

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

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

11 TRANSCRIPT OF PROCEEDINGS

12 PRELIMINARY HEARING

14 BEFORE: MAGISTERIAL DISTRICT JUDGE
WILLIAM C. WENNER

15 DATE: FRIDAY, DECEMBER 16, 2011

16 PLACE: COURTROOM NO. 1
17 DAUPHIN COUNTY COURTHOUSE
18 HARRISBURG, PENNSYLVANIA

19 APPEARANCES:

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21 For - Commonwealth

22 CAROLINE ROBERTO, ESQUIRE

23 For - Defendant Curley

24 THOMAS FARRELL, ESQUIRE

25 For - Defendant Schultz

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

4
5 THE COURT: Good morning, counsel.

6 MS. ROBERTO: Good morning, Your Honor.

7 MR. FARRELL: Good morning, Your Honor.

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

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

14 THE COURT: Thank you.

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

18 THE COURT: Thank you, sir.

19 MR. FARRELL: You're welcome.

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

22 MR. BEEMER: We are, Your Honor.

23 THE COURT: Call your first witness.

24 MR. BEEMER: Commonwealth calls Mike
25 McQueary.

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

4
5 THE COURT: Good morning.

6 THE WITNESS: Good morning.

7

8 DIRECT EXAMINATION

9 BY MR. BEEMER:

10 Q Good morning, sir.

11 A Good morning.

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

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

15 Q How old are you, Mr. McQueary?

16 A Thirty-seven.

17 Q Where did you attend college?

18 A Penn State University.

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

21 A Yes.

22 Q And what team was that?

23 A The football team.

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

25 A Joe Paterno.

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

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

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

8 A Yes.

9 Q And when did that occur?

10 A Full-time employment occurred in 2003.

11 Q What were you doing prior to 2003?

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

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

18 A Yes.

19 Q You worked under Joe Paterno?

20 A Yes.

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

23 A Mr. Curley.

24 Q And what's his first name?

25 A Tim.

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

5 A Yes.

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

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

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

14 A Yes.

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

19 A Yes.

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

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

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

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

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

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

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

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

16 Q You did drive to the Lasch Building?

17 A Yes, I did.

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

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

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

25 A Yes.

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

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

7 Q Do the locker rooms include shower
8 facilities?

9 A Yes.

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

12 A Each one, yes.

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

17 A Yes.

18 Q Where did you go initially upon entering?

19 A To the support staff locker room.

20 Q And what did you do?

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

24 Q Can you describe what happened there?

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

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

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

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

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

19 Q Let me stop you right there.

20 A Okay.

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

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

25 Q And on that Friday evening in March of

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

3 A Yes.

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

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

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

16 A When I played, yes.

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

19 A No, he was not.

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

22 A Occasionally.

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

25 A Yes.

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

5 A Yes.

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

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

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

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

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

1 A Jerry is Coach Sandusky.

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

5 A Yes.

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

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

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

19 Q What did you believe they were doing?

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

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

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

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

6 Q That's what you believed was occurring?

7 A Yes.

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

11 A Yes.

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

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

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

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

1 Sandusky was a child?

2 A No, no question at all.

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

5 A Yes.

6 Q Is that correct?

7 A Yes.

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

11 A No.

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

15 A Yes.

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

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

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

1 what was occurring in the shower?

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

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

7 A No.

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

10 A No, absolutely not.

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

13 A No.

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

16 A No, none.

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

19 A No.

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

23 A Jerry molesting the boy.

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

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

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

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

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

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

18 Q And what happened at that point?

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

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

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

1 Q Correct.

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

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

8 A Yes.

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

11 A Two to three steps.

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

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

17 Q This is the third time --

18 A Yes, sir.

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

21 A Yes.

22 Q Did you go into the shower at all?

23 A No, I did not.

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

1 A No, I did not.

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

5 A I know they saw me.

6 Q And how do you know that?

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

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

11 A No.

12 Q What did you do at that point?

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

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

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

23 Q Where did you go?

24 A I went directly upstairs to my office.

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

1 different floor?

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

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

6 A Yes.

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

9 A Yes.

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

12 A I called my father.

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

16 A In State College.

17 Q So he lived close by?

18 A Yes.

19 Q And how old were you in 2002?

20 A Twenty-eight.

21 Q And you call --

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

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

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

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

7 A Yes, without a doubt, yes.

8 Q What did you tell him?

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

12 Q And at that point what did you do?

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

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

19 A No, I did not.

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

23 A No, I did not.

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

1 exited the building?

2 A Six or seven minutes.

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

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

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

13 A Directly to my father's house.

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

16 A Over time, yes.

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

19 A Yes, absolutely, yes.

20 Q And what was the decision?

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

25 Q This was -- at the point that that

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

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

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

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

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

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

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

18 A Never.

19 Q What did you tell him?

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

22 Q Did he respond?

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

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

4 Q Did you, in fact, do that?

5 A Yes, I did, right away.

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

8 A Yes, it is.

9 Q Fairly close to where you were?

10 A Fairly close.

11 Q Describe what you did.

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

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

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

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

24 A Yes, I did.

25 Q Did you make it clear that there was a

1 young boy?

2 A Yes, I did.

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

5 A Yes, I did.

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

8 A Without a doubt.

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

11 A No, never.

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

14 A Never.

15 Q Why?

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

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

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

1 thought he needed to know about it right away.
2 He deserved to know about it.

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

5 A No question.

6 Q Between Jerry Sandusky and a young boy?

7 A That's right.

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

11 A No, never.

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

15 A Yes.

16 Q What did he tell you?

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

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

25 A Absolutely.

1 Q What did he say about that?

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

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

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

14 Q Did that, in fact, occur?

15 A Yes, it did.

16 Q Did it take some time?

17 A A little time.

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

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

22 Q Okay. Let me stop you right there.
23 You've referred previously in your testimony to
24 Mr. Curley as being in 2002 the -- employed as
25 the athletic director at Penn State University,

1 correct?

2 A Yes.

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

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

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

9 A Yes.

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

12 A Yes.

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

15 THE COURT: Thank you.

16 BY MR. BEEMER:

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

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

23 Q Who is Mr. Schultz?

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

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

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

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

14 A Yes, it does.

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

18 A Yes, it does.

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

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

24 THE COURT: Sustained.

25 BY MR. BEEMER:

1 Q What was your understanding?

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

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

8 A Yes, he's here.

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

11 THE COURT: Thank you, sir.

12 BY MR. BEEMER:

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

18 A I think it was nine or ten days.

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

23 A No.

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

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

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

11 A No, not at all.

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

14 A No, I do not.

15 Q You said it occurred where?

16 A In the Bryce Jordan Center.

17 Q Is that in some sort of an office?

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

20 Q And who was present?

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

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

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

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

4 BY MR. BEEMER:

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

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

16 Q Did you do that?

17 A Yes.

18 Q What did you tell them?

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

23 Q Did you describe for them the --

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

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

3 THE COURT: Thank you.

4 BY MR. BEEMER:

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

7 A Yes.

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

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

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

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

18 BY MR. BEEMER:

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

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

24 Q When you say a rough idea?

25 A I would have said that Jerry was in there

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

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

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

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

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

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

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

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

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

25 Q So you had no idea about anything that

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

3 A I had no idea.

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

9 A No, I was not.

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

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

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

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

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

4 A No doubt at all.

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

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

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

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

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

21 A No.

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

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

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

4 A Yes.

5 Q And when was that?

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

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

14 A Mr. Curley called me, yes.

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

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

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

1 you had been told?

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

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

7 A No, not about this incident.

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

11 A I don't believe so, no.

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

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

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

20 A Right.

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

25 A No, there was never a period of time

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

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

6 A Yes, absolutely.

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

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

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

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

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

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

25 Q Asking about your general well-being?

1 A Yes, in relation to what I had saw and if
2 I was handling it okay.

3 Q Did you -- strike that.

4 Was there any question that you conveyed
5 accurately what you saw in that shower to Tim
6 Curley and Gary Schultz when you met with them at
7 the Bryce Jordan Center?

8 A There's no question in my mind that I
9 conveyed to them that I saw Jerry with a boy in
10 the showers and that it was severe sexual acts
11 going on and that it was wrong and over the line.

12 MR. BEEMER: May I have one moment?

13 THE COURT: Yes.

14 (Pause.)

15 BY MR. BEEMER:

16 Q Can you describe for the Court when you
17 indicated you had the phone conversation with
18 Mr. Curley and he told you that they were going
19 to notify the Second Mile?

20 A Yes.

21 Q What did that mean to you?

22 A I thought he was calling the Second Mile
23 and reporting to them that they had had a
24 complaint.

25 Q Let me ask you -- let me ask it this way.

1 Did you know who founded the Second Mile based on
2 living in State College?

3 A Yes.

4 Q Who was that?

5 A Jerry Sandusky.

6 Q Did you know whether or not at that time
7 Jerry Sandusky was a part of the Second Mile?

8 A Yes. At that time he was, yes.

9 Q And what kind of part of the Second Mile?

10 A He -- frankly, he was the Second Mile. I
11 don't know what his exact title within the Second
12 Mile, but to me he was the Second Mile. I mean,
13 Jerry, that's his -- at that time that was his
14 pride and joy.

15 Q Did you know what it was? What was it
16 supposed to be?

17 A It was a foundation to help
18 underprivileged youth. That's what I believe it
19 was.

20 MR. BEEMER: That's all I have, Your
21 Honor.

22 THE COURT: Ms. Roberto, ladies first.

23 MS. ROBERTO: Thank you, Your Honor.

24

25

CROSS EXAMINATION

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BY MS. ROBERTO:

Q Mr. McQueary, my name is Caroline Roberto and I represent Timothy Curley. I'm going to ask you some questions this morning. If you don't understand my question, let me know and I'll try to rephrase it. Do you understand?

A Yes, ma'am.

Q Okay. Now, in 2002, you said you were 27 years old, correct?

A Yes, ma'am.

Q And at that time in 2002, you resided on the Penn State campus?

A No, I did not reside on the campus. I did reside in State College.

Q Okay. Now, we were talking earlier at least when you were answering Mr. Beemer's questions, specifically the night of this incident, how do you know or do you know whether it was 2002?

A I'm relatively sure it was 2002. I remember it being a Friday night before spring break.

Q And how long was the graduate program that you were attending, how many years?

1 A The NCAA has a two-year limit on your
2 graduate assistantship. If you've made progress
3 towards your degree, completed 24 credits, they
4 will allow you to go a third year, that you can
5 have a third season on the field. And at that
6 time I had made that kind of progress and I was
7 granted a third year.

8 Q So were you in your third year in 2002?

9 A The 2002 fall would be my third season as
10 a graduate assistant.

11 Q So this was, you're saying, around spring
12 break in 2002, so it was your second year, ending
13 your second year?

14 A Ending my second year, going into my
15 third, yes, ma'am.

16 Q And how many other grad assistants were
17 there in that program, at least in the football
18 program?

19 A I don't have the complete answer, only
20 because there's grad assistants in the academic
21 area, in the strength training area and also
22 upstairs in the coaching area, so I would not at
23 that time be able to tell you how many were
24 there.

25 Q I think you mentioned that you had an

1 office in what you described as the Lasch
2 Building, which was the football building; is
3 that right?

4 A Yes, ma'am.

5 Q And how long had you had that office
6 prior to the evening of this incident?

7 A We moved into that office, into that
8 facility -- it's a relatively new facility. We
9 moved into that facility in August of '99 right
10 before we opened up camp. That's the first
11 office I had. And I had it all the way until I
12 became a full-time employee in 2003.

13 Q And did you have an office mate? In
14 other words, did you share that office?

15 A No, I did not.

16 Q Were there other offices around your
17 office?

18 A Yes, ma'am.

19 Q So describe that office area. How many
20 offices were on the floor that you were on? I
21 think you said you were on the second floor; is
22 that correct?

23 A Yes. How many offices?

24 Q Yes.

25 A I'm guessing there's 25 offices up there.

1 Q Okay. And who had the adjoining offices
2 to you, if you recall, in 2002?

3 A Directly across the hall would have been
4 the Director of Football Operations, Tom
5 Venturino.

6 Q Okay.

7 A And to my left, I believe the other GA
8 for the defensive side of the ball at that time
9 was Chris Acuff. And those are the only
10 immediate offices in that little sector of that
11 hallway.

12 Q Now, I think you said that you believe
13 that this occurred right around spring break.
14 There aren't any organized NCAA football
15 tournaments or anything going on at that time.
16 Football season is over, is it not?

17 A Yes, ma'am.

18 Q When you arrived at 9 or 9:30 on this
19 evening, were there any other coaches at the
20 office -- at their offices?

21 A No, not that I saw.

22 Q Did you see anybody else in that
23 building, equipment people or janitors?

24 A No, I did not see anyone that night.

25 Q When you arrived at the office, it was

1 obviously after normal hours?

2 A Yes, ma'am.

3 Q Did you have a key to get in?

4 A Yes, ma'am.

5 Q Do you have to sign in in any kind of
6 security booklet or anything like that?

7 A No.

8 Q Were there any security cameras that you
9 recall outside the Lasch Building?

10 A I believe the security system, the
11 cameras were put in place after that incident.
12 And in my mind in some ways I always thought that
13 the cameras were put in place maybe because of
14 that incident.

15 Q Okay. Do you have any knowledge that
16 cameras were placed outside the Lasch Building
17 because of this incident?

18 A I don't have knowledge of that, no.

19 Q So your impression is that the cameras
20 were placed outside the building after 2002
21 spring break?

22 A I think so, yes, ma'am.

23 Q Were there any security cameras inside
24 the building, in the hallways?

25 A Again, no, not at that time.

1 Q Okay. Now, obviously, let's say, spring
2 break 2002 is several months after the 9/11/2001
3 incident that occurred in New York City. Do you
4 have any information or belief that security was
5 beefed up at the Lasch Building post 9/11?

6 A I don't have any of that information, no.

7 Q Now, you mentioned that you obviously
8 were the football coach -- I mean, you were the
9 football quarterback and your coach, your head
10 coach, was Joe Paterno. In 2002, where was
11 Mr. Paterno's office?

12 A He has an office in the football
13 building, in the Lasch football building on the
14 second floor. To describe it, it's at the very
15 front of that second floor as you come in,
16 upstairs and you go in. It's an office suite
17 directly beyond those front doors as you come
18 upstairs.

19 I'm not sure I'm describing that as well
20 as I should. It's kind of tough to describe it.

21 Q Is it your recollection that that's where
22 he maintained an office in 2002?

23 A Yes.

24 Q Did he have another office in another
25 building as far as you know, an administrative

1 office?

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

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

6 THE COURT: Thank you.

7 BY MS. ROBERTO:

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

11 A Yes, absolutely.

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

13 A Most days we would see him, yes.

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

17 A Without a doubt.

18 Q And a role model for you?

19 A Without a doubt.

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

22 A Yes.

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

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

1 would know him today, no.

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

4 A Yes, absolutely.

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

8 A Without a doubt, yes.

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

11 A No.

12 Q Was it in the Bryce Jordan building?

13 A Yes.

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

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

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

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

5 A No.

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

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

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

12 A Oh, yes.

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

16 A Bowl games?

17 Q Not bowl games, tournaments, tournaments.

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

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

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

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

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

5 A Yes, ma'am.

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

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

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

12 A Yes, ma'am.

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

16 A Not that I can recall, no.

17 Q Would you have eaten out or eaten in?

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

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

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

24 BY MS. ROBERTO:

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

1 anything to drink?

2 A No.

3 Q So you went to the building at about 9 or
4 9:30?

5 A Yes, ma'am.

6 Q Did you go alone?

7 A Yes, ma'am.

8 Q And you parked your car in the parking
9 lot there adjacent to the Lasch Building?

10 A Right in front of the Lasch Building.

11 Q Did you go directly to the showers or did
12 you go to your office first?

13 A No, directly to the showers.

14 Q And when you walked into the showers, I
15 think you described that there were two doors?

16 A Yes, ma'am.

17 Q The first door, could you describe the
18 type of door that is?

19 A It's a wooden door that swings open.

20 Q Was there a lock on that door?

21 A No, there's no lock on that door.

22 Q Does that door slam closed automatically
23 or do you have to pull it closed?

24 A No, it has a -- I don't know the proper
25 term but it closes slowly automatically.

1 Q On a spring?

2 A Yes, or some kind of hydraulic, yes.

3 Q When you walked into that first door,
4 what is in your immediate vicinity?

5 A It's a very small hallway with a
6 telephone on the wall.

7 Q And when you walked into that first door,
8 did you hear the showers running?

9 A Showers running and the slapping, yes,
10 ma'am.

11 Q Okay. So in that hallway is when you
12 heard that noise?

13 A Yes, ma'am.

14 Q All right. And how -- did you stop in
15 that hallway and listen?

16 A Very briefly.

17 Q I'm sorry?

18 A Very briefly.

19 Q About how long?

20 A A second maybe. I hesitated. It was
21 more of a hesitation than stopping.

22 Q All right. Then you went through a
23 second door?

24 A Yes.

25 Q And what is in your immediate vicinity --

1 well, first of all, describe that second door.

2 Is it similar to the first door?

3 A Same type of door, yes.

4 Q All right. And when the door closes
5 behind you, does it make a sound or a noise?

6 A No. Again, it's on those hydraulic so
7 they close very slowly, ma'am.

8 Q Okay. So when you walked through that
9 door, what was in your immediate vicinity?

10 A Directly in front of you as you walk in
11 that door is two sinks and a countertop with a
12 mirror. To the right as you walk in that door is
13 a row of lockers with lockers on both sides. To
14 the left in front of you is the urinals and the
15 rest rooms, toilets. Back behind there to the
16 left is the shower room.

17 Q Now, when you walked in there, did you
18 still hear the same sounds that you heard when
19 you were in the hallway?

20 A The showers, I heard the showers running.
21 I can't recollect hearing the slapping at that
22 time.

23 Q Okay. Now, how many -- you've been
24 inside that shower, correct?

25 A Yes.

1 Q And how many showerheads are in that
2 shower?

3 A It's been since 2003 since I was in that
4 shower. I would recollect there being three or
5 four, maybe five showerheads. It's a smaller
6 shower room than our current -- the current
7 locker room I'm in, which is the full-time
8 assistant coaches' locker room, so it's been a
9 while since I've been in there, but I would
10 recollect five, four or five showerheads.

11 Q Now, I don't know if you're going to be
12 able to answer this question, but let me ask.
13 Could you tell from the sound of the showers if
14 there were two showers on, three showers, five
15 showers?

16 A More than one shower.

17 Q More than one shower?

18 A Yes, ma'am.

19 Q Okay. So the sound of the shower was
20 loud?

21 A I wouldn't say loud, but I could
22 definitely hear the sounds of the showers, yes.

23 Q When you were in that proximity, you
24 didn't hear any voices?

25 A No voices at all.

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

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

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

7 A On the right.

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

10 A I heard the showers running.

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

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

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

22 A Uh-huh.

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

1 you were there?

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

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

6 A Sure, absolutely. That's fair.

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

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

14 Q Could you see the boy's face?

15 A At that time, no.

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

17 A Absolutely.

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

21 A Yes, ma'am.

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

23 A That's correct.

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

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

3 A No.

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

6 A The boy?

7 Q Um-hmm.

8 A No, not at that time.

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

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

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

16 A No.

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

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

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

1 I'm here?

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

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

7 A That's right. I did nothing.

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

10 A Turned back to my locker.

11 Q Um-hmm.

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

17 Q And you looked again?

18 A Yes.

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

21 A No.

22 Q Okay. And you saw the same thing?

23 A Yes.

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

1 your presence?

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

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

8 A No.

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

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

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

16 A Yes.

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

18 A At that time, no.

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

24 A How many seconds elapsed?

25 Q Yes.

1 A Between those two looks?

2 Q Yes.

3 A Four or five seconds.

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

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

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

14 A Yes, ma'am.

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

17 A No, nothing.

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

20 A No, ma'am.

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

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

25 Q And was Mr. Sandusky shocked when he saw

1 you?

2 MR. BEEMER: Objection, calls for --

3 BY MS. ROBERTO:

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

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

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

13 A No, never.

14 Q Never did that?

15 A Never once.

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

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

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

24 MR. BEEMER: Objection to the relevance.

25 THE WITNESS: No, I --

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

2 BY MS. ROBERTO:

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

5 A That's right.

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

8 A That's right.

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

12 A Yes.

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

15 A Yes.

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

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

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

24 A That there's three separate looks?

25 Q Yes.

1 A I don't -- I don't -- I don't know if I
2 have or have not. I know I explained to my
3 father what I saw, that's for sure.

4 Q Okay. You explained to your father. You
5 first explained to your father what you saw on
6 the telephone?

7 A Yes, briefly, yes, ma'am.

8 Q And tell us again, what did you tell him
9 on the telephone.

10 A I can give you the message I told him. I
11 can't remember the exact words, ma'am, if that's
12 what you're looking for.

