

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

OCT 27 2017

APPEAL FROM CHARLESTON COUNTY
R. Markley Dennis, Jr., Circuit Court Judge

S.C. SUPREME COURT

John Doe 2 Appellant,

v.

The Citadel.....Respondent.

APPENDIX VOLUME III OF V

W. Mullins McLeod, Jr.
Jacqueline LaPan Edgerton
McLeod Law Group LLC
P.O. Box 21624
Charleston, South Carolina 29413
(843)277-6655
Attorneys for Appellant

M. Dawes Cooke, Jr.
Randall C. Stoney, Jr.
Barnwell, Whaley, Patterson & Helms, LLC
P.O. Drawer H
Charleston, SC 29402
843-577-7700
Attorneys for Respondent

Table of Contents

Volume I

October 29, 2015 Record on Appeal filed in the South Carolina Court of Appeals.....	1

Volume II

October 29, 2015 Record on Appeal filed in the South Carolina Court of Appeals.....	494

Volume III

October 29, 2015 Record on Appeal filed in the South Carolina Court of Appeals.....	988

Volume IV

October 29, 2015 Record on Appeal filed in the South Carolina Court of Appeals.....	1482

Volume V

October 29, 2015 Filed Final Brief of Appellant.....	1906
October 28, 2015 Filed Final Brief of Respondent.....	1952
a. Exhibit A.....	2011
b. Exhibit B.....	2027
November 13, 2015 Amended Final Brief of Respondent	2042
August 2, 2017 Opinion No. 5504.....	2103
August 23, 2017 Filed Petition for Rehearing	2115
September 5, 2017 Filed Return to Petition for Rehearing.....	2145
September 12, 2017 Filed Reply to Return to Petition for Rehearing.....	2158
September 27, 2017 Filed Order.....	2167

September 27, 2017 Refiled Opinion No. 5504.....	2169

RECEIVED

OCT 29 2015

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

Appellate Case No. 2015-001505

John Doe 2 Appellant,
v.
The Citadel.....Respondent.

RECORD ON APPEAL

VOLUME III OF IV

W. Mullins McLeod, Jr.
Jacqueline LaPan Edgerton
McLeod Law Group LLC
P.O. Box 21624
Charleston, South Carolina 29413
(843)277-6655
Attorneys for Appellant

M. Dawes Cooke, Jr.
Randall C. Stoney, Jr.
John W. Fletcher
Barnwell, Whaley, Patterson & Helms, LLC
P.O. Drawer H
Charleston, SC 29402
843-577-7700
Attorneys for Respondent

INDEX

Order Denying Defendant's [The Citadel] Motion for Summary Judgment, December 9, 2014.....	3
Form Order, June 5, 2015	70
Order Granting Defendant's [The Citadel] Renewed Motion for Summary Judgment, July 6, 2015.....	71
Complaint, March 19, 2012	84
Answer, June 20, 2012.....	106
Hearing Transcript, April 18, 2014.....	119
Hearing Transcript, June 5, 2015	144
Notice of The Citadel's Motion for Summary Judgment, March 6, 2014.....	171
The Citadel's Memorandum in Support of Motion for Summary Judgment, April 17, 2014, and all exhibits thereto	176
Doe 2's Memorandum in Opposition to Motion for Summary Judgment, April 18, 2014, and all exhibits thereto	478
Doe 2's Reply in Opposition to Motion for Summary Judgment, April 18, 2014, and all exhibits thereto.....	1335
Doe 2's Supplemental Response in Opposition to Motion for Summary Judgment, April 18, 2014, and all exhibits thereto	1355
The Citadel's Supplemental Memorandum in Support of Motion for Summary Judgment Concerning the Existence of a Duty of Care, April 28, 2014, and all exhibits thereto ..	1535
The Citadel's Notice of Motion and Renewed Motion for Summary Judgment, April 24, 2015, and all exhibits thereto	1575

Doe 2's Memorandum in Opposition to Renewed Motion for Summary Judgment, June 4, 2015, and all exhibits thereto	1825
The Citadel's Supplemental Memorandum in Support of Renewed Summary Judgment, June 4, 2015, and all exhibits thereto.....	1877

10:24:19 1

2

3

4

5

6

7

8

9

10

11

RE: SUMMER CAMP INTERVIEW

12

JULY 1, 2007

13

14

10:24:19 15

16

17

18

19

20

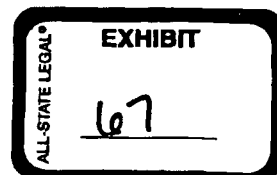
21

22

23

24

25



12:22:14 1 whether I can be effective, and I -- I'm the one who
2 represents the school at that point anyway.

3 : Right.

4 : I mean, it's -- it's an
5 outside lawyer who would handle that.

6 : Yeah. See, and one of the
7 things is, , is that, you know, what happened
8 with -- with -- with -- to and the incident of
9 having as -- as -- as basically a pedophile --

10 : Right.

11 : -- is -- is -- you know,
12 it's wrong into itself.

13 : Right.

14 : It did happen. You know,
12:22:41 15 right now is an adult, but it happened when he
16 was a minor.

17 : Right.

18 : And so when it -- when it --
19 you know, as I told you, you know, I graduated from
20 that place just like you did.

21 : Right.

22 : You know, it means something
23 to me. It means something to my family. It means
24 something to , you know, and -- and -- and his
25 whole life was -- you know, in my opinion,

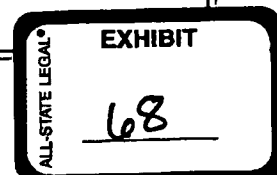
STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) CASE NO. 2011-CP-10-9200
MOTHER DOE A,)
Plaintiff,)
vs.)
THE CITADEL,)
Defendant.)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1860
JOHN DOE CAMPER,)
Plaintiff,)
vs.)
THE CITADEL,)
Defendant.)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1858
JOHN DOE 2,)
Plaintiff,)
vs.)
THE CITADEL,)
Defendant.)

DEPOSITION OF: JOHN DOE CAMPER
TAKEN: MARCH 25, 2014

CAROLINA REPORTING
843.832.0801 * www.carolina-reporting.com



1 STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
2)
3 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1859
4 MOTHER DOE 2, ON BEHALF)
5 OF JOHN DOE 3,)
6)
7 Plaintiff,)
8)
9 vs.)
10)
11 THE CITADEL,)
12)
13 Defendant.)
14)
15 STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
16)
17 COUNTY OF CHARLESTON) CASE NO. 2013-CP-10-5247
18)
19 CAMPER DOE 6,)
20)
21 Plaintiff,)
22)
23 vs.)
24)
25 THE CITADEL,)
26)
27 Defendant.)
28)
29 STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
30)
31 COUNTY OF CHARLESTON) CASE NO. 2013-CP-10-4770
32)
33 JOHN DOE, A MINOR, BY)
34 HIS GUARDIAN AD LITEM,)
35 JOHN ROE)
36)
37 Plaintiff,)
38)
39 vs.)
40)
41 THE CITADEL,)
42)
43 Defendant.)
44)
45 * * * * *

1 after the July 2007 report of sexual abuse, did
2 you ever think you needed to do any follow-up?

3 A. No.

4 Q. And could you share with me why?

5 A. Because I was raised by a Citadel
6 graduate, and I was positive that they would do
7 the right thing.

8 Q. And were you positive that they would
9 follow their own policies and procedures that you
10 had become familiar with as a camp counselor?

11 A. Yes.

12 Q. Who had the authority in 2007 as far as
13 those policies -- those camp policies and
14 procedures were concerned, to reprimand, fire or
15 discipline Skip ReVille? Would that have been
16 President Rosa, the President of The Citadel, or
17 would that have been {John Doe Camper}, the
18 19-year-old boy who had the courage to come report
19 the abuse?

20 A. President Rosa.

21 Q. Now, do you remember -- on page 114, do
22 you remember your -- Mr. Brandenburg agreeing with
23 your father that Skip ReVille was a pedophile and
24 that what he did in and of itself was wrong?

25 A. Yes.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

We COULD receive a call sometime next summer from the [REDACTED], if [REDACTED] manages to take the required classes next spring or summer. I do not anticipate that will happen, however. The cadets now at The Citadel who attended camp with [REDACTED] several years ago are currently sophomores, and will be juniors if [REDACTED]. The Citadel next fall. I doubt he will want to face them in that situation. Nonetheless, I will put this file back in the cabinet, and diary it for next spring.

Fortunately, since we now have a transcript of my interview with [REDACTED] we have an unequivocal trigger of the statute of limitations. As you know, under S.C. Code Ann. § 15-3-555, "An action to recover damages for injury to a person arising out of an act of sexual abuse or incest must be commenced within six years after the person becomes twenty-one years of age or within three years from the time of discovery by the person of the injury and the causal relationship between the injury and the sexual abuse or incest, whichever occurs later." At this point, we know that [REDACTED] has "discover(ed) .. the causal relationship" between the injuries he described in the interview and the alleged abuse. Thus, at the very latest, the statute began to run on the date of the interview in June. Unfortunately, though, since the statute provides that the limitations period does not expire until three years after that discovery or six years after the person becomes twenty-one years of age, the period arguably does not expire until [REDACTED]'s 27th birthday. That date is February 2, 2015.

As I indicated earlier, I will be happy to send you a transcript of the interview, if you wish. In the meantime, though, I am attaching a pdf version of the receipts which I collected during my trip to Dallas (I will be happy to send hard copies of these documents, or the originals, to you via regular mail, if you wish). These only consist of the flights from San Diego to Dallas and from Dallas to Charleston, and the hotel room and conference room I used in Dallas. This amount totals \$1090.55. I put all of those amounts on my personal credit card, so if you could have a check issued to me, I would appreciate it. I am also attaching a copy of the bill from the court reporter, in the amount of \$770. That bill is still outstanding, so I would appreciate you issuing a check directly to that company.

Thank you again for all of your cooperation in this incident. I am sorry we were not able to close it with a release, but I feel confident that we are well armed if [REDACTED] should ever decide to pursue a case against The Citadel.

I hope you have a wonderful Thanksgiving!

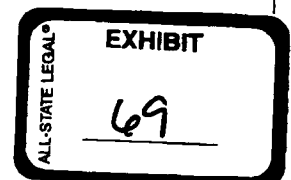
Mark

Mark C. Brandenburg
General Counsel
The Citadel
171 Moultrie Street
Bond Hall, Room 369
Charleston, SC 29409
(843) 953-5252 (office)
(843) 475-8465 (mobile)
(843) 953-7592 (fax)
mark.brandenburg@citadel.edu

From: Mark C. Brandenburg
Sent: Wednesday, August 08, 2007 10:16 AM
To: 'David Stuckey'
Cc: Dan Parris
Subject: RE: Tucker Burnum incident

David and Dan

I stopped in Dallas, Texas, after my convention trip to San Diego at the end of June. I met with [REDACTED] (the former camper / complainant) and his parents, [REDACTED]. We talked for a couple of hours, and I recently received the rough draft of the interview. I know that [REDACTED] received a copy as well, and has forwarded it on to his son. I have not received an errata sheet, however.



CITADEL 0003498

2
CONFIDENTIAL
PROTECTIVE ORDER

THE CITADEL 0000652
(FOIA 2011)

I will be happy to provide a more complete report later, and indeed, I will be happy to send an electronic copy of the transcript, if you wish. In short, though, I found [REDACTED] to be believable. His story remained the same as the one he related to me over the phone some time ago. He described one incident, in which his roommate, a fellow camper, convinced him to visit the room of a counselor at the summer camp. Once there, the counselor showed them pornographic pictures on his computer, and convinced the two campers to masturbate with him. [REDACTED] again specifically and emphatically denied that he was touched during the incident. Nonetheless, he says he felt "dirty" and ashamed as a result, and that his grades and general standard of life suffered tremendously afterward. He ultimately dropped out of his original high school, though he eventually finished school at an alternative high school and earned a high school degree. He is currently working at a grocery store in Colorado Springs (a store I perceive to be similar to an Earthfare or Whole Foods), though his parents are moving to Dallas. He seems happy with his life, and professes to be much more at peace with himself now that he has revealed this incident to his parents. He and his parents described series of visits with doctors, psychologists, psychiatrists, etc, which have finally subsided with the revelation.

Importantly, [REDACTED] identified the counselor without hesitation when I showed him pictures from the relevant time period. He had previously identified him only as "Skip." When I showed him pictures of the staff, though, he immediately identified Skip Reville, who was serving as the "senior counselor" during the year in question. Moreover, his identification of the barracks the camp was in that year, and indeed, the room in which Reville was living, was accurate. Skip, as I have reported before, denies all of this. However, Arpaio's initial denials were equally forceful, and unfortunately, ultimately proved totally false.

[REDACTED] his mother, was by far the most emotional of the three. She feels significant animosity toward the school. [REDACTED] the father, repeatedly said that he feels the school can be part of the solution, even as it was part of the problem. He is a Citadel graduate, however, and I suspect feeling much of the typical desire that graduates have to see their sons attend The Citadel. [REDACTED] seems interested in attending, though not as interested as his father is in seeing him attend.

Mark

Mark C. Brandenburg
General Counsel
The Citadel
171 Moultrie Street
Bond Hall, Room 369
Charleston, SC 29409
(843) 953-5252 (office)
(843) 475-8465 (mobile)
(843) 953-7592 (fax)
mark.brandenburg@citadel.edu

From: David Stuckey [mailto:dstuckey@irf.sc.gov]

Sent: Friday, June 15, 2007 3:48 PM

To: Mark C. Brandenburg

Cc: Dan Parris

Subject: Tucker Burnum incident

Mark,

This email will confirm our telephone conversation on June 14, 2007 in which we discussed the above incident. During the conversation, we agreed that it would be in our best interest for you to meet with [REDACTED] and his father in Colorado. During this conversation with the [REDACTED] family, we agreed that a court reporter should be present in order to record the conversation for any possible litigation in the future. Even though a claim has not been filed with either The Citadel or the Insurance Reserve Fund, we would ask that the [REDACTED] family convey in writing their intentions and expectations regarding the investigation of this incident.

CITADEL 0003499

3
CONFIDENTIAL
PROTECTIVE ORDER

THE CITADEL 0000653
(FOIA 2011)

1 charge of the summer camp; isn't that right?

2 A. Yes.

3 Q. Now, they asked you questions about the
4 interview that was dated July 1st, 2007. And he
5 asked you, does the interview accurately reflect
6 what you all talked about. And I want to ask you,
7 on the first page, Mr. Brandenburg indicates that
8 you all talked before the proceeding began; is
9 that right?

10 A. Yes.

11 Q. And you all also talked after the
12 proceeding concluded; is that right?

13 A. Yes.

14 Q. So does the interview transcript
15 encompass everything you all talked about that
16 day, or what you all talked about while the tape
17 recorder was on?

18 A. It -- what we talked about while the
19 tape recorder was on.

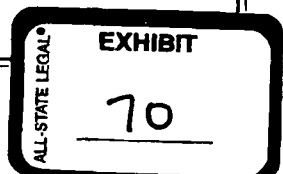
20 Q. Now, did you and your father verify from
21 Mr. Brandenburg that he was there on behalf of
22 President Rosa?

23 A. Yes.

24 Q. When Mr. Brandenburg explained to you
25 that he was a lawyer for the school and he was

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com



1 looking out for the best interest of the college,
2 did that concern you in any way?

3 A. No.

4 Q. Did you think in 2007 that looking out
5 for the best interest of the college would have
6 meant prosecuting and punishing a sexual predator?

7 A. Of course.

8 Q. So when Mr. Brandenburg told you that he
9 was a lawyer for the school looking out for the
10 school's best interest, you believed that his
11 interests were in line with yours; is that
12 correct?

13 MR. STONEY: Objection.

14 A. Yes.

15 Q. And in the interview, Mr. Brandenburg
16 acknowledges that Skip ReVille is a pedophile; do
17 you remember that?

18 A. Yes.

19 MR. STONEY: Objection.

20 Q. Did Mr. Brandenburg, President Rosa's
21 delegate, ever tell you, either during the
22 recording or before or after, that he didn't
23 believe you or that he didn't think that what you
24 said happened happened?

25 A. No.

1 Q. During the interview, did you believe
2 that President Rosa's delegate, Mark Brandenburg,
3 reassured you all that the camp had been closed?

4 A. Yes.

5 Q. And did you take that to mean that there
6 would be no further problems with the camp?

7 A. Yes.

8 Q. When he met with you -- on page 111, Mr.
9 Stoney asked you to read about compensation, but
10 if you look down further on page 109, as a
11 19-year-old boy, what did you tell President
12 Rosa's delegate that you wanted most of all?

13 A. I said, "Most of all, the thing I want
14 the most is just to make sure that Skip doesn't
15 have a chance to do this to anyone else."

16 Q. Okay. And back in 2007, were you led to
17 believe by President Rosa's delegate -- surrogate
18 that they were going to make sure that Skip
19 ReVille didn't molest any other children?

20 MR. STONEY: Objection.

21 A. Yes.

22 Q. Was that the whole reason why your
23 family spent the money to travel to Dallas to
24 provide this statement?

25 A. Yes.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

11:35:34 1 A. And he at that time pulled out his penis and
2 started masturbating and asked us to join him, and I
3 got up, said I was tired, went to the bed and just
4 said I was going to fall asleep and --

5 Q. Okay.

6 A. -- just go to sleep.

7 Q. This was in his room?

8 A. That's right.

9 Q. Okay.

10 A. He -- he kind of got a little aggressive and
11 was asking me to come back to the computer and join
12 them --

13 Q. All right.

14 A. -- which I ended up doing.

11:36:14 15 Q. Was over there with him?

16 A. That's right.

17 Q. Okay. And had he joined?

18 A. That's right.

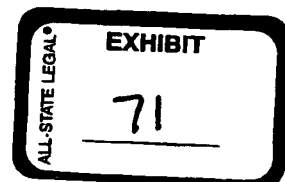
19 Q. Okay.

20 A. And I did it. Immediately after, I felt
21 completely violated.

22 Q. Okay.

23 A. I mean, it was just a horrible experience for
24 me. I didn't tell anyone until this year.

25 Q. Okay.



1 Q. I mean, you said there was a discussion
2 as to whether or not Phillip was going to take the
3 statement or whether you were going to take it;
4 was all of that done by May 16th?

5 A. I don't believe so.

6 Q. Okay.

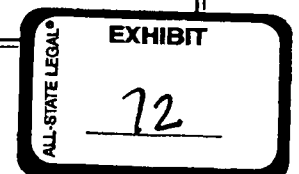
7 A. I don't think that decision was made up
8 until about June 15th.

9 Q. So is this you -- on May 16th, 2007, the
10 next to last paragraph, As we discussed on the
11 phone, I'd be happy to undertake this effort as a
12 special investigator to the IRF, is that you
13 saying that or is that because General Rosa wanted
14 you to do that?

15 A. As I said before, there was a discussion
16 going on during this time between those of us on
17 campus -- and Phillip obviously had been a part of
18 it, and the Insurance Reserve Fund as well,
19 because we -- you know, and the considerations
20 were who ought to go and talk with them. And we
21 discussed Phillip going and doing it. We
22 discussed hiring an ins- -- you know, an
23 independent adjuster either out -- I think we even
24 discussed either going out -- out there already or
25 flying out there. And at some point I said, Look,

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com



1 I'm already going out to San Diego next month
2 anyway. Rather than the Insurance Reserve Fund
3 pay thousands of dollars for a specific plane
4 ticket and for the travel time of a lawyer or an
5 insurance adjuster, why don't we -- why don't you
6 piggyback on my trip that's out there? You all
7 pay for the -- have the Insurance Reserve Fund pay
8 the difference in changing my ticket from San
9 Diego back to -- I was originally going to fly
10 back to Greenville. But have the Insurance
11 Reserve Fund pay the difference between the
12 original ticket between San Diego and Greenville
13 and make it San Diego to Dallas. And the good
14 thing is, I'm not billing by the hour. So I'll
15 make this -- you know, I'll do this interview and
16 you don't have to pay for my time, so to speak.

17 And so I think it ended up costing the
18 Insurance Reserve Fund a thousand dollars and The
19 Citadel nothing for me to be the one that
20 interviewed Doe.

21 Q. Back on page 234, the bottom of the
22 second paragraph, it says, Doe does allege that
23 the counselor engaged in this activity frequently,
24 meaning showing the pornography and masturbating,
25 though -- and with many other campers, right?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1000

11:36:43 1 A. But like I said, it only happened to me one
2 time.

3 Q. Okay.

4 A. I know there are about five other kids that
5 experienced it a few times.

6 Q. Okay.

7 A. He made it seem as if it was completely
8 normal.

9 Q. Okay.

10 A. And he totally treated these campers like --
11 he played favorites.

12 Q. Okay.

13 A. After that incident, I kind of crossed over
14 to the dark side, I guess you could say. I started
11:37:20 15 doing horribly in school.

16 Q. Okay.

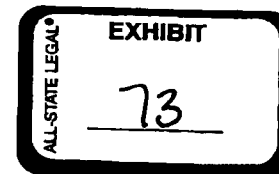
17 A. It led to drug use and -- you know,
18 cigarettes, alcohol.

19 Q. All right.

20 A. And for the longest time, you know, I just
21 thought it was my fault, maybe that I was a bad
22 person, but I grew up, and I looked back on it, and,
23 you know --

24 Q. Okay.

25 A. -- I realized who the bad guy was.



11:48:57 1 A. We were on our way to Days Hall and saw him
2 leaving the building.

3 Q. Okay.

4 A. said hi to him. He came over, you
5 know. It was just really weird for me.

6 Q. Okay. Did anything like this happen to
7 anybody else with any other counselor, to your
8 knowledge?

9 A. Not that I know of.

10 Q. Okay. You didn't ever hear rumors about
11 anything like that?

12 A. No.

13 Q. Okay. Did ever touch you?

14 A. No.

11:49:21 15 Q. Okay.

16 A. He did not.

17 Q. Did he ever touch ?

18 A. I'm not sure.

19 Q. Okay. Or how about any of the other folks
20 that -- that -- that -- that this happened to?

21 A. I'm not sure. It's a possibility.

22 Q. Okay. Did anybody ever tell you that he
23 had -- he had touched them?

24 A. No.

25 Q. Okay. Did anybody ever -- did any of these

1 Q. Yeah.

2 A. No.

3 Q. How long do you think you spent on the
4 Doe case with him?

5 A. I have no idea.

6 Q. Did you ever provide General Rosa with a
7 copy of the transcript?

8 A. No.

9 Q. Why not?

10 A. Not until -- not until 2011.

11 Q. Did you ever summarize it and give it to
12 him?

13 A. Not that I recall. Did I ever do a
14 written summary? No, I did not. We -- we had
15 meetings; my notes indicate that I had meetings
16 with him after -- afterwards. This, in fact, was
17 -- this meeting would have been afterwards,
18 because that discussion -- or that meeting was on
19 July 1st, if I remember. And this meeting right
20 here was on July 30th. So that would have been
21 afterwards, and I probably would have talked to
22 him about what I had --

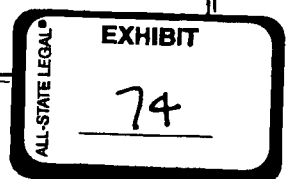
23 Q. What was in the transcript?

24 A. About -- well, I don't know if I had a
25 transcript at that point. I did. I had a

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1003



1 transcript at that point.

2 Q. In your mind --

3 A. But what happened -- I would have talked
4 to him about what happened in that meeting.

5 Q. If -- from being the person taking the
6 statement of Doe and getting the transcript back
7 and someone who is going to brief General Rosa,
8 for whether it be one minute or five minutes, tell
9 me, what are the most important things out of the
10 transcript? If I was General Rosa, what would you
11 tell me about that transcript and your meeting?

12 A. I would have given him probably a
13 summary of what happened, you know, of what he
14 told me. I would have told him a little bit about
15 his background at the camp, a description of the
16 incident, that there was no touching that was
17 involved; that the --

18 Q. How would you describe --

19 A. -- that the family -- I'm sorry?

20 Q. How would you have described the
21 incident?

22 A. In the times that it's been described,
23 that it -- that Skip had invited him and another
24 individual to his room and had offered them, I
25 think, Chinese food, had shown them pornographic

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 the way back in May of 2007, didn't you, when you
2 did your job?

3 A. That's -- yes.

4 Q. Is that what you told the Margolis
5 folks?

6 A. That's --

7 Q. I told him there were many others?

8 A. I had this letter, and I had a bunch of
9 meetings with him --

10 Q. Okay.

11 A. -- and with the Board.

12 Q. Right. And neither General Rosa nor the
13 Board, nobody ever told you, Mark, we've got to
14 report this?

15 A. I don't recall anybody ever saying that.

16 Q. And, likewise, nobody said, You've got
17 to do a better job of investigating and making
18 Eyewitness Doe come in here and talk to you and
19 going and finding these other kids who have been
20 alleged to have been abused?

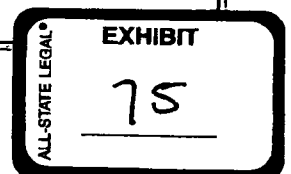
21 A. No.

22 Q. Nobody ever said that?

23 A. No.

24 Q. Document 224.

25 A. Okay. All right.



1 there would be no formal criminal or civil
2 investigation?

3 A No.

4 Q Why did you say that?

5 A I was saying I was hoping I was going to
6 find that there was nothing to any of this and there
7 was no need for any kind of a criminal
8 investigation, and I was hoping that there wouldn't
9 be any civil lawsuits.

10 Q Did you find there was something to it?

11 A I didn't feel like there was anything to
12 it, no.

13 Q We went over yesterday, to the best of
14 your recollection, you never even talked to the
15 eyewitness?

16 A I don't know.

17 Q You have no specific memory of talking to
18 the eyewitness?

19 A I don't have a recollection of it, no.
20 What I remember from that time period is everybody I
21 talked to, anything I turned over, other than what
22 Doe said, I couldn't find any substance to it.

23 Q If there were a formal criminal
24 investigation, the eyewitness would have been
25 interviewed. Don't you agree with that?

 Janice Ohlendorf Darby, RPR
 (843) 814-7666 jodarby@comcast.net

1 Q. Did you understand in 2007 that an adult
2 masturbating and ejaculating in front of children
3 was a form of sexual abuse?

4 A. Yes.

5 Q. In 2007, you recognized that that type
6 of conduct was a criminal act?

7 A. Yes.

8 Q. And in 2007, you recognized that that
9 conduct violated The Citadel's policies and
10 procedures regarding sexual harassment?

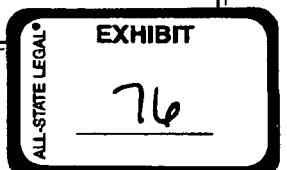
11 A. Yes.

12 Q. And in 2007, you understood or
13 recognized that that type of sexual assault
14 violated federal law?

15 A. I didn't know that, but I would suspect
16 that. And if it didn't, it should.

17 (Deposition Exhibit No. 41, Department
18 of Education - Revised Sexual Harassment Guidance,
19 was marked for identification.)

20 Q. All right. Now, in 2007, when the
21 report of sexual abuse was made, isn't it true
22 that federal law required that The Citadel give
23 written assurances to the federal government
24 regarding their compliance with federal law in the
25 area of sexual abuse?



1 MR. COOKE: Objection to the form of the
2 question.

3 A. If that happened, it would have been
4 abuse.

5 Q. And you are aware that Mr. ReVille has
6 admitted to that happening?

7 A. I'm not sure exactly what he admitted
8 to, but I know he's admitted to a lot.

9 Q. He pled guilty to --

10 A. Yeah. But, I don't -- again --

11 Q. -- the incidents involving the camper?

12 A. Yeah.

13 Q. You're aware of that, right?

14 A. Right, right.

15 Q. So there's really no issue about whether
16 it happened; you understand that, don't you?

17 A. But at the time we had an adult coming
18 to us saying something happened, and we set out to
19 investigate that.

20 Q. And I just want to make sure, at the
21 time, you recognized that an adult forcing a child
22 to masturbate was sexual abuse; you understood
23 that in 2007, didn't you?

24 MR. COOKE: Objection to the form.

25 A. Yes.

1 through appeasing them or --

2 A. Uh-huh (indicating an affirmative
3 response).

4 Q. -- or listening to them or basically
5 trying to make them happy?

6 A. Right.

7 Q. Now, the idea that the family did not
8 want the matter reported, that comes from what Mr.
9 Brandenburg shared with you; is that right?

10 MR. KOVACH: Objection.

11 A. Yes.

12 Q. Did you later learn through -- after Mr.
13 ReVille was arrested, that that was in fact not
14 the case?

15 A. Yes.

16 Q. How did that make you feel?

17 A. I was stunned. I was stunned, and it
18 made me feel extremely sad because I realized that
19 -- that -- you know, that we, as -- when I say
20 "we," as an institution, you know, but the college
21 had basically let this guy go and, you know -- and
22 they -- and he had gone out and sexually abused
23 however many young people -- I can't remember the
24 total now -- that he's admitted to. And it was
25 just mind-blowing.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 The minors-on-campus policy, however,
2 nonetheless referred to the American Camp Association
3 guidelines for operation of any kind of youth-serving
4 program.

5 The Citadel does a lot beyond running the
6 Mark Clark Camp in terms of outreach to children, as
7 my report indicated. And today colleges and
8 universities are looking to certain elements of the
9 American Camp Association standards.

10 I have not seen a higher education
11 institution embrace those 100 percent the way
12 The Citadel had done at least in 2007 and potentially
13 before.

14 Q Okay. I want you to get in front of you,
15 please, the Mark Brandenburg "Summer Camp Interview,"
16 Dallas, Texas, July 2, 2007.

17 A All right.

18 MR. HERNS: And we are going to have that
19 marked as the next exhibit, please.

20 (The document referred to below was
21 marked for identification as Franke
22 Deposition Exhibit No. 3.)

1 BY MR. HERNS:

2 Q If you would, take a look through this
3 document and point out to me every page and every
4 line where the abused child, the mother, or the
5 father indicated to Mark Brandenburg that they did
6 not want the allegation of child sexual abuse
7 reported to law enforcement.

8 A Let me address that comment as it appears
9 in my report.

10 I was basing that representation on
11 comments that members of The Citadel staff had
12 conveyed to me.

13 I did not base it -- and I regret this --
14 on direct text from the parents or the young adult
15 himself, and so please interpret my report in its
16 prospective time frame to consider a situation in
17 which that may have happened, so, I --

18 Q My question is: Where in this do the
19 parents state that, "We do not want Skip ReVille
20 turned over to law enforcement"?

21 You're quite clear that that's what they
22 said in your report. And what I want to know is the

1 page and the line where they state that in this
2 interview given on July 1st, 2007?

3 MR. BOWERS: I object to the form.

4 THE WITNESS: I cannot answer that
5 question. I did not --

6 MR. HERNS: Because it doesn't exist.

7 MR. BOWERS: Hold on a second.

8 THE WITNESS: I did not base the
9 comments, in my report -- that particular comment on
10 this transcript.

11 I based that comment in my report on
12 information conveyed to me by -- in the course of
13 various conversations with various Citadel
14 representatives, and so --

15 MR. HERNS: Okay.

16 BY MR. HERNS:

17 Q Who conveyed that information to you?
18 Give me their names.

19 A I believe that -- I had many
20 conversations with many people.

21 I would believe that Mark Brandenburg may
22 have told me that. I think he is the most likely

1 person to have characterized the parents' wishes that
2 way.

3 Q Have you ever reviewed this interview?

4 A Yes. I have read it.

5 Q Great. Let's go over it.

6 So, Mark Brandenburg is the one who told
7 you the parents did not want law enforcement advised
8 of the allegation; is that correct?

9 A Yes. And I heard that coupled with --

10 Q Okay.

11 A -- comments about their not wishing to be
12 the subject of the Charleston social set.

13 So, those were the kinds of impressions
14 that were conveyed to me by Citadel representatives;
15 and I appreciate that those representatives may have
16 overstated the parents' wishes, so --

17 Q They lied to you, didn't they?

18 MR. BOWERS: I object to the form.

19 BY MR. HERNS:

20 Q They lied to you, didn't they?

21 MR. BOWERS: I object to the form.

22 THE WITNESS: I would not use the word

1 "lie." I came away with a --

2 BY MR. HERNES:

3 Q Well, they were untruthful, then.

4 MR. BOWERS: I object to the form.

5 THE WITNESS: I came away with an
6 incorrect impression. Whether the error was in my
7 ear or their lips, I cannot say. Whether their lips
8 were intentionally misrepresenting, which would be
9 the nature of a lie, I also cannot say. I ended up
10 with what I gather was a mistake, and I accept that.

11 BY MR. HERNES:

12 Q You'll agree with me that in this
13 interview that you've read, nowhere does the victim,
14 the mother, or the father say that they do not want
15 Skip ReVille's child sexual abuse reported to law
16 enforcement.

17 MR. BOWERS: I object to the form.

18 THE WITNESS: I have read this interview
19 in the past, probably a year ago. I do not now
20 recall that statement being in here. If you tell me
21 it's not in here, I will not disagree with you.

22 BY MR. HERNES:

10:24:19 1

2

3

4

5

6

7

8

9

10

11

RE: SUMMER CAMP INTERVIEW

12

JULY 1, 2007

13

14

10:24:19 15

16

17

18

19

20

21

22

23

24

25



10:24:19 1

A P P E A R A N C E S

2

FOR THE CITADEL:

3

Mr. Mark C. Brandenburg

GENERAL COUNSEL

4

171 Moultrie Street

Bond Hall, Room 369

5

Charleston, South Carolina 29409

6

ALSO PRESENT:

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

10:24:19 1 P R O C E E D I N G S

2

3 BY MR. BRANDENBURG:

4 Q. Well, we were talking before we got -- before
5 she got here. I guess just for the record, so to
6 speak, we're not -- this is not a deposition. This
7 is -- as -- as she said, these are just interviews. I
8 have -- I have stopped on my way back from a
9 conference in San Diego to talk with you and your
10 family and to hear more about the statements you made
11 about what happened during the time you were at the
12 Citadel Summer Camp.

13 I am an attorney for -- I am the attorney
14 for -- the Citadel's in-house counsel, and I'm just
10:25:05 15 here to ask those kind of questions. There aren't any
16 kind of rules on this because it's not a deposition.
17 It's not any kind of testimony. If there's anything
18 that I don't ask you that you want me to know, please
19 tell me, and if there's anything that -- that I ask
20 you that you don't want to answer, just tell me that,
21 as well.

22 So one that you -- you're nodding your
23 head, and one thing that -- it's -- you have to kind
24 of get a little battle rhythm on is she's trying to
25 take everything down, and so while you're nodding your

10:25:41 1 head or shrugging your shoulders, we're all sitting in
2 the room and we see that and we think we understand
3 that, but the problem is, later on when we look at
4 that on the written page, we can't see it --

5 A. Okay.

6 Q. -- and we may not know.

7 So instead of saying, uh-huh or huh-uh
8 and shrugging the shoulders and nodding your head,
9 you've got to say yes or no or I don't know or
10 whatever it happens to be. Is that fair enough?

11 A. That's fair enough.

12 Q. Okay. Tell me what your full name is.

13 A.

14 Q. And when were you born?

10:26:13 15 A.

16 Q. Good gosh. I was a junior at the
17 Citadel.

18 I know. It's amazing. It's
19 the Fourth of July celebration. I don't know any of
20 the people that's going to be singing.

21 Q. And where have you grown
22 up? Where were you born?

23 A. I was born in

24 Q. Okay. And where have you grown up?

25 A.

10:26:45 1 Q. How long did you live in each of those
2 places?

3 A. for, I'd say -- how long was it? Nine
4 years, and for --

5 Ten. Close to 10.

6 A. Yeah, 10 years.

7 Q. And we're sitting in

8 --

9 A. Uh-huh.

10 Q. -- as we're talking. You've just moved to

11

12 A. No. I live in still.

13 Q. You still live in ? Okay.

14 Are you living with your parents in ?

10:27:20 15 A. No. I have a job.

16 Q. Oh, good. Okay.

17 A. I live with -- live with a few friends that I
18 work with.

19 Q. What are you doing?

20 A. I'm working at a small grocery store.

21 Q. Okay. What do you do for that store?

22 A. I wash dishes; I price and stock the
23 inventory.

24 Q. Okay. How long have you been doing that?

25 A. Two months now.

10:27:49 1 Q. What's the name of the store?

2 A. .

3 Q. You'll have to spell that.

4 A. .

5 Q. All right. Have you finished high school?

6 A. I have.

7 Q. When did you finish high school?

8 THE WITNESS: Do you know when it was?

9 I think it was --

10 THE WITNESS: December?

11 -- December of last year.

12 A. '06.

13 Q. '06? Okay. Have you

14 had any other jobs since you finished high school?

10:28:24 15 A. No.

16 Q. Okay. Did you have any kind of part-time
17 jobs when you were in high school?

18 A. No.

19 Q. No? So this is the first opportunity to earn
20 a paycheck for you?

21 A. No. I worked at the Citadel.

22 Q. As a -- other than --

23 A. As a counselor.

24 Q. As a counselor? Okay. All right. Tell me
25 about your time at the -- at the Citadel. We were

10:28:52 1 looking before the court reporter got here at some
2 files that I was able to find, and it looked to us
3 like the first time you were there was in 1998. Does
4 that sound right?

5 A. That sounds about right, yeah.

6 Q. Okay. I'll just -- I'm going to give you all
7 of those applications just to take a look at. How is
8 it that you decided to go to the summer camp?

9 A. My dad and mom and my sister and brother and
10 I visited the school one summer because my dad
11 attended college there.

12 Q. Okay.

13 A. And we noticed campers marching around, and I
14 was interested and thought it might be something I'd
10:29:34 15 like to do.

16 Q. Okay. Do you remember when that was?

17 Summer of '97.

18 '97?

19 He was nine years old. We
20 stopped by the camp office. I can't remember who the
21 director was.

22 Let me see.

23 I can't remember who the
24 director was at the time, and we told them that he was
25 nine years old, and they said, love to have him next

10:29:55 1 year, so he went the next year.

2 Okay.

3 Q. Tell me about that first
4 year. Do you remember -- what do you remember that
5 first year?

6 A. I remember a little bit. I mean, I was
7 young, but I remember I had an awesome time. My
8 counselors were wonderful. I loved -- loved the whole
9 structure of the camp --

10 Q. Okay.

11 A. -- and everything about it. I was really
12 into it. And, yeah, I just had a good time.

13 Q. Do you remember what -- and I went to the
14 camp some -- almost 30 years ago at this point, but

10:30:30 15 they used to have -- have them broken up into
16 sections.

17 A. Uh-huh.

18 Q. And during the school year, they're called
19 companies, but in the summertime, they were called
20 sections.

21 Do you remember what section you were in
22 that first year?

23 A.

24 Q. Do you remember anybody -- anybody else that
25 was in your section that year? Do you remember your

10:30:53 1 roommate?

2 A. No, I don't.

3 Q. How about any of your counselors?

4 A. I can picture them in my head, but I'm not
5 sure -- I'm not sure I can remember the names.

6 Q. Okay. If you think of anybody -- if you
7 think of anybody, just tell us as we go along.

8 A. Okay.

9 Q. So you had a good -- but you had a good time
10 in --

11 A. I did.

12 Q. -- 1998?

13 A. I did.

14 Q. Okay. Anything that stands out about that
10:31:22 15 year? Good? Bad? Indifferent?

16 A. I won and awards

17 that year.

18 Q. And tell me just what both of those are.

19 A. award is

20 award. award is for

21

22 Q. How many of those -- and they -- they did
23 have the when I was there, but I don't
24 remember them having the award.

25 A. Uh-huh.

10:31:56 1 Q. What were the criteria for that? Do you --

2 A. For

3 Q. Yeah.

4 A. Well, it wasn't -- it wasn't so much a

5 as it was just being an

6 , like a camper that the other

7 campers looked up to and set an example for the other

8 campers.

9 Q. How many of them -- how many counselors got
10 that or how many campers got that?

11 A.

12 Q. So out of all of them --

13 A. Uh-huh.

14 Q. -- 150, 250, or however many it was, you were

10:32:25 15

16 A. Well, out of each section,

17

18 Q. Okay.

19 A. So it was

20 Q. Do you remember how many kids were in each

21 section?

22 A. I think there were about -- maybe 20 kids per

23 section.

24 Q. Yeah. 20 to 30? That sounds -- I think it

25 fluctuated, depending on how many. Do you remember

10:32:49 1 how many folks were at the camp overall?

2 A. I'm not sure.

3 Q. Okay.

4 A. I mean, I know the sections went Alpha
5 through Juliet.

6 Q. Juliet?

7 A. Yeah.

8 Q. Were there girls there in '98?

9 A. The girls were there. I believe my first
10 year there was the girls' first year there.

11 Q. Was the girls' first year?

12 A. Uh-huh.

13 Q. I'm just trying to remember the -- I can't
14 remember.

10:33:14 15 And your sister went the
16 year after.

17 THE WITNESS: Uh-huh.

18 Q. Okay. And you've got
19 another -- you've got a younger brother, as well --

20 A. I do.

21 Q. -- don't you? And his name is?

22 A.

23 Q. And he came at some point?

24 A. He did.

25 Q. Was it that year, or was it a few years

10:33:32 1 later?

2 He went in -- in the two
3 years that you were a --

4 THE WITNESS: Counselor.

5 -- counselor. He went in
6 2001 and 2002, I think.

7 Okay.

8 Yeah.

9 Okay. We can find all
10 that information. I -- I just -- space is limited on
11 airplanes so -- when you're spending a week in other
12 places.

13 Q. So you came -- so you
14 went to the camp in '98, and you said you had a great

10:34:01 15 time?

16 A. I did.

17 Q. And you came running home that year -- were
18 you living in at the time --

19 A. I was.

20 Q. -- or

21 And you came home. And what did you tell
22 your parents? I can't wait to go back?

23 A. Yeah.

24 Q. I don't want to go back?

25 A. No. I told them I wanted to go back.

10:34:15 1 Q. This place is a living hell?
2 A. No.
3 Q. It's hot?
4 What barracks did you stay in, do you
5 remember?
6 A. I do not remember.
7 Q. Did it have air conditioning?
8 A. No, it did not.
9 Q. Okay. They've all got air conditioning now.
10 A. Yeah.
11 Q. So you and -- and I think I asked you if you
12 could remember your roommate or a best friend or
13 anybody from that year and --
14 A. All I remember about the roommates -- I had a
10:34:39 15 roommate, and
16
17 Q. Okay.
18 A. And I was
19 Q. Okay. Was he in your company or your
20 section, as well?
21 A. He was.
22 Q. Okay. Do you remember where either one of
23 them was from or anything like that?
24 A. I don't.
25 Q. Okay. How about the next year? And that

10:35:02 1 would be the one that it looks like is -- is -- is
2 talked about here in -- in -- in this application. It
3 looks like -- I have a feeling that's your dad's
4 handwriting, not yours.

5 That's me. I don't think he
6 would have -- he would have --

7 A. Yeah. The next year I was in Section.

8 Q. Okay. '99.

9 And do you remember what -- what barracks
10 you lived in then?

11 A. I don't.

12 Q. Okay. How about any -- how about any
13 roommates, section mates, counselors?

14 A. I'm not sure he was my roommate, but I
10:35:40 15 remember a friend named from year.

16 Q. Okay.

17 A. And I also had a counselor named

18 Q.

19 A.

20 Q. Tell me about

21 A. He was awesome.

22 Q. Okay.

23 A. He was my favorite counselor that year.

24 Q. Okay. Was he -- was he a Cadet?

25 A. He was.

10:36:02 1 Q. Had he been a camper?
2 A. I'm not -- I'm not sure he was a camper. I
3 know he was a Cadet.
4 Q. Okay. What did he look like?
5 A. Dark hair, normal -- normal height.
6 Q. Okay. Do you know where he was from?
7 A. I -- I believe he was from South Carolina.
8 Q. Do you know how his last name was spelled?
9 Was it
10 A. I believe it was
11 Q. Okay.
12 Why did you like him so much?
13 A. He was just cool, a cool guy. I looked up to
14 him.
10:36:39 15 Q. Okay. Was he your section's counselor or
16 was he --
17 A. He was.
18 Q. He was? And my recollection is they had
19 several different stratifications. They had a head
20 section counselor --
21 A. Uh-huh.
22 Q. -- was the guy or the girl that was in
23 charge?
24 A. That's right.
25 Q. And then a couple of assistant counselors

10:36:56 1 maybe and then maybe a junior counselor?

2 A. Yes.

3 Q. Which one of those was he?

4 A. I believe he was -- he wasn't a head section
5 counselor. He wasn't a junior counselor. He was a --
6 just regular counselor.

7 Q. Okay. Do you know how many times he had been
8 a camper -- a counselor? I'm sorry.

9 A. I believe he was a counselor three years. I
10 mean, I know he was my counselor in

11 Q. Okay.

12 A. And then I'm not sure I saw him for a few
13 years, and then for the last two years I was there, he
14 came back to the camp.

10:37:33 15 Q. Okay. Do you remember what his first name
16 was?

17 A. I believe it was

18 Q. Okay. I know that name. I
19 know the name.

20 Anything stand out about that year, other
21 than ?

22 A. year, not really.

23 Did you get a
24 that year?

25 Q. Yeah. Did you get a

10:38:00 1 that year?

2 A. Oh, yeah, I did. I got a

3 Q. How about the award?

4 A. No, I did not.

5 Q. Okay.

6 This --

7 Go ahead.

8 No. This was --

9

10

11

12

13 Oh, wow.

14 And none have gotten it

10:38:30 15 since, I -- from -- at least the times that I was --

16 that I was there.

17 Okay.

18 So, you know, he was a

19 pretty darned good, clean kid at that time.

20 Q. Did I ask you -- I think

21 I asked you if there was anything that stood out that

22 year. You won the award?

23 A. I won the

24 Q. Okay. Was there any one of the -- and my

25 recollection is they kind of did it -- they did it a

10:38:58 1 lot like you do classes. You go to -- instead of
2 going to math and science and English and history,
3 you're going to soccer and volleyball and baseball and
4 track and --

5 A. That's right.

6 Q. -- the other kind of thing.

7 Was there anything that you liked more
8 than the other?

9 A. Any -- any sports?

10 Q. Any of the sports?

11 A. Not really. I loved them all. I was an
12 athletic kid.

13 Q. Okay. And we talked before we got started
14 that you worked on -- that you did the team?

10:39:24 15 A. I did.

16 Q. Did you do that all the years that you were
17 there or -- or --

18 A. I believe I did, except the last two. I was
19 in the last two years.

20 Q. Okay. And that was the last two when you
21 were a counselor or when you were a camper?.

22 A. Camper.

23 Q. Okay. And what's the name? Is
24 it

25 A. I believe it was just the

10:39:43 1 Q. The
2 No, no, no. There was a
3 name.
4 Q. There's a name for it,
5 and I can't remember.
6 A.
7 Q.
8
9 Q. That's it.
10
11 A. Uh-huh.
12 Because I was a Summerall
13 guard.
14 Oh, were you?
10:39:56 15 Yeah. And it was the Bond
16 Volunteers.
17 Yeah, yeah.
18 Q. Okay. So '99 you went.
19 It was just you. It wasn't -- or did your
20 that year?
21 A. My
22 Yes,
23 A. Yeah,
24 Q. And y'all were still
25 living in

10:40:21 1 A. Uh-huh.

2 Q. So what happened -- so y'all both had gone.

3 Do you remember -- I didn't ask you, what session did

4 you go to, do you remember?

5 A.

6 Q. session?

7 A. session.

8 Q. And how about in 1998?

9

10

11 Q. And was there a reason

12 that you picked that?

13 A. No. It was just more convenient. I just

14 visited my Grandma during --

10:40:42 15 It was -- the -- the reason

16 that the whole Citadel summer camp was wonderful for

17 us was that we -- it had

18

19 Uh-huh.

20 The kids would go to --

21

22 Yeah.

23 And we would meet them

24 there, Mom and Dad.

25 Okay.

10:41:09 1 We'd fly to , visit
2 with drive to Charleston, spend a few days in
3 Charleston. We'd go to the Parents' Day and -- and so
4 forth and then go to graduation, drive back. And then
5 and would stay with Grandma for three
6 weeks or so.
7 Oh, wow.
8 And then they would fly
9 back.
10 Okay.
11 And so it would be --
12 it would be a kind of a summer tradition.
13 Yeah, yeah.
14 So that's -- that's -- you
10:41:38 15 know, that was our modus operandi for the summers
16 that -- that we were there.
17 Q. So you got six weeks
18 away from Mom and Dad?
19 A. Yeah.
20 It was good for Mom and Dad,
21 too.
22 Well, I've got a five-
23 and eight-year-old. I know what you're talking about.
24 Q. So '99, another good
25 year?

10:42:00 1 A. Another good year.
2 Q. And you said -- is it or ?
3 A. .
4 Q. ?
5 A. ?
6 Q. Okay. Was it somebody you got to know that
7 year?
8 A. That's right.
9 Q. Okay. Have y'all stayed in touch?
10 A. No, we have not.
11 Q. Did you see him in successive years, though?
12 A. I did. He didn't return my year.
13 Q. Okay. And, again, you were in in '98
14 and then in in '99; is that right?
10:42:31 15 A. I believe that's right.
16 Q. Okay. And so how about 2000? What were you
17 in 2000?
18 A.
19 Q. In Okay.
20 And same kind of question: Do you
21 have any -- does anything stand out about -- about the
22 2000 year?
23 A. I an award that year.
24 Q. Okay. What happened?
25 A. I'm not sure. My head session counselor,

10:42:56 1 Mr. , was fired that year.

2 Q. ?

3 A. Uh-huh. I believe his last name was .

4 I'm almost positive.

5 Q. How about his first name?

6 A. I'm not sure. I know his older brother was
7 one of the heads of the camp at that time, Lieutenant
8 , and they were both Cadets at the Citadel.

9 Q. Okay. Do you know why the younger was
10 fired?

11 A. My section and I, like, noticed him being
12 kind of weird --

13 Q. Uh-huh.

14 A. -- suspicious, and we were asked questions
10:43:29 15 about that, and we gave honest answers, and it led to
16 his being fired.

17 Q. How was he weird? What was it?

18 A. He would just come to formation hungover,
19 looking really drained and flushed, and you -- know,
20 just suspicious stuff.

21 Q. Okay. Who was it that asked you these
22 questions?

23 A. Lieutenant , his older brother.

24 Q. His older brother?

25 Do you know who it was that fired him?

10:44:04 1 A. His older brother.

2 Q. So the older brother fired the younger
3 brother?

4 A. That's right.

5 Q. That wouldn't go over well at my house.

6 How about some of the other structure of
7 the camp during these years? My recollection is
8 there's a supervisor and a director and an assistant
9 director. Do you remember those people?

10 A. I don't. I remember Lieutenant was
11 just one of the heads of the camp. He was a
12 lieutenant. He wore the blue shirt.

13 Q. Okay.

14 A. I'm not sure who was in each position at that

10:44:46 15 time but --

16 Q. Okay. Okay. Other than your head section
17 counselor being fired, was there anything -- and not
18 getting an award in 2000, is there anything else that
19 stands out about that year, good or bad?

20 A. It was a fun year.

21 Q. Was it?

22 A. Yeah.

23 Q. Okay.

24 A. I had a good time. I made a lot of friends.

25 Q. And do you remember any of them? Was --

10:45:06 1 was not back that year, you said.
2 A. In wasn't back, no.
3 Q. Okay. How about anybody else? Do you
4 remember who your roommate was that year?
5 A. I don't.
6 Q. Okay.
7 A. I also remember a , though, from that
8 year.
9 Q. I'm sorry?
10 A. I also remember a that year.
11 Q. ?
12 A. Yeah. He was just another kid in my section.
13 Q. Do you remember his last name?
14 A. I don't.
10:45:34 15 Q. How about where he was from?
16 A. I believe he was from South Carolina.
17 Q. Okay. And your was there that year?
18 A. was.
19 Q. Do you remember what section in?
20 A.
21 : was
22 : Okay.
23 : And I think that year
24 roommated -- roommate was -- was
25 roommate?

10:46:03 1 THE WITNESS: I'm not sure.

2

3 Q. Okay. How often did you
4 get to see Did y'all spend any time
5 together?

6 A. Not often during the camp.

7 Q. Okay. Did you -- did you like that, or did
8 you --

9 A. I didn't mind.

10 Q. I think would be happy to spend time
11 away from during that time.

12 So it was a good year again?

13 A. It was a good year.

14 Q. You know, nothing that said I don't want to
10:46:35 15 do this anymore?

16 A. No.

17 Q. Okay. So you go back in 2001 --

18 A. Uh-huh.

19 Q. -- again?

20 Do you remember what barracks you were in
21 in 2000?

22 A. I don't remember any barracks for any year
23 honestly. I just can't recall.

24 Q. And they're big and nondescript --

25 A. Yeah.

10:46:54 1 Q. -- and, you know -- other than the biggest
2 one with the tower.

3 A. Yeah.

4 Q. Although during that time period, it was --
5 it might have been --

6 A. Torn down?

7 Q. It might have been torn down during that
8 time.

9 : Well, they started out -- I
10 know that they went to Law. They went to First
11 Battalion. They were in Second for a while. I think
12 they were tearing down First at the time --

13 : Uh-huh, uh-huh.

14 : -- and -- because it was --
10:47:21 15 every year was -- was different so --

16 : Yeah.

17 : And -- but I know that at
18 least one or two years they were in Third Battalion
19 because I would go up to my old room and --

20 : Oh, really? Because
21 you were in -- what company were you in?

22 : I was in .

23 : Okay.

24 I was in, what I would call -- what you
25 and I would call Fourth, which was Stephens barracks

10:47:45 1 way down on the end, and it's the only of the original
2 now. We've replaced all the others, and they all have
3 air conditioning, and they're all much nicer.

4 : Yeah.

5 : And Stephens barracks,
6 my old barracks, is not.

7 : Yeah.

8 : And it's falling apart.

9 : And the tunnel is all
10 boarded up and --

11 : Uh-huh, uh-huh, uh-huh.

12 Q. () So how much did you see
13 folks from the Citadel -- you know, from the
14 administration? I guess General Grinalds would have
10:48:15 15 been the president during this time.

16 A. Uh-huh.

17 Q. Do you remember seeing him --

18 A. I do.

19 Q. -- during that time?

20 And how about General Mace, Emery Mace,
21 who was the Commandant? Did you see him?

22 A. I believe I did, yeah.

23 Q. Okay. Do you remember how often you would
24 see them?

25 A. I'm not sure it was too often.

10:48:30 1 Q. Okay. And how about anybody else from the
2 administration? A guy named ? ?
3 A. It sounds very familiar.
4 Q. Bill Bates? Jenny Garrett?
5 A. I saw Bill Bates plenty and Jenny Garrett.
6 Q. Jenny Garrett a lot?
7 A. Uh-huh.
8 Q. Okay. And what was the context that you saw
9 them in?
10 A. Just they were heads of camp, you know.
11 Q. Okay. Did you see them on a day-to-day
12 basis?
13 A. Pretty much, yeah, I did.
14 Q. Okay. So 2000 is good. You say, let's go
10:49:05 15 back in 2001?
16 A. Uh-huh.
17 Q. So do you remember what section you were in
18 in 2001?
19 A.
20 Q.
21 All right. And do you remember any of
22 your counselors?
23 A. I -- like I said, I -- I remember their
24 faces. I remember all their faces. I just can't
25 remember names.

10:49:33 1 Q. Okay. How about other campers, roommates,
2 that kind of thing?
3 A. Again, I remember their faces. I just can't
4 remember their names.
5 Q. Okay. And I can understand that.
6 Did you win award that
7 year?
8 A.
9 Q. Okay. How about the -- the
10 award?
11 A. No, I don't think I won it that year.
12 Q. Okay. Did you win it any other time, other
13 than that first year you were there?
14 A.
10:50:10 15 Q. Yeah.
16 A. I believe I of them.
17 Q. Do you have any of the --
18 A. Medals?
19 : It's in a bag about that
20 thick, you know. (Indicating.)
21 : Oh, really?
22 : His last year, it was -- it
23 was pretty amazing because he had little ribbons, like
24 that year --
25 : Uh-huh, uh-huh.

10:50:26 1 : He was all bespectacled
2 of -- of ribbons. I think -- yeah. He -- you know, I
3 think that he did -- he did well. He -- he really
4 cherished those times.

5 : Sure, sure.

6 Q. () How about the -- again,
7 I wasn't able to get out here with a lot of stuff, but
8 I was able to get here with a camper yearbook, at
9 least from 2002 and some pictures. So -- well, we're
10 up to 2001 so --

11 : Let me see the pictures, if
12 you have them there or --

13 : Well, let's -- like I
14 said, let's do -- let's do this. This is --

10:51:09 15 : Oh.

16 Q. () According to my notes,
17 these are pictures from 2001, and it looks like
18 there's a whole -- a whole set of them. Why don't you
19 flip through and just tell me if you recognize
20 anybody.

21 A. Yeah. This is a younger brother of the kid I
22 went to camp with.

23 Q. Okay. Now, we're looking at -- and -- and
24 you've got to do this so it comes across on the paper.

25 We're looking at a picture from my file

10:51:49 1 of 2001, and this is of Section

2 A. Uh-huh.

3 Q. Is that right?

4 A. That's right.

5 Q. And you've pointed to the row of
6 campers; is that right? The one -- the row

7

8 A. That's right.

9 Q. Show me the kid again that you were pointing
10 to.

11 A. Right here. (Indicating.)

12 Q. Okay. And this is
13 from the which is also from
14 the and he's standing

10:52:15 15 -- there's two counselors in the back. He's
16 standing

17 A. That's right.

18 Q. A fair representation?

19 A. Yes.

20 Q. And do you remember -- and what was this
21 kid's -- what's the significance of this young fellow?

22 A. He was the younger brother of the kid that I
23 attended camp with.

24 Q. Okay. Do you remember either one of their
25 names, first or last?

10:52:36 1 A. I don't.

2 Q. Okay. And you just remember him because he
3 was -- he was a younger brother?

4 A. That's right.

5 Q. Okay. How about the two counselors that are
6 there? Do you recognize either one of them?

7 A. I recognize them. I just -- I couldn't tell
8 you their names.

9 Q. You don't know who they are?

10 Okay. How about -- and you said you were
11 in Section in 2001?

12 A. I believe so.

13 Q. Okay. How about anybody here in
14 Section? Do you recognize any names or recognize any
10:53:03 15 faces?

16 A. I just know that he was the younger brother
17 of -- of another kid that went to camp with me.

18 Q. Okay. And this is the one that's holding the
19

20 A. Uh-huh. That's right.

21 Q. Which is the -- and it's -- a
22

23 Okay. How about the -- there's two
24 counselors in there. Do you recognize either one of
25 them?

10:53:29 1 A. I do.
2 Q. You do?
3 A. But I couldn't tell you their names.
4 Q. Okay. Do you recognize both of them or one
5 of them?
6 A. Just this one on the left there.
7 (Indicating.)
8 Q. The big, tall one on the left?
9 A. That's right.
10 Q. Okay. He is big, isn't he?
11 A. Yeah.
12 Q. All right. Section.
13 A. That's Mr. right there. (Indicating.)
14 Q. Okay. You've pointed to the four counselors
10:53:50 15 in the back?
16 A. That's right.
17 Q. And this is the one who --
18 from the which is from the
19 fair enough?
20 A. Fair enough. And this is Mr. right
21 here. (Indicating.)
22 Q. And that's -- well, let's talk about
23 Mr. .
24 A. Okay.
25 Q. That's the -- the one you said, was his --

10:54:03 1 his name ?

2 A. Yeah, I believe so.

3 Q. Okay. He was your -- and he was your
4 counselor in '99?

5 A. I believe so, yeah.

6 Q. Yeah. That's what you said.

7 Okay. And you identified somebody else.

8 The counselor all the way on the

9 A. That's right. .

10 Q. fellow, ?

11 Okay. What -- why do you remember him?

12 A. I worked with him the first year I worked at
13 the camp.

14 Q. When you were a junior counselor CIT or

10:54:31 15 something?

16 A. That's right.

17 Q. Okay. Okay. A good guy? A bad guy?

18 A. Good guy.

19 Q. Good guy?

20 And you just remember him because you
21 worked with him?

22 A. That's right.

23 Q. What was his role the year that y'all worked
24 with him?

25 A. I believe he was the head section counselor.

10:54:46 1 Q. Head section counselor?
2 And what was your role?
3 A. Junior counselor.
4 Q. Okay. How about any of the kids that are in
5 the pictures -- the picture here in Section?
6 And that's just like
7 A. I don't recognize any.
8 Q. Nobody?
9 Okay. they've got their hats on.
10 Nobody else had their hats on. Do you recognize any
11 of the counselors?
12 A. Not really.
13 Q. Okay. How about any of the kids?
14 A. No.
10:55:24 15 Q. Do you still got that hat?
16 A. I have a few of them.
17 Q. Do you?
18 who's got one counselor. Was that
19 your counselor? Was that your section that year?
20 No -- yes. You had said,
21 A. Yes. That -- that is my section.
22 Q. Okay. Where are you?
23 A. Right here. (Indicating.)
24 Q.
25 A. That's right.

10:55:54 1 Q. Okay. Yeah. Do you recognize anybody in
2 there?

3 A. I do.

4 Q. Who do you -- do you remember any names?

5 A. on the

6

7 Q. Okay.

8 : Was there with you?

9 A. right here. (Indicating.)

10 Q. () ?

11 A. I can't remember his last name.

12 : and -- called our home

13 about once a month --

14 : Okay.

10:56:21 15 : -- and talked to , and

16 when did not go -- had -- was kind of a --

17 he was a very nice kid.

18 : Uh-huh.

19 : Wasn't going to go to the

20 Citadel, and I think that the only reason

21 is he thought

22 was going.

23 : Oh, okay.

24 : And -- and when -- when we

25 had to tell that wasn't attending and why,

10:56:51 1 broke down and just about cried --

2 : Oh.

3 : -- because that was one kid

4 that said, I

5 . I was

6

7 : Uh-huh, uh-huh.

8 : And it didn't happen.

9 : Okay.

10 A. And I also recognize right here.

11 (Indicating.)

12 Q. () Okay. Which one is

13 ?

14 A. He's the one on the bottom row on the far

10:57:14 15 left.

16 Q. Okay. Pretty much bald, it looks like?

17 A. That's right.

18 Q. Now, I notice your haircut back then is

19 considerably different than it is today.

20 A. Yeah.

21 Q. But is -- when you -- most everybody in

22 there -- I guess there's one guy who's got pretty --

23 you know, what I would call long hair. Most of you

24 have got pretty short hair. Did they -- did they keep

25 it short for you?

10:57:38 1 A. Yeah. We had -- we had to get haircuts.
2 Q. Okay. Did you have to get it shaved off?
3 A. No.
4 Q. Okay.
5 A. That was a choice I made.
6 Q. That was a choice you -- why?
7 A. I'm not sure. I was a young kid. I thought
8 it was cool.
9 Q. Did they shave it completely off or just cut
10 it real short?
11 A. They just cut it really short.
12 Q. Okay. And did they do that in the barber
13 shop?
14 A. Yeah, they did, in Mark Clark Hall.
10:58:02 15 Q. Was there when you were there?
16 A. Uh-huh.
17 Q. Was there when you were there? The old
18 guy with the shaky hand, yeah?
19 A. Is he the old guy with the shaky hand?
20 Q. Yeah, yeah. Who the barber shop is named for
21 at this point.
22 : He gave me my first haircut
23 at the Citadel.
24 : Did he?
25 Q. () There's a guy named

10:58:15 1 . He was the only one I would go to. He was
2 the only one I would go to. He was better than the
3 rest, but that wasn't saying anything.

4 A. Yeah.

5 Q. How about your counselor? Do you remember
6 your counselor's name?

7 A. I don't.

8 Q. Where in the hell are the rest of them? Some
9 of these have got four and others have got one.

10 A. I'm not sure where they were.

11 Q. I guess they've all got -- they were
12 responsible -- as I recall, they were responsible for
13 running the activities.

14 A. That's right.

10:58:37 15 Q. So if they were in charge of football, they
16 might have been over there doing football?

17 A. That's right.

18 Q. Okay. Anybody else you recognize? Good,
19 bad, or indifferent?

20 A. Let's see. I mean, I -- I remember all these
21 face. Once again, I just can't remember the names.

22 Q. Okay. All right. How about And
23 these guys would have been a little older than you.

24 A. Uh-huh.

25 Q. But you probably had crossed paths with a lot

10:59:12 1 of them over the last few years, hadn't you?
2 A. Oh, yes.
3 Q. And you might know the counselors, as well.
4 A. I was actually in the same section as this
5 kid right here at one point. (Indicating.)
6 Q. Okay.
7 A. But --
8 Q. Now -- all right. This kid doesn't come
9 across. So
10 A.
11 Q. All right.
12 from the which is --
13 from the and it looks to be the
14 Is that a
10:59:42 15 fair statement?
16 A. That's right.
17 Q. Okay. And tell me why you remember him.
18 A. He was in the same section as me at one
19 point.
20 Q. Was it
21 A.
22 Q. Okay. And do you remember what his name is?
23 A. I can't remember his name.
24 Q. Okay. Is there a reason that you remember
25 him?

11:00:00 1 A. Yeah. He was a friend of mine.
2 Q. Okay. Do you know where he was from?
3 A. I believe he was from
4 Q. Or what he's doing now?
5 A. I have no idea what he's doing now.
6 Q. Okay. How about the two counselors that are
7 in the back? Do you recognize either one of them?
8 A. No.
9 Q. All right. which is actually the section
10 Do you recognize anybody
11 in that picture or remember anybody in that picture?
12 A. I remember this counselor here.
13 (Indicating.)
14 Q. And that's the from the or
11:00:35 15 from the
16 A.
17 Q.
18 A. That's right.
19 Q. Okay. And what do you remember about him?
20 A. He was a counselor at the camp while I was a
21 camper there.
22 Q. Okay.
23 A. He was a lieutenant when I worked there. He
24
25 Q. When was that?

11:00:57 1 A. It was last year.
2 Q. Okay. And do you remember his name?
3 A. Oh, it escapes me right now.
4 Q. All right. Anybody else in there?
5 A. No.
6 Q. Okay.
7 A. I don't recognize anyone.
8 Q. Nobody in All right.
9 A. No.
10 Q. Okay. And that's one of the girls' section,
11
12 A. This is (Indicating.)
13 Q. Okay. This is on the
14 A. That's right.
11:02:17 15 Q.
16 And how about any of the counselors? Do
17 you recognize any of them -- any of those girls?
18 A. No.
19 Q. Okay.
20 Then we've got a bunch of what you might
21 call "white shirts." Do you recognize any of these
22 folks?
23 A. Just this one
24 (Indicating.)
25 Q. In -- but really on the

11:02:45 1 Do you know
2 who that is? (Indicating.)
3 A. .
4 Q. ?
5 A. I'm not sure of his last name.
6 Q. Okay. Why does he -- why does he stand out
7 for you?
8 A. I worked with him, and he was fired while I
9 worked at the camp.
10 Q. Okay. Do you know why he was fired?
11 A. He was in his room with a girl, and that was
12 not allowed.
13 Q. It was against the rules?
14 A. That's right.
11:03:09 15 Q. Okay. Were campers and counselors allowed to
16 go in each other's rooms --
17 A. No.
18 Q. -- during the time you were there?
19 A. No.
20 Q. Okay. And I'm sure that -- and -- and when
21 I'm saying, campers and counselors, I mean, male
22 counselors go in male campers' rooms or male campers
23 go in male counselors' rooms?
24 A. We could go in campers' rooms for room
25 inspections, but we had to leave the door open at all

11:03:31 1 times.

2 Q. Okay. And whose rule was that?

3 A. The camp's rule.

4 Q. Just the camp?

5 Okay. Who was it that told you that,
6 though?

7 A. .

8 Q. ?

9 Okay. Speaking of whom.

10 A. is in the

11

12 Q. Okay. And now we're looking at a picture
13 with -- --

14 folks with light

11:03:56 15 blue shirts, and on , you've identified,

16 she's the only -- she's the one that doesn't look like
17 all the others because she's got on khaki pants or
18 something. Do you remember what her role was?

19 A. She was one of the heads of camp.

20 Q. Okay. How about the other folks? Do you
21 remember any of them?

22 A. I believe this was here. (Indicating.)

23 Q. ?

24 A. That's right.

25 Q. Bald head guy in the center?

11:04:17 1 A. That's right.
2 Q. All right. How about the other folks?
3 A. I believe in the back on the right -- I'm not
4 sure, but I believe that's Mr. .
5 Q. Okay. And is that the that got fired,
6 or the that did the firing?
7 A. That did the firing.
8 Q. Okay. How about any of the other -- any of
9 the other three girls that are in there?
10 A. I remember their faces. I don't remember
11 their names.
12 Q. You don't remember any of their names?
13 All right. How about the other two
14 fellows? There's a white fellow on the far left and
11:04:43 15 then a black fellow up on the top. Do you remember
16 either one of them?
17 A. I remember their faces but not their names.
18 Q. Okay. I think this guy's name is .
19 Does that ring a bell for you?
20 A. Yeah, it sounds familiar.
21 Q. Do you know what his role was or --
22 A. Just one of the heads of camp.
23 Q. Okay. There is not a fellow in there that I
24 mentioned earlier named . He's not
25 pictured. I haven't seen him in any of these

11:05:05 1 pictures. Do you remember ?

2 A. I know who he is.

3 Q. Okay. Did you ever have any dealings -- any
4 kind of contact with him?

5 A. No.

6 Q. Okay. All right. So that's 2001. Fairly
7 painless. I don't have copies of those, but we might
8 be able to -- if nothing else, I'll make you copies
9 and send them to you, if you'd like me to do that.

10 A. Sounds good.

11 Q. So -- okay. 2001, anything good, bad,
12 indifferent about the 2001 year?

13 A. 2001 might have been the year that -- well, I
14 guess it wouldn't be because would have been in

11:05:49 15 those pictures; right?

16 Q. I -- you know, that's a good -- you would
17 think so, but then again, looking at the pictures
18 would lead you to believe that a couple of sections --
19 at least one section, yours, only had one counselor --

20 A. Uh-huh.

21 Q. -- because there's only one person. So it
22 looks to me like there were folks that didn't get
23 their pictures taken --

24 A. Uh-huh.

25 Q. -- during that time, so I don't know. You

11:06:10 1 tell me. Was that the year that the incident
2 happened, or -- or -- or can you remember.

3 A. That could have been the year. It was either
4

5 Q. Okay. Do you want to tell me about the
6 incident --

7 A. Sure.

8 Q. -- now, or do you want to tell me about
9 anything -- do you want to look at some -- I've got
10 camper yearbooks for 2002. Why don't we take a look
11 at that, first.

12 A. Okay.

13 Q. Let's finish up 2001 or try to, first.

14 Is there anything else that stood out,
11:06:45 15 other than the incident, if it was in 2001?

16 A. I think I won award that
17 year.

18 Q. Okay.

19 A. I know I won
20 the incident happened.

21 : Okay. And do you have
22 any of this kind of stuff? Pictures --

23 : We've got --

24 : You've got --

25 : They're all packed in boxes.

11:07:12 1 : Okay.

2 : But we've kept all of

3 their -- their camper yearbooks and --

4 : Okay.

5 : -- and so forth, and, you

6 know, we just kept it all as memorabilia.

7 Q. () Now, e-mail was

8 available back then from a technological standpoint.

9 I don't know if it was available from a practical

10 standpoint to you while you were at camp. But at

11 least when I was at camp, I remember writing letters

12 and getting letters. They still had the old fashioned

13 mail call. We did have --

14 A. Yeah, we did.

11:07:46 15 Q. Okay.

16 A. We had mail call.

17 Q. In fact, I think they made us write a

18 postcard to our parents, at least the first week.

19 : Did y'all keep those?

20 : Yes, we sure did.

21 : I think my mom has

22 still got mine.

23 : Yeah, we kept those. The

24 only thing that we have -- and hopefully they've got

25 in the -- in the archives is the pictures from the

11:08:04 1 sessions that were posted on the Web, and that was --
2 you know, to us, we would go every day, and we'd get
3 proof of life.
4 : Okay.
5 : And that's what we called it
6 "proof of life" because sometimes we'd get a letter;
7 sometimes we wouldn't. I know that my mother -- my --
8 my -- you know, these kids got mail all the time.
9 : Okay.
10 : And I know that my wife
11 wrote him -- wrote both of our children just about
12 every day.
13 : Yeah.
14 : And then we -- we'd use the
11:08:50 15 camera.
16 : Okay.
17 : You know, the Web -- the Web
18 Cam --
19 : Yeah, yeah.
20 : -- and try and find them.
21 : Okay.
22 : And sometimes we'd be able
23 to notice him and so forth, so we kept -- we kept a
24 close eye on them even from afar.
25 : Okay. Okay. But you

11:09:08 1 would have the -- you would have the
2 award? I mean, certainly you got a certificate of
3 some type.
4 : We've got all their
5 certificates.
6 : So you've got all that.
7 : Every single --
8 : You could go back and
9 pin down what year it is -- what years that you saw.
10 Okay.
11 : Right.
12 Q. () But anything else?
13 Anything else that stuck out about 2001?
14 A.
11:09:34 15 Q. Yeah.
16 A. No.
17 Q. Nothing?
18 Okay. How about 2002?
19 A. ' 2002? I was in
20 Q. Okay.
21 A. We that year.
22 Q. All right.
23 A. I believe I won that year.
24 Q. Did you win in 2001? They've
25 got thousands of them. Don't worry about it.

11:09:59 1 A. I either

2

3 Q. Okay. But the year of the incident you said
4 you --

5 A. That's right.

6 Q. Okay.

7

:

8 : But he --

9 : It was

10

11 : Okay. All right.

12 Great.

13 Q. () I think -- well, let's

14 take a look. Let's see if we can figure out here.

11:10:27 15 I've got -- all right. This looks like a 2002. Yeah,

16 it looks like I've got pictures from the

17 here, but you went -- you said you

18 went to 2000 -- in 2001 -- or you

19

20 A. That's right.

21 Q. Okay. So I've got a -- I've got a yearbook
22 from 2002, and I've got two of these. How about that.

23 So you look on one; I'll look on the

24 other one. And I'm looking on the first page which

25 has a -- no, no, no. I'm -- on the cover, which just

11:11:30 1 has a bunch of kids standing in front of -- well,
2 that's Murray barracks.

3 A. Uh-huh.

4 Q. Just -- I can tell. M-u-r-r-a-y.

5 Do you recognize anybody in that section
6 or in that picture right there on the cover?

7 A. I do.

8

9 Q. Here's what I'm going to do. Let's take the
10 pen that you've got and circle him.

11 A. (Witness complies.)

12 Q. All right. And tell me why you recognize
13 him.

14 A. He was in -- he was in my section --

11:12:20 15 Q. Okay.

