

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

SC Court of Appeals

Honorable Alison Renee Lee, Circuit Court Judge

Appellate Case No.: 2015-000613

Jeffrey Kennedy Respondent,

v.

Richland County School District Two, Eric Barnes, and Chuck Earles Appellants.

RECORD ON APPEAL
Volume 2
(Pages 407-880)

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1 Q How many days? Your best guess?

2 A I think my best guess was it went back three days.

3 Q So at most you viewed three days worth of his
4 activity to determine what his pattern or habit
5 was?

6 A Correct.

7 Q Thank you.

8 THE COURT: Anything further?

9 MR. BARLOW: No, Your Honor.

10 THE COURT: You may step down. Thank you.

11 THE WITNESS: Thank you.

12 (Witness leaves the witness stand.)

13 MR. BARLOW: May he be excused, Your Honor?

14 THE COURT: Any objection?

15 MR. GOODWYN: None, Your Honor.

16 THE COURT: You may be excused. Thank you.

17 You may call your next witness.

18 MR. GOODWYN: We call Chuck Earles.

19 (The witness comes forward.)

20 CHARLES A. EARLES, being
21 first duly sworn, testifies as follows:

22 CLERK: Have a seat in the witness stand,
23 please. State your name for the record.

24 THE WITNESS: My name is Charles A. Earles,
25 E-A-R-L-E-S.

1 DIRECT EXAMINATION

2 BY MR. GOODWYN:

3 Q Mr. Earles, my name is Jeff Goodwyn. We understand
4 you have been out because of some family emergency?

5 A Yes.

6 Q I'm sorry to hear about that. What is your full
7 name?

8 A Charles Albert Earles.

9 Q What do you go by?

10 A Chuck.

11 Q You go by Chuck?

12 A Yes.

13 Q And how old are you?

14 A How old? I am 56.

15 Q And how far did you go in school?

16 A I graduated from the University of South Carolina.

17 Q What year?

18 A 1979.

19 Q What kind of degree did you get?

20 A A Bachelor's of science degree in biology.

21 Q Can you tell me a little bit about your work
22 history?23 A I graduated from the University of South Carolina,
24 went directly to work for what was at the time
25 Carolina Ambulance Service as a basic emergency

1 medical technician. Carolina Ambulance Service
2 became Richland County EMS and became Richland
3 County Emergency Services.

4 I stayed with that organization until 1997,
5 worked my way up the through ranks. I was the
6 Deputy Director of the Emergency Services
7 Department when I left in 1997.

8 Q And in 1997 you came to Spring Valley?

9 A In 1997 I went to work for the Richland County
10 Sheriff's Department.

11 Q And when did you start Spring Valley?

12 A I never worked at Spring Valley. I worked at
13 Richland School District Two. I retired from the
14 Richland County Sheriff's Department in 2007, came
15 to work September 2007. I came to work at Richland
16 School District Two.

17 Q And you have been there ever since?

18 A I have.

19 Q What position did you start as?

20 A I started as the Assistant Emergency Services
21 Manager.

22 Q And what are you now?

23 A I'm the Emergency Services Manager now.

24 Q When did you become the Emergency Services Manager?

25 A It would have been November -- late November, early

1 December -- I think it was late November of 2010.

2 Q Who is Eric Barnes?

3 A Eric Barnes is my Assistant Security Manager.

4 Q And how long has he been your assistant?

5 A He was hired in December of 2010.

6 Q Just a few months before the events that give rise
7 to this case?

8 A Yes.

9 Q Did you hire him directly?

10 A I don't hire directly. I make recommendations.

11 Q I mean, did you seek him out? Did you recommend
12 him?

13 A There were -- the position was posted, advertised;
14 and there was several applicants and an interview
15 process. Mr. Barnes was the top candidate.

16 Q Did you recommend him for the job?

17 A He was the top candidate; so I recommended him for
18 the job, yes.

19 Q I think there has been some explanation about how
20 that process goes, but it sounds like if it's
21 somebody in your department, you recommend for the
22 job but HR has the final decision?

23 A That's correct.

24 Q I believe Mr. Barnes has testified there are about
25 80 people on staff now from your staff?

- 1 A With full, part-time and substitutes, yes.
- 2 Q And back in 2011 there was about 50, I think he
- 3 said. Does that sound about right?
- 4 A Between probably 50 and 70, yes. It's a
- 5 fluctuating number. We have a lot of substitutes
- 6 that do fill-ins and do traffic and some morning
- 7 events. So that number fluctuates, yeah.
- 8 Q Tell me about your knowledge of Jeffrey Kennedy
- 9 prior to all this. You started at Richland
- 10 District Two you said in 2007?
- 11 A '10.
- 12 Q 2010?
- 13 A Yes -- no, I'm sorry, 2007.
- 14 Q I believe Eric started in 2010.
- 15 A Yes.
- 16 Q And when did Jeffrey Kennedy start working at
- 17 Richland District Two?
- 18 A I don't know. I really don't know. He was there,
- 19 I think, before I was.
- 20 Q Okay. So at least a couple of years before this,
- 21 these events?
- 22 A Yes.
- 23 Q Did you know Jeffrey personally?
- 24 A I did not.
- 25 Q And Eric Barnes testified to the chain of command.

1 My recollection is you are at the top of the
2 Emergency Services Department; correct?

3 A Correct.

4 Q And Eric is your assistant?

5 A Right.

6 Q Then there's some lieutenants and captains?

7 A Correct.

8 Q And then just the rank and file officers?

9 A Security officers, yes.

10 Q So you weren't Jeffrey's direct supervisor?

11 A No.

12 Q There are a few levels between you, two levels?

13 A Correct.

14 Q So in February of 2011, I understand there was an
15 opening for a lieutenant on the second shift; is
16 that correct?

17 A I would have to refer to the paperwork to know
18 which shift it was on.

19 Q But there was a promotion and Jeffrey was up for
20 it?

21 A Yes.

22 Q That's what I'm talking about. This is the
23 Recommendation for Employment. That's Plaintiff's
24 Exhibit 3 that you are looking at there.

25 A Yes.

1 Q What is the date of that recommendation for
2 employment?

3 A The date is February 28, 2011.

4 Q All right. I'm assuming there was an interview
5 process leading up to this recommendation?

6 A Yes.

7 Q Can you tell me a little bit about that process?

8 A Just like all the other jobs, the positions are
9 posted. We take applicants from inside and out;
10 and we interview the most qualified applicants from
11 that pool and make a recommendation for them, make
12 a recommendation based on that.

13 Q About how many candidates did you interview for
14 this job?

15 A I don't recall.

16 Q More than five?

17 A Generally, it would be three to five. That's just
18 a general, depending on how many applicants we get.

19 Q Did you consider anybody outside of the department?

20 A I don't recall.

21 Q All right.

22 A The records of who we interviewed and how they were
23 scored are maintained by the Human Resources
24 Department.

25 Q And you haven't reviewed any of those in

1 preparation for this trial?

2 A No.

3 Q What did you do in the evaluation of these
4 candidates? In the process of evaluating the
5 candidates for the position, what did you do?

6 A We asked them all the same series of questions and
7 scored their answers.

8 Q All right. Did it have anything to do with the
9 opinions of their direct supervisors? Did you even
10 ask their supervisors what they thought of them?

11 A I don't recall if we had their direct supervisors
12 in on the interview process at this time. My
13 recollection is that it was me and Mr. Barnes, but
14 I don't know if that's factual or not.

15 Q So from your recollection it's just you and
16 Mr. Barnes interviewed the candidates and picked
17 the one you like the best?

18 A It may have been -- the captain from second shift
19 may have been involved. We implemented that at
20 some point in trying to constantly improve the
21 interview process, but I don't know when that was.

22 Q So what did you like about Mr. Kennedy?

23 A I don't recall.

24 Q You don't recall anything about him?

25 A I don't recall a thing about it.

1 Q Did you take any notes during the interview
2 process?

3 A All that information was turned over to Human
4 Resources.

5 Q And you didn't look at any of that in preparation
6 for this trial?

7 A No, sir.

8 Q Did you find Mr. Kennedy to be open and honest in
9 this interview?

10 A I don't recall anything about the interview.

11 Q Just that he ended up being the best candidate?

12 A I know that he ended up being the top candidate of
13 those we interviewed because I have paperwork in
14 front of me where I submitted him for promotion.

15 Q And you realize that you were named in this lawsuit
16 about a year ago?

17 A Whenever I received the paperwork.

18 Q And you haven't gone back and looked at any of
19 these documents?

20 A They are not under my control.

21 Q You can't ask the HR Department for them?

22 A It never crossed my mind to ask HR for that. This
23 had nothing to do with Mr. Kennedy's promotion. My
24 understanding was it had to do with his
25 termination.

1 Q All right. Is it safe to say that you found him to
2 be trustworthy?

3 A It's safe to say that he was the top candidate of
4 the ones we interviewed.

5 Q Would you have --

6 A I would not have promoted someone that at that time
7 I did think was trustworthy.

8 Q Did you think he was of good character at the time?
9 Would you have recommended somebody for promotion
10 that you didn't think was of good character?

11 A No, I wouldn't recommend somebody that I had reason
12 to doubt their character at that time.

13 Q And it's safe to say you have the final say about
14 who was going to be recommended for the position?

15 A Yes.

16 Q And there has been some testimony that Jeffrey may
17 have been introduced at a supervisor meeting as the
18 next supervisor, even though he had yet to be
19 approved by HR? Is that your recollection as well?

20 A No, that's not something we do.

21 Q It's not something you would do?

22 A Right.

23 Q So if Eric Barnes testified to that, then he --

24 A I would be surprised.

25 Q And why wouldn't you do that?

1 A Because the final say-so comes from Human
2 Resources. When we submit the paperwork, we
3 generally tell the person we are recommending for
4 promotion. The paperwork has been submitted, but
5 Human Resources has the final say-so.

6 Q And had you instructed Eric Barnes and the rest of
7 your staff that they are not supposed to be telling
8 anybody that so and so has got the promotion until
9 it's final from Human Resources?

10 A At some point in my career, yes.

11 Q And if they didn't follow your instructions or if
12 they did actually introduce him, that would be
13 something against your instructions?

14 A That would cause me to have counsel with that
15 person.

16 Q Before I just ask that last question, had you ever
17 heard that Mr. Kennedy was, in fact, introduced at
18 a meeting as that next supervisor?

19 A I had not heard that until the allegations were
20 made in the lawsuit.

21 Q And have you taken any action since you found that
22 out?

23 A No.

24 Q Why not?

25 A Because it's an unsubstantiated allegation from a

1 terminated employee.

2 Q Eric Barnes has testified to it.

3 A I haven't heard his testimony.

4 Q Well, if you need the transcript of the trial --

5 MR. BARLOW: Objection, Your Honor. He is
6 pitting witnesses here.

7 THE COURT: I will sustain as to pitting.

8 BY MR. GOODWYN:

9 Q All right. I understand that you were the
10 assistant for a couple of years behind -- was it
11 Chief Propst?

12 A No, I was the assistant. I worked for Richard
13 McGee who was the Emergency Services Manager at the
14 time.

15 Q I think you might have told me this. When did you
16 become the top guy, the Emergency Services Manager?

17 A In late November of 2010.

18 Q And at that time did you issue this Change of
19 Culture memorandum?

20 A No, that was done much earlier. That was done in
21 August after Chief Propst had left the District.

22 Q Who drafted and issued that?

23 A I did.

24 Q Okay. So this is before you became the head
25 person. You still had authority to do that type of

1 thing?

2 A That's correct. When Chief Propst's employment was
3 ended with Richland School District Two, Mr. McGee,
4 who was my supervisor, asked me to see if I could
5 straighten out some of the problems.

6 Q And some of the problems involved what?

7 A There were a lot of rumors, people talking about
8 other people's personal lives and job performance.
9 It was a problem that I had observed being created
10 by John Propst, who was the Chief of Security at
11 the time.

12 He had a tendency to talk about things that he
13 shouldn't talk about and pit employees against
14 each. That's something we needed to bring to an
15 end.

16 Q So this was somewhat of a rumor mill that you were
17 trying to stamp out?

18 A Yes, sir.

19 Q Let me ask about the key situation at Spring
20 Valley. Does your department have a record of who
21 has keys to the buildings?

22 A No, that doesn't fall under security.

23 Q Does it fall under security in other districts that
24 you are aware of?

25 A I have no idea what goes on in other districts.

1 Q Did you find that odd that you don't know who has
2 the keys?

3 A No, it's a site based management system. The
4 principals are in charge of what goes on in their
5 schools.

6 Q Does it make it challenging for security to manage
7 the buildings not knowing who has the keys?

8 A Not generally, no.

9 Q What is your understanding of who all has keys?

10 A I really -- the administrators have keys that are
11 something like a school-based master. The teachers
12 have keys that open the teacher's doors but not the
13 exterior doors. That's just my understanding based
14 on my experience.

15 Q Do you know do the coaches have keys?

16 A Some of them do, I'm sure.

17 Q But you don't know?

18 A I don't know, no.

19 Q Do any of the parents or boosters have keys?

20 A I have no idea.

21 Q But they could?

22 A I wouldn't know. Those are issued -- keys are
23 issued by the principal. Who they issue them to,
24 they don't tell me.

25 Q Do the custodians have keys?

1 A I've seen custodians with keys, yes.

2 Q Has there ever been a time when custodians have had
3 their keys taken away?

4 A I don't deal with custodial personnel issues. I
5 don't know.

6 Q Have you ever heard of custodians having keys taken
7 away?

8 A Just as a result of this incident.

9 Q The March 3rd theft or this whole case?

10 A I don't recall which incident. I have heard some
11 discussion about custodian keys being taken.

12 Q But you weren't involved in that at all?

13 A No.

14 Q You didn't recommend that they be taken away?

15 A No.

16 Q So do you know why the custodians' keys were taken
17 away?

18 A No.

19 Q If it had something to do with theft or theft
20 prevention, don't you think that would be something
21 that you should know about, being at the head of
22 security?

23 A A lot of -- it's a site-based management system.
24 The assistant principals or the principals are in
25 charge of maintaining and operating what goes on in

1 their schools.

2 Q So you don't have any say-so in --

3 A I don't have any authority over it, no. I am more
4 like a consultant thing.

5 Q You have a voice in it. If you said, "I think
6 Jeffrey Kennedy is untrustworthy. Take away his
7 keys," they would listen to you, wouldn't they?

8 A Well, they don't issue the keys to the security
9 officers. We do that.

10 Q I understand. You took Jeffrey Kennedy's keys
11 away?

12 A I didn't personally. He didn't have keys issued to
13 him.

14 Q You know what I mean. His privileges --

15 A Let me explain. Our keys, the keys that security
16 officers have, are on a particular keyring that is
17 part of the equipment that is handed off from shift
18 to shift.

19 They have a vehicle. They have a radio. They
20 have a cell phone. They have a set of keys, and
21 they have to account for these at shift change. So
22 Mr. Kennedy is not issued a key.

23 Q He doesn't have his own keyring.

24 A Correct.

25 Q But his key privileges were taken away by you.

1 That wasn't by HR?

2 A That's correct.

3 Q So if Eric Barnes testified it was HR who made that
4 decision, that would be incorrect?

5 MR. BARLOW: Objection, Your Honor. He
6 pitting witnesses again.

7 THE COURT: Overruled.

8 A That would be incorrect, yes. That decision was
9 made by me and was communicated to Mr. Kennedy in
10 the presence of Roosevelt Garrick, our Human
11 Resources Director, and Traci Batchelder in a
12 meeting that we had.

13 Q I don't know if I need to ask but I will, and I
14 know you testified you don't really remember
15 anything about Jeffrey Kennedy's interview; right?

16 A No, not a thing.

17 Q So is it safe to say that he was not being
18 investigated for any other thefts or missing items
19 at the time you made the recommendation for him to
20 be promoted?

21 A It would be safe to say that, yes.

22 Q If he had been, you wouldn't have made the
23 recommendation?

24 A Correct.

25 Q Do you understand the damaging nature of a rumor

1 that someone has stole or was a thief or was
2 untrustworthy may be? Do you understand how
3 damaging that may be to somebody?

4 A All rumors are damaging. That was the reason for
5 this Change in Culture.

6 Q So you knew there was a lot of people telling
7 rumors in the department when you first -- when you
8 issued that?

9 A Yes.

10 Q And do you dispute the fact that the rumor is out
11 there that you and Eric Barnes believe Jeffrey
12 Kennedy is untrustworthy and likely the one that
13 stole the thousand dollars?

14 A I've never heard that rumor before. It was not
15 involved in the investigation.

16 Q I am not asking if you heard it directly, but do
17 you deny that it's out there?

18 A I wouldn't know what is out there.

19 Q If it is out there, are you disappointed that it's
20 out there?

21 A Yes.

22 Q I will ask you some questions about the e-mail.
23 It's the one on top. Are you familiar with that
24 e-mail?

25 A I am.

1 Q It's an e-mail marked as Plaintiff's Exhibit 4.
2 You marked the e-mail confidential, didn't you?

3 A I did.

4 Q And just for clarification at the top, I want to
5 make sure it's on yours as well. At the top it
6 says, "Richland School District Two, mail,
7 confidential." It's got a date of 10/1/13 on it
8 right there. Then in big, bold letters it says
9 confidential again?

10 A Yes, sir.

11 Q Is that what you sent here?

12 A It is.

13 Q Do you know if this 10/1/13 date refers to the date
14 it was printed?

15 A I have no idea.

16 Q And if the date on the right, Wednesday, June 15,
17 2011, at 11:18 A.M., is that the date it was sent?
18 Is that your understanding?

19 A That's correct.

20 Q Is that your recollection of when it was sent?

21 A Yes, sir.

22 Q Why did you put confidential on the e-mail?

23 A Because the information contained in the e-mail is
24 confidential and not to be shared with anyone.

25 Q What about the information the e-mail made it

1 confidential?

2 A It was directions regarding the assignment of a
3 security officer.

4 Q You think that the information, had it gone beyond
5 the recipients in the e-mail, it would have been
6 harmful to Jeffrey Kennedy?

7 A That was why I marked it confidential. I did not
8 want it to go beyond the supervisors.

9 Q After you sent the e-mail, did you follow up with
10 the recipients of the e-mail, your supervisors, to
11 make sure that they had not sent it out?

12 A I don't recall doing that, no.

13 Q Did you follow up with them to make sure they had
14 not left that e-mail around the offices where all
15 the regular security officers would see it?

16 A I would expect the wording of the e-mail would make
17 it clear that that would not be acceptable.

18 Q Did you make sure that they didn't do it though?

19 A And how would I do that?

20 Q Ask them.

21 A No, I didn't go out and individually ask them. I
22 send a lot of e-mails.

23 Q A lot of confidential e-mails?

24 A Not very many of them.

25 Q So for confidential e-mails, you could have gone

1 around and asked them, Hey, make sure this is
2 confidential. This could be very harmful to
3 Jeffrey?

4 A We are a 24/7 operation. The officers that work
5 second and third shift, I very rarely see them.

6 Q All right. But you could have done that if you had
7 made the effort?

8 A I suppose it's possible, yes.

9 Q You could have called them on the phone; right?

10 A I could have.

11 Q But you didn't?

12 A It was clear in the e-mail what I wanted.

13 Q I understand, but you didn't call them and make
14 sure that they were keeping it confidential, did
15 you?

16 A No.

17 Q Did you do anything, other than write confidential
18 on the e-mail, to make sure they didn't publish it
19 and put it around the offices and trucks?

20 A The way I wrote the e-mail, the word confidential
21 and the bold instructions at the top line, in my
22 opinion were sufficient for my supervisors.

23 Q So the answer to the question is you did not do
24 anything, other than put confidential on the
25 e-mail?

1 A That's correct -- well, and the wording of the
2 e-mail.

3 Q I know you haven't been here to hear some of the
4 testimony, but some of your employees and former
5 employees have testified that they saw this e-mail
6 sitting around in the security and work areas. Had
7 you heard that before this suit was filed?

8 A No.

9 Q When I say the work area, the radio room. What's
10 another term you use for the radio room?

11 A It's called the radio room, watch room.

12 Q Watch room?

13 A Yes.

14 Q That's where the regular security guards go to
15 their radios and other equipment?

16 A Yes.

17 Q Is that a room that some of your supervisors, some
18 of the recipients of this e-mail, would have gone
19 regularly?

20 A Yes, but they had their own office.

21 Q Why would they go to the watch room or radio room?

22 A It's part of the daily interactions with all of
23 their officers.

24 Q So if this e-mail was in there, it's likely they
25 have would have seen it too; correct?

1 A If it were in there, yes.

2 Q So do you not believe the testimony that the e-mail
3 was in there?

4 A I have no reason to believe.

5 Q Do you have any reason not to believe it?

6 A I had never heard it until this allegation was
7 made.

8 Q So if your supervisors were in the watch room
9 regularly, they should have seen this e-mail if it
10 was there?

11 A It's possible, yes.

12 Q And if they saw it, what would you think they
13 should have done?

14 A They should -- if it were there, then I would
15 expect them to remove it from the sight of others.

16 Q And if it were there, would it have had to have
17 been one of the recipients of the e-mail that
18 printed it out and put it there?

19 A Well, that would be a reasonable assumption.

20 Q But if you weren't there, one of your staffers did
21 not keep it confidential?

22 A If it were there, yes, that would be true.

23 Q All right. I believe you probably answered this
24 question. You say you didn't really know Jeffrey
25 Kennedy prior to all this until you interviewed him

1 for the promotion?

2 A Right.

3 Q So you don't know what his habits at work were?

4 You couldn't testify about it at all, I assume?

5 A No.

6 Q The night watchmen, I understand they are
7 responsible for multiple schools in the course of
8 the night; is that correct?

9 A That's correct.

10 Q And Spring Valley, I think, has been termed kind of
11 the home base?

12 A Our security officers are based out of the high
13 schools, and they are kind of a hub. They report
14 to work at that hub and get their equipment. They
15 are responsible for checking the security of that
16 campus and then checking the security of all the
17 ones they are responsible for.

18 Q Okay. The way I understand at least is over the
19 course of this night shift, all the checking of the
20 schools and checking of the doors and setting the
21 alarms and unsetting the alarms and that kind of
22 thing, doesn't take the full eight hours? It's
23 done when they go to each school?

24 A I would expect them to make multiple trips to the
25 schools. I would expect them to occupy their time

1 in a manner that is productive for the county in
2 checking security of the buildings and property and
3 making sure nobody is hanging out on the property,
4 that sort of thing.

5 Q Now, Jeffrey testified he received some
6 instructions that it's okay and actually preferable
7 to spend time in the buildings if there is time
8 left over after checking everything, as opposed to
9 going out in the trucks and burning gas to keep
10 them warm. Is that -- have you ever heard that?

11 A The only thing that I have heard along those lines
12 was Chief Propst, John Propst's, instructions to
13 them were that they were to remain at their home
14 campus for a period of time; but I don't recall
15 before they went and checked the other schools. I
16 never did understand why that was.

17 Q All right. But as long as it would take just to
18 check the property, remain there maybe an hour?

19 A I can't really say that because the properties in
20 high schools are pretty extensive, and there are a
21 lot of doors and gates and windows that I would
22 expect them to be walking and checking security
23 there. It could take some time.

24 Q Does it sound reasonable that he may have received
25 instructions to not sit in the truck and burn gas

1 when he could spend that time somewhere else?

2 A I don't know that it's reasonable. I would expect
3 them to be productive in their time.

4 Q But did you ever give Jeffrey any such
5 instructions?

6 A No.

7 Q Who was responsible for instructing the night
8 watchmen along those lines? Who would give those
9 types of instructions?

10 A The instructions would come through the chain of
11 command. Their captain or lieutenant would give
12 them instructions on how to operate their
13 particular portion of their shift.

14 Q So you don't know what the instructions to Jeffrey
15 were?

16 A Not specifically, no.

17 Q There was an e-mail introduced with Eric Barnes
18 about some prior thefts. This has been marked
19 Defendant's Exhibit 1. Did you ever see that
20 e-mail or was it just Eric Barnes?

21 A I don't believe this was an e-mail. I believe this
22 was a --

23 Q -- a memo. I'm sorry.

24 A -- a memo to Eric Barnes from Jim Childers, the
25 Assistant Principal, at Spring Valley High School.

1 Q Did you ever see that memo or did Eric not show it
2 to you?

3 A I'm sure that I did. It would be unusual for me
4 not to have seen it.

5 Q But you don't recall --

6 A I don't have a specific recollection about it. I
7 mean, I have seen it several times since this
8 lawsuit was filed.

9 Q So at the time of the thousand dollar theft, did
10 you know about these prior instances?

11 A At the time of the thousand dollar theft, yes. At
12 the time that all this was first brought to my
13 attention, that was on March the 2nd.

14 Q What was brought to your attention, the prior
15 thefts?

16 A The thefts that occurred on...

17 Q The ones mentioned in that letter?

18 A The ones mentioned in February.

19 Q Right.

20 A I found out about it on March the 2nd when I was
21 called by Jim Childers, I believe, to tell me about
22 the instance.

23 Q Did Jim tell you that the custodians' keys had been
24 taken away?

25 A Not that I recall, no.

1 Q Let me ask you about the theft of the thousand
2 dollars. When did you first learn about that?

3 A I learned about it on the following morning, which
4 would have been March the 3rd -- no, wait a second.

5 Q What are you looking at there?

6 A I am looking at the one you just handed me.

7 Q Okay. I think it was the evening of March 3rd into
8 March 4th.

9 A It was the morning that it was discovered.

10 Q Okay. So Tim Hunter discovered it that morning,
11 and you found out about it that same morning?

12 A Right. I'm received a phone call from Jim Childers
13 that morning.

14 Q What were you told?

15 A I was told that a sum of money in excess of \$750
16 had been taken from Tim Hunter's office.

17 Q And were you told anything about how it got stolen
18 or what the circumstances were as to how the money
19 could have gotten stolen when there is a safe in
20 the office?

21 A I was told, once we went into the school and talked
22 to Mr. Hunter and Mr. Childers, that cash had been
23 locked in the office but not in the safe.

24 Q Did you find that odd or suspicious that cash would
25 not have been put in the safe when there is a safe

1 right there?

2 A I did, yes.

3 Q Did you ask Mr. Hunter?

4 A I asked why it was not in the safe and he told me.

5 Q What was his explanation?

6 A Something about an illness. He was ill the night
7 before and wasn't sure that he was going to be able
8 to come in to open the safe, but he wanted the cash
9 available for an event that was going to be the
10 following day. So he secured it in his office but
11 not in the safe.

12 Q Did you ask him why he didn't just give somebody
13 else the combination to the safe, someone he
14 trusted?

15 A No.

16 Q Don't you think that would have been a good
17 question to ask him?

18 A It didn't cross my mind.

19 Q Do you have any training in burglaries or thefts?

20 A Yes.

21 Q What kind?

22 A I was a crime scene investigator for Richland
23 County Sheriff's Department. In fact, I was the
24 sergeant in the crime scene investigation unit.

25 Q So you've got some professional training in

1 investigating thefts and robberies?

2 A Yes.

3 Q But you didn't ask him that question, even though
4 you suspected that it was a little fishy?

5 A I didn't say it was fishy. I said it was unusual.

6 Q You said it was suspicious.

7 A You said it was suspicious. I agreed with it.
8 It's unusual. I would not personally -- I would
9 not have generally left the cash outside of the
10 safe, but it was secured inside his office.

11 Q So he testified -- or he didn't testify -- he told
12 you he thought he locked the door?

13 A Yes.

14 Q Do you know that keys could be in anybody's hands,
15 it sounds like, over at Spring Valley? Was it your
16 understanding that Tim Hunter understood that too?

17 A I have no idea what Tim Hunter understood about who
18 had keys to what.

19 Q All right. Do the coaches have keys?

20 A As I have testified, I'm sure some of them do. I
21 don't have personal knowledge of it.

22 Q If they did, Tim Hunter would certainly know that;
23 right? He knows they need access to the buildings
24 at nights, after games and things?

25 A I would think so, yes.

1 Q So you said it didn't cross your mind to ask him
2 why he didn't just put the money in the safe and
3 give somebody else the combination?

4 A No. I asked him why the money was not in the safe.
5 I didn't ask him about why he wouldn't give
6 somebody the combination. That to me is -- giving
7 a combination is something you can't get back.

8 Q A thousand dollars is something you can't get back
9 either; right? True?

10 A The thousand dollars is gone. We haven't seen it,
11 yes.

12 Q But if it were you, you would have put the money in
13 the safe and given somebody the combination? You
14 would have left the money out?

15 A I don't know what I would have done. This is
16 speculation based on a set of circumstances I've
17 never been faced with.

18 Q All right.

19 A Money was secured. He believed it was secured from
20 what he told me. It sounded to me like it was
21 secured.

22 Q So you thought it was the appropriate thing to do?

23 A I thought that he had done the best he could under
24 the circumstances.

25 Q Do you know where he left the cash --

- 1 A No, I don't.
- 2 Q -- the cash trays?
- 3 A I don't recall.
- 4 Q Did you ever go to his office to look to see where
- 5 he said he left the cash?
- 6 A We went to his office when we were discussing the
- 7 event.
- 8 Q Did he point and say, "This is where I left it and
- 9 came back and it was gone"?
- 10 A I don't specifically recall, no.
- 11 Q So you don't know if it was in a hidden area or
- 12 not?
- 13 A I don't specifically recall, no.
- 14 Q All right. So after you learned that the money was
- 15 missing, was stolen, what did you do?
- 16 A I went over the only evidence we had to go to which
- 17 was the video surveillance system that they had.
- 18 So I reviewed the video recordings of the timeframe
- 19 in question.
- 20 Q What timeframe was that?
- 21 A From the time that Mr. Hunter left to the time that
- 22 it was reported missing, the cash was reported
- 23 missing.
- 24 Q Did you confirm what time Mr. Hunter left and what
- 25 time he came back?

1 A I'm sure I did, but I don't have a specific
2 recollection. That would have been my timeframe
3 that I would use for searching the video.

4 Q Did you make any notes?

5 A I made some notes, yes.

6 Q Where are they?

7 A They were submitted to you. Copies were submitted
8 to you.

9 Q By who?

10 A Well, let me rephrase that. The copies were given
11 to my attorney with the understanding that they
12 would be submitted to you.

13 Q And the notes would have indicated that
14 Mr. Hunter -- well, let me ask you this: You
15 reviewed the videotape. Do you specifically
16 remember seeing Mr. Hunter leave the office at a
17 particular time?

18 A Not specifically, no.

19 Q And do you have any idea or remember how long it
20 was before the time Mr. Hunter left the office and
21 Jeffrey Kennedy and John Reid set the alarm to the
22 AD building?

23 A The only frame of reference I would have would be
24 the video recording that I saved when Mr. Kennedy
25 set the alarm with Mr. Reid watching.

1 Q What do you mean? So you don't know how long it
2 was between the time --

3 A Not at this point, no.

4 Q But if you had the tape?

5 A I feel certain I would have at the time that I was
6 reviewing the video.

7 Q And the video that you saved was what timeframes?

8 A Well, I can't give you the specifics without seeing
9 my notes. I saved the video of the alarm being set
10 by Mr. Kennedy with Mr. Reid watching to indicate
11 the time that I would expect that task to take.

12 Then I reviewed up to the point where
13 Mr. Kennedy disarmed the alarm the next day. There
14 was no activity in the building, and I saved that
15 portion because it indicated that there was a much
16 longer timeframe that he was in the building than I
17 would have expected.

18 Q Okay. Those are the only two pieces that you
19 saved?

20 A Of the Bates Hall incident? Yes, I believe so.

21 Q So you saved the portion where Jeffrey and John
22 Reid set the alarm?

23 A Yes.

24 Q Which was a minute or two?

25 A Something like that, more or less, within less than

1 a minute.

2 Q Right, right. Then you reviewed the tape, and
3 there was no activity in the building until they
4 cut it off at 5:30?

5 A Until Mr. Kennedy came in to disarm the alarm at
6 whatever timeframe it was.

7 Q And he spent about five minutes or so?

8 A He spent about five minutes in the building, yes.

9 Q Is that the only camera that you reviewed? Is that
10 the only camera in the building?

11 A No, there are other cameras in the building. When
12 you are playing the video, all of the cameras are
13 visible.

14 Q So you have a TV screen with multiple -- with a
15 screen-in-screen kind of thing where you can see --

16 A Yes. There are 16 possible camera views and not
17 all of them are used. The DVR that was in Bates
18 Hall or all of the DVRs only record when there is
19 motion. The newer models will show or display the
20 last recorded image.

21 In Bates Hall it was an older model. So
22 rather than just play the last recorded image, it
23 would show a blank, blue screen. If there was no
24 recorded image from the time that I started saving
25 it, then it would be a blank blue screen. if there

1 were motion in that camera view, then it would come
2 up with a camera view.

3 Q So you said there are 16 different camera views?

4 A There are a possibility of 16. I don't recall
5 exactly how many were at Bates Hall at that time.
6 It would be on the video.

7 Q But the portions that you saved were just those two
8 portions; correct?

9 A Well, I saved all of the camera views, all of the
10 possible camera views; but the only ones that have
11 any images recorded are the ones that see the
12 traffic going by on the outside and the one where
13 Mr. Kennedy and Mr. Reid entered and exited the
14 building.

15 Q All right. Were you aware that the baseball team
16 set the alarm off in the AD building that night
17 because many students and coaches were in that
18 night?

19 A I have heard that after the fact.

20 Q Any idea why they weren't on the video?

21 A I don't recall seeing them on the video. I don't
22 know what part of the building they were in.

23 Q Do the cameras show all the parts of the building?

24 A No, they don't show all the parts of the building.
25 They show the hallways, the wrestling arena. I

1 would have to look at the camera view to know
2 exactly what area it shows, but they are not in all
3 areas of the building.

4 Q And they don't show Tim Hunter's office; correct?

5 A That's correct.

6 Q So it's possible that the baseball team could have
7 accessed Tim Hunter's office for some reason if the
8 coach had asked them to put some equipment in there
9 or something like that?

10 A I suppose it's possible.

11 Q Did you ever interview anybody on the baseball
12 team?

13 A No, I did not. Whenever we determine that there is
14 a potential serious personnel issue, when it's
15 criminal, we do two things. We turn it over to the
16 Human Resources Department for the interior
17 investigation, and we turn it over to the Sheriff's
18 Department for the criminal investigation. It's
19 just not good to have multiple investigations going
20 on on one incident.

21 Q I think Eric Barnes said pretty much the same
22 thing. When you realized it's criminal, you
23 referred it to the Sheriff's Department, told HR
24 about it, and let them do their thing?

25 A Yes.

1 Q Did you -- but ultimately you formed an opinion as
2 to who committed this crime; correct?

3 A I formed an opinion as to who most likely did, yes.

4 Q And what is that opinion?

5 A The indications were that Mr. Kennedy was quite
6 likely involved.

7 Q Now, do you know if either HR or the Sheriff's
8 Department ever interviewed anybody on the baseball
9 team?

10 A I don't know.

11 Q And did anybody -- did you ever hear of anybody
12 interviewing the custodial staff?

13 A I have heard that, but I don't have any specifics.
14 I have heard that someone on the custodial staff
15 had been talked to regarding the situation, but I
16 don't know any details.

17 Q So you don't have any information from that
18 interview?

19 A No.

20 Q Do you know who the first person in the building
21 the next morning was before Tim Hunter got there?

22 A I don't recall.

23 Q So I'm assuming you've never talked to that person?

24 A No.

25 Q You never heard of anybody that has?

1 A I'm not aware of it, no.

2 Q How can you form an opinion as to who was involved
3 without even talking to these other people who had
4 access to the building?

5 A What I saw was a suspicious circumstance. There
6 was no reason the morning the alarm was turned off
7 for Mr. Kennedy to be in the building more than
8 about the 22 seconds or 20 or so seconds that it
9 took to alarm the system. He has got other
10 buildings to disarm. He has got other duties to
11 perform.

12 Q You also said you thought Mr. Hunter's actions were
13 a little suspicious in not putting the money in the
14 safe, but you didn't blame him for it?

15 A I would have no reason to.

16 Q You would have no reason. And the only reason you
17 want to blame Jeffrey Kennedy is because of the
18 time he was in there?

19 A That was the only suspicious actions that I saw
20 when I was reviewing the video.

21 Q And if the custodian said, "Yes, I went in there.
22 The cash was still in there when I was in there,"
23 that would have cleared Jeffrey Kennedy altogether;
24 correct? And the baseball team?

25 A Depending on the timeframe.

1 Q If they came in in the morning, yes. If somebody
2 on the baseball team said, "Yeah, coach asked me to
3 put some equipment in the AD's Office, and I did
4 and the cash was gone. I saw the cash." That
5 would clear him as well; right?

6 A I'm sorry. I'm not following your hypothetical
7 here.

8 Q If somebody had interviewed the baseball team, and
9 one of the kids had said, "Yeah, the coach asked me
10 to put something in Tim Hunter's office. When I
11 went in there, I saw these trays and the cash was
12 already gone," that would have cleared Jeffrey
13 Kennedy altogether, wouldn't it?

14 A I don't know that. It would depend on the
15 timeframe.

16 Q Well, the baseball team was in there before Jeffrey
17 Kennedy.

18 A Okay. Yes, that would be a reasonable assumption.

19 Q All right. But none of those questions were ever
20 even asked; correct?

21 A Not that I know of, no.

22 Q So you branded him a thief without knowing any of
23 that?

24 A No, I had a suspicion based on his actions that
25 were unusual.

1 Q Okay.

2 A That led me to believe that he might be involved.

3 Q What is your experience with high school students
4 and how -- and them stealing? Is it common in high
5 school?

6 A I know that it happens.

7 Q Is it fairly frequently at Spring Valley?

8 A I wouldn't have any idea about the frequency. The
9 only time that I get notified about such things is
10 if a Sheriff's Department report is made, and I get
11 a copy of the Sheriff's Department report after the
12 fact.

13 Q There could be a lot of thefts around the campus
14 that you wouldn't know about because they are not
15 reported to the Richland County Sheriff's
16 Department?

17 A There are a lot of things that go on on campuses
18 that are out of my hands.

19 Q So had there been any thefts at Spring Valley since
20 Jeffrey Kennedy has been -- since his key
21 privileges have been taken away?

22 A Not from locked offices that I'm aware of.

23 Q But there have been thefts that you may not have
24 known about; correct?

25 A I would expect, just like in this case, if there

1 was a theft from a locked office that they would
2 ask me to look at it as well.

3 Q You suspect it. There might or might not be?

4 A I would expect it.

5 Q You would expect it but there may not? You just
6 said you don't hear about a lot of the thefts.

7 A I do not hear about student involved, student
8 thefts, no.

9 Q Would you agree that Jeffrey Kennedy was supposed
10 to be in the AD building that night?

11 A Briefly, yes.

12 Q And you don't know anything about his habits?

13 A No.

14 Q About whether he spends time in the break rooms?

15 A Well, there is no break room in the Athletic -- in
16 Bates Hall.

17 Q What is in there? I believe there was some
18 testimony about that. Right next to the alarm you
19 have Tim Hunter's office. There is a room right
20 next to the alarm as well?

21 A You have the alarm panel as you come in the door.
22 The alarm panel is on your left. The outer office
23 that leads to Mr. Hunter's office is directly
24 across the hall from there, and right around the
25 corner is the weight room.

1 Q What did you call it?

2 A The weight room.

3 Q Oh, lifting weights?

4 A Yes.

5 Q I was thinking W-A-I-T?

6 A No, W-E-I-G-H-T.

7 Q Instead of waiting there, you lift weights. I've
8 got you. So if Mr. Kennedy did that from time to
9 time, sat in the building in the weight room,
10 looked at a magazine, got on his cell phone or
11 something to try to kill time, I understand you
12 would maybe rather him have out on patrol; but if
13 he had been instructed to not waste the company
14 gas, you wouldn't know that?

15 A I wouldn't know that, and I wouldn't be aware of
16 any reason to hang out in the weight room.

17 Q Or in the building somewhere? Somewhere off camera
18 so to speak?

19 A I wouldn't be aware of any reason to hang out
20 anywhere off camera or on camera in the building.

21 Q When you found about the theft, you said you went
22 and checked the videotape; right?

23 A The video recordings, yes.

24 Q The video recordings. Did you bother going and
25 checking the alarm box to see if the alarm in the

1 building had gone off that night?

2 A I believe that I did.

3 Q And you found what?

4 A I looked -- I don't know the specifics of when I
5 looked, but I checked the alarm log for anything
6 unusual and didn't find anything unusual there.

7 Q Now, the testimony from a number of witnesses has
8 been that the alarm did go off in the building that
9 night because the baseball team accidentally set it
10 off when they came in.

11 A Okay.

12 Q But you didn't -- in your search you didn't see
13 that?

14 A I don't recall seeing that, no.

15 Q Did you have a meeting with Jeffrey Kennedy about
16 the theft?

17 A I was in a meeting with Jeffrey Kennedy and
18 Mr. Roosevelt Garrick and Ms. Traci Batchelder.

19 Q Did he tell you that the baseball team had set the
20 alarm off that night and was in the building?

21 A I had heard that. I don't recall at what point I
22 heard that.

23 Q I believe you stated that Traci Batchelder put
24 Jeffrey on administrative leave right after that;
25 is that correct?

1 A I don't know that I said that, but that's what
2 happened.

3 Q Okay. Did you recommend that she do so?

4 A That's the standard practice.

5 Q What's standard practice?

6 A Placing an employee on administrative leave, my
7 understanding, is the standard practice of Human
8 Resources when there is an investigation going on.

9 Q Was Tim Hunter placed on administrative leave?

10 A I wouldn't know what goes on in Mr. Hunter's
11 personnel actions.

12 Q Do you know if any of the custodians were put on
13 administrative leave?

14 A I would have no idea. I am only informed about
15 personnel actions involving my officers.

16 Q So you would know anything about the baseball coach
17 then?

18 A I wouldn't know.

19 Q Have you heard that anybody else, other than
20 Jeffrey Kennedy, was put on administrative leave?

21 A No, but I wouldn't expect it. It's a personnel
22 matter.

23 Q You wouldn't expect to have found out?

24 A No.

25 Q Since the lawsuit has been filed, have you asked?

1 Have you found out whether anybody was put on
2 administrative leave?

3 A No, I haven't asked. And, no, I haven't found out.

4 Q Did Traci Batchelder ask in your opinion as to who
5 you thought committed this crime?

6 A I don't specifically recall that.

7 Q Did you recommend that Jeffrey be put on
8 administrative leave?

9 A No, I didn't recommend that. That is standard
10 practice.

11 Q It's standard practice for what? If someone is
12 being investigated?

13 A It's standard practice for Human Recourses to place
14 people that are under some sort of suspicion on
15 administrative leave.

16 Q So if nobody else was put on administrative leave,
17 then that would mean Jeffrey Kennedy was the only
18 person under suspicion; correct?

19 A That would be my assumption.

20 Q And there's at least four people that we know of --
21 three or four people that we know of -- were in the
22 building that night. I mean, there is a baseball
23 team, a group of people that was in the building;
24 Jeffrey; possibly custodians; and maybe the first
25 person in the building after that. And maybe it

1 was somebody else in there before the alarm was
2 set. None of them were put on administrative leave
3 that anybody knows about?

4 A Not that I know of.

5 Q So it sounds like Jeffrey was the only person that
6 he ever considered?

7 A Jeffrey Kennedy is the only person that I would
8 know if they were put on administrative leave. I'm
9 not drawn into other areas of personnel matters.

10 Q You may have answered this. How many doors are
11 there to the AD building?

12 A How many exterior doors?

13 Q Right. How many ways could you get in?

14 A Into the area in question, there are three
15 exteriors doors. I suppose it's possible to come
16 in through the wrestling arena. So that would be
17 four. I would have to look at the floor plan to be
18 sure.

19 Q How big is the AD building?

20 A I don't know to estimate. It's the smallest
21 building on the campus of the school, other than
22 the concessions stands.

23 Q Is it a one-level building?

24 A It is one level.

25 Q Is it bigger than this --

- 1 A Yes, it's larger than this courtroom.
- 2 Q Not this courtroom but this floor of the
- 3 courthouse?
- 4 A No, it's not that large.
- 5 Q But it has a wrestling arena?
- 6 A Yes.
- 7 Q A weight room?
- 8 A Yes.
- 9 Q How many offices would you estimate?
- 10 A It would just be a guess. As far as I know, the
- 11 only office is Mr. Hunter's. But there is a
- 12 training room, rest rooms --
- 13 Q I've got you. It's not like an official building
- 14 with bunches of -- it's not like an administrative
- 15 building with lots of offices. It's the AD's
- 16 Office and then a bunch of other athletic --
- 17 A Yes. That's my understanding, yes.
- 18 Q Did you have Eric Barnes do the investigation for
- 19 you into the thousand dollar theft?
- 20 A We determined, as I said earlier, if there was a
- 21 problem, we turned that over to the proper
- 22 authorities. Now, I instructed him, as I do in any
- 23 criminal case, to provide whatever support is
- 24 necessary for the Sheriff's Department.
- 25 Q Okay. Were you aware that he interviewed John

1 Reid?

2 A I don't recall that. I would have expected that in
3 the early stages of what was going on.

4 Q Did he tell you he saw John Reid?

5 A He could have. I don't specifically recall.

6 Q Did he mention to you that a custodian pulled out
7 his keys and opened Tim Hunter's door during that
8 interview?

9 A I don't ever recall hearing that, no.

10 Q I believe you've already said it wouldn't surprise
11 you that custodians have keys to Tim Hunter's
12 office and the building too?

13 A I said that it would surprise me that custodians
14 have keys. I don't know what their keys open.

15 Q Would you think that they would have one to Tim
16 Hunter's office?

17 A I would have no idea. It depends on the level
18 issued to them by the principal.

19 Q Where is your office?

20 A My office is at 124 Risdon Way.

21 Q So it's not on the Spring Valley campus?

22 A No.

23 Q How often do you get to the Spring Valley campus?

24 A In the course of a week, I may go by there once or
25 twice.

1 Q Most of your time is spent at the office, your
2 office?

3 A No, most of my time is spent visiting all of our 40
4 campuses.

5 Q Okay. So Spring Valley is just the hub for that
6 feeder network, and you have other high schools
7 that are in Richland Two that you are responsible
8 for as well?

9 A Yes.

10 Q You may have answered this, but did you receive any
11 feedback at all from the Sheriff's Department as to
12 what their investigation revealed?

13 A Not directly.

14 Q Indirectly?

15 A Indirectly through Mr. Barnes.

16 Q So he coordinated or liaised with the police
17 department?

18 A Yes, he was the point of contact with the Sheriff's
19 Department.

20 Q What information did you get from Mr. Barnes about
21 what the Sheriff's Department's investigation
22 revealed?

23 A My recollection is that Investigator Clark, while
24 he strongly suspected Mr. Kennedy, that there was
25 not sufficient evidence to make a charge.

1 Q Did you ever hear if the Sheriff's Department ever
2 interviewed any of these other people that went in
3 the building that night?

4 A I would have no idea who the Sheriff's Department
5 interviewed.

6 Q But you didn't hear anything about who they
7 interviewed?

8 A No.

9 Q And would you have like to have known what those
10 people had said and what they saw that night, what
11 they did?

12 A Once I turned it over to the Sheriff's Department
13 and Human Resources, it's in their --

14 Q I'm not suggesting it. I'm just saying would you
15 have liked to have known what all these people have
16 said?

17 A Well, certainly.

18 Q You think that would have helped you make a more
19 informed decision?

20 A It would have been information that would have
21 helped me form an opinion, yeah.

22 Q Would you agree that you can't really have a good
23 reputation generally, but especially as a security
24 guard, if there are allegations issued that you are
25 untrustworthy out there?

1 A Yes. Something to enumerate, this document you
2 gave me I noticed it's not marked into evidence.

3 Q I think it has D-1 at the top.

4 A It does have something here at the top.

5 Q Thank you. If a security guard is accused of being
6 untrustworthy, would you agree that that would
7 directly impact his professional career?

8 A An accusation is different from proof. We get
9 accusations, allegations.

10 Q Now, if one of the security officers had said, "I
11 think Jeffrey Kennedy stole this money," that's one
12 thing. But coming from someone like you or Eric
13 Barnes who is in a position of authority, someone
14 who people assume have investigated this matter,
15 don't you think that would carry more weight?

16 A First off, I wouldn't say that.

17 Q You wouldn't say what?

18 A I wouldn't say that to anybody outside of the
19 investigation.

20 Q Right. But assuming people found out about it,
21 assume your staff started telling people, telling
22 the security officers, wouldn't it carry more
23 weight that the information is coming from a source
24 that is at the head of the department, as opposed
25 to just one of the security officers saying, "Man,

1 I think so and so did it"?

2 A If somebody were to spread a rumor and attach my
3 name to it, then, yeah, that would probably lend
4 some weight to that rumor.

5 Q A rumor like this (indicating)?

6 A That's not a rumor.

7 Q That's the truth, isn't it?

8 A That's the memo that I sent out marked confidential
9 to the supervisors.

10 Q When did you withdraw or cancel your recommendation
11 for Jeffrey's promotion?

12 A I can't attach a date to that. I did write across
13 my copy of the Recommendation for Employment --
14 it's right here. I did write across my copy of the
15 Recommendation for Employment that it had been
16 canceled prior to approval.

17 Q This handwriting that is across it, that's yours?

18 A I wrote that. Those are my initials.

19 Q "Canceled prior to approval." That's what it says.
20 C.A.E., are those your initials?

21 A "Canceled prior to approval at HR." C.A.E. are my
22 initials.

23 Q Okay.

24 A That was written on the copy that is maintained in
25 the file in my office.

1 Q And you wrote this and you canceled your
2 recommendation because you believed Jeffrey was
3 involved in the thousand dollar theft in part?

4 A I wrote that it had been canceled. I don't
5 specifically recall if it was on my recommendation
6 or Human Resources. It was part of the group
7 decision as I recall.

8 Q I mean you --

9 A I would have recommended that it be canceled.

10 Q Okay. And that's in part because you thought
11 Jeffrey was involved in this thousand dollar theft?

12 A There was a cloud of suspicion over it.

13 Q There was no cloud of suspicion over the baseball
14 team, custodian, Tim Hunter, anybody else that was
15 in the building?

16 A I saw nothing that indicated that there was
17 anything out of the ordinary with their behavior.

18 Q All right. After Jeffrey came back from
19 administrative leave, he had the key restriction,
20 of course. So he couldn't do anything that
21 required use of keys; correct?

22 A That's correct.

23 Q And he was assigned to an office, a control center
24 type thing?

25 A He was assigned to the watch room to answer the

1 phones, answer the radios, view the videos as
2 necessary. If there were any alarm or something,
3 we would expect him to pull up the video and look.

4 Q Was he able to get as much overtime in that role as
5 he could have before?

6 A I don't know how much overtime he got before, but
7 it would have been available.

8 Q Did some of the overtime that he would have been
9 eligible for require the use of -- or require key
10 privileges?

11 A After I put that restriction on his employment, I
12 would not have -- he would only have been available
13 for overtime working in the watch room.

14 Q So that probably affected his pay if he got a lot
15 of overtime?

16 A Well, that's not necessarily true. A lot of
17 overtime, extra duty, involves working sporting
18 events.

19 Q So he could still do that?

20 A There are a variety of ways that he could make
21 overtime.

22 Q But he couldn't work other people's shifts?

23 A He could not work in the one of the top positions
24 where you are assigned a set of keys.

25 Q All right. And he has testified his income went

1 from 16- or \$1,700 down to about \$900 a week. Does
2 that surprise you?

3 A I would have no idea what his income was and the
4 number of overtime hours he worked. There's plenty
5 available in other ways.

6 Q So it's safe to say you haven't reviewed his
7 payroll records in preparation for this trial?

8 A No.

9 Q I want to ask you some questions about the
10 situation with Kim Jones. Do you know anything
11 about that situation?

12 A Yes.

13 Q What do you know about that whole situation with
14 Kim Jones and the video?

15 A I know she called from Human Resources,
16 Ms. Batchelder, regarding an allegation that
17 Ms. Jones, who is a bus driver for the District and
18 also a parent of a student, had either been allowed
19 to view or was described the incident, the actions
20 that were taken as a result of something that her
21 son was involved in.

22 Q Did you ever talk to Ms. Jones about that?

23 A I did well after the fact, after I was brought into
24 it by Ms. Batchelder.

25 Q You said well after the fact. Are you talking days

1 or week or months?

2 A Once again, I'd have to refer to my notes.

3 Ms. Batchelder notified me of the incident and said
4 that she was going to interview Mr. Kennedy and, as
5 is their standard practice, asked that I be there
6 for that meeting.

7 Q So you were there for the interview with
8 Mr. Kennedy?

9 A Yes.

10 Q Was Ms. Jones present for that meeting?

11 A She was not.

12 Q Did you have a similar meeting with Ms. Jones?

13 A I did not. As a result of the information that
14 came out in that meeting, I met with Ms. Jones back
15 at my office.

16 Q Okay. Describe the two versions of the stories
17 that you heard. What did Ms. Jones say happened?
18 And what did Mr. Kennedy say?

19 A I don't have firsthand knowledge of what Ms. Jones
20 said regarding the incident.

21 Q You didn't ask her?

22 A No.

23 Q What was your meeting --

24 A My meeting was -- as a result of the meeting with
25 Ms. Batchelder and Mr. Kennedy and me, it was

1 suggested -- and I don't who suggested it -- that
2 it could possibly be a case of mistaken identity.

3 At that time Ms. Batchelder suggested that
4 Mr. Kennedy and she and I go to my office and meet
5 with Ms. Jones to clear it up. Mr. Kennedy said
6 that he had a second job that he had to go to. So
7 he couldn't do it at that time.

8 So Ms. Batchelder asked me to go back to my
9 office. She asked me if I had pictures of the
10 employees, which I do, and asked me to meet with
11 Ms. Jones and present the pictures of the officers
12 on the shifts and see if she could possibly
13 identify any of them.

14 Q And what was the result of that?

15 A Eventually she identified Mr. Kennedy.

16 Q Did she say, "Mr. Kennedy showed me the tape or
17 that he described me the tape?" Do you remember
18 which one it was?

19 A I don't recall. That wasn't the purpose of our
20 meeting.

21 Q Was she able to describe, accurately describe, what
22 even happened on the tape?

23 A I don't recall. The focus of our meeting was to
24 see if we could identify the person who had given
25 the information, whether it be letting her see it

1 or describing it to her.

2 Q What was Mr. Kennedy's version?

3 A Mr. Kennedy said he didn't have anything to do with
4 it. He didn't do it.

5 Q Did he acknowledge even her asking him to do it?

6 A Yes.

7 Q So it's not like he said, "I've never seen this
8 woman before, she actually came to me and asked
9 me." Did he say why he didn't show the video?

10 A He said he -- first off, he said he didn't know how
11 to do it. He said that he wrote down the
12 information to give to his captain and then
13 subsequently threw that information away.

14 Q Is this an e-mail written to you from Rick Groves?

15 A The e-mail, the original e-mail, was from me to
16 Mr. Groves asking who allowed Kim Jones, a bus
17 driver, to view a video from Round Top Elementary.

18 Q Who is Rick Groves?

19 A Rick Groves would be the captain on the third
20 shift, which would be the supervisor that was in
21 charge at the time that it had been identified that
22 Ms. Jones obtained the information.

23 Q So you were asking him who gave her the video?

24 A Yeah. "Please let me know who allowed Kim Jones, a
25 bus driver, to view a video from Round Top

1 Elementary on September 26th. Thanks."

2 Q And what is the date of that e-mail?

3 A I sent it on October 5, 2012.

4 Q What was his response?

5 A Mr. Groves response on October 10th of 2012, was
6 "Officer Kennedy said he tried to show her the
7 video, but he could not pull it up."

8 Q Did you have any reason to doubt Mr. Kennedy?

9 A I had no reason to doubt what Captain Groves told
10 me Mr. Kennedy said.

11 Q Did you have any reason to doubt Mr. Kennedy when
12 he told you, "I didn't know to pull this up"?

13 A No.

14 Q Have you ever given him any training on how to
15 operate that system?

16 A Not personally, no.

17 Q Do you know of anybody that ever gave him any
18 training?

19 A Not directly, no.

20 MR. GOODWYN: I move to admit this as
21 Plaintiff's Exhibit 8.

22 COURT REPORTER: Excuse me. It would be 10.
23 Eight and 9 were withdrawn. So it would be Plaintiff's
24 Exhibit 10.

25 MR. GOODWYN: Plaintiff's Exhibit 10.

1 MR. BARLOW: I wouldn't have any objection to
2 that. I would like a copy of it if you don't mind.

3 (Attorneys confer.)