13 Q Well, because it's a perjury charge, the
14 exact words are extremely important. Tell me
15 exactly the --

16 MR. BEEMER: Objection, Your Honor. It
17 has nothing to do with the conversation with the
18 father, so it's completely irrelevant. What he
19 told his father has nothing to do with the
20 perjury charge.

21 THE COURT: Sustained.

22 BY MS. ROBERTO:

23 Q Okay. So you explained to your father in
24 an abbreviated way what you saw and that you were
25 upset?

1 A Yes, ma'am.

2 Q Okay. Then you went home -- or you went
3 to your father's, you went to your father's
4 residence?

5 A Yes, ma'am.

6 Q You didn't live with your father at the
7 time, right?

8 A No, I did not.

9 Q Okay. Approximately what time did you
10 arrive at your father's residence?

11 A Approximately 10 p.m.

12 Q And when you were there, your father was
13 obviously waiting for you, correct?

14 A Yes, ma'am.

15 Q Was anyone else there?

16 A At my home -- or at my parents' home,
17 yes, my mother was there.

18 Q Okay. Anyone else other than your mother
19 and father?

20 A No, not at that time when I arrived, no.

21 Q Okay. Did anybody come to your home?

22 A Yes, ma'am.

23 Q And who came to your home?

24 A Dr. Dranov, Jon Dranov.

25 Q Okay. And did you call Dr. Dranov to

1 come to your home?

2 A I did not call him.

3 Q Okay. Do you know who did call him?

4 A My father called him.

5 Q Okay. And do you know or did your father
6 explain to you why Dr. Dranov was called?

7 MR. BEEMER: Objection to the relevance,
8 Your Honor. We're beyond the scope as well.

9 MS. ROBERTO: Well, he did say that he
10 and his father made a decision what to do and
11 called Mr. Paterno the next day. I am probing
12 his recollection of who else might have helped
13 him make that decision. That was covered in
14 direct examination, and it is probative of his
15 memory.

16 THE COURT: And the question again is
17 does he know why this doctor appeared?

18 MS. ROBERTO: Did his father tell him why
19 Dr. Dranov was called.

20 THE COURT: I'll let you answer that.

21 THE WITNESS: Okay. Yes, my dad, one,
22 that was his boss and a long-time friend. They
23 are best friends, and he trusted his judgment and
24 wanted to see some of his foresight and get some
25 advice from someone other than himself. I mean,

1 he wanted to make sure he was doing the right
2 thing.

3 BY MS. ROBERTO:

4 Q Okay. Did you and your father make the
5 decision to call Mr. Paterno the next morning
6 before or after Dr. Dranov arrived, do you
7 recall?

8 A We had already said that Coach Paterno
9 needs to know right away. We had already said
10 that.

11 Q Okay.

12 A Go ahead.

13 Q Did you and your father before Dr. Dranov
14 arrived, did you and your father consider calling
15 the police?

16 A Absolutely. Consider it, yes, without a
17 doubt.

18 Q Okay. Did you call the police that
19 night?

20 A No, no.

21 Q Even though you were perfectly confident
22 that you saw, I think you said, a serious or a
23 severe sexual act --

24 A Yes, ma'am.

25 Q -- you did not call the police?

1 A No, I did not call the police.

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

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

7 THE COURT: Go ahead.

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

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

21 MS. ROBERTO: Your Honor --

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

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

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

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

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

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

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

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

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

1 completely improper speaking objection.

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

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

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

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

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

20 BY MS. ROBERTO:

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

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

25 Q And how long after you arrived at your

1 folks' house did Dr. Dranov arrive?

2 A Roughly a half hour.

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

6 MS. ROBERTO: I'll move on.

7 THE COURT: Thank you.

8 BY MS. ROBERTO:

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

11 A Yes, ma'am.

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

14 A Yes, ma'am.

15 Q And approximately what time did you
16 arrive?

17 A 8 a.m.

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

20 A Ten minutes.

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

24 A I've never used that term.

25 Q You've never used that term?

1 A Anal sodomy?

2 Q Yes.

3 A Those two words together?

4 Q Yes.

5 A No, ma'am.

6 Q Did you explain to Mr. Paterno anal sex?

7 A No, I did not explain that to
8 Mr. Paterno.

9 Q Did you explain to him anal intercourse?

10 A No, I would have explained to him the
11 positions they were in roughly, that it was
12 definitely sexual, but I have never used the word
13 anal or rape in this -- since day one.

14 Q Right. And you didn't use those words
15 because you weren't sure that that is what was
16 happening in the shower, right?

17 A Ma'am, I'm sure I saw what I saw in the
18 shower. I'm sure of that. I did not see
19 insertion or penetration and I didn't hear
20 protests or any verbiage, but I do know for sure
21 what I saw and the positions they were in that --
22 and it was very clear that it looked like there
23 was intercourse going on, ma'am.

24 Q But you could not say for sure that
25 that's what you saw?

1 A I've testified that I cannot tell you
2 1,000 percent sure that that's what was going on.

3 Q Well, let's just say 100 percent sure.

4 A Okay, 100 percent sure.

5 Q Okay. You can't say that?

6 A No.

7 Q When you looked into the shower --

8 A Yes, ma'am.

9 Q -- through the mirror, did you see
10 Mr. Sandusky's genitals touching the boy?

11 A No, absolutely not.

12 Q When you looked the second time into the
13 shower, did you see Mr. Sandusky's genitals
14 touching the boy?

15 A No, his body was blocking that area of
16 his body, to be frank with you.

17 Q Okay. Was any part of Mr. Sandusky's
18 body, did you see up against the boy touching the
19 boy?

20 A Yes. They were as close as you can be,
21 yes.

22 Q Okay. All right. So when you went to
23 Mr. Paterno's house, did you describe the
24 position that Sandusky and the boy were in?

25 A Yes. I gave a brief description of what

1 I saw. You don't -- ma'am, you don't go to Coach
2 Paterno or at least in my mind I don't go to
3 Coach Paterno and go into great detail of sexual
4 acts. I would have never done that with him
5 ever.

6 Q But it was your decision to go to Coach
7 Paterno and tell him what happened in the shower?

8 A Without a doubt my decision, yes, ma'am.

9 Q And you went to Coach Paterno in lieu of,
10 not in addition to, going to the police that
11 night?

12 A I went to Coach Paterno first.

13 Q Okay. Did you go to the police that day
14 of -- the day you spoke to Mr. Paterno?

15 A No.

16 Q Did you go the next day?

17 A No, I did not.

18 Q Now, you told us that you told Coach
19 Paterno that you -- well, let me ask you this.
20 Did you tell Coach Paterno that you heard sounds?

21 A Yes, ma'am.

22 Q And you told him what you saw, the
23 position of the two individuals?

24 A Again, roughly, yes.

25 Q Did you make any conclusion to Coach

1 Paterno about what was happening?

2 A Yes. It was extremely sexual, yes.

3 Q Did you say extremely sexual in nature?

4 A In nature?

5 Q Yes.

6 A I can't remember if I said the word in
7 nature or not, ma'am. I don't know that.

8 Q Did you ever use the word fondling?

9 A I'm sure I did to help describe what I
10 was seeing. I'm sure I did use the word
11 fondling, yes, ma'am.

12 Q Okay. Did you see any type of fondling
13 with Mr. Sandusky's hands on the boy?

14 A No. I've already stated that when I saw
15 his arms wrapped around the boy, that I could not
16 see his hands. The bodies were blocking --

17 Q Okay.

18 A -- his hands so I cannot say that I saw
19 Mr. Sandusky's hands on a boy's genitals, no,
20 ma'am.

21 Q So you can't -- how would you describe
22 fondling? I'm sort of confused here.

23 A Fondling is touching someone in a sexual
24 way. I don't know if that's the exact
25 definition, but that's what my definition is.

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

3 A Yes, ma'am.

4 Q Okay.

5 A Without a doubt.

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

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

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

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

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

19 A No, I did not.

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

22 THE COURT: I agree.

23 BY MS. ROBERTO:

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

1 say ten days?

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

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

5 A Yes, ma'am.

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

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

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

14 A I did not ask, no.

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

17 A Yes, ma'am.

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

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

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

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

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

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

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

12 Q Okay. Have you since told anybody else?

13 A Absolutely.

14 MR. BEEMER: Objection to relevance.

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

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

23 THE COURT: Thank you.

24 MS. ROBERTO: Note our objection.

25 THE COURT: Thank you.

1 BY MS. ROBERTO:

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

4 A No, ma'am.

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

9 A No, ma'am.

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

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

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

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

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

22 BY MS. ROBERTO:

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

1 2010?

2 A No, ma'am.

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

8 A That's correct.

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

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

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

16 BY MS. ROBERTO:

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

21 A Yes, ma'am.

22 Q That he went over the line?

23 A Yes.

24 Q That what you saw was sexual in nature?

25 A Yes.

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

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

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

8 A Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 A I would say ten or twelve minutes.

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

6 A Yes, ma'am.

7 Q And he did follow-up?

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

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

11 A Yes.

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

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

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

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

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

1 A Yes, ma'am; yes, ma'am.

2 Q So Mr. Curley says he's going to
3 follow-up with you and he does follow-up with
4 you?

5 A Yes, he does, yes, absolutely.

6 Q Is it a phone call or a meeting?

7 A It was a meeting -- or, I'm sorry, it was
8 a phone call for sure. It was a phone call.

9 Q It was a phone call?

10 A Yes, ma'am.

11 Q And he told you, one, that he went to or
12 was going to the Second Mile to report Sandusky's
13 behavior? Had he already done that when you
14 talked to him?

15 A I think so, yes.

16 Q Are you sure?

17 A I'm not sure but --

18 Q So you have no memory of whether he had
19 already done it or whether he was going to do it?

20 A Yeah. I'm relatively sure he said he had
21 already done it.

22 Q Okay. And you can't recall specifically
23 what he said to -- what he did with the key
24 regarding Sandusky?

25 A I cannot remember that specifically. I

1 thought he said they took his keys away, but I
2 don't want to say I'm sure on that.

3 Q But you do know that Mr. Curley told
4 Sandusky, at least from what Mr. Curley told you,
5 that he couldn't bring children into any of the
6 facilities?

7 A Yes, ma'am.

8 Q Okay. And I think you testified on
9 direct, in fact, you never saw Mr. Sandusky in --

10 A I've never once seen him around our
11 program with a child, no, since that incident,
12 since that incident.

13 Q Okay. When Mr. Curley said to you in
14 that telephone conversation, this is what we
15 decided to do and this is what we've done, did
16 you dispute or oppose or say no, you need to do
17 more?

18 A No, I did not.

19 Q Did you ever say to Mr. Curley subsequent
20 to that telephone follow-up conversation, look,
21 you need to do more?

22 A No, I have not.

23 MS. ROBERTO: I have no other questions.

24 THE COURT: Mr. Farrell.

25 MR. FARRELL: Thank you, Your Honor.

CROSS EXAMINATION1
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BY MR. FARRELL:

Q Mr. McQueary, the year that this happened, can you locate this event in relation to any other event in your life that tells you it was 2002 versus 2001 or another year?

A Not right now off the top of my head. I'm sure if you give me 30 minutes, I can think of something, but, no, not right now.

Q Thirty minutes, okay. When I'm done, I'll ask you again.

Well, the cameras that were installed at the Lasch Building, how soon after the shower event were the cameras installed?

A I really am not sure.

Q Months?

A I'm sorry.

MR. BEEMER: Objection, Your Honor. He says he's just not sure.

THE COURT: Sustained.

BY MR. FARRELL:

Q Was it more than a year?

MR. BEEMER: Same objection.

MR. FARRELL: I'm just testing his recollection, Your Honor, trying to help him.

1 THE COURT: Mr. McQueary, more than a
2 year?

3 THE WITNESS: I don't think it was more
4 than a year, no.

5 THE COURT: Thank you.

6 BY MR. FARRELL:

7 Q So you think within the year?

8 A I think so, yes.

9 Q Within six months?

10 A Sir, I said I don't -- I'm not totally
11 sure.

12 Q All right. And the cameras, were they
13 outside cameras or inside cameras?

14 A I believe they're all inside cameras and
15 they do -- they do see outside, yes, sir. So
16 they are inside and outside. I don't know -- I
17 mean, are you talking about the actual camera
18 position?

19 Q Yes.

20 A Again, I don't know. That's not my
21 department.

22 Q Are the cameras in the locker room area?

23 A They're definitely at the entrances of
24 the building and some of the interior doors of
25 the building.

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

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

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

7 A Yes.

8 Q Not the assistant coaches' locker room?

9 A That's exactly right.

10 Q Those are two different locker rooms?

11 A Two different locker rooms, yes.

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

14 A No, not that I know of.

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

17 A Not that I know of.

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

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

23 Q So the answer is no?

24 A No.

25 Q One last question about the date. You

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

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

6 Q Why is that?

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

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

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

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

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

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

21 A I'm sorry?

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

24 A Sure.

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

1 police the night this happened?

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

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

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

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

9 A No.

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

12 A No.

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

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

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

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

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

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

5 BY MR. FARRELL:

6 Q Based upon what you told him?

7 A Yes, sir.

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

11 A Partial mirror, sir.

12 Q How big?

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

15 Q Was it the mirror over the sink?

16 A Yes, sir.

17 Q How wide was that mirror?

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

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

21 A Yes, sir; yes.

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

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

1 time. So I think everything is as it was.

2 Q A very long time meaning how long?

3 A Eight years. Roughly eight years I
4 haven't been in that locker room. I've been in
5 the full-time assistant coaches' locker room,
6 sir.

7 Q Okay. But you did go back into that
8 locker room after the night in question?

9 A Yes, I was still a support staff member
10 for a couple of years, yes.

11 Q So you stopped going into that locker
12 room when you became part of the coaching staff?

13 A Yes, sir, that's correct.

14 Q Since the night in question, have you
15 seen Mr. Sandusky in the coaching staff locker
16 room at the Lasch Building?

17 A Since that night have I seen Coach
18 Sandusky in the locker room?

19 Q Yes.

20 A No, sir.

21 Q But you have seen him in the Lasch
22 Building?

23 A Yes.

24 Q When you looked in the mirror, you could
25 see Mr. Sandusky's back; is that right?

1 A His whole backside, his whole backside,
2 sir.

3 Q All right. And, again, could you see him
4 from the side or from the back?

5 A Kind of about a quartering away angle.

6 Q And was his body obstructing the view of
7 the boy's body?

8 A A lot of the boy --

9 MR. BEEMER: I'm going to object, Your
10 Honor. This has been asked and answered.

11 MR. FARRELL: I don't believe it has,
12 Your Honor. It's been answered anyway so --

13 THE COURT: Thank you.

14 THE WITNESS: Let me make sure that you
15 got that answer. I saw a lot of the boy but not
16 all of the boy.

17 BY MR. FARRELL:

18 Q Uh-huh. Were the boy's feet on the floor
19 at that time?

20 A Yes.

21 Q And was the boy bent over or standing up?

22 A In an upright position.

23 Q Meaning not bent over?

24 A Not bent over, no, sir.

25 Q So the hands extended straight from the

1 shoulders?

2 A Roughly that height, yes.

3 Q The color of the boy's hair?

4 A I wouldn't be able to tell you, sir. It
5 was wet.

6 Q The boy's height?

7 A I wouldn't be able to give you an
8 accurate height.

9 Q Well, Mr. Sandusky --

10 A Do you want me to guess or do you want me
11 to give you an accurate height?

12 Q Well, I want you to give me an accurate
13 height.

14 A There's no way I could do that without a
15 measuring tape, sir.

16 Q You know Mr. -- how tall are you?

17 A I'm six four and a quarter.

18 Q How tall is Mr. Sandusky?

19 A Again, I can't give you an accurate
20 height. He's a couple inches lower than I am.

21 Q So over six feet?

22 A I would say Jerry is over six feet, yes.

23 Q And the boy's head was up to what part of
24 Jerry's body?

25 A I would say up to his pectoral muscle, in

1 that area somewhere.

2 Q Okay. So around the nipple area?

3 A Yeah, around there.

4 Q The top of the boy's head?

5 A Yes.

6 Q So the boy was about, say, a foot and a
7 half shorter than Mr. Sandusky?

8 A I would say a foot.

9 MR. BEEMER: Objection, Your Honor.

10 THE WITNESS: Five two, five three.

11 THE COURT: If we can continue to move,
12 please.

13 BY MR. FARRELL:

14 Q At no time this night did you hear
15 anything, did you hear the boy say anything,
16 right?

17 A I heard slapping and I did not hear any
18 verbiage at all in any way.

19 Q From either fellow?

20 A From either person.

21 Q And the slapping, you said you heard two
22 or three slapping sounds?

23 A To my memory, two or three rhythmic
24 slapping sounds, yes, sir.

25 Q So like (counsel makes slapping sound

1 three times)?

2 A You got it.

3 Q And you heard that once and then not
4 again?

5 A Right, right.

6 Q The third time you looked at Mr. Sandusky
7 and the boy, they were both facing you?

8 A Yes, sir.

9 Q And at this time you could see the boy's
10 face, right?

11 A Yes.

12 Q Can you tell us the boy's complexion?

13 A Caucasian.

14 Q Was he fair-skinned, olive-skinned?

15 A I didn't sit there and stare. I would
16 not be able to tell you, sir, accurately.

17 Q At this point can you see the color of
18 his hair, the third time?

19 A I see the color of his hair but, again,
20 he's wet. So for me to sit here and say I know
21 the actual color of his hair, I would not be able
22 to tell you that, sir.

23 Q Did he have any facial hair?

24 A No.

25 Q Hair on his chest?

1 A No.

2 Q Pubic hair?

3 A I didn't sit there and stare, but I don't
4 recall that, no.

5 Q You don't recall if he did or he didn't?

6 A Did not. I don't think he did have pubic
7 hair, sir. As I stated before, in my opinion he
8 was prepubescent. He was a ten- or
9 twelve-year-old boy.

10 Q Uh-huh. As the boy and Mr. Sandusky
11 stood looking at you, they were both still naked?

12 A Naked, yes, sir.

13 Q Did Mr. Sandusky have an erection?

14 A I can't tell you that, sir. I don't
15 know. I did not -- again, I don't look and stare
16 down there.

17 Q At any point during this evening, did you
18 see whether or not Mr. Sandusky had an erect
19 penis?

20 A No, I did not.

21 Q At any point during this night, did you
22 see a look of pain on the boy's face?

23 A Pain?

24 Q Yes.

25 A No.

1 Q And you never said anything to that boy?

2 A Never said anything, no.

3 Q On that night, did you have a cell phone
4 with you?

5 A I can't recall if I had a cell phone with
6 me or not on that night.

7 Q Do you know if you called your father
8 from a cell phone or a phone in the Lasch
9 Building?

10 A I called him from a landline at my desk.

11 Q And your desk, you say, was on the second
12 floor?

13 A Yes, sir.

14 Q And the shower on the first floor?

15 A Yes, sir.

16 Q When you went up to the second floor
17 after the third time, you say you saw
18 Mr. Sandusky and the boy, you left the boy with
19 Mr. Sandusky, did you not?

20 A Yes, they were separated and he was still
21 with Mr. Sandusky when I left that locker room,
22 yes.

23 Q When you say separated, they were still
24 side by side, right?

25 A No, not side by side. To me side by side

1 is six inches or closer. They were four or five
2 feet in between them.

3 Q Still in the shower?

4 A But in the shower room together, yes.

5 Q Naked?

6 A Yes, sir.

7 Q And that's how you left the boy?

8 A Yes.

9 Q And did not call the police?

10 A I did not call the police.

11 Q Prior to this occasion, had you ever had
12 any contact with the Penn State University
13 Police?

14 A Have I ever had contact with them?

15 Q Yes. Talked to any of them?

16 A I'm sure I had on the street or said
17 hello or something, sir, yes, but I was not a
18 part of a criminal investigation at Penn State.
19 I mean, not in detail conversation, no. I mean,
20 I guess if that's what you're asking.

21 Q Yes. You knew Penn State had uniformed
22 police officers?

23 A Yes, absolutely.

24 Q Carry guns?

25 A Yes.

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

3 A Yes, absolutely.

4 Q Carry firearms?

5 A Yes.

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

8 A Not in a uniform.

9 Q Never saw him carrying a firearm?

10 A Not a firearm, no.

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

16 A No, I've never reported incidents.

17 Q Never had your car broken into?

18 A No, sir.

19 Q Or home burglarized?

20 A No.

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

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

1 just to address your point.

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

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

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

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

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

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

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

17 A I did not.

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

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

23 THE COURT: Sustained.

24 BY MR. FARRELL:

25 Q When you spoke to Coach Paterno, did you

1 tell him that when you left the Lasch Building
2 you left the boy with Mr. Sandusky?

3 A I don't know if I made that clear or not.
4 I can't sit here and recall telling him that.

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

7 A No.

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

10 A No.

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

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

15 Q Did you use the word intercourse?

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

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

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

25 Q And he never said to you the police

1 should be called?

