



The Inns of  
Court College  
of Advocacy

# **VULNERABLE WITNESSES AND DEFENDANTS IN THE CRIMINAL JUSTICE SYSTEM**

**TRAINING**

**THE QUEEN**

**V**

**DARNEL HOLDER**

**CASE STUDY**

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CROWN PROSECUTION SERVICE CRIMINAL JUSTICE ADVISOR TO BRITISH OVERSEAS TERRITORIES IN THE  
CARIBBEAN AND BERMUDA  
HIS HONOUR ALISTAIR MCCREATH  
SARAH CLARKE QC  
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## **Notes for Participants.**

### **1. The focus of the course:**

Vulnerable witnesses and how to appropriately and fairly handle vulnerable witnesses and defendants within the criminal justice process.

Years have been expressed as Yr-0, Yr-1 etc. Yr-0 = the current year, Yr-1 = the previous year, etc.

The indictment has been drafted on the basis of current UK law. No discourtesy is intended by this, the reason is simply to ensure that the case study can be used in every Caribbean island without amendment. Please do not spend time on the legal technicalities but instead focus on the factual issues and the handling of the various vulnerable witnesses in this case.

See below for further references in relation to vulnerable witnesses. Here is a pen sketch of the vulnerable witnesses in this case:

- a. **Ayanna Roberts** is a 6 year old child. It is alleged that the defendant has committed sexual offences against her, in particular on one occasion getting her to touch his penis and on another touching and penetrating her vagina with his finger and inciting her to take his penis in her mouth.
- b. She has been granted special measures so that she will be supported by an intermediary while she gives evidence. Her 'Achieving Best Evidence' ('ABE') interview will be played as her evidence in chief if the trial takes place in a jurisdiction that caters for this. If not, then she will give evidence in Court behind a screen if one is available. She will be cross-examined over a television link if the trial takes place in a jurisdiction that caters for this. If not, then she will be cross-examined in Court.

- c. **Tanice Roberts** is now 19 years old. She suffers from Post Traumatic Stress Disorder ('PTSD') and mild learning difficulties. She is the older sister of Ayanna. It is alleged that on one occasion when she was 12 years old, the defendant penetrated her vagina with his finger and forced his penis into her mouth.
- d. She has been granted special measures so that she will be permitted to give evidence in court from behind a screen if one is available. She has made it known that she has a strong preference to give evidence in court and has asked for no further special measures, other than that her mother is permitted to sit near her in the witness box. She has said that she considers it important as part of her healing process that she give her evidence directly to the court rather than via her ABE interview.
- e. There is no intermediary report in her case.
- f. **Marissa Holder ("Auntie")** is a woman in her early 70's. She has early dementia and mild autism. She is the mother of the defendant and is also part of the wider family of the Roberts sisters. She has, over the years, looked after them by having them in her house, during the daytime and on some nights of the week, while their mother was out at work. The alleged offences against Ayanna happened in her house.
- g. No application for special measures has been made in her case.
- h. **Shavonne Haynes** is 15 years old. She has Attention Deficit and Hyperactivity Disorder ('ADHD'). It is alleged that the defendant knew her age and persuaded her to enter into a romantic relationship with him, touching her sexually on several occasions and on two occasions raping her.
- i. For the reasons given in her police witness statement, she emphatically does not wish her ABE interview to be played to the court. She has been granted special measures so that she will give evidence in court from behind a screen if one is available.
- j. **Darnel Holder (the defendant)** is 30 years old. He has a mild learning disability and is an alcoholic and marijuana smoker, both of which make his mental faculties even slower. He is the son of Marissa Holder. He denies any sexual activity of any

kind with either Ayanna or Tanice. He thinks that they are making up stories about him to support his mother who has often said that she wants him to stop coming to her house and making a nuisance of himself. He admits intimate touching of Shavonne and one act of sexual intercourse. He says that he believed that Shavonne was older than 15, that she consented to the one act of intercourse which he admits took place and states that the second act of intercourse did not happen. She has lied because she is angry with him, he says, after discovering that he was still seeing his long-term girlfriend.

- k. The defence have commissioned an intermediary report and have disclosed it. The defence have successfully applied for any cross-examination of the defendant to follow the recommendations made in the intermediary's report.
- l. No special measures have been granted in his case.
- m. **Kenton Rowe** is 10 years of age and is a defence witness. There is an intermediary report (see below). He will say that he overheard Tanice and Ayanna discussing their allegations against the defendant. They said things which made in plain that they were conspiring to fabricate evidence in order to support Auntie. There is a report from his school which suggests that he is an accomplished liar. He will give evidence in court, from behind a screen if one is available.

## 2. Case Analysis and case preparation:

- a. The course includes training on this topic.
- b. Careful and thoughtful case analysis and preparation are essential to effective advocacy. What are the important issues in the case? What parts of the evidence are helpful to my case? How am I going to ensure that these helpful pieces of evidence are presented to the court in their best light? What parts of the evidence are unhelpful to my case? How am I going to deal with them? These, and many other, questions must always be considered in advance of any trial.

- c. Where there are vulnerable witnesses, case analysis and preparation take on even greater importance. Not only does the advocate have to consider which topics s/he wants to deal with in respect of each witness, s/he has also to think carefully as to whether it really is necessary to do so and, if it is, the best way of doing it. For example, this case study throws up questions of collusion between prosecution witnesses. Are you going to cross-examine a 6 year old child about this? Do you have to? If so, what exact questions are you going to ask? If not, how otherwise are you going to deal with the issue?
  
- d. You will also need to consider whether it is necessary to cross-examine on a particular topic at all – for example, if the evidence is covered by agreed facts or can be dealt with through another witness, then it should not be necessary to cross-examine on that topic at all.
  
- e. You will also need to consider how to prepare for examination in chief and cross-examination of witnesses with a range of vulnerabilities. For example, you will need to prepare and write out your questions for both examination-in-chief and cross-examination in advance. Experience shows that this is the only way to avoid slipping into the territory of ‘tag’ questions and other traditional techniques which increasingly are recognised as being no longer permissible or acceptable for most vulnerable witnesses.
  
- f. It is suggested that you approach your preparation for each witness as follows:
  - i. Identify the key issues.
  - ii. Determine what needs to be asked and what can be reduced to admissions.

- iii. Draft your questions incorporating all the means by which questions should be drafted.
  - iv. In a real case you would then attend the Ground Rules Hearing and then amend your questioning as a result of any orders made at that hearing.
  - v. In this case, the case study assumes that the Ground Rules Hearing has already happened and orders have been made, therefore you should check that your questions comply with any orders made at that hearing.
- a. You should come to the course having conducted your own case analysis and ready to make informed contributions to the group sessions on case analysis.

### **3. The other witnesses:**

- a. As you will see, there are witnesses other than those mentioned above. It is not intended that any of them should be called during the practical exercise. As part of your case analysis you will have to consider if you would want them to be called in a real trial situation but you are not required to prepare for the practical exercise on the basis that any of them will in fact be called to give evidence.

### **4. The indictment:**

- a. There may be scope for interesting argument about joinder and severance of the different counts on the indictment. You should proceed on the basis that it is conceded that the counts are properly joined and that no (successful) application has been made for severance. The matter has been left on the basis that the judge will later



hear submissions on whether the evidence in relation to the different complainants is cross-admissible. But this is not within the scope of the current exercise and you need not trouble yourselves with it.

5. The Advocate's Gateway Website ('TAG') (<https://www.theadvocatesgateway.org>), contains a wealth of useful information and free, practical guidance on case preparation and questioning of witnesses with different types of vulnerabilities. TAG also contains a number of free 'toolkits' for advocates to use. In this case the following toolkits will be of assistance and you should consult them as part of your preparation for this course:
  - a. **Ayanna Roberts** - She is young but has no other vulnerabilities. See Toolkit 6 on the Advocates Gateway website.
  - b. **Marissa Holder (Auntie)** - She is elderly and has mild dementia and autism. Toolkit 15 does not deal directly with dementia in the elderly but gives useful information on memory issues in autism. This may assist you in gaining insight into how best to ask questions of Auntie. You will also have noted that Auntie herself has insight into her memory defects and autism and considers that given time and calm, patient handling she will be able to give a reliable and accurate account of events.
  - c. **Tanice Roberts** - She has Post Traumatic Stress Disorder (PTSD) and a mild learning disability. There is no direct advice on PTSD available on the Advocates Gateway. Toolkit 4 is helpful in relation to learning disability.
  - d. You should proceed on the basis that she has been displaying symptoms of PTSD for the last few years but has been diagnosed only recently, since making her disclosures to the police on the 17<sup>th</sup> February.
  - e. The diagnosis suggests that the traumatic event which triggered her condition was sexual in nature. This evidence is before the court on the basis that its relevance is limited to assisting the court and the advocates on the issue of how she should be dealt with and questioned in court but is not relevant to the issue of her reliability or credibility.

- f. The symptoms of PTSD include emotional distress after being reminded of the trauma, a physical reaction after being reminded of the trauma, avoidance behaviour, increased aggression or irritability and difficulty in concentrating.
- g. Since diagnosis and prior to trial Tanice has had Cognitive Behaviour Therapy which has assisted her in controlling her emotions and responses. But she will still need careful and sensitive handling.
- h. You will need to give careful thought as you prepare your examination of this witness as to how you will approach it and what techniques you consider will operate to ensure that she is able to give an account of herself without being overwhelmed by the task.
- i. **Shavonne Haynes** - Shavonne has Attention Deficit and Hyperactivity Disorder (ADHD). See Toolkit 5. In addition, there is research suggesting that there is a heightened risk of non-suicidal self injury in adolescent females with ADHD.
- j. **Darnel Holder** - He has a learning disability and is a heavy user of alcohol and marijuana. See Toolkit 4.
- k. **Kenton Rowe** - He is young but has no other disabilities. See Toolkit 6.

## 6. Ground Rules Hearing

- a. A Ground Rules Hearing ('GRH') is a directions hearing held prior to trial at which the trial judge, trial advocates and any intermediary (if there is one) attend and the judge gives case management directions regarding the treatment and questioning of any vulnerable witnesses including the defendant.
- b. These may range from the time at which the vulnerable witness should attend court, special measures for the giving of evidence, and specific directions on the nature and style of questioning including what types of questions are permissible. In the UK, advocates are expected to attend GRH's with the questions they intend to ask the witnesses in cross examination written out so that the judge can go through them with the assistance of the intermediary and give directions about whether they are permissible.

- c. It is understood that at present GRH's are not used in the Caribbean. However, in anticipation of vulnerable witness legislation being gradually adopted throughout the islands, it is expected that GRH's will start to be used as part of the case management process.
- d. Day 1 of the course will therefore contain a plenary session and a demonstration of a GRH using this case study. In these papers you will therefore find directions that have been made by the trial judge following the GRH that has been held in this case. You are required to follow these directions as regards the treatment and questioning of the various vulnerable witnesses and defendant in this case.
- e. There is a document in these papers which contains more information about Ground Rules Hearings as well as the directions given by the judge in this case.

## **INTERMEDIARY REPORTS**

1. We recognise that intermediaries are not currently used in the Caribbean. However, we have included intermediary reports in this case study on the basis that it is likely that at some point in the future intermediaries will start to be used in your jurisdiction and it is therefore useful to have some understanding of how an intermediary works and the use that should be made of an intermediary report. PLEASE NOTE HOWEVER THAT INTERMEDIARIES SHOULD ONLY BE USED WHEN THEY ARE QUALIFIED, ACCREDITED AND APPROPRIATELY TRAINED.
2. The function of the intermediary is to assess the witness's communication abilities and needs and to assist the court and the advocates with the object of ensuring that vulnerable witnesses are treated appropriately and are questioned in a way that helps the witness give evidence as fully and as accurately as possible.
3. There is a system of registration so that only Registered (ie properly qualified) Intermediaries are used by the courts. An intermediary's report will always contain details of his/her qualifications. An example of this might be:

"My qualifications are: I am a qualified Speech and Language Therapist and have worked with children with a range of language and communication difficulties for 30 years. I completed a MSc in Human Communication in 1996. The focus of study was on the identification of autistic spectrum disorders. I trained to be a Registered Intermediary in 2003 and have considerable experience working as such since then."

4. In some cases, the intermediary might be engaged by the police during their investigation of the case. In those cases, the Registered Intermediary provides a preliminary report for the interviewing police officer. The report assists the police officer in how to plan the Achieving Best Evidence ('ABE') interview. The Registered Intermediary assists during the ABE interview, intervening if necessary to advise the police officer on communication with the witness.
5. In all cases, the Registered Intermediary writes a report for the court. It provides advice and makes recommendations with examples to those who will question the witness about how most effectively to do it.
6. The Registered Intermediary attends the witness's court familiarisation visit to assist with communication. They can advise the Witness Service on matters relating to the witness's welfare of which the Registered Intermediary (who is not a witness supporter) may be aware. They can advise on timetabling of the witness's evidence and when and how the witness can watch their ABE interview to refresh their memory.
7. Ground rules for questioning will be discussed between the court, the advocates and the intermediary before the witness gives evidence in order to determine the practical aspects of the way in which the witness will be questioned.
8. The Registered Intermediary, having taken the intermediary oath, assists during the giving of evidence. They sit alongside the witness in the live link room or in court in order to monitor communication. They intervene during questioning when appropriate and as often as appropriate in accordance with the ground rules and the recommendations in their report.