16 A. -- when he was a camper there.

17 Q. Was that this year, in 2002?

18 A. No.

19 Q. Okay. So some other year?

20 A. Yeah.

21 Q. Okay.

22 A. It might have been

23 Q. Okay. Do you remember his name?

24 A. I don't.

25 Q. Okay. Anybody else you recognize? How about

11:12:39 1 the

2

3 A. No.

4 Q. All right.

5 A. I don't recognize him.

6 Q. All right. Let's flip the page, and we've
7 got Looks like this might have been
8 the year of the sunglasses, based on what the
9 counselors have got. Do you recognize anybody? And
10 these are difficult, I know, but do you recognize
11 anybody in either one of those pictures?

12 A. No, I do not.

13 Q. Okay. Any of the counselors in any of them?

14 A. No. But this one in Section on the

11:13:27 15 that's also that kid's

16 brother that I pointed out earlier.

17 Q. Okay. Go ahead and circle him.

18 A. Okay.

19 Q. Let me see.

20 A. (Witness complies.)

21 Q. All right. And I will circle -- have I got
22 him? Have I got the right one?

23 A. Uh-huh.

24 Q. All right. Section, do you recognize

25 anybody? That's on page

11:14:00 1 A. This kid, also, again, is the little brother.

2 (Indicating.)

3 Q. All right. You circled

4 so I'll do the

5 same. You said that's the little brother of somebody?

6 A. That's right.

7 Q. Okay. Do you know who?

8 A. A kid that was, I think, two years behind me
9 in the camp.

10 Q. Okay. All right. Any reason that this guy
11 sticks out?

12 A. He was just in Section. He was an
13 outgoing camper at the camp. I just remember him --
14 or recognize his little brother.

11:14:34 15 Q. Okay. All right.

16 A. I believe the counselor in this picture is
17 Mr. , again.

18 Q. Okay. And that's the only counselor that's
19 shown in that picture?

20 A. That's right.

21 Q. All right.

22 A. I don't recognize anyone in

23 Q. All right. How about

24 A. No.

25 Q. All right. which would have been your

11:15:11 1 section?

2 A. Yeah. I recognize all the counselors.

3 Q. Do you remember any of their names?

4 A. I don't.

5 Q. All right.

6 A. is in the

7

8 Q. I have got it right?

9 A. Uh-huh.

10 Q. Okay. Where are you?

11 A. I believe --

12 Q. Okay.

13 A. --

14 Q. Show me.

11:16:01 15 A. (Witness complies.)

16 Q. All right.

17

18 right?

19 A. That's right.

20 Q. Okay. Who else do you recognize from there?

21 A.

22 Q. Okay.

23 A. (Indicating.)

24 Q. Okay.

25 ?

11:16:26 1 A. Uh-huh.
2 Q. What do you remember about him? Anything?
3 A. He went to camp with me obviously, and he
4 also worked with me at the camp.
5 Q. Okay.
6 A. of is , the kid I
7 had told you about earlier.
8 Q. Okay.
9 A. And to the is . On the
10
11 Q. ? All right.
12 A. And at the is another , .
13 Q. ?
14 A. Yeah.
11:17:07 15 Q. Okay. Anything stand out about any of these
16 folks for you?
17 A. No. Except , he was involved in the
18 incident.
19 Q. Okay.
20 A. And in Section that year, the kid in
21 the --
22 Q. Yeah.
23 A. -- he was in my section at one point during
24 camp.
25 Q. Okay. Do you remember what his name is?

11:17:49 1 A. I don't.
2 Q. All right. How about anybody else in
3 A. No.
4 Q. Okay. Any of the counselors?
5 A. No.
6 Q. All right. and the
7 sections. Do you recognize any of those folks?
8 A. I recognize in the
9 Q. On the --
10 A. Yeah.
11 Q. -- Section?
12 So one in -- on the top on the right.
13 A. That's right.
14 Q. Okay. How about Where is
11:18:47 15 in these two -- in these?
16 A.
17 Q. On
18 A. That's right.
19 Q. Okay.
20 A. I recognize in the
21 right here. (Indicating.)
22 Q. One in on the
23 A. That's right.
24 Q. ?
25 A. , who is

11:19:24 1 Q. One in from the on
2 Okay. Why are you remembering these
3 A. They're also people I worked with and that
4 went to camp with me.
5 Q. Okay.
6 A. And in the
7 , I believe was.
8 Q. ?
9 A. I'm not sure, though.
10 Q. Okay.
11 A. And that's it.
12 Q. Did you keep up with any of these -- any of
13
14 A. On the Internet and stuff, I
11:20:02 15 still talk to them every once in a while.
16 Q. Oh, really? Who?
17 A. and .
18 Q. Which one is ?
19 A. This one right here
20 (Indicating.)
21 Q. Okay. ? ?
22 A. That's right.
23 Q. I didn't write down name on the
24 top.
25 A. .

11:20:23 1 Q. ?

2 : And keeps in contact

3 with .

4 : Okay.

5 : Just as -- in the

6 conversation -- coming over, oh,

7 and in

8 for the summer, and is

9

10 : Okay.

11 : And and and

12 yeah, they interfaced.

13 : You had mentioned

14 that -- that to me.

11:21:02 15 : Yeah.

16 Q. () Okay. And you said you

17 worked with some of later on?

18 A. Every one I pointed out.

19 Q. Okay.

20 A.

21 Q. ? Okay.

22 How long

23 A. Well, it I mean, we

24 just kind of said

25 during the school year. We didn't even see each

11:21:29 1 other. lived in I lived in

2

3 Q. I think back when I was in middle school

4

5 A. Yeah.

6 Q. Is that what it was then?

7 A. Yeah. It was like that.

8 Q. Okay. My mom always used to ask, where are

9 you going. I never had a good answer to that.

10 Okay. Do you recognize anybody else in

11 either of those two sections?

12 A. I don't.

13 Q. Okay. How about -- the next page has at the

14 top I'm not really

11:22:03 15 recognizing any -- it doesn't look like you've

16 mentioned any of the names who -- of the folks who

17 have written these little paragraphs. How about any

18 of the pictures you see? It looks like you were in

19 because it looks like that's in

20 the is that right?

21 A. That's right.

22 Q. Okay. So is that where you were in,

23

24 A. That's right.

25 Q. Okay. How about the --

11:22:30 1 it looks like

2

3 A. is on the top

4 Q. Oh, okay. That's ?

5 A. Yeah. The one in

6 is .

7 Q. The

8 A. The one

9 , and the one is

10 .

11 Q. ?

12 A. I'm not sure of

13 Q. Okay. And was the one that -- was

14 the one that you --

11:23:06 15 --

16 A. That's right.

17 Q. -- for a little while?

18 All right. Do you still stay in touch

19

20 A. No.

21 Q. Does ? Did you say --

22 A. Yeah.

23 Q. And you said

24 : is -- supposedly,

25 according to ,

11:23:21 1 : Okay.
2 : -- for the summer.
3 Q. () How about the next page?
4 Do you recognize anybody? It looks like
5
6 A. In the picture
7 --
8 Q. Okay.
9 A. -- during this year.
10 Q. There's --
11 prominent in Do
12 you remember him?
13 A. Yes, I do.
14 Q. Okay. And you said you did
11:23:59 15
16 A. That's right.
17 Q. Okay.
18 A. And two years I was
19 Q. Okay. Speaking of which, it's
20 Is that --
21
22 A. I'm I
23 recognize the kid He was
24 at one point when
25 Q. Okay.

11:24:20 1 A. I might -- I might
2 : Let me see. I can recognize
3 you anywhere.
4 THE WITNESS:
5 though.
6 : Yeah, probably not.
7 : I'd -- I'd be
8 surprised.
9 : Yeah. I think he was --
10
11 so that's
12
13 : Okay.
14 THE WITNESS: Yeah.
11:24:49 15 Q. () It kind of looks like a
16
17 A. Yeah.
18 Q. The shorts are much shorter than -- well,
19 yours?
20 A. Yeah.
21 Q. Looks like something
22 How about the next page?
23 A. No.
24 Q. Do you recognize anybody?
25 A. No.

11:25:08 1 Q. And just for the record, that one's got
2 and
3 The next one has two pictures, one of the kid
4 playing a snare drum, it looks like, and the other one
5 of two people playing basketball; although, I don't
6 see a hoop.
7 A. It's tetherball.
8 Q. Oh, okay. Do you recognize any of those
9 three people?
10 A. No.
11 Q. The two in the tetherball and the one playing
12 drum? And then the back -- I'm sorry, not the back
13 page but the next to the last page has "Staff" on the
14 top and "Counselors in Training" on the bottom. Do
11:25:43 15 you recognize anybody in these pictures?
16 A. The
17 .
18 Q. ? Do you remember his last name?
19 A. I don't.
20 Q. Okay.
21 A. The one
22 , the little brother that got fired.
23 Q. Okay.
24 A. The one -- is right here.
25 (Indicating.)

11:26:10 1 Q. Okay.
2 A. This is right here. (Indicating.)
3 Q. Okay.
4 A. And I'm not sure of the others' names, but I
5 remember them.
6 Q. All right. And then the counselors in
7 training down on the bottom.
8 A. The is
9 . I believe the one on -
10 I'm not sure about that, though.
11 Q. This is the -- the one standing in front of
12 the fellow with the -- with what appears
13
14 A. Yeah, that's right.
11:26:55 15 Q. Not the regulation-issued.
16 : It looks like they were
17 getting a little slack by then.
18 : Apparently so.
19 : And has
20
21 :
22 :
23
24 Q. () So who was
25 that we were talking about? You say that

11:27:19 1 A. I think

2 Q.

3 A. also had that

4 worked at the camp and went to the camp. One of

5

6 Section.

7 Q. Okay. All right.

8 A. I believe the here

9 is -- is -- and --

10 Q. What, just

11

12 A. That's right.

13 Q. ?

14 A. Yeah.

11:27:56 15 Q. Okay. Does he stand out for some particular

16 reason?

17 A. He got fired, also.

18 Q. Not the reason I was looking for. Do you

19 remember why?

20 A. Yeah. He sold a bag of grass to a few

21 campers saying it was marijuana.

22 The one on the top left is -- I think his

23 name is .

24 Q. Was a Cadet?

25 A. No.

11:28:25 1 Q. All right. Just a former camper?

2 A. That's right.

3 Q. Okay. And how about

4 there? Do you know him?

5 A. I remember him. I just -- I don't know his
6 name.

7 Q. Okay. The only other one is

8

9 A. Yeah. I don't remember

10 Q. Okay. And then we've got a bunch of pictures

11 on the back. Do you recognize anybody in any of them?

12 A. In this picture -- in the bigger picture on
13 the left, the biggest picture, on the

14

11:29:13 15 Q. Okay.

16 A. On the far is

17 again. To the. To the

18 , and above them

19 Q. Okay.

20 A. And the -- I believe

21

22 Q. Okay.

23 A. And then on the

24 , and .

25 Q. Okay. in that

11:29:52 1

2 A.

3 Q. Oh, okay. All right. I think that's it. I
4 think that's all the -- I think the pictures that I've
5 got are from the,

6

7 : Yeah. wouldn't

8 recognize anybody from --

9 : Yeah. He wouldn't

10 know. I just -- I was just -- I wanted to make sure
11 here right quick.

12 Q. () There are two big
13 pictures, though, of the staff, one of the blue shirts
14 and one of the white shirts.

11:31:01 15 A. Uh-huh.

16 Q. And can you identify anybody that's in the --
17 in the picture of the blue shirts?

18 A. The one in is

19 Lieutenant . The

20 is .

21 Q. With the -- that's the

22

23 A. That's right.

24 Q. Okay.

25 A. And on the

11:31:22 1 Q. Okay.

2 A. And I believe my year was the year the
3 incident happened. I don't think he was a counselor
4 year -- my year.

5 Q. Okay. Which would have been 2003?

6 A. Uh-huh.

7 Q. Okay. Do you want to tell me about the --
8 tell me about the incident, then?

9 A. Yeah.

10 Q. Is there anything -- before we answer that,
11 is there anything else about 2002 that stands out,
12 good, bad, or indifferent?

13 A. Nothing I haven't already mentioned.

14 Q. Okay. All right.

11:31:56 15 A. Well, what happened was, it started out ,
16 it kind of seemed like, played favorites.

17 Q. Okay.

18 A. It was only -- it was only known to the
19 campers that he did.

20 : 'Now, is the guy that's
21 on staff; right?

22 : That's this guy.

23 (Indicating.)

24 : So why was being on

25 staff? Why would have contact with you guys on a

11:32:18 1 personal basis if he was on staff?

2 THE WITNESS: Well, I'll explain that
3 all.

4 : Okay. That's new to me.

5 A. came to me and -- basically one
6 day in our room. We was roommates this year because
7 we had been friends previously.

8 Q. () Okay.

9 A. came to me and said that the year
10 before, him and about five other kids -- was a
11 CCQ at the camp at that time.

12 Q. Uh-huh.

13 A. Him and a few other kids used to go to
14 room to hang out.

11:32:54 15 Q. Okay.

16 A. And I guess he used to buy them Chinese food,
17 you know, pizza, all that -- all that stuff, and then
18 one night, I guess, he pulled out a pornographic video
19 and put it in and started masturbating.

20 Q. did?

21 A. That's right.

22 Q. Okay.

23 A. And he encouraged everyone in the room to
24 join him.

25 Q. Okay.

11:33:20 1 A. And they did. And I guess he made an
2 agreement with them -- with these kids that he would
3 keep buying them Chinese food and pizza and all these
4 goods things and give them privileges --

5 Q. Okay.

6 A. -- if they continued to come his room, you
7 know.

8 Q. All right.

9 A. And I guess it became regular for him to pull
10 out the pornographic videos. And made me aware
11 of this. He made me aware that wanted to buy
12 Chinese food, and I was a camper at the time. That
13 sounded appealing to me.

14 Q. Okay.

11:34:05 15 A. So I went to room. And the first
16 night I went there, he only bought Chinese food, and
17 we talked, and that was when I met .

18 Q. Okay.

19 A. A little while after that --

20 : Who is ?

21 Q. () Who's ?

22 A. A kid I went to camp with.

23 : Oh, okay.

24 Q. () ?

25 A. I -- I went to his room a few nights later

11:34:33 1 with , and he ordered Chinese food and --

2 Q. Did anybody -- let me just stop you for a
3 second.

4 Did anybody go with you the first night?

5 A. .

6 Q. ? Bought food and talked?

7 A. That's right.

8 Q. Okay. Nothing -- nothing else happened?

9 A. No.

10 Q. Okay. Okay.

11 A. A few nights later we went back to

12 room. He ordered Chinese food.

13 Q. Okay.

14 A. And then he started telling us that he wanted

11:35:03 15 us to spend the night in his room.

16 Q. Okay.

17 A. And he just said, you know, you guys can stay
18 the night here. You'll stay the night here.

19 Then he started showing us things on the
20 computer. He wanted us to go to the computer. He
21 started showing us things. He started bringing up
22 pornographic videos, and then he started talking about
23 masturbation and how masturbating makes your penis
24 smaller and all these weird things.

25 Q. Okay.

11:35:34 1 A. And he at that time pulled out his penis and
2 started masturbating and asked us to join him, and I
3 got up, said I was tired, went to the bed and just
4 said I was going to fall asleep and --

5 Q. Okay.

6 A. -- just go to sleep.

7 Q. This was in his room?

8 A. That's right.

9 Q. Okay.

10 A. He -- he kind of got a little aggressive and
11 was asking me to come back to the computer and join
12 them --

13 Q. All right.

14 A. -- which I ended up doing.

11:36:14 15 Q. Was over there with him?

16 A. That's right.

17 Q. Okay. And had he joined?

18 A. That's right.

19 Q. Okay.

20 A. And I did it. Immediately after, I felt
21 completely violated.

22 Q. Okay.

23 A. I mean, it was just a horrible experience for
24 me. I didn't tell anyone until this year.

25 Q. Okay.

11:36:43 1 A. But like I said, it only happened to me one
2 time.

3 Q. Okay.

4 A. I know there are about five other kids that
5 experienced it a few times.

6 Q. Okay.

7 A. He made it seem as if it was completely
8 normal.

9 Q. Okay.

10 A. And he totally treated these campers like --
11 he played favorites.

12 Q. Okay.

13 A. After that incident, I kind of crossed over
14 to the dark side, I guess you could say. I started
11:37:20 15 doing horribly in school.

16 Q. Okay.

17 A. It led to drug use and -- you know,
18 cigarettes, alcohol.

19 Q. All right.

20 A. And for the longest time, you know, I just
21 thought it was my fault, maybe that I was a bad
22 person, but I grew up, and I looked back on it, and,
23 you know --

24 Q. Okay.

25 A. -- I realized who the bad guy was.

11:37:45 1 Q. You said that you thought there were -- that
2 you knew there were several other kids who -- who did
3 this, as well. Do you know who any of them were?

4 A. I -- I was actually in their section the year
5 this happened.

6 Q. Okay.

7 A. I had no knowledge of what was going on with
8 them.

9 Q. Okay.

10 A. And when made me aware of and
11 wanted to introduce him to me, all I knew was that he
12 played favorites and he bought food for -- for these
13 kids.

14 Q. Okay.

11:38:16 15 A. And, you know, they got special food and --

16 Q. Okay.

17 A. -- all that stuff.

18 Q. Okay. So this -- was this 2002?

19 A. I believe so.

20 Q. Okay. And you said these were kids that were
21 in your section that were getting special privileges?

22 A. That's right.

23 Q. Okay.

24 A. The year before.

25 Q. The year before?

11:38:36 1 A. The year before.
2 Q. 2001?
3 A. That's right.
4 Q. Okay.
5 A. They didn't return to camp.
6 Q. All right. You were -- in 2000 -- in 2001,
7 you were in what section?
8 A. I believe I was in
9 Q. Okay.
10 And we've got pictures. I've got
11 pictures of
12 A. Yeah. I could try to point them out to you.
13 Q. Okay. So let's take a look at the
14 picture again and --
11:39:25 15 A. I believe was involved in the
16 Q. Okay.
17 A. in the
18 was definitely involved. He was there when it
19 happened to me, and --
20 - Q. Now, is -- is -- is in the 2001
21 picture?
22 A. He is. He's in the
23
24 Q. The Okay. And which
25 one is ?

11:39:56 1 A. is right here. (Indicating.)
2 Q. Right next to him?
3 A. That's right.
4 Q. On the other side? Okay. So he's the
5 You've got on the
6 Then .
7 A. That's right.
8 Q. Okay. Anybody else?
9 A. I believe this kid, also --
10 -- was involved.
11 Q. So it's ; then one end is ; then
12 the next fellow but the one who is
13
14 A. That's right.
11:40:32 15 Q. -- and you said he was
16 involved?
17 A. I believe so.
18 Q. Do you remember his name?
19 A. I don't remember his name.
20 Q. Okay. All right.
21 A. And I'm not sure who else was involved that
22 year.
23 Q. Okay. Tell me why it is that you think these
24 three people were involved.
25 A. Well, is the one who told me about the

11:40:59 1 year before.

2 Q. Okay.

3 A. was good friends with before I met

4 .

5 Q. Okay.

6 A. And I believe I remember saying that

7 was involved.

8 Q. And did he -- he told you this in 2001 or in

9 2002?

10 A. In 2002.

11 Q. Okay. And do you remember what it was that

12 he told you?

13 A. He just told me that was a really cool

14 guy --

11:41:25 15 Q. Okay.

16 A. -- and that he would buy us food and let us,

17 you know, roam the barracks at night --

18 Q. Okay.

19 A. -- and give us all these privileges.

20 Q. Okay. Did he -- I mean, did he tell you

21 anything about the pornography or the masturbation

22 in -- that that occurred in 2001?

23 A. He did after.

24 Q. Okay.

25 A. He told me it started the year before.

11:41:48 1 Q. So he told you in 2002 --
2 A. That it started in --
3 Q. -- that it started in 2001?
4 A. That's right.
5 Q. Okay.
6 A. And I -- I believe there are five kids,
7 including and , that were involved in that
8 the year before.
9 Q. And tell me why you think that there were --
10 why you say that there were five kids involved?
11 A. Well, I remember there was -- I remember it
12 was and , and then -- I also remember
13 another kid in this section that definitely did
14 mention was involved.
11:42:17 15 Q. Okay.
16 A. I just can't remember his name. I wasn't
17 good friends with this kid.
18 Q. Okay. If you saw a list of names, would you
19 be able to pick it out?
20 A. I might be able to.
21 Q. Okay.
22 A. But, yeah, I -- -- and he talked
23 about it like it was him and a few other kids.
24 Q. Okay.
25 A. And the year that -- the year that it

11:42:40 1 happened to me, I noticed that there were younger kids
2 coming in and out of room a lot.

3 Q. Okay.

4 A. I mean, you know, I'd go over there, and
5 there would be younger kids leaving the room that he
6 had just bought food for and stuff like that. I'm --
7 I don't know what, you know, that was all about but --

8 Q. This was in 2001 or in 2002?

9 A. 2002.

10 Q. In 2002? Okay. All right.

11 A. was a 2001.

12 Q. Okay.

13 A. In 2002, he was actually moved to a very head
14 position in the camp.

11:43:12 15 Q. Okay. In 2001, do you know where it is that
16 lived?

17 A. He lived -- he lived in a small room.

18 Q. Okay.

19 A. It might have been the second floor.

20 Q. Okay.

21 A. I don't know, though. I had no idea of
22 existence in 2001.

23 Q. Fair enough.

24 How about in 2002?

25 A. In 2002, he lived in the huge room.

11:43:33 1 Q. Okay.
2 : One of the alcoves.
3 A. No, not an alcove.
4 Q. () Okay.
5 A. The big room.
6 Q. The big room?
7 A. In the middle.
8 Q. In the middle looking -- looking out toward
9 the parade ground?
10 A. That's right.
11 Q. Okay. What floor was it on? What floor was
12 it on?
13 A. I think it might have been the third floor.
14 Q. Okay. Do you remember where your room was
11:43:55 15 that year?
16 A. On the I -- I believe.
17 Q. So you had to get -- did you have to
18 to get to his room when it happened?
19 A. I believe so.
20 Q. Okay.
21 : It sounds to me like
22 the Battalion Commander's room.
23 : Battalion Commander.
24 A. That's right. It was the Battalion
25 Commander's room.

11:44:09 1 Q. () Okay. Did he have a

2 roommate that year?

3 A. I don't believe he did.

4 Q. Okay. Was there anybody -- well, you said

5 this only happened to you once.

6 A. That's right.

7 Q. Okay. And it was you and . Were there

8 any other counselors in the room?

9 A. There were none.

10 Q. Were there any campers in the room?

11 A. No.

12 Q. Okay. And you didn't tell anybody about

13 this?

14 A. I told no one.

11:44:36 15 Q. Okay. Why not?

16 A. I felt violated. I was embarrassed to tell

17 people.

18 Q. Okay. Okay. And you said you saw younger

19 campers going into his room at times?

20 A. That's right.

21 Q. When did you see that?

22 A. Just during camp.

23 Q. Okay. What time of day did this occur?

24 A. Night.

25 Q. Nighttime? Do you remember -- I mean, was it

11:45:05 1 after lights out or --

2 A. That's right.

3 Q. Okay. And how did it occur? Did come
4 to your room, or did say -- were you-all lying
5 in the bunks, and said, hey, let's --

6 A. We're going to for Chinese food.

7 Q. Okay. Did you tell anybody as you were
8 going, or did you sneak down there or --

9 A. No. said we couldn't tell anyone.

10 Q. Okay. Was there somebody out on the
11 galleries that was watching to make sure y'all were in
12 your rooms?

13 A. I'm not sure there was.

14 Q. Okay. But do you remember that occurring,
11:45:36 15 though?

16 A. Going from our room to ?

17 Q. Well, do you remember people being out on the
18 galleries whose job it was to watch --

19 A. I do. I do, yes. I do.

20 Q. Okay. And did you just happen to slip by
21 them during this time?

22 A. Yes.

23 Q. Okay. Was that one of your jobs in later
24 years as

25 A. That's right.

11:45:53 1 Q. Okay. Do you remember what time of day --
2 what time of night this was?

3 A. I don't remember exactly what time. It was
4 after lights out.

5 Q. Okay. How about what day of the week?

6 A. I don't remember.

7 Q. Okay. And my recollection is, dances were on
8 Saturday nights --

9 A. That's right.

10 Q. -- generally.

11 A. Uh-huh.

12 Q. And I'm just curious if you can pinpoint it
13 by whether it was on the night of the dance or not?

14 A. It wasn't.

11:46:20 15 Q. It was not?

16 A. It was not on the night of a dance.

17 Q. Okay. And I can't remember if anything
18 special happened on any of the other nights.

19 : Did you guy have movie night

20 or --

21 Q. () Movie nights, that kind

22 of --

23 A. Well, yeah. We had movie nights and stuff

24 like that but --

25 Q. Not necessarily --

11:46:33 1 A. It wasn't a movie night.
2 Q. It wasn't a movie night?
3 A. Everyone was in the barracks that night.
4 Q. Okay. Do you remember how long after lights
5 out it was?
6 A. I don't.
7 Q. Okay.
8 A. It was -- it might have been right after
9 lights out.
10 Q. Okay. Okay. All right. Anything else? So
11 you think it was 2002 -- well, based on what you said,
12 it's 2002?
13 A. Yeah, I'm positive.
14 Q. Okay. Anything else stand out -- good, bad,
11:47:03 15 or indifferent -- about 2002?
16 A.
17 Q. Okay.
18 A.
19 Q. Okay. Okay.
20 A. And that's all.
21 Q. Did you come back in 2003?
22 A. I did.
23 Q. Okay. Did you come back as a camper or as a
24 counselor?
25 A. I was a camper in Section.

11:47:20 1 Q. Okay. Was -- was there that year, in
2 2003?

3 A. I don't believe he was.

4 Q. Okay. Have you had any -- I mean, did you
5 talk with after the incident?

6 A. I did my year.

7 Q. And so how about in 2002? Did you talk to
8 him after the incident?

9 A. I tried not to.

10 Q. Okay.

11 A. He definitely tried to talk to me.

12 Q. Okay.

13 A. And I tried to -- I tried to act as if
14 nothing was wrong -- you know, everything was normal
11:47:51 15 because I just wanted to forget about it.

16 Q. Okay.

17 A. I wanted it to be in the past.

18 Q. Okay. What did he say to you during that
19 year, in 2002?

20 A. Oh, I don't know. Just small talk.

21 Q. Okay.

22 A. Like, what's up, Buddy, blah, blah, blah.

23 Q. And you just tried to avoid him?

24 A. That's right.

25 Q. Okay. Did you have any kind of contact with

11:48:10 1 him or conversation between 2002 and 2003?

2 A. In 2003, he came to visit the camp.

3 Q. Okay.

4 A. and I actually talked to him in
5 passing. He made it a point to have a very quick
6 conversation with us and leave as fast as possible.

7 Q. Okay. When did that happen?

8 A. That was -- I believe it was my year.

9 Q. Okay. When during the -- when during the
10 camp, though? Do you remember? First or second or
11 third week or --

12 A. Oh, I don't remember.

13 Q. Okay.

14 A. I don't remember.

11:48:40 15 Q. During the day or --

16 A. Yeah, it was during the day.

17 Q. I mean, that's a weird thing that you --

18 A. Yeah.

19 Q. You know, I'm just curious about why that
20 happened during -- or --

21 A. Well, it was in Day -- Days Hall.

22 Q. Days, yeah. Uh-huh.

23 A. He went to Days Hall to visit , I guess,
24 to talk to her a little bit.

25 Q. Okay.

11:48:57 1 A. We were on our way to Days Hall and saw him
2 leaving the building.

3 Q. Okay.

4 A. said hi to him. He came over, you
5 know. It was just really weird for me.

6 Q. Okay. Did anything like this happen to
7 anybody else with any other counselor, to your
8 knowledge?

9 A. Not that I know of.

10 Q. Okay. You didn't ever hear rumors about
11 anything like that?

12 A. No.

13 Q. Okay. Did ever touch you?

14 A. No.

11:49:21 15 Q. Okay.

16 A. He did not.

17 Q. Did he ever touch ?

18 A. I'm not sure.

19 Q. Okay. Or how about any of the other folks
20 that -- that -- that -- that this happened to?

21 A. I'm not sure. It's a possibility.

22 Q. Okay. Did anybody ever tell you that he
23 had -- he had touched them?

24 A. No.

25 Q. Okay. Did anybody ever -- did any of these

11:49:41 1 other folks ever talk to you about these incidents?

2 A. No.

3 Q. Okay. So you came back in 2003 and were in
4 Section?

5 A. That's right.

6 Q. Okay. Who was in -- do you remember
7 any of the folks that were in with you?

8 A. If I saw a picture, I could probably point
9 them out.

10 Q. I don't think I've got any pictures for 2003,
11 unfortunately.

12 A. I did that year.

13 Q. Oh, okay. All right. Anything special
14 happen in 2003? Anything good, bad, or indifferent?

11:50:26 15 A.

16 Q. Other than that?

17 A. No.

18 Q. That's pretty significant.

19 A. Yeah.

20 Q. And the following year you came back as a

21 --

22 A. That's right.

23 Q. -- if I remember. So now we're up to 2004?

24 A. Uh-huh.

25 Q. Okay. How did that go?

11:50:42 1 A. Good. I that year.
2 Q. All right. When you came, did you come early
3 for camp? Did you have to come earlier than you did
4 in years past?
5 A. I always came early.
6 Q. Okay. Well, let's talk about that for a
7 second. When you say you came early, you'd come a
8 night before because of the travel arrangements or --
9 A. Sometimes two nights.
10 Q. Okay. When you came a night before, what
11 happened? How did you -- where did you stay, and how
12 did you get picked up?
13 A. Well, I was given -- I was given my room.
14 Q. Okay.
11:51:15 15 A. I was given time to put things in my room,
16 make my bed --
17 Q. Okay.
18 A. -- you know. And usually I would just go to
19 mess with -- with -- two of the counselors would take
20 me to mess.
21 Q. Okay.
22 A. They'd bring me back to sleep, you know.
23 Q. Okay.
24 A. Wake up the next day, and then two of the
25 counselors would take me to breakfast.

11:51:33 1 Q. Okay.

2 A. You know, I'd find something to do till

3 lunch. They'd take me to lunch.

4 Q. Okay.

5 A. I'd find something to do till dinner. They'd

6 take me to dinner.

7 Q. And when you said you were finding stuff to

8 do, most of these times would have been

9 there, it sounds like.

10 A. Yeah, that's right.

11 Q. So what kind of things would y'all do?

12 A. We'd just hang out around the barracks.

13 Q. Okay.

14 A. Just hang out.

11:51:51 15 Q. Okay. I mean, were there other campers that

16 were there, early arrivals?

17 A. Some years. Some years. There were campers

18 that would come, like, a day before.

19 Q. Okay. And did you have -- I mean, did they

20 have any kind of activities for you during this time

21 or not?

22 A. They didn't really have activities planned

23 out, but, I mean, we'd -- we'd figure stuff out. I

24 mean, they'd suggest basketball, tetherball.

25 Q. Okay.

11:52:15 1 A. We'd run around, you know.
2 Q. Okay. Did you stay in the barracks, or did
3 you -- did you have the run of the campus, so to
4 speak, or --
5 A. No. We -- we stayed under supervision of the
6 counselors.
7 Q. Okay. So there was always somebody there
8 watching?
9 A. That's right.
10 Q. Okay. All right. 2004, how did it go as --
11
12 A. Good. It was a good year.
13 Q. Okay.
14 A. were good kids.
11:52:37 15 Q. Did you get any kind of -- and the reason I
16 had asked if you went early, did you go early and have
17 any kind of training in 2004?
18 A. In 2004, yeah, I had training.
19 Q. Okay. And do you remember anything about
20 that training?
21 A. Yeah.
22 Q. All right.
23 A. I was certified
24 Q. Okay.
25 A. And just -- we had a lot of meetings.

11:53:01 1 Q. Okay.
2 A. Went over camper safety.
3 Q. All right.
4 A. We went over the rules. We went over what
5 happened with the, you know, Citadel being sued.
6 Q. Okay.
7 A. All that.
8 Q. Okay. What did they tell you about that?
9 A. They actually -- they -- they gave us a few
10 speeches on that. The rules between -- the rules
11 about camper/counselor relationships got very strict.
12 Q. Okay.
13 A. Basically they made it clear that we were not
14 to be alone with any --
11:53:34 15 Q. Okay.
16 A. -- at any one time.
17 Q. Okay. Who was it that made that clear for
18 you? Do you recall?
19 A. .
20 Q. Okay.
21 A. I mean, they all tried to make it clear --
22 Q. Okay.
23 A. -- that we weren't to be alone with any
24
25 Q. Who was the -- do you remember who the -- the

11:53:48 1 was in 2004?

2 A. I remember who he was. I'm not sure what his
3 name was.

4 Q. Okay. How about the following year, in 2005?

5 A. Huh-uh, I don't remember the name.

6 Q. Okay.

7 A. I pretty much just answered to .

8 Q. Okay.

9 A. I had a close relationship with her.

10 Q. Okay.

11 A. She was cool.

12 Q. Was she?

13 A. Uh-huh.

14 Q. Okay. Why did you think that? Why did you

11:54:16 15 like her so much?

16 A. Oh, well, I mean, she just -- she was
17 always -- she was always there when I was a camper
18 there.

19 Q. Okay.

20 A. She's the one that interviewed me

21

22 Q. Okay.

23 A. I mean, she -- she announced that

24

25 Q. Uh-huh.

11:54:32 1 A. She was just, you know --
2 Q. Somebody you looked up to?
3 A. That's right.
4 Q. Okay. Did you feel like she did a good job
5 as the director or deputy director --
6 A. Absolutely.
7 Q. -- or whatever her position was?
8 A. Absolutely.
9 Q. Okay. All right. And then how about coming
10 back in 2005? You came back in 2005?
11 A. That's right.
12 Q. Okay. How did that year go?
13 A. Good.
14 Q. Okay. And what was your position in 2005?
11:55:00 15 A.
16 Q.
17 What section did you -- were you involved
18 in?
19 A.
20 Q.
21 And were you there one session or both?
22 A.
23 Q. Why
24 A. I just -- I -- I
25 before that.

11:55:15 1 Q. Okay.
2 A. And it was just kind of a long haul, you
3 know.
4 Q. Yeah.
5 A. So I you know,
6
7 Q. Okay. All right. But did you think about
8 going back in 2006?
9 A. I did. I thought about it.
10 Q. Okay. And why didn't you?
11 A. I just had other stuff going on.
12 Q. Okay.
13 A. I mean, I just wanted to experience a summer
14 where I wasn't, you know, off at camp
11:55:38 15 --
16 Q. Okay.
17 A. -- and all that.
18 Q. Okay. What did you do instead?
19 A. During that summer?
20 Q. Yeah.
21 A. I just kind of hung out.
22 Q. Okay.
23 A. Messed around, you know.
24 Q. Okay. Did you play any sports in high
25 school?

11:55:52 1 A. I did. I was on I
2
3 Q. Okay.
4 A. I. I.
5 Q. Okay. I don't think you wrote on yourself.
6 : No.
7 A. I hope not.
8 Q. () Okay. How about your --
9 how about your grades? What were your grades like
10 during high school?
11 A. After the incident with , my grades went
12 downhill.
13 Q. Okay.
14 A. I started getting horrible grades.
11:56:19 15 Q. What were they like beforehand? A's and B's?
16 A. Straight A's.
17 Q. Straight A's?
18 And so then after 2002 -- what grade were
19 you in -- what grade did you go into in the fall of
20 2002? Was that going in the ninth grade?
21 : Going into -- into -- into
22 eighth or ninth, I think. You know, he --
23 A. I think I was going into --
24 : Because you were still at
25

11:56:49 1 A. I -- yeah. I was going into my freshman year
2 in high school.

3 Q. () Okay.

4 : Or -- no. You were -- you
5 were -- 2002 -- you started in 2002.

6 A. When I was in I had just gotten done
7 with my freshman year of high school.

8 Q. () Okay. And you were in
9 in 2003?

10 A. That's right.

11 Q. Okay.

12 A. Yeah.

13 Q. So you went into high school in 2002?

14 A. Uh-huh.

11:57:08 15 Q. And what were your grades like in -- in 2002?

16 A. Horrible.

17 Q. Horrible?

18 C's and D's? F's?

19 A. C's, D's, F's.

20 : It was exponential --

21 : Was it?

22 : -- because one of the things

23 was that here was a kid --

24 : Uh-huh.

25 : -- who everybody looked up

11:57:27 1 to. It was, like, who's going to succeed? .
2 Who's going to do this? .
3 : Uh-huh.
4 : And it was just -- it was --
5 it was kind of like he was here.
6 : Uh-huh.
7 : And then it just went -- you
8 know, just -- just a slippery slope.
9 : Yeah.
10 : And people would come up to
11 us and say, what's going on with this kid.
12 : Yeah.
13 : And we thought that he had
14 ADD, and we thought that -- you know, we went to
11:57:57 15 psychiatrists, psychologists. Everything.
16 : Uh-huh.
17 : He started getting into --
18 into -- into drugs, and we were parents from hell. We
19 would go to people's homes --
20 : Uh-huh.
21 : -- and -- and say, your son
22 is doing this with my son, and we wanted our son back.
23 : Yeah.
24 : And we fought very, very
25 hard.

11:58:23 1 : Yeah.
2 : And, you know, we had no
3 clue what the root cause of this was.
4 : Uh-huh.
5 : And, you know -- and -- and
6 here it is, is -- is we went through -- you know, as
7 parents went through years of not knowing why --
8 : Right.
9 : -- trying to understand --
10 : Uh-huh.
11 : -- and you -- you just don't
12 know how much pain and suffering --
13 : Uh-huh.
14 : -- not only did this kid go
11:58:47 15 through but mom, dad, sister, and little brother --
16 : Yeah.
17 : -- aunts, uncles,
18 everybody --
19 : Yeah.
20 : Because we didn't know.
21 And, you know, now we do, and -- and it just makes me
22 want to cry.
23 : Yeah. It's 12:00. Why
24 don't we take a few minutes' break.
25 (Break from 11:59 a.m. to 12:11 p.m.)

12:11:56 1 Q. () Well, we've had the
2 opportunity at this point to walk through the years
3 that you --

4 A. Uh-huh.

5 Q. -- at the camp.

6 A. Uh-huh.

7 Q. And, also, you told me about going back --
8 that you went back in 2004 and 2005

9

10 and you've also told me a little bit
11 about the change in your life --

12 A. Uh-huh.

13 Q. -- after the incident in 2002.

14 And I think you said that the only

12:12:33 15 contact you had with was in 2003, the summer
16 afterwards when he was in I guess.

17 A. That's right.

18 Q. But he was not on the staff, as I recall --

19 A. No.

20 Q. -- what you said.

21 Okay. Have you had any kind of contact
22 with him since then?

23 A. No.

24 Q. Has he ever tried to get in touch with you,
25 to your knowledge?

12:12:51 1 A. No.

2 Q. Okay. Do you -- I mean, have you ever tried

3 to get in touch with him?

4 A. No.

5 Q. Okay. How about with ? Have you

6 had any conversations with him?

7 A. I did -- I did get his screen name from him.

8 Q. Okay.

9 A. We've talked a few times on the Internet but

10 just kind of small talk -- hey, how are you; how have

11 you been, you know.

12 Q. Okay. Do you know where he's in school now?

13 A. I have no idea.

14 Q. Okay. How about any of the other folks?

12:13:20 15 Have you -- is the only other one that you had --

16 you had mentioned specifically, I think. How about

17 ? Have you stayed --

18 A. No.

19 Q. -- in touch with him?

20 A. No, I haven't.

21 Q. Were you and -- I mean you and roomed

22 together, so y'all were kind of friends --

23 A. We were.

24 Q. -- as I recall.

25 How about you and ? Were y'all --

12:13:35 1 A. We were. We were friends, uh-huh.
2 Q. Okay. Was there anybody else that you were
3 pals with, you know, over the years, during --
4 during your time at camp?
5 A. You asked me my roommate's name year,
6 and I actually do remember. I believe it was
7 .
8 Q. Okay?
9 A. I mean, if that matters.
10 Q. Was that the first one? You said -- was that
11 the first one, or was that the second one?
12 A. The first one.
13 Q. The first one? Okay.
14 A. And he left for some sort of
12:14:06 15 Q. Oh, okay. All right. Do you have any idea
16 why it was that -- I mean, whose idea was it for
17 you to -- for you to go to room? Was it
18 idea?
19 A. It was idea.
20 Q. Did you have any idea why?
21 A. I had no idea. I thought maybe it was just
22 because I was friends with .
23 Q. Okay. Did he ever mention anything like
24 that? Did he ever explain that to you?
25 A. Why --

12:14:30 1 Q. Why he picked you.
2 A. No, not at all.
3 Q. Okay. How about ? Did he ever give you
4 any explanation?
5 A. No.
6 Q. Do you know how many times it happened to
7 ?
8 A. I believe it happened a few times. Quite
9 often.
10 Q. Had it happened before it happened to you to
11 ?
12 A. Yes.
13 Q. Do you know if it happened afterwards --
14 A. I'm not sure.
12:14:56 15 Q. -- to him?
16 Okay. Do you know if it happened to
17 anybody else afterwards?
18 A. I'm not sure, but I wouldn't doubt it. I saw
19 kids coming in and out of his room --
20 Q. Okay.
21 A. -- at all hours.
22 Q. Okay. Okay. All right. And the first time
23 that you told anybody about this was when you told
24 your parents --
25 A. My mom.

12:15:26 1 Q. -- a couple months ago.

2 Okay. Why -- why did you choose them?

3 A. We were just having a conversation about --
4 I -- I had been to a lot of psychiatrists and
5 therapists, you know.

6 Q. Okay.

7 A. None of them had worked out.

8 Q. Okay.

9 A. And, I mean, it just got to a really
10 emotional point in our lives. We were having a deep
11 conversation. My mom started crying. She didn't
12 understand why I had chosen the path that I had
13 chosen, why I was making these decisions.

14 Q. Okay.

12:15:55 15 A. And I just said, Mom, I've got to tell you
16 something that happened to me a few years ago --

17 Q. Okay.

18 A. -- that I haven't told anybody, and I told
19 her.

20 Q. Okay. Okay. Has your life seemed to get
21 better in the -- it's been a couple of months at this
22 point, I think.

23 A. My life has gotten better, but, I mean, I did
24 it for myself, you know. I -- I stopped the drugs.

25 Q. Okay.

12:16:18 1 A. I stopped the craziness.
2 Q. Okay.
3 A. I mean, I've just been trying to get back on
4 track and make a life for myself.
5 Q. How long did -- to your use word -- the
6 craziness go on?
7 A. A few years.
8 Q. Okay.
9 A. It started with the incident.
10 Q. Okay.
11 A. And it ended when my parents decided to move
12 on with their lives, move you know.
13 Q. Okay.
14 A. And I just took a look at my life, realized
12:16:51 15 that I wasn't the bad guy --
16 Q. Okay.
17 A. -- that the decisions I was making were only
18 hurting myself.
19 Q. Okay.
20 A. And I just decided to turn around.
21 Q. Okay. Why did -- I know you weren't the one
22 that called the Citadel. Your dad was -- was the one
23 that got on the phone immediately.
24 A. Uh-huh.
25 Q. Did you ask him to do that? Did you support

12:17:12 1 that decision? Did you not support that decision? Or
2 how did that -- I mean, how did that impact you?

3 A. I didn't ask my dad to do that. I mean, I'm
4 not saying I'm upset that he did.

5 Q. Uh-huh.

6 A. I'm glad he did.

7 Q. Okay.

8 A. My -- my problem is not with the Citadel.

9 Q. Okay.

10 A. I have -- I -- I respect no one more than the
11 Citadel graduate. I -- honestly that school is one of
12 the best things that's ever happened to me.

13 Q. Okay.

14 A. But at the same time something did occur at
12:17:47 15 the camp --

16 Q. Right.

17 A. -- that changed my life --

18 Q. Okay.

19 A. -- dramatically.

20 Q. Yeah.

21 A. I don't want any trouble for the Citadel.

22 Q. Okay.

23 A. I'm not trying to make a bad name for them.

24 Q. Right.

25 A. Like I said, the Citadel is awesome, but

12:18:02 1 is the problem.

2 Q. Okay.

3 A. is the problem.

4 Q. Okay.

5 A. I just -- I -- I -- I don't want him to do to
6 another kid what he did to me.

7 Q. Okay. Did you have a sense that he -- well,
8 I'll go in a different direction.

9 Is there anything that you want the
10 Citadel to do as a result of this?

11 A. I was put in a hole because of what happened.

12 Q. Uh-huh.

13 A. I've been trying really hard to get myself
14 out of this hole.

12:18:44 15 Q. Yeah.

16 A. I do expect some sort of compensation. I --
17 I don't believe I'm in position to say what.

18 Q. Uh-huh.

19 A. I mean, every step that I've taken out of
20 this hole that I was put in I've done by myself, on my
21 own.

22 Q. Yeah.

23 A. Most of all, the thing I want the most is
24 just to make sure that doesn't have a chance to
25 do this to anyone else.

12:19:07 1 Q. Okay. You haven't reported any of this to
2 any kind of --
3 A. No.
4 Q. -- law enforcement officials?
5 A. No.
6 Q. Do you plan to do that?
7 A. Well, I mean, I've talked to you.
8 Q. Uh-huh.
9 A. If I were to do that -- if I were to get a
10 lawyer --
11 Q. Uh-huh.
12 A. -- and, you know, take those steps, would you
13 be defending ?
14 Q. My job is to be -- to be the school's lawyer.
12:19:34 15 A. I have nothing against the school.
16 Q. Okay. I'm -- I'm not a law enforcement
17 official. I don't have a badge or anything like that.
18 A. Uh-huh.
19 Q. And my job is to look out after the
20 day-to-day legal well-being, so to speak, of -- of the
21 school.
22 A. Okay.
23 Q. And, you know, I explained at the beginning
24 that I have -- I have defended the school --
25 A. Uh-huh.

12:19:56 1 Q. -- as outside counsel. I -- I don't do that
2 now. When lawsuits are filed against the school, I --
3 my old firm continues to -- to -- to do that;
4 although, of course, my job is to work very closely
5 with them.

6 A. Uh-huh.

7 : Do you know personally?

8 Do you know him? Did you graduate with him or
9 anywhere around --

10 : I graduated in 1990.

11 : Uh-huh.

12 : And I went to law

13 school and -- and graduated law school in '93, and

14 I've been back in the Charleston area since then.

12:20:24 15 : Uh-huh.

16 Q. () I do know the person
17 that you had pointed out.

18 A. Uh-huh.

19 Q. And I've -- but then again, I know --

20 : Lots of people.

21 Q. () There are lots of folks
22 in Charleston.

23 A. Absolutely.

24 Q. And many more on campus feel like they know
25 me --

12:20:44 1 A. Uh-huh.

2 Q. -- than -- than I know because they look at
3 me and say, there's the lawyer.

4 A. Yeah.

5 : Well, I've never met a
6 general counselor for a college before, so I need to
7 ask you a question.

8 : Sure..

9 : If you had a personal
10 relationship with , if he was a friend of yours --

11 : Yeah.

12 : -- or a college buddy of
13 yours or a guy that you go have a beer with once in a
14 while, would you have to step aside from this --

12:21:06 15 : I would --

16 : -- or are you legally not
17 even bound to tell us you guys are friends?

18 : My job is to defend the
19 school --

20 : Uh-huh.

21 : -- and to look out for
22 the legal well-being of the school.

23 : Uh-huh.

24 : -- as I've said. And I
25 have to put my personal feelings aside.

12:21:20 1 : Right.
2 : And if I don't feel
3 like I can do that --
4 : Then you would --
5 : -- then I step aside.
6 : Okay.
7 : And I have not been in
8 that position yet. I advise the school regularly
9 on -- on -- on all kind of legal matters, and there
10 are plenty of times where my personal opinion as a --
11 as a person, as a graduate, whatever is different than
12 what I opinion is as a lawyer.
13 : Uh-huh.
14 : And -- but that's --
12:21:45 15 that's nothing new. That's the way my -- my life was
16 when I was a private lawyer representing construction
17 companies who -- for whom I got to be -- with whom I
18 got to be friends.
19 : Uh-huh.
20 : My role with regard to
21 is -- is -- is just like it is with regard to
22 anybody else when it comes to being a lawyer.
23 : Uh-huh.
24 : And if I feel like I
25 can't be -- you know, or if there's any question

12:22:14 1 whether I can be effective, and I -- I'm the one who
2 represents the school at that point anyway.

3 : Right.

4 : I mean, it's -- it's an
5 outside lawyer who would handle that.

6 : Yeah. See, and one of the
7 things is, , is that, you know, what happened
8 with -- with -- with -- to and the incident of
9 having as -- as -- as basically a pedophile --

10 : Right.

11 : -- is -- is -- you know,
12 it's wrong into itself.

13 : Right.

14 : It did happen. You know,

12:22:41 15 right now is an adult, but it happened when he
16 was a minor.

17 : Right.

18 : And so when it -- when it --
19 you know, as I told you, you know, I graduated from
20 that place just like you did.

21 : Right.

22 : You know, it means something
23 to me. It means something to my family. It means
24 something to , you know, and -- and -- and his
25 whole life was -- you know, in my opinion,

12:23:10 1 was -- was kind of -- you know, you're going to go to
2 the camp to get a feel because I'd love for you to go
3 there.

4 : Uh-huh.

5 : You know, the second
6 generation guy would have loved to have given him a
7 diploma.

8 : Sure.

9 : All right. But I want to
10 tell you, as -- as -- from 2002 to now, I -- I -- I
11 have no idea how this family has stayed together.

12 : Yeah.

13 : We have gone through -- you
14 know, it has been traumatic.

12:23:40 15 : Uh-huh.

16 : It's -- personally, you
17 know, we've spent years of weekly sessions with
18 psychiatrists, psychologists, of putting
19 into -- you know, pulling him out of -- out of hovels,
20 sending him to -- to, you know, wherever we had to get
21 him --

22 THE WITNESS: Mental hospitals.

23 : Yeah. Now that -- well, it
24 wasn't that. It was kind of a --

25 THE WITNESS: A mental hospital.

12:24:16 1 : But, you know, just because
2 we didn't know --
3 : Yeah.
4 : -- what was going on, and
5 was it us as parents that did something wrong.
6 : Uh-huh, uh-huh.
7 : And to come to find out
8 at -- at the nth hour --
9 : Uh-huh.
10 : -- is, A, my -- you know,
11 because of this and because of how he felt, this kid's
12 grades went in the toilet.
13 : Right.
14 : He went from -- from his --
12:24:40 15 his -- his -- his good friends to -- to -- basically
16 to the dark side --
17 : Right.
18 : -- in the matter of faster
19 than we could -- than we knew what happened.
20 : Yeah.
21 : And that is a kid that went
22 in, applied to the Citadel. He -- we get a call from
23 one of the -- from one of the --
24 THE WITNESS: Admissions.
25 : Admissions.

12:25:10 1 : -- admissions guys, and he
2 said, , we really want you.
3 : Yeah.
4 : And -- but to do that,
5 you've got to do -- you've got to take this course,
6 this course, and this course, and said, hey,
7 this is what I want to do. I want to go to the
8 Citadel. I want to get this stuff done.
9 It wasn't a month later that he gets a
10 letter that says, you know, sorry, but, you know,
11 you're not good enough. And the point is, is that the
12 reason that he isn't good enough is because of what
13 happened at the Citadel.
14 : Whoa, whoa, whoa, whoa.
12:25:48 15 Regardless of whether the Citadel feels is good
16 enough or not, he is good enough or he wouldn't be
17 sitting in that chair right now after what he's been
18 through.
19 : No, I know that.
20 : And I just want to say for
21 the record that every decision this young man has made
22 has ultimately been a decision he has made. The
23 choices he has made lies -- are the choices he has
24 made and he has had to live with.
25 But I do believe there is a root cause, a

12:26:17 1 little seed that was planted when this situation
2 happened. It escalated into a lot of things --
3 : Yeah.
4 : -- that shouldn't have
5 happened.
6 : Yeah.
7 : It has affected our whole
8 family for years. I've got out in the
9 lobby that started crying this afternoon. told me
10 a week ago that when this situation happened,
11 came up and said, something really bad
12 happened, and said, Mom, if I would have asked
13 or if I would have come to you and Dad, none of
14 this would have ever happened.

12:26:48 15 : Yeah.
16 : I'm tired of the guilt. I'm
17 tired of the "well, why didn't you say something
18 sooner" scenario --
19 : Yeah.
20 : -- all of this. You know, I
21 just found out, you know, and I -- I -- look, the
22 reason why I didn't want in this room --
23 : Right.
24 : -- is you don't even want to
25 start interviewing all right? There were things

12:27:07 1 going on in that camp that have -- that my
2 -- my who was not a
3 participated in at that camp. A lot of
4 underage stuff, a lot of things that shouldn't have
5 happened. I don't want to even open up that can of
6 worms with
7 : Right.
8 : I don't want to drag
9 through any mud.
10 : Right.
11 : participated in things
12 that should not have participated in, and I'm
13 sitting here as a mother thinking my were going
14 the. They lived very sheltered lives.
12:27:41 15 We spent thousands of dollars sending them to the
16 Citadel summer camp in the summer thinking we were
17 putting them in the safest environment they could be
18 in --
19 : Right.
20 : -- at summertime --
21 : Right.
22 : -- only to find out that of
23 all the things we thought about, of all the things --
24 all the scenarios, the whys, the -- the nuns, the
25 teachers, the counselors, the people going what is

12:28:06 1 going on with ; what is happening, and we're
2 going, we don't know. We don't know.
3 : Right.
4 : We're trying to figure this
5 out. We're trying -- anyway, I want to say something
6 about the day told me. What he told you,
7 that's exactly how it happened.
8 : Okay.
9 : My husband, you know,
10 there -- there must have been some of the -- the
11 telepathy that goes on in our family all the time, but
12 he happened to call me. We were in the car.
13 : Uh-huh.
14 : We had just gotten back from
12:28:33 15 the grocery store, and this came out of -- just, like,
16 left field.
17 : Yeah.
18 : Just hit me. I mean, I
19 was -- and called at the time, and I said -- he
20 said, what's going on. Is everything all right. I
21 said, yeah, I'm having a conversation with .
22 And goes, what's go -- you know, and
23 I said, , do you want to tell your dad what you
24 just told me.
25 : Yeah.

12:28:52 1 : got on the phone and
2 told his dad, and said, I'll call you back, and
3 that's when he called you.
4 : Right.
5 : So I don't even think he
6 even -- I don't even think you ran it by , if
7 you were going to call the Citadel or not. You just
8 picked up the phone and called.
9 : I just picked up the phone
10 and --
11 : The only thing ever
12 said to me is -- he said, Mom, I don't want -- he
13 said, I have felt guilty for years, I -- that I never
14 said anything when I could have, and maybe he's done
12:29:19 15 this to other kids because I didn't talk.
16 : Yeah.
17 : And he said, I don't want
18 him to do this to anybody else.
19 : Right.
20 : That's -- that's my side of
21 the --
22 : Okay.
23 : -- what happened that day.
24 : But one of the things is --
25 is, you know, I don't want to -- you know, I -- I

12:29:40 1 don't want to be another name in the Charleston
2 papers.
3 : Sure.
4 : Okay.
5 : Sure.
6 : And I don't think the
7 Citadel wants it. I think that you guys have done a
8 hell of a job trying to fix that campus --
9 : Right.
10 : -- trying to -- and the
11 tradition of this school needs to continue. I am not
12 going to be -- I don't want to be -- okay. Let's put
13 it that way. I don't want to be a guy that -- that
14 ends up throwing another stone.

12:30:11 15 : Right.
16 : Okay. Now, I think that
17 this family -- especially this young man, not us --
18 : Uh-huh.
19 : -- because we're going to
20 make it --
21 : Yeah.
22 : -- is this young man needs a
23 chance.
24 : Yeah.
25 : All right. I think this

12:30:30 1 young man deserves for the Citadel to take another
2 look at him. I think this young man needs an
3 education. He needs to be -- if he's been able to go
4 from -- from -- from -- you know, go from 100 percent
5 to zero and back --

6 : Yeah.

7 : -- and get to a point, you

8 know --

9 : Uh-huh.

10 : -- I think he deserves a

11 chance.

12 : Yeah.

13 : And -- and that's -- you

14 know -- but it's up to him. He's an adult. But for

12:31:03 15 me, I think the Citadel was -- was part of the root
16 cause. I think that it can be part of the root cause
17 to fix him.

18 : Right.

19 : And, you know, I think it's

20 a very inexpensive way for the Citadel to say, do you

21 know what --

22 : Right.

23 : -- we'll fix our own.

24 : Yeah.

25 : We'll -- we'll -- we'll keep

12:31:19 1 this within -- within a family, and off we go just.

2 : , I don't know if

3 told you this or not, but we received a letter in the

4 mail a couple of years ago asking us if we had ever --

5 if we knew anything or --

6 : Right.

7 : -- if we had any

8 information. I don't even remember exactly what it

9 said, but I remember asking the kids, do you guys

10 know anything; did you see anything. And it was,

11 like, no. And so just -- and that was it.

12 : Right.

13 : But, remember, we're in

14 We weren't part of the daily --

12:31:52 15 : Right, right, right.

16 Well, and -- and did tell me about that letter.

17 : Yeah.

18 : And I have wondered if

19 that letter was from me, to be honest. I -- one of

20 the things that happened in -- in the course of, as I

21 said, the summer camp cases, so to speak, was -- was a

22 lot of letters went out from the attorneys that were

23 representing the -- the -- the plaintiffs in those

24 cases and from me as -- as the lawyer representing the

25 Citadel to -- to -- to people, and we went through --

12:32:25 1 and both of us just went through lists and tried to
2 find folks -- and just tried to locate folks.
3 : Uh-huh.
4 : And those we could
5 locate -- I think on both sides, we -- you know, we
6 sent letters to a lot of those people, and -- you
7 know, saying -- and the letter would have said
8 something to the effect that I represent "X," whoever
9 it is, in -- in a lawsuit involving the Citadel summer
10 camp.

11 There have been allegations about
12 incidents that occurred at the camp in "X" year, "X"
13 years. We would like to talk to you, if you have any
14 knowledge about -- about those -- you know, about
12:33:01 15 those incidents. So it -- it may very well have been
16 a letter from me.

17 : Yeah, maybe it was. We
18 didn't keep it, you know. We -- this was the last
19 thing -- understand something.

20 : Right.

21 : I -- I suspected -- I mean,
22 I suspected there had been some funny business --

23 : Right.

24 : -- with my kids --

25 : Right.

12:33:20 1 : -- just from things they had
2 said to me but nothing -- I mean, nothing like this.
3 : Certainly.
4 : This was -- this was out of
5 left field.
6 : Certainly.
7 : But at the same time it was,
8 like, thank you God. Now maybe we can start -- I
9 mean, I wish I would have had this information five
10 years ago for him.
11 : Five years ago, sure.
12 : But when you've got a little
13 boy walking around thinking I'm dirty, I'm bad, I --
14 this is my fault.
12:33:52 15 : Uh-huh.
16 : Anyway.
17 Q. () , you're -- I know
18 you told me your birthday is
19 A.
20 Q So in '92 -- so in
21 2002, you were 14?
22 A. Uh-huh.
23 Q. You had turned 14, and you're -- I'll do
24 the math. You're 19 now?
25 : He's 19.

12:34:08 1 : I'm a lawyer, yeah.

2 I'm not real good with math.

3 Q. () Okay. Okay. Well, your

4 dad talks about the Citadel being a part of the

5 solution and obviously one of the things that's in his

6 mind and apparently yours --

7 A. Yeah.

8 Q. Although you -- you tell me. My -- I applied

9 to several colleges, and I filled out the applications

10 for all but one, and the one that I ended up going to,

11 which was the Citadel, my dad filled the application

12 out. All I did was sign it.

13 Was that the way it was for you, or did

14 you fill the application out?

12:34:43 15 A. Well, actually we sat down together and

16 filled it out together so --

17 : Dad filled a lot of it.

18 THE WITNESS: Yeah.

19 : That's the way it is, I

20 think, for a lot.

21 : Dads always think they have

22 better writing.

23 Q. () Well, these days you can

24 do them on the -- I mean, you can do the whole thing

25 on-line --

/

12:34:58 1 A. Yeah.

2 Q. -- as well so --

3 : I don't think we did it

4 on-line. I can't remember.

5 Q. () Okay. But the reason --

6 I'm being a little factitious. The reason I'm asking,

7 though, is the Citadel something that you've wanted to

8 do? Is it still something that you want to do --

9 A. Absolutely.

10 Q. -- or not?

11 A. Absolutely.

12 Q. Okay. So if you can go to the Citadel, that

13 would be -- be something that would --

14 A. I'd be there in a heartbeat.

12:35:24 15 Q. Okay. And that's useful to know.

16 : Question.

17 : Yes.

18 : Are you a little concerned

19 that maybe this is Dad's solution and maybe not his?

20 : I -- that's one of the

21 questions that you want to ask, you want to find out.

22 I -- you know, I want to know what's --

23 : What he wants.

24 : -- what he wants.

25 : Well, that's --

12:35:42 1 : I understand -- I can
2 tell what -- I can tell what Dad wants, and I can see
3 what Dad wants, and I --
4 : I wanted this to never have
5 happened. That's what I want. I'm absolutely furious
6 that my children were put in this position to begin
7 with. I -- and then I just -- you know, I mean, I
8 don't know if told you this, but actually
9 picked my -- we would send them early because we lived
10 in
11 : Right.
12 : So they would go a couple of
13 days earlier.
14 : Right.
12:36:10 15 : And at least on one
16 occasion, was the person in charge of picking up my
17 children from the airport and getting them to the
18 camp, and they basically were the only ones at the
19 camp for a couple of days.
20 Q. () Do you remember what
21 year that was, ? Do you remember that
22 happening?
23 : I'm not doubting it.
24 Don't get me wrong. I'm not doubting it.
25 : No, I know.

12:36:29 1 Q. () I just -- I just want to
2 know if you remember what year that happened.
3 A. I'm not sure what year that happened.
4 Q. Okay. Because you indicated he was a -- he
5 was a CCQ or something in 2001.
6 A. Uh-huh.
7 Q. And then in the Battalion Commander's room in
8 2002.
9 A. Well, yeah. I only knew him in 2002.
10 Q. Okay. Do you remember who it was that picked
11 you up early those years? Do you remember doing
12 that one year?
13 A. It might have been .
14 Q. Okay.
12:36:55 15 A. But at the time I didn't know .
16 Q. Okay.
17 A. I was introduced to him by so --
18 Q. Okay. Okay. And that was when the incident
19 happened, in 2002?
20 A. That's right.
21 Q. Okay. Okay. Let me just kind of probe for a
22 second some of the -- some of this.
23 Earlier, I think, you said that you
24 graduated in of 2006.
25 A. That's right.

12:37:21 1 Q. And, again, I'm not real good at math, but if
2 you went in in the fall of 2002 -- and maybe it's
3 different in -- normally I would think you
4 would graduate about the spring of -- in of 2006.

5 A. That's right. My senior year of high school
6 I actually stopped going to school.

7 Q. Okay.

8 A. I didn't finish.

9 Q. Okay.

10 A. And I ended up going to a to
11 get my high school diploma.

12 Q. Okay.

13 A. So I had -- I had credits from my first
14 semester in my senior year --

12:37:47 15 Q. Okay.

16 A. -- but not enough to graduate, so I went back
17 to this, got my credits, and graduated
18 high school.

19 Q. Okay. Why did you stop going your senior
20 year?

21 A. Just decisions that I was making at the time.

22 Q. Okay.

23 A. I mean, I made horrible decisions that
24 affected my life.

25 Q. Okay.

12:38:02 1 : By the time he was a senior
2 in high school, his grades had dropped so bad at that
3 time. I mean --

4 Q. () Okay. What were your
5 grades?

6 A. I'm not sure I even -- I didn't even go to
7 class.

8 Q. Okay.

9 A. I'm not sure I even had grades.

10 Q. Okay. How about -- well, I mean, you had to
11 do well enough at least to -- I'm guessing you passed
12 ninth, tenth, and eleventh grade?

13 A. Yeah.

14 Q. Okay. What were your grades roughly at the
12:38:24 15 end of those years? Do you remember?

16 A. C's and D's. Maybe a few B's if I was lucky.

17 Q. Okay. But good enough at least for you to --
18 : Really bad.

19 A. Well, the classes I would fail, they didn't
20 even give me an F. They -- they would drop me, you
21 know, so --

22 Q. Okay. You said you

23 A. I did.

24 Q. And did you say you as well?

25 A. That's right. And I

12:38:52 1 Q. And
2 A. Uh-huh.
3 Q. Was there ever a time that you were
4 ineligible to play any of those as a result of your
5 grades?
6 A. In
7 Q. In
8 Do you remember when that was?
9 A. It was my sophomore year.
10 Q. Okay. What kind of classes were you taking
11 during this time period?
12 A. Just basic classes.
13 Q. Just English, math, whatever?
14 A. That's right.
12:39:11 15 Q. Were you in -- in basic level classes or
16 advanced or --
17 A. Basic level.
18 Q. Okay. Or honors or anything like that?
19 A. In English, I was in higher English classes.
20 Q. Okay. Okay.
21 : He also -- I didn't hear you
22 say -- you probably did, but he was also He
23
24 : Right.
25 : Okay.

12:39:26 1 : Right. Yeah. He said

2

3 Q. () What did you

4 A. I

5 Q. Okay.

6 A. The

7 Q. Is it

8 A.

9 Q. What was

10 A. In the --

11

12 Q. That's

13 : Yeah.

14 Q. () I I

12:39:47 15 but that's good.

16 A. My parents were pretty proud of me.

17 : Yeah. One thing that

18 did is -- is when we -- we were trying to figure out

19 what can we do with -- do with this kid.

20 : Sure.

21 : So I said, hey, look.

22 You're going into the military. You're going to go --

23 you're going to go into the Army.

24 : Uh-huh.

25 : And he went to -- I took him

12:40:11 1 to the Army recruiter.
2 : Uh-huh.
3 : And they gave him the ABMAT
4 or whatever.
5 : ASDAV, A-S-D-A-V.
6 : And I think he was just a
7 couple of points from maxing it.
8 : Okay.
9 : So the Army guy was
10 pretty -- pretty happy.
11 : Right.
12 : And said, hey, I
13 can't -- I don't think I'll pass the urine test.
14 : Okay.
12:40:45 15 : So that didn't happen.
16 : Uh-huh.
17 : So then -- and by the way,
18 the Army guy came over and said, you know, this kid
19 has -- has got such a high score --
20 : Uh-huh.
21 : -- but he doesn't have a
22 high school degree.
23 : Right.
24 : We'll take him, but he's
25 going to be, you know, like a cook.

12:41:11 1 THE WITNESS: A grunt.
2 : A grunt. And this is
3 somebody that we could use --
4 : Right.
5 : -- but at a different --
6 : Right.
7 : So anyway, the Army guy sent
8 us to this.
9 : Uh-huh.
10 : And we got him in there, and
11 his official GPA went -- and he took a bunch of
12 courses. He took all the maths, everything, to get
13 him to the point where he -- I think he -- yeah, he --
14 he ended up shy in -- you know, in -- like a 1.8.
12:41:49 15 : Uh-huh.
16 : And then I think his
17 official transcript out of this is,
18 like, 2.5 or a 2.6. So he exponentially brought that
19 up, and every course that he took at this place -- and
20 it was all
21 : Right.
22 : But it was in class, and
23 he'd get A's and B's.
24 : Okay.
25 : So he -- he tried.

12:42:15 1 : Yeah.
2 : And I never told him that he
3 got rejected from the Citadel because I said, if
4 you -- if -- if I was to do this, it'd go back down to
5 nothing. Before we I took him
6 over to the Coast Guard.
7 : Right.
8 : And I said, hey, you know,
9 this is a good option for you. And the same thing.
10 The Coast Guard guy said, wow, these are great scores.
11 You can do whatever you want in the Coast Guard.
12 : Uh-huh.
13 : Except for, like -- wasn't
14 it two things?
12:42:43 15 : He -- he -- one thing
16 that --
17 : There's, like, two things.
18 : He couldn't be a marine
19 biologist guy or the damage control specialist. I
20 said, damage control specialist, in the movies, he's
21 on the other side of the glass and the water's coming
22 up. You don't want to do that job.
23 : Yeah. You don't want
24 to do that anyway.
25 : So -- but, you know --

12:43:06 1 : That -- --
2 ability and his intelligence has never been
3 questioned --
4 : Yeah.
5 : -- by anybody. In fact, at
6 the contrary. Everybody we ever took him to said this
7 is just an incredibly bright, wonderful kid. I
8 mean -- and here's the thing that -- never, not once,
9 even when he stopped going to school and we talked to
10 the counselors and the principal and his therapist and
11 everyone, they all said, he's welcome here, if he
12 wants to just come and sit. He'd never gotten into
13 trouble, you know --
14 : Okay.
12:43:44 15 : -- as far as behavior.
16 There's never been a teacher that said, he's out of
17 control in my class; I can't have him here; he causes
18 trouble. He's a good kid.
19 Q. () And -- and that actually
20 raises -- I mean, that was a question I wanted to ask
21 was, did you -- I mean, were you ever in any kind of
22 disciplinary trouble in high school?
23 A. No.
24 Q. Have you ever been arrested?
25 A. No.

12:44:06 1 Q. Okay. Those are questions that you would
2 normally ask at the beginning of a deposition.
3 Your dad said that you came to him and
4 said, I -- I don't know that I'm going to pass
5 urinalysis.
6 A. Uh-huh.
7 Q. What kind of drugs were you using?
8 A. Marijuana.
9 Q. Marijuana?
10 A. Uh-huh.
11 Q. Is that the only drug you've only -- you've
12 ever used?
13 A. Yes.
14 Q. Okay. How often were you using it?
12:44:27 15 A. Quite often.
16 Q. Okay. And how long has it been since you
17 stopped?
18 A. Months.
19 Q. Months?
20 A. Uh-huh.
21 Q. Okay. Is there anything else you've used?
22 Alcohol? Prescription drugs?
23 A. I've drunken alcohol.
24 Q. You have? Okay.
25 A. But I'm done with that.

12:44:47 1 Q. Okay. Okay.

2 A. I made a complete 360. I'm a working man
3 now.

4 Q. Okay.

5 A. All I've got is my job and my rent to pay,
6 you know.

7 Q. Okay. And you're living with friends, you
8 said,

9 A. That's right. People that I work with.

10 Q. Okay. Good.

11 : What else? What else
12 do you want to tell me?

13 : Just that I know you don't
14 principally have anything to do with this. I'm sorry

12:45:13 15 if I sounded a bit rough or anything. It's just --

16 : , the worst
17 thing -- the absolutely thing in the world about being
18 a litigator -- the kind of lawyer that I was -- was
19 that I never met folks on good terms.

20 : Yeah.

21 : And invariably one of
22 two things had happened. Either my client had gotten
23 hurt -- and I didn't do that side of the law very
24 much. I -- that wasn't my philosophy. That wasn't
25 my -- that just didn't suit me very much. But, know,

12:45:39 1 somebody who had been in a car wreck or whatever it
2 happened to be, somebody -- or gotten arrested. I
3 didn't do a lot of criminal work, as well.

4 But they had -- they were hurt. They
5 were hurting in some way. I met them on those terms.
6 Or my client had -- had done the hurting, so to speak,
7 you know.

8 : You're not in a win-win.

9 : And then -- you know,
10 so -- and so I met folks because they had been sued
11 invariably and were looking to -- you know, because
12 they had had -- allegedly -- we lawyers like that
13 word -- allegedly had -- had hurt somebody, and -- and
14 so certainly those who felt like they had been wrongly
12:46:17 15 accused were themselves hurt and looking to me to say,
16 wait a minute, you've got to fix this.

17 And others -- and as I said, I -- I got
18 to the point where I did a lot of construction
19 litigation where, you know, they build buildings
20 years -- or houses or whatever years before and there
21 were clearly problems with it, and they knew they had
22 a -- and so as a result, my clients knew that they had
23 a problem, and, again, they were hurt, and they didn't
24 enjoy the process.

25 So I never -- almost never as a -- as a

12:46:41 1 lawyer -- as a litigator met people on -- on good
2 terms, so I don't take it personally is what I'm
3 saying.

4 : Okay.

5 : I mean, you come to me
6 and you say --

7 : Because I -- I can tell you
8 don't. I just want you to know that it's a little
9 different when it's your child. There is nothing --
10 there is nothing anybody can do for me personally, and
11 I think I can speak for. There's nothing.

12 : Uh-huh.

13 : There isn't an amount of
14 money.

12:47:04 15 : Right.

16 : There isn't anything anybody
17 can do for us that would take away the pain of seeing
18 our child hurt for years and be confused and lost --

19 : Sure.

20 : -- and not know what is
21 going on.

22 : Sure.

23 : And I just want somebody to
24 help fix him if they can.

25 : Sure, sure.

12:47:26 1 : That's all I --
2 : Sure.
3 : And, I mean, that's it.
4 That's all I have to say.
5 : Okay. Okay. , is
6 there anything more you want to tell me?
7 : No. I -- like I -- like I
8 told you is, I don't want to drag the school through
9 any more mud.
10 : Right.
11 : And, you know, I -- you
12 know, I -- I -- I think that -- if -- if -- if the
13 Citadel can be part of the healing process of this
14 kid --
12:48:02 15 : Uh-huh.
16 : -- and can, you know, bring
17 him back as a -- as a solid member of society --
18 : Right.
19 : -- you know, he'd make the
20 school proud --
21 : Uh-huh.
22 : -- and do something with
23 himself.
24 : Uh-huh.
25 : If -- you know, and -- you

12:48:18 1 know, that's why you don't see us with -- with
2 attorneys.
3 : Right.
4 : You don't see us with
5 anything. I want to do whatever this happens --
6 and -- and you guys can do -- the Citadel can do all
7 the investigating and looking and so forth to -- to --
8 to corroborate story --
9 : Uh-huh.
10 : -- but we don't want to go
11 and be part of the Charleston gossip.
12 : Sure.
13 : And that's not what anybody
14 needs.
12:48:49 15 THE WITNESS: Yeah.
16 : Well, it's not going to help
17 anybody.
18 : It won't help anybody.
19 : Right, right.
20 : And -- you know, and all I'm
21 saying is -- is not the Citadel but the summer camp
22 was -- was -- was part of the root cause. Now I'm
23 just, you know, as a parent saying, you know --
24 : Uh-huh.
25 : -- there's no way that you

12:49:08 1 can compensate me.

2 : Right.

3 : You know, if -- if -- if you

4 can just write out a check for, you know, every dollar

5 that we spent in -- in going to -- to camp, us going

6 to visit, you know, all of this and our psychologist,

7 psychiatrist, the pain and suffering, it wouldn't do

8 us any good.

9 : Right.

10 : It wouldn't do this guy any

11 good. He needs something to stand on --

12 : Right.

13 : -- and something to make him

14 proud again.

12:49:33 15 : Right.

16 : That's our --

17 Q. () Tell me what the schools

18 were that you've -- you've been to. Your middle

19 school -- tell me what your middle and your high

20 school -- and it sounds like you've been to two high

21 schools.