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

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

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

10 THE COURT: Sustained.

11 BY MR. FARRELL:

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

14 A I can't remember saying that.

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

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

21 Q Which people?

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

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

4 THE COURT: That was my understanding.

5 BY MR. FARRELL:

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

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

12 Q Did you explain to them why?

13 A No.

14 Q Did they ask you why?

15 A Not really.

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

19 A Yes, sir.

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

25 A Almost certainly after.

1 MR. BEEMER: Objection, relevance.

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

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

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

9 BY MR. FARRELL:

10 Q Okay.

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

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

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

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

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

24 Q Not before?

25 A I can't remember really making a fuss

1 before.

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

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

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

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

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

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

18 Q Three or four?

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

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

23 A No, not to my knowledge.

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

1 March 2002?

2 A Just briefly one day during --

3 MR. BEEMER: Objection to the relevance.

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

6 MR. BEEMER: I'll withdraw it.

7 THE COURT: Thank you.

8 THE WITNESS: There was a series -- and,
9 again, I hope I'm remembering this correctly.

10 There was a series of riots by the
11 African-American students at Penn State and the
12 black caucus at Penn State.

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

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

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

1 BY MR. FARRELL:

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

4 A Coach Anderson.

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

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

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

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

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

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

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

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

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

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

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

12 A No, I can't --

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

15 THE COURT: Sustained.

16 BY MR. FARRELL:

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

19 A Not that I can --

20 MR. BEEMER: Objection to relevance.

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

23 THE WITNESS: Not that I can remember.

24 BY MR. FARRELL:

25 Q You know your father would have business

1 meetings with Mr. Schultz, would he not?

2 A I believe so, yes, sir.

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

5 A Yes, that's where he worked.

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

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

11 Q When did your father ask Mr. Schultz?

12 A I don't have the exact date.

13 Q Was it that same year?

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

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

20 A Yes. He said that he --

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

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

25 BY MR. FARRELL:

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

4 A I don't know.

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

8 MR. BEEMER: Asked and answered.

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

10 BY MR. FARRELL:

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

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

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

21 A Without a doubt.

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

24 MR. BEEMER: Objection to relevance.

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

1 previous answer, Your Honor.

2 THE COURT: He can answer this and then I
3 would like to move on. Can you ask it again,
4 Mr. Farrell?

5 THE WITNESS: Yes, please. Thank you.

6 THE COURT: Mr. Farrell, the question
7 again, please.

8 BY MR. FARRELL:

9 Q Did you have any contact with
10 Mr. Sandusky after this incident?

11 MR. BEEMER: Objection. It's a
12 completely vague question. I mean, there's no
13 clarification and it's inappropriate for purposes
14 of the hearing.

15 THE COURT: All right. We'll move on.

16 MR. FARRELL: May I have a moment, Your
17 Honor?

18 THE COURT: Yes, sir.

19 (Pause.)

20 BY MR. FARRELL:

21 Q Just to be clear on this again,
22 Mr. Schultz never told you in that March meeting
23 or any time not to discuss what you saw in March,
24 not to discuss what you saw with respect to
25 Mr. Sandusky with anyone else?

1 A No. Neither gentleman never said, Mike,
2 you can't talk about this or anything like that.
3 That is clear.

4 Q And neither of them made any effort to
5 prevent you from talking to anyone in the world?

6 A No, no, that's right.

7 MR. FARRELL: I have nothing else, Your
8 Honor.

9 THE COURT: Thank you. Redirect.

10 MR. BEEMER: Just a couple.

11

12 REDIRECT EXAMINATION

13 BY MR. BEEMER:

14 Q You described a phone call that you
15 received from Mr. Curley wherein he indicated
16 that he took several steps, including calling the
17 Second Mile and telling Mr. Sandusky not to bring
18 children up to the Lasch Building or Penn State,
19 correct?

20 A Right. That's right.

21 Q Did he ever -- did he tell you that one
22 of the steps that he took was to call the police,
23 that he called the police?

24 A No, not that I know of, no.

25 Q Did Gary Schultz ever tell you that he

1 alert -- told one of his subordinates in the
2 police department about what you and he
3 discussed?

4 A No, no, he never told me that.

5 MR. BEEMER: That's all.

6 THE COURT: Ms. Roberto.

7 MS. ROBERTO: No other questions.

8 THE COURT: Mr. Farrell.

9 MR. FARRELL: None, Your Honor.

10 THE COURT: You can step down, sir.

11 Thank you very much.

12 THE WITNESS: Thank you.

13 THE COURT: Can this witness be released?

14 MR. BEEMER: Yes, Your Honor.

15 THE COURT: Any objections from defense
16 counsel?

17 MR. FARRELL: No, Your Honor.

18 MS. ROBERTO: No, Your Honor.

19 THE COURT: Thank you.

20 (Witness excused.)

21

22 THOMAS HARMON,

23 called as a witness, being duly sworn, testified
24 as follows:

25

1 THE COURT: Good morning, sir.

2

3 DIRECT EXAMINATION

4 BY MR. BEEMER:

5 Q Sir, would you please state your name and
6 spell your last name?

7 A Thomas R. Harmon, H-A-R-M-O-N.

8 Q Mr. Harmon, can you tell the Court how
9 you were employed at Penn State University?

10 A I was employed as a police officer and
11 upon retirement as director of university police.
12 I was employed there for 33 years.

13 Q And during what years were you the
14 director of the university police?

15 A I'm not quite sure when I first got that
16 title, but it was through the 1990s and into
17 2005.

18 Q Is it fair to say from 1998 through 2002,
19 you were the director of the university police?

20 A I was.

21 Q What does that mean when you say you were
22 the director?

23 A Well, that's equivalent to the chief of
24 police in a municipality.

25 Q So you were the head police official?

1 A I was.

2 Q Did you have a boss?

3 A I did.

4 Q Who was your boss?

5 A During that period of time that you
6 mentioned, I reported to Gary Schultz.

7 Q And when you say you reported to Gary
8 Schultz, describe for the Court what does that
9 mean.

10 A Well, he was my direct boss. He did my
11 performance evaluations and was responsible for
12 my supervision.

13 Q So he did performance evaluations on you?

14 A I -- he would have given me any
15 performance evaluations, yes.

16 Q So you had some regular contact with him?

17 A Oh, yes.

18 Q Now, would there be times that you would
19 notify Mr. Schultz as your boss as to the status
20 of certain police activities, either arrests or
21 investigations that occurred within the
22 university police department?

23 A Yes.

24 Q I would like to direct your attention to
25 late spring of 1998, if I could, and ask you if

1 you received -- your department received a report
2 or had reason to open an investigation relative
3 to someone who was currently an assistant
4 football coach at the time?

5 A We did.

6 Q Would you tell the Court what that was?

7 A I was approached by Investigator Ronald
8 Schreffler one morning. He advised me that a
9 woman had come to the university police
10 department and reported an incident with Coach
11 Jerry Sandusky which occurred at the -- on the
12 campus at the Lasch Building and the incident --
13 do you want me to go ahead and describe the
14 incident as I understood it?

15 Q Yes.

16 A The incident as I recall today involved
17 Coach Sandusky taking the juvenile, who I believe
18 was in the age range of maybe ten to twelve, to
19 the Lasch Building on campus on a Sunday morning.

20 At the Lasch Building they engaged in
21 some kind of exercise. I thought it was
22 basketball, it may not have been, and after which
23 they showered. And during the course of the
24 showering, the mother reported that Coach
25 Sandusky had hugged the child from the rear.

1 At the time there was no report of
2 touching of genitals or anything overtly sexual
3 about this incident, but the report was that he
4 had hugged the child in the shower.

5 Q At the time that this occurred, was Jerry
6 Sandusky an active member of the Penn State
7 coaching staff?

8 A Yes, he was.

9 Q Would you characterize him as at least on
10 campus in the area that you policed, would you
11 have characterized him as a higher profile
12 individual?

13 A Yes.

14 Q Based on the nature of the report that
15 you just described for the Court and that fact,
16 did you notify any of your superiors about the
17 existence of this investigation?

18 A I did. I believe it was the same morning
19 I called Mr. Schultz and told him pretty much
20 just what I have related to the Court about the
21 incident. I also told him that we were
22 contacting the Centre County District Attorney
23 for guidance in the handling of the case.

24 Q Would you have told Gary Schultz that the
25 incident you were reporting involved Jerry

1 Sandusky?

2 A I did.

3 Q Did you tell him the approximate age of
4 the boy involved?

5 A I don't remember whether or not I
6 mentioned the approximate age.

7 Q Did you tell him where it happened?

8 A Yes.

9 Q Now, where did you tell him it happened?

10 A Lasch Building.

11 Q Did you tell him it was a boy?

12 A Yes.

13 Q Did you keep him apprised of the status
14 of the investigation?

15 A I did.

16 Q How many particular meetings or phone
17 calls would you say you would have had with Gary
18 Schultz relative to this investigation in 1998 by
19 your department?

20 A I have a recollection of four phone
21 calls. There could have been one or two others,
22 but based upon my recollection today I can recall
23 four calls.

24 Q Did you tell him what the conclusion of
25 your investigation was?

1 A In the last phone call, I would have told
2 him that the District Attorney had reviewed the
3 investigation and had determined that he would
4 not pursue it as a criminal offense.

5 Q Whose decision was it to refer it to the
6 District Attorney?

7 A That was mine.

8 Q Did you have a -- did you personally have
9 a discussion with the District Attorney?

10 A I did not.

11 Q You just received the information from
12 your investigator?

13 A That's correct.

14 Q Would there be other types of incidents
15 that you might discuss with Gary Schultz relative
16 to your employment other than just the Jerry
17 Sandusky investigation in 1998?

18 A Well, certainly any serious incident
19 occurring on campus that involved criminal act or
20 health and safety issues might have resulted in
21 having -- making immediate reports to him about
22 the status of an event.

23 Q Who was Jerry Sandusky's -- strike that.
24 Would you have notified -- given the nature of
25 his position, would you have notified the

1 Athletic Director of the existence of this
2 investigation?

3 A No, I would have notified Mr. Schultz.
4 If there was to be any notification of the
5 athletic director, I would have expected him to
6 do it.

7 Q So given Jerry Sandusky's position within
8 the university in 1998, you would have relayed
9 this information to Gary Schultz and expected
10 that if he felt anybody else needed to be
11 notified he would do that?

12 A That's correct.

13 Q Outside of your department, did you speak
14 with anyone about the 1998 investigation other
15 than your direct boss, Gary Schultz?

16 A At that time, no.

17 Q Did your -- you indicated you were the
18 head of the police department until 2005; is that
19 correct?

20 A That's correct.

21 Q Did you ever receive a complaint in 2002
22 or at any point thereafter regarding another
23 incident involving Jerry Sandusky in a shower
24 with a boy in the football building?

25 A I did not, and I have no reason to

1 believe that the university police received such
2 a report.

3 Q If you had received such a report, what
4 would you have done with it?

5 A We would have investigated it and, again,
6 there would have been an immediate notification
7 of the District Attorney under the circumstances.

8 Q Did Gary Schultz ever talk to you about a
9 second incident?

10 A He did not.

11 Q How often would you say you communicated
12 with Mr. Schultz relative to the university
13 police department and its function?

14 A That's difficult to say, but I suppose we
15 had contact once a week, once every two weeks.

16 Q Would the purpose for that to be for you
17 to give him updates as to what was going on with
18 the Police Department?

19 MR. FARRELL: Objection, leading.

20 BY MR. BEEMER:

21 Q What was the purpose when you would speak
22 with him?

23 A Well, it could have been any number of
24 reasons from just having a routine meeting,
25 planning budgetary matters, not typically a

1 specific incident though. That specific incident
2 would probably have been more related to a phone
3 call.

4 Q But you would make the decision on when
5 to keep him apprised of certain things?

6 A That's correct, sir.

7 Q Did your police department have police
8 jurisdiction over various areas upon the Penn
9 State campus?

10 A We did.

11 Q Was one of those areas the Lasch football
12 building?

13 A Yes, it was on the campus.

14 Q How about the Bryce Jordan Center?

15 A Yes, that's on the campus also.

16 MR. BEEMER: One moment.

17 (Pause.)

18 BY MR. BEEMER:

19 Q In 1998, what was the building that the
20 football team was using? Was it a different
21 building than subsequent to that, if you know?

22 A No, I believe it was the Lasch Building.
23 I'm not quite sure what you mean by subsequent to
24 that. As far as I know, they had used the Lasch
25 Building for offices and workout prior to, as

1 well as to the time of my departure anyway.

2 Q Are you familiar with the east area
3 locker room, if you know?

4 A I think I would have remembered east area
5 lockers as being part of or attached to Lasch
6 Building.

7 MR. BEEMER: Okay. That's all I have,
8 Your Honor.

9 THE COURT: Ms. Roberto.

10 MS. ROBERTO: No questions at this time.

11 THE COURT: Mr. Farrell.

12

13 CROSS EXAMINATION

14 BY MR. FARRELL:

15 Q Officer Harmon, to your knowledge
16 Mr. Schultz had no law enforcement training, did
17 he?

18 A No.

19 Q And the officers within your department
20 while you were chief, they were under the laws of
21 the Commonwealth peace officers, right?

22 A They were police officers, yes.

23 Q And, to your knowledge, Mr. Schultz was
24 not a police officer?

25 A He was not.

1 Q Mr. Schultz's primary area of
2 responsibility was business and finance, right?

3 A That's correct.

4 Q Your discussions with him included
5 discussions about budgets, right?

6 A Budgets and really anything that would
7 have related to the administration of the
8 university police department.

9 Q He never gave you any instructions on how
10 to do your job in terms of enforcing the law, did
11 he?

12 A He did not.

13 Q He never attempted to interfere with your
14 enforcement of the law, did he?

15 A He did not.

16 Q With respect to Mr. Sandusky or anyone
17 else, he never did?

18 A No, he never did.

19 Q He never instructed you that Jerry
20 Sandusky was to get some sort of special
21 treatment from your department, did he?

22 A He did not.

23 Q Now, it's either my hearing or my
24 wandering attention, but was your testimony that
25 you did or did not tell Mr. Schultz that the '98

1 incident involved Mr. Sandusky?

2 A I did.

3 Q Okay. And with respect to that 1998
4 investigation, Mr. Schultz did not tell you how
5 to do your job, right?

6 A That's correct.

7 Q Did not attempt to interfere with the
8 investigation in any way?

9 A No.

10 Q As far as you could tell, let it run its
11 course?

12 A I'm sorry. Say again.

13 Q As far as you could tell, he let it run
14 its course?

15 A That's correct.

16 Q And that included investigation by
17 officers in your department, you mentioned an
18 Officer Schreffler, right?

19 A That's correct.

20 Q Did Officer Schreffler also enlist
21 investigative help of other police officers from
22 other departments?

23 A I believe he did, but I don't recall
24 though.

25 Q It was more than Officer Schreffler?

1 A Yes.

2 Q And they investigated for some weeks, did
3 they not?

4 A They did.

5 Q Children and Youth Services also got
6 involved in that investigation?

7 A That's correct.

8 Q In addition, a number of psychologists
9 were consulted during that investigation?

10 MR. BEEMER: Objection to the relevance.

11 THE COURT: Are there many more?

12 MR. FARRELL: No, Your Honor.

13 THE COURT: Thank you. You can answer
14 this.

15 THE WITNESS: I'm sorry. What was the
16 question?

17 BY MR. FARRELL:

18 Q Are you aware that a number of
19 psychologists were consulted during that
20 investigation?

21 A No, I'm not.

22 Q Did Officer Schreffler express any
23 objections or complaints or concerns to you about
24 the closing of the investigation?

25 A Not that I can recall.

1 Q To your knowledge, did anyone disagree
2 about the closing of that investigation?

3 A Not that I can recall.

4 Q Did you yourself have any communications
5 with the District Attorney?

6 A I did not.

7 Q Did you have any communications with a
8 Karen Arnold from the District Attorney's Office?

9 A I did not.

10 Q And the investigation was closed because
11 it was determined that no crime had occurred,
12 right?

13 A That's correct.

14 Q And you conveyed to Mr. Schultz that law
15 enforcement had concluded that no crime had
16 occurred, right?

17 A That's correct.

18 Q In addition, CYS closed its investigation
19 as unfounded, right?

20 A I believe so.

21 Q There was no report of child abuse made
22 by CYS or findings?

23 A To the best of my knowledge, that's
24 correct.

25 Q And you reported to Mr. Schultz as well

1 that CY5 had determined that any allegation of
2 abuse was unfounded?

3 A I don't recall that. I don't know that I
4 had any -- ever conveyed that to him.

5 Q But you conveyed to him that CY5 closed
6 its investigation?

7 A I don't -- no, I don't recall having any
8 discussion about the status of CY5.

9 Q You just told him that whatever
10 investigations you had were closed?

11 A My only recollection is telling him that
12 the District Attorney had determined that he was
13 not going to pursue it as a criminal offense.

14 Q Did you suggest to Mr. Schultz that
15 additional action should be taken?

16 A No.

17 Q Did he ask you if additional action
18 should be taken?

19 A No.

20 Q Did you think at the time additional
21 action should be taken?

22 A Did I what?

23 Q Think at the time that additional action
24 should be taken?

25 A No.

1 Q You were satisfied with the
2 investigation?

3 A Yes.

4 MR. FARRELL: I have nothing else.

5 MR. BEEMER: One.

6

7

REDIRECT EXAMINATION

8 BY MR. BEEMER:

9 Q Had you received a -- would you receive
10 in the course of your university police
11 department if someone had made a complaint to a
12 Children and Youth agency, would that also find
13 its way to the police department? In other
14 words, would Children and Youth ever call the
15 university police department and say we've got a
16 report here?

17 A I can't recall any incidents in which
18 matters were reported to Children and Youth that
19 were referred to the university police
20 department. We seldom dealt with juvenile
21 victims.

22 Q But you did in 1998?

23 A Yes.

24 Q In the investigation involving Jerry
25 Sandusky?

1 A That's correct.

2 Q And your department had contact with the
3 Children and Youth division, correct?

4 A Yes. Officer Schreffler did, I believe.
5 I did not.

6 Q At any point subsequent to that
7 investigation, did your department have contact
8 with the Children and Youth Services regarding
9 any other incidents involving Jerry Sandusky?

10 A No.

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

12 THE WITNESS: Not to my knowledge.

13 THE COURT: Ms. Roberto.

14 MR. FARRELL: I have nothing.

15 MS. ROBERTO: Judge, in light of the
16 questioning, if I may just ask Officer Harmon a
17 couple of questions.

18

19 RE CROSS EXAMINATION

20 BY MS. ROBERTO:

21 Q Officer, you just said that you seldom
22 had contact with, I think you said, child
23 victims. And is that because most of the victims
24 on your campus would be young adults or adults?

25 A That's correct. There were very few

1 children who lived on the campus, just a few in
2 student housing, in various student housing.

3 Q Okay. So I think your testimony was that
4 in 1998, the only individual that you told or had
5 contact with about the investigation regarding
6 Mr. Sandusky was Mr. Schultz?

7 A That's correct.

8 Q And you know Mr. Curley, right, Tim
9 Curley?

10 A Yes.

11 Q You didn't have any discussion with
12 Mr. Tim Curley, who was the athletic director at
13 the time, regarding this investigation?

14 A I did not.

15 Q Now, have you in other investigations had
16 contact with Mr. Curley regarding matters related
17 to the football stadium or maybe any crimes
18 committed on the football stadium?

19 A Well, sure, I've had contact with
20 Mr. Curley many times.

21 Q And no time in that subsequent contact
22 with Mr. Curley did you bring up the 1998
23 Sandusky investigation?

24 A No, we never spoke about that.

25 MS. ROBERTO: Thank you. No other

1 questions.

2 MR. BEEMER: Nothing.

3 THE COURT: You may step down. May this
4 witness be released?

5 MS. ROBERTO: Yes, Your Honor.

6 MR. FARRELL: Yes, Your Honor.

7 THE COURT: You may step down. Thank
8 you, sir.

9 (Witness excused.)

10

11 JOHN McQUEARY,
12 called as a witness, being duly sworn, testified
13 as follows:

14

15 THE COURT: Good morning.

16 THE WITNESS: Good morning.

17

18 DIRECT EXAMINATION

19 BY MR. BEEMER:

20 Q Please state your name, please.

21 A John McQueary.

22 Q And, Mr. McQueary, is Mike McQueary your
23 son?

24 A Yes.

25 Q I would like to direct your attention

1 back to a time in 2002. Did you become aware of
2 something that your son had observed at the Lasch
3 football building?

4 A Yes.

5 Q And did you make a -- based on the
6 information that you had been given, did you make
7 a decision along with your son as to who to speak
8 to first about that?

9 A Yes.

10 Q And who was that person?

11 A I wonder if you might repeat that, I want
12 to make sure that I understand. I called someone
13 on the phone to my house to talk about it, but
14 the person we reported it to, is that --

15 Q Who is the person you reported it to?

16 A I had told Mike that he should report to
17 his boss, his supervisor, Joe Paterno.

18 Q And at a time subsequent to that, did you
19 speak with Gary Schultz about the incident?

20 A Yes.

21 Q And could you describe how that occurred,
22 please?

23 A I'm not sure I'll be good on time
24 framework and so on, but I know Mr. Schultz.
25 I've worked with Mr. Schultz. He's a business

1 acquaintance of mine.

