.
6 Q You know what his full name is?
7 A Jim Davis.
8 Q Did you know him as a friend, too?
9 A I've known him for years, since Lewis and I were dating.
10 Q But was he your friend?
11 A He'd become a good friend of mine and my children through-
12 out the years.
13 Q Had it been that long since you had seen him yourself?
14 A No. We don't see him that often. He comes in, and when
15 he comes in he comes by and see how we're doing, or either
16 he'll call.
17 Q So, Mr. Schrum was going out with that gentleman friend and
18 you were going to the anniversary party.
19 A No, I was going with my Mother-in-law to a dance, but after
20 I stopped and talked to my girl friend and her husband it
21 was too late for me to go and meet my Mother-in-law. So
22 that's when I decided well I'd go, you know, get him, see
23 if he'd go back with us and help her celebrate her annivers-
24 ary. When he said no, he was going to stay home, 'cause
25 he had to get out and finish his job the next day. That's

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1 when I got mad, had already ordered a pizza. I decided to
2 go to my Mother's, 'cause my cousin I hadn't seen in ten
3 years had come in.
4 Q Where did you sleep when you got home?
5 A Pardon?
6 Q Where did you sleep when you got home?
7 A When I come home the door was open and the screen door was
8 unlocked. I walked in, I do as I normally do, I cut the
9 light on, I checked on the children, I looked in on the
10 baby, then I looked in, made sure Betsy was all right,
11 which I couldn't say what she said, but I gave her some
12 caugh medicine 'cause of this coughing attack, and every
13 time she hears something she'll wake up and want water or
14 whatever. I gave her some cough medicine and went into the
15 kitchen myself, sit down and lit a cigarette, which I still,
16 I felt bad, I don't know the word to use, I just felt bad
17 because my night had been ruined, you know, I wanted to be
18 with him, I wanted our friends to be together.
19 THE COURT: Could you restate the question? It hasn't
20 been answered yet? Would you listen to the
21 question, please, and answer it?
22 Q Where did you sleep, Mrs. Schrum, that night, when you got
23 home?
24 A I'm getting to that.
25 Q No, just one simple answer.

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A Just one simple answer. All right.
Q Where, what room?
A My front room.
Q And what did - did you sleep on anything?
A I laid on the couch.
Q What time did you go to bed?
A Well, it was - it had to be between 2:30 and 3:00.
Q Thank you.
THE COURT: Does that complete your questioning?
MR. NANCE: Yes, sir.
THE COURT: Any redirect?
MR. LEWANE: No further questions.
THE COURT: All right, you may - you wish her excused permanently, or just partially? All right, you wait outside, please. Don't discuss - just a minute. Don't discuss with the other witnesses the questions you were asked or answers you gave while you were in here, please. Members of the Jury, we'll take a recess. We'll resume again in about 8 or 10 minutes. By 4:25 you'll -

(Recess)

All right, Court notes for the record the same presences as heretofore. This is the Commonwealth Attorney, defense counsel, defendant,

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1 and all twelve jurors. Next witness.

2 MR. LEWANE: I'd like to call Mr. Godsey.

3 DIRECT EXAMINATION: Mr. Ernest L. Godsey by Mr. Lewane

4 Q Would you please state your name?

5 A Ernest Linwood Godsey.

6 Q And how old are you?

7 A 48.

8 Q Do you know Mr. Schrum?

9 A Yes, I do.

10 Q And what capacity do you know him?

11 A We work together as painters.

12 Q On August 21, 1976 were you at his home?

13 A Yes, I was.

14 Q Who gave you a ride home?

15 A Mr. Schrum.

16 Q About what time was that?

17 A About 5:30, something like that.

18 Q Were you at his home when Mrs. Schrum arrived?

19 A Was I at his home?

20 Q When she arrived?

21 A Yes, sir.

22 Q And what were you all - where were you and what were you

23 doing?