22 A. Yeah. My middle school, first through eighth

23 grade was

24 Q. Okay. Now, you've got to spell that for me

25 and for

12:49:54 1 A.
2 Q.
3 A. Uh-huh.
4 Q. And that's
5 A. That's right.
6 Q. Okay.
7 A.
8 Q. Okay. That's what your mom said.
9 : Correct, yeah.
10 A. My -- and then my high school was
11
12 Q. Okay.
13 A. That's right.
14 Q. Okay. Is that a or is --
12:50:28 15 A. No.
16 Q. -- that a ?
17 Okay. And is that
18 as well?
19 A. That's right.
20 Q. Okay. How close is that to the
21 that you hear about?
22 A. Oh, it's right in front.
23 Q. Is it all the same?
24 : All pretty close.
25 Q. () Okay. And -- and you

12:50:45 1 went there from 2002 through -- from fall of 2002

2 through, what, of 2005 or so?

3 A. Uh-huh.

4 Q. You skipped your last semester?

5 A. That's right.

6 Q. Okay.

7 A. And then I graduated from .

8 Q. And you got a ?

9 A. No. A regular high school.

10 : No. It's

11

12 : Oh, okay.

13

14 : It's a high school diploma.

12:51:14 15 :

16 : Okay.

17 : It is not a -- he's got a

18 high school diploma.

19 : Okay. Okay. Good.

20 Q. () And what was that?

21 of 2006?

22 A. Uh-huh.

23 Q. Okay.

24 A. That sounds right.

25 : And was it this

12:51:32 1 academic year; that is, for the incoming class -- this
2 freshman incoming class that he was turned down?

3 : Uh-huh.

4 : Okay.

5 Q. ()if the Citadel

6 could make it happen for you to come, would you want
7 to come?

8 A. Absolutely.

9 Q. Would you come?

10 A. Yes.

11 Q. That's two different questions.

12 : Yeah, it is.

13 : Mom and Dad, would

14 y'all want him to come? I have a feeling I know what

12:52:01 15 your answer is, Dad. Mom, would you want him to come?

16 : I want him to be happy.

17 : Okay.

18 : I -- whatever decision he

19 makes, as long as he's happy.

20 : Yeah.

21 : I never in my life want him

22 to feel guilty or dirty or bad or he should have said

23 something or shouldn't have said something or he's

24 getting someone in trouble. I don't want anybody to

25 come him and say, you know, this -- is -- is

12:52:26 1 going to -- you know, lived in Charleston for years.
2 You're really going to hurt him. I don't want that,
3 you know.
4 He told the truth. He told it like it
5 was.
6 : Yeah.
7 : And I don't want -- I don't
8 want any more guilt from this -- from him.
9 : Sure. Okay.
10 : That's all.
11 : Okay.
12 : And I just want him to be
13 happy. If he doesn't want to go to the Citadel and he
14 wants to work in a little gourmet store the rest of
12:52:49 15 his life, that'll make me happy. He can tell me all
16 about cheese and meat and everything else and teach me
17 how to cook while he's at it.
18 : Okay. Anything else
19 y'all want to tell me?
20 A. I just -- I mean, I don't want any trouble
21 for the school, you know.
22 Q. () Right.
23 A. That's -- that's all I want to say.
24 Q. Okay.
25 A. And if I -- if I -- if going to that

12:53:11 1 school --

2 Q. Uh-huh.

3 A. -- became a possibility for me --

4 Q. Yeah.

5 A. -- I would go there in a heartbeat.

6 Q. Okay.

7 A. And I think that's the best thing that --

8 Q. Yeah.

9 A. -- could ever happen to me really.

10 : you said that

11 somebody in the admissions office had called, I think,

12 or written to you and talked to you?

13 : Called, called.

14 : Do you know who it was?

12:53:31 15 : I had his -- I can -- I can

16 give you that. If you have a cell phone, I have his

17 card --

18 : Okay.

19 : -- at home. I don't have it

20 with me.

21 : Oh, okay.

22 : I have his card.

23 : Let me just think --

24 let me just think for a second. There's --

25 is the head admissions.

12:53:43 1 : No, no. It'll take her --
2 it wasn't It was
3 Somebody.
4 : There's -- there's --
5 let me just think about some of them. There's --
6 -- I think actually is a Major.
7 : Boy, that name -- you know,
8 I don't know. We --
9 : and then
10 there
11 : No.
12 : No, that's not it.
13 : And then maybe
14
12:54:09 15 : I think it's -- I think it's
16 . Does he go by Captain? Is he a
17 Captain?
18 : I think he might be a
19 Major.
20 : I don't know. I can tell
21 you, though, if you need to know. And he -- and he --
22 we didn't talk to him. He talked to .
23 : I'm just -- I'm just --
24 Q. () Did you -- I mean, do
25 any of those names sound familiar to you?

12:54:22 1 A. The one sounded familiar, but I'm not
2 sure it was him.

3 Q. is the -- is the
4 There's also who is in that office.

5 : No, it wasn't a

6 : So -- and is about
7 your era.

8 : Yeah. No, it wasn't

9 I think that it was -- it was

10 : is a little after

11 you, and is considerably -- is after me.

12 : And -- yeah. Because he

13 sounds pretty young. And -- but he was -- he's the

14 one that came over and said, look, , if you

12:54:55 15 can -- if you do these things --

16 : Uh-huh.

17 : -- we'll look at you again.

18 : We'll look at you again.

19 : And then it wasn't a short

20 time later that we got the letter.

21 : I will -- I will tell

22 you that we have -- that we have a very large class

23 coming in. It's -- it's -- the numbers are well over

24 700 or at least were last I heard. And -- and so that

25 is -- that -- that is probably one factor in you

12:55:22 1 getting -- in looking like the right hand's not
2 doing --
3 : Correct.
4 : -- doesn't know what
5 the left hand is doing. It doesn't excuse it, but
6 they just -- you know, they were making -- I know they
7 were making efforts to just, all right, how do we --
8 how do we reduce this and get it to a manageable size.
9 And, you know, so I don't think it was
10 anything -- I don't think it was anything personal
11 when you got that second letter.
12 : No, no, no.
13 : It was just, you know,
14 what are the numbers. I tell folks, you know, you may
12:55:48 15 want to go to law school. You've -- you've got to
16 have this on your GPR and this on your LSAT before
17 they'll even -- before some schools will even think
18 about you. That's just an easy way to start
19 separating -- separating them out.
20 : I'm kind of glad you said
21 that because I do want you to know, as far as what
22 happened to my son, I as a mother take that very
23 personally.
24 : Sure.
25 : But I do not think that

12:56:12 1 these situations that I've been told that I have found
2 out from , from
3 that went on at that camp, I don't believe that
4 anybody just singled out and said,
5 okay, there's going to be underage drinking, there's
6 going to be this, there's going to be that.
7 I believe that it was rampant, and I feel
8 terrible. I just feel terrible for -- I feel terrible
9 for the camp.
10 : Right.
11 : I feel terrible for any
12 child that was involved in anything.
13 : Yeah.
14 : And I feel terrible for the
12:56:45 15 parents out there that maybe has a child -- and I'll
16 bet you they are out there -- that has a child that
17 experienced something at the camp along -- you know --
18 : Yeah. The same
19 lines --
20 : I hope and pray that's not
21 this case, but I'm just saying, please don't think
22 that we're taking -- I mean, I -- I don't take it
23 personally.
24 : Yeah. Did -- did --
25 you know, in my business you can't. I don't. You

12:57:07 1 know that the camp doesn't exist anymore?
2 : Yes.
3 : Huh?
4 : I said, you know the
5 camp doesn't exist anymore?
6 : Well, that's a good thing.
7 : So it --
8 : It's sad.
9 : It is.
10 : It's really sad.
11 : Sure.
12 : But it's a good thing.
13 : So --
14 : Okay.
12:57:23 15 : All right.
16 : So, anyway, if you need to
17 get ahold of us, I'll give you my address.
18 : Okay.
19 : -
20 : Okay.
21 : Temporarily,
22
23
24 : Yes.
25 : All right.

12:57:36 1 : Number
2 : Okay.
3 :
4
5 : Okay.
6 : If for some reason you can't
7 get ahold of me, my wife's is
8 :
9 : Now, tell us
10 how to spell your name.
11 : Okay. It's with
12 two
13 : And I'm
14 doing that for my benefit and for to make sure
12:58:18 15 so --
16 THE WITNESS: Oh, here's this.
17 : Oh, okay. Great.
18 Thank you.
19 Anything else? As I've said a number of
20 times, I just don't want to leave any stone unturned.
21 : Thank you. Thank you for
22 meeting with us today.
23 : Thank you.
24 : Like I said, I never
25 meet folks on good terms. I used to never meet folks,

12:58:38 1 and unfortunately this is, you know, giving me
2 flashbacks to private practice, and I'm meeting folks
3 on bad terms.

4 So I've been -- it is not -- it's not
5 been enjoyable to meet you under these circumstances,
6 but I have enjoyed meeting you -- getting to know you
7 a little bit, so I -- I -- it was -- it was so much
8 fun to call a couple weeks ago and say, I'm --
9 you know, I'm going to be on the West Coast. I've got
10 to come back.

11 He says, well, I'm going to be there
12 tomorrow. So we got a chance to see each other on --
13 on the campus a couple weeks ago, which was nice.

14 : Yeah.

15 : So I think we're done.

16 (Interview adjourned at 12:59 p.m.)

17

18

19

20

21

22

23

24

25

1 CHANGES AND SIGNATURE

2 WITNESS NAME: JULY 1, 2007

3 PAGE LINE CHANGE REASON

4 _____
5 _____
6 _____
7 _____
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____
24 _____
25 _____

1 I, , have read the foregoing
 2 deposition and hereby affix my signature that same is
 3 true and correct, except as noted above.

4

5

6

7

8

9

10 THE STATE OF _____)

11 COUNTY OF _____)

12 Before me, _____, on this

13 day personally appeared known to me (or

14 proved to me under oath or through _____)

15 (description of identity card or other document) to be

16 the person whose name is subscribed to the foregoing

17 instrument and acknowledged to me that they executed

18 the same for the purposes and consideration therein

19 expressed.

20 Given under my hand and seal of office this

21 _____ day of _____, 2007.

22

23

24

25

NOTARY PUBLIC IN AND FOR
 THE STATE OF _____

1 STATE OF)

2 COUNTY OF)

3 I, Certified Shorthand

4 Reporter, in and for the State of certify that

5 the foregoing deposition of M was reported

6 stenographically by me at the time and place

7 indicated, said witness having been placed under oath

8 by me, and that the deposition is a true record of the

9 testimony given by the witness.

10 I further certify that I am neither counsel

11 for nor related to any party in this cause and am not

12 financially interested in its outcome.

13 Given under my hand on this the ____ day of

14 _____, 2007.

15

16

17

18

19

20

e-mail:

21

22

23

24

25

1 A. No.

2 Q. Now, they have said, {John Doe Camper},
3 that you were unwilling -- Camper Doe was
4 unwilling to report the incident to police. Is
5 that true?

6 A. No.

7 Q. And could you share with me why that's
8 wrong?

9 A. I would have absolutely reported it to
10 police had I known that The Citadel didn't.

11 Q. As far as an authority figure, based
12 upon your upbringing, was there any authority
13 higher than the President of the Military College
14 of South Carolina --

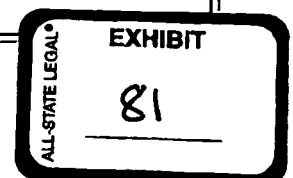
15 MR. STONEY: Objection.

16 Q. -- who happened to be a Three-Star
17 General?

18 MR. STONEY: Objection.

19 A. No.

20 Q. Now, they've said in court filings that
21 after the interview of Camper Doe and his family,
22 "they," referring to you, did not follow up with
23 Attorney Brandenburg concerning the incident.
24 Before you hired a lawyer and after ReVille was
25 arrested, didn't Mark Brandenburg call you?



1 notified. In all cases, schools should make every
2 effort to prevent disclosure of the names of
3 parties of all involved, the complainant, the
4 witness and the accused, except to the extent
5 necessary to carry out an investigation."

6 Q. Okay. So let me first ask you, did you
7 ever make a determination whether or not law
8 enforcement should be called?

9 A. No. It was not really discussed.

10 Q. But you would agree with me now that
11 federal law required you and the people working
12 underneath your command to make that assessment
13 back in 2007?

14 MR. COOKE: Objection to the form of the
15 question.

16 A. I don't know that. That's just a piece
17 of a law -- I don't know. I would have to have
18 somebody look at that. I can't determine just by
19 that statute. That's under sexual harassment, and
20 that's not what we're dealing with here.

21 Q. I'll just read it back, and I'll just
22 get you to tell me where I'm incorrect. "In cases
23 involving potential criminal conduct" -- you would
24 agree with me that what the camper and his family
25 reported involved potential criminal conduct?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1177

1 that involved cadets being injured, we really
2 didn't have the full story on it, they were -- you
3 know, they would tell us, Okay, we're -- we just
4 got a call from the Commandant's office, we don't
5 have all of the details yet, this is what has
6 happened; so-and-so is going over to look into it,
7 but this is close hold for right now. You know,
8 until we get all the information together on it,
9 this is close hold.

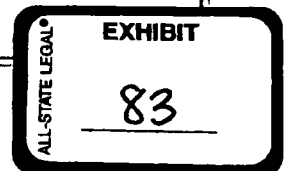
10 Q. And based upon your personal knowledge,
11 did President Rosa or Mark Brandenburg ever
12 entertain the thought of giving this report over
13 to law enforcement?

14 MR. KOVACH: Objection.

15 A. Not to my knowledge.

16 Q. Share with me what you know.

17 A. I'm just saying I never heard it
18 mentioned in my presence that that was a
19 consideration. You know, again, you know, being a
20 support person there, you know, one has to assume
21 that, you know, they're taking into consideration
22 all the things they're supposed to be taking into
23 consideration when they're handling these things,
24 you know. But in -- it was never mentioned, I
25 never saw Public Safety even, you know -- no



1 Public Safety officers were ever around when this
2 was being discussed, you know. Public Safety --
3 there were no calls from Public Safety about this.
4 And so, you know, to my knowledge, that was never
5 given a consideration. And, you know, being lower
6 down on the food chain, you just assumed that they
7 have their reasons for doing what they're doing.

8 Q. And I recognize that you learned a lot
9 about -- you learned additional information about
10 what happened with regard to ReVille sometime
11 after you left The Citadel. But my question is,
12 as far as the priorities during this time period
13 when President Rosa's office responded to the
14 report of sexual abuse, was it ever made known to
15 you that one of the priorities was making sure
16 ReVille didn't abuse anybody else?

17 MR. KOVACH: Objection.

18 Q. Did that even make the priority list?

19 A. No. I never heard that discussed.

20 Q. Looking back on the period of time when
21 you were working within the President's office,
22 helping respond in an administrative role to the
23 report of sexual abuse, do you believe that
24 President Rosa was indifferent towards concerns
25 that he should have been worried about; for

1 was alleged?

2 A. Correct.

3 Q. Nor did you do any further work on Doe
4 -- on Doe's case, right? You didn't contact
5 anybody and didn't do anything else?

6 A. I had a number of communications or
7 conversations with his father the end of July,
8 early August, as I recall.

9 Q. Other than talking to his father -- that
10 wouldn't really be investigation, would it?

11 A. I don't know.

12 Q. Would you agree with me that after July
13 1st of 2007, other than talking to Doe's father,
14 you didn't do -- you didn't do any other
15 investigative work on Doe's claim?

16 A. No. I wouldn't agree with you on that.

17 Q. What else did you do as --

18 A. What I've said is I don't recall doing
19 anything else.

20 Q. Let me phrase it this way: As a -- you
21 can't point me to any evidence -- any written
22 document of any type that would suggest that you
23 in any way did any investigation other than
24 calling Doe's father after July 1st of 2007?

25 A. No. I can't point you to any documents.

1 last two days, do you agree with me that there
2 didn't have to be a touching for you to be required
3 to report it to law enforcement?

4 A You've pointed to a lot of statutes that
5 I haven't had the time to read closely.

6 Q At the bottom of 56 they ask you -- the
7 last three paragraphs, "What about Clery?" And you
8 said you didn't report it. There's no touching or
9 battery. "I don't see it fitting within one of the
10 criteria."

11 And then they must have brought something
12 up about the Clery Act, and you said, "I guess I
13 interpreted that differently. Guess we will find
14 out how the DOE reacts. We're going to get a fine."
15 What's DOE?

16 A Department of Education.

17 Q Have you-all gotten a fine?

18 A In about December of 2011 after this
19 happened, we got an audit letter from the Department
20 of Education. Colonel Trez coordinated submitting
21 boxes of documents to them.

22 In the last six months or so, I guess,
23 we've got some follow-up requests from them. So
24 they have not made a final determination.

25 But every time I see a result from an
Janice Ohlendorf Darby, RPR
(843) 814-7666 jodarby@comcast.net



1 audit from this Department of Education, there's
2 been a fine associated with it for some violation of
3 the Clery Act. And so that's what my speculation
4 was, was that they'll find that we violated it
5 somehow.

6 Q When you say, "I guess I interpreted that
7 differently," what were they referring to? Do you
8 know?

9 A I don't.

10 Q And then I take it -- the second
11 paragraph of 57, Jeff Weart was the one who was
12 considering hiring Skip ReVille. Right?

13 A According to ReVille.

14 Q And then apparently Jennifer -- Is that
15 your assistant, Jennifer Shiel?

16 A Jennifer Shiel, yes.

17 Q And Jeff Weart was the primary force
18 behind firing her?

19 A Yes.

20 Q Why did he fire her?

21 A Well, what it says right there. She took
22 leave about as fast as she acquired it. Took annual
23 leave. Took sick leave. So when she was there, she
24 was great. She really was. Probably 90 to 95
25 percent of the time. But the problem was she was

Janice Ohlendorf Darby, RPR
(843) 814-7666 jodarby@comcast.net

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) CASE NO. 2011-CP-10-9200
MOTHER DOE A,)
Plaintiff,)
vs.)
THE CITADEL,)
Defendant.)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1860
JOHN DOE CAMPER,)
Plaintiff,)
vs.)
THE CITADEL,)
Defendant.)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1858
JOHN DOE 2,)
Plaintiff,)
vs.)
THE CITADEL,)
Defendant.)

DEPOSITION OF:
COLONEL LEONARD C. FULGHUM, JR.

CAROLINA REPORTING
843.832.0801 * www.carolina-reporting.com

1183



1 STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
2)
3 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1859
4)
5 MOTHER DOE 2, ON BEHALF)
6 OF JOHN DOE 3,)
7)
8 Plaintiff,)
9)
10 vs.)
11)
12 THE CITADEL,)
13)
14 Defendant.)
15 STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
16)
17 COUNTY OF CHARLESTON) CASE NO. 2013-CP-10-5247
18)
19 CAMPER DOE 6,)
20)
21 Plaintiff,)
22)
23 vs.)
24)
25 THE CITADEL,)
26)
27 Defendant.)
28)
29 STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
30)
31 COUNTY OF CHARLESTON) CASE NO. 2013-CP-10-4770
32)
33 JOHN DOE, A MINOR, BY)
34 HIS GUARDIAN AD LITEM,)
35 JOHN ROE)
36)
37 Plaintiff,)
38)
39 vs.)
40)
41 THE CITADEL,)
42)
43 Defendant.)
44)
45

1 Q. Let's back up. I didn't hear that
2 earlier. He did report to you that he had been
3 abused?

4 A. At that time I -- I don't think he
5 elaborated -- you're using the term abused. I
6 don't think he did that at that time. I think he
7 was really following up on a claim that the
8 parents had contacted the college.

9 Q. And at that board meeting, did you
10 understand that the basis of the claim was sexual
11 abuse?

12 A. I did not.

13 Q. Well, then let me ask you, you said in
14 your interview that at that meeting,
15 Brandenburg -- and I'm using their word; I'm not
16 saying it's your word -- that Brandenburg was
17 proud, that he thought he had gotten this claim --
18 you didn't know it was sexual abuse. That he was
19 proud that he had gotten this claim settled or he
20 thought he got it settled for \$20,000 and that
21 Arpaio had paid out millions. Why would the two
22 be compared?

23 A. Well, I think it's the dollars is the
24 comparison. The law -- the potential lawsuit or
25 the lack of a potential lawsuit. But I want to

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1185

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) CASE NO. 2011-CP-10-9200
MOTHER DOE A,)
Plaintiff,)
vs.)
THE CITADEL,)
Defendant.)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1860
JOHN DOE CAMPER,)
Plaintiff,)
vs.)
THE CITADEL,)
Defendant.)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1858
JOHN DOE 2,)
Plaintiff,)
vs.)
THE CITADEL,)
Defendant.)

VIDEOTAPED DEPOSITION OF:
COLONEL GLENN ADDISON

CAROLINA REPORTING
843.832.0801 * www.carolina-reporting.com

1186

1

2 STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS

3)

4 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1859

5 MOTHER DOE 2, ON BEHALF)

6 OF JOHN DOE 3,)

7)

8 Plaintiff,)

9)

10 vs.)

11)

12 THE CITADEL,)

13)

14 Defendant.

15

16 VIDEOTAPED

17 DEPOSITION OF:

COLONEL GLENN ADDISON

18

19 DATE TAKEN:

Friday, July 26, 2013

20

21 TIME:

10:00 a.m.

22

23 PLACE:

Pierce Hems Sloan & Wilson

24

321 East Bay Street

Charleston, South Carolina

25

REPORTED BY:

EVE WILBANKS

26

Registered Professional

27

Reporter, Certified LiveNote

28

Reporter and Notary Public

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

POST OFFICE BOX 21784

CHARLESTON, SOUTH CAROLINA 29413-1784

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1187

1 our role has always been -- because we, the Board
2 of Visitors, oversee The Citadel Trust. That's
3 our responsibility. And there's the Trust bylaws.
4 Basically we appoint a board that has the
5 responsibility to invest and oversee funds. We're
6 the ones that actually allocate those funds where
7 we think, different from the Foundation. See, the
8 Foundation is separate.

9 So we -- we typically, whenever there's
10 a settlement that would involve Trust dollars,
11 we're consulted over that -- or about that.
12 Otherwise, we trusted the -- our attorney and
13 in-house counsel and the administration to handle
14 each situation.

15 Q. And you say at the June meeting, "The
16 only thing said to us" -- in quotes -- "'this is
17 not a sexual assault or sexual harassment.'
18 Former camper alleging inappropriate conduct by
19 former summer camp counselor. We will
20 investigate. No other details provided. We are
21 going to investigate and attempt to meet with the
22 family to get more information." That's all that
23 you remember being said at the June meeting,
24 right?

25 A. Yes.

1 other victims; just about other people who were
2 there who might be able to shed some light."

3 And Brandenburg was unable to find some
4 people. It was just a settlement case. And
5 that's how Mark Brandenburg treated it, correct?

6 A. Yes.

7 Q. And then you tell the investigators
8 that, Never at any time did he tell us how it
9 occurred, right?

10 A. Right.

11 Q. So as a board member in June and
12 September 2007, you were never told what Doe
13 alleged ReVille did in that room?

14 A. To the best of my knowledge, the only
15 thing we were told was that it was an allegation,
16 but it did not involve touching, and there was no
17 sexual harassment, no sexual assault and that -- I
18 don't think it was included in there, but I
19 believe there was something about watching
20 pornographic videos or whatever, but there was --
21 it was not -- it wasn't treated as -- it didn't
22 raise a lot of red flags for me at the time, the
23 way it was presented.

24 Q. And you say during executive session,
25 during Brandenburg's briefing, that there was no

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1189

1 other victims; just about other people who were
2 there who might be able to shed some light."

3 And Brandenburg was unable to find some
4 people. It was just a settlement case. And
5 that's how Mark Brandenburg treated it, correct?

6 A. Yes.

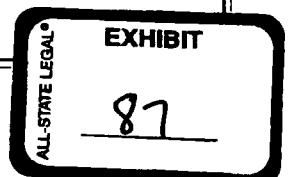
7 Q. And then you tell the investigators
8 that, Never at any time did he tell us how it
9 occurred, right?

10 A. Right.

11 Q. So as a board member in June and
12 September 2007, you were never told what Doe
13 alleged ReVille did in that room?

14 A. To the best of my knowledge, the only
15 thing we were told was that it was an allegation,
16 but it did not involve touching, and there was no
17 sexual harassment, no sexual assault and that -- I
18 don't think it was included in there, but I
19 believe there was something about watching
20 pornographic videos or whatever, but there was --
21 it was not -- it wasn't treated as -- it didn't
22 raise a lot of red flags for me at the time, the
23 way it was presented.

24 Q. And you say during executive session,
25 during Brandenburg's briefing, that there was no



1 conversation with Rosa; that Rosa would just
2 listen to the legal report. And, again --

3 A. In the executive session?

4 Q. Yes.

5 A. Yeah. It was just a report from -- the
6 attorney reported out to us, as he did pretty
7 regularly during executive sessions. At pretty
8 much every board meeting we would have some type
9 of either update on where we were with certain
10 cases or anything that may from a legal standpoint
11 need to be known.

12 Q. You say it was a very brief -- it was a
13 brief -- in September, the briefing was very
14 brief, right?

15 A. Yes. And I know initially there was
16 relief, if you would, with the board, that it
17 didn't -- that we didn't -- that there was no
18 touching or no -- it was just an allegation and
19 that we'll investigate it. And then in September,
20 it was like, We haven't been able to corroborate
21 anything, we haven't heard anything, we're not
22 sure whether this is -- it looks like a settlement
23 case. And, We'll let you know, is basically how
24 it was left.

25 Q. Then you go on to say -- when was your

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Q. Do you remember General Rosa saying
2 anything during the legal briefing?

3 A. Not -- no. You've got to remember,
4 there's a table -- the chairman is way down there;
5 the emeritus member is way down here. And so
6 there could be some conversation that I don't
7 hear. But I don't remember that.

8 Q. Did Mr. Brandenburg inform you -- at the
9 meeting you're recalling where he had talked to
10 the parents and this \$20,000 offer had been made,
11 did he tell you that the statute of limitations
12 had run for that camper, or was that a different
13 case he was talking about?

14 A. No. He was talking about this young
15 man. In fact, he made the statement that he had
16 not heard from the family, I think is what he
17 said, had not heard from the family about the
18 \$20,000. I think that's pretty much it.

19 Q. And he was making a comparison to how
20 much money had been paid out in Arpaio and what he
21 offered this Camper Doe?

22 A. I don't think he offered that. I think
23 that's what they requested. I don't believe he
24 made an offer. I believe that's what the family
25 requested.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Q It says, "He did not develop an
2 investigative and interview plan consistent with
3 what we would expect for such an allegation. He was
4 not prepared to conduct an interview and
5 interrogation of a child sexual abuse suspect and
6 did not appear to fully understand the behavior and
7 course of conduct of a preferential child molester."
8 Do you agree with that?

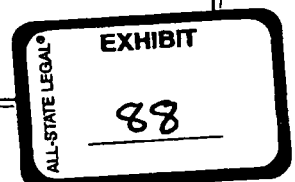
9 A I don't believe I was prepared for that.

10 Q Page 33 it says at the top there, I think
11 the fourth line down, this is talking about the
12 Board of Visitors. "Those interviewed who
13 remembered hearing about the incident at the June
14 2007 meeting shared mixed recollections as to the
15 level of detail but uniformly believe that this was
16 a civil litigation matter and not a sexual assault
17 or harassment case."

18 They uniformly believed that. Do you
19 believe that's possible based on the briefing that
20 you gave the Board of Visitors?

21 A I told them we had a case involving sex
22 at the summer camp. And we talked about the Arpaio
23 case. We were looking at it at that point as we
24 might be sued again, so certainly it was in that
25 context. But I gave them all of that information.

 Janice Ohlendorf Darby, RPR
 (843) 814-7666 jodarby@comcast.net



1 I don't know what conclusions they drew from it.

2 Q Well, if you told them that there was a
3 13-year-old boy in a room with an adult watching
4 pornography and that he was coerced to masturbate,
5 how could somebody on the Board of Visitors claim
6 that that wasn't a sexual harassment case? That
7 doesn't make sense, does it?

8 A You would have to ask them, Mr. Sloan. I
9 presented to them what I knew.

10 Q Further down toward the end of that
11 paragraph starting with, "There was no recollection
12 with the IRT" -- This is, again, the Board of
13 Visitors. It says, "There was no recollection with
14 the IRT that Mr. Brandenburg shared the allegation
15 made by John Doe that Mr. ReVille engaged in this
16 behavior with other campers, and most believed the
17 entire briefing lasted only minutes."

18 So there the Board of Visitors is
19 uniformly saying you didn't tell them there were
20 other campers involved. Is that true or not?

21 A I don't --

22 Q You don't think it is, do you?

23 A I don't recall what I told them. I
24 don't -- I know I told them -- I know we had a
25 discussion about masturbation at the summer camp.

Janice Ohlendorf Darby, RPR
(843) 814-7666 jodarby@comcast.net

G. MARGOLIS

ReVille had a propensity to abuse boys within a certain described range of age?

A. I don't recall that specifically, but it wouldn't be a surprise to me.

Q. Okay. And why wouldn't it be a surprise in the field of sexual predators?

A. Because that's who he offended on, and it's consistent with his offense patterns, as I understand them.

Q. Okay. And from a criminal standpoint, young boys would be a discrete class of victims as compared to all ages and both sexes; isn't that correct?

A. That's what I've come to understand from experts in this area, yes.

Q. So it's pretty clear to you that Mr. ReVille had a propensity to abuse victims within a discrete class within our society; is that right?

A. Yes. I believe they're called preferential child molesters or preferential molesters.

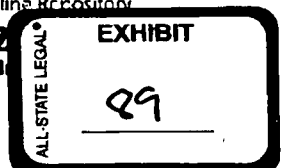
Q. Now, in doing any type of investigation, do you naturally like to see



Nationwide Depositions, Hearings and Trials • Conference Facilities
Videoconferencing • Legal Video Services • Exhibit Scanning
Transcript / Video Synchronization • 24-7 Online Repository

1.888.ACR.3335 • 1.800.862

info@acrdepos.com • www.acrdepos.com • schedule



G. MARGOLIS

the age of majority. I just can't recall as I'm sitting here.

Q. I'm sorry. Did you say a physician on campus?

A. A physician affiliated with the medical center, yes.

Q. And was that reported to you?

A. It was, yeah.

Q. What did you do about that?

A. We investigated it, and he was charged criminally.

Q. All right. In your experience as a police officer and your academic background and also your private consulting, are you aware of any child sexual predator who stopped without being arrested or dying?

A. I'm not.

Q. Are you aware of any peer-reviewed study that suggests that a child sexual predator will stop before they're caught?

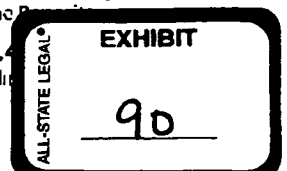
A. I'm not aware of any peer-reviewed study to that extent, no.

Q. Are you aware of any peer-reviewed study that a child sexual predator, that his



Nationwide Depositions, Hearings and Trials • Conference Facilities
Videoconferencing • Legal Video Services • Exhibit Scanning
Transcript / Video Synchronization • 24-7 Online

1.888.ACR.3335 • 1.800.862.7
info@acrdepos.com • www.acrdepos.com • scheduling



G. MARGOLIS

deviance and his acts of molestation will decrease in scope as opposed to increase?

A. I'm not. No, sir.

Q. All right. You are aware of what Mr. Arpaio was accused of doing to children, correct?

A. I am, sir. Yes.

Q. All right. Do you agree with me that what Mr. Arpaio did to children at Citadel Summer Camp was illegal?

A. I do agree. Yes, sir.

Q. Do you agree with me that it was immoral?

A. I do, sir. Yes.

Q. All right. Do you agree with me that what Mr. ReVille was accused of doing at The Citadel Summer Camp was illegal and immoral?

A. I do, sir. Yes.

Q. Did you have -- when you were the chief of police at the University of Vermont, did you have rules and procedures that were written for your department that you expected your employees to follow?



Nationwide Depositions, Hearings and Trials • Conference Facilities
Videoconferencing • Legal Video Services • Exhibit Scanning
Transcript / Video Synchronization • 24-7 Online Repository

1.888.ACR.3335 • 1.800.862.4206 (FAX)

info@acrdcp.com • www.acrdcp.com • scheduling@acrdcp.com

THE CITADEL
The Military College of South Carolina
171 Moultrie Street
Charleston, South Carolina 29409

MEMORANDUM
NUMBER 39

26 April 2000

SERIOUS INCIDENTS

1. GENERAL:

Serious incidents are unexpected occurrences directly or indirectly involving The Citadel, which require a response or action from the college administration; or, which have the potential to generate positive or negative publicity regarding the college.

Serious incidents include, but are not limited to, such events as a death, serious injury, fire, accident, criminal activity, act of heroism, severe weather or other natural disasters affecting the campus.

All members of the Corps of Cadets, day and evening students, faculty, and staff of The Citadel are responsible for reporting such occurrences immediately.

2. PROCEDURES:

A. Death of Cadet(s):

1) Individual responsibilities:

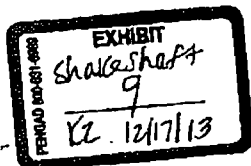
Notify the Department of Public Safety.

2) Public Safety responsibilities:

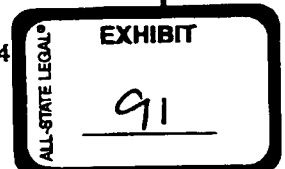
a) Determine the appropriateness of notifying City of Charleston Police Department (on-campus death due to vehicle accident, homicide or suicide). Director of Public Safety will normally make this determination. Notify City Police as required. If death occurs on campus, the Coroner will also be notified.

b) Notify:

Commandant or Assistant Commandant
Director of Public Safety (Deputy Director in his absence)
President (through his office during duty hours) and the Executive Assistant
The Citadel Director of Religious Activities (if unavailable, contact The Citadel Episcopal or Catholic Chaplain)
The Citadel Physician



CITADEL 0002394



Counselor to the Corps of Cadets
Vice President for Facilities and Engineering
Vice President for Communications*
Director of Physical Plant*
Vice President for Finance and Business Affairs*
Safety and Risk Management Officer*

*The Director of Public Safety will normally direct which of these should be notified, depending upon circumstances.

c) Maintain police blotter, recording actions taken and personnel notified.

3) Notification of the next of kin:

The President will make the determination of who notifies the next of kin.

B. Death of Day or Evening Student(s) On Campus:

1) Individual responsibilities:

Notify the Department of Public Safety.

2) Public Safety responsibilities:

a) Determine the appropriateness of notifying the City of Charleston Police Department (on-campus death due to vehicle accident, homicide or suicide). Director of Public Safety will normally make this determination. Notify City Police as required. If death occurs on campus, the Coroner will also be notified.

b) Notify:

Director of Public Safety (Deputy Director in his absence)
President (through his office during duty hours) and the Executive Assistant
Vice President for Academic Affairs
Dean of Undergraduate Studies or the Dean of the College of Graduate & Professional Studies as appropriate
The Citadel Director of Religious Activities (if unavailable, contact The Citadel Episcopal or Catholic Chaplain)
The Citadel Physician
Vice President for Facilities and Engineering
Vice President for Communications
Director of Physical Plant*
Vice President for Finance and Business Affairs*
Director of Human Resources* (if student was also a Citadel employee)

Safety and Risk Management Officer*

*The Director of Public Safety will normally direct which of these should be notified, depending upon circumstances.

c) Maintain police blotter, recording actions and personnel notified.

3) Notification of the next of kin:

The Vice President for Academic Affairs will confer with the individuals listed below to determine the most appropriate notification of the next of kin. He will inform the President and obtain his concurrence before proceeding with the actual notification.

The Citadel Director of Religious Activities (if unavailable,
contact The Citadel Episcopal or Catholic Chaplain)
Executive Assistant to the President
Appropriate Dean (Undergraduate or College of Graduate and
Professional Studies)

C. Death of Faculty or Staff Member or of a Faculty or Staff Member's Dependent on Campus:

1) Individual responsibilities:

Notify the Department of Public Safety

2) Public Safety responsibilities:

a) Determine the appropriateness of notifying City of Charleston Police Department (on-campus death due to vehicle accident, homicide or suicide). Director of Public Safety will normally make this determination. Notify City Police as required. If death occurs on campus, the Coroner will also be notified.

b) Notify:

Director of Public Safety (Deputy Director in his absence)
President (through his office during duty hours) and the
Executive Assistant
Appropriate Department Head
Vice President for Facilities and Engineering
The Citadel Director of Religious Activities (if unavailable,
contact The Citadel Episcopal or Catholic Chaplain)
The Citadel Physician
Director of Human Resources
Vice President for Communications*

Director of Physical Plant*
Vice President for Finance and Business Affairs*
Safety and Risk Management Officer*

*The Director of Public Safety will normally direct which of these should be notified, depending upon circumstances.

c) Maintain police blotter, recording actions taken and personnel notified.

2) Notification of the next of kin:

The Vice President for Academic Affairs will confer with the individuals listed below to determine the most appropriate notification of the next of kin. He will inform the President and obtain his concurrence before proceeding with the actual notification.

The Citadel Director of Religious Activities (if unavailable, contact The Citadel Episcopal or Catholic Chaplain)
Executive Assistant to the President
Director of Human Resources

D. Fire:

1) Individual responsibilities:

Alert individuals in the area.
Notify fire department.
Notify Public Safety.
Assist at scene.

2) Public Safety responsibilities:

a) Dispatch first unit to the scene to:

Evacuate personnel.
Establish crowd control.
Set up vehicle traffic control.
Take actions to control fire.
Assume command at the scene until fire department and/or The Citadel Fire Marshal arrives.
Brief responding fire fighting personnel.

b) Dispatch second unit (if available) to meet fire department vehicles at the gate and lead them to the scene.

c) Notify:

The Citadel Fire Marshal (Physical Plant office during duty hours)
Director of Public Safety and Deputy Director
President (through his office during duty hours) and the Executive Assistant
Vice President for Facilities and Engineering
Safety and Risk Management Officer
Vice President(s) responsible for personnel or facilities involved
Building coordinators(s) of facilities involved

d) Maintain police blotter, recording actions taken and personnel notified.

E. Serious Injury (on-campus):

1) Individual responsibilities:

- a) Render immediate first aid.
- b) Summon emergency medical service (EMS) – Dial 911 (9-911) from a barracks or on-campus office telephone.
- c) Notify Public Safety.
- d) Remain with injured person until assistance arrives.

2) Public Safety responsibilities:

- a) Summon EMS if not already accomplished.
- b) Dispatch unit to scene to:
 - Give "First Responder" care to injured person(s).
 - Establish crowd control.
 - Set up vehicle traffic controls.
 - Gather information, identify witnesses, and obtain other information for incident report.
 - Assist medical personnel as requested.
- c) Contact Sports Medicine (0800-1800 Monday-Friday) if it involves an athlete.
- d) Dispatch second unit (if available) to gate to escort responding emergency vehicles to the scene.

e) Notify:

The Citadel Physician
Director and Deputy Director of Public Safety
Commandant or Assistant Commandant (only if it is a
cadet who is injured)
President (through his office during duty hours) and the
Executive Assistant
Vice President for Facilities and Engineering
Safety and Risk Management Officer
Director of Physical Plant*
The Citadel Director of Religious Activities (if unavailable,
contact The Citadel Episcopal or Catholic Chaplain)*
Appropriate Department Head*
Vice President for Communications*
Vice President for Finance and Business Affairs*
Director of Human Resources (only if injured person is
employee)*

*The Director of Public Safety will normally direct which of these is to be notified
depending upon circumstances.

f) Maintain police blotter, recording actions taken and
personnel notified.

F. Serious Injury (Off Campus):

The serious injury of a member of The Citadel student body, faculty or
staff while off-campus would normally be handled by city or county medical and
law enforcement personnel. Should a member of The Citadel community learn of
such an occurrence, the following will apply:

1) Individual responsibilities:

Notify the Department of Public Safety.

2) Public Safety responsibilities:

a) Notify:

The Citadel Physician
Director of Public Safety
Commandant or Assistant Commandant (only if it is a
cadet who is injured)
President (through his office during duty hours) and the
Executive Assistant
Vice President for Facilities and Engineering
Safety and Risk Management Officer

The Citadel Director of Religious Activities (if unavailable,
The Citadel Episcopal or Catholic Chaplain will be
contacted)*

Appropriate Department Head*

Vice President for Communications*

Vice President for Finance and Business Affairs*

Director of the Physical Plant (only if a Citadel vehicle or
Physical Plant personnel are involved)

Director of Human Resources*

*The Director of Public Safety will normally direct which of these is to be notified
depending upon circumstances.

b) Maintain police blotter, recording actions taken and
personnel notified.

G. On-Campus Accidents:

All on-campus accidents, vehicle and otherwise, must be reported as soon
as possible. When such an accident is observed by a member of The Citadel
community, the following actions apply:

1) Individual responsibilities:

Notify EMS (Call 911) if personnel are injured in the accident.
Notify the Department of Public Safety (953-5114).
Notify Physical Plant.

2) Public Safety responsibilities:

Notify EMS if injuries are involved and EMS has not already been
notified.
Notify Fire Department if fire and/or hazardous materials are
involved.
Dispatch a unit to the scene to:

Give "First Responder" care to injured person(s).
Determine if a fire or hazardous material contamination
is involved or imminent.
Establish crowd control. (Evacuate personnel if
appropriate.)
Establish vehicle traffic controls.
Gather information, identify witnesses, and obtain other
information for accident report.
Transport individuals with minor injuries to The Citadel
Infirmary, if requested.
Assist fire and medical personnel as appropriate.

a) Notify:

The Citadel Physician if injuries, however minor, are reported
The Director of Public Safety and Deputy Director
Commandant or Assistant Commandant (only if a cadet is involved)
President (through his office during duty hours) and the Executive Assistant
Director of Physical Plant (Physical Plant office during duty hours)
Safety and Risk Management Officer
Vice President for Academic Affairs
Vice President for Facilities and Engineering
Appropriate Department Head*
Vice President for Communications*
Vice President for Finance and Business Affairs*
Director of Human Resources*

*The Director of Public Safety will normally direct which of these is to be notified, depending upon circumstances.

b) Maintain police blotter, recording actions taken and personnel notified.

c) Prepare appropriate accident/incident report.

3) Physical Plant responsibilities:

a) Respond to scene to:

Implement hazardous materials (HAZMAT) warnings and procedures, if appropriate.
Evaluate contributing factors to the accident from a real property and/or vehicle viewpoint.
Determine appropriate physical repair requirements.
Initiate accident prevention measures as appropriate.

H. Off-Campus Accidents Involving Citadel Personnel or Property:

All off-campus accidents, vehicle and otherwise, must be reported as soon as possible when observed by a member of The Citadel community. In such instances, the following actions apply:

1) Individual responsibilities:

a) Notify the Department of Public Safety.

b) Notify the Physical Plant.

2) Public Safety responsibilities:

a) Gather information, identify witnesses, and obtain other information for the accident report.

b) Ensure that The Citadel Physical Plant has been notified in all cases involving Citadel real property or vehicles.

c) Determine whether or not the news media has been notified and if publicity is expected.

d) Notify:

The Citadel Physician if injuries, however minor, are reported
Director of Public Safety and Deputy Director
Commandant or Assistant Commandant (only if a cadet is involved)
President (through his office during duty hours) and the Executive Assistant
Vice President for Facilities and Engineering
Safety and Risk Management Officer
Appropriate Department Head*
Vice President for Communications*
Director of Human Resources*
Vice President for Finance and Business Affairs*

*The Director of Public Safety will normally direct which of these is to be notified depending upon circumstances.

e) Maintain police blotter, recording actions taken and personnel notified.

I. Criminal Activity:

The occurrence on The Citadel campus or the involvement of a member of The Citadel Corps of Cadets, day/evening student, faculty, staff or campus dependent, as the suspect or victim in an incident will be immediately reported by the first member of The Citadel community learning of the occurrence. Incidents include, but are not limited to, murder, rape, robbery, aggravated assault, simple assault, burglary, motor vehicle theft, liquor law violations, drug abuse, weapon possession violations, driving under the influence, theft (grand and/or petty larceny), trespass, hazing, telephone violations, computer violations, ATM card violations, and mail violations. The following responsibilities apply:

1) Individual responsibilities:

Notify the Department of Public Safety.

2) Public Safety responsibilities:

- a) Initiate an incident report and investigation as necessary.
- b) Contact the appropriate law enforcement agency (agencies) as necessary to ascertain the facts in the situation.
- c) If a member of the Corps of Cadets has been accused or is involved as a victim:

Notify the Commandant immediately. In his absence, notify the Assistant Commandant or Officer of the Day. Determine whether or not it is appropriate to have an offending cadet released to Public Safety custody; if so, follow standard operating procedures to accomplish same. Determine the current location and disposition of cadet victims. Notify in accordance with injured cadet notification procedures. (See paragraph 2.f.2)a. above.)

d) Notify:

Director of Public Safety and Deputy Director
President (through his office during duty hours) and the
Executive Assistant
Vice President for Academic Affairs*
Appropriate Vice President*
Vice President for Communications*

*The Director of Public Safety will normally direct which of these is to be notified, depending upon circumstances.

- e) Maintain police blotter, recording actions taken and personnel notified.

J. Act of Heroism:

Upon learning that a member of the student body, faculty, staff, Board of Visitors, or an alumnus of the college has performed an act of heroism, members of The Citadel community will notify the Director of Public Affairs. The Vice President for Communications will:

- 1) Verify the facts involved in the incident.
- 2) Inform the President and Executive Assistant.

3) Inform the Commandant or Assistant Commandant (if a cadet is involved).

4) Inform the appropriate department head.

5) Recommend to the President the appropriate recognition and arrange for news media coverage.

K. Severe Weather/Earthquake Damage:

(1) Individual responsibilities:

Notify the Department of Public Safety immediately.

Return to the scene of the damage to safeguard the area until the Public Safety officer arrives.

Assist the Public Safety Officer in warning persons in the area, controlling traffic, and otherwise preventing further damage or injury.

2) Public Safety responsibilities:

a) Dispatch a unit to scene of damage to:

Evaluate the situation, report the extent of damage and determine the appropriate response elements from the Physical Plant, off-campus utility (gas, electrical, water) or the Fire Department required.

Remain at the scene to control traffic and direct the arrival of appropriate Physical Plant and/or other responding personnel.

Take charge of damaged area to ensure that further damage and injury are kept to a minimum.

Interview witnesses, gather information, and prepare a preliminary incident report.

b) Notify:

Director of Physical Plant

Director of Public Safety and Deputy Director

President (through his office during normal duty hours) and the Executive Assistant

Vice President for Academic Affairs*

Vice President for Facilities and Engineering

Safety and Risk Management Officer

Vice President for Communications*

Commandant*

Department Head(s)*

Building monitor(s)*

Janitorial personnel*

*The Director of Public Safety will normally direct which, if any, of these individuals are to be notified depending upon the circumstances.

- c) Maintain police blotter, recording actions taken and personnel notified.

L. Other Incidents:

Any incident which has a recognized potential for news media interest will be reported by the first individual aware of the incident. Examples of such incidents include, but are not limited to, scandal involving an individual(s) closely identified with the college, allegations concerning illegal or immoral activities at the college, allegations of major personnel changes or firings at the college, and rumors of pending changes affecting the Corps of Cadets. The following responsibilities apply:

1) Individual responsibilities:

Notify the Executive Assistant to the President.
Refrain from commenting on the incident or situation to other individuals or to the news media until the facts can be ascertained.

1) Executive Assistant responsibilities:

Alert the President to the situation.
If criminal activity is alleged, contact the Department of Public Safety.
Contact the appropriate department head to ascertain the facts as known to him or her.
If warranted, appoint an appropriate fact-finding investigative panel of officers to determine the facts and report the same to the President.
Alert the Vice President for Communications to the situation.

3) Public Safety responsibilities:

Initiate actions in accordance with Paragraph 2.i. above if criminal activity is alleged.

3. ADMINISTRATION:

Each director or office manager in the college will prepare appropriate office instructions or checklists to ensure that all personnel have the necessary guidance to implement this memorandum. A copy of these instructions/checklists will be forwarded to the Department of Public Safety to be filed with the original memorandum.

4. RESCISSION:

This memorandum rescinds Memorandum No. 15 dated 22 May 1995.

FOR THE PRESIDENT:

OFFICIAL

CHARLES B. REGER
Colonel, USAF, Retired
Executive Assistant to the President

DISTRIBUTION:
B

1 I mean, it talks about employment, student
2 opportunities, things of that nature. If we expand
3 that to camp, then it fits within those categories.

4 Q If you'll turn to 1681, what is this?

5 A It's a policy called Serious Incidents.

6 Q It's dated April 26, 2000?

7 A Yes.

8 Q Was this in effect in April of 2007?

9 A I assume it was.

10 Q Did it apply to you?

11 A If it was in effect, it did.

12 Q It says under the second section, second
13 paragraph, "Serious incidents include, but are not
14 limited to, such events as a death, serious injury,
15 fire, accident, criminal activity" -- Right?

16 A Yes.

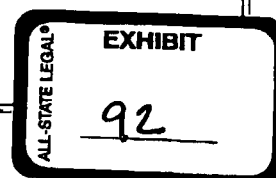
17 Q It says, "All members of the Corps of
18 Cadets, day and evening students, faculty and staff
19 of The Citadel are responsible for reporting such
20 occurrences immediately."

21 A Right.

22 Q Have you ever under this memorandum
23 Serious Incidents reported something to Citadel
24 public safety?

25 A Have I?

Janice Ohlendorf Darby, RPR
(843) 814-7666 jodarby@comcast.net



1 college?

2 A Yes.

3 Q So the individual responsibilities are to
4 notify the executive assistant to the president?

5 A Right.

6 Q And you notified Colonel Trez. Right?

7 A He knew about it.

8 Q And then it says under that the executive
9 assistant responsibilities. Right?

10 A Right.

11 Q He is to alert the president of the
12 situation. General Rosa knew. Right?

13 A He knew.

14 Q And then it says, "If criminal activity
15 is alleged, contact the Department of Public
16 Safety."

17 A Right.

18 Q Was that done?

19 A No.

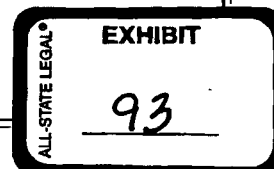
20 Q Colonel Trez should have done that
21 according to this memorandum. Right?

22 MR. STONEY: Objection.

23 A That's what the memorandum says.

24 BY MR. SLOAN:

25 Q And you told us earlier that you would
Janice Ohlendorf Darby, RPR
(843) 814-7666 jodarby@comcast.net



1 never suggest to any Citadel administrative
2 personnel that they should violate any Citadel
3 policy, regulation or code. Right?

4 A No.

5 Q So it's Colonel Trez's job to report the
6 ReVille obligations to the Department of Public
7 Safety and he didn't do it?

8 A According to this memo, he is to report
9 allegations of illegal or immoral activities, right.

10 Q There's just no question that what
11 ReVille did with those 14-year-old boys was illegal
12 and immoral?

13 A It's clear now, yes.

14 Q It was immoral when it came in, wasn't
15 it?

16 A The allegations -- It was allegations of
17 immoral activity, yes.

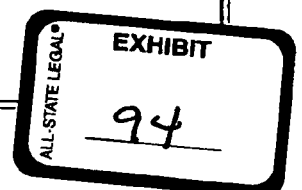
18 Q Did you know that Colonel Trez was
19 supposed to report this to the Department of Public
20 Safety before today?

21 A Before today?

22 Q Yes.

23 A I mean, I know of this memo now. I don't
24 know if I had read this or if I read this at that
25 time.

Janice Ohlendorf Darby, RPR
(843) 814-7666 jodarby@comcast.net



IN THE EVENT OF EMPLOYEE MISCONDUCT...

As an employee, if you are accused of sexual misconduct, the following consequences may occur as a result of your actions:

- The allegation, the outcome of the investigation, and any disciplinary action stemming from the incident will go in your permanent employee file.
- The Citadel will not expunge molestation findings from your record.
- The Citadel will not terminate an investigation of sexual misconduct in exchange for resignation.
- The Citadel will report necessary information about the incident to state licensing entities and other clearinghouses.
- The Citadel will not provide you with positive referrals before concluding an investigation.
- The Citadel will refuse to negotiate gag order clauses in employee termination agreements.
- The Citadel will provide factual and candid responses to inquiries by other potential employees about your behavior.
- The Citadel will fully cooperate with law enforcement agencies that are conducting investigations.



THE CITADEL
The Military College of South Carolina
171 Moultrie Street
Charleston, SC 29404

MEMORANDUM
NUMBER 4

15 August 2005

THE CITADEL'S SEXUAL ASSAULT CRISIS INTERVENTION POLICY

1. INTRODUCTION:

The Citadel community strongly supports a policy that prohibits abuse of power by sexual assault. This unlawful act and the coercion, intimidation, and lack of respect it represents is the antithesis of The Citadel's mission, and this behavior will not be tolerated. **THE CITADEL WILL PUNISH ANY INDIVIDUAL(S) WHO IS FOUND TO HAVE COMMITTED A SEXUAL ASSAULT.** Furthermore, the College believes that preventive education is critical to both attempting to reduce the likelihood of sexual assault on campus and to supplementing the process of contemporary leadership development among cadets. Thus, The Citadel is committed to presenting a strong, ongoing sexual assault prevention program in an effort to educate all members of The Citadel Community. **THIS POLICY APPLIES TO ALL MEMBERS OF THE CITADEL COMMUNITY TO INCLUDE CGPS STUDENTS, FACULTY AND STAFF.**

2. DEFINITIONS:

- A. RAPE is defined as any sexual intercourse (i.e., anal, oral, or vaginal) however slight with any object without affirmative consent (see definition at 2c).
- B. SEXUAL ASSAULT includes rape and all other forms of unlawful sexual behavior and contact which is not mutually agreed upon (i.e., penetration with a foreign object including a finger; oral or anal sex; unwanted touching on skin or through clothing; or touching an intimate part of another person such as their genitals, buttocks, or breasts) without affirmative consent by all persons involved.
- C. AFFIRMATIVE CONSENT cannot be given in the following situations:
 - 1) the person is unable to give consent (because the person is a minor under the 18 years of age);
 - 2) the person is unable to give consent because of his/her temporary or permanent mental handicap or physical incapacity, such as a person who is under the influence of alcohol or drugs, who has "passed out" or "blacked out", and/or who is unconscious or semiconscious;
 - 3) the person expressed by words or any other behavior a lack of agreement to engage in sexual activity;



- 4) the person having formerly consented to sexual activity subsequently expresses by words or any other behavior a lack of agreement to continue engaging in sexual activity;
- 5) the person was induced to engage in sexual activity by the other person's
 - a. physical coercion, or
 - b. abuse of position of power, trust or authority; and/or use of artificial means (i.e., drugs such as Rohypnol);
- 6) and/or when the consent is expressed in words or conduct by a third party.

In summary, "No" means "No." The communication of "No" may be expressed verbally or non-verbally (i.e., physical resistance, body language, etc.). Rape and other forms of sexual assault are illegal, regardless of the relationship between the perpetrator and victim (i.e., acquaintance or date rape is as serious a crime as stranger rape).

3. GENERAL GUIDELINES OF THE SEXUAL ASSAULT CRISIS INTERVENTION POLICY:

- A. Upon enrollment and/or during orientation and annually thereafter, The Citadel will make available to each cadet, CGPS student, faculty, and employee the following:
 - 1) The Citadel's policies on cadet dating, cadet fraternization, sexual harassment, and sexual assault;
 - 2) information designed to reduce the risk of being sexually assaulted or committing sexual assault, (such information will also be displayed prominently on campus bulletin boards);
 - 3) guidelines which detail the range of formal and informal options for addressing a range of inappropriate behaviors including sexual assault; and
 - 4) data on the prevalence of these crimes, both at The Citadel and in the local area.
- B. The Citadel will make available educational programs to inform all students (both cadets and CGPS), staff, and faculty in the campus community about the nature of sexual assault and sexual harassment. These programs are detailed in the annual Plan of Instruction (POI) for the Corps of Cadets. Example programs are as follows:
 - 1) Guest speakers, seminars, discussion panels, and/or drama troupes may be utilized at various times in an attempt to maintain a preventive education program throughout the year;

APPENDIX 1 TO ANNEX B:

General Procedures for Conducting
Formal Investigations of
Sexual Harassment Complaints

1. Respect the rights of all parties.
2. Provide the alleged harasser timely and adequate notice of the allegations and give the alleged harasser an opportunity to respond in person or in writing before a neutral person or panel.
3. Select an Investigator who:
 - A. Has knowledge and training in issues dealing with sexual harassment.
 - B. Is thoroughly familiar with The Citadel's Sexual Harassment Policy.
 - C. Has credibility with The Citadel community.
 - D. Is neutral to all parties and represent The Citadel in a fair manner.
 - E. Is fair and not reach a conclusion until the investigation is completed.
 - F. Is able to maintain confidentiality of information.
4. In selecting the panel or board members to hear the case use the following criteria:
 - A. Select members who have no conflict of interest preventing them from acting fairly toward either the alleged harasser or victim.
 - B. Select panel or board members who have received training instructions or adequate material on sexual harassment so that they are knowledgeable of what sexual harassment is and what The Citadel's policies are.
 - C. Procedures should be timely and follow the guidelines stated within this memorandum.
5. Confidentiality should be honored by all participants in the process to the greatest extent possible, keeping in mind that neither the complainant nor the alleged harasser is bound by confidentiality although both can be asked to observe it.
6. Plan the strategy for the Investigation.
 - A. Create a timeline (include when interviews will be taken, report prepared, and decision reached).
 - B. Identify specific issues or allegations to be addressed.
 - C. Identify witnesses to be interviewed.
 - D. Identify/obtain documents.

E. Prepare a list of general questions for each interview.

7. Inform the alleged harasser to avoid any unnecessary contact with the complainant and of the prohibitions of retaliation.

8. Inform the complainant about retaliation, provide examples, and request that any attempts at retaliation be reported immediately.

9. Arrange to tape record all interviews and appearances before a board or panel. If either party objects to recording the interview, make a written record of the fact and resort to taking written notes.

10. Reach a conclusion. There are four possible outcomes to the board or hearing process:

A. the harassment occurred; or

B. the harassment did not occur; or

C. the allegation was unsubstantiated but with probable cause; or

D. there was insufficient information to make a determination.

11. Write the report and provide it to the person (Vice President/President) who will make the decision.

THE CITADEL
The Military College of South Carolina
171 Moultrie Street
Charleston, South Carolina 29409

MEMORANDUM
NUMBER 51*

30 June 2000

SEXUAL HARASSMENT

1. PURPOSE:

All employees and students are entitled to a positive learning and working environment free of any type of sexual harassment. The Citadel's administration has zero tolerance for any form of sexual harassment or sexual violence. In severe instances, cadets may be expelled or employees may have their employment terminated.

Sexual harassment between or among any members of The Citadel community is prohibited, including faculty-student and student-to-student harassment. Sexual harassment also violates federal and state laws.

The purpose of this memorandum is to define and prevent sexual harassment, to establish policies on sexual harassment, to establish procedures for reporting and investigating sexual harassment complaints by students, faculty or staff in a timely manner, and to describe sanctions.

Recommended changes to this memorandum should be submitted to the Title IX Coordinator, Office of the President, who is the proponent for this regulation.

2. REFERENCES:

- A. Equal Employment Opportunity Commission (EEOC) Guidelines on Sexual Harassment in the Workplace (Title VII of the Civil Rights Act of 1964).
- B. Office for Civil Rights, U.S. Department of Education; Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (Title IX of the Educational Amendments of 1972), dated 13 March 1997.
- C. South Carolina Human Affairs Law, S.C. Code Ann. 1-13 10 to-100 (1990).

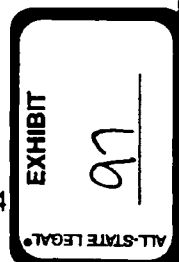
3. BEHAVIORAL AND LEGAL DEFINITIONS:

A. Behavioral. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment under the following conditions:

- 1) Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment, or advancement, or other student opportunities.

* Supersedes Memorandum Number 20, SEXUAL HARASSMENT, dated 15 September 1997.

CITADEL 0001694



2) Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting an individual's employment, or advancement, academic standing, or other student standing, or other student opportunities.

3) Such conduct has the purpose or effect of unreasonably interfering with a person's work, professional or academic performance or creates an intimidating, hostile, or offensive work, learning, or social environment.

B. Legal. Sexual harassment is a form of sexual discrimination and is prohibited by the following:

(1) Title VII of the Civil Rights Act of 1964. Title VII covers all employers, including educational institutions, and prohibits discrimination on the basis of race, color, national origin, religion, and sex. Only employees (including student employees) are covered. Title VII is enforced by the Equal Employment Opportunity Commission (EEOC).

(2) Title IX of the Educational Amendments of 1972. Title IX prohibits sex discrimination in schools receiving any federal assistance, including financial aid. Discrimination, including sexual harassment, is prohibited in the entire school, not just the program receiving federal funds. Students and employees are covered. In February 1992, the U.S. Supreme Court unanimously ruled that complainants under Title IX may sue for damages. Title IX is enforced by the Office for Civil Rights in the Department of Education.

(3) Individuals may also be sued under the provisions of state law for criminal behavior which may include crimes of rape, sexual assault, or sexual abuse.

C. Offending Behaviors. Sexual harassment is unwanted sexual attention. It is usually repeated behavior but it could be one serious incident. It is frequently a display of formal or informal power intended to demean, embarrass, intimidate or coerce a person. It includes, but is not limited to, unwanted requests or demands for sexual favors, propositions, questions about a person's sexual practices, lewd comments, leering, sexual insults or innuendoes and sexually explicit jokes. It also includes unwanted touching, fondling, patting, pinching or kissing, as well as blocking a person's way. Sexual graffiti and sexually explicit pictures, cartoons or objects can also constitute sexual harassment. Although some forms of sexual harassment may be unintentional, words and behaviors such as those described above may be harassing when viewed or heard by others. Words which are demeaning to one gender, such as calling men and women derogatory names or by names for body parts are forms of sexual harassment. Both men and women can be sexually harassed although women are most often the targets of sexual harassment. Sexual harassment can also occur between members of the same sex.

Additional examples of sexual harassment are given in the following list but sexual harassment is not limited to these examples:

1) Quid Pro Quo. One form of sexual harassment is direct or indirect pressure for sexual

activity with implicit or explicit threats or bribes such as a harasser asking a subordinate, co-worker, or peer to engage in sexual activity in order to receive improved work, learning, or social conditions (e.g., better grades, promotions, evaluations, etc.).

a) This form of harassment usually occurs when people use the power they have over others. Usually, the harasser asks a subordinate or co-worker to have sex in order to receive improved work conditions (e.g., better benefits, conditions, promotions, or performance ratings).

b) A school employee explicitly or implicitly ties a student's participation in an educational program or activity or bases an educational decision on the student's submission to unwelcome sexual advances, requests for sexual favors, or verbal, nonverbal, or physical contact of a sexual nature.

c) Quid pro quo harassment is also unlawful when the student or employee resists and suffers the threatened harm or submits in order to avoid the threatened harm.

d) Quid pro quo cases are usually the most flagrant and clear-cut (although not the most frequent) kind of sexual harassment. Typically the person involved is a supervisor, faculty member, or someone with formal power who can provide or withhold a benefit, service or evaluation, and thus has the power to harm the person involved.

e) The major elements of quid pro quo harassment are as follows:

- the sexual advances or demands are unwanted, and submission is explicitly or implicitly a term or condition of employment or school status or is used as the basis for decisions about the individual's employment or school status.

2) Hostile Environment Sexual Harassment:

a) Sexually harassing conduct (which can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature by an employee, by another student (peer), or by a third party) is behavior which is sufficiently severe, persistent, or pervasive to create a hostile or abusive educational or work environment that limits a person's ability to work or participate in or benefit from an educational program or activity.

b) Harassment occurs when one or more people create an uncomfortable, intimidating, and demeaning atmosphere for others either in the work place or educational setting by engaging in unwelcome activities such as sexual remarks, gestures, sexist pictures or pornography.

c) The harasser who creates a hostile environment does not have to be a person with formal power. In fact, most peer-to-peer harassment is of a hostile environment type.

d) The behavior does not have to be sexual in nature; it could be simply demeaning

or intimidating; it could be general comments about the inferiority of females or males; or it could be physical threats or verbal abuse.

3) Examples of sexual harassment include, but are not limited to, the following:

- a) Engaging in sexual comments, sexual innuendoes, degrading language, profanity, or vulgar comments.
- b) Asking or commenting about a person's sexuality or spreading rumors about a person's sexual activities.
- c) Engaging in humor or jokes about sex or about women or men in general.
- d) Making sexually suggestive sounds or gestures, including winking, throwing kisses, making cat calls, licking lips, whistling, etc.
- e) Pestering a person for dates.
- f) Ogling, leering, or looking a person up and down (elevator eyes).
- g) Unnecessary touching, fondling, patting, or pinching, or deliberate brushing against a person.
- h) Shouting obscenities at a person.
- i) Publicly discussing a man or woman's sexual attributes.
- j) Mooning.
- k) Pulling down one's own shorts or pants or those of another.
- l) Creating a sexually demeaning atmosphere, such as displaying posters or pictures that are sexist or otherwise demeaning to women or men, or having social events that focus on sexuality.
- m) Showing petty hostility to a particular sex by making sexual remarks.
- n) Engaging in sexual banter or jokes.
- o) Leaving obscene messages on campus computers.
- p) Promising rewards or benefits to someone for cooperating with sexual advances.
- q) Displaying sexual graffiti and sexually explicit pictures, cartoons, or objects.
- r) Sexually touching or rubbing oneself in a suggestive way when around another person.
- s) Intentionally cornering or blocking another's passage or other "in your face" type of behavior.

- t) Offering repeated, unwelcome sexual attention.
- u) Making demands, threats and bribes – implied or direct – for sexual activity.
- v) Committing sexual assault.

4. CONFIDENTIALITY:

The confidentiality of the reporting party as well as those affected by the harassment (third party) will be observed to the greatest extent possible, with only those with a need to know being informed, provided it does not interfere with The Citadel's ability to investigate or take corrective actions.

5. INTENT:

The fact that someone did not intend sexual harassment of an individual is no defense to a complaint of sexual harassment. Regardless of intent, it is the effect and characteristics of the behavior that determine whether the behavior constitutes sexual harassment.

6. PROHIBITION AGAINST RETALIATION OR REPRISALS AGAINST ANYONE REPORTING SEXUAL HARASSMENT BEHAVIORS:

A. Retaliation against anyone reporting or thought to have reported sexual harassment behaviors or against anyone who is a witness or is otherwise involved in a sexual harassment complaint or proceeding is prohibited. Such retaliation shall be considered a serious violation of the policy and shall be independent of whether a charge or informal complaint is substantiated. Encouraging others to retaliate also violates this policy.

B. Examples of retaliation are as follows:

- 1) Threats or bribes.
- 2) Unfair grading.
- 3) Unfair evaluations.
- 4) Unfair assignments.
- 5) Withholding information or making it difficult to obtain in a timely manner.
- 6) Failure to inform the person about important events such as meetings or changes in policies.
- 7) Ridicule (public or private).
- 8) Oral or written threats or bribes.

9) Refusal to meet with a person even though that person has a right to a meeting.

10) Name calling.

11) Further harassment or intimidation of any nature.

7. SCOPE:

A. This policy covers all persons -- including administrators, faculty, staff, cadets, students of the College of Graduate and Professional Studies and other employees of The Citadel. The harassment of students by faculty or staff as well as by other students (peer harassment) is also covered, as is the harassment of faculty, staff, or other employees by students. Prospective and former cadets or students as well as visitors to The Citadel campus are also covered.

B. The harassment of cadets, students, and employees by vendors, including contractors, is prohibited.

C. Males as well as females are covered by this policy, and may also be victims of same-sex harassment.

8. OTHER FORMS OF HARASSMENT:

Discrimination and harassment based on race, color, religion, or national origin is strictly prohibited.

9. OFF-CAMPUS VIOLATIONS:

The Citadel will treat in the same manner as on campus violations any off-campus violations of this policy by any cadet, student, or member of the faculty or staff in those cases involving Citadel off-campus athletic events, internships, or any Citadel-sponsored event or program. The Citadel will also not tolerate the harassment of its cadets, nor other students, nor members of the faculty or staff by non-Citadel personnel in programs sponsored or supported by The Citadel.

10. IMPACT OF SEXUAL HARASSMENT:

Sexual harassment is demeaning and degrading. It affects an individual's self-esteem and can have a negative impact on performance at work or in class. It can make an individual feel angry, powerless, and fearful, as well as cause physical reactions such as tension/stress.

11. FALSE CHARGES:

Any one who knowingly makes false charges of sexual harassment will be subject to discipline. Such charges will be considered a serious offense. However, a complaint that cannot be substantiated simply because of a lack of evidence shall not be considered a false complaint. The decision on whether or not false charges were submitted will be made at the Vice President level after a careful review of the available facts.

12. CONSENSUAL RELATIONSHIPS:

The Citadel strictly prohibits amorous relationships between a cadet and any individual with professional responsibility for that student – e.g., faculty, staff, or a member of the cadet's chain of command. The fact that a relationship may have been consensual at one time shall not be a defense to a subsequent charge of sexual harassment.

13. COMPLAINT PROCEDURES:

A. Options for Handling Complaints

- 1) The individual informally takes steps which may stop the behavior. (See Annex A.)
- 2) The Citadel initiates actions informally. (See Annex A.)
- 3) Formal charges under The Citadel's Sexual Harassment Procedures can be Filed against the offender by either the individual complaining or by The Citadel. (See Annex B.)
- 4) The person may file formal charges under federal and/or state laws.
- 5) The individual may seek advice or assistance from the Ombudsperson (See paragraph 21.)

B. Informal Complaints (See Annex A.)

- 1) Studies show that more than 90 percent of individuals who experience sexual harassment do not want to file formal charges.
- 2) Consequently, most complaints are handled informally, including those handled by the Ombudsperson.
- 3) Informal procedures are optional, and individuals can choose to bypass them, discontinue them, or initiate a formal complaint while using them.
- 4) The purpose of dealing with a complaint informally is to stop the offending behavior and to resolve the matter as expeditiously as possible.
- 5) Disciplinary action requires a formal charge and by the rules of due process requires a formal hearing. The Citadel cannot take disciplinary action using informal procedures.
- 6) Informal procedures are aimed at stopping the behavior rather than determining culpability.
- 7) Informal procedures are voluntary on the part of the victim, with no requirement that individuals use informal procedures before filing a formal charge.

- 8) There is no requirement that informal complaints be put into writing.
- 9) In cases of severe harassment, The Citadel may bypass informal resolution by filing its own formal charges against offenders.
- 10) In some cases, the identity of the complainant can be kept confidential and not be revealed to the alleged harasser without the person's permission.

C. Formal Complaint Procedures. (See Annex B.)

- 1) Formal complaint resolution procedures include conducting a thorough investigation that results in a formal written report of the investigator's findings of fact, conclusions of law, and recommended actions to resolve the complaint.
- 2) The parties to the complaint are interviewed as are witnesses and third parties.
- 3) Formal complaint procedures may be pursued by either the person complaining or by The Citadel.
- 4) A third party, who is not the direct victim of harassment but who feels that the sexual conduct of another in the educational or work environment has the purpose or effect of substantially interfering with the third party's welfare, academic, or work performance, may file a formal complaint.
- 5) A person who believes that he or she is a victim of sexual harassment should file the complaint within 180 days of the incident.
- 6) The formal complaint procedure should be completed within 30 days of the date of filing and within 60 days of the date of filing when the individual submits an appeal.
- 7) Formal complaints should be filed with The Citadel's Affirmative Action Officer who also serves as The Citadel's Title IX Coordinator. The Affirmative Action Officer is responsible for ensuring that the policy is followed, that time frames are observed, and that questions from all parties are answered.
- 8) Investigations of allegations involving a member of the faculty or staff will be conducted in a confidential manner by an Affirmative Action/Equal Employment Opportunity Advisory Committee, which is a three-person investigative committee appointed by the President or the Vice President who directed the investigation. The investigation will include questioning of the individual(s) accused of wrongdoing to afford them the opportunity to respond to the allegations of the complaint as well as any witnesses. The Advisory Committee will collect, record, and safeguard all information and/or evidence relative to the incident and report findings through the Vice President to the President for final disposition. If the recommendation is to terminate a faculty member for cause, the process will follow paragraph 4c of Section II of College Regulations and paragraphs 4c and 4d of General Order (GO) 14, dated 7 June 2000, Policies and Procedures On Probationary Reappointment, Academic Tenure, Academic

Promotion, and Termination of Tenured Faculty. Proceedings involving (non-faculty) staff members will follow procedures outlined in The Citadel's Human Resources Policies and Procedures.

9) Investigations of allegations involving a cadet will be conducted through the use of a Commandant's Board or Hearing. The procedures outlined in the Blue Book will be followed for due process procedures. The results of the hearing or board will be forwarded to the Commandant of Cadets. Recommendations for suspension, dismissal, or expulsion will be forwarded to the President for final action.

10) A copy of all completed formal investigations of charges of sexual harassment will be forwarded to The Citadel's Affirmative Action Officer/Title IX Coordinator for filing.

11) All rights and procedures for appeals will be in accordance with paragraph 6 of College Regulations for cadets, paragraph 4c of Section II of the College Regulations and GO 14 for faculty members, and the State-approved, "The Citadel Employee Grievances Policy" for (non-faculty) staff members.

12) Hearings and boards will be either open or closed based on the desires of both the victim and the accused. Both must agree if the hearing is to be open based on their individual desires for confidentiality. If either party objects to the hearing being open, it will be closed.

13) The hearings or boards are administrative in nature; therefore, there is no right to legal representation. Appeal procedures are as stated in College Regulations.

14) The standard for findings of guilt or innocence is that of "a preponderance of evidence"- that is, there is sufficient evidence which is greater in weight or more convincing than the evidence, which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. The Hearing Officer or Board will perceive the evidence of one side as outweighing the other based on which side has the most persuasive or impressive evidence. The strength or "weight" of evidence is not decided by the sheer number of witnesses but rather by the witnesses opportunity for knowledge, information possessed, and the manner of testifying.

14. SANCTIONS:

The following list of sanctions may be used when a person is found guilty of harassing behavior. The purpose of the sanctions will be reasonably calculated to end the sexual harassment, punish the harasser, and prevent recurrence of incidents. Although advice and counseling may be appropriate occasionally, they are not applied in lieu of sanctions. If alcohol were involved, attendance may be required at a program on alcohol abuse prevention. The sanctions listed below can be applied to cadets, faculty, students or staff. Those sanctions that specifically apply to a selected group are so designated, i.e., faculty/staff, cadets/students, cadets.

