

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Civil Action No. 13-cv-01287-MSK-MJW  
April 8, 2015

Redacted Excerpts from Deposition Transcript of former El Paso  
County DHS Caseworker

Transcribed by Agren Blando Court Reporting & Video, Inc.

1 PROCEEDINGS

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3 being first duly sworn in the above cause, was examined  
4 and testified as follows:

5 EXAMINATION

6 BY MS. SIDEBOTHAM:

7 Q I'm Theresa Lynn Sidebotham from Telios Law  
8 taking this deposition. Will you state your full name,  
9 please.

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11 Q And would you summarize briefly when you've  
12 been deposed before?

13 A I was deposed by yourself and Mr. B-- in  
14 the end of June, I believe, 2012.

15 Q Any times prior to that?

16 A Well, and on the last deposition, I thought  
17 that I had been deposed once before a long, long time  
18 ago in Detroit. I can't recall the circumstances of  
19 that any more than I did the last time.

20 Q Thank you. And you understand that you're  
21 under oath, just like you're on the witness stand, and  
22 you agree to testify truthfully and give full and  
23 complete answers?

24 A Yes.

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16 Q Okay. Let's talk about DHS procedure for  
17 when you examine a child and when you need to remove  
18 clothing. And we'll want to distinguish between what's  
19 DHS procedure and what's something - just  
20 decided to do on her own, because it's an important  
21 distinction for us. So can you describe generally your  
22 understanding of DHS procedure if you need to remove a  
23 child's clothing in order to investigate?

24 A Anytime a caseworker receives a report that  
25 there are marks or bruises on a child, policy and

1 procedure is that those areas have to be photographed to  
2 either conclude that the marks are not there or to  
3 conclude that the marks are there, and then to move  
4 forward accordingly.

5 Q And it's -- can you clarify if you're talking  
6 about this is the job of the caseworker under DHS  
7 procedure?

8 A It is the job of the caseworker. There's a  
9 citing, 19.3.306, I believe, in the Colorado Children's  
10 Code.

11 Q Is it part of the procedure that the  
12 caseworker discusses removing the child's clothing with  
13 the supervisor?

14 A When you get a -- when a caseworker gets  
15 assigned something that has allegations of a mark,  
16 generally, the supervisor will say, Go out and take  
17 pictures.

18 Q And is that what happened in this case?

19 A I don't know that anybody said, Go out and --  
20 specifically go out and take pictures, it's an  
21 expectation of the process. What I was told was this  
22 child allegedly has marks, and we need to find out if  
23 that's true and to what extent.

24 Q Is it part of the policy and procedure to ask  
25 the parents for consent first?

1 A No.

2 Q If you're in a case where the parents aren't  
3 there, is it policy of -- part of the policy or  
4 procedure to notify them or ask them beforehand?

5 A Not necessarily. If I can give an example,  
6 if there is a child at school with a mark on their face,  
7 their arm, their back, their leg, and -- or any other  
8 part of their body, non-genitalia part of their body,  
9 the -- for example, a kindergarten teacher that is  
10 working with a child that is not potty trained, or a  
11 child that is potty trained and she's helping them in  
12 the bathroom and she notices marks on his behind, and  
13 there's a call that says, We've got a child with marks  
14 on them, and the caseworker can go out and, with the  
15 teacher present with the child, take pictures of the  
16 mark.

17 Q And just --

18 A Or the area. Let's put it that way.

19 Q And just to clarify, we are talking about  
20 removing children's clothing, so we're talking about  
21 private areas of chest areas, under the underpants. You  
22 made a distinction between genitalia and rear end for  
23 marks. Would you do anything different if the mark or  
24 injury was alleged to be on the genitalia?

25 A Yes.

1 Q And what would be different there?

2 A It would be a conversation with the child  
3 asking them if they have marks, where their marks are.  
4 For example, if it's a sexual abuse or something where  
5 there's an injury, a straddle injury or something of  
6 that sort, that's when many times a SANE nurse, S-A-N-E,  
7 all capitals, you would -- the child would go to  
8 Memorial Hospital where the SANE nurses are.

9 Q So you're saying it's DHS's policy or  
10 procedure if the injuries are on genitalia, are you  
11 saying that the caseworker does not look at the  
12 injuries?

13 A I don't know that I could say that as an  
14 absolute. It depends on many things. If there is a  
15 severe diaper rash on a child that's nonsexually related  
16 but could be a form of neglect, there have been times  
17 when caseworkers have had to document the severity of --  
18 because it doesn't rise to the level of having a SANE  
19 exam completed. So there are times when your goal is to  
20 take pictures of the infection, the -- well, I mean, a  
21 diaper rash is -- essentially, it's a dermatological  
22 infection, so . . .

23 Q So you're saying the caseworker has some  
24 discretion there?

25 A The caseworker does have some discretion.

1 Q If you're going to get a SANE nurse involved,  
2 what is that process like?

3 A That would be at the direction of a  
4 supervisor or an OCA to say to the caseworker, Have the  
5 parents take the child to Memorial to have a SANE exam  
6 done.

7 Q So at that point, the parents are involved?

8 A Well, the parents would have to take the  
9 child. DHS wouldn't -- I have not seen a time when DHS  
10 has removed a child when the parent was willing to take  
11 the child down for the exam, sign releases so that DHS  
12 can get records of the exam, yes, or go down with the  
13 parents for the exam, yes.

14 Q So talking about the searches where the  
15 caseworker is checking the child, are the parents  
16 notified afterwards that the search took place?

17 A Yes.

18 Q As a matter of procedure or policy?

19 A Procedure, policy, and courtesy, I would say.

20 Q And when a caseworker has to search a child's  
21 private areas, is there any policy or procedure on who  
22 is present for that?

23 A The word "search" disturbs me. To me, that  
24 paints a picture of somebody searching through someone's  
25 private area. That's not accurate.

1 Q Well, if you're going to pull a child's  
2 clothes off and look at areas covered by their  
3 underwear, who is generally present for that? Is there  
4 any policy or procedure?

5 A A, I would say I have -- I did not pull the  
6 clothes off. I didn't even touch the client. The only  
7 time that I would physically remove -- and I can't  
8 even -- you know what, I'll say there has not been a  
9 time that I have physically -- that I have or another  
10 caseworker has physically removed a child's clothes.

11 Normally, there is another person there,  
12 especially if the child is younger, asking the parent,  
13 Can you take the diaper off? So in that case, the  
14 parent is there and knows that you're going to take  
15 pictures.

16 Or asking the child, if they're school aged,  
17 Can you show me where your mark is? and normally the  
18 child is, like, Yeah, and, you know, will show you arm,  
19 leg, butt, you know, kind of thing, where the mark is.  
20 So it is not the caseworker's job to disrobe a child.

21 Q So I'm not sure that I'm clear. Is there a  
22 policy or procedure on who should be present when a  
23 caseworker views and photographs a child's private  
24 areas?

25 A I don't know that I could say a policy or a



1 procedure. Based off of our training, you want somebody  
2 else present. You're not going to be the only person in  
3 the room with that child. Normally, a caseworker would  
4 have a trusted person; trusted to the child, not  
5 necessarily trusted to the DHS worker.

6 Q Is there anything in DHS policy or procedure  
7 as to where -- and I'm just going to call it a search so  
8 that I don't have to use the entire circumlocution.

9 MS. MAY: Just objection to form.

10 Q (By Ms. Sidebotham) Well, I am defining a  
11 search as viewing and/or photographing areas of the  
12 child that are normally covered by clothing. So is  
13 there any policy or procedure as to where these searches  
14 took place?

