

1 CRIMINAL GRAND JURY PROCEEDINGS
2 IN AND FOR THE COUNTY OF EL DORADO
3

4 ---oOo---

5 THE PEOPLE OF THE STATE OF CALIFORNIA,
6
7 Plaintiff,

8 vs.

No. P10CRF0364

9 PHILLIP CRAIG GARRIDO
and NANCY GARRIDO,

10 Defendants.
11 _____/

12 ---oOo---

13 REPORTER'S EXCERPT TRANSCRIPT OF PROCEEDINGS

14 SEPTEMBER 21, 2010

15 ---oOo---

16 A P P E A R A N C E S

17 FOR THE PEOPLE:

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19 JOE ALEXANDER, Deputy
20 JAMES CLINCHARD, Deputy
El Dorado County
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Placerville, California 95667

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PLACERVILLE, CALIFORNIA

TUESDAY, SEPTEMBER 21, 2010, 9:30 A.M.

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(People's Exhibits 1 through 25,
were marked for identification off
the record.)

MR. ALEXANDER: Well, good morning, ladies and
gentlemen.

As you probably recall from the other day when you
were selected to serve on the grand jury, my name is Joe
Alexander. I'm a deputy district attorney here in El Dorado
County.

This is my phone number. It's also on the directions
that you were given by the court. If you have an issue
that's going to cause you to either be late or if there's
some other problem, you can call me. But once you start
serving, you're going to have contact with the attorneys
that are presenting the case, which is Mr. Clinchard, Jim
Clinchard seated right in front of me here, and Vern
Pierson, who is standing against the wall.

Also, you will see Detective Strasser, who has just
raised his hand, Detective Fitzgerald, and Investigator
Pesce. They are going to be in and around the grand jury
room as we go through these proceedings. They are acting as
sort of our bailiffs. Just as the courtroom has uniform
bailiffs, when we do grand juries, we have detectives come
in and serve as our bailiffs.

So if there is an issue that comes up that deals with
the grand jury proceeding, you can bring it to the attention

1 of your foreperson, [REDACTED] (Grand Juror GR12), who is
2 right here waving.

3 If it's an issue that you think needs to be brought
4 to the attention of the attorneys, you can do that. And if
5 it's an issue that you think needs to be brought to the
6 attention of law enforcement, such as you see someone
7 standing out there trying to take pictures of these
8 proceedings or anything of that nature, you talk to one of
9 these three gentlemen or Mr. Pierson or Mr. Clinchard. All
10 right?

11 Our first order of business is going to be to swear
12 the court reporter. So I'll ask our foreperson to read to
13 the court reporter the court reporter's oath.

14 (Whereupon the court reporter is sworn.)

15 MR. ALEXANDER: Our second order of business this
16 morning is going to be to have the foreperson take roll.
17 He'll read out your name. Just announce that you're here.

18 So you know, although your names will appear
19 initially in the record, they are all replaced later with
20 your juror identification number. So although -- before
21 you're allowed to speak, if you have a question or you want
22 to bring -- raise your right hand and we say, "Okay. What
23 do you have to say," the first thing you have to do is state
24 your name for the record. But I'm telling you now that
25 those names will be redacted later and replaced with your
26 juror identification number.

27 So everyone's clear on that.

28 All right. So if the foreperson could take roll.

1 GRAND JUROR GR12 [REDACTED]: Number 1, [REDACTED]
2 [REDACTED] (Grand Juror GR01)?
3 GRAND JUROR GR01 [REDACTED]: I'm here.
4 GRAND JUROR GR12 [REDACTED]: 2, [REDACTED]
5 [REDACTED] (Grand Juror GR02)?
6 GRAND JUROR GR02 [REDACTED]: Here.
7 GRAND JUROR GR12 [REDACTED]: 3, [REDACTED]
8 (Grand Juror GR03)?
9 GRAND JUROR GR03 [REDACTED]: Here.
10 GRAND JUROR GR12 [REDACTED]: 4, [REDACTED] (Grand
11 Juror GR04)?
12 GRAND JUROR GR04 [REDACTED]: Here.
13 GRAND JUROR GR12 [REDACTED]: 5, [REDACTED]
14 (Grand Juror GR05)?
15 GRAND JUROR GR05 [REDACTED]: Here.
16 GRAND JUROR GR12 [REDACTED]: 6, [REDACTED]
17 (Grand Juror GR06)?
18 GRAND JUROR GR06 [REDACTED]: Here.
19 GRAND JUROR GR12 [REDACTED]: 7, [REDACTED]
20 (Grand Juror GR07)?
21 GRAND JUROR GR07 [REDACTED]: Here.
22 GRAND JUROR GR12 [REDACTED]: 8, [REDACTED] (Grand
23 Juror GR08)?
24 GRAND JUROR GR08 [REDACTED]: Here.
25 GRAND JUROR GR12 [REDACTED]: 9, [REDACTED]
26 (Grand Juror GR09)?
27 GRAND JUROR GR09 [REDACTED]: Here.
28 GRAND JUROR GR12 [REDACTED]: 10, [REDACTED]

1 (Grand Juror GR10)?

2 GRAND JUROR GR10 [REDACTED]: Here.

3 GRAND JUROR GR12 [REDACTED]: 11, [REDACTED]

4 (Grand Juror GR11)?

5 GRAND JUROR GR11 [REDACTED]: Here.

6 GRAND JUROR GR12 [REDACTED]: I'm Number 12. I'm

7 here, [REDACTED] (Grand Juror GR12).

8 13, [REDACTED] (Grand Juror GR13)?

9 GRAND JUROR GR13 [REDACTED]: Here.

10 GRAND JUROR GR12 [REDACTED]: 14, [REDACTED]

11 (Grand Juror GR14)?

12 GRAND JUROR GR14 [REDACTED]: Here.

13 GRAND JUROR GR12 [REDACTED]: 15, [REDACTED]

14 (Grand Juror GR15)?

15 GRAND JUROR GR15 [REDACTED]: Here.

16 GRAND JUROR GR12 [REDACTED]: 16, [REDACTED]

17 (Grand Juror GR16)?

18 MR. ALEXANDER: Joe Alexander, for the record.

19 [REDACTED] (Grand Juror GR16) was excused by our

20 office in conjunction with the Court. He had a hardship

21 that arose unexpectedly between selection and today's date.

22 So he will not be joining us, meaning that when we reach

23 Alternate Number 1, [REDACTED] (Grand Juror AGR01), she is

24 going to be a serving grand juror.

25 GRAND JUROR GR12 [REDACTED]: Do I say I approve?

26 MR. ALEXANDER: Actually, the Court already approved
27 it.

28 GRAND JUROR GR12 [REDACTED]: Okay. We'll get

1 this down.

2 16, [REDACTED] (Grand Juror GR16), we already
3 said he's not here.

4 17, [REDACTED] (Grand Juror GR17)?

19:35AM

5 GRAND JUROR GR17 [REDACTED]: Here.

6 GRAND JUROR GR12 [REDACTED]: 18, [REDACTED]
7 (Grand Juror GR18)?

8 GRAND JUROR GR18 [REDACTED]: Here.

19:35AM

9 GRAND JUROR GR12 [REDACTED]: 19, [REDACTED]
10 (Grand Juror GR19)?

11 GRAND JUROR GR19 [REDACTED]: Here.

12 GRAND JUROR GR12 [REDACTED]: I guess Alternate
13 Number 1 will become -- is there a number assigned to
14 Alternate Number 1 now?

19 M

15 MR. ALEXANDER: She will have -- she'll continue on
16 with her assigned grand jury number, but you can refer to
17 her as Alternate Number 1 for now.

18 GRAND JUROR GR12 [REDACTED]: Okay. [REDACTED]
19 (Alternate Grand Juror AGR01)?

19:35AM

20 ALTERNATE GRAND JUROR AGR01 [REDACTED]: Here.

21 GRAND JUROR GR12 [REDACTED]: [REDACTED]
22 (Alternate Grand Juror AGR02)?

23 MR. ALEXANDER: Again, Joe Alexander.

19:35AM

24 [REDACTED] (Alternate Grand Juror AGR02) is Alternate
25 Number 2. She is the young lady who contacted my office and
26 left a message that she had overslept. It is now almost
27 9 -- almost 9:40, and she still has not appeared. Knowing
28 that we have witnesses who have been summoned and are

1 appearing, I'm recommending that we continue on and excuse
2 her from service. And I see a few heads nodding up and
3 down.

4 Does the grand jury approve of continuing on without
5 Alternate Number 2?

6 (Grand jurors nod.)

7 Approved by the foreperson?

8 GRAND JUROR GR12 [REDACTED]: Approved.

9 MR. ALEXANDER: So [REDACTED] (Alternate Grand Juror
10 AGR02) will be excused.

11 You can continue with the roll call.

12 GRAND JUROR GR12 [REDACTED]: If I get this right.
13 [REDACTED] (Alternate Grand Juror AGR03)?

14 ALTERNATE GRAND JUROR AGR03 [REDACTED]: Here.

15 GRAND JUROR GR12 [REDACTED]: Alternate 4, [REDACTED]
16 [REDACTED] (Alternate Grand Juror AGR04)?

17 ALTERNATE GRAND JUROR AGR04 [REDACTED]: Here.

18 GRAND JUROR GR12 [REDACTED]: Alternate 5, [REDACTED]
19 [REDACTED] (Alternate Grand Juror AGR05)?

20 ALTERNATE GRAND JUROR AGR05 [REDACTED]: [REDACTED]
21 (Alternate Grand Juror AGR05).

22 GRAND JUROR GR12 [REDACTED]: [REDACTED] (Alternate
23 Grand Juror AGR05).

24 Alternate 6, [REDACTED] (Alternate Grand Juror
25 AGR06)?

26 ALTERNATE GRAND JUROR AGR06 [REDACTED]: Here.

27 GRAND JUROR GR12 [REDACTED]: Alternate 7, [REDACTED]
28 [REDACTED] (Alternate Grand Juror AGR07).

1 ALTERNATE GRAND JUROR AGR07 [REDACTED]: [REDACTED]
2 (Alternate Grand Juror AGR07). Here.
3 GRAND JUROR GR12 [REDACTED]: [REDACTED] (Alternate
4 Grand Juror AGR07).
5 Hope I don't massacre it again. Sorry.
6 Alternate 8, [REDACTED] (Alternate Grand Juror
7 AGR08)?
8 ALTERNATE GRAND JUROR AGR08 [REDACTED]: Here.
9 GRAND JUROR GR12 [REDACTED]: Alternate 9, [REDACTED]
10 [REDACTED] (Alternate Grand Juror AGR09)?
11 ALTERNATE GRAND JUROR AGR09 [REDACTED]: Here.
12 GRAND JUROR GR12 [REDACTED]: Alternate 10,
13 [REDACTED] (Alternate Grand Juror AGR10)?
14 ALTERNATE GRAND JUROR AGR10 [REDACTED]: Here.
15 GRAND JUROR GR12 [REDACTED]: Alternate 11, [REDACTED]
16 [REDACTED] (Alternate Grand Juror AGR11)?
17 ALTERNATE GRAND JUROR AGR11 [REDACTED]: Here.
18 GRAND JUROR GR12 [REDACTED]: [REDACTED] (Alternate
19 Grand Juror AGR11).
20 Alternate 12, [REDACTED] (Alternate Grand Juror
21 AGR12)?
22 ALTERNATE GRAND JUROR GR12 [REDACTED]: Here.
23 GRAND JUROR GR12 [REDACTED]: That's the roll
24 call.
25 MR. ALEXANDER: All right. With the exception of
26 [REDACTED] (Grand Juror GR16) and [REDACTED] (Alternate
27 Grand Juror AGR02), will you confirm that all grand jurors
28 are present and alternates?

1 GRAND JUROR GR12 [REDACTED]: I confirm.

2 MR. ALEXANDER: Thank you.

3 Okay. The next order of business is Alternate
4 Number 9, [REDACTED] (Alternate Grand Juror AGR09), has off
5 the record approached me and discussed her concern about
6 serving as a grand juror on this case and has said, in no
7 uncertain terms, that she will not be able to sit and
8 deliberate and make the decision that she will ultimately be
9 asked to make, which is whether or not a particular person
10 or persons are held to answer on a felony charge.

11 Does that summarize our conversation, [REDACTED]
12 (Alternate Grand Juror AGR09)?

13 ALTERNATE GRAND JUROR AGR09 [REDACTED]: Yes

14 MR. ALEXANDER: For the record, that was [REDACTED]
15 (Alternate Grand Juror AGR09) saying yes.

16 So at this time, due to the power vested in the
17 district attorney's office by statute and court, we're going
18 to excuse you from service, and you're free to go.

19 ALTERNATE GRAND JUROR AGR09 [REDACTED]: Thank you.

20 MR. ALEXANDER: And the foreperson understands and
21 approves of this?

22 GRAND JUROR GR12 [REDACTED]: Yes.

23 MR. ALEXANDER: Okay. Thank you.

24 (Alternate Grand Juror AGR09 [REDACTED] leaves the
25 proceedings.)

26 MR. ALEXANDER: All right. I've already introduced
27 the different players that you're going to be seeing
28 throughout this proceeding. I want to give you a few kind

1 of very general rules that we're going to be following as we
2 go through this process, and then you're going to hear a
3 brief summary of the case that's going to be presented. And
4 we're providing that summary to everyone who's here. Not
5 everyone who's here is going to remain with us. The
6 alternates are going to be excused once we have the 19
7 people who agree that they can sit and hear this case after
8 having a little bit better idea of what the case is.

9 So you will have an opportunity to express concern
10 about sitting on the case once you know a little bit about
11 it.

12 But what you hear in this courtroom is absolutely
13 confidential. If you're an alternate and you're excused,
14 you are not excused from service. You will be on call
15 should we need you for this proceeding or a subsequent one.
16 And if we need you, we'll call you.

17 But you are under an absolute court order that you
18 are to keep everything you hear in this courtroom
19 confidential. You cannot discuss it with spouses, family
20 members, clergy, friends, at the bar, over a cup of coffee.
21 It is absolutely confidential. And that rule remains in
22 place -- assuming that there is an indictment, that rule
23 remains in place until the trial itself has been concluded.

24 So you're going to learn who the target of this
25 indictment is, or targets, and you're going to be able to
26 follow it either in the media or by following it through the
27 court process, but you are under an absolute obligation to
28 keep everything confidential until the matter is completely

1 resolved.

2 So it would be -- typically, that would be after jury
3 trial or after perhaps there is a plea bargain. And, again,
4 this assumes that you find that there is enough evidence to
5 indict either of the two people that you're going to be
6 hearing about shortly.

7 So the first question I have, is there anyone in this
8 courtroom who believes that they are not going to be able to
9 keep these matters confidential?

10 All right. I don't see a single grand juror
11 indicating that they will not be able to keep this
12 information confidential.

13 The second order of business is to talk about cell
14 phones, pagers, lap tops, any kind of communication device.
15 They must be turned off, not just put on silent mode. They
16 must be off when we are in proceedings.

17 So when evidence is being presented or if I'm up here
18 giving my spiel, all communication devices have to be off.
19 And the reason why is you may just be looking at a message
20 from someone, but we can't tell if you're looking at a
21 message or texting or doing something else.

22 So the rule of court that we have to follow, as part
23 of keeping this proceeding confidential, is that all
24 electronic devices must be in the off position.

25 I believe I already mentioned that if you have a
26 question, you're going to have to raise your hand, and we'll
27 call on you. And before you speak, you have to state your
28 name on the record.

1 Your names will absolutely be redacted from the
2 record. They will not appear in the record. The only way
3 for anyone to find out that you are a serving grand juror is
4 through a court order. And the Court would not release your
5 information absent noticing you and providing you an
6 opportunity to be heard and object to the release of your
7 name.

8 There's a whole process that has to be followed.
9 It's almost -- it almost never happens that people's names
10 are released. So you should remain confident that your name
11 will not be released, and if it is going to be released, you
12 will have an opportunity to object to its release

13 Does everyone understand that?

14 Okay. I've already introduced Mr. Pierson,
15 Mr. Clinchard, Detective Strasser, and Detective Fitzgerald,
16 and at this time I'm going to turn the floor over to
17 Mr. Pierson.

18 MR. PIERSON: Why don't we do the formal thing in
19 terms of the secrecy admonition. Just everybody stand for
20 one second, raise your right hand.

21 GRAND JUROR GR12 [REDACTED]: The nature of the
22 matter to be heard and the names of the person to be charged
23 with an offense in connection therewith have been given to
24 you by the district attorney.

25 MR. PIERSON: Will be.

26 GRAND JUROR GR12 [REDACTED]: Will be.

27 I direct any member of the grand jury who has a state
28 of mind in reference to the case, or to the People of the

1 State of California represented by the district attorney, or
2 the possible persons to be charged with an offense which
3 will prevent him or her from acting impartially and without
4 prejudice to the substantial rights of the parties to come
5 forward and retire from these proceedings. Failure to do so
6 being punishable by the Court as a contempt.

7 MR. PIERSON: And everybody just have a seat. This
8 is all very serious and formal. And when we start out,
9 that's the way -- and it's for a reason, the whole process,
10 the rules, in terms of confidentiality, which have been in
11 place for actually a couple of hundred years. It's one of
12 the few carryovers where the justice system is very similar
13 to where it was back in the birth of this country. It's
14 changed obviously in many ways, but it's still similar.

15 But what ends up happening, just to be very up front
16 with you, is that as we go through this, it is more
17 comfortable and more casual than -- for those of you who
18 have served on a regular court proceeding. We want you to
19 be able to ask questions and feel free to do that. If
20 there's something that needs -- that's not being covered
21 that should be covered, you have an opportunity -- the big
22 difference between normal criminal jury trial or even civil
23 jury trial is that you have the opportunity to say, "Hey,
24 what about this? This is a concern."

25 Now, having said that, there's some times you may ask
26 a question or you may have something that you would like to
27 have answered that we, for reasons having to do with the
28 rules of admissibility of evidence, we cannot ask that

1 question or we cannot put on that evidence.

2 So sometimes you may have a question.

3 What I'd like to do -- we've got those little small
4 pieces of paper over there -- is maybe pass them around. If
5 you've got a question that you want to have answered -- yes.
6 I think that's plenty. If you can write it out on there.
7 And then at some point in time during the course of the
8 presentation of evidence, I will ask you if there is a
9 question, or Mr. Clinchard will.

10 And probably the easiest way for us to do that is
11 we'll take a look at the question and then make a
12 determination in terms of whether or not we can ask that
13 question. We can actually directly ask it or you can
14 directly ask it. But we want to make sure that the
15 questions that need to be answered are answered but only
16 legally admissible evidence that would be admissible in
17 trial is what you hear.

18 Does that make sense?

19 Anybody have any questions so far?

20 GRAND JUROR GR12 [REDACTED]: It's okay to take
21 notes?

22 MR. PIERSON: It is okay to take notes. Do we have
23 notepads?

24 MR. ALEXANDER: Joe Alexander.

25 Yes. We have notepads and pens that will be passed
26 out to the 19 deliberating jurors, and we'll do that once we
27 get down to the 19. You're going to have to put your name
28 in the notebook. They are going to be collected at the end

1 of every session, and they will be kept securely overnight
2 by our office.

3 Investigator Pesce will collect those up at the end
4 of every day. We're not allowed to read them, but we have
5 to keep them secure, and you're not allowed to take them
6 home with you. So that's the rule that we follow.

