

1 Q. -- three, if my numbers are  
2 correct; right?

3 A. Yes. Correct.

4 MR. BOSTIC: Now, would you  
5 highlight for me the section beginning with, "I  
6 was surprised when Laura" to "secret." It's  
7 about four lines, five lines.

8 BY MR. BOSTIC:

9 Q. And start with,  
10 I asked her how mother was doing."

11 Ma'am, would you read into the  
12 record what that states it's right now?

13 A. "I asked her how her mother was  
14 doing. I was surprised when Laura started to  
15 tell me that her mother lies. I told her that  
16 she was still her mother and that she had to  
17 love her. Laura also said that Chris made Laura  
18 do things that would get her mother into a lot  
19 of trouble and that they were a secret."

20 Q. Okay. Now, ma'am, would it be  
21 fair to say that sometimes if there are abuse  
22 issues in a home, that the alleged perpetrator  
23 may say to the child, well, don't tell anyone  
24 because it may get me in trouble?

1 MR. McCALL: Objection.

2 Speculation. Foundation.

3 MR. BOSTIC: Your Honor, can I --  
4 I understand this to be a professional witness.

5 THE COURT: This is  
6 cross-examination, so I will allow certain  
7 leeway, and then we will see where it leads.

8 THE WITNESS: Would you repeat the  
9 question for me, sir?

10 BY MR. BOSTIC:

11 Q. Yes. Would it be fair to say that  
12 in instances on occasion where there may be  
13 abuse, the abuser may indicate to a child not to  
14 tell anyone because the abuser, him or herself,  
15 may get in trouble?

16 A. It's a hard question to answer. I  
17 would -- that could happen. That is a  
18 possibility.

19 Q. All right. And, in fact, if I can  
20 turn your attention to --

21 MR. BOSTIC: Could you pull up  
22 page 10 of 352 for me, please.

23 BY MR. BOSTIC:

24 Q. Do you have the page?

1 A. What was the page, sir?

2 Q. Page 10 of 352.

3 A. Okay.

4 Q. Numbered page 10.

5 A. Yes.

6 Q. And as you were pulling it up, the  
7 head of that document states about child sexual  
8 abuse; is that correct?

9 A. Correct.

10 Q. Page 10, 352.

11 And, ma'am, if we go down to myth  
12 four, and can you highlight for me myth four  
13 up to children, in disclosing their  
14 victimization?

15 Would that be a fair statement as  
16 to, assuming this document was taken from the  
17 website, that that states at times children  
18 would have a problem disclosing information?

19 A. Yes. I mean, it depends on the  
20 age of the child whether they are able to  
21 articulate and -- correct.

22 Q. And if you go to the second  
23 page -- I'm sorry, page 11, rather, of that  
24 document.

1 MR. BOSTIC: And in the, I think  
2 it's the second paragraph, can you pull that up  
3 for me, Mr. Merritt? And can you highlight a  
4 number of factors down to being uncovered?

5 BY MR. BOSTIC:

6 Q. Ma'am, can you read that  
7 highlighted section into the record, please?

8 A. "A number of factors affect a  
9 child's ability to tell his or her story. The  
10 age of the child can be a factor, along with a  
11 family relationship to the perpetrator, or  
12 continuous sexual abuse over a long period of  
13 time. Sex offenders will emotionally victimize  
14 a child to prevent the truth from being  
15 uncovered."

16 Q. And then if you will go down to "A  
17 perpetrator can make a child feel" and highlight  
18 that for me. Can you read that into the record,  
19 too?

20 A. "A perpetrator can make a child  
21 feel that a disclosure would ruin the family."

22 MR. BOSTIC: You can take that  
23 down.

24 BY MR. BOSTIC:

1 Q. Now, ma'am, would you agree with  
2 me or not that where Amy Matusiewicz writes  
3 about a secret and being told by Laura the  
4 secret and that she couldn't tell anybody  
5 because she didn't want her mom to get in  
6 trouble, would that statement there relate to  
7 those paragraphs that I showed you here today  
8 about the myth?

9 A. I cannot say that, no.

10 Q. Okay. All right.

11 MR. BOSTIC: Pulling back up page  
12 10 of 352. If you would look at paragraph 4 of  
13 page 354. I'm sorry. Exhibit 354, ma'am.

14 And, Mr. Merritt, would you pull  
15 up paragraph 4 for me. It's beginning on  
16 "another occasion" down to "had come home."

17 THE COURT: I think it's 352  
18 actually, Mr. Bostic.

19 THE WITNESS: 352.

20 THE COURT: Yes.

21 MR. BOSTIC: And you'll black  
22 everything out, 354. I guess I want the witness  
23 to see that part of it.

24 THE COURT: Mr. Bostic, are you --

Ms. Miles  
is never  
going to  
say "yes"  
because that  
would be  
like admitting  
to the possible  
need of an  
investigation  
when there  
obviously wasn't  
one.

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1 MR. BOSTIC: I'm in the letter of  
2 354.

3 THE COURT: The letter?

4 MR. BOSTIC: Yes.

5 THE COURT: All right. So it is  
6 Exhibit 354, Ms. Miles, and I can give you my  
7 hard copy.

8 (Pause.)

9 MR. BOSTIC: We are waiting for  
10 the redaction electronically, your Honor.

11 (Pause.)

12 MR. IBRAHIM: Your Honor, can we  
13 see you quickly at sidebar?

14 THE COURT: All right.

15 A JUROR: Your Honor, a break.

16 THE COURT: Break?

17 A JUROR: Yes.

18 THE COURT: All right. Please  
19 escort the jurors out for a quick break and then  
20 we'll come back in and keep going.

21 (The jury was excused for a short  
22 recess.)