24 A Well, I went home to eat supper with him, then we set in

25 the backyard, and we were talking. And he had the pigeons

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1 out there flying the pigeons.
2 Q And then Mrs. Schrum gave you a ride home.
3 A Mrs. Schrum did.
4 Q Right. And what was the - was there any animosity, any
5 argument at the time that Mrs. Schrum gave you a ride home?
6 With Mr. Schrum? That you could see?
7 A No, sir, there wasn't.
8 Q No further questions.
9 CROSS EXAMINATION: Ernest L. Godsey by Mr. Nance.
10 Q Mr. Godsey, it's safe to say you are Skeeter, is that
11 right, sir?
12 A That's my nickname.
13 Q How long have you known Mr. Schrum?
14 A About 12 years.
15 Q Are good friends of his?
16 A Ye -
17 Q Casual acquaintances? Have you been working with him for
18 those twelve years?
19 A Not the whole twelve, no.
20 Q Mr. Godsey, have you ever been convicted of a felony?
21 A Yes.
22 Q And how about a misdemeanor involving moral turpitude, by
23 that I mean lying cheating or stealing?
24 A Oh, no.
25 Q Mr. Godsey, are you familiar at all with Mr. Schrum's

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1 drinking habits? By drinking I mean whiskey, beer, alco-
2 holic beverages.
3 A Oh, no, sir.
4 Q Not at all familiar with his habits?
5 A None of his habits, no, sir.
6 Q Have you ever seen him drinking alcoholic beverages?
7 A I might have seen him drink a beer or two, or something
8 like that.
9 Q That's all I have. Thank you, sir.
10 REDIRECT EXAMINATION: Ernest Godsey by Mr. Lewane
11 Q I have one question. How long ago were you convicted of a
12 felony?
13 A I guess it's about, maybe '52.
14 Q No further questions.
15 THE COURT: All right, I assume this man can be excused.
16 MR. LEWANE: Yes, sir.
17 MR. NANCE: Yes, sir.
18 THE COURT: All right, you are permanently excused. You
19 may leave the Courthouse.
20 MR. LEWANE: I'd like to call Mr. Schrum.
21 DIRECT EXAMINATION: Lewis A. Schrum by Mr. Lewane
22 (The defendant, having been duly
23 sworn, testified as follows:)
24 Q Would you state your full name?
25 A Lewis A. Schrum, Jr.

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1 Q How old are you?
2 A 32.
3 Q What is the name of your wife?
4 A Bonnie M. Schrum.
5 Q How long have you been married?
6 A 8 years, almost 9.
7 Q How many children do you have?
8 A Have 2 daughters mine and 2 stepsons mine.
9 Q What do you do for a living?
10 A I work for myself and when I don't have no work I work for
11 another man.
12 Q How long have you been working for yourself?
13 A Off and on for 3 years, 3-1/2 years.
14 Q And prior to that, where did you work?
15 A Lewis E. Frederick's.
16 Q And how long did you work for him?
17 A Off and on for five years.
18 Q On the evening of August 21, 1976, what time did you get
19 home?
20 A You talking about from work?
21 Q No. Well, from work. Start there.
22 A It was around 5:00, 5:30, something like that.
23 Q And did you go out later that evening?
24 A Yes, I went out with a friend of mine, Mr. Davis, he owns
25 a oyster business in Tappahannock, Virginia. He comes

1 around once, twice a year to visit me, he does.
2 Q Where did you go?
3 A We went to the steak house on West Street.
4 Q Did you drink anything?
5 A Yes, sir, we did.
6 Q How much did you drink?
7 A We drank five beers apiece.
8 Q How do you know you drank five beers?
9 A 'Cause he has a long ways to travel back at home, and he
10 won't go back drinking.
11 Q What time did - when you left there, where did you go?
12 A Straight to my home.
13 Q And what time did you get home?
14 A Between 11:00 and 11:30.
15 Q And who was there when you got home?
16 A My Aunt and my four kids and Miss Cheri Rice.
17 Q And what did you do when you got home?
18 A Sit around and fixed my Aunt a cup of coffee and talked to
19 her a few minutes, and then my wife called me.
20 Q What about the children?
21 A The children were watching television.
22 Q Who put them to bed?
23 A I did. They was watching television in my bedroom.
24 Q And what time did your Aunt go to bed? Approximately?
25 A I guess around quarter to twelve, something like that,