## **Intermediary reports in this case**

1. Intermediary reports have been obtained in respect of Ayanna Roberts, Shavonne Haynes, Darnel Holder and Kenton Rowe.
2. It has been decided that Ayanna Roberts and Kenton Rowe should be assisted by an intermediary at trial when they give evidence both in chief and during cross examination but this is not necessary in the cases of Shavonne Haynes and Darnel Holder. However extracts from the report in respect of them are included to assist the court and advocates in questioning them and giving them appropriate support. All of the reports have been used by the court in making directions at the Ground Rules Hearing.

### **Ayanna Roberts: (extracts from the Intermediary Report)**

I have met Ayanna at home with her mother and assessed her language skills. I have viewed and listened to the video recorded interviews.

### **Summary of Findings and Recommendations**

Ayanna is a confident child. She is six years old and is of around normal development for her age.

She has a reasonable vocabulary appropriate to a child of her age. The language used during a trial must be modified to take account of this.

She will need to have special measures, including the assistance of an intermediary. If available, a screen should be used if she is to give live evidence in court.

She is able to talk about what happened in the past although she finds fixing events in time difficult.

It is preferable for her to give evidence over the live video link but if this is not available she is prepared to give live evidence in court. Provided the recommendations in my report are followed I consider that she will be able to cope with this.

### **Recommendations:**

I recommend that an intermediary is used prior to and during a trial to enable effective communication and improve the quality of the evidence. I am able to fulfil that role.

### **Assessment:**

#### Medical Conditions (including Physical Conditions):

Ayanna has no medical conditions relevant to her language and communication

#### Behaviour, listening and attention:

Ayanna listens carefully but needs encouragement in answering questions.

Despite listening carefully to questions and being able to give answers to them, she had a tendency to sometimes lose track of what she was saying and wander into other areas.

### Understanding and expressive language:

I assessed this aspect by informal conversation and more structured activities which gave me insight into her ability to understand and to use expressive language, to understand vocabulary such as “what, where, who, why and when” and to understand what is implied in what is said to her.

I observed that she has language skills appropriate to a child of six years of age. She can talk about events in the past but finds it difficult to locate events in time. For example she had difficulty comprehending questions about what she did “last week”, or “last month”. This is not at all unusual in a child of her age. I recommend that questions about past events should therefore be anchored in time – for example, “did it happen before your birthday or after your birthday?” A visual aid would also be helpful in the form of a timeline with agreed events on it – which she could use to point when in time a particular event occurred.

She responded to questions beginning with “what, where and who” but had more difficulty with “why, when and how”. Her answers to “why” questions are likely to be literal (eg why someone told a lie about breaking a cup produced the answer that it was because they had broken the cup, rather than would get into trouble for breaking the cup).

She had difficulty in expressing when an event happened and/or how long it lasted for as well as how often it had happened but was able, if questioned sensitively, to give an approximate number (once, more than once, lots of times). She is better at talking about recent events, but may need prompts if she is to provide details.

She was able to say if something made her happy or sad or tired but hesitated when the word feel was used in the sentence ‘How did that make you feel?’

She does not respond accurately if long complex sentences are used with a preamble.

Children of her age may muddle the meanings of the words ‘ask’ and ‘tell’. The word ‘say’ or



'talk' might be used instead. An example of this might be 'Will you talk to me about 'x'', rather than 'Will you tell me about 'x'' or "I am going to ask you questions about x".

Ayanna is still at an age when she will not answer accurately if leading questions or statements with tags are used. She agreed with statements with tags such as 'I came here by bus, didn't I?' or 'I like watching 'How to tame your Dragon', don't I?' even though she did not in fact come to the appointment by bus and apparently does not like that film. In a stressful situation such as a court room setting and particularly if a series of questions with tags are asked she is likely to be intimidated and to simply agree with the statements put to her, thus rendering her evidence unreliable.

During the interview she was aided by having small figures and furniture so that she could show as well as tell what had happened. Children can tell more easily if they are able to show what happened at the same time.

### **Conclusion:**

5.1 Ayanna is six years of age. Her development and language skills are such that she will require the language of the court room to be modified appropriately. In a stressful environment she may become anxious and be less efficient with her responses if she does not understand the questions. Heightened anxiety reduces the ability to communicate effectively.

### **Recommendations:**

1. During a trial Ayanna's evidence is likely to be diminished without special measures.
2. It is recommended that Ayanna is assisted by a Registered Intermediary while giving evidence. The language used during a trial is unlike that used during interview.

3. Consideration should be given to whether Ayanna should be accompanied by a witness supporter as well as the intermediary.
4. She should have an opportunity to practise over the live link and / or a court room visit before she gives evidence. Some questions not to do with the subject of the trial can be asked such as 'How did you come here today?' She can be reminded that she can say that she does not know and does not remember.
5. Ayanna should be allowed to have a calming object to hold while she gives evidence. This would be chosen so it would not distract.
6. Ayanna should watch her interview with the police to refresh her memory before the day of the trial.
7. She should give evidence in the morning because she will be less tired and distractible.
8. Ayanna's understanding of questions should be monitored. Even though she is told that she can say if she has not understood, she may not have the confidence to do so. In addition, she may not herself know that there has been miscommunication. An intermediary would be able to help with this.
9. Questions should be short, simple, contain only one point and given at a slow pace.

10. Topics should be signposted so that Ayanna recognises the context in which the question is being asked, for example “Ayanna, I am going to talk to you about (y)”.
11. Ayanna’s level of anxiety should be monitored carefully. She may need regular breaks if she becomes anxious, although this can be flexible, and she should know how long the break will take. It is helpful if the witness is able to say when she is ready rather than have breaks fixed for a time of perhaps fifteen minutes. In my experience witnesses can be ready to return after, for example, three to five minutes.
12. Double questions should be avoided, for example “When and where did it happen?”
13. Even questions containing one negative can be difficult for a six year old such as ‘Did you say you didn’t like him?’ If this type of question has to be asked then it should be made as simple as possible and anchored to a specific event eg: “did you tell your mum you don’t like X?”
14. Questions which have already been asked and answered should not be repeated, as she may become confused about why the question is being asked again.
15. Simple, common words should be used. Complicated vocabulary should be avoided such as occurred, intend, in respect of, in relation to, involved, relevant, mentioned, explain and incident. The word ‘times’ rather than ‘occasions’, ‘know’ rather than ‘aware’ and ‘remember’ rather than ‘recollect’, should be used.

16. Ambiguous language, metaphor and irony should not be used as they may be taken literally.
17. She may only be able to give general answers to questions related to time and when something happened such as whether it was a school day or a holiday day. A question about a past event should be anchored to a particular event she is likely to remember such as “did it happen before or after your birthday”. A timeline would be a helpful visual aid.
18. She may need help to sequence the events which are the subject of the trial. The events should be taken in the order they happened ie: chronologically. She may find it difficult to answer if she is asked questions about something that happened later on in the sequence and then asked to go back to an earlier time.
19. Where extension of a reply is expected this should be made explicit. For example, if counsel says ‘Were you standing by the gate?’ with the expectation that the witness will then say what happened by the gate, this should be made clear for example, “what happened when you were standing by the gate?”
20. Statements which end with a ‘tag’ and statements posed as questions using intonation should not be used. Tag and statement questions are more likely to increase inaccurate answers.

21. The names by which Ayanna knows people, should be used. For example, she knows me as Jamie. She knows the interviewing officer as Gillian.
  
22. The names by which people are known should be used instead of 'he' and 'she'. Events should be named rather than using the words 'it' or 'that'.
  
23. Ayanna should have the opportunity to meet the judge and counsel before questioning. They should sit down when they meet her.
  
24. There should be opportunity for discussion at a Ground Rules Hearing between the judge, counsel and intermediary before Ayanna is questioned to establish guidelines about how and when the intermediary might intervene if necessary. The intermediary would intervene before Ayanna replies if she thinks that Ayanna might not understand. She would only rephrase a question if requested by the court.
  
25. In my experience, it works well if the Ground Rules Hearing takes place in advance of the trial rather than on the first day of the trial as this gives counsel the opportunity to reflect on and redraft questions if necessary and also does not delay the start of the trial and cause Ayanna to have to wait to give evidence.

**Shavonne Haynes (extracts from Intermediary Report):**

ADHD is a developmental condition. People who have ADHD may be impulsive, distractible, have a short attention span and fidget.

During her interview with the intermediary, Shavonne was restless particularly if she did not understand the language used. She got up from time to time, fidgeted and looked out of the window.

There was sometimes a gap between a question and her answer while she processed what was being said.

During the interview she became tired after about 35 minutes.

Shavonne can go off topic at times and if she is finding it difficult to respond to what is said to her, she talks about something completely different.

1. Questions should be concise, simple and contain only one point.
2. Questions should be given at a slow pace.
3. Questions with more than one part should be avoided.
4. Questions which have already been asked and answered should not be repeated, as she may become confused about why the question is being asked again.
5. She may need regular breaks if she becomes anxious or loses attention, although this can be flexible, and she should know how long the break will take. It is helpful if the witness is able to say when she is ready rather than have breaks fixed for a time of fifteen minutes. In my experience witnesses can be ready to return after, for example, three to five minutes.
6. Simple, common words should be used. Complicated vocabulary should be avoided such as 'made up', explained, in respect of, involved, relevant, mentioned and incident. The word 'times' rather than 'occasions', 'know' rather than 'aware' and 'remember' rather than 'recollect', could be used.

## **Darnel Holder (extracts from Intermediary Report)**

Tests indicated that he has a mild learning disability.

He has difficulty understanding other people (for example having to ask for explanations of long words) and talking to other people (for example struggling to find the words to express himself and to talk about his feelings).

He is not always well organised (for example he might forget appointments, getting days and times muddled).

He said his reading and writing was "Okay" but he has difficulty with spelling and needs help with form filling.

He was easily self-distracted into irrelevant topics of conversation or by his own intrusive thoughts about recurring concerns. He often changed topic mid conversation. He was also rather impulsive at times and tended to give rapid responses to questions, without listening thoroughly to what was being asked of him. It was difficult to distract him from his recurring concerns.

He is understandably anxious about being a witness and is aware of how anxiety impacts on his ability to process language and communicate clearly. He told me "I get stressed very quickly"

He does not understand more complex vocabulary. He was unable to understand words such as 'impartial,' 'elaborate' 'in authority' and 'contradicting'. He sometimes corrected me when I made errors, although if I spoke in a confident and assertive tone, he simply agreed with me

He has difficulties in processing and retaining lengthy or complex information in order to understand its meaning. Sometimes during conversation, he gave an instant response (which he later modified after reflection) or took several seconds before he could reply to questions that required more thought and reflection.

His tendency to repeat back the words of others can give a false impression that he has understood.

When asked long or complex tagged questions he took longer than might typically be expected to consider and formulate his reply, suggestive of slow language processing ability and gave a somewhat 'rambling' response.

He sometimes struggles to produce a coherent account, frequently repeating, rephrasing and revising his utterances. This can make him difficult for others to understand, particularly if unfamiliar with the circumstances of what he is trying to describe.

Advocates should:

1. Ask questions at an unrushed pace, to model the need for him to take his time in considering his reply. Allow extra time for him to formulate his response and ensure he has completed his response before you speak again (count to six in your head).
2. Make clear the topic to set the context (e.g. 'I want to ask about the flat'). Ask questions in a logical chronological sequence.
3. Ask short single-element questions. Avoid a series of quick fire questions. As a rule of thumb, use questions of no more than eight to ten words in length. Ensure questions are simple, direct and explicit:
4. Be careful in using tag questions, avoiding them when the question is long or complicated.
5. Watch for non-verbal signs of confusion. Do not rely on asking 'Do you understand?' as he may say "Yes" but not truly understand. Ask him to explain what she thinks you mean.
6. Make questions direct and explicit. This is best done by a simple question beginning with a question word (when, where etc).



### **Kenton Rowe (extracts/summary from Intermediary Report)**

Kenton is 10 years of age. He is of normal development for a child of that age. School reports suggest that he is an intelligent boy. This is confirmed by testing carried out by the intermediary.

He will benefit from the presence of an intermediary while giving his evidence. Although intelligent and having a good vocabulary, he is of an age when he is likely to find the court a stressful environment in which he will become anxious and thus less able to communicate effectively. He will also require the language of the court room to be modified appropriately.

Kenton's understanding of questions should be monitored. He may find it difficult to reveal that he has not understood a question. An intermediary is likely to notice this and draw it to the attention of the court.