23 THE COURT: It would appear that  
24 Mr. Ibrahim was just doing a courtesy for the

1 juror by calling a sidebar, so we commend him  
2 for his chivalry, and we stand adjourned for  
3 five minutes.

4 (Short recess taken.)

5 - - -

6 (Proceedings resumed after the  
7 short recess.)

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

10 THE COURT: Thanks, ladies an  
11 gentleman. Please be seated. And we are going  
12 to get the pizza delivery signal from the back  
13 office, so we'll keep working until we get the  
14 message that they're here and then we'll break  
15 for lunch.

16 MR. BOSTIC: Your Honor, I will  
17 try to run through what's just highlighted in  
18 the sections because I'm having some glitches  
19 with the system.

20 BY MR. BOSTIC:

21 Q. Ma'am, going back to 354 that's in  
22 front of you and looking at what would be the  
23 fourth paragraph, and if you can read into the  
24 record what that paragraph states to "family had

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come home."

A. Fourth paragraph?

Q. Yes. Starting with --

A. "On another occasion."

Q. Right.

A. "On another occasion I was doing laundry upstairs at my brother's house while Laura was taking a bath. I heard sexual noises coming from the bathroom, moaning, ooh, aah. That's the G-spot. I walked into the bathroom and asked Laura who taught her that, and she replied, mommy."

Q. Okay. Now, with respect to that, I assume, and we went through the document that lists signs of abuse; right?

I assume that having read this letter, that you would agree with me that that would be, fit into one of those signs that is publicized on the website?

A. It's a concern.

Q. Okay. And would it be fair to say if you believed that concern, then you would have ordered an investigation?

A. Not necessarily so.

Isn't it better to investigate and find out nothing happened rather than never investigate and later find out something did happen?

Why not???  
what ever happened to the concept of "better safe than sorry?"



1 Q. All right. Not necessarily so.  
2 Okay.

3 And if you would go to the  
4 paragraph 5 and 6 and read them to yourself.  
5 And that's referencing -- have you read them?

6 A. I've read 5.

7 Q. Okay. Read 6.

8 (Pause while witness reviewed  
9 exhibit.)

10 BY MR. BOSTIC:

11 Q. Would it be fair to say in the  
12 December 7th letter from Amy Matusiewicz, she  
13 also referenced to certain behavior that Laura  
14 exhibited in front of her husband, Juan  
15 Gonzalez?

16 A. Yes.

17 Q. Okay. And that behavior that --  
18 in fact, why don't you read in the sixth  
19 paragraph, I think it's the fourth sentence,  
20 beginning with, "Laura told Juan" to "trouble."  
21 Why don't you read that out loud.

22 A. "Laura told Juan that she had a  
23 secret that her mom promised her that she could  
24 not tell anyone because it would get her mom in

1 a lot of trouble."

2 Q. And I'm sorry. Continue. Laura  
3 said what? What did she say?

4 A. "Laura said that she doesn't want  
5 to do it, but it makes her mom feel good and it  
6 makes her mom feel happy."

7 Q. Now, ma'am, would you agree with  
8 me that that statement tends to support, I'm  
9 sorry, Amy Gonzalez's earlier concerns that were  
10 raised in the letter, concerns about sexual  
11 abuse?

12 A. This is a slightly different  
13 context here. No.

14 Q. But you don't -- let me ask it  
15 this way. When you put David Matusiewicz's  
16 letter together with this information here,  
17 would you agree with me that if you believed it,  
18 you would have ordered an investigation?

19 A. There are a lot of factors that  
20 are considered, so we're kind of taking the bare  
21 pieces of information and trying to move to, it  
22 would have warranted an investigation, and I  
23 cannot say that, sir.

24 Q. Okay. Now, the purpose of the

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1 investigation is to determine whether factual  
2 allegations are supported or not. Would that be  
3 fair to say?

4 A. If a case moves to an  
5 investigation from the report line, it is to  
6 either substantiate or not substantiate a  
7 claim.

8 Q. Let me ask it a different way.  
9 The people that to whom these matters are  
10 reported, including Mr. Pelly, they're not  
11 responsible to for conducting the investigation  
12 as whether or not there's child abuse?

13 A. The report line does not directly  
14 investigate.

15 Q. Okay.

16 A. Correct.

17 Q. And there's a different arm under  
18 the CAC that does the actual investigation?

19 A. The Division of Family Services  
20 has a cadre of investigators in its complement  
21 who complement and work with the Children's  
22 Advocacy Center when warranted.

23 Q. Okay. But in terms of the  
24 multi-discipline team that you talked about

1 earlier, the CAC is right at the front of that  
2 because they are the ones that would interview  
3 the child about sexual abuse?

4 A. Not necessarily so.

5 Q. Not necessarily. Okay.

6 You said there's a cadre of  
7 individuals available. You have your own  
8 investigators; is that correct?

9 A. Yes.

10 Q. That could go out and talk to a  
11 mother or child about allegations of child  
12 abuse?

13 A. Yes.

14 Q. Okay. You also have the Police  
15 Department, because there's a neutral on the  
16 stand and with the -- each individual Police  
17 Department in the State of Delaware; is that  
18 right?

19 A. Yes.

20 Q. That could go out and talk to the  
21 family about child abuse. You're shaking your  
22 head. Is that yes?

23 A. Yes.

24 Q. And we'll agree the Police

1 Department is particularly skilled in doing  
2 factual investigations. Would that be fair to  
3 say?

4 A. Yes. From a criminal standpoint.

5 Q. All right. And so we're on the  
6 same page, if you have a case that you  
7 determined an investigation is necessary or  
8 warranted, to whom would you assign? What  
9 agency, what -- yes. What agency would you  
10 assign to conduct that investigation?

11 A. First and foremost, if their  
12 report line is accepted, it is assigned to a DFS  
13 investigation unit and staffer. They are the  
14 ones that then coordinate with law enforcement  
15 when warranted and the Children's Advocacy  
16 Center when warranted to coordinate and  
17 collaborate.

