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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

(Sitting as a Grand Jury)

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PEOPLE OF THE STATE OF)	
CALIFORNIA,)	
)	
Plaintiff,)	D.A. No. 2535
)	
vs.)	CR No. TP09-2712
)	
MELISSA HUCKABY,)	No. SF112495A
)	
Defendant.	)	VOLUME 1 OF 8
_____	)	(Pages 1 - 202)

Monday, July 20, 2009 - 9:40 a.m.

LOCATION: San Joaquin County Courthouse
Room 605, San Joaquin County

APPEARANCES OF COUNSEL:

THOMAS J. TESTA, Deputy District Attorney,
County of San Joaquin, 222 East Weber Avenue, Room 202,
Stockton, California, 95202, appeared as counsel for and on
behalf of the People.

Reported by: JEANNE COFFEY, C.S.R. NO. 7084

1 (At 9:40 a.m., the following proceedings
2 were had before the Grand Jury:)

3
4 MR. TESTA: Good morning, Ladies and
5 Gentlemen.

6 My name is Thomas Testa, T-E-S-T-A. I'm a Deputy
7 District Attorney here in San Joaquin County. I have been
8 assigned this case. And I'm glad you're all here.

9 Has the judge asked you those questions -- those
10 qualifying questions? Let me address the foreperson, Juror
11 Number 2.

12 THE FOREPERSON: Uh-huh.

13 MR. TESTA: This is all your first grand
14 jury, as group at least?

15 THE FOREPERSON: Uh-huh.

16 MR. TESTA: Is that a yes?

17 THE FOREPERSON: Yes.

18 MR. TESTA: Did he ask the questions is
19 anyone not a citizen, is anyone under eighteen --

20 THE FOREPERSON: Yes.

21 MR. TESTA: -- is anyone lacking sufficient
22 knowledge of the English language, so on, so forth?

23 He's asked those questions?

24 THE FOREPERSON: Yes, he did.

25 MR. TESTA: Okay. Let me add to the
26 questions he has asked. And those have to do with
27 publicity. This case concerns a case that received a great
28 deal of publicity. Let me read this.

1 There has been a substantial amount of publicity about
2 this case, and perhaps even about the defendant, in the
3 newspapers, and also on radio and television. Some of this
4 publicity may have come to the attention of some of you.
5 You, of course, must lay aside and completely disregard
6 anything you may have read or heard about the case outside
7 the courtroom, and your finding in this case must be based
8 solely upon the evidence presented in court in accordance
9 with the instructions.

10 That's the general rule. However, some jurors in some
11 cases are just too close to the case and they can't really
12 be objective. So I need to find out from any of you, this
13 case, the Sandra Cantu case, you may remember there was a
14 video clip of a little eight-year-old girl skipping and
15 jumping through a trailer court, and that was the last known
16 sighting of her, March 27th, 2009, in Tracy, California.
17 And there was subsequently a search, helicopters, FBI,
18 massive search, and eventually her body was found in a
19 suitcase.

20 And I need to know, not if you have an opinion about
21 this case, people may have opinions, but whether you've
22 already formed an opinion. The law says if you have an
23 opinion, you have to set it aside and base your decision on
24 the evidence you hear. Sometimes jurors say, "I can't do
25 it, I'm too close to the case, I went to the vigil, I knew
26 the family, I was involved in the search," or whatever the
27 case may be. "I'm too close to this case," or, "I have an
28 opinion," or, "I can't be fair," or, "It's too close to

1 home. I can't set aside my opinion."

2 Any -- for any reason, is there anyone who feels they
3 cannot be an objective grand juror in this case -- in this
4 case?

5 Okay. I see no hands.

6 Was there anyone who was involved in the search,
7 participated in the search or the vigils in Tracy in this
8 case?

9 Okay. I see no hands.

10 Is there anyone -- I'm repeating myself, I'm asking a
11 slightly different way -- who feels because of the pretrial
12 publicity, they could not be a completely fair juror in this
13 case? Or because of their exposure to this case they could
14 not be completely impartial?

15 I see no hands.

16 Does anyone have any questions on this point I'm
17 bringing up now?

18 Okay. I see no hands.

19 Okay. Some preliminary instructions.

20 During this proceeding, do not talk about the case or
21 about any of the people or any subjects involved in this
22 case with anyone.

23 By the way, did you distribute the packet I gave you?

24 THE FOREPERSON: We did.

25 MR. TESTA: Ms. Secretary, have you already
26 done so?

27 THE SECRETARY: (Nods head affirmatively.)

28 MR. TESTA: I'm not sure if this screen is

1 going to work for us today.

2 Don't talk about the case or about any of the people
3 or any subject involved in this case with anyone, not even
4 your family, friends, or spiritual advisor, or therapist.

5 Do not share information about the case, in writing,
6 by e-mail, or on the Internet. And don't look anything up
7 on the Internet.

8 Don't talk about this case with your fellow jurors
9 during the recesses or during the breaks, or at any time,
10 until the time comes for you to begin your deliberations.

11 So you can, of course, go to lunch with someone else
12 if you care to, or go to the gym, or do whatever you want
13 with each other, but don't talk about the case unless --
14 until you are all together in the room at the end of the
15 presentation of the evidence and you begin your
16 deliberations and then you can all discuss the case. And
17 then make sure you wait until all the evidence is presented
18 and you've read the instructions before you form an opinion.

19 You may only discuss the case when you are all present
20 and at the conclusion of the case. In terms of the finding.

21 You will be requested or allowed to write out
22 questions as I call these witnesses to come forward.

23 Have you been given pieces of paper?

24 THE SECRETARY: Yes.

25 MR. TESTA: And I invite you to submit your
26 questions. You know, two heads are better than one, and
27 nineteen are even better.

28 And even if I'm not authorized to ask that question or

1 legally allowed to ask the question you write and I have to
2 put it aside, at least submit the question and I'll try.

3 Don't do any research on your own or as a group. Do
4 not use a dictionary, the Internet, or other reference
5 materials. Do not investigate the facts or the law. Do not
6 conduct any test or experiments, or visit the scene of any
7 events involved in this case. If you happen to pass by the
8 scene, do not stop or investigate.

9 If you have a cell phone or other electronic device,
10 keep it turned off while you are in the courtroom and during
11 deliberations.

12 Don't speak to any of the witnesses involved in the
13 trial, other than through me with your notes that you can
14 present.

15 Do not listen to someone who tries to talk to you
16 about the case.

17 If you receive any information about this case from
18 any outside source, even unintentionally, do not share the
19 information with another juror. Immediately tell the
20 bailiff.

21 Don't look up words in the dictionary.

22 Keep an open mind. Do not make up your mind until the
23 case has been presented to you.

24 You have been given notes -- notebooks. Do not remove
25 them from the courtroom. You may take your notes -- of
26 course, you can use your notes during your deliberations.

27 I don't mean to discourage you from taking notes, but
28 consider these points. Notetaking may tend to distract you.

1 It may affect your ability to listen carefully to all the
2 testimony and to watch the witnesses as they testify. The
3 notes are for your own individual use to help you remember
4 what happened during the trial.

5 At the end of the -- or the proceeding -- at the end
6 of the grand jury, your notes will be collected and
7 destroyed.

8 Nothing I say is evidence. It's what the witnesses
9 say.

10 The court reporter is making a record of everything
11 said during the trial. If you decide that it is necessary,
12 you may ask that the court reporter's notes be read to you.
13 You must accept the court reporter's notes as accurate.

14 I think there might be a witness or two that need an
15 interpreter. You must follow the interpretation, even if
16 you speak the language that the witness speaks.

17 Please remember we cannot begin the grand jury until
18 all of you are in place after your breaks or after the
19 recesses, so it is important to be on time.

20 Okay. And keep in mind the issue here is not whether
21 someone is guilty beyond a reasonable doubt, but -- did the
22 judge explain to you your duty is to determine if there's
23 probable cause to believe the person committed an offense --

24 THE FOREPERSON: Yes.

25 MR. TESTA: -- and then they would be ordered
26 to stand trial?

27 That's it in terms of my preliminary comments.

28

1 (The court reporter was sworn in by the
2 Grand Jury Foreperson.)

3
4 MR. TESTA: You have all taken an oath, all
5 the grand jurors?

6 THE FOREPERSON: Yes.

7 MR. TESTA: I see everyone answering yes.

8 Who is going to be reading the oath to the witnesses
9 as they appear?

10 THE FOREPERSON: I will.

11 MR. TESTA: Okay. I won't give you much of
12 an opening statement.

13 Let me just tell you that this case was -- I had
14 scheduled to start the case Thursday of this week, not
15 today. We go Monday, Tuesday, Thursday and Friday. I asked
16 for this Thursday and this Friday, and next week Monday,
17 Tuesday, Thursday and Friday.

18 And the reason I asked that it start Thursday this
19 week was that I was in a trial that ended just this past
20 Friday, which I thought might not end until today or
21 tomorrow, but I -- that case ended, it's over with, and now
22 I am available today. So I'm going to try to use today, put
23 on some witnesses, and hopefully tomorrow also. Although I
24 have no one scheduled this time for tomorrow. I'm trying to
25 arrange it so the doctor can come in and talk about the
26 autopsy tomorrow. We will know later in the day.

27 But the point I'm making is I really have everyone
28 scheduled starting Thursday. So the people that come in

1 today are going to be somewhat out of order. So it may not
2 flow. I had planned to start Thursday with this incident
3 involving REDACT. So let me summarize it in a nutshell.

4 On January 17th, 2009 -- is this -- is it better when
5 I use this? I figured so.

6 On January 17th -- if it's too loud, raise your hands,
7 I can adjust it.

8 January 17th, 2009, this little girl by the name of
9 REDACT, she lived in a trailer park in Tracy with her mom.
10 She kind of disappeared. Her mom came home, looking for
11 her, couldn't find her. Went around to the places that
12 little REDACT hangs out, girls she hangs out with in the
13 trailer park, couldn't find her. Became extremely alarmed
14 because it's not like REDACT to disappear.

15 So REDACT mother, she just went everywhere, from
16 trailer park to trailer park, from residence to residence,
17 looking for her, couldn't find her, and ended up calling the
18 police to report her little daughter is missing.

19 About fifteen minutes -- about fifteen minutes after
20 she reported it to the police, as I recall, she then
21 finds -- she sees her daughter. Her daughter comes. "Oh,
22 Honey, where have you been?"

23 "Well, Mommy, I was with Melissa."

24 Melissa lives in the trailer park also. Melissa said,
25 "Oh, I thought -- I thought she -- I had permission to be
26 with her."

27 Her mother -- REDACT mother is furious because REDACT
28 mother barely even knows Melissa and did not give

1 her permission.

2 And Melissa said, "Oh, the grandparents gave
3 permission," but the grandparents never did.

4 Melissa said, "REDACT told me the grandparents said it
5 was okay."

6 But in any case, REDACT reunited with her mom. The
7 mother says, "You're never hanging out with Melissa again.
8 REDACT, don't ever, you know, hang out with this adult
9 Melissa Huckaby again."

10 Well, it would have ended there, except when REDACT is
11 reunited with her mom, the mother pretty quickly notices
12 REDACT to be under the influence of something.

13 REDACT is -- I think she's six or seven or eight.
14 You'll hear about it. She's under the influence of
15 something, just like she's drunk. So they talk to one of
16 the other people in the trailer park who is a nurse, and the
17 nurse says, "You better get her to the hospital right away,
18 that looks pretty bad."

19 So they take REDACT to the hospital in Tracy. And
20 REDACT is just, you know, slurring her words and kind of
21 falling out of her seat. And REDACT doesn't act that way.
22 She doesn't have any kind of mental or physical disability
23 that would cause her to have symptoms.

24 Eventually, they take her -- REDACT blood and they
25 test it and they find in the blood, it tests positive for
26 benzodiazepines, which is an ingredient in some medication,
27 kind of an anti-depressant, anti-anxiety medications that
28 Melissa Huckaby happens to have, she takes these particular

1 drugs.

2 Well, the officer didn't do anything about it. They
3 found, as I said, the benzodiazepine in REDACT blood. The
4 officer, the detective, goes out. Melissa says, "I don't
5 know anything about it."

6 REDACT mother is really upset and wants something
7 done. But the police don't do anything because REDACT
8 mother is into drugs and she's from the wrong side of the
9 tracks and Melissa speaks really well, Sunday school
10 teacher, so on, so forth. And the officer, the detective
11 who was investigating it, decides not to do anything about
12 it, which still burns up REDACT mother to this day. She is
13 still upset that they didn't do anything about it.

14 Well, the detective said, "Well, we can't prove it,"
15 so it never went anywhere, no one was ever arrested. REDACT
16 mother just made sure REDACT never hung out with Melissa
17 again or Melissa's children.

18 So that's January 17th, 2009.

19 On March 2 -- these witnesses are coming in Thursday
20 of this week. One day. The mother, the person from the
21 hospital who tested the blood, the nurse who treated REDACT,
22 a few other people.

23 March 2, 2009, Daniel Plowman. Sometime on again/off
24 again boyfriend of Melissa Huckaby. He's together with
25 Melissa Huckaby. They are hanging out together. Melissa
26 takes him over to this church where she's the Sunday school
27 teacher. And to get to the heart of the matter, she gives
28 him this substance, says, "Oh, it's vitamin water. It's

1 this new vitamin water. My mom says it tastes bad. Try it
2 out."

3 So he tastes it. He says it tastes kind of like
4 liquid aspirin. And that's the last thing he remembers.

5 The next thing he remembers he's in jail, arrested for
6 drunk driving. Because the officers go over to a McDonald's
7 and find him passed out in the drunk driving (sic) checkout
8 line -- the place where you drive in, drive-in service, and
9 they arrest him for drunk driving.

10 He says, "You know, I don't even drink." His friends
11 say, "Daniel doesn't even drink, doesn't do drugs."

12 He's arrested for drunk driving. And he says, "All I
13 can tell you is I was with Melissa. She gives me this
14 substance telling me it's vitamins. The next thing I
15 remember, I'm in jail on a DUI. I have absolutely no
16 recollection of what happened, how I got there or anything."

17 Well, they test his blood. They don't find anything
18 when they do the usual tests. So they went beneath the
19 threshold levels that these tests pick up substances. And
20 they were asked to see if there were any trace amounts or
21 any amounts of anything in his blood. And, lo and behold,
22 they tested his blood and they found Daniel Plowman's
23 blood -- which was taken when he was arrested for the DUI
24 and shown to have no alcohol, no illegal drugs -- they found
25 benzodiazepine, ingredient from benzodiazepine, similar if
26 not identical to the one that was found in REDACT blood.

27 So here we have REDACT who is with Melissa, she has
28 the benzodiazepine. We have Daniel Plowman who is with

1 Melissa Huckaby, he has the benzodiazepine.

2 And then we get to March 27th, 2009. Sandra Cantu is
3 seen -- you'll see it in a few minutes -- on this videotape,
4 happiest little eight-year-old in the world. Skipping and
5 jumping through the trailer park. On March 27th. And you
6 see her as she's skipping, you see her kind of turn at one
7 point and she's looking right in the direction of Melissa
8 Huckaby's trailer park -- trailer. And then, of course,
9 she -- Sandra steps out of view of the video cameras that
10 were there for security purposes, and it's the last we ever
11 see of Sandra Cantu as she's hopping and skipping and
12 looking over in the direction of Melissa Huckaby's house.
13 And she disappears off the face of the earth. No one ever
14 sees Sandra Cantu alive again.

15 Sandra Cantu's mother reports her missing. Everyone
16 looks for her. They go to Sandra's friends in the trailer
17 park, of whom she had many, and no one, "You know, I saw her
18 earlier." "No, I haven't seen her." No one has seen her
19 since that time that she's seen on the videotape, 3:00 or
20 4:00 in the afternoon on March 27th, 2009.

21 Helicopter searches, dog searches, FBI gets involved,
22 massive searches, massive amount of media attention, looking
23 for this little girl. Because they say the first
24 twenty-four hours you want to spend the time looking for
25 them. And they look everywhere. They never find her. They
26 don't find her right away.

27 They start interviewing everyone in the trailer park.
28 They look at the guys, naturally. Especially the guys that

1 have porn. And they do their investigation, think maybe
2 this guy's involved, he has porn on his computer. Look at
3 this guy, he has porn on his computer. This guy, oh, he
4 kind of patted these girls on the butt when they were at the
5 pool. They look at all these guys, and look into, "I know
6 this neighbor used to French kiss little girls." And they
7 start looking at all the guys in the trailer park and they
8 look at their alibis and track down where they were during
9 the times in question.

10 For the most part, they are able to establish alibis
11 for just about most of these guys that they may have
12 suspected might have been involved.

13 Police are doing everything. They are searching under
14 the houses, searching cars, search warrants for computers,
15 search warrants for bedrooms. Nothing really turns up.
16 Sandra remains missing.

17 But then they start -- they find out there's this
18 video, as I mentioned, that's showing, you know, Sandra's
19 last moments where she's hopping and skipping through the
20 trailer park. And they are able to -- got these videos
21 right here, put them on CD, they are able -- through a lot
22 of hard work, the Tracy Police Department, they are able to
23 see which cars are coming and which cars are going out of
24 this trailer park, because there's only one entrance and one
25 exit. And they kind of make a timeline of who's leaving
26 when and who was where, and so on and so forth.

27 Well, they find out that around the last time that
28 Sandra Cantu is seen on that video, around the same time,

1 Melissa Huckaby is nearby in her car. She moves her car
2 from one location to another in the trailer park. And then
3 they see Melissa Huckaby's car leaving the trailer park,
4 going towards the direction of this church where Melissa
5 Huckaby was a Sunday school teacher, just down the road.

6 We have all the times. Put it on the screen. I won't
7 go into all the details now. Basically, they piece together
8 the video and they figure out that Melissa leaves the
9 trailer park shortly after Sandra was last seen hopping and
10 skipping on that video, and that Melissa was going to the
11 church.

12 And the detectives, you know, they are talking to the
13 various people in the trailer park and at various points of
14 their investigation. They eventually talk to Melissa.
15 Melissa says, "Oh, yeah, I -- I went over to the church. I
16 had to set up for some program that was coming up at the
17 church, doing some cleaning and stuff. And I went to the
18 church, then I came home." That's what she said.

19 But they, through the surveillance, were able to
20 figure out that she didn't just go to the church. She went
21 to the church, and then she -- she just didn't come home
22 after going to the church. She actually went beyond the
23 trailer park instead of coming home after going to church,
24 going in another direction. She was gone for about an hour.
25 Here she said she just came right home, but she actually
26 went somewhere else for close to an hour.

27 An hour she's at the church, then she's gone for an
28 hour or more afterwards. I will get into all the times

1 later.

2 But -- so that's where the investigation sat. There's
3 a vigil every night, with people holding the candles,
4 looking for the little eight-year-old, all this media
5 attention. And then Melissa says, well, you know, right
6 around this time, 4:00 o'clock or so on the 27th, when you
7 see Sandra in that video skipping and jumping, Melissa says,
8 "Yeah, someone stole my suitcase, because I had a suitcase
9 out in front of my car and I must have left it there or
10 something because I went to the church. Then I realized I
11 didn't have my suitcase, so I called my mom, asked her to
12 look for the suitcase. It wasn't there. So someone must
13 have stolen my suitcase, my Eddie Bauer suitcase. Must have
14 been taken right around the time that Sandra was missing --
15 went missing." That's what Melissa claims.

16 So a few days go by. There's a vigil every night.

17 The next noticeable event on the timeline is Melissa
18 Huckaby approaches some officers. She says she found a
19 note. She said, "Yeah, I found this note on the ground."

20 And the officers were a little suspicious because it's
21 very windy where she claims she found this note. And it's
22 hard to believe it would have been on the ground where she
23 claimed.

24 You can't see it very well there. I think you can see
25 it better here. Turn this lamp off.

26 "Cantu" -- that's Sandra Cantu -- "Cantu locked in
27 stolin suit case thrown in water onn Bacchetti Rd. &
28 Whitehall Rd. Witness."

1 So here we have Melissa Huckaby saying her suitcase
2 was stolen or went missing around the same time as Sandra
3 went missing. Now of all the people in the trailer park,
4 that dozens and dozens and dozens of people, happens to be
5 Melissa Huckaby that says she found -- finds this note. And
6 the officers think that's weird, it's so windy, there is no
7 way that note would have been where Melissa says it was.
8 The officers are thinking it looks like someone's trying to
9 camouflage their writing.

10 So days go by. They go to this location. There's
11 some ponds there, irrigation ponds. And they don't see --
12 the detectives don't see anything there.

13 A few days later when the pond is drained or the
14 water's reduced, they do go -- they do find a suitcase, an
15 Eddie Bauer suitcase. Remember, Melissa said it was her
16 Eddie Bauer suitcase that someone stole. And in the Eddie
17 Bauer suitcase is the body of Sandra Cantu. At Bacchetti
18 and Whitehall Roads.

19 The officers -- the detectives take the body, treat it
20 very carefully. Take it, put it in -- the suitcase in
21 plastic. They don't even open the suitcase there because
22 they kind of figure the body's in there because it's heavy.
23 And they eventually open the suitcase. And they notice the
24 suitcase is tied shut with -- with cords -- with cord.

25 The detectives do search warrants of everywhere they
26 think they might need to go. And they have this cord tying
27 the suitcase. They decide to do a search warrant of the
28 church and they are looking for these kinds of cords that

1 open or shut blinds, like the one here in this room. And
2 they go around and they see the cords on the windows in the
3 church look okay, intact, you know, they have the little
4 plastic thing on the bottom that protects the cord.
5 Everything looks good on this window and on that window, on
6 that window and on that window. Then they come across one
7 window where it looks like the cord's been cut and the
8 plastic is missing, the plastic holder is missing.

9 So they, pursuant to the search warrant, take that
10 blind and some of the other blinds and send it to the FBI.
11 And the FBI tries to see if there's any similarity between
12 the cord on the suitcase and the cord from this blind. And
13 the FBI expert says they are consistent, it looks like they
14 in fact could very well be from the same blind, and he'll
15 explain in more detail what he means by that, that the blind
16 he saw in the church that had -- was missing part of its
17 cord or appeared to be cut is consistent in every level, the
18 dimensions of the string, the dimension, he'll explain his
19 findings, basically consistent with the blind cord that is
20 used to tie the suitcase.

21 Well, they do more of their investigation and they
22 find during one of their search warrants that in Melissa's
23 car, there's a Post-it note with some words crossed out, as
24 if someone didn't want someone else to see it.

25 Phone number, doesn't really come back to anything
26 significant we could tell. But there's these Bacchetti
27 Road -- Bacchetti Road and White -- the same -- and the word
28 Water. The same two streets on the note, Bacchetti and

1 Whitehall, here. And you can see it. You can see how, you
2 know, it's crossed out, but underneath it you can see it in
3 black crossed out. In Melissa's Huckaby's glove compartment
4 in her car, which car was at the hospital where Sandra --
5 excuse me, where Melissa checked herself in for swallowing a
6 razor blade around the time -- which we are going to submit
7 to you is consciousness of guilt -- around the time that the
8 body was being taken out of the pond, a few days before then
9 actually, the 4th. The body was found on the 6th. Her car
10 is parked at the hospital on the 4th.

11 So, again, there's more and more circumstances.
12 Sandra Cantu's suitcase turns out is the one that has --
13 excuse me, Melissa Huckaby's suitcase is the one that has
14 Sandra Cantu's body. Melissa Huckaby is the one that claims
15 she finds this note. The body is found right at this
16 location where this note refers to a suitcase in water right
17 here. Reasonable interpretation is Melissa Huckaby knew the
18 body was there because she had put it there. Because the --
19 and she also had written the streets on that Post-it found
20 in her car to help her later on compose this letter, which
21 she then claims she found and gave it to the police,
22 although the police said it was just too windy to be where
23 she claimed it was.

24 So they do more of their investigation and they find
25 out that there was this Marine by the name of Chappell. He
26 and his wife and their child were driving by this pond at
27 this location on March 27th, during that one hour where I
28 was telling you -- approximately one-hour period when

1 Melissa's whereabouts were unknown, where Melissa claims she
2 went to the church and then came home, but the surveillance
3 video shows she didn't come home after leaving the church,
4 she passed the trailer park and went in the direction of
5 these ponds during that period, well, this Marine, during
6 this time period, he has a receipt from a restaurant he went
7 to so he can narrow it down to the precise time when San --
8 when Melissa was leaving -- leaving the church and going
9 on -- going away for an hour. During that period, he saw a
10 woman at Bacchetti and Whitehall on March 27th, during this
11 crucial period of time when Melissa claims she was home but
12 she wasn't.

13 And while he can't identify that woman, because they
14 showed her -- showed him a real old picture of her, she
15 doesn't look like she looks in the picture, but he
16 effectively identifies Melissa Huckaby as being by that pond
17 by the description he gives of Melissa Huckaby, the
18 ponytail, the clothing she's wearing, the -- the build,
19 everything about her. You can see what Melissa's wearing in
20 this video, it matches. The Marine sees a woman matching
21 the clothing description of Melissa Huckaby by this pond on
22 the 27th of March during that crucial period of time.

23 He also describes the woman, the woman's car, and it's
24 a distinctive car. It's Melissa's car. Melissa's car had
25 some words on it, "My Brother is a Marine." This Marine
26 picked up on that, remembers that.

27 And he picked up on there was another decal on the car
28 as well.

1 It's a distinctive car. He's able to describe that
2 the car that matches Melissa Huckaby's description of her
3 car and he's able to describe in detail the clothing and
4 that matches to a T what Melissa was wearing on this crucial
5 period on the 27th of March, 2009.

6 The cord on the suitcase is consistent with the
7 apparently cut cord in the church. They do another -- they
8 do search warrants all over the place. And these guys, the
9 detectives and the FBI, they did a search warrant for
10 various trailers and they did a search warrant for the
11 church and another search warrant. They go back and they
12 are looking for something in particular, because the doctor
13 who did the autopsy on Sandra Cantu said she had been
14 sexually assaulted, real bad, in her vaginal area. The
15 injuries are real, real bad.

16 He said this had to have happened at or around the
17 time of her murder, because he said there's no way she could
18 have been skipping and jumping on that video if she had
19 received the injuries he saw on her when he did the autopsy
20 on this eight-year-old girl.

21 And he said he can't -- he said there's something
22 about these injuries, it almost looks like it was a foreign
23 object that was used because of the angle of penetration.
24 It's not really that consistent with the angle that a penis
25 would have. But it's more consistent -- it's more likely, I
26 think the word is he uses, that it's a foreign object that
27 was used to penetrate her -- Sandra's vagina.

28 So when the detectives find that out, and the officer,

1 the -- the doctor says she also looked like she was --
2 Sandra might have been -- may very well have been suffocated
3 because of some injuries to I believe it's the upper or
4 lower lip, he said it's consistent with suffocation injury.

5 So sexual injuries, he uses a term, the doctor that
6 did the autopsy, said there's evidence of agony. And he
7 said he found in the underpants -- there's a technical term
8 he uses to indicate it was a brutal sexual assault. No
9 semen found, no sperm found, and consistent with at least a
10 foreign object.

11 So they do a search of the church looking for round
12 cylindrical items that perhaps could have been used, because
13 we have the blind cord missing from the church, Melissa
14 going to the church right around the time that Sandra Cantu
15 went missing. So they looked around the church and they
16 pick up broom handles, curling iron, different utensils,
17 anything they think is round that could possibly -- a toilet
18 plunger, a rolling pin. They pick up all sorts of things,
19 seize them, bag them. And they are wearing gloves and they
20 do it real professionally. And they send these items off to
21 I believe it was the FBI Lab to see if there was any
22 biological evidence.

23 On the rolling pin that was in the church, they see a
24 smudge. They see a smudge. And they test that smudge and
25 they find on that rolling pin, I believe it's the handle,
26 they find Sandra Cantu's DNA on the rolling pin in the
27 church.

28 Now, Sandra didn't go to that church, but her DNA is

1 on a rolling pin which is consistent with the kind of item
2 that caused the sexual injuries, the injuries to her vagina.

3 So now we've got the blind cord missing from the
4 church, the same room of the church as the rolling pin. And
5 we have Melissa being over at that church around the time
6 that Sandra disappeared. And Melissa claiming her suitcase
7 was stolen and it was that suitcase that had Sandra's body.
8 And we have Post-it note in Melissa's car that has the same
9 streets as the note that Melissa turns in to the police
10 claiming she just found it on the -- in front of her house
11 or something, on a windy day. And we have the Marine who
12 sees Sandra -- Melissa's car and a person fitting Melissa's
13 description at the pond where the body was found at the
14 precise period of time when Melissa would have had an
15 opportunity to put the body there.

16 They do a search of Sandra Cantu's blood and they
17 don't find anything in it. And then again, they start this
18 time going beneath the threshold limits, because these tests
19 are all designed to find certain drugs at certain levels.
20 So they lower the levels. They say, "Okay, there's not a
21 kind of an official quantity of any particular drug," so
22 they lower the levels to see if there are any trace amounts.
23 And they find in Sandra's blood these ingredients found in
24 benzodiazepine. Similar to benzodiazepine. The same
25 medications, similar products as was found in REDACT and was
26 found in Plowman's blood, and now it's in Sandra Cantu's
27 blood.

28 And Melissa Huckaby had a boatload of drugs that she

1 took for her problems, including these very drugs that
2 contained the ingredients that were found in the blood of
3 these three individuals.

4 So that in a nutshell is this circumstantial evidence
5 case where you have to connect the dots. And based on all
6 this evidence, at the end of the case we're going to ask
7 that you indict her, finding there's probable cause to
8 believe that she committed these crimes and that she should
9 face a jury where guilt or innocence should be proved.

10 Now, be sure to submit your questions with that in
11 mind. I think we have enough, since we got such a late
12 start, with going for the full day today. As I say, I'm
13 unsure about tomorrow. I'll let you know later in the day.
14 Maybe we will go for part of the day tomorrow now that it
15 looks like we are getting a late start. And as I say, the
16 doctor may be available tomorrow.

17 And this is a two-way process. You can submit those
18 questions. And put on your Columbo, your Perry Mason, your
19 CSI hats, and ask a question. Even if you think it's silly,
20 ask it. Because we are asking you whether you believe
21 there's probable cause to believe she committed these
22 crimes. We are presenting it because we believe we have the
23 evidence. But we are asking for your assistance and, of
24 course, we need your attention.

25 Thank you.

26 Should I call my first witness?

27 THE FOREPERSON: Yes.

28 MR. TESTA: Again, out of order because, as I

1 say, we were going to start Thursday with REDACT. And I
2 tried to get some people here today.

3

4 (Pause.)

5

6 THE FOREPERSON: Raise your right hand.

7 MR. TESTA: Can you state your name first?

8 THE WITNESS: Fred Kelley.

9

10 **FRED KELLEY,**

11 a witness called on behalf of the People, having been duly
12 and regularly sworn by the Grand Jury Foreperson, testified
13 as follows:

14

15 THE WITNESS: I do.

16 THE FOREPERSON: Thank you.

17 You may be seated.

18

19 **EXAMINATION**

20 BY MR. TESTA: Q. The acoustics here are
21 very poor, so try to speak directly into it.

22 Where are you employed, sir?

23 A. City of Tracy Police Department.

24 Q. How long have you been so employed?

25 A. Since 1995.

26 Q. And are you a peace officer there?

27 A. No.

28 Q. What is your position there?

1 A. I'm the supervisor of the Crime Scene Investigations
2 Unit and also the Property and Evidence Unit.

3 Q. What is your -- your number? You guys have individual
4 badge numbers, do you?

5 A. We have badge numbers and we have City-issued employee
6 numbers.

7 Q. Badge number?

8 A. Is 500.

9 Q. What is the number that you put when you book items in
10 evidence?

11 A. That's the City employee number, which is 9517.

12 Q. That's what I need. Okay.

13 Okay. I'm calling you because you're kind of a real
14 brief witness here.

15 Let me get my reports. Did you file a report in this
16 case?

17 A. I did.

18 Q. Do you have a copy with you?

19 A. Yes, I do.

20 Q. Did you pick up some evidence in this case?

21 A. I did.

22 Q. What did you pick up?

23 A. I picked up a -- a digital video recorder, also known
24 as a DVR.

25 Q. From?

26 A. From the trailer park at 812 West Clover.

27 Q. From where at the trailer park did you pick up that
28 DVR?

1 A. Space number 63.

2 Q. And who lived there?

3 A. Well, who I had contacted there is Jose Sanchez (sic),
4 who is one of the residents.

5 Q. Okay. And where did you take it -- how did you get
6 it?

7 A. He handed it to me.

8 Q. Okay. What is it precisely?

9 A. It's a digital video recorder. It's similar to a VHS
10 recorder, but it's -- there's no tape involved. It's all
11 digital. It's similar to a computer, has a hard drive in
12 it. You store audio and video images on it.

13 Q. Is this the video that -- is that picture -- did you
14 see it?

15 A. Yes.

16 Q. That's the picture of Sandra Cantu skipping and
17 jumping?

18 A. Yes.

19 Q. So what did you do with that -- those items?

20 A. Well, I took the -- the digital video recorder, the
21 manual, and there's also a power adapter with it, took it to
22 the Police Department and then I booked it into evidence.

23 Q. What number did you give it?

24 A. 9517 and we use a slash 01.

25 Q. And -- okay. And what did you end up doing with it?

26 A. A few days later, I removed it from evidence and
27 turned it on.

28 Q. Try to speak into the microphone. Sorry.

1 A. A few days later, I removed it from evidence and
2 turned it on for the purpose of exporting the video on to a
3 DVD so it could be viewed at a later time.

4 Q. And when you took the video and exported it, as you
5 say, on to a DVD, did you give it a number?

6 A. Yes.

7 Q. What number did you give the final product?

8 A. If I can refer to my report, I could tell you for
9 sure.

10 Q. Go ahead. I think it's your next page.

11 A. (Referring to report.)

12 Q. Do you have a page 1?

13 A. Yes. Actually, I created two DVDs. One of them I
14 numbered it as 9517/02 and 9517/03.

15 Q. Just to get this clear here, your employee number is
16 what?

17 A. 9517.

18 Q. And when you book an item of evidence, do you give it
19 your employee number and then you give it --

20 A. A sequential number starting with 1.

21 Q. Okay. So what was your 9517/1 in this case?

22 A. The DVR, digital video recorder.

23 Q. And did you get a 9517/2?

24 A. Yes.

25 Q. What is that?

26 A. Actually, that is another video that I obtained from
27 the Microtel, so it's not from the DVR.

28 Q. It's a video from -- which is one of the hotels

1 nearby?

2 A. Yes, across the street from the trailer park.

3 Q. What is your 9517/3?

4 A. That is the DVD that I exported, specifically the view
5 from camera number 2 on the DVR that I obtained from 812
6 West Clover, number 63.

7 Q. So is this the final product, this 9517/3?

8 A. Correct.

9 Q. And on this, what is there?

10 A. Well, there's a time span. I can give you the time.
11 It started at 2:00 p.m. to 8:00 p.m.

12 Q. What date?

13 A. On March 27th.

14 Q. 2009?

15 A. Yes.

16 Q. And the was what?

17 A. 812 West Clover, space number 63.

18 Q. Space number what?

19 A. 63. 63.

20 Q. Whose residence?

21 A. Residence of Jose Chavez. And also Sandra Cantu lived
22 there.

23 Q. Okay.

24 What's your first name, Mr. Kelley?

25 A. Fred.

26 Q. K-E-L-L-Y or E-Y?

27 A. E-Y.

28 Q. Tracy Police Department?

1 A. Yes.

2 Q. Did you do anything else in this case on these issues?

3 A. Well, there's one more DVD I created from the DVR.

4 And it's number 9517/04.

5 Q. And what's on that one?

6 A. That's a video of the same time period; however, it
7 displays all four cameras on the system.

8 Q. Oh, I see. Whereas, if I follow you, it's just -- did
9 you say camera number 2 that was on 9517 number 3?

10 A. Number 3, correct. Camera number 2 faced to the west.
11 Actually, the camera was mounted on the southwest corner of
12 the mobile home and it faced to the west.

13 Q. So it's camera number 2 that's going to count, that's
14 the one where we see the little girl?

15 A. Yes.

16 Q. The others show what, a driveway or a parking area?

17 A. Two of the views show their driveway. And one of the
18 views, the camera kind of points to the -- to a shed to the
19 back of the residence.

20 MR. TESTA: May I have this marked as Exhibit
21 Number 1, please?

22

23 (Whereupon a DVD was marked Grand Jury
24 Exhibit Number 1 for identification.)

25

26 MR. TESTA: I can attach it later.

27 Q. Okay. Just do you have any experience in exporting
28 video on to another CD that you did in this case?

1 A. Yes.

2 Q. This isn't something like it was your first time doing
3 it?

4 A. No.

5 Q. Is that it?

6 In terms of your -- what you did in this case?

7 A. Well, after I created the two DVDs, I booked them into
8 evidence.

9 Q. Under what number?

10 A. 9517/03 and 9517/04.

11 Q. I didn't realize you put the zero.

12 Okay. Let me just look at my notes.

13 MR. TESTA: Any questions from any grand
14 jurors? If you do have any, just pass them forward to me.

15 GRAND JUROR 8: How --

16 MR. TESTA: You have to write the questions
17 down. I maybe didn't make that clear. It's kind of a
18 inconvenience, but we need a record of them. And sometimes
19 you'll ask a question that calls for inadmissible hearsay or
20 something or there might be some other evidentiary
21 objection. That's why if they are written, I can look at
22 them, determine if they are proper.

23 GRAND JUROR 8: I'm sorry. You asked.

24 MR. TESTA: That's all right. We are getting
25 our sea legs here.

26 While you're doing that, let me look at my notes real
27 quickly.

28 Q. Did you also collect some DNA swabs from individuals?

1 A. No.

2 Q. Let me show you page 694 of discovery, see if that
3 refreshes your memory on anything.

4 A. (Witness reading.) I didn't actually take the DNA
5 swabs from the individuals.

6 Q. Does that refresh your memory?

7 A. Well, this refers to something slightly different.

8 Q. What did you do, if anything, with any DNA?

9 A. An agent from the FBI came into my office to obtain
10 evidence items, and I turned some evidence items over to
11 that agent.

12 Q. Okay. So you didn't -- you weren't involved in
13 collection of any DNA?

14 A. Not the collection. Just actually releasing the
15 evidence to the FBI.

16 Q. To whom did you release the evidence?

17 A. I don't remember his name, but he's the evidence
18 custodian out of Sacramento.

19 Q. Chris Hopkins ring a bell?

20 A. That's it, yes.

21 MR. TESTA: Oh, thank you.

22 Once we get going, this will go more smoothly. Just
23 bear with us while we get started.

24 Okay. I love to see these questions.

25 Do you have a map of some type that shows the trailer
26 park details, location of the church and pond?

27 Excellent. We do. But with a witness who will be on
28 a little longer. And I'm trying to get some of the briefer

1 witnesses off and on.

2 But, yes, I have some really good maps for you to see.
3 Whoever asked that question.

4 Q. How do you know when the video DVR material was taken?

5 A. That actually is going to be covered by another
6 detective, but there was a date and time stamp on the video
7 data itself.

8 Q. You mean when you exported it, did you preserve all of
9 the underlying data that came with it, the date and time
10 stamp?

11 A. Yes.

12 Q. So we could see on the video itself, will it show the
13 date and time like on the bottom?

14 A. I believe it would, yes.

15 Q. You say we are going to hear that from someone else.
16 Who do you believe that to be?

17 A. Detective Robert Brandi.

18 Q. He's seated outside, isn't he?

19 A. Yes.

20 MR. TESTA: Any other questions?

21 I see none. The foreperson will read the oath -- is
22 it the foreperson?

23 THE WITNESS: I think they had a question
24 over here.

25 MR. TESTA: The foreperson reads the oath
26 after each witness testifies. There's an oath that you
27 read. Do you have it there? Hold on for a second.

28 THE FOREPERSON: Afterwards.

1 MR. TESTA: Right after he testifies, there's
2 a secrecy oath.

3 Was a handwriting analysis done on the note about the
4 suitcase? That will be covered later on. And it was done.
5 They couldn't tell anything about it because it looked like
6 somebody was trying to camouflage her writing. But we will
7 give you some of Melissa Huckaby's writing and you can look
8 at the note. And I will be calling your attention to the W
9 and I believe it's the N's and you may have your own
10 opinion, which you're entitled to have, which you may find
11 very interesting.

12 THE FOREPERSON: Is that the admonishment?

13 MR. TESTA: Yes. Do you have the
14 admonishment?

15 THE FOREPERSON: Uh-huh.

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

23 Violation of this admonishment is punishable as
24 contempt of court.

25 That's it.

26 MR. TESTA: Okay. Thank you, sir. You may
27 leave.

28 THE WITNESS: Thank you.

1 (Pause.)

2
3 MR. TESTA: If you could go this way, please.
4 Can you state your full name, please?

5 THE WITNESS: Keith Hooks.

6 MR. TESTA: And can he be sworn?

7 THE FOREPERSON: You raise your right hand,
8 please?

9
10 **KEITH HOOKS,**

11 a witness called on behalf of the People, having been duly
12 and regularly sworn by the Grand Jury Foreperson, testified
13 as follows:

14
15 THE WITNESS: Yes.

16 THE FOREPERSON: You may sit down, please.

17
18 **EXAMINATION**

19 BY MR. TESTA: Q. Can you spell your name,
20 also?

21 A. Keith, K-E-I-T-H, Hooks, H-O-O-K-S.

22 MR. STPHAO: Hold on, I'm doing a few things
23 at the same time. Someone else is outside.

24
25 (Pause.)

26
27 MR. TESTA: Q. Okay. Where are you
28 employed?

- 1 A. Tracy Police Department.
- 2 Q. And what is your position there?
- 3 A. I'm a detective.
- 4 Q. How long have you been so employed?
- 5 A. Nine years.
- 6 Q. Are you a peace officer?
- 7 A. Yes.
- 8 Q. How long have you been a peace officer?
- 9 A. Nine years.
- 10 Q. What is your present assignment over there?
- 11 A. I'm currently assigned to the Detective Division.
- 12 Q. Okay. And I'm calling you out of order here because I
- 13 think we can get you on and off in just a matter of minutes
- 14 here.
- 15 What did you do on 4/6/09?
- 16 A. 4/6/09, I was --
- 17 Q. Did you prepare a report in this case?
- 18 A. Yes, I did.
- 19 Q. Do you have a copy of it with you?
- 20 A. Yes, I do. I have a look at it?
- 21 Q. Sure. Take a moment. I will direct you to a portion
- 22 of it.
- 23 A. You don't have a copy of this one, do you?
- 24 Q. Okay. You have a new report for me?
- 25 A. Yes.
- 26 Q. There we go. Yeah. April 10th of '09.
- 27 A. Yes.
- 28 Q. Actually, I did want to ask you about the 6th, too,

1 though. Let me first talk to you about the 6th. We'll go
2 chronologically.

3 Did you participate in the discovery of the suitcase
4 in the pond?

5 A. Yes, I did.

6 Q. What was your involvement in that endeavor?

7 A. I was one of the persons that retrieved the black
8 suitcase from the pond -- holding pond.

9 Q. Tell us a little more about it, how did you get the
10 call?

11 A. Actually, I was called by Detective Bauer. And I was
12 actually at the San Joaquin County Health Department. We
13 had cordoned off the area of the landfill up in Linden in
14 case we had to search for the missing girl in that area.

15 Q. I'm sorry, so you were doing something else at the
16 time?

17 A. Yes.

18 Q. What were you doing, in a nutshell?

19 A. I was working with a San Joaquin County health
20 inspector to secure an area at the landfill.

21 Q. At the landfill?

22 A. Yes, up in Linden.

23 Q. Why were you guys going to secure the landfill?

24 A. Garbage had been collected on Saturday, the day after
25 Sandra was missing, and we had not processed this garbage
26 and it had been buried.

27 Q. Garbage had been collected from the people that lived
28 at the trailer park?

1 A. From that area, yes.

2 Q. And you guys did the research and found out where that
3 garbage was taken to?

4 A. Yes.

5 Q. That's pretty good work. So you go over to that
6 dumpsite?

7 A. And we secured the area.

8 Q. And you secured it. You were about ready to do what?

9 A. We were securing it. We were trying to figure out how
10 long we would secure it for without causing any health
11 issues. The area that was in question had already been
12 buried. And at that time, Detective Bauer had called me and
13 told me that he discovered a black suitcase.

14 Q. So you guys were going to possibly go to the level
15 where the garbage would be from the trailer park for that
16 27th of March?

17 A. Yes.

18 Q. And -- I see. Okay.

19 And are you able to tell where in the dumpsite --
20 where in the dump various items come from on which days?

21 A. Yes. They estimated it would be in the area 30 by 30,
22 and approximately 45 feet deep.

23 Q. So you would have gotten like a backhoe or something?

24 A. Yes.

25 Q. So you're cordoning off that, doing your work there,
26 then you get a call from Bauer that what?

27 A. That they had located a black suitcase in a holding --
28 in a holding pond.

1 Q. So what did you do once you got the call from -- Tim
2 Bauer is the main detective from Tracy who is on this case,
3 is that correct?

4 A. Yes. Yes, sir.

5 Q. And what did you do when you got the call from Bauer?

6 A. I responded to the area on Whitehall Road.

7 Q. Is it B-A-U-E-R?

8 A. Yes.

9 Q. Okay. Bauer calls you, say you go to the -- you go to
10 the area on Whitehall Road?

11 A. And Bacchetti.

12 Q. Whitehall and Bacchetti Road?

13 A. Yes.

14 Q. And what do you do there?

15 A. As I arrived on scene, I contacted Detective Bauer,
16 who pointed out the area where the suitcase was sitting at
17 on the side of the road -- of the pond.

18 Q. Was anyone, how you guys put it, securing that scene?

19 A. It was my job to secure the scene and work with the
20 FBI or evidence collection.

21 Q. So what did you do to secure the scene where the
22 suitcase was found?

23 A. We taped it off, and I stayed in the area to make sure
24 no one came or left the area. We removed the suitcase out
25 of the water.

26 Q. You taped off that whole area out there?

27 A. Yes.

28 Q. How many of there were you doing the security of the

1 area -- well, you're in charge I guess?

2 A. Probably twenty of us.

3 Q. Oh, okay.

4 What I would like to know is if you guys didn't even
5 know what's in the suitcase, how -- why did you take it all
6 so seriously and have twenty of you go out there and cordon
7 off the area and do all that?

8 A. Based on the note that they received prior, saying
9 that this -- the missing girl was in a suitcase.

10 Q. Could you speak into the microphone, please?

11 A. Based on the note they received prior to the missing
12 girl was in the suitcase in that area, I believe the note is
13 on your screen right there.

14 Q. So it was based on that that you guys took it
15 seriously when someone found a suitcase there in the ponds?

16 A. Yes.

17 Q. Okay. So then what happened once you secured the
18 area?

19 A. We removed the suitcase from -- from the water.

20 Q. And describe what you saw there with the suitcase.
21 Was it open? Was it secured?

22 A. The suitcase -- excuse me.

23 Q. Do we have any water in here? Would you like some
24 water?

25 A. Please.

26 The suitcase was partially in the water and partially
27 on the side of the pond. It was closed. Two zippers came
28 around and met in the middle and the two zippers were tied

1 together with a piece of -- small piece of rope.

2 Suitcase also had two buckle straps that came over the
3 top of the suitcase, and they were also buckled close.

4 MR. TESTA: May I have this marked as Number
5 2, please?

6

7 (Whereupon a Photograph was marked Grand
8 Jury Exhibit Number 2 for
9 identification.)

10

11 MR. TESTA: And can you give me Number 1 so I
12 can put it up where it's supposed to be?

13 You are going to make a note of the date and what the
14 item is. Yeah, you fill that in. Put a Grand Jury Exhibit
15 Number 1. You have to put the name of the case and you have
16 to put the date and your initials, and then I attach it to
17 the item. So if you could do that for 1 and 2. And then
18 keep a little log as to which each of these items is.

19 So Number 1 will be the Fred Kelley's -- illustration
20 of Fred Kelly's testimony.

21 Number 2 will be this suitcase.

22 Q. Showing you Number 2, does this look familiar to you?

23 A. Yes, it does.

24 Q. What does it appear to be?

25 A. The black suitcase that was removed from the water.

26 Q. With the laser, why don't you walk us through it.

27 Push this button right there.

28 What did you notice about it, in terms of you

1 mentioned something about cord?

2 A. You can see right here where the water line was at
3 where the suitcase was sitting in the water. This part of
4 the suitcase was submerged in the water. These are the two
5 zippers that I mentioned. This zipper came from that way;
6 this one came from this way. It was tied in the middle with
7 a rope. And then the strap that was also pulled across the
8 top of the suitcase.

9 Q. Can you make out the name?

10 A. Eddie Bauer.

11 Q. So what was done with the suitcase?

12 A. It was photographed. Measurements were taken. It was
13 removed from the water. We lifted the suitcase out of the
14 water and placed it in a -- in a secured black plastic bag.

15 MR. TESTA: Grand Jury Exhibits 3, 4, 5 and
16 6, please. Photographs.

17 You might want to do like a hundred of them in advance
18 like I mentioned this morning. And can I get the first two?

19 THE SECRETARY: Okay.

20 MR. TESTA: You can solicit help from others,
21 because I can't really go forward until I attach them.

22

23 (Whereupon Photographs were marked Grand
24 Jury Exhibit Numbers 3, 4, and 5 for
25 identification.)

26

27 THE SECRETARY: He said 3, 4 and 5?

28 MR. TESTA: All righty, I'm going to cover

1 these things with someone else I think.

2 There's a question for you.

3 How large was the suitcase? Was there anything
4 outside the suitcase that made it look -- okay, as far as
5 how large it was, please ask this question again when the
6 doctor's on the stand, the autopsy doctor. He actually
7 measured it with a ruler or with a tape measurement.

8 Was there anything outside the suitcase that made
9 it -- made you guys think what might be inside of it?

10 THE WITNESS: No.

11 MR. TESTA: How was it removed from the pond
12 and water?

13 Thank you.

14 Are you done with those exhibits yet? Do we have
15 Number 1?

16 The next four would be the photographs. All right.

17 THE SECRETARY: Okay.

18 THE WITNESS: It was three FBI agents and
19 myself, we each grabbed the corner of the suitcase and
20 lifted it out of the water and on to the -- the access road
21 next to the pond.

22 MR. TESTA: Q. Okay. Showing you Grand Jury
23 Exhibit 3, will be a photograph, do you recognize this?

24 A. That's the suitcase still in the water.

25 Q. Is that how it was when you first got there?

26 A. Yes.

27 MR. TESTA: Do you have those four? They are
28 all going to be of the suitcase.

1 Q. Showing you Number 3 -- 4, what about Number 4, do you
2 recognize what's shown in 4?

3 A. It's the same suitcase, just a different angle of it.

4 Q. Is that how it was when you got there?

5 A. Yes.

6 Q. So there's a water line you mentioned, does this show
7 us?

8 A. This actually is right there.

9 Q. I had another laser pointer. Oh, here it is.

10 Tell us what is -- what's over there, what's over
11 here?

12 A. That over here in this area is another field.
13 Adjacent on this side is another holding pond, the same size
14 as this one. A approximately 20-foot road between the two
15 ponds.

16 Q. See what happens when I put the tag on it. Makes it
17 difficult to see.

18 A. Back over here along the tree line is -- I believe
19 it's Whitehall Road right through here.

20 Q. Are these vehicles?

21 A. Can't see that.

22 Q. Law enforcement?

23 A. Yes. FBI.

24 Q. FBI?

25 A. Yes.

26 Q. Is that a yes?

27 A. Yes.

28 MR. TESTA: Thank you. 3, 4 and 5 and 6,

1 please.

2 Q. Do you recognize what's shown in 5? With your laser
3 pointer, if you recognize what's in here, can you tell us
4 what is shown?

5 A. I don't see it. It's just the road I mentioned where
6 we pulled the suitcase out. The suitcase was right in this
7 area. I don't -- I can't see if it's still there or not.

8 Q. Okay. So two ponds?

9 A. Yes. Same size. This road runs between them.
10 There's another levee back here. And then Whitehall Road
11 would be over on this side.

12 Q. Okay. Okay. See if I have anymore questions for you
13 on this topic.

14 So the suitcase is taken out of the water and put in
15 what kind of container?

16 A. It was placed in a coroner's body bag.

17 Q. Did you ever go back to the pond at some later date?

18 A. Yes.

19 Q. For what purpose and when?

20 A. The owner of the property said that the pond would be
21 drained in approximately a week, week and a half. At that
22 time, the owner called us and we drove back out there to
23 look at the pond for any further evidence. None was
24 located.

25 Q. When?

26 A. Approximately a week after April 6.

27 Q. Did you make a note of the date in your report?

28 A. I don't see it in there, no.

1 Q. Take your time and see if page -- the pages are not
2 listed on the top of mine, but I think it's the last page of
3 that report, the last entry.

4 A. (Referring to report.) Yes, it was April 22nd, we
5 responded back to the pond.

6 Q. We?

7 A. Detective Brandi and I.

8 Q. Responded back to the pond, why?

9 A. To look over the pond for any additional evidence.

10 Q. And what did you find, if anything?

11 A. We didn't find anything.

12 Q. Okay. Now let me -- okay. Now, all of this, as far
13 as the finding of the suitcase, was on what date now?

14 A. April 6th.

15 Q. Suitcase found April 6, 2009, correct?

16 A. Yes.

17 MR. TESTA: May I have that calendar marked
18 as People's next in order, please?

19 And if you could go maybe put the piece of Scotch Tape
20 and attach it, please.

21 THE FOREPERSON: That's going to be number 6?

22 MR. TESTA: Whatever -- yeah, right, because
23 5 was the last photograph.

24

25 (Whereupon an April 2009 Calendar was
26 marked Grand Jury Exhibit Number 6 for
27 identification.)

28

1 MR. TESTA: Q. Okay. Now let me shift
2 gears. Did you participate in a search of a church?

3 A. Yes. On April 10th was the Clover Road Baptist Church
4 in Tracy, yeah.

5 Q. And what did you do on that date with respect to that
6 church?

7 A. On that date, I conducted a search of the kitchen
8 area.

9 Q. Why were you there at the church to begin with?

10 A. Looking for additional evidence related to this, yes.

11 Q. What authority did you have to go search this church?

12 A. We had a search warrant.

13 Q. Signed by a judge?

14 A. Yes, sir.

15 Q. Were there any particular kinds of items you guys were
16 looking for on this particular date?

17 A. We were looking for anything that would have been used
18 for penetration.

19 Q. And who accompanied you?

20 A. I was accompanied by the detective staff of the Tracy
21 Police Department, as well as FBI agents and CST Martin,
22 Tracy Police Department.

23 Q. "CST" means what?

24 A. Crime scene technician.

25 Q. And the address of this church?

26 A. 11000 Clover Road in Tracy.

27 Q. So what did you do there at the church pursuant to the
28 search warrant?

1 A. I went to the kitchen area, I started looking through
2 the kitchen drawers. And the third drawer --

3 Q. Wait. There are a lot of different rooms of the
4 church, correct?

5 A. Correct.

6 Q. And how many of you were there participating in the
7 search, approximately?

8 A. Fifteen of us.

9 Q. Okay. Fifteen of you.

10 So how -- tell us a little bit about how your duties
11 are assigned. How did it work? Was there anyone in charge?

12 A. Sergeant Pineo was in charge.

13 Q. Could you spell his name?

14 A. P-I-N-E-O. Tracy Police Department.

15 Q. And how was the workload?

16 A. He divided us up into groups. I believe there was
17 five of us in my group.

18 MR. TESTA: Five more photos, please.

19

20 (Whereupon five Photographs were marked
21 Grand Jury Exhibit Numbers 7, 8, 9, 10
22 and 11 for identification.)

23

24 THE WITNESS: We had the kitchen area, which
25 was located at the south end of the building. We had the
26 kitchen area, which was located at the south end of the
27 building.

28 MR. TESTA: Q. So different people had

1 different rooms?

2 A. Correct. Some people took the main church area, some
3 took the nursery room, and we had kitchen area.

4 Q. Showing you People's next in order -- what number
5 would this be did you say?

6 THE SECRETARY: 7.

7 MR. TESTA: Q. 7, okay. Do you recognize
8 what is shown in this photograph?

9 A. That's the exterior of the Clover Road Church --
10 Baptist Church.

11 Q. What's this person in the white suit?

12 A. That's a FBI evidence collection person.

13 Q. Is that how they dressed when they would go and
14 participate in these searches?

15 A. Yes.

16 Q. What are those outfits?

17 A. The white jumpsuit.

18 Q. Do they wear those when they collect evidence?

19 A. Yes, they do.

20 Q. So that's Number 7.

21 Do you recognize what is shown in Number 8? Does that
22 show any of the rooms of the church?

23 A. That's the kitchen area.

24 Q. With the laser, can you walk us through it?

25 A. This door right here leads out to the main part of the
26 church. This is the island -- or on the other side of this
27 is a kitchen area with a dishwasher and refrigerator and
28 stove located. This is a large table. Over here was a

1 separate room that opened to this room. And over here was
2 another room that opened in this room, with small like
3 little nursery rooms with a small table in there.

4 Q. Showing you Number 9.

5 A. This would be where that large table was at. This
6 would be the other side of the island that I mentioned. The
7 bathroom through this door right here. This refrigerator.
8 And this door was just a closet.

9 Q. Okay. Showing you Number 10, do you recognize what is
10 shown in this one?

11 A. Yes.

12 Q. What?

13 A. That's the drawer --

14 Q. With the laser, please.

15 A. This is a drawer where we located a rolling pin from
16 the kitchen.

17 Q. Give us a little -- first of all, what's this drawer
18 to the right of it?

19 A. Right here was end of the island. So you had this
20 drawer, this drawer, the middle drawer, and two more
21 drawers. Below you had cabinets which held pots and pans,
22 different size bowls, mixing bowls. All these drawers held
23 small kitchen utensils.

24 Q. So going to the previous diagram, Number 9, where are
25 these open drawers that we just saw on Number 10?

26 A. Be on the other side of this wall, one here, one here,
27 and then five drawers along the top of this on the other
28 side of this wall.

1 Q. Okay. So going back then to 10, does that -- was
2 there someone there with a camera taking photos before you
3 guys do your searches or how does it work?

4 A. Yes, CST Martin took photos before, during, and after.

5 Q. What's the reason for taking them in that sequence?

6 A. To show how we found it and how we left it.

7 Q. Okay. So 10 is on the screen.

8 Now let me show you 11. What does that show?

9 A. Just a drawer with a different kitchen knives,
10 scissors in it.

11 Q. If you wanted to cut some blinds, are there any
12 cutting utensils in that drawer -- blind cords?

13 A. There were several cutting utensils.

14 Q. With the laser, where?

15 A. Pair of scissors here. Some knives up here.

16 Q. Okay.

17 MR. TESTA: Here are 10 and 11.

18

19 (Whereupon a Photograph was marked Grand
20 Jury Exhibit Number 12 for
21 identification.)

22

23 MR. TESTA: Q. Showing you 12. Is that a
24 close-up of one of the previous photos?

25 A. Yes.

26 Q. What do you see in this, with the laser?

27 A. Third drawer, either way, from either side of the
28 wall, this is a metal rolling pin that we located in the

1 drawer. I removed the rolling pin from the drawer. Had two
2 handles on it, one on each side.

3 Q. What were you wearing when you removed it?

4 A. A pair of white latex gloves.

5 Q. Why?

6 A. Not to contaminate any of the evidence.

7 Q. What did you do with the item once you removed it --
8 what did you notice about it, I should say, if anything?

9 A. I removed the items and I noticed that one end -- one
10 handle, this handle here, was slightly bent.

11 Also noticed dried substance on the surface of the
12 rolling pin itself.

13 Q. So as we look at this particular photograph, the one
14 that's on the screen is Number 12, you could kind of see the
15 bottom handle, and I guess the one in the bottom of the
16 photograph is one handle, I guess -- is there another handle
17 on the top?

18 A. Yes.

19 Q. And where was it that you noticed something -- which
20 handle, the bottom or the top as it appears in this photo?

21 A. The top handle up here.

22 Also on the surface of the rolling pin itself.

23 Q. Okay. So then what was done with the -- you had
24 gloves, you said you -- what did you then do with the
25 rolling pin?

26 A. It was removed from the drawer, photographed and
27 collected as evidence by CST Martin.

28

1 (Whereupon a Photograph was marked Grand
2 Jury Exhibit Number 13 for
3 identification.)
4

5 MR. TESTA: Q. Showing you 13, do you
6 recognize what is shown in this photograph?

7 A. It's the rolling pin sitting on the counter, directly
8 above the drawer, it was found. This is the other side of
9 the wall in the kitchen.

10 Q. And what's the purpose of that number 19 that we see
11 there?

12 A. That's the evidence indicator, which number that is,
13 you see the handle right here, how it slightly is bent
14 downward.

15 Q. So is that the procedure, you take the photograph of
16 the area before you search it?

17 Did you take out other items besides this rolling pin?

18 A. I did not, no.

19 Q. Did others take others?

20 A. Yes. The way it's done, we do it on scene, we take a
21 picture of the building, exterior, interior. We locate
22 something, we get a picture of where it's located at, the
23 position it's in, we remove it, take a picture of it again,
24 and then collect it as evidence.

25 Q. So when we look at Number 13, we are seeing it after
26 you guys would take it out, put it there for photograph?

27 A. Yes.

28 Q. And that was Number 13.

1 (Whereupon a Photograph was marked Grand
2 Jury Exhibit Number 14 for
3 identification.)
4

5 MR. TESTA: Q. And what about 14? Closer
6 view of the same item?

7 A. Closer view of the same item.

8 Q. With the laser, could you tell us now which -- where
9 you noticed things on that rolling pin? With your laser
10 pointer, please.

11 A. There's smudge marks on the handle.

12 Q. Some what marks?

13 A. Smudge, I don't know what it was, like a dried
14 substance had been rubbed on it, as well as right around in
15 this area.

16 Q. For the record, right around what part, the beginning
17 of the rolling pin itself?

18 A. The beginning of the rolling pin next to the bent
19 handle.

20 Q. And which handle is bent, the one near the 19 or the
21 one farthest from the 19?

22 A. The one opposite of the 19.

23 Q. Did you happen to measure -- I don't know if you did
24 or not -- the dimensions of any part of the rolling pin?

25 A. I did not, no.

26 Q. Or any part of the handle?

27 Okay. Number 13 and 14.

28 So do those photos I've shown you today all accurately

1 depict, for example, what you saw there in the church and
2 the rolling pin and so forth, do they accurately depict what
3 you saw?

4 A. Yes, they do.

5 Q. And the photos I showed you of the suitcase and the
6 pond and the close-up of the twine or the cord on the
7 suitcase, do those photos I showed you accurately depict
8 what you saw on those -- on that date?

9 A. Yes, they do.

10 Q. By the way, when you say these items like the rolling
11 pin was photographed and then booked by I think you said
12 Crime Scene Technician Martin --

13 A. Yes, sir. Yes, sir.

14 Q. -- what do they do when they book it? Do you see what
15 they did? What do you mean by "booked in evidence"?

16 A. They take it and they place it in a closed envelope.
17 And what they do after that, I don't know what they do after
18 that.

19 Q. Are they wearing gloves and everything, too?

20 A. Yes. And they take it for processing.

21 MR. TESTA: Okay. Let me see if I have any
22 other questions. Review my notes here.

23 I have no further questions. Are there any questions
24 from any of the grand jurors? If there are, just pass them
25 forward.

26 GRAND JUROR 9: I have one, but I have run
27 out of slips.

28 MR. TESTA: Oh, okay. Do you have more

1 slips? Does everyone have slips, because that shouldn't be
2 a reason not to write a note.

3 And while he's filling that out...

4 THE FOREPERSON: Did I give you a question
5 already, when you came over here?

6 MR. TESTA: Thank you for reminding me. I
7 thought you gave me two.

8 Q. Here's a question: How many officers were present
9 when the suitcase was found?

10 A. There were several. Several Tracy police officers.
11 Tracy Fire Department was also on scene. And as well as
12 FBI. We had the whole command staff, we had almost
13 everybody there.

14 Q. If I recall, though, you were the one in charge of
15 security.

16 A. I was in charge to make sure no one got near that
17 suitcase.

18 Q. So, I mean, were there any like civilians --

19 A. No.

20 Q. -- who could walk off, do anything?

21 A. No.

22 Q. Were there any onlookers, by the way? I don't know
23 how much publicity this got.

24 A. There were onlookers, but we had stationed about a
25 mile from the scene, we had the road blocked off. We had
26 restriction in the air for helicopters.

27 Q. Is this area, by the way, that's in San Joaquin
28 County?

1 A. Yes, it is.

2 Q. And this area where the trailer park is, that's in San
3 Joaquin County also?

4 A. Yes, it is. The suitcase was located north of the
5 trailer park.

6 Q. Would that garbage have been mixed with other
7 collections by that time? Unless there was no -- was there
8 any evidence collected from that garbage site that you were
9 going to cordon off and check out?

10 A. We started processing Tracy Disposal on Monday. And
11 we processed every load of garbage that came through there
12 from the city of Tracy, Mountain House, and the surrounding
13 areas. We processed that all week.

14 However, we missed the Saturday's collection. It was
15 already taken to the transfer station, dumped, and then
16 transferred to Linden and buried. That's why we were up in
17 Linden securing that trash in case we needed to dig it up.
18 And, like I said, it was approximately about twenty-five,
19 thirty feet buried.

20 Q. But you never went to -- went there once you guys
21 found the suitcase?

22 A. Once we found the suitcase, we released that area and
23 never went back.

24 MR. TESTA: Okay. Any other questions? Can
25 you just...

26 Thank you.

27 Q. Did it appear that the suitcase was ever completely
28 submerged?

1 Can I get all the photos? Do you understand that
2 question?

3 A. Yes. Yes. The suitcase was covered with like mud and
4 it appeared as the whole suitcase was wet. However, when I
5 got on the scene, it was partially submerged as it is in
6 that photograph.

7 Q. Well, do you know much about these ponds, what they
8 are used for?

9 A. They are used for irrigation. And based on the
10 information the landowner provided that they are drained
11 twice a month -- or twice a year, and the end of April was
12 one of the drain dates -- or April was one of the drain
13 dates.

14 Q. April what?

15 A. April 2009 that he started draining it.

16 Q. 1st of April, the 2nd of April?

17 A. Actually, the 5th -- he said the 5th he started
18 draining it.

19 Q. Okay. So the -- the water level then would --

20 A. It was much higher.

21 Q. Well, can you -- did it appear like -- what's this
22 discolor versus this? Is that just the photograph or was
23 there a difference in color of the water near the bank
24 versus --

25 A. That was a difference in the water level when they
26 started draining that pond in the morning. See how it goes
27 around?

28 Q. With the laser, could you tell us what you just said,

1 please?

2 A. This is a difference in the water level of where the
3 water was to the dried bed. You see it kind of goes all
4 around the whole pond.

5 Q. And can you see that in Number 5 as well? And if so,
6 with the laser show us.

7 A. Right along here, you see the water level.

8 Q. When you retrieved the suitcase -- let me get the
9 photograph -- were the zippers tied with the cord?

10 A. Yes. There was two zippers. The suitcase was a
11 pretty large-sized suitcase.

12 Q. With the laser, please.

13 A. Can you zoom out a little bit?

14 This part -- this portion of the suitcase flipped
15 open. And it was closed. The zippers, one came from this
16 direction, one came from this direction, met in the middle
17 and was tied with a knot with this cord right here.

18 Also, a large belt-type strap that secures the lid
19 closed, it was also fastened and pulled tight, as you see
20 right here, the little buckle.

21 Q. So it's secured in two areas, the buckle and belt --

22 A. Right.

23 Q. -- and then all these --

24 A. These two zippers right here.

25 Q. -- zippers coming together right here?

26 A. These little zippers up here are for little pockets
27 attached to the lid of the suitcase itself. There is no way
28 to gain entry into the suitcase. These are just little

1 pockets.

2 These two zippers are the main zippers that close the
3 suitcase together.

4 Q. The two zippers that are tied, are they tied together?

5 A. They are tied together. They meet and there's a
6 little hole where they both overlap each other. You can see
7 a -- you can't see that close, but there is a little hole
8 where both zippers overlap and the string's tied through
9 both of the holes.

10 MR. TESTA: May I have marked as next in
11 order -- what number would that be?

12 THE SECRETARY: 15.

13 MR. TESTA: 15.

14

15 (Whereupon a Photograph was marked Grand
16 Jury Exhibit Number 15 for
17 identification.)

18

19 MR. TESTA: Q. Let me show you 15 here.

20 A. Turn it one more time. There you go.

21 Q. Recognize what's shown here?

22 A. This is the zipper coming from this side of the
23 suitcase. This is the zipper coming from this side of the
24 suitcase. Two holes I mentioned, they overlap each other.
25 The rope or the string was placed through both holes
26 securing both zippers together. And then tied with these
27 knots right here. This right here and this right here is
28 just the zipper, the little handle itself.

1 Q. So when you guys get this suitcase out of the water,
2 if I'm following you, as we see here -- first of all, can we
3 mark Number 15?

4 If I'm following you, in Number 2, you would not have
5 been able to open it, you know, there -- you know, you want
6 to see, "Is this a false alarm? Could this just be some
7 rocks in here or some prank? Why don't we just open the
8 suitcase before we get all these FBI, law enforcement people
9 involved. Let's just open, sneak a little peek and see if
10 there's anything in here."

11 Were you incapable -- if you wanted to do that, would
12 you have been able to do it?

13 A. No. We didn't do it. It was not opened at the scene.
14 However, these zippers were tied closed with a knot. The
15 belt was fastened as tight as it could be pulled. There was
16 no way to look into that suitcase without removing the rope
17 and unbuckling the belt.

18 Q. So if that was -- I mean, so if I tell you that was
19 done later by the doctor at the autopsy, is that consistent
20 with your understanding?

21 A. Yes, it would be.

22 Q. No one there at the scene, and you're in charge of
23 securing the scene, no one there at the scene kind of opened
24 it up somehow, see if it was worth all this attention?

25 A. The suitcase was not opened at the scene.

26 Q. Did you actually handle it? Did you have to lug it
27 out of the water at all?

28 A. Yes, we did.

1 Q. Did you personally have any grasp of the suitcase?

2 A. Yes, I did.

3 Q. Tell us about the weight. I know you didn't measure
4 it then and there. But what are we talking about? Did it
5 take, you know, two guys? Was it enough for one person to
6 get up? What was it like?

7 A. Four guys.

8 Q. I'm sorry?

9 A. Took four guys, one on each corner. There's a lot of
10 water in the suitcase that came out. Once the water was out
11 of the suitcase, the suitcase did have a weight to it.

12 Q. It actually took four guys to get it out?

13 A. Yes.

14 Q. Now, there's also -- I will move on here in a second.

15 MR. TESTA: Can I have next in order, please,
16 which would be what number?

17 THE SECRETARY: 16.

18

19 (Whereupon Photograph was marked Grand
20 Jury Exhibit Number 16 for
21 identification.)

22

23 MR. TESTA: Q. Do you recognize this one?

24 A. Same suitcase.

25 Q. I guess it's just -- here's Number 3 that we already
26 saw. Here is 16. I guess may have been the same one. But
27 there's also a handle, isn't there?

28 A. Yes.

1 Q. So one person couldn't just lift it up?

2 A. We didn't do that. We wanted to preserve as much
3 evidence as possible. And we carefully removed it from the
4 pond.

5 Could one person have done it? I don't know. But we
6 used four.

7 Q. By the way, how steep is that embankment there?

8 Let me put it this way: Does Number 5 show the level
9 of steepness, I guess if that's right word, the incline, the
10 grade?

11 A. I'm not an expert, but it was pretty steep. I say at
12 least a -- I don't want to guess. It was steep.

13 MR. TESTA: Okay. I have no further
14 questions. Any more questions?

15 Q. Was the settling pond searched in response to the
16 note? In other words --

17 A. Yes, it was.

18 Q. -- see that note over there?

19 A. Yes, it was. The -- the pond itself, we also took --
20 had dogs out there. There was strong odor of manure from
21 the pond. The water was dark. And it was searched every
22 day.

23 Q. What day was the note found -- or we didn't go into
24 that yet so I can't ask you that. I mean, while -- what was
25 the date of the finding of the rolling pin?

26 A. The 10th.

27 Q. Okay. But when the note -- the note had been found
28 well before the 6th, correct?

- 1 A. Right.
- 2 Q. You guys went out every day?
- 3 A. Right.
- 4 Q. Did you yourself?
- 5 A. No, that was my first time out there.
- 6 Q. But others in the Tracy or -- or Tracy Police or FBI?
- 7 A. Tracy Police and FBI had gone out there.
- 8 Q. So do you know how high up that water had been before
- 9 they started draining it in April?
- 10 A. That was -- the day that it was found on the 6th was
- 11 the first day of the draining. So I'm assuming this would
- 12 have been the water line of the pond.
- 13 Q. Then you said you went out there the 22nd of April?
- 14 A. 22nd of April.
- 15 Q. And you said by then the pond had been fully drained?
- 16 A. Yes.
- 17 Q. How far down do they drain it when they drain it? Is
- 18 it completely empty so you can walk on it?
- 19 A. You can't, it's all muddy. I would estimate probably
- 20 another three feet down.
- 21 Q. Oh, so the total depth is what? At about what,
- 22 approximately?
- 23 A. Five feet.
- 24 Q. Five feet. And this water is used to irrigate?
- 25 A. Yes.
- 26 Q. It's a way to store the water --
- 27 A. Right.
- 28 Q. -- until they need it to irrigate?

1 What do they grow around there?

2 A. I don't know.

3 Q. If it took four to drag the suitcase out, would it
4 have been possible for one to put it in?

5 Somewhat calls for speculation, but...

6 A. I'm not sure how much you covered as far as what
7 happened on the other side of the pond, so I don't want
8 to --

9 Q. I think other witnesses will cover this point.

10 A. Yeah.

11 Q. Was the settling pond searched in response to the
12 note? I asked that. All right.

13 MR. TESTA: Do you allege Cantu was assaulted
14 in the church? That Huckaby was seen driving to the church.
15 No Cantu at that time. Assaulted when deceased.
16 Therefore -- okay. These questions if you -- I believe some
17 of them will be answered later. I don't think this witness
18 is in a position to answer them. But don't let that stop
19 you from asking questions in the future.

20 Any other questions?

21 Okay. The foreperson will read to you an admonition,
22 and then you can get on your way.

23 THE FOREPERSON: You are admonished not to
24 reveal to any person, except as directed by the Court, what
25 questions were asked or what responses were given or any
26 other matters concerning the nature or subject of the grand
27 jury's investigation which you learned during your
28 appearance before the grand jury. This admonishment

1 continues unless and until such time as the transcript of
2 this grand jury proceeding is made public.

3 Violation of this admonishment is punishable as
4 contempt of court.

5 Do you understand?

6 THE WITNESS: Yes.

7 THE FOREPERSON: Thank you.

8 MR. TESTA: Thank you.

9 Ladies and Gentlemen, you're in charge of your own
10 schedule here. I could go forward with my next witness. I
11 realize it's already 11:28 and we haven't taken a break. I
12 know normally the judges like to take a break every hour and
13 fifteen minutes or so, or every ninety minutes.

14 You can tell me, should I go forward with my next
15 witnesses, just finish at 12:00, or do you want me to take a
16 break and go to 12:30? It's totally your call.

17 THE FOREPERSON: Does anyone need a break at
18 this time?

19 MR. TESTA: I know normally they take a break
20 from 12:00 to 1:00, 12:00 to 1:30. I don't know.

21 GRAND JUROR 9: I'm good to 12:00.

22 MR. TESTA: Are people in a position to go to
23 12:00? We could take two-minute restroom break if anyone
24 needs one now.

25 Okay. We will keep going.

26

27

(Pause.)

28

1 MR. TESTA: Could you state your full name,
2 please?

3 THE WITNESS: Rebecca Calas.

4 MR. TESTA: How do you spell your name?

5 THE WITNESS: My full name? R-E-B-E-C-C-A
6 C-A-L-A-S.

7 MR. TESTA: You don't have to tell us where
8 you live, but what town do you live in?

9 THE WITNESS: Tracy.

10 THE REPORTER: She needs to be sworn.

11 MR. TESTA: Thank you for reminding me.

12 Could you swear the witness, please?

13 THE FOREPERSON: Could you raise your right
14 hand, please?

15

16 **REBECCA CALAS,**

17 a witness called on behalf of the People, having been duly
18 and regularly sworn by the Grand Jury Foreperson, testified
19 as follows:

20

21 THE WITNESS: Yes.

22 MR. TESTA: Thank you for reminding me.

23

24 **EXAMINATION**

25 BY MR. TESTA: Okay. I'm sorry. Are you
26 employed outside the home?

27 A. No.

28 Q. You a homemaker?

1 A. Yes.

2 Q. Thank you for coming in. Sorry you had to wait.

3 Did some detectives from the Tracy Police
4 Department -- did they come out and talk to you about
5 something?

6 A. No. I called Detective Bauer myself.

7 Q. Oh, you did. Well, thank you for getting involved.

8 Let me show you this photograph. It's already been
9 marked as Number 7.

10 And do you recognize what is shown there?

11 A. Yes.

12 Q. What?

13 A. The church on Clover Road.

14 Q. And where -- did you call him about that?

15 A. I called him about seeing Melissa at the church the
16 night Sandra went missing.

17 Q. Okay. So where were you when you saw Sandra at the
18 church -- the night that you saw Melissa at the church the
19 night that Sandra went missing?

20 A. I was at my brother's house. He lives right down the
21 street from the church.

22 Q. And what do you remember about that night?

23 A. I remember someone coming to the door asking if they
24 could search the property for Sandra because she was
25 missing.

26 Q. They were doing -- they had search parties, did they?

27 A. It was family or friends or something that was out
28 searching for her just down the street.

1 Q. Because the church is how far from the trailer park
2 where Sandra lived, about?

3 A. About half a block.

4 Q. Okay. And you -- your brother's place, does it show
5 on these photos at all?

6 A. That house right there, he's right next to that house.

7 Q. So in this photograph, Number 7, behind the sign that
8 says "Clover Road Baptist Church," to the right of it are
9 some structures, and your brother lives --

10 A. Yeah, that's actually Kenners' Welding, and my brother
11 is right next-door to Kenners' Welding.

12 Q. It's a welding place and your brother lives right
13 next-door to the welding place?

14 A. Yes.

15 Q. And you were there on March 27th, 2009, the date
16 Sandra Cantu went missing?

17 A. Yes.

18 Q. How did you know she went missing? Was there any word
19 of that?

20 A. There was just someone outside. We were actually
21 watching a movie and we heard them over the TV screaming for
22 her name. And they came up to the door and asked if they
23 could search the property for her.

24 Q. Someone is out there, "Sandra, Sandra," or, "Sandy"?

25 A. Yeah, there was a lady out there calling for Sandra.

26 Q. About what time?

27 A. I don't remember the exact time, but I know it was
28 around 9:00, 9:30.

1 Q. And you were -- see, this would have been -- is it
2 cold outside or warm outside?

3 A. It was actually warm that night.

4 Q. March 27th. Okay. It was warm. And you're at your
5 brother Steve's house?

6 A. Yes.

7 Q. And you're babysitting his kids?

8 A. Yes.

9 Q. Watching a movie?

10 A. Yes.

11 Q. When you overheard a female yelling the name Sandra
12 come from outside the residence?

13 A. Yes.

14 Q. And then that woman asked you what?

15 A. If they could search the property for Sandra. She
16 told us that a little girl went missing from the trailer
17 park and asked if her and I think a guy with her with
18 flashlights, if they could search the property.

19 Q. And what -- were you the only adult there?

20 A. No. There was several of, yes.

21 Q. And what did you say?

22 A. We said sure, and we went out and helped them.

23 Q. What did you do to help?

24 A. We got our flashlights and went and searched under
25 cars, inside cars.

26 Q. Find anything?

27 A. No.

28 Q. And then what happened next?

1 A. After they left the property, we watched the
2 10:00 o'clock news, wanting to see if there was any more
3 information on the news. And when we didn't see anything on
4 the news, my brother and I walked down to the trailer park.

5 Q. What do you mean you didn't see anything on the news?
6 Had they been covering this on the news up to that point?

7 A. No, we hadn't heard anything. So we were just
8 wondering if there were updates or anything on the news
9 before we actually walked down there.

10 Q. Do you happen to remember the channel or the newscast?

11 A. Yeah, we were watching Fox 40.

12 Q. What time does that come on?

13 A. 10:00 o'clock.

14 Q. So you're watching the 10:00 o'clock Fox 40 News for
15 about how long?

16 A. We probably watched it for the first twenty minutes.

17 Q. And then what did you do?

18 A. Then my brother and I discussed walking down there to
19 see if they had found her or if we could help them search
20 other areas that night.

21 Q. So what happened next?

22 A. As we were walking down there, we seen a vehicle pull
23 up to the church facing towards my brother's house so the
24 headlights were coming towards us, which we thought was kind
25 of odd. But when we got there, we figured maybe she was
26 searching the church for Sandra, since there was so many
27 people out there looking.

28 Q. I know we haven't given everyone an overview yet

1 because we haven't gotten to that witness. I'm calling you
2 out of order.

3 A. Okay.

4 Q. But your place, or where your brother lives, if you
5 wanted to go to the trailer park, check on Sandra, you are
6 going to go down this way past the church?

7 A. Yes.

8 Q. Okay. And as you're -- because --

9 A. Well, the road runs this way. So we would be walking
10 this way past the church.

11 Q. Oh, okay. But the trailer park, there's a -- okay.
12 If you go from the trailer park to the church --

13 A. Uh-huh.

14 Q. -- there's a dead end there, isn't there?

15 A. Down further, yeah, that road does dead end.

16 Q. So you can't go out of that?

17 A. No.

18 Q. You can go towards the church, but then there's
19 nowhere to go because the road ends?

20 A. Right.

21 Q. So do you have to turn around, then you have to come
22 back, go by the trailer park again?

23 A. Yes.

24 Q. So you go by the church as you're going down towards
25 the trailer park to see if maybe they found her or
26 something?

27 A. Right.

28 Q. When you go by the church, you see what?

1 A. When we get up to the church, I see a lady fumbling
2 through keys trying to get into the door of the church.

3 Q. And this would have been -- now, if we try to figure
4 out what time it was, you said you were watching the
5 10:00 o'clock Fox 40 News for about twenty minutes. And
6 then you and your brother walked eastbound on Clover on --

7 A. Yeah, on Clover, we walked towards the trailer park.

8 Q. So what time would we say we are talking about that
9 you would have seen what you saw by the church?

10 A. It only takes a couple of minutes to get there. So
11 any time between 10:20 and 10:30.

12 Q. What day are we talking about? 27th?

13 A. The day she went missing, yes.

14 Q. So you say about 10:20, 10:30?

15 A. Yes.

16 Q. And what did you see?

17 A. I seen a lady looking through her -- fumbling through
18 keys, trying to find a key is what it looked like. And --

19 Q. Outside the church, at the church door, inside the
20 church?

21 A. Yeah. She just walked up to the church. She was
22 outside.

23 Q. Where in relation to the entrance of the church?

24 A. She was at the front door.

25 Q. You see a vehicle associated with her?

26 A. Yes, I seen her get out of the vehicle and walk up to
27 the front door.

28 Q. Oh, you did. Okay. Could you describe the vehicle?

1 A. It was a dark-colored SUV.

2 Q. Did you notice something on the back of it?

3 A. It had a spare tire on the back.

4 Q. And can you show us on this photograph if it shows,
5 with the laser that's in front of you, the laser pointer,
6 can you -- where is the front door to the church? Does it
7 show in this photograph?

8 A. Yes.

9 How does it work?

10 Q. You push this button here.

11 By the way, with this photograph, what I mean is
12 number -- is that a 7 or a 1?

13 THE REPORTER: Looks like a 7.

14 MR. TESTA: Q. 7, Number 7.

15 A. The front door would be right there.

16 Q. Oh, okay. So the front door is to the left of the
17 sign -- I have to put on the record -- where it says Clover
18 Road Baptist Church, to the left, the first door to the left
19 of the sign as you look at the photograph is what you
20 believe to be the front door of the church?

21 A. Yes.

22 Q. And you saw her?

23 A. She was fumbling through keys like she was looking for
24 the right key.

25 Q. And where was her SUV with the spare tire on the back?

26 A. It was parked on the street facing the -- towards my
27 brother's house.

28 Q. So it would not show in this photograph?

1 A. No.

2 Q. Okay. All righty. And can you describe this -- okay.
3 You've described what color SUV?

4 A. It was a dark color. I couldn't tell at night.

5 Q. As far as SUVs, they have different sizes. How would
6 you describe the size of this SUV?

7 A. It was a small SUV.

8 Q. Okay. And the lady that you saw kind of fumbling with
9 the keys, describe her as best as you can.

10 A. She had her hair in a ponytail. And I could see that
11 she was a white female. That's about it.

12 Q. Okay.

13 A. At night.

14 Q. Now, where did you end up going? You were walking and
15 you see this SUV with this spare tire in the back and the
16 ponytailed white woman by the front door. Do you continue
17 on towards the trailer, towards Sandra's place?

18 A. Yes, we continued to the trailer park and we went down
19 to see if we could help anyone.

20 Q. What did you end up doing there?

21 A. We actually ended up getting a couple of flyers and
22 walking the block. Well, her sister or someone had printed
23 up a flyer that night.

24 Q. And what did you end up doing with the flyers?

25 A. We just walked around. We did the big block, walked
26 through Lincoln and Kavanagh and up Tracy Boulevard and back
27 down Clover. And anybody that came walking, we'd show it to
28 them.

1 Q. And then what'd you do?

2 A. And then we just continued to my brother's house.

3 MR. TESTA: May I have marked as People's
4 next in order, please -- what number would that be?

5 THE SECRETARY: 17?

6 MR. TESTA: Pardon me?

7 THE SECRETARY: 17.

8

9 (Whereupon a Flyer was marked Grand Jury
10 Exhibit Number 17 for identification.)

11

12 MR. TESTA: Q. Is this the flyer or was it a
13 different one?

14 A. No, it was actually -- the picture of the flyer we got
15 that night was just the one on the -- yeah, that one, just a
16 big picture of her.

17 Q. Of the photographs in People's Exhibit 17, let me
18 focus this on where it says "Earlier Picture," is that when
19 you say flyer what you're talking about?

20 A. Yeah. They had a big blown-up like paper that they
21 had printed out.

22 Q. What did it say on it?

23 A. Just "Missing" with the Tracy PD's number on it, I
24 believe.

25 Q. Okay. All righty. So what did you end up doing after
26 you got the flyer with her photograph on it?

27 A. We just -- we walked the big block and we walked by
28 Food Maxx, and any of the stores --

1 Q. Number 17.

2 A. -- and showed people, anybody that we'd see, we'd show
3 them her picture and asked them if they had seen her that
4 night.

5 Q. What did you do after you did all that?

6 A. We just went back to the house.

7 Q. As you're going back to the house, did you end up
8 walking past the church again?

9 A. Yes.

10 Q. What do you notice?

11 A. The vehicle was still outside.

12 Q. The small SUV, spare in the back?

13 A. Yes. And the lights were on inside the church at that
14 time.

15 Q. How could you tell the lights were on at the church?
16 Through the windows?

17 A. Through the windows, yeah. And there's also windows
18 in the back of the church that you could see the lights.

19 Q. So you saw the SUV in the same place?

20 A. Yes.

21 Q. And someone inside?

22 What time frame would we be talking about if you saw
23 that 10:00 o'clock News on Fox 40, and then for about
24 approximately twenty minutes before you and your brother
25 walked towards the trailer park, the first time you saw the
26 ponytailed white woman and the SUV, but then you did all
27 this distributing of the flyers and all that, so can you
28 give us an estimate of what the time would have been if you

1 say it was 10:20 or 10:30 that you saw her at the front door
2 of the church, what time would you see her the second time?

3 A. We got back to my brother's house about midnight. And
4 when we walked by the church, the SUV was still in the same
5 spot.

6 Q. Oh, okay.

7 So as I conclude my questions here of you -- that
8 night, by the way, did you say -- did you live in Tracy back
9 then?

10 A. Yes.

11 Q. And that night, when you got back about midnight to
12 your brother's house, did you see anything on the news then
13 about Sandra being missing?

14 A. No.

15 Q. What about the next day, was it on the news?

16 A. I don't believe so. The next day I was out helping
17 the search party, so I didn't really watch the news the next
18 day.

19 Q. You actually got involved in looking for her?

20 A. Yeah, I'm a member of the ham radio club. So we were
21 out there with our ham radios.

22 Q. What did you do looking for her?

23 A. Went door-to-door, passed out flyers, searched fields,
24 searched cars, abandoned places.

25 Q. How many people did you see doing similar work?

26 A. There was hundreds of people. There was four in our
27 group. They sent us all on groups.

28 Q. Four in your -- oh, four to a group?

1 A. Yeah, there was four to a group.

2 Q. Okay. So what -- why did you not -- just explain why
3 it was that you didn't immediately report this to the
4 police, because you sometime later reported this, did you,
5 your observations?

6 A. Yeah.

7 Q. Tell us how that worked.

8 A. I seen her actually on a news story. When they said
9 she was being questioned at the Police Station, they showed
10 a picture of her driving away in the vehicle. And I
11 immediately knew that was the person I seen that night. I
12 had never seen her before, before I seen her that night and
13 on the news.

14 Q. I see. So you actually saw -- how many days later are
15 we talking about from the date on the 27th that you made
16 these observations, then the next day, I guess it would be
17 the Saturday, you're out participating in the search
18 parties. Using those calendars as a guide, you see March
19 and April there?

20 A. Yes.

21 MR. TESTA: Can I have March marked as next
22 in order? And if you could put a tag up there.

23

24 (Whereupon a March 2009 Calendar was
25 marked Grand Jury Exhibit Number 18 for
26 identification.)

27

28 MR. TESTA: Q. Give us an approximation when

1 it was that you saw her on the news, if you remember.

2 A. I think it was like a day or two after they had found
3 the suitcase.

4 Q. See where it says April there? So if the suitcase is
5 found April 6, give us your best estimate of when it was
6 that you saw her on the news.

7 A. I would have to say around the 8th. I don't remember
8 the exact day.

9 Q. And when you saw her on the news, what did you -- what
10 did you conclude or what did you remember, or what?

11 A. I just knew automatically that was the lady that I
12 seen at the church that night.

13 Q. And what was it about her that you saw on the news?
14 Did they show her vehicle on the news, too, you said?

15 A. Yeah, they showed her driving the vehicle.

16 Q. What was it about the newscast that made you go,
17 "That's the one I saw by the church"?

18 A. Her hair was the same as it was that night. And I
19 just recognized her face.

20 Q. Were you able to see part of her face that night when
21 you were walking?

22 A. Yes, because she looked over at us as we were walking
23 by.

24 Q. Did it seem like she was by herself, by the way, that
25 night?

26 A. Yes.

27 Q. When you saw the car on the news on the approximately
28 April 8th, did the car look like the same?

1 A. It looked exactly the same.

2 MR. TESTA: Okay. All righty. Any questions
3 from any of the grand jurors?

4 GRAND JUROR 12: There's one question coming.

5 MR. TESTA: Thank you.

6 Q. Would there normally be anyone at the church at that
7 time of night?

8 Good question.

9 A. No, we never seen anybody at that church.

10 Q. Do you hang out at your brother's place that often?

11 A. I grew up at that house. I grew up on that road.
12 There's never anybody at that church.

13 Q. At that hour?

14 A. At that hour especially.

15 Q. So is that one of the reasons that kind of stood out
16 in your mind?

17 A. Yeah.

18 Q. Okay. So when did you end up -- you said you were the
19 one to call Detective Bauer, the main detective on the case?

20 A. Yes.

21 Q. Using the calendar as a guide, if you remember, or his
22 report, do you have a summary of his report that he made of
23 your statement?

24 A. Yes.

25 Q. Does that refresh your memory at all?

26 A. When I called him?

27 Q. Yes.

28 A. Yeah, I called him on the 16th.

1 Q. April 16th.

2 So you saw -- what was it that motivated you to call
3 Detective Bauer on the 16th when you saw her on TV, if I
4 followed you, on the 8th and said, "Hey, that's the woman I
5 saw at the church, that's the same car, she looks the same,
6 she turned over, looked at me," what's the reason you didn't
7 get on the phone the next morning and call her?

8 A. We had given our name and phone numbers to either
9 officers or detectives that were out there searching. And
10 we had actually mentioned to a couple of them that we had
11 seen a car at the church that night. And nobody ever called
12 us back. And when I didn't hear anything, I figured I would
13 call them.

14 Q. Well, thank you for getting involved.

15 Then you called Detective Bauer, and what did you tell
16 him? Basically what you told us today here in court?

17 A. Yes.

18 MR. TESTA: All righty. I have no further
19 questions. Are there any? Oh, okay.

20 Q. By the way, what's this area like out here where the
21 church is?

22 A. It's like a rural area. The city limits actually stop
23 at the trailer park.

24 Q. Oh, the city limits stop at the trailer park?

25 A. Yes.

26 Q. Is this considered county?

27 A. Yes.

28 Q. But it's still San Joaquin County?

1 A. Yes.

2 Q. Is it a heavily trafficked street, if you go from the
3 trailer park, the church that dead ends, is there much
4 traffic --

5 A. No.

6 Q. -- at that place?

7 A. No.

8 Q. What other businesses? You said there was a welding
9 guy?

10 A. There's just Kenner's Welding right there. The rest
11 of them are residential areas.

12 Q. Is it what, a one-person welding shop?

13 A. Yeah.

14 Q. It's not a big company, dozens of employees?

15 A. No. He just does little jobs here and there.

16 Q. And there are a few homes around in the area?

17 A. Yes.

18 Q. When did -- when you saw Melissa, was it dark or
19 daylight?

20 A. It was dark outside, but she was standing underneath
21 the porch light.

22 Q. Which is where?

23 A. Right by the door.

24 Q. The laser.

25 Oh, there's a porch light?

26 A. Yeah. She was actually right at the door. And
27 there's a porch light was on inside the church.

28 Q. Approximately how far is it from the street to the

1 front door of the church? Excellent question.

2 How far was it, you know, because this goes to how --
3 your ability to see.

4 A. Right.

5 Q. What are we taking distance? Are we talking about
6 from where you were walking with your brother to where you
7 saw -- I mean, if you use this room as a guide, for example,
8 is it farther from here to the TV?

9 A. It's probably about as far from here to the TV.

10 Q. Don't just say it because I'm saying it.

11 A. No, yeah, I was looking myself. The street is right
12 where those bushes are. It runs right there.

13 Q. Where the bushes are in front of the church sign --

14 A. Yeah.

15 Q. -- on People's 7 --

16 A. Yeah.

17 Q. -- is the street?

18 Oh, okay. I think we might have other photos later.

19 So just for the record, between here and the TV is
20 about how many? Fifty feet? Any -- any ideas?

21 GRAND JUROR 14: About thirty.

22 MR. TESTA: Thirty feet.

23 Q. What would you --

24 A. That would be my close guess.

25 Q. Thirty?

26 A. Yeah.

27 Q. Actually fifty is too far. I think I agree with the
28 thirty there.

1 You wear glasses?

2 A. No.

3 Q. Your vision okay?

4 A. Yes.

5 Q. You hadn't been drinking or anything that night?

6 A. No.

7 Q. You were babysitting?

8 A. Yes.

9 Q. Who watched the kids -- if you and your brother go
10 down to the trailer, where are the kids?

11 A. They were there with their mom and my oldest daughter.

12 Q. Okay. Did you know little Sandra Cantu?

13 A. No, I didn't.

14 Q. But you got involved anyway and looked for her?

15 A. Yes. She's about the same age as my oldest nephew.

16 If it was my nephew, I would want someone else to help them,
17 too.

18 Q. Appreciate that.

19 MR. TESTA: Are there any questions?

20 I see none. But the foreperson will read you an
21 admonition, then you can get on your way.

22 THE WITNESS: Okay.

23 THE FOREPERSON: You are admonished not to
24 reveal to any person, except as directed by the Court, what
25 questions were asked or what responses were given or any
26 other matters concerning the nature or subject of the grand
27 jury's investigation which you learned during your
28 appearance before the grand jury. This admonishment

1 continues unless and until such time as the transcript of
2 this grand jury proceeding is made public.

3 Violation of this admonishment is punishable as
4 contempt of court.

5 Optional: This does not prevent you from discussing
6 the matter with your attorney, if you have an attorney
7 advising you with respect to your appearance before the
8 grand jury.

9 THE WITNESS: Thank you.

10 MR. TESTA: The next witness will take longer
11 than five minutes. What time would you -- this is your -- I
12 keep forgetting this is your first day here so you don't
13 have a routine. What time would you like me to come back
14 with the witnesses this afternoon?

15 When we are in jury trial, we come back at 1:30
16 because people have things they need to do, talk to
17 witnesses and what-have-you. But on occasion, we come back
18 at 1:00.

19 So it's totally up to you. If you want to consult
20 with your fellow grand jurors, I can leave the room and you
21 can tell me or maybe you -- I have to leave if you discuss.

22 THE FOREPERSON: 1:00 o'clock, everyone come
23 back at 1:00.

24 MR. TESTA: Is that enough time for people to
25 do private business or do their errands or anything?

26 THE FOREPERSON: Do you know how long we will
27 be here today?

28 MR. TESTA: I think we will take the full day

1 today.

2 THE FOREPERSON: That will be?

3 MR. TESTA: What time do you guys -- did the
4 judge say what time you'll leave?

5 THE FOREPERSON: I think he said 4:30.

6 MR. TESTA: That's the latest would be 4:30.
7 If people have things that they have to do and we have to
8 leave early, let me know. I guess we could see where we are
9 with the witness.

10 As I say, these first two days -- and I'll will know
11 later today what's going on tomorrow. At the rate we're
12 going, I think we will go at least the morning tomorrow.

