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Ms. Miles, you may resume the witness stand.

... LAURA MILES, having been previously duly sworn as a witness, was examined and testified further as follows...

(The jury entered the courtroom and took their seats in the box.)

THE COURT: Thank you, ladies and gentlemen. Please be seated.

You will recall last week we had Laura Miles give her direct testimony on behalf of the government, and Ms. Miles works in connection with child welfare in the State of Delaware. She was not available for cross-examination. She has now returned.

We will not re-administer the oath because she has already been sworn as a witness. Now will be the opportunities for the defense to cross-examine.

Mr. Bostic?

MR. IBRAHIM: Your Honor, if we

may proceed?

THE COURT: By all means, yes.

Hi Erin!
Praying that you are all doing well!
I am working on some more information to send you. The only thing I am enjoying about the lock down are the free phone calls + video visits. That's it. Dennis Peters is supposed to start working on our motions this coming week - so please pray that it is amazing + straight from God!
Stay safer + healthy!
More to come soon!
God Bless you!
Peace, Blessings + love, Amy

1 MR. IBRAHIM: Very good. I'm
2 first.

3 CROSS-EXAMINATION

4 BY MR. IBRAHIM:

5 Q. Hello. Mrs. Miles?

6 A. Yes.

7 Q. How are you doing, ma'am? Welcome
8 back.

9 A. Thanks.

10 Q. I just have a few questions for
11 you. I'm going to attempt to be as clear as
12 possible, but if anything I say is unclear,
13 please just let me know so I can rephrase it.
14 Is that okay?

15 A. Thank you.

16 Q. Okay. I'm correct to say that you
17 and I have never met. I have not had a chance
18 to sit down with you about any of the questions
19 I'm going to ask you?

20 A. Correct.

21 Q. Okay. So the reason I preface my
22 questions with that, if I blunder through it,
23 just please be patient with me.

24 First thing, when you testified on

A2678

1 direct testimony, you went through a series of
2 exhibits.

3 Do you recall that?

4 A. Yes.

5 Q. And some of the exhibits dealt
6 with calls that were made to the hotline; is
7 that correct?

8 A. Yes.

9 Q. And you testified in particular
10 about a call that was made and the caller
11 identified themselves as Amy Gonzalez.

12 Do you recall that?

13 A. Yes.

14 Q. Okay. I'm just going to put up,
15 if I may, Mrs. Miles, what's this page called?
16 This top sheet?

17 THE COURT: Again, can we get an
18 exhibit number, Mr. Ibrahim?

19 MR. IBRAHIM: Yes. This is
20 Government's Exhibit 634.

21 THE COURT: Thank you.

22 MR. IBRAHIM: Page number 3. I'm
23 sorry, your Honor.

24 THE WITNESS: This is the actual

1 hotline family abuse report. The DFS report
2 line taker is logging this report.

3 BY MR. IBRAHIM:

4 Q. Okay. This is one of my first
5 times I've seen one of these. Let me ask you a
6 few questions. It's correct to say the person
7 who called, Amy Gonzalez, identified herself; is
8 that correct?

9 A. On this page it looks like the
10 reporter is aunt of children.

11 Q. Okay. Do you recall on other
12 pages in the document that there was an
13 identification of the name?

14 A. Yes.

15 Q. Okay.

16 A. I believe on the next page.

17 Q. Okay. Is it also correct to say
18 that the date of this was 12/11 2009?

19 A. Correct.

20 Q. Is it correct to say that based on
21 all the records that you reviewed, this was the
22 one and only time that the aunt, Amy Gonzalez,
23 called in?

24 A. I do not recollect.

1 Q. Do you -- did you recollect
2 reviewing the other reports that you brought
3 in?

4 A. Yes.

5 Q. And do you recollect whether or
6 not there were any other times she called in
7 that has been presented to this jury by your
8 testimony?

9 A. I do not recall, sir.

10 Q. Okay. Now, as part of your role
11 as the boss at least in this aspect of Division
12 of Family Services, were you ever presented a
13 letter that was sent to Jeff Pelly on behalf of
14 David Matusiewicz from an attorney by the name *
15 of Charles Oberly?

16 A. No. You would have to show me to
17 see if I recollect seeing it.

18 Q. All right.

19 MR. IBRAHIM: May I approach the
20 witness?

21 THE COURT: You may.

22 (Mr. Ibrahim handed an exhibit to
23 the witness).

24 THE COURT: Will you be marking

1 this?

2 MR. IBRAHIM: It depends.

3 THE COURT: All right.

4 MR. IBRAHIM: If the witness
5 recognizes it.

6 THE WITNESS: I do recall seeing
7 this letter.

8 MR. IBRAHIM: Okay. Then I will
9 mark it, your Honor, as AG Defense Exhibit 2.

10 (AG defense Exhibit No. 2 was
11 marked for identification).

12 BY MR. IBRAHIM:

13 Q. Now, it's correct to say that this
14 letter was sent to the Division of Family
15 Services; is that correct?

16 A. According to the address on this
17 letter, it was sent to Division of Family
18 Services, care of New Castle County Police
19 Building, at the DuPont Highway office.

20 Q. And ultimately, this letter made
21 its way to you; is that correct?

22 A. I cannot state that, sir. I
23 recall seeing this letter in the context of
24 reviewing the record.

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1 Q. Okay. So at some point this
2 letter made it into the record of the material
3 that you brought to court or at least produced
4 regarding this investigation?

5 A. I have seen this letter.

6 Q. Okay. And you've read the letter;
7 is that correct?

8 A. Yes.

9 Q. And it's correct to say that --
10 well, actually, I want you to take a look at the
11 letter and if you don't mind, read it.

12 A. "Dear Pelly, you are probably
13 aware of the recent case involving David
14 Matusiewicz, who was convicted of a federal
15 offense for removing his children from the State
16 of Delaware and taking them to Central America.
17 Mr. Matusiewicz was subsequently arrested and
18 has been sentenced for a period of
19 incarceration. His mother is currently serving
20 a short sentence in the Women's Correctional
21 Center in Wilmington.

