

1 raise your right hand. Swear to tell the truth, the whole  
2 truth, and nothing but the truth?  
3 MR. [REDACTED]: Yes, I do.

4 THE COURT: Okay. Grab a seat right there.

5 Pull that microphone right up to inch away from your

6 mouth. Works best that way.

7 THE WITNESS: Okay.

8 THE COURT: Everything you have to give verbal

9 answers. Nods of the head we can't record.

10 THE WITNESS: Okay.

11 THE COURT: That's okay. If you do that, we'll

12 just remind you. All right?

13 THE WITNESS: Okay.

14 THE COURT: What I want you to do is state your

15 full name.

16 THE WITNESS: Derek [REDACTED].

17 THE COURT: Spell your full name.

18 THE WITNESS: D-E-R-E-K [REDACTED].

19 THE COURT: Okay. Thank you very much. You may

20 proceed.

21 DEREK [REDACTED]

22 called by the people at 3:06 p.m. and sworn by the Court,

23 testified:

24 DIRECT EXAMINATION

25 BY MS. PAYNE:

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1 Do you know by--someone by the name of Michael Terpening?

2 Yes.

3 How long have you known him?

4 I've known him my whole life, b--basically since I can

5 remember.

6 And how is that? How--did you--

7 We grew up together, families--my mom and his mom were

8 best friends.

9 Okay. And do you see him in the courtroom today?

10 Yes.

11 Can you please identify him? What is he wearing?

12 He's wearing a blue undershirt, overcoat and a tie.

13 MS. PAYNE: Let the record reflect the witness

14 has identified the defendant.

15 THE COURT: Record can so reflect.

16 BY MS. PAYNE:

17 And did he run an organization called Barth Services slash

18 The House Next Door?

19 Yes, he did.

20 Did you end up working there?

21 Yup.

22 How did that end up happening?

23 He had called and told my mom that he had a opening, that

24 he needed somebody to fill in. They were gettin' more

25 kids, and he needed more staff, and I ended up speakin' to

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1 Q Did you tell the Defendant that you had done drugs with Michael [REDACTED]?

3 A Yes, I did, the very next day.

4 Q Do you remember when that occurred? What month?

5 A That woulda been in December.

6 Q Two thousand and ten?

7 A Two thousand ten.

8 Q Did you tell him in person? Over the phone?

9 A I did--The first time I told him was over the phone. He

10 called Earth Services and I was working, and I was in the

11 office, and I just--I told him that I needed to get

12 something off my chest, and I told him about it.

13 Q Okay. And what was his reaction?

14 A He told me not really to worry about it and that people

15 make mistakes, and he told me that it made me feel

16 better that he had secrets of his own, and he told me that

17 him and his wife--

18 Q Did he tell you what his secrets were?

19 A Yeah. He said him and his wife--

20 MR. SCHAEFFER: Your Honor--I'm going to object,

21 your Honor, as to relevance.

22 THE COURT: Overruled.

23 BY MS. PAYNE:

24 Q What did he tell you his secrets were?

25 A That him and his wife liked to have threesome and--

1 MR. SCHAEFFER: Your Honor, I'm going to object  
2 as to the relevance of that as it relates to the charges  
3 here.

4 THE COURT: That particular answer may not--

5 I'll--I'll allow a little leeway to see where this is

6 going.

7 BY MS. PAYNE:

8 Q Did he then ask you if you wanted to have a threesome?

9 A Not directly at that moment. He hinted at it.

10 Q Okay. On that day, or a different day?

11 A That day. Later that night.

12 MR. SCHAEFFER: Your Honor, again I object as to

13 the relevance of this area.

14 THE COURT: That's enough of that kinds

15 questioning regarding that.

