

1 COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
2 : DAUPHIN COUNTY, PENNSYLVANIA
3 V. :
4 TIMOTHY MARK CURLEY : No. CP-22-MD-1385-2012

6 COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
7 : DAUPHIN COUNTY, PENNSYLVANIA
8 V. :
9 GARY CHARLES SCHULTZ : No. CP-22-MD-1386-2012

11 COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
12 : DAUPHIN COUNTY, PENNSYLVANIA
13 V. :
14 GRAHAM B. SPANIER : No. CP-22-MD-1387-2012

17 TRANSCRIPT OF PROCEEDINGS

18 PRELIMINARY HEARING

19 VOLUME 1

21 BEFORE: MAGISTERIAL DISTRICT JUDGE
WILLIAM WENNER

22 DATE: MONDAY, JULY 29, 2013

23 PLACE: COURTROOM NO. 1
24 DAUPHIN COUNTY COURTHOUSE
25 HARRISBURG, PENNSYLVANIA

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1 (On Monday, July 29, 2013, the following
2 proceedings occurred, beginning at 9 a.m.):

3
4 THE COURT: Good morning. Do any defense
5 counsel need me to read the criminal complaints,
6 the charging documents?

7 MR. FARRELL: No, Your Honor.

8 MS. AINSLIE: No, Your Honor.

9 MS. ROBERTO: No, sir.

10 THE COURT: Thank you. Is the
11 Commonwealth ready to proceed?

12 MR. BEEMER: Yes, Your Honor.

13 Commonwealth calls Mike McQueary.

14 MS. ROBERTO: Your Honor, before we
15 begin, we would like the Court to sequester all
16 the witnesses. For purposes of Mr. McQueary, I
17 would ask the following witnesses be sequestered:
18 Trooper Ellis, Corporal Rossman, Corporal Leiter
19 if they are in the courtroom, and for this
20 witness only, Agent Sassano.

21 MR. BEEMER: Your Honor, I object. Agent
22 Sassano and Trooper Ellis are both case agents.

23 THE COURT: I'm going to allow the
24 affiants to stay in, but the other officers that
25 she indicated or troopers, can they be excused

1 for sequestration?

2 MR. BEEMER: Yes.

3 MS. ROBERTO: Your Honor, please note my
4 objection.

5 THE COURT: Yes, ma'am.

6

7 MICHAEL MCQUEARY,
8 called as a witness, being duly sworn, testified
9 as follows:

10

11 THE COURT: Good morning, sir.

12 THE WITNESS: Good morning.

13

14 DIRECT EXAMINATION

15 BY MR. BEEMER:

16 Q Sir, can you please state your name,
17 spell your last name?

18 A Michael J. McQueary, M-c-Q-u-e-a-r-y.

19 Q Mr. McQueary, how old are you?

20 A Thirty-eight.

21 Q How old were you in February of 2001?

22 A Twenty-six.

23 Q Back in February of 2001, how were you
24 employed?

25 A I was not employed. I was a graduate

1 assistant student football coach at Penn State
2 University.

3 Q Describe your educational background.

4 A I went to Penn State University and
5 received a bachelor of science in health policy
6 administration.

7 Q Did you play football at Penn State?

8 A I did.

9 Q And did you grow up in State College?

10 A I did, since seventh.

11 Q I'm going to -- describe very briefly
12 what does a graduate assistant in the Penn State
13 football program back in 2009, what do they do.

14 A Really, there's nothing they do not do.
15 Breakdown film, prepare scout teams for upcoming
16 weeks' games. They help in recruiting. They
17 fetch coffee. They pretty much do anything that
18 anyone asks them to do.

19 Q I'm going to draw your attention to a
20 Saturday morning, February 10th, 2011. Did you
21 have occasion to reach out to the head football
22 coach, Joe Paterno?

23 A Yes.

24 Q Can you describe for the Court why -- the
25 circumstances under which you did that and why

1 you did that?

2 A I had seen something terrible the night
3 before in the Penn State football facility that I
4 needed to bring to his attention right away.

5 Q And can you give the Court an idea of
6 when you made that contact that day?

7 A I called him on a Saturday morning
8 roughly at 8 a.m.

9 Q How unusual would it have been for you to
10 contact Coach Paterno on a Saturday morning at
11 8 a.m.?

12 A I would not have ever dreamed of it.
13 Would not -- under no circumstances did I think I
14 would call him on a Saturday morning as a GA.

15 Q But you did that as a result of something
16 you had seen the night before?

17 A Yes.

18 Q Did you go -- where did you meet with
19 him?

20 A At his house at the kitchen table.

21 Q And was there anybody else there that you
22 know of?

23 A No.

24 Q And describe that meeting.

25 A I told him that I went to the locker room

1 the night before in the Penn State football
2 facility and that I had seen Coach Sandusky
3 engaged in a very bad sexual act, molestation act
4 with a minor.

5 Q And did you describe -- when you say a
6 minor, did you describe the approximate age of
7 the minor?

8 A Yes.

9 Q And what did you tell him?

10 A In terms of the age of the minor?

11 Q Yes.

12 A I said it was a boy roughly 10 or 12.

13 Q What was his reaction?

14 MS. ROBERTO: I'm going to object, Your
15 Honor, to any statements that Coach Paterno made.
16 It's hearsay. He can describe the reaction but
17 he cannot repeat what Paterno said to him.

18 MR. BEEMER: That's actually inaccurate,
19 Your Honor. This is not being offered for its
20 truth. It's non-hearsay. It's being offered for
21 the effect it had on Mr. McQueary and why he did
22 what he did in the days and weeks following this
23 incident.

24 MS. ROBERTO: Your Honor, I think
25 ultimately it will be offered for the truth of

1 the matter asserted. What Paterno said and what
2 Paterno said -- Mr. Paterno said he was going to
3 do will be very important as this case moves
4 forward. I object to anything that Mr. Paterno
5 said for any reason.

6 MS. AINSLIE: I join in that, Your Honor.

7 MR. FARRELL: Your Honor, I join as well.
8 For convenience, any objection by co-counsel may
9 I join as well?

10 MS. AINSLIE: Likewise.

11 THE COURT: Thank you.

12 MR. BEEMER: Your Honor, I just would
13 note for the record, No. 1, certain hearsay is
14 permissible at a preliminary hearing. No. 2,
15 it's the Commonwealth's position these statements
16 are non-hearsay under the rules because they're
17 not being offered for their truth. They're being
18 offered to show the effect they had on
19 Mr. McQueary.

20 MS. ROBERTO: Your Honor, if I may, I
21 mean, if a year and a half ago is any guide to
22 what happens here today, the statements were
23 offered and argued as corroboration for perjury
24 offenses. And I think that under these
25 circumstances where this time Mr. Paterno

1 unfortunately has passed away, there is no way he
2 will be able to come into court obviously.

3 Mr. Beemer is absolutely correct that
4 hearsay is admissible at a preliminary hearing
5 under certain circumstances. Most of those
6 circumstances are when the Commonwealth can
7 assure that the witness will be available for
8 trial. Mr. Paterno will not be available for
9 trial. I object.

10 MR. BEEMER: Your Honor, just to clarify,
11 there's a big distinction between statements that
12 were taken of Mr. Paterno for purposes of an
13 investigation or for law enforcement, a taped
14 statement, his Grand Jury testimony. Clearly
15 those fall into a different category as opposed
16 to being hearsay.

17 These were statements that were made on a
18 Saturday morning long before there was any
19 contemplation of these statements being used in
20 court. They're being offered to show the context
21 and the effect they had on Mr. McQueary. I think
22 they're clearly admissible under both of the
23 proverbs that I set forth.

24 THE COURT: Your Honor, I promise I won't
25 go back and forth on this. But clearly under the

1 law, what Mr. McQueary can say, like so many
2 police officers say when they are on a scene, is
3 as a result of what Mr. Paterno told me I did X,
4 Y and Z. The statements of Mr. Paterno or what
5 this witness remembers Mr. Paterno saying are
6 hearsay and inadmissible.

7 THE COURT: Thank you. Your objections
8 have been noted. I'm going to allow this witness
9 to answer these questions.

10 THE WITNESS: Could you repeat that, sir?

11 BY MR. BEEMER:

12 Q Sure. What was Coach Paterno's reaction
13 to what you told him?

14 A He slumped back in his chair. He was
15 significantly saddened, drooped his eyes, dropped
16 his eyes a little bit. He said that had to be
17 tough on you, you've done the right thing, and I
18 need to think about this and talk to some people,
19 and I'll let you know what happens.

20 Q As a result of that, did you leave that
21 meeting thinking -- what were you thinking when
22 you left his house about what you needed to do?

23 A To be frank with you, at that time, I
24 mean, I was so shocked and upset and a ton of
25 different feelings. But I thought I tried to do

1 the right thing and told the person who I thought
2 needed to know and the person who would advise me
3 to do the best thing and how to handle it.

4 Q Did you leave any doubt in the statements
5 that you made to him that you were referring to a
6 young prepubescent boy?

7 A No, there was absolutely no doubt that he
8 knew it was -- he definitely knew it was a boy
9 and not a full grown man.

10 Q Did you leave --

11 MR. ROBERTO: Objection, motion to
12 strike. Whatever Mr. McQueary says about what
13 Mr. Paterno thought or what his impressions were
14 are conclusions and irrelevant.

15 THE COURT: Sustained.

16 BY MR. BEEMER:

17 Q Did you leave any doubt in your mind when
18 you talked to him as to who the other individual
19 was in that shower?

20 A No, he knew it was Coach Sandusky.

21 Q And at the time was Coach Sandusky
22 currently an assistant football coach at Penn
23 State?

24 A No, not in 2001, no.

25 Q What did -- what's the next thing that

1 happened after you left Coach Paterno's house
2 relative to this incident?

3 A I received a call from Mr. Curley.

4 Q And who is Mr. Curley?

5 A He is the athletic -- I'm sorry, he was
6 at that time the athletic director at Penn State
7 University.

8 MR. BEEMER: Can we have a stipulation on
9 identification?

10 MS. ROBERTO: We do.

11 MR. FARRELL: Yes.

12 THE COURT: Thank you.

13 BY MR. BEEMER:

14 Q And can you give the Court some idea of
15 the length of time or the gap in time between
16 that Saturday morning, which we now know was
17 February 10th of 2001, and when Mr. Curley
18 reached out to you?

19 A It was roughly ten days, give or take a
20 day or two. But roughly ten days.

21 Q How confident are you that it was more
22 than a week?

23 A Not a hundred percent confident but I
24 think it was more than a week. Pretty sure.

25 Q Was it the next day that he reached out

1 to you?

2 A No.

3 Q Was it a couple of days?

4 A Yes. Definitely more than five, six
5 days.

6 Q Okay. And describe that.

7 A The phone call?

8 Q Yes.

9 A He said that Coach Paterno had told him
10 what I had seen and, you know, he felt that I
11 needed to come talk to him and he needed to hear
12 and talk to me about it.

13 Q Had you been waiting on -- to hear from
14 somebody after your meeting with Coach Paterno?

15 A Not necessarily waiting. I thought I
16 would probably hear from someone, but Coach said,
17 you know, I need to think about it and talk to
18 some people and I'll let you know.

19 So I didn't know who would be contacting
20 me or if for sure someone would be, but I thought
21 probably someone would be.

22 Q And did you make plans or arrangements to
23 meet?

24 A Yes.

25 Q And describe that.

1 A He said that I needed to come over to
2 Bryce Jordan Center. And I can't quite remember
3 if it was that day or the next day, but it was
4 relatively soon after that phone call that I came
5 over to the Bryce Jordan Center and met with him
6 in a conference room along with Mr. Schultz.

7 Q This was, you think, either the same day
8 or the day after?

9 A I think so, yes.

10 Q Now, was it during the week or was it a
11 weekend?

12 A No, it was not a weekend. It was during
13 regular business hours.

14 Q And you are -- at this time you are a
15 graduate assistant?

16 A Yes.

17 Q And Mr. Curley is the Athletic Director?

18 A Yes.

19 Q And what did you know or understand Gary
20 Schultz's role to be?

21 A Vice president of the university.

22 MR. BEEMER: Tom, do we have a
23 stipulation?

24 MR. FARRELL: Yes, we'll stipulate to
25 identity.

1 THE COURT: Thank you.

2 BY MR. BEEMER:

3 Q Did you understand at that time
4 Mr. Schultz to have any role with the police
5 department at Penn State or the Penn State
6 University Police Department?

7 MS. ROBERTO: Objection, leading.

8 MR. BEEMER: I'll rephrase it.

9 BY MR. BEEMER:

10 Q When you went to that meeting, what did
11 you understand Gary Schultz's role to be at the
12 university?

13 A I knew he was vice president of the
14 university. I think his actual title was
15 finance. But I did know that many departments in
16 the university reported to him such as athletics
17 department. I think the hotels reported to him,
18 food and beverage. I think the police department
19 reported to him.

20 Q And describe where this meeting took
21 place.

22 A It was in a conference -- a very small
23 conference room in the Bryce Jordan Center.

24 Q And who was there?

25 A Myself, Mr. Curley and Mr. Schultz.

1 Q Describe for the Court what happened.

2 A They basically just asked me to tell him
3 what I told Coach Paterno and what I had seen,
4 which I did. And it was maybe a ten or fifteen
5 minute meeting roughly, and that was it. They
6 said, we'll look into it and follow-up with you.

7 Q Do you recall anyone taking notes at the
8 meeting?

9 A I don't recall them taking notes. That
10 doesn't mean they didn't, but I don't remember
11 that, no.

12 Q Describe for the Court, what did you tell
13 them?

14 A I told them that I had seen Jerry
15 Sandusky involved in a sexual situation,
16 molestation incident in the Penn State football
17 locker room.

18 Q Did you describe the timing of when this
19 happened?

20 A Yes, absolutely.

21 Q I mean --

22 A I told them I went into the locker room
23 on a Friday night, yes, if that's what you're
24 asking in terms of timing.

25 Q Yes. Did you tell them the approximate

1 time, if you recall?

2 A I can't remember if I told them the
3 actual time. I remember it being roughly 9 p.m.
4 at night, but I don't know if I said it was
5 9 p.m.

6 Q Did you leave any doubt in your mind in
7 conveying to them the nature of the incident?

8 A No, there's absolutely no doubt. There's
9 no way I would have just gone back, called Coach
10 Paterno and met with the university vice
11 president and the athletic director to tell them
12 anything that was not severely really bad.

13 Q Did you convey to them that the contact
14 that you witnessed you believed to be sexual?

15 A Yes.

16 Q Did you describe for them anything that
17 you saw in the shower in terms of the positions
18 of the individuals?

19 A Rough positioning, yes. I did not give
20 them a second-by-second detail. I went to the
21 locker. I did not do that. But they definitely
22 received from me that it was sexual, a rough
23 positioning, what I thought Jerry was doing, that
24 it was a boy.

25 Q Did they ask you any questions?

1 A I don't remember them asking me
2 questions. They certainly didn't ask a long list
3 of questions.

4 Q Did they provide you any information or
5 were you told at that meeting that Jerry Sandusky
6 had been investigated previously by the Penn
7 State Police Department?

8 MS. ROBERTO: Objection, leading.

9 MR. BEEMER: It's not leading, Your
10 Honor.

11 THE COURT: I'm going to allow him to
12 answer it.

13 THE WITNESS: Can you just repeat it for
14 me one more time?

15 BY MR. BEEMER:

16 Q Did either Mr. Curley or Mr. Schultz tell
17 you during that meeting that Jerry Sandusky had
18 been investigated previously by the Penn State
19 Police Department for having -- being in a shower
20 with a boy?

21 A No, never.

22 Q Did they ask you any questions about the
23 boy's identity?

24 A I would not be able to say for sure. I
25 don't think they asked me any questions at all,

1 but I wouldn't want to go on record and say
2 definitely they didn't ask me any questions about
3 his identity.

4 Q How did the meeting end?

5 A I think Mr. Curley said we'll follow back
6 up and let us look into it and we'll follow-up
7 with you.

8 Q Now, did you call the police at any
9 point?

10 A I did not call the police ever.

11 Q During the course of that meeting who did
12 you believe you were speaking to?

13 A I thought someone who was in charge of
14 the police for sure. Let me go into that. I
15 thought he had the power and would let the police
16 know what I had seen. I thought -- it may be my
17 mistake, but I thought I was talking to the
18 police.

19 Q You described the general length of this
20 meeting the best of your recollection as how
21 long?

22 A Ten or fifteen minutes.

23 Q Did they tape the meeting with an
24 audiotape?

25 A No, I definitely don't think they taped

1 the meeting. I don't remember a tape recorder so
2 if they did, I didn't see it.

3 Q After -- at the conclusion of this
4 meeting, did you ever have any further contact
5 with either Curley or Schultz about this?

6 A Yes, Mr. Curley called me.

7 Q What did he tell you?

8 A He went through a two or three, I guess
9 you could call them, measures that they decided
10 to enforce. He said that they had called the
11 Second Mile and let them know. I believe he said
12 that we have told them and Jerry that we do not
13 want anymore kids within my campus, I believe.

14 And the one I'm unclear on and I can't
15 quite remember is if they told me they took his
16 keys away. I'm very up in the air about that. I
17 can't quite remember that.