22 "I am obviously not in a position
23 to pass any judgment as to whether or not the
24 allegations of abuse occurred. I was advised,

1 however, that David's father, Thomas
2 Matusiewicz, has spoken with you concerning this
3 matter. It is my further understanding that
4 there may have been other contacts with DSF."

5 Shall I continue?

6 Q. Yes, please.

7 A. "In light of the various
8 allegations that have been involved in this
9 case, I trust that the Department will take
10 whatever reasonable steps are necessary to
11 ensure the safety of all parties concerned. The
12 entire situation is extremely sad and David
13 Matusiewicz is paying a very steep price for his
14 actions. If the suspicions, whether founded or
15 not, had been brought to the attention of the
16 proper authorities prior to the children being
17 removed from the state, perhaps this entire
18 incident would never have occurred. That,
19 however, is beside the point at this stage. The
20 concern of David's father, and for that matter
21 David himself is the well-being of the children.
22 The fact that the father may have acted
23 irrationally does not necessarily mean his
24 concerns were not valid. I assume the

A2684

ment will handle this matter

ropriately.



"Very truly yours, Charles M.

y."

Q. And this was sent by Mr. Oberly

he was an attorney at Drinker, Biddle &

; is that correct?

A. That's what the letter states.

Q. Okay. Is it correct to say the

r is dated December 29th, 2009?

A. Yes.

Q. Is it correct to say you know who

berly is today?

A. I am familiar with Mr. Oberly.

Q. And it's correct to say that he is

hited States Attorney for the District of

are?

MR. McCALL: Objection, your

THE COURT: Sustained.

MR. IBRAHIM: Very well.

MR. McCALL: Move to strike, too.

THE COURT: I won't strike the --

the reference, not the cross-examination

The government did not want this letter from Mr. Oberly known because it shows Mr. Oberly showing some common sense and compassion saying, 'Hey wait a minute, even though David may have acted irrationally by taking the kids from the state doesn't mean that his concerns weren't valid and should be investigated further.'

1 with respect to the letter. As I understand it,
2 that was written when he was in private
3 practice?

4 MR. IBRAHIM: Yes, sir. May we
5 see you at sidebar?

6 THE COURT: Is it that essential?
7 All right.

8 MR. IBRAHIM: Yes. It could save
9 a witness.

10 THE COURT: All right.

11 (Sidebar conference held out of
12 the hearing of the jury as follows.)

13 THE COURT: All right. Go ahead.

14 MR. IBRAHIM: I have Mr. Oberly
15 under subpoena and he is not subject to
16 regulations because of the nature of this
17 letter.

18 If he were called to testify, I
19 would ask him about the letter as well as his
20 present job so -- because it's all on the basis
21 to show why someone of his caliber on his team
22 would have written such a letter. The reason I
23 asked this question is so I would have to avoid
24 calling Mr. Oberly to testify.

1 So that is the basis of asking
2 that question. Otherwise, I wouldn't have asked
3 it.

4 MR. McCALL: He's not the U.S.
5 Attorney in this case. He has been recused in
6 this case. It's not relevant.

7 THE COURT: I'm having a hard time
8 understanding the relevance of the letter he
9 wrote in his capacity as a private attorney
10 vis-à-vis him now being U.S. Attorney.

11 MR. IBRAHIM: It goes to show the
12 level of competence that he has that as a
13 private attorney he was then selected and
14 nominated and confirmed by the U.S. Senate to be
15 a U.S. Attorney.

16 THE COURT: Yes. I think that's
17 more of a stretch than I'm going to find
18 probative here, especially in a case where he
19 has recused himself. So you've gotten the
20 cross-examination that he wrote the letter and
21 said, gee, as I read the letter, it's an implied
22 criticism that this wasn't investigated more
23 closely. * * *

24 It's obvious he's a prominent

1 attorney. I think that's as far as we need to
2 go for now. If you subpoena him later, we'll
3 fight about that when the time comes, but I'm
4 having some difficulty seeing how you connect
5 all those dots. All right?

6 MR. IBRAHIM: Just two dots.

7 THE COURT: Well, I'm not going to
8 preclude you from making the argument and I will
9 think about it in the meantime.

10 MR. IBRAHIM: Okay.

11 THE COURT: Yes. I mean, making
12 the argument to me that we should allow it, not
13 making the argument to the jury.

14 MR. IBRAHIM: Understood.

15 (End of sidebar conference.)

16 THE COURT: Proceed.

17 MR. IBRAHIM: I have no more
18 questions.

19 MR. EDELIN: Nothing, your Honor.
20 Thank you.

21 THE COURT: Mr. Bostic?

22 MR. BOSTIC: Thank you, your
23 Honor.

24 THE COURT: You have the floor.

1 BY MR. BOSTIC:

2 Q. Good morning, Ms. Miles.

3 A. Good morning.

4 Q. How are you today?

5 A. Fine. Thank you.

6 Q. As Mr. Ibrahim asked earlier with
7 respect to your testimony about having the
8 opportunity to speak with you prior to your
9 testimony. I'm going to ask you the same
10 question. I've never had the opportunity to
11 speak with you. Am I correct?

12 A. Correct.

13 Q. But you are aware that I
14 specifically wrote a letter to the Attorney
15 General's Office and I believe copying you,
16 asking for that opportunity to speak to you
17 before you came in to testify.

18 A. Yes.

19 Q. Right. And I was declined, I was
20 denied the opportunity to speak to you before
21 your testimony in this case?

22 A. I'm not sure I can answer that.

23 Q. Well, suffice it to say, we never
24 had a chance, you and I never spoke?

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1 A. That's correct.

2 Q. Now, I want to take you back to
3 get an understanding. I apologize if some of my
4 questions are duplicative, but you talked
5 somewhat about the CAC, Children Advocacy
6 Center, in your prior testimony in this case?