18 Q. Okay. And we agree that in the  
19 context of this case, irrespective of the  
20 letters or the information that you received, it  
21 was never assigned to the -- any investigator  
22 within the department?

23 A. That is correct.

24 Q. Okay. Now, in response to David

1 Matusiewicz's letter, you sent back to him  
2 what's marked as Defense Exhibit 349, which  
3 should be in your packet?

4 A. Yes.

5 MR. BOSTIC: Mr. Merritt --  
6 permission to publish, your Honor? Mr. Merritt,  
7 could we get this up? 349.

8 THE COURT: Granted.

9 MR. BOSTIC: If I may, the second  
10 paragraph in there, can you pull up the second  
11 paragraph for me, Mr. Merritt?

12 BY MR. BOSTIC:

13 Q. Can you read that into the record,  
14 ma'am?

15 A. "The Division of Family Services  
16 is mandated by law to investigate allegations of  
17 abuse or neglect that meet our maltreatment  
18 definition and criteria."

19 Q. In fact, the statute itself talks  
20 about, with respect to a caregiver, if the  
21 allegations can be true, that the division shall  
22 investigate. You're familiar with the statute;  
23 is that right?

24 A. Yes, I am familiar with the

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1 statute.

2 Q. The statute says that; right?

3 A. It also expounds upon that.

4 Q. Wait, wait, wait. Answer my  
5 question first. Does or does not the statute  
6 say that?

7 A. Repeat the statement again, sir.

8 Q. All right. Let's do it this way.

9 MR. BOSTIC: Would you pull up for  
10 me what's -- and you have in front of you  
11 Defense Exhibit 346.

12 BY MR. BOSTIC:

13 Q. Ma'am, you have --

14 MR. McCALL: I object to 346.  
15 It's the statute.

16 MR. BOSTIC: Your Honor, I can  
17 state for the record -- I can do it at sidebar,  
18 I can state it here in the court. I assume  
19 we'll do it at sidebar.

20 THE COURT: I think everybody  
21 understands that there's an obligation on the  
22 part of the appropriate authorities to  
23 investigate abuse under certain circumstances.  
24 You would agree with that; is that right?

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THE WITNESS: Yes.

THE COURT: All right. Let's keep going.

MR. BOSTIC: Very well, your Honor.

BY MR. BOSTIC:

Q. Ma'am, going back to 349, you made that statement to Mr. Matusiewicz, right, the division is mandated?

A. Yes.

Q. All right. If you pull out the second -- the third paragraph, you stated in your response to Mr. Matusiewicz.

Would you read the first line up to "authorities," please?

A. "In your particular case, the allegations of sexual abuse that you say occurred in 2007 have been addressed by the appropriate authorities."

Q. To whom are you referring when you say "the appropriate authorities," ma'am?

A. New Castle County Police and the CAC, as referenced in one of the documents.

Q. Okay. So it's your testimony that

*NO they weren't*



1 the CAC conducted a forensic investigation with  
2 regard to allegations of child sexual abuse?

3 A. I was advised by my staff that  
4 they spoke directly with NCCPD and also learned  
5 that there was a CAC. I do not, I cannot  
6 comment on the content and details though.

7 Q. All right. So those are the  
8 authorities that you are referring to?

9 A. Yes.

10 Q. And if there were no investigation  
11 conducted by the CAC with respect to child  
12 sexual abuse when you received Mr. Matusiewicz's  
13 letter and answered him, you would not have  
14 included that sentence. Would that be fair to  
15 say?

16 A. I'm not quite sure how to answer  
17 your question.

18 Q. Well, you told me that your staff  
19 told you that they contacted New Castle Police  
20 and the CAC and that there was some  
21 investigation done.

22 A. Yes.

23 Q. Right.

24 A. The record reflects that.

The CAC was done March 2009 regarding the kidnapping only as testified by NCCPD officer Shiner.

1 Q. So that was the belief you held at  
 2 the time you wrote this letter in December of  
 3 2009?

A. Correct.

4 Q. Okay. Now, would you agree with  
 5 me that if no investigation was conducted by the  
 6 CAC or New Castle Police regarding allegations  
 7 of sexual abuse, your letter would be incorrect,  
 8 that segment of it?

9 A. This letter was correct at the  
 10 time. I can't ponder --

11 Q. Ma'am --

12 A. -- retrospectively, sir. I have  
 13 to state what I wrote here and what my staff  
 14 advised me at the time. I would not have put my  
 15 signature on a letter if they had not informed  
 16 me of the detail as written here.

17 Q. All right. And what were the  
 18 details of the alleged investigation conducted  
 19 by --

20 MR. McCALL: Objection. Asked and  
 21 answered.

22 THE COURT: I think you're asking  
 23 if the witness knew what CAC or New Castle  
 24 figures yet.

Absolutely  
 incorrect  
 because the  
 CAC done in  
 March 2009  
 there was  
 no disclosure  
 of sexual  
 abuse allegations  
 to authority  
 figures yet.

1 County Police did?

2 MR. BOSTIC: Yes.

3 BY MR. BOSTIC:

4 Q. And let me -- are you aware of the  
5 nature and scope of the investigation, if any,  
6 conducted by the CAC regarding allegations of  
7 child abuse?

8 A. No, sir.

9 Q. Okay.

10 THE COURT: Mr. Bostic, how much  
11 more --

12 MR. BOSTIC: I'm just about to  
13 finish, your Honor.

14 THE COURT: All right. Let's try  
15 and have you finish, and then the pizza has been  
16 delivered. But I will take judicial notice it  
17 needs a cooling off period for the pizza.