13 Any questions for me, kind of administrative questions
14 now that we are getting started here? Go ahead.

15 THE SECRETARY: I didn't take the roll, so I
16 need to make sure. I'm sorry. Never done this before.

17 MR. TESTA: I have done quite a few grand
18 juries, but we don't do them very often. We do trials and
19 preliminary hearings. They are maybe four a year, five a
20 year. We are all a little rusty on it.

21 Could you retroactivity take the roll, make sure when
22 everyone responds they are responding they were here from
23 the very beginning when we started?

24 THE SECRETARY: Okay.

25

26 (Roll call taken.)

27

28 MR. TESTA: Are there any other persons whose

1 names were not called?

2 Can you add those up and see if there are nineteen
3 persons that have announced present?

4 THE SECRETARY: Nineteen. Uh-huh.

5 MR. TESTA: Well, we are kind of doing this
6 after the matter. I don't think it's an issue. But let
7 me -- I have to read these prospective possible witnesses.

8 And then we ask you a question after these witnesses
9 are read.

10 These are potential witnesses. It doesn't mean all of
11 them will be called. So it will take me a few minutes to do
12 this. So if you need to delay coming back to 1:15, by the
13 time we are done, tell me. I'm going to be eating into your
14 lunch hour.

15 The foreman is supposed to read page 7. Do you have
16 page 7 there? It says, "Foreman's statement of charge and
17 admonition on prejudice. To be read to the grand jury after
18 the court reporter is sworn."

19 THE FOREPERSON: Yes. Would you like me to
20 read it?

21 MR. TESTA: Yes, please.

22 THE FOREPERSON: All of it?

23 MR. TESTA: Do you have a page 7 there?

24 THE FOREPERSON: I have a page 7.

25 Ladies and Gentlemen, you have been selected to serve
26 as members --

27 MR. TESTA: You have page 7 of the handout
28 today?

1 THE FOREPERSON: Oh, I'm sorry.

2 MR. TESTA: Let me see the page 7 you were
3 referring to.

4 THE FOREPERSON: That's from my manual.

5 MR. TESTA: Okay.

6 THE FOREPERSON: From the bottom?

7 MR. TESTA: Top.

8 THE FOREPERSON: Foreman's statement of
9 charge and admonishment to be read to the grand jury:

10 The matter to be presented today involves as possible
11 defendant Melissa Huckaby. And possible charges:

12 One, Penal Code Section 187, a felony, murder of a
13 human being, Sandra Cantu.

14 Court 2 (sic), Penal Code Section 273a(a), a felony,
15 child abuse/endangerment, of a person, to wit, Jane M. Doe.

16 Court 3 (sic), Penal Code Section 347(a)(1), a felony,
17 furnishing a harmful substance, upon a person, to wit, Jane
18 M. Doe.

19 Court 4 (sic) --

20 MR. TESTA: Count 4. These are counts.

21 THE FOREPERSON: Oh.

22 MR. TESTA: You said "Court." Counts.

23 THE FOREPERSON: I'm sorry.

24 Section 347(a)(1), a felony, furnishing a harmful
25 substance, upon a person, to wit, Daniel Poleman (sic).

26 MR. TESTA: Plowman.

27 The witnesses will be:

28 Paul Artley. Detective Tim Bauer. Officer Berdosh.

1 Officer M. Bergman. Robert Brandi. Ted Burkes. Officer
2 Campbell. Alicia Carson. Elizabeth Castaneda. Detective
3 Nate Cogburn.

4 These are -- you can follow along with me on your
5 handouts that are on page 8.

6 Mike Conrad. Jerrilyn Conway. Mark Ellenburg.
7 Gabriela Fernandez. Officer T. Freitas. Josh Friedman.
8 Officer Gilstrap. Officer Grijalva. Jim Harris. Scott
9 Holladay. Keith Hooks. Christopher Hopkins. Officer
10 Kelley. Ryan Knight. Officer Kootstra. Brian Lippo.
11 Officer Lopez. Deborah Martin. Sergeant Mejia. Melinda
12 Pierce. Officer Reyna. Terry Scott. Mary Ellen Smith.
13 Adrienne Sparrow. Officer Trine. Jennifer Vitug. Lee
14 Witkowski. Berklee Akutagawa. John Alfter. Shahina Begum.
15 Rebecca Calas. Alena Chappell. Jeremy Chappell. Jose
16 Chavez. Maria Chavez. Dan Coleman. Pete Corallo. Maria
17 Diaz. Kenneth Everett. Jerry Fields. Jose Franco. Ed
18 Haney. John Huckaby. Herb Hunter. Laura Labay. Clifford
19 Lawless. Connie Lawless. Jennifer Moya. Dr. Bennet Omalu.
20 Joshua Palmer. Jesse Perez. Daniel Plowman. Kathy
21 Plowman. REDACT. Bill Posey. Kim Rio. Rachel Sanchez.
22 Christian Pride Sinclair. David Slayter. Alan Uyeno.
23 Nancy Williams. Francis Wohler. Rebecca Yroz. Marilyn
24 Zuniga.

25 Any member of the Grand Jury who has a state of mind
26 in reference to this matter or any of the parties involved
27 which will prevent him or her from acting impartially and
28 without prejudice to the substantial rights of the parties

1 will now retire.

2 Anyone feel they need to retire, raise their hands,
3 because of that?

4 I see no -- let the record reflect none of the jurors
5 has withdrawn.

6 Okay. Thank you.

7 Do you want the hour or you want to push it to a
8 little later?

9 THE FOREPERSON: No, it should be enough.

10 MR. TESTA: See you at 1:00 o'clock.

11 THE FOREPERSON: Oh, I have to remind
12 everybody, remember, we are not supposed to talk about this.

13 MR. TESTA: Read the precise admonition,
14 could you?

15 THE FOREPERSON: The grand jurors are
16 admonished that they are not to form or express any opinions
17 about this case or discuss it among themselves until the
18 grand jury receives the case for deliberation.

19 In addition, no inspection of evidence should be
20 conducted without permission of the foreperson and on the
21 advice of the prosecuting attorney until the case is
22 submitted to the grand jury for deliberation.

23 Deliberations shall only occur when all jurors that
24 had all the -- heard all the testimony in the case are
25 present.

26 MR. TESTA: Thank you.

27 THE FOREPERSON: See you.

28 MR. TESTA: See you at 1:00 o'clock.

1 (Recess.)

2

3 MR. TESTA: Can you take roll?

4 THE SECRETARY: I didn't do it, but I can do
5 it.

6 MR. TESTA: I believe you're supposed to
7 before each session.

8

9 (Roll call taken.)

10

11 MR. TESTA: Are you announcing everyone's
12 present.

13 THE SECRETARY: Everyone is present.

14 MR. TESTA: All righty.

15

16 (Pause.)

17

18 MR. TESTA: If you can have a seat in the
19 green chair with the microphone.

20 Get up as close as you can to the microphone, please.

21 And state your full name.

22 THE WITNESS: Jennifer Zenaida Vitug.

23 MR. TESTA: Can you spell your full name,
24 please?

25 THE WITNESS: Jennifer J-E-N-N-I-F-E-R,
26 middle name Zenaida, Z-E-N-A-I-D-A, last name Vitug,
27 V-I-T-U-G.

28 THE FOREPERSON: Would you please raise your

1 right hand?

2

3

4

JENNIFER ZENAIDA VITUG,

5 a witness called on behalf of the People, having been duly
6 and regularly sworn by the Grand Jury Foreperson, testified
7 as follows:

8

9

THE WITNESS: I do.

10

THE FOREPERSON: Thank you.

11

12

EXAMINATION

13

BY MR. TESTA: Q. Where are you employed?

14

A. The Federal Bureau of Investigation.

15

Q. What is your position there?

16

A. Supervisor and intelligence analyst.

17

Q. How do you spell your last name?

18

A. V, as in Victor, I-T-U-G.

19

Q. What did you do in this case, in the investigation
20 into the death of Sandra Cantu?

21

A. I worked in the intelligence portion of the case. And
22 with other analysts as well. And basically assisted the
23 Tracy Police Department with analytical needs that they had
24 in regards to the case, phone -- phone analysis, charts,
25 finding backgrounds on individuals, just anything
26 analytical.

27

Q. Are you considered a peace officer?

28

A. No, I am not.

1 Q. How long have you been with the FBI?

2 A. I have been with the FBI for four years.

3 Q. Did you do something with -- in connection with the
4 phone belonging to Connie Lawless?

5 A. Yes, I did. I did a download of the phone, meaning
6 when we do -- with this device called a Cellebrite, you can
7 take the information that is on the phone and download it
8 and extract all the information that is in the phone,
9 contacts, text messages, if the software allows for it,
10 people they last called, photos, and audio recordings on the
11 phone.

12 Q. And who is Connie Lawless?

13 A. I understand her to be Melissa Huckaby's grandmother.

14 Q. And phone number?

15 A. It is --

16 Q. You get a little closer to the microphone to allow me
17 to walk behind you.

18 Connie Lawless' phone number that you examined the
19 records for?

20 A. You know what? He gave me a different copy of this.
21 The phone that -- the copy that I had, I had it written.

22 Q. You go out and get it?

23 A. Okay, sure.

24

25 (Pause.)

26

27 THE WITNESS: I'm sorry. He actually said it
28 was on here.

1 MR. TESTA: Q. That's okay.

2 A. The phone number is (209)814-7729.

3 Q. 7729?

4 A. Correct.

5 Q. The phone number -- the phone number for Connie
6 Lawless?

7 A. (209)814-7729.

8 Q. And then what did you do with respect to that phone
9 number?

10 A. We requested records from the phone company regarding
11 phone calls that were made to and from that phone number.
12 With this particular phone, we took the information, the
13 physical phone, and downloaded the information from the
14 phone and obtained contact information and text messaging
15 information.

16 Q. What did you -- not what the phone company told you,
17 but what did you -- did you take apart that phone and get
18 information from it?

19 A. Yes. That's the -- that's the part of the cell phone
20 download that I was talking about with the Cellebrite. I
21 physically took the device, plugged it into the cell phone
22 extractor and grabbed information from the phone, which
23 included the -- the text messages. These text messages are
24 not from --

25 Q. Don't refer to anything in front of you because I
26 haven't marked it. Just tell me what you did.

27 You took Connie Lawless' phone and with your expertise
28 you were able to obtain -- took it apart and got information

1 from it, is that true, yes or no?

2 A. Yes.

3 Q. What experience do you have doing that?

4 A. I was trained in using the Cellebrite, which is the
5 cell phone downloader machine.

6 Q. How many years have you been doing this kind of work,
7 precisely?

8 A. Approximately three years.

9 Q. Is that a question or an answer?

10 A. An answer. I'm just not quite sure exactly on the
11 amount of time.

12 Q. Okay. So if I asked you what you learned when you
13 took apart Connie Lawless' phone, did you learn something?
14 Yes or no?

15 A. I -- yes.

16 Q. Did you download some information from her phone?

17 A. Yes.

18 Q. Did you put it into a written form?

19 A. The download itself already comes out into a written
20 form that looks like a spreadsheet.

21 Q. Okay. I'm going to have this marked. But before I do
22 so, I want to make sure that's the right one. Is that 138
23 pages worth?

24 A. Yes.

25 Q. How do you know that?

26 A. Because the cell phone downloader divides them up into
27 different sections. And based on the number of pages that I
28 received, it said that for the text messaging there was 138

1 pages worth of text messages.

2

3

(Whereupon a Packet containing 138 Pages
4 of Text Messages was marked Grand Jury
5 Exhibit Number 19 for identification.)

6

7

8

9

10

MR. TESTA: Q. So let me show you what has
been marked -- it's discovery pages 753 through 890. I'm
marking this as Grand Jury Exhibit 19. Is this what it
looks like?

11

A. Yes, it does. Yes, it does.

12

13

14

Q. Do you -- I mean, did you know what you were doing?
Do you have any training or experience in doing this kind of
thing or was this your first time?

15

A. No, I've done this before.

16

17

18

Q. Because you said three years and you kind of asked me
the question like, "I had been doing it three years,"
because you said you were unsure.

19

20

21

Tell us a little bit more about what kind of training
or experience you have in doing this so we know whether we
should put any confidence in what you did.

22

23

24

A. I was just -- the reason why it sounded like I had a
question was I was trying to calculate the amount of time
that I had been doing it.

25

26

27

28

I have done these in the past and received training
from these from those who were forensics individuals. And I
was doing these before in the past for gang members when
taking information from when we do takedowns or probation

1 searches or gang sweeps where it is crucial to extract
2 information from a cell phone to obtain information such as
3 who they are calling, when they are calling, times that are
4 being called, as well as text messages or images that may be
5 on the device the -- oh, sorry. So the experience I've had
6 in that has been, you know, extracting the information, I
7 have done that in the past other than this case.

8 Q. Have you ever testified in court in this area?

9 A. No, I have not.

10 Q. Okay. But does it require any expertise?

11 A. It requires you to have knowledge of the device, how
12 the device works. And there's not a certification that you
13 have to take. However, I have taken a cell phone forensics
14 class. And I have taken the -- the course that does allow
15 you to read the information that is on the -- from the
16 device and how to interpret the information that comes from
17 it.

18 Q. You say you have been doing this for approximately
19 three years? Did I understand you correctly?

20 A. Correct.

21 Q. Okay. So this Exhibit 19 is what -- this 138 pages
22 was produced when you took apart Connie Lawless' cell phone?

23 A. Correct. And it was not taking the device apart. It
24 was extracting the information from the device. Basically,
25 plugging in a device into the cell phone and extracting the
26 data that is on the cell phone.

27 Q. So you just plug something into a cell phone, plug
28 into some machine you have -- you tell us rather than my

1 tell you. Give us -- illustrate so we know what you're
2 doing.

3 A. For example, when I did Connie Lawless' phone, I took
4 apart the phone to get the battery out so I could find out
5 what the model was of the phone. Because that coincides
6 with a particular cable that needs to plug into the device
7 to get the information.

8 The device, the way that it works, there's several
9 different types of cell phone extractors out there. But the
10 particular one that I use was called a Cellebrite. And the
11 way that it works is that -- it was mostly used by cell
12 phone companies in the beginning to take your phone when you
13 were changing out to another phone to move your contact
14 information to the new phone that you have.

15 There's a forensic version of it that law enforcement
16 uses to extract information from a phone to get the
17 information that law enforcement is interested in, such as
18 phone numbers and text messages, to better -- to further
19 analyze the information that's contained within the phone.

20 The device plugs into the phone. And after it
21 extracts the information, it spits it into a report that you
22 can format it to look like an Excel spreadsheet or a -- a
23 web page type file that gives you the date, the time, and
24 whether it was an incoming or an outgoing message, if we are
25 talking text messages. It -- it -- the report that -- that
26 you saw up there is the report that you get with one of the
27 reports that you get when downloading information.

28 Q. Okay. March 27th, 2009, did you become aware that's

1 the date that Sandra Cantu disappeared?

2 A. Yes.

3 Q. So when you're looking at the text messages on Melissa
4 Huckaby's grandmother's cell phone that are in Exhibit Grand
5 Jury 19, we have like the 26th and the 28th.

6 Let me ask you, for example, on page 804. Just so can
7 you tell us how to read these. Page 52, do you have the
8 same page numbers as me or are yours on a different format?

9 A. I have the exact same page numbers.

10 Q. By the way, did you guys -- did you have to get a
11 warrant to get this information?

12 A. For the cell phone downloads, if it was voluntary, I
13 believe that -- I was not there when they took the phone
14 from Connie, but I believe that the detectives asked for
15 permission for the phone.

16 Q. Oh, okay. So if someone handed you a cell phone,
17 that's all you -- you don't have to go -- you can just use
18 your equipment and get the information out of the cell phone
19 itself?

20 A. Correct.

21 Q. Okay. So the detectives gave you Connie Lawless' cell
22 phone?

23 A. Yes.

24 Q. And you produced this material that's on this exhibit,
25 Number 19, this 138 pages.

26 Let me just go to, say, page 52, when we are talking
27 about March 26th, the day before, and what -- how do we read
28 these? With the laser pointer that's in front of you, and

1 using the microphone as well, can you just give us an idea
2 so I don't have to go through every page, just what it is
3 that we see on this?

4 A. Basically, because we know that this -- the report
5 comes out, and we know that the phone number is Connie
6 Lawless', which is the 7729 number, in the field where it
7 says "Incoming," that indicates that this is an incoming
8 text from this phone number. Since that's not 7724, I know
9 that this number is not Connie making an outside text, it's
10 a text that Connie is receiving from this (209)914-8950
11 number.

12 Q. 8 --

13 A. 950.

14 Q. Whose number is that?

15 A. That is Melissa Huckaby's.

16 Q. Okay. So how do we read this? So, for example, entry
17 number 528 is a call from?

18 A. It's a call from Melissa Huckaby's cell phone and
19 that's been verified both through the contact sheet that she
20 had, as well as phone records from the phone company that
21 indicated -- or not phone records from the phone company,
22 but I believe it was the interview from Melissa or Connie
23 that stated this was Melissa's cell phone.

24 Q. We will establish that later on, but just for the
25 moment here. Go ahead.

26 A. So based on the information that Connie herself stored
27 in the phone or somebody stored for Connie, this phone
28 number was identified as Melissa's cell phone. So whenever,

1 similar to caller ID, when you receive a phone call on your
2 phone, it will tell you based on the information you put
3 into the phone whether it's somebody's cell -- Dad's cell,
4 Mom's cell. Connie put this number down in her phone as
5 Melissa's cell. So when she receives an incoming call or
6 incoming text, it will say "Melissa's cell" on it.

7 We know that based on this Melissa makes a text
8 message.

9 Q. Texted Connie?

10 A. Text messages Connie.

11 Q. What does she text to Connie?

12 A. She texted, "Mady and I got up early and we are at
13 IHOP having a mommy-daughter breakfast."

14 Q. So this is Melissa texting to her grandmother Connie?

15 A. Correct. And also the -- the incoming -- and also the
16 inbox section will tell you that this was in Connie Lawless'
17 inbox section of her cell phone.

18 Q. What time would she have done this?

19 A. It would have been 7:53 a.m.

20 Q. Okay. Would that be California time?

21 A. Yes. Correct.

22 Q. So that's -- for example, then on the 26th, we have a
23 total of how many texts? How many texts from Melissa did --
24 you can show us with the laser, if you don't mind counting
25 for us?

26 A. From Melissa for the 26th, we have one, two, three,
27 four, five.

28 Q. Let me turn over to the next page, page 53.

1 A. Six, seven -- oh, no, no, no, that's the 27th, no.
2 Six.

3 Q. So six on the -- so Melissa texted Connie six times on
4 the 26th?

5 A. Yes.

6 Q. Then we come to the 27th, and we have just the one
7 text?

8 A. Yes, the 27th is one text from Melissa to Connie.

9 Q. At what time?

10 A. At 10:37 p.m.

11 Q. Okay. Because we have a lady that just testified that
12 she sees on the 27th at 10:20 to 10:30, someone matches
13 Melissa's description and the same car and so forth, you
14 can't tell whether she's at the church when Melissa texts
15 Connie on the 27th?

16 A. Based on the information I am looking at right now, I
17 cannot tell.

18 Q. But the text message itself says what?

19 "By the way, tell GPA that I had already set up the
20 tables and chairs for tomorrow and wiped down the tables and
21 chairs."

22 That's what it reads, correct?

23 A. Correct.

24 Q. Did you ever go in the church and see tables and
25 chairs?

26 A. I did not.

27 Q. In any case, so we have got these you say six texts on
28 the 26th, one on the 27th, and how many on the 28th from

1 Melissa to her -- to Connie?

2 A. One, two, three, four, five, six, seven, eight,
3 nine -- nine.

4 Q. Okay. Six the day before Sandra is missing, nine the
5 day after Sandra's missing, and only one on the day Sandra's
6 missing?

7 A. Yes.

8 Q. Now, what about on page 84, is there a way to tell
9 outgoing as opposed to ingoing?

10 A. Yes, there would be a section for -- I believe the
11 official name of this field right here is Direction of
12 Travel, which would tell you whether it's an incoming call
13 to the subject's cell phone or an outgoing or not called
14 text message.

15 Q. How can we tell -- on what page of these 138 pages do
16 we switch from incoming to outgoing?

17 A. It will switch from saying "incoming" to "outgoing"
18 when they begin.

19 Q. Okay. So, for example, we are on page 82, these are
20 all still texts that Connie Lawless is receiving?

21 A. Correct.

22 Q. So let me ask you about these on page 82.

23 On April 6 -- you'll see on our calendar that's the
24 day the suitcase is found, on April 6th -- start out
25 April 6, starts on page 74 here. With the laser, where does
26 April 6th start?

27 A. April 6th starts down here.

28 Q. So where -- what does Melissa text Connie beginning on

1 April 6th the day the suitcase is found?

2 A. Melissa sends a text to Connie, "A little crap here
3 and there, LOL, just waiting for it to pass."

4 Q. And on page 75, there were more, without going into
5 all of them, there are more texts to Connie to -- at least a
6 few from Melissa, correct?

7 A. Correct.

8 Q. And going to page 76, are there more -- there's
9 another text from Melissa to Connie, correct?

10 A. Yes.

11 Q. And on 4/6.

12 Page 77, more texts on the 6th from Melissa to Connie,
13 correct?

14 A. Yes.

15 Q. Page 78, more texts -- when it says "N-A" what does
16 that mean?

17 A. That possibly Connie has not -- there's a phone number
18 that she either calls or calls her, but she has not
19 programmed it into the phone yet. So the phone does not
20 know how to differentiate who that phone number belongs to.
21 It's not in her contact book basically.

22 Q. Page 79. Now let's get to page 80 which I started to
23 put on there. So we are still on April 6th, correct?

24 A. Correct.

25 Q. Now we are getting towards 7:54 in the evening. Could
26 you explain 793, what -- what that's all about? It's a call
27 from -- a text from Melissa to Connie?

28 A. Correct. Based on incoming -- it is an incoming call

1 to Connie from Melissa at -- on the 6th at 7:54 p.m.

2 Q. And what is she texting to Connie, her grandmother?

3 A. "They are having an 8:15 news briefing on the
4 suitcase. That was fast. I hope they didn't find
5 anything."

6 Q. And then what about the same date, 8:42 p.m., from
7 Melissa to Connie, what does Melissa text to Connie then?

8 A. She states, "They are going to show the conference at
9 10. But they did confirm it is her."

10 Q. Then still on the 6th, on page 82, at 10:08 p.m., what
11 does Melissa text to Connie?

12 A. It says, "I see they say it's a crime scene."

13 Q. And the next one at 10:10 p.m.?

14 A. "I hope she wasn't sexually assaulted."

15 Q. Okay. So then the outgoing starts on page 83, I'm
16 assuming, correct? Stop the incoming and then go outgoing?

17 A. Correct.

18 Q. So these are the texts from Connie to other sources?

19 A. Correct. It's not in the order that -- it's not in
20 order by date. It's -- it just has the outgoing. It just
21 starts the outgoing calls. But they are not in the order
22 that -- basically it's not that -- there's no more incoming
23 messages and then all the outgoing messages. They -- they
24 do interlace with one another. They just don't have them --
25 there's an incoming, then an outgoing, incoming, then an
26 outgoing.

27 Q. Okay. Let me see if I have any other questions. I
28 think not. But let me just check.

1 MR. TESTA: Thank you. I have no further
2 questions. Thank you.

3 THE WITNESS: Thank you, sir.

4 MR. TESTA: Q. Do these records, by the way,
5 this Exhibit 19 that you've just been explaining for us,
6 pages 1 through 138, are these records prepared in the
7 ordinary course of business?

8 Let me put it this way: Would they qualify as
9 business records?

10 A. These are things we've used in the past. Is that --
11 I'm sorry, I'm not sure if I'm understanding the question.

12 Q. Well, basically, it's what you found on Connie
13 Lawless' phone?

14 A. Yes, correct.

15 Q. What date was it you opened this up and found this
16 information? Did you make a note of it anywhere?

17 A. I'm sure I have it on -- I have it on a piece of paper
18 that we have or the notes that -- that we might have taken.
19 But I believe, based on the time stamp that's on the bottom
20 of the page, it was probably April 8th.

21 Q. Oh, okay.

22 A. That the --

23 Q. Oh, the very bottom?

24 A. That these were taken.

25 Q. How is that time stamp produced?

26 A. It's automatically generated when you download the
27 phone, it creates the folder that downloads all the
28 information and it dates the -- the time that you took it

1 and it even time stamps the time that you take it.

2 However, without looking at the actual file, I would
3 have to look at it to tell you if that's the same that I
4 have on the computer.

5 Q. Is this your information here where it says, "Backup
6 Nokia GSM"?

7 A. That's the self-generated file name that the machine
8 will -- will spit out.

9 Q. So where it says, "2009, April 8th," and then later on
10 it says, "April 8th, 2009."

11 A. Correct.

12 Q. Page 753 here, which is my pagination system, I think
13 it's probably produced that date, not absolutely certain, do
14 I understand that correctly?

15 A. Correct. I would have to take a look at it. I would
16 actually say with high certainty that it is, because the day
17 that we took these, we made copies for the detectives and it
18 would have been time-stamped or date-stamped on the date
19 that we printed it for them.

20 Q. Was this the only phone related to this case that this
21 process was done to?

22 A. No, it was not.

23 Q. What other phones was it done to?

24 A. We did one that was identified later on as Lane
25 Lawless' phone.

26 Q. Melissa's grandfather?

27 A. Correct. However, there was no information on it.

28 Q. Any other phones?

1 A. There were -- there were other phones not related to
2 Huckaby.

3 Q. What about Melissa Huckaby's phone?

4 A. I did not do those. The I believe Tracy PD detective
5 may have done that download.

6 Q. Is it possible to modify or delete information on a
7 cell phone that hides from this process?

8 A. That hides from downloading it or --

9 Q. From the process that you did?

10 A. No. I'm -- well, actually, I'm not sure what they
11 would do. If there is one, I'm not aware of it. But I
12 don't know how you would delete that.

13 Q. Does Cellebrite provide a download for an entire
14 conversation chronologically, that is, sent, received, sent,
15 received, as the message was received and sent?

16 A. It might be possible with an upgraded software. But
17 what we had, this is how the report was. And we did not
18 want to change anything. We wanted it to be in the original
19 format from the original download. So we gave it to the
20 detectives the way that we received it.

21 Q. So to get a true conversation or texts between two
22 people, you would have to get Melissa Huckaby's cell phone
23 and do the same thing to it that you did to Connie Lawless'
24 and put them together and see what they are saying to one
25 another, texting to one another?

26 A. You wouldn't even need to do it that way. The -- the
27 cell phone, the 138 pages actually does do the conversation
28 for our purposes, for just analyzing the information. We

1 manually did it just for us to read, not to turn in to
2 anyone. Just so we saw the conversation taking place in the
3 text messages. So we cut and pasted the outgoing and the
4 incoming to match each other so we could read it more like a
5 story rather than going back and forth.

6 Q. We could do that at the point it turns from incoming
7 to outgoing, we could look at the times and match them with
8 the -- match the outgoing with the incoming, and we would
9 get the conversation between Melissa and Connie?

10 A. Unfortunately --

11 Q. The text conversation?

12 A. Unfortunately, with the outgoing on these, they did
13 not time -- it doesn't time stamp. Only the incomings are
14 time-stamped and dated.

15 However, the way we did -- it does still go in the
16 chronological order from the outgoing calls or outgoing text
17 messages that were made. But it -- right here, it doesn't
18 have the date and the time. What we did --

19 Q. You talking about page 848, so there's no date and
20 time on this -- on the outgoing, whereas the incoming,
21 you've got the date and time?

22 A. Correct.

23 Q. I see. So how do you piece together the outgoing with
24 the incoming so you could put together the conversation?

25 A. The first outgoing will relate to the first incoming.
26 And then you can tell by the conversations and the way that
27 there was a question and an answer.

28 Q. Okay.

1 A. At what point that they fall under each other.

2 Q. Does the extractor only record text or can it record
3 voice messages? That's a good question. Do you understand
4 that question?

5 A. I do understand the question. I'm just trying to
6 recall a time when we have used it for that. I have not had
7 the experience of saying whether it does or not. Again,
8 there's several different extractors on the market and
9 different software upgrades and versions of it. I have not
10 utilized that function before, just the text and the contact
11 information and audio -- audio, meaning ringtones, not audio
12 voicemails.

13 Q. Is there any way we could tell where Melissa was at a
14 certain time on the 27th if her phone was off?

15 A. If her cell phone was off, I do not believe so.

16 And I don't know if you want me to go into details
17 with the way that the --

18 Q. Let me just jump ahead. Let's say we hear evidence
19 later on that Melissa Huckaby goes to the church around the
20 time that Sandra's missing, but she leaves her cell phone
21 with her mother -- or grandmother I guess it is, in the
22 trailer. So she doesn't have the cell phone on her. So, I
23 mean, is that -- is the cell phone useless for us
24 determining -- to determine where Melissa was on the 27th if
25 she doesn't have the cell phone with her? I mean, it's kind
26 of a rhetorical question.

27 A. The distance between the trailer and the -- the
28 church, without getting too technical, I think falls into

1 this same cell tower that would still hit to tell you an
2 approximate location of where Melissa's phone is hitting off
3 of.

4 But I'm not an expert in that, so I -- I don't really
5 know.

6 Q. Yeah, I just finished a case where they had the cell
7 towers, the phone calls were pinging off the cell tower
8 right near where a murder happened. It's amazing what they
9 do.

10 You don't get involved in that aspect of it?

11 A. I'm familiar enough with it where I -- I could do a
12 preliminary and say approximately where the subject was,
13 whether they were in Tracy or in San Francisco at the time
14 that something happened.

15 However, there's even further steps to it that can
16 narrow it down further, as far as a -- a smaller radius of
17 where the -- the individual could be.

18 MR. TESTA: Okay. I have no further
19 questions. Any other questions from the grand jurors?

20 I see none. The foreperson will read the admonition
21 to you, then you can get on your way.

22 THE FOREPERSON: You are admonished not to
23 reveal to any person, except as directed by the Court, what
24 questions were asked or what responses were given or any
25 other matters concerning the nature or subject of the grand
26 jury's investigation which you learned during your
27 appearance before the grand jury. This admonishment
28 continues unless and until such time as the transcript of

1 this grand jury proceeding is made public.

2 Violation of this admonishment is punishable as
3 contempt of court.

4 MR. TESTA: Thank you for coming.

5

6 (Pause.)

7

8 MR. TESTA: If you could have a seat there.
9 And state your name, please.

10 THE WITNESS: Deborah Martin.

11 MR. TESTA: Could you spell your name,
12 please?

13 THE WITNESS: Deborah Martin, M-A-R-T-I-N.

14 MR. TESTA: And could the witness be sworn?

15 THE FOREPERSON: Would you raise your right
16 hand, please?

17

18 **DEBORAH MARTIN,**

19 a witness called on behalf of the People, having been duly
20 and regularly sworn by the Grand Jury Foreperson, testified
21 as follows:

22

23 THE WITNESS: Yes. I do.

24 THE FOREPERSON: Have a seat. Thank you.

25

26 **EXAMINATION**

27 BY MR. TESTA: Q. Where are you employed?

28 A. At the Tracy Police Department.

1 Q. And what do you do there?

2 A. I'm a crime scene technician.

3 Q. And what do you do as a crime scene technician?

4 A. I collect and process evidence that we collect at
5 crime scenes.

6 Q. Are you considered a peace officer?

7 A. No.

8 Q. Did you take some evidence in connection with the
9 search of a church --

10 A. Yes.

11 Q. -- in this case?

12 A. Yes.

13 Q. What date did you do that?

14 A. April 10th, 2009.

15 MR. TESTA: May I have all the exhibits,
16 please?

17 Q. Did you take any photographs of the suitcase?

18 A. No.

19 Q. I'm calling you kind of out of order here, so bear
20 with me.

21 A. That's okay.

22 Q. Showing you Number -- I don't know if it's a 1 or a 7,
23 I think it's a 7, you've seen this before -- did you take
24 this one?

25 A. No, not that one. Sorry. I didn't take it with
26 anybody in the front.

27 Q. Could you talk into the microphone?

28 A. Yes. I didn't take any with anybody -- I took

1 pictures of the church, but not that one.

2 Q. Not the one with the FBI person -- one of us at a
3 time.

4 A. Oh, sorry.

5 Q. This is one with the FBI officer. You did not take
6 that one. Did you take that one?

7 A. No.

8 Q. Were you there during a search when there were Tracy
9 and FBI people?

10 A. Yes.

11 Q. What was your role there -- what was your duty, what
12 was your role there during that search on April 10th?

13 A. I went in and took photos before the search. Then I
14 took photos during the search and collected the evidence
15 that they directed me to collect.

16 Q. What did you collect?

17 A. Several items.

18 Q. What?

19 A. Lint rollers, rolling pins, markers, microphones.

20 Q. Okay. When you collected items, did you give them a
21 number?

22 A. Yes.

23 Q. So what is your employee number?

24 A. 885.

25 Q. And it's Deborah Martin, right?

26 A. Yes.

27 Q. Crime scene technician?

28 A. Yes.

1 Q. CST?

2 A. Yes.

3 Q. How does that differ from CSI?

4 A. Crime scene investigator. Just different titles.

5 Q. Okay. So we've already heard some evidence about this
6 item here that's in People's 13. Can you see it from where
7 you are?

8 A. Yes.

9 Q. Did you have any dealings with that item?

10 A. Yes.

11 Q. What?

12 A. I collected it and photographed it.

13 Q. And what number did you give it when you -- when you
14 collected it?

15 A. Can I refer to my report?

16 Q. Yes, please.

17 Did you make a note of the various items?

18 A. Yes.

19 (Referring to report.) It was number 885/029.

20 Q. By the way, what does that number 19 mean?

21 A. It's just a photo marker that I can refer to later as
22 I write my report.

23 Q. Okay. And then Exhibit -- I think it's 14, is this a
24 close-up shot of the same item?

25 A. Yes.

26 Q. How did you collect it, by the way?

27 A. Wearing gloves, I picked it up and placed it in a
28 brown paper bag.

1 Q. Do you have any experience in collecting items of
2 evidence?

3 A. Yes.

4 Q. What experience and/or training do you have in that
5 area?

6 A. On-the-job training, classes we've --

7 Q. Keep your voice up, please. On-the-job training and
8 what?

9 A. And classes that I've taken through the Police
10 Department, assemblies and training.

11 Q. How many years have you been doing this?

12 A. Ten.

13 Q. Showing you number 12, do you recognize what's shown
14 here?

15 A. I didn't take that photo.

16 Q. Oh, you didn't. Okay. Do you take photos before and
17 after?

18 A. Yes.

19 Q. Did you take photos before you collected the rolling
20 pin that's shown in number 19?

21 A. I did.

22 Q. Were other people there taking photos?

23 A. Not on that day that I'm aware of.

24 Q. What number -- what about this one here, Number 10?
25 Can you see the rolling pin?

26 A. Yes.

27 Q. Did you take this one?

28 A. No.

1 Q. Okay. So who else was there taking photos?

2 A. Nobody that I'm aware of that day.

3 Q. Okay. Well, then do you see it, these photos -- do
4 you have a list of the photos that you took?

5 A. Yes.

6 Q. Could you see if you took some in the drawers? Like
7 what about this one here, 11?

8 A. No.

9 Q. Okay. So there had to have been someone else taking
10 photos, wouldn't you say?

11 A. Looks like it.

12 Q. Okay. Actually, I think I put the initials of the
13 person. Who is LM?

14 A. LM?

15 Q. Is there an FBI guy taking photos?

16 A. I don't know.

17 Q. Okay. LM, okay. LM, okay. LM, okay. So these are
18 not yours.

19 Okay. In any case, you did book the rolling pin, you
20 gave it 885/029, right?

21 A. Yes.

22 Q. What about a curling iron, did you book such an item?

23 A. Yes.

24 Q. What number did you give that?

25 A. May I check my report?

26 Q. Could you please?

27 A. (Referring to report.) The curling iron was 885/035.

28 Q. What about a piece of rope on a bucket -- not from

1 blinds, but a piece of rope on a bucket?

2 A. Yes.

3 Q. What number did you give that?

4 A. May I look again?

5 Q. Could you look again?

6 A. (Referring to report.) The rope was booked as
7 885/034.

8 Q. Okay. What about a purse and its contents, did you
9 get such an item from Kootstra?

10 A. Yes.

11 Q. And what number did you give that?

12 A. Sorry, need to check my report again. (Referring to
13 report.)

14 Q. Might be 46?

15 A. 46? 46 is the receipts from the purse.

16 Q. What's your 885/46?

17 A. Receipts that were in the purse.

18 Q. Okay. And what did you do with those receipts from
19 the purse?

20 A. I booked them as evidence.

21 Q. Okay. Did you take them out and put them in a
22 separate envelope?

23 A. Yes. I separated receipts from papers.

24 Q. Okay. And what's your 885/56?

25 A. Miscellaneous papers were item 56.

26 Q. And where did you get those miscellaneous papers from?

27 A. The purse.

28 Q. Okay. But the purse -- okay. So the miscellaneous

1 papers from the purse you put into a separate envelope and
2 labeled 885/56?

3 A. Yes.

4 Q. And what number did you give to the purse itself, if
5 any?

6 A. I just saw it.

7 (Referring to report.) 885/042.

8 Q. And the contents of the purse, 885/46?

9 A. That was the receipts.

10 Q. From?

11 A. The purse.

12 Q. Okay. All righty. See if I have any other questions
13 for you.

14 Are the photos of the drawer with the rolling pin
15 shown by LM similar or exact to the photos that you shot?

16 A. I didn't take any photos of any drawers in the
17 kitchen.

18 Q. So, for example, 10, which I have indicated was taken
19 by LM, an FBI photographer, you would not have taken that,
20 but you just took the photo after the items had been put out
21 on the -- on the counter --

22 A. Correct.

23 Q. -- that's shown in 13, do I understand you correctly?

24 A. Yes.

25 Q. And did you take this close-up of 14?

26 A. Yes.

27 Q. What were you trying to show here in this close-up
28 that's marked as People's Exhibit 14?

1 A. Just the rolling pin close up. I took one far away
2 and one close up.

3 Q. Okay. Was there an identification -- ID taken from
4 the purse?

5 A. Yes.

6 Q. Whose?

7 A. There was a -- an ID for Melissa Huckaby and there was
8 also one for I believe a Madison Huckaby.

9 Q. Also known as Mady, her child, do you know?

10 A. I don't know.

11 MR. TESTA: May I have all these marked,
12 please? What's your next in order?

13 THE SECRETARY: 20 next in order.

14 MR. TESTA: Are you already using those
15 numbers? You were?

16 Okay. I will wait for you to do those then.

17 Could I have these marked also?

18

19 (Whereupon Photographs were marked Grand
20 Jury Exhibit Numbers 20 through 44 for
21 identification.)

22

23 MR. TESTA: Q. Did you have any contact with
24 any blinds at the church on April 10th, 2009?

25 A. Yes.

26 Q. What was your contact with any blinds?

27 A. I collected one set of blinds out of the kitchen area,
28 one of the little classrooms.

1 Q. Say that last part again.

2 A. It was in one of the little classrooms in the kitchen
3 area.

4 Q. Did you collect any other blinds on that date?

5 A. No.

6 Q. Did you collect any other blinds on any other date
7 from the church?

8 A. No.

9 Q. As soon as those are done, I can continue.

10 While they are doing that, let me just go outside and
11 line someone else up.

12

13 (Pause.)

14

15 MR. TESTA: Q. What blinds did you
16 photograph? Keep your voice up, speak into the microphone.

17 A. The blinds that were in the little classrooms.

18 Q. The little classroom?

19 A. Yes.

20 Q. How many sets of blinds did you photograph?

21 A. Quite a few throughout the church.

22 Q. Okay.

23

24 (Pause.)

25

26 MR. TESTA: Q. Do you have any of those with
27 you.

28 A. No.

1 Q. Okay. Was anyone else with you when you were
2 photographing the blinds?

3 A. There were people in the church, not standing next to
4 me.

5 Q. At whose request did you photograph the blinds?

6 A. Detective Bauer.

7 Q. Okay. Did you collect any blinds?

8 A. Yes. One.

9 Q. From which room?

10 A. The classroom off the kitchen in the southwest corner.

11 Q. Was there anything about those blinds that caught your
12 attention?

13 A. They were the only blinds that I observed in the
14 church that didn't have a cap on the end of the rope.

15 Q. How did those compare with all the other blinds in the
16 church that you saw?

17 A. The other blinds had little plastic caps at the end of
18 the rope.

19 Q. There was one set of blinds that did not have that
20 plastic cap?

21 A. Yes.

22 Q. And what did you do with those blinds?

23 A. I took them off the wall and took them back to the
24 Police Department and booked them as evidence.

25 Q. Okay. All righty.

26 I have a big stack of photos that I think I'll wait
27 for Detective Bauer to ask him about those. He was there
28 when you took the photos?

1 A. Yes.

2 Q. Almost done.

3 Do you recognize People's -- I'm sorry is this --
4 sorry, what number is this?

5 THE FOREPERSON: Number 20.

6 MR. TESTA: Q. Showing you People's 20 --

7 A. Yes.

8 Q. -- did you take that photograph?

9 A. Yes.

10 Q. On what date?

11 A. It was April 10th.

12 Q. Where?

13 A. At the Police Department.

14 Q. Of what?

15 A. Of the purse.

16 Q. Whose?

17 A. Melissa Huckaby.

18 Q. Where did you get it from?

19 A. Detective Craig Kootstra.

20 Q. How do you spell that last name?

21 A. K-O-O-S-T-R-A (sic).

22 Q. This the purse?

23 A. Yes.

24 Q. And the contents?

25 A. Yes.

26 Q. And the wallet?

27 A. Yes.

28 Q. And the license?

1 A. Yes.

2 Q. 21, does it show the purse?

3 A. Yes.

4 Q. Did you lay out these items once -- did you remove the
5 items from the purse and lay them out on this desk?

6 A. No, Detective Kootstra did.

7 Q. So is this like his office?

8 A. It's a empty cubicle up in the General Investigations
9 area.

10 Q. 22, did you take this one, too?

11 A. Yes.

12 Q. These are all contents of the purse, is that correct?

13 A. Yes.

14 Q. 23?

15 A. Yes.

16 Q. Contents of the purse?

17 A. Yes.

18 Q. 24, contents of the purse?

19 A. Yes.

20 Q. 25?

21 A. Yes.

22 Q. Could you spell that top -- that name?

23 A. Alprazolam.

24 Q. Alprazolam. I can't pronounce it, can you?

25 A. No.

26 Q. And what about this, 26?

27 A. Yes.

28 Q. What is this item?

1 A. It was a little box that had that paper on it.

2 Q. Well, which item on 20 is it, with the laser?

3 A. I believe it's that.

4 Q. What is that?

5 A. I'm not sure. A container. I'm not sure what was in
6 it.

7 Q. Okay. But you believe 26 to be that item?

8 A. Number 26.

9 Q. The one that's on the screen now, do you recognize 26?

10 A. Oh, yes.

11 Q. 27?

12 A. That's the wallet.

13 Q. Whose name -- is there a driver's license?

14 A. Yes.

15 Q. Whose name is the license?

16 A. Melissa Chantel Huckaby.

17 Q. And what else is in that wallet?

18 A. There were credit cards and Madison Huckaby's ID from
19 the school.

20 Q. And is 28 a close-up of the driver's license?

21 A. Yes.

22 Q. In Melissa Huckaby's name?

23 A. Yes.

24 Q. So all these items that we just showed you, these
25 photos you took of the purse and its contents -- contents
26 after Kootstra displayed them out there on the desk?

27 A. Correct.

28 Q. Then what did you do with the purse and its contents?

1 A. He kept them and gave them to me the next day to book
2 as evidence.

3 Q. And did you book them in evidence?

4 A. Yes.

5 Q. In the purse or on the contents of the purse, were
6 there -- showing you again number 20, do you have your
7 laser?

8 A. Yep.

9 Q. What's over there to the -- if you look at the photo,
10 to the right of the keyboard?

11 A. In this area?

12 Q. Yes.

13 A. These are miscellaneous papers and receipts that were
14 in the purse.

15 Q. Could you speak into the microphone and repeat your
16 answer?

17 A. These are miscellaneous papers and receipts that were
18 in the purse.

19 Q. And in front of the keyboard?

20 A. The same papers and receipts.

21 Q. Did you take any close-ups of those?

22 A. Yes.

23 Q. Is this one such close-up, Grand Jury Exhibit 30?

24 A. Yes.

25 Q. Is that a question?

26 A. No. I just can't see what's on it.

27 Q. Oh, okay. Unfortunately, when we put the ID on the
28 photo, it interferes with the ability to use -- I probably

1 should have a better system here. Let me take the tag off.

2 Do you have your laser?

3 A. Yes.

4 Q. You are the one that took these photos, and you took
5 them so we could see what's on them, right?

6 A. Yes.

7 Q. Did you take any closer up ones?

8 A. I took quite a few.

9 Q. Okay. That was 30. Let me show you 29. Could you
10 hold on to them -- oh, more photos, thank you.

11 GRAND JUROR 12: Uh-huh.

12 MR. TESTA: Q. Is this one more of the ones
13 you took of the pieces of paper?

14 A. Yes.

15 Q. And People's 20 were laid out there by Kootstra?

16 A. Yes.

17 Q. Are you asking me or telling me?

18 A. I'm telling you.

19 Q. Okay. Your voice trails off. It makes me think
20 you're just agreeing with me, which you don't do, you're
21 under oath, you tell us, right?

22 A. Correct.

23 Q. So these papers that Kootstra laid out, is this one of
24 them, the one that's in 29?

25 A. Yes.

26 Q. And with your laser, can you walk us through it, tell
27 us what you were able to see on it?

28 A. It says, "Note said," and then, "Cantu," and then

1 "Stolen suitcase." "Water." And then a B-W. And then it
2 says, "Think" -- I can't read that.

3 Q. "Think street names"?

4 A. "Think street names."

5 And then, "Found letter."

6 Q. Let me take this off.

7 A. "Found letter. In sidewalk."

8 Q. "After vigil"?

9 A. "After vigil. On Sat. night."

10 Q. That's Exhibit Number 29.

11 Is 31, does it show an item that was found in the
12 purse?

13 A. Yes.

14 Q. What is on this note?

15 A. "Bounty hunter."

16 Q. "Leonard"?

17 A. I think that's "Leonard Padilla."

18 Q. W-W-W?

19 A. Yes.

20 Q. Yes what?

21 A. Yes. That's what it says, "www.leonardpadilla.net."

22 Q. 33. Same note?

23 A. That's the same note.

24 Q. Okay. 34, can you make out any of that?

25 A. No, I can't. Okay.

26 Q. Okay. I think the -- originally, you could see it,
27 it's just the screen, you can't make it out.

28 35, was this found in the purse, also?

- 1 A. Yes.
- 2 Q. It's a receipt for Subway Sandwiches?
- 3 A. Yes.
- 4 Q. 4/10/09?
- 5 A. Yes.
- 6 Q. 36, was this found in the purse also?
- 7 A. Yes.
- 8 Q. Piece of paper, it says "Time frame"?
- 9 A. Yes.
- 10 Q. Another shot, 37, of the same piece of paper, "Time
11 frame"?
- 12 A. Yes.
- 13 Q. 38, another shot of the same note you referred to
14 earlier, "Cantu, stolen suitcase, B & W, think streets"?
- 15 A. Yes.
- 16 Q. "Note said."
17 32, is this also an item found in her purse?
- 18 A. Yes.
- 19 Q. So you took all these items after you photographed
20 them, I guess the next day Kootstra gave them to you and you
21 booked them all in evidence?
- 22 A. Yes.
- 23 Q. Do these photos accurately depict what you saw there
24 when you searched the purse and seized the contents of
25 entry?
- 26 A. Yes.
- 27 Q. Did you also take pictures of the church exterior?
- 28 A. Yes.

1 Q. I showed you that one with the person in the white
2 suit. You said that wasn't yours.

3 What about this one, 42?

4 A. Yes.

5 Q. Is that a question?

6 A. No. I'm sorry. Yes.

7 Q. You said it with some question mark in your voice.

8 A. No.

9 Q. That's one you took?

10 A. Yes.

11 Q. With the laser -- are you a professional photographer?

12 A. No.

13 Q. I was going to say how did you -- what do we see in
14 this shot?

15 A. Well, I just stood across the street from the church
16 and took a picture, because the day of the search warrant I
17 hadn't taken any of the front of it. So you have the sign
18 here for the church. And just the church, behind it and the
19 shed.

20 Q. Okay. We heard from this witness before lunch that
21 the bushes are near the street, she was walking from her
22 brother's place after Fox News and walking towards the
23 trailer park.

24 Do you know where the church is -- do you know where
25 the dead end is down here?

26 A. Down at this end.

27 Q. If you look at the photo, to your right?

28 A. Yes.

1 Q. And the trailer park as you look at the photo is to
2 your left?

3 A. Yes.

4 Q. So if you want to walk -- there's a electronics or
5 welding or what type of the business is right there?

6 A. I don't know.

7 Q. So if you want to walk from the dead end to the
8 trailer park, do you walk on the street here?

9 A. Yes.

10 Q. Is this the front door of the church?

11 A. The church door that we went in was this one right
12 here.

13 Q. The second?

14 A. There's a second door.

15 Q. Second one?

16 A. Uh-huh.

17 Q. The one the farthest right, if you look at this
18 particular photograph, is not the one you went in?

19 A. No.

20 Q. Is it the one you went in?

21 A. No.

22 Q. So does 42 show the church?

23 A. Yes.

24 Q. And you took it?

25 A. Yes.

26 Q. Does 43 show it, the church? What is shown in 43?

27 A. The church and the field next to it. Right here.

28 Q. Is there anything else you notice here?

1 A. Yeah, that's the driveway into the church we drove in.
2 Q. 44, same?
3 A. Yes.
4 Q. Yes what?
5 A. It's the church.
6 Q. And what do we see in 40?
7 A. This is the church. This is the church and this is
8 the shed next to the church on the same property.
9 Q. Okay. Do these accurately show the church as you saw
10 it on that date?
11 A. Yes.
12 Q. Did you photograph her car -- Melissa Huckaby's car?
13 A. Yes.
14 Q. On what date?
15 A. April 11th.
16 MR. TESTA: All righty. I think that's it,
17 let me just check my notes here.
18 No further questions. Any questions from the grand
19 jury?
20 I see none. The foreperson will read you an
21 admonition.
22 THE FOREPERSON: You are admonished not to
23 reveal to any person, except as directed by the Court, what
24 questions were asked or what responses were given or any
25 other matters concerning the nature or subject of the grand
26 jury's investigation which you learned during your
27 appearance before the grand jury. This admonishment
28 continues unless and until such time as the transcript of

1 this grand jury proceeding is made public.

2 Violation of this admonishment is punishable as
3 contempt of court.

4 THE WITNESS: Okay.

5 THE FOREPERSON: Thank you.

6 THE WITNESS: Thanks.

7 MR. TESTA: Thank you. You can leave.

8 The next witness is on his way in.

9 By the way, Mr. Omalu will be in tomorrow, so we will
10 be in session tomorrow.

11

12 (Pause.)

13

14 **EXAMINATION**

15 BY MR. TESTA: Q. Could you come this way,
16 sir? Boy it's hot in here. Have a seat, please.

17 Could you state your full name, please?

18 A. Robert Brandi.

19 Q. And where are you employed?

20 A. I'm with the Tracy Police Department.

21 Q. What is your position there?

22 A. I am a detective.

23 Q. How long -- are you a peace officer?

24 A. Yes, I am.

25 Q. How long have you been a peace officer?

26 A. For almost seven years.

27 THE REPORTER: We need to swear him.

28 MR. TESTA: Could you raise your hand and the

1 foreperson will swear you in.

2 Thank you.

3

4

ROBERT BRANDI,

5 a witness called on behalf of the People, having been duly
6 and regularly sworn by the Grand Jury Foreperson, testified
7 as follows:

8

9

THE WITNESS: I do.

10

THE FOREPERSON: Thank you.

11

MR. TESTA: Q. Did you make an effort to
12 obtain any surveillance tapes in this case?

13

A. Yes, I did.

14

Q. From whom?

15

A. I received surveillance footage from the Cantu
16 residence itself, which was trailer number 63, at 812 West
17 Clover Road.

18

Q. And from whom did you receive that?

19

A. I received that from CST Fred Kelley, who works for
20 Tracy Police Department.

21

Q. Okay. We heard from him this morning.

22

And did you receive some other surveillance tapes?

23

A. Yes, I did.

24

Q. Describe it.

25

A. I received surveillance video from the AM-PM located
26 on Clover and North Tracy Boulevard. And also the Best
27 Western -- actually the -- I believe it was Microtel, the
28 Microtel on Clover Road across the street from the 812

1 Clover Road complex.

2 Q. And is there another location as well that you
3 received some surveillance tapes from? A total of how many
4 places?

5 A. I believe three.

6 Q. Did you have a timeline that you prepared?

7 A. Yes, I do.

8 Q. Did you receive tapes from the AM-PM surveillance?

9 A. Yes, I did.

10 Q. And from the Best Western?

11 A. It was the Best Western, that's correct. I said
12 Microtel. I thought it was Best Western -- I thought it was
13 Microtel, so it was Best Western, correct.

14 Q. Okay. And how did you get the -- we already heard
15 from Kelley about how he got the tape from Mr. Chavez's
16 place. How did you get the Best Western tape?

17 A. The footage from the Best Western and AM-PM both were
18 collected through neighborhood canvasses by other TPD
19 officers or FBI agents.

20 Q. And given to you?

21 A. Originally, they were booked into evidence and then
22 given to me, yes.

23 Q. Okay. And then what did you do with these
24 surveillance tapes from the victim's place, from the Best
25 Western, and from the AM-PM?

26 A. Originally, I viewed the footage from the victim's
27 residence establishing a time frame of vehicles that were
28 coming in and out of the complex, before and after the time

1 of the victim's disappearance.

2 Q. What was your goal in reviewing these tapes?

3 A. At the time, we were trying to develop suspect leads
4 in order to figure out, you know, who may have come in, who
5 might have taken Sandra, who she might have left with.

6 Q. So describe these -- do you have any experience in
7 doing what you did with the tapes in this case?

8 A. Basically, it's a standard investigative process.
9 It's no different than, you know, going door-to-door and
10 talking to people. So, I mean, it's basically just an
11 investigative skill that we learn through, you know, basic
12 police work.

13 Q. And how were you able to determine whether the time
14 on, say, the tape -- was there a time imprinted on the tape
15 from the victim's place?

16 A. Yes, there was. There was a time stamp on that
17 particular tape. After viewing the tape numerous times, we
18 were able to -- or I was able to determine that the time
19 stamp on that tape, due to Daylight Savings, was actually an
20 hour behind.

21 Q. Okay. So we heard that there were different camera
22 views at this -- at Sandra Cantu's residence from Fred
23 Kelley this morning.

24 Was there one camera that was more useful than the
25 others?

26 A. Yes, it was.

27 Q. Which one was that?

28 A. It was the one that was directly off of the porch that

1 went on to the Cherry Lane or Cherry Avenue, I'm not sure if
2 it's avenue or lane.

3 Q. Did you know that that was camera number 2?

4 A. I believe that that was camera number 2.

5 Q. So did you do anything -- did you put them on one tape
6 or are they on separate tapes?

7 A. They are all on separate CDs, so they are not all on
8 one.

9 Q. From them, did you obtain a time -- did you produce a
10 timeline?

11 A. I produced a timeline in regards to the suspect's
12 travel pattern, yes, I did.

13 MR. TESTA: May I have marked as next in
14 order, please?

15 THE SECRETARY: 45.

16 MR. TESTA: Timeline.

17

18 (Whereupon a Timeline was marked Grand
19 Jury Exhibit Number 45 for
20 identification.)

21

22 MR. TESTA: Q. Showing you what's been
23 marked as 45, 4-5 -- well, I don't think this shows too
24 well -- do you have -- before we get into this time -- you
25 did a timeline for Melissa Huckaby?

26 A. Correct.

27 Q. And how were you able to put together a timeline for
28 Melissa Huckaby?

1 A. Based on her vehicle.

2 Originally, in viewing the footage for the first
3 timeline, you can see we have right here, a female adult,
4 chubby in build, wearing pants, either thin sweats or pajama
5 type pants, a green T-shirt with some type of writing on it,
6 walk over to the Kia Sportage, get into the Sportage, back
7 the Sportage out of the stall which was adjacent to the
8 victim's residence, right across the street, and then travel
9 southbound on to Cherry.

10 MR. TESTA: May I have marked as People's
11 next in order a photograph of a vehicle.

12

13 (Whereupon Photograph was marked Grand
14 Jury Exhibit Number 46 for
15 identification.)

16

17 MR. TESTA: Q. Number 46, let's just start,
18 first of all, with this. Do you have the laser pointer in
19 front of you? Can you tell us whether you recognize this
20 vehicle?

21 A. Yes, I do. That's the vehicle that belongs to the
22 suspect that I viewed in the video footage.

23 Q. Melissa Huckaby?

24 A. Correct.

25 Q. What kind of vehicle is this?

26 A. It's a Kia Sportage. It's a small SUV. One of the
27 distinguishing things about her vehicle --

28 Q. Sportage?

1 A. Correct.

2 Q. What color?

3 A. It's -- it has purplish/blue tint to it.

4 Q. I'm sorry, I kind of cut you off. What was
5 distinctive about the vehicle?

6 A. The two distinctive things about the vehicle
7 throughout the viewing of the footage are the fact that it's
8 two-toned, and --

9 Q. Where is the two-tone?

10 A. -- and the rear tire.

11 Q. Let's go more slowly. Where is the two-tone?

12 A. It's silver on the bottom.

13 Q. Hold on. Can you point it out?

14 A. (Pointing.)

15 Q. Okay. And is it two-tone on the back as well?

16 A. Yes, it is.

17 Q. Would you point that out?

18 A. Bumper area.

19 Q. Go ahead, what else was distinctive about it?

20 A. And another thing that was very distinctive throughout
21 the video footage is the rear tire.

22 Q. The spare is mounted on the back?

23 A. Correct.

24 Other things that are easier seen, just like in this
25 photo, that were also distinctive of the vehicle would
26 actually be the -- I believe it's, "My brother's a Marine,"
27 or -- "My brother's a Marine," I believe. And then the
28 yellow ribbon.

1 (Whereupon three Photographs were marked
2 Grand Jury Exhibit Numbers 47, 48, and
3 49 for identification.)
4

5 MR. TESTA: Q. Showing you Exhibit 47, with
6 the laser -- first of all, could you point out on 46 where
7 the decal is that you're referring to that you think says,
8 "My brother's a Marine."

9 A. It's right here in the rear window.

10 Q. Okay. And showing you 47, does this appear to be a
11 close-up of it?

12 A. Correct.

13 Q. And what does it say?

14 A. "My brother is a US Marine and the other is a nurse."

15 Q. And 48, do you recognize what is shown in this one?
16 Let me take this off.

17 A. Once again, that's the rear of the vehicle with the
18 same sticker in the window, the spare tire, and then also
19 the yellow ribbon.

20 Q. And can you make out the --

21 A. "My brother is a US Marine and the other is a
22 nurse."

23 Q. And the ribbon says what?

24 A. I do not know what the ribbon says. I can't read it.
25 "Support Our Troops."

26 Q. Showing you 49, does this appear to be a close-up of
27 the ribbon?

28 A. It would appear so.

1 Q. And what does it in fact say?

2 A. "Support Our Troops."

3 Q. So before moving on, small SUV, spare tire on the
4 back, "My Brother is a Marine," "Support Our Troops,"
5 two-toned, on the back as well as on the side, is that a
6 summary of it all?

7 A. Correct.

8 Q. So is it kind of easy to make this out on the tapes
9 that you're looking at when you have such a -- oh, and the
10 top, I guess what we call a ski rack?

11 A. That would be a standard roof rack.

12 The easiest thing to depict about the vehicle when
13 you're looking at the footage from the AM-PM, and from Best
14 Western, actually be the two-toneness of the vehicle and the
15 spare tire that's mounted in the back.

16 Q. So you, as the -- one of the investigators, you're
17 looking at these three surveillance tapes, the ones from the
18 victim's house and this AM-PM and Best Western -- where are
19 the AM-PM and Best Western in relation to this trailer park?

20 A. The Best Western is across the street, that would be
21 on the north side of the street, whereas 812 would be on the
22 south side of Clover Road.

23 And AM-PM would be one block down on the north corner
24 of Clover and North Tracy on the west side of the street.

25 Q. Okay. So we know how you can look at her vehicle.

26 Now, you had mentioned her clothing. You get a good
27 shot to confirm that it is in fact Melissa Huckaby who is
28 wearing pants, thin sweats or PJ bottoms? Why don't you

1 tell us, first of all, what the description is again, going
2 over each and every point?

3 A. Sure. The description is a female adult, chubby,
4 pants, they are either thin sweats or pajamas. Reason why I
5 could tell is because you can see them moving on the bottom,
6 so I wasn't sure if they were pants or sweats. They are
7 gray or light blue in color. She was wearing a -- appeared
8 to be a green T-shirt with lettering. And appeared to be
9 wearing some type of possibly house shoe or slipper that
10 you'd wear outside.

11 Q. Was she wearing a ponytail?

12 A. I do not recall.

13 Q. Okay. Well, did you get a good enough shot to confirm
14 that when you're looking at someone like this in the videos,
15 this is in fact what Melissa was looking like that day?

16 A. Later on in that video, you see the individual that
17 comes back, gets out of the vehicle, parks in the same
18 place, wearing the same clothing. Then later on a few hours
19 after that, when police respond to the report of the missing
20 child, there's a female adult, wearing the same type of
21 clothing, again walk to the car and get in the car and leave
22 once again.

23 Q. Walk from her residence?

24 A. Walk from the southern portion of Cherry, north on to
25 Cherry, toward where the vehicle is parked, which is near
26 the basketball court area, which is directly across the
27 street from the victim's residence.

28 Q. I guess the question is how do you know this is

1 Melissa Huckaby? How could you tie it in to Melissa Huckaby
2 and not some other woman who lives there?

3 A. The other women that lived -- the other woman that
4 lived there was a grandmother, which is an elderly woman.
5 This woman looked to be of a younger age, in nature and in
6 stature.

7 Q. Did you ever see her coming out of her unit?

8 A. No, there was no camera angle from that.

9 Q. Or coming from the direction of her unit?

10 A. From southbound on Cherry, which would be towards her
11 unit, yes.

12 Q. Okay. So what were you able to do then with these
13 videos in terms of drawing up a timeline? Did you put it
14 down on this Exhibit 45 that's up on the screen now?

15 A. Yes. All the times will be indicated, there's an
16 actual time and below that time a video time.

17 Q. Describe it.

18 A. On these per say on the video itself, it showed a time
19 stamp of 14:43:06 when you first see this female adult walk
20 to the vehicle.

21 Like I indicated, due to the time change and the
22 surveillance system itself not being changed the hour ahead,
23 we were able to determine that this would be the actual
24 time, 15:43:06.

25 Just so you know, that was determined by me as well
26 due to the fact of when the victim's mom actually placed the
27 911 call, you can see the family and other people that were
28 searching for the girl actually come back from their search,

1 go back into the house, and within a two-minute time frame,
2 911 was called. So that's what we are basing that on as
3 well.

4 Q. So you were able to confirm the times -- the time was
5 one hour off due to Daylight Savings Time by two ways?

6 A. By the -- by the fact by the 911 call, yeah.

7 Q. Well, I'm not following you. What -- how did the 911
8 call that the victim's mother made --

9 A. Uh-huh.

10 Q. -- reporting Sandra missing, how did you use that to
11 confirm that these times are the correct times?

12 A. If I can refer to my report.

13 Q. Do you remember -- go ahead.

14 A. (Referring to report.)

15 THE FOREPERSON: Can we have a break at a
16 quarter to 3:00?

17 MR. TESTA: Of course.

18 Q. Do you have your report page 1? First paragraph under
19 narrative, line 16.

20 A. Yeah.

21 Q. Does that refresh your memory?

22 A. Yeah.

23 Q. Page 704 discovery. Take a moment and read that if
24 you need to.

25 A. (Referring to report.)

26 Q. Does that help you remember?

27 A. Yeah. It indicates the -- the time frame as far as
28 being 19:53 hours when Tracy PD dispatch was called via 911.

1 And in viewing the footage, I see the victim's mother
2 enter the residence at 19:51 hours. Video time would have
3 been 18:51 hours.

4 Q. Put all this in civilian time if you could, so we can
5 follow it.

6 A. 7:53.

7 Q. P.M. or A.M.?

8 A. P.M., in the evening, would have been the original
9 time of call for the 911.

10 In observing the video footage, after mom and family
11 members and friends were looking for Sandra, video time
12 would have been 6:51. But if you coincide when she walked
13 in, when she actually placed the call to 911, you get the
14 one hour time differential, which would have been 7:51 p.m.
15 which would have been two minutes prior to placing the call
16 at 7:53 p.m.

17 Q. So 15:43, take 12 away from that, right? So you have
18 3:43 p.m.?

19 A. Correct.

20 Q. So what is it -- at 3:43 p.m., on March 27th, 2009,
21 what is it that you -- which tape do you look at and what do
22 you see?

23 A. That would be the video surveillance from the victim's
24 house.

25 Q. And what do you see at that 3:43 p.m.?

26 A. You see exactly what's indicated here, female adult,
27 described as far as what she's wearing, enter into that Kia
28 Sportage, back the Sportage out from the stall that it was

1 parked in, and then travel southbound past the victim's
2 house to her residence.

3 Q. Where does it say she got in the car?

4 A. That would be in the report.

5 Q. Oh, I see, this is kind of just --

6 A. This is just a brief timeline summary as far as the
7 activity of the vehicle itself.

8 Q. Okay. So the female that you believe is consistent
9 with Melissa Huckaby?

10 A. Correct.

11 Q. Why?

12 A. Due to her stature and overall appearance and age.

13 Q. And did you learn that she owns such a Kia Sportage
14 with the, "My brother is a Marine and the other is a nurse"?

15 A. Yes.

16 Q. Did you in fact learn she has a brother who is a
17 Marine and the other is in fact a nurse?

18 A. Yes, I did. And, in fact, actually ended up being one
19 hundred percent sure that that was her vehicle due to the
20 fact I ended up towing that vehicle from the hospital
21 parking lot for evidentiary purposes as well.

22 Q. What day did you tow it, by the way, do you remember
23 offhand?

24 A. I don't recall off the top of my head.

25 Q. So I'm going to refer to it as Melissa's car, so we
26 can confirm this through other witnesses later on.

27 You see Melissa go into her car and take off,
28 3:43 p.m. or 14 -- or at 4:02?

1 A. At -- at 3:43 p.m., you see the vehicle -- you see
2 Melissa's vehicle back from the parking stall and go
3 southbound on Cherry past the victim's house towards her
4 residence.

5 Q. Okay.

6 A. Towards Melissa's grandparents' residence where she's
7 living.

8 Q. Okay. This is what I get for calling people out of
9 order. I had this other witness who is going to lay it all
10 out and show us where everyone lives in the trailer park. I
11 have a feeling I'm going to have to ask you these questions
12 or we are not going to follow this.

13 MR. TESTA: May I have marked as People's
14 next in order, please? What number would this be?

15 THE FOREPERSON: 50.

16 MR. TESTA: Pardon me?

17 THE FOREPERSON: 50. 5-0.

18

19 (Whereupon a Photograph was marked Grand
20 Jury Exhibit Number 50 for
21 identification.)

22

23 MR. TESTA: Q. Showing you 50, do you
24 recognize what's on that photograph?

25 A. Appears to be the 812 West Clover Road complex.

26 MR. TESTA: And the next item will be 51?

27 THE SECRETARY: Uh-huh.

28 MR. TESTA: Is that a yes?

1 THE SECRETARY: Yes.

2

3 (Whereupon Photograph was marked Grand
4 Jury Exhibit Number 51 for
5 identification.)

6

7 MR. TESTA: Q. Showing you 51, maybe this
8 will be better. Very poor lighting. Look at this. Do you
9 recognize what is shown on this?

10 A. Yes. That's the 812 West Clover Road complex, as far
11 as a map.

12 Q. This is the -- what we call the trailer park?

13 A. Correct.

14 Q. There is one way in and one way out, is that correct?

15 A. Correct. And that's right here.

16 Q. On which street?

17 A. This is actually Clover Road. This is the entrance
18 into the trailer park which enters on to Orchard where you
19 can either go eastbound or westbound.

20 Q. So --

21 A. This would be north down here.

22 Q. We have north?

23 A. This is the north, correct.

24 Q. Is this arrow accurate indicating north is down as you
25 look at the photograph?

26 A. Yes, it is.

27 Q. So if you go this way, we are going south?

28 A. Correct.

1 Q. What are the streets in this trailer park?

2 A. You have Peach, Cherry, Apricot, Apple.

3 Q. Those are going north and south?

4 A. These are all north and south venues. Orange and
5 Orchard are east and west venues, along with Clover Road
6 which is a main thoroughfare.

7 Q. Where was Sandra Cantu's house?

8 A. Trailer number 63.

9 Q. That doesn't come out too well. SC for Sandra Cantu.
10 And where is Melissa Huckaby's house?

11 A. Trailer number 57.

12 Q. So when you see -- so where do you see at 3:43 p.m.
13 this Melissa Huckaby? What's she doing? And where?

14 A. You see -- you see that individual clad in that
15 clothing come into view right in this area and get into the
16 vehicle that was parked over here in one of the parking
17 stalls.

18 Q. South of the clubhouse?

19 A. Correct. Back the vehicle out and then go southbound
20 on to Cherry.

21 Q. Okay. Because now the video only -- this particular
22 video camera 2, it's set up so it just catches -- the view
23 it has is of the clubhouse and Orchard?

24 A. Correct. You pick up everything that's north of the
25 residence. Everything that's coming into the park itself
26 that's traveling eastbound past Cherry and coming westbound
27 on Orchard, you can catch. And then coming eastbound on
28 Orchard out of the complex.

1 Q. So you see Melissa going -- get in her car going to
2 her house -- in the direction of her house?

3 A. Correct.

4 Q. When do you see her again?

5 A. You see her vehicle --

6 Q. Let me strike that question.

7 A. Yeah.

8 Q. Where do you see Sandra Cantu, the last time you see
9 her, when she's skipping and jumping?

10 A. She comes through this area here, up to her residence,
11 and then passes it.

12 Q. So the camera gets this view, so you see her coming
13 from over near 45, 97, that direction?

14 A. Correct, coming through this area here.

15 Q. And going south on Cherry?

16 A. South on Cherry.

17 Q. Which would be towards Melissa Huckaby's residence, or
18 at least in that direction?

19 A. Correct.

20 Q. And then when she leaves the view of the camera,
21 what's the last shot you see of her?

22 A. You see her hopping, skipping, and you could see her
23 shadow, and then nothing else.

24 Q. Okay. We are going to take our break. When we come
25 back, could you show us the video of her last alive?

26 A. Yeah, I can get that ready.

27 Q. And that would be taken from Mr. Chavez, the Cantu
28 residence, taken from his camera number 2 at 63?

1 A. Correct.

2 Q. Right?

3 Okay. We will take a break. And if you could set
4 that up, we'd appreciate it. Thank you.

5 THE FOREPERSON: Fifteen minutes. Remember,
6 don't discuss the case with anyone. Thank you.

7

8 (Recess.)

9

10 MR. TESTA: Can you announce that we are all
11 here and accounted for, is that correct?

12 THE SECRETARY: I didn't check. I keep
13 forgetting.

14 MR. TESTA: That's okay. You will get used
15 to it.

16 THE SECRETARY: I think everyone is accounted
17 for.

18 MR. TESTA: You think?

19 THE SECRETARY: Yeah, they look like they are
20 all here.

21 MR. TESTA: Can you confirm it? Are there
22 any empty -- it's silly, I know it sounds silly. Someone
23 will pounce on that. They will say we are not sure. They
24 will make it an issue. Could you make sure everyone is in
25 his or her chair, we are all accounted for?

26 THE SECRETARY: Yes, I can.

27

28

1 (Whereupon a Photograph was marked Grand
2 Jury Exhibit Number 52 for
3 identification.)
4

5 MR. TESTA: Q. I have had this marked as
6 People's 52. I think this is a better photograph than the
7 other one.

8 With the laser pointer, can you tell what is shown in
9 this photograph?

10 A. Once again, that is the 812 West Clover area, which is
11 the trailer park.

12 Q. And where is the main entrance and exit?

13 A. Right here off of Clover Road. This is Clover, runs
14 east and west. This is the main entrance and exit right
15 here.

16 Q. Do you know where the church is?

17 A. The church is further down westbound on Clover Road.

18 Q. Okay.

19 So there's only one way in and one way out of this
20 trailer park?

21 A. Correct. And there's only one way in and one way out
22 or off of Clover Road which is eastbound. You cannot exit
23 westbound. It dead ends.

24 Q. So as you look at this, which way is --

25 A. This is north, south, east, west.

26 Q. If you go west towards the church, dead ends?

27 A. Correct.

28 Q. Okay. So these cameras that you used to create

1 your -- as part of your investigation, one of them was of
2 Sandra Cantu's house, which is where, about here?

3 A. It's roughly in this area, yes. It's easier to point
4 out on the other map.

5 Q. And it's showing a particular angle of camera
6 number 2 -- camera number 2?

7 A. Correct.

8 Q. And you said it's easier showing on that other map,
9 you meant 51, did you?

10 A. Correct. As far as knowing exactly which residence is
11 hers.

12 Q. Sure. I can understand that.

13 So there's a clubhouse and a pool?

14 A. That's correct.

15 Q. By the way, did that show in 52?

16 A. Yes, it does.

17 Q. Hold on.

18 A. It's right in this area here.

19 Q. This is the pool?

20 A. Correct. It's the pool and clubhouse area.

21 Basketball courts are right in here.

22 Q. Sandra's -- so this video camera could actually show
23 who's coming and going out of the trailer park?

24 A. You can actually see the vehicles enter and exit. The
25 side profile of the vehicles as they turn here exiting the
26 park make them identifiable. Turning in this way or turning
27 in this way help make the vehicles identifiable as well.

28 Q. And which one was Melissa's?

1 A. As far as the residence?

2 Q. Yeah. 57 is up there.

3 A. Should be this last trailer here.

4 Q. So you see at this first entry here, you see Melissa
5 Huckaby -- hold on a second, I just lost it. Let me clear
6 up one thing. There's extra parking spaces near the
7 clubhouse, right?

8 A. Correct.

9 Q. So if there were no room to park -- some of these
10 places have their own little driveway, don't they, between
11 units?

12 A. Correct.

13 Q. But at Melissa Huckaby's place, there was no room to
14 park as the grandmother and grandfather had cars. The place
15 where one might park would be in the side of the clubhouse,
16 on the bottom near the clubhouse, these extra parking spots?

17 A. That is correct.

18 Q. So when you say you see Melissa Huckaby or what you
19 believe to be Melissa Huckaby's car being moved, from where
20 is it being moved, with the laser?

21 A. Right here by this sound wall, on the other side of
22 it.

23 Q. Is that considered part of the clubhouse parking?

24 A. Actually, I don't know how it would be termed. I
25 termed it as visitor parking or overflow parking.

26 Q. Visitor parking.

27 Okay. You see her Kia Sportage going from where, from
28 this overflow parking?

1 A. Right here.

2 Q. Backing out?

3 A. Backing out this way, and then traveling southbound in
4 this direction.

5 Q. As if -- at least the direction of her house?

6 A. Correct.

7 Q. Okay. Were you able to -- can you show us this video
8 that's at Sandra Cantu's house?

9 A. Yes, I can.

10 Q. Show us what you see there.

11 A. Yeah. How do you make --

12 Q. I have to switch this over to PC. Is there volume or
13 is there just sound?

14 A. No volume.

15 Q. Is it too large for the screen?

16 A. Yes, it's too large for the screen.

17 Q. Let's see if this works at all. No.

18 A. Just move it in closer to make it smaller. Now move
19 it to your right.

20 Q. Let's see if I can zoom.

21 A. That's Melissa Huckaby's vehicle right there. As you
22 see, it's got the silver bottom, the bluish/purplish top,
23 and the large spare tire in the back.

24 Q. Oh, I see. Okay. And you've looked at these a
25 million times, I got a feeling.

26 A. Yeah.

27 Q. So we are just looking at it for the first time. Did
28 you start doing this at the very beginning, before they even

1 found the body in this case?

2 A. Yes, I did.

3 Q. You were out there on the ground floor trying to solve
4 this crime of the little missing eight-year-old girl?

5 A. I came on board on the 30th. I was actually on
6 vacation for my birthday out of state.

7 Q. We have got a camera -- a camera -- a calendar there,
8 disappeared on the 27th of March.

9 A. Correct.

10 Q. Which was a Friday, Saturday, Sunday. So Monday you
11 get involved?

12 A. Correct.

13 Q. And one of your tasks is what, to do -- how did they
14 assign this to you? How did you get this duty? Do you have
15 some experience in this area?

16 A. We were just -- we were just divying different
17 projects as far as, you know, trying to develop suspect
18 leads. And this we felt would be, you know, a primary lead
19 as far as developing which vehicles were coming and going,
20 possibly if she left with somebody or if she had been
21 abducted.

22 Q. So where is this -- this main drag, switch it over
23 here for a second, let's see if it switches easily or not.
24 It may not.

25 So tell us are we able to see Orchard and Clover Road
26 when we go to the video? Just switched it back over to
27 yours. Now it's not doing it. There we go.

28 A. This here is Orchard.

1 Q. Where?

2 A. Right here, running east and west. Correct. This is
3 Cherry.

4 Q. And what's --

5 A. This here is the exit which goes out on to Clover
6 Road, which runs east and west.

7 Q. What's the big building here, is that one of those
8 hotels?

9 A. That's either the Microtel -- I believe that one's the
10 Microtel. And just east of that would be the Best Western
11 where we got the video footage.

12 Q. And what is the other one, AM-PM?

13 A. AM-PM would be further down this way, over by Tracy
14 Boulevard.

15 Q. So here we have this overflow parking. Is this the
16 clubhouse?

17 A. Yes, it is.

18 Q. The pool would be written on the corner there?

19 A. Correct.

20 Q. Overflow parking. This is Sandra's house in the
21 foreground?

22 A. That is correct, that is the porch of unit number 63
23 which is Sandra Cantu's residence.

24 Q. Okay. So now can you -- is this a moving -- is this
25 one of these videos that every six seconds it takes a
26 photograph?

27 A. No. This is continuous feed, so what you will see --
28 what you will see in this particular footage is you will see

1 a shadow come into view here, where you will see the female
2 I described earlier to you come over here by the vehicle and
3 enter the vehicle. Then we'll have to go to the next
4 footage to actually see the vehicle back out and head
5 southbound on to Cherry.

6 Q. So, for example, if Melissa had been at her house --
7 Melissa Huckaby had been at her house, 57, if she wanted to
8 come down and get her Kia Sportage --

9 A. The fastest path of travel would be northbound on
10 Cherry.

11 Q. Northbound on Cherry, get her vehicle which is parked
12 where now, with your laser?

13 A. Right in this area here.

14 Q. Get it, and then she'd back out -- I don't remember,
15 back it out?

16 A. Correct.

17 Q. And go south on Cherry?

18 A. Correct.

19 Q. Back to her house?

20 A. That is correct.

21 Q. So she'd have to walk from her place to get her car if
22 she's parked in that overflow?

23 A. Correct. You would have to walk on Cherry because you
24 cannot walk in between these residences.

25 Q. So can you kick it in -- can you stop it whenever you
26 want?

27 A. I could press "pause" to stop it, yeah.

28 This is -- it's not quite set up as the laptop that I

1 was using. So forgive me if we go back and forth, back and
2 forth, back and forth. They are all different.

3 Q. Are the times -- where are the times now you were
4 telling us about?

5 A. Time stamp is down here at the bottom, so it gives you
6 the date, March 27th, 2009, at 14:42, which would be 2:42 in
7 the afternoon, which we determined to be actually 15:42,
8 which is 3:42 p.m. So almost a quarter to 4:00.

9 THE WITNESS: Everybody can hear me just fine
10 without this microphone, right?

11 MR. TESTA: Actually, I don't know if that's
12 true, because I think the acoustics are bad.

13 THE WITNESS: I haven't been using it sitting
14 like this.

15 MR. TESTA: Does anyone need it? Raise your
16 hands if you'd prefer it.

17 Okay. I think I'd raise my hand, too. I know
18 sometimes it can be real --

19 THE WITNESS: It's cumbersome.

20 MR. TESTA: Or you can turn around so you're
21 talking into it. We have these other types you put on your
22 tie, but we weren't able to get those.

23 Q. Okay. So the time is what again?

24 A. The time is --

25 Q. In civilian time?

26 A. In civilian time, the accurate time would be 3:42 p.m.

27 Q. Bear with me here.

28 Okay. Go ahead.

1 A. So start the footage?

2 Q. Yes, please. And pause it when you need to show it --
3 stop and show us something.

4 A. Well, I should be able to -- so the counter moving.

5

6 (Video playing.)

7

8 A. If you watch in this area here, you will see the
9 silhouette, then you'll see a body wearing the clothing that
10 I talked about earlier. On here. That's the freeway.
11 That's -- here comes the female into play right there.

12 Q. 14:42:22. Can you freeze it? I wanted to see the
13 clothing. Can you back it up?

14 A. Uh-huh.

15

16 (Video playing.)

17

18 Q. Can you freeze it there? Chubby, pants, thin sweats
19 or PJ bottoms, because of the bagginess?

20 A. Correct. They appear to be fluttering, so to speak --

21 Q. Gray --

22 A. -- when you walk.

23 Q. Gray or light blue I believe you said. Okay.

24 T-shirt, can't quite see that. Might have to -- green
25 or blue with some type of print on the back. Were you able
26 to see a print on the back?

27 A. You could see the white print right back here on the
28 back of the shirt.

1 Q. Shoes appears to be house slippers.

2 Could you do -- bring her back one last time so we can
3 see it? Are you able to do slow motion, by the way?

4 A. I'm not -- I'm not familiar with this computer to do
5 it.

6 Q. Okay.

7

8 (Video playing.)

9

10 Q. I just want to see the white on the back of the -- is
11 she wearing some kind of backpack?

12 A. I don't -- I -- I don't believe so.

13 Q. Okay.

14

15 (Video playing.)

16

17 Q. Have you taken these apart frame by frame? We won't
18 spend the time to do it, but have you studied them with
19 magnifying glasses or blow it up -- did you blow any of
20 this -- what did you do that we are not able to do with the
21 minutes here?

22 A. Actually, the computer itself, as far as the frame you
23 see, that's the largest you can get.

24 I did attempt to with a -- an eye piece to magnify it.
25 But due to the pixelation, you can't -- if you put anything
26 on top of it, you can't see. If you use a still photo and
27 do the same thing, due to it being digital, the pixelation
28 discolors everything and you can't see.

1 So what you see now is actually what I used and what
2 was the best for us to use.

3 Q. Okay. Proceed then. Thanks.

4

5 (Video playing.)

6

7 A. She's still standing by the vehicle, opens the door
8 and gets inside the vehicle.

9 Q. Driver's door?

10 A. Correct. Driver's door.

11 We have to go to the next footage, the next clip, to
12 actually see the vehicle back up. This is earlier. You
13 notice the time stamp on this is 2:26.

14 Q. Okay. So we have to kind of piece together the
15 different clips, right?

16 A. Correct.

17 Q. Go ahead then, do the next.

18 And this item you're showing us, we are going to mark
19 this as an exhibit. Is this your -- what's your number
20 again?

21 A. 1180/1.

22 Q. 1180/1. Okay.

23 MR. TESTA: May this be marked as next in
24 order, 1180/1?

25 Q. It's a CD, is it?

26 A. Correct.

27

28 (Video playing.)

1 Q. So what are we seeing here?

2 A. This is a continuation of the footage. If you notice
3 the time frame, still within the same time frame.
4 Individual already entered the vehicle.

5 Now you see the vehicle back up and then proceed to go
6 southbound on to Cherry. Notice the two-toneness, the
7 purplish/blue, tire on the back, roof rack.

8 Q. Right. Okay.

9 A. And then it goes out of view.

10 Q. In the direction of her house?

11 A. Correct. And this was at 14:43, or from 2:43, which
12 would actually be 3:43 p.m.

13 Q. Rather than do that each time, if you can just give us
14 the correct civilian time for each, I appreciate that.

15 We have her at 3:43 going towards her house?

16 A. Correct.

17 Q. So when's the next time we see her, at 4:02?

18 A. Actually, the next thing that --

19 Q. What's the next thing that we see?

20 A. -- that you would see at 3:54 would be Sandra Cantu
21 coming back into the picture frame, skipping past her house
22 and continuing southbound on Cherry towards the Huckaby
23 residence.

24 Q. Hold on a second.

25 Now, I notice your timeline, you have a timeline,
26 maybe I'm missing something here, but I see it of Melissa
27 and I see it of these texts. Where is Sandra's activity?

28 A. That is in my report.

1 Q. It's not on this timeline?

2 A. That timeline is strictly Huckaby's activity.

3 Q. Well, if we wanted to add Sandra Cantu, hers would
4 be -- the time we see Sandra Cantu would be what time?

5 A. 3:54 p.m.

6 Q. I'm going to write that on exhibit -- can't quite see
7 it right now -- but on Exhibit 45, 3:54 we see Sandra
8 skipping.

9 A. Correct. First you see her -- yeah, correct,
10 skipping, then walking.

11 Q. 3:54.

12 A. And then I also believe on this timeline of vehicles
13 in and out of 812 West Clover, which is a thorough breakdown
14 of all the vehicles coming in and out, that timeline is
15 broken down and gives you Sandra's time, of Melissa's
16 activity as well.

17 Q. Okay. So the next time we go to then is Sandra at
18 3:54, correct? The victim?

19 A. Correct.

20 Q. Is this the same CD?

21 A. This is the same CD.

22

23 (Video playing.)

24

25 Q. So this is actually 3 -- I should say in civilian
26 time, real time, it's 3:53 right now?

27 A. Correct.

28 Q. We are going to see something at 3:54?

1 A. Correct. She'll come through here.

2 Q. Just about any moment?

3 A. (Nods head affirmatively.) Another twenty seconds.

4 Q. And that's last time she's ever seen alive?

5 A. Correct.

6 Q. Could you replay that? And before you do, let me just
7 switch over to the -- this so we could confirm which
8 direction, with the laser, she's coming from when you see
9 Sandra Cantu, just to get our bearings.

10 Melissa pulled out from the overflow parking here
11 underneath the 94.

12 A. Correct.

13 Q. And goes towards her house, in the direction of her
14 house. And now where, with the laser, do we see Sandra
15 Cantu coming from?

16 A. She comes in between the vehicles right here of 94 and
17 the overflow parking.

18 Q. And she's kind of -- she's in the direction of going
19 to her house?

20 A. Correct.

21 Q. Now, do you see her go to her house or does she seem
22 to kind of make a turn and keep going?

23 A. To me, it appears that she's wandering towards her
24 house but something down the road draws her attention. So,
25 therefore, she walks down the street versus going into the
26 house.

27 Q. When you say, "Down the road," with the laser, where
28 are you referring to?

1 A. Down Cherry.

2 Q. But what is it that seems to catch -- well, you can't
3 tell us what caught her attention. What is it about what we
4 see in Sandra Cantu's movements that makes you think
5 something caught her attention down there at the end of
6 Cherry?

7 A. She was playmates with Melissa Huckaby's daughter.

8 Q. In 57?

9 A. Correct.

10 So it would be common for her to go over there and
11 play, especially seeing Melissa's vehicle parked there,
12 indeed if it was parked there at the time.

13 Q. Did she know anyone else in 58 or 59 or 56 or 55, any
14 other kids live in any of those neighboring places?

15 A. Not that I'm aware of.

16 Q. Okay. Okay. Could we see it again then, please,
17 Sandra Cantu coming through the...

18 Oh, sorry, you have to redo it.

19

20 (Video playing.)

21

22 Q. Is this her front porch? If she were going to go
23 home, she would go up these stairs here --

24 A. Correct.

25 Q. -- where the potted plant is?

26 A. Correct. She would walk up through here.

27 Q. Could you show us with the laser so I'm not
28 testifying, where would she go, with the laser, if she

1 wanted -- if she were to go in her front door?

2 A. She would come right through here, this wooded porch
3 here -- area here, the front door is right here.

4 Q. Is that the only way into her place, she can't bypass
5 and go into some side way?

6 A. Everyone we have seen enter and exit that residence
7 throughout the day is always through the front door.

8 Q. I'm sorry, can you show us again?

9

10 (Video playing.)

11

12 Q. Are you able to freeze it right --

13 A. Yeah, you want right there?

14 Q. Well, when she comes -- are you able to freeze it so
15 we can see which way she's looking as she gets closer to her
16 house or not? I don't know if this computer allows you to
17 do that.

18 We used to hit the "pause" button. Are you able to do
19 that?

20 A. Right, I can see the "pause" button on here.

21 Q. I also wanted you to tell us what she's wearing.

22

23 (Video playing.)

24

25 Q. Now she's looking at her house?

26 A. There she's looking at her house.

27 Q. What is she wearing?

28 A. Right here she's wearing dark leggings. We knew that

1 she was wearing black leggings at the time. So that would
2 coincide. She has a pink T-shirt on. We were informed that
3 she was wearing a pink Hello Kitty T-shirt. And appears
4 that she was wearing flip-flops. And we were told that her
5 Hannah Montana flip-flops were the only shoes that could not
6 be accounted for at the time.

7 Q. Okay. And then she -- so where does she look after --
8 can you just let it go one second more?

9

10 (Video playing.)

11

12 Q. Okay.

13 A. Now she's looking straight down Cherry, southbound,
14 her head's up and focused.

15 Q. Are there any other shots of this? I remember seeing
16 on TV it was a close-up, you could actually see her face and
17 she has her hand in her hair.

18 A. That would just be back here, because, actually, the
19 video footage that was released to the media I also did.

20 Q. Is this the very best -- this is the original?

21 A. This is the original.

22 Q. Was the --

23 A. So her hands go up into her hair right here and she's
24 swinging her arms right there. But as far as getting a pure
25 close-up on her, we didn't get a pure close-up on her.

26 Now, if the media enhanced something on their own,
27 that may have been a possibility.

28 Q. Okay. All righty. So she doesn't even really pause,

1 she doesn't stop --

2 A. No.

3 Q. -- does she?

4 All righty. So you've seen it a lot more times than
5 we have, anything else that you want to bring to our
6 attention of what we see in that footage of --

7 A. Just everybody could tell, she's a happy-go-lucky
8 child. I mean, obviously, like I said, she went down that
9 way for a purpose. A commonality as far as walking down
10 that way would be to go play with a friend. The only known
11 friend at the time that was determined to be home would be
12 Melissa's daughter.

13 Q. Could I ask you your lay opinion, does she look like
14 she had just been savagely raped?

15 A. No.

16 Q. Can you show the skipping part?

17 A. Yeah.

18 Q. She actually goes up in the air, doesn't she?

19 A. Correct.

20

21 (Video playing.)

22

23 Q. Okay. So what's the next significant point?

24 A. The next significant point in time would be 4:02 --

25 Q. Okay.

26 A. -- p.m.

27 Q. What do we see at that time?

28 A. At that time, you see a vehicle that comes westbound

1 on Orchard and exits northbound out of the complex and turns
2 left, which will be westbound on to Clover Road. That
3 vehicle depicted is Melissa Huckaby's.

4 Q. Can you show us on this Exhibit 51 where it is we see
5 this?

6 A. Yeah. The vehicle would have -- leaving from this
7 area here.

8 Q. Near 57?

9 A. Near 57, would have had to have turned on to Orange,
10 which would be eastbound, and either head northbound on
11 Apricot or northbound on Apple to be able to turn eastbound
12 on to Orchard.

13 Q. I better write this in here.

14 As you look at the diagram, east is which way?

15 A. East is this way (indicating).

16 Q. This way, correct?

17 A. Correct.

18 Q. And as you go on Apricot, which way is south?

19 A. South would be that way (indicating).

20 Q. North would be down here?

21 A. Correct. If you flip this, then it coincides with the
22 video footage. If you actually make north pointing up.

23 Q. Oh, okay.

24 A. Correct.

25 Q. There you go. Thank you. I think I will have them
26 redo this.

27 So give us our bearings now, using it this way, what
28 we just saw on the video.

1 A. What you just saw on the video, you saw Sandra Cantu
2 come from this area here, hop, skip, come past her
3 residence, walk past her residence and go out of camera
4 view.

5 Q. And what do we see next?

6 A. What you'll see next is you'll see Melissa Huckaby's
7 vehicle exit from this area here, come to a stop.

8 Q. You're pointing to Orchard?

9 A. Correct.

10 Q. Basically, out the only exit and entrance?

11 A. Correct, the only entrance and exits out of here. So
12 the vehicle will come here, make the turn, stop and then
13 turn westbound on to Clover which would be in the direction
14 of the church.

15 Q. Westbound?

16 A. Correct.

17 Q. Here's the question I have: If Melissa Huckaby lives
18 in 57 and moved her car from the overflow parking over to,
19 say, in front of her house at 57 to load anything or
20 whatever, then she wanted to leave the trailer park, one way
21 would be to simply go north on Cherry and then out -- out of
22 the trailer park, correct?

23 A. Correct.

24 Q. And had she gone north on Cherry, we would have had a
25 much better view of her on the video?

26 A. Correct.

27 Q. So can you tell us which way she did go out?

28 A. She would have had to have gone north on Apricot or

1 north on Apple to get to Orchard to exit the complex.

2 Q. But you are able to pick her up and see her? Do you
3 see her going east on Orchard?

4 A. Correct.

5 Q. And then west on Clover?

6 A. Correct. What depicts the vehicle once again is the
7 two-toneness of the vehicle and that large tire -- spare
8 tire that's mounted on the rear.

9 Q. Okay. Can we see then her leaving at --

10 A. Let me get that ready.

11 Q. Is this the same CD now?

12 A. We might be going to a different CD, I got to see how
13 far this one goes. It would be a different.

14 Q. Can we have the first one removed so I can have it
15 marked as an exhibit?

16 A. Oh, it will be the same thing, just a different clip.
17 Sorry.

18 Q. Oh, still the same --

19 A. Yeah, same exhibit.

20

21 (Video playing.)

22

23 A. Where you'll want to pay attention to, and where I'll
24 pause it, is up in this area right over here, as far as
25 where the entrance/exit point is at.

26 Q. So we are looking at 4:02 -- right now we are looking
27 at 4:01, right?

28 A. Correct, 4:01 p.m.

1 Q. And at 4:02:35, so one full minute from now is when
2 you see her vehicle? Is that it?

3 A. That's it. I'm trying to get everybody to see the
4 tire.

5 Q. Now you've looked at this, again, dozens of times?

6 A. Correct.

7 Q. So we won't watch it dozens of times, but if you can
8 point out where we are looking at?

9 A. It's harder to see actually on that screen than it is
10 on my screen right here, but the vehicle's coming from right
11 here.

12 Q. Oh, you mean it's easier to see on a laptop than it is
13 on the screen?

14 A. Yeah.

15 Q. I've found if you display it large, you lose a lot of
16 the clarity. We will take you -- you describe what you have
17 seen, rather than play it ten more times?

18 A. The vehicle's coming out through here.

19 Q. What street?

20 A. Melissa Huckaby's vehicle is exiting eastbound on
21 Orchard, going to head northbound out of the complex on to
22 Clover Road. The vehicle is seen here, this particular
23 portion of the vehicle right here is actually that large
24 rear spare tire.

25 Q. Can you play it at least once or twice so we -- oh,
26 okay. I see.

27

28

(Video Playing.)

1 Q. And you see it again make the turn?

2 A. Correct. And you can see the two-toneness of the
3 vehicle. The light is casting off of it just like it was
4 when it was parked here. When it backed out, you could see
5 the metallic reflection of the vehicle as well.

6 Q. Are there any other Kia Sportages?

7 A. A white one in color.

8 Q. Just the white one?

9 A. Correct.

10 Q. In the whole --

11 A. Complex.

12 Q. -- trailer park?

13 A. Correct.

14 Q. Okay. Did you do a search of all the vehicles in the
15 whole place?

16 A. Yes, we did.

17 Q. Any vehicles that might look like it, where you might
18 be confused?

19 A. No.

20 Q. Like another vehicle that's the same color, but maybe
21 a Toyota?

22 A. Not two-toned like that vehicle. And not with that
23 spare tire on the back.

24 Q. So it's that combination of being the two-toned and
25 the spare tire that helps you guys recognize that vehicle
26 when you saw it on the tapes?

27 A. Correct. That's what helped me recognize it.

28 And on the computer screen, when it first comes around

1 the corner right here, you get a good view of that spare
2 tire that's in the back. You can see the two-toneness of it
3 as it turns the corner. You can see the shadow of that
4 spare tire as it turns the corner as well.

5 Q. It's better than what we see on the enlarged screen?

6 A. It's better, yeah.

7 Q. Clearer I guess is the word.

8 A. Somewhat clearer. I'm not going to say it's like
9 crystal clear, but it's a lot better.

10 Q. Were there any other SUVs with a two-toned?

11 A. No.

12 Q. Any other SUVs with the spare tire on the back?

13 A. No.

14 Q. Okay. So going back, so what's the next -- hold on.

15 So I know I'm repeating myself here, but on this
16 Exhibit 51, can you, just using the street names, show us --
17 put on the record what we just saw.

18 A. Once again, we saw the vehicle either coming off of
19 Apricot or off of Apple on to Orchard where the vehicle
20 turned right, which would have been eastbound on to Orchard.
21 And then exiting northbound out of the complex and making an
22 immediate left, which would be west, on to Clover Road which
23 is -- which dead ends. Nothing is down there but the church
24 and some housing.