15 MS. MAY: Same objection. Go ahead.

16 THE DEPONENT: Yeah?

17 MS. MAY: Yes.

18 THE DEPONENT: Okay. Sorry.

19 A Could you ask that again? I know you just  
20 objected, but I apologize.

21 Q (By Ms. Sidebotham) Any policy or procedure  
22 as to the location of searches, as to where they took  
23 place?

24 A Again, I cannot -- I can't give you a  
25 citation. I can say based off of training, caseworkers

1 are trained to find a private area. For example, a  
2 noncreepy private area. You know, for example, like a  
3 room much like this, assistant principal's office, a  
4 counselor's office, a special ed teacher's office, at  
5 the home, at the doctor's office, something where there  
6 is privacy afforded to the child and so the child feels  
7 more comfortable.

8 Q What camera did you use?

9 A The camera that -- I'm so sorry. I've had  
10 way too much coffee this morning. The DHS workers were  
11 all assigned iPhones that have cameras on them, and then  
12 the pictures would be on the camera on the phone.

13 Q What happened next with the pictures?

14 A I never took pictures.

15 Q But in general, when you took pictures, what  
16 happened next after you took the pictures?

17 A When a caseworker takes pictures, the  
18 pictures are downloaded to the hard -- the caseworker's  
19 hard drive, and then -- at the office, and then printed  
20 off at the office.

21 Q Is there policy or procedure about when that  
22 has to take place?

23 A Based off of the time lines for when reports  
24 have to be submitted, those are pictures that go with  
25 the report. So they're evidentiary pieces, so they have

1 to be attached to your report. So I guess a time line  
2 would be in order to support -- or to submit your report  
3 for closure, that has to be in there for a supervisor to  
4 review.

5 Q So that's a matter of weeks, right?

6 A It can be, unless the supervisor wants to see  
7 the pictures that you took when a caseworker gets back.  
8 And that's pretty common, you know, especially if there  
9 is -- you know, if there's high-risk safety issues.

10 Q Were all the pictures that you took pictures  
11 of marks?

12 A I never took any pictures.

13 Q I'm talking globally here.

14 A Okay.

15 Q So when you did investigations and took  
16 pictures, were they always pictures of marks?

17 A No.

18 Q Were there sometimes pictures to show that  
19 there weren't marks?

20 A Yes.

21 Q So when you downloaded the pictures at the  
22 office, did that then create two copies of the pictures,  
23 one on the phone, one at the office?

24 A I guess it could have. Most the time when  
25 you download it to the computer, it erases off the

1 phone.

2 Q Was it policy and procedure that it should be  
3 done in such a way that when it downloaded into the  
4 computer, it erased it off the phone?

5 A I don't know that I -- I don't know that I'm  
6 aware of such policy or procedure.

7 Q When you personally downloaded the pictures,  
8 did you set it so that they erased off the phone?

9 A I honestly don't remember.

10 Q And when they were downloaded at the office,  
11 who then has access to the pictures at the office?

12 A I -- it would go on my personal drive, and so  
13 I have access to that. Another worker doesn't have  
14 access to that. Probably, maybe IT has some level of  
15 access, you know, although I seriously doubt they have  
16 enough time in their day to run around, you know,  
17 randomly checking people's stuff. They're downloaded,  
18 and for me they went into a picture folder.

19 Q So anything else that you want to tell me  
20 about policy or procedure in handling searches of  
21 children under their clothes, or the photographs?

22 MS. MAY: Same objection to form as to the  
23 word "search."

24 A And maybe I'm -- Theresa, maybe I'm  
25 struggling with the policy and procedure in my trying to

1 be accurate. If you're asking me, could I tell you what  
2 the pol- -- you know, verbatim what the policy is or  
3 where the -- I mean, I can't. I can tell you that based  
4 off of the training and the experience that I have had,  
5 and the supervision and coaching and mentoring that I  
6 received during my time leading up to and including the  
7 time as a lead worker, I can say that -- what was the  
8 question?

9 Q (By Ms. Sidebotham) Anything else based on  
10 your training and experience that's relevant to these  
11 searches and/or photographs?

12 A That you have to be careful when it comes to  
13 genitalia, in the sense that most of the time those went  
14 specifically into the sexual abuse unit, differentiated  
15 from a discipline issue. So the sexual abuse unit  
16 doesn't deal with marks from a discipline issue, they  
17 deal with sexual assaults, incest, you know, and those  
18 sexualized acts. And so how they proceed with pictures  
19 is different than a general investigation of marks due  
20 to discipline.

21 Q So you mentioned your training and  
22 experience. Do you remember ever having any training  
23 that was specifically related to searches under the  
24 Fourth Amendment, or training that's specifically  
25 related to privacy rights in handling photographs?

1 MS. MAY: Objection as to form.

2 A I would say that I have taken legal ethics  
3 training, but I can't say that -- I don't -- that I  
4 remember anything specifically about Second, Fourth  
5 Amendment rights.

6 Q (By Ms. Sidebotham) Fourth Amendment rights.  
7 Do you remember anything specifically about handling  
8 photographs, such as HIPAA or similar training?

9 A Not under that verbiage.

10 Q Do you remember something under different  
11 verbiage that you can describe?

12 A Everything that DHS does is confidential and  
13 not to be discussed, not to be shared, not to be outside  
14 of the ethical lines of who in DHS needs to see it. For  
15 example, my report went to my supervisor. A report from  
16 a worker could eventually go to a manager, or the  
17 quality control person, or the OCA. But there is  
18 privacy and confidentiality expectations based off of  
19 the social work ethics.

20 Q Thank you. Anything else on that?

21 A No, ma'am, I don't think so.

22 Q You've mentioned it was part of your job as a  
23 caseworker to sometimes look at areas of children  
24 covered by clothing. Can you give me a rule of -- you  
25 know, just an estimate of how often that happened for

1 you personally?

2 A Again, I'm not trying to be picky. I

3 don't -- I don't know how many discipline versus

4 domestic violence versus substance abuse. I was -- I

5 was a generalist in my -- in my work, and so I could

6 have caught anything, including something from a

7 specific unit.

8 Q Well, did it happen more often than once a

9 year?

10 A Yes, ma'am.

11 Q Did it happen as often as once a month?

12 A Yes, ma'am.

13 Q Did it happen more often than once a month?

14 A I'd feel comfortable saying yes.

15 Q Did it happen as often as once a week?

16 A I don't know that I would specify it down to

17 that. I don't know that I would specify it down to

18 that.

19 Q Okay. Well, let's move on to what happened ...

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4 Q (By Ms. Sidebotham) In your professional  
5 opinion, does it make it more problematic when the child  
6 has testified that he hasn't been spanked for half a  
7 year or more?

8 A Problematic?

9 Q Well, maybe I should back up. Do you see it  
10 as ever being an issue at all to look at a child, say,  
11 on their rear end for spanking marks?

12 A Do I ever see it as a problem to look at  
13 their bum?

14 Q Right.

15 A No.

16 Q So in all circumstances, at the caseworker's  
17 discretion, it would be fine to look at the kid's bum?

18 A The absolutism of your question is -- it's  
19 not -- I'm not comfortable with it. Could you give me a  
20 specific example?

21 Q Is it okay to look at a kid's bum when he  
22 says he hasn't been spanked in six months?

23 A Yes, if there is a -- if there is a -- if a  
24 report comes in that says that there's a mark on a  
25 child, and even if the child says that he has not been



1 spanked in six months, their protocol would -- protocol,  
2 procedure, and training is that we have to get a picture  
3 to confirm or deny that that -- that there is or isn't a  
4 mark.

5 Q Okay. Let's take the scenario where no one  
6 has said there's a mark on a child, and the child has  
7 also said he hasn't been spanked in six months, is there  
8 a problem with asking to see his bum under that  
9 scenario?

10 A I guess my thought would be, I don't know  
11 what the point of asking to see the bum would be.

12 Q I was hoping you could tell me, because it  
13 happened.

14 A I don't work for North Carolina, so . . .

15 Q Right. And -- yeah. So do you see the  
16 actual search, the request, And let me see your bum, as  
17 having an effect on the child?

