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1 Q. Okay. What does the top paragraph  
2 indicate?

3 A. Letter dated 12-12-09 from father  
4 states he has yet to receive a response to his  
5 letter informing DFS that his daughter Laura  
6 Emily Matusiewicz, parents, child age 7, was  
7 being sexually molested by her mother, Christine  
8 Belford, parents, mother, in 2007.

9 Q. Keep going.

10 A. Father states that prior to my  
11 sentencing hearing before the Federal Court on  
12 12-10, I was informed by my attorney that an  
13 apology to all whom I had harmed in my attempt  
14 to keep my children from harm while hoping to  
15 avoid incarceration for my ex wife for what I  
16 still believe is mental illness was all that was  
17 necessary. In essence, I was advised to fall on  
18 my sword before Judge Sleet and to expect  
19 clemency in my sentencing. Although that  
20 strategy had failed in my mother's case before  
21 Judge Jane Brady on 9-10-09, my attorney was  
22 given certain assurances that many of my  
23 sentence enhancements would not be honored by  
24 the Court. Then on the day of my sentencing

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1 Judge Sleet reversed himself and gave the  
2 government almost every enhancement it sought.

3 Q. Okay. I'm highlighting the next  
4 two photographs. Would you please start at I  
5 have now --

6 A. I have now informed the DFS, a  
7 prominent DE pediatrician, two DE judges, a  
8 Federal court judge, the governor of the State  
9 of Delaware and the vice president of the US of  
10 America, whom I have had occasion to meet with  
11 multiple times when the DE Optometric  
12 Association met with him in his senate office to  
13 discuss issues concerning the improvement of eye  
14 care for Delaware citizens. It seems quite  
15 simple to me that either Laura's mother or I am  
16 lying about the sexual molestation of one of

Delaware's children, my daughter. An evaluation  
by a psychiatrist, typo, specializing in sexual  
molestation cases should put to rest whether  
Laura Emily was sexually molested by her mother.  
Every day that passes is another case of sexual  
abuse for my daughters.

Q. Okay. And it goes on to talk more  
about the abuse allegations as it relates to

Yes, we should have notified these people prior to David + mom talking the children out of the country. You read testimony that we did disclose incidents + our suspicions to others. Even after notifying all of these people David referenced above no one that could have ordered a forensic psychological eval to put the issue to rest. did so.

1 Laura Matusiewicz; is that correct?

2 A. Yes.

3 Q. Now, it's tough to read, but what  
4 I want to do is compare the date that's listed  
5 on this December 17th, 2009 report against two  
6 of the earlier reports, okay. Now, on the left  
7 I have Government Exhibit 635, page 4, and it  
8 lists the -- it lists the date as what? What  
9 year is listed for the abuse?

10 A. You're referring to the exhibit on  
11 the left?

12 Q. Yes, ma'am.

13 A. Yes. In 2007.

14 Q. And on the right, what is the year  
15 that's listed for the abuse that's the center  
16 piece of that allegation?

17 A. 2006.

18 Q. I'm now putting up on the right  
19 side Government Exhibit 632, page 4. There we  
20 go. On the left again, which is Government  
21 Exhibit 635, the year that's provided is what  
22 year?

23 A. 2007.

24 Q. And on the right side, which again

1 is Government Exhibit 632, page 4, it indicates  
2 throughout the years dating back to 2004; is  
3 that correct?

4 A. Yes.

5 Q. Now, turning your attention back  
6 to the disposition of the report that came in on  
7 December 17th, 2009, this letter from David  
8 Matusiewicz -- excuse me, hold on, bear with me  
9 one moment. Okay. I'm now turning to  
10 Government Exhibit 635, page 9, who was the  
11 supervisor for this particular report?

12 A. Robin Lee Hamilton.

13 Q. What does the disposition note  
14 indicate?

15 A. Reporter has written to DFS  
16 regarding the same sexual abuse allegations. J  
17 Gardner, daytime hotline supervisor, spoke  
18 directly, says the the, detective, parens, J.  
Shriner, who had been assigned the  
investigation. He stated that the children were  
CAC'd. Laura is the only verbal child and no  
sexual abuse was disclosed. 12-23-09, writer  
sent letter to reporter advising of reject.  
Q. Okay. And just so it's clear,

The children  
were CAC'd  
(Child Advocacy  
Center team)  
on March 2009  
regarding the  
kidnapping.