16 MS. PAYNE: At this time, your Honor, I guess

17 I'd like to argue. I had filed a 404(b) notice on Derek

18 [REDACTED]. Defendant began, as I stated in my notice,

19 propositioning him, askin' him if he wanted to do a three

20 way--

21 THE COURT: I'm--I'm not--I'm not saying that

22 you can't ask anymore questions of this witness. I'm

23 saying that I think any further testimony regarding a

24 threesome--three way with his wife, I think--

25 MS. PAYNE: I'll move on.

1  
him on the phone, and he asked me if I wanted to come for  
an interview, and that's kinda how it started.  
3 Q Was he the only one that inter--interviewed you?  
4 A I don't remember if he was the only one in there. It--  
5 There coulda been Kathy or another staff.  
6 Q And you were hired?  
7 A Yes.  
8 Q When were you hired?  
9 A Beginning of November, late September. It took a while  
10 for my paper work to come back in. After I was hired,  
11 they send your stuff has to--you have to get cleared by  
12 the state, and it took a little--little time for mine so.  
13 Q What year was that?  
14 A Two thousand ten.  
15 Q How much were you paid?  
16 A Ten dollars an hour.  
17 Q And who paid you?  
18 A Gloria Mansfield was the one who wrote the checks.  
19 Q Did you like working there?  
20 A Yeah.  
21 Q 'Kay. Did you get along with other staff?  
22 A Yes, for the most part.  
23 Q What--in general, what were your hours?  
24 A I usually worked the three to eleven evening shift. Then  
25 sorta towards the end I was workin' some third shifts to

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1  
fill in. We had to have more staff. But mainly three to  
2 eleven, the second shift.  
3 Q And what were your duties primarily?  
4 A I was a direct care staff. Pretty much watchin' oversee  
5 the kids' well-being, cook 'em dinner. If they had any  
6 activities, as far as take 'em to basketball games or take  
7 'em to the Y. Make sure that the rules were followed in  
8 the house and that property was respected.  
9 Q I wanna talk about Michael  who was he?  
10 A He was a staff--he was a staff who trained me when I  
11 started.  
12 Q So he was here--there before you?  
13 A Yes.  
14 Q Okay. Did he do--do drugs?  
15 A Yes, he did.  
16 Q Do you know what kinda drugs?  
17 A He did heroin and pills.  
18 Q Did he do this while you were working?  
19 A Yes.  
20 Q Did you ever do drugs with him while working?  
21 A Yes, I did.  
22 Q 'Kay. How many times?  
23 A Just one time.  
24 Q Do you re--regret that?  
25 A Yes, very much so.

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1 THE COURT: I think I've got that.  
 2 MS. PAYNE: Okay.  
 3 THE COURT: I don't need any more regarding  
 4 that.  
 5 MS. PAYNE: Okay.  
 6 THE COURT: If there's other stuff, we'll hear  
 7 it and we'll--we'll entertain objections.  
 8 MS. PAYNE: Okay.  
 9 BY MS. PAYNE:  
 10 That same day did you and another coworker go to look at  
 11 property together?  
 12 A Yes, we did.  
 13 Q Okay. And who was that coworker?  
 14 A Chris [REDACTED].  
 15 Q Okay. And what property did you go to look at?  
 16 A It was referred to as the hill house, right around the  
 17 corner from the boys home on Huff Road.  
 18 Q And who owned that?  
 19 A Michael Terpening.  
 20 Q What was the purpose for you looking at the houses?  
 21 A We were--we were lookin' for a house to get together,  
 22 Chris [REDACTED] and myself, and he--the property came  
 23 open, and we were lookin' at it to possibly rent.  
 24 Q At some point does Chris leave?  
 25 A Yes.

1 And did something happen there that made you uncomfortable  
 2 that night?  
 3 Yes. He began--he brought back up the threesome and  
 4 started talkin' about at one point he--he told me he  
 5 thought that there was a little gay in everybody--  
 6 MR. SCHAEFFER: Your Honor, again, I would  
 7 object as to the relevance of that particular--  
 8 THE COURT: I've addressed this prior when we  
 9 had the whole 404(b) argument part. This particular  
 10 testimony I am going to allow, at least at this point.  
 11 MR. SCHAEFFER: Okay. Just for the record, your  
 12 Honor, I don't believe that whether or not you are  
 13 heterosexual, homosexual, or bisexual is relevant to the  
 14 charges herein. And it broaches on constitutional ability  
 15 to not have that in the record.  
 16 THE COURT: Oh, I think it--it--there's clearly  
 17 a relevance and particularly in this case. Clearly a  
 18 relevance. So I'm gonna allow it and overrule.  
 19 MR. SCHAEFFER: Thank you.  
 20 THE WITNESS: He continued on, and at one point  
 21 he asked me how big my penis was because he told me his  
 22 wife was small and that it could hurt her--  
 23 MR. SCHAEFFER: Your Honor, I believe you ruled  
 24 on that part already, the threesome with the wife, and I  
 25 would renew my--

