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THE STATE OF SOUTH CAROLINA
In The Supreme Court

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S.C. SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Honorable Alison Renee Lee, Circuit Court Judge

Opinion No. 5669 (filed July 24, 2019)
Appellate Case No.: 2015-000613

Jeffrey Kennedy Respondent,

v.

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

APPENDIX

Volume II of III
(pages 464 to 872)

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1 in this case; is that correct?

2 A She did.

3 Q We appreciate you coming to trial. How old are
4 you?

5 A Forty-nine.

6 Q And tell me a little bit about your background.
7 How far did you go in school?

8 A I graduated from high school at Northwestern High
9 School in Rock Hill, South Carolina. From there I
10 went to Gardner Webb, which is in Boilings Springs,
11 North Carolina. I majored in religion.

12 Then from there I went and joined the Secret
13 Service Uniform Division for a year and ten months.
14 I was stationed in DC. I met my future bride
15 around that time, and I decided I was not going to
16 raise a family in DC, that I needed to come back
17 down south. So I did.

18 I joined the Sheriff's Office here in
19 Richland County when they were on Huger Street.
20 Then from there I retired from there as a detective
21 sergeant. I spent the better part of my time as an
22 investigator. Then from there I came here to
23 Richland School District two.

24 Q So did you have any formal training in
25 investigating crimes?

- 1 A I did, various schools throughout my career:
2 Homicide, child abduction, interviews and
3 interrogation, things like that.
- 4 Q What about thefts?
- 5 A I spent a good portion of my time in burglary, and
6 I was a sergeant over burglary for a number of
7 years and ran a team of burglary investigators that
8 were assigned about 30 burglaries a month; and we
9 did a good job.
- 10 Q So it's fair to say that you feel like you know how
11 to investigate a burglary?
- 12 A Well, we all are human but I do my best.
- 13 Q You may have said this, but when did you start at
14 Spring Valley or Richland Two rather?
- 15 A December 2010 when I left the Sheriff's Office and
16 went to work at Richland School District Two.
- 17 Q What was your title at that time?
- 18 A Assistant Security Manager.
- 19 Q What is it now?
- 20 A Assistant Security Manager.
- 21 Q I understand there was a Chief Propst?
- 22 A Chief Propst, I think, was my predecessor. I met
23 him once at a school reunion.
- 24 Q Was he there when you started?
- 25 A No.

- 1 Q All right. So who is Chuck Earles?
- 2 A He is my boss.
- 3 Q Is there anyone above him?
- 4 A Jack Carter.
- 5 Q What is Jack's position?
- 6 A Jack is the -- I don't know the exact title -- but
- 7 he is the Director of Support Services.
- 8 Q For District Two?
- 9 A For District Two, yes.
- 10 Q So he is over?
- 11 A He is over security and outsourcing of contracts,
- 12 for Sodexo which is our cafeteria workers and our
- 13 janitors, and then the building maintenance.
- 14 Q He is not a security officer himself?
- 15 A No.
- 16 Q Chuck Earles would be the head security officer?
- 17 A Correct.
- 18 Q About how many people are on the security staff at
- 19 Richland Two?
- 20 A Right now we have a little over 80 security
- 21 officers.
- 22 Q What about back in March of 2011?
- 23 A Fifty, 50 to 60, somewhere in there.
- 24 Q Why has it increased so much?
- 25 A We realized we could not cover everything that we

1 were required to cover, mostly traffic. The better
2 part of our employees are substitute employees that
3 get no benefits at all.

4 They get no guaranty of hours. In fact, most
5 of the time the guaranty that we can give them is
6 traffic. Inevitably traffic is what we have to
7 cover, trying to get kids in and out of school and
8 traffic in and out of the school safely.

9 We have upwards of 35 places in the morning
10 and 35 places in the afternoon that we have to
11 cover. We have -- so most of those are substitute
12 employees that have -- they are kind of knitch
13 employees.

14 In their work day, they are able to set aside
15 two hours in the morning and two hours in the
16 afternoon. So that's the better part of our
17 employees. When I came on, we were having
18 significant trouble filling and staffing those
19 traffic positions. So we had to hire some more
20 people.

21 Q Did you know Jeffrey Kennedy when you first came
22 on? Did you get to know him when you first came
23 on?

24 A I got to know him, yes.

25 Q I understand his testimony. The testimony has been

1 that he worked third shift. Is that your
2 recollection?

3 A I believe so, yes, sir.

4 Q Did you know all the third shift employees?

5 A At the time I was getting to know them.

6 Q Did you work third shift as well?

7 A No, I worked at the Sheriff's Office prior to that.
8 I worked mostly days.

9 Q No, I mean, when you started at Richland Two.

10 A I worked dayshift.

11 Q Where was your office?

12 A My office at that time was down the hallway, in a
13 little office down the hallway.

14 Q Did you stay in your office during the day or were
15 you out and about?

16 A I stayed in the office and I tried to get out and
17 about, but I had paperwork to do in the office.

18 Then I would try to get out and meet some of the
19 principals and the administrators throughout the
20 District and start learning the ropes in the
21 District.

22 Q How would you get to know somebody like Jeffrey who
23 worked third shift?

24 A Passed in the hallway. I like to try to talk to
25 people. I don't recall much of our conversations

1 back then, and I don't know that we were ever
2 considered close by any stretch of the imagination.
3 It's kind of hard to do that when you're over
4 everybody, but that's how I would get to know them,
5 through the hallways.

6 Q Did you ever go with him on a shift?

7 A No. Not at that, no. I did, when I came on, I did
8 go with some of the shifts to walk that shift to
9 try to figure it out; but most of that time I was
10 dealing with the captains and lieutenants at that
11 particular shift.

12 Q You testified you reported directly to Chuck
13 Earles; correct?

14 A Correct.

15 Q Who were your immediate subordinates? Was there
16 another level of management between you and
17 somebody else?

18 A Sure. There's captains and lieutenants on each
19 shift, except for dayshift, but there are captains
20 and lieutenants on each shift.

21 Q How many captains and lieutenants were there that
22 reported to you?

23 A Five captains and four lieutenants.

24 Q Who was Jeffrey's captain or lieutenant at that
25 time? Do you recall?

1 A I recall Captain Groves as his captain at one
2 point.

3 Q And during the night shift, we know -- for somebody
4 like Jeffrey, the night watchman -- there has been
5 testimony that there is somebody at a control area
6 that would receive a call about an alarm going off.
7 or something like that. Is there anybody else that
8 would be on staff at night, other than those two
9 people?

10 A Well, we have a captain and lieutenant.

11 Q Both of them there every night?

12 A You would hope they would be there as much together
13 as possible. You would have people who you were
14 sick and that sort of thing, and the lieutenant or
15 the captain would run the shift for the most part
16 by themselves.

17 They had the leeway to bring someone else in,
18 but most of the time we had the captain and the
19 lieutenant there. They can decide -- at least in
20 my mind. I don't know how this was done with Chief
21 Propst -- but in my mind they had a certain
22 latitude on how they conducted their work on the
23 shift.

24 We would hope that one would be in the office
25 handling the phone calls, handling complaints that

1 might come in, and handling any projects that might
2 come up; and the other would be out checking on the
3 troops and following up on them with their lives
4 and making sure that everything is okay. That
5 would be our hope.

6 Q So some nights there were three people, somebody
7 like Jeffrey, the watchman, and a captain and a
8 lieutenant?

9 A There would be one -- two, possibly most of the
10 time, one other, and the other supervisor being out
11 on the road.

12 Q Okay. Like checking up on Jeffrey or just checking
13 other schools, that kind of thing? When you say on
14 the road, that's what you mean?

15 A Right. Correct.

16 Q I think Jeffrey testified earlier that sometimes
17 somebody would come and walk with him or whatever.
18 That's who that would be? That's what we are
19 talking about?

20 A If that's the way the captain and lieutenant set
21 that up, sure.

22 Q Were you involved at all in February 2011 in the
23 selection process for the lieutenant promotion, the
24 second shift lieutenant promotion, that the
25 department was interviewing for?

- 1 A Yes.
- 2 Q What was your role in that hiring process?
- 3 A Well, I don't recall quite how that went down; but
- 4 I think we interviewed several people and chose
- 5 Mr. Kennedy based on those interviews.
- 6 Q How many people applied for that job?
- 7 A You know, I don't remember.
- 8 Q More than ten?
- 9 A I don't remember.
- 10 Q More than five?
- 11 A At the time we only had 50-something employees. I
- 12 would be surprised if we interviewed that many.
- 13 There may have been that many applications, but I
- 14 don't recall; but I would be surprised if it was
- 15 more than five.
- 16 Q And did you consider anybody outside of the
- 17 department?
- 18 A I think, you know, again that was so long ago. I
- 19 don't recall. I think the consideration, with the
- 20 way it's set up now, is that there is a database of
- 21 applications that come in. We review those
- 22 applications online. So those are a part of the
- 23 consideration process.
- 24 Q Jeffrey was one of those?
- 25 A It's kind of changed because we've gone online, but

1 I recall that we had several applications that we
2 reviewed. Then we chose out of those applications
3 that we reviewed.

4 Q You chose anyone to interview?

5 A Correct.

6 Q And then chose the winner?

7 A Sure.

8 Q And Jeffrey rose to the top. He was the one you
9 picked?

10 A He did.

11 Q And what role did you have in that process?

12 A I think I was involved in the interviews and the
13 discussions with Chuck as to the proper processes
14 to go about this because this was fairly new to me.
15 I came on in December of 2010.

16 About a few days after I came on, it was
17 winter break. We were coming back in in January.
18 So in February we are starting to have this
19 process. So I am still new and I'm bouncing things
20 off of Chuck at the time.

21 Q And Chuck had been there awhile?

22 A Chuck has been there awhile, yes.

23 Q What criteria did you use to evaluate the
24 candidates for this promotion?

25 A It's hard to remember back then. I can tell you

1 what I have honed into what I am looking for now.

2 Would that be beneficial to you?

3 Q Well, first, who had the final say on who got the
4 job? Was that Chuck or was that you?

5 A Neither one of us. This was bureaucracy, Richland
6 District Two. Unlike the Sheriff's Office, this is
7 much like the Federal Government. Okay. There is
8 an HR department. So we make recommendations and
9 then we send it up to HR.

10 Q Let me rephrase it then. Who has the final say as
11 to who you would recommend to HR for the job?

12 A Chuck would have signed off on that, and I would
13 have made a recommendation to Chuck.

14 Q And from your experience does HR generally give the
15 job to who you recommend?

16 A You know, I send it up to HR in good faith. They
17 have a great deal of latitude in HR as far as
18 background. Sometimes they will take their time in
19 processing that.

20 So I have learned over the years -- and this
21 is, like I said, one of the first ones I did --
22 I've learned over the years, you kind of just hold
23 your breath, make your recommendation based on the
24 most information you have. You hold your breath
25 and wait for HR to send it back.

1 Q How many candidates have you recommended that have
2 not gotten the job?

3 A There has been half a dozen maybe.

4 Q Half a dozen. Just based on their background
5 check?

6 A Based on their background check where they come
7 back and go, "Hey, what about this? Hey, what
8 about that? Can we get some clarification on what
9 they said here? Or this came up in the background
10 search, we need some clarification on it."

11 Then it just becomes one of those situations
12 where we just need to part ways. It's just not
13 going to work at Richland District Two.

14 Q As far as your recommendations go, was
15 trustworthiness a consideration?

16 A It is.

17 Q At the time you recommended -- or I'm assuming
18 because Jeffrey got the job that you recommended to
19 Chuck that he get the promotion?

20 A At the moment we felt pretty confident.

21 Q What made you feel confident?

22 A We felt that he was trustworthy. We felt that he
23 was the best candidate of the ones that we
24 interviewed.

25 Q All right. And there has been some discussion

1 about some other petty thefts in the week or two
2 before the thousand dollar theft from Tim Hunter's
3 office. Were you aware of those?

4 A I became aware of those within days of the final
5 situation.

6 Q What do you mean the final situation?

7 A The one we are here on. The one you are getting
8 ready to ask me about, I'm assuming.

9 Q So you had never heard of those other petty thefts
10 before March 3rd or March 4th?

11 A Correct. Chuck and I were called over to Spring
12 Valley to follow up on some of the petty thefts
13 that were going on. We were in consultation with
14 Jim Childers about what their observations were.

15 Q Who is Jim Childers?

16 A He is the Assistant Principal at Spring Valley High
17 School.

18 Q So before March 3rd, before this thousand dollar
19 theft, Jim Childers had not reported to you any
20 other petty thefts that had gone on before that?

21 A No, I didn't say that. I said that Jim Childers
22 had called us several days prior to this time of
23 the thousand dollars being stolen, and we were
24 following up on that during that timeframe.

25 Q Oh, so you did know about these other thefts before

- 1 the thousand dollars was stolen?
- 2 A A couple of days before.
- 3 Q But at that time it's fair to say you did not
- 4 suspect Jeffrey Kennedy was involved in those
- 5 thefts?
- 6 A Jeffrey Kennedy and our security guards, any time a
- 7 theft comes up, they are the ones in the schools.
- 8 So they become automatic suspects in a lot of ways,
- 9 and that's just the nature of it. But the common
- 10 denominator in these was Jeffrey Kennedy.
- 11 Q Okay. But at the time that you recommended him for
- 12 the promotion?
- 13 A Had no knowledge of it.
- 14 Q You didn't suspect him of any thefts?
- 15 A I didn't.
- 16 Q Do you believe if someone had demonstrated poor
- 17 character, would you have recommended them for the
- 18 promotion?
- 19 A No. Not at that time, no.
- 20 Q Do you believe Jeffrey Kennedy demonstrated good
- 21 character prior to you recommending him for the
- 22 promotion?
- 23 A As much as I knew Jeffrey Kennedy at the time and
- 24 the interview process that we went through, yes.
- 25 Q What all was involved in the interview process?

1 A We asked a series of questions to everybody in the
2 interviews. You ask the same questions of each
3 candidate. Like I said, I don't recall --

4 Q When you say you ask a series of questions, are you
5 talking about to the candidates?

6 A To the candidates, yes.

7 Q Do you ask anybody else what they think of him or
8 get opinions from other people as to what the
9 candidate is like?

10 A The way we do it now we have a board, and we are a
11 lot more systematic about it. I will have to fall
12 back on: I don't recall that particular interview.

13 Q Okay. I am not asking what you asked Jeffrey so
14 much. I am just asking did you ask other people
15 what they thought of Jeffrey? Was that part of the
16 process?

17 A I don't recall.

18 Q Is that part of the process now?

19 A We try to go, if they are employees, we try to go
20 to their supervisors to see if there is anything
21 outstanding from their employees. I say employees.
22 We go to their supervisors.

23 We try to ask them if they have any internal
24 problems within that shift that doesn't necessarily
25 come to my purview because they want to keep it on

1 the shift, but we do ask those questions. We have
2 a pretty systematic grading level at this point.

3 Q Okay. So you recommended Jeffrey for the
4 promotion. Was he introduced as the next second
5 shift supervisor to any of the other staff?

6 A He was attending our -- I believe March of that
7 year because I was new, I was having supervisor
8 meetings once a month. So I'm not quite sure when
9 I started calling those.

10 But obviously I came in in December. At the
11 most it would have been three. This would have
12 been the third one. I think it might have been --
13 it was fairly early in the process. So I'm not
14 sure.

15 We called him to have him sit in on the
16 supervisor meeting to kind of get adjusted, and I
17 think he was introduced as the next lieutenant by,
18 I believe, Captain Permenter; but I'm not totally
19 sure on that. But I believe she introduced him as
20 the lieutenant and that he would be with us from
21 now on.

22 Q Okay.

23 A At that time we were -- you know, "Hey we are
24 moving forward."

25 Q Was that before you got formal approval from HR?

- 1 A That was before that, yes. Yes.
- 2 Q Did you ever get formal approval from HR for the
3 promotion?
- 4 A No.
- 5 Q Did you or Chuck Earles revoke or withdraw your
6 recommendation for Jeffrey Kennedy?
- 7 A I believe your co-counsel showed me an exhibit
8 before regarding that. It was not my signature,
9 but I believe Chuck had written something on there,
10 Mr. Earles.
- 11 Q Right. And why was Jeffrey Kennedy's promotion
12 recommendation withdrawn?
- 13 A I believe it was a number of situations or a number
14 of conversations he had with HR in regards to these
15 investigations, the series of incidents that
16 happened at Spring Valley, culminating in the
17 thousand dollars being missing, and the interviews
18 with HR. I think Roosevelt Garrick interviewed
19 him.
- 20 Q I'm not asking you why HR made its decision. I am
21 asking why Chuck Earles withdrew his
22 recommendation?
- 23 A Again, I would have to go back to the investigation
24 and Chuck being privy to that investigation and
25 what he and HR were discussing.

1 Q Were you privy to that investigation?

2 A I was privy to some of it, but I was mainly the
3 liaison between the District and the Sheriff's
4 Office. The other conversations that they had on
5 the phone, they were dealing directly with Chuck in
6 a lot of respects.

7 Q I want to get into that more in a minute.

8 A Can I stop you? Can I get some water?

9 Q Absolutely.

10 (Pause.)

11 Q All right. Let's talk about the -- let's first
12 talk about what you may know about the custodians.
13 Were keys ever taken away from custodians around
14 this time that you know of?

15 A I believe Jim Childers had mentioned that they had
16 taken a key away from Ms. Jackson right around the
17 time of the internal thefts that were going on
18 prior to the thousand dollars being missing.

19 Q Who is Ms. Jackson?

20 A Ms. Jackson was the head custodian at Spring Valley
21 High School at the time.

22 Q And is it safe to assume that she had her keys
23 taken away because they suspected her in the
24 thefts?

25 A Is it safe to assume that? I think that they were

1 trying to limit their pool of suspects. I think
2 that was one of the internal things that they
3 decided to do.

4 I will have to, you know, move you to or send
5 you over to Jim Childers for some clarification
6 about why because I wasn't privy to why, and that
7 was not my employee.

8 Q Were you aware that Ms. Jackson had her keys taken
9 away?

10 A I became aware of that here recently.

11 Q But at the time you didn't know that?

12 A I don't recall knowing that at the time. I do
13 recall learning about that here recently.

14 Q Do you remember Ms. Jackson's first name?

15 A No, I don't remember Ms. Jackson's first name. I
16 always called her Ms. Jackson.

17 Q All right. This is Plaintiff's Exhibit 2. This is
18 the Change of Culture memo we discussed earlier
19 that Chuck Earles issued shortly after he started.
20 I think your testimony was that Chuck Earles had
21 been there before you started?

22 A Correct. He had been there, yes.

23 Q Did you ever see this memo?

24 A I never received this memo.

25 Q So you started at some point apparently after he

1 issued that memo, but it didn't go as part of your
2 welcome package. You know, "Welcome to the
3 department. These are our rules," that kind of
4 thing?

5 A No.

6 Q Did Chuck Earles ever tell you that there is a
7 rumor problem, "and I don't want people repeating
8 business that is not theirs and spreading rumors"?

9 A No, he wouldn't have to.

10 Q Why is that?

11 A Because that's not something that I do.

12 Q What is something you don't do?

13 A You just asked about the rumors. I try not to
14 participate in rumors.

15 Q No, and I'm not going to ask you that.

16 A Well, what are you talking about?

17 Q Were you aware that Chuck Earles believed that
18 there was a rumor problem big enough to put a memo
19 out on it?

20 A I know that memo because each employee that they
21 have has an employee file. As we are going -- as I
22 go through the files on a day-to-day basis, whether
23 somebody is leaving or we are trying to move them
24 to another shift or maybe I'm updating their files
25 with a driver's license or training or something

1 like that, I have seen that memo in those files,
2 especially from the long-time employees.
3 Q But you haven't received one of those memos
4 yourself?
5 A No.
6 Q So one of those memos isn't in your file?
7 A No, sir.
8 Q Has Chuck Earles ever given you any oral
9 instructions not to spread rumors?
10 A No.
11 Q You understand how damaging a rumor that you've
12 stolen something can be to somebody if it's not
13 true?
14 A Sure.
15 Q Do you think it's important to make sure you don't
16 go around telling people or implying that somebody
17 is a theft when they are not?
18 A Sure.
19 Q Would you agree that it's important to carefully
20 safeguard negative information about employees so
21 that other nonmanagement employees don't have
22 access to it?
23 A I try to do that.
24 Q You instruct your staff to do the same?
25 A I try to remind them any time I perceive there is a

1 problem.

2 Q Do you dispute the fact of Jeffrey's allegations
3 that a rumor got out that management, specifically
4 you and Chuck Earles, believe that he is
5 untrustworthy and that he is the one that stole the
6 thousand dollars? Do you dispute that rumor is in
7 existence?

8 A I dispute the fact that it came from me.

9 Q That's not my question. My question is: Do you
10 dispute that the rumor exists, that it's out there?
11 Do people think that y'all think he is
12 untrustworthy, and you've accused him of being this
13 thief of this thousand dollars?

14 A I don't want to argue with you, but I dispute the
15 fact that people spread rumors.

16 Q No, not generally. I'm talking about this
17 particular case. He has alleged that people
18 outside of the management team at your office know,
19 have been informed, that you and Chuck Earles
20 believe he is the thief, that he is untrustworthy;
21 and that word has spread to his church, to
22 students.

23 Everybody now thinks that y'all have done an
24 investigation and have said he is the one that
25 stole the money. He is untrustworthy.

1 A Okay. Human nature is that these rumors get
2 around, especially in a small area like security
3 within School District Two. I'm certainly not
4 disputing that rumors get around, and people will
5 give credence to a rumor or not give credence to a
6 rumor. These are out of my purview.

7 But certainly I'm not disputing the fact that
8 rumors have been -- and those rumors may have
9 gotten out. My dispute is whether those rumors
10 originated from me or Chuck.

11 Q Would you agree Plaintiff's Exhibit 2 -- or excuse
12 me -- Plaintiff's Exhibit 4, the e-mail about
13 Mr. Kennedy is not to have keys, is not to be given
14 any assignment that involves having keys to any
15 District facilities, that e-mail came from Chuck?

16 A Correct, to the supervisors.

17 Q To the supervisors?

18 A Correct, yes, sir.

19 Q And who has supervisory responsibilities over the
20 supervisors?

21 A Well, I do and Chuck does.

22 Q So the people that are addressed in this e-mail are
23 supervised by you and Chuck?

24 A Correct.

25 Q And if that e-mail was printed and left in an area

- 1 where all the other staff could see it, that would
2 have been somebody -- it must have been one of the
3 recipients of this e-mail; correct?
- 4 A I don't know who did that, if that was done.
- 5 Q I'm not asking if you know. Either somebody -- if
6 it wasn't you or Chuck that did that, it must have
7 been either one of the recipients of the e-mail and
8 maybe they forwarded it on to someone else who
9 printed it out and left it out; correct?
- 10 A The e-mail system itself is full of those types of
11 things. If someone forwarded that on to someone
12 else to be printed out or if they left it up on
13 their screen when they went to bathroom, and
14 somebody else came into the supervisor's office and
15 printed it off, I don't know. I know that when
16 that e-mail went out, it was confidential to the
17 supervisors.
- 18 Q And one of your staff members failed to keep it
19 confidential; correct? How else would the e-mail
20 have gotten printed out if they didn't keep it
21 confidential?
- 22 A Again, I'm not aware that that was even out, except
23 through this case right here.
- 24 Q Assuming the testimony is believed that it was
25 sitting out on a desk or in a truck.

1 A I would be -- I would find that, you know,
2 something that I wouldn't want to have happened.

3 Q Right. And would you agree that the e-mail was not
4 kept confidential by somebody, one of the
5 recipients of the e-mail?

6 A I think in a broad sense, yes, you could say that,
7 in a broad sense. I also know, again, if a person
8 is -- as small as the support center is and those
9 offices are and officers coming in and out, it
10 would not surprise me.

11 I'm not sure it would ever come to light, but
12 it would not surprise me that if my supervisor had
13 gone to the bathroom and left that up on his screen
14 that somebody didn't come in and print that off.

15 That would not surprise me that it happened.
16 If that had happened, I would say that the
17 supervisor, you know, at most was -- left that up
18 on the screen, and somebody else took liberties to
19 print it.

20 Q Do you have any evidence at all to suggest that
21 anybody else came in, saw the e-mail on somebody
22 else's screen, and printed it off and left it out?

23 A I don't have any evidence except for what y'all are
24 telling me that any of my supervisors left that
25 out.

- 1 Q So it's safe to say you didn't follow up with any
2 of your supervisors to ask them if they printed it
3 out and left it in the room?
- 4 A Again, I was not aware that this particular memo
5 went out until long, long after that.
- 6 Q So you didn't receive this e-mail?
- 7 A I'm saying I did not receive information that it
8 was left out and that somebody else had it. I
9 received the e-mail.
- 10 Q I understand that. After the e-mail was sent, did
11 you make any efforts to go around to your
12 supervisors and say, "Hey, did you keep this e-mail
13 confidential? Are you sure you are keeping this
14 information about Jeffrey confidential?"
- 15 A I did not, no.
- 16 Q Did you ask any of the recipients of this e-mail,
17 any of your staff that would have received it, did
18 you ask them: Have you printed the e-mail? If you
19 did, did you throw it away? Have you kept it in a
20 safe place?
- 21 A I did not, no.
- 22 Q Did you make any efforts to make sure that this
23 e-mail was kept confidential?
- 24 A The effort that I know of was that it had
25 confidential written at the top of the e-mail.

1 Q Other than writing confidential at the top, did you
2 make any efforts to make sure it was kept
3 confidential?

4 A No.

5 Q I want to ask you a couple of questions just about
6 the third shift, the night watchman, what his
7 duties are and how he is supposed to view those
8 duties.

9 First, let me ask you: Do you, as one of
10 Jeffrey's supervisors -- not direct supervisor --
11 but up the chain, do you give either people who --
12 work the third shift or your supervisors
13 instructions about how the night watchmen are
14 supposed to do their job?

15 A I have, yes.

16 Q Jeffrey's testimony on that was that he had been
17 instructed, when he is in buildings, to spend a
18 fair amount of time in the buildings so that you
19 don't have to spend that time out in the truck
20 burning gas keeping warm, save gas. Had you ever
21 heard that?

22 A No, I have never heard that.

23 Q Does it make sense?

24 A We have told our officers that they need to spend
25 as little time in the buildings as possible. The

1 thefts come from the outside of the building for
2 the most part.

3 They need to, if they went into the schools,
4 they need to spend -- go in and set the alarm,
5 check whatever vital areas you have to check, but
6 in and out.

7 Then you are checking doors and windows as
8 you're going about your business. That
9 particular -- that's just one school. They have
10 seven, eight schools at night that they need to
11 check.

12 Q Have you ever worked a late shift?

13 A I have worked late shifts in the past.

14 Q On this job?

15 A On this job I have not worked in the rank and file.
16 That is correct.

17 Q So you don't know -- the testimony was, Yeah, you
18 have a lot of schools, but there's plenty of time
19 to do it. There is a lot of extra time beyond
20 checking doors and windows?

21 A Boredom is a problem.

22 Q His point was instead of spending that extra time
23 out in the truck burning gas keeping warm, the
24 instructions were to: Stay inside. Kill some time
25 in these buildings. Sit down in the break room.

1 Do what you've got to do. Just don't go sit out in
2 the truck and burn the company gas.
3 A I can't speak to what he had been told in the past.
4 This was early --
5 Q So it's possible that he had been --
6 A If he had been told that in the past, I don't know.
7 I know that that is not what I have been telling my
8 captains and lieutenants that they need to do.
9 Q So you would rather have him out in the truck?
10 A I would rather have him out in the truck and going
11 around the buildings and catching people that are
12 breaking in, keeping people off the property.
13 Q All right. But you don't know what the
14 instructions were around February, March of 2011?
15 A No.
16 Q Okay. Are fuel expenses significant for your
17 department?
18 A They fuel up -- each vehicle fuels up about once a
19 day.
20 Q That is, what, \$60 a day?
21 A For the most part, yes.
22 Q How many vehicles do you have?
23 A We have got five, six, seven vehicles.
24 Q Do you have any information about what Jeffrey's
25 habits were working this third shift for the first

1 couple of years that he was on the job?

2 And when I say his habits, as far as his
3 habits as to how long he would spend in the
4 buildings, would he spend five to 20 minutes in the
5 buildings instead of sitting in the truck?

6 A No, I don't have any information on what he did two
7 years prior to me coming on board. Quite frankly,
8 I didn't really keep up with Jeffrey Kennedy up
9 until those last few days.

10 I did go back into the camera system and look
11 at his habits at Spring Valley High School leading
12 up to that night in question. The night in
13 question was different than the previous nights.

14 Q I do want to ask you about that. I will get into
15 all that in just a minute. Let me ask you about
16 the athletic teams. Is it common for sports teams
17 to come home later in the evening, after
18 10:00 o'clock in the evening?

19 A It is.

20 Q I'm assuming these are away games. So they have
21 been out when they come back home?

22 A Correct.

23 Q And do they often need access to the Athletic
24 Department building?

25 A They do.

1 Q Why do they need access to that building when they
2 come home?

3 A Most of them do not have -- or some of them don't
4 have keys. Whether it be the head coach or the
5 assistant coach, whoever is bringing those kids in,
6 some of them do not have keys to get into the door.
7 Most of the time it's keys to get into the gates
8 that they have problems with.

9 Q I'm saying: Why does a sports team need to get
10 into the Athletic Department building when they
11 come back? Why not just drop the kids off and go
12 home?

13 A Well, in my experience as a coach, there are
14 sometimes where you -- if you had an office where
15 these things were stored, you want to put something
16 in there or the guys need to use the bathroom if
17 you didn't have facilities or access to facilities,
18 you could do that. Or they need to get book bags.
19 Those kids may -- they are coming home at 10:00
20 o'clock, 11:00 o'clock at night. They have
21 homework and papers due the next day.

22 Q So all that stuff would have been left in the the
23 Athletic Department?

24 A Sometimes they will. Sometimes they will leave
25 them in athletic building. Sometimes they will

1 take them with them. It just depends on the nature
2 of the visit.

3 Q So a lot of times the students need to get in there
4 to get their stuff or put equipment in there, that
5 kind of thing?

6 A Correct.

7 Q Were you aware that the baseball team had come back
8 late on the night of March 3rd, the night this
9 thousand dollars went missing?

10 A I was.

11 Q Did you know they would be coming back that night?

12 A Well, I knew the next day as we started putting the
13 events together.

14 Q Okay. Did the coaches sometimes give a student a
15 key to get in the building in your experience?

16 A Coaches sometimes do that. I don't know about this
17 particular incident or incidents, but coaches
18 sometimes do that. And when we find out about it,
19 we say something.

20 Q Is that not appropriate?

21 A Well, in this District, unlike
22 Charlotte-Mechlenburg, Charlotte-Mechlenburg's
23 police, school police, have control in a lot of
24 respects.

25 We are more a support staff role. Each school

1 has their own way of doing things, and we support
2 that role. So we bring that to their attention
3 when appropriate.

4 Q When you say bring it to their attention, are you
5 saying that you instruct them not to do that?

6 A We tell them it's not a good idea. They need to
7 have a better understanding of who has got keys or
8 whatever.

9 Q Is it that you didn't trust 16-, 18-year-old boys?

10 A Well, it's a matter of key control in that regard.
11 But we -- you know, talk about best practices, that
12 would not be a best practice to do. These things
13 happen, and we have a lot of students and a lot of
14 coaches in the District.

15 Q From your experience at Spring Valley, have
16 students ever been caught stealing out there?

17 A Oh, yeah.

18 Q How common is that?

19 A I mean that's 17-, 18 year olds. A lot of them get
20 into trouble. I have arrested a number of them
21 myself.

22 Q About how many a year? You said you --

23 A I couldn't tell you.

24 Q Are we talking hundreds?

25 A I couldn't tell you. I couldn't tell you.

1 Q You can't give us an estimate, just a ballpark?

2 A An estimate or ballpark of how many people I
3 arrested in Richland District Two?

4 Q Students.

5 A The law is not set up to where the School District
6 is made aware of every arrest.

7 Q I'm talking about the ones that you know of and
8 that y'all investigated.

9 A Number one, we don't investigate criminal acts. We
10 turn that over to the Sheriff's Office. Number
11 two, if a student is arrested and he is 17, 18
12 years old, they may not tell us about it anyway,
13 especially if it's a theft or an armed robbery off
14 campus.

15 So when you ask how many, I really can't give
16 you a number; but we have a significant number of
17 people in the northeast part of Columbia. There is
18 a significant amount of crime, and it's still
19 Richland County and everything that goes along with
20 being a capital city.

21 Q All right. Let me ask you a few questions just
22 about the theft itself in this case. When did you
23 first hear about the theft of the thousand dollars
24 the night of March 3rd?

25 A The morning that Coach Hunter, Tim Hunter, came in

1 and discovered it and notified Jim Childers. Jim
2 Childers immediately notified us.

3 Q Okay. Did you ever see any statements from Tim
4 Hunter about what happened?

5 A No, I don't recall seeing statements from Tim
6 Hunter. I recall a statement from Jim Childers
7 that was sent through me to the Sheriff's Office,
8 but I do not recall a statement from Tim Hunter. I
9 am aware that he did make a statement, that he made
10 a synopsis of what had happened; but I do not
11 recall reviewing that.

12 Q Did you talk to Tim Hunter about what happened?

13 A We were all called in to Jim Childers's office that
14 morning.

15 Q Which morning? Is this Saturday morning or the
16 next Monday?

17 A It would have been Monday, whenever the report was
18 actually made. So we were called into his office,
19 and then a synopsis of the events were then given
20 to us.

21 We quickly realized that it's not something
22 that we are going to be working. It's going to be
23 the Sheriff's Office that is going to be working
24 this, and we called the school resource officer,
25 Ben Fields, called him in; and he took it from

1 there.

2 Q So it was your plan from the outset not to even do
3 an investigation?

4 A Well, you've got to be careful about doing
5 investigations, coinciding investigations.

6 Q Why is that problematic?

7 A It can be problematic in that the investigators are
8 wanting to interview somebody, and you beat them to
9 the punch. You are given information that the
10 investigators are going to need as they are
11 interviewing them or looking for evidence.

12 You are tipping them off. So we made a
13 decision to kind of sit back and be a liaison and
14 assist the Sheriff's Office in whatever they
15 needed, and we did so.

16 Q Did they ask you to investigate anybody or
17 interview anybody?

18 A They did not.

19 Q Did you interview anybody?

20 A I don't recall interviewing anyone, other than
21 maybe an employee to kind of get a general idea of
22 what happened that night, if he knew of anything
23 that happened that night. That would have been
24 John Reid.

25 Q When you interviewed -- well, when did you

1 interview John Reid?

2 A As I recall, I interviewed John Reid on the side of
3 the sidewalk out by the Bates building at Spring
4 Valley High School. It was just kind of a, "Hey,
5 do you know anything? Was anything going on? Did
6 you see anything that night that would draw your
7 suspicion," that sort of thing?

8 Q You are not worried that you'd do exactly what you
9 said you were trying to avoid, beating the
10 Sheriff's Department to the punch?

11 A No, not in that realm. We were trying to identify
12 people that might be someone the Sheriff's Office
13 needed to check off. They needed some support.
14 These were kid-glove questions, just trying to
15 gauge whether or not if John was somebody that
16 would be needed in the interview.

17 I don't think, just in my experience, I don't
18 think those questions that I asked John would have
19 been subverting any type of questions that the
20 Sheriff's Office would have asked.

21 Q All right. Generally speaking, when you're
22 conducting a -- well, you are saying you didn't
23 conduct an investigation; correct?

24 A Correct.

25 Q Now, you did a couple of things, I think. You

- 1 talked with John Reid; correct?
- 2 A Correct.
- 3 Q Either you and/or Chuck Earles went back and looked
- 4 at the security videotape; correct?
- 5 A Correct.
- 6 Q Is there anything else that you did in the
- 7 investigation of this theft?
- 8 A We asked for Jim Childers, and I believe Tim Hunter
- 9 actually sent his synopsis about what his
- 10 recollection was. I think somewhere along the
- 11 lines or so, Ms. Jackson's name was given up during
- 12 the course of the conversations. Those were all
- 13 kind of a liaison role that we had.
- 14 Q You said "given up," you mean to the Sheriff's
- 15 Department?
- 16 A To the Sheriff's Office, yes.
- 17 Q What else was given to the Sheriff's Office?
- 18 A You know, I don't recall. Maybe you can enlighten
- 19 me about some other things, but I'm not recalling
- 20 anything more than that.
- 21 Q I don't know. I'm asking you what you provided the
- 22 Sheriff's Office.
- 23 A And I am saying that I don't recall anything.
- 24 Q The things we just talked about, that's it?
- 25 A Correct.

1 Q Did you let the Sheriff's Office know that the
2 baseball team had been in the building that night?

3 A I believe that was part of the conversation, the
4 initial conversation, in Jim Childers's office with
5 Ben Fields, as he was asking his questions of the
6 school resource officer.

7 Q Did you have any conversations directly with the
8 Sheriff's Department?

9 A I had direct conversations with Ben Fields and
10 Investigator Joe Clark. That was all part of those
11 conversations. Then as we identified Jeffrey
12 Kennedy as somebody that they wanted to talk to, I
13 had conversations with Joe about that. Then we had
14 follow-up conversations all through the
15 investigation.

16 Q All right. Do you know if the Sheriff's Department
17 ever talked to anybody on the baseball team, the
18 baseball coach?

19 A I'm not privy to those interviews. I don't know if
20 they did or not. You are talking about Joe Clark
21 who is the investigator?

22 Q Or whoever you talked to at the Sheriff's
23 Department. Did they ever tell you that they
24 interviewed somebody from the baseball team?

25 A I don't recall anyone telling me that they had.

- 1 Q Did you interview anybody from the baseball team?
- 2 A I did not.
- 3 Q Did you interview Ms. Jackson or any other
- 4 custodians staff?
- 5 A I did not.
- 6 Q Do you know if the Sheriff's Department interviewed
- 7 Ms. Jackson or anybody from the custodian
- 8 department?
- 9 A I do not.
- 10 Q Did you actually look at the security video from
- 11 that evening?
- 12 A I did.
- 13 Q And which hours did you view?
- 14 A I viewed all night and then specifically when John
- 15 Reid came in.
- 16 Q That was about 10:30 or so the evening before?
- 17 A I would have to look at those videos. Yes, the
- 18 night before and then the morning that it all
- 19 happened.
- 20 Q And I believe the testimony has been it was 5:30ish
- 21 when Jeffrey Kennedy unset the alarm and spent a
- 22 few minutes in the building and left. Did you see
- 23 that on the video?
- 24 A Yes. I did see when he unset the alarm or turned
- 25 the alarm off and left the building, yes.

1 Q And what happened after that? Did you keep
2 watching it until Tim Hunter arrived?

3 A You know, I don't recall. I don't recall that
4 part.

5 Q Did you verify --

6 A I certainly would think that would be something
7 that I have would have seen and done. I just don't
8 recall specifically seeing that.

9 Q All right. So you are unable at this point to tell
10 us what time Tim Hunter arrived?

11 A Correct.

12 Q And you are also, I'm assuming, unable to tell us
13 if anybody else entered the building before Tim
14 Hunter arrived, between the time of Jeffrey Clark
15 [sic] cutting the alarm off and the time Tim Hunter
16 arrived?

17 A Certainly could review that but I don't recall that
18 right now.

19 Q So none of that information would have been
20 reported to the Sheriff's Department; right?

21 A The Sheriff's Office received the video we had.

22 Q Which portion? What time did it cut off --

23 A They received the videos that we had. They
24 received those and were able to make inferences on
25 their investigation based on those videos.

- 1 Q I'm asking you. And the inferences that they
2 gathered did not lead to charging anyone, did it?
- 3 A Well, inferences and probable cause are two
4 different things.
- 5 Q I'm asking you: Did they charge anyone --
- 6 A You are saying based on those inferences. They are
7 not going to charge anybody based on inferences.
8 But if you are talking about probable cause, then
9 they will charge on probable cause.
- 10 Q Tell me this. Do you agree with the Sheriff's
11 Department that there was no probable cause to
12 charge Jeffrey Kennedy?
- 13 A Do I agree with the Sheriff's Office on that?
- 14 Q If you had been the police, if you had been the one
15 working this case at the Sheriff's Department,
16 would you have charged Jeffrey Kennedy?
- 17 A I don't know what all came from those interviews.
18 I don't know. I wouldn't be able to speculate on
19 that.
- 20 Q So from your point of view, as somebody not at the
21 Sheriff's Department, you didn't know what the
22 complete investigation revealed?
- 23 A Correct, because it was their investigation.
- 24 Q Well, if you don't know what the complete
25 investigation revealed, why did you and Chuck

1 punish Jeffrey Kennedy?

2 A I didn't punish Jeffrey Kennedy.

3 Q All right. Did you --

4 A You are saying I punished, as in I made that

5 decision to do that; and that's not the case here

6 at all.

7 Q Who made the decision?

8 A HR made the decision.

9 Q HR took Jeffrey's keys away?

10 A HR made the decision to take the keys away, and HR

11 did those things based on the totality of

12 everything. That would be something that Roosevelt

13 Garrick and Traci and Chuck may be able to talk to,

14 but it certainly wasn't me who took those away.

15 Q Did Chuck -- so Chuck had no say-so in the matter?

16 A Chuck had a say-so. From a say-so standpoint, I

17 had a say-so from my prospective and from my

18 conversations with Joe Clark; but certainly the

19 decision was not in my ballpark.

20 Q Did you recommend that Jeffrey be punished?

21 A I don't recall a recommendation one way or the

22 other. I recall being very frustrated of the

23 decision to keep him on because --

24 Q Say that again.

25 A I don't recall making the decision one way or the

1 other. I do recall being frustrated with the
2 decision that was made.