25 Q. These are some questions from the grand jurors.

26 Were the cameras located at space 62 -- where is the
27 camera located at space 62?

28 A. They weren't located at 62. They were located at 63,

1 which was the victim's residence. There was one that's
2 actually in the carport itself where the vehicles normally
3 parked. And this other one was located on the outer portion
4 of the -- the building or her -- her residence in the -- if
5 you were looking at it, it would be in the upper right-hand
6 corner.

7 Q. I think we down the road have a photograph or two to
8 show where it was.

9 Was there only one camera I think the question was. I
10 think Mr. Kelley indicated today there were several cameras.

11 A. Correct. There were different views.

12 Q. Different views?

13 A. Correct, all the same system.

14 Q. Did you get anything out of the other views?

15 A. No.

16 Q. They just showed what, the driveway or the --

17 A. Correct. One showed the driveway. One showed the
18 driveway from this vantage point. And one showed it from
19 this vantage point.

20 Q. Could you see Sandra on any of those?

21 A. Not that I recall, no.

22 Q. Or Melissa on any of those?

23 A. No. This was the best view, best camera angle.

24 Q. Here's another question from the grand jury: Have you
25 asked the FBI or any other agency for help to enhance the
26 video from within the trailer park?

27 A. Yeah. FBI agents looked at this video. We were
28 working hand-in-hand with this case. Like I said, with

1 digital, due to the pixelation, it makes it very hard --
2 believe it or not, VHS is actually better for enhancing
3 images.

4 Q. Another question is was there any earlier video
5 showing Sandra Cantu going towards Melissa's house, even on
6 another day, which might show this was a normal activity for
7 Sandra?

8 A. Not that we're aware of. Normal activity for Sandra
9 was told to us by her family members.

10 Q. So going now back to 45, as difficult as this is to
11 read -- did you prepare this document, by the way?

12 A. I actually got all the information from the document.
13 And actually FBI's analysts prepared this document for me.

14 Q. Does it accurately depict, though, the timeline that
15 you obtained in this case?

16 A. Yes, it does.

17 Q. So we have got it 3:43, Melissa walking towards her
18 car at the overflow parking.

19 And then eleven minutes later, we see Sandra Cantu
20 kind of going by her house, right?

21 A. Correct. You see her skipping.

22 Q. In the direction, at least, of going up in the
23 direction of Melissa Huckaby's house?

24 A. That would be correct.

25 Q. And then eight minutes later, we have Melissa Huckaby
26 leaving the trailer park going towards -- in the direction
27 of the church down the street that only goes to the church
28 or dead ends?

1 A. Correct.

2 Q. And Melissa's never -- excuse me, Sandra's never seen
3 again alive after 3:54?

4 A. Correct.

5 Q. Never seen in the trailer park, never seen by her
6 friends, family, anyone?

7 A. Correct.

8 Q. Disappears off the face of the earth?

9 A. Correct.

10 Q. So the question I have for you is if we see Melissa
11 going towards the church, are you able to see when you stop
12 framed it if there's anyone else in the Kia Sportage, or is
13 it too high up or, I mean, do you know what I'm trying to
14 say?

15 A. The video quality and the overall surveillance system
16 itself is not good enough to do that.

17 Q. Well, we saw 46. They are not tinted windows, are
18 they?

19 A. The rear windows are all tinted, correct.

20 Q. Oh, okay. But I guess the code is the front ones
21 can't be, right?

22 A. Correct. The driver front -- driver and passenger
23 side windows cannot be tinted or the front windshield.

24 Q. Did you look when you were looking at these tapes to
25 see if you could specifically see anyone else -- well, could
26 you see anybody in the vehicle when it's driving out of the
27 trailer park?

28 A. In looking at all the footage, as far as vehicles

1 coming in and out, I mean, that was one of the goals because
2 we did have vehicles that passed directly past the residence
3 at the same time frame. And one of the things I was looking
4 for was to see if I could see any movement or anybody that
5 was visible inside any of the vehicles that we were looking
6 at. But from that distance, as far as depicting who was
7 inside the vehicle, it's tough.

8 Q. Yeah. Okay. And then on this photograph 52, just to
9 give us a different perspective from the diagram, could you
10 show us where you see Melissa Huckaby's vehicle leaving?

11 A. You can see the vehicle coming from either down this
12 street or this street, on to Orchard, and leaving.

13 Q. Apple -- either Apple or Apricot -- Apple or Apricot
14 going north?

15 A. Correct. Going north. And turning eastbound on to
16 Orchard, eventually turning north out of the complex and
17 turning westbound on to Clover Road.

18 Q. Going towards the direction of the church?

19 A. Correct.

20 Q. Now, if you're able to see Melissa's vehicle going
21 towards the church, there's no other way out, is there, if
22 she -- if she leaves the church and wants to come back to
23 the trailer park or come back and go somewhere else into
24 Tracy or something, would you be able to see her from this
25 same video?

26 A. Actually, due to the fact that eventually she does
27 return into the trailer park from -- coming eastbound on --
28 on Clover, south into the complex, comes down Cherry, and

1 then parks in the same exact spot that she was in. But
2 that's later.

3 Q. Where are these other video cameras, the AM-PM, and
4 the Best Western?

5 A. The Best Western is right over in here.

6 Q. If you look at this photograph, Number 52, lower left.
7 And what about the AM-PM?

8 A. The AM-PM is still further east of this out of view.

9 Q. Out of view?

10 Okay. So where's -- when's the next time that you
11 see -- because this -- this video continues to run, right?

12 A. Correct.

13 Q. Sandra Cantu's uncle's video continues to run. So
14 when's the next time you guys see Melissa Huckaby's Kia
15 Sportage?

16 A. Pick it up through the Best Western footage at about
17 5:27 p.m., and you see it coming eastbound on Clover Road
18 past the Best Western from a westerly position.

19 Q. Going -- show us on the --

20 A. That I would have to change CDs for.

21 Q. No, you don't have to. I mean, is it a very good
22 quality?

23 A. Oh, you could make out the -- the vehicle once again,
24 due to, you know, it's distinct. It's that purplish/blue on
25 top, silver on the bottom, and that rear tire from the back.

26 Q. But you see, using the Exhibit 52 as a guide, even if
27 it doesn't show up on this.

28 A. You will see it pass this drive over here where the

1 Best Western is.

2 Q. Does the Best Western show up in this photograph 52?

3 A. Yes, it does.

4 Q. Could you show with the laser where the Best Western
5 is?

6 A. It's right here.

7 Q. Hold on for a second. It's hard to do this. Continue
8 showing me.

9 A. (Pointing.)

10 Q. No, it doesn't show. I'm trying to put BW.

11 So where it says "BW," that's where the Best Western
12 is?

13 A. Correct.

14 Q. So where do we see Melissa Huckaby's car from the Best
15 Western video?

16 A. The video footage from Best Western comes out on to
17 the street here.

18 Q. Which street is that?

19 A. That's Clover Road.

20 Q. Okay.

21 A. And gets this area all in here. And you see Melissa
22 Huckaby's vehicle travel eastbound past the Best Western,
23 towards Tracy Boulevard.

24 Q. So we don't pick her up from Sandra Cantu's video, her
25 house -- her residence's video, we don't pick her up going
26 eastbound?

27 A. No.

28 Q. And why is that? Don't you -- you cannot see

1 everybody?

2 A. You cannot see everybody that's traveling east and
3 westbound on Clover.

4 Q. Oh, I see.

5 A. You can pick them up as they are entering and exiting
6 this portion here. But just specifically driving past, no.

7 Q. Where is that freeway, by the way, that we saw?

8 A. The freeway would be north of all of this, out of
9 view.

10 Q. So if we are looking, continuing on this 52
11 photograph, it would be farther -- a little farther south?

12 A. Farther north. This is north.

13 Q. Excuse me, you're right. Pardon me.

14 Okay. So on this Best Western, you see her going
15 east?

16 A. Correct.

17 Q. On Clover?

18 A. Correct.

19 Q. So on People's 51 -- well, it doesn't show on this.

20 A. It won't depict the hotels or motels right there that
21 you were just looking at on a previous picture.

22 Q. All right. Some questions from the grand jurors: How
23 long was Melissa in the vehicle, the Kia Sportage, before
24 she backs out and travels south on Cherry?

25 A. You were talking less than a minute, according to the
26 footage. I didn't actually time it.

27 Q. Another question from the grand jury: What is in
28 front of Huckaby's vehicle when it's parked in the visiting

1 parking lot? Is that a play area?

2 A. That's where the -- the basketball courts and
3 everything are at.

4 Q. Laser, show us.

5 A. Over in this area here, you have basketball courts.

6 Q. So if you --

7 A. So this here.

8 Q. 52?

9 A. Right. A lot of the kids use this area as a
10 cut-through to get to the basketball courts and to get from
11 this side of the complex to this side of the complex, and so
12 forth.

13 Q. Where are the basketball courts?

14 A. They are in here.

15 Q. In relation to the pool, as you look at the -- at 52,
16 it's above the pool?

17 A. In relationship to the pool, which would be on the
18 north side of the clubhouse, the basketball courts are on
19 the south side of the clubhouse.

20 Q. This is a clubhouse like a --

21 A. Correct.

22 Q. What kind of things are in there?

23 A. Actually, I didn't walk inside, so I do not know.

24 Q. Okay. So the kids -- could people could cut across
25 above the clubhouse or beneath the clubhouse?

26 A. Correct.

27 Q. So when we see -- when we see Sandra, she may very
28 well just be cutting across or she might have just come from

1 the clubhouse or wherever?

2 A. It was learned that she was over at a friend's house.

3 Q. Okay. Is there a child play area or is this whole
4 place a play area? I mean, the pool, the clubhouse, the
5 basketball courts?

6 A. There's no swings or anything like that. But it's
7 generally an area that the kids will, you know, tend to
8 gravitate towards and play tag and run around.

9 When she -- I actually viewed on this same day kids
10 doing that after Sandra's disappearance.

11 Q. What video are you talking about now that you looked
12 at afterwards?

13 A. I'm saying the time, the same video, just a later
14 time.

15 Q. Oh, so this very video that we are talking about we
16 saw today, it, of course, continues to run, and you see
17 other things going on later on?

18 A. Definitely, yeah.

19 Q. Such as kids playing around?

20 A. Kids playing around, people walking, people coming in
21 and out of the complex, vehicles coming in and out of the
22 complex. It's continuous feed.

23 Q. So you is it fair to say studied it and just about
24 everything on it for hours?

25 A. Yes, I did.

26 Q. Because back then, all you had was a missing
27 eight-year-old?

28 A. Correct.

1 Q. So the next point we see her -- now it's coming
2 through okay.

3 4:02, Sandra skipping. Melissa's driving towards the
4 church. And then the next time you see Melissa is -- what's
5 the civilian time that we see her leaving again?

6 A. Approximately 4:02 p.m.

7 Q. So 5:27, one hour and twenty-five minutes later, tell
8 me if I'm right, from the time we see Melissa leaving the
9 trailer park going in the direction of the church, we don't
10 see -- you guys don't pick up Melissa again on any tapes
11 until an hour and twenty-five minutes later when the Best
12 Western surveillance picks her up going eastbound on Clover;
13 do I understand correctly?

14 A. That is correct.

15 Q. So you can't tell us where Melissa Huckaby was in this
16 one hour and twenty-five minute period, can you?

17 A. No, I cannot.

18 Q. There's a gap --

19 A. Correct.

20 Q. -- between 4:02 and 5:27?

21 A. Correct.

22 Q. What's the next time she's picked up?

23 A. The next time she's picked up is by the AM-PM video
24 surveillance which, like I said, is just a block away, it's
25 just a little further down the road eastbound on Clover
26 towards Tracy. At 5:27 and 44 seconds. So relatively
27 instantaneously, she's picked up by AM-PM surveillance after
28 passing Best Western and coming into AM-PM's camera view.

1 Q. And then where? By the way, do you have the Best
2 Western? I think we better mark it.

3 A. Yeah, I have them all.

4 Q. Could you show us the Best Western -- I'm sorry, I
5 said no earlier.

6 A. I'm have to set that up.

7 Q. Could you take out the one we have been watching --

8 A. Yeah.

9 Q. -- and I'll have that marked separately?

10 MR. TESTA: Are we going until -- what time
11 did you decide? 4:00 or 4:15, 4:30, what's your pleasure?

12 THE FOREPERSON: We all feel like 4:15?

13 MR. TESTA: What time did the judge say?

14 THE FOREPERSON: 4:30. He said sometimes it
15 goes until 4:30. Right? Is that what he said?

16 A JUROR: At the longest.

17 MR. TESTA: Somewhere around 4:15 we'll quit.

18 Is that okay?

19 Can I get the CD that we just watched?

20 THE WITNESS: Uh-huh.

21 MR. TESTA: Is that it there?

22 THE WITNESS: This is it.

23 MR. TESTA: May I have this marked as
24 People's next in order?

25 Q. How is this labeled, so we don't get confused? What
26 does it say on it for the record?

27 A. For the record, it indicates Tracy Police Department,
28 copy, media DVD. Our video from the Sandra Cantu case. It

1 has my initials on it and also the case number.

2 So this is what I viewed the entire time.

3 Q. This is the original?

4 A. This is what was actually burned from the unit itself
5 by CST Fred Kelley, yes.

6 Q. That's right, Kelley explained that to us earlier as
7 my first witness I think this morning.

8 Is Kelley's name on this? Oh, here we go. He told us
9 it would be 9517/03, camera 2.

10 9517/03. Okay. Here we go. Evidence item.

11 Camera 2. Okay. We have linked it up.

12

13 (Whereupon CD was marked Grand Jury

14 Exhibit Number 53 for identification.)

15

16 MR. TESTA: Q. While you're doing that, some
17 questions from the grand jurors.

18 Can I ask you while you're doing it or will it
19 distract you?

20 A. No, that's fine.

21 Q. Where are the ponds in relation to the trailer park
22 and the church?

23 I had that believe it or not for my first witness that
24 ended up not even testifying yet because of the change in
25 the order.

26 I have an aerial, I was going to show Tim Bauer this
27 tomorrow, but do you think if I showed you this -- have you
28 seen these aerials? Because if you haven't, I can show them

1 to Mr. Bauer. I don't want to waste your time.

2 A. I haven't seen these aerials.

3 Q. I will save this for him tomorrow.

4 A. I could tell you approximately how far they are.

5 Q. I was going to link it all together. But in terms of
6 staying on top of the Best Western surveillance.

7 There's another question about a call from church,
8 which we'll get to with another witness later on.

9 Want me to call another witness while you're doing
10 that? Is it going to be awhile.

11 A. I just have to find out which clip. It's on here, I
12 have the time stamp, but there's different clips.

13 Q. Kelley testified about video evidence from Microtel,
14 and Detective Brandi is testifying about a Best Western. Is
15 there more video or is this the same?

16 A. The Microtel and Best Western are right next to each
17 other and I got the two confused. If you remember, when I
18 first started, we were trying to remember if it was Best
19 Western or Microtel that we got the video from.

20 The video that we actually are using is from Best
21 Western, not Microtel.

22 Q. Okay. And that's on your -- on the Exhibit 45, right?

23 A. Correct.

24 Q. Best Western video. And the AM-PM.

25 So there wasn't anything on the Microtel?

26 A. Correct.

27 Q. And you guys call the park surveillance, the video
28 that Kelley got from the Cantu residence?

1 A. Correct, the trailer park.

2 Q. Yeah.

3 A. Referred to as park surveillance.

4 MR. TESTA: While he's looking for that,
5 since we are getting close to finishing the day, let me, if
6 I may mention, Ladies and Gentlemen, I was told there was
7 someone from Channel -- one of the local TV stations outside
8 of the room here. I think they have been evicted. But if
9 they are still here, obviously, you're not allowed to talk
10 to anyone about what goes on in here. I think the judge
11 read that to you. And if he didn't, you should be advised
12 that it's -- grand jury proceedings are confidential. Just
13 as we advised the witnesses not to reveal what they
14 testified to today, and not only do their subpoenas say
15 that, but you yourselves, as you know, are obligated to keep
16 this secret.

17 And it becomes public if there is an Indictment, then
18 I believe the law is -- I believe it's two weeks after the
19 Indictment transcripts are released to people -- or two
20 weeks after the defense attorney gets the transcripts they
21 are released, unless they make a motion to seal them and
22 there are other issues.

23 But just caution you against anyone asking you
24 questions. The news people should know that by now. But...

25 THE WITNESS: Just so you now know, all these
26 video surveillance companies all have different types of
27 formats. Right now, I'm trying to figure out how I can
28 install the proper format for this computer to be able to

1 run it. Windows Media Player just doesn't automatically
2 open every single system that's out there.

3 MR. TESTA: Q. Okay. Well, maybe we could
4 work that out tomorrow before the jurors come in and I could
5 ask you some other questions --

6 A. Sure.

7 Q. -- instead.

8 In fact, maybe you could -- could you clarify the rest
9 of the timeline, then we could show the videos tomorrow.

10 A. Sure.

11 Q. Because it sounds like it might take you awhile to get
12 it all lined up.

13 Do you need to take this laptop home for you to do it,
14 would that be easier?

15 A. If you want to make sure everything is smoother for
16 tomorrow, so I could make sure everything is properly
17 installed. This is the first access I've had to this
18 computer.

19 Q. Or bring your own, whichever is easier for you. It's
20 your option. I believe it belongs to this office. But I
21 think there's no problem if you borrow it and bring it back
22 tomorrow.

23 A. Okay.

24 Q. Rather than spend the time doing that now. Let's just
25 go back and conclude with this Exhibit 45.

26 And maybe you could summarize what you see on the
27 remainder of the surveillance. We have got this gap of
28 about an hour and twenty-five minutes between when we see

1 Melissa Huckaby leave the trailer park and when we see her
2 driving in front of the Best Western and the AM-PM.

3 But when you see her in front of the Best Western and
4 AM-PM, she's driving away from the trailer park, isn't she?

5 A. Correct. She's traveling eastbound away from the
6 trailer park, towards one of our main thoroughfares, which
7 is Tracy Boulevard.

8 Q. Well, let me ask you this: You know these ponds where
9 the suitcase was found?

10 A. Yes.

11 Q. Is she traveling -- and I have this -- I have got an
12 aerial photograph that shows it all that the detective will
13 talk about tomorrow -- is she traveling in the direction
14 towards the ponds or away from those ponds or where in
15 relation to the ponds?

16 A. Towards.

17 Q. Towards.

18 Okay. By the way, do you live in Tracy?

19 A. No, I do not.

20 Q. Have you been out to the ponds?

21 A. Yes, I have.

22 Q. Would you agree that even people who live in Tracy
23 didn't even know those ponds were there?

24 A. Yeah.

25 Q. They are so hard to find?

26 A. Correct.

27 Q. It's almost like you're driving and you can't even see
28 them, you have got to get out of your car and go up and go

1 through these and then you see them because the elevation,
2 that it's almost like no one even knows they are there; is
3 that a fair way of summarizing the oddity of where they are?

4 A. That would be a fair assumption.

5 Q. Okay. So, in any case, she's driving at least in the
6 direction consistent with going towards the ponds; is that a
7 good fair way of putting it?

8 A. Correct, to get out of this area to go towards the
9 ponds, she would have to go westbound on Clover.

10 Q. If we hear later on she was interviewed -- you guys
11 interviewed a lot of people in the park, right?

12 A. Correct.

13 Q. You know, "Where's Sandra? Where's Sandra? Who are
14 her friends?"

15 If she, Melissa Huckaby, were interviewed and she
16 said, "Oh, no, no, no, no, I went -- I went, got in my car,
17 drove to my place, loaded it up with some things for the
18 church, and then I drove out and went on the church and
19 cleaned up and did things at the church by myself, and then
20 I came back from the church and I went home," would that be
21 consistent with what you saw on these videos?

22 A. No.

23 Q. Okay. So you -- so where's the next -- after we see
24 her in these AM-PM -- first Best Western, then AM-PM, then
25 where is the next time you see her?

26 A. You see the -- through the -- on the AM-PM video
27 surveillance, you see the vehicle westbound on Tracy
28 Boulevard and turn northbound -- excuse me, westbound on

1 Clover Road, and turn northbound on to Tracy Boulevard,
2 which would be towards the direction of the ponds as alluded
3 to earlier.

4 Q. And then the next time you see her on the same AM-PM
5 surveillance, she's going in the opposite direction?

6 A. Correct. She's coming southbound on Tracy Boulevard
7 and actually turns eastbound on to Clover Road, bypasses the
8 entrance of the trailer park, and goes westbound --
9 continues westbound on to -- westbound on Clover Road, once
10 again towards the church.

11 Q. So when you see her going by the AM-PM -- Best Western
12 and AM-PM, going in at least the direction of the ponds, and
13 then how much time goes by before you pick her back up again
14 on the AM-PM going back towards the trailer park, going back
15 towards the direction of the church?

16 A. Let's see, we show her turning northbound on Tracy
17 Boulevard at almost 5:30, at 5:27 in the evening. And then
18 we pick her up once again at 5:57, almost 6:00 o'clock,
19 coming back into the picture, or traveling southbound on
20 Tracy, making a right at the light at Tracy and Clover,
21 which is westbound, and heading westbound once again back
22 down Clover Road.

23 Q. So is there enough time from when you guys left -- see
24 her at the Best Western, 5:27, AM-PM at 5:27, going in the
25 direction of the ponds. How long would it take to get to
26 the ponds, turn around and come back?

27 A. If I remember correctly, this would just be a
28 guesstimate or an estimate on my part, but the ponds aren't

1 like probably more than two, three miles max from that
2 particular location. So you're talking about, you know,
3 five minutes from there to get there, five minutes from
4 there to get back.

5 Q. And there's a gap then of from 5:27 to 5:56?

6 A. Correct.

7 Q. Twenty-nine minutes, approximately?

8 A. Correct.

9 Q. So she's going in the direction of the ponds,
10 twenty -- twenty-nine minutes later she's picked up again
11 and now she's headed back towards the church. Do I
12 understand that correctly?

13 A. Correct. You once again see her pass the AM-PM
14 surveillance, you see her pass the Best Western surveillance
15 headed westbound. And she does not turn back into the park
16 complex according to that video surveillance.

17 Q. So it's basically the mirror image, Best Western and
18 AM-PM going in one direction, which is consistent with going
19 to the ponds?

20 A. Correct.

21 Q. And then in a direction coming back from the ponds
22 towards the church or the trailer park, you see her
23 twenty-nine minutes later on the AM-PM and Best Western?

24 A. That would be correct.

25 Q. This time when you see her at 5:57 --

26 A. 57.

27 Q. -- she does not drive back -- how do you know she
28 doesn't turn in and go to her house -- trailer park, how do

1 you know she continues on towards the church?

2 A. Because I never pick her up prior to 7:10 at night,
3 coming back into this complex.

4 Q. Well, do you actually see her going west on Clover
5 when you --

6 A. You see her going west on Clover going past an AM-PM
7 surveillance and then passing the Best Western surveillance.

8 Q. Is there anywhere else to go when you're going
9 westbound on Clover, other than the trailer park or towards
10 the church?

11 A. Trailer park or back towards the church.

12 Q. If she had gone into the trailer park, you would have
13 seen her on the Cantu video?

14 A. Correct.

15 Q. The next time you see her on the Cantu video is what
16 time?

17 A. Approximately 7:10 at night, she comes from the west
18 over by the church area, eastbound on Clover, turns into the
19 complex, then comes southbound on Cherry.

20 Q. Can you show us?

21 A. Right in the same area where she was earlier.

22 Q. Can you show us on 52 where you see her?

23 A. You see the vehicle turn in here, the vehicle comes in
24 here, makes a left, and then turns right down here on
25 Cherry, parks in this same area once again, across from
26 Sandra Cantu's residence. The person depicted in the
27 earlier clothing that you saw --

28 Q. You mean in the overflow parking?

1 A. Correct.

2 Q. She parks back where we first saw her?

3 A. Correct.

4 Q. Go ahead.

5 A. The person you see get out of the vehicle has the same
6 clothing as the person you see get out of the vehicle, that
7 person proceeds southbound on Cherry.

8 Q. In the direction of her home?

9 A. Direction of her home.

10 Q. Is that on the video as well?

11 A. On the video as well.

12 Q. Tomorrow, can you get it lined up so we pick up where
13 we left off in terms of watching Melissa Huckaby after this
14 gap, because we stuck -- the last video you showed us was
15 when she's leaving -- leaving the trailer park at 4:02,
16 right?

17 A. Correct.

18 Q. So if you can set it up so we can just watch the few
19 minutes, I don't think it will take that long, of where we
20 pick her up, 5:27, Best Western, AM-PM, and then twenty-nine
21 minutes later when we pick her up again at those same two
22 places?

23 A. Correct.

24 Q. And that will probably -- I think that's going to be
25 it as far as your testimony, if you could just line that up
26 for tomorrow.

27 A. Sure.

28 Q. And I'll call Detective Brandi on the aerial shots.

1 A. Sure.

2 Q. Excuse me, Detective Bauer, where the ponds are, maybe
3 with an aerial shot he can show us these directions, how
4 long it takes to get to the ponds and how long it takes to
5 get back.

6 A. Okay.

7 Q. So if we had a Marine who said he saw this woman in
8 this car, this Sportage, with "My brother is a Marine and my
9 other is a nurse," or whatever it says, and he has a receipt
10 from where he was that night so he can pin down the time,
11 and he says it was between 5:30 p.m. and 6:00 p.m.

12 What is this period of time where you say she's on her
13 way to the ponds and then twenty-nine minutes later -- or in
14 the direction of, to be fair?

15 A. That would be right here.

16 Q. What time in civilian time?

17 A. 5:27 p.m., and 5:56 p.m. So almost 5:30 to
18 6:00 o'clock.

19 Q. There's a gap where we don't know where she -- from
20 the videos, we don't know where she was between close to
21 5:30 and 6:00?

22 A. Correct. All you could tell is that she turns
23 northbound on to Tracy Boulevard.

24 Q. Which is the direction going towards the ponds?

25 A. Ponds, correct.

26 Q. So if this Marine says between 5:30 and 6:00 he was
27 leaving home to go to Tracy for dinner, saw a green compact
28 import car parked pointed west, that kind of looked like a

1 Suzuki but smaller than a full-sized SUV, it had two
2 stickers, "My Brother is a Marine," and a ribbon regarding
3 the Marines, she had the ribbon on her car as well as the --

4 A. Correct. "Support Our Troops."

5 Q. So he gets out of his car to investigate by these
6 ponds and he sees this woman, saying she was urinating, late
7 twenties, no taller than 5'6, thick build, blonde or brown
8 hair, ponytail, gray sweats and a T-shirt -- did you say
9 they were gray sweats in that photo?

10 A. I said light blue or gray with a T-shirt.

11 Q. Okay. Thank you, sir. I have no further questions
12 for today. We will pick up tomorrow.

13 A. Okay.

14 MR. TESTA: That's it, Ladies and Gentlemen.

15 THE FOREPERSON: I need -- excuse me, I need
16 to say something to the witness, please.

17 MR. TESTA: Of course.

18 Q. Timeline has an inconsistency. The blue box says 5:56
19 for AM-PM, but the gray box says 5:46 for the gap.

20 A. One is military time, which is 17:56. And real time
21 is the 5:46. It's the same exact time.

22 Q. Next time I have you guys write it up, I'm going to
23 have you do it in civilian time.

24 Can you explain the difference?

25 A. Basically, civilian time runs off the 12-hour clock.
26 Military time runs off of 24 hours.

27 GRAND JUROR 3: One's 56, one's 46.

28 MR. TESTA: Q. What about this 56, 46?

1 A. Oh, oh, oh, oh.

2 Q. That's what they are referring to. That may be a
3 typo.

4 A. That is a typo.

5 Q. So the gap, we should disregard that?

6 A. Right. It is 17:56 hours.

7 Q. This actually should --

8 A. That should say 5:56.

9 Q. On People's Exhibit 45?

10 A. Correct. This is correct here, where it says 5:27,
11 but it's incorrect -- it says 5:27, which is correct right
12 line here of 17:27, this should be -- should be 5:56, not
13 46.

14 Q. I am making that correction on Exhibit 45. And
15 likewise here, right?

16 A. Correct.

17 Q. But when you used the military time, you had it
18 accurate here, 5:56?

19 A. Correct.

20 Q. By the way, we can see the times, can we not, if we
21 look at these videos?

22 A. Yes.

23 Q. And it will say 5:56 on the AM-PM surveillance?

24 A. Correct.

25 Q. Or do they have it in the military time?

26 A. I believe it's in the military time, 17:56.

27 Q. We don't have to rely on anyone's typing, we can
28 actually look at the video and get the precise times, can't

1 we?

2 A. Correct. AM-PM's video or surveillance time is
3 accurate. We can go over that tomorrow as far as how I --

4 Q. I was going to ask you how you did that, but you did
5 something to determine whether these --

6 A. Times were accurate, inaccurate, correct.

7 Q. I will ask you that tomorrow.

8 THE FOREPERSON: I just need to talk to the
9 witness.

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

17 Violation of this admonishment is punishable as
18 contempt of court.

19 THE WITNESS: Got it.

20 MR. TESTA: And you are going to read an
21 admonition to the jurors, too, are you not?

22 THE FOREPERSON: Yes.

23 The grand jurors are admonished that they are not to
24 form or express any opinions about the case or discuss it
25 among themselves until the grand jury receives the case for
26 deliberation.

27 In addition, no inspection of evidence should be
28 conducted without the permission of the foreperson and on

1 the advice of the prosecuting attorney until the case is
2 submitted to the grand jury for deliberation.

3 Deliberations should only occur when all jurors that
4 heard all the testimony in the case are present. Okay.

5 MR. TESTA: Thank you.

6 What time tomorrow are you interested in starting?
7 Would 9:00 o'clock work for you?

8 THE FOREPERSON: Yes. Does that work for
9 everybody else?

10 MR. TESTA: Thank you very much.

11 GRAND JUROR 5: What about our notes and
12 paperwork?

13 MR. TESTA: I believe you leave everything
14 here. Sometimes they collect it; sometimes they don't. I
15 will check with Teresa Provencio.

16 THE FOREPERSON: She asked us to collect it.

17 MR. TESTA: Okay. The bailiff said it's
18 going to be locked up overnight.

19 (Proceedings concluded.)

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN
(Sitting as a Grand Jury)

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PEOPLE OF THE STATE OF)	
CALIFORNIA,)	
)	
Plaintiff,)	D.A. No. 2535
)	
vs.)	CR No. TP09-2712
)	
MELISSA HUCKABY,)	No. SF112495A
)	
Defendant.	)	VOLUME 2 OF 8
_____	)	(Pages 203 - 388)

Tuesday, July 21, 2009 - 9:00 a.m.

LOCATION: San Joaquin County Courthouse
Room 605, San Joaquin County

APPEARANCES OF COUNSEL:

THOMAS J. TESTA, Deputy District Attorney,
County of San Joaquin, 222 East Weber Avenue, Room 202,
Stockton, California, 95202, appeared as counsel for and on
behalf of the People.

Reported by: JEANNE COFFEY, C.S.R. NO. 7084

1 (At 9:00 a.m., the following proceedings
2 were had before the Grand Jury:)

3
4 THE SECRETARY: I'm going to start taking
5 roll.

6
7 (Roll call taken.)

8
9 THE FOREPERSON: If I make a proposal we
10 start at 9:00, break at 10:30 to 10:45, lunch at 12:00 to
11 1:00, break 1:30 to 1:45, and leave by 4:00, is that
12 agreeable to everybody? Unless they don't need us and they
13 let us go home sooner.

14 GRAND JUROR 4: The afternoon break at 1:30,
15 so we are only going to be here for thirty minutes?

16 THE FOREPERSON: No, no. I'm sorry. 2:30.
17 I'm sorry.

18 MR. TESTA: Did I miss something? What's
19 happening at 2:30?

20 GRAND JUROR 4: We are taking a break.

21 THE FOREPERSON: We are taking a break. I
22 just gave them our schedule what we do from now on so we all
23 get so organized.

24 MR. TESTA: What's the schedule?

25 THE FOREPERSON: We start at 9:00, break at
26 10:30 to 10:45, lunch from 12:00 to 1:00, break in the
27 afternoon 2:30 to 2:45, and go home by 4:00. Unless you let
28 us go sooner.

1 MR. TESTA: Sounds good.

2 THE FOREPERSON: Good.

3 MR. TESTA: The detective tells me he needs
4 five or ten minutes to set up his -- he's bringing his own
5 laptop. If you want to go and do something, with my
6 apologies, say in seven minutes from now, or stay in your
7 seats. We won't start until, by this clock, I'd say twelve
8 after or so by this clock. I think it's a little fast.

9

10 (Pause.)

11

12 THE FOREPERSON: We passed out papers for
13 questions. You want to check and see if you need more than
14 what we have already passed out this morning.

15 GRAND JUROR 19: We just have a pile's worth
16 on each area so that we can just, if we need more?

17 THE FOREPERSON: We can do that.

18

19 (Pause.)

20

21 GRAND JUROR 9: Before we start, I have a
22 question.

23 MR. TESTA: Are we on the record? Did you
24 take roll already?

25 THE SECRETARY: Yes.

26 MR. TESTA: And everyone was accounted for?

27 THE SECRETARY: Yes.

28 MR. TESTA: Okay. We will be on the record.

1 Let me close the doors and we will start.

2 Go ahead with your question. But it has to be written
3 if it's about a witness. If it's just timekeeping or
4 procedural.

5 GRAND JUROR 9: No, it's administrative.

6 MR. TESTA: Administrative, we can do it
7 orally. Go ahead.

8 GRAND JUROR 9: I know you touched on it when
9 I first got here, but I am not used to the daylight, I think
10 the sunlight affected my memory, what is our schedule?

11 MR. TESTA: Do we have a calendar for this
12 month? Not really, do we? Too small to really see.

13 Today is the 21st, right?

14 THE SECRETARY: Yes.

15 MR. TESTA: Basically, every day but
16 Wednesday.

17 So yesterday and today. Apparently, we are off on
18 Wednesdays because they use the courtroom for some other
19 purpose. I wanted to go all five days but they couldn't do
20 it. Then Thursday and Friday.

21 Next week, same thing: Monday, Tuesday, Thursday,
22 Friday. That's it.

23 Any questions? Every day but Wednesday for the
24 next -- for this week and next week.

25 GRAND JUROR 9: Good. That helps me.

26

27

(Pause.)

28

ROBERT BRANDI,

1
2 a witness called on behalf of the People, having been
3 previously duly and regularly sworn by the Grand Jury
4 Foreperson, testified as follows:

5
6 MR. TESTA: And I will tell you the reason I
7 try to whenever possible start right on time is it's unfair
8 to you. For some of you, you're probably rushed, maybe even
9 gave up breakfast, ran to be here, and get here at
10 9:00 o'clock and then we end up not starting on time.

11 But it's something I don't do, and I'm sorry it's
12 happening. It happened yesterday and it's happening today.

13 THE WITNESS: I apologize as well. I ran
14 this yesterday and it ran pretty quick. It's staying in
15 "Please Wait Mode" right now, as far as the AM-PM footage.
16 So that's what we are waiting on.

17
18 (Pause.)

19
20 MR. TESTA: While we are waiting, why don't
21 we have these photos marked as next in order, if you don't
22 mind.

23
24 (Whereupon Photographs were marked Grand
25 Jury Exhibit Numbers 54 through 62 and
26 64 through 73 for identification.)

27
28 MR. TESTA: And I have a question from one of

1 the grand jurors: What was the Marine doing at the pond?

2 Well, the Marine will come in here and he will tell
3 you what he was doing. He happens to live nearby and he was
4 going somewhere.

5 But don't take what I say as evidence. Wait and
6 you'll hear Mr. Chappell -- and I believe we will even have
7 his wife come in, too, who was with him -- he will explain.

8

9 (Pause.)

10

11 MR. TESTA: Also, I'll put on the record that
12 we were looking at Exhibit 52 yesterday. And I just wanted
13 to put on the record that I drew in with a different pen the
14 "BW" for Best Western on that exhibit so it's a little
15 easier -- somewhat easier to see than the pen that I had
16 used yesterday.

17 And also just for the record, I think I mentioned this
18 yesterday, Grand Jury Exhibit 45, I made two corrections to
19 the timeline pursuant to the detective's testimony prompted
20 by the observations of the grand jurors.

21 Is it easier with the lights off or on when we look at
22 the photos?

23 GRAND JUROR 17: Off.

24 MR. TESTA: On or off?

25 GRAND JUROR 7: Off.

26 GRAND JUROR 11: That's better.

27 MR. TESTA: Wow.

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(Pause.)

MR. TESTA: Maybe you can do this while I call someone else. Do you need to do this in this room?

THE WITNESS: To have it load?

MR. TESTA: There may not be somebody here yet. I said 9:30.

(Pause.)

THE WITNESS: The other one came up, now I just have to fast-forward.

(Pause.)

THE WITNESS: The jury see it clearer when it's actually smaller or when it's actually blown up to look bigger?

GRAND JUROR 17: Blown up probably.

THE WITNESS: Okay.

MR. TESTA: So for the record, we are going to mark -- is this a -- the CD from yesterday was which number?

THE WITNESS: This is Exhibit 53.

MR. TESTA: That was the one we played yesterday. Are we going to watch a different CD now?

THE WITNESS: Yes.

MR. TESTA: Could I have marked then as next

1 in order?

2 THE WITNESS: Do you want Best Western or
3 AM-PM?

4 MR. TESTA: Whichever one is easier for you
5 to play next.

6 THE WITNESS: We could do the Best Western.

7 MR. TESTA: Okay. Can I switch over to my --
8 doesn't affect your --

9 THE WITNESS: No, doesn't affect me at all.

10 MR. TESTA: Do you have your laser?

11 THE WITNESS: Uh-huh.

12 MR. TESTA: Is the Best Western ready to be
13 played or do you need to wait a little bit?

14 THE WITNESS: I would like to do, just to
15 make it smooth, is get AM-PM to go to the very end where it
16 needs to be. There is no way to quickly bypass what needs
17 to go through fast-forward through everything. That way,
18 when we do Best Western --

19 MR. TESTA: Could I ask you a question --
20 didn't mean to interrupt, could I ask you questions while
21 you're waiting then?

22 THE WITNESS: Yes.

23 THE FOREPERSON: Could I say one thing,
24 please?

25 MR. TESTA: Is it about procedural?

26 THE FOREPERSON: The witness, yes, I need to
27 remind him he's still under oath.

28 MR. TESTA: Thank you very much for bringing

1 that up.

2 THE WITNESS: Got it.

3 MR. TESTA: There's not something you read
4 each time --

5 THE FOREPERSON: No.

6 MR. TESTA: -- you just remind him?

7 THE FOREPERSON: Yes.

8

9

EXAMINATION

10 BY MR. TESTA: Q. And do you have the
11 microphone in front of you?

12 So actually while we are waiting for that thing to
13 warm up, do you happen to know who prepared this document,
14 Grand Jury 51?

15 A. No, I do not.

16 Q. I think Tim Bauer, I can ask him that question.

17 A. I know there are quite a few of those floating through
18 the PD, we just grabbed them because they are easy to use.

19 Q. Do you happen to know what those dots signify that one
20 of the grand jurors noticed? Are they lamps? Are they --

21 A. I can't speculate what the dots mean.

22 Q. Okay. I will ask Mr. Bauer.

23 By the way, are there lamps there at the trailer park?
24 If you know. Maybe you don't know.

25 A. If it's lit, I believe so, that the complex is lit at
26 night.

27 Q. Okay. So I wrote that down, maybe the grand jurors
28 will remember I wrote it down to ask Tim Bauer, the

1 detective. Maybe there will be other witnesses, too.

2 Let me show you what has been marked as Grand Jury 62.
3 Just so we have our bearings here.

4 First of all, do you have your laser with you?

5 A. Yes, I do.

6 Q. Could you tell us whether you recognize what is shown
7 in this photograph?

8 A. That's unit number 63, which is Sandra Cantu's
9 residence.

10 Q. Okay. Does it happen to show the surveillance camera?
11 If you know. This probably would have been a good question
12 if I had this photo to ask Fred Kelley. If you don't know,
13 I can ask Tim Bauer.

14 A. I believe the camera was over in this area right here.

15 Q. For the record, just state where you're referring to.

16 A. The upper right corner near the eave of the roof.

17 Q. Does it show, though, in this photo that we are
18 showing you now?

19 A. All I could see is a little black dot.

20 Q. What is this item up here on top?

21 A. I'm not sure what that is at all.

22 Q. Okay.

23 A. I don't believe -- I don't believe that that's the
24 camera, because the angle we are looking at shows right here
25 (indicating).

26 Q. And who is in the photo?

27 A. Over here, I believe this is Officer Reyna, Sergeant
28 Pineo, and I'm not sure who this is.

1 Q. Okay. These are Tracy -- Tracy Police Department
2 officers?

3 A. Correct.

4 Q. Because you see, we saw her, Sandra, looking where --
5 with the laser, where did she turn in relation to what we
6 see in this photograph?

7 A. She would have come from this vantage point.

8 Q. You see there's the blue car, there's the red car,
9 right?

10 A. She would have walked right past this area here.

11 Q. I'm sorry to keep interrupting you, but when you say
12 "this" or "that," the court reporter doesn't know what
13 you're referring to. And people will be reading this
14 transcript, so we have to make sure we put on the record
15 what we are referring to.

16 So using blue car and red car, whatever -- however
17 else you can do it, just specify what you're referring to.

18 A. As far as walking towards the front of the -- front of
19 the unit, she would have turned right towards the red car,
20 which would have been southbound on Cherry.

21 Q. Okay. Referring to photograph 62.

22 And do you recognize what is shown in 59?

23 A. That's the carport area of unit number 63.

24 Q. And Number 6-0?

25 A. I believe that's the back yard area, the rear of the
26 residence.

27 Q. 58?

28 A. That's a view from the carport area looking out on to

1 Cherry, facing west.

2 Q. So she would have walked kind of in the opposite
3 direction from the person we see in that photograph walking?

4 A. Correct. That person appears to be walking east on
5 Cherry. She would have been walking west on Cherry -- or
6 excuse me, south. This person is walking north. She would
7 have been walking south. My apology.

8 Q. A few more here that might duplicate what we've seen.
9 57, same carport?

10 A. Correct. Once again, that's the carport area.

11 Q. So what's at the end of the carport?

12 A. There's a small little back yard area that wraps
13 around behind the unit dividing it from what's behind it.

14 Q. 56, if you know?

15 A. Just due to the color, I'm assuming that it's with
16 unit number 63, but I can't be one hundred percent sure.

17 Q. I will ask these questions to Mr. Chavez who lived
18 there. I just wanted to show you some of these.

19 Now, last one, 54, photograph 54?

20 A. Again, that's the front door porch area of the unit
21 number 63 where Sandra Cantu lived.

22 Q. Okay.

23 A. Once again, that's the front of the residence that
24 depicted both the red car and the blue car.

25 Q. Right. This is Number 63. All righty.

26 So now do you have your other system warmed up there
27 to show us the video?

28 A. Yes.

1 Q. Just to refresh our memories on People's 52, to recap
2 what we saw yesterday, Melissa's coming to get her car in
3 the overflow parking and then driving out of camera view but
4 towards her house, correct?

5 A. Correct.

6 Q. Sandra's walking through the -- from the direction of
7 the area -- what did you call this, the basketball court?

8 A. Correct.

9 Q. Towards her house, but continues and goes in a
10 direction at least towards Melissa's house?

11 A. Correct.

12 Q. And the next thing of note you noticed was that
13 however -- whatever street she took, you see Melissa
14 Huckaby's car going what direction are we talking now?

15 A. If you exit the complex.

16 Q. Exit the complex and going --

17 A. Westbound.

18 Q. -- towards the church?

19 A. Correct.

20 GRAND JUROR 15: Mr. Testa --

21 MR. TESTA: Yes.

22 GRAND JUROR 15: -- there was a knock at the
23 door there.

24 MR. TESTA: Thank you.

25

26 (Pause.)

27

28 MR. TESTA: Q. Then there's this gap from

1 4:02 when Melissa Huckaby is exiting the trailer park until
2 5:27 when you see her vehicle going where? Is it Best
3 Western where you pick it up next?

4 A. Eastbound past Best Western.

5 Q. Is this what we are going to see next?

6 A. Yes.

7 Q. Is her going eastbound an hour and twenty-five minutes
8 after she left the trailer park going towards the church,
9 you now see her going by Best Western?

10 A. Correct.

11 Q. And what -- tell us before we see this video, is it
12 just something that's a few seconds?

13 A. Correct. It's something that's a few seconds. It's
14 brief.

15 I'll try to slow it down on here and see if we can do
16 a frame by frame.

17 Q. Okay. Feel free to use the laser if you need to point
18 something out to us.

19 A. Once again, the vehicle, what I was looking for at the
20 time was the distinctiveness of the two-toneness of the
21 vehicle and that large spare tire that was attached to the
22 tailgate portion of the vehicle which was at the rear.

23 MR. TESTA: What exhibit number are we giving
24 this CD we are about to watch?

25 THE SECRETARY: 63.

26 MR. TESTA: May I have that, please?

27

28

1 (Whereupon a CD was marked Grand Jury
2 Exhibit Number 63 for identification.)
3

4 MR. TESTA: So while it's still in there you
5 don't want to -- when you take that out, could you affix
6 this?

7 THE WITNESS: Want to put it on this cover?

8 MR. TESTA: Q. So we are going to watch 63
9 now?

10 A. Correct.

11 Q. Go ahead.
12

13 (Video playing.)
14

15 A. I'll try to blow this up. But right here, this is
16 Melissa Huckaby's vehicle right here. You can see the
17 two-toneness of it, silver on the bottom, the darkness on
18 the top, and the spare tire which protrudes from the back.

19 MR. TESTA: Hold on for a second, please.
20

21 (Pause.)
22

23 MR. TESTA: Q. Can I switch back to this
24 without upsetting you?

25 A. Yeah.

26 Q. Where is the camera located, so we get our bearings?
27 Using this Exhibit Number 51.

28 A. It's passing this driveway here (Pointing). I'm not a

1 hundred percent sure where it's set up on the building
2 itself.

3 Q. Who did you receive this particular tape from, did you
4 say?

5 A. I received it out of evidence. I'm not sure who the
6 original officer was that pulled the footage.

7 Q. Hold on, let me write that down to ask Mr. Bauer.
8 And what exhibit number is this again did you say?

9 A. This would be number 63.

10 Q. Okay.

11

12 (Video Playing.)

13

14 A. So, once again, as you can see here, what -- what I
15 was looking for once again was the -- the specifics on the
16 vehicle, it's going to be the two-tone bottom, which you see
17 the silver streak here, the purplish/grayness of the
18 vehicle. And then right back here, you can see the spare
19 tire.

20 Q. There's no way you can zero in on a portion of the --
21 the way we can do with the overhead project --

22 A. No.

23 Q. -- and blow up just the truck -- just the SUV?

24 A. No. If we were to blow up just the SUV, you wouldn't
25 be able to tell what it is.

26 Q. What if we reduce its size, can we see it more
27 clearly?

28 A. You can see it more clearly I believe when it's

1 smaller.

2 Q. If you're close up on it, maybe. But for the
3 audience, maybe we need to see it larger, is that the idea?

4 Oh, I see, yeah, it's clearer here. And even clearer
5 on -- I see. Okay.

6 A. (Pointing.)

7 Q. You had no trouble making that out?

8 A. Once -- once we had an idea as far as what we were
9 looking for, I had to sit through this and I was
10 specifically looking for that, so -- but as soon as, like I
11 said, the specifics on that vehicle as far as being
12 two-toned and with the large tire protruding off the back,
13 made it very recognizable for myself.

14 Q. Well, let me ask you this question: How much traffic
15 is there? The street here, we know it's what? What's the
16 name of this one again?

17 A. Clover Road.

18 Q. Clover is dead-ending on one direction. So the people
19 that would be going past the Best Western, what kind of
20 traffic we talking about? Just this traffic from this
21 street, is that the only way?

22 A. You would be talking about individuals that live in
23 the trailer park complex, and on the few houses, the trailer
24 park complex in here, because this is the only way in and
25 out. And then the few homes that are down in this area near
26 the church.

27 Q. Are we talking about single digits?

28 A. Correct.

1 Q. Are these, by the way, as I'm looking at this exhibit
2 here, 51, as you look at the photo on the far right side, is
3 that in or outside of the trailer park?

4 A. That is outside of the trailer park.

5 Q. Okay. The church would just be another -- to our
6 right?

7 A. Correct. There's a church on -- correct. There's
8 another church that's in that area as well, on the other
9 side of the street, and there are some homes that are
10 further down on the road. That's considered county area.
11 It's not considered city.

12 Q. You say -- are we talking two or three homes, thirty
13 or forty homes, five homes? Approximately how many?

14 A. We are talking I believe under fifteen homes.

15 Q. Okay. So this -- what about total, how many are we
16 talking about? Who might use this street here?

17 A. Due to the -- the businesses here, which are going to
18 be strictly the -- the hotel/motels, and the homes that
19 align here and back in towards this way, the traffic is not
20 heavy. It's not per say like, you know, what you'd see
21 coming down a downtown street. The vehicles are going to be
22 sporadic. They are going to be, you know, few and far in
23 between, in regards to the time of day, depending on when
24 people are coming home, people are leaving, and so forth.

25 Q. So we are talking about based our Exhibit 40 -- the
26 Exhibit 45, are we talking about 5:27?

27 A. Correct.

28 Q. Okay. Were there many vehicles at all going by

1 besides that one?

2 A. There were vehicles periodically passing by the area
3 going both eastbound and westbound.

4 Q. But only one SUV with a spare tire on the back?

5 A. Correct.

6 Q. As far as you know?

7 A. As far as with the two-toneness.

8 Q. Were there other SUVs with spare tires that were not
9 two-toned?

10 A. There's a SUV that's leaving the lot right there which
11 happens to be a Jeep Cherokee. As far as off the top of my
12 head recalling if there were other SUVs that had a spare
13 tire in the back, I don't recall that off the top of my
14 head.

15 Q. What about people in the trailer park, did we cover
16 this yesterday?

17 A. Yeah. There were no vehicles that were like this
18 particular vehicle. Although, there was another Kia
19 Sportage, it was white in color.

20 Q. And was it you or did somebody else make a list of all
21 the vehicles of everyone who lived in that trailer park?

22 A. Our Street Crimes Unit actually went to the entire
23 complex and took photos of each of the vehicles that were
24 inside the complex, along with getting the license plates
25 and owner information.

26 Q. Okay. So what else did you notice, or is that it for
27 the Best Western tape?

28 A. For the Best Western tape, as far as traveling towards

1 the ponds, as we referred to yesterday, that's it on the
2 Best Western tape. As far as her returning to the area, we
3 picked that up later on on the Best Western footage as well.

4 Q. The same -- do you have it on the screen now?

5 A. I have it.

6 Q. Okay.

7 A. I have to call it up.

8 Q. Well, is it better just to go chronologically on to
9 the next?

10 A. Yes, I do have AM-PM set up to do that.

11 Q. Okay. So why don't we switch -- so we are talking --
12 what's the time frame between pick her up -- pick up the
13 vehicle going eastbound on Clover at 5:27:00, and forty-four
14 seconds later you see it going same direction, same street,
15 but then turning northbound on Tracy Boulevard?

16 A. Correct.

17 Q. And we see that at AM-PM?

18 A. That would be the AM-PM footage, correct.

19 Q. So where is -- if we use this People's Exhibit 51, how
20 far down is AM-PM?

21 A. AM-PM is just, you know, approximately a block away.
22 It's on the corner of Clover Road and Tracy Boulevard.

23 Q. Would it take forty-four seconds?

24 A. Approximately. As far as there was a little bit of
25 traffic at the light. So the vehicle's actually stopped. I
26 believe three or four cars prior to actually seeing it, so
27 that's where the forty-four seconds comes into play.

28 Q. Between Best Western and AM-PM, there was a traffic

1 light?

2 A. As far as on Tracy Boulevard and Clover, yes.

3 Q. Okay.

4 A. Not in between Best Western and AM-PM, no.

5 Q. I guess what I'm asking, why would there be forty-four
6 seconds is why I'm asking?

7 A. Just the distance between Best Western and AM-PM.

8 Q. Okay. Can you show us then what you are -- what you
9 saw on the AM-PM -- and where did you guys get the AM-PM
10 tape?

11 A. I believe Detective Bergman is the one that retrieved
12 the footage from AM-PM.

13 Q. All right.

14

15 (Pause.)

16

17 MR. TESTA: Q. Do you have it?

18 A. Got about one minute.

19 Q. Oh, okay.

20

21 (Video Playing.)

22

23 A. The traffic that I was referring to is right here.
24 The light is right over in this area here. This is Tracy
25 Boulevard which runs north and south.

26 Q. Can you enlarge it?

27 A. I will. This is Clover that's running east and west.

28 Q. We are going to be looking at the top of the screen,

1 is that correct?

2 A. Actually, as soon as I get moving here, I will show
3 you exactly where we'll be looking.

4 Q. I'm just wondering if I should reposition this thing.

5 A. That's worse.

6 Q. Show me with your laser what part of the screen we are
7 going to be focusing on.

8 A. Up in this area.

9 Q. Up on the top. All right.

10 Probably have to hold it now.

11 A. Basically, we are going to be looking at the vehicle,
12 which is right here, come through here and turn left or
13 north on to Tracy Boulevard.

14 Blowing it up like this, even on my screen, is really
15 pixelating it here as it is on your screen.

16 Q. So the times that are on the -- that we see, is that
17 the accurate time?

18 A. That's the accurate time, 17:27:45.

19 Q. How did you confirm it was the accurate time?

20 A. On April 7th, 2009, I went to AM-PM -- which I have
21 video footage of as well -- parked my vehicle in this area
22 here where it would get time-stamped in regards to when I
23 arrived, looked at my watch to see what time I arrived. Got
24 approximately nine minutes of footage depicting when we
25 parked there, when we got out of the car, and so forth.

26 And the time that their date stamp and time stamp
27 indicated when we pulled into the drive is the same time
28 that was on my watch. So that's how I was able to confirm

1 that their time stamp is correct.

2 Q. When you say "their," whose?

3 A. AM-PM.

4 Q. What about Best Western, was there a time stamp on
5 there as well?

6 A. Best Western does have a time stamp.

7 Q. Does or does not?

8 A. It does. They are approximately ten minutes off. And
9 that was based on the accuracy of AM-PM's time stamp.

10 Q. Okay. So when you -- when we refer to this exhibit
11 that we have been using, Number 45, with the various times
12 on these tapes, when you say, "Best Western, 5:27," where
13 did you get that time from?

14 A. I base that off of their video time was originally
15 5:17. AM-PM's --

16 Q. When you say "theirs"?

17 A. Best Western's video time was 5:17.

18 Q. So why did they put down 5:27 on the screen -- on the
19 exhibit?

20 A. On the exhibit, due to the accuracy of AM-PM's time
21 stamp of 5:27, which gave a differential of approximately
22 ten minutes.

23 Q. In fact, I could see the note in here, video time
24 5:17.

25 A. Correct.

26 Q. So you -- because you realize in certain
27 establishments they don't always have the correct time on
28 their videos, is that your experience?

1 A. That is correct.

2 Q. And so did you take steps to confirm the accuracy of
3 the times on all these videos?

4 A. The accuracy -- I -- the first step I took was the
5 AM-PM time stamp. The other one which was mentioned
6 yesterday was on the video footage from the Cantu residence.

7 Q. The Cantu residence surveillance, I think we covered
8 this yesterday, how did you confirm the accuracy of that
9 time again? Was it the 911 call?

10 A. The 911 call.

11 Q. And what did you do to confirm the accuracy of the
12 time with respect to that?

13 A. In the viewing of when Sandra's mom finished her
14 search, walked back in the house and called 911.

15 Q. How did you use that to confirm the accuracy of the
16 time on this -- on the Cantu video?

17 A. The -- the documentation of when the 911 call was
18 placed.

19 Q. Oh, so can you actually see on the Cantu video the
20 mother going outside the house after she's calling 911?

21 A. You can see the mother conduct her search and then
22 after that come into the house, which she went to go place
23 the 911 call.

24 Q. Okay. I don't recall, was there a time stamp on that
25 surveillance tape from the Cantu house?

26 A. The video footage does have a time stamp which was
27 approximately one hour behind due to the Daylight Savings
28 Time change.

1 Q. But the actual time on it was accurate?

2 A. The actual time on it was actually inaccurate because
3 the grandfather never put it one hour forward. He didn't
4 know how to.

5 Q. I'm sorry, one hour off. But what about the minutes?

6 A. You lost me.

7 Q. See if I can get this.

8 A. There's two times that are here. One is video time,
9 which is the actual time print or stamp that is actually on
10 the footage itself. The actual time as far as what was
11 figured out to be is what appears in the larger bolder
12 letters.

13 Q. The 3:43:06?

14 A. Correct.

15 Q. And the video time said 2:43:06?

16 A. Correct.

17 Q. And from the 911 call, you could tell that the video
18 time was otherwise accurate other than being one hour off?

19 A. Correct.

20 Q. So getting back to these other times, I think you've
21 explained it well enough that we understand it now.

22 So we are watching the AM-PM now, right?

23 A. Correct. As far as traveling westbound on Clover.

24 Q. So what is it that we see?

25

26 (Video Playing.)

27

28 A. Is it less pixelated for you guys to be able to see?

1 I know it is smaller.

2 Q. Show us both. Smaller as well as what?

3 A. Here's the vehicle right here.

4 Q. Which vehicle?

5 A. This would be Huckaby's vehicle.

6 Q. How could you tell?

7 A. You have the two-toneness here on the rear bumper.

8 And along with that, the spare tire that's in the back,
9 right there.

10 Q. And you've seen this many, many times?

11 A. I've seen this many times.

12 Q. And there's no doubt in your mind that's what you're
13 seeing?

14 A. Correct.

15 Q. Okay. Go ahead.

16

17 (Video Playing.)

18

19 A. The lighting catches it even more where you can see
20 the silver in the back, you can see the overall size of the
21 vehicle now, that it's a small SUV, and you can see the rear
22 tire here that's still protruding in the back.

23 Q. Okay. And what street is it on now, Clover?

24 A. That's still on Clover Road. Once again, with the
25 lighting, you can see the two-toneness, there's the silver
26 bottom, there's the rear tire in the back.

27 Now the vehicle is turning left on to Tracy Boulevard,
28 which would be northbound on Tracy.

1 Q. Can you show with us the laser where that is?

2 A. Tracy Boulevard is running north and south right here.
3 The vehicle is still right here. It turns north on to
4 Tracy.

5 Q. Where is this traffic light?

6 A. There's a four-way controlled intersection right here.
7 Because there's northbound traffic, southbound traffic,
8 eastbound traffic, westbound traffic.

9 Q. Okay. So where does it -- can you see it at all now?

10 A. On the computer, it's easier to see than it is on the
11 screen.

12 Q. You're looking at the tape where it says 17:27:51,
13 8-1-2, you have frozen that frame. What do we see there?

14 A. Correct. In between here, in between where it says
15 10, 2009, her vehicle -- Melissa Huckaby's vehicle has
16 already gone into turning northbound on to Tracy Boulevard.

17 Q. And is that the last this camera picks up of it?

18 A. No, we will get her again coming southbound on
19 Tracy -- what I'll do is I'll back it up.

20 Q. You mean later on?

21 A. Correct.

22 Q. I mean during this?

23 A. I'll back it up and actually let it play full so
24 that -- I believe the numbers start to disappear when you do
25 that, so you can actually track it yourself.

26 Q. We are only watching the first time this AM-PM picks
27 it up; we are not going thirty minutes in advance?

28 A. Correct.

1 Q. We will do that later.

2 Okay. So you're saying these white numbers on the top
3 disappear if we play it without stopping it?

4 A. I believe so.

5 Q. By the way, does that mean camera 10 where it says
6 "CAM 10"?

7 A. That would be correct. That's camera 10.

8 Q. Were there ten cameras there?

9 A. There's -- they are labeled camera 10 through camera
10 16.

11 Q. Did you look at 11 through 16?

12 A. I have that footage. But as far as depicting Clover
13 and Tracy, camera 10 is the one that was set up for that
14 angle.

15 Q. Do you see her vehicle in any of the other cameras?

16 A. No.

17

18 (Video playing.)

19

20 A. Okay. Her vehicle just went out -- Melissa's vehicle
21 just went out of view here.

22 Q. 17:27:43, 437 is the frame you're referring to?

23 A. So I will go ahead and put this up higher.

24 Q. So we are going to watch it from the beginning, from
25 the first view of her vehicle until it leaves the camera
26 view?

27 A. Correct.

28

1 (Video playing).

2

3 A. You could pick up the vehicle right here. And the
4 vehicle turns northbound on to Tracy Boulevard.

5 Q. Can you show us one more time? Now, if it were not
6 enlarged --

7 A. I will do it at the smaller pixelation as well so you
8 could see it better.

9 Q. You could make it out better when it's smaller?

10 A. Correct.

11 Q. You could make it out better on the personal computer
12 than on the screen that we have here in court?

13 A. Correct.

14 Q. So let me for the record just put where we first see
15 it, want to put what time it shows up on the...

16 Right there? So at 7 -- excuse me 5:27:43 -- hold on
17 for a second. Okay. Because your little diagram says
18 5:27:44. Okay. So we start it --

19 A. Correct. Starting at about a second earlier.

20 Q. I got it. Okay. So you're going to play it
21 continuously now?

22 A. Correct.

23 Q. Go right ahead.

24

25 (Video playing.)

26

27 A. There's the vehicle right there.

28 Q. So when you play it smaller, you can't get rid of

1 those white information or it doesn't -- it stays right
2 there?

3 A. It stays right there.

4 Q. Could you just do it one more time large --

5 A. Uh-huh.

6 Q. -- start to finish, then we'll move on.

7

8 (Video playing.)

9

10 Q. 5:27:43, 44.

11 A. If you notice, this is the same Jeep that was waiting
12 for her to pass by that was pulling out of the Best Western.

13 Q. Thank you for pointing that out. Okay.

14 So does that conclude the AM-PM?

15 A. The next footage would be just to skip to -- on the
16 same CD here, it would be to the southbound travel on Tracy
17 Boulevard turning east on to Clover returning from the pond
18 area.

19 Q. Okay. Well, before we get the return, let me ask you
20 these other questions from the grand jurors.

21 Were there any other Kias at the hotels and at the
22 AM-PM during the time of the video?

23 A. Not that I'm aware of.

24 Q. Where is the time and date stamp for the Best Western
25 tape? Will we get to that later?

26 A. Yeah, we could look for that on there.

27 The breakdown on theirs is actually -- when you're
28 looking at the individual footage, it shows me, you know,

1 the time and date stamp as far as that particular footage.
2 I'm not sure if it's displayed on the screen itself. As it
3 is, just say on text, as far as what you're going to open.

4 Q. Did you go to the pond where the suitcase was found?

5 A. I was actually in a helicopter above the ponds where
6 the suitcase was found.

7 Q. I mean, did you at some point later on go to the
8 actual ponds?

9 A. Yes.

10 Q. Was the suitcase -- did you see them take the suitcase
11 out or anything, see the suitcase in the water?

12 A. Yes, I did.

13 Q. So we saw Exhibit 4 -- what am I doing wrong here?

14 A. Make it smaller on there.

15 Q. Did you see it there?

16 A. Yes, I did.

17 Q. Okay. What was your purpose in going up in the
18 helicopter?

19 A. We took aerial photos -- or myself, I took aerial
20 photos. And the helicopter itself had a video system and we
21 took videos of the area as well.

22 Q. Do you recognize what is shown in this photo, or maybe
23 you don't. If you don't, I can actually ask Tim Bauer. But
24 I thought I would ask you since you're here if you recognize
25 it. If you don't, I'll move on.

26 Do you see the trailer park? Yes or no?

27 A. The trailer park is right here.

28 Q. While I have this up here, the church, give us --

1 first of all, tell us where -- show us the trailer park
2 again.

3 A. This is the trailer park right here. This is Clover
4 Road that we keep talking about that runs east and west.

5 Q. Where is this dead end that you keep talking about?

6 A. Down here.

7 Q. Is it --

8 A. The very west end, there is no -- there is no
9 entrance, no exit. As you can see, the freeway wraps around
10 here. So, therefore, there's no -- there's no way to get
11 out of this area. There's no freeway entrance, no freeway
12 exit, no residential entrance, no residential exit. All
13 except for coming out off of Clover Road on to Tracy
14 Boulevard.

15 Q. Where is the church that we have been hearing about?
16 Can you make it out on there?

17 A. It's over in this area here.

18 Q. And where is Best Western?

19 A. Best Western is right here.

20 Q. Hold on for a second.

21 Could you point -- actually, what I'll do is I'll --
22 could you put a big "BW" and maybe an arrow indicating where
23 Best Western is on Exhibit 61. Do you need the light on?

24 A. No.

25 Q. You might need to put it off on the edge and put an
26 arrow indicating where it is.

27 A. (Witness marking.)

28 Q. And the same thing if AM-PM shows up on that

1 particular photograph.

2 A. (Witness marking).

3 Q. Oh, I need it about five times bigger.

4 So on People's 64, just with the laser, show us what
5 you just wrote and where?

6 A. Best Western is the hotel. And the AM-PM's on the
7 corner right here of Tracy and Clover.

8 Q. And where is the turn that she makes?

9 A. The turn off of Clover Road on to North Tracy
10 Boulevard would be right here.

11 Q. So where is North Tracy Boulevard?

12 A. North Tracy Boulevard is right here.

13 Q. Could you write that down, please? Maybe down -- down
14 a way so it doesn't get too bunched up. With an arrow, if
15 you need to.

16 A. (Witness marking.)

17 Q. There we go. Thank you.

18 And just for the record, on People's 64, you wrote "N.
19 Tracy Blvd.," and an arrow indicating where it is. And
20 indicating the direction that the vehicle went after it made
21 the turn.

22 So if one wanted to drive from the trailer park to the
23 pond -- or the ponds where the suitcase with Sandra Cantu's
24 body is found, with the laser can you show us as far as you
25 can using this photo which route one would take?

26 A. If you were coming from West Clover Road traveling
27 eastbound on Clover, you'd have to come out towards the
28 intersection where Tracy Boulevard and Clover Road meet, you

1 would have to turn northbound on to Tracy Boulevard and
2 follow Tracy Boulevard out into the county area where the
3 ponds are located.

4 Q. Okay. And photograph -- by the way, does photograph
5 64 accurately depict these various locations that we have
6 been talking about?

7 A. Yes, it does.

8 Q. I'm not sure if we get anything more out of this one,
9 67? Does it show anything in addition to what we already
10 saw or is it basically the same?

11 A. Basically looks similar.

12 Q. Okay. What about 68?

13 A. I believe this is -- North Tracy Boulevard will come
14 out to this area here. It's hard to tell from this aerial
15 view.

16 Q. Could you make out the trailer park?

17 A. Not from this view, no. Like I say, it's hard to tell
18 what are streets and what are dirt roads actually right now.

19 Q. Do the ponds show in this photograph?

20 A. Right here.

21 Q. And this is Number 68, I believe.

22 A. So looking at the ponds, I would be able to tell you
23 where Tracy Boulevard is now.

24 Q. Let's start with the ponds, though. Hold on for a
25 second.

26 We previously saw photograph number 5. Does that look
27 like the ponds where the suitcase was found? If you know.
28 Don't guess. We have already heard the testimony.

1 A. It looks similar.

2 Q. Okay. So looking at 68, where are the ponds in this
3 photo?

4 A. The ponds are right here. This is the Delta over
5 here.

6 Q. As you look at the photo beneath the ponds?

7 A. Is the Delta.

8 Q. Okay.

9 This is a very poor photo, I have to say. This isn't
10 one of the ones you took, is it?

11 A. May have been. We were up 800 feet.

12 Q. Oh, okay.

13 A. And using, you know, a high-end digital camera.

14 Q. I think I saw your photos and they were better. I'm
15 not sure these are yours or not.

16 What about 72, do you recognize what is shown in this
17 photograph?

18 A. Yes. The ponds.

19 Q. Where is -- what are all those vehicles?

20 A. There are police vehicles and FBI vehicles that are
21 here.

22 Q. Where is the suitcase?

23 A. The suitcase was over in this area here.

24 Q. So is it -- are there -- how many ponds are there?
25 One, two?

26 A. These had already been drained.

27 Q. Three, four, five?

28 A. I believe it's four. One, two, three, four.

1 Q. And if you look at the photo, the ones on the left
2 look like they've -- look like they've been drained.

3 A. Correct.

4 Q. And there's some shrubbery right there in the bottom
5 of the photo, correct? Where the police units are?

6 A. Correct.

7 Q. Okay. So now since I've got these here, 71, which way
8 should I put it here?

9 A. That way's fine.

10 Q. This way?

11 A. Sure.

12 Q. What do you see in this one?

13 A. This is the same -- this is the same ponds. These are
14 still the same police and FBI presence. And over in this
15 area right here, kind of hard to see, but this is where the
16 suitcase was.

17 Q. Where? Is it still in there -- did you take those
18 photos before or after the suitcase was retrieved from the
19 pond?

20 A. Before.

21 Q. So do we know if that's the suitcase, if --

22 A. Actually, now looking at it, I'm not sure if it's this
23 or this.

24 Q. Okay. Fair enough.

25 A. But it was in this general area.

26 Q. Okay. That's 71. There was another one. 66.

27 A. Those are the ponds once again.

28 Q. Where is the Delta?

1 A. The Delta runs right here, just north of the ponds.

2 Q. So to go back to the photo I showed you. We have the
3 Delta I said at the bottom of that photograph. So just
4 keeping it -- okay. So going back now to the first -- one
5 of the first ones, 68, the ponds once again are where?

6 A. They are located right here.

7 Q. And can you see all of them there?

8 A. Yes, you can.

9 Q. And where's the Delta again?

10 A. The Delta is in this photograph at the bottom of the
11 ponds, which would be north of the ponds.

12 Q. By the way, I'm assuming the water from the Delta is
13 pumped into the ponds?

14 A. I don't know what -- I know it's a bunch of waste that
15 the farmers put in there. I don't know how the water's
16 pumped in there.

17 Q. All right. So now we know we see the ponds, can you
18 give us an idea, first of all, where is Tracy in relation to
19 those ponds?

20 A. Tracy is right up here. So south of the ponds, about,
21 like I said, in between two to three miles.

22 Q. If you look at the photo, photo 68, ponds are at the
23 bottom, Tracy's at the top?

24 A. That would be correct.

25 Q. And I'm not sure you can do it with this quality --
26 this particular photo, but do you make out the trailer park?

27 A. I cannot. I would just be able to tell you the
28 general area it's in. I couldn't tell you that this is the

1 trailer park.

2 This is the freeway right here.

3 Q. Oh, you can make out the freeway. Well, that's a
4 start. Why don't we -- let me just see if it's any better.

5 This the freeway?

6 A. Yes.

7 Q. I'm doing brightness and dimness, but it doesn't seem
8 to be doing anything. Oh, here we go.

9 Okay. So now, once again, the freeway?

10 A. The freeway is located right here.

11 Q. Now, this North Tracy Boulevard that you were talking
12 about earlier you last see the direction which the vehicle
13 was going, which direction on North Tracy?

14 A. It's correct, that's North Tracy.

15 Q. And which direction is it going, north, south, east,
16 west?

17 A. The vehicle?

18 Q. Yes.

19 A. North, northbound on North Tracy Boulevard.

20 Q. Does North Tracy Boulevard continue beyond the freeway
21 there?

22 A. Yes, it does.

23 Q. Does it show up on this Exhibit 68? Because we see
24 where the freeway is.

25 A. Right. From the aerial, I'm assuming this is North
26 Tracy Boulevard based upon the proximity of where the ponds
27 are. So you have to come off of North Tracy Boulevard, turn
28 right on to this dirt road here to access the ponds.

1 Q. Where are Bacchetti and Whitehall?

2 A. That's over in this area here.

3 Q. Okay. Okay. So how long would it take, I think you
4 said this yesterday, to go from where we last see the AM-PM,
5 the vehicle, assuming normal -- I mean, is there much
6 traffic on these streets?

7 A. No.

8 Q. What kind of road are we talking about?

9 A. We are talking about a, I mean, county area, I mean,
10 it's not a country road, it's paved well, but it's still
11 county. So there is no commuter traffic. A lot of
12 farmland, farmers in the area.

13 Q. How long would it take to drive normal traffic from
14 the AM-PM to the ponds?

15 A. Approximately five minutes.

16 Q. Okay. All right.

17 Now we can get back to where we were. When you last
18 see the car until -- when you last see that car going north
19 on North Tracy Boulevard, when's the next time any of the
20 video cameras pick it up?

21 A. Be at 17:56 hours.

22 Q. Is that the time on this Exhibit 45?

23 A. Correct. Which would be 5:56 p.m.

24 Q. Where on the -- so from the time it leaves the view to
25 the time it's picked up again, twenty-nine minutes?

26 A. Approximately, correct.

27 Q. Approximately, rounding it off.

28 Okay. Figure it takes five minutes to go, five

1 minutes to come back approximately?

2 A. Correct.

3 Q. So that would give someone about twenty minutes
4 approximately there at the pond?

5 A. Correct.

6 Q. And then what is it that you see at 5:56?

7 A. You see Melissa Huckaby's vehicle come into the --
8 to -- come to the corner of Tracy and Clover and turn right,
9 which would be westbound on to Clover Road from Tracy
10 Boulevard, bypassing the cameras in the opposite direction
11 of where we saw her earlier, heading west back towards the
12 complex or to the church area.

13 Q. Do we see her on the Best Western, too?

14 A. Yes, we do.

15 Q. And the time between when you see her at AM-PM and
16 when you see her at Best Western is about thirty seconds?

17 A. Approximately.

18 Q. Okay. That's not too far off from the time between
19 those two locations going in the opposite direction?

20 A. Correct.

21 Q. Is that correct?

22 A. Do you recall --

23 Q. Forty-four seconds this way and about thirty-one
24 seconds the other way, do I have it right?

25 A. Correct. If you recall, she was like three or four
26 cars back sitting at a stoplight.

27 Q. That's right. Thank you.

28 All right. So can you see with the AM-PM surveillance

1 the Kia heading southbound at 5:56?

2 A. Uh-huh. Let me just fast-forward to it.

3 MR. TESTA: Did you say 10:30 for the break?

4 THE FOREPERSON: Uh-huh.

5 MR. TESTA: Are you able to do this now or do
6 you need time to set it up?

7 A. It's almost there. Just got to fast-forward to it.

8 Q. How many miles is it from the AM-PM to the ponds,
9 someone asks?

10 A. My estimate is -- actually found out exactly what it
11 was yesterday in talking to Detective Bauer.

12 Q. Well, I'll ask him then.

13 A. Yeah, but my estimation was between two to three miles
14 yesterday is what I estimated.

15 MR. TESTA: Why don't we take our break, we
16 will come back and have it all lined up for you.

17 How long are you taking, fifteen minutes?

18 THE FOREPERSON: Uh-huh.

19

20 (Recess.)

21

22 THE FOREPERSON: We are all back from break,
23 and all jurors are accounted for.

24 MR. TESTA: Thank you.

25 THE FOREPERSON: And the witness -- the
26 witness is still under oath.

27 MR. TESTA: Q. Okay. We are back on the
28 record. Can you pick up where you left off?

1 A. Yeah.

2 Q. Which is where now?

3 A. This will be as far as Melissa Huckaby's vehicle
4 coming back into view headed southbound on Tracy, turning
5 westbound on to Clover Road.

6 One thing to note real quick, there was a question
7 about the time as far as what was accurate, because one
8 indicated 5:46, the other indicated 17:56, which would be
9 5:56. The time stamp on this is 5:56. So that was a typo.

10 Q. You are referring to Grand Jury Exhibit 45?

11 A. Correct.

12 Q. As it's been corrected, this Grand Jury Exhibit 45, is
13 it accurate now as to the 5:56 instead of 5:46?

14 A. Yes, it is.

15 Q. In both places on the exhibit?

16 A. Yes, it is.

17 Q. Okay.

18 A. What I'll do is same thing as last time, I'll start it
19 off small, walk everyone through it, blow it up so you can
20 actually follow it yourself.

21

22 (Video playing.)

23

24 A. This here is Melissa Huckaby's vehicle. Once again,
25 you can notice the two-toneness of the vehicle, the silver
26 on the bottom and the metallic on top.

27 The vehicle will turn on to Clover Road.

28 Q. Okay. Then just show it to us one time in large and

1 then we'll go on to the next one. We get the idea. You
2 studied them, you were able to see what you saw.

3

4 (Video playing.)

5

6 A. Once again, with this view here on the computer, you
7 can see the two-toneness of the vehicle and you can actually
8 see the tire in the back.

9 Q. With the laser, can you show us where?

10 A. Yeah, I'll show you where you're going to look.

11 This is the vehicle right here, which this is really
12 pixelated due to the enlargement, but it will come here,
13 this is a south -- south on Tracy Boulevard, and will turn
14 right on to Clover Road, which is westbound, towards the
15 trailer park area and the church area.

16 Q. You can see the two-toned, you can see the tire.

17 Okay. I see it. Okay.

18 Okay. And can we move on to the next video or what
19 are you --

20 A. Yes. Then you'll pick it up passing the Best Western.

21

22 (Video playing.)

23

24 A. And there's the vehicle coming into view, passing the
25 Best Western. I will make it larger.

26

27 (Video playing.)

28

1 A. Once again, right here you can see the overall size of
2 the small SUV and tell it's two-toned. And once again, in
3 the rear right there, you've got the protruding rear tire.

4

5 (Video playing.)

6

7 A. It's kind of -- still see it here even though it's
8 blown up. There's the tire. There's the silver bottom with
9 the darker top.

10 Q. Going towards -- in the direction of the trailer park
11 or the church?

12 A. Correct.

13 Q. Okay. Can you mark -- maybe mark this video -- have
14 you already affixed the exhibit number?

15 A. For AM-PM, we have not; for Best Western, we have.

16 Q. Okay. Can I get one more tag for Best Western?

17 A. For AM-PM you need it.

18 Q. For which one?

19 A. AM-PM.

20 Q. AM-PM.

21 A. I'll go ahead and let this play. The vehicle will be
22 coming into view from here and passing Best Western.

23

24 (Video playing.)

25

26 Q. Just went by?

27 A. Just went by.

28 Q. Okay. Can you affix 74 then to the AM-PM

1 surveillance?

2

3

(Whereupon a CD was marked Grand Jury

4

Exhibit Number 74 for identification.)

5

6

MR. TESTA: Q. So picking up as we wrap this
7 part up, we now have seen the --

8

A. You don't need this footage again, right?

9

Q. No, I don't need the footage.

10

What's the next thing you pick up on video?

11

A. The next thing that you'll pick up is you'll actually
12 pick her up coming back into the complex later on.

13

Q. So we just saw her at 5 -- her vehicle at 5:57, going
14 westbound on Clover, correct?

15

A. Correct.

16

Q. And the next time -- hold on.

17

So we see the vehicle at AM-PM, Best Western, now you
18 don't -- we can't -- do we have anything that shows whether
19 she went into the trailer park or continued on to the
20 church?

21

A. There is nothing that indicates that she turned back
22 into the trailer park after passing Best Western in viewing
23 the footage.

24

Q. This is westbound on Clover?

25

A. That is correct.

26

Q. Well, if you're going westbound on Clover, you say
27 there's a dead end, right?

28

A. Correct.

1 Q. So assuming she went to the church, when do we next
2 see her in any of the videos?

3 A. It would be at 7:10 p.m.

4 Q. And where on this Exhibit 64, which video picks her up
5 at that time?

6 A. The one that's mounted on Sandra Cantu's home, which
7 would have -- which depicts Melissa Huckaby's vehicle coming
8 eastbound on Clover Road --

9 Q. Oh, can you --

10 A. -- turning into the complex, you pick her up turning
11 into the complex and parking in the same area where the
12 vehicle was parked earlier where we viewed it backing out.

13 Q. You can actually see her coming from that easterly --
14 in the direction from the church direction?

15 A. You see her turning into the complex coming from this
16 location, yes. You don't pick up the vehicle travel here.
17 You pick up the vehicle coming from this area right in here
18 turning in. It's not turning this way; it's turning this
19 way.

20 Q. It's making a right turn?

21 A. It's making a right turn into the complex.

22 Q. Which is consistent having gone in which direction?

23 A. West.

24 Q. Coming from?

25 A. Coming from west, traveling east.

26 Q. Okay. You can actually see the type of turn she's
27 making?

28 A. Correct.

1 Q. Do we have that video?

2 A. That's what I was just loading in right now.

3 Q. That will be the last one, if you could show us that.

4 And does it show if she gets out of her vehicle when
5 she parks it in the overflow parking spot?

6 A. Yes, it does.

7 Q. Does it show her clothes?

8 A. Yes, it does.

9 Q. Why don't we see it?

10 A. It's not loading.

11 Q. Can I ask you questions while you're doing that?

12 Is there general access at the pond -- to the ponds?
13 Can anyone go to these ponds?

14 A. Yes.

15 Q. I mean, there's no gate you have to open in order to
16 get to them?

17 A. No, it's not enclosed.

18 Q. Okay. Does Exhibit 73 show that?

19 A. You have to switch back to your computer that we ran
20 yesterday.

21 Yes, it does. This particular roadway here has
22 general access, although it dead ends.

23 Q. If you were coming off of North Tracy Boulevard?

24 A. You would turn right off of North Tracy Boulevard to
25 access this roadway.

26 Q. Remember the name of that roadway?

27 A. Not off the top of my head, no. It's one of the two
28 names you mentioned earlier.

1 Q. Bacchetti or Whitehall?

2 A. Correct.

3 Q. Oh, you're going to go back to the computer you used
4 yesterday?

5 A. Right, to view the other footage, the original
6 footage.

7

8 (Pause.)

9

10 Q. While we are waiting, you said you went up there in a
11 helicopter. Did you guys take video or photographs or both
12 from the helicopter?

13 A. Both.

14 Q. What date did you go up, the day that the suitcase was
15 found?

16 A. Correct.

17 Q. We have a calendar over there that's been marked as an
18 exhibit. April 6, suitcase found. So do we assume that's
19 the date you went up there in the helicopter?

20 A. That would be correct.

21 Q. How long is this video, a few minutes?

22 A. Correct. Yeah.

23 Q. Does it show the road between the trailer park and the
24 ponds?

25 A. I don't recall off the top of my head as far as --

26 Q. Okay. Could we have this marked as People's next in
27 order the -- what is the name of the item that --

28 A. It's a USB stick.

1 Q. It's a what?

2 A. A USB stick.

3 Q. Could you say it more slowly?

4 A. A USB stick.

5 Q. May we have that marked?

6 A. Yes.

7 Q. Is that your only copy?

8 A. It's the copy that was booked into evidence, yes.

9 Q. So there's no other?

10 A. There's no other copies.

11 Q. This is the original. We will mark it for today and
12 we can always duplicate it.

13 MR. TESTA: This would be which number?

14 THE SECRETARY: 75.

15 MR. TESTA: Pardon me?

16 THE SECRETARY: 75.

17

18 (Whereupon a USB Stick was marked Grand
19 Jury Exhibit Number 75 for
20 identification.)

21

22 (Pause.)

23

24 MR. TESTA: Q. Can I ask you some questions
25 while we're waiting, or can you do something else?

26 A. Yeah.

27 Q. Showing you -- want me to wait until you're done?

28 A. No, go ahead.

1 Q. Showing you 72, there's a question from the Grand
2 Jury, can a car park in between the ponds? If you don't
3 know the answer, I could call Detective Bauer.

4 A. As far as fitting through this area here?

5 Q. Yes. Yes.

6 A. Most definitely.

7 Q. Is that illustrated here if we show -- would you
8 recognize what's in Grand Jury Exhibit 5?

9 A. That is the dirt embankment that separates these two
10 ponds.

11 Q. What about between the -- the suitcase was found
12 where?

13 A. Over in this area here.

14 Q. The pond on the right?

15 A. Correct.

16 Q. Okay. And how would you drive to that?

17 A. You can either come up this embankment here or there
18 was an embankment up this way. I'm not sure if you could
19 drive in between the shrubbery to get there or not.

20 Q. Okay. Another question from the grand jury: Wouldn't
21 the trailer park's camera catch the SUV passing towards the
22 church on the return trip?

23 A. From that view, it's difficult to tell what type of
24 vehicles they are because the overall angle is a little
25 skewed. So no, I wasn't able to pick it up passing from
26 that camera angle.

27 Q. Well, you were able to pick it up coming back at the
28 video we are about to see at 7:10, right? You could even

1 see which time -- which direction it was turning; it was
2 making a right turn, correct?

3 A. You could pick it up coming up, turning into here,
4 because the vehicle turns in. Over here, the camera will
5 pick up movement back here, but the clarity, as far as what
6 vehicles they are, is not very clear.

7 As far as something coming into the complex and
8 turning in, due to the fact that her vehicle comes this way,
9 turns in, you follow it, and then you really see her vehicle
10 as it approaches, there's no doubt that the vehicle that
11 turns in here is her vehicle.

12 Q. Okay.

13 A. Just like --

14 Q. Right -- coming from the direction of the church
15 turning right, you could actually make it out that it was a
16 right turn?

17 A. Correct.

18 Q. But vehicles -- the juror's asking why couldn't you
19 make out her vehicle on the return trip going back to the
20 church, and you're saying the clarity's not good enough at
21 that point?

22 A. Correct.

23 Q. Okay. Excellent question. As most of these are, if
24 not all of them.

25 General access to the pond. Please give us a
26 timeline. We will do that later.

27 Any video from within the trailer park later in the
28 evening on the 27th?

1 GRAND JUROR 19: He's knocking at the door.

2 THE WITNESS: Yes, there is.

3 MR. TESTA: Q. We see that?

4 A. We do have access to that.

5 MR. TESTA: All right. Oh, come on in.

6 Thank you, sir.

7

8 (Whereupon the technical support person
9 entered the grand jury room.)

10

11 MR. TESTA: How did you have this set up
12 before? We had to move it. We had to see some of the
13 videos, so I had to hold it in my hand.

14 Can you put it back where you were? Do you remember
15 where it was?

16 TECHNICAL SUPPORT PERSON: It wasn't that
17 far. It wasn't that far from there, that I remember.

18 MR. TESTA: Sometimes you guys put tape down.
19 I wasn't sure. And does this have to be on the -- I moved
20 this.

21 TECHNICAL SUPPORT PERSON: You can move that.
22 You can adjust it to where it's lower.

23 MR. TESTA: So we can't bring it into the
24 size because we are not moving --

25 TECHNICAL SUPPORT PERSON: It's not wide
26 enough. If you do need one, I can bring another wider one.

27 MR. TESTA: Thank you for coming up. I'm
28 sorry about that. I don't know why we couldn't get in

1 there. You did it, you got us into the computer.

2

3 (Whereupon the technical support person
4 exited the grand jury room.)

5

6 MR. TESTA: Q. So are you getting ready to
7 show us now the --

8 A. Load up here.

9 Q. -- the last of these? The car returns from West
10 Clover and turns into the complex?

11 A. Correct.

12 Q. That's what we are about to see?

13 By the way, there's about an hour and thirteen minutes
14 from when we last see the vehicle coming back on the Best
15 Western going towards the church until it pulls back into
16 the trailer park at 7:10, correct?

17 A. Correct.

18 Q. Between 6:57 and 7:10 -- or I meant 5:56.

19 A. 5:56.

20 Q. Did I misspeak, 5:57 you have here?

21 A. Correct.

22 Q. To 7:10?

23 A. To 7:10, that is correct.

24 Did you want to switch this? This is plugged in.

25 This is just audio. Something get pressed on that?

26 Q. I don't know if he touched anything or if I touched
27 anything.

28 A. What about on here? This thing's working okay.

1 Q. Well, maybe I better call another witness and we can
2 work this out and you can take care of it in the other room
3 so we don't end up wasting.

4 A. This is ready to play. I don't know, it just needs to
5 broadcast on to here like it was earlier.

6 GRAND JUROR 15: Before, they had mentioned a
7 stand-by on that piece you're at there.

8

9 (Pause.)

10

11 THE WITNESS: Everything is plugged in.

12 MR. TESTA: Okay. Well, we're going to have
13 to come back. They are not answering.

14 THE WITNESS: Video's ready to go.

15

16 (Pause.)

17

18 MR. TESTA: Can you get Tim Bauer in here and
19 ask him if he can work on it?

20

21 (Pause.)

22

23 MR. TESTA: Okay. Why don't you take a
24 break, I will call my next witness, you can look into it,
25 find the tech people or do what you need to do.

26 THE WITNESS: Henry?

27 MR. TESTA: Yeah. We just can't waste
28 forty-five minutes we have got until the noon hour.

1 THE WITNESS: This is ready to go, so I'm not
2 going to shut it off or take it off.

3 Where would Henry be, the guy that was just in here?

4 MR. TESTA: Yeah, there's no answer.

5 I'll try some more numbers.

6
7 (Pause.)

8
9 MR. TESTA: Let me call Detective Bauer as my
10 next witness.

11
12 (Pause.)

13
14 THE FOREPERSON: Brandi, I need to read to
15 you the admonishment.

16 THE WITNESS: Okay.

17 THE FOREPERSON: You are admonished not to
18 reveal to any person, except as directed by the Court, what
19 questions were asked or what responses were given or any
20 other matters concerning the nature or subject of the grand
21 jury's investigation which you learned during your
22 appearance before the grand jury. This admonishment
23 continues unless and until such time as the transcript of
24 this grand jury proceeding is made public.

25 Violation is contempt of court.

26 THE WITNESS: I understand.

27 THE FOREPERSON: All right. Thank you.

28 MR. TESTA: I have this marked, please?

1 (Whereupon Photographs were marked Grand
2 Jury Exhibit Numbers 76 through 81 for
3 identification.)
4

5 MR. TESTA: Could you go to the DA's Office,
6 Mr. Brandi, and see if you can round up somebody from our
7 technical unit, explain the problem to them.

8 As soon as you find them, we will interrupt Detective
9 Bauer's testimony and resume with yours.
10

11 (Pause.)
12

13 MR. TESTA: The clerk will swear you in.

14 THE FOREPERSON: The foreman will swear you
15 in.

16 MR. TESTA: The foreperson.
17

18 **TIMOTHY BAUER,**

19 a witness called on behalf of the People, having been duly
20 and regularly sworn by the Grand Jury Foreperson, testified
21 as follows:
22

23 THE WITNESS: I do.

24 THE FOREPERSON: Thank you.

25 Would you state your name for the reporter,
26 please?

27 THE WITNESS: Timothy Bauer, B-A-U-E-R.
28

EXAMINATION

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BY MR. TESTA: Q. Where are you employed?

A. Tracy Police Department.

Q. What is your position there?

A. A person crimes detective.

Q. Are you a peace officer?

A. Yes.

Q. How long have you been a peace officer?

A. Ten and a half years.

Q. What was your connection into the investigation of the Sandra Cantu's disappearance?

A. I was the case agent.

Q. What is a case agent? Speak into the microphone, please.

A. I'm completely responsible for everything that takes place in this case. I was the first investigator assigned to it throughout the entire investigation.

Q. Were you the lead investigator on the case?

A. Yes, I was.

Q. So how did you get involved? When did you first receive notification?

We have got some calendars up here on the wall, March and April.

A. March 27th at 9:00 p.m.

Q. And what was that notification?

A. There was...

(Pause.)

1 MR. TESTA: May we interrupt you, Mr. --
2 Detective Bauer? And my apologies, let me have Detective
3 Brandi come back here and we will see if we can fix the
4 problem.

5
6 (Whereupon the technical support person
7 entered the grand jury room.)

8
9 MR. TESTA: Here we go. Thank you again.
10 You going to keep your phone on because I called, there was
11 no answer.

12 TECHNICAL SUPPORT PERSON: Yeah, because I
13 was in court and I turned it off because --

14 MR. TESTA: I understand.

15 TECHNICAL SUPPORT PERSON: -- the judge.

16 MR. TESTA: Fair enough. Thank you for
17 coming up.

18 TECHNICAL SUPPORT PERSON: No problem.

19 MR. TESTA: If we need you in the next thirty
20 minutes, your phone will be on?

21 TECHNICAL SUPPORT PERSON: I'm going to turn
22 it on right now.

23 MR. TESTA: At 1:30 if we need you, will it
24 be on?

25 TECHNICAL SUPPORT PERSON: Yes.

26 MR. TESTA: Because the doctor's coming at
27 1:30 and he's going to need to use this, too.

28 TECHNICAL SUPPORT PERSON: You got it.

1 MR. TESTA: Thank you. Thank you, sir.

2

3 (Whereupon the technical support person
4 exited the grand jury room.)

5

6 **ROBERT BRANDI,**

7 a witness called on behalf of the People, having been
8 previously duly and regularly sworn by the Grand Jury
9 Foreperson, testified further as follows:

10

11 **EXAMINATION (RESUMED)**

12 BY MR. TESTA: Q. You were about to play for
13 us that video from the Cantu residence surveillance camera?

14 A. Correct. If I can get the laser pointer.

15 Q. It's behind your PC there.

16 A. Okay. What we'll be looking at, we will be looking at
17 this area here which is the entrance/exit point of the
18 complex.

19 You'll notice the vehicle come into picture, traveling
20 eastbound here, turn into the complex, make a right, going
21 to make a left on to Orchard and come south on Cherry. That
22 vehicle will then park right in here.

23 Due to direction of travel, as far as how it turned
24 into the complex we're getting a clear view of the vehicle
25 right here and parking back in that stall, it is definitely
26 Melissa Huckaby's vehicle.

27 Q. Hold on for a second. There's a time on the bottom
28 here?

1 A. 18:09.

2 Q. That says what?

3 A. It says it's 6:09, which is 18:09. That is
4 approximately one hour off.

5 Q. Okay. Okay. Now we are going to be watching
6 something -- maybe I'm misunderstanding you. Okay. I see.
7 So it's really what time?

8 A. It's really -- where we are starting it is -- it says
9 on here 6:09 p.m., but due to the Daylight Savings Time, it
10 will be 7:09 p.m.

11 Q. Okay.

12 A. Which this indicates 19:10, which is 7:10 p.m.

13 Q. So we are -- you just put it a minute earlier from
14 where we are going to see the vehicle turn in?

15 A. Correct.

16 Q. What exhibit number are we watching now?

17 A. This is Exhibit Number 53.

18 Q. Okay. Just so we are clear here, could you -- what
19 number did you give the Best Western tape?

20 A. The Best Western is Exhibit number 63. AM-PM is
21 Exhibit Number 74. And Exhibit Number 53 is the video
22 footage from the Cantu residence, trailer number 63.

23 Q. So we are watching which one now?

24 A. 53, from the trailer park footage.

25 Q. What exhibit number?

26 A. 53, Exhibit Number 53.

27 Q. Which we have already seen part of?

28 A. Correct. We viewed some of that footage yesterday.

1 Q. So we started with that; we're going to end with that?

2 A. Correct.

3

4 (Video playing.)

5

6 A. So there's the vehicle come into view. You can tell
7 it turns into the complex coming eastbound. The vehicle
8 then turns on to Orchard and then on to Cherry. You notice
9 the two-toneness of the vehicle which coincides with Melissa
10 Huckaby's vehicle. And it parks right back in the same
11 place where it left originally. There's the tire as well.

12 Q. Does it continue? Can we keep playing?

13 A. Yeah.

14 Individual then exits the vehicle and walks southbound
15 on Cherry towards number 57 where she lives -- or Melissa
16 Huckaby lives.

17 Q. Getting out of the driver's door, correct?

18 A. Correct. Wearing the same clothing.

19 Q. How can you tell? It looks darker here than the first
20 video. Is that just the lighting here?

21 A. No, it's actually the time of the day. It does start
22 to get darker. But on here, on the computer screen, you can
23 still see that -- they look more grayer due to the fact that
24 it's darker. But it has the same motion on the bottom that
25 we noticed yesterday as far as the wavering of the bottom of
26 the pant. And we still have the -- the dark T-shirt as
27 well.

28 Q. Now, did you say you thought you saw a backpack or

1 something on her at this point? Because, remember, I had
2 mentioned that earlier?

3 A. It's hard to tell if she's got one of those shoulder
4 purses or backpack purses on or not. It does appear she's
5 holding a cup of some sort.

6 Q. Well, who's --

7 A. Melissa Huckaby.

8 Q. This language, same clothing, now has a cup and
9 possibly a backpack or backpack purse, if not -- what's a
10 video anomaly?

11 A. Sometimes with -- with the video footage, just like in
12 the footage that we observed earlier of Sandra Cantu
13 skipping past her residence, for awhile it looked like she
14 may have had something draped as well on her right side.

15 But what it is is because of the distortion and
16 pixelation and low quality of the video system itself,
17 sometimes creates shadows or anomalies, so sometimes shadows
18 may look like something that were not.

19 Q. Now, I'm not a witness, but I thought I saw her with a
20 backpack at the first part of the video. But be that as it
21 may, can we see this one again, though?

22

23 (Video playing.)

24

25 Q. Does she go out of view now at this point?

26 A. Yeah.

27 Q. Let's just -- what -- is this in the foreground here
28 where this vase is, this is the same --

1 A. Same porch of unit 63.

2 Q. Sandra Cantu's place?

3 A. Correct. As you can see, she's definitely carrying
4 a -- possibly what's a coffee cup.

5 As far as the backpack, it appears that there's
6 something here shouldered as she walks by. But it it's
7 really hard to tell.

8 Q. If you make it smaller, is it clearer, the way it was
9 with the AM-PM and the Best Western or --

10 A. It's a little too small actually for them to see. You
11 have to be up on the computer screen itself.

12 Q. Again, you've seen this one many, many -- you've gone
13 over it and viewed it and so forth more times than we are
14 going to do it today.

