

LYNN HAVEN POLICE DEPARTMENT

Offense / Incident Report

GENERAL OFFENSE INFORMATION

Report Type: Initial Report

Case #	11-01026	Location	501 MOSLEY DRIVE
File #			LYNN HAVEN FLORIDA 32444
Offense	CHILD / ELDERLY ABUSE SIG 84		
Incident Status	ACTIVE	From Date/Time	01/25/2011 00:00
Reporting Officer	SMITH, JASON	To Date/Time	
Initial Rep. Date	01/25/2011 13:49	Report Date	01/25/2011 13:49

SUBJECT(S)

Name	BIRDWELL, JAMIE			
Address	170 DERBY WOODS DRIVE LYNN HAVEN, FL 32444		Phone	- -
Race	Ethnic	Sex	DOB	3/5/1973 (37)
Height	Weight	Hair	Eyes	
S.S.N.	DL & St.	JRN#		
Sub. Type	Arrest ID	Citation #		
Notes				

INVESTIGATOR

Name	SMITH, JASON	Assigned Date	01/27/2011
Entered By	SMITH, JASON		
Officer	SMITH, JASON		
Supervisor			

Incident # 11-01026

SMITH, JASON

The listed victim alleges that Jamie Birdwell, the Band Director at Mosley High School, had inappropriate contact with him during the month of January 2011.

The investigation is ongoing at this time.

LYNN HAVEN POLICE DEPARTMENT

Offense / Incident Report

GENERAL OFFENSE INFORMATION

Report Type: Supplement

Case #	11-01026 (1)	Location	501 MOSLEY DRIVE
File #			LYNN HAVEN FLORIDA 32444
Offense	FOLLOW UP/ EXHIBITION OF OBSECENE MATERIAL TO A CHILD		
Incident Status	ACTIVE	From Date/Time	01/25/2011 00:00
Reporting Officer	CIOETA, D	To Date/Time	
Initial Rep. Date	01/25/2011 13:49	Report Date	02/04/2011 06:38

INVESTIGATOR

Name	SMITH, JASON	Assigned Date	01/27/2011
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Entered By CIOETA, D

Officer CIOETA, D

Supervisor

Incident # 11-01026 (1)

CIOETA, D

The following is a supplemental report by CSI Don Cioeta in reference to case #11-01026.

On 2-2-11 I assisted with the execution of a search warrant at 170 Derby Woods Drive, Lynn Haven, Florida. There were several other investigators present from the Lynn Haven Police Department, Sergeant Tom Willoughby, Investigator Jason Smith, Investigator Steve McNeil, CSI George Williams, Special Agent Bobby Hall, the Florida Department of Law Enforcement, Sergeant Robert Newsome, Investigator Marc Bailey, Investigator Andy Husar, the Bay County Sheriff's Office,

I photographed the scene prior to the search and of items that were located. I also assisted with the collection of some of the articles that were collected throughout the residence. The property was brought to the police department for review and processing/ storage.

LYNN HAVEN POLICE DEPARTMENT

Offense / Incident Report

GENERAL OFFENSE INFORMATION

Report Type: Supplement

Case #	11-01026 (2)	Location	501 MOSLEY DRIVE
File #			LYNN HAVEN FLORIDA 32444
Offense	FOLLOW UP		
Incident Status	ACTIVE	From Date/Time	01/25/2011 00:00
Reporting Officer	LANDINGHAM, KENNY	To Date/Time	
Initial Rep. Date	01/25/2011 13:49	Report Date	02/04/2011 14:54

INVESTIGATOR

Name	SMITH, JASON	Assigned Date	01/27/2011
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Entered By LANDINGHAM, KENNY _____

Officer LANDINGHAM, KENNY _____

Supervisor _____

Incident # 11-01026 (2)

LANDINGHAM, KENNY

On 02-04-2011 at approximately 1450 I was dispatched to the Lynn Haven Police Department in reference to a follow up.

Upon arrival I made contact with Investigator Jason Smith who advised me of the following. Investigator Smith had 4 complaint affidavits on Jamie Birdwell, which he turned over to me. I prepared a booking sheet and transported Birdwell to the Bay County Jail where he was booked in without incident.

No further.

Select Year: 2010

The 2010 Florida Statutes

[Title XLVI](#)
CRIMES

[Chapter 847](#)
OBSCENITY

[View Entire Chapter](#)

847.0133 Protection of minors; prohibition of certain acts in connection with obscenity; penalty.—

(1) A person may not knowingly sell, rent, loan, give away, distribute, transmit, or show any obscene material to a minor. For purposes of this section “obscene material” means any obscene book, magazine, periodical, pamphlet, newspaper, comic book, story paper, written or printed story or article, writing paper, card, picture, drawing, photograph, motion picture film, figure, image, videotape, videocassette, phonograph record, or wire or tape or other recording, or any written, printed, or recorded matter of any such character which may or may not require mechanical or other means to be transmuted into auditory, visual, or sensory representations of such character, or any article or instrument for obscene use, or purporting to be for obscene use or purpose. The term “obscene” has the same meaning as set forth in s. [847.001](#).

(2) As used in this section “knowingly” has the same meaning set forth in s. [847.012\(1\)](#). A “minor” is any person under the age of 18 years.

(3) A violation of the provisions of this section constitutes a felony of the third degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

History.—s. 63, ch. 90-306; s. 7, ch. 93-4; s. 5, ch. 2008-120.

Note.—Section 7, ch. 2008-120, provides that “[t]he amendments to ss. 847.012, 847.011, 847.013, and 847.0133, Florida Statutes, by this act do not apply to providers of communications services as defined in s. 202.11, Florida Statutes, or to providers of information services, including, but not limited to, Internet access service providers and hosting service providers, when they only provide the transmission, storage, or caching of electronic communications or messages of others or provide other related communications or information services used by others in violation of such amended provisions. This exemption shall not apply to providers of communications services as defined in s. 202.11, Florida Statutes, or providers of information services that knowingly for commercial advantage or private financial gain facilitate the specific violation of such amended provisions by others.”

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EXHIBIT C

Your Affiant is a Law Enforcement Officer with over 33 years experience, currently employed as a Sergeant with the Lynn Haven Police Department. Your Affiant started his career in February of 1977 at the Springfield Police Department where affiant worked as a Patrolman, until moving on to the Bay County Sheriff's Office in June of 1979.

Your affiant's career at Bay County Sheriff's Office was diverse in that affiant spent six years in the Uniform Patrol Division with one year as a supervisor. Your affiant also served as a Criminal Investigator, for over twenty years. During my tenure I was promoted to the rank of Sergeant and then Lieutenant. While serving in Investigations affiant was tasked the responsibility of supervising a task force of at least 12 Officers from four agencies in an intensive search which lasted over 3 months for a Masked Child Molester, known as the Callaway Creeper. During that period of time your affiant participated and supervised in the interviews of hundreds of potential suspects and witnesses in an effort to identify the person responsible for preying on these children.

When promoted to Sergeant, Your Affiant was tasked the responsibility of investigating and supervising all cases involving allegations of any type of abuse or exploitation of children, this assignment also included attending weekly meetings of a multidisciplinary team of various law enforcement agencies, Child Protection Investigators and Child Protection Team personnel in a review of all abuse and exploitation cases in the County.

During your affiant's tenure as a Sergeant and a Lieutenant at the Bay County Sheriff's Office another responsibility was handling the registration, notification and address verification of over three hundred registered Sex Offenders.. As a result of this assignment your Affiant had daily interaction with Sex Offenders at the Sheriff's office as well as their homes.