18 MS. MAY: Objection as to form.

19 A Not necessarily. Not always.

20 Q (By Ms. Sidebotham) Does it have an effect on  
21 the child often enough to cause concern about doing it?

22 A It depends.

23 Q When would you have concerns about doing it?

24 A Again, based off of the scenario that I gave  
25 you, if there's not a report -- if I go out -- if a

1 caseworker were to go out on a domestic violence and the  
2 issue was domestic violence, why would the caseworker --  
3 and there's no allegations of marks on the child, a  
4 caseworker wouldn't ask -- I don't know a caseworker  
5 that would ask to see a child's bum.

6 Q Would you say that anytime that there's an  
7 allegation that there is a mark, that it's better for  
8 the child to pull down his or her pants and show the  
9 caseworker his or her bum than it is to not have the  
10 mark discovered?

11 MS. MAY: Objection as to form.

12 A Say that again.

13 Q (By Ms. Sidebotham) So you have an allegation  
14 that the child has a mark, and you investigate it or you  
15 don't: you get a medical order, you look at it  
16 yourself. When there's an allegation of marks, the best  
17 case forward is for the caseworker to look at the  
18 child's bum?

19 A I don't know that the word "best" would come  
20 into play. It's policy, procedure, and what we're  
21 trained to do.

22 Q So you don't feel that looking at the child's  
23 bum and photographing it itself causes damage to the  
24 child?

25 A No. And first -- no. And first of all, you

1 don't say, Hey, kid, let me look at your bum, you know.

2 I mean, that's -- I can't even fathom that.

3 Q I'm not suggesting that you do. But the end  
4 result is, you're taking photographs of their naked  
5 rear, and I'm interested to know whether you think  
6 that's damaging.

7 A But I'm not taking a picture of their naked  
8 rear, I'm taking a picture of a mark. If it happens to  
9 be on their naked bum, then I didn't put the mark there.

10 Q And if there's not a mark there, you're  
11 taking the picture to document that there's not a mark  
12 there --

13 A Correct.

14 Q -- and you did not put the mark there.

15 A Correct. The nonmark there.

16 Q The nonmark there. And when I look at the  
17 picture, I'm seeing what?

18 A You're seeing that the allegations were  
19 false, and the parents are -- the parents were not --  
20 there was not truth in the allegation, which further  
21 vindicates that the parents aren't, in that situation,  
22 abusing their children.

23 Q Let me read a question from your training  
24 manual, and I think I have it as a document, if we want  
25 to enter it. It's just one sentence. Let me know. The

1 quote is, How dare you interview my child and check his  
2 or her body for bruises. What gives you the right to do  
3 that without telling me? And if you got that  
4 hypothetical question from a parent, what would the  
5 answer be?

6 A My answer would be, Based off of the Colorado  
7 Children's Code, DHS has a right to interview your child  
8 outside of your presence, as well as document any signs  
9 of abuse or neglect that are evident on your child, and  
10 it's -- and we don't necessarily need your permission.  
11 We'd love your cooperation, but we don't necessarily  
12 need your permission to document the abuse that you have  
13 incurred upon your child.

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2 Q (By Ms. Sidebotham) We talked pretty  
3 extensively earlier about DHS policies around searching  
4 children. And I know the word's been an issue, so let  
5 me define, again, searching children as viewing parts of  
6 their body that are normally covered by their clothes,  
7 particularly their private areas. And we talked at some  
8 length about policies around consent from parents and  
9 photographs and so forth. Just to clarify, is all of  
10 that written down anywhere?

11 A I don't remember. I was -- I've been trained  
12 on it, but I don't -- I couldn't -- as I stated before,  
13 I couldn't pick it out of a book.

14 Q So you were following your understanding of  
15 policy and following your training?

16 A Based off of my experience, based off of the  
17 training, coaching, mentoring that I have received, and  
18 based off of the policy and procedure as I knew it to  
19 be, I was doing what I was hired to do. I was doing my  
20 job.

21 Q And part of your job when there's been an  
22 abuse allegation, a mark on part of a child's body, your  
23 job instruction is to search the child's body?

24 MS. MAY: Objection as to form.

25 A Part of my job as a DHS agent, as an intake

1 worker, is to find out if there is a mark by visual  
2 confirmation.

3 Q (By Ms. Sidebotham) And that includes all  
4 areas of the body?

5 MS. MAY: Objection as to form.

6 A Genitalia -- and, yes, I differentiate that  
7 from buttocks. It is different. If a child says that  
8 there is an injury inside the vagina, you know, in the  
9 inner walls, or that there's bleeding from the anus, or  
10 that there is a pinch mark on a breast, or whatever on a  
11 boy, you know, there's a -- I don't know, a mark on a  
12 penis or scrotum, that would be most likely dealt with  
13 through the sex abuse unit, and they have their own sets  
14 of protocols, and normally those are completed through a  
15 SANE exam.

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4 Q (By Ms. Sidebotham) Okay. We've talked about  
5 how on a number of occasions you have called in law  
6 enforcement when the parents haven't cooperated when you  
7 needed to do a search and photograph of a child. Was  
8 calling the police to help encourage or to help parents  
9 do that, was that your idea or is that a DHS policy?

10 THE DEPONENT: Oh. I thought you were going  
11 to say something.

12 A First, I don't know that a number -- I don't  
13 know -- I can't remember what the first part of your  
14 statement was as far as -- and to say a number of times  
15 is ambiguous. But then, again, I can't put a number on  
16 it.

17 So I would start with the times that I have  
18 had to call law enforcement because there was a mark on  
19 a child, and then it's criminal, and pictures were taken  
20 of the mark, wherever they were on the body. Okay? It  
21 is policy -- and I don't know that I'm using policy,  
22 procedure, and -- I mean, we keep throwing those words  
23 out, but I would be hard-pressed to find the book.

24 The expectation, the directions that are  
25 given at DHS is that if you have a mark on a child, you

1 get pictures of it, and you call law enforcement,  
2 because it is now a criminal matter. So this is not  
3 just case manager -- or Caseworker [--] going,  
4 Oh. I'm calling the police, this is now I have a  
5 disclosure. The police are going to have to be involved  
6 at some point. There has to be documentation of these  
7 marks.

8 Q (By Ms. Sidebotham) And in a case like this  
9 one and similar cases where families aren't cooperating  
10 and you call the police, is that also according to your  
11 customary procedure?

12 A I've never had a family not cooperate with  
13 law enforcement.

14 Q My question was --

15 A Oh.

16 Q -- calling law enforcement when they hadn't  
17 cooperated.

18 A I don't know that I have had a family -- I  
19 can't think of one off the top of my head where I had to  
20 call the -- that they refused to cooperate.

21 Q Okay. When you received your training on  
22 safeguards and guidelines for taking photographs, did  
23 you receive training on HIPAA?

24 MS. MAY: Asked and answered.

25 A I don't remember what my answer is, but I



1 don't think so. I mean, I don't know.

2 Q (By Ms. Sidebotham) Did any of your training  
3 address the boundaries between the investigative  
4 pictures and child porn?

5 A Yes. Investigative pictures aren't child  
6 porn by nature.

7 Q How do you know -- how do you know whether  
8 pictures cross that line?

9 MS. MAY: Objection. Legal conclusion.

10 A I can only speak for myself as a caseworker  
11 and say, I don't take photographs unless it's part of my  
12 job when doing an investigation, and an expectation of  
13 the department, in order to complete the investigation  
14 for conclusion.

15 Q (By Ms. Sidebotham) So the expectation of the  
16 department is if there's an allegation of marks, you  
17 photograph the area to show marks or no marks. What is  
18 the difference between the picture of a naked child  
19 that's created that way and child porn?

20 MS. MAY: Objection. Legal conclusion.

21 A I don't know how to answer that, in the sense  
22 I don't -- I don't know how to answer that beyond  
23 saying, I don't take -- I've never taken pornographic  
24 pictures in my career of children, in my life "as"  
25 children.

1 Q (By Ms. Sidebotham) What training and  
2 safeguards did you receive on how to prevent those  
3 pictures from going out into the stream of child porn?