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1 might have been. Not dead on the time.
2 Q All right. And what time did you go to bed?
3 A 'Bout quarter after twelve.
4 Q Did Cheri Jean Rice come into your bedroom?
5 A Yes, sir, she come by and asked me could she have a couple
6 of cigarettes, 'cause she run out of cigarettes.
7 Q And did you have a conversation with her?
8 A Yes, I did.
9 Q And what did that conversation consist of?
10 A She asked me when was Carol going to come back, she thought
11 she was over in Japan with her Momma, but I told her she
12 won't, I thought she was living up in Roanoke somewhere,
13 and I didn't know when she was going to come back.
14 Q Anything else discussed?
15 A No, she just told me, said her Momma was having some
16 problems and her Momma was giving a party tonight and having
17 drinks and all, and she'd rather - and she didn't - and
18 she wanted to go and stay with her cousin.
19 Q Did you mention Charles Manson?
20 A No, I did not.
21 Q Or anything about any girl friends?
22 A I haven't had no girl friends in 9 years.
23 Q Did you have sexual intercourse with her?
24 A No, sir, I did not.
25 Q Have you ever been convicted of a felony?

COPY

1 A 11 years ago. Break and entering. Believe it was 11 years,
2 it's been around 11, 10 years ago.
3 Q Did you offer Cheri Jean Rice $5.00?
4 A No, sir, I did not.
5 Q Did you tell her you were sorry for anything that night?
6 A No, sir, I didn't have anything to be sorry for.
7 Q Answer this gentleman's questions.
8 A Yes, sir, I will.
9 CROSS EXAMINATION: Lewis A. Schrum by Mr. Nance
10 Q Mr. Schrum?
11 A Yes, sir.
12 Q You ever been convicted of a misdemeanor?
13 A Yes, sir, I have.
14 Q Involving moral turpitude?
15 A I stole a Christmas tree one time.
16 Q Say your felony conviction was 11 years ago?
17 A I'm pretty sure it was.
18 Q Mr. Schrum, do you know the name Charles Manson?
19 A I've seen it on television like everybody else did.
20 Q You say you didn't have any girl friends?
21 A No, sir. Not since I married my wife, I ain't had no girl
22 friends.
23 Q Did you ever knock any of them down the steps?
24 A No, sir, never have.
25 Q Never?

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1 A No, sir.
2 Q You sure you had 5 beers?
3 A Positive.
4 Q Had those with Mr. Davis?
5 A Yes, sir.
6 Q Anybody else with you?
7 A One of my - one boy I know. He was in - he set there with
8 us for a few minutes and left.
9 Q What's his name?
10 A His name, uh, William - uh - Bill Williams. He's a plumber.
11 He was trying to get me to do some work on his house for
12 him. I asked would he come by and give me an estimate.
13 Q How does liquor affect you?
14 A I did not drink any whiskey. That is a known fact.
15 Q I mean, how about beer.
16 A Beer does not hurt me.
17 Q Did you feel five beers?
18 A Well, if I quit drinking for two or three months I can drink
19 3 or 4 beers and I'll get kind of, you know, light-headed,
20 but I won't drive or nothing. But I'm not a heavy drinker.
21 Q How about those beers you had that night?
22 A Did not affect me.
23 Q Did not?
24 A No, sir, did not.
25 Q Is that all it does, just make you light-headed?

1 A Yes, sir. Well, if I sit and drink a whole case I doubt if
2 I could get up and walk out.
3 Q I mean the five.
4 A No, sir, did not affect me.
5 Q Didn't make you aggressive?
6 A No, sir.
7 Q Make you amorous?
8 A No, sir.
9 Q Make you loving?
10 A Make me what?
11 Q Loving?
12 A No, sir.
13 Q Make you silly?
14 A No, sir.
15 MR. NANCE: Your Honor, please can I have just a second?
16 THE COURT: Yes, you may.
17 Q Did you see your wife come in that night?
18 A No, sir, I did not. I was laying, sleeping in bed with my
19 baby daughter. She's always slept with me ever since she's
20 been born. Still does sleep with me sometimes. Sure. One
21 of other daughters sometimes get up in 1:00 or 2:00 o'clock
22 in the morning and come running through the hallway crying
23 and get in bed with me.
24 Q Was your baby daughter in bed when you were talking to
25 Cheri Rice?