1. Questions should be short, simple, contain only one point and given at a slow pace.
2. Topics should be signposted so that he recognises the context in which the question is being asked.
3. He may need regular breaks if he is giving evidence for more than about 30 minutes.
4. Double questions should be avoided, for example "When and where did it happen?"
5. Tag questions should also be avoided. Statements which end with a 'tag' and statements posed as questions using intonation should not be used. Tag and statement questions are more likely to increase inaccurate answers.
6. Questions should be asked using simple language and uncomplicated vocabulary.

## **DIRECTIONS MADE AT THE GROUND RULES HEARING**

### **General**

1. A ground rules hearing (GRH) should take place in every case involving vulnerable witnesses. It must be conducted in advance of the trial. In some cases, it will be sufficient for it to take place on the day of trial but in other cases, particularly those where there are multiple vulnerable witnesses or the case is for other reasons of some complexity, it should be held some days, or even some weeks, ahead of trial. The intermediary should always be present.
2. The object of a GRH is to promote an effectively managed trial, in particular by enabling all witnesses to give the best evidence they can. This may mean radical departure from traditional cross-examination, including the court placing restrictions on the content and form of questions asked of vulnerable witnesses where that is necessary and appropriate. Where there are such restrictions, they must be clearly defined. For example, if there are inconsistencies between the testimony of a vulnerable witness (particularly a child witness) and a previous account given by the witness, the judge may prohibit comment on this during cross-examination and, instead, permit the advocate to draw these matters to the attention of the jury immediately after the witness has completed his/her evidence. If there is more than one defendant, the judge will not permit each advocate to repeat the questioning of a vulnerable witness. The advocates must divide the topics between them in advance of questioning the witness.
3. In particular in a trial of a sexual offence, 'body maps' should be provided for the witness' use. If the witness needs to indicate a part of the body, the advocate should ask the witness to point to the relevant part on the body map. In sex cases, judges should not permit advocates to ask the witness to point to a part of the witness' own body. Similarly, photographs of the witness' body should not be shown around the court while the witness is giving evidence.

4. Topics for discussion and agreement at the ground rules hearing will depend on the individual needs of the witness, and an intermediary may provide advance indications. Topics that will need discussion in every case will include:
  - a. the overall length of cross-examination;
  - b. cross-examination by a single advocate in a multi-handed case;
  - c. any restrictions on the advocate's usual duty to 'put the defence case'.
5. It may be helpful to discuss at this stage how any limitations on questioning will be explained to the jury.
6. At the ground rules hearing, the judge should:
  - a. rule on any application that may affect the cross-examination;
  - b. decide how the witness may view exhibits or documents;
  - c. review progress in complying with orders made at any earlier hearing and make any necessary orders.

**The directions made at the Ground Rules Hearing in this case.**

1. General directions:
  - a. The judge has ordered that the questions the advocates wish to ask each witness be served on the Judge and the intermediary at least 5 days in advance of the trial.
  - b. Both the Prosecution and the Defence must serve within 7 days of the Ground Rules Hearing a notice of legal issues which may impact upon the cross examination of any witness. This includes a time estimate and a request for the matter to be listed either before the trial. This will ensure that issues of law relating to the cross examination are dealt with before the day on which it takes place and the witness will not be kept waiting as a result of last minute applications to amend questions or increase their scope.
  - c. Some questions will be allowed of Tanice and Ayanna Roberts and Marissa Holder on the topics of collusion and lies. Those questions must comply with these ground rules and have been considered by the intermediary in advance and confirmed as appropriate and likely to be understood by the witnesses. These questions will be

brief and simple and will not involve repetition. They will have been submitted to the Judge and the Prosecution by the GRH. The Judge, not the Intermediary, will rule whether the questions are appropriate.

- d. Questions may be asked of Kenton to suggest that his account of the conversation between Tanice and Ayanna is an invention. The questions must use non-aggressive language. For example, he may be asked if he has made up a story but words such as “lying” must be avoided (see 2 g, below).
  - e. All questions must be relevant to the issues in the case. There will be no irrelevant questioning of any witness and questions that relate to tangential issues will be stopped.
  - f. Advocates should ensure they have read the toolkit appropriate for the witness.
2. Ground Rules for all vulnerable witnesses, including the defendant:
- a. Each witness will attend a court familiarization visit in the week prior to trial. The Intermediary (if any) must be present for this visit.
  - b. Special measures have been granted as set out in Note to Participants.
  - c. The witnesses will refresh their memories by watching their ABEs whilst supervised away from Court in the week prior to trial. The memory refreshing must take place in the presence of the officer in the case or another suitable qualified police officer who must make a note of any comments made by the witness and prepare a CJA statement about them.
  - d. The advocates and the judge will meet the witness at a convenient time and in a private room before the witness is cross examined. The Judge will set down rules on the conduct and approach to this meeting.
  - e. The witness’s evidence is time tabled and the witness will not be kept waiting to start.
  - f. The intermediary for each witness may verbally intervene if it is considered a question may not be understood by the witness or if there is any other issue such as a need for a break.

- g. It will not be suggested to the witnesses that they are lying. A proper alternative must be formulated based on each witness's individual communication needs. For example, 'You said George did X ... George says he did not X. .... Are you sure that George did X?'
- h. Questioning of witnesses should follow the recommendations made in the intermediary report where there is one. [Note: to avoid duplication, these are not set out here. In reality, they would be clearly defined at the GRH].
- i. Body maps should be made available for Tanice, Ayanna and Shavonne. No witness will be asked to indicate, point to or touch any part of her own body.

## INDICTMENT

### Count 1

#### Statement of Offence

*Sexual activity with a child, contrary to section 9(1) of the Sexual Offences Act 2003.*

#### Particulars of Offence

*DARNEL HOLDER, a person over the age of 18 years, on a day between the 15<sup>th</sup> day of January YR-4 and the 15<sup>th</sup> day of January YR-3 intentionally touched TANICE ROBERTS, the touching was sexual and involved penetration, namely inserting his finger into her vagina, TANICE ROBERTS was aged under 16 years, and the said DARNEL HOLDER did not reasonably believe that she was of or over the age of 16 years*

### Count 2

#### Statement of Offence

20-44

*Rape, contrary to section 1(1) of the Sexual Offences Act 2003.*

#### Particulars of Offence

*DARNEL HOLDER, on a day between the 15<sup>th</sup> day of January YR-4 and the 15<sup>th</sup> day of January YR-3 intentionally penetrated the mouth of TANICE ROBERTS with his penis, the said TANICE ROBERTS not consenting to the penetration and the said DARNEL HOLDER not reasonably believing that TANICE ROBERTS consented.*

**Count 3****Statement of Offence**

Causing a child to engage in sexual activity, contrary to section 10 of the Sexual Offences Act 2003.

**Particulars of Offence**

DARNEL HOLDER, a person over the age of 18 years, on a day between the 1<sup>st</sup> day of January and the 1<sup>st</sup> day of February YR-0, intentionally caused AYANNA ROBERTS, a child under the age of 13, to engage in a sexual activity, namely touching his penis.

**Count 4****Statement of Offence**

Sexual activity with a child, contrary to section 9(1) of the Sexual Offences Act 2003.

**Particulars of Offence**

DARNEL HOLDER, a person over the age of 18 years, on the 5th day of February, YR-0, intentionally touched AYANNA ROBERTS, a child under the age of 13, the touching was sexual, namely touching her vagina with his hand.

**Count 5****Statement of Offence**

Sexual activity with a child, contrary to section 9(1) of the Sexual Offences Act 2003.

**Particulars of Offence**

DARNEL HOLDER, a person over the age of 18 years, on the 5th day of February, YR-0, intentionally touched AYANNA ROBERTS, a child under the age of 13, the touching was sexual and involved penetration, namely penetrating her vagina with his finger.

**Count 6****Statement of Offence**

Inciting a child to engage in sexual activity, contrary to section 10 of the Sexual Offences Act 2003.

**Particulars of Offence**

DARNEL HOLDER, a person over the age of 18 years, on the 5th day of February, YR-0, intentionally incited AYANNA ROBERTS, a child under the age of 13, to engage in a sexual activity and the activity involve penetration, namely placing his penis into the mouth of AYANNA ROBERTS.

**Count 7****Statement of Offence**

Sexual activity with a child, contrary to section 9(1) of the Sexual Offences Act 2003.

**Particulars of Offence**



DARNEL HOLDER, a person over the age of 18 years, on a day between the 1<sup>st</sup> and 18<sup>th</sup> days of March, YR-0, intentionally touched SHAVONNE HAYNES, the touching was sexual, namely touching her breasts and vagina, SHAVONNE HAYNES was aged under 16 years, and the said DARNEL HOLDER did not reasonably believe that she was of or over the age of 16 years.

### **Count 8**

#### **Statement of Offence**

Sexual activity with a child, contrary to section 9(1) of the Sexual Offences Act 2003.

#### **Particulars of Offence**

DARNEL HOLDER, a person over the age of 18 years, on a day between the 1<sup>st</sup> and 18<sup>th</sup> days of March, YR-0, other than the day in Count 5, intentionally touched SHAVONNE HAYNES, the touching was sexual, namely touching her breasts and vagina, SHAVONNE HAYNES was aged under 16 years and the said DARNEL HOLDER did not reasonably believe that she was of or over the age of 16 years

### **Count 9**

#### **Statement of Offence**

Rape, contrary to section 1(1) of the Sexual Offences Act 2003.

#### **Particulars of Offence**

DARNEL HOLDER on the 12th day of March, YR-0, intentionally penetrated the vagina of SHAVONNE HAYNES with his penis, the said SHAVONNE HAYNES not consenting to the penetration and the said DARNEL HOLDER not reasonably believing that SHAVONNE HAYNES consented.

**Count 10 (alternative to Count 9)**

**Statement of Offence**

Causing a child to engage in sexual activity, contrary to section 10 of the Sexual Offences Act 2003.

**Particulars of Offence**

DARNEL HOLDER, a person over the age of 18 years, on the 12th day of March, Yr-0, intentionally caused SHAVONNE HAYNES to engage in a sexual activity and the sexual activity involved penetration, namely penetrating her vagina with his penis, SHAVONNE HAYNES was aged under 16 years and the said DARNEL HOLDER did not reasonably believe that she was of or over the age of 16 years.

**Count 11**

**Statement of Offence**

Rape, contrary to section 1(1) of the Sexual Offences Act 2003.

**Particulars of Offence**

DARNEL HOLDER on the 15th day of March, YR-0, intentionally penetrated the vagina of SHAVONNE HAYNES with his penis, the said SHAVONNE HAYNES not consenting to the penetration and the said DARNEL HOLDER not reasonably believing that SHAVONNE HAYNES consented.

**Count 12 (alternative to Count 11)**

**Statement of Offence**

Causing a child to engage in sexual activity, contrary to section 10 of the Sexual Offences Act 2003.

**Particulars of Offence**

DARNEL HOLDER, a person over the age of 18 years, on the 15th day of March, Yr-0, intentionally caused SHAVONNE HAYNES to engage in a sexual activity and the sexual activity involved penetration, namely penetrating her vagina with his penis, SHAVONNE HAYNES was aged under 16 years and the said DARNEL HOLDER did not reasonably believe that she was of or over the age of 16 years.

**EXTRACT FROM ACHIEVING BEST EVIDENCE ('ABE') VIDEO RECORDED INTERVIEW  
OF AYANNA ROBERTS CONDUCTED BY THE POLICE**

The interview took place on 7<sup>th</sup> February YR-0

.....

Ayanna was asked some questions to establish whether she could tell the difference between the truth and a lie. She showed that she was able to do this.

Simple explanation of the process and some questions, not relating to the allegations, to put the child at her ease.

Police officer: Shall we talk about Darnel Holder and Auntie?

Ayanna Roberts: Yes. I stay at their house.

PO: Are you happy when you stay there?

AR : Some of the time.

PO: Does something make you unhappy?

AR : I like Auntie, she is nice to me.

PO: Do you like Darnel Holder?

AR : No, not now.

PO: Why don't you like him?

AR : He said bad things.

PO: What were the bad things?

AR : I really love Auntie. She looks after me and gives me good things to eat. And she lets me play games on her phone.

PO: That's good. But why don't you like Darnel?

AR: Auntie doesn't like him. She wants him to stop coming to the house but he keeps on coming even when Auntie tells him to go away. Auntie loves me and she wants me to come to the house but she doesn't like it when Darnel comes to the house. And he told me not to tell Auntie about things.

PO: What things?

AR : About touching.

PO: Did he touch you?

AR : Yes.

PO: Where did he touch you?

AR : In my bedroom when I was on the bed. I was reading a book with lots of pictures in it. It had pictures of animals and birds and fishes and I coloured some of them in. I like colouring in. Aunty gives me colouring in books.

PO: So you were in the bedroom when he touched you. I want to talk to you about which bit of you he touched.

AR : I don't know.

PO: Was Auntie in the house?

AR : Yes.

PO: Did you talk to her about where he touched you?

AR : Yes

PO: Did you say where he had touched you?

AR : Yes.

PO: Will you say to me where he touched you?

AR : I don't want to.

[PO then spent some time reassuring the child, telling her that Darnel wouldn't be able to harm her and that Auntie would look after her, as would her mother. She also told her that if Darnel had done something bad, it was better for her to let the officer know]

PO: So please will you say where he touched you.