7 MR. PIERSON: Just in terms of planning, the plan as
8 it is right now is that we will have you here probably most
9 of the day, if not all of the day today. Tomorrow morning,
10 perhaps, although depending upon how things are, we can
11 adjust that. And then I would reasonably anticipate that
12 Thursday we will not be in session.

13 As far as next week -- and I'm assuming that Judge
14 Wagoner told you that we're anticipating having you
15 impanelled for two weeks, this week and next week. It would
16 generally follow the Tuesday, Wednesday, Thursday calendar
17 that the Court follows for trials. That way if the judge,
18 should we need the judge -- he's more likely to be available
19 during that time.

20 Is that the schedule that the judge discussed with
21 you, Tuesday, Wednesday, Thursday?

22 GRAND JUROR GR15 [REDACTED]: He wasn't really sure.

23 MR. PIERSON: We tried to set it -- and that's the
24 other thing, and I'm terrible about it in terms of the court
25 reporter trying to take everything down. If you were
26 speaking, you know, start as Mr. Alexander did, or she has
27 to say what your name is and that type of thing. I know
28 it's kind of a pain, but it's something we have to do so we

1 have a record.

2 So that would be the schedule for this week. The
3 schedule for next week is tentative. We will keep you
4 impanelled through next week, probably until Wednesday or
5 Thursday of next week, and we're trying to work out -- we
6 may have a scheduling problem. There were two -- the
7 original plan was to try to have two different cases that we
8 would put on and that you would hear, and it may end up
9 actually being only one.

10 So we'll work with the schedule. We try, with the
11 grand jurors, to be as flexible as we can in terms of
12 accommodating schedules, as long as we're getting the
13 opportunity to put the evidence on. But, for sure, you will
14 be impanelled through the middle to end of next week. We're
15 in session today for sure, possibly part of tomorrow, and
16 unlikely it will be on Thursday, just for planning so you
17 know.

18 The first case that we're going to discuss -- and I'm
19 not going to go into the specific details. I'm just going
20 to talk to you about it in very generalities.

21 It involves the June 1991 abduction of [REDACTED]
22 [REDACTED] (Jane Doe). You may have heard about that in the
23 media. You may have heard a lot about it in the media. One
24 of the reasons why we are doing it this way and having
25 alternates is it could be that for some reason, you have
26 heard so much information about it that you cannot abide by
27 the oath that the foreperson read to you and sit as a
28 foreperson (sic) in this case.

1 And, essentially, that case involves on that morning
2 on June 10th of 1991 while she was walking to the school
3 bus, that she was alleged to have abducted -- been abducted
4 by Phillip and Nancy Garrido in the Lake Tahoe area. And
5 then she was taken from there to just outside the city of
6 Antioch, in an unincorporated area of Antioch, and that
7 during the next several years, she was repeatedly sexually
8 assaulted.

9 There will be some degree of graphic details
10 regarding that because we're required to ask those questions
11 and put on that evidence. And so that, in a nutshell, is
12 what the first case will be about.

13 In light of the admonition that the foreperson read,
14 you have a legal obligation to identify yourself right now
15 if you believe in these particular first bits -- because we
16 have alternates and seated grand jurors.

17 The seated grand jurors, if there's some reason why
18 you cannot sit and consider a proposed indictment and hear
19 that evidence regarding that case, now would be the time
20 that each of you should identify that and recuse yourself
21 from this case.

22 I think, for the record, I'll indicate that no one
23 has -- none of the grand jurors have indicated that they
24 cannot hear and consider that specific case.

25 Is that correct, everyone?

26 (Grand jurors nod.)

27 MR. PIERSON: We're trying to work out, in terms of
28 the numbers, in terms of seated, because we've had already

1 to reseate a few people because of conflicts and that type.

2 MR. ALEXANDER: Joe Alexander.

3 That being the case, then our 19 deliberating grand
4 jurors will be [REDACTED] (Grand Juror GR01);

5 [REDACTED] (Grand Juror GR02); [REDACTED] (Grand
6 Juror GR03), [REDACTED] (Grand Juror GR03); Ms. [REDACTED] (Grand Juror
7 GR04); [REDACTED] (Grand Juror GR05); [REDACTED] (Grand Juror
8 GR06), [REDACTED] (Grand Juror GR07); [REDACTED] (Grand Juror
9 GR08); [REDACTED] (Grand Juror GR09); [REDACTED] (Grand

10 Juror GR10); [REDACTED] (Grand Juror GR11); [REDACTED]
11 (Grand Juror GR12), our foreperson; [REDACTED] (Grand Juror
12 GR13); [REDACTED] (Grand Juror GR14); [REDACTED] (Grand
13 Juror GR15); [REDACTED] (Grand Juror GR17); [REDACTED]
14 (Grand Juror GR18); [REDACTED] (Grand Juror GR19); and
15 Alternate Number 1 will be seated Grand Juror [REDACTED]
16 (Grand Juror AGR01).

17 So those will be our 19 with the approval of the
18 foreperson.

19 GRAND JUROR GR12 [REDACTED]: Approved.

20 MR. ALEXANDER: Thank you, sir.

21 If I didn't just call your name and say that you're a
22 deliberating grand juror, then you remain an alternate. And
23 the Court has your contact information. If we need to get
24 ahold of you, we will. If you have a new or different
25 number or number that you prefer to be called at, you can
26 give that to me.

27 I will be right outside the door here, and you're
28 otherwise excused. Although, you're still subject to

1 re-call if we have an issue and we need to bring in
2 additional jurors. Or if there is an additional case that
3 we need to put on either later this week or next, then you
4 will be contacted, although I suspect that's fairly
5 unlikely.

6 So all those people who are not seated grand jurors
7 can go right out to the lobby there and can go on their way.

8 Still, the information you've heard in this room,
9 although it's just preliminary, is confidential, and you're
10 not allowed to share it with anyone. You're still under
11 that admonition as I talked about earlier. All right?

12 MR. PIERSON: Thank you all very much.

13 MR. ALEXANDER: Anyone who wants to reseal themselves
14 or move to an empty seat, get comfortable, just go ahead and
15 do that right now.

16 MR. PIERSON: I think I'm going to change things a
17 little bit in terms of layout.

18 I'm going to ask that everybody -- well, actually,
19 you two, if you can maybe move over and rather than have --
20 very often what we'll do is when we set up here, we'll have
21 witnesses here. But just because of various reasons, I'm
22 going to have the first witness sit up here on this side.

23 I know you've all been sitting here for a little bit.
24 Does anybody need to take a five-minute break? Do you want
25 to go ahead and do that right now?

26 We can take a five-minute break. Please read the
27 admonition before we do that.

28 MR. ALEXANDER: Hold on just a moment.

1 GRAND JUROR GR12 [REDACTED]: [REDACTED]

2 (Grand Juror GR12), foreperson:

3 This is our admonition that we'll hear every time we
4 have a break or a recess.

19:55AM

5 The grand jurors are admonished that they are not to
6 form or express any opinions about this case or discuss it
7 among themselves until the grand jury receives the case for
8 deliberation. In addition, no inspection of evidence should
9 be conducted without the permission of the foreperson and on
10 the advice of the prosecuting attorney until the case is
11 submitted to the grand jury for deliberation. Deliberation
12 should only occur when all jurors that heard all the
13 testimony in the case are present.

19:56AM

14 MR. ALEXANDER: Everyone acknowledges that admonition
15 and can follow it?

19 M

16 I see all grand jurors acknowledging that they can.
17 Joe Alexander.

18 Thank you.

19 (Proceedings were in recess from
20 9:56 a.m. until 10:06 a.m.)

19:56AM

21 ---oOo---

22 GRAND JUROR GR12 [REDACTED]: [REDACTED]

23 (Grand Juror GR12), foreperson.

24 I've counted the jurors, and all are present.

0:08AM

25 MR. ALEXANDER: And no one else -- we'll do this
26 every break.

27 Could you also indicate that there is no one else
28 that's present, other than the court reporter, who's taking

1 this down, myself, and then Vern Pierson, and then Jim
2 Clinchard.

3 GRAND JUROR GR12 [REDACTED]: [REDACTED]
4 (Grand Juror GR12).

0:09AM 5 In the courtroom there are only the jurors, Vern
6 Pierson, the court reporter, and Jim Clinchard.

7 MR. PIERSON: If we start out that way and then if
8 somebody goes in or out, every time we take a break, we can
9 have you do that again for purposes of the record. If
0:09AM 10 somebody comes in and is sitting down, then we'll -- or a
11 witness or someone else joins us, then we'll say that person
12 has joined us, and we'll identify that just to make the
13 record clear. Okay?

14 MR. CLINCHARD: Jim Clinchard.

0 15 I'm going to go through a few jury instructions. You
16 will receive these jury instructions in a printed format at
17 the very end. So you don't need to take notes on everything
18 right now, unless you want to, and I'll go through all of
19 them. They are somewhat lengthy, and these will essentially
0:09AM 20 explain the law and the standard as we sit here for these
21 grand jury proceedings.

22 Probable Cause. The grand jury shall find an
23 indictment when all the evidence before it, taken together,
24 if unexplained or uncontradicted, would, in its judgment,
0:10AM 25 warrant a conviction by a trial jury.

26 This means the grand jury must find probable cause
27 before an indictment is found. Probable cause means that
28 each grand juror voting to find an indictment is convinced

1 of a state of facts as would lead a person of ordinary
2 caution and prudence to believe and conscientiously
3 entertain a strong suspicion that a public offense has been
4 committed and a strong suspicion of the guilt of the
5 accused.

6 Evidence. You must decide what the facts are in this
7 case. You must only use evidence that is presented during
8 the grand jury proceedings. "Evidence" is the sworn
9 testimony of witnesses and the exhibits admitted into
10 evidence.

11 Nothing that the attorneys say is evidence. The
12 attorneys will discuss the case, but their remarks are not
13 evidence. Their questions are not evidence. Only the
14 witnesses' answers are evidence. The attorneys' questions
15 are significant only if they help you understand the
16 witnesses' answers. Do not assume that something is true
17 just because one of the attorneys asks a question that
18 suggests it is true.

19 You must disregard anything you see or hear when the
20 grand jury proceedings are not in session, even if it is
21 done or said by one of the parties or witnesses.

22 The court reporter is making a record of everything
23 said during the grand jury proceedings. If you decide that
24 it is necessary, you may ask that the court reporter's notes
25 be read to you. You must accept the court reporter's notes
26 as accurate.

27 Direct and Circumstantial Evidence, Defined. Facts
28 may be proved by direct or circumstantial evidence or by a

1 combination of both. Direct evidence can prove a fact by
2 itself. For example, if a witness testifies he saw it
3 raining outside before he came into the courthouse or these
4 proceedings, that testimony is direct evidence that it was
5 raining.

6 Circumstantial evidence also may be called indirect
7 evidence. Circumstantial evidence does not directly prove
8 the fact to be decided, but is evidence of another fact or
9 group of facts from which you may conclude the truth of the
10 fact in question.

11 For example, if a witness testifies that he saw
12 someone come inside wearing a raincoat covered with drops of
13 water, that testimony is circumstantial evidence because it
14 may support a conclusion that it was raining outside.

15 Both direct and circumstantial evidence are
16 acceptable types of evidence to prove or disprove the
17 elements of a charge, including intent and mental state and
18 acts necessary to find an indictment, and neither is
19 necessarily more reliable than the other. Neither is
20 entitled to any greater weight than the other. You must
21 decide whether a fact at issue has been proved based upon
22 all the evidence.

23 Circumstantial Evidence: Intent or Mental State. The
24 People must prove not only that the defendant or defendants
25 did the acts charged but also that he or she acted with a
26 particular intent or mental state. The instructions for
27 each crime explain the intent or mental state required.

28 An intent or mental state may be proved by

1 circumstantial evidence.

2 Before you may rely on circumstantial evidence to
3 conclude that a fact necessary to find the charges have
4 sufficiently been proved, you must be convinced that the
5 People have proved each fact essential to that conclusion by
6 a probable cause standard.

7 Also, before you may rely on circumstantial evidence
8 to conclude that the defendant had the required intent or
9 mental state, you must be convinced that the only reasonable
10 conclusion supported by the circumstantial evidence is that
11 the defendant had the required intent or mental state. If
12 you can draw two or more reasonable conclusions from the
13 circumstantial evidence, and one of those reasonable
14 conclusions supports a finding that the defendant did have
15 the required intent or mental state and another reasonable
16 conclusion supports a finding that the defendant did not,
17 you must conclude that the required intent or mental state
18 was not proved by the circumstantial evidence

19 However, when considering circumstantial evidence,
20 you must accept only reasonable conclusions and reject any
21 that are unreasonable.

22 Witnesses. You alone must judge the credibility or
23 believability of the witnesses. In deciding whether the
24 testimony is true and accurate, use your common sense and
25 experience. The testimony of each witness must be judged by
26 the same standard. You must set aside any bias or prejudice
27 you may have, including any based on the witness's gender,
28 race, religion, or national origin. You may believe all,

1 part, or none of the witness's testimony. Consider the
2 testimony of each witness and decide how much of it you
3 believe.

4 In evaluating a witness's testimony, you may consider
5 anything that reasonably tends to prove or disprove the
6 truth or accuracy of that testimony. Among the factors that
7 you may consider are:

8 How well could the witness see, hear, or otherwise
9 perceive the things about which the witness testified?

10 How well was the witness able to remember and
11 describe what happened?

12 What the witness's behavior was while testifying.

13 Did the witness understand the questions and answer
14 them directly?

15 Was the witness's testimony influenced by a factor
16 such as bias or prejudice, a personal relationship with
17 someone involved in the case, or a personal interest in how
18 the case is decided?

19 What was the witness's attitude about the case or
20 about testifying?

21 Did the witness make a statement in the past that is
22 consistent or inconsistent with his or her testimony?

23 How reasonable is the testimony when you consider all
24 the evidence in the case?

25 Did other evidence prove or disprove any fact about
26 which the witness testified?

27 Did the witness admit to being untruthful?

28 What is the witness's character for truthfulness?

1 Has the witness been convicted of a felony?

2 Has the witness engaged in other conduct that
3 reflects on his or her believability?

4 Was the witness promised immunity or leniency in
5 exchange for his or her testimony?

6 Do not automatically reject testimony just because of
7 inconsistencies or conflicts. Consider whether the
8 differences are important or not. People sometimes honestly
9 forget things or make mistakes about what they remember.

10 Also, two people may witness the same event yet see or hear
11 it differently.

12 If the evidence establishes that a witness's
13 character for truthfulness has not been discussed among the
14 people who know him or her, you may conclude from the lack
15 of discussion that the witness's character for truthfulness
16 is good.

17 If you do not believe a witness's testimony that he
18 or she no longer remembers something, that testimony is
19 inconsistent with the witness's earlier statement on that
20 subject.

21 If you decide that a witness deliberately lied about
22 something significant in the case, you should consider not
23 believing anything the witness says. Or if you believe the
24 witness lied about some things but told the truth about
25 others, you may simply accept the part that you think is
26 true and ignore the rest.

27 Witness Identified as Jane Doe. In this case, a
28 person that is the victim has been identified as Jane Doe in

1 the indictment. That name is only used to protect her
2 privacy, as required by law. The fact that the person is
3 identified that way is not evidence, and do not consider
4 that fact for any purpose.

0:16AM 5 Proof Need Not Show Actual Date. Certain crimes are
6 alleged to very specific dates. Other crimes are alleged as
7 continuing crimes over a certain date range. The People are
8 not required to prove that the crime took place on exactly
9 that day but only that it happened reasonably close to the
10 day alleged or the date range alleged.

0:17AM 11 Jurors Asking Questions. If during the grand jury
12 proceedings you have a question that you believe should be
13 asked of a witness, you may write out the question, hand it
14 to the district attorney, one of us in the room here. The
0 M 15 district attorney will review the question and decide
16 whether it may be asked. Your question may not be asked for
17 a variety of reasons, including the reason that the question
18 may call for an answer that is inadmissible for legal
19 reasons. Do not feel slighted or disappointed if your
0:17AM 20 question is not asked.

21 Also, do not guess the reason your question was not
22 asked or speculate about what the answer might have been.
23 Always remember that you are not advocates for one side or
24 the other in this case. You are impartial judges of the
0:17AM 25 facts.

26 Do Not Investigate. You must decide all questions of
27 fact in this case from the evidence received in this
28 proceeding and not from any other source.

1 You must not independently investigate the facts or
2 law or consider or discuss facts for which there is no
3 evidence. This means, for example, that you must not do
4 your own visit to the scene, conduct experiments, or consult
5 reference works or persons for additional information. Do
6 not do any research on your own or as a group.

7 You must not discuss this case with any other person,
8 except a fellow juror, and then only after the case is
9 submitted to you for your decision and only when all jurors
10 are present in the jury room.

11 The "Johnson Rule." The grand jury is not required
12 to hear evidence for the defendant but shall weigh all the
13 evidence submitted to it. And when it has reason to believe
14 that other evidence within its reach will explain away the
15 charge, it shall order the evidence to be produced, and for
16 that purpose may require the district attorney to issue
17 process for the witness.

18 I'm going to now read you a series of additional
19 instructions that relate directly to the specifically
20 alleged crimes under the indictment -- proposed indictment.

21 The defendants are charged in Count I with
22 kidnapping. In order to indict the defendants of this
23 crime, the People must prove, one, the defendant took, held,
24 or detained another person by using force or by instilling
25 reasonable fear; two, using that force or fear, the
26 defendant moved the other person or made that other person
27 move a substantial distance; and, three, the person did not
28 consent to the movement.

1 In order to consent, a person must act freely and
2 voluntarily and know the nature of the act.

3 A "substantial distance" means more than a slight or
4 trivial distance. In deciding whether the distance was
5 substantial, you must consider all the circumstances
6 relating to the movement. Thus, in addition to considering
7 the actual distance moved, you may also consider other
8 factors such as whether the movement increased the risk of
9 physical or psychological harm, increased the danger of a
10 foreseeable escape attempt, gave the attacker a greater
11 opportunity to commit additional crimes or to decrease the
12 likelihood of detention.

13 Defense, Good Faith Belief in Consent. You must not
14 indict the defendant for kidnapping if he or she reasonably
15 and actually believed the other person consented to the
16 movement. The People have the burden of proving by a
17 probable-cause standard that the defendant did not
18 reasonably and actually believe the other person consented
19 to the movement. If the People have not met this burden,
20 you must not indict the defendant of this crime.

21 Defense, Consent Given. You must not indict the
22 defendant of kidnapping if the other person consented to go
23 with the defendant. The other person consented if he or she
24 freely -- number one, freely and voluntarily agreed to go
25 with or be moved by the defendant; two, was aware of the
26 movement; and three, had sufficient maturity and
27 understanding to choose to go with the defendant.

28 The People have the burden of proving by a

1 probable-cause standard that the other person did not
2 consent to go with the defendant. If the People have not
3 met this burden, you must not indict the defendants of this
4 crime.

0:20AM 5 Kidnapping a Child Under 14 Years Old, Penal Code
6 Section 208(b). The defendants are charged in Count II of
7 the proposed indictment with kidnapping a child under
8 14 years of age. In order to indict the defendants of this
9 crime, the People must prove, one, the defendants used
0:21AM 10 enough physical force to take away and carry away an
11 unresisting child; two, the defendants moved the child a
12 substantial distance; three, the defendants moved the child
13 with an illegal intent or for an illegal purpose; and, four,
14 the child was under 14 at the time of the movement.