A. Applies to cadets, other students, faculty, or staff.

- 1) Written warning letter of reprimand.
- 2) Mandatory attendance at a sexual harassment training or counseling program. (This is not likely to be imposed as a single sanction.)
- 3) Change of job or class assignment (removes the person from being in a position to retaliate or further affect the victim).
- 4) A mandatory apology to the victim(s).
- 5) When ever there is an incident of sexual assault or sexual abuse, the incident will be reported to the police. Reporting an incident to the police will not affect any disciplinary proceeding conducted by The Citadel.
- 6) Required community service, such as preparing posters or disseminating information about harassment and/or sexual assault.

B. Applies only to faculty/staff.

Probation, suspension, dismissal or termination.

C. Applies only to cadets.

- 1) Prohibition from holding rank or participating in specific student activities, including sports, for a specified time period.
- 2) Transfer of the cadet or student to another academic class or company assignment.
- 3) Tours or confinements.
- 4) Suspension, dismissal, or expulsion.

15. PERSONS TO CONTACT IF AN INDIVIDUAL IS EXPERIENCING SEXUAL HARASSMENT:

A. There are several places to whom a person experiencing sexual harassment or one who is concerned about it can go for help. The person can choose the person with whom he or she feels most comfortable. The information will be kept confidential to the greatest extent possible. The persons listed in the following paragraphs can explain the policy and discuss options for handling the situation.

B. For faculty or staff members who feel that they have been sexually harassed or who are concerned about it, the following steps should be taken:

- 1) Discuss the matter with an immediate supervisor, an appropriate person

upward in the chain of command and/or the Affirmative Action Officer, the Director of Human Resources or the Ombudsperson (see paragraph 21). Assistance is also available through the Chaplain or the Counseling Center's counselors who may suggest options and help the person decide what steps need to be taken next. The President's Hotline 953-OUCH is also available to report problems. This line is available via voice mail 24 hours a day. (See TABS A and B for how complaints are handled both informally and formally.)

- 2) To ensure confidentiality, the faculty or staff members should not discuss the complaint with persons other than the persons receiving the complaint.
- 3) Detailed procedures for informal complaints are located at Annex A.
- 4) Detailed procedures for formal complaints are located at Annex B.

C. Individuals who have knowledge of sexual harassment or who feel they have been sexually harassed should discuss the behavior with any of the people listed below.

1) Discuss the matter with an immediate supervisor in the chain of command, an appropriate person upward in the chain of command, and/or a tactical officer, an Assistant Commandant, or the Commandant of Cadets. A cadet may also discuss the matter with the Ombudsperson (see paragraph 21), the Title IX Coordinator, a cadet Human Affairs Officer or a cadet Religious Officer, the Chaplain or any campus minister, a counselor in the Counseling Center, a member of The Citadel Faculty or Staff, or a Public Safety Officer. **The important point is to report the alleged harassment to someone in authority.**

2) It is the responsibility of the person receiving the complaint from a cadet to pass the information quickly (within 24 hours) to the officer listed below who will determine if an immediate investigation is required to determine the facts and circumstances surrounding the incident.

If the person accused is:

- A cadet
- CGPS or Sumner School student
- A member of the Faculty
- A member of The Citadel Staff

The complaint should be filed with:

The Assistant Commandant of Cadets
The Dean of Graduate and Professional Studies (CGPS)
The Dean of Undergraduate Studies
The Affirmative Action Officer

3) The victim should complete the appropriate harassment complaint form (formal complaints only, see Appendix 2 to Annex B of this Memorandum).

4) The accused will be informed of the charges and be given the opportunity to refute the charges (formal complaints only).

5) The complainant will receive a timely written response to the allegation or be informed of the results face to face from the person listed in paragraph 15c(2) or the person who conducted the investigation. The notice will inform the complainant that the allegation was either substantiated or not and to whom it was sent for action (formal complaints only).

6) Sexual harassment complaints against a member of The Citadel Faculty or Staff will be promptly investigated by The Citadel Affirmative Action/Equal Opportunity Advisory Committee (formal complaints only).

7) If the complaint, based on the investigation, is deemed valid, then it will be sent to the appropriate Vice President for review and appropriate action:

If the accused is:

Review and action authority is:

A cadet

The Commandant of Cadets

CGPS or Summer School Student

Dean of Graduate and Professional Studies (CGPS)

Faculty

VP for Academic Affairs

Staff

VP for Finance and Business Affairs

8) Throughout the process of investigation on harassment complaints, strict confidentiality will be maintained by all involved.

9) Final disposition on the matter will be taken by the President. The appropriate disciplinary action will be taken based on the facts, on a case-by-case basis.

10) Proven allegations of harassment may be considered as the commission of an act unbecoming a cadet which would tend to bring discredit to the institution or to the uniform.

16. RETALIATION:

Under no circumstances will retaliation, such as making threats or continued harassment, be tolerated when a person has reported an alleged sexual harassment violation.

17. REPORTING REQUIREMENTS:

A. The Citadel requires that all cadets, students, faculty, and administrators who have knowledge of sexual harassment to report it confidentially to the officials noted in paragraph 15 of this memorandum as soon as possible. The report will not include the name of the victim without the victim's permission unless there is a known or perceived threat of physical harm.

B. Such reporting enables Citadel administrators to identify problem areas that can, in some instances, be eliminated by initiating educational efforts for a particular unit without identifying the information that makes the educational efforts necessary. Such reporting also helps in identifying persons who may have a history of harassment, which requires stronger means of intervention.

C. At a minimum, the information should be reported to either the Affirmative Action Officer, who is The Citadel's Title VII and Title IX Coordinator, or one of the assistant coordinators listed in paragraph 18 of this memorandum.

18. TITLE VII AND IX COORDINATORS:

A. The Citadel's Title VII and Title IX Coordinator is Ms. Roberta Tracy. Her office phone number is 953-5252. Her office is located in Bond Hall.

B. The Assistant Title VII and Title IX Coordinators are: (1) The Assistant Commandant of Cadets for Coeducation and Administration -- office phone number is 953-6707; office located in Jenkins Hall; (2) The Multicultural Officer -- office phone number is 953-5096; office is located in the Counseling Center; (3) The Special Assistant to the VPAA for Cadet Matters -- office phone number is 953-4834; office is located in the Executive Wing of Bond Hall; and (4) the Dean of Undergraduate Studies -- office phone number is 953-5016; office is located in the Executive Wing of Bond Hall.

19. MAINTAINING RECORDS:

A. All complaints of sexual harassment will be recorded once they are reported to The Citadel. The records will remain confidential and will be kept in a secured, locked file.

B. Records will be maintained whether the complaint was made formally or informally. Records will be maintained on informal complaints only if reported to the Title IX Officer. For example, the Ombudsperson will not file reports because all the information that he/she has is confidential.

C. The records will be maintained in the following locations:

1) Records on faculty or staff will be maintained by the Director of Affirmative Action, Equal Opportunity and Diversity.

2) Records on cadets will be maintained by the Assistant Commandant of Cadets for Coeducation and Administration.

D. The information may be used in subsequent complaints against the same person to assess whether a pattern of harassment exists.

E. Before the complaint is filed, the custodian will ensure that the complaint is properly completed and that a determination was properly made as to whether the complaint was substantiated or not substantiated and that it is marked properly.

F. Records will be maintained for the time period required by institutional policy for the type of person identified (cadet, faculty or staff).

20. TRAINING REQUIREMENTS:

A. The Commandant of Cadets will publish an annual training program concerning sexual harassment no later than the start of each academic year that outlines training requirements for all classes within the Corps of Cadets. This training is mandatory for all cadets. Make-up classes are required for any cadet who misses the regularly scheduled training.

B. New faculty and staff will attend mandatory initial training on Title VII and Title IX during their new employee or faculty orientation session. Mandatory sustainment training will be held annually according to requirements set forth by the Director of Human Resources for members of the staff and by the VPAA for the faculty.

C. READMITTED cadets will be required to attend Sexual Harassment Training at the very start of the semester that they return to The Citadel.

21. THE OMBUDSPERSON:

A. The President of The Citadel will appoint an Ombudsperson at the beginning of each academic year.

B. All communications with the Ombudsperson shall be considered confidential. The Ombudsperson will not reveal any name(s) of people without their express permission in writing unless there is a perceived threat of imminent physical harm or of other illegal activity.

C. The Ombudsperson will have direct access to the President of The Citadel and to all vice presidents and directors.

D. All interactions with the Ombudsperson shall be voluntary.

E. The general duties and responsibilities of the Ombudsperson are as follows:

- 1) Act as a source of information and assistance to all students, faculty, and staff with regard to alleged inequities. (No individual shall be retaliated against for using the services of an Ombudsperson.)
- 2) Bring the complaint to the attention of the appropriate Citadel official.
- 3) Seek to resolve the difficulty between the individual and The Citadel.
- 4) Make recommendations to the President and appropriate authorities when necessary on policies, procedures actions.
- 5) Address matters using existing policies and procedures in an informal

manner. If the individual desires to use formal procedures, the Ombudsperson will direct the individual to the appropriate office or person.

6) Keep no case records on behalf of the organization. If notes are necessary to manage the work, the Ombudsperson will follow a consistent and standard practice for the destruction of any written notes as soon as possible.

7) Remain neutral and strive for objectivity and impartiality.

F. The Ombudsperson is LTC John Carter, Health and Physical Education Department. Office phone is 953-7453. Home phone is 577-6830.

22. MANDATORY POSTING REQUIREMENTS FOR THIS MEMORANDUM:

A. This regulation will be maintained in its entirety and permanently posted in the White Book binder located in each cadet's room. The presence of the booklet is an inspection item during Saturday Morning Inspections.

B. New faculty and staff will receive a copy of this memorandum during New Employee or Faculty Orientation.

C. A copy of this memorandum will be posted in the permanent section of every cadet company's bulletin board.

D. A copy of this memorandum will be located in every department's policy file in its administrative office.

E. Copies of this memorandum will be required reading for all staff and faculty on an annual basis. A roster indicating that the memorandum was read by all will be maintained in the department's administrative office.

23. Recession:

FOR THE PRESIDENT

OFFICIAL:

Charles B. Reger
CHARLES B. REGER
COL, USAF, RET
Executive Assistant to The President

Attachments:

Annex A: Informal Complaint Procedures
Annex B: Formal Complaint Procedures

Distribution:

1 each cadet
1 each staff member
1 each faculty member

Memo # _____ Dated, _____ is rescinded.

APPENDIX 1 TO ANNEX B:

General Procedures for Conducting
Formal Investigations of
Sexual Harassment Complaints

1. Respect the rights of all parties.
2. Provide the alleged harasser timely and adequate notice of the allegations and give the alleged harasser an opportunity to respond in person or in writing before a neutral person or panel.
3. Select an Investigator who:
 - A. Has knowledge and training in issues dealing with sexual harassment.
 - B. Is thoroughly familiar with The Citadel's Sexual Harassment Policy.
 - C. Has credibility with The Citadel community.
 - D. Is neutral to all parties and represent The Citadel in a fair manner.
 - E. Is fair and not reach a conclusion until the investigation is completed.
 - F. Is able to maintain confidentiality of information.
4. In selecting the panel or board members to hear the case use the following criteria:
 - A. Select members who have no conflict of interest preventing them from acting fairly toward either the alleged harasser or victim.
 - B. Select panel or board members who have received training instructions or adequate material on sexual harassment so that they are knowledgeable of what sexual harassment is and what The Citadel's policies are.
 - C. Procedures should be timely and follow the guidelines stated within this memorandum.
5. Confidentiality should be honored by all participants in the process to the greatest extent possible, keeping in mind that neither the complainant nor the alleged harasser is bound by confidentiality although both can be asked to observe it.
6. Plan the strategy for the Investigation.
 - A. Create a timeline (include when interviews will be taken, report prepared, and decision reached).
 - B. Identify specific issues or allegations to be addressed.
 - C. Identify witnesses to be interviewed.
 - D. Identify/obtain documents.



E. Prepare a list of general questions for each interview.

7. Inform the alleged harasser to avoid any unnecessary contact with the complainant and of the prohibitions of retaliation.

8. Inform the complainant about retaliation, provide examples, and request that any attempts at retaliation be reported immediately.

9. Arrange to tape record all interviews and appearances before a board or panel. If either party objects to recording the interview, make a written record of the fact and resort to taking written notes.

10. Reach a conclusion. There are four possible outcomes to the board or hearing process:

A. the harassment occurred; or

B. the harassment did not occur; or

C. the allegation was unsubstantiated but with probable cause; or

D. there was insufficient information to make a determination.

11. Write the report and provide it to the person (Vice President/President) who will make the decision.

1 Q 1743.

2 A 1743? My book goes from 1722 to 2438.

3 No, I've got it.

4 Q What tab was it under in your book?

5 A Well, it's all under one, but it was
6 later. I've found 1743.

7 Q 1743 is the Sexual Assault Crisis
8 Intervention Policy.

9 A Right.

10 Q And under the introduction, the eighth
11 line down, it says, "The Citadel community strongly
12 supports a policy that prohibits abuse of power by
13 sexual assault. This unlawful act and the coercion,
14 intimidation and lack of respect it represents is
15 the antithesis of The Citadel's mission and this
16 behavior will not be tolerated."

17 A Right.

18 Q "The Citadel will punish any individual
19 who is found to have committed a sexual assault."

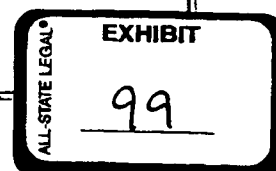
20 A Correct.

21 Q And then under Definitions, No. 2B,
22 sexual assault.

23 A Right.

24 Q It says it includes rape and all other
25 forms of unlawful sexual behavior.

Janice Ohlendorf Darby, RPR
(843) 814-7666 jodarby@comcast.net



1 A Okay.

2 Q And contact. Right?

3 A Right.

4 Q So you and I established yesterday that
5 what Mr. ReVille did was unlawful sexual behavior.
6 Right?

7 A We looked at several statutes, that it
8 fit some of the definitions under of those statutes.
9 It appeared to.

10 Q So under The Citadel's Sexual Assault
11 Crisis Intervention Policy, unlawful sexual behavior
12 would include what Mr. ReVille was alleged to have
13 done by Doe?

14 A It appears to.

15 Q And obviously on the next page,
16 affirmative consent cannot be given if the person is
17 under 18 years old?

18 A Okay. Right.

19 Q Did it ever -- This memorandum is dated
20 July 3, 2002. Right?

21 A Right.

22 Q Is there any policy that superseded it
23 with regard to The Citadel's Sexual Assault Crisis
24 Intervention Policy before April of 2007?

25 A I think there's another one that's dated
Janice Ohlendorf Darby, RPR
(843) 814-7666 jodarby@comcast.net

1 2005.

2 Q Did it change this definition of sexual
3 assault?

4 A I don't believe it did.

5 Q Did it ever occur to you that you needed
6 to immediately contact the sexual response
7 coordinator, the SARC?

8 A I don't recall that it did.

9 Q Based on this policy, is that what you
10 should have done?

11 A I'm not sure.

12 Q Have you read -- Janet Shealy is the
13 sexual assault response coordinator. Right?

14 A Right.

15 Q And she was --

16 A Not exactly her title, but that's her
17 job.

18 Q And have you read her deposition?

19 A No.

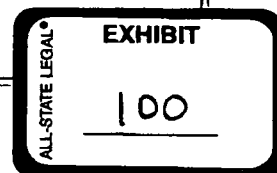
20 Q Do you know what she says she would have
21 done had Doe reported to her?

22 A I don't recall, no.

23 Q Over on page 1761, this is still part of
24 that same Sexual Assault Intervention Policy.

25 A Okay.

Janice Ohlendorf Darby, RPR
(843) 814-7666 jodarby@comcast.net



1 assaults?

2 A. Recidivism in sexual assaults?

3 Q. Yes.

4 A. I would say that if somebody assaults a
5 person, they may well likely assault another. I
6 don't have that data, but it -- that's what I
7 think is common -- not common knowledge, but I
8 think it's knowledge.

9 Q. Sure. I understand you don't have the
10 statistics today, but I just want to make sure I
11 understand. Throughout your military career and
12 professional career, you had gained personal
13 knowledge on what recidivism is in the context of
14 sexual assault?

15 A. Yeah.

16 Q. And, generally, your understanding is
17 that a sexual -- a person who sexually assaults
18 another has the potential for assaulting
19 additional victims; is that right?

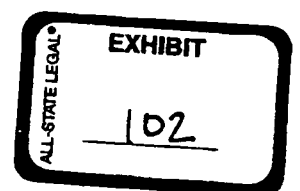
20 A. In any crime, not just sexual assault,
21 I think you see serial criminals. We deal with
22 that every day here.

23 Q. How about, at the Air Force Academy,
24 what was the general policy regarding the victim,
25 how the victim would be handled?



DSS - Foster Parent File-20

1241



000015

10. YOUR CHILDREN

Are there any previous or current custodial/visitation arrangements for your child(ren)? ☐ Yes ☒ No

Have you ever lost or relinquished custody of any child(ren) ☐ Yes ☒ No If so, please describe the situation.

Are any of your children adopted? ☐ Yes ☒ No If so, which one(s)?

If you have children who are not adults who do not live with you, where do they live? Why do they not live with you?
How often do they visit you?

Describe each of your children's personalities, academic levels and interests

How do your children relate to and interact with one another? Does one dominate? Do they argue? Is there rivalry?

Do any of your children have special needs? ☐ Yes ☒ No If so, please describe.

How do/did you discipline your child(ren)? How do you plan to discipline the child(ren) you foster or adopt?

I plan to hold open communication between us and I plan to place responsibility onto the child. Self-reliance

What responsibilities or chores will your foster or adoptive child(ren) have? *depends on the age. → cleaning, pet care (fish), daily/weekly maintenance*

What is each child's attitude about another child coming to live in your home? *n/a*

If no children, describe any previous experience with children.

I've directed a Summer Sports Camp (Spend the night, 500 kids for 6 weeks); I've led many youth Bible Studies; I volunteered for Children's Hospice; I teach them every day. Also, I was President of The Citadel's Big Brother program (Bulldog/Bulldog).

Employment History			
Present Employer: <i>Glyn Cowlishaw</i> <i>Pinewood Prep. School</i>	Position: <i>Teacher of English</i>		Date of Employment: <i>May 2002</i>
Past Employer: <i>Jenni Garrett</i>	Position: <i>Camp Director</i>	Reason for Leaving: <i>Summer job only, now I run my own camps</i>	Date of Employment: From: <i>June 2000</i> To: <i>August 2003</i>
Past Employer: <i>Chris Fudge</i>	Position: <i>Writing and Learning Strategies Consultant</i>	Reason for Leaving: <i>worked as a college student only</i>	Date of Employment: From: <i>January 1999</i> To: <i>May 2002</i>
Past Employer:	Position:	Reason for Leaving:	Date of Employment: From: _____ To: _____

Instructions – Family History Information

1. "Your Child" – Description of child/children need only be given by one applicant. (Please include information on children of previous marriages)
2. Columns designated for siblings may be used for giving information on additional children.
3. "Present Location" – Please list the city and state.
4. "Education" – Give the highest grade completed, diploma or degree earned.
5. If a family member is deceased, please specify cause of death and age at time of death

Instructions – Employment History

Employment should cover your employment for the past five years. Use additional sheet, if necessary.

1 A. I was the superintendent or president of
2 the college.

3 Q. Does the Air Force Academy require that
4 its president or superintendant be an active
5 military person?

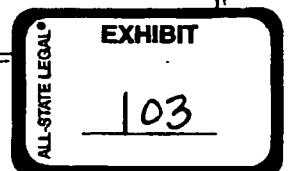
6 A. Yes.

7 Q. Tell me about your experience with
8 sexual assault, sexual harassment at the Air Force
9 Academy.

10 A. The sexual assault issue at the Academy
11 broke somewhere about this time of the year in
12 2003, July -- or January or February. I didn't
13 arrive there until July. And so much of the Air
14 Force's decisions -- between the Secretary of the
15 Air Force and Chief of Staff of the Air Force,
16 they had put a team together and gone to the
17 Academy. And by the time I arrived in July of
18 '03, they had produced what they called an Agenda
19 for Change. And it was a pretty extensive
20 document that said, This is what we need to do.
21 My task was to carry that and make that document
22 -- put that document into being.

23 Q. What was the overall objective of the
24 Agenda for Change?

25 A. To attempt a culture change at the



1 Academy and to bring the Academy in line -- more
2 in line with the regular Air Force.

3 Q. And when you say a culture that existed,
4 what culture are you referring to?

5 A. It was the culture -- like any
6 organization, it was the culture. When the Air
7 Force had culture folks come in and assess the
8 culture, they found that the culture was not what
9 we wanted in an Air Force organization.

10 Q. Would it be fair to say that prior to
11 you arriving at the Air Force Academy there had
12 been numerous instances of sexual harassments and
13 sexual assault?

14 A. There were documented -- I don't know
15 how many, but there were documented sexual
16 harassment and sexual assault cases.

17 Q. Okay. And to your knowledge, how long
18 had that culture existed at the Air Force Academy
19 prior to you being hired in 2003?

20 A. It was tough to tell. Nobody can ever
21 really pin down when that culture -- I think it
22 evolved over time. Nobody ever said, this date is
23 when it started.

24 Q. But you would agree with me that in
25 order for something to be a culture --

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 the implementation of the culture change?

2 A. No.

3 Q. Would it be fair to say that in that
4 two-year period, you gained a significant amount
5 of personal knowledge and expertise in the area of
6 sexual assault and sexual harassment?

7 A. I much better understood it than I had
8 prior to coming there. I wouldn't consider myself
9 an expert.

10 Q. Well, your job was to implement the
11 culture of change, correct?

12 A. It was to implement the Agenda for
13 Change.

14 Q. Tell me how you went about doing that.

15 A. We broke the document down. I think
16 there was well over 150 individual items that were
17 categorized in certain -- in different areas, and
18 we set up a team to start implementing it, create
19 the programs and make sure that those were
20 implemented.

21 Q. Okay. And what was the overall
22 objective of the programs?

23 A. The overall objective, like I said, in
24 my mind, was to change the culture, start a
25 culture change. Culture changes take a long time.

1 contact with Michael Arpaio is because he was a
2 battalion commander?

3 A. That's correct, and I was the Commandant
4 of Cadets.

5 Q. Did you have any indication or inkling
6 that Michael Arpaio was a pedophile during that
7 two-year period that you were dealing with him
8 daily?

9 A. No.

10 Q. How was he so good at hiding it from
11 you?

12 A. I don't know.

13 Q. Did you have frequent and daily contact
14 with Louis Skip ReVille when he was a cadet at The
15 Citadel?

16 A. I did not have frequent contact with
17 him. I had contact with him whenever there was a
18 guilty verdict on an honor trial. I would be
19 present when he briefed the President.

20 Q. So he was, I believe, the chairman of
21 the Honor Council?

22 A. That is correct.

23 Q. Were you surprised that Arpaio was able
24 to fool you and hide his predisposition to
25 molesting young boys?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com



1 A. I was shocked.

2 Q. How about Mr. ReVille?

3 A. Shocked.

4 Q. Because they were decorated,
5 well-respected Citadel graduates?

6 A. That's correct.

7 Q. It goes against everything The Citadel
8 stands for?

9 A. It does.

10 Q. Or do you consider it a disease that can
11 be treated?

12 A. No. I just think it's a violation of
13 everything that The Citadel stands for.

14 Q. Do you know who turned in Skip ReVille
15 when he was arrested by the Mt. Pleasant Police?

16 A. I do not.

17 Q. No investigation by The Citadel to maybe
18 thank them for getting this pedophile off the
19 street?

20 MR. STONEY: Objection.

21 A. Not that I'm aware of.

22 Q. If I told you that two 14-year-old boys
23 relayed the abuse to a friend to their mother,
24 would you think that they were doing their duty in
25 relaying that information to the mother so action

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

JOHN DOE 2,) CIVIL ACTION NO.
Plaintiff,) 2:12-CV-00794-RMG
vs.)
PRESIDENT JOHN W. ROSA,)
Defendant.)

* * * * *

DEPOSITION OF: COLONEL JOHN G. LACKEY

DATE TAKEN: Wednesday, April 10, 2013

TIME: 10:00 a.m.

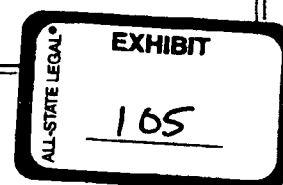
PLACE: McLeod Law Group, LLC
134 Meeting Street
Charleston, South Carolina

REPORTED BY: EVE WILBANKS
Registered Professional
Reporter, Certified LiveNote
Reporter and Notary Public

* * * * *

POST OFFICE BOX 21784
CHARLESTON, SOUTH CAROLINA 29413-1784

CAROLINA REPORTING
843.832 0801 * www.carolina-reporting.com



1 A P P E A R A N C E S

2 REPRESENTING THE PLAINTIFF:

3 W. MULLINS MCLEOD, JR., ESQUIRE
4 McLeod Law Group
5 134 Meeting Street, Suite 160
6 Charleston, South Carolina 29401
7 Mullins@mcleod-lawgroup.com

8 JULIE MOORE, ESQUIRE
9 McLeod Law Group
10 134 Meeting Street, Suite 160
11 Charleston, South Carolina 29401
12 Julie@mcleod-lawgroup.com

13 REPRESENTING THE DEFENDANT:

14 RANDALL C. STONEY, JR., ESQUIRE
15 Barnwell, Whaley, Patterson & Helms
16 288 Meeting Street, Suite 200
17 Charleston, South Carolina 29401
18 Rstoney@barnwell-whaley.com

19 MARK C. BRANDENBURG, ESQUIRE
20 The Citadel
21 171 Moultrie Street
22 Bond Hall, Room 369
23 Charleston, South Carolina 29409
24 Mark.brandenburg@citadel.edu

25

1 A. Right.

2 Q. Now, the policy also states -- and if
3 you will, if you'll read for the record No. 7.

4 A. "All sexual misconduct allegations
5 disclosed at any time concerning any individual(s)
6 currently or formerly associated with the camp
7 will be investigated upon disclosure. There are
8 no time period restrictions regarding sexual
9 misconduct investigations."

10 Q. To your knowledge, has that always been
11 one of the policies for the camp and the school,
12 that it doesn't matter when the allegation
13 surfaces, the school is not going to tolerate
14 sexual abuse?

15 A. I can't speak to that. Because the
16 sexual thing became paramount with Arpaio. But
17 the fact that people would violate rules at the
18 camp, that had always been the case. In other
19 words, if a counselor got fired or a camper did
20 something, that they couldn't come back or we
21 wouldn't bring another counselor back based upon
22 past performances. Does that make sense to you?

23 Q. Yes, sir. Going back to Arpaio, you
24 mentioned that he was a captain in the Marine
25 Corps. Would it be fair to say that at least you

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 learned with your involvement in the Arpaio
2 litigation, that pedophiles can look just like you
3 and me?

4 A. I certainly learned that.

5 Q. And that pedophiles can be doctors,
6 lawyers, captains in the military, that they are
7 skilled in the art of deception; would you agree
8 with that?

9 A. I agree with that.

10 Q. And do you think that that is, in all
11 fairness, a lesson that a lot of people learned at
12 The Citadel during the Arpaio incident and
13 litigation?

14 MR. STONEY: Objection.

15 Q. You can answer.

16 A. Yes. I mean, you've got to realize that
17 Arpaio -- I mean, he was -- he represented -- his
18 -- I mean, his dad was a grad, executive, worldly
19 experience. He made great grades. He had every
20 skill known to man. He had an ROTC scholarship,
21 the toughest one to get, the Naval scholarship.
22 He received all the awards. He went to all the
23 hard camps, specialty trainings. This guy was --
24 he had it all.

25 Q. Based upon what you've read about -- or

G. MARGOLIS

Q. And in determining what happened in the initial report, don't you think it would be important to at least hear both sides of the story?

A. I -- yes.

Q. And, in fact, at no time have you ever interviewed the camper or his father; isn't that correct?

A. Correct.

Q. And you never asked me and The Citadel's never asked me for permission for you to interview the other side of the story; isn't that correct?

A. That is correct.

Q. Do you have children?

A. I do.

Q. How many?

A. Two.

Q. Okay. Have you ever been in your house and -- do you have a son and a daughter?

A. Yeah. Yes.

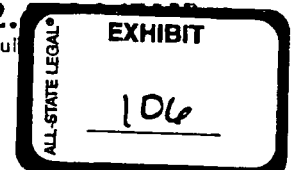
Q. Okay. Have you ever been in your house and the daughter says that the son did



Nationwide Depositions, Hearings and Trials • Conference Facilities
Videoconferencing • Legal Video Services • Exhibit Scanning
Transcript / Video Synchronization • 24-7 Online Repository

1.888.ACR.3335 • 1.800.862.

info@acrdepos.com • www.acrdepos.com • schedule



G. MARGOLIS

that he will abuse 11-to-15-year- old boys
near where he lives and works in the future?

A. Again, based on my law enforcement
experience, not any psychological experience
as such, I would agree with that, more
likely than not, it would.

Q. Would you agree, based on your law
enforcement experience and your academic
background and education, that if you became
aware in 2007 that a man had sexually abused
children in 2002 and 2003 at a summer camp
where he worked, would you agree that it
would be foreseeable that any victims he was
to have from 2004 through 2007 and 2007
through 2011 would occur where he worked and
spent his time?

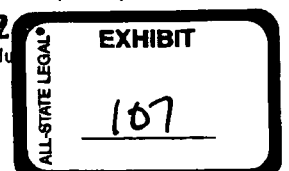
A. I would agree that it would
predispose me to believe that he would be
offending again and would have offended
again.

Q. Would you agree with me that if you
were notified that an individual had sexually
abused a minor on campus five years
previously, and that individual is currently



Nationwide Depositions, Hearings and Trials • Conference Facilities
Videoconferencing • Legal Video Services • Exhibit Scanning
Transcript / Video Synchronization • 24-7 Online Repository

1.888.ACR.3335 • 1.800.862
info@acrdepos.com • www.acrdepos.com • schedule



G. MARGOLIS

on campus, and that there are minors on campus when that report comes in five years later, that that person poses a threat to the campus?

A. I would agree with you, yes.

Q. And when that individual leaves the campus, he's a threat to minors wherever he goes off campus, correct?

A. I would agree that that's a reasonable assumption.

Q. If a child sexual predator was a camp counselor in the year 2001 and had a single room as the counselor and used movies and food to lure campers into his room and abuse them there in his room, knowing those facts, what would you do to prevent counselors in the future at that summer camp -- what would you make sure happened as part of your rules to prevent abuse of summer campers going forward?

A. Develop appropriate policies and procedures, train individuals to those policies and procedures, and then hold them accountable to those policies and procedures.



Nationwide Depositions, Hearings and Trials • Conference Facilities
Videoconferencing • Legal Video Services • Exhibit Scanning
Transcript / Video Synchronization • 24-7 Online Repository

1.888.ACR.3335 • 1.800.862.4206 (FAX)

info@acridepos.com • www.acridepos.com • scheduling@acridepos.com

G. MARGOLIS

ReVille had a propensity to abuse boys within a certain described range of age?

A. I don't recall that specifically, but it wouldn't be a surprise to me.

Q. Okay. And why wouldn't it be a surprise in the field of sexual predators?

A. Because that's who he offended on, and it's consistent with his offense patterns, as I understand them.

Q. Okay. And from a criminal standpoint, young boys would be a discrete class of victims as compared to all ages and both sexes; isn't that correct?

A. That's what I've come to understand from experts in this area, yes.

Q. So it's pretty clear to you that Mr. ReVille had a propensity to abuse victims within a discrete class within our society; is that right?

A. Yes. I believe they're called preferential child molesters or preferential molesters.

Q. Now, in doing any type of investigation, do you naturally like to see



Nationwide Depositions, Hearings and Trials • Conference Facilities
Videoconferencing • Legal Video Services • Exhibit Scanning
Transcript / Video Synchronization • 24-7 Online Repository

1.888.ACR.3335 • 1.800.862.4206 (FAX)
info@acurdepos.com • www.acurdepos.com • scheduling@acurdepos.com

DEPARTMENT OF EDUCATION

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties

AGENCY: Office for Civil Rights, Department of Education.

ACTION: Request for comments.

SUMMARY: The Assistant Secretary for Civil Rights, U.S. Department of Education (Department), is proposing to issue a new document that would replace the 1997 document entitled "Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties," issued by the Office for Civil Rights (OCR) on March 13, 1997 (1997 guidance). We are revising the guidance in limited respects in light of recent Supreme Court cases relating to sexual harassment in schools.

We intend the proposed revised guidance to serve the same purpose as the 1997 guidance. It continues to provide educational institutions with guidance about the standards under Title IX of the Education Amendments of 1972 (Title IX) that we use, and that institutions should use, to investigate and resolve allegations of sexual harassment of students.

We request from all interested parties written comments on the portions of the guidance revised to address the Supreme Court decisions.

DATES: We must receive your comments on or before December 4, 2000.

ADDRESSES: Address all comments regarding the revised guidance to Jeanette J. Lim, U.S. Department of Education, Office for Civil Rights, 400 Maryland Avenue, SW., room 5036 Switzer Building, Washington, DC 20202-1100. For all comments submitted by letter, you must include the term "Sexual Harassment Guidance Comments." If you prefer to send your comments through the Internet, use the following address: ocr@ed.gov.

You must include the term "Sexual Harassment Guidance Comments" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT:

Jeanette J. Lim. Telephone: (202) 205-5557 or 1-800-421-3481. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 260-0471.

For additional copies of this document, individuals may call OCR's Customer Service Team at (202) 205-5557 or toll-free at 1-800-421-3481.

Individuals with disabilities may obtain this document in an alternative

format (e.g., Braille, large print, audiotape, or computer diskette) on request to OCR's Customer Service Team listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:**Invitation To Comment**

We invite you to submit comments regarding the proposed revised guidance in Appendix A that relates to the revisions made to address recent Supreme Court decisions.

During and after the comment period, you may inspect all public comments about this proposed revised guidance in room 5036, 330 C Street, SW., Washington, DC, between the hours of 9:30 a.m. and 5:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Public Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public record for this proposed guidance. If you want to schedule an appointment for this type of aid, you may call (202) 205-8113 or (202) 260-9895. If you use a TDD, you may call the Federal Information Relay Service at 1-800-877-8339.

Purpose and Scope of the Revised Guidance

In March 1997, we published "Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties" (62 FR 12034). We issued the guidance pursuant to our authority under Title IX, and our Title IX implementing regulations, to eliminate discrimination based on sex in education programs and activities receiving Federal financial assistance. It was grounded in longstanding legal authority establishing that sexual harassment of students can be a form of sex discrimination and is covered by Title IX. It was the product of extensive consultation with interested parties, including students, teachers, school administrators, and researchers regarding the realities of sexual harassment and best practices for responding to and preventing sexual harassment. We also made the document available for public comment.

Since the issuance of the guidance, the Supreme Court (Court) has issued several important decisions in sexual harassment cases, including two decisions specifically addressing harassment of students. *Vista Independent School District v. Gebser*, 524 U.S. 274 (1998), and *Davis v. Monroe County Board of Education* (Davis), 526 U.S. 629 (1999). In an August 1998 letter to school superintendents and a January 1999 letter to college and university presidents, the Secretary of Education informed school officials that the *Gebser* decision did not change schools' obligations to take reasonable steps to prevent and eliminate sexual harassment as a condition of their receipt of Federal funding. In most important respects, the substance of the 1997 guidance was reaffirmed in the Court's opinions in *Gebser* and *Davis*, but we have determined that in certain areas the 1997 guidance could be strengthened by further clarification and explanation of the regulatory basis for the guidance.

We are, therefore, issuing this proposed revised guidance. The scope of the revisions is limited. They are intended to reaffirm our standards regarding sexual harassment, to clarify the regulatory basis for the 1997 guidance, and to illustrate how and why the administrative enforcement of Title IX's nondiscrimination requirements differs from private lawsuits for money damages. In making clarifications to the guidance flowing from the Supreme Court decisions, we also have taken the opportunity to make a few additional clarifications that we believe will be helpful to schools, including clarifying some examples from the 1997 guidance and adding some additional examples to illustrate the Title IX standards discussed in the guidance. It is important to note that these are just examples. Neither they nor the proposed revised guidance create new Title IX standards.

Title IX Compliance Standard

In *Gebser* and *Davis*, the Supreme Court addressed for the first time the appropriate standards for determining when a school district is liable under Title IX for money damages in a private lawsuit brought by a student who has been sexually harassed.

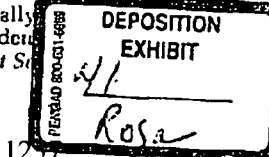
- The Court held in *Gebser* that a school can be liable for monetary damages if a teacher sexually harasses a student, an official who has authority to address the harassment has actual knowledge of the harassment, and that official is deliberately indifferent in responding to the harassment.
- In *Davis*, the Court announced that a school also may be liable for monetary damages if one student sexually harasses another student in the student's program and the conditions in *Gebser* are met, i.e., an official who has authority to address the harassment has actual knowledge of the harassment, and that official is deliberately indifferent in responding to the harassment.

Title IX Compliance Standard

In *Gebser* and *Davis*, the Supreme Court addressed for the first time the appropriate standards for determining when a school district is liable under Title IX for money damages in a private lawsuit brought by a student who has been sexually harassed.

- The Court held in *Gebser* that a school can be liable for monetary damages if a teacher sexually harasses a student, an official who has authority to address the harassment has actual knowledge of the harassment, and that official is deliberately indifferent in responding to the harassment.
- In *Davis*, the Court announced that a school also may be liable for monetary damages if one student sexually harasses another student in the student's program and the conditions in *Gebser* are met, i.e., an official who has authority to address the harassment has actual knowledge of the harassment, and that official is deliberately indifferent in responding to the harassment.

- In *Davis*, the Court announced that a school also may be liable for monetary damages if one student sexually harasses another student in the student's program and the conditions in *Gebser* are met, i.e., an official who has authority to address the harassment has actual knowledge of the harassment, and that official is deliberately indifferent in responding to the harassment.



has actual knowledge of the harassment and is deliberately indifferent in responding to the harassment. The Court also clarified that deliberate indifference means that "the recipient's response to the harassment or lack thereof is clearly unreasonable in light of the known circumstances." *Davis*, 526 U.S. at 648.

The Court was explicit in *Gebser* and *Davis* that the liability standards established in these cases are limited to private actions for monetary damages. See, e.g., *Gebser*, 524 U.S. 283, and *Davis*, 526 U.S. at 639. The Court acknowledged, by contrast, the power of Federal agencies such as the Department to "promulgate and enforce requirements that effectuate [Title IX's] nondiscrimination mandate," even in circumstances that would not give rise to a claim for money damages. See *Gebser*, 524 U.S. at 292.

The *Gebser* Court further explained that the standard for obtaining damages in private actions was grounded in its "central concern" arising out of the contractual nature of Title IX—that by accepting Federal funds, a recipient does not unintentionally expose itself to a large monetary damage award for discrimination of which it was unaware and which it would have been willing to correct (524 U.S. at 287). Under the Court's rulings, liability for money damages arising out of sexual harassment of students, either by employees or by other students, cannot arise unless the school has actual notice of the harassing conduct and is deliberately indifferent in response.

The *Gebser* Court recognized and contrasted lawsuits for money damages with the incremental nature of administrative enforcement of Title IX by Federal agencies, such as the Department's Office for Civil Rights (OCR). Under our Title IX regulations, we must first investigate complaints and determine whether our investigation "indicates a failure to comply" with the statute or regulations. If it does, we must attempt to secure compliance by voluntary means. This may include requiring the school to take remedial action necessary to overcome the effects of the discrimination (*Gebser*, 524 U.S. at 288 (citing the Department's regulations in 34 CFR 106.3)). Only if that fails, and the recipient is provided both an opportunity for a hearing and express findings of its failure to comply, will the recipient face the possibility of the loss of continued Federal funding. See 34 CFR 106.71, 100.8, 100.9. In contrast to the Court's concerns in *Gebser* about the possibility of an award of money damages in a private lawsuit for harassment the recipient had not

known about, fund termination under administrative enforcement comes only after the recipient has notice of a violation and an opportunity to correct it (*Gebser*, 524 U.S. at 289). In addition, the financial sanction under administrative enforcement is limited to termination of, or refusal to grant or continue, Federal assistance (*Gebser*, 524 U.S. at 290). As recognized by the Court in *Gebser*, 524 U.S. at 287–292, our enforcement actions, therefore, do not raise the Court's concern that a school district not be held liable for large damage awards for past acts of which it was unaware.¹ Moreover, the Court's discussion makes clear that under this incremental administrative enforcement scheme, we identify a violation of Title IX or the Title IX regulations, and a school is obligated to take corrective action in response to this violation, at a point before either the statutorily required conditions applicable to termination of funds or the Court-mandated conditions applicable to obtaining money damages in private litigation have necessarily been satisfied. See *Gebser*, 524 U.S. at 287–292.

Accordingly, our proposed revised guidance does not change the standards that we use, and that a school district should use, to determine the school district's responsibility for sexual harassment of students. Rather, the proposed revised guidance clarifies that these standards apply to our ability to find a violation and seek corrective action in administrative enforcement of Title IX.

Because the focus of the guidance is on a school's administrative responsibilities under the nondiscrimination requirements of the Title IX statute and regulations, rather than its liability to private litigants, the proposed revised guidance no longer describes a school's compliance obligations in terms of "liability" or "Title VII agency law." Instead, the proposed revised guidance explains the regulatory basis for a school's Title IX responsibilities to take effective action to prevent, eliminate, and remedy sexual harassment occurring in its program.

The Court Confirmed Important Principles From the 1997 Guidance

In *Davis*, *Gebser*, and a third opinion, *Oncale v. Sundowner Offshore Services*,

¹ It is the position of the United States Government that the standards set out in OCR's guidance for funding a violation and seeking voluntary corrective action also would apply to private actions for injunctive and other equitable relief. See brief of the United States as Amicus Curiae in *Davis v. Monroe County*.

Inc. (Oncale), 523 U.S. 75 (1998) (a sexual harassment case decided under Title VII of the Civil Rights Act of 1964 (Title VII)), the Supreme Court confirmed several fundamental principles articulated by the Department in the 1997 guidance. In these areas, no changes in the guidance are necessary. The Court—

- Endorsed the Department's power to set regulatory requirements under Title IX. The Court held that, for example, a school district's failure to promulgate a grievance procedure, as required by the Title IX regulations, does not constitute unlawful discrimination, but, nevertheless, such a regulatory requirement can be administratively enforced by the Department (*Gebser*, 524 U.S. at 292).

- Affirmed the Department's interpretation that student-on-student (peer) harassment is covered by Title IX and resolved a circuit court split on this issue (*Davis*, 526 U.S. at 633).

- Described the type of conduct that rises to the level of peer sexual harassment in a manner consistent with our guidance. The Court explained that conduct had to adversely affect the student's educational benefits or opportunities, such that the victim is effectively denied equal access to these benefits and opportunities (*Davis*, 526 U.S. at 648–651).

- Held that not all conduct of a sexual nature rises to the level of sexual harassment, *Davis*, 526 U.S. at 648–651, thus affirming our guidance to schools that teachers and school administrators need to use common sense and good judgment in responding appropriately to allegations of sexual harassment. See also *Oncale*, 523 U.S. at 79–82.

- Affirmed our position that the context of the behavior at issue is crucial in determining whether sexual harassment has occurred. See, e.g., *Davis*, 526 U.S. at 650 (citing our 1997 sexual harassment guidance); *Oncale*, 523 U.S. at 81.

- Held that sexual harassment may constitute discrimination under Title VII even if the harasser and victim of harassment are of the same sex (*Oncale*, 523 U.S. at 79–82). This is consistent with the Department's position in the 1997 guidance that same-sex sexual harassment can constitute discrimination under Title IX.

- Made clear that, although the applicability of Title VII agency principles in private Title IX lawsuits for money damages is limited, it is still appropriate to look to Title VII principles in determining what constitutes sexual harassment (*Davis*, 526 U.S. at 651, citing *Meritor Savings*

Bank, FSB v. Vinson (Meritor), 477 U.S. 57, 67 (1986) (Title VII case)).

Discussion of Important Clarifications

I. Liability Section Deleted and Guidance Refocused: Basis for School's Responsibility Is the Title IX Regulations, Not Title VII Agency Law

The 1997 guidance contained a section titled "Liability of a School for Sexual Harassment." To the extent this section could be interpreted as being applicable to a school's liability in a private lawsuit for monetary damages, the proposed revised guidance clarifies that the guidance addresses the Department's administrative enforcement of Title IX; it does not address standards applicable to private litigation for monetary damages. Accordingly, the proposed guidance replaces this section with a new section that focuses on a school's responsibilities to prevent and eliminate sexual harassment discrimination in its programs as a condition of its receipt of Federal financial assistance, as summarized in the following section.

A. Sexual Harassment by Employees

The 1997 guidance indicated that when teachers or other employees, when providing aid, benefits, or services to students, abuse or take advantage of their status as a person of authority to engage in sexual harassment, a school is responsible for that harassment even if other school officials did not find out until later that the harassment occurred.² The 1997 guidance described determinations about a school's responsibility in these cases, in part, in terms of the Title VII agency-derived concept that if a teacher or other employee abuses the authority given him or her by the school, it is as if the school itself harassed the student (62 FR 12039). The Gebser Court rejected Title VII's agency principles for the purpose of determining a school's liability for monetary damages under Title IX.³

² This did not mean that, when the school only became aware of this type of harassment after it occurred, the school was at risk of losing its Federal funding solely because the harassing conduct had occurred. As required by the statute, OCR always provides schools with the opportunity to take reasonable steps to end the harassment, prevent its recurrence, and remedy the effects of the harassment once the school learns about the harassment—either through a student complaint, notice from OCR, or other means discussed in the guidance under "Notice of Employee, Peer, or Third Party Harassment." This issue is discussed further in the section of the proposed revised guidance entitled "OCR Case Resolution."

³ As discussed in part II of this notice regarding the definition of harassment, the Supreme Court's distinction between Title IX and Title VII is limited to liability standards. The Title VII law continues to be useful in determining what conduct

However, the concept that in some cases a school must take action to remedy the effects of an employee's discrimination exists in the longstanding Title IX regulations without reliance on Title VII agency law.⁴

The Department's Title IX implementing regulations prohibit sex-based discrimination in the operation of the recipient's programs and activities.⁵ Among other things, a recipient cannot, on the basis of sex, treat students differently, provide different aid, benefits, or services to students; deny or limit aid, benefits, or services to students; or otherwise limit a student's enjoyment of a right, privilege, or opportunity (34 CFR 106.31) (For brevity and clarity, the regulatory requirements are generally summarized as a school's obligation to ensure that a student is not denied or limited in his or her ability to participate in or benefit from the school's program on the basis of sex.) The Department has historically

constitutes discrimination on the basis of sex under Title IX.

⁴ 34 CFR 106.3. Several days after the Gebser decision, the Court handed down two decisions in Title VII sexual harassment cases: *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998), and *Farmher v. City of Boca Raton*, 524 U.S. 775 (1998). These cases affirmed that under Title VII agency principles, employers are liable in monetary damages for the acts of their supervisors who sexually harass subordinate employees. The Court also held that if the victim does not suffer a tangible, adverse employment action as a result of the harassment, the employer can assert an affirmative defense if it can show both: (1) that the employer exercised reasonable care to prevent and promptly correct any sexually harassing behavior, and (2) that the employee unreasonably failed to take advantage of these preventative or corrective opportunities provided by the employer or to avoid harm otherwise. These decisions do not affect OCR standards for several reasons. The Court in Gebser was clear that its liability analysis under Title VII agency law does not apply to Title IX, nor, more generally, do standards for private monetary relief apply to OCR's administrative enforcement of the civil rights laws. Moreover, whether or not the victim of harassment uses available grievance procedures is different in the school context where the degree of influence of the employee harasser and the age of the student may prevent effective use of grievance procedures. Finally, the administrative enforcement process itself makes this type of affirmative defense inapplicable. As is discussed in more detail in the section of the guidance entitled "OCR Case Resolution," if an OCR investigation reveals that a school has taken all appropriate, timely, corrective action in response to information about sexual harassment by its employees—whether it learned about the harassment from the victim, from OCR, or some other way—OCR will consider the case resolved and will take no further action against the school.

⁵ Title IX covers all of the operations of federally assisted educational institutions and entities (20 U.S.C. 1687). The guidance addresses harassment that occurs in education programs and activities covered by Title IX and thus, assumes in all cases that the harassment occurs in connection with the academic, educational, extracurricular, athletic, and other programs of the school. For more information about the scope of coverage, see 65 FR 26426 (May 5, 2000).

interpreted the regulatory requirements to reflect Congress' understanding that Title IX's prohibitions against discrimination are not limited to official policies and practices established by the school district or high-level officials to govern school programs, activities, benefits, and services. Sex-based discrimination against individual students can also occur if employees, as they are carrying out their day-to-day job responsibilities for providing aid, benefits, or services to students, (1) condition these benefits on the student's submission to sexual advances, or (2) otherwise take advantage of their position of responsibility to engage in actions that deny or limit a student's ability to participate in or benefit from the school's program on the basis of sex. (For brevity and clarity, the proposed revised guidance generally refers to these types of employee harassment as harassment that occurs in the context of providing aid, benefits, or services to students and causes a denial or limitation of a benefit.)

Thus, the regulations do not distinguish discrimination by the recipient directly, e.g., actions by the school board or high-level school officials, from discrimination that occurs if an employee is acting in the context of providing aid, benefits, or services to students and the employee engages in actions that deny or limit a student's ability to participate in or benefit from the school's program on the basis of sex. This is because a school, in large part, can only operate its programs and activities through the responsibilities it gives its teachers and other employees. The key under the Title IX regulations is that the recipient cannot discriminate in providing aid, benefits, or services to students. See 34 CFR 106.31(b). If the recipient provides aid, benefits, or services to students through its employees, and an employee, in the context of providing these to students, engages in actions that deny or limit a student's ability to participate in or benefit from the school's program on the basis of sex, the recipient is responsible for the discrimination.

What does it mean to be responsible for the discrimination? The Title IX regulations require a written assurance from every recipient stating that all of its education programs and activities will be operated in compliance with Title IX and the regulations, including committing itself to take whatever remedial action is necessary to eliminate discrimination in its programs (34 CFR 106.4(a) (writing the remedial requirements of 106.3(a))) Section 106.3(a) of the regulations requires that

if a recipient discriminates on the basis of sex, it must take action necessary to overcome the effects of the discrimination. The *Gebser* Court expressly affirmed this type of remedial action required under our regulations, including remedying the effects of the harassment on the victim (524 U.S. at 288). Thus, under the regulations, if the recipient discriminates against a student, the recipient must remedy the effects of that discrimination on the victim. As previously discussed, this includes situations in which discrimination occurred because an employee of the recipient, in the context of providing aid, benefits, or services to students, took action that denied or limited a student's ability to participate in or benefit from the school's program.

It has been our longstanding interpretation of the civil rights statutes and our regulations that the school's responsibility to take reasonable steps to remedy the effects of its discrimination is triggered when the violation occurs (e.g., a school employee, in the context of providing aid, benefits, or services to students, engages in action that denies or limits the student's ability to participate in or benefit from the school's program), regardless of how or at what point other school authorities learned of the discrimination. For instance, if we investigated a complaint and found that a teacher of an advanced placement math class routinely and without an educational basis gave female students lower grades than their male counterparts, we would find that the school has discriminated against students on the basis of sex and that corrective action is required. In order to resolve the discrimination in providing aid, benefits, or services, of which other school officials subsequently became aware through our investigation, we would not only require a recipient to take proactive steps to end the discrimination and prevent its recurrence, but would also require the recipient to remedy the effects of the discrimination, including effects on the victims.

Thus, the proposed revised guidance clarifies that the school discriminates if a teacher or other employee, in the context of providing aid, benefits, or services to students, engages in harassing conduct that causes a denial or limitation of a student's ability to participate in or benefit from the school's program on the basis of sex. The proposed revised guidance also clarifies that, because the school is responsible for this discrimination, the school is responsible both for taking reasonable proactive steps to end the harassment and prevent its recurrence

and for remedying any effects of the sexual harassment on the victim.

If, on the other hand, an employee harassed a student outside of this context, i.e., the harassment occurred in the school's program, but not in the context of providing aid, benefits, or services to students, the school is responsible for the sexual harassment under the same standards that apply to peer and third party sexual harassment. These have not changed from the 1997 guidance. In these instances, if the harassment was sufficiently serious to effectively limit or deny a benefit, but the school took prompt, effective steps once it learned or should have learned of the harassment to end it and prevent its recurrence, the school has avoided violating Title IX.

In determining whether an employee's harassing conduct occurs in the context of providing aid, benefits, or services to students, it is important to consider all the circumstances related to the harassment, including the position of the harasser and the age and level of education of the students involved. The Court recognized in *Davis* that school officials and employees have a great degree of supervision, control, and disciplinary authority over all aspects of elementary and secondary school-age children's conduct (526 U.S. at 646). Moreover, school-age children are generally expected and required to obey adults as part of their participation in school programs and activities.

Thus, the proposed revised guidance outlines factors that we will consider in determining whether the harassing conduct occurred within the context of the employee's provision of aid, benefits, or services to students. These factors include the age of the student, the authority generally given to the harassing employee, the actual degree of influence of the harassing employee over the student, as well as the place, time, and nature of the harassing conduct. These determinations regarding the context of the harassment need to be made on a case-by-case basis.

B. Peer and Third Party Sexual Harassment

The standards described in the 1997 guidance applicable to peer and third party harassment are the same in the proposed revised guidance.

C. Effect of Grievance Procedures

The discussion of liability in the 1997 guidance contained a section on the effect of grievance procedures. To the extent this section could be interpreted to guide courts regarding liability for monetary damages, this section was affected by *Gebser* and *Davis*. This

proposed revised guidance clarifies that its focus is on the effect of grievance procedures in our enforcement actions.

Schools are required by the Title IX regulations to disseminate a policy against sex discrimination and to adopt and publish grievance procedures providing for prompt and equitable resolution of sex discrimination complaints, including complaints of sexual harassment. The *Gebser* Court specifically affirmed the Department's authority to enforce this requirement administratively in order to carry out Title IX's nondiscrimination mandate (524 U.S. at 292). Strong policies and effective grievance procedures are essential in order to let students and employees know that sexual harassment will not be tolerated, to ensure that they know how to report it, and to let students and employees know that students can report harassment without fear of adverse consequences.

If a school does not have effective policies and procedures, as required by the Title IX regulations, its own inaction may hamper early notification and intervention and may permit a sexually hostile environment to exist in its program and activities. In this case, we would require the school to take corrective action, including remedying the effects of the harassment on the victim.

D. OCR Case Resolution

The 1997 guidance discussion of liability contained a subsection titled "OCR Case Resolution." Because the focus of the proposed revised guidance is specifically OCR enforcement, this section has been retained and clarified. This section lets schools know that, even if the school discriminates, the school does not immediately lose Federal funds on that basis alone. Consistent with the Title IX statute, we provide recipients with the opportunity to take timely and effective corrective action before issuing a formal finding of violation.

E. Notice of Harassment

The "notice" section has been moved up in the proposed revised guidance to reflect its connection to the discussion of a school's responsibility for remedying sexual harassment. For the reasons discussed in the following paragraphs, although additional clarification has been provided, this section has not been substantively revised.

i. In Cases in Which Notice is Required To Trigger a School's Responsibility, a School Will Be Responsible if It Knew or Should Have Known About the Harassment

The 1997 guidance stated that a school has "notice" of sexual harassment if it "knew, or in the exercise of reasonable care should have known," about the harassment. The proposed revised guidance retains this notice standard. The type of constructive notice described in the 1997 guidance has historically been the way we hold recipients responsible for complying with the civil rights laws, and it is a reasonable basis for holding a school responsible for taking appropriate action in response to sexual harassment. It does not require a school to predict future behavior or to be aware that harassment is occurring or has occurred if there is no reasonable basis for the school to know about it. Instead, the guidance describes a reasonable duty to fully investigate if there are obvious problems, such as the report of some incidents of harassment or a widespread graffiti campaign in public areas.

The *Gebser* Court rejected a constructive notice, or "should have known" standard, as the basis for imposing monetary damages because of its central concern that a recipient should not be exposed to large damage awards for discrimination of which it was unaware. This aspect of the *Gebser* opinion, however, is not relevant in our enforcement actions in which recipients voluntarily take corrective action as a condition of continued receipt of Federal funds. Moreover, as stated previously in the section entitled "Title IX Compliance Standard," under our administrative enforcement, recipients are always given actual notice and an opportunity to take appropriate corrective action before facing the possible loss of Federal funds.

ii. Notice Can Be Provided to Any Responsible School Employee

Under *Gebser*, in order to receive monetary damages, notice of sexual harassment must be given "at a minimum, [to] an official of the recipient entity with authority to take corrective action to end the discrimination" (524 U.S. at 290). The 1997 guidance, however, specifically rejected the position suggested by some parties that notice must be given to managerial or designated employees. In fact, the 1997 guidance made clear that an employee who receives notice of the harassment, if he or she does not have the authority to address the harassment,

may still be required to report the harassment to the appropriate school official with authority to take corrective action.

The proposed revised guidance retains and clarifies this position as a condition for continued receipt of Federal funds. For purposes of our administrative enforcement of Title IX, the Department will consider a school to have notice of harassment and a duty to respond if a responsible school employee has notice of the harassment. A responsible school employee would include any employee who either has the authority to take action to address harassment or has the duty to report sexual harassment or other misconduct by students or employees to appropriate school authorities, as well as an individual who a student could reasonably believe has the authority to either address the harassment or the responsibility to report it to someone with the authority to address it. This interpretation of the regulations is fully consistent with *Gebser* and *Davis*. As previously discussed, the *Gebser* Court recognized that Title IX responsibilities to respond to harassment can be triggered before all statutorily required conditions for fund termination have been satisfied, including the condition requiring formal notice of violation to appropriate school officials.

In addition, this requirement is based on a reasonable expectation of what steps a school can and should take to fulfill its responsibilities under the regulations to respond to and prevent discrimination in its education program. As the 1997 guidance recognized, it is reasonable to expect that teachers and other employees will see, or be told, that sexual harassment is occurring, and, thus, schools should make sure that their employees at least report what they see or what is told to them. Moreover, young children may not understand the formal status of, or lines of authority of, school employees and may reasonably believe that an adult, such as a teacher or school nurse, is a person that they can and should tell about incidents of sexual harassment.

II. Definition of Sexual Harassment

The section from the 1997 guidance titled "Severe, Persistent, or Pervasive" has been re-titled "Factors Used to Evaluate Sexual Harassment." It now contains four subsections:

A. Types of Harassment

In the 1997 guidance, we described two different types of sexual harassment: *quid pro quo* and hostile environment (62 FR 12038). As discussed in the following paragraphs,

our description of these terms in the 1997 guidance is consistent with our regulations and with applicable case law, and, therefore, these terms have been retained for their usefulness in determining whether conduct is sexual harassment. We have modified the proposed revised guidance to better represent these concepts, and the discussion of *quid pro quo* and hostile environment harassment has been moved from the introduction to this section.

In *Burlington Industries, Inc. v. Ellerth* (524 U.S. 742 (1998))—a Title VII sexual harassment case—the Court discussed the usefulness of the distinction between *quid pro quo* and hostile environment harassment. The Court held that this distinction continues to be relevant in determining whether conduct rises to the level of discrimination. The Court found that *quid pro quo* harassment requires a tangible employment action to result from the harassment. If this is not the case, e.g., a harasser threatens but does not take action if the victim refuses to succumb to the harasser's sexual advances, the conduct is considered hostile environment harassment. The conduct must then be sufficiently serious to alter the conditions of the victim's employment. Our description of these terms in the 1997 guidance is consistent with our regulations and with the Court's holdings in *Ellerth*, and, therefore, these terms have been retained for their usefulness in determining whether conduct is sexual harassment. The proposed revised guidance has modified the discussion of the basis of a school's responsibility for harassment by teachers and other employees, including both *quid pro quo* and hostile environment harassment, to clarify the regulatory basis for that responsibility.

B. Quid Pro Quo Harassment

In addition to the clarifications previously outlined, the section from the 1997 guidance titled "Recipient's Response" has been modified slightly to eliminate references to *quid pro quo* harassment because, in determining an appropriate response, the proposed revised guidance focuses instead on whether or not the harassment by a teacher or other employee occurred in the context of the employee's provision of aid, benefits, or services to students.

C. Hostile Environment Harassment

As explained in the following paragraphs, in the proposed revised guidance the definition of conduct that creates a hostile environment is substantively the same as in the 1997

guidance, but the discussion contains several revisions to clarify that the *Davis* definition and the guidance definition are consistent.

The *Davis* Court concluded that student-on-student sexual harassment "if sufficiently severe can likewise rise to the level of discrimination actionable under the statute" (526 U.S. at 650). The Court held that to support a claim for damages, student-on-student sexual harassment must be "so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits" (*Davis*, 526 U.S. at 650). However, physical exclusion is not necessary; it is enough if the student victims of sexual harassment can show that the harassment "so undermined and detracts from the victims' educational experience, that the victim-students are effectively denied equal access to an institution's resources and opportunities." *Id.* (citing *Meritor*, 477 U.S. at 67).

Although the terms used by the Court in *Davis* are in some ways different from the words used to define hostile environment harassment in the 1997 guidance (see, e.g., 62 FR 12041, "conduct of a sexual nature is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from the education program, or to create a hostile or abusive educational environment"), the definitions are consistent. The Court's definition, like the Department's 1997 guidance, is a contextual description intended to capture the same concept—that under Title IX the conduct must be sufficiently serious that it adversely affects a student's ability to participate in or benefit from the school's program. See 62 FR 12045 (the conduct must have limited the student's ability to participate or altered the conditions of the student's educational environment); 34 CFR 106.31(b) (prohibiting recipients from denying or limiting a student's ability to participate in or benefit from the school's program).

This requirement is consistent with *Meritor*, a Title VII case cited approvingly by the *Davis* Court, which requires sexual harassment to be "sufficiently severe or pervasive to alter the conditions of [the victim's] employment and create an abusive working environment" (477 U.S. at 67).⁶ See also *Harris v. Forklift Systems*,

Inc., 510 U.S. 17, 22 (1993) (which applied *Meritor* to hold that a victim need not show serious psychological injury as long as she can show the conduct created an abusive or hostile environment). The proposed revised guidance clarifies some examples given in the 1997 guidance to make clear that peer-on-peer acts are not sexual harassment under Title IX if they merely make the student victim feel upset. As the discussion in 62 FR 12041 makes clear, our definition reflects a continuum of severity. The "or" merely indicated that a particularly severe incident may not need to be persistent to be a problem under Title IX.

Under *Davis*, determining whether harassment is actionable "depends on a constellation of surrounding circumstances, expectations, and relationships" (526 U.S. at 651 (citing *Oncale*, a Title VII case)). Similarly, the core of the 1997 guidance's definition of harassment is the detailed discussion of these underlying factors (for example, the age, relationship, and numbers of people involved), and the *Davis* Court cites the factors in the 1997 guidance approvingly (526 U.S. at 651).

In addition, like the Court in *Davis*, we require schools to respond to conduct that, from an objective perspective, is sufficiently serious to deny or limit a student's ability to participate in or benefit from the school's program (62 FR 12041). In *Oncale*, 523 U.S. at 82, the Court emphasized that the objective severity of harassment is to be based on the perspective of a reasonable person in the victim's position "considering all the circumstances" (citing *Harris*, 510 U.S. at 23, in which the Court used a "reasonable person" standard to determine whether sexual conduct constituted sexual harassment).

Finally, even looking only at the words the Court used in *Davis*, this would not change our compliance standard for administrative enforcement in cases of peer harassment. That is, we will always determine whether the conduct is objectively offensive, and some level of severity is always required in order to limit or deny a student's ability to participate in or benefit from a school's program. In addition, a recipient's obligation, upon notice of peer harassment, to stop the harassment and prevent its recurrence is related to the pervasiveness of the harassment.

Thus, although the Court referred to the conduct as being "severe, pervasive, and objectively offensive" and the 1997 guidance referred to the conduct as

being "severe, persistent, or pervasive . . . from both a subjective and objective perspective," both inform a contextual description intended to identify elements to evaluate whether the conduct is sufficiently serious that it can affect a student's rights under Title IX.

D. Welcomingness

This section from the 1997 guidance has been moved, but remains the same in substance.

III. FERPA

The Department administers the Family Educational Rights and Privacy Act (FERPA), which establishes requirements pertaining to disclosure of information from a student's "education records" without the consent of the student. Thus, the requirements of FERPA are involved if there are questions about disclosure of information from a student's "education records" in cases of student-on-student harassment. As noted in the 1997 guidance, the Department interprets FERPA generally to prevent a school from disclosing to a student who complained of harassment information about the sanction or discipline imposed upon a student who was found to have engaged in that harassment. There are exceptions in the case of a sanction that directly relates to the person who was harassed, such as an order that the harasser stay away from the victim, or sanctions related to offenses for which there is a statutory exception, such as crimes of violence or certain sex offenses in postsecondary institutions. Furthermore, if we are conducting a civil rights investigation, FERPA does not prohibit schools from disclosing to us information from a student's "education records," including information about applicable sanctions or discipline (20 U.S.C. 1232g(b)(1)(C)).

The 1997 guidance promised additional guidance in this area. Accordingly, the revised guidance clarifies that the Department interprets FERPA to permit a student who filed a harassment complaint to learn the outcome of his or her complaint, i.e., to learn whether the complaint was investigated and whether harassment was found—because this information directly relates to the victim. However, it remains the Department's position that FERPA prevents a school from disclosing to a victim the sanction or discipline imposed upon the student found to have harassed the victim (unless, as previously described, the sanction is directly related to the victim or there is a statutory exception). The

⁶ In fact, the cites to Title VII cases by the *Davis* Court throughout its discussion of actionable harassment under Title IX indicate that the Court did not intend to change the definition of sexual harassment but that the Court did intend that Title

VII law continue to be relevant in determining what constitutes sexual harassment under Title IX.

Department recognizes that information about the sanctions is important to the victim's remedy because this information enables the victim to determine whether the school responded appropriately to the complaint. Thus, the Department has proposed and supported a statutory amendment to FERPA to permit this disclosure.

Reiteration of Important Aspects of the 1997 Guidance

A. Importance of Common Sense and Judgment

As with the 1997 guidance, the proposed revised guidance focuses on the school's responsibility, and important role, in taking reasonable steps to eliminate and prevent sexual harassment. A significant number of students, both male and female, have experienced sexual harassment, which can interfere with a student's academic performance and emotional and physical well-being. Preventing and remedying sexual harassment in schools is essential to ensure nondiscriminatory, safe environments in which students can learn. The proposed revised guidance is important because school personnel who understand their obligations under Title IX are in the best position to prevent harassment and to lessen the harm to students if, despite their best efforts, harassment occurs.

Several sexual harassment issues involving young students that were widely reported in the press at the time the 1997 guidance was being developed were discussed in the preamble to the guidance. The preamble noted that these incidents provide a good example of how the guidance can assist schools in understanding what is sexual harassment and in formulating appropriate responses. As the Department stated then, a kiss on the cheek by a first grader does not constitute sexual harassment.

Since the 1997 guidance was published, we have heard from educators, parents, and other interested parties that some schools continue to overreact to incidents of childish behavior or immature conduct that do not rise to the level of sexual harassment. Accordingly, the proposed revised guidance, like the 1997 guidance, illustrates that in addressing allegations of sexual harassment, the good judgment and common sense of teachers and school administrators are important elements of a response that meets the requirements of Title IX. School personnel should consider the age and maturity of students in responding to allegations of sexual

harassment. For example, age is relevant to determining whether a student welcomed the conduct and to determining whether the conduct is serious enough to rise to the level of sexual harassment. Age is a factor to be considered by school personnel when determining how best to inform students about a school's policies and procedures in order to prevent sexual harassment from occurring.

However, we have also learned that some schools, perhaps out of confusion regarding the legal standards for liability for money damages for sexual harassment, or perhaps out of a misplaced notion that "kids will be kids," continue to avoid responding to serious incidents of sexual harassment. If harassment has occurred, the critical issue under Title IX is whether the school recognized that sexual harassment can constitute sex discrimination and whether the school took prompt and effective action calculated to end the harassment, prevent its recurrence, and, as appropriate, address the effects of the harassment. As the proposed revised guidance makes clear, if harassment has occurred, doing nothing is always the wrong response. However, depending on the circumstances, there may be more than one right way to respond. The important thing is for school employees or officials to pay attention to the school environment and not be afraid to act in a reasonable, commonsense manner in response to sexual harassment, often responding as they would to other types of serious misconduct. Accordingly, important discussions from the 1997 guidance regarding the recipient's response, requests for confidentiality, prevention strategies, and effective grievance procedures remain intact in the proposed guidance.

In addition, in describing the obligation of the school to take action when harassment occurs, in the proposed revised guidance the term "effective" has generally been substituted for the term "appropriate." This is a clarification intended to underscore the need for action to be effective and does not represent a change from the 1997 guidance. This clarification should be read consistently with the need to use common sense and good judgment. It does not mean that there is any need for schools to overreact and impose the most severe sanctions, e.g., suspension or expulsion of students who have engaged in harassment if other sanctions are consistent with the nature of the misconduct and can reasonably be expected to be effective. As recognized

in the guidance, if a school's initial steps are ineffective, a series of escalating steps may be necessary in order for the action to be effective in responding to the harassment.

B. Applicability of Guidance to Same-Sex Harassment

The 1997 guidance explained that Title IX protects any "person" from sex discrimination. Thus, Title IX protects both male and female students from sexual harassment, and schools have an obligation to deal with complaints of sexual harassment equally whether the complainant is male or female. Additionally, the guidance explained that Title IX prohibits sexual harassment regardless of whether the harasser and the person being harassed are members of the same sex, a position subsequently supported by the Supreme Court's 1998 decision under Title VII in *Oncale*. The 1997 guidance explained that all students, regardless of their sexual orientation, are protected from sexual harassment under Title IX, and this remains our position in the proposed revised guidance. By promptly and effectively addressing sexual harassment discrimination occurring in education programs or activities, school personnel are in the best position to ensure a safe and nondiscriminatory learning environment for every student. The focus of the proposed revised guidance, like the 1997 guidance, is harassment involving conduct of a sexual nature; thus, both explain that gender-based harassment is beyond their scope. Of course, gender-based harassment, including harassment based on sex-stereotyping, can also be a violation of Title IX.

The harassment of students on the basis of sexual orientation is a serious problem. As noted in the 1997 guidance and in the proposed revised guidance, some State and local laws may prohibit discrimination on the basis of sexual orientation, and, under certain circumstances, courts may permit redress for harassment on the basis of sexual orientation under other Federal legal authority. In January 1999 we joined with the National Association of Attorneys General in issuing the publication "Protecting Students from Harassment and Hate Crime, A Guide for Schools" (Guide). The Guide provides educators with practical guidance for protecting students from all forms of harassment, including harassment on the basis of sexual orientation. As the Secretary of Education, Richard Riley, stated in the introduction to the Guide: "Our schools owe students a safe environment that is conducive to learning and that affords

all students an equal opportunity to achieve high educational standards. Harassment and hate crimes undermine these purposes and may cause serious harm to the development of students who are victimized by this behavior." The Guide is a useful resource that school officials may use to ensure that all students attend schools in a safe environment free from all forms of harassment. The Guide is available on our web page at: <http://www.ed.gov/pubs/Harassment>.

C. Additional Information on the Development of the 1997 Guidance

Because the substance of the revised guidance has not changed significantly, many of the comments that we received from interested parties in response to a draft of the 1997 guidance, and our responses to those comments, remain relevant and unchanged. We, therefore, are attaching that portion of the 1997 Federal Register notice as Appendix B to this document.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the Federal Register, in text or Adobe Portable Document Format (PDF), on the Internet at either of the following sites: <http://ocfo.ed.gov/fedreg.htm> <http://www.ed.gov/news.html>

To use PDF, you must have Adobe Acrobat Reader, which is available free at either of the previous sites. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

Note. The official version of this notice is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available on GPO Access at: <http://www.access.gpo.gov/nara/index.html>

Dated October 26, 2000.

Norma V. Cantu,
Assistant Secretary for Civil Rights

Appendix A—Sexual Harassment Guidance: Harassment of Students¹ by School Employees, Other Students, or Third Parties Summary of Contents

Introduction

Applicability of Title IX

Title IX Regulatory Compliance Responsibilities

Harassment by Teachers and Other Employees

Harassment by Other Students or Third Parties

Notice of Employee, Peer, or Third Party Harassment

Grievance Procedures
OCR Case Resolution

Factors Used to Evaluate Sexual Harassment

Types of Harassment. *Quid Pro Quo* Harassment and Hostile Environment Harassment

Quid Pro Quo Harassment
Hostile Environment Harassment
Welcomeness

Recipient's Response

Response to Student or Parent Reports of Harassment;

Response to Direct Observation of Harassment by a Responsible Employee
Requests by the Harassed Student for Confidentiality

Response to Other Types of Notice
Prevention

Prompt and Equitable Grievance Procedures

First Amendment

Introduction. Title IX of the Education Amendments of 1972 (Title IX) and the Department of Education's implementing regulations prohibit discrimination on the basis of sex in federally assisted education programs and activities.² The Supreme Court, the Congress, and Federal executive departments and agencies, including the Department of Education, have recognized that sexual harassment of students can constitute discrimination prohibited by Title IX.³ This guidance focuses on a school's fundamental compliance responsibilities under Title IX and the Title IX regulations to address sexual harassment of students as a condition of continued receipt of Federal funding.

Sexual harassment can include unwelcome verbal, nonverbal, or physical conduct of a sexual nature. If a student is sexually harassed, the harassing conduct can deny or limit, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the school's program. This guidance describes the regulatory basis for a school's compliance responsibilities under Title IX, outlines the circumstances under which sexual harassment may constitute discrimination prohibited by the statute and regulations, and provides information about actions that schools should take to prevent sexual harassment or to remedy it effectively if it does occur.

Applicability of Title IX. Title IX applies to all public and private educational institutions that receive Federal funds, *i.e.*, recipients, including, but not limited to, elementary and secondary schools, school districts, proprietary schools, colleges, and universities. The guidance uses the terms "recipients" and "schools" interchangeably to refer to all of those institutions. The "education program or activity" of a school includes all of the school's operations.⁴ This means that Title IX protects students in connection with all of the academic, educational, extra-curricular, athletic, and other programs of the school, whether they take place in the facilities of the school, on a school bus, at a class or training program sponsored by the school at another location, or elsewhere.

It is important to recognize that Title IX's prohibition against sexual harassment does not extend to legitimate nonsexual touching or other nonsexual conduct. For example, a high school athletic coach hugging a student who made a goal or a kindergarten teacher's consoling hug for a child with a skinned knee will not be considered sexual harassment.⁵ Similarly, one student's demonstration of a sports maneuver or technique requiring contact with another student will not be considered sexual harassment. However, in some circumstances, nonsexual conduct may take on sexual connotations and rise to the level of sexual harassment. For example, a teacher's repeatedly hugging and putting his or her arms around students under inappropriate circumstances could create a hostile environment.