AR : He touched my minnie.

PO: Did he do anything else that wasn't nice?

AR : His trousers.

PO: What did he do with his trousers?

AR : He took them off.

PO: What did you see when he took them off?

AR : I don't know.

[Further reassurance etc as above]

PO: So please say what you saw when he took his trousers off.

AR : I saw his winker

PO: Had you seen his winker before?

AR : Yes, the time he came out of the shower.

PO: I want to talk to you about that later. But let's carry on talking about the time you've been telling me about, when you were reading your colouring book and he touched your minnie. All right?

AR : Yes, I think so.

PO: What did he do with his winker?

AR : It was horrible and I don't want to say. (Becomes upset, cries).

[More reassurance]

PO: Did you tell Auntie about his winker?

AR : Yes.

PO: Please say to me what you said to Auntie.

AR : I said to her that he told me it was like a candy cane.

PO: Like a candy cane?

AR : Yes. And he said it would be nice if I sucked it like a candy cane but it made me really scared and I ran away and told Auntie what he had done and what he had said and I cried and cried and was very unhappy. And Auntie said we were going to the police and I should tell you what I told her and Darnel was a bad man and would be sent away somewhere so he wouldn't come to the house ever again and he wouldn't do it to me another time.

PO: And you've done really well. You've said lots of things about what he did to you. You're a very good girl.

AR : Auntie said I was a good girl too. She doesn't like him. She's sad about him doing things to me but I think she's happy that he won't be coming back to the house again.

PO: I want to talk to you about when he came out of the shower and you saw his winker. Where were you?

AR : In my room.

PO: What were you doing?

AR : Playing on Auntie's phone.

PO: Were you sitting down?

AR : I was lying on my bed.

PO: What was Darnel doing?

AR : I don't know.

PO: Was he in the shower room?

AR : I was in my room playing on Auntie's phone.

PO: But where was he?

AR : I was in my room and he came in to my room.

PO: What was he wearing?

AR : He wasn't wearing anything.

PO: So was he naked?

AR : I think so. What's naked?

PO: When you haven't got anything on, even a towel.

AR : He had a towel.

PO: What did he do?

AR : He told Auntie that the towel had fallen down and I saw his winker and he didn't like that and he wished it hadn't happened. And I wanted to tell Auntie that wasn't true but he looked at me and he was angry and I was scared so I didn't tell Auntie what had happened.



PO: What did happen?

AR : He made me touch his winker.

PO: Where was he?

AR : I told you, he was in my room.

PO: Where were you in your room?

AR : I told you – on my bed.

PO: Did he get on the bed?

AR : Yes and he made me touch his winker.

PO: Was his winker big?

AR : I don't know but it was sticking up in the air, it was horrible. Then Auntie came upstairs and I didn't tell her what he had done but I told her yesterday what he had done and she told me to tell you what he had done because she hates him and she wants him to go somewhere else and not to live in the house any more. And I'm tired and I don't want to talk any more. I want to go home with my Mum.

PO: We'll stop now. You've been a very good girl.

Subsequent to the interview, it came to Auntie's attention that AR had not mentioned that Darnel Holde had digitally penetrated her vagina. She met up with AR and afterwards contacted the police, telling them that AR had something to add to her earlier account. So a second, brief, ABE took place on 16<sup>th</sup> February YR-0

PO: Auntie has said that you missed something out when we talked before.

AR : Auntie said that I forgot about something Darnel did to me and said I had to tell you what he did.

PO: What did he do?

AR : When he was in my room when I was reading the colouring book he touched my minnie.

PO: Did he do anything else?

AR : Yes.

PO: Did you tell us about that before?

AR : Auntie says that I have got to tell you he put his finger into my minnie.

PO: Did he put his finger in your minnie?

AR: Yes

PO: Is there anything else you want to tell us?

AR: Not really. He did it to Tanice as well as to me.

PO: Who is Tanice?

AR: She's my big sister. I told her what he did to me and she said he did the same to her when she was at the house.

PO: How old is Tanice?

AR: She's much older than me. She doesn't come to the house any longer. She's at home.

PO: When did you tell her?

AR: I don't remember. Not very long ago. Then she told Auntie. Auntie wanted her to tell the police but Tanice didn't want to.

PO: What did he do to Tanice?

A R: He touched her minnie and he told her that his thing was a like a candy cane.

## **ABE interview of TANICE ROBERTS**

(17<sup>th</sup> February YR-0)

Introductions etc.

PO: I want to ask you some questions about when you used to be looked after by Auntie. Do you remember how old you were when you first stayed at her house?

TR: I think I was a bit younger than Ayanna is now.

PO: And how old were you when she stopped looking after you?

TR: It was when Ayanna was coming up to her first birthday so I guess I was about 14.

PO: Who was living in the house when you were there?

TR: Auntie was and so was Darnel.

PO: Was he living there the whole time you were there?

TR: No, I think he left about a year before I stopped being there. It was about the time he met Marlene Walsh. I think he got his own place then.

PO: Did he use to come back to the house after he had stopped living there?

TR: Yes, he was there a lot. He used to make Auntie cook food for him and he got her to do his washing. By then Auntie wasn't too well – she was getting old and showing her age a bit. So she would sometimes forget things like, say, washing something of his or forgetting that he was coming round and not getting in food for him. When that happened he used to get really angry with her, especially if he had been drinking (which was a lot of the time).

PO: How did Auntie feel about that?

TR: It made her very sad. She used to say that he had been a really nice little boy but wasn't like that any more. And she was always saying that she wished he would just leave her alone and stop coming to the house but she couldn't think of a way of doing that.

PO: Are you all right? You seem a bit nervous. Do you want a glass of water? Or would you like a break?

TR: Yes, I'm finding this really difficult. I know what you're going to ask me about any minute now and I really, really do not want to talk about this.

PO: We'll try to get through it as quickly as possible.

TR: It keeps coming back to me. I wake up in the night in a cold sweat thinking about what he did. I keep trying to forget it but I just can't. I don't know if I can go through with this.

PO: Like I say, we'll do it as fast as possible. OK, let me start by asking you if Ayanna told you what had happened to you.

TR: (Cries for some time, inconsolable).....It's all my fault, I can't live with this, I should have told someone then it wouldn't have happened to Ayanna. Auntie is right, he should be locked up in prison for the whole of the rest of his life.

PO: Can you take a deep breath and just tell me what he did?

TR: I was in my room (interspersed with bouts of crying)..the one that Ayanna has now ....he came in and he saw me lying on the bed...I was reading a magazine....he came and sat on the bed .....he put his hand up my dress and he touched me on my vagina....(breaks down)

PO: I think you need a break.

[Interview resumes after 30 minute break. Tanice has recovered her composure, at least to a limited extent]

PO: (recapitulates up to the point of the break) Did anything more happen?

TR: Yes. He pulled my pants to one side and put his finger into my vagina.

PO: Anything else?

TR: He was wearing a towel and that was all he had on. And he took it off and I saw his dick.

PO: And did anything happen with his dick?

TR: I can't deal with this, I don't want to talk about it. Please let it go away. Please let it not have happened. Stop asking me questions.

PO: We'll have another break, shall we?

[Another half hour, then the interview resumes, again Tanice has made some kind of recovery]

PO: (Again recapitulates). So did anything happen with his dick.

TR: (quietly at first but her voice becomes louder and angrier as she speaks) He put it in my mouth. He said he really liked it when a woman took it in her mouth and said I should be nice to him and do it for him. I didn't want him to do that and I tried to push him away but he forced it in. So I bit it, not too hard in case he got angry and hit me, and he pulled it out. And while he was looking at it to see if I had injured it, I jumped off the bed and ran out of the house.

PO: Where was Auntie?

TR: I don't know. She wasn't in the house.

PO: And did you tell anybody about it?

TR: No, not until I learned what he had done to Ayanna and Auntie told me that if he had done anything like that to me, I ought to say so. She said I had to support her so she would be believed in court. So that's why I told mum and why I've told you.

PO: How old were you when he did this to you?

TR: I was 13 or 14.

PO: Did he know how old you were?

TR: Of course he did. Auntie always baked me a cake on my birthday and I remember he was there for my 14<sup>th</sup> birthday and ate some of the cake. Which means I must have been 14 when he did this because it happened after that birthday.

PO: Did he do anything else like this to you?

TR: No, it happened that one time.

## Witness Statement Form

**Name:** .....MARISSA HOLDER.....**Occupation:** ...Housewife.....

**Address:** .....

**Age: (D.O.B:)** ..... 72.....

**Taken By**.....PC Bloggs

This statement, consisting of ..... page(s) recorded hereunder was narrated and signed by me. The statement is true to the best of my knowledge and I made it knowing that if it is tendered in evidence I would be liable to prosecution if I have wilfully stated in it anything which I knew to be false or did not believe to be true.

Dated this.....5th..... Day of.....February..... **YR-O**.....

\*Signature...M Holder

Signed..PC Bloggs

(Person

present)

I am Marissa Holder and I am the mother of the defendant, Darnel Holder. I gave birth to him 30 years ago when I was about 40. I have not seen his father since Darnel was 5 years of age and have been living without a man for 25 years. I had earlier had two other female children by another man long before I met Darnel's father but they had grown up and left home by the time Darnel was two. They have gone to live in the USA and I haven't seen them for many years.

He was a good boy when he was young but he went off the rails a bit when he got into his late teens. He never got into trouble with the police but he used to drink more than he should (and he still does) and he spends time with loose women. At the moment, he is supposed to be in a



long-term relationship with Marlene Walsh but he doesn't spend all his time with her. I know that because he comes to my house at least twice a week and spends the night here. He usually arrives here well after midnight and is often drunk, considering the amount of noise he makes when he comes in. He has still got the same room here that he had when he was a boy. The only difference is that he treats this place like a hotel, coming and going when he pleases and expecting everything to be done for him by the staff, which is me and nobody else. I've also heard that he has the use of a room in the flat of one of his men friends, which is probably what he means when he talks to me about "his place".

My close friends have been telling me lately that I seem to have got quite a lot older in the last couple of years. I am finding it more difficult to remember things, not that I forget them, just that it takes me a bit longer to bring them to mind. And I get flustered a lot, so that sometimes my mind seems to go blank. I went to the doctor about it and he told me that I had got what he called dementia but it wasn't serious yet. I'm not having any problems making this statement. Everybody is being very calm and not putting me under pressure and that means that I can remember things quite clearly. Generally I think I'm doing pretty well for a woman of 72.

I've known Ayanna Roberts all her life. Her mother is some sort of cousin of mine and she has always called me Auntie. She is on her own and has to work hard to provide for Ayanna. I help her out by looking after Ayanna. She spends three or four days and nights with me each week, depending on how busy her mother is. Ayanna has her own little bedroom, upstairs in our house, just next to the bathroom. It's nice for me to have her in the house. My children are all grown up and left home a long time ago and I get lonely on my own (and a bit angry with Darnel who seems to spend a lot of his time having a good time while I am left to do all the hard work round the house).

I have been asked about a time when I came upstairs and saw Darnel behaving suspiciously. He arrived at the house at around 5 o'clock stinking of alcohol and of other women, for all I knew. We had words, as we usually did when he came home the worse for drink, and in the end he went upstairs, saying he was going to take a shower. A little later I went upstairs myself, I forget why. I remember getting to the top of the stairs and stopping for a moment to try to remember

why I had gone upstairs in the first place. While I was thinking about this, I was aware of some noises coming from Ayanna's room so I took two or three steps towards it and was almost at the door when Darnel came rushing out, pulling a towel round his waist. I stopped him and asked him what was going on.

He told me that he had gone in to say hello to Ayanna but that while he was talking to her, his towel had slipped from his waist and fallen to the floor. He was very embarrassed, he said, and had apologised. He had run into me just as he was leaving the room, intending to go back into the bathroom to get dressed.

I didn't really believe him but at the same time thought that even he wouldn't molest a 6 year old. Anyway, I went into her room and asked Ayanna what had happened. I saw that when I asked her this, she was looking past me to where Darnel was standing. When I turned to see what he was up to his face looked as innocent as could be. But I'm sure he had been making angry faces at Ayanna to stop her telling me what had really happened. But when I asked her, she just said that what he had said was right.

There was nothing I could do about this other than keep a close eye on Darnel when he was in the house with Ayanna.

The next thing was that about 5 or 6 weeks after this I was in the house. Ayanna was upstairs and Darnel and I were downstairs. I think she was looking at one of her colouring in books. I was sitting in my favourite armchair and must have fallen asleep. The next thing I knew was Ayanna came flying downstairs in a really bad way, crying and sobbing and naked from the waist down. A few moments later, Darnel came downstairs and rushed out of the house without saying a word.