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Your Affiant also successfully completed and passed the State of Florida examination as a Department of Children and Families Child Protective Investigator. This was a 12 week course of instruction on all facets of child abuse.

Before leaving the Bay County Sheriff's Office in December of 2004 to serve as an Investigator with the 14th Judicial Circuit State Attorney's Office your Affiant has actively investigated hundreds of child abuse, pornography and exploitation cases.

Your affiant retired from the State Attorney's Office in January of 2009.

Affiant continues his career at the Lynn Haven Police Department.

Therefore based upon my knowledge, training, and experience in child exploitation, abuse and child pornography investigations, and the experience and training of other law enforcement officers as well as a Forensic Doctor of Psychology who specializes in Sex Offenders and Child Sexual Abuse cases, with whom I have had discussions and consultations, I know that there are certain characteristics common to individuals who receive and collect child pornography:

a. Child pornography collectors may receive sexual gratification, stimulation, and satisfaction from contact with children; or from fantasies they may have viewing children engaged in sexual activity or in sexually suggestive poses, such as in person, in photographs, or other visual media; or from literature describing such activity.

b. Child pornography collectors may collect sexually explicit or suggestive materials, in a variety of media, including photographs, magazines, motion pictures, videotapes, books, slides and/or drawings or other visual media. Child pornography collectors often use these materials for their own sexual arousal and gratification. Further, they may use these materials to lower the inhibitions of children they are attempting to seduce, to arouse the selected child partner, or to demonstrate the desired sexual acts.

c. Child pornography collectors often possess and maintain their "hard copies" of

child pornographic material (pictures, films, video tapes, magazines, negatives, photographs, correspondence, mailing lists, books, tape recordings, etc.) in the privacy and security of their home or some other secure location and typically retain these for many years.

d. Likewise, persons who send, receive, and possess child pornography using the Internet usually do so from their own computer at their residence or from their personal internet camera capable cellular telephone. Persons who pay to access child pornography websites do so to download and view child pornography on their own computers or cellular telephone. They typically store the child pornography in digital format on their computer hard drives, CDs, and floppy discs as well as their cellular telephone devices. Such persons highly value their sexually explicit materials and often store it for long periods in a secure place, typically in their homes. These collections are often maintained for several years and are usually kept in the privacy and security of the collector's residence, or on their personal cellular phones to enable the collector to view the collection. Even when the collector changes computers or phones the collector will typically transfer the child pornography to their new computer or phone in addition to maintaining the child pornography on their old computer or other storage media.

e. Child pornography collectors correspond with and/or meet others to share information and materials; conceal such correspondence as they do their sexually explicit material; and often maintain contact information for individuals with whom they share interests in child pornography. This information usually resides on the child pornography collector's computer or phone for extended periods of time, often for many months or years.

f. Child pornography collectors often have a compulsion to collect new images of child pornography, which they may obtain from purchasing subscriptions to commercial child pornography websites and/or trading images with other child pornography collectors. They prefer not to be without images of child pornography for any prolonged time period.

2.. Computers, as well as Internet capable Camera cellular telephones, serve four basic functions in connection with child pornography: production, communication, distribution, and storage.

a. Child pornography producers make both still and moving images directly from a common video or digital camera or a cellular phone with Camera capabilities. The camera or cellular phone is attached, or digital images are often uploaded from their memory cards, directly to the computer. Images are stored, manipulated, transferred, or printed directly from the computer or the cellular phone. Images can be edited in ways similar to how a photograph may be altered. Images can be lightened, darkened, cropped, or otherwise manipulated. Child pornography producers can also use a scanner to transfer photographs into a computer-readable format. As a result of this technology, it is relatively inexpensive and technically easy to produce, store, and distribute child pornography.

b. The Internet allows any computer to connect to another computer or a cellular phone with internet capabilities. By connecting to a host computer, electronic contact can be made to literally millions of computers and cellular phones around the world. A host computer is one that is attached to a network and serves many users. Host computers are sometimes operated by commercial ISPs, such as America Online ("AOL") and Microsoft, which allow subscribers to dial a local number and connect to a network which is, in turn, connected to the host systems. Host computers, including ISPs, allow e-mail service between subscribers and sometimes between their own subscribers and those of other networks. In addition, these service providers act as a gateway for their subscribers to the Internet or the World Wide Web.

c. The Internet allows users, while still maintaining anonymity, to easily locate (i) other individuals with similar interests in child pornography; and (ii) websites that offer images of child pornography. Child pornography collectors can use standard Internet connections, such as those provided by businesses, universities, and government agencies, to communicate with each

other and to distribute child pornography. These communication links allow contacts around the world as easily as calling next door. Additionally, these communications can be quick, relatively secure, and as anonymous as desired. All of these advantages, which promote anonymity for both the distributor and recipient, are well known and are the foundation of transactions between child pornography collectors over the Internet. Sometimes the only way to identify both parties and verify the transportation of child pornography over the Internet is to examine the recipient's computer, and cellular phone including the Internet history and "cache" to look for "footprints" of the websites and images accessed by the recipient. "Cache" refers to text, image and graphic files sent to and temporarily stored by a user's computer or cellular phone from a website accessed by the user in order to allow the user speedier access to and interaction with that website.

d. The computer and cellular phone's ability to store images in digital form makes it an ideal repository for child pornography. A single compact disk, or CD, or cellular phone can store numerous images and pages of text. The size of the hard drive used in home computers and cellular phones has grown tremendously within the last several years. Computer hard drives with capacities of 40 gigabytes or more are common and can store thousands of high resolution images. Magnetic storage located in host computers adds another dimension to the equation. It is possible to use a video camera to capture an image, process that image in a computer with a video capture board, and save that image to storage in another country. Once this is done, there is no readily apparent evidence at the "scene of the crime." Careful laboratory examination of electronic storage devices is required to recreate the evidence trail.

3. Computer forensic experts which I have consulted, indicate that when a person views and/or downloads child pornography to their computer, these computer files or remnants of such files can be recovered months or even years after they have been downloaded onto a hard drive, deleted or viewed

via the Internet. Electronic files downloaded to a hard drive can be stored for years at little or no cost. Even when such files have been deleted, they can be recovered months or years later using readily-available forensic tools. When a person "recycles" or "deletes" a file on a home computer, the data contained in the file does not actually disappear; rather, that data remains on the hard drive until it is randomly overwritten by new data. Deleted files can remain for long periods of time before they are overwritten. In addition, a computer's operating system may also keep a record of deleted data in a "swap" or "recovery" file. Similarly, files that have been viewed via the Internet are automatically downloaded into a temporary Internet directory or "cache." The browser typically maintains a fixed amount of hard drive space devoted to these files, and the files are only overwritten as they are replaced with more recently viewed Internet pages. The ability to retrieve residue of an electronic file from a hard drive depends less on when the file was downloaded or viewed than on a particular user's operating system, storage capacity, and computer habits.

The following is a comprehensive synopsis of this investigation as completed by Investigator Jason Smith of the Lynn Haven Police Department.

On 01/24/11, the Lynn Haven Police Department received an allegation of possible child abuse from the Department of Children and Family. According to the associated intake report, [REDACTED] a former Mosley High School Band Student who now attends Newpoint Bay Charter High School, was the recipient of ongoing abuse from Jamie Birdwell, the Mosley High School Band Director. It was later learned that [REDACTED] had reported the abuse to his guidance counselor who subsequently informed DCF of the allegations.

