

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA)

vs.)

GERALD A. SANDUSKY)

Nos. CP-14-CR-2421-2011 &
CP-14-CR-2422-2011

Commonwealth Attorneys:

*Joseph McGettigan, Esquire
Jonelle H. Eshbach, Esquire
Joseph L. Amendola, Esquire*

Defense Attorney:

OMNIBUS PRE-TRIAL MOTION

TO THE HONORABLE JOHN M. CLELAND, SENIOR JUDGE SPECIALLY ASSIGNED
TO THESE MATTERS IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY,
PENNSYLVANIA:

AND NOW, comes the Defendant, GERALD A. SANDUSKY, through his
attorney, Joseph L. Amendola, Esquire, who respectfully represents the following:

I. PROCEDURAL BACKGROUND

1. On or about November 5, 2011, the Defendant was arrested in
Criminal Information No. CP-14-CR-2422-2011 by Cpl. Scott F. Rossman of the
Pennsylvania State Police, Avondale Barracks and Agent A.L. Sassano of the
Pennsylvania Office of Attorney General and charged with various offenses stemming
from conduct which allegedly occurred on diverse dates between January 1994 and
December 2008, in College Township, Centre County, Pennsylvania and various other
locations.

2. On or about December 7, 2011, the Defendant was arrested in
Criminal Information No. CP-14-CR-2421-2011 by Trooper Robert Yakicic of the
Pennsylvania State Police, Bureau of Criminal Investigations, and Agent A.L. Sassano of

the Pennsylvania Office of Attorney General, and charged with additional offenses stemming from conduct which allegedly occurred on or about January 1997 to December 2008 in College Township, Centre County, Pennsylvania and various other locations.

3. On December 13, 2011, the Defendant waived his preliminary hearing in these matters, and thereafter, waived his arraignment on January 11, 2012.

4. The Defendant filed several requests for informal discovery pursuant to Rule 573(b)(1) with the Office of Attorney General on or about December 29, 2011 (Defendant's First Request for Pre-Trial Discovery), February 6, 2012 (Defendant's Second Request for Pre-Trial Discovery) and February 15, 2012 (Defendant's Third Request for Pre-Trial Discovery).

5. The Defendant also filed a Request for Bill of Particulars with the Commonwealth on or about January 18, 2012, and thereafter filed an Application for Order for Bill of Particulars on or about January 24, 2012 and a Motion to Compel Commonwealth to Provide Defendant with Pre-Trial Discovery Materials on or about February 6, 2012.

6. Following a hearing on February 10, 2012, this Court entered an Order on February 13, 2012 regarding Defendant's Motion To Compel Pre-Trial Discovery as a result of which the Commonwealth subsequently provided additional discovery materials to Defendant's counsel on or about January 17, 2012, January 23, 2012, March 7, 2012 and March 12, 2012 comprised of hundreds of pages of information which the Defendant, his counsel, and other members of his defense team continue to review at this time.

7. Following a hearing on February 10, 2012 and by Order dated February 13, 2012, this Court directed the Commonwealth to answer portions of the Defendant's Bill of Particulars including the exact time, date, and location of any offense giving rise to the particular offenses as alleged in the Information, the exact age of the alleged victim on the date of the offense, and an explanation from the Commonwealth as to why it could not provide certain information in the event the Commonwealth failed to comply completely with the Court's Order.

8. The Commonwealth provided Defendant's counsel with a Bill of Particulars dated February 21, 2012 on or about March 1, 2012 as well as a Response to the Order of Court Directing Pre-Trial Discovery on or about February 29, 2012 in which it failed to provide the Defendant with a number of items, materials and documents he had requested in his Bill of Particulars and Motion to Compel Discovery.

9. In its Response dated February 29, 2012 to the Court's Order dated February 13, 2012 directing the Commonwealth to provide discovery to the Defendant, the Commonwealth alleged various reasons why it could not or would not provide certain materials to the Defendant and stated its position that many of the materials requested by the Defendant constituted Grand Jury materials which were non-discoverable, certain matters were irrelevant, and other information concerning psychological evaluations, juvenile adjudications and juvenile police investigations, and Children and Youth Services' reports and related information were confidential and/or privileged and not subject to discovery by the Defendant.

10. The discovery process is continuing at the time of the filing of the Defendant's Omnibus Pre-Trial Motion and includes the Defendant's Fourth, Fifth and

Sixth Supplemental Requests for Discovery which have previously been provided to the Commonwealth and which are the subject of a Motion to Compel within the Defendant's Omnibus Pre-Trial Motion, and the Defendant anticipates a number of further discovery requests will be made based upon the additional discovery materials the Commonwealth has only recently provided to the Defendant and his counsel.

11. On or about March 2, 2012, the Defendant filed an Application for Order for a More Specific Bill of Particulars with argument held before the Court on March 12, 2012.

12. In its Order dated March 13, 2012, the Court dismissed the Application for a More Specific Bill of Particulars as moot stating in part the Commonwealth had clearly represented it could not provide the Defendant with a more specific Bill of Particulars.

13. On or about March 6, 2012, the Defendant filed a Response to the Commonwealth's Response to the Court's Order Directing Pre-Trial Discovery, following which the Court entered an Order on March 20, 2012 directing the Commonwealth to disclose to counsel for the Defendant any juvenile adjudication records of any witness which the Commonwealth intends to call to testify at trial, to disclose addresses and phone numbers of the alleged victims for the current time and at the time of the alleged offenses with which the Defendant is currently charged, as well as, to provide any psychological evaluations of any alleged victims unless the Commonwealth establishes to the satisfaction of the Court that the evaluations are privileged despite being in its possession.

14. The Defendant is filing this Omnibus Pre-Trial Motion pursuant to the Court's Order dated February 29, 2012.

**II. MOTION TO DISMISS/DUE PROCESS/NON-SPECIFICITY OF ALLEGATIONS
CONTAINED IN CRIMINAL INFORMATIONS**

15. The Defendant incorporates Paragraph Nos. 1 through 14 above as if more fully set forth herein

16. In Criminal Information No. CP-14-CR-2421-2011, the Commonwealth has charged the Defendant with twelve (12) separate offenses related to his alleged illegal contact with Accusers/Alleged Victims 9 and 10.

17. In Criminal Information No. CP-14-CR-2422-2011, the Commonwealth has charged the Defendant with forty (40) separate offenses related to his alleged illegal contact with Accusers/Alleged Victims 1 through 8 inclusive.

18. As a result of the non-specific allegations contained in numerous counts of both of the aforementioned Criminal Informations, the Defendant requested a Bill of Particulars from the Commonwealth on or about January 18, 2012 following which, in the absence of a timely reply from the Commonwealth, the Defendant filed an Application for a Bill of Particulars with this Court on or about January 24, 2012 as well as a Motion to Compel Discovery on February 6, 2012.

19. Following a hearing on February 10, 2012, this Court entered an Order on February 13, 2012, directing the Commonwealth to respond to certain parts of the Defendant's Request for Bill of Particulars and the Defendant's Motion to Compel Discovery.

20. The Commonwealth provided Defendant's counsel with a Bill of Particulars dated February 21, 2012 on or about March 1, 2012 and a Response to the Order of the Court Directing Pre-Trial Discovery on February 29, 2012.

21. On March 2, 2012, after reviewing the aforementioned Bill of Particulars and Response, Defendant's counsel filed an Application for a More Specific Bill of Particulars, a hearing on which was held by this Court on March 12, 2012.

22. On March 13, 2012, this Court entered an Order in regard to Defendant's Application for a More Specific Bill of Particulars in which it indicated the issue was moot and the Court was dismissing the Defendant's Application because the Commonwealth had made it clear at the hearing on the Application on March 12, 2012 that it could not provide the Defendant with more specific answers to the Defendant's request for additional information regarding the charges filed against him by the Commonwealth.

23. The Defendant submits the allegations set forth in Criminal Information No. CP-14-CR-2421-2011 relating to Counts 1 through 12 and dealing with the Defendant's alleged illegal contact with Accusers/Alleged Victims 9 and 10 are so general and non-specific that the Defendant cannot adequately prepare a defense to those charges.

24. The Defendant also submits the allegations set forth in Criminal Information No. CP-14-CR-2422-2011 relating to Counts 1 through 6 inclusive dealing with Defendant's alleged illegal contact with Accuser/Alleged Victim 1, Counts 12 through 15 dealing with Defendant's alleged illegal contact with Accuser/Alleged Victim 3, Counts 16 through 23 dealing with Defendant's alleged illegal contact with Accuser/Alleged Victim

4, Counts 24 through 27 dealing with Defendant's alleged illegal contact with Accuser/Alleged Victim 5, and Counts 32 through 35 dealing with Defendant's alleged illegal contact with Accuser/Alleged Victim 7 are so general and non-specific that the Defendant cannot adequately prepare a defense to those charges.

25. Due to the lack of specificity by the Commonwealth in the aforementioned counts of the aforementioned Criminal Informations, the Defendant believes and therefore avers he cannot adequately prepare a defense to those allegations due to their non-specificity.

26. The Commonwealth has failed to provide the dates of the commission of the aforementioned alleged offenses with reasonable certainty and with sufficient particularity in order for the Defendant to adequately prepare his defense, and has advised the Court and the Defendant it cannot provide more specific information and details as to times, dates and locations of the aforementioned alleged offenses, thus violating the notions of fundamental fairness embedded in our legal process.

27. The Defendant submits his due process rights under the Sixth Amendment to the U.S. Constitution as made applicable to the Commonwealth of Pennsylvania through the Fourteenth Amendment as well as his due process rights under the due process clause of the Constitution of the Commonwealth of Pennsylvania will be violated if he is forced to proceed to trial on the aforementioned charges because he cannot adequately prepare and present a defense to those charges due to the lack of specificity contained therein.

28. For the reasons set forth hereinabove, the Defendant submits Counts 1 through 12 inclusive in Information No. CP-14-CR-2421-2011 and Counts 1

through 6, 12 through 27 and 32 through 35 in Information No. CP-14-CR-2422-2011 lack specificity and are so generalized that they fail to adequately provide the Defendant with sufficient notice to prepare his defense to those charges and violate his right to due process of law under the Sixth Amendment to the U.S. Constitution as applied to the Commonwealth through the Fourteenth Amendment and the due process clause of the Constitution of the Commonwealth of Pennsylvania.

WHEREFORE, the Defendant respectfully requests that this Honorable Court enter an Order dismissing the aforementioned counts of the aforementioned Criminal Informations filed against him due to their lack of specificity resulting in his inability to adequately prepare his defense to those charges.

III. PETITION FOR WRIT OF HABEAS CORPUS

29. The Defendant incorporates Paragraph Nos. 1 through 28 above as if more fully set forth herein.

30. All criminal proceedings in the Commonwealth of Pennsylvania must be instituted in accordance with Pennsylvania Rule of Criminal Procedure 502.

31. The criminal proceedings in the above-captioned matters were instituted by the filing of Criminal Complaints in accordance with Pennsylvania Rules of Criminal Procedure 502(1).

32. The Defendant submits the Commonwealth cannot present sufficient evidence at his trial to warrant presenting certain charges to the jury for its consideration in regard to Counts 7 through 11 dealing with Alleged Victim No. 2, Counts 28 through 31 dealing with Accuser/Alleged Victim No. 6, and Counts 36 through 40 dealing with Accuser/Alleged Victim 8 of Criminal Information No. CP-14-CR-2422-2011.

A. Charges Relating to Alleged Victim No. 2

33. In regard to the charges related to Alleged Victim 2, which are set forth in Count 7, Involuntary Deviate Sexual Intercourse in violation of 18 Pa. C.S.A. Section 3123(a)(7) – (F1); Count 8, Indecent Assault in violation of 18 Pa. C.S.A. Section 3126(a)(8) – (M2); Count 9, Unlawful Contact with Minors in violation of 18 Pa. C.S.A. Section 6318(a)(1) – (F1); Count 10, Corruption of Minors in violation of 18 Pa. C.S.A. Section 6301(a)(1) – (M1); and Count 11, Endangering Welfare of Children in violation of 18 Pa. C.S.A. Section 4304(a)(1) – (M1) as set forth in Criminal Information No. CP-14-CR-2422-2011, the Defendant submits the Commonwealth cannot present sufficient evidence to sustain these charges at trial.

34. The Defendant submits that, since the Commonwealth has stated the Alleged Victim in regard to Counts 7 through 11 of the Information filed against him in these matters is unknown and has not been identified, the Commonwealth cannot sustain these charges at trial simply based upon the testimony of Michael McQueary.

35. The Defendant also submits that, since the testimony of the only witness known to the Defendant who can testify for the Commonwealth as to the offenses set forth in Counts 7 through 11 of No. CP-14-CR-2422-2011 is Michael McQueary, these charges cannot be proven at his trial since Michael McQueary has testified at the preliminary hearings for Timothy Curley and Gary Schultz on December 16, 2011 about these matters, and his testimony did not establish sufficient evidence to support these charges being submitted to the jury at his trial. The testimony of Michael McQueary from the December 16, 2011 preliminary hearings of Timothy Curley and Gary Schultz is marked as Exhibit “A”, attached hereto, and incorporated herein by reference.

B. Charges Relating to Accuser/Alleged Victim 6

36. In regard to the charges related to Accuser /Alleged Victim No. 6, which are set forth in Count 28, Indecent Assault in violation of 18 Pa. C.S.A. Section 3126(a)(7) – (M1); Count 29, Unlawful Contact with Minors in violation of 18 Pa. C.S.A. Section 6318(a)(1) – (F3); Count 30, Corruption of Minors in violation of 18 Pa. C.S.A. Section 6301(a)(1) – (M1); and Count 31, Endangering Welfare of Children in violation of 18 Pa. C.S.A. Section 4304(a)(1) – (M1) as set forth in Criminal Information No. CP-14-CR-2422-2011, the Defendant submits the Commonwealth cannot present sufficient evidence to sustain these charges at trial since the anticipated testimony of Commonwealth witnesses including Accuser/Alleged Victim 6 will not establish that any sexual contact took place between the Defendant and Accuser/Alleged Victim 6 in 1998 or at any other time, and the Commonwealth will not be able to establish any criminal intent on the Defendant's part.

C. Charges Relating to Alleged Victim 8

37. In regard to the charges related to Alleged Victim 8, which are set forth in Count 36, Involuntary Deviate Sexual Intercourse in violation of 18 Pa. C.S.A. Section 3123(a)(7) – (F1); Count 37, Indecent Assault in violation of 18 Pa. C.S.A. Section 3126(a)(8) – (M2); Count 38, Unlawful Contact with Minors in violation of 18 Pa. C.S.A. Section 6318(a)(1) – (F1); Count 39, Corruption of Minors in violation of 18 Pa. C.S.A. Section 6301(a)(1) – (M1); and Count 40, Endangering Welfare of Children in violation of 18 Pa. C.S.A. Section 4304(a)(1) – (M1) as set forth in Criminal Information No. CP-14-CR-2422-2011, the Defendant submits the Commonwealth cannot present sufficient evidence to sustain these charges at trial.

38. Since the Commonwealth has never identified Alleged Victim 8, and since the Commonwealth's only purported eyewitness is incapable of testifying at the Defendant's trial in these matters, the Defendant submits any testimony by other individuals concerning these allegations will constitute impermissible hearsay, as a result of which the Defendant submits these charges should also be dismissed by this Honorable Court.

39. The Defendant submits any such hearsay testimony is inadmissible although the Defendant anticipates the Commonwealth will attempt to seek the admission of such hearsay evidence by claiming it falls under one of the exceptions to the Rules of Evidence dealing with hearsay testimony.

40. For all the aforementioned reasons, the Defendant submits the Commonwealth cannot establish sufficient proof at his trial as to any of the aforementioned charges set forth in Counts 7 through 11 relating to Alleged Victim 2, Counts 28 through 31 relating to Accuser/Alleged Victim 6, and Counts 36 through 40 relating to Alleged Victim 8 to be presented to the jury, and requests that this Court enter an Order dismissing Counts 7 through 11, Counts 28 through 31, and Counts 36 through 40 in Criminal Information No. CP-14-CR-2422-2011 filed against the Defendant in these matters.

WHEREFORE, the Defendant respectfully requests this Court to issue a Writ of *Habeas Corpus* upon the Commonwealth to show cause, if any it has, why Counts 7 through 11, Counts 28 through 31 and Counts 36 through 40 of Criminal Information CP-14-CR-2422-2011 filed against the Defendant in these matters should not be dismissed and the Defendant discharged as to same.

IV. MOTION TO DISMISS DUE TO EXPIRATION OF STATUTE OF LIMITATIONS

41. The Defendant incorporates Paragraph Nos. 1 through 40 above as if more fully set forth herein.

42. The Commonwealth filed charges in regard to Criminal Information No. CP-14-CR-2422-2011 on or about November 5, 2011 and in regard to Criminal Information No. CP-14-CR-2421-2011 on or about December 7, 2011.

43. Setting aside the fact the Defendant has maintained his innocence in regard to these charges, the Defendant submits the statute of limitations should have run prior to the Defendant's arrest on November 5, 2011 in regard to those offenses dealing with Accusers/Alleged Victims 2, 3, 4, 5, 6, 7 and 8 as set forth in Criminal Information No. CP-14-CR-2422-2011 and Accuser/Alleged Victim 10 as set forth in Criminal Information No. CP-14-CR-2421-2011 since all of those offenses allegedly occurred prior to the effective date of an enlarged statute of limitations which became effective on August 27, 2002, and the statute of limitations in effect at the time of the commission of Defendant's alleged illegal conduct had run prior to the Commonwealth's filing charges against the Defendant on November 5 and December 7, 2011.

44. For all the aforementioned reasons, the Defendant submits the statute of limitations should have run in regard to those charges related to Accusers/Alleged Victims 2, 3, 4, 5, 6, 7 and 8 as set forth in Criminal Information No. CP-14-CR-2422-2011 and Accuser/Alleged Victim 10 as set forth in Criminal Information No. CP-14-CR-2421-2011 prior to the Defendant's arrests on November 5 and December 7, 2011 as a result of which the Defendant is requesting that this Honorable Court dismiss

all those charges set forth in the Criminal Informations filed in these matters on the basis that the applicable statute of limitations should have run in regard to these offenses.

WHEREFORE, the Defendant respectfully requests this Honorable Court to enter an Order dismissing those charges relating to Accusers/Alleged Victims 2, 3, 4, 5, 6, 7 and 8 of Criminal Information No. CP-14-CR-2422-2011 and Accuser/Alleged Victim 10 of Criminal Information No. CP-14-CR-2421-2011 on the basis that the applicable statute of limitations should have run in regard to these offenses.

V. MOTION FOR RELIEF UNDER RULES 573 AND 579
OF THE PENNSYLVANIA RULES OF CRIMINAL PROCEDURE/
MOTION TO COMPEL DISCOVERY

45. The Defendant incorporates Paragraph Nos. 1 through 44 above as if more fully set forth herein.

46. On or about March 12, 2012, the Defendant, by his attorney, Joseph L. Amendola, Esquire, requested informal pre-trial discovery from the Commonwealth attorneys in his Supplemental Fourth and Fifth Requests for Discovery, and additional pre-trial discovery from the Commonwealth attorneys in his Supplemental Sixth Request for Discovery on March 21, 2012 in compliance with the informal request provisions for pre-trial discovery and inspection pursuant to Rule 573 of the Criminal Rules of Procedure. A copy of the Defendant's requests for pre-trial discovery are marked as Exhibit "B", attached hereto, and incorporated herein by reference.

47. As of the date of this Motion, the Commonwealth has failed to disclose fully and completely the items and information requested in the Defendant's aforementioned pre-trial discovery requests which are material to the instant cases.

WHEREFORE, the Defendant respectfully requests that this Court enter an Order applying the sanctions of Rule 573 to dismiss the above-captioned prosecution; or, in the alternative, prohibit the Commonwealth attorneys from introducing at the time of trial, as evidence, those items and information requested, but not disclosed; or, in the alternative, order the Commonwealth attorneys to permit discovery and/or inspection of those aforementioned items and information requested, and it is further requested that this Court order such compliance by a date certain so that the Defendant can properly prepare his defense in these matters.

**VI. MOTION FOR LEAVE TO FILE AMENDED OMNIBUS PRE-TRIAL
MOTION NUNC PRO TUNC**

48. The Defendant incorporates Paragraph Nos. 1 through 47 above as if more fully set forth herein.

49. The filing of Defendant's Omnibus Pre-Trial Motion has been made without the aid of complete discovery materials which have not yet been provided to the Defendant at the time of filing of this Motion.

50. Following receipt of the discovery materials requested by the Defendant in his Supplemental Fourth, Fifth, and Sixth pre-trial discovery requests which have been marked as Exhibit "B", the Defendant anticipates he may have a legal basis to file an Amended Omnibus Pre-Trial Motion to include such pre-trial matters which should be addressed in his Omnibus Pre-Trial Motion and about which he is presently uninformed.

51. The Defendant further submits he anticipates he may have a need to file additional discovery requests between the time of the filing of this Omnibus Pre-Trial Motion and trial, and materials obtained as a result of such additional discovery requests may provide a legal basis for filing additional pre-trial motions.

WHEREFORE, the Defendant respectfully requests that this Court enter an Order granting his Motion for Leave to File an Amended Omnibus Pre-Trial Motion Nunc Pro Tunc within fourteen (14) days after receipt of any such discovery materials from the Commonwealth attorneys.

VII. MOTION FOR CONTINUANCE

52. The Defendant incorporates Paragraph Nos. 1 through 51 above as if more fully set forth herein.

53. Due to the number of potential witnesses who have become known to the Defendant and his counsel following receipt of the Commonwealth's discovery materials in these matters to date, the Defendant's investigators will need a substantial amount of time to locate and interview these witnesses.

54. The Commonwealth has recently provided the Defendant and his counsel with additional voluminous discovery materials on March 7 and 12, 2012 which the Defendant and his defense team continue to review at the time of the filing of this Motion.

55. The voluminous additional discovery materials provided by the Commonwealth to the Defendant have revealed additional potential witnesses whom the Defendant's private investigators need to contact and interview to determine the need to call them as witnesses on his behalf at trial in his cases.

56. The Defendant and his defense team are continuing to review discovery materials as these materials are made available to the defense by the Commonwealth.

57. The Defendant believes a significant amount of discovery has yet to be provided to the defense by the Commonwealth, and, after receipt of these discovery materials, the defense will have a need to conduct further investigations prior to trial.

58. The Defendant also is in the process of engaging the services of several expert witnesses for separate and distinct purposes to assist him in the preparation of his defense. These experts will most likely be present at his trial and will need time to review the voluminous materials related to the Defendant's cases, prepare opinions related thereto, and make arrangements to appear in court to testify as expert witnesses.

59. One of the aforementioned experts has indicated he will be unavailable to appear as a witness for the Defendant in May 2012 due to other professional commitments.

60. The Commonwealth has not advised the Defendant as to whether it intends to call any expert witnesses in its case in chief or as rebuttable witnesses at trial.

61. The Defendant submits that, due to the ongoing publicity concerning the Defendant's cases, he will have a critical need for the expert services of a jury consultant who will assist the Defendant and counsel in the selection of jurors in his cases.

62. The Defendant also anticipates certain other witnesses, who are critical to his defense in regard to certain allegations in his cases, will be unavailable to testify in May 2012 which, in the event Defendant's trial commences at that time, will critically and adversely impact his defense to some of the charges filed against him by the Commonwealth in his cases.

63. The Defendant submits Timothy Curley and Gary Schultz are critical witnesses to his defense in regard to the allegations made by the Commonwealth relating to Alleged Victim 2, and Timothy Curley and Gary Schultz are presently defendants in cases in which the Commonwealth has charged them with perjury.

64. Defendant's counsel has contacted the attorneys for Timothy Curley and Gary Schultz and has been advised informally that, if Timothy Curley and Gary Schultz are subpoenaed to testify at the Defendant's trial as witnesses, they will most likely invoke their Fifth Amendment privilege due to their pending charges.

65. If Timothy Curley and Gary Schultz invoke their Fifth Amendment privilege at Defendant's trial, they will be unavailable for legal purposes to testify.

66. Based upon the sworn testimony of Timothy Curley and Gary Schultz before the Thirty-Third Investigative Grand Jury as presented by the Commonwealth at their preliminary hearing held on December 16, 2011 in Dauphin County, ¹ the Defendant believes the testimony of these witnesses will impeach testimony provided by Michael McQueary, the Commonwealth's sole witness in regard to the allegations set forth in Counts 7 through 11 inclusive in Information No. CP-14-CR-2422-2011 relating to Alleged Victim 2.

67. Timothy Curley and Gary Schultz are the only witnesses known to the Defendant who can testify as to what Michael McQueary told them concerning the Defendant's alleged actions on March 1, 2002.

68. The Defendant submits that, if Timothy Curley and Gary Schultz are unavailable to testify at his trial as witnesses, his due process rights under the Sixth Amendment to the United States Constitution as applied to the Commonwealth through the Fourteenth Amendment as well as under the due process clause of the Constitution of the Commonwealth of Pennsylvania will be violated, and he will be unable to present an adequate defense to these charges.

69. For all the aforementioned reasons, the Defendant respectfully requests that this Honorable Court enter an Order granting a continuance in his cases.

¹ Transcripts of the testimony of Timothy Curley and Gary Schultz given before the Grand Jury were placed into evidence by the Commonwealth at their preliminary hearing held on December 16, 2011 and have been marked as Exhibit "C", attached hereto, and incorporated herein by reference.

WHEREFORE, the Defendant respectfully requests that this Honorable Court enter an Order granting a continuance in his cases.

VIII. MOTION TO COMPEL COMMONWEALTH TO PROVIDE DEFENDANT WITH WRITTEN STATEMENT OF UNCHARGED MISCONDUCT EVIDENCE

70. The Defendant incorporates Paragraph Nos. 1 through 69 above as if more fully set forth herein.

71. The Commonwealth has advised the Defendant in its Response to the Court's Order dated February 13, 2012 directing the Commonwealth to provide Defendant with discovery that it may possess certain alleged misconduct on the part of the Defendant which is currently the subject of a continuing Grand Jury investigation and which, according to the Commonwealth, it is not required to provide to the Defendant due to the secrecy of the Grand Jury proceedings.

72. If the Commonwealth continues to refuse to advise the Defendant of any additional alleged misconduct in its possession, the Defendant submits any such alleged misconduct should not be admissible against him at his trial in these matters.

73. If the prosecution intends to offer such evidence, the Defendant will need adequate notice in time to prepare his defense to the same consistent with his rights under the Fifth and Sixth Amendments to the United States Constitution as applied to the Commonwealth of Pennsylvania through the Fourteenth Amendment, as well as under the due process clause of the Constitution of the Commonwealth of Pennsylvania.

WHEREFORE, the Defendant respectfully requests that this Court enter an Order compelling the Commonwealth to provide him with a written statement at least thirty (30) days prior to trial listing the nature, dates, and places of occurrences of any criminal offenses or acts of misconduct other than those specified in the Criminal Informations filed in his current cases which the Commonwealth intends to introduce at his trial, either in its case in chief or by examination of the Defendant should he elect to

testify or on rebuttal, and the purpose for which the Commonwealth will seek to admit such evidence or, in the alternative, enter an order prohibiting the Commonwealth from introducing any such evidence.

IX. MOTION FOR INDIVIDUAL VOIR DIRE OF PROSPECTIVE JURORS

74. The Defendant incorporates Paragraph Nos. 1 through 73 above as if more fully set forth herein.

75. Due to continuous media coverage of the Defendant's cases on a local, statewide and national level, the Defendant believes individual *voir dire* of prospective jurors is necessary in his cases in the interests of justice to prevent questions asked of one prospective juror and any answers given thereto from prejudicing any other member of the panel or influencing the answers to questions put to other members of the panel.

76. The Defendant also submits individual *voir dire* of prospective jurors will be necessary to determine in a more detailed manner whether any individual prospective juror may have some particular prejudice which would prevent that individual from being a fair and impartial juror at trial.

77. The Defendant believes that, in order to obtain complete and candid responses from potential jurors during *voir dire*, the conditions under which questioning is conducted should be adjusted to minimize the impact of factors that will inhibit juror candor.

78. The National Jury Project has conclusively found a number of factors which would improve and restructure the *voir dire* process, including:

(a) examining individual jurors outside of the presence of other jurors is preferable to examining jurors in the presence of a large group;

(b) attorney conducted *voir dire* is preferable to judge conducted *voir dire*;

(c) questioning should be extensive, touching on all areas of potential abuse;

(d) for purposes of our geographical area, a National Jury Project survey found that, in Philadelphia, Pennsylvania, for example, thirty-two (32%) percent of all persons eligible for jury service agreed that "if the government brings someone to trial, that person is probably guilty of some crime". In Delaware County, Pennsylvania, for example, in another survey, thirty-nine (39%) percent of all persons eligible for jury service expected that the defendants would prove their innocence despite the courts' instructions to the contrary. In a survey in Washington, D.C., 63.9 percent of the potential eligible jurors agreed that defendants in a criminal trial should be required to testify.

79. Assuming a petit jury of twelve, thirty-nine (39%) percent equals between four and five jurors; thirty-two (32%) percent equals between three and four jurors; and 63.9 percent equals between seven and eight jurors. Mathematically, any two of these biases combined could render a unanimous jury for the prosecution.