C M 15 "Substantial distance" means more than a slight or
16 trivial distance. In deciding whether the distance was
17 substantial, consider all the circumstances relating to the
18 movement. Thus, in addition to considering the actual
19 distanced moved, you may also consider other factors such as
0:21AM 20 whether the movement increased the risk of physical or
21 psychological harm, increased the danger of a foreseeable
22 escape attempt, gave the attacker a greater opportunity to
23 commit additional crimes or decreased the likelihood of
24 detection.

0:21AM 25 Under the law, a person becomes one year older as
26 soon as the first minute of his or her birthday has begun.

27 Kidnapping for Purpose of Rape, Penal Code Section
28 208(d). The defendants are charged in Count III of the

1 proposed indictment with kidnapping for purpose of rape.

2 In order to indict the defendant of this crime, the
3 People must prove that, one, the defendant intended to
4 commit the rape; two, acting with that intent, the defendant
5 took, held, or detained another person by using force or by
6 instilling a reasonable fear; three, using that force or
7 fear, the defendant moved the other person or made the other
8 person move a substantial distance; four, the other person
9 was moved or made to move a distance beyond that merely
10 incidental to the commission of a rape; and, five, the other
11 person did not consent to the movement.

12 In order to consent, a person must act freely and
13 voluntarily and know the nature of the act.

14 As used here, "substantial distance" means more than
15 a slight or trivial distance. The movement must have
16 substantially increased the risk of physical or
17 psychological harm to the person beyond that necessarily
18 present in the rape.

19 In deciding whether the movement was sufficient,
20 consider all the circumstances relating to the movement.

21 In order to be indicted for kidnapping for the
22 purpose of rape, the defendant does not actually have to
23 commit the rape.

24 To decide whether the defendant intended to commit
25 rape, please refer to the separate instructions that I'll
26 give you on that crime.

27 Rape by Force or Fear, Penal Code Section 261(a)(2).

28 The defendants are charged in the proposed indictment

1 in Counts IV, V, XIII, XIV, XV, and XVI with forcible rape
2 of Jane Doe.

3 In order to indict the defendant of this crime, the
4 People must prove that, one, the defendant had sexual
5 intercourse with Jane Doe; two, that he and Jane Doe were
6 not married to each other at the time of the intercourse;
7 three, that Jane Doe did not consent to the intercourse;
8 and, four, the defendant accomplished this intercourse in
9 one of two ways. This is (a), which is force, violence,
10 duress, menace, or fear of immediate and unlawful bodily
11 injury to Jane Doe or someone else; or, (b), threatening to
12 retaliate in the future against Jane Doe or someone else
13 when there was a reasonable possibility that the defendant
14 would carry out the threat. A threat to retaliate is a
15 threat to kidnap, falsely imprison, or inflict extreme pain,
16 serious bodily injury, or death.

17 "Sexual intercourse" means any penetration, no matter
18 how slight, of the vagina or genitalia by the penis.
19 Ejaculation is not required.

20 To consent, a woman must act freely and voluntarily
21 and know the nature of the act.

22 A woman who initially consents to an act of
23 intercourse may change her mind during the act. If she does
24 so, under the law, the act of intercourse is then committed
25 without her consent if, one, she communicated to the
26 defendant that she objected to the act of intercourse and
27 attempted to stop the act; two, she communicated her
28 objection through words or acts that a reasonable person

1 would have understood as showing her lack of consent; and,
2 three, the defendant forcibly continued the act of
3 intercourse despite her objection.

4 Intercourse is accomplished by force if a person uses
5 enough physical force to overcome the woman's will.

6 "Duress" means a direct or implied threat of force,
7 violence, danger, or retribution that would cause a
8 reasonable person to do or submit to something that she
9 would not do or submit to otherwise. When deciding whether
10 the act was accomplished by duress, consider all the
11 circumstances, including the woman's age and her
12 relationship to the defendant.

13 Retribution is a form of payback or revenge.

14 "Menace" means a threat, statement, or act showing an
15 intent to injure someone.

16 Intercourse is accomplished by fear if the woman is
17 actually and reasonably afraid or if she is actually but
18 unreasonably afraid and the defendant knows her fear and
19 takes advantage of it.

20 Defense: Reasonable Belief in Consent. The defendant
21 should not be indicted for rape if he actually and
22 reasonably believed that the woman consented to the
23 intercourse. The People have the burden of establishing by
24 probable cause that the defendant did not actually and
25 reasonably believe that the woman consented. If the People
26 have not met this burden, you must not indict the defendant
27 of this crime.

28 Lewd or lascivious acts by force or fear on a child

1 under 14, Penal Code Section 288(b)(2). The defendants are
2 charged in the proposed indictment in Counts VI, VII, VIII,
3 IX, X, XI, and XII with committing forcible lewd or
4 lascivious acts on a child under the age of 14 years.

0:26AM 5 In order to indict the defendant of this crime, the
6 People must prove, one, the defendant willfully touched any
7 part of a child's body in a manner that constitutes
8 substantial sexual conduct; in committing the act, the
9 defendant used force, violence, duress, menace, or fear of
0:26AM 10 immediate and unlawful bodily injury to the child or someone
11 else; three, the defendant committed the act with the intent
12 of arousing, appealing to, or gratifying the lust, passions,
13 or sexual desires of himself or the child; and, four, the
14 child was under 14 years at the time of the act.

15 The touching need not be done in a lewd or sexual
16 manner.

17 Someone commits an act willfully when he or she does
18 it willingly or on purpose. It is not required that he or
19 she intend to break the law, hurt someone else, or gain any
0:27AM 20 advantage.

21 Actually arousing, appealing to, or gratifying the
22 lust, passions, or sexual desires of the perpetrator or the
23 child is not required.

24 The force used must be substantially different from
0:27AM 25 or substantially greater than the force needed to accomplish
26 the act itself.

27 "Duress" means a direct or implied threat of force,
28 violence, danger, hardship, or retribution that causes a

1 reasonable person to do or submit to something that he or
2 she would not otherwise do or submit to. When deciding
3 whether the act was accomplished by duress, consider all the
4 circumstances, including the age of the child and her
5 relationship to the defendant.

6 Retribution is a form of payback or revenge.

7 Menace is a threat, statement, or act showing an
8 intent to injure someone.

9 An act is accomplished by fear if the child is
10 actually and reasonably afraid or if she is actually but
11 unreasonably afraid and the defendant knows of her fear and
12 takes advantage of it.

13 It is not a defense that the child may have consented
14 to the act.

15 Under the law, a person becomes one year older the
16 first minute his or her birthday has begun.

17 I just read to you part of that definition. The
18 prior instruction talked about substantial sexual conduct.

19 "Substantial sexual conduct" means the penetration of
20 the vagina or rectum of either the victim or offender by the
21 penis of the other or by a foreign object, oral copulation,
22 or mutual masturbation.

23 Oral copulation is any contact, no matter how slight,
24 between the mouth of one person and the sexual organ or anus
25 of another. Penetration is not required.

26 Sodomy. Sodomy is any penetration, no matter how
27 slight, of the anus of one person and the penis of another.

28 Felony False Imprisonment. The defendants are

1 charged in the proposed indictment in Count XVII with false
2 imprisonment by violence or menace.

3 In order to indict the defendants of this crime, the
4 People must prove that, one, the defendants intentionally
5 and unlawfully restrained or confined or detained someone or
6 caused that person to be restrained or confined or detained
7 by violence or menace; and, two, the defendants made the
8 other person stay or go somewhere against that person's
9 will.

10 "Violence" means using physical force that is greater
11 than the force necessary to restrain someone.

12 "Menace" means a verbal or physical threat of harm,
13 including use of a deadly weapon. The threat of harm may be
14 express or implied.

15 An act is done against a person's will if that person
16 does not consent to the act. In order to consent, a person
17 must act freely and voluntarily and know the nature of the
18 act.

19 False imprisonment does not require that the person
20 restrained be confined to jail or prison.

21 Possession or control of obscene matter showing
22 sexual conduct by a minor, Penal Code Section 311.11(a).
23 The defendants are charged in the proposed indictment in
24 Count XVIII -- this is the final count in the indictment --
25 with possession or control of obscene matter that shows a
26 minor engaging in sexual conduct.

27 In order to indict the defendant of this crime, the
28 People must prove, one, the defendant possessed or

1 controlled obscene matter; two, when the defendant acted, he
2 or she knew the character of the matter; and, three, when
3 the defendant acted, he or she knew the matter showed a
4 person under the age of 18 who was personally participating
5 in or simulating sexual conduct.

6 You must decide whether the matter at issue in this
7 case meets the definition of obscene matter. Matter is
8 obscene if, when considered as a whole, one, it shows or
9 describes sexual conduct in an obviously offensive way; two,
10 a person -- a reasonable person would conclude that it lacks
11 serious literary, artistic, political, or scientific value;
12 and, three, an average adult person, applying contemporary
13 statewide standards, would conclude it appeals to a prurient
14 interest.

15 A prurient interest is a shameful or morbid interest
16 in nudity, sex, or excretion.

17 "Matter" means any representation of information,
18 data, or image, including any film, filmstrip, photograph,
19 negative, slide, photocopy, videotape, video laser disc,
20 computer hardware or software, computer floppy disk, data
21 storage medium, CD-ROM, computer-generated equipment, or
22 computer-generated image that contains any film or
23 filmstrip.

24 "Applying contemporary statewide standards" means
25 using present-day standards and determining the effect of
26 the matter on all those whom it is likely to reach within
27 the state. In other words, its impact on the average person
28 in the statewide community. The average adult person is a

1 hypothetical person who represents the entire community,
2 including both men and woman; religious and nonreligious
3 people; and adults of various ages, educational and economic
4 levels, races, ethnicities, and points of view.

0:31AM 5 The "contemporary statewide standards" means what is
6 acceptable to the statewide community as a whole, not what
7 some person may or may not believe the community ought to
8 accept. The test you must apply is not what you find
9 offensive based on your own personal, social, or moral
0:32AM 10 views. Instead, you must make an objective determination of
11 what would offend the statewide community as a whole.

12 You may consider evidence of local community
13 standards in deciding what the contemporary statewide
14 standard is. However, you may not use the standard of a
0 M 15 local community, by itself, to establish the contemporary
16 statewide standard.

17 The material is not obscene unless a reasonable
18 person would conclude that, taken as a whole, it lacks
19 serious literary, artistic, political, or scientific value.
0:32AM 20 When deciding whether the material is obscene, do not weigh
21 its value against its prurient appeal.

22 The depiction of nudity, by itself, does not make
23 matter obscene. In order for matter containing nudity to be
24 obscene, it must depict sexual activity and it must meet the
0:32AM 25 requirements for obscenity listed above.

26 The depiction of sexual activity, by itself, does not
27 make matter obscene. In order for matter depicting sexual
28 activity to be obscene, it must meet the requirements for

1 obscenity listed above.

2 "Sexual conduct" means actual or simulated sexual
3 intercourse, or oral copulation, or anal intercourse, or
4 anal oral copulation. An act is simulated when it gives the
5 appearance of being sexual conduct.

6 The People must prove the defendant knew the obscene
7 nature of the matter but do not need to prove that the
8 defendant knew whether the matter met the definition of
9 obscene.

10 In deciding the matter's nature and whether it lacks
11 serious literary, artistic, political, or scientific value,
12 consider whether the circumstances of its production,
13 presentation, sale, dissemination, distribution, or
14 publicity indicate that the matter was being commercially
15 exploited because of its prurient appeal. You must decide
16 the weight, if any, to give this evidence.

17 In deciding whether the matter lacks serious
18 literary, artistic, political, or scientific value, you may
19 also consider whether the defendant knew that the matter
20 showed persons under the age of 16 engaging in sexual
21 conduct. You must decide the weight, if any, to give this
22 evidence.

23 In deciding whether, applying contemporary statewide
24 standards, the matter appeals to a prurient interest, you
25 may consider whether similar matter is openly shown in the
26 community. You must decide the weight, if any, to give this
27 evidence.

28 Two or more people may possess something at the same

1 time.

2 A person does not actually -- does not have to
3 actually hold or touch something to possess it. It is
4 enough if the person has control over it, or the right to
5 control it, either personally or through another person or
6 other people.

7 Aiding and Abetting: General Principles. A person
8 may be indicted of a crime in two ways. One, he or she may
9 have directly committed the crime; or, two, he or she may
10 have aided and abetted someone else who committed the crime.
11 In these instructions, I will call the other person the
12 perpetrator. A person is equally guilty of the crime
13 whether he or she committed it personally or aided and
14 abetted the perpetrator who committed it.

15 Under some specific circumstances, if the evidence
16 establishes aiding and abetting of one crime, a person may
17 also be indicted of other crimes that occurred during the
18 commission of the first crime.

19 Aiding and Abetting: Intended Crimes. In order to
20 indict the defendant of a crime based on aiding and abetting
21 that crime, the People must prove, one, the perpetrator
22 committed the crime; two, the defendant knew that the
23 perpetrator intended to commit the crime; and, three, before
24 or during the commission of the crime, the defendant
25 intended to aid and abet the perpetrator in committing the
26 crime; finally, four, the defendant's words or conduct did,
27 in fact, aid and abet the perpetrator's commission of the
28 crime.

1 Someone aids and abets a crime if he or she knows of
2 the perpetrator's unlawful purpose and he or she
3 specifically intends to, and does, in fact, aid, facilitate,
4 promote, encourage, or instigate the perpetrator's
5 commission of that crime.

6 If all of these requirements are proved, the
7 defendant does not need to actually have been present when
8 the crime was committed to be indicted as an aider and
9 abettor.

10 If you conclude the defendant was present at the
11 scene of the crime or failed to prevent the crime, you may
12 consider that fact in determining whether the defendant was
13 an aider and abettor. However, the fact that a person is
14 present at the scene of a crime or fails to prevent the
15 crime does not, by itself, make him an aider and abettor.

16 You must not indict a person who aids and abets a
17 crime if he or she withdraws before the crime is committed.
18 To withdraw, a person must do two things:

19 He or she must notify everyone else he or she knows
20 is involved in the commission of the crime that he or she is
21 no longer participating. The notification must be made
22 early enough to prevent the commission of the crime;

23 And, two, he or she must do everything reasonably
24 within his or her power to prevent the crime from being
25 committed, and he or she does not actually have to prevent
26 the crime.

27 The People have the burden of proving by a
28 probable-cause standard that the defendant did not withdraw.

1 If the People have not met this burden, you must not indict
2 the defendant under an aiding and abetting theory.

3 Natural and Probable Consequences Doctrine for the
4 Target and Nontarget Offenses Charged. Defendant Nancy
5 Garrido is charged in Counts I to III with various forms of
6 kidnapping and in Counts IV through XVI with multiple counts
7 of forcible rape and forcible lewd and lascivious acts upon
8 a child.

9 You must first decide whether or not to indict
10 Defendant Nancy Garrido for kidnapping in Count I. If you
11 indict Defendant Nancy Garrido of this crime, you must then
12 decide whether or not to indict her of any of the other
13 multiple counts of forcible rape and forcible lewd and
14 lascivious conduct upon a child as alleged in Counts IV
15 through XVI of the proposed indictment.

16 Under certain circumstances, a person who is indicted
17 for one crime may also be indicted for other crimes that
18 were committed. In order to indict Defendant Nancy Garrido
19 of the multiple counts of forcible rape and forcible lewd
20 and lascivious conduct upon a child as alleged in Counts IV
21 to XVI, the People must prove that, one, Defendant Nancy
22 Garrido should be indicted for kidnapping as alleged in
23 Count I and II; during the commission of the kidnapping,
24 multiple counts of forcible rape and forcible lewd and
25 lascivious acts upon a child were committed as alleged in
26 Count IV through XVI; and, three, under all circumstances, a
27 reasonable person in Defendant Nancy Garrido's position
28 would have known that the commission of multiple counts of

1 forcible rape and forcible lewd and lascivious conduct upon
2 a child as alleged in Counts IV through XVI were a natural
3 and probable consequence of the commission of the
4 kidnapping.

0:38AM 5 A natural and probable consequence is one that a
6 reasonable person would know is likely to happen if nothing
7 unusual intervenes. In deciding whether a consequence is
8 natural and probable, consider all the circumstances
9 established by the evidence. If the multiple counts of

0:38AM 10 forcible rape and forcible lewd and lascivious conduct upon
11 a child were committed for a reason independent of the
12 common plan to commit the kidnapping, then the commission of
13 the multiple counts of forcible rape and forcible lewd and
14 lascivious conduct upon a child were not a natural and
15 probable consequence of the kidnapping.

C M 16 To decide whether the crime of forcible rape and or
17 forcible lewd and lascivious conduct upon a child was
18 committed, please refer to the separate instructions I've
19 already given you on that crime.

0:39AM 20 The People allege that the defendant originally
21 intended to aid and abet in the commission of kidnapping,
22 Count I, or kidnapping someone under 14 years of age,
23 Count II, or kidnapping for the purposes of rape, Count III.

0:39AM 24 In order to indict the defendant Nancy Garrido of the
25 multiple counts of forcible rape and forcible lewd and
26 lascivious conduct upon a child, Counts IV to XVI, the
27 People must prove that the defendant aided and abetted
28 either the kidnapping, kidnapping someone under 14 years of

1 age in Count II, or the kidnapping for sexual purposes in
2 Count III, and that the multiple counts of forcible rape and
3 forcible lewd and lascivious conduct upon a child were the
4 natural and probable consequence of either kidnapping, or
5 kidnapping someone under 14 years of age, or kidnapping for
6 sexual purposes.

7 However, you do not need to agree on which of these
8 three crimes the defendant aided and abetted.

9 Union of Act and Intent: General and Specific Intent
10 Together. The crimes that I'm about to read and the
11 allegations require general criminal intent. And those are
12 Count I, kidnapping, and Counts IV, V, XIII, XIV, XV, and
13 XVI, which is rape by force or fear. To be indicted of
14 these offenses, a person must not only commit the prohibited
15 act or fail to do the required act, but must do so
16 intentionally or on purpose. It is not required, however,
17 that the person intend to break the law. The act required
18 is explained in the instruction for each crime alleged.

19 The following crimes and allegations requires a
20 specific intent, knowledge, or mental state. And that is
21 Count II, kidnapping a child under 14; Count III, kidnapping
22 for purpose of rape; and Counts VI, VII, VIII, IX, X, XI,
23 and XII, lewd and lascivious acts by force or fear on a
24 child under 14; and Count XVII, false imprisonment;
25 Count XVIII, possession of obscene matter depicting a minor
26 engaging or simulating sexual conduct.

27 To be indicted of these crimes I just mentioned, a
28 person must not only intentionally commit the prohibited act

1 or intentionally fail to do the act required, but must do so
2 with a specific intent or knowledge or mental state. The
3 act and the intent or mental state required are explained in
4 the instruction for each crime or allegation.

0:41AM 5 The defendant Nancy Garrido is charged with aiding
6 and abetting the specific intent crimes alleged in
7 Counts II, III, and XVII. An aider and abettor will "share"
8 the perpetrator's specific intent if you find that he or she
9 knows the full extent of the perpetrator's criminal purpose
0:41AM 10 and gives aid or encouragement with the intent or purpose of
11 facilitating the perpetrator's commission of the crime.

12 Unanimity of At Least 12. The defendants are each
13 charged with several counts of Penal Code Section 288(b)(1),
14 forcible lewd and lascivious acts, and several counts of
0 M 15 261(a)(2), forcible rape, during various time periods from
16 June 10, 1991, to November 13th of 1997.