7 A. Very briefly.

8 Q. Very briefly. Okay.

9 And the CAC is the Children's
10 Advocacy Center?

11 A. That is correct.

12 Q. Right. And the CAC, you would
13 agree with me that they're -- just that every
14 state has the same CAC, Children Advocacy
15 Center?

16 A. I'm not aware every state has a
17 CAC.

18 Q. Now, are you aware that the CAC
19 for your State of Delaware, this State of
20 Delaware, is accredited by a national
21 organization?

22 A. Given that I don't directly
23 oversee the CAC, I really can't comment on their
24 credentials.

1 Q. Well, let me understand this,
2 because I think your testimony has been that you
3 were the director of, what was it?

4 A. Director of the Division of Family
5 Services.

6 Q. And would it be fair to say that
7 the CAC is an agency that falls under that
8 umbrella?

9 A. The CAC is -- has its own Board of
10 Directors, Executive Director, separate and
11 apart from the Division of Family Services.

12 Q. Well, let me ask you this: Does
13 the CAC have any relationship or any involvement
14 with the family services that you directed?

15 A. In certain situations the
16 Children's Advocacy Center is used to address
17 child abuse neglect cases.

18 Q. And, in fact, wasn't the CAC
19 particularly organized and created for the
20 purpose of conducting investigations into
21 allegations of abuse with respect to children,
22 children under the age of 18?

23 A. The precise origin I cannot speak
24 to, but it is a multi-disciplinary team approach

1 related to certain child abuse neglect
2 situations.

3 Q. Tell the ladies and gentlemen of
4 the jury, to the extent of your knowledge, what
5 you understand the function, the purpose of the
6 CAC in Delaware to be.

7 A. The Children's Advocacy Center is,
8 as I said, has its own executive director, its
9 own Board of Directors, offers a
10 multi-disciplinary team approach and certain
11 serious injury, child death and old child abuse
12 neglect cases in the State. And my
13 recollection, as I said, I do not directly
14 oversee the CAC worked in coordination with that
15 office.

16 Q. But Family Services does work in
17 coordination with that office as part of its
18 mandate; is that correct?

19 A. Yes, correct.

20 Q. Okay. And, in fact, the
21 government showed you an exhibit, I don't
22 remember the number, in which I think it was Ms.
23 Gardner, one of the supervisors to the hotline,
24 referenced that she had spoken to Police Officer

That CAC interview was in March 2009 regarding the kidnapping only as Detective Shriner testified.

Shriner and he said that the CAC conducted an interview of the child abuse allegations.

*

Do you remember that exhibit?

A. I'm not sure I can answer your question directly. That's not quite how I --

Q. Well, my question is: Do you remember that exhibit?

A. I recall an exhibit whereby the hotline supervisor, Jean Gardner, in her disposition notes, referenced the CAC.

Q. Right. And you spoke about that on direct testimony with the government as to the importance of that reference in the notes?

A. I'm not sure I commented precisely how you've --

Q. Okay.

A. -- portrayed it.

Q. Okay. Now, in order to -- I will leave that alone. I will ask it this way instead.

Ma'am --

MR. BOSTIC: If I may approach, your Honor?

THE COURT: You may.

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1 BY MR. BOSTIC:

2 Q. I show you what is marked as a
3 series of defense Exhibits, Exhibit 352, 346,
4 349, 350 and 358, and 354. I'm just going to
5 lay these in front of you for the time being and
6 ask you a series of questions.

7 MR. BOSTIC: Your Honor, I passed
8 up a copy of the exhibits. I believe they're on
9 the bar there.

10 THE COURT: Thank you.

11 BY MR. BOSTIC:

12 Q. Ma'am, don't leaf through it yet.

13 A. Okay.

14 Q. Talk to me. Talk to me.

15 A. Okay.

16 Q. You indicated before to have
17 particular knowledge about the investigation or
18 a lack of investigation in this case by Children
19 Services? You testified about that earlier?

20 A. Yes.

21 Q. Right?

22 A. I testified to the report line,
23 report line that my staff took.

24 Q. Okay. And from your testimony I

1 got that you were particularly well aware of
2 Family Services and information as to how
3 matters may or may not be investigated where
4 there's an allegation of child abuse.

5 A. Yes.

6 Q. Would that be fair to say?

7 A. Yes.

8 Q. And would it be fair to say that
9 as part of the oversight that you talked about
10 last week, you're familiar with a website that
11 is maintained by Children -- by Delaware
12 Children's Services?

13 A. I'm familiar that we have a
14 website for our department, yes.

15 Q. Okay. And in your oversight
16 capacity, as you testified previously, that's
17 one of the things that you are familiar with?
18 The website and the information contained on the
19 website?

20 A. I am familiar with the website.

21 Q. Okay. Now, so I want to turn you
22 first to what is marked as the top -- the top
23 exhibit there, Exhibit 352.

24 Do you have that?

1 A. Yes.

2 Q. Would you leaf through, and I will
3 tell you that it's really a, I believe goes up
4 to 12 or 13 pages. Is that what you have?

5 A. Thirteen pages.

6 Q. Thirteen pages. Okay.

7 And have you leafed through those
8 13 pages? You leafed through them; is that
9 right?

10 A. Very briefly, yes.

11 Q. Well, I was going to ask you this
12 question, so maybe you'll take a little bit more
13 time: Whether you are familiar with these items
14 being part of your website?

15 A. I am familiar with the website,
16 but I don't know if this was relevant
17 information at the time between 2009, 2011.