4 A Define "stream of child porn."

5 Q What safeguards were there to keep you from  
6 posting it on the Internet? Or let's not say you --

7 A Anyone?

8 Q -- Caseworker X.

9 A Okay.

10 Q So Caseworker X just happens to be a  
11 pedophile. What in your training and the safeguards you  
12 received stop Caseworker X from creating and  
13 distributing child porn?

14 A I don't know. I guess there's -- background  
15 checks are done on employees extensively, from state to  
16 national checks, to reference checks, to -- I guess  
17 you'd hope you get quality people with integrity. I  
18 don't know how to conclude that for you.

19 Q Was your phone that you used password  
20 protected?

21 A Yes.

22 Q And how strong was the password on that?

23 A It was very strong. I mean, even inside the  
24 building, the password had to be -- you had to enter the  
25 password before you could open the phone, be it in the

1 building where you were, essentially, in a safe place,  
2 in the community, at your house. You weren't to share  
3 the password with anyone.

4           Only -- only -- I don't think you were even  
5 to share it with IT. I think IT had a way of -- like, a  
6 back door in, like if you got locked out or something,  
7 you know, kind of thing. We'd enter it for everything;  
8 anytime you closed the phone or it timed out. Same with  
9 our laptops.

10       Q   In your professional training, can you  
11 describe the effects of trauma on child brain  
12 development?

13       A   I'm not an expert in that area of child brain  
14 development, as far as -- have I received training on  
15 the aspects, the medical aspects of child abuse? Yes.  
16 Does that two-day training make me an expert in how it  
17 affects children? No.

18       Q   So let's talk -- can you describe what rights  
19 children have respective to DHS?

20           MS. MAY: Objection as to form, and asks for  
21 a legal conclusion.

22       A   I'm not a lawyer, so . . .

23       Q   (By Ms. Sidebotham) Are there any rights that  
24 you explain to children?

25       A   We are not allowed to explain legal rights to

1	children or parents.
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1 Q (By Ms. Sidebotham) Do children have rights  
2 to stay with their families?

3 MS. MAY: Objection as to form. Asks for a  
4 legal conclusion.

5 A I can't answer your questions about what  
6 children's rights are.

7 Q (By Ms. Sidebotham) So you would say that  
8 children's -- understanding children's rights is not  
9 part of your professional discipline?

10 A I would say that understanding children's  
11 legal rights is part of the legal profession and not  
12 part of what I'm qualified or allowed as a caseworker to  
13 address.

14 Q So in your professional discipline, there are  
15 not certain ethical rights of children that you have an  
16 obligation to consider?

17 A A child has a right not to be abused.

18 Q Do they have a right to protect the privacy  
19 of their bodies?

20 A Yes. That's such a weird -- it's such a  
21 loaded question to ask, in the sense of there's so many  
22 different ways you could take that.

23 Q Do they have a right to protect the privacy  
24 of their bodies from you?

25 MS. MAY: Objection. Asking for a legal

1 conclusion.

2 A A DHS caseworker has no harm or intention of  
3 abusing their body.

4 Q (By Ms. Sidebotham) Do they have a right not  
5 to be frightened by caseworkers?

6 MS. MAY: Objection. Legal conclusion.

7 A I don't think that -- it's such a weird -- to  
8 me, that's such a weird question, because it's almost  
9 like assuming that caseworkers are these scary, horrible  
10 monsters that children should flee from. DHS child  
11 protection caseworkers, their function is to protect  
12 children, and to help children, and to maintain the  
13 safety of children, and to advocate for children.

14 Q (By Ms. Sidebotham) And if that happens to  
15 involve frightening the child in the process, it just is  
16 what it is?

17 A I would object to -- this is -- I'm not  
18 saying that it's like a -- but I would say that -- I  
19 would put that statement right up there with, You made  
20 me mad. Well, somebody doesn't make anybody mad. If  
21 I'm angry, it's because I either decided to be angry, or  
22 there's something in me that is angered or feels that  
23 there is a lack of fairness, which is -- lack of justice  
24 is generally the basis for anger. So to say that a  
25 caseworker has frightened a child is an unfair

1 inference.

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24 Q Did you tell Y.C. that she was obligated to

25 let you view and photograph her rear?

1 A I don't remember using that verbiage at all.

2 Q Did you tell her that she had to?

3 A I told her that DHS had a right to take

4 photographs of injuries on a child that resulted from

5 discipline when allegations of abuse or neglect came up

6 and that there were marks on the child.

7 Q Did she have a right to say no?

8 MS. MAY: Objection as to legal conclusion,

9 and form.

10 A I don't know what her legal rights are.

11 Q (By Ms. Sidebotham) So whether she had a

12 right to say no hasn't been part of your professional

13 training?

14 A Not that I can pinpoint.

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Civil Action No. 13-cv-01287-MSK-MJW  
April 9, 2015

Redacted Excerpts from Deposition Transcript of El Paso County  
DHS Supervisor

Transcribed by Agren Blando Court Reporting & Video, Inc.

1 PROCEEDINGS

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5 EXAMINATION

6 BY MS. SIDEBOTHAM:

7 Q I am Theresa Lynn Sidebotham of Telios Law

8 taking the deposition, and we'll go through a few

9 preliminaries. -

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15 Q Some of the ground rules of the deposition,

16 you need to understand that you're under oath, so it's

17 just like you're in court testifying on the witness

18 stand. So do you agree that you'll testify truthfully

19 here?

20 A Yes.

21 Q You'll want to testify fully and answer the

22 question. But if I say something you don't understand,

23 tell me, and I'll repeat the question or clarify it.

24 Will you do that?

25 A Yes.

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13 Q How long have you been a social worker?

14 A Fifteen and a half years.

15 Q And how long have you worked at DHS?

16 A Fifteen and a half years.

17 Q How long have you been a supervisor?

18 A Six years.

19 Q Can you just briefly describe the jobs that

20 you've held through your time at DHS?

21 A Well, the beginning, I was a social worker,

22 and I worked with our DVERT unit, which is our domestic

23 violence enhanced response team that worked with the

24 most lethal cases of domestic violence in El Paso and

25 Teller County. So we worked in that unit.

1 I worked as a lead caseworker doing  
2 specialized investigations for sex abuse, for  
3 institutional investigations, for, again, the domestic  
4 violence unit, military unit. I have led the military  
5 unit since it began. And then I became a caseworker --  
6 or a supervisor.

7 Q What unit are you supervising?

8 A Right now? Right now, I'm supervising a unit  
9 that is a support team for our hotline.

10 Q What does that involve? What's your job  
11 description?

12 A It involves a support team that researches  
13 the calls that come in from the hotline.

14 Q And you supervise the support team?

15 A Yes.

16 Q Who do you report to?

17 A -

18 Q And how many people are you supervising?

19 A Five.

20 Q Approximately how many child abuse  
21 investigations have you participated in as a social  
22 worker?

23 A I couldn't even guess in that amount of  
24 years. Hundreds.

25 Q Hundreds. How many have you participated in

1 as a supervisor?

2 A Hundreds.

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13 Q So in your experience, have you performed  
14 searches of children that involved looking under their  
15 clothes?

16 MS. MAY: Objection as to form, and legal  
17 conclusion.

18 A What do you mean about searches?

19 Q (By Ms. Sidebotham) Well, have you checked a  
20 child for marks under their shirt, under their  
21 underwear?

22 A I have asked a child, and have always had  
23 another person in the room. And if the child was okay  
24 with it, I have taken photos, and I have notified the  
25 parents of that when I have done it.

1 Q Have you notified the parents before or  
2 after?

3 A After.

4 Q When you take the photos, is that when  
5 there's marks or when there's not marks?

6 A Well, normally we don't take photos unless we  
7 have allegations of physical injuries.

8 Q So we have an allegation of physical injury,  
9 and to make it simple, let's say it's on the child's  
10 bottom --

11 A Uh-huh.

12 Q -- and you look at the child's bottom. If  
13 there's marks, you take a photo, right?

14 A Uh-huh.

15 Q If there's no marks, do you take a photo?

16 A Possibly, if the child is okay with that, and  
17 we do have someone else in the room with us of the same  
18 sex.