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when the term CAC'd is used, what does that mean?

A. That a multidisciplinary team approach was used.

Q. What's the acronym mean in particular?

A. Children's Advocacy Center.

Q. When you say a multi, what do you mean then when you say a multidisciplinary team was used, what do you mean by that?

A. Typically it's law enforcement, Department of Justice, the staff at the CAC, we are involved, we are also involved, medical, medical participants as needed.

Q. Now, when this particular letter came -- yes, I'm sorry. When this particular letter came in on December 17th, 2009, Ms. Miles, did you get involved in your capacity as the director for DFS?

A. Yes.

Q. Why was that?

A. A letter was written to my attention, but directed to the New Castle County Police offices where our report line staff are

1 housed versus where I was located at 1825  
2 Faulkland Road, so the staff had sent the letter  
3 to my attention and that's how I became  
4 involved.

5 Q. And was that the letter that we  
6 had just summarized, that you had just read that  
7 was in the summary notes for this particular  
8 case event?

9 A. That is correct.

10 Q. When you got the letter, what did  
11 you do?

12 A. I can't specifically specify due  
13 to the time, but typically when I would get a  
14 complaint, I recall reading the letter,  
15 including the attachments, and typically what I  
16 would do is involve the Office of Children  
17 Services administrator who directly oversees all  
18 the report line child abuse neglect activity in  
19 the state for her to follow-up directly with the  
20 staff or deputy director to get to the bottom of  
21 the allegations as written in the letter.

22 Q. Okay. And is this the letter  
23 response that you prepared after you reviewed  
24 the December 17th, 2009 letter?

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A. That is correct.

Q. Who is it addressed to?

A. Dr. David Matusiewicz.

Q. And it's being sent to the Salem County Correctional Facility; is that correct?

A. Yes, that was the address provided.

Q. And in summary, what does your letter say?

A. I responding to his correspondence received by my office in December of 2009. The reason it doesn't have a specific date is it was sent to the report line and then stamped in later into my office. The Division of Family Services is mandated by law to investigate allegations of abuse or neglect that meet our maltreatment definition and criteria.

In your particular case, the allegations of sexual abuse that you say occurred in 2007 have been addressed by the appropriate authorities. Additional, because there are no current allegations of sexual abuse, the Division of Family Services has no role to play in your current family situation.

The allegation of abuse was not addressed by the appropriate authorities because the CAC interview they are referring to was done in March 2009 as testified by Officer Jeffrey Spinner regarding the kidnapping.

A

1 If you have any further questions,  
2 I would suggest you to contact your attorney.

3 Q. Now, five days after your letter  
4 on December 24th, 2009, another case event was  
5 generated; is that correct?

6 A. That is correct.

7 Q. And this was December 29, 2009;  
8 correct?

9 A. Yes, December 29, 2009.

10 Q. And this time it's still for it  
11 says Christina Belford on page three; is that  
12 right?

13 A. Yes.

14 Q. The method of report was the  
15 hotline again; right?

16 A. Yes, it was a call.

17 Q. Different than the other reports  
18 that you received, what's the report source for  
19 this call?

20 A. This report line caller was --  
21 wanted to remain anonymous, so that was the  
22 reporting source, anonymous.

23 Q. And anonymous means they refused  
24 to give their name; is that right?

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1 A. We encourage them, but not all  
2 callers want to be known.

3 Q. And the summary that's provided  
4 here on the December 29th call, what does it  
5 indicate?

6 A. Caller states that she has  
7 concerns about eight-year-old Laura. According  
8 to the caller, there were allegations that were  
9 made approximately two years ago, which have  
10 been brought to DFS attention but not looked  
11 into. The caller states that Laura had told her  
12 family members (her father) and another relative  
13 who does not live here about the incidents.  
14 According to the caller, Laura had reported that  
15 mom would make her play the lollipop game. Mom  
16 would stick a lollipop in the child. Writer  
17 asked in where and the caller states that  
18 apparently she would put the lollipop in the  
19 child's vagina. She would also have to do  
20 things to mom that made her happy and feel good,  
21 but she could not tell because her mom would get  
22 in trouble.  
23

24 The caller states that the child  
had never reported any of the allegations to

1 her, and that this was only reported to the  
2 other family members which the caller has heard  
3 from.