4 THE COURT: It's admitted.

5 (Plaintiff's Exhibit Number 10 is received
6 into evidence.)

7 BY MR. GOODWYN:

8 Q Do you know if Ms. Jones ever actually saw the
9 video?

10 A I don't have any direct knowledge of that.

11 Q Did she ever describe to you what happened in the
12 video?

13 A No.

14 Q Did you ever see the video?

15 A No.

16 Q Have you ever been described the contents of the
17 video?

18 A No.

19 Q All right.

20 A My understanding is it was some sort of altercation
21 between her child and another child.

22 Q Did you think either Mr. Kennedy or Ms. Jones was
23 lying based on the seemingly inconsistent
24 confidential reports?

25 A I, at some point in this whole process, had seen an

1 e-mail from the Principal of the school, which was
2 the initial e-mail to Ms. Batchelder, that
3 indicated that Ms. Jones knew things that could
4 only have been derived from viewing the video.

5 Q Okay. And you believe that Jeffrey showed it to
6 her?

7 A Based on her identification of him as the person
8 who did it, yes.

9 Q Did you have a policy or something in place about
10 people not showing other people videos?

11 A There is a Board policy in place that the principal
12 has control over the videos from the individual
13 schools.

14 Q Did you ever -- do you know if that policy was ever
15 conveyed to Mr. Kennedy?

16 A I don't have direct knowledge of that, but Board
17 policy is expected to be followed by all employees
18 and is available on the website.

19 Q When he was transferred to this new position, did
20 he receive any additional training?

21 A That would be up to his captain to do that.

22 Q Do you know if he received any additional training?

23 A I don't have any direct knowledge of that.

24 Q So it's possible that he didn't know about this
25 policy at all, correct, if he didn't receive any

1 additional training?

2 A I don't know what he -- I really don't know how to
3 answer that. The information is out there for all
4 employees. All employees are expected to follow
5 Board policy, and we communicate to the officers
6 that they are not to show videos.

7 Q Right. You understand. You've been in law
8 enforcement, and there's hundreds and hundreds of
9 laws --

10 A Right.

11 Q -- that people break all the time and don't know
12 it's against the law; correct?

13 A It would --

14 Q I know ignorance is no excuse.

15 A Right.

16 Q I expect they all say that, but --

17 A I would expect it to be common knowledge among the
18 officers that work the watch room that they are not
19 to show videos.

20 Q But you don't know of any specific training that
21 Jeffrey was given on that subject?

22 A I don't know of any specific training that any of
23 officers in the watch room were given.

24 Q And you don't know of any specific training that
25 would have trained him to actually operate the

1 machine and to view prior videos, do you?

2 A No. But I would expect the captains on each shift
3 would train their officers in how to view it
4 because if there were ever an alarm in the middle
5 of the night, they would be expected to pull up the
6 video and view it.

7 Q Right. But, again, you don't know that that ever
8 happened?

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

10 Q Did you ever ask Jeffrey's captain if he trained
11 him on that?

12 A Not that I recall.

13 Q But you fired him anyway?

14 A I didn't fire anybody.

15 Q Did you recommend him to be fired?

16 A I did not.

17 Q So you were happy that this incident --

18 A I turned it over to Human Resources for their
19 investigation.

20 Q So they terminated him based on their
21 investigation?

22 A That's correct. Well, technically, the Board, the
23 School Board, terminates people based on a
24 recommendation from Human Resources.

25 Q So did you have a voice in that discussion?

1 A I was there for the meetings. I don't think that I
2 made a specific recommendation. That decision was
3 made at the Human Resources level.

4 Q Do you think it was the right decision?

5 A Under the circumstances that include indications
6 that Mr. Kennedy had threatened Ms. Jones, yes.

7 Q What indications were those?

8 A When Ms. Jones came back to my office, I showed her
9 pictures. She initially did not identify any of
10 them. But it had to one of those officers because
11 those were the only people who were working.

12 She was becoming more and more upset as we
13 talked, and I asked her why. She indicated that
14 she was afraid, that she had received a threat, and
15 that if she identified the person who gave her the
16 information of what it would show, the video or
17 described it to her, she was scared.

18 Q Okay. Did anybody from Human Resources ever ask
19 you if Mr. Kennedy had ever received any training
20 on how to operate the video system so he could
21 possibly show somebody a prior video?

22 A I don't recall.

23 Q Do you know if anybody from Human Resources ever
24 asked anybody in your department if he had such
25 training?

1 A I'm not aware of it, no. I don't know if they
2 asked him.

3 Q All right. So it's your understanding that Jeffrey
4 was terminated because of a threat and not so much
5 the showing of the video?

6 A You would have to refer to the paperwork as to the
7 exact reasons why. There was some inaccurate
8 information provided by Mr. Kennedy to Mr. Garrick.
9 You would have to ask Mr. Garrick why he made the
10 recommendation of termination.

11 Q All right. Do you think showing a mother and a
12 fellow coworker a video of her son is generally a
13 terminable offense? Is that something --

14 A It's a violation of Board policy, and violation of
15 Board policies are considered to be terminable.

16 Q Is that something you would expect somebody to be
17 terminated for?

18 A Among many, many other things, yes.

19 Q In that type of situation, is the video something
20 that Ms. Jones would have ultimately been able to
21 see anyway?

22 A It's possible. The principals have control of the
23 video, and principals do show videos to parents on
24 occasion.

25 Q If their children are involved in an incident?

- 1 A Yes, sir.
- 2 Q So she likely would have seen it anyway?
- 3 A I don't know.
- 4 Q Just a couple more questions. I don't know if it
- 5 is clear. Going back to your watching of the
- 6 security videotape of the night of the thousand
- 7 dollar theft?
- 8 A Yes.
- 9 Q Did you actually watch all seven or eight or nine
- 10 hours or whatever it was of the video?
- 11 A Yes, but at a higher speed. You can run it at 32
- 12 to 64 times normal speed.
- 13 Q So it doesn't take you seven hours to watch seven
- 14 hours worth?
- 15 A No.
- 16 Q All right. You said you didn't see the baseball
- 17 team in there?
- 18 A I did not. I don't recall seeing the baseball
- 19 team.
- 20 Q And did you continue to watch it after Jeffrey
- 21 Kennedy disabled the alarm?
- 22 A I don't specifically recall.
- 23 Q Did you document what time Tim Hunter came back in?
- 24 A No, I did not document what time Tim Hunter came
- 25 back in.

1 Q And you didn't document who else went in the
2 building between the time Jeffrey Kennedy disabled
3 the alarm and the time Tim Hunter came back?

4 A No.

5 MR. GOODWYN: That's all I have.

6 THE COURT: Ladies and gentlemen, this is a
7 good time to take our break for the evening. I am going
8 to remind you of the instructions that I have given to
9 you throughout the course of this trial; that is, not to
10 begin to discuss this matter among yourselves as you
11 have still not heard all of the evidence that has to be
12 presented.

13 Please remember as you come and go from the
14 courthouse not to listen to any conversations that you
15 may hear in the hallways, again, for the reasons that
16 you have to make the decisions based upon the evidence
17 that is presented here throughout the course of this
18 trial and not based upon conversations you may overhear.

19 Please also remember not to allow anyone to
20 approach you to discuss this matter with you. Again, if
21 someone attempts to do that, please tell them that you
22 are a juror and cannot discuss it. I ask that you
23 report it as soon as possible.

24 Additionally, please remember my instructions
25 that I gave you yesterday about not engaging in any

1 independent research or investigation. Again, that's
2 not evidence that can considered by you during the
3 course of your deliberations. So you should not engage
4 in that activity. Please also remind your family and
5 friends that I have asked you not to discuss it with
6 them.

7 I'm going to ask that you report tomorrow
8 morning to the same jury room where you reported today
9 at 9:30. When you report at that time, then we will be
10 ready to continue on at that time. Have a good evening.
11 We will see you tomorrow morning.

12 (The jury is excused at 6:15 P.M.)

13 THE COURT: Mr. Earles, during this break
14 overnight, you should not discuss your testimony with
15 anyone. It's inappropriate for you to discuss it, as
16 you have not concluded that testimony. So you should
17 not discuss it, even with your own attorneys. You may
18 step down.

19 (The witness leaves the witness stand.)

20 THE COURT: Anything else we need to take up
21 before we adjourn for the evening?

22 MR. GOODWYN: None from the plaintiff.

23 THE COURT: I will ask that you all submit
24 your requests to charge or at least give me what you
25 have available so that I can begin to go through that

1 information, and then we can supplement them as we go
2 along. If you would do that tomorrow morning, please, I
3 would appreciate it.

4 I also need to make sure that I have that
5 Exhibit A. I still don't think I have it to the
6 memorandum from the plaintiff. I need to make sure that
7 the record is complete on that, and I have those
8 documents. If there is nothing else, we will see you
9 all tomorrow morning at 9:30. Thank you.

10 (Whereupon the proceedings are concluded for
11 September 30, 2014.)

12 (The following proceedings are reported on
13 October 1, 2014.)

14 THE COURT: Good morning, everyone. Is there
15 anything we need to take up before we get started?

16 MR. BARLOW: Not from the defendant.

17 MR. GOODWYN: Not from the plaintiff, Your
18 Honor.

19 THE COURT: You may ask the jury to come in,
20 please.

21 THE BAILIFF: Yes, ma'am.

22 (The jury returns to the courtroom at
23 9:40 A.M.)

24 THE BAILIFF: The jury panel is all accounted
25 for, Your Honor.

1 THE COURT: Good morning, ladies and
2 gentlemen.

3 THE JURY: Good morning.

4 THE COURT: You may proceed. Thank you.

5 MR. BARLOW: Thank you, Your Honor.

6 CROSS EXAMINATION

7 BY MR. BARLOW:

8 Q Mr. Earles, I just wanted to make sure the jury had
9 full benefit of your background. Where did you
10 grow up?

11 A I've been in Columbia, South Carolina, since I was
12 six years old.

13 Q Where did you go to high school?

14 A Cardinal Newman High School.

15 Q You worked at the Sheriff's Department?

16 A That's correct.

17 Q How long did you work for the Sheriff's Department?

18 A I actually was employed at the Sheriff's Department
19 from 1997 to 2007. I became a deputy sheriff
20 beginning in 1993 as part of my duties at the
21 Emergency Services Department as a fire marshal.

22 Q All right. What did you do for the Sheriff's
23 Department? What positions did you hold?

24 A I started out as a line officer, a uniform officer.
25 I did 18 months in that position. Then I moved

1 into the Crime Scene Unit where I was a crime scene
2 investigator.

3 Within less than a year, I was promoted to
4 sergeant of the Crime Scene Unit, stayed in that
5 position for a few years. I don't recall the exact
6 time.

7 The Sheriff's Department was then starting to
8 move into technical investigations. They moved me
9 into the position that was created as a technical
10 investigator, where I did forensic video work and
11 surveillance.

12 Q And how long did you do that?

13 A Approximately three years.

14 Q All right. Do you have any certifications or
15 specializations?

16 A I've got a wide variety of certifications and
17 specializations, in both EMS, law enforcement,
18 crime scene management, forensic video work, bomb
19 technician, hazardous materials technician.

20 Q Now, we talked some about the organization of the
21 security department, but just to go through a
22 couple of things. Who do you report to?

23 A I report to Mr. Jack Carter.

24 Q What is Jack Carter's title?

25 A He is the Executive Director for Support Services.

1 Q How long has Jack Carter been in that position?

2 A Much longer than I have been with the School
3 District.

4 Q What are your expectations for security guards
5 while they're working a shift?

6 A They are generally responsible for the physical
7 security of the buildings. During the dayshift,
8 they patrol the grounds and look for anything
9 suspicious, talk to the staff, see if they have any
10 problems.

11 In the event we have a lockdown, they are
12 responsible for securing the gates and the exterior
13 of the schools. As I said, they patrol the
14 schools.

15 On second shift they're responsible for
16 primarily closing the building down when staff
17 leaves. They make sure everyone is out, set the
18 alarms. During their other times, they patrol the
19 schools, once again looking for anything
20 suspicious.

21 Third shift finishes up with any of the
22 closing downs that may not have occurred,
23 particularly the high schools have things that go
24 on late at night, teams coming back, that sort of
25 thing. They would take care of setting alarms and

1 closing down any schools that were still open.

2 For the rest of the night, they are
3 responsible for patrolling the grounds, checking
4 the exteriors, making sure there is no one on the
5 property, looking for anything suspicious,
6 reporting anything that needs to be -- lights that
7 need to be repaired, that sort of thing.

8 Then in the mornings, they are responsible for
9 opening up the buildings, turning off the alarms,
10 and that sort of thing.

11 Q All right. Is there any reason for a third shift
12 security worker to be spending an extended time in
13 the school?

14 A No, there's plenty to do outside.

15 Q Now, we talked a little bit about the Spring Valley
16 thefts and when they were first reported to you.

17 (Attorneys confer.)

18 MR. GOODWYN: Just a minute to review it.

19 MR. BARLOW: Sure.

20 (Defendant's Exhibit Number 2 is marked for
21 identification.)

22 BY MR. BARLOW:

23 Q I show you what's been marked as Defendant's
24 Exhibit 2. Can you tell me what that is,
25 Mr. Earles?

1 A The first two pages are my notes that I keep on my
2 computer whenever any sort of issue is going on
3 where I'm probably going to have to refer to the
4 facts at a later time.

5 Q All right. And what are the other pages?

6 A The other pages are prints of our security video
7 from Spring Valley.

8 Q All right. Did you keep this, a running log of
9 these notes, on your computer?

10 A Yes.

11 Q And you did it contemporaneously with these events?

12 A Correct.

13 MR. BARLOW: Your Honor, we would move that
14 Defendant's Exhibit 2 be admitted into evidence at this
15 time.

16 THE COURT: Any objection?

17 MR. GOODWYN: No objection, Your Honor.

18 THE COURT: It's admitted.

19 MR. BARLOW: Thank you, Your Honor.

20 (Defendant's Exhibit Number 2 is received into
21 evidence.)

22 BY MR. BARLOW:

23 Q Mr. Earles, having the benefit of this, does this
24 refresh your recollection as to the sequence of
25 events?

1 A Yes.

2 Q What was the first thing that was brought to your
3 attention?

4 A On March the 2nd of 2011, I was notified that they
5 had a couple of incidents at Spring Valley where
6 desks had been gone through and cash had been taken
7 in the administration area, once over the night of
8 February 24th, 25th, and once over the night of
9 March 1st, 2nd.

10 Q All right. When you received that report, what was
11 the first thing you did?

12 A Went to the school to gather facts.

13 Q All right. Did you take any action based on the
14 facts that you had?

15 A The first thing I did was change the angle of one
16 of the cameras. We had two cameras looking in one
17 direction. It did not see the doors of the offices
18 that had been gone through. So I changed the angle
19 on that one.

20 Of course, we had discussed the incidents with
21 the school resource officer, who is a deputy
22 sheriff, and the Principal and the people whose
23 desk had been gone through.

24 Q All right. Mr. Barnes was with you at that time?

25 A Yes.

1 Q What else did you do besides changing the angle of
2 the video camera there?

3 A I placed \$10 bait money in one of the locations
4 that had been -- where money had been taken,
5 identified it, recorded the serial number, marked
6 the bill, and sprayed it with some searching glue
7 spray, which is a dust that is visible under
8 ultraviolet light, photographed it; and as I said,
9 recorded the serial number and placed it in an
10 envelope in one of the desks where cash had been
11 taken.

12 Q All right. Whatever happened to that bait money?

13 A It stayed there. I retrieved it the following
14 fall.

15 Q All right. So it was intact. It had not been
16 taken?

17 A Correct.

18 Q All right. So after you got that report, you took
19 those steps. What did you do next?

20 A Well, the only thing we had to go on from our point
21 of view was the video. So we reviewed the video to
22 see, looking for anything unusual, people that were
23 in the area that shouldn't have been, people that
24 were in the area longer than they should have been,
25 just anything out of the ordinary.

1 Q All right. And we're going to get to the video in
2 a minute. But, first of all, I think it would be
3 good to give some perspective on what we're talking
4 about so we're not just talking about the Spring
5 Valley physical plant in a vacuum here. I show you
6 a couple of things. Do you recognize what this is?

7 A That would be the floor plan of Bates Hall, which
8 is the athletic facility.

9 MR. BARLOW: I'm going to put this up here.

10 Your Honor, may the witness step down so he
11 can mark on this?

12 THE COURT: Yes, sir, as long as you keep your
13 voice up so the court reporter can record your
14 testimony.

15 (The witness leaves the witness stand.)

16 BY MR. BARLOW:

17 Q All right. I'm going to hand you this Sharpie. If
18 you need to flip that around or position it where
19 you want it, go ahead.

20 A No, that's fine.

21 Q Okay. Can you mark on there where the office of
22 Tim Hunter is?

23 A It is...

24 Q And put a T.H. there or draw an arrow to it with a
25 T.H.

- 1 A (Witness complies.)
- 2 Q Can you mark where the keypad is?
- 3 A I'd have to put an A. there for the alarm.
- 4 Q Okay. That's good. All right. Where is the
- 5 weight room?
- 6 A This (indicating) is the weight room here.
- 7 Q All right. Do you have a recollection where the
- 8 light switch is in the weight room?
- 9 A The light switch in the weight room is by this door
- 10 (indicating).
- 11 Q Can you put an L.S. there for light switch?
- 12 A (Witness complies.)
- 13 Q Okay. And where are the entry and exit doors for
- 14 the building?
- 15 A The primary entrances are here (indicating) and
- 16 here (indicating). This (indicating) is a center
- 17 front door. This would be -- this door
- 18 (indicating) I believe is always locked. It's an
- 19 exit from the arena. This section (indicating) of
- 20 the building is completely secluded from the rest
- 21 of the building.
- 22 Q All right. And is that whole section to the weight
- 23 room there?
- 24 A Yes, this whole area (indicating).
- 25 Q All right. You can return to the seat there.

- 1 A (Witness resumes the witness stand.)
- 2 Q I'm going to try to put some pictures up here.
- 3 Bear with me. Can you see that from where you're
- 4 sitting?
- 5 A Yes.
- 6 Q Can you tell me what that is?
- 7 A That is a view of the front of Spring Valley High
- 8 School with the gates to the stadium in the middle.
- 9 Bates Hall, which is the building that we just had
- 10 up, is to the left; and the main building -- the
- 11 gym and then the main building are to the right.
- 12 Q All right. So Bates Hall is over here (indicating)
- 13 on the left?
- 14 A Correct.
- 15 Q The main building on the right (indicating)?
- 16 A Correct.
- 17 Q And that's the football stadium in the middle?
- 18 A Yes.
- 19 Q All right.
- 20 A That is the front door of Bates Hall, the one that
- 21 is in the center of the building. It's not the
- 22 most-used entrance.
- 23 Q Is that where the keypad is?
- 24 A No.
- 25 Q What is that (indicating)?

- 1 A That's the inside view of the door closest to the
2 alarm keypad.
- 3 Q All right. And where would the keypad be there?
- 4 A It is right next to the bottom framed -- whatever
5 that is.
- 6 Q All right. Making it a little bigger, does that
7 point out where it is?
- 8 A Yeah, that's it, right lower. That's it.
- 9 Q Okay. And tell me what that (indicating) is.
- 10 A This will be the view down the hallway. You can
11 see the alarm keypad to your left. To give you
12 some perspective, the little bit of indentation
13 right around the corner there is the first entrance
14 to the weight room.
- 15 Q The entrance to the weight room would be where my
16 cursor is here (indicating)?
- 17 A Correct.
- 18 Q Keypad here (indicating)?
- 19 A Yes.
- 20 Q What's that (indicating)?
- 21 A That's the entrance to the outer area that leads to
22 Mr. Hunter's office.
- 23 Q So the weight room is directly across from
24 Mr. Hunter's office?
- 25 A Yes.

- 1 Q And directly across from the keypad area, close?
- 2 A Yes.
- 3 Q Now, does this also show the relationship to the
- 4 keypad to Tim Hunter's office?
- 5 A To the entrance to the outer office that leads to
- 6 Mr. Hunter's office.
- 7 Q Now, let's talk a little bit about the main
- 8 building. First of all, can you tell me what that
- 9 (indicating) is?
- 10 A That is the floor plan of the largest portion of
- 11 the first floor of Spring Valley High School.
- 12 Q All right. I'm going to ask you to do this again
- 13 carefully.
- 14 A (Witness leaves the witness stand).
- 15 Q Can you point out on here where the administrative
- 16 hall is?
- 17 A The administrative hall is this area (indicating).
- 18 Q Can you just do a big circle on that with the
- 19 Sharpie?
- 20 A (Witness complies.)
- 21 Q Okay. And while you're up there, where is the
- 22 front entrance where the keypad is here
- 23 (indicating)?
- 24 A This (indicating) is the front entrance here.
- 25 Q All right. Just write front on it.

- 1 A (Witness complies.) Do you want me to mark where
2 the keypad is as well?
- 3 Q Sure, just put a K.P. on there.
- 4 A (Witness complies.)
- 5 Q All right. Is there access from the administrative
6 hall to the front?
- 7 A Yes.
- 8 Q Okay.
- 9 A It's directly through this door (indicating).
- 10 Q All right. So you can walk right through there?
- 11 A Yes.
- 12 Q And where would the cameras be in the
13 administrative hall? Can you just draw big circles
14 where the cameras would be?
- 15 A At that time there was a camera here (indicating)
16 and a camera -- I believe it was here (indicating).
17 This (indicating) is the one that I moved.
- 18 Q Okay. What did the cameras see?
- 19 A This one (indicating) would look down this hallway
20 (indicating). I believe this one (indicating) was
21 looking in the same direction. They are looking in
22 this direction towards this door (indicating).
- 23 Q Right.
- 24 A At any rate it wasn't looking towards the area that
25 we needed.

- 1 Q All right. So the thefts were in what area?
- 2 A The thefts were in this area (indicating). How
- 3 should I mark it? Just circle that as well?
- 4 Q Yeah.
- 5 A (Witness complies.)
- 6 Q The camera was not pointing in that area
- 7 (indicating) at the time?
- 8 A No, we had no camera seeing that area at that time.
- 9 Q Any reason to put a camera there before that time?
- 10 A We had had no problems. Our camera situation in
- 11 the District is a constantly expanding thing. As
- 12 we see the need, we add cameras; but at that time
- 13 there was no camera in that area.
- 14 Q Thank you. You can return.
- 15 A (Witness resumes the witness stand.)
- 16 Q Let me ask this. While we're looking at the
- 17 athletic building, can you see where the cameras
- 18 are on here?
- 19 A Yes, you can see one of them.
- 20 Q Where would that be? Is that (indicating) a
- 21 camera?
- 22 A No.
- 23 Q All right. I'll make it a little bigger.
- 24 A Directly above where those -- I have a hard time
- 25 seeing that.

1 Q Yeah, I know.

2 A I don't believe there is a camera visible down that
3 hall. There is a camera that sees that hall, but
4 it is the area directly near the top of the frame.
5 There is one to the left there, and that one
6 (indicating) looks towards us --

7 Q All right.

8 A -- as the picture shows. It's the one that would
9 see the front door and where the rest rooms are.

10 Q All right. And the other camera sees the other
11 direction?

12 A Yes, it looks down that hall.

13 Q At that time no cameras saw Tim Hunter's door?

14 A That's correct. The one that's there is high
15 enough that it doesn't catch that door.

16 Q How about the weight room? Does it catch the
17 weight room?

18 A It would catch the second door of the weight room
19 but not the first.

20 Q Not the first door. Okay. Now, how many cameras
21 are there in that school, Spring Valley,
22 altogether?

23 A A little over 150.

24 Q And how do they work?

25 A They are -- the cameras are on all the time, but

1 DVRs that they connect to only record when the
2 camera sees motion. That's the way the systems are
3 designed in order to save hard drive space. So if
4 there's no motion, there's no recording. If there
5 is motion, it starts recording until the motion is
6 not seen anymore.

7 Q Do you have someone that constantly monitors these
8 cameras?

9 A No.

10 Q Why is that?

11 A Well, we have over 3,000 in the District, and it's
12 not effective.

13 Q Sure. So you go to the cameras when there is
14 something you want to check out?

15 A Correct.

16 Q Is that fair?

17 A Yes. As I said, if there was an alarm in the
18 middle of the night, I would expect the officers to
19 pull up the cameras and see what's going on in the
20 school and that sort of thing.

21 Q Sure. Or if some students got in a fight at
22 school?

23 A The cameras are used most often by school
24 administrations for disciplinary things.

25 Q Were there any problems going on reported with the

1 cameras at Spring Valley during the timeframe we're
2 talking about?

3 A Not that I'm aware of, no. We have a lot of
4 cameras, and there are issues from time to time;
5 but I'm not aware of any at this time.

6 Q All right. Did you save any videos from your
7 investigation --

8 A I did.

9 Q -- to take a look at it. All right. We'll look at
10 those in a minute. So no problems with the cameras
11 that you were aware of?

12 A No.

13 Q So tell me what you did to save -- the procedure to
14 save the videos?

15 A The cameras can be accessed from remote locations,
16 like our security watch room or my office or
17 Mr. Barnes's or the Assistant Principal's Office.
18 Anybody that has the software can access the
19 cameras.

20 So I did the search from my desk and then
21 recorded the images that I was interested in to my
22 computer and then moved them to a compact disk to
23 provide to Human Resources and to the Sheriff's
24 Department.

25 Q Did you view the images that you did not end up

1 recording as well?

2 A Yes.

3 Q The goal was to record what you thought would be
4 relevant?

5 A Yes.

6 Q Or to save, I guess?

7 A Yes. To save all of the activity would be very
8 large files.

9 Q What happens to the video if you don't save it?

10 A It is a -- as I said, it's computer hard drive. So
11 all of the DVRs are set so that once the hard drive
12 is full, they record over the oldest image so there
13 is a constant cycle going on.

14 How long you can go back depends on how much
15 activity there was that was recorded. During the
16 summer we may have five, six weeks because there is
17 no activity or very little active going on. During
18 the school year, it may be five, seven, 14 days
19 depending on how much movement there is.

20 Q All right. So you would not save the whole night.
21 You would save the relevant timeframe from the
22 night?

23 A Yes.

24 Q Did you make any alterations to the videos once you
25 saved them?

1 A No.

2 Q Now, do you remember what dates of the video you
3 saved?

4 A I saved the administration area. And when I save
5 video, I capture everything that is on the DVR and
6 all the cameras that feed to that DVR for that
7 timeframe.

8 From the evening of February 24th, 25th, and
9 the night of March 1st, 2nd in the administration
10 area. Then in the Bates Hall, the athletic
11 facility, I saved one section at about 10:53 on the
12 night of the 3rd and one section from about 5:48 on
13 the morning of the 4th.

14 Q All right. And why did you save those particular
15 sections?

16 A They were the ones that indicated something that I
17 considered out of the ordinary.

18 Q All right. Let's take a look at some video.

19 MR. BARLOW: Your Honor, since the witness is
20 the best operator of the video, we would ask that he be
21 allowed to step down and operate it.

22 MR. GOODWYN: No objection.

23 THE COURT: Yes, sir.

24 BY MR. BARLOW:

25 Q All right. Mr. Earles, if you could come down.

- 1 A (Witness leaves the witness stand.)
- 2 Q All right. If you could, please, could you pull up
- 3 the video for 2/24/11.
- 4 A (Witness complies.)
- 5 Q Before you hit play, I want to -- well, go ahead
- 6 and at least initially hit play and then pause it,
- 7 please.
- 8 A (Witness complies.)
- 9 Q All right. Tell me what we're looking at here.
- 10 A What you see here, the top four angles are interior
- 11 views of the front door of the school. The others
- 12 are hallways around the administration area and
- 13 some of the classrooms, the hallway to the -- it's
- 14 known as the commons area, which is the cafeteria,
- 15 just generally in the area of the front door in the
- 16 administration area.
- 17 Q Which one is the administrative hall?
- 18 A That is not on this DVR.
- 19 Q All right. What is number 11?
- 20 A Number 11 is -- I'm sorry. It is on this.
- 21 Q Okay.
- 22 A It is on here, the administration hall.
- 23 Q All right.
- 24 A Those are the ones I identified looking down the
- 25 hallway towards the side door.

1 Q All right. There is a side door that goes from the
2 exterior of the building into the administrative
3 hall?

4 A Into the administration area, that's correct.

5 Q All right. And this is the night of 2/24?

6 A This is 2/24 and what we have now is 11:34 P.M.

7 Q And that's the one you have recorded because there
8 was a theft reported as of 2/25?

9 A Yes. It was reported to me on March the 2nd, but
10 it was reported as possibly having occurred on the
11 24th.

12 Q All right. Now, if you could just start it and run
13 it. What's the highest speed you could run it?

14 A It's fast.

15 Q Okay.

16 A Do you want me to run it at that speed?

17 Q Yeah, run it at that speed, and then we'll slow it
18 down.

19 A (Witness complies.) What you see most of the time
20 is the times moving at the top. (Playing.) That's
21 it.

22 Q All right. Now, let's slow it down and do it
23 again.

24 A (Witness complies.)

25 Q Just run it through.

1 A (Witness complies.)

2 Q All right. What's the motion in number 11 here?

3 A The motion is Mr. Kennedy coming in the side door,
4 looking into the copy room, going into the copy
5 room.

6 Q Okay. What did he have in his hand? Did you see
7 it?

8 A A piece of paper.

9 Q All right.

10 A (Playing.) At that point he is out of view of all
11 of these cameras.

12 Q For how long?

13 A Approximately 20 minutes.

14 Q There is a timer at the top?

15 A Yes.

16 Q And your notes would reflect when he came in and
17 when he left?

18 A Yes.

19 Q All right. I think you can speed it up now a
20 little bit. I don't want to be here 20 minutes, I
21 don't think.

22 A (Witness complies.)

23 Q Let me ask this while you're speeding it up. If
24 there is anything going on in the other areas,
25 would that have been shown on the camera?

1 A Yes, the cameras would have recorded any motion in
2 those views.

3 Q If he left the administrative hall and went into
4 one of those areas, that would have been picked up?

5 A Correct.

6 Q What's in the administrative hall?

7 A Assistant principals' offices, the principal's
8 office, administrative assistant's office, some
9 secretarial support, bookkeeper, the administrative
10 receptionist, a workroom, rest room, and a copy
11 room.

12 Q All right. So basically the people who are running
13 the school -- principles, assistant principles --
14 are in that area?

15 A Yes.

16 Q As well as their support staff?

17 A Yes. I'm sorry. There is also a break room.
18 (Playing.)

19 Q All right. Who is that?

20 A That's Mr. Kennedy going back into the camera view.

21 Q Okay.

22 A I've got the wrong one. I'm sorry.

23 Q That's all right.

24 A There we go. (Playing.)

25 Q What does he have there?

- 1 A It appears he has a piece of paper in his hand.
- 2 Q Do you see him carrying anything else?
- 3 A No.
- 4 Q All right. Just play it forward from there. At
- 5 that speed is good.
- 6 A (Witness complies.)
- 7 Q Where is he going in there?
- 8 A He just went into the rest room.
- 9 Q All right.
- 10 A And the motion was -- he has exited the building.
- 11 Q Now, can you just isolate on 11? All right. Just
- 12 play that through at about the same speed you just
- 13 had.
- 14 A From the beginning?
- 15 Q Yes, that would be fine. You can sort of speed up
- 16 the pause maybe.
- 17 A (Witness complies.) Speed it up now?
- 18 Q Sure.
- 19 A Let me back that up.
- 20 Q Any reason for Mr. Kennedy to be using that door to
- 21 come in and out of the building?
- 22 A I can't think of one. All of his duties would be
- 23 related to coming in the front door where the alarm
- 24 panel is.
- 25 Q All right. What's the next date you recorded?

1 A The next date I recorded would have been March the
2 1st. I'm sorry. I just got myself out of here.

3 Q It should be on your top right there, Chuck.

4 A Oh, okay. All right.

5 Q Before we go to the next one, anything else
6 significant about 2/24 from the video?

7 A Nothing out of the ordinary. I viewed the other
8 cameras that see around the admin area and could
9 tell that he had not exited the administration
10 area.

11 Q All right. Back up. So what was the next video
12 date you recorded?

13 A It was the night of March 2nd and 3rd.

14 Q Or is it March 1st?

15 A I'm sorry, March 1st. In the file name, March 1st,
16 I have two videos starting at 11:23 and one
17 starting at 11:51.

18 Q All right. The 11:23 videos, one is the
19 administrative hall?

20 A Correct. That would be administrative exits that
21 come from another DVR. That's why it's a separate
22 file.

23 Q All right. Let's look at the administrative hall
24 first.

25 A (Witness complies.) (Playing video.)

1 Q That was real fast. Why don't you play it about
2 the speed we've been kind of looking at. We will
3 speed up and pause as needed.

4 A (Playing video.) These are the same cameras that
5 you were just looking at from February.

6 Q All right. You made this recording because there
7 was a theft recorded on March 2nd?

8 A Yes.

9 Q In the administrative hall?

10 A Yes.

11 Q In the area where Mr. Kennedy is?

12 A That's right.

13 Q All right. Now, let's go back and --

14 A I'll go back again.

15 Q Yeah. Maybe I'll just be quiet this time and let
16 you show it. I'm sorry.

17 A (Witness complies.)

18 Q So Mr. Kennedy is coming in the back door again?

19 A Right.

20 Q Is he carrying anything?

21 A I'll see if I can look.

22 Q All right. We'll look at it when we blow it up.
23 So how long is he in there this time?

24 A About 20 minutes again.

25 Q Anything showing up on the other cameras?

- 1 A No, sir.
- 2 Q If you want to speed it up.
- 3 A (Witness complies.) (Playing video.)
- 4 Q Is that Mr. Kennedy leaving now? That's what we're
- 5 seeing?
- 6 A Yes, sir.
- 7 Q On the bottom right?
- 8 A Yes.
- 9 Q And that stop is on the way out this time. If you
- 10 could just isolate 11. We'll just watch that at
- 11 fairly quick speed.
- 12 A (Witness complies.) (Playing video.)
- 13 Q Is he carrying anything there?
- 14 A I don't see anything, no.
- 15 Q So then he disappears. He is off camera again?
- 16 A Correct.
- 17 Q Twenty-plus minutes?
- 18 A Yes.
- 19 Q Now, he's leaving?
- 20 A Yes.
- 21 Q Is he carrying anything that you can tell?
- 22 A I don't see anything in his hands, no.
- 23 Q And out the back door, right?
- 24 A Correct.
- 25 Q All right. Let's go to the next one. Look at

1 administrative hall exits at that same time. Tell
2 me why you saved that one.

3 A I saved that one because it shows that no one went
4 out of the other two exits of the administration
5 hall area.

6 Q All right. So we're not going to see anything on
7 this basically?

8 A No, there will be no motion. Well, no, there would
9 be no motion in this view. (Playing video.)

10 Q All right. Just sort of -- yeah, that's good. You
11 used the same start time for this one as the
12 administrative hall?

13 A Yeah. I started right before Mr. Kennedy entered
14 the administration hall and ended it as he exited
15 the building.

16 Q About what time does this one end?

17 A It should end about 11:53, I think. We will find
18 out in just a minute. (Playing video.)

19 Q This video doesn't fill the full screen of a
20 computer when you pull it up?

21 A No, unfortunately this is as big as it gets.

22 Q All right.

23 A Which is one of the reasons we're not using the
24 software anymore.

25 Q Sure.

1 A (Playing video.)

2 Q Now, were there some lights there on the side
3 driveway?

4 A Yes.

5 Q What would that be?

6 A That would be Mr. Kennedy driving towards the back
7 of the school and turning around and driving
8 forward.

9 Q All right.

10 A It ended at 11:51:58.

11 Q And there was no motion detected leaving the
12 administrative hall for the entire time?

13 A No, not in the interior at all.

14 Q If you could just go to the next one again. We'll
15 leave this one.

16 A (Witness complies.) (Playing video.)

17 Q This is the administrative hall, exits 11:51 hours?

18 A Correct.

19 Q Tell me why you saved this one?

20 A I saved this one because it's the next time
21 Mr. Kennedy enters the building to do what I would
22 expect him to do.

23 Q Play that one.

24 A (Witness complies.) Here in number 10, it's
25 labeled side driveway. You see the headlights.

1 I'll back it up so you can see the motion.

2 Q So that's picking up from the last one?

3 A That's picking up from the last one. That's the
4 overlap.

5 Q Okay.

6 A (Playing video.) Do you want me to pause it and
7 show?

8 Q Yeah, pause it and explain where things are if you
9 would. Explain what's on the screens starting at
10 the top left and working down.

11 A Number one is the stairs at Room C-148, the stairs
12 going up to the second floor.

13 Q All right.

14 A Number two is the view of the side exit from the
15 administration area looking down that hallway.
16 Number three is the hall up in C-141 in the
17 classroom area. Number four is the lockers.
18 Number four and number five is a hall over in
19 C-184, which you can't see the administration area
20 from there.

21 Number six looks towards the receptionist
22 desk in the front door. Number seven sees just the
23 edge of the other exit, the front entrance/exit to
24 the administration area. Eight is a set of stairs
25 at the guidance hall. Nine is in a classroom.

1 Ten is that side of that driveway where we saw
2 the motion. Eleven and 12 are the media center
3 which are in the general area of the Administration
4 Building, and then 13 and 14 are the halls of the
5 media center.

6 Q All right. Where is the front keypad, the screen?

7 A The front keypad is just visible in number six.

8 Q Okay.

9 A Or the area of the front keypad is visible.

10 Q All right. Do you want to go ahead and play it
11 now.

12 A Do you want me to play all of them?

13 Q Sure.

14 A Okay.

15 Q Sort of moving over where the recorder is.

16 A All right. (Playing video.) You can see
17 Mr. Kennedy came in the front door.

18 Q Yes.

19 A Is turning out lights. He is now walking, number
20 seven, over by the front entrance to the
21 administration area. We also see him in number
22 nine coming down the hallway, once again, turning
23 out the lights.

24 He is back by the administration area,
25 entrance, front entrance, moving back towards the

1 front door. You see him going up the stairs and
2 down the stairs by the administration area, moving
3 back towards the front door, walking by the front
4 door, back to the front door again, and it appears
5 that he is now out.

6 Q All right. How long did that take, about five, six
7 minutes?

8 A About six, yes.

9 Q To run and turn all those lights out. How big is
10 that area?

11 A It's an open atrium area with halls running off of
12 it. It's probably 2,000 square feet.

13 Q So you said that's what you expected of
14 Mr. Kennedy. What do you mean by that?

15 A That's what I would expect the normal duties to be:
16 Coming in, turning off the lights, checking the
17 general area, and setting the alarm.

18 Q Rather than coming in the back door and staying in
19 the administrative hall?

20 A Correct.

21 Q Any reason to do that?

22 A Any reason to come in the back?

23 Q Yeah, rather than just doing what he did that time.

24 A No. You can't come in that door and set the alarm,
25 because by the time you get back, you will have

1 already caused it to go off. You've got to set the
2 alarm and exit right by the alarm.

3 If he were to come in the back door and exit
4 the front after he set the alarm, it's a really
5 long walk around the Fine Arts Center back to where
6 he was parked.

7 Q All right. Could he have simply come in the front,
8 turned the lights off, set the alarm and left?

9 A Yes.

10 Q Without having to go in the back door at all?

11 A Yes. There is one reason to be in the
12 administration area, and that's because their
13 battery charger for their radio is there. It takes
14 ten seconds to change the battery on the radio.

15 Q Okay.

16 A And he could have accessed that from the front.

17 Q Sure, sure. Yeah, you can get to the
18 administrative hall from the front?

19 A Right.

20 Q Anything else significant about this before we move
21 to the Bates Hall video?

22 A I don't believe so.

23 Q All right. Take us there, please.

24 A Okay. (Playing video.) This is an older DVR. The
25 reason you have so many blank screens is it doesn't

1 hold the last image, the last image recorded. It
2 just keeps it blank until the motion comes up.

3 So what you see is the exterior cameras, and
4 those are on because of the headlights going by.
5 The one on the front door, which is number ten, is
6 up because I played it to the point where they came
7 in the door and then backed up.

8 Q What's the road that goes past Spring Valley?

9 A It is Sparkleberry Lane.

10 Q All right. Tell me why you saved this one.

11 A I saved this one to show when the alarm was set
12 that night, at the beginning of third shift, and
13 how long it takes.

14 Q All right. This is the night that the \$1,000 went
15 missing from Tim Hunter's office?

16 A Correct.

17 Q Night-slash-morning. All right. Go ahead and play
18 this one.

19 A (Playing video.) You can see the door opening.

20 Q All right.

21 A Mr. Kennedy coming in, Mr. Reid who is being
22 trained stands there, and they leave.

23 Q All right. What time was that?

24 A That was about 10:54.

25 Q And how long did it take him to do that?

1 A About 20 seconds.

2 Q Can you blow that up and run it since it's a short
3 one?

4 A Let me go back.

5 Q All right.

6 A Now, I'll run it at a reasonable speed. (Playing
7 video.)

8 Q That's good. All right. There's Mr. Kennedy and
9 there's Mr. Reid who testified?

10 A Correct. And that's it.

11 Q Now. Why don't you play the next morning?

12 A Okay.

13 Q And tell me, again, why you recorded the next
14 morning or saved it?

15 A To show the length of time that Mr. Kennedy was in
16 the building to disarm the alarm that he had armed
17 earlier. Let me go back to the beginning now.

18 Q All right. Play it at a reasonable rate of speed.
19 I think you can do that.

20 A (Playing video.)

21 MR. GOODWYN: I'm sorry. Maybe my eyes are
22 bad. Can somebody tell us what time that is up there?

23 THE WITNESS: It's starting about 5:46.

24 BY MR. BARLOW:

25 Q And you wrote that in your notes; right?

- 1 A I did. Let me pause it, back to the beginning,
2 starting at 5:45:39.
- 3 Q All right.
- 4 A (Playing video.)
- 5 Q The car is going by? That's picking up the motion
6 on those cameras?
- 7 A Yes.
- 8 Q If there were things going on in other parts of the
9 building, those cameras would --
- 10 A -- the camera view would come up. See, one just
11 came up because there was a reflection of a
12 headlight.
- 13 Q All right.
- 14 A And there was Mr. Kennedy coming in the door.
- 15 Q Okay.
- 16 A It's about 5:48.
- 17 Q If there were motion on the other end of that hall,
18 would the camera pick it up?
- 19 A Yes, it would. It would come up as you have seen
20 the others with motion.
- 21 Q What's the time right now as you're looking at it?
- 22 A 5:52:28.
- 23 Q Okay. Still off camera?
- 24 A Yes. (Playing video.) There you see Mr. Kennedy
25 coming back into the frame.

1 Q What time is it there?

2 A 5:55:41.

3 Q Okay.

4 A And what is significant about that is he appears to
5 be coming at an angle from the hallway rather than
6 the keypad. Then he is out of the building.

7 Q All right. I think that's it for the video. If
8 you want to -- oh, yeah. Let's just blow that up.

9 A Okay.

10 Q You don't have to run it too slow. I think you can
11 run it through.

12 A Fairly fast?

13 Q Yeah.

14 A (Playing video.) That's it. There was no
15 recording in between. So all you see is -- except
16 for looking at one camera, all you see is what it
17 recorded. You see him coming in.

18 Because this is an older DVR, it doesn't hold
19 all the frames. So you see him coming in and then
20 him going out. The times are shown at the top.

21 I'll go back at the beginning to demonstrate that.

22 Q All right.

23 A There you see him coming in. The time is 4:58:53.

24 Q 5:58:53?

25 A I'm sorry, 5:58:53. I just backed it up. The

1 times just changed because it's about to pick up
2 the next motion. It's 5:55:41.

3 Q All right. So the reason for the time jump is
4 because the camera wasn't recording anything at
5 that time?

6 A Correct.

7 Q All right.

8 A (Witness resumes the witness stand.)

9 Q Let me actually show you a couple more pictures.
10 What's that?

11 A That would be the side door to the administration
12 area that Mr. Kennedy entered on the nights of the
13 24th, 25th of February and 1st, 2nd of March.

14 Q All right. And what would that be?

15 A I believe that's a closeup of that same door from
16 the inside.

17 Q All right. What would that be?

18 A This is the break room area inside the
19 administration area.

20 Q Any snack machines or anything like that?

21 A No, a coffee machine.

22 Q I just wanted to be sure. What would that be?

23 A The refrigerator in the break room.

24 Q Thanks for showing us that and for your explanation
25 of it. Now, were you involved in meetings with

1 Mr. Kennedy with other folks to ask some questions
2 about this?

3 A I was present at a meeting that Mr. Kennedy had
4 with Roosevelt Garrick, and Traci Batchelder was
5 also present.

6 Q Did you share the video with Mr. Garrick and
7 Ms. Batchelder before the meeting?

8 A I did.

9 Q Did you explain what you just explained to the jury
10 about why you saved the videos?

11 A I did.

12 Q And what was going on in the videos that caused
13 your suspicion?

14 A Yes, I did.

15 Q And what was in the last videos at Bates Hall that
16 caused your suspicion?

17 A The fact that Mr. Kennedy was in the area for much,
18 much longer than would have been necessary to do
19 what I would expect him to do, which is disarm the
20 alarm and leave the building. He has got other
21 schools to deal with.

22 Q And what was his explanation for that? Did he have
23 one?

24 A He said he had gone into the weight room to turn
25 out the lights.

1 Q Did he say anything else?

2 A I believe at some point there was some mention of
3 getting a drink of water.

4 Q Now, was that credible to you?

5 A It's possible but not credible. The reason for
6 that being, number one, it takes less than a minute
7 to turn out the lights. If he were to go in there
8 to turn out the lights, he walked through the room
9 to the other door, turned out the lights.

10 Then in order to not appear on the camera, he
11 would have had to walk back through a dark room in
12 order to not be on the hallway camera. I would
13 think it would be reasonable to turn off the lights
14 and exit that door so that you'd be in a lighted
15 area.

16 And there are water fountains in the weight
17 room, but in the camera view that you saw of the
18 front entrance, there are also water fountains very
19 close to the front door that would be the ones that
20 I would use.

21 Q How about as far as the explanation for being in
22 the administrative hall for the extended periods of
23 time?

24 A He said basically that he was killing time. He
25 mentioned he may have been reading a magazine. I

1 don't recall any specific segments as to what he
2 did. It was all "might have, may have."

3 Q Was that explanation credible to you?

4 A Once again, it's possible but not credible.

5 Q Why not?

6 A There is no reason to be there in that room. I'm
7 not aware of any stash of magazines. If he were
8 going to eat food, he would have brought it in with
9 him because there are no snack machines. He would
10 have just been in there killing time.

11 Q All right. And those are the nights that the
12 thefts were reported in that area?

13 A That's correct.

14 Q Now, was Mr. Kennedy asked whether he reentered the
15 building from the front on March 1st?

16 A Mr. Garrick him that question, yes.

17 Q What was his response?

18 A He said he did not.

19 Q Since Mr. Kennedy has left Spring Valley, have
20 there been any thefts reported in the
21 administrative hall?

22 A No.

23 Q How about in the Bates Hall?

24 A No.

25 Q Who made the decision to reassign Mr. Kennedy to

1 Support Services?

2 A That was my decision with the consent of
3 Mr. Garrick.

4 Q And why did you make that decision?

5 A It would do one of two things. If we reassigned
6 Mr. Kennedy to an area where he did not have keys
7 and was not on campus, either the thefts would
8 continue or they would stop. If the thefts
9 continued, then it would tend to exonerate
10 Mr. Kennedy. If the thefts stopped, it would tend
11 to indicate his guilt.

12 Q All right. So that was another factor that led you
13 to believe that he was not credible?

14 A Yes, the thefts stopped.

15 Q All right. Now, let me show you -- we've seen this
16 several times -- but it's Plaintiff's Exhibit 4.
17 It's the e-mail that you sent that says
18 confidential at the top of it?

19 A Yes.

20 Q All right. Did you send that?

21 A I did.

22 Q Who did you send that to?

23 A I sent it to Mr. Barnes, who is the Assistant
24 Security Manager, and to the supervisors on the
25 weekday shifts.

- 1 Q All right. Did you print it out?
- 2 A I printed one copy and placed it in the file in my
3 office.
- 4 Q All right. Did you put one anywhere else?
- 5 A I did not.
- 6 Q Did you communicate this to anybody other than the
7 people on here?
- 8 A I did not.
- 9 Q Why would these people need to know this?
- 10 A In the event that the opportunity came up for
11 Mr. Kennedy to walk over on the first shift or come
12 in early on the second shift because of a shortage
13 on those shifts, I wanted to make certain they knew
14 that he was to be assigned the watch room duties.
- 15 Q Did you intend for anyone to see it other than the
16 people you addressed it to?
- 17 A No, I did not.
- 18 Q Was it ever reported to you that there were copies
19 of this floating around?
- 20 A No, it was not.
- 21 Q Now, after the reassignment did Mr. Kennedy's pay
22 change?
- 23 A No, it did not.
- 24 Q How about hours? Was he still working the same
25 shift?

1 A He was still working the same shift, the same
2 eight-hour shift that everyone else was.

3 Q Did he have opportunities to work overtime at
4 football games and sporting events?

5 A Yes. We have a wide variety of opportunities for
6 overtime where there's no keys involved.

7 Q Did Mr. Kennedy need any keys for what he was
8 doing?

9 A No.

10 Q Did anybody come to you and say, "Why is
11 Mr. Kennedy in Support Services?"

12 A No.

13 Q Now, after you reassigned him, did you get any job
14 reference requests for Mr. Kennedy?

15 A No.

16 Q Did you get any complaints from him that he found
17 this work demeaning or didn't like it?

18 A No.

19 Q Did he come to work every day?

20 A As far as I know, yes.

21 Q Attendance good?

22 A As far as I know, yes.

23 Q No warnings or reprimands between June 2011 and
24 October 2012?

25 A No.

1 Q Not from you?

2 A Not from me certainly.

3 Q Sure. All right. Now, at some point did you deal
4 with Kim Jones, a bus driver, with regard to
5 Mr. Kennedy?

6 A Yes, I did.

7 Q All right. And you talked about that a little bit
8 yesterday?

9 A Correct.

10 Q On examination from counsel.

11 MR. BARLOW: I'd like to mark this for
12 identification as Exhibit 3, Defendant's Exhibit 3.

13 (Defendant's Exhibit Number 3 is marked for
14 identification.)

15 BY MR. BARLOW:

16 Q Mr. Earles, do you recognize that document? Do you
17 have it yet?

18 A Don't have it. Okay. Yes.

19 Q Do you recognize that?

20 A This is the statement that I wrote at the request
21 of Traci Batchelder regarding the events of
22 October 18, 2012.

23 Q Is that your signature at the bottom?

24 A It is.

25 Q Is that the date on the bottom?

1 A It is.

2 Q Did you prepare this on October 18, 2012?

3 A I did.

4 Q All right. These events occurred on or around that
5 time?

6 A That's correct.

7 Q All right.

8 MR. BARLOW: We'd like to move at this time
9 that the exhibit be admitted into evidence as
10 Defendant's Exhibit 3.

11 MR. GOODWYN: No objection, Your Honor.

12 THE COURT: Without objection it's admitted.

13 (Defendant's Exhibit Number 3 is received into
14 evidence.)

15 BY MR. BARLOW:

16 Q So at some point this issue comes up. Tell me how
17 it came to your attention.

18 A Traci Batchelder from Human Resources called me and
19 said that she had received a complaint that one of
20 our officers had showed a video to a parent. The
21 parent was also a bus driver.

22 Q All right. And what did you do as a result of
23 that?

24 A Well, I sent an e-mail to Mr. Groves, who is the
25 captain on the third shift, which would have been

1 the time frame that this request was made and asked
2 if he knew who had done this. That was all I did
3 until the meeting with Mr. Kennedy and
4 Ms. Batchelder.

5 Q All right. And when did you have that meeting?

6 A That was on the 18th, the morning of the 18th.

7 Q All right. Who else was there, just the three of
8 you?

9 A Jeffery Kennedy, Traci Batchelder, and myself.

10 Q And tell me what happened during that meeting.

11 A There was a discussion. Ms. Batchelder asked
12 questions and took notes asking about the incident.
13 Mr. Kennedy admitted being asked by Ms. Jones but
14 denied viewing any of the recordings.

15 He said repeatedly that he didn't know how to
16 view any of the images, other than live images that
17 he sees when he is working the shift. He also
18 stated if he knew how to view the recordings, he
19 would have allowed Ms. Jones to view the video
20 because he was not aware that it was wrong to do
21 so.

22 He also repeatedly said that he asked
23 Lieutenant Young, which would have been one of his
24 supervisors, if he could do it. Lieutenant Young
25 told him that he had forgotten how to do it.

1 Mr. Kennedy repeatedly said that Ms. Jones --
2 that he told Ms. Jones she should ask the Principal
3 about viewing the video. He further repeated that
4 he wrote down the name and date to see if Captain
5 Groves could retrieve the video for Mr. Jones.

6 He then said that he threw the information
7 away and never gave to it Captain Groves. He said
8 he never viewed the video or told Ms. Jones what
9 was on the video.

10 Q So he told you and Ms. Batchelder at that meeting
11 that he had never told Ms. Jones anything about
12 what was on the video?

13 A Correct.

14 Q Now, tell me what happened next.

15 A Well, we told him that it was -- no security
16 officer was authorized to allow anyone to view
17 any video or to describe what happened on any
18 video.

19 During the meeting Ms. Batchelder acknowledged
20 that it could be a case of mistaken identity and
21 suggested that we all go meet with Ms. Jones to get
22 a positive identification.

23 Mr. Kennedy said he had to go to his other job
24 and could not make the trip to the Support Services
25 office. It's about seven miles where this meeting

1 occurred to my office, which is the Support
2 Services Center.

3 So since he said he had to go to his other job
4 and could not make the trip, Ms. Batchelder asked
5 if I had pictures of the officers that I could show
6 Ms. Jones to possibly identify the officer who
7 described the video to her. I told her I did and
8 proceeded to Support Services for that purpose.

9 Q At this point what is going on? Mr. Kennedy said
10 it's not him. Ms. Jones apparently said, "An
11 officer showed or told me what was on the video"?

12 A Correct.

13 Q He says it's not him. So Traci says, "Let's see if
14 maybe it's a different officer"?

15 A That's correct.

16 Q Then tell me what happens after that. Take it from
17 there.

18 A When I returned from my office, I called
19 transportation and had Ms. Jones come to my office.
20 I told Ms. Jones that I needed her to identify the
21 officer who told her what was on the recorded
22 video, showed her a copy of Mr. Kennedy's driver's
23 license. She said she could not be sure.

24 I then showed her photos of each officer who
25 works third shift because she said she had spoken

1 to the officer at about 5:45 A.M. The first shift
2 is from 11:00 P.M. to 7:00 A.M. on October 1st and
3 2nd. Ms. Jones ruled out all the other officers.

4 I tried to view the surveillance video of the
5 Support Services lobby at that time, but it had
6 already been recorded over, as I described earlier.

7 As I continued to question Ms. Jones about the
8 details of speaking with the officer, she became
9 visibly upset. She teared up. She looked scared.
10 She told me that the officer had called her that
11 afternoon.

12 Ms. Jones stated that he told her that if she
13 identified him, he was going to be fired and she --
14 in quotes -- "Better not do it." Ms. Jones became
15 more upset and was in fear of retaliation from
16 Mr. Kennedy or other employees who she did not
17 identify to me.

18 Upon questioning about her call log on her
19 phone, I asked her to show me the phone. She
20 pulled out the phone and read out to me that she
21 had received a call 24 minutes ago.

22 That would have been after the meeting that we
23 had at the District office and before she came to
24 my office. This is how it appeared in the call log
25 with current time of 1:50 P.M. The phone number

1 that was on there. In checking my files, it was
2 Mr. Kennedy's phone number.