17 The People have presented -- or will present evidence
18 of more than one act that proves that each of the defendants
19 committed these various offenses during each of the various
0:42AM 20 time periods. You must not indict the defendants on any
21 particular count unless at least 12 of you agree that the
22 People have proved the defendants committed at least one of
23 these acts for each of the charges alleged and that 12 of
24 you agree on which act he or she committed.

0:42AM 25 Multiple Counts and Separate Offenses. Each of the
26 counts charged is a separate -- in this case is a separate
27 crime. You must consider each count separately.

28 Multiple Defendants. Both defendants in this case

1 are charged with the same crimes.

2 You must separately consider the evidence as it
3 applies to each defendant. You must decide each charge for
4 each defendant separately. If at least 12 of you cannot
5 reach a decision on one or both of the defendants or on any
6 of the charges against any of the defendants, you must
7 report your disagreement and you must return your decision
8 on any defendant or charge on which at least 12 of you have
9 agreed.

10 Unless I tell you otherwise, all the instructions
11 apply to each defendant.

12 Note-taking. You have been given notebooks, and you
13 may take notes during the grand jury proceedings. Leave
14 them in the jury room when you leave each day and at recess.
15 You may take your notes into the jury room during
16 deliberations. Here are some points to consider in taking
17 notes:

18 Note-taking may tend to distract you. It may affect
19 your ability to listen carefully to the testimony and to
20 watch the witnesses as they testify.

21 And, two, you may only use your notes to remind
22 yourself of what happened during the grand jury proceedings.
23 But, remember, your notes may be inaccurate or incomplete.
24 I do not mean to discourage you from taking notes. I
25 believe you may find it helpful.

26 Finally, should any discrepancy exist between a
27 juror's recollection of the evidence and a juror's notes, or
28 between a juror's recollection and that of another, you may

1 request the reporter read back relevant testimony, which
2 must prevail.

3 Those are the only instructions I have at this time.
4 Just hold on one second. I'll see what's happening with the
5 witness outside.

6 MR. PIERSON: I have a stack of exhibits which are
7 premarked using red People's exhibit tags, 1 through 25.
8 I'm going to ask our foreperson now to go through and
9 initial and date each one of them both here, as well as on
10 the evidence list.

11 GRAND JUROR GR12 [REDACTED]: [REDACTED]
12 (Grand Juror GR12). I'll do this.

13 MR. PIERSON: Can you please stop for a minute on
14 that and read the admonition. The first one will be the
15 witness oath.

16 I'm going to ask you to stand and raise your right
17 hand and then state your -- actually, we'll do the oath
18 first and then ask you to state your full name.

19 THE WITNESS: My name is [REDACTED] (Jane
20 Doe).

21 GRAND JUROR GR12 [REDACTED]: [REDACTED]
22 (Grand Juror GR12).

23 You do solemnly swear that the evidence you shall
24 give in this matter pending before the grand jury shall be
25 the truth, the whole truth, and nothing but the truth, so
26 help you God?

27 THE WITNESS: I do.

28 MR. PIERSON: Go ahead and have a seat.

1 [REDACTED] (Dr. Doe), I'm going to ask you to stand
2 and raise your right hand.

3 GRAND JUROR GR12 [REDACTED]: [REDACTED]
4 (Grand Juror GR12).

0:46AM 5 Grand jury proceedings are confidential and may not
6 be discussed with anyone not in attendance at the
7 proceedings. You are admonished not to prompt, sway, or
8 influence the witness in any way.

9 [REDACTED] (DR. DOE): Yes, I do.

0:47AM 10 MR. PIERSON: Would you state your name.

11 [REDACTED] (DR. DOE): Yes. I'm Dr. [REDACTED]
12 (Dr. Doe).

13 MR. PIERSON: And, [REDACTED] (Dr. Doe), for purposes
14 of the grand jury and the record, you are here as a support
15 person at the request of [REDACTED] (Jane Doe)?

16 [REDACTED] (DR. DOE): Yes, I am.

17 THE COURT: That is your request?

18 THE WITNESS: Yes, it is.

19 MR. PIERSON: We kept you waiting for a little bit
20 while we were reading the instructions.

21 TESTIMONY OF

22 [REDACTED] (JANE DOE),
23 a witness called by the People, having been first duly
24 sworn, testifies as follows:

25 DIRECT EXAMINATION

26 BY MR. PIERSON:

27 Q. I'm going to start with asking you -- first off,
28 what's your date of birth?

1 A. May 3rd, 1980.

2 Q. And I'll ask you to go back to June of 1991. Can you
3 tell us where you were living at that time?

4 A. I was living in South Lake Tahoe on Washoan in a
5 four-bedroom house.

6 Q. And who were you living with?

7 A. I was living with my mom, my stepdad, and my little
8 sister, who was one.

9 Q. What's your mother's name?

10 A. Terry Probyn.

11 Q. What was your stepdad's name?

12 A. Carl Probyn.

13 Q. Your sister was also living there. And you said she
14 was one at the time?

15 A. Um-hum.

16 Q. What is her name?

17 A. [REDACTED] (Jane Doe 4).

18 Q. Do you recall that you were going to school at that
19 time?

20 A. Yep. Yes.

21 Q. Okay. And it was -- I'm going to ask you about,
22 specifically, the date of June 10th, 1991. Is that the last
23 week of school?

24 A. Um, yeah. I think so. There was a field trip coming
25 up, so...

26 Q. I'm going to ask you specifically about the morning,
27 Monday morning, June 10th. Do you recall leaving your house
28 to walk to school?

1 A. Yeah. I left the house -- made breakfast, left the
2 house. I think my stepdad, Carl, was in the garage. I
3 didn't see him, but I just yelled that I'm leaving and
4 [REDACTED] (Jane Doe 4) in the house sleeping.

0:49AM 5 Q. You were going to school, but were you walking to
6 a --

7 A. Bus stop. I was walking to the bus stop. It's up
8 the hill, and I just walked every morning up the hill.

9 Q. The same path, normal routine that you followed?

0:49AM 10 A. Yeah.

11 Q. And approximately what time was it?

12 A. I don't remember what time it was. It was a long
13 time ago, but I think I left -- I got up at 6:45, and I
14 think I had, like, maybe 45 minutes. So 7 something.

0 M 15 Q. It was the normal time when you would go to school?

16 A. Yeah. It was the time that I usually left.

17 Q. Okay. Now, I'm going to ask you -- because I know
18 you've been waiting around and you're nervous. Take a deep
19 breath and relax.

0:50AM 20 Would you prefer, for this purpose of this hearing,
21 if I was to call you [REDACTED] (Jane Doe), call you by that name?
22 Are you comfortable with that?

23 A. That's fine, yeah.

24 Q. [REDACTED] (Jane Doe), so you left for school. You're
25 leaving just like you normally do. You're walking out of
26 the house. About how far, if you remember, is the school
27 bus that you would walk to that morning?

28 A. Like in miles or...

1 Q. Well, about how long does it take you to walk there,
2 distance?

3 A. Oh, I'd say about ten minutes.

4 Q. Okay. And so after you left -- you walked out of the
5 house, and you were walking. Can you describe to us, in
6 your own words, what happened?

7 A. I left the house. I called to Carl that I'm leaving.
8 I walk up about -- not halfway but just to where I usually
9 cross the street, because Carl has taught me that I want to
10 face the oncoming traffic down the hill. So he says that I
11 should cross about here so that I can see what's coming up
12 the hill.

13 So that's what I did at the usual time that I did it.
14 And then I got about -- almost to the bend. There's a bend
15 in the hill that goes -- that bends up to the bus stop. And
16 so I got about halfway there, and this car comes up behind
17 me. And I didn't think it was weird at the time, but it
18 kind of pulled in close to me. And I thought he was going
19 to ask for directions because he started to say something.

20 And all of a sudden, his hand shoots out of the car
21 window, and I feel this shock. And I stumble back into
22 the -- into the bushes. And -- sorry...

23 Q. That's all right. Take your time.

24 A. He gets out, and I stumble back into the bushes. I'm
25 sitting now in the bushes, trying to back away, but I feel
26 like my whole body is -- wouldn't work. It was tingly, and
27 I can't -- nothing works. All of a sudden, I'm in the car,
28 and there's something on top of me, and I feel like there's

1 pressure on me. And I'm in the car.

2 Q. Could you tell what the pressure was from?

3 A. No. It just -- it felt moving so -- you know, it
4 felt like a body, you know.

0:53AM

5 Q. Like a person?

6 A. Yeah, like a person. Legs. But there was something
7 on top of me, too, like a blanket or something, because it
8 was really hot. I was getting really hot.

0:53AM

9 Q. And in the car, were you laying on the seat? On the
10 floorboard?

11 A. On the floorboard. I was put on the floorboard and
12 then something thrown on top of me, and then legs, pressure,
13 face down. I don't know what happened after that because I
14 think I -- because I don't remember the car pulling away, or
15 I felt like I blacked out or something.

0:53AM

16 Q. Did it seem like you went on a --

17 A. I did loose control of my bladder. I felt
18 embarrassed, and then I was in the car, so...

0:53AM

19 Q. And that was sometime -- was that right away or was
20 that sometime during the trip in the car?

21 A. Well, I felt wet, so that was in the car that I felt
22 wet. But I didn't know why. My limbs felt tingly still,
23 and just everything was jumbled.

0:54AM

24 Q. I'm going to show you -- I'm going to start by
25 showing you what's been -- a photograph that's been marked
26 as Exhibit Number 1 and ask you do you recognize the person
27 in that photograph?

28 A. That's me.

1 Q. So as I -- what I'm going to do is I'm just going to
2 pass these amongst the jurors so you can each look at them,
3 and if you need to look at it for a moment -- primarily, I
4 want to continue on with the questioning of the witness, but
5 you can look at them and then just pass them along.

6 You indicated that's you, and that's you back in
7 1991?

8 A. Yes. That was a school photo.

9 Q. You already said your date of birth. We're talking
10 about June 10th, 1991. You turned --

11 A. I was 11.

12 Q. You were 11. You turned 11 about a month prior to
13 this happening?

14 A. Yeah.

15 Q. I'm going to show you Number 2. Do you recognize the
16 area in that aerial photograph?

17 A. Yeah. That's where I lived.

18 Q. And that's --

19 A. In Tahoe.

20 Q. That's an aerial photograph looking down on the
21 street that you were just describing for us?

22 A. Yeah.

23 Q. And it has on it, just to --

24 A. The hill I walked.

25 Q. The hill that you walked. And it's a -- it's listed
26 as 1090 Washoan, South Lake Tahoe, California, which is in
27 El Dorado County. Correct?

28 A. Yes.

1 Q. And where there was a red mark, that's about the
2 approximate location?

3 A. That was my house.

4 Q. And the area that you described walking up would have
5 been from the approximate area of the house up to the curve
6 in the road. There's two -- there's Apalachee, and there's
7 --

8 A. Nadowa Street.

9 Q. Can you describe, in reference to those streets, the
10 approximate location where it was that this happened?

11 A. Right here, right at the corner of Nadowa Street.

12 Q. On the -- the corner that would be farthest away from
13 where you were walking?

14 A. Yes.

15 Q. And then you described that there is a curve, and
16 it's a slight bend to the right?

17 A. Yeah. A slight bend.

18 Q. Now, as you're walking up the hill, you said that you
19 started out -- because the house would be -- in the
20 direction you're traveling, it's on the right side, and then
21 you cross over to the left side, and you're walking along
22 the left side?

23 A. Yes.

24 Q. And go back to the point in time when the car comes
25 over towards you. Were you -- how close to the edge of the
26 road were you when the car came over?

27 A. Um, I was pretty close. I was on the gravel, but I
28 wasn't on the road. I was on -- there was gravel right

1 there.

2 Q. To the left side?

3 A. To the left side and bushes to my left side. So
4 pretty close to the street but not on the street.

0:57AM 5 Q. And you said the car comes over. Is the car -- do
6 you recall how fast it was driving the first time you saw
7 it?

8 A. It was -- it seemed like it was really slow. I don't
9 remember what I was thinking but, you know -- and then it
0:57AM 10 was all of a sudden beside me. And it happened really fast,
11 but I don't believe the car was going fast. I think it was
12 pretty slow because it kind of, like, crept up on me.
13 Like, I didn't really hear anything, know anything was back
14 there.

0 M 15 Q. But you said a moment ago that you -- the person in
16 the car said something or started to say something?

17 A. Yeah. Yeah. I kind of -- you know, you know when
18 you know something is beside you and you kind of turn? And
19 I could see this -- I mean, I didn't really get a good look,
0:58AM 20 but somebody, you know, kind of -- a voice saying something
21 about directions, you know, "Do you know where" -- and then,
22 all of a sudden, his hand shoots out and I feel tingly and
23 like losing control, and I'm in the bushes, trying to go
24 back, and somebody is dragging me.

0:58AM 25 Q. Did you see how many people were in the car?

26 A. I saw one, the driver.

27 Q. And that was --

() 28 A. But I didn't look back.

1 Q. Was it a man or a woman that was the driver?

2 A. It was a man.

3 Q. And did you describe being in the car and feeling
4 something on top of you?

0:59AM 5 A. Yeah. A blanket or something. And then feet or
6 legs.

7 Q. And just to be clear, the car is moving. Right?

8 A. Um-hum.

9 Q. And so, obviously, somebody had to be driving the
0:59AM 10 car?

11 A. Yeah.

12 Q. And then there was a second person?

13 A. There had to be because -- yeah. I could feel the
14 pressure. I could feel legs moving, switching around.

0 M 15 Something was there.

16 Q. And you were in the back seat?

17 A. Yeah.

18 Q. On the floorboard?

19 A. Yeah. On the floorboard.

0:59AM 20 Q. So there had to be at least two people in the car?

21 A. Yeah.

22 Q. Did you ever -- do you recall, during the time while
23 you were in the car, seeing a second person in the car?

24 A. No. But I could hear a voice some time later. I

0:59AM 25 don't know when. The man in the front -- all of a sudden,
26 the pressure was off, like I woke up, and I could hear the
27 car door slam like someone was getting into the front seat,
28 the passenger side. And the person that took me was, like,

1 handing me something to -- said, "Do you want something to
2 drink?" And I heard voices in the front, and the man said,
3 "I can't believe we got away with it," and he started
4 laughing.

1:00AM

5 And then some mumbling. It sounded like -- it didn't
6 sound manly, so I'm -- my instinct is it was a woman.

7 Q. And how long did the car ride go on from that point?

8 A. It seemed like forever. I kept on -- it was really,
9 really hot, and there was still something on top of me. He

1:00AM

10 put something back on top of me after he offered me the
11 drink, which I didn't want. Then it was really hot. So
12 it's kind of like I was blacking out, and I don't remember
13 how long it was.

14 Q. Did it seem like it was a significant period of time?

1 M

15 A. It seemed like forever.

16 Q. And what happened -- eventually the car stops?

17 A. Yeah.

18 Q. And can you tell us -- describe for us what happened
19 at the point when the car stops.

1:01AM

20 A. The car stops, and I think he -- well, I know I could
21 hear, like, the car stopped. The door slammed shut and like
22 squeaking of a gate or something.

23 And then he's telling me -- well, he put the blanket
24 back over me, and he said I had to be really quiet and there
25 was dogs patrolling the area. He had -- he said he had
26 Dobermans and that if I was to run or, you know, try to do
27 anything, that they would come after me.

1:01AM

28 And so he walked me -- I couldn't tell where we were

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Page 57 through Page 58 were removed by Court order.

* * * * *

1 know what he was doing.

2 Q. Okay. Let me stop you there again. A moment ago you
3 said that -- and, you know, I know that I talked to you a
4 little bit about this ahead of time. Some of the questions
5 I ask are obviously -- they may seem obvious, but I need to
6 ask them anyway.

7 Were you afraid of him from the -- you keep referring
8 to somebody as "him," and we'll clarify who that is in a
9 moment.

10 Were you afraid of him from the moment this all
11 started?

12 A. I was very scared. I didn't know who he was. I
13 didn't know why he was doing this. I just wanted to go
14 home. I think in the bathroom I kept telling him that, you
15 know, "I don't know why you're doing this. If you're
16 holding me for ransom, my family doesn't have a lot of
17 money."

18 I didn't know -- I didn't know his purpose. I've
19 heard about kidnapping before. They were usually for money.

20 Q. But during that entire time, you were -- as you
21 indicated, you were afraid of him?

22 A. Very scared.

23 Q. And --

24 A. I just wanted to go home.

25 Q. Let me show you what's marked as Number 3 and 4.
26 First, Number 3. Do you recognize the person that's in this
27 exhibit?

28 A. That's him.

1 Q. That's the person you're referring to as "him"?

2 A. Yeah. That's the man who took me.

3 Q. And his name is Phil Garrido?

4 A. Yes.

1:07AM

5 Q. He's known to you as Phil Garrido?

6 A. Yes.

7 Q. Now, I'm going to show you another one that's
8 Number 4. And this says -- it's entitled "California
9 Department of Motor Vehicles," and do you recognize the
10 person in that photograph?

1:07AM

11 A. That's Phillip.

12 Q. And that's -- obviously, the picture was taken some
13 years ago?

14 A. Um-hum.

1 M

15 Q. And this is the -- and both of those exhibits, that's
16 the same person you referred to as him. And that's fine, as
17 long as we can continue to refer to him that way. As long
18 as --

19 A. I didn't know who he was in the beginning. You know,
20 I didn't know his name or anything.

1:08AM

21 Q. Well, and the next thing I was going to ask you, did
22 he ever tell you -- early on in this first, you know,
23 several hours, did he tell you what his name was?

24 A. No. He never told me his name. It was some time
25 later that I learned it.

1:08AM

26 Q. Did he ever tell you why he -- you know, you were
27 saying you were obviously afraid and not knowing why. You
28 told him your family doesn't have money. Did he tell you

1 why he had taken you?

2 A. No. He didn't say much in the beginning. I remember
3 very quiet, just telling me what to do. About the dogs.

4 Q. To stay away from the dogs?

1:09AM

5 A. Yeah.

6 Q. Were you afraid of the dogs, also?

7 A. I didn't know where they were. So I was afraid to do
8 anything. I didn't know what he would do, either.

1:09AM

9 Q. But he told you to be -- that you should be afraid of
10 the dogs?

11 A. Yes.

12 Q. Just specifically, what do you recall him saying
13 about the dogs?

1 M

14 A. That they were very territorial, and if they found
15 anybody on their property that they didn't know, that they
16 would attack.

17 Q. Now, so was there anybody else around during the time
18 period that you described other than --

19 A. Not that I saw.

1:09AM

20 Q. Just want to be clear for the record. There was --

21 A. Not in the house. I didn't see anybody in the house.

22 Q. There was somebody driving?

23 A. Then there was a passenger.

1:09AM

24 Q. There was a passenger. But you didn't see that
25 person?

26 A. No. I was on the floorboard.

27 Q. And when you get out of the car at the house --

28 A. It was only him.

1 Q. He's the only one there?

2 A. (Witness nods head.)

3 Q. And after you go back on the porch, you said there's
4 a couple of cats there. Can you go back to basically, as
5 best as you can remember, what happened at that point?

6 A. I was sitting on that couch for a while, petting the
7 cats, and he went upstairs. I don't know what for. And
8 then he comes back down. He said that we're going to take a
9 little walk to the back. And I asked -- I asked him, "When
10 can I go home?" You know, my mom was going to be worried.
11 But he didn't say anything. He just said, "This is what
12 we're going to do." And he put the blanket back on me and
13 said that we're going to walk and that he would lead the
14 way, and I was to hold on to him. So that's what I did.