18 Q Did any -- prior to November of 2010,
19 when you were contacted by agents and members of
20 the Pennsylvania State Police, did any police
21 agency ever come to talk to you about what had
22 happened?

23 A No, not until November of 2010.

24 Q Did any Children and Youth agency or any
25 agency to your knowledge that's concerned with

1 the welfare of children come to speak with you
2 about what you had seen?

3 A No, never.

4 Q Did you ever talk to anyone in an
5 official capacity about this other than
6 Mr. Curley and Mr. Schultz and what you had told
7 Coach Paterno?

8 A In an official capacity?

9 Q Yes.

10 A No.

11 MR. BEEMER: Offer for cross, Your Honor.

12 THE COURT: Defense counsel, any order
13 for you guys? Ms. Roberto, we'll start with you.

14 MS. ROBERTO: Yes, I'm going to go first.

15 THE COURT: Thank you.

16

17 CROSS EXAMINATION

18 BY MS. ROBERTO:

19 Q Hi, Mr. McQueary. My name is Caroline
20 Roberto and I represent Tim Curley.

21 A Yes.

22 Q I'm going to ask you a series of
23 questions. If you don't understand or if you
24 can't hear me, I'm not going to approach you at
25 this point right now. Can you hear me okay?

1 A Yes, ma'am. Yes, ma'am, you're fine.

2 Q Now, you just mentioned that you did not
3 talk to anyone else other than Mr. Curley and
4 Mr. Schultz, and I don't know if you included
5 Coach Paterno in this. You didn't talk to anyone
6 else in an official capacity until you were
7 approached by the agents in November of 2010; is
8 that correct?

9 A Right. Let's make sure. I mean, I don't
10 -- people like to play games with words so let's
11 define official.

12 Q I'm not going to play any games with any
13 words.

14 A Okay.

15 Q But I'm going to ask you, you did speak
16 to other individuals about what happened in the
17 shower?

18 A Yes.

19 Q Okay. That's what I wanted to get to.

20 A Yes, ma'am.

21 Q And on the night of this incident, after
22 you viewed what you've testified to, isn't it
23 true that you went upstairs to your office in the
24 Lasch Building and called your father?

25 A Yes, ma'am.

1 MR. BEEMER: Objection, irrelevant, Your
2 Honor, beyond the scope.

3 MS. ROBERTO: I'm trying, Your Honor, to
4 contextualize the chronology of what happened
5 with this witness.

6 THE COURT: I'll give you some latitude.

7 MS. ROBERTO: Okay. Thank you, Your
8 Honor.

9 BY MS. ROBERTO:

10 Q Mr. McQueary, do you have a recollection
11 of the words that you spoke to your father when
12 you phoned him?

13 A The actual words or the message?

14 Q No. The words.

15 A No, there's no way I could tell you one
16 hundred percent the actual words that I used.

17 Q Okay. Then let me ask you, after
18 speaking with your father as a result of that
19 conversation, you went to your parents' home,
20 correct?

21 A Yes.

22 Q And that would have been about a ten or
23 fifteen minute drive from the Lasch Building?

24 A Yeah, no more for sure.

25 Q Okay. And so when you arrived at your

1 home, you spoke with your father again, correct?

2 A Yes.

3 Q Do you have a recollection of the exact
4 words that you --

5 MR. BEEMER: Objection, Your Honor. It's
6 irrelevant what he told his father. It's
7 relevant what he told Mr. Curley and Mr. Schultz.

8 MS. ROBERTO: Your Honor, I think if he
9 told a series of people before he told our
10 clients, it's relevant what he told them or if he
11 has a recollection of what he told them to
12 determine the context within which he told our
13 clients. That's all I'm trying to reach with
14 this witness.

15 Mr. Beemer felt it necessary to have this
16 witness testify about what he told Mr. Paterno
17 and that was contextualizing, definitely the
18 conversation with Mr. Curley and Mr. Schultz. So
19 I'm just taking him briefly through what he
20 remembers.

21 THE COURT: I guess my question is how
22 far are we going to go with this?

23 MS. ROBERTO: Just a couple more
24 questions about this particular issue.

25 THE COURT: Okay.

1 MS. ROBERTO: Thank you, Your Honor.

2 THE COURT: Yes, ma'am.

3 BY MS. ROBERTO:

4 Q Do you have a recollection of the words
5 that you spoke to your dad when you arrived at
6 the home after you left the Lasch Building?

7 A I actually do. I can definitely remember
8 one phrase I used with my father while I was
9 crying in his bedroom.

10 Q And what did you say to your dad?

11 A I said, you don't have to be a rocket
12 scientist to figure out what was going on.

13 Q Okay. And do you recall when you
14 testified at the last preliminary hearing on this
15 case back in December of 2011 --

16 A Um-hmm.

17 Q -- whether you repeated those words, do
18 you have any recollection?

19 A I don't think I repeated those words in
20 that preliminary hearing, ma'am.

21 Q Mr. McQueary, before we go any further,
22 when you went to your office after viewing what
23 you said you described --

24 A Yes.

25 Q -- did you write down any notes or any

1 notation on a calendar or anything like that that
2 you could refer to later?

3 A No way.

4 Q No, you didn't?

5 A No, no.

6 Q And did you when you were with your dad
7 take any notes or write down in a -- I know men
8 don't keep diaries, but any kind of recollection,
9 written recollection, did you make within that
10 first day or 24 hours?

11 A No, absolutely not.

12 Q Did your dad?

13 A Not that I know of.

14 Q As far as you know?

15 A Not that I know of, no.

16 Q Okay. And so after you arrived at your
17 dad's and you spoke with him, you say the one
18 thing that you remember --

19 A Significantly remember, yes.

20 Q Do you recall anything else?

21 A Not actual words. Message, yes, but not
22 actual words.

23 Q No, actual words is what I'm asking.

24 A Right.

25 Q Now, it's true, and you testified to this

1 in the past at Mr. Sandusky's trial, but an
2 individual who is a family friend of yours came
3 to the home and that individual is a Dr. Jonathan
4 Dranov, correct?

5 A Yes, ma'am.

6 Q And do you remember speaking with him
7 that night?

8 A Absolutely.

9 Q Do you recall -- do you have a
10 recollection of the exact words that you gave to
11 him?

12 MR. BEEMER: Your Honor, objection.
13 We're going down a road. There's no relevance.
14 It's beyond the scope. This is going to the --
15 an ultimate issue at trial that's not relevant
16 for purposes of this hearing.

17 MS. ROBERTO: Your Honor, I think to make
18 this leap in the context that Mr. McQueary saw
19 something in 2001 and then told the officers, the
20 agents, nine plus years later what he said to our
21 clients, it's relevant to contextualize what
22 happened. Maybe it shows that he repeated it so
23 many times that it was emblazoned into his
24 memory. I don't know that. But I think it's
25 relevant that --

1 THE COURT: If I can interrupt you,
2 please, is the question going to be does he
3 remember the exact words that he used in front of
4 this doctor?

5 MS. ROBERTO: Yes.

6 THE COURT: Mr. McQueary, can you answer
7 that?

8 THE WITNESS: I don't remember the exact
9 words, ma'am.

10 THE COURT: Thank you.

11 THE WITNESS: Yes, sir.

12 BY MS. ROBERTO:

13 Q So let me take you to what we -- let me
14 just go back. And so do you remember how long
15 your conversation was with Dr. Dranov?

16 A He may have been at the house 20 minutes.

17 Q Okay. And as a result of your
18 conversation with your dad and Dr. Dranov, the
19 decision was made to call Coach Paterno the next
20 day, correct?

21 A Yes.

22 Q Okay. Did anyone suggest to you at that
23 time you call the police?

24 A Suggest, we talked about it. We talked
25 about many different things to do that night and

1 that was one of the things that we talked about.

2 Q But that was not --

3 A No one said let's call the police right
4 now or I would have done it.

5 Q Okay. So you were 26 years old at this
6 time, correct?

7 A Yes, ma'am.

8 Q You were single, correct?

9 A I was not married at that time, right. I
10 had a girlfriend.

11 Q Let me ask you, between the time that you
12 left the Lasch Building and the time that you
13 returned home to talk to Dr. Dranov and your dad,
14 did you have any other communication with anyone
15 else about this incident?

16 A Repeat that time frame just one more time
17 for me, ma'am.

18 Q When you left the Lasch Building --

19 A Yes.

20 Q -- and on the way to your dad's home, did
21 you have any conversation with anyone else?

22 A I think I may have but I can't quite
23 remember.

24 Q Okay. And who would that person be?

25 A Only one or two people I can think of is

1 my girlfriend at the time. I possibly may have
2 called her but, you know, we were very close. We
3 had been dating for several years.

4 Q And is that person Miss Long?

5 MR. BEEMER: Your Honor, objection to the
6 relevance of this.

7 THE COURT: I'm going to sustain that.

8 BY MR. ROBERTO:

9 Q So you would have talked maybe to her and
10 to anybody else you think?

11 MR. BEEMER: Same objection.

12 THE COURT: Sustained.

13 BY MS. ROBERTO:

14 Q When you talked to Mr. Curley and
15 Mr. Schultz within, for the sake of the
16 conversation, this hearing, approximately 10
17 days, do you have a recollection, a clear
18 recollection, of what you said to them?

19 A Yes. I think I've testified to it
20 already. Yes, ma'am.

21 Q Okay. And when you were with Mr. Curley
22 and Mr. Schultz, did you take notes?

23 A I don't believe I took notes, no, no.

24 Q After you left Mr. Curley and
25 Mr. Schultz, did you take any notes?

1 A No.

2 Q Is there any writing or recording or
3 documentation that you made of your conduct or
4 the steps you took in this period of time in
5 February?

6 A No, no. There is no writing, e-mail, no
7 nothing that I did or that I was included in in
8 terms of my involvement in the situation.

9 Q Okay. Let me ask you, I know you can
10 only remember what you said to your -- the words
11 you used to your father about it doesn't take a
12 rocket scientist, etc. Did you ever tell anyone
13 in those list of people that we just went through
14 that you ended up in the shower room and when the
15 boy saw you, you chased him naked down the
16 hallway? Did you ever tell anybody that?

17 A Absolutely not.

18 Q Now, I know that this might be difficult
19 for you to remember as well. But after this 2001
20 incident and Mr. Curley came back to you and
21 followed up with you as to what he did, did you
22 object in any way to his course of action --

23 A No.

24 Q -- to him?

25 A I did not.

1 Q Did you object to anybody?

2 A No. Let me make sure I'm clear. The
3 only thing I objected to over the years
4 infrequently and unofficially to people,
5 co-workers in around the facility is I would say
6 why the heck is he allowed in here, why do we let
7 him in this facility.

8 Q Okay. And when Mr. Curley came back and
9 told you that he had taken the steps of going to
10 the Second Mile and telling Jerry that no kids
11 could come in the facilities, you were uncertain
12 about whether Mr. Curley took away his key?

13 A Yes, I can't quite remember that, ma'am.

14 Q Okay. Okay. Did you ever go back to
15 Mr. Curley, you know, and say to Mr. Curley, what
16 the heck is he doing in here, I thought you took
17 his key?

18 A No, not to Mr. Curley. I don't think
19 Mr. Curley and I ever spoke about it after that.

20 Q Okay.

21 A I don't think.

22 Q Well, you didn't know Mr. Curley very
23 well during this period, right?

24 A Not in 2001, not as well as I came to
25 know him in later years. That's for sure.

1 Q And what year did you become an assistant
2 coach, Mr. McQueary?

3 A A full-time assistant coach?

4 Q A full-time assistant coach.

5 A 2004, February of 2004.

6 Q Would it be fair to say that from
7 February of 2004 until November 2011, that you
8 came to know Mr. Curley better and better?

9 A Without a doubt.

10 Q And did you ever at that point after you
11 got to know him better and felt maybe you had,
12 you know, a closer relationship?

13 A No.

14 Q You never went back to him and said, I
15 disagree with this, what is he doing here?

16 A No, I never did.

17 Q Do you recall when -- let me put it
18 another way. Was it in 2009, 2010, that you
19 began to express to other people that you didn't
20 -- you had some problems with Jerry Sandusky
21 being in the locker room?

22 A It was -- I definitely expressed it then,
23 but I definitely expressed it before then also
24 without a doubt. People saw very severe
25 reactions with me before then and, frankly,

1 expressions written -- or not written but spoken
2 word that I had objections.

3 Q Did you tell them why?

4 A I probably -- I never went into detail,
5 graphic detail of what I had saw, but people
6 definitely knew that I had seen something that
7 was bad.

8 Q Okay. Did you tell people I saw Jerry in
9 the shower with a boy?

10 A No, I don't think I told people that.

11 Q Okay. So you never told the people -- I
12 guess we're talking -- strike that.

13 Do you remember what people we're talking
14 about?

15 A Co-workers.

16 Q So Mr. Diehl?

17 A Sure.

18 MR. BEEMER: Your Honor, I'm going to
19 object at this point. This is like fishing.

20 THE COURT: I think we're way beyond
21 direct at the moment.

22 MS. ROBERTO: Okay. I'll move on then.

23 BY MS. ROBERTO:

24 Q Now, you said that -- I think Mr. Beemer
25 asked you if this incident occurred in February

1 of 2001 and -- you knew I was going to ask you
2 this question?

3 A Absolutely.

4 Q When we were here in December of 2011,
5 you said that you thought it was March 1st, the
6 Friday before spring break in 2002?

7 A Yes.

8 Q Now, I don't want to ask you about the
9 confusion of the year, but I want to ask you
10 about the confusion of the month. Did you think
11 that it was the Friday before spring break
12 because campus was fairly quiet at that time?

13 A Yes, that's what I remembered, yes,
14 ma'am.

15 Q And usually the Friday before spring
16 break a lot of the students leave?

17 A Yes.

18 Q Do you recall whether, you know, before
19 spring break there's exams or something that
20 would cause the campus to be quieter? If you
21 don't know, just say you don't know.

22 A I don't recall that.

23 Q Okay. So tell us in your own words,
24 Mr. McQueary, why you thought it was the Friday
25 before spring break.

1 A I just thought it was. That's how I
2 remembered it. There's no -- I'm not going to
3 sit here and make something up if that's what
4 you're asking me. There's no explanation of
5 that. That's how I remembered it.

6 Q Believe me, I don't want you to make
7 anything up.

8 A Trust me, ma'am, I will not.

9 Q You did say that it was quiet on campus
10 and that might be why?

11 A Yes. That's how I remembered it, yes,
12 yes.

13 Q Now, when you were approached by the
14 police for the first time --

15 A Yes.

16 Q -- that was November -- I believe it was
17 November 10th, 2011 -- I'm sorry, 2010, November
18 10th, 2010?

19 A It was in -- all I know how I remember
20 it, it was November and it was a mid-weekday
21 before the Ohio State game. I don't know the
22 actual date.

23 Q Okay. Now, when the police first came to
24 your house, you were not there, correct?

25 A No, I was not.

1 MR. BEEMER: Objection. This is
2 irrelevant and beyond the scope, the timing and
3 circumstances surrounding his initial interview
4 with the police.

5 MS. ROBERTO: Well, I think it is
6 relevant, Your Honor, because what we have is
7 Mr. McQueary saying some nine plus years later
8 that he remembered this. So I'm trying to get to
9 how he remembered it, and maybe if I can just
10 briefly ask some questions about that experience.

11 THE COURT: Please, very briefly.

12 MS. ROBERTO: Okay.

13 BY MS. ROBERTO:

14 Q So you initially weren't at home when the
15 police called. You called them back. And you --

16 A (Witness shakes head.)

17 Q No, you didn't? Okay. What happened?
18 How did it come about that you got together with
19 the police?

20 A In detail, what happened was they came to
21 my townhouse over off of Blue Course Drive in
22 State College. My wife was there. They said, is
23 Mike home, we need to speak with him. I was not
24 home. I was at the office. Football coaches
25 often work late.

1 Q Sure.

2 A They -- she called me and said, some
3 police officers are here wanting to speak to you.
4 Right away I knew what it was about. She --

5 Q Hold on, hold on.

6 A Okay, okay.

7 Q So right away you knew that it had to be
8 about the Sandusky matter?

9 A Without a doubt, yes.

10 Q Okay.

11 A There were rumors going on for two years,
12 yes.

13 Q Oh, okay. So when I asked you about
14 2010, 2009, there had been rumors going on, not
15 just rumors that came from you but rumors going
16 around Penn State; is that fair to say?

17 A State College, Penn State, yeah.

18 Q Okay. Okay. Okay. Were there rumors
19 that Jerry was being investigated, Jerry Sandusky
20 was being investigated?

21 MR. BEEMER: Objection to relevance, Your
22 Honor.

23 THE COURT: Ms. Roberto, I just don't
24 want to go too far with this.

25 MS. ROBERTO: I understand, Judge. I'm

1 sorry.

2 BY MS. ROBERTO:

3 Q Go ahead, tell us what you were saying.

4 A In terms of how the police contacted me?

5 Q Yes.

6 A She put them right on the phone. I think
7 your original question is I called them back. I
8 did not call them back. She had called me. She
9 put them right on the phone with me, and they
10 said we would like to talk to you. And I came
11 and met them at the State College Area High
12 School parking lot. And then there were too many
13 people around there, and I said, let's go down
14 the street in front of the Catholic elementary
15 school.