3 Q Was that an incoming call?

4 A It was an incoming call. At that point I called
5 Ms. Batchelder. We each independently confirmed
6 that we had that number in our records as belonging
7 to Mr. Kennedy.

8 Ms. Batchelder asked that we arrange another
9 meeting on Friday, October 19th, in the District
10 office; and I had Eric Barnes make those
11 arrangements.

12 Q All right. When you first met with Mr. Kennedy
13 that morning of October 18th, did you have any
14 intention at all of ending his employment?

15 A No.

16 Q And this is about, what, 18 months after this
17 Spring Valley investigation started?

18 A Approximately, yes.

19 Q All right. And he had been put back to work 14
20 months prior to that?

21 A Yes.

22 Q So then you had the meeting. What happens after
23 that? Was there another meeting?

24 A There was another meeting the next day.

25 Q And what transpired during that meeting?

1 A Ms. Batchelder and Mr. Kennedy had a discussion
2 about the incident and what happened with Ms. Jones
3 on that afternoon. Subsequently, Ms. Batchelder
4 offered him the opportunity to resign.

5 Q And did you support that?

6 A I did.

7 Q In that meeting did he say that Ms. Jones called
8 him?

9 A He did.

10 Q Did he also say that he never described anything
11 that was on the video to her?

12 A He did.

13 Q Now, after that happened did you tell anybody what
14 had happened to Mr. Kennedy?

15 A I would have discussed it with Mr. Barnes, but that
16 would be the only one.

17 Q Didn't tell anybody else?

18 A Correct.

19 Q All right. Now, since Mr. Kennedy has been
20 separated from Richland Two, have you received any
21 reference requests at all about Mr. Kennedy?

22 A No, I have not.

23 Q Have you communicated anything outside Richland Two
24 to anybody about Mr. Kennedy?

25 A No, I have not.

1 Q Have you done anything to keep Mr. Kennedy from
2 getting another job?

3 A No.

4 Q Now, we talked a little bit about the
5 communications in the memorandum that you sent in
6 the confidential e-mail. Your expectation of
7 Mr. Kennedy during the course of the investigation
8 is that he would not be telling people about it
9 too?

10 A That's correct. If I had been accused of
11 something, I wouldn't discuss it.

12 Q Your expectation, right, that you wouldn't be
13 telling people that you were under investigation?

14 A No, I wouldn't expect that.

15 MR. BARLOW: Give me just a second.

16 (Pause.)

17 MR. BARLOW: All right. Mr. Earles, no
18 further questions at this time.

19 THE COURT: Redirect?

20 MR. GOODWYN: Yes, Your Honor. Can I ask for
21 a short rest room break?

22 THE COURT: Sure. Let's take a break. Ladies
23 and gentlemen, I'm going to remind you not to begin to
24 discuss this matter among yourselves, as you still have
25 not heard all the evidence that has to be presented.

1 Let's take a break and then we'll come back.

2 (The jury retires to the jury room.)

3 THE COURT: Again, Mr. Earles, I'll instruct
4 you not to discuss your testimony since it's not
5 concluded yet. Let's take a break and we'll come back.

6 (Whereupon there was a recess.)

7 THE COURT: Yes, ma'am.

8 MS. PEAVY: Yes, Your Honor. Briefly while
9 the jury was still out, we wanted to have the
10 opportunity to call Mr. Kennedy in rebuttal. This is
11 proprietary software.

12 He hasn't had the chance review it, nor have
13 we. So we would like to be able to have him testify,
14 respond to the video images that the jury has been
15 shown.

16 THE COURT: So in all of the discovery, you
17 all never viewed the video?

18 MR. GOODWYN: We never saw it. We don't have
19 access. This is a proprietary software.

20 MR. BARLOW: We produced it and this is the
21 first time they're raising this issue with us.

22 THE COURT: You produced it in what form?

23 MR. BARLOW: On the DVD, in this form.

24 MS. PEAVY: We tried to pull it up on our
25 computer. It was sent over in advance of our trial but

1 we don't have the --

2 MR. GOODWYN: I looked up the software. It's
3 a proprietary security software. You can't watch the
4 video without the software. They didn't produce the
5 software; they just produced the video.

6 THE COURT: Did y'all bother to tell them?
7 Did you tell them that before the trial began?

8 MS. PEAVY: No.

9 MR. GOODWYN: We didn't have the opportunity.
10 We could not have presented this video and have him
11 respond to it in our case in chief because we don't have
12 the software.

13 MR. BARLOW: We would have been happy --

14 THE COURT: The question is you receive a
15 video or a DVD that you can't play, and you don't say
16 anything to the other side saying, "I can't access it.
17 I can't look at it. I can't view it"?

18 MR. BARLOW: It was produced, Your Honor,
19 October 2nd of 2013; so, 364 days.

20 MS. PEAVY: Your Honor, at least we would like
21 to be able to have him testify to the still images that
22 we do have in our file as part of discovery because
23 those reflect the captured images that they produced.

24 THE COURT: And when did you receive those? I
25 mean, those were part of what was presented to me as an

1 exhibit to your motion. So you had those before today.

2 MS. PEAVY: Yes, Your Honor.

3 THE COURT: Before the trial began.

4 MS. PEAVY: That's correct.

5 MR. BARLOW: The same day, October 2nd.

6 THE COURT: I'll allow you to have him retake
7 the stand in rebuttal at the conclusion of all of it. I
8 think it's inappropriate -- you had access to the
9 videos?

10 MS. PEAVY: Yes, Your Honor.

11 THE COURT: And you had access to the stills
12 before this time.

13 MS. PEAVY: Okay.

14 THE COURT: I will give either side the
15 opportunity or at the appropriate time to make a
16 rebuttal at the conclusion of all the evidence that's
17 been presented. I'll do that in this case but not after
18 this particular witness.

19 MS. PEAVY: Thank you, Your Honor.

20 THE COURT: Anything else before we bring the
21 jury?

22 MR. GOODWYN: No.

23 THE COURT: Ask the jury to come in, please.

24 (The jury returns to the courtroom.)

25 THE BAILIFF: The jury panel is all present,

1 Your Honor.

2 THE COURT: Yes, sir. You may proceed on
3 redirect.

4 REDIRECT EXAMINATION

5 BY MR. GOODWYN:

6 Q I would like to go back through some of this video
7 in just a minute. I'll get back into it. I may
8 need you to drive it again if you don't mind.

9 A Sure.

10 Q You testified that -- about Jeffrey Kennedy's
11 presence in the Administrative Building where he
12 spent 20 minutes the night that one of these thefts
13 was reported?

14 A Correct.

15 Q You thought that was unusual?

16 A I did.

17 Q And you also felt that him going through the back
18 door, going to the radio room or whatever, and
19 going back around is unusual?

20 A Yes. The only reason to come in that way would be
21 to change the battery on the radio, and that would
22 take just a few seconds.

23 Q All right.

24 A And he could do that through the front door.

25 Q Are you aware of how he was trained to do it?

- 1 A I am not.
- 2 Q Did you ask anybody how he was trained to do it?
- 3 A I don't know who trained him.
- 4 Q Did you try to find out?
- 5 A He was trained before I came.
- 6 Q Did you ask Jeffrey who trained him?
- 7 A No.
- 8 Q Did Jeffrey tell you that that was his habit?
- 9 A I don't recall that.
- 10 Q Did you bother asking?
- 11 A I don't recall if I asked him specifically if that
- 12 was his habit or not.
- 13 Q Do you think that's relevant?
- 14 A The questions that were asked of Mr. Kennedy was
- 15 asked by Ms. Batchelder.
- 16 Q And were you in that meeting?
- 17 A I was.
- 18 Q Did you suggest that Ms. Batchelder ask any other
- 19 questions?
- 20 A Not that I recall.
- 21 Q Does Ms. Batchelder have the experience that you
- 22 have in investigating crimes?
- 23 A No, but she does a lot of investigations in Human
- 24 Resources.
- 25 Q Do you think you're better qualified to investigate

1 this situation than she is?

2 A I wouldn't compare our qualifications.

3 Q Why not?

4 A Different fields, different areas.

5 Q Does she have any police training?

6 A I have no idea.

7 Q Did you bother going back and looking at any video
8 from the past as to whether Jeffrey Kennedy went in
9 that back door on a regular basis or not?

10 A I did not. I relied on Mr. Barnes to do that.

11 Q Okay. Did you bother looking at any video of what
12 other employees do when they come in that back
13 door?

14 A I did not.

15 Q Do you think that would be relevant?

16 A It's possible.

17 Q If everybody does it that way, it wouldn't cast
18 suspicion on Jeffrey because he did it that way;
19 correct?

20 A Coming in the door, that's correct.

21 Q And doing it the way he said: Going in the back
22 door, going in the battery room, then walking back
23 and coming around?

24 A That would be normal. The suspicion arose when he
25 spent all of that time off camera in the area and

1 then exited immediately and went around to do his
2 normal duties.

3 Q All right. Can you pull up the video? Do you
4 think you can get us back to the video?

5 A Sure. Which one are you interested in?

6 Q Let's first start with the -- I guess let's go to
7 the AD building. I'm sorry, the Athletic
8 Department. Is that Bates Hall?

9 A (Witness leaves the witness stand.) Yes. Which
10 one?

11 Q The one showing the inside.

12 A Well, there are two files of the same thing, the
13 one where the alarm was set and the one where the
14 alarm was disarmed.

15 Q Let's go to the one where the alarm was disarmed.
16 I remember seeing one. I'm not sure.

17 A Okay.

18 Q I'm looking for the one with an image of a keypad?

19 A Those were still images.

20 Q Oh, those were still images?

21 A Yes.

22 Q Okay. I'm sorry. How about that third one at the
23 top?

24 A This one (indicating)?

25 Q Yes. Okay. That black, kind-of-dome thing, at the

1 top there above that little picture.

2 A Yes.

3 Q Is that where the security camera is?

4 A That is the camera that looks back towards the door
5 and the entrance to the front, the large entrance
6 area, and the rest room is where that is, that sort
7 of thing.

8 Q You know that because you can see the angled camera
9 is through there or you just know it because you
10 have seen the video?

11 A I know that because I've seen the videos.

12 Q Okay. Jeffrey Kennedy wouldn't know that, would
13 he? He wouldn't know that being a camera, would
14 he, just by looking at that?

15 A Well, he can stand under it and see where the
16 camera lens is.

17 Q All right. How do you know that? Is it tinted?

18 A It is but it is not tinted to the point that you
19 cannot see where the camera is facing.

20 Q Is that something everybody knows?

21 A If you look at it, you know.

22 Q All right. That camera, has it ever changed? Has
23 the angle ever changed?

24 A No.

25 Q When you say that --

1 A It's possible to change it, but that camera, I'm
2 not aware of the angle being changed.

3 Q All right. The cameras are changed from time to
4 time? You testified that you actually changed some
5 cameras?

6 A I changed one camera in the administration area,
7 and they can be changed.

8 Q Okay. Did you tell the staff that the camera angle
9 had been changed?

10 A No.

11 Q That camera could see Tim Hunter's office?

12 A No..

13 Q If it were turned, it could?

14 A If it were turned, yes.

15 Q But the angle that it was this night, it didn't?

16 A Correct.

17 Q All right. And that door, that's the weight room
18 you're talking about?

19 A The door on the left, the indentation is where the
20 first weight room door is.

21 Q All right. So let's just go to the video of
22 Jeffrey of the disarming of the alarm.

23 A Do you want just that camera?

24 Q First, let me just ask you this general question.
25 This little yellow E. that's under 3 of 4 pictures,

1 what does that mean?

2 A I don't know.

3 Q How long do the cameras record after this motion?

4 A It's set to a few seconds -- two, three, five
5 seconds. I don't know the exact number.

6 Q Then it will turn off?

7 A The camera itself stays on. It's just a matter of
8 the DVR recording.

9 Q Well, play -- I'm sorry. Is this the one of the
10 disarming of the alarm?

11 A Yes.

12 Q Can you play the one of this camera up here
13 (indicating).

14 A Just of him?

15 Q Yes.

16 A (Playing video.)

17 Q Can you pause it there for a second? Back it up.

18 A (Witness complies.)

19 Q So that's the end of it?

20 A Yes. That's where I described the times that are
21 recording. See, at the upper right, it says
22 5:40:56 A.M. As I scroll through, one frame at a
23 time --

24 Q But that's where he's coming in?

25 A That's where he is coming in.

- 1 Q Okay.
- 2 A And then it changes to 5:55:41 A.M., and that's
- 3 where you see him coming out.
- 4 Q All right. So there was -- there's some missing
- 5 time on the video because there was no motion? Is
- 6 that what you are saying?
- 7 A There was no recording because there was no motion.
- 8 Q So that's the period of time where he would not
- 9 have been standing there?
- 10 A Correct.
- 11 Q Tell me this: When you say motion, in what area is
- 12 it looking for motion?
- 13 A It is only in the camera view that you see.
- 14 Q All right. As soon as he walks under the camera
- 15 there, it would stop recording?
- 16 A Correct. It would stop recording that frame.
- 17 Q And the panel, I think you saw from the keypad
- 18 panel, it is almost directly under that camera?
- 19 A That's correct.
- 20 Q So this is about the angle you would expect him to
- 21 return from if he's setting the alarm?
- 22 A Well, I would expect him to return from the same
- 23 angle that he entered. See, he comes in and makes
- 24 a hard left.
- 25 Q And the last thing he would have been doing is

1 setting the alarm; right?

2 A No, he was disarming the alarm at this point.

3 Q Disarming the alarm. Okay. That's the first thing
4 he does when he comes in the building?

5 A Correct.

6 Q But after a few minutes when he is in the weight
7 room, he wouldn't be coming from the alarm panel;
8 correct?

9 A He would be coming from the wall where -- he would
10 be coming around the wall where the alarm panel is
11 located.

12 Q So if I've got this right, the alarm panel is here
13 (indicating). You marked that; correct?

14 A Correct.

15 Q The camera is like on the ceiling?

16 A Yes.

17 Q It's right here (indicating) maybe?

18 A Somewhere in that area, yes.

19 Q And the camera is pointing towards the door; right?

20 A No, the camera is pointing down the hallway. It
21 has about a 70-degree field of view.

22 Q Okay.

23 A So it's pointing down.

24 Q Oh, I see. So we can see the doors on the right?

25 A Yes.

1 Q And the rest of the hallway?

2 A Actually those doors don't exist. That's an error.

3 Q Oh, that's a wall?

4 A Yeah, that's a wall. This is the original design,
5 and they chose not to put those doors in.

6 Q And Tim Hunter's door is over here (indicating)?

7 A That's correct.

8 Q And there's a door that leads to Tim Hunter's
9 office?

10 A There is an exterior door that leads to this area
11 (indicating), and then another door into Tim
12 Hunter's office.

13 Q What is this area (indicating)?

14 A I don't really recall. It's Athletic Department
15 space.

16 Q Storage of some type?

17 A Mr. Hunter would have to testify as to what the
18 space was used for.

19 Q All right. So if Mr. Kennedy was in the weight
20 room and walked around to come out, you would
21 expect him to be coming from this direction
22 (indicating)?

23 A If he swung wide enough to get out of the center of
24 the hall, yes, I would expect that. That's a
25 possibility.

1 Q And you think it's suspicious that he would have
2 swung that wide?

3 A Yes.

4 Q All right.

5 A People normally take the shortest route between two
6 points.

7 Q Mr. Kennedy is a pretty big guy?

8 A Yes.

9 Q Did you see what he was doing when he got out of
10 the building?

11 A When he left the building, it appeared he was on
12 the phone.

13 Q Did he tell you that Lieutenant Young had called
14 and told him to go somewhere else when he was in
15 the weight room?

16 A I don't recall that.

17 Q Did you ever ask Mr. Kennedy who he was on the
18 phone with when he left the building?

19 A No.

20 Q So you never asked Lieutenant Young to confirm
21 that, did you?

22 A No.

23 Q You never asked Lieutenant Young: Well, how long
24 was the conversation?

25 A No. I testified when I determined that there was

1 something suspicious, I turned it over to Human
2 Resources to do the investigation.

3 Q I understand. But you never asked that question of
4 Lieutenant Young, did you?

5 A No.

6 Q All right. If Lieutenant Young had said, "Oh,
7 yeah, we were on the phone for three or four
8 minutes," that would have made a difference,
9 wouldn't it?

10 A Not necessarily.

11 Q It's highly unlikely he would be on the phone with
12 Lieutenant Young while he's robbing the money;
13 right?

14 A I don't know when that whole conversation occurred.

15 Q And you didn't ask?

16 A No.

17 Q He is on the phone call when he is leaving. You
18 didn't even ask him, Who are you on the phone with?
19 Then you could ask that person, Hey, how long did
20 you talk to him? Maybe you could look at his cell
21 phone and look at the call log. How long was the
22 call?

23 A The length of the call would be irrelevant. We
24 only know approximately what time it may have
25 started. He could have carried on for 25 minutes

1 after he exited the building.

2 Q True. But if he -- but can't you look at the times
3 of the call? Can't you look at the phone bill and
4 check how long that call was and what minutes it
5 was?

6 A I don't have the ability to do that.

7 Q You don't -- it's a school phone; right? It's not
8 his personal phone?

9 A I don't know. He could have been on his personal
10 phone.

11 Q Did you even check? Does he have a school-issued
12 phone?

13 A There is a school-issued phone that is passed from
14 officer to officer, along with the keys and the
15 vehicle and the radio.

16 Q And if he's on that school-issued phone, certainly
17 the school would have access to those records,
18 wouldn't it?

19 A We issue the phone. So, yes, we would have access
20 to the phones.

21 Q And you could just look and see what time he
22 received that phone call, couldn't you?

23 A I suppose that's possible.

24 Q Wouldn't you agree that it would be highly unlikely
25 that he would be in the process of robbing

- 1 something while he is talking to somebody else?
- 2 A I don't know. I can't testify to that.
- 3 Q All right. Can you go ahead and play the video so
- 4 we can show the time when he is exiting.
- 5 A (Witness leaves the witness stand.) I'll step
- 6 through the frames.
- 7 Q Yes.
- 8 A So we don't go past it.
- 9 Q Right.
- 10 A (Playing video.) Okay. The time just changed.
- 11 It's 5:55:41.
- 12 Q Okay. So he should be walking out. Pause it right
- 13 there. Can you go back a frame or two so we can
- 14 see him coming in.
- 15 A (Witness complies.)
- 16 Q Right there. The camera is here (indicating). The
- 17 alarm is on this wall right here (indicating);
- 18 right?
- 19 A Correct.
- 20 Q And you think that looks like he took a very wide
- 21 turn to you?
- 22 A It looks like he is coming from the direction of
- 23 the center of the hall, compared to when he entered
- 24 and went straight to where the alarm panel is.
- 25 Q You would think he would be coming from a little

1 bit wider angle?

2 A Certainly it would be a bit wider because you have
3 that little wall and the door.

4 Q And that is a little bit wider?

5 A Yes, that's correct. It is wider.

6 Q All right. Can you back it up again?

7 A (Witness complies.)

8 Q Is that him on the phone right there?

9 A This is the beginning of the phone conversation.
10 The phone is down; the phone is up.

11 Q Which phone is that?

12 A I don't know.

13 Q How do you know that he wasn't talking and walking
14 and picking back up to finish the conversation?

15 A I suppose it's possible he could have had a phone
16 on him and down by his hip.

17 Q Is that phone like a school issued phone?

18 A I have no idea.

19 Q All right. Go ahead. Is that the last one?

20 A (Witness complies.)

21 Q All right. That's fine. I guess you can have a
22 seat.

23 A (Witness resumes the witness stand.)

24 Q Now, your theory of these thefts is that
25 Mr. Kennedy was in the building where it happened

1 and that he had some off camera time; correct?

2 A And that he had the opportunity.

3 Q All right. Unless Mr. Kennedy was looking up
4 checking the camera angles and all, he wouldn't
5 necessarily know he was off camera, would he?

6 A He would have to have some knowledge of where the
7 camera was pointed, yes.

8 Q Right. I mean, because they are tinted, unless you
9 go directly under it like you said and look up and
10 check that --

11 A Yes.

12 Q -- you wouldn't know or somebody like Jeffery
13 wouldn't know which direction the camera is facing,
14 would he?

15 A Not unless he had seen the video.

16 Q But he had never worked in the video room?

17 A I don't know that. Standard security officers work
18 in the watch room all the time.

19 Q Do you have any evidence Mr. Kennedy ever worked in
20 the watch room?

21 A No, I don't know.

22 Q His regular shift was third shift. He was
23 basically the night watchman, wasn't he?

24 A Well, his regular assignment was based out of
25 Spring Valley; but they, as needed, move officers

1 around. So it's possible he could have but I don't
2 know.

3 Q So if Mr. Kennedy used his key and entered a locked
4 office that he wasn't supposed to be in, he would
5 just be taking a chance that a camera might catch
6 him doing that, correct, if he doesn't know the
7 camera angles?

8 A If he did not know the camera angles, yes. Right.

9 Q And entering a locked office using his key would be
10 inappropriate for him; right? That's not part of
11 his job?

12 A That's correct.

13 Q He is just supposed to check the outside doors.
14 Maybe check the door to see if it's locked. If
15 it's not, lock it. But he is not supposed to go in
16 these locked offices; right?

17 A No, there would be no reason for him to do that.

18 Q And your theory in this case is that Mr. Kennedy
19 used his key to go in some locked offices, in this
20 two or three-week period, including the \$1,000
21 theft, and take the money; right?

22 A That's what the circumstantial evidence indicates
23 to me.

24 Q Right. So that's your theory. You would think
25 certainly that these weren't the only three times

1 that he would have tried to go in the office to
2 find something; right? He would have done this
3 many times?

4 A I would have no idea.

5 Q But from a thief's mind if, in fact, he is the
6 thief, these certainly weren't the only three times
7 he ever went in an office. He just got lucky on
8 three occasions?

9 A I wouldn't have any idea.

10 Q But would you agree that it would be likely that he
11 would have tried to find -- he would have riffled
12 through the desk many times before he actually
13 found something worth stealing?

14 A I wouldn't have any idea if that were the case.

15 Q And you're the professional. I'm not even a
16 professional. But it's very remote odds that these
17 are the only three times he went into these offices
18 if, in fact, that's true; right?

19 A I would have no opinion on that.

20 Q So would you agree that it would be highly likely
21 that if you went back and looked at some other
22 video, you would have seen him using his key to go
23 into a locked office at least one time and
24 searched --

25 A I would have no opinion on that either.

1 Q All right. But you never have -- not once -- have
2 you ever seen a video of Jeffery going into a
3 locked office that he shouldn't have been going
4 into?

5 A I have not.

6 Q Have you heard of anybody who has?

7 A I have not.

8 Q And that's the first step. If he never goes into
9 locked offices, then he couldn't possibly have
10 committed any of these thefts; right?

11 A If he never goes into any locked offices, then
12 that's correct.

13 Q But if he is doing that regularly trying to find
14 things, you would think he would be caught on
15 camera at some point doing that; right?

16 A It would depend on whether or not he knew what the
17 camera angles were and if he were a careful thief.

18 Q Have you ever seen him on any of the cameras
19 looking up at another camera to try to figure out
20 what the angle is?

21 A No.

22 Q Now, somebody that would have legitimate access to
23 the inside of these locked offices, they wouldn't
24 have that problem of being caught on camera going
25 in the offices because they have legitimate access;

1 correct?

2 A Yes.

3 Q Somebody who works in that area, somebody -- a
4 custodian, for example -- there would be no issue
5 about them accessing it?

6 A Someone who has a key, there would be no issue
7 about them accessing it.

8 Q Right. They wouldn't have to worry about the
9 cameras; but the security guards, they know they
10 are on camera; right?

11 A Yes, they should.

12 Q So it would be very foolish for them to enter an
13 office must less try to steal something from the
14 office?

15 A Also, the cameras don't see all areas of all
16 schools.

17 Q But, again, they don't necessarily know that. For
18 the thefts -- and I'm not taking about the thousand
19 dollar theft, but the other thefts, \$40 and
20 somebody's papers on a desk, the little jewelry,
21 those types of thefts that were in the week or two
22 or three before the \$1,000 theft -- did you find
23 out what time of day those complainants left the
24 office the day they think that the items were
25 stolen?

- 1 A I did.
- 2 Q You did?
- 3 A Yes.
- 4 Q What time? I mean, can you tell me?
- 5 A It was approximately 4:00 o'clock, the end of their
6 workday. That was one of the questions I asked as
7 part of the initial fact gathering.
- 8 Q So 4:00 o'clock. So anybody that worked in that
9 area after 4:00 o'clock could have taken the cash
10 off the desk or could have gone through the drawer?
- 11 A There were, in fact, some people that entered and
12 exited after a very few minutes.
- 13 Q All right.
- 14 A And their behavior was not suspicious; so I didn't
15 save it.
- 16 Q And they weren't put on administrative leave and
17 the video wasn't saved?
- 18 A Their behavior was not suspicious. Mr. Kennedy's
19 behavior was the only one I found that looked in
20 any way suspicious.
- 21 Q But other people had access; correct?
- 22 A Other people had access to the administration area.
- 23 Q The three thefts that you were talking about?
- 24 A Yes.
- 25 Q Were they all in this area?

- 1 A Yes.
- 2 Q Is Jeffrey Kennedy responsible for this entire
3 building?
- 4 A Yes.
- 5 Q What are all these buildings (indicating)? Are
6 these all classrooms?
- 7 A Yes, classrooms. All of these (indicating) are
8 classrooms in virtually all of this area that you
9 see, with the exception of this (indicating).
- 10 Q And in each of these classrooms, the teachers have
11 desks?
- 12 A Yes.
- 13 Q And potentially valuables in those desks?
- 14 A I don't know.
- 15 Q Potentially?
- 16 A Possibly.
- 17 Q But teachers do keep personally items in their
18 desks?
- 19 A I'm sure some of them do.
- 20 Q This area (indicating), are these offices as well?
- 21 A Yes.
- 22 Q All right. But this is the only area (indicating)
23 where items are reported stolen; correct?
- 24 A Yes.
- 25 Q And doesn't it seem likely to you that somebody

1 that works in this area could have been doing the
2 taking since people leave at 4:00 o'clock in the
3 afternoon?

4 A That's why I looked at the video to see who was in
5 the area.

6 Q And when you say -- when you're looking at the
7 video, again, you're just looking at the halls?

8 A Yes.

9 Q You can't see inside the offices themselves?

10 A That's right. I can see into this area
11 (indicating), and I can see this area (indicating).

12 Q All right. But no thefts anywhere else in the
13 building?

14 A Not that I'm aware of.

15 Q If Jeffrey Kennedy were regularly checking offices
16 and desks, wouldn't you think he would have found
17 something valuable somewhere else in the building
18 and taken it?

19 A I have no idea.

20 Q Or maybe somewhere else in the school? This is a
21 very concentrated area where these thefts are.

22 A It's the area where there is no camera view.

23 Q Right. And there is no evidence that anybody knew,
24 other than the people working the desk, even knew
25 what the camera view was, is there?

1 A Everybody -- the security officers have the ability
2 and the opportunity to see that on software and
3 anybody standing under the camera can see where it
4 looks.

5 Q All right. Now, since you have this up, let's talk
6 about -- well, we've already talked about the alarm
7 panel, which I believe you said -- is that it right
8 there (indicating)?

9 A That's it, yes.

10 Q Where is that watch room or radio room?

11 A That's in a different building. That's in my
12 office.

13 Q Maybe I'm confused then. Did you say Jeffrey
14 Kennedy, in going in and out of this building, was
15 suspicious?

16 A No. I said going in and out of this building
17 through this door (indicating) and staying for 20
18 minutes was suspicious.

19 Q All right.

20 A And then coming around to do his regular duties
21 here (indicating).

22 Q All right. Is there a break room in this area?

23 A Yes, there is. I believe it's right here
24 (indicating). I think that's it.

25 Q The C-169?

1 A I think that's it, yes.

2 Q Do you have a pen? This pen will work. Can you
3 write BR for break room or something like that.

4 A (Witness complies.)

5 Q All right. So he was supposed to be in that area
6 or if he went in the break room and did what he
7 claims he was taught to do when you have two hours
8 to spend at Spring Valley is to take time, spend
9 time in the break room, instead of being out in the
10 truck --

11 A And I don't know if spent the time in the break
12 room or not.

13 Q Well, the testimony was when you've got to be there
14 from 11:00 to 1:00 and after you check those
15 things, while you're checking things, you try to
16 kill time instead of sitting in the truck and
17 burning gas.

18 A Okay.

19 Q I think your testimony was that you never even
20 talked to your supervisors about what they tell the
21 third shift supervisor people to do?

22 A Right. The shift supervisors handle training of
23 the officers.

24 Q All right. So you don't know what these people are
25 doing or what they're trained to do?

1 A No. Generally, yes, but specifically, no.

2 Q And I understand your testimony is that you --
3 maybe in an ideal world you would like to feel in
4 constant control -- but that may or may not be what
5 they're trained to do because you don't know?

6 A This is a large facility. This is just a portion
7 of it. Twenty-three minutes after the shift
8 started, he's already killing time. It just seems
9 odd to me. It seems to me that there are plenty of
10 athletic field gates, exterior doors.

11 We have the gymnasium over here (indicating).
12 We've got Bates Hall over here (indicating). We
13 have the stadium over here (indicating). We're
14 here (indicating) at the Fine Arts Center and more
15 classrooms. It's a very large facility. I don't
16 think you could cover it in 20 minutes.

17 Q And he had been doing it for two or three years at
18 this point?

19 A I really don't know.

20 Q But at least a couple of years. He has been there
21 as long as you have been there?

22 A He had been employed as a security officer for a
23 long time. I don't know what his specific
24 assignment was.

25 Q Right.

1 A He may have been assigned here, he may have been
2 assigned to Richland Northeast, or Ridgeview.

3 Q I believe the testimony is he had been doing this
4 for a few years. Don't you think he would know
5 exactly how long it takes him to do all the
6 checking work?

7 A I would think so.

8 Q So he knows that he can comfortably spend a few
9 minutes here or there at the beginning of the shift
10 or the middle of the shift just to break it up?

11 A True.

12 Q And would you agree that not having a specific
13 pattern is advisable?

14 A Yes.

15 Q So if he mixed up his pattern, that would be
16 something you would recommend?

17 A Yes.

18 Q All right. You can have a seat.

19 A (Witness resumes the witness stand).

20 Q I know you haven't been here for much of the trial.
21 You haven't heard some of the testimony about the
22 baseball team; correct?

23 A Correct.

24 Q Just about every witness that knows about what
25 happened that night has testified that the baseball

1 team set off the alarms in the building that night.

2 I believe Eric Barnes testified that Jeffrey

3 Kennedy actually got into a conversation with the

4 coach that night about the gate or something?

5 A I've seen statements to that effect.

6 Q Okay. So why didn't you save the baseball video?

7 A I don't recall seeing the baseball team on the

8 video.

9 Q All right. Is it possible you just didn't watch it
10 that close?

11 A No, it would be really obvious if a team came in
12 that building. We have got just two halls to see.

13 Q Right. But if they were in there, you should have
14 seen them; right?

15 A Yeah. If they were in there, I should have seen
16 them.

17 Q But you didn't see them?

18 A Not that I recall, no.

19 Q And what time did Tim Hunter leave the building
20 that night?

21 A I do not recall.

22 Q Do we have any video? Did you save any video of
23 Tim Hunter leaving the building?

24 A I did not. It wouldn't have been suspicious.

25 Q I'm not suggesting it would be suspicious, but it

1 would certainly pin down the window that we would
2 be looking at to see who else may have exited the
3 building; right?

4 A Yes.

5 Q Okay. Did you write down the time he left the
6 building?

7 A I did not.

8 Q And I believe the video shows Jeffery Kennedy
9 setting the alarm. Was it 10:48, 10:54 maybe?

10 A Sometime about that time, yes.

11 Q So there is at least an hour and 45 minutes or so
12 that -- well, assuming you left around 9:00 -- for
13 somebody else to go in the building when the alarm
14 is not set. Anybody with a key could have gotten
15 in there?

16 A Yes.

17 Q All right. And, again, you don't know who has the
18 keys to the building?

19 A No.

20 Q And we don't have the video from that time period
21 either, do we?

22 A No.

23 Q And we don't have the video after Jeffery disabled
24 the alarm until Tim Hunter arrived either, do we?

25 A No.

1 Q Did you make any notes of who else accessed the
2 building after the alarm -- the alarm was disabled?

3 A I did not.

4 Q Do you know if the break room and the AD building
5 has a coffee maker?

6 A In the break room in the Administration Building?

7 Q Yes, the Administration Building.

8 A Yes, there is a coffee machine in there.

9 Q Would that be something that the security guards
10 need to look at them to make sure it's off?

11 A Yeah. I would expect that they would notice if it
12 were on. Most coffeemakers I've seen have a red
13 light on the switch that would indicate it's on.

14 Q Okay.

15 A But they also generally have timers automatically
16 that shut off. I don't know what the case is with
17 this particular coffeemaker.

18 Q But you would expect Jeffery Kennedy to at least go
19 in the break room and check to make sure the lights
20 in the break room are off, the coffeemaker is off,
21 nothing else unusual, make sure nobody is in there,
22 that kind of thing?

23 A I wouldn't think that would be necessary. The only
24 reason for him to be in that break room from a
25 standard duty point of view would be to change the

1 battery on his radio.

2 Q You saw Jeffrey Kennedy turning off lights in
3 certain offices in these areas; right?

4 A Yes.

5 Q Is that part of his job?

6 A It would be something that I would expect him to
7 do, yes.

8 Q And if you saw a light on in part of the building,
9 then he should go down there and turn it off?

10 A Yeah, it's possible. It's interesting that some
11 lights are left on and some lights are not. I
12 don't know if that's because of where the switches
13 are or what. I don't know.

14 Q Now, the alarm panel in front -- you can walk back
15 around if you need to see it -- the alarm panel in
16 the front controls this entire building?

17 A (Witness leaves the witness stand.) Yes.

18 Q Okay. And you say he comes in through this door
19 (indicating)? Is this what you saw him do? Is
20 that what you're saying?

21 A That's correct.

22 Q And where he changes his batteries is where?

23 A It's in the break room, right in this corner
24 (indicating).

25 Q So has to walk in this area, change his batteries;

1 and he spends some extra time in there. He spent
2 time off camera which would have been on this end
3 of the building (indicating)?

4 A Yes.

5 Q So it's an area that you said he has to go to
6 change his batteries?

7 A Yes. However, there wasn't a radio in his hand
8 when he came in.

9 Q So if he goes to the break room and takes a break,
10 that's -- is that suspicious in itself?

11 A No, not really.

12 Q And you're saying the fact that he used this door
13 (indicating) somehow is suspicious? He could have
14 come through the front and walked around?

15 A The most direct route by area that would be part of
16 his duties is to come in the front door, to come in
17 here (indicating), and start doing the protocol.

18 Q Okay. But, again, you don't know how he was
19 trained?

20 A I don't.

21 Q All right. You can sit back there.

22 A (Witness resumes the witness stand.)

23 Q And I think this is pretty obvious, but there is no
24 audio to any of these tapes, is there?

25 A No.

1 Q Now, I believe the testimony has been that Jeffery
2 has worked this -- as a night watchman there,
3 before all these thefts started to occur, for a few
4 years. Have there been any other thefts on
5 Jeffery's watch during that period?

6 A I'm not aware of any thefts in locked offices; but
7 through the previous November, there was a reported
8 repeated theft of air freshener from the rest room
9 in the administration area.

10 Q Have you ever, in the two years that Jeffrey worked
11 in the building or for the District, ever heard or
12 seen him on a video accessing a locked office with
13 his keys like he is not supposed to be doing?

14 A No. But as I testified earlier, we don't routinely
15 check the videos. We don't watch the videos all
16 the time. We only check them from a security
17 standpoint as they are related to an incident. I
18 believe the schools also only look at them when
19 there is an incident.

20 Q But Jeffery had apparently earned the trust of
21 everybody in the department leading up to this
22 \$1,000 theft; correct?

23 A There had been no incidents that I'm aware of with
24 Mr. Kennedy.

25 Q Let me ask a couple of questions about the Kim

1 Jones incident. When you testified that Kim Jones
2 told you about a phone call where Jeffery called
3 her?

4 A She told me about it and I subsequently looked at
5 her phone.

6 Q Did Jeffery also do the same? Did he tell you
7 about it and show you his phone?

8 A No. He --

9 Q The testimony was that he did and you are saying
10 that he didn't?

11 A He told me that she had called him. He never
12 showed me his phone.

13 Q And if he says he did, there's obviously a
14 discrepancy in the testimony; but we have no way of
15 telling -- knowing that now?

16 A I have corroboration from viewing Ms. Jones's
17 phone. I did not see Mr. Kennedy's phone.

18 Q All right. Did you ever view any of the Richland
19 County Sheriff's Department reports for this
20 incident?

21 A I probably saw the initial incident report, but I
22 don't specifically remember it.

23 Q All right. Does this document ring a bell?

24 MR. BARLOW: May I see it, please?

25 (Attorneys confer.)

1 BY MR. GOODWYN:

2 Q Did you ever see this document?

3 A Not that I recall, but it wouldn't be unusual. I
4 get copies of the initial reports and any
5 supplementaries that are filed at the same time as
6 part of the regular course of business.

7 Q All right. And what does that line read right
8 there (indicating)?

9 A "Tim Hunter, March 4, 2011, \$1,000 cash out of
10 office, 5:00 A.M."

11 Q All right. Would it be significant to you if the
12 cash were reported out at 5:00 A.M?

13 A Yes.

14 Q That would exonerate Jeffrey Kennedy altogether;
15 right?

16 A It would indicate that he didn't do it during the
17 time he was --

18 Q At the time you think he was?

19 A Yeah.

20 Q Okay.

21 A But I don't know. That's a very cryptic statement.

22 Q But you didn't investigate that, did you?

23 A No, it's up to the Sheriff's Department at that
24 point.

25 Q You don't know what time Tim Hunter came in, do

1 you?

2 A I do not.

3 Q If he came in at 5:00 A.M., that would be very
4 significant?

5 A I don't know what time he came in. Let me continue
6 to answer that question. If he had come in at
7 5:00 A.M., it would have been on the video.

8 Q You testified earlier that you don't remember ever
9 seeing Mr. Hunter on the video; right?

10 A I testified that I did not save any video that
11 showed Mr. Hunter. If he had come in at 5:00 A.M.,
12 it would have been in that time span between the
13 time Mr. Kennedy armed it and the time he had
14 disarmed it.

15 Q Just like --

16 A I did not cut out that time --

17 Q Just like the baseball team --

18 A -- that was the machine.

19 Q Just like the baseball team that everybody says was
20 there that you didn't see on the video?

21 A I didn't see them on the video.

22 Q All right. This is Plaintiff's Exhibit 5. This is
23 this letter to Mr. Kennedy from Roosevelt Garrick.
24 Have you ever seen this letter?

25 A I have recently, yes.

1 Q All right. I ask you to read for us starting at
2 the bottom there, that bottom sentence.

3 A "Based on my earlier review of this matter, I would
4 like to acknowledge that during the timeframes of
5 this incident, I have found that other individuals
6 did enter into many of the areas with some of them
7 having keys to the appropriate secured areas. In
8 an effort to provide you with --

9 Q That's fine. That's all I want you to say. All
10 right. So do you agree that there were other
11 individuals that accessed these areas and had keys
12 to the appropriate secured areas?

13 A I agree that there were other individuals in the
14 general area. I don't know about who had keys.

15 Q All right. Well, you weren't privy to all the
16 information Mr. Garrick had?

17 A No.

18 Q So you formed your opinions based on a very limited
19 set of facts; correct?

20 A Yes.

21 Q And you're still comfortable with that opinion?

22 A Yes.

23 Q The opinion that Jeffrey Kennedy is the one that
24 committed these thefts?

25 A Yes.

1 Q And you made your decision to take away the keys
2 and revoke your -- withdraw your promotion request
3 based on that opinion?

4 A Yes.

5 MR. GOODWYN: I think that's all I have, Your
6 Honor.

7 THE COURT: Yes, sir.

8 MR. BARLOW: Just a couple.

9 RECROSS EXAMINATION

10 BY MR. BARLOW:

11 Q Mr. Earles, have you ever heard before today any
12 explanation that Mr. Kennedy had been on the phone
13 with a Lieutenant Young at the time that he was on
14 that video?

15 A No.

16 Q Would you expect somebody that was being
17 investigated for stealing money might mention that?

18 A I would expect that, yes.

19 Q He didn't say that in the meeting with Mr. Garrick?

20 A I don't recall him saying that, no.

21 Q Didn't say it any other time?

22 A Not that I recall.

23 Q That's something you would recall?

24 A I would think so.

25 Q All right. Now, as far as the videos here that

1 we're talking about, you come into this March 2nd?

2 A Yes.

3 Q At that point how far could you go back and look at
4 videos realistically?

5 A I can't really say. As I testified earlier, it
6 depends on how much activity was going on. It was
7 probably just a few days because school was in
8 session. It's a high school. There's a lot of
9 activity. So images are recorded over fairly
10 often, fairly short timeframe.

11 Q Counsel showed you that police report. Those
12 aren't your notes?

13 A No.

14 Q That could be very well a policeman just taking
15 down some general notes about a timeframe?

16 A Yeah. It's been my experience that the information
17 in initial incident reports may or may be factual.
18 It has been my experience that information that I
19 receive on an incident initially may or may not be
20 factual.

21 MR. BARLOW: All right. That's all I have.

22 Thanks.

23 MR. GOODWYN: Nothing further.

24 THE COURT: You may step down.

25 THE WITNESS: May I be excused?

1 THE COURT: Any objection to him being
2 excused?

3 MR. BARLOW: No, Your Honor.

4 MR. GOODWYN: No, Your Honor.

5 THE COURT: You may be excused. Thank you.

6 (The witness leaves the witness stand.)

7 THE COURT: You may call your next witness.

8 MS. LONG-MAHONEY: The defendants call Tim
9 Hunter.

10 MR. BARLOW: It's their case.

11 MS. LONG-MAHONEY: Oh, sorry.

12 MR. GOODWYN: The plaintiff rests, Your Honor.

13 THE COURT: Ladies and gentlemen, at this time
14 we have some legal matters which we need to take up
15 outside of your presence. I'm going to ask that you
16 retire to the jury room while we take up these matters.
17 I'll bring you back shortly so that we will be able to
18 continue on with this matter.

19 I ask that you indulge us and have some
20 patience with us while we take up these matters. I ask
21 that you not discuss it among yourselves because you
22 still have not heard all the evidence that has to be
23 presented. I'll bring you back as soon as possible.

24 (The jury retires to the jury room at
25 12:00 P.M.)

1 THE COURT: Are there any motions at this
2 time?

3 MR. BARLOW: Yes, Your Honor. The defense
4 would move for a directed verdict.

5 THE COURT: Yes, sir.

6 MR. BARLOW: First of all, the first claim I'd
7 like to address is the intentional infliction of
8 emotional distress claim. There's a high threshold
9 obviously that appeals courts have for proof of
10 intentional infliction of emotional distress.

11 I'm citing Argoe versus Three Rivers
12 Behavioral Health, 710 S.E.2d 67, for the elements of
13 that cause of action. Number one, the defendant
14 intentionally or recklessly inflicted severe emotional
15 distress or was certain or substantially certain that
16 such distress would result from his conduct.

17 Two, the conduct was so extreme and outrageous
18 so as to exceed all possible realms of decency and must
19 be regarded as atrocious and utterly intolerable in a
20 civilized community.

21 Three, the actions of the defendant caused
22 plaintiff emotional distress. Four, the emotional
23 distress suffered by plaintiff was severe, such that no
24 reasonable man could be expected to endure it.

25 The evidence in this case is there is no proof

1 at all of severe emotional distress, such that no
2 reasonable man could be expected to endure it. There is
3 no testimony of any conduct that is so extreme and
4 outrageous as to exceed all bounds of decency.

5 They moved him to a different position with
6 the same pay benefits and hours from which he didn't
7 apply for a new job. They terminated his at-will
8 employment basically 16 months later. Those things just
9 don't rise to the level of intentional infliction of
10 emotional distress.

11 Should I proceed with the other claims?

12 THE COURT: I'll give the plaintiff an
13 opportunity to respond to this.

14 MR. BARLOW: Sure.

15 MS. PEAVY: Your Honor, thank you. Obviously
16 Your Honor is aware that the evidence and all reasonable
17 influences at this point should be viewed in the light
18 most favorable to the nonmoving party.

19 As to the intentional infliction of emotional
20 distress, we do believe that there is substantial
21 evidence in the record that Mr. Kennedy suffered
22 embarrassment among his peers, among his church
23 community.

24 He also testified that his marriage broke
25 down. His eyes welled up in tears when he reported that

1 they had been together 28 years, married 14, had six
2 grandchildren together. He also testified he was
3 evicted after he was terminated, couldn't find a job
4 right away, and was living in his car.

5 So we believe there is some evidence that can
6 go to the jury where it shows that there is, you know,
7 some heartrending embarrassment. We would request that
8 the motion for directed verdict on that claim be denied
9 at this stage.

10 MR. BARLOW: Should I respond to that?

11 THE COURT: Yes, sir.

12 MR. BARLOW: All right. Embarrassment is not
13 the same thing at all as emotional distress so severe
14 that no reasonable man could be expected to endure it.
15 The termination is 16 months after anything that
16 happened.

17 Terminating somebody's employment is just not
18 extreme outrageous conduct so as to exceed all bounds of
19 possible decency. We think that claim needs to go.

20 THE COURT: Let me hear you on your next
21 motion.

22 MR. BARLOW: The next motion is with regard to
23 the defamation claim, Your Honor. To prove defamation
24 the plaintiff must show a false and defamatory statement
25 was made.

1 Two, the unprivileged publication of the
2 statement to a third party. Three, the publisher was at
3 fault. Four, either the statement was actually
4 irrespective of harm or the publication caused special
5 harm.

6 Now, as far as on these elements, there is not
7 any unprivileged statement made to a third party that's
8 been identified here. The only thing that has been
9 alleged to be defamatory is the confidential memorandum
10 or e-mail that Mr. Earles sent.

11 Certainly, there is a recognized privilege of
12 communication within a corporation among supervisors and
13 employees. So I think they haven't proved the element
14 of an unprivileged publication there.

15 With regard to the termination, there hasn't
16 been any evidence at all showing that that was
17 communicated to anybody or that anybody perceived a
18 false or defamatory message out of Jeffrey Kennedy's
19 termination of employment. So we believe that you can't
20 base any defamation claim on the termination of Jeffery
21 Kennedy's employment at all.

22 Now, the statement communicated by the e-mail
23 is not false as well as a matter of law because it's
24 merely a directive of what should happen. So we think
25 that any elements of defamation have not been proven as

1 a matter of law.

2 In addition to that, there is recognized a
3 qualified privilege in South Carolina that applies for
4 managers to discuss employment issues and communicate
5 with supervisors.

6 Swinton Creek Nursery versus Edisto Farm
7 Credit, 514 S.E.2d 126, communications between officers
8 and employees of a corporation are qualifiedly
9 privileged if made in good faith and in the usual course
10 of business.

11 McBride versus Greenville County School
12 District, which the Court of Appeals decided last year,
13 stands for the proposition that a statement made in
14 connection with an employer's bona fide inquiry into
15 possible employee misconduct is also qualified as
16 privileged.

17 Now, when the qualified privilege has been
18 established, the only way to get around that is by proof
19 of actual malice, Your Honor. We submit that there has
20 not been any actual malice demonstrated in this case.
21 There is no evidence from which a reasonable jury could
22 find that. I will quote the definition of actual malice
23 here in a second.

24 Can I hand you a copy of the McBride case,
25 Your Honor?

1 THE COURT: Yes, sir.

2 (Hands to Court.)

3 THE COURT: That is from?

4 MR. BARLOW: 2013. Actual malice, Padgett
5 versus Sun News, 278 S.C. 26, 1982: "Actual malice
6 means that the appellate acted with ill will towards the
7 plaintiff or acted recklessly or wantonly, meaning with
8 conscious indifference, toward plaintiff's rights and
9 requires that at the time of his act or omission to act,
10 the tortfeasor be conscious or chargeable with
11 consciousness of his wrongdoing."

12 There's just not any testimony here that any
13 of these people were acting with ill will or malice
14 toward the plaintiff. They're just trying to get to the
15 bottom of the situation, and that's what the
16 communications relate to.

17 So we believe that not only have they failed
18 to prove the elements of defamation, there is a
19 qualified privilege that applies as a matter of law; and
20 there has not been any actual malice to rebut that
21 privilege.

22 THE COURT: And who does the qualified
23 privilege extend to?

24 MR. BARLOW: It extends to everybody that has
25 been alleged to be a -- who has committed defamation,

1 which would be Chuck Earles, Eric Barnes, and Kim Jones,
2 who was merely providing information in connection with
3 a report.

4 THE COURT: And they can communicate with
5 whom?

6 MR. BARLOW: They can communicate with other
7 supervisors and other employees if needed to convey
8 instructions.

9 There is no evidence that any of them
10 communicated with anyone, other than through the
11 communication memo, the confidential memo. That's with
12 regard to the theft investigation.

13 With regard to Kim Jones, there is no evidence
14 that she communicated anything to anybody, other than
15 perhaps to Traci Batchelder or Chuck Earles. So those
16 would be our arguments on the defamation claim.

17 THE COURT: From the plaintiff?

18 MS. PEAVY: Yes, Your Honor. First, they rely
19 on the idea that this e-mail is qualifiedly privileged;
20 however, the privilege was destroyed. Privilege can be
21 destroyed when it's disseminated and published to
22 nonqualified individuals.

23 In this case you've got the author of the
24 e-mail, who is a manager, communicating to supervisors.
25 So that in and of itself is qualifiedly privileged. But

1 then what happens is that there is evidence in the
2 record that shows that the privilege was destroyed
3 because the e-mail was printed out, and that evidence is
4 undisputed.

5 The jury can look at that evidence and make
6 reasonable inferences about it that would preclude the
7 granting of a directed verdict at this stage. The
8 reasonable inferences are two things.

9 One, they could conclude that maybe Chuck
10 Earles printed it out. He wasn't thinking. He left it
11 for someone to see. Maybe Eric Barnes printed it out.
12 Again, an honest mistake but it was printed out.

13 Another inference is that -- and it's for the
14 jury to weigh whether Mr. Barnes and Mr. Earles are
15 credible. Another inference they can draw is that the
16 recipients printed it out, and it was left out by the
17 recipients. But, again, that is for the jury to weigh.

18 So that privilege, we have presented
19 sufficient evidence to go to the jury on the fact that
20 the privilege is destroyed; and we believe that we're
21 looking at a statement that is defamatory per se.

22 You're talking about a group of people within
23 a security department. The nature of the security
24 business -- and there is testimony in the record that a
25 jury can consider that the jury has heard -- that keys

1 and being a security guard go hand in hand. Keys and
2 being a trustworthy employee of the Security Division go
3 hand in hand.

4 So we think that we're actually entitled to a
5 per se charge on the fact that the statement Jeffery
6 Kennedy is not to have keys, that that is per se
7 defamatory, Your Honor.

8 I would also like to note that there is
9 sufficient evidence in the record that a defamatory
10 insinuation, a charge can be -- it's not necessary that
11 it can be direct, open, and in a positive manner.

12 A mere insinuation is as actionable as a
13 positive assertion if it is false and malicious and the
14 meaning is plain. That's Tyler v. Macks Stores of South
15 Carolina, 275 S.C 456, 272 S.E.2d 633.

16 So, Your Honor, I think here we have got a
17 situation where there is a memo printed out. The
18 statement is going out to everyone, rank and file
19 members. They're seeing it.

20 There was testimony it was in the cars of the
21 Richland Two District. There is testimony that it was
22 out in the shift room, and Mr. Earles is the author of
23 it. Mr. Barnes is one of the recipients of it. It got
24 out there somehow and we think it's proper for the jury
25 to consider.

1 THE COURT: Any additionally motions?

2 MR. BARLOW: I'd just like to address that
3 just briefly.

4 THE COURT: Yes, sir.

5 MR. BARLOW: There is not any evidence that
6 either Earles or Barnes distributed the memorandum to
7 anybody, other than the people who it's addressed to.
8 If the people to whom the memorandum is addressed leave
9 it out or do anything with it, that is not chargeable to
10 Barnes or Earles. That's their defamation.

11 So you just -- there is not evidence for the
12 jury to consider that as defamation by Earles or Barnes.
13 In addition, just because it's defamation per se doesn't
14 mean that the qualified privilege doesn't apply and
15 that, again, there is not any actual malice that's been
16 shown on that.

17 Further, the Tyler v. Macks Stores that's
18 often raised in sort of the defamatory termination
19 context, whether termination in of itself can be
20 defamatory, what has to accompany that though is that
21 somebody has to have perceived a defamatory meaning for
22 it.

23 There has been no evidence or testimony that
24 anybody knew the reasons that Jeffery Kennedy's
25 employment with Richland Two ended, other than the

1 people involved in the termination. So that would be my
2 argument on that.

3 The next motion I would argue, Your Honor, is
4 that basically under the Tort Claims Act, individual
5 liability doesn't attach. The exclusive remedy for any
6 tort committed by an employee of a governmental entity
7 is under the Tort Claims Act.

8 An employee who commits a tort while acting in
9 the scope of his official duty is not liable; therefore,
10 to the extent there is any tort claim to go to the jury
11 here, there has not been any evidence that any
12 employer -- any of the defendants were acting outside
13 the scope of his or her employment in communicating any
14 message or taking any action that has been testified to
15 here in the trial to this point.

16 So, if any claims go to the jury, Your Honor,
17 the only proper defendant here would be the School
18 District. The individuals are covered by the Tort
19 Claims Act.

20 THE COURT: With the exception of the
21 defamation.

22 MR. BARLOW: Well, as I'm saying, there has
23 not been any proof of intentional acts outside the
24 scope. I mean, any defamation alleged, that's been
25 within the scope of employment.

1 I suppose it's possible to have a -- some
2 fault is required for defamation. Defamation doesn't
3 require intentional conduct. Certainly to prove actual
4 malice, et cetera, you would have to prove intentional
5 conduct.

6 But under the elements of defamation, number
7 three -- and what I was reading from, Williams versus
8 Lancaster County School District, 631 S.E.2d 286 -- to
9 prove the elements, you have to show that the publisher
10 was at fault. So I think individual liability is not at
11 issue here. What I'm saying is 15-78-70.

12 THE COURT: I'm looking at the complaint. It
13 has the defamation as to all defendants, except Richland
14 Two. So that tells me that it's not a Tort Claims Act.
15 They're not claiming Richland Two defamed him. They're
16 claiming that the individuals did.

17 MR. BARLOW: They are claiming that, but what
18 I'm saying is that they would not be proper defendants,
19 Richland Two would, if that claim goes to the jury
20 because they're the only proper defendant under the Tort
21 Claims Act.

22 THE COURT: Which section are you referring
23 to?

24 MR. BARLOW: 15-78-70 (a) and (b).

25 MR. GOODWYN: Your Honor, if he's claiming

1 that Richland Two should be the proper defendant, we
2 would move to amend our complaint and make that
3 allegation to conform to the evidence.

4 (Pause.)

5 THE COURT: Yes, ma'am.

6 MS. PEAVY: Your Honor, just briefly to
7 discuss their argument about inside the scope, outside
8 the scope, our position in this case -- and we think
9 we've presented evidence sufficient to go to the jury on
10 this -- is that the way that the message was
11 communicated that Jeffery Kennedy could not have keys,
12 that he was not to be trusted; that was outside the
13 scope of employment for Mr. Barnes and Mr. Earles.

14 We believe they testified that they knew that
15 this could be damaging to Jeffery if it got out.
16 Therefore, if it got out and it got out because of
17 communication from them, which is what the evidence is
18 showing by the fact that the confidential memorandum is
19 sitting in the offices and in the Richland Two vehicles,
20 then that puts it outside the scope.

21 Again, Your Honor, if it is inside the scope,
22 then we can certainly move to amend the complaint to
23 conform to the evidence.