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A Yes, sir, she was.

Q Was she asleep at the time?

A Yes, sir, she was.

Q Did you receive a call from Mrs. Jenkins in regard to what had occurred?

A The next night, I reckon, around 6:00 or 7:00 o'clock she called me up and asked me was I the one raped her daughter. I said, "Not hardly." She said, "I'm on my way over and I'm going to blow your brains out." I said, "Well, that's up to you, M'am." I said, "But I'd get it straight before I come down here." Then she slammed the phone in my face. I've never heard no more from her, since I've been going back and forwards to Court for the last 11 months.

Q That's all I have, Your Honor, at this time.

THE COURT: All right, anything else? Any redirect?

MR. LEWANE: No, sir.

THE COURT: All right, come sit by your wife. Next witness.

MR. LEWANE: Your Honor, the defense rests.

THE COURT: All right, the Commonwealth wish any rebuttal or wish any recess to determine rebuttal?

MR. NANCE: Your Honor, I have two rebuttal witnesses that will be very, very brief and I can put them both on.

THE COURT: Call the first witness.

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1 MR. NANCE: Your Honor, I would call Fran Gardner.
2 DIRECT EXAMINATION: Fran Gardner by Mr. Nance
3 Q Fran, state your name, please.
4 A Frances Elaine Gardner.
5 Q How old are you, Fran?
6 A 16.
7 Q Frances, do you know what - excuse me, Fran. Do you know
8 what purjury is?
9 A No, sir.
10 Q Do you understand that you're under oath in this Court?
11 A Yes, sir.
12 Q That you're to tell the truth?
13 A Yes, sir.
14 Q Do you know that if you're caught lying in this Court you
15 could go to the penitentiary? Potentially for one to ten
16 years?
17 A Yes, sir.
18 Q Fran, how about Cheri Jean Rice. Do you know her?
19 A Yes, sir. Very well.
20 Q How long have you known her?
21 A All my life.
22 Q Is she a friend of yours?
23 A Yes, sir.
24 Q Do you know the associates of Cheri Jean Rice, friends and
25 young people that she associates with in the community?

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1 A Yes, sir.
2 Q And are you aware of her general reputation in the communi-
3 ty?
4 A Yes, sir.
5 Q I call your attention specifically to her reputation, not
6 as you know it, but as her friends know her in the commun-
7 ity as to truth and veracity, telling the truth. Are you
8 aware of that reputation?
9 A Yes, sir.
10 Q What is it?
11 A Cheri's a terriffic girl. She's the best friend I would
12 ever have.
13 Q I just want to know what you are aware of as far as people
14 in the community in regards to what they think of her repu-
15 tation as for telling the truth.
16 A Everyone thinks that Cheri is a terriffic girl, or she is
17 e remarkable. I've never really heard anyone say anything
18 bad about Cheri.
19 Q All right, Fran, the name Wayne Van Staden, does that name
20 mean anything to you?
21 A I know of him, but I don't know him personally because
22 Cheri has only met him once or twice and that was to say
23 hello or good-by.
24 Q How about the name -
25 MR. LEWANE: I'm going to object to that. That's obviously

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1 hearsay evidence, unless she was present.
2 THE COURT: Well, you can lay the foundation for it, he
3 can cross examine on the matter.
4 Q How about Robin Vaughan, do you know her?
5 A Yes, sir.
6 Q How long have you known her?
7 A About a year.
8 Q Are you familiar with her associations in the community?
9 A Yes, sir.
10 Q Her friends?
11 A Yes, sir.
12 Q Are you aware of any reputation that she might have in the
13 community? Not your own estimation of her, but what her
14 reputation may be in the community.
15 A Yes, sir.
16 Q For truth - for telling the truth?
17 A I don't quite understand what you mean.
18 Q I'm sorry. What - in the community that you know and
19 associate Robin Vaughan with, what is that community's
20 opinion of Robin Vaughan as to whether or not she is truth-
21 ful?
22 A Not very good.
23 Q Not very good?
24 A The people that I've talked to that knows Robin Vaughan
25 would not trust her as far as they could throw her.