16 Q When the police called you, you said you
17 knew what it was about immediately. Did they
18 confirm that on the phone?

19 A I don't think they did confirm that on
20 the phone, no.

21 Q You didn't think that you were being
22 investigated in any way?

23 A No.

24 Q And so they met with you and what
25 happened, what came up? Can you explain to the

1 Court that conversation?

2 MR. BEEMER: Your Honor, I'm going to
3 renew the objection.

4 MS. ROBERTO: Your Honor, you know, I
5 think this is extremely important because
6 Mr. McQueary has just admitted that he didn't
7 really tell anybody anything in detail about this
8 situation for approximately nine plus years; and
9 then the police arrive, nine plus years later,
10 and he gives a statement.

11 And I just think it's important to
12 contextualize his testimony as to what he said
13 and how it came about.

14 MR. BEEMER: What he told the police has
15 nothing to do with contextualizing his testimony
16 about what he told Mr. Curley and Mr. Schultz.

17 THE COURT: I don't want to go any
18 further with this line of questioning with this
19 witness.

20 MS. ROBERTO: Okay.

21 BY MS. ROBERTO:

22 Q So you sat down with the police and did
23 you refer to anything, any documents or anything?

24 MR. BEEMER: Same objection, Your Honor.

25 THE COURT: Sustained.

1 BY MS. ROBERTO:

2 Q Did you agree to cooperate with them?

3 MR. BEEMER: Same objection.

4 THE COURT: Mr. McQueary, you can answer
5 that question.

6 THE WITNESS: I'll take exception to the
7 way you asked that question.

8 BY MS. ROBERTO:

9 Q Okay. But I'm asking the questions.
10 I'll rephrase it for you.

11 THE COURT: Can you answer it as she
12 asked it, did you agree to cooperate?

13 THE WITNESS: I told them the truth.

14 BY MS. ROBERTO:

15 Q At that meeting on the park bench, did
16 you agree to speak with them?

17 A At a later date, yes.

18 Q Okay. After getting a lawyer, right?

19 MR. BEEMER: Objection.

20 THE COURT: Sustained.

21 BY MS. ROBERTO:

22 Q When you gave the statement to the
23 police, you were in your lawyer's office, right?

24 MR. BEEMER: Your Honor, I mean,
25 apparently sustained doesn't mean anything.

1 She's going down the same line now five times.

2 MS. ROBERTO: Your Honor, I think, you
3 know, advocacy in this particular area is very,
4 very important because Mr. McQueary has stated
5 that he remembered some nine years later exactly
6 what happened. I think it's important that we
7 know how he came to that recollection.

8 THE COURT: I understand, ma'am. I'm
9 going to sustain the objection.

10 BY MS. ROBERTO:

11 Q How about this question, did you consult
12 with anyone to refresh your recollection before
13 talking to the police in November of 2011 --

14 MR. BEEMER: Objection.

15 BY MS. ROBERTO:

16 Q -- or 2010?

17 THE COURT: Sustained.

18 BY MS. ROBERTO:

19 Q Just so we're sure about this,
20 Mr. McQueary, when you left the shower in the
21 Lasch Building in February of 2001, that boy was
22 still in the shower with Mr. Sandusky, correct?

23 A Still in the shower, yes, ma'am.

24 MS. ROBERTO: I have no other questions.

25 MR. FARRELL: I'm going next.

1 Q Okay. Because you went to school with
2 his daughter?

3 A No, no. I had seen him. I definitely
4 remember a time where I had seen him on campus
5 during -- I'm not sure what you would call it,
6 but it was a -- there were some situations on
7 campus and I had run into him on campus along
8 with another assistant coach. And I think I met
9 him once or twice in my capacity as a GA or
10 working in the football office.

11 Q Okay. When you say in your capacity as a
12 GA, you mean graduate assistant to the football
13 program?

14 A Yes, sir.

15 Q So perhaps in 2000, 2001?

16 A '99, 2000, 2001, somewhere.

17 Q You started as a GA in '99?

18 A Not in '99, no, sir. I was a wage
19 payroll office assistant in 1999.

20 Q When did you start as a graduate
21 assistant coach?

22 A The next winter, 2000.

23 Q You referred to seeing Mr. Schultz when
24 you were with another coach during some incident
25 on campus. You mentioned that at the prior

1 preliminary hearing as well, didn't you?

2 A Yes, sir.

3 Q And that was the incidents where there
4 was supposed to be a march on hate on campus
5 because of some incidents involving the black
6 student caucus. Instead of a march, it turned
7 into a riot?

8 A Roughly. There was a sit-in at the Hub.
9 I can't honestly remember all the details, but
10 there were a string of incidences.

11 Q All right. A sit-in at the Hub, the
12 student center, that was also related?

13 A I believe so as I remember but don't -- I
14 mean, I can't quite remember.

15 Q Let me finish. I mean, related to the
16 unrest with the black student caucus and the
17 other incidents that happened?

18 A Yes, as I remember.

19 Q Okay. And the other coach you were with,
20 was that Coach Anderson?

21 A Yes.

22 Q Now, during the time you were a student,
23 did you know what Mr. Schultz's title was at the
24 university?

25 A As a student?

1 Q Yes.

2 A I don't believe I did.

3 Q When did you come to learn that?

4 A Probably shortly after -- shortly after I
5 began to work in the football office.

6 Q And you learned that he was the senior
7 vice president of finance and business?

8 A Yeah, vice president of the university.
9 I knew the athletic department reported to him
10 and those such things.

11 Q And you mentioned hotels, facilities,
12 police as well?

13 A I think so, yes.

14 Q Just about everything except academics?

15 A Yeah. I mean, I knew he had a very high
16 position and a lot of people reported to him.

17 Q And you never had talked to him before
18 you talked to him with Mr. Curley in his official
19 capacity, had you?

20 A I don't believe so, no.

21 Q Your father worked at a medical center,
22 CMSA in State College, did he not?

23 A Yes, sir.

24 Q And in his work, your father John's work,
25 he had some dealings with Mr. Schultz?

1 A I believe so.

2 Q And that concerned potential sale of his
3 business to the university?

4 MR. BEEMER: Your Honor, I'll object to
5 the relevance at this point.

6 THE COURT: Sustained.

7 BY MR. FARRELL:

8 Q My point is you knew Mr. Schultz also had
9 some supervisory authority over the medical
10 facilities of the university?

11 A At the university, yes.

12 Q Now, you described talking to Mr. Schultz
13 and Mr. Curley sometime after you spoke to
14 Mr. Paterno, right?

15 A Yes.

16 Q After that conversation with Mr. Curley
17 and Mr. Schultz, you yourself never spoke again
18 to Mr. Schultz about this matter, Mr. Sandusky in
19 the shower?

20 A I do not remember ever speaking to
21 Mr. Schultz after that.

22 Q At the earlier preliminary hearing, we
23 learned that your father spoke to Mr. Schultz; is
24 that right?

25 A I believe so.

1 Q And did your father tell you back then in
2 2001 that he had spoken to Mr. Schultz about the
3 Sandusky matter?

4 A I think he said he did see Mr. Schultz at
5 a business meeting and he made sure to tell
6 Mr. Schultz that it was important to follow-up or
7 look into it. I think that's all. He didn't
8 tell me exact words or what happened at the
9 meeting.

10 Q What you just described, that's all you
11 remember from what your father told you?

12 A That's all I remember, yes, sir.

13 Q After you made the initial report --
14 before I move on to that. Did your father ever
15 tell you of any other contact he had with
16 Mr. Schultz about the Sandusky matter?

17 A I don't believe so.

18 Q At any point besides talking to
19 Mr. Schultz, Mr. Curley, Mr. Paterno, and before
20 the Attorney General's agents spoke to you, did
21 you ever ask to speak to a police officer?

22 A No, I did not.

23 Q You described to us a meeting with Mr.
24 Paterno on the Saturday morning, right?

25 A Yes, sir.

1 Q The very unusual event of going to see
2 Coach Paterno on Saturday morning?

3 A Without a doubt.

4 Q After that conversation with Coach
5 Paterno, you did have at least one other
6 discussion with him about the Sandusky matter,
7 right?

8 A With Coach Paterno?

9 Q Yes.

10 A Let's define discussion. Tell me --
11 again, I'm not trying to be smart, but I just
12 want to know what you mean.

13 Q Okay. You described last time having a
14 meeting with him where he asked if you were okay.

15 A Yes, very informally before like a staff
16 meeting he said, hey, do you need to talk to
17 anyone, are you okay, is there anything I can do
18 for you.

19 Let me make sure I'm clear on this. It
20 was emotionally and psychologically personally
21 for me. It was not, are you okay with how this
22 has been handled. I hope I'm clear on that.

23 Q Yes. I understand.

24 A Yes, sir. Thank you.

25 Q Thanks for the clarification.

1 A Yep.

2 Q In that conversation with Mr. Paterno,
3 did he explain to you he was asking with
4 reference to the Sandusky matter?

5 A No, he didn't need to. He knew I was
6 extremely, extremely upset.

7 Q Based upon that Saturday morning meeting?

8 A Based upon what I had saw. I was upset
9 because of what I had saw.

10 Q Yes. Yes.

11 A Coach Paterno, to be frank with you, was
12 great about the whole thing, not based on my -- I
13 wasn't upset based on my meeting with Coach
14 Paterno. I was upset based on what I saw.

15 Q I'm sorry. I didn't mean to mislead you
16 about that. He knew you were upset because you
17 acted upset with him?

18 A Absolutely, yes, extremely.

19 Q I'm sorry. That's all I want.

20 A People take things out of context. I
21 want to make sure I'm being as clear as I can.

22 Q Mr. McQueary, if I do that, if you think
23 I'm doing that --

24 A Not you. I'm not pointing the finger at
25 you, sir.

1 Q Okay. But just tell me.

2 That meeting with Coach Paterno where he
3 expressed concern, how long after your Saturday
4 morning meeting with him was that, how long in
5 time?

6 A Oh, it was a couple times in the next
7 couple weeks. It was not -- he didn't call me
8 into the office and express it. You know, we
9 would be going into the offensive staff meeting
10 room about to talk about spring ball. I would
11 get in there. He would say, are you okay, is
12 there anything I can do for you, you know, are
13 you upset, stuff like that.

14 I don't want to make it more than it was.
15 He wasn't, come in, talk to me. It was very
16 short and in passing.

17 Q Sure. He was a busy guy.

18 A Very.

19 Q And how did you respond to him?

20 A I said, Coach, I'm fine. I'm doing okay.

21 Q That's it?

22 A Yes, nothing major. I would not complain
23 to Coach Paterno about much.

24 Q I understand. After 2001 --

25 A I'm sorry?

1 Q I interrupted you drinking water.

2 A Oh, no. That's okay. I can do two
3 things at once.

4 Q You can't talk and drink water at the
5 same time. Come on now. You don't have to
6 answer that.

7 After 2001, did you ever talk to Coach
8 Paterno about the -- let's call it the Sandusky
9 incident in the shower?

10 A Talk to him, yes. Not long
11 conversations, but it most certainly came up
12 several times after 2001.

13 Q What did you say to him?

14 A What did I --

15 MR. BEEMER: Objection, relevance.

16 THE COURT: I don't -- how far are we
17 going with this?

18 MR. FARRELL: This may be the last
19 question.

20 THE COURT: Let's finish this line. Go
21 ahead.

22 MR. FARRELL: I'm going to ask two. I'll
23 even tell you the two.

24 THE COURT: All right.

25 BY MR. FARRELL:

1 Q First, what did you say to him and when;
2 and the second question after you answer that,
3 when was the last time you talked to him about
4 it?

5 A The last time I talked --

6 Q I'm just giving you a preview. Let's
7 answer the first question first. What did you
8 say to him?

9 A The question before that was did Coach
10 Paterno ever talk to you about the Sandusky
11 incident after 2001?

12 Q Yes.

13 A That is for sure a yes.

14 Q Okay.

15 A What those conversations entailed or what
16 I said to him, I can't tell you word for word.
17 Sometimes they were very short in passing remarks
18 by him. Sometimes I didn't say anything.

19 As the investigation came upon us and
20 everything, sometimes they were a little bit more
21 detailed. He would say, God, he was a sick guy
22 or something like that. So I can't remember word
23 for word what they said.

24 To answer your question did we ever have
25 a long-term discussion about the Jerry Sandusky

1 incident? No. But there were certainly remarks
2 or little comments here and there throughout the
3 years.

4 Q Um-hmm.

5 A Not every day. Maybe twice a year maybe,
6 once a year.

7 Q Did he ever criticize the way the
8 university or Mr. Schultz had acted in those
9 conversations?

10 MR. BEEMER: Objection, Your Honor.

11 THE COURT: If we can abandon this line
12 now.

13 MR. FARRELL: Can I ask when was the last
14 discussion?

15 THE COURT: If you can recall the last
16 discussion.

17 THE WITNESS: The last discussion,
18 discussion or any words, comments?

19 BY MR. FARRELL:

20 Q Anything. Anything referring to
21 Mr. Sandusky.

22 A I'm sorry if I'm being difficult.

23 Q You're not at all. You're actually being
24 very helpful.

25 A I'm sure it was around the time, you

1 know, probably that Wednesday on the practice
2 field. I can remember us talking about it the
3 night he was terminated. I can remember going
4 through individual kicking session, there's
5 actually photos of us talking. And, I mean, he
6 said some things to me about it then.

7 Q What did he say to you?

8 A You want the actual conversation?

9 Q If you can.

10 A Okay. He said, The university is going
11 to come down hard on you. Don't worry about me.
12 They're going to try to scapegoat you. You need
13 to make sure you have your lawyers. Don't trust
14 Cynthia Baldwin and don't trust Old Main. That's
15 what he said. You asked. I'm just --

16 Q Did he tell you why not to trust Cynthia
17 Baldwin?

18 MR. BEEMER: Objection.

19 THE COURT: Sustained.

20 MR. FARRELL: All right. That's a good
21 point to end. I have no further questions.

22 MS. AINSLIE: I just have a few.

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CROSS EXAMINATION

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BY MS. AINSLIE:

Q Mr. McQueary, I don't think we've met.

A No, we have not, ma'am.

Q I'm Elizabeth Ainslie, and I'm here representing Graham Spanier.

A Yes, ma'am.

Q Just a few questions. I think I heard you say there had been rumors for a couple of years about an investigation into Jerry Sandusky and his attitude or his conduct with children before the police approached you?

A Yes, ma'am, that's accurate.

Q Can you name any of the people that spoke to you about this rumor? How did you learn this rumor?

A No, I would not be able to say the actual people. It was just talked about.

Q You can't remember?

A No. I would not want to say this person told me that rumor. I just don't remember who it would have been.

Q So you can't remember any names?

A No, no.

Q Okay. You said at the preliminary

1 hearing -- and I wasn't there then but I have a
2 transcript -- the last time, that neither
3 Mr. Schultz nor Mr. Curley ever said, Mike, you
4 can't talk about this or anything like that?

5 A Never. They've never -- no one ever gave
6 me any instruction not to talk about it.

7 Q So no one ever gave you -- made any
8 effort to prevent you from talking to anyone in
9 the world; is that right?

10 A That's right.

11 MS. AINSLIE: Thank you. I have nothing
12 further.

13 THE COURT: Any redirect?

14 MR. BEEMER: Just a couple.

15

16 REDIRECT EXAMINATION

17 BY MR. BEEMER:

18 Q Did you witness -- did Sandusky continue
19 to bring kids on campus that you observed after
20 you had your discussion with Mr. Curley and
21 Mr. Schultz?

22 A I never remember him being around kids on
23 campus or in the presence of a kid on campus
24 after that. I never saw it and I don't remember
25 it.

1 Q You've been asked repeatedly if you told
2 anyone in detail about what you saw. Did you
3 talk in detail to Curley and Schultz that day at
4 the Bryce Jordan Center about what you saw?

5 A Again, you know, in detail, I can say
6 this. They definitely knew that it was a sexual
7 act, a molestation act, between Jerry and a young
8 boy in the shower.

9 MS. ROBERTO: Your Honor, I'm going to
10 object to this line of answering because it's his
11 conclusion about what our clients or at least
12 Mr. Curley thought. So if he can rephrase it
13 into what he said to them, then we can leave it
14 to some other trier of fact regarding what they
15 knew.

16 MR. BEEMER: I think that's what he did
17 say.

18 BY MR. BEEMER:

19 Q But, in any event, the last question I
20 have for you, Mr. Farrell was asking you
21 questions about what Joe Paterno said to you
22 about over various times?

23 A Yes.

24 Q Did he ever talk to you about what he
25 thought of Old Main's response to this?

1 A Yes.

2 Q What did he tell you?

3 A He said, Old Main screwed it up.

4 MR. BEEMER: That's all I have.

5 MS. AINSLIE: Nothing further from me.

6

7

RE CROSS EXAMINATION

8 BY MR. FARRELL:

9 Q Did he describe it like that, Old Main
10 screwed up?

11 A Absolutely.

12 Q Did he say --

13 A I'm sorry, yes, absolutely.

14 Q Did he identify anyone at Old Main?

15 A No, no.

16 Q And about Jerry Sandusky bringing
17 children onto campus, after 2001, did you ever
18 see -- you're wincing.

19 A Dates and me, you know, sometimes --

20 Q Okay. Good point. After the Sandusky
21 shower incident, that's what I'm referring to,
22 after then, did you ever see Jerry Sandusky on
23 campus with the Second Mile program?