24 THE COURT: Any response?

25 MR. BARLOW: I think it's pretty clear, Your

1 Honor, that sending a memorandum describing what an
2 employee's duties are going to be post reassignment is
3 quintessentially within the scope of somebody's
4 employment. They have not named Richland Two as a
5 defendant in that; so that claim does not stand.

6 Should I address the final claim?

7 THE COURT: Yes, sir.

8 MR. BARLOW: There is a negligent supervision
9 claim. I'm not exactly sure what the claim is getting
10 at. Presumably it's the School District's failure to
11 supervise the defendants, Barnes, Earles, and Jones.

12 Now, to prove negligent supervision, the
13 elements of that are: The employee is on the premises
14 of the employer or using the chattel of the employer.
15 The employer knows or has reason to know of the ability
16 to control the employee. Three, the employer knows or
17 should have known of the necessity and opportunity for
18 exercising control.

19 Basically that's the claim based on some prior
20 notice that the employer has some employees that it
21 needs to pay special attention and care to. They should
22 have known that this employee was likely to engage in
23 tortious behavior of some sort.

24 There hasn't been any evidence whatsoever that
25 either Ms. Jones, Mr. Barnes, or Mr. Earles have any

1 prior complaints against them for anything. They have
2 been stellar employees. There is nothing that would put
3 a reasonable employer on notice.

4 I'm citing Marrow versus Brookview Healthcare
5 for this proposition. That is something Judge Childs
6 decided last year. Applying South Carolina law, the
7 quote is, "From a practical standpoint, the elements of
8 knowledge and foreseeability under a negligent
9 supervision theory are analyzed in terms of the number
10 and nature of prior acts of wrongdoing caught by the
11 employer and the nexus or similarity between the prior
12 acts and the ultimate harm caused."

13 Now, there was not any testimony of any prior
14 acts of harm or anything like that alleged in this case
15 against any of the defendants towards anyone else.

16 THE COURT: And what case are you referring
17 to?

18 MR. BARLOW: Marrow versus Brookview
19 Healthcare Center, which I'd like to hand up if I may.

20 (Hands to Court.)

21 MR. BARLOW: So our argument is there is not
22 enough evidence to send a negligent supervision claim to
23 the jury either.

24 THE COURT: Any response by the plaintiff?

25 MS. PEAVY: Yes, Your Honor. I'm looking at

1 the Marrow case now. I see it's a 12(b)(6) decision.
2 First, an employer may be liable to a third person for
3 its negligence in the training and supervision of its
4 employees.

5 To invoke the theory of liability based on
6 negligent supervision, it's necessary to show the
7 employer knew or should have known its employee behaved
8 in a dangerous or otherwise incompetent or unfit manner
9 and that the employer, armed with the actual or
10 constructive knowledge, failed to adequately supervise
11 the employee. That's Judge Anderson's request to
12 charge.

13 First, I think there's a reasonable inference
14 here that either the sender or the recipient of the
15 e-mail printed it out and left it out. The leaving it
16 out, the allowing it to be in the office space, in the
17 vehicles, that's negligence.

18 You have testimony here that Chuck Earles
19 thought that there was a rumor problem and a conduct
20 problem in Richland Two security. He had everyone look
21 at his Change of Culture memo.

22 He had Jeffery Kennedy sign it. Eric Barnes
23 testified, "Yeah, that was problem in the department.
24 Yeah, I've seen it in everyone's personnel file." So
25 they knew there was a culture among the security

1 staff -- I'm not talking about their communications with
2 their supervisors -- I'm talking about among the entire
3 security department.

4 They knew and they believed that there was a
5 culture of rumor and innuendo, and it was a big problem.
6 Chuck Earles drafted a memo to that effect. So you're
7 sending out an e-mail to your employees, and you are
8 saying to them, "Under no circumstances is Jeffrey
9 Kennedy to have any keys," and marked it confidential.

10 Well, it's an e-mail that showed up on the
11 computer screen. We have testimony in the record that
12 it was printed out. They did nothing else besides write
13 confidential on the e-mail itself to ensure that it
14 wasn't printed out and left out, to ensure that it
15 wasn't forwarded.

16 If it's a rumor mill and they've got a problem
17 with conduct, with people gossiping, with people
18 talking about people's situations, then it should have
19 been reasonable for Mr. Earles to conclude or Mr. Barnes
20 that, "Gosh, we better safeguard this beyond just
21 marking it confidential. We maybe don't have the utmost
22 faith if in our staff."

23 So there is a chance they could disseminate
24 this in another way. I've written confidential on it,
25 but what was really the problem is that they didn't

1 ensure that it remained confidential. They didn't say,
2 "Don't print this out. Do not forward. Do not allow to
3 it exist in a physical state of being. Do not allow it
4 to sit on your computer screen."

5 There's also testimony in the record they
6 don't even know what their own employees have been
7 trained on. They are coming into a department that, I
8 think, Eric Barnes said there were 50 people, including
9 part-timers. Chuck Earles was saying he thought it was
10 closer to 70 back then.

11 Anyway, it's a large group of people to
12 manage; and they don't know what all of these people
13 have been trained on because they're just getting in. A
14 lot of these people have worked there for a few years.

15 There is no evidence in the record that they
16 instructed their staff on what confidential means when
17 you write it like that on an e-mail, and there are
18 professional standards here.

19 They are saying, "Our standards are that we
20 want to keep things confidential." There is evidence
21 that that was -- those standards were breached. This is
22 Chuck Earles's first year as the head guy. I think he
23 testified he had been in the position a few months.
24 Eric Barnes had come on in December of 2010.

25 So, Your Honor, we think we've met the

1 standard for negligent supervision; and we think that
2 should go to the jury. It's a question of fact as to
3 whether they were negligent. Let the jury decide if
4 marking it confidential was sufficient or if, based on
5 all the evidence, they needed to go an extra step or
6 two.

7 THE COURT: Any response?

8 MR. BARLOW: Yes, Your Honor, just a brief
9 response. I'm going to read from the complaint with
10 what it says about negligent supervision. It says,
11 paragraph 21, "At the time of the above-described
12 actions of Bonds -- presumably Barnes -- Batchelder,
13 Earles, Garrick, and Jones -- there were originally a
14 bunch of other people named as defendants -- Richland
15 Two knew or should have known of the necessity to
16 control the defendants as the above-described defamation
17 began to escalate and as result therein, the duty to
18 exercise care to control its employees, defendants
19 Bonds, Batchelder, Earles, Garrick, and Jones as to
20 prevent them from intentionally harming the plaintiff or
21 from conducting themselves so as to create an
22 unreasonable risk of harm to plaintiff."

23 The brand new theory here is that the people
24 who were negligently supervised were the addressees of
25 the memorandum or e-mail from Chuck Earles, who are

1 Angela Permenter, Eric Barnes, Jerome Young, Lilith
2 Zerzicki, Rick Groves, and Traci Batchelder. Those are
3 the recipients of this e-mail.

4 There has not been any evidence that Angela
5 Permenter, Lilith Zerzicki, Rick Groves, or Traci
6 Batchelder were untrustworthy with confidential
7 information or were likely to disseminate it to anyone
8 or couldn't be trusted.

9 In addition to saying confidential on the
10 e-mail, the first line of it says all caps, "The
11 information contained in this e-mail is confidential and
12 will only be shared with other District security
13 supervisors as needed when they will be supervising
14 Mr. Kennedy."

15 First of all, it's a brand new allegation.
16 It's not what the complaint alleges at all. Even if
17 that claim were as Ms. Peavy just described to the
18 Court, there is not evidence that it was foreseeable
19 that any of these people, the addressees of this
20 memorandum, would transmit it to others, make copies,
21 leave it around, or whatever the testimony has been. So
22 that's my response to that.

23 THE COURT: Ms. Peavy, would you tell me as it
24 relates in the complaint, I guess, the individuals who
25 are remaining with Richland County School District

1 Two -- Chuck Earles, Eric Barnes, and Kim Jones -- can
2 you tell me: The allegations against Kim Jones relate
3 to the defamation and the intentional infliction of
4 emotional distress?

5 MS. PEAVY: Your Honor, Ms. Jones was a
6 Richland Two rank and file employee just like
7 Mr. Kennedy. So they both knew that they could be fired
8 at any time, that they were at-will employees; and
9 Ms. Jones was -- I think the evidence in the record is
10 that she was extremely concerned about her son, the
11 situation with her son.

12 She was trying to get this information. She
13 wanted to know what was going on and look at this video.
14 So she was going around to a lot of different people. I
15 think that was in the record, that she had asked
16 Mr. Kennedy and asked some other folks and wasn't
17 getting anywhere.

18 She then proceeded to gain knowledge or the
19 District thought she gained knowledge as to what was on
20 the tape. At that point the evidence shows that
21 Ms. Jones and Richland Two realized that this is a
22 violation on the part of Ms. Jones. She is not supposed
23 to be circumventing the administration.

24 If you want to look at a video as a parent,
25 you need to go through the proper channels. I'm not

1 disputing Richland Two has the right to do that. But
2 then what happened is that Mr. Kennedy admits he tried
3 to pull up the video for her but he couldn't. That has
4 been his testimony.

5 She then proceeds to state that he did pull it
6 up for her, that he did show it to her, I believe her
7 testimony will be. We believe that that is a false
8 statement about Mr. Kennedy that Ms. Jones made that
9 precipitated the District stating to Mr. Kennedy that
10 they believed his responses were not forthcoming.

11 They gave him the opportunity to resign. He
12 declined and they terminated him. So that is the
13 defamation is that she said that he showed her the
14 video, and he did not.

15 I'm sorry. I neglected to answer Your Honor's
16 question, which is the intentional infliction of
17 emotional distress as to...

18 THE COURT: Ms. Jones.

19 MS. PEAUVY: Right. So the testimony in the
20 record has been from the supervisory level from the
21 point in time, I guess it was June 2011 when Jeffrey
22 came off administrative leave and was placed on the desk
23 job, until October of 2012 when Ms. Jones made this
24 accusation, the testimony has been that they had no
25 quarrel with his employment.

1 There were no complaints. They said they
2 didn't hear anything about it. In fact, Mr. Barnes
3 testified that, in fact, the desk job assignment that
4 Mr. Kennedy was working at, he considered that to be
5 important because you're reviewing videos. You're
6 deciding -- you're being told who to call, what have
7 you. So they honestly felt that he could be
8 rehabilitated.

9 Mr. Garrick's letter in the record shows that
10 as well, that he wanted to -- he didn't want to approve
11 the promotion at this time, and that was where it stood
12 but that Mr. Kennedy would remain employed.

13 I believe Mr. Kennedy's testimony was that he
14 hired a lawyer and that Mr. Brown had written to
15 Mr. Garrick saying, "What's going on with the
16 promotion?" This was in 2012 and Mr. Garrick wrote back
17 and said, "You know, we're just not comfortable at this
18 time."

19 So Jeffrey Kennedy, in the eyes of Richland
20 Two, was an employee that was -- I guess you could say
21 they were trying to maybe rehabilitate or regain trust
22 in, and then Ms. Jones makes this allegation that he
23 showed her the video, which is a breach of Richland Two
24 policy, and that he called her, based on what her phone
25 said, and that she was scared.

1 Well, she had different reasons to be scared.
2 We think the evidence will show that she was scared
3 because she realized that she had maybe, you know,
4 misspoke about something or maybe she was worried
5 because she realized, "Gosh, I've broken a Richland Two
6 rule, and I'm just trying to help my son out." So
7 that's where we are with that. Obviously, we believe
8 that Jeffrey ended up being fired because of this
9 incident.

10 THE COURT: Any response by the defendant as
11 to those questions?

12 MR. BARLOW: Yes, Your Honor. A couple of
13 things we will agree with. They were at-will employees
14 and that the job that he was transferred to was not a
15 make-work job.

16 THE COURT: Was not a what?

17 MR. BARLOW: Not a make-work job. It was a
18 real job with real responsibilities. So therefore you
19 can't argue that it's communicating a defamatory meaning
20 to put somebody in that job. You have a supervisor at
21 work saying that it's a good job that people should
22 appreciate.

23 There is not any evidence that Ms. Jones said
24 anything to anyone, other than Chuck Earles and Traci
25 Batchelder, during the course of the investigation.

1 They didn't call Ms. Jones in their case. So really
2 there is not any evidence in the record that Ms. Jones
3 said anything. So to have a defamation claim against
4 Ms. Jones, there is nothing there.

5 As far as intentional infliction of emotional
6 distress, that claim goes for the same reasons that it
7 goes with anybody else. There is no severe emotional
8 distress that's been presented, no evidence of
9 psychiatric treatment or anything like that, any
10 disability as a result of it.

11 Mr. Kennedy came to work every day was the
12 testimony, good attendance, moved right into another
13 job. So there is not evidence of that. Participating
14 in an investigation conducted by your supervisors is not
15 extreme outrageous conduct as a matter of law. So
16 that's how I would address those.

17 MS. PEAVY: Your Honor?

18 THE COURT: Yes, ma'am.

19 MS. PEAVY: If I may, I just have one case
20 that I would just like to cite to the Court in support
21 of our emotional distress claim.

22 THE COURT: Yes, ma'am.

23 MS. PEAVY: If you'll allow it. This is the
24 McSwain v. Shei case, 304 S.C. 25, 402 S.E.2d 890. It's
25 a Supreme Court case from 1991. This is just a case

1 where the defense moved for a directed verdict. It was
2 an employment situation.

3 The Court found that because the plaintiff was
4 subjected to great embarrassment because of actions on
5 the part of her supervisors, the Court found that it was
6 proper for the evidence -- for the cause of action to go
7 to the jury because the conduct, even in the workplace
8 environment, could be found to be intolerable in a
9 civilized society. So that is just in the employment
10 context when they found it. I just wanted to put that
11 in the record. Thank you.

12 MR. BARLOW: Your Honor?

13 THE COURT: Yes, sir.

14 MR. BARLOW: I looked at the case they cited,
15 McSwain, but I believe the facts of that case were the
16 owner of the company was making a handicapped employee
17 participate in some sort of exercises or calisthenics
18 that were very embarrassing to the rest of the -- and
19 doing it in front of all the other workers. That was
20 kind of the facts of that case, which are obviously
21 completely different than something like this.

22 THE COURT: I'm prepared to rule on some of
23 the claims. I would like to examine further and read
24 some of the information that's been provided to me about
25 the negligent hiring, the negligent supervision claim.

1 So I'll reserve that one until after I've had a chance
2 to do a little bit more work on that.

3 As it relates to the -- I'll take them in the
4 order in which the defendant argued them. As to the
5 intentional infliction of emotional distress claim, I
6 will grant the directed verdict on that based upon the
7 fact that even in the light most favorable to the
8 plaintiff, which is what I'm required to do, and I
9 believe that the case law allows the Court to make an
10 initial determination as to whether the evidence reveals
11 that it's so extreme and so outrageous that no
12 reasonable person could be expected to endure it.

13 I understand the allegations by the plaintiff
14 on the embarrassment, the fact that his marriage broke
15 down, the fact that he was evicted because he couldn't
16 find a job and lived out of his car.

17 But the conduct that was engaged in, in the
18 claim at least as to all the parties in this matter, I
19 don't think they're so extreme and so outrageous that
20 would lead the jury to conclude that it's beyond all
21 bounds of decency and that therefore the plaintiff would
22 be entitled to recover. So I will grant the directed
23 verdict on that particular matter.

24 On the defamation claim, I will deny the
25 request on the defamation claim, both as to the

1 individual defendants, Earles and Barnes. As it relates
2 to Jones, I will grant the request.

3 The only testimony in the record is that while
4 she may have asked several individuals about looking at
5 the video, there is no evidence that she published any
6 false accusations outside of the conversations that she
7 had with Human Resources personnel.

8 Those conversations would have been
9 privileged. There is no evidence that she disclosed it
10 to anyone outside of those individuals with whom she had
11 a discussion. So on the basis of that, that that was a
12 qualified privilege that existed and was not exceeded, I
13 will grant the request as it relates to Jones.

14 As it relates to the other individual
15 defendants, I will deny it on the basis as to whether or
16 not the privilege was exceeded. I think that becomes a
17 jury question.

18 I'll also grant the request to amend to add
19 the School District because whether or not they were
20 acting in their individual capacities under the Tort
21 Claims Act or whether they were acting in the course and
22 scope of their employment or whether it's -- whether the
23 conduct falls under Section 15-78-70(b), I believe
24 that's the time when you can name individual defendants.

25 Whether it was intentional and willful, it

1 would take it outside of the Tort Claims Act. So since
2 it's a jury question, I'm going to allow the amendment
3 to add the School District as a party, as well as keep
4 in the individual defendants, Earles and Barnes. I
5 think that answers the Tort Claims Act question.

6 As to the negligent supervision, I can tell
7 you I am inclined to believe that the negligent
8 supervision should be granted, but I'd like to have the
9 opportunity to read some of the case law.

10 So once I've had an opportunity to do that,
11 I'll rule on that before we get through the end of the
12 defense's case, in fairness considering the evidence
13 that's been presented at this particular point.

14 Is there anything else we need to take up
15 before we bring the jury back in?

16 MR. BARLOW: Your Honor, I would just note
17 that I think the motion made to amend the complaint was
18 to replace the individual defendants with the School
19 District, not to add the School District in addition to
20 the individual defendants.

21 MR. GOODWYN: That was not the motion.

22 MR. BARLOW: That's what I heard.

23 THE COURT: I think it's reasonable that -- I
24 think she said if I were going to dismiss them, and you
25 raised the Tort Claims Act.

1 MR. BARLOW: I did.

2 THE COURT: So I think under the Tort Claims
3 Act, it's proper to have both of them listed. So I
4 think it conforms to what the evidence shows.

5 MR. BARLOW: All right. Thanks.

6 MS. PEAVY: Thank you, Your Honor.

7 THE COURT: Let's bring the jury back in.

8 THE BAILIFF: Yes, ma'am.

9 THE COURT: I understand that we may not get
10 completely through with the testimony of a witness, but
11 at least we'll get started before we take a lunch break.

12 Does the defense plan to recall Earles and
13 Barnes?

14 MR. BARLOW: We do not.

15 (The jury returns to the courtroom at
16 12:50 P.M.)

17 THE BAILIFF: The jury panel is present, Your
18 Honor.

19 THE COURT: Ladies and gentlemen, I apologize
20 for the delay. I thought it was going to be a little
21 bit shorter than what it took. We resolved these
22 motions. I've ruled on some of those. At this time
23 we're ready to hear from the defense.

24 You may call your first witness.

25 MS. LONG-MAHONEY: The defendant would like to

1 call Tim Hunter, please.

2 (The witness comes forward.)

3 TIM HUNTER, being
4 first duly sworn, testifies as follows:

5 CLERK: Have a seat in the witness stand,
6 please.

7 DIRECT EXAMINATION

8 BY MS. LONG-MAHONEY:

9 Q Mr. Hunter, if you would please state your full
10 name for the record.

11 A Tim Hunter.

12 Q And what is your position, Coach Hunter?

13 A I am the Athletic Director at Spring Valley High
14 School.

15 Q How long have you served in that capacity?

16 A This is my tenth year, since 2004.

17 Q If you could tell the jury about your educational
18 background, please.

19 A I graduated from the University of South Carolina
20 with a physical education degree. From there I
21 went and got my Masters at the United States
22 Supports Academy in sports management.

23 I have also received certification as a
24 Certified Athletic Administrator from the National
25 Interscholastic Athletic Administration

1 Association.

2 Q And how many years of experience have you had in
3 education and in what capacities?

4 A I have been coaching for 33 years, been a
5 teacher/administrator for 22 years.

6 Q Talk a little bit if you could about your
7 responsibilities as Athletic Director at Spring
8 Valley High School. How many students do you have
9 total there?

10 A We have 2,000 students total at Spring Valley. We
11 have 900 student athletes that I am responsible
12 for. I am also responsible for 80 coaches on my
13 staff.

14 I deal with the day-to-day operations of
15 athletic events at Spring Valley. I deal with the
16 budget. I deal with the -- all the home events
17 that we have. I do the staffing for those events.

18 I do the supervision of those coaches, the
19 supervision of athletes, the supervision of events.
20 I make a joke that AD stands for after dark because
21 I'm usually there very late most nights. I am
22 basically the administrator in charge during those
23 times.

24 Q All right. So do you currently coach?

25 A I do not coach.

1 Q In sports?

2 A I do not coach anymore.

3 Q All right. Which athletics or which sports did you
4 coach when you worked those?

5 A Football is my main sport. That's what I started
6 my career with. During the 33 years of coaching, I
7 have coached golf, I've coached soccer, I've
8 coached softball, I've coached track and field,
9 I've coached basketball, and then football.

10 Q Okay. And in your capacity as Athletic Director
11 for the past ten years, what would you describe
12 your typical hours in a work week, average per
13 week?

14 A It depends on the time of year. Most weeks could
15 be anywhere between 60 to 90 hours a week. During
16 the springtime in particular is where the 90-hour
17 work weeks come.

18 That is when we have a lot of tournaments on
19 weekends, where I am there from 7:00 A.M. until
20 sometimes midnight during those tournament hours.
21 Then the fall time and wintertime, it's a little
22 bit less. Right now I'm probably putting in
23 somewhere around 55 to 60 hours a week right now.

24 Q Okay. Does one of your responsibilities as
25 Athletic Director include handling money for the

1 Athletic Department?

2 A Yes, it does. A lot of money does come through my
3 office. All the home athletic events that we
4 charge tickets on, all our revenue sports. Like I
5 said, I'm responsible for staffing.

6 Also, I'm responsible for making sure that the
7 money is counted and accounted for, that the
8 tickets match up with the money, and that the
9 deposits are made. Also, we pay the bills for
10 those events as well.

11 Q So in a given week -- and I imagine it depends on
12 what time of year -- what kind of cash would
13 probably flow through your office in a given week?

14 A Again, it depends on the time of year. Fall,
15 obviously football is our highest revenue sport.
16 So if the home football game for varsity is in
17 play, we're probably looking anywhere between 8- to
18 \$15,000 during that week.

19 During basketball season, depending on if we
20 have two home games, that could be between 5- to
21 \$10,000. Springtime usually is not as much,
22 although we have a lot more spring sports, but it
23 doesn't bring in the revenue that it does during
24 the fall and winter. So we're probably looking at
25 a couple to \$3,000 a week during that time.

1 Q And that runs through your office?

2 A That runs through my office, yes, ma'am.

3 Q And you're responsible for it?

4 A Yes, ma'am, I'm responsible for it.

5 Q So during the past ten years you served as Athletic
6 Director at Spring Valley High School, did you ever
7 have to report money missing from your office at
8 any time during those years?

9 A Just one time. That was March of 2004.

10 Q You mean 2011?

11 A 2011, I'm sorry. I was going back to 2004 when I
12 started.

13 MS. LONG-MAHONEY: I'd like to mark this
14 document as Defendant's Exhibit 4.

15 MR. GOODWYN: No objection, Your Honor.

16 (Defendant's Exhibit Number 4 is received into
17 evidence.)

18 THE COURT: It's admitted if there's no
19 objection.

20 MS. LONG-MAHONEY: It's already admitted, Your
21 Honor?

22 THE COURT: There was no objection. So if
23 there's no objection, I'll move it in.

24 BY MS. LONG-MAHONEY:

25 Q Coach Hunter, if you could please identify what's

1 been marked, please, as Defendant's Exhibit's
2 Exhibit 4.

3 A Yeah, that is a statement that I did on March 24,
4 2011. This was back with a theft that had occurred
5 in my office.

6 Q Did you prepare this statement?

7 A Yes, I did. I prepared this statement at the
8 request of our administration of what I found at
9 that time.

10 MS. LONG-MAHONEY: The defendant would like to
11 introduce this into evidence.

12 THE COURT: It's admitted without objection.

13 BY MS. LONG-MAHONEY:

14 Q Coach Hunter, if you could explain to the jury what
15 caused you to report missing money on the morning
16 of March 4th and what lead up to that, please?

17 A This was one of those tournaments in the springtime
18 I was talking about. We do a -- it's the Taco Bell
19 Viking Cup girls soccer tournament that we do every
20 year. In fact, it's something that actually got
21 started before I was Athletic Director.

22 It is one of the largest tournaments in the
23 State of South Carolina. Thirty-two teams embark
24 on our school during that time. It's a Thursday
25 night, Friday night, all day Saturday, and even

1 Sunday it goes until about 3:00 o'clock in the
2 afternoon.

3 Thursday night was our first night of the
4 tournament. We don't have all 32 teams come on
5 Thursday night and on Friday night. That doesn't
6 happen until Saturday. But we have about half of
7 those teams obviously that are here.

8 That is a night that we start up about
9 6:00 o'clock. We are here until about 9:00 o'clock
10 is when I think the last game ended or we stopped
11 selling tickets.

12 That is typically not a large revenue night
13 for us, but it -- Saturday would be the revenue for
14 this tournament mainly. We came in. I have an
15 assistant, Mr. Sonny Uker. He has been with me for
16 the ten years I've been there, but he's been at
17 Spring Valley for 40 years as a volunteer.

18 He is -- I kind of make fun that he is my pit
19 bull at the gate. He is the guy that helps me with
20 all my ticket money and getting ticket boxes
21 together.

22 He is also the guy that comes in with me and
23 helps me to count money. We make sure that when I
24 do count money that I have more than myself doing
25 it. Sonny is that person who usually is with me.

1 But we came in. We counted up the money.
2 During the course of that night, I was feeling ill.
3 I had started feeling feverish. Actually, my
4 physician was there at the soccer tournament
5 working as a team doctor. He is one of the team
6 doctors for our soccer team.

7 I had actually spoke to him that night. I was
8 feverish and not feeling well. As the night wore
9 on, it was also a chilly, damp night. I was
10 feeling worse as the night wore on.

11 So we came in to count the money. Sonny and I
12 did that. We put the money into the safe. I made
13 mention that I may not be able to be at work
14 tomorrow because I was not feeling very well. So I
15 didn't know if I was going to come in or not.

16 I talked to Sonny, Let's go ahead and get the
17 money out for the change money in order for them to
18 continue with the tournament on Friday in case I
19 could not come in to work.

20 So we proceeded to do that. We took out the
21 change money. We put \$250 in two boxes, one in
22 each box. So that's 500. Then the main box for
23 the main gate, we put in \$500 for our change money
24 there. It was a total of \$1,000.

25 On the Friday night we would have three

1 different gates that would be running. The main
2 gate and then we would have two other smaller gates
3 that were there. I wanted to make sure there would
4 not be any interference with that.

5 So we took the money, put it in the box. I
6 took the box and stuck it under my desk so that the
7 next night if I was not here, then Sonny could get
8 access into my office and retrieve the money boxes.

9 As it so happened, my fever broke as I went
10 home that night. I got up the next morning, came
11 into work as normal, and immediately went to my
12 boxes under my desk to take the money out, put it
13 into my safe for that afternoon; and the money was
14 gone.

15 I immediately called Jim Childers, our
16 Assistant Principal, over facilities and athletics,
17 and reported the theft; and then we went from
18 there.

19 Q So was it your standard practice to leave money not
20 in the locked safe in your office?

21 A Absolutely not. Very rarely do I ever do that.
22 This was a circumstance where I wanted to make sure
23 that the tournament would not be interrupted the
24 next day.

25 I almost always put money into my safe at all

1 times. In that case I did not; however, I did put
2 it in a secure location under my desk in an office
3 that was secured and had very limited access to it.

4 I had no reason to believe that from the time
5 I left until the next day that anyone had entered
6 that office and would come after that money.

7 Q And when you left that night, did you lock the
8 door?

9 A The door locks automatically. It's locked all the
10 time on the outside.

11 Q What do you mean by that? Can you unlock it from
12 the outside?

13 A The only way you can get into my office is with a
14 key. The door will not be unlocked.

15 Q Okay.

16 A So I close the door but every time I close the
17 door, I always jiggle that handle just to make
18 sure; but the door always stays locked.

19 Q Okay. Let's talk about a couple of things that
20 we've seen. If you could quickly pull up the -- if
21 you could describe for the jury the different
22 locations on this photograph as to where your
23 office is and where the weight room is?

24 A Okay. Well, going back to the keypad, I think
25 that's a good point of reference right there. Just

1 on the other side of that wall, the indentation,
2 that's the weight room.

3 Directly across from that indentation, you see
4 the gray doorframe. That is my office, and that's
5 where, in relation to when you're coming through
6 that door, into the Bates Hall.

7 Q Okay. You've heard testimony that describes that
8 Mr. Kennedy went -- said he went into the weight
9 room that evening because there is about a five or
10 six-minute window that evening where he is not seen
11 on camera.

12 He described himself as going into the weight
13 room to turn off the light. What is your reaction
14 to that explanation as to whether it's plausible,
15 given your knowledge of this building for the last
16 ten years?

17 A Well, first of all, the light switch is at the far
18 end of the hallway. So you see the indentation there
19 for that doorway, there is the exact same replica
20 at the end of that hallway down to that far door
21 that you see at the end of the hallway. There is
22 another replica of that.

23 That is where the light switch is. So at
24 5:30 in the morning, I would find it hard to
25 believe that the lights were on to begin with; but

1 if they were on and you went into that weight room
2 and you walked all the way down to that far end,
3 the weight room, there is very little areas to move
4 around with benches, weight stands, platforms,
5 weights that are around. You have to really know
6 how to be able to navigate through there.

7 With the lights on, it's not a problem. So if
8 the lights were on and you walked down to that end
9 to turn the lights off, it is very difficult -- I'm
10 not going to say impossible -- but it would be
11 extremely difficult in the dark to walk back
12 through the weight room and come out this door
13 (indicating).

14 If you went to go and turn the lights off at
15 that far end, you would have to come out that door.
16 I know from personal experience because I've tried
17 it myself, and I've actually turned around and gone
18 out the door where I had light.

19 Because I've gone in that door with the dark
20 to go to the weight room and realized I've got to
21 go to the other end for the light switch, and I
22 have to come back out to the hallway to get there
23 because I could not make my way through the weight
24 room in the dark.

25 Q So it's your perspective that he could not have

1 gone all the way down to the weight room and turned
2 the light off and walked back on the inside of the
3 weight room to come out the first door?

4 A It would be extremely difficult.

5 Q Had he walked out the door where the light switch
6 was, would he have been seen on camera?

7 A From everything I've seen, yes, ma'am.

8 Q All right. You've also heard discussion about
9 whether anybody looked at the video camera of Bates
10 Hall that night from the time you left the building
11 which was about 10:30; is that right?

12 A It was right around 10:30.

13 Q All right. At 10:30 P.M. on March 3rd is about the
14 time you left the building?

15 A Uh-huh. (Indicating affirmative response.)

16 Q Until the next morning at whatever time you arrived
17 you think is about what?

18 A I usually, typically 8:00 o'clock to 8:15, I'm
19 typically in my office.

20 Q So between 8:00 and 8:15 on the morning of
21 March 4th is when you arrived back at your office
22 and found the money not in the boxes?

23 A That's correct.

24 Q Okay. So at that point, did you at any point, look
25 at the surveillance footage between those two time

1 periods yourself to see what may have happened to
2 the money?

3 A I did. When I called Mr. Childers to report the
4 money was missing, I went down to his office to
5 kind of help put a timeframe and reference points.
6 We looked at the videotape together.

7 So we started from the time that Mr. Uker and
8 I left until the time that I had arrived back that
9 next morning to see what had happened in between
10 those times.

11 Q All right. To the best of your memory, what do you
12 recall happening between those two windows of time
13 from what you saw on the video?

14 A Well, Mr. Uker and I had left. We saw at that
15 point -- I don't know exactly the time references
16 going back -- it was at 11:00 o'clock or 11:30, but
17 it was two security officers walking in to set the
18 alarm and immediately walking back out.

19 We all saw that. And also shortly after that,
20 again, I don't know the time reference, probably
21 midnight maybe, 12:30, saw the baseball team come
22 in, saw the baseball coach running down the
23 hallway.

24 Q Can you point to what you are talking about, where
25 they came in and what you saw from this picture?

1 A Yes. They came in from that far side where I was
2 talking about the brown doors at the end of the
3 hallway. If you recall another picture, you saw
4 the front of Bates Hall. They came in that front
5 entrance of Bates Hall.

6 So the locker room at that time, the baseball
7 team locker room, is actually down on that end of
8 the hallway. So what we noticed is they came --
9 first of all, I saw Charlie Wentzky, who is our
10 baseball coach, running down the hallway and then
11 going straight to the keypad.

12 It took him maybe five seconds, four seconds;
13 and all of a sudden, he's going back down the
14 hallway to the locker room where the baseball
15 players are coming into the locker room.

16 Q With that zoomed in, can you, again, explain who
17 was coming?

18 A If you look across on the right-hand wall, you see
19 the indentation, the gray -- or the silver there is
20 the fire extinguisher cabinet. Next to that is the
21 gray line.

22 No, come on up with the cursor, that gray line
23 right there. That is the doorway to the locker
24 room right there. Okay. That's where they were
25 entering.

- 1 Q So did the baseball team run up and down the
2 hallway?
- 3 A No, the baseball team did not. They went straight
4 in the locker room. They were in there for a few
5 minutes, and then they came back out, straight out
6 that door.
- 7 Q And that's what you recall seeing on the video?
- 8 A That's what I saw on the video.
- 9 Q Who came up the hallway, if anybody?
- 10 A My baseball coach.
- 11 Q What did he do from what you observed?
- 12 A He turned off the burglar alarm. It took him all
13 of a handful of seconds, four or five seconds, to
14 do so.
- 15 Q Did anybody else -- from the baseball team,
16 coaches, students, parents -- did anybody else from
17 that time period that you observed come in that
18 hallway?
- 19 A Not at all.
- 20 Q All right. So let's keep going. What else did you
21 see? What else do you recall seeing on the video
22 from that evening up until you got to work the next
23 morning?
- 24 A Then I saw, later on that morning, I guess 5:30ish,
25 I saw a security officer come in to -- back into

1 Bates Hall and move over towards where the keypad
2 was and disappear from camera range; and eight,
3 nine, ten minutes later, he reappears going back
4 out the door.

5 Q Okay. That was the next time you saw anyone. So
6 you saw them arm the alarm. You saw the baseball
7 coach and a few players go into the locker room.
8 The baseball coach turns off the alarm and runs
9 back.

10 A Uh-huh. (Indicating affirmative response.)

11 Q And then the next thing you saw was Mr. Kennedy
12 coming back the next morning?

13 A That's correct.

14 Q And that's where he disappeared for a period of
15 time off the video?

16 A That's correct.

17 Q Okay. So now from that time, which was in the
18 vicinity between 5:45 and 6:00, from that time
19 period, did you see anyone else enter that building
20 before you got there?

21 A My athletic trainer, Paul Dobbins. The trainer's
22 office is right next door to my office. He
23 typically gets to work at 7:30 every morning. He
24 came in the building to his training room, and then
25 I came in right around 8:00 o'clock.

1 Q And that was it?

2 A That was it.

3 Q You saw nobody else during that window of time?

4 A Nobody else.

5 Q Okay. Coach Hunter, there's been references and
6 your name has been thrown out a lot at this trial
7 as you're the person who reported the money
8 missing. For your benefit can you tell the jury
9 whether or not you took the money personally?

10 A Absolutely not. I sat in here yesterday and
11 listened to some counsel try to throw the concept
12 that I was the one that could have possibly taken
13 the money.

14 That upsets me tremendously for a number of
15 reasons. First of all, I graduated from Spring
16 Valley High School in 1982. I have been at Spring
17 Valley High School three different times during my
18 coaching career, as a coach and now as an
19 administrator, Athletic Director.

20 Both of my children went through Spring Valley
21 High School at student athletes. One of my -- my
22 oldest daughter has now graduated from college, and
23 she is out on her own in Greenville.

24 My son right now is currently a junior at the
25 Citadel down in Charleston. I'm very proud of my

1 children and what they came through at Spring
2 Valley. I've worked extremely hard to get where I
3 am today, put in a lot of hours, as we talked about
4 a second ago.

5 When things go wrong at Spring Valley, when
6 things go wrong with the Athletic Department at
7 Spring Valley, I take it extremely personal. To
8 listen to somebody tell me that I stole money from
9 children, I took that personally.

10 I've been there for ten years as Athletic
11 Director, never had -- never -- had a theft coming
12 out of my office. That right there just really
13 upset me and it bothered me that somebody would
14 actually point their finger at me.

15 I immediately reported it as soon as I came
16 in. I've never reported a theft out of my office
17 the whole time I've been there. I immediately
18 reported it then. Then from that point on, I guess
19 we're here where we are today.

20 Q And since then have you had to report a theft?

21 A Never have.

22 Q Thank you.

23 MS. LONG-MAHONEY: No further questions.

24 THE COURT: Any cross?

25 MR. GOODWYN: Yes, Your Honor.

1 CROSS EXAMINATION

2 BY MR. GOODWYN:

3 Q Let me go back to your timeline here with the
4 baseball team. You saw the baseball team come in
5 that far door.

6 MR. GOODWYN: Can you zoom in on this?

7 MR. BARLOW: I did.

8 MR. GOODWYN: Or can you zoom back out?

9 MR. BARLOW: Sure.

10 BY MR. GOODWYN:

11 Q So what you saw on the video, the baseball coach
12 come in, run down, cut off the alarm, go back. The
13 team came in, went in the locker room?

14 A That's correct.

15 Q Did you see anything else?

16 A No.

17 Q Did anybody go in Tim Hunter's office, which is
18 your office?

19 A No, nobody came down that hallway but the baseball
20 coach. He was there at the keypad all of a handful
21 of seconds.

22 Q And after that nobody came back down the hall that
23 you saw?

24 A That's correct.

25 Q And you saw my client, Mr. Kennedy here, about 5:45

1 or so come back to unset the alarm; correct?

2 A He came in the door towards the keypad, yes, sir.

3 Q All right. The alarm wouldn't have been set
4 though; right?

5 A I cannot recall.

6 Q You said the coach unset the alarm?

7 A That's correct.

8 Q And then came back down. So when he came, the
9 alarm would not have been set?

10 A Again, I do not recall seeing the coach come back
11 down to reset the alarm.

12 Q So the alarm could have been off that entire night
13 or would have been off based on what you saw;
14 correct?

15 A It could be possible, yes, sir.

16 Q All right. Maybe Mr. Kennedy didn't even notice
17 that it was not set when he got in there. Is that
18 possible?

19 A If the alarm was not set, that could be possible,
20 yes, sir.

21 Q I'm assuming you're familiar were that alarm;
22 correct?

23 A Yes, sir.

24 Q When you disarm it, how did you disarm it? I have
25 got one at my house. I know how it works.

- 1 A Basically it's a four-digit code, and then you have
2 to press another part of the keypad.
- 3 Q Something to alarm and something to disarm it;
4 right?
- 5 A You press in the code, yes.
- 6 Q All right. So you press in the code?
- 7 A Uh-huh. (Indicating affirmative response.)
- 8 Q And if it's not armed already, you may not know
9 that; right?
- 10 A You would know when the door comes open because
11 it's -- if it is armed, the doors comes open and
12 makes a beeping sound. That's correct.
- 13 Q Based on what you're saying though the alarm should
14 have been off the rest of the night when
15 Mr. Kennedy got there?
- 16 A Like I said, I do not recall seeing him come back
17 to set the alarm.
- 18 Q All right. So anybody with a key could have
19 accessed the building and your office and gotten
20 the money without the alarm going off; correct?
- 21 A Well, I would think the cameras would have picked
22 them up coming through the door.
- 23 Q All right. Sonny Uker, is that your assistant?
- 24 A Yes, he is a volunteer assistant of mine.
- 25 Q Is he a student?

- 1 A No, he is 86 years old.
- 2 Q Eighty-six?
- 3 A Yeah. He might call himself a student. He's been
4 at Spring Valley ever since Spring Valley opened.
5 We're going to give him a varsity letter this
6 letter.
- 7 Q All right. So Sonny was the person that you were
8 going to have get the money the next day --
- 9 A That's correct.
- 10 Q -- if you were sick; correct?
- 11 A That is correct.
- 12 Q So Sonny knew the money was out in your office, not
13 in the safe?
- 14 A That is correct.
- 15 Q How would Sonny have gotten the money out of your
16 office that next day?
- 17 A He would come and find an administrator to open up
18 my door to get in my office.
- 19 Q So he did not have a key?
- 20 A No, he does not.
- 21 Q All right. But he knew the money was there?
- 22 A Yes, he did.
- 23 Q All right. What's your understanding of the key
24 situation over there as far as who has keys to the
25 building?

1 A Well, first of all, my door is only opened up with
2 the A-master key. You cannot -- all my coaches,
3 all my head coaches, and our paid varsity or paid
4 assistant coaches, have what's called an AL-2 key.

5 An AL-2 key will get through any of the
6 athletic doors. That would be the gymnasium,
7 locker rooms, the weight room, those doors down
8 through there; but it would not open up my door.
9 My door is only set for the A-master key.

10 Q When was that done?

11 A That was done when the renovations at Spring Valley
12 High School took place, and I don't recall exactly
13 when that was. That was 2002 maybe -- excuse me --
14 2009, somewhere in that ballpark.

15 Q Okay.

16 A I don't really know when the renovations took
17 place.

18 Q All right. So do you know who has those keys?

19 A All the administrators at Spring Valley High School
20 have those keys.

21 Q Do you have a list?

22 A Excuse me?

23 Q Do you have a list of people that have the keys?

24 A Do I have the list? No, sir.

25 Q All right. Who is responsible for issuing the

1 keys?

2 A That would be through the Principal's Office.

3 Q All right. The custodians have a key?

4 A From what I understand, the head custodian for the
5 dayshift and one for the night shift initially had
6 a key. So one key for each one of the head
7 custodians.

8 Q All right. There's been testimony in the case that
9 a custodian accessed your office?

10 A And that was actually our day supervisor, Shelley
11 Bush, who has a key.

12 Q All right.

13 A Because she is the head custodian.

14 Q All right. So there are keys out there to your
15 office?

16 A The administration and the two custodial keys, yes,
17 sir.

18 Q At least those two that you know of; right?

19 A Yes, sir, the administration and two custodial
20 keys.

21 Q And possibly others that you don't know of; right?

22 A I know of the administration and two custodial
23 keys, yes, sir.

24 Q If you will just answer the question --

25 A I just did.

1 Q -- those are the only ones that you know of.

2 A Yes, sir. I just answered the question.

3 Q So you knew that the money was in there that night,
4 and Sonny knew was the money was going to be in
5 there that night?

6 A That is correct.

7 Q Who else knew that there was money not in the safe
8 out?

9 A There was no one else that would know that.

10 Q All right. Did anybody ever ask you any questions
11 to investigate the possibility that you or Sonny
12 may have taken this money?

13 A They asked for a statement, which I have provided
14 here that has been given into evidence, and also --
15 and I cannot recall. This is over three years
16 ago -- but I do know I had conversations with our
17 SRO, Ben Fields, and also with Chuck Earles and/or
18 Eric Barnes because we had conversations about what
19 transpired.

20 Q Did anybody ever ask you questions like, you know,
21 about your financial situation? Do you have a
22 gambling problem, those kinds of things?

23 A No, sir.

24 Q Nobody ever got into that with you?

25 A No, sir.

1 Q Did you ever feel that you were a suspect?

2 A No, sir, I feel like I was the victim.

3 Q Did anybody ever ask Sonny Uker what he knew about
4 the incident or whether he may have --

5 A I cannot recall.

6 Q Did he ever tell you that he was questioned?

7 A Again, I don't recall.

8 Q Did you ever ask him? Did you ever suspect that he
9 might have been --

10 A I never suspected Sonny Uker, no, sir.

11 Q But he was the only one that knew the money was not
12 in the safe that night?

13 A That is correct. He also does not have a key to my
14 locked door.

15 Q He had been at Spring Valley how long?

16 A Over 40 years, ever since the doors opened.

17 Q So he very well may know somebody that has a key to
18 your office; right?

19 A No, sir. He would know the administrators.

20 Q So you're telling me you know everybody that Sonny
21 knows that might have a key?

22 A To my office, yes, sir.

23 Q Your safe in your office, is it a combination lock,
24 a keylock?

25 A Combination.

1 Q Combination lock. Who has the combination other
2 than you?

3 A I do and our bookkeeper at Spring Valley High
4 School.

5 Q And where is -- who is the bookkeeper?

6 A The bookkeeper's name is Sandra Watts.

7 Q Was she scheduled to work the next day that you
8 know of?

9 A I don't recall. I have no idea.

10 Q Now, could you have put the money in the safe and
11 had Sandra open the safe?

12 A Yes, I could have done that.

13 Q Why didn't you do that?

14 A Again, I have no idea other than to say that it was
15 a decision that was made that night and a situation
16 where I was feeling ill. My biggest concern was
17 making sure that the tournament did not get
18 delayed.

19 Q All right. In hindsight do you wish you had done
20 that? Do you think that would have been safer?

21 A Well, in hindsight if I hadn't have done that, then
22 I'm sure I still would have that money.

23 Q This wasn't your money, was it? It was the
24 school's; right?

25 A It was the school's money, yes, sir.

1 Q Is this a photo of your office?

2 A Yes, it is.

3 Q All right. Is that how it looked approximately
4 back in 2011?

5 A Very similar, yes, sir.

6 Q All right.

7 MR. GOODWYN: I'd like to move to introduce
8 this as the next plaintiff's exhibit.

9 THE COURT: Any objection?

10 MS. LONG-MAHONEY: No objection.

11 THE COURT: It's admitted.

12 (Plaintiff's Exhibit Number 11 is received
13 into evidence.)

14 BY MR. GOODWYN:

15 Q I'll show the jury what we were talking about here.
16 Can you indicate for us on the picture where you
17 tried to put the money that night?

18 A Well, I didn't try to put the money. I put the
19 money up underneath my desk against the wall here
20 (indicating). Okay. So my desk is -- you see the
21 computer screen. It was up against the wall up
22 underneath my desk up in here (indicating).

23 Q Under the desk?

24 A Under the desk, yes, sir.

25 Q Did you push your chair in to try to kind of

1 conceal it?

2 A I'm sure I did. I mean, I can't sit here and swear
3 to it.

4 Q Can you describe for us what you actually hid? You
5 said there were boxes?

6 A There were three boxes there. They were black
7 cases. They look kind of like small makeup cases,
8 so to speak, that are money boxes. They are
9 actually made for that purpose.

10 Q Like a cash register type drawer?

11 A Yes. They each have a tray that sits in that you
12 can hold the money in, yes, sir.

13 Q Okay. I think I know what you're talking about.
14 There are three of them, each stacked on top of
15 each other?

16 A I actually laid them beside each other on the
17 floor.

18 Q So there was enough room --

19 A They have got a handle on them. They stand up.
20 They are about that wide (indicating).

21 Q Okay.

22 A Like a little suitcase type thing.

23 Q So you stood them up back there?

24 A Uh-huh. (Indicating affirmative response.)

25 Q Were they black?

1 A They are black, yes, sir.

2 Q Were they pretty hard to see, especially in the
3 dark?

4 A You would have to come in there and physically get
5 down and look underneath my desk to find them, yes,
6 sir.

7 Q All right. So somebody just walking through would
8 not see those?

9 A Exactly.

10 Q All right. Where do you keep your trash can?

11 A Up here (indicating) on this side of my desk.
12 Right here (indicating), that part of my desk.

13 Q And what type of floor do you have in there?

14 A Carpet.

15 Q Carpet. All right. If somebody were vacuuming in
16 there, they may pull your chair out and see those
17 boxes; right?

18 A Again, I would have seen on the video if they had
19 come in to do that at the time. When the boxes
20 were up underneath my table, there was not a
21 custodian to vacuum.

22 Q According to what you saw on the video?

23 A Exactly.

24 Q Did you hear Chuck Earles's testimony about what he
25 said on the video?

1 A I did.

2 Q He didn't see the baseball team at all, did he?

3 A You'd have to ask Chuck Earles.

4 Q We did. That's what he said.

5 A I know.

6 Q It's possible that the video system may have
7 malfunctioned at some point if he didn't see it and
8 you saw it. There was obviously something going on
9 with the video system.

10 A I cannot attest to what Chuck Earles saw and did
11 not see.

12 Q And the video system, I think at least as Chuck
13 Earles testified to, it doesn't record anything
14 unless there's motion. Is that your understanding?

15 A Yes, it is.

16 Q All right. So there's -- when you say you didn't
17 see anything, there's just lots of times --

18 A If I recall what I heard his testimony was, he
19 didn't recall seeing anything.

20 Q Okay.

21 A Now, at that time his concern was at the moment
22 that he saw where the suspicious activity was.

23 Q I see.

24 A So if I recall, from what I heard from his
25 testimony, that's what he was saying. He did not

1 recall seeing it. I'm not saying he didn't --

2 Q All right.

3 A -- and it was three years ago. I recall it because
4 it was important to me to know how long it took to
5 do the keypad because Charlie Wentzky, my baseball
6 coach, showed it only took about four seconds to do
7 it.

8 Q Right.

9 A So that's what was important to me.

10 Q Right.

11 A That's why I remember three years ago.

12 Q All right. You testified about turning the lights
13 off on the weight room; right?

14 A Uh-huh.

15 Q I believe the way you described it was the light
16 switch was in the weight room but at the far end,
17 towards the other end of the door?

18 A Yes, sir.

19 Q And that it might be hard to walk back through the
20 weight room?

21 A When it's dark it would be hard to walk back
22 through that weight room, yes, sir.

23 Q What are security guards armed with at Spring
24 Valley?

25 A What are security guards armed with?

1 Q Yes. They don't have guns, do they?

2 A That's not my expertise. You would need to ask
3 somebody else.

4 Q I think the testimony was all they're armed with is
5 flashlights.

6 A Okay.

7 Q So do you think a security guard would have a
8 flashlight?

9 A Again, you would have to talk to somebody else
10 other than me on that one.

11 Q Have you ever seen a security guard at Spring
12 Valley with a flashlight?

13 A Again, I don't recall.

14 Q You've been there how many years --

15 A I've been there ten years.

16 Q -- and you don't recall that?

17 A I don't recall.

18 Q All right. So if he had a flashlight, then he
19 would have no problem negotiating the weight room;
20 correct?

21 A Well, I would probably say a person with a
22 flashlight could go ahead and make their way
23 through the weight room; but wouldn't it be much
24 simpler just to walk out the door and come down the
25 hallway where the light was?

1 Q It may or may not be. It may be simpler but he has
2 time to kill, doesn't he?

3 A Obviously so.

4 Q He had eight hours?

5 A We've seen that.

6 Q And that's suspicious to you?

7 A It's suspicious to me that he has a flashlight
8 coming through the weight room?

9 Q That he has time to kill.

10 A No. I'm just saying that there is time unaccounted
11 for.

12 Q Unaccounted for meaning off the video?

13 A That is correct.

14 Q Right. And can Jeffery Kennedy control where the
15 video films?

16 A I'm just saying that there's only one area that you
17 can be right there. And why would you stand in
18 that area for eight, nine, ten minutes?

19 Q Didn't you say it's about five minutes?

20 A But, again, that's not my decision. All I can do
21 is tell you what I saw. What I --

22 Q You said five minutes though; right? So it wasn't
23 eight or nine or ten minutes, was it?

24 A I'm talking about what the time length was that he
25 was out of the video.

1 Q Right. And you don't any idea what his normal
2 habits were, do you?

3 A No, I don't.

4 Q So if his normal habit was to spend four or five
5 minutes here or there, then that may not be
6 suspicious at all; correct?

7 A Again, I have no idea what his normal habits are.

8 Q Did you have any conversation -- I'm sorry -- did
9 you ever talk to the baseball coach? I'm sorry.
10 What did you say his name was?

11 A Charlie Wentzky.

12 Q Charlie Wentzky. Did you ever talk with Charlie
13 Wentzky about that night?

14 A The only thing -- I really don't recall. If I had,
15 it would have been to find out how long it took him
16 to turn off the alarm. I mean, I don't recall if I
17 ever talked to him.

18 Q Did he ever mention to you that he had a
19 conversation with Jeffery Kennedy that night?

20 A No.

21 Q All right. Did you see Jeffrey Kennedy on the
22 video when the baseball team was in the building?

23 A No, I did not.

24 Q All right. And I know there's no audio on the
25 videos? Is that your recollection?

1 A Correct, no audio as far as I know.

2 Q So you don't know if the alarm was actually ringing
3 or not; but if they came in the door, it would have
4 activated. Tell me this: When you open the
5 door -- when you open the door -- does the alarm
6 immediately start blaring or is there a time period
7 to let you --

8 A No, it's just the keypad itself will beep.

9 Q Right. And then if you don't deactivate it within
10 a certain amount of time, then the alarm goes off?

11 A Exactly.

12 Q Okay.

13 A I've never been there to hear the alarm go off,
14 sir.

15 Q Okay. So do you know if the alarm was actually
16 going off when the coach was sprinting down the
17 hall?

18 A I would assume so. I'm not saying the alarm was
19 going off. The beeping was going off. He was
20 sprinting down the hallway to get it turned off
21 before the alarm went off, I'm sure.

22 Q There was some testimony that it had gone off.

23 A That's my assumption.

24 Q Tell me this. You may not know this. But every
25 time you open the door to go in the building and

1 you have to undo the alarm, that doesn't
2 activate -- that doesn't send a signal off to the
3 alarm company saying the alarm has been activated?
4 It's only if you don't deactivate it within that 30
5 seconds?

6 A I have no idea. All I know is if you don't
7 deactivate the alarm, the alarm is going to go off
8 at some point in time.

9 Q And there's been some testimony that the alarm did
10 go off that night. Would that surprise you based
11 on how fast the coach was running?

12 A Well, he was coming down there quick; so it may
13 have been. That may have been the case. I don't
14 know.

15 Q Do you know how much time you have after you open
16 the door to unset the alarm?

17 A That I don't know.

18 Q You just go straight for it every time?

19 A I've only had to do it a handful of times myself.

20 Q Is that because you're not the first person in the
21 office usually?

22 A Typically, yes. Because like I say, my trainer
23 usually gets here about 7:30 every morning.

24 THE COURT: Mr. Goodwyn, I think this is a
25 time we need to take a lunch break.

1 Ladies and gentlemen, I'm going to remind you
2 of the instructions I have given you; that is, not to
3 begin to discuss this matter among yourselves because
4 you still have not heard all the evidence that has to be
5 presented.

6 Please remember as you come and go from the
7 courthouse not to listen to any of the conversations you
8 may hear, for the reasons that you have to make the
9 decisions based upon the evidence presented here.
10 Please also remember not to allow anyone to approach you
11 to discuss this matter, again for the reasons I have
12 given to you.

13 I'm going to ask that you report back to the
14 same jury room at 2:45. If you will report at that
15 time, we'll be ready to continue on. Have a good lunch.
16 Thank you. Thank you again for your patience.

17 (The jury is excused for lunch at 1:35 P.M.)

18 THE COURT: Mr. Hunter, I'm just going to
19 instruct you that you should not have a conversation
20 with anyone about your testimony. You have not
21 concluded it. So it would be appropriate for you to
22 discuss it with anyone during this break. You may step
23 down.

24 (The witness leaves the witness stand.)

25 THE COURT: Let's take a lunch break and come

1 back at 2:45.

2 (Whereupon there was a luncheon recess.)

3 THE COURT: Is there anything we need to take
4 up before we bring the jury in?

5 MR. GOODWYN: Not from the plaintiff.

6 MR. BARLOW: No, Your Honor.

7 THE COURT: You may ask the jury to come in
8 please.

9 (The jury returns to the courtroom at
10 2:51 P.M.)

11 THE BAILIFF: The jury panel is all here, Your
12 Honor.

13 THE COURT: Good afternoon, ladies and
14 gentlemen. You may continue on.

15 MR. GOODWYN: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. GOODWYN:

18 Q I have a few more questions for you. Now, it would
19 be your testimony was that you arrived back at the
20 AD Department about 8:00 o'clock in the morning on
21 the morning after?

22 A Somewhere about, yes, sir.

23 Q That's when you discovered the money was missing?

24 A Yes, sir.

25 Q And you said the trainer, your trainer, was in the

1 building at that time?

2 A Yes, sir. He typically gets there about 7:30 every
3 morning.

4 Q Is there anybody else that could have come and gone
5 between the time the alarm was deactivated at
6 5:45 or so and the time you got there?