4 The caller states that the  
5 information is public knowledge and has been  
6 brought out in court. The caller just wanted to  
7 call regarding the concerns she had. This is  
8 all of the information that the caller could  
9 provide.

10 Q. Now, Ms. Miles, this particular  
11 report is different than say the very first  
12 report we looked at on 11/20/2009; is that  
13 correct, in the sense that the 11/20/2009 did  
14 not have information about the mother inserting  
15 anything into the child's private areas; is that  
16 correct?

17 A. That's correct.

18 Q. It also indicates that in the  
19 first -- excuse me, the second line it says  
20 according to caller, there were allegations that  
21 were made approximately two years ago which have  
22 been brought to DFS's attention, but not looked  
23 into. And that indicates that there were claims  
24 made two years prior to this specific claim to

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1 DFS about Christine Belford, about Christine  
2 Belford and her children that were raised with  
3 DFS and not looked into; is that correct?

4 A. That's what the information  
5 states.

6 Q. All right. And is there any  
7 report in your system that indicates a call came  
8 in two years ago to DFS about this, about these  
9 particular allegations?

10 A. No, the first call we received was  
11 11/20/2009.

12 THE COURT: Mr. McCall, can you  
13 estimate how much longer on direct, can we at  
14 least finish direct?

15 MR. McCALL: I have three more  
16 exhibits which should probably take fifteen  
17 minutes.

18 THE COURT: Ladies and gentlemen,  
19 your preference.

20 THE JURY: Let's do it.

21 MR. McCALL: Excellent.

22 THE COURT: Any of you guys want  
23 to play for the Phillies.

24 BY MR. McCALL:

1 Q. I'm now showing you what's been  
2 marked Government Exhibit 638.

3 MR. McCALL: With the Court's  
4 permission, I can lead the witness a little bit  
5 more, and I think I can move even more quickly  
6 through it.

7 MR. BOSTIC: Your Honor, I'm going  
8 to object to anymore leading. I didn't object  
9 earlier.

10 THE COURT: I allowed the leading  
11 because I think the documents are telling the  
12 story rather than the witness, so lead but to no  
13 greater extent.

14 MR. McCALL: Okay, Your Honor.  
15 That's fine.

16 BY MR. McCALL:

17 Q. We're looking at Government  
18 Exhibit 638. This was a report, case event  
19 generated on September 2nd, 2010; is that right?

20 A. Yes.

21 Q. And the worker, the hotline  
22 operator again was Jeffrey Michael Pelly; is  
23 that correct?

24 A. Yes.

1 Q. Okay. And again, it's Christine  
2 Belford who is the case last name and first  
3 name; is that right?

4 A. Yes.

5 Q. The written, the method of report  
6 is written notice; is that right?

7 A. Yes.

8 Q. Report source is other relative of  
9 child; is that correct?

10 A. Yes.

11 Q. And again, the alleged perpetrator  
12 indicates mother living with child; is that  
13 right?

14 A. Yes.

15 Q. And then all three boxes are  
16 checked under reporter information?

17 A. Correct.

18 Q. And how reporter came to know,  
19 this indicates once again report from who?

20 A. Paternal grandmother.

21 Q. What's the name?

22 A. Lenore Matusiewicz who sent a  
23 letter to the intake unit.

24 Q. Now, Ms. Miles, there is profanity

1 in this and if you're more comfortable, I would  
2 just ask you to spell it when you come across  
3 it, okay? All right. Could you please -- could  
4 you please read what's listed here in the  
5 summary which is on page 4?

6 A. Paternal grandmother is currently  
7 incarcerated at Bailor's Correctional Facility.  
8 She sent a letter to the intake unit stating  
9 that she has been diagnosed with PTSD after  
10 falling while at Bailor's Correctional Facility.  
11 She also indicates that this may attribute to  
12 why her organizational and thought process are  
13 somewhat altered. The grandmother is now  
14 indicating that the children are using words  
15 such as F-U-C-K and D-I-C-K. They apparently  
16 came home after the first day of school using  
17 these words and states that they learned them  
18 from being on the bus, comma, playground, etc.  
19 The grandmother then indicates that in 2007  
20 along with Leigh's broken bones, she had other  
21 concerns. The caller states that Laura's hymen  
22 was torn and split and healed well. She also  
23 indicates that the child's vagina was open when  
24 she was five years old. The caller states that