A student may be sexually harassed by a school employee,⁶ another student, or a non-employee third party (e.g., a visiting speaker or visiting athlete). Title IX protects any "person" from sex discrimination. Accordingly, both male and female students are protected from sexual harassment⁷ engaged in by a school's employees, other students, or third parties. Moreover, Title IX prohibits sexual harassment regardless of the sex of the harasser, *i.e.*, even if the harasser and the person being harassed are members of the same sex.⁸ An example would be a campaign of sexually explicit graffiti directed at a particular girl by other girls.⁹

Although Title IX does not prohibit discrimination on the basis of sexual orientation,^{10,11} sexual harassment directed at gay or lesbian students may constitute sexual harassment prohibited by Title IX. For example, if students heckle another student with comments based on the student's sexual orientation (e.g., "gay students are not welcome at this table in the cafeteria"), but their actions do not involve sexual conduct, their actions would not be sexual harassment covered by Title IX. On the other hand, harassing conduct of a sexual nature directed toward gay or lesbian students (e.g., if a male student or a group of male students target a gay student for physical sexual advances) may create a sexually hostile environment and, therefore, may be prohibited by Title IX.

Although a comprehensive discussion of gender-based harassment is beyond the scope of this guidance, it is also important to recognize that gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, but not involving conduct of a sexual nature, may be a form of sex discrimination that violates Title IX and the Title IX regulations if it rises to a level that denies or interferes with benefits, services, or opportunities and is directed at individuals because of their sex.¹² For example, the repeated sabotaging of female graduate students' laboratory experiments by male students in the class could be the basis of a violation of Title IX. In assessing all related circumstances to determine whether a hostile environment exists, incidents of gender-based harassment combined with incidents of sexual harassment could create a hostile environment, even if neither the gender-based harassment alone nor the sexual

harassment alone would be sufficient to do so.¹³

Title IX Regulatory Compliance

Responsibilities. As a condition of receiving funds from the Department, a school is required to comply with Title IX and the Department's Title IX regulations, which spell out prohibitions against sex discrimination. The law is clear that sexual harassment may constitute sex discrimination under Title IX.¹⁴

Recipients specifically agree, as a condition for receiving Federal financial assistance from the Department, to comply with Title IX and the Department's Title IX regulations. The regulatory provision requiring this agreement, known as an assurance of compliance, specifies that recipients must agree that education programs or activities operated by the recipient will be operated in compliance with the Title IX regulations, including taking any action necessary to remedy its discrimination or the effects of its discrimination in its programs.¹⁵

The regulations set out the basic Title IX responsibilities a recipient undertakes when it accepts Federal financial assistance, including the following specific obligations.¹⁶ A recipient agrees that, in providing any aid, benefit, or service to students, it will not, on the basis of sex—

- Treat one student differently from another in determining whether the student satisfies any requirement or condition for the provision of any aid, benefit, or service;¹⁷
- Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;¹⁸
- Deny any student any such aid, benefit, or service;¹⁹
- Subject students to separate or different rules of behavior, sanctions, or other treatment;²⁰
- Aid or perpetuate discrimination against a student by providing significant assistance to any agency, organization, or person that discriminates on the basis of sex in providing any benefit, service, or opportunity to students;²¹ and
- Otherwise limit any student in the enjoyment of any right, privilege, advantage, or opportunity.²²

For the purposes of brevity and clarity, this proposed revised guidance generally summarizes this comprehensive list by referring to a school's obligation to ensure that a student is not denied or limited in the ability to participate in or benefit from the school's program on the basis of sex.

The regulations also specify that, if a recipient discriminates on the basis of sex, the school must take remedial action to overcome the effects of the discrimination.²³

In addition, the regulations establish procedural requirements that are important for the prevention of, or correction of, sex discrimination, including sexual harassment. These requirements include issuance of a policy against sex discrimination²⁴ and adoption and publication of grievance procedures providing for prompt and equitable resolution of complaints of sex discrimination.²⁵ The regulations also require that recipients designate at least one employee to coordinate compliance with the

regulations, including coordination of investigations of complaints alleging noncompliance.²⁶

As explained in this guidance, based on these regulatory requirements, schools need to recognize and respond to sexual harassment of students by teachers and other employees, by other students, and by third parties. This guidance explains how the requirements of the Title IX regulations apply to situations involving sexual harassment of a student and outlines measures that schools should take to ensure compliance with these requirements.

Harassment by Teachers and Other Employees

Sexual harassment of a student by a teacher or other school employee may be discrimination in violation of Title IX.²⁷ This guidance outlines the circumstances under which an employee's actions can cause discrimination and trigger the school's responsibility for taking effective corrective action. In sum, a recipient's responsibility for employee harassment is distinguishable based on whether or not the harassment occurred in the context of the employee's provision of aid, benefits, or services to students. If the answer is yes, as described in the next paragraph, this triggers the recipient's responsibilities. What this means for purposes of OCR's administrative requirements is that the recipient must take reasonable steps to eliminate the hostile environment caused by the harassment, to prevent its recurrence, and to remedy its effects. (Of course, under OCR's administrative enforcement, a recipient will always have actual notice and an opportunity to take appropriate corrective action before facing the loss of Federal funds.) By contrast, if the harassment occurs in the school's program, but not in the context of the employee's provision of aid, benefits, or services to students, the recipient's responsibility is not triggered until it has notice. Thus, if upon notice, it takes prompt and effective steps to end the harassment and prevent its recurrence, it has satisfied its obligations under the Title IX regulations, and the recipient is not responsible for the effects of the harassment on the victim that occurred prior to notice.

When is an employee acting in the context of providing aid, benefits, or services to students? A recipient is responsible for the nondiscriminatory provision of aid, benefits, or services to students, and a recipient generally provides these to students through the responsibilities it gives its employees. If an employee, in the context of providing aid, benefits, or services to students, takes advantage of his or her position of responsibility over students and engages in actions that deny or limit a student's ability to participate in or benefit from the school's program on the basis of sex,²⁸ the recipient is responsible for the discrimination.²⁹

For example, in some instances, an employee will condition the provision of aid, benefits, or services to a student on submission to sexual harassment. In other instances, an employee's conduct is sufficiently serious that it creates a hostile environment in a situation in which an employee takes advantage of the responsibilities given to him or her by the

school to provide aid, benefits, or services to students to engage in harassment, or because of the way the school is run, the employee reasonably appears to be taking advantage of this position of responsibility when engaging in the harassment. (For more information see "Types of Harassment, *Quid Pro Quo* Harassment and Hostile Environment Harassment," as well as the paragraphs that follow in this section.) For brevity and clarity, this proposed revised guidance generally refers to the types of employee harassment described in this paragraph as causing a denial or limitation of a benefit that occurred in the context of the employee's provision of aid, benefits, or services to students. Factors to be considered in determining whether an employee's harassing conduct occurred in the context of providing aid, benefits, or services to students are outlined in the following paragraphs of this section. In the situations described in this paragraph, because the school is responsible for the denial or limitation of the student's ability to participate in or benefit from the school's program on the basis of sex, the school is responsible for taking timely and effective action to end the harassment, prevent its recurrence, and remedy its effect on the victim.

On the other hand, if a teacher or other school employee engages in harassment of a student outside of this context, i.e., if the harassment occurs in the school's program, but not in the context of the employee's provision of aid, benefits, or services to students, and if the harassment is sufficiently serious to create a hostile environment, the school is responsible, upon notice of the harassment, for taking prompt and effective action to stop the harassment and prevent its recurrence.³⁰ (This is the same standard applicable to peer and third party harassment, which is discussed in the following section.) As explained in "Notice of Employee, Peer, or Third Party Harassment," for the purposes of this guidance, a school has notice of harassment if a responsible school employee actually knew, or in the exercise of reasonable care should have known, about the harassment. If, upon notice, the school takes immediate and effective action reasonably calculated to end the harassment, eliminate the hostile environment, and prevent its recurrence, it has avoided violating the Title IX regulations. If, upon notice,³¹ the school fails to take prompt and effective action, its own failure to act has allowed the student to continue to be subjected to a hostile environment that denies or limits the student's ability to participate in or benefit from the school's program. If this occurs, the school is then responsible for taking corrective action to remedy the effects of the harassment on the victim that could have been prevented if the school had responded promptly and effectively, as well as taking corrective action to stop the harassment and prevent its recurrence. (See the sections on "OCR Case Resolution" and "Recipient's Response.")

In assessing a school's responsibility under the Title IX regulations for an employee's sexual harassment of a student, OCR considers whether or not the sexual

harassment occurred in the context of the employee's provision of aid, benefits, or services to students. In determining this, OCR will consider on a case-by-case basis the nature and circumstances of the harassing conduct as it relates to the employee's provision of aid, benefits, or services to students in the school's program. If an employee engages in *quid pro quo* harassment, i.e., the employee conditions an educational benefit or decision on a student's submission to sexual conduct, the student clearly is being denied or limited in his or her ability to participate in or benefit from the school's program on the basis of sex. In addition, the harassment is clearly occurring in the context of the employee's provision of aid, benefits, or services to students. An example would be a teacher who conditions a student's grade on submission to sexual advances and then gives the student a poor grade for rejecting the harassment. In situations that do not involve *quid pro quo* harassment, but in which an employee's sexually harassing conduct is sufficiently serious to create a hostile environment, OCR will consider the following interrelated factors in determining whether the harassment occurred in the context of the employee's provision of aid, benefits, or services to students:

- The degree of responsibility given to the employee, including informal and formal authority to provide aid, benefits, or services to students, to direct and control student conduct, or to discipline students generally;
- The degree of influence the employee has over the particular student involved, including in the context in which the harassment took place;
- Where and when the harassment occurred; and
- The age and educational level of the student involved, and, as applicable, whether, due to the student's age and educational level and the way the school is run, it would be reasonable for a student to believe that the employee was in a position of responsibility over the student, even if the employee was not.

These factors are applicable to all recipient educational institutions, including elementary and secondary schools, colleges, and universities.

In cases involving allegations of harassment of elementary and secondary school-age students by a teacher or school administrator during any school activity,⁴⁴ consideration of these factors will generally lead to a conclusion that the harassment occurred in the context of the employee's provision of aid, benefits, or services. This is because elementary and secondary schools are typically run in a way that gives teachers, school officials, and certain other school employees a substantial degree of supervisor, control, and disciplinary authority over the conduct of students.⁴⁵ For example, a teacher may sexually harass an eighth grade student in a school hallway. Even if the student is not in any of the teacher's classes and even if the teacher is not a designated hallway monitor, given the age and educational level of the student and the status and degree of influence of teachers in elementary and secondary schools, it

would be reasonable for the student to believe that the teacher had at least informal disciplinary authority over students in the hallways. Similarly, a high school coach may require an athlete to come to his office for a post-game discussion of the athlete's performance and then use this meeting to make sexual advances. In these examples, all the factors (nature and circumstances of the harassment, age and education level of the student, employee's position of responsibility, employee's degree of influence over the student, and where and when the harassment occurred) would indicate that the harassment occurred in the context of the employee's provision of aid, benefits, or services to students. With respect to other types of employees, e.g., custodial employees, these same factors would be considered to determine whether or not it would be reasonable for the student to believe that the employee had a position of responsibility over him or her and, thus, was in a position to take advantage of that responsibility to limit or deny aid, benefits, or services to the student.

On the other hand, consider the case in which a university custodian sexually harasses a graduate student in the hallway of a university building. Based on the considerations set out in the factors listed previously, even though the harassment occurred in the hallway of a university building, due to the age and education level of the student, taken together with the employee's lack of authority or influence over that student, OCR would conclude that the harassment did not occur in the context of the employee's provision of aid, benefits, or services to students. Thus, as previously described, the university's obligation to respond promptly and effectively would be triggered when it knew or should have known of the harassment.

Harassment by Other Students or Third Parties. If a student sexually harasses another student and the harassing conduct is sufficiently serious to deny or limit the student's ability to participate in or benefit from the program, and if the school knows or reasonably should know⁴⁶ about the harassment, the school is responsible for taking immediate effective action to eliminate the hostile environment and prevent its recurrence.⁴⁷ As long as the school, upon notice of the harassment, responds by taking prompt and effective action to end the harassment and prevent its recurrence, the school has carried out its responsibility under the Title IX regulations. On the other hand, if, upon notice, the school fails to take prompt, effective action, the school's own action has permitted the student to be subjected to a hostile environment that denies or limits the student's ability to participate in or benefit from the school's program on the basis of sex.⁴⁸ In this case, the school is responsible for taking effective corrective actions to stop the harassment, prevent its recurrence, and remedy its effects on the victim.

Similarly, sexually harassing conduct by third parties, who are not themselves employees or students at the school (e.g., a visiting speaker or members of a visiting athletic team), may also be of a sufficiently

serious nature as to interfere with a student's ability to participate in or benefit from the education program. As previously outlined in connection with peer harassment, if the school knows or should know⁴⁹ of the harassment, the school is responsible for taking prompt and effective action to eliminate the hostile environment and prevent its recurrence. The type of appropriate steps that the school should take will differ depending on the level of control that the school has over the third party harasser.⁵⁰ For example, if athletes from a visiting team harass the home school's students, the home school may not be able to discipline the athletes. However, it could encourage the other school to take appropriate action to prevent further incidents; if necessary, the home school may choose not to invite the other school back. This issue is discussed more fully in "Recipient's Response." If, upon notice, the school fails to take prompt and effective corrective action, its own failure has permitted the student to be subjected to a hostile environment that limits the student's ability to participate in or benefit from the education program.⁵¹ In this case, the school is responsible for taking corrective actions to stop the harassment, prevent its recurrence, and remedy its effects on the victim.

Notice of Employee, Peer, or Third Party Harassment. As described in the section on "Harassment by Teachers and Other Employees," schools may be responsible for certain types of employee harassment that occurred before other school officials had notice of harassment, as described in this section. On the other hand, as described in that section and the section on "Harassment by Other Students or Third Parties," in situations involving certain other types of employee harassment or harassment by peers or third parties, a school will be in violation of the Title IX regulations if the school "has notice" of a sexually hostile environment and fails to take immediate and effective corrective action.⁵² A school has notice if a responsible employee "knew, or in the exercise of reasonable care should have known," about the harassment.⁵³ A responsible employee would include any employee who has the authority to take action to redress the harassment, who has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees, or an individual who a student could reasonably believe has this authority or responsibility.⁵⁴ Accordingly, schools need to ensure that employees are trained so that employees with authority to address harassment know how to respond appropriately, and other responsible employees know that they are obligated to report harassment to appropriate school officials. Training for employees should include practical information about how to identify harassment and, as applicable, the person to whom it should be reported.

A school can receive notice of harassment in many different ways. A student may have filed a grievance with the Title IX coordinator;⁵⁵ or complained to a teacher or other responsible employee about fellow students harassing him or her. A student, parent, or other individual may have

contacted other appropriate personnel, such as a principal, campus security, bus driver, teacher, affirmative action officer, or staff in the office of student affairs. A teacher or other responsible employee of the school may have witnessed the harassment. The school may receive notice about harassment in an indirect manner, from sources such as a member of the school staff, a member of the educational or local community, or the media. The school also may have learned about the harassment from flyers about the incident distributed at the school or posted around the school. For the purposes of compliance with the Title IX regulations, a school has a duty to respond to harassment that it reasonably should have known about, i.e., if it would have learned of the harassment if it had exercised reasonable care or made a "reasonably diligent inquiry."⁴⁴ For example, in some situations if the school knows of incidents of harassment, the exercise of reasonable care should trigger an investigation that would lead to a discovery of additional incidents.⁴⁵ In other cases, the pervasiveness of the harassment may be enough to conclude that the school should have known of the hostile environment—if the harassment is widespread, openly practiced, or well-known to students and staff (such as sexual harassment occurring in the hallways, graffiti in public areas, or harassment occurring during recess under a teacher's supervision).⁴⁶

If a school otherwise knows or reasonably should know of a hostile environment and fails to take immediate and effective corrective action, a school has violated Title IX even if the student has failed to use the school's existing grievance procedures or otherwise inform the school of the harassment.

Grievance Procedures. Schools are required by the Title IX regulations to adopt and publish grievance procedures providing for prompt and equitable resolution of sex discrimination complaints, including complaints of sexual harassment, and to disseminate a policy against sex discrimination.⁴⁷ (These issues are discussed in the section on "Prompt and Equitable Grievance Procedures.") These procedures provide a school with a mechanism for discovering sexual harassment as early as possible and for effectively correcting problems, as required by the Title IX regulations. By having a strong policy against sex discrimination and accessible, effective, and fairly applied grievance procedures, a school is telling its students that it does not tolerate sexual harassment and that students can report it without fear of adverse consequences.

Without a policy and procedure, a student does not know either of the school's obligation to address this form of discrimination or how to report harassment so that it can be remedied. If the alleged harassment is sufficiently serious to create a hostile environment and it is the school's failure to comply with the procedural requirements of the Title IX regulations that hampers early notification and intervention and permits sexual harassment to deny or limit a student's ability to participate in or

benefit from the school's program on the basis of sex,⁴⁸ the school will be responsible under the Title IX regulations, once informed of the harassment, to take corrective action, including stopping the harassment, preventing its recurrence, and remedying the effects of the harassment on the victim.

OCR Case Resolution. If OCR is asked to investigate or otherwise resolve incidents of sexual harassment of students, including incidents caused by employees, other students, or third parties, OCR will consider whether—(1) The school has a policy prohibiting sex discrimination under Title IX⁴⁹ and effective grievance procedures;⁵⁰ (2) the school appropriately investigated or otherwise responded to allegations of sexual harassment⁵¹ and (3) the school has taken immediate and effective corrective action responsive to the harassment, including effective actions to end the harassment, prevent its recurrence, and, as appropriate, remedy its effects.⁵² (Issues related to appropriate investigative and corrective actions are discussed in detail in the section on "Recipient's Response.")

If the school has taken each of these steps, OCR will consider the case against the school resolved and will take no further action, other than monitoring compliance with an agreement, if any, between the school and OCR. This is true in cases in which the school was in violation of the Title IX regulations (e.g., a teacher sexually harassed a student in the context of providing aid, benefits, or services to students), as well as those in which there has been no violation of the regulations (e.g., in a peer sexual harassment situation in which the school took immediate, reasonable steps to end the harassment and prevent its recurrence). This is because, even if OCR identifies a violation, Title IX requires OCR to attempt to secure voluntary compliance.⁵³ Thus, because a school will have the opportunity to take reasonable corrective action before OCR issues a formal finding of violation, a school does not risk losing its Federal funding solely because discrimination occurred.

Factors Used To Evaluate Sexual Harassment

Types of Harassment: Quid Pro Quo Harassment and Hostile Environment Harassment. Sexual harassment may constitute sex discrimination prohibited by Title IX and the Title IX regulations. As outlined in the following paragraphs, sexual harassment may be categorized as either *quid pro quo* harassment or hostile environment harassment.⁵⁴ Sexually harassing conduct can include unwelcome sexual advances, requests for sexual favors, and other physical, verbal, or nonverbal conduct of a sexual nature.⁵⁵

It is important to recognize that the line between *quid pro quo* and hostile environment sexual harassment is often blurred, and the prohibited conduct may involve elements of both. What is important is determining whether sexual harassment has denied or limited a student's ability to participate in or benefit from the school's programs or activities based on sex, regardless of whether it is labeled *quid pro quo* or hostile environment harassment.

Quid Pro Quo Harassment. *Quid pro quo* harassment occurs whenever a school

employee⁵⁶ explicitly or implicitly conditions a student's participation in an education program or bases an educational decision on the student's submission to unwelcome sexual advances, requests for sexual favors, or other physical, verbal, or nonverbal conduct of a sexual nature. When *quid pro quo* harassment occurs, whether the student resists and suffers the threatened harm or submits and thus avoids the threatened harm, the student has been treated differently or the student's ability to participate in or benefit from the school's program has been denied or limited based on sex.⁵⁷

Hostile Environment Harassment. A sexually hostile environment is created if sexually harassing conduct by an employee by another student, or by a third party is sufficiently serious that it denies or limits a student's ability to participate in or benefit from the school's program based on sex.⁵⁸

As outlined in the following paragraphs, OCR considers a variety of related factors to evaluate the severity and pervasiveness of the conduct. OCR considers the conduct from both a subjective⁵⁹ and objective⁶⁰ perspective. In evaluating the severity and pervasiveness of the conduct, OCR considers all relevant circumstances, i.e., "the constellation of surrounding circumstances, expectations, and relationships."⁶¹ Schools should also use these factors to evaluate conduct in order to draw commonsense distinctions between conduct that constitutes sexual harassment and conduct that does not rise to that level. Relevant factors include the following:

- *The degree to which the conduct affected one or more students' education.* In considering the effect of the harassment on the student in terms of whether it has denied or limited the student's ability to participate in or benefit from the school's program, OCR assesses both tangible and intangible effects. Many hostile environment cases involve tangible or obvious injuries.⁶² For example, a student's grades may go down or the student may be forced to withdraw from school because of the harassing behavior.⁶³ A student may also suffer physical injuries or mental or emotional distress.⁶⁴ In other cases a hostile environment may exist even if there is no tangible injury to the student.⁶⁵ For example, a student may have been able to keep up his or her grades and continue to attend school even though it was very difficult for him or her to do so because of the teacher's repeated sexual advances. Similarly, a student may be able to remain on a sports team, despite experiencing great difficulty performing at practices and games from the humiliation and anger caused by repeated sexual advances and intimidation by several team members that create a hostile environment. Harassing conduct in these examples would alter a reasonable student's educational environment and adversely affect the student's ability to participate in or benefit from the school's program on the basis of sex.

A hostile environment can occur even if the harassment is not targeted specifically at the individual complainant.⁶⁶ For example, if a student, group of students, or a teacher regularly directs sexual comments toward a

particular student, a hostile environment may be created not only for the targeted student, but also for others who witness the conduct.

- *The type, frequency, and duration of the conduct.* In most cases, a hostile environment will exist if there is a pattern or practice of harassment, or if the harassment is sustained and nontrivial.⁶⁷ For instance, if a young woman is taunted by one or more young men about her breasts or genital area or both, OCR may find that a hostile environment has been created, particularly if the conduct has gone on for some time, or takes place throughout the school, or if the taunts are made by a number of students. The more severe the conduct, the less the need to show a repetitive series of incidents, this is particularly true if the harassment is physical. For instance, if the conduct is more severe, e.g., attempts to grab a female student's breasts or attempts to grab any student's genital area or buttocks, it need not be as persistent to create a hostile environment. Indeed, a single or isolated incident of sexual harassment may, if sufficiently severe, create a hostile environment.⁶⁸ On the other hand, conduct that is not severe will not create a hostile environment; e.g., a comment by one student to another student that she has a nice figure. Indeed, depending on the circumstances, this may not even be conduct of a sexual nature.⁶⁹ Similarly, because students date one another, a request for a date or a gift of flowers, even if unwelcome, would not create a hostile environment. However, there may be circumstances in which repeated, unwelcome requests for dates or similar conduct could create a hostile environment. For example, a person, who has been refused previously, may request dates in an intimidating or threatening manner.

- *The identity of and relationship between the alleged harasser and the subject or subjects of the harassment.* A factor to be considered, especially in cases involving allegations of sexual harassment of a student by a school employee, is the identity of and relationship between the alleged harasser and the subject or subjects of the harassment. For example, due to the power a professor or teacher has over a student, sexually based conduct by that person toward a student is more likely to create a hostile environment than similar conduct by another student.⁷⁰

- *The number of individuals involved.* Sexual harassment may be committed by an individual or a group. In some cases, verbal comments or other conduct from one person might not be sufficient to create a hostile environment, but could be if done by a group. Similarly, while harassment can be directed toward an individual or a group,⁷¹ the effect of the conduct toward a group may vary, depending on the type of conduct and the context. For certain types of conduct, there may be "safety in numbers." For example, following an individual student and making sexual taunts to him or her may be very intimidating to that student, but, in certain circumstances, less so to a group of students. On the other hand, persistent unwelcome sexual conduct still may create a hostile environment if directed toward a group.

- *The age and sex of the alleged harasser and the subject or subjects of the harassment.* For example, in the case of younger students, sexually harassing conduct is more likely to be intimidating if coming from an older student.⁷²

- *The size of the school, location of the incidents, and context in which they occurred.* Depending on the circumstances of a particular case, fewer incidents may have a greater effect at a small college than at a large university campus. Harassing conduct occurring on a school bus may be more intimidating than similar conduct on a school playground because the restricted area makes it impossible for students to avoid their harassers.⁷³ Harassing conduct in a personal or secluded area, such as a dormitory room or residence hall, can have a greater effect (e.g., be seen as more threatening) than would similar conduct in a more public area. On the other hand, harassing conduct in a public place may be more humiliating. Each incident must be judged individually.

- *Other incidents at the school.* A series of incidents at the school, not involving the same students, could—taken together—create a hostile environment, even if each by itself would not be sufficient.⁷⁴

- *Incidents of gender-based but nonsexual harassment.* Acts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex, but not involving sexual activity or language, can be combined with incidents of sexual harassment to determine if the incidents of sexual harassment are sufficiently serious to create a sexually hostile environment.⁷⁵

It is the totality of the circumstances in which the behavior occurs that is critical in determining whether a hostile environment exists. Consequently, in using the factors discussed previously to evaluate incidents of alleged harassment, it is always important to use common sense and reasonable judgement in determining whether a sexually hostile environment has been created.

Welcomeness. In order for conduct of a sexual nature to be sexual harassment, it must be unwelcome. Conduct is unwelcome if the student did not request or invite it and "regarded the conduct as undesirable or offensive."⁷⁶ Acquiescence in the conduct or the failure to complain does not always mean that the conduct was welcome.⁷⁷ For example, a student may decide not to resist sexual advances of another student or may not file a complaint out of fear. In addition, a student may not object to a pattern of demeaning comments directed at him or her by a group of students out of a concern that objections might cause the harassers to make more comments. The fact that a student may have accepted the conduct does not mean that he or she welcomed it.⁷⁸ Also, the fact that a student willingly participated in conduct on one occasion does not prevent him or her from indicating that the same conduct has become unwelcome on a subsequent occasion. On the other hand, if a student actively participates in sexual banter and discussions and gives no indication that he or she objects, then the evidence generally will not support a conclusion that the conduct was unwelcome.⁷⁹

If younger children are involved, it may be necessary to determine the degree to which they are able to recognize that certain sexual conduct is conduct to which they can or should reasonably object and the degree to which they can articulate an objection. Accordingly, OCR will consider the age of the student, the nature of the conduct involved, and other relevant factors in determining whether a student had the capacity to welcome sexual conduct.

Schools should be particularly concerned about the issue of welcomeness if the harasser is in a position of authority. For instance, because students may be encouraged to believe that a teacher has absolute authority over the operation of his or her classroom, a student may not object to a teacher's sexually harassing comments during class; however, this does not necessarily mean that the conduct was welcome. Instead, the student may believe that any objections would be ineffective in stopping the harassment or may fear that by making objections he or she will be singled out for harassing comments or other retaliation.

In addition, OCR must consider particular issues of welcomeness if the alleged harassment relates to alleged "consensual" sexual relationships between a school's adult employees and its students. If elementary students are involved, welcomeness will not be an issue. OCR will never view sexual conduct between an adult school employee and an elementary school student as consensual. In cases involving secondary students, there will be a strong presumption that sexual conduct between an adult school employee and a student is not consensual. In cases involving older secondary students, subject to the presumption,⁸⁰ OCR will consider a number of factors in determining whether a school employee's sexual advances or other sexual conduct could be considered welcome.⁸¹ In addition, OCR will consider these factors in all cases involving postsecondary students in making those determinations.⁸² The factors include the following.

- *The nature of the conduct and the relationship of the school employee to the student, including the degree of influence (which could, at least in part, be affected by the student's age), authority, or control the employee has over the student.*

- *Whether the student was legally or practically unable to consent to the sexual conduct in question.* For example, a student's age could affect his or her ability to do so. Similarly, certain types of disabilities could affect a student's ability to do so.

If there is a dispute about whether harassment occurred or whether it was welcome—in a case in which it is appropriate to consider whether the conduct would be welcome—determinations should be made based on the totality of the circumstances. The following types of information may be helpful in resolving the dispute.

- *Statements by any witnesses to the alleged incident.*

- *Evidence about the relative credibility of the allegedly harassed student and the alleged harasser.* For example, the level of

detail and consistency of each person's account should be compared in an attempt to determine who is telling the truth. Another way to assess credibility is to see if corroborative evidence is lacking where it should logically exist. However, the absence of witnesses may indicate only the unwillingness of others to step forward, perhaps due to fear of the harasser or a desire not to get involved.

- Evidence that the alleged harasser has been found to have harassed others may support the credibility of the student claiming the harassment; conversely, the student's claim will be weakened if he or she has been found to have made false allegations against other individuals.

- Evidence of the allegedly harassed student's reaction or behavior after the alleged harassment. For example, were there witnesses who saw the student immediately after the alleged incident who say that the student appeared to be upset? However, it is important to note that some students may respond to harassment in ways that do not manifest themselves right away, but may surface several days or weeks after the harassment. For example, a student may initially show no signs of having been harassed, but several weeks after the harassment, there may be significant changes in the student's behavior, including difficulty concentrating on academic work, symptoms of depression, and a desire to avoid certain individuals and places at school.

- Evidence about whether the student claiming harassment filed a complaint or took other action to protest the conduct soon after the alleged incident occurred. However, failure to immediately complain may merely reflect a fear of retaliation or a fear that the complainant may not be believed rather than that the alleged harassment did not occur.

- Other contemporaneous evidence. For example, did the student claiming harassment write about the conduct and his or her reaction to it soon after it occurred (e.g., in a diary or letter)? Did the student tell others (friends, parents) about the conduct (and his or her reaction to it) soon after it occurred?

Recipient's Response. Once a school has notice of possible sexual harassment of students—whether carried out by employees, other students, or third parties—it should take immediate and appropriate steps to investigate or otherwise determine what occurred and take steps reasonably calculated to end any harassment, eliminate a hostile environment if one has been created, and prevent harassment from occurring again. These steps are the school's responsibility whether or not the student who was harassed makes a complaint or otherwise asks the school to take action.⁶³ As described in the next section, in appropriate circumstances the school will also be responsible for taking steps to remedy the effects of the harassment on the individual student or students who were harassed. What constitutes a reasonable response to information about possible sexual harassment will differ depending upon the circumstances.

Response to Student or Parent Reports of Harassment; Response to Direct Observation

of Harassment by a Responsible Employee. If a student or the parent of an elementary or secondary student provides information or complains about sexual harassment of the student, the school should initially discuss what actions the student or parent is seeking in response to the harassment. The school should explain the avenues for informal and formal action, including a description of the grievance procedure that is available for sexual harassment complaints and an explanation of how the procedure works. If a responsible school employee has directly observed sexual harassment of a student, the school should contact the student who was harassed (or the parent, depending upon the age of the student),⁶⁴ explain that the school is responsible for taking steps to correct the harassment, and provide the same information described in the previous sentence.

Regardless of whether the student who was harassed, or his or her parent, decides to file a formal complaint or otherwise request action on the student's behalf (including in cases involving direct observation by a responsible employee), the school must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation. The specific steps in an investigation will vary depending upon the nature of the allegations, the source of the complaint, the age of the student or students involved, the size and administrative structure of the school, and other factors. However, in all cases the inquiry must be prompt, thorough, and impartial. (Requests by the student who was harassed for confidentiality or for no action to be taken, responding to notice of harassment from other sources, and the components of a prompt and equitable grievance procedure are discussed in subsequent sections of this guidance.)

It may be appropriate for a school to take interim measures during the investigation of a complaint. For instance, if a student alleges that he or she has been sexually assaulted by another student, the school may decide to place the students immediately in separate classes or in different housing arrangements on a campus, pending the results of the school's investigation. Similarly, if the alleged harasser is a teacher, allowing the student to transfer to a different class may be appropriate. In cases involving potential criminal conduct, school personnel should determine whether appropriate law enforcement authorities should be notified. In all cases, schools should make every effort to prevent disclosure of the names of all parties involved, except to the extent necessary to carry out an investigation.

If a school determines that sexual harassment has occurred, it should take reasonable, timely, age-appropriate, and effective corrective action, including steps tailored to the specific situation.⁶⁵ Appropriate steps should be taken to end the harassment. For example, school personnel may need to counsel, warn, or take disciplinary action against the harasser, based on the severity of the harassment or any record of prior incidents or both.⁶⁶ A series of escalating consequences may be necessary if the initial steps are ineffective in

stopping the harassment.⁶⁷ In some cases, it may be appropriate to further separate the harassed student and the harasser, e.g., by changing housing arrangements⁶⁸ or directing the harasser to have no further contact with the harassed student. Responsive measures of this type should be designed to minimize, as much as possible, the burden on the student who was harassed. If the alleged harasser is not a student or employee of the recipient, OCR will consider the level of control the school has over the harasser in determining what response would be appropriate.⁶⁹

Steps should also be taken to eliminate any hostile environment that has been created. For example, if a female student has been subjected to harassment by a group of other students in a class, the school may need to deliver special training or other interventions for that class to repair the educational environment. If the school offers the student the option of withdrawing from a class in which a hostile environment occurred, the school should assist the student in making program or schedule changes and ensure that none of the changes adversely affect the student's academic record. Other measures may include, if appropriate, directing a harasser to apologize to the harassed student. If a hostile environment has affected an entire school or campus, an effective response may need to include dissemination of information, the issuance of new policy statements, or other steps that are designed to clearly communicate the message that the school does not tolerate harassment and will be responsive to any student who reports that conduct.

In some situations, a school may be required to provide other services to the student who was harassed if necessary to address the effects of the harassment on that student.⁷⁰ For example, if an instructor gives a student a low grade because the student failed to respond to his sexual advances, as discussed in the section on "Harassment by Teachers and Other Employees," the employee engaged in the harassment in the context of providing aid, benefits, or services to students. Because the school is responsible for the discriminatory denial or limitation of a benefit to the student, the school is responsible for taking appropriate corrective action, including remedying the effects of the harassment on the victim. Thus, the school may be required to make arrangements for an independent reassessment of the student's work, if feasible, and change the grade accordingly; make arrangements for the student to take the course again with a different instructor; provide tutoring; make tuition adjustments; offer reimbursement for professional counseling; or take other measures that are appropriate to the circumstances. As another example, if a school delays responding or responds inappropriately to information about harassment, such as a case in which the school ignores complaints by a student that he or she is being sexually harassed by a classmate, the school will be required to remedy the effects of the harassment that could have been prevented had the school responded promptly and effectively.

Finally, a school should take steps to prevent any further harassment⁷¹ and to

prevent any retaliation against the student who made the complaint (or was the subject of the harassment), against the person who filed a complaint on behalf of a student, or against those who provided information as witnesses.⁹² At a minimum, this includes making sure that the harassed students and their parents know how to report any subsequent problems and making follow-up inquiries to see if there have been any new incidents or any retaliation. To prevent recurrences, counseling for the harasser may be appropriate to ensure that he or she understands what constitutes harassment and the effects it can have. In addition, depending on how widespread the harassment was and whether there have been any prior incidents, the school may need to provide training for the larger school community to ensure that students, parents, and teachers can recognize harassment if it recurs and know how to respond.⁹³

Requests by the Harassed Student for Confidentiality. The scope of a reasonable response also may depend upon whether a student, or parent of a minor student, reporting harassment asks that the student's name not be disclosed to the harasser or that nothing be done about the alleged harassment. In all cases, a school should discuss confidentiality standards and concerns with the complainant initially. The school should inform the student that the request may limit the school's ability to respond. The school also should tell the student that Title IX prohibits retaliation and that, if he or she is afraid of reprisals from the alleged harasser, the school will take steps to prevent retaliation and will take strong responsive actions if retaliation occurs. If the student continues to ask that his or her name not be revealed, the school should take all reasonable steps to investigate and respond to the complaint consistent with that request as long as doing so does not preclude the school from responding effectively to the harassment and preventing harassment of other students. Thus, for example, a reasonable response would not require disciplinary action against an alleged harasser if a student, who was the only student harassed, insists that his or her name not be revealed, and the alleged harasser could not respond to the charges of sexual harassment without that information.

At the same time, a school should evaluate the confidentiality request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. The factors that a school may consider in this regard include the seriousness of the alleged harassment, the age of the student harassed, whether there have been other complaints or reports of harassment against the alleged harasser, and the rights of the accused individual to receive information about the accuser and the allegations if a formal proceeding with sanctions may result.⁹⁴

Although a student's request to have his or her name withheld may limit the school's ability to respond fully to an individual complaint of harassment, other means may be available to address the harassment. There are steps a recipient can take to limit the effects of the alleged harassment and prevent

its recurrence without initiating formal action against the alleged harasser or revealing the identity of the complainant. Examples include conducting sexual harassment training for the school site or academic department where the problem occurred, taking a student survey concerning any problems with harassment, or implementing other systemic measures at the site or department where the alleged harassment has occurred.

In addition, by investigating the complaint to the extent possible—including by reporting it to the Title IX coordinator or other responsible school employee designated pursuant to Title IX—the school may learn about or be able to confirm a pattern of harassment based on claims by different students that they were harassed by the same individual. In some situations there may be prior reports by former students who now might be willing to come forward and be identified, thus providing a basis for further corrective action. In instances affecting a number of students (for example, a report from a student that an instructor has repeatedly made sexually explicit remarks about his or her personal life in front of an entire class), an individual can be put on notice of allegations of harassing behavior and counseled appropriately without revealing, even indirectly, the identity of the student who notified the school. Those steps can be very effective in preventing further harassment.

Response to Other Types of Notices. The previous two sections deal with situations in which a student or parent of a student who was harassed reports or complains of harassment or in which a responsible school employee directly observes sexual harassment of a student. If a school learns of harassment through other means, for example, if information about harassment is received from a third party (such as from a witness to an incident or an anonymous letter or telephone call), different factors will affect the school's response. These factors include the source and nature of the information; the seriousness of the alleged incident; the specificity of the information, the objectivity and credibility of the source of the report; whether any individuals can be identified who were subjected to the alleged harassment; and whether those individuals want to pursue the matter. If, based on these factors, it is reasonable for the school to investigate and it can confirm the allegations, the considerations described in the previous sections concerning interim measures and appropriate responsive action will apply.

For example, if a parent visiting a school observes a student repeatedly harassing a group of female students and reports this to school officials, school personnel can speak with the female students to confirm whether that conduct has occurred and whether they view it as unwelcome. If the school determines that the conduct created a hostile environment, it can take reasonable, age-appropriate steps to address the situation. If on the other hand, the students in this example were to ask that their names not be disclosed or indicate that they do not want to pursue the matter, the considerations described in the previous section related to

requests for confidentiality will shape the school's response.

In a contrasting example, a student newspaper at a large university may print an anonymous letter claiming that a professor is sexually harassing students in class on a daily basis, but the letter provides no clue as to the identity of the professor or the department in which the conduct is allegedly taking place. Due to the anonymous source and lack of specificity of the information, a school would not reasonably be able to investigate and confirm these allegations. However, in response to the anonymous letter, the school could submit a letter or article to the newspaper reiterating its policy against sexual harassment, encouraging persons who believe that they have been sexually harassed to come forward, and explaining how its grievance procedures work.

Prevention. A policy specifically prohibiting sexual harassment and separate grievance procedures for violations of that policy can help ensure that all students and employees understand the nature of sexual harassment and that the school will not tolerate it. Indeed, they might even bring conduct of a sexual nature to the school's attention so that the school can address it before it becomes sufficiently serious as to create a hostile environment. Further, training for administrators, teachers, and staff and age-appropriate classroom information for students can help to ensure that they understand what types of conduct can cause sexual harassment and that they know how to respond.

Prompt and Equitable Grievance Procedures. Schools are required by the Title IX regulations to adopt and publish a policy against sex discrimination and grievance procedures providing for prompt and equitable resolution of complaints of discrimination on the basis of sex.⁹⁵ Accordingly, regardless of whether harassment occurred, a school violates this requirement of the Title IX regulations if it does not have those procedures and policy in place.⁹⁶

A school's sex discrimination grievance procedures must apply to complaints of sex discrimination in the school's education programs and activities filed by students against school employees, other students, or third parties.⁹⁷ Title IX does not require a school to adopt a policy specifically prohibiting sexual harassment or to provide separate grievance procedures for sexual harassment complaints. However, its nondiscrimination policy and grievance procedures for handling discrimination complaints must provide effective means for preventing and responding to sexual harassment. Thus, if, because of the lack of a policy or procedure specifically addressing sexual harassment, students are unaware of what kind of conduct constitutes sexual harassment or that such conduct is prohibited sex discrimination, a school's general policy and procedures relating to sex discrimination complaints will not be considered effective.⁹⁸

OCR has identified a number of elements in evaluating whether a school's grievance procedures are prompt and equitable,

including whether the procedures provide for—

- Notice to students, parents of elementary and secondary students, and employees of the procedure, including where complaints may be filed.
- Application of the procedure to complaints alleging harassment carried out by employees, other students, or third parties;
- Adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence;
- Designated and reasonably prompt timeframes for the major stages of the complaint process.
- Notice to the parties of the outcome of the complaint,¹⁰³ and
- An assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.¹⁰⁰

Many schools also provide an opportunity to appeal the findings or remedy or both. In addition, because retaliation is prohibited by Title IX, schools may want to include a provision in their procedures prohibiting retaliation against any individual who files a complaint or participates in a harassment inquiry.

Procedures adopted by schools will vary considerably in detail, specificity, and components, reflecting differences in audiences, school sizes and administrative structures, State or local legal requirements, and past experience. In addition, whether complaint resolutions are timely will vary depending on the complexity of the investigation and the severity and extent of the harassment. During the investigation it is a good practice for schools to inform students who have alleged harassment about the status of the investigation on a periodic basis.

A grievance procedure applicable to sexual harassment complaints cannot be prompt or equitable unless students know it exists, how it works, and how to file a complaint. Thus, the procedures should be written in language appropriate to the age of the school's students, easily understood, and widely disseminated. Distributing the procedures to administrators, or including them in the school's administrative or policy manual, may not by itself be an effective way of providing notice, as these publications are usually not widely circulated to and understood by all members of the school community. Many schools ensure adequate notice to students by having copies of the procedures available at various locations throughout the school or campus; publishing the procedures as a separate document; including a summary of the procedures in major publications issued by the school, such as handbooks and catalogs for students, parents of elementary and secondary students, faculty, and staff, and identifying individuals who can explain how the procedures work.

A school must designate at least one employee to coordinate its efforts to comply with and carry out its Title IX responsibilities.¹⁰¹ The school must notify all of its students and employees of the name,

office address, and telephone number of the employee or employees designated.¹⁰² Because it is possible that an employee designated to handle Title IX complaints may himself or herself engage in harassment, a school may want to designate more than one employee to be responsible for handling complaints in order to ensure that students have an effective means of reporting harassment.¹⁰³ While a school may choose to have a number of employees responsible for Title IX matters, it is also advisable to give one official responsibility for overall coordination and oversight of all sexual harassment complaints to ensure consistent practices and standards in handling complaints. Coordination of recordkeeping (for instance, in a confidential log maintained by the Title IX coordinator) will also ensure that the school can and will resolve recurring problems and identify students or employees who have multiple complaints filed against them.¹⁰⁴ Finally, the school must make sure that all designated employees have adequate training as to what conduct constitutes sexual harassment and are able to explain how the grievance procedure operates.¹⁰⁵

Grievance procedures may include informal mechanisms for resolving sexual harassment complaints to be used if the parties agree to do so.¹⁰⁶ OCR has frequently advised schools, however, that it is not appropriate for a student who is complaining of harassment to be required to work out the problem directly with the individual alleged to be harassing him or her, and certainly not without appropriate involvement by the school (e.g., participation by a counselor, trained mediator, or, if appropriate, a teacher or administrator). In addition, the complainant must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process. In some cases, such as alleged sexual assaults, mediation will not be appropriate even on a voluntary basis. Title IX also permits the use of a student disciplinary procedure not designed specifically for Title IX grievances to resolve sex discrimination complaints, as long as the procedure meets the requirement of affording a complainant a "prompt and equitable" resolution of the complaint.

In some instances, a complainant may allege harassing conduct that constitutes both sex discrimination and possible criminal conduct. Police investigations or reports may be useful in terms of fact-gathering. However, because legal standards for criminal investigations are different, police investigations or reports may not be determinative of whether harassment occurred under Title IX and do not relieve the school of its duty to respond promptly.¹⁰⁷ Similarly, schools are cautioned about using the results of insurance company investigations of sexual harassment allegations. The purpose of an insurance investigation is to assess liability under the insurance policy, and the applicable standards may well be different from those under Title IX. In addition, a school is not relieved of its responsibility to respond to a sexual harassment complaint filed under its grievance procedure by the fact that a complaint has been filed with OCR.¹⁰⁸

Finally, a public school's employees may have certain due process rights under the United States Constitution. The Constitution also guarantees due process to students in public and State-supported schools who are accused of certain types of infractions. The rights established under Title IX must be interpreted consistently with any federally guaranteed rights involved in a complaint proceeding. In both public and private schools, additional or separate rights may be created for employees or students by State law, institutional regulations and policies, such as faculty or student handbooks, and collective bargaining agreements. Schools should be aware of these rights and their legal responsibilities to those accused of harassment. Indeed, procedures that ensure the Title IX rights of the complainant, while at the same time according due process to both parties involved, will lead to sound and supportable decisions. Schools should ensure that steps to accord due process rights do not restrict or unnecessarily delay the protections provided by Title IX to the complainant.

First Amendment. In cases of alleged harassment, the protections of the First Amendment must be considered if issues of speech or expression are involved.¹⁰⁹ Free speech rights apply in the classroom (e.g., classroom lectures and discussions)¹¹⁰ and in all other education programs and activities of public schools (e.g., public meetings and speakers on campus; campus debates, school plays and other cultural events¹¹¹; and student newspapers, journals, and other publications¹¹²). In addition, First Amendment rights apply to the speech of students and teachers.¹¹³

Title IX is intended to protect students from sex discrimination, not to regulate the content of speech. OCR recognizes that the offensiveness of a particular expression as perceived by some students, standing alone, is not a legally sufficient basis to establish a sexually hostile environment under Title IX.¹¹⁴ In order to establish a violation of Title IX, the harassment must be sufficiently serious to deny or limit a student's ability to participate in or benefit from the education program.¹¹⁵

Moreover, in regulating the conduct of its students and its faculty to prevent or redress discrimination prohibited by Title IX (e.g., in responding to harassment that is sufficiently serious as to create a hostile environment), a school must formulate, interpret, and apply its rules so as to protect academic freedom and free speech rights. For instance, while the First Amendment may prohibit a school from restricting the right of students to express opinions about one sex that may be considered derogatory, the school can take steps to denounce those opinions and ensure that competing views are heard. The age of the students involved and the location or forum may effect how the school can respond consistently with the First Amendment.¹¹⁶ As an example of the application of free speech rights to allegations of sexual harassment, consider the following.

Example 1. In a college level creative writing class, a professor's required reading list includes excerpts from literary classics that contain descriptions of explicit sexual conduct, including scenes that depict women

in submissive and demeaning roles. The professor also assigns students to write their own materials, which are read in class. Some of the student essays contain sexually derogatory themes about women. Several female students complain to the Dean of Students that the materials and related classroom discussion have created a sexually hostile environment for women in the class. What must the school do in response?

Answer: Academic discourse in this example is protected by the First Amendment even if it is offensive to individuals. Thus, Title IX would not require the school to discipline the professor or to censor the reading list or related class discussion.

Example 2: A group of male students repeatedly targets a female student for harassment during the bus ride home from school, including making explicit sexual comments about her body, passing around drawings that depict her engaging in sexual conduct, and, on several occasions, attempting to follow her home off the bus. The female student and her parents complain to the principal that the male students' conduct has created a hostile environment for girls on the bus and that they fear for their daughter's safety. What must a school do in response?

Answer: Threatening and intimidating actions targeted at a particular student or group of students, even though they contain elements of speech, are not protected by the First Amendment. The school must take reasonable and appropriate actions against the students, including disciplinary action if necessary, to remedy the hostile environment and prevent future harassment.

Footnotes

¹ This guidance does not address sexual harassment of employees, although that conduct may be prohibited by Title IX. 20 U.S.C. 1681 *et seq.*; 34 CFR part 106, subpart E. If employees file Title IX sexual harassment complaints with OCR, the complaints will be processed pursuant to the Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance. 28 CFR 42.604.

² 20 U.S.C. 1681; 34 CFR part 106.

³ See, e.g., *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 649–50 (1999); *Gebser v. Lago Vista Ind. Sch. Dist.*, 524 U.S. 274, 281 (1998); *Franklin v. Gwinnett County Pub. Sch.*, 503 U.S. 60, 75 (1992); S. REP. NO. 100–64, 100th Cong., 1st Sess. 14 (1987); *Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, (1997 guidance), 62 FR 12034 (1997).

⁴ 20 U.S.C. 1687 (codification of the amendment to Title IX regarding scope of jurisdiction, enacted by the Civil Rights Restoration Act of 1987). See 65 FR 26464 (May 5, 2000) (Department's proposed rulemaking to amend the Title IX regulations to incorporate the statutory definition of "program or activity").

⁵ See also *Shoreline School Dist.*, OCR Case No. 10–92–1002 (a teacher's patting a student on the arm, shoulder, and back, and restraining the student when he was out of control, not conduct of a sexual nature);

Dartmouth Public Schools, OCR Case No. 01–90–1058 (same as to contact between high school coach and students); *San Francisco State University*, OCR Case No. 09–94–2038 (same as to faculty advisor placing her arm around a graduate student's shoulder in posing for a picture); *Analy Union High School Dist.*, OCR Case No. 09–92–1249 (same as to drama instructor who put his arms around both male and female students who confided in him).

⁶ If a school contracts with persons or organizations to provide benefits, services, or opportunities to students as part of the school's program, and those persons or employees of those organizations sexually harass students, OCR will consider the harassing individual in the same manner that it considers the school's employees, as described in this guidance. (See section on "Harassment by Teachers and Other Employees.") See *Brown v. Hot, Sexy, and Safer Products, Inc.*, 68 F.3d 525, 529 (1st Cir. 1995) (Title IX sexual harassment claim brought for school's role in permitting contract consultant hired by it to create allegedly hostile environment).

In addition, if a student engages in sexual harassment as an employee of the school, OCR will consider the harassment under the standards described for employees. (See section on "Harassment by Teachers and Other Employees.") For example, OCR would consider it harassment by an employee if a student teaching assistant who is responsible for assigning grades in a course, *i.e.*, for providing aid, benefits, or services to students under the recipient's program, required a student in his or her class to submit to sexual advances in order to obtain a certain grade in the class.

⁷ *Cf. Jahn Does 1 v. Covington County Sch. Bd.*, 884 F.Supp. 462, 464–65 (M.D. Ala. 1995) (male students alleging that a teacher sexually harassed and abused them stated cause of action under Title IX).

⁸ Title IX and the regulations implementing it prohibit discrimination "on the basis of sex;" they do not restrict sexual harassment to those circumstances in which the harasser only harasses members of the opposite sex. See 34 CFR 106.31. In *Oncale v. Sundowner Offshore Services, Inc.*, the Supreme Court held unanimously that sex discrimination consisting of same-sex sexual harassment can violate Title VII's prohibition against discrimination because of sex. 523 U.S. 75, 82 (1998). The Supreme Court's holding in *Oncale* is consistent with OCR policy, originally stated in its 1997 guidance, that Title IX prohibits sexual harassment regardless of whether the harasser and the person being harassed are members of the same sex. 62 FR 12039. See *Kinman v. Omaha Public School Dist.*, 94 F.3d 463, 468 (8th Cir. 1996) (female student's allegation of sexual harassment by female teacher sufficient to raise a claim under Title IX); *Do v. Petaluma*, 830 F.Supp. 1560, 1564–65, 1575 (N.D. Cal. 1996) (female junior high student alleging sexual harassment by other students, including both boys and girls, sufficient to raise a claim under Title IX); *Jahn Does 1*, 884 F.Supp. at 465 (same as to male students' allegations of sexual harassment and abuse by a male teacher.) It

can also occur in certain situations if the harassment is directed at students of both sexes. *Chiapuzo v. BLT Operating Corp.*, 626 F.Supp. 1334, 1337 (D.Wyo. 1993) (court found that if males and females were subject to harassment, but harassment was based on sex, it could violate Title VII); but see *Holman v. Indiana*, 211 F.3d 399, 405 (7th Cir. 2000) (if male and female both subjected to requests for sex, court found it could not violate Title VII).

In many circumstances, harassing conduct will be on the basis of sex because the student would not have been subjected to it at all had he or she been a member of the opposite sex; *e.g.*, if a female student is repeatedly propositioned by a male student or employee (or, for that matter, if a male student is repeatedly propositioned by a male student or employee.) In other circumstances, harassing conduct will be on the basis of sex if the student would not have been affected by it in the same way or to the same extent had he or she been a member of the opposite sex; *e.g.*, pornography and sexually explicit jokes in a mostly male shop class are likely to affect the few girls in the class more than it will most of the boys.

In yet other circumstances, the conduct will be on the basis of sex in that the student's sex was a factor in or affected the nature of the harasser's conduct or both. Thus, in *Chiapuzo*, a supervisor made demeaning remarks to both partners of a married couple working for him, *e.g.*, as to sexual acts he wanted to engage in with the wife and how he would be a better lover than the husband. In both cases, according to the court, the remarks were based on sex in that they were made with an intent to demean each member of the couple because of his or her respective sex. 826 F.Supp. at 1337. See also *Steiner v. Showboat Operating Co.*, 25 F.3d 1459, 1463–64 (9th Cir. 1994), *cert. denied*, 115 S.Ct. 733 (1995) (Title VII case); but see *Holman*, 211 F.3d at 405 (finding that if male and female both subjected to requests for sex, Title VII could not be violated).

⁹ *Nashoba Regional High School*, OCR Case No. 01–92–1397. In *Conejo Valley School Dist.*, OCR Case No. 09–93–1305, female students allegedly taunted another female student about engaging in sexual activity. OCR found that the alleged comments were sexually explicit and, if true, would be sufficiently severe, persistent, and pervasive to create a hostile environment.

¹⁰ See *Williamson v. A.G. Edwards & Sons, Inc.*, 876 F.2d 69, 70 (8th Cir. 1989, *cert. denied* 493 U.S. 1089 (1990) (Title VII case); *DeSantis v. Pacific Tel. & Tel. Co., Inc.*, 608 F.2d 327, 329–30 (9th Cir. 1979) (same); *Blum v. Gulf Oil Corp.*, 597 F.2d 936, 938 (5th Cir. 1979) (same).

¹¹ It should be noted that some State and local laws may prohibit discrimination on the basis of sexual orientation. Also, under certain circumstances, courts may permit redress for harassment on the basis of sexual orientation under other Federal legal authority. See *Nabozny v. Podlesny*, 92 F.3d 446, 460 (7th Cir. 1996) (holding that a gay student could maintain claims alleging discrimination based on both gender and sexual orientation under the Equal Protection Clause of the United States Constitution in a

case in which a school district failed to protect the student to the same extent that other students were protected from harassment and harm by other students due to the student's gender and sexual orientation).

¹² See *Meritor Savings Bank, FSB v. Vinson*, 477 U.S. 57, 65–66 (1986); *Harris v. Forklift Systems Inc.*, 510 U.S. 14, 22 (1993); see also *Hicks v. Gates Rubber Co.*, 833 F.2d 1406, 1415 (10th Cir. 1987) (Title VII case; concluding that harassment based on sex may be discrimination whether or not it is sexual in nature); *McKinney v. Dole*, 765 F.2d 1129, 1138 (D.C. Cir. 1985) (Title VII case; physical, but nonsexual, assault could be sex-based harassment if shown to be unequal treatment that would not have taken place but for the employee's sex); *Cline v. General Electric Capital Auto Lease, Inc.*, 757 F.Supp. 923, 932–33 (N.D. Ill. 1991) (Title VII case).

¹³ See *Harris*, 510 U.S. at 23; *Andrews v. City of Philadelphia*, 695 F.2d 1469, 1485–86 (3rd Cir. 1990) (Title VII case; court directed trial court to consider sexual conduct as well as theft of female employees' files and work, destruction of property, and anonymous phone calls in determining if there had been sex discrimination); see also *Hall v. Gus Construction Co.*, 842 F.2d 1010, 1014 (8th Cir. 1988) (Title VII case; affirming that harassment due to the employee's sex may be actionable even if the harassment is not sexual in nature); *Hicks*, 833 F.2d at 1415; *Eden Prairie Schools, Dist. #272*, OCR Case No. 05–92–1174 (the boys made lewd comments about male anatomy and tormented the girls by pretending to stab them with rubber knives; while the stabbing was not sexual conduct, it was directed at them because of their sex, i.e., because they were girls).

¹⁴ *Davis*, 526 U.S. at 650 (“Having previously determined that ‘sexual harassment’ is ‘discrimination’ in the school context under Title IX, we are constrained to conclude that student-on-student sexual harassment, if sufficiently severe, can likewise rise to the level of discrimination actionable under the statute.”); *Franklin*, 503 U.S. at 75 (“Unquestionably, Title IX placed on the [school] the duty not to discriminate on the basis of sex, and ‘when a supervisor sexually harasses a subordinate because of the subordinate’s sex, that supervisor ‘discriminate[s]’ on the basis of sex.” . . . We believe the same rule should apply when a teacher sexually harasses and abuses a student.” (citation omitted)).

OCR’s longstanding interpretation of its regulations is that sexual harassment may constitute a violation. 34 CFR 106.31; See *Sexual Harassment Guidance*, 62 FR 12034 (1997). When Congress enacted the Civil Rights Restoration Act of 1987 to amend Title IX to restore institution-wide coverage over federally assisted education programs and activities, the legislative history indicated not only that Congress was aware that OCR interpreted its Title IX regulations to prohibit sexual harassment, but also that one of the reasons for passing the Restoration Act was to enable OCR to investigate and resolve cases involving allegations of sexual harassment. S. REP. NO. 64, 100th Cong., 1st Sess. at 12 (1987). The examples of

discrimination that Congress intended to be remedied by its statutory change included sexual harassment of students by professors, *id.* at 14, and these examples demonstrate congressional recognition that discrimination in violation of Title IX can be carried out by school employees who are providing aid, benefits, or services to students. Congress also intended that if discrimination occurred, recipients needed to implement effective remedies. S. REP. NO. 64 at 5.

¹⁵ 34 CFR 106.4.

¹⁶ These are the basic regulatory requirements. 34 CFR 106.31(a)(b). Depending upon the facts, sexual harassment may also be prohibited by more specific regulatory prohibitions. For example, if a college financial aid director told a student that she would not get the student financial assistance for which she qualified unless she slept with him, that also would be covered by the regulatory provision prohibiting discrimination on the basis of sex in financial assistance, 34 CFR 106.37(a).

¹⁷ 34 CFR 106.31(b)(1).

¹⁸ 34 CFR 106.31(b)(2).

¹⁹ 34 CFR 106.31(b)(3).

²⁰ 34 CFR 106.31(b)(4).

²¹ 34 CFR 106.31(b)(6).

²² 34 CFR 106.31(b)(7).

²³ 34 CFR 106.3(a).

²⁴ 34 CFR 106.8.

²⁵ 34 CFR 106.8(b).

²⁶ 34 CFR 106.8(a).

²⁷ *Gebser*, 524 U.S. at 281 (“*Franklin* . . . establishes that a school district can be held liable in damages [in an implied action under Title IX] in cases involving a teacher’s sexual harassment of a student . . .”); 34 CFR 106.31; See 1997 *Sexual Harassment Guidance*, 62 FR 12034.

²⁸ For this reason, harassment of a student by a teacher is more likely than harassment by a fellow student to constitute the type of effective denial of equal access to educational benefits that can breach the requirements of Title IX. See *Davis*, 526 U.S. at 653.

²⁹ 34 CFR 106.31(b). *Cf. Gebser*, 524 U.S. at 283–84 (Court recognized in an implied right of action for money damages for teacher sexual harassment of a student that the question of whether a violation of Title IX occurred is a separate question from the scope of appropriate remedies for a violation).

³⁰ See section on “Notice of Employee, Peer, or Third Party Harassment.”

³¹ See section on “Notice of Employee, Peer, or Third Party Harassment.”

³² See section on “Applicability of Title IX” for scope of coverage.

³³ *Davis*, 526 U.S. at 646.

³⁴ See section on “Notice of Employee, Peer, or Third Party Harassment.”

³⁵ 34 CFR 106.31(b).

³⁶ 34 CFR 106.31(b).

³⁷ See section on “Notice of Employee, Peer, or Third Party Harassment.”

³⁸ *Cf. Davis*, 526 U.S. at 646.

³⁹ 34 CFR 106.31(b).

⁴⁰ 34 CFR 106.31(b).

⁴¹ Consistent with its obligation under Title IX to protect students, *cf. Gebser*, 524 U.S. at 287, OCR interprets its regulations to ensure that recipients take reasonable action to address, rather than neglect, reasonably

obvious discrimination. *Cf. Gebser*, 524 U.S. at 287–88; *Davis*, 526 U.S. at 650 (actual notice standard for obtaining money damages in private lawsuit).

⁴² Whether an employee is a responsible employee or whether it would be reasonable for a student to believe the employee is, even if the employee is not, will vary depending on factors such as the age and education level of the student, the type of position held by the employee, and school practices and procedures, both formal and informal.

Although there is some overlap between individuals who are “responsible employees” for the purposes of receiving notice about alleged harassment as described in this guidance and individuals who are appropriate school officials with authority to address the alleged discrimination and take corrective action, and, thus, receive actual notice for the purposes of private lawsuits for money damages as specified by the Court in *Gebser*, 524 U.S. at 290, and *Davis*, 526 U.S. at 642, the concept of responsible employee is broader. That is, even if a responsible employee does not have the authority to address the discrimination and take corrective action, he or she does have the obligation to report it to appropriate school officials.

⁴³ The Title IX regulations require that recipients designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the regulations, including complaint investigations. 34 CFR 106.8(a).

⁴⁴ 34 CFR 106.31. See *Yates v. Avco Corp.*, 819 F.2d 630, 636 (6th Cir. 1987) (Title VII case); *Katz v. Dole*, 709 F.2d 251, 256 (4th Cir. 1983) (same).

⁴⁵ For example, a substantiated report indicating that a high school coach has engaged in inappropriate physical conduct of a sexual nature in several instances with different students may suggest a pattern of conduct that should trigger an inquiry as to whether other students have been sexually harassed by that coach. See also *Doe v. School Administrative Dist. No. 19*, 66 F.Supp.2d 57, 63–64 and n.6 (D.Me. 1999) (in a private lawsuit for money damages under Title IX in which a high school principal had notice that a teacher may be engaging in a sexual relationship with one underage student and did not investigate, and then the same teacher allegedly engaged in sexual intercourse with another student, who did not report the incident, the court indicated that the school’s knowledge of the first relationship may be sufficient to serve as actual notice of the second incident).

⁴⁶ *Cf. Katz*, 709 F.2d at 256 (finding that the employer “should have been aware of the problem both because of its pervasive character and because of [the employee’s] specific complaints . . .”); *Smolsky v. Consolidated Rail Corp.*, 780 F.Supp. 283, 293 (E.D. Pa. 1991), reconsideration denied, 785 F.Supp. 71 (E.D. Pa. 1992) “where the harassment is apparent to all others in the work place, supervisors and coworkers, this may be sufficient to put the employer on notice of the sexual harassment” under Title VII); *Jensen v. Eveleth Taconite Co.*, 824 F.Supp. 847, 887 (D. Minn. 1993) (Title VII case; “[s]exual harassment . . . was so

pervasive that an inference of knowledge arises. * * * The acts of sexual harassment detailed herein were too common and continuous to have escaped Eveleth Mines had its management been reasonably alert.""); *Cummings v. Walsh Construction Co.*, 561 F.Supp. 872, 878 (S.D. Ga. 1983) ("* * * allegations not only of the [employee] registering her complaints with her foreman * * * but also that sexual harassment was so widespread that defendant had constructive notice of it" under Title VII); but see *Murray v. New York Univ. College of Dentistry*, 57 F.3d 243, 250-51 (2nd Cir. 1995) (concluding that other students' knowledge of the conduct was not enough to charge the school with notice, particularly because these students may not have been aware that the conduct was offensive or abusive).

⁴⁷ 34 CFR 106.9 and 106.8(b).

⁴⁸ 34 CFR 106.8(b) and 106.31(b).

⁴⁹ 34 CFR 106.9.

⁵⁰ 34 CFR 106.8(b).

⁵¹ 34 CFR 106.31.

⁵² 34 CFR 106.31 and 106.3. *Gebser*, 524 U.S. at 288 ("In the event of a violation, [under OCR's administrative enforcement scheme] a funding recipient may be required to take 'such remedial action as [is] deemed] necessary to overcome the effects of [the] discrimination.' § 106.3.").

⁵³ 20 U.S.C. 1682. In the event that OCR determines that voluntary compliance cannot be secured, OCR may take steps that may result in termination of Federal funding through administrative enforcement, or, alternatively, OCR may refer the case to the Department of Justice for judicial enforcement.

⁵⁴ The terms *quid pro quo* and "hostile environment" sexual harassment do not appear in the Title IX statutory text or regulations, but were first used by the courts in the context of Title VII and then Title IX. See *Meritor Savings Bank*, 477 U.S. at 65 (finding that both *quid pro quo* and hostile environment claims are cognizable under Title VII); *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742, 752 (1998) ("The principal significance of the distinction between [*quid pro quo* and hostile environment sexual harassment] is to instruct that Title VII is violated by either explicit or constructive alterations in the terms or conditions of employment and to explain the latter must be severe or pervasive"). While Title VII agency principles are not applicable to a finding of liability for monetary damages for sexual harassment in a private lawsuit under Title IX, see *Gebser*, 524 U.S. at 228, Title VII case law remains useful in determining conduct that constitutes sexual harassment under Title IX. *Davis*, 526 U.S. at 651.

⁵⁵ See, e.g., *Davis*, 526 U.S. at 653 (alleged conduct of a sexual nature that would support a sexual harassment claim included verbal harassment and "numerous acts of objectively offensive touching." *Franklin*, 503 U.S. at 63 (conduct of a sexual nature found to support a sexual harassment claim under Title IX included kissing, sexual intercourse); *Meritor Savings Bank*, 477 U.S. at 60-61 (demands for sexual favors, sexual advances, fondling, indecent exposure, sexual intercourse, rape, sufficient to raise

hostile environment claim under Title VII); *Harris*, 510 U.S. at 20 (sexually derogatory comments and innuendo may support a sexual harassment claim under Title VII); *Ellison v. Brady*, 924 F.2d 872, 873-74, 880 (9th Cir. 1991) (allegations sufficient to state sexual harassment claim under Title VII included repeated requests for dates, letters making explicit references to sex and describing the harasser's feelings for plaintiff); *Lipsell v. University of Puerto Rico*, 864 F.2d 881, 904-5 (1st Cir. 1988) (sexually derogatory comments, posting of sexually explicit drawing of plaintiff, sexual advances may support sexual harassment claim); *Kadiki v. Virginia Commonwealth University*, 892 F.Supp. 746, 751 (E.D. Va. 1995) (professor's spanking of university student may constitute sexual conduct under Title IX); *Doe v. Petaluma*, 830 F.Supp. at 1564-65 (sexually derogatory taunts and innuendo can be the basis of a harassment claim); *Denver School Dist. #2*, OCR Case No. 08-92-1007 (same as to allegations of vulgar language and obscenities, pictures of nude women on office walls and desks, unwelcome touching, sexually offensive jokes, bribery to perform sexual acts, indecent exposure); *Nashoba Regional High School*, OCR Case No. 01-92-1377 (same as to year-long campaign of derogatory, sexually explicit graffiti and remarks directed at one student.)

⁵⁶ See note 6.

⁵⁷ 34 CFR 106.31. See *Alexander v. Yale University*, 459 F.Supp. 1, 4 (D.Conn. 1977), *aff'd*, 631 F.2d 178 (2nd Cir. 1980) (stating that a claim "that academic advancement was conditioned upon submission to sexual demands constitutes [a claim of] sex discrimination in education * * *"); *Crandell v. New York College, Osteopathic Medicine*, 87 F.Supp.2d 304, 318 (S.D.N.Y. 2000) (finding that allegations that a supervisory resident physician demanded that a student physician spend time with him and have lunch with him or receive a poor evaluation, in light of the totality of his alleged sexual comments and other inappropriate behavior, constituted a claim of *quid pro quo* harassment); *Kadiki*, 892 F.Supp. at 752 (reexamination in a course conditioned on a college student's agreeing to be spanked should she not attain a certain grade may constitute *quid pro quo* harassment). While recognizing the differences between students in schools and employees in the workplace, including age and other factors, *quid pro quo* harassment of students by their teachers or other school employees is analogous to harassment of employees by their supervisors where, as described in *Ellerth*, 524 U.S. at 753-54, 761-62, the employee suffers a tangible employment action.

⁵⁸ 34 CFR 106.31(b). See *Davis*, 526 U.S. at 650 (concluding that allegations of student-on-student sexual harassment that is "so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits" supports a claim for money damages in an implied right of action).

⁵⁹ In *Harris*, the Supreme Court explained the requirement for considering the "subjective perspective" when determining

the existence of a hostile environment. The Court stated— " * * * if the victim does not subjectively perceive the environment to be abusive, the conduct has not actually altered the conditions of the victim's employment, and there is no Title VII violation." 510 U.S. at 21-22.

⁶⁰ See *Davis*, 526 U.S. at 650 (conduct must be "objectively offensive" to trigger liability for money damages). See *Oncale*, 523 U.S. at 81, in which the Court "emphasized * * * that the objective severity of harassment should be judged from the perspective of a reasonable person in the [victim's] position, considering 'all the circumstances,'" and citing *Harris*, 510 U.S. at 20, in which the Court indicated that a "reasonable person" standard should be used to determine whether sexual conduct constituted harassment. This standard has been applied under Title VII to take into account the sex of the subject of the harassment, see, e.g., *Ellison*, 924 F.2d at 878-79 (applying a "reasonable woman" standard to sexual harassment), and has been adapted to sexual harassment in education under Title IX. *Patricia H. v. Berkeley Unified School Dist.*, 830 F.Supp. 1288, 1296 (N.D. Cal. 1993) (adopting a "reasonable victim" standard and referring to OCR's use of it).

⁶¹ See *Davis*, 526 U.S. at 651, citing both *Oncale*, 523 U.S. at 82, and OCR's 1997 guidance (62 FR 12041-12042).

⁶² *Harris*, 510 U.S. at 23.

⁶³ See, e.g., *Davis*, 526 U.S. at 634 (as a result of the harassment, student's grades dropped and she wrote a suicide note); *Doe v. Petaluma*, 830 F.Supp. at 1566 (student so upset about harassment by other students that she was forced to transfer several times, including finally to a private school); *Modesto City Schools*, OCR Case No. 09-93-1391 (evidence showed that one girl's grades dropped while the harassment was occurring); *Weaverville Elementary School*, OCR Case No. 09-91-1116 (students left school due to the harassment). Compare with *College of Alameda*, OCR Case No. 09-90-2104 (student not in instructor's class and no evidence of any effect on student's educational benefits or service, so no hostile environment).

⁶⁴ *Doe v. Petaluma*, 830 F.Supp. at 1566.

⁶⁵ See *Harris*, 510 U.S. at 22 (holding that tangible harm is not required). In determining whether harm is sufficient, several factors are to be considered, including frequency, severity, whether the conduct was threatening or humiliating versus a mere offensive utterance, and whether it unreasonably interfered with work performance. No single factor is required; similarly, psychological harm, while relevant, is not required. See *id.*

⁶⁶ See *Waltman v. Int'l Paper Co.*, 875 F.2d 468, 477 (5th Cir. 1989) [Title VII case; holding that although not specifically directed at the plaintiff, sexually explicit graffiti on the walls was "relevant to her claim"]; see also *Hall*, 842 F.2d at 1015 (evidence of sexual harassment directed at others is relevant to show hostile environment under Title VII).

⁶⁷ See, e.g., *Andrews*, 895 F.2d at 1484 ("Harassment is pervasive when 'incidents of harassment occur either in concert or with

regularity"; *Moylan v. Maries County*, 792 F.2d 746, 749 (8th Cir. 1986) (Title VII case).

⁶⁸ 34 CFR 106.31(b). See also statement of the U.S. Equal Employment Opportunity Commission (EEOC). "The Commission will presume that the unwelcome, intentional touching of [an employee's] intimate body areas is sufficiently offensive to alter the conditions of her working environment and constitute a violation of Title VII. More so than in the case of verbal advances or remarks, a single unwelcome physical advance can seriously poison the victim's working environment." EEOC Policy Guidance on Current Issues of Sexual Harassment, 17 *Barrett v. Omaha National Bank*, 584 F.Supp. 22, 30 (D. Neb. 1983), *aff'd*, 726 F.2d 424 (8th Cir. 1984) (finding that hostile environment was created under Title VII by isolated events, i.e., occurring while traveling to and during a two-day conference, including the co-worker's talking to plaintiff about sexual activities and touching her in an offensive manner while they were inside a vehicle from which she could not escape).

⁶⁹ See also *Ursulins College*, OCR Case No. 05-91-2068 (a single incident of comments on a male student's muscles arguably not sexual; however, assuming they were, not severe enough to create a hostile environment).

⁷⁰ *Davis*, 526 U.S. at 653 ("The relationship between the harasser and the victim necessarily affects the extent to which the misconduct can be said to breach Title IX's guarantee of equal access to educational benefits and to have a systemic effect on a program or activity. Peer harassment, in particular, is less like to satisfy these requirements than is teacher student harassment."); *Patricia H.*, 830 F. Supp. at 1297 (stating that the "grave disparity in age and power" between teacher and student contributed to the creation of a hostile environment); *Summerfield Schools*, OCR Case No. 15-92-1929 ("impact of the . . . remarks was heightened by the fact that the coach is an adult in a position of authority"); *cf. Doe v. Taylor I.S.D.*, 15 F.3d 443, 460 (5th Cir. 1994) (Sec. 1983 case; taking into consideration the influence that the teacher had over the student by virtue of his position of authority to find that a sexual relationship between a high school teacher and a student was unlawful).

⁷¹ See, e.g., *McKinney*, 765 F.2d at 1138-49; *Robinson v. Jacksonville Shipyards*, 760 F.Supp. 1486, 1522 (M.D. Fla. 1991).

⁷² *Cf. Patricia H.*, 830 F.Supp. at 1297.

⁷³ See, e.g., *Barrett*, 584 F.Supp. at 30 (finding harassment occurring in a car from which the victim could not escape particularly severe).

⁷⁴ See *Hall*, 842 F.2d at 1015 (stating that "evidence of sexual harassment directed at employees other than the plaintiff is relevant to show a hostile environment") (citing *Hicks*, 833 F.2d, 1415-16). *Cf. Midwest City-Del City Public Schools*, OCR Case No. 05-92-1012 (finding of racially hostile environment based in part on several racial incidents at school shortly before incidents in complaint, a number of which involved the same student involved in the complaint).