1  
2 BY MS. PAYNE: THE COURT: He can continue here. Overruled.  
3 Q What else did he ask you?  
4 A Um--  
5 Q Or what else--what other statements did he make to you  
6 that made you feel uncomfortable? Did he ask you about  
7 any type of sexual acts you might've done in high school?  
8 A Yes, he did. He asked me if I had ever done any circle  
9 jerks with my buddies in high school.  
10 Q When he's saying this to you, what's going through your  
11 mind?  
12 A I was very uncomfortable and--  
13 MR. SCHAEFFER: Your Honor--  
14 THE WITNESS: --wanted to--  
15 MS. PAYNE: Because this is your--  
16 MR. SCHAEFFER: --object as to the relevance of  
17 how he felt in relation to this.  
18 THE COURT: Overruled.  
19 BY MS. PAYNE:  
20 Q He was your boss, correct?  
21 A Right. He was my boss and--  
22 Q Did he make anymore sexual comments to you on that night?  
23 A Yes, he did. Immediately after I left the property, I was  
24 driving home and I started receiving text messages from  
25 him. My answers to his requests about threesome were

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1 that I wasn't gay and that I couldn't do anything homosex-  
2 ual, so he started texting me, and he asked me if I would  
3 give him a hand job or a blowjob to see if I could do  
4 anything gay, and if I could, then possibly have a  
5 threesome. And I told him that I--I didn't know if I  
6 could, and then the next message was why don't you give it  
7 a try, give me a hand job, and I'll give you 50 bucks for  
8 your time.  
9 Q And after this night did he continue to solicit you?  
10 A Yes.  
11 Q How--  
12 A Not--  
13 Q --often would you say?  
14 A It--it would be once every--every week or two. He would  
15 just so have you thought about it, or send me a text, what  
16 do you think.  
17 Q He would send you text messages?  
18 A Yeah.  
19 Q Did he also talk to you while you were at work?  
20 A He didn't, but there were numerous times that I would be  
21 uncomfortable, like he would rub my shoulders and--  
22 Q At work?  
23 A Yeah. If I was sittin' in the office by myself like he'd,  
24 oh, you're really tense today, or just--just things that  
25 really make you uncomfortable. I didn't wanna be around

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pened, I--I would get text messages almost every morning for a few week period where it was why didn't this get done last night, why didn't this get done. And there was--there was always two staff on, and the other staff--I lived with one of 'em that worked with me a lot, and the other one is one of my friends who we worked with, and they would never get a text message. Never got one, why didn't this stuff get done, it was always me who would get them. And then I was suspended for--I couldn't work one of my shifts because of an incident where the boys were supposed to--we didn't get an okay to take them to the basketball game until it was too--they'd missed the first half of the JV game and a lot of 'em were younger, freshman and sophomore, and that's, you know, they wanted to see the JVs too, it's their friends. And by the time that I was told I could take them, it was--we rushed dinner, and got the kids in the van, and out the door we went. As soon as they finished dinner we left. I didn't--usually, on a normal situation we would have them--we would cook dinner early, they would get their chores done, and then we would go. But they didn't--we didn't have time to do the chores, so when we left, the house was pretty messy, all the dishes hadn't been cleaned. And I got home that night, and the other staff working, nothing was done, the house was completely wiped