15 A. Correct.

16 Q. Can you start it at the beginning again when she's
17 turning in, and show us how you can tell it was -- I think
18 you said a right-hand turn?

19 A. Correct.

20 Q. By the way, what's the tall building in the
21 background, is that one of the hotels?

22 A. That's Microtel.

23 Q. There was no video that you guys --

24 A. No.

25 Q. -- no usable video from that hotel?

26 A. Correct.

27

28

(Video playing.)

1 A. Okay. Once again, we will be paying attention to the
2 upper left-hand corner here.

3 Q. Can you with the laser show us where?

4 A. Right there.

5 Q. I just saw the turning.

6 A. You saw the vehicle turned in. I will try to -- this
7 one I can't frame-by-frame.

8 If you look here, there's the vehicle. It definitely
9 comes from the west, eastbound, turns into the complex
10 travels here, and then parks right in the stall that it left
11 earlier.

12 So as you can see, as far as how it turns into the
13 complex, that it came from an area that would be consistent
14 with the church.

15 Q. By the way, is this Sandra's sister here?

16 A. That is her sister, yes. Her older sister.

17 Q. They out there looking for her?

18 A. Not as of yet.

19 Q. This is 7:10?

20 A. Correct. They have done little looks here and there,
21 but they weren't completely worried --

22 Q. What time --

23 A. -- at that particular time.

24 Q. Pardon me for talking over you.

25 What time was the 911 call? Don't --

26 A. Yeah.

27 Q. I'm sorry, I'm asking you two different things.

28 A. I have to look at my notes for that.

1 Q. Here we go, she's holding something?

2 A. Right. And then right there it may possibly be some
3 type of backpack purse or -- or -- or a purse. Just because
4 it was more towards the back area versus the side, it might
5 be the backpack purse style. Or a shadow, which digital is
6 known for.

7 Q. Okay. So do all these videos that you've shown us
8 today accurately depict what you saw on them when you viewed
9 them and studied them?

10 A. Yes, they do.

11 Q. Does that conclude that particular video or does it go
12 on beyond?

13 A. It continues to go. There's also footage of her
14 leaving later on that night with police presence.

15 Q. Can you show us that?

16 A. That would be on a separate CD.

17 Q. Okay. Can we have that marked separately then and
18 have our next exhibit? But it's the last one at least on
19 our timeline here.

20 So if we can continue our timeline, what time is she
21 next seen on the video?

22 A. This was actually assigned to me after this
23 timeline -- timeline was formulated. So actually at 8 --
24 excuse me, 10:05 at night, she was seen leaving the complex
25 once again. She actually approaches one of our -- I believe
26 it's a CSO, because one of our pickup trucks that our CSOs
27 use was blocking the way, approached the individual that was
28 driving that pickup, asked them to move. The female, which

1 I believe is Melissa Huckaby once again, gets in the car,
2 backs out, leaves. And if you follow the taillights, once
3 again it turns westbound on to Clover Road, which would be
4 towards the church.

5 Q. Okay. Well, we heard yesterday from this woman,
6 Rebecca Calas, who was at her brother's house, I believe it
7 was, when she saw -- when she saw -- and she gave us the
8 time that she saw it and so forth, so that would be -- she
9 described the vehicle, so that would be consistent with what
10 you're talking about.

11 Is there anything we gain out of seeing this one? I
12 mean, I know it takes awhile -- let's see what she's
13 wearing.

14 A. I remember this one here, pretty much looks black and
15 white.

16 Q. By the way, could you tell if she had a ponytail when
17 you saw her on this one when she's holding the cup?

18 A. I don't see hair draped down or covering the forehead.
19 You get a pretty good view of her forehead. But I can't say
20 one hundred percent sure she's wearing a ponytail.

21 Q. This last tape that I guess we're going to see, this
22 is at 10:05 p.m., or do you have -- is it going to show the
23 time on the tape?

24 A. It will be one hour off once again. It will show
25 21:05.

26 Q. Okay. And you've studied this tape, too?

27 A. Yes.

28 Q. How does her clothing compare with the clothing in the

1 earlier tapes?

2 A. It is the -- it appears to be the same clothing.

3 Q. Okay. I'm assuming it's much darker and it's going to
4 be even harder to see this one than the first tapes we saw?

5 A. Correct. This is a different one. It's in the wrong
6 sleeve.

7 Q. Did we mark this one?

8 A. This has not been marked as of yet. That would be 75?
9 Oh, that's the USB stick.

10

11 (Video playing.)

12

13 A. This vehicle here with the flashing lights is the
14 truck that I indicated that will be moved. Melissa
15 Huckaby's vehicle is still parked in this stall where we
16 originally saw it go during the daylight hours.

17 Q. Obviously, by now, the police are there, and they are
18 doing -- everyone -- looks like there's law enforcement just
19 walked into the Cantu house.

20 A. Yeah, we are everywhere right now.

21 Q. So you're going to show Grand Jury Exhibit 82. Do you
22 want to mark the container that the CD came in?

23 A. Yes.

24

25 (Whereupon a CD was marked Grand Jury
26 Exhibit Number 82 for identification.)

27

28 MR. TESTA: Q. This will be the 10:05 p.m.,

1 sighting of Melissa Huckaby on the Cantu surveillance video,
2 correct?

3 A. Correct.

4 Q. And what time are you going to put it to?

5 A. It shows on my notes 21:05. So we are at 21:01 right
6 now, so we are getting there.

7 Q. You going to fast-forward it?

8 A. Yeah, a little bit.

9

10 (Video playing.)

11

12 Q. But we could, if we want to sit here and watch this
13 tape, we could kind of see what's going on in terms of the
14 investigation, too, correct?

15 A. Correct. You could see bodies, vehicles, all type of
16 movement.

17 Q. And the blinking light is whose truck?

18 A. That I believe is one of our CSO pickup trucks.

19 Q. It's blocking Melissa Huckaby's?

20 A. Correct, it would be blocking her from being able to
21 back up her vehicle.

22 Q. So she asks them to move or him to move his vehicle so
23 she could get out?

24 A. Correct.

25 Q. At 10:05 p.m.

26 So here we have 10:05:22.

27 A. I believe this is the -- the female right here, which
28 I believe to be Melissa Huckaby, that will ask the

1 individual to move the vehicle so she can get out.

2 This time it does look like there is some type of
3 backpack or purse that she is holding.

4 As far as to determine the color of the -- the
5 clothing, it's hard to depict due to the fact that this is
6 all in black and white due to the time of night. You don't
7 visualize in color.

8 That's the CSO that just got asked to move his
9 vehicle.

10 Q. But you can see the -- the wavy pants or whatever you
11 call them?

12 A. Correct.

13 Q. Unstructured?

14 A. The overall size and -- and body shape of the
15 individual is right in line with Melissa Huckaby. When she
16 walks through here actually on the screen, you get a side
17 profile of the face which might indicate that the hair was
18 pulled back.

19 Q. And she's coming from -- a direction of her house?

20 A. Correct. That individual walked northbound on Cherry.

21 What you'll want to pay attention to, you want to pay
22 attention to the vehicle as it backs out, and follow the
23 taillights.

24 Q. So the officer just moved his blinking-lighted truck.
25 Do I understand that correctly?

26 A. That is correct.

27 Q. But looks like there's another patrol car. Is that
28 one blocking her view as well?

1 A. No. The vehicle's backing out right now.

2 Q. There we go. 10:07.

3 A. And if you watch the footage leading up to this, you
4 see the vehicle was there and did not move prior to now.
5 You can kind of see the overall side, the two-toneness of
6 the vehicle still. You could see the rear tire in the back.

7 What you'll want to do is you'll want to follow those
8 lights, the taillights, the whole way out and you'll see
9 that it will turn left, which is west on to Clover Road
10 which is heading back towards the church.

11 Q. Where do we see it turning left?

12 A. You'll see it right here. There's a car in front of
13 her. She's the next car. The brake lights just went on.
14 The blinker went on to turn left. And the vehicle turns
15 left, which is westbound on to Clover heading back towards
16 the church.

17 Q. Okay. I think I saw that.

18 All righty. And that one has been marked now as what
19 number?

20 A. Exhibit Number 82.

21 Q. Okay. I think now the very final thing we are going
22 to watch is that USB stick, Grand Jury Exhibit 75.

23 A. I will see if I can get that to play.

24

25 (Pause.)

26

27 A. It's not going to play unless you hit "restart"
28 because I had to install the software into the computer.

1 Q. Okay. So that means --

2 A. Like I say, with all of these different types of
3 recording systems, they all have their special stuff.

4 Q. That's the only thing we won't see. Or can Detective
5 Bauer play it?

6 A. We could restart it. And, yeah, he might be able to
7 play it. Or if you need me to stay and play it after lunch,
8 I can play it after lunch.

9 Q. Okay. I've got the doctor coming at 1:30. It's only
10 a five-minute tape?

11 A. I could stay right now, get it ready.

12 Q. Okay. We'll do that.

13 Let me see if there are any other questions from
14 either the grand jurors or from me, because that really
15 would be the last thing I was going to put you on, but let
16 me just look over my notes see what else I have for you.

17 Did you -- oh, thank you. Question from a grand
18 juror: Had the trailer park area been secured by 10:05, and
19 was Huckaby the only resident leaving the area?

20 A. There was a police presence. In regards to the area
21 completely being shut down and vehicles being searched at
22 that time, no.

23 Q. I'm sorry, what's your answer?

24 A. She wouldn't have been the only vehicle leaving the
25 area. There wasn't a shutdown perimeter set up at that
26 point. At that point, we were doing an internal canvas, you
27 know, checking common places as far as where Sandra Cantu
28 would go to play.

1 Q. What time was the 911 call, can you tell us?

2 A. Yes.

3 Q. Because you said you used the 911 call, didn't you, to
4 help determine the accuracy of the time on the Cantu
5 surveillance tape?

6 A. Correct. I have got that on my timeline. I don't
7 want to quote the wrong time.

8 Q. Do you have it on this Exhibit 45?

9 A. At that time, 7:53 p.m. is the 911 call.

10 Q. Let me write that down then on your Exhibit 45.

11 Do you happen to have that with you?

12 A. I do not have the 911 call, no, I do not.

13 Q. But it's on tape?

14 A. It's on tape. And it's also documented via the call
15 report.

16 Q. Okay. Let me see if -- okay. Just skipping to a
17 different topic, did you in this investigation go secure --
18 tow -- tow her car -- tow Melissa Huckaby's car or arrange
19 for someone to tow it?

20 A. Yes, I did.

21 Q. What date and why?

22 A. At that point in time, without actually looking at
23 the -- the 180 form, I don't recall the exact date.

24 But at the time, as far as having her vehicle towed,
25 at that point in time she was considered a -- a suspect in
26 the abduction of Sandra Cantu. So the vehicle was actually
27 towed from the STCH, Sutter Tracy Hospital parking lot, to
28 one of our local firehouses for FBI to process the vehicle

1 for evidence.

2 Q. Could you look at your report, see if it refreshes
3 your memory as to what time and date you did this?

4 I believe it's your page 5 of your report, line 20.

5 A. (Referring to report.)

6 Q. So just to get your orientation here, we have that
7 calendar up on the wall. April 6, the date the suitcase is
8 found. That's the same date you go up in the helicopter and
9 make the video and take the still photographs of the pond,
10 correct?

11 A. Correct.

12 Q. Did you make a report in this case about what you did
13 and when you did it?

14 A. Yes, I did.

15 Q. Do you remember offhand when it was that you went to
16 the -- arranged to tow Melissa Huckaby's car?

17 A. Although I did not time stamp it, I did date stamp it,
18 which was April 6, 2009.

19 Q. What time?

20 A. I don't have it time-stamped in my report.

21 Q. Do you remember if it was morning, afternoon, or
22 night?

23 A. It was evening, because it was dark.

24 Q. Okay. And what did you -- what did you arrange to
25 have done with her car?

26 A. I arranged for her vehicle to be stored -- towed and
27 stored at one of our local firehouses, so that way it would
28 be in a controlled environment for the FBI technicians to

1 actually process the vehicle for evidence.

2 Q. Where was her vehicle when you first saw it on that
3 April 6th date?

4 A. It was in the west parking lot of Sutter Tracy
5 Hospital.

6 Q. Where she was a patient?

7 A. Correct.

8 Q. And was it locked?

9 A. Yes, it was.

10 Q. So how did you get into it?

11 A. I believe we obtained an extra key from her residence,
12 from her grandparents.

13 Q. Okay. And then how was it towed, on a bed or was it
14 towed, you know, with --

15 A. It was towed on a bed, flatbed tow truck.

16 Q. Was it taken to Tracy Police Department Firehouse
17 Number 98?

18 A. It's Tracy Firehouse Number 98 in Mountain House,
19 correct.

20 Q. So when we see this photograph, 48, do you know the --
21 is that the firehouse?

22 A. That's the vehicle sitting in the bay where the fire
23 engines are stored of the firehouse.

24 Q. And, likewise, 46?

25 A. That is correct.

26 Q. Is the same location?

27 A. Same location.

28 Q. Well, you know, when you saw the vehicle, did you --

1 maybe it's just on TV, they try to look for dirt on the
2 tires or mud on the tires, or they try to do that kind of
3 examination of it to see if you could link it to the pond or
4 anything. Was there any such review of it with that in mind
5 or not?

6 A. That would have been done by the FBI agents --

7 Q. Okay.

8 A. -- that actually processed the vehicle.

9 Q. Okay. Let's see if I have any other questions for
10 you.

11 I have none, except for maybe that if you work during
12 the lunch hour for a few minutes trying to get --

13 A. We just need the password.

14 MR. TESTA: Come back then at 1:30?

15 THE FOREPERSON: 1:00 o'clock.

16 Q. Oh, did you say 1:00? All right. I believe the
17 doctor said he would be here at 1:00, not 1:30. My mistake.

18 So I will see you all at 1:00 o'clock. And you read
19 the admonishment?

20 THE FOREPERSON: Yes. Everybody be back
21 promptly, please.

22 You are admonished not to reveal to any person, except
23 as directed by the Court, what questions were asked or what
24 responses were given or any other matters concerning the
25 nature or subject of the grand jury's investigation which
26 you learned during your appearance before the grand jury.
27 This admonishment continues unless and until such time as
28 the transcript of this grand jury proceeding is made public.

1 Violation of this admonishment is punishable as
2 contempt of court.

3 Okay.

4 MR. TESTA: See you at 1:00. Thank you.

5 THE FOREPERSON: Wait. The rest of you make
6 sure you don't discuss this to anyone, don't make any
7 decisions about it until we deliberate.

8

9 (Recess.)

10

11 MR. TESTA: Are we all here?

12 THE SECRETARY: We are all here.

13 MR. TESTA: Could you state on the record
14 everyone is accounted for?

15 THE SECRETARY: Everyone is accounted for.

16 MR. TESTA: All righty. Detective Brandi is
17 still on the witness stand. The doctor's not here yet.

18 THE FOREPERSON: And you're still, Brandi,
19 you're still under oath.

20 THE WITNESS: Yeah.

21 MR. TESTA: Q. Detective, this is
22 Exhibit 75?

23 A. Yes. Exhibit 75.

24 Q. Could you give us a little background what we are
25 going to see?

26 A. Basically, what we are going to observe right now,
27 three separate cuts or separate pieces of footage.

28 I'm going to show one -- basically the one -- the

1 footage here is going to indicate kind of the travel pattern
2 over Tracy Boulevard, past the freeway, over to where the
3 pond area is.

4 And this footage, it's going appear shaky and
5 everything under the sun, just because it's off the
6 helicopter. The helicopter is actually, you know, flying
7 and traveling above, you know, what we will be looking at.

8 Q. But how --

9 A. It will depict, you know, you'll actually -- you'll
10 actually -- the footage will actually pan over towards where
11 the -- the trailer park is at and then pan back on to where
12 the actual road traveled, which was Tracy Boulevard, is at.
13 You'll go over the freeway. We'll go directly to where the
14 two ponds are located and there will be some footage of
15 that.

16 Also something that was brought up earlier by one of
17 the jurors as far as can you drive up on those areas, you
18 actually see from the footage as far as how easily you can
19 drive up on to those areas if you need to, so forth, as
20 well.

21 Q. Is there a time on the footage we are going to watch?

22 A. I believe there -- there is some type of video-stamped
23 time on there.

24 Q. As you're explaining to the jury what we are seeing,
25 could you refer to the material that's stamped on the video
26 so we have a record of it?

27 A. Yes.

28 Q. So someone reading this transcript will know just what

1 we're watching?

2 A. Correct. This will be -- there's three clips. And
3 this clip reads -- it's recorded on 09-04 of '06. And it's
4 entitled 1352F103-0.

5 Q. 09-04 of '06?

6 A. Correct. April 6, 2009.

7 Q. Okay. So is it already to play?

8 A. Yeah, we just have to turn all that stuff on.

9 Q. Lights out.

10

11 (Videotape playing.)

12

13 A. So this is an overview. This is Tracy Boulevard here,
14 traveling northward. This is the freeway that we indicated
15 earlier. That runs east and west.

16 Shortly here, the video will pan over here to the west
17 where you can pick up actually 812 West Clover.

18 Q. And it says 13:54:24?

19 A. Correct.

20 Q. So the trailer park is where?

21 A. Trailer park is over here.

22 Q. Best Western?

23 A. Is over in this area.

24 Q. AM-PM?

25 A. Was over in that area as well.

26 Q. Okay.

27 A. Now, it's going fixate back on to the direction of
28 travel as far as north on North Tracy Boulevard. Here's

1 your date and your time stamp up in the left-hand corner.

2 Q. 13:54:52?

3 A. Correct. As you see, this is North Tracy Boulevard
4 here. These are the ponds.

5 Q. 13:55:03.

6 So Whitehall at Bacchetti, you're not sure which is
7 which?

8 A. Correct. They both -- they intersect.

9 Q. And the Delta is where?

10 A. The Delta is right here to the north.

11 Q. 13:55:17, okay. Patrol cars?

12 A. Correct. This is when we're already on scene.

13 Q. 13:55:24. Okay.

14 So where was the suitcase found, will it show?

15 A. In this particular footage, I'm not sure if it shows
16 the entirety as far as trying to zoom in towards the
17 suitcase.

18 As you can see, you can drive up the embankment and
19 access this entire area with a vehicle if need be. You can
20 see tire tracks on there from people doing just that, as far
21 as the farmers.

22 Q. Or you could roll something that had wheels on it?

23 A. Correct. Especially coming in between the trees
24 here --

25 Q. 13:55:56?

26 A. -- you could actually roll something.

27 Q. Excuse me, 13:55:58. You were pointing out a spot in
28 the trees, I talked over you.

1 So it is four ponds, right, not five?

2 A. I believe it was four.

3 Q. I think that's what you said.

4 A. It's over in this area here is -- was the general area
5 as far as where the suitcase was located.

6 Q. 13:56 something.

7 A. That there was showing how also from that particular
8 angle that was mentioned earlier, someone could walk up or a
9 vehicle could drive up that embankment from that area as
10 well.

11 That's it of that footage.

12 Q. So where it says 13:53:59, can we see the trailer park
13 here?

14 A. Yeah.

15 Q. Is this the trailer park?

16 A. That's the trailer park right there.

17 Q. Where is the freeway?

18 A. The freeway is right here, running east and west.

19 Q. North Tracy Boulevard?

20 A. And North Tracy Boulevard is running north and south.

21 Q. And the ponds?

22 A. The ponds would be over in this here.

23 Q. Is that your arrow here?

24 A. Yeah.

25 Q. Could we actually make out the pond?

26 A. I don't know if you could actually say that, okay,
27 boom, there's the ponds. But in -- generically, overall,
28 this is going to be the area, as far as that you saw the --

1 the helicopter fly to.

2 Q. So that's it?

3 A. No, there's two more clips. They are just a short --

4 Q. Do we get anything more?

5 A. I don't know if it zooms into the --

6 Q. If they are real short, go ahead.

7 A. This is more footage of the ponds.

8

9 (Video playing.)

10

11 A. Right in there, like I said, in this area here is
12 where the suitcase was located.

13 Q. I'm sorry?

14 A. Over in this area, I was explaining that this is the
15 ponds once again over in this area.

16 Q. 12:38:54.

17 A. This is where the suitcase was located.

18 This is just giving an over -- an overall view of
19 what's surrounding the area. As you could tell, it's mainly
20 just farmland. A few homes.

21 Q. So the suitcase is where now?

22 A. It's over in this embankment right there.

23 Q. 12:39:32.

24 So whereabouts was the suitcase again? Just to get
25 perspective. We're at 12:40:27.

26 A. The suitcase is down in the -- the south -- towards
27 the southwest corner of the -- quarter way up the pond.

28 Q. Now, as far as where the suitcase was found, may not

1 be where the suitcase was dumped, right?

2 I mean, someone could dump it in one part of the pond,
3 then if it's found days later, it's another spot, you say --
4 does that sound reasonable?

5 A. Could be reasonable, depending upon the water levels,
6 the weight and so forth, as far as it moving.

7 Q. But there's no current in these ponds, is there?

8 A. No.

9 Q. They are still, they are just --

10 A. They are still.

11 Q. Do you know how they drain? You know where the water
12 is drained out of them?

13 A. The water is drained actually into the crops
14 themselves. They use it as a type of fertilizer.

15 But like I said -- mentioned earlier, do they get the
16 water from the Delta and so forth, that I don't know.

17 Q. Cow?

18 A. Correct.

19 That's what that pond is generally filled with, it's
20 filled with, you know, stuff from cows -- manure, urine, all
21 that kind of stuff.

22 Q. These ponds in question that we are talking about?

23 A. Correct. They are very acidic, it's not something you
24 would be able to dive or to actually wade through or -- or
25 do anything of the sort. You'd actually have to have it
26 decrease the level to be able to actually see what's in
27 there. Laymen's terms, it's nasty stuff.

28 Q. So if you were to park your car, you can park off the

1 road kind of like under one of the trees or off the side
2 possibly?

3 A. Correct. There's plenty of room just to move off to
4 the side here. Plenty of access areas to walk up to the
5 embankment, as well through these trees.

6 Right there is the suitcase.

7 Q. 12:42:09. Is it actually in the photo?

8 A. It was submerged, but not fully, and it was lying on
9 the embankment.

10 Q. What I mean, does it actually show in this clip?

11 A. I -- I -- I can eyeball it and tell you what it was
12 just because, like I said, I have watched it and I was up
13 there.

14 Q. What are these?

15 A. I have -- I don't know what those are.

16 Q. 12:42:37.

17 A. That's in the pond that the suitcase was not found in.

18 Q. Okay. So the first two look like they are empty, the
19 third one has some type of protrusion in the water, and the
20 fourth one is the pond in which the suitcase was located?

21 A. Correct. The furthest pond east of Tracy Boulevard.

22 Q. I'm referring to 12:43:01.

23 A. Then that's the end of that one.

24 Q. Okay. Is there anything on the third?

25 A. There is one more.

26 Q. Doctor is here.

27 A. Okay.

28

1 (Video playing.)

2

3 Q. What do we see here at 13:00:14?

4 A. Once again, this is an overall view of the surrounding
5 area of the ponds in question where the suitcase was found.
6 Right there.

7 Q. 13:00:26.

8 A. You can see the suitcase.

9 Q. So how far would you have to walk from the area where
10 the suitcase is found to where you parked your -- where all
11 those police officers have their cars parked on the side of
12 the road?

13 A. I didn't pace that out, so I probably wouldn't be the
14 person to ask. Not very far.

15 Q. What are we looking at here at 13:01:27?

16 A. Once again, it's the surrounding landscape, as far as
17 what's around, pointing back towards the city of Tracy.

18 Q. So we can see North Tracy Boulevard?

19 A. Correct.

20 Q. Is this it or not?

21 A. North -- once again, we are by the ponds.

22 Q. That's right.

23 A. That is Tracy Boulevard right there.

24 Q. 13:02:02. So we are talking about from the road to
25 about over here?

26 A. Correct.

27 Q. You say there is a space between the trees where you
28 can actually --

1 A. There's plenty of room in between those trees to walk
2 back there.

3 Q. 13:02:35 or so.

4 Fire truck?

5 A. That's the parked command post, mobile command post.

6 Q. 13:02:50.

7 Who was in charge of the scene out here by the pond,
8 was there any particular agency or person?

9 A. It was a joint effort between Tracy PD and FBI.

10 And that is all.

11 Q. Okay. So that's been marked as People's Exhibit 75,
12 right?

13 A. Correct.

14 Q. Your Exhibit 75.

15 MR. TESTA: Are there any questions from any
16 of the grand jurors on any of the testimony that Detective
17 Brandi has given us today or yesterday?

18 Because if not, I will ask that he be admonished and
19 excused.

20 THE FOREPERSON: You ready?

21 MR. TESTA: Okay. Ready for the
22 admonishment, I believe.

23 THE FOREPERSON: You are admonished not to
24 reveal to any person, except as directed by the Court, what
25 questions were asked or what responses were given or any
26 other matters concerning the nature or subject of the grand
27 jury's investigation which you learned during your
28 appearance before the grand jury. This admonishment

1 continues unless and until such time as the transcript of
2 this grand jury proceeding is made public.

3 Violation of this admonishment is punishable as
4 contempt of court.

5 THE WITNESS: I understand.

6 THE FOREPERSON: Thank you.

7 MR. TESTA: Okay. Call my next witness.

8 So you left all the exhibits here, right?

9 THE WITNESS: That's all.

10 This goes along with that also.

11 MR. TESTA: These are all the videotapes and
12 CDs, as well as the USB port?

13 THE WITNESS: As well as the USB port.

14

15 (Pause.)

16

17 MR. TESTA: Thank you for waiting.

18 I'll have about thirty or forty photos I'll need
19 marked right off the bat. Autopsy photos.

20 THE SECRETARY: Oh, great.

21

22 (Whereupon Photographs were marked Grand
23 Jury Exhibit Numbers 83 through 151 for
24 identification.)

25

26 MR. TESTA: You can have a seat in the first
27 green chair there, please. Yes, first one. There you go.

28 Could you state your name, please?

1 THE WITNESS: My name is Bennet Omalu.

2 MR. TESTA: And spell it, please.

3 THE WITNESS: B-E-N-N-E-T, Omalu, O-M-A-L-U.

4 MR. TESTA: And could the foreperson --

5 THE FOREPERSON: Could you please raise your
6 right hand?

7 MR. TESTA: -- swear the witness, please?

8

9

BENNET OMALU, M.D.,

10 a witness called on behalf of the People, having been duly
11 and regularly sworn by the Grand Jury Foreperson, testified
12 as follows:

13

14 THE WITNESS: Yes, I do.

15 THE FOREPERSON: Thank you.

16

17

EXAMINATION

18 BY MR. TESTA: Q. What is your occupation,
19 sir?

20 A. I'm the chief medical examiner of the County.

21 Q. Is this right in your eyes?

22 A. Oh, no.

23 Q. And what is your occupation?

24 A. I'm a forensic pathologist and neuropathologist.

25 Q. You did an autopsy -- among other things, you did an
26 autopsy in this case, did you not?

27 A. Yes, please.

28 Q. Upon Sandra Cantu?

1 A. Yes, please.

2 Q. Could you summarize your training, your education, and
3 your experience that qualifies you to conduct an autopsy
4 upon a person and to come in here in court and give us your
5 opinion regarding the cause and mechanism of death?

6 And you don't have to go into as much detail as you
7 might at a jury trial, or even at a preliminary hearing.
8 Just kind of a thumbnail sketch. You can just cover the
9 high points, because I know you have a -- a long history.

10 A. Well, I went to medical school. I passed the three
11 examinations -- the United States medical license exam,
12 steps I, II, and III, that you must pass to be recognized as
13 a physician in the United States.

14 I did an eight-month research scholarship at the
15 University of Washington in Seattle in cancer epidemiology.

16 And I did a four-year residency training in anatomic
17 and clinical pathology at Columbia University in New York
18 City at Harlem Hospital Center.

19 Then I moved on to the University of Pittsburgh in
20 1999 to do a one-year fellowship training in forensic
21 pathology.

22 Then after that, I moved on to the University of
23 Pittsburgh again for two years to do another fellowship in
24 neuropathology, which is a pathology of the brain.

25 Then I -- I proceeded again to do a three-year program
26 in public health/epidemiology.

27 And I have a Master's in public health, again from the
28 University of Pittsburgh.

1 And then I did another three years of Master's in
2 business administration/health management.

3 So currently, I have four board certifications. I'm
4 board certified in anatomic pathology, clinical pathology,
5 forensic pathology, and neuropathology.

6 I am -- I hold a Master's Degree in public health and
7 also a master's of business administration.

8 I am licensed to practice as a physician in four
9 states. States of California, Hawaii, Pennsylvania, and
10 Louisiana.

11 I'm a member of about fifteen professional
12 organizations.

13 I'm published extensively in the medical literature.

14 I've also published a book.

15 I'm an adjunct assistant professor of pathology at the
16 University of California at Davis and at the University of
17 Pittsburgh in Pennsylvania.

18 And I'm also a visiting professor at the West Virginia
19 University in Virginia.

20 I'm affiliated with the University -- with the
21 Rockefeller Institute of Neuroscience. We perform research
22 on the brain cell for athletes, looking for the presence or
23 absence of chronic traumatic encephalopathy.

24 And I am also consultant neuropathologist to medical
25 examiners' offices all across the country, the Las Vegas
26 Medical Examiner's Office in Reno, Nevada, and the Fairfax,
27 Virginia Medical Examiner's Office.

28 I also do consulting work in forensic pathology all

1 across the United States.

2 I hope that is sufficient.

3 Q. Well, I know you -- weren't you voted one of the best
4 doctors in the country?

5 A. Oh. Oh. I'm one of the top -- top physicians in the
6 United States, specifically the fields of forensic science
7 and neuropathology, yes.

8 Q. Who voted you that? Your wife?

9 A. It's the American Institute of Consumer Affairs, under
10 the Department of I think Commerce or State.

11 So they usually they have their way. It depends on
12 what you've published, discoveries you've made, and your
13 education. It's independent.

14 Q. You mentioned you've published some items. What areas
15 have you published in? I mean, do they concern the areas
16 that you will be testifying about today?

17 A. Yes, please. I am published in scientific journals,
18 peer review articles in scientific journals.

19 I have published papers on a variety of medical
20 issues, subjects on brain trauma, on forensic pathology, on
21 even people who have died and been buried for years and we
22 exhume them and performed autopsies, reported our findings.

23 I've also published some papers in health management
24 and business administration.

25 And I'm currently working on a variety of topics.

26 Q. Have you qualified as an expert -- I'll need these
27 first, this group separate -- did you qualify as an expert
28 in California courts as a pathologist qualified to give an

1 opinion regarding cause of death?

2 A. Yes, please.

3 Q. Many times?

4 A. Many times, hundreds of times, all across the United
5 States in different jurisdictions, including the federal
6 court system.

7 Q. Well, what about autopsies upon children, have you
8 had -- do you have experience in that area as well?

9 A. I've performed hundreds of autopsies on children. And
10 I have examined hundreds of brains of children who died
11 violently, who died suddenly, and who died from natural
12 causes as well.

13 Q. I don't know if I asked you this, how many years
14 altogether have you been a pathologist -- a doctor?

15 A. I became certified as a doctor in 1990. I worked as
16 an emergency room physician for four years. I performed
17 surgeries, saw patients, delivered over four hundred babies.
18 Then I came to the United States.

19 So it's nineteen years now, right? Wow. Nineteen
20 years. Time flies.

21 Q. It does. Okay.

22 Well, I'm just going to get right to the point here in
23 this case.

24 Did you -- how did you first become involved in the
25 investigation of the death of Sandra Cantu? What was -- do
26 you remember how you first got involved in this?

27 A. The very first time I got involved directly -- because
28 I heard about in on the news that she was missing and I

1 heard it was in our county. So sincerely I prayed that it
2 wouldn't end up unfortunate -- you know, an unfortunate
3 matter, because I did not want to be involved in such high
4 profile case.

5 So, unfortunately, on April 6th, at about 2:00 p.m., I
6 was performing autopsies actually, the deputy coroner called
7 me that the FBI wanted me at the scene.

8 Q. April 6th, 2009?

9 A. Yes. Yes.

10 Q. So where'd you go?

11 A. So I completed the autopsy I was doing. And they
12 picked me up at the Sheriff's Office and they took me -- the
13 deputy coroner was driving to some holding pond in Tracy.

14 Q. Do you have a laser?

15 A. In Tracy, California.

16 So I got there. I met with the FBI agents.

17 Q. Showing you People's -- Grand Jury Exhibit 4. Go
18 ahead.

19 A. So the FBI -- the lead investigator on the case
20 accompanied me and we went to this holding pond. According
21 to their protocol, they suspected Sandra may be in this
22 luggage, so we actually came close, I did not touch it,
23 examined this and examined the environment.

24 MR. TESTA: Can you hear him or does he need
25 the microphone?

26 THE FOREPERSON: No, I can hear him.

27 MR. TESTA: Q. Go ahead.

28 A. I examined the environment, performed a scene

1 investigation, visual scene inspection.

2 Q. Does Grand Jury Exhibit 4 look familiar to you?

3 A. Yes, please.

4 Q. What is it?

5 A. This is the holding pond that I visited at about
6 3:00 o'clock on the 6th. And still in the holding pond,
7 there was still -- there was still some residual brown dirty
8 water or fluid. And then this was -- partially submerged in
9 the water was this piece of luggage.

10 So I conferred with the FBI agent not to open it at
11 the scene, to remove it as intact as possible, transport it
12 under chain of custody to the morgue facility.

13 Q. Okay.

14 A. And we decided then to perform the autopsy
15 immediately.

16 Q. Did -- let me ask you this: First of all, Grand Jury
17 Exhibit 3, does that also look like it's a close-up of the
18 shot of the suitcase there still partially in the water?

19 A. Yes, please.

20 Q. Okay. So this may sound like a silly question, but
21 why did you not -- or did you try to open the suitcase there
22 at the scene to see if it -- if she was inside of it?

23 A. Because of the standard of practice, you don't perform
24 autopsies at the scene. And also you need to preserve the
25 evidence as much as you can. Opening it up at the scene may
26 cause some artifacts or damage the evidence. And so the
27 autopsy room was a more appropriate, better-suited facility
28 to open the luggage in case Sandra Cantu was inside it.

1 Q. So you guys were not sure?

2 A. We were not sure that she was inside it, no.

3 Q. Okay.

4 A. Nobody knew she was inside it until, as I stated in my
5 autopsy report, 6:45 p.m., inside the morgue when we finally
6 opened up the piece of luggage.

7 Q. You said you got there at 3:00 o'clock something?

8 A. At about 3:00 o'clock, yes. At about 3:00 -- 3:00 --
9 I would say at about 3:00 to 5:00, I think I left the scene
10 at about 4:30, 5:00.

11 Q. So, did you happen to see how the suitcase was taken
12 out of the pond? You know, where it was taken? Were you
13 there at the scene when -- I think we heard some testimony
14 it was four individuals took it out. Did you witness any of
15 that?

16 A. No. After I provided my instructions, I left the
17 scene. The FBI agents knew how to handle the evidence to
18 bring about as minimal artifact as possible. So I was not
19 there when the body was taken out of the pond.

20 Q. I guess the suitcase was taken out of the pond?

21 A. I'm sorry, the suitcase.

22 Q. Fair enough.

23 I just had marked as Grand Jury Exhibit 89. First of
24 all, do you recognize the room?

25 A. Yes. This is now the autopsy facility. You could see
26 other cases, plastic containers of tissues. And now the FBI
27 agents actually placed the bag or the piece of luggage
28 inside a body bag. I cut into the chain of custody

1 protocol, it was sealed with a tag.

2 Q. Oh, so, the FBI put it in this body bag?

3 A. Yes, please, at the scene.

4 Q. I see.

5 A. And sealed it and transported it under chain of
6 custody. We confirmed that the body bag was intact, the tag
7 was still intact, and it was the -- the correct tag, that
8 nobody tampered with it before we opened the body bag.

9 Q. Okay. So what was the first -- oh, I think I should
10 have shown you this one actually first. This is Exhibit
11 Number 9-0.

12 A. Yes.

13 Q. This one shows the body bag before?

14 A. Yes. This was the body bag, how we came in, saw the
15 FBI had transported it and placed it on the autopsy table,
16 still intact.

17 Q. I see. Then after confirming the tag, did you open
18 the body bag?

19 A. Yes, we opened it.

20 Q. And that's what's shown here in 89?

21 A. Yes. This is the body bag. We identified it was an
22 Eddie Bauer luggage. Very well sealed. The belts were in
23 place, sealed. And the zipper was actually sealed with a
24 twine, a piece of white twine that was knotted.

25 Q. That was -- I'm sorry, did you finish?

26 A. So what we did, we took pictures of it, confirmed that
27 it was intact, and made a cut, as we have a specified
28 protocol for handling such knots. So we opened it and

1 handed over the twine to the FBI agent who was present.

2 Q. Showing you 89.

3 A. Yes.

4 Q. This was a photograph before -- before you -- at what
5 point?

6 A. Cut it open. You could see the two zipper holes very
7 well held together and bound by this white twine and
8 carefully knotted. So that we don't loosen the knot, you
9 actually cut the noose holding the two tags together. We
10 did exactly that and handed it over to the FBI agent
11 present.

12 Q. And showing you 96 -- excuse me, showing you 97, do
13 you recognize what is shown in this photograph?

14 A. Yes. Again, this is the twine in close-up. I have to
15 say it is very well carefully done, very well neatly, nicely
16 knotted, holding the two zipper tags together.

17 Q. So if I understand you, the suitcase was closed two
18 different ways -- or if I heard you, when I showed you 89,
19 it was closed both by the twine -- or the cord I should
20 say --

21 A. And the belt.

22 Q. -- and the belt. Okay.

23 A. Yeah.

24 Q. Okay. And then you said that you -- I think this
25 shows it from a different -- bear with me, we have to put
26 these tags on and off because this particular overhead
27 projector, which I'm not familiar with, requires that.

28 Okay. That's --

1 A. Yes. You could see very carefully done. We did a
2 close-up. This type of knot you see is not a knot that was
3 done in a hurry or done carelessly. It was a meticulous
4 knot that held the tags together.

5 Because my role as a forensic pathologist is -- in
6 this instance is to find out evidence for a concealment of
7 the body, which I stated in the autopsy report, the body was
8 concealed, very well systematically concealed in this piece
9 of luggage.

10 Q. Just for the record, what is this identifying
11 information?

12 A. For every picture I take as a pathologist, I must have
13 an identifying number. And the autopsy number of Sandra
14 Cantu in our files is A09, meaning autopsy was A for autopsy
15 performed in 2009, case number 684.

16 And in addition to that, I must have a metric system
17 so that anybody who looks at this picture can measure
18 whatever is in the picture and estimate the size. This is
19 the standard of practice.

20 Q. And Grand Jury Exhibit 96.

21 A. So what I'm saying was the white twine, I cut into the
22 protocol. If you notice, I did not disrupt the knot. I cut
23 it at the noose holding the two tags together. Because the
24 forensic crime lab would study the knot and perform analysis
25 on it, if necessary.

26 So we took a picture of the knot before we handed it
27 over under chain of custody to the FBI agent.

28 Q. So what was the next step once you unzipped the body

1 bag, cut the cord that was keeping shut -- did you happen to
2 look at -- let me ask you this: Showing you Grand Jury
3 Exhibit 2, these other compartments.

4 A. Yes.

5 Q. Okay. Now, you said that this -- this was the buckle
6 that was tight --

7 A. Yes.

8 Q. -- and the string. What about these other
9 compartments?

10 A. What I did, even before I opened, I cut the twine, we
11 examined the -- the -- the piece of luggage systematically.
12 We measured it, weighed it, identified what type of bag it
13 was, the compartments. It had two external compartments on
14 the external surface of the lid. It also had an enlarging
15 zipper that would enlarge the volume of the space inside the
16 main compartment. Both compartments on the exterior were
17 empty.

18 Why did we do that? To see if there was other human
19 remains, or if there were other bodies or objects, whatever.
20 Because, remember, at this time we did not know what was
21 inside the luggage. We could have opened it up and it was a
22 piece of junk or some objects that had no relation to this
23 case.

24 However, we noted at this time that the box was
25 remarkably heavy. It weighed ninety-two pounds. It
26 weighed -- when we moved it around slightly, we did not hear
27 any clackling or metallic noise. We did not hear any noise.
28 All we had was just some heaviness. Some heaviness. We did

1 not know what it was.

2 So we examined the box, like I stated in the autopsy
3 report, comprehensively, measurements, before we finally
4 opened the piece of luggage.

5 Q. By the way, was -- were the zippers -- I guess there
6 are these two compartments. Were they zipped opened or
7 closed?

8 A. They were partially opened. They were not closed.

9 Q. Okay. And that shows, does it not, in this exhibit
10 that I have up here on the screen, Number 2?

11 A. Yes, please.

12 Again, I forgot to mention, inside the body bag you
13 could see where was a pool of the dirty brown water or fluid
14 that came from the holding pond.

15 Q. Inside where did you see that?

16 A. Inside the body bag, on the base.

17 Q. Oh, when you guys opened the body bag?

18 A. Opened the body bag, yes, please.

19 And the box was diffusely soiled by mile, M-I-L-E, and
20 the brown dirty fluid. It was soaking wet, it was all
21 soaked and wet, completely wet. No part of it was dry.

22 Q. The suitcase? I'm sorry, what part of it was wet?

23 A. All the parts. No part was dry. All the parts were
24 wet. Soaking wet. Entirely wet.

25 Q. Okay. Because you see we have this photo we saw, 16,
26 where it's partially in the water.

27 A. Yes. What happened by this time when they took the
28 picture, they had drained the pool. So when they drained

1 it, it now became exposed, the luggage, because when I got
2 to the scene I had asked specifically, "Was this how it
3 was?" They said, no, that the level of the water in the
4 pool had come down or had been brought down.

5 Q. And could you see evidence of the sediment on the --

6 A. Yes, please.

7 Q. -- on the entire suitcase?

8 A. Yes, please.

9 Q. The dirt, whatever you call it.

10 And then Grand Jury Exhibit 94, what does this show?

11 A. I had opened the -- this was a smaller compartment on
12 the external surface, just to show that it was empty.

13 Q. Oh, so look at Grand Jury Exhibit 3.

14 A. This was it here. I simply elevated it. Yes.

15 Q. Nothing in there at all?

16 A. Nothing. It was empty, except amorphous debris, you
17 know, plant material and the dirty fluid with mile, M-I-L-E.

18 Q. What is that, M-I what?

19 A. M-I-L-E, meaning mile. Like muddy, muddy water.

20 Q. Oh, okay.

21 So getting back to Number 89, once you opened -- by
22 the way, the larger compartment, there was -- was that empty
23 also?

24 A. That was empty as well.

25 Q. So what was the next step?

26 A. The next step after we described it, took off the
27 knot, at approximately 6:45 p.m., I opened the lid.

28 Q. You opened the what?

1 A. The lid of the -- of the luggage.

2 Q. Oh, the lid. The lid. Okay.

3 A. Meaning the top, the cover.

4 And it opened -- you could say it -- I unzipped it
5 completely, circumferentially, I simply lifted it up.

6 Q. Oh, so you just take the zip --

7 A. Yes, all around.

8 Q. All around. Or maybe -- just the one goes all the way
9 around?

10 A. Yes. And then lifted it up. At 6:45 p.m.

11 Q. And what did you see when you lifted it up?

12 A. Well, when we lifted it up, there lying in the fetal
13 position -- in the fetal position meaning the knees were
14 flexed, the ankles, the head was flexed, the elbow was
15 flexed like a baby would stay in the womb. That is a
16 position a human body could stay -- that is the most you can
17 compress a human body to -- to be able to enter a concealed
18 space.

19 Q. Okay. Let me -- I see there are a few more photos
20 here. Let me show you 84.

21 Does this show the -- the clasp that you mentioned --

22 A. Yes, sir.

23 Q. -- does this show it before or after you undid it?

24 A. I think this was after.

25 Q. What's all this?

26 A. These are all the mile, the debris, the dirty fluid,
27 all soiling the entire -- all the surfaces of the luggage.

28 Q. 85 -- bear with me here, I have got to take it off.

1 A. Now I did, as you could see, the clasp, and I -- I
2 show this to confirm it was an Eddie Bauer brand of luggage.

3 Q. Grand Jury 86, might be covering the same territory
4 here, but what does this show?

5 A. Again, just to show the different surfaces to show how
6 diffusely soiled and stained. And also to confirm it was
7 closed and the entire luggage was intact.

8 Q. What -- okay. The handle, for example --

9 A. Was intact. Was not torn. It was a remarkably intact
10 piece of luggage.

11 Q. No tears?

12 A. No tears, no evidence of disuse or a piece of luggage
13 that was -- that was damaged by any activity or by animals
14 or by natural exposure to the environment. It was a
15 remarkably intact piece of luggage. Even the compartments
16 on the surface, there were no centipedes or animal activity
17 inside the compartments.

18 Q. And does 88 show one of the --

19 A. Again, the small compartment opened up to show there
20 was nothing inside the luggage.

21 Q. Kind of going backwards here. Showing 87.

22 A. Again, the knot holding the two zipper tags together.

23 Q. Okay. 98, is that --

24 A. Again, opening it all up.

25 Q. Small or large compartment?

26 A. This is the small -- this is the small.

27 Q. Same one?

28 That's 98.

1 MR. TESTA: Do you have any others? Are
2 these done?

3 Q. Again, I think we've covered this, but showing you
4 120.

5 A. This was at the beginning just to show, again, very
6 dirty. I think this was -- I had actually removed Sandra
7 from the luggage, because this was a trolley showing her and
8 we had removed her.

9 MR. TESTA: You have a pair of scissors?

10 THE FOREPERSON: Right here.

11 MR. TESTA: No, I'll tape it later on. Okay.

12 Q. So 120 shows the --

13 A. Dirty piece of luggage.

14 Q. After you --

15 A. After I examined the bag, opening it up. I had
16 removed Sandra at this time.

17 Q. Okay. 122?

18 A. Yes, I have removed her. This is now collapsed.

19 And, again, what I noted in the autopsy was that the
20 piece of luggage was structurally intact. It was not
21 collapsed. Meaning all the frame, all surfaces were flat
22 and bulging, not collapsed, indicating it contained some
23 type of material that was keeping the frame of the luggage
24 intact.

25 Q. Showing you Grand Jury Exhibit -- hold on for a
26 second.

27 MR. TESTA: Sorry. What's this number, 168?

28 THE SECRETARY: 108.

1 MR. TESTA: Q. Showing you 108, when you
2 opened the luggage?

3 A. Okay. So when I opened the luggage, you can see we
4 unzipped it, turned around the lid, at about 6:45 p.m.
5 And there lying inside the luggage in the fetal position
6 with the head pushing the frame of the luggage. The body
7 was larger than the compartment of the luggage. The -- the
8 frames, or the body of the luggage, were strapping, were
9 compressing the body of Sandra Cantu.

10 So that indicates forensically that the body was more
11 likely than not forcefully placed inside the piece of
12 luggage and the body had to be put in the fetal position to
13 enter the limited space of the luggage.

14 Q. Does this --

15 A. The luggage had only one major compartment. And there
16 was lying the body of a young female with long brown hair,
17 and showing evidence of diffuse gaseous bloating, which is a
18 post-mortem change or decompositional change.

19 So at this moment, what I did was I placed my hands,
20 both my upper extremities, underneath the body and
21 manipulated the body outside or out of the luggage with an
22 attempt to cause minimally artifacts that may damage
23 evidence or destroy the body.

24 So upon scooping her out of the luggage, I immediately
25 placed her on another autopsy trolley that was covered with
26 a white bed sheet.

27 And what you may notice lying on the left side of
28 Sandra's head was a piece of kitchen cloth, a dish towel,

1 that was very carefully knotted into a noose, N-O-O-S-E,
2 that was lying directly on the left side of her head.

3 Sandra's body was placed into the main compartment of
4 the luggage right-side down. And the head was flexed,
5 again, to be able to enter the compartment. But despite
6 that, the head was pushing on the frame of the compartment.
7 So we found it. And in addition to that, you can notice her
8 black pant was carefully folded, very neatly folded upwards
9 to the level of the lower thighs.

10 However, this -- during this time, I had noted the
11 pictures I had seen on TV, these pants were downwards to the
12 level of the lower legs.

13 Q. In other words, the picture on TV you saw was of her
14 skipping and kind of jumping through the -- in the trailer
15 park?

16 A. Yes, please.

17 Q. And then what else do you remember about that
18 particular -- rather than our showing it again, we saw it
19 yesterday -- what else do you remember about that?

20 A. Okay. Okay. At that time, actually, the detectives,
21 Detective Bauer was at the autopsy, they had told me or they
22 have specified what she was wearing, which I had also seen
23 on TV.

24 So she was wearing this pink blouse. I need to refer
25 to my autopsy report.

26 Q. I will get to the clothes in a moment. I have got
27 that elsewhere.

28 A. So she was -- what she was wearing, the articles of

1 clothing were consistent -- completely consistent with what
2 she was described to be wearing the last time she was seen.

3 The only additional finding was the careful folding of
4 the lower seam of the pants upwards to the level of the
5 lower thighs.

6 Q. Thighs? The lower thighs?

7 A. The lower thighs, yes, of the lower thighs. And they
8 were very carefully folded. I noted that in my autopsy
9 report.

10 And, also, in addition, were a pair of Hannah Montana
11 slippers that were lying carefully in the lower compartment
12 of the luggage parallel to one another.

13 Q. Slippers?

14 A. Slippers, yes. They were -- they had a picture of
15 Hannah Montana.

16 And also inside the compartment were the same dirty
17 brown fluid inside the compartment. And her body was
18 soaking wet, diffusely wet, including the clothing.

19 So I removed -- carefully removed the kitchen cloth
20 and lifted her, placed her in the -- on the trolley.
21 Examined the piece of luggage further. One compartment with
22 another sleeve, with almost like a netted material, on the
23 inner surface of the lid. And, again, it did not contain
24 any material.

25 So the only material we found inside the
26 compartment -- or inside the luggage or remains was that of
27 Sandra Cantu and her articles of clothing, including a piece
28 of knotted -- torn and knotted kitchen cloth, a dish cloth,

1 a towel that was tied into a noose and found around on the
2 left side -- lying on top of the left side of her hair and
3 was entangled with the hair.

4 What do I mean by that? When I lifted it up, I could
5 not take it out of the body. I actually had to pull it out
6 with some hair.

7 Q. Pull the cloth out --

8 A. Yes.

9 Q. -- the noose out?

10 A. I had to forcefully pull it out from the hair. It was
11 entangled with the hair.

12 And, forensically speaking, what does that mean? It
13 means that the clothing was not placed on top of the head.
14 The clothing, especially the -- the towel, especially the
15 noose, the torn, knotted noose, indicates that it may have
16 been around her face or neck area when it was placed on her.

17 Q. Does this Exhibit 108 accurately show how you saw her
18 when you opened it?

19 A. Yes, please.

20 Q. Okay. 105 -- I think this was 108 I just had. What
21 about 105?

22 A. Okay. This is another perspective. Again, as I was
23 doing this, I personally took these pictures myself. The
24 FBI agent and the technician from the Sheriff's Office were
25 also taking their own pictures. However, I took these
26 pictures to guide me step-by-step of what we did. There
27 were other things we did I wouldn't take, other
28 photographers took.

1 But you could see why I took this. You could see the
2 fetal position of Sandra, with her feet flexed or bent
3 forward, her knees flexed or bent backwards, her elbows
4 flexed, and her head also flexed. This is how a baby or a
5 fetus will lie in a womb. That is what we call the fetal
6 position.

7 Q. That's 105. And what about Exhibit 104?

8 A. Again, different perspectives to show you how she was
9 lying, her back was facing the -- the upper lid. The right
10 side was downwards. The head was bent over.

11 And look at this striped torn piece of a wet kitchen
12 cloth that had bloodstains on it.

13 Q. Where was the cloth?

14 A. See. Entangled in her hair.

15 Q. Okay.

16 A. I actually had to disentangle it. And when I pulled
17 it out -- you will see pictures possibly later that showed
18 the strands of hair that remain attached to the kitchen
19 cloth.

20 Q. Is this one of your markers, also?

21 A. Yes, please. The tag.

22 Q. That was 104. They are not in any special order.
23 106?

24 A. Again, another picture to show you how she was pushed
25 in, inside the luggage. When the luggage -- the lid was
26 removed, you could actually see her body extruding or
27 pushing out of the box, meaning, again, that the total body
28 surface area was greater than that of the compartment. So

1 she must have been pushed in.

2 Q. Does a body expand when it's in water?

3 A. Not exactly, it does not expand. However, it becomes
4 bloated. Because as we are all made up of about
5 seventy percent water, so once you die, the water begins to
6 leave, actually pass out, you begin to weigh less. Then
7 bacteria acts on your gastric matter to produce gases like
8 hydrogen sulfide, methane. So the gas will make you
9 bloated. Not really expansion. And once you push, because
10 there's gas, it compresses.

11 Q. By the way, these compartments in the lid --

12 A. Yes.

13 Q. -- anything in there?

14 A. They were empty. Partially opened. Empty. No other
15 remains or material inside the piece of luggage. Only
16 Sandra have clothing, her jewelry, and the kitchen towel or
17 kitchen cloth, dish cloth.

18 Q. And 107, different perspective?

19 A. Different perspective again. You could see the leg
20 actually -- passively extruding. I did not push it out. At
21 this moment, I have not touched the body. So the moment
22 I've opened the zipper, the leg extruded, came up.

23 And you could see, if not the fetal position, there
24 was no way Sandra could have been -- could have fitted into
25 this compartment.

26 Q. By the way, you can see the design on her shirt there?

27 A. Yes, please. The -- I think it was a Hello Kitty
28 blouse.

1 Q. And 99, does this show another --

2 A. Another perspective, a close-up. Again, showing her
3 head bent forward, flat, almost with her chin touching her
4 chest. And her long entangled hair. Again, the perfect
5 fetal position. You could also see her feet were also
6 flexed.

7 Q. No shoes -- no sandals on her feet?

8 A. The slippers were lying on the bottom of the -- on the
9 bottom of the luggage.

10 Now, if the slippers were on the feet, embracing the
11 plantar surface of her feet, because it was a slippers, the
12 typical beach slippers with a -- a thong, or that will fit
13 into your large toe and the second toe, if the slippers was
14 on her foot, you will expect it to push on the frame of the
15 luggage and wouldn't fall out.

16 Rather, we found the slippers perfectly neatly placed
17 parallel to one another on the floor of the luggage in
18 between her leg and her buttock, almost being embraced. And
19 they remained there parallel to one another because they
20 were embraced by the leg and the buttock or were kept in
21 place by the leg and the buttock.

22 Q. Can you show us on 101, first of all, this is another
23 vantage -- another perspective of the same?

24 A. Yes, please.

25 I believe that there will be pictures. The slippers
26 were lying on the ground in between her leg and the buttock.

27 Q. Okay.

28 A. Parallel to one another.

1 Again, this is the fetal position. You could see the
2 brown dirty water. Again, her bloated body with the blouse
3 and the neatly folded pant. And evidence of gaseous
4 bloating, skin slippage, and discoloration.

5 Q. And this liquid?

6 A. Yes, that was consistent with the water in the holding
7 pond.

8 Q. And 102?

9 A. Again, another perspective. Now showing you better
10 the kitchen cloth that was -- had a pattern, almost a plaid,
11 P-L-A-I-D, plaid pattern to it.

12 Q. Oh, plaid?

13 A. White, plaid, purple. Was torn into two and knotted
14 into a noose. Had bloodstains on it. Entangled with
15 Sandra's brown hair.

16 Q. 103?

17 A. Again, a close-up. Showing you evidence of
18 decomposition, the greenish/black discoloration, and the
19 skin slippage.

20 And could you place that back?

21 And an abrasion of the elbow. See the red/brown
22 abrasion?

23 MR. TESTA: Do you have any more photographs?

24 THE SECRETARY: No.

25 THE WITNESS: There should be more.

26 MR. TESTA: Q. Here's the one I was looking
27 for here. Showing you 142.

28 A. Yes.

1 Q. What is shown in this photograph?

2 A. Now, when I took out Sandra's body, passively, we now
3 found the slippers. We could see neatly placed, parallel to
4 one another, underneath her body. That's because her body
5 was keeping them in place, so why they did not fall apart or
6 fall around while the box was being moved.

7 And what I noted in the autopsy report, they were
8 parallel to one another. Parallel.

9 Q. Well, let's say someone had them on their feet and
10 then was placed in there, that's inconsistent with their
11 being parallel like that?

12 A. If she was wearing them when she was placed in, they
13 wouldn't be so neatly -- remember, the two feet were on this
14 side. And you could see this was actually -- there's a bar
15 on the floor of the luggage. This was placed in the groove.
16 See where her feet were, the two feet? And one was found
17 here behind her buttock.

18 Q. Oh, I see what you're showing. So when we look at 101
19 and see where her feet are --

20 A. See where her feet are? So one was found here. And
21 the second one was found here underneath her buttock.

22 Q. And 142 shows that?

23 A. Yes.

24 MR. TESTA: Keep them all together. Do you
25 have the rest?

26 THE FOREPERSON: That's all.

27 MR. TESTA: Q. So what was the next -- oh,
28 what about 100?

1 A. Again, I took this to show her hair, her head. If you
2 notice, she had long brown hair that were actually covering
3 her flexed face. So at this juncture, I could not see her
4 face clearly. I saw her face only when I took her out of
5 the luggage.

6 Q. So what was the next step then, after you noted the
7 condition she was in when you opened the lid, and I think
8 you said you picked her up to minimize any change in the
9 artifacts?

10 A. Yes.

11 Q. So you laid her down on a table, and then what was the
12 next step to your investigation?

13 A. I placed her on a trolley with a white bed sheet, and
14 carefully undressed her, removed the articles of clothing.
15 She had a Hello Kitty pink blouse that was beaded, had a
16 Hello Kitty design in front. It was wet, showed bloodstains
17 and some amorphous stains, that could have been artifact,
18 could have been vomitus.

19 Q. Showing you 132 -- and we are going to keep these
20 yellow stickers on them, I just blocked the -- the face
21 there so we just -- we know where it is, of course, there's
22 no need to see that at this point -- but could you tell us
23 what is shown in this photograph?

24 A. This is -- now you could see the bag. This was the
25 FBI desk. Now this was a trolley with a white bed sheet.
26 So I took her out and actually turn her, soiling myself in
27 that process, and laid her out supine on the table, with her
28 face -- and then again, her body was still attempting to

1 maintain the fetal position. So she was lying in this
2 disposition -- fetal disposition.

3 The Hello Kitty blouse, pinkish with bloodstains and
4 some amorphous stains closer to the neck, and there was
5 another one to the right. And, again, soaked, soiled by the
6 brown fluid from the holding pool. Wet.

7 And the black Xhilaration, X-H-I-L-A-R-A-T-I-O-N, is a
8 designer, a medium-sized pants, Xhilaration. They were
9 tight pants that will collapse on your body. Very neatly
10 and carefully folded to the level of the distal thighs.
11 They were black, soaked, wet.

12 So I carefully took off the pants, took off the
13 blouse. She was also wearing earrings. The lobule of her
14 ear was pierced once and there were earrings, white metal
15 stud earrings -- ear stud with a white stone on it. So we
16 carefully took that out, placed it on the table.

17 Underneath the black pants -- again, now I unfolded
18 it.

19 Q. This is 113, does this show the black pants?

20 A. Yes.

21 When I unfolded it and it had a lacy -- lacy lower
22 seam, L-A-C-Y. You could see some of the lace here. Here,
23 you could see the black lace at the lower seam. But on her
24 body, it was folded. So we unfolded that, laid it on the
25 trolley.

26 Q. And Grand Jury Exhibit 109?

27 A. This was the 100 percent cotton Hello Kitty -- with
28 the Hello Kitty design on it. The amorphous stains on the

1 upper seam and on the lower. And then blood or hemorrhagic
2 stains in and around the shirt. Again, wet, diffusely
3 soiled by the brown dirty fluid from the holding pond.
4 Intact. Did not have any tears or any perforating or
5 penetrating artifact.

6 Q. No holes, no knife wounds --

7 A. No holes.

8 Q. -- no bullet holes, no tears --

9 A. No.

10 Q. -- nothing?

11 A. No.

12 Q. The same with the pants?

13 A. Same with the pants, yes.

14 Q. And showing you 110.

15 A. These were the slippers when we now grabbed them and
16 placed them back, you could see had the -- a --

17 Q. Hannah Montana?

18 A. Hannah Montana, sorry. Hannah Montana. They even had
19 the name on it, Hannah Montana, and her picture, with some
20 beads, and the whole -- it's like a beach slippers, was made
21 of plastic material.

22 Q. I think this is probably a duplicate, 93, showing the
23 same thing?

24 A. Yes. Showing the same thing. Again, soiled by the
25 fluid and her tissue debris.

26 Again, all the clothing -- articles of clothing were
27 intact, no damages.

28 Q. 111?

1 A. Now, this was the kitchen cloth.

2 Q. The plaid kitchen cloth that you mentioned with the
3 noose?

4 A. With the noose, a knot, and was actually torn. You
5 could see the point of tearing, or shredded apart. You
6 could see it. See it here? See it? And then had
7 bloodstains on it. Also the entangled hair, that I actually
8 had to tear off some hair to take it off. Because this was
9 a very and vital piece of incidental finding. I had to keep
10 it intact. I didn't loosen this. Took a picture and
11 submitted it in total to the FBI agent under chain of
12 custody.

13 Q. And does that same item show in People's Exhibit 112?

14 A. Yes, please. Again, see the entangled hair. Again,
15 the knot, the noose. Plaid kitchen cloth or dish cloth torn
16 apart, knotted with a noose. And this is the knot.

17 Q. And --

18 A. And, again, during the autopsy, I had asked, "Was she
19 wearing this?" The detective answered to the best of his
20 knowledge, no. So this was an incidental finding.

21 Q. So when they looked at the video of her skipping, you
22 know, the last video of her alive, they don't see any such
23 item, you know, on her hair -- in her hair, or anything like
24 that?

25 A. No. Nobody at the time of the autopsy could explain
26 to me the most likely source of this piece of kitchen cloth.

27 Q. And Number 92?

28 A. Same thing. Again, a closer-up. This is the knot,

1 the hair. You could see the diffuse stains. There were
2 some small, irregular blood -- a bloody or hemorrhagic stain
3 on the piece of kitchen cloth.

4 I'm sorry, I forgot to mention before I had placed her
5 on the table, I weighed her. Her weight was forty pounds.
6 Sorry.

7 Q. I was going to get to that later.

8 A. Sorry.

9 Q. You mentioned you weighed the suitcase initially, you
10 said ninety something?

11 A. Ninety-two pounds.

12 Q. But when you weighed the body of Sandra Cantu, it
13 was --

14 A. Forty pounds.

15 Q. -- forty pounds?

16 A. Yes. I actually carried her, I stood on the weighing
17 scale, then placed her, I weighed myself and subtracted the
18 total weight.

19 Q. So forty -- forty -- how many?

20 A. Forty pounds. And she measured --

21 Q. How tall was she?

22 A. Forty pounds. Sorry.

23 Q. What was her height?

24 A. Her height was forty-nine inches.

25 Q. Four feet one inch?

26 A. Yes.

27 Q. Forty --

28 A. Forty-nine inches. Four feet one inch, yeah.

1 Q. Four feet one inch.

2 Okay. So what's the -- why the difference between
3 the -- the ninety something pounds of the suitcase when you
4 first measure it and then the -- and then she only weighs
5 forty something pounds? What's that, fifty pounds of water?

6 A. Yes. Remember the -- the luggage was wet. And the --
7 there was also water in the main compartment. So Sandra --
8 Sandra's body weighed forty pounds. The piece of luggage,
9 the water in it soaked in the frame, because it was almost
10 like a cloth -- made of cloth material, accounted for
11 fifty-two pounds.

12 Q. And then in Grand Jury Exhibit 119, just has all the
13 items of clothing from her?

14 A. Yes. The -- the pants, the slippers, the Hello Kitty,
15 and the kitchen cloth.

16 Now, I also think we took pictures of the ear studs.

17 Q. Yes. I'm not sure I have those marked today, but I...

18 Showing you 131.

19 A. Yes, please. They were I believe white metal with
20 glistening white stud. Again, entangled in her hair that we
21 had seen.

22 Q. And you took them apart?

23 A. Yes, I took them apart myself. I removed them from
24 the ear.

25 Q. Now I've got more questions, but let me shift gears
26 for just a second.

27 Did you happen to measure the suitcase?

28 A. Yes, please.

1 Q. And what were the dimensions?

2 A. Before we started, I actually measured it, described
3 it in metric system. It measured 66 by 42. 66 in length,
4 42 in width, and 32 centimeters in breadth.

5 Q. Okay. This is not the suitcase. We went out and got
6 this one. But I just wanted to see how it compares with
7 your measurements.

8 I have a metric -- put it right here. So you took
9 several different measurements of it, right?

10 A. Yes, please. The length. Yes, it was about -- this
11 is about 66. Just about 60 -- yeah.

12 Q. The metrics is over here.

13 A. Yes.

14 Q. It's 66. And what did you come up with?

15 A. 66.

16 Q. So we have the -- the length is correct.

17 What was your measurement -- you just look in the
18 report and tell us?

19 A. 42. Yeah.

20 Q. It was 42, isn't it?

21 A. Yeah. And then the breadth, I believe.

22 Q. What was your measurement of the area?

23 A. 32. The next one was 32.

24 Q. Okay. Which one is 32 -- oh, 32 here? To the end?

25 A. It was --

26 Q. 32. To the top of this?

27 A. Oh, yes, yes. I'm sorry. Yes. 32.

28 Q. Show you what I'm doing here.

1 32, all the way to the top of the compartment.

2 A. Exactly.

3 Q. So we have got all three measurements the same. And
4 you also did a fourth measurement, the distance between the
5 wheels?

6 A. Oh, yes, yes.

7 Q. What was that?

8 A. It exhibited two rolling wheels at one end. Two
9 rolling wheels.

10 Q. From end to end?

11 A. Yes, I measure it from end to end and we got at that
12 time --

13 Q. I come up with 43.

14 A. 43, yes. I have 43.

15 Q. That what you have?

16 A. Yes.

17 And then the two stands from outside to outside, 27.

18 Q. 27. Okay.

19 A. Yes.

20 Q. So -- and this, of course, says Eddie Bauer on it?

21 A. And it had this -- at this time, this belt's in place.

22 Q. Show the jury. We have the other one outside, the one
23 that's wet. But rather than use that one for illustration,
24 I thought we would use this sample.

25 A. It was closed. It was all closed. So you cannot open
26 the main compartment unless you took these off, which we
27 did.

28 Q. You mean it snaps into place in two places?

1 A. Yes.

2 Q. It's not one thing?

3 A. No.

4 Q. Okay. Let me put that photo back up there. Hold on.

5 A. You could see --

6 Q. I'm showing you Exhibit 2.

7 A. You could see it's strapped and then up here.

8 Q. Oh, I see, two different places?

9 A. Yeah.

10 Q. As it is on -- let's have this sample marked as our
11 next in order, this clean Eddie Bauer suitcase.

12

13 (Whereupon an Eddie Bauer Suitcase was
14 marked Grand Jury Exhibit Number 152
15 for identification.)

16

17 MR. TESTA: Q. So where are the zippers that
18 you saw?

19 A. The zippers, when we opened this, took it out, now
20 there was another one, a half, for increasing the size.
21 Sorry.

22 Q. Right here?

23 A. There's this one to increase the size of the major
24 compartment. So before we opened the major compartment, we
25 actually opened it. Okay? And then the major compartment
26 had to --

27 Q. Oh, it's called an expandable suitcase. That's what
28 you mean by --

1 A. Yes, the expandable to increase the size or to expand
2 it. And then the two tags were held together.

3 Q. We have the photograph here on the screen, Number 2.

4 A. Yes.

5 Q. So you're going to show us about where --

6 A. So this was the -- the expandable what I have just
7 opened. Which is this. Which is this.

8 So this is this. See the zipper here.

9 Q. Oh, so there's a bracket, a handle on the side --

10 A. Yes.

11 Q. -- of the zippers. Then there's another handle, I
12 guess you call it the top?

13 A. Yes. And they were all intact. And this was opened
14 partially.

15 Q. Top one was opened partially?

16 A. This one.

17 Q. Put this where it was.

18 A. (Witness complies.)

19 MR. TESTA: So what exhibit number is this?

20 THE FOREPERSON: 152.

21 MR. TESTA: I can't hear you.

22 THE FOREPERSON: 152.

23 MR. TESTA: Q. So 152, from your
24 measurements, would appear to be a good one to use for
25 illustrative purposes?

26 A. That's true.

27 Q. So we don't have to bring in the wet one here?

28 A. That's true.

1 Q. I'm assuming it has all bacteria and...

2 Did your suitcase, the one you examined, have this
3 little --

4 A. I did not remember -- I think it did. I may not have
5 this. Probably best look for the pictures.

6 Q. Well, we have the actual suitcase.

7 A. No, I'll just look at these.

8 Q. I have gloves that I brought, too.

9 Here we go, I think this will answer this question.

10 Number 121. Is this?

11 A. This is. It's on this side.

12 Q. Oh, it's underneath?

13 A. It may be here.

14 Q. Let me see if I can...

15 A. Yes, it had, yes.

16 Q. If there's any doubt, you can at the recess -- the
17 jurors are going to take a recess in just a moment. If
18 there's any doubt, I have gloves and you can look at the
19 actual suitcase which we have here.

20 Here's another photograph, Number 89.

21 A. It's not too close here. It may have had it in the
22 pictures. But inside, it had the two bars at the bottom.

23 Q. Oh, there's two bars at the bottom?

24 A. Yes, that were present.

25 Q. You see them here, too, right?

26 A. Yes, please. Like even on the --

27 Q. By the way, did the wheels work?

28 A. I didn't move -- I didn't check.

1 Q. You didn't check that. Okay. Maybe you could check
2 that at the break.

3 A. I didn't check it, but the wheels were present.

4 Q. The wheels were present?

5 A. Yes.

6 Q. Okay. So your measurements and everything, does this
7 appear to be a good sort of suitcase?

8 A. Yes.

9 Q. That is identical -- quite possibly identical to the
10 one that we have?

11 A. Yes. Yes. However, when we encounter materials like
12 this, it is not my role to describe it in detail. Because
13 we send it to the forensic lab with the clothing, so the
14 forensic scientist will describe it in detail.

15 We actually stay away from describing the entire
16 characteristic. And so when I handed it over to the FBI
17 agent, the expectation is, if necessary, a forensic
18 scientist will describe it in detail.

19 Q. And these -- this -- the one in question that Sandra
20 was removed from opens?

21 A. Opens this way.

22 Q. And then inside?

23 A. It had -- it had these compartments, which were empty.

24 Q. Then how did you -- when you see the --

25 A. This may be slightly different. I don't recall seeing
26 this.

27 Q. In other words, did you have to take away a level of
28 canvas --

1 A. No.

2 Q. -- in order to see the metal bars that I think you
3 said were on the bottom?

4 A. No. There's a picture there.

5 Q. There is a picture that shows that?

6 A. Yeah. That shows the slippers as well.

7 Q. That shows the what as well?

8 A. The slippers. Slippers.

9 Q. That's right. I just showed that to you.

10 Grand Jury Exhibit 142. Now I'm wondering if this
11 showed --

12 A. The zipper --

13 Q. -- if the canvas was there. But the bars showed
14 through the canvas?

15 A. Yes. But here -- well, if you press it, it shows.

16 Q. See, if you press this, it shows the two bars.

17 A. Yes.

18 Q. Does it not look like the bars -- the bars are not
19 exposed in the photograph, are they?

20 A. No, they are not exposed. They are covered by some
21 material.

22 Q. Is it consistent with what we have here?

23 A. Yes, as you see, yes.

24 Q. In fact, we can see in the photograph we have here,
25 can we not, in 142?

26 A. Yes. Opened.

27 Q. It's opened?

28 A. Yes, the strap.

1 Q. What is that called?

2 A. Strap.

3 Q. That was opened?

4 A. That was opened in the luggage.

5 Q. As is shown in 142.

6 MR. TESTA: All righty. Is it time for your
7 recess? You said at 2:30?

8 THE FOREPERSON: Yep.

9 MR. TESTA: How many minutes do you go? We
10 go fifteen minutes from now or fifteen --

11 THE FOREPERSON: About fifteen.

12 MR. TESTA: Fifteen-minute recess. You are
13 not going to discuss it or conclude anything during the
14 recess, of course.

15 THE FOREPERSON: Right.

16

17 (Recess.)

18

19 MR. TESTA: Q. Okay. Picking up, I have
20 questions from the grand jurors. One of them asked
21 questions about this exhibit here.

22 Possibly by looking at the photographs of the suitcase
23 still in the water, does it show the top portion of the
24 suitcase where the fabric handle and the pull handle --
25 showing you Grand Jury Exhibit 16, can you make out the pull
26 handle?

27 A. Yes, please.

28 Q. Okay. So that solves that issue.

1 Thank you, juror who noted that.

2 Some other questions from some of the grand jurors.

3 Okay. These I can get to later.

4 All right. So you continued on with your autopsy.
5 What was the next stage? You take her out. You removed the
6 clothes. You described the clothes. You've described the
7 item in her hair. The earrings are removed, sandals,
8 everything. So what's the next step?

9 A. The next stage was we cleaned her up. But before we
10 cleaned her up, we document -- we examined her from head to
11 toe, literally, looking for the presence or absence of
12 trauma. But documenting the presence or absence of
13 post-mortem changes or decomposition, or presence or absence
14 of artifactual changes. We documented that as much as we
15 could and then cleaned up the body, literally washed the
16 body from head to toe.

17 Then we transported the body under chain of custody
18 with the FBI agent, myself, and the deputy coroner, to the
19 San Joaquin General Hospital for a full body X-ray.

20 Q. Does that show in 146?

21 A. Yes, please. This was one of the X-rays we took.

22 And what you're showing is the X-ray of the head
23 showing the teeth, she had some dental work done, the skull,
24 and actually evidence of advanced decomposition of the
25 brain.

26 The brain at this stage had decomposed into a
27 pulpified mass of doughy tissue with complete loss of
28 anatomy. It was literally -- you could see we took

1 pictures -- flowing out almost in a pasty form. Almost like
2 chocolate that had been left out in the sun. It was flowing
3 out. And that is why you could see falling backwards, this
4 is air. So, again, evidence of advanced decomposition.

5 Examination of the skeleton did not reveal any
6 fractures of either the axial or the appendicular skeleton.
7 And there was no radiopaque material, bullet, knife, or
8 other materials inside the body.

9 Q. And that we are referring to 146.

10 What about 149, this exhibit?

11 A. 149, again, another X-ray film of the head. This is
12 what we call the axial, A-X-I-A-L, view from front to back.
13 Again, showing a normal confirmation or configuration of the
14 skull and the jaw bone. And what you see is almost
15 radiolucent, radiopaque post-mortem changes.

16 Q. Let me just kind of -- okay, what was the next stage
17 in your investigation after the X-rays?

18 A. After the X-rays, we brought Sandra back at about --
19 at about 8:00 o'clock.

20 Q. How did you confirm it was Sandra Cantu?

21 A. Okay. When I took out the clothing, first and
22 foremost, the materials, the articles of clothing were
23 consistent with what she was wearing the last time she was
24 seen, the color, the size, and the design. And also the
25 articles of jewelry we found on her.

26 Now, the detective said to me that the mother had said
27 that Sandra had a nevus, N-E-V-U-S, or a birthmark on her
28 right cheek. So I went closer to her face and actually

1 identified a nevus, hyperpigmented nevus, like a birthmark.

2 Q. Birthmark?

3 A. Yes, a birthmark. We call it nevus. The medical
4 terminology is nevus, N-E-V-U-S, which is simply a cluster
5 of melanocytes.

6 Q. Where on her body?

7 A. On her right lateral cheek. And it measured
8 0.3 centimeters.

9 So when I identified that, we also identified that her
10 lobules were pierced. Articles of clothing on her were
11 consistent. At this juncture, there was a positive
12 identification. However, we still went farther the next
13 day, because the preliminary ID we had was sufficient at
14 that stage.

15 Q. Well, let me show you People's 17 for a second. Where
16 are we talking about?

17 A. The right --

18 Q. Maybe it doesn't show. I don't know if it shows in
19 this photo or not.

20 A. It may not.

21 Q. Hold on for a second.

22 A. I think it was along here. I think this is covering
23 it.

24 Q. Was it very small?

25 A. Yeah, it's very small. 0.3 centimeters, almost about
26 the size of five pinpoints. It was small, really small.
27 But it was hyperpigmented.

28 Q. So you have the clothing that matches?

1 A. I think it's actually here. Maybe they intentionally
2 put this to cover it. See here?

3 Q. This is presumably a family photo that they found for
4 this --

5 A. Yes.

6 Q. -- poster.

7 Okay. So how else did you confirm that this body
8 belonged to Sandra Cantu?

9 A. Yes. The clothing, the lobules of the ear.

10 The next day we requested for dental X-ray records.
11 And with the dental X-ray, because we brought in a forensic
12 odontologist, Dr. Tonn, T-O-N-N, who does dental
13 identification for us. So with the X-ray films you saw of
14 the dental work she had, we are positively matched with the
15 pre-mortem or pre-existing dental records. So that was
16 another level of positive identification.

17 So now the clothing, the birthmark, the lobules of the
18 ear, the weight of her body, and her height, with positive
19 dental records, will give a positive identification with a
20 reasonable degree of medical certainty.

21 Q. What's that last part of your answer?

22 A. Reasonable degree of medical certainty.

23 Q. The clothing, the earring --

24 A. The clothing --

25 Q. -- birthmark.

26 A. -- the earrings, the lobules, the perforation of her
27 ear, the birthmark, the weight of her body -- we simply use
28 the word anthropometric -- the weight of her body, the

1 height, the color of her hair, and then dental
2 identification.

3 But, really, as basic as it may sound, the best ID is
4 is this the individual who is meant to be at this position
5 at this time?

6 For example, if I were living in a house and I'm dead
7 and I'm missing, and people find a dead body in my house and
8 there's not a missing person, it is sufficient for us to
9 make a positive ID.

10 Q. You know, on TV they always seem to have like a
11 identification, a family member comes in, they lift up the
12 blanket and they look and the person's there.

13 A. Yes.

14 Q. Nothing like that was done?

15 A. That is sufficient. This wasn't done here. It wasn't
16 something informal or cursory.

17 Q. It wasn't done why?

18 A. Because we did -- we have more sophisticated tools.
19 The birthmark and, again, finally, this was much later, the
20 detective would confirm that she was in such a box, that she
21 was delivered in such a holding pond, so that it would
22 further confirm our positive identification.

23 Q. So -- I'm sorry, kind of cut you off -- so what's the
24 next step?

25 A. At the autopsy?

26 Q. Yes. You examined the entire body with the clothes
27 off?

28 A. With the clothes off, after the X-ray. We now began

1 the main external detailed documentation of presence or
2 absence of trauma.

3 Q. I don't need to, for purposes of this hearing today,
4 go into as much detail as we might at another hearing.

5 A. Okay.

6 Q. Why don't we just cut to the chase, let me ask you,
7 how'd she die?

8 A. Sandra died as a result of -- a medical diagnosis was
9 called adult-induced non-accidental trauma in a child.

10 Q. Adult-induced?

11 A. Non-accidental trauma in a child.

12 Q. And what is the basis of that diagnosis?

13 A. Okay. The basis of that diagnosis, first and
14 foremost, is the medical literature.

15 Q. Well, before we even get real sophisticated, did you
16 see any bullet holes in her?

17 A. No.

18 Q. Or stab wounds in her?

19 A. No.

20 Q. Or any indication anyone hit her over the head with a
21 hammer or anything like that?

22 A. No.

23 Q. Or any injuries to her body, any cuts or scratches?

24 A. There were some evidence of trauma, blunt force
25 trauma. Evidence of asphyxial injuries.

26 Q. Of asphyxial?

27 A. Asphyxial injuries.

28 Q. That means smothering?

1 A. Yes, please.

2 Q. In your own -- you tell us then what the findings
3 were. I will let you just go ahead and talk.

4 A. The findings are at the end of the autopsy on
5 April 6th at about midnight.

6 Q. How long did this autopsy take?

7 A. It took -- we started about -- about 6:00 o'clock. I
8 got home at about 2:00 a.m. So it took -- because in fact,
9 the autopsy did not end until about 5:00 a.m., because I had
10 to sit down to describe my findings.

11 Q. So you describe your findings when everything's fresh
12 in your mind?

13 A. Yes.

14 Q. And you take photographs --

15 A. Yes.

16 Q. -- or have others take photographs of the various
17 findings you see?

18 A. Yes.

19 Q. Okay.

20 A. Yes.

21 Q. So rather than my interrupt you, why don't you
22 summarize your findings --

23 A. Okay.

24 Q. -- when you did your exam.

25 And if I have a photograph of it, I'll try to put it
26 up on the screen and ask you if this shows what you're
27 saying.

28 A. Okay. At the end of my autopsy, before I left,

1 there's a form we fill in the morgue which you fill the
2 cause of death and you fax it to the office for a deputy to
3 now release a death certificate confirming that Sandra was
4 dead.

5 I listed as cause of death, even if I knew any other
6 story of what happened, from my training, knowledge, and
7 expertise, at that moment after my autopsy, I knew that
8 Sandra died as a result of a non-accidental injury in a
9 child that was caused by an adult.

10 And I knew that whomever suspect that will be
11 identified will claim that this is a -- this was an
12 accident. That is why over the years the diagnosis is
13 non-accidental, because most times the adult who perpetrates
14 this violent crime will claim it was an accident.

15 Q. Okay.

16 A. Would sometimes claim. Now, this is the established
17 medical literature since early 20th century, even before I
18 was born.

19 Q. What findings of asphyxiation did you find?

20 A. There was first the kitchen towel.

21 Second, if you lower your lower lip, you will see at
22 the midline a piece of tissue we call the frenulum,
23 F-R-E-N-U-L-U-M.

24 Q. Showing you Exhibit 136, does this help you explain
25 what you're telling us here?

26 A. Yes.

27 Q. This is a photograph of Sandra Cantu's body, correct?

28 A. Yes, please.

1 It's a laceration at the lower --

2 Q. Hold on. I'm sorry.

3 A. You could see here, at the frenulum.

4 Over the years, forensic scientists, doctors, very
5 brilliant minds, have noted that human behavior is highly
6 predictable. That is why if you have a problem, you go to
7 your doctor, tell your doctor what you're suffering from,
8 your doctor will tell you what your disease is, because we
9 are all the same, products of human behavior, highly
10 reproducible and predictable.

11 So we found that there are specific patterns of trauma
12 that will be caused by specific activities. And when you
13 smother a child by compressing the child's lips, it causes
14 laceration of the frenulum, which is the piece of tissue
15 that connects your lower lip to the gum.

16 Q. What about -- does that show in 136, the one that's on
17 the screen now?

18 A. Yes, please.

19 Q. What about --

20 A. You can see the laceration of the frenulum.

21 Q. What about 137, does that show anything?

22 A. This is the upper lip. The upper lip does not show.
23 The lower lip, it could be either/or. Maybe both of them.
24 And what happens is where the pressure was most, where this
25 crushing was, okay? So when you see this -- and, again, in
26 the symptom of non-accidental trauma, especially in cases
27 where an attempt is made to conceal the body, you may or --
28 you may or may not be able to actually identify the

1 mechanisms of injury.

2 Q. Where is the evidence of smothering here? Does it
3 show in the photos?

4 A. The laceration of the frenulum, yes, please.

5 Q. You find that in smothering cases?

6 A. Yes, please.

7 Q. So what was your opinion regarding the smothering?

8 A. My opinion? Asphyxial -- Sandra suffered a
9 constellation of injuries, including asphyxiation, blunt
10 force trauma, and mutilation of her genitals that
11 precipitated her death.

12 Q. Let's take them one at a time.

13 The smothering, is there anything else you need to say
14 about that that you haven't already?

15 A. No, this is it.

16 Q. You covered that.

17 And it's illustrated in 136, this photograph of her
18 lower lip?

19 A. Yes.

20 Q. And maybe you can clarify something. This other
21 photo, 137, you say it doesn't show there?

22 A. This is the upper lip. It doesn't show in the upper
23 lip.

24 Q. So that's for contrast purposes?

25 A. Yes, please.

26 Q. What is it that we are seeing in 136?

27 A. That is a laceration. See here. That's the
28 laceration.

1 Q. And one finds that in smothering cases?

2 A. Yes, please.

3 Q. Okay. So that's the smothering. Then you said blunt
4 force trauma. What is blunt force trauma? Hitting someone
5 over the head with something or hitting someone?

6 A. Yes, please.

7 Q. And where did you find blunt force trauma?

8 A. Blunt force trauma of the head.

9 Q. Where in the head?

10 A. On the left side of the head.

11 Q. Let me show you 116. Is this what you're referring to
12 or is this something else?

13 A. There were two lacerations. In addition to that,
14 there were -- there was another picture -- abrasions and
15 contusions of the left temporal skull.

16 Q. Hold on for a second. 116 shows -- we'll get back to
17 that. Let me show you 140. 140.

18 A. Again, you could see a curvilinear -- if you notice,
19 all the entire body is greenish/black. And then you see
20 this curvilinear, beautifully well-delineated
21 abrasion/contusion. And, again, you see another one. All
22 on the left side. And, remember, the left side was the side
23 that was lying up.

24 So assuming, hypothetically speaking, we could say,
25 "Oh, this was due to post-mortem change," but this was the
26 side I was lying on, and there was no other curvilinear
27 material of this shape and confirmation. And if this had
28 occurred post-mortem, it would not be of this color, because

1 this is what we call the vital response.

2 And what does that mean? You see specific changes in
3 a human body only when the human body is alive. The blood
4 is still pumping through the body. And a red/pink vital
5 response, within a reasonable degree of medical certainty,
6 confirms that this is an abrasion/contusion in a living
7 individual.

8 Q. In other words, when you see injuries on a body,
9 there's a way you can tell if the body received the injuries
10 when the body -- when the person was alive or --

11 A. Or after it has died, yes, please.

12 Q. Sometimes people get injured after they -- bodies get
13 injured after they are dead, right?

14 A. Yes, please.

15 Q. Someone takes a body somewhere and throws it
16 somewhere, you can get injuries. You could tell by looking
17 at the injury whether it's pre-mortem or post-mortem?

18 A. Yes, please.

19 Q. So the injuries that we have discussed so far, the
20 one, the smothering, that's pre-mortem?

21 A. Yes, please.

22 Q. This happened to her when she was alive?

23 A. Yes, please.

24 Q. The blunt force injury, did you -- does it show in
25 this photograph, 140?

26 A. Yes, this is one.

27 Q. What causes that kind of thing? Is that a --

28 A. Blunt force trauma, because there has to be direct

1 contact with the causal weapon or implement with the body.
2 And it could be any mechanism. And, in fact, in this
3 symptom of non-accidental trauma, we stay away from the
4 mechanisms, how the injury was generated. All we can simply
5 state is these injuries were not caused by the child. These
6 injuries were not caused by another child. All we can tell
7 you within a reasonable degree of certainty is that an adult
8 who was with the child at the time this child sustained
9 these injuries caused these injuries. I can't tell you how
10 the injuries were caused. All I can tell you is an adult
11 who was with the child caused the injuries.

12 Q. So this blunt force trauma on the left -- the --

13 A. On the left side of the scalp.

14 Q. She was resting on the right side?

15 A. On the right.

16 Q. Okay. On the left side, you -- is it consistent with
17 being hit by something?

18 A. Yes, please. Either being hit or being held down.
19 There was contact.

20 Q. And you could tell she -- Sandra would have been alive
21 when she received this blunt force injury on her head?

22 A. Yes, please.

23 Q. However she got it, whether she was hit with something
24 or her head's forced down?

25 A. Yes. It was caused by an adult.

26 Q. Forcing a head down could cause this kind of injury?

27 A. It could cause that.

28 Q. So those are the two so far. Is there anything else

1 in the blunt force trauma before I move on to the next one?

2 A. Hold on.

3 No. All the others were on the trunk.

4 Q. Okay. So we've got the smothering, we've got the
5 blunt force trauma on the head, the left side of the head?

6 A. The trauma.

7 Q. Before we leave the head, let me just show you this
8 116. Is this something she got after death or before, or
9 could you tell either way? What do you see here in this
10 Exhibit 116?

11 A. Okay. What we see here is a laceration with strands.
12 And when we saw that before, I had not mentioned the hair
13 had shown some hemorrhagic stains. Remember, this body had
14 been dead and in the water for a prolonged period. There
15 was obliteration. There was concealment of the body. There
16 was hair, a bloody -- blood in the hair. And you could see,
17 in and around the scalp, you could see this almost purplish
18 discoloration. And when we reflected the scalp, it
19 confirmed it was actually blood inside the scalp.

20 Q. Pre- or post-mortem?

21 A. Pre-mortem.

22 Q. So how -- what's your opinion about how these holes --
23 are these puncture holes?

24 A. I would say it's a blunt force trauma.

25 Q. Consistent with what kind of thing?

26 A. An adult caused this trauma, period. It could have
27 been hitting, it could have been slamming her head on an
28 object, it could have been anything, yes, it could have been

1 pushing, shoving, hitting.

2 Q. And how could you tell Sandra Cantu got these injuries
3 on her head when she was still alive as opposed to being
4 injured after she was dead?

5 A. We took histologic sections, microscopic. On the
6 typical case I would do, I would submit just about ten
7 microscopic slides. On Sandra, I submitted eighty-one. So
8 we looked at it on the microscope. And, remember, this is
9 science. The microscope showed red blood cells outside,
10 inside the tissues.

11 Q. Which means?

12 A. Which means this is evidence of bleeding.

13 Q. Which means?

14 A. A dead body does not bleed.

15 Q. That's what I'm trying to get to. The heart's still
16 pumping --

17 A. Still pumping, yes.

18 Q. -- when she got these?

19 How deep are they?

20 A. They were remarkably -- they were not just a scratch.
21 It was a cut -- a laceration.

22 Q. Well, you know, with all the autopsies you've done --
23 and I know you can't tell because you weren't there at the
24 time this happened -- but what kinds of things can cause
25 this type of -- these -- like a parallel -- you know, it's
26 not like one's here and one's here.

27 A. If you notice -- actually, thank you for pointing that
28 out. Individuals, human beings -- remember, reproducible

1 behavior -- do not sustain trauma -- blunt force trauma on
2 the crevices of the body. You sustain blunt force trauma on
3 the prominences of your body. And if you notice, these
4 injuries are on the curvature, the bulging of the left
5 scalp, which is where you are likely to sustain a trauma,
6 rather on the crevice, on the depression.

7 Q. If I'm going to get an injury on my face, it's going
8 to be on the nose --

9 A. On the nose, on the lips.

10 Q. -- cheekbones, lips?

11 A. Thank you so much. And not on the crevices.

12 Q. I see. So what's the significance of --

13 A. Prominence -- the two, if you notice, are on the
14 bulging -- we call it the parietal bulge of the scalp and
15 skull. On both prominences. And if you notice, they are
16 parallel, almost parallel, oblique, looking alike. So what
17 this tells you, most likely the activity that generated this
18 trauma occurred at about the same time, by the same
19 activity.

20 Q. I'm just not saying this, I'm asking you: You notice
21 we have this fork, looks like it's a fork or something like
22 that, I don't remember the name of these. It's a kitchen
23 utensil. Maybe a gardening utensil.

24 A. It's possible.

25 Q. Did you measure the --

26 A. This is the first time I'm seeing this.

27 Q. I know, I'm just throwing this at you. We just
28 learned that they did a search in the church.

1 And let me show you, just so the record's clear, Grand
2 Jury Exhibit 12 I just put on the screen, and we have Grand
3 Jury Exhibit 10. Hold on for a second.

4 10. 12. Well, can you give an opinion one way or
5 another about this 116 -- how deep -- I know I asked you
6 this, I don't know what answer you gave me -- how deep are
7 they?

8 A. They pass through the entire length of the scalp. But
9 there was no puncture of the skull.

10 Q. You did head X-rays, right?

11 A. Yes, we did head X-rays.

12 Q. Would head X-rays show the -- in other words, I guess
13 what I'm asking is did this go in, you know, a sixteenth of
14 an inch? Did it go in, you know, two full inches?

15 A. Oh, not --

16 Q. Or what are we talking about? Did you do any kind of
17 probe in there?

18 A. Maybe one quarter of an inch.

19 Q. It went in one quarter of an inch?

20 A. One quarter of -- of an inch. Maybe at most a half --
21 I would say a quarter or half an inch, that much.

22 Q. All righty. So how does that tie in with the blunt
23 force trauma? Was there any connection, that blunt force
24 trauma in 140, was there any connection there? Or are we
25 talking about two different injuries?

26 A. It's -- if you notice, these two injuries are on the
27 side away from -- from that. And, again, if you notice,
28 those two injuries, again, very parallel to each other on

1 the crevice. Could it have been caused by something
2 forklike? It's possible. With the two distance. But,
3 typically, if you notice, they have marginal abrasions
4 around them. So this makes it more likely a -- a laceration
5 impact.

6 Q. Oh.

7 A. That is what will cause a marginal abrasion.

8 Q. Okay. So anything else about the head that you
9 noticed? You got the smothering or the asphyxiation. We
10 have got some blunt force injury on the head. And these
11 two -- is it two -- what would we call these puncture
12 wounds?

13 A. Laceration.

14 Q. Lacerations of the head?

15 A. Yes.

16 Q. 116.

17 Anything else about the head that caught your
18 attention?

19 A. Yes.

20 Q. What?

21 A. The scalp showed evidence of extrapositional blood.
22 And, again, the dura mater showed a hemorrhagic stain.
23 Again, in this case, as I said in my autopsy report, there
24 was an intent to conceal the body. And to conceal the body,
25 to keep it in water. So I would admit that there was
26 obliteration of evidence. And I will give you an example.

27 When a child like Sandra Cantu suffers non-accidental
28 injury, the brain suffers injury on the microscopic level

1 and actually swells up.

2 So what we do, if I had gotten to Sandra the day he
3 (sic) died, to actually take his brain and subject her
4 brain -- sorry -- her brain to very sophisticated protein
5 analysis, because when your brain suffers injury like trauma
6 or asphyxia, it secretes some proteins -- some abnormal
7 proteins that we actually look for.

8 But her brain had been reduced into a pulp. It was --
9 it was actually grayish in color, like if you leave an egg,
10 a rotten egg, for days, it changes color, looks
11 grayish/black. And mushy. That was how Sandra's brain was
12 looking. And that prevented us from doing the sophisticated
13 analysis.

14 However, in addition to the external trauma, we saw
15 evidence of extrapositional blood in the scalp and some
16 hemorrhagic staining in the dura mater.

17 Q. And what causes that, in layperson's terms?

18 A. Trauma caused by an adult.

19 Q. Exhibit 135, is this another shot of that same injury
20 to the head?

21 A. Yes, please.

22 Q. Another view?

23 A. As you see, it has marginal abrasions. A penetrating
24 injury will simply -- as you see, the marginal abrasions,
25 marginal abrasions.

26 Q. What is the fact that you can see these marginal
27 abrasions, what does that tell you about this?

28 A. This was impact with the surface.

1 Q. Okay. And where on the -- you said there were these
2 other blunt force injuries, where are they in the head?

3 A. When we reflected -- because we opened up the scalp
4 and reflected it forward and backward and actually opened up
5 the skull, examined the dura mater.

6 Q. Can you show us with a laser where else on the head?

7 A. We opened -- we cut open the scalp.

8 Q. Where was the injury? Where was the injury?

9 A. It was in the scalp inside, on both the left side and
10 there was another one on the right side. Like bleeding into
11 the scalp.

12 Q. All righty. Just make a little detour here. I was
13 looking for this one earlier.

14 This is the full X-ray that you did of the -- of the
15 chest?

16 A. Yes, yes, showing that there were no fractures.

17 Q. No broken bones?

18 A. No broken bones.

19 Q. So you've got the asphyxiation, some injury to the
20 head, and you said there was another area of injury?

21 A. Yes. There were pictures. We actually at some point
22 during the autopsy torn back Sandra and dissected her entire
23 back. And why do we do that? It is an established
24 protocol. Human beings, again, reproducible patterns, can
25 suffer trauma to your back without it showing on the
26 surface.

27 Q. So you have to open up the body to see it?

28 A. Open up the back and dissect it, actually literally

1 mutilate the body.

2 Q. What did you find?

3 A. And when we did that, we found evidence of multifocal
4 bruising of Sandra's back. There were --

5 Q. Pre-mortem or post-mortem?

6 A. Pre-mortem.

7 Q. When she was alive, she received some bruises on her
8 back --

9 A. Yes, please.

10 Q. -- that were not visible, but when you opened her up
11 you saw them?

12 A. Yes, please.

13 Q. What kind of activity could cause the bruising on the
14 back?

15 A. Blunt force impact of Sandra's back with an unyielding
16 surface, or somebody hitting her back with some implement or
17 weapon, including the fist, because the fist is a weapon, or
18 any other weapon, it's possible. Again, non-accidental
19 trauma, we don't make references to the mechanism.

20 Q. What about holding someone down?

21 A. It's possible, yes. Who's struggling.

22 Q. Who's struggling, your hands are over your mouth, they
23 can't breathe?

24 A. And the person is struggling, making an attempt.

25 Q. How would that cause injuries to their back?

26 A. If -- if an individual like a child, maybe on the
27 surface or on the floor, and they are holding a child
28 down -- remember, human beings who are desperate would

1 defend themselves with the extremities. So the child is
2 kicking. And as you're kicking, your back is hitting up and
3 back, up and back, on an unyielding surface.

4 Q. I see. That's one scenario of how the injuries to the
5 back could have occurred.

6 A. Thank you.

7 Q. You're not saying that's definitely what happened?

8 A. No, no, no. These are possible. Again, I repeat,
9 non-accidental trauma, all we can tell is these injuries are
10 not self-inflicted by the child or another child. It was
11 inflicted by an adult.