2 So at the time he had, I believe,
3 scheduled a meeting regarding something else in
4 my office, but I made it clear to both my boss
5 and to Mr. Schultz that I had something else I
6 wanted to talk to him about.

7 Q And this was after you were aware that
8 Mike had spoken to Mr. Schultz, if you know?

9 A I do not know that. I can't -- I don't
10 know what time sequence that was.

11 Q Okay. Where did the -- where did the
12 discussion take place?

13 A In my office building, 1850 East Park
14 Avenue in State College.

15 Q Who was present?

16 A Myself, Mr. Schultz, and a Dr. Dranov,
17 Jon Dranov.

18 Q Who is Jon Dranov?

19 A He, too, is a friend, but he also was my
20 boss at the time. He was the President of Centre
21 Medical and Surgical Associates.

22 Q Can you describe for the Court the
23 interaction you had with Gary Schultz at that
24 point? What did you tell him?

25 A Doing it verbatim nine years later is a

1 little tough, but I can give you the gist of it,
2 yes.

3 Q What did you tell him?

4 A I told him after we concluded our other
5 business, and I can't even remember what that
6 was, but I told him that I had something else I
7 wanted to talk to him about. It was a serious
8 matter. And briefly told him -- I didn't give
9 him all the detail, but briefly told him what
10 Mike had seen and what he came upon that night in
11 the Lasch Building and thought there should be
12 something done about it, some follow-up and so
13 on.

14 That was the gist of it. I can give you
15 more detail.

16 Q Okay. What -- did you tell him -- did
17 you refer to an incident involving Jerry
18 Sandusky?

19 A Would you repeat that again?

20 Q Did you refer during the conversation as
21 an incident that involved Jerry Sandusky?

22 A Absolutely, yes.

23 Q Did you describe the nature of what it
24 was?

25 A Yes.

1 Q What would you -- what would you have
2 used to describe that for him?

3 A I'm sure I wasn't detailed in terms of
4 graphic information, but I told him that Mike
5 came back to the building that night. It was, I
6 believe, a Friday night. Put some things in his
7 locker, I think a pair of sneakers.

8 While he was there, he noticed there were
9 some lights or heard some sounds and he knew
10 there was somebody else in the building or
11 somebody in that area of the building.

12 Q Did you tell him what the nature of the
13 contact was?

14 A Yes.

15 Q Did you describe it? That's my question.

16 A Okay.

17 Q What was the nature of the contact?

18 A That they were in the -- he saw Jerry
19 Sandusky in the shower, in the shower area, the
20 shower room, with a young boy; and that between
21 the sounds that he observed and the visualization
22 that he saw, that there was something at best
23 inappropriate going on and it was sexual in
24 nature.

25 But certainly beyond that, I couldn't --

1 I couldn't describe it any further because I
2 wasn't there.

3 Q You told Mr. Schultz that it was sexual
4 in nature?

5 A I would think that I said that it was at
6 least sexual overtones to it, sexual in nature,
7 it appeared to be sexual. But, again, I'm doing
8 this from memory. I wasn't there, remember. I
9 just want to make sure.

10 Q I'm talking about in the meeting you had
11 with Mr. Schultz.

12 A Yes. Oh, yes. If you're asking me did
13 he go away from the meeting with an understanding
14 that I was reporting something that I thought was
15 of a sexual nature that occurred in that shower
16 room, yes.

17 Q Okay. Did you ask him what was going to
18 be done about it?

19 A I believe -- and if I knew the sequence,
20 if I knew when he had talked to Mike and didn't
21 talk to Mike, which I don't know. I was
22 expecting something to be done.

23 I know Mr. Schultz. He's a responsible
24 individual. He's a good person and he -- what he
25 -- what he indicated was that they had heard of

1 allegations and they were aware of the situation
2 and they were looking into it.

3 And during that exchange, he said
4 something similar to, John, there has been a
5 noise level about this or there have been other
6 innuendos or there have been other allegations.
7 We've looked into them before and, more or less
8 in a general sense, said we've never been able to
9 really unearth anything or sink our teeth into
10 something that we had that was substantial.

11 But I got the impression he was going to
12 look into this more and do the best to uncover
13 whatever they would find.

14 Q Was there any question in your mind that
15 you left that meeting informing Mr. Schultz that
16 the incident was sexual in nature?

17 A There's no doubt in my mind short of
18 saying that I viewed an act myself that what Mike
19 reported to me appeared to be sexual in nature,
20 sounded like sexual in nature to me, and I think
21 he knows that.

22 Q You have to listen to my question. Did
23 you communicate that to Mr. Schultz?

24 A Yes. That's the point I'm making, yes.

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

1 THE COURT: Ms. Roberto.

2 MS. ROBERTO: Yes.

3

4 CROSS EXAMINATION

5 BY MS. ROBERTO:

6 Q Mr. McQueary, my name is Caroline Roberto
7 and I represent Tim Curley. And I want to
8 follow-up on something that you said on the night
9 of this incident, that you called someone else to
10 your home to discuss this matter. Isn't that
11 someone else the individual that you just
12 testified regarding, Dr. Jon Dranov?

13 A Yes.

14 Q Okay. And at the time Dr. Dranov, I
15 think you said, was your boss, employer?

16 A Yes.

17 Q Now, isn't it true that Dr. Dranov also
18 was a trusted friend and adviser to you at the
19 time?

20 A Yes.

21 Q And when you called Dr. Dranov, you had
22 information from your son that he witnessed or
23 heard something in the shower in the Lasch
24 Building, right?

25 A Yes.

1 Q Now, did you hear from your son on the
2 telephone initially when he phoned you what was
3 -- what it was that troubled him?

4 MR. BEEMER: Your Honor, I'm going to
5 object. This is beyond the scope. He was called
6 for a very specific purpose regarding the Schultz
7 meeting. This has no relevance to the direct
8 examination.

9 THE COURT: Ms. Roberto, do you want to
10 respond?

11 MS. ROBERTO: Yes, Your Honor. This
12 testimony has come out through other individuals,
13 so it's just following up on what appears to be,
14 you know, the essence of this hearing.

15 THE COURT: I'll allow Mr. McQueary to
16 answer. I think the question was, did he receive
17 a phone call from his son. I don't want to -- I
18 think we've got to be careful with where we go
19 with Mr. McQueary.

20 Mr. McQueary, can you answer that
21 question?

22 THE WITNESS: Yes, sir. I did receive a
23 phone call from Mike. Does that answer your
24 question? Have I done that?

25 BY MS. ROBERTO:

1 Q So you received a phone call.

2 MS. ROBERTO: Judge, may I inquire what
3 the purpose of the phone call was?

4 THE COURT: Sure. I mean, I think -- go
5 ahead.

6 BY MS. ROBERTO:

7 Q What was the purpose of the phone call?
8 What do you recall?

9 A The best way for me to do that is to tell
10 you about the call.

11 Q Okay.

12 A My wife actually answered the phone and
13 handed it to me all withing probably a
14 nanosecond.

15 Q Sure.

16 A She said, John, it's Mike and there's
17 something wrong. And she determined that by not
18 necessarily what he said to her but by the sound
19 of his voice, I believe. I believe that to be
20 accurate.

21 When I got on, I said, Mike, dad, what's
22 the matter, because my wife had already
23 predisposed me that there was something wrong. I
24 said, what's the matter. He didn't respond. I
25 said, Mike, I said, are you there, what's up,

1 what's wrong.

2 And collecting himself, he said to me in
3 a very quivering, scared voice -- and he's not a
4 scared-type kid, but he was upset and scared. He
5 said, I just saw something in the locker room.
6 And I said, well, what.

7 I thought maybe he was hurt or something
8 by the way he sounded. And he said -- and I
9 said, what.

10 He says, I saw Coach Sandusky in the
11 shower with a little boy. He says, first I heard
12 it and, he said, I knew that something was going
13 wrong. And he said, I followed -- looked into
14 the locker room and saw him there with a little
15 boy.

16 Q And did you then instruct him to come to
17 your residence?

18 A I did.

19 Q Okay. And --

20 A Not at that exact moment. I -- I'm an
21 administrator, problem solver by design, so I
22 have, I think, an ability to collect a lot of
23 data quickly and try to make a smart decision.

24 Anyway, I asked him where he was. He
25 said he was in his office. I said, where is that

1 in relationship to where you saw this. It's
2 upstairs.

3 I said, who else is in the building with
4 you. He says, nobody that I know of or can see.
5 I says, is Coach Sandusky and the boy still in
6 the building. He says --

7 MR. BEEMER: Your Honor, at this point
8 I'm going to object. We're going through
9 something that had nothing to do with the purpose
10 of his testimony.

11 THE COURT: I wanted him to answer the
12 phone call question, but I was scared where this
13 was going to go. So I suppose if the objection
14 is on the table, I'm going to sustain the
15 objection.

16 BY MS. ROBERTO:

17 Q So let me follow-up on that. Eventually
18 through your advice to your son, he came to your
19 residence?

20 A Yes.

21 Q Okay. And did you call Dr. Dranov before
22 your son arrived at your residence or after?

23 A Before.

24 MR. BEEMER: Your Honor, the same
25 objection. We're in the same area.

1 THE COURT: I don't want to go too far
2 with the doctor.

3 MS. ROBERTO: Okay.

4 BY MS. ROBERTO:

5 Q Isn't it your recollection that your son
6 described to Dr. Dranov what happened that
7 evening in the shower as only hearing something
8 in the shower and drawing conclusions about what
9 happened but not seeing anything in the shower?

10 MR. BEEMER: Your Honor, same objection.
11 This is asking him what somebody else told
12 somebody else. It's completely improper.

13 MS. ROBERTO: But, Your Honor, you put on
14 the witness stand an individual who has direct
15 knowledge of what happened on the night and what
16 his son said and to whom he said it and those
17 people that were most directly involved with
18 Mr. McQueary, Mr. Mike McQueary's statements that
19 night.

20 You put that person up on the witness
21 stand. And, of course, it's relevant to what
22 Mr. McQueary, Mr. Mike McQueary, said.

23 MR. BEEMER: It's not relevant at all for
24 purposes of this hearing. What's only relevant
25 is what he -- his discussion with Mr. Schultz for

1 a very different purpose.

2 THE COURT: I'm going to sustain the
3 objection.

4 MS. ROBERTO: If I can just ask the Court
5 to reconsider. As I had said earlier regarding
6 Dr. Dranov, Section 4902-F requires the
7 Commonwealth, the prosecution, to corroborate
8 Mr. McQueary's statements.

9 And this witness is the best witness we
10 can think of that would corroborate or not the
11 statements of Mike McQueary.

12 So if I'm not permitted to inquire at
13 this point, I mean, that's up to the Court, but I
14 think it is extremely relevant on the issue of
15 corroboration.

16 MR. BEEMER: Your Honor, again, I'll go
17 back to the original point. It's the
18 Commonwealth's decision in a preliminary hearing
19 what witnesses to utilize for purposes of
20 corroboration.

21 I mean, we're going down a road. It
22 wouldn't even be relevant. The only way it would
23 be relevant is if we called a different witness.
24 So, I mean, it makes no sense for purposes of the
25 preliminary hearing.

1 THE COURT: The objection is noted by
2 esteemed counsel, but I will sustain the
3 Commonwealth's.

4 BY MS. ROBERTO:

5 Q Rather than go into what was said when
6 Dr. Dranov was there, was Dr. Dranov -- did he
7 arrive at your house on the evening of this
8 incident?

9 A Say again.

10 Q Did Dr. Dranov arrive at your house in
11 response to your telephone call --

12 A Yes.

13 Q -- on the evening of this incident?

14 A Yes.

15 Q And without telling us what was said, did
16 your son have a discussion with Dr. Dranov?

17 A Yes.

18 Q And were you present for that discussion?

19 A Yes.

20 MS. ROBERTO: I have no other questions.

21 THE COURT: Mr. Farrell.

22 MR. FARRELL: I'll ask one question about
23 that night, I promise.

24

25

1 tables in this courtroom?

2 A I would say four foot diameter.

3 Q A round table?

4 A Yeah.

5 Q Did Dr. Dranov participate in that
6 discussion, say things?

7 A Yes.

8 Q Ask questions?

9 A I can't verify that. I don't remember
10 what questions or how many questions he asked but
11 he was there. He certainly took part in the
12 conversation.

13 Q And during -- and the purpose of talking
14 to Mr. Schultz with Dr. Dranov there was to
15 advise Mr. Schultz of what your son had told you,
16 correct?

17 A Yes.

18 Q And seeking Mr. Schultz's advice and
19 input?

20 A I'm not sure I would phrase it that way,
21 but I wanted him to listen as an officer of the
22 university and make sure that it was followed up
23 on or some action was taken.

24 Q All right. And you made sure to
25 accurately and fully describe to Mr. Schultz what

1 your son had told you?

2 A Probably in a condensed version. I can't
3 sit here and verify under oath that I told him
4 every detail of that, but I told him enough that
5 I thought he got the picture.

6 Q You told him what you thought was
7 significant for him to make the decision?

8 A Yes. I would say -- I would say yes to
9 that, yes, sir.

10 Q During that discussion, did Mr. Schultz
11 ask you for more detail about what your son told
12 you?

13 A I do not remember him asking me for more
14 detail. In the course of an exchange, he wasn't
15 acting like an investigator. He was discussing
16 it with me because we in a sense have a collegial
17 relationship, so it was a discussion. I don't
18 remember Gary asking me specific questions.
19 Could have he? Perhaps.

20 Q Did he at any point tell you he didn't
21 want to hear anymore?

22 A I'm sorry, sir?

23 Q At any point did Mr. Schultz tell you, I
24 don't want to hear anymore?

25 A Oh, no, absolutely no.

1 Q He seemed willing to listen?

2 A Yes.

3 Q During your description of what Mike had
4 told you, did Dr. Dranov join in and add any
5 detail?

6 A I just want to make sure I understand.
7 During the same meeting?

8 Q Yes.

9 A That Gary Schultz was at, did Dr. Dranov
10 go into further detail?

11 Q Yes.

12 A Maybe to the extent did he remember that
13 evening or what he took away from our discussion
14 that evening, I suspect that might have happened.
15 I can't remember that but --

16 Q Do you recall Dr. Dranov disagreeing with
17 your description of what Mike said when you said
18 it to Mr. Schultz?

19 A Not disagreeing, at least at that time,
20 no, I don't -- I don't believe he did.

21 Q Did he add facts to it or correct facts?

22 A We've had conversations so many times,
23 it's difficult to put into place what occurred
24 week one, month one, year ten. And so I feel
25 uncomfortable answering that because I don't -- I

1 can't say it with 100 percent certainty.

2 Q Okay. Just when you say we've had
3 conversations so many times, you mean you and
4 Dr. Dranov about what Mike saw?

5 A Many times, not so many times, a few
6 times, yes.

7 Q In this meeting with Mr. Schultz, did you
8 tell Mr. Schultz that what Mike had seen was a
9 crime?

10 A I never used the word crime. I made it,
11 I'm sure, clear that it was at least a very
12 inappropriate action and what Mike described to
13 me led me to believe that it was sexual in
14 nature.

15 Q Okay. So you think the way you described
16 it to Mr. Schultz was at least inappropriate and,
17 from what Mike said, perhaps sexual in nature?

18 A I think Mr. Schultz went away from that
19 meeting with that understanding, yes.

20 Q You never used the phrase anal sex with
21 Mr. Schultz?

22 A Absolutely not.

23 Q Or the word rape?

24 A Not at all.

25 Q Or the word sodomy?

1 A No, not at all.

2 Q Or the phrase sexual assault?

3 A No, not at all.

4 Q How about the word fondling?

5 A I don't think I would have used it
6 because I didn't see it. I would be saying what
7 I was told, but I don't think I would have used
8 fondling.

9 Q In the meeting with Mr. Schultz?

10 A Yes, with Mr. Schultz.

11 Q Did you use in the meeting with Mr.
12 Schultz the phrase horsing around or horseplay?

13 A No. That's a term I've never heard here
14 or there. That's kind of a -- that shows my age.
15 That's an archaic term that my dad would have
16 said to me, you know, stop messing around or
17 horsing around. But I wouldn't have used it and
18 haven't used it, and I don't think Mike knows it.

19 Q So it goes back even past your
20 generation?

21 A It could be.

22 Q I apologize for this, but in the
23 discussion with Mr. Schultz, did you describe to
24 Mr. Schultz the action of Mr. Sandusky thrusting
25 his groin into a young boy's rear end?

1 A No.

2 Q Did Mike tell you that?

3 A And Mike never said that.

4 Q Mike never said that to you at any time?

5 A Specifically your question about
6 thrusting?

7 Q Yes.

8 A I never heard the word thrust.

9 Q Or description of that activity?

10 A Only --

11 MR. BEEMER: Objection to the relevance
12 of what he heard from Mike.

13 THE COURT: Sustained.

14 BY MR. FARRELL:

15 Q Did you describe that activity to
16 Mr. Schultz?

17 A Did I describe that activity to
18 Mr. Schultz?

19 Q Yes.

20 A I don't think I said thrusting or -- no,
21 I don't think I used that word thrusting.

22 Q All right. Did you describe the activity
23 at all or just describe it as something
24 inappropriate and sexual in nature?

25 A I think I would have used what Mike said

1 to me and I've used it before, that it doesn't
2 take a lot of intelligence or you don't have to
3 be a rocket scientist to figure out a sound that
4 would resemble as you've used the word thrusting.
5 It makes a sound.

6 I don't want to in this courtroom, I
7 don't want to embarrass myself or the Court
8 but --

9 Q You don't have to, sir.

10 A But to that limit, the sound of
11 thrusting, is that -- I'm not using the word.
12 I'm using your word thrusting. Then that is what
13 I think Mike was referring to.

14 Q Okay. And did you describe that sound to
15 Mr. Schultz?

16 A I don't think I described the sound to
17 Gary. I'm not even sure how I could describe
18 that sound. I guess they can vary.

19 Q Did you in that meeting, did you ask
20 Mr. Schultz to notify the police?

21 A No.

22 Q In your presence did Dr. Dranov ask
23 Mr. Schultz to do that?

24 A Can I answer that with a little more than
25 just a yes or a no?

1 Q Sure.

2 A Because of my relationship with
3 Mr. Schultz, and I know who he is and what office
4 he occupied, I also know that he's director of
5 the police department on the campus, as does
6 everyone else around the campus.

7 And so in that regard, I felt we had
8 notified the appropriate person that could take
9 what I would have deemed to be appropriate
10 action.

11 Q Did Mr. Schultz ever report back to you
12 after that meeting?

13 A I don't recall that. And I don't think
14 we met, not specifically or had a conversation,
15 but I think he might have -- you know, when
16 you're remembering things, he might have said
17 something in passing, I'm still looking into it
18 or, John, I'm not turning up much.

19 But could I say that and really know that
20 that was said? No, I can't.

21 Q So you're not sure?

22 A No, I'm not sure.

23 Q Do you recall if you ever expressed any
24 dissatisfaction with Mr. Schultz about the action
25 that was taken or not taken?

1 A I wouldn't make it a personal
2 dissatisfaction. I was -- I was dissatisfied
3 with the process that what appeared to be or
4 sounded to me to be a serious reported infraction
5 that we've all discussed here, that it appeared
6 on the surface that the system wasn't doing much
7 about it. I am not in a position to say that
8 Gary Schultz didn't do anything about it.

9 Q Well, did you ever express to Mr. Schultz
10 your dissatisfaction with how the system was
11 proceeding?

12 A I cannot say that I've ever expressed
13 dissatisfaction to Gary.

14 MR. FARRELL: Thank you, sir. I have no
15 other questions.

16 MR. BEEMER: Nothing.

17 THE COURT: Ms. Roberto.

18 MS. ROBERTO: No.

19 THE COURT: You can step down. Thank you
20 very much, Mr. McQueary.

21 THE WITNESS: Thank you.

22 THE COURT: May this witness be released?

23 MR. FARRELL: Yes, Your Honor.

24 THE COURT: Ms. Roberto.

25 MS. ROBERTO: Yes, Your Honor.

1 THE WITNESS: Do I go out the same way I
2 came in?

3 THE COURT: I think they'll escort you
4 out. Go back up the middle there.

5 (Witness excused.)

6 THE COURT: Mr. Beemer, how many more
7 witnesses do we have?

8 MR. BEEMER: Two. They're both very
9 short.

10

11 SHANNON MANDERBACH,
12 called as a witness, being duly sworn, testified
13 as follows:

14

15 DIRECT EXAMINATION

16 BY MR. BEEMER:

17 Q Would you please state your name, spell
18 your last name?

19 A Shannon Manderbach, M-A-N-D-E-R-B-A-C-H.

20 Q And how are you employed?

21 A I'm a court reporter.

22 Q And I'm going to direct your attention
23 back to the 12th of January, 2011. Were you
24 working in your capacity as a court reporter on
25 that day?