24 A I did not.

25 MR. FARRELL: I have nothing else.

1 MS. ROBERTO: Yes, Your Honor, I do.

2

3

RE CROSS EXAMINATION

4 BY MS. ROBERTO:

5 Q Did you ever say when Mr. Paterno made
6 these statements to you about Old Main screwing
7 this up or messing this up, did you ever say to
8 him, well, Coach, let's go to Old Main and fix
9 it?

10 A No, I did not.

11 Q Did he say this to you after the
12 investigation began where you testified at the
13 Grand Jury?

14 A No.

15 Q When would he have said this to you,
16 Mr. McQueary?

17 A Over the years, you know, once or twice
18 over the years. If you're going to ask me for a
19 date or a specific year, there's no way I can
20 tell you.

21 Q Did he say this to you before you
22 testified at the Grand Jury in December of 2010?

23 A I believe so, yeah.

24 Q And did you ever tell the investigators
25 that Mr. Paterno said that to you?

1 A I've told the investigators, I think I've
2 said that he said that or in passing he would say
3 things, yeah. I think so.

4 Q Okay. Were there ever any witnesses
5 around when Mr. Paterno said this to you?

6 A That specific thing?

7 Q That specific thing, that Old Main really
8 messed this up?

9 A No, no, I don't think there was witnesses
10 around. But he did talk to me about Jerry
11 Sandusky and what I had seen in front of other
12 people on a very shallow basis, yes.

13 Q Okay. And who would that have been, do
14 you recall?

15 MR. BEEMER: Object to relevance, Your
16 Honor. This is not discovery.

17 THE COURT: Do you know, can you name
18 some names, Mr. McQueary?

19 THE WITNESS: Just people in the office.
20 There's no way I can say he definitely talked in
21 front of this person on this date about this in
22 front of someone.

23 BY MS. ROBERTO:

24 Q Mr. McQueary, if you told Mr. Curley what
25 you say you told him --

1 A Yes, ma'am.

2 Q -- and then Coach Paterno said to you
3 that Old Main messed this up, in 19 -- or in
4 2008, 2009, didn't you have a close enough
5 relationship with Mr. Curley to reach out to him
6 and say, we need to fix this, or Coach and I need
7 to fix this?

8 A I'll cut to the chase for you. I didn't
9 handle this, quote unquote, the perfect way if
10 that's what you're getting at. Are there things
11 I should have done, should I have gone back to
12 Mr. Curley, those types of things? Absolutely.
13 I'll point the finger at myself before I point it
14 at anyone else. Okay?

15 Q Mr. McQueary --

16 A You asked the question. Can I finish?

17 THE COURT: Ms. Roberto, let him finish.

18 MR. ROBERTO: Okay. Fine.

19 THE WITNESS: One of my personality
20 traits and things about me is when authority
21 tells me something, I go with it and I don't
22 challenge it. So did I go back to Mr. Curley and
23 say, you know, Tim, this is bad, come on? No,
24 and I'm at fault for that. I'll take that
25 responsibility.

1 BY MS. ROBERTO:

2 Q Okay. And do you ever tell Coach Paterno
3 to go back to Tim Curley and try to fix it?

4 A Absolutely not.

5 Q Now, during this whole process of you
6 having these discussions with Mr. Paterno and
7 understanding that there was some problem in the
8 way that this particular problem was dealt with,
9 did you still respect Mr. Curley?

10 MR. BEEMER: Objection, relevance.

11 MS. ROBERTO: Well, it's not irrelevant,
12 Judge, because, you know, he's now telling us all
13 these things about how they said it was wrong.

14 THE COURT: I'm going to sustain the
15 objection.

16 MS. ROBERTO: Okay.

17 BY MS. ROBERTO:

18 Q How did you feel about Mr. Curley?

19 MR. BEEMER: Same objection.

20 THE COURT: Sustained.

21 MS. ROBERTO: Nothing else.

22 MS. AINSLIE: Nothing, Your Honor.

23 MR. FARRELL: No other questions.

24 THE COURT: Mr. Beemer?

25 MR. BEEMER: Nothing further, Your Honor.

1 THE COURT: You may step down. Thank you
2 very much, Mr. McQueary.

3 THE WITNESS: Thank you. Appreciate it.
4 Thank you.

5 (Witness excused.)
6

7 THOMAS HARMON,
8 called as a witness, being duly sworn, testified
9 as follows:
10

11 THE COURT: Good morning, sir.

12 THE WITNESS: Good morning.

13 MR. BEEMER: This witness is going to
14 come with exhibits, so we're going to handout
15 exhibits to defense counsels, and I have a copy
16 for the Court.

17 THE COURT: Thank you.

18 MR. BEEMER: I've provided one for the
19 court reporter.
20

21 DIRECT EXAMINATION

22 BY MR. BEEMER:

23 Q Sir, could you please state your name?

24 A My name is Thomas R. Harmon, H-a-r-m-o-n.

25 Q Mr. Harmon, could you describe your

1 employment history for the Court, please?

2 A I was employed by the Pennsylvania State
3 University for approximately 33 years in the
4 university police department. I retired in 2005.
5 At the time of my retirement I was director of
6 university police.

7 Q How long did you have that title of
8 director of university police?

9 A Well, I had several titles over a period
10 of time, but I think I held that title probably
11 from the late 1990s. Prior to that time I had a
12 title of assistant director for university
13 safety, but I was still in charge of the
14 university police.

15 So my time being in charge of the
16 university police really dates back to the 1970s.

17 MR. BEEMER: Okay. And can I ask counsel
18 at this point, do we have a stipulation for
19 identification of the Defendants?

20 MS. AINSLIE: Yes.

21 MR. FARRELL: Oh, yeah.

22 MS. ROBERTO: Yes.

23 BY MR. BEEMER:

24 Q Can you describe what were your duties as
25 the director of the university police department?

1 Describe the department itself.

2 A We had approximately 50 officers, full
3 time, and a large number of student employees at
4 any given time, maybe 100 to 150. The university
5 police provided the full range of police services
6 and security services at the University Park
7 campus of the university.

8 And I was, again, at the time of my
9 retirement the administrator responsible for that
10 whole operation in terms of budgetary management
11 and operational management.

12 Q Now, what was the jurisdiction of the
13 university police department? What was your
14 territory, so to speak?

15 A Well, we provided law enforcement
16 services to the geographical boundaries of the
17 university, the property, and I think the law
18 provided for some small amount of distance beyond
19 the property. But generally speaking, it was
20 limited to the ownership of the property of the
21 University.

22 Q Fair to say the football building, the
23 Lasch Building, the practice facilities were
24 within the boundaries of the university?

25 A They were.

1 Q Was the university police department the
2 primary law enforcement organization within those
3 bounds?

4 A It was.

5 Q And just so we're clear, what I mean by
6 that is you would have primary jurisdiction to
7 investigate and potentially charge with the
8 consultation of the District Attorney's Office
9 criminal offenses that occurred within that area?

10 A That's correct.

11 Q Did you know Tim Curley?

12 A I did.

13 Q How did you know him?

14 A I knew him as the director of athletics
15 at the university, but I also knew him during a
16 lengthy period of time, probably dating back into
17 the 1980s when he worked in the athletic
18 department for Coach Paterno.

19 Q Was he the director of athletics in 1998?

20 A He was.

21 Q Was he the director of athletics in 2001?

22 A He was.

23 Q Did you know Gary Schultz?

24 A Yes.

25 Q How did you know Mr. Schultz?

1 A He was my direct superior. He was the
2 senior vice president for finance and business.
3 And beginning in -- or about 19 -- sometime I
4 believe in 1997, I began reporting to him
5 directly.

6 Q You said he was your direct report. What
7 does that mean?

8 A Well, he was my immediate supervisor. He
9 would have provided the budget to the department.
10 He was the person to whom I was accountable for
11 the operations and the management of the
12 university police.

13 Q Did you ever consult with him about
14 individual police investigations or cases?

15 A I did.

16 Q And was there any sort of protocol as to
17 when you would do that or would you exercise sort
18 of your own independent judgment as to when that
19 was warranted?

20 A Well, there was a great deal of
21 discretion and judgment, but there were typical
22 types of incidents that would have been reported
23 to him directly and immediately.

24 Q Can you give me an idea or description of
25 the types of incidents you would report to him?

1 A Well, certainly any incident that
2 involved death or serious bodily injury to
3 persons on campus, any major property crimes
4 involving the university's property, any
5 incidents that would have generated a great deal
6 of media interest.

7 I would have typically reported any
8 incidents where employees were suspected or being
9 charged with criminal conduct. And --

10 Q How about incidents involving the
11 football program?

12 A Well, that would have certainly been
13 within the realm of those incidents that
14 typically generated media interest. And, yes,
15 incidents involving student athletes would
16 typically have been reported to him and then
17 conveyed to Mr. Curley, particularly the football
18 program, because those were always of interest to
19 the news media.

20 Q Let me ask you this. Who was the
21 president of the university in 1998?

22 A Dr. Graham Spanier.

23 Q And, to your understanding, was it -- did
24 Gary Schultz report directly to the president of
25 the university?

1 A He did.

2 Q And you reported directly to Gary
3 Schultz?

4 A That's correct.

5 Q How typically back in -- I'm going to use
6 1998 as a time frame because we're going to
7 discuss a particular investigation that your
8 department did. How would you communicate
9 typically with Mr. Schultz, phone, e-mail? What
10 was the mode of communication that you utilized?

11 A It could have been either phone or
12 e-mail. I would occasionally see him in
13 meetings, but most typically by telephone or
14 e-mail.

15 Q Now, were you familiar with a certain
16 meeting that the president would hold with senior
17 level officials on a regular basis?

18 A Yes.

19 Q What were those meetings called or
20 referred to, if you know?

21 A I think there was a president's consult.

22 Q Did you ever go to those meetings?

23 A Rarely, but I had been to meetings to
24 deliver reports.

25 Q About important law enforcement

1 activities?

2 A Security programs or when there was some
3 major event or incident that was of high level
4 interest to the whole staff.

5 Q Now, in 1998, did you know an individual
6 named Jerry Sandusky?

7 A I did.

8 Q Who did you know him to be?

9 A I knew him to be the assistant football
10 coach. I believe he was the defensive
11 coordinator.

12 Q I'm going to direct your attention
13 specifically to May 4th, 1998. Did your
14 department have occasion to become involved in an
15 investigation of Mr. Sandusky?

16 A We did.

17 Q Describe for the Court your knowledge of
18 how that -- how did that first come to your
19 attention?

20 A It's my recollection that Ron Schreffler,
21 who was an investigator with the university
22 police at that time, came to my office early one
23 morning and reported that a woman had come to the
24 university police and had spoken to him regarding
25 an incident that had occurred, I believe, on the

1 prior day, which would have been a Sunday, in
2 which her son had gone to, I believe it was, east
3 area lockers, the football locker room, on that
4 morning with Coach Sandusky.

5 And after exercising, they had taken a
6 shower; and during that shower, Sandusky had
7 hugged the child from the rear and essentially
8 there was a -- at that point in time no
9 indication that this was overtly sexual, but it
10 had raised concerns with the mother.

11 Q Now, how long after you got the report,
12 approximately, did you wait to inform your
13 superior, Mr. Schultz?

14 A Well, I don't remember the exact amount
15 of time, but I'm sure that I called him yet that
16 very morning to inform him about it.

17 Q That would have been May 4th?

18 A It would have been.

19 Q And what was the purpose for calling him
20 in this particular instance? Why would you
21 apprise him of that incident?

22 A Well, really two reasons. One was, of
23 course, Sandusky was a high profile public figure
24 at the university, and the implication was that
25 this could have been a sexual incident or sexual

1 assault, and it had serious implications for the
2 university and --

3 Q Well, you knew at that time you had
4 information that it involved at a minimum one
5 small child?

6 A That's right.

7 Q And what was the information you had
8 about where this had taken place?

9 A Well, it occurred in the football locker
10 room.

11 Q You described Mr. Sandusky as a high
12 profile individual. In terms of individuals on
13 Penn State's campus, was there anybody that was
14 more high profile than Mr. Sandusky?

15 A Well, I would think Coach Paterno and the
16 president, but he was certainly very high
17 profile, well known in the community both in
18 terms of his coaching position and as well as his
19 charitable contributions in the Second Mile.

20 Q At that time was he currently employed as
21 a member of the athletic department?

22 A He was.

23 Q Now, was one of the ways that you sought
24 to communicate with Mr. Schultz about this
25 investigation or other pertinent matters was

1 through e-mail?

2 A It was.

3 Q Now, do you recognize the e-mail address
4 gcs2@psu.edu?

5 A You said gcs2?

6 Q Yes.

7 A I do. It was the e-mail address of Gary
8 Schultz.

9 Q Now, how about the e-mail address
10 harmon@safety-1.safety.psu.edu?

11 A That was an e-mail address that I used
12 for a server that the university police maintain.

13 Q Okay. Now, I'm going to show you a
14 document that has been marked for identification
15 purposes as Commonwealth's 1 and ask you if you
16 can identify that?

17 A I recognize this. This is a copy of an
18 e-mail that was sent from Gary Schultz to me on
19 the morning of Wednesday, May 6th.

20 Q Is that an e-mail that you received, sir?

21 A It is.

22 Q And that's an e-mail that you received
23 from Gary Schultz?

24 A It is.

25 MR. BEEMER: Your Honor, I would move for

1 the admission of Commonwealth's 1.

2 MR. FARRELL: No objection.

3 THE COURT: Any objections from any
4 counsel?

5 MS. AINSLIE: No. Sorry, Your Honor.

6 THE COURT: Ms. Roberto?

7 MS. ROBERTO: No, Your Honor.

8 THE COURT: Thank you. So moved.

9 BY MR. BEEMER:

10 Q This is a -- the response from Schultz is
11 actually to you and it is in response to
12 something that you had written on May 5th, 1998.
13 Can you read what you wrote?

14 A The regional office for DPW is in
15 Altoona. We're going to hold off on making any
16 crime log entry. At this point in time I can
17 justify that decision based on the lack of clear
18 evidence of a crime.

19 Q And you received a response from Schultz;
20 is that correct?

21 A I did.

22 Q And what was that response?

23 A It says: Good, Tom. Thanks for keeping
24 me informed.

25 Q And so you sent -- this e-mail was sent

1 the day after this investigation was started, is
2 that correct, your e-mail was sent?

3 A It was.

4 Q You received a response the next day from
5 Mr. Schultz. Had you had, prior to this, fairly
6 detailed conversations with Mr. Schultz about the
7 investigation?

8 A I had. I had phone conversations wherein
9 I briefed him in detail.

10 Q Okay. And what does brief him in detail
11 mean? Did you tell him the facts of what --

12 A What we knew based upon what Officer
13 Schreffler had learned from the mother and the
14 child, as well as what we were going to do in
15 terms of the investigative process.

16 Q What's a crime log entry? What are you
17 referring to when you said we're going to hold
18 off on making any crime log entry?

19 A That's a public document recording all of
20 the crimes reported to the university police.

21 Q And why was this not listed as a crime
22 log entry?

23 A Well, at that point in time it wasn't
24 clear that we had a crime, and we didn't
25 certainly want to have premature publicity on

1 this. The other reason, of course, was that if
2 we had put it in the crime log, it would have
3 been a matter picked up by the media and it could
4 have jeopardized any investigative effort.

5 Q What goes in the crime log?

6 A Well, typically the date and time an
7 incident is reported, where the incident occurred
8 and the nature of the incident that was being
9 reported.

10 Q How about the name of the potential
11 actor?

12 A That would not be in there.

13 Q I'm going to show you a second item I've
14 marked for identification as Commonwealth's 2.
15 Is that an e-mail exchange between yourself and
16 Gary Schultz?

17 A Yes.

18 Q And did that, in fact, occur on -- an
19 e-mail that you sent on May 6th?

20 A Let me clarify that. This is his
21 response to another e-mail that I had sent on May
22 the 5th. Is that the answer to your question?

23 Q Yes.

24 MR. BEEMER: Your Honor, I move for the
25 admission of Commonwealth's 2.

1 THE COURT: Any objection from counsel?

2 MR. FARRELL: No objection.

3 MS. AINSLIE: No, Your Honor.

4 MS. ROBERTO: No.

5 THE COURT: So moved.

6 BY MR. BEEMER:

7 Q You wrote what?

8 A I wrote: Although the regional office
9 for DPW is in Cresson, the individual coming to
10 conduct the investigation for DPW is a program
11 representative from Harrisburg. He will be here
12 tomorrow and the expectation is that the
13 individual involved would be interviewed
14 Thursday.

15 Q So Schultz's response was what?

16 A Okay, Tom, thanks for this update.

17 Q So is it fair to say that even though at
18 that point you had made no determination that a
19 crime had occurred, the Department of Public
20 Welfare, who has a responsibility for overseeing
21 the interest of children, was notified and became
22 involved in this investigation in 1998?