80. The method by which *voir dire* is typically conducted in Centre County generally involves the Court initially asking questions of potential jurors followed by questioning of the entire panel by the prosecutor and then by defense counsel. The

phrasing of questions asked in general *voir dire* before the entire panel indicates to the panel that a "no" answer requires them to do nothing and thereby not be conspicuous to other potential jurors. A "yes" answer requires the potential juror to raise his or her hand, thereby becoming conspicuous, and potentially being subjected to individual *voir dire*.

81. Consequently, this method of inquiry suggests at least a comfortable if not a correct answer, and thereby inhibits juror candor.

82. The leading question inquiry method used in Centre County is of minimal value in general *voir dire* since leading questions, by their very nature, elicit only the prospective jurors' own perception of their biases.

83. By virtue of the foregoing, individual attorney conducted *voir dire* in these matters will be a far better method by which to discover and thoroughly investigate any biases of individual prospective jurors and will show due deference to the very difficult and emotionally charged issues involved in the instant matters.

84. For all the aforementioned reasons, the Defendant respectfully requests that this Court permit individual attorney conducted *voir dire*.

WHEREFORE, the Defendant respectfully requests that this Court permit individual attorney conducted *voir dire* in his cases.

X. MOTION FOR SEQUESTRATION OF TRIAL JURORS

85. The Defendant incorporates Paragraph Nos. 1 through 84 above as if more fully set forth herein.

86. Counsel for the Defendant anticipates that the jury selection process and trial in these matters will take up to two (2) weeks and will be the subject of even more extensive media coverage on a local, statewide and national level than has

occurred previously in these cases and will include at least a daily summary of trial testimony.

87. The Defendant submits it is unrealistic to expect that the jurors selected to hear his cases will be able to totally and completely insulate themselves from all contact and information relating to his cases during the course of his trial if the Court does not order sequestration.

88. The Defendant submits his cases will undoubtedly be the subject of extensive publicity throughout jury selection and trial on a local, statewide and national level due to the nature of the charges involved and the Defendant's notoriety.

89. Pennsylvania Rule of Criminal Procedure 642 permits the trial judge to order sequestration of trial jurors in the interests of justice.

90. The Defendant submits that sequestration of trial jurors during jury selection and the trial in these matters is necessary in the interests of justice to avoid the potential prejudice which may result from the extensive publicity that Defendant's trial will generate on a local, statewide and national level.

91. The Defendant submits his cases involve highly emotionally charged issues regarding allegations of child sexual abuse which the Defendant anticipates will be reported on at least a daily basis by the media locally, statewide and nationally.

92. The Defendant believes it will be virtually impossible for jurors hearing his cases to completely avoid hearing any reporting on the trial from outside sources in the absence of jury sequestration.

93. For all the aforementioned reasons, the Defendant respectfully requests that this Court enter an Order directing that jurors in his cases will be sequestered beginning with jury selection and continuing through the conclusion of his trial.

WHEREFORE, the Defendant respectfully requests that this Court enter an Order directing that jurors in his cases will be sequestered beginning with jury selection and continuing through the conclusion of his trial.

XI. MOTION TO SUPPRESS EVIDENCE

A. Search Warrant

94. The Defendant incorporates Paragraph Nos. 1 through 93 above as if more fully set forth herein.

95. On or about June 21, 2011, Commonwealth agents executed a search warrant on the Defendant's residence at 130 Grandview Road in College Township, Centre County, Pennsylvania as a result of which they seized numerous items including but not limited to computers, records, CDs, DVDs, photographs and other documents and materials from the Defendant's residence which the Defendant believes the Commonwealth may attempt to introduce against him at his trial in these matters.

96. The Defendant submits the Commonwealth agents who executed the aforementioned search warrant on or about June 21, 2011 did not have legally sufficient probable cause to obtain such search warrant because:

a. At the time Commonwealth agents obtained the aforementioned search warrant and executed it on June 21, 2011, they had

no legally valid reason to believe illegal contraband would be found inside the Defendant's residence;

b. The search warrant executed by the aforementioned Commonwealth agents did not contain sufficient legal probable cause within the body of the warrant to justify the issuance of the aforementioned search warrant;

c. No other legally valid basis existed for obtaining a search warrant.

97. The Commonwealth agents who executed the aforementioned search warrant on the Defendant's residence on June 21, 2011 illegally executed the warrant and illegally entered the Defendant's residence without first announcing their identity and purpose for being at the Defendant's residence.

98. Any such evidence obtained as a result of the illegal search of the Defendant's residence by Commonwealth agents on June 21, 2011 was obtained illegally for the reasons set forth above.

99. Under the totality of the aforementioned circumstances, the Defendant submits Commonwealth agents did not have sufficient legal probable cause based upon the information contained in the aforementioned search warrant to obtain a valid search warrant for the Defendant's residence located at 130 Grandview Road in College Township, Centre County, Pennsylvania; and that the seizure of all items from his residence on June 21, 2011 was unreasonable, illegal and violative of his Fourth, Fifth, and Sixth Amendment rights under the Constitution of the United States of America as made applicable to the Commonwealth of Pennsylvania through the Fourteenth

Amendment as well as his rights under Sections 8 and 9 of Article I of the Constitution of the Commonwealth of Pennsylvania.

WHEREFORE, the Defendant respectfully requests that this Court enter an Order suppressing all evidence derived from the illegal search of the Defendant's residence located at 130 Grandview Road in College Township, Centre County, Pennsylvania by Commonwealth agents, and the seizure of any evidence therefrom on June 21, 2011.

B. Recorded and/or Oral Communications

100. The Commonwealth has advised Defendant's counsel that his conversation with Accuser/Alleged Victim 1 was intercepted on or about June 25, 2009 for approximately seven (7) minutes.

101. The Commonwealth has advised Defendant's counsel that his conversation with Accuser/Alleged Victim 9 was intercepted on or about November 9, 2011.

102. The Commonwealth has notified the Defendant's counsel that a consensual interception of oral communications and/or an in-home consensual interception was conducted upon the Defendant's alleged conversations with Accusers/Alleged Victims 1 and 9 on June 25, 2009 and November 9, 2011 pursuant to an approval by the Office of Attorney General.

103. The Commonwealth has provided notice to Defendant's counsel that either or both of the purported aforementioned interceptions of oral communications and/or in-home consensual interceptions may be used against the Defendant in the prosecution of his cases.

104. The Defendant believes the Commonwealth intends to introduce the aforementioned purported intercepted conversations between the Defendant and Accusers/Alleged Victims 1 and 9 at his trial.

105. The Commonwealth's interception of the aforesaid recorded and/or oral communications was illegal and invalid for the following reasons:

a. The Defendant was unaware of and did not consent to the interceptions;

b. The Accusers'/Alleged Victims' purported consent to the interceptions was not voluntary as required by 18 Pa. C.S.A. Section 5704(2)(ii) and (iv);

c. Prior approval for each interception was not given by the Commonwealth attorney as required by 18 Pa. C.S.A. Section 5704(2)(ii) and (iv);

d. The Commonwealth did not comply with the recording and record keeping requirements of 18 Pa. C.S.A. Section 5714(a);

e. Commonwealth representatives did not maintain proper custody of the recorded evidence obtained in these matters as required under the provisions of 18 Pa. C.S.A. Section 5704(2)(ii) and (iv); and,

f. The Commonwealth's interceptions of the alleged conversations between the Defendant and Accusers/Alleged Victims 1 and 9 were made without the issuance of a search warrant based upon probable cause in violation of the constitutional proscription against unreasonable searches and seizures.

106. For the reasons set forth hereinabove, the aforesaid interceptions of oral and/or recorded communications between the Defendant and Accusers/Alleged Victims 1 and 9 were unreasonable, illegal, and violative of the Defendant's Fourth Amendment rights under the Constitution of the United States of America as applied to the Commonwealth of Pennsylvania through the Fourteenth Amendment. In addition, said interceptions violated Article I, Section 8 of the Constitution of the Commonwealth of Pennsylvania, as well as 18 Pa. C.S.A. Section 5704(2)(ii) and (iv).

WHEREFORE, the Defendant respectfully requests that this Honorable Court enter an Order suppressing all evidence derived from the interception of any oral and/or recorded communications made between the Defendant and Accusers/Alleged Victims 1 and 9.

XII. NOTICE OF POTENTIAL ALIBI DEFENSE

107. The Defendant incorporates Paragraph Nos. 1 through 106 above as if more fully set forth herein.

108. The Commonwealth has failed to provide the Defendant with exact or even approximate dates when he allegedly committed certain acts in violation of the criminal statutes of the Commonwealth of Pennsylvania.

109. The Defendant believes he may be able to offer witnesses to rebut the Commonwealth's allegations as to Defendant's presence and activities in certain locations during certain periods of time after the Commonwealth presents testimony at his trial.

110. Due to the lack of specificity by the Commonwealth in giving notice to the Defendant of exact or even approximate dates, times and locations during which

and at which he allegedly violated the criminal statutes of the Commonwealth of Pennsylvania, the Defendant is unable at the current time to give the Commonwealth notice as to possible witnesses who may testify on his behalf as to his alibi defense.

111. Due to the non-specificity of most of the charges filed by the Commonwealth in these matters, the Defendant, at this time, is unable to provide the Commonwealth with adequate notice of potential alibi witnesses.

112. The Defendant believes, however, that, in the event he learns of more specific information relating to these offenses and charges, he may well have an alibi defense to these charges relating to many of the Accusers/Alleged Victims in these cases.

113. The Defendant will provide the Commonwealth with the names and addresses of any such witnesses as well as the times and locations when he was with those witnesses as soon as he reasonably determines that such witnesses, times and locations are relevant to his defense which he is unable to do at the current time due to the lack of specificity in the charges filed against him by the Commonwealth.

114. For all the aforementioned reasons, the Defendant submits he may have an alibi defense in regard to the charges filed against him and is so advising the Commonwealth at this time.

**XIII. MOTION TO COMPEL DISCLOSURE OF ALL COMMONWEALTH
WITNESSES' PRIOR CRIMINAL RECORDS**

115. The Defendant incorporates Paragraph Nos. 1 through 114 above as if more fully set forth herein.

116. The Defendant submits the Commonwealth has previously provided defense counsel with copies of criminal adult records of certain of the

Commonwealth's potential witnesses in his cases, but has failed to provide the Defendant with any information concerning juvenile adjudications of delinquency related to any of the Commonwealth's witnesses.

117. The Defendant submits he is entitled to the discovery of certain types of juvenile adjudications including, but not necessarily limited to, crimes of *crimens falsi*.

118. For all the aforementioned reasons, the Defendant requests the Court direct the Commonwealth to provide the Defendant with the aforementioned records.

WHEREFORE, the Defendant respectfully requests that this Honorable Court enter an Order compelling the Commonwealth to disclose the information requested above.

XIV. MOTION TO SUPPRESS STATEMENTS

119. The Defendant incorporates Paragraph Nos. 1 through 118 above as if more fully set forth herein.

120. In regard to the allegations set forth by the Commonwealth in Counts 28 through 31 inclusive of Criminal Information No. CP-14-CR-2422-2011, related to Accuser/Alleged Victim 6, the Defendant was interrogated by Investigator Ronald Schreffler of the Penn State University Police Department and possibly other law enforcement officers on or about June 1, 1998 and possibly on other dates in 1998 concerning the Defendant's contact with Accuser/Alleged Victim 6 who was then a minor.

121. The Defendant allegedly made statements to Investigator Ron Schreffler and possibly other law enforcement/government officers in 1998 in regard to an investigation being conducted by those officers at that time relating to Accuser/Alleged Victim 6.

122. At the time the Defendant made any such statements to Investigator Schreffler and possibly other law enforcement officers, he was not advised of his Miranda and other constitutional rights.

123. At the time Investigator Schreffler and possibly other law enforcement officers elicited statements from the Defendant, he believed he was in police custody and was not free to leave without police supervision.

124. At the time Investigator Schreffler and possibly other law enforcement officers elicited statements from the Defendant, he reasonably believed he was in police custody and had to remain in the restricted area.

125. At the time Investigator Schreffler and other law enforcement officers elicited statements from the Defendant, he was restricted in his movements.

126. Prior to such questioning by Investigator Schreffler and possibly other law enforcement officers, the Defendant was not advised of his right to remain silent, his right to have an attorney present during questioning, as well as his other constitutional rights.

127. Prior to questioning by Investigator Schreffler and possibly other law enforcement officers, the Defendant was not properly advised of his right to remain silent, his right to have an attorney present during questioning, as well as his other constitutional rights.

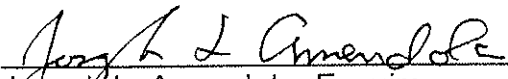
128. The Defendant did not knowingly, intelligently, or voluntarily waive his right to remain silent at the time he was questioned by Investigator Schreffler and any other law enforcement officers in 1998.

129. For the above stated reasons, any statements made by the Defendant to Investigator Schreffler and other law enforcement officers, were made in violation of the Defendant's rights under the Fifth and Sixth Amendments of the U.S.

Constitution as applied to the Commonwealth through the Fourteenth Amendment and Article I, Sections 8 and 9 of the Constitution of the Commonwealth of Pennsylvania.

WHEREFORE, the Defendant respectfully requests that this Court enter an Order suppressing any statements made by the Defendant to Officer Schreffler and any other law enforcement officers.

Respectfully submitted,

BY: 
Joseph L. Amendola, Esquire
Attorney for Defendant
110 Regent Court, Suite 202
State College, PA 16801
(814) 234-6821
I.D. No. 17667

Date: March 22, 2012

1 COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
2 : OF
3 : DAUPHIN COUNTY, PENNSYLVANIA
4 :
5 :
6 TIMOTHY MARK CURLEY : No. CP-22-MD-1374-2011

7 COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
8 : OF
9 : DAUPHIN COUNTY, PENNSYLVANIA
10 :
11 :
12 GARY CHARLES SCHULTZ : No. CP-22-MD-1375-2011

13
14 TRANSCRIPT OF PROCEEDINGS

15 PRELIMINARY HEARING

16 BEFORE: MAGISTERIAL DISTRICT JUDGE
17 WILLIAM C. WENNER

18 DATE: FRIDAY, DECEMBER 16, 2011

19 PLACE: COURTROOM NO. 1
20 DAUPHIN COUNTY COURTHOUSE
21 HARRISBURG, PENNSYLVANIA

22 APPEARANCES:

23 BRUCE R. BEEMER, ESQUIRE
24 OFFICE OF ATTORNEY GENERAL

25 For - Commonwealth

CAROLINE ROBERTO, ESQUIRE

For - Defendant Curley

THOMAS FARRELL, ESQUIRE

For - Defendant Schultz

COPY

1 (On Friday, December 16, 2011, the
2 following proceedings occurred, beginning at
3 9:10 a.m.):

4
5 THE COURT: Good morning, counsel.

6 MS. ROBERTO: Good morning, Your Honor.

7 MR. FARRELL: Good morning, Your Honor.

8 THE COURT: For defense counsel, is there
9 a motion for formal reading of the Complaint?

10 MS. ROBERTO: Your Honor, for Mr. Curley,
11 may it please the Court, Caroline Roberto
12 representing Mr. Curley, we will waive reading of
13 the Complaint.

14 THE COURT: Thank you.

15 MR. FARRELL: Your Honor, Thomas Farrell
16 for Gary Schultz, and we, too, waive the reading
17 of the Complaint.

18 THE COURT: Thank you, sir.

19 MR. FARRELL: You're welcome.

20 THE COURT: Is the Commonwealth ready to
21 proceed?

22 MR. BEEMER: We are, Your Honor.

23 THE COURT: Call your first witness.

24 MR. BEEMER: Commonwealth calls Mike
25 McQueary.

1 MICHAEL McQUEARY,
2 called as a witness, being duly sworn, testified
3 as follows:

4
5 THE COURT: Good morning.

6 THE WITNESS: Good morning.

7
8 DIRECT EXAMINATION

9 BY MR. BEEMER:

10 Q Good morning, sir.

11 A Good morning.

12 Q Would you please state your full name,
13 spell your last name.

14 A Michael J. McQueary, M-C-Q-U-E-A-R-Y.

15 Q How old are you, Mr. McQueary?

16 A Thirty-seven.

17 Q Where did you attend college?

18 A Penn State University.

19 Q Did you play on any of the athletic teams
20 at Penn State University?

21 A Yes.

22 Q And what team was that?

23 A The football team.

24 Q And who was the head coach at the time?

25 A Joe Paterno.

1 Q And could you tell the Court what years
2 you played football at Penn State?

3 A I was a freshman in '93 and I graduated
4 in December of '97.

5 Q Did you continue or return to employment
6 at Penn State University after your college
7 career ended?

8 A Yes.

9 Q And when did that occur?

10 A Full-time employment occurred in 2003.

11 Q What were you doing prior to 2003?

12 A I was an offensive graduate assistant
13 coach between 2000 and 2003; and between '99 and
14 2000, I was just a wage payroll office assistant.

15 Q When you say you were a graduate
16 assistant coach, was that at Penn State
17 University?

18 A Yes.

19 Q You worked under Joe Paterno?

20 A Yes.

21 Q Back in 2002, who was the athletic
22 director at Penn State University?

23 A Mr. Curley.

24 Q And what's his first name?

25 A Tim.

1 Q If you could just generally describe for
2 the Court, are you familiar with a building on
3 Penn State University's campus known as the Lasch
4 Building?

5 A Yes.

6 Q Could you describe for the Court what the
7 Lasch Building is?

8 A It houses our football program, offices
9 for coaches, team locker rooms, strength
10 training, academic support. It's where -- it
11 encompasses our whole football program.

12 Q The description you just provided, was
13 that true in 2002?

14 A Yes.

15 Q I would like to direct your attention
16 back to March of 2002, particularly on a Friday
17 night. Do you recall something unusual happening
18 to you on a Friday night in that time frame?

19 A Yes.

20 Q Can you describe for the Court
21 approximately what you were doing on that Friday
22 evening?

23 A I was at home and watching a football
24 movie, already had gone to bed. And upon
25 watching the movie, I became motivated and just

1 wanted to get some football things done and
2 decided to go to the Lasch Building to look at
3 the recruit tapes, pick up some recruit tapes.

4 And I had also bought some tennis shoes
5 earlier that day. Upon going into the building,
6 I wanted to put them into my locker.

7 Q Well, you indicated that you came from
8 somewhere. Were you at your house where you were
9 watching this movie?

10 A Yes, I was at my house, yes, my
11 townhouse.

12 Q Approximately how far away is that from
13 the Lasch Building?

14 A I would say six miles, and at that time
15 an eight-minute drive.

16 Q You did drive to the Lasch Building?

17 A Yes, I did.

18 Q Describe for the Court what you did upon
19 your arrival on Penn State's campus.

20 A I went to the Lasch Building, parked my
21 car, entered the Lasch Building and went to the
22 support staff locker room.

23 Q Is there more than one locker room in the
24 building?

25 A Yes.

1 Q Other than the support staff locker room,
2 what other locker rooms are there?

3 A There's a locker room for full-time
4 coaches, the head coach and the two strength
5 coaches, and there's obviously the players'
6 locker room.

7 Q Do the locker rooms include shower
8 facilities?

9 A Yes.

10 Q Was that true of each of those locker
11 rooms you've just described or just some of them?

12 A Each one, yes.

13 Q Did you have those -- that pair of
14 sneakers that you previously described, did you
15 have those with you when you entered the
16 building?

17 A Yes.

18 Q Where did you go initially upon entering?

19 A To the support staff locker room.

20 Q And what did you do?

21 A That locker room has two doors to it. I
22 opened the first door and began entry into the
23 locker room.

24 Q Can you describe what happened there?

25 A Yes. When I opened that first door, I

1 heard rhythmic slapping sounds, two or three
2 slaps that you would hear skin on skin. Began to
3 go into the second door, and I was already
4 alarmed and alerted, to be frank, somewhat
5 embarrassed, because it sounded to me like
6 someone was in the showers.

7 I could hear the showers running. And I
8 thought some activity was happening in the
9 showers, but I really didn't want to seem to --
10 didn't want to be a part of.

11 I turned -- my locker, upon opening that
12 second door, is immediately to the right of that
13 door. It's the very first locker in that row at
14 that time. I turned to my locker, and as I
15 turned and faced my locker, I looked over my
16 right shoulder into the mirrors.

17 At a 45-degree angle from that mirror,
18 you can see into the shower.

19 Q Let me stop you right there.

20 A Okay.

21 Q Approximately what time in the evening
22 was this?

23 A I would guesstimate 9 or 9:30, 9 p.m. or
24 9:30 p.m.

25 Q And on that Friday evening in March of

1 2002, were you familiar with an individual by the
2 name of Jerry Sandusky?

3 A Yes.

4 Q Describe for the Court how you knew
5 Mr. Sandusky.

6 A Mostly through him being a defensive
7 coordinator and assistant coach at Penn State
8 University while I played on the team. I also
9 knew him, I played football with two of his sons
10 at State College High before I got to Penn State,
11 and by his reputation as the assistant coach when
12 I was growing up in State College.

13 Q Was he one of the -- was he on the
14 coaching staff when you played from 1993 to 1997
15 at Penn State?

16 A When I played, yes.

17 Q Was he on the coaching staff in 2002 on
18 that Friday evening?

19 A No, he was not.

20 Q Did you see him at Penn State during that
21 interim period of time prior to this incident?

22 A Occasionally.

23 Q Did you ever see him in the Lasch
24 Building?

25 A Yes.

1 Q Now, if I could take you back to you
2 indicated that you were -- you heard these
3 rhythmic slapping sounds. Then you looked into
4 -- looked into a mirror?

5 A Yes.

6 Q Could you describe exactly what
7 transpired at that point?

8 A Looked in the mirror and shockingly and
9 surprisingly saw Jerry with a boy in the shower.
10 And it appeared that Jerry was directly behind
11 the boy and the boy was up against the wall with
12 his hands up against the wall. Again, that
13 glance or that look may have been a second or
14 two.

15 I turned back to my locker and, in a very
16 hurriedly and hastened state and shocked, opened
17 my locker, swung the door open, put the shoes in,
18 and then stepped to the right of my locker, to be
19 frank with you, to make sure I saw what I think I
20 saw with my own eyes without the reflection in
21 the mirror.

22 So I stepped a little bit to my right to
23 look directly into the shower room.

24 Q You earlier in describing this referred
25 to Jerry. Who is Jerry?

1 A Jerry is Coach Sandusky.

2 Q And you indicated upon this first glance,
3 you indicated that there was another individual
4 in the shower with Jerry Sandusky?

5 A Yes.

6 Q And you described a particular position
7 that you observed him in. Could you describe
8 that again, please?

9 A Yes. The boy was up against the wall,
10 facing the wall, his hands maybe shoulder height
11 on the wall. And Jerry was directly behind him
12 in a very, very, very close position with Jerry's
13 hands wrapped around his waist or midsection. I
14 couldn't see his actual hands, but his arms were
15 wrapped around.

16 And it appeared upon looking the second
17 time, I said to myself, they're in a very sexual
18 oriented -- a very sexual position.

19 Q What did you believe they were doing?

20 A I believed Jerry was sexually molesting
21 him and having some type of intercourse with him.

22 Q And that was based on what you observed
23 in terms of the positioning?

24 A Yes, based on the positioning. I did not
25 see insertion nor was there any verbiage or

1 protest, screaming or yelling, so I can't sit
2 here and say that I know 100 percent sure that
3 there was intercourse, but that's what I said to
4 myself and that's truly what I believed was
5 happening.

6 Q That's what you believed was occurring?

7 A Yes.

8 Q You've referred to the second individual
9 who was in the shower with his hands up against
10 the wall as a boy?

11 A Yes.

12 Q Can you describe for this Court why
13 you're describing that individual as a boy?

14 A When I looked at the boy, he -- and,
15 again, they're quick looks. I'm not standing
16 there obviously staring. He looked prepubescent,
17 10 or 12 years old.

18 Certainly -- and, again, we look at
19 teenagers in our field all the time and, frankly,
20 judge them and look at them physically. And he
21 did not appear to be an older teenager. He
22 definitely appeared to be a 10- or 12-year-old
23 boy, roughly.

24 Q Was there any question in your mind that
25 the individual that was in the shower with Jerry

1 Sandusky was a child?

2 A No, no question at all.

3 Q You indicated that there was a second
4 time that you looked into the shower?

5 A Yes.

6 Q Is that correct?

7 A Yes.

8 Q Describe -- after looking in the second
9 time, did the position of the individuals change
10 at all?

11 A No.

12 Q So what you observed at first -- your
13 first look, when you looked a second time, that
14 was continuing?

15 A Yes.

16 Q Was there -- did there appear to be any
17 movement of either Mr. Sandusky, body movement on
18 either Mr. Sandusky or the boy?

19 A Very little, but I would say slow
20 movement, certainly not hard or fast movement but
21 a little movement.

22 Q The rhythmic slapping sounds that you
23 described hearing initially when you walked in
24 before looking into the shower, did you continue
25 to hear those upon your visual observation of

1 what was occurring in the shower?

2 **A No. All that I heard was the showers**
3 **running.**

4 Q You indicated that you didn't hear -- I
5 believe the term you used was you didn't hear any
6 verbiage?

7 **A No.**

8 Q Did you at any point during this incident
9 hear Jerry Sandusky say anything?

10 **A No, absolutely not.**

11 Q At any point did you hear this young boy
12 say anything?

13 **A No.**

14 Q Did you hear the young boy make any kind
15 of noise at all?

16 **A No, none.**

17 Q Did you hear Jerry Sandusky make any kind
18 of noise at all?

19 **A No.**

20 Q At the conclusion of seeing this the
21 second time, could you explain to the Court what
22 did you believe you were witnessing?

23 **A Jerry molesting the boy.**

24 Q In what fashion when you say molesting
25 the boy?

1 **A Having some type of intercourse with him.**
2 **That's what I believe I saw.**

3 Q What -- how long -- I know this is a
4 difficult thing to approximate. How long a
5 period of time do you think you were -- you
6 actually were looking at what was going on?

7 **A Each -- the first two glances were, what**
8 **I call glances, maybe one or two seconds.**

9 Q And what happened after -- describe how
10 what you observed on this second look, how did
11 that come to an end, what did you do?

12 **A I stepped back, didn't want to see it**
13 **anymore, to be frank with you, wanted to close my**
14 **locker up, which I did. I slammed the locker**
15 **door shut and at that time took a more brisk**
16 **forward movement towards the shower and looked in**
17 **again.**

18 Q And what happened at that point?

19 **A At that time when I looked in, they had**
20 **separated.**

21 Q When you say looked in, how close are you
22 to the area where you would actually be stepping
23 into the shower?

24 **A On the third look, on the third time I**
25 **see?**

1 Q Correct.

2 **A I would say from the showers I am 2 to 3**
3 **yards, maybe 6 feet.**

4 Q And how far -- would that have been
5 closer on this third time than you were on the
6 other two instances when you were -- that would
7 have been closer to your locker?

8 **A Yes.**

9 Q About how much -- how many steps would
10 you say you're taking in order to get closer?

11 **A Two to three steps.**

12 Q When you indicate that they had
13 separated, describe what you mean.

14 **A They had both turned so their bodies were**
15 **totally facing me and looking at me. And they**
16 **were 4 or 5 feet apart.**

17 Q This is the third time --

18 **A Yes, sir.**

19 Q -- that you actually moved closer towards
20 the shower?

21 **A Yes.**

22 Q Did you go into the shower at all?

23 **A No, I did not.**

24 Q Did you say anything to either one of
25 them?

1 **A No, I did not.**

2 Q Do you believe based on what you observed
3 that either one or both of these individuals saw
4 you or recognized that you were there?

5 **A I know they saw me.**

6 Q And how do you know that?

7 **A They looked directly in my eye, both of**
8 **them.**

9 Q Did either one of them say anything to
10 you?

11 **A No.**

12 Q What did you do at that point?

13 **A Seeing that they were separated, I**
14 **thought it was best to leave the locker room, and**
15 **I left the locker room.**

16 Q Can you characterize for the Court what
17 was your -- how were you feeling at that point?

18 **A Not very good. To be frank with you, I**
19 **can't describe what I was feeling or thinking.**
20 **Shocked, horrified and, to be frank with you,**
21 **probably not thinking straight, you know. I was**
22 **distracted.**

23 Q Where did you go?

24 **A I went directly upstairs to my office.**

25 Q Now, when you say upstairs, that's on a

1 different floor?

2 **A Yes, it's on the second floor.**

3 Q The showers in the locker room that you
4 just described where this incident took place, is
5 that, I assume, on the first floor?

6 **A Yes.**

7 Q Is that the ground floor that when you
8 walk into the building you would be right there?

9 **A Yes.**

10 Q What did you do once you got up to your
11 office?

12 **A I called my father.**

13 Q Where did you -- at the time in 2002, I'm
14 not asking for the address, where in general
15 terms did he live?

16 **A In State College.**

17 Q So he lived close by?

18 **A Yes.**

19 Q And how old were you in 2002?

20 **A Twenty-eight.**

21 Q And you call --

22 **A Actually at this time, let me correct
23 myself, I would have been 27. Sorry.**

24 Q And you call your father. What was the
25 purpose of calling him?

1 **A I really didn't know what to do, so
2 someone I respected in my life and wanted to get
3 and seek advice from I called.**

4 Q Let me rephrase that. Was the purpose of
5 placing the call directly related to the incident
6 that you had just witnessed?