3 Q What do you mean? The decision to take away the
4 promotion and take away the keys or you thought the
5 punishment should have been more severe with the
6 total termination?

7 A Well, it was a tough situation from a trust
8 standpoint, when we trust someone in security; and
9 that trust has been lost. The situation that was
10 set up was one that Jeffrey could have earned some
11 of that trust back, but it was a tough situation to
12 be in. It would have been -- I certainly have my
13 viewpoints on it and having talked to Joe Clark and
14 knowing what I know, that was tough to work with.

15 Q So this theft of a thousand dollars had a lot to do
16 with your belief that Jeffrey Kennedy was no longer
17 trustworthy? Is that safe to say?

18 A It had a lot do with it, but it wasn't everything.
19 Because we had a series of thefts that led up to it
20 where he was the common denominator.

21 Q We will talk about that. But as far as the
22 thousand dollars goes itself, you have acknowledged
23 that you didn't do a investigation at all, did you?

24 A No, I did not.

25 Q And you have been trained on how to do

1 investigations; correct?

2 A I have.

3 Q That's what you did for many years you said?

4 A I did.

5 Q And had you been charged with conducting this
6 investigation, would you have interviewed the
7 baseball team or even the baseball players?

8 A I take -- when I conducted investigations, there
9 are things that happen on any given situation. You
10 try to look through the white noise of any
11 situation and get down to who is going to give you
12 the information that you are looking for and what
13 is not corroborated with the facts that you have.

14 Have I conducted investigations where I could
15 have done better? Yes. Would I have done this a
16 different way? Perhaps. But in the whole scheme
17 of things at the Sheriff's Office or when you deal
18 with the Sheriff's Office, you are dealing with a
19 whole other set of parameters.

20 Q I'm just --

21 A You asked if I would do this differently.

22 Q No, I asked you if you were in charge, would you
23 have?

24 MR. BARLOW: Objection, Your Honor. He has
25 the opportunity to explain his answer, and that wasn't

1 the question.

2 MR. GOODWYN: He is answering a different
3 question than I asked.

4 MR. BARLOW: Well, he needs to ask the
5 question.

6 BY MR. GOODWYN:

7 Q I'm just asking: Would you have wanted to know
8 what the baseball players said?

9 THE COURT: Ask the question and answer the
10 question that is asked. If you need to explain your
11 answer, you can explain your answer.

12 BY MR. GOODWYN:

13 Q If you had been in charge of the investigation,
14 would you have wanted to know what the baseball
15 players saw in the building that night?

16 A I would have.

17 Q And if one of the baseball players or coaches had
18 said, "Yeah, I really needed to go put something in
19 Tim Hunter's office." And he came out putting
20 some, what looked like, some money in his pocket,
21 would you think that would have been relevant to
22 the investigation?

23 A That would have, yes.

24 Q And would you have wanted to, if you were in charge
25 of the investigation, ask the custodial staff if

1 they had been in the building. If so, what times?
2 Who was in there, that kind of thing?
3 A Correct.
4 Q And the custodian said, "Yeah, I walked in Tim
5 Hunter's office. I was emptying trash, saw the
6 change tray sitting there and the money was still
7 there," that would have completely cleared Jeffrey
8 and the baseball team; correct?
9 A That would have been important questions.
10 Q Right.
11 A Right.
12 Q Nobody that you know even asked that. You said you
13 didn't do this investigation. You didn't ask those
14 questions; correct?
15 A I did not ask those questions.
16 Q And Chuck didn't ask those questions. Nobody in
17 your department asked those questions that you know
18 of?
19 A I don't know if Chuck asked those questions or not.
20 Q If he did, he didn't tell you though?
21 A I'm not aware of those questions being asked. I'm
22 not aware of those answers.
23 Q I think you testified earlier you never heard from
24 the Sheriff's Department if they asked questions of
25 the baseball team or the custodians?

- 1 A Correct.
- 2 Q And if the custodian had said, "I came in there,
3 emptied the trash; and there was no trays, no
4 change trays at all, anywhere where Tim Hunter said
5 he left them," that would have suggested Tim Hunter
6 just made all this up so he could cover for
7 stealing the thousand dollars, wouldn't it?
- 8 A Correct.
- 9 Q But you focused on Jeffrey Kennedy anyway; correct?
- 10 A We focused on Jeffrey Kennedy from the standpoint
11 of he was one of the last witnesses on the District
12 on site and the previous incidents that occurred a
13 few days before where he was the common
14 denominator.
- 15 Q All right. Let's talk about these other incidents.
16 You said two instances -- was it one instance or
17 two instances in the days leading up to the
18 thousand dollar theft?
- 19 A I want to say two. I'm confident of one but I want
20 to say two.
- 21 Q All right. Prior to this thousand dollar theft, it
22 seems that Ms. Jackson was kind of the focus of
23 that investigation. She had already had her keys
24 taken away; correct?
- 25 A You say the focus. I would say a focus.

1 Q So she and her staff maybe would have had access to
2 areas where these petty thefts had occurred?

3 A Correct.

4 Q So how can you say that Jeffrey Kennedy was the
5 common denominator when you don't even know --
6 nobody ever talked to the custodial staff about the
7 thousand dollar theft, and you know the custodians
8 had access to the other thefts? There were two
9 common denominators.

10 A He was a common denominator, and in those
11 conversations in Childers's office right after the
12 theft occurred, his name continued to come up over
13 and over again to the point where the Sheriff's --
14 by Childers and others.

15 I say Mr. Childers and I believe Mr. Hunter
16 might have brought it up because of some -- maybe
17 some issue with the baseball coach that evening.
18 There was some confrontation or something.

19 Q What are you -- are you talking about there was a
20 confrontation between Mr. Kennedy and the baseball
21 coach?

22 A You know, I believe I recall something along those
23 lines.

24 Q What type of confrontation? Just something more
25 than, Hey, why did you set the alarm off, or

1 something different?

2 A I think there was a disagreement about opening the
3 gates or something, and the inference was that
4 Mr. Kennedy was being unprofessional in the way he
5 talked to the coach.

6 Q And that has a bearing on his trustworthiness how?

7 A By being disrespectful that would have some bearing
8 on whether you are trustworthy or not, yeah. I
9 would think so, especially if you have a
10 professional role. You want to stay professional
11 in everything you do.

12 But there was a confrontation, some sort of
13 verbal confrontation. I'm not sure what that was,
14 but that was part of that conversation in the
15 office with Childers.

16 Q Okay.

17 A And Mr. Hunter.

18 Q So you don't remember if it was one or two thefts
19 in the couple of days before the thousand dollars
20 went missing?

21 A I want to say there was two, but I do recall
22 specifics about the last one and the location of
23 the camera and where it was pointed. We had to do
24 some moving of the camera to point towards that
25 office because it had not been pointed at the

1 office prior to that.

2 Q All right. The repointing of the camera would be
3 one of the things that would show you who?

4 A We would hope so but then we had the thousand
5 dollar theft.

6 Q What was missing in this theft in the couple of
7 days before this? Do you remember what it was?

8 A I believe there was some jewelry someone had hidden
9 in a back drawer, and it had to be somebody that
10 had a key to that office.

11 Q Whose jewelry was it?

12 A The bookkeeper's maybe.

13 Q How valuable was it estimated?

14 A Um...

15 Q You don't remember?

16 A I don't know. I think it was found property, and
17 they were waiting for someone to come claim it.
18 They had put it in a folder in a drawer in the
19 desk; and it was obvious that when they came in,
20 somebody had been rummaging through the drawer, and
21 that was missing.

22 Q All right. You didn't suspect the person whose
23 desk it was, I guess?

24 A No. She is the one who reported it, and it was
25 found property. It was something she was waiting

1 on somebody to come claim. It was behind a locked
2 door.
3 Q A locked door that security and the custodial staff
4 had a key to?
5 A Correct.
6 Q Now, the custodial staff, they clean behind those
7 locked doors. They clean those areas; correct?
8 A Correct.
9 Q But the security staff isn't supposed to go in
10 there; is that correct? They just check the
11 outside doors?
12 A Correct.
13 Q Do you have any evidence, direct evidence, to show
14 where Jeffrey Kennedy had ever even gone in the
15 interior door that he wasn't supposed to go into?
16 Any cameras ever show him doing that?
17 A Into her office?
18 Q I am just saying generally. Have you ever seen a
19 video where Jeffrey Kennedy went into an interior
20 office?
21 A We've got the video where Jeffrey comes into that
22 interior hallway and goes into the break room or
23 off that camera, I should say. He says it's the
24 break room.
25 Q Right.

1 A And stays --

2 Q Off camera?

3 A Off camera for a long period of time and then goes

4 back out that door, walks or drives around to the

5 front of the school to turn on the alarm. So

6 that's the video that I recall having.

7 Q Have you asked Jeffrey about that?

8 A We have.

9 Q What was his explanation?

10 A He went in there and took a break for a long period

11 of time.

12 Q Did you ask him: Is that your custom?

13 A We did.

14 Q What did he say?

15 A He said yes, but --

16 Q -- but you don't believe him?

17 A Huh?

18 Q But you don't believe him?

19 A I don't based on the previous videos that we saw

20 where he wasn't spending that much time in there.

21 Q How many videos did you look at?

22 A I don't recall how many. I recall --

23 Q Ballpark.

24 A Two or three.

25 Q From the same weeks?

- 1 A Yes.
- 2 Q And how much time did he spend in the other videos?
- 3 A Minutes.
- 4 Q This is for this building?
- 5 A In this section. This is the interoffice where all
- 6 the principals and the bookkeepers -- the
- 7 bookkeeper is actually in another section off
- 8 camera -- but they had, like, the test examiner has
- 9 an office near there. Childers has an office down
- 10 the hallway, that sort of thing.
- 11 Q Did you look at videos from any other buildings to
- 12 see which habits were in other buildings?
- 13 A Sure. We followed him around and through the
- 14 school and saw him come into a couple of places,
- 15 like I said, the main lobby. We saw him into the
- 16 main lobby.
- 17 Q Is this just one night where you followed him
- 18 around?
- 19 A Like I said, two or three nights.
- 20 Q Did he take breaks any other time?
- 21 A I don't recall him taking breaks in that
- 22 interoffice hallway.
- 23 Q I'm talking about anywhere. Did he take breaks
- 24 anywhere?
- 25 A I don't recall that. I recall him coming in and

1 turning off the alarms and going on about his
2 business.

3 Q Do you think it would be important if he took
4 breaks in a lot of buildings where a lot of thefts
5 didn't take place?

6 A That would be important, and I would be upset that
7 he was taking so many breaks in so many parts of
8 the school if that happened.

9 Q And if the supervisor before you had instructed him
10 to do that --

11 A To take breaks in all different parts of the
12 school? That doesn't sound right. That doesn't
13 even wash.

14 Q You are not understanding what I'm saying. You are
15 saying he took a break in the building where a
16 theft occurred. That is what made you suspicious
17 or he was off camera longer than would have needed
18 just to do his business in there in a building
19 where a theft occurred.

20 A Okay.

21 Q If his normal habit was to take breaks in buildings
22 and he had been doing that since he had been there,
23 he had been instructed to do that, that would be
24 relevant. It would make him look at least less
25 suspicious; correct? If he did that regularly?

- 1 A If he did that regularly. Of course, that is not
2 something that I witnessed.
- 3 Q Over your --
- 4 A In the times that I saw the videos and the times I
5 went back on the videos.
- 6 Q Do you have any of those videos?
- 7 A I do not have any of the videos.
- 8 Q You didn't keep them?
- 9 A I didn't.
- 10 Q You testified you really didn't make a note of
11 whether he regularly took breaks, I think. You
12 said you didn't remember?
- 13 A I don't. I don't remember. I don't remember any
14 video where he regularly took breaks, except for
15 that one in the inner hallway on the night that the
16 theft occurred in the office.
- 17 Q Do you still have any videos from --
- 18 A I do not personally have the videos.
- 19 Q Does the District have the videos?
- 20 A I would think that Chuck may have them on his
21 computer. I think the Sheriff's Office may have
22 some of that.
- 23 Q Do you think that would be important to keep?
- 24 A The Sheriff's Office definitely.
- 25 Q For y'all's sake? I mean, it's clear -- and I

1 think you may have already testified to this -- you
2 think Jeffrey stole the thousand dollars and stole
3 this jewelry from the desk; correct?
4 A I don't recall saying that statement.
5 Q I'm not asking if you said it. I am asking do you
6 think it?
7 A Do I think he stole it?
8 Q Yeah.
9 A I think there is a serious trust issue with
10 Jeffrey.
11 Q Do you think he stole the thousand dollars?
12 A I think there is a very good possibility that he is
13 the one that did it.
14 Q All right. Do you think the custodians may have
15 done it?
16 A I do not think a custodian did it.
17 Q Why not?
18 A Because she is not the common denominator through
19 all those incidents.
20 Q It's got to be the same person; right?
21 A It doesn't have to be the same person, but I don't
22 have any evidence otherwise.
23 Q Right. You have very little evidence?
24 A That's right.
25 Q So you made your decision to put it all on Jeffrey

1 and punish him --

2 A Whoa, whoa. Again --

3 Q -- based on what you have?

4 A You are saying I made that decision.

5 Q You made the recommendation to Chuck.

6 A He and I discussed our viewpoints on it, yes.

7 Q You told Joe, "I think it's Jeffrey"?

8 A Yeah.

9 Q And you are okay with this e-mail going out?

10 A Chuck didn't ask my permission to send that e-mail

11 out.

12 Q Okay. But you didn't object to it?

13 A I'll not going to object to my boss sending

14 anything out. If my boss wants to tell me to take

15 a hike, I've got to take a hike.

16 Q It sounds like y'all collaborate on a lot of

17 things.

18 A We collaborate. We're not islands until ourselves.

19 Nobody in the District is an island unto

20 themselves.

21 THE COURT: Mr. Goodwyn, I think this is a

22 good time to take a break.

23 MR. GOODWYN: Sure. Thank you.

24 THE COURT: Ladies and gentlemen, we are going

25 to take a lunch break. I am going to remind you of the

1 instructions I have given to you; that is, not to begin
2 to discuss this matter among yourselves. You still have
3 not heard all the evidence that has to be presented.

4 Please remember as you come and go from the
5 courthouse not to listen to conversations in the
6 hallways, again, for the reasons that you will to have
7 make the decisions based upon the evidence that has been
8 presented here in this courtroom.

9 Please also remember not to allow anyone to
10 approach you to discuss this matter with you. Again, if
11 someone attempts to do that, please tell them that you
12 are a juror and that you cannot discuss it. We ask that
13 you report it as soon as possible.

14 I will ask that you report back to the same
15 jury room at 2:45. When you report back at that
16 particular time, then we will be ready to continue on
17 with the trial of this matter. Have a good lunch. We
18 will see you back at 2:45.

19 (The jury is excused for lunch at 1:15 P.M.)

20 THE COURT: Mr. Barnes, you may step down.
21 During this break you should not discuss your testimony
22 with anyone. You have not concluded. So it would be
23 inappropriate for you to discuss it, even with your own
24 attorneys at this time.

25 THE WITNESS: Yes, ma'am.

1 THE COURT: We will see back at 2:45.

2 Anything else we need to take up?

3 (There is no response.)

4 THE COURT: Please be back at 2:45.

5 (Whereupon there is a luncheon recess.)

6 THE COURT: Anything to take up before I bring
7 the jury in?

8 MR. GOODWYN: Not from the plaintiff.

9 MR. BARLOW: Not from the defendants.

10 THE COURT: You may ask the jury to come in
11 please.

12 (The jury return to the courtroom at
13 2:50 P.M.)

14 BAILIFF: The jury panel is accounted for,
15 Your Honor.

16 THE COURT: You may continue, Mr. Goodwyn.

17 MR. GOODWYN: Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MR. GOODWYN:

20 Q Mr. Barnes, let me see if I can figure out where we
21 were. I'm going to skip around a little bit.

22 There were some questions I realized I should have
23 asked you as we were kind of walking through some
24 of this. All right.

25 Let's go back to your view of the videotape of

1 the night the thousand dollars was stolen. My
2 understanding -- and correct me if it's not your
3 understanding -- is that Tim Hunter put the money
4 in his office after the soccer game, left; and then
5 around, whatever, 10:30 or so, Jeffrey Kennedy and
6 John Reid set the alarm.

7 Then Mr. Kennedy turned them on and off at
8 5:30. Mr. Hunter came in sometime Saturday morning
9 and discovered the money missing. Is that
10 generally it?

11 A My understanding, yes.

12 Q And, of course, the baseball team came in during
13 the night, and some other people may have come in
14 Saturday morning after the alarm was unset and
15 before Mr. Hunter came in. But you don't recall
16 whether they did or didn't from looking at the
17 video?

18 A Correct.

19 Q So was there some time -- well, first, let me ask
20 you this: What time, was your understanding, of
21 when Mr. Hunter put the money in the office?

22 A I don't recall.

23 Q But it sounds like it was sometime before Jeffrey
24 Kennedy set the alarm that night with John Reid.
25 Is that your understanding?

- 1 A If I recall correctly, yeah. That would make
2 sense.
- 3 Q So there was some time there before the alarm was
4 set where there wasn't an alarm set, and anybody
5 with a key could have gotten in the building and
6 found the money and taken it; is that correct?
- 7 A I'm sorry. Say that again, please.
- 8 Q It sounds like there must have been some time
9 between the time Tim Hunter put the money in his
10 office on the floor and the time Jeffrey Kennedy
11 set the safe [sic] where the building was not
12 locked and somebody with a key could have come in
13 and accessed the office and gotten the money?
- 14 A It sounds like that. I would have to look at the
15 videotape and see again, but it sounds like that
16 could happen.
- 17 Q So you don't recall if you looked at that time?
18 Did you verify what time Tim Hunter left the
19 building that night?
- 20 A I don't recall. I don't recall that. I recall
21 turning the video -- I recall Chuck turning the
22 video over to the Sheriff's Office.
- 23 Q Did you watch the video?
- 24 A I did watch the video and I don't recall.
- 25 Q That portion of it?

- 1 A That portion of it.
- 2 Q You think that would be something important to
- 3 know, whether somebody accessed the building during
- 4 that period where the alarm was not set?
- 5 A Could be, yes, sir.
- 6 Q Now, tell me this. There is a video that I've been
- 7 referring to this whole time, and that's a video of
- 8 one of the doors to the AD building; correct?
- 9 A Correct.
- 10 Q How many doors are there to the AD building where
- 11 Tim Hunter's office was?
- 12 A There are several doors upfront, and there is a
- 13 door to the back.
- 14 Q So upfront and one or two in the back?
- 15 A There is a big, long glass part in the front; and I
- 16 think two separate doors right there in the front.
- 17 There is at least one door in the back.
- 18 Q And the camera you are referring to, the video that
- 19 we are referring to, was covering which doors?
- 20 A Covering the doors closest -- the doors on the
- 21 front and then there is another camera that covers
- 22 down the hallway in the back.
- 23 Q And the hall, is that the hallway that Tim Hunter's
- 24 office is on?
- 25 A That's the hallway that Tim Hunter's office is on.

1 Tim Hunter's office is right off the lobby right
2 there. The way the camera were set up at that
3 time, the cameras turned and looked at the front
4 doors and looked down the hallway and did not look
5 at his door in particular.

6 Q And the cameras, are they inside the building
7 looking out at the front doors or are they outside
8 the building looking to see who is outside?

9 A They are on the inside, angled looking towards the
10 openings of the door.

11 Q So you would see the face of somebody walking in?

12 A Correct.

13 Q And then there is another camera that shows the
14 hallway in the building?

15 A Correct.

16 Q But nothing on the back door?

17 A I believe there is one on the back door. I would
18 just have to go back to the system. We have over
19 3,300 cameras in the District. I don't recall that
20 particular camera, but I want to say that Tim
21 Hunter and Jim Childers could probably speak better
22 on this because it's their campus. But I want to
23 say there is something covering the back door as it
24 comes in right there. There is another hallway
25 camera.

1 Q So you just don't recall what we are talking about
2 then. First of all, let me ask you this: You say
3 you reviewed the video. Is this one video that you
4 reviewed for a long period of time or did you
5 review multiple videos from multiple camera angles?

6 A I reviewed multiple camera angles as I recall.
7 But, quite frankly, I will not be able to tell you
8 what angles in any particular thing about what I
9 reviewed.

10 I recall reviewing some video of the before
11 and after. I recall the incident -- or John Reid
12 coming in with your client, and then I recall your
13 client coming back in and turning off the alarm.

14 Q And that would have been --

15 A In that particular incident. That would be the
16 camera in Bates Hall looking at the front door.

17 Q So you saw that. You saw Jeffrey Kennedy set the
18 alarm and go off camera?

19 A Uh-huh. (Indicating affirmative response.)

20 Q For about five minutes?

21 A Correct.

22 Q But you didn't check -- you don't recall
23 checking --

24 A I don't recall. By saying that I don't want you to
25 infer in any way, shape or form that I didn't do

1 it. I just don't recall doing it.

2 Q Right, right. When you form an opinion as to who

3 stole the money, I would think you would make a

4 thorough investigation, and it sounds like you

5 didn't. You acknowledge that you didn't; correct?

6 A The investigation was the Sheriff's Office because

7 it's a criminal investigation.

8 Q Well, let me ask you this --

9 A And I was a liaison trying to give some parameters

10 and some options for the Sheriff's Office, but I

11 certainly in no way tried to influence the

12 Sheriff's Office to go one way or the other.

13 Q I'm not talking about the Sheriff's Department.

14 A You are talking about an investigation, sir.

15 Q Your investigation.

16 A And I told you I did not investigate.

17 Q Right.

18 A I was a liaison.

19 Q But you concluded that somebody committed this

20 crime without even doing any investigation;

21 correct?

22 A No, sir. No, sir.

23 Q You already told me that you thought Jeffrey

24 Kennedy committed this crime.

25 A I did say that. After all -- after everything is

1 done, all said and done, looking back on it, yes, I
2 believe Jeffrey Kennedy did the crime.

3 Q Despite the fact that a full investigation was
4 never completed by you, the Sheriff's Department,
5 or anybody else?

6 A I don't know that the Sheriff's Office didn't do a
7 full investigation.

8 Q But you don't know about the investigation. You
9 don't know what they did on their investigation, do
10 you?

11 A They didn't include me on anything they did, no,
12 sir. They didn't tell me about everything that
13 they did.

14 Q We talked about this. Did you hear anything about
15 anybody interviewing the baseball team members?

16 A No.

17 Q You didn't hear anything about any interview with
18 the custodial staff?

19 A No, sir.

20 Q You don't even know what the videotapes show about
21 who entered the building first that morning.
22 Nobody interviewed that person, and nobody even
23 knows if anybody came into the building after Tim
24 Hunter put the money in there but before the alarm
25 was set. All that would be relevant information;

1 correct?

2 A All that would be.

3 Q But you still were able to form a conclusion that

4 Jeffrey Kennedy stole this money?

5 A Not based on that alone.

6 Q But in part? In part?

7 A Yes, in part based on those. Yes, it helped me

8 form that opinion.

9 Q And then the other incident you are talking about

10 with this jewelry in an envelope in the back of the

11 drawer, you remember telling me about that?

12 A Uh-huh, yes.

13 Q It was reported on a particular day and you went

14 back and checked the video of that prior night to

15 show that Jeffrey Kennedy was in that building and

16 was off camera for a period longer than you think

17 he should have?

18 A Yes, sir.

19 Q You know if -- and I believe your testimony was the

20 person who reported this was somebody that said,

21 "This was a lost and found item in the back of the

22 desk"?

23 A Back of a drawer, yes, sir.

24 Q Back of a desk drawer. Do you know if the item was

25 just noticed missing on that particular day or had

1 they just noticed it was missing on that day, but
2 it could have been gotten stolen over the last
3 three or four weeks, but they just noticed it
4 missing that day? There is a difference. Do you
5 follow what I'm saying?

6 A I do follow what you are saying. I am trying to
7 recall that. I know that the administrators at the
8 school could speak more or give you more clarity on
9 that. I don't recall the specifics without seeing
10 paperwork of some sort in front of me.

11 Q But that would make a difference though, wouldn't
12 it? I mean, if she just happened to notice it was
13 missing on a particular day, that doesn't mean it
14 was stolen the night before. It could have gotten
15 stolen over the last few weeks, and she just didn't
16 notice it until that day?

17 A Sure.

18 Q And about how many petty thefts do you think are
19 reported a year, a school year, at Spring Valley,
20 just a ballpark, reported to your office?

21 A That would be speculation. I wouldn't have the
22 numbers on it.

23 Q I mean, are we talking more than a hundred?

24 A Again, sir, that would be speculation. I don't
25 have any numbers on it. I would be hesitant about

- 1 even mentioning a number.
- 2 Q About how many have you investigated in a year on
- 3 average?
- 4 A When I was at the Sheriff's Office?
- 5 Q Both, when you were at the Sheriff's Office and at
- 6 now that you're at Spring Valley.
- 7 A One.
- 8 Q One a year?
- 9 A That I would investigate.
- 10 Q And how many do you believe are reported a year?
- 11 A I don't know, sir.
- 12 Q Are a lot reported that you wouldn't know about?
- 13 A Again, sir, I don't know.
- 14 Q I believe you testified earlier that Jim Childers
- 15 told you about this other instance after the fact,
- 16 that he had done some investigating; but you didn't
- 17 know -- your unit didn't know about it. It was
- 18 done by Jim Childers?
- 19 A Correct.
- 20 Q Are there a number of petty thefts that are
- 21 reported to him that don't get to you?
- 22 A That would be something you have to talk to him
- 23 about.
- 24 Q From your experience do you know if petty thefts
- 25 are reported to him that never get to you?

1 A I don't know of any petty thefts that are reported
2 to the administrators that aren't reported to me,
3 no. If something comes up and I get wind of it,
4 then I will call that administrator and just say,
5 "What is going on?"

6 Whether it be a break-in at a canteen or
7 concession stand or whatever, those things come to
8 my knowledge. I confirm them and follow up on
9 them. But, no, I certainly don't know of any theft
10 that is reported to someone who doesn't report it
11 to me. I don't know.

12 Q All right. Again, you thought or a big reason you
13 came to the conclusion that Jeffrey Kennedy was
14 responsible for the jewelry theft and the thousand
15 dollars was that he was in both buildings the
16 nights that they were reported stolen?

17 A That would be a big reason, yes. It wouldn't be
18 the total reason, but that would be a big reason.

19 Q Is it entirely possible that two different people
20 committed these thefts? It doesn't have to be the
21 same person, does it?

22 A No, it's entirely possible. That is something that
23 we certainly didn't know and I'm drawing
24 conclusions, but there is no confession here.

25 Q Right.

1 A There is no confession here. Really when you clear
2 a case -- and just talking from my experience from
3 the Sheriff's Office -- when you clear a case,
4 sometimes you have, you know, in your gut based on
5 nonverbal things, based on other things in the
6 investigation, you know in your gut, this is our
7 primary guy, but you don't have enough to prove it.
8 That's in large measure what was going on here.

9 Based on all the cases that were brought to
10 our attention, based on the interviews or the
11 recollections of the people involved, based on the
12 conversations that I had with the Sheriff's Office,
13 I drew conclusions based on those. It's a
14 totality. It's not just one or another. It's not
15 piecemeal. It's looking at the picture as a whole.

16 Q And you would agree that your picture as a whole
17 was very limited since you didn't actually conduct
18 the investigation --

19 A That is correct.

20 Q -- if they were interviewed, you never heard
21 about --

22 A Participating in those interviews is important,
23 yes.

24 Q Nobody is trying to say in this case -- Jeffrey is
25 not trying to say -- you or anybody else can't have

1 their opinions about who took this money. Anybody
2 can have an opinion. The point is you can't just
3 go around telling people somebody is a thief.
4 That's what this case is about.

5 MR. BARLOW: Objection to the form. He is
6 testifying, Your Honor.

7 MR. GOODWYN: I just am trying to preface my
8 question --

9 THE COURT: Rephrase your question.

10 BY MR. GOODWYN:

11 Q And to that point the e-mail, this is Plaintiff's
12 Exhibit 4 that we have been talking about --

13 A This is the e-mail that I did not send?

14 Q The e-mail you did not send. The e-mail that you
15 didn't send, but would you agree that you
16 supervised the people that received the e-mail?

17 A I did.

18 Q And part of your supervisory responsibilities is to
19 make sure they abide by your and Chuck Earles's
20 commands?

21 A That would be correct.

22 Q And is it fair to say that Chuck Earles commanded
23 that this information be kept confidential?

24 A He did.

25 Q Was it kept confidential?

- 1 A As far as I know it was, up until you bringing it
2 to our attention.
- 3 Q It seems like you and Chuck Earles seem to be the
4 last ones to know a lot of things. You haven't
5 heard about it?
- 6 A It's lonely at the top.
- 7 Q That's right. That's why it's important to ask the
8 questions of your subordinates, isn't it? "Have
9 you printed this e-mail out? Have you told anybody
10 about this," that kind of thing. You testified
11 earlier that you never did that.
- 12 A No, I never did.
- 13 Q Why was it important to keep this e-mail
14 confidential, this information in the e-mail
15 confidential?
- 16 A We didn't want other people to know about it. We
17 don't want the rank and file to make inferences and
18 jump to conclusions and draw their own
19 dissatisfaction or their own ideas about what
20 happened and what didn't happen. We were hoping
21 that -- we were trying to make the best of a bad
22 situation.
- 23 Q Do you think if the rank and file did find out
24 about the information in the e-mail, it might be
25 harmful to Jeffrey?

1 A Well, we did. We wanted to -- Chuck wanted it to
2 be confidential. But at the same time, sir, you
3 know it's naive of us to believe that those
4 conclusions aren't being drawn anyway in such a
5 small department that we have.

6 But we did our best. Chuck did his best to
7 spread that around, that he wanted it confidential.
8 This is what is going on. But that doesn't stop
9 people from coming up and asking questions of other
10 people, including your client.

11 Q Sure. But it would sure help if that e-mail hadn't
12 been seen by some other employees, some of the rank
13 and file? Would you agree with that?

14 A If they saw it, yes.

15 Q The testimony in this case --

16 A Well, I haven't heard the testimony, sir.

17 Q I will represent to you that some of the rank and
18 file have testified --

19 A Okay.

20 Q -- that it was sitting --

21 A Okay.

22 COURT REPORTER: Gentlemen, I need you to talk
23 one at a time, please.

24 MR. GOODWYN: Sorry.

25 BY MR. GOODWYN:

- 1 Q Have there been any petty thefts reported at Spring
2 Valley since March 4, 2011?
- 3 A No.
- 4 Q Not a single one?
- 5 A Not that I'm aware of.
- 6 Q No student has stolen anything?
- 7 A Not that I'm aware of.
- 8 Q And do you attribute that to Jeffrey Kennedy
9 being -- his keys being taken away?
- 10 A I think you can draw inferences on that. We had a
11 series of thefts that he was a common denominator
12 in. And when we took him out of that environment,
13 we no longer had thefts in that environment.
- 14 Q And you also took the keys away from the custodians
15 about the same time, didn't you?
- 16 A I did not.
- 17 Q Your department. The department took the keys
18 away; right?
- 19 A Spring Valley, I believe, did.
- 20 Q Or whoever, somebody at the District or Spring
21 Valley took those keys away; correct?
- 22 A I believe so, yes, sir.
- 23 Q Do you know if Human Resources conducted any
24 investigation into the thousand dollar theft beyond
25 what y'all do, looking at the video, talking to

1 John Reid?

2 A I don't know what they did, other than I was
3 sitting in on a conversation between your client
4 and Traci Batchelder, and questions were asked
5 during that particular interview.

6 Q With Jeffrey. So you interviewed Jeffrey?

7 A Correct.

8 Q Do you know if they interviewed anybody else?

9 A I do not know. I'm not privy to any of that.

10 Q Did you think it was odd or suspicious that Tim
11 Hunter didn't just put the money in the safe and
12 give somebody else the combination, somebody he
13 trusted?

14 A That would be odd but not suspicious in my mind,
15 knowing Tim Hunter and the amount of money that he
16 is entrusted with over the course of the year.
17 That would not be odd in my mind. That would be
18 odd but not suspicious.

19 Q You said you know Tim Hunter. What do you mean by
20 that? Why would that be odd or suspicious for
21 somebody else but not Tim Hunter?

22 A Tim Hunter is in charge of a lot of things at
23 Spring Valley. He is in charge of a lot of money.
24 He is in charge of a lot of activities. He is the
25 man in a lot of respects over at Spring Valley. He

1 has a protocol that he goes by. This particular
2 day was an odd day for him.

3 Q Because?

4 A He said because he was sick. I have no reason to
5 believe that he was not sick.

6 Q Did you see him that day?

7 A The day that he went home sick? No, I saw him the
8 next morning, that Monday morning, or the morning
9 when they reported it.

10 Q Did you ask anybody else if they saw Tim Hunter
11 that day?

12 A I don't recall that conversation coming up.

13 Q Did you ask anybody if they thought he looked sick?

14 A I don't recall that conversation coming up.

15 Q Have you ever made any suggestions to the
16 administration at Spring Valley to remedy this key
17 situation, to make it so the security department
18 knows who has the keys and controls who has the
19 keys?

20 A We have expressed a concern. I have expressed a
21 concern to Chuck, my immediate supervisor, about
22 the number of keys that are across the District and
23 who has control of those.

24 Each particular school has custody and control
25 of their keys. Because we are a support staff, we

1 don't necessarily have a say-so in much of that.
2 We don't have the time or resources to open up
3 every single door at every single moment of the
4 day.

5 So keys have to be given to teachers. Keys
6 have to be given to administrators in the inner
7 workings of each school. Yes, that is a concern
8 that we bring up and that I bring up and Chuck
9 brings up through the year.

10 Q Is it challenging to keep track of things and
11 control things without knowledge of who all has the
12 keys?

13 A Yes, it's a managed chaos in some respects; but it
14 is a challenge.

15 Q Okay.

16 A We have the video system to help out and
17 corroborate some issues that come up. We have our
18 patrols to corroborate some of the issues that come
19 up, that sort of thing. So there is some
20 overlapping things that we do to try to help
21 maintain that chaos.

22 Q Let me go back and ask you a couple of questions
23 about your interview with John Reid. You
24 interviewed him at the AD building; correct?

25 A As I recall, it was on the sidewalk outside of the

- 1 AD building, yes, sir.
- 2 Q And did a custodian come up during your interview
3 with him and access Tim Hunter's office during that
4 interview?
- 5 A I don't recall that incident, no.
- 6 Q John Reid testified that he came in, opened the
7 door; and you expressed a lot of frustration that a
8 custodian had the keys to Tim Hunter's office. You
9 don't recall that?
- 10 A I don't recall it. I'm not saying it didn't
11 happen. I just don't recall it.
- 12 Q Would it surprise you to know the custodian would
13 have a key to Tim Hunter's office? Or did you know
14 that already?
- 15 A I didn't know that already. But, again, my control
16 is over my security desk. My frustration, I would
17 imagine -- I don't recall that -- but I also know
18 that I don't have a poker face either. So if that
19 happened in front of me, I probably would have said
20 something; but I don't recall it.
- 21 Q Would you agree that if a security guard is openly
22 accused of being untrustworthy, that would
23 directly impact his professional career?
- 24 A It would definitely impact his career at the place
25 that he worked.

1 Q And possibly in getting future jobs?

2 A I don't know about that one.

3 Q I mean, if it's known, if it gets beyond the place
4 he works.

5 A I can't speak to that. I can't.

6 Q Would you hire somebody that you knew to be
7 untrustworthy?

8 A No, nor would I keep them.

9 Q You wanted to fire Jeffrey?

10 A Well, it would have made things easier, but --

11 Q Easier for you or easier for Jeffrey?

12 A Easier for everybody. But School District Two is
13 not like the Sheriff's Office. It's not -- and if
14 I can speak to that just a second.

15 MR. GOODWYN: I don't think that is responsive
16 to the question.

17 MR. BARLOW: I think it is. I mean, I think
18 he asked him a question: Would it be better for
19 everybody?

20 MR. GOODWYN: It would be better to fire
21 Jeffrey for him or for Jeffrey or for the District?

22 MR. BARLOW: He is explaining that.

23 MR. GOODWYN: He wants to talk about the
24 Sheriff's Office. I didn't ask him anything about the
25 Sheriff's Office.

1 MR. BARLOW: That is part of his answer.

2 MR. GOODWYN: It's not responsive.

3 THE COURT: I overrule your objection.

4 BY MR. GOODWYN:

5 Q Go ahead.

6 A If something comes up at the Sheriff's Office,
7 okay, or even at some of the other places I have
8 worked, if something like this came up, cut the
9 hours. You are out. See you later. Good luck to
10 you. All right.

11 School District, bless their hearts, they bend
12 over backwards for you. It's a wonderful place to
13 work. I mean, I have not worked in a place like
14 that where they just bend over backwards to try to
15 help you out.

16 And if something comes up, then they try to
17 move you to another place where you can succeed,
18 and the winds of change can blow back your way. So
19 it's a beautiful -- it's a wonderful place to work
20 in comparison to other places, and that's what
21 happened here.

22 Q After Jeffrey was -- his promotion was withdrawn
23 and his keys were taken away, he was pretty much on
24 desk duty. Is that your understanding? How would
25 you describe it?

1 A Keys are passed from person to person. Say a
2 person is working at Spring Valley, okay, and they
3 have a set of keys that open everything in the
4 District, so when they are relieved, they hand
5 those keys off. But we also have people in other
6 areas of the District, other areas and security;
7 and Jeffrey was moved to the inside to view the
8 video cameras.

9 Q When you say the inside, what you do mean?

10 A The inside of the sports center where you have the
11 supervisors. He was put in control of the cameras,
12 and actually that's a pretty powerful place to be.
13 You can keep an eye on the whole District through
14 that one office.

15 Q All right. But you don't have to be trustworthy to
16 have that position though; correct?

17 A Well, you do have the keys to actually access the
18 building.

19 Q Okay.

20 A But you can certainly, if you see something going
21 on and if you are assertive in that, you could
22 patrol that whole District. You could keep an eye
23 on that whole District and send help, call the
24 Sheriff's Office, send a security officer. It's a
25 very unique position. If done well --

- 1 Q -- you can direct the security efforts?
- 2 A You can direct the security efforts from there.
- 3 Q All right.
- 4 A And it's actually -- I look at it from an assistant
5 manager. I look at it as a very unique and
6 powerful tool that we have.
- 7 Q Is that where calls would come in if an alarm in a
8 building went off?
- 9 A Calls would come in; alarms would go off. If you
10 listen to the alarms and the types of calls coming
11 in, you could pick up on whether or not there is
12 actually entrance into those buildings with the
13 motion detectors; and you can send somebody fairly
14 quickly.
- 15 Q Is there a log to keep track of when alarms go off?
- 16 A There are.
- 17 Q Did you look at this log book for the AD building
18 the night the thousand dollars was stolen?
- 19 A I believe I did. I believe I looked at the logs as
20 far as who was on that day and who was on the other
21 days that thefts had been reported.
- 22 Q So that's something else you did for your
23 investigation?
- 24 A Well, those are things that we did for the
25 Sheriff's Office to kind of help them out, yes.

1 Q What other things did you do for the Sheriff's
2 Office to help them out, other than giving the
3 video?

4 A They expressed an interest based on that
5 information and the information that was garnered
6 from the interviews with Mr. Childers and
7 Mr. Hunter. In Mr. Childers's office, they
8 expressed an interest to speak with Mr. Kennedy.
9 We went to his house.

10 Q When you say "we," who is that? Who is we?

11 A I went to -- the investigators and I went to the
12 house that we had of record for Mr. Kennedy.

13 Q All right. Who were the investigators and how many
14 of them were there?

15 A You know, I remember Joe Clark. That's about the
16 only one I remember. I don't know if Ben Fields,
17 the school resource officer, went or not. There
18 may have been one other investigator, but I don't
19 recall who that is.

20 Q Three or four of you went to his house?

21 A It was me, okay, Joe Clark; and I believe y'all
22 have talked about in conversations with me in the
23 past there may have been one or two others. I
24 don't recall who those were, and I don't recall --
25 I just recall the lead investigator, Joe Clark,

- 1 being there.
- 2 Q Okay. Was Jeffrey there?
- 3 A No, it turned out that was not Jeffrey's house. It
- 4 was his mom's house.
- 5 Q So when did you go over to Ms. Jackson's house to
- 6 question her?
- 7 A I didn't go to Ms. Jackson's house.
- 8 Q So you weren't interested in anybody else except
- 9 Jeffrey?
- 10 A That's who the Sheriff's Office expressed an
- 11 interest to speak to at that moment. So we went
- 12 over to Jeffrey's house.
- 13 Q And you didn't go to the baseball coach's house,
- 14 did you?
- 15 A I certainly didn't because I was the liaison with
- 16 the Sheriff's Office, and Jeffrey is who they
- 17 wanted to see at that moment. So we went to his
- 18 house; and when we couldn't find him, we made a
- 19 phone call to him. He said he was on his way to
- 20 the beach, I think, for a vacation.
- 21 Q Okay. Now, who did Jeffrey's scheduling after he
- 22 was brought back from administrative leave?
- 23 A I'm sorry? Say again.
- 24 Q Who did Jeffrey's scheduling? Who scheduled his
- 25 hours and time? Who controlled how many hours he

1 got after he was brought back from administrative
2 leave?

3 A Well, Rick Groves, his captain, and Jerome Young,
4 his lieutenant, would be responsible for his work.
5 And if he wanted off for a vacation, for vacation
6 or sick, then he would notify them.