1 A Yes, I was.

2 Q And where were you working?

3 A I was working at the Grand Jury in
4 Harrisburg.

5 Q Is that the Statewide Investigating Grand
6 Jury in Harrisburg?

7 A Yes, it is.

8 Q Okay. And during the course of your work
9 as a court reporter, what in very brief terms
10 would you do?

11 A I would go into chambers with the Judge,
12 they would swear the witnesses in, and then I
13 would go into the courtroom with the grand jurors
14 and hear testimony and take down testimony for
15 the day.

16 Q Was one of the individuals that you took
17 testimony for that day an individual by the name
18 of Tim Curley?

19 A Yes, sir.

20 Q Do you see Mr. Curley in the courtroom?

21 A Yes, sir.

22 Q Can you identify where Mr. Curley is
23 located?

24 A He's seated at the defense counsel seat.

25 MR. BEEMER: May the record reflect the

1 identification of Mr. Curley?

2 THE COURT: So noted.

3 BY MR. BEEMER:

4 Q And was another individual that you took
5 the testimony of an individual by the name of
6 Gary Schultz?

7 A Yes, sir.

8 Q And do you see Mr. Schultz in the
9 courtroom?

10 A Yes, sir.

11 MR. FARRELL: Your Honor, we'll stipulate
12 it's Mr. Schultz sitting beside me.

13 THE COURT: Thank you.

14 BY MR. BEEMER:

15 Q And can you describe prior to that day or
16 any day for that matter, witnesses taking the
17 stand or providing testimony in front of the
18 Grand Jury are -- is there a process by which
19 they are sworn and placed under oath?

20 A Yes, there is.

21 Q Did that occur on this day with
22 Mr. Curley and Mr. Schultz?

23 A Yes, sir.

24 Q And who actually does the swearing in?

25 A The Judge.

1 Q And what is the -- what is that -- how
2 does that process work?

3 A We enter chambers. That's where the
4 Judge is located. And they bring in a witness or
5 two at a time. The Judge goes through a colloquy
6 with them, and at the end of the colloquy he
7 swears them in to tell the truth. And I sit
8 there and take it down on my court reporting
9 machine.

10 Q So you were, in fact, present when
11 Mr. Curley on January 12th took an oath to tell
12 the truth?

13 A Yes, sir.

14 Q And were you present when Mr. Schultz
15 took an oath to tell the truth on January 12th of
16 2011?

17 A Yes, sir.

18 Q And, finally, on that same day, did an
19 individual testify by the name of Joe Paterno?

20 A Yes, sir.

21 Q And were you the reporter responsible for
22 transcribing the questions posed by the
23 prosecutors from the Attorney General's Office
24 and the answers provided?

25 A Yes, sir.

1 Q And have you had an opportunity to review
2 the certified transcripts of those three
3 individuals in this matter?

4 A Yes, sir.

5 Q Are -- I'm going to show you --

6 MR. BEEMER: Your Honor, may I approach?

7 THE COURT: Please.

8 BY MR. BEEMER:

9 Q I'm going to show you what I'll mark for
10 purposes of this hearing first as Commonwealth 1,
11 ask you to identify that document.

12 A This is the transcript I prepared of
13 Joseph V. Paterno on January 12th, 2011. It's a
14 certified copy of the transcript that I prepared.

15 Q I'm going to show you second
16 Commonwealth's -- what I'll mark for purposes as
17 Commonwealth's 2.

18 A This is the certified copy of the
19 transcript of Tim Curley from January 12th, 2011.
20 This is the certified copy of the transcript that
21 I prepared.

22 Q And, finally, what I'll mark as
23 Commonwealth's 3.

24 A This is the transcript of Gary Schultz
25 taken on January 12th, 2011. It's the certified

1 copy of the transcript I prepared.

2 Q Likewise, in addition to Mr. Curley and
3 Mr. Schultz, did you observe Mr. Paterno being
4 sworn in on that day and taking an oath to tell
5 the truth?

6 A Yes, sir.

7 MR. BEEMER: Your Honor, at this time for
8 purposes of this hearing I would move for the
9 admission of the -- well, strike that.

10 BY MR. BEEMER:

11 Q Are those three documents that I have
12 presented to you an accurate and true reflection
13 of what occurred on January 12th with respect to
14 those three witnesses?

15 A Yes, sir.

16 MR. BEEMER: Your Honor, at this time I
17 would move for the purposes of this hearing the
18 admission of Commonwealth's 1, 2 and 3 and would
19 note for purposes of Commonwealth's 1, which is
20 the transcribed Grand Jury testimony of Joseph V.
21 Paterno that there is a stipulation among counsel
22 that that is to be admitted for purposes of this
23 hearing.

24 MS. ROBERTO: That's my understanding of
25 the agreement and stipulation regarding

1 Mr. Paterno's testimony.

2 THE COURT: Mr. Farrell.

3 MR. FARRELL: Yes, Your Honor.

4 THE COURT: So moved for that document.

5 MR. BEEMER: I don't have any further
6 questions for Ms. Manderbach.

7 THE COURT: Ms. Roberto?

8 MS. ROBERTO: I have no questions.

9 MR. FARRELL: I have no questions.

10 THE COURT: You may step down. Thank
11 you.

12 (Witness excused.)

13 MR. BEEMER: I have one further witness
14 who is extremely brief. We call Agent Sassano.

15

16 ANTHONY SASSANO,
17 called as a witness, being duly sworn, testified
18 as follows:

19

20 DIRECT EXAMINATION

21 BY MR. BEEMER:

22 Q Sir, could you please state your name,
23 spell your last name?

24 A Anthony Sassano, S-A-S-S-A-N-O.

25 Q How are you employed?

1 A I'm an agent with the Pennsylvania
2 Attorney General's Office.

3 Q Have you been involved in an
4 investigation relative to incidents involving an
5 individual named Jerry Sandusky?

6 A Yes, sir, I have.

7 Q I would like to direct you specifically
8 to an incident that involved a report from Mike
9 McQueary that reportedly occurred in early 2002.
10 Do you recall that?

11 A In early 2002?

12 Q Yes.

13 A Yes, I know that incident, yes.

14 Q During the course of your investigation,
15 did you make a determination or attempt to
16 determine whether or not that incident had ever
17 been reported to a Children and Youth service or
18 any law enforcement entity?

19 A I did.

20 Q And during the course of that
21 investigation, were you able to determine whether
22 or not that incident had been reported to either
23 of those?

24 A We determined that it was not reported to
25 either CYC Services or law enforcement.

1 Q Just to be clear, we're referring
2 specifically to the incident that Mike McQueary
3 observed in the showers in the Lasch Building in
4 2002; is that correct?

5 A Yes, yes, March 2002.

6 MR. BEEMER: That's all I have, Your
7 Honor.

8 THE COURT: Ms. Roberto.

9 MS. ROBERTO: Yes.

10

11

CROSS EXAMINATION

12 BY MS. ROBERTO:

13 Q Agent Sassano, let me ask you
14 specifically, when did you begin the
15 investigation into whether a report had been made
16 to the police or to CY5 regarding the early 2002
17 incident?

18 A Sometime after learning of the incident.

19 Q And when did you learn of the incident?

20 A I believe it was November 2010.

21 Q Okay. And so when you say that you
22 researched and investigated whether CY5 heard or
23 began any investigation, would that be CY5 in
24 Centre County?

25 A I believe it was Centre County and also

1 out of the state agency, the Department of Public
2 Welfare out of Harrisburg, I believe they
3 operate.

4 Q Are you aware that CYs once they begin an
5 investigation that may be unfounded, they do not
6 keep the records for more than a period of time?

7 A I am aware of that.

8 Q Okay. And so how long is that period of
9 time?

10 A I believe it's a year. I could be
11 mistaken on that but approximately a year.

12 Q So even if there was a report made to CYs
13 back in 2002, they would not have records unless
14 they made a founded report, correct?

15 A That's accurate.

16 Q So what did you do in order to determine
17 that no report was made to CYs?

18 A Well, CYs, as you know, cannot file
19 charges. They do an investigation. They cannot
20 actually file charges, so they work in
21 conjunction with the police department.

22 In this particular case, Penn State
23 University Police Department had jurisdiction for
24 any incidents occurring on the property. So we
25 checked --

1 Q Excuse me. Could you pull the microphone
2 closer to you?

3 A Yeah.

4 Q Thank you.

5 A So we checked with the Pennsylvania State
6 University Police Department to see if they had
7 any incidents involving Jerry Sandusky in March
8 of 2002 and they did not. They're the only ones
9 that could file the charges. CYS could not file
10 the charges.

11 Q So by what you just said, you don't know
12 if there was any sort of investigation by CYS
13 independent of a police department?

14 A Independent of a police department, no.
15 They do them with the police department. It's a
16 joint venture, just like this venture is between
17 the State Police and the Attorney General's
18 Office. It's one and the same essentially.

19 Q Did you speak with anyone at Centre
20 County CYS regarding a 2002 report?

21 A I believe we both spoke to people there
22 and subpoenaed documents.

23 Q So you did subpoena documents. Was any
24 -- well, strike that.

25 MS. ROBERTO: Okay. Thank you.

1 THE COURT: Mr. Farrell.

2

3 CROSS EXAMINATION

4 BY MR. FARRELL:

5 Q Who did you speak to at CYS?

6 A I was hoping you wouldn't ask me that.

7 She's now the boss. Carol Smith I think her name
8 is, but I could be wrong with that. It's whoever
9 the director is at this current time.

10 Q Okay. And did you ask her if she had any
11 personal knowledge of a report or just if there
12 were any records?

13 A If she had any -- both, if there's
14 records and/or knowledge.

15 Q And what did she tell you with respect to
16 knowledge?

17 A The only knowledge that she had of any --
18 she's a long-time employee. She didn't just --
19 wasn't recently hired. She worked her way up
20 from the bottom, so she had been there for
21 numerous years, including in the '90s.

22 She indicated that her memory, the only
23 reports concerning Jerry Sandusky involving a
24 child which came to their attention was the 1998
25 incident.

1 Q And they did not have any records of the
2 1998 incident, did they?

3 MR. BEEMER: Objection to relevance.

4 THE COURT: I'll let him answer.

5 Do you know the answer, sir?

6 THE WITNESS: I don't think they did, no.

7 We got them from the Pennsylvania State -- I'm

8 sorry, Pennsylvania State University Police

9 Department.

10 BY MR. FARRELL:

11 Q Did you speak to anyone else at CYC
12 Centre County?

13 A No, I dealt with the boss.

14 Q And with respect to DPW, who did you
15 speak to?

16 A Regarding what matter?

17 Q Regarding any reports of a 2002 incident.

18 A Jerry Lauro.

19 Q Did you ask him whether, beside records,
20 he had any personal knowledge of a report in 2002
21 or about 2002?

22 A Yes. I believe we also subpoenaed
23 records from DPW reference to the 2002 matter and
24 they have them.

25 Q Okay. What did Mr. Lauro tell you was

1 his personal knowledge?

2 A His personal knowledge, his only
3 knowledge of any incident involving Jerry
4 Sandusky and the child that was reported to them
5 was the '98 incident.

6 Q Did you speak to anyone else at DPW?

7 A I did not.

8 MR. FARRELL: I have nothing else.

9 MR. BEEMER: Nothing further.

10 THE COURT: You can step down. Thank you
11 very much, sir.

12 (Witness excused.)

13 MR. BEEMER: Your Honor, at this time I
14 would ask that the following occur: That the
15 Court examine the three items that have been
16 submitted, Commonwealth's Exhibits 1, 2, and 3,
17 the testimony of Mr. Paterno, Mr. Curley, and
18 Mr. Schultz.

19 It is our intention, after the Court and
20 counsel have had an opportunity to review those
21 documents, to read that testimony into the
22 record. And given the time frame, I believe
23 Mr. Curley and Mr. Schultz's testimony is about
24 68 pages combined. Mr. Paterno's is a little bit
25 shorter than that, so that now would be an

1 appropriate time without anymore live witnesses
2 to do that.

3 THE COURT: All right. We are going to
4 recess until 1:45.

5 For the media and the citizens here in
6 court, obviously we're going to try to get lunch
7 in there for everybody involved here, as well as
8 I've got to review and read these documents.

9 This is the first time that defense
10 counsel would have seen these documents that
11 their clients had verbally given to the Grand
12 Jury. So that's the reason we're going to take
13 an hour and a half.

14 So Court is adjourned until 1:45.

15

16 (Court was held in recess at 12:20 p.m.)

17

18 (Recess.)

19

20 (The following proceedings occurred,
21 beginning at 1:56 p.m.:)

22

23 THE COURT: Mr. Beemer.

24 MR. BEEMER: Thank you, Your Honor. Your
25 Honor, at this time the Commonwealth is proposing

1 to have read into the record three separate items
2 of testimony, that of Joseph Paterno, Timothy
3 Curley and Gary Schultz.

4 I will read in the question portion into
5 the record, and James Barker from the Office of
6 Attorney General will read in the answer portion
7 for all three.

8 THE COURT: All right.

9

10 JAMES BARKER,
11 called as a witness, being duly sworn, testified
12 as follows:

13

14 MR. BEEMER: The date is January 12th,
15 2011, 11:06 a.m. The questions were asked by Ms.
16 Jonelle Eshbach, E-S-H-B-A-C-H. Witness, Joseph
17 V. Paterno.

18 BY MR. BEEMER:

19 Q Would you please introduce yourself to
20 the Grand Jury?

21 A My name is Joseph V. Paterno.

22 Q I'm sure everyone in the room knows, but
23 just in case there's anyone that doesn't, how are
24 you employed?

25 A I'm a football coach at the Pennsylvania

1 State University.

2 Q As that football coach at the
3 Pennsylvania State University, did you have as
4 employed under you an individual by the name of
5 Jerry Sandusky?

6 A I did for a while, yes.

7 Q Do you currently have employed for you
8 since sometime in the early 2000s an assistant
9 coach named Michael McQueary?

10 A Yes.

11 Q I'd like to direct your attention to what
12 I believe would be a spring break of 2002, around
13 that time. Do you recall Michael McQueary
14 calling you and asking to have a discussion with
15 you about something that he observed?

16 A I'm not sure of the date, but he did call
17 me on a Saturday morning. He said he had
18 something that he wanted to discuss. I said,
19 come on over to the house. He came over to the
20 house. And as I said, I'm not sure what year it
21 was, but I know it was a Saturday morning and we
22 discussed something he had seen.

23 Q Without getting into any graphic detail,
24 what did Mr. McQueary tell you he had seen and
25 where?

1 A Well, he had seen a person, an older --
2 not an older, but a mature person who was
3 fondling, whatever you might call it -- I'm not
4 sure what the term would be -- a young boy.

5 Q Did he identify who that older person
6 was?

7 A Yes, a man by the name of Jerry Sandusky
8 who had been one of our coaches, was not at the
9 time.

10 Q You're saying that at the time this
11 incident was reported to you, Sandusky was no
12 longer a coach?

13 A No, he had retired voluntarily. I'm not
14 sure exactly the year, but I think it was either
15 '98 or '99.

16 Q I think you used the term fondling. Is
17 that the term that you used?

18 A Well, I don't know what you would call
19 it. Obviously, he was doing something with the
20 youngster. It was a sexual nature. I'm not sure
21 exactly what it was.

22 I didn't push Mike to describe exactly
23 what it was because he was very upset.
24 Obviously, I was in a little bit of a dilemma
25 since Mr. Sandusky was not working for me

1 anymore.

2 So I told -- I didn't go any further than
3 that except I knew Mike was upset and I knew some
4 kind of inappropriate action was being taken by
5 Jerry Sandusky with a youngster.

6 Q Did Mike McQueary tell you where he had
7 seen this inappropriate conduct take place?

8 A In the shower.

9 Q Where was the shower?

10 A In the Lasch Building.

11 Q Is that on the campus of Penn State
12 University?

13 A It's right on the campus.

14 Q Did you tell Mike McQueary at that time
15 what you were going to do with that information
16 that he had provided to you?

17 A I don't know whether I was specific or
18 not. I did tell Mike, Mike, you did what was
19 right; you told me. Even though Jerry does not
20 work for the football staff any longer, I would
21 refer his concerns to the right people.

22 Q You recall this taking place on a
23 Saturday morning, the conversation with Mike?

24 A Yes.

25 Q When did you -- did you do something with

1 that information?

2 A Well, I can't be precise. I ordinarily
3 would have called people right away, but it was a
4 Saturday morning and I didn't want to interfere
5 with their weekends. So I don't know whether I
6 did it Saturday or did it early the next week.
7 I'm not sure when, but I did it within the week.

8 Q To whom or with whom did you share the
9 information that McQueary had given you?

10 A I talked to my immediate boss, our
11 athletic director.

12 Q What is that person's name?

13 A Tim Curley.

14 Q How did you contact Mr. Curley?

15 A I believe I did it by phone. As I
16 recall, I called him and I said, hey, we got a
17 problem, and I explained the problem to him.

18 Q Was the information that you passed along
19 substantially the same information that
20 Mr. McQueary had given you?

21 A Yes.

22 Q Other than the incident that Mike
23 McQueary reported to you, do you know in any way,
24 through rumor, direct knowledge or any other
25 fashion, of any other inappropriate sexual

1 conduct by Jerry Sandusky with young boys?

2 A I do not know of anything else that Jerry
3 would be involved in of that nature, no. I do
4 not know of it. You did mention -- I think you
5 said something about a rumor. It may have been
6 discussed in my presence, something else about
7 somebody. I don't know. I don't remember, and I
8 could not honestly say I heard a rumor.

9 Q You indicated that your report was made
10 directly to Tim Curley. Do you know of that
11 report being made to anyone else that was a
12 university official?

13 A No, because I figured that Tim would
14 handle it appropriately. I have a tremendous
15 amount of confidence in Mr. Curley and I thought
16 he would look into it and handle it
17 appropriately.

18 We have no further questions of you.

19 Testimony concluded at 11:13 a.m.

20 Date, January 12, 2011, 11:20 a.m.

21 Witness, Tim Curley.

22 Questioning for the Office of Attorney
23 General, Jonelle Eshbach, E-S-H-B-A-C-H, and
24 Frank Fina, F-I-N-A.

25 Q Would you please introduce yourself to

1 the Grand Jury?

2 A Good morning. My name is Tim Curley.

3 Q You have counsel with you?

4 A Yes, I do.

5 Q Would you introduce her, please?

6 A My counsel is Cynthia Baldwin.

7 Q Mr. Curley, how are you employed?

8 A I'm employed as the director of athletics
9 at Penn State University.

10 Q How long have you been employed in that
11 capacity?

12 A As the athletic director since 1993.

13 Q Were you with the university before that?

14 A Yes, ma'am.

15 Q How long?

16 A Since 1979 full time.

17 Q As the athletic director, does every
18 athletic program in the university fall under
19 your control?

20 A Yes, I have an administrative
21 responsibility for varsity athletics,
22 intramurals, and club sports in a variety of
23 other areas.

24 Q I'd like to direct your attention first
25 to an incident which was brought to your

1 attention sometime around spring break of 2002.
2 Did you receive information from Coach Joseph
3 Paterno about an incident that was alleged to
4 have occurred on university property involving
5 Jerry Sandusky and a minor male?

6 A Yes.

7 Q Please tell us how that information came
8 to your attention the best that you can recall
9 and what you did as a result of it.

10 A My recollection -- and I don't know if it
11 was 2002, but my recollection was that Coach
12 Paterno called myself and Gary Schultz, who is
13 the senior vice president, and said he needed to
14 meet with us, that he wanted to report something
15 to us.

16 So we went over, the two of us together,
17 met with him, and he -- do you want me to --

18 Q Yes, please.

19 A Coach Paterno indicated that he had a
20 football coach, an assistant football coach, that
21 came to him with information that he encountered
22 in the locker room on campus in the football
23 building, that he went into the locker room -- it
24 was, I think, sometime in the evening -- went
25 into the locker room and was going to get a

1 workout in and the individual heard and saw, I
2 guess, two people in the shower, in the shower
3 area.

4 And my recollection was that he could see
5 that through a mirror, that there was a mirror
6 that he could see that through, and that the
7 individual was uncomfortable with the activity in
8 the shower area and -- am I supposed to go
9 through the whole thing?

10 Q Go ahead. Tell us what you know.

11 A Okay. So he was uncomfortable with that
12 and at that point he felt it was something he
13 should report to Coach Paterno. Coach Paterno
14 relayed that information to Gary and I.

15 We then took that information and met
16 with Mike McQueary, who was the football coach,
17 and met with Mike, got the information from Mike
18 about the activity, what he saw. And then from
19 there, Gary and I reported that information to
20 the president of the university, Dr. Graham
21 Spanier.

22 And then following that, I made a
23 suggestion, recommendation that we needed to take
24 this information and report it to the Second
25 Mile, which is the organization at that time that

1 Jerry was working either with or for. He was not
2 an employee of Penn State at that time.

3 So by myself I met with Dr. Jack
4 Raykovitz, who is the executive director of the
5 Second Mile. I shared the information that we
6 had with him.