7 **A Yes, without a doubt, yes.**

8 Q What did you tell him?

9 **A I said I just saw Coach Sandusky in the
10 showers with a boy and what I saw was wrong and
11 sexual and I needed some advice quickly.**

12 Q And at that point what did you do?

13 **A He told me to come home. He asked me if
14 I was okay. I said, yeah. He said, come over
15 here right away and talk to me.**

16 Q At any point did you go back to the
17 shower area or the locker room after you went
18 upstairs to your office?

19 **A No, I did not.**

20 Q Did you see on your way out of the
21 building either Jerry Sandusky or this young boy
22 that had been in the shower?

23 **A No, I did not.**

24 Q About how long after you've initially
25 left the locker room would you say you actually

1 exited the building?

2 **A Six or seven minutes.**

3 Q Where is -- can you just describe for the
4 Court where is the shower relative to the exit?

5 **A It's on the same level. It's on the
6 ground level, the shower is, and it's down a long
7 -- from the front hallway where the front door
8 is, it's down a long corridor. And that
9 corridor, that shower room may be 40 or 50 feet.
10 I'm guessing.**

11 Q When you got in your car, where did you
12 go?

13 **A Directly to my father's house.**

14 Q At your father's house, was there any
15 sort of decision made as to what you should do?

16 **A Over time, yes.**

17 Q Okay. And when you say over time, you
18 mean that evening?

19 **A Yes, absolutely, yes.**

20 Q And what was the decision?

21 **A After long discussion and input and
22 things, it was to call Joe Paterno who was the
23 head coach and as soon as I possibly could and
24 tell him what I saw.**

25 Q This was -- at the point that that

1 decision was made, was it later in the evening on
2 Friday?

3 **A Yes. I would say 10:30 and probably
4 close to 11 p.m.**

5 Q And can you describe what you did after
6 the decision was made that you were going to talk
7 to Coach Paterno?

8 **A I went home to my townhouse and slept the
9 night and got up the next morning early and
10 called his house and told him I needed to see
11 him.**

12 Q When you say early, about what time are
13 you talking about?

14 **A I would say 7:30 a.m., 8:00.**

15 Q Had you -- prior to this, how many times
16 had you called Joe Paterno at 7, 7:30 in the
17 morning on a weekend?

18 **A Never.**

19 Q What did you tell him?

20 **A I said, Coach, I need to come to your
21 house and talk to you about something.**

22 Q Did he respond?

23 **A Yes. He said, I don't have a job for
24 you. And if that's what it's about, don't bother
25 coming over. I said, Coach, it's about something**

1 much more serious, I need to come over and see
2 you. And he said, okay. Well, you better come
3 over then.

4 Q Did you, in fact, do that?

5 A Yes, I did, right away.

6 Q Was his house or residence in State
7 College?

8 A Yes, it is.

9 Q Fairly close to where you were?

10 A Fairly close.

11 Q Describe what you did.

12 A I went over to his house, sat at his
13 kitchen table and told him that I had saw Jerry
14 with a young boy in the shower and that it was
15 way over the lines. It was extremely sexual in
16 nature and I thought I needed to tell him about
17 it.

18 Q Did you describe for him the positioning
19 of Jerry and the boy?

20 A The rough positioning I would have
21 described but not in very much detail.

22 Q Did you make it clear that it was Jerry
23 Sandusky?

24 A Yes, I did.

25 Q Did you make it clear that there was a

1 young boy?

2 A Yes, I did.

3 Q Did you make it clear where this
4 occurred?

5 A Yes, I did.

6 Q Did you make it clear that this was --
7 the acts that you observed were sexual?

8 A Without a doubt.

9 Q Would you have ever used the term sodomy
10 with Coach Paterno?

11 A No, never.

12 Q Would you have ever used the term anal
13 intercourse with Coach Paterno?

14 A Never.

15 Q Why?

16 A Out of respect and just not getting into
17 detail with someone like Coach Paterno, I would
18 not have done it.

19 Q What was your intention in talking with
20 him?

21 A My intention in talking to him is, one,
22 he's the head coach and he needs to know if
23 things happen inside that program and inside that
24 building; and, two, I saw something that was, in
25 my opinion, outrageous and terrible, and I

1 thought he needed to know about it right away.

2 He deserved to know about it.

3 Q You indicated that there was no question
4 in your mind that you observed a sexual act?

5 A No question.

6 Q Between Jerry Sandusky and a young boy?

7 A That's right.

8 Q And at any time during the act that you
9 witnessed, did you see either one of them with
10 any clothing on in the shower?

11 A No, never.

12 Q Did Coach Paterno give you any sort of
13 responses to the information that you were
14 telling him?

15 A Yes.

16 Q What did he tell you?

17 A First, when you say responses, he was
18 shocked and saddened, kind of slumped back in his
19 chair. He said, well, I'm sorry you had to see
20 that. It's terrible. And he said, I need to
21 think and tell some people about what you saw and
22 I'll let you know what -- what we'll do next.

23 Q Did he have any sort of comment as to
24 whether or not he felt you should have told him?

25 A Absolutely.

1 Q What did he say about that?

2 A He said, you've done the right thing. He
3 said, I know it's probably tough for you to come
4 here and tell me this, but you've done the
5 absolute right thing.

6 Q When you spoke to Joe Paterno that
7 morning, did you believe that you would then be
8 talking to other people?

9 A I thought at some point in time, yes. I
10 went to Coach Paterno because I knew he would
11 handle it the right way or what I thought was the
12 right way, and I was sure that he would pass it
13 along to someone else.

14 Q Did that, in fact, occur?

15 A Yes, it did.

16 Q Did it take some time?

17 A A little time.

18 Q Who's the next person in any position of
19 authority that you spoke to about this?

20 A Mr. Curley called me on the phone and
21 said, I've spoken to Coach Paterno.

22 Q Okay. Let me stop you right there.

23 You've referred previously in your testimony to
24 Mr. Curley as being in 2002 the -- employed as
25 the athletic director at Penn State University,

1 correct?

2 **A Yes.**

3 Q Did you know him personally at that time
4 in 2002?

5 **A I knew him but not extremely well at that
6 time.**

7 Q And the individual that you are referring
8 to as Mr. Curley --

9 **A Yes.**

10 Q -- is that person seated anywhere in the
11 courtroom?

12 **A Yes.**

13 MS. ROBERTO: We'll stipulate to
14 Mr. Curley's identity. Thank you.

15 THE COURT: Thank you.

16 BY MR. BEEMER:

17 Q Can you describe what occurred during
18 that phone conversation?

19 **A He said Coach Paterno had talked to me
20 and that he was aware of what I saw and that he
21 felt like he needed to see me and talk to me
22 about it along with Mr. Schultz.**

23 Q Who is Mr. Schultz?

24 **A At that time he was one of the vice
25 presidents of the university.**

1 Q And do you know what his role was within
2 the university when you say one of the vice
3 presidents back in 2002?

4 **A He had, I'm sure, several roles. At that
5 time I knew that he was one of the vice
6 presidents and that he was in charge of the
7 athletic department, or the athletic department
8 reported to him and -- or at least I thought
9 that. And I knew that the police department
10 reported to him as well.**

11 Q Let me -- let me ask you a question about
12 that. The Penn State University, does it have a
13 university police department?

14 **A Yes, it does.**

15 Q In other words, a department that's
16 solely within the confines of Penn State
17 University?

18 **A Yes, it does.**

19 Q You indicated in 2002 you were aware of
20 the fact that Gary Schultz was -- you used the
21 word in charge of the police department?

22 MR. FARRELL: Objection. He didn't use
23 that word.

24 THE COURT: Sustained.

25 BY MR. BEEMER:

1 Q What was your understanding?

2 **A That the police department reported to
3 Mr. Schultz and that he oversaw the police
4 department.**

5 Q And the individual that you knew as Gary
6 Schultz, do you see that individual in the
7 courtroom?

8 **A Yes, he's here.**

9 MR. FARRELL: We'll stipulate to
10 Mr. Schultz's identity.

11 THE COURT: Thank you, sir.

12 BY MR. BEEMER:

13 Q The phone call that you received from
14 Mr. Curley, about how long after the Friday night
15 incident in the Lasch Building or the Saturday
16 morning discussion you had with Joe Paterno did
17 that occur?

18 **A I think it was nine or ten days.**

19 Q Did you do anything in those nine or ten
20 days to figure out what was going on in terms of
21 whether anybody else was going to speak to you
22 about this incident?

23 **A No.**

24 Q Once that happened, once you had the
25 phone call with Mr. Curley, what transpired then?

1 **A We had set up a time where I would come
2 over and sit down with the two gentlemen and tell
3 them or talk through what I had seen, and that
4 was -- it was either that afternoon or the next
5 day.**

6 Q Had your -- the intention that you
7 described when you went over to speak with Coach
8 Paterno, what it was that you wanted him to take
9 away from the meeting, had your desire to relay
10 that information changed in any way?

11 **A No, not at all.**

12 Q Do you recall approximately what time the
13 meeting would have been during the day?

14 **A No, I do not.**

15 Q You said it occurred where?

16 **A In the Bryce Jordan Center.**

17 Q Is that in some sort of an office?

18 **A Yes, it was in a small conference room
19 with a table.**

20 Q And who was present?

21 **A Myself and Mr. Curley and Mr. Schultz.**

22 Q Describe for the Court what happened or
23 what transpired.

24 **A They had said that Coach Paterno had
25 contacted --**

1 MS. ROBERTO: Objection. I'm going to
2 object to him saying they had said. If he can be
3 more specific, one person or the other.

4 BY MR. BEEMER:

5 Q If you understand, if you're referring to
6 someone in particular speaking, identify that
7 particular individual instead of using the
8 pronoun they.

9 **A Okay. I can't remember who spoke first**
10 **in that meeting. I think it was Mr. Curley had**
11 **said that he received a phone call from Coach,**
12 **that he said that I saw something in the showers**
13 **with Jerry and that it was sexual, and that they**
14 **needed to know the details of it and wanted me to**
15 **talk through it with them.**

16 Q Did you do that?

17 **A Yes.**

18 Q What did you tell them?

19 **A I told them that I saw Jerry in the**
20 **showers with a young boy and that what I had seen**
21 **was extremely sexual and over the lines and it**
22 **was wrong.**

23 Q Did you describe for them the --

24 MS. ROBERTO: I'm going to object to
25 leading.

1 MR. BEEMER: I haven't even finished the
2 question, but I'll rephrase.

3 THE COURT: Thank you.

4 BY MR. BEEMER:

5 Q Did you describe for them what you saw in
6 the shower?

7 **A Yes.**

8 Q Did you describe for them the body
9 positioning that you --

10 MS. ROBERTO: I'm going to object as
11 leading. Ask him the question what he told
12 Mr. Curley and let him describe what he told
13 Mr. Curley.

14 MR. BEEMER: It's not a leading question,
15 Judge.

16 THE COURT: I don't think it's a leading
17 question. You can continue.

18 BY MR. BEEMER:

19 Q Did you describe for Mr. Curley and
20 Mr. Schultz the body positioning of the
21 individuals in the shower?

22 **A Yes, I would have given them a rough**
23 **idea, yes.**

24 Q When you say a rough idea?

25 **A I would have said that Jerry was in there**

1 **in very close proximity behind a young boy with**
2 **his arms wrapped around him.**

3 Q Did you describe for them any sounds that
4 you heard?

5 **A Yes, I would have said I heard slapping**
6 **sounds. I did say that.**

7 Q Did you describe for Mr. Curley and
8 Mr. Schultz whether or not either Mr. Sandusky or
9 this young boy had any clothes on?

10 **A Yes. I would have made it clear that it**
11 **was in the shower and they were naked.**

12 Q Would you have described for them what
13 you believed the act was that you saw occurring
14 in that shower?

15 **A Yes. Again, I would not have used some**
16 **of the words that you previously mentioned, but I**
17 **would have described that it was extremely sexual**
18 **and that I thought that some kind of intercourse**
19 **was going on.**

20 Q Prior to your witnessing the incident in
21 2002 in the shower, did you have any knowledge of
22 any investigations that involved Jerry Sandusky
23 with a young -- any young boys previous?

24 **A No, I didn't have any knowledge.**

25 Q So you had no idea about anything that

1 may have occurred in the years prior involving
2 the police department?

3 **A I had no idea.**

4 Q Were you informed at that meeting by
5 either Mr. Curley or Mr. Schultz that
6 Mr. Sandusky had been investigated previously by
7 the university police department for being in the
8 Lasch Building with a boy in the shower?

9 **A No, I was not.**

10 Q What was the response to all of the
11 things that you've just described that you told
12 Mr. Curley and Mr. Schultz? And I would ask you
13 to please be specific to an individual, if you
14 can.

15 **A I really cannot be specific to an**
16 **individual in terms of who said what back to me.**
17 **I can't remember that. The response --**

18 Q Let me ask you this. What did you take
19 away from that meeting as to what was the next
20 step?

21 **A They did say that the input they gave me**
22 **was they thought it was serious, what I was**
23 **saying, and that they would investigate it or**
24 **look into it closely, and they said they would**
25 **follow-up with me.**

1 Q This is in your mind, you've testified no
2 doubt, what you believe to be a sexual act
3 between Jerry Sandusky and a minor?

4 **A No doubt at all.**

5 Q In your mind back in 2002, is that the
6 kind of thing you would expect to talk to the
7 police about?

8 **A I thought I was talking to the head of
9 the police, to be frank with you.**

10 Q Okay. When you were in that meeting, you
11 believed you were speaking to the head of the
12 police?

13 **A Yes. In my mind it was like speaking to
14 a DA. It was someone who the police reported to
15 and would know what to do with it.**

16 Q Did any -- subsequent to that meeting,
17 did any member of the university police
18 department or any other member of law enforcement
19 come to speak with you about what you had
20 observed?

21 **A No.**

22 Q And I'm talking about in the weeks,
23 months and few years after this incident?

24 **A No, not until October or November of last
25 year, no.**

1 Q Did either Mr. Curley or Mr. Schultz ever
2 get back in contact with you to follow-up on any
3 aspect of what you had told them?

4 **A Yes.**

5 Q And when was that?

6 **A I would say four or five days later,
7 Mr. Curley called me on the phone and said they
8 have followed up and they have looked into it and
9 gave me an explanation of things or some things
10 that they thought they should do and they had
11 done.**

12 Q Who specifically called you? You said it
13 was a phone call?

14 **A Mr. Curley called me, yes.**

15 Q Okay. And what did he tell you about
16 what they were doing?

17 **A He said they had contacted the Second
18 Mile and had reported the incident to them. He
19 said that they had told Jerry not to have any
20 more of the kids around the program or the
21 facilities, and I can't remember -- I think he
22 told me they took his keys away, but I am not
23 totally sure on that. I can't remember that.**

24 Q Any -- did you ask about anything else
25 that was being done or did you just accept what

1 you had been told?

2 **A No, I accepted what he had told me and
3 said okay.**

4 Q Did you ever speak with Mr. Schultz again
5 about this incident other than the conversation
6 you had at the Bryce Jordan Center?

7 **A No, not about this incident.**

8 Q After that phone call that you received
9 four or five days later, did Mr. Curley ever
10 speak to you again about what you had seen?

11 **A I don't believe so, no.**

12 Q Now, did either one of them ever tell you
13 not to talk to anybody about it?

14 **A No, no, they never said don't talk to
15 anybody.**

16 Q The information that Mr. Curley had
17 provided you about Jerry Sandusky not having --
18 they were going to do something about him having
19 kids up on the campus --

20 **A Right.**

21 Q -- was there ever a period of time when
22 subsequent to that conversation or that where you
23 saw something that made you believe that that
24 wasn't happening?

25 **A No, there was never a period of time**

1 **after that incident where I saw any kids with
2 Jerry at all around our facilities or program,
3 never.**

4 Q Did you continue to see Jerry at the
5 facility?

6 **A Yes, absolutely.**

7 Q Did you find that -- what did you think
8 about the fact that he was continuing to be at
9 the facility?

10 **A Personally knowing what I saw and knowing
11 what I knew, I personally found it troubling and
12 not right but --**

13 Q Did you ever talk with either Mr. Curley,
14 Mr. Schultz or Mr. Paterno?

15 **A Not those three, no. But I would
16 frequently informally raise my own questions
17 about it, but not with those three men, no.**

18 Q So, in other words, you never spoke with
19 them again about this -- about Jerry Sandusky and
20 what you had seen?

21 **A No. Let me correct that. When you say
22 them, Coach Paterno did ask me in recent months
23 after that, two or three months, a couple of
24 times if I was okay.**

25 Q Asking about your general well-being?

1 **A Yes, in relation to what I had saw and if**
 2 **I was handling it okay.**
 3 Q Did you -- strike that.
 4 Was there any question that you conveyed
 5 accurately what you saw in that shower to Tim
 6 Curley and Gary Schultz when you met with them at
 7 the Bryce Jordan Center?
 8 **A There's no question in my mind that I**
 9 **conveyed to them that I saw Jerry with a boy in**
 10 **the showers and that it was severe sexual acts**
 11 **going on and that it was wrong and over the line.**
 12 MR. BEEMER: May I have one moment?
 13 THE COURT: Yes.
 14 (Pause.)
 15 BY MR. BEEMER:
 16 Q Can you describe for the Court when you
 17 indicated you had the phone conversation with
 18 Mr. Curley and he told you that they were going
 19 to notify the Second Mile?
 20 **A Yes.**
 21 Q What did that mean to you?
 22 **A I thought he was calling the Second Mile**
 23 **and reporting to them that they had had a**
 24 **complaint.**
 25 Q Let me ask you -- let me ask it this way.

1 Did you know who founded the Second Mile based on
 2 living in State College?
 3 **A Yes.**
 4 Q Who was that?
 5 **A Jerry Sandusky.**
 6 Q Did you know whether or not at that time
 7 Jerry Sandusky was a part of the Second Mile?
 8 **A Yes. At that time he was, yes.**
 9 Q And what kind of part of the Second Mile?
 10 **A He -- frankly, he was the Second Mile. I**
 11 **don't know what his exact title within the Second**
 12 **Mile, but to me he was the Second Mile. I mean,**
 13 **Jerry, that's his -- at that time that was his**
 14 **pride and joy.**
 15 Q Did you know what it was? What was it
 16 supposed to be?
 17 **A It was a foundation to help**
 18 **underprivileged youth. That's what I believe it**
 19 **was.**
 20 MR. BEEMER: That's all I have, Your
 21 Honor.
 22 THE COURT: Ms. Roberto, ladies first.
 23 MS. ROBERTO: Thank you, Your Honor.
 24
 25

CROSS EXAMINATION

1
 2 BY MS. ROBERTO:
 3 Q Mr. McQueary, my name is Caroline Roberto
 4 and I represent Timothy Curley. I'm going to ask
 5 you some questions this morning. If you don't
 6 understand my question, let me know and I'll try
 7 to rephrase it. Do you understand?
 8 **A Yes, ma'am.**
 9 Q Okay. Now, in 2002, you said you were 27.
 10 years old, correct?
 11 **A Yes, ma'am.**
 12 Q And at that time in 2002, you resided on
 13 the Penn State campus?
 14 **A No, I did not reside on the campus. I**
 15 **did reside in State College.**
 16 Q Okay. Now, we were talking earlier at
 17 least when you were answering Mr. Beemer's
 18 questions, specifically the night of this
 19 incident, how do you know or do you know whether
 20 it was 2002?
 21 **A I'm relatively sure it was 2002. I**
 22 **remember it being a Friday night before spring**
 23 **break.**
 24 Q And how long was the graduate program
 25 that you were attending, how many years?

1 **A The NCAA has a two-year limit on your**
 2 **graduate assistantship. If you've made progress**
 3 **towards your degree, completed 24 credits, they**
 4 **will allow you to go a third year, that you can**
 5 **have a third season on the field. And at that**
 6 **time I had made that kind of progress and I was**
 7 **granted a third year.**
 8 Q So were you in your third year in 2002?
 9 **A The 2002 fall would be my third season as**
 10 **a graduate assistant.**
 11 Q So this was, you're saying, around spring
 12 break in 2002, so it was your second year, ending
 13 your second year?
 14 **A Ending my second year, going into my**
 15 **third, yes, ma'am.**
 16 Q And how many other grad assistants were
 17 there in that program, at least in the football
 18 program?
 19 **A I don't have the complete answer, only**
 20 **because there's grad assistants in the academic**
 21 **area, in the strength training area and also**
 22 **upstairs in the coaching area, so I would not at**
 23 **that time be able to tell you how many were**
 24 **there.**
 25 Q I think you mentioned that you had an

1 office in what you described as the Lasch
 2 Building, which was the football building; is
 3 that right?
 4 **A Yes, ma'am.**
 5 Q And how long had you had that office
 6 prior to the evening of this incident?
 7 **A We moved into that office, into that**
 8 **facility -- it's a relatively new facility. We**
 9 **moved into that facility in August of '99 right**
 10 **before we opened up camp. That's the first**
 11 **office I had. And I had it all the way until I**
 12 **became a full-time employee in 2003.**
 13 Q And did you have an office mate? In
 14 other words, did you share that office?
 15 **A No, I did not.**
 16 Q Were there other offices around your
 17 office?
 18 **A Yes, ma'am.**
 19 Q So describe that office area. How many
 20 offices were on the floor that you were on? I
 21 think you said you were on the second floor; is
 22 that correct?
 23 **A Yes. How many offices?**
 24 Q Yes.
 25 **A I'm guessing there's 25 offices up there.**

1 Q Okay. And who had the adjoining offices
 2 to you, if you recall, in 2002?
 3 **A Directly across the hall would have been**
 4 **the Director of Football Operations, Tom**
 5 **Venturino.**
 6 Q Okay.
 7 **A And to my left, I believe the other GA**
 8 **for the defensive side of the ball at that time**
 9 **was Chris Acuff. And those are the only**
 10 **immediate offices in that little sector of that**
 11 **hallway.**
 12 Q Now, I think you said that you believe
 13 that this occurred right around spring break.
 14 There aren't any organized NCAA football
 15 tournaments or anything going on at that time.
 16 Football season is over, is it not?
 17 **A Yes, ma'am.**
 18 Q When you arrived at 9 or 9:30 on this
 19 evening, were there any other coaches at the
 20 office -- at their offices?
 21 **A No, not that I saw.**
 22 Q Did you see anybody else in that
 23 building, equipment people or janitors?
 24 **A No, I did not see anyone that night.**
 25 Q When you arrived at the office, it was

1 obviously after normal hours?
 2 **A Yes, ma'am.**
 3 Q Did you have a key to get in?
 4 **A Yes, ma'am.**
 5 Q Do you have to sign in in any kind of
 6 security booklet or anything like that?
 7 **A No.**
 8 Q Were there any security cameras that you
 9 recall outside the Lasch Building?
 10 **A I believe the security system, the**
 11 **cameras were put in place after that incident.**
 12 **And in my mind in some ways I always thought that**
 13 **the cameras were put in place maybe because of**
 14 **that incident.**
 15 Q Okay. Do you have any knowledge that
 16 cameras were placed outside the Lasch Building
 17 because of this incident?
 18 **A I don't have knowledge of that, no.**
 19 Q So your impression is that the cameras
 20 were placed outside the building after 2002
 21 spring break?
 22 **A I think so, yes, ma'am.**
 23 Q Were there any security cameras inside
 24 the building, in the hallways?
 25 **A Again, no, not at that time.**

1 Q Okay. Now, obviously, let's say, spring
 2 break 2002 is several months after the 9/11/2001
 3 incident that occurred in New York City. Do you
 4 have any information or belief that security was
 5 beefed up at the Lasch Building post 9/11?
 6 **A I don't have any of that information, no.**
 7 Q Now, you mentioned that you obviously
 8 were the football coach -- I mean, you were the
 9 football quarterback and your coach, your head
 10 coach, was Joe Paterno. In 2002, where was
 11 Mr. Paterno's office?
 12 **A He has an office in the football**
 13 **building, in the Lasch football building on the**
 14 **second floor. To describe it, it's at the very**
 15 **front of that second floor as you come in,**
 16 **upstairs and you go in. It's an office suite**
 17 **directly beyond those front doors as you come**
 18 **upstairs.**
 19 **I'm not sure I'm describing that as well**
 20 **as I should. It's kind of tough to describe it.**
 21 Q Is it your recollection that that's where
 22 he maintained an office in 2002?
 23 **A Yes.**
 24 Q Did he have another office in another
 25 building as far as you know, an administrative

1 office?

2 MR. BEEMER: Your Honor, I'm going to
3 object to relevance.

4 MS. ROBERTO: I'll withdraw that
5 question.

6 THE COURT: Thank you.

7 BY MS. ROBERTO:

8 Q It's fair to say that you would see even
9 in an off season time, you would see Coach
10 Paterno on a weekly basis?

11 A Yes, absolutely.

12 Q And would you see him on a daily basis?

13 A Most days we would see him, yes.

14 Q All right. And I think you mentioned
15 that -- well, tell me this. Was he a mentor to
16 you?

17 A Without a doubt.

18 Q And a role model for you?

19 A Without a doubt.

20 Q And even in 2002, did you feel close to
21 Coach Paterno?

22 A Yes.

23 Q Now, you stated that in 2002, you didn't
24 really know Timothy Curley very well?

25 A Not overly well, not nearly as well as I

1 would know him today, no.

2 Q But you know that he is and you knew then
3 that he was athletic director?

4 A Yes, absolutely.

5 Q And being athletic director is not just
6 athletic director over the football program, it's
7 all intercollegiate athletics, correct?

8 A Without a doubt, yes.

9 Q All right. So his office, Mr. Curley's
10 office, was not in the Lasch Building?

11 A No.

12 Q Was it in the Bryce Jordan building?

13 A Yes.

14 Q So when you went to meet with Mr. Curley,
15 it was in or near his office; is that fair to
16 say?

17 A It was not in his office. It was -- I
18 don't know the layout of the Bryce Jordan Center
19 that well. His office suite is to the left as
20 you come in the athletic offices.

21 We met in a conference room that was in
22 an office suite to the right, I believe, and down
23 the hall a little bit. It was a small conference
24 room, but it was not in his office suite to the
25 left, no, ma'am.

1 Q Okay. So because Mr. Curley's office was
2 in a different building, you wouldn't have the
3 occasion to see him on a daily or weekly basis,
4 would you?

5 A No.

6 Q How often would you see Mr. Curley back
7 in 2002?

8 A In 2002, four or five times a year and on
9 the bowl trip maybe a couple times.

10 Q So Mr. Curley would travel on bowl trips
11 when Penn State University was in a bowl game?

12 A Oh, yes.

13 Q And you said that this was around spring
14 break. Do you know whether the basketball team
15 has bowl games around that same time?

16 A Bowl games?

17 Q Not bowl games, tournaments, tournaments.

18 A Tournaments around spring break? I think
19 -- I don't think the Big Ten was having a
20 conference championship back then, a conference
21 tournament.

22 Q If you don't know, that's fine. I'm just
23 wondering if you did know.

24 A I think I do know. I think later in
25 March the NCAA tournament does start, but at that

1 time I don't think they were in a tournament.

2 Q Okay. Now, you say on this -- the night
3 of this incident, you were at home at your
4 residence earlier in the evening?