7 Q Do you think Jeffrey was getting more or less hours
8 or the same after he was brought back, as compared
9 to before, before the March 3rd, thousand dollar
10 theft?

11 A I think he was getting the same.

12 Q Why do you think that?

13 A Because at that particular time, the payroll,
14 full-time employees would get 40 hours a week and
15 maybe above that if they worked overtime or
16 something like that; but they would get their
17 regular 40 hours a week.

18 Q Jeffrey has testified that he got a lot less
19 overtime after he was brought back than before. Do
20 you have any knowledge about that?

21 A I don't have any knowledge of that. We'd probably
22 have to get the payroll; but overtime in the spring
23 is substantially less than overtime in the fall.

24 Q Because of sports activities?

25 A Sport activities and the need for security in those

1 sport activities historically. The spring time it
2 dries up.

3 Q Do you have any reason to doubt Jeffrey when he
4 says he was given fewer hours overtime after he was
5 brought back?

6 A I have no reason to doubt that. If you are
7 inferring that it's because of his job change, that
8 would be what I would have to counter on because
9 the nature of the business is the hours for
10 overtime are less in the springtime and the summer.
11 It dries up considerably.

12 Q I certainly understand that. But in addition to
13 not getting his promotion and taking away his keys,
14 he also effectively made less money because the
15 nature of his job had changed; correct?

16 A No, sir. He made less money because there was not
17 as many overtime opportunities in the spring and
18 summer. It had nothing to do with his change of
19 job, from being a security officer on the street at
20 one of the hubs, to being moved into inside around
21 the cameras. That doesn't stop him from getting
22 overtime in my mind.

23 Q Do you have to have any keys to work games?

24 A No.

25 Q No? There is nothing that you need?

1 A It hasn't been my experience that you need keys to
2 work the games. My captains are responsible for
3 the stadiums. They have keys. They have the keys
4 to the stadiums and gates.

5 We have hub officers that help with that. The
6 rank and file officers that work the stadiums, on
7 football stadiums and that sort of thing, they work
8 magnetometers, the metal detectors coming in.

9 They work the wands. They work the pass
10 gates. They keep an eye on the spectators in case
11 somebody falls and that sort of thing. The keys
12 are really not an issue during those sporting
13 events.

14 Q Okay. Do you know anything about the situation
15 with Kim Jones and her watching the video?

16 A I don't know Kim. I don't know about that --

17 Q You don't --

18 A Kim Jones --

19 Q Just what led us to Mr. Kennedy's firing?

20 A The only thing I know about that is I was told to
21 make a phone call over to Mr. Kennedy and put him
22 on administrative leave or something to that
23 effect. I can't remember if I called him or if I
24 had his captain call him.

25 Q Were you involved at all in the investigation --

1 A No.

2 Q -- of this incident?

3 A No, sir.

4 MR. GOODWYN: If I can have one second, Your
5 Honor.

6 (Pause.)

7 MR. GOODWYN: I think that's all I have, Your
8 Honor.

9 THE COURT: Any cross?

10 MR. BARLOW: Yes, Your Honor.

11 CROSS EXAMINATION

12 BY MR. BARLOW:

13 Q Mr. Barnes, I get up here all the time. I will try
14 to keep this relatively brief. I want to clarify a
15 few things first of all. Tim Hunter's office, the
16 thousand dollars missing from Tim Hunter's office,
17 is March 3rd, March 4th. I represent to you that
18 March 3rd was a Thursday..

19 A Okay.

20 Q Would it have been reported to you March 4th, the
21 Friday, the next day?

22 A Probably so.

23 Q I will not go back all over your training or
24 anything like that. How many years in law
25 enforcement?

- 1 A Twenty-three.
- 2 Q Twenty-three. You are married?
- 3 A I am.
- 4 Q What does your wife do?
- 5 A She's a teacher at the Center for Inquiry.
- 6 Q What does she teach?
- 7 A She teaches kindergarten and first, and then she
- 8 gets bumped back to kindergarten.
- 9 Q Do you have kids?
- 10 A I do.
- 11 Q How many kids do you have?
- 12 A Two kids.
- 13 Q Where do they go to school?
- 14 A Zack goes to Wofford, and Tiffany is working at the
- 15 church right now.
- 16 Q Now, to go back on a few things. I want you to
- 17 take a look at the exhibit that we looked at here.
- 18 Plaintiff's Exhibit 2. Take a look at that. Could
- 19 you read the last paragraph of that, please?
- 20 A "Always be honest. Do not hide the truth. Coming
- 21 forward and taking responsibility for a mistake is
- 22 always better than having your supervisor discover
- 23 it."
- 24 Q Is that important to security?
- 25 A Sure.

- 1 Q Has it always been important?
- 2 A Yes.
- 3 Q Now, did you have any knowledge of the petty thefts
4 that were -- he has described them as petty thefts.
5 We will talk about that in a minute. Any knowledge
6 of that prior to the recommendation for promotion
7 for Mr. Kennedy?
- 8 A No.
- 9 Q So you found out about those things after the
10 promotion --
- 11 A Yes.
- 12 Q -- had gone through?
- 13 A Correct.
- 14 Q Now, petty theft is the term used. Is it
15 considered minor for money to go missing from a
16 school?
- 17 A Minor, sometimes it is. From the Sheriff's
18 Office's prospective, sometimes it is.
- 19 Q Sure. How about from your prospective?
- 20 A A petty theft, a petty theft can be anything less
21 than \$2,000. It used to a thousand. Now, it's
22 less than 2,000. So if it's coming from a small
23 fund, \$2,000 would be significant.
- 24 Q Sure.
- 25 A A thousand dollars would be significant.

1 Q To you as a manager, if you suspect one of your
2 employees doing it, is it petty to you?

3 A No, it's not be petty to me, and certainly we have
4 fired for less.

5 Q Sure.

6 MR. BARLOW: I will mark this for
7 identification as Defendant's Exhibit 1, please. It's a
8 memo to Eric Barnes, dated March 24, 2011.

9 (Defendant's Exhibit Number 1 is marked for
10 identification.)

11 BY MR. BARLOW:

12 Q Mr. Barnes, I will ask you to take a look at --

13 MR. GOODWYN: Your Honor, I may have an
14 objection to this. I think we may need to review this.

15 THE COURT: Ladies and gentlemen, we have a
16 matter which we need to take up outside of your
17 presence. I'm going to ask that you retire to the jury
18 room and not begin any discussions. You still have not
19 heard all the evidence that has to be presented. We
20 will bring you back as soon as we take up these issues.

21 (The jury retires to the jury room.)

22 THE COURT: Yes, sir.

23 MS. PEAVY: Yes, Your Honor --

24 THE COURT: Let me just stop you. I noticed
25 it earlier. Mr. Goodwyn is doing the direct, and he

1 needs to be the one raising the objection.

2 MS. PEAVY: Okay, Your Honor.

3 MR. GOODWYN: This goes back to the motion in
4 limine.

5 THE COURT: Yes, sir.

6 MR. GOODWYN: There was discussion about prior
7 bad acts that they want to include. There is a couple
8 that we talked about that are temporally related, within
9 a week or two, of the March 3rd, thousand dollar theft.

10 This letter goes back and references other
11 prior bad acts from a much more distant past. I'm sure
12 you remember the motion in limine. This is what we are
13 talking about.

14 MS. PEAVY: Can we pause for a minute to
15 identify the gentlemen in the back row, if he is a
16 witness.

17 MR. BARLOW: No, the gentlemen on the back row
18 is with us. He is an insurance adjustor.

19 MS. PEAVY: Thank you.

20 MR. GOODWYN: "We have experienced a number of
21 thefts on campus in the main office and the Athletic
22 Department. It began last spring --

23 THE COURT: I'm sorry. I'm sure the court
24 reporter is not picking up any of that.

25 MR. GOODWYN: I'm sorry. Let me back up. It

1 says, "It began last spring, the Spring of 2010, when
2 someone reported the issue as missing \$15 from inside of
3 her desk." This is a theft from 2010. They are now
4 trying to suggest that our client had something to do
5 with it.

6 The next paragraph says, "Past fall one of our
7 custodians reported that someone kept removing an
8 aerosol can from the rest room." It's not even that
9 somebody stole it. It's moving it from a rest room to
10 somewhere else in the building. That's not even a
11 theft.

12 So that's -- those are the two instances we
13 are concerned about the jury hearing and seeing about
14 when they are not temporally related. One was not even
15 an alleged theft. It's just moving an aerosol can from
16 one portion of the building to another.

17 THE COURT: Yes, sir.

18 MR. BARLOW: Yes, I agree with respect to the
19 first paragraph, the prior spring. I think the aerosol
20 can is part of the idea and part of the whole testimony
21 that is going to be that that's why they suspected
22 Mr. Kennedy for some of these thefts.

23 It started out with that. It was removing the
24 aerosol can and taking them with him. They had to keep
25 replacing those. Then continuing into February,

1 certainly the February events are within several weeks,
2 a couple of weeks up to March 3rd, the incident at the
3 Bates Hall.

4 MR. GOODWYN: They don't have any evidence
5 that he -- I don't know of a tape showing him with an
6 aerosol can.

7 MR. BARLOW: We are going to call a witness.

8 MR. GOODWYN: That is going to say she saw him
9 take it?

10 MR. BARLOW: Yes.

11 MS. PEAVY: Your Honor, if I can briefly speak
12 to Ms. Jackson. She was supposed to -- she was the
13 custodial supervisor. She had knowledge that their
14 aerosol can had gone missing, the air freshener cans.

15 I believe the testimony was that she and
16 Mr. Childers viewed a -- Mr. Childers viewed a video and
17 saw Mr. Kennedy with the air freshener can. I don't
18 think it was ever adjudicated in any way.

19 MR. GOODWYN: The video wasn't even produced.

20 THE COURT: So you are saying that you have
21 never seen the video?

22 MR. GOODWYN: We have never seen the video.

23 MR. BARLOW: The video wasn't saved of that.
24 The video records over if you don't save it quickly.

25 MR. GOODWYN: Well, somebody watched it; so

1 they knew there was an issue.

2 MR. BARLOW: Sure.

3 MR. GOODWYN: They could have saved it right
4 then.

5 MR. BARLOW: There has been plenty of
6 testimony about what people have seen on videos.

7 MR. GOODWYN: I'm objecting to that.

8 THE COURT: Let me just ask: Mr. Barlow, what
9 is the purpose of the exhibit? Are you trying to
10 introduce it into evidence or are you just asking him to
11 use it to refresh his recollection?

12 MR. BARLOW: Both. I hadn't planned to get
13 into any of the first two paragraphs with this witness.
14 So I think if anything needs to be redacted from the
15 exhibit, we can certainly do that at some point. I will
16 limit my examination to February 14th on.

17 MR. GOODWYN: To redact it, that should be
18 fine. I don't know how we are going to do that. Just
19 black it out?

20 MR. BARLOW: Yeah, I would think so.

21 THE COURT: You can always put a sheet of
22 paper over those particular portions and recopy
23 portions. So are we all in agreement then?

24 MR. GOODWYN: The first two paragraphs will be
25 redacted?

1 MR. BARLOW: I think that's fine. That's
2 good.

3 MR. GOODWYN: Are we going to do that before?

4 THE COURT: Well, it can't go to the jury
5 until that has been done.

6 MR. GOODWYN: I'm a little reluctant to have
7 him show it around. I guess they will know that there's
8 two paragraphs missing. I don't want them seeing the
9 document with the paragraphs not missing and then later
10 they get it when it's missing.

11 MR. BARLOW: I don't think they would see it
12 here. I don't have it on a board or anything like that.

13 MS. PEAVY: Just to be safe, can we quickly
14 make a copy of it now?

15 MR. GOODWYN: We have to do it at some point.

16 THE COURT: Yes, it's fine. You can do that.

17 MS. PEAVY: Thank you, Your Honor.

18 (Pause.)

19 MR. GOODWYN: We also would need a ruling on
20 whether the other witnesses, Ms. Jackson, Mr. Childers
21 can testify about these issues as well. This is not
22 with this witness.

23 THE COURT: Testify about which issues?

24 MR. GOODWYN: About the aerosol issue and the
25 May or the Spring 2010 theft.

1 THE COURT: Well, I am presuming that if we
2 are redacting it that you all agree it's not going to be
3 testified to.

4 MR. GOODWYN: All right. I just wanted to
5 make sure.

6 MR. BARLOW: I don't know that we had agreed
7 to that. I think it's part of their explanation.

8 THE COURT: You all need to figure that one
9 out because if you are redacting it from here, then that
10 means it's off the table.

11 MR. BARLOW: Fair enough.

12 THE COURT: Let's take a break.

13 Again, Mr. Barnes, I will instruct that you
14 shouldn't discuss your testimony with anyone because
15 it's not been concluded. It's inappropriate for you to
16 discuss it, even with your own attorneys.

17 Let's take a break and we will come back.

18 THE WITNESS: Yes, ma'am. Thank you.

19 (Whereupon there is a recess.)

20 THE COURT: Have you got the exhibit
21 substituted? It will need to be remarked.

22 MR. GOODWYN: We have.

23 THE COURT: Anything to take up before we get
24 started?

25 MR. BARLOW: No, Your Honor.

1 THE COURT: Ask the jury to come in, please.

2 (The jury returns to the courtroom.)

3 BAILIFF: The jury panel is accounted for.

4 THE COURT: You may proceed.

5 MR. BARLOW: Thank you, Your Honor.

6 CROSS EXAMINATION

7 BY MR. BARLOW:

8 Q Mr. Barnes, I was about to show you what is marked
9 as Defendant's Exhibit 1 and ask if you can
10 identify that document, please?

11 A This is a synopsis or a statement that was sent to
12 me by Jim Childers, who is the Assistant Principal
13 at Spring Valley High School. Because it has my
14 name at the top, people thought it was mine; but
15 it's actually Jim Childers, and I actually signed
16 Jim Childers's name on the back. That is not Jim
17 Childers's signature. That is mine notating that
18 Jim sent it to me.

19 Q So this is a memorandum to you from Jim Childers?

20 A Correct.

21 Q Dated March 24, 2011?

22 A Which I then passed on to the Sheriff's Office.

23 Q Was this provided to you on or around March 24,
24 2011?

25 A It was.

1 MR. BARLOW: We move at this time that this
2 exhibit be admitted in evidence, Your Honor?

3 MR. GOODWYN: No objection, Your Honor.

4 THE COURT: Without objection it will be
5 admitted.

6 (Defendant's Exhibit Number 1 is received into
7 evidence.)

8 BY MR. BARLOW:

9 Q Mr. Barnes, taking a look at this memorandum from
10 Jim Childers to you, does this refresh your
11 recollection as to what was reported missing from
12 Spring Valley in February and March of 2011?

13 A It does.

14 Q What was reported missing on February 14th?

15 A Joanne Cabiness, the Principal's secretary,
16 reported that someone stole \$50 in cash and a gold
17 ring with three diamonds from her office in the
18 main office.

19 The ring, which was found at a Spring Valley
20 event years ago, had been kept in her desk in case
21 anyone ever reported it missing. Would you like me
22 to continue on?

23 Q I'll just ask some questions to maybe move it
24 along. Anything in particular about where the
25 items were?

1 A Well, she stated that she had -- the odd thing was
2 that the money and the ring were hidden in two
3 different, inconspicuous areas of her desk and that
4 whoever stole the items had to have plenty of time
5 to go through her desk and was not worried about
6 anyone walking in on them.

7 She was not sure when the thefts occurred
8 because she seldom went into areas of the desk to
9 check on these items because they were so well
10 hidden.

11 Q What was reported missing on February 25th?

12 A February 25th, Dorothy Loiodice reported \$20 in
13 cash and a check for \$15 had been stolen from her
14 desk.

15 Q And was there a report of any follow up done on
16 that?

17 A She evidently had reviewed some video and
18 identified Jeffrey Kennedy heading in the main
19 hall, office hall.

20 Q Now, would she have done that or would Mr. Childers
21 have done that?

22 A This says, "I examined the cameras." So that would
23 be Mr. Childers.

24 Q March 2nd what was reported missing?

25 A Sandra Watts, the bookkeeper, also has had an

1 office in the main office area. She reported \$40
2 in cash had been stolen from her office, and they
3 were located in her desk as well.

4 Q Does Mr. Childers mention the video cameras again
5 here?

6 A He also mentioned the video cameras and also
7 mentioned Mr. Kennedy being on the video cameras
8 that he saw.

9 Q Then on the next page, Mr. Barnes, this is a
10 reference to the money missing from Tim Hunter's
11 office?

12 A Correct. Thursday March 3rd, our Athletic Director
13 Tim Hunter, who has an office in the Bates Hall --
14 that's the athletic building, Bates Hall over by
15 the stadium -- had prepared the gate ticket money,
16 a thousand dollars; for the events that were going
17 to be held on Friday, March 4th.

18 He normally stores the money in a safe in the
19 office and prepares it the day of the event, but he
20 was not going to be on campus the next day. So
21 instead he set it out on the table so that Sonny
22 Uker could get it the next day for the games. He
23 checked the cameras and that was part of the
24 testimony here, that those particular camera
25 angles, showed Mr. Kennedy in the area.

- 1 Q Is the sequence of events here, according to your
2 conclusion, that Mr. Kennedy was the common
3 denominator here?
- 4 A They are.
- 5 Q Why is that?
- 6 A Because Mr. Kennedy is coming up in and around the
7 areas at the time where the thefts occurred and
8 suspicions about those particular times rang true
9 in each event.
- 10 Q Based on your review, was it normal for Mr. Kennedy
11 to enter and exit through the back door of the
12 administrative hall?
- 13 A When he did come through the back hall, he
14 certainly didn't stay for a long period of time for
15 the most part; but on at least one of those days
16 that we had watched him, that would be the
17 March 2nd day, he stayed in there a number of
18 minutes.
- 19 Q So would it be normal for him to stay 20 minutes in
20 the administrative hall?
- 21 A No, not from the video that I reviewed.
- 22 Q Would it be normal for him to stay in the
23 administrative hall for 20 minutes, leave through
24 the back door, and then drive around the front to
25 set the alarm?

1 A You know, I don't think it would be normal from the
2 standpoint of being 20 minutes in there. The
3 timing of setting the alarm and not setting the
4 alarm, I can't speak to that; but the 20 minutes
5 does cause us to ponder.

6 Q Tim Hunter, was Tim Hunter ever a suspect in your
7 mind?

8 A Tim Hunter, not in my mind, just because of the
9 sheer amount of money that comes through there and
10 the control and the reputation that Mr. Hunter has
11 in the District.

12 Q Who made the report?

13 A Mr. Hunter did.

14 Q Is it your experience that the person that makes
15 the report is frequently the person that does it?

16 A Not frequently, no.

17 Q Sure. What was important to you on the video that
18 you saw from the Bates Hall incident?

19 A Well, the first time we saw Mr. Reid and
20 Mr. Kennedy on the camera was innocuous. There
21 really wasn't much to it. Kennedy was training
22 Reid to set the alarm and what buttons to push and
23 how to do it.

24 But the second time when he came in later on
25 in the morning, he did disappear out of the camera

1 view. Then when he did come back into camera view,
2 it looked like he was coming from the area in
3 question.

4 It wasn't like he came in, set the alarm or
5 undid the alarm. He disappeared out of view and
6 then came back minutes later from that area, and
7 that's what was significant about that particular
8 video.

9 Q Tim Hunter's office is not picked up by the camera
10 and was not at that point?

11 A Not at that point, no.

12 Q Did Mr. Kennedy have an explanation for what he had
13 done those five minutes?

14 A If I recall correctly, it was something about going
15 into the weight room.

16 Q Any other explanation that you have ever heard?

17 A No, not that I recall.

18 Q Now, did you discuss the missing money from Spring
19 Valley with any of Mr. Kennedy's coworkers that
20 were not supervisors?

21 A No.

22 Q Did you discuss the investigation or the missing
23 money with anybody at Spring Valley, other than Jim
24 Childers?

25 A And Tim Hunter?

1 Q Anybody other than those two?

2 A I do not recall speaking with anyone else in
3 regards to that, other than Ben Fields, the school
4 resource officer, Jim Childers, and Tim Hunter.
5 Those are the only ones I actually spoke to.

6 Q After Mr. Kennedy was transferred, did you give him
7 any warnings or reprimands?

8 A I did not, no.

9 Q Did Mr. Kennedy ever make any complaints to you
10 about being transferred?

11 A I received no complaints from Mr. Kennedy.

12 Q Did you receive any complaints through anybody else
13 that Mr. Kennedy was dissatisfied with his
14 transfer?

15 A From time to time, his captain would come to me
16 looking for clarification on how to approach
17 Mr. Kennedy's working there. I would remind
18 Mr. Groves about Chuck Earles's wishes and that we
19 needed to keep him inside and away from the keys,
20 and monitoring was the best way to do that.

21 Q The confidential memorandum that you looked at from
22 Chuck Earles that is Plaintiff's Exhibit 4 here,
23 just to clarify, you didn't print that up?

24 A I did not.

25 Q You didn't leave it laying around the office?

- 1 A I did not.
- 2 Q All right. Read what it says on all caps, that is
- 3 the first, I guess, text in the e-mail.
- 4 A "The information contained in this e-mail is
- 5 confidential and will only be shared with other
- 6 District security supervisors as needed when they
- 7 will be supervising Mr. Kennedy."
- 8 Q Did you feel the need to tell your subordinates
- 9 that they needed to follow that?
- 10 A No, I felt pretty confident about those
- 11 subordinates and their work.
- 12 Q Would you expect the people who are listed on this
- 13 e-mail as recipients to honor what their supervisor
- 14 is telling them?
- 15 A I would expect them to do that.
- 16 Q Any reason to believe that they wouldn't do that?
- 17 A None.
- 18 Q Did you ever see this lying around Support
- 19 Services?
- 20 A No.
- 21 Q Did anybody ever tell you that it was lying around
- 22 Support Services?
- 23 A No.
- 24 Q And tell me what types of keys there are in the
- 25 School District?

1 A Security has a master key that fits every -- just
2 about every door lock in the District. We have
3 gate keys and we have traffic light keys, and we
4 have all sorts of other keys; but we do have master
5 keys. Other keys in the District that are -- you
6 want me to talk to that?

7 Q Sure.

8 A Other keys in the District would be keys that are
9 specific to those particular doors, those
10 particular areas. For instance, media center
11 teachers would have keys to the media center; but
12 those keys wouldn't necessarily open up the ninth
13 grade history teacher's door, that sort of thing,
14 or the janitor's door or the press box outside.

15 The master keys would be the ones that
16 security has, some of them; but the other keys are
17 specific to those particular locations, whether it
18 be Spring Valley or Blythewood or Sandlapper or
19 Lonnie B. Nelson or wherever. They have keys that
20 are tied to those schools specifically.

21 Now, as far as master keys themselves, I can't
22 speak to who necessarily has master keys, other
23 than I know that from what we are responsible for,
24 we are responsible to keep up with the ones that we
25 have.

- 1 Q Now, the teacher wouldn't get a master key?
- 2 A No, not to my knowledge.
- 3 Q Sure, but that would not be the normal practice?
- 4 A No.
- 5 Q Do you have anything against Mr. Kennedy
- 6 personally?
- 7 A Personally, no.
- 8 Q You wanted to promote Mr. Kennedy?
- 9 A I did.
- 10 Q That was before you found out about this?
- 11 A That is correct.
- 12 Q Have you ever gotten a job reference from
- 13 Mr. Kennedy?
- 14 A No.
- 15 Q Have you ever communicated anything to anyone
- 16 outside of Richland Two anything about Mr. Kennedy?
- 17 A Nope.
- 18 Q Now, we talked about the support people -- the
- 19 supervisors and Support Services -- about your
- 20 expectations that they would not circulate the
- 21 memorandum or the e-mail from Chuck Earles and that
- 22 they would honor the request that it be
- 23 confidential.
- 24 Would you also expect Mr. Kennedy not to be
- 25 initiating rumors about what's going on with that?

- 1 A I would expect that, yes.
- 2 Q Or repeating or spreading those rumors?
- 3 A I would expect it, yes.
- 4 Q You would expect Mr. Kennedy not to be telling
- 5 people that he is being investigated for a theft at
- 6 Spring Valley?
- 7 A That would -- I would expect that, yes.
- 8 Q Or that he has been talking to the police about
- 9 what has been missing at Spring Valley?
- 10 A The expectation that he would do that would be nil.
- 11 I would not expect him to do that. That would not
- 12 be in his best interest to do that.
- 13 Q And a potential source of rumors as well?
- 14 A That's correct.
- 15 Q I think the testimony was after Mr. Kennedy was
- 16 removed from Spring Valley, from working on campus
- 17 in Spring Valley, there were not anymore thefts
- 18 reported?
- 19 A No more thefts like these, correct.
- 20 Q Sure. And those happened -- that we looked at --
- 21 in the space of about three weeks?
- 22 A Correct.
- 23 Q And was that important to you?
- 24 A That is important to me, yes.
- 25 Q That's important for your conclusion?

1 A It is. Had it continued on, then we would be
2 looking somewhere else.

3 Q If you could just summarize here the reasons that
4 you did not trust Jeffrey Kennedy.

5 A Well, we have the three incidents documented in the
6 statement from Mr. Childers. We have the
7 statements that corroborated those, that synopsis.
8 We had Mr. Kennedy spending a whole lot of time in
9 the break room or off camera on that inner hallway
10 where the offices were, where some of those thefts
11 occurred.

12 Then we have Mr. Kennedy off camera again near
13 where the theft occurred over at Mr. Hunter's
14 office. My consultation and conversations with Joe
15 Clark indicated that -- and he is the investigator
16 from the Sheriff's Office -- indicated that there
17 was strong suspicion on his part that Jeffrey
18 Kennedy was involved. And the fact that no thefts
19 occurred in like manner at the school after we
20 moved him.

21 MR. BARLOW: Give me just a second.

22 (Pause.)

23 MR. BARLOW: We don't have any questions of
24 Mr. Barnes at this time.

25 THE COURT: Any redirect?

1 MR. GOODWYN: Yes, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. GOODWYN:

4 Q I think I am sort of confused. You testified that
5 you had not heard about any other thefts prior to
6 recommending Jeffrey Kennedy for the promotion.
7 That's what you testified to. I believe you
8 testified that you have heard about these things
9 and were investigating him when I asked you. Which
10 is it?

11 A I'm sorry. Repeat the question.

12 Q I think I heard you testify just now that you had
13 not heard about any prior thefts prior to or at the
14 time you recommended Jeffrey Kennedy for the
15 promotion?

16 A That is correct. I did not hear about these until
17 the week right before the last theft; so March 2nd
18 would be --

19 Q The date of this e-mail or memo, whatever this is,
20 is March 24th?

21 A March 24th, correct.

22 Q That's when you heard about it for the first time?

23 A No.

24 Q You heard about these sometime before that?

25 A March 3rd or 4th was when the thousand dollars was

1 taken. Okay. I think -- I believe my testimony is
2 that right prior to that, we were over at Spring
3 Valley talking to the various workers within the
4 office about incidents that they were having --

5 Q But you don't list the information about possible
6 thefts?

7 A We were told that they wanted us to reposition the
8 cameras to look at the bookkeeper's office and that
9 sort of thing because of these particular thefts.
10 We were in the process of getting with our camera
11 people to redo that, and that was a couple of days
12 prior to this theft occurring over at Bates Hall.

13 Q So this February 14th incident, the complainant
14 indicates that she was not sure when the thefts
15 occurred because she so seldom went to the areas of
16 the desk in checking these items because they were
17 so held hidden.

18 So the fact that Jeffrey Kennedy may have been
19 in the building that night and stayed longer than
20 you thought he should have is really irrelevant,
21 isn't it?

22 A I don't think it's irrelevant. It just didn't come
23 to my attention until --

24 Q It's not near as significant?

25 A Those are your words not mine.

1 Q I'm asking you. Would you agree that it's not near
2 as significant if she has no idea when it was
3 stolen?

4 A That would be a problem if she didn't have a good
5 timeline of when this thing was stolen, yes.

6 Q Isn't that same thing true for a couple of these
7 other ones, these other two?

8 A I think the other two, they felt pretty confident
9 based on the timeline and the video corroboration.
10 They felt pretty confident about those, obviously a
11 lot more than the first one.

12 Q The custodial staff actually goes into those
13 offices and cleans those areas; correct?

14 A My understanding, yes.

15 Q And the security staff doesn't even go into those
16 offices if they are doing the job right?

17 A If they're doing the job right, yeah, they
18 shouldn't be in those offices.

19 Q All right. And you don't have video to suggest
20 Jeffrey Kennedy ever went into any office?

21 A That's correct.

22 Q Just your speculation?

23 A That's correct.

24 Q All right. Here we are three years later, three
25 and a half years later. Do you have any

1 investigation at this point into how the e-mail,
2 the e-mail that we have been talking about, was
3 left out in the work area for the regular employees
4 to see?

5 A I don't know anything about that, sir. I don't
6 know about it being left out. I didn't know
7 anything about that until you all have brought it
8 up.

9 Q Did you learn about it when this lawsuit was filed?

10 A That's correct.

11 Q And is it not important to you that there are
12 reports by your own employees that say this e-mail
13 was left out?

14 A It never got me to act on it; so I don't know.

15 Q It has now. It did when this lawsuit was filed;
16 correct?

17 A Sir, I'm seeing it and you say it happened. Who
18 saw it, you have not revealed that to me who saw
19 out, who they got it from, anything like that. I
20 would be happy to follow up on some of that should
21 I hear about it.

22 Q My point is the allegations in this case were that
23 that e-mail was left out; correct? You knew about
24 that --

25 A You are alleging that, yes, sir.

1 Q And you knew that a year ago? You knew that those
2 were the allegations?

3 A I don't recall that being something that I knew,
4 no.

5 Q When did you learn that?

6 A I am just recalling that it was brought to my
7 attention here recently, in the deposition that
8 y'all took from me.

9 Q And when was your deposition taken? Do you recall?

10 A You have the notes in front of you, sir.

11 Q I have the transcript.

12 A You took the deposition or your co-counsel took the
13 deposition from me.

14 Q April 23, 2014.

15 A Okay.

16 Q So you learned about it at least by then; right?

17 A I believe that became part of the record.

18 Q And the efforts you made to correct that problem
19 was what?

20 A We have had conversations with my people yearly on
21 my expectations, and part of those expectations are
22 that they act in professional manners. I don't
23 recall addressing this thing in particular. It's
24 more of a blanket, "This is what I expect of you,"
25 and that's yearly. We do that annually.

1 Q So you have a situation where an e-mail that you
2 acknowledge would be damaging to Jeffrey if it got
3 out, gets out. There is a lawsuit filed, and you
4 don't even address your staff to say, "Hey, this is
5 important that you don't put these kind of e-mails
6 out"?

7 A I think coming from your office, sir, that you had
8 expressed or talked about not talking about a lot
9 of this stuff. I was told not to talk about
10 anything in regards to this.

11 Q I told you that?

12 A That's part of what happens in a lawsuit; right?
13 You are not to discuss this in any way. In fact,
14 had I discussed it, it would have been part of your
15 problem or part of something you could have brought
16 up. We can talk -- I did not talk to them
17 specifically about this, no.

18 Q Do you plan to?

19 A I am certain that we can talk about that.

20 Q This is three years later. You didn't do anything
21 after the sending the e-mail to ensure that your
22 staff kept it confidential?

23 Chuck sent an e-mail that says confidential on
24 it. You did nothing else, you get sued, and you
25 still do nothing; correct? You have done nothing

1 about this e-mail to ensure that it didn't get
2 out --

3 MR. BARLOW: Objection, Your Honor, relevance.
4 Again, this is --

5 MR. GOODWYN: Relevance?

6 MR. BARLOW: -- he is asking what has gone on
7 three or four years after this happened.

8 MR. GOODWYN: This is a negligent supervision
9 case. We want to show that his supervision is
10 negligent. He hasn't even addressed it three years
11 later.

12 THE COURT: I will allow the question. He can
13 answer it.

14 BY MR. GOODWYN:

15 Q So here we are, three years later, and you haven't
16 had the first conversation with anybody on your
17 staff about how that e-mail got out?

18 A You are making the assumption that this is the only
19 way to address this particular incident, to bring
20 up this particular thing. That is the assumption
21 that you make.

22 Those supervisory questions and supervisory
23 skills can be addressed in a whole other way. We
24 can talk to -- and I did this. When I talked to my
25 supervisors, we have my expectations; and we have

1 things that we go over. We do this on a regular
2 basis, and we do this annually in a written form --

3 Q So this --

4 A -- the confidentiality and professionalism is
5 discussed annually.

6 Q Just in general terms though; right?

7 A In general terms, yes.

8 Q So, I mean, if employees make mistakes, do you not
9 specifically address that mistake? You just talk
10 to them in generalities at the end of year at your
11 annual meeting?

12 A And this occurred?

13 Q 2011.

14 A 2011. And your lawsuit was earlier this year or my
15 deposition was in April of this year.

16 Q Your deposition was --

17 A So I'm telling you I didn't know about this until
18 the deposition earlier this year. Correct? All
19 right. So that what's you are saying --

20 Q That's what you are saying --

21 A The deposition, the deposition was taken earlier
22 this year. All right. In the meantime, from 2011
23 to now, I have had plenty of conversations with my
24 supervisors on what I expect and don't expect and
25 professionalism and how they are to address their

1 people and how they are to -- their personal
2 business and how to address their employees in a
3 professional manner and not to belittle them. We
4 talk about this all the time.

5 Q But nothing specific about this e-mail?

6 A No, not specifically about this because I felt like
7 in the three years since then, it's been taken care
8 of. They are on the same page.

9 Q All right. I know we have gone over this, but I
10 want to make it clear. You made -- you testified
11 you made some effort to determine what Jeffrey
12 Kennedy's normal pattern was?

13 A Correct.

14 Q And placing some significance on the fact that he
15 stayed in these buildings longer than it would take
16 just to simply walk through the building?

17 A Correct.

18 Q And how many months worth of video did you look at?

19 A The video tapes over itself. I say tapes over.
20 That's a VCR they tape over.

21 Q Well, the recording.

22 A It records over itself after so many days or after
23 the memory fills up. It just restarts over. So
24 there is only a certain amount of days that you
25 have available at any given time.

2

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

SC Court of Appeals

Honorable Alison Renee Lee, Circuit Court Judge

Appellate Case No.: 2015-000613

Jeffrey Kennedy Respondent,

v.

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

RECORD ON APPEAL
Volume 2
(Pages 407-880)

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1 Q How many days? Your best guess?

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

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

6 A Correct.

7 Q Thank you.

8 THE COURT: Anything further?

9 MR. BARLOW: No, Your Honor.

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

11 THE WITNESS: Thank you.

12 (Witness leaves the witness stand.)

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

14 THE COURT: Any objection?

15 MR. GOODWYN: None, Your Honor.

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

17 You may call your next witness.

18 MR. GOODWYN: We call Chuck Earles.

19 (The witness comes forward.)

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

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

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

1 DIRECT EXAMINATION

2 BY MR. GOODWYN:

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

5 A Yes.

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

8 A Charles Albert Earles.

9 Q What do you go by?

10 A Chuck.

11 Q You go by Chuck?

12 A Yes.

13 Q And how old are you?

14 A How old? I am 56.

15 Q And how far did you go in school?

16 A I graduated from the University of South Carolina.

17 Q What year?

18 A 1979.

19 Q What kind of degree did you get?

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

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

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

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

8 Q And in 1997 you came to Spring Valley?

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

11 Q And when did you start Spring Valley?

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

17 Q And you have been there ever since?

18 A I have.

19 Q What position did you start as?

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

22 Q And what are you now?

23 A I'm the Emergency Services Manager now.

24 Q When did you become the Emergency Services Manager?

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

- 1 December -- I think it was late November of 2010.
- 2 Q Who is Eric Barnes?
- 3 A Eric Barnes is my Assistant Security Manager.
- 4 Q And how long has he been your assistant?
- 5 A He was hired in December of 2010.
- 6 Q Just a few months before the events that give rise
- 7 to this case?
- 8 A Yes.
- 9 Q Did you hire him directly?
- 10 A I don't hire directly. I make recommendations.
- 11 Q I mean, did you seek him out? Did you recommend
- 12 him?
- 13 A There were -- the position was posted, advertised;
- 14 and there was several applicants and an interview
- 15 process. Mr. Barnes was the top candidate.
- 16 Q Did you recommend him for the job?
- 17 A He was the top candidate; so I recommended him for
- 18 the job, yes.
- 19 Q I think there has been some explanation about how
- 20 that process goes, but it sounds like if it's
- 21 somebody in your department, you recommend for the
- 22 job but HR has the final decision?
- 23 A That's correct.
- 24 Q I believe Mr. Barnes has testified there are about
- 25 80 people on staff now from your staff?

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

- 1 My recollection is you are at the top of the
2 Emergency Services Department; correct?
- 3 A Correct.
- 4 Q And Eric is your assistant?
- 5 A Right.
- 6 Q Then there's some lieutenants and captains?
- 7 A Correct.
- 8 Q And then just the rank and file officers?
- 9 A Security officers, yes.
- 10 Q So you weren't Jeffrey's direct supervisor?
- 11 A No.
- 12 Q There are a few levels between you, two levels?
- 13 A Correct.
- 14 Q So in February of 2011, I understand there was an
15 opening for a lieutenant on the second shift; is
16 that correct?
- 17 A I would have to refer to the paperwork to know
18 which shift it was on.
- 19 Q But there was a promotion and Jeffrey was up for
20 it?
- 21 A Yes.
- 22 Q That's what I'm talking about. This is the
23 Recommendation for Employment. That's Plaintiff's
24 Exhibit 3 that you are looking at there.
- 25 A Yes.

- 1 Q What is the date of that recommendation for
2 employment?
- 3 A The date is February 28, 2011.
- 4 Q All right. I'm assuming there was an interview
5 process leading up to this recommendation?
- 6 A Yes.
- 7 Q Can you tell me a little bit about that process?
- 8 A Just like all the other jobs, the positions are
9 posted. We take applicants from inside and out;
10 and we interview the most qualified applicants from
11 that pool and make a recommendation for them, make
12 a recommendation based on that.
- 13 Q About how many candidates did you interview for
14 this job?
- 15 A I don't recall.
- 16 Q More than five?
- 17 A Generally, it would be three to five. That's just
18 a general, depending on how many applicants we get.
- 19 Q Did you consider anybody outside of the department?
- 20 A I don't recall.
- 21 Q All right.
- 22 A The records of who we interviewed and how they were
23 scored are maintained by the Human Resources
24 Department.
- 25 Q And you haven't reviewed any of those in

- 1 preparation for this trial?
- 2 A No.
- 3 Q What did you do in the evaluation of these
- 4 candidates? In the process of evaluating the
- 5 candidates for the position, what did you do?
- 6 A We asked them all the same series of questions and
- 7 scored their answers.
- 8 Q All right. Did it have anything to do with the
- 9 opinions of their direct supervisors? Did you even
- 10 ask their supervisors what they thought of them?
- 11 A I don't recall if we had their direct supervisors
- 12 in on the interview process at this time. My
- 13 recollection is that it was me and Mr. Barnes, but
- 14 I don't know if that's factual or not..
- 15 Q So from your recollection it's just you and
- 16 Mr. Barnes interviewed the candidates and picked
- 17 the one you like the best?
- 18 A It may have been -- the captain from second shift
- 19 may have been involved. We implemented that at
- 20 some point in trying to constantly improve the
- 21 interview process, but I don't know when that was.
- 22 Q So what did you like about Mr. Kennedy?
- 23 A I don't recall.
- 24 Q You don't recall anything about him?
- 25 A I don't recall a thing about it.

1 Q Did you take any notes during the interview
2 process?
3 A All that information was turned over to Human
4 Resources.
5 Q And you didn't look at any of that in preparation
6 for this trial?
7 A No, sir.
8 Q Did you find Mr. Kennedy to be open and honest in
9 this interview?
10 A I don't recall anything about the interview.
11 Q Just that he ended up being the best candidate?
12 A I know that he ended up being the top candidate of
13 those we interviewed because I have paperwork in
14 front of me where I submitted him for promotion.
15 Q And you realize that you were named in this lawsuit
16 about a year ago?
17 A Whenever I received the paperwork.
18 Q And you haven't gone back and looked at any of
19 these documents?
20 A They are not under my control.
21 Q You can't ask the HR Department for them?
22 A It never crossed my mind to ask HR for that. This
23 had nothing to do with Mr. Kennedy's promotion. My
24 understanding was it had to do with his
25 termination.

- 1 Q All right. Is it safe to say that you found him to
2 be trustworthy?
- 3 A It's safe to say that he was the top candidate of
4 the ones we interviewed.
- 5 Q Would you have --
- 6 A I would not have promoted someone that at that time
7 I did think was trustworthy.
- 8 Q Did you think he was of good character at the time?
9 Would you have recommended somebody for promotion
10 that you didn't think was of good character?
- 11 A No, I wouldn't recommend somebody that I had reason
12 to doubt their character at that time.
- 13 Q And it's safe to say you have the final say about
14 who was going to be recommended for the position?
- 15 A Yes.
- 16 Q And there has been some testimony that Jeffrey may
17 have been introduced at a supervisor meeting as the
18 next supervisor, even though he had yet to be
19 approved by HR? Is that your recollection as well?
- 20 A No, that's not something we do.
- 21 Q It's not something you would do?
- 22 A Right.
- 23 Q So if Eric Barnes testified to that, then he --
- 24 A I would be surprised.
- 25 Q And why wouldn't you do that?