⁷⁵ In addition, incidents of racial or national origin harassment directed at a

particular individual may also be aggregated with incidents of sexual or gender harassment directed at that individual in determining the existence of a hostile environment. *Hicks*, 833 F.2d at 1416; *Jefferies v. Harris County Community Action Ass'n*, 815 F.2d 1025, 1032 (5th Cir. 1980) (Title VII case).

⁷⁶ *Henson v. City of Dundee*, 682 F.2d 897, 903 (11th Cir. 1982) (Title VII case).

⁷⁷ See *Mentor Savings Bank*, 477 U.S. at 68 ("[T]he fact that sex-related conduct was 'voluntary,' in the sense that the complainant was not forced to participate against her will, is not a defense to a sexual harassment suit brought under Title VII. . . . The correct inquiry is whether [the subject of the harassment] by her conduct indicated that the alleged sexual advances were unwelcome, not whether her actual participation in sexual intercourse was voluntary."

⁷⁸ *Lipsett*, 864 F.2d at 898 (while, in some instances, a person may have the responsibility for telling the harasser "directly" that the conduct is unwelcome, in other cases a "consistent failure to respond to suggestive comments or gestures may be sufficient. . . ."); *Danna v. New York Tel. Co.*, 752 F.Supp. 594, 612 (despite a female employee's own foul language and participation in graffiti writing, her complaints to management indicated that the harassment was not welcome); see also *Carr v. Allison Gas Turbine Div. GMC*, 32 F.3d 1007, 1011 (7th Cir. 1994) (Title VII case; finding that cursing and dirty jokes by a female employee did not show that she welcomed the sexual harassment, given her frequent complaints about it: "Even if . . . [the employee's] testimony that she talked and acted as she did [only] in an effort to be one of the boys is . . . discounted, her words and conduct cannot be compared to those of the men and used to justify their conduct The asymmetry of positions must be considered. She was one woman; they were many men. Her use of [vulgar] terms . . . could not be deeply threatening").

⁷⁹ See *Reed v. Shepard*, 839 F.2d 484, 486-87, 491-92 (7th Cir. 1991) (no harassment found under Title VII in a case in which a female employee not only tolerated, but also instigated the suggestive joking activities about which she was now complaining); *Weinsheimer v. Rockwell Int'l Corp.*, 754 F.Supp. 1559, 1563-64 (M.D. Fla. 1990) (same, in case in which general shop banter was full of vulgarity and sexual innuendo by men and women alike, and plaintiff contributed her share to this atmosphere.) However, even if a student participates in the sexual banter, OCR may in certain circumstances find that the conduct was nevertheless unwelcome if, for example, a teacher took an active role in the sexual banter and a student reasonably perceived that the teacher expected him or her to participate.

⁸⁰ The school bears the burden of rebutting the presumption.

⁸¹ Of course, nothing in Title IX would prohibit a school from implementing policies prohibiting sexual conduct or sexual relationships between students and adult employees.

⁸² See note 81.

⁸³ Schools have an obligation to ensure that the educational environment is free of discrimination and cannot fulfill this obligation without determining if sexual harassment complaints have merit.

⁸⁴ In some situations, for example, if a playground supervisor observes a young student repeatedly engaging in conduct toward other students that is clearly unacceptable under the school's policies, it may be appropriate for the school to intervene without contacting the other students. It still may be necessary for the school to talk with the students (and parents of elementary and secondary students) afterwards, e.g., to determine the extent of the harassment and how it affected them.

⁸⁵ *Bundy v. Jackson*, 641 F.2d 934, 947 (D.C. Cir. 1981) (employers should take corrective and preventive measures under Title VII), *accord, Jones v. Flagship Int'l*, 793 F.2d 714, 719-720 (5th Cir. 1986) (employer should take prompt remedial action under Title VII).

⁸⁶ See *Waltman*, 875 F.2d at 479 (appropriateness of employer's remedial action under Title VII will depend on the "severity and persistence of the harassment and the effectiveness of any initial remedial steps"); *Dornhecker v. Malibu Grand Prix Corp.*, 828 F.2d 307, 309-10 (5th Cir. 1987) (Title VII case; holding that a company's quick decision to remove the harasser from the victim was adequate remedial action).

⁸⁷ See *Intlekofer v. Turnage*, 973 F.2d 773, 779-780 (9th Cir. 1992) (Title VII case) (holding that the employer's response was insufficient and that more severe disciplinary action was necessary in situations in which counseling, separating the parties, and warnings of possible discipline were ineffective in ending the harassing behavior).

⁸⁸ Offering assistance in changing living arrangements is one of the actions required of colleges and universities by the Campus Security Act in cases of rape and sexual assault. See 20 U.S.C. 1092(f).

⁸⁹ See section on "Harassment by Other Students or Third Parties."

⁹⁰ *University of California at Santa Cruz*, OCR Case No. 09-93-2141 (extensive individual and group counseling), *Eden Prairie Schools, Dist. #272*, OCR Case No. 05-92-1174 (counseling).

⁹¹ Even if the harassment stops without the school's involvement, the school may still need to take steps to prevent or deter any future harassment—to inform the school community that harassment will not be tolerated. *Fuller v. City of Oakland*, 47 F.3d 1522, 1526-29 (9th Cir. 1995).

⁹² 34 CFR 106.8(b) and 106.71, incorporating by reference 34 CFR 100.7(e). The Title IX regulations prohibit intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX.

⁹³ *Tacoma School Dist. No. 10*, OCR Case No. 10-94-1079 (due to the large number of students harassed by an employee, the extended period of time over which the harassment occurred, and the failure of several of the students to report the harassment, the school committed as part of

corrective action plan to providing training for students); *Los Medanos College*, OCR Case No. 09-84-2092 (as part of corrective action plan, school committed to providing sexual harassment seminar for campus employees); *Sacramento City Unified School Dist.*, OCR Case No. 09-83-1063 (same as to workshops for management and administrative personnel and in-service training for non-management personnel).

⁹⁴ In addition, if information about the incident is contained in an "education record" of the student alleging the harassment, as defined in the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, the school should consider whether FERPA would prohibit the school from disclosing information without the student's consent. *Id.* In evaluating whether FERPA would limit disclosure, the Department does not interpret FERPA to override any federally protected due process rights of a school employee accused of harassment.

⁹⁵ 34 CFR 106.8(b). This requirement has been part of the Title IX regulations since their inception in 1975. Thus, schools have been required to have these procedures in place since that time. At the elementary and secondary level, this responsibility generally lies with the school district. At the postsecondary level, there may be a procedure for a particular campus or college or for an entire university system.

⁹⁶ *Fenton Community High School Dist. #100*, OCR Case 05-92-1104.

⁹⁷ While a school is required to have a grievance procedure under which complaints of sex discrimination (including sexual harassment) can be filed, the same procedure may also be used to address other forms of discrimination.

⁹⁸ See generally *Meritor*, 477 U.S. at 72-73 (holding that "mere existence of a grievance procedure" for discrimination does not shield an employer from a sexual harassment claim).

⁹⁹ The Family Educational Rights and Privacy Act (FERPA) does not prohibit a student from learning the outcome of her complaint, i.e., whether the complaint was found to be credible and whether harassment was found to have occurred. It is the Department's current position under FERPA that a school cannot release information to a complainant regarding disciplinary action imposed on a student found guilty of harassment if that information is contained in a student's education record unless—(1) the information directly relates to the complainant (e.g., an order requiring the student harasser not to have contact with the complainant); or (2) the harassment involves a crime of violence or a sex offense in a postsecondary institution. See note 94. If the alleged harasser is a teacher, administrator, or other non-student employee, FERPA would not limit the school's ability to inform the complainant of any disciplinary action taken.

¹⁰⁰ The section in the guidance on "Recipient's Response" provides examples of reasonable and appropriate corrective action.

¹⁰¹ 34 CFR 106.8(a).

¹⁰² *Id.*

¹⁰³ See *Meritor*, 477 U.S. at 72-73.

¹⁰⁴ *University of California, Santa Cruz*, OCR Case No. 09-93-2131. This is true for formal as well as informal complaints. See *University of Maine at Machias*, OCR Case No. 01-94-6001 (school's new procedures not found in violation of Title IX in part because they require written records for informal as well as formal resolutions). These records need not be kept in a student's or employee's individual file, but instead may be kept in a central confidential location.

¹⁰⁵ For example, in *Cape Cod Community College*, OCR Case No. 01-93-2047, the College was found to have violated Title IX in part because the person identified by the school as the Title IX coordinator was unfamiliar with Title IX, had no training, and did not even realize he was the coordinator.

¹⁰⁶ Indeed, in *University of Maine at Machias*, OCR Case No. 01-94-6001, OCR found the school's procedures to be inadequate because only formal complaints were investigated. While a school isn't required to have an established procedure for resolving informal complaints, they nevertheless must be addressed in some way. However, if there are indications that the same individual may be harassing others, then it may not be appropriate to resolve an informal complaint without taking steps to address the entire situation.

¹⁰⁷ *Academy School Dist. No. 20*, OCR Case No. 08-93-1023 (school's response determined to be insufficient in a case in which it stopped its investigation after complaint filed with police); *Mills Public School Dist.*, OCR Case No. 01-93-1123, (not sufficient for school to wait until end of police investigation).

¹⁰⁸ Cf. *EEOC v. Board of Governors of State Colleges and Universities*, 957 F.2d 424 (7th Cir. 1992) (Title VII case), cert. denied, 506 U.S. 906 (1992).

¹⁰⁹ The First Amendment applies to entities and individuals that are State actors. The receipt of Federal funds by private schools does not directly subject those schools to the U.S. Constitution. See *Rendell-Baker v. Kohn*, 457 U.S. 830, 840 (1982). However, all actions taken by OCR must comport with First Amendment principles, even in cases involving private schools that are not directly subject to the First Amendment.

¹¹⁰ See, e.g., *George Mason University*, OCR Case No. 03-94-2086 (law professor's use of a racially derogatory word, as part of an instructional hypothetical regarding verbal torts, did not constitute racial harassment); *Portland School Dist. 1J*, OCR Case No. 10-94-1117 (reading teacher's choice to substitute a less offensive term for a racial slur when reading an historical novel aloud in class constituted an academic decision on presentation of curriculum, not racial harassment).

¹¹¹ See *Iota Xi Chapter of Sigma Chi Fraternity v. George Mason University*, 993 F.2d 386 (4th Cir. 1993) (fraternity skit in which white male student dressed as an offensive caricature of a black female constituted student expression).

¹¹² See *Florida Agricultural and Mechanical University*, OCR Case No. 04-92-2054 (no discrimination in case in which campus newspaper, which welcomed

individual opinions of all sorts, printed article expressing one student's viewpoint on white students on campus.)

¹¹³ *Tinker v. Des Moines Indep. Community Sch. Dist.*, 393 U.S. 503, 508 (1969) (neither students nor teachers shed their constitutional rights to freedom of expression at the schoolhouse gates); Cf. *Cohen v. San Bernardino Valley College*, 92 F.3d 988, 972 (9th Cir. 1996) (holding that a college professor could not be punished for his longstanding teaching methods, which included discussion of controversial subjects such as obscenity and consensual sex with children, under an unconstitutionally vague sexual harassment policy); *George Mason University*, OCR Case No. 03-94-2086 (law professor's use of a racially derogatory word, as part of an instructional hypothetical regarding verbal torts, did not constitute racial harassment).

¹¹⁴ See, e.g., *University of Illinois*, OCR Case No. 05-94-2104 (fact that university's use of Native American symbols was offensive to some Native American students and employees was not dispositive, in and of itself, in assessing a racially hostile environment claim under Title VI.)

¹¹⁵ See *Meritor*, 477 U.S. at 67 (the "mere utterance of an ethnic or racial epithet which engenders offensive feelings in an employee" would not affect the conditions of employment to a sufficient degree to violate Title VII), quoting *Henson*, 882 F.2d at 904; cf. *R.A.V. v. City of St. Paul*, 505 U.S. 377, 389 (1992) (citing with approval EEOC's sexual harassment guidelines).

¹¹⁶ *Compare Bethel School Dist. No. 403 v. Fraser*, 478 U.S. 675, 685 (1986) (Court upheld discipline of high school student for making lewd speech to student assembly, noting that "[t]he undoubted freedom to advocate unpopular and controversial issues in schools must be balanced against the society's countervailing interest in teaching students the boundaries of socially appropriate behavior."); with *Iota Xi*, 993 F.2d 386 (holding that, notwithstanding a university's mission to create a culturally diverse learning environment and its substantial interest in maintaining a campus free of discrimination, it could not punish students who engaged in an offensive skit with racist and sexist overtones).

Appendix B

This Appendix B provides the text, except as specifically noted, of our analysis of comments received from interested parties in response to a draft of the 1997 guidance, and our response to those comments [62 FR 12035]. This text is included for the convenience of interested persons who may not be familiar with the issues that were resolved in 1997. As specifically noted, we are not including the 1997 discussion regarding a conflict among the Federal circuit courts because that conflict was resolved by the Supreme Court in *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999). Also, where the 1997 text uses the terms "liable" or "liability," the reader is directed to consult the discussion in the SUPPLEMENTARY INFORMATION section of this notice under the heading Title IX Compliance Standard, which explains the

scope of the proposed revised guidance and why these terms are not used in the proposed revised guidance.

Analysis of Comments and Changes

In response to the Assistant Secretary's invitations to comment, OCR received approximately 70 comments on the Peer Guidance and approximately 10 comments on the Employee Guidance. Many commenters stated that the guidance documents provided comprehensive, clear, and useful information to schools. For instance, one commenter stated that the Peer Guidance was "a godsend * * * in one convenient place [it provides] the clear implications of the statutes, regulations, and case law." Another commenter stated that the Guidance "will assist universities * * * in maintaining a harassment-free educational environment."

Commenters also provided many specific suggestions and examples regarding how the final Guidance could be more complete and clearer. Many of these suggested changes have been incorporated into the Guidance.

The preamble discusses recurring and significant recommendations regarding the clarity and completeness of the document. While the invitations to comment on the Peer Guidance and Employee Guidance did not request substantive comments regarding OCR's longstanding policy and practice in the area of sexual harassment, some commenters did provide these comments. In instances in which OCR could provide additional useful information to readers related to these comments, it has done so in the preamble. Comments are grouped by subject and are discussed in the following sections.

The Need for Additional Guidance

Comments: Many commenters agreed that a document combining the Peer Guidance and the Employee Guidance would provide more clarity to schools. Commenters disagreed, however, regarding whether, and what type of, additional information is needed to enhance schools' understanding of their legal obligations under Title IX. Some commenters asked for more detailed analysis regarding the applicable legal standards, including hard and fast rules for determining what is harassment and how a school should respond. Other commenters, by contrast, found OCR's guidance documents, including the extensive legal citations, to be too detailed and "legalistic." They expressed a need for a document that is simpler and more accessible to teachers, parents, school administrators, and others who need to know how to recognize, report, or respond to sexual harassment.

Discussion: As the Guidance makes clear, it is impossible to provide hard and fast rules applicable to all instances of sexual harassment. Instead, the Guidance provides factors to help schools make appropriate judgments.

In response to concerns for more analysis of the legal standards, OCR has provided additional examples in the Guidance to illustrate how the Title IX legal standards may apply in particular cases. It is important to remember that examples are just that, they

do not cover all the types of situations that may arise. Moreover, they may not illustrate the only way to respond to sexual harassment of students because there is often no one right way to respond.

OCR also believes that there is a legitimate concern that school administrators, teachers, students, and parents need an accessible document to assist them in recognizing and appropriately responding to sexual harassment. Accordingly, OCR has developed, in addition to the final Guidance, a pamphlet for conveying basic information regarding parties' rights and responsibilities under Title IX. The pamphlet includes information from the Guidance that would be most useful to these groups as they confront issues of sexual harassment. Concurrent with the issuance of this Guidance, the pamphlet will be issued with copies available from all OCR offices and an electronic posting on OCR's website. For a copy of the pamphlet, individuals may call OCR's Customer Service Team at [(202) 205-5557] or toll-free 1-800-421-3481. Copies will also be available from all OCR enforcement offices, and the pamphlet will be posted on OCR's site on the Internet at URL <http://www.ed.gov/offices/OCR/ocrpubs.html>.

Additional Guidance on the First Amendment

Comments: Many commenters asked OCR to provide additional guidance regarding the interplay of academic freedom and free speech rights with Title IX's prohibition of sexual harassment. Several of these commenters wanted OCR to announce hard and fast rules in this area, although commenters disagreed on what those rules should be. For instance, one commenter requested that OCR tell schools that the First Amendment does not prevent schools from punishing speech that has no legitimate pedagogical purpose. Another commenter, by contrast, wanted OCR to state that classroom speech simply can never be the basis for a sexual harassment complaint. Other commenters requested that OCR include specific examples regarding the application of free speech rights.

Discussion: As the documents published for comment indicated, the resolution of cases involving potential First Amendment issues is highly fact- and context-dependent. Thus, hard and fast rules are not appropriate.

However, in order to respond to concerns that schools need assistance in making these determinations, OCR has provided additional examples in the Guidance regarding the application of the First Amendment principles discussed there.

Application of Guidance to Harassment by Third Parties

Comments: Several commenters stated that it was unclear whether the Guidance applies if a student alleges harassment by a third party, i.e., by someone who is not an employee or student at the school.

Discussion: The Guidance clarifies that the principles in the Guidance apply to situations in which, for example, a student alleges that harassment by a visiting professional speaker or members of a visiting athletic team created a sexually hostile

environment. The Peer Guidance did, in fact, discuss the standards applicable to the latter situation in which students from another school harassed the school's students.

The applicable standards have not changed, but the final Guidance clarifies that the same standards also apply if adults who are not employees or agents of the school engage in harassment of students.

Application of Guidance to Harassment Based on Sexual Orientation

Comments: Several commenters indicated that, in light of OCR's stated policy that Title IX's prohibition against sexual harassment applies regardless of the sex of the harassed student or of the sex of the alleged harasser, the Guidance was confusing regarding the statement that Title IX does not apply to discrimination on the basis of sexual orientation.

Discussion: The Guidance has been clarified to indicate that if harassment is based on conduct of a sexual nature, it may be sexual harassment prohibited by Title IX even if the harasser and the harassed are the same sex or the victim of harassment is gay or lesbian. If, for example, harassing conduct of a sexual nature is directed at gay or lesbian students, it may create a sexually hostile environment and may constitute a violation of Title IX in the same way that it may for heterosexual students. The Guidance provides examples to illustrate the difference between this type of conduct, which may be prohibited by Title IX, and conduct constituting discrimination on the basis of sexual orientation, which is not prohibited by Title IX. The Guidance also indicates that some State or local laws or other Federal authority may prohibit discrimination on the basis of sexual orientation.

The Effect on the Guidance of Conflicting Federal Court Decisions

[The text presented in the 1997 document under this heading (62 FR 12036) is not included here because it became outdated when, following the issuance of the 1997 guidance, the conflict among the circuit courts was resolved by the Supreme Court's decision in *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999).]

Notice

Comments: Several commenters recommended that additional guidance be provided regarding the types of employees through which a school can receive notice of sexual harassment. Commenters disagreed, however, on who should be able to receive notice. For instance, some commenters stated that OCR should find that a school has received notice only if "managerial" employees, "designated" employees, or employees with the authority to correct the harassment receive notice of the harassment. Another commenter suggested, by contrast, that any school employee should be considered a responsible employee for purposes of notice.

Discussion: The Guidance states that a school has actual notice of sexual harassment if an agent or responsible employee of the school receives notice. An exhaustive list of employees would be inappropriate, however, because whether an employee is an agent or

responsible school employee, or whether it would be reasonable for a student to believe the employee is an agent or responsible employee, even if the employee is not, will vary depending on factors such as the authority actually given to the employee and the age of the student. Thus, the Guidance gives examples of the types of employees that can receive notice of harassment. In this regard, it is important for schools to recognize that the Guidance does not necessarily require that any employee who receives notice of the harassment also be responsible for taking appropriate steps to end the harassment or prevent its recurrence. An employee may be required only to report the harassment to other school officials who have the responsibility to take appropriate action.

OCR does not agree with those commenters who recommend that a school can receive notice only through managerial or designated employees. For example, young students may not understand those designations and may reasonably believe that an adult, such as a teacher or the school nurse, is a person they can and should tell about incidents of sexual harassment regardless of that person's formal status in the school administration.

Comments: Several commenters stated that constructive notice, or the "should have known" standard, puts schools in the untenable position of constantly monitoring students and employees to seek out potential harassers.

Discussion: Constructive notice is relevant only if a school's liability depends on notice and conduct has occurred that is sufficient to trigger the school's obligation to respond. As the examples in the Guidance indicate, constructive notice is applicable only if a school ignores or fails to recognize overt or obvious problems of sexual harassment. Constructive notice does not require a school to predict aberrant behavior.

Remedying the Effects of Harassment on Students

Comments: Several commenters expressed concern regarding the Guidance's statement that schools may be required to pay for professional counseling and other services necessary to remedy the effects of harassment on students. Some comments indicated confusion over the circumstances under which the responsibility for those costs would exist and concern over the financial responsibility that would be created. Others stated that schools should not be liable for these costs if they have taken appropriate responsive action to eliminate the harassing environment, or if the harassers are non-employees.

Discussion: The final Guidance provides additional clarification regarding when a school may be required to remedy the effects on those who have been subject to harassment. For instance, if a teacher engages in *quid pro quo* harassment against a student, a school is liable under Title IX for the conduct and its effects. Thus, appropriate corrective action could include providing counseling services to the harassed student or paying other costs necessary to remedy the effects of the teacher's harassment. On the other hand, if a school's liability depends on

its failure to take appropriate action after it receives notice of the harassment, e.g., in cases of peer harassment, the extent of a school's liability for remedying the effects of the harassment will depend on the speed and efficacy of the school's response once it receives notice. For instance, if a school responds immediately and appropriately to eliminate harassment of which it has notice and to prevent its recurrence, it will not be responsible for remedying the effects of harassment, if any, on the individual. By contrast, if a school ignores complaints by a student that he or she is persistently being sexually harassed by another student in his or her class, the school will be required to remedy those effects of the harassment that it could have prevented if it had responded appropriately to the student's complaints, including, if appropriate, the provision of counseling services.

Confidentiality

Comments: Many commenters recommended additional clarification regarding how schools should respond if a harassed student requests that his or her name not be disclosed. Some commenters believe that, particularly in the elementary and secondary school arena, remedying harassment must be the school's first priority, even if that action results in a breach of a request for confidentiality. These commenters were concerned that, by honoring requests for confidentiality, schools would not be able to take effective action to remedy harassment. Other commenters believe that if requests for confidentiality are not honored, students may be discouraged from reporting harassment. These commenters, therefore, argue that declining to honor these requests would be less effective in preventing harassment than taking whatever steps are possible to remedy harassment, while maintaining a victim's confidentiality. Finally, some commenters were concerned that withholding the name of the victim of harassment would interfere with the due process rights of the accused.

Discussion: The Guidance strikes a balance regarding the issue of confidentiality: encouraging students to report harassment, even if students wish to maintain confidentiality, but not placing schools in an untenable position regarding their obligations to remedy and prevent further harassment, or making it impossible for an accused to adequately defend himself or herself. The Guidance encourages schools to honor a student's request that his or her name be withheld, if this can be done consistently with the school's obligation to remedy the harassment and take steps to prevent further harassment. (The Guidance also notes that schools should consider whether the Family Educational Rights and Privacy Act (FERPA) would prohibit a school from disclosing information from a student's education record without the consent of the student alleging harassment.) In addition, OCR has provided clarification by describing factors schools should consider in making these determinations. These factors include the nature of the harassment, the age of the students involved, and the number of incidents and students involved. These

factors also may be relevant in balancing a victim's need for confidentiality against the rights of an accused harasser.

The Guidance also has been clarified to acknowledge that, because of the sensitive nature of incidents of harassment, it is important to limit or prevent public disclosure of the names of both the student who alleges harassment and the name of the alleged harasser. The Guidance informs schools that, in all cases, they should make every effort to prevent public disclosure of the names of all parties involved, except to the extent necessary to carry out a thorough investigation.

FERPA

Comments: Several commenters stated that the Department should change its position that FERPA could prevent a school from informing a complainant of the sanction or discipline imposed on a student found guilty of harassment. Some commenters argued that information regarding the outcome of a sexual harassment complaint is not an education record covered by FERPA. Other commenters argued alternatively that any information regarding the outcome of the proceedings is "related to" the complainant and, therefore, the information can be disclosed to him or her consistent with FERPA. In addition, some commenters asked for clarification that FERPA does not limit the due process rights of a teacher who is accused of harassment to be informed of the name of the student who has alleged harassment.

Discussion: As these comments indicate, the interplay of FERPA and Title IX raises complex and difficult issues. Regarding requests for clarification on the interplay of FERPA and the rights of an accused employee, the Guidance clarifies that the Department does not interpret FERPA to override any federally protected due process rights of a school employee accused of harassment.

Regarding whether FERPA prohibits the disclosure of any disciplinary action taken against a student found guilty of harassment, it is the Department's current position that FERPA prohibits a school from releasing information to a complainant if that information is contained in the other student's education record unless—(1) the information directly relates to the complainant (for example, an order requiring the student harasser not to have contact with the complainant); or (2) the harassment involves a crime of violence or sex offense in a postsecondary institution. However, in light of the comments received on this issue, the Department has determined that its position regarding the application of FERPA to records and information related to sexual harassment needs further consideration. Accordingly, the section on "Notice of Outcome and FERPA" has been removed from the Guidance. Additional guidance on FERPA will be forthcoming.

Does Title IX Require Schools to Have a Sexual Harassment Policy

Comments: Several commenters requested additional clarity regarding whether Title IX requires schools to have a policy explicitly

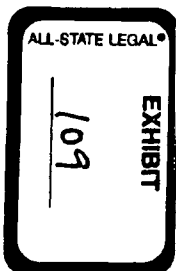


Sexual Violence

Definition

- Sexual violence is a form of sexual harassment prohibited by Title IX.
 - Sexual violence refers to physical sexual acts **perpetrated against a person's will** or where a person is **incapable of giving consent** due to the victim's use of drugs or alcohol
 - An individual also may be unable to give consent due to an intellectual or other disability
 - May include rape, sexual assault, sexual battery, and sexual coercion

1279



1 A That was my assessment.

2 Q All right. Did you do a review of all
3 Citadel policies when you arrived at The Citadel?

4 A Not -- not all, I wouldn't say 100 percent,
5 but we reviewed several of them, several of what --
6 what is considered key policies. I can't -- I can't
7 sit here and name them.

8 Q Uh-huh (affirmative).

9 A But that first year was a year of trying to
10 understand the institution, how the institution was
11 run, but a state institution is considerably different
12 than a federal institution.

13 Q Okay. When you arrived at The Citadel, did
14 you review the serious incidents policy?

15 A No.

16 Q Four lines down says, "We brought in Janet
17 Shealy, sexual violence prevention coordinator." It's
18 really sexual assault response coordinator --

19 A Right.

20 Q -- SARC, isn't that -- is that correct?

21 A She was initially called the SARC and now her
22 acronym is CARE.

23 Q And what does CARE stand for?

24 A Citadel advocate response -- I don't know the
25 acronym.

1 Q All right. So were you ever told by Mark
2 Brandenburg what -- what Doe wanted as opposed to Doe's
3 father?

4 A No, not that I recall, because his -- I think
5 he did speak with the -- with the young man --

6 Q Uh-huh (affirmative).

7 A -- but most of his conversations related to
8 me that he had -- was with the father.

9 Q Okay. Well, it seems to me from reading your
10 Margolis interview that you put quite a bit of weight
11 on the fact that Doe was an adult as opposed to a minor
12 at the time he made the report, right?

13 A Yes.

14 Q All right. So I take it with regard to
15 whether or not the -- The Citadel should report this to
16 law enforcement, you would defer to Doe, the adult
17 victim, as opposed to Doe's father?

18 A Correct.

19 Q Okay. And so -- and Mark Brandenburg should
20 have as well?

21 A Right. But --

22 Q All right.

23 A -- I think they were both together when Mark
24 spoke to them. I'm not sure of that.

25 Q Uh-huh (affirmative). Have you spoken to



Bottom Line

- If your institution knows or reasonably should know about sexual harassment that creates a hostile environment, Title IX **requires immediate action** to eliminate the harassment, prevent its recurrence, and address its effects.

- Regardless of whether a harassed student, his or her parent, or a third party files a complaint



1 Public Safety officers were ever around when this
2 was being discussed, you know. Public Safety --
3 there were no calls from Public Safety about this.
4 And so, you know, to my knowledge, that was never
5 given a consideration. And, you know, being lower
6 down on the food chain, you just assumed that they
7 have their reasons for doing what they're doing.

8 Q. And I recognize that you learned a lot
9 about -- you learned additional information about
10 what happened with regard to ReVille sometime
11 after you left The Citadel. But my question is,
12 as far as the priorities during this time period
13 when President Rosa's office responded to the
14 report of sexual abuse, was it ever made known to
15 you that one of the priorities was making sure
16 ReVille didn't abuse anybody else?

17 MR. KOVACH: Objection.

18 Q. Did that even make the priority list?

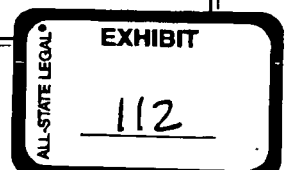
19 A. No. I never heard that discussed.

20 Q. Looking back on the period of time when
21 you were working within the President's office,
22 helping respond in an administrative role to the
23 report of sexual abuse, do you believe that
24 President Rosa was indifferent towards concerns
25 that he should have been worried about; for

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1283



1 example, other victims who may be abused?

2 MR. KOVACH: Objection.

3 A. Yeah. I do think he was indifferent to
4 it.

5 Q. Do you believe -- not do you believe.
6 Was his indifference the result of his desire to
7 protect The Citadel?

8 MR. KOVACH: Objection.

9 A. I don't know if it was that, or I don't
10 know if it was -- it may have been that they
11 weren't -- they didn't take this -- this report of
12 sexual abuse seriously.

13 Q. And that was -- that was going to be my
14 next question. The report came in on April 23rd,
15 2007, and Mr. Brandenburg went to interview the
16 family on July 1st, 2007. Forget about -- well,
17 if Mr. Brandenburg and President Rosa, based upon
18 your knowledge of having worked with them, if they
19 thought the school was at imminent risk of a
20 problem, would they have waited approximately four
21 months to go interview the family?

22 MR. KOVACH: Objection.

23 A. In my mind, I mean, no. And that's one
24 of the -- one of the reasons why I didn't get --
25 you know -- I just didn't get the feeling through

G. MARGOLIS

that supports both the complainants and the respondents.

Q. And is also one of the -- the reasons is so that any hostile environment will be corrected or eliminated?

A. I would agree with that.

Q. And in eliminating a hostile environment that includes either sexual abuse or sexual harassment, one of the things that Title IX requires is that actions be taken against a predator; isn't that correct?

A. It requires that a fair and impartial process for both the respondent and the complainant be conducted should the complainant wish to do so in order to seek an outcome and a resolution.

Q. Okay. And back in 2007, Title IX clearly required college campuses to conduct an impartial investigation of all instances of sexual abuse; isn't that correct?

A. That they know of, correct.

Q. And back in 2007, a general counsel of a college or university would not be an impartial party to whom an investigation



Nationwide Depositions, Hearings and Trials • Conference Facilities
Videoconferencing • Legal Video Services • Exhibit Scanning
Transcript / Video Synchronization • 24-7 Online Repository

1.888.ACR.3335 • 1.800.862.

info@acrdepos.com • www.acrdepos.com • schedule



G. MARGOLIS

should be conducted by; isn't that correct?

A. We agreed with that and we stipulated to that.

MR. STONEY: Objection.

THE WITNESS: We stated as much in our -- in our report. And, in fact, some of the challenges that we saw here were consistent with what was happening in general, hence the reason why the Dear Colleague letter was issued in April of 2011.

Q. All right. And in addition to the general counsel not being an impartial investigator, the OCR has also cautioned colleges and universities not to allow insurance companies to do an investigation of sexual abuse; isn't that correct?

A. I don't recall that specifically being in the Dear Colleague letter or in the law. Doesn't mean it's not. I just don't recall that specific passage.

Q. Okay. Well, based upon your having worked with Title IX and worked in this subject area, do you believe that insurance companies can be impartial in the



Nationwide Depositions, Hearings and Trials • Conference Facilities
Videoconferencing • Legal Video Services • Exhibit Scanning
Transcript / Video Synchronization • 24-7 Online Repository

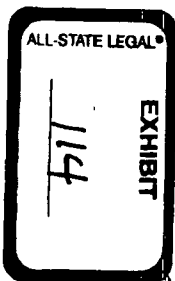
1.888.ACR.3335 • 1.800.862.4206 (FAX)
info@acrdepos.com • www.acrdepos.com • scheduling@acrdepos.com



Preparing to Investigate

- Impartial investigator
 - No bias or conflict of interest
 - Consider giving the parties an opportunity to object to the investigator
 - Use a different investigator if you feel there is a possible or actual conflict
 - Per OCR, should not be Title IX Coordinator or college/university attorney, which could present a conflict of interest
 - Per OCR, should have adequate training or knowledge regarding sexual violence
 - Per OCR, do not rely on police or insurance investigations. The institution needs to conduct its own review

1287



1 Q. No? Did General Rosa ever tell you, The
2 reason I'm sending you out there is so you can sit
3 down face-to-face with these folks and see where
4 they are and what they want?

5 A. I recall there being several reasons
6 that I went.

7 Q. Okay. What was your understanding --
8 did you have an understanding from General Rosa as
9 to why he wanted you to go?

10 A. I just -- I had an understanding as to
11 why I was going out there, and that was based on
12 conversations with General Rosa and also with the
13 adjusters that I talked with at the Insurance
14 Reserve Fund, and, in all likelihood,
15 conversations I had with Colonel Trez as well.

16 Q. We'll look at those. Those will be
17 detailed in the letters back and forth to the IRF,
18 right, the reason you were going?

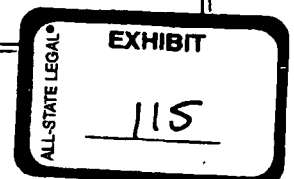
19 A. There would -- some of it would be
20 reflected in that, and also it's based on
21 telephone conversations and oral conversations I
22 was having with all of those individuals.

23 Q. Did you ever tell General Rosa that,
24 What this adult told us was that most of all he
25 wanted to make sure that Skip doesn't have a

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1288



1 right, Phillip sent you? Okay. Do you know when
2 between April 23rd and June 15th you talked to
3 Phillip?

4 A. No.

5 Q. Do you know how many times you talked to
6 him?

7 A. No.

8 Q. Was there some discussion about Phillip
9 going and taking the statement?

10 A. Yes.

11 Q. Who was that discussion with?

12 A. It was with the folks from the Insurance
13 Reserve Fund and probably Colonel Trez and maybe
14 General Rosa as well.

15 Q. Okay. And was there a conference call?

16 A. No.

17 Q. Was there a meeting?

18 A. I don't recall.

19 Q. Were there e-mails?

20 A. No. As I recall, I was -- I was playing
21 the messenger between all of them. I would talk
22 with somebody -- either Parris or David Stuckey at
23 the Insurance Reserve Fund, and I would talk to
24 Phillip on the phone, and I would go downstairs
25 and talk to Colonel Trez and/or General Rosa, and

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 I would go back and forth like that.

2 Q. Who is -- is there somebody in the group
3 at the IRF or General Rosa or Colonel Trez that
4 wanted Phillip to go take the statement?

5 A. I don't recall if there was anybody who
6 was more in favor of one person or another. I
7 think we -- we kind of debated back and forth,
8 well, who should it be? The Insurance Reserve
9 Fund could send Phillip out there or they could --
10 or I could go. And it was -- you know, or we
11 could hire an independent adjuster or somebody to
12 do it. It was just a range of options that we
13 considered as far as going to get -- going to talk
14 with Doe.

15 Q. Okay. And General Rosa was involved in
16 the discussion as to whether or not it should be
17 you or it should be Phillip Ferderigos?

18 A. I believe so, yes.

19 Q. Document -- FOIA document 651 --

20 A. Okay.

21 Q. -- this is an e-mail -- starting at the
22 middle of the page, an e-mail from you and you
23 sent it to yourself and to David Stuckey at the
24 IRF and you cc'd Dan Parris; is that right? It's
25 dated November 16th of 2007.

G. MARGOLIS

1 A. It's possible.

2 Q. And you have -- at the bottom of
3 that, you have: "Regardless of whether a
4 harassed student, his or her parent, or a
5 third party files a complaint," correct?

6 A. Correct.

7 Q. And so this would -- when Doe made
8 a third-party complaint as to eyewitness Doe
9 and the six others who were abused the year
10 before, The Citadel's duty under Title IX
11 requiring it to take immediate action to
12 eliminate the harassment, prevent its
13 recurrence, and address its effects applied
14 to the many others, not just Doe, correct?

15 A. Correct.

16 Q. All right. Now, over on page -- I
17 think it's about -- it would be page 15.
18 These numerals are hard to see. Where it
19 says, "What Really Matters," at the top.
20 "Designate Title IX Coordinator," right?

21 A. Yep.

22 Q. All right. And The Citadel had done
23 that by 2007, correct? They had a Title IX
24 coordinator, right?
25



Nationwide Depositions, Hearings and Trials • Conference Facilities
Videoconferencing • Legal Video Services • Exhibit Scanning
Transcript / Video Synchronization • 24-7 Online Repository

1.888.ACR.3335 • 1.800.862
info@acrdcpus.com • www.acrdcpus.com • sched



G. MARGOLIS

1 A. Correct. I believe that's accurate.

2 Q. Yeah. And you say what really
3 matters is that the Title IX coordinator's:
4 "Responsibilities include overseeing all Title
5 IX complaints and identifying and addressing
6 any patterns or systemic problems that arise
7 during the review of such complaints,"
8 correct?

9 A. Correct.

10 Q. You would agree with me that the
11 Title IX coordinator at The Citadel didn't
12 oversee those allegations and the
13 investigation of them by Mark Brandenburg,
14 correct?

15 A. That is correct.

16 Q. That would be a violation of Title
17 IX, correct?

18 A. It would be a violation of this,
19 correct.

20 Q. And further down, I think it's about
21 three pages over, under "Preparing to
22 Investigate."

23 A. Yes, sir.

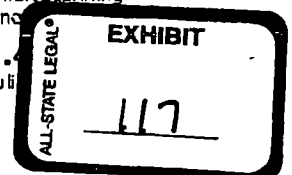
24 Q. It says -- the third bullet point
25



Nationwide Depositions, Hearings and Trials • Conference Facilities
Videoconferencing • Legal Video Services • Exhibit Scanning
Transcript / Video Synchronization • 24-7 Online

1.888.ACR.3335 • 1.800.862.

info@acrdepos.com • www.acrdepos.com • scheduling



1 those are the ones that I'm aware of.

2 Q. Okay. Were you ever -- were you aware
3 that after Skip ReVille graduated, that he would
4 come back and talk to the Honor Council?

5 A. I did not have any interaction with him.

6 Q. You never heard him speak on campus?

7 A. I don't remember. I don't remember him
8 as a graduate doing it.

9 Q. Does that happen from time to time,
10 where a former -- where graduates are asked to
11 come back and speak to different --

12 A. Yes.

13 Q. -- associations?

14 A. Yes.

15 Q. When a graduate is asked to do that on a
16 repetitive basis, would you consider that that
17 graduate has a special relationship with The
18 Citadel?

19 A. I would consider that, yes.

20 Q. Different than a normal ordinance --

21 A. Sure.

22 Q. Same --

23 A. I mean, the person would have been
24 called back for an area of expertise. So dealing
25 with ReVille, if he came back to speak to honor

1 classes or to the Honor Committee, that would be
2 normal. We do that frequently.

3 Q. But that's a different relationship than
4 just if somebody graduated from The Citadel and
5 hasn't been back on the campus in 30 years?

6 A. Certainly.

7 (Deposition Exhibit No. 13, Citadel Box
8 443-B-00351, was marked for identification.)

9 Q. I'm handing you what is marked Exhibit
10 13. And this is a document that The Citadel
11 provided to us in the Arpaio boxes. Have you ever
12 seen this document before?

13 A. I don't remember it.

14 Q. It says, As an employee, if you're
15 accused of sexual misconduct, the following
16 consequences may occur as a result of your
17 actions. So you haven't seen this before?

18 A. I don't recall it.

19 Q. Do you recognize it as a policy of The
20 Citadel?

21 A. It certainly says The Citadel, but I
22 don't know what it's -- you know, what it's part
23 of. It's not part of the sexual harassment policy
24 or any policies that I'm familiar with.

25 Q. Let me ask you this, if you're accused

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 A I'm somewhat familiar with it.

2 Q Uh-huh (affirmative). Are you aware that
3 Mr. ReVille was asked to come and speak to Citadel
4 freshmen as a guest speaker at the 101 course between
5 2007 and 2011?

6 A No, I was not.

7 Q If you had known that, would you have allowed
8 it?

9 A I don't know that.

10 Q I think we established this yesterday, but
11 you would agree with me that Mr. ReVille, who, after
12 graduating The Citadel, actually worked at The Citadel
13 and came back to induct other cadets into the honor
14 committee and came back to teach freshmen as a guest
15 speaker at the 101 Citadel course between 2007 and
16 2011, would you agree with me that that is a Citadel
17 graduate who has a special relationship with The
18 Citadel?

19 A First of all, I didn't know that. I didn't
20 know that he was invited --

21 Q Okay.

22 A -- to both of those venues. And by -- in
23 this community just by being an alumnus --

24 Q Uh-huh (affirmative).

25 A -- you have a relationship. We're not a big

1 organization.

2 Q Right. But this isn't like a graduate who
3 left and went in the military and hadn't been back in
4 20 years, right?

5 A Right, right.

6 Q And it's not like he's just coming to a
7 football game --

8 A Right.

9 Q -- and buying a ticket, right?

10 A Right.

11 Q And you'd agree with me he has a relationship
12 that's different than most Citadel graduates if he's
13 coming back and talking to all the freshmen as a guest
14 speaker and he's being the person inducting other
15 cadets into the honor committee, that's a different
16 relationship than most alumni have, would you agree
17 with that?

18 A It's different than most, but we have a lot
19 of --

20 Q Okay.

21 A -- folks that do that.

22 Q There are a lot of folks -- I guess there are
23 a lot of alumni who like to be involved and have a
24 special --

25 A Right.

1 have mandatory reporting laws that address precisely
2 the distinction that you're making.

3 Those mandatory reporting laws disappear,
4 go out the window when the victim, at the age of
5 victimhood, is an adult.

6 Q Okay. So, college students can make up
7 their own mind. Children, who are sexually abused,
8 sexually molested, they should be reported -- it
9 should be reported on their behalf.

10 Would you agree with that?

11 A As state law so dictates, yes.

12 Q Or if you, as an institution, university
13 adopt your own policy where you make it mandatory on
14 yourself to report.

15 A If that policy is clear and it says, if
16 you see child abuse or neglect, you must report it,
17 then -- yes -- that can be an obligation the
18 institution takes on itself.

19 Q Okay. If you will, turn to tab four,
20 please.

21 A Okay.

22 Q Tab four is an article cited in your

1 Q. What were your goals for the
2 investigation?

3 A. To find out what had happened.

4 Q. Would you agree with me that preventing
5 harm to other young boys or victims was a goal of
6 the investigation?

7 A. Sure.

8 Q. Would you agree with me that by
9 undertaking the investigation, that The Citadel
10 was aiming to prevent harm to potential victims?

11 A. I assume so.

12 Q. In April of 2007, would you agree with
13 me that the names of sexual assault victims are
14 kept confidential by police agencies in South
15 Carolina?

16 A. I assume so. I'm not a police officer.
17 I don't -- I don't know what exactly their
18 policies are.

19 Q. Do you know what the law was in 2007,
20 whether they were required to keep the names of --

21 A. I don't.

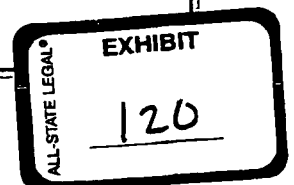
22 Q. -- sexual assault victims --

23 A. I don't.

24 Q. -- confidential? Do you know what it is
25 now, the law?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com



1 Q. What were your goals for the
2 investigation?

3 A. To find out what had happened.

4 Q. Would you agree with me that preventing
5 harm to other young boys or victims was a goal of
6 the investigation?

7 A. Sure.

8 Q. Would you agree with me that by
9 undertaking the investigation, that The Citadel
10 was aiming to prevent harm to potential victims?

11 A. I assume so.

12 Q. In April of 2007, would you agree with
13 me that the names of sexual assault victims are
14 kept confidential by police agencies in South
15 Carolina?

16 A. I assume so. I'm not a police officer.
17 I don't -- I don't know what exactly their
18 policies are.

19 Q. Do you know what the law was in 2007,
20 whether they were required to keep the names of --

21 A. I don't.

22 Q. -- sexual assault victims --

23 A. I don't.

24 Q. -- confidential? Do you know what it is
25 now, the law?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

ALL-STATE LEGAL

EXHIBIT

121

1 A Right.

2 Q Section one. It's got a Statement of
3 Vision, Core Values and Mission. Right?

4 A Right.

5 Q It says, "These Statements of Vision,
6 Core Values and Mission were approved by The Citadel
7 Board of Visitors in February of 2003 and by the
8 South Carolina Commission on Higher Education in
9 June of 2003." Right?

10 A Right.

11 Q Under Core Values, could you read what
12 No. 2 says about duty?

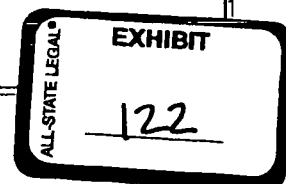
13 A "We emphasize the importance of
14 individual accountability and the moral obligation
15 of responsibility for the welfare of others."

16 Q Would you agree that that moral sense of
17 duty would apply to investigating an alleged sexual
18 offense?

19 A Yes.

20 Q In fact, we talked about that yesterday;
21 that one of the goals of the investigation into the
22 ReVille allegations would be to protect the welfare
23 of others from a child predator. Right?

24 A My job as the school's lawyer is to look
25 out for its legal well-being. We viewed this as a
Janice Ohlendorf Darby, RPR
(843) 814-7666 jodarby@comcast.net



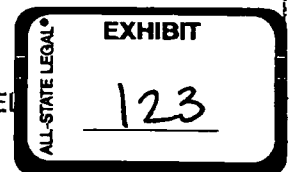
COLLEGE REGULATIONS

THE CITADEL

The Military College of South Carolina

(Revised 22 April 2006)

CITADEL



The Citadel COLLEGE REGULATIONS

SECTION I.

Organization and Administration

Statement of Vision, Core Values, and Mission.

These statements of Vision, Core Values, and Mission were approved by The Citadel Board of Visitors on 1 February 2003 and by the South Carolina Commission on Higher Education on 5 June 2003.

Statement of Vision. Achieving excellence in the education of principled leaders.

Core Values.

- (1) Academics: We produce graduates who have insight into the issues, ideas and values that are important to society and possess the skills necessary to deal with them successfully.
- (2) Duty: We emphasize the importance of individual accountability and the moral obligation of responsibility for the welfare of others.
- (3) Honor: We adhere to a code which teaches that uncompromising personal integrity is the primary guide in all situations.
- (4) Morality: We believe that an individual's character is of utmost importance and, therefore, we provide training which emphasizes ethical principles and core values.
- (5) Discipline: We operate a leadership laboratory which emphasizes a structured environment, acceptance of responsibility, self-confidence and service to others.
- (6) Diversity: We promote diversity in all segments of our campus community and in all aspects of college life.

Mission. The Citadel's mission is to educate and prepare graduates to become principled leaders in all walks of life by instilling the core values of The Citadel in a challenging intellectual environment.

The Citadel strives to produce graduates who have insight into issues, ideas, and values that are of importance to society. It is equally important that Citadel graduates are capable of both critical and creative thinking, have effective communication skills, can apply abstract concepts to concrete situations, and possess the methodological skills needed to gather and analyze information.

Throughout its history, The Citadel's primary purpose has been to educate undergraduates as members of the South Carolina Corps of Cadets and to prepare them for post-graduate positions of leadership through academic programs of recognized

16. Ignorance of Regulations. Ignorance of any order or regulation is not considered an excuse for neglect or misconduct.

17. Information about the College. The Vice President for Communications is the official source of information to the news media about the College, except for athletic matters which will be disseminated by the Director of Athletics or a designated representative.

18. Publications. Any authorized student publication, such as the yearbook, the college newspaper, and student academic literary journals, will be issued under the responsible supervision of a student editor and a designated faculty advisor. The Director of Cadet Activities retains final responsibility for these student publications related to cadet activities. The Provost/Designee of the Provost is responsible for student publications related to activities of non-cadet students. Other official publications prepared by the faculty or staff will be coordinated with the Vice President for Communications.

19. Non-Academic Graduation Requirements. Having incurred punishments which would extend beyond commencement, a cadet will not be permitted to graduate or participate in commencement exercises until such punishments have been served or disposed of to the satisfaction of the Commandant of Cadets.

20. Policy on Hallucinogenic, Narcotic, and Other Controlled Drugs and Substances; Drug Paraphernalia; and The Citadel Drug Testing Policy.

- a. **Prohibited Activity.** The Citadel will not tolerate the possession, solicitation, distribution, sale, or use of hallucinogenic, narcotic or other controlled drugs or substances or of drug paraphernalia.
 - (1) The Citadel therefore prohibits all students at any time or place, whether on- or off-campus, from possessing or using any hallucinogenic, narcotic or other controlled drug or substance or any paraphernalia as defined in South Carolina Code Ann. Sec. 44-53-110, unless authorized by a legal prescription for such substance or otherwise specifically permitted by law. Any student knowingly and willfully possessing or using any such substance or item in violation of this policy will be expelled from the College. Any student possessing or using any such substance or item in violation of this policy, but for whom the possession or use is not knowing and willful, will be subject to expulsion from the College.
 - (2) The Citadel has a drug testing program which gives the College the right to randomly test members of the Corps of Cadets periodically for the presence of illegal drugs and other controlled substances. Agreeing to participate in this program is a condition of acceptance at The Citadel, and submitting to testing when required under this program is a condition for remaining as a student. (See required Consent Form at the end of this section.)
 - (3) The Citadel additionally prohibits any person - whether a student, visitor, employee, or other person - from bringing onto or possessing on The Citadel campus or other Citadel property any hallucinogenic, narcotic or other controlled drug or substance or any drug paraphernalia except as specifically permitted by law. The possession of any such substance or item by any person on Citadel property is contrary to and in violation of the permission of any person to be on Citadel property, and possession or control of any such substance or item on



JOSEPH A. RILEY, JR.
Mayor

City of Charleston

SOUTH CAROLINA

POLICE DEPARTMENT

06 August 2001

REUBEN M. GREENBERG
Chief of Police

Colonel John G. Lackey III
The Citadel / Office of the Commandant
171 Moultrie St.
Charleston, SC 29409

RE: Investigation regarding Captain Mike Arpaio

Dear Colonel J. G. Lackey III,

I'm writing this letter to inform you of my investigation regarding Captain Mike Arpaio. I have interviewed numerous persons and could not establish enough probable cause to arrest Captain Mike Arpaio; therefore the investigation has been closed due to the fact that I was unable to prove that Captain Arpaio touched (b) (6) in an inappropriate manner. However, during my investigation I discovered information on some of the activities or practices that are going on during The Citadel Summer Camp Sessions that should be brought to your attention.

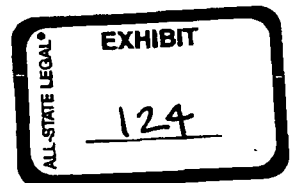
While speaking with staff members, campers, and parents the following information was established. Some of the counselors are allowing certain campers to leave their rooms after they are supposed to be in bed for the night. While these campers are out of their rooms they are allowed to go into camp counselor's room, watch movies, and fall asleep in the same bed with counselors until the following morning. Some of the counselors engage in sexual conversation in the presence of the campers. A camper had seen alcohol and tobacco products that belong to counselors in the barracks. A Counselor has taken certain campers off campus on functions that were not camp related functions without the parent's consent.

These are the most serious findings that were brought to my attention during my investigation. I am sure these activities will be addressed and corrected in the future. If there are any questions or concerns regarding this matter, please feel free to contact me at (843) 720-1999.

(b) (6)



180 LOCKWOOD BLVD



1 MS. EDGERTON: I think if we could mark
2 it as one today.

3 MR. HERNS: I think this will be Jenni
4 Garrott 4.

5 MS. EDGERTON: 4 is what I was thinking
6 as well.

7 (Deposition Exhibit No. 4, 8/06/01
8 letter from Charleston Police Department, was
9 marked for identification.)

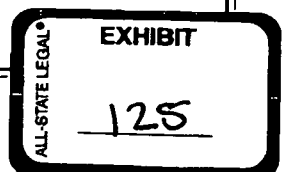
10 Q. Do you recall this letter?

11 A. Yes.

12 Q. Okay. Now, Sergeant Middleton --

13 A. Yes.

14 Q. -- in the last paragraph there, I know
15 you've been through this document, he lays out his
16 findings and then he says, "I'm sure these
17 activities will be addressed and corrected in the
18 future." What actions did you take to address and
19 correct the findings that he found in the previous
20 paragraph? And I'll just again highlight them.
21 Counselors are allowing certain campers to leave
22 their rooms after they're supposed to be in bed at
23 night; they're allowed to go into camp counselors'
24 rooms, watch movies, fall asleep in the same bed;
25 counselors engage in sexual conversation in the



1 presence of campers; and alcohol, tobacco products
2 that belong to counselors in the barracks, and
3 taking campers off campus.

4 So, again, what actions did you take to
5 address or correct these -- this assessment from
6 Sergeant Middleton?

7 A. I really -- I can't remember
8 specifically.

9 Q. Okay. Who could have responded to
10 Sergeant Middleton's findings besides yourself?

11 A. Um, Bill Bates, Colonel Lackey.

12 Q. Do you know of any response that Bill
13 Bates took?

14 A. I don't know.

15 Q. Could the President have responded to
16 this letter?

17 A. I'm sure. Anybody --

18 Q. What about the Board of Visitors?

19 A. I'm sure, yes.

20 Q. I believe you testified that a report
21 would go through the Commandant, filter through
22 the President to the Board of Visitors of the
23 activities that went on at the summer camp; is
24 that correct?

25 A. Yeah.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Q. So the Board of Visitors was getting
2 reports of what went on at the summer camp; is
3 that fair to say?

4 A. I mean --

5 MR. STONEY: Objection.

6 A. I don't know, really. I don't know.

7 Q. I believe your previous testimony said
8 that you -- that a report would go to the
9 Commandant and then through the President to
10 report it to the Board of Visitors.

11 A. Right. That's the chain, yeah.

12 Q. Okay. And do you recall that ever
13 happening?

14 A. Yeah.

15 Q. So in this Middleton letter, the
16 activities that he states are going on, he says
17 some of the counselors are doing this. So he
18 doesn't -- he doesn't pinpoint one person that's
19 doing all of this, does he?

20 A. No.

21 Q. So this was multiple counselors were
22 engaging in these risky activities, correct?

23 A. Right.

24 MR. STONEY: Objection.

25 Q. Now, you previously testified as well

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Mother Doe A,)
)
Plaintiff,)
)
v.)
)
The Citadel)
)
Defendant,)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Civil Action No.: 2011-CP-10-9200

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
CAMPER DOE 6)
)
Plaintiff,)
)
v.)
)
THE CITADEL,)
)
Defendant.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Civil Action No.

**AFFIDAVIT OF
LOUIS NEAL "SKIP" REVILLE**

I, Louis Neal "Skip" ReVille, provide this affidavit of my own free will on Friday,
September 20, 2013 at the Perry Correctional Institute; 430 Oaklawn Road; Pelzer, SC; 29669.

1. Due to the lack of adult supervision and oversight of the barracks at night, I was able to sexually abuse numerous minor campers, at night, in my assigned barracks room, behind a closed door, while I was employed by The Citadel Summer Camp during the summer sessions of the camp in 2001, 2002 and 2003.
2. During the 2001, 2002, and 2003 sessions of The Citadel Summer Camp, Bill Bates and Jenni Garrott never visited or inspected my barracks room after Taps had been



played. In addition, neither the Tactical Officer, nor the on duty CCQ visited or inspected my barracks room after Taps had sounded.

3. After the Arpaio allegations surfaced at the end of the First Session of the 2001 Citadel Summer Camp, staff training was held before the Second Session began to emphasize that campers and counselors were not to be in the same barracks room alone. The Camp's Director, Bill Bates, and Deputy Director, Jenni Garrott, did nothing to see that this emphasized rule was enforced.
4. During the 2002 Summer Camp while I was employed as the Senior Counselor, Bill Bates and Jenni Garrott had a meeting with me. They explained that they had heard that I was having minor male campers visit my barracks room at night, after Taps, when the campers were to be in bed. I was told not to put myself in a situation where I could get into trouble. After this meeting, no one ever visited or inspected my room after Taps to enforce the no minors in counselor's room rule.
5. During the ^{2003 ER}2002 Summer Camp while I was employed as the Senior Counselor, Col. ^{ER}John Lackey met with me and advised me that I should not place myself in compromising situations with the minor male campers. ^{Col. Lackey had been advised by another counselor that minor campers were visiting my room at night after taps.}
6. During 2001, 2002, and 2003, while employed by The Citadel Summer Camp, I would regularly have nightly food deliveries brought to me at the barracks and would invite the minor male campers that I had targeted for sexual abuse to join me in my room to help me eat it. The food was used to lure the minor male campers into my room for grooming and sexual abuse. The amount of food ordered was clearly for more than one person. No one ever questioned the amount or frequencies of the deliveries of food that were made to me at the barracks.

7. My activities with the minor male campers did not change as a result of these meetings. The no campers in counselor's room rule was not enforced, and I remained free, as the 2002 Senior Counselor in charge of the barracks at night, to continue to have minor male campers visit my room after Taps.
8. In 2002, one of the campers had a heat rash between his legs and could hardly walk. The camper was to stay with me and not participate in activities until this rash cleared up. Jenni Garrott opened the door and walked into my room one afternoon to find the camper with the rash sitting on one side of the couch and me on the other. Ms. Garrott simply warned me that I should not be in my room with a minor camper.
9. It is my understanding that I should have been fired for violating the 2002 Camp Policy of no campers in counselor's rooms behind closed doors.
10. One afternoon, at the beginning of the Second Session of the 2003 Citadel Summer Camp, Jenni Garrott opened the closed door of my assigned barracks room and caught me with a minor Junior Counselor. (I am advised that this minor male is referred to as Camper Doe 6 for litigation purposes.) The minor had just completed a run and I was rubbing sports cream on the Junior Counselor's upper thighs and calves. I was grooming Camper Doe 6 and had not yet sexually abused him at the time Ms. Garrott caught the two of us alone. Ms. Garrott warned me that I should not permit minors to be alone with me in my room.
11. It is my understanding that I should have been fired for violating the 2003 Camp Policy of no campers in counselor's rooms.

12. Had I been fired when Ms. Garrott caught me alone with Camper Doe 6, I would not have been allowed the opportunity to sexually abuse Camper Doe 6 on several occasions during the remainder of the 2003 Second Session.

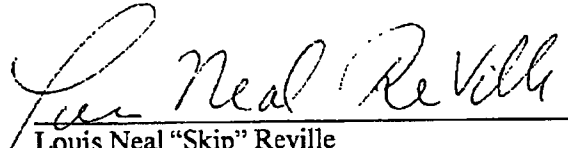
13. As a result of the Arpaio incident, I came to the realization that it was not normal to show pornography to and masturbate with minor males. I also realized that it was criminal to participate in these activities with minor males. In spite of this knowledge, and a ~~true~~^{or} desire on my part to cease the sexual abuse, the lack of competent adult supervision and oversight of the barracks at The Citadel Summer Camps, especially at night, made it all too easy for me to continue to prey upon and sexually abuse the minor male campers.

14. As an Academic Review Tutor in 2001, I was permitted to hold my review sessions with the minor male campers in my barracks room instead of the Mess Hall, where all other review sessions were held. I used these closed door review sessions ^{to groom} ~~to groom~~ campers that I had targeted to sexually abuse.

15. In 2001, 2002 and 2003, had there been frequent and random after Taps room checks to enforce the no campers in counselor's rooms rule, I would have stopped having campers visit my barracks room at night for fear of being caught and fired;

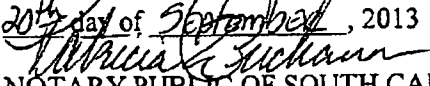
or I would have actually been caught in the act of sexually abusing the minor male campers resulting in my being fired and reported to law enforcement. .

Further affiant sayeth not.


Louis Neal "Skip" Reville

SWORN to before me this

20th day of September, 2013


NOTARY PUBLIC OF SOUTH CAROLINA

MY COMMISSION EXPIRES: 4-26-2020

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Mother Doe A,

Plaintiff,

v.

The Citadel

Defendant,

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

CAMPER DOE 6

Plaintiff,

v.

THE CITADEL,

Defendant.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Civil Action No.: 2011-CP-10-9200

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Civil Action No.

**AFFIDAVIT OF
LOUIS NEAL "SKIP" REVILLE**

I, Louis Neal "Skip" Reville, provide this affidavit of my own free will on Friday, September 20, 2013 at the Perry Correctional Institute, 430 Oaklawn Road, Pelzer, SC 29669.

1. In April of 2007, I met with Mark Brandenburg and Col. Joseph Trez in Bond Hall on the campus of The Citadel.

2. I was informed during the meeting that a camper who attended The Citadel Summer Camp in 2002, while I served on the camp staff as the Head CCQ, alleged that I had acted inappropriately with him. I lied to Mr. Brandenburg and Col. Trez and denied allegations

of inappropriate activity with the minor camper. I had, in fact, sexually abused the camper in my assigned barracks room, at night, behind a closed door.

3. After the April 2007 meeting with Mr. Brandenburg and Col. Trez, I lived in fear for a year that The Citadel was going to report the child sexual abuse allegation to law enforcement which would result in my being arrested and charged.

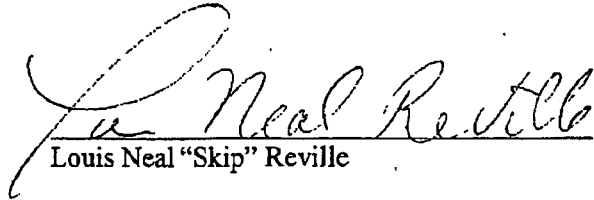
4. In October 2011, when confronted by the Mt. Pleasant Police and questioned about sexually abusing minor males, I freely co-operated with the law enforcement investigators and admitted/confessed to the sexual abuse of my victims.

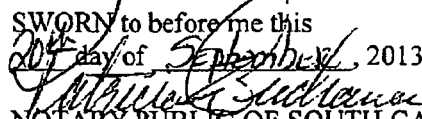
5. Being questioned by law enforcement in October 2011 made me realize that I had been caught, and that I was not going to be able to lie my way out of the child sexual abuse accusations that were being made against me.

6. Had I been reported to and questioned by law enforcement officials any time after the April 2007 meeting with Dr. Brandenburg and Col. Trez, I would have admitted to the sexual abuse of the complaining minor camper, as well as the other minor campers that I sexually abused while I was employed by The Citadel Summer Camp during the years 2001, 2002, and 2003.

7. Had The Citadel reported the allegations of child sexual abuse to law enforcement, and had I been questioned by law enforcement in or about April of 2007, my admission/confession of the child sexual abuse would have resulted in my conviction; and I would not have been able to sexually abuse numerous other minor males until my arrest in October 2011.

Further affiant sayeth not.


Louis Neal "Skip" Reville

SWORN to before me this
 day of September, 2013
NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 4-26-2014



COUNSELOR EVALUATIONS

Allred, Michael
Rehire—reserved, but diligent

Allred, Ryan
Possible rehire—needs to work harder, immature

Avila, Javier
Definite rehire—good counselor, should take more authority

Avila, Rita
Definite rehire—good at staff work, dependable

Baker, James
Definite rehire—hard worker

Ballard, Fred
Possible rehire—misses activities, needs more enthusiasm, immature. Needs to learn to distinguish between camper and counselor relationships.

Benish, John
Possible rehire—does work, but complains

Bledsoe, William
Do not rehire—not dependable, doesn't handle responsibility well

Cater, Dustin
Do not rehire—not trustworthy

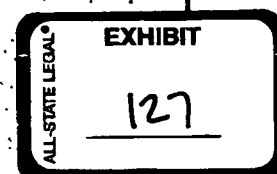
Cook, Ben
Possible rehire—trouble with authority

Cotto, Victor
Definite rehire—good with kids, firm but fair

Daniels, Bo
Definite rehire—excellent, takes job to the new extreme

Doermann, James
Definite rehire—definite HSC material; possible staff position if applicable

Donovan, Andrew
Definite rehire—excellent work with drum and bugle, takes initiative and gets the job done



CITADEL Box 443-B - 00281
(PHSW Tagged Doc's)

Evans, O.C.

Do not rehire—a camper stuck in a college person's body. Immature, irresponsible, but cares for the kids.

Everett, Jordan

Definite rehire—great with kids, very calm, would be good with younger kids, HSC material

Falson, Lou

No comment necessary—continues to be an asset to the camp

Forester, Hans

Definite rehire—good at his job, possible senior counselor material

Garris, Jessica

Possible rehire—needs to mature, trouble distinguishing camper/counselor relationships

Garry, Ashley

Possible rehire—capable but does not exert effort

Harbeson, Christopher

Possible rehire—immature, doesn't take initiative but shows concern

Harden, Coretta

Definite rehire—better communication with section counselors, occasionally lazy but overall gets job done

Harding, G

Definite rehire—has proved himself both as a CCQ and as a counselor. Has learned his lesson from the past and has full intentions of continuing improvement.

Harmon, Ashley

Definite rehire—all-around good counselor, eventual HSC material

Haygood, Maurice

Definite rehire—quiet but good with kids, HSC material

Heaton, Robert

Definite rehire—one of few CCQ's who is dependable and willing to enforce rules

Herring, Christy

Definite rehire—excellent job as HSC when promoted, an asset to the camp

Hocamp, Mark

Definite rehire—needs to mature, needs to take more authority

Huggins, Jeremy

Definite rehire—no comment necessary, continued good work

CITADEL Box 443-B - 00282
(PHSW Tagged Doc's)

Jackson, Robert
Rehire—no known problems

Johnson, James
Definite rehire—needs to focus more on needs of campers and less on counselors

Jones, Richard
Do not rehire—negative attitude, undependable, insubordinate

Kilian, Robert
Definite rehire—good CCQ, would be good counselor

Lewis, Andy
Definite rehire—continues to do good work, HSC material

Lugo, Clarissa
Definite rehire—does job well, needs work on interpersonal skills (Joke!!)

Lyons, Ashley
Definite rehire—assistant senior counselor material, very pro-active; done best that I have seen with the med program

Marcinak, Frederick
Definite rehire—senior counselor material, was on top of logistical matters; however, lazy...needs to work more

McAnnar, Jessica
Definite rehire—dependable, HSC material, possible staff material (dir. Safety and education)

McCoy, Coleman
Definite rehire—best JC, future HSC material

Monte, Alex
Definite rehire—needs to take into consideration his presence at camp before hire (i.e. soccer camp)

Moroney, Brian
Definite rehire—possible staff position (logistics officer), hopeful senior counselor

Nicholson, Andrew
Do not rehire—took no responsibility for his actions or his section, excuse for everything and answer for nothing

Nimmich, Drury
Definite rehire—takes initiative, very cooperative, does what he's told with a smile

CITADEL Box 443-B - 00283
(PHSW Tagged Doc's)

Pierce, Nicole

Possible rehire—lazy attitude toward camp, not dependable during activities but when told responds well

Plummer, Cullen

Possible rehire—lazy attitude, mind on other matters and not on camp duties but overall okay

Poston, Chris

Do not rehire—been here too damn long, but will forever remain "BIG DADDY"

Poston, Keith

Definite rehire—lazy attitude but overall good

Reid, Hunter

Definite rehire—great HSC, director of operations material

Reville, Skip

Definite rehire—senior counselor material if learns to distance himself from campers, works well with younger kids

Sarr, Olivier

Seaman, Russ

Definite rehire—immature but gets job done, learn to take things less personal

Shepard, Jason

Definite rehire—good HSC, needs to work on communication skills and tactfulness, too intense at times

Smith, Nick

Possible rehire—needs to take job more serious, possible good counselor

Taylor, Travis

Definite rehire—very dependable

Todd, David

Definite rehire—will be a good counselor, need to distinguish between counselor and camper

Turner, Brent

Definite rehire—senior counselor material, very conscientious

Tyson, Carl

Definite rehire—good counselor, needs to mature

Vieri, Jose

CITADEL Box 443-B - 00284
(PHSW Tagged Doc's)

Do not rehire—inappropriate behavior with campers

Walker, Joe

Definite rehire—very dependable, executes job well

Ward, Ben

Definite rehire—took position of counselor well, takes great strides for his campers

White, Alexandra

Definite rehire—good counselor

Worley, Boyd

Definite rehire—occasionally misses activities

Younkin, Lyndsay

Definite rehire—HSC material, needs to mature

*Whitcomb
M. Donough*

CITADEL Box 443-B - 00285
(PHSW Tagged Doc's)

1 it is hard to sit here and listen to this. It
2 takes a toll year after year. We came to you
3 and asked that you hear this case and you didn't
4 run, and you could have. You never run from us.
5 I know you are able, but I also know the toll
6 that it takes.

7 The clerk's office has been remarkable
8 from the start of this case, trying to stream-
9 line things so that we could get this done at
10 this time; for the victims, that was very
11 important for us. I appreciate all the work
12 that they did for us, from the Grand Jury
13 process forward.

14 You know, we've heard so much today.
15 What I think is very important for all of us
16 to see is that child molestation is an adult
17 problem. It is our problem as adults.

18 THE COURT: Amen.

19 SCARLETT WILSON: When we see people
20 that have children -- as you know, I don't have
21 children of my mine, I do have many in my life.
22 It takes enormous trust to raise your child and
23 to be able to give them a healthy and happy
24 life. You have to trust other people. You have
25 to trust other parents, you have to trust



1 coaches, you have to let them grow and be
2 independent and learn from others. To have that
3 trust and then have it taken away, I know what I
4 imagine that would be like. I also know that I
5 can't really imagine, not being a parent myself,
6 what it must feel like to have to take that leap
7 of faith, have that trust and then have it taken
8 away.

9 You know, the victim who stepped
10 forward tapped into something that I would hope
11 would be brought forward, and that's the anger.
12 We hear so much about the tears, about the
13 mourning, the loss, but the anger is there.
14 While we wouldn't ask the Court to do anything
15 out of anger, this prosecution has not been out
16 of anger, but it is outrageous -- it is
17 outrageous that some that we have trusted in
18 this community, some of those people have taken
19 advantage of loopholes in the law and have
20 shirked their responsibilities, morally, to do
21 what was right.

22 That aspect of this case is something
23 that this victim has taken on. While I don't
24 have children, I will take the liberty of saying
25 (addressing John Doe #13), 'Son, it was not your

1 fault. It was not your job.'

2 There were some who had a job and who
3 had a role. To hear those people neglect and --
4 to see that they have neglected to stand up and
5 the time to do something strong, something
6 right, reputations be damned. That opportunity
7 was neglected.

8 To hear them justify that by saying
9 'there was no corroboration, we didn't have
10 enough evidence,' there is never enough evidence
11 on day one. There is never enough evidence when
12 witness one, victim one comes forward on that
13 first day. People who are not trained, who do
14 not have the tools and who do not have the
15 motivation but had the audacity to say there was
16 no corroboration, there was no case, that's what
17 we are here for. We have some of the best in
18 the state, if not the nation, in prosecution.
19 We have law enforcement. We have the D. Norton
20 Children's Center. We are not the backwoods.
21 We have every resource you can imagine in this
22 community and it was there. People were
23 discouraged from using it. It is a true shame.

24 That said, the investigation that
25 eventually took place was an investigation

1 gearing us for trial. That investigation could
2 have easily taken place a decade ago.

3 But what happened that Friday when the
4 phone started ringing, Ms. Herring Lash was
5 brought into the case immediately, I was brought
6 in. Mount Pleasant Police Department,
7 Detectives Bacon and Willis, they did a
8 remarkable job -- because in a case like this,
9 with this volume, you have two things that can
10 happen -- and I know you see it in some of our
11 bigger trials. One is that you can have too
12 many chiefs and everybody wanting to be a boss,
13 or you can have so many people involved that
14 nobody wants to take responsibility and nothing
15 gets none. In this case they were organized,
16 they were methodical. We met, we had a plan and
17 the plan was to get this thing ready for trial
18 in June, one way or the other. If it was a
19 guilty plea, great. If it was a trial, great.
20 But we wanted these children to be able to have
21 a summer with this behind them and start the new
22 year fresh. We have accomplished that. I
23 commend them for that -- of course, Ms. Hall,
24 Ms. Herring Lash, all of the law enforcement
25 agencies that were involved.

1 Your Honor, you know, from the many
2 conversations that we've had administratively
3 how I feel about the importance of accepting
4 responsibility and the value that it has in our
5 system. It's critical in almost every case.

6 In this case, this defendant -- he
7 has cooperated and he has accepted full
8 responsibility. While we appreciate that, it's
9 also important to note that he has started from
10 day one the effort to save his skin. His
11 manipulation continued from the moment that this
12 thing unfolded. There was one person in this
13 world, on October 28th, one person, who realized
14 the landslide, the landslide of victims, and
15 accusations that were going to be out there --
16 it was him. He knew more than anyone and he
17 started with the letters to parents, trying to
18 reach back out to victims, to mitigate. I
19 don't want the Court to misunderstand that in
20 considering accepting and admitting
21 responsibility.

22 You know, the overwhelming, overarching
23 thing is that this man has threatened, gravely
24 threatened two of the most important aspects of
25 any young person's life, I believe, especially

1 in this country. The first is the involvement
2 in sports. Gosh, so many of us who have gone on
3 to do well can look back to those times playing
4 sports. Having a team. Having people taken an
5 interest in them. Having those great mentors.
6 Parents kinda have to love you. When you've got
7 a wonderful coach or a teacher who invests in
8 you, that does wonders for your self-worth.
9 This man has threatened that, greatly threatened
10 it. I am using that word for a reason, and I'll
11 explain that in a minute.

12 The other aspect, obviously, is that
13 this man has used and abused in the name of God.
14 He used God as a ruse, as a ruse. He was more
15 methodical than we were, and he epitomized evil,
16 he epitomized what the devil can do. It's hard
17 enough in this life, especially in this day and
18 age, to find that spiritual path; to have
19 someone threaten that spiritual path the way
20 that he has is abominable. We've seen that here
21 today.