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1 she did not see it prior to this. The child  
2 would also yell no, mommy, when she was sleeping  
3 and would not remember anything while awake.  
4 The children are now seeing a psychiatrist,  
5 paren, Monica Bocanegra. The paternal  
6 grandfather has visited them two times while at  
7 the office and has noticed that Laura has gained  
8 weight. The caller indicates that often  
9 children of sexual abuse gain or lose weight.  
10 Doctor Bocanegra has indicated that she is not  
11 getting in the middle of all of the controversy  
12 and that it is not in her scope of practice to  
13 determine if a child is or is not being sexually  
14 abused.

15 Q. And again, this is the disposition  
16 notes for this letter from Lenore Matusiewicz;  
17 is that correct?

18 A. Yes.

19 Q. And the supervisor is once again  
20 Jean Gardner; is that right?

21 A. That's correct.

22 Q. And Ms. Miles, the supervisors and  
23 hotline operators that are reviewing the various  
24 claims that are coming in, do they and can they

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1 look at the historical reporting that's been  
2 made in a particular case?

3 A. Absolutely. As you'll see in some  
4 of the documents, the CYCIS/Facts history  
5 denotes all the many of the prior report line  
6 calls within the content of the documents. They  
7 absolutely are encouraged and do look at CYCIS  
8 and Facts history to look at the stream of  
9 events.

10 Q. And how would inconsistencies in  
11 reports that are filed by the same people impact  
12 the analysis that's occurring when the calls are  
13 coming in?

14 A. It could impact. We are making  
15 two decisions at the report line to accept or  
16 reject and synonymous with that term is screened  
17 in, screened out. Or an investigation, then  
18 also determining the urgency of response,  
19 whether if it meets the threshold to have an  
20 investigation pursued, is it going to be handled  
21 in a 24-hour situation or in a 10-day routine  
22 response.

23 Q. What does the disposition notes  
24 for the letter on September 2nd, 2010 indicate?



1 A. Caller is incarcerated and is  
2 getting her information secondhanded by  
3 grandfather. The children are in counseling and  
4 if they make a disclosure of abuse and neglect  
5 the counselor will report to DFS as a mandatory  
6 reporter. No role for DFS at this time based on  
7 information provided by grandmother.

8 Grandmother also did not provide address for  
9 where the family is living and DFS would need  
10 this in order to begin an investigation.

11 Q. And again, this gets screened out  
12 and the rejection reason listed is does not meet  
13 maltreatment definition; is that correct?

14 A. That's correct.

15 Q: Second to last one. This is open  
16 date October 29th, 2010; is that correct?

17 A. That's correct.

18 Q. Once again, it's Mr. Pelly that's  
19 the operator?

20 A. Correct.

21 Q. Deals with on page 3, Christine  
22 Belford; is that correct?

23 A. Correct.

24 Q. Method of report is hotline; is

1 that correct?

2 A. Correct.

3 Q. And the alleged perpetrator again  
4 is mother living with child; is that right?

5 A. Yes.

6 Q. This time it indicates how  
7 reporter came to know and it says reporter is  
8 Sam Nickerson from the Division of Professional  
9 Regulation; is that right?

10 A. Yes.

11 Q. Turning to the summary, what does  
12 the summary indicate on page 4?

13 A. Caller states that they received a  
14 complaint on 10-25-2010 from the grandparents of  
15 Laura Matusiewicz. According to the  
16 grandparents the child is being followed by a  
17 psychologist. The grandfather met with the  
18 psychologist in March of 2010 and indicated that  
19 the child had been sexually abused by her  
20 mother. The grandparents are now indicating  
21 that the psychologist has not done her job  
22 because the child has not been questioned  
23 regarding this. The caller states that he has a  
24 number of pages that indicate that the child has

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1 been sexually abused according to the  
2 grandparents but no specific details. Writer  
3 asked if the child has made a disclosure to the  
4 psychologist and the caller states that he is  
5 not sure. The caller indicated that they may be  
6 opening a case against the psychologist, parents,  
7 Monica Bocanegra. The caller then asked if this  
8 writer could see if she has made a report  
9 regarding this child. Writer advised the caller  
10 that this could not be done.