Sgt. Tom Willoughby and I observed the Child Protection Team interview of [REDACTED] which was performed by Case Coordinator Pamela Burnam, at the Child Advocacy Center facility,

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which is located at 210 E. 11th Street in Panama City, Florida. During the interview, [REDACTED] disclosed the following in substance;

[REDACTED] is a 16 year old student, who currently attends Newpoint Bay Charter High School as a junior. Prior to transferring to Newpoint, [REDACTED] attended school at Mosley High where he took a class in Band taught by MHS Band Director, Jamie Birdwell. During their time as student and teacher, [REDACTED] developed a close relationship with Birdwell, who would address him as son. [REDACTED] noted that Birdwell became an important person to him because when he felt upset, Birdwell would make him feel better by telling him how special and great he was.

[REDACTED] left Mosley and the Band in September of 2010, but in October of 2010 he went to MHS to speak with Birdwell about returning to the Band. In response to [REDACTED]'s request to re-join the band, Birdwell asked [REDACTED] how he could be sure that [REDACTED] would not just quit again. Birdwell advised [REDACTED] that he had let him down and told [REDACTED] I feel like I'm bending over, pulling my pants down and letting you fuck me in the ass but if you'll really do the work to get back in band I guess I'll let you back.

The MHS Visitor List Report was later obtained from school records and shows that on 10/28/10 at 2: 16 PM, a [REDACTED] visited the school and noted that "Band" was the reason for the visit. A redacted driver license number, which shows only [REDACTED] as the first four characters, is listed as belonging to [REDACTED]. Though the full number is not available on the report, it should be noted that [REDACTED] are the first four characters of [REDACTED]'s Florida driver license.

[REDACTED] mentioned another time when he visited Birdwell at MHS approximately one to two weeks ago. The MHS Visitor List Report indicates that [REDACTED] visited MHS on 01/07/11 at 9:07 AM. During this visit, [REDACTED] informed Jamie that he was feeling somewhat down and needed someone to talk to. [REDACTED] noted that during their conversation [REDACTED] became very emotional and cried a lot. [REDACTED] informed Birdwell that he was in need of gas money, so they left the school together in

Birdwell's truck and went to Birdwell's home, which is located at 170 Derby Woods Drive in Lynn Haven, Florida, so that they could see if Birdwell had anything for [REDACTED] to sell for money. [REDACTED] noted that he has never received money from Birdwell, but that in the past Birdwell had offered to assist in paying for [REDACTED]'s band trip to London, England. Once inside Birdwell's home, Birdwell and [REDACTED] entered into the master bathroom, via master bedroom, and Birdwell instructed him to look into the mirror. Birdwell told [REDACTED] that he wanted [REDACTED] to understand the true beauty of a human and instructed him to remove his shirt and pants. [REDACTED] complied and Birdwell asked [REDACTED] how he could feel so bad having that nice of a body. [REDACTED] provided a description of both the interior and exterior of the home, including the lighting the mirror present in the master bathroom. During this interaction, Birdwell asked [REDACTED] if he felt uncomfortable to which [REDACTED] responded that he was very hard to make uncomfortable. Birdwell instructed [REDACTED] not to tell anyone about what had happened because he could lose his wife and his job.

The last contact [REDACTED] had with Birdwell was when he went to MHS to visit with him last week. The MHS Visitor List Report indicates that [REDACTED] visited MHS on 01/19/11 at 8:48 AM. For the first part of the school day, [REDACTED] sat in on the Band lessons with Birdwell, and his student teacher, who was later identified as [REDACTED]. When the scheduled lunch period arrived, Birdwell, [REDACTED] and [REDACTED] left together and picked up lunch from McDonalds, but returned to the school to eat it in Birdwell's office area. While [REDACTED] was eating her lunch, Birdwell and [REDACTED] went to the Band uniform room so that Birdwell could see [REDACTED]'s body again. Once inside the uniform room Birdwell told [REDACTED] Let me see and instructed [REDACTED] to remove his shirt and pants. [REDACTED] complied and then Birdwell asked if he could move [REDACTED]'s underwear so that he could see [REDACTED]'s penis. Birdwell told [REDACTED] it's only a dick and [REDACTED] agreed to allow Birdwell to do so. Birdwell removed [REDACTED]'s underwear and then grabbed [REDACTED]'s genitals commenting that it was very nice. Birdwell pulled back on the penis and asked [REDACTED] how big his penis was when it was erect. [REDACTED] mentioned that

Birdwell also touched him on his legs, chest, and abdomen, but that Birdwell never asked to be allowed to do so.

[REDACTED] also mentioned an incident where Birdwell informed him that he wanted to pull a prank on someone, and required a photograph of [REDACTED]'s balls and ass to pull it off. Birdwell mentioned to [REDACTED] that they would have to wait for [REDACTED] to turn 18 years old before they went through with the prank. [REDACTED] advised that Birdwell had also asked [REDACTED] another MHS Band student, for nude photographs.

[REDACTED] noted that he had had nightmares the previous night, and that after a lot of thought the above incidents started plaguing his conscience. [REDACTED] stated that he trusted Birdwell and that these incidents have made him feel depressed and have taken away his sense of self confidence. [REDACTED] inferred that because of these reasons he came forward regarding the incidents.

After [REDACTED]'s interview was concluded, Sgt. Willoughby and I made contact with and identified ourselves to [REDACTED]'s parents, [REDACTED], who had taken their son to the Children's Advocacy Center, but had not before that day, been aware of the above mentioned incidents.

On 01/25/11 at or about 9:05 AM, I made contact with Sgt. Jeremy Mathis of the Bay County Sheriff's Office, to discuss with him possible charges relating to the above mentioned incident. Sgt. Mathis advised me that approximately three weeks prior he had been contacted by Special Agent Bobby Hall of the Florida Department of Law Enforcement, who was also seeking advice regarding the criminality of another incident involving Birdwell.

On 01/25/11 at or about 9:20 AM, I made contact with Agent Hall and he advised me that he had recently been approached by an associate of his who disclosed to him that Birdwell had approached three former students, who are now of adult age, and requested that they provide him with photographs of their genitalia. The three former students were later identified as [REDACTED] and [REDACTED]. Agent Hall advised me that because all three subjects were adults, Birdwell's actions

did not constitute a criminal offense.

On 01/25/11 at 10:33 AM, I made contact with Pamela Burnam and obtained a CD containing a video recording of [REDACTED]'s above mentioned interview and submitted it into evidence.

On 01/25/11 at or about 12:15 PM, I was advised by Sgt. Brian Blalock of this department, that he had received a phone call from School Superintendent, William Husfelt, who was requesting information regarding the above mentioned incident. Sgt. Blalock related that he informed Husfelt that he had no knowledge of the incident and that he would inform the case agent that he had called.

On 01/25/11 at or about 12:40 PM, Sgt. Willoughby made phone contact with Husfelt, who advised the following in substance;

On 01/24/11 Husfelt was contacted by the Director of Human Resources, Dr. Tommye Richardson and the Principle of Newpoint Bay Academy, Carla Lovett, who informed him that [REDACTED] had approached a school guidance counselor and informed him of the above mentioned incident. DCF was notified of the allegations and a CPT interview was scheduled for later in the day.

After the school day was concluded, Husfelt made contact with Birdwell and made him aware of the allegations against him. Birdwell informed Husfelt that [REDACTED] had approached him sometime within the last two weeks and requested that he be allowed to rejoin the MHS Band, but nothing inappropriate occurred, and that [REDACTED] was present for the conversation. Birdwell assured Husfelt that he had not been texting, e-mailing, or phoning [REDACTED]

On 01/25/11 Husfelt learned that law enforcement was investigating the incident so he again made contact with Birdwell in order to suspend his employment with pay pending the outcome of said investigation. Husfelt again questioned Birdwell regarding the incident and any contact he had had with [REDACTED] but Birdwell denied the allegations stating that [REDACTED] had never, ever been inside his home.