5 A Yes, ma'am.

6 Q Did you do anything else earlier in the
7 evening? Did you have dinner? Did you go out?

8 A I'm sure I did, but I don't have a mental
9 note of it, but I'm sure I ate at some point.

10 Q Okay. You were single at the time,
11 correct?

12 A Yes, ma'am.

13 Q Did you spend the early evening, either
14 dinner or drinks, with anybody that you can
15 recall?

16 A Not that I can recall, no.

17 Q Would you have eaten out or eaten in?

18 MR. BEEMER: Your Honor, I'm going to
19 object.

20 MS. ROBERTO: I'm trying to test his
21 recollection, Judge.

22 THE COURT: Well, I'll allow you a few
23 more, but we have to move on.

24 BY MS. ROBERTO:

25 Q It's a Friday night. Did you have

- 1 anything to drink?
- 2 **A No.**
- 3 Q So you went to the building at about 9 or
- 4 9:30?
- 5 **A Yes, ma'am.**
- 6 Q Did you go alone?
- 7 **A Yes, ma'am.**
- 8 Q And you parked your car in the parking
- 9 lot there adjacent to the Lasch Building?
- 10 **A Right in front of the Lasch Building.**
- 11 Q Did you go directly to the showers or did
- 12 you go to your office first?
- 13 **A No, directly to the showers.**
- 14 Q And when you walked into the showers, I
- 15 think you described that there were two doors?
- 16 **A Yes, ma'am.**
- 17 Q The first door, could you describe the
- 18 type of door that is?
- 19 **A It's a wooden door that swings open.**
- 20 Q Was there a lock on that door?
- 21 **A No, there's no lock on that door.**
- 22 Q Does that door slam closed automatically
- 23 or do you have to pull it closed?
- 24 **A No, it has a -- I don't know the proper**
- 25 **term but it closes slowly automatically.**

- 1 Q On a spring?
- 2 **A Yes, or some kind of hydraulic, yes.**
- 3 Q When you walked into that first door,
- 4 what is in your immediate vicinity?
- 5 **A It's a very small hallway with a**
- 6 **telephone on the wall.**
- 7 Q And when you walked into that first door,
- 8 did you hear the showers running?
- 9 **A Showers running and the slapping, yes,**
- 10 **ma'am.**
- 11 Q Okay. So in that hallway is when you
- 12 heard that noise?
- 13 **A Yes, ma'am.**
- 14 Q All right. And how -- did you stop in
- 15 that hallway and listen?
- 16 **A Very briefly.**
- 17 Q I'm sorry?
- 18 **A Very briefly.**
- 19 Q About how long?
- 20 **A A second maybe. I hesitated. It was**
- 21 **more of a hesitation than stopping.**
- 22 Q All right. Then you went through a
- 23 second door?
- 24 **A Yes.**
- 25 Q And what is in your immediate vicinity --

- 1 well, first of all, describe that second door.
- 2 Is it similar to the first door?
- 3 **A Same type of door, yes.**
- 4 Q All right. And when the door closes
- 5 behind you, does it make a sound or a noise?
- 6 **A No. Again, it's on those hydraulic so**
- 7 **they close very slowly, ma'am.**
- 8 Q Okay. So when you walked through that
- 9 door, what was in your immediate vicinity?
- 10 **A Directly in front of you as you walk in**
- 11 **that door is two sinks and a countertop with a**
- 12 **mirror. To the right as you walk in that door is**
- 13 **a row of lockers with lockers on both sides. To**
- 14 **the left in front of you is the urinals and the**
- 15 **rest rooms, toilets. Back behind there to the**
- 16 **left is the shower room.**
- 17 Q Now, when you walked in there, did you
- 18 still hear the same sounds that you heard when
- 19 you were in the hallway?
- 20 **A The showers, I heard the showers running.**
- 21 **I can't recollect hearing the slapping at that**
- 22 **time.**
- 23 Q Okay. Now, how many -- you've been
- 24 inside that shower, correct?
- 25 **A Yes.**

- 1 Q And how many showerheads are in that
- 2 shower?
- 3 **A It's been since 2003 since I was in that**
- 4 **shower. I would recollect there being three or**
- 5 **four, maybe five showerheads. It's a smaller**
- 6 **shower room than our current -- the current**
- 7 **locker room I'm in, which is the full-time**
- 8 **assistant coaches' locker room, so it's been a**
- 9 **while since I've been in there, but I would**
- 10 **recollect five, four or five showerheads.**
- 11 Q Now, I don't know if you're going to be
- 12 able to answer this question, but let me ask.
- 13 Could you tell from the sound of the showers if
- 14 there were two showers on, three showers, five
- 15 showers?
- 16 **A More than one shower.**
- 17 Q More than one shower?
- 18 **A Yes, ma'am.**
- 19 Q Okay. So the sound of the shower was
- 20 loud?
- 21 **A I wouldn't say loud, but I could**
- 22 **definitely hear the sounds of the showers, yes.**
- 23 Q When you were in that proximity, you
- 24 didn't hear any voices?
- 25 **A No voices at all.**

1 Q Now, did you go at that point to your
2 locker?

3 A Yes. As soon as I entered into that
4 second doorway, I went directly to my locker.

5 Q Which would have been, as you're entering
6 the doorway, on the left?

7 A On the right.

8 Q On the right. Okay. And when you were
9 at that locker, what did you hear?

10 A I heard the showers running.

11 Q All right. And after hearing the showers
12 running, did you at that point look and see a
13 reflection in the mirror?

14 A I had already made a mental note of the
15 slapping. I heard the showers running. And,
16 again, to be frank with you, I was -- you know,
17 visualizations come to your head of what that may
18 be in the showers. So I was already embarrassed
19 and slightly like, should I be here, I want to
20 get out of here.

21 Q Did you, when you had those thoughts --

22 A Uh-huh.

23 Q -- and the embarrassment, do anything,
24 say anything to let the people in the shower, if
25 you thought there were people in there, know that

1 you were there?

2 A No. I looked in the mirror to see what
3 was going on.

4 Q Okay. And you were curious to what was
5 going on, is that fair to say?

6 A Sure, absolutely. That's fair.

7 Q Okay. All right. And so you looked in
8 the mirror and that -- what exactly did you see
9 when you looked in the mirror?

10 A Jerry behind a boy with the boy
11 positioned against the wall and at very, very,
12 very close proximity with Jerry's arms around
13 him.

14 Q Could you see the boy's face?

15 A At that time, no.

16 Q Did you ever see the boy's face?

17 A Absolutely.

18 Q Okay. And was that after the -- I think
19 you said the third time that you looked into the
20 shower area?

21 A Yes, ma'am.

22 Q Is that when you saw the boy's face?

23 A That's correct.

24 Q Okay. Now, when you saw the boy in the
25 shower the first time through the reflection in

1 the mirror, could you describe any expression or
2 did you not even see the side of his face?

3 A No.

4 Q Could you see the side of Jerry -- I'm
5 sorry, no, you couldn't see the side of his face?

6 A The boy?

7 Q Um-hmm.

8 A No, not at that time.

9 Q Could you see Jerry's face in any way,
10 profile or any way?

11 A Probably maybe the very -- I don't know
12 what the word is, quarter profile.

13 Q When you saw that reflection in the
14 mirror, did you do anything to get the attention
15 of those two people in the shower?

16 A No.

17 Q And you were shocked when you saw that,
18 were you not?

19 A I didn't know what to think. On that
20 first -- on that first look through the mirror,
21 I'm not sure what my -- I didn't know what to
22 think. I wasn't even sure I was seeing what I
23 was seeing.

24 Q Well, did you think of saying, hey, yo,
25 I'm here in the shower; hey, it's Mike McQueary,

1 I'm here?

2 A No. Again, I wasn't sure what to think
3 or do.

4 Q But you can say for certain you did
5 nothing to alert those in the shower that you
6 were there?

7 A That's right. I did nothing.

8 Q And then you did what after you went to
9 your -- your locker?

10 A Turned back to my locker.

11 Q Um-hmm.

12 A Put the shoes in and took another -- I
13 wanted to look again with my own eyes without the
14 reflection in the mirror to make sure the angles
15 or the reflection wasn't lying to me. I wanted
16 to be sure what I saw.

17 Q And you looked again?

18 A Yes.

19 Q You peered just your -- you didn't walk
20 into the shower?

21 A No.

22 Q Okay. And you saw the same thing?

23 A Yes.

24 Q Okay. At that point, Mr. McQueary, did
25 you alert those two individuals in the shower to

1 your presence?

2 **A I did not alert them with my voice but I**
3 **-- as I said before, I slammed that locker door**
4 **shut and that made a noise.**

5 Q And did -- well, when you slammed the
6 locker door shut, were you looking at them at the
7 same time?

8 **A No.**

9 Q Okay. No. So you don't know whether
10 they heard that locker door shut?

11 **A I don't know that for sure, no.**

12 Q Right. But you did know the second time
13 that you saw these two figures in the shower that
14 something, according to you, was shocking going
15 on?

16 **A Yes.**

17 Q Okay. But you didn't stop it, right?

18 **A At that time, no.**

19 Q Okay. Then how many minutes or how many
20 seconds elapsed from the time you peered the
21 second time into the -- the second time you
22 looked into the shower to looking in the shower
23 the third time?

24 **A How many seconds elapsed?**

25 Q Yes.

1 **A Between those two looks?**

2 Q Yes.

3 **A Four or five seconds.**

4 Q How many seconds or how long were you in
5 the shower locker room area from the time you
6 walked in through the first door to the time you
7 left?

8 **A No longer than a minute. I would say 45**
9 **seconds.**

10 Q Okay, 45 seconds. So you look in the
11 shower the third time, and you said you saw that
12 the two figures had stopped what they had been
13 doing before, they were in a different position?

14 **A Yes, ma'am.**

15 Q Okay. Did you at that point say anything
16 to Mr. Sandusky?

17 **A No, nothing.**

18 Q You didn't confront him at all about his
19 behavior and what you saw?

20 **A No, ma'am.**

21 Q And you looked at them and they looked at
22 you, you said there was eye contact, right?

23 **A They looked directly at me, yes, and I**
24 **looked at them.**

25 Q And was Mr. Sandusky shocked when he saw

1 you?

2 MR. BEEMER: Objection, calls for --

3 BY MS. ROBERTO:

4 Q What was the expression on Mr. Sandusky's
5 face when he saw you?

6 **A Somewhat blank, just kind of a blank**
7 **expression.**

8 Q You have gone through with Mr. Beemer all
9 of the people that you confronted and told about
10 this incident. Did you ever that night or
11 subsequent to that night confront Mr. Sandusky
12 with what you saw?

13 **A No, never.**

14 Q Never did that?

15 **A Never once.**

16 Q Okay. Even though you have had lots of
17 experiences on and off campus with Mr. Sandusky,
18 you said earlier that you were familiar with the
19 Second Mile?

20 **A Yes. Lots of experiences, I guess we**
21 **would have to get more into what that means.**

22 Q Well, you've gone to some fundraisers
23 with Mr. Sandusky for the Second Mile, right?

24 MR. BEEMER: Objection to the relevance.

25 THE WITNESS: No, I --

1 MS. ROBERTO: I'll go to another area.

2 BY MS. ROBERTO:

3 Q You've already said that you've never
4 confronted Mr. Sandusky --

5 **A That's right.**

6 Q -- from 2002, the time of this incident,
7 to today?

8 **A That's right.**

9 Q All right. So you don't confront him.
10 You leave the shower area and you go to your
11 office. You called your father at the office?

12 **A Yes.**

13 Q And you explained to him, you said what
14 you saw in the shower?

15 **A Yes.**

16 Q And did you explain to him the exact same
17 thing you explained to us, that you three times
18 saw figures in the shower?

19 **A I don't -- I can't recall if I did or did**
20 **not say there were three separate looks, if**
21 **that's what you're getting at.**

22 Q Okay. Did you ever explain that to your
23 father?

24 **A That there's three separate looks?**

25 Q Yes.

1 **A I don't -- I don't -- I don't know if I**
 2 **have or have not. I know I explained to my**
 3 **father what I saw, that's for sure.**
 4 Q Okay. You explained to your father. You
 5 first explained to your father what you saw on
 6 the telephone?
 7 **A Yes, briefly, yes, ma'am.**
 8 Q And tell us again, what did you tell him
 9 on the telephone.
 10 **A I can give you the message I told him. I**
 11 **can't remember the exact words, ma'am, if that's**
 12 **what you're looking for.**
 13 Q Well, because it's a perjury charge, the
 14 exact words are extremely important. Tell me
 15 exactly the --
 16 MR. BEEMER: Objection, Your Honor. It
 17 has nothing to do with the conversation with the
 18 father, so it's completely irrelevant. What he
 19 told his father has nothing to do with the
 20 perjury charge.
 21 THE COURT: Sustained.
 22 BY MS. ROBERTO:
 23 Q Okay. So you explained to your father in
 24 an abbreviated way what you saw and that you were
 25 upset?

1 **A Yes, ma'am.**
 2 Q Okay. Then you went home -- or you went
 3 to your father's, you went to your father's
 4 residence?
 5 **A Yes, ma'am.**
 6 Q You didn't live with your father at the
 7 time, right?
 8 **A No, I did not.**
 9 Q Okay. Approximately what time did you
 10 arrive at your father's residence?
 11 **A Approximately 10 p.m.**
 12 Q And when you were there, your father was
 13 obviously waiting for you, correct?
 14 **A Yes, ma'am.**
 15 Q Was anyone else there?
 16 **A At my home -- or at my parents' home,**
 17 **yes, my mother was there.**
 18 Q Okay. Anyone else other than your mother
 19 and father?
 20 **A No, not at that time when I arrived, no.**
 21 Q Okay. Did anybody come to your home?
 22 **A Yes, ma'am.**
 23 Q And who came to your home?
 24 **A Dr. Dranov, Jon Dranov.**
 25 Q Okay. And did you call Dr. Dranov to

1 come to your home?
 2 **A I did not call him.**
 3 Q Okay. Do you know who did call him?
 4 **A My father called him.**
 5 Q Okay. And do you know or did your father
 6 explain to you why Dr. Dranov was called?
 7 MR. BEEMER: Objection to the relevance,
 8 Your Honor. We're beyond the scope as well.
 9 MS. ROBERTO: Well, he did say that he
 10 and his father made a decision what to do and
 11 called Mr. Paterno the next day. I am probing
 12 his recollection of who else might have helped
 13 him make that decision. That was covered in
 14 direct examination, and it is probative of his
 15 memory.
 16 THE COURT: And the question again is
 17 does he know why this doctor appeared?
 18 MS. ROBERTO: Did his father tell him why
 19 Dr. Dranov was called.
 20 THE COURT: I'll let you answer that.
 21 THE WITNESS: Okay. Yes, my dad, one,
 22 that was his boss and a long-time friend. They
 23 are best friends, and he trusted his judgment and
 24 wanted to see some of his foresight and get some
 25 advice from someone other than himself. I mean,

1 he wanted to make sure he was doing the right
 2 thing.
 3 BY MS. ROBERTO:
 4 Q Okay. Did you and your father make the
 5 decision to call Mr. Paterno the next morning
 6 before or after Dr. Dranov arrived, do you
 7 recall?
 8 **A We had already said that Coach Paterno**
 9 **needs to know right away. We had already said**
 10 **that.**
 11 Q Okay.
 12 **A Go ahead.**
 13 Q Did you and your father before Dr. Dranov
 14 arrived, did you and your father consider calling
 15 the police?
 16 **A Absolutely. Consider it, yes, without a**
 17 **doubt.**
 18 Q Okay. Did you call the police that
 19 night?
 20 **A No, no.**
 21 Q Even though you were perfectly confident
 22 that you saw, I think you said, a serious or a
 23 severe sexual act --
 24 **A Yes, ma'am.**
 25 Q -- you did not call the police?

1 **A No, I did not call the police.**

2 Q Now, Dr. Dranov comes and what do you
3 tell Dr. Dranov?

4 MR. BEEMER: Objection, Your Honor. It's
5 irrelevant. It has nothing to do with a prima
6 facie case, what he told Dr. Dranov.

7 THE COURT: Go ahead.

8 MS. ROBERTO: I think what he told
9 Dr. Dranov, again, tests his recollection as to
10 what he told Mr. Curley and Mr. Paterno. He is
11 with Dr. Dranov probably within an hour or so of
12 actually witnessing these acts in the shower. I
13 think it tests his recollection what he might
14 remember telling Dr. Dranov in relation to what
15 he told people subsequently, especially
16 Mr. Curley who he didn't tell for maybe ten or
17 eleven days.

18 MR. BEEMER: Your Honor, it has nothing
19 to do with what he told Mr. Curley or Mr. Schultz
20 or Mr. Paterno.

21 MS. ROBERTO: Your Honor --

22 THE COURT: I'll sustain the
23 Commonwealth's objection.

24 MS. ROBERTO: If the Court would
25 reconsider, there's also an issue related to the

1 perjury charge which calls for corroboration of
2 what Mr. McQueary claims he told Mr. Curley.

3 I want to explore whether or not
4 Dr. Dranov's testimony corroborates what
5 Mr. McQueary told Mr. Curley, because there has
6 to be a second witness who corroborates
7 Mr. McQueary's statements.

8 If this man was there at his home that
9 evening and was there to talk with him about this
10 incident, I think it should be explored as an
11 element of the offense.

12 MR. BEEMER: Your Honor, it's the
13 Commonwealth's choice what witnesses to use to
14 corroborate the testimony of Mr. McQueary and
15 whether or not that's relevant for a prima facie
16 case.

17 THE COURT: I'm going to sustain the
18 objection.

19 MS. ROBERTO: For the record, note my
20 objection. And, for the record, I mean, I think
21 the Commonwealth's vehemence in preventing me
22 from going into this area would lead me to
23 believe that Dr. Dranov's testimony does not
24 corroborate Mr. McQueary's testimony.

25 MR. BEEMER: Your Honor, that's a

1 completely improper speaking objection.

2 Ms. Roberto knows it, and I would ask that that
3 be stricken from the record.

4 MR. FARRELL: Your Honor, I would join in
5 the objection, and I would note that on direct
6 the Commonwealth took pains to go into what
7 Mr. McQueary told at least one, two, three people
8 other than the Defendants in this case.

9 THE COURT: I understand the objection
10 but, again, I think the Commonwealth is correct
11 from the perspective, they have the burden to
12 prove the prima facie matter and to bring those
13 corroborating witnesses forward to testify.

14 If there is three or four or ten of those
15 corroborating witnesses, I suppose today at the
16 preliminary hearing I'm not going to hear from
17 those people.

18 So, again, I understand your objection.
19 It's part of the record. Can we please move on.
20 BY MS. ROBERTO:

21 Q Without getting into what you told
22 Dr. Dranov, he was there the evening of this
23 incident, correct?

24 **A Yes, ma'am, at my folks' house, yes.**

25 Q And how long after you arrived at your

1 folks' house did Dr. Dranov arrive?

2 **A Roughly a half hour.**

3 MR. BEEMER: I'm going to object to the
4 relevance of any of this, given the Court's
5 ruling.

6 MS. ROBERTO: I'll move on.

7 THE COURT: Thank you.

8 BY MS. ROBERTO:

9 Q So a decision was made to call
10 Mr. Paterno the next morning?

11 **A Yes, ma'am.**

12 Q And you did that, I think you said, and
13 then you went to Mr. Paterno's home, correct?

14 **A Yes, ma'am.**

15 Q And approximately what time did you
16 arrive?

17 **A 8 a.m.**

18 Q And how long did you spend with
19 Mr. Paterno?

20 **A Ten minutes.**

21 Q And when you explained what you saw to
22 Mr. Paterno, you did not use the term anal
23 sodomy?

24 **A I've never used that term.**

25 Q You've never used that term?

1 **A Anal sodomy?**
 2 Q Yes.
 3 **A Those two words together?**
 4 Q Yes.
 5 **A No, ma'am.**
 6 Q Did you explain to Mr. Paterno anal sex?
 7 **A No, I did not explain that to**
 8 **Mr. Paterno.**
 9 Q Did you explain to him anal intercourse?
 10 **A No, I would have explained to him the**
 11 **positions they were in roughly, that it was**
 12 **definitely sexual, but I have never used the word**
 13 **anal or rape in this -- since day one.**
 14 Q Right. And you didn't use those words
 15 because you weren't sure that that is what was
 16 happening in the shower, right?
 17 **A Ma'am, I'm sure I saw what I saw in the**
 18 **shower. I'm sure of that. I did not see**
 19 **insertion or penetration and I didn't hear**
 20 **protests or any verbiage, but I do know for sure**
 21 **what I saw and the positions they were in that --**
 22 **and it was very clear that it looked like there**
 23 **was intercourse going on, ma'am.**
 24 Q But you could not say for sure that
 25 that's what you saw?

1 **A I've testified that I cannot tell you**
 2 **1,000 percent sure that that's what was going on.**
 3 Q Well, let's just say 100 percent sure.
 4 **A Okay, 100 percent sure.**
 5 Q Okay. You can't say that?
 6 **A No.**
 7 Q When you looked into the shower --
 8 **A Yes, ma'am.**
 9 Q -- through the mirror, did you see
 10 Mr. Sandusky's genitals touching the boy?
 11 **A No, absolutely not.**
 12 Q When you looked the second time into the
 13 shower, did you see Mr. Sandusky's genitals
 14 touching the boy?
 15 **A No, his body was blocking that area of**
 16 **his body, to be frank with you.**
 17 Q Okay. Was any part of Mr. Sandusky's
 18 body, did you see up against the boy touching the
 19 boy?
 20 **A Yes. They were as close as you can be,**
 21 **yes.**
 22 Q Okay. All right. So when you went to
 23 Mr. Paterno's house, did you describe the
 24 position that Sandusky and the boy were in?
 25 **A Yes. I gave a brief description of what**

1 **I saw. You don't -- ma'am, you don't go to Coach**
 2 **Paterno or at least in my mind I don't go to**
 3 **Coach Paterno and go into great detail of sexual**
 4 **acts. I would have never done that with him**
 5 **ever.**
 6 Q But it was your decision to go to Coach
 7 Paterno and tell him what happened in the shower?
 8 **A Without a doubt my decision, yes, ma'am.**
 9 Q And you went to Coach Paterno in lieu of,
 10 not in addition to, going to the police that
 11 night?
 12 **A I went to Coach Paterno first.**
 13 Q Okay. Did you go to the police that day
 14 of -- the day you spoke to Mr. Paterno?
 15 **A No.**
 16 Q Did you go the next day?
 17 **A No, I did not.**
 18 Q Now, you told us that you told Coach
 19 Paterno that you -- well, let me ask you this.
 20 Did you tell Coach Paterno that you heard sounds?
 21 **A Yes, ma'am.**
 22 Q And you told him what you saw, the
 23 position of the two individuals?
 24 **A Again, roughly, yes.**
 25 Q Did you make any conclusion to Coach

1 Paterno about what was happening?
 2 **A Yes. It was extremely sexual, yes.**
 3 Q Did you say extremely sexual in nature?
 4 **A In nature?**
 5 Q Yes.
 6 **A I can't remember if I said the word in**
 7 **nature or not, ma'am. I don't know that.**
 8 Q Did you ever use the word fondling?
 9 **A I'm sure I did to help describe what I**
 10 **was seeing. I'm sure I did use the word**
 11 **fondling, yes, ma'am.**
 12 Q Okay. Did you see any type of fondling
 13 with Mr. Sandusky's hands on the boy?
 14 **A No. I've already stated that when I saw**
 15 **his arms wrapped around the boy, that I could not**
 16 **see his hands. The bodies were blocking --**
 17 Q Okay.
 18 **A -- his hands so I cannot say that I saw**
 19 **Mr. Sandusky's hands on a boy's genitals, no,**
 20 **ma'am.**
 21 Q So you can't -- how would you describe
 22 fondling? I'm sort of confused here.
 23 **A Fondling is touching someone in a sexual**
 24 **way. I don't know if that's the exact**
 25 **definition, but that's what my definition is.**

1 Q Okay. So that's what you thought you
2 saw?

3 A Yes, ma'am.

4 Q Okay.

5 A Without a doubt.

6 Q Okay. Now, when you talked to
7 Mr. Paterno and he told you what he was going to
8 do, he was going to -- did he tell you what he
9 was going to do?

10 A Yes, ma'am. As I already stated, he said
11 he needed to think and contact some other people
12 and that he would get back to me.

13 Q Okay. Did you ask Coach Paterno if those
14 other people meant the police?

15 A No, ma'am, I did not ask him that.

16 Q And did you say to Coach Paterno, Coach,
17 I really appreciate it and I also think we should
18 call the police?

19 A No, I did not.

20 MR. BEEMER: Objection, Your Honor. This
21 has been asked and answered.

22 THE COURT: I agree.

23 BY MS. ROBERTO:

24 Q I think you said on direct examination
25 that you met with Mr. Curley probably -- did you

1 say ten days?

2 A I think roughly ten days, yes, ma'am.

3 Q All right. And he, Mr. Curley, would
4 have initiated the call to you to meet?

5 A Yes, ma'am.

6 Q And did you -- can you recall whether you
7 met with him the day of the meeting -- I mean,
8 the day that he called you or some subsequent
9 time?

10 A It was either that afternoon or the next
11 day.

12 Q Okay. Now, did you ask for anybody else
13 to be there with Mr. Curley?

14 A I did not ask, no.

15 Q Okay. When you went to meet with
16 Mr. Curley, it was in the Bryce Jordan building?

17 A Yes, ma'am.

18 Q Now, Mr. Curley told you on the phone,
19 did he not, that he had talked to Coach Paterno
20 and that he wanted to follow-up with you?

21 A Yes, yes. Mr. Curley wouldn't have known
22 because I had not talked to him, so he had to
23 talk to Coach Paterno. He told me that, yes,
24 ma'am.

25 Q Now, during that ten-day period -- I

1 think Mr. Beemer might have asked you this but
2 let me be certain -- you didn't call anybody or
3 tell anybody else about what had happened that
4 night in the Lasch Building?

5 A I'm not certain of that, no, ma'am.
6 Anyone else at all?

7 Q Well, did you talk to anyone else and
8 explain to them what you saw in the Lasch
9 Building in that ten-day interim?

10 A I can't recall if I told someone else or
11 not.

12 Q Okay. Have you since told anybody else?

13 A Absolutely.

14 MR. BEEMER: Objection to relevance.

15 MS. ROBERTO: Again, Your Honor, I mean,
16 I think this goes to the 4902, Section F,
17 corroboration, if he told anyone else. I think
18 we have the right to explore that and learn
19 exactly what he told other people.

20 The Court has already made a ruling on
21 that. And I assume we're not allowed to get into
22 that.

23 THE COURT: Thank you.

24 MS. ROBERTO: Note our objection.

25 THE COURT: Thank you.

1 BY MS. ROBERTO:

2 Q When you met with Mr. Curley, did you
3 take any notes?

4 A No, ma'am.

5 Q All right. Did you ever write down other
6 than when you met with the Attorney General's
7 Office, did you ever write down or memorialize
8 what you saw in the Lasch Building that night?

9 A No, ma'am.

10 Q Did you ever record in any way what you
11 saw in the Lasch Building? I'm talking about
12 before you met with the AG's Office.

13 MR. BEEMER: I'm going to object. These
14 are discovery issues.

15 MS. ROBERTO: Well, they're not discovery
16 issues because --

17 THE COURT: You can answer that,
18 Mr. McQueary.

19 THE WITNESS: No -- rephrase your
20 question or say your question again, please. I'm
21 sorry.

22 BY MS. ROBERTO:

23 Q Did you ever record, write it down or
24 audio recording, video recording, what you saw
25 the night in the Lasch Building between 2002 and

1 2010?

2 **A No, ma'am.**

3 Q So when you testified at the Grand Jury
4 in 2010, and you testified what you told
5 Mr. Curley, it was by your recollection? No
6 documents did you review in order to refresh your
7 recollection?

8 **A That's correct.**

9 MR. BEEMER: Objection, Your Honor, to
10 any reference to what he did or did not do during
11 the Grand Jury testimony.

12 MS. ROBERTO: Well, the Grand Jury
13 testimony, Your Honor, is the --

14 THE COURT: I think he answered it so we
15 can move on.

16 BY MS. ROBERTO:

17 Q Now, Mr. Curley was in the meeting and
18 you explained to him, I think you said, that you
19 saw Jerry Sandusky in the showers with a young
20 boy; is that right?

21 **A Yes, ma'am.**

22 Q That he went over the line?

23 **A Yes.**

24 Q That what you saw was sexual in nature?

25 **A Yes.**

1 Q And you described a -- I think you said a
2 rough idea of arms wrapped around the boy?

3 **A And Jerry being right behind the boy,**
4 **yes, ma'am.**

5 Q Okay. And did you describe to Mr. Curley
6 that you heard when you walked through the first
7 door slapping sounds?

8 **A Yes.**

9 Q Okay. Now, did you reach any conclusion,
10 regarding when you were with Mr. Curley, what it
11 was that you saw?

12 **A In terms -- when you say conclusion,**
13 **ma'am?**

14 Q When you met with Mr. Curley, did you say
15 I believe he was having anal intercourse with
16 this boy?

17 **A I would have not used the words anal**
18 **intercourse. I would have said extremely sexual**
19 **act and I think it was intercourse.**

20 Q Okay. So you think it was intercourse.
21 Now, how long did it take for you to describe
22 this to Mr. Curley?

23 **A It would have been five or six minutes I**
24 **would think I was talking, explaining the whole**
25 **night.**

1 Q Okay. And when you got to this portion
2 of the description, did Mr. Curley say anything
3 to you? Did he follow-up asking questions?

4 **A I can't recall. I can't recall that, no,**
5 **ma'am.**

6 Q Did he -- do you recall any instructions
7 that he gave you that --

8 **A No, only that -- what I do recall and**
9 **what he did do was he said that he would**
10 **follow-up with me, look into it, decide what to**
11 **do; and he said he would follow-up with me and he**
12 **did do that.**

13 Q So during this very descriptive statement
14 of yours to Mr. Curley about a sex -- a possible
15 sex act in the shower, Mr. Curley didn't -- you
16 don't recall Mr. Curley asking you any questions
17 or stopping and clarifying anything that you were
18 telling him?