15 We walked. I could feel -- I didn't have any shoes.
16 I didn't have anything on but the towel. So I could feel
17 grass. We walked through some grass. And then later it
18 turned into, like, cement or something. And I could hear
19 this gate open and close and walked some more.

20 And then we were standing in front of something. I
21 mean, I don't know, but you know when you know something is
22 near? And he opened -- I could hear the lock. I could hear
23 a lock turn, like a click, and door open, and then I'm
24 ushered into -- then I feel carpet. Then I'm ushered into
25 the -- what felt like the back.

26 And then when he took the blanket off, it was the
27 back of this room. I didn't see the first part, but the
28 second part was -- had a door and kind of, like, music

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1 this was all sealed off. And the first room -- this
2 building is where I was held.

3 Q. And that would be -- on this photograph, there is a
4 "Garrido's house," and then there is a side yard fence,
5 backyard fence, and there is a dotted line. And then there
6 is a -- what seems like a blue roof and then a white roof?

7 A. Um-hum. That's a shed, but this is -- this is where
8 I was at.

9 Q. The area that says -- right next to where it says
10 "Concealed Compound" is a building, and that's the building
11 that you're describing as you were being kept?

12 A. Yes.

13 Q. I'm going to show you what's marked as Number 8 and
14 ask you if you can identify that.

15 A. That's the building I was held in the back. It was
16 different back then. It only had a window. It didn't have
17 this door. And he put in the air conditioner later. It
18 didn't have any air conditioner at first. But this was --
19 this had two rooms: one little room and one big one.

20 Q. The building that the photograph is the front of had
21 two --

22 A. Yeah. This is the back of the building.

23 Q. Number 8 is the back of the building?

24 A. Yeah. Um-hum.

25 Q. And there's two rooms.

26 I'm going to show you Number 9 and ask you if you
27 recognize that.

28 A. That's the inside.

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1 A. Yeah. It was white back then.

2 Q. Okay. Now, this room -- and we'll come back to it in
3 a moment. And what went on in here?

4 I want to ask you, for a second, in Number -- this is
5 Number 12 and ask you if you recognize what's in Number 12.

6 A. That's -- he used to have that around him when he
7 would go on the runs, and, um, I could hear the noise and
8 that -- that's when I remembered -- because he would show me
9 how it worked. And I remember hearing that on the day that
10 he took me when something came out of the window, and I had
11 heard this noise. It was like a zappy noise.

12 Q. And it was a --

13 A. I was really scared of it.

14 Q. This object he showed you, and he would manipulate it
15 in some way that would make what you've described as a zappy
16 noise?

17 A. Yeah.

18 Q. What did he call it?

19 A. He called it a stun gun.

20 Q. And this is -- this appears to be -- that is a
21 photograph, obviously, marked as Number 12, but it appears
22 to be the same one that you recall specifically seeing at
23 the residence down in Antioch where you described -- that
24 we've just been talking about?

25 A. Yeah.

26 Q. But going back to the day June 10th, the day that you
27 were abducted, do you -- in looking at this, can you say
28 that this is, for sure, the same one or just looked like it

1 or --

2 A. It makes the same noise.

3 Q. The noise that you remember hearing?

4 A. Yeah.

1:27AM

5 Q. When you felt the tingly feeling?

6 A. Yeah. And I saw it laying around. He would have it,
7 like, on a table and said, you know...

8 Q. Did he ever -- did he ever hold it up and manipulate
9 it or turn it on?

1:27AM

10 A. When I didn't want to do something that he wanted me
11 to do, he would -- he never used it again, but he would turn
12 it on and say something like, you know, "You don't want it
13 to happen again. You should be good."

14 Q. Do you have any idea how many times he said something
15 like that in terms of holding this and turning it on?

1 M

16 A. It wasn't very often because I didn't -- I wanted,
17 you know, to -- I didn't want it to happen again, so I was
18 good.

19 Q. You said you were good. You were good in terms of
20 you --

1:28AM

21 A. Tried to do what he wanted me to do even though I
22 didn't like it.

23 Q. Now, I want to go back to where you talked about the
24 first time that -- and you used the term that he raped you.
25 Up until that point, you hadn't seen anybody else; is that
26 correct?

1:28AM

27 A. Yes.

28 Q. And then from that first time, you said that he told

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1 A. Um, it lasted until I got pregnant.

2 Q. And do you know about how much length of time went by
3 until you became pregnant?

4 A. Three years.

1:34AM 5 Q. So this was going on for that entire -- about once a
6 week or more?

7 A. Yeah.

8 Q. For three years is when you became pregnant and you
9 ultimately had a baby?

1:35AM 10 A. Yeah. In that span of time, I finally met his wife.
11 I don't remember exactly how I found out. He probably told
12 me by then. But I don't remember the exact moment, but I
13 remember when I was back in the studio room, in the little
14 room, and he comes in with his wife and introduces me to
15 her.

16 Q. Had he talked about her before at all?

17 A. Yeah. Picking her up from work. Mostly picking her
18 up from work. It's hard to remember exact conversations.

19 Q. Let me show you what's been marked as Number 5 and
20 ask you if you recognize that person.

21 A. That's his wife, Nancy Garrido.

22 Q. And that's a more recent photograph --

23 A. Yeah.

24 Q. -- than the period that we're talking about?

25 A. Yeah.

26 Q. I'm going to show you Number 6. Does that have a
27 picture of her that looks like her back in the period of
28 time when you first met her?

1 A. Yeah. She did have longer hair. She had longer
2 hair.

3 Q. Now, so a significant period of time goes by while
4 this is going on, these runs, the way you describe, and as
5 best as you can recall, he would come and feed you on a
6 regular basis, but you were kept locked --

7 A. After that when I met Nancy, then she started coming
8 in and feeding me.

9 Q. The first time you had contact with her, the one you
10 described where he brought her in and said this is -- this
11 is his wife, Nancy?

12 A. Um-hum. "She's going to be bringing you food."

13 Q. Did you notice that he wasn't around or that he
14 disappeared?

15 A. That was later on when -- when I was basically living
16 in the room -- the next-door room, the blue one. I had my
17 own bed. Not a bed, but it was a pallet on the floor, and
18 they were -- they were living on the pull-out couch in
19 there.

20 So, basically, we were all sleeping in the same room.
21 We watched TV together. I didn't feel as lonely anymore.
22 For the first, like, I guess year, I was by myself mostly.

23 Q. Okay. Now -- and you said that for the first year --

24 A. Things changed, I guess.

25 Q. And it's hard to remember the specific times, but you
26 described it as being almost as long as three years that you
27 were fairly isolated and these runs would occur --

28 A. Um-hum.

1 Q. -- approximately a week apart or more frequent. And
2 now you just said that it was about a year that you felt
3 less lonely?

4 A. Yeah. Things changed. We moved -- he moved me in
5 next door where they were sleeping, and we would -- after
6 the run, you know, he would, like, go get food, and we'd sit
7 up and watch TV and movies and stuff.

8 Q. So just so we're clear, so for approximately the
9 first year, or a period of time that you can associate with
10 being the first year, you were largely kept alone and
11 staying in -- and it was interrupted with food or some
12 limited contact with Phil and then the runs that you
13 described and the sexual assaults?

14 A. Yeah.

15 Q. And no other contact with anybody else?

16 A. No.

17 He did bring me a cat.

18 Q. You had a cat inside. When did he bring the cat?
19 About how long after you were taken?

20 A. I was still in the studio room, and, you know, I
21 would tell him how lonely I was and stuff like that. And so
22 he gave me a cat. It wasn't a very -- it wasn't happy in
23 that room, I guess, because it would pee everywhere. And so
24 he started smelling it, and he took it away.

25 Q. He took the cat away?

26 A. Yeah.

27 Q. Did he blame you for the cat doing that?

28 A. No. I don't remember him saying that. He just said

1 that he can't have the cat peeing everywhere and he had to
2 take it away.

3 Q. And then somewhere -- approximate period of time is a
4 year later is the time that you described when you meet
5 Nancy, and then you have more contact with her --

6 A. Yeah.

7 Q. -- over a period of time?

8 A. Not a whole year. I mean, I met Nancy when I was
9 still in the studio.

10 Q. Okay. And so approximately how much time were you --

11 A. Before I met Nancy?

12 Q. Yes.

13 A. A couple of months.

14 Q. And did he give you more clothing over time?

15 A. I remember having that jumpsuit forever. But, yeah,
16 eventually I think Nancy started getting me clothes.

17 Q. Now, I'm going to ask you in terms of there was a
18 period of time to where -- or was there a period of time
19 where Phil wasn't there, you didn't see him on a daily
20 basis? Do you recall that?

21 A. Yeah. There was a -- there was a time that all of a
22 sudden he wasn't showing up at all. And Nancy would come in
23 and bring me food, and we would watch TV together. And I
24 remember asking -- you know, asking her, "Where's Phil?
25 Where's Phillip?" And she said that he had to -- he was on
26 this island for a little vacation or something.

27 Q. And about how much time went by? Was it a couple of
28 days? A month?

1 A. He was gone because I didn't -- I mean, it was nice
2 because I didn't have to have sex or runs or anything. I
3 think it lasted about a month.

1:41AM

4 Q. Did you ever learn whether or not he was actually on
5 an island, or was there something else?

6 A. He was actually in prison. They arrested him again,
7 and he went back to -- I forget where -- the prison that he
8 was at. Lompoc, I think.

9 Q. Lompoc?

1:41AM

10 A. Yeah.

11 Q. And you had learned that later on?

12 A. Yeah. I learned that later on.

13 Q. During that time, Nancy was the only person that you
14 had contact with during that month period of time?

1 M

15 A. Yeah. And he came back with an ankle bracelet.

16 Q. Now, how much time went by from the time you were
17 abducted until the time that he left for a month and you
18 were with Nancy?

19 A. Can you say that again.

1:41AM

20 Q. From the time that you were first abducted on
21 June 10th, 1991, until the time he was gone, you were told
22 on an island --

23 A. Oh, how long was that until that happened?

24 Q. Yes.

1:42AM

25 A. A year. I think I was 12 by then.

26 Q. And you remember when -- you knew when your birthday
27 was?

28 A. Yeah. I had -- I guess I had told them my birthday,

1 and so they came in. Nancy had her hair shorter by then.
2 It looked like the picture. And they gave me some Barbie
3 stuff because they knew that I liked to play with Barbies.

4 Q. So you knew that was approximately --

1:42AM 5 A. Yeah. By then I was watching TV. You know, like the
6 morning shows would give the date. So I had a better time
7 thing.

8 Q. That's approximately?

9 A. Yeah. It's still hard to remember dates.

1:42AM 10 Q. So approximately a year goes by. Your birthday comes
11 around. And somewhere in that approximate time period is
12 when he is gone for a month?

13 A. Yeah.

14 Q. During that time period, were you still kept in a --
15 I'm talking about the one-month period, approximate month
16 period when he is gone. Where were you staying or living at
17 that point?

18 A. In the Blue Room.

19 Q. And would Nancy ever leave where she wasn't
20 immediately in your presence?

21 A. Yeah. She had to go to work, she said, and mostly
22 she was in that -- you know, in the house. At night she
23 would come in, and we would eat dinner together and watch
24 TV, but usually she would just lock the door and leave.

25 Q. And that's what I'm getting at. During the period of
26 time we're talking about, up to approximately a year later
27 and then during that one-month period when Phillip is gone,
28 your -- you were still being locked up on a regular basis?

1 A. Yeah. The door was locked. It had iron doors, iron
2 gate.

3 Q. And Nancy would lock the doors, too, during that
4 period of time?

1:43AM

5 A. Yes.

6 Q. So then he leaves. He's gone for a month, and then
7 what happens when he gets back?

8 A. Um, just the same routine. I remember runs happening
9 again. Just normal routine, I guess.

1:44AM

10 Q. And how often would the runs happen during that
11 period of time? Let's say the next year.

12 A. Probably once a month after that. So it wasn't as
13 frequently, but still frequent. And by that time I think --
14 Nancy was smoking the crank, too, and, um, sometimes she
15 would tell me, "Oh, I'll take this run for you" and that
16 kind of stuff.

1 M

17 Q. Meaning that she would have sex with Phil so you
18 didn't have to?

19 A. Yeah.

1:44AM

20 Q. And that's the terminology she would use? She was
21 familiar with what a run was?

22 A. Oh, yeah.

23 Q. But Phillip was continuing on at that point.
24 Somewhere around a year, in that ballpark, it changes to
25 about once a month?

1:45AM

26 A. Yeah. I would say.

27 Q. And it involves the same --

28 A. Yeah. They weren't -- they didn't seem as long, like

1 maybe a day instead of three days.

2 Q. Now, at some point, then, you mentioned you became
3 pregnant.

4 A. Yes.

1:45AM

5 Q. And you had a baby?

6 A. Um-hum.

7 Q. And do you remember the birthday of the baby?

8 A. August 18th, 1994.

1:45AM

9 Q. So at this point you've been there for a little over
10 three years?

11 A. Yes.

12 Q. And where did you have the baby?

13 A. I had [REDACTED] (Jane Doe 2) next door in the Blue Room.

14 Q. And [REDACTED] (Jane Doe 2) was the name of your daughter?

1 M

15 A. Yes.

16 Q. And that's in August of 1994?

17 A. Yes.

18 Q. Now, just in terms of point of reference, did
19 activities that you're describing as a run, did that
20 continue on from about a year to that point in time with the
21 same intervals, or was it different?

1:46AM

22 A. No. It really -- things really changed. He said
23 that he was eventually going to stop having sex with me and
24 that, you know, he's just really trying to change and he
25 wants us all to be a family. And so things really changed.
26 I mean, the room situation changed back and forth.

1:46AM

27 He took the wall out from the studio room because we
28 lived over there for a little bit. He was always switching

1 us back and forth.

2 And during -- during the run situation, he started
3 to, like, listen to the walls, and he bought these bionic
4 ears and started hearing -- he said he heard voices and
5 stuff. And I could never hear anything, but he said he
6 heard a lot of voices, and they were -- he just had to make
7 sure that the cops weren't out there or something. He was
8 getting, like, paranoid and stuff.

9 Q. In this period of time when things started to change
10 in that regard, that was about the time that [REDACTED]
11 (Jane Doe 2) was born?

12 A. Um, yeah. Um-hum. It seemed like everything changed
13 when she was born.

14 Q. And so she's born inside this backyard area where
15 you're describing?

16 A. Um-hum.

17 Q. And then she lives with you?

18 A. For -- yeah. Three years we lived next door. He
19 started -- he made a fence in the back, just a small
20 portion, and I could go out there with the baby. It was
21 like he bought a little, like, swing set and stuff.

22 Q. Did you continue -- in this period of time, were you
23 still being locked up at night the way you described before?

24 A. We were all sleeping in the same room, so I don't
25 know if they locked the door.

26 Q. Did you feel as though Phil was still -- I'm talking
27 about beyond three years after [REDACTED] (Jane Doe 2) was born.
28 And so he was controlling you and your life?

1 A. Yeah. I didn't have -- I didn't feel like -- you
2 know, I didn't know where to go.

3 Q. Did --

4 A. Then I had a baby, and I just wanted it to be okay.

1:48AM

5 Q. And were you still afraid of Phil?

6 A. Um, I don't know if I was afraid that he would, like,
7 kill me or something, but just -- I mean, he would get mad
8 sometimes. But I don't think I was afraid for my life. I
9 just felt like there was no other place for me.

1:49AM

10 Q. And so you did what he told you to do?

11 A. Yeah.

12 Q. Did runs continue after [REDACTED] (Jane Doe 2) was born?

1 M

13 A. Yeah. They -- less frequently. He did go on maybe
14 one or two. Nancy would take care of the baby in another
15 building. And so it would -- these runs only lasted, like,
16 maybe the night, and then it was over.

17 Q. And how often did those happen after [REDACTED]

18 (Jane Doe 2) was born?

1:50AM

19 A. Not very often. Nancy said a lot that she was -- she
20 would take -- she would do it for me.

21 Q. She would take the run for you?

1:50AM

22 A. Yeah. Because Phillip always said -- you know, in
23 the beginning he said that I was helping him and that, you
24 know, he had a sex problem and that, you know, he got me so
25 that he wouldn't have to do this to anybody else. So I was
26 helping him.

27 Q. And you were helping by preventing it from happening
28 to somebody else?

1 A. I guess that's how I felt, yeah. That's what he told
2 me.

3 Q. So you said it was not very often that there would
4 be -- and I'm using the terminology "runs." But from the
5 period of time -- because you had a second child?

6 A. Yes.

7 Q. And when was she born?

8 A. She was born November 13th, 1997.

9 Q. And what is her name?

10 A. Her name is [REDACTED] (Jane Doe 3).

11 Q. And from the time [REDACTED] (Jane Doe 2) was born to
12 [REDACTED] (Jane Doe 3) was born in 1997, how often did you
13 have any type of sexual contact with Phil?

14 A. I would say -- three years -- maybe like once every
15 two or three months.

16 Q. And during this once every two or three months --

17 A. He knew I was really scared about getting pregnant
18 again. He said he just couldn't help himself, but he was
19 really trying to stop. And then I got pregnant again, and
20 that's the last time he had sex with me was when she was
21 conceived.

22 Q. To where you knew she was conceived?

23 A. Yeah.

24 Q. And then he stopped?

25 A. Yeah.

26 Q. And that was sometime in --

27 A. 1997.

28 Q. But up until that point in time, from the time that

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1 So I agreed, and we started calling her mom, and I
2 was -- then he said that I should pick a name that I wanted
3 to be called, because before then it was Snoopy he was
4 calling me. It was never my name. And so I picked the name
5 Alissa. And he started the printing business, and I started
6 working there. And we had a lot more freedom outside. The
7 kids could go play out there, and we had a pool, one of the
8 stand-up ones, above ground.

9 Q. This is all in the backyard?

10 A. Yeah. We -- I had my own tent. It was really nice
11 to have my own room and tent space. I don't know. We just
12 started, like, acting like a family, and we would celebrate
13 their birthdays together. Just trying to be normal, I
14 guess.

15 Q. To the extent that you --

16 A. Yeah.

17 Q. -- could?

18 And your -- during this time, you wanted your -- you
19 have two daughters that are living with you, and you want
20 them to have as normal, under the circumstances, a life as
21 they could have?

22 A. Yeah.

23 Q. Now, I'm going to show you what's been marked as
24 Number 15. It's a series of handwritten notes, and I'm
25 going to ask you if you recognize who -- and it's dated
26 8-11-03. Do you recognize whose writing that is?

27 A. Yeah. That's mine.

28 Q. And these are -- can you tell us what this is?

1 A. It's just like a journal that I kept. I didn't want
2 to write a lot because I was afraid he would find it and be
3 mad. But I didn't totally love the situation that we were
4 in. So I kind of kept it hidden and didn't write that much.
1:56AM 5 But when I did, it was usually because I was feeling strong
6 feelings about feeling trapped and not having a life and
7 just wanting to be free.

8 Q. And so you would write things that were going on in
9 your mind --

1:56AM 10 A. My feelings, yeah.