12 Q. What other injuries then did you find besides the
13 head --

14 A. We saw injuries to the buttock area and to the -- to
15 the external genitalia.

16 Q. Tell us about the external -- the -- to her vagina?

17 A. To her -- well, I wouldn't use "to her vagina."

18 Q. Use whatever words are medically appropriate and tell
19 us what did you find?

20 A. There were contusions -- first, if you see the female
21 genital, there's what we call the labia. The female genital
22 has like layers of tissue. And the middle layer you see
23 from outside is called the labia majora, like two mounds.
24 There was a contusion or bruising of the left labial majors
25 of Sandra's external genital.

26 So we now opened it up and saw extensive contusions
27 and lacerations of Sandra's lower vaginal area, the opening
28 of the vagina to the exterior, and the entire surface of the

1 labia minora, the two smaller lips, they were lacerated.

2 But the interesting thing at autopsy was that rather
3 than the injuries going up into her vagina, went backwards,
4 damaging, contusing the entire perineal area, the region
5 between the vagina and the anus, in a cylindric manner,
6 creating almost a crevice underneath the skin.

7 And I documented it at autopsy, why would it be going
8 backwards shaped like a cylinder contusing the surfaces and
9 the distal exterior of the vagina going into the perineal
10 body. The perineal body is the mound of tissue between the
11 vagina and the anus, which is extremely painful. It is one
12 of the most sensitive parts of the body.

13 And that crevice, I measured it, it was about
14 three centimeters in depth, with lacerations and contusions.

15 Q. Three centimeters?

16 A. In depth.

17 Q. Which is about how many inches?

18 A. About an inch and a quarter. Yeah. It wasn't a very
19 long -- at the time of the autopsy, one of my considerations
20 was this was less likely to be caused by a penis because of
21 the direction of its shape and the extensive amount of
22 injuries. One of my differentials, meaning probabilities,
23 was this could have been caused by a foreign object.

24 Q. Three centimeters is about an inch?

25 A. Inch and a quarter, yes. 2.54 centimeters make one
26 inch.

27 Q. The bottom is centimeters. The top is feet or inches.

28 Three centimeters is about an inch and a quarter?

1 A. Yes.

2 Q. That's how deep in --

3 A. But, remember, this was an eight-year-old girl. So
4 three centimeters of the perineum is large.

5 Q. Did you take photographs of this?

6 A. I took -- I took photographs, and the FBI agent and
7 the Sheriff's technician took numerous photographs.

8 Q. So are you saying you found -- you found evidence that
9 something had been put in her vagina -- in her vagina?

10 A. In her external genital area.

11 Q. External genital area. And it went in about -- can
12 you say how deep?

13 A. About three centimeters.

14 Q. And how could you tell this was done? What is it that
15 you saw that makes you conclude this?

16 A. I saw contusions and lacerations, and the vital
17 response, which is very important. And I -- I dissected the
18 entire perineal area en-bloc. I submitted sections for
19 microscopic examination. I submitted over twenty. And in
20 the sections, we saw blood outside blood vessels. There
21 were still decomposing. And in addition to that, some
22 response of the body to injury.

23 So the color of the injuries, the configuration of the
24 injuries, the location of the injuries, at that point was
25 not -- did not look like a typical rape cases I have seen
26 and I have read about.

27 And I remembered the meeting I had after the autopsy
28 many days later, I was asked, "Do you think this could have

1 been caused by a penis?"

2 I said, "Less likely. I would think maybe a cylindric
3 object. Look for a cylindric object at the scene."

4 Q. You told who to look for a cylindrical?

5 A. This was about a couple of days after my autopsy, it's
6 in my report, we had a meeting, the Detective Bauer, the
7 lead detective. So the question was posed to me, "Could
8 this have been caused by a penis?" From my knowledge and
9 training and experience, less likely.

10 Q. Why do you think it's less likely to have, this injury
11 that you saw, less likely to have been caused by a penis as
12 opposed to some other foreign object? What was it?

13 A. Because of the configuration, there were lacerations
14 that -- almost tearing that were irregular. And this was
15 very superficial, almost digging into the skin, going
16 backwards.

17 If a man -- men have penises -- were thrusting
18 forward, the penis points forwards and upwards, and not
19 backwards. And it was not shaped typically like a cylinder
20 of the penis -- of an adult penis. It was small, irregular,
21 and had a triangular shape to it.

22 So, remember, I'm not making absolute statement. I
23 cannot assume the will of God. But the law requires me to
24 provide a reasonable opinion. So the configuration, the
25 anatomy, and the structure of the injuries reasonably
26 indicate that it was some form of foreign object.

27 Q. Showing you what has been marked as People's...

28 MR. TESTA: What number?

1 THE FOREPERSON: 153.

2 MR. TESTA: You attach it, please?

3

4 (Whereupon a Rolling Pin was marked
5 Grand Jury Exhibit Number 153 for
6 identification.)

7

8 MR. TESTA: Q. Is this consistent?

9 A. Yes. Not the entire body. Tips of it would be
10 consistent.

11 Q. With the laser, could you show us?

12 A. The tips.

13 Q. The tips?

14 A. This is the first time I'm seeing it. Maybe this
15 handle. This handle, yes.

16 Q. Okay. Because if I tell you we are going to hear some
17 evidence that Sandra Cantu's DNA was on this.

18 A. Where was this found?

19 Q. In the church.

20 A. Then it would be consistent, because I believe she was
21 killed at the church, right? I don't know.

22 Q. Well, showing you -- let me see -- showing you a
23 photograph, Number 13, in a drawer -- we heard evidence of
24 this yesterday -- if I could find that exhibit here. I
25 thought I just had it on the screen moments before.

26 Here it is.

27 Exhibit 12. This rolling pin, can you see it?

28 There's that fork object, there's some utensils. We've

1 heard this item, Number 10, shows it before they seized --
2 they had a search warrant to go in and look for cylindrical
3 items and they went in there and took, you know, a toilet
4 plunger, a curling iron, a broom handle, all sorts of
5 things. They also took this -- this rolling pin that we see
6 here in the photograph number 10.

7 And we see it in photograph number 13, when the
8 evidence technicians put it on the counter so they could put
9 the placard next to it and take photographs.

10 A. And Sandra's DNA was found on it?

11 Q. We'll hear about that from the witness later on. But
12 her -- there was a smudge on one end. But they found her
13 DNA, not blood, but her DNA -- actually, I think it might
14 even have been at both ends. We will hear it from the
15 person later on. I think it was hers exclusively on one end
16 and a mixture, I believe, of some on the other.

17 A. My opinion, within a reasonable degree of certainty,
18 from what you just told me, that will be the implement that
19 was used.

20 Q. Can you say that more slowly, please?

21 A. Sorry.

22 From what you just told me, this was found at the
23 scene of death, has the victim's DNA on it, it's cylindrical
24 in shape, and firm, within a reasonable degree of medical
25 certainty, my opinion that this most likely was the weapon
26 that was used.

27 Q. Well, you know, you talked about different injuries.
28 This wasn't used for smothering?

1 A. No.

2 Q. Okay. So you're talking about the weapon for the --

3 A. Genitals.

4 Q. -- genitals?

5 And the basis of that opinion is what?

6 A. The configuration, the anatomic configuration of the
7 wounds.

8 Q. Were you able to tell how wide the item was that went
9 in the genitals?

10 A. It was about -- it was about (Referring to report).

11 It was an expandable space, it was about two --
12 two centimeters, so about -- opine something, maybe
13 three-quarter inch. But it was expandable.

14 Q. What are the dimensions of this handle?

15 A. The handle?

16 Q. You use centimeters. So what do we want to look for?

17 A. That is about two -- two centimeters.

18 Q. At the tip?

19 A. Yeah. Yeah.

20 Q. So is this consistent? I know you can't say, you
21 weren't there. But is this consistent?

22 A. It's reasonably consistent, yes.

23 Q. This -- this item number 153 is reasonably consistent
24 with the injuries that you saw on Sandra Cantu's genital
25 area?

26 A. Yes, please.

27 I mean, this is the first time I'm seeing it.

28 Q. Yeah, I know. I don't think anyone has ever shown

1 this to you. We just got it back from the FBI where they
2 did their -- or from wherever they sent it, where they did
3 the tests. And as I say, we'll find that her DNA was on
4 there.

5 Well, what else can you tell us about these -- did you
6 photograph these injuries to the area?

7 A. Yes, please.

8 Q. What is shown in 114? I apologize for having to put
9 these on here, but I think there's no other way to show them
10 but by photograph.

11 A. Turn it around.

12 Q. This way?

13 A. Thank you.

14 So what you can see, this was Sandra, this is her
15 buttock.

16 Q. On the bottom you mean?

17 A. Yes, on the bottom.

18 And you could see this what I did, I have dissected.
19 This is now inside, going -- there are pictures, many more
20 pictures, you could see the tunnel or crevice going
21 downwards towards her anus. And you could see -- you don't
22 have to be doctor to see that there's bleeding here.

23 Q. What does that mean when there's bleeding?

24 A. There's trauma.

25 Q. Pre-mortem or post-mortem?

26 A. Pre-mortem.

27 Q. She was alive?

28 A. Yes. And because I was thinking, could this be

1 post-mortem?

2 Q. You mean, someone did it like after she was dead?

3 And what was your conclusion?

4 A. No, could this be due to decomposition?

5 Q. And what did you conclude?

6 A. What I did was, luckily, the anus was just there.

7 Q. Was what?

8 A. The anus was present, was there looking at me. And
9 the first thing I noticed was there was no blood or fluid
10 coming out of the anus. There was hemorrhagic fluid or
11 blood coming out of the vagina.

12 Q. Meaning?

13 A. If it was post-mortem, you need to expect hemorrhagic
14 fluid to come out from both the vagina and the anus.

15 Q. That makes sense to me.

16 A. And I went back, actually dissected -- I was already
17 at the autopsy almost four or five hours -- dissected the
18 rectum, the anus, and actually opened it. There was no
19 bleeding. There was no fluid. It was clean.

20 Q. How could you tell whether this occurred at the time
21 of death as opposed to the day before, someone raped her the
22 day before, something like that, or an hour before, or
23 something? What's your opinion?

24 A. I took -- what I did, we took -- if you see pictures
25 at the end of the autopsy, there was -- we took the entire
26 block, there was just space. We mutilated the body, I'm
27 sorry to say it. But we did -- I would take sections,
28 microscopic sections of the entire vaginal area, looking for

1 evidence of death, to see if somebody did this two or three
2 days or even hours prior.

3 If she had suffered these injuries two hours before
4 her death, there are specific changes you will see
5 microscopically. And all those changes were absent.

6 So she sustained these injuries in what we call the
7 peri-mortem period, at about the time of her death.

8 Q. Let me ask you this: To obtain these injuries that
9 you saw on her -- this eight-year-old girl's genital area,
10 would this cause pain?

11 A. Oh, oh, oh. Yes. Yes. Very bold yes.

12 The most sensitive parts of your body are determined
13 by the density of their fibers. And the most sensitive area
14 is the tips of your fingers. Remember, if you have an
15 infection in your hands, it's very painful. Your tongue,
16 tip of your tongue. The tip of your lips. And then your
17 genitals.

18 As I have said earlier, the perineal body, even in a
19 man, the tip of the penis is very painful, or the testicle.
20 That even if somebody kicks in your testicle, is a very
21 excruciating pain.

22 Now, for Sandra to have this -- this injury, remember,
23 I told you went backwards, not just in the vagina but it
24 went backwards into the perineal body, this will give you
25 one of the most excruciating pains any individual would
26 experience.

27 Q. So did you see her skipping and jumping in that video?

28 A. Yes, please.

1 Q. You saw it?

2 A. On TV, yes, please.

3 Q. If she had just been -- had this happen to her, you
4 know, an hour earlier or something like that or earlier that
5 day, is it your opinion she'd be skipping and jumping
6 happily down the road?

7 A. Very unlikely. Very unlikely.

8 Q. And why is that?

9 A. Sorry?

10 Q. Why is that?

11 A. Because of the pain. In fact, this is the type of --
12 let me give you a hypothetical scenario.

13 When I was in high school, we are playing soccer. And
14 somebody kick the ball and it went straight to one of my
15 colleague's perineal area and hit his testicle. At that
16 very moment, he bent over and was wincing in pain. And he
17 was like that for almost five minutes.

18 Think about it. If Sandra had sustained these
19 injuries, it is not reasonably possible for her to even be
20 walking and skipping. Because if you notice, this is a very
21 fresh injury.

22 Q. What about it makes it appear fresh?

23 A. Sorry?

24 Q. On 114 -- let me strike that and show you this. 115,
25 is this another photograph of the injury?

26 A. Yes. This was another picture to actually demonstrate
27 the crevice, the tunneling, of the perineum, and going
28 backwards towards the anus. And the anus was intact.

1 Q. And 118?

2 A. This was -- thank you so much.

3 If you notice, this was before we spread apart -- this
4 is the clitoris, the labia minora, the majora. I actually
5 pulled it apart. You could see blood pooling. I pull it,
6 you could actually see blood.

7 Q. And what does that mean, that you could see that?

8 A. Blood -- a dead person does not bleed.

9 This tells me -- if you see is all red. You can't
10 even see the vagina, the opening of the vagina. This is on
11 a eight-year-old. And an eight-year-old girl, this should
12 be very clean and pink and slick-like.

13 But if you notice, there's complete loss of anatomy.
14 When I opened up, I did not recognize the anatomy. I have
15 to do a very meticulous dissection.

16 Q. 117?

17 A. Again, a close-up. You can now see -- if you notice,
18 spread apart, this skin is now very pink. Extremely pink.
19 Showing expansion. Expansion. So there's laceration of all
20 the underlying soft tissue, only leaving the very
21 superficial thin layer of tissue.

22 Q. 138?

23 A. A penis will more likely tear this through.

24 Q. A what?

25 A. A penis --

26 Q. Oh, I see.

27 A. -- will more likely tear the entire place. And a
28 penis is more likely to go up and not backward. In fact,

1 it's painful to push it downwards.

2 I don't mean to be graphic. I'm sorry.

3 Q. I think in this kind of situation, with these
4 injuries, it's educational for all of us to hear this.

5 139 I think is the last one we have. What is shown
6 here, after you did some cutting?

7 A. Let me see, could you -- I'm trying to -- yes, good.
8 It's this way. This way. Very good. This is a close-up.

9 Q. After you or before you did your cutting?

10 A. This was in the process.

11 Q. What does this show?

12 A. At the beginning. What you can now see, finally, I
13 was able to identify the vagina. I can see on an
14 eight-year-old this is gaping. The typical eight-year-old
15 should be slick-like. And even when you open it, you see
16 the bulge of the hymen. You don't see through the tunnel of
17 the vagina.

18 But if you look at Sandra's, it's all torn. And you
19 could see some variegation, irregularities, almost like a
20 cookie cutter. This is indicative of laceration. You could
21 see the bleeding in the walls. Even look at here, this is
22 almost purple. The bleeding all around. And then you see
23 the tearing of the child. You could see the margins are
24 very variegated and irregular.

25 Q. And how could you determine whether or not this was
26 caused at or near the time of death as opposed to her being,
27 say, sexually activity?

28 A. Sorry. Come again. I'm sorry.

1 Q. Do you know if she was sexually active or some guy was
2 molesting her or some person was --

3 A. It's possible she may have experienced some previous
4 sexual abuse. Because what happens is the hymen was absent.
5 And the -- even if you are virgin, you lose your virginity,
6 we can still see remnants of the hymen, we call -- technical
7 name is hymenalis, H-Y-M-E-N-A-L-I-S, hymenalis/myrtiformis.
8 Is in the autopsy. And M-Y-R-T-I-F-I -- sorry --
9 F-O-R-M-I-S, myrtiformis. Hymenalis/myrtiformis. And what
10 it simply means is you see variegations of the torn hymen.
11 I could not find there.

12 Q. Meaning what?

13 A. Meaning that Sandra may have been sexually abused in
14 the past.

15 Q. Okay. So how -- here's my question I'm leading up to:
16 When you say you see all these things in her when you do the
17 autopsy, in her genital area, how can you tell these
18 happened at or near the time of death as opposed to having
19 been done to her earlier?

20 A. Because of the bleeding. If this was done to her like
21 eighteen hours prior, the bleeding would change from
22 red/purple to yellow. On microscope, it will show you
23 evidence of tissue response to the injury. Okay?

24 And then this is what we call acute. An acute injury
25 with no cellular response. So the pathology, the
26 microscopic features, the gross features, the naked eye
27 features, indicate with a reasonable degree of medical
28 certainty that this was in and about the time of death.

1 In fact, her underpant, picture I don't recall showing
2 you, showed --

3 Q. Here.

4 A. -- evidence of blood.

5 Q. 123.

6 A. Evidence of blood, streak-like blood, running in the
7 middle.

8 Q. Meaning what?

9 A. Meaning she was bleeding. It was acute. An acute
10 injury wouldn't have fresh blood emanating from it.

11 Q. A what injury?

12 A. I'm sorry. An old injury.

13 Q. Wouldn't have what?

14 A. Wouldn't have fresh blood emanating from it.

15 Q. That's one more piece of evidence that it was --

16 A. Peri-mortem.

17 Q. -- at or near the time of death?

18 A. Yes, please.

19 Q. What about 83, what does that show?

20 A. Again, it shows evidence of Sandra passing stool.

21 This is what we call an agonal response.

22 Q. Agonal?

23 A. Agonal.

24 Q. As in agony?

25 A. Yes, the agony of death. When you are experiencing a
26 painful death, we see that very frequently, people
27 frequently pass urine or pass stool or both.

28 We are not able to identify that urine because she

1 have been in water. So even if she had passed urine, it may
2 have been leached out by the water.

3 Q. The urine?

4 A. This is an agonal response indicative of an agonal
5 death.

6 Q. Does someone defecate -- can someone defecate after
7 death?

8 A. Less likely.

9 Q. Okay.

10 A. Defecation is an active process. So we see that -- we
11 don't see that in everybody. We see it more frequently
12 maybe somebody is having a heart attack, or somebody who is
13 suffering an asphyxia, asphyxial death, any activity that
14 involves some type of experiencing pain.

15 Q. So the presence of the fecal matter in the underpants
16 is -- indicates -- in People's Exhibit 83, is an indication
17 that it was an agonizing death?

18 A. Yes.

19 Q. And the reason for that is based on what, your
20 experience and findings?

21 A. No, no. Based on medical knowledge, what we know
22 about a human body. When you're experiencing pain, your
23 balance between what we call the sympathetic system and the
24 parasympathetic, or the autonomic system and the nervous
25 system changes. And that is why sometimes if you're having
26 pain -- you have a heart attack or your heart stops beating,
27 or your heart goes into fibrillation. That is why when you
28 have surgery doctors sedate you, so to keep the balance of

1 the autonomic system.

2 So it is the autonomic system that explain such agonal
3 response, including your brain swelling or having edema,
4 coughing out blood sometimes.

5 Q. So 151 shows the underwear also?

6 A. Yes, it was a --

7 Q. Hold on.

8 A. -- a design. Had nylon on one end and had this
9 inscription "TroubleMaker."

10 It was also intact, was not torn.

11 Q. And 123, I showed it to you already, but where is the
12 fecal matter?

13 A. See here, at the back.

14 Q. Okay. Where is the blood?

15 A. See the blood, almost a streak-like, representing the
16 opening of the labia.

17 Q. Okay. So, basically, wrap that up, what -- what can
18 you say about the injuries to the genital area overall?
19 What's your summary of what you --

20 A. It was not caused by Sandra. It was less likely to
21 have caused by a male.

22 Q. Because?

23 A. She was dressed back up. That was very important.
24 She was carefully dressed. The configuration of the
25 mutilation was backwards, shaped small, almost the size of a
26 child's penis. Backwards. And the lacerations were very
27 irregular, like caused by an object that was unyielding.

28 Remember, penis is tissue as well. So a penis

1 wouldn't cause such disfiguring lacerations because it's
2 tissue, too. The individual will feel pain, the penis is
3 also painful. Okay?

4 So it's the irregularities, the aggressiveness of the
5 injury, rules out a penis.

6 Q. So the irregularities because the -- oh, I see. I
7 think I finally understand it. You -- the irregularities
8 are one indication that it was a foreign object, not a
9 penis?

10 A. Yes.

11 Q. Because the foreign object is not going to feel any
12 pain?

13 A. Thank you so much.

14 Q. I see. And the -- where did you see the
15 irregularities of the injuries?

16 A. The walls of the perineum.

17 Q. So to wrap it up, I kind of cut you off, so you
18 thought it was a -- the irregularities, the fact that --
19 what was the significance of the fact that she was neatly
20 dressed? I think we see that in 133. Why did you feel that
21 mitigated towards finding it was not a man?

22 A. Okay.

23 Q. What was the significance?

24 A. You remember, I'm also a physician and I studied
25 psychiatry, human behavior. What makes a man different from
26 a woman is testosterone.

27 Q. Testosterone?

28 A. Testosterone, yes. Men have much higher levels of

1 testosterone. And testosterone is a hormonal aggression. A
2 hormone -- testosterone is what makes men more aggressive
3 than women. It is what makes a man walk up boldly to a
4 woman, "I like you," while a woman is less likely to come up
5 to you, "Hey, I like you." Okay?

6 Now, again, over the years, reproducible human
7 behavior, we all the same despite looking different. Man
8 who would rape a child is less likely to keep the pant
9 intact.

10 Q. To keep what?

11 A. The underpant intact.

12 Q. A man's more likely to break it off?

13 A. Will break it off. And a man is less likely to put it
14 back on and fold it neatly and carefully.

15 Q. You mean, you talking about the folding of the edge?

16 A. Yes. When I was doing the autopsy, that was one of
17 the things I noticed. Very careful -- very well folded up
18 carefully.

19 Q. A guy's not going to even dress her, is he?

20 A. No, no. Dump her.

21 Q. Throw the clothes, dump her off the side of the road?

22 A. A guy is less likely to meticulously put back in,
23 place the slippers in the luggage, zip it up, tighten it,
24 and take all the pain to dump it, that is less likely.

25 Q. Guy's going to throw her out of the car or off the
26 side of the road?

27 A. Leave her at the scene and will walk away.

28 Q. Okay. Here are some questions from the grand

1 jurors -- I would like to finish today with you so you don't
2 have to come back.

3 A. Sure.

4 Q. Because I suspect you're a real busy guy.

5 How long had Sandra been dead before she was found, is
6 the question?

7 A. Okay.

8 Q. Well, we already know that she was missing on the
9 27th of March and the suitcase is found on the 6th of April.
10 But can you tell how long she had been dead?

11 A. Okay.

12 Q. Independent of that information?

13 A. No matter how advanced science is, the simple things
14 are more important in forensic science. And for such a
15 question, what you asked is when was the person last seen
16 alive?

17 Q. March 27th.

18 A. That is when she died.

19 Q. Why do you say that?

20 A. Very basic. The last time she was seen alive -- from
21 what we know in forensic science, people when they die are
22 missed.

23 Q. Okay. She didn't come home that night. Her mother
24 called 911. Meaning?

25 A. Within a reasonable degree of medical certainty, she
26 died that night.

27 Q. Okay.

28 A. The last time she was seen by anybody.

1 Q. Okay. Well, let me tell you, we have this Marine who
2 saw a woman by the pond on the 27th, and we have some other
3 evidence that I won't go into with you right now that
4 suggests that that's the day that the defendant went over to
5 the pond, Melissa Huckaby, and put the suitcase in there.

6 If the body's in the water from the 27th of March
7 until the 6th of April, did you see evidence that it had
8 been in the water that long?

9 A. The decomposition says when you see diffuse bloating,
10 generalized skin slippage, the gloving of the hands and
11 feet, it tells you that a individual has been dead for at
12 least three days.

13 Medicine is not an absolute science like physics,
14 where one plus one are mathematics, one plus one is equal to
15 two. Why? Because each individual will manifest different
16 signs, like if we are all having flu, we all have different
17 symptoms. So -- but once you see this degree of
18 decomposition, it cannot -- it cannot be less than three
19 days.

20 Q. Okay. Next question from the grand jurors: Are you
21 able to sense how Sandra was placed into the suitcase? Was
22 there a sense of urgency? Was it done with some
23 carefulness? That's the question from the grand jurors. I
24 don't know if you're able to answer that.

25 A. I've been using the word "carefully." This was not
26 something heat of the moment. This was a very calm,
27 calculating mind at work. It was not something that was
28 done in a hurry. It's possibly something that may have been

1 premeditated.

2 Q. Well, what about your findings supports that
3 conclusion you've just given us, in a nutshell?

4 A. The meticulous nature -- starting from the exterior,
5 the meticulous nature of the knotting of the zipper. The
6 meticulous nature of the individual cleaning the luggage.
7 The meticulous nature of the individual folding Sandra in a
8 fetal position. And there's that -- that finding is very
9 important. All it tells us the individual who did this
10 folded Sandra, placed her into the luggage before the onset
11 of rigor mortis.

12 Q. Before the --

13 A. Onset of rigor mortis.

14 Q. Rigor mortis?

15 A. Yes.

16 Rigor mortis is the rigidity of the muscles after
17 death. It begins usually at about two hours after death.
18 And if you had had the opportunity --

19 Q. Is that what caused --

20 A. No. Rigor, the body will remain -- the muscles will
21 actually pull up and straighten out. To see a body in
22 rigor, even for me, you cannot break it. Because the -- the
23 proteins of the muscles are bound rigidly together. And
24 many times, the only way you can break it, if you don't use
25 excessive pressure -- many times I even pull, it goes
26 back -- is about twelve to twenty-four hours after death, it
27 begins to break by itself when the proteins begin to
28 decompose.

1 So this was done soon after she died, before rigor set
2 in, for the individual to have been able to pull her in the
3 fetal position to place her in the bag.

4 Q. Now, when you said smothering, when I show you 144, do
5 you have an opinion on whether or not this torn plaid
6 portion of a towel, or whatever it is, with her hair, had
7 any role in the causing of those injuries to the lower lip
8 that you say are consistent with smothering?

9 A. Yes. Yes. If you notice in my autopsy report, I use
10 the terminology homicidal asphyxiation. What it simply
11 means is that Sandra suffered asphyxia. Asphyxia is the
12 deprivation of oxygen to the brain through whatever
13 mechanism, only known to that individual.

14 Could this have been used to asphyxiate her, to cover
15 her nose, her neck, or her mouth? Yes.

16 Q. Was Sandra still alive when placed in suitcase, is the
17 question?

18 A. Less likely. She may have been in coma or almost
19 dead. But within a reasonable degree of certainty, it's
20 less likely that she was alive when she was placed in the
21 suitcase.

22 Q. Next question from the grand jurors: Is it or would
23 it be possible for one person to have placed Sandra in that
24 suitcase and seal it?

25 A. Yes, please.

26 Q. She only weighed forty --

27 A. Forty pounds.

28 Q. Forty pounds.

1 A. And there was no evidence of -- the answer to that is
2 yes. I lifted her up myself.

3 Q. By then, was she even heavier when you lifted her than
4 she would have been alive?

5 A. It wasn't -- I remember -- the problem I had was
6 trying to disentangle her from the bag. But the moment I
7 did that, I -- I was very comfortable walking around a room
8 with her on my hands.

9 Q. Is there a degree of certainty of what kind of
10 instrument might have caused her injuries, and could one
11 instrument have been used for all injuries?

12 A. Less likely. Again, we try to keep away from the
13 mechanisms. All I could tell you was this was not an
14 accident. This was not caused by any activities of
15 Sandra's, like Sandra falling down, Sandra concealing
16 herself in the bag and tying it and dumping it in the water.
17 This was not done by Sandra. This was not done by a child.

18 Q. Do they -- did she die instantly, is the question?

19 A. No. Most deaths are never instantly. Deaths by what
20 you see on TV.

21 In this case, asphyxial deaths, non-accidental deaths,
22 death is usually slow. By slow, maybe meaning not hours.
23 Usually slow.

24 Q. Did you do -- did you have done -- did you review the
25 results of the toxicology? And, if so, what did they find
26 and what conclusion did they play? What role did they play
27 in your conclusion?

28 A. We did toxicologic analysis. We submitted -- because

1 there was no blood, she was markedly decomposed, we
2 submitted her brain tissue, her liver, her bowel and stomach
3 contents. The bowel and stomach contents was submitted
4 weeks later.

5 Q. We are going to have someone come in later and talk
6 about that. But in terms of what you learned when you wrote
7 your report, what did you learn was in her, if anything?

8 A. Okay. Sandra revealed evidence of ethyl alcohol,
9 isopropyl alcohol -- let me refer. Isopropyl alcohol and
10 phenethyl -- hold on. Phenethylamine, I apologize.

11 These are all -- phenethylamine is actually an
12 intoxicant that could be produced from decompositional
13 changes from bacteria.

14 Alcohol -- ethyl alcohol could be produced from
15 bacterial decomposition.

16 Isopropyl alcohol may be or may be not.

17 So when I saw this, I had asked the detectives to go
18 back to the scene and possibly look for isopropyl alcohol,
19 which is rubbing alcohol. If there was rubbing alcohol at
20 the scene, could it be found in the towel, in the kitchen
21 cloth. Because in addition to that, there was the presence
22 of acetone.

23 But I cannot tell absolutely that, yes, the isopropyl
24 alcohol was due to rubbing alcohol. If rubbing alcohol is
25 found in the scene, it's possible.

26 Q. Well, let me ask you this: If I told you that this
27 exhibit...

28 MR. TESTA: What's this number?

1 THE SECRETARY: 154.

2

3 (Whereupon three Photographs were marked
4 Grand Jury Exhibit Numbers 154, 155 and
5 156 for identification.)

6

7 MR. TESTA: Q. 154 was found -- I think
8 another view of it is 155, and another view of it was 156,
9 in the church, this is a cupboard in the church, the same
10 church that had the rolling pin and we are going to hear
11 about a blind -- the cord of a blind.

12 A. And it's half empty, I could notice.

13 Q. Actually, I think -- let me get these marked.

14 MR. TESTA: Do you have them ready yet?

15 THE SECRETARY: No.

16 MR. TESTA: Not yet.

17 Q. Okay. You will see that one of these shots -- hold
18 on. With the laser, can you show us where it's half empty?

19 A. As you could see, is half empty. This is the level.

20 Q. Okay. So what -- so if I tell you that in the same
21 church as the rolling pin and the same church as a blind
22 missing part of a cord --

23 A. A blind?

24 Q. A window blind.

25 A. What was missing?

26 Q. Well, the part of it -- all the cords were intact
27 except one. So they sent that particular blind to the FBI
28 and he said it's consistent with the cord that was found on

1 the suitcase that you already identified in previous
2 photographs.

3 I'm not asking you to draw a conclusion about that,
4 just about what you think the significance is of
5 the alcohol?

6 A. It's possible isopropyl alcohol was used at about the
7 time of her death.

8 Q. Well, how is such a substance used on somebody, I
9 mean?

10 A. It could be used putting -- in fact, it's all over the
11 Internet -- rubbing alcohol on a piece of cloth like that
12 kitchen towel, and place it over her face.

13 Q. What about this item here, 144?

14 A. Yes, on the kitchen -- just place it -- you don't even
15 need to use so much force, I'll pass out after awhile. I
16 wouldn't die.

17 Q. Is it like a ether?

18 A. Yes. Thank you so much. A lower form of ether.

19 And, also, it could also be used to clean up.

20 So now -- again, I'm not making absolute statement, I
21 can't play God -- but when I saw the isopropyl alcohol, I
22 called the detectives, "Could you go back to the scene, look
23 for rubbing alcohol?"

24 Q. So now that I have these marked 1 -- 154, 156, and
25 155, what's the significance then of their finding -- if I
26 tell you -- if we jump ahead and I tell you they did find
27 this rubbing alcohol in the church?

28 A. It's indicative that whomever did this, the adult that

1 did this, may have used rubbing alcohol on Sandra Cantu.

2 Q. And the rubbing alcohol would have the effect of doing
3 what to a person?

4 A. It could make you suffer a hypnotic effect. I don't
5 know if you've heard of the drug Valium, diazepam, could
6 make you have a hypnotic effect. You're not dead.
7 Sedative, intoxicating. And it could actually cause
8 amnesia. When you drink, Monday morning, "Why am I in this
9 hotel?"

10 Q. Well, what about the levels of the amount found in
11 her, can you draw any conclusions from the amount that the
12 lab found in the tissue that you sent?

13 A. The labs were found it in the tissues. You should not
14 find isopropyl alcohol normally.

15 Q. You do or do not?

16 A. You do not in a human body.

17 Q. What about a body that's been in water for one, two,
18 three, four, five, six, seven, eight, nine days, would it --

19 A. It's possible --

20 Q. -- would the body produce that naturally?

21 A. It's possible. You don't find it -- like I do
22 about -- drownings, about fifty drownings if not more
23 every -- every year, if not more sometimes, because of the
24 water. Since this year, I've not found isopropyl alcohol on
25 any of them.

26 Q. Were some of them in the water for awhile?

27 A. For awhile. Days, sometimes even weeks.

28 Q. And you didn't find isopropyl alcohol in those bodies?

- 1 A. We don't typically. You'll always find ethyl alcohol.
- 2 Q. Ethyl alcohol?
- 3 A. Yes, you'll always find ethyl alcohol.
- 4 Q. Decomposition produces that?
- 5 A. Yes. But less likely isopropyl alcohol. However,
- 6 it's been reported, I found it, I put in my caveat, only
- 7 this is the second time I'm seeing it. But when you see
- 8 isopropyl alcohol with acetone, you should rule out any
- 9 isopropyl alcohol at the scene.
- 10 Q. So you found acetone, too, in her body?
- 11 A. Yes. And acetone is indicative of enzymatic activity.
- 12 Q. So what do you mean, if you find both the isopropyl
- 13 alcohol in the body and the acetone in the body, which you
- 14 found, you have to rule out --
- 15 A. Exposure in an individual who was still alive.
- 16 Q. Because?
- 17 A. Because isopropyl alcohol is acted upon by an enzyme
- 18 in the body. And for an enzyme to be active -- active in
- 19 the body, it's indicative that this was in a living
- 20 individual. Am I making sense?
- 21 So the presence of isopropyl alcohol, assuming
- 22 isopropyl alcohol was not found at the scene, I would not
- 23 tell you it's more likely that this is pure decomposition.
- 24 Q. Well, let's say we did not find this isopropyl alcohol
- 25 at the church, then you would say it's probably from
- 26 decomposition?
- 27 A. Yes.
- 28 Q. But when you find it at the church --

1 A. At the church.

2 Q. -- together with the acetone --

3 A. And the table cloth.

4 Q. -- and the table cloth, then your conclusion --

5 A. And this not just being alcohol. Half empty.

6 Q. And then what conclusions medically --

7 A. Within a reasonable degree of certainty, this -- the
8 isopropyl alcohol was used at the time of her death or at a
9 time at about her peri-mortem.

10 Q. The kitchen towel -- here's a question from the grand
11 juror, the kitchen...

12 MR. TESTA: Did you say 4:15?

13 THE FOREPERSON: I said 4:00 o'clock. But if
14 you want -- if everyone wants to finish.

15 MR. TESTA: Q. The kitchen towel was around
16 her neck, chin, mouth, how did you remove it without
17 disturbing her face? That's the question.

18 A. It was on her head, entangled with the hair. It was
19 entangled. It wasn't lying on top. It was lying entangled
20 with the hair.

21 And at autopsy, I noted it was torn, it was knotted,
22 and it has a noose. It was knotted into a noose.

23 Q. When you say noose --

24 A. Noose, meaning like a hanging. It was a noose, a
25 hole.

26 Again, this is why many times we just call it
27 non-accidental trauma, we stay away from the mechanisms,
28 because the adult, the perpetrator of this, will never admit

1 to the mechanisms and will come up with accidental
2 mechanisms that are grossly insufficient for the severity of
3 injuries.

4 Q. Another two questions from the grand jurors.

5 Regarding the time of death, some of the blood you
6 said was red. Would not that have been red for over
7 eighteen hours you stated?

8 I'm not sure I understand this one.

9 Some of the blood you said was red. Would not have
10 been red for over eighteen hours you stated?

11 A. No, no.

12 Q. Would you comment on that? That's the question.

13 A. The question was what other evidence do I have to show
14 that this was at about the time of death.

15 And the answer to it is one of the evidence, not just
16 the exclusive, is that if I got the bleeding is still red,
17 shows is an acute injury. If it was delayed, then it starts
18 changing color because what happens, blood contains heme
19 pigment, H-E-M-E. That makes it -- gives it the color red.
20 And it's the same heme pigment that makes your urine yellow.
21 And so if you suffer an injury, like if you have a bruise,
22 over the days, the bruise changes color from red/purple to
23 bluish, now to yellowish/brown, and then finally maybe
24 sometimes brown/black.

25 So if I got bleeding is still fresh and red, is an
26 additional evidence that is an acute injury.

27 Q. Another question from the grand jurors: Could there
28 have been continued defecating after she was dressed again?

1 Did she have her panties on during the attack?

2 A. What I think was by the time Sandra was re-dressed,
3 she was not completely dead. Am I making sense?

4 When she was re-dressed, she was not yet dead. She
5 was still passing through the agony of death.

6 Q. When someone is smothered, do they kind of go into a
7 coma and then die, you know, a half an hour later, or do
8 they die right there when the person's mouth --

9 A. Smothering, sustained smothering for about three,
10 four, five minutes, you go into a coma. The person keeps on
11 holding and what happens, why you go into a coma, is you
12 suffer irreversible brain damage. And then death could come
13 sometimes hours later, sometimes five minutes later,
14 sometimes within a minute later.

15 Q. All right. Are there any other questions from the
16 grand jurors?

17 And is there anything that I haven't asked you that
18 was crucial to your findings that maybe I missed?

19 A. But -- but the stool, it's an indication of agony.
20 And not just an indication of smothering. It's an
21 indication of agony, which could be asphyxia, which could be
22 death agony.

23 Q. Did you guys take a rape kit from her? In other
24 words, do a test to see if you could later on determine if
25 there's any semen or sperm?

26 A. Yes, we did. And the forensic crime lab looked for
27 it. There was no -- to the best of my recollection, there
28 was no sperm. In fact, they ruled out, they confirmed that

1 this was not a penis.

2 Q. I think -- see if I have any other questions here.

3 A. Do you want to ask about the stomach content that I
4 talked about?

5 Q. Yes. Could you explain the stomach contents and what
6 significance they had?

7 A. When we did the autopsy, Sandra had very minimal
8 amount of fluid in her. In fact, it was less than
9 (Referring to report) -- it was less than 30, 30 cc, very
10 small amount -- less than -- very small, minimal.

11 Q. What does that mean? What is the significance of
12 that?

13 A. She may have thrown up. She did not eat at close to
14 her time of death. Even if she ate, she may have thrown it
15 up. But there was little or no -- there was no food in her
16 stomach, just fluid, very minimal fluid.

17 Also, we found a very small amount of bile, which is
18 the fluid of the liver and gallbladder.

19 So several weeks later, upon the request of Mr. Testa,
20 we sent the bile and the stomach contents to the toxicology
21 lab to look for the presence or absence of a specific drug.
22 And it came back that the stomach contents had trace levels
23 of Xanax in it, and also there were trace levels of Xanax in
24 the brain and in the liver.

25 Q. And what's the significance of that?

26 A. Xanax is a benzodiazepine. It's like Valium. And one
27 interesting thing about the benzodiazepines is that they are
28 hypnotic. They actually cause amnesia. And is a drug

1 commonly used, if you have access to it, for date rape
2 because it makes the individual forget what happened. It's
3 a drug that sedates you, like Valium, the common name is
4 diazepam. And it is prescription drug. It's not an
5 over-the-counter drug.

6 Q. Who did this work?

7 A. This was done by NMS Labs.

8 Q. I haven't received that report yet.

9 A. Oh, you have not?

10 Q. I have been waiting for it. The woman that did the
11 test is coming next week.

12 A. Okay.

13 Q. So she can explain her findings. Ms. Labay I think
14 her name is.

15 But you're telling us they did find --

16 A. They did find Xanax.

17 Q. I'm aware of it. I just haven't read the report.

18 They found Xanax? Did I spell it correctly?

19 A. Yes, please. Xanax.

20 Q. And that's a form of benzodiazepine?

21 A. It's actually alprazolam.

22 Q. Alprazolam?

23 A. The trade name is Xanax.

24 Q. But the actual name is?

25 A. The chemical is alprazolam.

26 Q. Al?

27 A. A-L-P-R-A-Z-O-L-A-M. And --

28 Q. Is that an anti-anxiety drug?

1 A. Yes. Typically, use it for so many things, but it's
2 one of the anti-anxiety drugs used frequently. Is a
3 prescription medication.

4 But, really, what we look at as physicians is a class
5 of drug it belongs to. And it is a benzodiazepine.

6 Yes, this is it here.

7 Q. Melissa Huckaby, alprazolam?

8 A. Yes.

9 MR. TESTA: Let me have this marked as next
10 in order.

11 THE WITNESS: Alprazolam and the presence,
12 the trace levels, what happened was the lab -- there are
13 different types -- as a physician, there are different types
14 of lab works and testings we all do. And based on need, you
15 could ask for different types.

16 So when Mr. Testa asked us to submit the tissues for
17 trace level analysis -- we did the regular testing using a
18 specific type of tool. It came back negative. So we
19 don't -- so upon Mr. Testa's request, based on the findings
20 of the investigation, whatever it was, we submitted the
21 samples for now a very more sophisticated type of testing
22 looking for trace levels. And it came back positive,
23 indicating that Sandra may have been exposed to Xanax,
24 period.

25 MR. TESTA: Q. Okay. I have no other --
26 here's another question from one of the grand jurors: How
27 long would it take for the drugs to have an effect on
28 Sandra, and what kind of effects would it have?

1 A. Benzodiazepines are -- effects are almost
2 instantaneous, minutes.

3 Q. Almost instantaneous --

4 A. Yes.

5 Q. -- did you say?

6 A. It's like alcohol, when you drink alcohol, you feel
7 the difference almost immediately.

8 So these drugs, you pop it in -- remember your
9 advisement, you drink, any drug, don't drive. It may take
10 minutes. The fact that it was detected in the brain shows
11 it's already -- it was already in the tissue, it was already
12 acting on her.

13 These drugs, they essentially act on the brain. What
14 it simply do is to affect specific receptors in your brain
15 to calm you down. And in calming you down, they make you
16 forgetful. They also make you relaxed. They could make
17 your muscles more relaxed.

18 Q. Okay.

19 A. Just it may stop you from crying out loud if you want
20 to cry out. And it makes you more hypnotic, meaning you're
21 now more docile, you're now more easily controlled.

22 Q. Okay. Well, we -- I believe it was People's
23 Exhibit -- I'm sorry, if this is a 20 or a 7.

24 MR. TESTA: 2-0 or 7?

25 THE SECRETARY: 2-0.

26 MR. TESTA: Q. I believe the evidence was
27 that we found in the purse -- I have to look at my notes --
28 yeah, the purse contents, I believe this is 22, were

1 examined. And a tag must have fallen off this exhibit. We
2 will have to have it remarked.

3 And among the items of the purse were these drugs,
4 including the one alprazolam.

5 Are there any other questions from the grand -- or are
6 there any questions, Doctor, that I haven't gone through
7 that bear on your conclusions in this case?

8 A. I'm thinking.

9 Q. Who actually -- who actually did the rape kit, tested
10 for the sperm?

11 A. Yeah. They tested it. It was actually done by the
12 Department of Justice.

13 Q. No, I mean who collected it from the body?

14 A. I did. I did. I -- rape kit is the same, we have a
15 protocol. We take swabs of the mouth because they could
16 also -- there are different types of sex, oral sex, anal.
17 So we take swabs of the anus, of the mouth, of the vaginal
18 area.

19 The swabs from the vaginal area showed large amounts
20 of blood, no sperm. And no -- they did not identify any
21 factors that may have indicated that this was a -- a penis,
22 penile penetration, no.

23 We collected it and we handed it over at the time of
24 the autopsy to the FBI agents under chain of custody.

25 MR. TESTA: All right. Well, are there any
26 other questions from any other grand jurors?

27 Thank you, sir --

28 THE WITNESS: Thank you.

1 MR. TESTA: -- for a thorough presentation.

2 Ladies and Gentlemen, as I understand it, we are not
3 in session tomorrow because someone else uses this.

4 You are going to read the admonition to the witness?

5 THE FOREPERSON: Uh-huh. Yes.

6 You are admonished --

7 MR. TESTA: Can you keep your voice up? It's
8 hard to hear you back here.

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

17 Violation of this admonishment is punishable as
18 contempt of court.

19 MR. TESTA: And we did swear you in
20 initially, didn't we?

21 THE WITNESS: Yeah, you did.

22 MR. TESTA: We did.

23 Thank you, sir.

24 All right. Ladies and Gentlemen, I guess we come back
25 Thursday morning, correct, at 9:00 a.m.?

26 THE FOREPERSON: Right.

27 MR. TESTA: You are going to read an
28 admonition now to the jurors, are you?

1 THE FOREPERSON: Yes.

2 The grand jurors are admonished that they are not to
3 form or express any opinions about this case or discuss it
4 among themselves until the grand jury receives the case for
5 deliberation.

6 In addition, no inspection of evidence should be
7 conducted without the permission of the foreperson and on
8 the advice of the prosecuting attorney until the case is
9 submitted to the grand jury for deliberation.

10 Deliberations should only occur when all jurors who
11 heard all the testimony in the case are present.

12 We'd like you to put your name on your workbook if you
13 want it back when you come back Thursday. Otherwise, we
14 won't be able to identify it. So you have a yellow sticky,
15 or if you want a new yellow sticky, we can pass them around
16 and you can put it on your book.

17 If doesn't matter to you, then don't put your name on
18 it.

19 Leave your name tags, all your stuff out, we'll
20 collect them and we'll put them in the closet.

21 (Proceedings concluded.)

22 ---o0o---

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN
(Sitting as a Grand Jury)

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PEOPLE OF THE STATE OF)	
CALIFORNIA,)	
)	
Plaintiff,)	D.A. No. 2535
)	
vs.)	CR No. TP09-2712
)	
MELISSA HUCKABY,)	No. SF112495A
)	
Defendant.	)	VOLUME 3 OF 8
_____	)	(Pages 389 - 640)

Thursday, July 23, 2009 - 9:00 a.m.

LOCATION: San Joaquin County Courthouse
Room 605, San Joaquin County

APPEARANCES OF COUNSEL:

THOMAS J. TESTA, Deputy District Attorney,
County of San Joaquin, 222 East Weber Avenue, Room 202,
Stockton, California, 95202, appeared as counsel for and on
behalf of the People.

Reported by: JEANNE COFFEY, C.S.R. NO. 7084

1 (At 9:00 a.m., the following proceedings
2 were had before the Grand Jury:)

3
4 (Roll call taken.)

5
6 THE SECRETARY: Thank you. Everyone is here.

7 THE FOREPERSON: Just to remind everybody,
8 break time -- important things -- 10:30 to 10:45, lunch is
9 12:00 to 1:00, next break is 2:30 to 2:45, and hopefully we
10 will leave at 4:00 or sooner.

11
12 (Pause.)

13
14 MR. TESTA: You took roll and everyone is
15 here?

16 THE FOREPERSON: Yes.

17 Tom, there's a question for you.

18 MR. TESTA: Is it procedural, because it has
19 to be written down if it's about the case. Go ahead.

20 THE FOREPERSON: Can we ask more questions
21 about -- one of the jurors has questions that they want the
22 coroner to answer. Can we ask any more questions?

23 MR. TESTA: Yes, can you.

24 THE FOREPERSON: In writing?

25 MR. TESTA: That's a -- I'm glad you brought
26 that up. You guys -- you guys run the show. You can order
27 me to do almost anything. You could say, "Testa, you call
28 that doctor back, we have more questions for him. Testa go

1 out and get this witness. You never called this witness.
2 Go out and get him." Or -- you're in charge. So I'm glad
3 you asked me that. It's difficult.

4 THE FOREPERSON: I'm don't feel in charge,
5 but...

6 MR. TESTA: You know what I mean. The
7 doctor's probably going to be hard to get him here. But if
8 there's something you really need -- and it's not uncommon
9 for you to be driving home and say, "Oh, I forgot to ask
10 this question," it's very common for me as well as jurors,
11 and it's very helpful -- these are extremely helpful. I
12 cannot overemphasize this to you. Some of these questions
13 were just brilliant. So as I say, keep them coming. But if
14 they involve previous witnesses, submit them anyway. And if
15 it requires recalling a witness, give me a head's up so I
16 have a little time to do it.

17 Are you guys scheduled to stop next Friday?

18 THE FOREPERSON: Yes.

19 MR. TESTA: That puts us under the gun. I
20 think we'll have some time.

21 THE FOREPERSON: Would you like the juror to
22 write the question, we will give it to you?

23 MR. TESTA: And I'll put it on the record and
24 say whether I think we can get the person here or not. Or
25 if you're ordering me, I will.

26 THE FOREPERSON: Does everybody understand
27 that? I'm in charge.

28 GRAND JUROR 7: Call you madame chairperson,

1 madame chairwoman.

2 MR. TESTA: You have taken roll, we are ready
3 to go?

4 THE FOREPERSON: We are ready to go.

5 MR. TESTA: Again, we are calling people out
6 of order. So no rhyme or reason to the order.

7 THE FOREPERSON: Mr. Testy (sic).

8 MR. TESTA: Testa, T-E-S-T-A.

9 THE FOREPERSON: I'm sorry.

10 MR. TESTA: That's okay. Everyone
11 mispronounces it. What's up?

12 THE FOREPERSON: One of the jurors had a
13 administrative question.

14 MR. TESTA: Sure. What's that?

15 THE FOREPERSON: You might ask it.

16 GRAND JUROR 11: It was submitted on a piece
17 of paper.

18 MR. TESTA: Is there a way to ask a question
19 of a witness who was already -- I'll get to yours -- who has
20 already made a presentation?

21 Yes.

22 And then there's a question here for Mr. Omalu. And
23 we may want to call -- we will talk about calling him back
24 to answer that question. I'll bring it up, ask you if you
25 want me to.

26 Is the church in question -- I'll ask this of the
27 detective. I'm assuming this is it then.

28 Do court staff -- do court support staff have to oath

1 such as IT computer tech since documents are exposed on
2 walls with names?

3 Interesting. I have never heard of that. I suppose
4 we could do it and when they come up here and administer
5 them an oath. I don't know if these documents -- I put them
6 up this morning after he set up today. But I guess the
7 other day the documents were on the wall and the support
8 staff would have been able to see them.

9 So in abundance of caution, I will have them come up
10 at some point and you can administer an oath. That was your
11 idea, Juror Number 11. It's not a bad idea, play it safe
12 and administer the oath. I'll get them up there.

13 GRAND JUROR 11: I noticed he was looking at
14 the names.

15 MR. TESTA: Oh, he was? Good. Well, thank
16 you for bringing that to my attention.

17 Which gentleman was it, the guy that was here this
18 morning?

19 GRAND JUROR 11: The IT tech, the rather
20 large man.

21 MR. TESTA: Was he the one that set up this
22 morning?

23 GRAND JUROR 17: Same guy.

24 MR. TESTA: Same guy?

25 Remind me if I forget, I'll put this aside, so I can
26 do that.

27 Okay. Can you state your name and then they will
28 swear you in?

1 THE WITNESS: Adrienne Sparrow.

2 MR. TESTA: We might need you --

3 THE WITNESS: I had to move over. That was
4 right in my eyes.

5 MR. TESTA: Oh, the light was in your eyes.
6 Cramped set-up that we have in this room.

7 THE WITNESS: Adrienne Sparrow.

8 THE FOREPERSON: Would you spell your name?

9 THE WITNESS: Adrienne, A-D-R-I-E-N-N-E,
10 Sparrow, S-P-A-R-R-O-W.

11 THE FOREPERSON: Oh, would you raise your
12 right hand, please?

13

14 **ADRIENNE SPARROW,**

15 a witness called on behalf of the People, having been duly
16 and regularly sworn by the Grand Jury Foreperson, testified
17 as follows:

18

19 THE WITNESS: I do.

20 THE FOREPERSON: Thank you.

21

22 **EXAMINATION**

23 BY MR. TESTA: Q. Where are you employed?

24 A. With the San Francisco FBI.

25 Q. And what is your position there?

26 A. I'm a special agent with the FBI.

27 Q. How long have you been a special agent with the FBI?

28 A. In August, it will be thirteen years.

1 Q. Are you considered a peace officer?

2 A. No, not in the state of California.

3 Q. Well, what do you mean? Out in other states you are?

4 A. In my understanding in the state of California, FBI
5 agents are not considered peace officers.

6 Q. Oh, I didn't realize that. Okay.

7 So what's your connection, if any, with the
8 investigation into the disappearance of Sandra Cantu back in
9 March 27th, 2009?

10 A. I responded to Tracy, California to assist the
11 Sacramento FBI Division with the investigation of a possible
12 child abduction.

13 Q. So what did you end up doing in general? What kind of
14 assignments did you have?

15 A. I'm a member of the Child Abduction Rapid Deployment
16 Team, which the FBI sends out to assist -- it's a team made
17 up of people who have experience working crimes against
18 children matters, specifically child abductions. And I'm on
19 the western region team. So they send us out and, myself
20 and other agents, to assist the -- the FBI in that division,
21 along with the local Police Department, with resources and
22 investigation.

23 Q. You know, I have seen on TV, they say the first -- is
24 it the first twenty-four hours or the first seventy-two
25 hours is when you really want to spend most of your time
26 looking, is there something to that?

27 A. Yes, that's the most critical time after a mysterious
28 disappearance of a child.

1 Q. So when did you guys get involved in this incident?

2 A. I believe that the Sacramento FBI office was involved
3 from the beginning. But, you know, you need to ask someone
4 from that division. But they did call us on the morning of
5 the 28th.

6 Q. Could you move over a little bit? Then you can get
7 closer to the -- the acoustics are very poor here.

8 So you yourself got involved the morning of the 28th?

9 A. Yes, that's right.

10 Q. But you came from the San Francisco area?

11 A. I did. I drove.

12 Q. Do they have an FBI here in town?

13 A. There is a Stockton office, a resident -- a small
14 resident office.

15 Q. There is?

16 A. Yes, in Stockton.

17 Q. Then what about in Sacramento?

18 A. Yes, there is a division, a bigger field office in
19 Sacramento.

20 Q. Then in San Francisco?

21 A. San Francisco has its own division.

22 Q. Okay. So -- okay. So what did you -- was there a
23 division of assignments and, if so, what was yours?

24 A. I didn't have a specific assignment. As I said, we
25 were there to provide consultation, investigative resources,
26 technical assistance, the people on the -- CARD people have
27 experience in these cases, so we are there to provide
28 assistance to whatever the local department and the

1 Sacramento field division needs.

2 MR. TESTA: Okay. You're going to have to
3 bear with me here. I don't have any assistance this morning
4 to give me my photographs. So bear with me while I look for
5 it. I don't think they have been marked. They may be
6 buried in here.

7 Yeah, I think these are probably the ones that haven't
8 been marked.

9 Could I ask the person in charge of the exhibits
10 perhaps if you don't mind putting these in subject matter,
11 putting them in order, photographs of the body, photographs
12 of the trailer park, photographs of the road, whatever, so
13 that I can then easily find the photo I need. If you do it
14 in the next few minutes, it would be helpful.

15

16 (Whereupon Photographs were marked Grand
17 Jury Exhibit Numbers 157, 158, and 159
18 for identification.)

19

20 MR. TESTA: Q. During your assignment in
21 this case, did you have any contact with Melissa Huckaby?

22 A. Yes, I did.

23 Q. On what date was your first contact with her?

24 A. March 28th, 2009.

25 Q. Where?

26 A. It was inside the mobile home park at 812 West Clover
27 Road.

28 Q. And what kind of contact was it?

1 A. Myself and some other agents were walking inside the
2 complex at night. And one of the agents was up ahead of us
3 talking to a uniformed police officer when he directed us
4 over to a woman who had gone up to them and contacted them,
5 which was Melissa Huckaby.

6 Q. So then what happened?

7 A. She was crying and sort of hyperventilating. And she
8 was -- she took us over to a piece of paper that was lying
9 on the ground and she was pointing at it, saying something
10 about seeing the words "Cantu" and "suitcase" on the paper.

11 You know, I asked her to calm down and try to explain
12 to us what was going on. Asked her to sit down.

13 We got some rubber gloves and looked at the note and
14 saw what the -- what the note said.

15 Q. Okay. So just when you first see Melissa Huckaby,
16 what time is this?

17 A. I would say it's approximately 8:15 at night.

18 Q. Did you write a report about your involvement in this
19 case?

20 A. Yes, I did.

21 Q. When did you write the report in relation to when this
22 incident happened that you're recounting now?

23 A. I -- I would have to check, but I believe it was
24 written on the 30th when I returned to the office.

25 Q. Okay. And would reference to your report refresh your
26 recollection as to the time that you had contact with her?

27 A. I know it was after 8:00 o'clock at night.

28 Q. Yeah, but did you -- did you make a note of any

1 more -- with any more precision the time?

2 A. That might be on original notes, which would be in the
3 case file in the Sacramento office.

4 Q. So you could get them, could you?

5 A. I couldn't get them, but the case agent could get them
6 from the Sacramento office.

7 Q. Let me make a list of that to do.

8 A. It was between 8:00 o'clock and 8:30 at night.

9 Q. Okay. And where precisely was the contact?

10 A. The contact?

11 Q. Where precisely did you see her when you first saw
12 her?

13 A. Near the mailboxes inside the mobile home park at 812
14 West Clover Road, which are on -- they are near the
15 clubhouse. I believe that's Cherry Lane. It's around here.

16 Q. Hang on, I'll have you put a marker on. Just get my
17 bearings here. We are still waiting for some photos.

18 How many days or how much time did you spend at this
19 trailer park all in all or altogether?

20 A. I was there for two days.

21 Q. So you think you would recognize the photograph of it
22 if I showed it to you, of the trailer park?

23 A. Yes, I would.

24 Q. Let me show you -- it's either 51 or 57, I'm sorry, I
25 can't tell, but it's on the screen now. Do you have a laser
26 pointer there to your right? There you go.

27 First of all, take your time and see if you recognize
28 the trailer park. If you don't, I could ask these questions

1 to someone else. You probably never saw it from the air?

2 A. No. Now, is this Clover Road?

3 Q. Yes.

4 A. So this would be the entrance.

5 Q. Hold on, let me give you this also, this other
6 exhibit, 51. Hold on, please.

7 Do you see the street names on this exhibit?

8 A. Yes.

9 Q. Can you see one that says Clover Road?

10 A. Yes.

11 Q. Did you become familiar with where Clover Road was
12 when you were there?

13 A. Yes.

14 Q. Was that the way you'd go in and out of the trailer
15 park?

16 A. Yes. That was the only entrance.

17 Q. Okay. So that's the only way in and out.

18 Well, let me just stick with this diagram, I guess it
19 is 51. Do you have your bearings do you think?

20 A. Yes. I would like to see where the mailboxes and the
21 parking spaces are right around here, because I'm not sure
22 what these things are in this diagram.

23 Q. Oh, okay. Were you with anyone else who maybe was
24 more familiar with the trailer park that might be able to
25 fill in these blanks?

26 A. Yes. Agent Michael Conrad and Agent Joseph Brine were
27 also there. I believe Mike Conrad ended up staying for
28 longer than I was there.

1 Q. What about any Tracy Police Department officers, did
2 you ever see them there, point out the area to them?

3 A. There was a uniformed officer, I don't know his name,
4 speaking with Agent Conrad that day, at the time that we
5 contacted Melissa Huckaby.

6 Q. Okay. Now this 51 or 57 -- I'm sorry to keep saying
7 that, I just can't tell -- this one that's on -- actually, I
8 guess I can narrow it down. 51 will be the -- the diagram,
9 let me just make it real clear that this other one is 57.
10 My mistake. There we go. Now the photograph is 57.

11 Is this familiar in any way, in terms of getting your
12 bearings?

13 A. I've never seen it from the air before. I know this
14 is Clover Road. This is the entrance. I can't really make
15 out -- I think this is the clubhouse.

16 Q. If you're not sure, I won't ask you these questions.

17 A. Yeah.

18 Q. Anyway, so what did you guys -- she comes up, repeat
19 what happened. Another FBI agent gets your attention?

20 A. There was another -- yes, he was up ahead of us and
21 talking to a uniformed police officer. It's my
22 understanding she came up and contacted them. He directed
23 us over to her. And she, like I said, she was very upset
24 and crying. And she walked us over to the area in front
25 of -- well, right there next to the mailboxes on the walkway
26 that goes alongside the clubhouse, and was pointing at a
27 piece of paper on the ground.

28 We -- we got some gloves and we were able to read the

1 note. Would you like me to say what it said?

2 Q. No.

3 So you saw the note. And tell us more about her
4 conduct and her comments.

5 A. As I said, she was crying, sort of hyperventilating.
6 She said something about seeing the word "Cantu" and
7 "suitcase" on the paper.

8 She told me that she was familiar with Sandra Cantu
9 and that she was very upset because the note indicated that
10 the child's body was inside a suitcase, and that her own
11 suitcase had been stolen on the 27th.

12 She told me repeatedly that it was a very large
13 suitcase that could fit the body of a child inside of it and
14 that's why she was so upset.

15 She then told us that she lived in the trailer park,
16 she lived in number 57. And I asked her whether we could go
17 to her mobile home and continue the interview there.

18 Q. And her response?

19 A. She said yes.

20 Q. And, again, I'm sorry, what date did you say this was?

21 A. This is on March 28th.

22 Q. You said the 28th at 8:30?

23 A. Yes.

24 Q. March 28th. This is a Saturday night. Note.

25 And then what happened once -- did you go over to
26 her -- to number 57?

27 A. Yes, we did. And she introduced me to her
28 grandparents, Connie and Lane Lawless, and her five-year-old

1 daughter Madison who also lived inside number 57.

2 Q. And then what did you guys do once you went over to
3 her house?

4 A. We sat down at the table and I spoke to her and the
5 grandparents.

6 The other agents spoke to them for part of the time,
7 and the other part of the time they had asked for her
8 consent to search the -- the residence for evidence of
9 Sandra Cantu, which we had asked most of the occupants of
10 the trailer park. And they gave consent. So the agents and
11 the uniformed officer were doing that in the -- while I was
12 talking to them.

13 Q. Just backing up, you were about to tell me earlier,
14 you know, when she's hyperventilating and she says -- is she
15 pointing to the note?

16 A. Yes.

17 Q. Or what did she say?

18 A. She said she kicked it with her foot.

19 Q. It was --

20 A. That she had parked her car and was walking. And,
21 again, the parking spaces that she used were right there by
22 the note. And she said that she kicked the note with her
23 foot and looked down and saw the words "Cantu" and
24 "suitcase."

25 Q. And this note, it's just laying there on the ground?

26 A. Yes.

27 Q. And so do you go up to it?

28 A. Yes, we did.

1 Q. And what do you do -- what do you do at that point
2 when you go up to the note?

3 A. We --

4 Q. What do you do?

5 A. I looked at the note. We could see part of it.

6 Q. Just try to keep it -- I'll just object. There is a
7 rule --

8 A. That's fine.

9 Q. -- we can talk about what you did, not what others.

10 A. I could see some of the words. I think the note was
11 kind of folding over in the wind.

12 Agent Conrad actually picked up the note after we got
13 a pair of rubber gloves. No one touched it prior to that.

14 Q. Then what happened next?

15 A. I read the note.

16 Q. What did it say -- well, let me ask you this: Do
17 you -- do you have rubber gloves on when you read the note?
18 Or how do you handle it?

19 A. I didn't put on rubber gloves. The other agent who
20 actually picked up the note did. But he showed it to me.

21 MR. TESTA: Could this marked next, this
22 envelope and its contents?

23

24 (Whereupon an Envelope and Contents,
25 Note, was marked Grand Jury Exhibit
26 Number 160 for identification.)

27

28

1 (Whereupon a Copy of Note was marked
2 Grand Jury Exhibit Number 161 for
3 identification.)
4

5 MR. TESTA: Q. I guess what I'm asking is
6 you -- she says, "Oh, there's this note," she's crying?

7 A. Yes.

8 Q. What do you mean by hyperventilating? Could you tell
9 us -- could you show us?

10 A. Sucking in her breath, making loud noises where it was
11 hard to understand the words that she was saying.

12 Q. So you go up to the note. You say there's something
13 on the ground. Tell us what you did. You were there. We
14 weren't. We need to hear it from you.

15 A. I looked at the note.

16 Q. Okay. You go up to it?

17 A. Yes.

18 Q. You bend down?

19 A. Yep.

20 Q. Is it dark out?

21 A. It's light enough to see the note. And I believe we
22 also had flashlights. I normally have a flashlight on me if
23 we're going out at night.

24 Q. So you bend down, you look at the note?

25 A. I could see some of the words. I knew it was some
26 type of note written in print -- large print.

27 Q. So when you see something on the ground, you look at
28 it and you're able to make out some of the writing on the

1 note you say?

2 A. That's right.

3 And we then obtained a pair of rubber gloves. I don't
4 remember which agent actually picked it up and opened it so
5 that -- so that we could all see every word on the note. We
6 looked at it, put it back exactly where it was. We didn't
7 carry it away anywhere. We stood there looking at it. A
8 uniformed officer was there with us, so he called for their
9 evidence tech who came and took the note into custody.

10 Q. Did you see them do anything with the note besides --
11 any photographs taken?

12 A. I didn't see that, because I accompanied Melissa
13 Huckaby to her trailer. There were two other agents that
14 stayed behind to watch the note until the evidence
15 technicians could -- could take it.

16 Q. Oh, okay.

17 Let me show you what's now been marked as 161. Does
18 this look familiar to you?

19 A. Yes. That's the note that I saw.

20 Q. Okay. So you were able to see -- you bend down and
21 you look at it and then someone brings it closer to your
22 face and you can actually read the whole thing?

23 A. We could read it on the ground. It's just that I
24 believe the corner of it was folding over.

25 Q. What did the -- just for the record, could you read to
26 us what the note said -- it says?

27 A. "Cantu locked in stolin suit case thrown in water onn
28 Bacchetti Rd. & Whitehall Rd. Witness."

1 Q. Thank you.

2 And showing you number 160 -- I won't take it out of
3 the plastic here -- does this appear to be the actual
4 original of the note?

5 A. Yes, it does.

6 Q. And do you happen to know if they did fingerprinting
7 of it which might have caused some smudges or anything?

8 A. It didn't have those smudges on it when I saw it. And
9 I -- I'm not aware of the exact tests that were done on it.

10 Q. But you're aware that some tests were done on it?

11 A. That's what I heard, yes.

12 Q. All right. Let me show you this photograph, number
13 157. So you weren't around when anyone came back and took
14 photos?

15 A. No.

16 Q. Your people did put it in a plastic container, though,
17 or a plastic bag?

18 A. I don't know if it was FBI agents or the Tracy Police
19 Department, but we called for the Tracy Police Department to
20 seize the note as evidence.

21 Q. Okay. So as far as people putting it in a plastic bag
22 and photographing it in place where it was found, you were
23 not there when that may have been done?

24 A. No, I wasn't.

25 Q. Okay, can you tell me, though, as far as this
26 particular photograph, whether 157 shows the location where
27 it was when you found it?

28 A. That looks right.

1 Q. Where are we now at the trailer park, with the laser
2 pointer that you have there.

3 A. I believe this is a walkway. I think this is the
4 clubhouse. And over here should be the -- the road that
5 the -- the cars can drive on. I believe the mailboxes are
6 over here.

7 Q. I will call someone who may be more familiar with that
8 because I know I heard you say "believe" a few times, which
9 I don't blame you. You were only there for two days, right?

10 A. Right.

11 Q. What about this 158?

12 A. That looks like the note.

13 Q. What are these -- are these brick stones, pavers?

14 A. I think they are pavers.

15 Q. I'm pointing to 158.

16 Now looking at 157. Can you see them in there, too?

17 A. Yes.

18 Q. Okay. I'll put someone else on to explain all this.

19 All righty. So then you -- she's hyperventilating.

20 By the way, when you read the note and see that it
21 says what it says, is she still there with you?

22 A. Yes.

23 Q. Does she make any comments like, "See, see, it says
24 Cantu," or does she make any comments as you're looking over
25 and looking at the note? Do you recall?

26 A. Just about the -- the only comments she made were the
27 fact that she was so upset because she was familiar with
28 Sandra Cantu, and that her own suitcase had been stolen on

1 the same day that Sandra went missing.

2 Q. Did you ask her anything like -- like, "Wait a minute,
3 you're telling us that your suitcase is stolen on the same
4 day she goes missing and of all the people in the trailer
5 park, you're the one that happens to find the note?"

6 Did you challenge her in any way or --

7 A. No.

8 Q. -- kind of cross-examine her?

9 A. No, we didn't.

10 Q. So when you end up going back to her place, what else
11 does she tell you? And you go back to 57, you meet the
12 grandparents, then what else does she tell you?

13 A. Well, as I said, they were all sitting there together
14 so it was not an ideal location for an interview.

15 Q. Right.

16 A. And this was a preliminary interview while the other
17 agents were searching her trailer.

18 She described the suitcase of hers that went missing.

19 Q. How did she describe it? Sorry to cut you off. What
20 description did she give?

21 A. She said it was a large black and charcoal Eddie Bauer
22 case -- a hard case with wheels. And she -- I believe
23 she -- she pulled out a smaller bag that was part of the
24 matching set, maybe a handbag-type thing, that was also
25 black and charcoal.

26 Q. So did she say she had a whole set?

27 A. Yes, she did.

28 Q. And she showed you another piece of the set?

1 A. Yes, she did, I think so. She had asked her
2 grandfather to try to find the matching case, that big -- a
3 bigger one in the storage facility located with their space.
4 But he couldn't find it.

5 Q. In other words, she asked him a few days earlier?

6 A. No, she asked him right then.

7 Q. Oh, I see. Okay.

8 What else did she say then you were there talking to
9 her in number 57?

10 A. She told us what she did on March 27th and the --
11 about the last time that she saw Sandra Cantu. And she was
12 familiar with Sandra as she was a resident of the mobile
13 home park and Sandra would come over and play with her
14 daughter.

15 Q. What did she say she did that day?

16 A. She said that at about 2:45, Sandra came over to her
17 house and asked whether she could play with Madison. And
18 she told her she could not because Madison needed to eat.

19 At about 3 -- she told me at 3:18 p.m., she sent a
20 text message to Sandra Cantu's mother asking her if her
21 older daughter Miranda could come over and play with
22 Madison.

23 Q. Hold on for a second.

24 She told you -- I'm sorry, go over those times again.

25 A. She told me it was 3:18 p.m.

26 Q. What happened, she actually had the precise times in
27 her mind or did she look something up?

28 A. She said she had looked at her cell phone. She didn't

1 do that in front of us. She told me she had looked at it
2 prior.

3 Q. But when you're talking to her, she's not doing that
4 in front of you?

5 A. No, no.

6 Q. Let me finish the question. When you're talking to
7 her, is she doing that in front you?

8 A. No, she was not.

9 Q. All right. So she says that at 3:18, go ahead, what
10 time did she say -- what did she say she did that afternoon?

11 A. She said at 3:18, she sent Cantu's mother Maria a text
12 message on to Maria's cell phone, asked if their older
13 daughter Miranda could come over and play with Madison.

14 Q. What else did she say she did that afternoon on that
15 day?

16 A. She said that she had planned to drive over to her
17 church to pick up some belongings related to the Sunday
18 school class and carry them back to her house in this big
19 empty suitcase that she had.

20 So her grandparents were home at the time. And
21 Miranda Chavez came over to the house almost immediately
22 after she sent the text message.

23 She said that she had asked Miranda where Sandra was,
24 because she wanted to make sure that Sandra did not come
25 over to the house while she was gone.

26 Q. Did Melissa Huckaby say why she did not want Sandra
27 Cantu to come over to Melissa Huckaby's house while she went
28 to the church?

1 A. Yes. I had asked her that, why she would allow the
2 one child to come over but not the other. And she said that
3 historically when her daughter and Sandra Cantu were alone
4 together, they got in a lot of trouble. And that they were
5 kind of too much for her grandparents to watch.

6 Miranda is a older child, so she said she was more
7 mature and she was able to entertain Madison for her, who is
8 only five years old.

9 Q. So what else did she say happened that day?

10 A. She said that Miranda Chavez told her that she had
11 seen Sandra playing with a new friend over by the swing set
12 inside the trailer park. And that she had pointed over
13 towards the pool.

14 Melissa Huckaby then said that she brought out her
15 suitcase and placed it behind her car. She became
16 distracted by something and she realized that she didn't
17 have her keys on her person. She went back into the house
18 and spent approximately ten minutes searching all over for
19 her keys, couldn't find them, and then took the spare set,
20 went out, got in the car, because the car was locked, got in
21 the car and drove off, forgetting about the suitcase. And
22 she also said she forgot her cell phone.

23 And then she said that occurred between 3:30 and 3:45.
24 And that when she got --

25 Q. What occurred between 3:30 and 3:45?

26 A. That she left the complex and drove over to the
27 church.

28 Q. 3:30 and 3:45. Okay. 3:30 and 3:45.

1 A. That's what she told me during this initial contact.

2 Q. She said she left and went to the church between 3:30
3 and 3:45.

4 Okay. And when she left to go to the church, what did
5 she say happened next?

6 A. She said when she arrived at the church, her
7 grandmother Connie Lawless called her and told her that she
8 had found her cell phone and her keys.

9 And that she asked her grandmother to check whether
10 her suitcase was outside. And Connie Lawless advised that
11 she didn't see one.

12 Q. What did she say happened next?

13 A. She just told me what was located inside the suitcase,
14 which she said was empty except for a pair of white
15 flip-flops.

16 I asked her whether she had reported the theft. And
17 she said she did call the Police Department, but they told
18 her she would need to report that online. And she did not
19 follow-up or report it online.

20 Q. Did she say that she reported it to anyone?

21 A. She said that she told her grandmother, her neighbor
22 Doug, she didn't know his last name, and the assistant
23 mobile home park manager.

24 Q. Okay. So she did report this missing suitcase to the
25 assistant manager she said?

26 A. That's what she said, yes.

27 Q. Okay. And then what else did she say happened at the
28 church there, or what happened next?

1 A. That was all -- that was really all she told me at
2 that point. The -- the agents had finished searching the --
3 the residence. And as I said before, it wasn't an ideal
4 situation with the three people -- four people actually with
5 the child running around, sitting together at one table. I
6 felt that these people needed to be separated and further
7 interviewed at a later time.

8 Q. Because, ideally, you would like to do interviews --

9 A. Separately.

10 Q. And that's for what reason?

11 A. Well, so everyone can give their own recollection of
12 their own story of the events. You know, the -- the
13 grandmother was kind of talking over, answering for the
14 grandfather when I would ask the question. And everyone's,
15 you know, kind of stepping in and answering for each other.
16 So that's not what we want.

17 Q. Right. Okay. Okay. And let me just check my notes
18 here.

19 So did you ask her any more questions about this --
20 the note, you know, where she was going, where she was
21 coming from, what were the circumstances of her finding the
22 note, or anything like that?

23 A. No. I wanted to leave that for investigators who
24 could talk to her alone because, like I said, her
25 grandmother and grandfather were sitting directly across the
26 table from her, you know, looking at her.

27 Q. How did the interview come to an end there at
28 number -- at her space, 57?

1 A. We thanked them for their time. She said that she
2 would, you know, call if she had heard anything, she would
3 call the police. And as we left the residence, I believe
4 another agent asked her a few questions and she walked off
5 with him to point out a couple of residences that she had
6 concern about the individuals living there.

7 Q. Did she say anything about herself?

8 A. She did. I did not hear exactly what she said clearly
9 because I think the grandparents were saying goodbye to me.
10 But I did hear her say something to Agent Brine and he
11 related to me that she said that she's bipolar and she has
12 attention deficit disorder. She kind of said that as we
13 were leaving the residence.

14 Q. And what context was that said? Had you guys asked
15 her questions like that?

16 A. No.

17 Q. Or was she volunteering it or what were the
18 circumstances?

19 A. I hadn't. You would have to ask Agent Brine or Agent
20 Conrad if they have.

21 Q. Okay. I will put that on my list. Thank you.

22 Now we have some questions from the grand jurors.

23 Dr. Omalu. That's the court staff.

24 Well, here's a question to you: Where was the
25 suitcase when it was stolen? Was it in the home or the car?
26 That's the question.

27 A. Okay. It was outside on the curb behind her car. She
28 had placed it there.

1 Q. From your experience, is it common for witnesses to
2 drop notes out in the middle of an area such as this note
3 was?

4 I don't know if you can answer that question.

5 A. Witness --

6 Q. I don't think that would be admissible unless you were
7 an expert in this. I mean -- no, I don't think that's
8 really admissible. But don't hesitate to ask the questions
9 anyway.

10 Please repeat the statement that referenced Sandra
11 being at the swing set, the information from Huckaby.
12 That's a question from the grand juror. Because Detective
13 Brandi said there was not a swing set play area in the park.

14 A. Okay. And, again, this is what Melissa Huckaby said
15 that Miranda Chavez said to her when she had asked her, you
16 know, "Where's your sister?"

17 She said that Sandra -- Miranda stated that Sandra was
18 playing with a new friend and had said something about a
19 wooden swing set that was hard and not fun to play with, and
20 that the child she pointed over towards the pool.

21 Q. Another question from the grand jurors: Had any
22 details of the suitcase prior to the note been known?

23 In other words, before March 28th, with Melissa
24 Huckaby crying and hyperventilating, points out this note,
25 up to this stage had any suitcase been found?

26 A. No.

27 Q. Or any suitcase been -- even played a role in the
28 investigation in the -- in this case?

1 A. No, not to my knowledge. But, again, I don't know
2 what all the other investigators were doing. But, no, I had
3 not heard anything about a suitcase or a missing suitcase.

4 MR. TESTA: I'm asking this for Detective
5 Bauer, I'm writing it down.

6 Can you pass those from person-to-person? That's the
7 way we normally do it, so you don't have to get up. If
8 that's easier, less obstructive to the witness.

9 Q. Since it could have been any -- here's the other part
10 of the question from the same note here: Since it could
11 have been any kind of suitcase, is it normal for someone to
12 give such specific details under these circumstances?

13 Again, I don't know how you could answer that
14 question. She gave you details of the suitcase?

15 A. Yes, she did. She described it exactly.

16 Q. In response to your questions or was it volunteered or
17 how was it said?

18 A. It was volunteered.

19 Q. What kind of details did she give?

20 A. She said it was a black and charcoal Eddie Bauer hard
21 case with wheels. And she, you know, kind of made a hand
22 motion about how big it was. And earlier she had indicated
23 that it was large enough for a child's body to be inside
24 them.

25 Q. She said that?

26 A. Yes, she did. That's when we first contacted her and
27 she said that's why she was so upset.

28 Q. She said her suitcase, which was supposedly missing or

1 stolen, was large enough for a body for a --

2 A. For a child to be inside of it, yes, in reference to
3 the note. She was talking about the note and that's why she
4 was so upset.

5

6 (Whereupon Photographs were marked Grand
7 Jury Exhibit Numbers 162 through 167
8 for identification.)

9

10 MR. TESTA: Q. By the way, showing you
11 Number 164, does this look familiar to you?

12 A. I believe that's the back of the clubhouse.

13 Q. Seems like you're asking me. Sounds like you're not
14 too familiar.

15 A. No, it is. It is. There was an apartment up there.

16 Q. What about 165?

17 A. I think that is the side of the clubhouse. Yeah. The
18 front of the clubhouse.

19 Q. 167?

20 A. Well, the clubhouse has doors like this, I remember
21 glass doors. Without seeing the whole thing, I'm sorry, I
22 can't tell you what it is.

23 Q. That's the problem calling you out of order. I was
24 going to call you next week or later on. I had other people
25 down to answer these questions.

26 But since you are talking about the note, what about
27 this 166, look familiar to you at all?

28 A. Again, that looks like the entire clubhouse. There's

1 the side of it with the apartment up there.

2 Q. Does it show the area where the note was?

3 A. These are the mailboxes.

4 Q. With the laser pointer, could you show us if it shows
5 the...

6 A. Again, it was dark. I'm not exactly sure. But these
7 are the mailboxes. It was somewhere around here. I believe
8 it was up here in this pathway. There's a walkway here.

9 Q. Between the mailboxes and that cement wall?

10 A. On the grass up here. It would be behind this wall.

11 Q. Okay. You're referring to Exhibit 166.

12 A. That's my recollection, but it was dark.

13 Q. And 163, does it -- ignore my yellow note.

14 A. That's the same picture and these are where cars park.

15 Q. Getting back to the grand jury notes -- grand jury
16 questions: Was there any similar notebook that matches the
17 note found when you guys did the search of the grandparents'
18 home or in the church?

19 A. I was not there when they searched the church. The
20 night of the 28th when the agents and the uniformed officers
21 searched Melissa Huckaby's trailer, we did not find a
22 notebook similar to that piece of paper.

23 Q. Okay. Had any -- let's see. Between Friday night and
24 your arrival on Saturday, could that note have been
25 overlooked?

26 A. I don't think so. Police were out there extensively
27 conducting neighborhood canvasses, knocking on all the
28 trailer doors, talking to everyone. People were out looking

1 for the child. There was some type of a vigil -- I believe
2 they held a candlelight vigil.

3 Q. Is it true it was real windy there? Do you have a
4 recollection of that offhand?

5 A. I don't.

6 Q. Is the church in question still sealed as a possible
7 crime scene?

8 A. I'm sorry, let me go back to that last question. I do
9 remember during the day, I remember it was very windy
10 that -- the first day that -- I believe it was the first day
11 I got there.

12 Q. Which would have been what day now on the calendar?

13 A. The 28th.

14 Q. And you got there about what time?

15 A. Sometime in the morning. They called me in the
16 morning.

17 Q. Can you narrow it down? What time do you leave the
18 San Francisco Bay Area?

19 A. I would say -- you know, I can't recall exactly. I
20 would say maybe around noon I got there.

21 Q. Do you recall it being windy?

22 A. Yes. Hot and windy.

23 Q. You know, when people use the term "windy," I mean
24 there's windy on the Altamont Pass, there's windy in
25 Livermore, certain areas we all know where the -- what kind
26 of wind are we talking about? The kind that you get, you
27 know, when you're in San Francisco that you could barely
28 stand up because the wind's coming in, or breezy?

1 A. Breezy, hot and breezy.

2 Q. Let me put it this way: If I had a note on the
3 pavement or on the ground, was there enough wind to carry
4 the note off? Push it? Move it?

5 A. During the day maybe, yes. But not at night, I don't
6 remember it being windy at all.

7 Q. Okay. Was -- were there search warrants for items
8 other than the round items such as the rolling pin?

9 A. I was not there during the search warrant.

10 Q. How much had this area where the note was found been
11 searched prior to Huckaby kicking it and discovering it?

12 A. I wouldn't know the answer to that. You would have to
13 ask the uniformed officers that were out there conducting
14 neighborhood canvasses before we got there.

15 Q. Do you know how long before that area had last been
16 searched?

17 A. I don't. But, again, there had just been some type of
18 a vigil with, you know, a large group of people from the
19 complex gathering.

20 Q. Did Melissa say where her car was parked, in the
21 driveway, on the street? How long? Did she say she usually
22 parked elsewhere?

23 Can you answer those? Did she say, for example, where
24 her car was parked?

25 A. When?

26 Q. When you talked to her there in the -- when you were
27 talking to her, what did she say about her car being parked
28 and where and so forth?

1 A. When, you mean when we originally contacted her right
2 there by the mailboxes?

3 Q. At any time, or any of your conversations with her,
4 what did she say about cars being parked anywhere?

5 A. Well, I guess I'm asking you which day are you talking
6 about?

7 Q. All the days. Just take them one by one.

8 A. Okay. She said that she normally parks in one of
9 these spaces, you know, next to near the mailboxes, that's
10 where she normally parks.

11 But if you're talking about the day of Sandra Cantu's
12 disappearance when prior -- when Huckaby was going to the
13 church, she had her car parked in front of her residence on
14 the street, which they are not supposed to do that, the
15 residents are not supposed to have it parked on the street.
16 But she temporarily had it parked there in front of her
17 number 57.

18 Q. So showing you number 51, where did she say -- she
19 lives in 57, correct?

20 A. Right there. Yes.

21 Q. And where did she say she had her car parked on the
22 date of March 27th, 2009, when she was loading up her car to
23 go to church?

24 A. Right here on the -- on the street in front of her
25 place there.

26 Q. Okay. Did she say she had driven it there from
27 another spot where she normally parks?

28 A. She didn't say.

1 Q. Did she say where she normally parks?

2 A. She said she normally parks near the clubhouse.

3 Q. Could you show us on the laser?

4 A. I'm assuming these are parking spaces.

5 Q. If you're not sure, I won't ask you. So she just did
6 say she parked near the clubhouse?

7 A. Yes.

8 Q. Is that overflow parking?

9 A. I don't know.

10 Q. Okay. But in terms of this photograph here, Number
11 163, is it your understanding this is the area that -- does
12 this photograph show the area where she said she normally
13 parks?

14 A. That looks familiar, yes.

15 Q. So you're not sure?

16 A. I'm not a hundred percent sure, but she -- it was
17 right next to the clubhouse.

18 Q. Is the clubhouse -- does the clubhouse show in Number
19 166?

20 A. Yeah, that whole thing is the clubhouse.

21 Q. And where is the overflow parking?

22 A. (Pointing.)

23 Q. In the foreground of that photograph?

24 A. Yeah, I believe these are overflow spots.

25 Q. You say "believe." It makes me think you are not
26 sure. Are you not sure?

27 A. I would like to see a photo of the whole street here.
28 But in my recollection, she parked right near the clubhouse.

1 Q. That's what she told you?

2 A. Yes, I know it was on this side of the street. It
3 wasn't on this side.

4 Q. Okay. So this is what she's telling you? When you
5 say you know, is it because she told you this?

6 A. Yes. Yes.

7 Q. Okay. Did she say why she normally parks in the
8 overflow parking or why the clubhouse?

9 A. No.

10 Q. Did she say anything -- when you were there, did you
11 see her parents each having a car in their parking spot at
12 57 -- or her grandparents?

13 A. I don't remember.

14 Q. This is another question from the grand jury: The
15 suitcase is said to be behind Melissa's car. In the video,
16 there is no suitcase by Melissa's car.

17 Well, I guess you can't answer that one.

18 Did Melissa say where her car was parked, in the
19 driveway, on the street? How long did she say she parked
20 elsewhere? I think you answered that one. Did you finish
21 answering that one?

22 A. Yes.

23 Q. Did she even say where she normally parks or did she
24 say where she normally parks?

25 A. She normally parks near the clubhouse.

26 Q. But she didn't say why?

27 A. No.

28 MR. TESTA: Okay. Any other questions from

1 the grand jurors? Just send them forward.

2 GRAND JUROR 17: I think you started to read
3 one of the questions and then it got sidetracked.

4 MR. TESTA: Q. Why was she walking there
5 when her car was parked on this side of the mailbox?

6 In other words, why was she walking there where the
7 note was when her car was parked on this side of the
8 mailbox?

9 A. I don't know the answer to that.

10 Q. Because if I'm following you, she -- the note is
11 over -- showing you this photograph Number 166 -- the note
12 is between the mailbox and that brick wall, you said on the
13 grass area between the mailbox and the brick wall?

14 A. That's my recollection, it was on a grassy area with a
15 walkway next to it.

16 Q. But the overflow parking is over here. So did she say
17 what she was even doing over there between the mailbox and
18 the brick wall when she happened to find this note?

19 A. No, she didn't.

20 Q. Because she wouldn't need to, you know, if she parks
21 in the overflow parking and then she wants to go to her
22 house, let's assume for a minute there's overflow parking
23 here, she wants to then go to her house, she wouldn't have
24 to kind of go north, down as you look at the diagram, go
25 over to where this note was found. She didn't explain --
26 you guys didn't ask her those kinds of questions what she
27 was doing out there that night?

28 A. I didn't. She said she had just parked her car and

1 was walking.

2 Q. Walking where?

3 A. She didn't say.

4 MR. TESTA: I think you better ask that
5 question again, because this is about Dr. Omalu, this is
6 about the support staff.

7 GRAND JUROR 17: Is it a missing portion?

8 MR. TESTA: You said there was a question.

9 GRAND JUROR 17: I think somebody had started
10 asking about the church being sealed and it was -- it was
11 interrupted. I wasn't sure.

12 MR. TESTA: Q. Do you know if the church --

13 A. I was not present when they searched the church. That
14 was at a later date.

15 Q. Just for clarification, something was said about
16 Melissa parking her car to go to the church, was in a
17 location on Apple and not at her residence. Where did she
18 pack up?

19 I'm not sure I understand this question. Do you
20 know -- can the juror clarify this question or am I
21 misunderstanding it?

22 GRAND JUROR 9: I was writing something down.
23 I saw a -- the laser hit somewhere around Apple and I heard
24 something about normally she doesn't park -- or doesn't
25 pack, because she was over there for some reason packing.

26 THE WITNESS: No, I'm sorry if I pointed that
27 way. I wasn't pointing at Apple Lane.

28 MR. TESTA: Q. Could you point again to

1 the -- on People's Exhibit --

2 A. Melissa resides in number 57.

3 Q. That's at Orange at Cherry, correct?

4 A. Yes.

5 Q. And she said she normally parks?

6 A. Near the --

7 Q. Clubhouse?

8 A. Yes, near the mailboxes. And she was loading her car,
9 parked right there in front of number 57.

10 Q. We are saying three things. She lives at 57, yes or
11 no?

12 A. Yes.

13 Q. Might want to keep facing the microphone because it's
14 hard to hear you.

15 She normally lives in 57. She normally parks --
16 first, I thought you said she said by the clubhouse or by
17 the mailbox, or did she distinguish?

18 A. Well, you can't park near the clubhouse. You have to
19 be on the street, which is here. You know, the -- but these
20 are the mailboxes I think in this drawing. So there's
21 overflow parking there, that's where she normally parks.
22 But the day of Sandra Cantu's disappearance --

23 Q. We are not going there yet. We are trying to do it
24 one at a time. I'm sorry. I think that's the source of
25 confusion.

26 She normally parks -- now, we are not talking about
27 what she did on this particular day of March 27th -- she
28 normally parks where? What did she say about that?

1 A. She just said in the overflow parking near the
2 mailboxes.

3 Q. Okay. Now, you said something about the overflow?

4 A. I did not ask her to point out the exact space. One
5 of the other agents may have done that.

6 Q. Okay. So she normally parks in the overflow parking.

7 Okay. Now let's move on to another topic. On
8 March 27th when she is getting ready to go to the church,
9 where does she say she's parked?

10 A. That she had moved the car in front of number 57 and
11 she was loading it up.

12 Q. She had moved it from where to where?

13 A. We didn't ask her that. But the car was parked at
14 number 57.

15 Q. When she was loading it?

16 A. That's right.

17 Q. Okay. And that's where she claims she left the
18 suitcase there and took off and went to the church?

19 A. That's right.

20 Q. Okay. Repeat -- there's another question from a grand
21 juror -- why she parked in the street by her trailer,
22 please.

23 A. In order to load up her car. That's what she told us.

24 Q. Because she said she was loading up things from her
25 house there at number 57 to go into the church -- to take
26 these things to the church, is that the idea?

27 A. Yes, she was going to take this large empty suitcase
28 to the church. And it's my understanding she wanted to take

1 some belongings from the church back home with her inside
2 the suitcase.

3 Q. Here's another question from the grand jurors: Did
4 Melissa say when she first noticed her suitcase was missing?

5 A. She said she realized that it was missing as soon as
6 she got to the church and realized she didn't have it inside
7 the car.

8 And then shortly after that, her grandmother had
9 called her and she asked her, "Do you see a suitcase
10 outside?" And the grandmother said she didn't.

11 Q. Okay. What was Huckaby's plan for the suitcase that
12 day, is the question from the grand jury.

13 A. Okay. She said it was empty, other than there were
14 some white flip-flops inside of it. And she was going to
15 take the empty suitcase to the church and pick up some craft
16 materials or something related to her Sunday school class
17 and bring them home with her.

18 MR. TESTA: Okay. I have no other questions.
19 Are there any more questions from the grand jurors?

20 I see none. So the foreperson will read you an
21 admonition.

22 THE FOREPERSON: You are admonished not to
23 reveal to any person, except as directed by the Court, what
24 questions were asked or what responses were given or any
25 other matters concerning the nature or subject of the grand
26 jury's investigation which you learned during your
27 appearance before the grand jury. This admonition continues
28 unless and until such time as the transcript of this grand

1 jury proceeding is made public.

2 Violation of this admonition is punishable as contempt
3 of court -- admonishment, excuse me.

4 MR. TESTA: I wanted to put on the record
5 you're going to be gone for the next week and a half?

6 THE WITNESS: Yes.

7 MR. TESTA: Which is why I'm calling you out
8 of order.

9 So if there are any other questions, now is the time
10 to ask this witness then. Since -- okay.

11 Thank you for coming. You may leave. Appreciate it.

12 THE WITNESS: Okay. Thank you.

13

14 (Pause.)

15

16 MR. TESTA: We are switching gears again,
17 Ladies and Gentlemen, because as I told you, this case was
18 supposed to start today. And as I think I told you, we were
19 going to start with this incident, which is what we are
20 going to do today. So we are going to switch gears. This
21 is why it's going to be very taxing on you to go back and
22 forth between incident and incident.

23 For instance, the preceding witness had to go away for
24 a week and a half, so I had to call her even though I did
25 not want to call her until next week.

26 Presumably at the trial, if there is a trial, we will
27 be able to go chronologically, which is the ideal way for
28 people to follow what's going on.

1 What's your name, sir?

2 THE WITNESS: Daniel John Plowman.

3 MR. TESTA: The foreperson will administer an
4 oath to you.

5 THE FOREPERSON: Would you raise your right
6 hand, please.

7

8 **DANIEL JOHN PLOWMAN,**

9 a witness called on behalf of the People, having been duly
10 and regularly sworn by the Grand Jury Foreperson, testified
11 as follows:

12

13 THE WITNESS: I do.

14 THE FOREPERSON: Did you state your name
15 already?

16 THE WITNESS: Yes.

17 THE FOREPERSON: Did you spell it for us?

18 THE WITNESS: D-A-N-I-E-L, and then Plowman,
19 P-L-O-W-M-A-N.

20 THE FOREPERSON: Thank you.

21

22 **EXAMINATION**

23 BY MR. TESTA: Q. Thank you for coming, sir.

24 How old are you?

25 A. I am twenty-seven.

26 Q. Okay. And you don't have --

27 A. I mean, sorry, thirty-seven.

28 Q. You look -- okay.

1 A. Yes, I know, I look amazing.

2 Q. Thank you for coming. I'm sorry you had to wait. Let
3 me get my bearings. Put everything away for a second.

4 So did you -- did you know Melissa Huckaby?

5 A. Yes.

6 Q. How did you know her?

7 A. I met her at the church I was attending.

8 Q. And what is the name of the church?

9 A. Clover Road Baptist Church in Tracy.

10 MR. TESTA: Did you put those in one of the
11 piles, too, when I asked you, was there a pile of the church
12 photos?

13 THE SECRETARY: Yes, there is.

14 MR. TESTA: Q. Showing you People's 7, look
15 familiar to you?

16 A. Yes.

17 Q. What kind of church is it? I mean, how big is it?
18 Tell us a little bit of background.

19 A. It's about an average-sized church, about the size of
20 an average-sized house. It has quite a bit of land to it.
21 In the back, there's a empty lot where they have -- it's not
22 grass, but it's like weeds they've mowed down.

23 Q. How many persons are there? Members, I guess the word
24 is.

25 A. I've never really thought about it. There's probably
26 maybe like fifteen to twenty.

27 Q. Can you try to speak in the microphone? Maybe you
28 might need to push your chair in. I didn't tell you that.

1 Fifteen or twenty. How long have you been a member of
2 it?

3 A. I was actually not a member. I was attending the
4 church with my ex father-in-law and my children. I never
5 actually joined the church.

6 Q. So how did you know -- you knew Melissa through the
7 church?

8 A. Yes.

9 Q. What was her involvement in the church?

10 A. Her grandfather is the pastor of the church.

11 Q. And when did you first meet her?

12 A. Around May or June of last year.

13 Q. What year would that be, 2008?

14 A. 2008.

15 Q. Okay. Let me just get right to the -- I could ask you
16 a million questions. Let me just go right to March 2 -- or,
17 actually, I think it's -- let me write this down. Hang on
18 for a second, find a pen.

19 There's a calendar here on the wall that's been marked
20 as Grand Jury Exhibit Number 18.

21 Did you see her in March?

22 A. Yes, I did.

23 Q. When's the first date in March that you saw her?

24 A. On the 2nd.

25 Q. That's a Tuesday -- on Monday?

26 A. Monday, yes, correct.

27 Q. And where did you see her?

28 A. I had seen her at the church.

1 Q. And then what happened to you?

2 A. We went there to discuss some things. And --

3 Q. What time were you guys in the church?

4 A. I would say around 10:00 o'clock -- between 10:00 and
5 11:00.

6 Q. A.M. or P.M.?

7 A. P.M.

8 Q. And why were you there in the church?

9 A. To discuss our relationship.

10 Q. You know, I don't want to embarrass you, ask you -- I
11 guess I have to ask you some personal questions.

12 A. No problem.

13 Q. But sometimes people don't want to pay money for a
14 hotel, so they go to the back seat of a car or they go to a
15 garage or maybe they go into a church. We are all adults,
16 so just tell us, did you go to the church for a particular
17 reason?