7 A To my knowledge, no. We looked at the videotape,
8 and we didn't see that.

9 Q Also, didn't see whoever reset the alarm? You
10 didn't see that either, did you?

11 A That's true.

12 Q All right. Let me ask you ask you about the --

13 A Let me put it this way. I don't recall seeing
14 that.

15 Q Okay.

16 A I'm not saying I didn't. I don't recall seeing
17 that.

18 Q I believe Eric Barnes had testified that the
19 A1-master key system was implemented after he
20 arrived, and he thinks it was after this incident.
21 If that's the case, if he recalls a time when there
22 was no A1-key system and he arrived in
23 December 2010, then your recollection about when
24 that key program was implemented must be mistaken;
25 correct?

1 MR. BARLOW: Objection, Your Honor. I think
2 he's mischaracterizing the earlier testimony and pitting
3 witnesses.

4 THE COURT: Rephrase the question, please.

5 BY MR. GOODWYN:

6 Q All right. If there was evidence to show that the
7 A1-key system was implemented after December 2010,
8 would that change your recollection about when you
9 thought the A1-key system was in place?

10 A No, it does not.

11 Q And can you describe what type of key system there
12 was before the A1-key system was implemented?

13 A We've always had an AL-2 key the ten years I've
14 been there. Our coaches have always had the AL-2
15 key.

16 Q What is that?

17 A That AL-2 goes to all athletic facilities.

18 Q Is that part of your office?

19 A Not my key or my office. My office has always been
20 an A-key.

21 Q Okay.

22 A Which an A-key is just a master key. So no other
23 key can open my office door except for the
24 A-master.

25 Q All right. And that's different than the -- I'm

1 confused. I'm sorry. What is the difference
2 between the new key system and the old key system?

3 A Again, when we had the old facility, it was AL-2
4 for all doors and athletic facilities.

5 Q Can you explain to everybody what that was?

6 A I'm trying to explain that right now.

7 Q Okay.

8 A And when the renovations of the school happened,
9 our keys in the Athletic Department stayed the
10 same. All athletic keys were still AL-2. The
11 gymnasium was still the same building. That did
12 not get torn down.

13 What's now Bates Hall used to be the old
14 Science Building. That building did not get torn
15 down. So those two buildings stayed intact. We
16 kept the same key system, the AL-2 key system for
17 our athletic coaches. For my office the only key
18 that has ever opened my office is going to be the
19 A-master key.

20 Q And that's been the same key that you've had for
21 ten years?

22 A Yes, sir.

23 Q There could be many copies of that key floating
24 around in ten years of copying it?

25 A The key is stamped on there that you cannot

1 duplicate.

2 Q The school can't --

3 A The school can duplicate it, but the A-master key
4 has been given to everybody, to the administrators,
5 the A-master; and you cannot duplicate it to other
6 people.

7 Q Were you aware that the custodians had some keys
8 taken away recently or shortly before --

9 A I did not know that until this trial.

10 Q Okay.

11 A And if I'm not mistaken, I think we're only talking
12 about one custodian.

13 Q Okay.

14 A And that was the night custodian, the night manager
15 custodian. The day manager custodian maintained
16 her master.

17 Q Okay. And the night custodian would have had
18 access to the interior offices; correct?

19 A If she had the key, but her key was taken away
20 before this incident.

21 Q Before her key was taken away?

22 A Uh-huh. That's correct.

23 MR. GOODWYN: I think I need to -- can you put
24 that picture up? We need to get back to the pictures,
25 just that same picture we were on.

1 MR. BARLOW: Okay.

2 BY MR. GOODWYN:

3 Q All right. Could you come down here off the stand
4 so I can ask you some questions about this.

5 A (Witness leaves the witness stand.)

6 Q All right. So this is a diagram of the AD
7 building?

8 A Bates Hall, yes, sir.

9 Q Bates Hall, the Athletic Department. Okay. This
10 (indicating) is your interior office?

11 A Actually this is my office right here (indicating).

12 Q Okay.

13 A Excuse me. I'm sorry. This is my office
14 (indicating). That's the hall (indicating) going
15 down to my office.

16 Q All right. So what we -- whoever marked this
17 before said this (indicating) was your office.

18 A Right. Well, that's a very tiny closet. I'm a big
19 guy. I would not fit in that.

20 Q All right. So this photo here is of the office?

21 A That's correct.

22 Q Okay, okay. So it's not like you need two keys to
23 get where the money was. It was just the key to
24 this door (indicating) which is on the right side?

25 A That's correct. That door right there.

- 1 Q Okay. Now, the cameras in the building, you've
2 looked at the video; right?
- 3 A That is correct, yes, sir.
- 4 Q And there's video of -- I think it's a little --
5 you see that little black dome above the photo?
- 6 A That's a camera.
- 7 Q That's a camera. I think your testimony was it was
8 pointing kind of back towards us?
- 9 A Right.
- 10 Q Which would be this way (indicating). So you could
11 see people coming in the door.
- 12 A Yes, sir.
- 13 Q And the other view you saw like from here, this is
14 a -- this is a still shot; right? This is not from
15 the security camera?
- 16 A That's a still shot. That's correct.
- 17 Q The security camera would be mounted on the ceiling
18 above it?
- 19 A That's correct.
- 20 Q But you can't quite see in this picture, can you?
- 21 A The security camera?
- 22 Q Right.
- 23 A The security camera is that white dome --
- 24 Q Oh, the white.
- 25 A -- above my door.

1 Q Okay.

2 A And it's going down the hallway that way
3 (indicating).

4 Q So some of these security cameras are black domes;
5 some are white domes?

6 A I think that one was -- yeah, they had done
7 different work on them over the few years.

8 Q All right. Can you tell which way the camera is
9 pointing by looking at the domes?

10 A You can when you're standing there. I can't tell
11 by that picture; but yes, when you stand underneath
12 one of those domes, yes.

13 Q You can look up in there?

14 A Yes, sir.

15 Q You can look up in there and do that?

16 A Yes, sir, and it's pretty clear.

17 Q So really the only part of the building, it looks
18 like, or this area that you can't see other than
19 the interior offices, is the spot kind of right
20 where this picture is being taken in front of the
21 weight room door?

22 A Kind of -- and during this time, the area only was
23 this right (indicating) here. You could see this
24 way (indicating) and you could see this way
25 (indicating).

1 Q Okay. And you wouldn't really know that unless
2 you've seen the videos; right?

3 A Well, I didn't know that.

4 Q You did?

5 A I mean, I didn't know. That's what I'm saying.

6 Q Okay.

7 A Until I saw the videos, that's correct.

8 Q Okay. So anybody accessing your office wouldn't
9 necessarily know that?

10 A Well, if they were looking up at the dome to see
11 where the camera was pointed, they could figure
12 that out. Now, I didn't do that myself.

13 Q But if somebody had legitimate access to your
14 office anyway, it wouldn't matter what the camera
15 shows; right?

16 A That's correct. That's correct.

17 Q All right. So let's just say the baseball team is
18 in the office -- I mean -- is in the building?

19 A Uh-huh.

20 Q Is it possible that somebody could have been in the
21 weight room, been down here (indicating) -- is this
22 (indicating) the locker room door?

23 A That's the locker room door, yes, sir.

24 Q All right. So the kids were coming down here
25 (indicating)?

- 1 A Uh-huh.
- 2 Q Going into the locker room?
- 3 A Uh-huh.
- 4 Q Some kids could have gone to the weight room?
- 5 A That would be a far stretch.
- 6 Q The light was on in the weight room; right? It had
- 7 to be turned off.
- 8 A I also said in my testimony that I would find it
- 9 very hard to believe that the light was on, and he
- 10 had to go in there and turn it off. At that time
- 11 of night, I find that hard to believe.
- 12 Q Now, the baseball team was just in there.
- 13 A The baseball team went from this door (indicating)
- 14 into there (indicating) and right back out there
- 15 (indicating).
- 16 Q All right. If somebody had gone in the weight
- 17 room, they could have come in here (indicating) and
- 18 gone across the hall without being seen by the
- 19 cameras; right?
- 20 A If they had figured out how to do that, yes, but
- 21 then they would not have a key to get in my door.
- 22 Q That's assuming your correct about the key system
- 23 when it was changed, and who all had the keys?
- 24 A I am correct.
- 25 Q You think you are; right?

- 1 A I know I am.
- 2 Q You don't have a list, do you?
- 3 A I know I'm correct.
- 4 Q All right. Now, you can have a seat. I'm just
- 5 about done.
- 6 A (Witness resumes the witness stand.) Can I
- 7 clarify?
- 8 Q Clarify what?
- 9 A I know I'm correct because the key system never
- 10 changed from my department. It was still the
- 11 A-master and it was still the AL-2.
- 12 Q So there would have been ten years worth of that
- 13 key out there?
- 14 A Yes, sir.
- 15 Q And you don't issue the keys; right?
- 16 A I do not issue keys, no, sir.
- 17 Q And how do you know that copies haven't been made?
- 18 How do you know the custodian never made a copy?
- 19 A Because I know that the A-master is a master key
- 20 that cannot be duplicated.
- 21 Q By who?
- 22 A And the key control is done through the Principal's
- 23 Office.
- 24 Q Who says it can't be duplicated?
- 25 A It says on the key. Would you like to see it?

1 Q I believe you. Do you think everybody is honest?
2 Do you think everybody is going to say, "Okay. I
3 can't copy it"?

4 A You cannot get a blank to have it copied somewhere.

5 Q All right. Before this, before the 2011 theft in
6 March, the \$1,000 theft, did you know Jeffrey
7 Kennedy?

8 A I mean, I know him by his face and seeing him at
9 some of our games and stuff, yes, sir.

10 Q He worked a number of your games?

11 A I don't know him personally, but I know seeing him
12 at some of the games, yes, sir.

13 Q Did you have any problems or any reason rather to
14 doubt his honesty or trustworthiness?

15 A I don't have any reason to doubt any of our
16 security detail's honesty and trustworthiness.

17 Q Had he done anything to demonstrate to you that he
18 was going to be less than --

19 A None of our security personnel have done anything
20 that would make me think that.

21 Q I'm asking about Jeffrey.

22 A Again, he was one of our security detail that I had
23 noticed from time to time. I would lump him into
24 that same category with the rest of them with my
25 statement.

1 Q Did you ever request him to work games because he
2 was so good?

3 A Not to my knowledge. I have requested a time or
4 two some security officers but not to my knowledge.

5 Q Not Jeffrey Kennedy?

6 A I'm not saying I never have. I'm saying not to my
7 knowledge.

8 Q And if he testified to that --

9 A Not by name.

10 Q If he testified that you regularly did, would he be
11 wrong?

12 A When we do some of our special events, like our big
13 track meets and things that we talked about
14 earlier, there are times when I tell the captain I
15 would like to have that same crew.

16 There is one person in particular. His name
17 is Tiger. I don't even know his real name, but
18 they call him Tiger. I want him back there parking
19 buses.

20 That's really the only request that I make is
21 I want that same crew or I want that same group for
22 that area whenever we have these big events. If he
23 was part of one of those crews, then, yes, I may
24 have done that.

25 Q All right.

1 A But I never requested by name.

2 Q And going back to the building here, if the alarm
3 had been off for an extended period, could somebody
4 have come in through the weight room and accessed
5 your office somehow if they had a key without being
6 seen by the camera?

7 A They would have to come in the door. Once you come
8 in the front door, you're going to be picked up
9 briefly. So if they could --

10 Q So they could come in through the door?

11 A You would see them come through the door.

12 Q Presumably, but you didn't see the person that
13 reset the alarm?

14 A Well, I don't recall seeing that person at that
15 time. That was three years ago when we were
16 watching the video.

17 Q You said you watched the video --

18 A Yeah, and I said --

19 Q But you can't --

20 COURT REPORTER: I'm sorry. I can't get this
21 down.

22 THE COURT: I'm sorry. You all can't talk
23 over each other. I've told you about that before.

24 MR. GOODWYN: Sorry.

25 BY MR. GOODWYN:

1 Q So somebody could have come through the window in
2 the weight room perhaps if the alarm was off?

3 A If they break a window, yes, sir.

4 Q Did you have a conversation with Roosevelt Garrick
5 about this incident?

6 A No, I did not.

7 Q Who did you talk with about this incident?

8 A Well, Jim Childers, I initially reported to him. I
9 know the Principal, Dr. Greg Owens, at the time, we
10 had a conversation about it? I know that I talked
11 to Ben Fields, our school resource officer, and
12 also Chuck Earles and Eric Barnes.

13 Q Did you talk to the Richland County Sheriff's
14 Department at all?

15 A Well, Ben Fields, he is with Richland County
16 Sheriff's Office.

17 Q Okay. Did you tell him what happened?

18 A Of course, yes, sir.

19 Q Did you tell him what time you came in that
20 morning?

21 A Again, it was 8:00, 8:30, 8:15, 8:00 o'clock.

22 Q Can you read that line for me?

23 MR. BARLOW: Counsel, can I see that, please?

24 MR. GOODWYN: It's the same report from
25 earlier.

1 MR. BARLOW: Okay. I just wanted to make
2 sure.

3 BY MR. GOODWYN:

4 Q Will you read that line that starts with, "Tim
5 Hunter."

6 A "Tim Hunter, March 4, 2011, \$1,000 cash out of
7 office, 5:00 A.M."

8 Q You never told Richland County or Ben Fields that
9 cash was missing at 5:00 A.M.?

10 A No, I did not.

11 Q All right.

12 MR. GOODWYN: I think that's all I have, Your
13 Honor.

14 THE COURT: Any redirect?

15 MS. LONG-MAHONEY: Just a couple of quick
16 questions, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. LONG-MAHONEY:

19 Q Coach, there's been a lot of questions about keys,
20 and the what ifs and whatabouts and could this
21 person have done this or that. But you watched the
22 videotape from the time you put the money in there
23 until the time you got there the next morning, and
24 you didn't see it.

25 Did you see Sonny Uker come in at any point

1 during the videotape?

2 A No, ma'am, I did not.

3 Q Did you see Ms. Jackson, the custodian?

4 A No, ma'am, I did not.

5 Q Did you see Sandra Watts, the bookkeeper, show up
6 in the middle of the night?

7 A No, ma'am, I did not.

8 Q Did you see anybody else, other than who you have
9 already described during that window of time, come
10 in that building?

11 A No, ma'am, I did not.

12 Q Counsel for the plaintiff showed you a document
13 that was the Sheriff's Department report; is that
14 correct?

15 A That is correct.

16 Q And did you prepare that document?

17 A No, I did not.

18 Q Are those your notes?

19 A No, they are not.

20 Q Now, it says 5:00 A.M. somewhere near your name on
21 there?

22 A That is correct.

23 Q And could that possibly be referencing about the
24 time period in which we believe the money went
25 missing?

1 A I would assume that would be safe to make that
2 assumption, yes, ma'am.

3 Q Because is that the time period in which you see
4 Kennedy on the tape at 5:45 A.M., about that time
5 period?

6 A Yes, ma'am.

7 Q Is that plausible?

8 A Yes, ma'am, I believe so.

9 Q Thank you.

10 MS. LONG-MAHONEY: Nothing further.

11 THE COURT: You may step down. Thank you.

12 (The witness leaves the witness stand.)

13 THE COURT: You may call your next witness.

14 MR. BARLOW: The defense calls Larrine

15 Jackson, Your Honor.

16 (The witness comes forward.)

17 LARRINE JACKSON, being
18 first duly sworn, testifies as follows:

19 THE CLERK: Have a seat in the witness stand,
20 please. State your full name for the record.

21 THE WITNESS: Larrine Jackson.

22 THE COURT: Would you spell your first name,
23 please.

24 THE WITNESS: L-A-R-R-I-N-E.

25 THE COURT: Thank you.

1 DIRECT EXAMINATION

2 BY MR. BARLOW:

3 Q Just trying to de-clutter here. Ms. Jackson, good
4 afternoon.

5 A Good afternoon, sir.

6 Q Tell the jury a little bit about yourself. Tell
7 them where you're from.8 A Well, I'm from Jacksonville, Florida. I came to
9 Carolina in 1998. I worked at Little Pigs BBQ. I
10 worked at Life Care Center of Columbia. I started
11 working at Spring Valley in 19 -- I mean -- 2000,
12 maybe 8, I think. I worked there for six months.
13 I became the night supervisor in six months, and I
14 was in that capacity for five years there.

15 Q Five years?

16 A Yes, sir.

17 Q Do you have any children?

18 A Yes, I have a son.

19 Q All right. Do you have any grandchildren?

20 A Seven. One son, seven grandchildren.

21 Q Where do they all live?

22 A They live here in Columbia, South Carolina.

23 Q So you get to spend time with them?

24 A Yes, sir.

25 Q Any granddaughters?

- 1 A Yes, three grandsons and four granddaughters.
- 2 Q Okay. So you have a good balance?
- 3 A Yes.
- 4 Q So Little Pigs, what did you do at Little Pigs?
- 5 A I was a waitress at Little Pigs.
- 6 Q How long did you work there?
- 7 A I worked there about four years, and I worked five
- 8 years at the nursing home.
- 9 Q A nursing home?
- 10 A Yes, sir.
- 11 Q And were you working at Little Pigs at the same
- 12 time you were working at Spring Valley?
- 13 A No, I worked at Life Care Center of Columbia. I
- 14 had two jobs. I worked at Little Pigs. I worked
- 15 there and I worked at Little Pigs.
- 16 Q When you started out at Spring Valley, what was
- 17 your job in 2008?
- 18 A I was just an employee at night.
- 19 Q Okay. You were a custodian?
- 20 A A custodian, yes, sir.
- 21 Q How many custodians did they have at that time? Do
- 22 you remember?
- 23 A At that time I'm not sure; but after the six months
- 24 when I became supervisor, I had 13 employees at
- 25 night.

- 1 Q Thirteen?
- 2 A Yes, sir.
- 3 Q And is there a day supervisor and a night
- 4 supervisor?
- 5 A There's a day supervisor and a night supervisor,
- 6 yes, sir.
- 7 Q Who made you the supervisor?
- 8 A His name was Mike, but I don't remember his last
- 9 name.
- 10 Q Okay. Did he work at Spring Valley?
- 11 A He was at Spring Valley.
- 12 Q And tell me what your duties were as a supervisor.
- 13 A As a supervisor I had to make sure that I was
- 14 responsible for all the classrooms being cleaned.
- 15 I was responsible for the games -- the football,
- 16 the soccer, the volleyball -- to make sure
- 17 everything was cleaned for the next morning when
- 18 everybody came in. I was just responsible for the
- 19 cleanup and the whole school being cleaned.
- 20 Q All right. So you supervised all the other folks
- 21 too?
- 22 A Yes, sir, I did.
- 23 Q In addition to cleaning yourself?
- 24 A Yeah, I had a section my own self, along with all
- 25 my duties. Yes, I did.

1 Q Are you still at Spring Valley?

2 A No, sir, I went from Spring Valley -- they gave me
3 a promotion -- to go to Dent Middle. When I went
4 to Dent Middle, I was over there a year; and then
5 they gave me another promotion to come to CFI,
6 which is where I am now.

7 Q What is CFI? Tell the jury.

8 A Center for Inquiry. It's an elementary school from
9 kindergarten to fifth. It's got two kindergartens,
10 two firsts, two seconds, two thirds, and two
11 fifths. It's a gifted school for little kids.
12 That's where I am.

13 Q And what do you do at the CFI now?

14 A Custodian still.

15 Q Do you like your job?

16 A Yes, I like my job.

17 Q What do you like best about your job?

18 A The children right now. I went from the high
19 school to the middle school to the little kids. So
20 I'm satisfied where I am now. They don't talk
21 back. They don't say anything. I'm good, to be
22 honest.

23 Q Little kids are easier to deal with?

24 A Yes, sir.

25 Q All right. Now, you've been in the courtroom here

1 and saw some of what's going on here?

2 A Yes, sir.

3 Q That may help us speed up a little bit.

4 A Okay.

5 Q Tell me, what were your hours as the night shift
6 supervisor?

7 A I was from 11:00 in the afternoon to 10:00 at
8 night. That was my hours.

9 Q Okay. And would you work later than 10:00
10 sometimes?

11 A Yes, if we had a -- like if we had a football game
12 on a Thursday night and we had school that next
13 day, you know, the stadium, we had to have it clean
14 because during that time, the kids used to eat down
15 in the stadium during lunch. So we had to make
16 sure we stayed at night to clean for the next day.

17 Q So not regularly but sometimes?

18 A Yes, only game times, only when it's an event.
19 Other than that, we're out at 10:00.

20 Q And that was the whole time you were at Spring
21 Valley?

22 A Yes, sir.

23 Q Even when you started out as a custodian, were you
24 still on the second shift before you got promoted?

25 A I was always on the second shift, sir.

1 Q All right.

2 A I just started dayshift when I went over to Dent
3 Middle.

4 Q Okay.

5 A And CFI, but I've always worked nights.

6 Q Do you like days or night better? Is it hard to
7 tell?

8 A Yeah. I'm still trying to get used to days because
9 I've been on nights for so long, but I'm adjusting
10 to it.

11 Q All right. Well, I'm going to take you back to the
12 2010, 2011 timeframe. Okay?

13 A Okay.

14 Q You're working. At that point you had been the
15 night supervisor?

16 A Yes, sir.

17 Q Do you remember anything going missing from Spring
18 Valley?

19 A Yes, we had -- what I knew about -- we had some air
20 freshener that I was using in the front office.
21 Jim Childers, you know, was our supervisor --

22 MR. GOODWYN: Your Honor? We have a legal
23 issue to discuss.

24 THE COURT: All right. Now, ladies and
25 gentlemen, we have a matter which we need to take up

1 outside of your presence. I'll ask that you retire to
2 the jury room and not begin any discussions or
3 deliberations about what you've heard or seen. I'll
4 bring you back as soon as possible.

5 (The jury retires to the jury room.)

6 THE COURT: Yes, sir or yes, ma'am.

7 MS. PEAVY: Your Honor, this testimony that
8 Ms. Jackson is getting ready to convey concerns the
9 redacted material on the memo of Jim Childers to Eric
10 Barnes dated March 24, 2011. It was agreed by the
11 parties that that information would be kept out.

12 THE COURT: Any response?

13 MR. BARLOW: Yes. I believe that counsel
14 opened the door to this testimony by asking Mr. Earles
15 if there had been any prior incidents of things going
16 missing from Spring Valley. He testified to it.
17 Mr. Earles has already testified to it. So I think they
18 have opened the door to it.

19 MS. PEAVY: Your Honor, I believe the
20 examination of Mr. Earles concerned the contemporaneous
21 thefts that occurred in February, leading up to March
22 and the March incidents. I don't think we touched on
23 the air freshener.

24 THE COURT: I remember that there was a
25 question asked about any prior incidents, and he

1 mentioned the air freshener situation; but there were no
2 further questions or inquiries into that. So I'm not so
3 sure that that really opens the door.

4 MR. BARLOW: Well, Your Honor, if I may. The
5 question was: Wouldn't you think that if Mr. Kennedy
6 had been there a while, some other things hadn't gone
7 missing, only these three things, in February of 2011
8 and then in March?

9 I think that opens the door, and Mr. Earles
10 testified to it. But certainly whatever the ruling is,
11 we cannot talk about it or we can; but I think they've
12 opened the door to it.

13 THE COURT: I'm not going to allow it in at
14 this particular point. I'm going to try to keep the
15 record clean.

16 MR. BARLOW: All right.

17 THE COURT: Anything else we need take up?

18 MR. BARLOW: I mean, can -- can you let the
19 witness know? I'm not sure the witness fully
20 understands that she is not supposed to be talking about
21 that episode.

22 THE COURT: Ms. Jackson, I've made a ruling
23 and it has been consistent with that ruling throughout
24 the course of the trial that we should not -- there
25 should not be any evidence about the allegations

1 surrounding the air freshener and any investigation into
2 that particular event.

3 THE WITNESS: Yes, ma'am.

4 THE COURT: Do you have any questions about
5 that?

6 THE WITNESS: No, ma'am.

7 THE COURT: If there's nothing else, we can
8 ask the jury to come back in.

9 (The jury returns to the courtroom.)

10 THE BAILIFF: The jury panel is all present,
11 Your Honor.

12 THE COURT: You may continue.

13 DIRECT EXAMINATION

14 BY MR. BARLOW:

15 Q All right. Ms. Jackson, now at some point in
16 February 2011, did you have a discussion with Jim
17 Childers, the Assistant Principal, about keys?

18 A Yes, sir.

19 Q What did you talk about?

20 A Mr. Childers came up to me. He said,
21 "Ms. Jackson." I said yes. He said, "We've got a
22 couple of things going on in the school. Something
23 is missing. I'm going to need your keys."

24 So I said, "My keys?" He said, "Yes, I need
25 your key, your A-key." I said okay. He said,

1 "What I want you to do, I want you to come in; and
2 when you come into work, I want you to come in and
3 do the front office." You know, give a little,
4 take a little.

5 Because when I came in, I went straight to the
6 cafeteria and helped them out. By that time it was
7 like 1:00 or 2:00. I went in and I did the front
8 office because I couldn't go into any of the
9 offices to open up to get the trash out of none of
10 the rooms.

11 Then when I left there, I would go over to
12 Mr. Tim's office and clean his office while he is
13 in there. They took my key. So I just didn't have
14 a key anymore. I just had a key to the classroom
15 on the hall that I was cleaning but not the A-key
16 anymore.

17 Q All right. Before that did you have the A-key?

18 A Yes, I did.

19 Q Tell me who else, other custodians, had the A-key?

20 A My supervisor and manager, Ms. Shelley Bush, the
21 morning supervisor.

22 Q And you and she were the only ones on the custodial
23 staff?

24 A Yes, sir.

25 Q What did you do with your A-key when you were done

1 with your shift?

2 A I kept my key with me.

3 Q You took it home with you?

4 A Yes, sir.

5 Q You guarded that A-key?

6 A With my life.

7 Q Did you ever let anybody take your A-key from you?

8 A No, sir.

9 Q Did you ever let anybody make a copy of it?

10 A No, sir.

11 Q You never made a copy of it?

12 A No, sir.

13 Q Now, did Mr. Hunter take your A-key before the
14 items went missing and before the money went
15 missing from Tim Hunter's office?

16 A Tim never took my key; Jim Childers took my key.

17 Q Right. But did Jim Childers take it before the
18 money went missing from Tim's office?

19 A Oh, yes. Yes, he took it. They took it when the
20 money started missing out of the office. I don't
21 know the dates and the times, but he took it when
22 the money started missing out of the front office.

23 That's why I had to come in when I came in to
24 clean the offices because the school was out at
25 3:33. The office was closed by 4:00. So I had to

1 go in there, clean up and be out, and never had to
2 go in there at night to the offices.

3 Q So you were the person that was cleaning Tim
4 Hunter's office at that time?

5 A Yes, I was.

6 Q All right. And somebody was giving you the key to
7 do it?

8 A No, I had to go in there when Tim was in there.

9 Q Oh, okay.

10 A I had to go in there when Tim was in there and
11 clean and come out. I'd call him and say, "Hey,
12 are you in your office?" He say yes. I said, "I'm
13 coming over to clean." He'd say, "Okay. Come
14 over, clean, and go out."

15 Q How did you feel when your keys got taken away from
16 you?

17 A Well, I felt kind of funny because, you know,
18 nobody wants to be accused of anything. When he
19 say he was taking my key, I said, "Jim, I really
20 don't even want the key back." So he was asking
21 why.

22 I said, "Because you got me feeling like
23 somebody thinks somebody is stealing, and I don't
24 really appreciate that." He said, "No,
25 Ms. Jackson. I am trying to work something out.

1 When we figure it out, I'll get back with you." So
2 I say okay. Then eventually he gave me my keys
3 back.

4 Q Okay.

5 A I don't know what time or date, but maybe about
6 three weeks, maybe a month like that, I got the
7 keys back.

8 Q You got the keys back?

9 A Yes, sir, I got my A-key back. I already had my
10 other keys with me.

11 Q The keys that you would use to clean?

12 A Yes, sir, because I had a section to clean also.

13 Q Did you need the A-key to clean Mr. Hunter's
14 office?

15 A Yes.

16 Q Now, what was your understanding of what went
17 missing out of the administrative hall?

18 A Well, Jim was barely detailed, you know, like,
19 "Ms. Jackson, something going on. There's a little
20 money missing, but I'm going to separate the
21 custodians from, you know, what's going on. So I
22 want your key so I can make sure we're going to get
23 down to the bottom of what's going on."

24 Q So Mr. Childers wanted to sort of narrow it down?

25 A Yes, sir, that's what he told me.

1 Q So at that point you would not have had an A-key?

2 A No, sir, I did not.

3 Q After that?

4 A Right.

5 Q And did you usually clean the administrative hall?

6 A Yes, sir, that was part of one of my sections.

7 Q All right. Have you ever taken any money or other
8 things from Spring Valley?

9 A No, sir.

10 Q Do you have anything against Mr. Kennedy?

11 A No.

12 Q Do you even know Mr. Kennedy?

13 A I know Mr. Kennedy by seeing him at the games, the
14 basketball games, you know, like around the top of
15 the basketball -- I mean -- the gym or maybe at a
16 game or a track meet.

17 But as far as knowing him, no, I didn't even
18 know his name was Kennedy until this case came up
19 to be honest with you. I know him by face but
20 nothing else.

21 Q Sure. Did anybody ever tell you they thought
22 Mr. Kennedy stole anything?

23 A No.

24 Q Did anybody ever tell you why Mr. Kennedy wasn't at
25 Spring Valley anymore?

1 A No.

2 Q Since that round of things going missing there in
3 February, March of 2011, have you heard of anything
4 else that has gone missing from the administrative
5 office?

6 A No.

7 Q Or from Tim Hunter's office?

8 A No, sir.

9 Q That's all the questions I have for you, ma'am.
10 Thank you.

11 A Okay.

12 THE COURT: Any cross?

13 MS. PEAVY: Just briefly, Your Honor.

14 CROSS EXAMINATION

15 BY MS. PEAVY:

16 Q Good afternoon, Ms. Jackson.

17 A Good afternoon, ma'am.

18 Q We've met before.

19 A Yes, ma'am.

20 Q Nice to see you again.

21 A Nice to see you too.

22 Q I just have a couple of questions for you. If
23 notes reflected that Mr. Childers reported that he
24 decided to take the master key from you on
25 February 25, 2011, would you trust that?

1 A If that's the date he gave, yes, because the dates
2 now, I don't remember the dates.

3 Q It's a while ago.

4 A I just know he took it from me, yes, ma'am.

5 Q And we talked about that at your deposition?

6 A Yes, ma'am, that was three years.

7 Q Three years ago?

8 A Yes, ma'am.

9 Q I hear you.

10 A I don't know the date-dates.

11 Q And so he took the key on February 25th and then --
12 but there actually had been, I think, two reports
13 that Mr. Childers received of thefts in the
14 Administration Building on or before that day.
15 Were you aware of that?

16 A Well, ma'am, you know how schools are. They keep
17 things on the hush-hush till whatever going on. So
18 actually I really didn't know --

19 Q Okay.

20 A -- what was going on, but he told me that he needed
21 my key back.

22 Q Okay.

23 A Because there was some stuff going on, some thefts,
24 that he was going to try to get to the bottom of
25 it. That's all.

1 Q So if Mr. Childers prepared kind of a timeline, and
2 he said that on February 14th there was a report
3 that someone had stolen some cash and a little ring
4 and on February 25th there was a report that some
5 cash had been taken, you would have no reason to
6 doubt that, would you?

7 A No.

8 Q Okay.

9 A No, that's my boss.

10 Q I hear you. And you testified Mr. Childers told
11 you he wasn't trying to offend you. He just wanted
12 to take the key back and try to get a handle on
13 things; correct?

14 A Yes, ma'am.

15 Q At that time so y'all -- you've got your whole
16 crew, and I think you previously testified you had
17 been promoted to supervisor. You were supervising
18 about 11 cleaners; right?

19 A Yes, I got promoted at the old school.

20 Q Right.

21 A And then we moved over to the new school; yes,
22 ma'am.

23 Q Right. And then you were a supervisor --

24 A Then.

25 Q -- in 2011?

- 1 A Yes, ma'am.
- 2 Q Okay.
- 3 A Oh, yes.
- 4 Q And you were the supervisor of the night cleaning
5 crew?
- 6 A Yes, ma'am.
- 7 Q Okay. Now, when we say -- and I want to make it
8 clear for the jury -- the night shift for the
9 cleaning crew, I think you testified you would get
10 to work around 11:00 A.M.?
- 11 A In the afternoon.
- 12 Q Okay. So before lunch?
- 13 A Yes.
- 14 Q Okay. So that was in the morning?
- 15 A Uh-huh.
- 16 Q And then you would stay all day into the evening?
- 17 A My time was over at 10:00.
- 18 Q Until 10:00 P.M.?
- 19 A Yes, ma'am.
- 20 Q Okay. So what is the night shift considered? That
21 whole period of time, that 11 hours?
- 22 A No, that was my hours.
- 23 Q Okay. So --
- 24 A That was my hours as a supervisor --
- 25 Q As a supervisor.

1 A -- to make sure I was there before the other
2 supervisor left. So I could ladder over and make
3 sure everything was done at night before I left.

4 Q So would there be crews cleaning there after 10:00
5 o'clock some nights?

6 A No, not to my knowledge.

7 Q And when crews would come in --

8 A -- and it wouldn't be a crew. Everybody leaves at
9 different times.

10 Q So you stagger the staff?

11 A Yeah, yeah, it stagger. Somebody leave at 8:00,
12 you know, do four hours. Most of us was four hours
13 at night. Everybody that came in at night had a
14 day job. So it was like a four-hour night thing.

15 Q Okay.

16 A But I was from 11:00 to 10:00 because that was my
17 eight hours.

18 Q Okay. But some cleaners would work, say, early in
19 the morning to get stuff done?

20 A That was the morning shift. I had nothing to do
21 with that. I was the night shift.

22 Q Okay. So the morning shift would come in when
23 their supervisor told them to come in and start
24 cleaning?

25 A Now, I don't know about the morning shift. I know

1 about the night shift.

2 Q Okay.

3 A I don't know how they was doing because I wasn't
4 there in the morning time to tell you that.

5 Q Okay.

6 A I came in at 11:00.

7 Q So when y'all stopped cleaning the offices after
8 hours, when you testified Mr. Childers told you,
9 "Don't come at night anymore"?

10 A Right.

11 Q "We just want you to do it during the day to the
12 best of your ability"?

13 A Right.

14 Q Who would -- there's still a lot going on at the
15 school in the late afternoon and the evenings --
16 sports, kids changing in and out.

17 A Right.

18 Q There's a lot. I mean, I think the testimony has
19 been there were 2,000 kids going out of there and
20 80 coaches and staff and all that.

21 A Well, I tell you what we did.

22 Q Uh-huh.

23 A The kids, when they went out on the field to
24 practice or whatever.

25 Q Uh-huh.

- 1 A The gym would be empty. We would make sure nobody
2 was in there.
- 3 Q Uh-huh.
- 4 A If a kid came down there for something, they had to
5 have an adult or coach or something with them so
6 won't nobody's stuff get missing.
- 7 Q Uh-huh.
- 8 A That's how we did that.
- 9 Q Okay. And in the mornings -- so y'all wouldn't be
10 there in the mornings?
- 11 A I don't know about the mornings.
- 12 Q But somebody would have to -- there's a morning
13 shift of custodial staff which would come in?
- 14 A Yes, which was my boss.
- 15 Q And what was her name?
- 16 A Shelley Bush.
- 17 Q Shelley Bush?
- 18 A Yes, ma'am.
- 19 Q So it wasn't like y'all were the only people who
20 were cleaning? There's a whole other crew that you
21 don't even interact with?
- 22 A Yes. But it's a crew in the morning that monitor
23 the halls, monitor the bathrooms. They just don't
24 go into the classrooms like we do where we get down
25 with the down work. They kind of like monitor.

- 1 Q Do you know if Mr. Childers took the key away from
2 Ms. Shelley?
- 3 A He took both of our keys.
- 4 Q Okay. On the same day?
- 5 A I'm not sure but I know he told me he took both of
6 our keys.
- 7 Q So he wanted to try to rule out the dayshift people
8 too, is that correct, or the morning?
- 9 A You'd have to ask him.
- 10 Q Do you know when Ms. Shelley's shift would start?
- 11 A We had a person that opens up at 6:30 if I'm not
12 mistaken, open the school up; and then the morning
13 shift came in.
- 14 Q Okay.
- 15 A So that's all I knew about that.
- 16 Q Okay. So your knowledge is that the morning crew
17 starts about 6:30?
- 18 A The first morning person.
- 19 Q The first morning --
- 20 A Come in and open the school up, and then the staff
21 comes in.
- 22 Q Okay.
- 23 A It was 7:00 to 3:30. It was those shifts.
- 24 Q Okay. Did you ever meet with Mr. Chuck Earles
25 about the thefts that were being reported or

1 Mr. Eric Barnes?

2 A No, ma'am.

3 Q Does Ms. Shelley have about the same number of
4 people on her crew? Do you know? Not her crew but
5 her --

6 A Her morning shift?

7 Q Morning shift.

8 A It was not as many as was on my shift because we
9 was doing the classrooms, the gym, the op room, the
10 band room, the Bate Hall, like that, not near as
11 many people as I had.

12 Q But they still had to provide coverage?

13 A Oh, yes, ma'am. Yes, ma'am.

14 Q Is Jim Childers in your experience the one that
15 people report complaints or thefts to if they've
16 got any issues?

17 A I didn't understand you. Say it again.

18 Q Is Assistant Principal Childers the person that
19 people will go to if they think something has gone
20 missing?

21 A I don't know.

22 Q Okay.

23 A You know, they might. I don't know. I'm pretty
24 sure he is one of them that they will talk to if
25 something was missing; but to say everybody will

1 walk up to him and say, "They stole such and such,"
2 I don't know that because I'm not there in the
3 daytime.

4 Q Uh-huh.

5 A I'm just there at night.

6 Q Okay.

7 A I mean, from 11:00 to 10:00.

8 Q Okay. In March of 2011, February of 2011, had the
9 same people been working for you or had you had
10 some, you know, staff changes over people retiring,
11 what have you?

12 A We have people -- it flips over all the time.

13 Q Oh, okay.

14 A We don't have the same people all the time. People
15 get into a better job. They would either go
16 full-time or this and that.

17 Q Okay.

18 A I can't really say.

19 Q Okay. So if people were on your group, they're not
20 getting 40 hours a week --

21 A No, ma'am.

22 Q -- of Richland Two pay?

23 A No. We are Service Solutions. We are not Richland
24 Two; we are Service Solutions.

25 Q So you don't get your paycheck from Richland Two?

- 1 A No, ma'am, we don't.
- 2 Q Oh, okay. You get it from Service Solutions?
- 3 A Yes, ma'am, that's our company.
- 4 Q Okay.
- 5 A That cleans the school.
- 6 Q Oh, okay.
- 7 A And we clean several schools.
- 8 Q Yes.
- 9 A Just about all the schools.
- 10 Q So they have a contract with Richland Two?
- 11 A Yes, ma'am.
- 12 Q Okay. So does Service Solutions take care of
- 13 hiring and putting people to work for you at Spring
- 14 Valley when someone quits or gets more hours at
- 15 another job or what have you?
- 16 A Yes, ma'am.
- 17 Q Okay. And do you know if --
- 18 A That's what Shelley does. She is the manager. So
- 19 she handles the application. She turns it in to
- 20 the office.
- 21 Q Okay.
- 22 A Like I say, I'm just the night supervisor.
- 23 Q Oh, yes, of course. And Ms. Shelley, do you know
- 24 does she get a paycheck from Richland Two or does
- 25 she get a paycheck from the other company?

- 1 A That I don't know.
- 2 Q All right. And you don't know if she is Service
- 3 Solutions --
- 4 A She is Service Solutions --
- 5 Q Oh, okay.
- 6 A But she is our manager --
- 7 Q Oh, okay.
- 8 A She is not time on the clock like I was.
- 9 Q Oh, no, no, no.
- 10 A She is on another level.
- 11 Q So she gets a salary?
- 12 A Yes, ma'am.
- 13 Q So she is not clocking in?
- 14 A No, ma'am.
- 15 Q Okay. Now, just speaking from your experience as a
- 16 supervisor?
- 17 A Yes, ma'am.
- 18 Q Supervising your cleaning crew or when they come in
- 19 staggered, you're the supervisor, so you have the
- 20 master key?
- 21 A Yes, ma'am.
- 22 Q And you decide who you're going to hand the master
- 23 key off to?
- 24 A No, ma'am, huh-uh.
- 25 Q Okay.

- 1 A No.
- 2 Q How do the people who are working open the door to
3 clean?
- 4 A We have keys for certain areas, which is the
5 AL-key.
- 6 Q Okay.
- 7 A The AL-key, we have a key rack.
- 8 Q Okay.
- 9 A You know, you go pick your key up.
- 10 Q Okay.
- 11 A And in the afternoon, you put your key back before
12 you leave.
- 13 Q Okay.
- 14 A Just in case you don't want to come back no more or
15 I ask you not to come back because you are not
16 doing your job right or something like that.
- 17 Q Okay.
- 18 A We have a key rack. I make sure all the keys are
19 on the rack. Because when I look and see the key,
20 and it ain't there, then I got to come up with that
21 key.
- 22 Q So you're keeping an eye on that key rack?
- 23 A Yes, ma'am.
- 24 Q Okay.
- 25 A It was like a box.

- 1 Q Right.
- 2 A That you open it and you put your keys in.
- 3 Q Okay.
- 4 A Yes, ma'am.
- 5 Q Is the box the kind of box where it's got a glass
6 front or is it just like a wooden box?
- 7 A It's just like a wooden box. It's in their office,
8 in our office.
- 9 Q Okay.
- 10 A It's not out there.
- 11 Q Oh, yeah.
- 12 A It's in there where you clock in at. It's inside
13 the office.
- 14 Q Right, right.
- 15 A And that office stays locked, and the office key is
16 the master key to the office also.
- 17 Q Okay.
- 18 A So nobody wants to get their key that don't go back
19 in that room.
- 20 Q Okay. So if they're done with their shift, done
21 cleaning --
- 22 A I make sure I meet them down there to put the key
23 up.
- 24 Q Okay. And you get it?
- 25 A I get the keys from them, and I put them on the

1 rack before they clock out.

2 Q And is the timecard stamper in that area?

3 A We, we had -- we didn't have like the District have
4 a clock-clock. We had a different kind of clock.
5 We did the phone --

6 Q Okay.

7 A -- we did the handprint. We tried a lot of
8 different ways.

9 Q Okay.

10 A It was always different on how they clocked out.

11 Q And repeat for me again the name of that company?

12 A Service Solutions.

13 Q Okay.

14 A SSC.

15 Q SSC?

16 A Yes, ma'am.

17 Q And if you can think back to March of 2011 -- and I
18 know it's three years ago. I don't expect you to
19 have a perfect memory -- but how would you
20 coordinate the person who needed to clean Tim
21 Hunter's office?

22 A Say that again.

23 Q If someone -- if Tim Hunter's office needed to be
24 cleaned?

25 A Uh-huh.

- 1 Q How would the person access that office?
- 2 A I call him.
- 3 Q Okay.
- 4 A And I see if he over in his area by the radio.
- 5 Q Uh-huh.
- 6 A "Yes, Ms. Jackson. I'm here."
- 7 "I'm on my way. I'll meet you there."
- 8 Q Was that the period when you didn't have your key?
- 9 A Yes, when I didn't have the key anymore.
- 10 Q Okay. When you did have your key, how was it
- 11 different?
- 12 A Because I went in and I cleaned it.
- 13 Q And did you always -- was it always the
- 14 responsibility of the supervisor to clean
- 15 Mr. Hunter's office?
- 16 A No, I was just the best cleaner, just being honest.
- 17 Q Okay.
- 18 A And he always wanted me to do it.
- 19 Q Were you able to clean it every time you were
- 20 working or sometimes did you have to send one of
- 21 your --
- 22 A Well, it was so clean I didn't have to clean it
- 23 every day.
- 24 Q Oh, he keeps a tidy office?
- 25 A Yes, it is. He's a very clean man; so he want it

1 clean.

2 Q I got that impression. I wish my office looked
3 like that. Again, you don't know how the -- how
4 Ms. Shelley does it with her crew that starts
5 around 6:30?

6 A No, ma'am, because I did it at night.

7 Q Okay.

8 A In the afternoon, you know, it was my
9 responsibility. That was one of my sections too.

10 Q All right. Ms. Jackson, that's all I have. Thank
11 you for your time.

12 A Thank you.

13 MR. GOODWYN: Rachel?

14 MS. PEAVY: Oh, I'm sorry. One second.

15 (Pause.)

16 BY MS. PEAVY:

17 Q Ms. Jackson, I stand corrected. I have one final
18 question.

19 A Okay.

20 Q I beg your indulgence.

21 A That's okay.

22 Q Right after this accident -- accident -- right
23 after this incident occurred and Mr. Hunter told
24 security, told Jim Childers, called him up, "Hey
25 \$1,000 is missing from my office. Someone took

1 it," did you happen to observe Mr. Eric Barnes and
2 Lieutenant John Reid from the security staff
3 talking at the Athletic Department right after that
4 happened?

5 A Ma'am, I just met Mr. Barnes last year when I went
6 to CFI.

7 Q Okay.

8 A I never known Mr. Barnes.

9 Q Okay. So if he had been there that day, you
10 couldn't identify him?

11 A I would not even know it because I just was
12 introduced to him.

13 Q Okay.

14 A At CFI. I just got there last year. This year is
15 my second time -- year -- working there.

16 Q And do you remember seeing anyone talking to John
17 Reid, the security individual?

18 A I don't know him.

19 Q You don't know him?

20 A I don't know who Reid is.

21 Q All right. That's all I have.

22 A Okay.

23 Q Thank you.

24 A Uh-huh.

25 THE COURT: Any redirect?

1 THE COURT: You may call your next witness.

2 MR. BARLOW: The defense calls Jim Childers,
3 Your Honor.

4 (The witness comes forward.)

5 JAMES RICHARD CHILDERS, being
6 first duly sworn, testifies as follows:

7 THE CLERK: Have a seat in the witness stand,
8 please. State your full name for the record.

9 THE WITNESS: My name is Jim Childers.

10 DIRECT EXAMINATION

11 BY MR. BARLOW:

12 Q Mr. Childers, what is your full name, please?

13 A James Richard Childers.

14 THE COURT: Would you spell your last name,
15 please.

16 THE WITNESS: C-H-I-L-D-E-R-S.

17 THE COURT: Thank you.

18 BY MR. BARLOW:

19 Q All right. You've seen the procedure. I'll go
20 through a little bit of background about yourself.
21 Where did you grow up?

22 A I was a military brat; so I lived all over the
23 place. I went to two different middle schools and
24 three different high schools and ended up at Lower
25 Richland my senior year and graduated from Lower

1 Richland in 1970.

2 Q What year?

3 A 1970.

4 Q Are you married?

5 A I am, 40 years.

6 Q What's your wife's name?

7 A Cindy.

8 Q Where is Cindy from?

9 A She is from Petersburg, Virginia; but she's a
10 Columbia native now obviously.

11 Q Sure. Do you have children?

12 A Children, I have two. I have a 36-year-old
13 daughter, who is special needs; and I have a son
14 that's 33.

15 Q And are they around the area?

16 A Yes, both of them in Columbia.

17 Q Tell me a little bit about your education after
18 Lower Richland. Where did you go?

19 A I graduated from the University of South Carolina
20 in 1974 with a BS in science. I received a
21 Master's in science from Louisiana State University
22 in 1997.

23 I coached in private school a couple of years:
24 In Dalzell, Thomas Sumter Academy, Wildewood
25 Academy, which no longer exists, here in Columbia

1 for two years. I went to Lower Richland where I
2 was a biology teacher and basketball coach for nine
3 years there.

4 Q So you taught biology and coached basketball at
5 Lower Richland?

6 A Lower Richland. I left there, went to Louisiana
7 State University for nine years, then the
8 University of Memphis for a year, and came back to
9 Columbia in 1998. That's when I was a biology
10 teacher, administrator, and basketball coach at
11 Spring Valley for three years.

12 Q All right. So you coached at Lower Richland for
13 how many years?

14 A Nine years.

15 Q Did you have any players there that we might
16 recognize?

17 A Yeah, you'd probably recognize some of them, like
18 Stanley Roberts, Jo Jo English, Tim Burroughs. All
19 of those were drafted.

20 Q How about at Spring Valley?

21 A Didn't have that kind of athlete there. Those were
22 pretty good ones.

23 Q Hard to duplicate that?

24 A Yes, that's true. That was some golden times.

25 Q So when did you get out of coaching?

- 1 A Pardon me?
- 2 Q When did you get out of coaching basketball?
- 3 A That would be 2001.
- 4 Q Okay.
- 5 A When I became Assistant Principal. I became
6 Assistant Principal then. You can't coach and
7 become Assistant Principal. So I took a different
8 direction. I had coached for 29 years. So I was
9 ready for a change.
- 10 Q How about you mentioned you got a grad degree from
11 LSU? Were you working while you were down there
12 too?
- 13 A Yes, I was Assistant Baseball Coach at LSU for nine
14 years.
- 15 Q Who were you coaching under then?
- 16 A Coach Dale Brown.
- 17 Q All right. Now, was Shaquille O'Neal there when
18 you were there?
- 19 A Yes, he was, Shaquille O'Neal. We had three
20 7-footers: Shaquille O'Neal, Gurt Hammett, and
21 Stanley Robinson. We had quite a team.
- 22 Q You probably enjoyed talking about that?
- 23 A Oh, yeah. In my office I have all my pictures. I
24 don't really do it to brag about things, but it's
25 really a communication point to the kids when they

1 come in. They see that. They can identify a
2 little bit better with you.

3 I have a shoe of Shaq's. It's a size 22.
4 When the kids come in, that's the first thing that
5 draws their eyes is about that shoe. So they're
6 interested in that. I tell them that Shaq was 17
7 when he wore that shoe.

8 Q Good times, good times. Less talk about this case.

9 A Yes.

10 Q You've been Assistant Principal for how long?

11 A Since 2001; so, 13 years.

12 Q All right. And as an Assistant Principal, what do
13 you do?

14 A My job is operations, facilities, safety, security
15 operations; and I'm also the Director of Career and
16 Technology there at Spring Valley.

17 Q All right. How many assistant principles are
18 there?

19 A There are four.

20 Q Four. And what areas? Does each assistant
21 Principal have a specific area?

22 A Yes, like one of them is curriculum instruction,
23 one is technology, one is discipline. But we all
24 share all of the duties quite frankly. We help
25 each other, but that's their area. They're kind of

1 over that area, but we all collaborate and work
2 together. You have to with 2,000 students we have
3 at Spring Valley.

4 Q Sure. What principals have your worked under at
5 Spring Valley since you have been the Assistant
6 Principal?

7 A Well, Dr. Trump was the first one. He was only
8 there for a year. He hired me, told me the best
9 job he did was hiring me the first year. The next
10 one was Dr. Greg Owens. He came in my second year
11 there. Then Dr. Barron Davis. He was there for
12 two years, and now Jeff Temoney just came in this
13 year.

14 Q Just came in this year?

15 A Yeah.

16 Q And do you supervise anybody?

17 A Well, we supervise teachers, students, other staff
18 members, custodial. Service Solutions is the
19 custodial service that we have, but they're
20 contracted. They're really not our employees; but
21 they report directly to me on matters of custodial
22 issues, yes, and maintenance.

23 Q Sure.

24 A The maintenance team.

25 Q And have you been the Facilities Assistant

1 Principal the whole time you have been Assistant
2 Principal?

3 A As Assistant Principal, yes, sir.

4 Q And as the Facilities Assistant, what are some of
5 the things that a Facilities Assistant Principal
6 has to deal with on a regular basis?

7 A Well, we're in charge of safety; so we developed
8 the emergency plans. We develop all the drills,
9 set up all the supervision areas at all times in
10 the school. It's quite extensive, you know, all
11 the things that we have to do to set up for a
12 regular school day.

13 Q How about as far as security in the building?

14 A Yeah, security in the building, I'm responsible for
15 that. I work closely with the school resource
16 officers, with the other staff members to make sure
17 we have a safe, secure environment there.

18 Q Sure. The school resource officer, is that an
19 employee of the school?

20 A He is a deputy. He is a sheriff's deputy, but I'm
21 not sure how he is paid to be honest with you; but
22 he is there as a resource for us. He is a deputy
23 officer there at the school for us.

24 Q So this is an actual deputy at the Sheriff's Office
25 that has a gun, badge, et cetera?

1 A Absolutely.

2 Q That's at school?

3 A Yeah.

4 Q His hours at the school would be what?

5 A They would be along the line of a regular day,
6 which would be from 8:00 o'clock for our teachers
7 to 4:00; but it extends on because unfortunately
8 our buses don't get there, you know, in a timely
9 manner a lot of times because we're the last route.

10 We have elementary and middle school. If
11 something happens on those routes, then it puts
12 everything back. So we're there quite late every
13 day.

14 Q Sure. What are your typical hours?

15 A I get in there before 8:00 o'clock generally, and
16 it depends on the day if I'm supervising an event.
17 But generally I've leave around 4:30, 5:00 o'clock.
18 If it's an event date, we can be there as late as
19 10:00, 10:30 for a game or other activities there.

20 We also supervise -- we're assigned duties and
21 we'll be at drama events and basketball games.
22 It's quite an array of responsibilities that we
23 have at night.

24 Q Sure. Now, like I said, you were in here for some
25 of the testimony earlier. People have given sort

1 of an overview of the campus. I'm not going to put
2 all those pictures back up or anything like that.

3 Anything that needs correcting that you've
4 heard?

5 A Well, Spring Valley is a huge campus. It's a
6 quarter mile actually from one end of the campus to
7 the other. It's 64 acres. It's a three-story
8 building.

9 That main building that we talked about is the
10 bottom floor where the admin area is. It's just a
11 huge facility that requires a lot of gates being
12 locked, doors being checked. It's areas being
13 checked around campus. It's not an easy thing to
14 do. It takes time.

15 Q Where is your office in the building?

16 A It's in the main hallway. When y'all saw the door,
17 the exterior door, when you come in from the
18 outside of the main office, my office is right
19 there. I have a window. I have a room with a
20 view.

21 Q All right. So you're in the administrative hall?
22 That's sort of the term we have used?

23 A Yeah.

24 Q And your office is the first one on the left side
25 when you come in the door?

1 A On the left.

2 Q All right. Now, I want to take you back to
3 February 2011, and I'm going to show you what's
4 already been marked as Defendant's Exhibit 1 in the
5 case.

6 (Cell phone goes off.)

7 MR. GOODWYN: I'm sorry. I cut it on out
8 there.

9 THE COURT: Turn it off.

10 MR. GOODWYN: I'm doing it right now.

11 THE COURT: Thank you.

12 BY MR. BARLOW:

13 Q Take a second to look at it if you want to.

14 A Yeah.

15 Q All right. Are you ready for some questions about
16 it?

17 A Yeah.

18 Q Why don't you take me sort of from the top in
19 February 2011. What was brought to your office?

20 A February 14th, Joanne Cabiness, she is in the main
21 office. She is our Principal's secretary. She
22 reported to me that \$50 cash and a ring that had
23 been retrieved from years ago -- Joanna had been
24 there for years through several principals -- and
25 had stored a ring in her desk drawer, the bottom

1 left desk drawer in an inconspicuous place.

2 It was in two different areas. The jewelry
3 was separate from the cash. She had a bunch of
4 thick files. So the weird thing about this is that
5 somebody who had gone in there would have to have
6 time to go through and wouldn't be able to just
7 rifle through. They would have to have time to go
8 through and look at it.

9 At the time she told me that she couldn't
10 pinpoint because she doesn't go in that drawer very
11 often quite frankly, didn't think she had to
12 because it was well hidden.

13 She couldn't put a time or date on it. It
14 bothered me, you know, that we had a theft; but I
15 couldn't put a camera on it because we didn't know
16 what the time or date was.

17 Q Sure. So that was the first one that came to your
18 attention?

19 A That was the first one.

20 Q Okay. Did you take an opportunity to go look at
21 the desk where she was showing you?

22 A Yes, I did.

23 Q And the files and such?

24 A The files and all that. It would be very hard to
25 just go in there. You'd have to have a lot of

1 time, unless you knew where it was. If you didn't
2 know where it was, you would have to take a lot of
3 time to go through and find those items.