11 Q. Now, in the context of this  
12 report, who is Mr. Nickerson as it related to  
13 Doctor Bocanegra?

14 A. He is a staffer with the Division  
15 of Professional Regulation in the state that  
16 oversees licensure for many professions.

17 Q. And what was the nature of his  
18 inquiry in this report?

19 A. To the best of my recollection, he  
20 received a complaint about a licensed  
21 professional not doing their job, including the  
22 DFS staffer, but because our DFS staffer was  
23 not -- is not a licensed professional, he  
24 referred that back to our purview. Nor can he

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1 investigate child abuse and neglect within his  
2 purview that rests within the Division of Family  
3 Services.

4 Q. Do you recall who the DFS worker  
5 was who was the subject of the complaint?

6 A. To the best of my recollection, it  
7 was Mr. Pelly.

8 Q. And again, this is Jean Gardner  
9 that is the supervisor on this case event?

10 A. Yes.

11 Q. And the disposition notes, what  
12 does it indicate?

13 A. Caller has no firsthand  
14 information regarding abuse or neglect. The  
15 caller speaks to the therapist and she has  
16 information that she should be reporting, a call  
17 should be made at that time. No role for DFS as  
18 this reporter has no firsthand information  
19 regarding a child disclosing sexual abuse by her  
20 parent.

21 Q. And again, the caller is  
22 Mr. Nickerson; is that correct?

23 A. Yes.

24 Q. Once again, this gets screened out

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1 and the reason is does not meet maltreatment  
2 definition; is that right?

3 A. Yes.

4 Q. Last exhibit. This is case event  
5 for April 21st, 2011; is that right?

6 A. Yes.

7 Q. The hotline operator is who?

8 A. Erin Leigh Breitigan.

9 Q. And again, the case is Christine  
10 Belford; is that right?

11 A. Yes.

12 Q. Method of report is the hotline;  
13 is that correct?

14 A. Yes.

15 Q. The report source, however, in  
16 this one indicates school personnel; is that  
17 right?

18 A. Yes.

19 Q. And the school is as indicated  
20 here North Star Elementary School?

21 A. Yes.

22 Q. Alleged perpetrator is once again  
23 mother living with child?

24 A. Yes.

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1 Q. And all three boxes for reporter  
2 information is filled out; is that right?

3 A. Correct.

4 Q. How reporter came to know, that  
5 next indicates North Star Elementary School,  
6 Nurse Kathleen Bugbee; is that right?

7 A. Yes.

8 Q. Now, this is the narrative, excuse  
9 me, that was provided on page -- all right.  
10 What is the report narrative indicate?

11 A. Today the school nurse at North  
12 Star Elementary School received a letter via US  
13 mail. The typed letter is dated 4/18/11 and  
14 postmarked 4/18/11. The letter is regarding  
15 third grade student Laura Matusiewicz. The  
16 letter is from Laura's paternal grandfather,  
17 Thomas Matusiewicz, who lives in Texas.

18 Laura lives with her biological  
19 mother, Christine Belford. Laura's sister,  
20 Karen, attends North Star Elementary School in  
21 kindergarten. The girls are in regular  
22 education classes. Laura's teacher is  
23 Ms. Spinelli and Karen's is Ms. Janicki.

24 The girls were abducted by their

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1 biological father in March 2009. The case was  
2 on the news. The father took the girls to South  
3 America. When the children were recovered they  
4 were returned to Christine and have lived with  
5 her ever since. Laura is diagnosed with PTSD  
6 but has no other known medical conditions.

7 The school has never had any  
8 concerns about the girls in the care of their  
9 mother. Caller is not aware of any AOD or DV in  
10 moms's home. Caller does not know if mom has  
11 any dogs in her home. Caller states that the  
12 children have never made any allegations against  
13 their mother. They have never expressed  
14 concerns. The caller notified the school  
15 principal of this letter she received.  
16 Principal is Andrea Lanciault,  
17 L-A-N-C-I-A-U-L-T, and obviously her phone  
18 number.

19 Q. The letter received does not state  
20 when Laura made these statements. It does not  
21 indicate when the grandfather last saw or spoke  
22 with Laura and/Karen. The letter received by  
23 the school nurse today alleges that mom is  
24 abusing Laura. There is no mention of Karen

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1 being abused.