18 A. We went there to discuss it, because she would have
19 liked to have rented a hotel room that night to talk in.
20 But I had my payroll check, I had no way of cashing it that
21 night. So we went there because we had nowhere else to go
22 and talk. And we didn't want to just sit in the car because
23 people come by and ask questions, police, you just can't
24 park and just sit. So...

25 Q. So what did you guys end up -- so you're there about
26 10:00 o'clock at night?

27 A. Yes.

28 Q. And --

1 A. That was the first time I had actually been in the
2 church when there was nobody else, it was just the two of
3 us. I had never been there prior to that without my in-laws
4 or without the pastor being there. So...

5 Q. Okay. First time.

6 And what, are there different rooms inside the church?

7 A. Yes.

8 Q. How many different rooms are there?

9 A. There's the main lobby. See, there's the nursery, the
10 kitchen, the two bathrooms in the back. Then there's the
11 meeting hall and then there's the pastor's office to the
12 right. And then another room on the left.

13 Q. So, okay, and what room in the church did you guys go
14 to?

15 A. To the nursery.

16 Q. And any particular reason why you were in that
17 particular room?

18 A. Because she didn't want anybody to see the lights in
19 the church on. So she turned the rest of the lights of the
20 church off. And in there, there's no windows. So you can
21 go into the nursery and you don't see lights from the
22 outside. So...

23 Q. You might want to turn the microphone so at all times
24 you're speaking into it. Maybe turn your chair. You want
25 to look at the person who is asking you the questions.

26 A. Is that good there?

27 Q. I think that works.

28 A. Okay.

1 Q. She did not want other people to see the lights on in
2 the church that night?

3 A. Yes. Correct.

4 Q. She said that?

5 A. She did not say that in particular. She just didn't
6 want anybody coming and asking questions why there was
7 somebody in the church at that point. She was made the
8 Sunday school teacher during the time we were no longer
9 seeing each other and she had access to the church. She had
10 her grandfather's keys.

11 So it wasn't -- it wasn't uncommon for her to go over
12 there at any time that she wanted to, get Sunday school
13 classes ready.

14 Q. So you ended up going into the nursery?

15 A. Correct.

16 Q. I don't know what -- let me show you Number 8. Do you
17 recognize what's shown there?

18 A. That is the dining hall, the kitchen. That's where
19 they keep their sodas and stuff for Sunday services, between
20 they have intermission break, when we have lunch.

21 Q. That's photograph Number 9.

22 So, anyway, you're in the church about 10:00 o'clock
23 at night and you guys are in the nursery part of the church
24 because there are no windows so the lights on there wouldn't
25 be seen by someone outside?

26 A. No.

27 Q. Is that the idea?

28 A. Yes.

1 Q. And did you end up -- did she end up giving you
2 anything to drink there at the church?

3 A. Yes, she did.

4 Q. What?

5 A. She told me it was Airborne. She was really into
6 Airborne since the time I had known her. She was like --
7 she doesn't like catching colds. So she had told me that
8 she had gotten this new stuff that was liquid, it was this
9 new form of Airborne and she wanted me to take it, because
10 it was something she had given her grandmother earlier that
11 day, that's what she had claimed to me, and she wanted my
12 opinion on it.

13 Q. Did she --

14 A. I had no reason to think that she would -- that it
15 wasn't what she said it was. So...

16 Q. So, I mean, where did she get this -- I'm not familiar
17 with Airborne. Is --

18 A. I believe -- I've never taken it personally. I think
19 they are tablets. She was saying she found this new liquid
20 form. It was very bitter. She wanted my opinion on it.

21 Q. Oh, she said it was very bitter?

22 A. Yes. And it was my punishment for upsetting her.

23 Q. Okay. Had you upset -- had she claimed you upset her
24 earlier?

25 A. Not that day, but that's the reason we broke up back
26 in October.

27 Q. Okay. Well, without going into all the details, if
28 you had a on again/off again relationship with her, how

1 would you describe it?

2 A. We dated for about six months. I happened to have
3 said something to my ex-wife about her. It got back to
4 Melissa. She felt I had betrayed her for that. We broke up
5 for those reasons.

6 Q. In any case, on this date of -- was it March 1st or
7 March 2nd?

8 A. March 2nd.

9 Q. Okay. On that date when you are in the nursery, tell
10 us about her giving you whatever she gave you, where she
11 was, where she got it from.

12 A. They have two of those nursery chairs that rock back
13 and forth for infants in there, because it is a nursery.
14 It's where they hold the Sunday school classes at. We were
15 sitting in that. She was on the opposite side near where
16 the cribs were at. I was sitting over by where the toys are
17 at. And we originally were supposed to be there talking
18 about -- I had asked her to marry me. And we -- she wanted
19 to discuss that with me. I had gotten her a ring and
20 everything. And she -- we talked about that as well.

21 Just things that had happened between the time we
22 weren't seeing each other four months, we were talking about
23 that.

24 And then that's when she reached into her purse and
25 pulled out the container, the Tupperware bowl with the lid
26 over it, and said, "Oh, yes, this is your punishment. Drink
27 this."

28 And I said, "Okay." So I dranked it. It tasted like

1 drinking -- like sucking on an aspirin. It was very bitter.
2 I dranked it, said, "I've had worse."

3 And she kept asking me every five or ten minutes after
4 that how I felt. And at that point, I had worked all day, I
5 put in like twelve -- I usually put in twelve- to
6 thirteen-hour shifts at FedEx. I hadn't eaten anything all
7 day, I was dehydrated, I hadn't drank anything, I was
8 already feeling tired and sick from not having anything to
9 eat.

10 That went on for awhile. I asked her if she had some
11 Tylenol. She said she did. She reached into her purse, she
12 handed me something that looked like Tylenol to me. I took
13 them. She got me root beer. As soon as we got the root
14 beer, she said, "We got to get out of here."

15 And I said, "Why?" I said, "I thought we came here to
16 talk."

17 And she goes, "No, we got to get out of here."

18 So I said, "Okay, fine. We'll leave."

19 So I drank the root beer. I -- we went out, I stood
20 outside while she, I assumed, set the alarm to the church.
21 I remember getting into my car and pulling away from the
22 church. And then the next morning, I remember waking up
23 in -- I think it's called French Camp or something.

24 I have no memory of from the time we pulled away from
25 the church to the time I woke up the next morning. In fact,
26 when I woke up, I thought I was still with her. I don't --
27 there's hours that I have no idea what -- what happened,
28 because we left around 11 something. And from what I was

1 told by the police, they didn't find me until 1:00 o'clock
2 or 1:30 in the morning, around that time. That's what they
3 told my ex-wife.

4 Q. So putting that aside for a second, you -- she
5 actually takes this liquid out of her purse?

6 MR. TESTA: Can I have the photo of the
7 purse, please?

8 I'll give these to you.

9 THE SECRETARY: It's right here.

10 MR. TESTA: Q. Did she actually take the
11 item out of her purse?

12 A. She took it out of her purse.

13 Q. What does the container look like that it was in?

14 A. It was a little round white bowl. It's like you
15 couldn't really see through it. It was like -- it's not
16 transparent, but it was like cloudy kind of white container.

17 Q. You said, if I heard you correctly, something like
18 Tupperware?

19 A. It was a Tupperware bowl. It was a little bowl like
20 this that you store something in the refrigerator area.

21 Q. By the way, did the purse look anything at all like
22 the one --

23 A. She had several purses. I wasn't really paying
24 attention to the purse.

25 Q. I understand. I showed you People's 20.

26 And People's 21, I'm sure you're not there noting her
27 purse, but does that look at least --

28 A. It could have been one of her purses.

1 Q. She has a number of purses?

2 A. That I knew of, I seen her with different ones.

3 Q. So you end up -- oh, by the way, there's this
4 photograph here, Number 9, did you say this is of the
5 church?

6 A. Yes.

7 Q. Are these the drink -- soft drinks?

8 A. That's the drinks. They have them there. That's for
9 Sunday services while we are having lunch.

10 Q. You said something about she gave you -- did I hear
11 you say root beer?

12 A. It was either Mug or A & W.

13 Q. From here?

14 A. From the church, yes. We were actually standing right
15 where that table was when she gave it to me.

16 Q. So the table that's shown in Exhibit Number 9 was
17 where you were when you ended up being given the drink?

18 A. Yes. And after I finished it, she said we had to
19 leave.

20 Q. What was the reason why? You guys got all the way to
21 the church, she gives you this drink, then she says, "We
22 have to leave." Did she have any sense of urgency in her
23 voice?

24 A. Actually, she did. She said that, "We have to leave,
25 we have to leave." And that's when I asked her why. I
26 said, "I still want to talk to you." We really hadn't
27 talked a lot about our problems. We just talked about
28 certain things. I still had things I wanted to say to her.

1 And she just was insistent. I said, "Where are we
2 going to go?"

3 She goes, "We'll drive around in the car."

4 I said, "I thought you wanted to talk here."

5 She says, "No, we have to leave."

6 So it was not even maybe like three or four minutes
7 after I drank the soda, we just left.

8 Q. Now, if I understand correctly, at this time in March
9 you were residing in the Bay Area?

10 A. Yes. Correct.

11 Q. And you were employed at FedEx?

12 A. Correct.

13 Q. What do you do there -- what did you do back then at
14 FedEx?

15 A. Driver.

16 Q. How long had you been working there?

17 A. Almost two years.

18 Q. Okay. And you drove from -- is it Hayward?

19 A. From Hayward, that's right.

20 Q. So you drove from Hayward to Tracy to see her --

21 A. Correct.

22 Q. -- talk to her, go to the church. How long did you
23 end up talking?

24 A. We were -- I would say we were only from -- like we
25 get there -- I said between 10:00 and 11:00. We left
26 there -- had to be 11:00, probably no more than maybe an
27 hour -- a little over an hour.

28 Q. So what time was it that you actually got here from

1 Tracy -- from Hayward?

2 A. It was around 10:00.

3 Q. So you got here pretty late?

4 A. Yeah. I had just gotten off of work around 7:30 that
5 night, because we were really busy. I went by and I got
6 gas. And I had to pick up my payroll check from my boss.
7 He leaves it at his house. We all pick it up over there.
8 By the time I had done that, gotten ahold of her, she asked
9 me to come out there. I told her I had just gotten off from
10 work, I was dirty. She told me to go home, take a shower.
11 By the time I had done all that, I had left the house around
12 9:00. By the time I got there, it was closer to 10:00.

13 Q. Did you get a little hot under the collar, "Hey, I
14 just drove all the way here from Hayward, went over the
15 Altamont Pass, I'm here in Tracy, came here to talk to you,
16 and now you're telling me we have got to leave the church
17 after this short period of time," anything like that?

18 A. I didn't get too cross. I wanted to talk to her, so I
19 didn't want to upset her. So I just -- whatever she wanted,
20 I just went with that. So...

21 Q. Was there anything about what she said or her behavior
22 that indicated she was upset with you over something you had
23 done?

24 A. Not really. She just seemed like in an uplifted mood.
25 I mean, pretty much she had changed since the time we hadn't
26 seen each other in October to this point. She was a lot
27 different than before. So...

28 Q. In what way?

1 A. Before, she was more into hugging, holding, kissing
2 hands, joking around. She was more dark this time, more
3 serious. Didn't like to joke around. She was withdrawn to
4 herself. Before, she was more outgoing, more -- it's hard
5 to explain. She was just a much happier person to me.

6 Q. Back then?

7 A. At this point, she just seemed more withdrawn to
8 herself. She wasn't as open as she was before.

9 Q. Okay. Well, because you said something about she
10 said, "This is your punishment for pissing me off."

11 A. Yes.

12 Q. Did I hear you correctly?

13 A. Yes.

14 Q. Was she saying that -- tell us the tone of voice she
15 said?

16 A. It was a joking, laughing kind of matter. "Oh, here's
17 your punishment for upsetting me and what you did to me."
18 And it was more like a, you know, ha-ha kind of thing. Not
19 like, "Oh, you better take this," kind of thing. It was
20 more like, you know, "Oh, well, here you go." Basically,
21 she told me it was supposed to taste nasty, that's what the
22 whole thing was about.

23 Q. And the next thing you remember is you wake up in
24 jail?

25 A. Actually, I was talking to the person next to me or
26 they asked me who Melissa was, because they said before I
27 woke up, it was if I was talking in my sleep or whatever.
28 And they asked me who she was, because I -- I thought I was

1 actually with -- I woke up, I was totally disoriented. I
2 did not know where I was at. I thought I was actually with
3 her.

4 When I started to realize where I was at, I started
5 thinking I had to be to work the next day. I was worried
6 about that. I had no way of contacting my boss. And that's
7 not something you can do. He'll let you go for something
8 like this so -- first time.

9 Q. So where did you wake up?

10 A. I believe it's called French Camp. I had never been
11 there before.

12 Q. Were you in a jail?

13 A. They had me in a big lobby with a bunch of chairs, and
14 there was several other people in there.

15 Q. Okay.

16 A. I don't know exactly how many. But they released me
17 not too long after I had woke up. And they had given me my
18 artifacts back that I had on me.

19 Q. Artifacts?

20 A. Like my wallet, things like that.

21 Q. Well, had you ever -- are you a drinker?

22 A. I have dranked when I was younger, I mean, I can't say
23 I have never had an alcoholic drink. But I don't drink now.

24 Q. Back in March of 2009, had you --

25 A. No, no.

26 Q. Because if I -- let me tell you -- if I tell you they
27 tested -- did they arrest you for DUI?

28 A. They -- they arrested me, they said for -- yeah, DUI

1 or narcotics or something. They wouldn't really tell me
2 what I was arrested for. I kept asking. I kept calling for
3 months. My sister would call. They wouldn't even tell me
4 what was in my system.

5 Q. What if I told you there was no alcohol in your
6 system?

7 A. That wouldn't surprise me. Everybody knows me knows I
8 wouldn't drink and drive, so...

9 Q. I mean, are you --

10 A. I have worked for FedEx almost three years. We have
11 random drug tests. I have been drug tested two or three
12 times and I have never failed once. And, I mean, you go to
13 work, they send you in right then. You don't even know it's
14 coming or nothing else.

15 I have had drug tests before, prior companies, too. I
16 don't do drugs. I have never done drugs in my life.

17 Q. You are not a person who uses drugs?

18 A. Actually, I will go on this, I'm allergic to almost
19 every form of medication. I can't take Vicodin. I have
20 arthritis in my knee because I have a knee injury. I can
21 take Motrin. That's about it. I'm allergic to iodine.
22 There's almost every pain -- painkiller, I can't take it. I
23 have severe reactions to it. I break out in rashes,
24 vomiting. I am allergic to most anesthetics. I can't
25 take -- there's -- other than penicillin -- aspirin even can
26 make me sick. So I'm allergic to a lot of different things.
27 I get very sick. I can't take things.

28 Q. What if I told you there was no illegal drugs in your

1 system, but there's some benzodiazepine?

2 A. I have heard that mentioned on TV, you know, that
3 that's what they had -- she may have given the other girl.
4 I never heard about that stuff until after this had
5 happened.

6 Q. So you weren't taking any such drugs?

7 A. No. The only thing I take is Ibuprofen, that's the
8 only thing I can stomach.

9 Q. For the knee?

10 A. For the knee. I've had -- I've had knee surgery. So,
11 in fact, it was very hard for them to find a medication that
12 I could actually take for a painkiller. I don't remember
13 what it is they prescribed for me, and I ended up I only
14 took two of them because it made me sick, nauseous, I
15 couldn't take it.

16 Q. Had you ever wakened like this, had a similar
17 experience where you woke up and, "My, God, I don't know how
18 I got here," or, I mean, any history of blackouts or history
19 of this kind of conduct?

20 A. No. If I don't eat, I can get a little hypoglycemic
21 you know, I can get light-headed, but not to the point
22 like -- they told me -- from what they told my ex-wife, a
23 cop pulled me out of the car at McDonald's and tried to give
24 me a sobriety test, and they -- they -- I fell down. I have
25 no memory of that. I have never been, even when I used to
26 drink when I was younger, I have never been to the point
27 something like that would have happened.

28 I have no memory from the time we left the church to

1 when I woke up in the morning.

2 Q. You don't remember doing the field sobriety tests or
3 walking?

4 A. I don't remember a police officer. I don't remember
5 McDonald's. I don't remember a police officer pulling me
6 out of the car. I don't remember any of that stuff. I just
7 remember pulling away from the church and then waking up the
8 next morning at that place I was at.

9 Q. What about do you -- do you go to McDonald's? Is that
10 part of your routine?

11 A. Well, no. I mean, I know on the street there, it's
12 one of the things that are open late at night. I hadn't
13 eaten -- I hadn't eaten anything that day, so...

14 Q. Could that have caused this?

15 A. Going to McDonald's or --

16 Q. Not eating all day?

17 A. That could be it, but not to the point where I would
18 be out of it like that. I mean, I even -- even if I get a
19 little light-headed, I wouldn't pass out where I wouldn't
20 remember anything.

21 Q. I can understand that. Okay.

22 Well, let me ask you these -- I think I'm getting
23 close to the end.

24 A. Actually --

25 Q. Anything else?

26 A. -- I'll say this, I -- I went back the next day after
27 I had -- I -- they released me from French Camp, I was
28 rearrested again.

1 Q. Yeah, you got -- you went out -- then you went back
2 there to get your car back out of impound?

3 A. It was registered in my ex-wife's name. They wouldn't
4 give it to me because I wasn't on the insurance or the
5 registration.

6 So they -- I called my -- my in-laws. They had
7 already been informed about the car being in there. They
8 notified my ex-wife because of the fact that the car's in
9 her name, that she had given it to me because she bought a
10 new car and I needed it for work. So I was waiting for them
11 in the lobby to come and get me. And it was warm in there
12 and I, whatever, if I was on that stuff or whatever was in
13 my system, I was really tired. I hadn't slept well, you
14 know, from the night before. So I fell asleep in the chair.
15 And I just remember an officer tapping me on the shoulder,
16 asking me what -- why I was sleeping in the lobby. And I
17 woke up and I was startled and I said, "Well, I was waiting
18 for my ride to come and pick me up and it was warm in here
19 and I fell asleep."

20 They proceeded to tell me it's illegal to fall asleep
21 in a police -- in a lobby like that. I said, "I'm sorry.
22 If I had known that, I would have gone outside and waited.
23 I apologize."

24 The officer had me get up, he had me walk. Well, I
25 have a bad knee, I had just woke up, I was wobbling a little
26 bit. And as I was walking, he came up from behind me and he
27 put handcuffs and goes, "You're under arrest for being on a
28 controlled substance."

1 I go, "What's going on here?" I said -- I said -- I
2 think I said something like, "Am I in the twilight zone or
3 something?"

4 And -- and he goes, you know, "You're being arrested
5 for being on a narcotic."

6 And I said, "I haven't taken anything."

7 They took me back there. They read me my rights.
8 They asked me if I would submit to a blood --

9 Q. Did you agree?

10 A. I agreed. I said, "I have nothing to hide." I had
11 nothing to hide. They took the sample. I sat in a room
12 back there for hours. I was freezing. And then they
13 finally took me back out to the French Camp place.

14 Q. Arrested -- first you get arrested for DUI?

15 A. DUI.

16 Q. You get out and you arrange for -- they won't give you
17 your car back because it's registered in your wife's name?

18 A. Yes.

19 Q. You had hitched a ride from someone?

20 A. I overheard somebody, when they let me out, they were
21 going back over to the Tracy Police Department because they
22 had to pick their car or something. I asked them, I said,
23 "I know you don't me," you know, I explained the situation.
24 I said, "Could you give me a ride over there?"

25 At this point, I didn't know where French Camp was. I
26 had no way of knowing where I was at or anything.

27 Q. You go back to Tracy Police to help get your car?

28 A. They told me it would be \$108 to get it out. So I had

1 my payroll check on me. They told me there was a Wells
2 Fargo down the street. I went down there, cashed it, and I
3 came back.

4 Q. You sit in the lobby, you get busted a second time,
5 this time being under the influence of drugs?

6 A. Correct.

7 Q. Because you're still apparently under the influence of
8 whatever it was that you were given?

9 A. Correct.

10 Q. And they take a second blood test, the first one for
11 your DUI which you may not even remember?

12 A. No.

13 Q. Did the second one when you get arrested for being
14 under the influence of narcotics, if I told you that came
15 back negative, too, for alcohol, would that surprise you?

16 A. That would not surprise me, because I don't drink and
17 drive.

18 Q. We got the guy that tested your blood. He's outside.
19 He's going to come in.

20 So the bottom line, you get arrested twice in a matter
21 of what, a twenty-four hour period?

22 A. Correct.

23 Q. And you swear, "Hey, I did not take any drugs that
24 day"?

25 A. Yes.

26 Q. "I did not drink that day"?

27 A. Actually, I had got into an argument with one of the
28 people that were back in the back room because I told them

1 exactly what I think about people who do drugs. And I don't
2 have a very high opinion of people that do drugs. Anybody
3 that knows me knows how I feel about people that do drugs.
4 I don't feel sorry for people when they do that stuff. They
5 take it upon themselves to do that. And me and another
6 inmate back there got into an argument about that. So...

7 Q. Okay. Let me see if I have any questions from the
8 grand jurors.

9 A. I just had one last thing.

10 Q. What else?

11 A. When I finally was released and my in-laws -- at
12 midnight, my in-laws came and picked me up. They released
13 me from French Camp at midnight. As I was driving home,
14 they called my sister because I didn't have my cell phone,
15 and they called -- my sister called my in-laws on my
16 mother-in-law -- my ex mother-in-law's phone, and was
17 talking. I hadn't thought that she had done anything to me.
18 At this point, I just thought I'd blacked out.

19 Q. You mean Melissa Huckaby?

20 A. Yeah, Melissa Huckaby.

21 I was still under the impression that -- I didn't know
22 what was going on and I didn't think she would harm me or
23 would have harmed me in any way.

24 My sister had talked to her -- she called my sister
25 that morning while I was at the Police Station, and she was
26 asking where I was and, you know, if she heard from me and
27 she was worried.

28 And my sister said, "Why would you automatically

1 assume something was wrong with my brother?"

2 She goes, "I tried his cell phone, he's not
3 answering."

4 She goes, "How do you know he didn't turn it off, it
5 didn't die on him? Why would you automatically assume that
6 something happened to him?"

7 She goes, "I've been calling the hospitals and
8 everything else."

9 She goes again, "Why would you assume so?"

10 So then she goes, my --

11 Q. This is Kathy Plowman?

12 A. My sister.

13 Q. She's here, isn't she?

14 A. Yes.

15 She said, "You gave something to my brother, didn't
16 you?"

17 And then she told my sister -- this is coming from my
18 sister -- that she would never do something like that.

19 Q. Let me ask your sister these questions.

20 A. My point is this is what happened. My sister got
21 ahold of me that night when I was coming back and she goes,
22 "She gave you something to drink."

23 And I was like, "Son of a ..."

24 And it had dawned on me, I hadn't -- I hadn't thought
25 anything about it and I said -- she goes, "She drugged you,
26 didn't she?"

27 And at that point, I -- I had no reason to think she
28 had done something to me and I was like -- I was like,

1 "Okay."

2 I said -- and she goes, "She gave you something to
3 drink, didn't she?"

4 And I said, "Yes, Kat."

5 And she goes -- because I didn't want my in-laws
6 hearing all this, they would have started in on me -- I go,
7 "Yes, she did."

8 She goes, "She drugged you."

9 I said, "Now that I think about it, it could be a
10 possibility." So...

11 Q. We have to take our morning recess. You're going to
12 have to come back.

13 MR. TESTA: In ten minutes or fifteen
14 minutes?

15 THE FOREPERSON: Fifteen.

16 MR. TESTA: They have been going since 9:00.

17 So just don't talk to anyone else. You going to read
18 the admonition? Don't talk to anyone else about it. If
19 your sister Kat is out there, don't talk to her.

20 THE WITNESS: I won't.

21 MR. TESTA: "The DA asked me this."

22 THE WITNESS: Actually --

23 MR. TESTA: Don't talk at all.

24 And come back in fifteen minutes.

25 THE WITNESS: I haven't talked to anybody
26 about any of this stuff. Really. Not the press. Not
27 anybody.

28 I don't -- personally, me, I'm more embarrassed about

1 this situation as it is. I'm not somebody who craves the
2 spotlight or anything else. I --

3 MR. TESTA: Because the press has been
4 looking for you?

5 THE WITNESS: Yes, they have been looking for
6 me.

7 Not even people in my work, when they ask me
8 questions, I haven't talked to them about this.

9 MR. TESTA: Appreciate that.

10 Come back if you could in fifteen minutes.

11 THE FOREPERSON: Wait, wait, wait.

12 MR. TESTA: You want to read something to
13 him?

14 THE FOREPERSON: Yes. I have to read
15 something to you. Hold on.

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

23 Violation of this admonishment is -- oh, wait a minute
24 -- is punishable as contempt of court.

25 Optional: This does not prevent you from discussing
26 the matter with your attorney, if you have an attorney
27 advising you with respect to your appearance before the
28 grand jury.

1 Do you understand?

2 THE WITNESS: Yes, I understand.

3 THE FOREPERSON: Okay. Thank you.

4

5 (Recess.)

6

7 THE SECRETARY: All jurors are present at

8 this time.

9 MR. TESTA: Are we ready?

10 Did you announce this morning roll call and that
11 everyone was present?

12 THE SECRETARY: Yes.

13 MR. TESTA: And we are announcing it again,
14 we are all present and accounted for?

15 THE SECRETARY: Yes. Uh-huh.

16 MR. TESTA: Q. You are still under oath, of
17 course.

18 Where did we leave off?

19 A. About the phone call from my sister.

20 Q. Right. Okay. I don't really want you to tell us what
21 your sister told you.

22 A. Well, I -- that's my -- that she had told me her
23 opinions.

24 But the thing is the next day when I woke up, I went
25 and I called Melissa, because she's the only one that could
26 fill in the blanks.

27 Q. That's --

28 A. That had been with me, she was the one that was with

1 me that night.

2 Q. In that sense, for the purposes that it's offered, to
3 show the effect it had on you and why you did what you did.
4 Okay. So tell us, what else did Kate tell you -- well,
5 admitted for that person -- what else did Kate tell you that
6 prompted you to call Melissa?

7 A. You mean my sister?

8 Q. Yeah.

9 A. Kat. She had put out the idea that maybe Melissa had
10 drugged me. I called her the next day because I needed
11 answers. I -- nobody knew what had happened. She was with
12 me, so she would be able to fill in the missing pieces.

13 When I got ahold of her, she -- I called her from a
14 pay phone over by where I lived. I asked her what had
15 happened that night.

16 And her story was that we left the church and I had
17 drove her back to her car. And that I was driving like a
18 crazy person, which I now believe I was because whatever she
19 -- whatever was given to me was kicking in, I do believe
20 that happened, and I was begging her and pleading with her
21 to marry her.

22 And she said that she couldn't do that and she didn't
23 want to marry me, that she cared about me.

24 I have never pleaded with anybody. If she said no, I
25 would have just left it at that and that's it. I knew that
26 was a lie there.

27 Then I asked her what had happened. She said when she
28 had left me, she left me in my car and that I was suicidal

1 and I was going to kill myself. Again, wouldn't have
2 happened.

3 Then --

4 Q. Do you have any history suicide attempts?

5 A. No, not at all.

6 Q. Any thought of it?

7 A. No, I'm -- on average, I'm a pretty happy person. And
8 I adore my children, I would never -- they are my whole
9 life.

10 Q. How old are your children?

11 A. My daughter is now six and my son is four, and I have
12 an older daughter that's fourteen.

13 Q. Go ahead, I cut you off.

14 A. Her explanation of what happened that night was that
15 she left me in the car, and that she went home. And that
16 maybe I went into the Food Maxx there to get a drink and
17 somebody drugged me.

18 Q. She said maybe somebody drugged you?

19 A. Drugged me inside Food Maxx.

20 Q. Inside Food Maxx?

21 A. Yes. Because we were parked there. That's where she
22 left her car and we went to the church. We used my car to
23 go the church. She left hers at the parking lot.

24 Q. So she brings up this concept of maybe was somebody
25 drugging you?

26 A. Yes, drugged me -- I told her they had tested me, they
27 gave me a blood test, and that they were charging me with a
28 DUI. And I said, "I didn't take anything." I said, "You

1 know I don't do drugs and I don't drink and stuff."

2 So she said, "Well, you were thirsty." So she went
3 ahead and she said maybe I went into the store to get
4 something to drink.

5 And I said, "Why would somebody in the store want to
6 drug me?"

7 She goes, "I don't know."

8 She goes, "Maybe you drove over to McDonald's and
9 somebody drugged you there."

10 And I said again, "Why would somebody at McDonald's
11 that don't even know me want to drug me?"

12 She goes, "I don't know." She goes, "Maybe you passed
13 out in the car and somebody hit you over the head."

14 And I said, "Okay. They left my payroll check. They
15 left the \$3 I had sitting in the little divider thing there
16 out in plain view. They didn't take my car. They didn't
17 take my wallet. They didn't take anything else. All they
18 took out of the car was my cell phone, which the \$3 was
19 laying on top of, which was a black phone. My payroll check
20 is on top of that. They would have had to dig through that
21 to get to my cell phone. My cell phone is the only
22 thing that's missing at this point. They didn't take the
23 car, they didn't do anything else, they just hit me over the
24 head."

25 She goes, "I don't know what happened to you after I
26 left."

27 Q. What happened to your cell phone?

28 A. I cannot find it anywhere.

1 Q. Did you have it when you were with her?

2 A. Yes. In fact, she asked me where it was at before we
3 went into the church.

4 Q. Did she ever express to you that she wanted your cell
5 phone so she could delete some photos that were on your cell
6 phone of her?

7 A. Well, that was from a long time ago before we broke
8 up, the photos she had sent me that she wanted to. But I
9 deleted some of those. I actually still have some of those
10 photos.

11 Q. Whatever happened to your cell phone?

12 A. I don't know where it's at at this point. I'm on my
13 sister's Family Talk plan, so the phone actually belonged to
14 her. And I pay her for the monthly services I use on her
15 family plan.

16 And the thing is, I reported to her the next day
17 because I didn't know where it was at, I didn't want anybody
18 running a phone bill. She reported it -- we have AT & T,
19 she reported to AT & T it was stolen.

20 Q. Slow down so the court reporter can get everything.
21 She has to take don't every word you say.

22 Go ahead, finish.

23 A. So my sister reported the phone stolen. I have not
24 seen it. And the only reason I want the phone back for is
25 because I have pictures of my kids on there. And I don't
26 care if I get the phone back itself. I just wanted the
27 phone back because I have probably about twenty or thirty
28 pictures of my kids on there.

1 Q. Did you have any reason to believe that Melissa took
2 your phone from you when --

3 A. At the time I did -- I thought, but I had no proof so
4 I wasn't going to come out and accuse her of it because I'm
5 not going to accuse somebody of something I have no proof. But
6 I suspected she did.

7 Q. Why?

8 A. Because who else would have taken it? It just seemed
9 weird to me that they didn't take the money I had in the
10 car, they didn't take my payroll check, they didn't take my
11 wallet, they didn't take anything else, but my phone is
12 missing.

13 Q. So there was money, \$3?

14 A. There was like \$3 on top of my payroll -- there's \$3.
15 And then on top of that was the payroll check. And under
16 that was my cell phone.

17 Q. Oh, okay.

18 A. And to this day, I still don't know -- it was a black
19 RAZR or like a grayish-colored RAZR.

20 Q. So the next day when you called Melissa to get an
21 explanation, did you get any other explanation, or can you
22 summarize basically what she told you?

23 A. Yes, that was it. We talked about other things and
24 then that was it. I went back to the house. I periodically
25 kept in touch with her after that.

26 She was calling my sister and harassing my sister
27 quite a bit. Then I would call her about it and she would
28 say that she wasn't, you know, she wasn't doing that.

1 We weren't really talking much after that until she
2 called my sister and said, "Congratulations, you're going to
3 be an aunt," and -- or something along those lines. And she
4 told my sister that she was pregnant. So then I got in
5 contact with her. And she admitted that she thought she was
6 pregnant and her period was late.

7 So then we did keep in contact after that because I
8 figured if she was pregnant, I was going to be in contact
9 with her for the rest -- for the rest of my life if we were
10 going to have a child together. So we started talking.

11 And then just one thing led to another after that,
12 about her telling me that she was depressed and that she
13 swallowed razor blades and all this other stuff, and that --

14 Q. Okay. Let me -- I know you could go on. For the
15 purposes of today, have you told us then everything about
16 this date, the early part of March?

17 A. Yes.

18 Q. She gave you something, next thing you know you're
19 waking up in this other place, get busted for DUI. Later
20 on, you get busted for being under the influence of drugs or
21 something?

22 A. Yes.

23 Q. And the same position.

24 Well, let me just advance, fast-forward, so to speak,
25 to the 27th of March. Did you see her at all that day?

26 A. No. I had talked to her.

27 Q. Did you speak with her on the 27th of March?

28 A. Yes, I did.

1 Q. This is now the day that Sandra Cantu goes missing.
2 When did you talk to Melissa on the 27th?

3 A. I don't remember the exact times of the day. It was
4 during -- it was probably between like 12:00 and maybe
5 between like 6:00. She had --

6 Q. Give us the precise -- you mean noon and 6:00 p.m., or
7 midnight and 6:00 a.m.?

8 A. Yes, about noon and 6:00 p.m., around that time.

9 Q. What are the circumstances of the conversation? Who
10 called whom?

11 A. I'm thinking I called her or she called me. I don't
12 remember who called because a lot of times we called each
13 other. I don't remember that particularly.

14 But the thing -- the reason I was talking to her is
15 that I had just gotten in an argument with my sister,
16 actually, and I was talking to her about it.

17 I had to move out in three days and I had three days
18 until I had to move out or I actually had until the 1st, and
19 my sister was going to rent me a moving truck. And then she
20 said she wouldn't be able to that -- that same day. And I
21 was stressing about that because I had to have my stuff out
22 of my place, because I had lost my job because of the
23 drugging.

24 Q. You lost -- you lost your job at FedEx because you got
25 busted for the DUI?

26 A. Yes -- well, not just that. I couldn't call my boss
27 on the 3rd or the 4th. I didn't show up there until the
28 morning of the 4th. And by then, he had to replace me.

1 That's how FedEx works. He's a contractor. He owns the
2 route. And if he doesn't have a driver, he could lose that.
3 He actually pays \$50,000 to own these routes. And he had to
4 replace me. He wasn't going to let the other person go
5 because I was two days of no show. I was -- the 3rd I was
6 in there, and then I didn't get out until that night, which
7 would be the midnight of the 4th. And then by the time I
8 showed up there around 7:30 to work, because I didn't have a
9 car anymore, my car -- my ex had taken the keys back and the
10 battery was dead on it, it was parked out in front of my
11 house. That was it.

12 Q. Twilight zone is what you said?

13 A. Yes.

14 And I went to work and he was there, and he told me he
15 had to replace me. I lost my job at that point.

16 Q. Here's the question: On the 27th, the night that --
17 the day that Melissa -- that Sandra Cantu went missing, did
18 you come down here at all?

19 A. No, I did not.

20 Q. I mean to Tracy is what I mean?

21 A. No.

22 Q. Over the Altamont to Tracy?

23 A. I know what you're saying. No, I was with my daughter
24 at that time.

25 Q. Well, do you have any explanation then why on the
26 night of the 27th of March, Melissa Huckaby calls 911 on you
27 and says you are trying to kill yourself, "Go to his house"?

28 A. I don't know why she did that. I've heard a lot of

1 rumors, I got a lot of explanations from other people.

2 Q. At midnight or so?

3 A. It was actually between -- when the police showed up,
4 it was around 8:30 to 9:00.

5 Q. P.M.?

6 A. Yes, it was around that time. My kids had gone to the
7 movies about an hour or two before that with their
8 grandmother.

9 Q. In Hayward?

10 A. In Hayward, yes.

11 Q. So what was -- had she been trying to reach you?

12 A. No. Because you see, at that point, I had bought a
13 prepaid phone and I didn't give her the number for it.

14 Q. Why?

15 A. Because I didn't want her getting ahold of me.

16 Q. Why?

17 A. Because everybody was mad, they didn't want us
18 talking. I had other reasons. I just -- I figured if I
19 wanted to get ahold of her, I would get ahold of her. I
20 didn't want her calling me whenever she just wanted to. So
21 at that point, I had my suspicions and I just didn't want --
22 I just didn't want to give out numbers. I had three phones
23 at that point. I had --

24 Q. We don't have to --

25 A. Okay.

26 Q. So here's my question: So what -- she called 911 on
27 you on the 27th of March?

28 A. Yes.

1 Q. About 8:30 p.m.?

2 A. About 8:30. I was packing stuff and doing dishes and
3 I was getting things ready, I had to move out in like three
4 or four days. And I hear a knock on the door, and I had
5 music going in the house, and I went and answered the door
6 and the police were there and they said, "We received a call
7 that you were going to hurt yourself."

8 And I said -- I started laughing. I said, "Excuse
9 me?"

10 And they said, "Yeah, we received an anonymous call
11 that you were going to kill yourself."

12 And I said, "Last time I checked," I said, "No."

13 I said -- they go, "Well, what kind of a person are
14 you?"

15 I said, "For the most part, I'm a pretty happy person.
16 My kids are at the movies right now." I said, "I have no
17 desire to kill myself."

18 They go, "Can we come in the house and check it out?"

19 I said, "By all means, fine." I said, "Excuse the
20 mess, I'm in the middle of packing and getting ready to
21 move."

22 And they went, they checked around the house. They
23 go, "Well, why would somebody call on you?"

24 I know there is only three people that would have
25 called: Either my sister, my ex-wife, which I know neither
26 one of them would have called, and then it would have been
27 Melissa.

28 So I tried to explain to the officer that it was my

1 girlfriend, or ex-girlfriend at that point, I didn't know
2 what to call her at that point. So I explained that. He
3 didn't really seem to believe me.

4 So I got my phone out. I called my sister. I said,
5 "Here, you can talk to her, she'll explain the whole story.
6 She's an unbiased person."

7 You can -- they were on the phone for a long time
8 talking. And he said -- he goes, "We are going to leave."
9 He goes, "You don't seem like you're going to hurt yourself
10 or something, or you're a harm to anybody else."

11 I go, "No."

12 And he gave me like a sheet for restraining order,
13 because my sister said that, you know, she didn't want me
14 talking -- nobody wanted me talking to Melissa at that
15 point. And --

16 Q. So did you get a restraining -- did you apply --

17 A. No, I did not.

18 Q. Let me finish my question.

19 Did you apply for a restraining order against Melissa?

20 A. No, I did not.

21 Q. What made you think she was the one that called 911 on
22 you?

23 A. Because I can't think of anybody else that would of.

24 Q. Well, you know this concept of projecting, sometimes
25 people project on to others the very qualities they have?

26 A. I have heard of that.

27 Q. She -- so did the officers -- apparently, they -- she
28 called in and said you were going to kill yourself. Had

1 Melissa ever said such things about herself?

2 A. She said that she had tried to hurt herself in the
3 past.

4 Q. How? How?

5 A. I -- I don't know if anybody's ever seen it, but she's
6 got slash marks up and down her arms. And I saw those the
7 first day we met.

8 Q. Okay. You said something about swallowing razor
9 blades. What did she say about that?

10 A. She said that --

11 Q. When?

12 A. I don't -- see, I don't remember the exact dates.
13 This happened after the drugging, this is between the -- the
14 3rd and the 27th, sometime between there, that --

15 Q. So I will -- tell us, what did Melissa say about razor
16 blades between the drugging and the 27th?

17 A. From what I know, she had -- see, I wasn't with her.
18 I only hear what she would tell me on the phone.

19 Q. This is what she told you?

20 A. She was serving charges for something that had
21 happened in January when we weren't talking.

22 Q. No, just tell us what she told you.

23 A. That's what I'm saying, that's what she told me, and
24 that she was depressed about that and that she tried to hurt
25 herself.

26 Q. Did she --

27 A. And that she was in the hospital, her grandparents had
28 taken her to the hospital, and that she checked in and that

1 she had a razor blade on her. And she didn't want them
2 finding the razor blade.

3 So I said, "What did you do, flush it down the
4 toilet?"

5 She goes, "No, they would find that." So she goes, "I
6 did the one thing I could do."

7 I said, "Oh, my God, you didn't swallow it?"

8 She goes, "Yes, I did."

9 So she told me that she swallowed a razor blade. And
10 I said, "Do you know what that could do to your insides?"

11 She goes, "What?"

12 I said, "Well, if it gets lodged in there, it could
13 cut you open, you could have internal bleeding, you could
14 have all these different things happen to you. It could get
15 lodged in your colon, you know, anything. It could shred
16 you open and stuff like that."

17 So started freaking out. That's the only time she
18 ever mentioned about a razor blade to me.

19 Q. All right. Let me see if I have any questions from
20 the grand jurors. I know I have this group here, then I can
21 move on.

22 What was Huckaby's plan for the suitcase that day?

23 Okay. This is not for you.

24 Let me see, I thought these were all in one pile here.

25 Did the suspect -- did Huckaby explain why this
26 product, this drink, was in a Tupperware bowl rather than in
27 the original packaging?

28 A. She just told me it was -- that it was a bowl that she

1 grabbed out of her grandparents' house, that she had mixed
2 it up in the bowl because it was a powdery liquid stuff or
3 something. And I had never heard of it, so...

4 Q. How many times did Melissa Huckaby ask, "How do you
5 feel?"

6 A. Maybe about five or six times, in the course that we
7 were there. More so after the root beer and she gave me the
8 Tylenol, which I assume was a Tylenol tablet. It was more
9 so after that than anything else.

10 Q. So you don't -- when she gave you these tablets that
11 you assume were Tylenol --

12 A. There was probably about ten to fifteen minutes in
13 between the time I drank the stuff and the Tylenol, about
14 that.

15 Q. Do you know whether it was -- did you see the
16 container that said "Tylenol"?

17 A. No.

18 Q. Do you assume --

19 A. She was reaching into her purse. And that's something
20 else that she told me, the night I went out there on the
21 25th, she had told me on the way out there that -- she
22 said -- I wanted to talk about whether she was pregnant,
23 that's the whole reason for me seeing her that night. I
24 wanted -- I told her she had to take a pregnancy test in
25 front of me. I wanted to know that night. That's the only
26 reason I went to see her was because I wanted to know about
27 the pregnancy --

28 Q. Slow down.

1 A. I didn't care about anything else at that point.

2 She brings up the fact -- it was undecided whether I
3 was going to be charged with this DUI. Her words -- she
4 goes "I may have given you something and it might not have
5 been the Tylenol."

6 I say, "Oh, really."

7 At that point, I didn't want to hear what she had to
8 say. I kept trying to change the subject.

9 She goes, "If it comes back that I gave you this
10 benzo" -- and I didn't remember the name of the stuff
11 because I had never heard of it, I just remembered it
12 started with a B. She goes, "If I gave it to you, it was by
13 accident."

14 She goes, "I was just getting the Tylenol out of the
15 purse for you. I might have given you the wrong stuff."

16 And at this point, I was like, "Yeah, yeah, I don't
17 believe you," whatever.

18 And she said, "If -- if it comes back that that's what
19 comes up in your system" -- this was later. This is after
20 she had given me those three other explanations about what
21 had happened that day after I called her.

22 Q. Like maybe the guy in McDonald's --

23 A. Yes.

24 Q. Like maybe the guy in McDonald's put drugs in your
25 food, or the guy in the store put drugs in your drink or
26 something?

27 A. And that would have been on the -- on the 3rd or 4th,
28 that's when she gave me those explanations. From that point

1 to the 25th. This is the next thing that she told me. She
2 goes, "I may have given you the wrong stuff. And if it
3 comes back that that's what you have in your system, I will
4 go to court with you," you know, because I was still going
5 to court down there over this, she goes, "I will tell the
6 judge that I gave you something by accident. Then it will
7 be dismissed."

8 I said, "Okay." Then I changed the subject back to
9 whether she was pregnant or not.

10 Q. She said she gave you -- she said she gave you that
11 drink as punishment. Do you feel that maybe she conducted
12 an experiment to determine the effects of what she gave you?
13 That's a question from the grand jury.

14 A. I have thought about that. I often wonder if all this
15 was not to get rid of my own children, because she's made it
16 very clear to my sister that she did not want my children
17 around. It was not enough that I would give them to my
18 ex-wife.

19 Q. Okay.

20 A. She basically -- I assume at this point, if she had
21 not been charged with this, my children were the next ones.
22 That's my own unbiased opinion.

23 Q. I'm going to ask that be stricken.

24 A. I understand.

25 Q. I'm going to ask that be stricken as speculation and
26 the jurors should not consider it. But I don't mean to cut
27 you off. But there are certain rules.

28 A. Okay.

1 Q. That would not be admissible, I don't believe.

2 Here's another question from the grand jurors:

3 McDonald's, is it located in Lathrop or French Camp?

4 A. It's right down -- it's on -- I think that's Clover
5 Road there. It's right down the street from there.

6 Q. Oh, it's down the road -- let me finish the
7 question -- it's down the road from the trailer park?

8 A. Yes.

9 Q. Is this French Camp where you woke up, is this the
10 Sheriff's headquarters or the police? The question is from
11 the grand jury.

12 A. I don't -- I don't know where French Camp is out
13 there.

14 Q. Well, did you wake up -- pardon me, I'm now talking
15 over you. Did you wake up in jail?

16 A. It was French Camp. I -- no, it was a big lobby like
17 a -- like a hospital lobby, it was like that.

18 Q. What did the -- here's another question from the grand
19 jurors: What did the Tylenol tablets look like and how many
20 tablets did she give you?

21 A. Two tablets. And they were round, they looked like
22 little aspirin tablets. That's what they looked liked to
23 me, just normal Tylenol.

24 Q. Color?

25 A. White.

26 Q. Question from the grand jurors: You phoned Melissa
27 the next day, was it your cell phone?

28 A. No. I mentioned this earlier, I called her from a pay

1 phone down the street from my house.

2 Q. You did.

3 Question from the grand jurors: What day, number did
4 you call Melissa?

5 A. I'm sorry?

6 Q. The question from the grand jurors is: What date did
7 you call Melissa?

8 A. Oh, that would have been the 4th. It was the after I
9 had talked to my boss and stuff and I had gotten home.

10 Q. When you called Melissa, did you call her cell phone?

11 A. Yes. Because I don't have their house number.

12 Q. Question from the grand jurors: What town are you in
13 when you are at Food Maxx?

14 A. Tracy.

15 MR. TESTA: All right. Any other questions
16 from the grand jurors?

17 Q. What day or date was it that she was admitted into the
18 hospital?

19 A. That day I don't know because she didn't tell me the
20 date.

21 Q. All right. Let me just check my notes, see if I have
22 any other questions.

23 And if the grand jurors do, now would be the time to
24 submit them.

25 A. I just wanted to say this, if it was okay.

26 Q. Slowly as you can.

27 A. Sorry.

28 In the six months we were going out, she never did

1 anything that would have made me believe that she would harm
2 me, that she would have done it. To the best of my
3 knowledge, she never did anything to my children. I do
4 not -- she was a different person then. We got along. She
5 spent a lot of time at my house. She was around my
6 children. I would not have let somebody that I thought was
7 inappropriate to be around my children at that time.

8 She stayed with me a lot out there. There was talk of
9 her moving into my house with me. Up 'til like -- I don't
10 remember the exact day we broke up, the date of it. I know
11 it was in October.

12 Q. Had you ever -- have you ever seen Sandra Cantu?

13 A. No. I had been out to Lawless' house, even before
14 Melissa moved into it, because they were -- he was the
15 pastor of the church. I had been over there with my
16 in-laws, stuff like that.

17 Q. You had never seen Sandra?

18 A. No, I mean, there's lots of kids running around. I
19 wouldn't know one from the other.

20 Q. Did you see her on TV?

21 A. I saw her on TV.

22 Q. When you saw her on TV, did you recognize her?

23 A. No.

24 Q. "Oh, I used to see her --"

25 A. No.

26 Q. Let me finish. "I used to see her at Melissa's house.
27 Oh, I have seen her there or here. At McDonald's."

28 When you saw her on TV after this case kind of

1 exploded, did you recognize that photo of Melissa -- of
2 Sandra Cantu?

3 A. No. And she had mentioned in the past that somebody
4 was missing from the trailer park. But I wasn't following
5 the story because by then I had been laid off, I wasn't
6 receiving money and my Direct -- my TV and stuff had been
7 cut off. I was in the process of moving and I wasn't really
8 even following the case. I didn't even become aware of most
9 of this stuff until all this happened. So...

10 But she was a complete different person. I mean, we
11 didn't talk from almost before Halloween until like when she
12 called me on Valentine's Day. She called me. I didn't have
13 her number. She changed her number and everything. I had
14 no contact with her. I hadn't been to her grandparents', I
15 wasn't welcome back at the church anymore, so...

16 And I still haven't answered that one, that one.

17 Q. Did you ever ask her if she killed Sandra Cantu?

18 A. I asked if she knew what had happened.

19 Q. What did she say, in a nutshell?

20 A. She really sidestepped the answer. That was the night
21 that I was in the room with her and they had --

22 Q. Date?

23 A. I don't remember the day. It was the night --

24 Q. Month?

25 A. April. It was the night when the police wiretapped
26 the room. That's when I asked her those questions.

27 Q. The police asked you to wear a wire --

28 A. Correct.

1 Q. Let me finish the question, please.

2 The police asked you to wear a wire and to meet up
3 with Melissa in a hotel room and to ask Melissa what she
4 knew about Sandra Cantu, is that correct?

5 A. Correct. To get her to talk.

6 Q. That would have been sometime in April, correct?

7 A. Correct.

8 Q. And did you have any problems doing that?

9 A. No.

10 Q. Did you agree to be wired?

11 A. I agreed.

12 Q. And did you go in the hotel room with Melissa?

13 A. Yes, I did.

14 Q. And what did you ask her and what did she say about
15 Sandra Cantu?

16 A. We first started off talking about little things about
17 us. And then I asked her if she knew anything about the
18 little, you know, Sandra that was missing.

19 And I -- she asked me what I knew.

20 And I said, "Only things I had heard off the TV."

21 And then I asked if she had any involvement in it.

22 And she really didn't answer that one way or the
23 other.

24 And I said, you know, I said, "I'm just trying to help
25 you, Melissa." I said, you know, "I care about you, you're
26 my friend." Because up to that point, I didn't know whether
27 she had done it or not. People had said that she had.
28 Police obviously were investigating her at that point. They

1 questioned me about it. I didn't know what to think. Part
2 of me was hoping that she hadn't done it. I don't want to
3 know anybody that would do something like this to a little
4 kid.

5 We basically got on to the conversation I -- she
6 explodes very easily, and I -- they wanted me to keep her
7 talking. So I didn't -- I wasn't trying to upset her at
8 that point. And if I had come out and straight out asked
9 her questions like, "Did you kill this little girl," she
10 would have exploded and left the room.

11 So I asked, "You didn't have anything to do with this
12 little girl's death, did you?" I said, "Because didn't you
13 tell me you said the last time you'd seen her that, you
14 know, she had been playing with, you know, with Madison and
15 down at your house?"

16 She goes, "I had nothing to do with it."

17 That's when she started -- proceeded to tell me that
18 she had a suitcase.

19 And I said, "Yeah, I heard about that on TV." I said,
20 "What's up with the suitcase? It wasn't yours, was it?"

21 She said, "Well, I had a suitcase and I reported it
22 stolen that day, and I don't know what happened to it."

23 And I said -- I said, "Come on, Melissa." I said,
24 "I'm not buying this." I said if -- I said, "They are going
25 to come eventually -- they are going to trace it back that
26 we were seeing each other. They are going to come and ask
27 me questions. What is it you want me to say? What am I
28 supposed to tell them about this stuff?"

1 And she got really defensive at that point.

2 So I -- she goes -- I said, "That's not your suitcase,
3 is it?"

4 She goes, "I had a suitcase. I don't know."

5 At that point, they hadn't released whose suitcase it
6 was. At that point in time, they hadn't said anything on TV
7 about being hers or anything else.

8 I said, "That's not your suitcase?"

9 And that's when she told me that she had -- she had
10 taken it out -- her suitcase out to the car and that she
11 had -- somebody had taken it.

12 So that's when I told her I wasn't buying it.

13 And then she told me, she goes, "I wanted you to come
14 out here to cheer me up. I didn't have you come out here to
15 upset me even more."

16 She goes, "I'm going to leave."

17 And I said -- I said, "That's what you want."

18 And I had given her a promise ring way back, and she
19 had thrown it back in my lap and she went out the door and I
20 said --

21 Q. That night?

22 A. That night.

23 And I -- I said, "So it's over between the two of us,
24 right?"

25 She goes, "Yep."

26 I go, "Fine with me."

27 So then I went back in the room. Then that's when the
28 police called me and they told me to just let her go. So I

1 let her go.

2 And they wanted me to stay there that night. And I
3 told them that I had -- I was originally coming up to see my
4 kids that day, they'd waited all day to talk to me. I had
5 agreed to take a polygraph test that day, which I -- I -- I
6 freely took. I had no problems. That's when they suggested
7 maybe I could get her to talk on the phone to -- to see if
8 she would say something.

9 Q. All right. All right.

10 I have to ask you this: Do you have a felony
11 conviction?

12 A. Yes, I do.

13 Q. Does it involve abducting a child?

14 A. It involves false imprisonment.

15 Q. Of a child?

16 A. It did involve children, yes.

17 Q. And can you give us -- I mean, you were convicted
18 twenty years ago?

19 A. I was, yeah, about twenty-one. I'm now thirty-seven.

20 Q. So you would have been how old then? You were
21 twenty-one?

22 A. I was about -- I was either twenty or twenty-one.

23 Q. What did you do, in a nutshell? You don't have to
24 give us the whole story. You were in a car with a woman?

25 A. Yes.

26 Q. And she was doing -- what did you guys do, in a
27 nutshell, ten words or less? We don't have to hear the
28 whole thing.

1 A. She basically pulled a plastic gun on some children,
2 which I was unaware she had gotten into my grandparents'
3 house. It was my and my brother's when we were children.

4 Q. You were twenty-one years old, your girlfriend pulls a
5 plastic gun on some children, says, "Get in the car?"

6 A. No. It was not like that. We were at a gas station.
7 We were having an argument. I told her she wouldn't know
8 how to be spontaneous if a kid went and bit her in the butt.

9 She goes, "I'll show you exactly how spontaneous I can
10 be."

11 So we -- I was getting gas, it was around
12 3:00 o'clock, kids were coming home from school. So she --

13 Q. 3:00 p.m.?

14 A. 3:00 p.m., around that time. So we pulled up this
15 car, and I thought she was just going to mouth off to them.
16 I didn't know she had this plastic gun on her, anything like
17 that.

18 Q. Who's driving?

19 A. I was driving.

20 Q. So you pulled over?

21 A. I slowed down, yes. That was my part and I have paid
22 for that.

23 And she started screaming at them. There was two boys
24 and a little girl.

25 Q. How old?

26 A. I would say they are about eleven or twelve.

27 They started saying curse words back to her. And she
28 was at the time mentally unstable. I mean, she has a case

1 file this big (indicating).

2 Q. How old was she, if you were twenty-one?

3 A. She was about eighteen at the time. Or she was just
4 getting ready to turn eighteen.

5 Q. She says, "Pull over here, honey?"

6 A. She said she was going to mouth off to them. So I
7 didn't think anything of it.

8 Q. So you pull over?

9 A. They mouthed off to her.

10 Q. She started it, though?

11 A. Yeah, she started it. She started mouthing off to
12 them.

13 Q. The kids mouth back to her?

14 A. Yes. I'm not going to say exactly what they were
15 saying.

16 Q. "F you, F you"?

17 A. Yes, yes, exactly.

18 And she goes -- she was -- she had a really bad
19 temper. It wasn't the first time I had seen her punch
20 people or beat people with stuff, you know.

21 Q. What did she do to the kids?

22 A. She reached behind her and she pulled out from behind
23 her shirt the plastic gun. And I recognized it right away,
24 because it was my younger brother's -- it was a plastic
25 pistol. It looked kind of real. It was a replica. But it
26 was plastic.

27 Q. What did she do with it?

28 A. She pointed at them, she goes, "I'm going to blow

1 your..."

2 Q. "I'm going to blow your f-ing brains out"?

3 A. Yeah.

4 I said, "Oh, my god, what the hell are you doing?"

5 She starts to open the door, and I floored out of
6 there. I took off. I said -- and she shut the door. We
7 went down the street and I had to turn around to come back.
8 So when she went by the kids, they made the mistake of
9 giving her the finger. And, basically, what happened at
10 that point was she screamed something like, "I'm -- I'm
11 going to blow your heads off." And I tore out of there. I
12 took her home after that. I went and picked up my sister.
13 This is what happened. My sister had a doctor's appointment
14 that day. I picked her up. We were heading back to my
15 grandfather's house when twenty cop cars surround the car,
16 made me and my sister get out of the car. They came by, the
17 kids ID'd me, but they didn't ID my sister.

18 Q. She wasn't there?

19 A. She wasn't there.

20 I went to the courthouse. I was in tears. They
21 picked up -- they picked up Trisha.

22 Q. The girl?

23 A. Yes, the girl. She was acting very calm, very cool
24 about it. I was having a nervous breakdown. They had my
25 sister in the cell. We were all in the cells. I was in
26 this one, Trisha was here, my sister was here. My sister is
27 like, "Calm down, Dan, it's going to be okay, it's going to
28 be okay."

1 Basically, it took a year and half of going to trial.
2 Right before I went to trial -- I had no priors, I never got
3 into trouble in my entire life, stuff like that. She had
4 been in trouble all her life.

5 Q. Who, Trish?

6 A. Trish.

7 Q. Did you plead or did you take it the trial?

8 A. I plead -- against my judgment, against my lawyer's
9 wishes. I was completely infatuated with this girl.

10 Q. Trish?

11 A. With Trisha. I had talked to her family. I had been
12 living with them on and off for awhile.

13 Q. You pled to a felony?

14 A. I pled to a felony.

15 This is what they told me. Her mom and dad promised
16 me they would buy me and her a house, that they would give
17 us money, if I -- because she had been in trouble a lot.

18 Q. You took the fall for her?

19 A. Her, yes.

20 Q. She didn't get -- anything happen to her?

21 A. She got three months in like Juvie. She was just
22 turning eighteen.

23 Q. What did you get?

24 A. I got a year and a felony.

25 Q. Prison or County Jail?

26 A. County Jail. I served a year in there. I only
27 actually served eight months. And they had me in minimum
28 security. I was on the work thing. I didn't -- I had never

1 been in trouble. I haven't been in trouble since then.

2 Q. Well, and didn't it turn out that the victims or the
3 kids that you ended up -- that the -- Trish ended up --
4 their dad was a police officer?

5 A. He was a deputy sheriff's kids. Out of all the
6 people, and that's why they made a big -- the day we went to
7 for my arraignment, they asked for a million and a half
8 dollar bail for me. And my lawyer started laughing. He
9 goes, "Come on, be realistic." And my bail ended up being
10 set at \$15,000. But I -- with no priors or anything.

11 Then what had happened was her family had promised me
12 a bunch of stuff. I went into court, I pleaded no contest
13 to the charges. They worked out a deal -- my lawyer and the
14 DA worked out a deal. I pleaded no contest. I was under
15 the assumption they were just going to give me probation.
16 That's what her family were telling me. That's what I
17 thought was going to happen. I had no priors to this. They
18 ended up giving -- I guess because he was a deputy sheriff,
19 they were making a big deal about this, and it was a big
20 deal. But my point is after I went to jail, a month and a
21 half after I was in there, she took the \$2,000 ring I bought
22 her, sold it for \$25. I found out she was pregnant with
23 somebody else's kid a month after we got in there. And it
24 was a growing up experience. I -- it was actually good for
25 me to go in there. I changed a lot. I grew up.

26 Q. Well, you know --

27 A. I made a mistake.

28 Q. What did you end up hanging out with Melissa for?

1 Sounds like she's Trish all over again.

2 A. Different circumstances.

3 With Trisha, I know there was problems. I just didn't
4 care back then.

5 This -- me and my wife had been separated for --

6 Q. We --

7 A. I'm just saying, she was the pastor's granddaughter,
8 she had a daughter around my own age (sic). I had been
9 going to her grandfather's church for a long time. I had --
10 she never acted psychotic towards me in any way. I knew she
11 had problems.

12 Q. What about this (indicating)?

13 A. She told me the reason she had done that was because
14 she had been raped in the past, and that's why she had
15 done that. So I had no reason --

16 Q. I don't want you to misunderstand me. I'm under the
17 gun. I have fifteen people --

18 A. I understand.

19 Q. -- I have to be in court at 1:00 o'clock on another
20 case.

21 A. I never had any priors or anything.

22 Q. Thank you for taking the time to explain that
23 incident, because it looks worse, I guess, on paper than
24 maybe it really was, and for coming in court here and taking
25 time off.

26 Are you back at your job?

27 A. Yes. I begged my job back -- to get my job back. And
28 he gave it to me. It was not easy. And I'm on probation

1 there right now because of what happened there.

2 Q. You're back like a driver?

3 A. Yes, I'm back doing what I was doing before.

4 Q. Great.

5 Two questions from the grand jurors: Do you have
6 normal sexual relations with Melissa? Did you use any
7 objects during sex? If so, what?

8 A. No. And the only thing that I know that she had was a
9 vibrator. And I never seen it, but she told me once that
10 she had had one.

11 Q. Did you have normal sexual relations with her?

12 A. Correct. She stayed at my house for awhile.

13 Q. Was she into anything kinky?

14 A. Not really.

15 Q. Repeat -- here's another question: Repeat March 4th,
16 2009, you called Melissa to talk about what?

17 A. Oh, about what had happened that night.

18 Q. Okay. That's right. That's when she told you maybe
19 the guy at McDonald's gave you the drugs?

20 A. At that point, I had no answers. I didn't know. She
21 was the only one who could fill in the gaps for me.

22 Q. I'm cutting you off. Don't misunderstand it. If we
23 go to a trial, I'll let you talk, say whatever in more
24 detail. For purposes of today, I think you have covered the
25 main points.

26 Any other questions? I see none. So the foreperson
27 will read you an admonition.

28 Now, Kathy's out there. I can call her briefly about

1 something.

2 A. Yes.

3 Q. And Daniel Perez is not?

4 A. Jesse.

5 Q. Who is Jesse Perez?

6 A. He's my brother-in-law. They are not married, but
7 they have been together like twenty years.

8 MR. TESTA: Go ahead, she will read you the
9 admonition.

10 THE FOREPERSON: You are admonished not to
11 reveal to any person, except as directed by the Court, what
12 questions were asked or what responses were given or any
13 other matters concerning the nature or subject of the grand
14 jury's investigation which you learned during your
15 appearance before the grand jury. This admonishment
16 continues unless and until such time as the transcript of
17 this grand jury proceeding is made public.

18 Violation of this admonishment is punishable as
19 contempt of court.

20 Optional: This does not prevent you from discussing
21 the matter with your attorney, if you have an attorney
22 advising you with respect to your appearance before the
23 grand jury.

24 THE WITNESS: I agree.

25

26 (Pause.)

27

28 MR. TESTA: Has she been sworn?

1 THE FOREPERSON: No, she needs to do
2 something for a minute.

3 MR. TESTA: Oh, okay.

4 THE FOREPERSON: Just for a second.

5

6 (Pause.)

7

8 THE FOREPERSON: Could you please raise your
9 right hand -- why don't you state your name for the
10 reporter, please?

11 THE WITNESS: Kathy Plowman.

12 Do you want me to spell that? K-A-T-H-Y

13 P-L-O-W-M-A-N.

14 THE FOREPERSON: Would you raise your right
15 hand, please?

16

17

KATHY PLOWMAN,

18 a witness called on behalf of the People, having been duly
19 and regularly sworn by the Grand Jury Foreperson, testified
20 as follows:

21

22 THE WITNESS: Yes.

23 THE FOREPERSON: Thank you.

24

25

EXAMINATION

26 BY MR. TESTA: Q. What is your full name?

27 A. Kathy Sue Plowman.

28 Q. What is your relationship to the gentleman that just

1 left the courtroom, Daniel Plowman?

2 A. He's my brother.

3 Q. Okay. And I just have a few questions for you.

4 Did you know Melissa Huckaby --

5 A. No.

6 Q. -- or speak to her?

7 A. Yes.

8 Q. In person or by phone, or both?

9 A. By phone.

10 Q. Did you become aware of an incident in the early part
11 of March 2009, Daniel Plowman got arrested for DUI and
12 for -- the next day for being under the influence of drugs?

13 A. Yes.

14 Q. Did you have any -- did you see him at or around that
15 time?

16 A. No.

17 Q. Daniel? Was he living with you then?

18 A. No, he was not.

19 Q. Okay. Did you talk to him about it and make your
20 suggestions about what may have happened to him?

21 A. Yes.

22 Q. What were the circumstances of you doing that? How
23 did you get involved?

24 A. When he was released from jail, he called me.

25 Q. Microphone.

26 A. And I told him what I thought had happened to him.

27 Q. Okay. Well, how did you -- how were you able to form
28 an opinion if you didn't even know Melissa Huckaby?

1 A. Because I know my brother. And I know he does not
2 take drugs or alcohol. And so I knew something was wrong.

3 Q. How well do you know your brother?

4 A. I helped raise him.

5 Q. Oh, okay. Did you know him as an adult as well?

6 A. Yes.

7 Q. Okay. So as far as a character witness, was he a
8 drinker and taker of drugs?

9 A. No.

10 Q. No to each of those?

11 A. Yes.

12 Q. Okay. And when you -- so he called you from jail?

13 A. No. He tried to. But the phone calls wouldn't go
14 through. It's when he was released and I told his -- his --
15 his ex-wife to have him call me when he was released from
16 jail, because her parents went out to pick him up. And he
17 called me on the cell phone and I told him what I thought
18 had happened.

19 Q. He called you on whose cell phone?

20 A. On I believe it was his ex-wife's mother's or her --
21 her father's phone. It was one of their -- it was --

22 Q. Okay. So what happened to his cell phone?

23 A. It was stolen.

24 Q. Okay. All right. So when you -- around this time
25 then, what conversation -- what did Melissa Huckaby tell you
26 then about this incident?

27 A. Well, when she called me, she was wondering where my
28 brother was. I didn't know who she was at first. And I'd

1 said -- sorry. Very upset.

2 Q. When she called you, did she ask you, you know, to
3 check the hospitals or anything?

4 A. She said that she had been calling and checking
5 hospitals. And -- and I said, "Well, why would you do
6 that?"

7 And she said, well, she couldn't get ahold of him.
8 And I said, "Oh, I know exactly where he's at." And I told
9 her what had happened, that he was in jail.

10 And she said, "Oh, really?"

11 And I said, "Yes." And I said, "I know that you have
12 done something to him," and she keeps swearing to me she was
13 not that kind of person and I said I didn't believe her.

14 Q. Well, what did she -- when she called -- when you
15 spoke with her, did you ever ask, "Well, why would you check
16 hospitals? What makes you think he would be in a hospital?"
17 Tell us what was said by you and by her.

18 A. I asked her why she would be checking hospitals unless
19 she thought something had happened to him. And she said
20 that when he had come out there, that he was dehydrated and
21 that she had gave him something to drink.

22 And -- and I said, "I -- I had a feeling you did."

23 And she said that she was worried that he might have
24 passed out in his car.

25 And I said that -- that's when I told her that, you
26 know, he had been arrested and stuff.

27 Q. Why did she -- why did Melissa Huckaby suspect that he
28 passed out in his car? What -- what did she say?

1 A. Well, I don't know what was going through her. I know
2 why she was doing it, but...

3 Q. Did you ask Melissa Huckaby, "Why would you think he
4 would pass out in his car? Why couldn't he just be at work
5 right now?"

6 A. Right, I asked her that.

7 Q. How did you ask it?

8 A. I said, "Why would you think -- why would you be
9 checking hospitals?"

10 And she said, "Well, I was very concerned because when
11 he came out here to see me, he was so dehydrated, I was
12 worried that he possibly -- because I had been trying to
13 call his cell phone and he wasn't answering."

14 And she goes, "I was wondering if something had
15 happened, that maybe he passed out in his car because he was
16 so dehydrated," she just kept repeating that, that he was
17 dehydrated.

18 And I said -- so she was wondering if something had
19 happened and he was in the hospital. And that's where that
20 started.

21 Q. So did you question Melissa Huckaby, "Why would you --
22 why would you think something happened to him?"

23 A. Yes, that's what I said. I said, "Why would you
24 think," and that's when she kept repeating herself that he
25 was dehydrated, that he was tired, that he was worried about
26 him going home. That she just -- she was just very
27 concerned and she couldn't get ahold of him on his cell
28 phone, so she was just wondering why she couldn't get ahold

1 of him.

2 Q. Well, did you suggest maybe he has his phone off or
3 he's at work?

4 A. Yes, I said --

5 Q. What did you say?

6 A. Well, I said, "Why -- if -- if -- if you have been
7 checking hospitals and stuff," I said, "Why would you think
8 anything's wrong?"

9 That's when she said about the, you know, being
10 dehydrated.

11 And I said, "Well, he could just be at work with his
12 phone off," and -- because I was trying to get her to tell
13 me, you know, what had happened that evening when he had
14 seen her.

15 And she goes, "Well, yes, he could have his cell phone
16 off."

17 And I said, "Well, yeah, because he's not supposed to
18 talk to anybody while he's at work."

19 And she goes, "But I'm just very concerned." She just
20 kept repeating that, "I'm just very, very concerned and
21 that's why I'm checking the hospitals and stuff."

22 And I -- I said that he had been arrested.

23 Q. And what did she say?

24 A. She goes, "Oh, my goodness."

25 And I said -- then we've got into some heated
26 argument.

27 Q. Well, tell us.

28 A. I said --

1 Q. Summarize it.

2 A. It's sort of hard.

3 I told her that I had believed that she had drugged
4 him.

5 Q. What did she say?

6 A. And she said, "Oh, no. You don't know me. I'm not
7 that kind of person. I would never do anything like that.
8 I -- I'm the sweetest, nicest, kindest person in the world."

9 And I said, "I know my brother." And I said his wife
10 called me -- his ex-wife called me and said that he was --
11 they had found him in a McDonald's parking lot. He was
12 passed out. He was slumped over the steering wheel. And
13 that he was -- he was -- he couldn't even -- they couldn't
14 even get him to stand up. He couldn't walk a straight line.

15 I said, "No." I said, "Something is wrong here." I
16 said, "There -- there's no way. Daniel just does not do
17 that. He's a very responsible person. He's got, you know,
18 he's got three children." I said, "He's not going to be
19 passed out in a parking lot someplace in McDonald's."

20 Q. What did she say?

21 A. She said -- she said, "Well, I was -- I was just
22 really worried about him." She kept trying to convince me
23 that he was trying to commit suicide.

24 I said, "You could talk until you're blue in the face,
25 he is not going to commit suicide. His children mean
26 everything to him." He -- I said, "He would never do that."
27 I said, "You cannot get me to believe that in a million
28 years." I said, "You might get somebody else to try to

1 believe that. You're not going to get me to believe that."

2 Q. What did she say?

3 A. She said, "Oh, no. He came out here, he wanted to
4 marry me. I -- I told him I didn't want to get married. He
5 was very depressed. I was worried about him. I thought
6 maybe he -- he tried to commit suicide."

7 I said, "He would never commit suicide over any -- any
8 woman, I'm sorry." I said, "His children mean too much to
9 him." I said, "This makes no sense." I said, "I know you
10 did something to him."

11 And she keeps saying, "No, I didn't. No, I didn't."

12 Then she would hang up. She would get very upset.
13 She would hang up. And then she'd call me back.

14 Q. What would she say when she would call back, same
15 thing or something else?

16 A. She would say -- repeat herself, saying -- she would
17 say, "I don't care for Danny in that way, but I do care -- I
18 am concerned about him. And I -- I don't want anything bad
19 to happen to him."

20 And she would -- and I say, "Well, if you don't care
21 for him in that way," and I said, "Then we are on the same
22 track." I said, "I don't want you around him." I said, "I
23 just don't -- I don't trust you." I said, "I know you did
24 something."

25 Q. Why did you -- was there any other reason you said to
26 her you didn't want her around him or is that it, just your
27 suspicion of the drug?

28 A. That suspicion of the drug.

1 Q. Was there anything else said between the two of you
2 that you can remember?

3 A. Lots of things.

4 Q. Anything related to this -- to this incident of the
5 early part of March?

6 A. Not about the drug. She just kept -- she just kept
7 repeating herself that she was not that kind of a person and
8 that he would never do that.

9 Q. Did you ever speak to her again?

10 A. Oh, yes, she would call me quite often. And she --
11 actually, it was my boyfriend that finally got mad and he --
12 he on several -- because he has to get up early in the
13 morning. He got on to the phone, he said, "Please" -- he
14 didn't say, "Please." There was -- it was --

15 Q. What did he -- he told her not to call?

16 A. He said not to call back, strong words.

17 Q. How frequently would Melissa call?

18 A. She would turn around and call right back because she
19 thought it was funny.

20 Q. So would she call a hundred times a day? Ten?

21 A. No.

22 Q. Let me finish the question. Once a day? Once a
23 month? Twenty times a day? Approximately during this month
24 of March, between the first part of March and the last part
25 of March, describe the frequency of her calls that you were
26 in a position to hear that she made to your -- your phone or
27 your residence?

28 A. It was I would say every other day or, you know, a

1 couple -- maybe a couple days might pass, like she'd call me
2 and then maybe a couple days would pass. And then she would
3 call me again. And that -- and then that -- then when she
4 called me, she might call me two, three times during that
5 time she called me -- and I mean that day.

6 So like two days might pass, then she would call me
7 and she would hang up because I said something that made her
8 angry. Then she would call me back. And this continued
9 for, oh, jeez, I guess over a couple weeks, something like
10 that.

11 Q. She ever call you on or around the 27th of March? See
12 that calendar there on the wall.

13 A. Yeah. I can't say that she -- all the calling
14 happened before the 27th. I didn't talk to her any time
15 after the 27th. I couldn't tell you if she called the 27th.
16 She might of.

17 Q. Okay. Fair enough.

18 A. I didn't write times down.

19 Q. I have no further questions.

20 MR. TESTA: Are there any questions from the
21 grand jurors? I see none -- oh, there is one. Could you
22 pass it down?

23 Q. Did you drive here from where today?

24 A. Clearlake.

25 Q. It's about three hours away?

26 A. Yes.

27 MR. TESTA: Any other questions?

28 GRAND JUROR 12: Yes, there's one more

1 coming.

2 MR. TESTA: Q. You're Daniel Plowman's older
3 sister, if you don't mind my asking?

4 A. Yes.

5 Q. Did she ever say she was pregnant, Melissa?

6 A. Yes, she did.

7 Q. Did she say who the father was?

8 A. She said it was my brother.

9 Q. What context, in a nutshell, did she say?

10 A. She called me up.

11 Q. Tell us what she said in a nutshell. We don't have to
12 go into all the details.

13 A. She basically told me she planned on marrying him.

14 And I said, "No."

15 She goes, "Oh, yes, I will."

16 I said, "No, you won't." I said, "We'll see about
17 that."

18 And she said, "I'm pregnant."

19 And I said, "You are?"

20 And she goes, "Yeah."

21 And so I didn't know whether to tell my brother, and I
22 figured that he should know. And so I told him, and that
23 was it.

24 Q. Here's the question: Did your brother ever discuss
25 his plans to marry Melissa earlier?

26 A. When he first met her, he told me he had found, he
27 thought, the perfect person. She was attending church and
28 stuff. And her -- her grandfather was a pastor.

1 And I said, "Take it very slow, Danny," I said because
2 she just moved up from LA, she hadn't been here that long, I
3 guess. I said, you know, "Relationships take time. And
4 even over time, you don't know somebody sometimes." And I
5 said, "Give it time. Please. Just give it some time."

6 And -- but he thought he had found the perfect person.
7 So he thought that in the future they would get married. He
8 mentioned that to me. He said that he thought that this
9 would be somebody he could marry.

10 MR. TESTA: Okay. Any other questions from
11 any grand jurors? One more. All righty.

12 Thank you.

13 Q. What kind of person was the ex-wife? Mentally stable
14 or not? That is -- that's the question from the grand jury
15 of --

16 A. You mean my brother's?

17 Q. Yes.

18 A. Well, they are actually not legally divorced yet.
19 They are still -- they are just separated.

20 You don't -- I -- I'm not too happy with her either
21 so there you go.

22 Q. I mean, well, the jurors ask the question, was she
23 mentally stable or not," not whether you liked her, or
24 whether she was a shrew, or a nag, or a drug addict, but was
25 she mentally stable or not, in your opinion? That's the
26 question from the grand jurors.

27 Can you answer it, or do you not feel able to answer
28 it?

1 A. If you ask me, I don't think she is.

2 Q. She's not a cutter or anything?

3 A. No, nothing like that. It's just...

4 Q. She's not way out there?

5 A. No, no.

6 Q. Thank you. I have no further questions.

7 MR. TESTA: The foreperson will read you an
8 admonition.

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

17 Violation of this admonishment is punishable as
18 contempt of court.

19 Optional: This does not prevent you from discussing
20 the matter with your attorney, if you have an attorney
21 advising you with respect to your appearance before the
22 grand jury.

23 Do you understand?

24 THE WITNESS: Yes.

25 THE FOREPERSON: Okay. Thank you.

26 THE WITNESS: Okay. Thank you.

27

28 (Pause.)

1 MR. TESTA: What is your name, sir?

2 THE WITNESS: It's Officer Jared Trine.

3 MR. TESTA: Can you spell it, both names?

4 THE WITNESS: J-A-R-E-D, last of T-R-I-N-E.

5 MR. TESTA: And the foreperson will read you
6 an oath.

7 THE FOREPERSON: Would you raise your right
8 hand, please?

9

10

JARED TRINE,

11 a witness called on behalf of the People, having been duly
12 and regularly sworn by the Grand Jury Foreperson, testified
13 as follows:

14

15 THE WITNESS: Yes.

16 THE FOREPERSON: Thank you.

17

18

EXAMINATION

19 BY MR. TESTA: Q. Where are you employed,
20 sir?

21 A. With the city of Tracy.

22 Q. What is your position there?

23 A. A police officer.

24 Q. How long have you been so employed?

25 A. Almost two and a half years.

26 Q. Are you considered a peace officer?

27 A. Yes.

28 Q. Did you arrest Daniel Plowman?

- 1 A. Yes.
- 2 Q. For what?
- 3 A. DUI.
- 4 Q. When?
- 5 A. March 3rd.
- 6 Q. Why -- pardon me, March what?
- 7 A. March 3rd of '09.
- 8 Q. Why?
- 9 A. We received a call on him at the drive-thru, clerk
10 said that someone came through the drive-thru they believed
11 to be DUI.
- 12 Q. So where did you go?
- 13 A. I went to the McDonald's on North Tracy.
- 14 Q. In San Joaquin County in Tracy?
- 15 A. Yes.
- 16 Q. And what did you see?
- 17 A. I saw a tan-colored four-door sedan parked partially
18 in a parking stall in the parking lot.
- 19 Q. And any individual connected with that sedan?
- 20 A. Yes. I saw a white male sleeping in the driver's
21 seat.
- 22 Q. Who was it?
- 23 A. Daniel Plowman.
- 24 Q. He was sleeping behind the steering wheel?
- 25 A. Uh-huh.
- 26 Q. Is that a yes?
- 27 A. Yes.
- 28 Q. What time?

1 A. We received the call about 1:30 in the morning.

2 Q. And what time did you arrive, approximately?

3 A. Probably 1:35.

4 Q. Okay. And then you saw him, he's actually in the
5 McDonald's parking lot?

6 A. Correct.

7 Q. What did you do?

8 A. We first made sure --

9 Q. What did you do?

10 A. I first made sure the car was in park. Once we
11 established that it was in park, we woke him up.

12 Q. And tell us what observations you made. How did he
13 look? How did he act?

14 A. He appeared unusual. He -- he was slurring his words.
15 He had a trouble focusing on the conversation.

16 Q. Did you do any field sobriety tests?

17 A. I did.

18 Q. Do you have training in those?

19 A. Yes.

20 Q. And how did he perform on those?

21 A. He performed poorly on four of the four.

22 Q. Tell us about it.

23 A. Can I refer to the -- my report?

24 Q. Did you write a report about the field sobriety tests
25 that you administered?

26 A. I did.

27 Q. Do you have training in doing this kind of thing?

28 A. Yes.

1 Q. Had you ever done a DUI before?

2 A. Yes.

3 Q. Many?

4 A. Probably fifteen to twenty.

5 Q. Have you ever seen someone under the influence?

6 A. Yes.

7 Q. You arrested him for being under the influence?

8 A. Yes.

9 Q. When you arrest someone for being under the influence,
10 do you have to specify you're arresting them for being under
11 the influence of drugs versus alcohol, or is it just under
12 the influence?

13 A. Usually it's you have to specify whether it's drugs or
14 alcohol.

15 Q. Did you specify in this case?

16 A. Yes.

17 Q. What did you specify?

18 A. I specified drugs.

19 Q. Okay. And what made you think he was under the
20 influence of drugs?

21 A. He didn't have any odor of alcoholic beverage coming
22 from him, which is typical for a alcohol DUI.

23 Q. Usually you can smell it all over in the car, on the
24 clothes --

25 A. Right. Exactly.

26 Q. -- the breath, whatever?

27 Did you get close enough so you could have smelled his
28 breath if you --

1 A. Oh, yes.

2 Q. What other evidence did you have that it seemed like
3 he was under the influence of drugs?

4 A. Just his balance. He -- he had trouble just standing
5 upright. His -- his focus and attention span, he had
6 trouble concentrating on the questions that I was asking
7 him. It was almost like he was falling asleep while in mid
8 conversation.

9 Q. Did you ask him for his license?

10 A. I did.

11 Q. Did he give you one?

12 A. Yes.

13 Q. California driver's license?

14 A. Correct.

15 Q. And did you ask him if he had had anything to drink?

16 A. I did. And he said no.

17 Q. Did you ask him if he had taken any drugs?

18 A. He said he took a -- I believe it was like a
19 800-milligram ibuprofen about three hours prior.

20 Q. For a bad knee or something?

21 A. Yes.

22 Q. Is that what he said?

23 A. Yes.

24 Q. What about these field sobriety tests, just summarize,
25 did you do where they have to touch their nose?

26 A. Correct.

27 Q. How did he do on that?

28 A. He did poorly on that. He missed the tip of his nose

1 I believe almost every single time.

2 Q. And I don't have to go into all -- each and every
3 detail on there. What are the other tests? Did you ask him
4 to stand on one foot?

5 A. Yes. It's the one-leg stand. And I believe I had him
6 do that. Let me check.

7 (Referring to report.) No, actually, I didn't. I
8 didn't have him do the one-leg stand.

9 Q. What ones did you ask him?

10 A. It's called the Romberg Test, where you have him stand
11 completely upright.

12 Q. Show us. Summarize it, if you don't mind.

13 A. Feet together, heels and toes together, arms down by
14 your side. You close your eyes, tilt your head back, and
15 you estimate thirty seconds to yourself in your head.

16 Q. How did he do on that test?

17 A. Poorly.

18 Q. In what way?

19 A. He swayed about three inches off center while
20 standing. So if you have a string --

21 Q. Like this (indicating).

22 A. -- coming from your heels to your head, there was a
23 sway in his stance. And his actual estimated time was only
24 thirteen seconds.

25 Q. You mean after thirteen seconds, he said, "Okay, the
26 thirty seconds is up"?

27 A. Correct.

28 Q. He had poor judgment in terms of calculating time

1 passage?

2 A. Yes.

3 Q. He's swaying also?

4 A. Yes.

5 Q. What other test?

6 A. It was the -- the walk heel to toe.

7 Q. You have to walk for a certain distance?

8 A. Yes.

9 Q. How did he do on that?

10 A. Poorly. He missed his heel to toe by about three to
11 four inches. Every step.

12 I asked him to take nine steps forward and nine steps
13 back. He took ten steps forward and ten steps back.

14 Q. They are supposed to do heel to toe?

15 A. Touching every time.

16 Q. Instead, he did a gap in between each?

17 A. Right.

18 Q. And what other test?

19 A. It was the finger count where you use your -- each
20 four of your fingers to touch your thumb, and you count
21 starting with your pinkie one, two, three, four, four,
22 three, two, one. And that's one repetition. You're
23 supposed to do that three times.

24 Q. How did he do?

25 A. He counted one, two, three, four, one, two, three,
26 four. And he did that twice.

27 Q. Okay. Well, overall -- okay, slurred speech?

28 A. Uh-huh.

1 Q. Yes or no?

2 A. Yes.

3 Q. Poor balance?

4 A. Yes.

5 Q. Inability to follow directions?

6 A. Yes.

7 Q. What other symptoms of intoxication? What about his
8 eyes?

9 A. They were somewhat bloodshot and watery.

10 Q. And what -- he -- you said that he would almost stop
11 talking in midstream, did I understand you correctly, or
12 what was that all about?

13 A. Right. Before we had him attempt the field sobriety
14 tests, he was sitting on a curb outside of his car. And
15 while talking with him, he -- his head would slump forward
16 and almost fall asleep and I'd have to get his attention
17 again by calling his name.

18 Q. Okay. So what -- did you ask him -- do you have to
19 advise them about tests that they can take?

20 A. You mean for being under arrest?

21 Q. Yeah.

22 A. Yes.

23 Q. What did you advise him?

24 A. That since he -- I believe him to be under the
25 influence of some type of drug, and that by law in the state
26 of California, when you're arrested for a DUI, you're --
27 you're required to submit to a chemical test.

28 In this case, since it's no alcohol is involved, he

1 would be required to submit to a blood test.

2 Q. Okay. Is it -- do you read him that like the Miranda
3 rights?

4 A. You are supposed to advise him of that. I didn't read
5 it off a card.

6 Q. What was his response?

7 A. He said okay.

8 Q. So he agreed?

9 A. Yeah.

10 Q. And where did you take him? What happened next?

11 A. I placed him in handcuffs and transported him back to
12 the Tracy Police Department.

13 We had the ambulance personnel who does all of our
14 blood draws, they came into our booking area and they did
15 the blood draw.

16 Q. Did you see them do the blood draw?

17 A. Yes.

18 Q. What did you do with the blood?

19 A. I immediately took it from the ambulance personnel and
20 booked it into evidence.

21 Q. Okay. So what did you arrest him for?

22 A. A DUI with drugs.

23 Q. All righty. And this happened in San Joaquin County?

24 A. Yes.

25 Q. Did you recognize -- did you see Plowman a few minutes
26 ago?

27 A. Yes, I saw him briefly in the other room.

28 Q. Did he -- he looked kind of good today? How did he

1 look when you saw him?

2 A. He just looked very distant. He looks a lot better
3 today.

4 MR. TESTA: Okay. May I have marked as
5 People's next in order some paperwork?

6 Q. Do you have to fill out paperwork when you do the
7 DUI -- when you do the test on him?

8 A. Yes.

9 MR. TESTA: What number would this be, madame
10 clerk?

11 THE SECRETARY: 168.

12 MR. TESTA: Pardon me?

13 THE SECRETARY: 168.

14 MR. TESTA: Would you say that loudly?

15 THE SECRETARY: 168.

16 MR. TESTA: Thank you.

17 THE SECRETARY: Uh-huh.

18

19 (Whereupon Evidence Envelope/Form was
20 marked Grand Jury Exhibit Number 168
21 for identification.)

22

23 MR. TESTA: Q. Showing you 168, do you
24 recognize this exhibit?

25 A. Yes.

26 Q. With the laser pointer, can you show us where your --
27 again, I need a place to keep those. Might be able to keep
28 them right here.

1 Show us on 168 -- may I have the tag -- where -- what
2 you recognize? Show us what you recognize.

3 A. This is the outside of the envelope where the blood
4 was booked into.

5 Q. Okay. So this is the blood that -- did you see them
6 take the blood from Plowman?

7 A. Yes.

8 Q. And then what did you do with it?

9 A. I took the vial that they handed me, I put it in
10 the -- the plastic wrap, the seal that it comes into. And
11 then this is actually a manila envelope and you put that --
12 the plastic that you just put the blood into a manila
13 envelope.

14 Q. Is it just the one page or is there more than one
15 page?

16 A. That's just the outside of the envelope.

17 Q. Okay. So could you with the laser pointer show us
18 where -- did you fill this thing out?

19 A. Yes.

20 Q. The whole page?

21 A. The whole page.

22 Q. And is this your name on the bottom?

23 A. Yes.

24 Q. What's your badge number?

25 A. It's 1280. This is my employee ID number.

26 Q. Okay. So when you booked the blood, did you give the
27 blood a number?

28 A. I believe -- an evidence number?

1 Q. Yes.

2 A. I believe it was evidence number 1.

3 Q. So it would be -- we would look for 1280/1?

4 A. Correct.

5

6 (Whereupon Evidence Envelope/Form was
7 marked Grand Jury Exhibit Number 169
8 for identification.)

9

10 MR. TESTA: Q. What about page --
11 Exhibit 169, do you recognize this item?

12 A. Yes, that's the back of the manila envelope.

13 Q. And what is it?

14 A. It's the chain of possession to show who's taking and
15 receiving evidence.

16 Q. Okay. By the way, did I ask you what time -- okay. I
17 think you said you went there, got the call at 1:30, went
18 there maybe 1:35?

19 A. Yeah, driving time from the Police Department.

20 Q. And what time would the blood have been taken?

21 A. It -- it -- I noted it here, the blood was actually
22 drawn at 2:11 in the morning.

23 Q. By whom?

24 A. The AMR personnel, Rebecca.

25 Q. Y-R-O-Z?

26 A. Correct.

27

28

1 (Whereupon a Photograph of Blood Vial
2 was marked Grand Jury Exhibit Number
3 170 for identification.)
4

5 MR. TESTA: Q. And then showing you 170, do
6 you recognize that item?

7 A. Yes. That's the actual blood vial that the blood's
8 kept in.

9 Q. Do you recognize who's initials are on there?

10 A. I recognize the writing on the top of the subject's
11 name, I wrote that. Then had the AMR person who did the
12 blood draw initial the vial.

13 Q. Okay. Now, did you just -- I'm going to actually have
14 these all stapled together. 168, 169, 170. And then there
15 were other pages. We will make them all -- mark them all as
16 one exhibit. I think that might be better. I don't have a
17 stapler here.

18 So looking at the other pages of this, did you -- were
19 you involved at all in a -- in a second arrest of
20 Mr. Plowman that happened the next day?

21 A. No.

22 MR. TESTA: I see a problem doing it the way
23 I was suggesting. I will have to have them marked
24 individually. I apologize.
25

26 (Whereupon Grand Jury Exhibit Numbers
27 171 through 176 were marked for
28 identification.)

1 MR. TESTA: Q. 168, 169, 170, 171, 172, 173,
2 174, 175, 176. Could you look at these and see if your name
3 is on any of the other pages other than the few that I
4 showed you already, the first few?

5 A. (Witness complies.)

6 MR. TESTA: May I have marked as next in
7 order these four photographs also?

8 That will be what number?

9 THE FOREPERSON: 177.

10 MR. TESTA: Pardon me?

11 THE FOREPERSON: 177.

12 MR. TESTA: 177, 178, 179 and 180.

13

14 (Whereupon Photographs were marked Grand
15 Jury Exhibit Number 177 through 180 for
16 identification.)

17

18 MR. TESTA: Q. First of all, do you see your
19 name anywhere else?

20 A. Not anywhere else, no, sir.

21 Q. Thank you, sir.

22 And let me show you these four photos. 179 -- did you
23 take photos of him?

24 A. I did not.

25 Q. Was anyone -- did anyone?

26 A. Yes.

27 Q. Who?

28 A. My partner on the scene.

1 Q. What's his name?

2 A. Officer Campbell.

3 Q. Does this look familiar to you?

4 A. Yes.

5 Q. What does it show, with the laser pointer?

6 A. It's how we found Mr. Plowman parked in the parking
7 lot.

8 Q. What's in his hand?

9 A. Looks like a Big Mac.

10 Q. Okay. And 180, same?

11 A. Yes.

12 Q. These are probably pretty similar. 179?

13 A. Uh-huh.

14 Q. Yes or no?

15 A. Yes.

16 Q. And 178?

17 A. Yes.

18 Q. That's of Mr. Plowman, also?

19 A. Yes.

20 Q. What was he wearing?

21 A. It looks like jeans and a tank top.

22 Q. Is it just pulled up there --

23 A. I believe so.

24 Q. -- at the waist?

25 Okay. Do these photographs accurately show how he
26 looked when you saw him there?

27 A. Yes.

28 MR. TESTA: All righty. I have no further

1 questions. If there are any questions from the grand
2 jurors.

3 Q. Who reported the drunk driver, do you know?

4 A. It was the drive-thru clerk at McDonald's.

5 Q. What is the date on the envelope that contained the
6 blood specimen?

7 A. It should be the same date, March 3rd.

8 Q. Can you tell us?

9 A. Yes, March 3rd, '09.

10 Q. Could I see it?

11 A. Uh-huh.

12 Q. You're referring to Exhibit 168?

13 A. Yes.

14 Q. With the laser, can you show us the date?

15 A. It's right down here at the bottom.

16 Q. Okay. Were his pupils dilated or not, if you know?

17 A. I can't recall.

18 Q. Did you make a note in your report anywhere of any
19 such thing?

20 A. No.

21 Q. Don't you have to fill out your report the symptoms
22 that you see?

23 A. Yes. That's not one of the symptoms that I
24 recognized.

25 Q. Did you mark any other symptoms --

26 A. I don't believe so.

27 Q. -- clean, clean-shaven, slurred speech, is that
28 correct?

1 A. Yes.

2 Q. He has a tattoo "Trisha"?

3 A. I believe so.

4 Q. You wrote it, right? Front torso. Okay.

5 Thank you. I have no further questions.

6 MR. TESTA: Are there any other questions
7 from the grand jurors?

8 GRAND JUROR 14: I've got one here.

9 MR. TESTA: Oh, you do.

10 Ladies and Gentlemen, can we go to 12:30 and then come
11 back at 1:30? I have a 1:00 o'clock court appearance in
12 another case. I think that case will take thirty minutes.

13 So if I could go there at 1:00, then you come back
14 here at 1:30, would that work?

15 GRAND JUROR 9: I don't mind.

16 MR. TESTA: Does anyone mind, can we do that
17 so we don't waste the time?

18 THE FOREPERSON: Yes.

19 MR. TESTA: Q. Did you ask the driver -- did
20 you ask the drive-thru clerk how long he had been in the
21 parking lot? Good question.

22 A. I don't remember asking him that. It was just minutes
23 from when we received the call to when -- to when we got
24 there. He said he drove the car.

25 Q. Who's he?

26 A. The clerk. Said that Mr. Plowman drove directly from
27 the drive-thru, drove around and parked directly into the
28 parking stall.

1 Q. This may be a question you cannot answer, but like was
2 his food warm?

3 A. I didn't -- I can't answer that. I didn't know.

4 Q. Okay. Because I think he said he left the church, got
5 there about 10:00, left about 11:00, you get there about
6 1:30?

7 A. Correct.

8 Q. And he's actually -- he's not in the drive-thru line,
9 but he's in the parking lot of the McDonald's?

10 A. Correct. He's left the drive-thru and went into the
11 parking stall. He was --

12 Q. Was he properly parked in the stall or was he all over
13 the place?

14 A. He was halfway into a stall, if you were to pull
15 halfway forward into a stall.

16 Q. Was he blocking any traffic?

17 A. No.

18 Q. Was he in view of the -- I guess someone at McDonald's
19 saw him and called, but was he in view of like the clerks
20 that would sell?

21 A. Yes, you could look out the restaurant windows and see
22 him parked there.

23 Q. Was his window opened or closed?

24 A. I can't recall.

25 Q. Was it in your report?

26 A. No.

27 Q. Okay. Thank you.

28 A. The car was running, though. It was on.

1 Q. Oh, the car was running?

2 A. Uh-huh. The motor was running and in park.

3 Q. Okay. He was alone in the car?

4 A. Yes.

5 MR. TESTA: All right. Are there any other
6 questions from the grand jurors? One more.

7 I'm sorry, any further questions?

8 THE FOREPERSON: There was one.

9 MR. TESTA: Oh, there is one.

10 Q. Okay. Do you know if he had gone into McDonald's and
11 bought food?

12 I'm sorry, sir, could you just wait out for another
13 thirty seconds? I was premature in asking you to come in.

14 Do you know if he had gone inside McDonald's and
15 bought the food?

16 A. I don't know that. I assumed since he went through
17 the drive-thru, he didn't.

18 Q. What made you think he went through the drive-thru as
19 opposed to buying it?

20 A. The drive-thru clerk called. I don't believe the
21 inside of the restaurant is open at 1:30.

22 Q. Oh, I see. So the restaurant itself you believe
23 closes, but the drive-thru stays open?

24 A. But the drive-thru remains open.

25 Q. That answers that.

26 MR. TESTA: Okay. Can the clerk -- or the
27 foreperson read you an admonition, please?

28 THE FOREPERSON: You are admonished not to

1 reveal to any person, except as directed by the Court, what
2 questions were asked or what responses were given or any
3 other matters concerning the nature or subject of the grand
4 jury's investigation which you learned during your
5 appearance before the grand jury. This admonishment
6 continues unless and until such time as the transcript of
7 this grand jury proceeding is made public.

8 Violation of this admonishment is punishable as
9 contempt of court.

10 THE WITNESS: I understand.

11 THE FOREPERSON: Thank you.

12
13 (Pause.)