19 **A I'm not saying he didn't, ma'am, but I**
20 **can't recall those questions or if he did ask**
21 **questions.**

22 Q But you can recall specifically what you
23 told him?

24 **A Yes, I can recall what I would have said**
25 **about what I saw, yes, ma'am.**

1 Q Okay. So then this meeting lasted about
2 how long?

3 **A I would say ten or twelve minutes.**

4 Q Okay. And at the end of the meeting,
5 Mr. Curley told you that he would follow-up?

6 **A Yes, ma'am.**

7 Q And he did follow-up?

8 **A Yes, with me, yes, ma'am.**

9 Q When you were with Mr. Curley, did you
10 say to him -- and this is ten days later?

11 **A Yes.**

12 Q Did you say to him, I think we should
13 call the police?

14 **A No, I would not have said that to him,**
15 **no.**

16 Q And, in fact, that was consistent, you
17 never said it to anybody within those ten to
18 twelve days, right?

19 **A No. Sitting right next to Mr. Curley in**
20 **that meeting in my mind is the police. I want to**
21 **make that clear. I mean, that's the person on**
22 **campus who the police reports to, just so you**
23 **know.**

24 Q I'm sure Mr. Farrell will follow-up with
25 you on that.

1 **A Yes, ma'am; yes, ma'am.**
 2 Q So Mr. Curley says he's going to
 3 follow-up with you and he does follow-up with
 4 you?
 5 **A Yes, he does, yes, absolutely.**
 6 Q Is it a phone call or a meeting?
 7 **A It was a meeting -- or, I'm sorry, it was**
 8 **a phone call for sure. It was a phone call.**
 9 Q It was a phone call?
 10 **A Yes, ma'am.**
 11 Q And he told you, one, that he went to or
 12 was going to the Second Mile to report Sandusky's
 13 behavior? Had he already done that when you
 14 talked to him?
 15 **A I think so, yes.**
 16 Q Are you sure?
 17 **A I'm not sure but --**
 18 Q So you have no memory of whether he had
 19 already done it or whether he was going to do it?
 20 **A Yeah. I'm relatively sure he said he had**
 21 **already done it.**
 22 Q Okay. And you can't recall specifically
 23 what he said to -- what he did with the key,
 24 regarding Sandusky?
 25 **A I cannot remember that specifically. I**

1 **thought he said they took his keys away, but I**
 2 **don't want to say I'm sure on that.**
 3 Q But you do know that Mr. Curley told
 4 Sandusky, at least from what Mr. Curley told you,
 5 that he couldn't bring children into any of the
 6 facilities?
 7 **A Yes, ma'am.**
 8 Q Okay. And I think you testified on
 9 direct, in fact, you never saw Mr. Sandusky in --
 10 **A I've never once seen him around our**
 11 **program with a child, no, since that incident,**
 12 **since that incident.**
 13 Q Okay. When Mr. Curley said to you in
 14 that telephone conversation, this is what we
 15 decided to do and this is what we've done, did
 16 you dispute or oppose or say no, you need to do
 17 more?
 18 **A No, I did not.**
 19 Q Did you ever say to Mr. Curley subsequent
 20 to that telephone follow-up conversation, look,
 21 you need to do more?
 22 **A No, I have not.**
 23 **MS. ROBERTO: I have no other questions.**
 24 **THE COURT: Mr. Farrell.**
 25 **MR. FARRELL: Thank you, Your Honor.**

CROSS EXAMINATION

1
 2 BY MR. FARRELL:
 3 Q Mr. McQueary, the year that this
 4 happened, can you locate this event in relation
 5 to any other event in your life that tells you it
 6 was 2002 versus 2001 or another year?
 7 **A Not right now off the top of my head.**
 8 **I'm sure if you give me 30 minutes, I can think**
 9 **of something, but, no, not right now.**
 10 Q Thirty minutes, okay. When I'm done,
 11 I'll ask you again.
 12 Well, the cameras that were installed at
 13 the Lasch Building, how soon after the shower
 14 event were the cameras installed?
 15 **A I really am not sure.**
 16 Q Months?
 17 **A I'm sorry.**
 18 MR. BEEMER: Objection, Your Honor. He
 19 says he's just not sure.
 20 THE COURT: Sustained.
 21 BY MR. FARRELL:
 22 Q Was it more than a year?
 23 MR. BEEMER: Same objection.
 24 MR. FARRELL: I'm just testing his
 25 recollection, Your Honor, trying to help him.

1 THE COURT: Mr. McQueary, more than a
 2 year?
 3 THE WITNESS: I don't think it was more
 4 than a year, no.
 5 THE COURT: Thank you.
 6 BY MR. FARRELL:
 7 Q So you think within the year?
 8 **A I think so, yes.**
 9 Q Within six months?
 10 **A Sir, I said I don't -- I'm not totally**
 11 **sure.**
 12 Q All right. And the cameras, were they
 13 outside cameras or inside cameras?
 14 **A I believe they're all inside cameras and**
 15 **they do -- they do see outside, yes, sir. So**
 16 **they are inside and outside. I don't know -- I**
 17 **mean, are you talking about the actual camera**
 18 **position?**
 19 Q Yes.
 20 **A Again, I don't know. That's not my**
 21 **department.**
 22 Q Are the cameras in the locker room area?
 23 **A They're definitely at the entrances of**
 24 **the building and some of the interior doors of**
 25 **the building.**

1 Q Well, you've described for us an
2 assistant coaches' locker room, right?

3 **A An assistant coaches' locker room and a**
4 **support staff locker room, sir.**

5 Q Okay. And the shower was part of the
6 support staff locker room?

7 **A Yes.**

8 Q Not the assistant coaches' locker room?

9 **A That's exactly right.**

10 Q Those are two different locker rooms?

11 **A Two different locker rooms, yes.**

12 Q After this event, were the cameras
13 installed in the support staff locker room area?

14 **A No, not that I know of.**

15 Q Cameras installed in the assistant
16 coaches' locker room area?

17 **A Not that I know of.**

18 Q And no cameras in the shower area of
19 either locker room?

20 **A No. I'm not sure that would be legal**
21 **but, again, that's not my area of expertise, but**
22 **I don't think you can videotape people showering.**

23 Q So the answer is no?

24 **A No.**

25 Q One last question about the date. You

1 didn't make any written record in a journal, a
2 diary, a computerized calendar to record the date
3 this happened, did you?

4 **A No, I didn't think recording something**
5 **like this would be smart.**

6 Q Why is that?

7 **A Because I didn't think it would -- I just**
8 **didn't think it would be smart. I had my memory**
9 **and I know what I saw.**

10 Q The night that you say you saw this,
11 well, on that night did you think you saw a crime
12 happening?

13 **A Yes, to me that is a crime, sir, yes.**

14 Q Did you use the word crime in speaking
15 with your father?

16 **A No. He can tell what a crime is and what**
17 **it is not, sir.**

18 Q Uh-huh. And a crime is something, of
19 course, that would require police action, isn't
20 it?

21 **A I'm sorry?**

22 Q A crime would require police response in
23 your mind, would it not?

24 **A Sure.**

25 Q But, as you said, you didn't call the

1 police the night this happened?

2 **A The night this happened I did not call**
3 **the police, no, sir.**

4 Q Your father didn't tell you to call the
5 police the night this happened?

6 **A No. We ended up not calling the police.**

7 Q So the answer is, no, your father did not
8 tell you to call the police?

9 **A No.**

10 Q And no one else told you to call the
11 police that night?

12 **A No.**

13 Q In speaking to your father that night,
14 did you use the word intercourse?

15 MR. BEEMER: Objection, relevance, Your
16 Honor.

17 MR. FARRELL: Your Honor, this is what
18 the man has testified to repeatedly, what he said
19 to these various people.

20 MR. BEEMER: We're getting into an area
21 that has nothing to do with the prima facie case,
22 Your Honor. It's relevant what he told
23 Mr. Curley and Mr. Schultz.

24 THE COURT: Mr. McQueary, you can answer
25 that question.

1 THE WITNESS: Again, I don't think -- I
2 don't know if I used the word intercourse with my
3 father, but my father definitely knows what
4 happened in the shower.

5 BY MR. FARRELL:

6 Q Based upon what you told him?

7 **A Yes, sir.**

8 Q The mirror you described looking into,
9 was it a full length? In other words, toe to
10 head mirror or a partial mirror?

11 **A Partial mirror, sir.**

12 Q How big?

13 **A I would say up to most people's waists,**
14 **so waist and above.**

15 Q Was it the mirror over the sink?

16 **A Yes, sir.**

17 Q How wide was that mirror?

18 **A I would say it's a good four feet, if not**
19 **more, wide.**

20 Q That mirror's still there in the staff --

21 **A Yes, sir; yes.**

22 Q And the showers today are as they were in
23 2002?

24 **A I think so. Let me correct myself. I**
25 **haven't been in that locker room in a very long**

- 1 **time. So I think everything is as it was.**
 2 Q A very long time meaning how long?
 3 **A Eight years. Roughly eight years I**
 4 **haven't been in that locker room. I've been in**
 5 **the full-time assistant coaches' locker room,**
 6 **sir.**
 7 Q Okay. But you did go back into that
 8 locker room after the night in question?
 9 **A Yes, I was still a support staff member**
 10 **for a couple of years, yes.**
 11 Q So you stopped going into that locker
 12 room when you became part of the coaching staff?
 13 **A Yes, sir, that's correct.**
 14 Q Since the night in question, have you
 15 seen Mr. Sandusky in the coaching staff locker
 16 room at the Lasch Building?
 17 **A Since that night have I seen Coach**
 18 **Sandusky in the locker room?**
 19 Q Yes.
 20 **A No, sir.**
 21 Q But you have seen him in the Lasch
 22 Building?
 23 **A Yes.**
 24 Q When you looked in the mirror, you could
 25 see Mr. Sandusky's back; is that right?

- 1 **A His whole backside, his whole backside,**
 2 **sir.**
 3 Q All right. And, again, could you see him
 4 from the side or from the back?
 5 **A Kind of about a quartering away angle.**
 6 Q And was his body obstructing the view of
 7 the boy's body?
 8 **A A lot of the boy --**
 9 MR. BEEMER: I'm going to object, Your
 10 Honor. This has been asked and answered.
 11 MR. FARRELL: I don't believe it has,
 12 Your Honor. It's been answered anyway so --
 13 THE COURT: Thank you.
 14 THE WITNESS: Let me make sure that you
 15 got that answer. I saw a lot of the boy but not
 16 all of the boy.
 17 BY MR. FARRELL:
 18 Q Uh-huh. Were the boy's feet on the floor
 19 at that time?
 20 **A Yes.**
 21 Q And was the boy bent over or standing up?
 22 **A In an upright position.**
 23 Q Meaning not bent over?
 24 **A Not bent over, no, sir.**
 25 Q So the hands extended straight from the

- 1 shoulders?
 2 **A Roughly that height, yes.**
 3 Q The color of the boy's hair?
 4 **A I wouldn't be able to tell you, sir. It**
 5 **was wet.**
 6 Q The boy's height?
 7 **A I wouldn't be able to give you an**
 8 **accurate height.**
 9 Q Well, Mr. Sandusky --
 10 **A Do you want me to guess or do you want me**
 11 **to give you an accurate height?**
 12 Q Well, I want you to give me an accurate
 13 height.
 14 **A There's no way I could do that without a**
 15 **measuring tape, sir.**
 16 Q You know Mr. -- how tall are you?
 17 **A I'm six four and a quarter.**
 18 Q How tall is Mr. Sandusky?
 19 **A Again, I can't give you an accurate**
 20 **height. He's a couple inches lower than I am.**
 21 Q So over six feet?
 22 **A I would say Jerry is over six feet, yes.**
 23 Q And the boy's head was up to what part of
 24 Jerry's body?
 25 **A I would say up to his pectoral muscle, in**

- 1 **that area somewhere.**
 2 Q Okay. So around the nipple area?
 3 **A Yeah, around there.**
 4 Q The top of the boy's head?
 5 **A Yes.**
 6 Q So the boy was about, say, a foot and a
 7 half shorter than Mr. Sandusky?
 8 **A I would say a foot.**
 9 MR. BEEMER: Objection, Your Honor.
 10 THE WITNESS: Five two, five three.
 11 THE COURT: If we can continue to move,
 12 please.
 13 BY MR. FARRELL:
 14 Q At no time this night did you hear
 15 anything, did you hear the boy say anything,
 16 right?
 17 **A I heard slapping and I did not hear any**
 18 **verbiage at all in any way.**
 19 Q From either fellow?
 20 **A From either person.**
 21 Q And the slapping, you said you heard two
 22 or three slapping sounds?
 23 **A To my memory, two or three rhythmic**
 24 **slapping sounds, yes, sir.**
 25 Q So like (counsel makes slapping sound

- 1 three times)?
- 2 **A You got it.**
- 3 Q And you heard that once and then not
- 4 again?
- 5 **A Right, right.**
- 6 Q The third time you looked at Mr. Sandusky
- 7 and the boy, they were both facing you?
- 8 **A Yes, sir.**
- 9 Q And at this time you could see the boy's
- 10 face, right?
- 11 **A Yes.**
- 12 Q Can you tell us the boy's complexion?
- 13 **A Caucasian.**
- 14 Q Was he fair-skinned, olive-skinned?
- 15 **A I didn't sit there and stare. I would**
- 16 **not be able to tell you, sir, accurately.**
- 17 Q At this point can you see the color of
- 18 his hair, the third time?
- 19 **A I see the color of his hair but, again,**
- 20 **he's wet. So for me to sit here and say I know**
- 21 **the actual color of his hair, I would not be able**
- 22 **to tell you that, sir.**
- 23 Q Did he have any facial hair?
- 24 **A No.**
- 25 Q Hair on his chest?

- 1 **A No.**
- 2 Q Pubic hair?
- 3 **A I didn't sit there and stare, but I don't**
- 4 **recall that, no.**
- 5 Q You don't recall if he did or he didn't?
- 6 **A Did not. I don't think he did have pubic**
- 7 **hair, sir. As I stated before, in my opinion he**
- 8 **was prepubescent. He was a ten- or**
- 9 **twelve-year-old boy.**
- 10 Q Uh-huh. As the boy and Mr. Sandusky
- 11 stood looking at you, they were both still naked?
- 12 **A Naked, yes, sir.**
- 13 Q Did Mr. Sandusky have an erection?
- 14 **A I can't tell you that, sir. I don't**
- 15 **know. I did not -- again, I don't look and stare**
- 16 **down there.**
- 17 Q At any point during this evening, did you
- 18 see whether or not Mr. Sandusky had an erect
- 19 penis?
- 20 **A No, I did not.**
- 21 Q At any point during this night, did you
- 22 see a look of pain on the boy's face?
- 23 **A Pain?**
- 24 Q Yes.
- 25 **A No.**

- 1 Q And you never said anything to that boy?
- 2 **A Never said anything, no.**
- 3 Q On that night, did you have a cell phone
- 4 with you?
- 5 **A I can't recall if I had a cell phone with**
- 6 **me or not on that night.**
- 7 Q Do you know if you called your father
- 8 from a cell phone or a phone in the Lasch
- 9 Building?
- 10 **A I called him from a landline at my desk.**
- 11 Q And your desk, you say, was on the second
- 12 floor?
- 13 **A Yes, sir.**
- 14 Q And the shower on the first floor?
- 15 **A Yes, sir.**
- 16 Q When you went up to the second floor
- 17 after the third time, you say you saw
- 18 Mr. Sandusky and the boy, you left the boy with
- 19 Mr. Sandusky, did you not?
- 20 **A Yes, they were separated and he was still**
- 21 **with Mr. Sandusky when I left that locker room,**
- 22 **yes.**
- 23 Q When you say separated, they were still
- 24 side by side, right?
- 25 **A No, not side by side. To me side by side**

- 1 **is six inches or closer. They were four or five**
- 2 **feet in between them.**
- 3 Q Still in the shower?
- 4 **A But in the shower room together, yes.**
- 5 Q Naked?
- 6 **A Yes, sir.**
- 7 Q And that's how you left the boy?
- 8 **A Yes.**
- 9 Q And did not call the police?
- 10 **A I did not call the police.**
- 11 Q Prior to this occasion, had you ever had
- 12 any contact with the Penn State University
- 13 Police?
- 14 **A Have I ever had contact with them?**
- 15 Q Yes. Talked to any of them?
- 16 **A I'm sure I had on the street or said**
- 17 **hello or something, sir, yes, but I was not a**
- 18 **part of a criminal investigation at Penn State.**
- 19 **I mean, not in detail conversation, no. I mean,**
- 20 **I guess if that's what you're asking.**
- 21 Q Yes. You knew Penn State had uniformed
- 22 police officers?
- 23 **A Yes, absolutely.**
- 24 Q Carry guns?
- 25 **A Yes.**

1 Q You know the town of State College has
2 uniformed police officers?

3 **A Yes, absolutely.**

4 Q Carry firearms?

5 **A Yes.**

6 Q You never saw Mr. Schultz in a uniform,
7 did you?

8 **A Not in a uniform.**

9 Q Never saw him carrying a firearm?

10 **A Not a firearm, no.**

11 Q And during your time at Penn State, did
12 you ever have occasion to report -- let's put
13 aside this incident. Did you ever have occasion
14 to report any incident to either the Penn State
15 Police or the State College Police?

16 **A No, I've never reported incidents.**

17 Q Never had your car broken into?

18 **A No, sir.**

19 Q Or home burglarized?

20 **A No.**

21 Q But had that happened, it would have been
22 one of these uniformed police officers you
23 reported it to, right?

24 **A Yes, for a home burglary, yes, not for
25 Jerry Sandusky doing what he was doing to a boy,**

1 **just to address your point.**

2 Q Well, tell us why would you not report
3 that.

4 **A Because it was delicate in nature in my
5 opinion, sir, and I tried to use my best
6 judgment.**

7 Q And, as you say, your best judgment
8 included leaving the boy with Mr. Sandusky,
9 right?

10 **A Yes, I was sure the act was over.**

11 Q You don't know what happened after you
12 left?

13 **A I do not know what happened for sure
14 after I left.**

15 Q Never made any effort to find that boy,
16 did you?

17 **A I did not.**

18 Q Did you ever ask anyone at the Second
19 Mile about a boy who might have been with
20 Mr. Sandusky on this night?

21 MR. BEEMER: Your Honor, objection. He
22 just answered the question.

23 THE COURT: Sustained.

24 BY MR. FARRELL:

25 Q When you spoke to Coach Paterno, did you

1 tell him that when you left the Lasch Building

2 you left the boy with Mr. Sandusky?

3 **A I don't know if I made that clear or not.**

4 **I can't sit here and recall telling him that.**

5 Q Do you recall Coach Paterno asking you
6 anything about the boy and his whereabouts?

7 **A No.**

8 Q Do you recall telling him anything about
9 the boy or his whereabouts?

10 **A No.**

11 Q In speaking to Coach Paterno, did you use
12 the word crime?

13 **A I cannot remember if I used the word
14 crime.**

15 Q Did you use the word intercourse?

16 **A I don't think I would have used the word
17 intercourse.**

18 Q You described some of the phrases you
19 used. Did you use the phrase sexual assault?

20 **A Sexual assault, I probably used the word
21 sexual. I don't know if I used the word assault.
22 I think it's clear that I can't remember the
23 actual words I used, but he did get the message
24 that it was clearly sexual.**

25 Q And he never said to you the police

1 should be called?

2 **A He said he wanted to think about what he
3 should do and contact some other folks.**

4 Q In all of the conversations, meetings
5 you've had with Coach Paterno since that first
6 time you talked to him about this incident, he
7 never said the police should have been called?

8 MR. BEEMER: Objection to the relevance
9 of what Coach Paterno said should have been done.

10 THE COURT: Sustained.

11 BY MR. FARRELL:

12 Q You never said to Coach Paterno that the
13 police should be called?

14 **A I can't remember saying that.**

15 Q You said during your direct examination
16 that you would frequently informally raise
17 questions with them about the way this matter was
18 handled. Do you recall that?

19 **A I don't think I said them. Just with
20 people in general.**

21 Q Which people?

22 **A Not the way this matter was handled. I
23 think it was addressing why Jerry was still
24 around the building, and I thought personally it
25 was wrong. I may be taking that -- maybe I'm not**

1 remembering the conversation previously right,
2 but I think that question was in response to why
3 Jerry was still around the building.

4 THE COURT: That was my understanding.

5 BY MR. FARRELL:

6 Q Okay. So you said to people that you
7 thought it was wrong Jerry was still around the
8 Lasch Building?

9 A I would informally raise questions to
10 people around me that worked alongside with me
11 saying I don't think he should be around here.

12 Q Did you explain to them why?

13 A No.

14 Q Did they ask you why?

15 A Not really.

16 Q Did you say that -- at some point you
17 were contacted by agents of the Attorney
18 General's Office about this incident, right?

19 A Yes, sir.

20 Q The questions you say you raised with
21 people about why Jerry was still around there,
22 did you raise that question before or after you
23 were contacted by agents of the Attorney
24 General's Office?

25 A Almost certainly after.

1 MR. BEEMER: Objection, relevance.

2 MR. FARRELL: I'm just trying to place
3 the time, Your Honor. It does matter --

4 THE COURT: I'll allow him to answer the
5 question.

6 THE WITNESS: Most certainly after, I
7 mean, yes, and everyone knew the investigation
8 was ongoing and, yes, I thought it was wrong.

9 BY MR. FARRELL:

10 Q Okay.

11 A Again, it was informal. I don't want to
12 sit here and paint the picture that I went and
13 formally raised a question with university
14 administration. That wasn't my place to do so.
15 People knew.

16 Q I'm sorry. You raised it with people you
17 worked for, meaning the coaching staff?

18 A The coaching staff, support staff, yes,
19 sir.

20 Q And only after the -- you learned of the
21 investigation?

22 A Yes, I can definitely remember doing it
23 after the investigation.

24 Q Not before?

25 A I can't remember really making a fuss

1 before.

2 Q You can't remember making a fuss about
3 Mr. Sandusky being around the Lasch Building
4 before you learned of the investigation?

5 A No, I cannot remember that, making a
6 fuss, no.

7 Q Now, back in March of 20 -- whatever year
8 this was, 2001 or 2002, you knew Gary Schultz,
9 did you not?

10 A Very informally, not well at all. I
11 mean, I definitely knew Mr. Schultz and knew who
12 he was, but to say I knew him well or anything,
13 that would be a drastic stretch.

14 Q You talked to him maybe three or four
15 times?

16 A Yes, I would say that's accurate, yes,
17 sir.

18 Q Three or four?

19 A Yeah, three, four. Again, I don't know
20 the exact number.

21 Q Did you ever confide in him about a
22 personal matter?

23 A No, not to my knowledge.

24 Q Did you ever talk to him about a police
25 or law enforcement matter before this meeting in

1 March 2002?

2 A Just briefly one day during --

3 MR. BEEMER: Objection to the relevance.

4 MR. FARRELL: It certainly goes to his
5 belief that Mr. Schultz had some police position.

6 MR. BEEMER: I'll withdraw it.

7 THE COURT: Thank you.

8 THE WITNESS: There was a series -- and,
9 again, I hope I'm remembering this correctly.
10 There was a series of riots by the
11 African-American students at Penn State and the
12 black caucus at Penn State.

13 And myself and one of the other assistant
14 coaches walked down to Old Main where they were
15 having a -- I don't know if it was speakers or a
16 riot in front of the building.

17 And I saw Mr. Schultz on that day in a
18 very busy manner, talked to him real briefly.
19 The assistant coach I was with knew him a little
20 better than I had and knew him longer.

21 But, anyway, to make a long story short,
22 he was definitely in an administrative police,
23 trying to organize, trying to take care of things
24 on that day, and I did see that and that would be
25 before this incident.

1 BY MR. FARRELL:

2 Q Who was the assistant coach you were
3 with?

4 A Coach Anderson.

5 Q Anderson. And you saw Mr. Schultz speak
6 to police officers?

7 A No, no, I didn't see -- I didn't say
8 that. I didn't see him speak to police officers.
9 He was just definitely serving in an
10 administrative capacity trying to organize
11 things.

12 We actually saw him kind of not running
13 but fast -- in a very brisk, fast pace going
14 between Old Main and the Hub and trying to
15 organize things and dealing with what seemed to
16 be to me police issues, I guess.

17 Q When you say organize things, talking to
18 people?

19 A No. On the cell phone, trying to --
20 yeah, organize things. I don't know how better
21 to explain it, sir.

22 Q So you saw him walking quickly talking on
23 his cell phone?

24 A And he stopped. He saw -- Coach Anderson
25 saw him. They spoke briefly. Again, for me to

1 say the actual words, I would not be able to
2 remember that. But there was definitely
3 discussion of, you know, we've got a lot going
4 on, I'm trying to do things, stuff like that.
5 Again, it was a one-minute conversation.

6 Q All right. But not talk -- you didn't
7 see Mr. Schultz talking to any police officers?

8 A No, I did not see him directly talking to
9 a police officer.

10 Q You didn't overhear him talking to any
11 police officers on the phone or otherwise?

12 A No, I can't --

13 MR. BEEMER: Your Honor, objection.
14 We're really pretty far afield.

15 THE COURT: Sustained.

16 BY MR. FARRELL:

17 Q Before March of 2002, had you ever
18 socialized with Mr. Schultz?

19 A Not that I can --

20 MR. BEEMER: Objection to relevance.

21 THE COURT: He can answer. I think he
22 did.

23 THE WITNESS: Not that I can remember.

24 BY MR. FARRELL:

25 Q You know your father would have business

1 meetings with Mr. Schultz, would he not?

2 A I believe so, yes, sir.

3 Q In your father's capacity as -- with the
4 Centre Medical and Surgical Associates?

5 A Yes, that's where he worked.

6 Q Did you ever ask your father to inquire
7 of Mr. Schultz what action was being taken about
8 Mr. Sandusky and the things you saw in March?

9 A I never asked my father, but I do know my
10 father did ask him. I never asked him.

11 Q When did your father ask Mr. Schultz?

12 A I don't have the exact date.

13 Q Was it that same year?

14 A I think so but, again, I was not at that
15 meeting and I would not be able to clearly give
16 you a date.

17 Q All right. What did your father report
18 back -- I assume your father told you about that
19 meeting?

20 A Yes. He said that he --

21 MR. BEEMER: Your Honor, objection to
22 what his father told him about the meeting.

23 THE COURT: Sustained. I don't want to
24 go down this path.

25 BY MR. FARRELL:

1 Q To your knowledge, did your father ever
2 tell Mr. Schultz to get some police action about
3 this?

4 A I don't know.

5 Q Did you ever ask your father to ask
6 Mr. Schultz to take some law enforcement action
7 against Mr. Sandusky?

8 MR. BEEMER: Asked and answered.

9 THE COURT: I think it's been answered.

10 BY MR. FARRELL:

11 Q And after this one meeting with
12 Mr. Curley and Mr. Schultz in the Bryce Jordan
13 Center, you never spoke directly to Mr. Schultz
14 about Mr. Sandusky again, did you?

15 A I don't remember that, no. I don't
16 remember speaking to Mr. Schultz after that about
17 this.

18 Q After this incident in March 2002, did
19 you ever make any effort to avoid contact with
20 Mr. Sandusky?

21 A Without a doubt.

22 Q Did you have contact with Mr. Sandusky
23 after this incident?

24 MR. BEEMER: Objection to relevance.

25 MR. FARRELL: It's following up on his

1 previous answer, Your Honor.
 2 THE COURT: He can answer this and then I
 3 would like to move on. Can you ask it again,
 4 Mr. Farrell?
 5 THE WITNESS: Yes, please. Thank you.
 6 THE COURT: Mr. Farrell, the question
 7 again, please.
 8 BY MR. FARRELL:
 9 Q Did you have any contact with
 10 Mr. Sandusky after this incident?
 11 MR. BEEMER: Objection. It's a
 12 completely vague question. I mean, there's no
 13 clarification and it's inappropriate for purposes
 14 of the hearing.
 15 THE COURT: All right. We'll move on.
 16 MR. FARRELL: May I have a moment, Your
 17 Honor?
 18 THE COURT: Yes, sir.
 19 (Pause.)
 20 BY MR. FARRELL:
 21 Q Just to be clear on this again,
 22 Mr. Schultz never told you in that March meeting
 23 or any time not to discuss what you saw in March,
 24 not to discuss what you saw with respect to
 25 Mr. Sandusky with anyone else?

1 **A No. Neither gentleman never said, Mike,**
 2 **you can't talk about this or anything like that.**
 3 **That is clear.**
 4 Q And neither of them made any effort to
 5 prevent you from talking to anyone in the world?
 6 **A No, no, that's right.**
 7 MR. FARRELL: I have nothing else, Your
 8 Honor.
 9 THE COURT: Thank you. Redirect.
 10 MR. BEEMER: Just a couple.
 11
 12 REDIRECT EXAMINATION
 13 BY MR. BEEMER:
 14 Q You described a phone call that you
 15 received from Mr. Curley wherein he indicated
 16 that he took several steps, including calling the
 17 Second Mile and telling Mr. Sandusky not to bring
 18 children up to the Lasch Building or Penn State,
 19 correct?
 20 **A Right. That's right.**
 21 Q Did he ever -- did he tell you that one
 22 of the steps that he took was to call the police,
 23 that he called the police?
 24 **A No, not that I know of, no.**
 25 Q Did Gary Schultz ever tell you that he

1 alert -- told one of his subordinates in the
 2 police department about what you and he
 3 discussed?
 4 **A No, no, he never told me that.**
 5 **MR. BEEMER: That's all.**
 6 THE COURT: Ms. Roberto.
 7 MS. ROBERTO: No other questions.
 8 THE COURT: Mr. Farrell.
 9 MR. FARRELL: None, Your Honor.
 10 THE COURT: You can step down, sir.
 11 Thank you very much.
 12 THE WITNESS: Thank you.
 13 THE COURT: Can this witness be released?
 14 MR. BEEMER: Yes, Your Honor.
 15 THE COURT: Any objections from defense
 16 counsel?
 17 MR. FARRELL: No, Your Honor.
 18 MS. ROBERTO: No, Your Honor.
 19 THE COURT: Thank you.
 20 (Witness excused.)
 21
 22 THOMAS HARMON,
 23 called as a witness, being duly sworn, testified
 24 as follows:
 25

1 THE COURT: Good morning, sir.
 2
 3 DIRECT EXAMINATION
 4 BY MR. BEEMER:
 5 Q Sir, would you please state your name and
 6 spell your last name?
 7 **A Thomas R. Harmon, H-A-R-M-O-N.**
 8 Q Mr. Harmon, can you tell the Court how
 9 you were employed at Penn State University?
 10 **A I was employed as a police officer and**
 11 **upon retirement as director of university police.**
 12 **I was employed there for 33 years.**
 13 Q And during what years were you the
 14 director of the university police?
 15 **A I'm not quite sure when I first got that**
 16 **title, but it was through the 1990s and into**
 17 **2005.**
 18 Q Is it fair to say from 1998 through 2002,
 19 you were the director of the university police?
 20 **A I was.**
 21 Q What does that mean when you say you were
 22 the director?
 23 **A Well, that's equivalent to the chief of**
 24 **police in a municipality.**
 25 Q So you were the head police official?