19 Q And can you explain the rationale for taking  
20 the photo of no marks?

21 A If it were to go to court, and that the  
22 report says that there's injuries to the child, then  
23 this photo -- as they say, a photo says a thousand  
24 words, and so the photo would state that the child has  
25 no injuries.

1           So we take -- we identify all of our photos,  
2   and mark them as to the date and who took them, and we  
3   always take a picture of the child's face so we can  
4   identify the body part as well, and match them. And  
5   that's how we do it, with the child's consent.

6    Q   So you might or might not have the parents'  
7   consent?

8    A   Correct.

9    Q   And you might or might not -- you might or  
10   might not feel you can get consent from the child  
11   depending on the child's age?

12   A   It depends on the child's age, yes.

13   Q   Is it common for caseworkers to search for  
14   marks under a child's clothes, or to have the child show  
15   them under their clothes, and to take pictures?

16   A   Under what circumstances?

17   Q   When there's allegations of physical abuse.

18   A   Where would the marks be?

19   Q   Well, they might be anywhere, but on the  
20   back, on the bottom, on the top of the legs.

21   A   So the question was, is it common for a  
22   caseworker to ask to see the injuries?

23   Q   Yes.

24   A   Yes, it is.

25   Q   And then having seen the injuries, is it



1 common to photograph the injuries?

2 A Yes, it is, after asking the child.

3 Q So you're supervising caseworkers, and I know  
4 you're not going to know about all of DHS, but in the  
5 cases you've supervised, about how many cases in a year  
6 have resulted in pictures of children where they're  
7 disrobed or partially disrobed?

8 A I couldn't answer that question. It depends  
9 on the situation.

10 Q More than a hundred?

11 A I wouldn't know.

12 Q Well, these would be cases that you're  
13 supervising. So in a year that you're supervising.

14 A What do you mean by "disrobed"?

15 Q Well, the child has pulled up their shirt or  
16 down their pants; that the caseworker has checked for  
17 marks on, let's say, again, the area of the child's body  
18 that would be covered by a one-piece swimsuit.

19 A If it's a private area, like the front of  
20 their swimsuit or the front of their top, we probably  
21 would not do that. If it's their bottom or their back  
22 or their legs or their arms or their stomach or  
23 shoulders, or the top of their back or something like  
24 that, then depending upon the age of the children and  
25 the consent of the children, yes, absolutely. If

1 there's an allegation of physical injuries, we do.

2 That's our job.

3 Q Maybe we need to talk about what's considered

4 a private area. Do you consider the front of the

5 child's chest as a private area?

6 A Yes.

7 Q Do you consider a child's back as a private

8 area?

9 A No.

10 Q Do you consider the front of the child's

11 genitals as a private area?

12 A Yes.

13 Q Do you consider their bottom as a private

14 area?

15 A Yes.

16 Q Do you consider the very tops of their thighs

17 near their bottom as a private area?

18 A It depends how far it goes.

19 Q Say within 3 inches of the bottom.

20 A No.

21 Q Say within 1 inch of the bottom.

22 A Depends on the child.

23 Q What would make the difference?

24 A The weight. The body of the child. The

25 stature of the child.

1 Q So you would be more inclined to consider the  
2 tops of the legs private on a larger child?

3 A Well, it depends, if their buttocks are  
4 showing on that area or not. But if they're in consent  
5 to us taking pictures of their bottom, then I would take  
6 a photo of their bottom with someone else in the room,  
7 with injuries being there, with allegations of injuries.

8 Q So in your view, the tops of the legs would  
9 be private if part of the bottom was showing, but not  
10 otherwise?

11 A Yes.

12 Q So about how many times a year would these  
13 searches be performed on a child by your --

14 A By my caseworkers?

15 Q -- by your caseworkers?

16 A On any part of the body?

17 Q On part of the body that we've talked about  
18 that's a private area.

19 A Okay. So, again, I can't picture a teenager  
20 wanting to show me her breasts, or her frontal part of  
21 her body area, so I probably would not ask her that or  
22 him that. I would ask, probably, a medical professional  
23 to do that. But other areas of the body, lots of times.  
24 We get lots of allegations or reports about physical  
25 injuries and physical abuse. We get hundreds and

1 hundreds a week.

2 Q So for allegations of physical abuse, under  
3 your supervision, how many times a year would there be  
4 pictures of children with their clothes partly off or  
5 completely off?

6 A What do you mean? I have never asked a  
7 caseworker to ask a child to take their clothes  
8 completely off.

9 Q Well, then partly off.

10 A Partly off by taking your shirt off? What do  
11 you mean? I'm not sure what you mean.

12 Q Well, let's break it into two then. How many  
13 times a year would your caseworker take pictures of  
14 children where their clothes were removed at all to take  
15 the picture?

16 A Well, clothes might be moved up or moved down  
17 or rearranged --

18 Q Okay.

19 A -- to show different parts of the body; a  
20 skirt lifted up to show upper thighs, or --

21 Q Sure.

22 A -- a shirt lifted up to show the tummy or the  
23 back or arms. Hundreds of times a year. We get  
24 hundreds of abuse reports a year.

25 Q And how many times a year would those be

1 photos of a child where it would be one of the areas  
2 we've discussed as private, which to recap, would be  
3 front of the chest, front of the pubic area, or the  
4 child's bottom?

5 A We would probably take photos of a child's  
6 bottom, if a child was comfortable showing us their  
7 bottom. Older children are much less comfortable  
8 showing us their bottom. Younger children are much more  
9 comfortable, like a seven-, eight-, nine-year-old,  
10 maybe. Depends if it's a boy or girl too.

11 I may even ask a school nurse to take the  
12 photo for me and have a teacher in there with her. It  
13 just depends on the situation, if she's comfortable with  
14 that person. It depends. If it's a boy, maybe he's  
15 comfortable with his coach. It just depends.

16 As far as the pubic or the breasts, if she is  
17 a teenager, I would probably ask for her to be -- to go  
18 and be photographed by a medical professional.

19 (Ms. C. left the room.)

20 Q (By Ms. Sidebotham) So I realize that  
21 sometimes the photos are obtained in other ways, but for  
22 your caseworkers in a year, about how many times would  
23 they view and take photographs of a child's bottom or  
24 any other private area?

25 A The bottom, with the child's consent, lots of

1 times.

2 Q Dozens?

3 A Dozens of times, with another person in the  
4 room of the same sex.

5 Q Now, before asking the child to remove some  
6 of the child's clothing, or perhaps removing it for a  
7 small child, do your caseworkers contact you first?

8 A Yes, normally they do. Now, with small  
9 children, if we're talking about an infant, and we're  
10 talking about an infant with a severe diaper rash that's  
11 had a severe diaper rash and hasn't been treated in four  
12 weeks or something, and it's to the point where it's  
13 bleeding, and it's neglect because the parents are not  
14 treating it, then we might take a photograph of that.  
15 So that's different than taking a photograph of a  
16 teenage female.

17 Q And is it protocol that the caseworker should  
18 contact you prior to doing the search under clothing?

19 MS. MAY: Objection. Legal conclusion, and  
20 foundation to the word "search."

21 A It depends on the report and the severity of  
22 the abuse.

23 Q (By Ms. Sidebotham) So it's in their  
24 discretion to contact you first?

25 A As I said, it depends on the severity,

1 so . . .

2 Q So they would contact you first if it was  
3 severe or if it wasn't severe?

4 A They would contact me if it was severe.

5 Q But if the alleged injury wasn't severe, they  
6 might not?

7 A If it was a bruise on the face, they wouldn't  
8 contact me.

9 Q But remember our scenario here is contact you  
10 prior to removing or having the child remove clothing.

11 A They would contact me.

12 Q And do they contact you before taking  
13 pictures of a child under the areas of clothing?

14 A Is that the same question?

15 Q Well, I thought it was different, but it may  
16 not be if what you're saying is anytime they search the  
17 area, they also take a picture.