- 1 A Because the final say-so comes from Human
2 Resources. When we submit the paperwork, we
3 generally tell the person we are recommending for
4 promotion. The paperwork has been submitted, but
5 Human Resources has the final say-so.
- 6 Q And had you instructed Eric Barnes and the rest of
7 your staff that they are not supposed to be telling
8 anybody that so and so has got the promotion until
9 it's final from Human Resources?
- 10 A At some point in my career, yes.
- 11 Q And if they didn't follow your instructions or if
12 they did actually introduce him, that would be
13 something against your instructions?
- 14 A That would cause me to have counsel with that
15 person.
- 16 Q Before I just ask that last question, had you ever
17 heard that Mr. Kennedy was, in fact, introduced at
18 a meeting as that next supervisor?
- 19 A I had not heard that until the allegations were
20 made in the lawsuit.
- 21 Q And have you taken any action since you found that
22 out?
- 23 A No.
- 24 Q Why not?
- 25 A Because it's an unsubstantiated allegation from a

1 terminated employee.

2 Q Eric Barnes has testified to it.

3 A I haven't heard his testimony.

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

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

7 THE COURT: I will sustain as to pitting.

8 BY MR. GOODWYN:

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

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

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

17 A In late November of 2010.

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

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

22 Q Who drafted and issued that?

23 A I did.

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

1 thing?

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

6 Q And some of the problems involved what?

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

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

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

18 A Yes, sir.

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

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

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

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

- 1 Q Did you find that odd that you don't know who has
2 the keys?
- 3 A No, it's a site based management system. The
4 principals are in charge of what goes on in their
5 schools.
- 6 Q Does it make it challenging for security to manage
7 the buildings not knowing who has the keys?
- 8 A Not generally, no.
- 9 Q What is your understanding of who all has keys?
- 10 A I really -- the administrators have keys that are
11 something like a school-based master. The teachers
12 have keys that open the teacher's doors but not the
13 exterior doors. That's just my understanding based
14 on my experience.
- 15 Q Do you know do the coaches have keys?
- 16 A Some of them do, I'm sure.
- 17 Q But you don't know?
- 18 A I don't know, no.
- 19 Q Do any of the parents or boosters have keys?
- 20 A I have no idea.
- 21 Q But they could?
- 22 A I wouldn't know. Those are issued -- keys are
23 issued by the principal. Who they issue them to,
24 they don't tell me.
- 25 Q Do the custodians have keys?

- 1 A I've seen custodians with keys, yes.
- 2 Q Has there ever been a time when custodians have had
3 their keys taken away?
- 4 A I don't deal with custodial personnel issues. I
5 don't know.
- 6 Q Have you ever heard of custodians having keys taken
7 away?
- 8 A Just as a result of this incident.
- 9 Q The March 3rd theft or this whole case?
- 10 A I don't recall which incident. I have heard some
11 discussion about custodian keys being taken.
- 12 Q But you weren't involved in that at all?
- 13 A No.
- 14 Q You didn't recommend that they be taken away?
- 15 A No.
- 16 Q So do you know why the custodians' keys were taken
17 away?
- 18 A No.
- 19 Q If it had something to do with theft or theft
20 prevention, don't you think that would be something
21 that you should know about, being at the head of
22 security?
- 23 A A lot of -- it's a site-based management system.
24 The assistant principals or the principals are in
25 charge of maintaining and operating what goes on in

1 their schools.

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

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

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

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

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

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

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

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

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

23 Q He doesn't have his own keyring.

24 A Correct.

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

1 That wasn't by HR?

2 A That's correct.

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

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

7 THE COURT: Overruled.

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

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

16 A No, not a thing.

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

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

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

24 A Correct.

25 Q Do you understand the damaging nature of a rumor

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

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

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

9 A Yes.

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

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

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

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

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

21 A Yes.

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

25 A I am.

- 1 Q It's an e-mail marked as Plaintiff's Exhibit 4.
2 You marked the e-mail confidential, didn't you?
3 A I did.
4 Q And just for clarification at the top, I want to
5 make sure it's on yours as well. At the top it
6 says; "Richland School District Two, mail,
7 confidential." It's got a date of 10/1/13 on it
8 right there. Then in big, bold letters it says
9 confidential again?
10 A Yes, sir.
11 Q Is that what you sent here?
12 A It is.
13 Q Do you know if this 10/1/13 date refers to the date
14 it was printed?
15 A I have no idea.
16 Q And if the date on the right, Wednesday, June 15,
17 2011, at 11:18 A.M., is that the date it was sent?
18 Is that your understanding?
19 A That's correct.
20 Q Is that your recollection of when it was sent?
21 A Yes, sir.
22 Q Why did you put confidential on the e-mail?
23 A Because the information contained in the e-mail is
24 confidential and not to be shared with anyone.
25 Q What about the information the e-mail made it

1 confidential?

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

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

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

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

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

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

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

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

19 A And how would I do that?

20 Q Ask them.

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

23 Q A lot of confidential e-mails?

24 A Not very many of them.

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

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

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

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

8 A I suppose it's possible, yes.

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

10 A I could have.

11 Q But you didn't?

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

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

16 A No.

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

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

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

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

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

8 A No.

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

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

12 Q Watch room?

13 A Yes.

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

16 A Yes.

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

20 A Yes, but they had their own office.

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

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

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

1 A If it were in there, yes.

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

4 A I have no reason to believe.

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

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

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

11 A It's possible, yes.

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

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

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

19 A Well, that would be a reasonable assumption.

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

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

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

1 for the promotion?

2 A Right.

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

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

5 A No.

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

9 A That's correct.

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

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

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

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

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

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

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

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

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

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

1 when he could spend that time somewhere else?

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

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

6 A No.

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

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

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

16 A Not specifically, no.

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

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

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

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

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

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

5 Q But you don't recall --

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

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

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

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

16 A The thefts that occurred on...

17 Q The ones mentioned in that letter?

18 A The ones mentioned in February.

19 Q Right.

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

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

25 A Not that I recall, no.

- 1 Q Let me ask you about the theft of the thousand
2 dollars. When did you first learn about that?
- 3 A I learned about it on the following morning, which
4 would have been March the 3rd -- no, wait a second.
- 5 Q What are you looking at there?
- 6 A I am looking at the one you just handed me.
- 7 Q Okay. I think it was the evening of March 3rd into
8 March 4th.
- 9 A It was the morning that it was discovered.
- 10 Q Okay. So Tim Hunter discovered it that morning,
11 and you found out about it that same morning?
- 12 A Right. I'm received a phone call from Jim Childers
13 that morning.
- 14 Q What were you told?
- 15 A I was told that a sum of money in excess of \$750
16 had been taken from Tim Hunter's office.
- 17 Q And were you told anything about how it got stolen
18 or what the circumstances were as to how the money
19 could have gotten stolen when there is a safe in
20 the office?
- 21 A I was told, once we went into the school and talked
22 to Mr. Hunter and Mr. Childers, that cash had been
23 locked in the office but not in the safe.
- 24 Q Did you find that odd or suspicious that cash would
25 not have been put in the safe when there is a safe

1 right there?

2 A I did, yes.

3 Q Did you ask Mr. Hunter?

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

5 Q What was his explanation?

6 A Something about an illness. He was ill the night

7 before and wasn't sure that he was going to be able

8 to come in to open the safe, but he wanted the cash

9 available for an event that was going to be the

10 following day. So he secured it in his office but

11 not in the safe.

12 Q Did you ask him why he didn't just give somebody

13 else the combination to the safe, someone he

14 trusted?

15 A No.

16 Q Don't you think that would have been a good

17 question to ask him?

18 A It didn't cross my mind.

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

20 A Yes.

21 Q What kind?

22 A I was a crime scene investigator for Richland

23 County Sheriff's Department. In fact, I was the

24 sergeant in the crime scene investigation unit.

25 Q So you've got some professional training in

- 1 investigating thefts and robberies?
- 2 A Yes.
- 3 Q But you didn't ask him that question, even though
- 4 you suspected that it was a little fishy?
- 5 A I didn't say it was fishy. I said it was unusual.
- 6 Q You said it was suspicious.
- 7 A You said it was suspicious. I agreed with it.
- 8 It's unusual. I would not personally -- I would
- 9 not have generally left the cash outside of the
- 10 safe, but it was secured inside his office.
- 11 Q So he testified -- or he didn't testify -- he told
- 12 you he thought he locked the door?
- 13 A Yes.
- 14 Q Do you know that keys could be in anybody's hands,
- 15 it sounds like, over at Spring Valley? Was it your
- 16 understanding that Tim Hunter understood that too?
- 17 A I have no idea what Tim Hunter understood about who
- 18 had keys to what.
- 19 Q All right. Do the coaches have keys?
- 20 A As I have testified, I'm sure some of them do. I
- 21 don't have personal knowledge of it.
- 22 Q If they did, Tim Hunter would certainly know that;
- 23 right? He knows they need access to the buildings
- 24 at nights, after games and things?
- 25 A I would think so, yes.

- 1 Q So you said it didn't cross your mind to ask him
2 why he didn't just put the money in the safe and
3 give somebody else the combination?
- 4 A No. I asked him why the money was not in the safe.
5 I didn't ask him about why he wouldn't give
6 somebody the combination. That to me is -- giving
7 a combination is something you can't get back.
- 8 Q A thousand dollars is something you can't get back
9 either; right? True?
- 10 A The thousand dollars is gone. We haven't seen it,
11 yes.
- 12 Q But if it were you, you would have put the money in
13 the safe and given somebody the combination? You
14 would have left the money out?
- 15 A I don't know what I would have done. This is
16 speculation based on a set of circumstances I've
17 never been faced with.
- 18 Q All right.
- 19 A Money was secured. He believed it was secured from
20 what he told me. It sounded to me like it was
21 secured.
- 22 Q So you thought it was the appropriate thing to do?
- 23 A I thought that he had done the best he could under
24 the circumstances.
- 25 Q Do you know where he left the cash --

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

1 A I'm sure I did, but I don't have a specific
2 recollection. That would have been my timeframe
3 that I would use for searching the video.
4 Q Did you make any notes?
5 A I made some notes, yes.
6 Q Where are they?
7 A They were submitted to you. Copies were submitted
8 to you.
9 Q By who?
10 A Well, let me rephrase that. The copies were given
11 to my attorney with the understanding that they
12 would be submitted to you.
13 Q And the notes would have indicated that
14 Mr. Hunter -- well, let me ask you this: You
15 reviewed the videotape. Do you specifically
16 remember seeing Mr. Hunter leave the office at a
17 particular time?
18 A Not specifically, no.
19 Q And do you have any idea or remember how long it
20 was before the time Mr. Hunter left the office and
21 Jeffrey Kennedy and John Reid set the alarm to the
22 AD building?
23 A The only frame of reference I would have would be
24 the video recording that I saved when Mr. Kennedy
25 set the alarm with Mr. Reid watching.

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

3 A Not at this point, no.

4 Q But if you had the tape?

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

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

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

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

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

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

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

23 A Yes.

24 Q Which was a minute or two?

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

1 a minute.

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

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

7 Q And he spent about five minutes or so?

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

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

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

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

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

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

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

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

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

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

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

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

19 A I have heard that after the fact.

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

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

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

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

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

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

5 A That's correct.

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

10 A I suppose it's possible.

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

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

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

25 A Yes.

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

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

4 Q And what is that opinion?

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

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

10 A I don't know.

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

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

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

19 A No.

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

22 A I don't recall.

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

24 A No.

25 Q You never heard of anybody that has?

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

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

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

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

15 A I would have no reason to.

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

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

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

25 A Depending on the timeframe.

- 1 Q If they came in in the morning, yes. If somebody
2 on the baseball team said, "Yeah, coach asked me to
3 put some equipment in the AD's Office, and I did
4 and the cash was gone. I saw the cash." That
5 would clear him as well; right?
- 6 A I'm sorry. I'm not following your hypothetical
7 here.
- 8 Q If somebody had interviewed the baseball team, and
9 one of the kids had said, "Yeah, the coach asked me
10 to put something in Tim Hunter's office. When I
11 went in there, I saw these trays and the cash was
12 already gone," that would have cleared Jeffrey
13 Kennedy altogether, wouldn't it?
- 14 A I don't know that. It would depend on the
15 timeframe.
- 16 Q Well, the baseball team was in there before Jeffrey
17 Kennedy.
- 18 A Okay. Yes, that would be a reasonable assumption.
- 19 Q All right. But none of those questions were ever
20 even asked; correct?
- 21 A Not that I know of, no.
- 22 Q So you branded him a thief without knowing any of
23 that?
- 24 A No, I had a suspicion based on his actions that
25 were unusual.

- 1 Q Okay.
- 2 A That led me to believe that he might be involved.
- 3 Q What is your experience with high school students
4 and how -- and them stealing? Is it common in high
5 school?
- 6 A I know that it happens.
- 7 Q Is it fairly frequently at Spring Valley?
- 8 A I wouldn't have any idea about the frequency. The
9 only time that I get notified about such things is
10 if a Sheriff's Department report is made, and I get
11 a copy of the Sheriff's Department report after the
12 fact.
- 13 Q There could be a lot of thefts around the campus
14 that you wouldn't know about because they are not
15 reported to the Richland County Sheriff's
16 Department?
- 17 A There are a lot of things that go on on campuses
18 that are out of my hands.
- 19 Q So had there been any thefts at Spring Valley since
20 Jeffrey Kennedy has been -- since his key
21 privileges have been taken away?
- 22 A Not from locked offices that I'm aware of.
- 23 Q But there have been thefts that you may not have
24 known about; correct?
- 25 A I would expect, just like in this case, if there

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

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

4 A I would expect it.

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

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

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

11 A Briefly, yes.

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

13 A No.

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

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

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

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

1 Q What did you call it?
2 A The weight room.
3 Q Oh, lifting weights?
4 A Yes.
5 Q I was thinking W-A-I-T?
6 A No, W-E-I-G-H-T.
7 Q Instead of waiting there, you lift weights. I've
8 got you. So if Mr. Kennedy did that from time to
9 time, sat in the building in the weight room,
10 looked at a magazine, got on his cell phone or
11 something to try to kill time, I understand you
12 would maybe rather him have out on patrol; but if
13 he had been instructed to not waste the company
14 gas, you wouldn't know that?
15 A I wouldn't know that, and I wouldn't be aware of
16 any reason to hang out in the weight room.
17 Q Or in the building somewhere? Somewhere off camera
18 so to speak?
19 A I wouldn't be aware of any reason to hang out
20 anywhere off camera or on camera in the building.
21 Q When you found about the theft, you said you went
22 and checked the videotape; right?
23 A The video recordings, yes.
24 Q The video recordings. Did you bother going and
25 checking the alarm box to see if the alarm in the

1 building had gone off that night?

2 A I believe that I did.

3 Q And you found what?

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

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

11 A Okay.

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

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

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

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

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

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

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

- 1 A I don't know that I said that, but that's what
2 happened.
- 3 Q Okay. Did you recommend that she do so?
- 4 A That's the standard practice.
- 5 Q What's standard practice?
- 6 A Placing an employee on administrative leave, my
7 understanding, is the standard practice of Human
8 Resources when there is an investigation going on.
- 9 Q Was Tim Hunter placed on administrative leave?
- 10 A I wouldn't know what goes on in Mr. Hunter's
11 personnel actions.
- 12 Q Do you know if any of the custodians were put on
13 administrative leave?
- 14 A I would have no idea. I am only informed about
15 personnel actions involving my officers.
- 16 Q So you would know anything about the baseball coach
17 then?
- 18 A I wouldn't know.
- 19 Q Have you heard that anybody else, other than
20 Jeffrey Kennedy, was put on administrative leave?
- 21 A No, but I wouldn't expect it. It's a personnel
22 matter.
- 23 Q You wouldn't expect to have found out?
- 24 A No.
- 25 Q Since the lawsuit has been filed, have you asked?

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

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

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

6 A I don't specifically recall that.

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

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

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

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

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

19 A That would be my assumption.

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

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

4 A Not that I know of.

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

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

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

12 A How many exterior doors?

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

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

19 Q How big is the AD building?

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

23 Q Is it a one-level building?

24 A It is one level.

25 Q Is it bigger than this --

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

1 Reid?

2 A I don't recall that. I would have expected that in

3 the early stages of what was going on.

4 Q Did he tell you he saw John Reid?

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

6 Q Did he mention to you that a custodian pulled out

7 his keys and opened Tim Hunter's door during that

8 interview?

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

10 Q I believe you've already said it wouldn't surprise

11 you that custodians have keys to Tim Hunter's

12 office and the building too?

13 A I said that it would surprise me that custodians

14 have keys. I don't know what their keys open.

15 Q Would you think that they would have one to Tim

16 Hunter's office?

17 A I would have no idea. It depends on the level

18 issued to them by the principal.

19 Q Where is your office?

20 A My office is at 124 Risdon Way.

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

22 A No.

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

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

25 twice.

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

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

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

9 A Yes.

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

13 A Not directly.

14 Q Indirectly?

15 A Indirectly through Mr. Barnes.

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

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

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

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

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

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

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

8 A No.

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

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

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

17 A Well, certainly.

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

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

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

- 1 A Yes. Something to enumerate, this document you
2 gave me I noticed it's not marked into evidence.
- 3 Q I think it has D-1 at the top.
- 4 A It does have something here at the top.
- 5 Q Thank you. If a security guard is accused of being
6 untrustworthy, would you agree that that would
7 directly impact his professional career?
- 8 A An accusation is different from proof. We get
9 accusations, allegations.
- 10 Q Now, if one of the security officers had said, "I
11 think Jeffrey Kennedy stole this money," that's one
12 thing. But coming from someone like you or Eric
13 Barnes who is in a position of authority, someone
14 who people assume have investigated this matter,
15 don't you think that would carry more weight?
- 16 A First off, I wouldn't say that.
- 17 Q You wouldn't say what?
- 18 A I wouldn't say that to anybody outside of the
19 investigation.
- 20 Q Right. But assuming people found out about it,
21 assume your staff started telling people, telling
22 the security officers, wouldn't it carry more
23 weight that the information is coming from a source
24 that is at the head of the department, as opposed
25 to just one of the security officers saying, "Man,

1 I think so and so did it"?

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

5 Q A rumor like this (indicating)?

6 A That's not a rumor.

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

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

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

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

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

18 A I wrote that. Those are my initials.

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

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

23 Q Okay.

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

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

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

8 Q I mean you --

9 A I would have recommended that it be canceled.

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

12 A There was a cloud of suspicion over it.

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

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

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

22 A That's correct.

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

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

- 1 phones, answer the radios, view the videos as
2 necessary. If there were any alarm or something,
3 we would expect him to pull up the video and look.
4 Q Was he able to get as much overtime in that role as
5 he could have before?
6 A I don't know how much overtime he got before, but
7 it would have been available.
8 Q Did some of the overtime that he would have been
9 eligible for require the use of -- or require key
10 privileges?
11 A After I put that restriction on his employment, I
12 would not have -- he would only have been available
13 for overtime working in the watch room.
14 Q So that probably affected his pay if he got a lot
15 of overtime?
16 A Well, that's not necessarily true. A lot of
17 overtime, extra duty, involves working sporting
18 events.
19 Q So he could still do that?
20 A There are a variety of ways that he could make
21 overtime.
22 Q But he couldn't work other people's shifts?
23 A He could not work in the one of the top positions
24 where you are assigned a set of keys.
25 Q All right. And he has testified his income went

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

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

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

8 A No.

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

12 A Yes.

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

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

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

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

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

1 or week or months?

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

3 Ms. Batchelder notified me of the incident and said

4 that she was going to interview Mr. Kennedy and, as

5 is their standard practice, asked that I be there

6 for that meeting.

7 Q So you were there for the interview with

8 Mr. Kennedy?

9 A Yes.

10 Q Was Ms. Jones present for that meeting?

11 A She was not.

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

13 A I did not. As a result of the information that

14 came out in that meeting, I met with Ms. Jones back

15 at my office.

16 Q Okay. Describe the two versions of the stories

17 that you heard. What did Ms. Jones say happened?

18 And what did Mr. Kennedy say?

19 A I don't have firsthand knowledge of what Ms. Jones

20 said regarding the incident.

21 Q You didn't ask her?

22 A No.

23 Q What was your meeting --

24 A My meeting was -- as a result of the meeting with

25 Ms. Batchelder and Mr. Kennedy and me, it was

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

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

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

14 Q And what was the result of that?

15 A Eventually she identified Mr. Kennedy.

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

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

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

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

1 or describing it to her.

2 Q What was Mr. Kennedy's version?

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

4 it. He didn't do it.

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

6 A Yes.

7 Q So it's not like he said, "I've never seen this

8 woman before, she actually came to me and asked

9 me." Did he say why he didn't show the video?

10 A He said he -- first off, he said he didn't know how

11 to do it. He said that he wrote down the

12 information to give to his captain and then

13 subsequently threw that information away.

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

15 A The e-mail, the original e-mail, was from me to

16 Mr. Groves asking who allowed Kim Jones, a bus

17 driver, to view a video from Round Top Elementary.

18 Q Who is Rick Groves?

19 A Rick Groves would be the captain on the third

20 shift, which would be the supervisor that was in

21 charge at the time that it had been identified that

22 Ms. Jones obtained the information.

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

24 A Yeah. "Please let me know who allowed Kim Jones, a

25 bus driver, to view a video from Round Top

1 Elementary on September 26th. Thanks."

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

3 A I sent it on October 5, 2012.

4 Q What was his response?

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

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

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

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

13 A No.

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

16 A Not personally, no.

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

19 A Not directly, no.

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

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

25 MR. GOODWYN: Plaintiff's Exhibit 10.

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

3 (Attorneys confer.)

4 THE COURT: It's admitted.

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

7 BY MR. GOODWYN:

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

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

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

13 A No.

14 Q Did you ever see the video?

15 A No.

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

18 A No.

19 Q All right.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 additional training?

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

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

10 A Right.

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

13 A It would --

14 Q I know ignorance is no excuse.

15 A Right.

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

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

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

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

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

1 machine and to view prior videos, do you?

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

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

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

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

12 A Not that I recall.

13 Q But you fired him anyway?

14 A I didn't fire anybody.

15 Q Did you recommend him to be fired?

16 A I did not.

17 Q So you were happy that this incident --

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

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

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

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

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

4 Q Do you think it was the right decision?

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

7 Q What indications were those?

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

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

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

22 A I don't recall.

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

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

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

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

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

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

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

18 A Among many, many other things, yes.

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

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

25 Q If their children are involved in an incident?

1 A Yes, sir.

2 Q So she likely would have seen it anyway?

3 A I don't know.

4 Q Just a couple more questions. I don't know if it

5 is clear. Going back to your watching of the

6 security videotape of the night of the thousand

7 dollar theft?

8 A Yes.

9 Q Did you actually watch all seven or eight or nine

10 hours or whatever it was of the video?

11 A Yes, but at a higher speed. You can run it at 32

12 to 64 times normal speed.

13 Q So it doesn't take you seven hours to watch seven

14 hours worth?

15 A No.

16 Q All right. You said you didn't see the baseball

17 team in there?

18 A I did not. I don't recall seeing the baseball

19 team.

20 Q And did you continue to watch it after Jeffrey

21 Kennedy disabled the alarm?

22 A I don't specifically recall.

23 Q Did you document what time Tim Hunter came back in?

24 A No, I did not document what time Tim Hunter came

25 back in.

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

4 A No.

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

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

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

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

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

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

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

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

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

19 (The witness leaves the witness stand.)

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

22 MR. GOODWYN: None from the plaintiff.

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

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

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

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

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

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

16 MR. BARLOW: Not from the defendant.

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

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

21 THE BAILIFF: Yes, ma'am.

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

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

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

3 THE JURY: Good morning.

4 THE COURT: You may proceed. Thank you.

5 MR. BARLOW: Thank you, Your Honor.

6 CROSS EXAMINATION

7 BY MR. BARLOW:

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

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

13 Q Where did you go to high school?

14 A Cardinal Newman High School.

15 Q You worked at the Sheriff's Department?

16 A That's correct.

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

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

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

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

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

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

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

12 Q And how long did you do that?

13 A Approximately three years.

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

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

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

23 A I report to Mr. Jack Carter.

24 Q What is Jack Carter's title?

25 A He is the Executive Director for Support Services.

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

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

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

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

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

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

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

1 closing down any schools that were still open.

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

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

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

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

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

17 (Attorneys confer.)

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

19 MR. BARLOW: Sure.

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

22 BY MR. BARLOW:

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

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

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

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

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

10 A Yes.

11 Q And you did it contemporaneously with these events?

12 A Correct.

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

16 THE COURT: Any objection?

17 MR. GOODWYN: No objection, Your Honor.

18 THE COURT: It's admitted.

19 MR. BARLOW: Thank you, Your Honor.

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

22 BY MR. BARLOW:

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

1 A Yes.

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

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

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

12 A Went to the school to gather facts.

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

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

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

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

25 A Yes.

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

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

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

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

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

17 A Correct.

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

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

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

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

9 MR. BARLOW: I'm going to put this up here.
10 Your Honor, may the witness step down so he
11 can mark on this?

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

15 (The witness leaves the witness stand.)

16 BY MR. BARLOW:

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

20 A No, that's fine.

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

23 A It is...

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

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

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

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

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

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

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

- 1 Q Yeah, I know.
- 2 A I don't believe there is a camera visible down that
- 3 hall. There is a camera that sees that hall, but
- 4 it is the area directly near the top of the frame.
- 5 There is one to the left there, and that one
- 6 (indicating) looks towards us --
- 7 Q All right.
- 8 A -- as the picture shows. It's the one that would
- 9 see the front door and where the rest rooms are.
- 10 Q All right. And the other camera sees the other
- 11 direction?
- 12 A Yes, it looks down that hall.
- 13 Q At that time no cameras saw Tim Hunter's door?
- 14 A That's correct. The one that's there is high
- 15 enough that it doesn't catch that door.
- 16 Q How about the weight room? Does it catch the
- 17 weight room?
- 18 A It would catch the second door of the weight room
- 19 but not the first.
- 20 Q Not the first door. Okay. Now, how many cameras
- 21 are there in that school, Spring Valley,
- 22 altogether?
- 23 A A little over 150.
- 24 Q And how do they work?
- 25 A They are -- the cameras are on all the time, but

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

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

9 A No.

10 Q Why is that?

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

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

15 A Correct.

16 Q Is that fair?

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

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

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

25 Q Were there any problems going on reported with the

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

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

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

8 A I did.

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

12 A No.

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

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

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

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

1 recording as well?

2 A Yes.

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

5 A Yes.

6 Q Or to save, I guess?

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

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

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

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

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

23 A Yes.

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

1 A No.

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

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

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

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

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

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

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

22 MR. GOODWYN: No objection.

23 THE COURT: Yes, sir.

24 BY MR. BARLOW:

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

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

- 1 Q All right. There is a side door that goes from the
2 exterior of the building into the administrative
3 hall?
- 4 A Into the administration area, that's correct.
- 5 Q All right. And this is the night of 2/24?
- 6 A This is 2/24 and what we have now is 11:34 P.M.
- 7 Q And that's the one you have recorded because there
8 was a theft reported as of 2/25?
- 9 A Yes. It was reported to me on March the 2nd, but
10 it was reported as possibly having occurred on the
11 24th.
- 12 Q All right. Now, if you could just start it and run
13 it. What's the highest speed you could run it?
- 14 A It's fast.
- 15 Q Okay.
- 16 A Do you want me to run it at that speed?
- 17 Q Yeah, run it at that speed, and then we'll slow it
18 down.
- 19 A (Witness complies.) What you see most of the time
20 is the times moving at the top. (Playing.) That's
21 it.
- 22 Q All right. Now, let's slow it down and do it
23 again.
- 24 A (Witness complies.)
- 25 Q Just run it through.

- 1 A (Witness complies.)
- 2 Q All right. What's the motion in number 11 here?
- 3 A The motion is Mr. Kennedy coming in the side door,
- 4 looking into the copy room, going into the copy
- 5 room.
- 6 Q Okay. What did he have in his hand? Did you see
- 7 it?
- 8 A A piece of paper.
- 9 Q All right.
- 10 A (Playing.) At that point he is out of view of all
- 11 of these cameras.
- 12 Q For how long?
- 13 A Approximately 20 minutes.
- 14 Q There is a timer at the top?
- 15 A Yes.
- 16 Q And your notes would reflect when he came in and
- 17 when he left?
- 18 A Yes.
- 19 Q All right. I think you can speed it up now a
- 20 little bit. I don't want to be here 20 minutes, I
- 21 don't think.
- 22 A (Witness complies.)
- 23 Q Let me ask this while you're speeding it up. If
- 24 there is anything going on in the other areas,
- 25 would that have been shown on the camera?

- 1 A Yes, the cameras would have recorded any motion in
2 those views.
- 3 Q If he left the administrative hall and went into
4 one of those areas, that would have been picked up?
- 5 A Correct.
- 6 Q What's in the administrative hall?
- 7 A Assistant principals' offices, the principal's
8 office, administrative assistant's office, some
9 secretarial support, bookkeeper, the administrative
10 receptionist, a workroom, rest room, and a copy
11 room.
- 12 Q All right. So basically the people who are running
13 the school -- principles, assistant principles --
14 are in that area?
- 15 A Yes.
- 16 Q As well as their support staff?
- 17 A Yes. I'm sorry. There is also a break room.
18 (Playing.)
- 19 Q All right. Who is that?
- 20 A That's Mr. Kennedy going back into the camera view.
- 21 Q Okay.
- 22 A I've got the wrong one. I'm sorry.
- 23 Q That's all right.
- 24 A There we go. (Playing.)
- 25 Q What does he have there?

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

- 1 A The next date I recorded would have been March the
2 1st. I'm sorry. I just got myself out of here.
- 3 Q It should be on your top right there, Chuck.
- 4 A Oh, okay. All right.
- 5 Q Before we go to the next one, anything else
6 significant about 2/24 from the video?
- 7 A Nothing out of the ordinary. I viewed the other
8 cameras that see around the admin area and could
9 tell that he had not exited the administration
10 area.
- 11 Q All right. Back up. So what was the next video
12 date you recorded?
- 13 A It was the night of March 2nd and 3rd.
- 14 Q Or is it March 1st?
- 15 A I'm sorry, March 1st. In the file name, March 1st,
16 I have two videos starting at 11:23 and one
17 starting at 11:51.
- 18 Q All right. The 11:23 videos, one is the
19 administrative hall?
- 20 A Correct. That would be administrative exits that
21 come from another DVR. That's why it's a separate
22 file.
- 23 Q All right. Let's look at the administrative hall
24 first.
- 25 A (Witness complies.) (Playing video.)

- 1 Q That was real fast. Why don't you play it about
2 the speed we've been kind of looking at. We will
3 speed up and pause as needed.
- 4 A (Playing video.) These are the same cameras that
5 you were just looking at from February.
- 6 Q All right. You made this recording because there
7 was a theft recorded on March 2nd?
- 8 A Yes.
- 9 Q In the administrative hall?
- 10 A Yes.
- 11 Q In the area where Mr. Kennedy is?
- 12 A That's right.
- 13 Q All right. Now, let's go back and --
- 14 A I'll go back again.
- 15 Q Yeah. Maybe I'll just be quiet this time and let
16 you show it. I'm sorry.
- 17 A (Witness complies.)
- 18 Q So Mr. Kennedy is coming in the back door again?
- 19 A Right.
- 20 Q Is he carrying anything?
- 21 A I'll see if I can look.
- 22 Q All right. We'll look at it when we blow it up.
23 So how long is he in there this time?
- 24 A About 20 minutes again.
- 25 Q Anything showing up on the other cameras?

1 A No, sir.

2 Q If you want to speed it up.

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

4 Q Is that Mr. Kennedy leaving now? That's what we're

5 seeing?

6 A Yes, sir.

7 Q On the bottom right?

8 A Yes.

9 Q And that stop is on the way out this time. If you

10 could just isolate 11. We'll just watch that at

11 fairly quick speed.

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

13 Q Is he carrying anything there?

14 A I don't see anything, no.

15 Q So then he disappears. He is off camera again?

16 A Correct.

17 Q Twenty-plus minutes?

18 A Yes.

19 Q Now, he's leaving?

20 A Yes.

21 Q Is he carrying anything that you can tell?

22 A I don't see anything in his hands, no.

23 Q And out the back door, right?

24 A Correct.

25 Q All right. Let's go to the next one. Look at

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

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

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

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

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

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

16 Q About what time does this one end?

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

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

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

22 Q All right.

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

25 Q Sure.

1 A (Playing video.)
2 Q Now, were there some lights there on the side
3 driveway?
4 A Yes.
5 Q What would that be?
6 A That would be Mr. Kennedy driving towards the back
7 of the school and turning around and driving
8 forward.
9 Q All right.
10 A It ended at 11:51:58.
11 Q And there was no motion detected leaving the
12 administrative hall for the entire time?
13 A No, not in the interior at all.
14 Q If you could just go to the next one again. We'll
15 leave this one.
16 A (Witness complies.) (Playing video.)
17 Q This is the administrative hall, exits 11:51 hours?
18 A Correct.
19 Q Tell me why you saved this one?
20 A I saved this one because it's the next time
21 Mr. Kennedy enters the building to do what I would
22 expect him to do.
23 Q Play that one.
24 A (Witness complies.) Here in number 10, it's
25 labeled side driveway. You see the headlights.

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

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

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

5 Q Okay.

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

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

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

13 Q All right.

14 A Number two is the view of the side exit from the
15 administration area looking down that hallway.
16 Number three is the hall up in C-141 in the
17 classroom area. Number four is the lockers.
18 Number four and number five is a hall over in
19 C-184, which you can't see the administration area
20 from there.
21 Number six looks towards the receptionist
22 desk in the front door. Number seven sees just the
23 edge of the other exit, the front entrance/exit to
24 the administration area. Eight is a set of stairs
25 at the guidance hall. Nine is in a classroom.

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

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

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

8 Q Okay.

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

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

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

13 Q Sure.

14 A Okay.

15 Q Sort of moving over where the recorder is.

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

18 Q Yes.

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

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

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

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

8 A About six, yes.

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

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

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

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

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

20 A Correct.

21 Q Any reason to do that?

22 A Any reason to come in the back?

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

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

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

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

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

9 A Yes.

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

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

15 Q Okay.

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

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

19 A Right.

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

22 A I don't believe so.

23 Q All right. Take us there, please.

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

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

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

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

9 A It is Sparkleberry Lane.

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

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

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

16 A Correct.

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

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

20 Q All right.

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

23 Q All right. What time was that?

24 A That was about 10:54.

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

- 1 A About 20 seconds.
- 2 Q Can you blow that up and run it since it's a short
- 3 one?
- 4 A Let me go back.
- 5 Q All right.
- 6 A Now, I'll run it at a reasonable speed. (Playing
- 7 video.)
- 8 Q That's good. All right. There's Mr. Kennedy and
- 9 there's Mr. Reid who testified?
- 10 A Correct. And that's it.
- 11 Q Now. Why don't you play the next morning?
- 12 A Okay.
- 13 Q And tell me, again, why you recorded the next
- 14 morning or saved it?
- 15 A To show the length of time that Mr. Kennedy was in
- 16 the building to disarm the alarm that he had armed
- 17 earlier. Let me go back to the beginning now.
- 18 Q All right. Play it at a reasonable rate of speed.
- 19 I think you can do that.
- 20 A (Playing video.)
- 21 MR. GOODWYN: I'm sorry. Maybe my eyes are
- 22 bad. Can somebody tell us what time that is up there?
- 23 THE WITNESS: It's starting about 5:46.
- 24 BY MR. BARLOW:
- 25 Q And you wrote that in your notes; right?

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

1 Q What time is it there?

2 A 5:55:41.

3 Q Okay..

4 A And what is significant about that is he appears to

5 be coming at an angle from the hallway rather than

6 the keypad. Then he is out of the building.

7 Q All right. I think that's it for the video. If

8 you want to -- oh, yeah. Let's just blow that up.

9 A Okay..

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

11 run it through.

12 A Fairly fast?

13 Q Yeah.

14 A (Playing video.) That's it. There was no

15 recording in between. So all you see is -- except

16 for looking at one camera, all you see is what it

17 recorded. You see him coming in.

18 Because this is an older DVR, it doesn't hold

19 all the frames. So you see him coming in and then

20 him going out. The times are shown at the top.

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

22 Q All right.

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

24 Q 5:58:53?

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

1 times just changed because it's about to pick up
2 the next motion. It's 5:55:41.
3 Q All right. So the reason for the time jump is
4 because the camera wasn't recording anything at
5 that time?
6 A Correct.
7 Q All right.
8 A (Witness resumes the witness stand.)
9 Q Let me actually show you a couple more pictures.
10 What's that?
11 A That would be the side door to the administration
12 area that Mr. Kennedy entered on the nights of the
13 24th, 25th of February and 1st, 2nd of March.
14 Q All right. And what would that be?
15 A I believe that's a closeup of that same door from
16 the inside.
17 Q All right. What would that be?
18 A This is the break room area inside the
19 administration area.
20 Q Any snack machines or anything like that?
21 A No, a coffee machine.
22 Q I just wanted to be sure. What would that be?
23 A The refrigerator in the break room.
24 Q Thanks for showing us that and for your explanation
25 of it. Now, were you involved in meetings with

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

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

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

8 A I did.

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

11 A I did.

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

14 A Yes, I did.

15 Q And what was in the last videos at Bates Hall that
16 caused your suspicion?

17 A The fact that Mr. Kennedy was in the area for much,
18 much longer than would have been necessary to do
19 what I would expect him to do, which is disarm the
20 alarm and leave the building. He has got other
21 schools to deal with.

22 Q And what was his explanation for that? Did he have
23 one?

24 A He said he had gone into the weight room to turn
25 out the lights.

1 Q Did he say anything else?

2 A I believe at some point there was some mention of
3 getting a drink of water.

4 Q Now, was that credible to you?

5 A It's possible but not credible. The reason for
6 that being, number one, it takes less than a minute
7 to turn out the lights. If he were to go in there
8 to turn out the lights, he walked through the room
9 to the other door, turned out the lights.

10 Then in order to not appear on the camera, he
11 would have had to walk back through a dark room in
12 order to not be on the hallway camera. I would
13 think it would be reasonable to turn off the lights
14 and exit that door so that you'd be in a lighted
15 area.

16 And there are water fountains in the weight
17 room, but in the camera view that you saw of the
18 front entrance, there are also water fountains very
19 close to the front door that would be the ones that
20 I would use.

21 Q How about as far as the explanation for being in
22 the administrative hall for the extended periods of
23 time?

24 A He said basically that he was killing time. He
25 mentioned he may have been reading a magazine. I

1 don't recall any specific segments as to what he
2 did. It was all "might have, may have."
3 Q Was that explanation credible to you?
4 A Once again, it's possible but not credible.
5 Q Why not?
6 A There is no reason to be there in that room. I'm
7 not aware of any stash of magazines. If he were
8 going to eat food, he would have brought it in with
9 him because there are no snack machines. He would
10 have just been in there killing time.
11 Q All right. And those are the nights that the
12 thefts were reported in that area?
13 A That's correct.
14 Q Now, was Mr. Kennedy asked whether he reentered the
15 building from the front on March 1st?
16 A Mr. Garrick him that question, yes.
17 Q What was his response?
18 A He said he did not.
19 Q Since Mr. Kennedy has left Spring Valley, have
20 there been any thefts reported in the
21 administrative hall?
22 A No.
23 Q How about in the Bates Hall?
24 A No.
25 Q Who made the decision to reassign Mr. Kennedy to

1 Support Services?

2 A That was my decision with the consent of

3 Mr. Garrick.

4 Q And why did you make that decision?

5 A It would do one of two things. If we reassigned

6 Mr. Kennedy to an area where he did not have keys

7 and was not on campus, either the thefts would

8 continue or they would stop. If the thefts

9 continued, then it would tend to exonerate

10 Mr. Kennedy. If the thefts stopped, it would tend

11 to indicate his guilt.

12 Q All right. So that was another factor that led you

13 to believe that he was not credible?

14 A Yes, the thefts stopped.

15 Q All right. Now, let me show you -- we've seen this

16 several times -- but it's Plaintiff's Exhibit 4.

17 It's the e-mail that you sent that says

18 confidential at the top of it?

19 A Yes.

20 Q All right. Did you send that?

21 A I did.

22 Q Who did you send that to?

23 A I sent it to Mr. Barnes, who is the Assistant

24 Security Manager, and to the supervisors on the

25 weekday shifts.

- 1 Q All right. Did you print it out?
- 2 A I printed one copy and placed it in the file in my
3 office.
- 4 Q All right. Did you put one anywhere else?
- 5 A I did not.
- 6 Q Did you communicate this to anybody other than the
7 people on here?
- 8 A I did not.
- 9 Q Why would these people need to know this?
- 10 A In the event that the opportunity came up for
11 Mr. Kennedy to walk over on the first shift or come
12 in early on the second shift because of a shortage
13 on those shifts, I wanted to make certain they knew
14 that he was to be assigned the watch room duties.
- 15 Q Did you intend for anyone to see it other than the
16 people you addressed it to?
- 17 A No, I did not.
- 18 Q Was it ever reported to you that there were copies
19 of this floating around?
- 20 A No, it was not.
- 21 Q Now, after the reassignment did Mr. Kennedy's pay
22 change?
- 23 A No, it did not.
- 24 Q How about hours? Was he still working the same
25 shift?

- 1 A He was still working the same shift, the same
2 eight-hour shift that everyone else was.
- 3 Q Did he have opportunities to work overtime at
4 football games and sporting events?
- 5 A Yes. We have a wide variety of opportunities for
6 overtime where there's no keys involved.
- 7 Q Did Mr. Kennedy need any keys for what he was
8 doing?
- 9 A No.
- 10 Q Did anybody come to you and say, "Why is
11 Mr. Kennedy in Support Services?"
- 12 A No.
- 13 Q Now, after you reassigned him, did you get any job
14 reference requests for Mr. Kennedy?
- 15 A No.
- 16 Q Did you get any complaints from him that he found
17 this work demeaning or didn't like it?
- 18 A No.
- 19 Q Did he come to work every day?
- 20 A As far as I know, yes.
- 21 Q Attendance good?
- 22 A As far as I know, yes.
- 23 Q No warnings or reprimands between June 2011 and
24 October 2012?
- 25 A No.