I managed to calm her down and asked her what had happened. I shall never forget her reply which shocked me to my very core. She told me that Darnel had come into her room. He had talked to her about the earlier incident, had told her that she had done right not to tell me about it and that she wasn't to tell me about anything that happened between her and him in the future; she would live to regret it if she did. After he had said these things, he had pulled her

jeans and pants off and had touched her vagina and had put a finger right inside it. Then he pulled his own trousers down, took his penis out (which I'm sure was erect – she said something about it sticking up), made her touch it, like the last time, and then tried to put it into her mouth; he said something about it being like a candy cane. She said she was really scared and screamed and came running downstairs to me.

I now knew that I had been right about the earlier occasion – she had now told me right out that he made her touch his penis – and that he was a child sex abuser.

I got in touch with the police straight away. They came directly to my house and took this statement from me.

I understand that Ayanna is going to be spoken to by a police officer in the next couple of days. She is a good little girl and I am sure she will tell the truth.

## Witness Statement Form

**Name:** .....MARISSA HOLDER.....**Occupation:** ...Housewife.....

**Address:** .....

**Age: (D.O.B:)** ..... 72.....

**Taken By**.....PC Bloggs

This statement, consisting of ..... page(s) recorded hereunder was narrated and signed by me. The statement is true to the best of my knowledge and I made it knowing that if it is tendered in evidence I would be liable to prosecution if I have wilfully stated in it anything which I knew to be false or did not believe to be true.

Dated this.....12th..... Day of.....February..... **YR-O**.....

\*Signature...M Holder

Signed..PC Bloggs

(Person

present)

Someone told me yesterday that Darnel had not been charged with putting his finger into Ayanna in respect of the incident that happened last week. I worked out that this could only be because she had forgotten to tell the police about that part of it.

I asked her yesterday evening if this was correct. She couldn't remember one way or the other. I told her that it was really important that she should tell this to the police. That is why I have brought her down here this morning so she can do another interview and put the record straight.

I'm sure that he did penetrate her as she told me at the time.

She also told me that she had spoken to Tanice, her big sister, about what Darnel had done. I told Ayanna that she should tell the police about that. I also spoke briefly to Tanice on the phone. I don't remember what I said exactly but it was to the effect that she ought to tell her mother if anything had happened to her.

Tanice is now 17. I used to look after her just like I look after Ayanna now. She stopped staying with me around 2 or 3 years ago when I began looking after Ayanna. By that time Tanice was old enough to look after herself when her mother was at work. She was a good girl for most of the time she was with me. She was obedient and cheerful, always smiling and laughing. But for the last few months she was with me she wasn't so well behaved and looked sad a lot of the time, as well as being jumpy and nervous. I never found out why she changed but I thought at the time it probably had something to do with the stage of life she was going through.

## Witness Statement Form

**Name:** .....JACINTA ROBERTS.....**Occupation:**

...Housewife.....

**Address:** .....

**Age: (D.O.B:)** ..... 46.....

**Taken By**.....PC Bloggs

This statement, consisting of ..... page(s) recorded hereunder was narrated and signed by me. The statement is true to the best of my knowledge and I made it knowing that if it is tendered in evidence I would be liable to prosecution if I have wilfully stated in it anything which I knew to be false or did not believe to be true.

Dated this.....17th..... Day of.....February..... **YR-O**.....

\*Signature...J Roberts

Signed..PC Bloggs

(Person

present)

I am the mother of three children, two daughters and one son. My eldest child, Tanice, was born on 15<sup>th</sup> January YR-19. My youngest child, Ayanna, was born on 12<sup>th</sup> November YR-7. My son, Jaden, was born on 6<sup>th</sup> June YR-10

Since the birth of Tanice and ever since I have had to juggle looking after my children with earning a living. I have a job during the days as a shop assistant and work on three or four evenings doing bar work. I have made arrangements for Ayanna, and before her Tanice, to be looked after by Marissa Holder. She is a distant cousin and I have always called her Auntie. A

friend looks after Jaden; her son and Jaden are best friends and she is happy to have Jaden stay in her house.

I am aware of what happened to Ayanna at Auntie's house. Auntie has told me all about what happened and what Ayanna told her. Auntie told me not to talk to Ayanna about what had gone on. She said it was better if it stayed between her and Ayanna and that the police would probably prefer it that way. Also she didn't want me to be any more upset than I had to be. The result was that the first I heard of what Darnel had done was when I was at the police station and listened in to the interview that Ayanna gave the police on 7<sup>th</sup> February

Auntie told me on 11<sup>th</sup> February that Ayanna had missed an important bit out of her interview and that she would probably have to go to the police station again and fill in the gap.

I was present and listening in when Ayanna gave her brief interview on 16<sup>th</sup> February. I was shocked when I heard her say that Tanice had told her that Darnel had done bad things to her when she was at Auntie's house.

This is the first I had heard of this. I was, however, aware that Tanice had changed during the last year or so when Auntie was looking after her from an outgoing and happy girl to a difficult and unhappy young woman who had become very unsure of herself and nervous. I obviously asked her what was the matter but she told me to mind my own business and claimed that she was all right really. What I have now heard explains everything.

After hearing this, I spoke to Tanice. I told her that if she was able to tell her little sister what had happened to her all those years ago, she ought to be able to tell her mother. I also said that her sister needed all the help she could get and one way to help her would be for Tanice to disclose all of this to the police and to give evidence at court. Tanice said that she understood this and that was the main reason she had told Ayanna about it.

That is why I have brought Tanice to the police station today.

**Extract from ABE Interview of SHAVONNE HAYNES:**

The interview took place on 20<sup>th</sup> March YR-0

Introductions etc

Police Officer: Do you understand why we've asked you to come to the police station today?

Shavonne Haynes: Yes, it's because of what I told my mum about what Darnel Holder had been doing to me.

PO: What did he do to you?

SH: He comes to the bar where my mum works and I go there too sometimes. And he used to talk to me a lot and he came on to me. He said I was really attractive and he wanted to be my boyfriend and maybe it could be more serious than that. I thought he was really fit so when he asked me on a date I was really happy. So we went to this flat where he's got a room a few times where we used to kiss and cuddle on the bed. Then the day before yesterday he went too far and he raped me. I went home and was really upset. When my mum asked me what the matter was, I decided to tell her all about it and we came to the police and I saw a doctor who looked at me down below and at the bruises I've got on my arms and legs. Then I had the morning after pill in case he had got me pregnant and today I've come here to tell you about it. And I've done that, as well as telling my mum. So can I go home now?

PO: Well, you've told me a lot of things there. I'm going to have to go over it with you just to make sure I've really understood what happened to you. So there are quite a lot of questions I need to ask.

SH: (interrupts) I don't understand why you've got to ask all these questions. Like I say, I've already told my mum and I've just told you. Why can't I just go home?

PO: I'll try to ask as few questions as I can. I would really appreciate it if you could just do your best to answer the. First question is: How did you first meet Darnel?



SH: My mum works in a bar and I sometimes hang out there. Look, I've told my mum all about this, why have I got to tell you as well? Can't I just go home?

PO: You can go home soon but I've got to get it from you officially. Please could you just sit down and answer my questions? It won't take very long.

SH: OK but you'd better mean it.

PO: Does Darnel drink in the bar?

SH: Yes, he's in there most days.

PO: OK, so he drinks in the bar most days. How did you get to meet him?

SH: He began to talk to me a lot and said nice things.

PO: He said nice things. What sort of nice things did he say?

SH: He said I was funny and clever and good looking.

PO: Ok, funny, clever, good looking. When did this start?

SH: About two or three weeks ago.

PO: And what age were you – same as now, 15?

SH: Yes, 15.

PO: So you were 15. Did he know how old you were?

SH: He surely did, he asked me how old I am, I had said something to him about my being at school which I suppose is why he asked me, and lots of people have told me I look 17 or 18 and when I told him I was 15 he said that I looked much older than that .

PO: Older than 15. OK. Let me ask you another question. Did he buy you drinks?

SH: Sometimes he bought me a cola.

PO: A cola. Was that the only drink he gave you?

SH: He also let me have sips of his beer when my mum wasn't looking.

PO: Sips of his beer. OK. Was this the first time you had alcohol?

SH: No, I'd had it once before but not as much as he let me have.

PO: So you hadn't had that much before. Did anything else happen between you?

SH: Yes. Like I told you. How many cameras are there in this room?

PO: Two, the ones you can see.

SH: I bet there are some hidden cameras that you can't see. [She gets up and starts going round the room, apparently searching for cameras]

PO: What are you looking for?

SH: I don't know. I'm feeling quite tired. Anyway, like I said, I've already told mum all of this, why don't you just get her to tell you?

PO: Shall we take a little break now?

SH: If you want.

[There is a break of 15 minutes]

PO: Feeling a bit better?

SH: Yes, let's get it over with.

PO: [having recapitulated in some detail the earlier part of the interview] Did things go beyond him just talking to you and giving you some of his drinks?

SH: What? I gave up listening when you just went on about stuff I've already told you once. I thought we were going to get on with this.

PO: Ok, I'll ask the question again. Did things stop with him talking and giving you some of his drinks or did more than that happen?

SH: I've told you. He asked me out on a date a few times, if you can call it a date.

PO: Tell me again where it was that you went to.

SH: He's got a friend who's got a flat. Darnel has a room there and that's where we used to go. He told me he had borrowed it for a bit so he could get to know me better and after that if it worked out he would set up home with me. I don't know if he meant that we would live there or somewhere else.

PO: Set up home with you. What was the room like? Can you describe it to me?

SH: I don't know. It was just a bedroom with a big bed in it. And, I guess, some other stuff. I didn't pay much attention to it.

PO: OK so you can't describe the room. I want to ask you about what the two of you did at the flat?

SH: That's a really dumb question, what do you think we did?

PO: I could have been a lot of things and I think I can guess but I need you to tell me.

SH: We started off just kissing the first time we were there but after a bit we began to touch each other.

PO: Where?

SH: It started with him touching my breasts then it got to him touching me down below.

PO: Touching you down below. Did you get undressed?

SH: He would take my top off but I wouldn't let him take my jeans down, he would unzip them and put his hand down the front but that was as far as I let him go. This is really embarrassing. It was bad enough telling my mum but having to tell you is gross.....

PO: It's important that you tell me as much as possible. And where did you touch him?

SH: (at speed) I only touched him down below on top of his trousers. I didn't want him to get the wrong idea about how far I would go. Do you hang out at the beach?

PO: Yes, but why are you asking?

SH: Because I go there a lot and I thought I recognised you from there. [there then followed a lengthy passage in which she described the parts of the beach she liked best, who she met there and the things she liked to do]

PO: Ok, let's get back to it. You were telling me how you used to touch each other. Were you all right with that or did you not want it to happen?

SH: No, I was ok with it. I quite enjoyed it. And he used to say really nice things about me and told me he loved me more than anyone.

PO: So he told you he loved you, which was a nice thing, I guess. But you told your mum that he did something you didn't like. What was that?

SH: (cries, mumbles through the tears that it was all her fault, she shouldn't have led him on. She is consoled and reassured). He went all the way and I didn't want him to and I kept telling him I didn't want him to but he just wouldn't stop.

PO: How did it start?

SH: Have I got to say all this again? I'm really, really embarrassed at having to go over it all again.

PO: Just do your best.

SH: (again at speed) We were lying on the bed kissing and touching like we usually did. Then he started to pull my jeans down. I told him to stop and he said it would be nicer for me if he could touch me properly.

PO: Did he stop?

SH: No, of course he didn't. That's why I'm here telling you about it. If he stopped, I wouldn't have had anything to tell my mum about and I wouldn't be here answering your dumb questions.

PO: Did you try to stop him?

SH: No, I told him to stop but he wasn't listening and I had to try to fight him off. He's much stronger than me. He got my jeans and pants off and then he pulled his jeans and pants down and I saw his thing.

PO: His thing. What do you call it?

SH: I don't know, his dick?

PO: His dick. OK. What was it like?

SH: It was gross.

PO: Do you know what I mean by "erect"?

SH: I'm not totally stupid, of course I do. Ok, It was hard and sticking up.

PO: Hard and sticking up. OK. What happened next?

SH: He raped me.

PO: What exactly happened?

SH: What I told my mum is what happened. Why do I have to tell you as well?

PO: This is how the court will get to know what happened and the court will have to hear it from you not from your mum.

SH: That's really stupid. OK. Here's what happened (again at high speed) He got himself on top of me and held me really hard by my wrists. I tried to keep my legs together but he forced them apart with his legs and the next thing was his dick was inside me and he was going up and down really fast. He began to breathe hard and then he came.

PO: Then what happened?

SH: He rolled off me and said that it had been nice. And I said it hadn't been nice for me, I told him he had just raped me.

PO: What did he say to that?

SH: Something like "you know you enjoyed it really".

PO: Was that true?

SH: No, it was not. I told him loads of times while it was going on to stop but he wouldn't. And look at these bruises (shows marks to lower arms) and what about the other bruises to my legs that you can't see. Where did those come from? Can I go now? I'm really tired and I don't want to talk about this any more.

PO: Just one more thing. It's about you telling your mother. First, when did you tell her?

SH: As soon as I could. I've had enough of this. I've told you everything and I'm tired and I'm going now.

[At which point, she gets up and leaves the room.]