On 01/25/11 at or about 3:40 PM, Husfelt provided Sgt. Willoughby with a signed statement advising of the above information via e-mail.

On 01/25/11 at approximately 4:00 PM, Sgt. Willoughby, Agent Hall, and I made contact with [REDACTED] a 19 year old former MHS Band student of Birdwell. [REDACTED] provided a sworn taped statement attesting to the following in substance;

[REDACTED] advised that he recently went to visit Birdwell at MHS to inform him that he had acquired a French horn. Birdwell has in the past suggested to [REDACTED] that he acquire a French horn for his personal use, because it was an instrument that required constant practice. The MHS Visitor List Report indicates that [REDACTED] visited MHS on 09/10/10 at 8:45 AM, but it is unknown whether or not the following incident occurred during this visit or a later visit, where [REDACTED] did not sign in as a visitor.

During a visit with Birdwell at MHS, Birdwell informed [REDACTED] that he intended to perform a prank on a friend named "Tank." [REDACTED] knew "Tank" as a MHS Band technician, from [REDACTED]'s time in the MHS Band. Birdwell told [REDACTED] that he was intending to send "Tank" several photographs of nude men and asked [REDACTED] if he could take a nude photograph of himself to send with them but [REDACTED] refused to do so. [REDACTED] was 18 years of age at the time of this incident.

[REDACTED] advised that he had not had any further contact with Birdwell since that incident.

When asked about his relationship with Birdwell during his time as a student, [REDACTED] stated that like with many other students, Birdwell was similar to a mentor. [REDACTED] said that he along with others would approach Birdwell when they were having problems and that Birdwell would give them advice. [REDACTED] also informed us that Birdwell would curse frequently at school, but would only do so in front of students he had known for a couple years, and that he had already developed a relationship with.

[REDACTED] was asked if he knew a [REDACTED] and he informed us that he knew that he was a Tuba player in the MHS Band, but that he had not ever spoken with him.

On 01/26/11 at or about 9:00 PM, Sgt. Willoughby, Agent Hall and I made contact with MHS Principle Sandy Harrison. Harrison provided me with a copy of the above mentioned, MHS Visitor List Report from August of 2010 to the current time. I later submitted the Visitor List Report into evidence.

Harrison also allowed us to access Birdwell's personnel file, but we found no disciplinary action or complaint therein.

At or about 9:30 AM, Agent Hall and I made contact with Sadie Wynne, who provided a sworn taped statement attesting to the following in substance;

Wynne is a student teacher, who has been working with Birdwell for about the last four weeks. Because Wynne is assigned to Birdwell, she is required to stay with him during all of his class periods and she does not assist with classes taught by other teachers. During the last four weeks, Birdwell has received two visits from [REDACTED] while at school.

She advised that during [REDACTED]'s first visit, he attended class during fourth period which is at the end of the school day. Before fourth period began she heard Birdwell and [REDACTED] talking in Birdwell's office. Birdwell was telling [REDACTED] that [REDACTED] had betrayed him and let him down even after he had stood up for [REDACTED]. Wynne described the conversation as personal so she excused herself from the room. Birdwell later informed Wynne that [REDACTED] had been kicked out of the MHS Band because of drug use, and that Birdwell felt that he was the only reason [REDACTED] was still alive. Birdwell also expressed that he believed [REDACTED] was still struggling with drug use. Dep. Hedges later accessed [REDACTED]'s student file but was unable to locate any record of allegations of substance abuse.

During [REDACTED]'s second visit he arrived near the end of first period. Birdwell appeared to be annoyed at [REDACTED]'s arrival because [REDACTED] was causing a disruption in class. When Birdwell's scheduled lunch time arrived, [REDACTED] Wynne and Birdwell drove to McDonalds in Mr. Birdwell's truck. They picked up their lunch from McDonalds and then returned to Mr. Birdwell's office to eat lunch. Soon after they sat down to eat together, Wynne realized she had left her water in another office, so she got up and left the office for approximately 10 or 15 seconds. When she returned, neither Birdwell nor [REDACTED] was present but their food was still at the table. Wynne heard a door opening which she recognized as the Band room entrance door due to a distinctive squeak. The above

mentioned Band room door leads to two other doors, one of which is into the main hallway and the other of which leads to the Band's uniform room. Wynne then heard a second door opening, which she assumed at the time was the hallway door but later stated that it could have also been the uniform door. Wynne proceeded to eat her lunch and approximately 10 or 15 minutes later, Birdwell and [REDACTED] returned together but did not tell Wynne where they had been. School continued without further incident and Wynne left for the day.

Wynne also described another visitor she had seen with Birdwell a couple of times, whose physical description was later found to match that of MHS student [REDACTED]

Near the beginning of her time as Birdwell's student teacher also noted that Birdwell received a visit from a former student, who identified himself as [REDACTED]. The physical description she provided matched that of [REDACTED]

I asked Wynne if she had witnessed any sort of inappropriate contact between Birdwell and students. Wynne informed me that she has never witnessed any physical contact which she would designate as sexual and has never noted any physical contact between Birdwell and female students, but she said that Birdwell will often touch male students. Wynne informed me that this contact was limited to playful punches or a gentle bop on the head but nothing which she would consider violent or harmful. Wynne noted that Birdwell limits this contact to the students with which he is more familiar. Wynne identified one such student as [REDACTED] who she has seen hugging Birdwell.

Wynne stated that a few days prior she questioned Birdwell about his physical contact and familiarity with students, and noted that it could be deemed inappropriate conduct. Birdwell explained that the Band becomes more of a family complete with a familial love, and that he is very comfortable with showing affection to the band students as he is a very affectionate person. Wynne asked him if he felt that parents would disapprove to which Birdwell replied that he was willing to take that risk. Wynne did not take this conversation to be in regards to contact of a sexual nature.

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While at the school, Agent Hall and I attempted to make contact with [REDACTED] who is an 18 year old MHS student, but was informed that he was absent. BCSO School Resource Dep. T. Hedges provided me with a contact number for [REDACTED]. Telephone contact was made with [REDACTED] and he informed me that he knew why I was calling him. I asked him if we could discuss the incident in person and he agreed to come to the office.

On 01/26/11 at or about 2:00 PM, Agent Hall and I made contact with [REDACTED] at the Lynn Haven Police Department and he advised me of the following in substance;

[REDACTED] is a friend of [REDACTED] and a former Band student. [REDACTED] advised that approximately two weeks prior, [REDACTED] informed him of the incident which occurred at Birdwell's home. [REDACTED] explained to [REDACTED] about how he had removed his shirt and pants at Birdwell's request and about how Birdwell complimented [REDACTED]'s body. [REDACTED] even told [REDACTED], that Birdwell asked [REDACTED] to prove how big his penis was. [REDACTED] suggested to [REDACTED] that he pursue criminal charges.

[REDACTED] advised me of other situations involving Birdwell; including an incident that occurred while [REDACTED] was still in Band either one or two years ago. [REDACTED] advised that he was either 16 or 17 years of age. According to [REDACTED] Birdwell approached him and requested that [REDACTED] send him nude photographs of himself. Birdwell explained that the photographs were to be used along with several others as a revenge prank to get back at Josh Scalf AKA "Tank" a MHS Band technician. Birdwell informed [REDACTED] that Scalf had wrecked his vehicle while getting a blow job, and that's why Birdwell wanted to get back at him.