1 Q Not from you?

2 A Not from me certainly.

3 Q Sure. All right. Now, at some point did you deal

4 with Kim Jones, a bus driver, with regard to

5 Mr. Kennedy?

6 A Yes, I did.

7 Q All right. And you talked about that a little bit

8 yesterday?

9 A Correct.

10 Q On examination from counsel.

11 MR. BARLOW: I'd like to mark this for

12 identification as Exhibit 3, Defendant's Exhibit 3.

13 (Defendant's Exhibit Number 3 is marked for

14 identification.)

15 BY MR. BARLOW:

16 Q Mr. Earles, do you recognize that document? Do you

17 have it yet?

18 A Don't have it. Okay. Yes.

19 Q Do you recognize that?

20 A This is the statement that I wrote at the request

21 of Traci Batchelder regarding the events of

22 October 18, 2012.

23 Q Is that your signature at the bottom?

24 A It is.

25 Q Is that the date on the bottom?

1 A It is.

2 Q Did you prepare this on October 18, 2012?

3 A I did.

4 Q All right. These events occurred on or around that
5 time?

6 A That's correct.

7 Q All right.

8 MR. BARLOW: We'd like to move at this time
9 that the exhibit be admitted into evidence as
10 Defendant's Exhibit 3.

11 MR. GOODWYN: No objection, Your Honor.

12 THE COURT: Without objection it's admitted.

13 (Defendant's Exhibit Number 3 is received into
14 evidence.)

15 BY MR. BARLOW:

16 Q So at some point this issue comes up. Tell me how
17 it came to your attention.

18 A Traci Batchelder from Human Resources called me and
19 said that she had received a complaint that one of
20 our officers had showed a video to a parent. The
21 parent was also a bus driver.

22 Q All right. And what did you do as a result of
23 that?

24 A Well, I sent an e-mail to Mr. Groves, who is the
25 captain on the third shift, which would have been

1 the time frame that this request was made and asked
2 if he knew who had done this. That was all I did
3 until the meeting with Mr. Kennedy and
4 Ms. Batchelder.

5 Q All right. And when did you have that meeting?

6 A That was on the 18th, the morning of the 18th.

7 Q All right. Who else was there, just the three of
8 you?

9 A Jeffery Kennedy, Traci Batchelder, and myself.

10 Q And tell me what happened during that meeting.

11 A There was a discussion. Ms. Batchelder asked
12 questions and took notes asking about the incident.
13 Mr. Kennedy admitted being asked by Ms. Jones but
14 denied viewing any of the recordings.

15 He said repeatedly that he didn't know how to
16 view any of the images, other than live images that
17 he sees when he is working the shift. He also
18 stated if he knew how to view the recordings, he
19 would have allowed Ms. Jones to view the video
20 because he was not aware that it was wrong to do
21 so.

22 He also repeatedly said that he asked
23 Lieutenant Young, which would have been one of his
24 supervisors, if he could do it. Lieutenant Young
25 told him that he had forgotten how to do it.

1 Mr. Kennedy repeatedly said that Ms. Jones --
2 that he told Ms. Jones she should ask the Principal
3 about viewing the video. He further repeated that
4 he wrote down the name and date to see if Captain
5 Groves could retrieve the video for Mr. Jones.

6 He then said that he threw the information
7 away and never gave to it Captain Groves. He said
8 he never viewed the video or told Ms. Jones what
9 was on the video.

10 Q So he told you and Ms. Batchelder at that meeting
11 that he had never told Ms. Jones anything about
12 what was on the video?

13 A Correct.

14 Q Now, tell me what happened next.

15 A Well, we told him that it was -- no security
16 officer was authorized to allow anyone to view
17 any video or to describe what happened on any
18 video.

19 During the meeting Ms. Batchelder acknowledged
20 that it could be a case of mistaken identity and
21 suggested that we all go meet with Ms. Jones to get
22 a positive identification.

23 Mr. Kennedy said he had to go to his other job
24 and could not make the trip to the Support Services
25 office. It's about seven miles where this meeting

1 occurred to my office, which is the Support
2 Services Center.

3 So since he said he had to go to his other job
4 and could not make the trip, Ms. Batchelder asked
5 if I had pictures of the officers that I could show
6 Ms. Jones to possibly identify the officer who
7 described the video to her. I told her I did and
8 proceeded to Support Services for that purpose.

9 Q At this point what is going on? Mr. Kennedy said
10 it's not him. Ms. Jones apparently said, "An
11 officer showed or told me what was on the video"?

12 A Correct.

13 Q He says it's not him. So Traci says, "Let's see if
14 maybe it's a different officer"?

15 A That's correct.

16 Q Then tell me what happens after that. Take it from
17 there.

18 A When I returned from my office, I called
19 transportation and had Ms. Jones come to my office.
20 I told Ms. Jones that I needed her to identify the
21 officer who told her what was on the recorded
22 video, showed her a copy of Mr. Kennedy's driver's
23 license. She said she could not be sure.

24 I then showed her photos of each officer who
25 works third shift because she said she had spoken

1 to the officer at about 5:45 A.M. The first shift
2 is from 11:00 P.M. to 7:00 A.M. on October 1st and
3 2nd. Ms. Jones ruled out all the other officers.

4 I tried to view the surveillance video of the
5 Support Services lobby at that time, but it had
6 already been recorded over, as I described earlier.

7 As I continued to question Ms. Jones about the
8 details of speaking with the officer, she became
9 visibly upset. She teared up. She looked scared.
10 She told me that the officer had called her that
11 afternoon.

12 Ms. Jones stated that he told her that if she
13 identified him, he was going to be fired and she --
14 in quotes -- "Better not do it." Ms. Jones became
15 more upset and was in fear of retaliation from
16 Mr. Kennedy or other employees who she did not
17 identify to me.

18 Upon questioning about her call log on her
19 phone, I asked her to show me the phone. She
20 pulled out the phone and read out to me that she
21 had received a call 24 minutes ago.

22 That would have been after the meeting that we
23 had at the District office and before she came to
24 my office. This is how it appeared in the call log
25 with current time of 1:50 P.M. The phone number

1 that was on there. In checking my files, it was
2 Mr. Kennedy's phone number.

3 Q Was that an incoming call?

4 A It was an incoming call. At that point I called
5 Ms. Batchelder. We each independently confirmed
6 that we had that number in our records as belonging
7 to Mr. Kennedy.

8 Ms. Batchelder asked that we arrange another
9 meeting on Friday, October 19th, in the District
10 office; and I had Eric Barnes make those
11 arrangements.

12 Q All right. When you first met with Mr. Kennedy
13 that morning of October 18th, did you have any
14 intention at all of ending his employment?

15 A No.

16 Q And this is about, what, 18 months after this
17 Spring Valley investigation started?

18 A Approximately, yes.

19 Q All right. And he had been put back to work 14
20 months prior to that?

21 A Yes.

22 Q So then you had the meeting. What happens after
23 that? Was there another meeting?

24 A There was another meeting the next day.

25 Q And what transpired during that meeting?

- 1 A Ms. Batchelder and Mr. Kennedy had a discussion
2 about the incident and what happened with Ms. Jones
3 on that afternoon. Subsequently, Ms. Batchelder
4 offered him the opportunity to resign.
- 5 Q And did you support that?
- 6 A I did.
- 7 Q In that meeting did he say that Ms. Jones called
8 him?
- 9 A He did.
- 10 Q Did he also say that he never described anything
11 that was on the video to her?
- 12 A He did.
- 13 Q Now, after that happened did you tell anybody what
14 had happened to Mr. Kennedy?
- 15 A I would have discussed it with Mr. Barnes, but that
16 would be the only one.
- 17 Q Didn't tell anybody else?
- 18 A Correct.
- 19 Q All right. Now, since Mr. Kennedy has been
20 separated from Richland Two, have you received any
21 reference requests at all about Mr. Kennedy?
- 22 A No, I have not.
- 23 Q Have you communicated anything outside Richland Two
24 to anybody about Mr. Kennedy?
- 25 A No, I have not.

1 Q Have you done anything to keep Mr. Kennedy from
2 getting another job?

3 A No.

4 Q Now, we talked a little bit about the
5 communications in the memorandum that you sent in
6 the confidential e-mail. Your expectation of
7 Mr. Kennedy during the course of the investigation
8 is that he would not be telling people about it
9 too?

10 A That's correct. If I had been accused of
11 something, I wouldn't discuss it.

12 Q Your expectation, right, that you wouldn't be
13 telling people that you were under investigation?

14 A No, I wouldn't expect that.

15 MR. BARLOW: Give me just a second.

16 (Pause.)

17 MR. BARLOW: All right. Mr. Earles, no
18 further questions at this time.

19 THE COURT: Redirect?

20 MR. GOODWYN: Yes, Your Honor. Can I ask for
21 a short rest room break?

22 THE COURT: Sure. Let's take a break. Ladies
23 and gentlemen, I'm going to remind you not to begin to
24 discuss this matter among yourselves, as you still have
25 not heard all the evidence that has to be presented.

1 Let's take a break and then we'll come back.

2 (The jury retires to the jury room.)

3 THE COURT: Again, Mr. Earles, I'll instruct
4 you not to discuss your testimony since it's not
5 concluded yet. Let's take a break and we'll come back.

6 (Whereupon there was a recess.)

7 THE COURT: Yes, ma'am.

8 MS. PEAVY: Yes, Your Honor. Briefly while
9 the jury was still out, we wanted to have the
10 opportunity to call Mr. Kennedy in rebuttal. This is
11 proprietary software...

12 He hasn't had the chance review it, nor have
13 we. So we would like to be able to have him testify,
14 respond to the video images that the jury has been
15 shown.

16 THE COURT: So in all of the discovery, you
17 all never viewed the video?

18 MR. GOODWYN: We never saw it. We don't have
19 access. This is a proprietary software.

20 MR. BARLOW: We produced it and this is the
21 first time they're raising this issue with us.

22 THE COURT: You produced it in what form?

23 MR. BARLOW: On the DVD, in this form.

24 MS. PEAVY: We tried to pull it up on our
25 computer. It was sent over in advance of our trial but

1 we don't have the --

2 MR. GOODWYN: I looked up the software. It's
3 a proprietary security software. You can't watch the
4 video without the software. They didn't produce the
5 software; they just produced the video.

6 THE COURT: Did y'all bother to tell them?
7 Did you tell them that before the trial began?

8 MS. PEAVY: No.

9 MR. GOODWYN: We didn't have the opportunity.
10 We could not have presented this video and have him
11 respond to it in our case in chief because we don't have
12 the software.

13 MR. BARLOW: We would have been happy --

14 THE COURT: The question is you receive a
15 video or a DVD that you can't play, and you don't say
16 anything to the other side saying, "I can't access it.
17 I can't look at it. I can't view it"?

18 MR. BARLOW: It was produced, Your Honor,
19 October 2nd of 2013; so, 364 days.

20 MS. PEAVY: Your Honor, at least we would like
21 to be able to have him testify to the still images that
22 we do have in our file as part of discovery because
23 those reflect the captured images that they produced.

24 THE COURT: And when did you receive those? I
25 mean, those were part of what was presented to me as an

1 exhibit to your motion. So you had those before today.

2 MS. PEAVY: Yes, Your Honor.

3 THE COURT: Before the trial began.

4 MS. PEAVY: That's correct.

5 MR. BARLOW: The same day, October 2nd.

6 THE COURT: I'll allow you to have him retake
7 the stand in rebuttal at the conclusion of all of it. I
8 think it's inappropriate -- you had access to the
9 videos?

10 MS. PEAVY: Yes, Your Honor.

11 THE COURT: And you had access to the stills
12 before this time.

13 MS. PEAVY: Okay.

14 THE COURT: I will give either side the
15 opportunity or at the appropriate time to make a
16 rebuttal at the conclusion of all the evidence that's
17 been presented. I'll do that in this case but not after
18 this particular witness.

19 MS. PEAVY: Thank you, Your Honor.

20 THE COURT: Anything else before we bring the
21 jury?

22 MR. GOODWYN: No.

23 THE COURT: Ask the jury to come in, please.

24 (The jury returns to the courtroom.)

25 THE BAILIFF: The jury panel is all present,

1 Your Honor.

2 THE COURT: Yes, sir. You may proceed on
3 redirect.

4 REDIRECT EXAMINATION

5 BY MR. GOODWYN:

6 Q I would like to go back through some of this video
7 in just a minute. I'll get back into it. I may
8 need you to drive it again if you don't mind.

9 A Sure.

10 Q You testified that -- about Jeffrey Kennedy's
11 presence in the Administrative Building where he
12 spent 20 minutes the night that one of these thefts
13 was reported?

14 A Correct.

15 Q You thought that was unusual?

16 A I did.

17 Q And you also felt that him going through the back
18 door, going to the radio room or whatever, and
19 going back around is unusual?

20 A Yes. The only reason to come in that way would be
21 to change the battery on the radio, and that would
22 take just a few seconds.

23 Q All right.

24 A And he could do that through the front door.

25 Q Are you aware of how he was trained to do it?

- 1 A I am not.
- 2 Q Did you ask anybody how he was trained to do it?
- 3 A I don't know who trained him.
- 4 Q Did you try to find out?
- 5 A He was trained before I came.
- 6 Q Did you ask Jeffrey who trained him?
- 7 A No.
- 8 Q Did Jeffrey tell you that that was his habit?
- 9 A I don't recall that.
- 10 Q Did you bother asking?
- 11 A I don't recall if I asked him specifically if that
- 12 was his habit or not.
- 13 Q Do you think that's relevant?
- 14 A The questions that were asked of Mr. Kennedy was
- 15 asked by Ms. Batchelder.
- 16 Q And were you in that meeting?
- 17 A I was.
- 18 Q Did you suggest that Ms. Batchelder ask any other
- 19 questions?
- 20 A Not that I recall.
- 21 Q Does Ms. Batchelder have the experience that you
- 22 have in investigating crimes?
- 23 A No, but she does a lot of investigations in Human
- 24 Resources.
- 25 Q Do you think you're better qualified to investigate

- 1 this situation than she is?
- 2 A I wouldn't compare our qualifications.
- 3 Q Why not?
- 4 A Different fields, different areas.
- 5 Q Does she have any police training?
- 6 A I have no idea.
- 7 Q Did you bother going back and looking at any video
- 8 from the past as to whether Jeffrey Kennedy went in
- 9 that back door on a regular basis or not?
- 10 A I did not. I relied on Mr. Barnes to do that.
- 11 Q Okay. Did you bother looking at any video of what
- 12 other employees do when they come in that back
- 13 door?
- 14 A I did not.
- 15 Q Do you think that would be relevant?
- 16 A It's possible.
- 17 Q If everybody does it that way, it wouldn't cast
- 18 suspicion on Jeffrey because he did it that way;
- 19 correct?
- 20 A Coming in the door, that's correct.
- 21 Q And doing it the way he said: Going in the back
- 22 door, going in the battery room, then walking back
- 23 and coming around?
- 24 A That would be normal. The suspicion arose when he
- 25 spent all of that time off camera in the area and

1 then exited immediately and went around to do his
2 normal duties.
3 Q All right. Can you pull up the video? Do you
4 think you can get us back to the video?
5 A Sure. Which one are you interested in?
6 Q Let's first start with the -- I guess let's go to
7 the AD building. I'm sorry, the Athletic
8 Department. Is that Bates Hall?
9 A (Witness leaves the witness stand.) Yes. Which
10 one?
11 Q The one showing the inside.
12 A Well, there are two files of the same thing, the
13 one where the alarm was set and the one where the
14 alarm was disarmed.
15 Q Let's go to the one where the alarm was disarmed.
16 I remember seeing one. I'm not sure.
17 A Okay.
18 Q I'm looking for the one with an image of a keypad?
19 A Those were still images.
20 Q Oh, those were still images?
21 A Yes.
22 Q Okay. I'm sorry. How about that third one at the
23 top?
24 A This one (indicating)?
25 Q Yes. Okay. That black, kind-of-dome thing, at the

- 1 top there above that little picture.
- 2 A Yes.
- 3 Q Is that where the security camera is?
- 4 A That is the camera that looks back towards the door
- 5 and the entrance to the front, the large entrance
- 6 area, and the rest room is where that is, that sort
- 7 of thing.
- 8 Q You know that because you can see the angled camera
- 9 is through there or you just know it because you
- 10 have seen the video?
- 11 A I know that because I've seen the videos.
- 12 Q Okay. Jeffrey Kennedy wouldn't know that, would
- 13 he? He wouldn't know that being a camera, would
- 14 he, just by looking at that?
- 15 A Well, he can stand under it and see where the
- 16 camera lens is.
- 17 Q All right. How do you know that? Is it tinted?
- 18 A It is but it is not tinted to the point that you
- 19 cannot see where the camera is facing.
- 20 Q Is that something everybody knows?
- 21 A If you look at it, you know.
- 22 Q All right. That camera, has it ever changed? Has
- 23 the angle ever changed?
- 24 A No.
- 25 Q When you say that --

- 1 A It's possible to change it, but that camera, I'm
2 not aware of the angle being changed.
- 3 Q All right. The cameras are changed from time to
4 time? You testified that you actually changed some
5 cameras?
- 6 A I changed one camera in the administration area,
7 and they can be changed.
- 8 Q Okay. Did you tell the staff that the camera angle
9 had been changed?
- 10 A No.
- 11 Q That camera could see Tim Hunter's office?
- 12 A No..
- 13 Q If it were turned, it could?
- 14 A If it were turned, yes.
- 15 Q But the angle that it was this night, it didn't?
- 16 A Correct.
- 17 Q All right. And that door, that's the weight room
18 you're talking about?
- 19 A The door on the left, the indentation is where the
20 first weight room door is.
- 21 Q All right. So let's just go to the video of
22 Jeffrey of the disarming of the alarm.
- 23 A Do you want just that camera?
- 24 Q First, let me just ask you this general question.
25 This little yellow E. that's under 3 of 4 pictures,

- 1 what does that mean?
- 2 A I don't know.
- 3 Q How long do the cameras record after this motion?
- 4 A It's set to a few seconds -- two, three, five
- 5 seconds. I don't know the exact number.
- 6 Q Then it will turn off?
- 7 A The camera itself stays on. It's just a matter of
- 8 the DVR recording.
- 9 Q Well, play -- I'm sorry. Is this the one of the
- 10 disarming of the alarm?
- 11 A Yes.
- 12 Q Can you play the one of this camera up here
- 13 (indicating).
- 14 A Just of him?
- 15 Q Yes.
- 16 A (Playing video.)
- 17 Q Can you pause it there for a second? Back it up.
- 18 A (Witness complies.)
- 19 Q So that's the end of it?
- 20 A Yes. That's where I described the times that are
- 21 recording. See, at the upper right, it says
- 22 5:40:56 A.M. As I scroll through, one frame at a
- 23 time --
- 24 Q But that's where he's coming in?
- 25 A That's where he is coming in.

- 1 Q Okay.
- 2 A And then it changes to 5:55:41 A.M., and that's
- 3 where you see him coming out.
- 4 Q All right. So there was -- there's some missing
- 5 time on the video because there was no motion? Is
- 6 that what you are saying?
- 7 A There was no recording because there was no motion.
- 8 Q So that's the period of time where he would not
- 9 have been standing there?
- 10 A Correct.
- 11 Q Tell me this: When you say motion, in what area is
- 12 it looking for motion?
- 13 A It is only in the camera view that you see.
- 14 Q All right. As soon as he walks under the camera
- 15 there, it would stop recording?
- 16 A Correct. It would stop recording that frame.
- 17 Q And the panel, I think you saw from the keypad
- 18 panel, it is almost directly under that camera?
- 19 A That's correct.
- 20 Q So this is about the angle you would expect him to
- 21 return from if he's setting the alarm?
- 22 A Well, I would expect him to return from the same
- 23 angle that he entered. See, he comes in and makes
- 24 a hard left.
- 25 Q And the last thing he would have been doing is

- 1 setting the alarm; right?
- 2 A No, he was disarming the alarm at this point.
- 3 Q Disarming the alarm. Okay. That's the first thing
- 4 he does when he comes in the building?
- 5 A Correct.
- 6 Q But after a few minutes when he is in the weight
- 7 room, he wouldn't be coming from the alarm panel;
- 8 correct?
- 9 A He would be coming from the wall where -- he would
- 10 be coming around the wall where the alarm panel is
- 11 located.
- 12 Q So if I've got this right, the alarm panel is here
- 13 (indicating). You marked that; correct?
- 14 A Correct.
- 15 Q The camera is like on the ceiling?
- 16 A Yes.
- 17 Q It's right here (indicating) maybe?
- 18 A Somewhere in that area, yes.
- 19 Q And the camera is pointing towards the door; right?
- 20 A No, the camera is pointing down the hallway. It
- 21 has about a 70-degree field of view.
- 22 Q Okay.
- 23 A So it's pointing down.
- 24 Q Oh, I see. So we can see the doors on the right?
- 25 A Yes.

- 1 Q And the rest of the hallway?
- 2 A Actually those doors don't exist. That's an error.
- 3 Q Oh, that's a wall?
- 4 A Yeah, that's a wall. This is the original design,
5 and they chose not to put those doors in.
- 6 Q And Tim Hunter's door is over here (indicating)?
- 7 A That's correct.
- 8 Q And there's a door that leads to Tim Hunter's
9 office?
- 10 A There is an exterior door that leads to this area
11 (indicating), and then another door into Tim
12 Hunter's office.
- 13 Q What is this area (indicating)?
- 14 A I don't really recall. It's Athletic Department
15 space.
- 16 Q Storage of some type?
- 17 A Mr. Hunter would have to testify as to what the
18 space was used for.
- 19 Q All right. So if Mr. Kennedy was in the weight
20 room and walked around to come out, you would
21 expect him to be coming from this direction
22 (indicating)?
- 23 A If he swung wide enough to get out of the center of
24 the hall, yes, I would expect that. That's a
25 possibility.

- 1 Q And you think it's suspicious that he would have
2 swung that wide?
- 3 A Yes.
- 4 Q All right.
- 5 A People normally take the shortest route between two
6 points.
- 7 Q Mr. Kennedy is a pretty big guy?
- 8 A Yes.
- 9 Q Did you see what he was doing when he got out of
10 the building?
- 11 A When he left the building, it appeared he was on
12 the phone.
- 13 Q Did he tell you that Lieutenant Young had called
14 and told him to go somewhere else when he was in
15 the weight room?
- 16 A I don't recall that.
- 17 Q Did you ever ask Mr. Kennedy who he was on the
18 phone with when he left the building?
- 19 A No.
- 20 Q So you never asked Lieutenant Young to confirm
21 that, did you?
- 22 A No.
- 23 Q You never asked Lieutenant Young: Well, how long
24 was the conversation?
- 25 A No. I testified when I determined that there was

1 something suspicious, I turned it over to Human
2 Resources to do the investigation.

3 Q I understand. But you never asked that question of
4 Lieutenant Young, did you?

5 A No.

6 Q All right. If Lieutenant Young had said, "Oh,
7 yeah, we were on the phone for three or four
8 minutes," that would have made a difference,
9 wouldn't it?

10 A Not necessarily.

11 Q It's highly unlikely he would be on the phone with
12 Lieutenant Young while he's robbing the money;
13 right?

14 A I don't know when that whole conversation occurred.

15 Q And you didn't ask?

16 A No.

17 Q He is on the phone call when he is leaving. You
18 didn't even ask him, Who are you on the phone with?
19 Then you could ask that person, Hey, how long did
20 you talk to him? Maybe you could look at his cell
21 phone and look at the call log. How long was the
22 call?

23 A The length of the call would be irrelevant. We
24 only know approximately what time it may have
25 started. He could have carried on for 25 minutes

1 after he exited the building.

2 Q True. But if he -- but can't you look at the times
3 of the call? Can't you look at the phone bill and
4 check how long that call was and what minutes it
5 was?

6 A I don't have the ability to do that.

7 Q You don't -- it's a school phone; right? It's not
8 his personal phone?

9 A I don't know. He could have been on his personal
10 phone.

11 Q Did you even check? Does he have a school-issued
12 phone?

13 A There is a school-issued phone that is passed from
14 officer to officer, along with the keys and the
15 vehicle and the radio.

16 Q And if he's on that school-issued phone, certainly
17 the school would have access to those records,
18 wouldn't it?

19 A We issue the phone. So, yes, we would have access
20 to the phones.

21 Q And you could just look and see what time he
22 received that phone call, couldn't you?

23 A I suppose that's possible.

24 Q Wouldn't you agree that it would be highly unlikely
25 that he would be in the process of robbing

1 something while he is talking to somebody else?

2 A I don't know. I can't testify to that.

3 Q All right. Can you go ahead and play the video so

4 we can show the time when he is exiting.

5 A (Witness leaves the witness stand.) I'll step

6 through the frames.

7 Q Yes.

8 A So we don't go past it.

9 Q Right.

10 A (Playing video.) Okay. The time just changed.

11 It's 5:55:41.

12 Q Okay. So he should be walking out. Pause it right

13 there. Can you go back a frame or two so we can

14 see him coming in.

15 A (Witness complies.)

16 Q Right there. The camera is here (indicating). The

17 alarm is on this wall right here (indicating);

18 right?

19 A Correct.

20 Q And you think that looks like he took a very wide

21 turn to you?

22 A It looks like he is coming from the direction of

23 the center of the hall, compared to when he entered

24 and went straight to where the alarm panel is.

25 Q You would think he would be coming from a little

1 bit wider angle?

2 A Certainly it would be a bit wider because you have

3 that little wall and the door.

4 Q And that is a little bit wider?

5 A Yes, that's correct. It is wider.

6 Q All right. Can you back it up again?

7 A (Witness complies.)

8 Q Is that him on the phone right there?

9 A This is the beginning of the phone conversation.

10 The phone is down; the phone is up.

11 Q Which phone is that?

12 A I don't know.

13 Q How do you know that he wasn't talking and walking

14 and picking back up to finish the conversation?

15 A I suppose it's possible he could have had a phone

16 on him and down by his hip.

17 Q Is that phone like a school issued phone?

18 A I have no idea.

19 Q All right. Go ahead. Is that the last one?

20 A (Witness complies.)

21 Q All right. That's fine. I guess you can have a

22 seat.

23 A (Witness resumes the witness stand.)

24 Q Now, your theory of these thefts is that

25 Mr. Kennedy was in the building where it happened

- 1 and that he had some off camera time; correct?
- 2 A And that he had the opportunity.
- 3 Q All right. Unless Mr. Kennedy was looking up
- 4 checking the camera angles and all, he wouldn't
- 5 necessarily know he was off camera, would he?
- 6 A He would have to have some knowledge of where the
- 7 camera was pointed, yes.
- 8 Q Right. I mean, because they are tinted, unless you
- 9 go directly under it like you said and look up and
- 10 check that --
- 11 A Yes.
- 12 Q -- you wouldn't know or somebody like Jeffery
- 13 wouldn't know which direction the camera is facing,
- 14 would he?
- 15 A Not unless he had seen the video.
- 16 Q But he had never worked in the video room?
- 17 A I don't know that. Standard security officers work
- 18 in the watch room all the time.
- 19 Q Do you have any evidence Mr. Kennedy ever worked in
- 20 the watch room?
- 21 A No, I don't know.
- 22 Q His regular shift was third shift. He was
- 23 basically the night watchman, wasn't he?
- 24 A Well, his regular assignment was based out of
- 25 Spring Valley; but they, as needed, move officers

1 around. So it's possible he could have but I don't
2 know.

3 Q So if Mr. Kennedy used his key and entered a locked
4 office that he wasn't supposed to be in, he would
5 just be taking a chance that a camera might catch
6 him doing that, correct, if he doesn't know the
7 camera angles?

8 A If he did not know the camera angles, yes. Right.

9 Q And entering a locked office using his key would be
10 inappropriate for him; right? That's not part of
11 his job?

12 A That's correct.

13 Q He is just supposed to check the outside doors.
14 Maybe check the door to see if it's locked. If
15 it's not, lock it. But he is not supposed to go in
16 these locked offices; right?

17 A No, there would be no reason for him to do that.

18 Q And your theory in this case is that Mr. Kennedy
19 used his key to go in some locked offices, in this
20 two or three-week period, including the \$1,000
21 theft, and take the money; right?

22 A That's what the circumstantial evidence indicates
23 to me.

24 Q Right. So that's your theory. You would think
25 certainly that these weren't the only three times

1 that he would have tried to go in the office to
2 find something; right? He would have done this
3 many times?

4 A I would have no idea.

5 Q But from a thief's mind if, in fact, he is the
6 thief, these certainly weren't the only three times
7 he ever went in an office. He just got lucky on
8 three occasions?

9 A I wouldn't have any idea.

10 Q But would you agree that it would be likely that he
11 would have tried to find -- he would have rifled
12 through the desk many times before he actually
13 found something worth stealing?

14 A I wouldn't have any idea if that were the case.

15 Q And you're the professional. I'm not even a
16 professional. But it's very remote odds that these
17 are the only three times he went into these offices
18 if, in fact, that's true; right?

19 A I would have no opinion on that.

20 Q So would you agree that it would be highly likely
21 that if you went back and looked at some other
22 video, you would have seen him using his key to go
23 into a locked office at least one time and
24 searched --

25 A I would have no opinion on that either.

1 Q All right. But you never have -- not once -- have
2 you ever seen a video of Jeffery going into a
3 locked office that he shouldn't have been going
4 into?

5 A I have not.

6 Q Have you heard of anybody who has?

7 A I have not.

8 Q And that's the first step. If he never goes into
9 locked offices, then he couldn't possibly have
10 committed any of these thefts; right?

11 A If he never goes into any locked offices, then
12 that's correct.

13 Q But if he is doing that regularly trying to find
14 things, you would think he would be caught on
15 camera at some point doing that; right?

16 A It would depend on whether or not he knew what the
17 camera angles were and if he were a careful thief.

18 Q Have you ever seen him on any of the cameras
19 looking up at another camera to try to figure out
20 what the angle is?

21 A No.

22 Q Now, somebody that would have legitimate access to
23 the inside of these locked offices, they wouldn't
24 have that problem of being caught on camera going
25 in the offices because they have legitimate access;

1 correct?

2 A Yes.

3 Q Somebody who works in that area, somebody -- a
4 custodian, for example -- there would be no issue
5 about them accessing it?

6 A Someone who has a key, there would be no issue
7 about them accessing it.

8 Q Right. They wouldn't have to worry about the
9 cameras; but the security guards, they know they
10 are on camera; right?

11 A Yes, they should.

12 Q So it would be very foolish for them to enter an
13 office must less try to steal something from the
14 office?

15 A Also, the cameras don't see all areas of all
16 schools..

17 Q But, again, they don't necessarily know that. For
18 the thefts -- and I'm not taking about the thousand
19 dollar theft, but the other thefts, \$40 and
20 somebody's papers on a desk, the little jewelry,
21 those types of thefts that were in the week or two
22 or three before the \$1,000 theft -- did you find
23 out what time of day those complainants left the
24 office the day they think that the items were
25 stolen?

- 1 A I did.
- 2 Q You did?
- 3 A Yes.
- 4 Q What time? I mean, can you tell me?
- 5 A It was approximately 4:00 o'clock, the end of their
6 workday. That was one of the questions I asked as
7 part of the initial fact gathering.
- 8 Q So 4:00 o'clock. So anybody that worked in that
9 area after 4:00 o'clock could have taken the cash
10 off the desk or could have gone through the drawer?
- 11 A There were, in fact, some people that entered and
12 exited after a very few minutes.
- 13 Q All right.
- 14 A And their behavior was not suspicious; so I didn't
15 save it.
- 16 Q And they weren't put on administrative leave and
17 the video wasn't saved?
- 18 A Their behavior was not suspicious. Mr. Kennedy's
19 behavior was the only one I found that looked in
20 any way suspicious.
- 21 Q But other people had access; correct?
- 22 A Other people had access to the administration area.
- 23 Q The three thefts that you were talking about?
- 24 A Yes.
- 25 Q Were they all in this area?

- 1 A Yes.
- 2 Q Is Jeffrey Kennedy responsible for this entire
3 building?
- 4 A Yes.
- 5 Q What are all these buildings (indicating)? Are
6 these all classrooms?
- 7 A Yes, classrooms. All of these (indicating) are
8 classrooms in virtually all of this area that you
9 see, with the exception of this (indicating).
- 10 Q And in each of these classrooms, the teachers have
11 desks?
- 12 A Yes.
- 13 Q And potentially valuables in those desks?
- 14 A I don't know.
- 15 Q Potentially?
- 16 A Possibly.
- 17 Q But teachers do keep personally items in their
18 desks?
- 19 A I'm sure some of them do.
- 20 Q This area (indicating), are these offices as well?
- 21 A Yes.
- 22 Q All right. But this is the only area (indicating)
23 where items are reported stolen; correct?
- 24 A Yes.
- 25 Q And doesn't it seem likely to you that somebody

- 1 that works in this area could have been doing the
2 taking since people leave at 4:00 o'clock in the
3 afternoon?
- 4 A That's why I looked at the video to see who was in
5 the area.
- 6 Q And when you say -- when you're looking at the
7 video, again, you're just looking at the halls?
- 8 A Yes.
- 9 Q You can't see inside the offices themselves?
- 10 A That's right. I can see into this area
11 (indicating), and I can see this area (indicating).
- 12 Q All right. But no thefts anywhere else in the
13 building?
- 14 A Not that I'm aware of.
- 15 Q If Jeffrey Kennedy were regularly checking offices
16 and desks, wouldn't you think he would have found
17 something valuable somewhere else in the building
18 and taken it?
- 19 A I have no idea.
- 20 Q Or maybe somewhere else in the school? This is a
21 very concentrated area where these thefts are.
- 22 A It's the area where there is no camera view.
- 23 Q Right. And there is no evidence that anybody knew,
24 other than the people working the desk, even knew
25 what the camera view was, is there?

1 A Everybody -- the security officers have the ability
2 and the opportunity to see that on software and
3 anybody standing under the camera can see where it
4 looks.

5 Q All right. Now, since you have this up, let's talk
6 about -- well, we've already talked about the alarm
7 panel, which I believe you said -- is that it right
8 there (indicating)?

9 A That's it, yes.

10 Q Where is that watch room or radio room?

11 A That's in a different building. That's in my
12 office.

13 Q Maybe I'm confused then. Did you say Jeffrey
14 Kennedy, in going in and out of this building, was
15 suspicious?

16 A No. I said going in and out of this building
17 through this door (indicating) and staying for 20
18 minutes was suspicious.

19 Q All right.

20 A And then coming around to do his regular duties
21 here (indicating).

22 Q All right. Is there a break room in this area?

23 A Yes, there is. I believe it's right here
24 (indicating). I think that's it.

25 Q The C-169?

- 1 A I think that's it, yes.
- 2 Q Do you have a pen? This pen will work. Can you
3 write BR for break room or something like that.
- 4 A (Witness complies.)
- 5 Q All right. So he was supposed to be in that area
6 or if he went in the break room and did what he
7 claims he was taught to do when you have two hours
8 to spend at Spring Valley is to take time, spend
9 time in the break room, instead of being out in the
10 truck --
- 11 A And I don't know if spent the time in the break
12 room or not.
- 13 Q Well, the testimony was when you've got to be there
14 from 11:00 to 1:00 and after you check those
15 things, while you're checking things, you try to
16 kill time instead of sitting in the truck and
17 burning gas.
- 18 A Okay.
- 19 Q I think your testimony was that you never even
20 talked to your supervisors about what they tell the
21 third shift supervisor people to do?
- 22 A Right. The shift supervisors handle training of
23 the officers.
- 24 Q All right. So you don't know what these people are
25 doing or what they're trained to do?

1 A No. Generally, yes, but specifically, no.

2 Q And I understand your testimony is that you ---
3 maybe in an ideal world you would like to feel in
4 constant control -- but that may or may not be what
5 they're trained to do because you don't know?

6 A This is a large facility. This is just a portion
7 of it. Twenty-three minutes after the shift
8 started, he's already killing time. It just seems
9 odd to me. It seems to me that there are plenty of
10 athletic field gates, exterior doors.

11 We have the gymnasium over here (indicating).
12 We've got Bates Hall over here (indicating). We
13 have the stadium over here (indicating). We're
14 here (indicating) at the Fine Arts Center and more
15 classrooms. It's a very large facility. I don't
16 think you could cover it in 20 minutes.

17 Q And he had been doing it for two or three years at
18 this point?

19 A I really don't know.

20 Q But at least a couple of years. He has been there
21 as long as you have been there?

22 A He had been employed as a security officer for a
23 long time. I don't know what his specific
24 assignment was.

25 Q Right.

- 1 A He may have been assigned here, he may have been
2 assigned to Richland Northeast, or Ridgeview.
- 3 Q I believe the testimony is he had been doing this
4 for a few years. Don't you think he would know
5 exactly how long it takes him to do all the
6 checking work?
- 7 A I would think so.
- 8 Q So he knows that he can comfortably spend a few
9 minutes here or there at the beginning of the shift
10 or the middle of the shift just to break it up?
- 11 A True.
- 12 Q And would you agree that not having a specific
13 pattern is advisable?
- 14 A Yes.
- 15 Q So if he mixed up his pattern, that would be
16 something you would recommend?
- 17 A Yes.
- 18 Q All right. You can have a seat.
- 19 A (Witness resumes the witness stand).
- 20 Q I know you haven't been here for much of the trial.
21 You haven't heard some of the testimony about the
22 baseball team; correct?
- 23 A Correct.
- 24 Q Just about every witness that knows about what
25 happened that night has testified that the baseball

1 team set off the alarms in the building that night.

2 I believe Eric Barnes testified that Jeffrey
3 Kennedy actually got into a conversation with the
4 coach that night about the gate or something?

5 A I've seen statements to that effect.

6 Q Okay. So why didn't you save the baseball video?

7 A I don't recall seeing the baseball team on the
8 video.

9 Q All right. Is it possible you just didn't watch it
10 that close?

11 A No, it would be really obvious if a team came in
12 that building. We have got just two halls to see.

13 Q Right. But if they were in there, you should have
14 seen them; right?

15 A Yeah. If they were in there, I should have seen
16 them.

17 Q But you didn't see them?

18 A Not that I recall, no.

19 Q And what time did Tim Hunter leave the building
20 that night?

21 A I do not recall.

22 Q Do we have any video? Did you save any video of
23 Tim Hunter leaving the building?

24 A I did not. It wouldn't have been suspicious.

25 Q I'm not suggesting it would be suspicious, but it

- 1 would certainly pin down the window that we would
2 be looking at to see who else may have exited the
3 building; right?
- 4 A Yes.
- 5 Q Okay. Did you write down the time he left the
6 building?
- 7 A I did not.
- 8 Q And I believe the video shows Jeffery Kennedy
9 setting the alarm. Was it 10:48, 10:54 maybe?
- 10 A Sometime about that time, yes.
- 11 Q So there is at least an hour and 45 minutes or so
12 that -- well, assuming you left around 9:00 -- for
13 somebody else to go in the building when the alarm
14 is not set. Anybody with a key could have gotten
15 in there?
- 16 A Yes.
- 17 Q All right. And, again, you don't know who has the
18 keys to the building?
- 19 A No.
- 20 Q And we don't have the video from that time period
21 either, do we?
- 22 A No.
- 23 Q And we don't have the video after Jeffery disabled
24 the alarm until Tim Hunter arrived either, do we?
- 25 A No.

1 Q Did you make any notes of who else accessed the
2 building after the alarm -- the alarm was disabled?

3 A I did not.

4 Q Do you know if the break room and the AD building
5 has a coffee maker?

6 A In the break room in the Administration Building?

7 Q Yes, the Administration Building.

8 A Yes, there is a coffee machine in there.

9 Q Would that be something that the security guards
10 need to look at them to make sure it's off?

11 A Yeah. I would expect that they would notice if it
12 were on. Most coffeemakers I've seen have a red
13 light on the switch that would indicate it's on.

14 Q Okay.

15 A But they also generally have timers automatically
16 that shut off. I don't know what the case is with
17 this particular coffeemaker.

18 Q But you would expect Jeffery Kennedy to at least go
19 in the break room and check to make sure the lights
20 in the break room are off, the coffeemaker is off,
21 nothing else unusual, make sure nobody is in there,
22 that kind of thing?

23 A I wouldn't think that would be necessary. The only
24 reason for him to be in that break room from a
25 standard duty point of view would be to change the

1 battery on his radio.

2 Q You saw Jeffrey Kennedy turning off lights in
3 certain offices in these areas; right?

4 A Yes.

5 Q Is that part of his job?

6 A It would be something that I would expect him to
7 do, yes.

8 Q And if you saw a light on in part of the building,
9 then he should go down there and turn it off?

10 A Yeah, it's possible. It's interesting that some
11 lights are left on and some lights are not. I
12 don't know if that's because of where the switches
13 are or what. I don't know.

14 Q Now, the alarm panel in front -- you can walk back
15 around if you need to see it -- the alarm panel in
16 the front controls this entire building?

17 A (Witness leaves the witness stand.) Yes.

18 Q Okay. And you say he comes in through this door
19 (indicating)? Is this what you saw him do? Is
20 that what you're saying?

21 A That's correct.

22 Q And where he changes his batteries is where?

23 A It's in the break room, right in this corner
24 (indicating).

25 Q So has to walk in this area, change his batteries;

1 and he spends some extra time in there. He spent
2 time off camera which would have been on this end
3 of the building (indicating)?