## Witness Statement Form

**Name:** .....SHAVONNE HAYNES.....**Occupation:** Student.....

**Address:** .....

**Age: (D.O.B:)** ..... 15 yrs.....

**Taken By**.....PC Bloggs

This statement, consisting of ..... page(s) recorded hereunder was narrated and signed by me. The statement is true to the best of my knowledge and I made it knowing that if it is tendered in evidence I would be liable to prosecution if I have wilfully stated in it anything which I knew to be false or did not believe to be true.

Dated this.....24th..... Day of.....May..... **YR-O**.....

\*Signature...S.

Haynes

Signed..PC Bloggs

(Person

present)

I want to add some more things to what I said to the police officer in my previous interview.

I have been given the chance of having this statement taken on video and played in court as my evidence but I have decided that I would rather tell the judge about everything Darnel did to me, the things I have said already as well as the things I'm going to say now, by answering questions in court from behind a screen. I don't think I was able to do justice to myself on the video, in part because I don't think that policewoman is very good at asking questions. She kept asking really long questions or going over the same thing again and again and I got tired and a bit angry so didn't answer the questions as well as I could have done and also missed some things

out. I know that a good lawyer can ask me better questions in court and that is the way I am now going to give evidence.

The first thing I want to add is about the other time Darnel Holder raped me. I didn't mention this last time because I was embarrassed and also because I felt the policewoman didn't believe me about what I had already told her.

I've said already about how he used to touch me and how he kept trying to go further and how I kept telling him "no". There was one other time, apart from the one I've told you about, when he did go further. This happened about three days before the one I've already talked about.

The way it happened was that when he was touching me, he was gradually pushing my jeans and pants down. I kept asking him to stop but he carried on anyway until my jeans and pants were down by my knees. Then he sat up on the bed and turned away from me. I could see he was taking down his pants and was fiddling around with his penis. When he turned back, I could see his erect penis with a condom on it. I told him that I wasn't ready to have full sex with him but he said he just wanted to show me how much he loved me. Before I knew it, he was on top of me trying to force his penis into me. I told him to stop over and over again but he just wouldn't listen and put his penis into my vagina. It wasn't long before he came and he took his penis out of me. I was crying during the whole of it. When it was over, he said that he was really sorry for what he had done and he promised not to do it again until I was ready. He also said something about it not being his fault, that I had led him on. He seemed genuinely sorry. As well as that, I kind of saw his point about my having led him on. So in the end I decided that we were equally to blame and forgave him.

The next time we met, it happened again, like I've already told you. Only this time, he didn't wear a condom and was really violent with me. I realise now what a fool I was to forgive him for the first rape and to meet up with him again.

The other thing I want to add is about the room where all of this happened. I know that the policewoman asked me about this and I didn't give an answer. I had had enough of being questioned by that stage so I just shut down.



The room had a double bed in it. The other things I remember are that it had a mirror on the ceiling, which was a bit creepy, and a big photograph of a naked woman on the wall.

Also I want to clear up the dates on which this all happened.

I may have given the impression that I told my mum about the second rape straight after it happened. That isn't true. It took me a couple of days. I was confused and worried and upset and I didn't know what to do. Mum kept going on and on at me about something being the matter with me and in the end I decided that I had better tell her. I told her early on the morning of 18<sup>th</sup> March YR-0 which was the day she took me to the police and I had my medical examination. But he had raped me a few days before. I've worked out that this was in the late afternoon of 15<sup>th</sup> March. I stayed at home for the rest of that day and for the next two days. Mum could see there was something wrong with me and kept on asking me what it was. In the end, I worked out that it would be best to tell her and get her to help me. Which she did, including making sure I had the morning after pill.

I wasn't sure if I needed the morning after pill because he hadn't actually come inside me, but I've heard that you can get pregnant even if the man pulls out. I don't think the policewoman ever asked me about him coming and by the time we eventually got round to that bit of it I was really tired and finding it very difficult to concentrate, which is probably why I didn't mention it. Anyway, what happened was that as he began to breathe heavily, he pulled his penis out of me and came all over my stomach. I wiped myself clean and when I went home I had a shower. I must have had at least two more showers after that and each time I washed myself as clean as I could. I wanted to get every trace of him off my body so I really scrubbed myself on my stomach and down below.

During the time we were seeing each other and going to the flat, the way it worked was that we would meet up in the bar first before going to the flat. We wouldn't leave the bar together, if we did my mum would have got suspicious. He would leave first and I would give it a few minutes then I would leave. We used to meet up round the corner from the flat and then go up to his room. This is what happened every time, including when he raped me for the second time. My mum has told me that she saw him in the bar with Marlene that afternoon. That was the first I

knew about this. I hadn't seen him with her myself. He used to tell me he wasn't with her any longer and he wanted to be with me instead.

## Witness Statement Form

**Name:** .....TAMESHA HAYNES.....**Occupation:** .....

**Address:** .....

**Age: (D.O.B:)** ..... 33 yrs.....

**Taken By**.....PC Bloggs

This statement, consisting of ..... page(s) recorded hereunder was narrated and signed by me. The statement is true to the best of my knowledge and I made it knowing that if it is tendered in evidence I would be liable to prosecution if I have wilfully stated in it anything which I knew to be false or did not believe to be true.

Dated this.....18th..... Day of.....March..... **YR-O**.....

\*Signature...T.

Haynes

Signed..PC Bloggs

(Person

present)

I am the mother of Shavonne Haynes.

I used to do bar work on 5 or 6 days a week. My shifts normally started at around 3pm until around 10pm. Shavonne used to come to the bar quite a lot on the days when I was working. She would usually lend a hand, mostly tidying or doing washing up, as well as socialising with customers. The customers are a sociable crowd and she has always got on well with them. I have seen Darnel Holder at the bar quite often. He seems to know most of the regulars and gets on well with them.

I saw him on occasions talking to Shavonne but thought nothing of it. I wasn't very surprised, really, because he has always seemed to me to be a bit backward and I could see how he might get on ok with a 15 year old.

This morning (18<sup>th</sup> March YR-0) Shavonne said something to me as a result of which I brought her to the police station.

She had been very quiet and subdued since the evening of the 15<sup>th</sup> March which was not like her usual self. I kept asking her what the matter was but she wouldn't tell me.

Afterwards, when I had learned that this was all about Darnel Holder and what he had done to her, I thought a bit more about what happened that day and I remembered that I had seen him in the bar that afternoon with Marlene Walsh. They were sitting in a corner together, holding hands and laughing. A few minutes later I noticed that she had gone and he was now talking to Shavonne. I couldn't hear what they were saying but I remember thinking that Shavonne didn't look very happy about something. I don't know when she had arrived at the bar, whether it was before or after Marlene had left. I didn't pay any attention to this at the time since she used to talk to him quite a lot. I remember later looking over to where they had been talking and noticed that they had both left the bar.

Anyway, at about 8 o'clock this morning she came into my bedroom and said she needed to tell me something. I asked if this had anything to do with her being out of sorts over the last few days and she said it did.

I can't remember the exact words she used. But it came to this. She had been seeing Darnel Holder for a few weeks. They had been in the habit of going to a flat that he had a room in. He had touched her breasts and put his hands on her vagina under her jeans. I asked her if it had gone further and she burst into tears and said that he had raped her and she was worried she might get pregnant. I tried to get more out of her but she was too upset so I stopped asking her questions and brought her here to the police station. She showed me her wrists and I could see that they were quite discoloured. I hadn't noticed this before she showed it to me but I could easily have missed it.

I have been asked if she has ever self-harmed. The answer is that she has occasionally caused herself some minor injuries. I have been told by the doctors that this may have something to do with her ADHD. When it happens, it is usually when something has happened to her which has caused her to feel stressed or unhappy.

## Witness Statement Form

**Name:** .....TAMESHA HAYNES.....**Occupation:** .....

**Address:** .....

**Age: (D.O.B:)** ..... 33 yrs.....

**Taken By**.....PC Bloggs

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Dated this.....24th..... Day of.....May..... **YR-O**.....

\*Signature...T.

Haynes

Signed..PC Bloggs

(Person

present)

Shavonne told me last night that she was going back to the police station. She said she had been thinking things over and realised that there were things she hadn't gone into in her police interview. I asked her to tell me what these things were but she said she was tired and didn't feel like talking any more. She asked me to come with her to the police station, which I have done. I sat with her while the police took her statement.

I had noticed that she has been very quiet over the last couple of days. She often gets like that when she is worried. I've learned that it is better to leave her alone when she's in that sort of mood. I know from experience that she will always talk to me if she thinks she needs my help.

I agree that she ought to give evidence in court with screens to protect her. I know that she would like it if I sat near her when she gives evidence, just to give her comfort. I know that I would not be allowed to interrupt the court hearing and I also know that I must not discuss the case with her until the trial is over.

## **AGREED FACTS**

[These are facts about which there is no dispute as they are agreed by both the prosecution and defence. Therefore instead of having to call evidence to prove these facts, they can be reduced to writing and read into the record (usually by the prosecution), at an appropriate time in the trial.]

1. Medical examination of Ayanna Roberts:
  
2. Ayanna was examined on the 5<sup>th</sup> of February YR-0
3. Examination of her genital area revealed no sign of penetration. This does not exclude the possibility that penetration had taken place.
4. There were no relevant findings in relation to the examination of her genital area nor in relation to the full body examination which was carried out.
  
5. Medical examination of Shavonne Haynes:
  
6. Shavonne was examined on the morning of 18<sup>th</sup> March YR-0.
7. Discolouration was seen on both of her wrists and on the inner aspect of both of her thighs.
8. The marks to her wrists were generalised and displayed no discernible pattern. It was, therefore, not possible to make a positive association of these marks with hard gripping of the wrists, although such an association is possible.
9. The discolouration to the thighs was consistent with her account of forced intercourse, with the male forcing her legs apart with his legs. It was also consistent with vigorous consensual sexual intercourse.



10. Internal and external swabs were taken of her vaginal area on the 18<sup>th</sup> of March.  
Subsequent analysis of the swabs (carried out at the end of May YR-0) revealed no indications of male ejaculate. This finding does not rule out the possibility that intercourse had taken place within the previous 72 hours, particularly in the light of the passage of time between the alleged event and the time of examination, the evidence that the male had withdrawn before ejaculation and the evidence that Shavonne had washed herself on more than one occasion since the alleged event.
  
11. The arrests and interviews of Darnel Holder took place on the dates set out in the Agreed Summary of Police Interviews, annexed to these Admissions.
  
12. The room which the police inspected contained, inter alia, a double bed and a large photograph of a nude woman hanging on a wall. There was also a mirror attached to the ceiling above the bed.
  
13. Darnel Holder is 30 years of age and has no previous convictions.
  
14. School reports and all available records held by the authorities in respect of Tanice Roberts, Ayanna Roberts, Shavonne Haynes and Kenton Rowe have been obtained and examined. No relevant entries have been identified, save in respect of Darnel Holder and Kenton Rowe.
  
15. Darnel Holder's school records show that he was of low intelligence and a disruptive influence in the classroom, not paying attention to the lessons and frequently

distracting other pupils. His attendance was sporadic. He left without any qualifications. He was regarded as a popular boy.

16. Kenton Rowe was disciplined by his school authorities in October YR-1. He had stolen a mobile phone from a fellow pupil (A). He then placed the mobile phone into the bag of another pupil (B), against whom he bore a grudge, and reported to the school authorities that he had witnessed B stealing the phone from A's school bag. The authorities searched B's bag and found the phone. B was disbelieved when he denied the alleged theft by him and was punished. Kenton was later overheard by a teacher confiding to a fellow pupil that he had stolen the phone and had planted it in B's property. When asked by the school head if this was true, he admitted that it was. He was disciplined by the school and later by his mother for the act of theft and for falsely implicating B in it.

17. Marissa Holder is 72 years of age. She has early dementia and mild autism.

18. Tanice Roberts was born on 15<sup>th</sup> January YR-19. She suffers from Post Traumatic Stress Disorder and has a minor learning disability.