4 Q What was the next thing that came to your
5 attention?

6 A Well, on February 25th Dorothy Loiodice -- and
7 that's a hard name to pronounce -- reported that
8 \$20 cash and a check for \$15 had been taken from
9 her room.

10 Now, this room also was out of the area of the
11 cameras that they have talked about; but when they
12 did it, I was able to go to the cameras because I
13 had a timeline.

14 She had left the night before. She put the
15 money in the top desk drawer. She gets off around
16 4:00 o'clock and she left. So I went to the
17 cameras.

18 At that time, you know, there were staff
19 members who were leaving on the camera. There was
20 a custodian who came in and cleaned and left. Then
21 at 11:33 from the exterior door, we see a security
22 guard come in.

23 He comes in there, and then he goes out of
24 view of the camera. Then he comes back at about
25 11:52; so, you know, 19 minutes later. It was kind

1 of odd because it took so much time in that area.
2 I thought that was odd.
3 Q Is that the administrative hall that we're talking
4 about?
5 A That's the administrative hall, yes.
6 Q Dorothy Loiodice?
7 A Loiodice, yes.
8 Q Is that close enough?
9 A Yes.
10 Q She told you that she put money in there that same
11 night?
12 A That's right, the night before.
13 Q Okay.
14 A Yeah, well, that night. It was reported to me the
15 next day.
16 Q All right. Puts the money in that night. The
17 money goes missing, and it's reported to you the
18 next day that it's missing?
19 A Yeah.
20 Q So you went to the video?
21 A I went to the video.
22 Q Is that something you do from time to time?
23 A I do a lot of that. I've had cameras for a number
24 of years. Quite frankly, a lot of people came to
25 me to ask for help with the cameras because I was

1 pretty good at it.

2 I could pull things up. I could, you know,
3 show them how we could go from one frame to the
4 other and what areas you had to consider when you
5 looked at the cameras. I had a great understanding
6 of where all the cameras were on the campus.

7 Q Right. And you were here for Mr. Earles's
8 testimony?

9 A Yes.

10 Q As far as that goes, is what he testified about
11 with regard to where the cameras are in the
12 administrative hall consistent with your thought on
13 that?

14 A The one camera that was facing the exterior door
15 was the only camera we had there in that hallway.
16 Then later on, after we had a theft, they brought
17 two cameras in, one to get the rest of the hallway
18 and one to point at the bookkeeper. So it was
19 close but actually we had two more cameras added.

20 Q What was Dorothy Loiodice's job?

21 A She was discipline secretary. What she does is
22 take the discipline referrals. You have to go
23 through this program of recording them so that
24 we'll have accurate records.

25 Q Anything unusual about her office or the condition

1 of her office?

2 A Other than the fact, it was out of the view of the
3 cameras; but nothing unusual, no.

4 Q I'm talking about post theft. Was it left in any
5 particular condition or anything?

6 A Well, she complained that some things had been
7 moved around on a desk. That's what kind of drew
8 her attention. She went into the desk drawer and
9 had found that, you know, the money was gone and
10 the check that time.

11 Q What time are students at the school? What's
12 regular time?

13 A Well, we start supervision from 7:30. We try to
14 get them out of the door at 4:00 o'clock. That
15 doesn't always happen in a high school because we
16 have so many other activities going on at the
17 school.

18 We have drama and athletics, band. It's
19 really quite a community in the afternoon, but we
20 try to move them out of the main building most of
21 the time at 4:00 o'clock.

22 Q Would students have any reason to be in the
23 administrative hall after 4:00 o'clock?

24 A No. Once we close the office down at 4:00 o'clock,
25 they have no access to the office.

1 Q All right. No access because it's locked?

2 A It's locked.

3 Q So that was February 25th?

4 A That was the 25th, yes.

5 Q What was the next incident?

6 A All right. Well, can I tell you what happened
7 after February 25th or do you want me to go ahead
8 and tell you?

9 Q Tell me in the sequence you best remember. That's
10 fine.

11 A Okay. Well, after that incident there was a lot of
12 talking in the office about, you know, who is
13 coming in and taking this money. Everybody was
14 concerned.

15 So there was some chatter among some of the
16 staff members: Are the custodians coming in?
17 Ms. Jackson, who I relied on quite extensively, she
18 was the one who came in. I told them, "I'm telling
19 you, Ms. Jackson did not take that. I know
20 Ms. Jackson. She is not of that type of
21 character."

22 I was thinking at the time that I would
23 eliminate her, okay, and draw the suspicion from
24 her by taking her key. She had an A-key. So at
25 that time I took her key. Ms. Jackson did say that

1 I took Ms. Bush's key. She wasn't accurate on
2 that. I did not take Ms. Bush's key.

3 Q All right.

4 A The supervisor, her boss, I took her key on the
5 25th.

6 Q Was Ms. Jackson's assignment the administrative
7 hall?

8 A She had the administrative area. After that we
9 talked about it. We said, "It would be better for
10 you to come during the day while we're here and,
11 you know, clean the area so there will be no
12 suspicion."

13 I think it bothered her. I tried to make her
14 feel that I wanted to, you know, take all the
15 suspicion off of her. Ms. Jackson is -- she was --
16 she was kind of like my administrator on campus at
17 night.

18 She called me if things were -- something was
19 going on so I could address it. They are not
20 really allowed to direct a lot of, you know,
21 comments to students and other staff members. She
22 would let me know, and she was really my right hand
23 really at night.

24 Q So the timeframe when you would have taken the
25 A-key from Ms. Jackson was?

1 A After the incident on the 25th.

2 Q So either the 26th, 25th, something like that?

3 A Yes, yes, well that day.

4 Q What was the next incident that came to your
5 attention? When was that?

6 A All right. Then, I guess, about like a week later,
7 March 2nd, we had another theft. This time it was
8 our bookkeeper's office, Sandra Watts. She is in
9 the main office area.

10 She reported \$40 cash had been stolen, and it
11 was kind of along the same line because somebody
12 would have to go in there. She had it hidden under
13 a calendar under her desk.

14 Somebody would have to, you know, have time to
15 go through and look through things to kind of find
16 it. It was in an inconspicuous place. It wasn't
17 on top of the desk where they could see it.

18 She also noticed that some things were out of
19 place. We found that the cabinet had a plant
20 closed in with a drawer. So somebody had gone in.
21 When they closed the cabinet, they had closed the
22 plant into the cabinet drawer closure. Also, that
23 some deposit slips or something had been moved
24 around in the cabinet.

25 Q All right. And when did she put the \$40 in there?

1 A She put the \$40 the night before. She left at
2 4:00 o'clock. Okay. So she put it in that
3 afternoon when she was leaving; and when she came
4 back the next morning, it was gone.

5 Q All right. And after the -- after that did you
6 look at the camera again?

7 A Yes, I did.

8 Q What did you see on the camera?

9 A On the camera again -- I checked cameras and
10 Mr. Kennedy again walked into the main office
11 around 11:23:58 P.M. on March 1st and exited the
12 main office at 11:48, approximately 19 minutes or
13 16 minutes later, something like that.

14 Q All right.

15 A Well beyond the time that's needed to just come
16 through. I went back just to see what the pattern
17 was for the security guard coming in. I went back
18 a couple of weeks actually.

19 On those dates that the thefts occurred, he
20 spent a lot of time in the office. On the dates
21 that no thefts occurred, he came in and went right
22 out in a manner of a short period of time.

23 Q How about as far as the route?

24 A The route would always be, you know, one time he
25 came in and came in the copy room right in front of

1 the camera and came out and passed through; and he
2 came out of the main office.

3 Q How about the other when you went back and looked?
4 What was the route? Same route? Different route?

5 A Basically come through and just leave out, yeah,
6 the same route.

7 Q Okay.

8 A But it was for a short period of time, real short.
9 The times that the thefts occurred, they were much,
10 much longer.

11 Q And did that cause you suspicion?

12 A Oh, yeah, yeah.

13 Q Did you know Mr. Kennedy by name at that time?

14 A Well, by that time I had; but I can't talk about
15 the reason for that; right? I guess because...

16 Q Well, how did you know him?

17 A From a previous incident that occurred in the main
18 office.

19 Q Okay. What was that?

20 MR. GOODWYN: Objection.

21 MS. PEAVY: Your Honor, objection. You ruled
22 on that.

23 MR. BARLOW: Oh, no. I'm sorry. I'm sorry.
24 Withdrawn. Yeah, you're right. I just drew a blank.
25 I'm sorry about that. Okay. No problem. Just strike

1 all that.

2 BY MR. BARLOW:

3 Q Now, back to that one, March -- what day was that?

4 A On March the 2nd is when Sandra Watts reported it.

5 It actually occurred that evening probably,

6 March 1st, in the evening.

7 Q Okay. All right. And what did you do after you
8 got that report?

9 A I contacted Chuck Earles, told him what I had done
10 about removing the key from the custodian, about --
11 it was a likelihood that maybe somebody from
12 security may be coming in and taking things out of
13 the office.

14 Q And why Chuck Earles in particular?

15 A He is the Director of Security in the District.

16 Q Is that why you would have gone to him instead of
17 the resource officer?

18 A Yeah. Well, I called Chuck Earles and the resource
19 officer too. We called both of them, but Chuck
20 Earles is the one that I would report to as far as
21 the videotape and recording things on the videotape
22 and keeping copies and all that. He is kind of the
23 expert there.

24 Q And after that what did Chuck Earles specifically
25 do?

1 A Well, obviously he knew we had a problem. He put
2 some money in an envelope in Loidice's office. I
3 think, as he explained, put something on there
4 where if somebody were to pick it up, they would
5 identify it. He checked the bills and numbered the
6 bills and everything and put them in his record.

7 Q And to your knowledge did that go missing at any
8 minute?

9 A No, never did. You know, it just did not.

10 Q Okay. Let's move on to the Bates Hall that we've
11 talked about, the theft from Tim Hunter's office.
12 Tell me how you got -- how that came to your
13 attention.

14 A Well, let's see, Friday, March 4th, Tim calls me
15 and says, "We've got a problem. We've got \$1,000
16 missing out of my office." I can't remember if I
17 went to his office first.

18 I think I did, just to go look at it because I
19 wanted to see and make sure there wasn't breakage
20 because he said there was nothing broken when he
21 reported it to me.

22 So I went and looked. He showed me where he
23 had kept the money. Then I kind of did kind of a
24 cursory look around to make sure that somebody did
25 not come through the ceiling tiles, things like

1 that. We've had thefts like that before. The
2 walls in the offices --

3 Q Can I stop you?

4 A Okay.

5 Q In the Bates Hall, did you ever have anybody come
6 through the ceiling in Bates Hall?

7 A No.

8 Q All right.

9 A And it wasn't possible in Tim's office anyway
10 because the walls went all the way to the ceiling
11 above the ceiling tiles. So there was no way
12 somebody could come in that way, but I just went in
13 there to make the fact. I went in there to make
14 sure.

15 Q Right. The point of access to Tim's office for
16 this theft, where would that have been?

17 A The point of access could only be the door.

18 Q All right. What did you do after that?

19 A Well, then I went back and looked at the cameras.
20 When we went to the cameras, I saw where
21 Mr. Kennedy and somebody came in that -- well, that
22 night after Tim Hunter and Sonny Uker left out --
23 Let me start over.

24 Sonny Uker and Tim Hunter left out in the
25 evening. After the Viking Cup, they had counted

1 the money. That showed them leaving the Bates
2 Hall.

3 Then shortly after that on the cameras, it
4 shows Mr. Kennedy and another man going right into
5 the building, going to the keyboard, and then going
6 right back out.

7 About 11-something I see the baseball team
8 come in. They had a late game. So they come in to
9 the middle entrance. They go right across to the
10 locker room, and I see Charlie Wentzky -- he was
11 the baseball coach then -- come very quickly down
12 the hallway.

13 The way the monitors work, he goes from the
14 hallway monitor to the pad monitor, just like that.
15 There is not any time where he could -- you know,
16 it happens real quick.

17 Q Sure.

18 A Then he does the pad. He goes from the pad monitor
19 to the hallway monitor, just like that; and he goes
20 down to the locker room.

21 Q So back down the hall?

22 A Back down the hallway.

23 Q So that's what you saw?

24 A That's what I saw. Now, you know, it's been since
25 2011; and I can't remember, to be honest with you,

1 if he came back to the pad or not. But if he had
2 of, I would have seen it. It would have been a
3 short duration because I made a note that he wasn't
4 in the hallway long, whatever time it was.

5 Q Right.

6 A So they leave out. All right.

7 Q Who is they?

8 A The baseball team. They weren't in there but ten
9 minutes probably.

10 Q Okay.

11 A Because they were bringing the stuff in. It was
12 late. They wanted to get out of the building and
13 get home. They leave out that middle entrance
14 again. They don't come down the hallway. They go
15 right on out.

16 They didn't go into the weight room because
17 you can tell where the little piece is to the
18 hallway. Somebody would have to go in there and
19 come back out.

20 They went down the hallway to go out. You can
21 see them on the other camera. This is another
22 camera that faces the door that you can see them
23 walk out there.

24 Q That you can see them walking out?

25 A Yeah, out of the middle entrance.

1 Q Now, what did you see next on the video?

2 A Then, as Chuck Earles explained, there is no
3 activity on the cameras unless somebody is in the
4 building. Okay. So I don't -- I don't see any
5 activity until the next morning.

6 At 5:48:55 A.M., Mr. Kennedy comes into the
7 lobby of the Bates Hall. Then he turns and he goes
8 out of sight but doesn't leave the main -- the
9 Bates Hall main area.

10 So he is out of sight from 5:48:55 to
11 5:55:45 A.M., about seven minutes, which I find
12 kind of odd because it only takes 30 seconds to
13 disarm the alarm there.

14 Q How long would it take to walk into the weight room
15 and flip the lights on?

16 A Not long. You know, if he went into that one room
17 and walked across to the other side, like 30
18 seconds.

19 Q And what was the next thing that you saw on the
20 tape after that?

21 A The next morning -- well, then I leave. I see him
22 leave out at that time, 5:55 A.M. The next morning
23 I see Paul Dobbins, the trainer, come in. Paul
24 Dobbins comes in the main entrance of Bates Hall;
25 and he goes right to his room, which is in view of

1 the camera. So he goes into the room. You see
2 him.

3 He always comes early. He's our trainer. He
4 probably works longer hours than anybody there --
5 maybe Tim Hunter does -- but then shortly after
6 that, you see Tim Hunter come in about 8:00ish,
7 8:15. He comes into his office.

8 Q All right. Now, what did you do after that?

9 A Call Chuck Earles again.

10 Q All right.

11 A And notify a deputy. We have a problem, especially
12 a \$1,000 theft.

13 Q Did you have any further involvement in
14 investigating after that?

15 A No, not really. You know, I kind of showed Chuck
16 Earles what I had seen on the cameras and pretty
17 much turned it over to him to handle from then on.

18 Q All right. Based on what you saw, did you have any
19 reason to suspect Tim Hunter?

20 A No. Tim Hunter joined us in -- I believe it was
21 2004 -- and he's done a great job. He has kind of
22 reorganized the Athletic Department. We stay in
23 the black every year. He has done a great job of
24 operating our program with integrity, and it never
25 crossed my mind to be honest with you.

1 Q Sure.

2 A He is just not that type of person.

3 Q How about Ms. Jackson?

4 A Ms. Jackson is a wonderful lady, and I tell you
5 that I trust her totally. She is not that type of
6 person. She wouldn't do it.

7 Q How about Sonny Uker?

8 A Sonny Uker has been the right hand of Tim Hunter.
9 He couldn't have done it because Tim Hunter was
10 with him when he left out, and he doesn't have a
11 key to the door. Only a person with an A-key or a
12 District master key could have accessed that door.

13 Q Let's talk about keys. There's been lots of
14 testimony about keys, and I don't want you to
15 repeat all of that. But who is in charge of the
16 key distribution in your building?

17 A Well, our Principal's secretary hands out the keys
18 based on what I tell her to hand out, quite
19 frankly. Our teachers have one key that gets into
20 their classroom.

21 We have some special storage rooms that have a
22 certain type of key because we don't want all the
23 teachers to be able to get in certain types of
24 storage. We have other areas that have certain
25 type keys.

1 But there are some offices that we do not
2 want, you know, much access; and we give them an A,
3 a master key cylinder. One of those is our
4 Athletic Director's Office because of the fact
5 that, you know, he has a safe; and he has a lot of
6 money that he deals with all the time.

7 Q What other places get a master key, a key cylinder?

8 A The principal's office, my office, assistant
9 principles' offices, the administrator's offices.
10 Those are right off the top of my head.

11 Q Will teacher keys get you in the administrative
12 hall?

13 A No.

14 Q Now, who -- at this time on campus, who would have
15 had A-keys?

16 A Well, remember, I took Larrine's from her. So
17 Shelley Bush, the day supervisor, would have an
18 A-key. Then the administrators, our school
19 resource officers. Those would be the ones.

20 Q Tim Hunter had an A-key?

21 A Tim Hunter because he was Athletic Director. I
22 considered Tim an administrator. He administers
23 the athletic program.

24 Q Security had an A-key?

25 A Security has a master key, master A. Well, it's a

1 District master. They can get in any door in the
2 District basically was my understanding.

3 Q All right.

4 A They could get in all our doors at Spring Valley.

5 Q Any reason to suspect the baseball coach?

6 A No, he doesn't have an A-key; and it didn't verify
7 it on the camera. He came through from one frame
8 to the other and went back out the other frame, and
9 it was split seconds.

10 Q All right. Any more thefts reported in the
11 administrative hall at Spring Valley --

12 A No.

13 Q -- since then?

14 A No.

15 Q How about in the Bates Hall?

16 A No.

17 MR. BARLOW: Just a second.

18 (Pause.)

19 BY MR. BARLOW:

20 Q All right. Mr. Childers, I don't have any further
21 questions of you. Answer any questions that
22 counsel has.

23 A All right.

24 THE COURT: Any cross?

25 MR. GOODWYN: Yes, Your Honor.

1 CROSS EXAMINATION

2 BY MR. GOODWYN:

3 Q Mr. Childers, my name is Jeff Goodwyn. I represent
4 Jeffrey Kennedy in this case. Let me ask you a few
5 questions about the keys.

6 There has been some seemingly conflicting
7 testimony about the upgrade or change in the key
8 system. Eric Barnes mentioned that he remembered a
9 change. Then Tim Hunter said, "Yes, there was a
10 change." He thought it was before.

11 What is your recollection?

12 A We were in an old building. The gym, which Tim had
13 mentioned, and the facilities there for the
14 gymnasium still had the same cylinders. They did
15 not change the cylinders in those doors because
16 those doors had been redone probably about four or
17 five years prior to the new building being built.

18 So we had keys. There was no need to rekey
19 that building when we built the new facility. So
20 we kept the AL-2 key. The AL-2 is the gym key.
21 All the coaches keep AL-2 keys.

22 Q All right.

23 A And then when we built the new facility, we had
24 something called an AL-11. That's the teachers'
25 keys.

1 Q When you say new facility, is that the --

2 A -- that's the main building.

3 Q -- where the administration is?

4 A That's right. We built that building. The key
5 system that we have was still the same. The master
6 key still fit the cylinders from the old building,
7 still fit the gym keys, and fit the new building.

8 Of course, the teacher keys, the AL-11s, there
9 was a little bit of a problem with the cylinder not
10 matching the new keys. So we had to get a lot of
11 new AL-11s, but it was the AL-11 key that fit --
12 eventually fit -- for the teachers' classrooms.

13 All of our teachers had the same key because
14 we want, for safety and security reasons, we want
15 to be able to get in and out of a classroom,
16 anybody's classroom, quickly in case of a lockdown
17 or something like that. They would have access to
18 anybody's classroom.

19 Q Right. Now, the key to Tim Hunter's office, he was
20 saying has been the same key for ten years or so?

21 A No, we changed -- see, that was the Science
22 Building. So that used to be -- that room never
23 existed where he is at now.

24 Q Tim's office you are talking about?

25 A They cleared out -- Well, where Tim's office is,

1 those used to be classrooms. They took all the
2 classrooms out of that building and made the
3 offices, the weight rooms, and those type things,
4 kind of remodeled the inside.

5 When that happened Tim's office became -- we
6 made sure he had an A-key because we didn't want
7 access, and actually --

8 Q Tim got a new key when that was remodeled?

9 A Well, no, he had an A-key. Tim already had an
10 A-key because he had to access areas that required
11 an A-key. He is an administrator.

12 Q So did Tim's door have a different key then it did
13 before the remodeling -- or after the remodeling?

14 A You know, when they first put the cylinders in,
15 they were construction cylinders; and then I
16 assigned the keys.

17 Q So the door itself -- you said they remodeled.
18 They regutted the inside and reshaped it all?

19 A That's right.

20 Q So he had a new physical door?

21 A Yeah, these are new doors.

22 Q A new lock?

23 A A new lock.

24 Q A construction lock for a period?

25 A And then it changes. Then we put an A-key in it,

1 yeah.

2 Q But it wasn't the same key he had had before?

3 A To be honest with you, I don't know if we gave him
4 a new key or not because he would have already had
5 an A-key. So I doubt if I gave him a new key.

6 Q Did anything happen after Eric Barnes got there
7 that you can recall? Were there any new key
8 upgrades?

9 A I'm not sure -- no, no. I mean, we had the same
10 keys, yeah.

11 Q Okay.

12 A We've had the same keys in there since we
13 transitioned over in 2009 from the old building.

14 Q All right. Even before that, the master key that
15 went to Tim Hunter's office, had been in existence
16 for a number of years?

17 A Yeah.

18 Q How long have you been the Assistant Principal?

19 A Well, I just started my 17th year.

20 Q Okay.

21 A Assistant Principal is 13 years.

22 Q How long have you been in charge of giving out the
23 keys?

24 A You know, around that time, 13 years.

25 Q How many master keys have you given out during that

1 time?

2 A There's been a few, quite a few.

3 Q All right.

4 A We've had a lot of change with the staff. Then
5 when they leave, we get their keys back and we
6 reissue them or they wear out. We break them with
7 the pliers and throw them away.

8 Q Have you ever lost any?

9 A There have been some keys lost, yes. My
10 understanding was a security key was lost one time.
11 That wasn't ours. We've had teacher keys lost,
12 yes, absolutely.

13 Q And you don't re-key every time you have a key
14 lost, do you?

15 A No, can't afford it.

16 Q All right. Let's talk about the video from that
17 night. You testified you saw the baseball team
18 come in?

19 A Yeah.

20 Q You saw the coach rush down and set the alarm off,
21 turn the alarm off?

22 A Yeah, he moved pretty quickly.

23 Q Turned the alarm off?

24 A Yeah.

25 Q And what do you recall about the players? Did they

1 come up and down the hallway?

2 A No, they went right to the locker room. I think
3 they were ready to get out of there. It was late.
4 It was after 11:00.

5 Q All right. I believe your testimony was that you
6 don't recall whether the coach came back down and
7 reset the alarm?

8 A You know, that's been said. Usually that's the
9 case. After you came in and hit the touch pad, you
10 come back and do it. I will be honest with you.
11 It's been 2011 since I've seen that video. It's
12 been a while.

13 Q You didn't save it, did you?

14 A Huh?

15 Q You didn't save it?

16 A No, because that's saved by Chuck Earles. I told
17 him --

18 Q Chuck didn't. I think he testified he did not --

19 A All I can say, my -- all I can say is what I saw.
20 I didn't save anything.

21 Q Okay. So you left it to Chuck Earles to save --

22 A I did.

23 Q -- portions that he thought was relevant?

24 A I did, yeah.

25 Q Do you have any explanation for why Chuck Earles

1 wouldn't remember seeing the baseball team in there
2 that night?

3 A I don't. Well, I'll tell you. I will say he has
4 44 schools he deals with. I'm just one of them,
5 Spring Valley. He's got hundreds of video cameras
6 that he's associated with. So it's hard for me
7 sometimes to recollect on my own campus. I can't
8 imagine what his recollection is of an incident
9 that happened back in 2011.

10 Q All right. And at what time did you start watching
11 the video that night or what timeframe was the
12 beginning point for you?

13 A I'll be honest with you. I talked to Tim and it
14 had to be prior -- right prior to when they left.

15 Q So did you actually see --

16 A -- that would be Tim Hunter and Sonny Uker.

17 Q Did you see Tim leave the building?

18 A Yes, Tim and Sonny left the building together.

19 Q It's probably that, as far as the morning side goes
20 of it, it's possible you didn't see somebody come
21 in the building --

22 A No.

23 Q -- and the camera wouldn't have captured it?

24 A The camera would have captured it.

25 Q Any idea why it wasn't saved, all that video saved?

1 Why just the --

2 A I'll be honest with you. I don't know. I don't
3 know. I guess maybe at the time whoever was saving
4 it felt that the part that showed the people coming
5 to the pad was sufficient. I don't know. I can't
6 answer that question.

7 Q All right.

8 A All I know is I saw all of it. Actually, I went
9 back for a pattern. Again, the pattern the week
10 before was that somebody came in real quick, turned
11 the thing, and left. They didn't come in and stay
12 in the room.

13 Q How far back?

14 A I went back at least a week.

15 Q Eric Barnes testified at first he didn't go back
16 but three days.

17 A You can go back -- at that time I recall going back
18 a month on some things.

19 Q But you didn't go back a month on Jeffrey Kennedy?

20 A Not that far, no. But I went back --

21 Q -- about a week?

22 A -- a pretty good ways to see what the pattern was.
23 I'd say a week or so.

24 Q Did you look at any other buildings?

25 A I looked at the main building, the pattern coming

1 back in the hallway. I've mentioned that already
2 to you.

3 Q Okay. But you didn't go back further than a few
4 days or a week?

5 A No, probably not. I can't say how long. Right now
6 it's been so long. I just know that it was unusual
7 behavior.

8 Q Unusual to who?

9 A For somebody to come in. It was not a pattern that
10 happens often. It was like --

11 Q How do you know?

12 A Because I went back about a week or so.

13 Q About a week. And you know that he had been there
14 three years or more?

15 A I didn't go back three years. It's not allowed to
16 go back three years.

17 Q Did you ask anybody else on the security staff that
18 had worked the night shift what their pattern was?
19 Would they spend time in these buildings?

20 A I didn't because that security -- their security is
21 not my responsibility. I turned that over to Chuck
22 Earles.

23 Q I'm just saying: Did you ask him about it?

24 A No.

25 Q Did you ask anybody or did you ask Jeffrey Kennedy

1 what he was instructed to do?

2 A No. Again, he is under the supervision of Chuck
3 Earles.

4 Q Did you ask anybody over at security if they had
5 trained Jeffrey to, instead of spending time in the
6 truck, to spend some time in the buildings
7 sometimes?

8 A Obviously not.

9 Q Okay.

10 A It's under the security, supervision of Eric Barnes
11 and Chuck Earles.

12 Q If you had done that and they told, "Oh, yeah. We
13 tell them to stay in the buildings from time to
14 time instead of spending time in the truck," would
15 that have made it less suspicion for you?

16 A When we got with Eric Barnes and Chuck Earles, they
17 told us that was suspicious activity, that he
18 shouldn't be in the building at night.

19 Q And you heard Chuck Earles's testimony, didn't you?

20 A Yeah, I did.

21 Q And he didn't know if his own people trained the
22 night watchman; right?

23 A That's what I heard from him, yeah. He didn't know
24 exactly --

25 Q How did he know whether it's suspicious or not?

- 1 A I don't know. I can't answer that for you.
- 2 Q Now, I think you testified that the custodial
- 3 staff -- and that's SSC?
- 4 A Yeah.
- 5 Q Yeah. That they're independent contractors;
- 6 correct?
- 7 A Right.
- 8 Q So you don't screen these people?
- 9 A No, they do that with SSC. They have a screening
- 10 process with SSC.
- 11 Q So you don't know what these people's criminal
- 12 record is or background is?
- 13 A Well, they screen them. They have to go through
- 14 SLED, I think. They do a SLED background check and
- 15 all that.
- 16 Q That's what they're supposed to do; right?
- 17 A They're very strict about it.
- 18 Q How do you know?
- 19 A They tell me about it.
- 20 Q But you haven't seen these SLED reports, have you?
- 21 A No.
- 22 Q These are part-time custodians; right?
- 23 A We've got full-time.
- 24 Q But Ms. Jackson's testimony was most of them were
- 25 part-time. They had day jobs.

1 A A lot of them have two jobs, yeah.

2 Q Right. People that take two jobs because they need
3 some money; right?

4 A That's right.

5 Q People more likely to steal than when somebody is
6 on the rise --

7 A That's your --

8 Q -- and just got his promotion?

9 A -- that's your opinion.

10 Q I'm not a professional investigator, but it seems
11 logical to me. Does it seem logical to you?

12 A I would say -- how can I make that inference right
13 there? If they have a part-time job, that they're
14 more prone to steal? It doesn't make sense.

15 Q All right. So you don't know anything about this
16 custodial staff? You don't know the people?

17 A I do know them.

18 Q You haven't personally screened them? You haven't
19 seen their SLED checks?

20 A No. All we get is the fact that they've been
21 cleared to work.

22 Q And with these -- I believe you testified about a
23 few thefts leading up to the March 3rd \$1,000
24 theft. The first one was the \$50 and a ring from
25 the drawer where the person claimed and said, "I

- 1 have no idea when it was stolen"?
- 2 A Okay.
- 3 Q It could have been --
- 4 A That's true. Well, she had inferred to me that she
- 5 hadn't checked it in about a month. So I couldn't
- 6 go back to the cameras.
- 7 Q So sometime in the last month?
- 8 A Yeah.
- 9 Q That's all we know about that one?
- 10 A Yeah.
- 11 Q All right. The second one was Dorothy -- what's
- 12 her last name?
- 13 A Loiodice.
- 14 Q Loiodice. That's why I couldn't remember it. This
- 15 was February 25th, \$20 cash -- and what did you
- 16 say -- \$15?
- 17 A On the second one, it was \$20 cash and a check,
- 18 yeah, for \$15.
- 19 Q I believe your testimony was that she left at
- 20 4:00 o'clock that day. There were other staff
- 21 members in that area that were still --
- 22 A Yeah.
- 23 Q -- in the area?
- 24 A Yeah.
- 25 Q The custodians came in and cleaned?

1 A Yeah.

2 Q But you blame Jeffrey Kennedy?

3 A Well, I found it likely that somebody who had a lot
4 of time after hours could access, you know,
5 Ms. Cabiness' office and rifle through.

6 Q All right.

7 A And Ms. Watts later on. So it -- all I did was
8 suggest to Mr. Earles that it was highly
9 suspicious.

10 Q All right. But you still took away the custodians'
11 keys; right?

12 A I did.

13 Q And you didn't suspect them at all?

14 A I trusted Ms. Jackson totally. She had --

15 Q But you trusted --

16 A -- she had been there for years. She turned things
17 in that had value that she could have easily kept.
18 So I --

19 Q And keep in mind I'm not necessarily implicating
20 Ms. Jackson --

21 MR. BARLOW: Your Honor, could the witness
22 finish his answer, please.

23 MR. GOODWYN: I'm sorry. I thought it was
24 unresponsive. I was trying to move it along.

25 THE WITNESS: I thought it --

1 THE COURT: You can explain it.

2 BY MR. GOODWYN:

3 Q I'm sorry to interrupt.

4 A So just Ms. Jackson was very trustworthy. I asked
5 her to do a lot of things after hours, and I had
6 the utmost trust for her. I wanted to eliminate
7 her as a -- from the possibility that someone would
8 accuse her of taking money.

9 Q Right.

10 A And so that's why I did that.

11 Q When you say to eliminate her, you mean her and her
12 staff?

13 A Just her. She had the A-key.

14 Q So she is the only one that could have accessed
15 these offices?

16 A That's right, except for Shelley Bush, who was the
17 daytime -- her boss.

18 Q So what offices did the staff clean? What areas
19 did the first staff clean?

20 A The what staff?

21 Q Ms. Jackson's staff.

22 A Well, they had other offices around campus; but she
23 was responsible for the main office.

24 Q I got you. So you took Ms. Jackson's key on the
25 25th; correct?

- 1 A That's right.
- 2 Q And you haven't had anymore thefts since then;
- 3 right?
- 4 A That's right. In that area that's right.
- 5 Q Does that suggest to you anything?
- 6 A Yeah. Yeah, because -- I mean, we didn't have any
- 7 thefts after March 2nd.
- 8 Q March 2nd? I got you.
- 9 A March 2nd. We had a theft after the 25th.
- 10 Q All right. That's the bookkeeper --
- 11 A So that would say that Ms. Jackson wasn't taking
- 12 the money.
- 13 Q I got you. That's \$40 cash out of the main office
- 14 section under a calendar. You said it was under a
- 15 calendar on her desk?
- 16 A Sitting on her desk. She was kind of in a hurry,
- 17 had a little bit of cash that somebody turned in.
- 18 So she slipped it under a calendar on her desk.
- 19 Q You said something about a cabinet and a plant
- 20 being closed into it?
- 21 A Yeah. She noticed some things had been disturbed
- 22 in her office. One of them was the cabinet. It's
- 23 a big, tall file cabinet, has a long drawer on it.
- 24 When they closed it back, the plant that was there
- 25 was closed in on the...

- 1 Q Suggesting that somebody had opened it --
- 2 A -- somebody had opened it and gone through and then
- 3 tried to put it back in place.
- 4 Q All right. Now, you know all the security guards
- 5 are fingerprinted before they start work; right?
- 6 A I don't know what their -- the process for hiring
- 7 them is.
- 8 Q All right. Did you ever even consider asking the
- 9 Sheriff's Department to take some fingerprints and
- 10 compare to it who you thought committed these
- 11 crimes?
- 12 A We did.
- 13 Q You did what?
- 14 A We did suggest that.
- 15 Q And did they do it?
- 16 A Not to my knowledge.
- 17 Q All right. Had they done that, that could have
- 18 helped exonerate Jeffrey?
- 19 A I'm not sure.
- 20 Q Well, logically if they found none of his
- 21 fingerprints on the inside of the offices, that
- 22 would help exonerate him, wouldn't it?
- 23 A Possibly.
- 24 Q That would be evidence in his favor; right?
- 25 A Possibly, yeah.

1 Q And if his fingerprints were on the cabinets, then
2 that would help implicate him?

3 A Uh-huh.

4 Q So that would be something you would have liked to
5 have known; correct?

6 A Yeah, that would have been nice. But in some cases
7 sometimes somebody who steals something wears
8 gloves or they wear something that would prevent
9 them from getting fingerprints.

10 Q Going back and looking at your security cameras,
11 did you ever see Mr. Kennedy wear any gloves?

12 A No, I don't recall seeing gloves. But if I was
13 walking down the hallway and I was going to, you
14 know, I may not put my gloves on in view of the
15 camera.

16 Q And that's assuming you know what is and what isn't
17 in the camera view; right?

18 A That's right.

19 Q Have you seen this (indicating)?

20 A Oh, yeah.

21 Q I'm just going to hold it up. If the thefts had
22 occurred on this end (indicating), if any of the
23 thefts had occurred on this end (indicating), that
24 would have --

25 A Right.

1 Q -- suggested that Kennedy was not the thief because
2 you would have seen him?

3 A That's right.

4 Q Okay. Did you talk to any of the staff members
5 about these thefts?

6 A Oh, yeah. I talked to everybody in the main
7 office, about the times that they left during the
8 day. You know, just if they had seen anybody in
9 the office, were any of the doors open to the
10 office at any time?

11 Our bookkeeper does not -- she closed her --
12 she locks her office every time she walks out.
13 Joanne Cabiness is in her office. When she leaves
14 her office, most of the time that's locked up.
15 Ms. Loiodice is the same way.

16 Q Okay.

17 A That's one of the things we cover with our teachers
18 is to make sure that their area is secure.

19 Q Do those doors in that area, do they lock
20 automatically? Or do you have to lock them when
21 you leave?

22 A Some of them do, like Tim's does.

23 Q I'm sorry. When I say that area, I mean, this same
24 area where these thefts --

25 A My recollection is that you have to -- there are

1 some doors that you can open and they stay open,
2 and you have to lock them. What I've told most of
3 our staff members is that you can open the door and
4 set the deadbolt and then turn it back, and it will
5 be locked. So I've always told them to have the
6 door in a locked position when they leave out.

7 Q Do you know if they do that?

8 A You know, I don't know.

9 Q Did you form or inform the security that you had
10 taken keys from Ms. Jackson?

11 A No.

12 Q Why not?

13 A I didn't feel like they should know about it. This
14 was my -- I was doing a little investigation quite
15 frankly.

16 Q So you conducted an investigation and you didn't
17 really --

18 A I was eliminating Ms. Jackson.

19 Q Did you share any information with Chuck Earles or
20 Eric Barnes about your investigation?

21 A After the fact.

22 Q All right. And you heard Chuck Earles's testimony;
23 right?

24 A Yeah. Chuck Earles, yeah.

25 Q He says he didn't hear anything really from you

1 about your investigation. He didn't -- he said,
2 you know, once we get -- "Once we realize it's a
3 crime, we tell HR, we tell Richland County; and
4 we're pretty much out of it."

5 A Well, Chuck Earles and I communicated. He came to
6 the school, and we looked at the video cameras
7 together.

8 Q Did you -- I mean, other than looking at the video
9 together -- what about these interviews with the
10 other staff? Did you -- he says he didn't hear
11 anything about any of that from you; is that
12 correct?

13 A No, he did hear that. I talked to people in the
14 office.

15 Q And you told him about what they said?

16 A Well, not everything that was covered. But, you
17 know, I told him that it's a -- just the body of
18 evidence that we saw over a period of time that the
19 thefts were occurring; and there was only one
20 common denominator.

21 Q All right. And it has to be one person; right? It
22 can't be more than one person doing this?

23 A I would think that since that person was involved
24 in the theft, that it would be the person.

25 Q What's that?

1 A If that person that was involved in the theft was
2 in the building in that area for an extended period
3 of time, I would think that that person might be
4 responsible, yeah.

5 Q All right. And when you went back and looked at
6 your videos from the past to look at Jeffrey
7 Kennedy's pattern, did you ever see him entering a
8 locked office using his master key in an office
9 that he should not have been going to?

10 A I didn't see that because it never showed on the
11 cameras.

12 Q Not one time --

13 A -- no --

14 Q -- did you ever see him go into the office?

15 A No. But, again, remember the thefts occurred in
16 areas that were out of sight of the cameras.

17 Q I understand that.

18 A Yeah.

19 Q And you're assuming that he knew which direction
20 the cameras were pointing in; right?

21 A Possibly.

22 Q If he didn't, it would be quite the gamble on his
23 part, wouldn't it?

24 A Possibly, yeah. Possibly.

25 Q I mean, the security guards aren't supposed to be

1 going into the interior locked doors; correct?

2 A That's correct.

3 Q And if he does it, he knows it's on camera. Even
4 if nothing is missing, it's still improper. He can
5 get fired for that; right?

6 A I don't know what the --

7 Q It could be something --

8 A -- he could probably get disciplined for.

9 Q All right.

10 A Sure.

11 Q Do you have any formal training on crime
12 investigation?

13 A No. Mine has been as a teacher, administrative
14 coach. Now, I did get some training on the
15 cameras --

16 Q Right.

17 A -- through media services. This is the people who
18 installed the cameras and also Chuck Earles.

19 Q All right. You've said Ms. Bush still had the
20 master key that would access Tim Hunter's office?

21 A Yeah.

22 Q There was some testimony from John Reid that he was
23 being interviewed by Eric Barnes about this
24 incident and saw someone, a custodian, pull out a
25 key and walk into Tim's office.

1 A Yeah.

2 Q Would that be who that was?

3 A Yeah, that was Shelley Bush. She comes in in the
4 morning and she has the A-key.

5 Q What time does she get in in the morning?

6 A Well, either she gets in real early or she has one
7 of her staff members get in early to open up the
8 exterior doors. The exterior doors are open with
9 an AL-key, not a master key.

10 Q Okay.

11 A When she arrives, she arrives fairly early. She
12 used to. Ms. Bush is no longer there with Spring
13 Valley.

14 Q Why isn't she there?

15 A She has actually been promoted.

16 Q Oh, yeah?

17 A To a more supervisor area of the District.

18 Q Okay. You mentioned something about the
19 possibility of a thief coming in through the
20 ceiling tile?

21 A Well, I had some break-ins before where we had
22 people crawl over other areas in the old building
23 and, you know, remove ceiling tiles and go into
24 another area. But this is not possible in Tim's
25 office because the wall --

1 Q The wall?

2 A -- goes all the way up to the ceiling, and there is
3 no access.

4 Q But you had some creative thieves in the past?

5 A Oh, yeah, sure.

6 Q Were these thieves students or adults?

7 A Some of them we don't know.

8 Q You didn't catch them?

9 A Some we didn't catch. Some we caught. Some were
10 students.

11 Q All right. So you had students on campus making
12 robberies before?

13 A Oh, yeah. We've got 2,000 students.

14 Q How many times a year do you have a student come on
15 campus and cause mischief?

16 A Come on campus? Or just -- I mean, every student
17 has a chrome book. That's a computer. Every
18 student has a cell phone almost. They leave
19 pocketbooks around. They're very trusting. It's a
20 crime of opportunity. We have it happen all the
21 time.

22 Q Okay. Are there a lot of these thefts that you
23 don't tell Chuck Earles about?

24 A Chuck Earles doesn't get involved in that part
25 because we kind of handle that through our

1 administrators and our school resource officer.

2 Q All right. About how many of these petty thefts
3 would you estimate in a year?

4 A In a year? Maybe a hundred.

5 Q These are pretty much all students taking other
6 students' stuff?

7 A That's it.

8 Q But you've had instances where students come and
9 try to break in the buildings?

10 A We've had that before. That's rare. It was in the
11 old building. We had somebody take a sledgehammer
12 and knock some doors through.

13 Q That's not as creative as the ceiling tile?

14 A No.

15 Q All right. So if the alarm in the Athletic
16 Department was not on that night, somebody could
17 have broken in?

18 A They couldn't have gotten in Tim's office without
19 us knowing about it.

20 Q Not unless they had a key of some type; right?

21 A Well, yeah, if they had an A-key --

22 Q -- or they found a ladder?

23 A -- and we didn't pick them up on the camera.

24 Q So whoever reset the alarm wasn't picked up on the
25 camera either; right?

- 1 A What was your question?
- 2 Q Whoever reset the alarm that night wasn't picked up
- 3 on the camera either, it doesn't sound like.
- 4 A Don't know that it was reset. I know when he came
- 5 in on the first time, he took the alarm off because
- 6 it was beeping. We can't recall if he ever came
- 7 back and reset the alarm, just don't know.
- 8 Q Right.
- 9 A I don't have a tape to show you the record of that.
- 10 Q Well, ADT has records of when the alarms are set,
- 11 don't they?
- 12 A I imagine they probably would, yeah.
- 13 Q You could have gone back and checked that?
- 14 A Why would I want to check the alarm?
- 15 Q The baseball team is there; the baseball team
- 16 leaves.
- 17 A Uh-huh.
- 18 Q The alarm is not set. An hour later the alarm is
- 19 reset. That would indicate somebody else got in
- 20 the building and --
- 21 A We know that the baseball team came into the
- 22 building.
- 23 Q The baseball team came in?
- 24 A Uh-huh.
- 25 Q But then they leave?

1 A Yeah.

2 Q And the alarm does not get reset --

3 A Yeah, but nobody shows up on the video.

4 Q Just hear me out.

5 A Uh-huh.

6 Q Then the alarm is reset. ADT has a record of it
7 getting reset somehow?

8 A Do you have a record of the ADT being reset in the
9 morning?

10 Q I don't have the record. I'm saying if you had
11 done that and it showed it being reset, that would
12 suggest someone else was in the building.

13 A To be honest with you, I don't know. I can't
14 recall if he did come back and reset it. I just
15 don't know.

16 Q And you heard Tim Hunter's testimony that he did
17 not see him come back down and reset it?

18 A Yeah, and it's been a long time. It's been since
19 2011. So I don't know if Tim actually said he did
20 not. I don't know if that's what he said. He
21 wasn't sure.

22 Q He was pretty adamant about it.

23 A I think he was unsure --

24 Q The first time --

25 A -- I think he was unsure.

1 Q All right. Were you here for Tim Hunter's
2 testimony?

3 A Yes.

4 Q So you heard him describe how he -- where he put
5 the money and what boxes the money was in and how
6 he was careful to hide it under the desk with the
7 chair and all that?

8 A Yes, I heard it.

9 Q These black boxes, would you agree that you're not
10 going to see those if you just walk in the office
11 and you're just looking around?

12 A If you have it under the desk, no.

13 Q If you don't know they're there, they're going to
14 be hard to find?

15 A They could be easily found though. I mean, if you
16 walk behind the desk, you could see them.

17 Q He said, "You would have to actually get down and
18 look up under his desk to find those things." That
19 was his testimony.

20 A Well...

21 Q And there were two people that knew it was there?

22 A Uh-huh.

23 Q And the money was gone in the morning. That
24 doesn't sound like an inside job/to you?

25 A No, because I knew Tim Hunter. I've known Tim

- 1 Hunter since 2004, and we've never had money -- had
2 an issue with money, a shortage of money, anything.
- 3 Q And Sonny?
- 4 A Sonny Uker is being supervised by Tim.
- 5 Q How much does Sonny make?
- 6 A I'm not sure what he makes. He gets paid for the
7 event, each event, by Tim.
- 8 Q So he is part-time kind of?
- 9 A Yeah, just kind of part-time. He puts in a lot of
10 hours. He's a former veteran who comes in and
11 helps us at the gates.
- 12 Q How much does he get paid?
- 13 A I don't know. That's a Tim Hunter question. I
14 have no idea.
- 15 Q He just reports directly to Tim?
- 16 A Yeah, Tim controls that.
- 17 Q All right. The trainer got there before Tim Hunter
18 that morning?
- 19 A Yes.
- 20 Q What time do you recall him getting there?
- 21 A I don't know exactly, but it was before
22 8:00 o'clock.
- 23 Q Before 7:30, 8:00 o'clock?
- 24 A Yeah, something like that. He gets there early.
- 25 Q Looking at this (indicating), can you see this?

- 1 A Yes.
- 2 Q Where is Paul's office or room or whatever?
- 3 A Do you want me to show you?
- 4 Q Yeah, you can come down.
- 5 A (Witness leaves the witness stand.)
- 6 Q I tell you what. Why don't you mark it on there.
- 7 Is it Paul Dobbins?
- 8 A Paul Dobbins, the trainer.
- 9 Q Why don't you put a PD where his office is?
- 10 A Here is the training room (indicating) and that's
- 11 actually his office right here (indicating).
- 12 Q Okay. You can put an X there.
- 13 A (Witness complies.) He is inside the training
- 14 room.
- 15 Q So is that where you saw that he went when he came
- 16 in?
- 17 A I saw him come through this door (indicating) and
- 18 then he goes out.
- 19 Q You can't see this area (indicating)? That's part
- 20 of the area you can't see?
- 21 A Yeah, you can.
- 22 Q You can?
- 23 A Oh, yeah. Now, when he goes through the door.
- 24 Q In here (indicating) you are talking about?
- 25 A Yeah.

- 1 Q Okay. I got you. All right. Thanks.
- 2 A (Witness resumes the witness stand.)
- 3 Q And what kind of key does Paul Dobbins have?
- 4 A He as an AL-2 key, a gym key.
- 5 Q Now, back to that. There was a theft. Was it
- 6 Ms. Dorothy that said she had a check stolen from a
- 7 desk?
- 8 A Yeah, \$20 cash and the check was \$15. It was in
- 9 the same envelope; so --
- 10 Q Okay.
- 11 A -- I assume they just took the envelope.
- 12 Q Did anybody ever follow up to see if that check had
- 13 been cashed?
- 14 A Not that I know of.
- 15 Q All right. Don't you think that might help figure
- 16 out who took the money?
- 17 A It possibly could have, yeah.
- 18 Q But that was never done?
- 19 A No.
- 20 Q Do you know when the morning custodial shift began
- 21 on Friday?
- 22 A Well, on that morning, again -- I explained to you
- 23 before -- a person comes in and opens up the doors
- 24 at 7:00 A.M. One person has an AL-key.
- 25 Q Now, did you see then on the video?

- 1 A Not at Bates Hall because Tim Hunter comes in.
2 There is no need to open that up because we don't
3 have students come in that building at that time,
4 only the main building area.
- 5 Q Okay. Do you know when the custodians --
- 6 A And there's only a few doors open by the way.
- 7 Q And Ms. Shelley Bush?
- 8 A Uh-huh.
- 9 Q She is there by 7:00 every day?
- 10 A Well, not necessarily. Sometimes she will get
11 there early. Sometimes she allocates that to
12 somebody else to go around and open, and then she
13 comes in a little bit later. She keeps her keys
14 with her. She keeps her A-key with her. The
15 person that opens up the door has an AL-key.
- 16 Q But she would have been there before Tim Hunter
17 that day?
- 18 A Well...
- 19 Q She oftentimes gets there before 8:00 o'clock in
20 the morning? Is that a fair statement?
- 21 A I can't say because the person that opens up the
22 door is around until she gets there; and it
23 generally was early, pretty early.
- 24 Q All right.
- 25 A Because the building has already been cleaned the

1 night before. Basically the custodian comes in,
2 opens up a few doors so that we can access them,
3 the staff and students.

4 Then the other staff comes in later on, and
5 their job during the day is maintenance. At night
6 it's to clean, like Ms. Jackson said, to thoroughly
7 clean the rooms after everybody is gone.

8 Q Ms. Jackson testified there was a fair amount of
9 turnover on her staff. Has that been your
10 experience as well?

11 A There's been some turnover, yeah. It's a
12 transitional job for a lot of them.

13 Q Okay.

14 A And they don't pay a lot of money quite frankly.
15 It's hard to keep them.

16 Q Did you tell anybody that you took Ms. Jackson's
17 keys?

18 A Dr. Owens.

19 Q Who is Dr. Owens?

20 A He was the Principal at the time.

21 Q Other than the Principal, did you tell anybody?

22 A Shelley Bush. I let her know what I did.

23 Q Just because she is the other custodian?

24 A She is the supervisor.

25 Q And she may have to take over some of those

1 responsibilities because Ms. Jackson didn't have a
2 key?

3 A Well, during the day. At night, yeah, she might
4 have to.

5 Q Anybody else?

6 A No.

7 Q You didn't even tell security, did you?

8 A Not until, I think, after the March 2nd incident.

9 Q Okay. Was part of the reason you did that to make
10 sure you kept her reputation intact? You didn't
11 want to --

12 A That's right.

13 Q Because if you take away somebody's keys it
14 suggests they're untrustworthy; correct?

15 A There was mumbling that maybe custodians were
16 stealing. I just wanted to eliminate that totally.

17 Q You say some mumbling. I mean, from the people
18 that you had interviewed?

19 A Yeah, talking to them. They suggested maybe the
20 custodians were coming in.

21 Q All right. Nobody was suggesting the security
22 staff was doing anything; right?

23 A No.

24 Q There were some questions about when the buildings
25 get locked, can students get in and out of the

1 administrative area. I think your response was
2 it's locked at 4:00 o'clock or something like that;
3 is that right?

4 A Well, we close the doors at 4:00 o'clock; but we
5 have activities going on all the time on campus.
6 We have after-school clubs. As I explained before,
7 we have athletics going on.

8 We have clubs going on. We have after-school
9 tutoring. So there's still some in and out traffic
10 in the building. But in the main office, only the
11 person with the AH-1 key could get in that area or
12 a master key.

13 Q Unless somebody let's them in; right?

14 A Well, what I'm saying is most of the people in the
15 main office, they leave at 4:00 o'clock. There
16 might be some assistant principles --

17 Q Yeah.

18 A -- that stay after, a little bit later, and the
19 Principal. Many times we stay there very late.

20 Q So it's possible somebody could get access to the
21 building?

22 A Yeah. You could say that an Assistant Principal
23 could get to it, yeah.

24 MR. GOODWYN: I think that's all I have, Your
25 Honor.

1 THE COURT: Any redirect?

2 MR. BARLOW: No, Your Honor. Please excuse
3 the witness.

4 THE COURT: You may step down. You may be
5 excused.

6 (The witness leaves the witness stand.)

7 THE COURT: Ladies and gentlemen, at this time
8 we'll take a break for the evening. I'm going to remind
9 you of all the instructions I have given to you. I know
10 I say it every time. I say it over and over again.

11 I'm going to ask that you not begin to discuss
12 this matter among yourselves because you have not heard
13 all of the evidence. Please remember as you come and go
14 from the courthouse not to listen to conversations in
15 the hallways, again, for the reasons that you have to
16 make decisions based upon the evidence that you've heard
17 throughout the course of this trial.

18 In addition, please do not allow anyone to
19 approach you to discuss this matter. Again, please tell
20 them that you cannot discuss it. We ask that you report
21 it as soon as possible.

22 Additionally, overnight I ask, again, that you
23 not engage in any independent research or investigation,
24 that you not listen to, watch, or read any media
25 reports.

1 I don't think there have been any. But just
2 in the event there is something printed or reported, I
3 ask that you not listen to or watch or read any of those
4 reports because that is someone else's recitation of
5 what they've heard or seen.

6 Again, please tell your family and friends
7 that I've asked you not to discuss it with them at this
8 particular time. Ladies and gentlemen, I'm going to ask
9 that you report tomorrow morning, again, to the same
10 jury room where you have reported throughout the course
11 of the trial.

12 Report at 9:30. At 9:30 we will be ready to
13 continue on with the trial of this case. I hope you
14 have a good evening, and we'll see you back at 9:30
15 tomorrow morning.

16 (The jury is excused for the day at 5:59 P.M.)

17 THE COURT: If there are any requests to
18 charge, if you'll present them in the morning.
19 Hopefully, I'll have a final answer as it relates to the
20 negligent supervision charge. I am planning on ordering
21 lunch in for the jury. So we'll take a very abbreviated
22 lunch break and be prepared to continue on.

23 (Whereupon the proceedings are concluded for
24 October 1, 2014.)

25 (The following proceedings are reported on

1 October 2, 2014.)

2 THE COURT: Were there any additional requests
3 to charge to be submitted?

4 MR. BARLOW: None from the defense.

5 MS. PEAVY: Your Honor, we did think there
6 was a question of law that needed to be decided as it
7 related to the charges; but we can take that up at the
8 charge conference, I guess.

9 THE COURT: I had the opportunity to review
10 the information relating to negligent supervision. And
11 after a review of the arguments that were made and
12 reviewing the case law, I think that there is evidence
13 in the record that would allow it to be presented to the
14 jury on negligent supervision. So I'll deny the
15 directed verdict at this particular time.

16 Is there anything else we need to take up
17 before we get started this morning?

18 MR. BARLOW: No, Your Honor.

19 MS. PEAVY: No, Your Honor.

20 THE COURT: You may ask the jury to come in,
21 please.

22 (The jury returns to the courtroom at
23 9:35 A.M.)

24 THE BAILIFF: The jury is seated, Your Honor.

25 THE COURT: Good morning, ladies and

1 gentlemen.

2 THE JURY: Good morning.

3 THE COURT: At this time, we're ready to
4 continue on. You may call your next witness.

5 MS. LONG-MAHONEY: Your Honor, the defense
6 would like to call Traci Batchelder.

7 (The witness comes forward.)