7 Additionally, I then met with --
8 actually, it was probably the other way around.
9 I met with Jerry Sandusky first, told him about
10 the information that we received, that we were
11 uncomfortable with the information and that I was
12 going to take the information and report it to
13 the executive director of the Second Mile and
14 that I did not want him in the future to be in
15 our athletic facilities with any young people.

16 Then, to the best of my recollection, I
17 circled back around and informed the president of
18 my actions and then Coach Paterno, Mr. McQueary.
19 I guess that's the people.

20 Q Now, specifically with regard to the
21 information that you got from Mike McQueary in
22 your meeting -- and I'm going to ask you to be as
23 specific as you can recall -- what exactly did he
24 tell you he had seen Jerry Sandusky doing in that
25 shower with that young man?

1 A I can't recall the specific conversation
2 with Mike and exactly how he said it. My
3 recollection was that Mike could hear there were
4 people in -- they were in the shower area, that
5 they were horsing around, that they were playful,
6 and that it just did not feel appropriate.

7 Q Are you saying that Mike McQueary did not
8 tell you specifically that there was anal
9 intercourse occurring between Jerry Sandusky and
10 this child?

11 A Absolutely not, that he did not tell me
12 that.

13 Q Did he tell you that it was, in fact, in
14 his estimation definitely a child and nothing
15 other than that, no one older than a small child?

16 A I can't recall how he described the
17 person in there. My recollection was it was a
18 young adult or it was young child. It was a
19 child, not a young child, a child.

20 Q Not a man?

21 A Not a man.

22 Q Was there any indication to you of what
23 type of conduct was occurring? How would you
24 characterize what McQueary told you about what
25 the conduct was?

1 A Again, I can't remember specifically how
2 Mike described it. My recollection was that they
3 were kind of wrestling, there was body contact,
4 and they were horsing around.

5 Q Did he indicate to you that they were
6 naked?

7 A No. I assume they were, but no.

8 Q Did he indicate to you that there was
9 sexual conduct?

10 A No.

11 Q Of any kind?

12 A No.

13 Q But he was clearly uncomfortable with
14 what he had seen?

15 A Correct.

16 Q As a result of this, you thought it
17 appropriate to inform the university, the
18 president of the university?

19 A That's correct.

20 Q Graham Spanier?

21 A Yes.

22 Q Inform the executive director of the
23 Second Mile which is a charity which helps young
24 boys?

25 A That's correct.

1 Q And women, young girls --

2 A Yes, young children.

3 Q It started out helping boys?

4 A I don't know that, but yes.

5 Q It was founded by Mr. Sandusky, correct?

6 A That's correct.

7 Q You indicated that you met with Jerry
8 Sandusky. What specifically did you tell Jerry
9 Sandusky that you believe had occurred in the
10 showers?

11 A I cannot recall my specific conversation
12 with Jerry in terms of the details of it. My
13 recollection was that I shared with him that we
14 had an employee that had come to us with this
15 information, that the employee was uncomfortable
16 with what the activity was taking place in the
17 shower, and that that was the information we had
18 received.

19 Q Did Sandusky admit to being in the shower
20 with the boy?

21 A Not initially.

22 Q Did he ultimately come around to
23 admitting that he had been there with the boy?

24 A He admitted that he was there that
25 evening. I can't recall if he said he was there

1 with a young man, but he did indicate --
2 initially his memory said he didn't think he was
3 there on that date. I do recall that, but I
4 don't recall whether or not he said he was with
5 an individual.

6 Q Subsequently, did he come back to you and
7 in some way, either by phone or in person, admit
8 to you that he had been there?

9 A That's my recollection.

10 Q Was it in person by or by phone?

11 A I believe it was in person.

12 Q Did you take specific action with regard
13 to Jerry Sandusky? At this point he's not an
14 employee you indicated. What did you tell him
15 with regard to his being on university property?

16 A Yes. When I met with Jerry, because I
17 was uncomfortable with the information we
18 received, I indicated to him that in addition to
19 reporting it to the executive director of the
20 Second Mile, that I did not want him using our
21 athletic facilities for workout purposes and
22 bringing any young people with him. He was not
23 to use our facilities with young people.

24 Q In addition, you reported this to the
25 executive director of the Second Mile, correct?

1 A That's correct.

2 Q Was that an in-person meeting or a
3 telephone meeting?

4 A That was an in-person meeting. Well,
5 first I contacted to say I wanted to meet and
6 then we met in person.

7 Q I take it that what you informed the
8 executive director -- well, I don't want to put
9 words in your mouth. Tell me what you told the
10 executive director.

11 A I informed the executive director of the
12 same information that Mike relayed to us and that
13 was the information.

14 Q Did you discuss this matter with Tim
15 Schultz, the senior vice president for the
16 university, at the time that it was reported?

17 A Gary Schultz.

18 Q I'm sorry.

19 A Yes. Gary Schultz is the senior vice
20 president. Gary was the other individual that
21 was with me when Coach Paterno initially reported
22 it to us.

23 Q Did you have discussions with him about
24 how this would be handled or did you make these
25 recommendations yourself?

1 A I don't recall the specifics on what
2 conversations I had with Gary. I do know that I
3 was the one that came forward to say I think that
4 this is the appropriate action, that we need to
5 report it to the Second Mile, and that I wanted
6 to meet with Jerry.

7 Q Did you, yourself, ever report this
8 incident to the university police?

9 A No, ma'am.

10 Q Were you aware that the report that Mike
11 McQueary made could be considered a crime by
12 Jerry Sandusky?

13 A I didn't think that it was a crime at the
14 time.

15 Q So you didn't make a report to the
16 university police?

17 A No, ma'am.

18 Q But you brought it to the attention of
19 the university president?

20 A That's correct.

21 Q Did he have any input on how this matter
22 was handled?

23 A Well, the input was that we provided the
24 information to him and then made the
25 recommendation of the follow-up action that we

1 wanted to take or that I wanted to take.

2 Q So the decision not to report it to the
3 police was your decision?

4 A Yes. I didn't see any reason because I
5 didn't, at that time, think it was a crime.

6 Q Do you recall whether you ever consulted
7 with university counsel regarding potential
8 liability to the university for this incident?

9 A I personally did not, that I recall.

10 Q As far as you know then, the matter was
11 handled strictly by the referral to the Second
12 Mile and by barring Mr. Sandusky from bringing
13 any young persons on university property?

14 A That's correct.

15 Q At the time of the incident in 2002, were
16 you aware of any other incidents involving
17 alleged sexually inappropriate misconduct by
18 Mr. Sandusky anywhere, on university property or
19 otherwise?

20 A No, ma'am.

21 Q Since this has come to light, have you
22 become aware of other allegations of
23 inappropriate sexual conduct by Jerry Sandusky on
24 university property or elsewhere?

25 A Other than what was mentioned this

1 morning.

2 Q Specifically a 1998 report, did you know
3 anything about that in 2002?

4 A No, ma'am.

5 Q If an incident occurs involving an
6 athlete on campus and the university police are
7 involved with an athlete, would that be brought
8 to your attention as the athletic director?

9 A Could you rephrase that? I didn't
10 understand it.

11 Q If a criminal incident occurred or any
12 kind of incident involving an athlete and the
13 university police are involved in the
14 investigation, would that be brought to your
15 attention?

16 A I would say in most cases.

17 Q If there was an incident involving a
18 coach and an allegation of criminal conduct on
19 campus, would that be brought to your attention,
20 would you think, as the athletic director?

21 A I would think, but I don't know.

22 Q But the 1998 incident was never brought
23 to your attention?

24 A No, ma'am, not that I recall.

25 Q Have you ever heard -- anything other

1 than what you heard from Mike McQueary, have you
2 ever heard anything at all regarding
3 inappropriate conduct between Jerry Sandusky and
4 young men either on or off campus?

5 A No.

6 Q What was Sandusky's status in 2002 that
7 allowed him to come and go on university
8 property?

9 A Jerry had what the university calls
10 emeritus status. His status at that time, he was
11 not employed at the university in 2002, but he
12 had what they call emeritus status, which I'm not
13 sure if I know all of the benefits of that. But
14 I know one of the benefits is that he can have
15 office space and utilize campus resources.

16 Q Do you know if he had office space in
17 2002?

18 A 2002, yes, he had office space in the
19 east area locker room.

20 Q Is that in the Lasch Building?

21 A No, it's right across the street.

22 Q Does Sandusky still enjoy that emeritus
23 status at this point?

24 A Yes, ma'am.

25 Q There was no practical way to enforce him

1 not bringing children onto the campus, however,
2 after he was warned not to; is that correct?

3 A That's correct.

4 Q Does he still have an office on campus?

5 A My understanding is -- and I don't know
6 this for fact. But my understanding is we needed
7 his office to accommodate some people. So I
8 don't think he has one currently.

9 And that was probably about a year or two
10 ago where we had some space issues and he wasn't
11 using the office that much. So I believe he no
12 longer uses the office, but I don't know that 100
13 percent.

14 Q The office that you knew him to have in
15 the east area across from the Lasch Building, who
16 else would have had offices in that area besides
17 Sandusky?

18 A The area that the office is located is in
19 our academic support area. And I don't know. I
20 think there's one other office there and I don't
21 know who it's assigned to.

22 Q When you say the academic support area,
23 can you explain what that is and what kind of a
24 building it is and would only have two offices in
25 it?

1 A Yes. It's called the east area locker
2 room. This is our old football building. The
3 football office moved over to a new facility
4 called the Lasch Building.

5 So now the east area locker room
6 currently has field hockey, men's lacrosse,
7 women's lacrosse housed there and then it has an
8 academic study hall area on the second floor.

9 Q To assist the athletes?

10 A That's correct.

11 Q And then you're indicating --

12 A And there's a strength room there as well
13 and a training room and locker rooms.

14 Q And that's where Sandusky's office was?

15 A That's correct.

16 Q You say there was one other individual at
17 that time in 2002 who would have had an office
18 there, but you don't know who that is?

19 A I don't know who was -- there's I think
20 two offices there, but I don't know who was there
21 in 2002. And I don't know who is there right
22 now.

23 Q Did he have a secretary attached to that
24 office?

25 A No, ma'am.

1 Q Strictly a desk and a room?

2 A An office, yes.

3 Q Was that a building that was typically
4 locked, that east locker room building?

5 A After building hours it would be locked,
6 yes.

7 Q He would have had to have a key to enter?

8 A Correct.

9 Q Was it a key literally, an old-fashioned
10 key, or was it a key card in 2002? What was the
11 system at that time?

12 A The system for the east area locker room
13 I believe was a key and it still is today, I
14 believe.

15 Q How about the Lasch Building? How would
16 one get into the Lasch Building?

17 A It's still a key system I believe. I
18 don't know for sure.

19 Q When you met with Mike McQueary --

20 A If I could just back up, that's not my
21 office. My office is in another part of campus.
22 So I just don't know whether it's a key or a
23 swipe system. I just don't know.

24 Q When you met with Mike McQueary to let
25 him know the result of what he had reported to

1 you, do you recall telling him that Sandusky's
2 keys would be taken away from him?

3 A I don't recall saying that because that
4 wasn't the action that I had taken. He may have
5 understood it that way when I indicated that they
6 were not supposed to use the facilities with
7 young people.

8 Q Was the incident, the 2002 incident,
9 reported to the university police? I think
10 you've indicated it was not reported by you,
11 correct?

12 A That's correct.

13 Q Did you report the incident to the State
14 College Borough Police or the Centre County
15 Children and Youth program?

16 A I did not.

17 Q Do you know if anyone did?

18 A I do not.

19 Q Other than yourself and Senior Vice
20 President Schultz and President Graham Spanier
21 and Mike McQueary, do you know of anyone else who
22 had knowledge of the 2002 incident?

23 A Just Coach Paterno and Jack Raykovitz,
24 the person I went to at the Second Mile.

25 Q Was there ever any investigation that you

1 know of conducted by you or anyone at the
2 university into the incident in 2002?

3 A Not by me and I'm not aware of any.

4 Q This was an incident that obviously had
5 Mike McQueary so concerned that he reported it to
6 Paterno, and Paterno so concerned that he
7 reported it to you and yet there was no
8 investigation; is that correct? This was an
9 incident of concern, but there was no effort to
10 investigate it?

11 A Other than the follow-up meeting that I
12 had with Mike.

13 Q And you met with Sandusky?

14 A And Jerry and Dr. Raykovitz.

15 Q Did you ask Jerry Sandusky who the boy
16 was that was with him in the shower?

17 A I did not.

18 Q Did you attempt to find out who that
19 young man was?

20 A I did not.

21 Q Obviously, you're a person of more than
22 reasonable intelligence who's running a Division
23 1 football program, not only the football
24 program, but the entire athletic program. Did it
25 not occur to you that there was something sexual

1 going on in this incident based on what was
2 referred to you by Mike McQueary?

3 A I was not aware of anything sexual. So I
4 didn't feel that it warranted that and I felt my
5 actions were appropriate. But I was not aware
6 that there was sexual activity.

7 Q If you didn't think this was sexual in
8 nature or criminal in nature, then why did you
9 take the action of barring Sandusky from bringing
10 youths onto the university property?

11 A Because I didn't think it was appropriate
12 that he would be using our facilities, having
13 young people in there in the evening, and that
14 you're in a shower area horsing around with a
15 young person.

16 Q Did that concern extend to what he might
17 be doing to those youths off university property
18 if you didn't report this to somebody?

19 A No, not at the time, it didn't.

20 Q I think you have answered this, but I
21 want to be clear. The decision to limit
22 Sandusky's access with children to university
23 property was made by who?

24 A I'm sorry. It was made --

25 Q It was you?

1 A Yes, ma'am.

2 Q The decision not to report this to police
3 was made by you?

4 A Yes.

5 Q The decision to report this to the Second
6 Mile, the individuals in charge there, was made
7 by you?

8 A Yes.

9 Q All of these decisions were made known to
10 the president of the university and he concurred
11 in your decisions?

12 A That's correct.

13 Q By Mr. Fina.

14 Just to be clear, sir, you didn't do
15 these things in a vacuum. You proposed these as
16 the resolution to this and you were affirmed in
17 that by your supervisors?

18 A Yes.

19 Q So, in fact, the ultimate decision was
20 not yours. You made the decision on proposals,
21 but the ultimate decision to take this action
22 instead of any other would have been by your
23 supervisors?

24 A I reported it to my direct employer,
25 which is President Spanier, and made the

1 recommendation and proceeded.

2 Q Was there a specific conversation about
3 whether or not to go to law enforcement
4 authorities about this?

5 A At the time I don't recall that because,
6 again, I didn't feel -- at least I didn't feel
7 personally that any criminal activity had
8 occurred. So my thought was that because a young
9 person was there, that I needed to take it to the
10 Second Mile.

11 Q But you made this determination without
12 talking to the young person who was there or any
13 other investigative measures. There were no
14 other investigative steps made to determine
15 whether or not there was anything sexual about
16 this conduct?

17 A Again, I don't remember any report to me
18 that it was sexual in nature. It was
19 inappropriate behavior. So I didn't feel that
20 that was necessary and felt that it was
21 important.

22 Whether I knew it at the time or not, I
23 don't know, but I thought it was probably a
24 Second Mile person. You know, it was a young
25 person. So I thought it was appropriate to give

1 the information to the Second Mile or to the
2 executive director of the Second Mile.

3 Q If it was your understanding it was not
4 sexual and you had no information that would lead
5 you to believe it was sexual or even that it
6 involved a Second Mile minor, why would you take
7 the rather extraordinary step of going to the
8 executive director of a nonprofit that is not
9 part of the university and informing them of this
10 incident?

11 A Because I think that Mike felt he was
12 uncomfortable with the behavior. And based on
13 what I heard that was reported to me, I just
14 didn't feel it was appropriate that Jerry would
15 be in a shower area with a young person. Whether
16 it was horsing around or however you want to
17 describe it, I just didn't think that would be
18 appropriate and shouldn't occur.

19 Q Mr. McQueary was uncomfortable because
20 there was a child who was not a student and not
21 an employee of the university on university
22 property. Is that what you're saying?

23 A My recollection was that he was
24 uncomfortable they were in the shower and it was
25 just the two of them and that they were horsing

1 around and inappropriate conduct. It was
2 inappropriate conduct. I think he felt that this
3 just didn't feel right.

4 Q Well, sir, listening to the words you
5 just used, I think a reasonable person would
6 immediately jump to, there could be a sexual
7 nature to this. You have a grown male with a
8 child naked in the shower horsing around. What
9 is it that specifically alarmed Mr. McQueary?
10 What did you take away from that meeting?

11 A I took away that he didn't feel
12 comfortable with the activity that was happening
13 and it wasn't appropriate that we had an adult
14 and a young child or a person in the shower area
15 and that it was a situation that -- and that's
16 what alarmed him.

17 Q With regard to your meetings with
18 Sandusky, I just want to make sure I understand
19 this. Mike McQueary tells Coach Paterno about
20 the incident and Coach Paterno contacts you
21 within a matter of days of the incident in the
22 shower in 2002, correct?

23 A That's correct.

24 Q Do you remember what day of the week
25 Coach Paterno contacted you?

1 A I believe it was a Sunday.

2 Q And you met with him and with Gary
3 Schultz when?

4 A That day.

5 Q Sunday as well?

6 A Could you back up? When you said --

7 Q You were contacted by Coach Paterno to
8 report the incident to you on a Sunday?

9 A I believe.

10 Q Did your meeting with Coach Paterno and
11 Gary Schultz take place on Sunday as well or was
12 that during the week?

13 A No. When he contacted us, he said come
14 over to the house. He didn't tell us what it
15 was.

16 Q So the two of you went to Coach Paterno's
17 house?

18 A Yes.

19 Q On a Sunday?

20 A I'm not sure of the exact date.

21 Q As best you can recall?

22 A Yeah.

23 Q How much later approximately did you meet
24 with Mike McQueary and get the information
25 directly from McQueary?

1 A I don't recall how many days it was, but
2 it was soon after that.

3 Q Would you say it was within a week?

4 A Yes.

5 Q Was Gary Schultz also present for that
6 meeting with McQueary?

7 A It's my recollection.

8 Q How quickly after that did you make the
9 decisions to do the various things that you did,
10 talk to Sandusky, go to Second Mile, advise the
11 president? How quickly did that happen?

12 A I don't remember the number of days, but
13 it was soon after that. I would say within two
14 weeks.

15 Q Specifically with regard to your meeting
16 with Sandusky, the very first meeting that you
17 had with him in which you told him of the
18 allegations of the incident that had occurred in
19 the shower and he said to you at that time I
20 don't think I was there, how long did that
21 meeting take place after this incident was
22 reported to you by Coach Paterno?

23 A It would have been within that two weeks
24 right after talking to Mike or right after that.
25 Now, I just don't know how many days it was, but

1 it was a week to two weeks.

2 Q How long after that initial meeting with
3 Sandusky did Sandusky come back and tell you,
4 yeah, I was in the shower?

5 A I believe it was soon after that. It was
6 a day or two after that.

7 Q No further questions. Testimony
8 concluded at 11:59 a.m.

9 Date, January 12th, 2011, 12:02 p.m.

10 Witness, Gary Schultz, S-C-H-U-L-T-Z.

11 Questioning for the Office of Attorney General,
12 Jonelle Eshbach, Frank Fina.

13 Would you please introduce yourself to
14 the Grand Jury and spell your last name for the
15 court reporter's benefit?

16 A Sure. My name is Gary Schultz,
17 S-C-H-U-L-T-Z. I am a retired senior vice
18 president for finance and business at Penn State
19 University.

20 Q You are accompanied today by counsel,
21 Cynthia Baldwin; is that correct?

22 A That is correct.

23 Q When did you retire from the university?

24 A In June of 2009.

25 Q In June of 2002, did you occupy that

1 position as senior vice president?

2 A Yes, I did.

3 Q Could you please explain to the Grand
4 Jury in that capacity what operations of the
5 university were under your authority?

6 A Yes. Within an academic institution, we
7 have the chief academic officer. That's commonly
8 referred to as the provost. That's not me.

9 I really run the operations of the
10 university, the physical plant, all the
11 facilities and services of those facilities, all
12 the housing and food services; if you have ever
13 been on Penn State campus, the Nittany Lion Inn,
14 the airport, all kinds of printing and fleet,
15 human resources, university police, and all the
16 finance elements of the university which would
17 include the controller, the budget office and the
18 investment office.

19 Q With regard to Penn State's athletic
20 program, the Grand Jury has already met the
21 athletic director. Could you explain your
22 position vis-à-vis Mr. Curley as the athletic
23 director?

24 A Yes. Mr. Curley directly reports to the
25 president of the university, but kind of a

1 day-to-day working arrangement is that he would
2 often behave like he reported to me as well.

3 Q I'd like to direct your attention to a
4 time around spring break of 2002 as it's been
5 reported to us. Do you recall being called and
6 requested to attend a meeting with Coach Paterno
7 to report an unusual incident?

8 A I do recall such a meeting.

9 Q Would you please tell the Grand Jurors
10 what you remember, everything that you can
11 remember about that incident and the time that it
12 occurred?