About one month after being requested to do so, [REDACTED] took a nude photograph of him using a digital camera, and sent the photograph to Birdwell via email using an email address that [REDACTED] created solely to send the photograph. [REDACTED] advised he had heard he could get into legal trouble for distributing the nude photographs of himself because he was a minor and Birdwell encouraged

[REDACTED] to take precautions when sending the photographs, because Birdwell could lose both his job and marriage. [REDACTED] remembers Birdwell's e-mail address as being similar to trncman411 or trncman411@hotmail or hotwire.com but does not remember the email address he used. After Birdwell received the photographs he asked [REDACTED] to send more, but [REDACTED] declined to do so. [REDACTED] advised that other Band students including [REDACTED] [REDACTED] and [REDACTED] were aware that [REDACTED] sent nude photographs to Birdwell.

[REDACTED] assured me that Birdwell was aware of his age when he asked for him to provide the nude photographs of himself.

A couple months later, while [REDACTED] was visiting with Birdwell at his residence, Birdwell showed [REDACTED] a small two ring photo album containing the photograph [REDACTED] had sent to Birdwell via e-mail. [REDACTED] stated that the album contained about 30 photographs of nude males, some of which he recognized as classmates from Band. [REDACTED] indicated during his statement that he recognized a photograph of [REDACTED] but did not recognize one of [REDACTED], even though [REDACTED] claimed to have sent a nude photograph to Birdwell. [REDACTED] said that Birdwell kept the photo album in a drawer covered by clothing inside the master bedroom. [REDACTED] described the album as having a silver colored stand and being similar in size and style to a small desktop calendar.

[REDACTED] mentioned another incident which occurred at MHS that occurred around near the end of [REDACTED]'s junior year while he was 17 years old, where Birdwell showed him a close up photograph of male and female genitalia engaged in sexual intercourse. Birdwell claimed to [REDACTED] that it was a photograph of him and his wife having sex. [REDACTED] noted that he wasn't the only student Birdwell showed pornographic photos and videos to, and informed us that [REDACTED] previously disclosed to him an incident where Birdwell showed him a video recording on his cellular phone of a male and female engaged in sexual intercourse and claimed that it was him and his wife. [REDACTED] told [REDACTED] that Birdwell showed it to him so that [REDACTED] would be unable to look at his wife the same again.

[REDACTED] described Birdwell's phone as having a green colored case.

[REDACTED] also informed us that on several occasions Birdwell made comments to him and other students which [REDACTED] deemed as inappropriate because they were either sexual in nature or contained copious amounts of curse words. [REDACTED] reiterated a story Birdwell had told him and other students about a time Birdwell was receiving a proctologist examination. While in the course of the exam, Birdwell claimed to have received an erection and so the doctor performed a "reach around hand job" until Birdwell climaxed. According to [REDACTED] Birdwell would only tell these stories and use curse words in front of students who he had known for years, and that it would never be in front of females.

It should be noted that [REDACTED] described his relationship with Birdwell as a "love/hate relationship." [REDACTED] noted that Birdwell used to tell him that he loved [REDACTED] like a son, but as time went by their relationship deteriorated resulting in [REDACTED] leaving the MHS Band. [REDACTED] complained that Birdwell would be very strict with him in front of the Band, and that if [REDACTED] would speak out or pick on Birdwell, his punishment would be excessive in comparison to punishments given to other students.

On 01/26/11 at 3:03 PM, Sgt. Willoughby went to the Nelson Building located at 1311 Balboa Avenue in Panama City, Florida and was allowed to view Birdwell's personnel file. With regards to disciplinary action or complaints against Birdwell only two forms were located. One was a letter to then School Superintendent James McCalister from Marian Lamberth of the Florida Department of Education. The letter notified McCalister that a complaint had been filed with the office regarding Birdwell and was dated 07/21/04. The other form was addressed to Birdwell from John Winn of the Florida Department of Education and was dated 08/04/05. It advised Mr. Birdwell that pursuant to their investigation of the incident they did not find probable cause to revoke or suspend his teaching certificate. Both forms contained the designation of File number: 045-0138-F.

On 01/26/11 at or about 3:15 PM, Agent Hall and I made contact with [REDACTED] father, Jeffrey Scalf, at his residence. I identified myself to Jeffrey Scalf and informed him that I was attempting to make contact with his son, who might have information regarding an ongoing investigation. Jeffrey Scalf advised me that his son was employed by a Cruise Ship as a musician, and that he would be unable to make phone contact unless it was on Sunday. Jeffrey did note however that his son had limited access to e-mail during his week on the ship. I provided my contact information to Jeffrey and requested that he pass it on to his son so that we could speak later and he said that he would.

On 01/27/11 at or about 9:30 AM, Agent Hall, Dep. Hedges, and I made contact with 17 year old MHS student [REDACTED]. Prior to obtaining a sworn taped statement from [REDACTED] Dep. Hedges contacted [REDACTED] a relative of [REDACTED] listed on his emergency contact sheet, and obtained permission to interview [REDACTED]. During a sworn taped statement, [REDACTED] advised the following in substance;

[REDACTED] advised us that he had prior knowledge of the allegations against Birdwell having been informed of such by [REDACTED]. [REDACTED] is a current student of Birdwell's and has been for four years. [REDACTED] advised that he would describe his relationship with Birdwell as close, but informed me that he did not become close to Birdwell until his senior year. Once they became close, Birdwell opened up to [REDACTED] more and would tell stories which [REDACTED] described as inappropriate. [REDACTED] specifically mentioned story Birdwell told regarding a homosexual experience with his doctor during a proctologist exam. Three or four months ago Birdwell requested that [REDACTED] send him nude photographs of himself so that Birdwell could use them to "get back at a friend" but [REDACTED] declined to do so. [REDACTED] informed me that Birdwell never specified the name of the friend Birdwell wanted to send the photographs to. [REDACTED] noted that he was 17 years old at the time Birdwell requested the photographs but he was unsure if Birdwell was aware of his specific age.

██████████ mentioned that Birdwell also asked other students, including ██████████ ██████████ and ██████████ to send him nude photographs. ██████████ mentioned that the students were asked for nude photographs during the previous school year, but ██████████ didn't become aware of the requests until after the fact.

When asked about incidents which made him uncomfortable, ██████████ stated that Birdwell has in the past offered him back massages, but only if ██████████ removed his shirt. ██████████ noted that he always declined to do so. ██████████ described his relationship with Birdwell as very good, and denied any sort of rift or hard feelings between them. ██████████ noted that Birdwell always told him that he was like a son to him.

On 01/27/11 at or about 9:55 AM, Agent Hall, Dep. Hedges, and I made contact with 17 year old MHS student ██████████. Prior to obtaining a sworn taped statement from ██████████ Dep. Hedges contacted ██████████, ██████████'s mother, and obtained permission to interview her son. During a sworn taped statement, ██████████ advised the following in substance;

██████████ is a senior at MHS and has attended Band under Birdwell for two years. ██████████ advised that prior to speaking with me he was informed of the allegations against Birdwell by ██████████, ██████████, and ██████████.

██████████ noted that at an unknown time near the end of his junior year, when he was 16 years old, Birdwell approached him and requested that ██████████ provide him with photograph of a penis or ass. According to ██████████ Birdwell did not specifically request a nude photograph of ██████████, but ██████████ believed that Birdwell implied that he wanted a picture of him and not just a random photo. Birdwell explained to ██████████ that he wanted the photograph so that he could use it to get back at Tank because he crashed his car while receiving oral sex, but ██████████ declined to do so. ██████████ identified "Tank" as Josh.

██████████ advised me that Birdwell would often tell the students sexual stories about Birdwell's time in college. ██████████ noted that there was one time when Birdwell asked him if he had ever been involved in a

threesome.