14
15 **EXAMINATION**

16 BY MR. TESTA: Q. Could you state your full
17 name, please, sir?

18 A. John Michael Alfter.

19 Q. How do you spell your last name?

20 A. A-L-F-T-E-R.

21 Q. Where are you employed?

22 A. With California Department of Justice Central Valley
23 Laboratory in Ripon.

24 THE FOREPERSON: I swear him in, please?

25 MR. TESTA: Thank you.

26 THE FOREPERSON: You raise your right hand,
27 please?

28 THE WITNESS: Okay.

JOHN MICHAEL ALFTER,

1
2 a witness called on behalf of the People, having been duly
3 and regularly sworn by the Grand Jury Foreperson, testified
4 as follows:

5
6 THE WITNESS: I do.

7 THE FOREPERSON: Thank you. Continue.

8 MR. TESTA: Q. What do you do there?

9 A. I'm a senior criminalist.

10 Q. Did you examine Daniel Plowman's blood to see if there
11 was any alcohol in it?

12 A. Yes, I did.

13 Q. Showing you Exhibit 168, do you recognize -- with the
14 laser pointer there, you can point to any part of this you
15 may recognize.

16 A. Right here is my initials. And the date that I
17 conducted the analysis.

18 Q. I'm sorry, where are your initials?

19 A. These would be my initials and the date. This is the
20 date that I -- the date that I conducted the analysis.

21 Q. And what was it that you were given?

22 A. I was given a -- a blood tube, a tube containing a
23 blood sample, suspected containing alcohol.

24 Q. Did you mark that at all?

25 A. Yes. You're going to need to -- can you roll the
26 tube.

27 Q. No, I just have this part of it.

28 A. Do you have another picture from the --

1 Q. No, but I think someone else has it.

2 Would the tube have your marking on it?

3 A. Yes, it would.

4 Q. And what was the number of the item that you examined?

5 A. I would have to refer to my notes for that.

6 Q. Could you, please?

7 A. Most likely it's number 1, because usually that's the
8 item number that we have on is usually number 1.

9 Q. He had two blood samples taken, one on one day, one
10 twenty-four hours later. So I want to make sure we are
11 specifying which blood sample you examined.

12 Is this your name on page -- page -- Exhibit 169, is
13 this you again?

14 A. It was item number 1. Submission number 1, item
15 number 1.

16 Q. What's the full number, because the officer puts his
17 badge number first and then he puts the item number. Do you
18 have the full number?

19 A. Full number that I have is our -- my laboratory's case
20 number, which is a CV-02 -- I'm sorry -- 09-002073-0001, and
21 then submission 1, item 1.

22 Q. Is this the number on the first page?

23 A. Yeah, right here is the case number, submission,
24 number 1. And it's the only item that's in there so it's
25 item number 1.

26 Q. Okay. So we have this form here on page 168 --
27 Exhibit 168 that we have on the screen that has Mr. Trine's
28 name on it, we just heard from him, and his badge number

1 1280. You can say that the blood sample that he's testified
2 about that he put in here, that's the blood sample that you
3 put your initials on and that you analyzed, do I understand
4 that correctly? Do you understand what I'm saying?

5 A. Yes, I understand what you're saying.

6 Q. It has his name on it and your name, are we talking
7 about the same blood sample?

8 A. Yes.

9 Q. And belonged to Daniel Plowman?

10 A. By the information that's on this whole item here is
11 the evidence envelope. Assuming that the information that's
12 on the evidence envelope is true and correct, then, yes,
13 this is the blood sample of Daniel Plowman that I conducted
14 the analysis on.

15 Q. Well, we already heard from Trine this is the one he
16 got at 2:11 in the morning on March 3rd. This is the one
17 you analyzed. What were the results of your analysis of
18 this particular blood sample?

19 A. I found that the blood sample contained no alcohol.

20 Q. And do you have experience and training to do this
21 kind of test?

22 A. Yes, I do.

23 Q. Can you summarize it for us real quickly?

24 A. I have a Bachelor of Science degree in criminalistics
25 and chemistry, graduating from Weber State University in
26 June of 1997.

27 I have been working as a criminalist for
28 approximately -- well, next month will be twelve years.

1 I have received within the last year and a half year
2 and a half to two years, I received over five hundred hours
3 of training, including forensic alcohol -- methods of
4 forensic alcohol analysis, effects of alcohol on the
5 human -- on a human body, which includes reading of
6 scientific literature and conducting drinking correlation
7 studies, which are scientific experiments dealing with the
8 effects of alcohol on the human body.

9 I have also completed ride-alongs with law enforcement
10 personnel, conducting DUI enforcement.

11 Work experience wise, I'm recognized by the California
12 Department of Public Health Services as a forensic alcohol
13 analyst.

14 I have completed proficiency tests provided by them
15 and Department of Transportation, as well as having -- as
16 well as having eight years of military police experience
17 conducting -- also conducting DUI enforcement.

18 That's my training and work experience.

19 Q. And have you qualified as an expert in this area
20 before, sir?

21 A. Yes, I have.

22 Q. Does your name appear in any other pages of these
23 exhibits? Otherwise, I have no questions of you.

24 A. My name is on this -- this is the back of the evidence
25 envelope.

26 Q. That's Exhibit 169, and is this your signature on it?

27 A. Yes, right there is my name and my initials.

28 Q. Again, we had Mr. Trine already explain this was the

1 back of the envelope into which he put the blood sample
2 which he took from Mr. Plowman on the date that he arrested
3 him there at the McDonald's.

4 Can you tell from a blood test how many milligrams of
5 a substance is in the body? That's the question from the
6 grand jury.

7 A. Yes. You can. We can tell -- I can tell how many
8 milligrams of -- from my analysis if any alcohol was there,
9 I would be able to determine in milligrams the amount of
10 ethanol or drinking alcohol that was in the blood if there
11 was any present.

12 Q. Do I understand you correctly that you were only
13 testing for alcohol, is that correct?

14 A. That is correct.

15 Q. So if you want to test the blood to see if it has
16 something else in it, that goes to someone else to do the
17 test?

18 A. That's correct.

19 Q. I think he's out there now. Isn't it Mr. Coleman from
20 your office?

21 A. I'm -- I'm not sure.

22 Q. That's right, he's from Sacramento; you're from Ripon.

23 In any case, just to be clear, you just did the
24 alcohol and it came back zero?

25 A. That's correct.

26 MR. TESTA: Okay. I have no further
27 questions. The foreperson will read you an admonition and
28 then you can get on your way.

1 THE WITNESS: Okay.

2 THE FOREPERSON: You are admonished not to
3 reveal to any person, except as directed by the Court, what
4 questions were asked or what responses were given or any
5 other matters concerning the nature or subject of the grand
6 jury's investigation which you learned during your
7 appearance before the grand jury. This admonishment
8 continues unless and until such time as the transcript of
9 this grand jury proceeding is made public.

10 Violation of this admonishment is punishable as
11 contempt of court.

12 THE WITNESS: Okay.

13 THE FOREPERSON: Thank you.

14 THE WITNESS: May I be excused? May I be
15 excused?

16 MR. TESTA: You may. Thank you for coming.

17 THE WITNESS: Thank you.

18 MR. TESTA: Appreciate you waiting around all
19 morning.

20

21 (Pause.)

22

23 MR. TESTA: Mr. Freitas, could you have a
24 seat here?

25 THE WITNESS: Absolutely.

26 MR. TESTA: And the foreperson will read you
27 an oath.

28 THE FOREPERSON: Would you state your name,

1 please, and -- would you state your name and spell it for
2 the court reporter, please?

3 THE WITNESS: Trevin Freitas. First is
4 spelled T-R-E-V as in Victor I-N. Last is F-R-E-I-T as in
5 Tom A-S.

6 THE FOREPERSON: Would you raise your right
7 hand, please?

8

9

TREVIN FREITAS,

10 a witness called on behalf of the People, having been duly
11 and regularly sworn by the Grand Jury Foreperson, testified
12 as follows:

13

14 THE WITNESS: I do.

15 THE FOREPERSON: Thank you.

16

17

EXAMINATION

18 BY MR. TESTA: Q. Where are you employed,
19 sir?

20 A. Tracy Police Department.

21 Q. What is your position there?

22 A. I'm a police officer.

23 Q. How long have you been so employed?

24 A. For three years.

25 Q. Are you considered a peace officer?

26 A. Yes, I am.

27 Q. Try to talk into this.

28 A. Yes, I am.

1 Q. On March 3rd, 2009, did you end up having some contact
2 with a Daniel Plowman?

3 A. Yes, I did.

4 Q. At what time on that date did you have contact with
5 him?

6 A. I'd have to refer to the specifics of my report.

7 Q. Sure.

8 A. But I believe about 3:00 p.m.

9 Q. Did you prepare the report yourself?

10 A. Yes, I did.

11 Q. Would it refresh your memory to look at it?

12 A. Yes.

13 Q. Keep it there. If you have to refer to it, no
14 problem.

15 3:00 p.m., you saw Mr. Plowman where on March 3rd?

16 A. He was in the lobby of the Police Department. And he
17 was seated on the northern seats parallel to the northern
18 wall. Sorry about that. And he was asleep at the time.

19 Q. Is this in the Police Station?

20 A. Yes, it is.

21 Q. Are you guys out of French Camp?

22 A. No. Tracy.

23 Q. So if someone said he woke up and he was in French
24 Camp, what's out at French Camp?

25 A. The County Jail.

26 Q. That's at one time. You are talking now about
27 3:00 p.m. on the 3rd, he's in the lobby?

28 A. Yes.

1 Q. And how did you become -- how did you have contact
2 with him? What were the circumstances?

3 A. Originally, I was approached by a records assistant
4 advising me that a gentleman was there to retrieve his car
5 from a previous arrest the night before. And he was falling
6 asleep and in and out of consciousness in the front lobby of
7 the Police Department.

8 Q. So what did you do?

9 A. I contacted him and I spoke with him. After speaking
10 with him, I started to believe he was possibly under the
11 influence of a controlled substance.

12 Q. So what did you do next?

13 A. I conducted a series of tests, after which I
14 determined that he was under the influence of a substance of
15 some sort. And he was placed under arrest.

16 Q. For what?

17 A. Being under the influence of a controlled substance.

18 Q. Did you do any -- I know for drunk driving they do
19 these field sobriety tests.

20 A. Uh-huh.

21 Q. Did you do any kind of test there in the field --
22 there in the lobby to make a preliminary determination he
23 was under the influence of drugs?

24 A. Yes, I did.

25 Q. What?

26 A. Part of the tests are objective symptoms, such as
27 paying attention to their speech patterns, you're paying
28 attention to their eyes, as well as their mannerisms. Also,

1 you take their pulse. And other tests.

2 Q. And what were the -- summarize the results of these
3 evaluations you did.

4 A. Based on that, I summarized he was under the influence
5 of a controlled substance. And from there, I began trying
6 to determine which substance it was.

7 Q. How did you know it wasn't alcohol? Did you smell any
8 odor?

9 A. No, I did not.

10 Q. I kind of cut you off. Was there any other reason you
11 kind of excluded alcohol?

12 A. Yes. Pretty usually, there's no odor, his eyes didn't
13 indicate what's called horizontal gaze nystagmus, which is
14 basically the bouncing of the eyes at certain degrees.

15 Q. Where you have them follow your eye?

16 A. Correct, with their head in one position, attempting
17 to determine an onset of nystagmus, which is bouncing of
18 eyes.

19 Q. That's correlated with alcohol, is it?

20 A. Most specifically, yes.

21 Q. And he didn't show any signs of that?

22 A. No, no.

23 Q. So what other eval -- why else did you think it was
24 drugs?

25 A. When I had him close his eyes, one of the tests is you
26 have them close their eyes -- or one of the tests you can
27 use, not all officers do -- and there's a rapid eye movement
28 underneath your eyelids as they are closed, which is not a

1 given, but an indication of possible drug use.

2 Q. Any other symptoms of drug use that you observed?

3 A. The pulse rate, as well as his lack of recollection.

4 And his clipped speech was basically short speech,
5 cutting himself off.

6 He was vaguely familiar with where he was first, and
7 then he quickly forgot.

8 He was very repetitive in his nature. He could ask a
9 question, we would give him a very simple answer, he just
10 did not have the ability to comprehend what you were telling
11 him.

12 Q. And did you say you actually gave him some field
13 sobriety tests?

14 A. Well, they are not called field sobriety tests for
15 these purposes.

16 Q. And what other -- what about his -- were there any
17 tremors?

18 A. That's the eyelids that I was speaking of.

19 Q. And any motor skills impaired?

20 A. Yes. He -- his movement appeared labored, to say the
21 least. Very, very methodical in nature, as though he was --
22 had to physically try to do what he was doing.

23 Q. So this is different from just being sleepy?

24 A. Absolutely.

25 Q. Did he appear oriented?

26 A. He appeared disoriented.

27 Q. Did you ask him if he had taken any medication?

28 A. Yes, I did.

1 Q. And he said what?

2 A. His only -- his response was he apparently had a
3 previous injury to I believe his left knee. And he stated
4 he had taken Motrin, which would not have any of these
5 effects.

6 Q. Did you ask him if he had taken any prescription
7 medicine?

8 A. I believe just Motrin is what he stated.

9 Q. Did you specifically ask him and he said no? Could
10 you look at your notes?

11 A. I would have to refer to my report.

12 Q. Did you fill out a 11550 investigation worksheet?

13 A. Yes, I did.

14 Q. 11550 is what, under the influence?

15 A. Yes.

16 Q. And in that worksheet, does it refresh your memory as
17 to whether you asked him whether he was taking any
18 prescription medicine?

19 A. He stayed no on prescription.

20 Q. Okay. And did you ask him if he had taken any
21 substances?

22 A. He -- he stated no.

23 Q. Did you know at the time that he had been arrested
24 just, you know, the night before for a DUI?

25 A. I did.

26 Q. You did or did not?

27 A. I did.

28 Q. You did. Okay.

1 But did you know at that point whether -- what the
2 results showed of the blood test, or were they not back by
3 then?

4 A. No, they wouldn't be back. It takes several weeks for
5 our department to get the results. And at that time, I did
6 not know whether the DUI was alcohol or drug related or
7 both.

8 Q. So did you ask him if you could take a blood sample?

9 A. Yes, I did.

10 Q. Did he agree?

11 A. Yes, he did.

12 Q. And where did you take him to have the blood drawn?

13 A. I walked him to -- we have a small jail/processing
14 center in the rear of the Police Department. That's where
15 he was taken.

16 Q. How -- was he able to walk?

17 A. Yes.

18 Q. Okay. And did you -- let me show you Grand Jury
19 Exhibit 172. And if you -- it will be on the screen there,
20 it's a very poor quality -- but if you're -- I might have to
21 show you the original.

22 A. Yeah, I'm having a --

23 Q. What's your badge number?

24 A. ID number is 1250, which I can see that, yes.

25 Q. Let me give you the original. I think it shows a
26 little better.

27 A. Yes, that is my signature. And that is my ID.

28 Q. So on 172, with the -- you see the copy, it's close to

1 the screen, you can see your badge number and your name?

2 A. Yes.

3 Q. And this form is what?

4 A. That is a request for basically me documenting to send
5 off to Department of Justice for notification of the test
6 results.

7 Q. Who took his blood, does it say on the form?

8 A. I forgot the name. It was Rebecca Yroz that took the
9 blood as I observed it.

10 Q. Her name is there, it doesn't show too well on the
11 screen, but her name is above your name, is it not?

12 A. Correct.

13 Q. Your name's at the very bottom, then hers is up here.

14 And what time was the -- here's the form. You may
15 have to look at the original. What time did she take that
16 blood?

17 A. At approximately 15:45 hours, which would be 3:45 p.m.

18 Q. On which date?

19 A. On the 3rd -- March 3rd, 2009.

20 Q. And which number would you have given this blood
21 sample, so if we have someone come in in a few minutes who
22 tested the blood, we can keep this sample separate from the
23 one Mr. Trine took?

24 A. It would be identified separately, under a separate
25 case number, as well as my serial number, which is the
26 1250/1, indicating it was the person in this case, only
27 evidence taken in this case.

28 Q. On the exhibit that's on the screen, 172, your name on

1 the bottom, your name and badge number is on there.

2 What about this next page, 173, chain of possession,
3 is this you up here, too?

4 A. Yes, I would be the first line here. And this is me
5 submitting it into our evidence property room.

6 Q. On which date?

7 A. On March 3rd, 2009.

8 Q. Okay. By the way, 174, do you recognize that?

9 A. Yes, it looks like a blood vial with the -- doesn't
10 show it all, but it would be the date, time, and the
11 subject's name it was retrieved from.

12 Q. You can see 15:49?

13 A. 45 appears to be.

14 Q. All right.

15 A. Appears to be March 3rd, 03/03.

16 Q. On page 125. Okay. All righty, so you take his --
17 you see Rebecca, is she like a phlebotomist?

18 A. She's an AMR paramedic, I believe.

19 Q. So you see her take his blood and you fill out the
20 paperwork and you identified your signature on the paperwork
21 and hers and so forth?

22 A. Correct.

23 Q. And then what happened to the blood after she took it?

24 A. From that point, I immediately took possession of it
25 and I processed it into our evidence room. We have a
26 cardboard box issued by the State Department of Justice. We
27 fill out the information and all the forms in there. We
28 sealed -- we seal it in a vacuum type bag, then seal it in

1 the cardboard box. And then at that time, I submit it into
2 our evidence room. And from there, they send it off to
3 Department of Justice.

4 Q. Okay. By the way, did you happen -- were you here
5 when he was here, Mr. Plowman? Did you see him this
6 morning?

7 A. Yes, I did.

8 Q. Did he look different when you saw him?

9 A. Yes, he did.

10 Q. Was he really out of it --

11 A. To say the least.

12 Q. -- when you saw him there in March of '09?

13 A. Yes.

14 Q. "To say the least" meaning?

15 A. The -- he -- to say he was out of it I think would be
16 an understatement. Mr. Plowman at the time didn't have any
17 recollection he had told me of the prior arrest. Absolutely
18 none.

19 And even after being -- even after being able to
20 briefly tell me that he was at the Tracy Police Department
21 to retrieve his vehicle, while we were speaking in the
22 booking area, he again reverted his memory back and thought
23 he was at the San Joaquin County Jail, which is about
24 fifteen to twenty miles away, about fifteen- to
25 twenty-minute drive.

26 He was very repetitive in nature, continuously asking
27 the same questions, you know, over again. Sometimes as much
28 as five or six times that I recall.

1 Q. Okay. Thank you. I have no further questions.

2 MR. TESTA: Are there any from any of the
3 grand jurors? I see none.

4 GRAND JUROR 10: Yes.

5 MR. TESTA: Oh, there is one.

6 Q. Hold on, sir, they are going to read you an admonition
7 when you leave.

8 A. Sorry, I thought that was going to take a minute.

9 Q. Here's a question from the grand jury: Why would you
10 do another blood test when you knew there had already been
11 one done?

12 A. Two separate incidents, two separate investigations.
13 DUI is a little different. If a person's arrested for a
14 DUI, the state of California, driving is a privilege. They
15 do not have the right to reject that. But in cases, we will
16 take the blood.

17 There has been a time gap. Even though it doesn't
18 appear substantial, there is an obvious time gap between his
19 DUI arrest and when I came into contact with him.

20 And for a person to be under the influence, it's
21 not -- it has to be more than a person tests positive for a
22 drug because there's certain drugs that will stay in your
23 body for a substantial period of time. So you need one in
24 close proximity to what I'm doing.

25 If I -- even if I had the test and I was twelve hours
26 prior to that, that's no good for evidentiary purposes in
27 court. I have to have a specific sample at the date and
28 time that I am dealing with the subject.

1 And in all actuality, in regards to just simply being
2 under the influence of a controlled substance, outside of a
3 vehicle setting, he actually had the right to refuse that.
4 And that's part of a form that we read them and have them
5 sign the document, so that's why I needed something of
6 evidentiary value at the time and proximity that I was doing
7 the investigation.

8 THE FOREPERSON: Any other questions?

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

17 Violation of this admonishment is punishable as
18 contempt of court.

19 Do you understand?

20 THE WITNESS: Yes, I do.

21 THE FOREPERSON: Thank you.

22 THE WITNESS: All right.

23 MR. TESTA: Mr. Coleman.

24
25 (Pause.)

26
27 MR. TESTA: Would you come this way, please
28 and have a seat? See if we can squeeze you in before we

1 take our recess.

2 You state your full name, please?

3 THE WITNESS: Daniel Eric Coleman.

4 THE FOREPERSON: Would you raise your right
5 hand, please?

6 Do you need that spelled for you?

7 Raise your right hand, please.

8

9

DANIEL ERIC COLEMAN,

10 a witness called on behalf of the People, having been duly
11 and regularly sworn by the Grand Jury Foreperson, testified
12 as follows:

13

14 THE WITNESS: I do.

15 THE FOREPERSON: Thank you.

16

17

EXAMINATION

18 BY MR. TESTA: Q. Where are you employed,
19 sir?

20 A. The Department of Justice in Sacramento.

21 Q. Did you test blood samples taken from Daniel Plowman
22 on two separate occasions back in March of '09 to see what
23 was in the blood?

24 A. Yes, I did.

25 Q. The blood samples that you tested, did you fill out --
26 is there some paperwork that was associated with them?

27 A. There's always lots of paperwork, yes.

28 Q. Did you -- do you have any of it with you?

1 A. I do.

2 Q. Do you have the originals?

3 A. I'm not sure if the originals would have been mailed
4 out or not.

5 Q. Is your name on this exhibit at all, or any
6 identifying information, 168?

7 A. The -- the laboratory case number.

8 Q. Okay. Let me put it up on the screen here.

9 So you had two blood samples, correct?

10 A. Correct.

11 Q. Showing you 168, we have already heard that's on the
12 screen here, was this one of them?

13 A. Yes, it was.

14 Q. How can you tell?

15 A. Every sample that comes into our laboratory is issued
16 a unique case number. In the upper left corner of that copy
17 of the envelope is our case number, TX number.

18 Q. Okay. How did you have -- okay. So you had this one.
19 We heard about this one from Mr. Trine, that was 1280. Did
20 you have one of them identified as 1280 something? Did you
21 look at the actual sample numbers?

22 A. That's the badge number of the officer. Our case
23 number is in the upper left corner, that's what appears on
24 our report.

25 Q. What I mean is did you correlate your cases with
26 the -- your case numbers with the badge numbers?

27 A. No, I did not. I would have correlated it with the
28 time of collection and also the name and biographical

1 information of the individual.

2 Q. Okay. Okay. Did you have one that was collected on
3 March 3rd, '09, at 2:11?

4 A. Yes.

5 Q. Okay. So you tested that one. Why don't we start
6 with that one, that's the one we heard first with Mr. Trine.
7 You said that one you could tell, Grand Jury Exhibit 168,
8 that there's the -- your case number's on that one, correct?

9 A. Correct. Ours is the TX number at the top.

10 Q. And can you recite that number TX, last three digits
11 574?

12 A. Correct.

13 Q. 01?

14 What -- do you have experience in doing the tests you
15 did on this blood? Do you have experience in doing those
16 kinds of tests?

17 A. I do.

18 Q. Can you summarize your training and experience and
19 education that qualifies you to do those tests that you did
20 on this blood?

21 A. I have been doing forensic toxicology for about
22 fourteen years. Forensic toxicology basically is the
23 analysis of samples submitted to the laboratory, usually
24 blood or urine, for the presence of drugs.

25 I have a Bachelor of Science Degree from UC Davis in
26 environmental toxicology.

27 I performed internships in forensic toxicology.

28 I am a member of the California Association of

1 Toxicologists. I'm on the board of directors there.

2 And also Society of Forensic Toxicologists, we meet
3 regularly and discuss analysis of drugs from biological
4 samples and how drugs may affect human performance.

5 I have attended a number of courses and seminars on
6 toxicology and pharmacology. Pharmacology is the study of
7 how drugs affect human performance and how the body affects
8 drugs.

9 I have also given a number of talks on the analysis of
10 drugs and written papers in journals on the analysis of
11 drugs and how they may affect human performance.

12 Q. How long have you been doing this work?

13 A. Approximately about fourteen years.

14 Q. Have you qualified as an expert in this area in courts
15 of California?

16 A. I have.

17 Q. What were the results of your examination of this
18 first sample from Mr. Plowman that was taken March 3rd of
19 '09, at 2:11, by Mr. Trine, what did you find in that blood?

20 A. I found two separate drugs, alprazolam and also
21 lorazepam.

22 Q. How do you spell them?

23 A. Alprazolam is A-L-P-R-A-Z-O-L-A-M.

24 Q. O-L-A-M?

25 A. A-M, yes.

26 Q. And the other one?

27 A. Lorazepam is L-O-R-A-Z-E-P-A-M.

28 Q. And were you able --

1 A. M at the end.

2 Q. M?

3 A. M, yes.

4 Q. Okay. Do you have another blood sample?

5 A. I did.

6 Q. And showing you page 172, do you see information
7 that's on the screen on this one, regarding -- it's kind of
8 hard to see, Mr. Freitas indicated he -- his badge number
9 1250, took this one.

10 A. It's down a little lower.

11 Q. At 3:45 p.m., do you see your office's number on this
12 one?

13 A. Yes.

14 Q. What number is that?

15 A. TX09002367.

16 Q. Because the other TX number on page 168, the last
17 three digits was 574. This one is 367, right?

18 A. Yes, we actually received this sample before the other
19 sample.

20 Q. Okay. So -- and the time that this one was collected
21 is what?

22 A. 15:45.

23 Q. 3:45 p.m. Okay. We just heard from the officer that
24 had that one collected by Rebecca Yroz.

25 And what did you find was in that blood?

26 A. I found the same two drugs.

27 Q. And what are those drugs?

28 A. Both of those drugs are benzodiazepines.

1 Benzodiazepines are a -- a family of drugs that includes
2 Valium. They are basically sedatives. They are typically
3 used to treat anxiety or insomnia. The main symptom or side
4 effect of these drugs is sedation.

5 The brand name of alprazolam is Xanax. Xanax is
6 capital X-A-N-A-X. And the brand name for lorazepam is
7 Ativan, capital A-T-I-V-A-N. So they are both very similar
8 in -- in what they are used for, what they are prescribed
9 for.

10 Q. Okay. We had shown yesterday an exhibit found in the
11 defendant's purse were a number of different drugs. I don't
12 have them all here. Is this the same, this alprazolam, is
13 that the same substance you found?

14 A. Yes, it is.

15 Q. I think we have others later that we will see. Xanax?

16 A. Xanax, that's the brand name. Generic name is
17 alprazolam.

18 Q. What about that other substance, lorazepam?

19 A. Ativan is the brand name.

20 Q. How do you spell Ativan?

21 A. A-T.

22 Q. A-T?

23 A. A-T-I-V-A-N.

24 Q. And how do you spell Xanax?

25 A. X-A-N-A-X.

26 MR. TESTA: Okay. So can we go five more
27 minutes? Or do you want me to stop?

28 If we go five and then come back, I want to try to see

1 if I can finish. If I go to, say, 12:40, come back at 1:40,
2 would that work? Or are you starting to get low blood sugar
3 and stuff?

4 GRAND JUROR 9: I don't mind.

5 THE FOREPERSON: All right.

6 MR. TESTA: I don't --

7 THE WITNESS: I appreciate it, yes.

8 MR. TESTA: We will give it a try. We don't
9 want to -- make sure you ask questions. If he needs to come
10 back, we can do it. We don't want to shortchange it. It's
11 a important witness.

12 Q. But what quantities were found of these substances in
13 the blood, as they compared to one another and --

14 A. I've not quantitated the concentration. I didn't know
15 which drugs to suspect on the first go-round. The earlier
16 sample, which is our later number, contained more of the
17 drugs than the later sample. So the -- the early sample,
18 our number 2547, contained --

19 Q. Let's just go by the times that were collected. There
20 was the one collected at 2:11 in the morning?

21 A. Yes.

22 Q. 2:11 a.m. And the other one was?

23 A. 15:45.

24 Q. 3:45 p.m. I think we can keep them separate that way.
25 How did the two compare?

26 A. The one at 2:11 had more of both drugs than the later
27 15:45 sample.

28 Q. Is that consistent with someone being given the drugs,

1 having them in their substance at 2:11 a.m. and then still
2 having them in their substance -- in their system at 3:45
3 the same day? And kind of a -- do you burn it off?

4 A. Yes, these drugs are both fairly long-lasting in the
5 bloodstream. It does take a long period of time for these
6 drugs to be eliminated.

7 So, typically, drugs are measured by their half-life,
8 the amount of time it takes to eliminate half of the
9 concentration in their blood stream. And these both have
10 long half-lives.

11 So the fact it is going down indicates that that is
12 natural, plus it also indicates there's not a redosing or
13 readministration of the drugs in the interim.

14 Q. What are the symptoms of someone who has been given
15 these drugs? Are you able to -- do you have experience in
16 telling us that?

17 A. I do.

18 Q. Can you give us in a nutshell -- I know it probably
19 depends on a lot of factors, the weight, the age, their
20 physical condition -- but is -- can you give us some general
21 ideas of how someone would act if they were given this?

22 A. It certainly does vary. There are a lot of
23 variations. And also tolerance. As you take a drug and get
24 used to it, over time, those side effects can go away.

25 Q. Someone who has never taken it before?

26 A. These are central nervous system depressants.
27 Sedation, as I talked about, is the most common side effect.
28 Someone under the influence of benzodiazepine, you are going

1 to feel tired. They may see mental confusion. And, also,
2 these drugs are notorious for affecting memory. Some of
3 these drugs in a class on benzodiazepines are used
4 pre-surgery. And one of the benefits of that is that you do
5 not remember some of the pain and some of the -- the anxiety
6 associated with the surgeries.

7 So the benzodiazepines typically are going to be a
8 sedation drug with effects on memory and mental confusion,
9 coordination.

10 Q. Would it be consistent with waking up and not even
11 knowing how you got there?

12 A. That's possible.

13 These drugs, again, it causes sleep and -- and affect
14 the memory, so that is something that is possible.

15 Q. How long would it take to take effect? Is there any
16 general information you can say, or does it again depend if
17 you have a full stomach, empty stomach?

18 A. To some degree. If you take these orally, certainly,
19 it's just like any other drug. Typically, it's going to be
20 about a half hour until the beginning of the onset of the
21 drug. The peak concentration in your blood stream is
22 typically going to be one and a half to two hours.

23 Again, because these drugs are slow to be eliminated
24 from the body, these effects are going to last longer.

25 Q. What effects would they have on a child, seven- or
26 eight-year-old, given this kind of thing?

27 A. Well, a child, the effects of a child is a smaller
28 body volume for the drugs to be distributed in. So you are

1 going to have a higher concentration that goes into the
2 brain and the central nervous system. So it would take less
3 of the drug to cause the effect -- desired effect of the
4 drug.

5 So given a normal dose to the child, the odds of
6 sedation and exaggeration of the side effects will increase.

7 Q. Questions from the grand jurors: Is it reasonable
8 that the sedative effect of these benzos would last as long
9 as sixteen hours? I think that was with respect to this
10 issue here, the 2:11 and 3:45, if someone was given it like
11 at 10:00 or 11:00 o'clock at night?

12 A. Yes.

13 Q. Go ahead.

14 A. There's a couple of things to consider. These are
15 long-lasting. At lower dosages, four to six hours is
16 common. In higher dosage, and this is prescribed dose, up
17 to twelve hours of sedation has been seen in the literature.
18 If you don't -- if you go beyond that, it certainly could go
19 to sixteen hours.

20 The other thing to consider in these studies, you have
21 typically alprazolam or lorazepam themselves. When you'd
22 have both of them together, we have what's called an
23 additive effect. An additive effect is when drugs that have
24 similar action, like central nervous system depressants, the
25 effect is going to be stronger and typically the effects are
26 going to be longer.

27 So when we have two benzodiazepines together, we would
28 expect that person to feel stronger in the sedation --

1 sedation effects, and those effects to last longer. So
2 sixteen hours would not be unreasonable or -- or impossible
3 by any stretch.

4 Q. So if I told you they found similar drugs in little
5 Sandra Cantu's tissue and Daniel Plowman's blood and in this
6 little girl REDACT blood, could this just all be accidental?
7 Nature produce this in your own body? Like I know they say
8 alcohol can be created in a body when it decomposes. Do
9 these drugs show up in a -- if they found it in Sandra
10 Cantu's body, does nature produce them?

11 A. No, it does not.

12 Q. Does the body produce, I guess is what I'm trying to
13 say?

14 A. Yeah, these are not found endogenously or naturally.
15 These are pharmaceuticals that are taken.

16 Q. Let me see, I had another question from the grand
17 jury: Can there be a major overdose on a child?

18 A. Yeah. The benzodiazepines are -- are fairly good in
19 terms of overdose in that there's a high therapeutic index.
20 What you're going to -- some drugs will cause respiratory
21 depression or some other fatal side effect, whereas the
22 benzodiazepines typically don't affect the respiration or
23 shut off the heart.

24 So you can have an overdose where somebody is -- is
25 out or -- or put out basically by the drug. But, typically,
26 you're not going to see a major as in a fatal overdose with
27 the drug. It's certainly possible, but it's less common
28 than some of the other drugs.

1 Q. Would it be more likely in a child than in an adult?

2 A. Sure, you're going to need less. Let's say you're
3 giving the same dose to an adult as you give the child,
4 again, the child -- the relative concentration for that
5 child is going to be greater, so the odds of that effect
6 would be higher.

7 Q. Another question from the grand jurors: Can you tell
8 us how many milligrams were in the body on both samples?
9 Again, referring to Mr. Plowman.

10 A. Yeah, not at this point. I have not gotten the
11 specific concentration on them yet.

12 MR. TESTA: All right. I have no further
13 questions. Are there any other questions from the grand
14 jurors?

15 Q. Did I miss anything or have I covered all the points
16 that you -- basically, did you do any other --

17 A. Nope, those are the two samples.

18 I did say I'm doing further work on them. I look for
19 other drugs; have not found anything yet.

20 Q. Thank you for your work.

21 And they are going to read you an admonition that is
22 read to everyone.

23 THE FOREPERSON: You are admonished not to
24 reveal to any person, except as directed by the Court, what
25 questions were asked or what responses were given or any
26 other matters concerning the nature or subject of the grand
27 jury's investigation which you learned during your
28 appearance before the grand jury. This admonishment

1 continues unless and until such time as the transcript of
2 this grand jury proceeding is made public.

3 Violation of this admonishment is punishable as
4 contempt of court.

5 Do you understand?

6 THE WITNESS: Yes.

7 MR. TESTA: Thank you, sir. You may leave.

8 THE WITNESS: Thank you for staying late.

9 MR. TESTA: Ladies and Gentlemen, how does
10 1:40 -- want to round it off to 1:45?

11 THE FOREPERSON: Yes.

12 MR. TESTA: What?

13 THE FOREPERSON: 1:45.

14 MR. TESTA: 1:45, I'll see you then. Thank
15 you.

16 THE FOREPERSON: Wait. Everybody remember
17 please do not form an opinion or discuss this case with
18 anyone until after deliberations. How's that?

19

20 (Recess.)

21

22 GRAND JUROR 9: I have a procedural question,
23 whenever it's appropriate to ask.

24 MR. TESTA: Okay. All righty. First of all,
25 are we on the record?

26 THE FOREPERSON: No.

27 THE SECRETARY: Everybody's present.

28 MR. TESTA: Everyone is accounted for?

1 I had another case on at 1:00 o'clock that didn't get
2 called until 1:15, and I just finished. So I rushed to get
3 here. It's beyond my control. I had this other death
4 penalty case on from 1980, a retrial. So that's where I've
5 been. So the judge promised me I'd be out by 1:30. So
6 things happen. So thank you for waiting.

7 What's the procedural question?

8 GRAND JUROR 9: Is it appropriate to ask?

9 MR. TESTA: Yes, go ahead.

10 GRAND JUROR 9: Would you mind giving us an
11 overview of what testimony that's upcoming relates to what
12 count? I was -- the reason I ask that is we left off with
13 Sandra's testimonies and we went right into Daniel's
14 testimonies today.

15 And in looking through the Indictment or the -- I see
16 there's four counts. And I'm assuming that all we heard
17 today relates to Count Number 4 only. Or am I wrong on
18 that?

19 MR. TESTA: No. I thought -- maybe I wasn't
20 real clear. But remember this morning I said we weren't
21 supposed to start until today, and that I had everyone lined
22 up so we would do this Plowman incident today, the REDACT
23 incident tomorrow, and then next week we are going to start
24 the Sandra Cantu incident. But we started Sandra Cantu two
25 days earlier. I'm glad we did it Monday and Tuesday, but it
26 makes it more difficult for you. And at a trial, I would
27 like to do things chronologically, it won't come in this
28 scattered. But I don't have control over people's vacations

1 or people's schedules all the time. So we are doing it out
2 of order. It's all scattered. That's why we give you
3 notebooks.

4 But in case I didn't make it clear, today is for the
5 most part Plowman. We have some other witnesses, too. For
6 example, we had the first witness talking about finding the
7 note and that's Cantu -- the Cantu case. So we're going to
8 jump back and forth today. I think I have a few more people
9 on Plowman. Then we will go back to Sandra Cantu.

10 That's the nature of it. It's very frustrating. But
11 I can announce before a witness comes in to which counts the
12 witness' testimony applies, if that makes it a little
13 easier. And if I don't or if I forget, raise your hand and
14 ask me that procedural question, I will be glad to mention
15 it.

16 Any other procedural questions?

17 Okay. I'll call the next witness. And now, let's
18 see, on this witness we are going to be jumping over now
19 from Plowman to the Sandra Cantu case.

20

21 (Pause.)

22

23 MR. TESTA: Thank you for waiting, sir. Come
24 on in.

25 You can sit in any chair there by the microphone.
26 Actually, this one.

27 THE WITNESS: That one?

28 MR. TESTA: Could you state your name,

1 please?

2 THE WITNESS: My name is Kenneth Everett.

3 MR. TESTA: How do you spell your name?

4 THE WITNESS: K-E-N-N-E-T-H E-V-E-R-E-T-T.

5 THE FOREPERSON: Would you please raise your
6 right hand?

7

8 **KENNETH EVERETT,**

9 a witness called on behalf of the People, having been duly
10 and regularly sworn by the Grand Jury Foreperson, testified
11 as follows:

12

13 THE WITNESS: Yes.

14 THE FOREPERSON: Thank you.

15

16 **EXAMINATION**

17 BY MR. TESTA: Q. Where are you employed,
18 sir?

19 A. Sutter Tracy -- Sutter Tracy Community Hospital.

20 Q. And what do you do there?

21 A. I'm the clinical social worker there.

22 Q. Okay. I just have a few questions for you.

23 Melissa Huckaby, was she there in the hospital?

24 A. Yes, she was.

25 Q. And what was your contact with her when she was there?

26 A. I was her social worker.

27 Q. Okay. Did she say anything about a suitcase?

28 A. Yes, she did.

1 Q. What?

2 A. She -- she said that she saw the suitcase that was I
3 guess on the -- on the TV, that she -- she said that, you
4 know, it looked like her suitcase.

5 Q. Okay. And what -- when did she tell you this?

6 A. I really don't recall exactly when. But it was during
7 the time she was there.

8 Q. Oh, okay. She was a patient in the hospital, I
9 assume, right?

10 A. Yeah.

11 Q. Resident of a hospital, whatever they are called?

12 A. Yes.

13 Q. And were you -- did she have access to a television?

14 A. Yes, she did.

15 Q. Okay. And she's watching it, did you happen to see
16 what was on?

17 A. No, I did not.

18 Q. Did you know if the Cantu case was in the news at that
19 time?

20 A. Yes, I did.

21 Q. How did you know that?

22 A. Well, I knew that from -- I knew that from hearing it,
23 you know, I read the news every day. Number one.

24 And, number two, it kind of came to my attention as
25 when -- when everything kind of broke through.

26 Q. Was there a lot of publicity about it?

27 A. Yes, there was.

28 Q. Do you live in Tracy, by the way?

1 A. Yes, I do.

2 Q. And do you work in Tracy?

3 A. Yes, I do.

4 Q. What's the hospital? What's it called?

5 A. Sutter Tracy Community Hospital.

6 Q. Okay. So she's there in the hospital. What prompted
7 her to make this -- what was going on when she made this
8 comment? Did she come up to you and make it? Was she doing
9 something else and she made it and you overheard it? Did
10 you hear her say it to someone else? What was the context?

11 A. I'm not going to go into all the context because we
12 were -- we were talking about some clinical stuff. But --
13 but it was something that she brought to my attention.

14 Q. That the suitcase found in the pond looked like hers?

15 A. Exactly, yeah. Or she -- she talked about it
16 initially being missing. It was -- that it was stolen from
17 in front of her home, that she had it in front of her home.

18 Q. Right. But how do I assume -- was she watching TV at
19 the time?

20 A. I can't recall that, sir.

21 Q. Because for her to say, "Hey, the suitcase that's
22 found in the pond, that looks like mine," and she's in a
23 hospital, do I -- was she watching a TV when she made that
24 comment or --

25 A. I know her TV was on most of the time that I was in
26 there.

27 Q. Okay. And was there information about the case on the
28 TV?

1 A. I can't recall that. I wasn't watching the TV. I was
2 talking with her.

3 Q. She stated the suitcase she saw looked like hers.
4 Now, you didn't show her a suitcase in the hospital, did
5 you?

6 A. No, I did not.

7 Q. So is it fair to assume she was watching TV when she
8 says that, or do you have any other explanation what she's
9 talking about when she says the suitcase she saw looked like
10 hers?

11 A. She at one point said it was an Eddie Bauer suitcase
12 to me.

13 Q. Right. But as far as you said the suitcase she saw
14 looked like hers, where did she see it?

15 A. I -- I don't know. She had just made the comment to
16 me.

17 Q. Okay. Did you ask her why she -- did you ask her any
18 questions about it?

19 A. Yes, I did.

20 Q. What did you ask her about it?

21 A. When she -- when she was telling me about the suitcase
22 was missing and she kind of harped on the expense of it and
23 how important it was to her, I asked her -- I asked her
24 why -- why would she leave her -- a suitcase just laying
25 outside of her home.

26 Q. Oh, that's a legitimate question. So did she say it
27 was an expensive suitcase?

28 A. Yeah, she put a price on it. She said it was around

1 \$200.

2 Q. Oh, so you asked her, "Why did you leave such a pricey
3 suitcase outside?"

4 A. Yes, exactly.

5 Q. Legitimate question. What did she tell you?

6 A. She said she put it out there and she had some arts
7 and crafts in there that she was going to take to the
8 church, and she put it out by her car and that's where --
9 and then when she came back, it was gone.

10 Q. Oh, she had arts and crafts in the suitcase?

11 A. That's what she told me.

12 Q. And she was going to take them to the church?

13 A. That's what she told, yeah.

14 Q. But then when she comes back, goes, does something,
15 goes back to the car, the suitcase is gone?

16 A. That's what she told me.

17 MR. TESTA: All right. Do you have any
18 questions, any members of the grand jury?

19 GRAND JUROR 12: One question.

20 MR. TESTA: Pardon me?

21 GRAND JUROR 12: Just one.

22 MR. TESTA: There's a question from the grand
23 jury.

24 THE WITNESS: Uh-huh.

25 MR. TESTA: Q. Had the suitcase been found
26 or retrieved when she made this comment? Before she made
27 this comment? Do you understand that question?

28 A. Before she -- before she made the comment, had it been

1 retrieved?

2 Q. Yes.

3 A. I -- I don't think so. I think it had been retrieved
4 after she made the comment. Yeah.

5 Q. Oh, okay. Any -- oh, here's another question. Let's
6 see what this is.

7 When was Huckaby at Sutter Tracy?

8 A. I don't recall exactly the dates.

9 Q. What prompted Huckaby -- another question from the
10 grand jury -- what prompted Huckaby to talk about the
11 suitcase?

12 A. I -- I don't recall what would prompt her to talk
13 about it. She talked about a lot of things and that was one
14 of the items.

15 Q. What else did she talk about?

16 A. Mostly what she talked about was just as I said,
17 clinical information that is confidential.

18 Q. By the way, did she swallow a razor blade?

19 A. That's confidential. I can't discuss that stuff.

20 Q. Okay. Thank you.

21 MR. TESTA: I have no further questions. Any
22 questions from the grand jurors?

23 GRAND JUROR 11: I do.

24 MR. TESTA: Yes?

25 Q. What day did you talk to her?

26 A. I don't -- I don't recall. I would have to -- I would
27 have to look, you know, look at my notes.

28 Q. Did she ask to speak to you as a social worker? Did

1 she ask to speak to you as a social worker?

2 A. What -- I don't understand the question.

3 Q. Did she seek you out and say, "Hey, I want to talk to
4 a social worker?" You didn't have any pre-existing
5 relationship with her, did you?

6 A. No. No. She -- no, because of the nature of your
7 admissions to the hospital, it's part of my protocol to see
8 patients.

9 Q. Oh, that makes sense. So if you had some red flags or
10 whatever?

11 A. Yes, sir.

12 Q. That causes you to get involved?

13 A. Yes, sir.

14 Q. Because you are a social worker?

15 A. I'm a clinical social worker.

16 Q. So you deal with people who have problems that maybe
17 you can deal with?

18 A. I try to, yeah.

19 Q. How long have you been doing that?

20 A. About thirty-one years.

21 Q. So if someone comes in, hypothetically speaking, and
22 they appear, say, suicidal, that might be something that
23 would prompt you?

24 A. That's definitely a high risk, that's one of my
25 criterias.

26 Q. So I guess the juror's asking, did she ask to speak to
27 you, did she seek out a social worker, or are you just --
28 intake kind of flags this case and assigns you to it, or did

1 she say, "Hey, I need to talk to a social worker"?

2 A. No, I flagged the case.

3 Q. You flagged it?

4 A. Yeah.

5 Q. Fair enough.

6 MR. TESTA: Any other questions?

7 I see none. The foreperson will read you an
8 admonition, and you can get on your way.

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

17 Violation of this admonishment is punishable as
18 contempt of court.

19 This does not prevent you from discussing the matter
20 with your attorney, if you have an attorney advising you
21 with respect to your appearance before the grand jury.

22 THE WITNESS: Okay. I understand that.

23 THE FOREPERSON: Thank you.

24 MR. TESTA: Thank you for coming in. Thanks
25 for sticking around all day. I know you have been here
26 since 9:00 o'clock.

27 THE WITNESS: All right. Thank you.

28

1 (Pause.)

2
3 MR. TESTA: What is your name?

4 THE WITNESS: Rebecca Yroz.

5 MR. TESTA: How do you spell your last name?

6 THE WITNESS: Y-R-O-Z.

7 MR. TESTA: And someone will swear you in.

8 THE FOREPERSON: Would you raise your right
9 hand, please?

10
11 **REBECCA YROZ,**

12 a witness called on behalf of the People, having been duly
13 and regularly sworn by the Grand Jury Foreperson, testified
14 as follows:

15
16 THE WITNESS: I do.

17 THE FOREPERSON: Thank you.

18
19 **EXAMINATION**

20 BY MR. TESTA: Q. Where are you employed?

21 A. I'm employed for San Joaquin County AMR. I'm working
22 in Tracy currently.

23 Q. I have very few quick questions for you.

24 Showing you Exhibit 2 -- 168 that's on the screen
25 behind you, do you recognize any part of that?

26 A. Yes.

27 Q. With the laser pointer that's next to the computer in
28 front of you, could you point out what part of it you

1 recognize?

2 A. Mmm, how do you work this? Oh, there it is. It looks
3 like the envelope that we will put the blood in for the
4 Police Department, police officer.

5 Q. Okay. Did you draw some blood -- do you fill this
6 out? Or did the officer fill it out?

7 A. The officer fills it out.

8 Q. But you're the person drawing the blood?

9 A. Yes, this is me.

10 Q. And that would be Officer Trine filling it out that
11 you drew the blood from Daniel Plowman at 2:11 a.m. on
12 3/3/09?

13 A. Yes.

14 Q. And what about page 170, your initials anywhere?

15 A. Yes. My initials are right there.

16 Q. Under the name of Daniel Plowman?

17 A. Yes.

18 Q. And then on Grand Jury Exhibit -- switching gears
19 here -- page 172, I could show you the original, is that you
20 there?

21 A. Yeah.

22 Q. As the person who drew blood on 3/3/09, at 15:45?

23 A. Yes, it is.

24 Q. It's signed, we already heard, from the officer under
25 here, I think that's Freitas --

26 A. Yes.

27 Q. -- drew blood from Daniel Plowman.

28 And then showing you lastly page 174, this particular

1 blood vial, a portion of it, I should say, any part of that
2 that you have -- can't see very much of it -- but can you
3 tell whether your initials are on any portion of that?

4 A. If they are, they are probably on the part you can't
5 see. The line, you can't really see them.

6 Q. What about page 175, I think shows another portion of
7 it. Can't tell?

8 A. Yeah, I can't tell.

9 Q. Okay. But in any case, these two incidents when you
10 drew the blood, it was at the request of the various
11 officers who filled out these chain of possession forms?

12 A. Yes.

13 Q. Do you have experience drawing blood?

14 A. Yes.

15 Q. Do you do that -- have you trained as a paramedic?

16 A. Uh-huh.

17 Q. Yes?

18 A. Yes, we are.

19 Q. How many years have you been a paramedic?

20 A. It will be four years in September.

21 Q. This is probably going to be an unfair question, but
22 do you remember this guy at all?

23 A. Yes, I do.

24 Q. You do even this many months later?

25 A. Uh-huh.

26 Q. What do you remember? Do you remember him both days?

27 A. Oh, yeah. We don't draw blood on people usually twice
28 in thirteen hours.

1 Q. What do you remember about him?

2 A. I remember the second time I drew blood on him, he was
3 pretty bewildered as to -- yeah.

4 Q. Showing you this photograph that's been marked 177,
5 Grand Jury Exhibit, is that our guy?

6 A. Yeah.

7 Q. Mr. Plowman?

8 A. Yeah, he was -- that's how he looked the first time I
9 came to draw blood on him. The second time he was a bit
10 more coherent, just confused as to why all this was going
11 on. So...

12 Q. You used the word "bewildered." What other words
13 would you use to describe how he appeared during the two
14 times had you contact with him?

15 A. The first time, he slept through most of it, it
16 seemed.

17 Q. Don't they have to make a fist?

18 A. Yeah. He did it. He kept doing it. And I had to
19 tell him to stop and he stopped. Then we drew the blood and
20 he was very cooperative.

21 The second time we came to draw blood on him, he -- he
22 didn't remember the first time at all. So -- and he didn't
23 know why he was even under arrest the second time -- or he
24 knew why, but he was angry.

25 Q. I was going to ask you, some people -- was he gracious
26 about it or was he angry and upset? What was his attitude?

27 A. Towards us was fine, because he understood. But we
28 were there to do our job, our part of it. He was angry at

1 the situation.

2 Q. All righty. I have no further questions.

3 MR. TESTA: Are there any questions from any
4 of the grand jurors?

5 I see none. They will read you an oath, then you can
6 get on your on way.

7 THE FOREPERSON: You are admonished not to
8 reveal to any person, except as directed by the Court, what
9 questions were asked or what responses were given or any
10 other matters concerning the nature or subject of the grand
11 jury's investigation which you learned during your
12 appearance before the grand jury. This admonishment
13 continues unless and until such time as the transcript of
14 this grand jury proceeding is made public.

15 Violation of this admonishment is punishable as
16 contempt of court.

17 This does not prevent you from discussing the matter
18 with your attorney, if you have an attorney advising you
19 with respect to your appearance before the grand jury.

20 THE WITNESS: Okay.

21 MR. TESTA: You may leave. Thank you.

22 THE WITNESS: Thank you.

23 MR. TESTA: Could you ask Gabriela Fernandez
24 to come in, please?

25 THE WITNESS: Yes.

26

27 (Pause.)

28

1 MR. TESTA: Can you tell us your name,
2 please?

3 THE WITNESS: Gabriela Fernandez.

4 MR. TESTA: How do you spell your full name?

5 THE WITNESS: First name is G-A-B-R-I-E-L-A.
6 Last name is F as in Frank E-R-N-A-N-D-E-Z.

7 THE FOREPERSON: Would you please raise your
8 right hand?

9

10 **GABRIELA FERNANDEZ,**

11 a witness called on behalf of the People, having been duly
12 and regularly sworn by the Grand Jury Foreperson, testified
13 as follows:

14

15 THE WITNESS: I do.

16 THE FOREPERSON: Thank you.

17 MR. TESTA: And I would like these three
18 marked, please, as next in order.

19

20 (Whereupon three Photographs were marked
21 Grand Jury Exhibit Numbers 181, 182 and
22 183 for identification.)

23

24 **EXAMINATION**

25 BY MR. TESTA: Q. Where are you employed?

26 A. With the FBI.

27 Q. And what do you do there at the FBI?

28 A. I am a special agent.

1 Q. Which office are you assigned out of?

2 A. Sacramento.

3 Q. How long have you been employed by the FBI?

4 A. Going on thirteen years next month.

5 Q. Okay. Can you clear something up: Are you guys
6 considered peace officers in California?

7 A. I believe we are not peace officers in California.

8 Q. Someone else had said that and I had never heard that.

9 So thirteen years. What was your involvement, if any,
10 in the investigation into this disappearance of Sandra
11 Cantu?

12 A. I'm a member of our Evidence Response Team. And as
13 such, we process crime scenes. And for this case, I was one
14 of the searchers.

15 Q. So what did you search?

16 A. We searched various homes, various locations. And I
17 was present at the home of Melissa Huckaby.

18 Q. On what date?

19 A. I believe that was April 6th.

20 Q. And who else was there with you?

21 A. Other members of the Evidence Response Team included
22 like my team leader Chris Hopkins -- you want me to name
23 other members?

24 Q. Well, we heard this morning from Adrienne Sparrows --
25 Sparrow. Was she there, do you know?

26 A. I don't know who she is.

27 Q. I don't think she's from your office.

28 So, in any case, where did you go search or

1 participate in searching?

2 A. Myself, I searched in the kitchen area, living room
3 area, and I believe the laundry room, restroom, and what
4 appeared to be Melissa and her daughter's bedroom.

5 Q. And was this pursuant to a search warrant that you
6 guys were doing this search?

7 A. Yes, sir.

8 Q. And what specifically -- were you looking for any
9 specific evidence?

10 A. Yes.

11 Q. What kind of things were you looking for?

12 A. We were looking for any items of evidence regarding
13 the disappearance of Sandra Cantu.

14 Q. Did you find anything that was of significance when
15 you were searching -- well, what was the address again of
16 Melissa's house or trailer that you were searching?

17 A. You know, I don't remember.

18 Q. You don't remember it offhand?

19 A. I don't.

20 Q. I think other people have established it. Does 57
21 ring a bell?

22 A. Yes.

23 Q. Don't just go along with me.

24 A. Yes, it's space 57. But I think it's something like
25 Clover Road.

26 Q. Oh, the street I'm not concerned about, but as far as
27 the number?

28 A. The space, I believe it's 57, yes.

1 Q. Okay. And what did you find of significance, if
2 anything?

3 A. Myself, I found a notebook.

4 Q. Do you have a photograph of it?

5 A. I do.

6 Q. What was done with the notebook?

7 A. It was photographed and then we collected it.

8 Q. And who did the photographing?

9 A. Our photographer was Lee Myers.

10

11 (Whereupon a Photograph was marked Grand
12 Jury Exhibit Number 184 for
13 identification.)

14

15 (Whereupon Detective briefly entered and
16 exited the Grand Jury Room.)

17

18 MR. TESTA: Q. All righty, thank you for
19 waiting. Showing what you has been marked as Grand Jury
20 Exhibit Number 184, can you see it from where you are?

21 A. Yes.

22 Q. With this laser pointer that's here, can you tell us,
23 first of all, do you recognize what's shown in this
24 photograph?

25 A. Yes, I do.

26 Q. What?

27 A. This is -- this was the bed here. There's a
28 nightstand here. And below the nightstand, we found this

1 notebook.

2 Q. And what was so special about that notebook, if
3 anything? What was the significance, I should say, about
4 that notebook?

5 A. I was told to look for a notebook that might match the
6 note that was provided to the police officers, the
7 investigators. So we needed to -- we found three notebooks.
8 This -- in this same area here. And this was the notebook
9 that matched the note.

10 Q. Okay. When you say "the note," what note are you
11 talking about?

12 A. I'm talking about the note that -- it was a note that
13 was given to the investigator that said where Sandra Cantu
14 was.

15 Q. Okay. Bear with me.

16 MR. TESTA: You just marked that, didn't you,
17 and gave it to me?

18 Yeah, see, normally, I have someone helping me. There
19 is no way I can keep these photos clear. But the rules
20 don't let someone help me in the grand jury, we are not
21 allowed to have any help in the room. So I apologize when I
22 have to take these pauses to look for things.

23 THE FOREPERSON: Are you looking for the
24 large one?

25 MR. TESTA: No, not the large one. That's on
26 the screen now. The small one of the note that we just
27 marked. I mean, it's here. I don't know where it is.

28 THE WITNESS: I have my copy.

1 MR. TESTA: May I have this marked? What
2 number is the next in order?

3 THE SECRETARY: 185.

4 MR. TESTA: 185.

5

6 (Whereupon Copy of Note was marked Grand
7 Jury Exhibit Number 185 for
8 identification.)

9

10 MR. TESTA: Q. So we are clear what we are
11 talking about here. Showing you 185, what is -- do you
12 recognize what is shown here?

13 A. Yes.

14 Q. What?

15 A. This is a note that was provided to the investigators.
16 And this note says that Cantu was locked in the stolen
17 suitcase thrown in the water on Bacchetti Road and Whitehall
18 Road.

19 Q. So when you guys are doing your search, you're looking
20 for any notebook that might match this note, do I understand
21 you correctly?

22 A. Yes.

23 Q. So then that's on 185, the note.

24 Now, on 184, this is in Melissa Huckaby's trailer, in
25 her room?

26 A. Yes.

27 Q. You find three notebooks --

28 A. Yes.

1 Q. -- do I understand you to say?

2 A. Yes. Yes.

3 Q. And what you did then, as I understand it, you guys
4 took photographs of the notebooks in place?

5 A. Yes.

6 Q. Don't just agree with me. I'm asking.

7 A. The photographer did.

8 Q. Then what did you guys do -- what did you do with the
9 notebook -- the notebooks that you saw?

10 A. When I found a notebook, I looked at the pages and
11 looked for similarities between the notebook and the note
12 itself.

13 Two of the notebooks were clearly not similar at all
14 to the note, to the paper. I was looking at the
15 perforations. I was looking at the amount of lines on
16 the -- on the note.

17 It was this third notebook that matched those items.
18 As well as I saw an indentation on the page that matched the
19 note.

20

21 (Pause.)

22

23 THE FOREPERSON: Shall we have a five-minute
24 recess? One of the jurors needs to leave. I will just say
25 we are going have a five-minute recess.

26 Thank you.

27

28 (Recess.)

1 MR. TESTA: Okay. We back on the record. Is
2 everyone here?

3 THE FOREPERSON: Yes.

4 MR. TESTA: One juror just stepped out, so we
5 took a brief recess. She's back.

6 Q. So which of these -- 184, there are three notebooks.
7 Which one -- you said two of them clearly did not match the
8 perforations and the other dimensions of the note in 185?

9 A. Correct.

10 Q. Which of the three matched?

11 A. This one matched.

12 Q. The one with the bunny on the front?

13 A. Yes.

14 Q. "Cute but psycho"? What else does it say?

15 A. It says, "Cute but psycho. Things even out."

16 Q. I never noticed that until now. "Cute but psycho."

17 So what was it -- so what was it that matched about
18 the notebook? We don't have the notebook here still. I
19 guess it's at the FBI.

20 A. It's at the lab.

21 Q. So what was it about the note that matched?

22 A. It was the perforations on the side of the -- of the
23 page.

24 Q. Go ahead.

25 A. The perforations.

26 Q. Can you show with us the laser as you're explaining
27 that?

28 A. The perforation on the note and the notebook you can't

1 see clear here, but they are square. And those perforations
2 were exactly the same.

3 The amount of lines on the pages were exactly the
4 same.

5 Q. You mean the number of lines on the page?

6 A. Correct. The number of lines here matched the -- this
7 notebook.

8 The spaces between each of the lines matched exactly.

9 The space at the top and the space at the bottom
10 matched exactly.

11 And the dimensions for the entire paper matched also.

12 Q. And did you look through the notebook?

13 A. I did.

14 Q. What else did you notice, if anything, that caught
15 your attention?

16 A. It was an indentation on the first page that matched
17 the letter on the -- from the note.

18 Q. Show us with the note on 185 what you're talking
19 about?

20 A. With the note. So when I looked at the notebook, the
21 blank page, the only -- we were looking for any indentation
22 that might show any writing. And I did see that there was
23 an N -- the indentation of an N on -- on the notebook.

24 What I did is I counted the number of lines down in
25 the notebook to where I found those indentations, and then I
26 counted this note and found that it was the exact same place
27 where those indentations were as they show here on the N.

28 Q. The N, just for the record, on 185, give us -- just

1 count down so we know what line we are talking about for the
2 record.

3 A. It's a little difficult to see here. But it's one,
4 two, three, four, five, six, seven, eight, nine, ten,
5 eleven, twelve. And so on this twelfth line here, I could
6 see the indentations from this N and the lines on this N.

7 Q. The N on the word "onn," O-N-N?

8 A. Yes, sir.

9 Q. Did you bring it to anyone's attention at that time?

10 A. Yes. Chris Hopkins, who is my team leader, was there
11 at the time and we both saw it, as well as the photographer
12 who took pictures of it.

13 MR. TESTA: Okay. So are there any questions
14 from the grand jurors?

15 Before I let you go, I need to see if the detective
16 has something.

17 THE WITNESS: Okay.

18

19 (Whereupon Detective briefly entered and
20 exited the Grand Jury Room.)

21

22 MR. TESTA: May I have marked People's next
23 in order a series of photographs? This is space 57,
24 interior. About twenty of them.

25 THE SECRETARY: Okay.

26 MR. TESTA: I'm just going go ahead and use
27 them, you tell me the numbers, I will write them on the
28 back.

1 What's the next number, if I may ask you?

2 THE FOREPERSON: The first photo is 186.

3

4 (Whereupon a Photograph was marked Grand
5 Jury Exhibit Number 186 for
6 identification.)

7

8 MR. TESTA: Q. Showing you 186, can you tell
9 us whether you recognize what is shown in this photograph?

10 A. It's the outside of Melissa's home.

11

12 (Whereupon a Photograph was marked Grand
13 Jury Exhibit Number 187 for
14 identification.)

15

16 MR. TESTA: Q. 187?

17 A. That's the bedroom, Melissa shared that bedroom with
18 her daughter.

19 Q. So which room is this? 187 is whose?

20 A. That was -- it appeared to be Melissa sharing --
21 shared a room with her daughter.

22 Q. Was that the condition it was when you saw it?

23 A. Yes.

24 Q. Who was home when you guys did the search, do you
25 remember offhand?

26 A. I wasn't at the house when we first entered. I saw
27 that they took out the grandparents. I saw them in the car.
28 I believe they were taken out when we arrived.

1 (Whereupon a Photograph was marked Grand
2 Jury Exhibit Number 188 for
3 identification.)
4

5 MR. TESTA: Q. What about 188, recognize
6 what's shown there?

7 A. Yeah. That's the living room. That's the first room
8 you walked into.

9 Q. That's the living room for space 57?

10 A. Uh-huh.

11 Q. Is that a yes?

12 A. Yes. Yes.
13

14 (Whereupon a Photograph was marked Grand
15 Jury Exhibit Number 189 for
16 identification.)
17

18 MR. TESTA: Q. 189, can you tell which room
19 that is?

20 A. I believe this is the room that was adjacent to
21 Melissa's bedroom. It just had a lot of -- it didn't have a
22 bedroom or furniture in there, just a lot of junk.
23

24 (Whereupon a Photograph was marked Grand
25 Jury Exhibit Number 190 for
26 identification.)
27

28 MR. TESTA: Q. Now, what about this 190?

1 A. The photographer attempted to take pictures of the
2 notebook, the first page where we could see the indentation.

3 Q. Did it show -- does it show very well in the
4 photograph?

5 A. Not as well as it showed when you just saw it using
6 your -- just looking at it. It doesn't show as well. But
7 it -- this is what we were looking at right here.

8 Q. Referring to a -- what word did you use?

9 A. I'm sorry?

10 Q. How did you describe this?

11 A. An indentation.

12 Q. And you lined it up and it matched what?

13 A. It matched this N, these points right here.

14 Q. Where it says, "Thrown in water onn," two N's.

15 A. Yeah.

16 Q. It matched the N's?

17 A. It matched, yeah, it matched these points, or I don't
18 know what you call them, here at the end.

19 Q. The bottom of the N's?

20 A. Yes, it matched these points.

21 Q. Could you speak into the microphone, please? I'm
22 sorry, I'm asking you to do two different things.

23 The two points of the bottom of the middle N -- don't
24 just agree, I'm asking you, I'm not telling you -- matched
25 what?

26 A. Yeah, when we looked at this notebook -- notebook
27 here, we saw the indentations matched the -- especially,
28 they were a little bit more pronounced where the bottom

1 points here of this N, they matched on this page.

2 Q. And how -- apparently, the photograph doesn't show it
3 too well, does it?

4 A. No, it doesn't.

5 Q. How did it appear when you guys looked at it that
6 night compared how this photograph 190 shows it?

7 A. It was very clear to us at that time. Not just me,
8 but others with me in the room, too.

9 Q. And is that the reason why you took the time to have
10 someone photograph it?

11 A. Yes.

12

13 (Whereupon a Photograph was marked Grand
14 Jury Exhibit Number 191 for
15 identification.)

16

17 MR. TESTA: Q. And what about, let's see,
18 the next one would be 191. Do I have it the right way?
19 Yeah. Does it show at all on this one?

20 A. It shows somewhat here. The photographer used a
21 different -- tried to use lighting at different angles to --

22 Q. To what?

23 A. To show that, you know, or at least to try to see the
24 indentation, he used different lighting.

25 He used a flashlight from various angles to try to
26 show -- show the indentation.

27

28

1 (Whereupon a Photograph was marked Grand
2 Jury Exhibit Number 192 for
3 identification.)
4

5 MR. TESTA: Q. Is 192 another shot of the
6 same?

7 A. It looks like it, yeah.
8

9 (Whereupon a Photograph was marked Grand
10 Jury Exhibit Number 193 for
11 identification.)
12

13 MR. TESTA: Q. What about 193?

14 A. It's the same page, it's just from a -- the light was
15 coming from a different angle.

16 Q. Okay. So it was not just you, but it was a number of
17 you who saw what you believed to be the parts of the N on
18 the -- on the notebook that is shown in 184 that says "Cute
19 but psycho"?

20 A. Yes.

21 Q. Appeared to match the position of the -- about the
22 points -- are there two points on the N -- let me show you.
23 In 185, when you look at that angle you're talking about.

24 A. These are a little bit more pronounced like they were
25 pressed a little deeper.

26 Q. When you say "these," what are you referring to for
27 the record?

28 A. The N's, the bottom points of the letter.

1 Q. The bottom, the two lines that make up that N and
2 there's a middle line?

3 A. Right.

4 Q. But the two parallel lines seem to have more
5 pronounced points at the end of each?

6 A. Correct.

7 Q. It was these two points that you guys saw on the same
8 place in the same part of the paper, the same line --

9 A. Yeah.

10 Q. -- of the notebook?

11 A. Yes.

12 Q. Do I understand that now?

13 A. Yes.

14 Q. Did you find any other writing --

15 A. Yes.

16 Q. -- in the notebook that says "Cute but psycho," that
17 was in her room?

18 A. No. I'm sorry, no.

19 Q. Did you find any other writing on any of the other
20 notebooks?

21 A. Yes.

22 Q. Did you try to look at the writing and -- what did you
23 guys do with those other note -- the other two notebooks?

24 A. We also photographed them and -- and we collected
25 them.

26 MR. TESTA: What's the next one in order?

27 THE SECRETARY: 194.

28

1 (Whereupon a Photograph was marked Grand
2 Jury Exhibit Number 194 for
3 identification.)
4

5 MR. TESTA: Q. Okay. Do you recognize this
6 one, 194, at all?

7 A. I do.

8 Q. Which -- where did this come from?

9 A. This is a page out of -- that was inside another
10 notebook.

11 Q. Not the one that you felt was similar to the note in
12 question?

13 A. No.

14 Q. Okay. Was it similar to the note in question?

15 A. It was not.

16 Q. Okay. And why did you guys -- where -- this was one
17 of the three notebooks, though?

18 A. Yes.

19 Q. On 184, which of the notebooks was this? Does it show
20 at all? If you could tell. Does this show all three of the
21 notebooks you found or just the one?

22 A. Not this picture, it does not. It's just one.

23 Q. What was this over here?

24 A. That's a bottle of pills.

25 Q. Did you guys seize the pills or photograph the pills?

26 A. I don't know.

27 Q. Did you remember seeing prescription --

28 A. Yes.

1 Q. -- the bottles of pills?

2 A. Yes.

3 Q. Is this note dated at all?

4 A. I don't see a date, no.

5 Q. It looks like it continued on previous.

6 Did you book the whole notebook -- the entire
7 notebook?

8 A. Did we take the entire notebook?

9 Q. Yes, did you take this notebook I'm describing?

10 A. Yes.

11 Q. It ends by saying, "I am angry"?

12 A. Yes.

13

14 (Whereupon a Photograph was marked Grand
15 Jury Exhibit Number 195 for
16 identification.)

17

18 MR. TESTA: Q. What about 195, do you
19 recognize this exhibit?

20 A. I do.

21 Q. Where was this found?

22 A. That was another page from another -- another
23 notebook.

24

25 (Whereupon a Photograph was marked Grand
26 Jury Exhibit Number 196 for
27 identification.)

28

1 MR. TESTA: Q. 196. Does this show two
2 notebooks?

3 A. This is -- yeah, this is one notebook here and this is
4 the -- the other notebook here. The bottom of the other
5 notebook.

6 Q. But is either of them the one that has the cover "Cute
7 but psycho"?

8 A. No.

9 Q. Okay. So we have the "Cute but psycho" notebook
10 that's shown in 184. And then in this 196, we have the, do
11 I understand, two other --

12 A. Two others.

13 Q. -- notebooks?

14 A. Correct.

15

16 (Whereupon a Photograph was marked Grand
17 Jury Exhibit Number 197 for
18 identification.)

19

20 MR. TESTA: Q. 197, is this one of the
21 notebooks?

22 A. Yes.

23 Q. One of the three notebooks that you said?

24 A. Yes.

25 Q. Okay. So what did you end up doing with the notebook
26 in 184, after you saw it, had it photographed?

27 A. After we photographed it, we collected it.

28 Q. And what was done? Was it booked in evidence at the

1 FBI?

2 A. Correct.

3 Q. Did you do anything else then in connection with this
4 case, do you remember?

5 A. Myself? I participated in the searches of other -- of
6 other individuals, other homes, other trailer homes.

7 Q. By the way, do you remember who photographed this?

8 A. Yes.

9 Q. The one that's 174 -- or 184, excuse me?

10 A. Yes. That was Lee Myers.

11 Q. He's the FBI photographer?

12 A. He is not an actual photographer. He's a photographer
13 with the Evidence Response Team.

14 Q. Thank you. I have no further questions.

15 MR. TESTA: Are there any questions from the
16 grand jurors?

17 GRAND JUROR 15: Got one coming.

18 MR. TESTA: Thank you.

19 Q. Did you only look for notebooks? Did you look for
20 clothing that Sandra or Melissa were wearing on March 27th?
21 That is the question from the grand juror.

22 Let's start with the first one, did you only look for
23 notebooks?

24 A. No.

25 Q. What else were you looking for?

26 A. We were looking for clothing that Sandra was wearing
27 that day, and any other type of evidence that would -- that
28 may be related to Sandra's disappearance.

1 Q. Find anything of significance?

2 A. Other than the notebook, I found it significant some
3 of the writing that we saw in the other notebooks.

4 Q. What was significant about the writing in the other
5 notebooks, as far as it bore on the issues in this case?

6 A. Melissa wrote -- she described a lot of her feelings
7 and -- and things that she was going through, her traumas
8 and how upset and depressed and angry she was.

9 Q. How does that bear on our case?

10 A. In my opinion, it just shows that someone is very
11 distraught, and just some of the things she wrote also
12 sounded kind of violent to me. And she was also asking her
13 daughter for forgiveness for, you know, how she -- bad she
14 has treated her. And so, to me, it sounded like someone who
15 is just very distraught.

16 Q. But you don't know when she wrote those, do you? I
17 mean, you don't know if she wrote those that day or like a
18 year? I see there's one here, like the one on 195 was dated
19 3/2/08.

20 A. Uh-huh.

21 Q. Assuming the day is wrong, she didn't mean 3/2/09. I
22 don't know. I sometimes write the wrong date.

23 What about this other one you're talking about, is
24 that dated in any way or is this what you're talking about?

25 A. This was one of them. There were several notes she
26 wrote. She seemed to keep like small little diaries here
27 and there. But this is one of the ones that she wrote.

28 Q. Okay. Were there any dated more recent, assuming that

1 this wasn't supposed to be 3/2/09, that's not a typo or a
2 mistake on her part, were there any that were specifically
3 dated more recently -- more recent than that?

4 A. I don't recall, no.

5 Q. Anything -- did you find any other evidence that
6 caught your attention besides the notebooks and the writings
7 in one of the notebooks? And I guess you found some
8 medications?

9 A. We found several jars of medication, medical
10 evaluations for her that she had obtained from different
11 medical providers.

12 Q. Did you find anything on -- any book on pills or
13 medicines?

14 A. A book?

15 Q. Yes.

16 A. I did not, no.

17 Q. Did anyone there when you were there?

18 A. I -- I heard about a -- a -- some sort of book. But I
19 didn't see it myself.

20 Q. Hold on.

21

22 (Pause.)

23

24 MR. TESTA: All righty. No further
25 questions.

26 Are there any questions from the grand jurors?

27 I don't see any. So the foreperson will read you an
28 oath, an admonition.

1 THE FOREPERSON: You are admonished not to
2 reveal to any person, except as directed by the Court, what
3 questions were asked or what responses were given or any
4 other matters concerning the nature or subject of the grand
5 jury's investigation which you learned during your
6 appearance before the grand jury. This admonishment
7 continues unless and until such time as the transcript of
8 this grand jury proceeding is made public.

9 Violation of this admonishment is punishable as
10 contempt of court.

11 THE WITNESS: Okay.

12 MR. TESTA: Q. There's one more question
13 from the grand jurors: Were fingerprints done?

14 A. I don't recall that we did fingerprints on the -- at
15 the house, no. I don't recall.

16 Q. Were these items put in plastic bags?

17 A. Yes.

18 Q. So they are preserved?

19 A. Yes.

20 Q. When you picked them up, did you have gloves on?

21 A. Yes.

22 Q. Is that normal for you guys?

23 A. Yes, we always wear gloves.

24 Q. In fact, were you guys dressed in the white?

25 A. A full Tyvek suit.

26 Q. What were they called?

27 A. Tyvek. It's the material of the suit. They are white
28 suits that cover us completely, our feet, completely up to

1 our heads. And then we wear gloves.

2 Q. And is the -- is it -- why do you wear all that?

3 A. We wear it because we don't want to contaminate the
4 scene. We don't want to leave any of our trace at the scene
5 or -- or when we collect -- when we find something at the
6 scene, we don't want there to be an issue of contamination.

7 Thank you for coming in. No further questions.

8 MR. TESTA: Have you been seated -- is it
9 time for a recess? Have you been here since 1:45?

10 THE FOREPERSON: Uh-huh.

11 MR. TESTA: Ten minutes? Fifteen minutes?

12 THE FOREPERSON: Please. About ten minutes.

13

14 (Recess.)

15

16 THE SECRETARY: Everybody's here, for the
17 record.

18 MR. TESTA: I would recall Detective Bauer.
19 You can have a seat, please. Get up towards the microphone.

20 THE FOREPERSON: Detective Bauer, I would
21 like to remind you you're still under oath.

22 THE WITNESS: Okay.

23 THE FOREPERSON: Thank you.

24

25

TIMOTHY BAUER,

26 a witness called on behalf of the People, having been
27 previously duly and regularly sworn by the Grand Jury
28 Foreperson, testified as follows:

EXAMINATION

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BY MR. TESTA: Q. I just have some questions maybe you can answer here.

Showing you this photograph that's been marked as People's 64, do you recognize what is shown in it?

A. Yes.

Q. Do you have the laser pointer? Where is the trailer park?

A. It's right here.

This grocery store here.

Q. Okay. And have you been to the ponds where the body was found?

A. Yes.

Q. Let me show you Exhibit Number 68. Do you recognize what is shown in this photograph?

A. Yes.

Q. Where are the ponds where the body was found?

A. It's this pond here.

Q. In the lower part of the photograph?

A. Yes.

Q. And the Delta is where?

A. Just right here.

Q. Where is North Tracy Boulevard?

A. It's right here.

Q. Can you show us where the trailer park is?

A. Trailer park is right here.

Q. Keep your laser on it so we can see it. I want to see if this enlarges.

1 And where is the church?

2 A. Church is right about right here.

3 Q. That road dead ends near the freeway, does it?

4 A. Road dead ends right here.

5 Q. So where is the trailer park again?

6 A. The trailer park is just about -- I'm looking at an
7 angle -- right here.

8 Q. Where is Best Western?

9 A. Across the street right just -- not even half block,
10 probably maybe a half block east.

11 Q. Where is Clover?

12 A. Clover Road dead ends here. This is 205, the freeway.

13 Q. Show us Clover. Slowly.

14 A. Dead ends right here. It runs eastbound to Tracy
15 Boulevard and continues across Tracy Boulevard all the way
16 to over here.

17 Q. Okay. So where does Clover turn into -- where is the
18 Best Western there at the intersection of --

19 A. No, the Best Western is across the street on the north
20 side of Clover. The trailer park's on the south side of
21 Clover.

22 Q. Okay. So where exactly is the trailer park then?

23 A. Trailer park is right here. You lose it as you -- you
24 fade in. Yeah, it's right here.

25 Q. So have you driven from that trailer park -- well, let
26 me -- yeah, have you driven from the trailer park to the
27 ponds?

28 A. Yes.

1 Q. Show us the road that you would take.

2 A. You take Clover. And to either come out of the church
3 or the trailer park, you -- you go eastbound. Because it
4 dead ends, remember, down here if you go westbound.

5 You go eastbound to Tracy Boulevard. You turn north
6 and you take Tracy Boulevard all the way down here. You get
7 to right here. And this is what we call the S turn. And on
8 Tracy Boulevard before you get to the first bridge, and this
9 is where Whitehall and Bacchetti Road are right here. And
10 these are the three ponds right here. It's just a 2.2 mile
11 drive.

12 Q. How long does it take?

13 A. Your last stoplight's way up here, just on the other
14 side of 205. You are only going through a total of three
15 stoplights. Maybe five minutes at most. That's with
16 traffic, because this is just a two-lane road.

17 Q. I'm leading up to this question: We -- you have seen
18 the videos, right, of the AM-PM and the Best Western, and
19 the Cantu residence?

20 A. Yes.

21 Q. And you've studied them a lot, probably almost as much
22 if not more than Brandi, right?

23 A. Yes.

24 Q. So you're aware of this timeline that's been marked as
25 Grand Jury Exhibit 45?

26 A. Yes.

27 Q. She is last seen -- her vehicle is last seen caught in
28 the AM-PM surveillance tape, that's 5:56, right?

1 A. Correct.

2 Q. Strike that.

3 She's last seen Best Western, then AM-PM, and then
4 she's picked up again twenty-nine minutes later at the AM-PM
5 coming back right towards the trailer park?

6 A. Turning from southbound Tracy to now to head westbound
7 on Clover.

8 Q. So there's this gap -- I'm not talking about what
9 happened in the church -- when she left the church, we
10 already went over this yesterday, 5:27 to 5:56.

11 A. Correct.

12 Q. That's what, twenty-nine minutes?

13 A. Yes. And she's picked up -- right after the AM-PM,
14 she's picked up by the Best Western surveillance, which is
15 about three or four commercial businesses west of AM-PM
16 because AM-PM's on the corner of Tracy and Clover.

17 Q. So twenty-nine minutes. Where else could someone go,
18 twenty-nine minutes, I mean, if you're going -- you're
19 leaving Clover and we see her going on North -- North Tracy
20 Boulevard?

21 A. Correct.

22 Q. She's going north on North Tracy Boulevard, correct?

23 A. Correct.

24 Q. Now, correct me if I'm wrong, it looks like to me from
25 this map, that if she went south she would go into town
26 where all the people are and the buildings are and the malls
27 and the shopping centers and everything.

28 A. Correct.

1 Q. Where could -- what we see, Detective Brandi showed us
2 quite clearly, that she's making this left turn on to North
3 Tracy Boulevard.

4 Where else could one go if one were making this left
5 on to North Tracy Boulevard? What else -- what else is down
6 there? I know there's fields and so forth. What is, say,
7 down here at the first part -- the first half mile of that
8 route?

9 A. This is just on the other side of 205. This is Larch
10 Road that runs right here. It can take you over to Corral
11 Hollow. If you go in here, it's all industrial --
12 commercial industrial businesses right in here. This is the
13 Holly Sugar Plant. You would have to be an employee there
14 to go there. And after that, it's all agriculture once you
15 go past that. This is less than a half mile from here from
16 the trailer park. So once you pass Larch Road, you've
17 passed all the commercial businesses. Just on the other
18 side, there's two gas stations, the Holiday Inn Hotel, and
19 on the other side is a Motel 6 and a Denny's and then just
20 industrial.

21 Right after you pass Larch Road, you come into Sugar
22 Road, and there's nothing. Sugar Road is the entrance to
23 Holly Sugar, the plant. All this is commercial. This is
24 all county out here. There is nothing else except farmland.
25 There's a couple of residences that you can pass.

26 Q. Would one have enough time in twenty-nine minutes,
27 when last seen at the AM-PM and Best Western and go down,
28 would they have enough time to go to the pond -- let me ask

1 you this: How long would it take you in normal traffic just
2 to go to the pond, turn around, and come right back without
3 doing anything at the pond?

4 A. At most, ten minutes.

5 Q. So if we have a twenty-nine minute gap, we have ten
6 minutes to go and come, at most, that gives you nineteen
7 minutes to do whatever you're going to do at the pond, is
8 that correct?

9 A. Correct.

10 Q. What if you were going faster, would you have even
11 more time at the pond?

12 A. Correct.

13 Q. Is there much traffic that would delay you getting to
14 the pond?

15 A. There is no traffic out there. It's rural.

16 Q. No traffic jams even --

17 A. The only traffic jam you'd ever have in the ten years
18 I've traveled this would be just a car crash or roadwork.

19 Q. Yeah. Okay. Just wanted to clear that point up.

20 Let's see if there's a few other loose odds and ends
21 here that I can ask you about.

22 The other point I wanted to ask you about was the
23 finding of the note. Did you become aware of that?

24 A. Yes.

25 Q. Were you involved in that aspect of the case
26 development at all?

27 A. Yes. I wasn't involved in the finding of it. I was
28 made aware of it.

1 Q. Was it brought to your attention where the note was
2 found?

3 A. Yes.

4 Q. Does this photograph 158 that you've already heard
5 some testimony about earlier, first of all, do you recognize
6 what is shown in this photograph?

7 A. Yes.

8 Q. What?

9 A. It's the -- the sidewalk of the trailer park at 812
10 West Clover between the clubhouse and the two retaining
11 walls, what they call the car wash.

12 Q. Is it your understanding that's where the note was
13 found?

14 A. Correct.

15 Q. 162, what is shown in that?

16 A. It's the note as it lies in the sidewalk. On this
17 side is a wall. It's the north wall of the two car wash
18 walls. It's a five-foot wall, cinderblock. And this side
19 is the grass on the other side of the sidewalk.

20 And then if this picture panned out, you had the
21 clubhouse right here, and over here would be the mailboxes.

22 Q. And it was your understanding they put the note in the
23 plastic before they -- they put the note in the plastic at
24 some point, the investigators?

25 A. Yeah, the evidence technician collected it and secured
26 it that way.

27 Q. What about 187, do you recognize what is shown in this
28 photograph?

1 A. Yeah, this is more of a panned-out picture. This is
2 the clubhouse. This is that wall I was just talking about.
3 This is the north wall. It's about a five-foot wall.

4 Q. Do you recognize who is in this photograph?

5 A. Yeah, this is an FBI agent that was assisting us in
6 the investigation.

7 Q. Okay. Do you see the note in the plastic in that
8 photograph?

9 A. It's right here on the sidewalk.

10 Q. Okay. And 181, does this appear to be the note --

11 A. Correct.

12 Q. -- in place?

13 Can you make out the sidewalk and the shrubbery in the
14 background?

15 A. Of the note itself? I mean, I can see cement here for
16 sidewalk on each side of it. Right here and here. It looks
17 like there's -- okay. There you go. Yeah. And then
18 there's -- this is some of the grass right here.

19 Q. It's real frustrating with these -- I think it's
20 easier to see without the tag. There you go.

21 Well, what I'm leading up to is to ask you to show us
22 on this photograph 166 where the note was found?

23 A. Here's the clubhouse. Here's those two walls I'm
24 talking about. This is the car wash area. That's the
25 grass.

26 Q. I'm going to put 166 on the back since the tag tore
27 off.

28 A. This is the mailboxes for the entire complex. That

1 blonde female you saw earlier was right over here. The note
2 was found in between on this sidewalk right here that
3 continues to go westbound. It runs all the way through from
4 Cherry Lane to the next street over in the trailer park.
5 Under this eave right here.

6 And this is that grass you saw where the edge of the
7 note was resting on it. And the note was found south of
8 this -- south of this section of the clubhouse, north of the
9 wall, where you can't -- you can't see it from north and
10 south directions. You only could see it from the street,
11 from Cherry Lane, if you were walking down the street and
12 looking to your left or right.

13 Q. What about this exhibit here, 163?

14 A. The note's on the other side of this wall on the
15 sidewalk. This wall right here. The note's on the ground
16 on the other side of this wall.

17 Q. On the other side of the smaller of the two walls?

18 A. Correct.

19 Q. So where's the overflow parking?

20 A. There is overflow parking right here. On the south --
21 just south of the south wall. This is the car wash wall.

22 And right over here is also overflow parking. So if
23 you have -- if you have more than two residents in your
24 complex and you park under your little overhang, you can't
25 park on the street here overnight in the complex.

26 Q. So where on this Exhibit Number 51 is the over --
27 overflow parking?

28 A. We are looking at it what I'd say is upside-down. But

1 you see the clubhouse here. This is overflow parking right
2 here.

3 Q. Want to use the mailboxes?

4 A. No, this is -- this is overflow parking. The
5 mailboxes are right here. These are parking spots right
6 here. These are parking spots right here. These are
7 parking spots right here. And, remember, here was your
8 sidewalk, it would run right here from Cherry Street all the
9 way to Apricot Street. This is what they call the park
10 area. It was a basketball hoop area and a grassy area. And
11 right here is your car wash area right here.

12 Q. Is there any swing set? Were there some wooden
13 swings?

14 A. I believe there might be some -- I need to see the
15 picture, but I think there was a little swing set area right
16 here.

17 Q. Well, you've seen the video that Mr. Cantu had
18 installed at 63 where we see Sandra skipping and hopping,
19 right?

20 A. Correct.

21 Q. And that showed that Suzuki, the vehicle with, "My
22 brother's a marine," in which spot -- which overflowed
23 parking spot?

24 A. In the video?

25 Q. Yes. Later on on the -- in the video.

26 A. The -- the --

27 Q. Melissa's car.

28 A. The Kia Sportage was parked right here.

1 Q. That's what I'm trying to say.

2 A. Yes.

3 Q. So what I'm trying to figure out is why is someone,
4 Melissa Huckaby, parked in that -- you've seen the video
5 where she comes home on the 27th at 7:10?

6 A. You mean, oh, 7:10 p.m., correct.

7 Q. Parks in the same stall that she left from earlier.
8 Where is that stall? You've seen that video, have you?

9 A. I have, correct.

10 Q. Does that stall show up in 166? Or 163?

11 A. Not here, no. This is too close up. It's just on the
12 other side of the mailboxes.

13 Q. Or 163?

14 A. See where this -- see where the truck's parked?

15 Q. Yes.

16 A. There's like six more parking stalls there.

17 Q. Oh, okay. So where is your understanding of where the
18 note is found in this photograph?

19 A. In this one right here?

20 Q. Yeah.

21 A. It's just on the other side of this wall. It would be
22 blocked because it's on this sidewalk right here.

23 Q. Okay.

24 A. South of the clubhouse, south wall, and then south of
25 this cinderblock wall, north of -- sorry.

26 Q. 167, what is shown in that?

27 A. This is that sidewalk that walks through from those
28 two streets. Cherry Lane is out of view and that's the

1 other street right there.

2 Q. So do we see Sandra's side of the street in this?

3 A. No, it's the opposite side.

4 Q. Okay. All righty. See if I have any other questions
5 on this one.

6 What about this one, 165?

7 A. There is what they call the park area. This is just
8 the back of the clubhouse. This is the inside of the
9 clubhouse right here. This is where the car wash area is
10 over here. The note was in between this area and that --
11 start of the wall.

12 Q. All right. Okay. Now, yesterday when we were
13 talking, you started to tell us about how you got involved
14 in this case. Where did we leave off? Look at my notes
15 here.

16 A. I don't think we started. I think I got sworn in and
17 then we stopped.

18 Q. Well, you got a call you said?

19 A. Oh, yes. I got a call at 9:00 p.m. on Friday night,
20 the 27th of March, from the patrol sergeant -- excuse me --
21 and said that -- he advised me that we had a missing
22 eight-year-old girl and it just appeared suspicious, because
23 usually we find, with the amount of missing children we get,
24 and every other agency gets, you usually find them returned
25 home, they are playing at a friend's house and went to a
26 sleep-over, didn't tell mom, something like that. He just
27 got a bad feeling.

28 So we got called in pretty early, within an hour of

1 this case. I asked how old the case was, and he said they
2 got a call at seven minutes to 7:00 and they have been on
3 scene since 8:00. And I got the call right at 9:00.

4 And so I went in. And when we go in as investigators
5 and we touch base with the primary officer which is at the
6 scene, which is Officer Gilstrap, and we take over.

7 So I responded to the PD and started my investigation
8 in an attempt to locate Sandra.

9 Q. Okay. I just had a question from one of the grand
10 jurors: During rush hour, would Tracy Boulevard have been
11 heavier in traffic and would that affect the timing of the
12 round-trip? If she means from the trailer park to the
13 ponds?

14 A. No. And the reason is is because your rush hour in
15 Tracy -- I know this for two things: One, working during
16 these hours; and, two, living in the city for ten years --
17 nine years, sorry.

18 205 right here is your rush hour. There is two ways
19 during rush hour that commuters travel through this city.
20 They travel through 11th Street, which is the middle of our
21 city, that's off of Tracy Boulevard. And they travel 205.

22 There would be no logjam here. There is no commute
23 traffic coming in from this way, that way. There's no --
24 there's no fast or shorter approach to -- or direction of
25 travel to get to Stockton going northbound on Tracy
26 Boulevard throughout the county to travel this way. You're
27 either going to travel 205 or 11th Street, which would be
28 way up here in this photo.

1 The only traffic you would have would be people just
2 getting off at the stoplights, at the onramps/offramps to
3 come into town, you know, Tracy residents or people getting
4 on the freeway to go here.

5 The only ways you can travel through our city is --
6 I'll correct myself -- is 11th Street, Grant Line, which is
7 a exit, you get off in here and cut through Grant Line to
8 avoid -- because the traffic stacks up here, that's on the
9 freeway above Tracy Boulevard, because that's the overpass
10 that goes over Tracy right here.

11 Q. Okay. You know, rather than have you go through
12 everything you did in this case, let me just get right to
13 the blinds in the church.

14 Did you concentrate on -- did you spend some attention
15 looking at the blinds in the church?

16 A. Yes.

17 Q. For what reason?

18 A. Because when we -- when we recovered the suitcase on
19 April 6th, the suitcase two zippers were secured with a -- a
20 cordage, like nylon cordage-type of material. And our goal
21 was to attempt to recover where that came from.

22 Q. So what did you do with that goal in mind?

23 A. So we -- so our goal at that point was to return to
24 places where we believed this cord to come from, and we
25 believed that this cord was either at -- could be located in
26 the trailer park, specifically, at Melissa Huckaby's
27 residence, based on the information we had on the suitcase,
28 or at the church or at -- or within her vehicle. We knew

1 that this had come from somewhere. We needed to figure out
2 where it came from.

3 Q. So did you get a search warrant to look in the church?

4 A. Yes, we did.

5 Q. Judge signed it?

6 A. Yes.

7 Q. And what date -- and did you find something of
8 significance in the church having to do with a cord?

9 A. Yes.

10 Q. First of all, what date did you find this? This --

11 A. We executed a search warrant on April 10th. Our first
12 search warrant was -- at the church was -- we signed the
13 search warrant on April 6th for her car, her residence and
14 the church. And we returned a second time to the church on
15 April 10th, on that Friday, so four days after the suitcase
16 was found.

17 And we found what I believe -- while I was walking
18 around the church, we found a distinct difference in one of
19 the blinds in the church. It was the blind in the window of
20 Melissa Huckaby's Sunday school room. It appeared to have
21 been tampered with versus the other blinds that hung that
22 covered each window inside the church.

23 MR. TESTA: What's the next exhibit number?

24 THE SECRETARY: 198.

25 MR. TESTA: Pardon me?

26 THE SECRETARY: 198.

27

28

1 (Whereupon a Photograph was marked Grand
2 Jury Exhibit Number 198 for
3 identification.)
4

5 MR. TESTA: Q. Showing you 198, do you
6 recognize what is shown in this?

7 A. Yes.

8 Q. What?

9 A. That's one of the blinds in the church.
10

11 (Whereupon a Photograph was marked Grand
12 Jury Exhibit Number 199 for
13 identification.)
14

15 MR. TESTA: Q. 199?

16 A. That's another blind inside the church.
17

18 (Whereupon a Photograph was marked Grand
19 Jury Exhibit Number 200 for
20 identification.)
21

22 MR. TESTA: Q. 200?

23 A. That's another blind inside the church.
24

25 (Whereupon a Photograph was marked Grand
26 Jury Exhibit Number 201 for
27 identification.)
28

1 MR. TESTA: Q. 201?

2 A. Another blind inside the church.

3

4 (Whereupon a Photograph was marked Grand
5 Jury Exhibit Number 202 for
6 identification.)

7

8 MR. TESTA: Q. 202?

9 A. That's another blind inside the church.

10 Q. So how many blinds were there in the church?
11 Approximately?

12 A. Four in the sanctuary, three in the Sunday school
13 room/kitchen, one in the church office. I believe there was
14 eight blinds that were covering windows inside the church.
15 And then there's a couple small windows that did not have
16 blinds on them.

17 MR. TESTA: That was 202.

18

19 (Whereupon a Photograph was marked Grand
20 Jury Exhibit Number 203 for
21 identification.)

22

23 MR. TESTA: Q. How about 203?

24 A. That's the blind in the -- in the church office.

25

26 (Whereupon a Photograph was marked Grand
27 Jury Exhibit Number 204 for
28 identification.)

1 MR. TESTA: Q. 204? Can you tell which one
2 that is?

3 A. Looks like it's -- yeah, that's going to be one of the
4 ones in the sanctuary, I believe. All four in the sanctuary
5 were the same heighth and width.

6 Q. And was there anything distinctive about any of those
7 blinds?

8 A. All the blinds in the church were all hanging down.
9 And they all had the nylon cord. And they all had the
10 little what I call this little clasp that, you know, kept
11 the cordage secured. They all had the plastic rod that, you
12 know, opens the blind. And every blind had a white plastic
13 cap just like this with the cord under the cap, and the ends
14 of the cord were flush.

15 Q. Every single blind?

16 A. Except for one.

17 Q. And what was different about that one?

18 A. That one was -- was the one we located in the Sunday
19 school room window. The blind was missing -- the cord was
20 missing its cap. And the ends were not flush. They were --
21 they were like staggered. They weren't -- they weren't
22 flush. So the cap was gone. And it appeared just visually,
23 from my appearance, I had already looked at the other seven,
24 it appeared it had been tampered with and cut.

25 Q. Which room now are we talking about?

26 A. It was a Sunday school room that had a chalkboard. It
27 was in farther most southmost corner of the church, just off
28 of the kitchen. And that blind was of the same width and

1 heighth as the kitchen window and the other Sunday school
2 room.

3 Q. That particular blind that seemed unusual, where was
4 that in relation to the room that is shown in People's 13?

5 A. This is the kitchen. And there was a blind on this
6 wall. And on the other side of the door.

7 And if you kept walking past that window, you would
8 walk right into Melissa's Sunday school room, and it was
9 that blind.

10 Q. How many blinds were in that Sunday school room?

11 A. In her Sunday school room, it was just one.

12 Q. So which room had the blind which caught your
13 attention?

14 A. The -- it was the Sunday school room off of that
15 kitchen. Because that was a wide open room.

16 Q. How many blinds were there?

17 A. Total of three.

18 Q. Okay. And did you guys photograph those three blinds?

19 A. Yes.

20 Q. Okay. Showing you...

21 MR. TESTA: What's next in order?

22 THE SECRETARY: 205.

23

24 (Whereupon a Photograph was marked Grand
25 Jury Exhibit Number 205 for
26 identification.)

27

28 MR. TESTA: Q. Showing you 205, do you

1 recognize this one?

2 A. Yes. This is the other Sunday school room. Same
3 exact height and width of blind.

4 Q. Okay. Is this the room that we want to focus on?

5 A. No.

6 MR. TESTA: What's next in order?

7 THE SECRETARY: 206.

8

9 (Whereupon a Photograph was marked Grand
10 Jury Exhibit Number 206 for
11 identification.)

12

13 MR. TESTA: Q. 206?

14 A. This is another one of the -- one of the blinds.
15 Everything is intact. The -- the little aluminum or metal
16 clasp is there. And the plastic covering's there with
17 the -- the end pieces intact.