4 A Yes.

5 Q So it's an area that you said he has to go to
6 change his batteries?

7 A Yes. However, there wasn't a radio in his hand
8 when he came in.

9 Q So if he goes to the break room and takes a break,
10 that's -- is that suspicious in itself?

11 A No, not really.

12 Q And you're saying the fact that he used this door
13 (indicating) somehow is suspicious? He could have
14 come through the front and walked around?

15 A The most direct route by area that would be part of
16 his duties is to come in the front door, to come in
17 here (indicating), and start doing the protocol.

18 Q Okay. But, again, you don't know how he was
19 trained?

20 A I don't.

21 Q All right. You can sit back there.

22 A (Witness resumes the witness stand.)

23 Q And I think this is pretty obvious, but there is no
24 audio to any of these tapes, is there?

25 A No.

1 Q Now, I believe the testimony has been that Jeffery
2 has worked this -- as a night watchman there,
3 before all these thefts started to occur, for a few
4 years. Have there been any other thefts on
5 Jeffery's watch during that period?

6 A I'm not aware of any thefts in locked offices; but
7 through the previous November, there was a reported
8 repeated theft of air freshener from the rest room
9 in the administration area.

10 Q Have you ever, in the two years that Jeffrey worked
11 in the building or for the District, ever heard or
12 seen him on a video accessing a locked office with
13 his keys like he is not supposed to be doing?

14 A No. But as I testified earlier, we don't routinely
15 check the videos. We don't watch the videos all
16 the time. We only check them from a security
17 standpoint as they are related to an incident. I
18 believe the schools also only look at them when
19 there is an incident.

20 Q But Jeffery had apparently earned the trust of
21 everybody in the department leading up to this
22 \$1,000 theft; correct?

23 A There had been no incidents that I'm aware of with
24 Mr. Kennedy.

25 Q Let me ask a couple of questions about the Kim

1 Jones incident. When you testified that Kim Jones
2 told you about a phone call where Jeffery called
3 her?

4 A She told me about it and I subsequently looked at
5 her phone.

6 Q Did Jeffery also do the same? Did he tell you
7 about it and show you his phone?

8 A No. He --

9 Q The testimony was that he did and you are saying
10 that he didn't?

11 A He told me that she had called him. He never
12 showed me his phone.

13 Q And if he says he did, there's obviously a
14 discrepancy in the testimony; but we have no way of
15 telling -- knowing that now?

16 A I have corroboration from viewing Ms. Jones's
17 phone. I did not see Mr. Kennedy's phone.

18 Q All right. Did you ever view any of the Richland
19 County Sheriff's Department reports for this
20 incident?

21 A I probably saw the initial incident report, but I
22 don't specifically remember it.

23 Q All right. Does this document ring a bell?

24 MR. BARLOW: May I see it, please?

25 (Attorneys confer.)

1 BY MR. GOODWYN:

2 Q Did you ever see this document?

3 A Not that I recall, but it wouldn't be unusual. I
4 get copies of the initial reports and any
5 supplementaries that are filed at the same time as
6 part of the regular course of business.

7 Q All right. And what does that line read right
8 there (indicating)?

9 A "Tim Hunter, March 4, 2011, \$1,000 cash out of
10 office, 5:00 A.M."

11 Q All right. Would it be significant to you if the
12 cash were reported out at 5:00 A.M?

13 A Yes.

14 Q That would exonerate Jeffrey Kennedy altogether;
15 right?

16 A It would indicate that he didn't do it during the
17 time he was --

18 Q At the time you think he was?

19 A Yeah.

20 Q Okay.

21 A But I don't know. That's a very cryptic statement.

22 Q But you didn't investigate that, did you?

23 A No, it's up to the Sheriff's Department at that
24 point.

25 Q You don't know what time Tim Hunter came in, do

1 you?

2 A I do not.

3 Q If he came in at 5:00 A.M., that would be very
4 significant?

5 A I don't know what time he came in. Let me continue
6 to answer that question. If he had come in at
7 5:00 A.M., it would have been on the video.

8 Q You testified earlier that you don't remember ever
9 seeing Mr. Hunter on the video; right?

10 A I testified that I did not save any video that
11 showed Mr. Hunter. If he had come in at 5:00 A.M.,
12 it would have been in that time span between the
13 time Mr. Kennedy armed it and the time he had
14 disarmed it.

15 Q Just like --

16 A I did not cut out that time --

17 Q Just like the baseball team --

18 A -- that was the machine.

19 Q Just like the baseball team that everybody says was
20 there that you didn't see on the video?

21 A I didn't see them on the video.

22 Q All right. This is Plaintiff's Exhibit 5. This is
23 this letter to Mr. Kennedy from Roosevelt Garrick.
24 Have you ever seen this letter?

25 A I have recently, yes.

1 Q All right. I ask you to read for us starting at
2 the bottom there, that bottom sentence.

3 A "Based on my earlier review of this matter, I would
4 like to acknowledge that during the timeframes of
5 this incident, I have found that other individuals
6 did enter into many of the areas with some of them
7 having keys to the appropriate secured areas. In
8 an effort to provide you with --

9 Q That's fine. That's all I want you to say. All
10 right. So do you agree that there were other
11 individuals that accessed these areas and had keys
12 to the appropriate secured areas?

13 A I agree that there were other individuals in the
14 general area. I don't know about who had keys.

15 Q All right. Well, you weren't privy to all the
16 information Mr. Garrick had?

17 A No.

18 Q So you formed your opinions based on a very limited
19 set of facts; correct?

20 A Yes.

21 Q And you're still comfortable with that opinion?

22 A Yes.

23 Q The opinion that Jeffrey Kennedy is the one that
24 committed these thefts?

25 A Yes.

1 Q And you made your decision to take away the keys
2 and revoke your -- withdraw your promotion request
3 based on that opinion?

4 A Yes.

5 MR. GOODWYN: I think that's all I have, Your
6 Honor.

7 THE COURT: Yes, sir.

8 MR. BARLOW: Just a couple.

9 RECROSS EXAMINATION

10 BY MR. BARLOW:

11 Q Mr. Earles, have you ever heard before today any
12 explanation that Mr. Kennedy had been on the phone
13 with a Lieutenant Young at the time that he was on
14 that video?

15 A No.

16 Q Would you expect somebody that was being
17 investigated for stealing money might mention that?

18 A I would expect that, yes.

19 Q He didn't say that in the meeting with Mr. Garrick?

20 A I don't recall him saying that, no.

21 Q Didn't say it any other time?

22 A Not that I recall.

23 Q That's something you would recall?

24 A I would think so.

25 Q All right. Now, as far as the videos here that

1 we're talking about, you come into this March 2nd?

2 A Yes.

3 Q At that point how far could you go back and look at
4 videos realistically?

5 A I can't really say. As I testified earlier, it
6 depends on how much activity was going on. It was
7 probably just a few days because school was in
8 session. It's a high school. There's a lot of
9 activity. So images are recorded over fairly
10 often, fairly short timeframe.

11 Q Counsel showed you that police report. Those
12 aren't your notes?

13 A No.

14 Q That could be very well a policeman just taking
15 down some general notes about a timeframe?

16 A Yeah. It's been my experience that the information
17 in initial incident reports may or may be factual.
18 It has been my experience that information that I
19 receive on an incident initially may or may not be
20 factual.

21 MR. BARLOW: All right. That's all I have.

22 Thanks.

23 MR. GOODWYN: Nothing further.

24 THE COURT: You may step down.

25 THE WITNESS: May I be excused?

1 THE COURT: Any objection to him being
2 excused?

3 MR. BARLOW: No, Your Honor.

4 MR. GOODWYN: No, Your Honor.

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

6 (The witness leaves the witness stand.)

7 THE COURT: You may call your next witness.

8 MS. LONG-MAHONEY: The defendants call Tim
9 Hunter.

10 MR. BARLOW: It's their case.

11 MS. LONG-MAHONEY: Oh, sorry.

12 MR. GOODWYN: The plaintiff rests, Your Honor.

13 THE COURT: Ladies and gentlemen, at this time
14 we have some legal matters which we need to take up
15 outside of your presence. I'm going to ask that you
16 retire to the jury room while we take up these matters.
17 I'll bring you back shortly so that we will be able to
18 continue on with this matter.

19 I ask that you indulge us and have some
20 patience with us while we take up these matters. I ask
21 that you not discuss it among yourselves because you
22 still have not heard all the evidence that has to be
23 presented. I'll bring you back as soon as possible.

24 (The jury retires to the jury room at
25 12:00 P.M.)

1 THE COURT: Are there any motions at this
2 time?

3 MR. BARLOW: Yes, Your Honor. The defense
4 would move for a directed verdict.

5 THE COURT: Yes, sir.

6 MR. BARLOW: First of all, the first claim I'd
7 like to address is the intentional infliction of
8 emotional distress claim. There's a high threshold
9 obviously that appeals courts have for proof of
10 intentional infliction of emotional distress.

11 I'm citing Argoe versus Three Rivers
12 Behavioral Health, 710 S.E.2d 67, for the elements of
13 that cause of action. Number one, the defendant
14 intentionally or recklessly inflicted severe emotional
15 distress or was certain or substantially certain that
16 such distress would result from his conduct.

17 Two, the conduct was so extreme and outrageous
18 so as to exceed all possible realms of decency and must
19 be regarded as atrocious and utterly intolerable in a
20 civilized community.

21 Three, the actions of the defendant caused
22 plaintiff emotional distress. Four, the emotional
23 distress suffered by plaintiff was severe, such that no
24 reasonable man could be expected to endure it.

25 The evidence in this case is there is no proof

1 at all of severe emotional distress, such that no
2 reasonable man could be expected to endure it. There is
3 no testimony of any conduct that is so extreme and
4 outrageous as to exceed all bounds of decency.

5 They moved him to a different position with
6 the same pay benefits and hours from which he didn't
7 apply for a new job. They terminated his at-will
8 employment basically 16 months later. Those things just
9 don't rise to the level of intentional infliction of
10 emotional distress.

11 Should I proceed with the other claims?

12 THE COURT: I'll give the plaintiff an
13 opportunity to respond to this.

14 MR. BARLOW: Sure.

15 MS. PEAVY: Your Honor, thank you. Obviously
16 Your Honor is aware that the evidence and all reasonable
17 influences at this point should be viewed in the light
18 most favorable to the nonmoving party.

19 As to the intentional infliction of emotional
20 distress, we do believe that there is substantial
21 evidence in the record that Mr. Kennedy suffered
22 embarrassment among his peers, among his church
23 community.

24 He also testified that his marriage broke
25 down. His eyes welled up in tears when he reported that

1 they had been together 28 years, married 14, had six
2 grandchildren together. He also testified he was
3 evicted after he was terminated, couldn't find a job
4 right away, and was living in his car.

5 So we believe there is some evidence that can
6 go to the jury where it shows that there is, you know,
7 some heartrending embarrassment. We would request that
8 the motion for directed verdict on that claim be denied
9 at this stage.

10 MR. BARLOW: Should I respond to that?

11 THE COURT: Yes, sir.

12 MR. BARLOW: All right. Embarrassment is not
13 the same thing at all as emotional distress so severe
14 that no reasonable man could be expected to endure it.
15 The termination is 16 months after anything that
16 happened.

17 Terminating somebody's employment is just not
18 extreme outrageous conduct so as to exceed all bounds of
19 possible decency. We think that claim needs to go.

20 THE COURT: Let me hear you on your next
21 motion.

22 MR. BARLOW: The next motion is with regard to
23 the defamation claim, Your Honor. To prove defamation
24 the plaintiff must show a false and defamatory statement
25 was made.

1 Two, the unprivileged publication of the
2 statement to a third party. Three, the publisher was at
3 fault. Four, either the statement was actually
4 irrespective of harm or the publication caused special
5 harm.

6 Now, as far as on these elements, there is not
7 any unprivileged statement made to a third party that's
8 been identified here. The only thing that has been
9 alleged to be defamatory is the confidential memorandum
10 or e-mail that Mr. Earles sent.

11 Certainly, there is a recognized privilege of
12 communication within a corporation among supervisors and
13 employees. So I think they haven't proved the element
14 of an unprivileged publication there.

15 With regard to the termination, there hasn't
16 been any evidence at all showing that that was
17 communicated to anybody or that anybody perceived a
18 false or defamatory message out of Jeffrey Kennedy's
19 termination of employment. So we believe that you can't
20 base any defamation claim on the termination of Jeffery
21 Kennedy's employment at all.

22 Now, the statement communicated by the e-mail
23 is not false as well as a matter of law because it's
24 merely a directive of what should happen. So we think
25 that any elements of defamation have not been proven as

1 a matter of law.

2 In addition to that, there is recognized a
3 qualified privilege in South Carolina that applies for
4 managers to discuss employment issues and communicate
5 with supervisors.

6 Swinton Creek Nursery versus Edisto Farm
7 Credit, 514 S.E.2d 126, communications between officers
8 and employees of a corporation are qualifiedly
9 privileged if made in good faith and in the usual course
10 of business.

11 McBride versus Greenville County School
12 District, which the Court of Appeals decided last year,
13 stands for the proposition that a statement made in
14 connection with an employer's bona fide inquiry into
15 possible employee misconduct is also qualified as
16 privileged.

17 Now, when the qualified privilege has been
18 established, the only way to get around that is by proof
19 of actual malice, Your Honor. We submit that there has
20 not been any actual malice demonstrated in this case.
21 There is no evidence from which a reasonable jury could
22 find that. I will quote the definition of actual malice
23 here in a second.

24 Can I hand you a copy of the McBride case,
25 Your Honor?

1 THE COURT: Yes, sir.

2 (Hands to Court.)

3 THE COURT: That is from?

4 MR. BARLOW: 2013. Actual malice, Padgett
5 versus Sun News, 278 S.C. 26, 1982: "Actual malice
6 means that the appellate acted with ill will towards the
7 plaintiff or acted recklessly or wantonly, meaning with
8 conscious indifference, toward plaintiff's rights and
9 requires that at the time of his act or omission to act,
10 the tortfeasor be conscious or chargeable with
11 consciousness of his wrongdoing."

12 There's just not any testimony here that any
13 of these people were acting with ill will or malice
14 toward the plaintiff. They're just trying to get to the
15 bottom of the situation, and that's what the
16 communications relate to.

17 So we believe that not only have they failed
18 to prove the elements of defamation, there is a
19 qualified privilege that applies as a matter of law; and
20 there has not been any actual malice to rebut that
21 privilege.

22 THE COURT: And who does the qualified
23 privilege extend to?

24 MR. BARLOW: It extends to everybody that has
25 been alleged to be a -- who has committed defamation,

1 which would be Chuck Earles, Eric Barnes, and Kim Jones,
2 who was merely providing information in connection with
3 a report.

4 THE COURT: And they can communicate with
5 whom?

6 MR. BARLOW: They can communicate with other
7 supervisors and other employees if needed to convey
8 instructions.

9 There is no evidence that any of them
10 communicated with anyone, other than through the
11 communication memo, the confidential memo. That's with
12 regard to the theft investigation.

13 With regard to Kim Jones, there is no evidence
14 that she communicated anything to anybody, other than
15 perhaps to Traci Batchelder or Chuck Earles. So those
16 would be our arguments on the defamation claim.

17 THE COURT: From the plaintiff?

18 MS. PEAVY: Yes, Your Honor. First, they rely
19 on the idea that this e-mail is qualifiedly privileged;
20 however, the privilege was destroyed. Privilege can be
21 destroyed when it's disseminated and published to
22 nonqualified individuals.

23 In this case you've got the author of the
24 e-mail, who is a manager, communicating to supervisors.
25 So that in and of itself is qualifiedly privileged. But

1 then what happens is that there is evidence in the
2 record that shows that the privilege was destroyed
3 because the e-mail was printed out, and that evidence is
4 undisputed.

5 The jury can look at that evidence and make
6 reasonable inferences about it that would preclude the
7 granting of a directed verdict at this stage. The
8 reasonable inferences are two things.

9 One, they could conclude that maybe Chuck
10 Earles printed it out. He wasn't thinking. He left it
11 for someone to see. Maybe Eric Barnes printed it out.
12 Again, an honest mistake but it was printed out.

13 Another inference is that -- and it's for the
14 jury to weigh whether Mr. Barnes and Mr. Earles are
15 credible. Another inference they can draw is that the
16 recipients printed it out, and it was left out by the
17 recipients. But, again, that is for the jury to weigh.

18 So that privilege, we have presented
19 sufficient evidence to go to the jury on the fact that
20 the privilege is destroyed; and we believe that we're
21 looking at a statement that is defamatory per se.

22 You're talking about a group of people within
23 a security department. The nature of the security
24 business -- and there is testimony in the record that a
25 jury can consider that the jury has heard -- that keys

1 and being a security guard go hand in hand. Keys and
2 being a trustworthy employee of the Security Division go
3 hand in hand.

4 So we think that we're actually entitled to a
5 per se charge on the fact that the statement Jeffery
6 Kennedy is not to have keys, that that is per se
7 defamatory, Your Honor.

8 I would also like to note that there is
9 sufficient evidence in the record that a defamatory
10 insinuation, a charge can be -- it's not necessary that
11 it can be direct, open, and in a positive manner.

12 A mere insinuation is as actionable as a
13 positive assertion if it is false and malicious and the
14 meaning is plain. That's Tyler v. Macks Stores of South
15 Carolina, 275 S.C 456, 272 S.E.2d 633.

16 So, Your Honor, I think here we have got a
17 situation where there is a memo printed out. The
18 statement is going out to everyone, rank and file
19 members. They're seeing it.

20 There was testimony it was in the cars of the
21 Richland Two District. There is testimony that it was
22 out in the shift room, and Mr. Earles is the author of
23 it. Mr. Barnes is one of the recipients of it. It got
24 out there somehow and we think it's proper for the jury
25 to consider.

1 THE COURT: Any additionally motions?

2 MR. BARLOW: I'd just like to address that
3 just briefly.

4 THE COURT: Yes, sir.

5 MR. BARLOW: There is not any evidence that
6 either Earles or Barnes distributed the memorandum to
7 anybody, other than the people who it's addressed to.
8 If the people to whom the memorandum is addressed leave
9 it out or do anything with it, that is not chargeable to
10 Barnes or Earles. That's their defamation.

11 So you just -- there is not evidence for the
12 jury to consider that as defamation by Earles or Barnes.
13 In addition, just because it's defamation per se doesn't
14 mean that the qualified privilege doesn't apply and
15 that, again, there is not any actual malice that's been
16 shown on that.

17 Further, the Tyler v. Macks Stores that's
18 often raised in sort of the defamatory termination
19 context, whether termination in of itself can be
20 defamatory, what has to accompany that though is that
21 somebody has to have perceived a defamatory meaning for
22 it.

23 There has been no evidence or testimony that
24 anybody knew the reasons that Jeffery Kennedy's
25 employment with Richland Two ended, other than the

1 people involved in the termination. So that would be my
2 argument on that.

3 The next motion I would argue, Your Honor, is
4 that basically under the Tort Claims Act; individual
5 liability doesn't attach. The exclusive remedy for any
6 tort committed by an employee of a governmental entity
7 is under the Tort Claims Act.

8 An employee who commits a tort while acting in
9 the scope of his official duty is not liable; therefore,
10 to the extent there is any tort claim to go to the jury
11 here, there has not been any evidence that any
12 employer -- any of the defendants were acting outside
13 the scope of his or her employment in communicating any
14 message or taking any action that has been testified to
15 here in the trial to this point.

16 So, if any claims go to the jury, Your Honor,
17 the only proper defendant here would be the School
18 District. The individuals are covered by the Tort
19 Claims Act.

20 THE COURT: With the exception of the
21 defamation.

22 MR. BARLOW: Well, as I'm saying, there has
23 not been any proof of intentional acts outside the
24 scope. I mean, any defamation alleged, that's been
25 within the scope of employment.

1 I suppose it's possible to have a -- some
2 fault is required for defamation. Defamation doesn't
3 require intentional conduct. Certainly to prove actual
4 malice, et cetera, you would have to prove intentional
5 conduct.

6 But under the elements of defamation, number
7 three -- and what I was reading from, Williams versus
8 Lancaster County School District, 631 S.E.2d 286 -- to
9 prove the elements, you have to show that the publisher
10 was at fault. So I think individual liability is not at
11 issue here. What I'm saying is 15-78-70.

12 THE COURT: I'm looking at the complaint. It
13 has the defamation as to all defendants, except Richland
14 Two. So that tells me that it's not a Tort Claims Act.
15 They're not claiming Richland Two defamed him. They're
16 claiming that the individuals did.

17 MR. BARLOW: They are claiming that, but what
18 I'm saying is that they would not be proper defendants,
19 Richland Two would, if that claim goes to the jury
20 because they're the only proper defendant under the Tort
21 Claims Act.

22 THE COURT: Which section are you referring
23 to?

24 MR. BARLOW: 15-78-70 (a) and (b).

25 MR. GOODWYN: Your Honor, if he's claiming

1 that Richland Two should be the proper defendant, we
2 would move to amend our complaint and make that
3 allegation to conform to the evidence.

4 (Pause.)

5 THE COURT: Yes, ma'am.

6 MS. PEAVY: Your Honor, just briefly to
7 discuss their argument about inside the scope, outside
8 the scope, our position in this case -- and we think
9 we've presented evidence sufficient to go to the jury on
10 this -- is that the way that the message was
11 communicated that Jeffery Kennedy could not have keys,
12 that he was not to be trusted; that was outside the
13 scope of employment for Mr. Barnes and Mr. Earles.

14 We believe they testified that they knew that
15 this could be damaging to Jeffery if it got out.
16 Therefore, if it got out and it got out because of
17 communication from them, which is what the evidence is
18 showing by the fact that the confidential memorandum is
19 sitting in the offices and in the Richland Two vehicles,
20 then that puts it outside the scope.

21 Again, Your Honor, if it is inside the scope,
22 then we can certainly move to amend the complaint to
23 conform to the evidence.

24 THE COURT: Any response?

25 MR. BARLOW: I think it's pretty clear, Your

1 Honor, that sending a memorandum describing what an
2 employee's duties are going to be post reassignment is
3 quintessentially within the scope of somebody's
4 employment. They have not named Richland Two as a
5 defendant in that; so that claim does not stand.

6 Should I address the final claim?

7 THE COURT: Yes, sir.

8 MR. BARLOW: There is a negligent supervision
9 claim. I'm not exactly sure what the claim is getting
10 at. Presumably it's the School District's failure to
11 supervise the defendants, Barnes, Earles, and Jones.

12 Now, to prove negligent supervision, the
13 elements of that are: The employee is on the premises
14 of the employer or using the chattel of the employer.
15 The employer knows or has reason to know of the ability
16 to control the employee. Three, the employer knows or
17 should have known of the necessity and opportunity for
18 exercising control.

19 Basically that's the claim based on some prior
20 notice that the employer has some employees that it
21 needs to pay special attention and care to. They should
22 have known that this employee was likely to engage in
23 tortious behavior of some sort.

24 There hasn't been any evidence whatsoever that
25 either Ms. Jones, Mr. Barnes, or Mr. Earles have any

1 prior complaints against them for anything. They have
2 been stellar employees. There is nothing that would put
3 a reasonable employer on notice.

4 I'm citing Marrow versus Brookview Healthcare
5 for this proposition. That is something Judge Childs
6 decided last year. Applying South Carolina law, the
7 quote is, "From a practical standpoint, the elements of
8 knowledge and foreseeability under a negligent
9 supervision theory are analyzed in terms of the number
10 and nature of prior acts of wrongdoing caught by the
11 employer and the nexus or similarity between the prior
12 acts and the ultimate harm caused."

13 Now, there was not any testimony of any prior
14 acts of harm or anything like that alleged in this case
15 against any of the defendants towards anyone else.

16 THE COURT: And what case are you referring
17 to?

18 MR. BARLOW: Marrow versus Brookview
19 Healthcare Center, which I'd like to hand up if I may.

20 (Hands to Court.)

21 MR. BARLOW: So our argument is there is not
22 enough evidence to send a negligent supervision claim to
23 the jury either.

24 THE COURT: Any response by the plaintiff?

25 MS. PEAVY: Yes, Your Honor. I'm looking at

1 the Marrow case now. I see it's a 12(b)(6) decision.
2 First, an employer may be liable to a third person for
3 its negligence in the training and supervision of its
4 employees.

5 To invoke the theory of liability based on
6 negligent supervision, it's necessary to show the
7 employer knew or should have known its employee behaved
8 in a dangerous or otherwise incompetent or unfit manner
9 and that the employer, armed with the actual or
10 constructive knowledge, failed to adequately supervise
11 the employee. That's Judge Anderson's request to
12 charge.

13 First, I think there's a reasonable inference
14 here that either the sender or the recipient of the
15 e-mail printed it out and left it out. The leaving it
16 out, the allowing it to be in the office space, in the
17 vehicles; that's negligence.

18 You have testimony here that Chuck Earles
19 thought that there was a rumor problem and a conduct
20 problem in Richland Two security. He had everyone look
21 at his Change of Culture memo.

22 He had Jeffery Kennedy sign it. Eric Barnes
23 testified, "Yeah, that was problem in the department.
24 Yeah, I've seen it in everyone's personnel file." So
25 they knew there was a culture among the security

1 staff -- I'm not talking about their communications with
2 their supervisors -- I'm talking about among the entire
3 security department.

4 They knew and they believed that there was a
5 culture of rumor and innuendo, and it was a big problem.
6 Chuck Earles drafted a memo to that effect. So you're
7 sending out an e-mail to your employees, and you are
8 saying to them, "Under no circumstances is Jeffrey
9 Kennedy to have any keys," and marked it confidential.

10 Well, it's an e-mail that showed up on the
11 computer screen. We have testimony in the record that
12 it was printed out. They did nothing else besides write
13 confidential on the e-mail itself to ensure that it
14 wasn't printed out and left out, to ensure that it
15 wasn't forwarded.

16 If it's a rumor mill and they've got a problem
17 with conduct, with people gossiping, with people
18 talking about people's situations, then it should have
19 been reasonable for Mr. Earles to conclude or Mr. Barnes
20 that, "Gosh, we better safeguard this beyond just
21 marking it confidential. We maybe don't have the utmost
22 faith if in our staff."

23 So there is a chance they could disseminate
24 this in another way. I've written confidential on it,
25 but what was really the problem is that they didn't.

1 ensure that it remained confidential. They didn't say,
2 "Don't print this out. Do not forward. Do not allow to
3 it exist in a physical state of being. Do not allow it
4 to sit on your computer screen."

5 There's also testimony in the record they
6 don't even know what their own employees have been
7 trained on. They are coming into a department that, I
8 think, Eric Barnes said there were 50 people, including
9 part-timers. Chuck Earles was saying he thought it was
10 closer to 70 back then.

11 Anyway, it's a large group of people to
12 manage; and they don't know what all of these people
13 have been trained on because they're just getting in. A
14 lot of these people have worked there for a few years.

15 There is no evidence in the record that they
16 instructed their staff on what confidential means when
17 you write it like that on an e-mail, and there are
18 professional standards here.

19 They are saying, "Our standards are that we
20 want to keep things confidential." There is evidence
21 that that was -- those standards were breached. This is
22 Chuck Earles's first year as the head guy. I think he
23 testified he had been in the position a few months.
24 Eric Barnes had come on in December of 2010.

25 So, Your Honor, we think we've met the

1 standard for negligent supervision; and we think that
2 should go to the jury. It's a question of fact as to
3 whether they were negligent. Let the jury decide if
4 marking it confidential was sufficient or if, based on
5 all the evidence, they needed to go an extra step or
6 two.

7 THE COURT: Any response?

8 MR. BARLOW: Yes, Your Honor, just a brief
9 response. I'm going to read from the complaint with
10 what it says about negligent supervision. It says,
11 paragraph 21, "At the time of the above-described
12 actions of Bonds -- presumably Barnes -- Batchelder,
13 Earles, Garrick, and Jones -- there were originally a
14 bunch of other people named as defendants -- Richland
15 Two knew or should have known of the necessity to
16 control the defendants as the above-described defamation
17 began to escalate and as result therein, the duty to
18 exercise care to control its employees, defendants
19 Bonds, Batchelder, Earles, Garrick, and Jones as to
20 prevent them from intentionally harming the plaintiff or
21 from conducting themselves so as to create an
22 unreasonable risk of harm to plaintiff."

23 The brand new theory here is that the people
24 who were negligently supervised were the addressees of
25 the memorandum or e-mail from Chuck Earles, who are

1 Angela Permenter, Eric Barnes, Jerome Young, Lilith
2 Zerzicki, Rick Groves, and Traci Batchelder. Those are
3 the recipients of this e-mail.

4 There has not been any evidence that Angela
5 Permenter, Lilith Zerzicki, Rick Groves, or Traci
6 Batchelder were untrustworthy with confidential
7 information or were likely to disseminate it to anyone
8 or couldn't be trusted.

9 In addition to saying confidential on the
10 e-mail, the first line of it says all caps, "The
11 information contained in this e-mail is confidential and
12 will only be shared with other District security
13 supervisors as needed when they will be supervising
14 Mr. Kennedy."

15 First of all, it's a brand new allegation.
16 It's not what the complaint alleges at all. Even if
17 that claim were as Ms. Peavy just described to the
18 Court, there is not evidence that it was foreseeable
19 that any of these people, the addressees of this
20 memorandum, would transmit it to others, make copies,
21 leave it around, or whatever the testimony has been. So
22 that's my response to that.

23 THE COURT: Ms. Peavy, would you tell me as it
24 relates in the complaint, I guess, the individuals who
25 are remaining with Richland County School District

1 Two -- Chuck Earles, Eric Barnes, and Kim Jones -- can
2 you tell me: The allegations against Kim Jones relate
3 to the defamation and the intentional infliction of
4 emotional distress?

5 MS. PEAVY: Your Honor, Ms. Jones was a
6 Richland Two rank and file employee just like
7 Mr. Kennedy. So they both knew that they could be fired
8 at any time, that they were at-will employees; and
9 Ms. Jones was -- I think the evidence in the record is
10 that she was extremely concerned about her son, the
11 situation with her son.

12 She was trying to get this information. She
13 wanted to know what was going on and look at this video.
14 So she was going around to a lot of different people. I
15 think that was in the record, that she had asked
16 Mr. Kennedy and asked some other folks and wasn't
17 getting anywhere.

18 She then proceeded to gain knowledge or the
19 District thought she gained knowledge as to what was on
20 the tape. At that point the evidence shows that
21 Ms. Jones and Richland Two realized that this is a
22 violation on the part of Ms. Jones. She is not supposed
23 to be circumventing the administration.

24 If you want to look at a video as a parent,
25 you need to go through the proper channels. I'm not

1 disputing Richland Two has the right to do that. But
2 then what happened is that Mr. Kennedy admits he tried
3 to pull up the video for her but he couldn't. That has
4 been his testimony.

5 She then proceeds to state that he did pull it
6 up for her, that he did show it to her, I believe her
7 testimony will be. We believe that that is a false
8 statement about Mr. Kennedy that Ms. Jones made that
9 precipitated the District stating to Mr. Kennedy that
10 they believed his responses were not forthcoming.

11 They gave him the opportunity to resign. He
12 declined and they terminated him. So that is the
13 defamation is that she said that he showed her the
14 video, and he did not.

15 I'm sorry. I neglected to answer Your Honor's
16 question, which is the intentional infliction of
17 emotional distress as to...

18 THE COURT: Ms. Jones.

19 MS. PEAVY: Right. So the testimony in the
20 record has been from the supervisory level from the
21 point in time, I guess it was June 2011 when Jeffrey
22 came off administrative leave and was placed on the desk
23 job, until October of 2012 when Ms. Jones made this
24 accusation, the testimony has been that they had no
25 quarrel with his employment.

1 There were no complaints. They said they
2 didn't hear anything about it. In fact, Mr. Barnes
3 testified that, in fact, the desk job assignment that
4 Mr. Kennedy was working at, he considered that to be
5 important because you're reviewing videos. You're
6 deciding -- you're being told who to call, what have
7 you. So they honestly felt that he could be
8 rehabilitated.

9 Mr. Garrick's letter in the record shows that
10 as well, that he wanted to -- he didn't want to approve
11 the promotion at this time, and that was where it stood
12 but that Mr. Kennedy would remain employed.

13 I believe Mr. Kennedy's testimony was that he
14 hired a lawyer and that Mr. Brown had written to
15 Mr. Garrick saying, "What's going on with the
16 promotion?" This was in 2012 and Mr. Garrick wrote back
17 and said, "You know, we're just not comfortable at this
18 time."

19 So Jeffrey Kennedy, in the eyes of Richland
20 Two, was an employee that was -- I guess you could say
21 they were trying to maybe rehabilitate or regain trust
22 in, and then Ms. Jones makes this allegation that he
23 showed her the video, which is a breach of Richland Two
24 policy, and that he called her, based on what her phone
25 said, and that she was scared.

1 Well, she had different reasons to be scared.
2 We think the evidence will show that she was scared
3 because she realized that she had maybe, you know,
4 misspoke about something or maybe she was worried
5 because she realized, "Gosh, I've broken a Richland Two
6 rule, and I'm just trying to help my son out." So
7 that's where we are with that. Obviously, we believe
8 that Jeffrey ended up being fired because of this
9 incident.

10 THE COURT: Any response by the defendant as
11 to those questions?

12 MR. BARLOW: Yes, Your Honor. A couple of
13 things we will agree with. They were at-will employees
14 and that the job that he was transferred to was not a
15 make-work job.

16 THE COURT: Was not a what?

17 MR. BARLOW: Not a make-work job. It was a
18 real job with real responsibilities. So therefore you
19 can't argue that it's communicating a defamatory meaning
20 to put somebody in that job. You have a supervisor at
21 work saying that it's a good job that people should
22 appreciate.

23 There is not any evidence that Ms. Jones said
24 anything to anyone, other than Chuck Earles and Traci
25 Batchelder, during the course of the investigation.

1 They didn't call Ms. Jones in their case. So really
2 there is not any evidence in the record that Ms. Jones
3 said anything. So to have a defamation claim against
4 Ms. Jones, there is nothing there.

5 As far as intentional infliction of emotional
6 distress, that claim goes for the same reasons that it
7 goes with anybody else. There is no severe emotional
8 distress that's been presented, no evidence of
9 psychiatric treatment or anything like that, any
10 disability as a result of it.

11 Mr. Kennedy came to work every day was the
12 testimony, good attendance, moved right into another
13 job. So there is not evidence of that. Participating
14 in an investigation conducted by your supervisors is not
15 extreme outrageous conduct as a matter of law. So
16 that's how I would address those.

17 MS. PEAVY: Your Honor?

18 THE COURT: Yes, ma'am.

19 MS. PEAVY: If I may, I just have one case
20 that I would just like to cite to the Court in support
21 of our emotional distress claim.

22 THE COURT: Yes, ma'am.

23 MS. PEAVY: If you'll allow it. This is the
24 McSwain v. Shei case, 304 S.C. 25, 402 S.E.2d 890. It's
25 a Supreme Court case from 1991. This is just a case

1 where the defense moved for a directed verdict. It was
2 an employment situation.

3 The Court found that because the plaintiff was
4 subjected to great embarrassment because of actions on
5 the part of her supervisors, the Court found that it was
6 proper for the evidence -- for the cause of action to go
7 to the jury because the conduct, even in the workplace
8 environment, could be found to be intolerable in a
9 civilized society. So that is just in the employment
10 context when they found it. I just wanted to put that
11 in the record. Thank you.

12 MR. BARLOW: Your Honor?

13 THE COURT: Yes, sir.

14 MR. BARLOW: I looked at the case they cited,
15 McSwain, but I believe the facts of that case were the
16 owner of the company was making a handicapped employee
17 participate in some sort of exercises or calisthenics
18 that were very embarrassing to the rest of the -- and
19 doing it in front of all the other workers. That was
20 kind of the facts of that case, which are obviously
21 completely different than something like this.

22 THE COURT: I'm prepared to rule on some of
23 the claims. I would like to examine further and read
24 some of the information that's been provided to me about
25 the negligent hiring, the negligent supervision claim.

1 So I'll reserve that one until after I've had a chance
2 to do a little bit more work on that.

3 As it relates to the -- I'll take them in the
4 order in which the defendant argued them. As to the
5 intentional infliction of emotional distress claim, I
6 will grant the directed verdict on that based upon the
7 fact that even in the light most favorable to the
8 plaintiff, which is what I'm required to do, and I
9 believe that the case law allows the Court to make an
10 initial determination as to whether the evidence reveals
11 that it's so extreme and so outrageous that no
12 reasonable person could be expected to endure it.

13 I understand the allegations by the plaintiff
14 on the embarrassment, the fact that his marriage broke
15 down, the fact that he was evicted because he couldn't
16 find a job and lived out of his car.

17 But the conduct that was engaged in, in the
18 claim at least as to all the parties in this matter, I
19 don't think they're so extreme and so outrageous that
20 would lead the jury to conclude that it's beyond all
21 bounds of decency and that therefore the plaintiff would
22 be entitled to recover. So I will grant the directed
23 verdict on that particular matter.

24 On the defamation claim, I will deny the
25 request on the defamation claim, both as to the

1 individual defendants, Earles and Barnes. As it relates
2 to Jones, I will grant the request.

3 The only testimony in the record is that while
4 she may have asked several individuals about looking at
5 the video, there is no evidence that she published any
6 false accusations outside of the conversations that she
7 had with Human Resources personnel.

8 Those conversations would have been
9 privileged. There is no evidence that she disclosed it
10 to anyone outside of those individuals with whom she had
11 a discussion. So on the basis of that, that that was a
12 qualified privilege that existed and was not exceeded, I
13 will grant the request as it relates to Jones.

14 As it relates to the other individual
15 defendants, I will deny it on the basis as to whether or
16 not the privilege was exceeded. I think that becomes a
17 jury question.

18 I'll also grant the request to amend to add
19 the School District because whether or not they were
20 acting in their individual capacities under the Tort
21 Claims Act or whether they were acting in the course and
22 scope of their employment or whether it's -- whether the
23 conduct falls under Section 15-78-70(b), I believe
24 that's the time when you can name individual defendants.

25 Whether it was intentional and willful, it

1 would take it outside of the Tort Claims Act. So since
2 it's a jury question, I'm going to allow the amendment
3 to add the School District as a party, as well as keep
4 in the individual defendants, Earles and Barnes. I
5 think that answers the Tort Claims Act question.

6 As to the negligent supervision, I can tell
7 you I am inclined to believe that the negligent
8 supervision should be granted, but I'd like to have the
9 opportunity to read some of the case law.

10 So once I've had an opportunity to do that,
11 I'll rule on that before we get through the end of the
12 defense's case, in fairness considering the evidence
13 that's been presented at this particular point.

14 Is there anything else we need to take up
15 before we bring the jury back in?

16 MR. BARLOW: Your Honor, I would just note
17 that I think the motion made to amend the complaint was
18 to replace the individual defendants with the School
19 District, not to add the School District in addition to
20 the individual defendants.

21 MR. GOODWYN: That was not the motion.

22 MR. BARLOW: That's what I heard.

23 THE COURT: I think it's reasonable that -- I
24 think she said if I were going to dismiss them, and you
25 raised the Tort Claims Act.

1 MR. BARLOW: I did.

2 THE COURT: So I think under the Tort Claims
3 Act, it's proper to have both of them listed. So I
4 think it conforms to what the evidence shows.

5 MR. BARLOW: All right. Thanks.

6 MS. PEAVY: Thank you, Your Honor.

7 THE COURT: Let's bring the jury back in.

8 THE BAILIFF: Yes, ma'am.

9 THE COURT: I understand that we may not get
10 completely through with the testimony of a witness, but
11 at least we'll get started before we take a lunch break.

12 Does the defense plan to recall Earles and
13 Barnes?

14 MR. BARLOW: We do not.

15 (The jury returns to the courtroom at
16 12:50 P.M.)

17 THE BAILIFF: The jury panel is present, Your
18 Honor.

19 THE COURT: Ladies and gentlemen, I apologize
20 for the delay. I thought it was going to be a little
21 bit shorter than what it took. We resolved these
22 motions. I've ruled on some of those. At this time
23 we're ready to hear from the defense.

24 You may call your first witness.

25 MS. LONG-MAHONEY: The defendant would like to

1 call Tim Hunter, please.

2 (The witness comes forward.)

3 TIM HUNTER, being
4 first duly sworn, testifies as follows:

5 CLERK: Have a seat in the witness stand,
6 please.

7 DIRECT EXAMINATION

8 BY MS. LONG-MAHONEY:

9 Q Mr. Hunter, if you would please state your full
10 name for the record.

11 A Tim Hunter.

12 Q And what is your position, Coach Hunter?

13 A I am the Athletic Director at Spring Valley High
14 School.

15 Q How long have you served in that capacity?

16 A This is my tenth year, since 2004.

17 Q If you could tell the jury about your educational
18 background, please.

19 A I graduated from the University of South Carolina
20 with a physical education degree. From there I
21 went and got my Masters at the United States
22 Supports Academy in sports management.

23 I have also received certification as a
24 Certified Athletic Administrator from the National
25 Interscholastic Athletic Administration

1 Association.

2 Q And how many years of experience have you had in
3 education and in what capacities?

4 A I have been coaching for 33 years, been a
5 teacher/administrator for 22 years.

6 Q Talk a little bit if you could about your
7 responsibilities as Athletic Director at Spring
8 Valley High School. How many students do you have
9 total there?

10 A We have 2,000 students total at Spring Valley. We
11 have 900 student athletes that I am responsible
12 for. I am also responsible for 80 coaches on my
13 staff.