23 A That's correct.

24 Q And even if there is no clear indication
25 of a crime having occurred, given the nature of

1 the description, that Sandusky was in the shower
2 with a boy and some of the other things that you
3 had, you determined that it was appropriate to
4 make sure that they were involved?

5 A I think that this came about through
6 notifying the Children and Youth Services in
7 Centre County, so that's essentially correct,
8 that we notified Children and Youth Services.

9 Q We're going to talk about the referral in
10 a minute. But the Department of Public Welfare
11 or Children and Youth or some other agency
12 involved with the welfare of children would be
13 involved in an investigation of this nature?

14 A That's correct.

15 Q And in the e-mail, you're letting Gary
16 Schultz know that, in fact, that's what's going
17 to happen?

18 A That's correct.

19 Q I'm going to show you a third e-mail
20 which has been marked Commonwealth's 3. And this
21 is an e-mail sent from you on May the 8th, 1998,
22 to Gary Schultz. Do you recognize that document,
23 sir?

24 A I do.

25 Q Is that an e-mail that you, in fact, sent

1 at that time?

2 A It is.

3 MR. BEEMER: Move for the admission of
4 Commonwealth's 3.

5 THE COURT: Objections to 3?

6 MR. FARRELL: No, Your Honor.

7 MS. AINSLIE: No, Your Honor.

8 MS. ROBERTO: No.

9 THE COURT: In.

10 THE WITNESS: I'm sorry. Did you ask me

11 --

12 BY MR. BEEMER:

13 Q I did not. On May 8th, you sent the
14 following e-mail to Schultz which says what?

15 A The program representative from DPW was
16 here yesterday. He gathered information from us
17 and the Centre County Children and Youth Services
18 reports. He indicated that it was his intent to
19 have a psychologist who specializes in child
20 abuse interview the children. This is expected
21 to occur in the next week to week and a half. I
22 don't anticipate anything to be done until that
23 happens.

24 Q So now with this report, hasn't been
25 logged in as a crime entry yet, now we have

1 Children and Youth actually getting a --
2 potentially having a psychologist involved to
3 examine the child; is that fair to say?

4 A That's fair to say.

5 Q And that is another development that you
6 kept Mr. Schultz apprized of?

7 A I did.

8 Q So now in the span of the first 72 hours
9 of the investigation, you've sent three e-mails
10 detailing what had occurred or what was going on
11 with the investigation?

12 A That's correct.

13 Q Is it fair to say that's -- the
14 information you're providing in these e-mails is
15 in addition to the information that you provided
16 on those initial phone calls to Mr. Schultz?

17 A That is correct.

18 MR. FARRELL: Objection to leading.

19 THE COURT: I'm going to allow him to
20 answer it.

21 BY MR. BEEMER:

22 Q You can answer the question.

23 A I'm sorry. That's correct.

24 Q I'm going to show you what's been marked
25 as Commonwealth's Exhibit 4 for identification

1 and ask you if you can identify that?

2 A This is a copy of an e-mail from Gary
3 Schultz to me dated May 14th.

4 Q Okay. Now, that e-mail contains what's
5 known as a string, correct?

6 A It's a thread, yes.

7 Q So there's additional e-mails that are
8 contained within that thread?

9 A That's correct.

10 Q And do you recognize the e-mail address
11 that begins tmc2?

12 A I'm sorry, tmc3?

13 Q 3, I'm sorry, tmc3.

14 A Yes, it's Tim Curley. It has the name
15 Tim Curley aside it.

16 Q Did you know that to be Tim Curley's
17 e-mail address?

18 A I did.

19 Q Is Commonwealth's Exhibit 4 an accurate
20 reflection of the e-mail exchange that you had
21 back in the middle of May 1998?

22 A It is.

23 MR. BEEMER: Move for the admission of
24 Commonwealth's 4.

25 THE COURT: Objections to 4?

1 MS. ROBERTO: No, Your Honor.

2 MS. AINSLIE: No, Your Honor.

3 MR. FARRELL: No, Your Honor.

4 THE COURT: So moved.

5 BY MR. BEEMER:

6 Q I want to start at the bottom, at the
7 bottom of the enlargement of Commonwealth's 4.
8 It says at 2:21 p.m., 5/13/98, Tim Curley wrote:
9 Anything new in this department? Coach is
10 anxious to know where it stands. Do you recall
11 seeing that?

12 A I do after seeing this e-mail.

13 Q And there is a response from Gary Schultz
14 the next day; is that correct?

15 A That's correct.

16 Q And that response reads: Tim, I
17 understand that a DPW person was here last week.
18 Don't know for sure if they talked with Jerry.
19 They decided to have a child psychologist talk to
20 the boys sometime over the next week. We won't
21 know anything before then.

22 And then it is -- you respond -- or
23 actually what happens is Gary Schultz responds to
24 your original e-mail and copies so that this
25 thread is involved; is that correct?

1 A I believe that's the way it transpired.

2 Q Okay. And what is his -- what is it that
3 you're telling him in that May 13th e-mail?

4 A Well, I was updating him here by saying
5 the psychologist from DPW spoke with the child.
6 They have not spoken to him. I believe that was
7 a reference to Sandusky. It is my understanding
8 that they intend to do this. I have not -- I
9 have also been advised that they want to resolve
10 this quickly.

11 Q Who is they, when you refer to they want
12 to resolve this quickly?

13 A They here would be Officer Schreffler and
14 the DPW investigator.

15 Q And he responds to you and says: Good,
16 Tom --

17 A Well, when I say I've been advised that
18 they want to resolve this quickly, that would
19 have been a reference to DPW.

20 Q And he responds to you: Good, Tom.
21 Thanks for the update. And I agree that we want
22 to resolve quickly.

23 A That was Mr. Schultz's response.

24 Q Okay. Did you find that to be odd that
25 he would respond that we want to resolve quickly?

1 MS. ROBERTO: Objection. That's calling
2 for a conclusion, and irrelevant.

3 MR. BEEMER: It's very relevant, Your
4 Honor.

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

6 BY MR. BEEMER:

7 A No, I was not surprised by that.

8 Q Who do you believe we means?

9 A We would imply to me university
10 administration.

11 Q Okay. When you are giving all of this
12 information to Schultz, phone call, e-mail, what
13 is your expectation as to who reasonably would be
14 informed of an investigation by Jerry Sandusky
15 for possibly having contact with a child in a
16 shower on your campus, who would you expect to be
17 informed by doing that?

18 MR. FARRELL: Objection, calls for
19 speculation.

20 THE COURT: I think the director of
21 police at Penn State University can answer this
22 question.

23 THE WITNESS: I, of course, as a result
24 of this e-mail knew that Tim Curley was advised
25 and would have expected that. I would have

1 expected that he would have kept the president
2 fully informed. And I --

3 MS. ROBERTO: I'm sorry. If the witness
4 can be more clear, who would have kept the
5 president informed.

6 MS. AINSLIE: And I move to strike the
7 answer as non-responsive.

8 MR. BEEMER: I think it's completely
9 responsive. The question is who would you expect
10 Gary Schultz to have kept informed as to the
11 fairly regularly updates you were giving him.

12 THE WITNESS: May I answer the question?

13 THE COURT: Yes. You can answer that
14 question.

15 THE WITNESS: Okay. As I said, I
16 expected and had confirmed here that he was
17 keeping Tim Curley informed, and I certainly
18 expected that he would have briefed the
19 President. And I think in a matter like this, I
20 would have expected that he would have had some
21 contact with somebody in the university
22 attorney's office, but certainly the president
23 and Tim Curley should have been advised.

24 BY MR. BEEMER:

25 Q Well, in fact, you recognize or would

1 have assumed from getting an e-mail such as that
2 that he wasn't -- not only was he advised but he
3 was asking for updates?

4 A Yes.

5 Q Now, I'm going to show you what I've
6 marked for identification as Commonwealth's
7 Exhibit 5 and ask you if you can identify that?

8 A This is an e-mail -- a copy of an e-mail
9 from Gary Schultz to me dated Saturday, May 30th.

10 MR. BEEMER: Your Honor, I move for the
11 admission of Commonwealth's 5.

12 THE COURT: Any objections to 5?

13 MR. FARRELL: No.

14 MS. ROBERTO: No.

15 MS. AINSLIE: No, Your Honor.

16 THE COURT: So moved.

17 BY MR. BEEMER:

18 Q Now, you wrote an e-mail to Schultz on
19 May 27th, 1998, which was a couple of weeks after
20 the Commonwealth's Exhibit 4 that we just looked
21 at. And what did you tell him?

22 A I said: The head of Centre County
23 Children and Youth Services has raised concerns
24 with the DA that our plan to go ahead and
25 interview the individual was not consistent with

1 previously agreed upon protocol for handling such
2 cases. DA has requested we hold off until we can
3 meet with DPW official tomorrow. We may have to
4 agree to a joint interview which is what we
5 contemplated originally. I'll advise ASAP,
6 meaning as soon as possible. That was written on
7 the 27th.

8 Q Right. And you got a response on May
9 30th, correct?

10 A I did.

11 Q And what was the response?

12 A It says: Okay, Tom, please let us know
13 how this unfolds.

14 Q It doesn't say please let me know how
15 this unfolds, it says please let us know how this
16 unfolds?

17 MS. ROBERTO: Objection. It speaks for
18 itself.

19 THE COURT: It does.

20 MR. BEEMER: I'll withdraw the question.

21 THE COURT: Thank you.

22 BY MR. BEEMER:

23 Q So you're continuing -- this
24 investigation goes on. What are you doing in
25 terms of communicating to Schultz?

1 A Well, I'm continuing to keep him informed
2 as to the progress of the investigation.

3 Q Could you describe to the Court, what was
4 the progress of the investigation? As we start
5 moving into June, where does this investigation
6 end up leading for the university police
7 department?

8 A Well, it's my recollection that the first
9 week or so there was a lot of activity with
10 interviewing the children and the DPW
11 investigator becoming involved. And then there
12 was a period of time when not much was happening,
13 and I think that this was the case in this period
14 of time in terms of the investigative effort.

15 Q At some point does the investigation
16 reach some sort of a conclusion in your eyes?

17 A It did. And I'm not sure of the date of
18 that, but it was shortly after this that I -- do
19 you want me to go on and explain?

20 I received a call from Ron Schreffler
21 telling me that the District Attorney, Ray
22 Gricar, had made the decision that they would not
23 pursue this matter as a criminal case.

24 Q Were you made aware of any contact that
25 your officers had directly with Sandusky?

1 A I was.

2 Q And what was that?

3 A I was told by Officer Schreffler that he
4 and the investigator from the Department of
5 Public Welfare had met with Sandusky at his home,
6 notified him and questioned him about the
7 allegation; and that they had notified Sandusky
8 that it had been determined that no criminal
9 offense had been committed and that the matter
10 was closed.

11 Q Before that, was there any contact the
12 police had at the home of the victim and his
13 mother?

14 A There was, as I recall. And, again, I
15 don't remember the date but the officers were at
16 the home of the child, overheard a conversation
17 between Sandusky and the mother.

18 Q Was that the kind of information that you
19 would have been apprized of as the chief of the
20 police department?

21 A I believe I was. It's certainly my
22 recollection that I knew about that.

23 Q How would you characterize the
24 conversation that they overheard, if you recall?

25 A Well, as I recall, what I knew about it

1 was that Sandusky had acknowledged that he had
2 hugged the child, that he characterized it as
3 horsing around. In any event, he didn't have any
4 sexual intent with the child but did acknowledge
5 that they had that contact.

6 Q Do you recall -- in your recollection, do
7 you recall him saying anything like, I know I was
8 wrong, I wish I was dead?

9 A You know, I did recall that, that
10 particular comment.

11 Q Okay. I'm going to show you what I've
12 marked for identification as Commonwealth's 6.
13 This one is a little bit longer so take your
14 time. Ask you if you can identify that?

15 A This is an e-mail from Gary Schultz to me
16 dated June 9th. And it contains in part the
17 e-mail thread from one of the previous e-mails.

18 MR. BEEMER: Your Honor, I move for the
19 admission of Commonwealth's 6.

20 THE COURT: Objections to 6?

21 MR. FARRELL: No.

22 MS. AINSLIE: No.

23 MS. ROBERTO: No.

24 THE COURT: So moved.

25 BY MR. BEEMER:

1 Q The first string is a string that was
2 actually contained, and we discussed as being
3 contained, in Commonwealth's Exhibit 4 as well.
4 This is the May 13th, '98 e-mail from Tim Curley
5 where he asks if there's anything new in this
6 department, and Gary Schultz's response; is that
7 correct?

8 A That's correct.

9 Q Then four days later -- will you move up,
10 please -- on May 18th, 1998, Curley writes again
11 and asks what?

12 A Any update?

13 Q And there's a response the following day
14 from Mr. Schultz; is that correct?

15 A That's the way I read this.

16 Q And what's the response?

17 A No, I don't expect we'll hear anything
18 prior to the end of next -- or this week.

19 Q And then on May 30th, Curley sends
20 another e-mail to Gary Schultz which says what?

21 A Any further update?

22 Q So in this string there are three
23 separate occasions where Mr. Curley is asking for
24 an update?

25 A That's correct.

1 Q Directly from Schultz?

2 A That's correct.

3 Q And what was Schultz's response?

4 A Tim, I don't have an update at this
5 point. Just before I left for vac, meaning
6 vacation, Tom told me that the DPW and University
7 Police services were planning to meet with him.
8 I'll see if this has happened and get back to
9 you.

10 Q Now, Schultz copies you in this thread
11 and responds to you on Tuesday, June 9th, 1998.
12 And he says what on this thread to you?

13 MR. FARRELL: Objection, Your Honor.
14 That's not what the document says. Mr. Harmon
15 was not copied on anything here.

16 MR. BEEMER: Well, if I said that I
17 misspoke.

18 BY MR. BEEMER:

19 Q This is an e-mail from Schultz to you?

20 A That's correct.

21 Q Saying what?

22 A It says: Tom, I've been holding some
23 catch up time on my calendar on Monday and I'd
24 suggest that we use a piece of it to meet and
25 discuss the status (I also recall the last time

1 we talked you indicated that there was some
2 aspects of this that you felt you should review
3 with me when we had a chance to talk). Please
4 get ahold of Joan and see what time will work.
5 Thanks.

6 Q Who is Joan?

7 A That would have been Joan Coble.

8 Q And who is Joan Coble?

9 A His head administrative assistant.

10 Q Now, what's the header on this e-mail?
11 What's the caption?

12 A It says: RE: Jerry.

13 Q Now, this is Commonwealth's Exhibit No.
14 7. I'll ask you if you can identify that e-mail?

15 A It's an e-mail or a copy of an e-mail
16 from Gary Schultz to me dated Tuesday, June 9th,
17 one minute at least on the header, one minute
18 after the other e-mail, the previous e-mail.

19 Q What does it say?

20 MR. BEEMER: Well, actually before that,
21 I move for the admission of Commonwealth's 7.

22 THE COURT: Objections to 7?

23 MR. FARRELL: No objection.

24 MS. AINSLIE: No objection.

25 MS. ROBERTO: No objection.

1 THE COURT: In.

2 THE WITNESS: Okay. It contains an
3 e-mail thread that has an e-mail from me dated
4 6/1, which would have been the previous week. It
5 says: Gary, the DPW investigator and our officer
6 met discreetly with Jerry this morning. His
7 account of the matter was essentially the same as
8 the child's. He also indicated that he had done
9 this with other children in the past.

10 He was advised since there was no
11 criminal behavior established that the matter was
12 closed as an investigation. He was a little
13 emotional and expressed concern as to how this
14 might have adversely affected the child.

15 Do you want me to -- his response?

16 Q No. I want -- this appears to be an
17 e-mail sent -- the time listed is 2:04 a.m.
18 We're going to talk about that. But it was right
19 after the previous e-mail was sent, which was
20 Commonwealth's 6, where Mr. Schultz was
21 suggesting that perhaps you should meet?

22 A That's correct.

23 Q And then you sent this e-mail -- I'm
24 sorry, then Schultz sent this e-mail to you?

25 A He did.

1 Q Okay. And then I'm going to show you
2 Commonwealth's 8 and ask you if you can identify
3 this?

4 A This is an e-mail from Gary Schultz to
5 Tim Curley with carbon copy to Graham Spanier and
6 Thomas Harmon.

7 Q So you get a copy on this; is that
8 correct?

9 A I did.

10 Q Okay.

11 MR. BEEMER: Your Honor, I would move for
12 the admission of Commonwealth's 8.

13 MR. FARRELL: No objection.

14 MS. ROBERTO: No objection.

15 MS. AINSLIE: Your Honor, can I just have
16 a little more identification of which of these
17 e-mails we're talking about? They're floating
18 around on my table.

19 MR. BEEMER: It will say No. 8 on the
20 bottom.

21 MS. AINSLIE: Got it. No objection.

22 THE COURT: It's in.

23 BY MR. BEEMER:

24 Q Now, this e-mail contains the same --
25 well, does this e-mail contain the same thread

1 that existed in both Commonwealth's 6 and 7 that
2 we talked about? And by thread, I mean the
3 e-mails from May 13th, May 18th, May 30th, where
4 Tim Curley is asking for updates on the case?