18 BY MR. BOSTIC:

19 Q. Ma'am, did you, yourself, ever  
20 speak with anyone at the CAC?

21 A. No.

22 Q. Okay. Did you, yourself, ever  
23 speak with anyone at The New Castle County  
24 Police Department?

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A. No.

Q. Now, finally, was your testimony -- strike that.

Do you recall having spoken to the government at some time in preparation for this case and telling them that no investigation was ever done by the CAC?

A. No.

MR. BOSTIC: I have nothing else, your Honor.

THE COURT: All right. And, Mr. Bostic, the fact that the pizza is here should not limit you.

MR. BOSTIC: No, Judge. The pizza, you have to break for pizza.

THE COURT: Okay. But if you need to resume after lunch, you'll let me know. Otherwise, we'll move to the other defense counsel.

MR. BOSTIC: Thank you.

THE COURT: All right. Seriously, in no regard should our trying to use the time limit your rights.

MR. BOSTIC: Yes, your Honor.

so where was the ball dropped if even the Director of DFS was under the impression that an investigation was done since the NCC Police and CAC were contacted?

\*

1 THE COURT: Ladies and gentlemen,  
2 we'll release you to lunch. You will tell Ms.  
3 Selmeyer when you are done and then we will  
4 resume. Thank you very much.

5 (The jury was excused for a  
6 luncheon recess.)

7 THE COURT: Okay, ma'am. You may  
8 step down.

9 All right. Is everyone --

10 MR. EDELIN: Your Honor?

11 THE COURT: Yes, Mr. Edelin?

12 MR. EDELIN: Before we break, can  
13 I just ask the prosecution team a question?

14 THE COURT: By all means.

15 MR. EDELIN: That I may ask the  
16 Court to look at.

17 THE COURT: Okay. I will just  
18 hang here.

19 (Pause while counsel conferred.)

20 MR. EDELIN: Your Honor, there was  
21 a document that I believe was marked in relation  
22 to Bocanegra's testimony. It does not sound  
23 like we're going to get to her today, so we'll  
24 save the evidentiary issue for later.

1 THE COURT: All right.

2 MR. EDELIN: Just in case they  
3 save you a piece of the pizza.

4 THE COURT: Right. Anything else  
5 that needs my attention before we recess?

6 MR. McCALL: No, your Honor.

7 THE COURT: All right. I'll be  
8 standing by as soon as the jury is ready. If we  
9 can do that, it will be much appreciated.

10 (Luncheon recess taken.)

11 - - -

12 Afternoon Session, 12:38 p.m.

13 THE COURT: Bring the jury in.

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

16 THE COURT: Ladies and gentlemen,  
17 thank you for expediting lunch. Please be  
18 seated.

19 Mr. Bostic?

20 MR. BOSTIC: Your Honor, I will  
21 take the Court up, the request whether I had  
22 anything else.

23 THE COURT: Yes. I certainly did  
24 not want to cut you off just because the pizza

1 had arrived.

2 MR. BOSTIC: I do have something  
3 else.

4 THE COURT: Continue.

5 MR. BOSTIC: Thank you.

6 BY MR. BOSTIC:

7 Q. Ms. Miles, let me ask you about  
8 mandated reporters, and you tell me whether  
9 these people are mandated reporters.

10 Pediatricians?

11 A. Yes.

12 Q. School teachers and officials?

13 A. Yes.

14 Q. Treating psychologists and  
15 psychiatrists?

16 A. Yes.

17 Q. And attorney ad litem?

18 A. Yes.

19 Q. Law enforcement?

20 A. Yes.

21 Q. And other public officials?

22 A. Yes.

23 Q. Okay. Now, going back to when  
24 you, the Department of Human Services began to

1 get the information or children's services in  
2 2009 about the alleged abuse, would it be fair  
3 to say that the time period, 2006 to 2007 time  
4 period, Laura Matusiewicz would have been about  
5 four to five years old?

6 A. My recollection is slightly older.

7 Q. Slightly older. Okay. But  
8 somewhere in that time frame. I'm not talking  
9 about 2009, when she was returned?

10 A. Yes. That's correct.

11 Q. Okay.

12 A. You are correct.

13 Q. Okay. Okay. And we know that  
14 there was -- strike that.

15 Your office, did your office play  
16 any role in the investigation of the kidnapping  
17 matter?

18 A. Not to my knowledge.

19 Q. Now, I remember you as testifying  
20 to this account when you were here earlier, that  
21 a director, you had brought an oversight of the  
22 policies and procedures?

23 A. Yes.

24 Q. Okay. As well as overseeing



1 legislative changes; is that right?

2 A. Being a participant in legislative  
3 change.

4 Q. Okay. And all program areas for  
5 report lines, investigation, treatment services  
6 to families, so on and so forth?

7 A. Correct.

8 Q. Okay. With respect to legislative  
9 changes, you are, in your capacity as director,  
10 was required to be well aware of the statutory  
11 requirements under 906, is it?

12 A. Yes. Title 16.

13 Q. Title 16, 906. And two questions  
14 on that. One, Title 6, specifically where it is  
15 talking about a person that is a parent or  
16 caregiver, it talked about the investigation, it  
17 directs that the investigation shall occur if  
18 the report is believed to be true?

19 A. That particular title, Title 16,  
20 refers to Title 11, and the Division of Family  
21 Services first and foremost for the report line  
22 screens, those reports in or out of the report  
23 line.

24 Q. I understand that. I understand

1 your testimony with respect to that.

2 MR. BOSTIC: Your Honor, may I  
3 approach the witness to show her an exhibit and  
4 direct her to the area? I think she has the  
5 exhibit already.

6 THE COURT: Yes.

7 MR. BOSTIC: 346.

8 (Pause.)