11 Q. And on this one dated 8-11-03, you talk about those
12 types of things, and this is your writing and feelings. You
13 talk about free to come and go as you please, free to say I
14 have --

1 M 15 A. Free to come and go as I please, free to say I have a
16 father. Father.

17 Q. You're talking about the things you just described?

18 A. Yeah. Phillip wanted us to be a family. He was our
19 dad and Nancy was their mom. You know, that's what we
1:57AM 20 did --

21 Q. That's Number --

22 A. -- to give the kids, you know, normal as possible.
23 Can I have a break to go to the bathroom?

24 MR. PIERSON: Yes. Why don't we go ahead and take --
1:57AM 25 well --

26 THE WITNESS: Do you want to finish this?

27 MR. PIERSON: Can we take, if it's okay with the
28 grand jury, take like a five-minute -- three-, five-minute

1 break, and then continue on? Because I would like to
2 finish, if we could, before we break for lunch, if that's
3 okay with everybody and our court reporter. Is that okay?

4 Why don't we take a quick five minutes.

1:57AM 5 Why don't you read the admonition real quick.

6 GRAND JUROR GR12 [REDACTED]: Okay. [REDACTED]

7 [REDACTED] (Grand Juror GR12).

8 The grand jurors are admonished that they are not to
9 form or express any opinions about this case or discuss it
10 among themselves until the grand jury receives the case for
11 deliberation. In addition, no inspection of evidence should
12 be conducted without permission of the foreperson and on the
13 advice of the prosecuting attorney until the case is
14 submitted to the grand jury for deliberation. Deliberation
15 should only occur when all jurors that heard the
16 testimony -- heard all the testimony in the case are
17 present.

18 (Proceedings were in recess from
19 11:58 a.m. until 12:07 p.m.)

1:58AM 20 ---oOo---

21 MR. PIERSON: Can we have our foreperson, for the
22 record, indicate that all the grand jurors are back,
23 present, and seated; our two guests that have joined us, the
24 witness and the support person; and then Mr. Clinchard,
25 myself, and no one else; is that correct?

26 GRAND JUROR GR12 [REDACTED]: [REDACTED]
27 (Grand Juror GR12). That is correct.

28 MR. PIERSON: Thank you.

1 Q. (BY MR. PIERSON) I'm going to ask you and show you
2 Number 16 and ask you if you recognize what that is.

3 A. That's one of my journal entries.

4 Q. And is it the same type of journal entry you referred
5 to before in terms of where you were describing --

6 A. Things that I felt.

7 Q. Among other things, in this one you indicate that you
8 want -- sometimes you want to run away and essentially
9 getting away from the situation that you're in?

10 A. Yeah.

11 Q. Did you -- on the second page of this one in the
12 reference, specifically going to Number 16, you indicated
13 that you would never leave because -- and you're referring
14 to "them, never leave them."

15 A. Phillip and Nancy.

16 Q. You said that because you're a coward. "I've always
17 been a coward," and that you were scared and you talk about
18 those things. Did you ever attempt to escape from the
19 situation?

20 A. No.

21 Q. Physically attempt to escape?

22 A. Physically, no.

23 Q. And why -- why not?

24 A. Well, in the beginning, I was scared. I was scared.
25 I didn't know what I would do. I was afraid of I guess what
26 he would do, Phillip. And then I didn't -- I forgot to
27 mention before -- I don't know if I should mention it.

28 Q. Sure.

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1 you know, saying he's so sorry for what he did; he can't
2 believe he did it. And, you know, I would tell him, "It's
3 okay. You know, I'm okay. You don't have to worry."

2:14PM 4 Q. Now, I'm going to show you another one, which is
5 marked Number 18, and this one is dated 7-5-04. Do you
6 think that that -- did you put the date on there?

7 A. Yes.

8 Q. So that would be the approximate time when you would
9 have written that?

2:14PM 10 A. Um-hum.

11 Q. And it's the same type of thing as when we talked
12 about in terms of journal?

13 A. Yeah. My feelings.

2 M 14 Q. And in this one you referred to a number of things,
15 including you hate being afraid and why don't you have
16 control of your life. And these feelings -- is it fair to
17 say that all of these different feelings that you're
18 describing is -- by using the term "you're living in
19 captivity," would you say that's a fair and accurate way of
20 describing what it is that you're describing in these
21 various journal entries of the actual situation that you
22 were living in?

2:15PM 23 A. Yeah. It was just very confining. I mean, we went
24 places later on as a family but never by myself, and I
25 wanted him to teach me how to drive and stuff. And that
26 never came. I didn't know what to do. I couldn't leave. I
27 had the girls. I didn't know where to go, what I would do
28 for money or anything. I didn't have anything.

1 Q. Let me show you March 28th of 2006. Do you recall
2 writing this one?

3 A. Yeah.

4 Q. And can you tell us --

5 A. Yeah.

6 Q. Can you tell us what that is?

7 A. It's things I wanted to do. I wanted to see my mom,
8 what I always wanted to do.

9 Q. And then at some point in time there was an incident
10 where -- just over a year ago where Phil was taken into
11 custody and then came back to the house, and then all of you
12 went to a different location to a parole office. Do you
13 remember that?

14 A. His parole office, yeah, the next day. I was scared.
15 I didn't know what was going to happen, you know. He said
16 everything was going to be okay. He just needed to, like,
17 not set the record straight. He didn't say that. But like
18 show them that he was not doing anything wrong. He never
19 thought he was doing anything wrong.

20 And he had us all go to the parole office. I said to
21 him, "Well, what do you want me to say?"

22 He said, "Just stick with the plan. And if they ask
23 you any questions, just say you need an attorney. You just
24 need to tell them that you're the girls' mother, and you
25 give me permission to take them around to" -- he was trying
26 to get his church going, God's desire.

27 He took the girls to the Berkeley campus, the FBI
28 office, and that kind of stuff.

1 Q. You're referring to "stick with the plan"?

2 A. Yeah.

3 Q. Can you describe to us what the plan was?

4 A. Well, he said if -- you know, if anything ever
5 happened and he was arrested for any reason or anything like
6 that, that I just immediately need to ask for a lawyer, and
7 keep in contact with his lawyer, and he would let me know
8 what to do.

9 Q. And how were you to keep -- why did you need a
10 lawyer? For what reason did you need a lawyer?

11 A. I don't know.

12 Q. Did you believe that it would be in any way -- so if
13 you had a lawyer, he had a lawyer?

14 A. I believed that so that I could protect him, so that
15 I wouldn't say anything wrong. You know, I think that's
16 what he believed, and I just said, you know, "That's never
17 going to happen. We don't need to worry about that."

18 Q. When was the first time there was a plan such as this
19 discussed for if law enforcement came to the house, or
20 somebody else found out when he was arrested? When was the
21 earliest memory you have of that?

22 A. The girls always -- I mean, they grew up knowing that
23 their dad was on parole and that we had to be -- we had to
24 be careful when we went into the house, which wasn't very
25 frequent. But later on, like the last year -- last three
26 years, we were taking care of his mother. She got -- she
27 fell and she got -- she started having dementia, and she
28 couldn't work, Parkinson's.

1 And so we were taking care of her in the house a lot.
2 I would go in for my shift with helping her, and she was not
3 in her right mind. She was very angry unless he came in.
4 And then she was very -- she loved her son. He could do no
5 wrong. But --

6 Q. During the time that -- going back to --

7 A. But the kids always knew that we had to be careful,
8 the parole officer is coming over. But during the last
9 year, he just stopped -- not caring but just, like, thinking
10 that he wasn't doing anything wrong, and why are they after
11 him, and he needs to get off of parole.

12 And so the girls spent the night with their grandma
13 in the house, and the next morning I think one of his parole
14 officers came in. I was in the back. I didn't sleep in the
15 house. And I guess they saw one of the girls, but he
16 didn't -- he didn't say anything.

17 And then so the next -- Phillip told us the next time
18 that the parole officer came in and we were in the house,
19 that I should ask the parole officer, "Were you the one in
20 my daughter's room?" You know, just so that we have an
21 accounting of it. He always liked to have an accounting of
22 anything that went on.

23 Q. And this plan that -- both of your daughters grew up
24 knowing --

25 A. Knowing that we had to protect Dad. That, you know,
26 he was on parole but, you know, just can't be seen. When
27 the girls first went out, you know, they would duck in the
28 car and not be seen by the neighbors. That was in the

1 really beginning.

2 Lately, it's just, you know -- I mean, we can't go
3 out for walks by ourselves or anything like that, but just
4 family outings and stuff.

2:21PM 5 Q. Did you feel obligated to follow along with this
6 plan?

2:21PM 7 A. I really didn't think that there would be a need for
8 it, I guess. I don't know what I thought. I just didn't
9 want to make him mad because he would go through these --
10 not physically violent but just really mad.

11 Like we had a printing business, and he would shut
12 down the whole printing business, and then we wouldn't make
13 any money. So we didn't want to make him mad, you know. So
14 I tried to stay -- you know, go with the flow, that kind of
15 thing.

16 Q. And then eventually you go to the parole office, and
17 there is -- describe to us essentially what happened at the
18 parole office.

2:22PM 19 A. We were immediately separated -- me, Nancy, and the
20 two girls -- my two girls -- into this separate room. And
21 the parole agent asked my name and what I'm doing here, and
22 I say that I'm Alissa and that I work for them for right
23 now, but I'm out of town. Because he asked for my contact
24 information. I didn't know what to say, you know. I told
2:22PM 25 him my last name was Franzen; I'm an out-of-town relative.
26 I didn't know what to say. I didn't know how to protect,
27 you know, anything. I was scared. I didn't know what to
28 say.

1 Q. Did you eventually --

2 A. And then -- and then he said that we could leave. We
3 went back to the car. And we were just waiting for Phillip
4 to come so we can go home. It was very stressful.

2:23PM

5 Q. Eventually, they brought you back in?

6 A. Yeah. They come back out and asked me to step out of
7 the car. And he said that I was a liar, that I wasn't the
8 mother of these two kids, that Phillip said that they
9 belonged to his brother. We are his brother's kids. And

2:23PM

10 I -- I looked at -- I just looked at him and said, "They are
11 my daughters. I gave birth to them." And he still didn't
12 believe me. And I tried to concoct this stupid story that I
13 was running away from this guy, you know, their dad, and,
14 you know, I can't give my name. Because he wanted my name
15 to check me out, obviously, but I couldn't give him my name.

2:24PM

16 And they said they are going to call Child Protective
17 Services, and I said, "You can't take them away," you know.
18 But I just -- I didn't know what to do. I said, "I need a
19 lawyer." I did ask for a lawyer.

2:24PM

20 They're like, "Why do you need a lawyer?" And I
21 said, "Well" -- and then I asked to see Phillip. And he
22 wouldn't even look at me. Like he didn't even care or
23 anything. He just said that "she needs a lawyer."

24 Q. He said that "she needs a lawyer"?

2:24PM

25 A. Yeah.

26 Q. You? He was referring to you?

27 A. Yeah.

28 Q. Eventually, though, you were sitting with the

1 officers from --

2 A. Yeah. An officer came in. Melanie. Female officer.
3 The males were really scary, but I just -- they thought I
4 was a runaway. And they said that they were going to arrest
5 me, and they were going to take me downtown, and I would be
6 eventually -- they would find out who I really was. I said,
7 "I'm sorry. I just -- I can't. I don't know what to do."

8 And Melanie comes in and said that Phillip confessed
9 and said that he had taken you, and I started crying. And
10 she said, "You need to tell me your name." And I said that
11 I can't because I hadn't said my name in 18 years. And...

12 Q. Did she have you write it down?

13 A. I wrote it down. And then I wrote down my mom's
14 name.

15 Q. I'm going to show you Number 20. Is that a copy
16 of --

17 A. Yeah.

18 Q. -- what you wrote down?

19 A. That's what it is.

20 Q. Now, let's talk about Nancy for just a moment. Did
21 Nancy -- did Nancy ever admit to you or tell you that she
22 was the other person in the car?

23 A. Oh, yeah. When she first -- when she was coming in
24 and she would bring me things, she would -- she said that
25 she couldn't stay long because she would always start crying
26 and tell me how sorry she was and she can't believe he did
27 it. She was so hoping that he got a headache that morning.

28 And it was very hard for her to come in and see me.

1 It didn't mean that she didn't like me or didn't, you know,
2 want to see me, but it just -- because I would tell her how
3 lonely I was and I wished she would stay longer and talk to
4 me, and she would tell me all that.

2:26PM

5 Q. But it was clear to you from what she said that she
6 was the other person in the car, even though you never saw
7 her?

8 A. Yeah.

2:26PM

9 Q. During the runs, was Nancy ever present -- physically
10 present in the room when any of the runs were --

11 A. No, she wasn't.

12 Q. But do you believe or do you know that Nancy was
13 aware that they were happening?

2 M

14 A. Yeah. She knew that they were happening. She
15 would -- like later on when I had the baby, she would say,
16 "Oh, I'll take this run, you know, so you can, you know,
17 spend time with the baby."

2:27PM

18 Phillip would say, you know, "I got to go next door
19 and spend some time with Nancy for a little bit," that kind
20 of stuff.

2:27PM

21 Q. Now, the house that we're talking about and that I
22 showed you the picture of, that is -- just to be perfectly
23 clear, that is the same house that you were living at on the
24 day when you went to the Concord Police Department and you
25 wrote the note with your name on it?

26 A. Yes.

27 Q. You lived there the entire time?

28 A. Yes.

1 Q. And that was the one that you described in terms of
2 being in the car and going all over?

3 A. Same place.

4 Q. And I've kind of asked you this before, but I want to
5 go back to it. The reasons -- I asked you did you ever try
6 to physically escape, and you said no. You said it was
7 different in the beginning than it was later.

8 But maybe if you can describe more. In terms of in
9 the beginning, is it fair to say you never tried to escape
10 because you were afraid?

11 A. And restrained.

12 Q. You were -- and you described being physically
13 restrained --

14 A. Yes.

15 Q. -- during that period of time?

16 And then later on, you never tried to escape. And
17 describe for us why it was that you -- beyond what you did
18 in the diaries, is there -- if you can characterize it in
19 your own words.

20 A. I felt like I didn't have anywhere else to go. I
21 knew my stepdad. He -- I felt like he didn't like me, and I
22 didn't -- that he would -- they would be happier, or they
23 would be better off without me being there at home. He
24 would always call them the Three Musketeers, him, my mom,
25 and his daughter, [REDACTED] (Jane Doe 4).

26 And I always felt in the way. He was always sending
27 me away. The year before, I was sent to my aunt and uncle's
28 because he wanted alone time with my mom. I was sent there

1 for a year. And so I -- I guess I felt like I didn't have
2 anywhere to go. And I was helping somebody, even though it
3 was in a really sick, perverted way.

4 Q. You were helping because this --

2:29PM

5 A. Helping him, his sexual -- so that it wouldn't happen
6 to anybody else, and I don't know.

7 Q. You believed that it would happen to someone else,
8 given what you knew about Phil?

2:30PM

9 A. He said that he needed help with his sexual problem,
10 that he had a real problem, and that, you know, I was
11 helping him. And he didn't say that, that he would take
12 somebody else, but the impression I got was that I was
13 helping prevent something.

2 M

14 Q. I think I showed you 10 and 11. This is the outside
15 of the Blue Room. Correct?

16 A. Um-hum.

2:30PM

17 Q. And it changed over time, but that was -- and then --
18 that's 10. And then Number 11 is the inside at the point in
19 time we're talking about where you went to the parole office
20 and then the police department?

21 A. Yeah. That was the girls' room.

2:30PM

22 Q. Now, I'm going to show you -- since that date when
23 you went into the police station and all the things that
24 have happened in the last year, since that time do you
25 recall an occasion where we had an investigator by the name
26 of Mike Franzen? You know who Mike Franzen is?

27 A. Yes.

28 Q. Mike Franzen came, I believe -- I was actually with

1 him, and we showed you and let you watch a series of
2 videotapes?

3 A. Yes.

4 Q. And do you recall looking at those videos?

5 A. Yes.

6 Q. And I'm going to -- I'm going to characterize it.
7 You described on -- there were numerous times where Phil
8 videotaped the runs and things that were going on?

9 A. Yes.

10 Q. And those videos that you looked at, were they some
11 of the videos of that taking place?

12 A. Yes.

13 Q. And as best as you can recall, how many times would
14 you say that he actually videotaped?

15 A. I don't know. It wasn't every run. I know he did
16 other videotaping, but me specifically?

17 Q. Um-hum.

18 A. Maybe a total of five or ten times.

19 Q. You don't remember specifically, but that's just --

20 A. (Witness nods head.)

21 Q. And what would you say was the last time that that
22 happened in terms of -- can you point to a point in time in
23 terms of the last time you recall being videotaped?

24 A. Probably right before [REDACTED] (Jane Doe 2) was born.

25 Q. And you said with you. Are you aware of Phil
26 videotaping other people?

27 A. I know Nancy used to talk about her hating summers
28 because he would have her go out and videotape kids in the

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Page 106 through Page 107 were removed by Court order.

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1 from watching the videos and from looking at those that that
2 is you?

3 A. Yeah.

4 Q. Do you know why Phil was on parole and had been in
5 prison?

6 A. For raping another woman.

7 Q. You learned that at some point during the period of
8 time that we talked about?

9 A. Yeah. He told me that he was on parole. He raped
10 another person. He did a terrible thing, but the judge
11 sentenced him to way too much time, and it was uncalled for.

12 MR. PIERSON: At this point -- I know we had some
13 questions that were handed to me. Were there any other
14 questions the grand jurors had?

15 I don't see any.

16 Q. (BY MR. PIERSON) Did Nancy ever tell you that she
17 knew why Phil had been in prison? Did she know why he was
18 on parole?

19 A. Yeah. Yeah. They met in prison. She -- her uncle
20 was also in the same prison that he was in, Leavenworth,
21 Kansas. And it was like some party, some Cinco de Mayo or
22 something. And she went to visit her uncle, and that's how
23 they met. And then he started sending letters -- Phillip
24 started sending letters to Nancy. And, eventually, they got
25 married in prison.

26 Q. The stuff that you just described to us in terms of
27 the runs and everything else and then the incident that took
28 place at the Concord Police Department, was that the first

1 time that you told anybody in law enforcement about all of
2 the things that had happened?

3 A. Yes.

4 MR. PIERSON: Are there any other questions?

2:38PM

5 I'm going to ask you if you could read the
6 admonition.

7 I'm going to go ahead and read it. I've got it here.

2:38PM

8 You are admonished not to reveal to any person,
9 except as directed by the court, what questions you were
10 asked, what responses were given, or any other matters
11 concerning the nature or subject of the grand jury's
12 investigation, which you learned during your appearance
13 before the grand jury, unless and until such time as the
14 transcript of this grand jury proceeding is made public.
15 Violation of this admonition is made punishable as contempt
16 of court.

2 M

17 [REDACTED] (Jane Doe), do you understand that?

18 THE WITNESS: Yes.

2:39PM

19 MR. PIERSON: [REDACTED] (Dr. Doe), you understand
20 that same admonition regarding confidentiality applies to
21 you?

22 [REDACTED] (DR. DOE): Yes.

23 MR. PIERSON: One quick second.

2:40PM

24 Obviously, we went significantly past what the normal
25 lunchtime would be, which would be noon. If it's agreeable
26 with all of the grand jurors, I would propose that we break
27 for one hour and then be back, and we'll have brief
28 follow-up witnesses. Most of them are fairly short.

1 Actually, two of them will be very short, and one of them is
2 a little bit longer.

3 So we would start at what would be roughly a quarter
4 to 2:00.

2:40PM 5 If you could read the separation admonition.

6 GRAND JUROR GR12 [REDACTED]: [REDACTED]
7 (Grand Juror GR12).

8 The grand jurors are admonished that they are not to
9 form or express any opinions about this case or discuss it
2:40PM 10 among themselves until the grand jury receives the case for
11 deliberation. In addition, no inspection of evidence should
12 be conducted without the permission of the foreperson and on
13 the advice of the prosecuting attorney until the case is
14 submitted to the grand jury for deliberation. Deliberation
2 M 15 should only occur when all jurors that heard all the
16 testimony in the case are present.