18 A So what's the question?

19 Q Does the caseworker ask your permission  
20 before taking the picture of the areas under a child's  
21 clothing?

22 A Well, sometimes if I look at -- if I look at  
23 a report -- I, most of the time, have read the report  
24 before I've given it to the caseworker. So if I've read  
25 the report and I see that it says, physical abuse to

1 child, has physical injuries to upper thighs and  
2 buttocks that appear to be severe and linear in --  
3 appear to be belt marks, I'll say, I'd like you to go  
4 out there and take photographs. Ask the child if  
5 they're comfortable taking photographs. So I may ask  
6 them to do that prior to them going out.

7 Q Do your caseworkers try to contact parents  
8 before investigating a child under the clothing?

9 A No. Federal law says that we do not have to  
10 do that.

11 Q And if they don't have to contact the  
12 parents, then they don't have to ask permission from the  
13 parents?

14 A No. We do try to contact the parents the  
15 same day and let them know that we have interviewed  
16 their children and photographed an injury; that we'd  
17 like to hear their side of the story as to why or how  
18 they think they may have received the injury.

19 Q Do you contact the parents if there's no  
20 injury?

21 A If it's an investigation, we contact the  
22 parents either way.

23 Q So you contact the parents and say, We had an  
24 allegation of abuse. We checked your child's bottom,  
25 and there's no marks?



1 A That's correct.

2 Q Okay. Do you obtain any kind of court order  
3 before checking the child for injuries?

4 A It depends on the situation. Most of the  
5 time, no, but it depends on the situation and the  
6 severity.

7 Q And what are some of the places that the  
8 searches of the child occur when you're checking the  
9 child for injury under the clothes?

10 MS. MAY: Objection as to form. Legal  
11 conclusion.

12 A What do you mean, "what are some of the  
13 places"?

14 Q (By Ms. Sidebotham) Well, you mentioned the  
15 school. What areas of the school might that happen?

16 A Well, it depends where the school has given  
17 us -- they give us different areas to talk to children.  
18 Whatever area they have available. Sometimes they'll  
19 give us the nurse's office. Sometimes they'll give us a  
20 classroom. Sometimes they'll -- it just depends.

21 Q And what other places might the investigation  
22 or search of the child under the clothes take place?

23 MS. MAY: Objection, again, as to form.

24 A It depends on where the school has given us,  
25 again.

1 Q (By Ms. Sidebotham) Could it happen in a  
2 child's home?

3 A It could happen in a child's home.

4 Q Any particular area of the child's home?

5 A Probably their bedroom.

6 Q What about other places, like day care,  
7 aftercare, YMCA? Could it happen in those places?

8 A Sure. Yes.

9 Q Can you explain why it happens in those  
10 places and not at a medical facility?

11 A Because when we get -- it's not really  
12 necessary for us to send a child to a medical facility  
13 if they have a bruise on their arm or their leg, or we  
14 think there's not any other internal injuries.

15 Q But to refocus, we're talking here about  
16 searches under the child's clothes, so --

17 MS. MAY: Objection, again, as to form.

18 Q (By Ms. Sidebotham) -- their bottom, for  
19 instance. Can you explain why that's done in these  
20 other environments, rather than a medical facility?

21 A I can't explain that. That's our protocol.

22 Q Is there anything in your protocol that  
23 requires a medical professional to be present?

24 A I think I've stated that if a child -- if  
25 there are allegations of injuries on a child in the

1 breast or vaginal area, then I wouldn't feel comfortable  
2 taking photos of those areas, so I would refer them to a  
3 medical professional.

4 Q And is that DHS protocol or your personal  
5 comfort level?

6 A That's my personal comfort level.

7 Q So let's talk about what happens if either  
8 the parents or the children object. And I know you've  
9 talked some about your personal approach. But across  
10 DHS, is it standard to call the police if a child won't  
11 cooperate with the search under their clothes?

12 A No.

13 Q Would it be standard to call for a custody  
14 order if a child doesn't want to cooperate with a search  
15 under their clothes?

16 A No.

17 Q Would it be standard to ask the court to  
18 order a medical examination?

19 A It depends on the allegations in the report.

20 Q So if the child didn't want to cooperate with  
21 the search, but you felt you really needed to see the  
22 area of injury, would it be standard to ask for a court  
23 order for a medical exam?

24 A It depended on the report and the age of the  
25 child.

1 Q So say it's a report of moderate physical  
2 injury, and the child has not given consent --

3 A Uh-huh.

4 Q -- or possibly the parents have not given  
5 consent, but you would like to continue the  
6 investigation, would you ask the court for an order for  
7 medical exam?

8 A No.

9 Q What would you do?

10 A Leave it at that.

11 Q So you would leave and not continue the  
12 investigation?

13 A We would continue as far as we would go, but  
14 we would not force the child to show us any injuries  
15 that they did not feel comfortable showing us. If it  
16 was a sexual abuse investigation, that's when we would  
17 ask for a medical examination.

18 Q Okay. But if the allegations were for  
19 bruises on the bottom and the child didn't give consent,  
20 you would leave it?

21 A Yes. I would not force a child.

22 Q Has there been anything specific in your  
23 training on exactly how to ask the child to disrobe, or  
24 how to disrobe a child, if that's age appropriate?

25 MS. MAY: Objection as to form.

1       A    Yes. It depends on the age and where the  
2 injury might be.

3       Q    (By Ms. Sidebotham) So if we have an  
4 allegation of injury on the child's private area, say  
5 the bottom, tell me about the training on how to ask the  
6 child to disrobe, or to disrobe the child.

7           MS. MAY: Objection as to form.

8       A    What age of child?

9       Q    (By Ms. Sidebotham) What's the training for a  
10 two-year-old?

11      A    We would probably change their diaper and  
12 look while we're changing their diaper.

13      Q    And what would be the -- what have you been  
14 trained to do if it's a four-year-old?

15      A    Ask the child -- we would probably ask the  
16 child if he had any owies or anything like that, being  
17 age appropriate, and if the child had some owies, we'd  
18 say, Where might you have gotten those? Where are your  
19 owies? Do you want to show me your owies? or something  
20 like that.

21      Q    And what about a child in late elementary or  
22 middle school?

23      A    Say that, you know, we're here because, you  
24 know, we heard that, you know, you may have gotten  
25 spanked, and you may have had some bruises or some

1 injuries. Do you have any of those? And are you  
2 comfortable showing me those? And so just asking a  
3 child, just coming out and asking.

4 Q And if the child is willing to show it to  
5 you, what do you have the child do?

6 A Well, once again, you're talking about the  
7 bottom?

8 Q Right.

9 A Okay. Having someone there that's the same  
10 sex, and take a photo of the injury.

11 Q Do you have any guidelines about male  
12 caseworkers taking photographs of minor females, or  
13 female caseworkers taking photographs of minor males?

14 A I don't know that we have any specific  
15 guidelines, but we would not -- I can't see as an agency  
16 that we would send a male caseworker out to do that.

17 Q And do you have any guidelines for  
18 caseworkers if there's a same-sex orientation, or a  
19 transgender caseworker or child?

20 A I don't understand your question.

21 Q Well, you said you don't actually have  
22 guidelines about male caseworkers taking a picture of  
23 female children, or vice versa, but --

24 MS. MAY: Objection. Mischaracterization.

25 A I said I wasn't sure.

1 Q (By Ms. Sidebotham) Okay. You said you're  
2 not sure.

3 A I'm not sure.

4 Q But you said that you personally would not  
5 send somebody to do it?

6 MS. MAY: Objection. Misstatement.

7 A That I can't see that our department would do  
8 that, is what I said.

9 Q (By Ms. Sidebotham) Okay. Thank you. So now  
10 I'm raising the question, what would the department do,  
11 or do you have guidelines when there's a  
12 same-sex-orientation caseworker and a child of the same  
13 sex?