9 MR. McCALL: Judge, can we have on  
10 the record what they are saying? I can't hear  
11 Mr. Bostic.

12 MR. BOSTIC: I was directing her.  
13 I'm going to show her.

14 BY MR. BOSTIC:

15 Q. Ma'am, you have what I purport to  
16 be 16 Delaware Code, Section 906. Is that  
17 correct?

18 A. Yes.

19 Q. You're familiar with the statute;  
20 is that correct?

21 A. I'm familiar with the statute.

22 Q. And with respect to paragraph 3 of  
23 the enumerated parts of the statute, could you  
24 read into the record what it says with respect

1 to investigations up until, I think it ends  
2 with, provisions? You don't have to read the  
3 additional provision.

4 A. "The Division may investigate any  
5 report, but shall conduct an investigation  
6 involving all reports which, if true, would  
7 constitute violations against a child by a  
8 person responsible for the care, custody and  
9 control of the child of any of the following  
10 provisions of:"

11 Q. And there are several provisions  
12 listed. But here's my question to you: Would a  
13 parent be a person who would be responsible for  
14 the care of the child, ordinarily speaking?

15 A. Yes, if residing within the home.

16 Q. Okay. And would it be fair to say  
that the Title 16 also provides that if you  
conduct an investigation and DHS or Children's  
Services determines that that investigation or  
those allegations of child abuse were malicious  
or false, that you can refer the people making  
the allegation for prosecution by the Attorney  
General's Office?

23 A. There are provisions for that  
24

SO IF  
our  
allegations  
were  
"baseless &  
made up"  
as they  
say why  
didn't they  
prosecute us  
under this  
statute?  
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1 within the code. I'm not sure it's Title 16,  
2 but there are provisions.

3 Q. Okay. But there are those  
4 provisions that give DHS, Children's Services,  
5 the agency, if after conducting an investigation  
6 and you found no support for it, you can refer  
7 the people making the claim to be charged for  
8 some violation of criminal law?

9 A. I'm not sure if it's exactly as  
10 you stated, but there are provisions to address  
11 false reports.

12 MR. BOSTIC: If I may have a  
13 moment, your Honor, I think I have it right  
14 here.

15 BY MR. BOSTIC:

16 Q. While I'm looking for it, ma'am, I  
17 want you to turn to -- you have 16 Delaware  
18 Code, Section 906. I want you to turn to -- you  
19 just read paragraph 3 into the record. I want  
20 you to turn to paragraph 14, the next page  
21 officer, and I want you to read that into the  
22 record also, ma'am.

23 A. "Upon completion of an  
24 investigator family assessment and services \*

1 approach, if the division suspects that the  
2 report was made maliciously or for the purpose  
3 of harassment, the division shall refer the  
4 report and any evidence of malice or harassment ✱  
5 to the appropriate law enforcement agency."

6 Q. Okay. Now, going back to the  
7 information that was received by the hotline or  
8 by letters from Mr. Matusiewicz or other family  
9 members, would it be fair to say that all of  
10 that information say is private and confidential  
11 with respect to Children's Services? It's not  
12 something publicized?

13 A. Yes, that's correct.

14 Q. All right. And would it be fair  
15 to say that based upon your earlier testimony in  
16 this case in response to the questions from the  
17 government, that your initial reports indicate  
18 that you didn't have enough information either  
19 from the people who initially reported the  
20 allegations of child abuse?

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

23 Q. Okay.

24 A. The way it's framed.

1 Q. Okay.

2 MR. BOSTIC: I have nothing else.

3 Thank you, ma'am.

4 THE COURT: Mr. Edelin, anything?

5 MR. EDELIN: Thank you, your  
6 Honor. Very briefly.

7 BY MR. EDELIN:

8 Q. Ma'am, good afternoon.

9 A. Good afternoon.

10 Q. How are you?

11 A. Good. Thank you.

12 Q. Good. And I apologize if I go  
13 over some of the same material. I just want to  
14 make sure I have it clear in my mind.

15 There are hotlines set up where  
16 people are able to call in suspected abuse and  
17 instances of abuse?

18 A. Correct. There are three ways:  
19 Call, report directly to one of our offices, or  
20 written communication.

21 Q. All right. The people who either  
22 call directly or write, that information is kept  
23 confidential and internal. That is not made  
24 public? That is not general public knowledge?

1 A. That's correct.

2 Q. That information, unless  
3 investigated, is not shared with the person  
4 being accused of the abuse?

5 A. I'm not sure what you mean, sir.

6 Q. If it's kept confidential and not  
7 made public, if I make a call, I say, I think  
8 Joe is abusing Sally, if that is not  
9 investigated, Joe is not made aware that I've  
10 called to say he's abusing Sally?

11 A. That's correct.

12 Q. Okay. If it is investigated, then  
13 either your office, CAC, New Castle County would  
14 then go out and investigate?

15 If my call, I say, Joe is  
16 molesting Sally. If whatever information I  
17 provide is deemed credible and enough to start  
18 an investigation, that investigation would  
19 happen by either your office, CAC, New Castle  
20 County, or some combination of the three?

21 A. Yes. If the report is accepted,  
22 it moves, as I stated earlier, to one of our  
23 investigative staff. They are the ones that  
24 invoke the support of law enforcement and the

1 Children's Advocacy Center for intrafamilial  
2 abuse claims.

3 Q. Okay. So hypothetically speaking,  
4 if you got a call -- if I called you and said,  
5 Sally is molesting five-year-old Susan and you  
6 found that to be credible, an investigation  
7 would ensue?

8 A. If we accepted the report, it  
9 would be assigned either an urgent or routine to  
10 one of our investigators. And the investigation  
11 would be pursued and invoking, as I said, the  
12 law enforcement or CAC when warranted.

13 Q. Okay. If I call and say, when  
14 five-year-old Susie gets ready to go visit  
15 Sally, she all of a sudden has begun putting on  
16 two pairs of underclothing, is that in and of  
17 itself enough to start an investigation?