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him alone.  
 Q And was it important to you that you had a job?  
 A Yes. I enjoyed the boys a lot.  
 Q Did you tell anyone what was happening?  
 A Yes, I did.  
 Q Who did you tell?  
 A I--I--first I showed it to my mom and my brother were home the next day, and I showed it to Chris [REDACTED] and Tyler [REDACTED]. I showed them the text messages.  
 Q Did you ever talk to anyone at Barth Services about what was going on?  
 A I did. I told Christy Smith. She was our supervisor and she was--she was the staff member that you could go to when you had issues. She was really open and real easy to talk to about things.  
 Q Did you ever tell the Defendant to stop?  
 A I told him that I was uncomfortable. And he just kinda left it alone. It just--It--the question--It was never brought up again.  
 Q After he turned him down, did you feel like he started retaliating against you?  
 A Yes.  
 Q How so?  
 A Different situations at work would happen and it just seemed that everything was my fault. If anything hap-

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1 question was what do you know about the fight, but we had  
2 heard earlier testimony, I don't think that this person  
3 was here. If he was here and he saw it, I have no  
4 objection for him to relay it, but if he's relaying what  
5 he got from somebody else, then I object as to hearsay.

6 BY MS. PAYNE:

7 Q I think you said you were--

8 A I was--

9 Q --working--

10 A Yeah. I was two feet away from 'em--

11 MR. SCHAEFFER: Okay.

12 THE WITNESS: --when he head butted--

13 MS. PAYNE: Yeah.

14 THE WITNESS: --Matt.

15 MR. SCHAEFFER: Very good.

16 BY MS. PAYNE:

17 Q And did Brian end up breaking Matt's nose?

18 A Yes, he did.

19 Q Okay. And after the fight occurred, where did Brian go?

20 A I for--As soon as he head butted him, I grabbed Brian, and

21 I walked him to his bedroom, and I shut the door with him

22 in there, and I went and grabbed Matt and took him in the

23 office and called 9-1-1.

24 Q 'Kay. And at some point did the defendant arrive?

25 A Yes.

1 out still.

2 Q And so what, you were disciplined for this?

3 A Yes.

4 MR. SCHAEFFER: Your Honor, I'm gonna object

5 again as the relevance of this--

6 MS. PAYNE: I'll move--

7 MR. SCHAEFFER: --so called bad acts.

8 MS. PAYNE: I'll move on.

9 MR. SCHAEFFER: It has no relevancy or

10 similarity to anything else we've heard.

11 THE COURT: Okay. Sustained. She's moving on.

12 BY MS. PAYNE:

13 Q I want you to think back to the day that Brian and Matt

14 ~~\_\_\_\_\_~~ got into a fight; do you 'member that day?

15 A Yes, I do.

16 Q Okay. Were you working that day?

17 A Yes, I was.

18 Q Okay. To your knowledge, what happened between Brian and

19 Matt on that day?

20 A There was a new staff workin' and he had talked about

21 being an MMA fighter, and it got the boys kinda riled up,

22 talkin' about their past experiences fighting, and Brian

23 started callin' the other kid a pussy--

24 MR. SCHAEFFER: Your Honor, I'm--I'm going to

25 object unless this is personal knowledge. Not--The

1 Q Okay. Was that per your request? Did--  
 2 A Yes. I called him.  
 3 Q --you contact him? Okay. And what did he do?  
 4 A He came in and he went into Brian's room. I was in the  
 5 office with Matt [redacted]. And he went into Brian's room,  
 6 and I came outta the office, and he had came out. He was  
 7 walkin' outta the room, gettin' to the kitchen, and Brian  
 8 took off and ran out the door.  
 9 Q Okay. And were you going to--did you try and chase after  
 10 Brian?  
 11 A Yes. I was gonna go chase after him. Jeff [redacted] was the  
 12 other staff. We were gonna go chase after him and--  
 13 Q And what'd the Defendant--  
 14 A --he told us to stay.  
 15 Q The Defendant told you to stay?  
 16 A He said let him go.  
 17 Q Did you find this strange?  
 18 A Little bit 'cause usually we would at least try to talk to  
 19 the boys or try to stop them from going. We always did.  
 20 Q And you had already called the police?  
 21 A Yes.  
 22 Q Was the Defendant upset because you had called the police?  
 23 A No. Not at that time.  
 24 Q Were you working that night when Brian later returned?  
 25 A Yes, I was.