18 Q. That was not my question to you.
19 My question is --

20 A. I am familiar with the website.

21 Q. Okay.

22 A. Containing helpful hints to
23 individuals who would check the website.

24 Q. Okay. Well, let's turn to page --

1 MR. BOSTIC: Your Honor,
2 permission to publish?

3 THE COURT: Yes. Hearing no
4 objection from the government?

5 MR. McCALL: I'm sorry. I didn't
6 have the exhibit, Judge.

7 MR. BOSTIC: I do not have the
8 exhibit.

9 MR. McCALL: Ms. Chavar just
10 handed it to me. What exhibit are we on, Judge?

11 THE COURT: Defense Exhibit 352.

12 MR. BOSTIC: 352.

13 THE COURT: In any event, it will
14 be overruled.

15 You may proceed, Mr. Bostic.

16 MR. BOSTIC: Thank you.

17 THE COURT: Judicial efficiency.

18 MR. BOSTIC: Pull up 352.

19 BY MR. BOSTIC:

20 Q. Ma'am, you're familiar with this
21 being taken from your website?

22 A. Again, when I view it, I view the
23 website. I've not printed it as it's appearing
24 here to know if this is -- I'm being honest. If

1 I view it, I view it from the website point of
2 view. This appears to be a printout of such.

3 Q. So have you ever seen this page on
4 the website before?

5 A. I can't say that I've seen this
6 specific page, sir.

7 Q. Okay. Well, let me direct your
8 attention to the top of the document. Can you
9 read at the top of the document the very first
10 line, what it states there?

11 MR. BOSTIC: Could you pull that
12 up for me? Right at the top, State of Delaware,
13 all the way over, all the way over.

14 THE WITNESS: Okay. So you would
15 like to read the top line?

16 State of Delaware, Department of
17 Services for Children and Youth and obviously
18 their families.
19 [Http://kids.Delaware.gov/ff/ff_ISeeTheSigns.](http://kids.Delaware.gov/ff/ff_ISeeTheSigns.fhtml)
20 [fhtml.](http://kids.Delaware.gov/ff/ff_ISeeTheSigns.fhtml)

21 Q. That is on the Delaware website as
22 presented by Children Services. Would that be
23 fair to say, ma'am?

24 A. The department manages the

1 website, sir. It appears that this is a
2 printout representing the information at the
3 time that this was printed.

4 Q. Okay. Did you take issue with
5 anything contained on the first page of this, I
6 still purport to be the Web page from the
7 website? Pull that back up. 352, please?

8 A. Sir, as I said, working for the
9 Division of Family Services within the
10 Department of Children and Youth and their
11 families, I do not directly oversee the content
12 of the information that is portrayed on the
13 department's Website. There's a public
14 information officer that manages that, so I'm a
15 little hindered in responding to your question
16 directly about the specific content in this
17 website.

18 Q. Okay.

19 A. I am familiar that we have a
20 website that helps the public in making child
21 abuse neglect reporting.

22 Q. I want to take you back to some of
23 your testimony to, I think it was Mr. McCall, in
24 terms of your experience.

1 I think you said you started with
2 Human Services back in 1999.

3 A. That's not correct.

4 Q. That's not correct? When did you
5 start?

6 A. If you are referring to my career
7 with the Department of Services For Children and
8 Youth and their families, I started in 1994.

9 Q. Thank you.

10 A. I started in 1985 with the State
11 of Delaware with the Department of Health and
12 Social Services.

13 Q. At some point in time you got a
14 promotion where you were headed, you were the
15 director of what?

16 A. I was the deputy director from
17 2001 to 2009 of the Division of Family Services,
18 and then the director from 2009 to 2011.

19 Q. And you would agree with me as
20 director, you really have some familiarity with
21 these documents?

22 A. As I said, I am familiar that we
23 have a website. We have both an Internet
24 website as well as an Intranet. So I'm familiar

1 with the website, but I do not monitor and
2 manage the total content, nor do I know if this
3 precisely translates into what is shown on the
4 screen. I'm sorry. I just can't --

5 Q. Okay. Okay. You stop me if there
6 comes a point in time when I show you a document
7 that's not familiar to you.

8 I want to turn to page 8 of what
9 is referred to as signs of abuse, but before I
10 do that, Mr. Merritt, go to page 4 and show it
11 to the witness of Exhibit 352.

12 Ma'am, page 4 of the document in
13 front of you.

14 A. Exhibit 352?

15 Q. The very first exhibit, page 4,
16 and it's on the monitor in front of you. You
17 have that; right?

18 A. Yes.

19 Q. And again it says at the top,
20 State of Delaware, Department of Services for
21 Children and Youth, et cetera; is that correct?

22 A. Correct. It has the same stamp.

23 Q. Right. It has the same address,
24 Internet address at the top as well, right

1 across from Children and Youth?

2 A. Yes, but it adds some detail
3 representing the specific page.

4 Q. And the details that are added --
5 if you could pull up the just the HP address
6 there for me, Mr. Merritt.

7 The details that it adds is, would
8 you read that into the record, please?

9 A. Yes. The detail that it adds is
10 Number I See --

11 Q. The Signs?

12 A. I see Learn Myths.

13 Q. You skipped something there.

14 A. Oh, Pardon me. Pardon me.

15 Q. It says, I see the signs?

16 A. Yes. And then _learn.Shtml.I See
17 Learn Myths.

18 Q. Okay. Would it be fair to say
19 this comes from the website that we're talking
20 about that's maintained by the Division of
21 Children and Youth and Families?

22 A. Again, I must say I'm familiar
23 with the website, but I can't directly comment
24 on this specific content. I have not reviewed

1 A. I cannot, sir, because I have not
2 been afforded the opportunity to compare and
3 contrast those two pages.

4 Q. You are absolutely correct. That
5 was rude of me. My apologies.

6 Would you take the time to compare
7 and contrast those for me, please.

8 THE COURT: Mr. Bostic, if you
9 will represent as an officer of the court that
10 they're identical, it will save time. I've done
11 a brief scan. It likes like they are.

12 MR. BOSTIC: Thank you.

13 THE COURT: For the record, will
14 you make that representation?

15 MR. BOSTIC: I will make that
16 representation.

17 THE COURT: I accept it. Now move
18 on.

19 MR. BOSTIC: Thank you.

20 BY MR. BOSTIC:

21 Q. Now, ma'am, Item No. 1 --

22 MR. BOSTIC: Just pull up that
23 page 8 for me, please. I'm sorry. Item No. 2.
24 Pull up item No. 2 for me.

1 BY MR. BOSTIC:

2 Q. Ma'am, Item No. 2, can you read
3 that into the record, please?

4 A. "Changes in behavior. Abuse can
5 lead to many changes in a child's behavior.
6 Abused children often appear scared, anxious,
7 depressed, withdrawn or more aggressive."