22 I use the word "threaten" not to
23 minimize what's happened here but I think it's
24 important for all of us, as the adults in the
25 room, for all of us to recognize and to give

1 hope that these lives -- these lives -- don't
2 have to be relived. They are threatened. It is
3 a long road. For those victims, especially the
4 ones in Dorchester who were not able or willing
5 to come forward, we can only hope that the
6 message gets out that they've got to deal with
7 it now, because it will be back one way or the
8 other -- one way or the other.

9 There is hope. We don't know what's
10 going to happen from here. The threat will be
11 there for a long time but these lives don't have
12 to be ruined. We have to remember that this
13 young man, and the young men who did cooperate
14 with police and were able to -- perhaps they had
15 that family support that some don't, -- that
16 they did stand up, unlike some of the adults in
17 this community. They did stand up when it was
18 time. They did do the right thing. I believe
19 that they've given you all you need to put Mr.
20 ReVile away forever.

21 From hereon, we as a community have to
22 make sure that we give these victims hope. We
23 have to make sure that we recognize that this is
24 not an isolated problem -- and that is one of
25 the things that was so great about your

1 (addressing John Doe #13) talking here today.
2 In this country, we act like this just doesn't
3 happen. We have such a hard time with these
4 cases because people don't want to believe it.
5 They do not want to believe it.

6 Perhaps one of the good things that
7 will come out of this case and the publicity,
8 perhaps one of the good things that will come
9 out of Pennsylvania, is that finally adults will
10 believe that this stuff really does happen, that
11 children really aren't equipped to deal with it,
12 that we have to deal with it. We can't just
13 look the other way, pass the buck and say,
14 'Next.'

15 As I mentioned, Debi Herring Lash was
16 brought into this case that day, as was I. We
17 are fortunate to have her, certainly, in the
18 office. But more than that, bigger than that,
19 in this community.

20 THE COURT: I agree.

21 SCARLETT WILSON: She is going to
22 address the Court more specifically as to
23 sentencing, but thank you for your patience and
24 for your willingness to serve.

25 THE COURT: Thank you, Solicitor.

1 allegation from Doe that these guys had done
2 anything to ReVille or that ReVille had done
3 anything to them, correct?

4 A. There's no indication in my notes of
5 that, no.

6 Q. So it wouldn't be surprising if one of
7 them said, No, I didn't see any pornography with
8 ReVille, right?

9 A. Well, the name that is on 613 is
10 familiar to me. I don't know --

11 Q. Do you think that's who you talked to?

12 A. No, no, no. I just -- that name is
13 notable.

14 Q. Why is that?

15 A. Because there's a basketball coach with
16 the same last name that I'm familiar with.

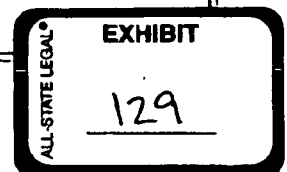
17 Q. Well, I guess, can you eliminate him as
18 the one you talked to or no?

19 A. I can't.

20 Q. No?

21 A. I can't.

22 Q. For Eyewitness Doe, other than this
23 e-mail that you sent, you have no specific
24 recollection today of ever talking to Eyewitness
25 Doe, right?



1 A. I do not.

2 Q. You didn't ever -- to the best of your
3 knowledge, you can't prove to me you ever picked
4 up the phone and called him?

5 A. I cannot, no.

6 Q. Either at The Citadel or when he went
7 home for the summer, right?

8 A. I don't have any notes that indicate
9 that -- that reflect a telephone conference with
10 him, no.

11 Q. You don't have any follow-up e-mail by
12 Eyewitness Doe, correct?

13 A. I do.

14 Q. You have a follow-up e-mail?

15 A. There is an e-mail that his father sent
16 to Mike Rogers in either October -- I guess it
17 would have been November of 2011, that says there
18 -- it was after ReVille's arrest, that says, in
19 essence, a lawyer for The Citadel contacted us
20 about this individual years ago and it was
21 dropped. We didn't say anything now and we're not
22 saying -- we didn't say anything then and we're
23 not saying anything now.

24 Q. And has that been produced?

25 A. As far as I know.

1 A. Someplace.

2 Q. Did he come back as a sophomore?

3 A. I have no idea -- no. I believe he
4 graduated.

5 Q. Okay. You have no recollection of -- I
6 was asking you, you, Mark Brandenburg, never sent
7 a follow-up e-mail to Eyewitness Doe?

8 A. I don't know.

9 Q. If you did, you don't have a record of
10 it and neither do the 50,000 e-mails Mr. Cooke has
11 told me about that have been pulled in this,
12 right?

13 A. Right.

14 Q. So to the best of your knowledge, you
15 didn't send him another e-mail?

16 A. No.

17 Q. Or you would have given it to us, right?

18 A. These e-mails came from an old external
19 hard drive that was attached to the laptop
20 computer that I was using in 2007. In 2010, we --
21 our IT department installed what they call an
22 appliance that catches e-mails. The computer --
23 that was not installed until 2010. These e-mails
24 are what I was able to find on that external hard
25 drive that at one point had been hooked up to the

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 over to any dorm? You had to know -- you could
2 find out very easily where his dorm room was?

3 A. Yeah, sure.

4 Q. And you never walked over there to talk
5 to him, right?

6 A. This was on Tuesday, May 1st of 2007.
7 As I said, graduation was that Saturday. So on
8 that Friday -- he would have left campus Saturday
9 morning, whatever, four or five days later, the
10 6th, and he would have been gone all summer long.

11 Q. He would have left on what day exactly?

12 A. I think they leave at about six o'clock
13 in the morning on Saturday.

14 Q. Of May 6th?

15 A. Of graduation, yes.

16 Q. So you knew on May 1st that he was going
17 to be gone on May 6th, right?

18 A. I would have, yes.

19 Q. And he is the eyewitness to the abuse
20 that Doe alleged, correct?

21 A. Uh-huh (indicating an affirmative
22 response).

23 Q. And you never walked the five or ten
24 minutes over to his dorm room, right?

25 A. I don't know that.

1 Q. -- do you understand that?

2 A. Yes.

3 Q. So from the beginning, was it clear to
4 you that President Rosa did not want this report
5 of sexual abuse to be leaked or to get out of the
6 President's office?

7 MR. KOVACH: Objection.

8 A. Yes.

9 Q. And during the time period from when the
10 report was made until the time that you left The
11 Citadel, having lived through it, do you believe
12 there was a conscious effort to cover up or
13 conceal this report of sexual abuse?

14 MR. KOVACH: Objection.

15 A. Yes.

16 Q. And was President Rosa in charge
17 ultimately of making sure that this report was
18 concealed and covered up?

19 MR. KOVACH: Objection.

20 A. In my opinion, yes.

21 Q. Let me ask you this, when the report
22 came in, the school had a Title IX coordinator,
23 right?

24 A. Yes.

25 Q. The report could have gone to the Title

1 civil matter against The Citadel, did The Citadel
2 just stop doing the disciplinary investigation
3 that they'd typically do?

4 MR. KOVACH: Objection.

5 A. No.

6 Q. So based upon your personal knowledge, a
7 civil matter generally did not have any impact on
8 The Citadel instituting or following its own
9 policies and procedures?

10 A. No.

11 MR. KOVACH: Object.

12 Q. Having worked in the President's office
13 during this time period, was there ever any doubt
14 in your mind that President Rosa wanted this
15 report of sexual abuse to be kept under wraps?

16 MR. KOVACH: Objection.

17 A. No. It was very clear that -- the term
18 that was used about it was "close hold." I mean,
19 only people that needed to know about it were
20 supposed to know about it. That was it.

21 Q. Had you heard that phrase "close hold"
22 used prior to this report of sexual abuse?

23 A. In reference to other matters, yes.

24 Q. Right. And, like, what other matters do
25 you remember "close hold" being the orders from

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

JOHN DOE 2,

Plaintiff,

vs.

THE CITADEL,

Defendant.

COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO: 2012-CP-10-1858

PLAINTIFF'S REPLY
MEMORANDUM IN OPPOSITION TO
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

FILED
APR 18 PM 2:40
CLERK OF COURT

COMES NOW Plaintiff in the above-captioned action, by and through his undersigned attorneys of record, and submits this Reply Memorandum in Opposition to Defendant's Motion for Summary Judgment.

In regards to Defendant's argument that Plaintiff's claim is governed by the statute of limitations in the South Carolina Tort Claims Act, S.C. Code § 15-78-110, Plaintiff contends that the applicable statute of limitations to his claims is found in S.C. Code §15-3-555(A). However, even if Plaintiff's claims were governed by the general two year statute of limitations found in the Tort Claims Act, the statute of limitations did not accrue until the facts and circumstances put Plaintiff on notice that he had a claim against Defendant. Specifically, "[t]he statute of limitations on a negligence claim accrues at the time of the negligence, or when facts and circumstances would put a person of common knowledge on notice that he might have a claim against another party." Doe v. Bishop of Charleston, 754 S.E.2d 494, 500 (S.C. 2012) (quoting Kreutner v. David, 465 S.E.2d 88, 90 (S.C. 1995)). Moreover, "[d]eliberate acts of deception by a defendant calculated to conceal from a potential plaintiff that he has a cause of action toll the statute of limitations." Id. (citing Strong v. Univ. of S.C. School of Medicine, 447 S.E.2d 850, 852 (S.C. 1994)).

Thus, if the applicable statute of limitations is that found in S.C. Code § 15-78-110, then Plaintiff's statute of limitations on his claims did not accrue until at the very earliest November 2011, when The Citadel first acknowledged that it had prior knowledge that Louis "Skip" ReVille sexually abused children at The Citadel Summer Camp. (Ex. 24, Press Release). It was only after November 2011 that the Citadel began revealing facts and circumstances as to its prior knowledge of ReVille's propensity as a child sexual predator. Accordingly, it was not until November 2011 that Plaintiff was even put on notice that he might have a claim against The Citadel. Plaintiff filed his complaint four months later on March 19, 2012, and his complaint is timely even if S.C. Code § 15-78-110 applies. Furthermore, The Citadel's conduct at issue in Plaintiff's claims occurred from at least 2001 up to November 2011. It was in this time period that The Citadel deliberately concealed its knowledge of ReVille's child sexual abuse from potential plaintiffs. Such "deliberate acts of deception" by The Citadel tolled the statute of limitations." Id.

Moreover, The Citadel negligently or intentionally created the risk that ReVille would sexually abuse Plaintiff by its actions dating as far back as 2001. See Madison ex rel Bryant v. Babcock Center, Inc.; S.C. Dep't of Disabilities and Special Needs; and Batchelor, 638 S.E.2d 650, 660 (S.C. 2006). The Citadel had knowledge in 2001, during ReVille's first summer at The Camp, that a well-respected volunteer counselor and Citadel graduate had sexually abused and molested a ten-year old male camper in his dorm room during the course of The Camp's first session. The Citadel was later informed that additional minor campers were sexually abused by Michael Arpaio while attending The Camp between 1995 and 2000.

Thereafter, on August 6, 2001, The Citadel received a letter from Sergeant Middleton of the Charleston Police Department that highlighted several concerning practices occurring at The Camp, including that "[s]ome of the counselors are allowing certain campers to leave their rooms

. . . to go into camp counselor's room[s], watch movies, and fall asleep in the same bed with counselors until the following morning." (Ex. 124, Middleton Letter, August 6, 2001). The letter noted that "[s]ome of the counselors engage in sexual conversation in the presence of the campers." Notably, upon receipt of this letter, The Citadel took no action whatsoever despite knowing that multiple counselors were engaging in such concerning practices. (Ex. 125, Garrott Deposition, Vol III, p. 205-207). Indeed, ReVille has admitted to abusing nearly eight campers during the 2001 Summer Camp. To do so, he lured campers into his room at night with food and movies—the very practice highlighted in Middleton's letter. (Ex. 126, ReVille Affidavit, Sept. 20, 2013). The Citadel did not interview counselors and campers or implement various safety practices such as random and frequent room checks. (Ex. 126).

The Citadel utterly failed to take any action in response to Sergeant Middleton's letter anytime after its receipt. In fact, ReVille abused Camper Doe at least five times the following summer in 2002 in ReVille's barracks room at night. Camper Doe has testified not only to his own abuse by ReVille but to the abuse of others at The Citadel camp in 2002:

A. It wasn't just {John Doe BK} and I. Skip ReVille molested and abused multiple children at that camp. It wasn't just {John Doe BK] and I.

Q. How do you know that?

A. Because I was there.

Q. Did any of those other kids – campers tell you that they were abused by Skip ReVille?

A. They didn't have to tell me. I was sitting right next to them masturbating.

Q. But now you're telling me, in 2014, that there were more occasions than that one; is that correct?

A. Yes.

Q. Tell me who was present when those other incidents took place.

A. I knew {John Doe BK}; he was my friend. The other—I remember there were—there was one other kid from my section that I didn't know that well, but Skip knew him somehow. And there were other kids from different sections that would come in at different times.

A. We ended up staying in Skip's room after lights out – it had to have been more than five times.

Q. And during those five times, what happened?

A. It was always the same deal; it was the pattern. You know, we'd watch movies and do whatever during the day. But after lights out, the kids that didn't know about what was going on and the kids that who hadn't been introduced to it yet, they were allowed to leave the room.

Q. They were allowed to leave the room?

A. Yes.

Q. Could you have left the room?

A. I didn't feel that I could have, no.

(Ex. 135, Camper Doe Deposition, March 25, 2014, p. 145:4-12; 146:18-25; 147:5-19).

During the summer of 2002, The Citadel operated The Camp as it had in the years leading up to Arpaio's abuse—turning a blind eye to inappropriate conduct, policy violations, and Citadel procedures requiring termination and reporting of sexual assault, sexual abuse, sexual harassment, sexual misconduct, and immoral and illegal conduct. In fact, Camp Director Major Bill Bates, Deputy Director Jennifer Garrott, Colonel John Lackey, Commandant General Emory Mace, and others were aware of ReVille's policy and code of conduct violations and knew, or should have known, that ReVille was sexually harassing, molesting and abusing The Camp's minor campers

on The Citadel campus. These individuals, as well as other Citadel officials and staff, were aware of ReVille's deviant, pedophilic tendencies as early as 2001, wherein it was noted that ReVille was "senior counselor material if learns to distance himself from campers . . ." (Ex. 56, 2001 Employee Evaluation).

Moreover, during the summer of 2002, The Camp's Deputy Director, Jennifer Garrott, caught ReVille alone with a minor camper in his dorm room. Both Garrott and Camp Director Major Bates had heard that ReVille had campers in his room after Taps and discussed the issue with ReVille, but they specifically declined to reprimand or terminate his employment despite established policies and procedures requiring immediate termination for such a violation. (Ex. 126, ReVille Affidavit, Sept. 20, 2013). They also took no action against ReVille despite specifically emphasizing to counselors the year prior in 2001 that campers and counselors are not to be in the same barracks room alone. The Citadel completely disregarded the rule. (Id.).

As early as 2001, The Citadel required the counselors to abide by a Counselor Code of Conduct that included the provision: "[s]exual activity, in any form, with any person, is prohibited while on campus. "Sexual activity" includes kissing, hand-holding, lying together, groping, fondling, and sexual intercourse." "Violation of any of the above policies will result in immediate dismissal." (Ex. 131, Counselor Code of Conduct). Furthermore, the summer camp "Official Camp Policies Regarding Sexual Misconduct Issues," in part, bestowed the following requirements on counselors and imposed specific responses to violations on The Citadel:

- Any sexual relationship between any camp employee and a camper is prohibited. Any person not adhering to this rule will be immediately dismissed from his/her employment with the citadel and will be prosecuted to the fullest extent of the law.
- Camp employees will keep an open door when visiting camper rooms alone. When a camper visits a counselor's room alone, it is the responsibility of that camp employee to ensure that the door is fully open and that it stays open until another alert person is present in the room.

- Regardless of validity of the violation, any sexually inappropriate conduct reports concerning any camper or employee of the camp will be turned over to the Citadel Public Safety Department and a thorough investigation will be conducted.

(Ex.63).

In fact, the evidence establishes that Camp Director, Jennifer Garrott, terminated another counselor for being alone in his barracks room with a male camper. (Ex. 132, Garrott Deposition, Vol II, p. 39-40). However, when she caught ReVille with a camper alone in his room in 2002, she refused to terminate ReVille. (Ex. 126, ReVille Affidavit, Sept. 20, 2013). Ms. Garrott took no action in response to ReVille's policy violation, neglecting to even document the offense in ReVille's employment file.

Then in 2003, Director Garrott again walked in on ReVille alone with a minor, Camper Doe 6, where ReVille was rubbing "Icy-Hot" on Doe 6's leg. Again, Garrott took no action on this terminable offense. Also in 2003, Garrott's assistant spoke to ReVille four to five times about having minors alone in his room; however, no further action was taken. Colonel Lackey similarly received a report from a counselor that ReVille was having minors in his room. On none of these occasions that occurred with three different Citadel employees was ReVille terminated, nor were the infractions documented in ReVille's file, despite camp policies and procedures requiring such action. (Ex. 126, ReVille Affidavit, Sept. 20, 2013). Instead, The Citadel permitted ReVille to continue serving as The Camp's Senior Counselor entrusted with the responsibility of the safety and well-being of the very boys he was abusing.

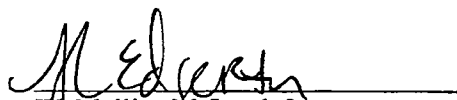
Ms. Garrott now admits she should have fired ReVille for his violations of the camp rule forbidding counselors from being alone in barrack's rooms with campers. (Ex. 54, Garrott Deposition, Vol. II, p. 55-56). Defendant's own expert witness, Ann Franke, states that policies

regarding the safety of children should be strictly enforced, absent some exigent circumstance for the policy violation, and serious consequences imposed for violations in order to rightly protect children. (Ex. 55, Franke Deposition, March 17, 2014, p. 49:13 through p. 51:19).

Additional evidence of the Citadel's policies controlling its camp counselors is found in the Barracks Guard Duties, Memorandum of Instruction, April 2001, where such duties included that "[d]uring evening hours, guards conduct walk-through checks of the barracks. A walking check is conducted on a random basis every hour between 0200 and 0600. Results of checks are to be logged." (Ex. 134). However, neither the camp directors, the Tactical Officer, nor the CCQ visited ReVille's room after taps, despite the frequency of campers coming to ReVille's room at night. (Ex. 126, ReVille Affidavit, Sept. 20, 2013).

In sum, The Citadel could have stopped ReVille from further abusing children as far back as 2001, and had it done so, Plaintiff never would have been abused. The Citadel's conduct created the reasonably foreseeable risk of Plaintiff's abuse by ReVille, and The Citadel is liable for its own conduct of negligently and intentionally concealing a known child sexual predator. See Madison ex rel Bryant, 638 S.E.2d at 656; Faile, 566 S.E.2d at 546.

Respectfully submitted,


W. Mullins McLeod, Jr.
Jacqueline LaPan Edgerton
James B. Moore III
Attorneys for the Plaintiff
McLEOD LAW GROUP
Post Office Box 21624
Charleston, SC 29413
Telephone: (843) 277-6655

April 17, 2014
Charleston, South Carolina

The Citadel Summer Camp

COUNSELOR CODE OF CONDUCT

The Citadel Summer Camp counselors must always remember that they are role models and mentors to the hundreds of boys and girls that attend the camp each year. Counselors must practice mature judgment, and be mindful of the well-being of the campers.

WHILE ON CAMPUS, COUNSELORS WILL COMPLY WITH THE FOLLOWING REGULATIONS:

1. Use of tobacco, alcohol, and/or drugs, in any form, is forbidden.
2. Counselors will not use profanity or any obscene remarks or gestures.
3. Counselors will never use force when disciplining a camper. Campers are not cadets, they are 10 to 15 year old campers!
4. While on campus, there will be limited interaction between Summer School students and Camp personnel.
 - Camp personnel will have no direct contact with Summer School students other than casual meeting encounters.
 - Summer School students and Camp personnel are not permitted to visit in each others living area/rooms, unless on official business and registered with the guard at the gate.
5. Sexual activity, in any form, with any person, is prohibited while on campus. "Sexual activity" includes kissing, hand-holding, lying together, groping, fondling, and sexual intercourse.
6. Male counselors and campers may NOT visit the girls living areas at any time, unless specifically authorized.

◆Violation of any of the above policies will result in immediate dismissal.◆

I _____ understand and accept the policies listed above. I realize that I am a role model to the campers of The Citadel Summer Camp, and I will make every effort to act accordingly. I feel I am capable of meeting these standards and agree to follow them at all times while employed by The Citadel Summer Camp.

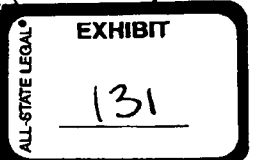
X

(Counselor's Signature)

5-7-01

(Date)

CITADEL Box 270 - 00195
(PHSW Tagged Document)



The Citadel Summer Camp

MSC 53 - The Citadel
Charleston, South Carolina 29409-0053

Telephone: (843) 953-7120

Fax: (843) 953-6803

Isley - "12/6/01"
Wanted to take a moment for a belated
note of thanks for all your work this past summer.
Your efforts were greatly appreciated and noted
by everyone with whom you came in contact. No
one has done a better job in your areas than you!

I hope your semester is going well. You are
probably ready for exams and a well deserved
break.

I hope you will give serious consideration
to working at the camp once again. We would
really like to have you back! Think it over
seriously.

Best wishes for a very happy holiday.

Bill Bates

Youth is America's Most Precious Asset
CHADEL Box 270 - 00196
(PHSW Tagged Documents)

The Citadel Summer Camp

MSC 53 - The Citadel
Charleston, South Carolina 29409-0053

Telephone: (843) 953-7120

Fax: (843) 953-6803

Isley -

9/9/02

Thanks for your very nice note. I'm very glad you had such an enjoyable and rewarding summer.

I will admit that we will miss your smiling face. I hope you have a great summer planned. If you happen to head in our direction, please stop by and say hi! (I don't know if Keith will be able to organize a Beach Trip without you.)

All my best, as the year comes to a close academically, and as your summer begins.

RLR

Youth is America's Most Precious Asset

CITADEL Box 270 - 00197
(PHSW Tagged Documents)

The Citadel Summer Camp

Subject: The Citadel Summer Camp

Date: Tue, 26 Feb 2002 16:14:40 -0500

From: William Bates <batesw@Citadel.edu>

To: asanly1517@hotmail.com

Ashley -

How do I start this?

I know that "the thing" with Mike Arpaio and the () boy put a very bad taste in everyone's mouth regarding last summer. I am very sorry that you have had to continue to deal with this matter. Your father and I spoke before Christmas, regarding another request for you to be interviewed by a Naval Investigative Service agent.

Ashley, I really am sorry that you got painted with this brush. I don't even think you got painted, I think you just got splashed, in the same way several others were splashed. I want you to know that I was very pleased by your performance last summer. You did a wonderful job, one of which you should be very proud.

You know that Jenni and I want to work with you again. I hope we will be able to do so, we have a slot for you, if you are interested. In any case, if you need a reference or any assistance from either of us, please do not hesitate to call on us or have others contact us.

Best of luck as this semester reaches mid-term. Have a GREAT spring break.

Let me hear from you, when you have a moment.

Bill Bates

1 of 1

CITADEL Box 270 - 00198 2/26/02 4:14 PM
(PHSW Tagged Documents)

250 Lexington Ave. Apt. 3
Lexington, KY 40508

2 April 2002

Mr. Bill Bates and Ms. Jenni Garrott
Camp Director and Assistant Camp Director
The Citadel Summer Camp
Charleston, SC 29409

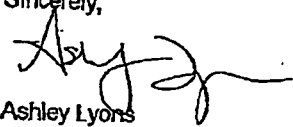
Dear Mr. Bates and Ms. Garrott,

Let me begin by saying I am sorry for waiting such a lengthy time to write this letter. I have been very engaged in my activities, and I apologize.

The first reason I am composing this letter is to notify you that I will not be returning to The Citadel Summer Camp this upcoming summer. This is a decision I have wrestled with for some time; however, my life is taking a different path at this point. In no way does my not returning have anything to do with my previous experience at the camp.

In fact, the other reason I am writing this letter is to thank you for the positive experience I had last summer. I came to the camp with reservations of myself and of the camp, unaware of what to expect or what was expected of me. Those reservations were soon cast aside. I put much time and effort into my position and it was rewarded. Not only was I rewarded with praise, but also friendships, valid work experience, and a sense of pride. I sincerely thank you for granting me the opportunity and believing in me enough to offer me the position you did. I hope this letter finds you doing well, and I wish both of you the best.

Sincerely,


Ashley Lyons

CITADEL Box 270 - 00199
(PHSW Tagged Documents)

The Citadel Summer Camp

MSC 53 - The Citadel
Charleston, South Carolina 29409-0053

Telephone: (843) 953-7120

Fax: (843) 953-6803

April 3, 2001

Ashley A. Lyons
University of Kentucky
Kirwan Tower, Rm. 1902
Lexington, KY 40506

Dear Ashley,

Congratulations, you have been selected to be the Director of Safety and Education for the 2000 Citadel Summer Camp. In addition to room, board, and campus usage fees, you will be paid \$1800.00 for the eight week period. Employment begins on Sunday, June 10 and will conclude on Saturday, August 4.

PLEASE CONTACT THE CAMP OFFICE AS SOON AS POSSIBLE TO CONFIRM EMPLOYMENT:

Telephone: (843) 953-7120
Fax: (843) 953-6803
E-mail: summercamp@Citadel.edu

Again, let me know if you are more interested in a counselor position. I'll be happy to make that change and assign you to a section of campers so you have more interaction with the kids. Enclosed is the job description. Read over it and give me a call as soon as possible to let me know what you think. Hope you have a great rest of the semester and we look forward to working with you this summer.

Sincerely,


Jenni Garrott
Deputy Director

Youth is America's Most Precious Asset

CITADEL Box 270 - 00180
(PHSW Tagged Documents)

Director, Safety & Education - S-2 - Duty Description

Daily Duties -

- Supervise and administer camp Academic Review program -
 - Locate, train and supervise tutors
 - Supervise daily conduct of tutoring
 - Ensure accuracy of rosters of campers participating in Academic Review with Dir Pers & Admin
 - Ensure completion of Academic Review reports for parents
- Supervise and administer camp safety program
- Conduct liaison with Public Safety office
- Check activities

Opening Day Duties -

- Supervise activities at Infirmary
- Assist Dir Pers & Admin with early arrivals, if required

Special Duties -

- Ensure timely and accurate accident reporting for every injured camper, counselor or staff
- Ensure appropriate 1st aid kit/equipment is available at each activity site - coordinate with Dir Opns & Trng, Dir Log, Infirmary, Deas Hall
- Issue parking permits to staff - coordinate with Public Safety
- Coordinate with Dir Opns & Trng for safety of off-campus special events

Helpful Hints -

- Sign up counselors as tutors as soon as possible. Take time to ensure they will be effective tutors.
- Monitor Academic Tutoring: attendance by campers and tutors, and work.
- Review all Progress Reports before inclusion in graduation packets.

CITADEL Box 270 - 00118
(PHSW Tagged Documents)

1 standpoint of the campers were his eyes and ears
2 and they liked him and that if something was wrong
3 in the barracks or in the camp, that they would
4 come and tell him.

5 MR. STONEY: I'm going to instruct you
6 not to answer the question. I think it's
7 improper for you, as an examiner, to speculate
8 as to what one other witness may say until
9 that -- until that testimony is under oath and
10 in the record.

11 MR. HERNS: I can promise you he's going
12 to testify to it.

13 MR. STONEY: Well, until he does, I'm
14 going to instruct her not to answer the
15 question.

16 BY MR. HERNS:

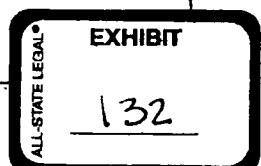
17 Q. You don't have any recollection of
18 talking with any counselor at The Citadel Summer
19 Camp with regards to finding them in their room
20 with the door closed with a camper?

21 A. One time.

22 Q. Other than the one time that we're going
23 to get to in 2003?

24 A. No. There was another time.

25 Q. Okay. What was the other time?



1 A. I don't know what year it was, but it
2 was -- {redacted} was his name, and he was sitting
3 at his computer showing a military video, because
4 he was wanting to go in the National Guard or
5 something, but -- to a kid and the door was shut
6 then. And I remember that time.

7 Q. And what happened to that man -- that
8 counselor?

9 A. Well, he was dismissed.

10 Q. Because he was in the room with a camper
11 behind closed doors?

12 A. Yes.

13 Q. Was that post the junior counselor in
14 the room with Mr. ReVille in 2003 or --

15 A. I'm sorry?

16 Q. Was that before you walked in and saw
17 Mr. ReVille and the junior counselor in 2003 or
18 was it after?

19 A. I don't remember.

20 Q. Because there's some reference that that
21 might have been in 2005.

22 A. I don't remember.

23 Q. Let's address the 2003 issue. Why were
24 you going to Skip ReVille's room?

25 A. It was like during rec period or some

The Citadel Summer Camp

MSC 53 - The Citadel
Charleston, SC 29409

April, 2001

MEMORANDUM OF INSTRUCTION

SUBJECT: Barracks Guard Duties

General:

The Citadel Summer Camp is a three-week residential sports camp for boys and girls, ages 10 to 15, conducted on the campus of The Citadel, Charleston, SC. In order to provide a safe environment for campers, counselors and staff, security of the barracks is essential.

Two separate groups handle immediate security of the barracks: tasked Counselors-in-Training (CITs) and hired guards. CITs work shifts during daylight hours, 0700 to 1900. Hired guards work shifts during evening hours, 1900 to 0700. The term "guard" applies to those performing duties from either of these groups. Two guards are scheduled for duty at any time, one on duty in the boys' area (Watts Barracks) and one on duty in the girls' area (Band Barracks).

In addition to their primary duty providing security, guards serve as important representatives of the Camp. Often a guard is the first point of contact with the Camp and, as such, the manner in which the first impression is established is of utmost importance. Guards must present a neat, clean, professional appearance and be pleasant and helpful whenever dealing with visitors to the Camp and The Citadel campus.

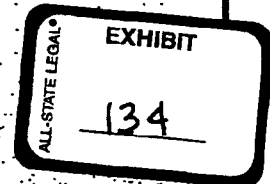
Special Instructions:

Barracks Checks:

During evening hours, guards conduct walk-through checks of the barracks. A walking check is conducted on a random basis every hour between 0200 and 0600. Results of checks are logged.

Bugle Calls:

Many activities in Camp are announced by bugle calls. It is important for calls to sound in a clear and timely manner. Guards are the primary personnel for playing recorded bugle calls.



CITADEL Box 443-B - 00254
(PHSW Tagged Doc's)

1 present with ReVille?

2 A. The first occasion?

3 Q. Well, the first occasion, when --

4 A. It wasn't just {John Doe BK} and I.

5 Skip ReVille molested and abused multiple children
6 at that camp. It wasn't just {John Doe BK} and I.

7 Q. How do you know that?

8 A. Because I was there.

9 Q. Did any of those other kids -- campers
10 tell you that they were abused by Skip ReVille?

11 A. They didn't have to tell me. I was
12 sitting right next to them masturbating.

13 Q. So now we're getting into what is beyond
14 the scope of what you told Brandenburg. Is that a
15 fair assessment?

16 MR. MCLEOD: Object to the form of the
17 question.

18 A. Yes.

19 Q. You only told Brandenburg that you went
20 in his room once, when he showed you pornography
21 and masturbated?

22 A. I thought that's all I needed to say.

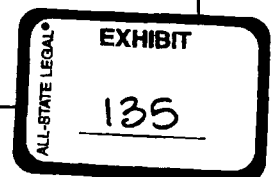
23 MR. MCLEOD: Let him answer.

24 Q. You just told him once; is that right?

25 A. Yes.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com



1 Q. But now you're telling me, in 2014, that
2 there were more occasions than that one; is that
3 correct?

4 A. Yes.

5 Q. And to whom have you disclosed these
6 multiple occasions?

7 A. My doctors.

8 Q. And when did you disclose this to your
9 doctors?

10 A. It would have been a year, year and a
11 half ago.

12 Q. So roughly six years post, you disclosed
13 -- actually, it would have been 10 or 11 years
14 post, you disclosed that there were other
15 incidents?

16 A. Yes. Like I said, I was in denial for
17 the majority of the time.

18 Q. Tell me who was present when those other
19 incidents took place.

20 A. I knew {John Doe BK}; he was my friend.
21 The other -- I remember there were -- there was
22 one other kid from my section that I didn't know
23 that well, but Skip knew him somehow. And there
24 were other kids from different sections that would
25 come in at different times. One of them included

1 -- I think he was a relative of Skip's.

2 Q. How many other occasions than the one
3 that you informed Brandenburg about in 2007 -- how
4 many other occasions were there?

5 A. We ended up staying in Skip's room after
6 lights out -- it had to have been more than five
7 times.

8 Q. And during these five times, what
9 happened?

10 A. It was always the same deal; it was the
11 pattern. You know, we'd watch movies and do
12 whatever during the day. But after lights out,
13 the kids that didn't know about what was going on
14 and the kids who hadn't been introduced to it yet,
15 they were allowed to leave the room.

16 Q. They were allowed to leave the room?

17 A. Yes.

18 Q. Could you have left the room?

19 A. I didn't feel that I could have, no.

20 Q. You didn't want to, did you?

21 MR. MCLEOD: Object to the form of the
22 question.

23 A. It's not that I didn't want to. Like I
24 said, everything that Skip ReVille did, he
25 presented it in the form of a game or something

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

JOHN DOE 2,

Plaintiff,

vs.

THE CITADEL,

Defendant.

COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO: 2012-CP-10-1858

PLAINTIFF'S SUPPLEMENTAL
MEMORANDUM
IN OPPOSITION TO DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT

2014 APR 18 PM 2:41
CLERK OF COURT
JULIE J. ARMSTRONG

COMES NOW Plaintiff in the above-captioned action, by and through his undersigned attorneys of record, and supplements his Memorandum in Opposition to Defendant's Motion for Summary Judgment with the attached Exhibit 137, Plaintiff's deposition testimony as to his sexual abuse by ReVille on Citadel property while The Citadel employed ReVille. (Deposition of John Doe 2, March 28, 2014, p. 130;133; 168-169).

Respectfully submitted,


W. Mullins McLeod, Jr.
Jacqueline LaPan Edgerton
James B. Moore III
Attorneys for the Plaintiff
McLEOD LAW GROUP
Post Office Box 21624
Charleston, SC 29413
Telephone: (843) 277-6655

April 18, 2014
Charleston, South Carolina

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

JOHN DOE 2,) CIVIL ACTION NO:
) 2:12-cv-00794-RMG
Plaintiff,)

vs.)

PRESIDENT JOHN W. ROSA,)
INDIVIDUALLY,)
Defendant.)

MOTHER DOE,) CIVIL ACTION NO:
) 2:12-cv-00795-RMG
Plaintiff,)

vs.)

PRESIDENT JOHN W. ROSA,)
INDIVIDUALLY,)
Defendant.)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
COUNTY OF CHARLESTON) CASE NO. 2011-CP-10-9200
MOTHER DOE A,)

Plaintiff,)

vs.)

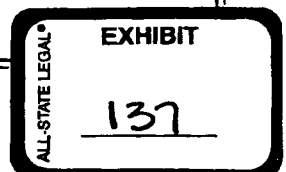
THE CITADEL,)

Defendant.)

DEPOSITION OF JOHN DOE #2

TAKEN MARCH 28, 2014

CAROLINA REPORTING
843.832.0801 * www.carolina-reporting.com



1 STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
2)
3 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1860
4 JOHN DOE CAMPER,)
5)
6 Plaintiff,)
7)
8 vs.)
9)
10 THE CITADEL,)
11)
12 Defendant.)
13)
14 STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
15)
16 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1858
17 JOHN DOE 2,)
18)
19 Plaintiff,)
20)
21 vs.)
22)
23 THE CITADEL,)
24)
25 Defendant.)
26)
27 STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
28)
29 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1859
30 MOTHER DOE 2, ON BEHALF)
31 OF JOHN DOE 3,)
32)
33 Plaintiff,)
34)
35 vs.)
36)
37 THE CITADEL,)
38)
39 Defendant.)
40)
41 STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
42)
43 COUNTY OF CHARLESTON) CASE NO. 2013-CP-10-5247
44)
45)

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1357

1 CAMPER DOE 6,)
2 Plaintiff,)
3 vs.)
4 THE CITADEL,)
5 Defendant.)

6 STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
7)
8 COUNTY OF CHARLESTON) CASE NO. 2013-CP-10-4770

9 JOHN DOE, A MINOR, BY)
10 HIS GUARDIAN AD LITEM,)
11 JOHN ROE)

12 Plaintiff,)

13 vs.)

14 THE CITADEL)

15 * * * * *

16 DEPOSITION OF: JOHN DOE #2

17 DATE TAKEN: Friday, March 28, 2014

18 TIME: 9:00 a.m.

19 PLACE: Barnwell, Whaley, Patterson &
20 Helms
21 288 Meeting Street, Suite 200
22 Charleston, South Carolina

23 REPORTED BY: EVE WILBANKS
24 Registered Professional
25 Reporter, Certified LiveNote
Reporter and Notary Public

26 * * * * *

27 POST OFFICE BOX 21784

28 CHARLESTON, SOUTH CAROLINA 29413-1784

29

1 A P P E A R A N C E S

2 REPRESENTING THE PLAINTIFFS:

3 D. ELLIS ROBERTS, ESQUIRE
4 McLeod Law Group, LLC
5 P.O. Box 21624
6 134 Meeting Street, Suite 160
7 Charleston, South Carolina 29413
8 Ellis@mcleod-lawgroup.com

7 REPRESENTING THE DEFENDANTS:

8 RANDELL C. STONEY, JR., ESQUIRE
9 Barnwell, Whaley, Patterson & Helms
10 288 Meeting Street, Suite 200
11 Charleston, South Carolina 29401
12 Rstoney@barnwell-whaley.com

11 REPRESENTING THE DEFENDANTS:

12 CHRISTOPHER M. KOVACH, ESQUIRE
13 Barnwell, Whaley, Patterson & Helms
14 288 Meeting Street, Suite 200
15 Charleston, South Carolina 29401
16 Ckovach@barnwell-whaley.com

15 REPRESENTING THE DEFENDANTS:

16 JOHN W. FLETCHER, ESQUIRE
17 Barnwell, Whaley, Patterson & Helms
18 288 Meeting Street
19 Charleston, South Carolina 29401
20 Jfletcher@barnwell-whaley.com
21
22
23
24
25

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1	INDEX	
2	TESTIMONY OF JOHN DOE #2	
3	DIRECT EXAMINATION BY MR. STONEY	6
4	CROSS-EXAMINATION BY MR. ROBERTS	166
5	REPORTER'S CERTIFICATE	179

6		
7		
8	INDEX OF EXHIBITS	
9		
10	Number	Description Page
11	Defendant's Exhibit Nos. 1 and 2	Notices of Deposition 6
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 S T I P U L A T I O N S

2 It is hereby stipulated and agreed by and
3 between the parties hereto, through their
4 respective counsel, that the reading and signing
5 of the transcript is waived by the Deponent.

6 (Defendant's Exhibit Nos. 1 and 2,
7 Notices of Deposition, was marked for
8 identification.)

9 JOHN DOE #2, SWORN.

10 DIRECT EXAMINATION

11 BY MR. STONEY:

12 Q. Will you state your full name for the
13 record.

14 A. {John Doe #2}.

15 Q. Junior?

16 A. Junior. Mr. {John Doe #2}, my name is
17 Randell Stoney. I'm here with Chris Kovach and
18 John Fletcher, and we are here on behalf of The
19 Citadel in a lawsuit that you filed under the name
20 of John Doe 2.

21 MR. STONEY: Ellis, we have in other
22 depositions -- and Eve is tuned into this --
23 we have agreed -- we will use names during the
24 course of the testimony.

25 Q. Mr. {John Doe #2}, your name --

1 obviously, we are under a pseudonym and protecting
2 you by anonymity, and we want to do that with any
3 other people that we mention, other than people
4 like Skip ReVille.

5 A. Yes, sir.

6 Q. We don't have any reason to protect him.

7 A. Yes, sir.

8 Q. But any minors or any friends of yours,
9 you just understand that if you give me their
10 name, that it will be redacted and --

11 A. So not used?

12 Q. Pardon me?

13 A. Not used?

14 Q. Right. Just so you're comfortable with
15 your testimony.

16 MR. ROBERTS: And family members as
17 well?

18 MR. STONEY: Right, family members.

19 A. Yes, sir.

20 Q. Have you ever given a deposition before?

21 A. I have not, no, sir.

22 Q. Let me go through a couple of ground
23 rules with you.

24 A. Okay. Yes, sir.

25 Q. First of all, you're doing fine and

1 you're answering audibly, and that's important.

2 A. Yes, sir.

3 Q. The other thing is that you wait until I
4 finish talking before you begin to talk.

5 A. Yes, sir.

6 Q. Eve is taking down everything we say.
7 So it's difficult if we talk over each other.

8 A. Yes, sir.

9 Q. And, likewise, I'll try and keep from
10 asking you another question before you finish the
11 question that I've -- answering the question I
12 just asked.

13 A. Yes.

14 Q. There may be a time when I ask you a
15 question that doesn't make sense.

16 A. Yes, sir.

17 Q. Let me know that.

18 A. All right.

19 Q. If it's a compound question, that is two
20 questions in one, your lawyer may interpose an
21 objection.

22 A. Yes, sir.

23 Q. Or if there's some other problem with
24 the question, your lawyer may interpose an
25 objection.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 A. Yes, sir.

2 Q. That is not to be taken as a signal to
3 answer or not to answer. Do you understand?

4 A. Yes, sir.

5 Q. That's what we do to preserve the
6 record --

7 A. Yes, sir.

8 Q. -- and to avoid us having to try and get
9 a Judge on the phone to rule whether or not the
10 question is correct --

11 A. Yes, sir.

12 Q. -- or proper.

13 A. Yes, sir.

14 Q. So this is your testimony. All right?

15 A. Yes, sir.

16 Q. This is my opportunity to talk to you
17 and get to know you a little bit.

18 A. Yes, sir.

19 Q. Understand that we're going to be
20 talking about a subject matter that is
21 sensitive --

22 A. Yes, sir.

23 Q. -- and unpleasant.

24 A. Yes, sir.

25 Q. So I'll apologize on the front end for

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 having to go into certain areas at some point that
2 may not be comfortable.

3 A. Yes, sir.

4 Q. What's also important is that you are
5 comfortable with your answers.

6 A. Yes, sir.

7 Q. And when I say that, I don't mean that
8 you are necessarily comfortable with the content,
9 but that your answer is in response to a question
10 that you've understood.

11 A. Yes, sir.

12 Q. And that your answer is accurate, to the
13 best of your ability.

14 A. Yes, sir.

15 Q. Now, if I ask you a question that you
16 don't know the answer to, "I don't know" is an
17 acceptable response.

18 A. Yes, sir.

19 Q. All right? If you don't know the
20 answer, I would rather you be honest and say, I
21 don't know the answer to that question, as opposed
22 to thinking that just because I asked a question,
23 I'm entitled to an answer and you're obligated to
24 come up with something.

25 A. Yes, sir.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Q. Likewise, if you answer a question, I'm
2 going to assume that you've understood it and that
3 your response is accurate, to the best of your
4 ability.

5 A. Yes, sir.

6 Q. All right. Also, this is not an
7 endurance test. I don't know how long it will
8 last. It will possibly last most of the day.

9 A. Yes, sir.

10 Q. But we don't go -- don't have to go
11 steady. And if you want to get up and take a
12 break, go to the men's room, get a Coca-Cola or
13 anything, you just let me know. And, likewise, I
14 guess we'll decide at some point whether or not we
15 want to stop and actually take a lunch break.
16 Sometimes people want to go ahead and just go
17 through; sometimes they want to stop. So we'll
18 make that decision.

19 A. Yes, sir.

20 Q. The other thing -- and this is
21 important -- is that under our rules now, once
22 you're under oath, which you are, and the
23 deposition has formally begun, which it has, any
24 questions that you have need to be directed to me.

25 A. Yes, sir.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Q. It's no longer allowed under our rules
2 for you and your counsel to have a conference to
3 discuss your testimony.

4 A. Yes, sir.

5 Q. Anything that you've already said or
6 anything that may be coming in the future.

7 A. Yes, sir.

8 Q. All right, sir. If you would, I'd just
9 like to start off with your background. Give me
10 your date of birth.

11 A. 9/27/92.

12 Q. Where were you born?

13 A. I was born in York, South Carolina.

14 Q. Are your parents from York?

15 A. They moved -- they graduated from
16 Winthrop and lived there right after they
17 graduated. They're not from there, no, sir.

18 Q. What year did they finish Winthrop?

19 A. I want to say my mom finished in '86 and
20 my dad finished in '87.

21 Q. Do you know their dates of birth?

22 A. Not off the top of my head. I know my
23 dad's November 9th, '65, I want to say. And my
24 mom's December 21st; it's either '65 or '66.

25 Q. She finished college a year before your

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 father?

2 A. Yes, sir, she did.

3 Q. Is she older than your dad?

4 A. No. She's actually younger. She
5 started school earlier, and my dad played
6 basketball.

7 Q. So it looks like she might be about six
8 weeks older (sic) than your father?

9 A. Yeah.

10 Q. Okay. How about brothers and sisters?

11 A. I have a brother. You want names?

12 Q. Name?

13 A. {John Doe AW}.

14 Q. {Redacted} --

15 A. {Spelling redacted}.

16 Q. And how old is he?

17 A. He just turned 18.

18 Q. So his date of birth?

19 A. February 14th, '95, I want to say -- '95
20 or '96.

21 Q. And I guess if he just turned 18, that
22 would probably be '96 --

23 A. Yeah, '96.

24 Q. -- according to my arithmetic. And your
25 sister?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1368

1 A. She's going to be turning 14 in June.

2 Q. What is her name?

3 A. {Jane Doe NW}.

4 Q. So she was born around -- sometime in
5 June of 2000?

6 A. Yes, sir.

7 Q. How long did you live in York? And I
8 want you to just take me through where you lived
9 and --

10 A. I only lived in York until I was -- I
11 was young. I probably moved away before I was 2
12 years old.

13 Q. Do you remember where you went after?

14 A. I went to New Jersey.

15 Q. How long were you in New Jersey?

16 A. Until I was 4.

17 Q. Was this because of your father's work?

18 A. Yes, sir.

19 Q. What does he do?

20 A. He is with Adams Outdoor Billboards.

21 Q. And you were in New Jersey for how long?

22 A. Two years.

23 Q. And then where?

24 A. I moved to Charleston -- North
25 Charleston.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Q. So you were roughly 6 years old?

2 A. When I moved to Charleston, it was
3 probably 5 years old -- 4 -- between 4 and 5.
4 Right around there.

5 Q. So that would have been sometime around
6 1997?

7 A. Yes. Yes, sir.

8 Q. Where did you live in North Charleston?

9 A. At first we were building a house in
10 Coosaw, we lived in a condo type thing. And then
11 when our house got built, we moved into Coosaw.

12 Q. That's Coosaw Plantation?

13 A. Coosaw Creek.

14 Q. Coosaw Creek?

15 A. Yes.

16 Q. Is that a country club type --

17 A. Yes, sir.

18 Q. Do you remember when you moved into the
19 house?

20 A. It would have been in '97, yes, sir.

21 Q. How long did you live there?

22 A. Until -- it would have been -- I would
23 have been moving at the beginning of the school
24 year towards my ninth grade year. I was like --
25 moved the end of that summer. I would have

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1370

1 started school, my ninth grade year, in Georgia,
2 but I just moved.

3 Q. So --

4 A. It would have been -- when did I start
5 high school? I graduated in '11. So I would have
6 started -- so -- it would have been right before I
7 started school my ninth grade year.

8 Q. Okay.

9 A. Yes, sir. I don't know the exact dates.

10 Q. All right. When you -- do you remember
11 where you went to first grade?

12 A. I went to Oakbrook Elementary School,
13 yes, sir.

14 Q. How old were you when you started first
15 grade?

16 A. I would have been 6 years old.

17 Q. So when you started first grade, you
18 were 6 years old. Did you turn 7 that September?
19 Is that -- are you following me?

20 A. I graduated when I was -- like so you're
21 asking when -- what I would have turned -- I would
22 have turned 7 that September, correct?

23 Q. Right.

24 A. Yeah.

25 Q. In other words, when I was coming up,

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 back in a different century --

2 A. Yeah.

3 Q. -- sometimes if you have what we call a
4 late birthday --

5 A. Yeah.

6 Q. -- the children -- I had friends that
7 started -- actually started classes when they were
8 5 and then turned 6 during the course of the year.
9 Is that --

10 A. I'm trying to think.

11 Q. Do you --

12 A. I graduated when I was 18 years old. I
13 didn't start school early or late. That's what
14 I'm saying. I was the age you were supposed to be
15 in first grade. I didn't start early or late, no,
16 sir.

17 Q. So you finished high school in 2011?

18 A. Yes, sir.

19 Q. And you were 18 years old?

20 A. Yes, sir.

21 Q. You turned 18 that September?

22 A. Yes, sir.

23 Q. And so high school took you four years?

24 A. Yes, sir. Middle school took me three
25 years.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Q. Right. So you would have been -- I
2 guess you would have started your ninth grade year
3 in 2007?

4 A. Yes, sir. I believe that's right, yes,
5 sir.

6 Q. 2007 in -- finished in 2008?

7 A. Yes.

8 Q. Tenth grade year you would have started
9 in 2008, 2009; eleventh grade 2009 to 2010; and
10 then your senior year from 2010 to 2011?

11 A. That is correct, yes, sir. That is
12 correct.

13 Q. All right. So you -- where did you go
14 to high school?

15 A. I went to -- well, I started off at
16 South Paulding High School. That would have been
17 in Villa Rica, Georgia. Then I proceeded to go to
18 Wilson Hall High School in Sumter, South Carolina.
19 I transferred from Wilson Hall to Sumter High
20 School and finished out at Sumter High School in
21 Sumter.

22 Q. So you -- you finished the eighth grade
23 in Charleston?

24 A. At Rollings.

25 Q. At Rollings?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 A. Middle School, yes, sir.

2 Q. And then that summer the family moved to
3 Georgia?

4 A. It would have been the very end of that
5 summer, yes, sir.

6 Q. And that was Vol- -- how did you say it?

7 A. Villa Rica, Georgia. It's V-I-L-L-A and
8 then a new word, R-I-C-A.

9 Q. So it's two words?

10 A. Yes, sir.

11 Q. And so you were in Villa Rica, Georgia,
12 for one year?

13 A. It was just one year, yes, sir.

14 Q. Where is Villa Rica?

15 A. It's west of Atlanta, but it's towards
16 Birmingham, Alabama, like Douglasville area or --
17 I'm trying -- if you just kept driving west from
18 Atlanta, it was directly west of it, towards
19 Alabama -- Birmingham, Alabama. Yes, sir.

20 Q. So did -- so you were there for a year
21 and then -- because of your father's work?

22 A. Yes, sir. We moved to Sumter, yes, sir.

23 Q. And so then after that year, where were
24 you?

25 A. After Sumter, South Carolina?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Q. Yeah.

2 A. Right after I graduated, they moved to
3 Florence, South Carolina.

4 Q. All right. I'm sorry. You left Atlanta
5 and moved to Sumter?

6 A. Yes, sir.

7 Q. And that was after your ninth grade
8 year?

9 A. Yes, sir.

10 Q. That's when you went to Wilson Hall?

11 A. No. Wilson Hall is in Sumter, South
12 Carolina.

13 Q. I'm sorry. After your ninth grade year
14 when you moved to Sumter is when you went to
15 Wilson Hall?

16 A. Yes, sir.

17 Q. And that would have been?

18 A. Tenth.

19 Q. Your tenth grade year?

20 A. Yes, sir.

21 Q. And your whole family moved to Sumter?

22 A. Yes, sir.

23 Q. Was that, again, because of your
24 father's business?

25 A. Yes, sir.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Q. So you were in Sumter for your entire
2 high school career?

3 A. Yes, sir.

4 Q. And did you all have family in Sumter?

5 A. My dad's work -- my ninth grade year
6 wouldn't have been in Sumter, South Carolina. My
7 tenth, eleventh and twelfth grade years would have
8 been.

9 Q. Ninth grade was in Georgia; tenth,
10 eleventh and twelfth were in Sumter?

11 A. Yes, sir.

12 Q. And I think you said your tenth grade
13 year was at Wilson Hall?

14 A. I started at Wilson Hall and decided to
15 go to Sumter High School. Almost -- it was like
16 November-ish I decided. It was before Christmas
17 break, but close to Christmas break I decided to
18 go to Sumter High School.

19 Q. And did you just not like Wilson Hall?

20 A. I made better friends at Sumter High
21 through golf, and I thought -- I thought Sumter
22 High was just a better opportunity for me. I
23 enjoyed it more, yes, sir.

24 Q. Did you feel like you had made the right
25 decision?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 A. Yes, sir.

2 Q. Was that something that you figured out
3 on your own?

4 A. Yes, sir. That was my decision, yes,
5 sir.

6 Q. And you finished Sumter High in 2011.
7 Then your parents moved?

8 A. They would have moved -- I actually was
9 in the Big I National Championship at a golf
10 tournament, and they would have moved that week,
11 and the week was the beginning of August. That's
12 when the Big I was; it was July 29th to August
13 7th. I was gone to Mississippi, and they moved
14 when I was gone.

15 Q. And, again, was this for your father's
16 work?

17 A. Yes, sir. But he was already working
18 for this company and was just commuting from
19 Sumter back and forth, because he took a new job
20 my senior year. And then we just decided, since
21 his work was there, we moved to Florence.

22 Q. Was it still with Adams?

23 A. When he was in Sumter, he was with
24 Miller Communications, the radio station. My
25 senior year he took the job with Adams Outdoor

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 again.

2 Q. So he went back to Adams?

3 A. Yes, sir. He went back to Adams, yes,
4 sir.

5 Q. Where in Florence did your parents live?

6 A. Just in Florence. I don't know how to
7 explain it. It's towards Timmonsville.. It's on
8 the Timmonsville side of Florence. Do you want to
9 know the address?

10 Q. No, no. I can get that later. I just
11 was curious. My mother grew up in Florence.

12 A. What part?

13 Q. She lived on Cherokee Road.

14 A. Oh, I play at Florence Country Club.
15 That's where we play.

16 Q. Florence has always been a real kind of
17 hub for golf?

18 A. Yes, sir. A lot of good golfers come
19 out of there. We have some good matches in the
20 summer, that's for sure.

21 Q. So then after you graduated, you went to
22 Newberry?

23 A. Yes, sir.

24 Q. Did you look at any other colleges?

25 A. Out of high school, I wasn't too heavily

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 recruited because I didn't take golf too seriously
2 until my senior year. I took an official at
3 College of Charleston; I took a visit at Francis
4 Marion. I was getting looked at by Aiken, James
5 Madison, where I'm at right now, and Wisconsin.
6 Those are the only schools.

7 Q. And how long have you been playing golf?

8 A. I started when I was 8 years old, yes,
9 sir. Yes, sir.

10 Q. Has that been your main sport growing
11 up?

12 A. I played basketball -- I was pretty good
13 at basketball. My dad was a very good basketball
14 player in college, so I guess a little rubbed off
15 on me.

16 Q. Did he play college ball?

17 A. Yes, sir, he did.

18 Q. Where?

19 A. Winthrop.

20 Q. Winthrop?

21 A. Yes, sir.

22 Q. So what is your handicap?

23 A. I'm a plus 3. I average under 72 in
24 college.

25 Q. Okay. Well, they're not having a very

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 nice day for the Azalea.

2 A. No. Is Azalea going on right now?

3 Q. Yeah.

4 A. I wish our golf season would allow us to
5 play Azalea. I've never been able to because of
6 golf tournaments and school.

7 Q. Well, you've got time.

8 A. Yeah.

9 Q. I will have to confess, though, golf is
10 one of the few frustrations that I have not yet
11 acquired.

12 A. It's a hard game, I can tell you that.
13 It pushes your nerves, that's for sure.

14 Q. So your family moved to Florence. And
15 so you went to Newberry --

16 A. Yes, sir.

17 Q. -- and started in 2011?

18 A. Yes, sir.

19 Q. And were there for how many years?

20 A. Two years.

21 Q. Grades?

22 A. Good. I had a 3.4 GPA, I believe.

23 Q. High school grades good?

24 A. Over a 3.0, yes, sir.

25 Q. And when you went to Newberry, were you

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 recruited to play golf?

2 A. Yes, sir, I was.

3 Q. Were you given any scholarship?

4 A. Yes. I was given a good bit of money
5 for golf.

6 Q. Was it a full ride?

7 A. I think I was only paying -- it's 30 --

8 Q. Just what percentage?

9 A. I was only paying 4 grand a year out of
10 36,000 or whatever percentage that is.

11 Q. Did that include room and board and --

12 A. The only thing I had to pay for was room
13 and board. That was it.

14 Q. So everything else was covered?

15 A. Yes, sir.

16 Q. And you kept that scholarship the two
17 years you were there?

18 A. Yes, sir.

19 Q. What about at James Madison?

20 A. I'm on a 60 percent scholarship for golf
21 right now. Just on golf. Since I'm out of state
22 I don't get any academic.

23 Q. How is your GPA there?

24 A. I'm doing a lot better. It was a big
25 transfer. I made a 2.7 my first semester -- last

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 semester, but I'm doing a lot better this
2 semester. A lot better.

3 Q. Are you on spring break now?

4 A. No, sir. My coach gave me the weekend
5 off. First one all season.

6 Q. I just don't want you to be missing
7 classes today.

8 A. It's all right.

9 Q. So you're in your second semester --
10 finishing your second semester of your junior
11 year?

12 A. Yes, sir.

13 Q. Why did you transfer, if -- I may have
14 asked, from Newberry?

15 A. Basically, I didn't like the size of
16 Newberry. I definitely wanted to be challenged
17 more academically. I felt like I wasn't being
18 challenged. I didn't really have to study or
19 anything like that. And a lot of the reason was
20 golf reasons. I wanted to play, you know, against
21 -- I thought I was one -- I think I am one of the
22 better college players in the country, and I
23 wanted to play with the best college players in
24 the country. So I wanted to go somewhere where I
25 had the chance to play in Florida State's events,

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Arizona events, stuff like that. So --

2 Q. So in other words, it was a significant
3 step up as far as just the caliber of golf?

4 A. Yes, absolutely. Yes, sir.

5 Q. And did it involve more of a financial
6 obligation from you and your family?

7 A. Do I pay more at James Madison than I do
8 at Newberry?

9 Q. Yes, sir.

10 A. Yes, sir. I pay more at James Madison.

11 Q. And your family was -- your parents are
12 helping you with that?

13 A. Yes, sir.

14 Q. And they were fine with that?

15 A. Yes, sir, they were.

16 Q. How is your golf -- are you performing
17 as you --

18 A. Performed at Newberry?

19 Q. -- would like to perform?

20 A. I've had, out of seven events, five top
21 15 finishes out of seven events. I've had a good
22 year; I've only had one bad tournament all year.
23 Other than that, I was playing pretty well, yes,
24 sir.

25 Q. Now, I've told you that I don't play

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 golf. But from what I understand, it's -- in many
2 cases, it's a mental game.

3 A. Yes, sir.

4 Q. And it requires concentration and focus.

5 A. Yes, sir.

6 Q. And you have to be totally oblivious to
7 your surroundings.

8 A. Yes, sir.

9 Q. In other words, you can focus when
10 there's a gallery around and the din and the noise
11 and all of that?

12 A. Yes, sir.

13 Q. My -- the only analogy I can make is I
14 used to and -- do a lot of competitive sailing.

15 A. Okay.

16 Q. And when you're sailing a boat,
17 particularly a single-hand boat, you're having to
18 focus on what you're doing, and it's you and the
19 boat against the elements.

20 A. Yes, sir.

21 Q. More so than the other boats sometimes.

22 A. Yes, sir.

23 Q. So I think there's a little bit of
24 similarity there. What is your major?

25 A. I'm actually in sports management, but

1 I'm getting also a business degree as well.

2 Q. Do you -- are you thinking that you may
3 go on the tour possibly? Is that a goal?

4 A. It's a thought, definitely, yes, sir.
5 Yes, sir.

6 Q. But golf is definitely a major part of
7 your life?

8 A. Yes, sir. Definitely.

9 Q. But it sounds like you're blending that
10 well with your academics also?

11 A. Yes, sir. I believe I'm a good student,
12 yes, sir.

13 Q. Well, based on what your GPA's are, I
14 would say you have a correct assessment of
15 yourself.

16 A. Yes, sir.

17 Q. And you're on track to finish the end of
18 next year?

19 A. Because I transferred, some of my
20 classes didn't transfer, so I'll have to go next
21 year and then just a half a semester and then I'll
22 be done, yes, sir.

23 Q. Do you have any plans once you graduate?

24 A. I'm definitely going to think about
25 pursuing golf, think about it. I mean, I'm going

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 to definitely work as soon as I graduate, try to
2 save money.

3 Q. That's certainly a perfectly acceptable
4 response. For some reason, anymore, these days,
5 they make college students declare their majors
6 when they're freshmen before you even know what
7 the curricula is.

8 A. Yes, sir.

9 Q. What about, are you dating anybody?

10 A. I am. I am dating someone.

11 Q. Is she a student at James Madison?

12 A. She actually goes to Newberry, where I
13 used to go.

14 Q. How long have you all been going
15 together?

16 A. Two years and two months now. So a
17 while. Yes, sir. She's a nice girl.

18 Q. Well, good.

19 A. She's going to grad school at Carolina.

20 Q. How is your relationship with your
21 family?

22 A. It's still mending. It was very poor in
23 high school, very poor. Mending for sure; very
24 poor.

25 Q. Let me tell you, we've gotten some of

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 the reports from people that you've talked to over
2 the years, and it appears that you and your father
3 have had difficulty getting along since you were
4 -- as young as 8 years old. Is that -- would you
5 agree with that?

6 A. I would say in my younger days it was
7 just -- you know, I was a kid. It wasn't anything
8 bad; he would punish me, this and that. But when
9 I got older, I got madder, and it escalated to bad
10 situations.

11 Q. Let me ask you some questions generally
12 about growing up. When you were in grammar
13 school, for instance -- and I call grammar school
14 first through, I guess, sixth grade --

15 A. Yes, sir.

16 Q. -- were you in anything like the Boy
17 Scouts, Cub Scouts?

18 A. At an early age it was -- I did like --
19 I was on the Jump Rope Club and all the running
20 clubs and stuff at school when I was in elementary
21 school. But it was a lot about sports, I think,
22 yes, sir.

23 Q. What sports did you like?

24 A. The best, growing up?

25 Q. Yeah.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 A. When I was younger, probably basketball
2 and baseball I liked the most.

3 Q. And did you play those annually?

4 A. Yeah. I played all year around, yes,
5 sir.

6 Q. And when -- what were the seasons for
7 those?

8 A. Basketball would have been anywhere from
9 like the end of November until the end of
10 February, beginning of March. And then baseball
11 would start, and I would play in the summer, along
12 with golf. I'd play baseball and golf at the same
13 time.

14 Q. Okay. Because when I was coming along,
15 football was fall --

16 A. Yeah.

17 Q. -- basketball was winter --

18 A. Yes.

19 Q. -- track and field was spring and
20 baseball was summer.

21 A. Yeah. Baseball would start in the
22 spring and go on through the summer. Because I
23 would play on the traveling teams. So I would
24 be -- travel baseball and play golf. So in the
25 summer, I would still have some baseball

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 tournaments and stuff.

2 Q. So when -- did you do that pretty much
3 every year?

4 A. I stopped playing baseball when I was
5 probably around 12, I want to say. And I stopped
6 basketball after my eighth grade year.

7 Q. And so your eighth grade -- you didn't
8 play high school basketball?

9 A. No.

10 Q. And your eighth grade season would have
11 been --

12 A. What time period?

13 Q. Yeah.

14 A. It would have been -- tryouts would have
15 been like the end of November. And the high
16 school tournament would have been in the
17 middle-ish of March. Our middle school
18 tournament, like where you have brackets, the
19 middle-ish of March.

20 Q. That would have been the -- kind of the
21 culmination of the season would be the March
22 tournament?

23 A. Yeah. The biggest part of the season?

24 Q. Right.

25 A. Yeah. It would have been March. It

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 don't matter if you're an eight seed or a one
2 seed, you still have a chance.

3 Q. When the basketball season ended
4 sometime in March of your eighth grade year --

5 A. Right into golf.

6 Q. Right into golf?

7 A. I actually would have started playing
8 golf the end of February and going to matches and
9 playing basketball at the same time. And then,
10 after March, right into golf.

11 Q. What was your handicap?

12 A. Back then?

13 Q. Yeah.

14 A. I was -- in eighth grade, I still was
15 scratch. From the tees I was playing from -- I
16 mean, I was so young. I started seventh grade
17 year, and high school -- but by eighth grade, I
18 probably averaged 74 from the tips as an eighth
19 grader. I was playing No. 1.

20 Q. You're just a natural at golf?

21 A. Yeah, definitely. I won region as an
22 eighth grader.

23 Q. Have you had many lessons?

24 A. Not many, actually. I took lessons from
25 Tommy Cuthbert until he passed away.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Q. He was a Charleston boy, I think.

2 A. Yeah. He was at Turtle Point. They
3 dedicated that center to him. I took lessens from
4 him, Jeff Ruth (ph), who was at Coosaw, and George
5 Bryan for a little bit. But I've taken maybe 20,
6 30 lessons in my life, if that.

7 Q. Do your parents play golf?

8 A. My dad does, yes, sir.

9 Q. Do you all play?

10 A. Yeah. Yes, sir. We like to have
11 matches. He's a pretty good golfer. I let him
12 play up the tee and I'll play back. He always
13 tries to beat me, but he hasn't beat me in a
14 really long time.

15 Q. Always be merciful to your parents.

16 A. That's right. Yes, sir.

17 Q. So I guess by the time you were
18 finishing eighth grade, you recognized that golf
19 was a real --

20 A. Yeah. I recognized that a five-seven,
21 125 -- that's what I was back then, five-seven,
22 125 pounds, I wasn't playing college basketball.
23 So I decided if I did want to play sports, that I
24 had the best chance to play golf.

25 Q. So that summer, after your eighth grade

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 year, you were playing a lot of golf?

2 A. Yes, sir.

3 Q. And that was the same time that you all
4 were in the process of moving to Georgia?

5 A.. I would have played summer golf here.
6 All my tournaments would have been in South
7 Carolina. I played like in the juniors, in the
8 Rice Planters and stuff like that.

9 Q. Did -- did you all still live --

10 A. Yes.

11 Q. Let me finish. You all still lived in
12 North Charleston and at Coosaw?

13 A. We were living in Coosaw still, yes,
14 sir.

15 Q. Did you all keep that house or did your
16 parents sell it?

17 A. It rented for a long time.

18 Q. Okay.

19 A. And they actually just sold it.

20 Q. Do you remember when it was over the
21 course of that summer that you -- that the moving
22 vans came and took your furniture and clothes and
23 stuff?

24 A. It would have been the beginning to
25 middle-ish of August.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Q. All right. So did you play baseball
2 your seventh grade summer?

3 A. No, sir. I would have been done after
4 sixth grade -- sixth grade was my last baseball
5 season, I believe.

6 Q. So the seventh grade, the summer of
7 2006, and eighth grade, the summer of 2007, you
8 purely focused on golf?

9 A. Yes, sir.

10 Q. Did you play basketball?

11 A. I played AU basketball.

12 Q. What is AU?

13 A. It's basically traveling basketball.
14 You get the best players in your county and you go
15 to tournaments and play.

16 Q. And you played AU basketball what years?

17 A. I would have played my sixth grade
18 summer and seventh grade summer.

19 Q. Of -- AU -- your basketball -- so the AU
20 basketball was in the summer?

21 A. Yes, sir, it was in the summer.

22 Q. What months in the summer?

23 A. It would have been all summer pretty
24 much. All summer. So I was playing golf and AU
25 basketball at the same time.

1 Q. Gotcha. I wanted to ask you, in looking
2 at your records, you had an occasion to go to the
3 hospital in Villa Rica in the summer of 2000; do
4 you remember that?

5 A. In Villa Rica I went to the hospital?

6 Q. Yes.

7 A. I had to get stitches on my eye. I was
8 playing basketball, like hit the pole or
9 something. It was stitches in Villa Rica.

10 Q. Was that an AU game or just --

11 A. No. That was just playing.

12 Q. Just a pickup game?

13 A. Would that -- you're talking about like
14 ninth grade summer, right?

15 Q. I'm trying to remember when.

16 A. That would have been my ninth grade
17 summer that you're talking about that I had to get
18 stitches.

19 Q. This is from a -- it looks like a Dr.
20 Ewens, and the date is July 10 of 2007. And it
21 says his address was 128 Templeton Lane, Villa
22 Rica, Georgia, and you had a sore on the inside of
23 your leg.

24 A. Oh, that would have been when -- all
25 right. I know what you're talking about. I would

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 have been visiting my father down there. I went
2 -- my father introduced me to some kids. That's
3 when I fell on a dirt bike, and I burnt my leg on
4 the muffler and I had to be taken, that's right.

5 Q. So had your father gone --

6 A. He had already been there, in Atlanta,
7 for -- for I believe almost a year it would have
8 been. He would have been commuting back on the
9 weekends, coming to see us. And then he got the
10 house, and he was living in there and I went and
11 visited. I was still playing golf, so I wasn't
12 going to move down there. So I went and visited
13 him, met kids in the neighborhood. And then they
14 were like, Oh, let's go ride dirt bikes. I had
15 ridden a couple of times, not like a million. And
16 basically I fell and just burned my leg on the
17 muffler.

18 Q. So when did your father move to Atlanta?

19 A. He would have taken that job -- I'm
20 trying -- it would have been before basketball
21 season my eighth grade year he would have taken
22 that job. So I would say between the time frame
23 of August and November he took that job in
24 Atlanta.

25 Q. Okay. August and November of your --

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 A. My eighth grade year. He took that job
2 and was living in Atlanta, commuting back and
3 forth.

4 Q. So that would have been in 2006?

5 A. He would have taken the job in '06, I
6 believe so, yes, sir.

7 Q. Take me back now, just with regards to
8 the -- your sports -- in the fall -- say in the
9 fall when you were in the fifth grade. Did you
10 play -- did you play sports when you were in the
11 lower grades?

12 A. I would have played like Old Fort
13 basketball, and I was already practicing with the
14 high school team because I was so good. So -- I
15 could have played on the team in the fifth grade.

16 Q. So you were practicing with the high
17 school team?

18 A. I would go out and play with them. I
19 wasn't allowed to play in matches because I wasn't
20 old enough. I had to be in seventh grade. But I
21 would just go play with them like when they were
22 practicing. If I wanted to play with them, the
23 coach would let me. Because they practiced at
24 Coosaw. So I was already out there hitting balls
25 already. He was like, Wow, you're pretty good.

1 If you want to play with them, you can go. So I
2 just played with them.

3 Q. Golf or basketball?

4 A. Golf.

5 Q. Tell me about basketball.

6 A. Basketball would have just been Old Fort
7 basketball my fifth grade year.

8 Q. What was -- was it an organized team
9 that you played on?

10 A. It would have just been a church league
11 in the fifth grade. Yeah, a church league.

12 Q. And what church was that?

13 A. Old Fort.

14 Q. So that was you all's family church?

15 A. Yes, sir.

16 Q. So what about sixth grade, seventh and
17 eighth grade?

18 A. Sixth grade was the first time they let
19 sixth graders play in the middle school league, so
20 I made the team, obviously. And then I would play
21 AU basketball that summer.

22 Q. And how did -- so the -- when you played
23 for Rollings Middle School, was that -- did they
24 have a middle school team that was both grades, or
25 was there a seventh grade and an eighth grade

1 team?

2 A. It would have been sixth, seventh and
3 eighth grade, all three years.

4 Q. So it was blended?

5 A. Yes, sir.

6 Q. And the schools had a league?

7 A. Yes, sir.

8 Q. And then the AU is --

9 A. It's through another organization. Just
10 a summer league, get -- you have tryouts, best
11 kids in the county come out and try out. You pick
12 the best players, and then you go to tournaments
13 and play.

14 Q. And did you play AU -- what years did
15 you play AU?

16 A. It would have been sixth grade summer
17 and seventh grade summer.

18 Q. Eighth grade summer?

19 A. No, sir, I did not.

20 Q. And the AU team was -- it would be -- I
21 hate to try to relate everything to what I can
22 remember, but what we had were the All Stars.

23 A. Yeah.

24 Q. And the All Stars would be -- you would
25 be from a region, and then the regions would play

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 each other.

2 A. That's pretty much correct, yes, sir.

3 Q. And you made the All Stars or the AU
4 your sixth grade, right?

5 A. Yes, sir.

6 Q. Seventh grade?

7 A. Yes, sir.

8 Q. And then eighth grade --

9 A. That was it.

10 Q. -- when basketball season ended in
11 March, that was it for you, you went to golf?

12 A. Haven't played basketball since.

13 Q. Since March of your eighth grade year?

14 A. Probably touched a basketball maybe
15 twice.

16 Q. Never played intramural in college or
17 anything?

18 A. No way.

19 Q. Have you ever been to The Citadel?

20 A. Yes, sir.

21 Q. You've been on the campus?

22 A. Numerous times, yes, sir.

23 Q. Tell me when those were.

24 A. Tons of times. I used to go to every
25 single High School Hoop Classic when they had

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 those high school teams come. I went to -- I've
2 been to baseball games -- tons of basketball
3 games. I've been to probably -- I would say five
4 to ten basketball games there.

5 Q. To watch The Citadel Bulldogs play?

6 A. Yes, sir. And the High School Hoop
7 Classic that I went to, when all the high school
8 teams would come down. And I've seen the Bulldogs
9 play five to ten times. I've seen the High School
10 Hoop Classic three to five times.

11 Q. Did you go as a spectator, or were you
12 involved in the High School Hoop Classic?

13 A. I went as a spectator, yes, sir.

14 Q. And that was when you were in Sumter?

15 A. No, no, no. I would have been here
16 going to those games. I was just young, going to
17 watch.

18 Q. I see. Were there any other times that
19 you were on The Citadel campus other than as a
20 spectator to watch some sporting event?

21 A. Actually, yeah. I want to say I helped
22 out with the Special Olympics my senior year. I
23 want to say it was at The Citadel. I'm trying to
24 think. I think it was. But I was in unified
25 sports, and basically what I did was just play

CAROLINA REPORTING .

843.832.0801 * www.carolina-reporting.com

1 with the --

2 Q. Just volunteered?

3 A. No. I actually played on a unified
4 team, which is when --

5 Q. A blended team?

6 A. Exactly, with the special kids.

7 Q. Right.

8 A. And, basically, they have to score 80
9 percent of your points, so you can't really score;
10 you just kind of bring the ball down the court and
11 pass and stuff like that. But I helped out with
12 that my senior year.