14 I deal with the day-to-day operations of
15 athletic events at Spring Valley. I deal with the
16 budget. I deal with the -- all the home events
17 that we have. I do the staffing for those events.

18 I do the supervision of those coaches, the
19 supervision of athletes, the supervision of events.
20 I make a joke that AD stands for after dark because
21 I'm usually there very late most nights. I am
22 basically the administrator in charge during those
23 times.

24 Q All right. So do you currently coach?

25 A I do not coach.

1 Q In sports?

2 A I do not coach anymore.

3 Q All right. Which athletics or which sports did you
4 coach when you worked those?

5 A Football is my main sport. That's what I started
6 my career with. During the 33 years of coaching, I
7 have coached golf, I've coached soccer, I've
8 coached softball, I've coached track and field,
9 I've coached basketball, and then football.

10 Q Okay. And in your capacity as Athletic Director
11 for the past ten years, what would you describe
12 your typical hours in a work week, average per
13 week?

14 A It depends on the time of year. Most weeks could
15 be anywhere between 60 to 90 hours a week. During
16 the springtime in particular is where the 90-hour
17 work weeks come.

18 That is when we have a lot of tournaments on
19 weekends, where I am there from 7:00 A.M. until
20 sometimes midnight during those tournament hours.
21 Then the fall time and wintertime, it's a little
22 bit less. Right now I'm probably putting in
23 somewhere around 55 to 60 hours a week right now.

24 Q Okay. Does one of your responsibilities as
25 Athletic Director include handling money for the

1 Athletic Department?

2 A Yes, it does. A lot of money does come through my
3 office. All the home athletic events that we
4 charge tickets on, all our revenue sports. Like I
5 said, I'm responsible for staffing.

6 Also, I'm responsible for making sure that the
7 money is counted and accounted for, that the
8 tickets match up with the money, and that the
9 deposits are made. Also, we pay the bills for
10 those events as well.

11 Q So in a given week -- and I imagine it depends on
12 what time of year -- what kind of cash would
13 probably flow through your office in a given week?

14 A Again, it depends on the time of year. Fall,
15 obviously football is our highest revenue sport.
16 So if the home football game for varsity is in
17 play, we're probably looking anywhere between 8- to
18 \$15,000 during that week.

19 During basketball season, depending on if we
20 have two home games, that could be between 5- to
21 \$10,000. Springtime usually is not as much,
22 although we have a lot more spring sports, but it
23 doesn't bring in the revenue that it does during
24 the fall and winter. So we're probably looking at
25 a couple to \$3,000 a week during that time.

1 Q And that runs through your office?

2 A That runs through my office, yes, ma'am.

3 Q And you're responsible for it?

4 A Yes, ma'am, I'm responsible for it.

5 Q So during the past ten years you served as Athletic

6 Director at Spring Valley High School, did you ever

7 have to report money missing from your office at

8 any time during those years?

9 A Just one time. That was March of 2004.

10 Q You mean 2011?

11 A 2011, I'm sorry. I was going back to 2004 when I

12 started.

13 MS. LONG-MAHONEY: I'd like to mark this

14 document as Defendant's Exhibit 4.

15 MR. GOODWYN: No objection, Your Honor.

16 (Defendant's Exhibit Number 4 is received into

17 evidence.)

18 THE COURT: It's admitted if there's no

19 objection.

20 MS. LONG-MAHONEY: It's already admitted, Your

21 Honor?

22 THE COURT: There was no objection. So if

23 there's no objection, I'll move it in.

24 BY MS. LONG-MAHONEY:

25 Q Coach Hunter, if you could please identify what's

1 been marked, please, as Defendant's Exhibit's
2 Exhibit 4.

3 A Yeah, that is a statement that I did on March 24,
4 2011. This was back with a theft that had occurred
5 in my office.

6 Q Did you prepare this statement?

7 A Yes, I did. I prepared this statement at the
8 request of our administration of what I found at
9 that time.

10 MS. LONG-MAHONEY: The defendant would like to
11 introduce this into evidence.

12 THE COURT: It's admitted without objection.

13 BY MS. LONG-MAHONEY:

14 Q Coach Hunter, if you could explain to the jury what
15 caused you to report missing money on the morning
16 of March 4th and what lead up to that, please?

17 A This was one of those tournaments in the springtime
18 I was talking about. We do a -- it's the Taco Bell
19 Viking Cup girls soccer tournament that we do every
20 year. In fact, it's something that actually got
21 started before I was Athletic Director.

22 It is one of the largest tournaments in the
23 State of South Carolina. Thirty-two teams embark
24 on our school during that time. It's a Thursday
25 night, Friday night, all day Saturday, and even

1 Sunday it goes until about 3:00 o'clock in the
2 afternoon.

3 Thursday night was our first night of the
4 tournament. We don't have all 32 teams come on
5 Thursday night and on Friday night. That doesn't
6 happen until Saturday. But we have about half of
7 those teams obviously that are here.

8 That is a night that we start up about
9 6:00 o'clock. We are here until about 9:00 o'clock
10 is when I think the last game ended or we stopped
11 selling tickets.

12 That is typically not a large revenue night
13 for us, but it -- Saturday would be the revenue for
14 this tournament mainly. We came in. I have an
15 assistant, Mr. Sonny Uker. He has been with me for
16 the ten years I've been there, but he's been at
17 Spring Valley for 40 years as a volunteer.

18 He is -- I kind of make fun that he is my pit
19 bull at the gate. He is the guy that helps me with
20 all my ticket money and getting ticket boxes
21 together.

22 He is also the guy that comes in with me and
23 helps me to count money. We make sure that when I
24 do count money that I have more than myself doing
25 it. Sonny is that person who usually is with me.

1 But we came in. We counted up the money.
2 During the course of that night, I was feeling ill.
3 I had started feeling feverish. Actually, my
4 physician was there at the soccer tournament
5 working as a team doctor. He is one of the team
6 doctors for our soccer team.

7 I had actually spoke to him that night. I was
8 feverish and not feeling well. As the night wore
9 on, it was also a chilly, damp night. I was
10 feeling worse as the night wore on.

11 So we came in to count the money. Sonny and I
12 did that. We put the money into the safe. I made
13 mention that I may not be able to be at work
14 tomorrow because I was not feeling very well. So I
15 didn't know if I was going to come in or not.

16 I talked to Sonny, Let's go ahead and get the
17 money out for the change money in order for them to
18 continue with the tournament on Friday in case I
19 could not come in to work.

20 So we proceeded to do that. We took out the
21 change money. We put \$250 in two boxes, one in
22 each box. So that's 500. Then the main box for
23 the main gate, we put in \$500 for our change money
24 there. It was a total of \$1,000.

25 On the Friday night we would have three

1 different gates that would be running. The main
2 gate and then we would have two other smaller gates
3 that were there. I wanted to make sure there would
4 not be any interference with that.

5 So we took the money, put it in the box. I
6 took the box and stuck it under my desk so that the
7 next night if I was not here, then Sonny could get
8 access into my office and retrieve the money boxes.

9 As it so happened, my fever broke as I went
10 home that night. I got up the next morning, came
11 into work as normal, and immediately went to my
12 boxes under my desk to take the money out, put it
13 into my safe for that afternoon; and the money was
14 gone.

15 I immediately called Jim Childers, our
16 Assistant Principal, over facilities and athletics,
17 and reported the theft; and then we went from
18 there.

19 Q So was it your standard practice to leave money not
20 in the locked safe in your office?

21 A Absolutely not. Very rarely do I ever do that.
22 This was a circumstance where I wanted to make sure
23 that the tournament would not be interrupted the
24 next day.

25 I almost always put money into my safe at all

1 times. In that case I did not; however, I did put
2 it in a secure location under my desk in an office
3 that was secured and had very limited access to it.

4 I had no reason to believe that from the time
5 I left until the next day that anyone had entered
6 that office and would come after that money.

7 Q And when you left that night, did you lock the
8 door?

9 A The door locks automatically. It's locked all the
10 time on the outside.

11 Q What do you mean by that? Can you unlock it from
12 the outside?

13 A The only way you can get into my office is with a
14 key. The door will not be unlocked.

15 Q Okay.

16 A So I close the door but every time I close the
17 door, I always jiggle that handle just to make
18 sure; but the door always stays locked.

19 Q Okay. Let's talk about a couple of things that
20 we've seen. If you could quickly pull up the -- if
21 you could describe for the jury the different
22 locations on this photograph as to where your
23 office is and where the weight room is?

24 A Okay. Well, going back to the keypad, I think
25 that's a good point of reference right there. Just

1 on the other side of that wall, the indention,
2 that's the weight room.

3 Directly across from that indention, you see
4 the gray doorframe. That is my office, and that's
5 where, in relation to when you're coming through
6 that door, into the Bates Hall.

7 Q Okay. You've heard testimony that describes that
8 Mr. Kennedy went -- said he went into the weight
9 room that evening because there is about a five or
10 six-minute window that evening where he is not seen
11 on camera.

12 He described himself as going into the weight
13 room to turn off the light. What is your reaction
14 to that explanation as to whether it's plausible,
15 given your knowledge of this building for the last
16 ten years?

17 A Well, first of all, the light switch is at the far
18 end of the hallway. So you see the indention there
19 for that doorway, there is the exact same replica
20 at the end of that hallway down to that far door
21 that you see at the end of the hallway. There is
22 another replica of that.

23 That is where the light switch is. So at
24 5:30 in the morning, I would find it hard to
25 believe that the lights were on to begin with; but

1 if they were on and you went into that weight room
2 and you walked all the way down to that far end,
3 the weight room, there is very little areas to move
4 around with benches, weight stands, platforms,
5 weights that are around. You have to really know
6 how to be able to navigate through there.

7 With the lights on, it's not a problem. So if
8 the lights were on and you walked down to that end
9 to turn the lights off, it is very difficult -- I'm
10 not going to say impossible -- but it would be
11 extremely difficult in the dark to walk back
12 through the weight room and come out this door
13 (indicating).

14 If you went to go and turn the lights off at
15 that far end, you would have to come out that door.
16 I know from personal experience because I've tried
17 it myself, and I've actually turned around and gone
18 out the door where I had light.

19 Because I've gone in that door with the dark
20 to go to the weight room and realized I've got to
21 go to the other end for the light switch, and I
22 have to come back out to the hallway to get there
23 because I could not make my way through the weight
24 room in the dark.

25 Q So it's your perspective that he could not have

1 gone all the way down to the weight room and turned
2 the light off and walked back on the inside of the
3 weight room to come out the first door?
4 A It would be extremely difficult.
5 Q Had he walked out the door where the light switch
6 was, would he have been seen on camera?
7 A From everything I've seen, yes, ma'am.
8 Q All right. You've also heard discussion about
9 whether anybody looked at the video camera of Bates
10 Hall that night from the time you left the building
11 which was about 10:30; is that right?
12 A It was right around 10:30.
13 Q All right. At 10:30 P.M. on March 3rd is about the
14 time you left the building?
15 A Uh-huh. (Indicating affirmative response.)
16 Q Until the next morning at whatever time you arrived
17 you think is about what?
18 A I usually, typically 8:00 o'clock to 8:15, I'm
19 typically in my office.
20 Q So between 8:00 and 8:15 on the morning of
21 March 4th is when you arrived back at your office
22 and found the money not in the boxes?
23 A That's correct.
24 Q Okay. So at that point, did you at any point, look
25 at the surveillance footage between those two time

1 periods yourself to see what may have happened to
2 the money?

3 A I did. When I called Mr. Childers to report the
4 money was missing, I went down to his office to
5 kind of help put a timeframe and reference points.
6 We looked at the videotape together.

7 So we started from the time that Mr. Uker and
8 I left until the time that I had arrived back that
9 next morning to see what had happened in between
10 those times.

11 Q All right. To the best of your memory, what do you
12 recall happening between those two windows of time
13 from what you saw on the video?

14 A Well, Mr. Uker and I had left. We saw at that
15 point -- I don't know exactly the time references
16 going back -- it was at 11:00 o'clock or 11:30, but
17 it was two security officers walking in to set the
18 alarm and immediately walking back out.

19 We all saw that. And also shortly after that,
20 again, I don't know the time reference, probably
21 midnight maybe, 12:30, saw the baseball team come
22 in, saw the baseball coach running down the
23 hallway.

24 Q Can you point to what you are talking about, where
25 they came in and what you saw from this picture?

1 A Yes. They came in from that far side where I was
2 talking about the brown doors at the end of the
3 hallway. If you recall another picture, you saw
4 the front of Bates Hall. They came in that front
5 entrance of Bates Hall.

6 So the locker room at that time, the baseball
7 team locker room, is actually down on that end of
8 the hallway. So what we noticed is they came --
9 first of all, I saw Charlie Wentzky, who is our
10 baseball coach, running down the hallway and then
11 going straight to the keypad.

12 It took him maybe five seconds, four seconds;
13 and all of a sudden, he's going back down the
14 hallway to the locker room where the baseball
15 players are coming into the locker room.

16 Q With that zoomed in, can you, again, explain who
17 was coming?

18 A If you look across on the right-hand wall, you see
19 the indentation, the gray -- or the silver there is
20 the fire extinguisher cabinet. Next to that is the
21 gray line.

22 No, come on up with the cursor, that gray line
23 right there. That is the doorway to the locker
24 room right there. Okay. That's where they were
25 entering.

- 1 Q So did the baseball team run up and down the
2 hallway?
- 3 A No, the baseball team did not. They went straight
4 in the locker room. They were in there for a few
5 minutes, and then they came back out, straight out
6 that door.
- 7 Q And that's what you recall seeing on the video?
- 8 A That's what I saw on the video.
- 9 Q Who came up the hallway, if anybody?
- 10 A My baseball coach.
- 11 Q What did he do from what you observed?
- 12 A He turned off the burglar alarm. It took him all
13 of a handful of seconds, four or five seconds, to
14 do so.
- 15 Q Did anybody else -- from the baseball team,
16 coaches, students, parents -- did anybody else from
17 that time period that you observed come in that
18 hallway?
- 19 A Not at all.
- 20 Q All right. So let's keep going. What else did you
21 see? What else do you recall seeing on the video
22 from that evening up until you got to work the next
23 morning?
- 24 A Then I saw, later on that morning, I guess 5:30ish,
25 I saw a security officer come in to -- back into

1 Bates Hall and move over towards where the keypad
2 was and disappear from camera range; and eight,
3 nine, ten minutes later, he reappears going back
4 out the door.

5 Q Okay. That was the next time you saw anyone. So
6 you saw them arm the alarm. You saw the baseball
7 coach and a few players go into the locker room.
8 The baseball coach turns off the alarm and runs
9 back.

10 A Uh-huh. (Indicating affirmative response.)

11 Q And then the next thing you saw was Mr. Kennedy
12 coming back the next morning?

13 A That's correct.

14 Q And that's where he disappeared for a period of
15 time off the video?

16 A That's correct.

17 Q Okay. So now from that time, which was in the
18 vicinity between 5:45 and 6:00, from that time
19 period, did you see anyone else enter that building
20 before you got there?

21 A My athletic trainer, Paul Dobbins. The trainer's
22 office is right next door to my office. He
23 typically gets to work at 7:30 every morning. He
24 came in the building to his training room, and then
25 I came in right around 8:00 o'clock.

1 Q And that was it?

2 A That was it.

3 Q You saw nobody else during that window of time?

4 A Nobody else.

5 Q Okay. Coach Hunter, there's been references and
6 your name has been thrown out a lot at this trial
7 as you're the person who reported the money
8 missing. For your benefit can you tell the jury
9 whether or not you took the money personally?

10 A Absolutely not. I sat in here yesterday and
11 listened to some counsel try to throw the concept
12 that I was the one that could have possibly taken
13 the money.

14 That upsets me tremendously for a number of
15 reasons. First of all, I graduated from Spring
16 Valley High School in 1982. I have been at Spring
17 Valley High School three different times during my
18 coaching career, as a coach and now as an
19 administrator, Athletic Director.

20 Both of my children went through Spring Valley
21 High School at student athletes. One of my -- my
22 oldest daughter has now graduated from college, and
23 she is out on her own in Greenville.

24 My son right now is currently a junior at the
25 Citadel down in Charleston. I'm very proud of my

1 children and what they came through at Spring
2 Valley. I've worked extremely hard to get where I
3 am today, put in a lot of hours, as we talked about
4 a second ago.

5 When things go wrong at Spring Valley, when -
6 things go wrong with the Athletic Department at
7 Spring Valley, I take it extremely personal. To
8 listen to somebody tell me that I stole money from
9 children, I took that personally.

10 I've been there for ten years as Athletic
11 Director, never had -- never -- had a theft coming
12 out of my office. That right there just really
13 upset me and it bothered me that somebody would
14 actually point their finger at me.

15 I immediately reported it as soon as I came
16 in. I've never reported a theft out of my office
17 the whole time I've been there. I immediately
18 reported it then. Then from that point on, I guess
19 we're here where we are today.

20 Q And since then have you had to report a theft?

21 A Never have.

22 Q Thank you.

23 MS. LONG-MAHONEY: No further questions.

24 THE COURT: Any cross?

25 MR. GOODWYN: Yes, Your Honor.

CROSS EXAMINATION

1
2 BY MR. GOODWYN:

3 Q Let me go back to your timeline here with the
4 baseball team. You saw the baseball team come in
5 that far door.

6 MR. GOODWYN: Can you zoom in on this?

7 MR. BARLOW: I did.

8 MR. GOODWYN: Or can you zoom back out?

9 MR. BARLOW: Sure.

10 BY MR. GOODWYN:

11 Q So what you saw on the video, the baseball coach
12 come in, run down, cut off the alarm, go back. The
13 team came in, went in the locker room?

14 A That's correct.

15 Q Did you see anything else?

16 A No.

17 Q Did anybody go in Tim Hunter's office, which is
18 your office?

19 A No, nobody came down that hallway but the baseball
20 coach. He was there at the keypad all of a handful
21 of seconds.

22 Q And after that nobody came back down the hall that
23 you saw?

24 A That's correct.

25 Q And you saw my client, Mr. Kennedy here, about 5:45

1 or so come back to unset the alarm; correct?

2 A He came in the door towards the keypad, yes, sir.

3 Q All right. The alarm wouldn't have been set

4 though; right?

5 A I cannot recall.

6 Q You said the coach unset the alarm?

7 A That's correct.

8 Q And then came back down. So when he came, the

9 alarm would not have been set?

10 A Again, I do not recall seeing the coach come back

11 down to reset the alarm.

12 Q So the alarm could have been off that entire night

13 or would have been off based on what you saw;

14 correct?

15 A It could be possible, yes, sir.

16 Q All right. Maybe Mr. Kennedy didn't even notice

17 that it was not set when he got in there. Is that

18 possible?

19 A If the alarm was not set, that could be possible,

20 yes, sir.

21 Q I'm assuming you're familiar were that alarm;

22 correct?

23 A Yes, sir.

24 Q When you disarm it, how did you disarm it? I have

25 got one at my house. I know how it works.

- 1 A Basically it's a four-digit code, and then you have
2 to press another part of the keypad.
- 3 Q Something to alarm and something to disarm it;
4 right?
- 5 A You press in the code, yes.
- 6 Q All right. So you press in the code?
- 7 A Uh-huh. (Indicating affirmative response.)
- 8 Q And if it's not armed already, you may not know
9 that; right?
- 10 A You would know when the door comes open because
11 it's -- if it is armed, the doors comes open and
12 makes a beeping sound. That's correct.
- 13 Q Based on what you're saying though the alarm should
14 have been off the rest of the night when
15 Mr. Kennedy got there?
- 16 A Like I said, I do not recall seeing him come back
17 to set the alarm.
- 18 Q All right. So anybody with a key could have
19 accessed the building and your office and gotten
20 the money without the alarm going off; correct?
- 21 A Well, I would think the cameras would have picked
22 them up coming through the door.
- 23 Q All right. Sonny Uker, is that your assistant?
- 24 A Yes, he is a volunteer assistant of mine.
- 25 Q Is he a student?

- 1 A No, he is 86 years old.
- 2 Q Eighty-six?
- 3 A Yeah. He might call himself a student. He's been
- 4 at Spring Valley ever since Spring Valley opened.
- 5 We're going to give him a varsity letter this
- 6 letter.
- 7 Q All right. So Sonny was the person that you were
- 8 going to have get the money the next day --
- 9 A That's correct.
- 10 Q -- if you were sick; correct?
- 11 A That is correct.
- 12 Q So Sonny knew the money was out in your office, not
- 13 in the safe?
- 14 A That is correct.
- 15 Q How would Sonny have gotten the money out of your
- 16 office that next day?
- 17 A He would come and find an administrator to open up
- 18 my door to get in my office.
- 19 Q So he did not have a key?
- 20 A No, he does not.
- 21 Q All right. But he knew the money was there?
- 22 A Yes, he did.
- 23 Q All right. What's your understanding of the key
- 24 situation over there as far as who has keys to the
- 25 building?

1 A Well, first of all, my door is only opened up with
2 the A-master key. You cannot -- all my coaches,
3 all my head coaches, and our paid varsity or paid
4 assistant coaches, have what's called an AL-2 key.

5 An AL-2 key will get through any of the
6 athletic doors. That would be the gymnasium,
7 locker rooms, the weight room, those doors down
8 through there; but it would not open up my door.
9 My door is only set for the A-master key.

10 Q When was that done?

11 A That was done when the renovations at Spring Valley
12 High School took place, and I don't recall exactly
13 when that was. That was 2002 maybe -- excuse me --
14 2009, somewhere in that ballpark.

15 Q Okay.

16 A I don't really know when the renovations took
17 place.

18 Q All right. So do you know who has those keys?

19 A All the administrators at Spring Valley High School
20 have those keys.

21 Q Do you have a list?

22 A Excuse me?

23 Q Do you have a list of people that have the keys?

24 A Do I have the list? No, sir.

25 Q All right. Who is responsible for issuing the

- 1 keys?
- 2 A That would be through the Principal's Office.
- 3 Q All right. The custodians have a key?
- 4 A From what I understand, the head custodian for the
- 5 dayshift and one for the night shift initially had
- 6 a key. So one key for each one of the head
- 7 custodians.
- 8 Q All right. There's been testimony in the case that
- 9 a custodian accessed your office?
- 10 A And that was actually our day supervisor, Shelley
- 11 Bush, who has a key.
- 12 Q All right.
- 13 A Because she is the head custodian.
- 14 Q All right. So there are keys out there to your
- 15 office?
- 16 A The administration and the two custodial keys, yes,
- 17 sir.
- 18 Q At least those two that you know of; right?
- 19 A Yes, sir, the administration and two custodial
- 20 keys.
- 21 Q And possibly others that you don't know of; right?
- 22 A I know of the administration and two custodial
- 23 keys, yes, sir.
- 24 Q If you will just answer the question --
- 25 A I just did.

- 1 Q -- those are the only ones that you know of.
- 2 A Yes, sir. I just answered the question.
- 3 Q So you knew that the money was in there that night,
- 4 and Sonny knew the money was going to be in
- 5 there that night?
- 6 A That is correct.
- 7 Q Who else knew that there was money not in the safe
- 8 out?
- 9 A There was no one else that would know that.
- 10 Q All right. Did anybody ever ask you any questions
- 11 to investigate the possibility that you or Sonny
- 12 may have taken this money?
- 13 A They asked for a statement, which I have provided
- 14 here that has been given into evidence, and also --
- 15 and I cannot recall. This is over three years
- 16 ago -- but I do know I had conversations with our
- 17 SRO, Ben Fields, and also with Chuck Earles and/or
- 18 Eric Barnes because we had conversations about what
- 19 transpired.
- 20 Q Did anybody ever ask you questions like, you know,
- 21 about your financial situation? Do you have a
- 22 gambling problem, those kinds of things?
- 23 A No, sir.
- 24 Q Nobody ever got into that with you?
- 25 A No, sir.

- 1 Q Did you ever feel that you were a suspect?
- 2 A No, sir, I feel like I was the victim.
- 3 Q Did anybody ever ask Sonny Uker what he knew about
- 4 the incident or whether he may have --
- 5 A I cannot recall.
- 6 Q Did he ever tell you that he was questioned?
- 7 A Again, I don't recall.
- 8 Q Did you ever ask him? Did you ever suspect that he
- 9 might have been --
- 10 A I never suspected Sonny Uker, no, sir.
- 11 Q But he was the only one that knew the money was not
- 12 in the safe that night?
- 13 A That is correct. He also does not have a key to my
- 14 locked door.
- 15 Q He had been at Spring Valley how long?
- 16 A Over 40 years, ever since the doors opened.
- 17 Q So he very well may know somebody that has a key to
- 18 your office; right?
- 19 A No, sir. He would know the administrators.
- 20 Q So you're telling me you know everybody that Sonny
- 21 knows that might have a key?
- 22 A To my office, yes, sir.
- 23 Q Your safe in your office, is it a combination lock,
- 24 a keylock?
- 25 A Combination.

1 Q Combination lock. Who has the combination other
2 than you?

3 A I do and our bookkeeper at Spring Valley High
4 School.

5 Q And where is -- who is the bookkeeper?

6 A The bookkeeper's name is Sandra Watts.

7 Q Was she scheduled to work the next day that you
8 know of?

9 A I don't recall. I have no idea.

10 Q Now, could you have put the money in the safe and
11 had Sandra open the safe?

12 A Yes, I could have done that.

13 Q Why didn't you do that?

14 A Again, I have no idea other than to say that it was
15 a decision that was made that night and a situation
16 where I was feeling ill. My biggest concern was
17 making sure that the tournament did not get
18 delayed.

19 Q All right. In hindsight do you wish you had done
20 that? Do you think that would have been safer?

21 A Well, in hindsight if I hadn't have done that, then
22 I'm sure I still would have that money.

23 Q This wasn't your money, was it? It was the
24 school's; right?

25 A It was the school's money, yes, sir.

1 Q Is this a photo of your office?

2 A Yes, it is.

3 Q All right. Is that how it looked approximately
4 back in 2011?

5 A Very similar, yes, sir.

6 Q All right.

7 MR. GOODWYN: I'd like to move to introduce
8 this as the next plaintiff's exhibit.

9 THE COURT: Any objection?

10 MS. LONG-MAHONEY: No objection.

11 THE COURT: It's admitted.

12 (Plaintiff's Exhibit Number 11 is received
13 into evidence.)

14 BY MR. GOODWYN:

15 Q I'll show the jury what we were talking about here.
16 Can you indicate for us on the picture where you
17 tried to put the money that night?

18 A Well, I didn't try to put the money. I put the
19 money up underneath my desk against the wall here
20 (indicating). Okay. So my desk is -- you see the
21 computer screen. It was up against the wall up
22 underneath my desk up in here (indicating).

23 Q Under the desk?

24 A Under the desk, yes, sir.

25 Q Did you push your chair in to try to kind of

- 1 conceal it?
- 2 A I'm sure I did. I mean, I can't sit here and swear
3 to it.
- 4 Q Can you describe for us what you actually hid? You
5 said there were boxes?
- 6 A There were three boxes there. They were black
7 cases. They look kind of like small makeup cases,
8 so to speak, that are money boxes. They are
9 actually made for that purpose.
- 10 Q Like a cash register type drawer?
- 11 A Yes. They each have a tray that sits in that you
12 can hold the money in, yes, sir.
- 13 Q Okay. I think I know what you're talking about.
14 There are three of them, each stacked on top of
15 each other?
- 16 A I actually laid them beside each other on the
17 floor.
- 18 Q So there was enough room --
- 19 A They have got a handle on them. They stand up.
20 They are about that wide (indicating).
- 21 Q Okay.
- 22 A Like a little suitcase type thing.
- 23 Q So you stood them up back there?
- 24 A Uh-huh. (Indicating affirmative response.)
- 25 Q Were they black?

- 1 A They are black, yes, sir.
- 2 Q Were they pretty hard to see, especially in the
3 dark?
- 4 A You would have to come in there and physically get
5 down and look underneath my desk to find them, yes,
6 sir.
- 7 Q All right. So somebody just walking through would
8 not see those?
- 9 A Exactly.
- 10 Q All right. Where do you keep your trash can?
- 11 A Up here (indicating) on this side of my desk.
12 Right here (indicating), that part of my desk.
- 13 Q And what type of floor do you have in there?
- 14 A Carpet.
- 15 Q Carpet. All right. If somebody were vacuuming in
16 there, they may pull your chair out and see those
17 boxes; right?
- 18 A Again, I would have seen on the video if they had
19 come in to do that at the time. When the boxes
20 were up underneath my table, there was not a
21 custodian to vacuum.
- 22 Q According to what you saw on the video?
- 23 A Exactly.
- 24 Q Did you hear Chuck Earles's testimony about what he
25 said on the video?

1 A I did.

2 Q He didn't see the baseball team at all, did he?

3 A You'd have to ask Chuck Earles.

4 Q We did. That's what he said.

5 A I know.

6 Q It's possible that the video system may have

7 malfunctioned at some point if he didn't see it and

8 you saw it. There was obviously something going on

9 with the video system.

10 A I cannot attest to what Chuck Earles saw and did

11 not see.

12 Q And the video system, I think at least as Chuck

13 Earles testified to, it doesn't record anything

14 unless there's motion. Is that your understanding?

15 A Yes, it is.

16 Q All right. So there's -- when you say you didn't

17 see anything, there's just lots of times --

18 A If I recall what I heard his testimony was, he

19 didn't recall seeing anything.

20 Q Okay.

21 A Now, at that time his concern was at the moment

22 that he saw where the suspicious activity was.

23 Q I see.

24 A So if I recall, from what I heard from his

25 testimony, that's what he was saying. He did not

1 recall seeing it. I'm not saying he didn't --

2 Q All right.

3 A -- and it was three years ago. I recall it because

4 it was important to me to know how long it took to

5 do the keypad because Charlie Wentzky, my baseball

6 coach, showed it only took about four seconds to do

7 it.

8 Q Right.

9 A So that's what was important to me.

10 Q Right.

11 A That's why I remember three years ago.

12 Q All right. You testified about turning the lights

13 off on the weight room; right?

14 A Uh-huh.

15 Q I believe the way you described it was the light

16 switch was in the weight room but at the far end,

17 towards the other end of the door?

18 A Yes, sir.

19 Q And that it might be hard to walk back through the

20 weight room?

21 A When it's dark it would be hard to walk back

22 through that weight room, yes, sir.

23 Q What are security guards armed with at Spring

24 Valley?

25 A What are security guards armed with?

- 1 Q Yes. They don't have guns; do they?
- 2 A That's not my expertise. You would need to ask
- 3 somebody else.
- 4 Q I think the testimony was all they're armed with is
- 5 flashlights.
- 6 A Okay.
- 7 Q So do you think a security guard would have a
- 8 flashlight?
- 9 A Again, you would have to talk to somebody else
- 10 other than me on that one.
- 11 Q Have you ever seen a security guard at Spring
- 12 Valley with a flashlight?
- 13 A Again, I don't recall.
- 14 Q You've been there how many years --
- 15 A I've been there ten years.
- 16 Q -- and you don't recall that?
- 17 A I don't recall.
- 18 Q All right. So if he had a flashlight, then he
- 19 would have no problem negotiating the weight room;
- 20 correct?
- 21 A Well, I would probably say a person with a
- 22 flashlight could go ahead and make their way
- 23 through the weight room; but wouldn't it be much
- 24 simpler just to walk out the door and come down the
- 25 hallway where the light was?

1 Q It may or may not be. It may be simpler but he has
2 time to kill, doesn't he?
3 A Obviously so.
4 Q He had eight hours?
5 A We've seen that.
6 Q And that's suspicious to you?
7 A It's suspicious to me that he has a flashlight
8 coming through the weight room?
9 Q That he has time to kill.
10 A No. I'm just saying that there is time unaccounted
11 for.
12 Q Unaccounted for meaning off the video?
13 A That is correct.
14 Q Right. And can Jeffery Kennedy control where the
15 video films?
16 A I'm just saying that there's only one area that you
17 can be right there. And why would you stand in
18 that area for eight, nine, ten minutes?
19 Q Didn't you say it's about five minutes?
20 A But, again, that's not my decision. All I can do
21 is tell you what I saw. What I --
22 Q You said five minutes though; right? So it wasn't
23 eight or nine or ten minutes, was it?
24 A I'm talking about what the time length was that he
25 was out of the video.

- 1 Q Right. And you don't any idea what his normal
2 habits were, do you?
- 3 A No, I don't.
- 4 Q So if his normal habit was to spend four or five
5 minutes here or there, then that may not be
6 suspicious at all; correct?
- 7 A Again, I have no idea what his normal habits are.
- 8 Q Did you have any conversation -- I'm sorry -- did
9 you ever talk to the baseball coach? I'm sorry.
10 What did you say his name was?
- 11 A Charlie Wentzky.
- 12 Q Charlie Wentzky. Did you ever talk with Charlie
13 Wentzky about that night?
- 14 A The only thing -- I really don't recall. If I had,
15 it would have been to find out how long it took him
16 to turn off the alarm. I mean, I don't recall if I
17 ever talked to him.
- 18 Q Did he ever mention to you that he had a
19 conversation with Jeffery Kennedy that night?
- 20 A No.
- 21 Q All right. Did you see Jeffrey Kennedy on the
22 video when the baseball team was in the building?
- 23 A No, I did not.
- 24 Q All right. And I know there's no audio on the
25 videos? Is that your recollection?

1 A Correct, no audio as far as I know.

2 Q So you don't know if the alarm was actually ringing
3 or not; but if they came in the door, it would have
4 activated. Tell me this: When you open the
5 door -- when you open the door -- does the alarm
6 immediately start blaring or is there a time period
7 to let you --

8 A No, it's just the keypad itself will beep.

9 Q Right. And then if you don't deactivate it within
10 a certain amount of time, then the alarm goes off?

11 A Exactly.

12 Q Okay.

13 A I've never been there to hear the alarm go off,
14 sir.

15 Q Okay. So do you know if the alarm was actually
16 going off when the coach was sprinting down the
17 hall?

18 A I would assume so. I'm not saying the alarm was
19 going off. The beeping was going off. He was
20 sprinting down the hallway to get it turned off
21 before the alarm went off, I'm sure.

22 Q There was some testimony that it had gone off.

23 A That's my assumption.

24 Q Tell me this. You may not know this. But every
25 time you open the door to go in the building and

1 you have to undo the alarm, that doesn't
2 activate -- that doesn't send a signal off to the
3 alarm company saying the alarm has been activated?
4 It's only if you don't deactivate it within that 30
5 seconds?

6 A I have no idea. All I know is if you don't
7 deactivate the alarm, the alarm is going to go off
8 at some point in time.

9 Q And there's been some testimony that the alarm did
10 go off that night. Would that surprise you based
11 on how fast the coach was running?

12 A Well, he was coming down there quick; so it may
13 have been. That may have been the case. I don't
14 know.

15 Q Do you know how much time you have after you open
16 the door to unset the alarm?

17 A That I don't know.

18 Q You just go straight for it every time?

19 A I've only had to do it a handful of times myself.

20 Q Is that because you're not the first person in the
21 office usually?

22 A Typically, yes. Because like I say, my trainer
23 usually gets here about 7:30 every morning.

24 THE COURT: Mr. Goodwyn, I think this is a
25 time we need to take a lunch break.

1 Ladies and gentlemen, I'm going to remind you
2 of the instructions I have given you; that is, not to
3 begin to discuss this matter among yourselves because
4 you still have not heard all the evidence that has to be
5 presented.

6 Please remember as you come and go from the
7 courthouse not to listen to any of the conversations you
8 may hear, for the reasons that you have to make the
9 decisions based upon the evidence presented here.
10 Please also remember not to allow anyone to approach you
11 to discuss this matter, again for the reasons I have
12 given to you.

13 I'm going to ask that you report back to the
14 same jury room at 2:45. If you will report at that
15 time, we'll be ready to continue on. Have a good lunch.
16 Thank you. Thank you again for your patience.

17 (The jury is excused for lunch at 1:35 P.M.)

18 THE COURT: Mr. Hunter, I'm just going to
19 instruct you that you should not have a conversation
20 with anyone about your testimony. You have not
21 concluded it. So it would be appropriate for you to
22 discuss it with anyone during this break. You may step
23 down.

24 (The witness leaves the witness stand.)

25 THE COURT: Let's take a lunch break and come

1 back at 2:45.

2 (Whereupon there was a luncheon recess.)

3 THE COURT: Is there anything we need to take
4 up before we bring the jury in?

5 MR. GOODWYN: Not from the plaintiff.

6 MR. BARLOW: No, Your Honor.

7 THE COURT: You may ask the jury to come in
8 please.

9 (The jury returns to the courtroom at
10 2:51 P.M.)

11 THE BAILIFF: The jury panel is all here, Your
12 Honor.

13 THE COURT: Good afternoon, ladies and
14 gentlemen. You may continue on.

15 MR. GOODWYN: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. GOODWYN:

18 Q I have a few more questions for you. Now, it would
19 be your testimony was that you arrived back at the
20 AD Department about 8:00 o'clock in the morning on
21 the morning after?

22 A Somewhere about, yes, sir.

23 Q That's when you discovered the money was missing?

24 A Yes, sir.

25 Q And you said the trainer, your trainer, was in the

1 building at that time?

2 A Yes, sir. He typically gets there about 7:30 every
3 morning.

4 Q Is there anybody else that could have come and gone
5 between the time the alarm was deactivated at
6 5:45 or so and the time you got there?

7 A To my knowledge, no. We looked at the videotape,
8 and we didn't see that.

9 Q Also, didn't see whoever reset the alarm? You
10 didn't see that either, did you?

11 A That's true.

12 Q All right. Let me ask you ask you about the --

13 A Let me put it this way. I don't recall seeing
14 that.

15 Q Okay.

16 A I'm not saying I didn't. I don't recall seeing
17 that.

18 Q I believe Eric Barnes had testified that the
19 A1-master key system was implemented after he
20 arrived, and he thinks it was after this incident.
21 If that's the case, if he recalls a time when there
22 was no A1-key system and he arrived in
23 December 2010, then your recollection about when
24 that key program was implemented must be mistaken;
25 correct?

1 MR. BARLOW: Objection, Your Honor. I think
2 he's mischaracterizing the earlier testimony and pitting
3 witnesses.

4 THE COURT: Rephrase the question, please.

5 BY MR. GOODWYN:

6 Q All right. If there was evidence to show that the
7 A1-key system was implemented after December 2010,
8 would that change your recollection about when you
9 thought the A1-key system was in place?

10 A No, it does not.

11 Q And can you describe what type of key system there
12 was before the A1-key system was implemented?

13 A We've always had an AL-2 key the ten years I've
14 been there. Our coaches have always had the AL-2
15 key.

16 Q What is that?

17 A That AL-2 goes to all athletic facilities.

18 Q Is that part of your office?

19 A Not my key or my office. My office has always been
20 an A-key.

21 Q Okay.

22 A Which an A-key is just a master key. So no other
23 key can open my office door except for the
24 A-master.

25 Q All right. And that's different than the -- I'm

1 confused. I'm sorry. What is the difference
2 between the new key system and the old key system?

3 A Again, when we had the old facility, it was AL-2
4 for all doors and athletic facilities.

5 Q Can you explain to everybody what that was?

6 A I'm trying to explain that right now.

7 Q Okay.

8 A And when the renovations of the school happened,
9 our keys in the Athletic Department stayed the
10 same. All athletic keys were still AL-2. The
11 gymnasium was still the same building. That did
12 not get torn down.

13 What's now Bates Hall used to be the old
14 Science Building. That building did not get torn
15 down. So those two buildings stayed intact. We
16 kept the same key system, the AL-2 key system for
17 our athletic coaches. For my office the only key
18 that has ever opened my office is going to be the
19 A-master key.

20 Q And that's been the same key that you've had for
21 ten years?

22 A Yes, sir.

23 Q There could be many copies of that key floating
24 around in ten years of copying it?

25 A The key is stamped on there that you cannot

1 duplicate.

2 Q The school can't --

3 A The school can duplicate it, but the A-master key

4 has been given to everybody, to the administrators,

5 the A-master; and you cannot duplicate it to other

6 people.

7 Q Were you aware that the custodians had some keys

8 taken away recently or shortly before --

9 A I did not know that until this trial.

10 Q Okay.

11 A And if I'm not mistaken, I think we're only talking

12 about one custodian:

13 Q Okay.

14 A And that was the night custodian, the night manager

15 custodian. The day manager custodian maintained

16 her master.

17 Q Okay. And the night custodian would have had

18 access to the interior offices; correct?

19 A If she had the key, but her key was taken away

20 before this incident.

21 Q Before her key was taken away?

22 A Uh-huh. That's correct.

23 MR. GOODWYN: I think I need to -- can you put

24 that picture up? We need to get back to the pictures,

25 just that same picture we were on.

1 MR. BARLOW: Okay.

2 BY MR. GOODWYN:

3 Q All right. Could you come down here off the stand

4 so I can ask you some questions about this.

5 A (Witness leaves the witness stand.)

6 Q All right. So this is a diagram of the AD

7 building?

8 A Bates Hall, yes, sir.

9 Q Bates Hall, the Athletic Department. Okay. This

10 (indicating) is your interior office?

11 A Actually this is my office right here (indicating).

12 Q Okay.

13 A Excuse me. I'm sorry. This is my office

14 (indicating). That's the hall (indicating) going

15 down to my office.

16 Q All right. So what we -- whoever marked this

17 before said this (indicating) was your office.

18 A Right. Well, that's a very tiny closet. I'm a big

19 guy. I would not fit in that.

20 Q All right. So this photo here is of the office?

21 A That's correct.

22 Q Okay, okay. So it's not like you need two keys to

23 get where the money was. It was just the key to

24 this door (indicating) which is on the right side?