5 A It contains the same thread as in
6 Commonwealth's 6 but not 7.

7 Q Okay. And can you move that up again?

8 A I'm sorry?

9 Q Hold on one second. It goes all the way
10 through the: Any update? No, but I don't expect
11 we'll hear anything prior to the end of the week.
12 And then: Any further update? What is contained
13 at the top of the e-mail? Who is it from?

14 A It's from Gary Schultz.

15 Q And what does it say?

16 A In terms of the text?

17 Q Yes.

18 A It says: They met with Jerry on Monday
19 and concluded that there was no criminal behavior
20 and the matter was closed as an investigation.
21 He was a little emotional and expressed concern
22 as to how this might have already affected the
23 child. I think the matter has been appropriately
24 investigated and I hope it is now behind us.

25 Q And who did he send it to?

1 A He sent it to Tim Curley as the primary
2 respondent.

3 Q And who was copied on it?

4 A Graham Spanier and myself.

5 Q Okay. Why would you be copied on this
6 e-mail, if you know?

7 A I can only assume that he was confirming
8 that this matter had been closed in terms of
9 notifying others within the administration that
10 needed to be notified.

11 Q Okay. And that e-mail appears to contain
12 not just that top text from Gary Schultz, but
13 includes all of the prior inquiries as the month
14 of May is moving forward in 1998?

15 A It does.

16 Q Again, the title of this e-mail is also
17 Jerry?

18 A It is.

19 Q Now, you've got Commonwealth's Exhibit 8
20 there. What happens when an investigation like
21 the one in 1998 gets closed, what happens to the
22 file?

23 A Well, it's maintained in our -- in the
24 police department records.

25 Q Was there ever anything done by the

1 police department putting this on a crime log or
2 rolling log, anything like that that would have
3 allowed someone from the general public to figure
4 out if they accessed the fact that this
5 investigation had occurred?

6 A No.

7 Q I'm going to show you an e-mail that I'm
8 going to mark for identification as
9 Commonwealth's 9 and ask you if you can identify
10 that?

11 A It's an e-mail from me to Gary Schultz at
12 gcs2@psu.edu dated Monday, February the 12th,
13 2001, at 4:57 p.m.

14 Q Does that look like an e-mail that you
15 recognize?

16 A I recognize it as a e-mail that I sent.

17 MR. BEEMER: Your Honor, I would move for
18 the admission of Commonwealth's 9.

19 MR. FARRELL: No objection.

20 MS. AINSLIE: No objection.

21 MS. ROBERTO: No objection.

22 THE COURT: So moved.

23 BY MR. BEEMER:

24 Q What does the e-mail say?

25 A It says: Regarding the incident in 1998

1 involving the former coach, I checked and the
2 incident is documented in our imaged archives.

3 Q What is this in response to?

4 A It's obviously in response to a question
5 on his part asking me if we have it in our file,
6 our records.

7 Q On Monday, February 12th, 2001, did Gary
8 Schultz say to you that we've had another
9 incident?

10 A He did not.

11 Q Did he say to you we've gotten another
12 report that Jerry Sandusky was in the shower with
13 a boy?

14 MR. FARRELL: Objection, leading.

15 MR. BEEMER: It's the only way the
16 question can be asked.

17 THE COURT: You can ask it.

18 THE WITNESS: He did not.

19 BY MR. BEEMER:

20 Q If Gary Schultz had said to you the
21 following: Hey, Tom, we got another report of
22 Jerry Sandusky being in the shower with a boy and
23 it came from some university employee and that's
24 all you knew, they didn't tell you anything else,
25 what would you have done with it?

1 MR. FARRELL: Objection, calls for
2 speculation.

3 THE COURT: I think he can answer this.

4 BY MR. BEEMER:

5 Q What would you have done with it?

6 A I would have said that we told
7 Mr. Schultz that we were going to contact the
8 District Attorney's Office and pursue it as an
9 investigation.

10 Q Why?

11 A Well, because in light of the 1998
12 incident, that would have been sufficiently
13 suspicious that there had been a possible child
14 abuse given the fact that Sandusky's clearly knew
15 that this was a problem behavior and --

16 Q So you would have initiated an
17 investigation just on those facts alone?

18 A Yes, we would have. Again, I'm sure we
19 would have re-contacted the District Attorney's
20 office for guidance as we had done in 1998, but I
21 have no doubt that would have been sufficient to
22 justify an investigation to find out what
23 happened.

24 Q But the question you received on Monday,
25 February 12th, was whether -- you responded to

1 him, yes, the 1998 case is in the imaged
2 archives?

3 A Yes. And I have no -- I would have
4 remembered if he had even suggested that there
5 would have been another incident.

6 Q I'm going to show you Commonwealth's 10.
7 This is an e-mail that you were copied on that
8 came from Schultz, Gary Schultz, dated February
9 22nd, 2001. Do you recognize that?

10 A I recognize it as an e-mail that I would
11 have received.

12 Q Okay.

13 A I don't have a recollection of this.

14 Q Who is the -- who is sending the e-mail?

15 A This is an e-mail from Gary Schultz.

16 Q To who?

17 A To the e-mail address of bnk1@psu.edu and
18 that would have been the e-mail address of Bruce
19 Klein who was an assistant director of the
20 university police at the time.

21 Q So Mr. Kline worked for you?

22 A He did.

23 Q Who else was copied on the e-mail besides
24 yourself?

25 A J1c9@psu.edu and that would have been

1 Joan Coble as I recall.

2 MR. BEEMER: Your Honor, I move for the
3 admission of Commonwealth's 10.

4 THE COURT: Any objection?

5 MR. FARRELL: Well, yes, I actually do.
6 There's no showing this has any relevance to what
7 we're talking about here today.

8 MR. BEEMER: I'm going to ask Mr. Harmon
9 if on February 22nd, Gary Schultz wanted to know
10 where all the security cameras were on campus. I
11 think it's -- given the time frame, it's very
12 relevant.

13 THE COURT: I'm going to allow you to ask
14 the question.

15 THE WITNESS: I'm sorry, what is the
16 question?

17 MR. BEEMER: Is 10 admitted, Your Honor?

18 THE COURT: Ten is admitted.

19 BY MR. BEEMER:

20 Q Could you put that up, please? First of
21 all, what is the content of the e-mail that you
22 were copied on?

23 A Would you like me to read it?

24 Q Yes.

25 A Bruce, I wanted to follow-up on something

1 that I thought I heard yesterday regarding other
2 locations on campus where we have permanent and
3 temporary cameras located. Would you give me a
4 listing of those? I'm interested because in
5 moving forward with the Old Main system,
6 perspective of camera being installed on campus?

7 Q Being utilized on campus?

8 A I'm sorry, being utilized on campus.

9 Q Would Bruce Kline have this kind of
10 information?

11 A I'm sorry, say again.

12 Q Would Bruce Kline have had this kind of
13 information in 2001?

14 A Oh, yes, he would have.

15 Q And were there security cameras on
16 campus?

17 A I'm sure there were. I don't know at
18 this point in time exactly where they all were,
19 but we were in the infancy of installing security
20 cameras.

21 Q During this period of time, did you ever
22 get a call, an e-mail or any sort of discussion
23 from Gary Schultz about him wanting to know
24 whether or not there were cameras in the Lasch
25 Building?

1 A Not to my recollection.

2 Q So all you received during this period of
3 time would have been being copied on this e-mail?

4 A That's correct.

5 MR. FARRELL: Your Honor, then I move to
6 strike Commonwealth 10. It hasn't been shown
7 that it has anything to do with the issues in
8 this case.

9 MS. AINSLIE: Same, Your Honor. He
10 doesn't remember having received it.

11 THE COURT: I'm going to allow 10 in over
12 the objection.

13 BY MR. BEEMER:

14 Q Now --

15 THE COURT: Bruce, do we have much more
16 for this witness because I want to take a break?

17 MR. BEEMER: A little bit. It might be a
18 good time to break.

19 THE COURT: Let's take a 20-minute
20 recess. I ask everybody if you have to use the
21 restroom, let's try to get back here in a timely
22 fashion because you'll have to go back through
23 security. Thank you.

24 (Court was held in recess at 11:14 a.m.)

25 (Recess.)

1 (The following proceedings occurred,
2 beginning at 11:35 a.m.):)

3 (Mr. Harmon resumed the witness stand.)
4

5 DIRECT EXAMINATION CONTINUED

6 BY MR. BEEMER:

7 Q Sir, I'm going to show you a four-page
8 document, handwritten, marked for identification
9 as Commonwealth's 11. And I want to go through
10 this document with you and ask you some questions
11 about it. Okay?

12 MR. BEEMER: Tom, is there any objection
13 to Commonwealth's 11?

14 MR. FARRELL: No.

15 THE COURT: Okay.

16 MR. BEEMER: Sir, I would move for
17 admission of Commonwealth's 11. It's a four-page
18 handwritten notations that -- there will be
19 further explanation to the Court as to the
20 authentication of these documents and where they
21 came from, but I want to ask Mr. Harmon a few
22 questions about them.

23 THE COURT: Any other objection to this
24 document?

25 MR. AINSLIE: If Mr. Farrell doesn't

1 object, I won't object either.

2 MS. ROBERTO: No, Your Honor.

3 THE COURT: Thank you. It's in.

4 BY MR. BEEMER:

5 Q I'm going to tell you just for purposes
6 of asking you these questions that these were
7 documents that were recovered at some point that
8 will later be identified as being the handwriting
9 of Gary Schultz and having come from a file in
10 his office. And I want to talk to you about the
11 first page.

12 There's a header on this first page on
13 the right-hand upper corner that indicates a date
14 and time of 5/4/98 at 5:10 p.m. Do you see that?

15 A I see it.

16 Q Okay. Would that have been about the
17 time you would have first reached out to
18 Mr. Schultz about this investigation?

19 A No. I would have contacted him before
20 this.

21 Q Okay. Earlier in the day?

22 A Earlier in the day.

23 Q That was the day that this first came to
24 the police department's attention, correct?

25 A That's correct.

1 Q And there are details contained on this
2 first page, and I want to focus on some things.
3 First of all, it indicates the age of a child; is
4 that correct?

5 A It does.

6 Q What does it say?

7 A Eleven-and-a-half-year-old son.

8 Q And there are a description, the word
9 Jerry, do you see where it says Jerry about the
10 fourth line down?

11 A Right.

12 Q What does that say?

13 A Jerry picked up son and invited to
14 football locker rooms, FB.

15 Q And football is abbreviated FB?

16 A That's correct.

17 Q Okay. And what's the next line say?

18 A Behavior at best inappropriate, at worst
19 sexual improprieties.

20 Q Okay. Is that consistent with
21 information you would have provided him that day?

22 A It is. And that would have been my
23 commentary.

24 Q So you believe that this is what you were
25 telling him about Sandusky's behavior at the time

1 was that at the best it's inappropriate?

2 A That's correct.

3 Q And at the worst sexual improprieties?

4 A That's correct.

5 Q And it also indicates that the police
6 were interviewed or police did an interview?

7 A That's correct.

8 Q And what was the method of the interview?

9 A It says it was taped.

10 Q What else does it say?

11 A May be leaving out key issues. By
12 themselves. Wrestled. Give him other clothes,
13 even though he was in shorts.

14 Q And then the second page?

15 A Worked out on treadmill, etc. Jerry to
16 take a shower undressed. Question mark. No
17 other shower. Four in there. Shampoo. Or four
18 in here, I'm not quite sure.

19 Jerry came up behind and gave him a bear
20 hug. Said he would squeeze guts out. That looks
21 like all.

22 Q Is this all information that you would
23 have provided him?

24 A It is.

25 Q So you were kind of -- you were giving

1 him the details of what the kid was saying?

2 A Based upon what Officer Schreffler told
3 me.

4 Q Correct. I understand you weren't
5 present at the interview, but you were taking
6 that information and relaying it directly to
7 Mr. Schultz?

8 A That's correct.

9 Q And what else does it say?

10 A Do you want me to keep going?

11 Q Yes.

12 A Keep clothes, socks, JUP's hat. I think
13 that's -- I'm not quite sure what that is.

14 Q JVP?

15 A JVP's hat. That would have been Joe
16 Paterno's hat. Took hand. Mother concerned
17 something more. Kid took another shower last
18 night and this a.m. Mother asked how did he give
19 hug. Had to be --

20 Q Is that genital?

21 A Genital. Oh, yes, genital contact
22 because of age difference -- because of size
23 difference. But when asked of boy, he quietly
24 said no. Friend Brendon, age 10, also at Nittany
25 Gardens. Claims same thing went on with him.

1 Q Okay, stop right there. So you told him,
2 it was not only the first boy but there was a
3 second boy?

4 A Yes, sir.

5 Q And claimed that the same sort of
6 behavior with Sandusky in the shower with him
7 occurred and you relayed that to Schultz?

8 A That's correct.

9 Q Okay. Go ahead. Keep going.

10 A Mother also asked Brendon. Children and
11 Youth has been notified. Will come to talk to
12 Brendon tonight. Mother overreacting - no
13 genuinely concerns. At min, poor judgment.
14 Critical issue, contact with genitals. Assume
15 same -- I'm not quite sure -- something ex with
16 Brendon, question mark. Not consensual. I'm not
17 sure what that word is.

18 Q Okay. So all of this would have been
19 information you provided Mr. Schultz within 12
20 hours of you guys getting this police report?

21 A That's correct.

22 Q And you indicated that you talked to him
23 again, it wasn't just the one day, you talked to
24 him on other occasions?

25 A I did.

1 Q Okay. I'm going to show you
2 Commonwealth's 12. What's the header on that
3 document?

4 A Tom Harman, 5/5, last evening.

5 MR. BEEMER: On the same theory, Your
6 Honor, move to admit Commonwealth's 12 at this
7 point.

8 MR. FARRELL: No objection. I gave them
9 these two.

10 THE COURT: Ladies?

11 MS. AINSLIE: No objection.

12 THE COURT: It's in.

13 BY MR. BEEMER:

14 Q What does it say?

15 A Do you want me to go through it?

16 Q Yes.

17 A Last evening, RE interview 11 and a half
18 year old, only change added what happened in
19 shower demonstrated on chair how Jerry hugged
20 from back. Hands around abdomen and down to
21 thighs. Picked him up and held him at shower
22 head. Rinse soap out of ears. Obsessed with PSU
23 FB and concerned about getting Jerry in trouble.
24 Getting football tickets. Kid has been seeing a
25 psychologist, probably emotional problems but

1 articulate and believable. Mother to
2 psychologist and said would call child abuse hot
3 line and will generate an incident. No. With
4 Department of Public Welfare.

5 Other boy interviewed last night.
6 Similar account. Locker room, wrestling, kissed
7 on head, hugging from behind in shower. No
8 allegation beyond that. Kids drew diagrams of
9 shower rooms. He initially went down to shower 3
10 yardsticks away and Jerry told him to come down
11 to shower next to his.

12 Local child abuse people meeting at 9:00
13 today to decide what to do. Either way
14 caseworker felt they would interview Jerry. Is
15 this opening of pandora's box, question mark.
16 Other children?

17 Q Was that something that you said to him
18 is this opening of pandora's box, other children?

19 A It could have been. I don't have a
20 specific recollection of that.

21 Q I'm going to show you Commonwealth's 13,
22 another document, header 5/5/98, ask you if you
23 recognize that? Ask you if -- do you recognize
24 the information that you would have provided to
25 Mr. Schultz?

1 A And the question is?

2 Q Do you recognize, is that information
3 that you would have provided to Gary Schultz on
4 May 5th?

5 A This is consistent with what I would have
6 told him about the investigating process and who
7 was -- who would do what.

8 Q And this is a list of items; is that
9 correct?

10 A It is, five bullet points.

11 Q Will you read what those five bullet
12 points are?

13 A Psychologist did make a report to child
14 abuse hotline requiring department to do an
15 investigation. And it appears to be but locals.

16 Because Second Mile is contractor, it
17 needs to investigating by Department of Public
18 Welfare regional office.

19 DPW role is protecting child. Police
20 would do criminal side.

21 Police will do in conjunction with DPW
22 and turn facts over to DA who will determine if
23 crime was committed.

24 Somewhat more complicated due to Second
25 Mile.

1 Q Now, are all of those notes consistent
2 with conversations that you and Schultz would
3 have had about the investigation in the first 48
4 hours?

5 A They are.

6 Q And is it fair to say that -- did you try
7 to give him information to clarify the roles of
8 the police department as opposed to Children and
9 Youth or Department of Public Welfare, what their
10 roles are?

11 A I believe I did so, yes.

12 Q Now, Mr. Schultz contended in his
13 testimony in front of the Grand Jury, which we
14 will admit at a later point in this proceeding,
15 that he didn't recall that in 1998 he knew
16 anything about the details of what the allegation
17 was and only recalled that there was a young boy
18 who reported some inappropriate behavior. Is
19 that consistent with the information that you
20 were providing him contemporaneous with this
21 incident?

22 A It is not.

23 Q Do you have -- in 1998, did you have any
24 reason to believe that all of the administration
25 was fully apprized of the circumstances of this

1 investigation?