18 A. No.

19 Q. If I say, five-year-old Susie, who  
20 is now going, is getting ready, or who has been  
21 visiting with Sally has come home and is making  
22 sexually inappropriate statements, such as,  
23 G-spot or the lollipop game, is that in and of  
24 itself enough to start an investigation?

A2762



1           A.    Again, that's a hypothetical  
2           situation.

3           Q.    Yes.

4           A.    And as I testified earlier, we're  
5           looking at the age of the child and actual  
6           allegations, descriptive in nature, is it  
7           current, is it historical, is it firsthand,  
8           secondhand, thirdhand information? The report  
9           line taker is taking all of that into account in  
10          making a decision whether or not the report in  
11          and of itself is accepted or not. History also  
12          plays a factor.

13          Q.    History in terms of length of  
14          time?

15          A.    Yes. Length of time, absolutely.  
16          By policy, we have provisions that allow us on a  
17          case-by-case basis, allegations of more than a  
18          year old, we have discretion of whether to  
19          pursue those claims.

20          Q.    And, again, just so I'm clear, my  
21          understanding is that the allegations, although  
22          a year old by the time you received them, were  
23          of a five-year-old wearing extra underclothes  
24          when going on a visit, a five-year-old having --

A2763

1 speaking sexually inappropriate things. A  
2 five-year-old talking about having -- doing  
3 things to somebody that she didn't want to do,  
4 but that made that person feel well. A  
5 five-year-old saying, I have been told to keep  
6 this a secret or that person would get in  
7 trouble.

8 Do you understand that those four  
9 or five things are what were reported? Is that  
10 your understanding?

11 A. Some of the content that you  
12 articulated has been reported. However, I must  
13 say that your reference to about a year old,  
14 according to my testimony, the allegations stem  
15 from 2004, maybe 2006, or possibly 2007. So we  
16 had a great range.

17 Q. Okay. Fair enough. And I  
18 apologize if I mischaracterized it. So it was  
19 at least two years old, maybe three, four years  
20 old?

21 A. Yes.

22 Q. But you will agree with me the  
23 allegations that I just cited were the  
24 complaints that you received?

A2764

1 A. Could you repeat those again, sir?

2 Q. Yes, ma'am. A five-year-old  
3 saying, a five-year-old putting on extra pairs  
4 of underclothes, more than one pair of  
5 underclothes at a time when going to visit. A \*  
6 five-year-old saying sexually inappropriate \*  
7 things. A five-year-old saying, I have to do \*  
8 these things to make someone feel good, although  
9 I don't want to. A five-year-old saying, that  
10 person has told me to keep it a secret or I  
11 would get in trouble.

12 A. The references that you made are  
13 clearly articulated in the report line detail,  
14 and that is as reported by the reporters calli  
15 in, sometimes second and thirdhand information  
16 So, yes, given that caveat, they were -- some of  
17 that content was contained within the report,  
18 but you have to look at it in context.

19 Q. Understood. And are you able to  
20 remind us of how many separate reports your  
21 office received, either by call, direct contact, \*  
22 or letter concerning this child?

23 A. Nine.

24 Q. And over what length of time did \*

These facts above were all 1st hand information because they were my statements

A2765

1 those nine separate reports come in?

2 A. From November 20th, 2009 to, my  
3 recollection is April 21st, 2011.

4 Q. Okay. And did I hear you  
5 correctly say that there was no CAC  
6 investigation as it relates to any of those nine  
7 reports?

8 A. Okay. I did not say that I  
9 reported that the frontline supervisor at the  
10 report line directly communicated with NCCPD,  
11 and there's reference in two of the reports that  
12 there's reference to a CAC.

13 Q. So NCCPD did investigate, as far  
14 as you know?

15 A. I do not know. As I testified  
16 earlier, I did not directly comment -- comment  
17 or coordinate any conversation with NCCPD. I  
18 have none other than as reported by my staff.

19 Q. Do you know whether or not any of  
20 these nine reports or any of the allegations  
21 concerning this child were referred to and  
22 investigated by your bank of investigators?

23 A. They were not.

24 Q. Would it be fair to say that had

1 you believed or found credible these reports,  
2 you would have referred them to your bank  
3 investigators?

4 A. If it met our criteria, we would  
5 have referred that on to our investigative team.

6 Q. So had you believed these  
7 allegations, you would have acted differently?

8 A. Again, if it met the criteria, we  
9 would have advanced that to our investigation  
10 staff.

11 MR. EDELIN: Thank you, ma'am.  
12 Thank you, your Honor.

13 THE COURT: All right. I think we  
14 already heard from Mr. Ibrahim, so it will be  
15 back to the government on redirect.

16 REDIRECT EXAMINATION

17 BY MR. McCALL:

18 Q. Mrs. Miles, I want to focus on the  
19 calls that came in between November 2009 and the  
20 end of December 2009. Okay? That was  
21 approximately seven of the nine calls; is that  
22 right?

23 A. I believe it might have been six.

24 Q. Okay.

1  
2  
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A. Yes.  
Q. Six of the nine?

A. Mm-hmm.

Q. And those were all made by either Thomas Matusiewicz, Lenore Matusiewicz, David Matusiewicz, or Amy Gonzalez; is that correct? And I think there was one anonymous call as well?

A. That's correct.

Q. All right. Did you know, or were you aware at the time that David Matusiewicz was being criminally prosecuted for his role in kidnapping Laura Matusiewicz? If you know?

A. No.

Q. Okay. Now, you talked about the context, right, when these calls are coming in. And if you recall during your direct, we looked at, in one of the last exhibits, the historical notations for all the calls that come in on a case; is that correct?