1 Q Okay. And did the Defendant bring Brian back?  
 2 A Yes.  
 3 Q Did he say anything about where he had found Brian?  
 4 A He said that he had driven by his--the blue house, which  
 5 was across from his home, that he drove by and noticed a  
 6 light on, and then he drove by and the--and the light shut  
 7 off. So he pulled in there, and he went in the house, and  
 8 he found Brian upstairs in the closet, and he was drinkin'  
 9 beer is what he said.  
 10 Q When Brian came back that night, did you notice anything  
 11 unusual?  
 12 A He smelled of alcohol.  
 13 Q Anything else?  
 14 A He--He was just--He seemed sorta disorderly. He wasn't  
 15 himself. I tried to talk to him. He--He came in, and he  
 16 cooked some food in the microwave and sat down at the  
 17 table, and I tried to talk to him a little bit, and he  
 18 was--he really didn't respond. Then he ended up just  
 19 getting up and goin' and gettin' a shower.  
 20 Q Okay. And the next day, did you work on that day as well?  
 21 A Yes, I did.  
 22 Q Anything--Was Brian acting strange on that day?  
 23 A Yes.  
 24 Q What was he doing?  
 25 A He--he asked me to play basketball with him outside, and



1 the kids had just got home from school, so it was kinda  
2 crazy when they get home from school. Everybody, I need  
3 this done, I need this done, and it's kinda crazy. There  
4 was ten kids. And so I didn't have time at the moment,  
5 and I told him to hold on. He could not wait. He was  
6 panicin', we gotta go now, we gotta go now, and I kept  
7 tellin' him hold on a second, I gotta get my stuff done  
8 first, and then next thing he chucks a cup across the  
9 kitchen. He--He was freakin' out pretty much.  
10 Q Does he eventually go into his room?  
11 A Yes.  
12 Q Is he crying?  
13 A Yes.  
14 Q Kay. Was that unusual for Brian?  
15 A The way--Yes. They way that--Yes.  
16 Q And did you call the Defendant Mike Terpening?  
17 A Yes. He was already at the house. He was in his office.  
18 Q Did you tell him that you were gonna call the police?  
19 A Yes, I did.  
20 Q Okay. What'd he say?  
21 A He told me not to because the police are gonna say that  
22 he's crazy, and they're gonna send him to the nut house,  
23 and he's not gonna get any punishment for what he did.  
24 Q Did you feel the Defendant was acting different that day?  
25 A Yes, I did.

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1 Q Kay. How so?  
2 A He was--When I said that I was gonna call the police, he  
3 just seemed kinda nervous and kinda skittish. No, no,  
4 don't call the cops. They're gonna think he's crazy and  
5 he's just kinda shaky. They're gonna--They're gonna say  
6 he's crazy, and they're gonna take him to the hospital,  
7 and he's not gonna go to jail like he needs to.  
8 Q Later that day, did Brian report something to you that  
9 required you to go to Christy Smith?  
10 A Yes, he did.  
11 Q Okay. What'd he report?  
12 MR. SCHAEFFER: I'm going to object. He can get  
13 from point A to point B without the hearsay coming in,  
14 your Honor.  
15 THE COURT: Rephrase.  
16 BY MS. PAYNE:  
17 Q Why did you go to Christy Smith on that day?  
18 A Because I was in the office, and Brian came in and told me  
19 that he--  
20 MR. SCHAEFFER: I'm gonna object to the hearsay,  
21 your Honor.  
22 THE COURT: Rephrase.  
23 THE WITNESS: Because--Because Brian--  
24 MR. SCHAEFFER: Your Honor--  
25 MS. PAYNE: Wait. You got--

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1 THE COURT: You have to wait.  
 2 MS. PAYNE: Yeah.  
 3 THE COURT: You can't testify. If there's an  
 4 objection, you have to stop until I make a ruling. Okay?  
 5 THE WITNESS: Okay.  
 6 THE COURT: She's gonna rephrase the question.  
 7 BY MS. PAYNE:  
 8 Are you required to mandatory report certain incidents at  
 9 the home?  
 10 Yes, I am. I didn't know at the time that--what exactly  
 11 to do under those circumstances.  
 12 Did something occur that required you--  
 13 Yes.  
 14 --to report it? And what occurred?  
 15 A kid accused Michael Terpening of doing sexual things to  
 16 him.  
 17 Okay. And eventually the police were involved?  
 18 Yes.  
 19 Okay. Did you eventually give a statement to the police  
 20 during the investigation?  
 21 Yes, I did.  
 22 Okay. And during the time of the investigation, were you  
 23 contacted by the Defendant?  
 24 Numerous times. Yes.  
 25 Okay. How often would you say?