2 MS. AINSLIE: Objection. There is
3 absolutely no basis for this. Any answer would
4 be total speculation.

5 MR. BEEMER: I'm asking him if he -- if
6 there was anything that occurred that would lead
7 him to believe that the members of the
8 administration were not fully apprized of what
9 was going on.

10 THE COURT: I'm going to allow him to
11 answer that.

12 MS. ROBERTO: Your Honor, I don't know
13 who members of the administration are, so I would
14 object to the form of the question.

15 BY MR. BEEMER:

16 Q Do you have any reason to believe the
17 president of the university would not have been
18 apprized of the details of the 1998
19 investigation?

20 MS. AINSLIE: Your Honor, he's not
21 talking about an incident. He's saying would not
22 have. That is total speculation. If he's going
23 to change the question and he says was there an
24 incident that led you to believe that the
25 president wasn't apprized, fine. I would have no

1 objection to that question. But would you think
2 he would not be apprized, that is irrelevant,
3 vague and calls for speculation. It's totally
4 not appropriate.

5 THE COURT: Can you rephrase?

6 MS. AINSLIE: I'm sorry?

7 THE COURT: I asked him whether he could
8 rephrase the question.

9 MS. AINSLIE: Yes, thank you.

10 BY MR. BEEMER:

11 Q Were you operating under the belief that
12 based on the e-mails and the other contact that
13 you were having with Mr. Schultz, that the
14 president of the university would have been
15 apprized of the status of the Sandusky
16 investigation?

17 MS. AINSLIE: Objection. Again, apprized
18 of the status as of what time? He is clearly
19 copied on one e-mail. Anything more than that
20 e-mail, I wouldn't have any objection to.

21 THE COURT: Ms. Ainslie, I'm going to
22 overrule your objection and allow the witness to
23 answer the question.

24 THE WITNESS: I would have believed at
25 the time that Mr. Schultz was keeping the

1 president and the athletic director apprized of
2 the nature of the incident and the status of the
3 investigation.

4 MR. BEEMER: Offer for cross.

5 THE COURT: Mr. Beemer, you didn't put 13
6 in. Did you make a motion to?

7 MR. BEEMER: I move to admit 13.

8 THE COURT: Any objection to 13 that we
9 just did?

10 MR. FARRELL: No, Your Honor.

11 MS. AINSLIE: No, Your Honor.

12 MS. ROBERTO: No, sir.

13 THE COURT: So moved. Offered for cross.
14

15 CROSS EXAMINATION

16 BY MR. FARRELL:

17 Q Good morning, Mr. Harmon. Just a few
18 minutes more. I would like to start with that
19 e-mail about those lights in 2001. Do you recall
20 that in 2001 you were the director of police
21 services for Penn State?

22 A I was.

23 Q And in the year -- actually, starting in
24 the fall of 2000 through the year 2001, there
25 were a number of disruptive incidents on campus,

1 were there not?

2 A There were.

3 Q There was a riot in the so-called Beaver
4 Canyon after a Temple basketball game?

5 A I don't remember if that was the same
6 year, but there was a riot after the Temple
7 basketball game. I just don't remember if that
8 was the same year.

9 Q Okay. That riot, property destroyed?

10 A Yes.

11 Q People arrested?

12 A Yes.

13 Q Besides that riot, there were a number of
14 incidents that caused, let's say, racially-based
15 concern on campus?

16 A That's correct.

17 Q There were threats against African
18 American athletes?

19 A Against what?

20 Q Black athletes who played for Penn State?

21 A I don't have a specific recollection of
22 that.

23 Q Do you recall that the head of the black
24 students caucus, Lakeisha Wolf, had to wear a
25 bulletproof vest around campus?

1 A That's correct.

2 Q And that a number of people representing
3 themselves to be Black Panthers came to campus?

4 A That's correct.

5 Q There was also at least one, perhaps two,
6 African American men found murdered, one near
7 I-80?

8 A I only remember the one up on I-80, yes.

9 Q A black man found?

10 A That's correct.

11 Q And that contributed to the racial unrest
12 on campus?

13 A That's true.

14 Q All those events were a matter of great
15 concern to you as director of police services?

16 A That's correct.

17 Q And to the administration, including
18 Mr. Schultz?

19 A That's correct.

20 Q A number of discussions about what to do
21 in response to that, right?

22 A That's correct.

23 Q There was, I think we've heard earlier
24 today, a takeover of the Hub, the student union,
25 during that time period?

1 A Yes, that's correct.

2 Q Meaning students --

3 A The general time period. Again, I'm not
4 sure what the dates were.

5 Q In the first half of 2001, that's what
6 we're talking about.

7 A Okay.

8 Q There was also, I think, I believe it was
9 in April, March or April of 2001, there was a
10 planned march on hate to show university and
11 student opposition to these acts of racial
12 hatred, was there not?

13 A I don't have a specific recollection of
14 that, but I'm sure there was.

15 Q Well, you remember the march on hate
16 turned into a riot requiring a police response?

17 A Again, I would have to have something to
18 refresh my recollection on that.

19 Q Okay. Well, the events we're talking
20 about, they were matters of a lot of significance
21 to you at the time?

22 A Sure.

23 Q But you don't remember the details of
24 them?

25 A That's right.

1 Q You need to see e-mails to refresh your
2 memory; is that accurate?

3 A Well, I don't know if I would need just
4 e-mails, but some record of the events to refresh
5 my memory, yes.

6 Q Notes would help?

7 A That's correct.

8 Q Reports?

9 A That's correct.

10 Q And you have not reviewed notes or
11 reports of the racial incidents before coming
12 here to testify, have you?

13 A No.

14 Q That e-mail -- do you have a stack of
15 e-mails in front of you?

16 A Yes.

17 Q It's Commonwealth Exhibit 10.

18 A I'm sorry. I don't have them here any
19 longer.

20 Q Commonwealth Exhibit 10, is that the
21 e-mail about the lights?

22 THE COURT: Cameras.

23 MR. FARRELL: The cameras, you're right.
24 I'm sorry.

25 BY MR. FARRELL:

1 Q The cameras?

2 A It's about the cameras, yes.

3 Q Do you remember if there were earlier
4 e-mails about that?

5 A Not at this point in time I don't
6 remember that there were other e-mails.

7 Q Do you recall that there were a whole
8 series of discussions about installing cameras on
9 campus?

10 A That's correct, there were.

11 Q To address the incidents of unrest and
12 violence we've discussed over the last few
13 minutes?

14 A Well, my recollection is that we were
15 primarily concerned about installing cameras at
16 Old Main.

17 Q Old Main being the chief administration
18 building?

19 A That's correct.

20 Q And was that to protect against the sorts
21 of violence and incidents we just discussed?

22 A That was in part the reason, certainly,
23 yes.

24 Q What were the other reasons?

25 A Well, just general security of the

1 building.

2 Q And the security concerns caused by the
3 incidents that happened on campus?

4 A I believe they were cause for heightened
5 concern.

6 Q You don't recall any discussion about
7 installing cameras in the Lasch Building, do you?

8 A No.

9 Q Do you recall Mr. Schultz asking you
10 about cameras in the Lasch Building?

11 A No.

12 Q Do you recall any conversations with
13 Mr. Schultz about this topic of cameras in
14 February 2011?

15 A I'm sorry?

16 Q Do you recall talking -- let's put aside
17 the e-mail. Aside from what you see in the
18 e-mail, do you recall talking to Mr. Schultz?

19 A I'm sure we had discussions.

20 Q You say I'm sure we did, but you don't
21 remember them?

22 A I don't remember them specifically.

23 Q You don't remember what he said or what
24 you said?

25 A No.

1 Q When you -- we've been through this
2 before, this preliminary hearing, right, you
3 recall back in -- a while ago, more than a year
4 ago?

5 A Yes.

6 Q At the time you testified at that
7 preliminary hearing, you had not seen the e-mails
8 that we went through this morning, the 1998
9 e-mails?

10 A I had not.

11 Q You didn't save any e-mails from 1998,
12 did you?

13 A I didn't what?

14 Q You did not save any e-mails from 1998,
15 you yourself?

16 A No, I did not.

17 Q The e-mails we saw, they were all e-mails
18 that Mr. Schultz saved?

19 A That's correct.

20 Q And those helped refresh your memory
21 about what happened in '98?

22 A That's correct.

23 Q The notes we saw, you don't have any
24 notes from 1998?

25 A I do not.

1 Q There are police reports that police
2 officers beneath you filled out in connection
3 with their investigation, right?

4 A That's correct.

5 Q Like Officer Schreffler, he did a lot of
6 reports?

7 A That's correct.

8 Q And there was an Officer Ralph Ralston of
9 the State College Police, he completed a number
10 of reports too?

11 A I don't know that for a fact but --

12 Q But whatever reports the police completed
13 and filed with regard to the 1998 investigation,
14 you did review those before you testified both at
15 our prior preliminary hearing and today?

16 A I did not.

17 Q No, you didn't?

18 A I testified only from my memory and
19 recollection.

20 Q Now, from your memory and recollection
21 without reports or notes, back at the first
22 preliminary hearing you didn't remember if you
23 told Mr. Schultz how old the boy was?

24 A That's correct.

25 Q And based upon your memory and

1 recollection back at the first preliminary
2 hearing, you didn't remember if you told
3 Mr. Schultz that psychologists had examined the
4 boy, you didn't remember that at the first
5 preliminary hearing?

6 A No, I did not.

7 Q You testified to both the age of the boy
8 and the psychologists being consulted today based
9 upon what you saw in the e-mails and the notes?

10 A That's correct.

11 Q And you don't know, sir, if Mr. Schultz
12 had the benefit of seeing those e-mails and notes
13 at the time he testified in the Grand Jury?

14 A I'm sorry. Ask the question again.

15 Q You don't know if in preparation for
16 testifying before the Grand Jury on January 11th,
17 2011, Mr. Schultz was shown any e-mails or notes
18 about the 1998 incident?

19 A I don't know whether he had the notes or
20 what he did to prepare, no.

21 Q So he too, like you, may have been
22 testifying simply from memory?

23 A He may have.

24 Q As we've seen in these e-mails and notes
25 and as you've testified, the 1998 incident was

1 described to you by Officer Schreffler, right,
2 he's the one who gave you the description of the
3 allegation?

4 A That's correct.

5 Q And he based that on talking to the boy?

6 A Yes.

7 Q And talking to the boy's mother?

8 A Yes.

9 Q And he described the allegation as Jerry
10 Sandusky boy hugging -- not boy hugging but bear
11 hugging a boy from the rear, right?

12 A That's correct.

13 Q In the shower?

14 A That's correct.

15 Q So obviously they were both naked?

16 A That's correct.

17 Q And by bear hugging from the rear, that
18 would mean that Jerry Sandusky's front, the front
19 of his body, was right up flush against the rear
20 of the boy's body?

21 A I can't describe that and make that
22 judgment, I don't know, other than what I relayed
23 from Schreffler to Mr. Schultz.

24 Q Well --

25 A I mean, I'm not sure I understand the

1 question.

2 Q If you take a look at Commonwealth
3 Exhibit 11.

4 A Okay.

5 Q If you look at the -- I guess it's
6 Commonwealth 12. I'm sorry. It's Commonwealth
7 12, the May 5th notes.

8 The May 5th notes reflect Mr. Schultz's
9 notes of what you told him on May 5th, 1998; is
10 that your understanding?

11 A That's my understanding and my
12 recollection.

13 Q Based upon what you recall, this is
14 pretty much what you told him on May 5th, 1998,
15 to the extent you can remember?

16 A It is.

17 Q You don't remember exactly what you told
18 him on May 5th, '98, because it's a long time
19 ago?

20 A Well, I remember when I see it in writing
21 that these are consistent with what I would have
22 told him and knew at that time.

23 Q Okay. So it fits together with the
24 reports and whatever things you remember?

25 A That's correct.

1 Q But you don't remember word for word this
2 is what you said to Mr. Schultz?

3 A No, not without these notes.

4 Q According to Commonwealth Exhibit 12,
5 page 1, the description you gave was -- it's
6 towards the middle -- Jerry hugged from back,
7 hands around abdomen and down to thighs. Is that
8 the description you gave?

9 A That would have been what I would have
10 given him based upon what Schreffler related to
11 me.

12 Q So that physical gesture by bear hug, I
13 mean --

14 A Sure.

15 Q -- coming up behind and wrapping one's
16 arms around the other person front to back?

17 A That's correct.

18 Q That's what you described to Mr. Schultz
19 in '98?

20 A Um-hmm.

21 Q Now, that was just the start of the
22 investigation, wasn't it, May 5th of 1998?

23 A That's correct.

24 Q The investigation went on for the whole
25 month of May?

1 A Well, I'm not sure how much was being
2 done at some points, point in time there. But it
3 was open during that period of time.

4 Q And during that period of time, the boy
5 was interviewed by Officer Schreffler, right?

6 A That's correct.

7 Q Did Mr. Schultz tell you who should be
8 interviewed in the course of this investigation?

9 A No.

10 Q Did he make any suggestions as to what
11 investigative steps should be taken or not taken?

12 A He did not.

13 Q Was that consistent with his usual
14 practice, that he left the police investigation
15 to you, the police?

16 A It was.

17 Q You never had an experience during your
18 whole time at Penn State that Mr. Schultz tried
19 to interfere with an investigation?

20 A I can't recall any time he attempted to
21 interfere with a criminal investigation.

22 Q Interfere in any way that you thought was
23 improper, you don't recall anything like that?

24 A No.

25 Q And he did not try to interfere in any

1 way you thought improper with the 1998
2 investigation?

3 A He did not.

4 Q It was not Mr. Schultz who suggested that
5 this initially be called an administrative
6 report, was it?

7 A He did not.

8 Q That was your decision?

9 A That was my decision.

10 Q And as you explained, these police logs,
11 the things that go into them are things that
12 clearly are crimes, like incidents of vandalism,
13 assaults, thefts, rapes, right?

14 A That's correct.

15 Q And in this situation, 1998, you didn't
16 know if you even had a crime?

17 A That's correct.

18 Q So to put it in a police log, you would
19 have had to put something like man showers with
20 boy, right?

21 A I don't know quite what we would have put
22 in but, I mean, that would not be what we would
23 put in obviously.

24 Q I'm sorry. I apologize for the mild
25 sarcasm. But the point is that at the start and

1 through this investigation, what you had was so
2 vague and undefined in terms of whether it was a
3 crime or not, there was nothing you could have
4 put in the police log?

5 A We could have called it a criminal
6 offense, say indecent assault, and ultimately
7 closed it by saying it was unfounded. That would
8 have been an alternative course of action.

9 Q Did you discuss that with Mr. Schultz?

10 A I did not.

11 Q Did you discuss that with Mr. Gricar, the
12 District Attorney?

13 A No.

14 Q Mr. Gricar is the one that ultimately
15 made the decision that there was no criminal
16 offense?

17 A That was my understanding of what his
18 decision was, that there was no criminal offense.

19 Q Did you talk directly to Ray Gricar about
20 that?

21 A I did not.

22 Q And Ray Gricar, was he a District
23 Attorney you had worked with in the past?

24 A He was.

25 Q Did he have a reputation as being tough

1 on crime?

2 MR. BEEMER: Objection, Your Honor.

3 MR. FARRELL: Let me rephrase.

4 THE COURT: Thank you.

5 BY MR. FARRELL:

6 Q In your experience, have you ever seen
7 Mr. Gricar do anything you thought improper to
8 benefit Penn State University?

9 A No.

10 Q And you don't believe he did anything
11 improper in 1998, do you?

12 A I have no reason to believe that.

13 Q And as we've seen the ultimate
14 determination, was it -- let me withdraw that.

15 First, it was Mr. Schreffler, Officer
16 Schreffler, who communicated to you Mr. Gricar's
17 decision that there was no crime, right?

18 A That's correct.

19 Q And that was also a determination in
20 which the Department of Welfare agreed?

21 A That is my understanding. I did not have
22 any communication directly with the Department of
23 Welfare, but based upon the fact that the
24 investigator went with Officer Schreffler to
25 Sandusky's home when they talked to him, and

1 according to Officer Schreffler they told him
2 that no criminal offense had occurred, I believe
3 that that was their decision.

4 Q And you conveyed that decision that no
5 criminal offense had occurred to Mr. Schultz,
6 right?

7 A That the District Attorney had determined
8 that, yes.

9 Q Take a look at Commonwealth Exhibit 7.
10 And the bottom e-mail, that's your June 1, 1998
11 e-mail to Mr. Schultz?

12 A It is.

13 Q And that's the e-mail in which you told
14 him that the District Attorney determined there
15 was no criminal behavior?

16 A No. It's -- it's my recollection that I
17 called him and had that conversation with him to
18 inform him specifically of the District
19 Attorney's decision, that this was merely
20 relating the results of that meeting.

21 Q Okay. First you called Mr. Schultz and
22 told him?

23 A I don't have any recollection of, you
24 know, what date that was but, again, my
25 recollection is that I made a phone call to him

1 contemporaneous with learning that the District
2 Attorney was not going to pursue it.

3 Q And in that phone call with Mr. Schultz,
4 did you tell Mr. Schultz as you told him in that
5 e-mail that Jerry Sandusky admitted to showering
6 with other boys?