██████ also mentioned an incident which occurred during ██████'s junior year when he was 16 or 17 years old at which time Birdwell showed him a photograph stored on his cellular phone of a close up male and female genitalia engaged in sexual intercourse. Birdwell claimed that it was a photograph of him and his wife having sex, but ██████ was unable to verify the claim because the photo didn't show any faces or identifiable features.

██████ denied being angry with Birdwell and noted that Birdwell has always been there for him. ██████ claimed that Birdwell's advice and the fact that he has "been there" for him has helped him out a lot.

On 01/27/11 at or about 10:30 AM, Agent Hall, Dep. Hedges, and I made contact with 18 year old MHS student ██████. Prior to obtaining a sworn taped statement from ██████ Dep. Hedges contacted ██████ ██████'s mother, and obtained permission to interview her son. During a sworn taped statement, ██████ advised the following in substance;

██████ is a senior at MHS and had been a Band student of Birdwell's for four years. ██████ advised that prior to speaking with me he was informed of the allegations against Birdwell by ██████ and ██████.

According to ██████ during his sophomore year Birdwell informed him and other students that "Tank" had wrecked his truck and that all the students should do something to get him back. Birdwell did not tell ██████ how they intended to get revenge against "Tank." Later ██████ approached ██████ and informed him that he and ██████ had been asked by Birdwell to send nude photographs to "Tank" for revenge, but ██████ was not asked to participate by Birdwell.

██████ also mentioned that on 01/24/11 during first period class which is between 7:30 AM and 8:55 AM, he saw Birdwell speaking to ██████ during class. ██████ later spoke with ██████, and he informed ██████ that Birdwell asked him to not tell anyone about the photographs and to delete

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any that he had.

██████████ advised that Birdwell has never shown him any inappropriate image, but noted that Birdwell has told him that it was very simple to access pornography using his phone. This conversation started because ██████████ and Birdwell share the same type of cellular phone. ██████████ did state however that Birdwell would tell stories which he deemed inappropriate and mentioned the story of the sexual interaction between Birdwell and his Doctor.

In additions to the sexual stories, ██████████ noted that Birdwell made him uncomfortable when he would tell him that he loved him and when Birdwell would refer to him as his son. ██████████ also noted that Birdwell made him uncomfortable by hugging him and attempting to give him back massages, but he and others didn't argue with Birdwell because he could make them play an instrument they did not want to or would withhold a letter of recommendation to a University.

In spite of the conflict, ██████████ advised that he looked up to Birdwell as a mentor.

Agent Hall, Dep. Hedges, and I again spoke with ██████████, due to the information we had received from ██████████ during his interview. ██████████ advised that "it slipped his mind" but that on 01/24/11 Birdwell pulled him aside and instructed him to deny any knowledge of evidence of nude photographs if anyone questioned him about them.

After class was over, Birdwell went to his office, locked the door, made some phone calls and then left before second period. The next day when the students attempted to access the lesson plans on Birdwell's computer they and all other files had been removed. ██████████ denied having seen any inappropriate images on Birdwell's computer, but mentioned a time when he, ██████████ and ██████████ were talking with Birdwell in his office. In the middle of their conversation, suddenly and without warning, Birdwell showed ██████████ a photograph on his cellular phone of close up nude male penis. According to ██████████ this incident occurred approximately four months prior while ██████████ was 17 years old.

On 01/27/11 at or about 12:56 PM, I made contact with ██████████ by telephone and informed

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her of her son's disclosures. At or about 1:08 PM, I notified [REDACTED], the mother of [REDACTED] and informed her of the disclosures her son had made during his interviews.

On 01/27/11 at or about 1:33 PM, I made telephone contact with [REDACTED], the mother of [REDACTED] who had been identified by other students as possibly having information regarding the allegations against Birdwell. I identified myself to [REDACTED] and informed her that I was conducting an on going investigation of Birdwell and she provided me permission to interview her son.

On 01/27/11 at or about 2:04 PM, Agent Hall, Dep. Hedges, and myself made contact with 17 year old MHS student [REDACTED]. During a sworn taped statement, [REDACTED] advised the following in substance;

[REDACTED] is a senior at MHS and has attended Band under Birdwell's instruction for only this school year. [REDACTED] advised that prior to speaking with me he had been informed of the allegations against Birdwell by other students.

[REDACTED] advised that Birdwell would sometimes suddenly and without warning provide shoulder rubs, but has never been on the receiving end of any contact from Birdwell which [REDACTED] would classify as sexual. [REDACTED] also mentioned that Birdwell would use curse words in his conversations with students and he attempts to act as a peer instead of a teacher.

[REDACTED] advised that Birdwell never directly asked him for a nude photograph, but last year or the year before, while he was attending school out of state, [REDACTED] contacted him via electronic mail and informed him of the prank Birdwell was attempting to execute. [REDACTED] asked [REDACTED] if he would provide a photograph of his genitals, but [REDACTED] declined to do so.

[REDACTED] claims not to have been shown any inappropriate photograph or video by Birdwell, but states that he has heard from others who have.

After concluding the interview with [REDACTED] MHS Administration personnel provided me with a signed hand written note from [REDACTED]. The letter stated that [REDACTED] had recently gotten close to "Mr. B." after Football season ended and that "Mr. B." had begun telling [REDACTED] that he loved

him. The letter also informed that "Mr. B." had requested nude photographs of [REDACTED] and that Birdwell had touched [REDACTED] and requested that he remove his pants.

On 01/27/11 at or about 2:40 PM, Agent Hall, Dep. Hedges, and myself made contact with 18 year old MHS student [REDACTED] and his mother, [REDACTED]. During a sworn taped statement, [REDACTED] advised the following in substance;

[REDACTED] is a senior at MHS and he has been associating with Birdwell for the last fourth months since Football season ended. [REDACTED] considers himself to be a fan of the MHS Band and stated that he would often visit to listen to the music. Due to [REDACTED]'s frequent visits, Birdwell informed [REDACTED] that he was an Honorary Band Member. [REDACTED] identified his relationship with Birdwell as close and informed me that Birdwell has told him that [REDACTED] was like his son he couldn't have and that [REDACTED] was more like him than he thought he was. [REDACTED] considered Birdwell to be a mentor, who was concerned with his well being.

[REDACTED] advised that he was friends with a couple of students in Band, but did not identify any of the people we had spoken with as his friend. During his sworn taped statement [REDACTED] noting that everything he had written in the signed handwritten letter was true and correct.

[REDACTED] stated that he hadn't spoke with Birdwell since Wed. or Thur. of the prior week, when Birdwell instructed him to come into his office to retrieve a jacket which [REDACTED] had left behind previously. When [REDACTED] went to retrieve his jacket, Birdwell asked the other students present to leave the office and to close the door. Once Birdwell and [REDACTED] were alone, Birdwell asked [REDACTED] if anything was wrong, but [REDACTED] replied that nothing was wrong. In response Birdwell informed [REDACTED] that he can only have one blowjob and [REDACTED] told Birdwell that he thought he needed to leave.

In December of 2010 before Christmas break, Birdwell was telling [REDACTED] about his brother and about how they joke with one another. Birdwell explained to [REDACTED] how his brother had sexual

intercourse inside of his vehicle and left stains inside the passenger compartment and about how Birdwell wanted to get him back by sending him nude photographs of fat people. Birdwell requested that [REDACTED] take nude photographs of his genital area and his buttocks and send them to Birdwell but [REDACTED] declined to do so.