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1 Q How about the name Butch Vaughan. Do you know that name?
2 A Yes, sir.
3 Q Do you know who that is?
4 A Yes, sir.
5 Q Who is it?
6 A It's a boy.
7 Q A boy. Is he any relation to Robin Vaughan?
8 A Yes, sir.
9 Q Are you aware of the community's opinion of Butch Vaughan's
10 reputation for truth?
11 A Yes, sir.
12 Q What is it.
13 A It's not very good.
14 Q Who is Carol Tyree? Do you know her?
15 A Yes, sir.
16 Q Who is it. Tell these folks right - ladies and gentlemen
17 of the Jury.
18 A Carol Tyree is relationship to Lewis Schrum by marriage.
19 Q Is she a neice in fact?
20 A Yes, sir, by marriage.
21 Q That's all I have, Your Honor. Thank you, sir.
22 THE COURT: Any cross examination?
23 CROSS EXAMINATION: Fran Gardner by Mr. Lewane
24 Q How many people have you discussed Robin Vaughan's character
25 with?

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1 A Quite a few, sir.
2 Q Did you particularly make an effort to discuss her character
3 with people?
4 A No, sir.
5 Q You mean it just normally came up in conversation?
6 A Yes, sir.
7 Q And how many people did you discuss Butch Vaughan's charac-
8 ter with?
9 A Butch Vaughan is the type of person that nobody likes to
10 discuss.
11 Q Well, have you discussed his character with anybody?
12 MR. NANCE: Your Honor, whatever his character is is not
13 an issue. We can't go into his character.
14 The only thing we can impeach is his truthful-
15 ness and veracity.
16 THE COURT: Reputation. Reputation for truth and veracity.
17 Q Have you discussed his reputation for truth and veracity to
18 anybody?
19 A I don't know what you mean exactly. Like just - I don't
20 know, what do you mean?
21 Q Well, you testified that he did not have a good reputation
22 for truth and veracity.
23 A That's true.
24 Q And my question is did you discuss his reputation for truth
25 and veracity with anybody?

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1 A Yes, sir.
2 Q How many people?
3 A I don't know, sir.
4 Q When did you discuss his reputation for truth and veracity
5 with these people, during the past year?
6 A Way back when school first started.
7 Q That would be in September of 1976?
8 A Yes, sir.
9 Q And when did you discuss Robin Vaughan's reputation for
10 truth and veracity?
11 A About the middle of the year.
12 Q That would be roughly, again September of '76?
13 A No, sir.
14 Q Before September of '76?
15 A No, sir.
16 Q After September of '76?
17 A Yes, sir.
18 Q Are you related to Cheri Tyree?
19 A Cheri Tyree?
20 Q I mean Cheri Jean Rice?
21 A Yes, sir.
22 Q What is that relationship?
23 A Cousin.
24 Q And how frequently do you visit with her?
25 A Quite often because we're close. We don't think of each

COPY

1 other as cousins, we think of each other as close, close
2 friends.
3 Q Say three or four times a week? You either see her or talk
4 to her?
5 A I talk to her on the phone, but I don't always have the
6 chance to go down there every time I talk to her.
7 Q All right. Would your contact with her be at least three
8 or four times a week?
9 A I couldn't honestly say, because some weeks we talk - I
10 don't know, some weeks we talk and some weeks we don't.
11 Q I have no further questions.
12 A Could I say something, please.
13 Q No. No further questions.
14 THE COURT: Does that complete the examination by counsel?
15 MR. NANCE: Yes, sir.
16 THE COURT: Do you wish the witness excused?
17 MR. NANCE: She may be excused, Your Honor.
18 THE COURT: All right. Thank you. You may step down.
19 You may be excused.
20 MR. NANCE: Commonwealth calls another witness, Terry Bond.
21 DIRECT EXAMINATION: Terry Lynn Bond by Mr. Nance
22 THE COURT: You were sworn earlier, were you?
23 WITNESS: Yes, sir.
24 THE COURT: All right, when you answer the questions,
25 speak to the Jury. Speak to the ones in the

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1 back row.