8 Q. Now, you received a letter from
9 David Matusiewicz that you talked about earlier
10 in your testimony in this case; is that correct?

11 A. Yes.

12 Q. And that letter, which is in your
13 packet, is marked as Document Exhibit 350,
14 Defense Exhibit 350. Would you take the
15 opportunity to look at that letter and tell me
16 whether that letter that you referred to in your
17 testimony previously in this case as having
18 received from David Matusiewicz.

19 THE COURT: Do you have it, ma'am?

20 THE WITNESS: I'm trying to find
21 it.

22 MR. BOSTIC: I'm sorry.

23 THE COURT: I can give you mine.

24 THE WITNESS: I'm leafing page by

1 page.

2 BY MR. BOSTIC:

3 Q. Do you want me to approach and
4 show you where it is, ma'am?

5 (The Court handed documents to the
6 witness.)

7 THE WITNESS: That's okay. Thank
8 you.

9 Is there any chance you could
10 provide me with the exhibit that I testified to
11 so I can compare it, please?

12 MR. BOSTIC: Do we have a number
13 of the government exhibit for that letter?

14 THE WITNESS: The reason I'm
15 asking that is --

16 BY MR. BOSTIC:

17 Q. Ma'am, I will get you the exhibit.

18 A. Okay.

19 Q. I will get you the exhibit.

20 A. Thank you.

21 MR. BOSTIC: Your Honor, we do not
22 have it in our system. I'm happy to take it
23 from the government.

24 BY MR. BOSTIC:

A2706

1 Q. Ma'am, let me make this easier for
2 you. The letter that may have been shown to
3 you, the handwriting on the top of this
4 document, I'm going to ask you to exclude that.
5 There's some handwriting on the top of this
6 document and I don't know if it was on the
7 original.

8 Outside of the handwritten note,
9 can you tell me whether or not this is the
10 letter you received from David Matusiewicz?

11 A. This is not looking precisely, the
12 letter that I received, because the letter I
13 received from, directed from my staff had the
14 actual envelope, it had an attachment, another
15 letter written to a specific judge. That's why
16 I was requesting to see the actual exhibit to
17 compare it. It's looking different.

18 Q. Okay. Then in that case, then, I
19 will ask the government to identify for these
20 purposes their exhibit in which they presented
21 you that letter.

22 A. Thank you.

23 (Pause while counsel conferred.)

24 THE COURT: Again, to save time, I

A2707

1 understand, ma'am, I do recall that there
2 were -- there was the envelope and there was an
3 attachment. But if Mr. Bostic is representing
4 the text of the letter is identical as an
5 officer of the court, let's just see if we can
6 move ahead even though you don't have it.

7 THE WITNESS: All right.

8 Unfortunately, I can't say yes or no on
9 that.

10 THE COURT: On whether it's the
11 same letter?

12 THE WITNESS: Yes.

13 THE COURT: If he represents it is
14 as an officer of the Court, we would take that
15 at face value.

16 THE WITNESS: All right.

17 MR. BOSTIC: Your Honor, if I may,
18 we're going to have a problem because -- let me
19 do it this way. Let me do it this way, ma'am.

20 BY MR. BOSTIC:

21 Q. At the top of the letter that's in
22 front of you, is that addressed to you?

23 A. It has my name on it and it also
24 has Division of Youth and Family Services, 3601

1 North DuPont Highway.

2 Q. Okay.

3 A. New Castle, Delaware.

4 Q. And I'm going to show you also, if
5 you could turn to 350-A in your folder. Do you
6 have 350-A in the folder?

7 A. Yes.

8 Q. Okay. 350-A is part of the
9 package that the government put up for you.

10 A. This I recall.

11 Q. Right.

12 A. Specifically, yes.

13 Q. But you remember testifying that
14 you got two letters from David Matusiewicz?

15 A. No, sir.

16 Q. You don't recall?

17 A. Clearly, yes. I apologize. I
18 recall reporting on the report line detail that
19 contained letters from Mr. Matusiewicz, yes.

20 Q. Okay. But the letter that was
21 shown to you by the government, 350-A,
22 referenced that he had written you an earlier
23 letter to which he had not gotten any response
24 and he was following up with you. * *

A2709

1 Would that be fair to say?

2 A. No, sir.

3 Q. All right. Okay. Let me shift to
4 350-A, please. You have it in front of you?

5 A. Yes.

6 Q. Pull this down.

7 A. Yes.

8 Q. You have the document in front of
9 you?

10 A. Yes, I do.

11 MR. BOSTIC: Would you pull up
12 350-A?

13 THE WITNESS: Yes.

14 BY MR. BOSTIC:

15 Q. Is that the letter that was shown
16 to you previously by the government?

17 A. I recall this letter.

18 Q. All right. And would it be fair
19 to say --

20 MR. BOSTIC: Mr. Merritt, could
21 you pull out the first sentence, including "Dear
22 Ms. Miles" on that letter?

23 THE WITNESS: I'm sorry, sir.

24 Could you repeat the question?

1 MR. BOSTIC: Not to you. I'm
 2 giving directions. You will have it in a
 3 second.

4 BY MR. BOSTIC:

5 Q. Can you see, if you look at your
 6 monitor, you see what has been pulled out?

7 A. Yes.

8 Q. And can you read that first line
 9 that's highlighted in yellow, please?

10 A. I have yet to receive a response
 11 to my letter informing you that my daughter,
 12 Laura Emily Matusiewicz, date of birth,
 13 5/31 2002, was being sexually molested by her
 14 mother, Christine Belford, in 2007.

15 Q. Okay. So that reference
 16 referenced, in fact, that you had gotten an
 17 earlier letter from Mr. Matusiewicz. Would that
 18 be fair to say?