A. Correct.

Q. And the hotline operator, when the calls come in, they have access to the historical records; is that right?

so because David kidnapped his children, his sexual abuse allegations get swept under the rug without being investigated + that's ok???

1 A. Yes.

2 Q. And so, for example, if a hotline  
3 operator is in receipt of a current call or a  
4 letter and the hotline operator notes that maybe  
5 there's three different dates for the allegation  
6 of abuse, would that be a factor that they can  
7 consider?

8 A. It certainly could be a factor,  
9 yes.

10 Q. And that's because it may be going  
11 to the credibility of the current claim; is that  
12 right?

13 A. Yes. We look at that, the  
14 reporting source and the details.

15 Q. And the same thing. If a call  
16 comes in and the call has, say, a different type  
of abuse than what was reported the week before  
or two weeks before, again, that could be  
another factor that's considered in judging the  
credibility or the veracity of a claim; is that  
right?

22 A. Yes. We look at each individual  
23 report as well as the combination thereof.

24 Q. And, Mrs. Miles, Mr. Bostic asked

Anybody  
ever  
consider the  
concept that  
dates &  
incidents were  
different because  
each individual  
experienced  
different  
things with  
Laura at  
different times?

1 you a series of questions about various  
2 allegations that are reported in some of the  
3 letters; is that right?

4 A. Correct.

5 Q. Could children wear multiple  
6 layers of clothes for a number of reasons  
7 besides sexual abuse?

8 A. Absolutely. Young children, they  
9 like to play dress-up.

10 Q. And the two calls that came in I  
11 think at the very end, that I think one was in  
12 April of 2011, that was from a school nurse; is  
13 that right?

14 Do you remember that call?

15 A. Correct. Yes.

16 Q. Okay. And the nurse was informing  
17 you, or not you, but your organization about a  
18 letter that the school had received recounting  
19 the sexual abuse claims; is that right?

20 A. Yes.

21 Q. But the nurse wasn't complaining  
22 that Christine Belford was a threat to the  
23 children; isn't that right?

24 A. That's correct.



1 MR. McCALL: May I have one  
2 moment?

3 THE COURT: Yes.

4 (Pause while counsel conferred.)

5 MR. McCALL: Thank you. I have no  
6 more questions, your Honor.

7 THE COURT: Any recross?

8 MR. IBRAHIM: I do have recross.  
9 Just a couple.

10 THE COURT: All right.

11 RECCROSS EXAMINATION

12 BY MR. IBRAHIM:

13 Q. Good afternoon, ma'am.

14 A. Good afternoon.

15 Q. Do you still have Exhibit 354, the  
16 December 7th, 2009 letter to Mr. Pelly up there  
17 with you?

18 A. Bear with me, sir.

19 Q. Please. Take your time.

20 A. Yes, I do.

21 Q. All right. Mrs. Miles, I'm just  
22 going to ask you to take a look at it. Mine is  
23 kind of colored up here, so I'm not going to put  
24 it on the Elmo.

A2771

1                    First, I'd just like to direct you  
2 to the first sentence, and it's correct that the  
3 sentence says that this letter should have been  
4 written to you in 2006, when I suspected; is  
5 that correct?

6                    A. Correct.

7                    Q. Okay. I'm going to take you to  
8 the last sentence on that same page, and it's at  
9 least by my numbering paragraph 7. And that  
10 sentence says, "My husband and I have both made  
11 these statements to my brother's lawyer,  
12 Mr. Heriberto Medrano, in the hopes that someone  
13 will listen to us," and then it goes on;  
14 correct?

15                    A. Yes.

16                    Q. Okay. Now, I'm going to direct  
17 you to an exhibit that has already been moved  
18 into evidence, Exhibit 507, page 4. I'm going  
19 to put that on the Elmo.

20                    THE COURT: And is that Government  
21 Exhibit?

22                    MR. IBRAHIM: Yes, sir.

23                    THE COURT: Thank you.

24                    MR. IBRAHIM: That's already in

1 evidence.

2 BY MR. IBRAHIM:

3 Q. I want you to take a look at the  
4 document. I'm not sure if you've seen this  
5 before.

6 A. No.

7 Q. It's correct to say it's an e-mail  
8 from -- actually, to Heriberto Medrano; is that  
9 correct?

10 A. That's what the artifacts state,  
11 yes.

12 Q. Okay. And what is the date?


13 A. Saturday, April 4, 2009.

14 Q. All right. Now, what I'd like you  
15 to do is take a moment and read to yourself what  
16 is in that bit of evidence and just lift your  
17 head when you are completed.

18 (Pause while witness reviewed.)

19 BY MR. IBRAHIM:

20 Q. Having completed reading that  
21 exhibit to yourself and that piece of evidence  
22 to yourself, is it fair to say when you read  
23 Exhibit 507, page 4 and you've certainly been  
24 through Exhibit 354, that essentially it's the



A2773

1 same information?

2 A. It contains some similar  
3 information.

4 Q. Okay. And is it fair to say that  
5 largely, the major claims of suspected abuse is \*  
6 the same information? \*

7 A. It contains some of the same,  
8 similar content. Not all of it, sir. \*

9 Q. Okay. And is it fair to say that  
10 507, Exhibit 507.4 purports, as you indicate,  
11 the artifacts to be sent to Heriberto Medrano,  
12 the same name referred in Exhibit 354?

13 A. I'm sorry, sir. I've never seen  
14 this artifact and you're correlating it to  
15 Exhibit 354?

16 Q. Yes.

17 A. And what is your question, sir?

18 Q. My question is: The individual  
19 they refer to at the bottom of 354, the document  
20 you've been questioned on dated December 7th,  
21 2009, it talks about a lawyer named Heriberto  
22 Medrano. And those names are the same; is that  
23 correct?