2 Q Miss Bond, state your full name, please, and your address.

3 A Terry Lynn Bond, 1416 Northbeury Avenue.

4 Q I have to ask you this. How old are you?

5 A 21 - 22, I just had a birthday.

6 Q Miss Bond, you know Cheri Jean Rice?

7 A Yes, I do.

8 Q Before I do that, what do you do for a living?

9 A I'm a nurse.

10 Q Where do you work?

11 A Henrico Doctor's Hospital.

12 Q Miss Bond, I call your attention to August 1976, particular

13 attention to the day August 22, 1976, the residence of

14 Cheri Jean Rice. Do you know where that was on that day?

15 A Yes, I do?

16 Q Did you have an occasion to be there?

17 A Yes, I did.

18 Q Tell the ladies and gentlemen what time you were there?

19 A It was around 8:00-8:30, at night.

20 Q Lewis Arthur Schrum. Do you know him?

21 A No.

22 Q Bonnie Mae Schrum. Do you know her?

23 A Not other than seeing her.

24 Q Did you have an occasion to see on August 22, 1976?

25 A Yes, I did.

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1 Q Could you tell these ladies and gentlemen under what cir-
2 cumstances you saw her?
3 A Okay. I had heard about what happened to my cousin, so
4 I came around, I didn't live too far, so I came around to
5 see if she needed any help with anything and as I got out
6 of the car Bonnie Schrum pulled up. And she wanted to
7 speak to Cheri. And I told her, I said, "I think she's
8 too upset at the time to talk to anybody." She says,
9 "Well, let me speak to her Mother, then." I says, "Well,
10 I don't think, you know, that she is up to seeing anybody
11 now, either," and she says, "Well, I haven't been at
12 home all night long and I need to see her to talk to her.
13 I heard about what had happened, and I wanted to tell her
14 how sorry I was, that it happened, and to see if Cheri was
15 okay."
16 Q "I haven't been home all night long." That's what she
17 said?
18 A Right.
19 Q Thank you. Your witness, Mr. Lewane.
20 CROSS EXAMINATION: Miss Terry Bond by Mr. Lewane
21 Q Cheri Rice is your cousin, right?
22 A Correct.
23 Q And your aunt is Phyllis Jenkins?
24 A Right.
25 Q Have you heard Phyllis Jenkins speak - how vendictive and

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1 how much she wants Mr. Schrum to be convicted of this crime?
2 A No, the only thing I have heard is - I didn't even know
3 when the court date was or anything, the only thing I have
4 heard was I had mentioned something about, well, she had
5 told me, you know, she was the one I talked to that night,
6 and I had mentioned this to her and she says, "Well, I
7 didn't know you had even talked to her," and I had heard
8 nothing of this trial until this.
9 Q No further questions.
10 MR. NANCE: Thank you, Miss Bond, with the Court's per-
11 mission you may be excused.
12 THE COURT: All right, you'll be excused permanently.
13 MR. LEWANE: I have one witness that'll take just a few
14 minutes.
15 THE COURT: What is the nature of the rebuttal? As it
16 relates to these two witnesses?
17 MR. LEWANE: It relates to the last witness, Mrs. Schrum.
18 THE COURT: All right.
19 MR. NANCE: I'm sorry, you mean Mrs. Bond?
20 MR. LEWANE: Mrs. Bonnie Schrum.
21 THE COURT: Your rebuttal is limited to the testimony of
22 either one of the last two witnesses and no
23 further. You previously had rebuttal.
24 REBUTTAL: DIRECT EXAM: Bonnie Schrum by Mr. Lewane
25 Q Would you please state your name?

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A Bonnie Schrum.

Q And you're the wife of the defendant, Mrs. Schrum?

A Yes.

Q On the evening of August 22, 1976, did you go over Phyllis Jenkins' home?