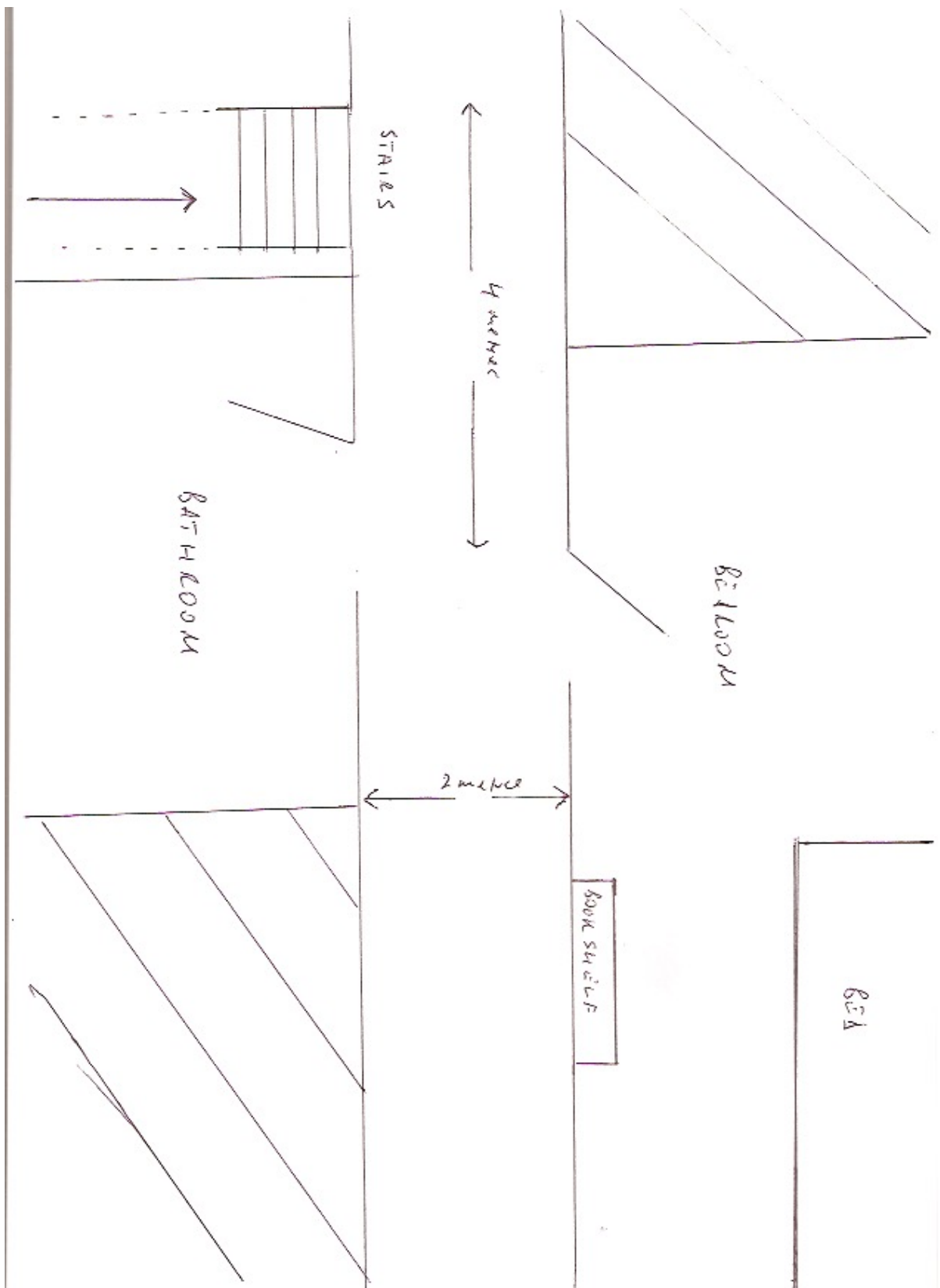
19. Ayanna Roberts was born on 12<sup>th</sup> November YR-7.

20. Shavonne Haynes was born on 12<sup>th</sup> December YR-16. She has Attention Deficit and Hyperactivity Disorder.

21. Darnel Holder has a mild learning disability. His cognitive function has been undermined by excessive use of alcohol and marijuana.

22. Kenton Rowe is 10 years of age.

23. The plan attached to these Admissions shows a part of the upper floor of Marissa Holder's house. It is approximately to scale. The distances marked on it are accurate.



## **Agreed summaries of police interviews of DARNEL HOLDER**

1. Before each interview the defendant was properly cautioned and was given the right to free legal assistance. At each interview he had a legal representative with him.
2. 14<sup>th</sup> February YR-0

The defendant answered all questions asked of him. In respect of the first allegation, he said that he had entered Ayanna's room to pass the time of day with her. He had just come out of the shower and was only wearing a towel wrapped round his waist. She had asked him to fetch a book from a high shelf and while he was doing so the towel had slipped so that his penis was exposed briefly. He was very embarrassed and immediately left the room, securing the towel round his waist as he did so. As he left the room, he bumped into his mother. She seemed concerned about what had happened but he reassured her it was an accident and nothing bad had occurred. When his mother asked Ayanna what had happened, Ayanna agreed with his account.

As to the second allegation, he said that nothing of the kind alleged against him had happened. He had been at the house that day but spent his time there helping his mother with routine household chores and had later slipped out of the house to meet a business associate in the town. His mother had fallen asleep in an armchair at the time he left. He knew Ayanna was in the house at the time because he had heard noises from upstairs but had not seen her. He was at a loss to understand why Ayanna should say these terrible things about him.

He was charged and released on bail. He was not charged with any offence involving actual penetration.

3. **28<sup>th</sup> February YR-0**

The defendant was further interviewed. He was informed that Ayanna had given a second ABE interview in which she alleged the defendant had touched her vagina and

had digitally penetrated her. He replied that he stood by his previous account, that he had not seen Ayanna at all that day and had certainly not touched or penetrated her vagina.

He was informed that Tanice had been interviewed and had made an allegation against him that he had put his finger into her vagina and had forced his penis into her mouth. He said that Tanice had never liked him when she was in the house being looked after by Auntie. The allegations she was making were untrue. They seemed very similar to the things Ayanna was saying. He queried why, if this had really happened, she had taken so long to mention it and stated that it was his belief that she was making it up in order to make Ayanna's untruthful claims more believable.

He was later charged with offences in relation to Ayanna and Tanice and released on bail.

**4. 24<sup>th</sup> March YR-0**

The defendant answered all questions asked of him. He agreed that he had met Shavonne Haynes at the bar where her mother worked. He had spoken to her a few times but when it became clear that she was interested in him sexually, he backed off. He was in a stable relationship and didn't want to put that at risk. Shavonne became angry at this and she had later texted him to say that he would regret behaving like this towards her and, a few days later in another text, promising to make sure he would get in trouble for what she alleged he had done to her and to Ayanna Roberts.

He agreed that he had access to a flat and took officers there so that they could inspect it.

**5. 30th May YrR-0**

The defendant was asked about the further allegation of rape.

He said that he wanted to clear things up. He had been frightened to tell the truth at the previous interview because it might have made it look that he was guilty when he really wasn't.

He said that he had always believed that Shavonne was 17. She certainly looked it and had said things that were consistent with that, for example that she was old enough to drive or soon would be.

The things she had said about them going to the flat were true, except that it wasn't true that she had told him that she was 15. She was exaggerating the things he had said to her about making a future with her, although he may have given her the impression that his relationship with Marlene was over and that he wasn't seeing any other women.

At first their physical relationship was limited to heavy petting, as she described. Then, a few days before they split up, they had moved on to full sexual intercourse. This happened with her full consent. At one point she had asked him to take things more quietly; he had been too vigorous in his movements and was causing her discomfort in the region of her inner thighs. She had not, however, asked him to stop. He had worn a condom. She had obviously enjoyed having intercourse with him. Afterwards she had said loving things to him. They had agreed to meet up a couple of days later at the bar.

Things had gone badly wrong when they met a couple of days later. First, Marlene had decided on the spur of the moment to come to the bar. He and Marlene had sat down together for a bit but he had managed to persuade her to go home. Then Shavonne came over to talk to him. It was clear that she had seen him with Marlene. Shavonne spoke to him in the bar briefly then said she needed to talk to him privately so they had gone to the flat. She was very angry. She shouted at him, saying that he had lied to her, that he was obviously still with Marlene, that the way they were acting towards each other showed that he was still in love with her, that she wanted nothing more to do with him and that she now knew that the things people were saying about him being a paedophile were true. She stormed out of the flat saying he hadn't heard the last of

this, she wanted nothing more to do with him but she would do all she could to get him in as much trouble as possible.

They had not had sex on that occasion.

He was later charged with sexual activity with a child, rape and causing a child to engage in sexual activity.



## **DEFENCE DOCUMENTS**

[In a real case, the prosecution would not have access to these documents however for the purposes of this training exercise they have been provided to all parties]

### **Proof of Evidence of DARNEL HOLDER**

I am now 30 years of age and a person of previous good character.

I was brought up by Marissa Holder. She is my mother Everybody calls her Auntie. My father left home when I was about 5 and I haven't seen him since. I only have a very vague memory of him. My mother never took up with another man and I was really her only child so it was just the two of us in the house. I know this isn't exactly right but my two older half sisters had left home while I was still a baby and I've hardly ever met them.

I did my best at school but I wasn't very good at book learning and left school as soon as I could . I might have passed some exams but I don't remember now what they were. Since leaving school, I have got by doing odd jobs here and there.

Before I was remanded in custody, I was living with Marlene Walsh. I've been with her for a couple of years and we've been thinking of getting married but haven't got round to it yet. It's right, as my mother says, that I used to spend a bit of time at home with her but this wasn't because there were any problems between me and Marlene, it was because my mother has been showing her age in the last few years and I was just doing my duty by her as a son by spending time with her, making sure she was all right and generally looking after her. I don't know how she's supposed to know that I've been seeing other women. I don't suppose I should be saying this about myself but the truth is that I'm a good looking guy and have always been lucky with the girls. And it might be that in the past I would be seeing more than one girl at the same time but that mostly changed when Marlene came into my life. It's true that I sometimes stay at someone else's flat. He is called Frank Gibbs and has a good job in computers or

something which takes him all over the world. One of my odd jobs is to look after the flat when he is away. He gets worried about burglars so he asks me to sleep there in his spare room at those times; I do this on some nights but quite often I don't actually sleep there, I just go round there and check it out during the evening. I don't even go there, never mind sleep there, when he is at home; this is only when he is away. What with looking after the flat and sometimes staying with mum, I'm not with Marlene every night but she knows about all of this and is very understanding. I've told her that I'm not seeing other women and that puts her mind at rest.

I know what Ayanna Roberts is saying I did to her. I can't believe that anyone could possibly think that I am capable of molesting a 6 year old, especially one who is like a family member. What I told mum about the towel falling off is the truth. I had been working that day, I can't remember what it was, but I do remember stopping off at the bar where I had one single beer. I thought I would go and see mum. When I got there, I made sure she was all right, did some cleaning and tidying round the house then went upstairs for a shower. When I came out of the bathroom, I noticed Ayanna in her room and I popped in to say hello. She mentioned a colouring-in book which was on a high shelf and asked me to get it down for her. When I reached up for it, my towel slipped and for a moment, no time at all, I was naked. I quickly picked the towel up again and rushed out of the room, pulling the towel round my waist. That's what mum saw as she got to the top of the stairs. And that is what I told her, including that I was very embarrassed. She seemed to be angry with me, which I don't blame her for. It can't be nice for a little girl to see a man's penis like that. But she seemed also to think I had done it on purpose and she asked Ayanna what had really happened. Ayanna backed me up and said that I was telling the truth. It is not true that I looked at her in an angry way and I don't know why mum thinks I did. She certainly didn't see me doing that, as she admits herself.

As for the other thing she says, all I know about that is that this was another time when I went to check up on mum. I knew that Ayanna was upstairs because mum told me she was but I never went upstairs myself. I did a few bits and pieces for mum and when I came back into the front room I saw that she had fallen fast asleep. I didn't want to wake her up and anyway she knew that I had to be away by 6 o'clock so wouldn't be surprised when she woke up and found I had

gone. So I let myself out of the house quietly and went down to the bar where I had a business meeting with someone who wanted to put some work my way.

I told the police this when I got arrested. I think they must have believed me otherwise I wouldn't have got bail.

I've been thinking hard about why Ayanna should make these things up about me. She's always been close to my mum and I have sometimes thought that she doesn't like it when I come to the house, maybe she's a bit jealous of me. Mum has sometimes said to me that she doesn't want me round the house. I know that this is to do with her getting old and not always knowing what she is saying. The truth is that she really likes it when I go to the house, whatever she might say. Without the help I give her, she would be struggling to cope. I've noticed sometimes that Ayanna has been listening when mum has said these things and I'm wondering now whether she has decided to help mum to get rid of me by making up horrible stories about me. I think Ayanna should be asked some tough questions about this.

As to the things that Tanice says, they are just a total pack of lies.

Tanice used to come to the house and stay there just like Ayanna did later. For most of that time I was living there full time and I'm prepared to accept that I may not have been very nice to her some of the time. I got a bit jealous of her because I got to feel that she had stolen my mum from me. I think that mum liked having other females in the house and didn't really like me very much. But nothing really happened between us, it's just that we weren't very friendly with each other.

When Ayanna came to stay, Tanice used to come to visit her and Auntie at our house. Tanice used to treat Ayanna like she was her mother, always fussing over her and trying to look after her. I guess that's got something to do with her being lots older than Ayanna. So it doesn't really surprise me that she is making up this story about me having put my finger in her vagina and forcing my penis into her mouth. These things never happened and Tanice is only saying them to get me into trouble and to make people think that Ayanna is telling the truth.

I think my mum is behind all of this. It looks to me as if she is telling Ayanna and Tanice what to say so that she can make sure I get sent to prison. Then I won't be able to go to her house, which is what she keeps saying she wants, although I'm sure that's only because she's got this dementia problem. I want my lawyers to keep asking her about this until she admits that she isn't right in the head and is making the girls tell lies about me.