24 A. Yes.

A2774

1 Q. Okay. Now, you testified you have  
2 not seen 507.4 before.

3 A. I have not.

4 Q. Okay. This has been introduced in  
5 evidence through the guardian ad litem, Kimberly  
6 Lawson. Would Ms. Lawson have had a  
7 responsibility to give you this letter back when  
8 she received it?

9 A. Sir, I don't know. I don't know  
10 the context of this letter or the details.  
11 Guardian add litem or court-appointed special  
12 advocates specifically support kids in custody  
13 in our care.

14 Q. Okay.

15 A. To my knowledge, these kids were  
16 not in our custody or care.

17 Q. Okay. My understanding to one of  
18 the questions that was asked of you previously,  
19 and maybe I misunderstood it, is that a guardian  
20 ad litem is a mandatory reporter.

21 A. Yes. In that sense, every  
22 Delawarean in a nutshell is a mandatory \*  
23 reporter.

24 Q. All right. So any Delawarean who \*

1 received this letter would have had to have  
2 reported the contents of that letter to you? \*

3 A. It appears so. I don't know who  
4 the "from" is from. And anybody suspecting \*  
5 child abuse neglect should report it.

6 MR. IBRAHIM: Okay. Thank you,  
7 ma'am.

8 I have nothing further, your  
9 Honor.

10 MR. McCALL: Judge, may I have  
11 redirect again?

12 THE COURT: You may, briefly.

13 REDIRECT EXAMINATION

14 BY MR. McCALL:

15 Q. Mrs. Miles, a person is only a  
16 mandatory reporter if they believe that the  
17 accusation is credible; is that correct?

18 A. If they suspect child abuse  
19 neglect, they are obligated to report it.

20 Q. They have to reasonably suspect  
21 it. If they don't believe it, they're not  
22 obligated to report?

23 A. Correct. Correct.

24 Q. All right. Can you look at 354

1 again? This is defense 354?

2 A. Correct.

3 Q. All right. Do you see the  
4 paragraph where it starts, on another occasion?

5 A. Correct.

6 Q. And, again, this from defendant  
7 Gonzalez; is that correct? This is a letter  
8 written by defendant Gonzalez?

9 A. Yes.

10 Q. Can you read that paragraph, "On  
11 another occasion"?

12 A. "On another occasion, Juan was  
13 playing with Laura and Tatiana, and Juan know at  
14 this time Chris was only taking Laura for  
15 visits, so Juan asked --

16 Q. Let me stop you there. I'm sorry.  
17 There are actually two paragraphs that start,  
18 "On another occasion."

19 A. Okay.

20 Q. The one that says, "On another  
21 occasion, I was doing laundry."

22 A. Okay. "On another occasion I was  
23 doing laundry upstairs at my brother's hours  
24 while Laura was taking a bath. I heard sexual

A2777

1 noises coming from the bathroom, moaning, ooh,  
2 aah, that's the G-spot. I walked into the  
3 bathroom and asked Laura who taught her that,  
4 and she replied, mommy. I was not able to  
5 address this privately with her because family  
6 had come home."

7 Q. And that's December of 2009; is  
8 that correct?

9 A. Correct.

10 Q. Now, I'm showing you what defense  
11 counsel just put up, which is the e-mail dated  
12 April 4th, 2009, which is from Amy Gonzalez to  
13 Mr. Medrano. Okay?

14 A. Yes.

15 Q. And I am going to focus in on is  
16 the portion that indicates Amy. Okay? Can you  
17 please read that?

18 A. "Every time I sent my niece Laura  
19 for a visit with her mother, she would put on  
20 extra clothing, extra panties, extra shirts,  
21 even in the summertime. I couldn't figure out  
22 why she was doing this at first, but it made me  
23 pay extra attention because I found that  
24 awkward.

A2778



1 "I was at my brother's house  
2 watching my nieces one day while my brother  
3 and mother had to go to court with my  
4 sister-in-law, and my niece Laura and I had time  
5 to talk while my other two nieces, and my  
6 daughter had fallen asleep. I asked her how her  
7 mother was doing. I was surprised when Laura  
8 started to tell me that her mother lies. I told  
9 her that she was still her mother and that she  
10 had to love her.

11 "Laura also said that Chris made  
12 Laura do things that would get her mother into a  
13 lot of trouble and that they were a secret that  
14 she couldn't tell anybody, because her mom would  
15 get into a lot of trouble. She didn't want her  
16 mom to go to jail.

17 "I told her that she could tell me  
18 whatever she needed to say and that I would not  
19 tell anyone her secret. I told her that she  
20 could talk to me about anything, that I was  
21 always going to be there to protect her from  
22 anyone that was hurting her."

23 Q. Okay. So this e-mail dated April  
24 2009, one month after the children are returned

1 to Christine Belford, makes no mention of  
 2 hearing sexual noises in the bathroom, ooh, aah;  
 3 is that correct?

4 A. Correct.

5 Q. It makes no mention of a G-spot;  
 6 is that correct?

7 A. Correct.

8 MR. McCALL: No more questions,  
 9 your Honor. Thank you.

10 THE COURT: All right. The  
 11 witness is excused.

12 (Witness excused.)

13 THE COURT: Mr. Weede, next  
 14 witness, please.

15 MR. WEEDE: Your Honor, if I may,  
 16 the government calls Dr. Jason Hann-Deschane.

17 THE COURT: All right.

18 MR. WEEDE: Your Honor, I'm going  
 19 to be in Exhibits 588 through 597. I provided  
 20 those to defense counsel. I will offer them at  
 21 this time.

22 THE COURT: All right. Any  
 23 objection, or can we move the exhibits?

24 MR. IBRAHIM: No objection.

Sorry, I was multi tasking trying to write an email to David's lawyer + pay attention to my husband + 4 yr old daughter when they came in the room, sorry, but I am human + forgot it.