19 A. Again, I personally recall
 20 receiving one letter.

21 Q. Okay.

22 MR. BOSTIC: Now, can you pull up
 23 for me 350?

24 BY MR. BOSTIC:

And when
 you don't
 receive a
 response
 from DFS
 who do
 you reach
 out to
 for help
 then?

1 Q. Ma'am, let me ask you this: You
2 were -- you met with the government in
3 preparation for your testimony as to the issues
4 that you testified here to earlier in this case.
5 Would that be fair to say?

6 A. Whom do you mean?

7 Q. Ma'am, Mr. Gordon, Agent --
8 Special Agent Gordon, perhaps Mr. Weede, perhaps
9 Mr. McAndrew, perhaps Mr. McCall.

10 A. Yes.

11 Q. Okay. So we know who we're
12 talking about now; right?

13 A. Yes.

14 Q. And you met with them on several
15 occasions. Would that be fair to say?

16 A. Yes.

17 Q. And in your role as preparing to
18 testify in this case, would it be fair to say
19 that you produced certain information to the
20 government regarding the DHS file material?
21 Would that be fair to say? You gave them
22 certain information, certain documents?

23 A. Yes.

24 Q. Okay. And would it be fair to say

A2712

1 that in preparation for your testimony, that you
2 reviewed this entire DHS file? Would that be
3 fair to say?

4 A. Not in its entirety.

5 Q. So you came in prepared to testify
6 about a very serious and important incident and
7 asked this jury to rely on your knowledge
8 without reviewing the entire file. Is that your
9 testimony?

10 A. No. No, sir.

11 Q. What about the file that you did
12 not review? Did you not review what's marked
13 here as Defense Exhibit 350?

14 A. Again, the record was produced --

15 Q. Ma'am, that's not my question.

16 A. Okay.

17 Q. My question to you is: Ma'am, did
18 you not review what's marked as Defense
19 Exhibit 350 in preparation for your testimony in
20 this case? Yes or no?

21 A. It comes down to the second letter
22 that you showed me looked familiar. The
23 first -- this one, I can't say for certain this
24 was the actual letter I received in my office

A2713

1 with an envelope, with a postmark date, and the
2 details. I just -- I want to say with certainty
3 to the Court that I actually saw this letter. I
4 did not.

5 Q. Okay. So your testimony then in
6 answer to my question is: You do not recall
7 reviewing Defense Exhibit 350, which I purport
8 to be a letter from David Matusiewicz to you
9 prior to your testimony in this case?

10 A. That's correct.

11 Q. Okay. Ma'am, would you take a
12 moment to read it to yourself, then.

13 A. Yes.

14 MR. BOSTIC: You can take it down.

15 (Pause while witness reviewed
16 exhibit.)

17 BY MR. BOSTIC:

18 Q. I want to move this on, so I'm
19 going to send you directly to the paragraph that
20 I'm interested in.

21 A. Okay.

22 Q. Second paragraph.

23 A. I've read the second paragraph,
24 sir.

MR. BOSTIC: Can you pull back

MR. McCALL: Judge, I request a

(Sidebar conference held out of

THE COURT: The witness has my

MR. McCALL: There are no words.

That's one, two. My problem is, if that's where

we're going and we've been very careful to keep

at all of the prior statements of David

Matusiewicz to Christine Belford and he wants to

read into the record "No words can describe the

abuses I've suffered at the hands of the woman I

loved, I suffered through cold, cruel comments

and death threats from a woman," so on and so

forth, then we should be allowed to get into all

the PFA comments that Christine Belford received

from David Matusiewicz about burning her body

and putting her somewhere where no one is going

to find her, and so on and so forth.

MR. BOSTIC: Your Honor, so it's

clear, I was going to direct the witness to the,

The PFA didn't say anything about "burning her body"... Also the officer, officer Stamper, who took Christine's complaint said that he didn't even believe it and said Chris was using that to get a divorce according to his testimony.

Also see phone transcripts previously sent between Dave and Chris where Chris says to Dave that she was never afraid of him.

"Fear depended upon the audience being spoken to"

Police = Fear

Dave = No Fear see my point?

Don't be fooled just because David is a man & Christine is a woman, who threatened whom?

David wrote out an emergency living will in early 2006 leaving everything to me (esp. raising his children) if anything happened to him because of Christine's irrational behavior & threats.

1 in July -- I'm sorry. It's the third paragraph.
2 In July 2007, this line with respect to Laura
3 Matusiewicz.

4 THE COURT: Let me read that.

5 MR. BOSTIC: Okay. As I said, we
6 will redact these exhibits. I didn't say --

7 THE COURT: It sounds like a
8 misnumbering where you said No. 2 and you meant
9 No. 3.

10 MR. BOSTIC: I apologize.

11 THE COURT: Okay.

12 MR. McCALL: I would ask, when you
13 publish it --

14 MR. McANDREW: That's going to get
15 published.

16 MR. McCALL: This has already been
17 put up on the screen and I'm sitting there
18 looking at it. I understand --

19 THE COURT: Actually, it was not
20 on the jury screen, just so you know.

21 LAW CLERK: It was very briefly.

22 THE COURT: Well, it came up and
23 down. Believe me, it was flashed. I've been
24 looking at the screen.

1 MR. BOSTIC: All I'm going for is
2 the end of July paragraph.

3 MR. McCALL: I would just ask when
4 they publish it --

5 THE COURT: Let's do it on the
6 Elmo. If I may, can we do it on the Elmo? Just
7 put something here.

8 MR. BOSTIC: Your Honor, I can get
9 Mr. --

10 MR. McCALL: Just fold it.

11 MR. BOSTIC: Your Honor, I need to
12 do it electronically. If I can have a moment
13 with Mr. Merritt, he can do that.

14 THE COURT: All right.

15 MR. BOSTIC: Thank you, your
16 Honor.

17 (End of sidebar conference.)