17 MR. PIERSON: Okay. Thank you all. We'll see you
18 back in about an hour.

19 (Whereupon, at 12:41 p.m. the luncheon recess was
20 taken.)

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1:43PM

1:43PM

1 M

1:44PM

PLACERVILLE, CALIFORNIA
TUESDAY, SEPTEMBER 21, 2010, 1:43 P.M.

---oOo---

MR. CLINCHARD: If we could have the jury
foreperson -- it looks like, on my count, 19 grand jurors
are here, along with myself, Jim Clinchard, and Vern Pierson
and the court reporter. If you could just confirm that.

GRAND JUROR GR12 [REDACTED]: [REDACTED]
(Grand Juror GR12). I confirm it.

MR. CLINCHARD: If you could administer the oath to
Garrett Schiro.

GRAND JUROR GR12 [REDACTED]: You do solemnly
swear that the evidence you shall give in this matter
pending before the grand jury shall be the truth, the whole
truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, I do.

MR. CLINCHARD: You can have a seat.

TESTIMONY OF
GARRETT SCHIRO,

a witness called by the People, having been first duly
sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. CLINCHARD:

Q. If you could state your name, spelling your last name
for the record.

A. My name is Garrett Schiro, S-C-H-I-R-O.

Q. What is your current occupation?

A. I'm a deputy sheriff for the Contra Costa County

1 Sheriff's Office.

2 Q. And how long have you been a sworn peace officer?

3 A. Over 11 years.

4 Q. Were you involved in a search of Phillip and Nancy
5 Garrido's residence back on August 29th of 2009?

6 A. Yes, I was.

7 Q. And the address of that residence, do you recall what
8 that was?

9 A. 1554 Walnut Avenue, Antioch, California.

10 Q. And while conducting or being part of that search,
11 did you come across any sort of videotapes?

12 A. Yes, I did.

13 Q. Can you explain a little bit about how you came
14 across them?

15 A. In the backyard portion of the residence was a lot of
16 debris thrown away, old appliances. It looked like it
17 had -- like it was used for their waste disposal. They
18 would just dump everything.

19 So in one -- in the northeast portion of the
20 backyard, there was a large pine tree with various
21 appliances, like I was describing. And when we started to
22 remove those appliances from underneath the tree, I
23 discovered a large black trash bag filled with VHS and 8 mm
24 videotapes. I would estimate approximately 75 or more.

25 Q. And I'm going to show you what's been previously
26 marked as Exhibit No. 7, an aerial photograph of the
27 residence. Do you see in the bottom photo there the portion
28 of the residence that you were talking about where you found

1 the bag and tapes?

2 A. Yeah. It would be right -- right here underneath the
3 pine tree.

4 Q. And you're pointing to the left-hand box that's
5 entitled "Concealed Compound," the upper right portion of
6 that box?

7 A. Yes.

8 Q. Can you describe -- you already did a little bit,
9 what was in there. But what did you see when you looked
10 into the bag?

11 A. Well, the bag was -- it was somewhat buried under all
12 the rest of the thrown-away items and some of the dirt. We
13 actually had to remove some of the tree. We sawed some of
14 the tree branches away and had to use -- had to use shovels
15 to dig out around these items.

16 And then there was -- like I described, the large
17 black trash bag was all bound up in knots, and I opened it
18 up. And there was various VHS and 8 mm videotapes with what
19 appeared to be some sort of sticky substance melting them
20 together, it looked like.

21 Q. And what did you do with the bag of tapes at that
22 point?

23 A. At that point I set the bag aside in order for an FBI
24 agent, who was on scene, to look through them to see whether
25 they were of evidentiary value or not.

26 Q. And I'm going to show you what's been already marked
27 as Exhibit 21, a photograph. Do you recognize what's
28 depicted in that photograph?

1 A. Yeah. That's -- that appears to be the black bag
2 with the videotapes that I found.

3 Q. And from the photo, it looks like it might be sitting
4 inside of some sort of garbage can?

1:48PM

5 A. I put them in a metal garbage can, yes.

6 Q. So you moved them from the location where you said
7 you found them and put them into that garbage can?

8 A. Yes.

1:48PM

9 MR. CLINCHARD: Okay. I don't have any further
10 questions. Do any grand jurors have questions they want to
11 write down for me to ask Mr. Schiro?

1 M

12 For the record, it doesn't appear that any of the
13 grand jurors are indicating they have any questions for
14 Mr. Schiro. So if the -- I guess I have the admonition for
15 you.

1:49PM

16 You are admonished not to reveal to any person,
17 except as directed by the court, what questions were asked
18 or what responses were given or any other matters concerning
19 the nature or subject of the grand jury's investigation,
20 which you learned during your appearance before the grand
21 jury, until -- unless and until such time as the transcript
22 of this grand jury proceeding is made public. Violation of
23 this admonition is punishable as contempt of court.

1:49PM

24 You're free to go.

25 THE WITNESS: Thank you.

26 MR. CLINCHARD: I'm going to call Investigator Mike
27 Franzen. When he comes in, if you would read the witness
28 admonition.

1 GRAND JUROR GR12 [REDACTED]: You do solemnly
2 swear that the evidence you shall give in this matter
3 pending before the grand jury shall be the truth, the whole
4 truth, and nothing but the truth, so help you God?

5 THE WITNESS: Yes, I do.

6 TESTIMONY OF
7 MIKE FRANZEN,

8 a witness called by the People, having been first duly
9 sworn, testifies as follows:

10 DIRECT EXAMINATION

11 BY MR. CLINCHARD:

12 Q. Can you please state your full name, spelling your
13 last name for the record.

14 A. First name is Mike. Last name is Franzen. It's
15 F-R-A-N-Z-E-N.

16 Q. What is your current occupation?

17 A. I'm a district attorney investigator for El Dorado
18 County.

19 Q. How long have you been a sworn peace officer?

20 A. Next month will be 18 years.

21 Q. Were you involved in a search of the Phillip and
22 Nancy Garrido residence back on August 30th of 2009?

23 A. Yes, I was.

24 Q. And what's the address of that location?

25 A. 1554 Walnut Avenue in Antioch.

26 Q. And in conducting the search, a portion of the search
27 that day, did you ever come across any sort of videotapes?

28 A. Yes.

1 Q. And can you tell me a little bit about how you came
2 across them?

3 A. There was a search that was being conducted there by
4 Contra Costa County, Pittsburgh, and Antioch Police
5 Departments. And during that search, a large number of
6 videotapes was found buried under a large pile of garbage.

7 Q. And do you know, when you came across the tapes,
8 where were they?

9 A. They were underneath the carport on the property in
10 a -- inside of a plastic bag. It was inside of a garbage
11 can.

12 Q. Let me show you what's been marked as Exhibit 21. Do
13 you recognize what's depicted there?

14 A. Yes.

15 Q. What is that?

16 A. These will be the videotapes as I found them in the
17 carport area, and I actually took this photograph.

18 Q. Okay. And what did you do with the videotapes?

19 A. I took them out of the garbage can and the plastic
20 bag and placed them into a much larger paperwork bag so I
21 could transport them back to El Dorado County.

22 Q. And once you got them back to El Dorado County, did
23 you ever inventory the tapes?

24 A. Yes.

25 Q. And can you give me some more details about what that
26 inventory showed?

27 A. I separated the tapes into VHS and Hi-8, or 8 mm
28 sized and packaged them separately to be logged into

1 evidence.

2 Q. And do you know how many Hi-8 tapes you came across?

3 A. There were 14 Hi-8 tapes.

4 Q. And how many VHS?

01:52PM

5 A. There would have been 81 VHS tapes.

6 Q. And did you do anything specific with the Hi-8 tapes?

7 A. Yes. I packaged them into a box and provided them to
8 another investigator who was going to be doing some work on
9 them.

01:53PM

10 Q. And what's that investigator's name?

11 A. Richard Pesce.

12 Q. And then what did you do with the 81 VHS tapes?

13 A. The VHS tapes remained in the secured evidence
14 storage at our office with the district attorney's office.

01 M

15 Q. I'm going to show you what's been marked as Grand
16 Jury Exhibit No. 22, a one-page photograph, aerial. Do you
17 recognize what's depicted there?

18 A. Yes.

19 Q. What is depicted there?

01:53PM

20 A. It looks like the San Francisco Bay Area, the
21 Sacramento area, and up in the Sierras, South Lake Tahoe
22 area.

23 Q. And there are two different areas there. Do you
24 recognize what's depicted in the general location of those
25 arrows in the overview?

01:53PM

26 A. Yes. The South Lake Tahoe location, I recognize the
27 address as being where [REDACTED] (Jane Doe) lived at the
28 time she was abducted. The arrow in the Antioch area

1 depicts the area of 1554 Walnut Avenue.

2 Q. And the location at 1090 Washoan Boulevard in South
3 Lake Tahoe, that's in El Dorado County?

4 A. Yes.

11:54PM 5 Q. The other location with the arrow, 1554 Walnut
6 Avenue, is that in Contra Costa County?

7 A. Yes.

8 Q. Unincorporated Antioch?

9 A. Yes.

11:54PM 10 MR. CLINCHARD: That's all the questions I have for
11 Investigator Franzen. Does any grand juror have any written
12 questions they'd like to submit?

13 GRAND JUROR GR12 [REDACTED]: [REDACTED]
14 (Grand Juror GR12).

11 M 15 Q. (BY MR. CLINCHARD) Investigator Franzen, do you know
16 who ultimately did the preview of the tapes?

17 A. The preview of the tapes was done by Investigator
18 Richard Pesce with our office.

19 Q. And he, as far as you know, understands the nature of
20 what's on those videotapes?

21 A. Yes. He called me as soon as he saw what was on
22 them.

23 MR. CLINCHARD: Okay. Any other questions -- written
24 questions by grand jurors?

25 It looks like there's no other questions. So I'm
26 going to read you an admonition.

27 You are admonished not to reveal to any person,
28 except as directed by the court, what questions were asked

1 or what responses were given or any other matters concerning
2 the nature or subject matter of the grand jury's
3 investigation, which you learned during your appearance
4 before the grand jury, unless and until such time as the
5 transcript of this grand jury proceeding is made public.
6 Violation of this admonition is punishable as contempt of
7 court.

8 You're free to go.

9 THE WITNESS: Thank you.

10 MR. CLINCHARD: I think that this might be a good
11 time. We're moving really quick, and I believe that the
12 next witness is in the process of doing something. So maybe
13 a five-minute break right now so we can make sure that we're
14 ready to go with the next witness.

15 Read the admonition, please.

16 GRAND JUROR GR12 [REDACTED]: The grand jurors are
17 admonished they are not to form or express any opinions
18 about this case or discuss it among themselves until the
19 grand jury receives the case for deliberation. In addition,
20 no inspection of evidence should be conducted without the
21 permission of the foreperson and on the advice of the
22 prosecuting attorney until the case is submitted to the
23 grand jury for deliberation. Deliberation should only occur
24 when all jurors that heard all the testimony in the case are
25 present.

26 MR. CLINCHARD: That's it. I would say -- I'll say
27 five -- if you want to hold on just one second, I might be
28 able to find out if it's going to be five or ten. I don't

1 think they are ready.

2 (Brief pause.)

3 MR. CLINCHARD: I am told the next witness is ready.

4 Sorry about that.

5 MR. PIERSON: If you could.

6 GRAND JUROR GR12 [REDACTED]: [REDACTED]

7 (Grand Juror GR12).

8 You do solemnly swear that the evidence you shall
9 give in this matter pending before the grand jury shall be
10 the truth, the whole truth, and nothing but the truth, so
11 help you God?

12 THE WITNESS: I do.

13 TESTIMONY OF

14 RICHARD PESCE,

15 a witness called by the People, having been first duly
16 sworn, testifies as follows:

17 DIRECT EXAMINATION

18 BY MR. PIERSON:

19 Q. Sir, would you state your full name and spell your
20 last.

21 A. It's Richard Pesce, P-E-S-C-E.

22 Q. Go ahead and have a seat.

23 Can you tell us where it is that you are employed?

24 A. I'm employed as a district attorney investigator with
25 the El Dorado County District Attorney's Office.

26 Q. And in your capacity as a D.A. investigator, do you
27 have any specialized background and training as it relates
28 to -- I'm going to say technology-related issues in general?

1 A. I do.

2 Q. Would you please describe it.

3 A. Yes.

4 Prior to being a district attorney investigator for
5 El Dorado County, I was a district attorney investigator for
6 Amador County. Prior to that, I was an information systems
7 specialist for Amador County, where I worked as the IT guy,
8 basically, for the department.

9 During that time, I assisted investigators with
10 high-tech crimes and things of that nature. Went to an
11 academy, got assigned to high-tech crimes in Amador County,
12 and then transferred over here and have been assigned to
13 high-tech crimes for about three years now in El Dorado.

14 Q. Now, do you have -- back in September of last year,
15 did you have occasion to become involved in an analysis of
16 video-related items that stemmed from the investigation of
17 the abduction of [REDACTED] (Jane Doe)?

18 A. Yes.

19 Q. And can you describe just essentially what it was you
20 were asked to do?

21 A. I was presented with a number of destroyed
22 videotapes. Fourteen, specifically, initially. They were
23 Hi-8 videotapes. I was instructed to go to Aerospace in
24 NASA down in the Los Angeles area and work with them to
25 recover the footage that may or may not have been on these
26 videos. The videos were pretty destroyed, so we needed a
27 lab to do that type of work.

28 Q. And describe for us what specifically happened, the

1 process that you went through.

2 A. Well, the process was pretty -- was pretty tedious.
3 These tapes were destroyed using some sort of chemical, and
4 this chemical essentially melted the housing on these tapes.
5 The plastic melted and encased the actual videotape.

6 So they wouldn't work in any player, so we had to
7 pull them apart and, using various techniques and chemicals,
8 unspool the tape and then put them into new housing and then
9 hopefully be able to watch the contents, is essentially the
10 Reader's Digest format.

11 Q. Did anything that you did -- there was a number of
12 people that assisted you in this process?

13 A. That's correct.

14 Q. And it was -- you indicated there was a -- we had the
15 assistance of -- in Southern California of NASA, and there
16 was a number of different people that assisted in terms of
17 this process. Correct?

18 A. Correct.

19 Q. But in all the work that was done, you basically were
20 present and oversaw in both the chain of custody as well as
21 the condition of the various evidence items?

22 A. That's correct.

23 Q. And was there anything that ever took place that
24 would in any way alter or cause somebody to change or
25 anything of that kind of nature?

26 A. No, nothing of that nature. All the work we did to
27 these specific videos, nothing we did would have changed any
28 of the images or altered it in any shape, way, or form.

1 What was on it to begin with and then destroyed, or
2 seemingly destroyed, is exactly what we recovered.

3 Q. Were you able to recover, from each of the tapes, the
4 entire image or the entire series of images that would have
5 been contained in the videos?

6 A. No, not all the time. The damage was pretty
7 extensive. And on the average with the Hi-8 tapes, I
8 probably recovered about 60 percent of the video. Very
9 rarely did I recover any of the audio just because of the
10 way -- the way the tape and the audio tracks lay on the
11 physical tape. So no, to answer your question.

12 Q. So what was the total number of tapes that you looked
13 at?

14 A. Hi-8 tapes?

15 Q. Well, first the Hi-8 tapes and then the VHS.

16 A. I looked at 14 Hi-8 tapes.

17 Q. And how many VHS tapes?

18 A. 310, I believe.

19 Q. And so there was a significant volume of evidence
20 that was analyzed, and you were essentially the team leader
21 that ran this team that did the extensive amount of work?

22 A. That's correct.

23 Q. And, ultimately, you identified a total of how many
24 that are significant to this investigation?

25 A. Total out of the 310 VHS tapes and 14 Hi-8 tapes,
26 there were 4 Hi-8 tapes that contained evidence pertaining
27 to this particular case and 4 VHS tapes that contained
28 evidence about this case.

1 Q. So I'm going to ask you in terms of -- and just kind
2 of run through the tapes that you identified as being
3 significant. We've identified them using the D.A. evidence
4 number. Where are the tapes? Basically, what happened to
5 them after they were processed? Let me ask you that.

6 A. Well, after we cleaned them and recovered them as
7 best as possible, we took the original tape housing and
8 placed them in a manila envelope. And from there we sealed
9 those envelopes individually and placed those envelopes in
10 our evidence locker.

11 Now, with the rebuilt tapes, if it contained any
12 evidence, I personally locked it up in a safe in the
13 district attorney's office where myself and Investigator
14 Franzen, who testified prior to me, were the only two people
15 with the combination. And the rest of the tapes that didn't
16 contain any evidence were placed in a box in our evidence
17 room.

18 Q. And just for clarity, the tapes that we're referring
19 to are the ones that were recovered by Investigator -- they
20 were discovered by a detective from the Contra Costa Sheriff
21 's Department and then actually physically recovered and
22 brought into custody here -- they were recovered from the
23 Garrido residence and brought here for processing?

24 A. Well, the 14 Hi-8 tapes and the 81 VHS tapes were
25 initially recovered by the one detective. If you give me a
26 moment, I can tell you his name.

27 UNIDENTIFIED GRAND JUROR: Schiro.

28 THE WITNESS: Thank you.

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Page 125 through Page 140 were removed by Court order.

* * * * *

1 crotch level of this little girl, and the camera was
2 stationary. And when the little girl noticed the camera was
3 recording, she asked Nancy about it. And Nancy deflected
4 and said, "I don't know anything about a camera."

12:43PM

5 And when the girl's father appeared in the scene,
6 Nancy casually draped a jacket over the camera so the dad --
7 seemingly so the dad wouldn't see the camera recording his
8 daughter.

12:43PM

9 Another scene -- I believe Phil and Nancy just bought
10 a new video camera, and they went to a park and found a spot
11 where children were playing in the background on a play
12 structure. Phil gave Nancy some instruction on how to use
13 the videotape and how to pretend to film him while, in fact,
14 filming the children in the background.

12. M

15 The scene continues. Phil plays the guitar, sings a
16 couple of songs, while Nancy is shooting past him on high
17 zoom at the young children playing in the park -- in the
18 park.

19 MR. PIERSON: Okay. And do we have any questions
20 from the grand jury of this witness?

21 Any questions?

22 Q. (BY MR. PIERSON) At any time did you notice what
23 would appear to you to be as though somebody else was
24 present in the room and running the camera?

25 A. All of the screen shots were stationary. They
26 weren't really moving around a lot, and if they were, Phil
27 was out of the frame or you could see Phil's arm holding the
28 camera.

12:45PM

1 At one point where I told you all about the audio
2 that I provided a copy to [REDACTED] (Jane Doe) to identify Phil
3 in, the audio quality was a little poor, and I was unsure if
4 I heard one or two males in the room. But after providing
5 that to [REDACTED] (Jane Doe), she was able to tell us that that
6 was, indeed, Phil, and that's the way he talked. He used
7 multiple voices and things like that.

8 So no, they were all filmed either on a tripod or by
9 Phil.

10 Q. Are you aware of any evidence that Phil sold or
11 broadcasted any of those videos?

12 A. No. I mean, of course it's a possibility, but
13 there's an organization called the National Center for
14 Missing and Exploited Children that have a database of all
15 the child pornography that we've collected, not just in our
16 county but in the country, and we invited a representative
17 from that organization to come down and view redacted
18 portions of the footage and provided them with face shots so
19 they could go back and compare those to the database.