1 A I couldn't tell you. How--It was more through with my  
 2 mom. He would call my mom and try to get things--  
 3 MR. SCHAEFFER: I'm going to object to that--  
 4 THE WITNESS: --have her call me.  
 5 MR. SCHAEFFER: --hearsay, your Honor.  
 6 THE WITNESS: Okay.  
 7 MS. PAYNE: I--  
 8 THE COURT: Sustained.  
 9 MS. PAYNE: --agree.  
 10 BY MS PAYNE:  
 11 You can't say what happened--  
 12 Okay.  
 13 --to your mom. Did he bring up the incident when you did  
 14 heroin?  
 15 Yes.  
 16 Okay.  
 17 He--It was over the phone.  
 18 And what did he say to you about that incident?  
 19 A He said that he had been interviewed, and they told him--  
 20 they'd asked him if he'd ever showed Chris [REDACTED] and  
 21 myself any of his properties, and I just said okay, and he  
 22 said I want you to know that I didn't bring up you doin'  
 23 the drugs, the heroin, and I said okay, and I knew what he  
 24 was getting at was hoping--  
 25 MR. SCHAEFFER: Your Honor, I'm going to object

1 to speculation.  
 2 THE COURT: Sustained.  
 3 BY MS. PAYNE:  
 4 Q Did he ever ask you to meet with his attorney?  
 5 A Yes, he did.  
 6 Q And did he ever tell you what he wanted you to say?  
 7 A His mom did.  
 8 Q Okay. Did you contact the Defendant's attorney?  
 9 A I did.  
 10 Q Okay. Who did you speak with?  
 11 A I believe it was Tom Schaeffer.  
 12 Q Okay. And what did you tell him about the incident?  
 13 A He asked me if I thought that Mike was a good person, and  
 14 I told him yes. And he asked me if that night that I was  
 15 at the house if that was just over beers and just friends  
 16 talking and he was kidding around. I said no, he was  
 17 serious.  
 18 Q Were you also contacted by the Defendant's mother?  
 19 A Yes.  
 20 Q Okay. How many times?  
 21 A A lot.  
 22 Q More than ten?  
 23 A Yes.  
 24 Q 'Kay. Were messages belin' relayed to you?  
 25 A Yes. There was text messages from Michael Terpening one

1 evening, too, that--and he said that he was gonna be  
 2 comin' to my house, that he needed to talk.  
 3 Q 'Kay. And have you felt pressured to not testify today?  
 4 A Yes.  
 5 Q Would you say the Defendant was in a position of authority  
 6 over you?  
 7 A Yes.  
 8 Q Okay. Would you say the Defendant was in a position of  
 9 authority over the boys?  
 10 A Yes.  
 11 MS. PAYNE: No further questions, Your Honor.  
 12 THE COURT: Cross-exam?  
 13 MR. SCHAEFFER: Yes. Thank you, Your Honor.  
 14 CROSS-EXAMINATION  
 15 BY MR. SCHAEFFER:  
 16 Q Mr. [REDACTED], these text messages you said you got from  
 17 Michael Terpening, when was that?  
 18 A This was in December, late December. I believe it was  
 19 Christmas Eve. It was right around Christmas time.  
 20 Q 'Kay. Have you--do you have any of those text messages?  
 21 A I do not.  
 22 Q How well did you know Brian?  
 23 A Just from the relationship that I got workin' the six  
 24 months that I was with him.  
 25 Q Are you familiar with his history?