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In Re: Commonwealth vs. Gerald Sandusky
Defendant's Fourth Request for Pre-Trial Discovery

Dear Joe and Jonelle:

Pursuant to Rule 573(b)(1) of the Pennsylvania Rules of Criminal Procedure and Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194, 10 L.Ed.2d 215 (1963), I hereby make a supplemental request for disclosure of the following items and information material to our client's cases:

26. Please provide non-redacted copies of all medical records to include family medical providers, specialty physicians, psychiatric records that were provided by the accusers/alleged victims to either the Office of Attorney General/the Pennsylvania State Police in regard to Accusers/alleged Victims 1 through 10;

27. Please provide non-redacted copies of the same medical provider records that were obtained from serving a subpoena and/or search warrant in this investigation in regard to Accusers/alleged Victims 1 through 10;

28. Please provide unaltered and non-redacted copies of all video with audio and taped interviews of Accusers/alleged Victims 1 through 10 conducted by the Office of Attorney General, the Pennsylvania State Police, or outside vendor (expert) retained by either the Office of Attorney General or the Pennsylvania State Police who by means of this task assisted Accusers/alleged Victims 1 through 10 with assisting in their anticipated trial testimony; further, this request shall include any and all future activities of this nature in preparation for trial;

29. Please provide non-redacted copies of all current and past employment records either provided or obtained through use of subpoena(s) and/or search warrant(s) that described Accusers'/alleged Victims' 1 through 10 employment histories free of redactions;

30. Please provide non-redacted copies of all criminal history profiles obtained by the Office of Attorney General/the Pennsylvania State Police from any and all computer-based searches to include NCIC, CLEAN, federal, state, county, sheriff and local law enforcement agencies for Accusers/alleged Victims 1 through 10;

31. Please provide unaltered and non-redacted copies of complete records and recordings identifying Attorney General personnel, Pennsylvania State Police and/or outside vendors who were retained to put Accusers/alleged Victims 1 through 10 through a mock trial/practice that simulated the Office of Attorney General questioning the accusers/alleged victims as well as attorneys who simulated the defense in cross examination based upon the initial practice testimony which shall be free of any redactions or audio deletions, and shall include the actual names of the Office Attorney General personnel who will be present at the Defendant's trial;

32. As part of continuous discovery, please provide unaltered or non-redacted copies of complete records/documentation of any and all testimony by Accusers/alleged Victims 1 through 10 before a mock jury/review/analysis by the participants on the jury as well as any recommendations for improvement by any person/expert/jury member so as to enhance the testimony of the accuser;

33. Please provide non-redacted copies of any and all reports and documents obtained from a jury consultant or jury consultant agency that identifies what type individual would more than likely vote guilty based upon the Office of Attorney General's case in chief to include any demographic reports, likely jury member's age/sex, jury make-up, type of employment the jury member may have that would tend to cause their vote of guilty as well any and all documents provided by the consultant that includes method and manner of questions for potential jury members that would give indications about their intent to vote guilty versus not guilty;

34. As part of continuous discovery, identify the full names and address of jury consultant(s) and firm(s) that have been retained and/or anticipated being retained by the Office of Attorney General for the purpose of being present for the actual jury selection;

35. Please provide non-redacted copies of any and all records, files, documents, and reports that were provided by the Office of Attorney

General/the Pennsylvania State Police to any civil attorney or civil law firm who has indicated through correspondence or other documentation that the attorney and/or firm represents Accusers/alleged Victims 1 through 10;

36. As part of continuous discovery from the subpoena date, please provide non-redacted copies of any and all records, files, reports that were given to the Office of Attorney General or the Pennsylvania State Police by legal counsel for Accusers/alleged Victims 1 through 10;

37. Please provide non-redacted copies of any and all computer system-based records from the Office of Student Conduct or any other University office within The Pennsylvania State University through the Office of Vice-President/Chief Counsel Cynthia Baldwin, Esquire that was either obtained through use of a subpoena or search warrant;

38. Please provide non-redacted copies of any and all records received from The Pennsylvania State University Board of Trustees that were obtained through use of a subpoena or search warrant;

39. Please provide non-redacted copies of any and all media reports to include television, radio and print from newspapers that were obtained through a subpoena or search warrant that details any information that pertains to this case;

40. Please provide non-redacted copies of any and all records regarding Accusers/alleged Victims 1 through 10 that include crimes of moral turpitude, perjury or false reports to any law enforcement agency, any fabrication of physical evidence or testimony that the accuser was not prosecuted for but the records exist that were obtained through use of a search warrant or subpoena.

These supplemental requests shall be deemed continuing to the time of trial. If any additional information not included in responses to the above requests become available to the Commonwealth or its agents between the time responses are made and the time of trial, such information shall forthwith be made known to the Defendant's counsel. The above information is needed to prepare a full, adequate defense, including alibi and statute of limitation defenses thereby making disclosure of the requested information imperative to the Defendant in the preparation of his defense in these matters. Your prompt attention to this matter is greatly appreciated.

Truly,



Joseph L. Amendola, Esquire

JLA:dka

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**In Re: Commonwealth vs. Gerald Sandusky
Defendant's Fifth Supplemental Discovery Request Based Upon
The Commonwealth's Response to Defendant's Request for Bill
Of Particulars dated February 21, 2012.**

Dear Joe and Jonelle:

Pursuant to Rule 573(b)(1) of the Pennsylvania Rules of Criminal Procedure and *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L.Ed.2d 215 (1963), I hereby make a supplemental request for disclosure of the following items and information material to our client's cases:

41. Accuser/alleged Victim 1:

a. Identify the State College hotel as described in the Commonwealth's Bill of Particulars dated February 21, 2012 subsection a;

b. Provide copies of any and all records and information obtained from the hotel either by search warrant and/or subpoena regarding this matter to include but not limited to employee/management personnel interviews of current and past employees, copies of hotel financial and registration records, all records/files obtained from the hotel's corporate headquarters and/or any and all pictures and video recordings obtained from the hotel, its corporate headquarters, security video management and/or private vender who installed and maintained all security video;

c. Identify the school attended as described in subsection a of the Commonwealth's Bill of Particulars dated February 21, 2012;

d. Provide copies of all investigative reports, records and files prepared by agents of the Office of Attorney General and the Pennsylvania State Police in their efforts that establish the exact times and dates;

e. Provide copies of all interview documents, records, files, videos with audio, as well as any recorded interviews that were conducted with "child" by agents of the Office of Attorney General and the Pennsylvania State Police as they relate to this investigation;

f. Provide copies of all reports, documents, records and files obtained from the "school" as described in the Attorney General's response for Bill of Particulars;

g. Provide copies of all Children and Youth Service's records from the county CYS office of record based upon the stated alleged incident;

h. Provide copies of all medical, psychiatric and psychological records along with the medical provider who completed the evaluation of "child" that were obtained from the "child" or his parent/guardian by use of subpoena and/or search warrant;

i. Provide copies of all written, typed and/or video with audio interviews of the "child" by the agents of the Office of Attorney General Agents and/or Pennsylvania State Police, CYS personnel, outside vendor(s) employed by a CYS agency, the Attorney General's Office, the Pennsylvania State Police where the "child" indicated that the written, oral, recorded statements were true and correct to the best of the "child's" knowledge and belief;

j. Provide copies of all investigative documents that support, in any way, the claim that the unknown offenses occurred between calendar years 2005-2008.

42. Accuser/alleged Victim 2:

a. Provide copies of any and all documents regarding investigative measures taken by agents of the Office of Attorney General and/or the Pennsylvania State Police investigators assigned to investigate the series of events that were utilized to identify Accuser/alleged Victim 2;

b. Provide copies of any and all interviews by the respective agencies above of any individual including school personnel and potential witnesses;

c. Provide copies of any and all records, documents, files and reports obtained through use of a search warrant and/or subpoena in this matter;

d. Provide all investigative steps taken with reports, etc. since the Attorney General's initial response to Defendant's pretrial discovery requests;

43. Accuser/alleged Victim 3:

a. Provide copies of all investigative reports, files, records, and/or documents received from the Pennsylvania State University regarding this specific incident that has been alleged to have occurred between calendar years 2000 and late 2002 by use of subpoena and/or search warrant;

b. Provide copies of all interviews from current and past Pennsylvania State University personnel and/or students who were in any way contacted by investigators from the Office of Attorney General/the Pennsylvania State Police to seek out potential observers of the alleged conduct and or verification that person(s) within the investigation of Accuser/alleged Victim 3 were in fact present at the time intervals as described in the Commonwealth's Bill of Particulars dated February 21, 2012 subsections a through c;

c. Provide copies of any and all medical, psychiatric and psychological records for Accuser/alleged Victim 3 obtained from the "child" by use of a subpoena and/or search warrant to include copies of counseling records before or after alleged incident as well as any current medical, psychiatric or psychological records;

d. Provide copies of all CYS reports for the county of record that were obtained by use of a subpoena and/or search warrant, or provided by the CYS agency with no Court mandated order (subpoena and/or search warrant);

e. Provide copies of all video and audio interviews of the "child" by agents of the Office of Attorney General or Pennsylvania State Police;

f. Provide copies of any records reflecting the "child" in any way stated the occurrences described in the Commonwealth's Bill of Particulars dated February 21, 2012 are true and correct to the best of the "child's" knowledge and belief;

g. Provide copies of all incident and investigative reports, files, documents, or other printed material not included in Commonwealth's Bill of Particulars dated February 21, 2012 in response to Defendant's pretrial discovery requests.

44. Accuser/alleged Victim 4:

a. Provide copies of all records obtained from the Toftrees Golf Resort as obtained from use of a subpoena and/or search warrant regarding this matter to include interviews with current and past employees of the Resort;

b. Provide copies of all records, files, reports, documents, video, and/or pictures received from the Pennsylvania State University regarding entry into and/or being at or about the following locations within the PSU campus:

- 1) East Area Locker Rooms;
- 2) Various dormitories of the Pennsylvania University, University Park Campus, as well as the actual identification of the specific name of the dormitories;
- 3) Current and past PSU employees' and students' interviews, who worked or resided at the unidentified dormitories, that were conducted by members of the Attorney General's Office, the Pennsylvania State Police and/or the Office of Public Safety at the Pennsylvania State University that were provided by a subpoena and/or search warrant;
- 4) Entry records/logs as kept and maintained by the Pennsylvania State University, University Park Campus, for entry into the unknown dormitories from 1996 through to the present.

c. Provide copies of all federal, state, city, county, sheriff and local law enforcement agency reports, records, files and documents that allowed the Office of Attorney General to announce, prepare and submit its response to Defendant's Bill of Particulars dated February 21, 2012, filed on March 1, 2012, stating that information is known to exist that alleged crimes were committed by the Defendant in the states of Florida and Texas;

d. Provide copies of all video and recorded interviews conducted by the Office of Attorney General and the Pennsylvania State Police with Accuser/alleged Victim 4 regarding allegations in this matter to include all allegations that occurred in the states of Texas and Florida.

e. Provide copies of all video and recorded interviews of the "child" that were conducted by Florida and Texas law enforcement officials who traveled to the Commonwealth for the explicit purpose of interviewing the "child" in this matter as well as any recordings or videos of interviews conducted out of the state by law enforcement;

f. Provide copies of all CYS reports, records, files and documents obtained from the Pennsylvania State Police or the Office of Attorney General by means of a subpoena and/or search warrant in regard to Accuser/alleged Victim 4;

g. Copies of all medical, psychiatric and psychological reports obtained regarding the "child" received from the CYS Office of record, the "child" or from any and all medical providers in this matter by use of a subpoena and/or search warrant;

h. Copies of all documents, reports, records, files or specific paperwork in the possession of the Pennsylvania State Police and/or the Office of Attorney General that, by means of time and date of receipt, were not provided in defense counsel's request for informal pretrial discovery at various stages of the case.

45. Accuser/Alleged Victim 5:

- a. Provide copies of all documents, records, files and reports obtained from The Pennsylvania State University including the Office of Public Safety for The Pennsylvania State University regarding this matter obtained via subpoena and/or search warrant;
- b. Provide copies of any and all CYS reports regarding this matter that were obtained by use of a subpoena and/or search warrant;
- c. Provide copies of all medical, psychiatric and psychological records regarding this "child" that were provided to the Office of Attorney General or the Pennsylvania State Police by CYS, the "child" or by means of a subpoena and/or search warrant;
- d. Provide copies of all interviews conducted with the "child" by members of the Office of Attorney General or the Pennsylvania State Police wherein the "child" stated the facts as presented in the Commonwealth's Bill of Particulars dated February 21, 2012 as true and correct to the best of the "child's" knowledge and belief;
- e. Provide copies of all interviews of current and past employees and students of The Pennsylvania State University to establish a actual witness timeline or other investigative aid in this matter;
- f. Provide copies of any files, records, documents and reports prepared and maintained by members of The Pennsylvania State Police and the Office of Attorney General not already provided upon Defendant's request for pretrial discovery.

46. Accuser/alleged Victim 6:

- a. Provide copies of all subsequent interviews of individuals outside of the initial alleged observation by a known individual regarding this matter;
- b. Provide copies of all records, documents, files and computer-related information regarding this matter as received from The Pennsylvania State University by means of a subpoena and/or search warrant;
- c. Provide copies of all Pennsylvania State Police and Office of Attorney General records that include interviews, review records or other investigative means to identify this unknown eleven year old minor;
- d. Provide copies of all related material, records, files, documents and reports that, through receipt by the Office of Attorney General, have yet to be provided by informal discovery to defense counsel.

47. Accuser/alleged Victim 7:

- a. Provide copies of all records, documents, files, and computer-generated information from The Pennsylvania State University

regarding this matter that were obtained by means of a subpoena and/or search warrant;

b. Provide copies of all CYS records obtained in this matter from the respective CYS office to include all medical, psychiatric and psychological reports regarding this individual;

c. Provide copies of all medical, psychiatric and psychological reports received by means of a subpoena and/or search warrant or provided by the "child";

d. Provide copies of all interviews conducted by the Office of Attorney General and the Pennsylvania State Police of the "child" to include written, audio recordings, videos with sound as kept and maintained by the Office of Attorney General or the Pennsylvania State Police;

e. Provide copies of any and all criminal records to include records of detentions in any jails/centers of this "child".

48. Accuser/alleged Victim 8:

a. Provide copies of all The Pennsylvania State University, University Park Campus, records obtained from this incident by means of a subpoena and/or search warrant;

b. Provide copies of all The Pennsylvania State University Office of Public Safety investigations into this matter as provided by the Office of Public Safety by means of subpoena and/or search warrant or provided by written or oral request;

c. Provide copies of all interviews by the Pennsylvania State Police and Office of Attorney General of all former and current PSU employees, student employees, or other individuals that verify what a known person indicated they saw or observed "on a Thursday or Friday evening in November of 2000";

d. Provide copies of all medical reports regarding this individual's general health, etc. with the utmost care for HIPPA regulations being utilized to keep the person's identity and address as unknown - defense counsel will stipulate to the name and address of the individual and only seeks copies of current medical records;

e. Provide copies of any and all investigative measures taken by members of the Office of Attorney General and Pennsylvania State Police investigators employed to identify this person to include interviews of any and all persons by use of video that captured persons' general face appearance.

49. Accuser/alleged Victim 9:

a. Provide copies of all records received from current or former Hilton Garden Inn of State College employees pertaining to this matter by means of interviews or review of Inn documents;

b. Provide copies of all registration documents from the Hilton Garden Inn of State College as well as the corporate headquarters regarding registration information from calendar years 2005 through 2009 regarding this information obtained by means of a subpoena and/or search warrant;

c. Provide copies of all CYS records received by the Office of Attorney General or the Pennsylvania State Police obtained by use of a subpoena and/or search warrant regarding this matter to include psychiatric and psychological records;

d. Provide copies of all records, documents, files, and reports not already provided by means of informal discovery.

50. Accuser/alleged Victim 10:

a. Provide copies of all records, documents, reports and files, or other related material, by use of a subpoena and/or search warrant upon The Pennsylvania State University, University Park Campus, that would include reports from the Office of Public Safety regarding this matter;

b. Provide copies of all medical, psychiatric and psychological reports obtained by a subpoena, search warrant or by the Accuser/alleged Victim 10;

c. Provide copies of all CYS reports obtained in this matter by means of a subpoena and/or search warrant;

d. Provide copies of all records, documents, files, and reports not already provided by means of informal discovery.

51. Provide copies of all criminal records with final disposition as well as ORI contributor and county of record(s) for Accusers/alleged Victims 1 through 10;

52. Provide copies of all records of court ordered/directed incarceration for specific crimes from a sentence from the court of record(s) for Accusers/alleged Victims 1 through 10;

53. Provide copies of all records of periods of incarceration pending bail/release from arrest prior to the final resolution of the crime;

54. Provide copies of driver records from the Secretary of Transportation, Commonwealth of Pennsylvania, with seal of certification to records being true/accurate for Accusers/alleged Victims 1 through 10;

55. Provide copies of all high school/college records as kept and maintained by the Office of Attorney General or Pennsylvania State Police;

56. Provide copies of all other records, documents, files and reports regardless of the source obtained by the Office of Attorney General by means of a subpoena and/or search warrant for Accusers/alleged Victims 1 through 10 in this matter;

57. Provide copies of a check of the NCIC/CLEAN and J-NET Data Base for each accuser/alleged victim with records of any and all contributors to the data base(s) in this matter;

58. Provide copies of all medical, psychiatric and psychological examination records conducted by members of the Office of Attorney General, the Pennsylvania State Police or by person(s) employed by the Commonwealth of Pennsylvania, any outside vender so retained by the Commonwealth of Pennsylvania or the Office of Attorney General to include all interviews, testing, and evaluations conducted by an agency who specializes in the treatment of alleged sexual misconduct in regard to Accusers/alleged Victims 1 through 10;

59. Provide all pages of non-redacted copies of all psychological testing and related medical information for Accusers/alleged Victims 1 through 10 which shall contain the following:

a. Diagnostic Impression for Axis I/II/III/IV and V for each assessment completed;

b. Any psychological/psychiatric testing and results to include the names of the tests, any and all assessments and reports to include any and all background information, diagnoses and recommendations resulting from the testing and assessments completed;

c. All behavior issues, incidents and reports that were generated from all home, community and school settings that were contained in CYS reports/school reports and/or other reporting documents contained within school/CYS documents;

d. All reports from schools and law enforcement agencies regarding whether Accusers/alleged Victims 1 through 10 filed complaints against others whether the report(s) was founded or unfounded;

e. This request shall include all documents received from the Accusers/alleged Victims 1 through 10 on a voluntary basis, through use of subpoena and/or search warrant, provided by any authorized person/agency, or any other service provider that were involved in behavioral or mental health issues or problems that occurred in a school, home or community setting;

f. Identify any and all agencies, service providers or individuals who were involved in behavioral or mental health issues involving the Accusers/alleged Victims 1 through 10 which shall include documents received from CYS, schools, agencies, service providers, home or any community entities that the Office of Attorney General or the Pennsylvania State Police

obtained records through any means that would result in the documents/records/files/reports and incident investigations being provided;

These supplemental requests shall be deemed continuing to the time of trial. If any additional information not included in responses to the above requests become available to the Commonwealth or its agents between the time responses are made and the time of trial, such information shall forthwith be made known to the Defendant's counsel. The above information is needed to prepare a full, adequate defense, including alibi and statute of limitation defenses thereby making disclosure of the requested information imperative to the Defendant in the preparation of his defense in these matters. Your prompt attention to this matter is greatly appreciated.

Truly,



Joseph L. Amendola, Esquire

JLA:dka

JOSEPH L. AMENDOLA

ATTORNEY-AT-LAW

110 REGENT COURT
SUITE 202
STATE COLLEGE, PA 16801-7966

TELEPHONE
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March 21, 2012

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Office of Attorney General
Criminal Prosecutions Section
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Norristown, PA 19403

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Senior Deputy Attorney General
Office of Attorney General
Criminal Prosecutions Section
16th Floor Strawberry Square
Harrisburg, PA 17120

**In Re: Commonwealth vs. Gerald Sandusky
Defendant's Sixth Supplemental Discovery Request Based Upon
Commonwealth's Response to Order of court Directing Pretrial
Discovery Dated February 29, 2012**

Pursuant to Rule 573(b)(1) of the Pennsylvania Rules of Criminal Procedure and Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194, 10 L.Ed.2d 215 (1963), I hereby make a sixth supplemental request for disclosure of the following items and information material to our client's cases:

60. Pennsylvania Attorney General Investigation and Drug Control Investigative Report titled Supplemental Report No.9 contained within Paragraph No.4 describes a 1998 report that was titled "Administrative Report" -vs- "Sexual Assault". Based upon this information the following non-redacted copies of records/documents/files/tapes/recorded statements with transcript and Penn State University Police Department investigative reports are requested:

- a. The entire 90 page report as described in Pennsylvania Attorney General Supplemental Report No. 9;
- b. All taped interviews with interview transcript attached;
- c. All CYS reports as referenced within Supplemental Report No. 9;
- d. All letters/documents/directives received from the Centre County District Attorney's Office;
- e. All records/documents/investigative reports/taped interviews and other relevant material provided to the Centre County District Attorney and/or Centre County CYS by the Penn State University

Police Department;

f. All records/documents/files/investigative reports/interviews recorded/or by video that are kept and maintained within the "Administrative File" that is kept and maintained by the Pennsylvania State University and or any office within the University;

g. All "Daily Logs" as kept and maintained within The Pennsylvania State University records systems to include the Penn State University Police Department that relate to this incident;

h. All records/files/investigative files/Penn State University Police Department records and/or any other document not so described within this discovery request.

61. Pennsylvania Attorney General Supplemental Report No. 33 prepared by S. A. Sassano describes documents contained within the Records Systems Management System No. 199800001609 as reported/prepared by Detective Schreffler. Please provide a non-redacted copy of this document with all attachments.

62. Page 216 of Pennsylvania State Police Incident No. G07-1146135 states Grand Jury Subpoena No. 520 was served upon the Chief Counsel's Office of The Pennsylvania State University Office of Chief Counsel/ Grand Jury Subpoena No. 521 being served upon the Second Mile. Please provide non-redacted copies of all records/documents/files obtained from the Pennsylvania State University/The Second Mile based upon the above described Subpoena Nos. 520 and 521.

63. Pennsylvania State Police Report No. F04-100091(PSP LAMAR) dated 12/12/08 prepared by Trooper Cavanaugh details under a list of attachments the following:

a. CYS 104 form dated November 21, 2008 and CYS Interview (disc). Please provide a non-redacted copy of both items above to include the transcript of the disc referenced by Trooper Cavanaugh;

b. Penn DOT records for the following OLN(s): 12547344, 19864431 and 21255778. Please provide non-redacted copies of all documents that relate to each OLN.

64. Pennsylvania State Police Incident Report No. G07-1146135 possibly Page No. 10 details an interview of an accuser/alleged victim prepared by Trooper Timothy Lear. Please provide a non-redacted copy of the following based upon this information:

a. All written/taped with transcript/video with transcript interview documents regarding Trooper Lear's interview;

b. Full name/address/telephone number of individual interviewed.

65. Pennsylvania State Police Incident No. G07-1146135 details interviews of a known accuser/alleged victim. Those being present were Mike Gillum/investigating trooper and the individual interviewed. Please provide non-redacted copies of the following information based upon the Report of Trooper Lear:

a. All interview documents to include taped/video with transcript of the interview;

b. Any/all records/documents/reports/medical reports provided by Mike Gillum - a counselor provided to the Pennsylvania State Police/Office of the Pennsylvania Attorney General by voluntary means/use of subpoena and or search warrant.

66. Pennsylvania State Police Incident No. G07-1146135, Page No. 48, details an interview of Dr. Alycia Anne Chambers, a psychologist who counseled a known accuser/alleged victim. The Pennsylvania State Trooper (Scott Rossman) describes being provided a copy of Dr. Chamber's counseling report. Please provide a complete non-redacted copy of the following based upon the report of Trooper Rossman:

a. Dr. Chamber's Counseling Report as obtained by Trooper Rossman from Dr. Chambers;

b. Any and all reports, documents, files, letters diagnosis(s) and testing completed by Dr. Chambers obtained from Dr. Chambers on or about 03/07/2011 regarding the known individual;

c. Any and all documents obtained from Dr. Chambers from 03/07/2011 by voluntary means and or use of subpoena/search warrant through to the present.

67. Pennsylvania State Police Incident Report No. G07-1146135, Page No.54, regarding an individual named Deb McCord. Please provide a complete and non-redacted copy of the text that is attached to the station copy of PSP Incident No. G07-1146135 as described in the incident report above sent by Sara Ganim to Deb McCord.

68. Pennsylvania State Police Incident No. G07-1146135, Page 134 describes a letter. Please provide a non-redacted copy of the letter so referenced within the incident report.

69. Pennsylvania State Police Incidents No. G07-1146135, Page 177, describes a subpoena being served upon The Pennsylvania State University -

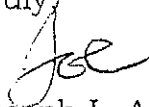
Office of Chief Counsel for any and all information regarding Jerry Sandusky for calendar years 2002/2003. Please provide a complete and non-redacted copy of all records/documents/files/investigations and related information received from the issuance of the search warrant and service upon The Pennsylvania State University.

70. Pennsylvania State Police Incident Report No. G07-1146135, Page 185, details an initial investigation by the Pennsylvania State Police at the Montoursville Barracks prepared by Trooper Joseph Akers. Please provide a complete and non-redacted copy of the following information based upon the PSP initial investigation:

- a. Trooper Akers's initial investigation to include copies of an initial report as well as any and all supplemental reports;
- b. All video/audio recording and written statements obtained by Trooper Akers of the known individual as described within the report.

These supplemental requests shall be deemed continuing to the time of trial. If any additional information not included in responses to the above requests become available to the Commonwealth or its agents between the time responses are made and the time of trial, such information shall forthwith be made known to the Defendant's counsel. The above information is needed to prepare a full, adequate defense, including alibi and statute of limitation defenses thereby making disclosure of the requested information imperative to the Defendant in the preparation of his defense in these matters. Your prompt attention to this matter is greatly appreciated.

Truly,



Joseph L. Amendola, Esquire

JLA:dka

1 COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
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TIMOTHY MARK CURLEY : No. CP-22-MD-1374-2011

6 COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
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GARY CHARLES SCHULTZ : No. CP-22-MD-1375-2011

TRANSCRIPT OF PROCEEDINGS

PRELIMINARY HEARING

BEFORE: MAGISTERIAL DISTRICT JUDGE
WILLIAM C. WENNER

DATE: FRIDAY, DECEMBER 16, 2011

PLACE: COURTROOM NO. 1
DAUPHIN COUNTY COURTHOUSE
HARRISBURG, PENNSYLVANIA

APPEARANCES:

BRUCE R. BEEMER, ESQUIRE
OFFICE OF ATTORNEY GENERAL

For - Commonwealth

CAROLINE ROBERTO, ESQUIRE

For - Defendant Curley

THOMAS FARRELL, ESQUIRE

For - Defendant Schultz

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1 anymore.

2 So I told -- I didn't go any further than
3 that except I knew Mike was upset and I knew some
4 kind of inappropriate action was being taken by
5 Jerry Sandusky with a youngster.

6 Q Did Mike McQueary tell you where he had
7 seen this inappropriate conduct take place?

8 A In the shower.

9 Q Where was the shower?

10 A In the Lasch Building.

11 Q Is that on the campus of Penn State
12 University?

13 A It's right on the campus.

14 Q Did you tell Mike McQueary at that time
15 what you were going to do with that information
16 that he had provided to you?

17 A I don't know whether I was specific or
18 not. I did tell Mike, Mike, you did what was
19 right; you told me. Even though Jerry does not
20 work for the football staff any longer, I would
21 refer his concerns to the right people.

22 Q You recall this taking place on a
23 Saturday morning, the conversation with Mike?

24 A Yes.

25 Q When did you -- did you do something with

1 that information?

2 A Well, I can't be precise. I ordinarily
3 would have called people right away, but it was a
4 Saturday morning and I didn't want to interfere
5 with their weekends. So I don't know whether I
6 did it Saturday or did it early the next week.
7 I'm not sure when, but I did it within the week.

8 Q To whom or with whom did you share the
9 information that McQueary had given you?

10 A I talked to my immediate boss, our
11 athletic director.

12 Q What is that person's name?

13 A Tim Curley.

14 Q How did you contact Mr. Curley?

15 A I believe I did it by phone. As I
16 recall, I called him and I said, hey, we got a
17 problem, and I explained the problem to him.

18 Q Was the information that you passed along
19 substantially the same information that
20 Mr. McQueary had given you?

21 A Yes.

22 Q Other than the incident that Mike
23 McQueary reported to you, do you know in any way,
24 through rumor, direct knowledge or any other
25 fashion, of any other inappropriate sexual

1 conduct by Jerry Sandusky with young boys?