14 A Okay.

15 Q What guidelines or customs do you have for  
16 that?

17 A I don't know that we have any guidelines  
18 either. But once again, if you have -- if you're taking  
19 a photograph of a child's bottom, we -- it's always  
20 standard that we have a same-sex person in the room with  
21 us.

22 Q But there isn't any particular analysis as to  
23 the sexual orientation of the same-sex person?

24 A I guess I'm not understanding your question  
25 exactly.

1 Q Well, if you have a male caseworker  
2 investigating, say, a girl age 13 or 14 --

3 A Uh-huh.

4 Q -- you believe the department wouldn't send  
5 the male caseworker to take a picture of a 13- or  
6 14-year-old girl's bottom.

7 A No.

8 Q So now I'm asking if you have a lesbian  
9 caseworker, do you have any guidelines or policy about  
10 whether she goes to take a picture of a 13- or  
11 14-year-old girl's bottom?

12 A Okay. Not that I'm aware of. But, again, we  
13 would always have another person in the room of the same  
14 sex.

15 Q And the same question related to if either  
16 the child or the caseworker is transgender, would that  
17 be the same response?

18 A Yes.

19 Q As part of your training, did you ever  
20 receive any specific training for caseworkers on Fourth  
21 Amendment searches and seizures?

22 MS. MAY: Objection. Misstates. Legal  
23 conclusion. Form.

24 A Can you explain that, please?

25 Q (By Ms. Sidebotham) So in the classes of



1 training that you had, did you ever receive any training  
2 that talked about children's rights or parents' rights  
3 under the Fourth Amendment and what those rights were,  
4 and how that affected your job?

5 MS. MAY: Same. Legal conclusion.

6 A Well, it's the department of human services'  
7 right, if we have an active investigation, to speak to a  
8 child prior to talking to parents -- prior to talking to  
9 parents during an active investigation. And then, as I  
10 said before, we make every attempt to try to talk to the  
11 parents the same day, or next day, and let them know  
12 that we have spoken to their child, and this is why,  
13 and, you know, I'd like to hear your side of the story,  
14 and, you know, can you tell me what happened.

15 Q (By Ms. Sidebotham) But you don't remember  
16 Fourth Amendment obligations specifically being part of  
17 your training?

18 MS. MAY: Objection. Form. Legal  
19 conclusion.

20 A Specifically, those are our rights to talk to  
21 a child prior to talking to a parent during an active  
22 investigation.

23 Q (By Ms. Sidebotham) What training have you  
24 received on HIPAA relative to photographs?

25 A We've received a lot of training regarding

1 HIPAA relative to photographs. We're not -- we don't  
2 give photographs to anyone. They are kept in our case  
3 file and are not given out to anyone.

4 Q So tell me what cameras the photos are taken  
5 on.

6 A Our county phones.

7 Q Did you receive any training on exactly how  
8 to take pictures?

9 A We have received training on how to take  
10 photos, yes.

11 Q And what was that training, generally?

12 A Take photos of the case so that you know what  
13 body part. Use a ruler. If you don't have a ruler, use  
14 an object next to the injury, so you can kind of relate  
15 the object measurement to the injury, those kinds of  
16 things.

17 Q Where do the photos go after you've taken  
18 them with the phones?

19 A They're usually erased after the  
20 investigation is complete, to my knowledge.

21 Q And how long is that?

22 A A caseworker has 30 to 60 days to close an  
23 assessment. So it depends on the assessment.

24 Q So during that period of time, they might be  
25 on the phone?

1 A They might still be on the phone.

2 Q And at some point, are they downloaded into a  
3 case file?

4 A They're printed and put in a case file at  
5 times for evidence.

6 Q So were the photos maintained in a printed  
7 format?

8 A At some times, yes.

9 Q Are they also maintained in an electronic  
10 format?

11 A Well, that's how they're taken.

12 Q Right. But then are they kept in an  
13 electronic format?

14 A It's been my experience with my workers that  
15 they're erased after a certain amount of time when they  
16 are completed with that investigation.

17 Q So at that point, there's no electronic copy  
18 in the child's file?

19 (Ms. C. entered the room.)

20 A Well, I can only speak to my knowledge, and  
21 so to my knowledge, they're not kept any longer.

22 Q (By Ms. Sidebotham) Are the paper-printed  
23 photos kept after that?

24 A They're kept in the file.

25 Q How is it verified that the photos are

1 deleted from the phones?

2 A I don't think we have a protocol for  
3 verifying that.

4 Q And if the caseworker downloads the photos  
5 into the case file, who has access to that file?

6 A Other attorneys, if it's a -- if it's a court  
7 case, then other attorneys would have the right to have  
8 access to the file. But other than that, no one.

9 Q So tell me about the safeguards that DHS has  
10 in place to prevent these photos of children's private  
11 areas from becoming child porn.

12 MS. MAY: Objection as to form. Legal  
13 conclusion.

14 A What do you mean by that question?

15 Q (By Ms. Sidebotham) Well, if you had a  
16 caseworker that, say, was a pedophile, what safeguards  
17 prevent the caseworker from downloading them on a  
18 personal computer?

19 A Well, what I can tell you, in my experience,  
20 in my almost 16 years at the department, I've never  
21 heard of any situation like that ever, ever happening.

22 Q What safeguards does the department have in  
23 place to prevent someone from uploading the pictures to  
24 the Internet?

25 A That's my same response. In my almost

1 16 years, I've never heard of anyone uploading photos of  
2 a child onto the Internet.

3 Q So are you saying that there are no  
4 safeguards, because, in your experience, DHS workers  
5 don't do that?

6 A I do not know if there are any protocols for  
7 that. I'm saying I've never heard of it ever happening.

8 Q Do you provide training to your subordinates  
9 who work for you about the proper way to do these  
10 searches and take photographs of private areas?

11 MS. MAY: Objection as to form. Legal  
12 conclusion.

13 A I have to new caseworkers, yes.

14 Q (By Ms. Sidebotham) And is your training  
15 pretty much the same things that you've been telling me  
16 here?

17 A Yes.

18 Q Do you provide any specific guidelines on  
19 exactly what they're to do with the photographs?

20 A Oh. Yes. Print them out and put them in the  
21 file, make sure they're labeled correctly, and erase  
22 them from their phone.

23 Q And where are these printed-out files kept?

24 A In the file.

25 Q But the file itself, where is the file?

1 A At the department of human services.

2 Q What room in the department of human  
3 services?

4 A We have a file room, and it depends on how  
5 old it is; that we have another location that files are  
6 kept.

7 Q How many years before the files go to the  
8 other location?

9 A Two years.

10 Q Who has access to your file room?

11 A Caseworkers. Supervisors. Managers. Case  
12 aides. Anybody who works at the department.

13 Q And when any of those people walk into the  
14 file room, can they access any of the files?

15 A They can.

16 Q So in theory, any of those department workers  
17 could check the file of any child whose file you've got  
18 in the file room.

19 A They could.

20 Q We've talked quite a bit about DHS policies  
21 around this matter, and you've explained them really  
22 well. Are any of these in writing, or are they the  
23 accepted practices?

24 A I believe there are some photograph policies  
25 in writing; I do not know them off the top of my head.

1 It's either in Volume 7 or Children's Code, and I don't  
2 know them specifically.

3 Q Do you know if there's any policies in  
4 writing about these searches of a child's private area  
5 that we've been talking about?

6 MS. MAY: Objection as to form, and legal  
7 conclusion.

8 A Not that I'm aware of.

9 Q (By Ms. Sidebotham) So tell me about the  
10 training regarding initiating physical contact with a  
11 child, and from what we've been talking about in these  
12 searches, I think that's going to come up where there's  
13 a small child. Do you have -- have you received  
14 training about the ways that you have physical contact  
15 with small children?