1 A Pretty---Yeah. pretty well.  
 2 Q He has quite a checkered history, does he not?  
 3 A Yes.  
 4 Q And you're saying that his reaction was unusual?  
 5 A Yes.  
 6 Q Were you aware of his--of his behavior, historically,  
 7 where he would go berserk and would ha--end up in jail and  
 8 would be uncontrollable?  
 9 A There was always a reason behind the behavior. It wasn't  
 10 just a, you know, he--there was always a reason behind his  
 11 behavior, acting the way he would.  
 12 Q You say there was a reason?  
 13 A His outbursts. There was always a reason for them.  
 14 Q Well, were you familiar with his turmoil with his adoptive  
 15 parents where he got un-adopted?  
 16 A No, I'm not.  
 17 Q Were you aware of the accusations that he made against his  
 18 sister of molesting them?  
 19 A I have learned that through this case, through Michael  
 20 Terpening's mother.  
 21 Q Are you aware that his family had to move because they  
 22 were in fear for their wellbeing because of his actions?  
 23 A I heard that through this investigation.  
 24 Q And you--you think this is unusual?  
 25 A What is unusual?

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1 Q Well, you testified it was unusual that he was upset--  
 2 The behavior? Yes. That was out of his normal character.  
 3 A Yes.  
 4 Q Were you familiar with his--  
 5 Uh-huh.  
 6 Q Is that yes?  
 7 A Yes.  
 8 Q And what was your understanding of his diagnosis?  
 9 A He was [REDACTED]. He--I believe he's [REDACTED]. I don't exactly  
 10 all of his [REDACTED].  
 11 Q You had access to his records as--  
 12 A Yes.  
 13 Q --a staff person, did you not?  
 14 A Yes, I did.  
 15 Q Okay. What is your date of birth?  
 16 A Four twenty-three eighty-six.  
 17 Q Back to the time that--you were apparently present when  
 18 Brian broke the nose of Matt; is that correct?  
 19 A Yes.  
 20 Q You remember what day that was?  
 21 A May 11th, 12th. I don't know. May.  
 22 Q Okay. Of this year.  
 23 A Yes.  
 24 Q All right. And who all was present when that took place?  
 25 A Myself, Jeff [REDACTED], the new staff that was workin' that

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1  
Q night--  
2 Do you know who that was? Or that was left?  
3 A No. The n--I don't know the new staff. He--He worked  
4 like two days and then quit.  
5 Q All right.  
6 A I believe Darnit Denny was in the office, too, when it  
7 happened. And that's it.  
8 Q All right. Now, do you recall what time of day this  
9 happened?  
10 A Mid-evening.  
11 Q Okay. Mid-evening--  
12 A Six o'clockish.  
13 Q Six o'clockish.  
14 A Six. Seven. I don't--I don't remember exactly what time.  
15 Q Well, what--  
16 A Dinner time.  
17 Q Okay. Just a second. What session were you doing? Were  
18 you doing the three to eleven at that point in time?  
19 A Yes.  
20 Q Okay. So you think it was sixish?  
21 A Yes.  
22 Q And after Brian came out, he bolted from the house and ran  
23 away, did he not?  
24 A He did.  
25 Q And the police were called.

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1 A Yup.  
2 Q And to your knowledge the police were searching for him.  
3 A Uh-huh. Yes.  
4 Q Did the police come and talk to you about what had  
5 happened?  
6 A They told me that they couldn't find him.  
7 Q O--Okay. So police did come and at least told you they  
8 couldn't find him.  
9 A Yup.  
10 Q And when did they do that in relation to when he left?  
11 A It was dark by then, and he told me if Brian were to come  
12 back and he made me feel uncomfortable, to give them a  
13 call and they would come get him.  
14 Q Okay. Which department was it that you talked to?  
15 A State police.  
16 Q All right. Do you remember which officer?  
17 A It--It coulda been Vannette. I don't remember exactly. I  
18 don't wanna say.  
19 Q Okay. Then don't if you don't remember. Did you talk to  
20 just one officer?  
21 A That night, yes.  
22 Q Okay. Where--what did Mike do after Brian left?  
23 A He left, and then he came back for a short period of time,  
24 and then he was gone the rest of the night.  
25 Q Okay.