25 A That's correct. That door right there.

1 Q Okay. Now, the cameras in the building, you've
2 looked at the video; right?
3 A That is correct, yes, sir.
4 Q And there's video of -- I think it's a little --
5 you see that little black dome above the photo?
6 A That's a camera.
7 Q That's a camera. I think your testimony was it was
8 pointing kind of back towards us?
9 A Right.
10 Q Which would be this way (indicating). So you could
11 see people coming in the door.
12 A Yes, sir.
13 Q And the other view you saw like from here, this is
14 a -- this is a still shot; right? This is not from
15 the security camera?
16 A That's a still shot. That's correct.
17 Q The security camera would be mounted on the ceiling
18 above it?
19 A That's correct.
20 Q But you can't quite see in this picture, can you?
21 A The security camera?
22 Q Right.
23 A The security camera is that white dome --
24 Q Oh, the white.
25 A -- above my door.

- 1 Q Okay.
- 2 A And it's going down the hallway that way
- 3 (indicating).
- 4 Q So some of these security cameras are black domes;
- 5 some are white domes?
- 6 A I think that one was -- yeah, they had done
- 7 different work on them over the few years.
- 8 Q All right. Can you tell which way the camera is
- 9 pointing by looking at the domes?
- 10 A You can when you're standing there. I can't tell
- 11 by that picture; but yes, when you stand underneath
- 12 one of those domes, yes.
- 13 Q You can look up in there?
- 14 A Yes, sir.
- 15 Q You can look up in there and do that?
- 16 A Yes, sir, and it's pretty clear.
- 17 Q So really the only part of the building, it looks
- 18 like, or this area that you can't see other than
- 19 the interior offices, is the spot kind of right
- 20 where this picture is being taken in front of the
- 21 weight room door?
- 22 A Kind of -- and during this time, the area only was
- 23 this right (indicating) here. You could see this
- 24 way (indicating) and you could see this way
- 25 (indicating).

- 1 Q Okay. And you wouldn't really know that unless
2 you've seen the videos; right?
- 3 A Well, I didn't know that.
- 4 Q You did?
- 5 A I mean, I didn't know. That's what I'm saying.
- 6 Q Okay.
- 7 A Until I saw the videos, that's correct.
- 8 Q Okay. So anybody accessing your office wouldn't
9 necessarily know that?
- 10 A Well, if they were looking up at the dome to see
11 where the camera was pointed, they could figure
12 that out. Now, I didn't do that myself.
- 13 Q But if somebody had legitimate access to your
14 office anyway, it wouldn't matter what the camera
15 shows; right?
- 16 A That's correct. That's correct.
- 17 Q All right. So let's just say the baseball team is
18 in the office -- I mean -- is in the building?
- 19 A Uh-huh.
- 20 Q Is it possible that somebody could have been in the
21 weight room, been down here (indicating) -- is this
22 (indicating) the locker room door?
- 23 A That's the locker room door, yes, sir.
- 24 Q All right. So the kids were coming down here
25 (indicating)?

- 1 A Uh-huh.
- 2 Q Going into the locker room?
- 3 A Uh-huh.
- 4 Q Some kids could have gone to the weight room?
- 5 A That would be a far stretch.
- 6 Q The light was on in the weight room; right? It had
- 7 to be turned off.
- 8 A I also said in my testimony that I would find it
- 9 very hard to believe that the light was on, and he
- 10 had to go in there and turn it off. At that time
- 11 of night, I find that hard to believe.
- 12 Q Now, the baseball team was just in there.
- 13 A The baseball team went from this door (indicating)
- 14 into there (indicating) and right back out there
- 15 (indicating).
- 16 Q All right. If somebody had gone in the weight
- 17 room, they could have come in here (indicating) and
- 18 gone across the hall without being seen by the
- 19 cameras; right?
- 20 A If they had figured out how to do that, yes, but
- 21 then they would not have a key to get in my door.
- 22 Q That's assuming your correct about the key system
- 23 when it was changed, and who all had the keys?
- 24 A I am correct.
- 25 Q You think you are; right?

- 1 A I know I am.
- 2 Q You don't have a list, do you?
- 3 A I know I'm correct.
- 4 Q All right. Now, you can have a seat. I'm just
- 5 about done.
- 6 A (Witness resumes the witness stand.) Can I
- 7 clarify?
- 8 Q Clarify what?
- 9 A I know I'm correct because the key system never
- 10 changed from my department. It was still the
- 11 A-master and it was still the AL-2.
- 12 Q So there would have been ten years worth of that
- 13 key out there?
- 14 A Yes, sir.
- 15 Q And you don't issue the keys; right?
- 16 A I do not issue keys, no, sir.
- 17 Q And how do you know that copies haven't been made?
- 18 How do you know the custodian never made a copy?
- 19 A Because I know that the A-master is a master key
- 20 that cannot be duplicated.
- 21 Q By who?
- 22 A And the key control is done through the Principal's
- 23 Office.
- 24 Q Who says it can't be duplicated?
- 25 A It says on the key. Would you like to see it?

1 Q I believe you. Do you think everybody is honest?
2 Do you think everybody is going to say, "Okay. I
3 can't copy it"?
4 A You cannot get a blank to have it copied somewhere.
5 Q All right. Before this, before the 2011 theft in
6 March, the \$1,000 theft, did you know Jeffrey
7 Kennedy?
8 A I mean, I know him by his face and seeing him at
9 some of our games and stuff, yes, sir.
10 Q He worked a number of your games?
11 A I don't know him personally, but I know seeing him
12 at some of the games, yes, sir.
13 Q Did you have any problems or any reason rather to
14 doubt his honesty or trustworthiness?
15 A I don't have any reason to doubt any of our
16 security detail's honesty and trustworthiness.
17 Q Had he done anything to demonstrate to you that he
18 was going to be less than --
19 A None of our security personnel have done anything
20 that would make me think that.
21 Q I'm asking about Jeffrey.
22 A Again, he was one of our security detail that I had
23 noticed from time to time. I would lump him into
24 that same category with the rest of them with my
25 statement.

1 Q Did you ever request him to work games because he
2 was so good?

3 A Not to my knowledge. I have requested a time or
4 two some security officers but not to my knowledge.

5 Q Not Jeffrey Kennedy?

6 A I'm not saying I never have. I'm saying not to my
7 knowledge.

8 Q And if he testified to that --

9 A Not by name.

10 Q If he testified that you regularly did, would he be
11 wrong?

12 A When we do some of our special events, like our big
13 track meets and things that we talked about ...
14 earlier, there are times when I tell the captain I
15 would like to have that same crew.

16 There is one person in particular. His name
17 is Tiger. I don't even know his real name, but
18 they call him Tiger. I want him back there parking
19 buses.

20 That's really the only request that I make is
21 I want that same crew or I want that same group for
22 that area whenever we have these big events. If he
23 was part of one of those crews, then, yes, I may
24 have done that.

25 Q All right.

1 A But I never requested by name.

2 Q And going back to the building here, if the alarm
3 had been off for an extended period, could somebody
4 have come in through the weight room and accessed
5 your office somehow if they had a key without being
6 seen by the camera?

7 A They would have to come in the door. Once you come
8 in the front door, you're going to be picked up
9 briefly. So if they could --

10 Q So they could come in through the door?

11 A You would see them come through the door.

12 Q Presumably, but you didn't see the person that
13 reset the alarm?

14 A Well, I don't recall seeing that person at that
15 time. That was three years ago when we were
16 watching the video.

17 Q You said you watched the video --

18 A Yeah, and I said --

19 Q But you can't --

20 COURT REPORTER: I'm sorry. I can't get this
21 down.

22 THE COURT: I'm sorry. You all can't talk
23 over each other. I've told you about that before.

24 MR. GOODWYN: Sorry.

25 BY MR. GOODWYN:

1 Q So somebody could have come through the window in
2 the weight room perhaps if the alarm was off?

3 A If they break a window, yes, sir.

4 Q Did you have a conversation with Roosevelt Garrick
5 about this incident?

6 A No, I did not.

7 Q Who did you talk with about this incident?

8 A Well, Jim Childers, I initially reported to him. I
9 know the Principal, Dr. Greg Owens, at the time, we
10 had a conversation about it? I know that I talked
11 to Ben Fields, our school resource officer, and
12 also Chuck Earles and Eric Barnes.

13 Q Did you talk to the Richland County Sheriff's
14 Department at all?

15 A Well, Ben Fields, he is with Richland County
16 Sheriff's Office.

17 Q Okay. Did you tell him what happened?

18 A Of course, yes, sir.

19 Q Did you tell him what time you came in that
20 morning?

21 A Again, it was 8:00, 8:30, 8:15, 8:00 o'clock.

22 Q Can you read that line for me?

23 MR. BARLOW: Counsel, can I see that, please?

24 MR. GOODWYN: It's the same report from
25 earlier.

1 MR. BARLOW: Okay. I just wanted to make
2 sure.

3 BY MR. GOODWYN:

4 Q Will you read that line that starts with, "Tim
5 Hunter."

6 A "Tim Hunter, March 4, 2011, \$1,000 cash out of
7 office, 5:00 A.M."

8 Q You never told Richland County or Ben Fields that
9 cash was missing at 5:00 A.M.?

10 A No, I did not.

11 Q All right.

12 MR. GOODWYN: I think that's all I have, Your
13 Honor.

14 THE COURT: Any redirect?

15 MS. LONG-MAHONEY: Just a couple of quick
16 questions, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. LONG-MAHONEY:

19 Q Coach, there's been a lot of questions about keys,
20 and the what ifs and whatabouts and could this
21 person have done this or that. But you watched the
22 videotape from the time you put the money in there
23 until the time you got there the next morning, and
24 you didn't see it.

25 Did you see Sonny Uker come in at any point

1 during the videotape?

2 A No, ma'am, I did not.

3 Q Did you see Ms. Jackson, the custodian?

4 A No, ma'am, I did not.

5 Q Did you see Sandra Watts, the bookkeeper, show up
6 in the middle of the night?

7 A No, ma'am, I did not.

8 Q Did you see anybody else, other than who you have
9 already described during that window of time, come
10 in that building?

11 A No, ma'am, I did not.

12 Q Counsel for the plaintiff showed you a document
13 that was the Sheriff's Department report; is that
14 correct?

15 A That is correct.

16 Q And did you prepare that document?

17 A No, I did not.

18 Q Are those your notes?

19 A No, they are not.

20 Q Now, it says 5:00 A.M. somewhere near your name on
21 there?

22 A That is correct.

23 Q And could that possibly be referencing about the
24 time period in which we believe the money went
25 missing?

1 A I would assume that would be safe to make that
2 assumption, yes, ma'am.

3 Q Because is that the time period in which you see
4 Kennedy on the tape at 5:45 A.M., about that time
5 period?

6 A Yes, ma'am.

7 Q Is that plausible?

8 A Yes, ma'am, I believe so.

9 Q Thank you.

10 MS. LONG-MAHONEY: Nothing further.

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

12 (The witness leaves the witness stand.)

13 THE COURT: You may call your next witness.

14 MR. BARLOW: The defense calls Larrine
15 Jackson, Your Honor.

16 (The witness comes forward.)

17 LARRINE JACKSON, being
18 first duly sworn, testifies as follows:

19 THE CLERK: Have a seat in the witness stand,
20 please. State your full name for the record.

21 THE WITNESS: Larrine Jackson.

22 THE COURT: Would you spell your first name,
23 please.

24 THE WITNESS: L-A-R-R-I-N-E.

25 THE COURT: Thank you.

1 DIRECT EXAMINATION

2 BY MR. BARLOW:

3 Q Just trying to de-clutter here. Ms. Jackson, good
4 afternoon.

5 A Good afternoon, sir.

6 Q Tell the jury a little bit about yourself. Tell
7 them where you're from.8 A Well, I'm from Jacksonville, Florida. I came to
9 Carolina in 1998. I worked at Little Pigs BBQ. I
10 worked at Life Care Center of Columbia. I started
11 working at Spring Valley in 19 -- I mean -- 2000,
12 maybe 8, I think. I worked there for six months.
13 I became the night supervisor in six months, and I
14 was in that capacity for five years there.

15 Q Five years?

16 A Yes, sir.

17 Q Do you have any children?

18 A Yes, I have a son.

19 Q All right. Do you have any grandchildren?

20 A Seven. One son, seven grandchildren.

21 Q Where do they all live?

22 A They live here in Columbia, South Carolina.

23 Q So you get to spend time with them?

24 A Yes, sir.

25 Q Any granddaughters?

- 1 A Yes, three grandsons and four granddaughters.
- 2 Q Okay. So you have a good balance?
- 3 A Yes.
- 4 Q So Little Pigs, what did you do at Little Pigs?
- 5 A I was a waitress at Little Pigs.
- 6 Q How long did you work there?
- 7 A I worked there about four years, and I worked five
- 8 years at the nursing home.
- 9 Q A nursing home?
- 10 A Yes, sir.
- 11 Q And were you working at Little Pigs at the same
- 12 time you were working at Spring Valley?
- 13 A No, I worked at Life Care Center of Columbia. I
- 14 had two jobs. I worked at Little Pigs. I worked
- 15 there and I worked at Little Pigs.
- 16 Q When you started out at Spring Valley, what was
- 17 your job in 2008?
- 18 A I was just an employee at night.
- 19 Q Okay. You were a custodian?
- 20 A A custodian, yes, sir.
- 21 Q How many custodians did they have at that time? Do
- 22 you remember?
- 23 A At that time I'm not sure; but after the six months
- 24 when I became supervisor, I had 13 employees at
- 25 night.

- 1 Q Thirteen?
- 2 A Yes, sir.
- 3 Q And is there a day supervisor and a night
4 supervisor?
- 5 A There's a day supervisor and a night supervisor,
6 yes, sir.
- 7 Q Who made you the supervisor?
- 8 A His name was Mike, but I don't remember his last
9 name.
- 10 Q Okay. Did he work at Spring Valley?
- 11 A He was at Spring Valley.
- 12 Q And tell me what your duties were as a supervisor.
- 13 A As a supervisor I had to make sure that I was
14 responsible for all the classrooms being cleaned.
15 I was responsible for the games -- the football,
16 the soccer, the volleyball -- to make sure
17 everything was cleaned for the next morning when
18 everybody came in. I was just responsible for the
19 cleanup and the whole school being cleaned.
- 20 Q All right. So you supervised all the other folks
21 too?
- 22 A Yes, sir, I did.
- 23 Q In addition to cleaning yourself?
- 24 A Yeah, I had a section my own self, along with all
25 my duties. Yes, I did.

- 1 Q Are you still at Spring Valley?
- 2 A No, sir, I went from Spring Valley -- they gave me
3 a promotion -- to go to Dent Middle. When I went
4 to Dent Middle, I was over there a year; and then
5 they gave me another promotion to come to CFI,
6 which is where I am now.
- 7 Q What is CFI? Tell the jury.
- 8 A Center for Inquiry. It's an elementary school from
9 kindergarten to fifth. It's got two kindergartens,
10 two firsts, two seconds, two thirds, and two
11 fifths. It's a gifted school for little kids.
12 That's where I am.
- 13 Q And what do you do at the CFI now?
- 14 A Custodian still.
- 15 Q Do you like your job?
- 16 A Yes, I like my job.
- 17 Q What do you like best about your job?
- 18 A The children right now. I went from the high
19 school to the middle school to the little kids. So
20 I'm satisfied where I am now. They don't talk
21 back. They don't say anything. I'm good, to be
22 honest.
- 23 Q Little kids are easier to deal with?
- 24 A Yes, sir.
- 25 Q All right. Now, you've been in the courtroom here

1 and saw some of what's going on here?

2 A Yes, sir.

3 Q That may help us speed up a little bit.

4 A Okay.

5 Q Tell me, what were your hours as the night shift
6 supervisor?

7 A I was from 11:00 in the afternoon to 10:00 at
8 night. That was my hours.

9 Q Okay. And would you work later than 10:00
10 sometimes?

11 A Yes, if we had a -- like if we had a football game
12 on a Thursday night and we had school that next
13 day, you know, the stadium, we had to have it clean
14 because during that time, the kids used to eat down
15 in the stadium during lunch. So we had to make
16 sure we stayed at night to clean for the next day.

17 Q So not regularly but sometimes?

18 A Yes, only game times, only when it's an event.
19 Other than that, we're out at 10:00.

20 Q And that was the whole time you were at Spring
21 Valley?

22 A Yes, sir.

23 Q Even when you started out as a custodian, were you
24 still on the second shift before you got promoted?

25 A I was always on the second shift, sir.

1 Q All right.

2 A I just started dayshift when I went over to Dent
3 Middle.

4 Q Okay.

5 A And CFI, but I've always worked nights.

6 Q Do you like days or night better? Is it hard to
7 tell?

8 A Yeah. I'm still trying to get used to days because
9 I've been on nights for so long, but I'm adjusting
10 to it.

11 Q All right. Well, I'm going to take you back to the
12 2010, 2011 timeframe. Okay?

13 A Okay.

14 Q You're working. At that point you had been the
15 night supervisor?

16 A Yes, sir.

17 Q Do you remember anything going missing from Spring
18 Valley?

19 A Yes, we had -- what I knew about -- we had some air
20 freshener that I was using in the front office.
21 Jim Childers, you know, was our supervisor --

22 MR. GOODWYN: Your Honor? We have a legal
23 issue to discuss.

24 THE COURT: All right. Now, ladies and
25 gentlemen, we have a matter which we need to take up

1 outside of your presence. I'll ask that you retire to
2 the jury room and not begin any discussions or
3 deliberations about what you've heard or seen. I'll
4 bring you back as soon as possible.

5 (The jury retires to the jury room.)

6 THE COURT: Yes, sir or yes, ma'am.

7 MS. PEAVY: Your Honor, this testimony that
8 Ms. Jackson is getting ready to convey concerns the
9 redacted material on the memo of Jim Childers to Eric
10 Barnes dated March 24, 2011. It was agreed by the
11 parties that that information would be kept out.

12 THE COURT: Any response?

13 MR. BARLOW: Yes. I believe that counsel
14 opened the door to this testimony by asking Mr. Earles
15 if there had been any prior incidents of things going
16 missing from Spring Valley. He testified to it.
17 Mr. Earles has already testified to it. So I think they
18 have opened the door to it.

19 MS. PEAVY: Your Honor, I believe the
20 examination of Mr. Earles concerned the contemporaneous
21 thefts that occurred in February, leading up to March
22 and the March incidents. I don't think we touched on
23 the air freshener.

24 THE COURT: I remember that there was a
25 question asked about any prior incidents, and he

1 mentioned the air freshener situation; but there were no
2 further questions or inquiries into that. So I'm not so
3 sure that that really opens the door.

4 MR. BARLOW: Well, Your Honor, if I may. The
5 question was: Wouldn't you think that if Mr. Kennedy
6 had been there a while, some other things hadn't gone
7 missing, only these three things, in February of 2011
8 and then in March?

9 I think that opens the door, and Mr. Earles
10 testified to it. But certainly whatever the ruling is,
11 we cannot talk about it or we can; but I think they've
12 opened the door to it.

13 THE COURT: I'm not going to allow it in at
14 this particular point. I'm going to try to keep the
15 record clean.

16 MR. BARLOW: All right.

17 THE COURT: Anything else we need take up?

18 MR. BARLOW: I mean, can -- can you let the
19 witness know? I'm not sure the witness fully
20 understands that she is not supposed to be talking about
21 that episode.

22 THE COURT: Ms. Jackson, I've made a ruling
23 and it has been consistent with that ruling throughout
24 the course of the trial that we should not -- there
25 should not be any evidence about the allegations

1 surrounding the air freshener and any investigation into
2 that particular event.

3 THE WITNESS: Yes, ma'am.

4 THE COURT: Do you have any questions about
5 that?

6 THE WITNESS: No, ma'am.

7 THE COURT: If there's nothing else, we can
8 ask the jury to come back in.

9 (The jury returns to the courtroom.)

10 THE BAILIFF: The jury panel is all present,
11 Your Honor.

12 THE COURT: You may continue.

13 DIRECT EXAMINATION

14 BY MR. BARLOW:

15 Q All right. Ms. Jackson, now at some point in
16 February 2011, did you have a discussion with Jim
17 Childers, the Assistant Principal, about keys?

18 A Yes, sir.

19 Q What did you talk about?

20 A Mr. Childers came up to me. He said,
21 "Ms. Jackson." I said yes. He said, "We've got a
22 couple of things going on in the school. Something
23 is missing. I'm going to need your keys."

24 So I said, "My keys?" He said, "Yes, I need
25 your key, your A-key." I said okay. He said,

1 "What I want you to do, I want you to come in; and
2 when you come into work, I want you to come in and
3 do the front office." You know, give a little,
4 take a little.

5 Because when I came in, I went straight to the
6 cafeteria and helped them out. By that time it was
7 like 1:00 or 2:00. I went in and I did the front
8 office because I couldn't go into any of the
9 offices to open up to get the trash out of none of
10 the rooms.

11 Then when I left there, I would go over to
12 Mr. Tim's office and clean his office while he is
13 in there. They took my key. So I just didn't have
14 a key anymore. I just had a key to the classroom
15 on the hall that I was cleaning but not the A-key
16 anymore.

17 Q All right. Before that did you have the A-key?

18 A Yes, I did.

19 Q Tell me who else, other custodians, had the A-key?

20 A My supervisor and manager, Ms. Shelley Bush, the
21 morning supervisor.

22 Q And you and she were the only ones on the custodial
23 staff?

24 A Yes, sir.

25 Q What did you do with your A-key when you were done

1 with your shift?

2 A I kept my key with me.

3 Q You took it home with you?

4 A Yes, sir.

5 Q You guarded that A-key?

6 A With my life.

7 Q Did you ever let anybody take your A-key from you?

8 A No, sir.

9 Q Did you ever let anybody make a copy of it?

10 A No, sir.

11 Q You never made a copy of it?

12 A No, sir.

13 Q Now, did Mr. Hunter take your A-key before the

14 items went missing and before the money went

15 missing from Tim Hunter's office?

16 A Tim never took my key; Jim Childers took my key.

17 Q Right. But did Jim Childers take it before the

18 money went missing from Tim's office?

19 A Oh, yes. Yes, he took it. They took it when the

20 money started missing out of the office. I don't

21 know the dates and the times, but he took it when

22 the money started missing out of the front office.

23 That's why I had to come in when I came in to

24 clean the offices because the school was out at

25 3:33. The office was closed by 4:00. So I had to

1 go in there, clean up and be out, and never had to
2 go in there at night to the offices.

3 Q So you were the person that was cleaning Tim
4 Hunter's office at that time?

5 A Yes, I was.

6 Q All right. And somebody was giving you the key to
7 do it?

8 A No, I had to go in there when Tim was in there.

9 Q Oh, okay.

10 A I had to go in there when Tim was in there and
11 clean and come out. I'd call him and say, "Hey,
12 are you in your office?" He say yes. I said, "I'm
13 coming over to clean." He'd say, "Okay. Come
14 over, clean, and go out."

15 Q How did you feel when your keys got taken away from
16 you?

17 A Well, I felt kind of funny because, you know,
18 nobody wants to be accused of anything. When he
19 say he was taking my key, I said, "Jim, I really
20 don't even want the key back." So he was asking
21 why.

22 I said, "Because you got me feeling like
23 somebody thinks somebody is stealing, and I don't
24 really appreciate that." He said, "No,
25 Ms. Jackson. I am trying to work something out.

1 When we figure it out, I'll get back with you." So
2 I say okay. Then eventually he gave me my keys
3 back.

4 Q Okay.

5 A I don't know what time or date, but maybe about
6 three weeks, maybe a month like that, I got the
7 keys back.

8 Q You got the keys back?

9 A Yes, sir, I got my A-key back. I already had my
10 other keys with me.

11 Q The keys that you would use to clean?

12 A Yes, sir, because I had a section to clean also.

13 Q Did you need the A-key to clean Mr. Hunter's
14 office?

15 A Yes.

16 Q Now, what was your understanding of what went
17 missing out of the administrative hall?

18 A Well, Jim was barely detailed, you know, like,
19 "Ms. Jackson, something going on. There's a little
20 money missing, but I'm going to separate the
21 custodians from, you know, what's going on. So I
22 want your key so I can make sure we're going to get
23 down to the bottom of what's going on."

24 Q So Mr. Childers wanted to sort of narrow it down?

25 A Yes, sir, that's what he told me.

- 1 Q So at that point you would not have had an A-key?
2 A No, sir, I did not.
3 Q After that?
4 A Right.
5 Q And did you usually clean the administrative hall?
6 A Yes, sir, that was part of one of my sections.
7 Q All right. Have you ever taken any money or other
8 things from Spring Valley?
9 A No, sir.
10 Q Do you have anything against Mr. Kennedy?
11 A No.
12 Q Do you even know Mr. Kennedy?
13 A I know Mr. Kennedy by seeing him at the games, the
14 basketball games, you know, like around the top of
15 the basketball -- I mean -- the gym or maybe at a
16 game or a track meet.
17 But as far as knowing him, no, I didn't even
18 know his name was Kennedy until this case came up
19 to be honest with you. I know him by face but
20 nothing else.
21 Q Sure. Did anybody ever tell you they thought
22 Mr. Kennedy stole anything?
23 A No.
24 Q Did anybody ever tell you why Mr. Kennedy wasn't at
25 Spring Valley anymore?

1 A No.

2 Q Since that round of things going missing there in
3 February, March of 2011, have you heard of anything
4 else that has gone missing from the administrative
5 office?

6 A No.

7 Q Or from Tim Hunter's office?

8 A No, sir.

9 Q That's all the questions I have for you, ma'am.
10 Thank you.

11 A Okay.

12 THE COURT: Any cross?

13 MS. PEAVY: Just briefly, Your Honor.

14 CROSS EXAMINATION

15 BY MS. PEAVY:

16 Q Good afternoon, Ms. Jackson.

17 A Good afternoon, ma'am.

18 Q We've met before.

19 A Yes, ma'am.

20 Q Nice to see you again.

21 A Nice to see you too.

22 Q I just have a couple of questions for you. If
23 notes reflected that Mr. Childers reported that he
24 decided to take the master key from you on
25 February 25, 2011, would you trust that?

1 A If that's the date he gave, yes, because the dates
2 now, I don't remember the dates.
3 Q It's a while ago.
4 A I just know he took it from me, yes, ma'am.
5 Q And we talked about that at your deposition?
6 A Yes, ma'am, that was three years.
7 Q Three years ago?
8 A Yes, ma'am.
9 Q I hear you.
10 A I don't know the date-dates.
11 Q And so he took the key on February 25th and then --
12 but there actually had been, I think, two reports
13 that Mr. Childers received of thefts in the
14 Administration Building on or before that day.
15 Were you aware of that?
16 A Well, ma'am, you know how schools are. They keep
17 things on the hush-hush till whatever going on. So
18 actually I really didn't know --
19 Q Okay.
20 A -- what was going on, but he told me that he needed
21 my key back.
22 Q Okay.
23 A Because there was some stuff going on, some thefts,
24 that he was going to try to get to the bottom of
25 it. That's all.

- 1 Q So if Mr. Childers prepared kind of a timeline, and
2 he said that on February 14th there was a report
3 that someone had stolen some cash and a little ring
4 and on February 25th there was a report that some
5 cash had been taken, you would have no reason to
6 doubt that, would you?
- 7 A No.
- 8 Q Okay.
- 9 A No, that's my boss.
- 10 Q I hear you. And you testified Mr. Childers told
11 you he wasn't trying to offend you. He just wanted
12 to take the key back and try to get a handle on
13 things; correct?
- 14 A Yes, ma'am.
- 15 Q At that time so y'all -- you've got your whole
16 crew, and I think you previously testified you had
17 been promoted to supervisor. You were supervising
18 about 11 cleaners; right?
- 19 A Yes, I got promoted at the old school.
- 20 Q Right.
- 21 A And then we moved over to the new school; yes,
22 ma'am.
- 23 Q Right. And then you were a supervisor --
- 24 A Then.
- 25 Q -- in 2011?

1 A Yes, ma'am.

2 Q Okay.

3 A Oh, yes.

4 Q And you were the supervisor of the night cleaning

5 crew?

6 A Yes, ma'am.

7 Q Okay. Now, when we say -- and I want to make it

8 clear for the jury -- the night shift for the

9 cleaning crew, I think you testified you would get

10 to work around 11:00 A.M.?

11 A In the afternoon.

12 Q Okay. So before lunch?

13 A Yes.

14 Q Okay. So that was in the morning?

15 A Uh-huh.

16 Q And then you would stay all day into the evening?

17 A My time was over at 10:00.

18 Q Until 10:00 P.M.?

19 A Yes, ma'am.

20 Q Okay. So what is the night shift considered? That

21 whole period of time, that 11 hours?

22 A No, that was my hours.

23 Q Okay. So --

24 A That was my hours as a supervisor --

25 Q As a supervisor.

- 1 A -- to make sure I was there before the other
2 supervisor left. So I could ladder over and make
3 sure everything was done at night before I left.
- 4 Q So would there be crews cleaning there after 10:00
5 o'clock some nights?
- 6 A No, not to my knowledge.
- 7 Q And when crews would come in --
- 8 A -- and it wouldn't be a crew. Everybody leaves at
9 different times.
- 10 Q So you stagger the staff?
- 11 A Yeah, yeah, it stagger. Somebody leave at 8:00,
12 you know, do four hours. Most of us was four hours
13 at night. Everybody that came in at night had a
14 day job. So it was like a four-hour night thing.
- 15 Q Okay.
- 16 A But I was from 11:00 to 10:00 because that was my
17 eight hours.
- 18 Q Okay. But some cleaners would work, say, early in
19 the morning to get stuff done?
- 20 A That was the morning shift. I had nothing to do
21 with that. I was the night shift.
- 22 Q Okay. So the morning shift would come in when
23 their supervisor told them to come in and start
24 cleaning?
- 25 A Now, I don't know about the morning shift. I know

- 1 about the night shift..
- 2 Q Okay.
- 3 A I don't know how they was doing because I wasn't
- 4 there in the morning time to tell you that.
- 5 Q Okay.
- 6 A I came in at 11:00.
- 7 Q So when y'all stopped cleaning the offices after
- 8 hours, when you testified Mr. Childers told you,
- 9 "Don't come at night anymore"?
- 10 A Right.
- 11 Q "We just want you to do it during the day to the
- 12 best of your ability"?
- 13 A Right.
- 14 Q Who would -- there's still a lot going on at the
- 15 school in the late afternoon and the evenings --
- 16 sports, kids changing in and out.
- 17 A Right.
- 18 Q There's a lot. I mean, I think the testimony has
- 19 been there were 2,000 kids going out of there and
- 20 80 coaches and staff and all that.
- 21 A Well, I tell you what we did.
- 22 Q Uh-huh.
- 23 A The kids, when they went out on the field to
- 24 practice or whatever.
- 25 Q Uh-huh.

- 1 A The gym would be empty. We would make sure nobody
2 was in there.
- 3 Q Uh-huh.
- 4 A If a kid came down there for something, they had to
5 have an adult or coach or something with them so
6 won't nobody's stuff get missing.
- 7 Q Uh-huh.
- 8 A That's how we did that.
- 9 Q Okay. And in the mornings -- so y'all wouldn't be
10 there in the mornings?
- 11 A I don't know about the mornings.
- 12 Q But somebody would have to -- there's a morning
13 shift of custodial staff which would come in?
- 14 A Yes, which was my boss.
- 15 Q And what was her name?
- 16 A Shelley Bush.
- 17 Q Shelley Bush?
- 18 A Yes, ma'am.
- 19 Q So it wasn't like y'all were the only people who
20 were cleaning? There's a whole other crew that you
21 don't even interact with?
- 22 A Yes. But it's a crew in the morning that monitor
23 the halls, monitor the bathrooms. They just don't
24 go into the classrooms like we do where we get down
25 with the down work. They kind of like monitor.

1 Q Do you know if Mr. Childers took the key away from
2 Ms. Shelley?
3 A He took both of our keys.
4 Q Okay. On the same day?
5 A I'm not sure but I know he told me he took both of
6 our keys.
7 Q So he wanted to try to rule out the dayshift people
8 too, is that correct, or the morning?
9 A You'd have to ask him.
10 Q Do you know when Ms. Shelley's shift would start?
11 A We had a person that opens up at 6:30 if I'm not
12 mistaken, open the school up; and then the morning
13 shift came in.
14 Q Okay.
15 A So that's all I knew about that.
16 Q Okay. So your knowledge is that the morning crew
17 starts about 6:30?
18 A The first morning person.
19 Q The first morning --
20 A Come in and open the school up, and then the staff
21 comes in.
22 Q Okay.
23 A It was 7:00 to 3:30. It was those shifts.
24 Q Okay. Did you ever meet with Mr. Chuck Earles
25 about the thefts that were being reported or

- 1 Mr. Eric Barnes?
- 2 A No, ma'am.
- 3 Q Does Ms. Shelley have about the same number of
- 4 people on her crew? Do you know? Not her crew but
- 5 her --
- 6 A Her morning shift?
- 7 Q Morning shift.
- 8 A It was not as many as was on my shift because we
- 9 was doing the classrooms, the gym, the op room, the
- 10 band room, the Bate Hall, like that, not near as
- 11 many people as I had.
- 12 Q But they still had to provide coverage?
- 13 A Oh, yes, ma'am. Yes, ma'am.
- 14 Q Is Jim Childers in your experience the one that
- 15 people report complaints or thefts to if they've
- 16 got any issues?
- 17 A I didn't understand you. Say it again.
- 18 Q Is Assistant Principal Childers the person that
- 19 people will go to if they think something has gone
- 20 missing?
- 21 A I don't know.
- 22 Q Okay.
- 23 A You know, they might. I don't know. I'm pretty
- 24 sure he is one of them that they will talk to if
- 25 something was missing; but to say everybody will

1 walk up to him and say, "They stole such and such,"
2 I don't know that because I'm not there in the
3 daytime.
4 Q Uh-huh.
5 A I'm just there at night.
6 Q Okay.
7 A I mean, from 11:00 to 10:00.
8 Q Okay. In March of 2011, February of 2011, had the
9 same people been working for you or had you had
10 some, you know, staff changes over people retiring,
11 what have you?
12 A We have people -- it flips over all the time.
13 Q Oh, okay.
14 A We don't have the same people all the time. People
15 get into a better job. They would either go
16 full-time or this and that.
17 Q Okay.
18 A I can't really say.
19 Q Okay. So if people were on your group, they're not
20 getting 40 hours a week --
21 A No, ma'am.
22 Q -- of Richland Two pay?
23 A No. We are Service Solutions. We are not Richland
24 Two; we are Service Solutions.
25 Q So you don't get your paycheck from Richland Two?

- 1 A No, ma'am, we don't.
- 2 Q Oh, okay. You get it from Service Solutions?
- 3 A Yes, ma'am, that's our company.
- 4 Q Okay.
- 5 A That cleans the school.
- 6 Q Oh, okay.
- 7 A And we clean several schools.
- 8 Q Yes.
- 9 A Just about all the schools.
- 10 Q So they have a contract with Richland Two?
- 11 A Yes, ma'am.
- 12 Q Okay. So does Service Solutions take care of
- 13 hiring and putting people to work for you at Spring
- 14 Valley when someone quits or gets more hours at
- 15 another job or what have you?
- 16 A Yes, ma'am.
- 17 Q Okay. And do you know if --
- 18 A That's what Shelley does. She is the manager. So
- 19 she handles the application. She turns it in to
- 20 the office.
- 21 Q Okay.
- 22 A Like I say, I'm just the night supervisor.
- 23 Q Oh, yes, of course. And Ms. Shelley, do you know
- 24 does she get a paycheck from Richland Two or does
- 25 she get a paycheck from the other company?

- 1 A That I don't know.
- 2 Q All right. And you don't know if she is Service
- 3 Solutions --
- 4 A She is Service Solutions --
- 5 Q Oh, okay.
- 6 A But she is our manager --
- 7 Q Oh, okay.
- 8 A She is not time on the clock like I was.
- 9 Q Oh, no, no, no.
- 10 A She is on another level.
- 11 Q So she gets a salary?
- 12 A Yes, ma'am.
- 13 Q So she is not clocking in?
- 14 A No, ma'am.
- 15 Q Okay. Now, just speaking from your experience as a
- 16 supervisor?
- 17 A Yes, ma'am.
- 18 Q Supervising your cleaning crew or when they come in
- 19 staggered, you're the supervisor, so you have the
- 20 master key?
- 21 A Yes, ma'am.
- 22 Q And you decide who you're going to hand the master
- 23 key off to?
- 24 A No, ma'am, huh-uh.
- 25 Q Okay.

- 1 A No.
- 2 Q How do the people who are working open the door to
3 clean?
- 4 A We have keys for certain areas, which is the
5 AL-key.
- 6 Q Okay.
- 7 A The AL-key, we have a key rack.
- 8 Q Okay.
- 9 A You know, you go pick your key up.
- 10 Q Okay.
- 11 A And in the afternoon, you put your key back before
12 you leave.
- 13 Q Okay.
- 14 A Just in case you don't want to come back no more or
15 I ask you not to come back because you are not
16 doing your job right or something like that.
- 17 Q Okay.
- 18 A We have a key rack. I make sure all the keys are
19 on the rack. Because when I look and see the key,
20 and it ain't there, then I got to come up with that
21 key.
- 22 Q So you're keeping an eye on that key rack?
- 23 A Yes, ma'am.
- 24 Q Okay.
- 25 A It was like a box.

1 Q Right.

2 A That you open it and you put your keys in.

3 Q Okay.

4 A Yes, ma'am.

5 Q Is the box the kind of box where it's got a glass
6 front or is it just like a wooden box?

7 A It's just like a wooden box. It's in their office,
8 in our office.

9 Q Okay.

10 A It's not out there.

11 Q Oh, yeah.

12 A It's in there where you clock in at. It's inside
13 the office.

14 Q Right, right.

15 A And that office stays locked, and the office key is
16 the master key to the office also.

17 Q Okay.

18 A So nobody wants to get their key that don't go back
19 in that room.

20 Q Okay. So if they're done with their shift, done
21 cleaning --

22 A I make sure I meet them down there to put the key
23 up.

24 Q Okay. And you get it?

25 A I get the keys from them, and I put them on the

1 rack before they clock out.

2 Q And is the timecard stamper in that area?

3 A We, we had -- we didn't have like the District have

4 a clock-clock. We had a different kind of clock.

5 We did the phone --

6 Q Okay.

7 A -- we did the handprint. We tried a lot of

8 different ways.

9 Q Okay.

10 A It was always different on how they clocked out.

11 Q And repeat for me again the name of that company?

12 A Service Solutions.

13 Q Okay.

14 A SSC.

15 Q SSC?

16 A Yes, ma'am.

17 Q And if you can think back to March of 2011 -- and I

18 know it's three years ago. I don't expect you to

19 have a perfect memory -- but how would you

20 coordinate the person who needed to clean Tim

21 Hunter's office?

22 A Say that again.

23 Q If someone -- if Tim Hunter's office needed to be

24 cleaned?

25 A Uh-huh.

- 1 Q How would the person access that office?
- 2 A I call him.
- 3 Q Okay.
- 4 A And I see if he over in his area by the radio.
- 5 Q Uh-huh.
- 6 A "Yes, Ms. Jackson. I'm here."
- 7 "I'm on my way. I'll meet you there."
- 8 Q Was that the period when you didn't have your key?
- 9 A Yes, when I didn't have the key anymore.
- 10 Q Okay. When you did have your key, how was it
- 11 different?
- 12 A Because I went in and I cleaned it.
- 13 Q And did you always -- was it always the
- 14 responsibility of the supervisor to clean
- 15 Mr. Hunter's office?
- 16 A No, I was just the best cleaner, just being honest.
- 17 Q Okay.
- 18 A And he always wanted me to do it.
- 19 Q Were you able to clean it every time you were
- 20 working or sometimes did you have to send one of
- 21 your --
- 22 A Well, it was so clean I didn't have to clean it
- 23 every day.
- 24 Q Oh, he keeps a tidy office?
- 25 A Yes, it is. He's a very clean man; so he want it

1 clean.

2 Q I got that impression. I wish my office looked
3 like that. Again, you don't know how the -- how
4 Ms. Shelley does it with her crew that starts
5 around 6:30?

6 A No, ma'am, because I did it at night.

7 Q Okay.

8 A In the afternoon, you know, it was my
9 responsibility. That was one of my sections too.

10 Q All right. Ms. Jackson, that's all I have.. Thank
11 you for your time.

12 A Thank you.

13 MR. GOODWYN: Rachel?

14 MS. PEAVY: Oh, I'm sorry. One second.

15 (Pause.)

16 BY MS. PEAVY:

17 Q Ms. Jackson, I stand corrected. I have one final
18 question.

19 A Okay.

20 Q I beg your indulgence.

21 A That's okay.

22 Q Right after this accident -- accident -- right
23 after this incident occurred and Mr. Hunter told
24 security, told Jim Childers, called him up, "Hey
25 \$1,000 is missing from my office. Someone took

1 it," did you happen to observe Mr. Eric Barnes and
2 Lieutenant John Reid from the security staff
3 talking at the Athletic Department right after that
4 happened?

5 A Ma'am, I just met Mr. Barnes last year when I went
6 to CFI.

7 Q Okay.

8 A I never known Mr. Barnes.

9 Q Okay. So if he had been there that day, you
10 couldn't identify him?

11 A I would not even know it because I just was
12 introduced to him.

13 Q Okay.

14 A At CFI. I just got there last year. This year is
15 my second time -- year -- working there.

16 Q And do you remember seeing anyone talking to John
17 Reid, the security individual?

18 A I don't know him.

19 Q You don't know him?

20 A I don't know who Reid is.

21 Q All right. That's all I have.

22 A Okay.

23 Q Thank you.

24 A Uh-huh.

25 THE COURT: Any redirect?