2 A I do not know of anything else that Jerry
3 would be involved in of that nature, no. I do
4 not know of it. You did mention -- I think you
5 said something about a rumor. It may have been
6 discussed in my presence, something else about
7 somebody. I don't know. I don't remember, and I
8 could not honestly say I heard a rumor.

9 Q You indicated that your report was made
10 directly to Tim Curley. Do you know of that
11 report being made to anyone else that was a
12 university official?

13 A No, because I figured that Tim would
14 handle it appropriately. I have a tremendous
15 amount of confidence in Mr. Curley and I thought
16 he would look into it and handle it
17 appropriately.

18 We have no further questions of you.

19 Testimony concluded at 11:13 a.m.

20 Date, January 12, 2011, 11:20 a.m.

21 Witness, Tim Curley.

22 Questioning for the Office of Attorney

23 General, Jonelle Eshbach, E-S-H-B-A-C-H, and

24 Frank Fina, F-I-N-A.

25 Q Would you please introduce yourself to

1 the Grand Jury?

2 A Good morning. My name is Tim Curley.

3 Q You have counsel with you?

4 A Yes, I do.

5 Q Would you introduce her, please?

6 A My counsel is Cynthia Baldwin.

7 Q Mr. Curley, how are you employed?

8 A I'm employed as the director of athletics
9 at Penn State University.

10 Q How long have you been employed in that
11 capacity?

12 A As the athletic director since 1993.

13 Q Were you with the university before that?

14 A Yes, ma'am.

15 Q How long?

16 A Since 1979 full time.

17 Q As the athletic director, does every
18 athletic program in the university fall under
19 your control?

20 A Yes, I have an administrative
21 responsibility for varsity athletics,
22 intramurals, and club sports in a variety of
23 other areas.

24 Q I'd like to direct your attention first
25 to an incident which was brought to your

1 attention sometime around spring break of 2002.
 2 Did you receive information from Coach Joseph
 3 Paterno about an incident that was alleged to
 4 have occurred on university property involving
 5 Jerry Sandusky and a minor male?

6 **A Yes.**

7 **Q** Please tell us how that information came
 8 to your attention the best that you can recall
 9 and what you did as a result of it.

10 **A** My recollection -- and I don't know if it
 11 was 2002, but my recollection was that Coach
 12 Paterno called myself and Gary Schultz, who is
 13 the senior vice president, and said he needed to
 14 meet with us, that he wanted to report something
 15 to us.

16 So we went over, the two of us together,
 17 met with him, and he -- do you want me to --

18 **Q** Yes, please.

19 **A** Coach Paterno indicated that he had a
 20 football coach, an assistant football coach, that
 21 came to him with information that he encountered
 22 in the locker room on campus in the football
 23 building, that he went into the locker room -- it
 24 was, I think, sometime in the evening -- went
 25 into the locker room and was going to get a

1 workout in and the individual heard and saw, I
 2 guess, two people in the shower, in the shower
 3 area.

4 And my recollection was that he could see
 5 that through a mirror, that there was a mirror
 6 that he could see that through, and that the
 7 individual was uncomfortable with the activity in
 8 the shower area and -- am I supposed to go
 9 through the whole thing?

10 **Q** Go ahead. Tell us what you know.

11 **A** Okay. So he was uncomfortable with that
 12 and at that point he felt it was something he
 13 should report to Coach Paterno. Coach Paterno
 14 relayed that information to Gary and I.

15 We then took that information and met
 16 with Mike McQueary, who was the football coach,
 17 and met with Mike, got the information from Mike
 18 about the activity, what he saw. And then from
 19 there, Gary and I reported that information to
 20 the president of the university, Dr. Graham
 21 Spanier.

22 And then following that, I made a
 23 suggestion, recommendation that we needed to take
 24 this information and report it to the Second
 25 Mile, which is the organization at that time that

1 Jerry was working either with or for. He was not
 2 an employee of Penn State at that time.

3 So by myself I met with Dr. Jack
 4 Raykovitz, who is the executive director of the
 5 Second Mile. I shared the information that we
 6 had with him.

7 Additionally, I then met with --
 8 actually, it was probably the other way around.
 9 I met with Jerry Sandusky first, told him about
 10 the information that we received, that we were
 11 uncomfortable with the information and that I was
 12 going to take the information and report it to
 13 the executive director of the Second Mile and
 14 that I did not want him in the future to be in
 15 our athletic facilities with any young people.

16 Then, to the best of my recollection, I
 17 circled back around and informed the president of
 18 my actions and then Coach Paterno, Mr. McQueary.
 19 I guess that's the people.

20 **Q** Now, specifically with regard to the
 21 information that you got from Mike McQueary in
 22 your meeting -- and I'm going to ask you to be as
 23 specific as you can recall -- what exactly did he
 24 tell you he had seen Jerry Sandusky doing in that
 25 shower with that young man?

1 **A** I can't recall the specific conversation
 2 with Mike and exactly how he said it. My
 3 recollection was that Mike could hear there were
 4 people in -- they were in the shower area, that
 5 they were horsing around, that they were playful,
 6 and that it just did not feel appropriate.

7 **Q** Are you saying that Mike McQueary did not
 8 tell you specifically that there was anal
 9 intercourse occurring between Jerry Sandusky and
 10 this child?

11 **A** Absolutely not, that he did not tell me
 12 that.

13 **Q** Did he tell you that it was, in fact, in
 14 his estimation definitely a child and nothing
 15 other than that, no one older than a small child?

16 **A** I can't recall how he described the
 17 person in there. My recollection was it was a
 18 young adult or it was young child. It was a
 19 child, not a young child, a child.

20 **Q** Not a man?

21 **A** Not a man.

22 **Q** Was there any indication to you of what
 23 type of conduct was occurring? How would you
 24 characterize what McQueary told you about what
 25 the conduct was?

1 **A** Again, I can't remember specifically how
2 Mike described it. My recollection was that they
3 were kind of wrestling, there was body contact,
4 and they were horsing around.

5 Q Did he indicate to you that they were
6 naked?

7 **A** No. I assume they were, but no.

8 Q Did he indicate to you that there was
9 sexual conduct?

10 **A** No.

11 Q Of any kind?

12 **A** No.

13 Q But he was clearly uncomfortable with
14 what he had seen?

15 **A** Correct.

16 Q As a result of this, you thought it
17 appropriate to inform the university, the
18 president of the university?

19 **A** That's correct.

20 Q Graham Spanier?

21 **A** Yes.

22 Q Inform the executive director of the
23 Second Mile which is a charity which helps young
24 boys?

25 **A** That's correct.

1 Q And women, young girls --

2 **A** Yes, young children.

3 Q It started out helping boys?

4 **A** I don't know that, but yes.

5 Q It was founded by Mr. Sandusky, correct?

6 **A** That's correct.

7 Q You indicated that you met with Jerry
8 Sandusky. What specifically did you tell Jerry
9 Sandusky that you believe had occurred in the
10 showers?

11 **A** I cannot recall my specific conversation
12 with Jerry in terms of the details of it. My
13 recollection was that I shared with him that we
14 had an employee that had come to us with this
15 information, that the employee was uncomfortable
16 with what the activity was taking place in the
17 shower, and that that was the information we had
18 received.

19 Q Did Sandusky admit to being in the shower
20 with the boy?

21 **A** Not initially.

22 Q Did he ultimately come around to
23 admitting that he had been there with the boy?

24 **A** He admitted that he was there that
25 evening. I can't recall if he said he was there

1 with a young man, but he did indicate --
2 initially his memory said he didn't think he was
3 there on that date. I do recall that, but I
4 don't recall whether or not he said he was with
5 an individual.

6 Q Subsequently, did he come back to you and
7 in some way, either by phone or in person, admit
8 to you that he had been there?

9 **A** That's my recollection.

10 Q Was it in person by or by phone?

11 **A** I believe it was in person.

12 Q Did you take specific action with regard
13 to Jerry Sandusky? At this point he's not an
14 employee you indicated. What did you tell him
15 with regard to his being on university property?

16 **A** Yes. When I met with Jerry, because I
17 was uncomfortable with the information we
18 received, I indicated to him that in addition to
19 reporting it to the executive director of the
20 Second Mile, that I did not want him using our
21 athletic facilities for workout purposes and
22 bringing any young people with him. He was not
23 to use our facilities with young people.

24 Q In addition, you reported this to the
25 executive director of the Second Mile, correct?

1 **A** That's correct.

2 Q Was that an in-person meeting or a
3 telephone meeting?

4 **A** That was an in-person meeting. Well,
5 first I contacted to say I wanted to meet and
6 then we met in person.

7 Q I take it that what you informed the
8 executive director -- well, I don't want to put
9 words in your mouth. Tell me what you told the
10 executive director.

11 **A** I informed the executive director of the
12 same information that Mike relayed to us and that
13 was the information.

14 Q Did you discuss this matter with Tim
15 Schultz, the senior vice president for the
16 university, at the time that it was reported?

17 **A** Gary Schultz.

18 Q I'm sorry.

19 **A** Yes. Gary Schultz is the senior vice
20 president. Gary was the other individual that
21 was with me when Coach Paterno initially reported
22 it to us.

23 Q Did you have discussions with him about
24 how this would be handled or did you make these
25 recommendations yourself?

1 **A I don't recall the specifics on what**
 2 **conversations I had with Gary. I do know that I**
 3 **was the one that came forward to say I think that**
 4 **this is the appropriate action, that we need to**
 5 **report it to the Second Mile, and that I wanted**
 6 **to meet with Jerry.**

7 Q Did you, yourself, ever report this
 8 incident to the university police?

9 **A No, ma'am.**

10 Q Were you aware that the report that Mike
 11 McQueary made could be considered a crime by
 12 Jerry Sandusky?

13 **A I didn't think that it was a crime at the**
 14 **time.**

15 Q So you didn't make a report to the
 16 university police?

17 **A No, ma'am.**

18 Q But you brought it to the attention of
 19 the university president?

20 **A That's correct.**

21 Q Did he have any input on how this matter
 22 was handled?

23 **A Well, the input was that we provided the**
 24 **information to him and then made the**
 25 **recommendation of the follow-up action that we**

1 **wanted to take or that I wanted to take.**

2 Q So the decision not to report it to the
 3 police was your decision?

4 **A Yes. I didn't see any reason because I**
 5 **didn't, at that time, think it was a crime.**

6 Q Do you recall whether you ever consulted
 7 with university counsel regarding potential
 8 liability to the university for this incident?

9 **A I personally did not, that I recall.**

10 Q As far as you know then, the matter was
 11 handled strictly by the referral to the Second
 12 Mile and by barring Mr. Sandusky from bringing
 13 any young persons on university property?

14 **A That's correct.**

15 Q At the time of the incident in 2002, were
 16 you aware of any other incidents involving
 17 alleged sexually inappropriate misconduct by
 18 Mr. Sandusky anywhere, on university property or
 19 otherwise?

20 **A No, ma'am.**

21 Q Since this has come to light, have you
 22 become aware of other allegations of
 23 inappropriate sexual conduct by Jerry Sandusky on
 24 university property or elsewhere?

25 **A Other than what was mentioned this**

1 **morning.**

2 Q Specifically a 1998 report, did you know
 3 anything about that in 2002?

4 **A No, ma'am.**

5 Q If an incident occurs involving an
 6 athlete on campus and the university police are
 7 involved with an athlete, would that be brought
 8 to your attention as the athletic director?

9 **A Could you rephrase that? I didn't**
 10 **understand it.**

11 Q If a criminal incident occurred or any
 12 kind of incident involving an athlete and the
 13 university police are involved in the
 14 investigation, would that be brought to your
 15 attention?

16 **A I would say in most cases.**

17 Q If there was an incident involving a
 18 coach and an allegation of criminal conduct on
 19 campus, would that be brought to your attention,
 20 would you think, as the athletic director?

21 **A I would think, but I don't know.**

22 Q But the 1998 incident was never brought
 23 to your attention?

24 **A No, ma'am, not that I recall.**

25 Q Have you ever heard -- anything other

1 than what you heard from Mike McQueary, have you
 2 ever heard anything at all regarding
 3 inappropriate conduct between Jerry Sandusky and
 4 young men either on or off campus?

5 **A No.**

6 Q What was Sandusky's status in 2002 that
 7 allowed him to come and go on university
 8 property?

9 **A Jerry had what the university calls**
 10 **emeritus status. His status at that time, he was**
 11 **not employed at the university in 2002, but he**
 12 **had what they call emeritus status, which I'm not**
 13 **sure if I know all of the benefits of that. But**
 14 **I know one of the benefits is that he can have**
 15 **office space and utilize campus resources.**

16 Q Do you know if he had office space in
 17 2002?

18 **A 2002, yes, he had office space in the**
 19 **east area locker room.**

20 Q Is that in the Lasch Building?

21 **A No, it's right across the street.**

22 Q Does Sandusky still enjoy that emeritus
 23 status at this point?

24 **A Yes, ma'am.**

25 Q There was no practical way to enforce him

1 not bringing children onto the campus, however,
2 after he was warned not to; is that correct?

3 **A That's correct.**

4 **Q** Does he still have an office on campus?

5 **A My understanding is -- and I don't know**
6 **this for fact. But my understanding is we needed**
7 **his office to accommodate some people. So I**
8 **don't think he has one currently.**

9 **And that was probably about a year or two**
10 **ago where we had some space issues and he wasn't**
11 **using the office that much. So I believe he no**
12 **longer uses the office, but I don't know that 100**
13 **percent.**

14 **Q** The office that you knew him to have in
15 the east area across from the Lasch Building, who
16 else would have had offices in that area besides
17 Sandusky?

18 **A The area that the office is located is in**
19 **our academic support area. And I don't know. I**
20 **think there's one other office there and I don't**
21 **know who it's assigned to.**

22 **Q** When you say the academic support area,
23 can you explain what that is and what kind of a
24 building it is and would only have two offices in
25 it?

1 **A Yes. It's called the east area locker**
2 **room. This is our old football building. The**
3 **football office moved over to a new facility**
4 **called the Lasch Building.**

5 **So now the east area locker room**
6 **currently has field hockey, men's lacrosse,**
7 **women's lacrosse housed there and then it has an**
8 **academic study hall area on the second floor.**

9 **Q** To assist the athletes?

10 **A That's correct.**

11 **Q** And then you're indicating --

12 **A And there's a strength room there as well**
13 **and a training room and locker rooms.**

14 **Q** And that's where Sandusky's office was?

15 **A That's correct.**

16 **Q** You say there was one other individual at
17 that time in 2002 who would have had an office
18 there, but you don't know who that is?

19 **A I don't know who was -- there's I think**
20 **two offices there, but I don't know who was there**
21 **in 2002. And I don't know who is there right**
22 **now.**

23 **Q** Did he have a secretary attached to that
24 office?

25 **A No, ma'am.**

1 **Q** Strictly a desk and a room?

2 **A An office, yes.**

3 **Q** Was that a building that was typically
4 locked, that east locker room building?

5 **A After building hours it would be locked,**
6 **yes.**

7 **Q** He would have had to have a key to enter?

8 **A Correct.**

9 **Q** Was it a key literally, an old-fashioned
10 key, or was it a key card in 2002? What was the
11 system at that time?

12 **A The system for the east area locker room**
13 **I believe was a key and it still is today, I**
14 **believe.**

15 **Q** How about the Lasch Building? How would
16 one get into the Lasch Building?

17 **A It's still a key system I believe. I**
18 **don't know for sure.**

19 **Q** When you met with Mike McQueary --

20 **A If I could just back up, that's not my**
21 **office. My office is in another part of campus.**
22 **So I just don't know whether it's a key or a**
23 **swipe system. I just don't know.**

24 **Q** When you met with Mike McQueary to let
25 him know the result of what he had reported to

1 you, do you recall telling him that Sandusky's
2 keys would be taken away from him?

3 **A I don't recall saying that because that**
4 **wasn't the action that I had taken. He may have**
5 **understood it that way when I indicated that they**
6 **were not supposed to use the facilities with**
7 **young people.**

8 **Q** Was the incident, the 2002 incident,
9 reported to the university police? I think
10 you've indicated it was not reported by you,
11 correct?

12 **A That's correct.**

13 **Q** Did you report the incident to the State
14 College Borough Police or the Centre County
15 Children and Youth program?

16 **A I did not.**

17 **Q** Do you know if anyone did?

18 **A I do not.**

19 **Q** Other than yourself and Senior Vice
20 President Schultz and President Graham Spanier
21 and Mike McQueary, do you know of anyone else who
22 had knowledge of the 2002 incident?

23 **A Just Coach Paterno and Jack Raykovitz,**
24 **the person I went to at the Second Mile.**

25 **Q** Was there ever any investigation that you

1 know of conducted by you or anyone at the
 2 university into the incident in 2002?
 3 **A Not by me and I'm not aware of any.**
 4 Q This was an incident that obviously had
 5 Mike McQueary so concerned that he reported it to
 6 Paterno, and Paterno so concerned that he
 7 reported it to you and yet there was no
 8 investigation; is that correct? This was an
 9 incident of concern, but there was no effort to
 10 investigate it?
 11 **A Other than the follow-up meeting that I**
 12 **had with Mike.**
 13 Q And you met with Sandusky?
 14 **A And Jerry and Dr. Raykovitz.**
 15 Q Did you ask Jerry Sandusky who the boy
 16 was that was with him in the shower?
 17 **A I did not.**
 18 Q Did you attempt to find out who that
 19 young man was?
 20 **A I did not.**
 21 Q Obviously, you're a person of more than
 22 reasonable intelligence who's running a Division
 23 1 football program, not only the football
 24 program, but the entire athletic program. Did it
 25 not occur to you that there was something sexual

1 going on in this incident based on what was
 2 referred to you by Mike McQueary?
 3 **A I was not aware of anything sexual. So I**
 4 **didn't feel that it warranted that and I felt my**
 5 **actions were appropriate. But I was not aware**
 6 **that there was sexual activity.**
 7 Q If you didn't think this was sexual in
 8 nature or criminal in nature, then why did you
 9 take the action of barring Sandusky from bringing
 10 youths onto the university property?
 11 **A Because I didn't think it was appropriate**
 12 **that he would be using our facilities, having**
 13 **young people in there in the evening, and that**
 14 **you're in a shower area horsing around with a**
 15 **young person.**
 16 Q Did that concern extend to what he might
 17 be doing to those youths off university property
 18 if you didn't report this to somebody?
 19 **A No, not at the time, it didn't.**
 20 Q I think you have answered this, but I
 21 want to be clear. The decision to limit
 22 Sandusky's access with children to university
 23 property was made by who?
 24 **A I'm sorry. It was made --**
 25 Q It was you?

1 **A Yes, ma'am.**
 2 Q The decision not to report this to police
 3 was made by you?
 4 **A Yes.**
 5 Q The decision to report this to the Second
 6 Mile, the individuals in charge there, was made
 7 by you?
 8 **A Yes.**
 9 Q All of these decisions were made known to
 10 the president of the university and he concurred
 11 in your decisions?
 12 **A That's correct.**
 13 Q By Mr. Fina.
 14 Just to be clear, sir, you didn't do
 15 these things in a vacuum. You proposed these as
 16 the resolution to this and you were affirmed in
 17 that by your supervisors?
 18 **A Yes.**
 19 Q So, in fact, the ultimate decision was
 20 not yours. You made the decision on proposals,
 21 but the ultimate decision to take this action
 22 instead of any other would have been by your
 23 supervisors?
 24 **A I reported it to my direct employer,**
 25 **which is President Spanier, and made the**

1 **recommendation and proceeded.**
 2 Q Was there a specific conversation about
 3 whether or not to go to law enforcement
 4 authorities about this?
 5 **A At the time I don't recall that because,**
 6 **again, I didn't feel -- at least I didn't feel**
 7 **personally that any criminal activity had**
 8 **occurred. So my thought was that because a young**
 9 **person was there, that I needed to take it to the**
 10 **Second Mile.**
 11 Q But you made this determination without
 12 talking to the young person who was there or any
 13 other investigative measures. There were no
 14 other investigative steps made to determine
 15 whether or not there was anything sexual about
 16 this conduct?
 17 **A Again, I don't remember any report to me**
 18 **that it was sexual in nature. It was**
 19 **inappropriate behavior. So I didn't feel that**
 20 **that was necessary and felt that it was**
 21 **important.**
 22 **Whether I knew it at the time or not, I**
 23 **don't know, but I thought it was probably a**
 24 **Second Mile person. You know, it was a young**
 25 **person. So I thought it was appropriate to give**

1 the information to the Second Mile or to the
2 executive director of the Second Mile.

3 Q If it was your understanding it was not
4 sexual and you had no information that would lead
5 you to believe it was sexual or even that it
6 involved a Second Mile minor, why would you take
7 the rather extraordinary step of going to the
8 executive director of a nonprofit that is not
9 part of the university and informing them of this
10 incident?

11 A Because I think that Mike felt he was
12 uncomfortable with the behavior. And based on
13 what I heard that was reported to me, I just
14 didn't feel it was appropriate that Jerry would
15 be in a shower area with a young person. Whether
16 it was horsing around or however you want to
17 describe it, I just didn't think that would be
18 appropriate and shouldn't occur.

19 Q Mr. McQueary was uncomfortable because
20 there was a child who was not a student and not
21 an employee of the university on university
22 property. Is that what you're saying?

23 A My recollection was that he was
24 uncomfortable they were in the shower and it was
25 just the two of them and that they were horsing

1 around and inappropriate conduct. It was
2 inappropriate conduct. I think he felt that this
3 just didn't feel right.

4 Q Well, sir, listening to the words you
5 just used, I think a reasonable person would
6 immediately jump to, there could be a sexual
7 nature to this. You have a grown male with a
8 child naked in the shower horsing around. What
9 is it that specifically alarmed Mr. McQueary?
10 What did you take away from that meeting?

11 A I took away that he didn't feel
12 comfortable with the activity that was happening
13 and it wasn't appropriate that we had an adult
14 and a young child or a person in the shower area
15 and that it was a situation that -- and that's
16 what alarmed him.

17 Q With regard to your meetings with
18 Sandusky, I just want to make sure I understand
19 this. Mike McQueary tells Coach Paterno about
20 the incident and Coach Paterno contacts you
21 within a matter of days of the incident in the
22 shower in 2002, correct?

23 A That's correct.

24 Q Do you remember what day of the week
25 Coach Paterno contacted you?

1 A I believe it was a Sunday.

2 Q And you met with him and with Gary
3 Schultz when?

4 A That day.

5 Q Sunday as well?

6 A Could you back up? When you said --

7 Q You were contacted by Coach Paterno to
8 report the incident to you on a Sunday?

9 A I believe.

10 Q Did your meeting with Coach Paterno and
11 Gary Schultz take place on Sunday as well or was
12 that during the week?

13 A No. When he contacted us, he said come
14 over to the house. He didn't tell us what it
15 was.

16 Q So the two of you went to Coach Paterno's
17 house?

18 A Yes.

19 Q On a Sunday?

20 A I'm not sure of the exact date.

21 Q As best you can recall?

22 A Yeah.

23 Q How much later approximately did you meet
24 with Mike McQueary and get the information
25 directly from McQueary?

1 A I don't recall how many days it was, but
2 it was soon after that.

3 Q Would you say it was within a week?

4 A Yes.

5 Q Was Gary Schultz also present for that
6 meeting with McQueary?

7 A It's my recollection.

8 Q How quickly after that did you make the
9 decisions to do the various things that you did,
10 talk to Sandusky, go to Second Mile, advise the
11 president? How quickly did that happen?

12 A I don't remember the number of days, but
13 it was soon after that. I would say within two
14 weeks.

15 Q Specifically with regard to your meeting
16 with Sandusky, the very first meeting that you
17 had with him in which you told him of the
18 allegations of the incident that had occurred in
19 the shower and he said to you at that time I
20 don't think I was there, how long did that
21 meeting take place after this incident was
22 reported to you by Coach Paterno?

23 A It would have been within that two weeks
24 right after talking to Mike or right after that.
25 Now, I just don't know how many days it was, but

1 it was a week to two weeks.

2 Q How long after that initial meeting with
3 Sandusky did Sandusky come back and tell you,
4 yeah, I was in the shower?

5 A I believe it was soon after that. It was
6 a day or two after that.

7 Q No further questions. Testimony
8 concluded at 11:59 a.m.

9 Date, January 12th, 2011, 12:02 p.m.

10 Witness, Gary Schultz, S-C-H-U-L-T-Z.

11 Questioning for the Office of Attorney General,
12 Jonelle Eshbach, Frank Fina.

13 Would you please introduce yourself to
14 the Grand Jury and spell your last name for the
15 court reporter's benefit?

16 A Sure. My name is Gary Schultz,
17 S-C-H-U-L-T-Z. I am a retired senior vice
18 president for finance and business at Penn State
19 University.

20 Q You are accompanied today by counsel,
21 Cynthia Baldwin; is that correct?

22 A That is correct.

23 Q When did you retire from the university?

24 A In June of 2009.

25 Q In June of 2002, did you occupy that

1 position as senior vice president?

2 A Yes, I did.

3 Q Could you please explain to the Grand
4 Jury in that capacity what operations of the
5 university were under your authority?

6 A Yes. Within an academic institution, we
7 have the chief academic officer. That's commonly
8 referred to as the provost. That's not me.

9 I really run the operations of the
10 university, the physical plant, all the
11 facilities and services of those facilities, all
12 the housing and food services; if you have ever
13 been on Penn State campus, the Nittany Lion Inn,
14 the airport, all kinds of printing and fleet,
15 human resources, university police, and all the
16 finance elements of the university which would
17 include the controller, the budget office and the
18 investment office.

19 Q With regard to Penn State's athletic
20 program, the Grand Jury has already met the
21 athletic director. Could you explain your
22 position vis-à-vis Mr. Curley as the athletic
23 director?

24 A Yes. Mr. Curley directly reports to the
25 president of the university, but kind of a

1 day-to-day working arrangement is that he would
2 often behave like he reported to me as well.

3 Q I'd like to direct your attention to a...
4 time around spring break of 2002 as it's been
5 reported to us. Do you recall being called and
6 requested to attend a meeting with Coach Paterno
7 to report an unusual incident?

8 A I do recall such a meeting.

9 Q Would you please tell the Grand Jurors
10 what you remember, everything that you can
11 remember about that incident and the time that it
12 occurred?

13 A Yes. I believe the meeting occurred in
14 my office. It included the athletic director,
15 Tim Curley, and Coach Paterno. Coach Paterno
16 wanted the meeting. It was essentially called at
17 his request.

18 He indicated that someone observed some
19 behavior in the football locker room that was
20 disturbing. I believe the impression I got was
21 it was inappropriate and he wanted to bring that
22 to Tim Curley and my attention.

23 Q Specifically, did Coach Paterno tell you
24 who had observed this inappropriate disturbing
25 behavior?

1 A No, I don't believe he did. I recall
2 having the impression that it was a student or a
3 grad student that observed the purported
4 incident.

5 Q Did you know who it was that had
6 allegedly engaged in this inappropriate conduct?

7 A Well, yes.

8 Q Who was it?

9 A He told me that it was Jerry Sandusky and
10 some unnamed boy.

11 Q Who was Jerry Sandusky? Who did you know
12 Jerry Sandusky to be at that time?

13 A Was this in 2002?

14 Q Yes, please.

15 A Well, in 2002, Jerry Sandusky was retired
16 from coaching at Penn State and, you know,
17 continued to have involvement with the Second
18 Mile.

19 Q What's the Second Mile?

20 A Well, I mean, the Second Mile is a
21 program that I think Jerry founded that provides
22 opportunities for children who might have had
23 some difficulty in their early life and giving
24 them life skills and mentoring to try to improve
25 their future.

1 Q It's a not-for-profit that helps
2 children?

3 **A It's my understanding, yes, it's not for**
4 **profit.**

5 Q The incident that was reported to you by
6 Coach Paterno, were the words disturbing and
7 inappropriate -- were those Paterno's words?

8 **A I don't remember his precise words. I'm**
9 **using words now, when I tell you, that was the**
10 **impression that I had. I don't recall his exact**
11 **words.**

12 Q Again, where was this incident supposed
13 to have occurred?

14 **A I believe it was in the Lasch Building.**

15 Q What kind of a facility is that?

16 **A Well, the Lasch Building is the football**
17 **building. The coaches have their offices there**
18 **and it's the team's locker room.**

19 Q That would be a building that would be
20 expected that Jerry Sandusky would have access to
21 as a former coach?

22 **A Yes. With all the years of service that**
23 **Jerry had, I believe that when he decided to**
24 **retire, that he continued to have relationships**
25 **with the football program and access to the**

1 **building.**

2 Q While you're on the subject of his
3 retirement, what were the circumstances of his
4 retirement? Was there anything unusual about his
5 retirement that you can recall?