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1  
A Until he brought Brian back.  
2 Q Okay. How much after Brian left did Mike leave?  
3 A Probably within 30 minutes.  
4 Q Did you--did you actually see Mike leave?  
5 A Yes, I did.  
6 Q And--And did he leave by vehicle?  
7 A Yes he did.  
8 Q And how long was it before he came back?  
9 A Few hours. It was prob'ly a couple hours, and then he  
10 came back and he was at the house for a short period of  
11 time, and then he was gone for another long period of time  
12 until he came back with Brian.  
13 Q Okay. Just try to get a parameter of time on this. If it  
14 was sixish when Brian left, and Mike left shortly thereafter--  
15 ter?  
16 A Yes.  
17 Q Okay.  
18 A I'm not gonna be able to give you a great time line for  
19 that.  
20 Q It--It--well, give me the best ones you can--can do. And  
21 that was about a two-hour period before Mike came back?  
22 A I--  
23 Q After he left?  
24 A I would say an hour to two hours.  
25 Q And then he remained how long before he left again?

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1 A Probably was there around a half hour to an hour and was  
2 gone again.  
3 Q For how long?  
4 A Until he came back with Brian.  
5 Q Okay. So he was gone an hour and a half to two hours, he  
6 came back for a half hour to an hour, he left, he came  
7 back after an hour with Brian.  
8 A He left, he came back after an hour? It was a couple more  
9 hours before he came back.  
10 Q Okay. So the first time he left it was an hour and a half  
11 to an hour.  
12 A Yup.  
13 Q He came back, he stayed a half hour to an hour?  
14 A Then he left until--he prob--He came back with Brian after  
15 eleven o'clock, cause I didn't work till just eleven, I  
16 stayed late.  
17 Q Okay. So--  
18 A There was a lot of--a lot goin' on that night.  
19 Q Okay. So your recollection is that Brian left at about  
20 six and returned at about eleven.  
21 A It was after eleven.  
22 Q After eleven.  
23 A Yes.  
24 Q All right. Closer to twelve?  
25 A Closer to twelve I would say.

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1 Q Okay. Did you go--who was--Did you remain at the house  
2 where Brian was at before he left?  
3 A Yes.  
4 Q And who all remained there?  
5 A Jeff [redacted], Christy Smith ended up coming. She was there  
6 with us.  
7 Q And anybody else?  
8 A I can't remember.  
9 Q Were there any phone calls from Mike during this time in  
10 his absence as to where he was at and what he might be  
11 doing and find him?  
12 A None to myself. No.  
13 Q None to yourself.  
14 A No.  
15 Q All right. Did you inquire of Brian as to the smell of  
16 beer that you detected on him when he got back?  
17 A Yes.  
18 Q And did you inquire of Mike why he smelled of beer--the--  
19 Brian's--  
20 A He--He had already told me that he found Brian with b--  
21 Michael Terpening told me that when he found Brian he was  
22 drinkin' a beer.  
23 Q Okay. Did--were you told where Brian was found?  
24 A He told me upstairs in a closet.  
25 Q Of what residence?

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1 A The blue house.  
2 Q Kay. You know Jamie?  
3 A Jamie Bell. Yes.  
4 Q And does she work at the--the Earth Services?  
5 A Yes, she did.  
6 Q And did you see her that night?  
7 A No. Not that I remember.  
8 Q Kay. Did you see Mrs. Terpening that night? Amanda.  
9 A No. Not--No.  
10 Q Was the assault of Matt a common occurrence for Brian in  
11 that Brian was assaultive during the time that you were  
12 there?  
13 A It had happened prior to that. Yes.  
14 Q Fact, it was a common occurrence for Brian to be wrestling  
15 or challenging whoever was there, physically, was it not?  
16 A Not just Brian. All of the boys were like that.  
17 Q All the boys were?  
18 A A lot of 'em liked to wrestle, and tried to wrestle with  
19 staff and each other. The boys--A lot of 'em, all the  
20 time.  
21 Q How 'bout Rodney [redacted]? Was he one of those too?  
22 A Who liked to wrestle?  
23 Q Yes.  
24 A No.  
25 Q Did you ever have an occasion to learn of a time that

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