7 A I don't remember the details of that
8 conversation. I'm sorry.

9 Q So you don't remember anything else you
10 told Mr. Schultz in that conversation?

11 A I don't remember.

12 Q Now, during the whole course of this
13 investigation leading up to the final
14 determination on or about June 1st of 1998,
15 Mr. Schultz had not told you what investigative
16 steps to take, right?

17 A He did not.

18 Q No one else from the university had, I
19 mean outside the university police department?

20 A They did not.

21 Q And no one to your knowledge had made any
22 attempt to put a thumb on the scale and make the
23 investigation come out one way rather than
24 another?

25 A Not to my knowledge, certainly not that I

1 was aware of.

2 Q And not that any of your police officers
3 reported to you?

4 A No.

5 Q So in the final determination, you were
6 satisfied that that was a determination made
7 after both a full and fair investigation?

8 A It was -- I'm sorry.

9 MR. BEEMER: Objection. It's been asked
10 and answered.

11 THE COURT: Agreed.

12 BY MR. FARRELL:

13 Q Now, at the end of that investigation, to
14 your knowledge did anyone report the fact of the
15 investigation or the conduct of Jerry Sandusky to
16 the Second Mile, the charitable foundation within
17 which he worked?

18 A Not to my knowledge.

19 Q Did you suggest to anyone that this
20 should be reported to the Second Mile?

21 A I did not, no.

22 Q Did anyone to your knowledge?

23 A Not to my knowledge.

24 Q Did you or anyone suggest that this
25 should be reported to foster care and child care

1 agencies because Mr. Sandusky was both a foster
2 and adoptive parent?

3 A Not to my -- again, not to my knowledge.

4 Q So aside from telling Mr. Sandusky in
5 1998 that he shouldn't shower with boys again,
6 there were no steps taken to address his conduct
7 in the future, was there?

8 MR. BEEMER: Your Honor, I'm going to
9 object. The question presupposes. The
10 Department of Public Welfare regulates all
11 activity regarding children. So by virtue of the
12 fact of their involvement in the investigation,
13 they would have been aware of it.

14 I don't know that the second part of the
15 question is accurate or appropriate.

16 MR. FARRELL: I'll try to undo it.

17 THE COURT: Thank you.

18 MR. FARRELL: I'm not quite sure I
19 understand.

20 BY MR. FARRELL:

21 Q Do you know if anyone from the Department
22 of Public Welfare knew that Jerry Sandusky was
23 told he shouldn't shower with boys?

24 A Could you ask that again?

25 Q Well, do you know who was advised of the

1 warning to Jerry Sandusky that he shouldn't
2 shower with boys?

3 A I don't know for a fact other than the
4 investigator was with Officer Schreffler when
5 they talked to Jerry Sandusky.

6 Q The investigator from DPW?

7 A That's correct.

8 Q And you don't know, you don't know of
9 your own knowledge whether anything was done to
10 enforce that, do you?

11 A No.

12 Q And as far as you know, that was never
13 told, that warning was never conveyed to
14 Mr. Schultz, was it?

15 A Not to my knowledge.

16 Q The 2001 e-mail we saw, do you have that
17 in front of you?

18 A I don't, no.

19 Q Let me try to find it. Here we go.
20 (Provided to the witness.) That's the e-mail
21 dated February 12th of 2001 from you to
22 Mr. Schultz RE incident in 1998, right?

23 A That's correct.

24 Q And you sent that e-mail to Mr. Schultz?

25 A Based upon my recollection and seeing it

1 here, yes.

2 Q You don't -- independently of seeing that
3 in front of you, you don't remember sending it?

4 A I do not.

5 Q And do you remember talking to
6 Mr. Schultz about that e-mail either before or
7 after?

8 A I do not.

9 Q You don't remember if you did or you
10 didn't?

11 A I don't remember speaking with him about
12 this.

13 Q So when you said earlier that that e-mail
14 was in response to a conversation with
15 Mr. Schultz, you're drawing an inference simply
16 based on the way the e-mail reads?

17 A That's correct.

18 Q The e-mail speaks of an incident in 1998
19 involving a former coach, right?

20 A It does.

21 Q Were there other police incidents in 1998
22 involving coaches?

23 A No, not to my knowledge. This is -- this
24 clearly to me reflects the 1998 incident
25 involving Jerry Sandusky.

1 Q Showering with a boy and bear hugging him
2 from the rear?

3 A It does.

4 Q So you knew that at the time you sent the
5 e-mail?

6 A I did.

7 Q And you knew that Mr. Schultz was asking
8 for the file of that investigation of Jerry
9 Sandusky for showering with a boy and hugging him
10 in 1998?

11 A It's my understanding that from the
12 e-mail that he was asking if we had the file, had
13 it in the file.

14 Q You had to know what file he was asking
15 about?

16 A Right.

17 Q So it had to be the file we just
18 discussed?

19 A Yes.

20 Q Did you get the file for him?

21 A No, not to my knowledge. I don't have
22 any recollection that he asked for it.

23 Q Do you recall asking Mr. Schultz, this is
24 a curious request, what's going on?

25 A I don't have any recollection of that.

1 Q You don't know if you did ask him or you
2 did not ask him?

3 A I just don't have any recollection of our
4 discussion or conversation.

5 Q And you don't discuss -- I'm sorry,
6 withdrawn.

7 You don't recall if Mr. Schultz told you
8 anything about why he was looking for it?

9 A No, I don't.

10 Q You don't remember if he told you that
11 there was something new going on?

12 A If he had told me anything about the 2001
13 incident, that would have been so significant
14 that I would recall that.

15 Q You're saying you would have recalled,
16 but you don't remember if he said something or
17 not?

18 MR. BEEMER: Objection. That's not what
19 he said. He said if he had been told -- it
20 speaks for itself.

21 THE COURT: I heard the answer.

22 BY MR. FARRELL:

23 Q You don't remember what Mr. Schultz said
24 to you?

25 A No.

1 Q And to your recollection, did you ever
2 ask Mr. Schultz any follow-up questions about his
3 request for that file?

4 A Not to my recollection, no.

5 MR. BEEMER: I'm going to object. The
6 characterization, there's no indication that he
7 requested the file.

8 THE COURT: Correct.

9 BY MR. FARRELL:

10 Q Did you ever ask Mr. Schultz any -- well,
11 you don't know if he requested the file or not,
12 right, because you don't remember what
13 Mr. Schultz said to you?

14 A I think I would remember if he asked, had
15 asked for it. I have no recollection that he
16 ever asked for it.

17 Q And you have no recollection of any
18 conversations with Mr. Schultz about the topic of
19 the '98 -- about the topic of the February 12th,
20 2001 e-mail after you sent the e-mail?

21 A I don't have any recollection of that.

22 Q That's not an e-mail you saved, it's one
23 that Mr. Schultz saved, right?

24 A That's correct.

25 MR. FARRELL: I have nothing else, Your

1 Honor.

2 THE COURT: All right.

3

4 CROSS EXAMINATION

5 BY MS. ROBERTO:

6 Q Just briefly, Mr. Harmon. My name is
7 Caroline Roberto and I represent Mr. Curley.
8 I'll approach so you can hear me. Can you hear
9 me okay?

10 A A little better here.

11 Q Okay. All right. In 1998, there was a
12 decision made that there was no criminal conduct
13 regarding the incident you were just speaking of,
14 correct?

15 A That's correct.

16 Q And those involved in making that
17 decision were DPW, correct?

18 MR. BEEMER: Objection, Your Honor. DPW
19 isn't a criminal decision.

20 BY MS. ROBERTO:

21 Q The entities involved in the
22 investigation were DPW, correct?

23 A That's correct.

24 Q And the Centre County District Attorney's
25 Office, correct?

1 A That's correct.

2 Q And your office?

3 A That's correct.

4 Q A decision was made that there was no
5 criminal conduct, correct?

6 A That's correct.

7 Q Okay. And those three entities that I
8 just mentioned were involved in that decision
9 making, correct?

10 A The ultimate decision would have been
11 that of the District Attorney, because that
12 office was the legal entity that would have made
13 the judgment with respect to whether or not it
14 was or was not a criminal case.

15 Q Yes. Mr. Curley had no role in making
16 any decision regarding whether there was criminal
17 conduct in 1998, correct?

18 A He did not.

19 Q He did not. And, in fact, Mr. Curley had
20 no role at all directly with you in this
21 investigation of 19 --

22 A He did not.

23 Q Okay. So what we know from the e-mail, I
24 think it was Commonwealth Exhibit No. 6, that
25 Mr. Schultz kept Mr. Curley apprized of what was

1 happening with the investigation, correct?

2 A That's correct.

3 Q You did not have any discussions with
4 Mr. Curley about the 1998 matter?

5 A I did not.

6 Q So as far as you know, the only contact
7 Mr. Curley had with this 1998 investigation was
8 what we saw on that e-mail, Commonwealth Exhibit
9 No. 6?

10 A (No response.)

11 Q As far as you know?

12 A I knew from experience that --

13 Q I'm not --

14 A And our standard practice that
15 Mr. Schultz would keep Mr. Curley informed. I do
16 not know what details he provided with respect to
17 this incident, but I fully expected that he
18 provided him with some level of detail just to --
19 so he would know.

20 Q And we saw that in Exhibit No. 6 that the
21 Commonwealth showed to you?

22 A That's correct.

23 Q All right. You have no other
24 information, other than what you just said, and
25 Commonwealth Exhibit No. 6, that Mr. Curley had

1 any other role to play in the 1998 investigation?

2 A Oh, that's correct.

3 MS. ROBERTO: Thank you.

4

5 CROSS EXAMINATION

6 BY MS. AINSLIE:

7 Q Good afternoon. I'm Elizabeth Ainslie.
8 I represent Dr. Spanier. I only have a few
9 questions as well.

10 Dr. Spanier was President of Penn State
11 between 1995 and 2011; is that correct?

12 A I believe that to be correct.

13 Q And for how much of that time were you
14 head of the police force at Penn State?

15 A For all of that time up until June of
16 2005 when I retired.

17 Q And until you retired, from 1995 until
18 the time you retired, did Graham Spanier ever
19 attempt to interfere with any of your work as
20 police chief?

21 A He did not.

22 Q Now, Dr. Spanier was -- Penn State is a
23 big institution, is it not?

24 A It is.

25 Q And has multiple campuses?

1 A I believe 24 locations.

2 Q And approximately how many students?

3 A Well, I don't know how many today, but I
4 recall we generally talked about 80,000.

5 Q So 80,000 students and about how many --
6 again, during the time that you were chief of
7 police, about how many employees?

8 A At Penn State?

9 Q Yes.

10 A I don't know. I think there were maybe
11 12,000 at University Park.

12 Q 12,000 just in University Park itself?

13 A I think so. I may be wrong.

14 Q I'm not holding you to precision here.
15 But there were a lot of people and a lot of
16 campuses and a lot of police issues that arose
17 during those years, correct?

18 A That's correct.

19 Q And some of those issues you took care of
20 yourself?

21 A That's correct.

22 Q And some of them you took to someone else
23 in case you thought they ought to know about it,
24 correct?

25 A That's correct.

1 Q Okay. And some of them presumably got
2 kicked up a little higher and some of those got
3 kicked up a little higher than that; is that fair
4 to say?

5 A That's fair to say.

6 Q And Graham Spanier was at the top and had
7 a number of people reporting to him, correct?

8 A That's correct.

9 Q So he had people from all of these
10 campuses that you've referred to reporting what
11 they thought he ought to know in as much detail
12 as they thought he ought to know to him; is that
13 fair to say?

14 A Could you ask that question again? I'm
15 sorry.

16 Q Of course. No, it was a little
17 complicated. All the people, you said, I think,
18 23 campuses?

19 A 24.

20 Q 24. If the dean -- did each of those
21 campuses have a dean?

22 A I'm sorry?

23 Q Each of the campuses, did they have a
24 dean? Who was at the head of the administration?

25 A The exact title for the executive leader

1 of the campus varied but each had an executive
2 head.

3 Q The executive head of Altoona, for
4 instance, if he or she thought there was an issue
5 that might crop up on President Spanier's agenda,
6 they might send an e-mail along to President
7 Spanier or copy him on an e-mail just to let him
8 know that was floating out there; is that fair to
9 say?

10 A I'm sure that would have been the case.

11 Q Okay. So about how many deans or vice
12 presidents were there reporting to President
13 Spanier, if you recall?

14 A Oh, gee, I think all the deans would have
15 reported through the provost, so I don't know.

16 Q Does the number 50 sound right for vice
17 presidents, deans, provosts, all lumped together?

18 A You mean in terms of reporting directly
19 to him?

20 Q Um-hmm.

21 A I don't know. That sounds a little --
22 like too many direct reports but --

23 Q But there were a lot, weren't there?

24 A I'm sure, yes.

25 Q Okay. And one of the examples of that, I

1 think we looked at Commonwealth Exhibit 8. Do
2 you have that in front of you?

3 A No, I don't.

4 Q It's one of those e-mail threads --

5 MS. AINSLIE: May I approach, Your Honor?

6 THE COURT: Yes, please.

7 BY MS. AINSLIE:

8 Q Mr. Beemer showed you that e-mail thread.

9 Do you recognize it?

10 A Recognize what?

11 Q Do you recognize this?

12 A Yes.

13 Q This is what Mr. Beemer was asking you
14 questions about?

15 A Yes.

16 Q And there's a series of e-mails here, and
17 they're mostly between Mr. Curley and
18 Mr. Schultz, and they're basically I don't have
19 an update, anything going on, that sort of thing,
20 correct?

21 A That's correct.

22 Q And there's only one of these that
23 President Spanier is copied on and that's the
24 last one of June 9th, 1998, correct?

25 A That's correct.

1 Q And that's the one where it's all wrapped
2 up, right?

3 A That's correct.

4 Q So President Spanier is not being
5 troubled, so to speak, with e-mails like anything
6 going on, no; have an update, no; he's troubled
7 -- what he's told about is what they think is
8 important for him to know, fair to say?

9 A I don't know what they told him.

10 Q Okay. But this is the kind of keeping in
11 touch with the president that you would expect to
12 see from people who work in a large organization
13 for one person in charge of that big
14 organization, isn't it? Was that too complicated
15 and long a question?

16 A Yeah. I'm not sure what you mean by
17 this is what I would expect.

18 Q Okay.

19 A I don't know what -- from these e-mails
20 what Mr. Schultz or Mr. Curley conveyed to the
21 president.

22 Q Of course you don't. That was one of my
23 points. You don't know, apart from the e-mails,
24 whether or not President Spanier was told
25 anything about this incident apart from this one

1 e-mail; is that right?

2 A Well, that one e-mail doesn't come out of
3 the blue.

4 Q Right.

5 A It has to have been prefaced by some --

6 Q I think that's going to come out. I
7 think there is one more e-mail at the very
8 beginning --

9 A Okay. Well --

10 Q -- that Mr. Beemer will probably show to
11 another witness unless I mistake myself. But
12 assuming that there was an earlier e-mail that
13 said something about an investigation is
14 happening, this is the kind of e-mail that might
15 be sent to a president of a large organization to
16 say that earlier investigation, that's been
17 wrapped up, isn't that in accordance with your
18 understanding of these matters?

19 A Well, all I could conclude is that this
20 is closing the loop on this --

21 Q Right.

22 A -- this information to the president. I
23 don't make any judgments about --

24 Q Any inferences beyond that. Okay.

25 MS. AINSLIE: May I have a moment, Your

1 Honor?

2 THE COURT: Yes, ma'am.

3 (Pause.)

4 MR. BEEMER: I have nothing further.

5 MS. AINSLIE: I'm sorry. I do have one
6 or two questions.

7 THE COURT: Okay.

8 BY MS. AINSLIE:

9 Q Are you aware of the fact that during the
10 typical year at Penn State, President Spanier
11 travels a great deal?

12 A (No answer.)

13 Q If you're not aware of it --

14 A I don't know how much he travels.

15 Q I didn't mean how much, but he travels
16 quite a lot, isn't that true?

17 A I just don't know how much he traveled.
18 I mean, I'm sure as the president he would have
19 traveled to different campus locations, but I
20 don't know his travel schedule.

21 Q Okay. That's fine. Are you aware of his
22 cooperation with law enforcement outside your
23 community, such as the FBI?

24 MR. BEEMER: Objection to relevance.

25 THE COURT: Do you know how much

1 Dr. Spanier cooperated with outside law
2 enforcement agencies?

3 THE WITNESS: I don't know how much and
4 the details. I knew that he had some kind of a
5 relationship with the FBI, but what that entailed
6 I did not know.

7 MS. AINSLIE: Okay. Thank you. Nothing
8 further. Thank you very much.

9 THE COURT: Mr. Beemer?

10 MR. BEEMER: No.

11 THE COURT: All right. Sir, you'll be
12 dismissed. We're going to break for lunch.
13 We'll hopefully be back here ready to go by 1:45,
14 an hour and five minutes.

15

16 (Court was held in recess at 12:39 p.m.)

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CERTIFICATION

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the hearing of the above cause, and that this is a correct transcript of the same.

Date

Brenda S. Shaffer, RMR
Official Court Reporter

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