Also in December of 2010, [REDACTED] mentioned that Birdwell frequently complimented him on his physique, and told him that he could make a lot of money by doing porn. Birdwell offered to assist [REDACTED] in acquiring an agent in the adult video industry, but first asked him how big [REDACTED]'s penis was. Birdwell then informed [REDACTED] that he would need [REDACTED] to send him nude photographs of himself so that Birdwell could distribute them to talent agents, but [REDACTED] declined to do so.

In January of 2011, on a Tuesday after PT while [REDACTED] was still dressed in his gym shorts, he went to the Band room to take a breath and to calm down. Birdwell saw [REDACTED] inside the Band room and motioned him over to his office. [REDACTED] entered Birdwell's office and sat down in a chair against the back wall. Birdwell instructed [REDACTED] to stand and [REDACTED] complied. Birdwell started giving [REDACTED] a shoulder massage and stated man you're tense. Birdwell moved his hands onto [REDACTED]'s butt smacked it a couple of times and then grabbed it over the clothing. [REDACTED] pulled away from Birdwell so Birdwell moved his hands to [REDACTED]'s chest area and then down to [REDACTED]'s groin area. Birdwell grabbed [REDACTED]'s penis over the clothing, causing [REDACTED] to pull away and subsequently leave the office.

[REDACTED] also informed us that Birdwell has shown him gay porn sites on his cellular phone and erotic literature such as Penthouse Letters on his Kindle, which is a portable electronic book reader.

On 01/27/11 at or about 3:15 PM, I collected Birdwell's office computer for evidence submission, after Sgt. Willoughby had obtained permission to do so from School Superintendent Husfelt. I secured the computer case with evidence tape and submitted it into evidence.

On 01/27/11 at 3:56 PM, Agent Hall and I made contact with [REDACTED], a 21 year old

former MHS Band student, who had Birdwell as a teacher for 4 years. During a sworn taped statement, ██████ advised the following in substance;

██████ first learned about the allegations concerning Birdwell on the news and subsequently contacted law enforcement. ██████ is not associated with nor has he had any contact with any of the other subjects we had spoken with. ██████ identified Birdwell as a father figure and a mentor and stated that he had no animosity or anger towards Birdwell. ██████ went into detail about a copy of an email he received from Birdwell several years prior wherein Birdwell informed ██████ that he was like a son. ██████ stated that the e-mail meant so much to him, that he still had a copy of it.

At an unknown date and time possibly sometime near September or October in 2009, which is nearly a year after ██████'s MHS graduation, he took a job assisting Birdwell's wife's band at Surfside. One day ██████ went to Birdwell's home to pick up his paycheck and Birdwell asked ██████ if he wanted to hang out while Birdwell completed some errands. ██████ rode with Birdwell in his vehicle and the two began speaking about a recent break up that ██████ had and during the conversation Birdwell told ██████ you need to start thinking with your head, as he placed his hand on ██████'s head, and stop thinking with this one as he placed his hand on ██████'s clothed groin area. Birdwell left his hand on ██████'s groin for several seconds before removing it. ██████ advised that it had made him uncomfortable, but he didn't think that the touch had any sexual connotations until he saw the news regarding the allegations against Birdwell.

Around that same time period, Birdwell contacted ██████ via an unknown on-line Instant Messenger service, and informed him that he was compiling several photographs of people mooning the camera to be sent as a prank to ██████, who ██████ knew from the MHS band. ██████ took the photograph as requested and sent it to Birdwell, but has not seen the photograph since.

Both of the above mentioned incidents occurred when ██████ was 19 or 20 years old.

On 01/27/11 at or about 4:38 PM, I received a phone call from ██████ who

identified herself as mother of MHS Student [REDACTED] [REDACTED] informed me that her son might have information which would assist in my investigation, so I requested permission to speak with him regarding the same and she provided it. Around this time I also received an electronic mail from Scalf, advising me that he would be available to speak to me via phone on Sunday, so I sent him a reply advising him that I would speak with him then.

On 01/28/11 at or about 8:35 AM, Agent Hall, Dep. Hedges, and I made contact with MHS student, [REDACTED] [REDACTED] identified himself as a friend of [REDACTED] and informed me that [REDACTED] had spoken with him regarding the incidents with Birdwell and could confirm that, but stated that he had no personal knowledge involving any of the allegations against Birdwell. No statement was obtained from [REDACTED]

On 01/28/11 at or about 9:36 AM, Agent Hall, Dep. Hedges, and myself made contact with 17 year old MHS student [REDACTED]. During a sworn taped statement, [REDACTED] advised the following in substance;

[REDACTED] is a senior at MHS and has attended Band under Birdwell for about three years but does not do so currently. [REDACTED] advised that prior to speaking with me he was informed of the allegations against Birdwell by [REDACTED] who provided him my business card and told him that he should contact me because of his personal knowledge regarding the allegations. [REDACTED] described Birdwell as a father figure, but also informed me that they had a relationship which [REDACTED] described as love/hate. [REDACTED] said that when he left the MHS band, it was on bad terms with Birdwell.

According to [REDACTED], during his sophomore and junior school years, when [REDACTED] was either 15 or 16 years old, he informed Birdwell that he was concerned that he was gaining too much weight. Birdwell advised [REDACTED] that he also had weight management difficulties and suggested that they lose weight together. [REDACTED] agreed to do so. On several occasions after that,

Birdwell would have [REDACTED] remove his shirt to see if [REDACTED] was losing weight. This was always done after school, in the choir room or in Birdwell's office when no one else was around.

The last time this occurred, [REDACTED] also removed his pants exposing his gym shorts, at Birdwell's direction. Birdwell then produced his cellular phone but did not specify why. [REDACTED] mentioned that he became nervous that Birdwell was going to photograph him, so he redressed and told Birdwell that he had to leave. [REDACTED] stated Birdwell never touched [REDACTED] in an inappropriate or sexual way during these times. [REDACTED] advised that he was 16 years old when the last incident occurred.

[REDACTED] informed me that Birdwell would push the boundaries of a student/teacher relationship and tell stories or say things that [REDACTED] did not feel was appropriate for a teacher to say to a student. When asked for an example, [REDACTED] described the story Birdwell had mentioned regarding Birdwell's visit to the Doctor, when he received a hand job while getting a prostate exam, and mentioned a time when [REDACTED] was complaining to Birdwell about a headache, so Birdwell instructed him to jack off.

On 01/28/11 at or about 10:15 AM, Agent Hall, Dep. Hedges, and I made contact with MHS student, [REDACTED]. Prior to obtaining a sworn taped statement from [REDACTED] Dep. Hedges contacted [REDACTED], [REDACTED]'s father, who declined permission to interview his son without his mother's permission. [REDACTED]'s mother, [REDACTED], made contact with us at MHS and provided us permission to speak with her son, but stated that she wanted to be present for the interview. [REDACTED] was advised that her request was acceptable, and contact was again made with [REDACTED]. When [REDACTED] was made aware of his mother's request to be present, he asked her to allow him to complete the interview without her present and she provided him permission to do so. During a sworn taped statement, [REDACTED] advised the following in substance;

[REDACTED] is a 16 year old sophomore at MHS and has been a Band student of Birdwell's for

two years. [REDACTED] described his relationship with Birdwell as very close, and stated that his family is "surprisingly close" friends with Birdwell. [REDACTED] sees Birdwell as a father figure.

[REDACTED] advised that Birdwell has made several inappropriate comments in front of himself and other students, and described the story regarding Birdwell's visit to the Doctor, when he received a hand job while getting a prostate exam. [REDACTED] also informed us that Birdwell claimed to have engaged in sexual intercourse with his wife in the band room.