2 Q. Before we move on, it indicates  
3 just above one of the services you read, caller  
4 is not aware of any AOD or DV. Based on your  
5 experience as director of DFS, do you know what  
6 that means?

7 A. As mentioned earlier, the report  
8 line call takers are always screening for drug  
9 abuse, that means alcohol or drug abuse or  
10 domestic violence, they're always assessing  
11 that.

12 Q. Can you continue?

13 A. The letter reads as follows,  
14 verbatim. Dear Ms. Bugbee, I am Laura  
15 Matusiewicz's grandfather and am concerned about  
16 her well being. Laura stated that she was  
17 sexual abused by her mother, Christine Belford  
18 (now Purcell) when Laura was five years old.  
19 She told my daughter and her boyfriend that she  
20 had to do things to mommy that made mommy feel  
21 good even though she didn't like doing them.  
22 She played lick the lollipop and knew all about  
23 the G spot. This came out of the mouth of a  
24 baby.

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1 Dr. Monica Bocanegra from the  
2 Hockessin Center For Change (after I reported  
3 the sexual molestation to her) stated that  
4 determining whether or not Laura had been  
5 molested was out of the scope of her practice  
6 and that Laura needed to be seen by a forensic  
7 psychologist... she.

8 Q. Again, this is the school nurse  
9 that has provided this report; is that correct?

10 A. Yes.

11 Q. Okay. Continue where it says  
12 could?

13 A. I could do nothing. She could not  
14 take sides, not even Laura's, she did not refer  
15 Laura to a forensic psychologist and now has  
16 agreed to putting Laura on drugs. I have  
17 enclosed the polygraph results taken by my wife  
18 Lenore and my daughter Amy for your information. ✱  
19 If you can help Laura, please do. Sincerely  
20 Thomas Matusiewicz. And then the address.

21 Q. And then it says Thomas  
22 Matusiewicz, Box 6, Edcouch, Texas; correct?

23 A. Yes.

24 Q. And then what does this indicate

1 down here?

2 A. This is a summary of the  
3 information system details, the CYCIS and FACTS  
4 report lines.

5 Q. Now, this is from disposition note  
6 page; is that correct?

7 A. Could you back up one, please.

8 Q. Absolutely.

9 A. No, this is actually a hotline  
10 progress note. If we're in the midst of taking  
11 a call and someone else calls in, we then note  
12 it in what's called a hotline progress note.

13 Q. What does the highlight progress  
14 note?

15 A. 4/21/2011 2:55 p.m. Hotline call  
16 from school principal, Andrea Lanciault. A  
17 month ago the school got the polygraph results.  
18 They were sent anonymously. Laura and Karen  
19 have a guardian ad litem, Kimberly Lawson,  
20 telephone numbers, E-mail information for this  
21 individual.

22 Earlier in the school year the GAL  
23 spoke with the girls at school to see how they  
24 were doing. The girls seemed fine and reported

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A1782

1 no concerns about living with mom. The school  
2 contacted the GAL to advise they had received  
3 the polygraph test results. The school has not  
4 had any concerns about mom or the children.  
5 Caller is not aware of any AOD or DV for mom or  
6 her husband. School is in session until 3:25  
7 p.m. The girls ride the bus home. Spring break  
8 starts tomorrow and students return to school on  
9 Monday 5/2/11 E. Breitigan from DFS is the note  
10 taker.

11 Q. And this is the disposition page;  
12 correct?

13 A. This is the report line  
14 supervisor's report line disposition.

15 Q. Once again, Jean Gardner is the  
16 supervisor on the case, then; correct?

17 A. Yes, correct.

18 Q. And what does the disposition note  
19 indicate?

20 A. The child has made no disclosure  
21 to the mandatory reporters who are reporting  
22 this concern. DFS has received many reports  
23 with regarding to letters being sent, but  
24 without the children making any disclosures,

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1 there is no role for DFS at this time. The  
2 children were talked to by a CASA and made no  
3 disclosure. Information is from a third party  
4 thus no action by DFS is needed at this time.  
5 Please see other rejected reports regarding same  
6 allegations.