16 A What do you mean, "small children"?

17 Q Well, say zero to six.

18 A Six months or six years?

19 Q Six years.

20 A Well, that's a wide range. So, again, if a  
21 diaper -- if a child is diaper age -- and when you say  
22 "physical contact," what do you mean by that? Do you  
23 mean -- what do you mean by that?

24 Q Well, anytime you feel that you need to touch  
25 a child, what is the training around touching a child?

1       A    I'm not sure what you mean by "touching a  
2 child."

3       Q    Well, for example, most, or many, churches  
4 and other religious organizations who work with children  
5 have very detailed policies on acceptable ways to touch  
6 children, or things that shouldn't be done to touch  
7 children, and so I was asking about your child  
8 protection policies respective to touching children.

9       A    Again, I'm not sure what your question is.  
10 We don't just touch children.

11      Q    But do you have any policies or protocols, or  
12 have you been trained about ways that would be  
13 appropriate to touch or not appropriate to touch?

14      A    Again, I'm not sure what that means, because  
15 we don't just touch children just to touch them. So I'm  
16 not aware of any protocols about just touching children.

17      Q    Are there any documents that would fall under  
18 the description of a child protection policy that lays  
19 out ways to interact with children, or be with them, or  
20 appropriate ways to touch?

21      A    There's documentation as to how to interview  
22 a child. Once again, I'm not sure what you mean by  
23 "touching," because we don't just touch children. So we  
24 do have written documentation for interviewing and  
25 interacting with children.



1 Q Fine. And generally people who work with  
2 children find that they might pat a child on the  
3 shoulder. They might give a child a hug. They might  
4 pick up a small child to take the child to a car. They  
5 might change a diaper. Perhaps, in this case, they  
6 might pull down the pants of a small child to check the  
7 bottom. They might hug a child who is crying. So  
8 people who work with children, such as youth workers and  
9 Sunday school teachers, typically have a written policy  
10 that describes appropriate ways to do these things, and  
11 so I'm just trying to find out if DHS also has these  
12 policies.

13 A I'm not aware of any policies such as what  
14 you've described.

15 Q Okay. Thank you. ...

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16 MS. SIDEBOTHAM: And I'm getting pretty close  
17 to the end. If maybe we could do like we did yesterday  
18 and take a short break --

19 MS. MAY: Sure.

20 MS. SIDEBOTHAM: -- and I can think if  
21 there's anything else I need to ask.

22 MS. MAY: Great.

23 (Recess taken from 11:31 a.m. to 11:43 a.m.)

24 Q (By Ms. Sidebotham) So as we've been -- we've  
25 been talking about these policies, and you may or may

1 not know, but tell me if you do, are these policies just  
2 for El Paso County, or are these statewide DHS policies?

3 A Depends which ones they are.

4 Q Can you describe for me some of the ones  
5 we've talked about that would be statewide?

6 A For instance, the photo one, I believe, is in  
7 the children's code, or a Volume 7, so that would be  
8 statewide, and then there are some policies that are  
9 county, and I don't recall which ones specifically are  
10 county.

11 Q So it's your understanding that some are  
12 statewide and some are county, but you wouldn't  
13 necessarily be able to identify specifically which was  
14 which?

15 A That one specifically I know is state. And  
16 some of them are just professional, going by just  
17 professional protocol.

18 Q Okay. Do you know of any written policies in  
19 taking photographs other than what's in Volume 7 or in  
20 the children's code?

21 A No. What I do know is that we sometimes --  
22 we have blank figures of children, just on a piece of  
23 paper, like a blank figure of a child's backside and  
24 front side. So if a child said, I have a bruise on my  
25 bottom, but I'm not comfortable showing you, we might

1 circle the bottom and document that on the side and put  
2 that in the case file.

3 Q And we talked a little bit earlier about if a  
4 child didn't consent, that you would leave it at that.

5 A Uh-huh.

6 Q And to ask you a little bit more about that,  
7 what would you do if you felt the child really was being  
8 abused, and might continue to be abused, would you still  
9 leave it? Might you take some other actions?

10 A Suggest that the caseworker contact the  
11 county attorney on that and see if there's any history  
12 with our department. That would show us a lot. We look  
13 at law enforcement reports for child abuse reports or  
14 domestic violence. That goes hand-in-hand. So we look  
15 at a lot of different things.

16 Q And if you didn't find other reports, but you  
17 still had concerns, what would you do then?

18 A Then we wouldn't have any basis to go any  
19 further. So if the county attorney told us we didn't  
20 have any basis to go any further, then we couldn't go  
21 any further.

22 Q Might the county attorney feel like you had a  
23 basis for asking for an order for a medical exam?

24 A They might.

25 Q Does that happen very often?

1 A Not often. Well, sometimes. I'd have to say  
2 sometimes. It depends on the situation.

3 Q What about asking the parents if they will  
4 take the child in for a medical exam?

5 A Sure. We've done that.

6 Q Does that happen often?

7 A Sometimes. I can't say often. I can say  
8 sometimes. It depends. Sometimes the parents can be  
9 much more cooperative than you might expect.

10 Q Sometimes are the parents more comfortable  
11 with the idea of a medical exam than an exam performed  
12 by the caseworker?

13 A I don't know. I couldn't speak for the  
14 parents.

15 Q In terms of how they seem to respond, you  
16 haven't formed any opinion on that?

17 A No. I think that parents have felt better  
18 knowing that somebody else was in the room.

19 Q Okay. When you interview children, is it DHS  
20 protocol to audiotape or videotape the interviews?

21 A Only during severe, when it's -- when  
22 there's, for instance, a fatality and we interview  
23 siblings, or a significant, severe physical injury where  
24 we would interview, forensically interview children at  
25 the Children's Advocacy Center would those be taped.

1 But not normally.

2 Q And if they're not normally taped, how is a  
3 third party able to evaluate the interview protocols?

4 A By being there with the caseworker.

5 Q Okay. But supposing that later on a parent,  
6 or a parent's attorney wants to review and investigate  
7 the interview protocols, how is that possible?

8 A Oh. A caseworker takes notes and they can --  
9 so the notes are put in the file, and the case -- the  
10 attorney can request discovery from our county attorney.

11 Q So the notes are all that we have?

12 A Correct. ...

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20 MS. SIDEBOTHAM: That concludes my questions  
21 then.

22 EXAMINATION

23 BY MS. MAY:

24 Q I just have a few questions for you,

25 --. When Ms. Sidebotham was talking to you

1 about photographs, and any, you know, safety or security  
2 issues to make sure that people aren't uploading  
3 photographs, or that people aren't sneaking into the  
4 file room to review photographs, are there background  
5 checks done on all -- extensive background checks done  
6 on all DHS employees, whether you're a case aide, or  
7 whether you're a supervisor or manager?

8 A Yes.

9 Q Do you also receive training about  
10 confidentiality, and expectations of confidentiality and  
11 privilege within the department?

12 A Extensive training, yes.

13 Q And everyone receives that training?

14 A Everyone.

15 Q And not only do you receive the training, do  
16 you sign an agreement that you're going to follow that?

17 A Yes.

18 Q And not only do you -- is that just -- is  
19 that very prevalent and a theme throughout all work done  
20 with the department?

21 A Yes.

22 Q And is it -- have you -- is it something that  
23 the department takes very seriously?

24 A Yes.

25 Q Can you tell me what the Fourth Amendment



1 says?

2 A No.

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2 MS. SIDEBOTHAM: I've got two or three

3 follow-up.

4 EXAMINATION

5 BY MS. SIDEBOTHAM:

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10 Q And one final question. Are you aware,  
11 either professionally or personally, that background  
12 checks are almost completely ineffective in identifying  
13 pedophiles?

14 A No.

15 MS. SIDEBOTHAM: Okay. Thank you.

16 (The deposition concluded at 12:01 p.m.,

17 April 9, 2015.)

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