6 **A No. I candidly have recollections that**
7 **Coach Paterno and Jerry had reached a point where**
8 **I think Coach Paterno felt it would be best to**
9 **make a coaching change. I had that underlying**
10 **feeling or understanding. Jerry was enrolled in**
11 **the Commonwealth State Employee Retirement**
12 **System, which employees at Penn State have the**
13 **option to elect into.**

14 **It turns out at the time that he was**
15 **contemplating retirement, there was a retirement**
16 **incentive. I think they called it a retirement**
17 **window or something that was referred to as such.**
18 **But in other words, if you retired by a certain**
19 **date, a window of time, your retirement was**
20 **enhanced.**

21 **So Jerry had that as kind of a factor or**
22 **a key factor in deciding the timing of his**
23 **retirement, which I believe the window would**
24 **close at the end of June in that particular year.**
25 **So if he didn't make the decision to retire by**

1 **the end of June, he would have lost the benefit**
2 **of that early retirement window.**

3 Q Do you recall knowing of any other reason
4 that might have motivated him to retire at that
5 time?

6 **A No.**

7 Q Did you know him to be spending a lot of
8 time with the Second Mile program at that time?

9 **A I wasn't that close to how he spent his**
10 **time. He certainly was visible as an identity of**
11 **the Second Mile. They used to refer to them as**
12 **Jerry's kids. So his name was clearly a brand**
13 **associated with the Second Mile, but I had no**
14 **idea how much time he physically spent.**

15 Q You said that you did not have -- did you
16 ever meet directly with Mike McQueary?

17 **A Yes.**

18 Q When?

19 **A I don't recall the exact circumstances.**
20 **In fact, it was this morning when you asked me a**
21 **question that I first recalled that there was**
22 **such a meeting.**

23 Q You don't recall where it took place?

24 **A I think it occurred in my office, I**
25 **believe.**

1 Q At that time, did McQueary relate to you
2 what he had observed in the locker room?

3 **A No. My recollection was McQueary and Joe**
4 **both only described what was observed in a very**
5 **general way. There was no details.**

6 Q Did you, nevertheless, form an impression
7 about what type of conduct this might have been
8 that occurred in the locker room?

9 **A Well, I had the impression that it was**
10 **inappropriate. Telling you what kind of thing I**
11 **had in my mind without being clear, without him**
12 **telling me, but, you know, I had the feeling that**
13 **there was perhaps some kind of wrestling around**
14 **activity and maybe Jerry might have grabbed the**
15 **young boy's genitals or something of that sort is**
16 **kind of the impression that I had.**

17 Q Would you consider that to be
18 inappropriate sexual conduct?

19 **A Oh, absolutely. Well, I don't know the**
20 **definition of sexual, but that's certainly**
21 **inappropriate for somebody to do.**

22 Q It would give you pause or concern if an
23 adult male and an underage male were in a shower
24 and that adult male grabbed the genitals of the
25 younger male?

1 **A Yes.**

2 Q Do you not recall anything more specific
3 than that that Mike McQueary reported to you?

4 **A I do not recall, no.**

5 Q Did you consult with Tim Curley as to
6 what would be done as a result of this 2002
7 report?

8 **A I believe Tim and I had -- yes, we had
9 conversation at that time.**

10 Q Whose recommendations -- what was done,
11 first of all?

12 **A Well, my recollection was -- and I'm not
13 so sure it's -- I'm not as confident, but I think
14 we decided it would be appropriate to just say to
15 Jerry that you shouldn't be bringing the Second
16 Mile kids onto campus in the football building.**

17 **So I believe Tim communicated to Jerry
18 that that type of thing should not be occurring
19 in the future. I also have a recollection that
20 we asked the child protective agency to look into
21 the matter.**

22 Q When you say child protective agency, was
23 that a university department or something off
24 university?

25 **A Yeah. My understanding is it's somehow**

1 **affiliated with the Commonwealth of Pennsylvania.**

2 Q Who specifically asked that that
3 investigation be done?

4 **A I don't recall.**

5 Q Was it you?

6 **A It may have been. I don't recall.**

7 Q Do you remember to whom you would have or
8 anyone would have made such a request, an
9 individual, the name of the agency, where it was
10 located?

11 **A I don't recall the details, but I can
12 tell you that there was an investigation earlier
13 that the child protection agency -- and I may
14 have that technically incorrect, but it was this
15 agency that I'm referring to that conducted an
16 earlier investigation. So my recollection would
17 be in 2002 that they were asked to look into this
18 allegation.**

19 Q Now, I don't want to necessarily get away
20 from 2002, but you're referring now to an
21 incident that was reported in 1998 involving
22 Mr. Sandusky and one or two young boys on the
23 campus at the university; is that correct?

24 **A I believe it was in '98, yes.**

25 Q And that incident was reported to the

1 university police, correct?

2 **A My recollection is that the mother
3 contacted university police with regard to her
4 son and that that started a police investigation.**

5 Q Are you practically certain that there
6 was a police investigation in 1998?

7 **A Well, I know the police were involved,
8 but my recollection is that it was decided that
9 this child protection agency would be the better
10 entity to do the investigation.**

11 Q Were you, yourself, ever questioned with
12 regard to that '98 incident?

13 **A I don't recall I was, no.**

14 Q Do you know if any criminal charges arose
15 from the 1998 report?

16 **A To the best of my knowledge, there were
17 none.**

18 Q What did you understand the 1998
19 incident, in a general way, to allege?

20 **A Again, I thought that it had some basis
21 of inappropriate behavior, but without any
22 specifics at all.**

23 Q At the time of finding out in 2002 about
24 the allegations of the inappropriate conduct in
25 the shower by Sandusky, you were aware of the

1 1998 allegations --

2 **A That's correct.**

3 Q -- of the same nature involving Sandusky?

4 **A An allegation, yes.**

5 Q It's your testimony that you believed the
6 2002 incident was reported to the same agency,
7 that child protective services agency, for an
8 investigation as the '98 one had been?

9 **A That's my recollection, yes.**

10 Q You did not meet with Jerry Sandusky
11 about any of these incidents whatsoever?

12 **A No, I did not.**

13 Q Did Tim Curley report back to you about
14 his contact with Jerry Sandusky regarding the
15 incident in 2002?

16 **A I can't say for sure. I had the
17 impression that Tim did follow through and make
18 sure Jerry understood that he was no longer
19 permitted to bring Second Mile children into the
20 football facility.**

21 Q Did you, yourself, ever attempt to
22 determine the identity or age of the boy in the
23 shower in the 2002 incident?

24 **A No.**

25 Q Do you know if anyone in the university

1 under your auspices then when you were senior
2 vice president attempted to learn that
3 information?

4 **A No.**

5 **Q** Knowing that there was an incident in
6 1998 involving a boy or boys and the incident in
7 2002, did you not feel it was appropriate to
8 further investigate the incident to determine if
9 something truly sexually inappropriate had
10 occurred on campus?

11 **A Yes. Again, '98 was investigated. There**
12 **was an allegation. I have no idea what the**
13 **conclusion of that investigation was, whether**
14 **there was any merit to the allegation or not. I**
15 **did have the impression that it concluded without**
16 **any charges being filed.**

17 **The incident in 2002, again, I recall**
18 **that it was also turned over to that same agency**
19 **for investigation and it's appropriate for them**
20 **to do that, not for me to determine the name of**
21 **the boy. I wasn't doing an investigation.**

22 **Q** Do you remember whether the District
23 Attorney was consulted at all in the 1998
24 investigation?

25 **A I believe the District Attorney was in**

1 **1998. I think, again, my recollection -- this is**
2 **a long time ago. But my recollection was that**
3 **between the university police chief and the**
4 **District Attorney and perhaps university legal**
5 **counsel and myself, the decision was made to use**
6 **the child protection agency as the appropriate**
7 **investigative agency.**

8 **Q** Who was the university legal counsel when
9 that decision was made?

10 **A His name was Wendell Courtney.**

11 **Q** He was with the firm of McQuaide Blasko?

12 **A That's correct.**

13 **Q** Do you believe that you may be in
14 possession of any notes regarding the 2002
15 incident that you may have written memorializing
16 what occurred?

17 **A I have none of those in my possession. I**
18 **believe that there were probably notes taken at**
19 **the time. Given my retirement in 2009, if I even**
20 **had them at that time, something that old would**
21 **have probably been destroyed.**

22 **I had quite a number of files that I**
23 **considered confidential matters that go back**
24 **years that didn't any longer seem pertinent. I**
25 **wouldn't be surprised. In fact, I would guess if**

1 **there were any notes, they were destroyed on or**
2 **before 2009.**

3 **Q** You indicated that you consulted with Tim
4 Curley. Did you agree with his recommendations
5 as to how this should be handled?

6 **A I don't know if it was a recommendation**
7 **but, yes, we reached agreement. I can't remember**
8 **if I recommended, he recommended or who**
9 **recommended, but at the conclusion of discussion,**
10 **there was agreement. There was no disagreement.**

11 **Q** Did you, yourself, directly consult with
12 Graham Spanier, the president of the university,
13 concerning the 2002 incident?

14 **A I believe so. It was a routine way of**
15 **kind of handling business, that I would have had**
16 **a conversation with the president about such a**
17 **matter, yes.**

18 **Q** Did the president of the university
19 express concern about this incident at the time
20 it was reported to him?

21 **A Very similar to mine and Tim's, yes. We**
22 **took it seriously.**

23 **Q** Did President Spanier appear to approve
24 of the way in which you and Athletic Director
25 Curley handled this?

1 **A Yes. Again, my recollection was that**
2 **there was agreement.**

3 **Q** Do you know if President Spanier was
4 aware of the 1998 incident at the time of the
5 2002 incident?

6 **A I believe so, yes.**

7 **Q** Why do you believe so? Did you tell him
8 or was it discussed?

9 **A Again, I don't remember the specifics of**
10 **the conversation I had with him, but it would**
11 **have been a routine kind of way of handling**
12 **things, that I would have kept him informed about**
13 **the '98 as well as the 2002 reports.**

14 **Q** You knew, of course, that the incident in
15 1998 was alleged to have taken place very
16 similarly in the Lasch Building in the shower
17 with a young boy or more than one young boy?

18 **A I honestly don't recall that '98 I knew**
19 **anything about the details of what the allegation**
20 **was from the mother. I do recall there was a**
21 **mother with a young boy who reported some**
22 **inappropriate behavior of Jerry Sandusky. But I**
23 **don't recall it being reported in the Lasch**
24 **Building or anything of that sort.**

25 **Q** The reports on that were something that

1 you could have had access to as the director, the
2 police being under your purview of the
3 university; is that correct?

4 **A I probably would have been able to, but**
5 **it was my practice that I didn't ask the police**
6 **for police reports.**

7 Q In 2002, when you became aware of this
8 allegation in the shower, did you then seek out
9 the 1998 report to find out what it was that
10 Sandusky specifically was alleged to have done?

11 **A No, I did not. Honestly, I don't know**
12 **what the procedures are. I assume that that**
13 **report was with the child protection agency and**
14 **not Penn State University Police. I thought the**
15 **police turned it over and that investigation was**
16 **then handled independently.**

17 Q You thought that the university police
18 would not have kept any kind of record of that
19 investigation?

20 **A That there was a -- yeah, I think they**
21 **would have a record that a complaint was received**
22 **and that it was turned over. But I wouldn't have**
23 **assumed that they would have the report from the**
24 **other agency.**

25 Q You wouldn't assume that the police would

1 keep reports of all their investigations that
2 they have conducted?

3 **A They didn't conduct it. The other agency**
4 **did was my understanding. So, yeah, I believe**
5 **they have reports of investigations that they**
6 **have done, but this I thought was turned over to**
7 **another agency.**

8 Q You knew the university police were
9 involved in the 1998 investigation, right?

10 **A Yes.**

11 Q But you didn't attempt to find out
12 whether they had anything that would substantiate
13 or cause you to come to some conclusions
14 regarding the 2002 incident and whether or not it
15 might have actually occurred? That didn't occur
16 to you, to check into the 1998 incident more
17 firmer?

18 **A No.**

19 Q And you didn't attempt to find out
20 anything about the identity of the youth that was
21 in the shower in 2002?

22 **A No.**

23 Q You've referenced and Mr. Curley also
24 referenced reporting this incident to the Second
25 Mile. You've indicated that you thought this was

1 a child from the Second Mile in the 2002 incident
2 and we know that in the 1998 incident it was a
3 Second Mile child.

4 Why did you think that a Second Mile
5 child was involved in the 2002 incident when you
6 didn't investigate to make sure?

7 **A Well, I'm not sure that I knew for sure**
8 **it was a Second Mile child in 2002. I think I**
9 **knew that it was a younger boy. I'm not sure I**
10 **knew definitively it was a Second Mile child.**

11 Q Did you have occasion to see Sandusky in
12 the company of young boys who were affiliated
13 with the Second Mile program?

14 **A I would see Jerry from time to time at**
15 **Second Mile events in the presence of lots of**
16 **children, sure.**

17 Q Did you ever see him on university
18 property at any time with boys who were of that
19 age, Second Mile age?

20 **A Well, technically, yes. I mean, some of**
21 **the Second Mile fundraising events and so forth**
22 **would be held on university property in either**
23 **the Nittany Lion Inn or the Penn Stater. So,**
24 **yes, I would see him at those events.**

25 Q Did you ever see him around at any

1 football games or football practices with kids?

2 **A No.**

3 Q Is that because you didn't go or because
4 you didn't see him?

5 **A I don't go to the practices. I do go to**
6 **the games. There's a hundred some thousand**
7 **people. I don't know if I saw Jerry there.**

8 Q So you're indicating that as far as you
9 know, no one from the university investigated the
10 2002 incident at all?

11 **A Yeah. As far as I know, the university**
12 **asked the other agency to follow-up as it did in**
13 **'98.**

14 Q One more thing I just want to be clear
15 on. When you met with Mike McQueary, was it or
16 was it not your impression that he was reporting
17 inappropriate sexual conduct, your impression --

18 **A Yes.**

19 Q Inappropriate sexual conduct by Jerry
20 Sandusky?

21 **A You know, I don't know what sexual**
22 **conduct's definition to be, but I told you that**
23 **my impression was -- you know, Jerry was the kind**
24 **of guy that he regularly kind of like physically**
25 **wrestled people. He would punch you in the arm.**

1 He would slap you on the back. He would grab you
2 and get you in a headlock, etc. That was a
3 fairly common clowning around thing.

4 I had the impression that maybe something
5 like that was going on in the locker room and
6 perhaps in the course of that, that somebody
7 might have grabbed the genitals, that Jerry might
8 have grabbed the genitals of the young boy. I
9 had no impression that it was anything more
10 serious than that. That was my impression at the
11 time.

12 Q Didn't you previously tell us in our
13 interview that you had the impression -- I have
14 it written down -- that this was inappropriate
15 sexual conduct?

16 A Again, depending on what you call -- I
17 mean, grabbing the genitals of the boy is what I
18 had in mind. Now, is that sexual? Yes.

19 Q We can all agree that an adult male under
20 no circumstances other than a doctor should be
21 grabbing the genitals of a young boy?

22 A I agree completely with that.

23 Q And that it doesn't happen accidentally?

24 A Rather than just agreeing to I thought it
25 was sexual conduct or misconduct, I'm explaining

1 what I really thought might have gone on. You
2 know, you can define that as you want. I'm
3 telling you what I thought was going on.

4 Q Would you agree with me that if it had
5 have been sodomy, that is, anal sex, that would
6 clearly be inappropriate sexual conduct?

7 A No doubt.

8 Q By Mr. Fina.

9 Sir, I just want to be real clear on
10 this. It was your impression after you talked to
11 McQueary that this was about some physical
12 conduct, some horsing around, some wrestling that
13 resulted in contact with a boy's genitals in the
14 context of wrestling. That was your impression
15 of what McQueary was reporting to you?

16 A I don't recall what McQueary specifically
17 reported, but I can tell you that I, after going
18 through whatever we went through in 2003, had
19 that impression that that was probably the kind
20 of thing that had taken place.

21 Q Nothing else? No further sexual conduct?

22 A No, I had no basis --

23 Q No intercourse?

24 A I had no basis of anything else, and I
25 only formed the impression that I had based on

1 kind of what I observed of Jerry and the kind of
2 horsing around that he does.

3 Q No, no. Please follow my questioning.
4 I'm not asking you what impression you had of
5 your observations of Mr. Sandusky over the years.
6 I'm asking you of your impression, what you
7 learned from Mr. McQueary, what he observed in
8 the shower.

9 A I don't recall himself telling us what he
10 observed specifically.

11 Q What generally did he report?

12 A I believe that he said that he saw
13 something that he felt was inappropriate between
14 Jerry and a boy.

15 Q And from his saying along the line of
16 something inappropriate, you took, oh, they must
17 have been wrestling and maybe he touched the
18 kid's groin?

19 A I could imagine that might have taken
20 place, yes.

21 Q Was McQueary upset? Was he emotional
22 about this?

23 A No, I don't recall him being upset.

24 Q He was calm; he was collected?

25 A Yes.

1 Q Nobody, not you, nor Curley, nor anybody
2 else went back to McQueary and asked for
3 specifics or at the time asked for specifics?

4 A No. Again, I recalled that we asked this
5 agency to do the investigation and I would let
6 them follow-up.

7 Q The agency that you were never
8 interviewed by, correct?

9 A That's correct.

10 Q Are you aware of anybody at the
11 university who was interviewed by any agency
12 about this incident?

13 A About 2002, I don't.

14 Q How is it that this agency, this whatever
15 it was, would even know who to talk to, to talk
16 to McQueary or to talk to you or to talk to
17 whoever? Who was supposed to relay this
18 information?

19 A I don't recall. I don't recall who
20 contacted the agency. I'm telling you, to the
21 best of my recollection, I believe that the
22 agency was asked to follow-up on the
23 investigation.

24 Q At no time did you contact any law
25 enforcement entity or individuals?

1 **A I had the impression that that agency had**
2 **some law enforcement authority.**

3 Q The agency that you can't identify?

4 **A Well, the child protection agency, the**
5 **same one that I think handled the '98**
6 **investigation.**

7 Q Sir, it might surprise you to know that
8 the '98 investigation was handled by your police
9 department and there's a --

10 **A In its entirety?**

11 Q There's a 95-page police report on that
12 incident.

13 **A In its entirety?**

14 Q Correct.

15 **A Wow. I thought that it was turned over**
16 **to the child protection agency for investigation.**

17 Q Did it ever occur to anybody that the
18 police might need to be contacted, either campus
19 police or this entity known as the Pennsylvania
20 State Police?

21 **A I don't recall that we talked about it**
22 **being turned over to the police.**

23 Q That was never part of the discussions
24 between you and Curley or you and Spanier or you
25 and anybody else?

1 **A No.**

2 Q Are you aware of any memorandums or any
3 written documents, other than your own notes,
4 that existed either at the time of this incident
5 or after this incident about the 2002 events?

6 **A No.**

7 Q Would that be standard? Would that be
8 the way the university operates when an
9 allegation is made against a current employee or
10 a very famous prior employee, that nothing be put
11 in writing?

12 **A The allegations came across as not that**
13 **serious. It didn't appear at that time, based on**
14 **what was reported, to be that serious, that a**
15 **crime had occurred. We had no indication a crime**
16 **had occurred.**

17 Q Do you recollect going to Joe Paterno's
18 house on a Sunday to be informed of this?

19 **A No.**

20 Q No, that you don't recollect? No, that
21 it did not happen?

22 **A No, I don't recollect it. Again, I**
23 **thought I was informed in a meeting that Joe and**
24 **Tim and I had at my office. Now, could it have**
25 **happened at Joe's house? Possibly.**

1 Q Would that be unusual, to be called to

2 Joe Paterno's house on a Sunday to discuss
3 something that wasn't even criminal or sexual?

4 **A Well, it wasn't an everyday thing, but**
5 **Tim and I and others would meet with Joe**
6 **weekends, Sundays and so on. But, yeah, it would**
7 **be an important matter if we were meeting with**
8 **Joe on a Sunday.**

9 Q By Ms. Eshbach.

10 In terms of university policy at the time
11 that you were the senior vice president, how
12 would a matter of inappropriate conduct by an
13 employee be handled, something along the lines of
14 perhaps a theft, criminal conduct?

15 **A If there was an allegation of a criminal**
16 **act, it would be turned over to the university**
17 **police for handling. On occasion, depending on**
18 **the nature of it, university internal audit might**
19 **get involved initially to do some background work**
20 **just to confirm an allegation.**

21 Q If there had been inappropriate or
22 criminal conduct by a student, would that go to
23 the provost side of things or would that come to
24 your side of things?

25 **A Well, if it was a criminal act, it would**

1 **be investigated by the police, yes.**

2 Q How about an incident of criminal conduct
3 involving a student athlete? How would that be
4 handled?

5 **A If it was criminal, it would be the**
6 **police. If it's not, there's an office of**
7 **student conduct.**

8 Q How about, again, inappropriate conduct
9 of an employee of the university?

10 **A If there was an allegation of some**
11 **criminal conduct, it would be handled by the**
12 **police.**

13 Q And, finally, a person in the status of
14 Mr. Sandusky who had access to the university
15 even though he was no longer an employee?

16 **A Same.**

17 Q You're saying that this incident wasn't
18 referred to the university police for
19 investigation because you didn't think it was
20 criminal?

21 **A There was no indication that it was.**

22 Q Can you give me an example of what you
23 would consider to be inappropriate conduct that
24 wasn't criminal? We did a lot of talking about
25 what's inappropriate, what's criminal, not

1 criminal.

2 Give me an example of conduct -- for
3 example, a university professor does something to
4 a student and a student reports it. I assume
5 that would go to the university police, right?

6 **A No, not necessarily. You asked for an**
7 **example. Not all inappropriate conduct is**
8 **criminal. Cursing at a student in class, if**
9 **you're a faculty member losing your temper,**
10 **perhaps might not be criminal, but it's not**
11 **appropriate for a faculty member to do such a**
12 **thing.**

13 Q How about an adult individual being naked
14 in the shower with a young boy and touching that
15 young boy? Clearly inappropriate, right?

16 **A Yeah, I would say.**

17 Q But not criminal in your mind, not
18 potentially criminal?

19 **A I didn't get the impression that there**
20 **was something like that going on.**

21 Q I thought you said that you thought
22 perhaps he had grabbed his genitals?

23 **A Well, you know, whether he -- I don't**
24 **know. I mean, I wasn't told what was really**
25 **going on. But if he did, if that was what it**

1 **was, he shouldn't do that. That's inappropriate.**
2 **I don't know if it's criminal. If it's in the**
3 **context of wrestling or something like that, I**
4 **don't know.**

5 Q The Grand Jurors would like to know your
6 age.

7 **A Sixty-one.**

8 Q You retired in May of 2009?

9 **A June.**

10 Q June of 2009?

11 **A Yes.**

12 Q When you retired, were you aware of any
13 other allegations of sexual conduct by Jerry
14 Sandusky against any other young boys not in 1998
15 and not in 2002, but any subsequent to that?

16 **A No.**

17 Q You knew of nothing?

18 **A Nothing.**

19 Q You look young for your age.

20 **A Thank you.**

21 Q Since this incident came to light in 2002
22 involving Sandusky and this boy in the shower,
23 did the university do anything in terms of
24 adopting a policy with regard to nonstudent youth
25 being on university facilities in the

1 circumstances that this young boy was?

2 **A No, I don't believe so.**

3 Q Did anybody do anything to prevent
4 something like this from happening again other
5 than telling Jerry Sandusky he's not supposed to
6 bring a kid on campus?

7 **A Well, we did that.**

8 Q But that was on the honor system, right?

9 **A Well, I don't know. I think Tim handled**
10 **it and I'm not quite sure what the enforcement**
11 **mechanism of that was. It may have been an honor**
12 **system. I think Tim trusted Jerry and if Jerry**
13 **said he understood and wouldn't do it, that's**
14 **what he believed.**

15 Q As far as you know, the university took
16 no steps to prevent something like this from
17 happening again?

18 **A Well, with regard to Jerry, I think we**
19 **did, yeah.**

20 Q How about other individuals?

21 **A I don't know exactly how to answer that.**
22 **I can imagine instances where adult men would**
23 **perhaps be in the shower with young boys.**

24 Q In a group?

25 **A Perhaps.**

1 Q But not alone?

2 **A Perhaps or maybe not. I don't know. I**
3 **mean, our recreation buildings, for example,**
4 **separate from the football building, which has**
5 **some restrictions, are pretty much open.**

6 Q Again, that would be a circumstance where
7 there would be likely a number of persons
8 present?

9 **A Could be, yeah.**

10 Q But the Lasch building was not a public
11 building?

12 **A No. But, you know, it's a building that**
13 **generally is active. It's used with all the**
14 **individuals on the team, the coaches, all the**
15 **support staff and so on. Football is a**
16 **12-month-a-year program. It's less open than a**
17 **public recreation facility would be, but I don't**
18 **want to characterize it as a place that's only**
19 **used like on a limited basis. It's used**
20 **regularly.**

21 Q Would you agree with me that on a Friday
22 night before the start of spring break, there
23 probably wouldn't be very many people in that
24 building?

25 **A Probably, yes.**

1 Q And a former staff member would
2 understand that, would know that kids would be
3 gone?

4 A Probably, yes, sure.

5 Q That's it.

6 Testimony concluded at 12:52 p.m.

7 THE COURT: Thank you.

8 (Witness excused.)

9 THE COURT: Mr. Beemer, any other
10 witnesses for the Commonwealth?

11 MR. BEEMER: No, Your Honor. For
12 purposes of this preliminary hearing, the
13 Commonwealth rests.

14 THE COURT: Ms. Roberto, would you like
15 to start with argument?

16 MS. ROBERTO: Yes, Your Honor.

17 Your Honor, today we were here for a
18 preliminary hearing on the crime of perjury at
19 Title 18, Section 4902.

20 And I think in order to understand what
21 the Pennsylvania Legislature has required for the
22 Commonwealth to prove, even at a prima facie
23 level before a Magistrate Judge, you have to
24 understand the background and the history of
25 perjury in Pennsylvania.

1 The cases are very clear, the Supreme
2 Court of Pennsylvania and the Superior Court have
3 routinely reaffirmed that perjury has to be more
4 than a he said/she said or a he said, in this
5 case, he said.

6 The courts have specifically prohibited
7 perjury from being just an oath against an oath.
8 That terminology is used throughout the cases.

9 So if you have Mike McQueary coming
10 forward to the Grand Jury, as he stated this
11 morning, and repeating the description to the
12 Grand Jury under oath that he repeated here
13 today, and then you have Tim Curley testifying to
14 the Grand Jury that he was not given that same
15 graphic information that Mr. McQueary said today,
16 you would not have perjury.

17 You would not have perjury under the
18 statute because that would be oath against oath.
19 The case law states that. And what the
20 Pennsylvania Legislature has done is incorporated
21 what the case law requires into Section 4902,
22 Section F.

23 If I can read it to the Court, it says
24 corroboration. In any prosecution, under this
25 section, except under section -- subsection E,

1 which is inconsistent statements, which doesn't
2 apply here, falsity of a statement may not be
3 established by the uncorroborated testimony of a
4 single witness.

5 So this morning I was trying to elicit,
6 and the Court gave me some leeway but not all the
7 leeway I asked for, to establish what
8 corroboration is there for what Mike McQueary
9 said to Tim Curley.

10 Obviously, there were no other people
11 present when Mr. Curley spoke with Mr. McQueary
12 other than Gary Schultz. I'm assuming, because I
13 don't know because I'm arguing first, that the
14 Commonwealth will try to corroborate
15 Mr. McQueary's statements through other testimony
16 that was presented here this morning.

17 I believe that Mr. McQueary -- well,
18 strike that.

19 I believe that Mr. Paterno's testimony
20 may be utilized by the Commonwealth to
21 corroborate what McQueary told Curley. We know,
22 we know obviously that Mr. Paterno wasn't there.
23 So we have to infer from what Mr. Paterno said to
24 the Grand Jury that there must be some evidence
25 to support what McQueary told our clients.

1 So if you look at Mr. Paterno's testimony
2 to the Grand Jury, he did not give the graphic
3 description to the Grand Jury that Mr. McQueary
4 gave to us this morning. Mr. Paterno instead
5 said, well, there was fondling.

6 Let me read what he said. There was
7 fondling. I don't know what you would call it.
8 Inappropriate conduct of a sexual nature.

9 When asked about the term fondling,
10 Mr. Paterno said, well, I don't know how you
11 would describe that behavior. Well, that is
12 qualitatively different. Fondling and potential
13 intercourse are qualitatively different
14 descriptions of the act.

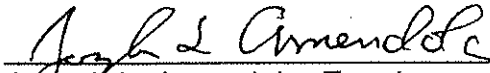
15 Now, Mr. McQueary comes in and says,
16 well, I couldn't use the same terminology with
17 Mr. Paterno. Okay. So you have Mr. McQueary
18 coming in and admitting on the witness stand that
19 he minimized what he actually saw to Mr. Paterno.

20 Based upon that first argument,
21 Mr. Paterno's testimony does not corroborate what
22 Mr. McQueary told, allegedly told, Mr. Curley.
23 That's No. 1.

24 No. 2, the term fondling, I don't even
25 know from reading the transcript whether McQueary

VERIFICATION

I verify that the statements made in the foregoing are true and correct. I understand that false statements are made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsification to authorities.



Joseph L. Amendola, Esquire

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA)

vs.)

GERALD A. SANDUSKY)

Nos. CP-14-CR-2421-2011 &
CP-14-CR-2422-2011

Commonwealth Attorneys:

Joseph McGettigan, Esquire

Jonelle H. Eshbach, Esquire

Defense Attorney:

Joseph L. Amendola, Esquire

CERTIFICATE OF SERVICE

AND NOW, this 22nd day of March, 2012, I, Joseph L. Amendola, hereby
certify that I have, this date, served a copy of the foregoing document, by:

Hand Delivery

Hon. John M. Cleland, Senior Judge
c/o Ms. Maxine Ishler, Court Administrator
Centre County Courthouse
102 South Allegheny Street
Bellefonte, Pennsylvania 16823

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