13 Q. Did you enjoy that?

14 A. Yeah. It was fun. I enjoyed it.

15 Q. So when you would go to The Citadel
16 basketball games, you all were living in North
17 Charleston?

18 A. Yes, sir.

19 Q. Who did you go with?

20 A. I went with Skip two times, and then the
21 other times I would have been with my dad.

22 Q. So when you would go -- when you say
23 Skip, you're talking about Skip ReVille?

24 A. Yes, sir.

25 Q. And he would take you to the basketball

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1401

1 games?

2 A. Yes, sir.

3 Q. Anybody else go with you and your father
4 or you and Skip?

5 A. It would just be me and my dad when we
6 went, and it was just me and Skip when we went.

7 Q. And what about the High School Hoops?

8 A. The High School Hoop Classic, I went --
9 that's one of the things I went to Skip with. And
10 then my dad used to take me and we used to go see
11 the best high school players that were going to
12 the college and stuff.

13 Q. And do you remember when that occurred?
14 Let me ask it this way, was it when you were still
15 playing basketball?

16 A. Yes. Yes, it was.

17 Q. Had you -- have you been to any -- have
18 you been on The Citadel campus since you stopped
19 playing basketball?

20 A. The Special Olympics time, and that
21 would have been it. I believe it was at The
22 Citadel campus. I'm almost positive.

23 Q. And that was something that you were a
24 senior in high school?

25 A. Yes, sir.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Q. So was it a group of children from
2 Sumter that came down?

3 A. Yes, sir. It would have been our
4 special ed class, and we had -- we would take them
5 down and help.

6 Q. It was kind of like a high school
7 community outreach?

8 A. Yes, sir. Exactly, yes, sir.

9 Q. And I think you probably have answered
10 these questions, but you never went to any of the
11 sports programs that The Citadel has on campus?

12 A. I did not, no, sir.

13 Q. And you never -- did you ever go to The
14 Citadel Summer Camp?

15 A. No, sir, I did not.

16 Q. Did you have any friends that ever went
17 to The Citadel Summer Camp?

18 A. Yes, sir, I did.

19 Q. Who were those?

20 A. My brother has went to The Citadel
21 wrestling camp.

22 Q. So your brother, {John Doe AW}, went to
23 The Citadel wrestling camp?

24 A. Yes, sir.

25 Q. Do you remember how old he was when that

1 happened?

2 A. He would have been in seventh grade at
3 Bates Middle School.

4 Q. And Bates is where?

5 A. Sumter, South Carolina. We would have
6 been in Sumter then.

7 Q. So when he was in seventh grade, that
8 means he would have been probably -- if it was
9 that summer, he would have been 13 years old.

10 A. Around there, yes, sir. I would have to
11 agree with that, yes, sir.

12 Q. And he was born in --

13 A. '96.

14 Q. 1996?

15 A. Yes.

16 Q. So that would have been sometime around
17 2009?

18 A. Yes, sir.

19 Q. And he came down to The Citadel
20 wrestling camp --

21 A. Uh-huh (indicating an affirmative
22 response).

23 Q. -- is that right?

24 A. Yes, sir.

25 Q. Any other -- anybody else you know of

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 that went to any of The Citadel sports programs?

2 A. A lot of my friends did. I couldn't
3 name them by name, but, I mean, when I played
4 basketball or other sports, they would come to the
5 baseball camps and the basketball camps. I can't
6 name them by name. But a lot of my friends did
7 go, yes, sir.

8 Q. And what about The Citadel Summer Camp?
9 Do you know if any of them ever --

10 A. For sports? Because the sports camps
11 would have been in the summer.

12 Q. Right.

13 A. Yes. Just sports-related, yeah.

14 Q. And there were -- The Citadel Summer
15 Camp was an overnight camp.

16 A. They would have come to the overnight
17 camp, yes, sir.

18 Q. And then there were Citadel sports
19 programs that were during the day?

20 A. They would have come to the summer
21 overnight one, yes, sir.

22 Q. Are these boys that you knew in Sumter
23 or were they boys from Charleston?

24 A. This would have been all Charleston.

25 Q. The Summerville area?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 A. Yes, sir.

2 Q. Do you know anybody affiliated with The
3 Citadel?

4 A. Do I?

5 Q. Yeah.

6 A. My best friend went to The Citadel for
7 two months and hated it and transferred to
8 Carolina.

9 Q. Who was that?

10 A. {John Doe MD}.

11 Q. When you all were freshmen?

12 A. Yeah.

13 Q. Is he your age?

14 A. Yeah. He's my best friend.

15 Q. So he would have started at The Citadel
16 in 2011?

17 A. Yes, sir.

18 Q. And in two weeks (sic) --

19 A. It was -- he didn't like it. He left
20 and went to Carolina.

21 Q. He was ready to let his hair grow out a
22 little bit?

23 A. Yeah. Now, he actually still shaves it;
24 that's the thing. He razors it too. He won the
25 state championship in wrestling my senior year in

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 the 142 class.

2 Q. Anybody else that you know that has any
3 affiliation with The Citadel?

4 A. I'm trying to think if any of my other
5 friends went to The Citadel. I mean, growing up,
6 I knew the {Family C} boy who went to The Citadel.
7 I'm trying to think of who else. I know kids that
8 go to The Citadel.

9 Q. Which {Family C} boy?

10 A. What's the older boy's name? It's {John
11 Doe TC} and -- what is the older boy's name?
12 {John Doe TC} is the younger one. The older boy
13 went to The Citadel, the older {Family C}.

14 Q. He went as a cadet?

15 A. Yes, sir.

16 Q. They lived in Summerville?

17 A. Yes, sir.

18 Q. What about any of the instructors or
19 coaches or any of the, -- have you ever met any of
20 them, that you know of?

21 A. No, sir. They didn't have a golf
22 program, so I wasn't recruited.

23 Q. But you don't know General Rosa or -- do
24 you?

25 A. No, sir.

CAROLINA REPORTING

843.832.0801 . * www.carolina-reporting.com

1 Q. You've never met him?

2 A. No, sir.

3 Q. You've never met, say, Pat Dennis, who
4 was the basketball coach --

5 A. No, sir.

6 Q. -- before whoever is there now? Anybody
7 in your family ever go to The Citadel?

8 A. No, sir. They did not, no, sir.

9 Q. So no family connection whatsoever to
10 the school?

11 A. No, sir.

12 Q. All right.

13 MR. STONEY: We've been at it a little
14 over an hour. Why don't we just take a
15 walk-around break.

16 (The deposition went off the record.)

17 BY MR. STONEY:

18 Q. Just a couple of things, I asked you --
19 you don't know General John Rosa?

20 A. No, sir.

21 Q. And do you know Mark Brandenburg, the
22 school lawyer?

23 A. No, sir.

24 Q. I want to ask you -- tell me a little
25 bit about -- about your -- your girlfriend right

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 now. You all have been dating for two and a half
2 years?

3 A. Uh-huh (indicating an affirmative
4 response).

5 Q. So you started dating -- did you meet
6 her at Newberry?

7 A. Yes, sir. She was my orientation
8 leader.

9 Q. She oriented you?

10 A. Yes.

11 Q. Have you still been following
12 instructions as to orientation from her?

13 A. I have to.

14 Q. You don't have to answer that.

15 A. I have to. They're always right.

16 Q. You're learning a valuable lesson at a
17 young age.

18 A. That's right. Yes, sir.

19 Q. What about high school? Did you have a
20 girlfriend in high school?

21 A. Yeah, a pretty serious girlfriend.

22 Q. Where is she now?

23 A. She actually is at Clemson.

24 Q. I won't ask you if you're still in
25 contact with her.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1409

1 A. Not much. Just birthdays, stuff like
2 that.

3 Q. Was she from Sumter?

4 A. She was.

5 Q. What about before that? Was she your
6 first girlfriend?

7 A. No. My first one would have been a girl
8 in eighth grade, {Jane Doe AL}, who is a
9 cheerleader at Clemson. Then --

10 Q. When did you all start going together?

11 A. It would have been -- I got her a
12 Valentine's Day gift, so it would have been around
13 Valentine's Day.

14 Q. Of?

15 A. Of my eighth grade year.

16 Q. Your eighth grade year?

17 A. Yeah. I forget. We probably broke up
18 -- I think we probably started dating in January
19 and broke up towards -- it was just after
20 basketball season, I want to say. She was my
21 first girlfriend.

22 Q. So that was kind of January through
23 April of your eighth grade year?

24 A. Yeah.

25 Q. Or end of March?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1410

1 A. Yeah.

2 Q. And then did you have -- was there one
3 after?

4 A. There would have been one at Villa Rica,
5 who is at Yale. Her name is {Jane Doe T}. We
6 dated pretty much my whole freshman year. Then I
7 moved from Atlanta to Sumter. And then I met
8 {Jane Doe C}, who is at Clemson. We -- I met her
9 through my best friend and his girlfriend -- one
10 of my best friends. {John Doe TH} and {John Doe
11 MD} and {John Doe BA} were all my best friends in
12 high school, along with {John Doe JM}, who pitches
13 for South Carolina, and Bruce Caldwell, who plays
14 for the MLB now. He's already moved up I think
15 two, three leagues. He's a pretty good player,
16 just wasn't very smart. And -- so those were my
17 best friends. I met {Jane Doe C} through {John
18 Doe TH} and {redacted} (ph), his girlfriend, at a
19 dance recital. I got her number through {John Doe
20 TH}, and then we started dating -- I think I
21 remember the date. May 28th we started dating.
22 That was the day. And we dated for close to two
23 years. So basically she was my only girlfriend in
24 high school.

25 Q. And your little brother's birthday is on

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1411

1 Valentine's, isn't it?

2 A. Yes. He's a Valentine's baby.

3 Q. And your first girlfriend, {Jané Doe AL}

4 --

5 A. My first one would have been {Jane Doe
6 AL}, yes, sir.

7 Q. So what did you give her for
8 Valentine's?

9 A. I got her a bear and a necklace from
10 like some little jewelry shop.

11 Q. Did she give you a present?

12 A. She did. She gave me a South Carolina
13 sweatshirt and a Titleist golf hat, I remember.

14 Q. Was she athletic? Did she --

15 A. She's a cheerleader at Clemson now, one
16 of their head cheerleaders.

17 Q. All right. So you -- so that was -- it
18 sounds like -- I've got you -- your girlfriend --
19 it sounds like you've always maintained a
20 relationship with a girl since you were in eighth
21 grade?

22 A. Pretty much.

23 MR. ROBERTS: Objection to the form of
24 the question.

25 Q. And from what you've told me, your first

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 girlfriend was when you were in eighth grade,
2 {Jane Doe AL)?

3 A. Yes. I've -- my -- I've had a
4 girlfriend -- I've only had one, two -- three. So
5 basically at almost every level of schooling,
6 basically, you could say.

7 Q. Okay. Eighth grade, {Jane Doe AL}; then
8 ninth grade --

9 A. No. It would have been -- my tenth
10 grade year would have been {Jane Doe C}. So it
11 was a big break. Big break. Then tenth to
12 beginning of twelfth grade year with {Jane Doe C},
13 big break, and then I would have started dating --

14 Q. Did you have a girlfriend when you were
15 in Georgia?

16 A. Oh, yeah. {Jane Doe T}. {Jane Doe T}.
17 But, see, me and {Jane Doe T} dated the
18 beginning -- {Jane Doe T} and me would have met
19 when I got to Villa Rica. Me and her would have
20 dated -- we weren't dating on Valentine's Day. So
21 we would have dated -- it was around my birthday
22 until Valentine's Day. And then me and {Jane Doe
23 C} didn't start dating until the next summer, May
24 28th. That's for sure. I remember.

25 Q. That's another good attribute, to always

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 remember significant dates; just going forward,
2 birthdays, anniversaries, Valentine's.

3 A. For sure. But I definitely -- with
4 girlfriends, I haven't been girlfriend and then
5 girlfriend. There's always been long breaks. Do
6 you know what I'm saying? Like that eighth grade
7 -- me and {Jane Doe AL} would have broken up in
8 April, and then there would have been the long
9 break to {Jane Doe T}; and then me and {Jane Doe
10 T} would have dated; and then a really long break
11 to {Jane Doe C}. And then me and {Jane Doe C}
12 broke up and a pretty long break on that one.
13 I've never been like girlfriend, girlfriend,
14 girlfriend. I like --

15 Q. You like your downtime?

16 A. I like meeting someone I like. I don't
17 like settling.

18 Q. Well, that's good. You also mentioned
19 that your brother wrestles?

20 A. Yes. Not anymore.

21 Q. What -- he's how old now?

22 A. He's 18 now.

23 Q. So he's a senior in high school?

24 A. No. My parents held him back his sixth
25 grade year. He's a junior this year.

1 Q. Does he play high school sports?

2 A. My brother is really intelligent. He's
3 already graduating with a welding certification
4 from his school, and he's getting his auto tech
5 certification. He wants to do underwater welding
6 for the Navy or something in that nature. He
7 wants to just go to like a one- or two-year school
8 and get his whatever degree in welding and go on.

9 Q. Does he do any athletics?

10 A. He did track until this year, was a
11 pretty good pole vaulter, but decided he wasn't
12 going to do it in college and would rather fish
13 and hunt. And he works as well.

14 Q. Is he about your size?

15 A. We're actually about the exact same
16 size, height, weight and everything. I think I'm
17 like half an inch taller than him and maybe 5
18 pounds heavier. We wear the same clothes, if
19 that's what you're getting at.

20 Q. I was just getting the proportion. But
21 I think you said he wrestled at one time?

22 A. He would have wrestled when we were in
23 Sumter. See, in Florence, my dad tried to get a
24 wrestling program, but they didn't want one. So
25 he can't wrestle in Florence. So when we moved to

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Florence, which would have been his ninth grade
2 year -- so he would have wrestled from sixth to
3 eighth grade -- that's when he would have
4 wrestled -- in Sumter, South Carolina, for the
5 middle school program.

6 Q. Did he do that?

7 A. Yeah.

8 Q. Was he pretty good?

9 A. He was very good.

10 Q. Tell me what the weight class --

11 A. He would have been -- it's base -- it's
12 different for -- it's different in tournaments,
13 but the most common would be like 103, 112, 121,
14 135, I think, 142, and it just keeps going up in
15 increments. He would have been 112 sixth through
16 eighth grade.

17 Q. So it's within a 9- or 10-pound range?

18 A. Exactly, yes, sir.

19 Q. So it's weight, not height?

20 A. Yes, sir. It's weight.

21 Q. So if he was born in 2000, his eighth
22 grade year would have been 2000- -- probably 2013?

23 A. Well -- could you repeat the question?

24 I'm sorry.

25 Q. 2000- -- no. I was asking when -- what

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 year would have been his eighth grade year. I was
2 trying to --

3 A. His eighth grade year would have been my
4 senior year of high school.

5 Q. And you all were still in Sumter?

6 A. Yes, sir. That's what it would have
7 been. So he would have started high school in
8 2011, 2012.

9 Q. So you all have a four-year --

10 A. Exactly.

11 Q. -- age difference?

12 A. Yes, sir.

13 Q. We had begun to talk a little bit about
14 your family dynamics. Tell me about -- tell me
15 about your relationship with your sister.

16 A. My sister? I probably talk to her the
17 most on the phone.

18 Q. She's --

19 A. She's 13.

20 Q. She was born in --

21 A. She's 13.

22 Q. She was born in 2000. Okay. You were
23 born in --

24 A. '92.

25 Q. All right. And your brother in '96. I

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 was mixing their ages up. So you are coming up on
2 22?

3 A. Yes, sir.

4 Q. Your brother just turned 18?

5 A. Yes, sir.

6 Q. And your sister --

7 A. Is turning 14.

8 Q. Turning 14?

9 A. Yes, sir.

10 Q. So how -- so you all have an eight-year
11 age difference, roughly?

12 A. Uh-huh (indicating an affirmative
13 response).

14 Q. How -- and you all get along fine?

15 A. She kind of, I guess, looks up to me, I
16 guess. Yeah. She always like makes me bracelets
17 to wear on the golf course and --

18 Q. She's a fan?

19 A. Yeah. She likes playing video games
20 with me and stuff like that. So -- I guess she
21 kind of looks up to me.

22 Q. How about your brother, {John Doe AW},
23 how do you all get along?

24 A. We're best friends.

25 Q. Have you always been pretty tight with

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 him?

2 A. I would say when we started moving, like
3 to Villa Rica -- I mean, when we were real young,
4 we fought a little bit. But ever since basically
5 Villa Rica, we've been like best friends, do
6 everything together and stuff like that.

7 Q. And what about your mother; how do you
8 get along with her?

9 A. I love my mom. Yeah. We -- I guess,
10 emotionally, like me and her connect really well.
11 We both kind of have the same feelings towards
12 things, I feel like. I admire her. She's a good
13 lady.

14 Q. Does she work outside the home?

15 A. Yes. She's a teacher. Yes, sir. She
16 is a teacher.

17 Q. Has she done that pretty much all your
18 life?

19 A. Yes, sir.

20 Q. Where has she taught?

21 A. Where has she taught?

22 Q. Yeah.

23 A. Oh, man. I know until I was born -- I
24 don't know anything before I was born.

25 Q. I don't remember much before I was born

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 either.

2 A. I don't know nothing before I was born.
3 But she was at Oakbrook when I was at Oakbrook.

4 Q. And that's an elementary school?

5 A. Yes, sir. She taught special ed at
6 Oakbrook, and she taught, I want to say, second
7 grade -- I want to say second grade after that.
8 She has her master's in special education.

9 Q. What sort of special ed?

10 A. I don't know for a hundred percent fact.
11 She taught at Oakbrook. Then she taught at -- I
12 forget the school she taught at in Villa Rica.

13 Q. While you were living in Sumter, she --

14 A. She was teaching.

15 Q. Was she at Oakbrook that entire time?

16 A. Except for when {Jane Doe NW} was born.
17 She took a year off when my sister was being born.
18 But other than that, she was teaching.

19 Q. And was always at Oakbrook?

20 A. Yes, sir. Was always at Oakbrook.

21 Q. And when you all moved to Georgia, she
22 transferred and taught there?

23 A. Yes. I forget that school. She was
24 only there for a year or so.

25 Q. How about when you moved to Sumter?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1420

1 A. She was teaching.

2 Q. So she was teaching at Oakbrook when you
3 were a student there?

4 A. Yes, sir.

5 Q. Did you ever have her as a teacher?

6 A. No, I didn't. I'd go and sit in her
7 class and say hey after school and stuff.

8 Q. Is she still teaching now?

9 A. Yes, she is. She's actually reading
10 recovery at her school right now.

11 Q. And your dad, he's been with Adams
12 Outdoor Advertising --

13 A. My dad actually was with Adams when we
14 first moved to Charleston. Then he took over The
15 Journal Scene and ran the paper in Summerville.
16 He was like -- I forget what exactly he did, but
17 he was like one of the head guys for The Journal
18 Scene. Then, after that, he went to running three
19 newspapers in -- around the Douglasville area in
20 Georgia. Then in Sumter, he took the Miller
21 Communications job with radio, and now he's back
22 with billboards. So he's kind of done everything
23 in the advertising world, basically.

24 Q. Where did he grow up? Remind me.

25 A. He would have graduated from high school

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 in Georgia, in -- not Flowery Branch --
2 Gainesville, Georgia, is where he would have
3 played his high school basketball.

4 Q. And your mother grew up --

5 A. In York. Florida for a while, and then
6 she graduated from York, South Carolina.

7 Q. And they met at Winthrop?

8 A. She was a cheerleader and he was a
9 basketball player.

10 Q. Now you're dating a cheerleader?

11 A. I'm not dating a cheerleader.

12 Q. You were?

13 A. I was dating a Clemson cheerleader.

14 Q. Growing up, as a little boy, your mother
15 or your father, which parent were you more
16 connected to?

17 A. It's kind of different for me. Because,
18 emotionally, I think me and my mom get along
19 better. But I think I'm actually -- me and my
20 father, through sports, I'd say we did more things
21 together.

22 Q. Like what?

23 A. Like go to sports games, talk about
24 sports, talk about, you know, great players. And,
25 you know, he would like mentor me, like -- so I

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 would say -- I'd say I was probably more -- closer
2 to my dad.

3 Q. Well, when -- in the reports that we've
4 got, it looks like your family went through some
5 counseling.

6 A. Yes.

7 Q. And let me tell you that, in my
8 experience and in my opinion, that's more the rule
9 than the exception, it can be. I mean, everybody
10 -- everybody that gets to be in their 20's goes
11 through adolescence, and adolescence can be -- is
12 a recognized challenging year to go through. And
13 families do that too; you know, relationships,
14 husbands and wives, mothers and fathers. I mean,
15 so -- I want to ask you a little bit about how
16 that counseling went. And I want to ask you to
17 start, if you would, to the best that you can
18 remember, from when you were 8 or 9 years old.
19 And the reason is because the reports that we've
20 been given state that you and your father began
21 having difficulties when you were that age.

22 A. Yes. I would say like the difficulties
23 weren't as bad as I said they were. Do you get
24 what I'm saying? I would be -- excuse my
25 language, but a smart ass and deserved to be

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1423

1 punished. And not until -- now I understand that.
2 Do you get what I'm saying? Some of the stuff I
3 did at that age was out of line, period. But the
4 altercations, I mean, definitely started when I
5 was, you know, 8 or 9, like you said, but didn't
6 really start escalating until my high school
7 years, to be honest.

8 Q. And just walk me through that.

9 A. 8 and 9, I started playing golf. Let's
10 do that for instance. I would throw a club on the
11 golf course or say a bad word or act like a
12 complete idiot, and my dad would explain to me,
13 You can't do that, and I would argue with him and
14 say, I'm right, you're wrong, this and that, get
15 an attitude with him; and he would pop me across
16 the face one time, Don't do that; don't do that.
17 Pop me across the head or something like that.

18 Q. So you -- you would react to his
19 discipline?

20 A. Yes.

21 Q. In a defiant sort of way?

22 A. I wouldn't say defiant. I would just
23 say I was a little bit of a smart butt.

24 Q. What he may have interpreted as being --
25 he could have taken it as being disrespectful?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 A. Yes.

2 Q. So you'd butt heads?

3 A. Yes.

4 Q. Take me on.

5 A. Eighth and ninth grade, like I said,
6 started probably getting -- just being defiant,
7 like you said. Then it just kind of stayed the
8 same with that, with me being defiant and him
9 punishing me, through sports, basically, the way I
10 would act through sports.

11 Q. This was what age?

12 A. Eighth through -- I would say it kept
13 like that until I was eleventh. Basically just
14 through sports, like, you know, I would cop an
15 attitude with him or tell him he didn't know what
16 he was talking about, this and that, and be
17 defiant, and we would get in an argument.

18 Q. He was a varsity basketball player,
19 right?

20 A. Right.

21 Q. Isn't that correct?

22 A. Yes.

23 Q. And you had a natural talent toward
24 basketball?

25 A. Basically, yeah.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1425

1 Q. Would he -- in your opinion, was he
2 criticizing you or coaching you or --

3 A. He was coaching me, yeah. He wanted me
4 to choose, though. He didn't care if I chose
5 basketball or golf, because he was good at golf by
6 then. He introduced me to golf. He was still
7 good back then.

8 So, basically, eighth through eleventh
9 grade basically -- what I'm saying is most of our
10 altercations were me being defiant through sports.
11 If I did something wrong, he would confront me and
12 I would say he was wrong, this and that. Nothing
13 more than that. After I was 11 and everything
14 started happening, I started -- I almost blamed
15 him for it, I guess, and that's when our
16 altercations started with everything. It didn't
17 matter what it was. Do you get what I'm saying?
18 I didn't like him because I blamed him for all the
19 stuff I was going through. Like I almost wanted
20 to be like, How can you not see this? Do you get
21 what I'm saying? I didn't like him. I hated him.
22 I hated everyone. I hated everyone.

23 Q. And that started when?

24 A. That would have been when Skip started
25 -- when the occurrences with Skip started

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 happening, that's when our relationship started
2 really escalating to the really, really bad
3 things. Like me and him, like -- when I'm in high
4 school, were fist-fighting. You know, and I move
5 out of my house because I can't even get along
6 with him. I hate him. I almost psychologically
7 just -- I didn't like anyone. That's basically
8 what it was.

9 Q. All right. How is that now?

10 A. Me and me dad?

11 Q. Yeah.

12 A. Definitely mending a lot. It's
13 definitely better than it was. We can have civil
14 conversations and go play golf now and have fun.
15 I mean, it's better, but we still have fights
16 sometimes.

17 Q. What do you -- when you fight, what do
18 you fight about? And when I say "fight," let's
19 quantify that. Because I assume that you mean you
20 have arguments as opposed to physical --

21 A. Yeah. There hasn't been any physical
22 since -- since high school.

23 Q. Okay.

24 A. Nothing physical since high school.

25 Q. So what do you argue about?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 A. Like if I'm -- like he asks me what I
2 want to do in a situation, I'm like, well, I don't
3 want to do this. And he says, Why don't you want
4 to do that? I get annoyed with him, like, Why you
5 are asking me this question? I don't know.

6 Things like that. Or if I call him
7 about golf and I ask him a question, he's like,
8 You should be doing this. And I'm like, No, I
9 don't think you're right; I should be doing
10 something else. So just little arguments.

11 Q. Do you ever talk to any of your friends
12 about that sort of interaction with you and your
13 father?

14 A. Me and my dad?

15 Q. Yes.

16 A. Well, I moved out of my house in high
17 school.

18 Q. No. But I mean now.

19 A. No.

20 Q. What I'm asking you is, do you -- are
21 you aware of a baseline or a normal range that a
22 father and a son or a parent and a child, at the
23 age and stage where you are now, may have with
24 regards to those sorts of discussions or arguments
25 that appear disagreeable?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 A. I mean, I wouldn't say it's normal,
2 because I see how my friends are with their dads.
3 And it is different in like -- like my friends
4 will hear me talking to my dad and they're like,
5 What are you all talking about? I never argue
6 with my dad like that, or something like that. So
7 I definitely think -- me and my dad are still
8 mending, no doubt; we still have arguments that I
9 don't think normal dads and sons will have. I
10 don't, no, sir.

11 Q. You mentioned -- you said that the
12 incidents with Skip ReVille have had an influence
13 on your relationship with your father.

14 A. Yes.

15 Q. I'd like you to walk me through your
16 interaction with ReVille.

17 A. Okay.

18 Q. And to the best that you can recall,
19 when you met him and what you -- you know, what
20 happened. Okay? Do you feel comfortable talking
21 to me about it?

22 A. Oh, yeah. Absolutely, yes, sir. I
23 don't like talking about it. I'm not going to lie
24 to you. But I'll talk to you about it.

25 Q. Well, I wouldn't expect it to be a

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 subject of choice.

2 A. Yeah.

3 Q. As we said, just again, so that you feel
4 comfortable, although we are making a record in
5 this case, at this point, everything is protected.

6 A. Yes, sir.

7 Q. So I want you to feel comfortable in
8 that sense.

9 A. Yes, sir. I would have met Skip ReVille
10 between my sixth and seventh grades summer.

11 Q. And if I stop you to ask you a question,
12 that will help me, as opposed to my writing down a
13 question and coming back later and having to go
14 through it again. So --

15 A. Yes, sir.

16 Q. So you met him between your --

17 A. Sixth grade and seventh grades summer.

18 Q. So that would have been when you were 12
19 years old?

20 A. Yes, sir.

21 Q. Just before your 13th birthday?

22 A. Yes, sir.

23 Q. And that would have been in, what, 2005?

24 A. Let's see. I would have started high
25 school in '08, we said, right? '08, '09; '09,

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 '10? No. I would have started high school in
2 '07, '08. So it would have been '05, I guess.
3 You're right, yeah.

4 Q. So you started high school in '07; you
5 started eighth grade in '06; seventh grade in '05?

6 A. So it would have been in '05. Because
7 it was that summer.

8 Q. So it was after -- you finished sixth
9 grade in the spring of '05 and began seventh grade
10 in the fall of '05?

11 A. Yes, sir.

12 Q. And that's when you met ReVille?

13 A. Yes, sir.

14 Q. How did you come to meet him?

15 A. He started helping out with the AU team
16 and helping -- because it was in Pinewood's gym.
17 We practiced in Pinewood's gym. Basically, we
18 met. He -- I guess I was playing up for my age; I
19 was playing with the seventh grade team or eighth
20 grade team, because I was pretty talented. And I
21 guess he took a liking in me, I guess. And
22 basically just started coaching, like -- he was
23 really nice to me, like I had fun. He'd talk to
24 me; it was really nice. And then --

25 Q. Do you know if he -- did he know either

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1431

1 one of your parents at that point?

2 A. He had met my mom and dad, yeah.

3 Q. How had he met them?

4 A. Through practice, like them picking me
5 up, Hi, I'm Skip ReVille. He would like
6 compliment me and say, Your kid is great, great
7 kid, this and that. And so he had met them, yes,
8 sir.

9 Q. So to your knowledge, they didn't know
10 each other before you met him through him coaching
11 the AU basketball?

12 A. They would have met the first day of
13 practice.

14 Q. But they didn't know him before that?

15 A. No, sir.

16 Q. So you and your mom and your dad met
17 ReVille --

18 A. Yes.

19 Q. -- at the same time?

20 A. Yes, sir.

21 Q. And do you know where he -- what he was
22 doing at that point?

23 A. He was teaching at Pinewood, yes, sir.

24 Q. So this was after the school had let out
25 for the summer of 2005?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 A. Yes, sir.

2 Q. He was still at Pinewood?

3 A. Yes, sir.

4 Q. Did you know anybody at Pinewood?

5 A. I knew a couple -- just the kids that
6 played on the AU team.

7 Q. All right. So you had finished your
8 sixth grade year, but were good enough to qualify
9 to play up?

10 A. Yes.

11 Q. And he was a coach and recognized you as
12 a talented player; is that fair?

13 A. Yes, sir.

14 Q. So tell me -- tell me about that summer.
15 Just walk me through --

16 A. Basically, like that summer, we were
17 just like getting to know each other, like
18 basically the grooming process is what I would say
19 would, like, go on. Like we would get to know
20 each other. And then I started like going to his
21 house at Pine Forest and helping him out with yard
22 work, this and that.

23 Q. Were there any other members of the team
24 that would --

25 A. Go with me?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Q. Yes.

2 A. There would be kids in the neighborhood
3 that would help -- like come help. Like one kid
4 did play on the team, yeah, {John Doe KM}.

5 Q. Were there any other -- were there any
6 other young boys, players or otherwise, that
7 ReVille appeared to take a special interest in?

8 A. Just me on that team, I would say.

9 Q. And he lived in Pine Forest?

10 A. That would have been when he was living
11 in Pine Forest, yes, sir.

12 Q. Where is that located?

13 A. It's in Summerville, South Carolina.

14 Q. Where in Summerville?

15 A. It's right down the road from Pinewood.
16 It's not very far at all.

17 Q. What sort of house did he live in?

18 A. It was a pretty decent house. It was
19 one story but had the stairs that went up to like
20 a loft over the garage. And that's it.

21 Q. Did he have anyone that lived with him
22 there?

23 A. No. Before I moved in, he had a foster
24 kid, I know that. But I never met him or
25 anything.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Q. So this was in 2005.

2 A. Uh-huh (indicating an affirmative
3 response).

4 Q. So tell me, then, what took place. And
5 let me ask you, tell me what a normal day would be
6 like when you were in the summer of --

7 A. Sixth and seventh grade?

8 Q. Sixth and seventh.

9 A. I mean, basically, I'd go over, and he
10 would cook my favorite foods and I'd help him out
11 with yard work. He was building an oyster pit, so
12 that's what we did that summer, and got weeds up
13 and did stuff like that. And, like, then towards
14 the end of the summer, like, he started, like,
15 having inappropriate conversations with me, just
16 talking about, Hey, have you ever -- what have you
17 done with a girl, this and that?

18 Q. And I want to hear all about that, but I
19 want to go back. Because what my question was --
20 and this is more of a general question.

21 A. Yeah.

22 Q. But when you were between sixth and
23 seventh grade year, give me a typical day. In
24 other words, is your mother -- your mother is not
25 working. What time would you get up? Would you

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1435

1 -- what would you do in the morning? If you had
2 basketball that day, how all of that worked? Just
3 what your general schedule was.

4 A. Okay. Basically, that summer, I would
5 wake up; I would play golf. My mom would drive me
6 to basketball practice; I'd practice. She'd pick
7 me up; I'd go home and play video games and go to
8 bed. Most days.

9 Q. Did you all -- you all lived in
10 Coosaw --

11 A. Yes.

12 Q. -- Country Club?

13 A. Yes.

14 Q. So you lived on the golf course?

15 A. Yes. I lived on the first hole.

16 Q. So you didn't have to go far?

17 A. No. I used to walk to the golf course
18 basically every morning.

19 Q. So your mother -- was basketball
20 practice -- how long did the AU league last?

21 A. All summer.

22 Q. I mean, from the time you got out of
23 school until you went back pretty much?

24 A. Like, I would say, middle of June until
25 beginning of August.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1436

1 Q. Okay. All right. So your mother would
2 take you to basketball, and you'd practice and --
3 it was at Pinewood?

4 A. Yes. It would have been at Pinewood.

5 Q. So tell me again, in a normal day, you
6 would see ReVille because he was the coach?

7 A. Yes. Until I started -- like at the end
8 of the summer, he would, like, come pick me up and
9 then I would go over and help him with his yard
10 work.

11 Q. All right. How many boys were on the
12 team?

13 A. I'd say 14.

14 Q. And did you all have games or
15 tournaments throughout --

16 A. We would travel to tournaments, yes,
17 sir.

18 Q. And when you would travel, was it an
19 overnight travel?

20 A. Overnight, yes, sir.

21 Q. Who would go as your supervisors?

22 A. The parents would mostly go, but
23 sometimes my parents would -- my mom would stay
24 home with the kids and my dad was working, so Skip
25 would take me.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1437

1 Q. And when you all did that, where would
2 you spend the night?

3 A. In a hotel room.

4 Q. And would you have a room with other
5 boys?

6 A. Yes.

7 Q. So if one of your parents couldn't go
8 with you, ReVille said, I'll take care of {John
9 Doe #2}?

10 A. Yes, sir.

11 Q. Were there any other boys that -- you
12 know, who he said, you know, I'll take care of
13 Tommy or -- that you know of?

14 A. Me.

15 Q. Pardon me?

16 A. Me.

17 Q. So you were the only boy on the team who
18 didn't have at least one parent that would go?

19 A. No. My parents did go to some.

20 Q. No. I'm saying but on those
21 occasions --

22 A. Yes. Most parents would go.

23 Q. So my question was, were there other
24 boys on the team that would go out of town that
25 may have a parent but may not have a parent with

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 them?

2 A. Yes.

3 Q. And were those boys like you, when your
4 parents couldn't go, were they entrusted to Skip
5 ReVille's --

6 A. No.

7 Q. Who looked out for them?

8 A. They would ride with other parents or
9 something.

10 Q. Did you ever ride with other parents?

11 A. No. I would ride with Skip.

12 Q. I mean, could you have ridden with other
13 parents if -- could you have -- let me ask this:
14 Was there ever an occasion when your parents or
15 one of your parents went that you all took another
16 team member with you?

17 A. That my parents took them?

18 Q. Yeah. Does my question make sense?

19 A. I believe so, yeah. I think so. I
20 think we did, yes, sir.

21 Q. So it wasn't unusual if --

22 A. For kids to ride with other kids, this
23 and that, yeah, yeah.

24 Q. And if one child -- one team member's
25 parents couldn't go, another team member's parents

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 would take him?

2 A. Exactly.

3 Q. All right. So you were telling me that
4 toward the end of the summer you began going over
5 to ReVille's house and helping him with things?

6 A. Yeah.

7 Q. Tell me -- tell me about that.

8 A. Just the oyster pit, painting some
9 rooms, getting the weeds up. Putting mulch down
10 or pine straw, things like that.

11 Q. Did he pay you?

12 A. He would like cook me good food that I
13 liked and stuff like that.

14 Q. Was this after basketball or --

15 A. He would like pick me up or meet my mom
16 halfway and then said, I'll just take him for the
17 day and you can just come pick him up after
18 basketball practice.

19 Q. When was basketball practice? During
20 the day?

21 A. It would have been at night, yes, sir.

22 Q. So tell me, then, when you say at night,
23 what would have been the hours?

24 A. Probably between five to seven; I want t
25 say that was the exact time.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1440

1 Q. So how long did that program last?

2 A. All summer.

3 Q. Did it stop before you began school?

4 A. Like just before, yes, sir.

5 Q. And were the practices always in the
6 late evening?

7 A. Yes, sir.

8 Q. So when would you go to ReVille's house?

9 A. He would meet my mom halfway in the
10 morning and say, Hey, I'll come over and give him
11 stuff to do today. I need help anyway. He said
12 it built character or something. And he would
13 pick me up halfway or come to my house, pick me
14 up, and then just bring me to his house, do yard
15 work, like he'd cook me meals, like I said, for
16 payment, I guess. And then I'd go to basketball
17 practice with him, and then my mom or my dad would
18 pick me up from basketball practice.

19 Q. So you would spend the day with him?

20 A. Yes.

21 Q. And on the days that you didn't do that,
22 what would you do?

23 A. Play golf. Play golf before basketball.

24 Q. So you were telling me about how he --
25 you would help him and -- your parents -- did your

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1441

1 parents know him fairly well at that point?

2 A. I would say, yeah, pretty well, yeah.

3 Q. Did they exhibit any hesitation in
4 letting you go with him?

5 A. No.

6 Q. What about other parents; did --

7 A. No one knew. He's an upstanding guy
8 from The Citadel. Who would have thought?

9 Q. And he appeared to be --

10 A. No one caught him for years. Yeah, no,
11 no one knew.

12 Q. All right. So you would go over to his
13 house and you did -- it sounds like you worked in
14 the yard?

15 A. Yeah.

16 Q. Tell me how he began to change the
17 paradigm.

18 A. Yeah. We would be doing yard work, and
19 he would be talking to me about what I'd done with
20 girls, this and that. Then we'd start, like,
21 talking about porn and if I've ever watched it and
22 this and that. And he said that if I wanted to
23 watch it, he would let me go up in the loft in his
24 house and I could just watch it and whatever. I
25 mean, that's when I -- like up in that loft,

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 that's where I learned how to masturbate, I guess
2 you would say. I never masturbated before I went
3 to that loft.

4 Q. And let me ask this question: When you
5 were at that stage in your life, what -- to what
6 degree were you knowledgeable -- or educated is
7 probably a stronger word, but -- were you aware,
8 is a better word, of the relationship of a man and
9 woman and general things of a sexual nature?

10 A. I mean, I never had "the talk" with my
11 parents. I never asked; they didn't talk. But I
12 --

13 Q. Where did you learn about the birds and
14 the bees?

15 A. I think -- it would have been my sex ed
16 class at Rollings Middle School. It would have
17 either been -- maybe seventh grade year, I want to
18 say.

19 Q. Okay. So it was after this?

20 A. The class could have been sixth or
21 seventh grade. I don't know. I think at that
22 time when stuff started happening -- I think I
23 knew a boy was supposed to be with a girl, if
24 that's what you're asking, obviously.

25 Q. Yeah. But also just the -- kind of the

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 general awareness --

2 A. Of sex?

3 Q. -- of reproduction and --

4 A. I mean, I would say -- I would say I
5 probably knew, yeah.

6 Q. So he began talking to you about what
7 you had done with a girl, about relationships with
8 females?

9 A. Yeah.

10 Q. And then asked you about watching
11 pornography?

12 A. Yes.

13 Q. And tell me, then, how it continued to
14 progress.

15 A. He would take me up to the loft, turn
16 the porn on and leave. And, like, I would just
17 stay up there and masturbate and watch it or
18 whatever. And then whenever I was done, I would
19 just come down.

20 Q. What sort of porn would he turn on for
21 you?

22 A. Whatever kind of videos he had. He had
23 some DVD's. But --

24 Q. Was it heterosexual?

25 A. It was boy/girl, yes, sir. Yes, sir.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1444

1 Q. So tell me, then --

2 A. How did it progress?

3 Q. Yes.

4 A. Basically, towards the end of the
5 summer, I'd go up to the loft, this and that, and
6 then it just started, like, progressing, like one
7 time he would come up there and, like, look at me,
8 and then he started, I mean, touching me and --
9 like the end of the summer, towards seventh grade
10 year, and started just, like, masturbating me,
11 like, this and that. And so basically -- I mean,
12 the best way I can say it is the occurrences
13 started happening in the summer, like with him
14 showing me pornography, him taking me to the loft;
15 towards the end of the summer on, he would start
16 masturbating me or telling me to think about one
17 of those girls, and he'd masturbate me or jack me
18 off or whatever. And then -- do you want me to
19 keep going? I can explain it real --

20 Q. Yeah. I'll stop you if I have a
21 question.

22 A. Okay. Yes, sir. Basically, seventh
23 grade year, it kept going into that, progressing,
24 progressing; he started jacking me off, this and
25 that. He started making me touch him. And then

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1445

1 seventh grade, it was basically the same as sixth
2 grade, just him masturbating me, me starting to
3 touch him, lots of occurrences still. Seventh
4 grade summer to eighth grade summer I played AU
5 again, and it started not escalating yet, but it
6 was still touching; I was touching him.

7 And then, basically, he would have
8 started giving me head, whatever. And when he
9 moved into my house, he was there all -- I mean --
10 he was there. So it started progressing more.

11 Q. And let me tell you that we can use
12 terms of street vernacular, you know. That's
13 okay. You tell me -- you use the term that you
14 understand.

15 A. Okay.

16 Q. For instance, we don't have to say, He
17 performed fellatio on me. You can say, He gave me
18 head. Okay?

19 A. Yeah. Basically still grooming, getting
20 progressively worse, seventh and eighth grade
21 summer. He moves in with me that fall of the
22 eighth grade year. My dad had taken a job in
23 Atlanta, like I told you, and was living there,
24 commuting back on the weekends. Well, my mom was
25 a teacher with three kids and, you know, Skip is

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1446

1 an upstanding guy, everyone loved him, everybody
2 thought he was great, from The Citadel, this guy
3 is great. My mom needed help; my mom was one
4 parent to three kids. I mean, that's impossible
5 when you're working, you know. She needed help.

6 So she talked to Skip; my parents talked
7 to Skip, said -- because we had a bachelor -- a
8 bachelor suite that connected to our house.

9 Q. Did you ever have anybody --

10 A. My grandmother lived there. My
11 grandmother remarried and moved to another house,
12 so it was open; there was nobody living in there.

13 Q. I want to step off of this subject, but
14 I want to come right back to it. I want to ask
15 you just from a geographical standpoint now, the
16 loft at Skip ReVille's house that you've talked
17 about was over the garage?

18 A. Yeah. It -- yeah, it would have been
19 over the garage.

20 Q. Now, I want to -- just for my own
21 understanding, there is a description called --
22 they call it a FROG, which is a finished room over
23 the garage.

24 A. Yeah.

25 Q. And it's accessed out of the main house.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 In some houses that -- it may even be called a
2 mother-in-law suite because it may have a separate
3 bathroom and a living room and a bedroom, no
4 kitchen. The loft or the room over the garage in
5 Skip's house, was it just a one-room --

6 A. One room.

7 Q. Okay. Now, the quarters in your house
8 in Coosaw where your grandmother had lived, was it
9 over the garage or was it a separate standing --

10 A. Basically, with my house you had -- here
11 is the garage. Okay? You walk into the house.

12 Q. Right.

13 A. The laundry room is right here. The
14 house would have been connected to the laundry
15 room. So it was technically close to connected to
16 the garage. It was connected to the house, we'll
17 say.

18 Q. Could you get into that without going --

19 A. Outside?

20 Q. -- to the open?

21 A. No. It was in the house. I could have
22 gotten from my room to his house walking in the
23 house.

24 Q. And what about the entryway to that; was
25 there a separate --

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 A. Yeah. There was a separate exit, yes.

2 Q. So it had a separate front door, for
3 lack of a better description?

4 A. Yeah.

5 Q. Or a separate entrance?

6 A. Yeah.

7 Q. So that when your grandmother was there,
8 she could come and go without you knowing it?

9 A. Exactly.

10 Q. And you all could come and go without
11 her knowing it?

12 A. Yes, sir.

13 Q. So do you remember the -- let me ask it
14 this way: Where had ReVille lived before he moved
15 to your house in the fall of --

16 A. He was in the Pine Forest house.

17 Q. Okay. So did he -- did he rent the Pine
18 Forest house; do you know?

19 A. I don't know that for sure. I know he
20 was living there, though.

21 Q. So this is the fall of 2006 you're
22 beginning your eighth grade year and your father
23 is working in Atlanta?

24 A. Yes.

25 Q. And your parents make an agreement with

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Skip ReVille --

2 A. Yes.

3 Q. -- to move into --

4 A. Yes.

5 Q. -- quarters at your residence?

6 A. Yes, sir.

7 Q. Did he move furniture and clothes and --

8 A. Yeah. It was big enough where he could
9 move everything pretty much.

10 Q. So he did not keep the Pine Forest
11 house?

12 A. No.

13 THE WITNESS: Can I use the restroom
14 real quick?

15 MR. STONEY: Certainly. We've been
16 going another hour. Let's take -- we'll take
17 a break. And don't use it quick; take your
18 time.

19 (The deposition went off the record.)

20 BY MR. STONEY:

21 Q. I think we were talking about the fall
22 of 2006, which would have been your eighth grade
23 year, and Skip ReVille had moved to your family
24 house. I wanted to go back -- I wanted to ask
25 you, just because I can't remember what you told

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 me, and I apologize for that. The previous
2 summer, the summer of 2005, between your sixth and
3 seventh grade years, that was when you met
4 ReVille?

5 A. Yes.

6 Q. Do you have any idea or estimation of
7 how many times you went over to his house and
8 watched pornography?

9 A. Well over 20, I can tell you that.

10 Q. And those were the days you didn't play
11 golf but you went to basketball practice?

12 A. I would say between 20 and 40 times.

13 Q. Did you -- did you select or choose to
14 go over to ReVille's house rather than play golf?

15 A. Yes, some days. Yes, sir. Yes, sir.

16 Q. And when you made that choice; did you
17 have an idea of what you were going to do when you
18 got there?

19 MR. ROBERTS: Objection to the form of
20 the question.

21 A. I mean --

22 Q. Let me ask the question this way: On
23 those days when you made the personal selection to
24 go over to ReVille's house rather than play golf,
25 were any of those days after he had begun showing

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 you the pornography?

2 A. Do I think that I was at a mental state
3 to make decisions for myself at 12 years old? No,
4 not at all.

5 Q. And I'm not -- don't misunderstand me.

6 A. He had like a hold on me, basically. He
7 had a hold. He was a master manipulator. I
8 didn't know what he was doing was wrong. Do you
9 get what I'm saying?

10 Q. Absolutely. And please don't
11 misunderstand my question.

12 A. No. I understand.

13 Q. I'm not at all even insinuating that
14 you, at that stage in life, should have been able
15 to discern that --

16 A. Yes, sir.

17 Q. -- there was something untoward about
18 this.

19 A. You're just asking me did I make the
20 decision to go over there than to play golf?

21 Q. Right.

22 A. I would say, yes, some days, I would.
23 But it was because of that hold he had on me and
24 it's because of that -- I don't know. I just -- I
25 don't know. He had like a hold on me. He just --

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Q. Almost like you were mesmerized?

2 A. Yeah, basically. Yeah.

3 Q. Over the course of that school year,
4 which would have been your --

5 A. Seventh grade year.

6 Q. -- seventh grade year, was -- you were
7 at Rollings Middle?

8 A. Yes. I was at Rollings from sixth to
9 eighth grade.

10 Q. Where was ReVille working at that time,
11 if you know?

12 A. He was either at The Citadel Writing
13 Center or Pinewood still. It was one or the
14 other.

15 Q. Well -- and so -- I can't remember if
16 you told me about this, but the academic year of
17 your seventh grade, starting in the fall of 2005
18 and concluding in the spring of 2006, it was after
19 AU basketball, correct?

20 A. At --

21 Q. AU basketball ended and ReVille coaching
22 you in AU basketball ended before you began your
23 seventh grade academic year?

24 A. Yeah. The AU season didn't go into the
25 school year, that's correct.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1453

1 Q. So that academic year of your seventh
2 grade, did you have any interaction with ReVille?

3 A. He started helping out with the Rollings
4 team.

5 Q. And tell me about that. I mean, was
6 that --

7 A. Basically, it would still escalate. We
8 were still -- I would still like -- basically what
9 would happen is my parents would be working, and
10 he would pick me up from school, take me to his
11 house, and then we'd come back to Rollings Middle
12 School practice. My parents didn't pick me up.
13 So he'd pick me up from school, take me to his
14 house, and then we'd come back and go to practice,
15 from the end of November until the middle of March
16 when our tournament was over. It still was like
17 -- he would start masturbating me, head started;
18 you know, it still -- it escalated to no more than
19 that yet.

20 Q. Where would this take place?

21 A. At his house in Pine Forest.

22 Q. So that year -- your seventh grade year
23 --

24 A. Yes.

25 Q. -- he was available to pick you up from

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 school?

2 A. Yes.

3 Q. Did you ever ride the school bus?

4 A. Well, the school bus couldn't come pick
5 me up since I went to Rollings Middle School in
6 Summerville. It's an arts school, and the school
7 bus wouldn't have picked me up at Coosaw Creek.

8 Q. It's a what school?

9 A. Rollings Middle School of the Arts.

10 Q. Okay.

11 A. So the school buses wouldn't have come
12 to my neighborhood, so I couldn't have ridden the
13 school bus.

14 Q. And I'm asking. I don't know. So in
15 other words, schools of the arts, parents have to
16 get the children --

17 A. Yes, sir.

18 Q. There is no school bus service?

19 A. Exactly, yes, sir. Yes, sir.

20 Q. Is that general public school, or is
21 that a school you have to qualify to get into?

22 A. You have to qualify to get in, yes, sir.

23 Q. So over the course of your seventh grade)
24 year, this pattern continued where ReVille was
25 available to help out --

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 A. Yes.

2 Q. -- and would pick you up from school?

3 A. Yes, sir.

4 Q. You'd go to his house?

5 A. Yes, sir. He would perform acts on me.

6 Some days he would, some days he wouldn't. But

7 most of the time, he would, basically. And then

8 it started getting to the point, like, if he was

9 boxing me out, he'd grab my nuts, touch me. It

10 escalated to that. Then he started talking to me

11 about "the killers." Have you heard anything

12 about that?

13 Q. And this is the winter of your seventh

14 grade year or the academic --

15 A. This would be during the basketball

16 season.

17 Q. Okay.

18 A. This is --

19 Q. All right. So this is at Rollings?

20 A. This is at Rollings.

21 Q. And you mentioned "the killers"?

22 A. He started talking to me about how many

23 kids he had groomed, telling me stories, you know,

24 fun stories about them, what they had done, this

25 and that. So I guess trying to make me feel like

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 it was normal for all this stuff to be happening.

2 Q. Let me stop you and I want to ask you a
3 couple of questions.

4 A. Yeah.

5 Q. "The killers," what was the -- what was
6 the criteria for being one of "the killers" and
7 what did you understand it to be?

8 A. Basically, how I looked at it, it was a
9 fraternity. And basically, I was the head of my
10 class, basically. I was the President; I was the
11 guy that brought kids, like, Oh, come to Skip's
12 house, this and that. And then we would talk to
13 them about it, and they would go up to the loft,
14 do whatever, and come back down. So basically --

15 Q. Hold on a minute, because I want --
16 there are a couple of things I want to ask you
17 about. First of all, it's important if -- when
18 you tell me that "they" would go up to the loft to
19 do "whatever" --

20 A. The names?

21 Q. I want to know who, and I also want to
22 know whatever. I want a definition of "whatever."

23 A. Okay.

24 Q. And so that's -- who would do it, what
25 they would do, and, lastly, whether or not this

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 was something that you actually saw or whether it
2 was something that you deduced? Do you understand
3 what I'm saying? And let me give you -- I know
4 you're not going into law, probably, but let me
5 give you a brief definition of something in the
6 law. We have direct and circumstantial evidence.
7 Direct evidence is if you walk outside and it's
8 raining and you experience that and you get wet,
9 that's something that you personally experience.
10 Okay?

11 Circumstantial evidence is if you are in
12 a building and somebody walks in and they've got a
13 raincoat on that's dripping with water and they've
14 got an umbrella on that they're folding up and
15 shaking, the circumstances of that cause you to
16 deduce that it's raining outside. Does that make
17 sense?

18 A. Yeah. So did I see any of those
19 occurrences?

20 Q. I want to know if -- what you saw, but
21 then I also want to know what you may have deduced
22 by overall assessment of the circumstances.

23 A. When they went up to the loft, I did not
24 go with them. I did not see anybody do anything
25 in the loft. I did not. Did I witness him

1 performing acts on kids eventually down the line?
2 Absolutely. Five, six, maybe more. I brought --
3 I was -- when I say I thought of it as a
4 fraternity, I was the President, and I basically
5 went and got my friends and said, Come over to --
6 Come over -- Let's hang out with Skip. Let's do
7 this. But most of that stuff didn't start
8 occurring until my eighth grade year, when I
9 started bringing a lot of kids in.

10 Q. So the winter of 2005 --

11 A. So we're still in seventh grade year
12 now?

13 Q. Right. The winter of 2005.

14 A. It still was just me. That summer --
15 seventh through eighth grade summer, we'd go --
16 it's still the same thing. It's me, a couple kids
17 would come over that lived in the neighborhood
18 that I know were "killers." They did the same
19 thing as me. I did not see any of them, but he
20 would have a couple of kids over, and I'd go in
21 the loft, and then someone else would go in the
22 loft, and then someone else would go in the loft
23 type of thing.

24 Q. Do you remember any of these --

25 A. Names?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1459

1 Q. Yeah. Were they teammates?

2 A. Yeah. {John Doe KM}. {John Doe MG}, I
3 think, maybe. No, it wasn't {John Doe MG}. What
4 was his name? {John Doe CO} something. {John Doe
5 CO} (ph), I want to say. It was us three: It was
6 {John Doe KM}, {John Doe CO}, me, and one other
7 kid, and I forget the other kid's name. But we
8 would come over. I'd go to the loft; he would go
9 to the loft, stuff like that. But that summer --
10 it was mostly -- a lot with me that summer as
11 well, just with me. But then he moves in that
12 fall with me.

13 Q. I hadn't quite gotten there yet. Now,
14 "the killers," these three guys, {John Doe KM},
15 {John Doe CO}, and the third you can't remember,
16 the four of you all were all "killers"?

17 A. Yes.

18 Q. And that was in the academic year of
19 your seventh grade?

20 A. Yes. I started finding out about "the
21 killers." Like he'd tell me stories about the
22 kids, what they've done and this and that. But I
23 didn't meet a lot of them.

24 Q. What would he tell you?

25 A. Like, the Truth or Dare games they'd

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 play or, you know, the crazy things they'd do,
2 this and that. Just tell me stories.

3 Q. What is Truth or Dare?

4 A. Truth or Dare? Like, basically, he'd
5 started telling me about you would -- he would
6 dare you to put, let's say -- take a shower with
7 him and jack him off in the shower, or put peanut
8 butter on his dick and suck it off; or put peanut
9 butter on your dick and he'd suck it off; or jack
10 off on a donut, and the last person to jack off
11 eats it, or the last person that doesn't finish
12 eats it. Things like that. He'd tell me stories
13 about all these kids playing with him.

14 And then -- basically what I'm trying to
15 say, '06 -- my sixth and seventh grade year, it
16 was a lot with just me occurrences, basically.
17 But it was escalating, escalating; he started
18 telling me stories, started drawing me in more,
19 making me wonder, this and that.

20 Q. What kind of stories would he tell you?

21 A. The Truth or Dare, like I told you, who
22 was in "the killers," what kind of stories. He
23 told me one story, how it all, like, started. He
24 told me about one of the {Family C} boys walking
25 in on him jacking off or something, and he was

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 like, What is that, this and that? And he
2 explained it to him. And then stories like that,
3 little stories, make me like feel more comfortable
4 about things, I would say. Or make me feel like,
5 Oh, these kids are doing it, it's okay. Just
6 drawing me in more, drawing me in.

7 So that's basically what happened in the
8 sixth and seventh grade year. The occurrences got
9 worse, manipulated me, just turned my head upside
10 down.

11 Q. And this was when he was still living in
12 Pine Forest?

13 A. Yes.

14 Q. And do you remember if any of the other
15 members of "the killers" came to his house at Pine
16 Forest?

17 A. Yes.

18 Q. While you were there?

19 A. Yes, while I was there.

20 Q. And that's where I think you said they
21 would take turns going up --

22 A. Yes, sir. Yes, sir.

23 Q. And he would fix supper for you and that
24 sort of thing?

25 A. Yes, sir.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Q. Were any of these other boys friends of
2 yours?

3 A. Yes, sir. Through basketball.

4 Q. Through basketball?

5 A. Yes.

6 Q. How would they get to Skip's house?

7 A. Like their sisters would drop them off
8 or something and -- they lived -- a lot of them
9 lived, in the neighborhood, in Pine Forest.
10 Because a lot of kids that went to Pinewood lived
11 in Pine Forest, so they would just walk to his
12 house.

13 Q. Was this during the day or at night?

14 A. Day. It would be during the day.

15 Q. But you would have to be brought by a
16 car?

17 A. He would meet my mom halfway or pick me
18 up or my mom would drop me off. It was multiple
19 different --

20 Q. How far did you all live apart?

21 A. I'd say 15 to 25 minutes, in that range.
22 It depended on traffic and stuff.

23 Q. So in the -- in that year, when he was
24 still at Pine Forest and these other members of
25 "the killers" -- would the members of "the

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 killers" -- would you all ever talk about all of
2 this stuff?

3 A. Yeah.

4 Q. Among yourselves?

5 A. (Indicating an affirmative response.)

6 Q. What did you talk about?

7 A. Just, like, how many times we jacked off
8 a week or, like, what we'd done with girls and,
9 like, just occurrences with Skip; like what was
10 our favorite porn video on the DVD, stuff like
11 that.

12 Q. What sort of stuff would you talk about
13 that you had done with girls?

14 A. Like if we had kissed a girl, this or
15 that.

16 Q. Had anybody been sexually active at that
17 point with a girl?

18 A. No.

19 Q. Just kissing and that sort of -- holding
20 hands?

21 A. Yeah.

22 Q. So, then, that occurred over that
23 academic year. And so then we get into the spring
24 of 2006, you're finishing your seventh grade year.
25 Was this pattern pretty much the same?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 A. The same.

2 Q. And when -- at this point, had he
3 already begun the actual touching as far as --

4 A. Jacking me off?

5 Q. Yeah.

6 A. That happened at -- the end of the sixth
7 grade summer he started jacking me off.

8 Q. What about performing oral sex?

9 A. That would have been in my seventh grade
10 year.

11 Q. That same year?

12 A. Yes.

13 Q. And did he do that to the other boys
14 too?

15 A. Yes.

16 Q. Did they talk about peanut butter and
17 have those same experiences?

18 A. Yes.

19 Q. So then we get into the summer of your
20 seventh grade year. And tell me about that. Was
21 that still the same --

22 A. Same occurrences.

23 Q. Same pattern: You'd play golf in the
24 morning, AU basketball?

25 A. Yes, same occurrences.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Q. And go to Skip's house in Pine Forest?

2 A. Uh-huh (indicating an affirmative
3 response).

4 Q. And to the -- to the parents and the
5 outside world, what did Skip ReVille appear to be?

6 A. I mean, I think if you live in
7 Charleston, you graduate from The Citadel, it's
8 almost like you're -- you're known to be at that
9 standard, The Citadel standard. So I feel like
10 the parents thought he was a great guy; I mean,
11 Bible study leader, coached basketball, great with
12 kids, a good talker, spoke well, a teacher. I
13 mean --

14 Q. Well, let me ask the question this way:
15 Looking back on it, was there anything that
16 ReVille did that, in your opinion, should have
17 tipped your parents off?

18 MR. ROBERTS: Objection to the form of
19 the question.

20 A. I don't think so, no. He was that good
21 at what he did.

22 Q. Did you understand my question?

23 A. Yeah. Did Skip do something that threw
24 my parents off? Is that the question you were
25 asking?

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1466

1 Q. Yeah --

2 A. That should have made my parents be
3 aware of what was going on?

4 Q. Right.

5 A. No. No. He was that good. He was that
6 good.

7 Q. Did you ever meet his wife?

8 A. I did not.

9 Q. All right. So when was the last time
10 you saw him?

11 A. I saw him at -- he was in Sumter, and he
12 was at a tennis match and said, Hey, I'm in town.
13 I'd just like to say hey, basically. And so me
14 and {John Doe AW} just went and talked to him for
15 a little while at the tennis, not long.

16 Q. That was at the tennis courts?

17 A. It would have been my tenth grade
18 summer, I want to say -- no. It was during my
19 tenth grade year. I want to say that was the last
20 time I saw Skip.

21 Q. It was at the tennis courts?

22 A. Yes.

23 Q. Before that time, was the last time you
24 had seen him right -- that summer before you moved
25 to --

1 A. Yes. It wasn't the last time I had
2 contact with him, no.

3 Q. I'll come back to that. All right.
4 We've now got -- "the killers" are established.
5 We have the same pattern followed -- the summer
6 following your seventh grade year, which would
7 have been 2006.

8 A. Yeah.

9 Q. And you began your eighth grade year in
10 the fall of 2006 and finished in the spring of
11 2007?

12 A. Yes, sir.

13 Q. So it was at this point, sometime in the
14 fall of 2006, that your parents -- how did that
15 come about? Did they -- do you know if they
16 approached Skip or he approached them? How --

17 A. I think what happened was -- I guess
18 Skip wasn't teaching at Pinewood anymore. And my
19 parents just said, you know, if you don't want to
20 live in that big house, you can -- we have an
21 extra room. I don't exactly know what the
22 encounter was like. I don't. I can't tell you
23 what their meeting was like. I don't know. I
24 don't know how he came about renting my house.
25 Because I was too young to understand that kind of

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 talk.

2 Q. Sure.

3 A. But I know that my dad leaving and
4 having a job in Atlanta, my mom was like, Oh, you
5 know, Skip can live here, help out, drive {John
6 Doe #2} to basketball practice, help out with the
7 family, stuff like that.

8 Q. Did either your mother or your father
9 talk to you and say, We're thinking about inviting
10 Skip to move into the quarters? What do you
11 think?

12 A. They never asked me.

13 Q. It just happened?

14 A. It just happened.

15 Q. All right. So tell me about that. How
16 -- when he moved into --

17 A. Well, I helped him move out that whole
18 time. Like, I helped him a lot. The occurrences
19 were still the same.

20 Q. When you say you "helped him a lot," did
21 you actually help him physically move from Pine
22 Forest to your house?

23 A. Yes, I helped him. And the occurrences
24 were the same, still a lot. And he moves in. I
25 would start, like, going over there, and we would

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 watch porn on the TV. He'd pull it up on his
2 computer. I remember the fucking site that he
3 used to pull up. It was Vids9.com. He'd pull it
4 up on the computer and put it on TV. And --

5 Q. Was that on a table or --

6 A. Well, he had the HDMI cord. You can
7 hook the computer into the TV, and that's how he
8 did it. Or the cord that hooks your computer to
9 the TV and the picture shows up on the TV. He'd
10 pull it up on his computer and we'd watch it
11 there. He'd start giving me head still, jack me
12 off. Basically, the same occurrences; same type,
13 but it hadn't escalated yet. So then that
14 basketball year starts, he's still helping out
15 with Rollings.

16 Q. Would "the killers" come over when he
17 lived at your house?

18 A. It's getting there. Getting there.

19 Q. All right.

20 A. So basketball season started, and he
21 started coaching and he started talking to me
22 about, like, kids. And the kids were {John Doe
23 AE}, {John Doe CH} (ph) and {John Doe DT}. Those
24 were the kids, 100 percent names; they were my
25 best friends on the team. He was like, What do

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 you think about them? They're cool. You should
2 invite them over and we can watch a movie and
3 stuff like that.

4 So he started singling out kids, like,
5 You should start hanging out with them. So, of
6 course, {John Doe AE} and {John Doe CH} and {John
7 Doe D} would come sleep over at my house or
8 something, and Skip would be like, Come down.
9 We'd start talking about porn and all this stuff,
10 and he'd bring it up on the TV and then we'd all
11 like jack off.

12 Q. Now, let me ask you this: When you say
13 Skip would -- he would come down, when he was
14 living in that -- renting quarters from your
15 parents, would he come into you all's house?

16 A. We would go into his. He would come
17 into our house sometimes and speak to my family
18 and have dinner with us. Yeah, he definitely came
19 in our house. But we would go down there.

20 Q. So he was -- did he kind of come and go
21 as he chose from in and out of your parents'
22 house, or was it more by invitation?

23 A. I would say they welcomed him in the
24 house, yeah.

25 Q. So then we have these three other boys

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 coming over during basketball season. And you all
2 started practicing when; sometime in October?

3 A. No. In November, the end of the
4 November. Basically, the beginning of the
5 basketball season, it would still be just with me,
6 occurrences, head, we would start playing Truth or
7 Dare. And then he would, like, talk to me, Oh,
8 you should bring them over -- during the middle of
9 the basketball season, You should bring them over,
10 and we can, like, turn them into one of "the
11 killers."

12 That's awesome; we should do that.
13 Like, they're my good friends, they would like
14 that. So he was motivating me to go get more
15 kids, like pushing me to go make a move and tell
16 them, Oh, yeah, come over. It's fine. It's cool.

17 So I started -- the occurrences with us
18 would still be the same, and then I started
19 bringing them over during the middle or the end of
20 the basketball season, and we played -- I remember
21 me, {John Doe AE} and {John Doe CH}, an incident
22 that we played the doughnut game, where you all
23 were in a circle and the last one to jack off had
24 to eat the doughnut; all of us had to do that.
25 Basically, I was just like bringing these kids in.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 And then -- I mean -- basically, it just
2 like got worse. We started playing Truth or Dare,
3 and then I got the girlfriend, {Jane Doe AL}, and
4 --

5 Q. All right. And you all started dating
6 sometime in January --

7 A. Yeah.

8 Q. -- I think you said of 2007?

9 A. Yeah. We would still do things, but it
10 wasn't as often. Because I would talk to her some
11 nights and not come down and hang out with him.
12 Or I would spend time with her and not hang out
13 with him. So the occurrences still happened, but
14 I was not going down there as much.

15 Q. Right.

16 A. And he got mad about that. Like he
17 talked to my mom and said I was too young to have
18 girlfriends. Talked to me about, like, Why are
19 you doing this, blah-blah-blah; you're young. And
20 I was like, I like her, it's not a big deal, this
21 and that.

22 So the occurrences still happened but
23 not as much, and that would have been between
24 January and March. And then he benched me for the
25 game. Did you not hear about that? I didn't like

CAROLINA REPORTING .

843.832.0801 * www.carolina-reporting.com

1 -- he didn't like the way I was acting or
2 something, so he benched me for a game. And I did
3 nothing wrong. I was doing nothing wrong. And he
4 only played me like the last two minutes,
5 actually. He was, like, Yeah, now you can go in
6 the game, since we were losing by like 40; just go
7 in.

8 So he benched me for that game. And
9 then after the season, he obviously started --
10 stopped working at The Citadel. And so from April
11 until I moved -- me and {Jane Doe AL} broke up,
12 like I said, and that's when like he was there all
13 the time, and all I had was golf, and you can't
14 play golf at night. So I would go and -- like
15 after golf practice, just go for writing lessons,
16 because he was helping at The Citadel Writing
17 Center. And my mom was like, Yeah -- so he would
18 teach me and my brother writing at nights and
19 stuff.

20 And so I'd go down there. And since he
21 wasn't working or doing anything, the occurrences,
22 like -- I guess got worse, because I didn't have
23 {Jane Doe AL} anymore. And we'd play Truth or
24 Dare more. That's when the peanut butter 'on the
25 -- the peanut butter happened in the basketball

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 season. It happened two occurrences. One was
2 definitely in basketball season, and one was like
3 the beginning of the summer, where we played Truth
4 or Dare and I had to like jack him off in the
5 shower. He used to like when I'd go in the shower
6 and put soap on my body and rub up against him; he
7 used to like that. And that happened in Truth or
8 Dare. And the peanut butter thing, obviously.

9 He tried to make me jack off to gay
10 porn, which didn't happen, like during Truth or
11 Dare, stuff like that. He tried to make me do
12 like crazy things, and I just thought it was like
13 fun and games, you know.

14 So basically, I brought these kids in,
15 and he didn't live with them, so like the number
16 of occurrences with him, I don't -- I didn't see
17 him ever give them head, and I didn't -- I did see
18 him jack -- touch {John Doe CH} and {John Doe AE}.
19 But I don't know -- their occurrences wouldn't
20 have been -- I don't know how many, because he
21 didn't live with them; he didn't hang out with
22 them unless they were with me.

23 Q. Are you saying {John Doe AE} or
24 {redacted}?

25 A. It was -- not my {John Doe AW}. It was

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 {John Doe AE} -- my {John Doe AW} is {John Doe
2 AW}; I'm talking about {John Doe AE} and {John Doe
3 CH}. One thing I can tell you is we had an
4 overnight basketball sleepover at the gym at
5 Rollings, and that was kind of their initiation.
6 Like, he brought a computer and a DVD player and
7 we went in like a back room, and I jacked off for
8 a little bit but then I fell asleep or was the
9 lookout, and they sat in there and jacked off,
10 {John Doe CH}, {John Doe AE} and {John Doe D}.

11 Q. This was during the basketball season?

12 A. Season, my eighth grade year. That was
13 their initiation, you could say. So I brought
14 them in. And as I got a girlfriend, and -- the
15 occurrences stopped so much, my brother was
16 getting helped with writing, and I didn't know
17 that he was preying on my brother. I thought he
18 was too young. My brother was 8, 9 years old -- I
19 mean, shit -- 9, 10 -- he was under 10, I think.
20 And I didn't find out until my freshman year in
21 college that my brother went through the same
22 thing I did. So I went crazy, like blamed myself
23 for it. Like, why didn't I stop this? Why didn't
24 I see it? So I blamed myself. I -- it hit me
25 hard. Because me and my brother are so close. So

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1476

1 I was so upset about it, like couldn't even deal
2 with it.

3 I felt terrible, because all of the
4 feelings I was feeling, like he could be feeling
5 the same thing. And it just like made me mad,
6 like really mad. So that was hard when I found
7 that out.

8 Q. So when was the last time -- let me ask
9 this: Do you recall how long ReVille continued to
10 live at your family's house?

11 A. It was into the summer.

12 Q. Do you remember when he moved?

13 A. It would have been -- not much before
14 when we moved out, to be honest. It would have
15 been into the summer, for sure.

16 Q. When you got a girlfriend -- and I think
17 you told some of the counselors this -- when you
18 got a girlfriend, things stopped with ReVille?

19 A. No, no. They didn't stop. The
20 occurrences still happened. I started breaking
21 away is probably what I said. Is that what it
22 probably said?

23 Q. Let me see.

24 A. Because that's what I meant to say.
25 They definitely didn't stop. Do you want me to

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1477

1 keep going as you're looking?

2 Q. No. Hold on. Let me see if I can find
3 -- this is a report from Nicholas Lind, who is, I
4 guess, a psychiatrist and it's dated November --
5 excuse me -- October 29, 2012. And he's
6 referencing -- I'll just read what he says. He's
7 got this in quotes, I started to go to his house
8 when I was 12 years old. He asked my parents if I
9 could come over to do yard work and we were on
10 good terms. He let {John Doe #2} view
11 pornography. And looking back now, {John Doe #2}
12 considers this transgression to have been the
13 alleged perpetrator's foot in the door that
14 resulted in {John Doe 2's} commitment to secrecy.
15 The relationship -- you and ReVille -- reportedly
16 broke off a year or so later when {John Doe #2}
17 got a girlfriend. But {John Doe #2} struggled
18 with his mood and engaged in disruptive behavior.
19 So I --

20 A. Yeah.

21 Q. Did you tell him that when you got a
22 girlfriend, the relationship broke off?

23 A. Basically what I meant by that is that
24 the occurrences stopped -- stopped happening as
25 much. There still was occurrences, definitely.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1478

1 Definitely. I mean, there was occurrences well
2 into the summer.

3 Q. And in Dr. Waid's report, which was --
4 the dates of the evaluation were April the 5th and
5 the 18th of 2013, so this would have been about
6 six months later. And, again, I'm just going to
7 read what his report says: John Doe 2, which is
8 you, stated that at age 14, he, quote, got a
9 girlfriend, unquote, and broke off the encounters
10 with Skip ReVille.

11 Then he goes on to say that, John Doe 2
12 related that he was attending middle school at
13 that time and that Skip ReVille, in retribution,
14 quote, Did not play me during basketball games,
15 unquote. He also stated that at that time he
16 became aware that his brother was going to Skip
17 ReVille's residence, though at that time he
18 believed his brother was, quote, just getting
19 homework help, unquote.

20 A. The occurrences started more when he
21 didn't play me that game.

22 Q. Then he goes on to say that, John Doe 2
23 also stated that ReVille continued to pursue him
24 through text messages and other methods. Is that
25 an accurate representation as to what you told Dr.

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1 Waid, you think?

2 A. Not -- when I say "break off," I didn't
3 mean as in everything stopped. That's false.
4 Things always occurred. There was never a point
5 in my life, until I moved, that we did nothing.
6 And he still would text me.

7 Q. All right. When you say there was never
8 a point that you did nothing --

9 A. Let's say during -- I got a girlfriend.
10 Let's say, before I had a girlfriend, occurrences
11 happened at least five times a week, we'll say.
12 At least. Let's say, when I got a girlfriend, it
13 got cut down to one or two times a week. That's
14 basically what I'm telling you. That's breaking
15 off in my opinion, but it's not shutting it off.

16 Q. Okay. So, then, we've gone through the
17 basketball season and you and --

18 A. I'm bringing these kids in.

19 Q. -- and you and {Jane Doe AL} break up.
20 What about that summer after you finished the
21 eighth grade, where you said you focused
22 exclusively on golf?

23 A. Basically what would happen is I would
24 play golf and at night hang out with him. We -- I
25 was like his best friend. He did everything for

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

1480

1 me. If I needed anything, Hey, come pick me up.
2 If he was doing something, Hey, you want to go?
3 Do you know what I'm saying? He didn't have
4 any -- it was me. He didn't have any other
5 friends. It was just me, literally.

6 Q. How about any of the other boys; any of
7 the other --

8 A. He would do the same things with them.

9 Q. Helping their parents out?

10 A. Yeah.

11 Q. Taking them, giving them rides?

12 A. Yeah. Plenty of kids. Taking them to
13 places, picking them up from something. Because I
14 mean, once he wasn't working, I guess -- he wasn't
15 working that summer and -- I know my mom, like,
16 told me, like, later on, but my mom didn't like
17 charge him for rent sometimes because he was
18 helping out so much. He felt bad, like he wasn't
19 working -- it was like, It's okay. It's fine; you
20 don't have to pay rent this month, because he
21 wasn't making anything, I guess. So that
22 happened -- I know that happened a couple of
23 months.

24 She told me this year that she couldn't
25 believe -- she was so mad -- I mean, she went into

CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com