8 TRACI LYNN BATCHELDER, being
9 first duly sworn, testifies as follows:

10 THE COURT: Thank you. If you could have a
11 seat and state your full name, please.

12 THE WITNESS: My name is Traci Lynn
13 Batchelder.

14 THE COURT: Would you spell your first name
15 and your last name.

16 THE WITNESS: It's T-R-A-C-I and my last name
17 is B-A-T-C-H-E-L-D-E-R.

18 THE COURT: Thank you.

19 DIRECT EXAMINATION

20 BY MS. LONG-MAHONEY:

21 Q Good morning, Ms. Batchelder.

22 A Good morning.

23 Q If you could please tell the jury what your
24 position is with Richland School District Two.

25 A Human Resources Director.

- 1 Q Tell them a little bit about your educational
- 2 background.
- 3 A Well, I graduated from Columbia High School here in
- 4 Columbia. Then I went to USC and I got a
- 5 Bachelor's degree in sociology. I then went on to
- 6 get a Master's degree in human resources. After
- 7 that I worked on my doctorate for a while and have
- 8 gotten most of the way there, but I did not finish
- 9 that.
- 10 Q All right. And how long have you been employed
- 11 with the School District?
- 12 A About 15 years.
- 13 Q And tell us about the general responsibilities you
- 14 have as Human Resources Director?
- 15 A Compensation, employee compensation issues,
- 16 employee benefits. I supervise the employee
- 17 benefits area. I also get involved with
- 18 recruitment for noncertified staff. I approve all
- 19 those hires, and I get involved with investigations
- 20 if there are employment concerns.
- 21 Q And how many employees are in Richland School
- 22 District Two?
- 23 A About 3,500.
- 24 Q So you might get involved in investigations with
- 25 any of those numbers of employees, I guess, if

1 something were to come up?

2 A Correct. Yes.

3 Q When did you first become aware of concerns with
4 Mr. Kennedy?

5 A March 2011 would have been the timeframe.

6 Q Okay. And how did you learn of concerns with him
7 at that point?

8 A Chuck Earles and Eric Barnes would have contacted
9 me and kind of summarized what had happened and
10 informed me that the Sheriff's Department was
11 investigating this issue at that time.

12 Q Okay. So would you at that time have talked with
13 them, found out what their concerns were, and then
14 reviewed whatever statements and whatnot they had
15 gathered as part of it?

16 A Whatever information they had. At that point my
17 ability to investigate -- we try not to interfere
18 with the Sheriff's Department's investigation if
19 it's a criminal investigation, but I try to gather
20 whatever information is appropriate from the two.

21 Q Right. Okay. So at some point did y'all -- you
22 and Chuck Earles or you and Eric Barnes -- meet
23 with Mr. Kennedy then in March of 2011?

24 A Yes.

25 Q Tell the jury about your standard practice of

1 investigation when you meet with an employee.

2 What's your general framework for how those
3 meetings take place?

4 A Well, I try to find out what the concerns are from
5 the folks at Spring Valley, then try to meet with
6 the employee and give them a chance to respond to
7 those concerns and get their side.

8 Q So it's a combination of asking questions and
9 hearing what they have to say in response? Would
10 that be fair to say?

11 A Yes, yes.

12 Q So what do you recall when you first met with
13 Mr. Kennedy at the end of March, sort of what his
14 general response was to the concerns that you
15 described to him?

16 A Well, when Eric Barnes and I met, I had some
17 concerns with what appeared to be some
18 inconsistencies in statements.

19 Q Can you give some examples of what you thought at
20 that very first meeting with him that you thought
21 were inconsistencies with his statements?

22 A Well, I know the jury has heard a lot of details,
23 and I had heard a lot of those same details. One
24 focus was on, you know, some gaps in time. He had
25 said he had been in the break room for about 20

1 minutes.

2 Following up after that, he said if he had
3 gone outside the break room, it would set off the
4 motion detector. Then later in his statements, he
5 said that the alarm hadn't worked in a year.

6 And then subsequent to that one, when
7 Mr. Garrick and I met with him, he said the alarm
8 hadn't worked in two years. So that just wasn't
9 making sense to me. He also made comments that, "I
10 don't go in schools."

11 He said at another point, "I don't go in
12 schools unless alarms are going off." He then said
13 I could ask Captain Zerzicki. She could tell me
14 that he doesn't go in schools, but then he is
15 describing -- well, I'm asking him about these
16 things, situations where he is in the schools. He
17 is in the break room. He is going into the weight
18 room. I was concerned about the inconsistencies.

19 Q So you meet with a lot of employees when there are
20 concerns; right?

21 A Yes, yes.

22 Q You form conclusions. Sometimes they have a
23 perfect explanation when you have those meetings,
24 where their explanation makes perfect sense?

25 A Yes, yes.

- 1 Q And was this one of those meetings where the
- 2 explanation made perfect sense?
- 3 A No.
- 4 Q And you said earlier that the Richland County
- 5 Sheriff's Department was simultaneously involved in
- 6 the investigation; is that right?
- 7 A Yes.
- 8 Q So there was a meeting that has been testified to
- 9 on May 5, 2011, when Mr. Kennedy, Mr. Garrick,
- 10 Chuck Earles, and you were all present? Were you
- 11 at that meeting?
- 12 A Yes.
- 13 Q You heard whatever was said by Mr. Kennedy at that
- 14 meeting as well?
- 15 A Yes.
- 16 Q At some point -- I guess it must have been between
- 17 May and June -- the Sheriff's Department did not
- 18 charge Mr. Kennedy with anything; is that correct?
- 19 A Correct.
- 20 Q So following some discussion, did you also then
- 21 attend the meeting with Mr. Kennedy and Mr. Garrick
- 22 and Chuck Earles on June 15, 2011?
- 23 A I did.
- 24 Q Okay. At that meeting was the decision basically
- 25 made that Mr. Kennedy would go back to work?

1 A Yes.

2 Q In light of all the facts and circumstances that

3 y'all had determined at that point?

4 A Yes.

5 Q Okay. And you were part of that meeting?

6 A Yes.

7 Q So from your perspective was the matter concluded

8 at that point?

9 A Yes, it was.

10 Q And you went on the next day to whatever next

11 investigation or whatever next issue you had to get

12 involved in, I assume?

13 A Yes. I've got plenty.

14 Q So months go by, over a year. When is the next

15 time you had to address concerns with Mr. Kennedy's

16 conduct?

17 A October 2012.

18 Q Okay. And at that point there's been lots of

19 testimony about you were notified by a principal

20 that there were some concerns that she had a parent

21 who was also an employee who may have viewed a

22 videotape of her child; is that correct?

23 A Yes.

24 Q And so when you learned that information, did you

25 meet with Ms. Jones to find out what had happened?

1 A Yes.

2 Q And she is your employee -- while she is also a
3 parent, she is also an employee; right?

4 A Yes.

5 Q All right. You heard her testify yesterday. I'm
6 just trying to move this along so we don't have to
7 keep going through everything. But you heard her
8 testify as to what she said and what she did. Was
9 that consistent with what she told you in October
10 of 2012 when you met with her?

11 A Yes.

12 Q So during the first time you met with her, from
13 what she said, was it accurate that she really
14 didn't know specifically it was Mr. Kennedy that
15 she had these conversations with; is that right?

16 A (Nods in the affirmative.)

17 Q She didn't know his name or specific identity?

18 A That's correct.

19 Q So at some point, between Chuck Earles and you and
20 Ms. Jones, you figured out that it was Mr. Kennedy;
21 is that right? Or more than likely it was
22 Mr. Kennedy? Is that fair to say?

23 A I think Chuck asked if anybody knew. He sent an
24 e-mail. I think y'all have heard about that,
25 asking if anybody had spoken to Ms. Jones about

1 this.

2 Q All right. So then ultimately then you and Chuck
3 Earles met with Mr. Kennedy; is that correct?

4 A Yes.

5 Q To discuss the matter, "that now we think it might
6 be he"?

7 A Yes.

8 Q And at that meeting in October of 2012, what was
9 his response?

10 A Well, you know, I'm taking notes. Initially, he
11 made a comment. He explained that she had
12 approached him and made the request. Then he
13 initially made the comment that he didn't pull it
14 up at that time, but that next night, I think his
15 shift was ending the next night, he played with it
16 and pulled it up.

17 So I noted that in my notes. But at that
18 point in time, Eric Barnes -- I believe it was
19 Eric -- that asked him, "You pulled the video from
20 Round Top?" So it seemed like his story kind of
21 changed. Then he was like, "No, I can't pull the
22 video up." So that...

23 Q That pretty much ended that?

24 A And then he insisted that for the rest of the time
25 that we met.

1 Q Now, was it appropriate for Ms. Jones to ask
2 Mr. Kennedy to pull up this video?

3 A No, no.

4 Q Did you address that with her?

5 A Yes.

6 Q Did you tell her that when you met with her?

7 A Yes.

8 Q Did you then -- what was put in front of the
9 jury --

10 MS. LONG-MAHONEY: Your Honor, may I approach
11 the witness?

12 THE COURT: Yes, ma'am.

13 BY MS. LONG-MAHONEY:

14 Q If you could look at Plaintiff's Exhibit 12,
15 please.

16 A Yes.

17 Q Is this a letter you sent to Ms. Jones after you
18 told her what she did was not appropriate and then
19 you addressed it with her in writing?

20 A Yes.

21 Q And what was your point of sending Ms. Jones this
22 letter?

23 A Just to make sure it was abundantly clear, you
24 know. We could have some legal exposure if
25 unauthorized folks know that she is looking for

1 information on her son but about other people's
2 children, et cetera. So I had to address it.

3 Q So there would have been other children potentially
4 on that tape that she could be looking at without
5 approval?

6 A Correct.

7 Q All right. So at this point when you're meeting
8 with Ms. Jones and trying to figure out who she was
9 having this discussion with, were you thinking,
10 "I've got a significant issue. I need to terminate
11 two employees." Was that your perspective at this
12 point?

13 A My perspective was I needed to make sure folks
14 know. I have to limit our legal expose. I had
15 noticed that there was maybe some reiteration of
16 what the procedures are that needed to occur with
17 these employees.

18 Q At that point you weren't thinking, "I have to
19 terminate two people," were you?

20 A No.

21 Q So would your initial intent have been to address
22 the matter with Mr. Kennedy similarly to how you
23 addressed it with Ms. Jones?

24 A Yes. And that's typically what I do is try to be
25 craft -- be fair -- craft the same body of a letter

1 for each person, yes.

2 Q Okay. So let's get back to the incident then. You
3 met with Mr. Kennedy in sort of mid to late
4 October, and that was with Chuck Earles present.
5 You all discussed it with him. You just testified
6 that he said he put it up, maybe didn't pull it up,
7 whatever you described as to what he said to you?

8 A Yes.

9 Q At that point did you suggest you meet with him
10 along with Ms. Jones?

11 A Yes. You know, let's clarify. If I'm talking
12 about the wrong person, I need to make sure
13 Mr. Kennedy knows what the procedures are but find
14 out who else may have shown her the video and make
15 sure they know what the procedures are.

16 Q At that point did you say to Mr. Kennedy with
17 Mr. Earles present, "Let's get Ms. Jones and let's
18 go see Ms. Jones"?

19 A Yes.

20 Q Okay. What was Mr. Kennedy's response?

21 A He said he had to go to another job; so he didn't
22 have time that day.

23 Q So was he able to at that moment?

24 A No.

25 Q So were you planning to meet with him maybe the

1 next day?

2 A Whatever we, you know, could -- whatever was
3 possible after we tried to resolve the identity of
4 whoever showed the video.

5 Q Okay. All right. So after that the previous
6 testimony has been that Chuck Earles had some
7 conversations with Ms. Jones to further confirm the
8 identity of Mr. Kennedy?

9 A Yes.

10 Q Did he also at that point learn something about the
11 phone conversation between Mr. Jones and
12 Ms. Kennedy?

13 A Yes.

14 Q Tell us about that.

15 A He called me after --

16 Q He is who?

17 A Chuck Earles.

18 Q Okay.

19 A Called me after he left. He had gone to talk to
20 Ms. Jones. Since Mr. Kennedy couldn't go, he was
21 going to try to see if he could show her some
22 photographs to identify the officer.

23 He called me back and said that in talking to
24 Ms. Jones, as y'all heard yesterday, that she told
25 him that -- well, she got very upset. I think he

1 mentioned teared up and that she seemed reluctant
2 to identify the person.

3 She finally said that Mr. Kennedy had called
4 her and told her that she was going to be asked to
5 identify him and she better not do it and he could
6 get fired is what was relayed to me.

7 Q So when you're learning this, was it your
8 understanding that the phone call that took place
9 between Mr. Kennedy and Ms. Jones happened then
10 shortly after you and Mr. Earles had just met with
11 Mr. Kennedy?

12 A Yes. Because by the time Chuck -- my office isn't
13 that far, I think maybe seven miles. I understood
14 Chuck was going straight there to try to talk with
15 her.

16 By the time he got there, he looked at her
17 phone log and the call had occurred like 24 minutes
18 earlier or something to that effect. So it had to
19 have been made right after our meeting.

20 Q So you're trying to solve a simple problem?

21 A Correct.

22 Q Find out what happened?

23 A Correct.

24 Q You get inconsistencies with what happened?

25 A I felt like he was starting to say what seemed to

1 make sense, that he pulled it up, had played with
2 it and pulled it up that night. Then when we
3 followed up and asked, his story changed. So I
4 was...

5 Q So what you attempted to make simple turned into he
6 gives inconsistencies. Now you learn that he's
7 contacted an employee; right?

8 A Yes, yes.

9 Q And made remarks she considered threatening?

10 A Yes.

11 Q What do you think at this point?

12 A That he is trying to interfere with our
13 investigation. This should be a very simple issue.
14 He is scaring my employee to death, got her on the
15 verge of tears, threatening her. I was very upset.
16 I would say I was very upset.

17 Q So did you then meet again with Mr. Kennedy and ask
18 him about it?

19 A Yes.

20 Q Tell the jury about that meeting.

21 A He at that time tried to say that she called him
22 and that she had asked him or they had a plan for
23 her to call him right as soon as the meeting was
24 over.

25 That upset me further because I'm like, you

1 know, I met with her like a week prior. Why would
2 they have a plan to talk to each other right after
3 our meeting, and he is not telling me any of this.
4 He didn't tell me any of this the day before. I
5 just felt like he totally wasn't honest with me to
6 be honest.

7 (Defendant's Exhibit Number 5 is marked for
8 identification.)

9 BY MS. LONG-MAHONEY:

10 Q Ms. Batchelder, if you could identify what's been
11 marked as Defendant's Exhibit 5, please?

12 A This is the letter that followed up on the meetings
13 I had with Mr. Kennedy.

14 Q Okay. Based upon the concerns you have with
15 Mr. Kennedy at this point, what was your decision
16 with respect to his continued employment?

17 A I was very disturbed and felt that he had not been
18 honest. He tried to interfere with my
19 investigation. He tried to upset my witness, get
20 her to lie to me. Again, this is over a very
21 simple matter. So I gave him the opportunity to
22 resign. Otherwise I told him I would have to
23 recommend termination.

24 Q All right. Did you look at this matter in
25 isolation or did you consider it in connection

1 with --

2 A I had met with him before and I had concerns then.
3 We had hoped in his new position he would regain
4 our trust. I know he wanted to be promoted, you
5 know, and regain our trust. Then now on this
6 simple matter, I can't get a straight answer out of
7 him.

8 Q Did this conduct in this October 2012 incident
9 regain your trust and confidence in Mr. Kennedy?

10 A Absolutely not.

11 Q Okay. So if you could refer to your letter, is
12 this -- you wrote this letter; correct?

13 A Yes.

14 Q And this was -- you wrote it contemporaneously
15 around the end of October 2012?

16 A Yes.

17 MS. LONG-MAHONEY: We'd like to move this into
18 evidence, please.

19 THE COURT: Any objection?

20 MR. GOODWYN: No objection.

21 THE COURT: It's admitted.

22 (Defendant's Exhibit Number 5 is received into
23 evidence.)

24 BY MS. LONG-MAHONEY:

25 Q If you could, Ms. Batchelder, refer to whatever

1 relevant aspects of your letter to explain what the
2 basis of your termination -- well, let me ask you
3 this: Did Mr. Kennedy -- strike that. Did
4 Mr. Kennedy resign from his employment?

5 A No.

6 Q So you then had to terminate his employment; is
7 that correct?

8 A I recommended his termination.

9 Q Could you explain to the jury what the basis of
10 your termination recommendation was?

11 A This whole handling -- consistent with the
12 letter -- his whole handling of contacting
13 Ms. Jones and telling her that if she identified
14 him to Mr. Earles, he was going to be fired and she
15 better not do it.

16 This whole thing about the phone number, even
17 though Mr. Earles confirmed that it was an incoming
18 call, he then was trying to tell me, "She called
19 me," which if she did, that would be upsetting
20 because of the timing of that. How would she have
21 known when the timing was?

22 It was just all of these background things
23 going on that seemed very inappropriate. I felt
24 like he was trying to basically provide false and
25 misleading information to me on a very simple

1 issue.

2 So going back to the fact that we had dealt
3 with him in March 2011, and at that time I had
4 concerns about inconsistencies, Roosevelt had
5 concerns about inconsistencies; but he was given
6 another chance and was put back to work. Here we
7 are, again, over, like I said, what should be a
8 simple issue.

9 Q So at that point did you believe he could continue
10 in his employment with the School District
11 effectively?

12 A No, no.

13 Q Is it for the reasons stated in your letter?

14 A Yes.

15 Q And that you just described?

16 A Yes.

17 Q Did Mr. Kennedy appeal your termination decision to
18 Mr. Garrick?

19 A No.

20 Q Did he appeal to the School Board?

21 A No.

22 Q There was some discussion yesterday about the
23 District's relationship with Service Solutions, who
24 is the contracting company for the District's
25 custodial services, and about what sorts of

1 employees they could put in schools and do we have
2 any control over who comes in and out of our
3 schools and maybe some of them were essentially
4 stealing or doing something.

5 Could you describe for the jury what role the
6 District plays in determining who works for Service
7 Solutions in the School District?

8 A We establish in our contract, not just with Service
9 Solutions, but any outside contracting services, we
10 establish our expectations in the contract for
11 background checks.

12 We also have some vendors that work in our
13 after-school programs. It's the same thing.
14 Because the Service Solutions custodians do move
15 around freely in our schools and interact amongst
16 students, I audited their background checks about
17 2009.

18 I asked them to actually send me copies of
19 their background checks so I could make sure that
20 they were doing what we asked. You know, that's
21 not necessarily just them, also some of our
22 vendors, I might say, "Send me what you've got so I
23 can audit," just doing what we asked them to.

24 Q So does the District maintain that level of
25 expectation about background checks and staying on

1 top of who is in their schools working, regardless
2 of whether they are a contract employee or not?
3 A Yes. Particularly with the Service Solutions
4 staff, I personally audited them; but we also have
5 a fellow now who is a District employee that
6 maintains ongoing auditing as well because he
7 administered the contract with them. It's not with
8 just them but some other contracts that he
9 administers as well.

10 MS. LONG-MAHONEY: Excuse me just a minute.

11 (Pause.)

12 MS. LONG-MAHONEY: Okay. Please answer any
13 questions the defense counsel has.

14 THE COURT: Any cross?

15 MR. GOODWYN: Yes, Your Honor.

16 CROSS EXAMINATION

17 BY MR. GOODWYN:

18 Q Ms. Batchelder, my name is Jeff Goodwyn. I
19 represent Jeffery Kennedy in this case. I just
20 have a few questions for you. All right. So you
21 testified that you were involved in the
22 investigations involving any kind of theft
23 involving employees?

24 A Yes.

25 Q Are you involved in any thefts where students are

1 involved?

2 A No.

3 Q Who handles those?

4 A Our Student Services Division.

5 Q You were just testifying about the custodial staff
6 employees and audits that you conducted. The audit
7 you conducted, I think you said, was in 2009?

8 A That's right. When I initially audited Service
9 Solutions, approximately 2009.

10 Q Why did you audit them again?

11 A Well, you know, they have a lot of exposure with
12 our students. I think we all watch the news and
13 other school districts. You know, we could be held
14 jointly liable. We get notice of news reports all
15 over the State. We watch the news too.

16 Q Are you referring to like physical harm that they
17 might do?

18 A Anybody on our campuses could do physical harm to
19 our students, and that makes me nervous.

20 Q I'm asking --

21 A Yes.

22 Q -- were you concerned about their honesty or just
23 the fact that they may be violent people?

24 A Oh, no. Again, I don't audit just Service
25 Solutions. I go in and audit any of these vendors,

1 whatever.

2 Q What prompted the 2009 audit, concern over what?

3 A Well, sometime in that timeframe, there was a
4 question about a background check on one custodian
5 at another school. And so --

6 Q What was the concern there?

7 A That he may have had something on his background
8 check. So I asked to see that background check,
9 and what the concern was, was not -- did not appear
10 on the background check that Service Solutions had
11 processed.

12 Q All right. So what was the concern? Was it a
13 prior theft or some violent act?

14 A No, it was alleged that he had installed a camera
15 in a bathroom --

16 Q Oh.

17 A -- to watch the adults. It is an adult bathroom.

18 Q I got you. I got you. All right. So there are
19 things that the custodians' background check just
20 sometimes doesn't catch?

21 A Well, it's dependent upon what SLED puts on the
22 background checks.

23 Q Right. So it's if not on the background check,
24 they wouldn't know about it?

25 A Well, you know, we -- I mean, yeah, they're going

1 to depend on what's reported on the background
2 check.

3 Q All right. In 2011 do you know if there were any
4 of the same people that you checked in 2009 that
5 were even still working for the custodial staff in
6 2011?

7 A I vaguely remember like Ms. Jackson. I vaguely
8 remember her name. So since I had a vague
9 recollection of her name, I can only assume that my
10 vague recollection was coming from looking at the
11 background checks.

12 Q All right. Now, but any of her staff, you would
13 know if they were still there in 2011 or not?

14 A No, no. I mean, other than after I did that
15 additional audit, we've got another fellow that
16 supervises specific contracts; and he works with
17 Service Solutions on background checks and whatnot.

18 Q All right. Do you know if he actually had that
19 audited, the background checks, in 2009?

20 A Yes, he calls me anytime -- in our agreement with
21 Service Solutions if they have any questions about
22 background checks, they are supposed to authorize
23 it through me before they let the person go to
24 work.

25 You know, sometimes what you see on a

1 background check, it's debatable about whether or
2 not that person is appropriate to be working around
3 children or not.

4 Our agreement with Service Solutions on
5 expectations, they're supposed to contact me if
6 there's something questionable on the background
7 check.

8 So Wendell helps them on that. He is the
9 District employee. He kind of tries to be a
10 liaison. He calls me all the time. We have this
11 question, that question, is this person okay
12 working on campus.

13 Q All right. But Service Solutions doesn't call you
14 or Wendell. You don't do regular audits; right?

15 A No, they send them on everybody with their
16 application packets.

17 Q All right.

18 A Including those background checks.

19 Q I got you. All right. Let's go through these two
20 incidents. First, the \$1,000 theft. You
21 interviewed Jeffrey with respect to that, I believe
22 you testified?

23 A Yes, yes.

24 Q All right. And did you take notes about what he
25 told you?

1 A Yes.

2 Q Is this a copy of your notes?

3 A Yes.

4 Q All right. Let me see that for a second.

5 MS. LONG-MAHONEY: What is the date of those?

6 MR. GOODWYN: This is March 29th.

7 MS. LONG-MAHONEY: Okay.

8 BY MR. GOODWYN:

9 Q You also had another set of notes from the Kim
10 Jones incident; right?

11 A Yes.

12 Q Okay. We'll talk about that in a minute. All
13 right. I just want to have you read some excerpts
14 from your notes if you could. Can you read this
15 highlighted line here (indicating).

16 A "He said -- and what I'm trying to do is verbatim
17 write down what he said.

18 Q Right.

19 A "He said, 'I ain't never took anything. I ain't
20 got to steal.'"

21 Q When he said, "I ain't got to steal," what did you
22 interpret that to mean?

23 A That he was saying he wasn't involved in these
24 incidents.

25 Q When he is saying, "I ain't got to steal," does

1 that suggest to you that he makes plenty of money,
2 he's a family man, he's got a new career, he just
3 got a promotion, he doesn't need to steal?

4 A Sure.

5 Q But you didn't buy it?

6 A Well, when I initially met with him -- nobody has
7 questioned him yet. Okay. So, like, I heard all
8 the things that Jim Childers had said and Tim
9 Hunter had said. I heard all these things all
10 these people had said, but they hadn't questioned
11 Mr. Kennedy yet.

12 You know, we don't let them do that. I want
13 to hear directly from the employee, and I haven't
14 made an assessment of whether the person is guilty
15 or not.

16 Q So you're just writing down verbatim exactly what
17 is said?

18 A Right. I'm trying to do that and then process
19 questions and give him an opportunity to respond.
20 Because my answer to the supervisors, since I'm the
21 first one to really give him a chance to say his
22 side, is: "You've got the wrong guy. You got the
23 right guy," et cetera.

24 Q And what did you write down here, this next
25 highlighted area?

- 1 A "I have never stolen anything in my life. I've
2 been in the building to cut the alarm off. I went
3 in the weight room and walked right out."
- 4 Q All right. And start reading here (indicating).
5 Is this more of what he told you?
- 6 A I'd have to see it closer.
- 7 Q All right. Start there with number three.
- 8 A Okay. He was talking about, "They went into the
9 double doors, eight players and three coaches,"
10 which we've heard about.
- 11 Q That's the baseball team?
- 12 A Yes, apparently so.
- 13 Q Okay.
- 14 A "They could have had access. The football coach
15 had the key in the door. Coaches have keys to that
16 office."
- 17 Q Okay. Is that --
- 18 A Oh, do you want me to keep going?
- 19 Q Let me see where you stopped. All right. And this
20 next line down here (indicating), just those two
21 lines that start with, "I go."
- 22 A "I go in there and change the battery in the alarm.
23 I never went in nobody's office."
- 24 Q Was that referring to the February 25th thefts?
- 25 A I'm just writing down what he said.

1 Q All right.

2 A I don't know if he's talking about going into Tim
3 Hunter's office or the --

4 Q Were you asking him questions about both of them?

5 A Yes, yes.

6 Q All right. All right. And this last part here,
7 this highlighted section here (indicating), it
8 starts with "I have been."

9 A "I have been working four years. I am trying to
10 get promoted and grow. The supervisors can tell
11 you about my character."

12 Q All right. Did you ask the supervisors about his
13 character?

14 A What happened after this point, I wrote down all
15 these notes. I was waiting for some, you know,
16 guidance from the Sheriff's Department because they
17 have got the simultaneous investigation. At this
18 point I went to Mr. Garrick and told him my
19 concerns with some of the statements.

20 Q I'm not asking --

21 A Not yet. I wasn't ready yet. I hadn't made the
22 decision.

23 Q I'm not asking you about right then. Did you ever
24 go ask his supervisors about his character?

25 A I didn't come to the conclusion at that point that

- 1 I was ready to ask those questions.
- 2 Q I mean, did you ever do it?
- 3 A No, because I wasn't at the point of making a
- 4 termination decision.
- 5 Q Okay.
- 6 A I was just writing down what he said.
- 7 Q I got you. Did you understand that he had been
- 8 recommended for the promotion?
- 9 A Yes, yes.
- 10 Q All right. And whose decision would it have been
- 11 to actually finally approve the promotion?
- 12 A Those come to me.
- 13 Q Okay.
- 14 A All those recommendations come to me.
- 15 Q All right. And did you -- did you deny the
- 16 promotion?
- 17 A I checked with my boss, Mr. Garrick, and said,
- 18 "What do you want to do here? Do I approve this?
- 19 Do I not approve it," for guidance.
- 20 Q Whose final say was it, yours or Mr. Garrick's?
- 21 A Mr. Garrick's.
- 22 Q And what did he say?
- 23 A I'm sorry?
- 24 Q What did he say?
- 25 A He ultimately in the June -- I didn't know what his

1 thought process was, you know, in advance that I
2 recall. During the meeting on June 15th with
3 Mr. Kennedy, he communicated to him that he was not
4 going to give him the promotion. He was going to
5 put him back to work.

6 Q All right. Was that -- not getting the
7 promotion -- in large part because of what y'all
8 thought about this investigation and his potential
9 involvement?

10 A Well, I had the concerns about the consistencies in
11 the statements that I had, of course, expressed to
12 Mr. Garrick. Mr. Garrick had his own concerns
13 about the consistencies. When somebody is the
14 supervisor, we want to feel like we can count on
15 them 100 percent.

16 Q Had these thefts never occurred, would you have had
17 any reason not to approve the promotion?

18 A No, no.

19 Q He looked squeaky clean other than --

20 A Well, he did have three letters in his file; but...

21 Q All right. But that had nothing to do with whether
22 or not you would promote?

23 A If Mr. Earles and Mr. Barnes felt comfortable, they
24 worked with him every day, then sure, I wouldn't
25 have had any reason to deny the promotion.

1 Q And these letters you're referring to, were they
2 just, "You were late for work," or what?

3 A There was one from Chief Propst and then two from
4 Captain Zerzicki complaining that he had not shown
5 up at times and at football games when he had been
6 given a schedule.

7 Q They thought he was supposed to work, and he --

8 A -- he didn't show up. It happened multiple times.
9 When Chief Propst sent his letter, it was like,
10 "Look, we had this same problem last year."

11 Q This is over the course of three years that he
12 missed a shift or whatever he didn't do?

13 A These letters, as I recall were -- the two.

14 Q It's --

15 A -- two in 2008 and one in 2009, I believe.

16 Q Okay. So a couple of years before all of this?

17 A Yes, yes.

18 Q Okay. And he had been there three years
19 approximately? He started approximately in 2008?

20 A Yes, I think that sounds about correct.

21 Q And you never had any problems with him stealing or
22 being dishonest or being misleading or anything
23 like that prior to this?

24 A I mean, we didn't know. I didn't...

25 Q You hadn't heard of anything?

1 A Well, I just know when I looked at the statements,
2 that Dorothy Loiodice wrote in her statement that
3 she had another theft in May of 2010 at Spring
4 Valley. That was in the last sentence of her
5 statement.

6 Q Mr. Kennedy has denied involvement in any of these
7 thefts from the beginning; right?

8 A Yes, yes.

9 Q The decision was ultimately made to allow him back
10 to work; correct?

11 A Yes.

12 Q And why was that?

13 A Well, the Sheriff's Department conducted their
14 investigation; and they were not going to charge
15 him with a crime.

16 Q Were they going to charge anybody with a crime?

17 A Not that I know of.

18 Q All right.

19 A And so, you know, I wasn't making the decision at
20 that point; Mr. Garrick was.

21 Q All right.

22 A And I know that was a factor that he considered.

23 Q Do you think the Sheriff's Department conducted a
24 thorough investigation?

25 A I mean, it sounds like there's some things that

1 they could have done that they didn't. I would
2 have liked to have seen them do some fingerprinting
3 and all these other things, look at phone records.
4 You know, I would liked to have seen that. I don't
5 control that, and I don't really know what they
6 didn't or didn't do to be honest with you.

7 Q Speaking of phone records, did Mr. Kennedy -- you
8 can see it in the video. He is on the phone. He
9 has testified he was talking to Lieutenant Young
10 when he was in the Bates office, in the break room,
11 and got a phone call about some place that
12 Lieutenant Young needed him to go to. So he left.

13 Did you bother checking the school's phone
14 records to see if he was actually on the phone at
15 that time?

16 A I didn't even know anything about the phone call
17 until that's been brought up at this trial. He
18 never mentioned anything about a phone call to me.
19 So I didn't know to ask. You know, he didn't
20 mention that to me.

21 Q So nobody -- well, let me ask you this: Did you
22 watch the security video?

23 A I did but --

24 Q You did not?

25 A -- as you saw from the video, that phone coming up

1 was at the very end briefly, and so that --

2 Q Did you notice it?

3 A I didn't even notice it quite honestly.

4 Q And you didn't talk to Lieutenant Young or any of
5 the supervisors?

6 A What I did was after I spoke to Mr. Kennedy on the
7 29th, I know the Sheriff's Department was not
8 finished with their investigation. Based on his
9 statements to me, I contacted Mr. Garrick; and I
10 said, "This is what I'm finding."

11 Q Did you --

12 A -- you know --

13 Q Did you --

14 A -- I'm sure whatever decision I make is probably
15 going to be appealed. So typically if there is an
16 appeal I ask him to look at --

17 Q I was just asking you --

18 THE COURT REPORTER: I'm sorry. I didn't
19 understand what you just asked.

20 BY MR. GOODWYN:

21 Q I'm just asking you if you talked to Lieutenant
22 Young.

23 A He took over the investigation really kind of at
24 that point.

25 Q Lieutenant Young took over the investigation?

- 1 A No, Mr. Garrick.
- 2 Q Did you talk to Lieutenant Young?
- 3 A I did not talk to Lieutenant Young.
- 4 Q Thank you. All right. Let's move on to the Kim
5 Jones incident. I think there's been some
6 testimony, both from Kim Jones and Jeffery Kennedy,
7 that they had no idea there was a policy that the
8 security wasn't supposed to show a video to a
9 parent whose child was involved in something.
- 10 A (Nods in the affirmative.)
- 11 Q Is that common? Well, I don't know if that's
12 something -- I mean, how many times have you had
13 this situation come up where a video had been shown
14 to somebody that maybe wasn't authorized?
- 15 A Never, never.
- 16 Q This is the only time that you can recall?
- 17 A Yes.
- 18 Q And how are employees told about this policy?
- 19 A We give information on confidentiality and
20 confidentiality of records, but we depend on our --
21 their supervisors to let them know. You know, it's
22 hard to anticipate every problem that can occur --
- 23 Q Okay.
- 24 A -- quite honestly. When I looked into the
25 complaint, I thought, "Okay. Well maybe it's a

1 possibility that he didn't get trained." That was
2 my whole purpose was to make sure he knew what the
3 policy was. So that's what I was trying to
4 identify who it was.

5 Q Right. That was the testimony. He was never
6 trained on that?

7 A Yes.

8 Q It's entirety foreseeable; correct?

9 A It could happen. We have 3,500 employees. It's
10 possible that there's one employee out of 3,500.
11 It's possible there could would be ten out of
12 3,500.

13 Q So 3,500 out of 3,500 need to be told that; right?

14 A Well, we communicate. All of our Board policies
15 are on line.

16 Q Right.

17 A We have handbooks employees sign off every year.
18 Ms. Jones reiterated that, we have a confidentially
19 video. We make sure electronically we have got
20 everybody set. We're doing all of these things.

21 Q Right.

22 A But when you're trying to apply that to a
23 particular situation, like a request for video,
24 maybe somebody doesn't understand that.

25 Q Would Ms. Kennedy have -- not Ms. Kennedy --

1 Ms. Jones have been given access to the videos
2 since her son was involved in the altercation?

3 A She could have asked at the school level.

4 Q Is it common to let parents see the video if they
5 ask?

6 A Through the school so that they can make
7 determinations. Because sometimes they have to
8 contact the attorney and say, "What can I show or
9 not show?" We may have a special needs student or
10 something like that.

11 Q Is it common for parents to be shown the videos if
12 they ask appropriately, the appropriate people?

13 A I don't deal with student issues; but my
14 understanding is with the appropriate attorney's
15 authorization, it is common, yes.

16 Q So she was going to see this video one way or
17 another, whether it was from a security officer or
18 the school or whoever; right?

19 A If she wanted to, right.

20 Q She obviously wanted to; right?

21 A She could have gone to the school, yes.

22 Q What's the big deal about this whole thing to begin
23 with? There really wasn't a big deal, was there?

24 A I just need to make sure the employees are trained.

25 Q Okay. Now, when Ms. Jones came in, did you let her

1 know that her seeking to watch the video directly
2 from the security officer, as opposed to taking the
3 proper channels, was improper?

4 A Yes.

5 Q So at that point she knew that she may get in
6 trouble for all of this?

7 A Oh, yeah.

8 Q All right. And she told you at some point that
9 Jeffery Kennedy called her?

10 A Yes -- well, she told Chuck Earles initially and
11 then --

12 Q -- relayed the same message to you?

13 A Yes.

14 Q All right. How on earth would he have gotten her
15 cell phone number unless she called him first?

16 A I can't answer that, and that was a question she
17 seemed to be very concerned about as well.

18 Q She said, "I didn't give it to him"?

19 A Yes.

20 Q And his testimony was, "She called me. I had given
21 her my business cards. She called me and I just
22 called her back." Does that sound a little more
23 plausible?

24 A No, it doesn't sound credible that immediately
25 after our meeting that she would -- unless he told

1 her he was meeting with us -- that there would be a
2 plan for the two of them to converse --

3 Q Are you saying there was a plan?

4 A How would she know? I'm just trying to find a
5 reason.

6 Q How would she know what?

7 A That we had just met.

8 Q I'm not asking --

9 A -- the timing was so suspicious.

10 Q All right. So Jeffrey's testimony is that he
11 showed you his phone, that was her number, and you
12 wrote it down somewhere. Did you not? That didn't
13 happen you're saying?

14 A I recall that Chuck Earles called me and said that
15 he had looked at the phone, and he observed the
16 phone number, and he --

17 Q From Jeffrey's phone or Kim's phone?

18 A From Kim's phone.

19 Q I'm talking about Jeffrey's phone.

20 A I don't recall seeing his phone to be quite honest.

21 Q All right. Did he tell you that she called him?

22 A He did, yes.

23 Q But would you -- did he -- did Kim Jones tell you
24 that Jeffrey called her?

25 A Yes.

1 Q Did you check her phone?

2 A Chuck had checked it.

3 Q Okay.

4 A And he told me the number.

5 Q All right.

6 A And I looked in our payroll system to match it.

7 Q Right, right, which is consistent with Jeffrey's
8 version that he called her back. His phone number
9 should have been in the phone; right?

10 A I don't know. You know, she told me he didn't; and
11 I don't recall him offering to show me his phone.
12 I don't recall that.

13 Q Did you ask to see it?

14 A I don't recall that.

15 Q Wouldn't that be something that you would like to
16 know if he is saying, "She called me."

17 "Well, let me see your phone."

18 A Quite honestly, I felt like I was getting the
19 runaround from Mr. Kennedy. I mean, I don't have
20 any other way to put it.

21 Q Don't you feel like it would be something good for
22 you to know? If he is saying, "She called me."

23 "Well, can I see your phone?"

24 Did he give you the runaround and say, "Well,
25 I left it in the office," or something like that?

1 A I mean, I guess I could have asked. I was
2 frustrated.

3 Q But you didn't want to confirm his side of the
4 story? You just trusted Ms. Jones; right?

5 A Her side of the story made sense, and his side
6 didn't make sense.

7 Q And you didn't make any effort to make sure his
8 side of the story made sense, did you? You didn't
9 even ask to look at the number. That would have
10 made Ms. Jones look very suspicious, wouldn't it,
11 if she said, "No, I never called him," and then he
12 has her phone number right there?

13 A What I was looking for was after Chuck had
14 contacted me and said, "I've got this employee in
15 my office," it made sense what was communicated
16 from Chuck to me. It made perfect sense.

17 The number, he said he saw an incoming call.
18 I was concerned that Mr. Kennedy would have called
19 her back or had any communications with her. It
20 all seemed from a logical standpoint to make
21 perfect sense.

22 So I was angry that this communication had
23 occurred, and my thought process was, "I want a
24 good explanation from Mr. Kennedy. Why would he
25 have any conversing with Ms. Jones about this?"

1 It didn't make sense that she would have been
2 in his office, first of all, being hesitant and
3 reluctant to identify him. I mean, this is a
4 simple issue. Why would she be so reluctant to
5 identify him?

6 It made sense if she felt she had been
7 threatened that she would be reluctant to identify
8 him. All that made sense. So I decided I had
9 enough information from my level -- now, he always
10 has appeal rights -- but from my level I could
11 recommend termination.

12 Q Doesn't it make sense also that she might be trying
13 to cover her own -- her own position? She is
14 trying to pass it off on somebody else. "He showed
15 this to me," when, in fact, it didn't happen?

16 A If he disagreed with my position, you know, it says
17 in my letter, "You can appeal to Mr. Garrick."

18 Q I'm not asking about an appeal process.

19 A Yeah, I felt that based on the information I had
20 and the series of facts I had and the fact that I
21 didn't get consistent information, I believed her
22 side of the story. I did not believe what he was
23 telling me. I didn't find it to be credible.

24 Q But you --

25 A I felt at that point the appropriate decision was

1 to give him the opportunity to resign. If not, I
2 was going to recommend termination.

3 Q All right.

4 A And then if he wants to present phone records or
5 make all those arguments, then he can make that to
6 Mr. Garrick. But at my level I felt like I had
7 enough to ask him to resign --

8 Q All right.

9 A -- and make that recommendation.

10 Q Now, this is another set of notes from, it looks
11 like, May 5th of 2011. Are these your handwritten
12 notes?

13 A Yes.

14 Q All right. And you took another set of notes. Was
15 this related to the March theft or Ms. Jones
16 incident? What were these notes for?

17 A These were notes from the meeting with Mr. Garrick
18 that he was conducting. I'm trying to capture what
19 everybody said, as close to verbatim, as I can
20 possibly write.

21 Q So this is still in 2011? So this is about the
22 thefts?

23 A Yes.

24 Q All right. Can you read what you wrote here in
25 this little highlighted section here (indicating)

1 starting with, "Nobody"?

2 A Yes.

3 Q And, again, this is you trying to write down
4 verbatim what Mr. Kennedy is saying?

5 A Yes. Because, again, we have this appeal process.
6 I want a record. Just like we're creating a record
7 here, I want a record so that everything can be
8 reviewed.

9 So what he said was, "Nobody has ever said we
10 couldn't go in the building and go in the break
11 room. I've been doing the same thing for four
12 years."

13 Q All right. And can you read the next highlighted
14 section down there for me.

15 A "I have never stole nothing a day in my life. I
16 just got promoted to lieutenant. What would I look
17 like stealing? I'm a godly man. I don't steal.
18 They are putting something circumstantial on me.
19 I've got too much to lose to take change from a
20 drawer."

21 Q Okay. Sorry, one more. On this next page, can you
22 read -- just read these -- just read the rest of
23 that page.

24 A "I've got four grandchildren, kids in college.
25 I've got a mortgage. My yearly salary means more

1 to me than that. I didn't do it from the bottom of
2 my heart. It wasn't me. I didn't do that." Then
3 Mr. Garrick said, "I will get back to you."

4 Q All right. Thank you.

5 MR. GOODWYN: I think that's all I have, Your
6 Honor?

7 THE COURT: Any redirect?

8 MS. LONG-MAHONEY: Yes, Your Honor.

9 I'd like to move into evidence the two sets of
10 notes that Mr. Kennedy's counsel just had Ms. Batchelder
11 read from, the notes from the March 29, 2011, meeting
12 and the notes from the May 5, 2011, meeting.

13 MS. PEAVY: Objection, Your Honor.

14 MR. GOODWYN: We do have an objection. We
15 probably need to talk about it. Can we approach, Your
16 Honor?

17 THE COURT: Yes, sir.

18 (Whereupon there was a bench conference off
19 the record in the presence of the jury but out of the
20 hearing of the jury.)

21 THE COURT: Is there anything further on
22 redirect?

23 MS. LONG-MAHONEY: Yes, I do. Can we go on
24 with that?

25 THE COURT: Yes.

REDIRECT EXAMINATION

BY MS. LONG-MAHONEY:

Q There were three letters, three reprimand letters, mentioned regarding Mr. Kennedy that you were asked about in your testimony of Ms. Batchelder?

A Yes.

Q I'd like to show you those letters. If I could just to make the record clear, is this one of the letters you were referencing?

A Yes.

MS. LONG-MAHONEY: I'd like to move that into evidence as Defendant's next exhibit, please.

MR. GOODWYN: I'm sorry. I didn't hear you.

MS. LONG-MAHONEY: I'd like to move it into evidence.

MS. PEAVY: No objection.

(Defendant's Exhibit Number 6 is marked for identification.)

BY MS. LONG-MAHONEY:

Q Okay. So what I have just marked as Defendant's Exhibit 6 is a letter dated September 8, 2009; is that correct?

A Yes.

MS. LONG-MAHONEY: I'd also like to move into evidence two other reprimand letters sent to

1 Mr. Kennedy, one dated June 6, 2008, and one
2 November 11, 2008. I want to mark it as one exhibit.

3 MS. PEAVY: No objection.

4 MS. LONG-MAHONEY: Okay.

5 (Court Reporter's Note: Two additional
6 letters were added to Defendant's Exhibit Number 6.)

7 BY MS. LONG-MAHONEY:

8 Q Ms. Batchelder, I'll just ask you, what's been
9 marked as Exhibit 6 --

10 MS. LONG-MAHONEY: Are these into evidence
11 now? I'm sorry. I'd like to move them into evidence.

12 THE COURT: They are. Thank you. They're
13 admitted into evidence.

14 MS. LONG-MAHONEY: Great, thank you.

15 THE COURT: Without objection.

16 (Defendant's Exhibit Number 6 is received into
17 evidence.)

18 BY MS. LONG-MAHONEY:

19 Q What's marked as Exhibit 6, are those the three
20 letters of reprimand to Mr. Kennedy that you
21 referenced when you were asked about it on your
22 cross examination?

23 A Yes.

24 MS. LONG-MAHONEY: All right. Your Honor, my
25 other question was going to relate to those notes.

1 THE COURT: You can ask her questions about
2 the notes.

3 MS. LONG-MAHONEY: Okay.

4 THE COURT: But I will say that my previous
5 ruling as it relates to certain matters continues to
6 stand. So to the extent they address those issues that
7 I've ruled are not appropriate and not admissible, they
8 need to be redacted.

9 MS. LONG-MAHONEY: Okay. Would you like me to
10 finish the examination of Ms. Batchelder now or would
11 you like to...

12 THE COURT: It's your examination, as long as
13 you understand what my ruling is.

14 MS. LONG-MAHONEY: Okay.

15 THE COURT: And I think y'all do.

16 BY MS. LONG-MAHONEY:

17 Q Ms. Batchelder, the notes that you were asked about
18 on cross examination from March 29, 2011, to May 5,
19 2011, are your handwritten notes; is that correct?

20 A Yes, yes.

21 Q Those were put in front of you and you were asked
22 to read certain excerpts from them; is that
23 correct?

24 A Yes.

25 Q And is that your standard practice when you're

1 meeting with employees to transcribe them? So if I
2 were to say something to you, you would probably do
3 the same with me, wouldn't you?

4 A Yes.

5 Q We've had this conversation. But in your meetings
6 with employees, is that what you do? You attempt
7 to take down everything that they're saying?

8 A Good, bad, ugly. I'm not trying to filter.

9 Q Do those notes reflect your notes of how you
10 conducted the meeting on March 12, 2011, as well as
11 the meeting on May 5, 2011, transcribing what
12 Mr. Kennedy said and what other members at the
13 meeting said?

14 A As fast as I can write.

15 Q Okay. Thank you.

16 MS. LONG-MAHONEY: We would like to move it
17 into evidence, but I understand we'll do it with
18 appropriate redactions. Should we do that at this time
19 or do that later?

20 THE COURT: You can do it at the break.

21 MS. LONG-MAHONEY: So these will be admitted
22 as the next two Defendant's exhibits, please, with
23 appropriate redactions.

24 MR. GOODWYN: We'd like to see the redactions
25 first.

1 THE COURT: When they're ready you can mark
2 them.

3 MS. LONG-MAHONEY: That's great. We have
4 nothing further.

5 MR. GOODWYN: Nothing further.

6 THE COURT: You may step down. Thank you.

7 (The witness leaves the witness stand.)

8 THE COURT: Ladies and gentlemen, at this time
9 it will be a good time to take a break. I'll take a
10 break at this time so they can get the exhibits
11 appropriately redacted to conform to my prior rulings.

12 Then we'll bring you back and we'll be able to
13 continue on with the trial of this matter. I remind you
14 that you are not to discuss the matter. You still
15 haven't heard all the evidence that has to be presented
16 in this case.

17 (The jury retires to the jury room.)

18 THE COURT: As I've indicated previously, I've
19 made a ruling as it relates to any information relating
20 to the aerosol and the other as it relates to those
21 things that were redacted off of Defendant's
22 Exhibit Number 1.

23 That would include information relating to the
24 aerosol cans from the main rest room and any information
25 relating to the theft from Dorothy Loiodice, from her

1 office in the Spring of 2010, or whenever it occurred in
2 2010.

3 So to the extent that those notes reflect
4 conversations regarding those two incidents, they need
5 to be redacted, appropriately redacted. I'll give you a
6 chance to do that so they can be marked. So if there
7 are any additional exhibits to be presented through the
8 next witness, they will be numbered appropriately.

9 MR. BARLOW: Right.

10 THE COURT: We'll take a break to do that.

11 MS. LONG-MAHONEY: Your Honor, if I could just
12 explain kind of what I was -- I didn't want to explain
13 it in front of the jury. What's so challenging is that
14 plaintiff's counsel puts it in front of the witness and
15 gets her to read transcribed parts of a meeting.

16 THE COURT: I understand.

17 MS. LONG-MAHONEY: It was a meeting in its
18 total that they keep opening the door to and asking
19 questions like, "Were there prior thefts?" They keep
20 opening the door, and we have to keep not saying it.
21 It's very difficult when they keep opening and opening
22 and opening the door. That's why I had to try to get
23 the evidence in.

24 THE COURT: It's not opening the door to those
25 particular events. It is a meeting about the events

1 that we're here in this particular trial about. I have
2 previously ruled as it relates to those particular
3 events and that stands throughout.

4 As I told you all at the beginning when we
5 agreed to redact it, that was going to be the ruling
6 throughout. I understand that Mr. Goodwyn has asked
7 some questions that would appear to open the door to a
8 lot of information, but I'm not going to go back and add
9 in those particular points at this particular time
10 without the benefit of all those other witnesses who
11 could have testified to those things because we're not
12 going to be here another week to do that.

13 So I'll be consistent in my ruling. That's
14 what you all agree to when Defendant's Exhibit Number 1
15 was introduced. Mr. Goodwyn needs to be able to ask the
16 questions without opening the door to allow all these
17 things to come in.

18 So I'm being consistent in my rulings. I have
19 not in any way tried to restrict any information, of
20 course, related to other disciplinary infractions or
21 other instances.

22 But with respect to any prior instances
23 regarding viewing Mr. Kennedy as the perpetrator of
24 thefts, the two instances have been -- whatever occurred
25 in 2010 with Ms. Dorothy's office and the aerosol, the

1 air freshener; and that that's been consistent. I'm
2 going to maintain that consistently.

3 I understand it may create some other issues
4 for you all; but in terms of everything else that we
5 discussed at those meetings, they have been discussed.
6 You can raise those things.

7 You can talk about those things because they
8 relate to all the other instances that the District was
9 looking at. So I'm being consistent with that ruling.
10 Let's redact them and we will get them marked at the
11 appropriate time.

12 MS. LONG-MAHONEY: Thank you, Your Honor.

13 (Whereupon there was a recess.)

14 THE COURT: Have you all had the opportunity
15 to take care of the exhibit?

16 MS. LONG-MAHONEY: Yes, Your Honor.

17 MS. PEAVY: Yes, Your Honor.

18 THE COURT: Are there any questions or
19 concerns about it?

20 MS. PEAVY: No.

21 MR. GOODWYN: I think we're in agreement on
22 the redactions.

23 THE COURT: And have they been marked?

24 MS. LONG-MAHONEY: Not yet.

25 THE COURT: Do that, please.

1 (Defendant's Exhibits Number 7-8 are marked
2 for identification.)

3 THE COURT: Is there anything else to take up
4 before we bring the jury in?

5 MR. BARLOW: Not from the defendant.

6 MS. PEAVY: Not from the plaintiff, Your
7 Honor.

8 THE COURT: You may ask the jury to come in,
9 please.

10 (The jury returns to the courtroom.)

11 THE BAILIFF: The jury is seated, Your Honor.

12 THE COURT: Yes, ma'am, as far as the
13 exhibits?

14 MS. LONG-MAHONEY: Your Honor, I'd like to
15 move into evidence Defendant's Exhibits 7 and 8, the
16 notes from March 29, 2011, and May 5, 2011, from
17 Ms. Batchelder to Mr. Kennedy.

18 MR. GOODWYN: No objection.

19 THE COURT: There is no objection; so they
20 will be admitted.

21 (Defendant's Exhibit Number 7-8 are received
22 into evidence.)

23 THE COURT: You may call your next witness.

24 MS. LONG-MAHONEY: The defense would like to
25 call Roosevelt Garrick, please.

1 ROOSEVELT GARRICK, JR., being
2 first duly sworn, testifies as follows:

3 THE CLERK: Thank you. Have a seat in the
4 witness stand, please. State your name for the record.

5 THE WITNESS: Roosevelt Garrick, Jr.

6 THE COURT: Would you please spell your last
7 name.

8 THE WITNESS: G-A-R-R-I-C-K.

9 THE COURT: Thank you.

10 DIRECT EXAMINATION

11 BY MS. LONG-MAHONEY:

12 Q Good morning, Mr. Garrick.

13 A Good morning.

14 Q If you could tell the jury what your position is
15 with Richland School District Two?

16 A I am the Chief Administrative Officer for Richland
17 School District Two at this time.

18 Q What is your educational background?

19 A I graduated from Lower Richland High School. I
20 continued my education at South Carolina State
21 University where I received my undergraduate
22 degree. I then came to the University of South
23 Carolina where I completed my graduate, Master's
24 degree.

25 Q And how long have you been employed with Richland

1 School District Two and in what capacities?

2 A I've been employed with Richland Two for 35 years.
3 I've been a teacher, coach, Assistant Principal,
4 principal, and District Office Administrator in
5 various capacities.

6 Q Of all those 35 years, did you happen to spend any
7 of them at Spring Valley High School?

8 A Yes. Interestingly enough, I spent my first ten
9 years in Richland Two at Spring Valley High School
10 from '79 to '89.

11 Q What did do you at that point back then?

12 A I was a coach and a teacher, coach and in a
13 position we call Assistant Administrator where you
14 get your initial baptism into administration.

15 Q What did you coach during those years at Spring
16 Valley?

17 A I coached girls basketball, I coached football, and
18 track.

19 Q Okay. I'm curious was Sammy Uker a volunteer back
20 then as well, back in 1979?

21 A Yes, he was.

22 Q So this is the same Sammy Uker who is still around
23 today helping Coach Hunter?

24 A Same Mr. Uker.

25 Q Was he a character back then as well?

1 A Yes, he was.

2 Q Tell the jury what your primary responsibilities
3 are as Chief Administrative Officer:

4 A I supervise several departments, one of which is
5 Human Resources.

6 Q All right. And so your District is --
7 approximately how many students does the District
8 have?

9 A Our student count in Richland School District Two
10 at this time is 27,000-plus students, which makes
11 us the largest School District in the Midlands.

12 Q How many employees does it take to educate that
13 many students?

14 A We have approximately 3,500 employees,
15 approximately 2,000 certificated employees, and
16 about 1,500 classified employees.

17 Q Do you have responsibility, overall responsibility,
18 for all 3,500 of those employees?

19 A On the Human Resources side, I have that
20 responsibility, yes, ma'am.

21 Q All right. Why does the District have a category
22 of employees called security officers? I believe
23 you have approximately 80 full-time, part-time.
24 What's the purpose of that whole department in the
25 School District?

1 A Well, Richland School District Two is a very large
2 School District, as I stated the largest School
3 Districted in the Midlands. We have 40-plus sites,
4 schools, and centers.

5 As far as physical security, we have a
6 security force that goes around and makes sure that
7 those 40 sites are secure on a 24-hour a day, 7-day
8 a week basis.

9 Q Why is that important to the District?

10 A Well, it's very important because of the capital
11 that we have involved with all of those schools;
12 and we want to keep our schools secure. We want to
13 keep our children safe. The bottom line is our
14 children are the reason we're there. So that's the
15 reason for the security force.

16 Q Okay. And what role do you specifically have with
17 respect to the security officers in the District?
18 Do you have any direct role with them?

19 A I have no direct role. Check Earles is in charge
20 of the security force. But as with any employees
21 in the District, security being included, any time
22 someone is recommended for a job or recommended for
23 termination, it has to come through my office.

24 Q Okay.

25 A A recommendation for employment or a recommendation

1 for termination comes through my office.

2 Q And will promotions come through your office as
3 well?

4 A Yes.

5 Q When and how did you first learn of concerns with
6 Jeffery Kennedy?

7 A March 2011. I was given information that there had
8 been some thefts at Spring Valley High School and a
9 security officer may be involved.

10 Q Okay. So after you were given that information,
11 did you review those documents about these theft
12 concerns at Spring Valley High School?

13 A Yes. I reviewed documents from the investigation
14 by the administration at Spring Valley High School,
15 and I got some information from Chuck Earles and
16 Traci Batchelder.