20 And even though their investigation is ongoing and
21 they are still researching -- you know, we find child
22 pornography more and more every day. But so far there's
23 been no hits. So we have no evidence to show that he sold
24 or provided them to anybody, not that we've caught or found
25 yet.

26 MR. PIERSON: Okay. I don't see any other questions.
27 Sir, would you reread the concluding...

28 MR. CLINCHARD: Jim Clinchard.

1 You are admonished not to reveal to any person,
2 except as directed by the court, what questions were asked
3 or what responses were given or any other matters concerning
4 the nature or subject of the grand jury's investigation,
5 which you learned during your appearance -- your appearance
6 before the grand jury unless and until such time as the
7 transcript of this grand jury proceeding is made public.
8 Violation of this admonition is punishable as contempt of
9 court.

10 MR. PIERSON: Okay. We got a little bit of a late
11 start, and we're trying to work out in terms of scheduling.

12 At this point in time we've read the instructions,
13 which is essentially the law that generally covers this part
14 of this case and the determination that you're being asked
15 to make, whether or not there's probable cause to believe
16 that each one of the charged offenses in the indictment are
17 established to that degree.

18 Obviously, in some regards, we have an abundance of
19 evidence, and sometimes someone might reasonably, listening
20 to all of it, think, why are they putting on so much
21 evidence and so much detail? And it's because of the record
22 that we have to establish and protect in terms of this will
23 be looked at later on and perhaps challenged in some way.
24 So that's just by way of explanation.

25 What I have here is a proposed indictment. And the
26 proposed indictment is one for this grand jury to consider.
27 It is essentially the same as the -- very similar to the
28 Complaint that was marked and distributed. It includes at

1 the end a spot for a signature by the foreperson, the grand
2 jury. It's 12 pages in length. It refers to the four
3 witnesses that testified.

4 I can go through in some specific detail the charges
5 and the allegations in there, but I don't -- given the
6 magnitude of the evidence in this case, it's not -- I don't
7 want to belabor the point.

8 What I have here is a chart, for your benefit, just
9 to be viewed so that the jury can consider whether or not
10 the evidence that you heard was consistent with this.

11 Essentially, the way the indictment is laid out is it
12 refers to different periods of time based upon the
13 statements and the testimony of [REDACTED] (Jane Doe) in
14 terms of what happened in the first few weeks, first few
15 months, what happened in the first year, what happened in
16 the first three years, and then going on to -- you know, in
17 a chronological fashion in the way we attempted to do that.

18 Essentially, that's what it involves. It goes from
19 the initial kidnapping and forward.

20 As to Nancy, the evidence is essentially that she was
21 an active participant in the original abduction, as she
22 indicated to [REDACTED] (Jane Doe) later on, as she
23 testified to.

24 And then she is -- what the evidence demonstrated, I
25 think, clearly -- and you were instructed on what's called
26 aider and abettor liability in terms of where you assist or
27 instigate, encourage, or in some way facilitate a crime,
28 you're legally responsible not only for the target crime, or

1 the original crime, that being kidnapping, but you're
2 responsible for the natural and probable consequences of
3 that.

4 In other words, to -- not to belabor the point, if
5 you were to participate with a person who you know has
6 previously been convicted of kidnapping and sexual assaults,
7 and you go out and kidnap an 11-year-old girl, under these
8 circumstances and all the other evidence you heard, it is an
9 overwhelming, reasonable conclusion that she knew what was
10 going on. And I think that was clear from the testimony
11 of -- just the reasonable circumstances as well as the
12 testimony of [REDACTED] (Jane Doe).

13 So I don't want to belabor the point anymore. We
14 will provide you with a copy of the instructions that were
15 read earlier. We will also provide you, through the
16 foreperson, copies for post indictment to be considered.

17 You can consider an indictment like this -- just in
18 terms of having done several of these, sometimes the jurors
19 will consider the evidence, and they need a fair amount of
20 time to go through and talk about the individual counts.
21 And sometimes it's, frankly, we've walked out and they've
22 said, "Come back."

23 So it's really your decision in terms of how much
24 time that you think you need to consider that evidence, to
25 evaluate the evidence, and make that determination.

26 Do we have any questions at this point?

27 So at this point the Court -- what has -- the jurors
28 have to -- the 19 that are available that have heard all of

1 the evidence, at least 12 have to agree as to the
2 sufficiency of the evidence, and that is the test. If all
3 19 agree, obviously, that's fine, too, but the minimum
4 requirement is 12.

12:52PM

5 Any questions?

6 GRAND JUROR GR07 [REDACTED]: Is that it for the
7 witnesses?

8 MR. PIERSON: In this case.

9 GRAND JUROR GR07 [REDACTED]: I'm sorry. [REDACTED]

12:53PM

10 [REDACTED] (Grand Juror GR07).

11 GRAND JUROR GR12 [REDACTED]: [REDACTED]
12 (Grand Juror GR12).

13 When you refer to "this case," is this just a piece
14 of what we're going to be listening to?

15 MR. PIERSON: As I indicated before, we've
16 anticipated a separate, completely unrelated case that you
17 would be asked to consider returning an indictment on next
18 week. So this is just one separate deal that you've heard
19 the evidence on, and it relates to making this
20 determination.

21 Any other questions?

22 GRAND JUROR GR14 [REDACTED]: [REDACTED] (Grand Juror
23 GR14). I wasn't able to hear some of her testimony. When
24 we went on that five-minute break just before we went to
25 lunch and were passing papers around and so forth, I missed
26 the part about where she was talking about something Nancy
27 told her that indicated that Nancy was there at the original
28 kidnapping. I just wasn't able to hear it.

12:53PM

1 Is there some way I can read it in a transcript or
2 something?

3 MR. PIERSON: The court reporter can read back any
4 section that the grand jury thinks that needs to be read
5 back.

6 GRAND JUROR GR14 [REDACTED]: Because I know you
7 specifically asked her that to clarify. I didn't hear her
8 testimony leading up to that.

9 MR. PIERSON: And that's something where, as you
10 consider this proposed indictment, it's really -- it's
11 your -- you can listen to all of the evidence again, the
12 transcript. You can listen to a little bit. You can listen
13 to as much or as little as you want to. It's really a
14 determination to be made by the body in terms of what
15 evidence you need to look at individually, separately. You
16 have to do it collectively. But any readback like that is
17 free to you.

18 GRAND JUROR GR18 [REDACTED]: [REDACTED] (Grand
19 Juror GR18).

20 MR. PIERSON: Yes, sir?

21 GRAND JUROR GR18 [REDACTED]: How many counts are
22 there?

23 MR. PIERSON: 18.

24 Any other questions?

25 So we will now leave ourselves, the court reporter.
26 The court reporter is available to do any readback that you
27 might think is necessary. And we will be available to
28 answer any questions that you think are --

1 GRAND JUROR GR12 [REDACTED]: [REDACTED]
2 (Grand Juror GR12).

3 Is it normal that you just start going down the
4 various counts and then read them out and --

12:55PM 5 MR. PIERSON: That is something that's completely up
6 to the grand jury's discretion. That's something that you
7 all collectively decide how -- what manner that you want to
8 proceed.

9 GRAND JUROR GR07 [REDACTED]: You don't have to do
12:55PM 10 it that way, though? Can you go right from the start?

11 MR. PIERSON: That is completely up to the grand
12 jury.

13 GRAND JUROR GR07 [REDACTED]: Thank you.

14 MR. PIERSON: It's just a question of what
12 15 information -- however you want to handle it, it's your
16 decision.

17 GRAND JUROR GR07 [REDACTED]: [REDACTED] (Grand
18 Juror GR07) again.

19 So you're telling me that we don't have to go through
12:55PM 20 every one of the counts to find our decision. Right?

21 MR. PIERSON: Well, you have to --

22 GRAND JUROR GR07 [REDACTED]: I mean, we have to
23 decide on each one of them, but we don't have to go through
24 each one of them and read each one of them.

12:55PM 25 MR. PIERSON: Exactly. If you look through them and
26 you've all seen the charges, you can make a decision
27 individually; you can make a decision collectively.
28 However -- that's your decision.

1 Does that make sense?

2 GRAND JUROR GR07 [REDACTED]: It does.

3 GRAND JUROR GR06 [REDACTED]: [REDACTED] (Grand Juror
4 GR06).

12:56PM 5 If we rule on some counts as actionable and others
6 are not, do you modify that? How does that work?

7 MR. PIERSON: What the indictment is is a proposed
8 indictment. If the grand jury decides we like this count
9 but we don't like that count, we want to add this count or
10 subtract, that's something that is completely in your
11 discretion.

12 Okay. A lot of questions.
13 (Proceedings were in recess from
14 2:57 p.m. until 3:49 p.m.)

15 ---oOo---

16 MR. PIERSON: I'm present with all of the grand
17 jurors, and you've just asked us to come back. The
18 foreperson has handed me back a copy of the -- what was the
19 proposed indictment, which is signed on the last page by the
20 foreperson.

21 At this point we're going to try and check with Judge
22 Wagoner in terms of what his schedule is and availability.
23 Jim Clinchard is trying to get him on the phone right now,
24 and we'll know in just a second. So if you could stand by
25 for a few minutes.

26 (Proceedings were in recess from
27 3:50 p.m. until 4:05 p.m.)

28 ---oOo---

1 THE COURT: All right. We're on the record in the
2 matter of the grand jury indictment.

3 Good afternoon, ladies and gentlemen. Would the
4 clerk please call the role of the grand jury.

14:05PM 5 THE CLERK: Yes, I will.

6 [REDACTED] (Grand Juror GR01)?

7 GRAND JUROR GR01 [REDACTED]: Here.

8 THE CLERK: [REDACTED] (Grand Juror
9 GR02)?

14:05PM 10 GRAND JUROR GR02 [REDACTED]: Here.

11 THE CLERK: [REDACTED] (Grand Juror GR03)?

12 GRAND JUROR GR03 [REDACTED]: Here.

13 THE CLERK: [REDACTED] (Grand Juror GR04)?

14 GRAND JUROR GR04 [REDACTED]: Here.

14 15 THE CLERK: [REDACTED] (Grand Juror GR05)?

16 GRAND JUROR GR05 [REDACTED]: Here.

17 THE CLERK: [REDACTED] (Grand Juror GR06)?

18 GRAND JUROR GR06 [REDACTED]: Here.

19 THE CLERK: [REDACTED] (Grand Juror GR07)?

14:05PM 20 GRAND JUROR GR07 [REDACTED]: Here.

21 THE CLERK: [REDACTED] (Grand Juror GR08)?

22 GRAND JUROR GR08 [REDACTED]: Here.

23 THE CLERK: [REDACTED] (Grand Juror GR09)?

24 GRAND JUROR GR09 [REDACTED]: Here.

14:05PM 25 THE CLERK: [REDACTED] (Grand Juror GR10)?

26 GRAND JUROR GR10 [REDACTED]: Here.

27 THE CLERK: [REDACTED] (Grand Juror GR11)?

28 GRAND JUROR GR11 [REDACTED]: Here.

1 THE CLERK: [REDACTED] (Grand Juror GR12)?
2 GRAND JUROR GR12 [REDACTED]: Here.
3 THE CLERK: [REDACTED] (Grand Juror GR13)?
4 GRAND JUROR GR13 [REDACTED]: Here.
5 THE CLERK: [REDACTED] (Grand Juror GR14)?
6 GRAND JUROR GR14 [REDACTED]: Here.
7 THE CLERK: [REDACTED] (Grand Juror GR15)?
8 GRAND JUROR GR15 [REDACTED]: Here.
9 THE CLERK: [REDACTED] (Grand Juror GR16) -- not
10 here.
11 [REDACTED] (Grand Juror GR17)?
12 GRAND JUROR GR17 [REDACTED]: Here.
13 THE CLERK: [REDACTED] (Grand Juror GR18)?
14 GRAND JUROR GR18 [REDACTED]: Here.
15 THE CLERK: [REDACTED] (Grand Juror GR19)?
16 GRAND JUROR GR19 [REDACTED]: Here.
17 THE CLERK: [REDACTED] (Grand Juror AGR01)?
18 GRAND JUROR AGR01 [REDACTED]: Here.
19 MR. CLINCHARD: The rest of the alternates are not
20 here.
21 MR. PIERSON: There are two alternates substituted
22 for that based upon this morning.
23 THE CLERK: I'm going to go through the names, then.
24 [REDACTED] (Alternate Grand Juror AGR02)?
25 No.
26 [REDACTED] (Alternate Grand Juror AGR03)?
27 [REDACTED] (Alternate Grand Juror AGR04)?
28 [REDACTED] (Alternate Grand Juror AGR05)?

1 [REDACTED] (Alternate Grand Juror AGR06)?
2 [REDACTED] (Alternate Grand Juror AGR07)?
3 [REDACTED] (Alternate Grand Juror AGR08)?
4 [REDACTED] (Alternate Grand Juror AGR09)?
5 [REDACTED] (Alternate Grand Juror AGR10)?
6 [REDACTED] (Alternate Grand Juror AGR11)?
7 [REDACTED] (Alternate Grand Juror AGR12)?

8 MR. PIERSON: I think there was actually one from the
9 corrected list that you have.

10 THE CLERK: Okay. That's fine.

11 THE COURT: All right. Let the record show that the
12 19 grand jurors are present.

13 Where is our foreperson?

14 There he is. Mr. Foreperson, do you have an
15 indictment to present to the Court?

16 GRAND JUROR GR12 [REDACTED]: Yes. [REDACTED]
17 [REDACTED] (Grand Juror GR12).

18 The grand jury is calling for an indictment on all 18
19 counts.

20 THE COURT: All right. I'll take the indictment from
21 you here.

22 All right. Mr. Foreperson, did 12 or more grand
23 jurors receive all of the evidence pertinent to this
24 indictment?

25 GRAND JUROR GR12 [REDACTED]: They did.

26 THE COURT: And did the same 12 or more grand jurors
27 participate in the deliberations on the indictment?

28 GRAND JUROR GR12 [REDACTED]: Yes.

1 THE COURT: And did those same 12 or more grand
2 jurors vote to return this indictment?

3 GRAND JUROR GR12 [REDACTED]: They did.

4 THE COURT: All right. Let the record show that the
5 foreperson of the grand jury has presented the indictment,
6 and I'll assign a Case No. P10CRF0364.

7 Let the record further show that the indictment also
8 contains a list of the witnesses in the case.

9 The Court finds the indictment to be a true bill, and
10 the clerk is ordered to file the indictment.

11 Now, did the witnesses that are listed here testify
12 before the grand jury?

13 GRAND JUROR GR12 [REDACTED]: [REDACTED]
14 (Grand Juror GR12).

15 Yes, they did.

16 THE COURT: And did any other witnesses testify other
17 than the four listed here?

18 GRAND JUROR GR12 [REDACTED]: [REDACTED]
19 (Grand Juror GR12).

20 No.

21 THE COURT: All right. And so we'll file this.

22 All right. The defendants are currently in custody.

23 I will set the bail in the -- as to the indictment at no
24 bail for each of the defendants. I would suggest
25 October 4th for the arraignment date in Department 7.

26 MR. PIERSON: I have a hearing with both defendants
27 and their attorneys scheduled for this --

28 MR. CLINCHARD: Thursday at 11:00 a.m.

1 MR. PIERSON: And we would ask for it to be scheduled
2 and it to be changed to that date, if necessary, at the
3 convenience of Department 7.

4 THE COURT: I'll set the arraignment, then, on the
5 indictment for Thursday, September the 30th, at 11:00 a.m.

6 MR. CLINCHARD: Two days, the 23rd.

7 MR. PIERSON: We're going to be in court anyway. And
8 if the Court wants to change -- if Judge Phimister wants to
9 change it and delay it, then we can obviously do it at that
10 time, rather than setting another date and not know --

11 THE COURT: We have to have the transcript prepared.
12 It will take more than a couple of days.

13 What I will do is I will order it on the 30th. What
14 time is your hearing on the 30th?

15 MR. CLINCHARD: No. The hearing is on the 23rd right
16 now, is what the current date is, the next court date, this
17 Thursday.

18 THE COURT: It's my understanding there was also one
19 on the 30th. Maybe I got misinformation as to the date.

20 MR. PIERSON: And, Your Honor, that was our --
21 because that's the next available date, and I know counsel's
22 scheduled to be there, and we can -- if there needs to be a
23 delay from that point, given the court reporter's
24 transcript, the Court could reset it.

25 THE COURT: We have to keep everything sealed until
26 the arraignment.

27 MR. PIERSON: And that could be -- there were
28 successive dates that are set. So I'm not sure if that's

1 correct.

2 THE COURT: I was talking to Judge Phimister earlier
3 today, the source of my information. We'll see if
4 Mr. Clinchard can verify that.

14:11PM 5 MR. PIERSON: Your Honor, for scheduling while we're
6 just trying to verify the date, we had originally
7 anticipated putting on a completely separate case next week.
8 That is up in the air right now.

14:12PM 9 I've asked the grand jurors, in terms of scheduling,
10 what's their availability for scheduling. It seems to be
11 that Monday is the -- would be the best date scheduling-wise
12 to do that.

14 13 So our request would be that the grand jury not be
14 discharged at this time but be asked to return on Monday,
15 and then we could make a final determination and perhaps
16 discharge them at that point.

17 THE COURT: Okay. Is that agreeable with everyone?
18 (Grand jurors nod.)

14:12PM 19 THE COURT: All right. Then at the conclusion of
20 this matter, I will not be discharging you but direct that
21 you return here to this room on Monday, September the 27th,
22 at --

23 MR. PIERSON: 9:00 a.m.

24 THE COURT: 9:00 a.m. All right.

14:12PM 25 MR. CLINCHARD: The next currently scheduled court
26 date is the 23rd, in two days, at 11:00 a.m. And then
27 there's currently a prepreliminary hearing set for
28 October 1st at 1:00 p.m.

1 THE COURT: I'll set the arraignment, then, for
2 October 1st, 2010, at 1:00 p.m. in Department 7.

3 All right. Anything else for us today? Any other
4 business for the Court?

14:13PM 5 All right. Hearing none, then we'll be in recess,
6 and you'll be back on next Monday, perhaps. I'll set that
7 as the next date.

8 UNIDENTIFIED GRAND JUROR: Do we call in?

9 MR. PIERSON: Does the Court need them to actually
10 formally come back in to be discharged?

11 THE COURT: No. If you're not going to be making any
12 more presentations to the grand jury, you can just notify
13 them not to come in, and I will issue a minute order
14 discharging them.

14 M 15 Thank you.

16 You're under the admonition not to disclose what
17 happened here, forever.

18 MR. PIERSON: Your Honor, I neglected to say we need
19 an order from the Court for all of the evidence to be turned
14:15PM 20 over to the D.A.'s office and held in evidence in the D.A.'s
21 office. The notepads -- the juror notepads to be collected
22 and their individual notes, or they are destroyed by the
23 court, I believe.

24 THE COURT: Yes. Any individual notes, if you'll
14:15PM 25 collect those and bring those to the court, we will destroy
26 those notes.

27 All right. And I'll make the order in P10CRF0364 any
28 evidence that was presented to the grand jury has to be

1 returned to the district attorney's office for safekeeping
2 or until further order of the Court.

3 MR. PIERSON: Thank you, Your Honor.

4 THE COURT: All right. Court's in recess.

5 (Proceedings were concluded at 4:15 p.m.)

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