[REDACTED] related that he had received a backrub, underneath his shirt, from Birdwell, that he did not feel that was sexual in nature.

On 01/28/11 at or about 1:07 PM, Agent Hall and I made contact with [REDACTED] an 18 year old former MHS Band student who was taught by Birdwell for four years. [REDACTED] provided a sworn taped statement attesting to the following in substance;

[REDACTED] described his relationship with Birdwell as friendly, though noted that there had been times when they argued. [REDACTED] believes that Birdwell considered him a close student. [REDACTED] advised that he had learned of the allegations from his friend [REDACTED] but noted that he had also been approached by [REDACTED] asking if he would be willing to come speak with Law Enforcement concerning the investigation.

[REDACTED] advised that when he was 17 years old, before he graduated from MHS, Birdwell approached him and requested a photograph of [REDACTED] balls and butt so that he could send them, along with other to Scalf as a prank. [REDACTED] used Birdwell's cellular phone, which he described as Blackberry touch screen with a green colored case, to photograph his genitalia, and because he could not do so without assistance, Birdwell then used the phone to photograph [REDACTED]'s buttock. After taking the photographs, Birdwell showed [REDACTED] a photograph he had stored on his cellular phone which consisted of a close up of a white male's penis with red colored pubic hair. Birdwell advised [REDACTED] that it was a photograph of him, and that it was only fair that he show a photograph of himself

since he had seen [REDACTED]s. Birdwell cautioned [REDACTED] to keep quiet about the photographs and explained that he could lose his job because of them.

[REDACTED] advised that Birdwell would make him uncomfortable when he would give him unsolicited back massages, but noted that Birdwell would always cease when asked to do so. [REDACTED] also mentioned that Birdwell would frequently tell inappropriate stories to students and described one where a friend had sent Donuts to another in boot camp, and then a week later sent a photograph with the same donuts wrapped around an erect penis.

On 01/28/11 at or about 4:09 PM, I made telephone contact with [REDACTED] a 20 year old former MHS Band student who was taught by Birdwell for four years. [REDACTED] provided a sworn taped statement attesting to the following in substance;

[REDACTED] attends Troy University, which is Birdwell's Alma Mater, and contributes his acceptance in part to a letter of recommendation made on his behalf by Birdwell. [REDACTED] describes his relationship with Mr. Birdwell as close, but stated that he recently severed ties with Birdwell.

The distance was due to an incident which occurred 14 months ago, when Birdwell sent [REDACTED] a message via Facebook. In the message Birdwell informed [REDACTED] that he was making a scrapbook containing photographs of men's genitalia to send to a friend in boot camp as a practical joke. [REDACTED] advised that he declined Birdwell's request.

On 01/30/11 at or about 12:01 PM, I made telephone contact with Josh Scalf, who provided me with a sworn taped statement attesting to the following in substance;

Scalf identified himself as a former Band technician for the MHS Band. He also identified himself as a friend of Birdwell's and noted that he speaks with Birdwell frequently via both phone and electronic transmissions.

Scalf advised me that it was true that he had in fact wrecked Birdwell's truck, but noted that he paid for the repairs and that Birdwell did not seem mad about it. Scalf says he does not recall ever

receiving any nude photographs from Birdwell and confirms that he never requested any either. Scalf also informed me that he has never sent Birdwell any nude photographs nor had Birdwell requested any.

On 01/30/11 at or about 12:34 PM, Agent Hall and I made contact with [REDACTED], a 25 year old former MHS band student who was taught by Birdwell for two years. [REDACTED] provided a sworn taped statement attesting to the following in substance;

[REDACTED] first learned about the allegations against Birdwell on Facebook. During his statement [REDACTED] advised that he used to be close to Birdwell, who would act more like a peer than a teacher, and even visited Birdwell at his home with other students. As time went on, Birdwell would say things that made [REDACTED] feel uncomfortable, for example the time when Birdwell asked [REDACTED] if he had started growing pubic hair yet.

During his visits to Birdwell's home, Birdwell would ask [REDACTED] and the other students present what their favorite porn websites were. Birdwell would subsequently go online using his home computer and surf the internet for porn with his students. Birdwell would wrestle and play fight with his students when at his house, but never attempted to touch them in a sexual manner. [REDACTED] stated that this occurred back in 2002 during his sophomore year.

During his junior school year, [REDACTED] received an email from Birdwell which included a photograph of a soccer player with his penis hanging out of his shorts peeing on the grass. [REDACTED]'s mom became upset by this photograph and informed the then principle of MHS, William Husfelt, who advised [REDACTED]'s mother that there was no disciplinary action that he could take against Birdwell without having a copy of the email. [REDACTED]'s mother took the computer to a professional in an attempt to recover the email, but the professional was unable to do so. [REDACTED] and his mother later discovered that the person they had taken the computer to, was a teacher at MHS. As a result of [REDACTED]'s complaint against Birdwell, tension increased, and [REDACTED] eventually quit the band on

bad terms.

[REDACTED] identified [REDACTED] and [REDACTED] as the other students with whom he visited Birdwell's home. [REDACTED] also mentioned that he later learned, from other students, that while wrestling with [REDACTED] at his home, Birdwell became angry and choked him leaving moderate to severe bruising on his neck.

According to [REDACTED] Husfelt was never made aware of the students' visits to Birdwell's home.

On 01/30/11 at or about 1:28 PM, Agent Hall and I made contact with [REDACTED], a 20 year old former MHS Band student who was taught by Birdwell for four years. [REDACTED] provided a sworn taped statement attesting to the following in substance;

When [REDACTED] was an 18 year old senior attending MHS, Birdwell approached him and requested that he provide Birdwell with nude photographs of himself. Birdwell explained to [REDACTED] that he wanted the photographs so that he could send them to "Tank" a MHS band technician as a prank. The prank was allegedly to be retaliation for "Tank" crashing Birdwell's vehicle while engaging in sexual conduct with a passenger. According to [REDACTED] he declined to send a photograph, but later learned that two younger students, including [REDACTED] and a freshman Tuba player, had sent the photographs to Birdwell as requested.

On 02/02/11 at or about 3:39 PM, I made contact with 17 year old former MHS Band student, [REDACTED]. Prior to speaking with [REDACTED] concerning the incident I spoke with his father, [REDACTED], and obtained permission to interview his son. During a sworn taped statement, [REDACTED] advised the following in substance;

[REDACTED] is attended MHS during his freshman, sophomore and junior school years. During all three school years, [REDACTED] attended Band under Birdwell's instruction. [REDACTED] advised that prior to speaking with me, he was informed of the allegations against Birdwell by current MHS Band sophomore "Laura" but

she didn't give him any details as to the allegations. [REDACTED] advised that his relationship with Birdwell was close and even identified him as a father figure.

[REDACTED] mentioned that during his junior year when he was either 16 or 17 years old, Birdwell approached him and requested that he provide a close up photograph of his genitalia so that he give it to Scalf as a prank in a scrapbook. [REDACTED] declined to do so, but Birdwell kept asking him, so [REDACTED] eventually provided him with a photograph of his penis, which he took using Birdwell's cellular phone, which he identified as a Blackberry having a lime green case. The photograph didn't come out well, so Birdwell requested that he take a second photograph of his genitalia and [REDACTED] complied again using Birdwell's cellular phone to do so.

Birdwell continued to request more photographs of [REDACTED]'s genitalia, but each time [REDACTED] declined to do so. [REDACTED] noted that Birdwell specifically requested a "hard photo" of his genitalia because of his large penis size. [REDACTED] never saw the photographs again nor did he ever confirm that they had been sent to Scalf as Birdwell had informed him that they would be.

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