13 A Yes. I believe the meeting occurred in
14 my office. It included the athletic director,
15 Tim Curley, and Coach Paterno. Coach Paterno
16 wanted the meeting. It was essentially called at
17 his request.

18 He indicated that someone observed some
19 behavior in the football locker room that was
20 disturbing. I believe the impression I got was
21 it was inappropriate and he wanted to bring that
22 to Tim Curley and my attention.

23 Q Specifically, did Coach Paterno tell you
24 who had observed this inappropriate disturbing
25 behavior?

1 A No, I don't believe he did. I recall
2 having the impression that it was a student or a
3 grad student that observed the purported
4 incident.

5 Q Did you know who it was that had
6 allegedly engaged in this inappropriate conduct?

7 A Well, yes.

8 Q Who was it?

9 A He told me that it was Jerry Sandusky and
10 some unnamed boy.

11 Q Who was Jerry Sandusky? Who did you know
12 Jerry Sandusky to be at that time?

13 A Was this in 2002?

14 Q Yes, please.

15 A Well, in 2002, Jerry Sandusky was retired
16 from coaching at Penn State and, you know,
17 continued to have involvement with the Second
18 Mile.

19 Q What's the Second Mile?

20 A Well, I mean, the Second Mile is a
21 program that I think Jerry founded that provides
22 opportunities for children who might have had
23 some difficulty in their early life and giving
24 them life skills and mentoring to try to improve
25 their future.

1 Q It's a not-for-profit that helps
2 children?

3 A It's my understanding, yes, it's not for
4 profit.

5 Q The incident that was reported to you by
6 Coach Paterno, were the words disturbing and
7 inappropriate -- were those Paterno's words?

8 A I don't remember his precise words. I'm
9 using words now, when I tell you, that was the
10 impression that I had. I don't recall his exact
11 words.

12 Q Again, where was this incident supposed
13 to have occurred?

14 A I believe it was in the Lasch Building.

15 Q What kind of a facility is that?

16 A Well, the Lasch Building is the football
17 building. The coaches have their offices there
18 and it's the team's locker room.

19 Q That would be a building that would be
20 expected that Jerry Sandusky would have access to
21 as a former coach?

22 A Yes. With all the years of service that
23 Jerry had, I believe that when he decided to
24 retire, that he continued to have relationships
25 with the football program and access to the

1 building.

2 Q While you're on the subject of his
3 retirement, what were the circumstances of his
4 retirement? Was there anything unusual about his
5 retirement that you can recall?

6 A No. I candidly have recollections that
7 Coach Paterno and Jerry had reached a point where
8 I think Coach Paterno felt it would be best to
9 make a coaching change. I had that underlying
10 feeling or understanding. Jerry was enrolled in
11 the Commonwealth State Employee Retirement
12 System, which employees at Penn State have the
13 option to elect into.

14 It turns out at the time that he was
15 contemplating retirement, there was a retirement
16 incentive. I think they called it a retirement
17 window or something that was referred to as such.
18 But in other words, if you retired by a certain
19 date, a window of time, your retirement was
20 enhanced.

21 So Jerry had that as kind of a factor or
22 a key factor in deciding the timing of his
23 retirement, which I believe the window would
24 close at the end of June in that particular year.
25 So if he didn't make the decision to retire by

1 the end of June, he would have lost the benefit
2 of that early retirement window.

3 Q Do you recall knowing of any other reason
4 that might have motivated him to retire at that
5 time?

6 A No.

7 Q Did you know him to be spending a lot of
8 time with the Second Mile program at that time?

9 A I wasn't that close to how he spent his
10 time. He certainly was visible as an identity of
11 the Second Mile. They used to refer to them as
12 Jerry's kids. So his name was clearly a brand
13 associated with the Second Mile, but I had no
14 idea how much time he physically spent.

15 Q You said that you did not have -- did you
16 ever meet directly with Mike McQueary?

17 A Yes.

18 Q When?

19 A I don't recall the exact circumstances.
20 In fact, it was this morning when you asked me a
21 question that I first recalled that there was
22 such a meeting.

23 Q You don't recall where it took place?

24 A I think it occurred in my office, I
25 believe.

1 Q At that time, did McQueary relate to you
2 what he had observed in the locker room?

3 A No. My recollection was McQueary and Joe
4 both only described what was observed in a very
5 general way. There was no details.

6 Q Did you, nevertheless, form an impression
7 about what type of conduct this might have been
8 that occurred in the locker room?

9 A Well, I had the impression that it was
10 inappropriate. Telling you what kind of thing I
11 had in my mind without being clear, without him
12 telling me, but, you know, I had the feeling that
13 there was perhaps some kind of wrestling around
14 activity and maybe Jerry might have grabbed the
15 young boy's genitals or something of that sort is
16 kind of the impression that I had.

17 Q Would you consider that to be
18 inappropriate sexual conduct?

19 A Oh, absolutely. Well, I don't know the
20 definition of sexual, but that's certainly
21 inappropriate for somebody to do.

22 Q It would give you pause or concern if an
23 adult male and an underage male were in a shower
24 and that adult male grabbed the genitals of the
25 younger male?

1 A Yes.

2 Q Do you not recall anything more specific
3 than that that Mike McQueary reported to you?

4 A I do not recall, no.

5 Q Did you consult with Tim Curley as to
6 what would be done as a result of this 2002
7 report?

8 A I believe Tim and I had -- yes, we had
9 conversation at that time.

10 Q Whose recommendations -- what was done,
11 first of all?

12 A Well, my recollection was -- and I'm not
13 so sure it's -- I'm not as confident, but I think
14 we decided it would be appropriate to just say to
15 Jerry that you shouldn't be bringing the Second
16 Mile kids onto campus in the football building.

17 So I believe Tim communicated to Jerry
18 that that type of thing should not be occurring
19 in the future. I also have a recollection that
20 we asked the child protective agency to look into
21 the matter.

22 Q When you say child protective agency, was
23 that a university department or something off
24 university?

25 A Yeah. My understanding is it's somehow

1 affiliated with the Commonwealth of Pennsylvania.

2 Q Who specifically asked that that
3 investigation be done?

4 A I don't recall.

5 Q Was it you?

6 A It may have been. I don't recall.

7 Q Do you remember to whom you would have or
8 anyone would have made such a request, an
9 individual, the name of the agency, where it was
10 located?

11 A I don't recall the details, but I can
12 tell you that there was an investigation earlier
13 that the child protection agency -- and I may
14 have that technically incorrect, but it was this
15 agency that I'm referring to that conducted an
16 earlier investigation. So my recollection would
17 be in 2002 that they were asked to look into this
18 allegation.

19 Q Now, I don't want to necessarily get away
20 from 2002, but you're referring now to an
21 incident that was reported in 1998 involving
22 Mr. Sandusky and one or two young boys on the
23 campus at the university; is that correct?

24 A I believe it was in '98, yes.

25 Q And that incident was reported to the

1 university police, correct?

2 A My recollection is that the mother
3 contacted university police with regard to her
4 son and that that started a police investigation.

5 Q Are you practically certain that there
6 was a police investigation in 1998?

7 A Well, I know the police were involved,
8 but my recollection is that it was decided that
9 this child protection agency would be the better
10 entity to do the investigation.

11 Q Were you, yourself, ever questioned with
12 regard to that '98 incident?

13 A I don't recall I was, no.

14 Q Do you know if any criminal charges arose
15 from the 1998 report?

16 A To the best of my knowledge, there were
17 none.

18 Q What did you understand the 1998
19 incident, in a general way, to allege?

20 A Again, I thought that it had some basis
21 of inappropriate behavior, but without any
22 specifics at all.

23 Q At the time of finding out in 2002 about
24 the allegations of the inappropriate conduct in
25 the shower by Sandusky, you were aware of the

1 1998 allegations --

2 A That's correct.

3 Q -- of the same nature involving Sandusky?

4 A An allegation, yes.

5 Q It's your testimony that you believed the
6 2002 incident was reported to the same agency,
7 that child protective services agency, for an
8 investigation as the '98 one had been?

9 A That's my recollection, yes.

10 Q You did not meet with Jerry Sandusky
11 about any of these incidents whatsoever?

12 A No, I did not.

13 Q Did Tim Curley report back to you about
14 his contact with Jerry Sandusky regarding the
15 incident in 2002?

16 A I can't say for sure. I had the
17 impression that Tim did follow through and make
18 sure Jerry understood that he was no longer
19 permitted to bring Second Mile children into the
20 football facility.

21 Q Did you, yourself, ever attempt to
22 determine the identity or age of the boy in the
23 shower in the 2002 incident?

24 A No.

25 Q Do you know if anyone in the university

1 under your auspices then when you were senior
2 vice president attempted to learn that
3 information?

4 A No.

5 Q Knowing that there was an incident in
6 1998 involving a boy or boys and the incident in
7 2002, did you not feel it was appropriate to
8 further investigate the incident to determine if
9 something truly sexually inappropriate had
10 occurred on campus?

11 A Yes. Again, '98 was investigated. There
12 was an allegation. I have no idea what the
13 conclusion of that investigation was, whether
14 there was any merit to the allegation or not. I
15 did have the impression that it concluded without
16 any charges being filed.

17 The incident in 2002, again, I recall
18 that it was also turned over to that same agency
19 for investigation and it's appropriate for them
20 to do that, not for me to determine the name of
21 the boy. I wasn't doing an investigation.

22 Q Do you remember whether the District
23 Attorney was consulted at all in the 1998
24 investigation?

25 A I believe the District Attorney was in

1 1998. I think, again, my recollection -- this is
2 a long time ago. But my recollection was that
3 between the university police chief and the
4 District Attorney and perhaps university legal
5 counsel and myself, the decision was made to use
6 the child protection agency as the appropriate
7 investigative agency.

8 Q Who was the university legal counsel when
9 that decision was made?

10 A His name was Wendell Courtney.

11 Q He was with the firm of McQuaide Blasko?

12 A That's correct.

13 Q Do you believe that you may be in
14 possession of any notes regarding the 2002
15 incident that you may have written memorializing
16 what occurred?

17 A I have none of those in my possession. I
18 believe that there were probably notes taken at
19 the time. Given my retirement in 2009, if I even
20 had them at that time, something that old would
21 have probably been destroyed.

22 I had quite a number of files that I
23 considered confidential matters that go back
24 years that didn't any longer seem pertinent. I
25 wouldn't be surprised. In fact, I would guess if

1 there were any notes, they were destroyed on or
2 before 2009.

3 Q You indicated that you consulted with Tim
4 Curley. Did you agree with his recommendations
5 as to how this should be handled?

6 A I don't know if it was a recommendation
7 but, yes, we reached agreement. I can't remember
8 if I recommended, he recommended or who
9 recommended, but at the conclusion of discussion,
10 there was agreement. There was no disagreement.

11 Q Did you, yourself, directly consult with
12 Graham Spanier, the president of the university,
13 concerning the 2002 incident?

14 A I believe so. It was a routine way of
15 kind of handling business, that I would have had
16 a conversation with the president about such a
17 matter, yes.

18 Q Did the president of the university
19 express concern about this incident at the time
20 it was reported to him?

21 A Very similar to mine and Tim's, yes. We
22 took it seriously.

23 Q Did President Spanier appear to approve
24 of the way in which you and Athletic Director
25 Curley handled this?

1 A Yes. Again, my recollection was that
2 there was agreement.

3 Q Do you know if President Spanier was
4 aware of the 1998 incident at the time of the
5 2002 incident?

6 A I believe so, yes.

7 Q Why do you believe so? Did you tell him
8 or was it discussed?

9 A Again, I don't remember the specifics of
10 the conversation I had with him, but it would
11 have been a routine kind of way of handling
12 things, that I would have kept him informed about
13 the '98 as well as the 2002 reports.

14 Q You knew, of course, that the incident in
15 1998 was alleged to have taken place very
16 similarly in the Lasch Building in the shower
17 with a young boy or more than one young boy?

18 A I honestly don't recall that '98 I knew
19 anything about the details of what the allegation
20 was from the mother. I do recall there was a
21 mother with a young boy who reported some
22 inappropriate behavior of Jerry Sandusky. But I
23 don't recall it being reported in the Lasch
24 Building or anything of that sort.

25 Q The reports on that were something that

1 you could have had access to as the director, the
2 police being under your purview of the
3 university; is that correct?

4 A I probably would have been able to, but
5 it was my practice that I didn't ask the police
6 for police reports.

7 Q In 2002, when you became aware of this
8 allegation in the shower, did you then seek out
9 the 1998 report to find out what it was that
10 Sandusky specifically was alleged to have done?

11 A No, I did not. Honestly, I don't know
12 what the procedures are. I assume that that
13 report was with the child protection agency and
14 not Penn State University Police. I thought the
15 police turned it over and that investigation was
16 then handled independently.

17 Q You thought that the university police
18 would not have kept any kind of record of that
19 investigation?

20 A That there was a -- yeah, I think they
21 would have a record that a complaint was received
22 and that it was turned over. But I wouldn't have
23 assumed that they would have the report from the
24 other agency.

25 Q You wouldn't assume that the police would

1 keep reports of all their investigations that
2 they have conducted?

3 A They didn't conduct it. The other agency
4 did was my understanding. So, yeah, I believe
5 they have reports of investigations that they
6 have done, but this I thought was turned over to
7 another agency.

8 Q You knew the university police were
9 involved in the 1998 investigation, right?

10 A Yes.

11 Q But you didn't attempt to find out
12 whether they had anything that would substantiate
13 or cause you to come to some conclusions
14 regarding the 2002 incident and whether or not it
15 might have actually occurred? That didn't occur
16 to you, to check into the 1998 incident more
17 firmer?

18 A No.

19 Q And you didn't attempt to find out
20 anything about the identity of the youth that was
21 in the shower in 2002?

22 A No.

23 Q You've referenced and Mr. Curley also
24 referenced reporting this incident to the Second
25 Mile. You've indicated that you thought this was

1 a child from the Second Mile in the 2002 incident
2 and we know that in the 1998 incident it was a
3 Second Mile child.

4 Why did you think that a Second Mile
5 child was involved in the 2002 incident when you
6 didn't investigate to make sure?

7 A Well, I'm not sure that I knew for sure
8 it was a Second Mile child in 2002. I think I
9 knew that it was a younger boy. I'm not sure I
10 knew definitively it was a Second Mile child.

11 Q Did you have occasion to see Sandusky in
12 the company of young boys who were affiliated
13 with the Second Mile program?

14 A I would see Jerry from time to time at
15 Second Mile events in the presence of lots of
16 children, sure.

17 Q Did you ever see him on university
18 property at any time with boys who were of that
19 age, Second Mile age?

20 A Well, technically, yes. I mean, some of
21 the Second Mile fundraising events and so forth
22 would be held on university property in either
23 the Nittany Lion Inn or the Penn Stater. So,
24 yes, I would see him at those events.

25 Q Did you ever see him around at any

1 football games or football practices with kids?

2 A No.

3 Q Is that because you didn't go or because
4 you didn't see him?

5 A I don't go to the practices. I do go to
6 the games. There's a hundred some thousand
7 people. I don't know if I saw Jerry there.

8 Q So you're indicating that as far as you
9 know, no one from the university investigated the
10 2002 incident at all?

11 A Yeah. As far as I know, the university
12 asked the other agency to follow-up as it did in
13 '98.

14 Q One more thing I just want to be clear
15 on. When you met with Mike McQueary, was it or
16 was it not your impression that he was reporting
17 inappropriate sexual conduct, your impression --

18 A Yes.

19 Q Inappropriate sexual conduct by Jerry
20 Sandusky?

21 A You know, I don't know what sexual
22 conduct's definition to be, but I told you that
23 my impression was -- you know, Jerry was the kind
24 of guy that he regularly kind of like physically
25 wrestled people. He would punch you in the arm.

1 He would slap you on the back. He would grab you
2 and get you in a headlock, etc. That was a
3 fairly common clowning around thing.

4 I had the impression that maybe something
5 like that was going on in the locker room and
6 perhaps in the course of that, that somebody
7 might have grabbed the genitals, that Jerry might
8 have grabbed the genitals of the young boy. I
9 had no impression that it was anything more
10 serious than that. That was my impression at the
11 time.

12 Q Didn't you previously tell us in our
13 interview that you had the impression -- I have
14 it written down -- that this was inappropriate
15 sexual conduct?

16 A Again, depending on what you call -- I
17 mean, grabbing the genitals of the boy is what I
18 had in mind. Now, is that sexual? Yes.

19 Q We can all agree that an adult male under
20 no circumstances other than a doctor should be
21 grabbing the genitals of a young boy?

22 A I agree completely with that.

23 Q And that it doesn't happen accidentally?

24 A Rather than just agreeing to I thought it
25 was sexual conduct or misconduct, I'm explaining

1 what I really thought might have gone on. You
2 know, you can define that as you want. I'm
3 telling you what I thought was going on.

4 Q Would you agree with me that if it had
5 have been sodomy, that is, anal sex, that would
6 clearly be inappropriate sexual conduct?

7 A No doubt.

8 Q By Mr. Fina.

9 Sir, I just want to be real clear on
10 this. It was your impression after you talked to
11 McQueary that this was about some physical
12 conduct, some horsing around, some wrestling that
13 resulted in contact with a boy's genitals in the
14 context of wrestling. That was your impression
15 of what McQueary was reporting to you?

16 A I don't recall what McQueary specifically
17 reported, but I can tell you that I, after going
18 through whatever we went through in 2003, had
19 that impression that that was probably the kind
20 of thing that had taken place.

21 Q Nothing else? No further sexual conduct?

22 A No, I had no basis --

23 Q No intercourse?

24 A I had no basis of anything else, and I
25 only formed the impression that I had based on

1 kind of what I observed of Jerry and the kind of
2 horsing around that he does.

3 Q No, no. Please follow my questioning.
4 I'm not asking you what impression you had of
5 your observations of Mr. Sandusky over the years.
6 I'm asking you of your impression, what you
7 learned from Mr. McQueary, what he observed in
8 the shower.

9 A I don't recall himself telling us what he
10 observed specifically.

11 Q What generally did he report?

12 A I believe that he said that he saw
13 something that he felt was inappropriate between
14 Jerry and a boy.

15 Q And from his saying along the line of
16 something inappropriate, you took, oh, they must
17 have been wrestling and maybe he touched the
18 kid's groin?

19 A I could imagine that might have taken
20 place, yes.

21 Q Was McQueary upset? Was he emotional
22 about this?

23 A No, I don't recall him being upset.

24 Q He was calm; he was collected?

25 A Yes.

1 Q Nobody, not you, nor Curley, nor anybody
2 else went back to McQueary and asked for
3 specifics or at the time asked for specifics?

4 A No. Again, I recalled that we asked this
5 agency to do the investigation and I would let
6 them follow-up.

7 Q The agency that you were never
8 interviewed by, correct?

9 A That's correct.

10 Q Are you aware of anybody at the
11 university who was interviewed by any agency
12 about this incident?

13 A About 2002, I don't.

14 Q How is it that this agency, this whatever
15 it was, would even know who to talk to, to talk
16 to McQueary or to talk to you or to talk to
17 whoever? Who was supposed to relay this
18 information?

19 A I don't recall. I don't recall who
20 contacted the agency. I'm telling you, to the
21 best of my recollection, I believe that the
22 agency was asked to follow-up on the
23 investigation.

24 Q At no time did you contact any law
25 enforcement entity or individuals?

1 A I had the impression that that agency had
2 some law enforcement authority.

3 Q The agency that you can't identify?

4 A Well, the child protection agency, the
5 same one that I think handled the '98
6 investigation.

7 Q Sir, it might surprise you to know that
8 the '98 investigation was handled by your police
9 department and there's a --

10 A In its entirety?

11 Q There's a 95-page police report on that
12 incident.

13 A In its entirety?

14 Q Correct.

15 A Wow. I thought that it was turned over
16 to the child protection agency for investigation.

17 Q Did it ever occur to anybody that the
18 police might need to be contacted, either campus
19 police or this entity known as the Pennsylvania
20 State Police?

21 A I don't recall that we talked about it
22 being turned over to the police.

23 Q That was never part of the discussions
24 between you and Curley or you and Spanier or you
25 and anybody else?

1 A No.

2 Q Are you aware of any memorandums or any
3 written documents, other than your own notes,
4 that existed either at the time of this incident
5 or after this incident about the 2002 events?

6 A No.

7 Q Would that be standard? Would that be
8 the way the university operates when an
9 allegation is made against a current employee or
10 a very famous prior employee, that nothing be put
11 in writing?

12 A The allegations came across as not that
13 serious. It didn't appear at that time, based on
14 what was reported, to be that serious, that a
15 crime had occurred. We had no indication a crime
16 had occurred.

17 Q Do you recollect going to Joe Paterno's
18 house on a Sunday to be informed of this?

19 A No.

20 Q No, that you don't recollect? No, that
21 it did not happen?

22 A No, I don't recollect it. Again, I
23 thought I was informed in a meeting that Joe and
24 Tim and I had at my office. Now, could it have
25 happened at Joe's house? Possibly.