A Yes.

Q Who did you talk to and what did you say?

A When I pulled up in the driveway she had a big dog, and I blew the horn, 'cause I didn't know if the dog bit - bites or not, so she came to the door, had her things, got in the car and we went back over to my house.

Q Well, who did you talk to? Over Jenkins'. I'm talking about - not picking up the babysitter - after the incident occurred.

A Oh, I'm sorry. Well, I went over. I was quite upset, I went up to the driveway and her mother and somebody was standing in the yard and I asked her mother could I speak to Cheri. She said, "No." She said, "Well, I don't know, I'll go ask her, but if she don't want to talk to you I'm not going to let her talk to you. I feel like pulling your hair out." I says, "Well, why do you want to pull my hair out, I come over here to find out what's going on."

THE COURT: This is not in any way rebuttal.

Q Did you tell anybody that you were sorry for what Lewis had done?

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1 A No.
2 Q Did you tell anyone that you had not spent the night at
3 home?
4 A No.
5 Q No further questions.
6 REBUTTAL: CROSS EXAMINATION: Bonnie Schrum by Mr. Nance
7 Q Mrs. Schrum?
8 A Yes.
9 Q Were there other people at that household when you went
10 there that night?
11 A There was people standing out in the yard, as I said a
12 minute ago. I don't know who was inside the house, 'cause
13 I did not go inside the house.
14 Q Just a bunch of people standing out there?
15 A No, it won't a bunch, it was a couple, and one lady had a
16 baby on her hip.
17 Q Did you know them?
18 A They had just got out of a car when I pulled up. That's
19 why I noticed them.
20 Q Did you know them?
21 A No, I'd never seen them before.
22 Q You didn't go over there to tell anybody you were sorry
23 about anything?
24 A No. I went over there to find out what in world's going on.
25 After I heard that.

COPY

1 Q Hadn't you asked your husband at that time, what was going
2 on?
3 A I went direct as soon as I talked to Betsy on the phone, I
4 went direct to Cheri's house to see her and her mother to
5 find out what in the world was going on. Was I hearing
6 things or what, 'cause I couldn't believe it.
7 Q You didn't stop to ask the man in question, your husband,
8 first?
9 A My husband had already left trying to go his lawyer's house
10 to find him. To ask him what should he do.
11 Q To his lawyer's house?
12 A To call him to find out what he should do. He couldn't
13 believe it hisself.
14 Q You didn't wait to talk to your husband?
15 A Well, what would you do? I mean to hear such a thing, I'd
16 went right to the girl's mother, to her, to ask her what
17 in the world was going on, why would that girl make a state-
18 ment like that?
19 Q Without even inquiring or looking to your husband. Thank
20 you.
21 MR. LEWANE: No further questions.
22 THE COURT: All right, step down, please. Defendant rest?
23 MR. LEWANE: Yes, sir.
24 THE COURT: All the evidence in now, Mr. Commonwealth?
25 MR. NANCE: Yes, sir.

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1 THE COURT: All the evidence in, Mr. Lewane?
2 MR. LEWANE: Yes, sir.
3 THE COURT: All right. Members of the Jury, all the evi-
4 dence being in, I think it be desirable to
5 consider what time you resume tomorrow, because
6 by the time we get through the instructions
7 and the argument and your deliberation of this
8 case, we'll probably be going to be late, and
9 I don't think that's fair to any of you all
10 and I also must take into consideration these
11 various Court employees in attendance. They
12 might have commitments likewise. And let me
13 ask you all please, whether you rather return
14 tomorrow at 8:30 in the morning or at 9:00
15 o'clock in the morning. You can confer among
16 yourselves and somebody let me know what suits
17 you best. Talk among yourselves now. Consen-
18 sus that you'd like to come back at 8:30.
19 That will not inconvenience anyone, will it?
20 If it is I'll be glad to set another time.
21 Would that work out for most of you? All right,
22 then, Members of the Jury, during the course
23 of the recess and adjournment of Court from
24 right now until over into 8:30 tomorrow morn-
25 ing, at which time you will return and return

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