7 Q. What is a CASA?

8 A. Court appointed special advocate.

9 Q. And that's like a guardian ad  
10 litem; is that correct?

11 A. We have both CASA and guardian ad  
12 litems which are traditionally attorneys.

13 MR. McCALL: Judge, may I have one  
14 moment?

15 THE COURT: You may.

16 MR. McCALL: Judge, that concludes  
17 my questions. Thank you.

18 THE COURT: All right. Members of  
19 the jury, we have had a long productive day.  
20 I'll send you off to rest up for tomorrow. 9:00  
21 a.m.? 9:00 a.m. it is. We appreciate your  
22 energy and commitment. We stand in respect for  
23 our jury.

24 (Jury left the courtroom at 4:48

p.m.)

1 MR. McCALL: Judge, there's an  
2 issue with Ms. Miles. I would told defense  
3 counsel earlier today that she's unavailable  
4 Wednesday and Thursday because her husband is  
5 having surgery. And she will be taking care of  
6 him. She is available Friday morning.

7 THE COURT: All right. Defense,  
8 that was disclosed, I assume?

9 MR. BOSTIC: Absolutely, Your  
10 Honor, Mr. McCall mentioned that to me before.

11 THE COURT: All right. Again, I  
12 appreciate the professionalism of all counsel  
13 and cooperation.

14 Ms. Miles, good luck with your  
15 husband's surgery.

16 I think we pick up with Master  
17 Corporal Shriner tomorrow morning.

18 MR. BOSTIC: Yes, Your Honor.

19 THE COURT: All right. We still  
20 have the issue of the motion to close the  
21 courtroom. There was a filing under seal today  
22 in connection with that matter. I don't know  
23 whether the Government is still intending to  
24

1 file some response.

2 MR. McANDREW: We are, Your Honor.  
3 We expect to file it tonight.

4 THE COURT: I just wanted to  
5 determine when would be the appropriate time to  
6 hear argument on that. I think we'll need to  
7 discuss with counsel when -- I think we need to  
8 discuss whether we should disclose to Mr. Finger  
9 the full unredacted motion with the  
10 understanding that as an officer of the court he  
11 will not disclose the content of that to any  
12 third party. Government, do you have a position  
13 on that?

14 MR. McANDREW: We do, Your Honor.  
15 In the forthcoming filing we include a lot of  
16 information that's been made public in the  
17 courtroom throughout the course of the trial  
18 already. We think there's already enough of the  
19 factual basis on which the Court can make a  
20 finding.

21 THE COURT: Let me just defer this  
22 until I've seen your filing. I'll defer the  
23 procedural issue. Let me talk about the  
24 scheduling issue. If the government is making a

1 filing tomorrow, I think it might be too short  
2 of a time to hear argument Thursday vis a vis  
3 giving notice to Mr. Finger. Do you have a  
4 sense now as to when the witness might be  
5 called?

6 MR. McCALL: Monday, Your Honor.

7 THE COURT: Well, then we better  
8 hear argument Thursday or Friday after the jury  
9 has been excused. I forget who else has issues  
10 Friday afternoon. Are there any counsel  
11 scheduling issues?

12 MR. EDELIN: No, Your Honor. I  
13 think it was one of the jurors.

14 THE COURT: And indeed, counsel,  
15 you may prefer, so we're not working after  
16 hours, because I know you need to prepare for  
17 the next day, maybe we should do it Friday after  
18 we adjourn with the jury because if I recall we  
19 need to adjourn by noon on Friday to meet that  
20 juror's schedule. Having said all that, should  
21 we shoot for Friday afternoon, early afternoon  
22 as time to argue that motion?

23 MR. IBRAHIM: Yes, Judge

24 THE COURT: All right. Let's do

1 that. I will give notice to Mr. Finger and I  
2 will ask counsel this. Do you prefer to get a  
3 little break for lunch or should we go right in  
4 at noon?

5 MR. IBRAHIM: I prefer to go right  
6 in.

7 MR. McANDREW: We are in the  
8 position of actually agreeing with Mr. Ibrahim.

9 THE COURT: All right. Next, I  
10 appreciate the days we're working. We got in a  
11 full day today. If there are other witnesses a  
12 la the Wal-mart witness that is simply to  
13 authenticate a video, if there's a way to  
14 stipulate to those things, I think you know we  
15 can save 20 minutes here and there. No  
16 criticism of anybody and I understand sometimes  
17 the advantage is presenting it full bore, laying  
18 a foundation, but just invite all counsel to  
19 keep their eye on issues like that to see  
20 whether we can't leapfrog over what's  
21 essentially just foundation. All right. I  
22 assume Government you'll provide the defense  
23 with all the witnesses for tomorrow?