1 Q Would that be unusual, to be called to
2 Joe Paterno's house on a Sunday to discuss
3 something that wasn't even criminal or sexual?

4 A Well, it wasn't an everyday thing, but
5 Tim and I and others would meet with Joe
6 weekends, Sundays and so on. But, yeah, it would
7 be an important matter if we were meeting with
8 Joe on a Sunday.

9 Q By Ms. Eshbach.

10 In terms of university policy at the time
11 that you were the senior vice president, how
12 would a matter of inappropriate conduct by an
13 employee be handled, something along the lines of
14 perhaps a theft, criminal conduct?

15 A If there was an allegation of a criminal
16 act, it would be turned over to the university
17 police for handling. On occasion, depending on
18 the nature of it, university internal audit might
19 get involved initially to do some background work
20 just to confirm an allegation.

21 Q If there had been inappropriate or
22 criminal conduct by a student, would that go to
23 the provost side of things or would that come to
24 your side of things?

25 A Well, if it was a criminal act, it would

1 be investigated by the police, yes.

2 Q How about an incident of criminal conduct
3 involving a student athlete? How would that be
4 handled?

5 A If it was criminal, it would be the
6 police. If it's not, there's an office of
7 student conduct.

8 Q How about, again, inappropriate conduct
9 of an employee of the university?

10 A If there was an allegation of some
11 criminal conduct, it would be handled by the
12 police.

13 Q And, finally, a person in the status of
14 Mr. Sandusky who had access to the university
15 even though he was no longer an employee?

16 A Same.

17 Q You're saying that this incident wasn't
18 referred to the university police for
19 investigation because you didn't think it was
20 criminal?

21 A There was no indication that it was.

22 Q Can you give me an example of what you
23 would consider to be inappropriate conduct that
24 wasn't criminal? We did a lot of talking about
25 what's inappropriate, what's criminal, not

1 criminal.

2 Give me an example of conduct -- for
3 example, a university professor does something to
4 a student and a student reports it. I assume
5 that would go to the university police, right?

6 A No, not necessarily. You asked for an
7 example. Not all inappropriate conduct is
8 criminal. Cursing at a student in class, if
9 you're a faculty member losing your temper,
10 perhaps might not be criminal, but it's not
11 appropriate for a faculty member to do such a
12 thing.

13 Q How about an adult individual being naked
14 in the shower with a young boy and touching that
15 young boy? Clearly inappropriate, right?

16 A Yeah, I would say.

17 Q But not criminal in your mind, not
18 potentially criminal?

19 A I didn't get the impression that there
20 was something like that going on.

21 Q I thought you said that you thought
22 perhaps he had grabbed his genitals?

23 A Well, you know, whether he -- I don't
24 know. I mean, I wasn't told what was really
25 going on. But if he did, if that was what it

1 was, he shouldn't do that. That's inappropriate.
2 I don't know if it's criminal. If it's in the
3 context of wrestling or something like that, I
4 don't know.

5 Q The Grand Jurors would like to know your
6 age.

7 A Sixty-one.

8 Q You retired in May of 2009?

9 A June.

10 Q June of 2009?

11 A Yes.

12 Q When you retired, were you aware of any
13 other allegations of sexual conduct by Jerry
14 Sandusky against any other young boys not in 1998
15 and not in 2002, but any subsequent to that?

16 A No.

17 Q You knew of nothing?

18 A Nothing.

19 Q You look young for your age.

20 A Thank you.

21 Q Since this incident came to light in 2002
22 involving Sandusky and this boy in the shower,
23 did the university do anything in terms of
24 adopting a policy with regard to nonstudent youth
25 being on university facilities in the

1 circumstances that this young boy was?

2 A No, I don't believe so.

3 Q Did anybody do anything to prevent
4 something like this from happening again other
5 than telling Jerry Sandusky he's not supposed to
6 bring a kid on campus?

7 A Well, we did that.

8 Q But that was on the honor system, right?

9 A Well, I don't know. I think Tim handled
10 it and I'm not quite sure what the enforcement
11 mechanism of that was. It may have been an honor
12 system. I think Tim trusted Jerry and if Jerry
13 said he understood and wouldn't do it, that's
14 what he believed.

15 Q As far as you know, the university took
16 no steps to prevent something like this from
17 happening again?

18 A Well, with regard to Jerry, I think we
19 did, yeah.

20 Q How about other individuals?

21 A I don't know exactly how to answer that.
22 I can imagine instances where adult men would
23 perhaps be in the shower with young boys.

24 Q In a group?

25 A Perhaps.

1 Q But not alone?

2 A Perhaps or maybe not. I don't know. I
3 mean, our recreation buildings, for example,
4 separate from the football building, which has
5 some restrictions, are pretty much open.

6 Q Again, that would be a circumstance where
7 there would be likely a number of persons
8 present?

9 A Could be, yeah.

10 Q But the Lasch building was not a public
11 building?

12 A No. But, you know, it's a building that
13 generally is active. It's used with all the
14 individuals on the team, the coaches, all the
15 support staff and so on. Football is a
16 12-month-a-year program. It's less open than a
17 public recreation facility would be, but I don't
18 want to characterize it as a place that's only
19 used like on a limited basis. It's used
20 regularly.

21 Q Would you agree with me that on a Friday
22 night before the start of spring break, there
23 probably wouldn't be very many people in that
24 building?

25 A Probably, yes.

1 Q And a former staff member would
2 understand that, would know that kids would be
3 gone?

4 A Probably, yes, sure.

5 Q That's it.

6 Testimony concluded at 12:52 p.m.

7 THE COURT: Thank you.

8 (Witness excused.)

9 THE COURT: Mr. Beemer, any other
10 witnesses for the Commonwealth?

11 MR. BEEMER: No, Your Honor. For
12 purposes of this preliminary hearing, the
13 Commonwealth rests.

14 THE COURT: Ms. Roberto, would you like
15 to start with argument?

16 MS. ROBERTO: Yes, Your Honor.

17 Your Honor, today we were here for a
18 preliminary hearing on the crime of perjury at
19 Title 18, Section 4902.

20 And I think in order to understand what
21 the Pennsylvania Legislature has required for the
22 Commonwealth to prove, even at a prima facie
23 level before a Magistrate Judge, you have to
24 understand the background and the history of
25 perjury in Pennsylvania.

1 The cases are very clear, the Supreme
2 Court of Pennsylvania and the Superior Court have
3 routinely reaffirmed that perjury has to be more
4 than a he said/she said or a he said, in this
5 case, he said.

6 The courts have specifically prohibited
7 perjury from being just an oath against an oath.
8 That terminology is used throughout the cases.

9 So if you have Mike McQueary coming
10 forward to the Grand Jury, as he stated this
11 morning, and repeating the description to the
12 Grand Jury under oath that he repeated here
13 today, and then you have Tim Curley testifying to
14 the Grand Jury that he was not given that same
15 graphic information that Mr. McQueary said today,
16 you would not have perjury.

17 You would not have perjury under the
18 statute because that would be oath against oath.
19 The case law states that. And what the
20 Pennsylvania Legislature has done is incorporated
21 what the case law requires into Section 4902,
22 Section F.

23 If I can read it to the Court, it says
24 corroboration. In any prosecution, under this
25 section, except under section -- subsection E,

1 which is inconsistent statements, which doesn't
2 apply here, falsity of a statement may not be
3 established by the uncorroborated testimony of a
4 single witness.

5 So this morning I was trying to elicit,
6 and the Court gave me some leeway but not all the
7 leeway I asked for, to establish what
8 corroboration is there for what Mike McQueary
9 said to Tim Curley.

10 Obviously, there were no other people
11 present when Mr. Curley spoke with Mr. McQueary
12 other than Gary Schultz. I'm assuming, because I
13 don't know because I'm arguing first, that the
14 Commonwealth will try to corroborate
15 Mr. McQueary's statements through other testimony
16 that was presented here this morning.

17 I believe that Mr. McQueary -- well,
18 strike that.

19 I believe that Mr. Paterno's testimony
20 may be utilized by the Commonwealth to
21 corroborate what McQueary told Curley. We know,
22 we know obviously that Mr. Paterno wasn't there.
23 So we have to infer from what Mr. Paterno said to
24 the Grand Jury that there must be some evidence
25 to support what McQueary told our clients.

1 So if you look at Mr. Paterno's testimony
2 to the Grand Jury, he did not give the graphic
3 description to the Grand Jury that Mr. McQueary
4 gave to us this morning. Mr. Paterno instead
5 said, well, there was fondling.

6 Let me read what he said. There was
7 fondling. I don't know what you would call it.
8 Inappropriate conduct of a sexual nature.

9 When asked about the term fondling,
10 Mr. Paterno said, well, I don't know how you
11 would describe that behavior. Well, that is
12 qualitatively different. Fondling and potential
13 intercourse are qualitatively different
14 descriptions of the act.

15 Now, Mr. McQueary comes in and says,
16 well, I couldn't use the same terminology with
17 Mr. Paterno. Okay. So you have Mr. McQueary
18 coming in and admitting on the witness stand that
19 he minimized what he actually saw to Mr. Paterno.

20 Based upon that first argument,
21 Mr. Paterno's testimony does not corroborate what
22 Mr. McQueary told, allegedly told, Mr. Curley.
23 That's No. 1.

24 No. 2, the term fondling, I don't even
25 know from reading the transcript whether McQueary

1 even said that. McQueary this morning said,
2 well, maybe I used the term fondling.

3 But I think what we have in Mr. Paterno's
4 testimony is an inartful way to use terms that
5 maybe he was familiar with, like fondling, but
6 trying to describe what it was that McQueary
7 described to him.

8 Whatever it was that McQueary described
9 to him, Your Honor, it wasn't the type of conduct
10 that at least Mr. Paterno thought was of a
11 criminal nature. He told the Grand Jury, well, I
12 didn't call Mr. Curley. I didn't report to
13 anyone because it was a Saturday and I didn't
14 want to interrupt their weekends.

15 Believe me, if Mr. Paterno would have
16 heard anything near the way that Mr. McQueary
17 described it this morning on the witness stand,
18 he would have called any time round the clock to
19 get Mr. Curley over to his home.

20 So I think based upon the time frame and
21 Mr. Paterno's own words, his testimony does not
22 corroborate Mr. McQueary.

23 Finally, we have in perjury -- well, we
24 in law enforcement and in criminal law and all of
25 us participating in this proceeding today

1 understand that words have meaning. And in the
2 law, words are extremely important.

3 So we -- we are even redoubled in that
4 belief when you have the crime of perjury.
5 Perjury is a difficult crime to prove. And so we
6 need to have precision in the language.

7 As I just described, we don't have the
8 precision between Mr. Paterno and Mr. McQueary.
9 But what is important in my third point is that
10 when specifically asked by the prosecutor at the
11 Grand Jury what Mr. Paterno told Mr. Curley, the
12 question was a leading question of sorts.

13 The prosecutor said: Did you pass along
14 substantially the same information that you
15 received from McQueary to Mr. Curley? And the
16 answer was yes. Mr. Paterno never described what
17 he told Mr. Curley.

18 And with all due respect, substantially
19 the same in this kind of a proceeding where you
20 have McQueary admitting that he minimized to
21 Mr. Paterno what he actually saw, you cannot say
22 that Mr. Paterno's testimony is corroborative of
23 Mr. McQueary's testimony.

24 Based upon what I think is the only
25 corroborative evidence presented to this Court to

1 Mr. McQueary regarding Mr. Curley, the evidence
2 is insufficient to hold this for court because
3 the statute requires that the Commonwealth prove,
4 even prima facie, that there is corroboration.

5 And unless Mr. Beemer can point to
6 testimony other than the testimony presented by
7 Mr. Paterno, I don't see the corroboration in
8 this case.

9 And that's my argument, Your Honor.

10 THE COURT: Thank you. Mr. Farrell.

11 MR. FARRELL: Yes, Your Honor. If it
12 please the Court, I know we're here on a
13 preliminary hearing and the burden is very low.
14 It's only a prima facie case. So I'm not going
15 to make a lengthy closing argument.

16 But even under that light, very light
17 burden, there's not a case here. Perjury is a
18 false statement, a knowingly false statement of
19 material fact.

20 The statement that my client allegedly
21 made to the Grand Jury that's alleged to be
22 perjurious is the allegation came across as not
23 that serious. It didn't appear at that time
24 based on what was reported to me that serious
25 that a crime had occurred. We had no indication

1 a crime had occurred.

2 And the Commonwealth in its Complaint and
3 the Presentment picks two words or two phrases
4 out of that answer: No. 1, the word serious.
5 And No. 2, the -- no indication that a crime had
6 occurred.

7 Mr. Schultz's statement of how serious it
8 is, is not a statement of fact. Perjury can't be
9 based upon words, upon answers, upon questions
10 that are patently ambiguous and admit have
11 several meanings.

12 The word serious has a whole spectrum of
13 meanings and we don't know what meaning the
14 Commonwealth is attaching. I would point out
15 that in reviewing the transcript, and hearing it
16 read at other points, Mr. Schultz said on page
17 17, we took it seriously.

18 Eleven pages before, it was serious.
19 Eleven pages after, not that serious, because the
20 word does not have any fixed precise meaning,
21 certainly no meaning which you could base a
22 perjury charge.

23 Second, despite how Mr. Schultz's role
24 with the university police is exaggerated,
25 there's been no testimony. I'll tell you as a

1 fact, he's not a lawyer. So his assessment that
2 a crime had or had not occurred, again, is a
3 statement of opinion and we don't know what it
4 means.

5 We don't know if the Commonwealth is
6 charging that he has full knowledge of Chapter 31
7 of Title 18 and all the varieties of sexual
8 abuse. We don't know what that answer means.
9 It's patently ambiguous, again, in the context of
10 this case and it can't be the basis of a perjury
11 charge.

12 Along those same lines, a perjury charge
13 must be based upon a material statement, a
14 statement that has some bearing on the action of
15 the Grand Jury.

16 What in God's name does it matter to the
17 Grand Jury what Mr. Schultz's opinion was as to
18 whether or not the allegation was criminal or
19 serious? He doesn't decide the charge. And his
20 opinion whether it's serious or not, whatever
21 that means, is not material at all to what the
22 Grand Jury is doing there.

23 Finally, the point that Ms. Roberto makes
24 so well applies even more strongly to
25 Mr. Schultz. There's no corroboration of

1 whatever it is that Mike McQueary said to
2 Mr. Schultz. According to Mr. Paterno, he never
3 met with Gary Schultz. So there's no Paterno
4 corroboration.

5 In fact, if you look at all the
6 witnesses' testimony, including John McQueary's
7 testimony, John McQueary said when he met with
8 Gary Schultz he described something generally,
9 something that was inappropriate and sexual in
10 nature that had sexual overtones.

11 That corroborates Gary Schultz's
12 testimony, not his son's testimony. John
13 McQueary never testified that anal rape or anal
14 sex was described to Gary Schultz in that meeting
15 with Dr. Dranov; instead, inappropriate and
16 sexual in nature which, in fact, is exactly,
17 exactly how Gary Schultz described what he was
18 told at page 10 of the Grand Jury transcript.

19 So, in fact, the Commonwealth's main
20 witness corroborates -- the Commonwealth's main
21 witness is not corroborated by his own father.
22 His own father corroborates my client, Gary
23 Schultz. So ambiguity, no materiality, and no
24 corroboration.

25 Even under this light standard, I ask you

1 to dismiss this charge and not hold it over.

2 THE COURT: Thank you.

3 Mr. Beemer.

4 MR. BEEMER: Thank you, Your Honor.

5 Let me start off by saying everything
6 that was just argued is an argument that you
7 would expect counsel to make to a jury. These
8 are jury questions that they are making.

9 But I find it astonishing that you could
10 stand here and argue that the testimony of a
11 university vice president who oversees a campus
12 police department and their decision making and
13 what they did relative to an investigation of a
14 potential serial child molester has no
15 materiality to the Grand Jury investigation.

16 I mean, that's just astonishing really.
17 There could be nothing more material. At the
18 heart of perjury, the whole purpose behind
19 perjury is the idea that in a court of law or
20 some other location that someone is taking an
21 oath to tell the truth, and by doing that they're
22 not going to have an intent to mislead.

23 And the evidence that the Court has heard
24 here today, it is clear that the intent here by
25 both Mr. Curley and Mr. Schultz was to mislead

1 the Grand Jury into thinking that their actions
2 were appropriate when I would submit to the Court
3 clearly they were not. And they had every
4 motivation to do what they did.

5 The idea that Mr. Paterno doesn't
6 corroborate for purposes of a preliminary hearing
7 by indicating in his testimony that he received a
8 report of sexual conduct with a boy -- and we
9 have to, I think, all keep in mind here we're not
10 talking about, you know, something germane or
11 something mundane that happens every day. We're
12 talking about sexual contact with a young boy.

13 The idea that Mr. Paterno saying, yeah, I
14 got a report from Mike McQueary that it was
15 sexual contact and that I then passed that
16 information along to Tim Curley is not
17 corroborative of Mike McQueary's story here today
18 is just really nothing but pure fantasy.

19 I counted six different occasions in
20 Mr. Curley's testimony when he indicated clearly
21 and unequivocally that he was never told by
22 anybody that this was anything other than horsing
23 around or just fooling around in the shower.

24 In the light most favorable to the
25 Commonwealth, Your Honor, clearly Mr. Curley's

1 statements meet the prima facie test of perjury.
2 You should bind -- we respectfully request that
3 you bind that count over for trial.

4 Mr. Schultz's testimony is a little bit
5 different, because he acknowledges certain things
6 that are even internally inconsistent with
7 Mr. Curley. And they were both at the same
8 meeting with Mr. McQueary. That is fundamentally
9 clear.

10 You have to ask in looking at the
11 evidence in the light most favorable to the
12 Commonwealth, he goes out of his way on three to
13 four different occasions to assure the Grand Jury
14 that his actions were appropriate because there
15 was nothing criminal. It was clear it was not
16 that serious.

17 There could be nothing more material to
18 that investigation than understanding why school
19 administrators would not take a report from a
20 27-year-old graduate assistant that Mr. McQueary
21 testified to and do anything with it, other than
22 call the foundation that Jerry Sandusky basically
23 ran himself according to the testimony. And the
24 only other thing they did was talk to Jerry
25 Sandusky himself.

1 The material part of the investigation is
2 why. Why didn't anybody follow-up? Why didn't
3 the head of the university police follow-up?
4 That's where you get those answers, and the
5 answers there are pretty clear and unequivocal.

6 Not serious, clear a crime hadn't
7 occurred, yet despite the fact that they had the
8 report from Mr. McQueary, you had the statements
9 from Mr. McQueary's dad and you had in the case
10 of Mr. Schultz, the vice president, you had his
11 knowledge, unbelievably, you had his knowledge of
12 the 1998 incident where it was a boy of the same
13 age in the same location being investigated by --
14 Jerry Sandusky was being investigated for the
15 same type of activity.

16 Yet -- and that is corroborative of his
17 knowledge of why the 2002 incident, even if not
18 reported in the way Mike McQueary had, but you
19 clearly heard the testimony, is corroborative of
20 his knowledge that when he is making a statement
21 to that Grand Jury that we didn't report this and
22 it was clear there was no crime, that is a
23 perjurious statement.

24 And I would suggest to the Court that the
25 Commonwealth has more than met its burden today,

1 giving the Court ample evidence from which to
2 hold these cases for Court.

3 Thank you.

4 THE COURT: Thank you.

5 After careful review of the notes that I
6 had taken prior to our lunch break, as well as
7 reviewing at length the transcripts that were
8 submitted, I do believe that the Commonwealth has
9 met a prima facie burden on the charges against
10 both Mr. Curley and Mr. Schultz as listed in the
11 Criminal Complaints. Obviously, those cases
12 will, in fact, move forward.

13 Bail will remain as was set at the
14 arraignment. Just so counsel knows, the
15 passports that I took as part of bail will now be
16 forwarded to our Court Administrator's Office
17 here in the courthouse. So that will be done
18 before I leave the office today.

19 I've got to get formal arraignment
20 paperwork together. We can get that signed.

21 For those of you in the courtroom, court
22 will be dismissed. There's just some minor
23 signatures that have to occur. At this point
24 forward, Court's adjourned.

25 (The proceedings concluded at 3:18 p.m.)

CERTIFICATION

1
2 I hereby certify that the proceedings and
3 evidence are contained fully and accurately in
4 the notes taken by me on the hearing of the above
5 cause, and that this is a correct transcript of
6 the same.

7 _____
8 Date

Brenda S. Shaffer, RMR
Official Court Reporter

10
11 I hereby certify that I have reviewed the
12 transcript prepared by Brenda S. Shaffer from the
13 notes taken by her on the hearing of the above
14 cause, and that this is a correct transcript of
15 the same.

16 _____
17 Date

Nativa P. Wood, RDR, CMRS
Chief Court Reporter

18
19
20 The foregoing record of the proceedings
21 upon the hearing of the above cause is hereby
22 approved and directed to be filed.

23
24 _____
25 Date

Todd A. Hoover, P. Judge

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