18 THE COURT: Members of the jury,
19 some issues are easily solved. We've now sorted
20 out the paragraph. But I'm going to give Mr.
21 Bostic a chance to refer to the one he wants to
22 focus on to which there's no objection.

23 What I'd like to do, members of
24 the jury, I understand that you did a great

1 favor for court staff by ordering pizza, so it
2 cut through some of the logistics.

3 If you're willing to, because we
4 are going to have an early day, I would like to
5 do a power lunch and have lunch from noon to
6 12:30, if we can do that, or as close to a
7 half-an-hour as we can, then come back in and
8 move forward.

9 Our problem this afternoon is one
10 of the attorneys is needed in Federal Court in
11 Philadelphia and the Judge did everything to
12 accommodate us. The problem is, he couldn't get
13 all the other parties and the people together
14 and it's a very time sensitive matter. So we
15 invested a lot of time trying to solve the
16 problem and we just came up short, not because
17 the Court system didn't try. Everyone involved
18 tried.

19 So we're going to have to break at
20 2:00 today, which is why I really wanted to see
21 if we could maximize use of the time. All
22 right?

23 So you will work with us on that,
24 the lawyers would go hungry. There is justice

A2718

1 in the world. As I said at the beginning of the
2 trial, I have great respect for what I call the
3 real lawyers of our profession, trial lawyers
4 who go into court and handle cases involving
5 important issues. Believe me, they are all
6 public servants in their own way, and so if I
7 joke with them, it's out of respect and
8 affection and not for any other reason.

9 While we're on that score, let me
10 also comment on the testimony we had Thursday
11 and Friday of last week, which I did not want to
12 do this morning with a minor in the courtroom.
13 And we heard testimony from one of the witnesses
14 about, for want of a better word, an online
15 relationship of a sexual nature, and obviously
16 different people have different views of sexual
17 ethics and sexual morality, but some people have
18 strong reactions to certain kinds of conduct.
19 So what I wanted to say is that testimony is
20 relevant in that it would show the relationship
21 between the witness and others involved in the
22 case.

23 And you may recall at the very
24 beginning of the trial I said that relationships

1 bear on credibility of the witnesses, bear on
2 what they are saying and why. But what I wanted
3 to point out to you is, even if you were to have
4 some negative feeling about that kind of
5 conduct, none of that counts in terms of your
6 decision about the guilt or innocence in the
7 case. All right? Nobody is on trial here for
8 their sexual morality. All right? And so if
9 you had a reaction to any of that testimony,
10 just remember what it is relevant to and what it
11 is not relevant to. So we'll make use of the
12 time here because we do not have a person of
13 tender years on the witness stand, so meaning a
14 minor.

15 MR. BOSTIC: Your Honor, can I
16 publish this document to the Court?

17 THE COURT: All right.

18 MR. BOSTIC: In line with the
19 agreement at sidebar? Your Honor, it's up on
20 the screen.

21 THE COURT: Right. No problem.

22 MR. BOSTIC: Okay.

23 BY MR. BOSTIC:

24 Q. So --

1 MR. McCALL: Judge --

2 THE COURT: All right. Take it
3 down.

4 MR. BOSTIC: Are we good? Your
5 Honor, Mr. McAndrew is indicating that perhaps
6 there's something that we should have caught and
7 I want to make certain.

8 Can we publish it just to the
9 Court to make certain --

10 THE COURT: I'm looking at it now.

11 (Pause.)

12 THE COURT: If there is an
13 objection from the government, it's overruled.

14 MR. McCALL: Judge, my objection
15 is what I stated before, which applies to the
16 first sentence of the paragraph, of the second
17 paragraph that's up now, and that's fine if
18 that's the Court's ruling, but pursuant to what
19 we requested at sidebar.

20 THE COURT: I missed that first
21 word in the first line.

22 MR. BOSTIC: I missed it, too,
23 your Honor.

24 THE COURT: Thank you, Mr. McCall.

1 Never let the Court's request for efficiency
2 overcome fairness.

3 MR. BOSTIC: Your Honor, we have a
4 glitch here. We will correct it.

5 THE COURT: Right. Which also
6 shows I need new glasses.

7 (Pause.)

8 THE COURT: In the old days,
9 members of the jury, we would just take Post-It
10 notes and stick it over the document before we
11 stuck it on the Elmo. So as primitive as that
12 may be, it's sometimes easier than doing it
13 electronically. You may recall we used to call
14 Elmos overhead projectors.

15 (Pause while counsel conferred.)

16 MR. BOSTIC: Your Honor, we will
17 republish it to the Court and make certain that
18 everybody is in line with the presentation.

19 THE COURT: This time I will read
20 it with my glasses off.

21 All right. Any objection from the
22 government?

23 MR. McCALL: No, your Honor.

24 THE COURT: All right. Thank you.

1 Thank you for your indulgence, ladies and
2 gentlemen.

3 Mr. Bostic?

4 MR. BOSTIC: Thank you.

5 Mr. Merritt, would you please pull
6 up page 8 of Defense Exhibit 352? Also, would
7 you pull up the redacted document alongside of
8 it?

9 BY MR. BOSTIC:

10 Q. It's going to come up in front of
11 you momentarily.

12 A. Yes. Thank you.

13 Q. Ma'am, with respect to page 8 of
14 352 that lists the abuse, signs of abuse,
15 point 2, highlight from changes to behavior for
16 me, please. I'm sorry. To the second line, the
17 second sentence.

18 Ma'am, would you agree with me
19 when you look at -- when you look at Defense
20 Exhibit 350, in the middle of the letter that is
21 purported to have gone to you, the very first
22 line talks about, from July to underwear.

23 MR. BOSTIC: Can you highlight
24 that for me, Mr. Merritt, please?

A2723

1 BY MR. BOSTIC:

2 Q. Would it be fair to say that --
3 you read it? Have you read those two?

4 A. I'm comparing the two. Thank you.

5 Q. All right. Let me know when you
6 are ready.

7 A. I'm ready.

8 Q. Would it be fair to say that signs
9 of child abuse referenced through changes in
10 behavior and wearing two sets of underwear tends
11 to go to Item No. 2 under the Department of
12 Children Services website, where it talks about
13 changes in behavior?