24 MR. McCALL: Yes, Your Honor.



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THE COURT: Can you give me a preview? Are you in a position to do that?

MR. McCALL: Can I have one moment?

THE COURT: Sure.

MR. McCALL: Judge, with the caveat that every night we go back and talk to our witnesses.

THE COURT: Right.

MR. McCALL: It's like scrambled eggs.

THE COURT: I remind you I used to try cases.

MR. McCALL: So we're going to start with Corporal Shriner and then Doctor Romirowsky, Amy Ferrell, Kim Lawson, Mark Richman, Courtney Emerson and I'll be surprised if we get through, if that doesn't take us to the end of the day, Your Honor.

THE COURT: All right.

MR. IBRAHIM: Who was that last one?

THE COURT: Courtney Emerson.

MR. IBRAHIM: Thank you.

*Carla  
Weeden  
testimony*

*Pg  
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THE COURT: All right

else?

MR. McCALL: I would note, Judge, that we do intend to call -- we know the Court's already ruled on Doctor Weeden. Doctor Weeden is coming to testify Thursday morning. He's traveling as of Saturday overseas.

THE COURT: Right.

MR. McCALL: And I know the defense had filed a motion. I'm assuming that the Court's ruling stands.

THE COURT: My sense of the defense motion was to a certain extent the ruling I had already made dealt with many of those issues. Am I right about that or wrong about that?

MS. CHAVAR: Not exactly, Your Honor, if you're referring to the motion filed Monday.

THE COURT: Tell me what else you think needs to be addressed. First of all, let me begin by trying to state coherently what I believe my rulings to Doctor Weeden said, that as a pathologist, which he is, I believe it's

1 proper for him to testify that the wounds  
2 suffered by Christine Belford would not in and  
3 of themselves be sufficient to cause instant  
4 death or a loss of consciousness. And that to  
5 the extent that he wanted to render those  
6 opinions, I have no problem with it. To the  
7 extent he would go beyond that and make any or  
8 purport to render opinions as to any subjective  
9 sensory perception by Ms. Belford or any motion  
10 by Ms. Belford, I would not permit that type of  
11 testimony because I think that as a pathologist  
12 putting to one side whether anybody could  
testify to those things, which may be the  
subject of another debate as to Doctor Gordon,  
but certainly as to a pathologist I have no  
problem with the anatomym physiology and what  
would happen physiologically from the wounds. I  
was clear with that. That would be the proffer  
from the Government. Is there anything else  
then from the defense that you feel was not  
addressed by that ruling?

Dr. Gordon was  
the neurologist/  
neuropsychologist  
expert witness  
that was supposed  
to testify regarding  
Aad's brain tumor  
as well, but wasn't  
called to testify.

22 MS. CHAVAR: Not by that ruling,  
23 but I think there still is an open issue, which  
24 was raised in the initial motion and reraised

1 again in the filing of Monday.

2 THE COURT: Okay. But vis-à-vis  
3 what doctor Weeden is going to say, is there  
4 anything else we would need to address before he  
5 were to appear to testify?

6 MS. CHAVAR: No, Your Honor.

7 THE COURT: All right. That's all  
8 I was trying to say now. Then as I read Doctor  
9 Gordon's report, many of the points that he made  
10 were directed to a broader scope of Doctor  
11 Weeden's testimony, then I'm going to permit him  
12 to give. So as I look at Doctor Gordon's  
13 report, many of his points I think are mooted by  
14 my ruling on the motion in limine to limit what  
15 Doctor Weeden says and then that's points 1 to  
16 4. Point number 5, however, vis-à-vis what  
17 Doctor Gordon would testify to remains a ball in  
18 play, all right, but we'll get to that down the  
19 stream. For now I just want to make sure that  
20 we can deal with Doctor Weeden's testimony  
21 expeditiously and it sounds to me like we can.

22 MR. McCALL: Yes, Your Honor.

23 THE COURT: All right. And you  
24 know I always say is there anything else

1 practical we can accomplish when we're all  
2 together. So I'm at your disposal if there's  
3 any other points counsel would like to raise.  
4 Mercifully there being none, we will stand  
5 adjourned. Thank you.

(Court adjourned at 5:03 p.m.)

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