17 Q Okay. Tell the jury if you could what your
18 standard practice is when allegations are made
19 against an employee. How do you handle that from
20 an HR perspective?

21 A When allegations are made against an employee and
22 with 3,500 employees, something is going on all the
23 time; but either I myself or someone who works with
24 me on my staff goes out and looks into the
25 situation.

1 Q Okay. And once an initial investigation is done
2 just regarding any employee, at some point do you
3 often meet with the employees directly?

4 A Yes. When it comes to matters of recommendation
5 for termination, although I review a lot of
6 materials, read a lot of information, it is very
7 important to me to sit down with that person to
8 know who I'm dealing with, to get as much
9 information for myself in making the decision about
10 this situation.

11 Q And what things do you generally look for when
12 you're meeting with an employee to get your own
13 instincts on the employee or whatever the
14 allegations are? What are you looking for when
15 you're meeting with that employee?

16 A I'm looking for honesty. I'm looking to see if the
17 employee takes responsibility for their actions.
18 I'm looking to see if this is someone that I can
19 put back to work or I can't put back to work.

20 Q Okay. At some point after you learned that perhaps
21 Mr. Kennedy had some possible connection to the
22 Spring Valley High School thefts, did you meet with
23 him personally at some point?

24 A Yes. I believe on May 5, 2011, I made an
25 appointment to see Mr. Kennedy. Mr. Kennedy came

1 in. I had in the meeting, along with me, Ms. Traci
2 Batchelder, whom you just heard from; and I had
3 Mr. Chuck Earles, who is over security.

4 Q So tell the jury what you recall from that meeting
5 with Mr. Kennedy in general, that May 5th meeting.
6 What do you recall he said about his routine, let's
7 say, first on the evening of February 24th?

8 A Okay. When I have these meetings, I want to see --
9 it's important to me to see who I'm talking to.
10 Okay. As I said earlier, I reviewed a lot of
11 information. I wanted to see who I was talking to.

12 At that time if I'm recalling correctly, this
13 was the first time I ever met Mr. Kennedy. So I
14 asked about his routine. I asked -- once he
15 started telling me what he did coming through the
16 back door, moving down the hall, that type of
17 thing, I asked him questions about, you know, why
18 he did that. I asked him questions about why he
19 was off the camera for an extended period of time.
20 During that time I got inconsistent answers.

21 Q Okay. So if you can recall -- and it was a while
22 ago -- the three issues you would have brought to
23 his attention or among the three would be the
24 February 24th evening, the videotape you had seen
25 and the statements about it. What do you recall he

1 said about his routine on February 24th during this
2 meeting?

3 A Well, a couple of things struck me. At one point
4 he said, "I'm just wasting time." Another time he
5 said he was in the break room with a magazine
6 getting some water. Later on he said he was
7 charging the walkie-talkie, those type of things.

8 Q Okay.

9 A That was on that particular day.

10 Q All right. What do you recall he said about his
11 routine on March 1st, that evening of March 1st,
12 which was the next night there was evidence that
13 more went missing at Spring Valley? What do you
14 recall he said specifically about that night?

15 A On that night he said basically the same things:
16 That he went in through the back door. He visited
17 the rest room. He disappeared off camera for a
18 period of time. Again, he mentioned wasting time.

19 Again, he mentioned being in the break room,
20 basically the same thing he said the first time.
21 But I asked him on the -- and this is the March 1st
22 situation.

23 Q Okay.

24 A I asked him, "What I noticed is after you come in,
25 you're off camera for awhile, and then you leave

1 out. Is that the end of your time?" He said yes.

2 I said, "Are you absolutely sure that's the end of
3 your time there at Spring Valley?" He said yes.

4 I said, "Are you sure?" He said yes. But yet
5 after he left, he got in his vehicle, he drove
6 around front. Then he came back in the front and
7 went through the front part turning off lights.

8 Q You have some general familiarity with the layout
9 of Spring Valley High School; right?

10 A Yes.

11 Q From where he spent 20 minutes in those back
12 administrative offices and went in and out that
13 door, could he have walked from that area to the
14 same area you saw him later turning off the lights
15 with any effort at all?

16 A It's a straight shot.

17 Q A matter of some feet, a few feet?

18 A I would say 50 feet, something like that.

19 Q But right through the hallway?

20 A You go through a door, and then you're in that
21 area.

22 Q So why would he spend 20 minutes in the
23 administrative hallway, go in and out, take his
24 break, go out the door, get in his vehicle, and
25 drive out the front if he could have accessed it

1 just by walking on out?

2 A Well, that's what was puzzling to me; but my
3 thoughts were at the time -- and these were my
4 personal thoughts in looking at the situation --
5 and this would have been my question:

6 "Why not park in the front, come in the front
7 where you are going to turn out the lights and do
8 what you do, go to the back, charge your radio, and
9 you're back out to where you started?"

10 But the inconsistent thing and the thing that
11 got me saying, "Huh," is he said he didn't do that.
12 He said he came in the back. He left out of the
13 back and that was it. He was through.

14 I asked if, "You're sure." He said, "Yes, I'm
15 sure. That's all I did," but yet I see him get in
16 his truck, pull back around, park, come in and
17 take -- and I said to myself, "Why would he tell me
18 that?" I just couldn't figure it out.

19 Q And did you find his explanation for why he was
20 spending 20 minutes -- his shift would have
21 started, what, about 11:00 P.M.; is that right?

22 A Something like that.

23 Q And the times that he was observed in the
24 administrative hallways were, what, within the
25 first 30 minutes of that?

1 A Right.

2 Q You're Chief Administrative Officer for the

3 District of all 3,500 employees, is it acceptable

4 to you that someone is taking a break within the

5 first 30 minutes of their shift?

6 A Certainly not, and that's something that stuck in

7 my mind. The first part of your shift "You're

8 already taking a break?" Number two, "What are you

9 doing?"

10 "I'm wasting time. I quote, "I'm wasting

11 time."

12 Q Did he say that to you more than once?

13 A Yes.

14 Q What did you think about that?

15 A Well, number one, I'm responsible for 3,500

16 employees. I don't expect any employee to tell me

17 they're on their job wasting time. I don't care

18 what the job is.

19 Q What do you recall Mr. Kennedy saying about his

20 whereabouts or his explanation about the seven

21 minutes he was in the athletic building on

22 March 3rd off camera? What do you recall about

23 that response?

24 A When he talked to me about the -- I think that was

25 the February 28th, May 1st timeframe. He was off

1 camera about six, seven minutes, something like
2 that.

3 Again, I got inconsistent answers. I've heard
4 turning off the lights. I've heard messing around
5 with the weights. I've heard wasting time, same
6 thing.

7 Q So what do you think at this time?

8 A It's very inconsistent. It's -- I can't figure out
9 what's going on. It doesn't make sense.

10 Q And were you aware that the evening of March 3rd
11 when he was in the athletic building, had you seen
12 the video to see that when he set the alarm, it
13 took about less than a minute?

14 A I noticed he and the other gentleman come in, set
15 the alarm, right back out.

16 Q And then what did you notice about the routine the
17 next morning?

18 A When he came in, he was alone. He went to the
19 keypad, took off the alarm, or whatever he did.
20 I'm not positive. But he came in and he was there
21 for about six, seven minutes, very, you know -- he
22 came in that morning.

23 Well, when they armed it, it was in and out.
24 When he came back in the next morning, whether he
25 armed it or whether it was unarmed, I don't know;

1 but he was in there for six or seven minutes.

2 Q All right. And what precisely did he tell you for
3 those six or seven minutes, as best you can recall
4 sitting here today, that he said he was doing on
5 those six or seven minutes on March 3rd when he was
6 in the athletic building?

7 A Okay. Now, when I was meeting with him on May 5th,
8 we talked about all of these things. So I would
9 ask him questions about certain things. Then I
10 would go to another situation, and then I would
11 come back later on. Again, I got inconsistent
12 answers.

13 Q Within the same meeting?

14 A Within the same meeting.

15 Q Okay. So to the best of your memory, what are the
16 most explanations he gave you for what he did
17 during those six minutes in the athletic building
18 on March 3rd?

19 A Messing around with weights, wasting time.

20 Q Did he say anything else other than those two
21 explanations to you on May 5, 2011, of
22 significance?

23 A I don't recall right now.

24 Q Okay.

25 A If there was anything else.

1 Q But that was basically his explanation?

2 A That was his explanation.

3 Q Did it seem plausible?

4 A It was very inconsistent.

5 Q Okay. How did you conclude your May 5th meeting
6 with Mr. Kennedy?

7 A Well, after meeting Mr. Kennedy, after talking to
8 him, when you're contemplating or looking at an
9 employee for termination, that's a very serious
10 matter.

11 From what I've read and then what I got during
12 that meeting, I said, "I need to look into this
13 some more. I need to think about this." I told
14 him I would get back to him.

15 The reason I did that, based on what he told
16 me, I wanted to go back and look at the video again
17 to make sure that I saw what I thought I saw and to
18 give him the benefit of the doubt on his
19 explanation to me.

20 Q Were you trying to trick him in your questions of
21 him?

22 A Not at all. This is the first time I've met this
23 gentleman as I recall. I'm all around the
24 District. I am in and out of all schools. I'm in
25 and out of the Support Service Center.

1 But I cannot recall prior to this meeting ever
 2 meeting Mr. Kennedy before. This is the first
 3 time. So I wanted to make sure I'm meeting this
 4 gentleman for the first time. I'm hearing from him
 5 for the first time. I'm looking at some
 6 disciplinary action here. So I want to be
 7 thorough.

8 Q And during that meeting do you feel confident that
 9 you gave him every opportunity to tell you anything
 10 he was doing and provide you with any information
 11 he wanted to provide to you to explain what he was
 12 doing on those evenings?

13 A I said to him, "Is there anything else you'd like
 14 to tell me before I dismiss the meeting?"

15 Q So from your perspective, if he had something else
 16 to tell you, he could have told you on May 5th?

17 A Exactly.

18 Q But what you've described is what he told you?

19 A Yes.

20 Q After that meeting I think you said you went back
 21 and looked at the video. What did you determine
 22 after you looked at that?

23 A Well, concerning the May 1st, February 28th
 24 timeframe --

25 Q Are you talking about March 1st?

1 A Excuse me, March 1st. February 28th, March 1st
2 timeframe I confirmed he came in that building. He
3 spent some time off camera, approximately 20
4 minutes. He left out. He drove around front and
5 he came back in the front of the building, went
6 through, and turned the lights off.

7 He told me that didn't happen. That was the
8 end of his shift when he left out of the back of
9 that building that night. I asked that question
10 several times. So I wanted to go back and confirm
11 it, and I looked at it and he didn't.

12 Q Okay. So some point after your May meeting, you
13 learned that the Richland County Sheriff's
14 Department was not going to charge Mr. Kennedy with
15 any crime; is that correct?

16 A Yes.

17 Q So at this point where are you in your thoughts
18 regarding Mr. Kennedy and his continued employment?

19 A I've listened to Mr. Kennedy. I've looked at all
20 the documents. This is somebody's job. I don't
21 have any place in all of this where I can say,
22 "Yeah, I saw you take this."

23 We turned information over to -- we turned
24 investigations like this over to the Richland
25 County Sheriff's Department. They got back to us,

1 and they said they were not bringing charges.

2 So I called Mr. Kennedy back in. Again,
3 Mr. Chuck Earles, Ms. Traci Batchelder. After much
4 thought, although I've seen a lot of
5 inconsistencies, I give him the benefit of the
6 doubt. I tell him I'm putting him back to work.

7 Q So he had been on administrative leave with pay all
8 this time period; right?

9 A He had been on administrative leave, and we do the
10 administrative leave with all employees who there
11 is an allegation against. So we have employees
12 and, with 3,500 employees, we have employees on
13 administrative leave probably every day; but we do
14 that to protect the District and to protect other
15 employees.

16 So as the investigation is going on, the
17 employee is not in the midst. We can't -- we don't
18 want people to say during the investigation that
19 this employee did this or this employee did that.
20 So they're at home. We instruct them if we need
21 them, we'll give them a call, with pay. So
22 approximately four months Mr. Kennedy was home with
23 pay.

24 MS. LONG-MAHONEY: May I approach the witness,
25 Your Honor?

1 THE COURT: Yes, ma'am.

2 BY MS. LONG-MAHONEY:

3 Q If you could look at what's been marked as
4 Plaintiff's Exhibit 5. Can you identify that
5 document, please?

6 A This is the letter I wrote to Mr. Kennedy on
7 June 27th.

8 Q And would you --

9 A Giving him my decision.

10 Q All right. So you met with Mr. Kennedy on June 15,
11 2011. You decided to give him the benefit of the
12 doubt. Can you explain to the jury what you told
13 Mr. Kennedy your conclusions were in your June 27th
14 letter and then what you laid out as your
15 expectations for Mr. Kennedy in that letter?

16 A I told him that I was putting him back to work,
17 and --

18 Q Let me ask you this: Did you -- were you demoting
19 him or did you put him back to work?

20 A I put him back to work.

21 Q Okay. Same salary?

22 A Same salary, everything.

23 Q Same benefits?

24 A Same benefits.

25 Q Okay.

1 A The only thing I did not do was tell security where
2 to put him.

3 Q Okay.

4 A But I said, "He needs to go back to work." I said
5 to him, "I must emphasize that during my review of
6 the videotape, I was unable to draw a conclusion
7 about your whereabouts on several occasions, given
8 that you visited unnecessary areas, such as the
9 break room, in an effort to pass time. Please
10 understand it is imperative that you refrain from
11 any conduct that is not effective or productive in
12 using your work hours."

13 This is basically addressing wasting time.
14 "In the future, if you feel you do not have
15 sufficient workload or schedule, please discuss the
16 situation with Eric Barnes or Chuck Earles. It is
17 important that you are using all your time
18 productively and remain diligent in performing your
19 responsibilities throughout your working hours."

20 It bothered me that I have an employee wasting
21 time. So I wanted him to know, "I'm putting you
22 back to work, but use your time wisely. Okay. You
23 do that, we're good."

24 Q Okay. But at the time you put him back to work,
25 did you still have your concern with

1 inconsistencies and his honesty with you?

2 A Definitely, yes, I sure did.

3 Q But as you put it --

4 A And I expressed it.

5 Q -- in your words you gave him the benefit of the
6 doubt?

7 A Yes.

8 Q At the point at which you put him back to work, had
9 he been recommended for a promotion?

10 A He was recommended for a promotion, I think, some
11 time in February.

12 Q Okay. And what was your decision with respect to
13 promoting him with your concerns that you had at
14 that point you put him back to work?

15 A At that point I have an employee who was very
16 inconsistent in explaining his whereabouts and what
17 was going on during these alleged thefts. Okay. I
18 also had an employee who told me he was wasting
19 time on a 64-acre campus with probably -- next to
20 Blythewood High School -- our largest physical
21 plant.

22 It takes an inordinate amount of time to go
23 around and check. He told me he was wasting time,
24 and I was concerned with that. I could not approve
25 a promotion at that point in time; so I did not

1 promote him.

2 Q So you wouldn't be promoting him to a supervisory
3 position? Is that what you were declining to do?

4 A Exactly.

5 Q Did you think he could be an effective supervisor
6 given the concerns you just described that had with
7 him?

8 A That's the problem I had.

9 Q Okay. And is this letter, what's identified as
10 Plaintiff's Exhibit 5, is that the letter you sent
11 to Mr. Kennedy in follow up to your meeting with
12 him?

13 A This is the letter I sent.

14 Q When did you next hear from Mr. Kennedy?

15 A I got a letter from an attorney representing
16 Mr. Kennedy sometime later. I don't remember the
17 exact date.

18 Q Okay.

19 MS. LONG-MAHONEY: Mark this as our next
20 exhibit, please.

21 (Defendant's Exhibit Number 9 is marked for
22 identification.)

23 MS. PEAVY: Just briefly if we could strike
24 out the personal identification number there, his Social
25 Security number.

1 MS. LONG-MAHONEY: Oh, absolutely.

2 BY MS. LONG-MAHONEY:

3 Q I would like to show you what's been marked as
4 Defendant's Exhibit 9. Is that the letter you
5 received from Mr. Brown?

6 A This letter is from Mr. Franchot Brown.

7 Q Okay. And this was what was addressed to you
8 regarding his client, Mr. Kennedy?

9 A Yes. We received this letter on January 17, 2012.

10 MS. LONG-MAHONEY: I'd like to introduce this
11 into evidence.

12 THE COURT: Any objection?

13 MS. PEAVY: No objection.

14 THE COURT: It's admitted.

15 (Defendant's Exhibit Number 9 is received into
16 evidence.)

17 BY MS. LONG-MAHONEY:

18 Q Okay. Mr. Kennedy, what was Franchot Brown, the
19 attorney for Mr. Kennedy, telling you on -- in
20 early January of 2012 in this letter? What was the
21 gist of what he was saying to you?

22 A He wrote me this letter to demand that I
23 immediately promote Mr. Kennedy.

24 Q Okay. Is that his third paragraph in this letter?

25 A Yes.

1 Q If you could read that to the jury, please.

2 A "This letter is therefore to demand you place
3 Mr. Kennedy back in his full-time position, elevate
4 him to a position of lieutenant, restore all the
5 rights and privilege due him as a five-year
6 employee with the security forces of Richland
7 School District Two."

8 Q What was your reaction to receiving this letter
9 from Mr. Kennedy's attorney?

10 A Number one, he was already back in his position. I
11 had already done that. He was back in his
12 full-time position. No rights were ever taken away
13 from him. He said, "Restore all rights and
14 privileges." He had all those rights and
15 privileges. The only thing here is demanding that
16 I promote him.

17 Q All right.

18 MS. LONG-MAHONEY: If you could mark this next
19 exhibit.

20 (Defendant's Exhibit Number 10 is marked for
21 identification.)

22 BY MS. LONG-MAHONEY:

23 Q If you could please identify what's been marked
24 Defendant's Exhibit 10?

25 A This is my February 8, 2012, letter to Mr. Kennedy

1 addressing the Franchot Brown letter.

2 Q Okay. And you prepared this letter --

3 A Yes.

4 Q -- around the time of February 8, 2012; is that
5 correct?

6 A Yes.

7 MS. LONG-MAHONEY: We'd like to introduce this
8 into evidence as Defendant's Exhibit 10.

9 MS. PEAVY: No objection.

10 THE COURT: It's admitted.

11 (Defendant's Exhibit Number 10 is received
12 into evidence.)

13 BY MS. LONG-MAHONEY:

14 Q Mr. Garrick, what did you tell Mr. Kennedy in this
15 February 8, 2012, letter to him after you got that
16 demand from his attorney?

17 A I told him I was in receipt of a letter from
18 Mr. Brown. I told him in my letter that Mr. Brown
19 was demanding that I put him -- that I promote him;
20 and I basically tell him that he's not been
21 demoted, instead he remained employed in the same
22 position in which he was assigned prior to being
23 placed on administrative leave.

24 Q Would you refer if you would and read to the jury
25 your third paragraph in that letter to Mr. Kennedy.

1 It begins, "While the Richland County Sheriff's
2 Department."

3 A "While the Richland County Sheriff's Department was
4 involved in investigating the missing property, my
5 letter dated June 27, 2011, confirmed that you were
6 being reinstated to your position as security
7 officer in the District.

8 In my June 27th letter, I outlined my concern
9 with what appeared to be some unusual behavior on
10 your part, as well as my concern that you did not
11 provide me with accurate and consistent information
12 in your security of the Spring Valley High School
13 Administration Building. While there is not an
14 open criminal investigation, we were not
15 comfortable with your responses during our
16 investigation."

17 Q All right. What does your next paragraph go on to
18 say?

19 A "As you know, you have not been demoted from your
20 position as security officer, instead you remain
21 employed in the same position which you were
22 assigned in prior to being placed on administrative
23 leave.

24 However, while I returned you to your position
25 of security officer in the District, as a result of

1 the concerns I described in this letter, as well as
2 my June 27th letter, I decided not to approve a
3 recommendation that you be promoted to a position
4 of lieutenant at this time.

5 Your job responsibilities as security officer
6 and particularly a lieutenant require that we have
7 the utmost trust and confidence in you. For those
8 reasons, I am denying your attorney's demand that
9 you be promoted to a position of lieutenant at this
10 time.

11 If you wish to be considered for a promotion
12 in the future, you will need to ensure that you
13 exercise good judgment in the performance of your
14 duties at all times and conduct yourself in a
15 manner which restores our trust and confidence in
16 you."

17 Q This is the letter you sent to Mr. Kennedy on
18 February 28, 2012; correct?

19 A Yes, yes.

20 Q Mr. Garrick, from your perspective had that
21 concluded the matter with Mr. Kennedy?

22 A Yes.

23 Q Do you believe you gave him, as you said, the
24 benefit of the doubt?

25 A I definitely did. Based on everything I saw and

1 was presented with, I gave him the benefit of the
2 doubt. I put him back to work.

3 Q Okay. When did you next hear there was a problem
4 with Mr. Kennedy after that?

5 A I think around October 2012 -- September,
6 October 2012.

7 Q Did Ms. Batchelder make you aware of those
8 concerns?

9 A Yes, she did.

10 Q Okay. Did she discuss them with you at the time?

11 A Yes, she did.

12 Q Did you meet with Mr. Kennedy in connection with
13 the October 2012 incident?

14 A No, I didn't.

15 Q But you were aware that Ms. Batchelder terminated
16 his employment; is that correct?

17 A I was aware that she recommended his termination,
18 yes.

19 Q And he did not appeal that to you to come back and
20 talk to you and explain the situation to you; is
21 that correct?

22 A Although I had met with Mr. Kennedy back in
23 May 2011, he knew he could have come to me and we
24 could have sat down. We could have talked again.
25 He did not do that.

1 Q And in Ms. Batchelder's letter, she referred about
2 his right to appeal to you; right?

3 A Exactly, yes.

4 Q And could he have come in and showed you phone
5 records and brought you documents and brought you
6 his cell phone or whatever he wanted to do during
7 that meeting?

8 A Yes, he could have. That was the purpose of an
9 appeal.

10 Q But he didn't ask to do that?

11 A No.

12 Q All right. So when he didn't appeal it to you, at
13 some point did you become familiar with the facts
14 and circumstances about why Ms. Batchelder was so
15 concerned about his October 2012 conduct?

16 A Yes.

17 Q And did you agree with Ms. Batchelder that
18 originally that would have been an issue you would
19 just address to employees about clarifying the
20 policy and move on?

21 A Based on what I saw initially, that's what we would
22 have done.

23 Q So is the issue about whether he did or didn't show
24 Ms. Jones the video?

25 A No, not at all, not at all.

1 Q What fundamentally was the problem that
2 Ms. Batchelder concluded was a problem with
3 Mr. Kennedy in October 2012 and that you
4 ultimately, I assume, agreed with?

5 A I agreed with it. We have a culture of excellence
6 in Richland School District Two. That's a culture
7 of excellence for our students, our staff members,
8 and an expectation to help us with our parents, a
9 culture of excellence.

10 Now, one of the buzz words over the last few
11 years that we hear constantly from our students and
12 in the community is bullying. When I read what had
13 happened or I was apprized of what had happened
14 between Ms. Jones and Mr. Kennedy, I wholeheartedly
15 agreed with what Ms. Batchelder did because I
16 considered that bullying.

17 Q Falling on the heels of your letter in February
18 of 2012, reiterating your expectations that it's
19 his job to restore your confidence in him, did this
20 behavior in October 2012 restore your confidence in
21 Mr. Kennedy?

22 A Not at all.

23 Q And do you --

24 A And that was the purpose. I gave him a chance to
25 go back to do what he needed to do to restore our

1 confidence and maybe down the line get that
2 promotion.

3 Q But in light of his conduct in October 2012, did he
4 leave you with any options?

5 A None.

6 Q Thank you.

7 MS. LONG-MAHONEY: I don't have any further
8 questions.

9 THE COURT: Any cross?

10 MS. PEAVY: Yes, Your Honor. Thank you.

11 **CROSS EXAMINATION**

12 BY MS. PEAVY:

13 Q Mr. Garrick, we met previously. We've been here
14 all week. My name is Rachel Peavy. I'm the
15 attorney for Jeffery Kennedy.

16 A Yes.

17 Q Your June 27, 2011, letter --

18 A Uh-huh.

19 Q -- that's been marked as Plaintiff's Exhibit 5, you
20 had thoroughly reviewed the evidence that you had
21 in your possession at that time; is that correct?

22 A Yes.

23 Q All right. And you found that other individuals
24 did enter into many of the areas where the thefts
25 occurred and that some of them had keys to those

- 1 secured areas?
- 2 A Yes.
- 3 Q Is that correct?
- 4 A Yes.
- 5 Q Okay. Who were those other people that had access
- 6 and opportunity?
- 7 A Other employees in the school.
- 8 Q Okay. Did you meet with those other employees?
- 9 A Not every one of them.
- 10 Q Okay.
- 11 A I talked to some of them.
- 12 Q Okay. But you didn't talk to all of them?
- 13 A No.
- 14 Q Did you meet with them with -- did Chuck Earles sit
- 15 in on those meetings?
- 16 A No.
- 17 Q Did Eric Barnes?
- 18 A No.
- 19 Q Did Chuck Earles know about these other individuals
- 20 who had keys and access at the same time that the
- 21 thefts were reported?
- 22 A I can't answer that question.
- 23 Q Okay. Did Eric Barnes know about those people?
- 24 A I can't answer that also.
- 25 Q Okay. But you knew about them; correct?

- 1 A I knew about?
- 2 Q That there were other people that you could
- 3 identify --
- 4 A Yes.
- 5 Q -- that had keys?
- 6 A Yes.
- 7 Q And that were there on the same date and time that
- 8 the items, the money went missing; correct?
- 9 A I could identify other people that were there.
- 10 Q Uh-huh.
- 11 A In individual instances.
- 12 Q Uh-huh.
- 13 A I could not identify anybody else that was there in
- 14 all of those instances.
- 15 Q Okay. But there were other people who had keys and
- 16 access? Is that a fair assessment based on your
- 17 letter?
- 18 A Yes.
- 19 Q Okay. And you've been here all week so you heard
- 20 Mr. Eric Barnes testify with some emotion that
- 21 Richland Two was a wonderful place to work, that it
- 22 would bend over backwards for its employees. Is
- 23 that an accurate characterization of his testimony?
- 24 A Yes.
- 25 Q Okay. You don't consider that to be a bad thing,

1 do you?

2 A What to be a bad thing?

3 Q That Richland Two gives its employees the benefit
4 of the doubt.

5 A That's why I put him back to work.

6 Q And if Richland Two is a wonderful place to work
7 for members of the community -- you've got a lot of
8 longtime employees -- that's not a bad thing
9 either, is it?

10 A No.

11 Q You're trying to cultivate your employees; correct?

12 A Yes.

13 Q That's part of the best practices of being a Human
14 Resources professional; correct?

15 A We hire and we want to retain who we hire.

16 Q Okay. I think it's undisputed you have years of
17 experience. You were the Chief Human Resources
18 Officer at the time these events were occurring.
19 So you're certainly qualified to determine when a
20 Human Resources matter involving an employee is
21 sensitive. Is that fair?

22 A Yes.

23 Q And you're able to determine, based on your years
24 of experience, when it's handled well, when it's
25 handled properly. Is that fair?

1 A Yes.

2 Q Okay. And is part of handling a sensitive employee
3 issue ensuring that the employee's privacy is
4 protected?

5 A Yes.

6 Q And that confidential information about an employee
7 is kept confidential?

8 A That's one of our hallmarks.

9 Q Okay. So here today -- you've been here all
10 week -- so you heard the testimony of Mr. Jim
11 Childers; correct?

12 A Yes.

13 Q Okay. And he's a longtime Richland Two employee
14 and he is the Assistant Principal at Spring Valley;
15 correct?

16 A Yes.

17 Q And you heard him testify about how he dealt with
18 the situation involving Ms. Larrine Jackson, didn't
19 you?

20 A Yes.

21 Q Okay. How he protected her and her reputation from
22 any rumor or innuendo that would flow from him
23 removing the key from her. Is that fair?

24 A He sought to do that, yes.

25 Q Okay. And did Jim demonstrate the culture of

1 excellence that Richland Two strives for in that
2 situation with Ms. Jackson?

3 A I think he was very fair and very smart to do what
4 he did.

5 Q Okay. So he was discrete about the situation;
6 correct?

7 A Yes.

8 Q He spoke to people directly on a need-to-know
9 basis. I think he testified he told maybe two or
10 three people about his action. Is that fair?

11 A Yes.

12 Q Okay. And in your professional opinion, based on
13 your years of experience, Jim Childers in dealing
14 with Ms. Jackson and the taking away of the keys,
15 his actions were appropriate, professional, and in
16 accordance with the best practices. Is that fair?

17 A Yes.

18 Q Okay. There was no memo floating around that,
19 "We've taken the keys away from Ms. Jackson"?

20 A Not that I know of.

21 Q And you have no reason to doubt Mr. Childers's
22 testimony that he dealt with it quietly and
23 discreetly on a need-to-know basis by verbally
24 informing the two or three people that needed to
25 know that he was taking away that key; correct?

1 A Yes.

2 Q Okay. So nothing was left out in any break room in
3 the Administration Building letting people know,
4 Ms. Jackson is not to have keys anymore; correct?

5 A I didn't hear anything about that.

6 Q Okay. And there wasn't anything in any vehicles
7 that Richland Two employees used in the course of
8 their employment that said the keys have been
9 removed from Ms. Jackson's custody, correct, that
10 you know of?

11 A Not that I know of.

12 Q And listening to Mr. Childers's testimony this
13 week, you must have been pleased to hear about how
14 that was dealt with?

15 A Very much so.

16 Q And that's what you strive for; correct?

17 A Exactly.

18 Q Okay. That's the culture of excellence that
19 Richland Two wants to perpetuate?

20 A That's what we strive for.

21 Q So that sensitive HR matters are handled well,
22 they're handled privately, and that confidential
23 information is kept confidential?

24 A (Nods in the affirmative.)

25 Q Okay. And looking at another situation where

1 you're hearing testimony from current Richland Two
2 employees that a confidential memo stating that
3 Jeffery Kennedy, who was in the Security Division,
4 was not to have any keys, you hearing that it was
5 left out in the watch room, that it was present in
6 Richland Two vehicles, that Lieutenant John Reid
7 said, "Everyone could put two and two together and
8 know what was going on," that's not the culture of
9 excellence that you want to strive for? That
10 doesn't reflect the culture of excellence?

11 A No.

12 Q Okay. So after sitting here this week, it's
13 disappointing to you, as a respected HR
14 professional, to hear that confidential employee
15 information, sensitive information, information
16 that could be damaging to an employee's reputation
17 if it got out, it's disheartening to hear that, in
18 fact, it did get out; correct?

19 A It's disheartening to find out that it did get out.

20 Q Uh-huh.

21 A What's more important to me is how it got out.

22 Q Uh-huh.

23 A Did one of our employees put it out there?

24 Q Okay.

25 A And I've heard nothing to say that.

1 Q Okay. Well, you've heard your own employees and I
2 think it was Captain Permenter. He is a long time
3 employee. He's been promoted over the years. You
4 heard lieutenant John Reid. He is a great fellow,
5 another respected employee. You heard Barry
6 Mitchell who worked there for a long time. He
7 decided to resign.

8 Anyway, you heard from them that, in fact,
9 what's been marked as Plaintiff's Exhibit 4 -- and
10 I'll show it to you, sir, because I know this is
11 your first day up here -- you heard testimony from
12 all those individuals that, in fact, this e-mail,
13 which was from Chuck Earles and was sent to all
14 Richland Two supervisory level employees and Traci
15 Batchelder, that this confidential memo had, in
16 fact, been printed out and left out for rank and
17 file staff to see. Isn't that accurate?

18 A No, ma'am.

19 Q Okay. So your testimony here today is that the
20 gentlemen who were here previously in the week, the
21 Richland Two employees who testified to that, you
22 never heard that testimony?

23 A They said they saw it in these places.

24 Q Right.

25 A But they never said Chuck Earles or Eric Barnes or

1 who --

2 Q Right.

3 A -- put it in these places.

4 Q Oh, correct. But will you agree with me that this
5 e-mail was written and sent by Chuck Earles, and it
6 was only delivered to the people that were listed
7 here; correct?

8 A Exactly.

9 Q Okay. So someone printed it out who received it;
10 correct?

11 A If it happened the way they say it did, someone had
12 to do that.

13 Q Okay. So someone who received this e-mail printed
14 it out and it was left out, if the testimony of the
15 current Richland Two employees is to be believed,
16 John Reid and Mr. Permenter, Captain Permenter?

17 A I would agree if that is to be believed, but there
18 are all kinds of ways that that could have gotten
19 out.

20 Q Well, someone would have received this e-mail and
21 printed it out; right? That's how it becomes paper
22 sitting here instead of just in someone's inbox;
23 right?

24 A What's more important to me is if that was done --

25 Q Uh-huh.

1 A -- and one of those people that it's addressed to
2 go to or Mr. Earles put it out there, and I have
3 nothing at this point to say that one of them did
4 that.

5 Q Okay. So Mr. Earles testified he didn't print it
6 out --

7 A Exactly.

8 Q -- and leave it out in the office, and Eric Barnes
9 testified he didn't print it out --

10 A Exactly.

11 Q -- and leave it in the office. But it would be
12 logical that whoever printed it out received it in
13 their inbox; right?

14 Because they are the people who are checking
15 their inbox, pulling their e-mails up on their
16 screen and deciding if they are going to print the
17 e-mail out; right?

18 A And it could be one of those people it went to --

19 Q Uh-huh.

20 A -- who printed it out.

21 Q Yeah.

22 A And gave to it Mr. Kennedy.

23 Q Uh-huh. Well, the testimony wasn't that it was
24 being given to Mr. Kennedy. The testimony was that
25 it was sitting out in the shift room where they

1 would come in to deal with things at the beginning
2 and end of shift and where other people would come
3 by. Then also the testimony was that it was in the
4 Richland Two trucks.

5 A And that was the testimony.

6 Q Okay.

7 A But as far as I'm concerned, I don't know that as a
8 fact.

9 Q Okay. So if Captain Permenter testified that he
10 saw it laying out in the watch room, Anthony
11 Permenter -- he is a captain, worked at the
12 District for a long time -- you don't give much
13 weight to that?

14 A Well, ma'am, you brought it up.

15 Q Oh, I know.

16 A Angela Permenter is Captain Permenter's wife.

17 Q Right.

18 A She received it.

19 Q Right.

20 A It could have gotten from Angela Permenter to
21 Captain Permenter to Mr. Kennedy.

22 Q So Angela Permenter printed it out and left it in
23 the room?

24 A I'm not saying that. I'm telling you what it could
25 have been. I have not heard yet who did that.

- 1 Q Okay. Right.
- 2 A And that's what's important to me because if I know
- 3 who did that --
- 4 Q Uh-huh.
- 5 A -- that goes back to what we were talking about
- 6 earlier and that confidentiality.
- 7 Q Uh-huh.
- 8 A It's marked confidential.
- 9 Q Right.
- 10 A If one of our people took confidential information
- 11 and left it lying around --
- 12 Q Uh-huh.
- 13 A -- I want to know that.
- 14 Q Oh, of course.
- 15 A Because I want to address it.
- 16 Q Of course.
- 17 A Right.
- 18 Q Because that's not the best practice?
- 19 A Certainly not.
- 20 Q That's not the culture of excellence?
- 21 A Certainly not.
- 22 Q To leave confidential information out that could
- 23 really hurt an employee; correct?
- 24 A I agree.
- 25 Q Okay. And you agree that this would be hurtful to

1 Mr. Kennedy if it got out? Outside of the
2 supervisory staff, it would be hurtful; right?

3 A It would be hurtful to Mr. Kennedy, and --

4 Q That's why it's marked confidential; right?

5 A It would be hurtful to Mr. Kennedy if one of these
6 people did that.

7 Q Uh-huh.

8 A But if Angela Permenter gave it to her husband,
9 Mr. Permenter, and he then gave it to Mr. Kennedy
10 and he left it out, then I think that's
11 intentional.

12 Q Well, so your testimony is that you think
13 Mr. Kennedy would have a motive to let everyone
14 know --

15 A No.

16 Q That --

17 A No.

18 Q -- his supervisors considered him to be dishonest
19 and untrustworthy?

20 A No, I'm not saying that at all.

21 Q Oh, okay.

22 A You are telling me what you think it could be.

23 Q Okay.

24 A I'm telling you what I think it could be.

25 Q Okay.

- 1 A And at the same time what I want to know.
- 2 Q Uh-huh.
- 3 A Chuck Earles testified that he did not leave it
- 4 out.
- 5 Q Right.
- 6 A Eric Barnes testified that he did not leave it out.
- 7 Q Okay.
- 8 A Okay. If one of these other people who received it
- 9 is the one who left it out --
- 10 Q Okay.
- 11 A -- and we haven't heard that.
- 12 Q Uh-huh.
- 13 A That's what I want to know because I want to deal
- 14 with that person.
- 15 Q Right. Okay. So you don't dispute the testimony
- 16 that it was left out. You just don't know who
- 17 printed it out and left it out?
- 18 A I don't know if it was left out or not.
- 19 Q Okay. So listening to your employees on the stand,
- 20 you don't know if you believe them?
- 21 A I don't know if it was left out. That's what they
- 22 said. I don't know that.
- 23 Q Okay.
- 24 A And if you show me who left it out --
- 25 Q Uh-huh.

- 1 A -- then we can take up that matter.
- 2 Q All right. When you interviewed or when you sat in
3 on the May 5th meeting with Mr. Kennedy and Traci
4 and I think Chuck Earles was there too, at that
5 point had Traci shared with you her notes from the
6 March 29th meeting?
- 7 A On May 5th?
- 8 Q Yes, sir.
- 9 A I believe so.
- 10 Q Okay. So she had gone through with you what she
11 had heard from Mr. Kennedy back March 29th?
- 12 A I believe so.
- 13 Q Okay. So on March 29th Ms. Batchelder, who she is
14 your trusted deputy; correct?
- 15 A She is one of several employees that work with me.
- 16 Q Uh-huh.
- 17 A We work together.
- 18 Q Okay.
- 19 A In the HR Department, yes.
- 20 Q Were you her boss at the time?
- 21 A I am over the entire division.
- 22 Q Okay. That's what I thought.
- 23 A She has an executive director that she reports
24 directly to.
- 25 Q All right. And so on March 29th she is

1 interviewing Mr. Kennedy just trying to get his
2 version of events, and that's about a month after
3 the events in question; correct?

4 A Uh-huh.

5 Q And then when you are meeting with him on May 5th,
6 that's two months after the night in question that
7 you're asking him about; correct?

8 A Approximately.

9 Q Okay. And you testified you felt that his
10 responses were inconsistent?

11 A Yes.

12 Q And that gave you pause?

13 A Yes.

14 Q Okay. It's fair to say that you're trying to
15 promote a culture of excellence at Richland County,
16 and you're hearing repeated statements from a
17 Richland Two employee that they're wasting time on
18 their shift?

19 A Yes, ma'am.

20 Q Okay. So he was always consistent that he wasted
21 time on his shift; correct?

22 A Yes.

23 Q And he was always consistent that he would just be
24 wasting time going to the break room, wasting time
25 looking at a magazine, wasting time having a drink

1 of water; correct?

2 A Yes.

3 Q And that would have been deeply upsetting to you as
4 a Human Resource professional; correct.

5 A It was.

6 Q And did you -- when you heard this information
7 about a security guard, he is telling you himself,
8 "I waste time on my shifts. Every shift I'm
9 wasting time. You're showing me -- you're asking
10 me about evenings two months ago, yeah, I was
11 wasting time." Correct?

12 A Yes.

13 Q Okay. At that point did you speak with the
14 supervisors, the shift supervisors, the captain and
15 lieutenant who had supervised Mr. Kennedy during
16 those third shifts, and find out, "Hey, is this
17 what's going on with these shift guys? They're
18 wasting a bunch of time"?

19 A No.

20 Q Okay. Did you speak with them and find out, you
21 know, "I'm hearing from a rank and file security
22 officer that there's a lot of wasting time going
23 on. Can you tell me what the ordinary night is
24 like for third shift?"

25 A No.

1 Q Okay. So you were extremely upset by Mr. Kennedy
2 telling you that he wasted time on his shifts, but
3 you didn't pursue further inquiry into whether that
4 was the ordinary course of third shift?

5 A No, I didn't.

6 Q Okay.

7 A Because we don't want any employees wasting time.

8 Q Oh, of course not. That's not part of what you're
9 looking for Richland Two to live up to is for
10 employees to waste time; correct?

11 A Right.

12 Q And you've never overseen the Security Division,
13 correct, at Richland Two?

14 A No.

15 Q Okay. And you don't know the ebb and flow and sort
16 of the normal course of third shift in the Security
17 Division, do you?

18 A No.

19 Q Okay. So if Mr. Kennedy told Ms. Batchelder and
20 told you that, you know, "This is the way I've
21 always done it. I've always wasted time on my
22 shift," you don't have any knowledge if that's
23 incorrect, do you?

24 A I don't have any knowledge that's incorrect.

25 Q Okay.

1 A But if he told me what you just stated, if he told
2 me that, I'm going to tell him just what I told
3 him.

4 Q Oh, yeah. You were very clear that you wanted him
5 to step it up a notch in terms of productively
6 using his time?

7 A Exactly.

8 Q And you wanted him to step it up a notch in terms
9 of not frittering away District resources by
10 sitting around in the break room 20 minutes, having
11 a soda, maybe calling his wife, whatever it was;
12 right?

13 A Whatever wasting time is.

14 Q Okay. All right. Now, you felt when you wrote the
15 letter to Jeffrey advising him of where you were on
16 June 27, 2011, you felt you had thoroughly reviewed
17 the matter; is that correct?

18 A Yes.

19 Q Okay. And that's based on your years of experience
20 dealing with HR matters; correct?

21 A Yes.

22 Q Was part of your thorough review of the matter
23 viewing all the security footage from the time when
24 Mr. Hunter left the Athletic Department, I think it
25 was around 10:30, until he came back the next

1 morning?

2 A No.

3 Q Okay. Was that made available to you?

4 A Some of the footage was made available to me. What
5 I particularly asked for --

6 Q Uh-huh.

7 A -- after I met with Mr. Kennedy --

8 Q Uh-huh.

9 A -- and he told me what he did as far as his routine
10 on the night of February 28th, March 1st time
11 period.

12 Q I want to focus on the Athletic Department, and
13 then I'll allow -- I'll get into the Administration
14 Building. Okay. Let's just keep it on the
15 Athletic Department because it's two separate
16 buildings.

17 Was the video footage from Mr. Hunter's
18 departure on the evening of March 3rd until his
19 arrival on the morning of March 4th, was that made
20 available to you?

21 A Okay. And you stopped me before I could tell you.

22 Q Okay.

23 A You asked what was made available to me.

24 Q Uh-huh.

25 A I met with Mr. Kennedy.

- 1 Q Right.
- 2 A During our meeting he gave me reason to go back and
3 look.
- 4 Q Right.
- 5 A Because of some inconsistencies.
- 6 Q Right.
- 7 A So, no, I didn't go back to the Athletic
8 Department. I went back to the administrative area
9 where he told me that he came in.
- 10 Q Uh-huh.
- 11 A He spent some time, he left out, and that was the
12 end of his shift.
- 13 Q That --
- 14 A That's --
- 15 Q -- was the end of his shift or the end of his --
- 16 A -- the end of his time at Spring Valley.
- 17 Q Okay.
- 18 A That's the part I went back and reviewed because in
19 my review I don't remember him doing that. I
20 remembered him continuing.
- 21 Q Uh-huh.
- 22 A So I wanted to make sure that what I had in the
23 beginning was accurate.
- 24 Q Uh-huh.
- 25 A And I wanted to see if what he was telling me was

- 1 accurate.
- 2 Q Okay.
- 3 A And I went back and I reviewed that.
- 4 Q Uh-huh.
- 5 A And found that what he was telling me was not
- 6 accurate.
- 7 Q Okay.
- 8 A So that's what I reviewed.
- 9 Q Okay.
- 10 A No, I didn't review anything over in the Athletic
- 11 Department after that time.
- 12 Q Did you ever review the video from the Athletic
- 13 Department?
- 14 A Yes.
- 15 Q Okay. Did you review the entire footage from when
- 16 Mr. Hunter left to when Mr. Hunter arrived the next
- 17 morning?
- 18 A No.
- 19 Q What did you review?
- 20 A I reviewed the coming in of the two security
- 21 guards.
- 22 Q So the snapshot with Mr. Kennedy and John Reid?
- 23 A Uh-huh.
- 24 Q Lieutenant Reid.
- 25 A Uh-huh.

- 1 Q Okay.
- 2 A And then when he came back.
- 3 Q Yeah.
- 4 A And went back out.
- 5 Q Okay. So the snapshot at 10:45 or so when he and
- 6 Lieutenant Reid arm it?
- 7 A Uh-huh.
- 8 Q And then the snapshot at 5:45 or so when he is
- 9 disarming it?
- 10 A Uh-huh.
- 11 Q Okay. All right. Did you ever explore -- strike
- 12 that. Did you ever speak with the members of the
- 13 baseball team and baseball staff that came back
- 14 that night?
- 15 A No.
- 16 Q All right. But you were aware that they too had
- 17 been in the building sometime after midnight, I
- 18 think the testimony has been; is that correct?
- 19 A I think I was aware of that sometime later.
- 20 Q Okay. Well, if Ms. Batchelder was aware of the
- 21 contention that the baseball team had come back and
- 22 there's been testimony to that effect, you would
- 23 have no reason to doubt that; correct?
- 24 A No, not at all.
- 25 Q So when you acknowledge in your letter that during

1 the timeframe of these incidents, "I have found
2 that other individuals did enter into many of these
3 areas with some of them having keys to the
4 appropriate secured areas," are you referring to
5 the baseball team coming back late that night?

6 A I'm referring to the fact that other people had
7 access, be it the baseball team, be it District
8 employees, whoever.

9 Q Okay. So you had knowledge on June 27th that other
10 people had access and keys to the Athletic
11 Director's Office when they were saying Mr. Kennedy
12 also had access?

13 A Uh-huh.

14 Q Of keys?

15 A Yes.

16 Q All right.

17 A That's why I gave him the benefit of the doubt.

18 Q Yes.

19 A And that's why he was put back to work.

20 Q Right. And that's conveyed in your letter very
21 clearly.

22 A Yes.

23 Q Your correspondence is very clear. The same holds
24 true for the Administration Building. You're
25 saying here you've reviewed the evidence. Other

1 people had keys. Other people had access and
2 opportunity on the days when these items were
3 reported missing; correct?

4 A Other people had keys; other people had
5 opportunities.

6 Q Uh-huh.

7 A On different -- at different times.

8 Q Uh-huh.

9 A There was one common denominator.

10 Q Uh-huh.

11 A Mr. Kennedy.

12 Q Okay. And if Mr. Kennedy was working all those
13 days, he would, of course, be a common denominator;
14 correct?

15 A Yes, he would.

16 Q Okay.

17 A But on each of those, there was extra time spent --

18 Q Right.

19 A -- off camera.

20 Q The wasting of the time; right?

21 A Or whatever was going on.

22 Q But he testified he was wasting time; correct?

23 A That's what he told me.

24 Q Okay. I say he testified. He told you that. And
25 the testimony has been that from the Security

1 Division's perspective when there is a report of a
2 theft in Richland Two, the security guards are
3 always -- who are on shift that time -- they're
4 always going to be investigated; correct?

5 A If that's what he testified.

6 Q But, I mean, wouldn't that be standard practice in
7 terms of if there is a security guard working on
8 the day in question when something goes missing,
9 you're going to look at the security guard because
10 presumably the security guard has keys and access;
11 correct?

12 A I wouldn't think so because if they're doing what
13 they're supposed to be doing, there is no need to
14 investigate them.

15 Q Well, if the Security Division says that that's
16 kind of a baseline, "We always look at security
17 first because they have got access and they're
18 working," you wouldn't have any quarrel with that,
19 would you?

20 A No.

21 Q All right. Did you find it odd that a man who just
22 got put up for a promotion, who had a good
23 reputation, married with kids, had grandkids, would
24 steal?

25 A It's odd but I've never said he stole anything.

- 1 Q Oh, I'm not saying that. I'm just saying he was
2 investigated.
- 3 A Uh-huh.
- 4 Q Chuck Earles and Eric Barnes thought he did it. Is
5 that fair to say?
- 6 A Well, you'd have to refer to their testimony for
7 that.
- 8 Q Okay. We saw Eric Barnes get agitated talking
9 about how Richland Two is a great place to be an
10 employee, you know, over the rainbow, what have
11 you. He thought he should have been -- his
12 testimony was he thought he should have been let
13 go; correct?
- 14 A If that's what you say.
- 15 Q Okay. So, you know, we've talking about
16 inconsistencies. You're in Human Resources so you
17 deal with human nature all the time, correct,
18 employees?
- 19 A I deal with employees all the time, yes.
- 20 Q So it is odd that someone who is on the up and up
21 who has got a lot to lose would decide to steal
22 just when they had been recommended for a
23 promotion; right?
- 24 A I can't comment on that.
- 25 Q Okay. But just generally you think it's odd? I

1 think you just testified it's odd.

2 A I wouldn't -- I would wonder why somebody would do
3 that, yes.

4 Q Right, right. Did you ever speak with Captain Z.,
5 Captain Zerzicki, about Mr. Kennedy?

6 A No.

7 Q All right. Did you ever speak with Lieutenant
8 Young, who was the shift supervisor that night,
9 about Mr. Kennedy?

10 A No.

11 Q So on the night when he is alleged to have acted
12 suspiciously, acted inconsistent, you didn't speak
13 with Mr. Kennedy's direct supervisors who were also
14 there that night to make any further inquiries;
15 correct?

16 A No.

17 Q Did you direct Traci Batchelder to do that?

18 A No.

19 Q Okay.

20 A And I don't need to talk to his supervisors to
21 determine somebody that tells me they're wasting
22 time --

23 Q Okay.

24 A -- that they're wrong. I don't need to talk to his
25 supervisors about that.

- 1 Q He is admitting to you he is wasting time?
- 2 A Right.
- 3 Q He is not trying to hide that from you?
- 4 A Right.
- 5 Q You're the head of HR?
- 6 A And that's why I don't need to talk to their
- 7 supervisors.
- 8 Q So he is being honest and telling you, "I waste
- 9 time during my shift." Right?
- 10 A Uh-huh.
- 11 Q And you believed him that he was wasting time;
- 12 right?
- 13 A Yes.
- 14 Q The evidence showed he was wasting time --
- 15 A Yes.
- 16 Q -- in your opinion. We've talked a little bit
- 17 about how Traci would have informed Jeffrey when
- 18 she terminated him after he declined to resign,
- 19 after she terminated him that he would have had the
- 20 right to appeal through the Richland grievance
- 21 measures --
- 22 A Yes.
- 23 Q -- or what have you. Jeffrey had been trying to
- 24 get this promotion back for a while. He had
- 25 requested, "Am I going to get my promotion?" In

1 June you said to him, "You're not going to get it.
2 I want to see you using your time better. I want
3 to see you using District resources better." You
4 didn't feel he was ready. Everyone has testified
5 that's your decision. HR makes the final decision
6 on any promotion?

7 A Yes.

8 Q Okay.

9 A But I also wanted to make sure he was honest.

10 Q Right.

11 A And forthright.

12 Q Okay.

13 A Those type things also. It was just not the
14 wasting time.

15 Q Right.

16 A It was a combination of all those things.

17 Q Okay. And did you feel that wasting time while
18 you're on shift, did you feel like that was being
19 dishonest or was that just being not a great
20 employee at that time?

21 A No. But when he told me what he did as far as his
22 routine --

23 Q Uh-huh.

24 A -- that was being dishonest.

25 Q Okay. And how many years of videotape did you

1 review to establish what Mr. Kennedy's routine was?

2 A Well, I didn't have to look at years of videotape

3 to establish that.

4 Q Okay.

5 A Because I asked him specifically on that night.

6 Q Okay.

7 A "What did you do?"

8 Q Okay.

9 A And he said he came in.

10 Q Uh-huh.

11 A He spent the 20 minutes or so inside.

12 Q Right.

13 A He exited.

14 Q Uh-huh.

15 A And that was the end of his time at Spring Valley.

16 Q Uh-huh.

17 A I said, "Are you sure?"

18 Q Because, in fact, he went back around to the front

19 door and dealt with the keypad; right?

20 A I said, "Are you sure?"

21 Q Uh-huh.

22 A And he said, "Yes, I'm sure."

23 Q Okay.

24 A That was it.

25 Q Okay.

1 A Then I observed him and I go back and look at the
2 video again. I observe him going back around --

3 Q Uh-huh.

4 A -- and going in and turning off lights.

5 Q Okay.

6 A That was dishonest.

7 Q All right. And you're here today and you're
8 testifying to these meetings in 2011, and you'll
9 agree with me that if you're asking Mr. Kennedy in
10 May what he did on a night two months prior or so
11 in February, he may have spoken incorrectly; right?

12 A And all he had to do was say, "I don't remember."

13 Q Okay. But he didn't say that?

14 A He didn't --

15 Q And he told you --

16 A -- and I asked him several times.

17 Q Okay. So he told you what he thought he had done
18 and that was incorrect?

19 A Exactly.

20 Q Okay. Just one minute. I just want to check.

21 A Okay.

22 (Pause.)

23 MS. PEAVY: Mr. Garrick, thank you for your
24 time.

25 THE COURT: Any redirect?

1 MS. LONG-MAHONEY: Just a couple brief
2 questions, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. LONG-MAHONEY:

5 Q Mr. Garrick, you also heard testimony throughout
6 this trial that Mr. Kennedy told some of the
7 Richland Two employees he worked with that he was
8 being investigated for stealing money; is that
9 correct?

10 A Yes.

11 Q So that's an example of Mr. Kennedy spreading
12 rumors about himself; is that correct?

13 A Yes.

14 Q And this e-mail has been talked about. We've all
15 been sitting here --

16 A Yes.

17 Q -- for four days, a lot.

18 A Yes.

19 Q Okay. But looking at this e-mail, it's marked
20 confidential at the top. It's from a supervisor to
21 supervisors, and you indicated the security is
22 24/7; is that correct?

23 A Yes.

24 Q So there are people who are supervising an
25 11:00 P.M. to 7:00 A.M. shift or thereabouts;

1 right?

2 A Right.

3 Q And Chuck Earles isn't out there at 11:00 P.M., is
4 he?

5 A No.

6 Q So he has to communicate somehow to these 24/7
7 supervisors; is that correct?

8 A Right.

9 Q And under that he puts in bold, "The information
10 contained in this e-mail is confidential and will
11 only be shared with other District security
12 supervisors as needed when they will be supervising
13 Mr. Kennedy."

14 Was that an appropriate, in your professional
15 opinion, addition to what's already marked as a
16 confidential e-mail only sent to supervisors?

17 A Yes.

18 Q And in this e-mail does it say, "Mr. Kennedy is a
19 thief and can't be trusted"?

20 A No.

21 Q Anywhere in this e-mail?

22 A No.

23 Q What does it say? It says, "He is not to be given
24 any assignment that involves having keys to any
25 District facility."

1 A That's what it says.

2 Q Is that an appropriate statement for a supervisor
3 to tell other supervisors in a highly confidential
4 e-mail to ensure that Mr. Kennedy didn't have keys?

5 A Yes.

6 Q And was the decision not to give Mr. Kennedy keys
7 an appropriate decision under all the facts and
8 circumstance you testified to about all the
9 concerns you have with him, even when you gave him
10 the benefit of the doubt and put him back to work?

11 A It's very appropriate in that he's going to a
12 position he doesn't needs keys.

13 Q Thank you.

14 MS. LONG-MAHONEY: Nothing further.

15 THE COURT: You may step down. Thank you.

16 (The witness leaves the witness stand.)

17 THE COURT: Are there any further witnesses by
18 the defense?

19 MR. BARLOW: There are not. The defense
20 rests.

21 THE COURT: Do we have any rebuttal?

22 MS. PEAVY: Yes, Your Honor. We'd like to
23 recall Mr. Kennedy to the stand.

24 MR. BARLOW: Your Honor, could I approach a
25 minute?