14 MR. McCALL: Objection.

15 Foundation.

16 THE COURT: Overruled.

17 THE WITNESS: Your question again,
18 sir?

19 BY MR. BOSTIC:

20 Q. Ma'am, would it appear as if the
21 reference in the letter starting with July, in
22 July 2007 and dealing with the wearing of two
23 pairs of underwear by Laura Matusiewicz goes to
24 bullet point 2 on the signs of child abuse?

1 A. In my opinion, no.

2 Q. Okay. Thank you.

3 MR. BOSTIC: Leave that sentence
4 up there for me. You can take down bullet point
5 2 for me.

6 BY MR. BOSTIC:

7 Q. Now, ma'am, in the second part of
8 that paragraph -- and, Mr. Merritt, if you can
9 highlight, when questioned as to why the extra
10 panties were needed all the way down to G-spot.

11 And would you pull out for me
12 bullet point No. 10 from the signs of child
13 abuse.

14 BY MR. BOSTIC:

15 Q. Ma'am, I will ask you to compare
16 bullet point 10 with what's written in the
17 letter the with respect to the G-spot and what
18 have you, and then I have a question after
19 you're finished comparing the two.

20 Have you compared the two?

21 A. I have, yes.

22 Q. My question to you: Have you
23 compared the two?

24 A. Yes.

A2725

1 Q. And would you agree with me that
2 where it's reported if a child is talking about
3 G-spot and what have you to explain why she's
4 wearing two sets of underwear, that that would
5 tend to go to signs of abuse, bullet point 10,
6 that's publicized by the Department of
7 Children's Services?

8 MR. McCALL: Objection. That
9 mischaracterizes the exhibit.

10 THE COURT: Overruled. The
11 witness will explain any mischaracterization if
12 she believes there is one.

13 THE WITNESS: Again, you've got a
14 document that has signs of abuse and you have a
15 letter. You have to review it within the
16 context of the paragraph and the details offered
17 here.

18 BY MR. BOSTIC:

19 Q. Well, my question to you, ma'am,
20 is: Would it appear that the details offered in
21 the letter tend to implicate Item 10 under signs
22 of abuse list of items?

23 A. The term, you know, using
24 sexualized term is of concern.

1 Q. So you would agree then that that
2 segment in the letter relates to what is
3 identified as Item 10 on the signs of child
4 abuse? Yes or no, ma'am?

5 A. No.

6 Q. Okay. Now, ma'am, I'm going to
7 turn you to what should be Defense Exhibit
8 No. 354.

9 MR. BOSTIC: Don't publish that.
10 And the government should have a copy.

11 BY MR. BOSTIC:

12 Q. Do you have it in front of you?

13 A. Yes, sir.

14 MR. BOSTIC: And, your Honor, I
15 will just ask this question to the government,
16 whether it has had a chance to Review defense
17 Exhibit 354, which I will purport to the Court
18 is a letter to Mr. Pelly from Amy Gonzalez dated
19 on or about December 7, 2009, and I believe the
20 witness testified about that letter previously.

21 (Pause.)

22 THE COURT: Mr. Bostic, do you
23 intend to refer to the whole letter or just
24 certain paragraphs?

1 MR. BOSTIC: Certain paragraphs,
2 your Honor.

3 Your Honor, if I may, I would
4 state that paragraph 1 I would intend to use and
5 highlight a section there as to the purpose of
6 the letter.

7 Paragraph 3, in the body of the
8 letter --

9 THE COURT: I understand paragraph
10 3.

11 MR. BOSTIC: Right.

12 THE COURT: Government, any
13 objection?

14 MR. McCALL: I have no objection
15 to 1 and 3, your Honor.

16 THE COURT: All right. Go ahead.

17 MR. BOSTIC: Should I give the
18 rest of it, because I have several other places.

19 THE COURT: Tell us the others.

20 MR. BOSTIC: Paragraph 4 and 5,
21 parts of which I will highlight as to both, and
22 parts of paragraph 6.

23 THE COURT: Four and 5, all right.
24 Government?

1 MR. McCALL: Yes, your Honor.

2 THE COURT: All right. Let's look
3 at 6.

4 MR. McCALL: No objection.

5 THE COURT: All right. You may
6 proceed, Mr. Bostic.

7 MR. BOSTIC: Thank you.

8 BY MR. BOSTIC:

9 Q. Now, ma'am, you've had a chance to
10 read what is marked as Defendants' Exhibit 354?

11 A. Yes.

12 Q. Are you familiar with that letter?

13 A. I am.

14 Q. All right?

15 MR. BOSTIC: And permission to
16 publish to the jury, your Honor. I'm sorry.
17 Permission to -- do you have any problem with
18 the entire letter? There are certain parts that
19 we will highlight.

20 MR. McCALL: Just the
21 paragraphs we discussed.

22 MR. BOSTIC: Okay. Can you pull
23 up the very first two sentences in the letter
24 with the date and the name, Mr. Pelly, and

1 shield the remainder of the letter for me.
2 And can you highlight the top of the letter so
3 the witness can read it?

4 BY MR. BOSTIC:

5 Q. Ma'am, can you read into the
6 letter what that letter states?

7 A. "Mr. Pelly, December 7th, 2009.
8 This letter should have been written to you in
9 2006, when I suspected my sister-in-law was
10 sexually abusing my oldest niece, Laura. I beg
11 you now as I should have back then for your
12 help."

13 Q. All right. And I'm going to pull
14 out --

15 MR. BOSTIC: Well, you can take
16 that down. Pull out paragraph 3 for me, please.
17 And everything else is blacked out, or whited
18 out.

19 BY MR. BOSTIC:

20 Q. Ma'am, this paragraph that's
21 pulled out, will you confirm that's taken from
22 the entire letter that you have in front of you?
23 It would be paragraph --

24 A. Yes.