As to Shavonne Haynes, I agree that I met her at the bar where her mum works. I had no idea that she was 15. She looks at least three years older than that. She said a load of things, like I told the police, that made me certain that she was at least 17. She obviously liked me and I liked her too and quite soon it went a bit further than just talking to each other. I don't think I would have taken it to the next level normally but I was feeling really stressed after the police had arrested me and accused me falsely of doing terrible things to Ayanna and, later, to Tanice so my head was in a bad place and I did something I wouldn't normally have done. I have to admit that I did tell her that Marlene and I were finished and that I could see a long term future for her (Shavonne, that is) and me. I know I shouldn't have told her these little untruths but I have learned that you sometimes have to, otherwise you won't get anywhere with a new lady friend.

Anyway during the few weeks that I was seeing Shavonne for, Frank Gibbs was away on a business trip and a long holiday so I had the flat to myself. I used to meet Shavonne there. We would meet up at the bar then I would leave and wait for Shavonne to leave the bar too then come to round the corner from the flat. We would lie on the bed and kiss and fondle each other the way she talked about in her police interview.

Our touching became more passionate as time went on and then one afternoon I asked her if she was ready to go all the way with me. I can't remember exactly what she said but it was clear that she thought the time had come. So we took our clothes off and had full sex. I wore a condom like I always do when I have sex with a girl for the first time. It all went really well, apart from one little moment when she asked me to stop and told me that I was going at it too strong and my knees had bumped into the tops of her legs and hurt her. I said I was sorry and then we started again and it was great for me and for her too. She certainly sounded like she was

enjoying it and when it was over she said how good it had been for her. We made an arrangement to meet up a couple of days later and do it again.

That's when it all went wrong. What I told the police on the 30<sup>th</sup> May is pretty much the truth of it. I've never seen a woman so angry (and I've split up with a few in my time). What I forgot to say to the police is that after the break up she sent me a text which I have deleted in case Marlene saw it but it said something like I would regret disrespecting her. A few days before I got arrested for what she said I did to her, she sent me another text, which I have also deleted, saying she had heard about what I had done to Tanice and Ayanna and she was going to make sure I was found guilty of molesting them..

It is correct that the room at Frank's flat has got a mirror on the ceiling and a big picture of a nude woman on the wall.

I have been told that Shavonne had some marks when the doctor examined her on 18<sup>th</sup> March YR-0. It's no good asking me about the marks to her wrists. They've got nothing to do with me. I've explained how she must have got the marks to her thighs.

I know now it was a big mistake to lie to the police. But I was really scared when they first arrested me for what had happened with Shavonne. I'm not always very good at thinking things through and making the right decisions about what is the best thing to do.

As well as being scared, I was also worried (and I still am) about Marlene finding out about my seeing Shavonne and working out that I might have been seeing some other girls as well. So far as she is concerned, I haven't slept with any other girls since she and I have been together and I don't want to her to find out different. My lawyers are going to have to find a way of dealing with this, maybe by asking the court if I can be tried under a different name.

## **Written statement of KENTON ROWE provided to defence solicitor**

I am a 10 year old schoolboy. My birthday is 28<sup>th</sup> December. I go to the same school as Jaden Roberts. He is one of my friends. I know his mum, Jacinta Roberts. I know he has got two sisters called Ayanna and Tanice. I have met them a few times when I've gone round to his house. Jaden sometimes comes to my house.

I know Darnel Holder. My dad is a good friend of his. They go to the same bar. I've seen them together sometimes when they are having a good time, laughing a lot and not walking very straight.

I heard from my dad that Darnel Holder was in trouble with the police. He didn't tell me what he had done wrong. He said that it had something to do with Jaden's sisters and he didn't believe it was true. He wished he could do something to help him.

A couple of days after my dad said those things to me, I went round to Jaden's house to play. Jaden had gone to the toilet and I was sitting in his room reading something. Jaden had left the door open. I heard Ayanna and Tanice talking outside his door. I don't think they knew that I was in his room.

Tanice said to Ayanna that they were going to have to work together to get Darnel out of Auntie's house. She said the best way to do that would be to make up stories about Darnel so he would get sent to prison. She said that she would make up a story that was just like what had happened to Ayanna and tell it to the police. Ayanna said that she had already made up lots of stories about him and that she just wanted to help Auntie. She said she really loved Auntie and wanted to make things better for her.

Then Jaden finished in the toilet and came back to the room. Tanice and Ayanna said "hi" to him then they went away to somewhere else in the house.

I didn't tell Jaden what I had heard. I didn't think he would like it if I said his sisters were liars.

I didn't see my dad for ages after that. He doesn't live with my mum any more and sometimes I don't see him for weeks and weeks. I would like to see him more often, it seems sometimes that he doesn't like being with me. The next time I saw him, he told me that Darnel was in some more trouble and he wanted to help him. That's when I told my dad about what I had heard Tanice and Ayanna saying to each other. My dad said that he would tell Darnel.

Then Darnel's lawyers asked me to make a statement about what I heard them saying.

### **Written statement of MARLENE WALSH provided to defence solicitor**

I make this statement in support of Darnel Holder. I have known him for about five years and we have been living together for the last two and a half years.

As the court will know, he did not prosper at school. As he says himself, book learning did not suit him. Despite that he has managed to find work and has made a good living from self-employment. Between the two of us (I also have employment) we are comfortably off. I am a few years older than him and feel that my greater maturity has helped him to cope with life.

I have always found him to be an honest man. Although we live together, we are not together every day or every night. He sometimes stays overnight with his mother and sometimes at a flat which he looks after for its owner when the owner is away. I have never had reason to doubt his explanations for his absences from our home. I know that he is very considerate of his mother who, sadly, has been declining physically and mentally over the last two or three years.

He is a fun-loving, popular man who has many friends, male and female, of all ages. I sometimes meet up with him in the bar he goes to and have seen with my own eyes how well-liked he is.

I have been asked about our sex life. I find it very intrusive and embarrassing to talk about this. What I am prepared to say is that he is a considerate lover and has never forced himself on me. For example, I know that he likes to be given oral sex. He has asked me to give it to him from time to time but I have always said no. Each time he asks, I have explained to him that I find this disgusting and he has accepted this and agreed to restrict our sexual acts to more normal things.

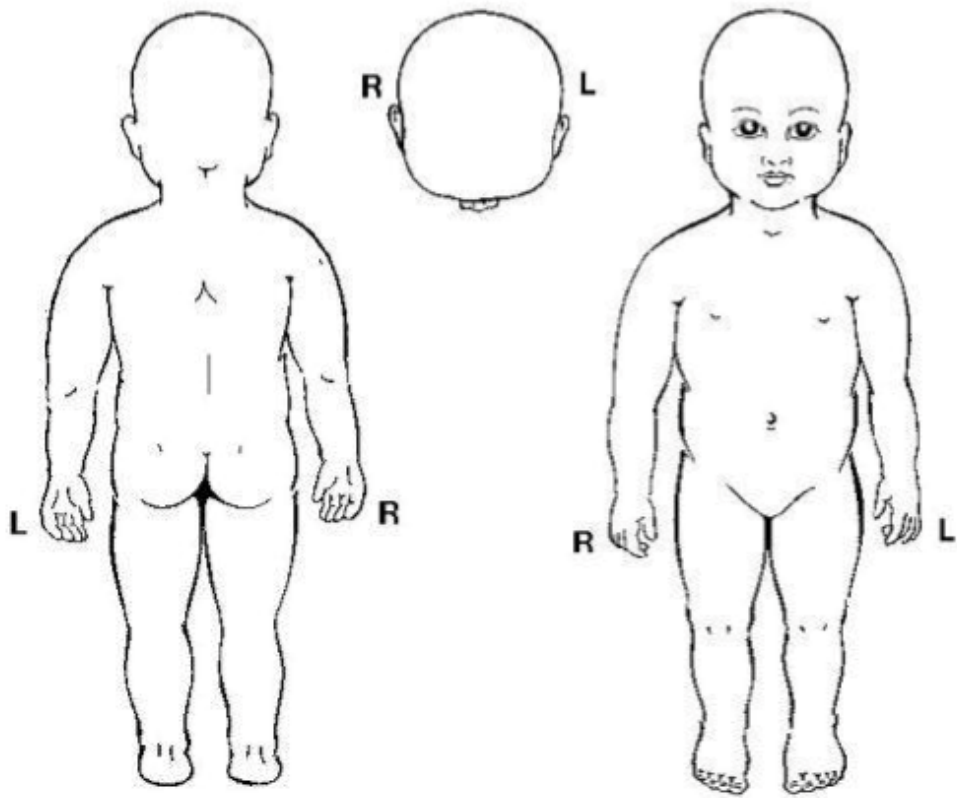
I know what Darnel is accused of. I am quite sure that he did not do any of the things he is alleged to have done. In particular I cannot imagine that he would commit sexual acts on a 6 year old child. He has never shown any interest in under age females. On the contrary, he is in a settled relationship with me, a woman of mature years.

Darnel Holder has assured me that he has not been with another woman since he and I started dating. Like I say, I trust him and I believe that he is telling the truth about this.



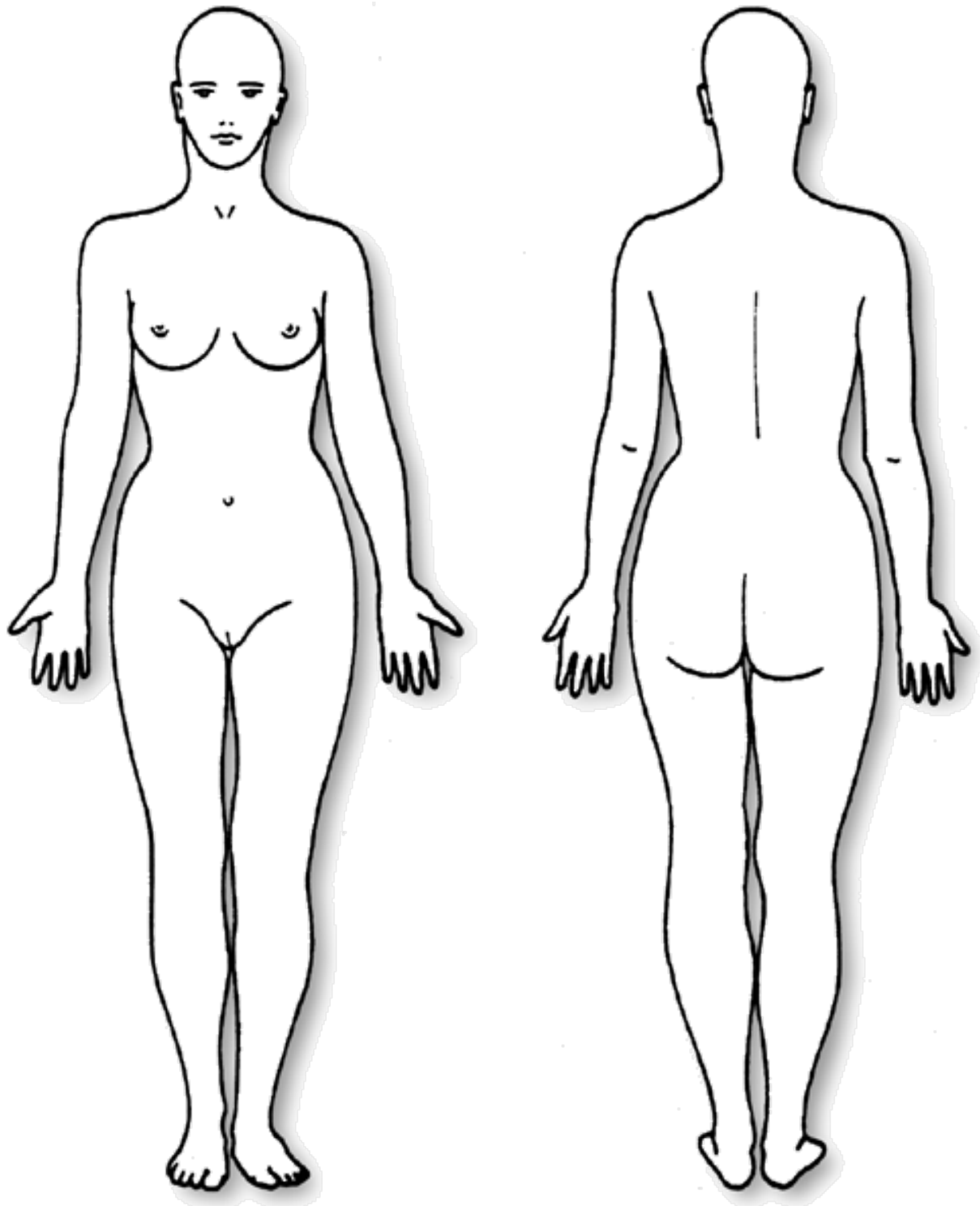
**BODY MAP**

**CHILD**



**BODY MAP**

**FEMALE**



**BODY MAP**

**MALE**