18 Q. So all of them were intact except for one?

19 A. Correct.

20 Q. Just so we have our terminology down, how do you refer
21 to this?

22 A. I call it a plastic cap/cover. It's covering the end
23 pieces of this cord. This is the plastic rod that -- this
24 raises the blind, this cordage. It opens it up.

25 MR. TESTA: Which is our next in order? What
26 number?

27 THE SECRETARY: Oh, 207. Sorry.

28

1 (Whereupon a Photograph was marked Grand
2 Jury Exhibit Number 207 for
3 identification.)
4

5 MR. TESTA: Q. Okay. Now let me show you
6 this one.

7 A. That's the one, the only blind in the church that was
8 missing its cap. And these pieces that I mentioned before
9 appear cut or had been tampered with. And there was no cap
10 cover. And every other of the other seven windows, total of
11 eight windows with blinds in the church, all other seven
12 windows had their cap and didn't have this area of the
13 cordage exposed.

14 Q. What about the end of the line there, did it look like
15 it was --

16 A. They were uneven. And on the other ones, as they sat
17 under the cap, they were even. These -- these weren't even
18 or what I would call flush cuts.

19 And this was -- this blind was in the Sunday school
20 room that Melissa Huckaby taught in.

21 MR. TESTA: Next in order?

22 THE SECRETARY: 208.

23
24 (Whereupon a Photograph was marked Grand
25 Jury Exhibit Number 208 for
26 identification.)
27

28 MR. TESTA: Q. Is this another view of

1 those -- another photograph of that same blind?

2 A. Yes.

3 Q. Can you show us what you mean by uneven ends of the --

4 A. If you look --

5 Q. -- the cord?

6 A. Yeah. If you look at here and here and here, you can
7 see that they are not -- like if you heated up this, because
8 of the material that it is, you know, it could burn and
9 become like solid again. But it appeared that, as they
10 should sit, compared to the other seven that I had
11 previously looked at before this one, they all were flush
12 and they were all intact versus what appeared that some type
13 of sharp object had cut this and a piece had been removed
14 from this blind, a piece of cord.

15 Q. Showing you 97, do you recognize what 97 is?

16 A. That's a white cord that was used to secure these two
17 zippers of the suitcase that was found when it was found in
18 the pond.

19 Q. How did it appear to you to compare, as a lay person,
20 with the cord in 208? That is on the only blind that
21 doesn't have that cover and has the uneven edges?

22 A. Based on looking at it just in person, at the scene,
23 at the autopsy room, and comparing it to this that we saw
24 four days later, it appeared the same color. And it
25 appeared the same -- made out of the same texture and the
26 same material. Just from just looking at it by line of
27 sight.

28 Q. So did you do anything with this to see if anyone else

1 could do any further examination of the cord?

2 A. Yes. We removed this blind. We removed the other two
3 blinds with the exact same heighth and width. And we seized
4 all three of those blinds after photographing them. And
5 this cord, along with the cord from the suitcase, was sent
6 to the FBI Laboratory and examined for a comparison and
7 test.

8 Q. Well, let's say then, for example, showing you 198,
9 you're in the church and you want to get something to tie a
10 suitcase shut and you see a blind that is intact. What
11 would you need to do to it in order to get -- let me back
12 up.

13 Did you measure the length of the cord or did someone
14 measure the length of the cord in 87 that was used to secure
15 the suitcase -- the Eddie Bauer suitcase at the pond?

16 A. This cord measures approximately fifteen and a half
17 inches.

18 Q. By way, the edges of this cord, how would you describe
19 the ends, I suppose?

20 A. They're -- you could say cut or kind of like -- I
21 don't know if you'd say rag --

22 Q. Frayed?

23 A. Frayed, yeah, frayed is a good word.

24 Q. So what would you need to do if you had, say, a blind
25 like this and you wanted to get something like this to tie a
26 suitcase shut, what would you need to do with the blind?

27 A. Well, you'd need to cut off a portion of this -- of
28 the -- of the cord that's here and to tie it, so you would

1 need to, you know, we found fifteen and a half inches on the
2 cord from the suitcase, and you'd have to cut off a section
3 of this with -- you need some sharp object, whether it be
4 knife or scissors or some type object that can cut it.

5 Q. With these kinds -- showing you this exhibit here, 11,
6 one of the drawers next to the rolling pin drawer, did
7 that -- did this contain sharp knives and scissors and so
8 forth?

9 A. All these objects could cut it.

10 Q. Okay. Then once it's cut, how does it -- how would
11 it -- what would you have to do to it to get it in this
12 position that it's in in 208?

13 A. To get it in this position?

14 Q. Yes. Do you have to pull down the blind or pull up
15 the blind, or what do you do to get the --

16 A. Well, the blind as it sat on the 10th when we were in
17 there, it sat all the way down on the windowsill. And these
18 are used to pull it up. So you would have to adjust -- you
19 would have to adjust this cord, because this is a cord that
20 raises and lower these Venetian blinds. You'd to have
21 adjust this and then tie this knot here. Because as the
22 other seven blinds sat in the church with these pieces that
23 were even with each other, with the cap over them, if you
24 were to cut that, the knot would sit just right above it
25 under the cap. So you would have to -- for example, here,
26 looking at this one, if you took fifteen inches from this,
27 you'd have to redo a knot. And the cap was gone. And it
28 was my belief the cap was gone because fifteen inches -- or

1 fifteen -- excuse me, fifteen and a half inches of this had
2 been cut and a knot had been tied again, and then this had
3 been raised up.

4 But you would have to adjust this, because all the
5 windows in the church on the 10th, all of them sat in the
6 windowsill. They were all at their lowered height.

7 So that knot right there would have to be retied,
8 because you -- if you take fifteen inches from it, and
9 because the original knot was under the cap, but our cap is
10 gone. This should have a cap over it.

11 Q. Would you expect the cut one to be much shorter,
12 though?

13 A. Unless you readjust it. You could readjust it.

14 Q. How do you do that?

15 A. Well, you -- if you look on here, you have multiple --
16 see you have -- there you go. See, you have three -- it
17 appears that there's three cords.

18 Q. I see whereas in the suitcase we have -- was it just
19 one?

20 A. That's one, yeah, that's one cord.

21 Q. All one piece?

22 A. Uh-huh.

23 Q. Oh, I see. So what -- I guess -- so on 207, there are
24 three cords?

25 A. Correct.

26 Q. Okay. All righty.

27 A. If you notice here, too, as the other -- if you notice
28 the other blind, the other cords on the other seven blinds,

1 if you -- see how they hang straight down. They hang
2 straight down. They are parallel with the rod. Go back to
3 that one.

4 Q. Oh, I see.

5 A. Yeah. It's been moved.

6 Q. It's been moved. I see. Whereas the others, for
7 example, 202 --

8 A. Straight down.

9 Q. -- sits neatly. That's like a brand -- it's like the
10 way a new blind would look.

11 A. And you don't see the ends of it. None of the other
12 seven blinds without a cap, you don't see the ends of these
13 three cords, whereas you see it on the other one.

14 Q. 206 is another one?

15 A. Exactly. Yep.

16 Q. Compared to 208. Is this frayed by the metal clasp?

17 A. Looks like one of the cords is frayed here. Looks
18 like this middle cord might be frayed from this neck, it
19 could be possibly caused by this little metal clasp being
20 slid up and down on it.

21 Q. Was there any comparison -- we have the knot in 95. I
22 don't know knots well enough. But, I mean, was there any
23 attempt to determine if the -- well, first of all, did you
24 send this cord on to someone else to see if they could do
25 any further analysis?

26 A. Yes.

27 Q. Whom did you send it to?

28 A. Sent it to the FBI Lab in Virginia so that a trace

1 evidence and cordage expert could analyze this.

2 Q. And they would look at the blind cords and the cord on
3 the suitcase, see if they could see if there's any
4 similarity or consistency?

5 A. Yes.

6 Q. Okay. Again, I don't know knots. But was there any
7 attempt to look at the nature of the knot in 95?

8 A. Yeah, I'm not a --

9 Q. Nature of the knot in 207?

10 A. Yeah, I can't tell that they are the same knot. Just
11 looks like this has been resecured. This looks like it's,
12 you know, you would have to back this knot out and see how
13 it wraps around as it feeds back into these three cords
14 here. But the other one doesn't appear that it's the same
15 knot.

16 Q. Okay. Fair enough.

17 MR. TESTA: Are there any questions on these
18 points from any of the grand jurors? I see there are some.
19 Thank you.

20 Q. According to the earlier films, I thought Melissa
21 parked behind the clubhouse, closest to Sandra's house, next
22 to the path where the note was found.

23 That's -- I guess that's a form of a question like can
24 you explain?

25 A. Which -- which time are we talking about when she
26 parked there? Her car moved a couple of times that day.

27 Q. Yeah. But both times she left from the same place in
28 the morning -- or let me show you the timeline here. Find

1 it. 2 --

2 A. 3:43.

3 Q. 3:43.

4 A. She moves her car and drives it southbound on Cherry
5 Lane and parks it in front of her residence facing
6 southbound.

7 Q. She moves it from where?

8 A. She moves it, I believe, unless we need to refer to
9 the video, I believe it's from this area right here.

10 GRAND JUROR 19: Huh-uh.

11 THE WITNESS: I'm sorry.

12 GRAND JUROR 19: Huh-uh.

13 MR. TESTA: I think we recall it different.
14 We just saw it yesterday. I think we recall it.

15 THE WITNESS: Are you talking about these
16 three parking stalls here that are on the other side of
17 the --

18 GRAND JUROR 4: Right.

19 GRAND JUROR 8: That's the pathway.

20 MR. TESTA: Q. We just watched it. Maybe an
21 unfair question to ask you.

22 A. It's been a long time since I watched it.

23 Q. But the question -- go ahead, I cut you off.

24 A. I possibly could be confusing this with there's a time
25 later in the evening a little after 22:00 hours she moved
26 her car again after returning at 19:10, 7:10 hours.

27 Q. Right. Right.

28 A. And there's another time she moved her car and had to

1 ask one of our employees to move their car. There is
2 different times during the day she moved her car. Those
3 aren't assigned parking spots. That's for the overflow
4 residents that live in that complex.

5 Q. Well, I'm not sure what the -- according to the
6 earlier -- I'm not sure.

7 A. Did I clarify that?

8 Q. Well, they can ask the question again if there's still
9 a question on that. And, again, the tapes speak for
10 themselves.

11 Could you determine how much cord was removed from the
12 blind in Melissa's Sunday school room, the one without the
13 catch?

14 Do you understand that question? That's a question
15 from the grand jury.

16 A. And --

17 Q. Can you determine --

18 A. I can't determine.

19 Q. -- how much cord was removed?

20 A. No, not -- not at this juncture we cannot. I can't --
21 by looking at -- looking at the blind in the Sunday school
22 room, I can't tell you that there's fifteen and a half
23 inches of the fifteen and a half inches as it relates to the
24 cord that was found in the suitcase, I can't -- by looking
25 at this -- visually looking at that, I can't tell you.

26 And, you know, it's complicated only because, one, as
27 a lay person, because you have multiple cords here. And,
28 again, remember there's one cord on the suitcase. There's

1 three cords that are used to lower and raise these blinds.
2 These -- these three cords feed back into sections of these
3 blinds. But this is one cord here. That's the suitcase.

4 Q. So you don't think there is any way to measure the
5 distance, the total length of those cords on the damaged
6 blind, and compare it to the cord length on the suitcase?

7 A. If there is -- if there was a standard length for this
8 blind -- and these blinds have been, we have been told, in
9 this church for a very long time -- if there was a standard
10 length, if you could find the starting point and the ending
11 point of this, where each cord feeds to, as comparing it to
12 the other two blinds out of the exact same width and
13 heighth, and that's one of the things we did is take photos
14 of that to show they are the exact same width and heighth,
15 the other two adjoining Sunday school rooms and the
16 adjoining kitchen, and to take all these apart, it's
17 possible that you -- we would hope to find fifteen and a
18 half inches shorter of cord here than the other two blinds
19 that are intact.

20 What we did know is these ends were frayed. And we
21 did know there was no cap. And this knot was not its
22 original knot based on the other comparing it -- as to the
23 other seven hanging blinds in the church that are all the
24 same material.

25 Q. Okay. Is it true that in a missing persons case --
26 this is another question from a grand juror -- that the
27 missing person is not considered missing until twenty-four
28 hours?

1 A. Not true.

2 Q. Also, was Sandra Cantu missing for twenty-four hours?

3 That's the question from the grand jurors.

4 What is your answer?

5 A. Not true on both of those.

6 Q. You don't to have wait -- I guess in the old days,
7 didn't they to have wait a certain number of hours before
8 they would take it seriously, that might have been a
9 runaway?

10 A. But you're at risk. It's because California law,
11 you're at risk missing under the age of sixteen now. The
12 law changed about three years ago.

13 Q. Okay.

14 A. So we are at risk from the very beginning.

15 Q. From earlier witnesses, stated no windows in the
16 nursery Sunday school room. Couldn't see the light on in
17 the church. So there are windows in the nursery Sunday
18 school room?

19 Yeah, we heard from Mr. Plowman that they -- Melissa
20 took him into a particular room in the church because there
21 were no lights in that particular room so the police or
22 other people would not see lights on at 10:00 o'clock at
23 night.

24 A. And the nursery does not have windows. It has a door
25 that feeds to the west side of the church. It's a -- it's a
26 carpeted room that has a different colored carpet than the
27 other parts of the church. And there are no windows in the
28 nursery. I have not in here, and I could show you, we have

1 numerous photos of it, but we have not -- all these blinds
2 come out of two Sunday school rooms, the kitchen, the church
3 office, and the sanctuary, all the windows that have blinds.

4 Then there's an adjoining like storage room or a
5 second -- could be a church office, could be made into that
6 they stored stuff in, that had a small window that was kind
7 of had that textured glass and it did not have a blind on
8 it, nor did the small bathrooms in the church.

9 Q. Another question from the grand jury: Were all the
10 lengths of the cords the same on every blind as compared to
11 the -- to the wand to open the blind?

12 A. You mean as they -- you're saying the length here from
13 here? Is that -- if I'm understanding the question right.

14 Q. Were all the lengths of the cords the same on every
15 blind compared to the wand? The cut cord comes to the end
16 of the wand, the grand juror notes.

17 The question is what -- can you answer that?

18 A. No, they don't. See, you can see like this is a
19 picture of one of the blinds in the church. This one hangs
20 down a little bit. And the clasp is in a different
21 location.

22 This one is -- you could just tell they had a
23 different shape to it as far as how it rested next to the
24 wand. The wands are the same length for the three windows.
25 We had to use -- a reference for us is to use the other two
26 blinds in adjoining rooms that are of the same height and
27 width. And because the four blinds in the church sanctuary,
28 a different room, those are wider, shorter windows.

1 So no, they don't sit the same. Where this -- these
2 ends kind of are, you know, even though this has been a
3 couple of the blinds there -- there -- the end and the cap
4 will be a little bit longer, some will be a little bit
5 shorter. The clasp on this one was predominantly lower to
6 the knot if you went back and looked at the other seven
7 blinds.

8 This clasp, for the most part, sat higher on these
9 blinds as the blinds sat fully lowered on the windowsill.

10 This one is very, very close to this knot. That was
11 another indicator to me that this -- this didn't appear to
12 be its normal size or shape.

13 Q. Search warrants, were they for specific items?

14 A. Yes.

15 Q. How long -- what period of time were these search
16 warrants for?

17 A. Search warrants are good for ten days for service.
18 Once -- you know, until you serve them. Then you serve
19 them, once you secure your building and leave, then you have
20 to obtain another search warrant.

21 Q. Is the church still sealed as a possible crime scene?
22 If not, why not?

23 A. No, it's not. They -- once we search the church, it's
24 open for business again. And we believe we have collected
25 the necessary evidence out of there that we need to collect
26 at this point.

27 Q. These are all questions from the grand jury.

28 Were items such as a bottle of rubbing alcohol or

1 plaid dish towels part of the warrants?

2 A. Yes, they were.

3 Q. And was rubbing alcohol found at the church?

4 A. Yes.

5 Q. Where in the church?

6 A. There was a kitchen cabinet, a wooden, I think bluish
7 color kitchen cabinet in the church.

8 Inside the kitchen that's just off the end of the
9 counter where the rolling pin was found in one of the middle
10 drawers, I believe it was on the third shelf, it was about
11 half empty bottle of rubbing alcohol that was in there.

12 Q. Does it show in 155?

13 A. Right there. This is the cabinet. It's a cabinet
14 that's placed in the church. It's not a built-in cabinet.

15 Q. Does it show on 8?

16 A. Yeah. Here's your counter. Your rolling pin was in
17 the drawer off of this counter.

18 To kind of give you guys a reference point, this is
19 the -- this is the like -- this is -- it's this shelf right
20 in here.

21 Q. Where is the root beer?

22 A. All the bottles are here, and this is a A & W root
23 beer bottle right here.

24 Q. And just for the record, you're referring to Number 8.

25 And then number 155 shows a closer view of that?

26 A. Uh-huh. And this is the surface of it right here,
27 from here up.

28 Q. 154?

1 A. Yeah, just a close-up of the rubbing alcohol. That's
2 the top of it right there, as we found it in the church on
3 the 10th.

4 Q. And it's actually called -- what kind of alcohol is
5 it?

6 A. It's isopropyl.

7 Q. I think we have another shot of it, but I don't have
8 that photo right here. But I showed it to Dr. Omalu
9 yesterday.

10 Okay. Let's see. Were items such as -- who requested
11 the FBI? Are they in charge of the case? That's a question
12 from the grand jury.

13 A. No. They actually -- they have to respond to this
14 because it's a -- it's considered actually within -- going
15 back to the question of the twenty-four hours -- FBI has to
16 have a visible response to any child abduction in the United
17 States within the first twenty-four hours.

18 They were notified and we entered the child as
19 missing -- we entered the child was missing in what's
20 called -- it's a database -- a national database at midnight
21 that night. So four hours after the case started for us at
22 8:00 p.m., roughly, at midnight, at 00:06 hours, the child
23 is entered in. I receive a telephone call from the
24 supervisor of the Stockton FBI office roughly around 5:00
25 that morning, asking for what assistance we needed. I was
26 completely unaware that -- that this is their responsibility
27 until as the case went on and then -- but, no, this was a
28 Tracy PD abduction case, turned into a homicide case. The

1 entire time they offered their assistance and resources.
2 And so they work it jointly with us and we oversee the
3 entire investigation.

4 Q. Was the nursery Sunday school room, was there evidence
5 in this room of foul play? That's a question from the grand
6 jury.

7 A. None that we -- none that we collected.

8 Q. Next question -- sorry, did you finish?

9 A. Yeah.

10 Q. Next question from the grand jury: Did you measure
11 the cord on the suitcase? Does it match the length of the
12 cord missing from the blind and the church?

13 A. I think we asked and answered that.

14 The FBI measured the cord once it was cut off. They
15 measured it to be fifteen and a half inches.

16 Q. Did you measure the cords of the blinds -- there's
17 another question: Did you measure the cords of the blinds
18 to see how much shorter the one in question was? Doesn't
19 appear fifteen inches are gone. The knots of each relative
20 to the rods are the same location. Assuming blinds at the
21 same height.

22 Can you respond to that question or comment?

23 A. Yes. I was trying to explain that before. With these
24 blinds, I don't see any in this room. These are pretty
25 common, you know, the Venetian-style blinds that are in some
26 commercial buildings. Some are different texture and stuff
27 like that. You can raise and lower a blind. Traditionally,
28 when you pull down a blind, the cord -- the blind goes up.

1 If you pull down on this, the blind goes up.

2 Now, if you are to cut a section of this, let's say
3 fifteen and a half inches of this, you would believe that
4 our frayed ends and our new knot would be up here higher.
5 But you can still pull down the blind, okay, and -- and
6 lower it -- or I guess -- or actually let up the blind and
7 lower it and get the cord to -- the cords to end up in the
8 resting spot by the rod near the same location as the other
9 blind.

10 The significant thing, what I mentioned before, to us
11 was that the knot that should be hidden was not -- was --
12 appeared to be different than the other knots in the church.
13 But the knots on the other seven windows were under this.
14 They are smaller knots that are under this cap. And the end
15 pieces were never exposed under the caps.

16 See, there should be a cap here. And if you notice,
17 for -- like for there as a reference point. So what I --
18 what was interesting to me was I looked at this, as you see
19 where it sits at the end, if you go to this picture, you're
20 going to see the metal clasp way up here.

21 And if you turn the cap of these, all the ends are
22 flush, like they had never been cut, like that's the way
23 they came from the manufacturer. These are not even even.
24 Even though these are tied under here, they are all, as they
25 hung, all even. All three of these were even. They weren't
26 off. One's here, one's here, one's here. They weren't like
27 that as they sat under the other seven caps.

28 So this cap was gone. This has been adjusted. And

1 that's how -- so you make the adjustment with this and you
2 can get this blind still sitting in the windowsill down here
3 and get it to be near the end of this, just like this is
4 close. Some were maybe an inch or two higher. There's a
5 couple caps on the other windows that were a little bit
6 lower. Roughly, they were all in this area.

7 But we keyed on the missing cap, the frayed pieces,
8 this appeared to have been moved or slid down. Make those
9 adjustments, that will get your blind, what you have left of
10 the blind, sitting even with this, or near even, with the --
11 with the plastic rod. And still keep your cord -- I mean,
12 sorry, keep the end of your blind in the windowsill, resting
13 in the windowsill.

14 Q. Question from the grand juror: On the video from
15 Brandi, it shows Melissa's car in the stalls before the
16 mailboxes. But Detective Bauer is saying after the mailbox.
17 Where was the car parked when the note was found?

18 So putting aside your -- we could -- the video speaks
19 for itself. We could always look at that again if you're
20 wrong or we are wrong.

21 Do you know where the car was parked when the note was
22 found?

23 A. When the note was found?

24 Q. Yeah. When she --

25 A. Well, the note was found on the 28th. Are we talking
26 about the 27th or are we talking about the 28th?

27 Q. 28th when the note was found, where was her car?

28 Where was her car parked, this is the question from the

1 grand jury.

2 A. I don't know where her car was parked the day after,
3 the 28th. I would assume in one of those parking stalls off
4 of Cherry Lane, but I don't -- I don't know.

5 Q. Question from the grand jurors: Where was the blind
6 found, which room, the blind that had been cut?

7 A. This blind was in the Sunday school room. We have
8 overall pictures of this blind as it sits in the room.
9 There is -- this sat on the farthest south wall of the
10 church. And just to the -- there's a picture -- here
11 exactly. This is a --

12 MR. TESTA: We have this marked as next in
13 order. What number?

14 THE SECRETARY: 209.

15 MR. TESTA: Pardon me?

16 THE SECRETARY: 209.

17

18 (Whereupon a Photograph was marked Grand
19 Jury Exhibit Number 209 for
20 identification.)

21

22 MR. TESTA: Q. Do you recognize what is
23 shown in this photo?

24 A. Yes.

25 Q. What?

26 A. This is the Sunday school room where Melissa Huckaby
27 taught in. This is the -- what you've seen close-ups of.
28 This is -- I can -- I've seen this so many times.

1 But that's the cord. That's the rod. This is the
2 blind that -- one of the three blinds that we took. The --
3 the chalkboard is over here. And across on the other side
4 of this wall is her bulletin board. This is a table. Over
5 here are some crafts and a little table.

6 These pictures were taken by us on April 10th.

7 Q. Was the blind ever lifted to see if it would fully
8 retract? That is a question from the grand jurors.

9 A. "Lifted" meaning.

10 Q. (Indicating.)

11 A. Pulled up?

12 Q. Yes.

13 A. No, we never tampered with it as we took it. We took
14 it just like this. You could unsecure it on the end and it
15 was photoed up close, at a distance photos, as compared to
16 the others, then it was taken and placed in evidence.

17 Q. And how was it transferred to the FBI?

18 A. It was wrapped in butcher paper and secured and taken
19 out of the church. And then it was turned over to the FBI
20 who therefore send it back to -- from the Sacramento FBI
21 office, it went back to Quantico, Virginia to have the --
22 let me correct myself.

23 This was transported and given to the FBI for chain of
24 custody. And then twenty-one inches of this was cut off and
25 sent back to -- from the -- what you saw, the exposed
26 twenty-one inches was cut off and sent back to Quantico,
27 Virginia and analyzed by their cordage trace evidence expert
28 for comparison to the fifteen and a half inches from the

1 suitcase.

2 MR. TESTA: What's our next order in the last
3 minutes we have?

4 THE SECRETARY: 210.

5

6 (Whereupon a Photograph was marked Grand
7 Jury Exhibit Numbers 210 and 211 for
8 identification.)

9

10 MR. TESTA: Q. 210, do you recognize 210?

11 A. Yes.

12 Q. And do you recognize 211?

13 A. Yes. This is the -- what you guys saw just recently.
14 This is the piece that we saw hanging.

15 This piece, this is FBI tape. This is
16 twenty-one inches that was sent to the FBI to be analyzed
17 with the fifteen inches -- fifteen and a half inches from
18 the -- that secured the suitcase.

19 Q. So instead of the Sacramento FBI sending the entire
20 blind to the Washington, DC FBI, they just sent this
21 portion?

22 A. The cordage, yes.

23 Q. The cordage wrapped and shown in 211?

24 A. Uh-huh.

25 Q. Is that a yes?

26 A. Yes.

27 Q. And then 212, what is shown in this?

28 A. It just shows them as if they were connected. Right

1 here, this is where they made their cut. This is the blind.
2 This is the blind in question from this Sunday school room.
3 Those are the frayed ends and the clasp that you saw. Those
4 are the only -- only cordage that was missing the cap cover.

5 MR. TESTA: All righty. Are there any other
6 questions on these points, then we will take a break and
7 come back tomorrow.

8 Q. What is the distance between the cut cord and the
9 windowsill?

10 A. Oh, from here to the top?

11 Q. Windowsill.

12 A. Oh, from here -- I'm sorry, from here to the bottom?

13 Q. That's how I understand the question.

14 A. That's a good question. We took measurements. We
15 went back to the church and took measurements of windowsills
16 to the top. And width, you know, from this margin over to
17 the opposite margin.

18 I think you're asking from here is the cord right here
19 where it's cut from there to there. We took measurements of
20 the blind as it sat. We took measurements of inside
21 windowsill to the top of the -- you know, frame to frame,
22 top to bottom, left to right.

23 MR. TESTA: What's next in order?

24 THE SECRETARY: 212.

25

26 (Whereupon a Photograph was marked Grand
27 Jury Exhibit Number 212 for
28 identification.)

1 MR. TESTA: Q. Do you recognize 212?

2 A. Yeah, that's the window blind in question. And you're
3 asking from there to right there?

4 Q. That's what the grand juror is asking.

5 A. I don't know what the distance is from there to there.

6 Q. And I've got two more here.

7 Was Melissa ever asked what she was doing walking on a
8 sidewalk where the note was found? That is a question from
9 the grand juror.

10 A. Was she asked what she was doing?

11 Q. Yes.

12 A. Yes. She was questioned about that and she was -- she
13 was questioned from two FBI agents regarding that. And she
14 was asked, you know, how she came about the note. And I
15 believe that it was -- the first night of the vigil for --
16 for Sandra Cantu was the 28th. And she was walking
17 northbound on her street, Cherry Lane, to head towards I
18 believe the manager's office, if I remember correctly from
19 her initial statement, to see -- talk to Marilyn Zuniga, one
20 of the managers there. Because Marilyn the manager's
21 trailer there was just right in the opening there where the
22 vigil would meet. Because the vigil each night would meet
23 roughly around 8:00, 8:30ish.

24 So her statement was that she left her trailer, she
25 was walking northbound on Cherry Lane. This is north, going
26 this way. Our managers live right here, John and Marilyn
27 Zuniga.

28 Q. 93?

1 A. 93. And right here is where the vigil was every day,
2 because this was the most open area.

3 Q. Where it says "Orchard" on the diagram?

4 A. Correct. And she was walking northbound. And she
5 said her -- I believe her attention was directed to the walk
6 area where she discovered the note.

7 Q. What's the wind condition like there?

8 A. Traditionally in Tracy, predominantly -- I'm saying a
9 majority of the time in the evening, the wind will pick up
10 heavier in the evening times than it will during the day.
11 So there's more wind. We get the Delta breeze at night. It
12 blows in from Mountain House, which is west of Tracy. So
13 the winds blow from the west to an east direction, blow from
14 this way to this way.

15 MR. TESTA: Are there any other questions on
16 these points that I have gone through?

17 Q. Question from the grand jurors: Would it have been
18 possible to see the note from Cherry Avenue at that time?

19 A. Only way you're going see that note, if you guys are
20 pretty familiar with it now, you have your five-foot
21 cinderblock walls that the car wash is. And you have the
22 clubhouse wall here. And you have that sidewalk. The only
23 way you're going the see that note is to be on Cherry Lane,
24 very close to what I call the west side of these houses
25 right in here. You would have to have been walking pretty
26 close to it. You know, like pretty close to the mailbox and
27 the car wash area. And would have had to look to your left
28 and see it, or if you're walking southbound on Cherry Lane,

1 look to your right to see it. Because the note sat so
2 flush, and you can see. So if you're walking northbound on
3 Cherry Lane, you're not going to see it, you're going to be
4 blocked until you get parallel right here even. But you
5 could only see it if you're going to be on the side of the
6 mailbox or this side of the wall and you'd have to look to
7 you left to see the note that's about, you know,
8 approximately ten -- ten, fifteen feet in from the street
9 here. Or you would have been walking southbound from
10 Orchard coming back this way.

11 See, there's your mailboxes -- I'm sorry, there's your
12 mailboxes. That's continuing northbound.

13 Q. I'm showing you for the record 158. Where are the
14 mailboxes?

15 A. These are the mailbox right here.

16 Q. Behind the person in the blue jeans?

17 A. Uh-huh.

18 Q. Is that a yes?

19 A. Yes. That's that grass you saw the note -- that the
20 note was almost resting on right there. So you're not going
21 to see it until you -- you have to be right here.

22 Q. How far in was it?

23 A. I don't know what the measurement.

24 Q. How far from the street are we talking, beyond where
25 the building is?

26 A. Well, I don't know the distance from here to -- you
27 got to bring it up a little bit. No, bring it -- I'm sorry,
28 there you go. This is -- this right here is west of your --

1 Cherry Lane is right here. And your wall is right here
2 blocking the view of this sidewalk. You can't see that
3 sidewalk until you pass the wall. I don't know distance
4 though from the location of here to right here.

5 MR. TESTA: Okay. Are there any other
6 questions?

7 THE FOREPERSON: There's one. Two.

8 MR. TESTA: Thank you.

9 Q. Did she find the note during the vigil, is the
10 question from the grand juror.

11 A. I believe it was as the vigil was ending. Right
12 around 8:30ish.

13 Q. Huckaby said she kicked the note in earlier testimony.
14 That's a question. I don't think you were here when that
15 person testified.

16 A. No. And I -- I've read -- I've read that statement.
17 I wasn't present for that statement that she made. I
18 believe that's -- that's accurate on how she stumbled across
19 the note. But she never made that statement to -- she
20 didn't make -- her statement of finding the note was not
21 made to me. It was made to an FBI agent.

22 Q. Does that help you answer the question of how far in
23 it was?

24 A. Yeah, I don't know the distance. See, right here is
25 the street running down here. I don't know the distance
26 between here and here. But this is the sidewalk that runs
27 all the way through here, through that little overhang here.

28 MR. TESTA: Okay. Are there any other

1 questions? Don't hesitate. But we could always do them
2 tomorrow. But there's no -- I know it's 4:25.

3 THE FOREPERSON: We'd like to stop at
4 4:30 today, please.

5 MR. TESTA: Yes.

6 GRAND JUROR 9: I'll write fast.

7 MR. TESTA: Q. It looks like from a flash,
8 but otherwise dark. Could it still be seen from Cherry?

9 A. Yeah, only if you're in this area right here is the
10 only way you're going to see it. You have to be past this
11 wall. Because this wall, if you're walking northbound, you
12 can't see this sidewalk until you pass this sidewalk. The
13 vigil's -- see, the note is over here on the other side of
14 this wall.

15 Q. You're referring to Exhibit 166. That's on the other
16 side of the smaller of the two walls?

17 A. Yeah, here's the grass. So you either have to turn
18 down there to see it or you have to get past this. If you
19 are walking southbound, the only way you're going to see it
20 is to get past these mailboxes. So there's a very small gap
21 in what you're going to be on Cherry to see it. That's
22 pretty much the area. You got to be on the street.

23 Q. This is the building, right?

24 A. That's the edge of the building with shrubbery and
25 stuff.

26 Q. That building with the shrubbery is where in
27 Exhibit 166?

28 A. Right here. Here's the shrubbery. Here's the

1 building. Here's the mailbox. The female in that previous
2 picture is standing right here.

3 Q. So if she's walking from her place --

4 A. Right here.

5 Q. -- north to 93?

6 A. Uh-huh. Direct shot, yeah.

7 Q. She wouldn't be -- I mean, she wouldn't be going west,
8 would she? Over to Apricot.

9 A. She could cut through, but she's just going northbound
10 to go to Marilyn Zuniga's house.

11 MR. TESTA: Okay. Is that it? Okay. The
12 admonition will be read.

13 THE FOREPERSON: You are admonished not to
14 reveal to any person, except as directed by the Court, what
15 questions were asked or what responses were given or any
16 other matters concerning the nature or subject of the grand
17 jury's investigation which you learned during your
18 appearance before the grand jury. This admonishment
19 continues unless and until such time as the transcript of
20 this grand jury proceeding is made public.

21 Violation of this admonishment is punishable as
22 contempt of court.

23 Thank you.

24 THE WITNESS: Okay.

25 THE FOREPERSON: And to the jurors, the grand
26 jury are admonished that they are not to form or express any
27 opinions about this case or to discuss it among themselves
28 until the grand jury receives the case for deliberation.

1 In addition, no inspection of evidence should be
2 conducted without the permission of foreperson and on the
3 advice of the prosecuting attorney until the case is
4 submitted to the grand jury for deliberation.

5 Deliberations shall only occur when all jurors that
6 heard all the testimony in the case are present.

7 Okay? See you tomorrow at 9:00 o'clock.

8 MR. TESTA: 9:00 o'clock.

9 (Proceedings concluded.)

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN
(Sitting as a Grand Jury)

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PEOPLE OF THE STATE OF)	
CALIFORNIA,)	
)	
Plaintiff,)	D.A. No. 2535
)	
vs.)	CR No. TP09-2712
)	
MELISSA HUCKABY,)	No. SF112495A
)	
Defendant.	)	VOLUME 4 OF 8
_____	)	(Pages 641 - 911)

Friday, July 24, 2009 - 9:00 a.m.

LOCATION: San Joaquin County Courthouse
Room 605, San Joaquin County

APPEARANCES OF COUNSEL:

THOMAS J. TESTA, Deputy District Attorney,
County of San Joaquin, 222 East Weber Avenue, Room 202,
Stockton, California, 95202, appeared as counsel for and on
behalf of the People.

Reported by: JEANNE COFFEY, C.S.R. NO. 7084

1 (At 9:00 a.m., the following proceedings
2 were had before the Grand Jury:)

3
4 (Roll call taken.)

5
6 MR. TESTA: Thank you for waiting, Ladies and
7 Gentlemen. I think you will see why we waited in a moment.

8 Has roll been taken?

9 THE FOREPERSON: Yes, it has.

10 MR. TESTA: And everyone is here?

11 THE FOREPERSON: Uh-huh.

12 MR. TESTA: Is that correct, everyone is
13 here?

14 THE SECRETARY: Yes, everyone is here.

15 MR. TESTA: Okay. Can you state your name --
16 here's the microphone I was telling you about.

17 THE WITNESS: My full name? REDACT.

18 MR. TESTA: Your full name.

19 I guess we know REDACT. REDACT is REDACT?

20 THE WITNESS: Yes.

21 MR. TESTA: And REDACT is spelled what?

22 THE WITNESS: REDACT.

23 MR. TESTA: Okay. I promised I'd let the
24 jurors know which ones we were talking about today. I don't
25 know which counts it is in your Complaint, it's the incident
26 on January 17th, 2009.

27 THE FOREPERSON: REDACT, would you raise your
28 right hand, please? Right hand.

1 MR. TESTA: The other one.

2

3

REDACTED,

4 a witness called on behalf of the People, having been duly
5 and regularly sworn by the Grand Jury Foreperson, testified
6 as follows:

7

8 THE WITNESS: Yes, I swear.

9

10

EXAMINATION

11

12 BY MR. TESTA: Q. So, let me ask you if you
13 recognize -- I guess you are going to have to turn -- if you
14 recognize what is shown in photograph 57?

14

A. The -- the whole mobile home park.

15

Q. Just move over a little bit.

16

A. Going this way or...

17

Q. Try to move this way. It's a real awkward set-up we
18 have here.

19

Did you bring your daughter with you today?

20

A. Yes, I did.

21

Q. What is your daughter's name?

22

A. REDACT.

23

Q. How old is she?

24

A. She just turned eight, July 5th.

25

Q. Is she -- what grade is she in?

26

A. She will be in third grade.

27

Q. Let me ask you, is she doing okay in school?

28

A. She's doing okay in school, except for she has like

1 little spurts of acting like a dog or something where she
2 doesn't really want to sit down in her chair. Otherwise,
3 she's doing really good in school.

4 Q. Where do you live with her?

5 A. At my mom's, my mom and my stepdad's, in the mobile
6 home park.

7 Q. And does it show here in Number REDACT?

8 A. Yes, it does.

9 Q. With the laser pointer, okay, or you can probably
10 point with your hand, however you want to do it.

11 A. It's there. My hand's a little shaky. I'm a little
12 nervous.

13 Q. Actually, whenever anyone holds these lasers, it's
14 really hard to hold in one place.

15 A. I'm really nervous right now.

16 Q. Let me show you this first, Number REDACT.

17 Is your daughter going to be able to testify and tell
18 us what happened you think?

19 A. Um --

20 Q. It's been six months ago.

21 A. She really -- once -- once we went to the hospital and
22 whatnot, she doesn't really remember anything after that.
23 She remembers beforehand being with Melissa, but she doesn't
24 remember anything after coming from the hospital.

25 Q. Okay. Anyway, I kind of cut you off. Where -- where,
26 back on January 17th, 2009, were you staying?

27 A. (Pointing.)

28 Q. Number REDACT --

1 A. REDACT.

2 Q. REDACT.

3 I guess it's REDACT. It doesn't matter. It's number
4 REDACT inside the complex. This is a trailer park?

5 A. It's a mobile home park.

6 Q. And there's one way in and one way out?

7 A. One way in and one way out only.

8 Q. Where is that?

9 A. Right here.

10 Q. Okay. And how long have you guys been staying there?

11 A. About two years.

12 Q. Okay. By the way, is there a clubhouse?

13 A. (Pointing.)

14 Q. And is there a pool?

15 A. Uh-huh.

16 Q. Is that a yes?

17 A. Yes.

18 Q. Are there any swings or swing sets?

19 A. No. Not -- no. There used to be a long time ago, but
20 there's not anymore. And they would have been right here.

21 Q. Near the clubhouse?

22 A. Right in back of the clubhouse.

23 Q. Do some of the individual occupants have swing sets,
24 if you know?

25 A. Not that I'm aware of.

26 Q. You guys don't have like back yards and front yards?

27 A. Very small back yards.

28 Q. So yours was you said the first one?

1 A. Yep, right there.

2 Q. What's out your back door? What do you see there?

3 A. The back door is on the side.

4 Q. REDACT?

5 A. REDACT.

6

7 Q. Okay. So January 17th, 2009, what time -- did you go
8 to work that day?

9 A. Yes, I did.

10 Q. And what time did you come home from work?

11 A. About 3:30.

12 Q. In the morning?

13 A. No, in the afternoon.

14 Q. 3:30 p.m. And what did you do when you came home?

15 A. I asked my mom where REDACT was. And she said she had
16 went outside about 1:30 was about the last time my mom had
17 seen her. So I immediately went outside and started looking
18 around, checking all her friends that she knows in the park.

19 Q. Where did you go?

20 A. Okay.

21 Q. By the way, you live there with your mom?

22 A. And my stepdad.

23 Q. Your mom, your stepdad, and you and REDACT, is it the
24 four of you?

25 A. You mean Ilea (Phonetic)?

26 Q. You and REDACT?

27 A. Just me and REDACT?

28 Q. You're REDACT. REDACT. You, REDACT, and what's

1 REDACT last name?

2 A. REDACT.

3 Q. How do you spell that?

4 A. REDACT.

5 Q. So REDACT, you, your mom --

6 A. My mom and my stepdad.

7 Q. The four of you lived in this --

8 A. Yes.

9 Q. And so what'd you do? You come home at 3:30?

10 A. (Nods head affirmatively.)

11 Q. And is REDACT home when you come home?

12 A. No, she's not.

13 Q. So what do you do?

14 A. I go outside and I start checking all her friends'

15 houses.

16 Q. So where do you go? I kind of cut you off. With the

17 laser on the diagram, whereabouts we talking about? Where

18 did you go?

19 A. I went to this number right here, I don't remember

20 what number it is, and they had not seen her.

21 Q. Who was that? Whose place was that, do you remember?

22 A. Oh, gosh, I don't remember her name.

23 Q. Okay. So you went -- I don't have to go into each and

24 every place you went, but did you go to various places?

25 A. Yes.

26 Q. Let me finish.

27 In the trailer -- in the mobile home and look for her?

28 A. Yes, I did.

1 Q. How many different places about, would you say,
2 ballpark figure?

3 A. Seven, eight, maybe nine.

4 Q. And why were you looking for her?

5 A. Why was I looking for her?

6 Q. Yeah.

7 A. Because I came home from work and I had wanted to see
8 my daughter.

9 Q. Okay. And is it normal for her not to be home when
10 you get home or was it unusual? Was it normal? Was there
11 any difference this day than other days? Tell us a little
12 background.

13 A. Well, REDACT, before the incident, the January 17th
14 incident, she was allowed to go outside to play. Okay?
15 At -- at either -- she would either be playing with
16 Sandra --

17 Q. That's Sandra Cantu?

18 A. Yes. Yes.

19 Or she would be playing with both Sandra Cantu and her
20 sister Miranda.

21 Q. Sandra -- that's Miranda Cantu?

22 A. Yes. Yes.

23 Q. So did you end up going to Sandra's looking for her?

24 A. Yes, I did.

25 Q. Was that the first place you went?

26 A. Well, no, that was not the first place. The first
27 place I went to was the house that's right here. The --
28 okay. There we go. That's much better. Thank you. Number

1 74.

2 Q. Okay. She wasn't there?

3 A. She wasn't there. They had not seen her. So I went
4 around the corner.

5 Q. With the laser.

6 A. I went around the corner.

7 Q. Up to Orange?

8 A. Okay. And there's another -- two other little colored
9 girls that live right here.

10 Q. Near 25?

11 A. Yeah, near 25.

12 Q. Okay. And she wasn't there?

13 A. She wasn't there, no. That's when -- that's when I
14 asked if they would help me start looking around the mobile
15 home park for her.

16 Q. Did they agree to help?

17 A. Yes, they did.

18 Q. So now you got you looking --

19 A. And two other -- two other children helping me look
20 for her.

21 Q. And were you frantic --

22 A. Well --

23 Q. -- at this point yet?

24 A. Because my mom had not seen her since 1:30 and it was
25 now 3:30, about quarter to 4:00.

26 Q. So where did you end up looking next?

27 A. I checked over by the pool.

28 Q. With the laser, can you show us? Okay.

1 A. By the pool. I checked over by the clubhouse. I
2 checked right here where, well, right here where the swing
3 set used to be.

4 Q. Above the club --

5 A. Yeah, right behind the clubhouse. She wasn't there.
6 So that's when I went around this way.

7 Q. On Cherry.

8 A. Uh-huh. And I went this way.

9 Q. On Orchard.

10 A. And then went I started checking all -- all these
11 houses there.

12 Q. Up on Apricot?

13 A. Yes -- oh, and I also -- excuse me, I also checked
14 Melissa's house, too, but Melissa was not home.

15 Q. Why did you check Melissa's house?

16 A. Because REDACT had often gone over there to play with
17 Mad -- Melissa's little daughter Madison.

18 Q. So you went and where else did you check, if anywhere?
19 I'm showing you Exhibit REDACT and you're referring to it.

20 A. I checked number 10, which is Renee, I don't know her
21 last name. And she has a daughter Mariah. And they go to
22 school together. I had checked there. I didn't -- didn't
23 find her here.

24 And so, yeah, I started to get very frantic, so that's
25 when I decided to go home and call Tracy PD.

26 Q. PD, meaning Police Department?

27 A. Police Department yes.

28 Q. What did you report to them?

1 A. That my daughter was missing. And they took down a
2 description of her and they said that somebody would be
3 right out.

4 Q. Okay. So -- and what time would you say you actually
5 ended up, if you came home at 3:30 and you did all these?

6 A. Anywhere from 4:30 to 5:00.

7 Q. Is when you did what?

8 A. Is when I called Tracy PD Police Department.

9 Q. Okay.

10 A. Sorry.

11 Q. That's okay. We know what you mean.

12 And then how were you feeling when you were calling --
13 why -- stupid question -- why did you call 911?

14 A. To report my daughter missing, that I could not find
15 her.

16 Q. Okay. And how were you feeling at that point?

17 A. Scared. Very scared.

18 Q. Why? Was this like her?

19 A. No. Because she would always come and check in. And
20 I always knew which house that she was going to be playing
21 at. Always.

22 Q. Do you remember what day of the week this was?

23 A. It was a Saturday.

24 Q. January 17th. Take judicial notice here of this
25 calendar.

26 A. It was a Saturday.

27 Q. Sounds like you remember this day pretty well.

28 A. I do, yes.

1 Q. Did you lose a few years of your life on that day?

2 A. Yeah, yeah, I really did, yeah.

3 Q. What happened next? You called --

4 A. I had called Tracy Police Department and they came out
5 and they took a description of her. I took out a picture of
6 her, her first grade school picture. I took that out there.
7 And they -- they start checking the mobile home park again
8 and they -- they couldn't find her. That's when I heard one
9 of the officers say that the missing child is en route.

10 Now, I didn't know what they meant by "route," like
11 she's walking home with one of them or whatnot. But Melissa
12 Huckaby brought her home.

13 Q. Okay. You -- what did you see? Did you see her
14 with -- Melissa Huckaby bring her home?

15 A. Yes, I did. I was standing outside with all the
16 police officers.

17 Q. Okay. Tell us what -- what direction -- let me
18 finish -- what direction, if you remember, was she coming
19 from and who -- was she in a car --

20 A. Yes.

21 Q. Let me finish.

22 Was she walking? Was she on a bike? Was she with
23 anyone? Were the officers with her? Give us the whole
24 story.

25 A. She came en route and she came from around this corner
26 here.

27 Q. You are indicating from Clover on to Orchard?

28 A. Yes.

1 Q. By foot?

2 A. No. In her car -- in Melissa's van.

3 Q. What did the van look like?

4 A. It's a purple Kia.

5 MR. TESTA: Can I have a photograph of that,
6 please?

7 Q. Then what did you see next? Did you see her driving?

8 A. Yes, I seen Melissa drive, yes.

9 Q. Show us on the laser on this Exhibit 51 where she
10 drove?

11 A. (Pointing.)

12 Q. I guess you're indicating south up REDACT?

13 A. Yes.

14 Q. To where did she drive?

15 A. She drove right there to my space number.

16 Q. Thank you.

17 And then what happened?

18 A. And then she proceeded to get out of her car and then
19 she let REDACT out of the back seat.

20 Now, she had -- Melissa had told me that my mom gave
21 her permission to take REDACT. But my mom says no, she did
22 not.

23 Q. What do you mean she let her out of the back seat?

24 A. She --

25 MR. TESTA: I get a photo of the car?

26 THE SECRETARY: Yes, right here.

27 MR. TESTA: Thank you very much.

28 Q. Does this look familiar to you, 46?

1 A. It's kind of dark.

2 Q. Yeah. Hold on for a second.

3 MR. TESTA: Do we have any others of the car?
4 No?

5

6 (Pause.)

7

8 THE WITNESS: Yes, I believe that's it, yes.

9 MR. TESTA: Q. And which --

10 A. She got out on the other side, the left hand -- the
11 left-hand side from the back.

12 Q. Who is she?

13 A. My daughter REDACT.

14 Q. And who -- okay. So then what happened? So
15 Melissa -- so what happens? Tell us what you saw.

16 A. I seen Melissa get out.

17 Q. All right.

18 A. And then I seen REDACT get out of the back seat.

19 Q. All right.

20 A. And Melissa's daughter Madison was also in the car
21 with them.

22 Q. All right.

23 A. So REDACT got out, and I was just like crying
24 hysterically because I did not know where she was and I was
25 just thankful that she was okay.

26 And I -- I had asked Melissa, "How -- how come you
27 took REDACT, you know, because you didn't have permission."
28 Melissa said --

1 Q. What tone of voice did you have when you asked this
2 question?

3 A. I was crying still.

4 Q. Okay. Go ahead, I cut you off, then what happened?

5 A. Like I said, I was crying frantically. Just -- I was
6 just happy to have REDACT back home, that she was safe.
7 Then I, you know, I tried to wipe some of the tears away.
8 And I asked Melissa how come she had taken REDACT without
9 anybody's consent.

10 And Melissa told me that my mom gave her permission.
11 But my mom told me no, she did not.

12 Q. And then what happened?

13 A. Then Melissa told me that she was sorry. And then she
14 left.

15 Q. Okay. Then where did you -- where did REDACT go?

16 A. Me and REDACT, we went into the house.

17 Q. Okay. And then what's the next significant thing that
18 happened?

19 A. Well, it's not really significant.

20 Q. Okay. What happened next?

21 A. She was -- she was back there in the room crying,
22 REDACT was. Okay? And I had gone back there to comfort
23 her, to find out why she was crying.

24 Q. Had you raised your voice at her and said, "Where have
25 you been," or anything like that to her?

26 A. No. I was just crying. I was just, "My, God, you're
27 okay, you're okay," and you know.

28 Q. So you hadn't punished her or been cross towards each

1 other?

2 A. No, no.

3 Q. I'm just asking. I'm not saying. Did you -- I'm just
4 asking. So you go back and you see your daughter crying?

5 A. Crying in the bedroom.

6 And I asked her, "REDACT, what's the matter, baby?
7 Why are you crying?"

8 She just kept crying. I go, "Come on, baby, stop
9 crying." I hugged her. I comforted her. I asked her, "Are
10 you hungry? Would you like to go to McDonald's for a Happy
11 Meal?"

12 She said, "Yes."

13 That's when -- at that time, there was a man that I
14 was seeing that lived in the trailer park. His name is
15 Christian Sinclair.

16 Q. Right.

17 A. Okay. He offered to take me and REDACT to McDonald's,
18 okay? That's when I noticed REDACT was sitting in the back
19 of Christian's truck, that she was just like slumped over
20 (indicating) and just not being herself. She was just
21 (indicating), you know, I was talking to her and she was
22 just acting like -- her speech was very slurred. She was
23 acting like she was drunk is what it was.

24 Q. Describe what else -- what happened next?

25 A. We -- that was when Chris had -- Christian had told me
26 that his mom was a registered nurse. So which Chris's mom
27 lives directly next-door to them.

28 You might want to go up a little bit.

1 Q. Okay.

2 A. Chris lives right here.

3 Q. 88?

4 A. Yes. And his mother and father live directly
5 next-door, 89.

6 Q. You're indicating on Exhibit 51, okay.

7 So Chris said, "Hey, my mother's a nurse"?

8 A. So we took REDACT over there.

9 Q. Why?

10 A. Well, because he told me that she was a registered
11 nurse. And -- and that if anybody would know anything
12 about, you know, if we should take her to the hospital or
13 whatnot, it would be his mom. Okay. So that's what we did.

14 And his mom, she -- she had REDACT follow her finger
15 with her eyes, and that's when she said, "No, take your
16 child to the hospital. There's something wrong with her."
17 So that's when we proceeded -- we proceeded to go to the
18 hospital.

19 Q. How else was REDACT acting. Besides I think you said
20 kind of drunk. Did you say she was slurring her speech?

21 A. She was slurring her speech. She couldn't -- I mean,
22 she even had her safety belt on in the back seat and she was
23 just falling over (indicating), just falling over.

24 Q. Had you ever seen her like this before?

25 A. No.

26 Q. She's in good health, is she?

27 A. She's in good health, yes.

28 Q. So you guys -- Chris Sinclair takes you to the --

1 after talking to the nurse --

2 A. His mother.

3 Q. -- where do you guys go?

4 A. Straight to Tracy Hospital.

5 Q. What happens there?

6 A. I tell them that there's something wrong with my
7 daughter, her speech is slurred, she can't stand up, she
8 can't -- she can't -- she can't talk.

9 Q. What do you mean, she can't talk?

10 A. Like I said, her speech was slurred. She was just
11 like she was drunk.

12 Q. Did you smell any odor of alcohol or anything?

13 A. No. Huh-uh. No.

14 Q. What about any -- what word did we hear -- bewildered,
15 or confusion, did you sense any -- like she didn't know what
16 was going on or she didn't recollect things or anything
17 along those lines?

18 A. No, not -- no. Huh-uh. The only thing that she was
19 really concerned about was when the doctor was going to draw
20 blood from her.

21 Q. In terms of the symptoms you noticed from REDACT, what
22 other, if you had to describe?

23 A. Her speech was slurred. She was slumping. She
24 couldn't sit up. She can't stand. She couldn't walk. I
25 had to carry her into Tracy -- into the hospital.

26 Q. So, anyway, you get into the hospital and you tell her
27 what the symptoms are. And what do they do?

28 A. Right.

1 They take her right in.

2 Q. And what happens next?

3 A. They take a blood test.

4 Q. Okay.

5 A. Now, when they -- when the lab results came back, the
6 doctor didn't bother to tell me anything that was in her
7 system. That's when Tracy -- I guess that's when the
8 hospital called Tracy Police Department. And I had all
9 kinds of officers right there talking to me, trying to
10 figure out what's going on.

11 Q. They didn't tell you that there was the
12 benzodiazepines in her blood?

13 A. No, not until like at least a half an hour later after
14 they got done questioning me, asking me all kinds of
15 questions. They had asked me if I would give them consent
16 to go check my house for the benzodiazepines. I told them
17 "Yes, you know, I have no problem. The only thing you're
18 going to have to do is wake my mom up and she'll let you
19 guys in. I have no problem. You can search my room,
20 everything."

21 Q. Did you have any benzodiazepines in your house?

22 A. No, I did not.

23 Q. Okay. And did they -- I guess they probably suspected
24 you initially.

25 A. Yes, they did.

26 Q. You're the parent.

27 A. Yes, they did. That's exactly what they thought.

28 Exactly.

1 Q. And you fully cooperated?

2 A. I fully cooperated.

3 Q. Did you want to know what was going on?

4 A. Yes, I wanted to know what was going on.

5 Q. Okay. So, anyway, the police came and they looked
6 around your place?

7 A. Uh-huh. They took pictures, too.

8 Q. Because you did have some prescription medications?

9 A. Yes.

10 Q. We will get into that. In terms of if I told you that
11 none of those contained benzodiazepines, would that be your
12 understanding as well?

13 A. As far as, well, when I had went to get the -- the
14 medication list from Longs Pharmacy, there was no
15 benzodiazepines on it.

16 Q. Did they ask you to go to the -- your pharmacy?

17 A. Yes, yes. Tracy Police Department did.

18 Q. And to get a list of all the medication -- any
19 medications that you may have had?

20 A. Yes.

21 Q. Did you have what, two or three bottle in your place
22 of medication?

23 A. I believe so, yes, like two or three.

24 Q. Let me show you...

25 MR. TESTA: Can I have marked as People's
26 next in order? What number will this be?

27 THE SECRETARY: 213.

28

1 (Whereupon a Photograph was marked Grand
2 Jury Exhibit Number 213 for
3 identification.)
4

5 MR. TESTA: Q. 213. Recognize this? Is
6 this your -- your bedroom -- your bathroom?

7 A. That's our bathroom, yes.

8 Q. And did you have a few --

9 A. I had, yes, one, two, and three.

10 Q. Three what?

11 A. Prescription bottles.

12 Q. Okay. That's 213.
13

14 (Whereupon a Photograph was marked Grand
15 Jury Exhibit Number 214 for
16 identification.)
17

18 MR. TESTA: Q. 214, does this appear to be a
19 close-up of them?

20 A. Yes -- well, then, four.

21 Q. Oh, that's right. Okay.

22 And did they come and take these photographs that I'm
23 showing?

24 A. Yes, they did.
25

26 (Whereupon a Photograph was marked Grand
27 Jury Exhibit Number 215 for
28 identification.)

1 MR. TESTA: Q. 215 is another -- did they
2 lay them out and take these photographs? Do you remember
3 their taking photographs like this?

4 A. Well, they must have took them out of the cabinet,
5 yeah, because they were up in the cabinet.

6 Q. Yeah, okay.

7 A. In the medicine cabinet.

8 Q. Exactly. But, I mean, were you there when the police
9 officer was --

10 A. No, I was not. I was still at the hospital.

11 Q. I see. You gave them -- let me finish the question.
12 You gave them permission while you were at the hospital,
13 "Yeah, go to my house, you can search it, do whatever you
14 want"?

15 A. Yes.

16 Q. And they went to your house while you were at the
17 hospital?

18 A. Yes.

19 Q. I see.

20 A. Yes.

21 Q. So you wouldn't know what they did with the
22 photography.

23 Do these photographs I've just shown you accurately
24 show you where the medication was kept?

25 A. Yes, they do.

26 Q. Did you even go further and go to the pharmacy and get
27 a list of what was -- what particular medications?

28 A. Yes, later on, I did, yes. After -- after Detective

1 Knight -- Ryan Knight had came over to talk to me and wanted
2 me to get a list of all the prescription medications.

3

4 (Whereupon a List of Prescriptions from
5 Longs Drugs was marked Grand Jury
6 Exhibit Number 216 for identification.)

7

8 MR. TESTA: Q. Showing you this Exhibit 216,
9 does this look familiar?

10 A. Yes, it is.

11 Q. Where did you get this from?

12 A. I got it from Longs on Tracy Boulevard.

13 Q. Okay.

14 Hydrocortisone, what was that for?

15 A. It was -- because I have eczema, so it's a cream. It
16 helps me -- keep me from itching.

17 Q. Hydro -- I can't pronounce it. Do you know what this
18 is?

19 A. That's like -- it's like a -- like a Vicodin for pain.

20 Q. And why did you have that? What was the need for
21 that?

22 A. That was -- I was using that for -- for my headaches
23 that I was getting.

24 Q. Second page, I will have this marked 217.

25

26 (Whereupon List of Prescriptions from
27 Longs Drugs was marked Grand Jury
28 Exhibit Number 217 for identification.)

1 MR. TESTA: Q. Is this the second of the two
2 pages?

3 A. Yes, it is.

4 Q. If you know, what was the cyclobenzaprine?

5 A. That was for the itching, too.

6 Q. Naproxen?

7 A. Naproxen, as far as I know that was -- a lot of that
8 is for the itching.

9 Q. Drops?

10 A. Oh, that was when I had a couple of styes in my eye.
11 I had gotten styes.

12 Q. Prednisone?

13 A. I don't remember what that one was for.

14 Q. I have a pharmacist coming. She'll tell us.
15 Clindamycin?

16 A. I don't remember what that is for either.

17 Q. Is this for just like the last few years --

18 A. Yes.

19 Q. Let me finish.

20 We only saw four -- you know, let me ask -- go back
21 first. These -- 214 shows a total of four. Is this the
22 extent of what you had?

23 A. Yes.

24 Q. Let me finish.

25 In terms of any drugs in your house, is this the
26 extent of what you had?

27 A. As in prescription drugs?

28 Q. Yes.

1 A. Yes.

2 Q. What about non-prescription drugs?

3 A. I'm -- I'm sure you guys probably have a picture of
4 this, too. I had two roaches sitting up on my shelf. Okay?

5 Q. That's it, we just want the truth.

6 A. I'm telling you guys the truth.

7 Q. Two roaches, marijuana?

8 A. Yes, marijuana.

9 Q. Okay. And then one, two, three, four -- four
10 prescription -- capsules of prescriptions --

11 A. Yes.

12 Q. -- containers of prescriptions, is that it?

13 A. Yes.

14 Q. So this list, though, seems to have more than four,
15 unless they are duplicates. Is this list --

16 A. It's -- if you look on this, the first page, it says
17 what -- how far, because I had them go back like three
18 years.

19 Q. So you did all this?

20 A. Right here, look. See from 1/1/2007 through 4/22 of
21 2009.

22 Q. I see. Okay. So the ones you actually had in the
23 house at the time, I can't make out what they were, but what
24 were the ones -- the present medicines that were available
25 to you in January of 2009?

26 A. Those right there. But I wasn't taking any because I
27 was -- I was using the cream for the itching.

28 Q. So in terms of any other of these containers, you

1 were, I guess like many people, kind of stuck them in the
2 medicine cabinet there?

3 A. The drops, too, for my eye, they were laying down.

4 Q. Are the drops showing in 214?

5 A. Yes, they are right here. Right there.

6 Q. Oh, okay. Okay. All righty. So this 216 and 217 are
7 the documents that you picked up from the pharmacist?

8 A. Yes.

9 Q. Why did you do this again?

10 A. Because Detective Ryan Knight asked me that the DA
11 needed a list of all the medications to rule me out.

12 Q. Okay. And did you have any -- did you say, "No, no,
13 no, that's confidential. I'm not going to give you that
14 stuff"?

15 A. I said, "That's no problem. I'll go get it and I'll
16 have it for you today if you want to come by and pick it
17 up."

18 Q. I think that makes sense to me. I think I'm just
19 about done. Let me look at my notes, see if I have any
20 other questions.

21 When you were at the hospital, you say they take her
22 blood, you say REDACT was apprehensive about having her
23 blood drawn?

24 A. She's like me, she don't like needles.

25 Q. I understand.

26 How did this play out? I mean, what happened there at
27 the hospital?

28 A. That's when I guess CPS was called.

1 Q. Child Protective Services?

2 A. Yes. Right. Right.

3 Q. Here we have a blood test showing benzodiazepines in a
4 little girl's blood and she's acting drunk in the hospital,
5 you had to carry her in, they're looking at you like --

6 A. They are looking at me as if I gave it to her.

7 Q. Do you have any felonies?

8 A. No, I don't.

9 Q. Do you have a drug history?

10 A. No, I don't.

11 Q. Well, you had the roaches.

12 A. Well, okay, that's -- well, yeah.

13 Q. It's going to be legal in a few years. So we are not
14 passing judgment. But the marijuana -- you had marijuana in
15 your house?

16 A. Yes, yes.

17 Q. Okay. So, anyway, so what happens there at the
18 hospital? Take her blood, CPS comes?

19 A. Take her blood, CPS comes, they tell me they are going
20 to put REDACT into protective custody until they can find
21 out exactly what's going on.

22 I might add, though, that they were supposed to go
23 over and search Melissa's house that night, too.

24 Q. They never did?

25 A. I don't know.

26 Q. Go ahead, what else happens? CPS gets involved, what
27 happens to your daughter?

28 A. They take -- CPS -- CPS takes her to Mary Graham Hall

1 for the night. That's when I walked home at 4:00 -- or
2 2:00 -- 2:00 o'clock in the morning from the hospital. The
3 very next day when I went to work, a CPS worker showed up at
4 my work to talk to me about what had happened at the
5 hospital with REDACT. And the conditions on that -- that
6 they would release her back into my custody is that I get
7 her a total physical, which I did. I -- a total physical,
8 getting her eyes, ears, nose, mouth, teeth checked. I did
9 all of that. The only thing I have to still do is get her
10 to the dentist.

11 Q. Is she in good health?

12 A. She's in good health, yes. Yes. This is when we
13 actually found out that she needed glasses, so she has
14 glasses now.

15 Q. Oh, okay. All righty. Let me just look at my notes
16 here.

17 And then did they give you your daughter back to you?

18 A. Yes, they did. My mom and stepdad went and picked her
19 up for me.

20 Q. Now, did you ever ask your daughter when she was
21 acting drunk that afternoon -- before you even -- when you
22 take her to Christian's nurse -- his mother was a nurse, and
23 you drive in to the hospital, did you ever ask her, "REDACT,
24 REDACT, did you drink something? Did you eat something?
25 Did something happen to you?" Did she say something
26 spontaneously to you?

27 A. She had told me she had water from Wendy's and it
28 tasted like medicine she told me.

1 Q. Who did she say she was with when she got the water?

2 A. With Melissa Huckaby.

3 Q. Okay. She's outside now?

4 A. Yes, she is.

5 Q. Can we bring her in, ask her?

6 A. She might be a little scared and intimidated because
7 all of you in here. I was the same way. But...

8 Q. Okay. The next day when you got her back, was she
9 acting okay?

10 A. She was okay. She was still kind of real sleepy.
11 When I got home from work, she was asleep on the couch.

12 Q. Oh, when you got home from work on the 18th?

13 A. Yes, on the 18th after my mom and stepdad had went and
14 picked her up, when I came home, she was asleep on the
15 couch.

16 Q. And did you ever let her go back and --

17 A. No. From that day on, she never goes outside to play
18 at all, period. Period.

19 Q. But she's doing okay, is she?

20 A. She's doing okay, yeah, she's doing okay.

21 Q. Here's questions from the grand jurors, they get to
22 ask questions.

23 A. Okay. Okay.

24 Q. What time did Melissa bring REDACT back home in the
25 car?

26 A. Around 5:30, 5:30ish.

27 Q. And how long was it would you say before you noticed
28 the symptoms of this?

1 A. I didn't notice it until we were on our way to
2 McDonald's.

3 Q. Did you go to the nurse before?

4 A. After -- this was after. We were getting ready to go
5 to McDonald's, but we didn't make it to McDonald's.

6 Q. Oh, you mean you were getting --

7 A. We were getting ready to go to McDonald's.

8 Q. Had you left the trailer park?

9 A. We -- we were getting ready to leave the trailer park,
10 but that's when I had noticed that REDACT was not acting
11 like herself and that's when Chris suggested that maybe we
12 go over and talk to his mom.

13 Q. Oh, okay.

14 A. Because his mom is a registered nurse. So I said,
15 "Sure, okay."

16 Q. Were the police aware of your earlier report that your
17 daughter was missing and the time involved with Melissa
18 Huckaby? Was there no need on their part to question
19 Melissa? That's the question from the grand jurors. I
20 don't know if you have answers to any of those.

21 Had you -- had you told the police that, "Hey, she was
22 with Melissa"?

23 A. Yes, I did. They knew that she was with Melissa,
24 because Melissa brought her home.

25 Now, if -- if they questioned Melissa about it, I
26 don't know, because they didn't tell me anything about that.

27 Q. So let's -- let me put it this way: If they had to
28 believe Melissa or believe you, did -- how do you feel you

1 were treated by the --

2 A. You want the honest truth?

3 Q. The honest truth, that's what we are here for. You
4 won't hurt anyone's feelings. We are all adults.

5 A. I felt like I was treated like crap by the Tracy
6 Police Department because, okay, for one, they didn't
7 believe me. They thought I was the one that gave it to
8 REDACT.

9 Q. Yeah.

10 A. And I -- I just felt like they treated me like crap.

11 Q. And -- and any other opinions?

12 A. And also that when -- when Sandra Cantu came up
13 missing, I had -- I had told them, "Look at Melissa Huckaby
14 a little bit more." But, I don't -- to my -- you know, I
15 don't know if they did.

16 Q. Yeah. Okay.

17 Was it established as to what time the police
18 interviewed Plowman -- oh, this is about a different
19 witness. My mistake. Maybe I put it in the wrong pile.

20 When Melissa returned with REDACT what if anything did
21 the police -- it says when Melissa returned with REDACT what
22 if anything did the police that were there do?

23 A. They didn't do anything.

24 Q. I mean, did they take her aside -- I guess you hadn't
25 noticed the symptoms?

26 A. No, I hadn't noticed the symptoms.

27 Q. Did you ever give Melissa permission to take your
28 daughter?

1 A. On a couple of occasions before, yes, Melissa had had
2 permission from me to take REDACT to the park next to the --
3 to the school. Jacobson Elementary School.

4 Q. You personally gave her permission?

5 A. I personally, yes, I personally gave Melissa like
6 maybe two times before that incident.

7 Q. And it was always personal -- personal?

8 A. Yes, it was. Yes, it was.

9 Q. Did you give permission on this day?

10 A. No, she did not. Nobody gave her permission on this
11 day because I was still at work.

12 Q. Well, did you ask the police or suggest to the police,
13 "Hey, arrest this -- this Melissa took my daughter without
14 permission," or anything like that?

15 A. I -- no, huh-uh. I was, like I said, I was crying
16 hysterically, you know, and I was just happy to see my
17 daughter.

18 Q. This question is from the grand jury: Had there been
19 any other instances of children disappearing for lengths of
20 time prior to January 17th?

21 A. No, not that I know of.

22 Q. Not that you're aware of in the park?

23 A. Not that I know of, no.

24 Q. Second question from the grand jury: Had there been
25 any other kind of instances where children in the park that
26 involved Melissa -- well, I don't know how you could answer
27 that?

28 A. I don't know.

1 Q. Do you know when Melissa moved to the park?

2 A. I don't even know that either.

3 Q. Did you know her very well?

4 A. I had only known her by REDACT going over there and
5 playing with Melissa's little daughter Madison.

6 Q. Okay.

7 A. There was a couple of times that Melissa -- Melissa
8 had bought clothes for Madison but they were too big for her
9 so she gave them to REDACT. Melissa always seemed very
10 nice, okay? But after that incident with REDACT (Shakes
11 head negatively.)

12 But no, I didn't know her all that well.

13 Q. After that incident with REDACT what?

14 A. After the incident with REDACT, like I said, I don't
15 let her outside. I don't -- she doesn't -- the only place
16 that she does go to REDACT, 71,
17 Beth -- Beth and Barbara.

18 Q. You mean REDACT is allowed to play there?

19 A. Yes, because they are actually the people that brought
20 me here today, they are very, very good family friends.

21 Q. Another question from the grand jury: Was REDACT --
22 was Mady with Melissa and REDACT on January 17th?

23 A. Madison, yes.

24 Q. How old is she again?

25 A. She's five.

26 Q. When did you get the list from Longs? That's another
27 question from the grand jury.

28 A. It was -- it was after -- after everything with the

1 CPS, and -- it should say it on here. Right there. Right
2 there. In April. April 22nd, 2009.

3 Q. The other question when -- when were you asked to get
4 the list from Longs? That's the other question from the
5 grand jury.

6 A. When was I asked?

7 Q. I mean, for example, you said you were -- "I could go
8 get it that same day, if necessary." If you got it,
9 assuming this is the correct date, you got it April 22nd?

10 A. Uh-huh.

11 Q. When would you have been asked? Was it that day? A
12 week earlier? Ten days earlier?

13 A. It was like maybe a couple days earlier. When -- when
14 Detective Ryan Knight had came out to question me about --
15 about going and getting this, the list from Longs. So that
16 way the DA could rule me out from giving any -- giving that
17 drug to REDACT.

18 Q. Okay. All righty. Just double-check my notes, but
19 I'm pretty sure I'm done.

20 Can you -- you're allowed -- a child -- your daughter
21 REDACT you said was how old?

22 A. She's eight. She just turned eight July 5th.

23 Q. She's allowed to have a support person sit by her when
24 she's that age when she comes in court.

25 Would you be willing to sit -- or maybe get a chair
26 and you can sit by her when she comes in and tells us what,
27 if anything, she remembers?

28 A. Yes.

1 MR. TESTA: Are there any other questions
2 from the grand jurors?

3 Okay. The foreperson will read you an admonition.

4 THE FOREPERSON: You are admonished not to
5 reveal to any person, except as directed by the Court, the
6 questions were asked -- what questions were asked or what
7 responses were given or any other matters concerning the
8 nature or subject of the grand jury's investigation which
9 you learned during your appearance before the grand jury.
10 This admonishment continues unless and until such time as
11 the transcript of this grand jury proceeding is made public.

12 Violation of this admonishment is punishable as
13 contempt of court.

14 This does not prevent you from discussing the matter
15 with your attorney, if you have an attorney advising you
16 with respect to the appearance before the grand jury.

17 THE WITNESS: I understand.

18 THE FOREPERSON: Thank you.

19 MR. TESTA: Okay. Do you want to go out and
20 get her or you want me to get her?

21 THE WITNESS: You can bring her in.

22 MR. TESTA: Okay.

23

24 (Pause.)

25

26 THE FOREPERSON: She needs to be sworn in.

27 THE MOTHER: I don't know if she's going to
28 understand all this or not.

EXAMINATION

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BY MR. TESTA: Q. Are you chewing gum?

A. Uh-huh.

Q. You can sit here.

THE MOTHER: Sit right here, baby.

MR. TESTA: Q. Where did you get the gum?

THE MOTHER: Out of my purse.

MR. TESTA: Q. Well, have you ever spoken
into a microphone?

A. (Shakes head negatively.)

Q. Do you ever do singing?

A. (Shakes head negatively.)

Q. Let me ask you this: How old are you?

A. (Shrugs shoulders.)

Q. You're going to be shy on me. I told you that.

Let me ask you this: What's your name? Can you tell
us what your name is?

THE MOTHER: Come on, babe.

MR. TESTA: Here, you can hold this.

Q. Here's what I want to ask you. See this photo here --
we are going to swear you in in a second.

See this photograph up here? I would like to ask you
if you can show us where you lived. Do you know?

A. (Nods head affirmatively.)

Q. Okay. But can you -- before you -- can you hold this?
Can you hold this?

THE MOTHER: Come on, babe.

MR. TESTA: Q. Let's start with this: Is

1 your name Barbara?

2 A. (Shakes head negatively.)

3 Q. Sally?

4 A. (Shakes head negatively.)

5 Q. Karen?

6 A. (Shakes head negatively.)

7 Q. Is it -- what letter does it begin with?

8 A. REDACT.

9 Q. Can you tell us what your name is?

10 THE MOTHER: Tell them your name, babe.

11 MR. TESTA: Q. REDACT?

12 A. (Nods head affirmatively.)

13 Q. What's the next letter?

14 A. REDACT.

15 Q. REDACT?

16 A. (Shakes head negatively.)

17 Q. Does it go more?

18 A. (Nods head affirmatively.)

19 Q. REDACT?

20 A. REDACT.

21 Q. REDACT?

22 A. REDACT.

23 Q. REDACT?

24 A. REDACT.

25 Q. Okay. So now we know your name. REDACT.

26 Do you know what it means to tell the truth?

27 A. (Shakes head negatively.)

28 Q. Let me give you -- there's a little test we give when

1 people are under ten and I'm going to see if you know it.

2 If I showed you this and said this was a banana, would
3 I be telling the truth or would I be lying?

4 A. Lying.

5 Q. Lying.

6 Okay. What if I showed you this and said this is a
7 chalkboard, would I be telling the truth or would I be
8 lying?

9 A. Lying.

10 Q. What if I showed you this and said this is a -- this
11 is a big -- a book, would I be telling the truth or would I
12 be lying?

13 A. Lying?

14 Q. Lying. Okay. What if I said this is a piece of
15 paper -- what if I said this is a piece of paper, would I be
16 telling the truth or would I be lying?

17 A. Truth.

18 Q. Truth. Okay. Because I am holding a piece of paper.
19 The other items I was not holding.

20 What if I said this photograph here, 57, was a
21 photograph of McDonald's, would I be telling the truth or
22 would I be lying?

23 A. Lying.

24 Q. What if I said this photograph was a photograph of
25 your place, of your mobile home or where you live, would
26 that be the truth or a lie?

27 A. Truth.

28 Q. Okay. You seem to know the difference between the

1 truth and a lie.

2 Is it good or bad to lie?

3 A. Bad.

4 Q. Bad.

5 Is it good or bad to tell the truth?

6 A. Good.

7 Q. What happens if you lie, what can happen to you?

8 A. Mmm, I don't know.

9 Q. Can you get in trouble?

10 A. (Nods head affirmatively.)

11 Q. You're shaking your head yes. Okay.

12 Well, do you promise in court here today to tell us
13 the truth? Do you think you could do that for us?

14 A. (Shakes head negatively.)

15 Q. No? Am I misunderstanding you? Are you shaking your
16 head?

17 If I ask you a few questions, can you tell us the
18 truth today?

19 A. (Nods head affirmatively.)

20 Q. Yes. Okay. You're nodding your head yes.

21 You know, I think that oath that you give --

22 THE FOREPERSON: I have a child's oath.

23 MR. TESTA: You have a child's oath. Why
24 don't you read that. But I don't know if you're going to be
25 able to hear it. Read it as loud as you can.

26 THE FOREPERSON: Hi, REDACT.

27 MR. TESTA: REDACT.

28 THE FOREPERSON: REDACT.

1 MR. TESTA: She called you REDACT. Is it
2 REDACT?

3 THE WITNESS: (Nods head affirmatively.)

4 THE FOREPERSON: How are you? My name is
5 Verna. Did you know I'm a gramma and I have a granddaughter
6 just your age? Her name is Genesis.

7 Okay. I'm going to read you something, and you tell
8 me if it's yes or no.

9 All right. Do you promise that you will tell the
10 truth and nothing but the truth?

11 THE WITNESS: (Nods head affirmatively.)

12

13 **REDACTED,**

14 a witness called on behalf of the People, having been duly
15 and regularly sworn by the Grand Jury Foreperson, testified
16 as follows:

17

18 THE COURT: All right. That's all. Thank
19 you.

20 MR. TESTA: Q. So, have you ever used one of
21 these lasers?

22 A. No.

23 Q. I don't know if this one works. Just push this
24 button. And can you show us where you live? If you know?

25 A. (Pointing.)

26 Q. Okay. You're pointing to the REDACT house -- the
27 REDACT -- yeah, the REDACT house on REDACT.

28 And do you know what number your address is, what

1 number is on your house?

2 A. REDACT.

3 Q. Let me see if that -- let me show you Number REDACT

4 here. Hold on. This is probably too big.

5 Okay. Can you see it?

6 A. (Nods head affirmatively.)

7 Q. So you lived in REDACT did you say?

8 A. (Nods head affirmatively.)

9 Q. Is that -- you're nodding your head yes?

10 A. Yep.

11 Q. Who did you live there with?

12 A. My grandma.

13 Q. Your grandma and who else?

14 A. Grampa.

15 Q. Grandma, grampa, and who else?

16 A. My mom. My sister comes over to visit.

17 Q. Mr. Sinclair would come over to visit? I'm sorry, who

18 would come over to visit?

19 A. My sister.

20 Q. Oh, your sister. What's her name?

21 A. Ilea.

22 Q. How old is she?

23 A. Eighteen.

24 Q. Oh, she's eighteen. Where does she live?

25 A. She doesn't live in here.

26 Q. Oh, she doesn't live in there?

27 A. (Shakes head negatively.)

28 Q. She's eighteen. What does she do? She go to school?

1 Is she working?

2 A. Yeah.

3 Q. She goes to school?

4 Not in my eyes.

5 Okay. Remember the -- here's the question -- oh, I
6 know, did you know other people in this trailer -- in the
7 mobile home, kids you played with?

8 A. (Nods head affirmatively.)

9 Q. Can you show us any of their places, if you can? I
10 know you have never seen this from the sky so you don't
11 know. Put the other one up there.

12 Do you remember, like you mentioned, I heard you say
13 earlier to your mother, was her name Mariah?

14 A. I have another friend, too.

15 Q. What did you say?

16 A. I have another friend.

17 Q. It's hard for me to hear you. "I have another -- I
18 have another friend," did you say?

19 A. (Nods head affirmatively.)

20 Q. Let me hear how it sounds when you say it. You don't
21 want to talk into the microphone?

22 A. (Shakes head negatively.)

23 Q. Okay. Can you hold it, though?

24 A. (Shakes head negatively.)

25 Q. You don't want to hold it? Can your mom hold it?

26 THE MOTHER: I can hold it.

27 MR. TESTA: Q. Okay. So where did Marissa
28 live? Where does Marissa live? Does it show on the -- on

1 the thing?

2 A. (Pointing.)

3 Q. How old is Marissa, about?

4 A. I don't know.

5 Q. Is she your age?

6 A. (Shakes head negatively.)

7 Q. How old? Are you saying Marissa or Melissa?

8 A. Melissa.

9 Q. Oh, Melissa. Okay. Do you know a Mariah?

10 A. (Nods head affirmatively.)

11 Q. Where does Mariah live?

12 A. (Pointing.)

13 Q. Okay. Let me -- I think it's easier if I put up
14 Number 51, then we can get the numbers, if you know the
15 numbers. Where does Mariah live?

16 A. (Pointing.)

17 Q. Number 10?

18 A. Uh-huh.

19 Q. Who else did you know in that mobile home park,
20 besides kids that you've played with.

21 Mariah, okay. If you're in REDACT. Mariah is in 10.
22 Did you know anyone else?

23 A. (Nods head affirmatively.)

24 Q. Who else?

25 A. (Pointing.)

26 Q. You're pointing to what? 64. Who was that? Do you
27 remember the name of that person? Can't remember right now?

28 A. (Shakes head negatively.)

1 Q. Who else? Did you play with anyone else in the mobile
2 home?

3 A. (Shakes head negatively.)

4 Q. That's about it? Did you know Sandra Cantu?

5 A. (Nods head affirmatively.)

6 Q. You did know her?

7 A. (Nods head affirmatively.)

8 Q. Did you play with her? You're nodding your head yes.
9 Did you know her?

10 A. Yes.

11 Q. Did you play with her?

12 And do you remember where she lived?

13 A. (Pointing.)

14 Q. You're pointing to 62 or so. Okay.

15 Does Sandra Cantu's place show up on this photograph?

16 A. (Pointing.)

17 Q. One, two, three, four, five, the fifth one up. So
18 let's coordinate that with 51 here. One, two, three, four,
19 five. Okay. So you're indicating number 63, the fifth one
20 up when we coordinate 51 with the photograph 57. Okay.

21 So let me just get to this. What about that day when
22 your mom took you to the hospital and they had to take your
23 blood, do you remember that?

24 A. (Nods head affirmatively.)

25 Q. Did it hurt when they took your blood?

26 A. (Shakes head negatively.)

27 Q. Not really? You're shaking your head no.

28 Where had you been earlier that day? Do you remember

1 the day I'm talking about when the police came --

2 A. (Shakes head negatively.)

3 Q. -- and your mom was crying and you end up going to the
4 hospital?

5 A. (Shakes head negatively.)

6 Q. Do you remember telling your mom or the police that
7 you had been with someone and you went to some parks and you
8 went to a Wendy's?

9 A. (Nods head affirmatively.)

10 Q. Tell us about that. You're shaking your head yes.
11 Who took you to the parks?

12 A. Melissa.

13 Q. Melissa. And how did you guys get there? Did you
14 walk? Did you go on bikes? Did you go in a car?

15 A. Car.

16 Q. Car. Whose car?

17 A. Melissa's.

18 Q. What did the car look like, do you remember?

19 A. It was a Jeep.

20 Q. It looked like a Jeep. Okay.

21 And who else went with you, besides you and Melissa,
22 anyone else?

23 A. Um.

24 Q. You don't -- if you don't know the name, that's okay.
25 Was there another person that went?

26 A. Madison.

27 Q. Madison. Okay. And is that Melissa's child --
28 daughter?

1 A. Uh-huh.

2 Q. How old is Madison about, do you know?

3 A. Five.

4 Q. Five. And how old did you say you were?

5 A. Eight.

6 Q. Eight. What grade are you in?

7 A. I'm about to be in the third.

8 Q. You're about to be in third. Okay. Do you like
9 school?

10 A. Yes.

11 Q. Do you do well in school? I mean, do they -- do
12 you -- do you enjoy it I guess is a better way to ask it?

13 A. Yes.

14 Q. Where do you go?

15 A. Jacobson.

16 Q. Is that in the -- near the mobile home park?

17 A. A little.

18 Q. How do you get there every day? Do you walk, does a
19 school bus come, or do you take your bike?

20 A. We walk.

21 Q. Oh, okay.

22 So, anyway, this day that REDACT took you and Madison
23 in her car that looked like a Jeep, where did she take you?
24 Where did you guys go?

25 A. We went to like a few -- three parks.

26 Q. And what did you guys do at these three parks?

27 A. Me and Madison went to go play.

28 Q. And what did Melissa do?

1 A. She just sat and watched.

2 Q. Okay. And then after you guys went to the parks, did
3 you go anywhere to have anything to eat or drink?

4 A. (Shakes head negatively.) No.

5 Q. Did you tell anyone that you went to Wendy's?

6 A. No.

7 Q. Did you tell your mom or the police or the nurse or
8 anyone that you went to Wendy's and had a glass of water
9 that Melissa gave you?

10 A. My mom.

11 Q. Did you tell your mom that?

12 A. (Nods head affirmatively.)

13 Q. Is that true?

14 A. (Nods head affirmatively.)

15 Q. Tell us about that. What did you guys do that -- did
16 you guys eat at Wendy's?

17 A. No.

18 Q. But why did you guys -- why did you go to Wendy's?

19 A. To get some water.

20 Q. To get some water.

21 Who -- and did you drink some of the water?

22 A. Yeah.

23 Q. Who gave it to you?

24 A. Melissa.

25 Q. Did you see where she got it from?

26 A. No.

27 Q. Were you seated at a table or did you just walk into
28 Wendy's and get water, or did you use the restroom, or

1 how -- where did you guys get the water from?

2 A. Wendy's.

3 Q. And where -- do you remember where in Wendy's? Like
4 did you sit down at like the bench or the table?

5 A. No.

6 Q. Did you --

7 A. We went through the drive-thru.

8 Q. The drive-thru. Okay.

9 And Melissa gave you the water, if I understand you
10 correctly?

11 A. (Nods head affirmatively.)

12 Q. How did it taste?

13 A. It tastes funny.

14 Q. How -- what do you mean, it tastes funny? Did it
15 taste like normal water?

16 A. (Shakes head negatively.)

17 Q. You're shaking your head no. Try to describe how --
18 what made it taste kind of funny? Can you tell us anything
19 else about it, what it tasted like?

20 A. A vitamin.

21 Q. Okay. Tasted like a vitamin.

22 And do you know -- did you see whether -- how much of
23 it did you drink, if you remember? I know it's been a long
24 time.

25 A. (Shakes head negatively.)

26 Q. You don't remember?

27 Okay. But did you guys buy anything there at Wendy's
28 or just get the water?

1 A. We just got the water.

2 Q. You went through the drive-thru just for the water?

3 A. (Nods head affirmatively.) Uh-huh.

4 Q. That yes?

5 A. Yes.

6 Q. Okay. And then where did you guys go?

7 A. We went to the parks.

8 Q. Okay.

9 So did you go to the parks -- did you go to Wendy's --
10 did you go to parks first and then Wendy's or Wendy's and
11 then the parks? Tell us.

12 A. First we went to the Wendy's.

13 Q. Okay.

14 A. And then the parks.

15 Q. Okay. And then where did you go after the parks?

16 A. We went home.

17 Q. Okay.

18 And then did you remember feeling any -- funny when
19 you got home?

20 A. (Shakes head negatively.)

21 Q. You don't remember any of that? Do you remember going
22 to the hospital?

23 A. (Shakes head negatively.)

24 Q. Do you remember the police?

25 A. No.

26 Q. Okay. All righty. What else did you guys do there at
27 the parks? Anything else?

28 A. (Shakes head negatively.) No.

1 Q. Did you -- did you guys use any of the public
2 restrooms in the park?

3 A. (Shakes head negatively.)

4 Q. The public bathrooms, you know, sometimes they have
5 buildings where there are bathrooms. You guys use them, do
6 you remember?

7 A. (Shakes head negatively.)

8 Q. You're shaking your head no. Okay.

9 All righty. I have no further questions. Do you have
10 any questions for me?

11 A. No.

12 Q. Do you have any questions for these ladies and
13 gentlemen?

14 A. (Shakes head negatively.)

15 Q. Is there anything else we forgot to ask you that maybe
16 you -- it's important about what happened and I forgot to
17 ask you that?

18 Here's a question from one of the -- let's see what
19 they have to ask you.

20 First -- this is a question from one of the jurors:
21 First, you're a very brave little girl.

22 Did Madison get a drink of water? Oh, that's a
23 question.

24 A. No.

25 Q. No. Okay.

26 Did you -- okay. So was it only you that had the
27 water or did Melissa have water or did Madison have water?

28 A. No.

1 Q. Just you?

2 A. (Nods head affirmatively.) Uh-huh.

3 Q. Is that a yes?

4 A. Yes.

5 Q. Oh, okay.

6 MR. TESTA: Are there any other questions
7 from the grand jurors?

8 GRAND JUROR 14: Over here.

9 MR. TESTA: Q. Oh, there is another
10 question. Okay. We're almost done.

11 Was it -- here's a good question: Was it a bottled
12 water or a cup of water?

13 A. A bottle.

14 Q. Was it in a bottle?

15 A. (Nods head affirmatively.)

16 Q. Okay.

17 A. Uh-huh.

18 Q. And did you -- did you see whether the bottle was
19 shared with anyone else?

20 A. No.

21 Q. Was it shared with anyone else?

22 A. No.

23 MR. TESTA: Any other questions?

24 Q. One more. Looks like there's more. So when you leave
25 here in about one minute, where are you going to go? You
26 got school now or anything?

27 A. Huh-uh.

28 Q. You get to play for the rest of the day?

1 A. (Nods head affirmatively.)

2 Q. Are you on a computer -- do you have computers at
3 home?

4 A. One.

5 Q. You have one. Do you know how to use it?

6 A. (Nods head affirmatively.)

7 Q. Does it have the games on it, too?

8 A. Uh-huh.

9 Q. Hold on. I'll just get that one last question.

10 MR. TESTA: It's hot in here.

11 THE MOTHER: I'm just real nervous. I'm glad
12 I'm pretty much done.

13 MR. TESTA: Thank you.

14 Q. Here is a few more, REDACT. Let's see what these say.
15 Did Melissa -- this is a question from the grand jurors:
16 Did Melissa give the bottle of water -- did she give it
17 right from the window or did you see whether she did
18 anything with it, or was there any time period -- do you
19 remember specifically, you know, who handled the water?

20 A. No.

21 Q. Who -- did Melissa pay?

22 A. Yeah.

23 Q. And did you see what she did with the water once she
24 got it?

25 A. No.

26 Q. Did Melissa open the bottle if you saw? I mean, did
27 you see her open the bottle of water, if you recall?

28 A. No.

1 Q. Did you actually see the bottle -- you know, actually,
2 maybe I should ask you. Do you know what I mean, like there
3 could be a cup of water like this, or there can be a bottle
4 of water like this. See that? See this one over here? You
5 know, is this -- what is this to you, a bottle of water?

6 A. (Nods head affirmatively.) Uh-huh.

7 Q. Okay. So was it a bottle of water or was it a cup of
8 water, or -- if you remember? Don't just guess, but tell us
9 if you remember which one it was that you guys -- that
10 Melissa got when you went into that drive-thru place at
11 Wendy's.

12 A. No.

13 Q. No what? Do you remember?

14 A. No.

15 Q. Excuse me for reaching over you.

16 All righty. Which one is this? Who -- whose idea was
17 it to get water?

18 A. Mine.

19 Q. Was it your idea?

20 A. (Nods head affirmatively.)

21 Q. You say you wanted water?

22 A. Uh-huh.

23 Q. And who did you say that to?

24 A. Melissa.

25 Q. Okay. Thank you.

26 MR. TESTA: Any other questions?

27 I see none. You going to read the admonition?

28 THE FOREPERSON: Uh-huh.

1 You should not discuss anything about this matter with
2 anyone unless your -- unless your mother tells you it is
3 okay.

4 THE MOTHER: Tell her okay.

5 THE WITNESS: Okay.

6 MR. TESTA: Thank you very much for coming
7 in. You can leave. I appreciate your coming in, both of
8 you. You can go out this way.

9 THE MOTHER: Okay.

10 MR. TESTA: Do you normally take your break
11 at 10:15 or 10:30?

12 THE FOREPERSON: 10:30, but we can take it
13 now.

14 MR. TESTA: 10:30 works.

15

16 (Pause.)

17

18 MR. TESTA: What is your name, sir?

19 THE WITNESS: My name is Jeff Berdosh.

20 MR. TESTA: Foreperson will read you an oath.

21 THE FOREPERSON: Want to spell your name,
22 please? Will you spell your name, please?

23 THE WITNESS: Yes. It's Jeff, J-E-F-F, last
24 name is B-E-R-D-O-S-H.

25 THE FOREPERSON: Okay. Would you raise your
26 right hand, please?

27

28

JEFF BERDOSH,

1
2 a witness called on behalf of the People, having been duly
3 and regularly sworn by the Grand Jury Foreperson, testified
4 as follows:

5
6 THE WITNESS: I do.

7 THE FOREPERSON: Thank you.
8

EXAMINATION

9
10 BY MR. TESTA: Q. Where are you employed,
11 sir?

12 A. Tracy Police Department.

13 Q. And what is your position there?

14 A. I'm a police officer assigned to Patrol.

15 Q. How long have you been so employed?

16 A. Just over two years.

17 Q. Are you considered a peace officer?

18 A. Yes.

19 Q. Okay. Have you completed the POST class?

20 A. I have.

21 Q. Regarding testifying about statements other people
22 have made, so forth?

23 A. Yes, I have.

24 Q. Okay. Did you interview -- did you have some contact
25 with REDACT -- REDACT and her daughter REDACT?

26 A. Yes, I did.

27 Q. On what date?

28 A. I believe it was January 17th.

1 Q. What year?

2 A. 2009.

3 Q. Okay. Do you have a -- did you make a report about
4 your contacts?

5 A. I did.

6 Q. And do you have a copy of it with you?

7 A. I do.

8 Q. Feel free if you need to refer to it, to just let us
9 know first, and you certainly can refresh your memory. It's
10 been awhile since this incident happened.

11 So how did you get involved?

12 A. I was dispatched to respond to the hospital after they
13 had notified the Police Department regarding a
14 seven-year-old girl who had come in -- or was taken to the
15 hospital because she had been acting awkward and later
16 tested positive for a substance on a drug screen.

17 Q. Sutter Hospital, what's the name of the hospital?

18 A. It's Sutter Tracy Community Hospital.

19 Q. What time did you arrive?

20 A. I believe it was shortly after 10:00.

21 Q. A.M. or P.M.?

22 A. P.M.

23 Q. And what did you do when you got there?

24 A. Upon my arrival, I contacted first the hospital staff.

25 Q. Okay. Did you end up seeing the little girl?

26 A. I did.

27 Q. Did you recognize her this morning, by the way? I
28 don't know, did she pass by you at all?

1 A. I didn't see her, no.

2 Q. Because we were in separate rooms here.

3 Anyway, what's the name of the little girl?

4 A. I believe it was REDACT.

5 Q. How do you spell her last name?

6 A. If I may refer.

7 Q. Of course?

8 A. (Referring to report.) REDACT.

9 Q. Where was she when you contacted -- when you made
10 contact with her, as you say?

11 A. She was on a hospital bed in the Emergency Room.

12 Q. In the ER?

13 A. Yes.

14 Q. Can you describe how she acted, how she appeared, how
15 she seemed to you?

16 A. Lethargic. I remember her speech was slurred.

17 Easiest way to describe it for me was -- was consistent with
18 somebody that was under the influence of -- of a drug or
19 alcohol.

20 Q. Okay. And did you ask her if she had taken anything?

21 A. I did.

22 Q. What did she say?

23 A. She said she did not.

24 Q. Okay. As far as the symptoms, was she able to stay on
25 the bed or on the chair, wherever she was when you saw her?

26 A. No. Her -- she was -- she was very flaccid. She was
27 just very lethargic, unable to stay seated upright. As I
28 recall, she did slide off the bed on a couple occasions.

1 Q. Was she able to hold herself up?

2 A. Not as if a normal person or somebody.

3 Q. Didn't you mention in your report she also slid off
4 the bed numerous times during the interview as she was not
5 able to hold herself up?

6 A. Yes.

7 Q. Did that -- is that what you saw?

8 A. Yes.

9 Q. Okay. And as you're talking to her, do you notice --
10 tell us, you've been you said a peace officer for at least
11 two years, right?

12 A. Yes.

13 Q. Tell us about it. You were there. We weren't. So
14 you're talking to her. What other things caught your
15 attention?

16 A. I noticed her pupils were dilated. The lighting in
17 the -- in the hospital room's rather bright. And with my
18 training and experience, bright lights are going to
19 constrict your pupils under normal conditions. Her eyes
20 were dilated beyond what I have been trained is normal.

21 The slurred speech. Speaking with her, it was
22 difficult to -- to gather a complete statement from her
23 regarding what happened that day.

24 Q. Did she say some things, though, about what happened
25 that day?

26 A. Yes.

27 Q. What did the little girl tell you?

28 A. She said that she'd spent time with a friend and a

1 friend's mother and had went to a couple parks throughout
2 Tracy to play.

3 Q. And did she say whether they ate at any of the parks?
4 Feel free -- do you have your report?

5 A. Yeah, if I may.

6 Q. We don't want you to guess. Just let us know when you
7 refer to it. Do you need to refresh your memory by looking
8 at your report?

9 A. Yes.

10 Q. Line 4 of your report.

11 A. (Referring to report.) Yes, it was a picnic lunch.
12 She said she didn't know which park.

13 Q. At one of the parks they had a picnic lunch?

14 A. Yes.

15 Q. Melissa Huckaby took them to three parks, is that
16 correct, throughout Tracy?

17 A. Yes.

18 Q. Are you asking me or are you sure?

19 A. I am sure.

20 Q. Okay. And did you ask her if she had been given or
21 whether she took any type of medication?

22 A. I did.

23 Q. And what did the little girl say?

24 A. She said she did not.

25 Q. Okay.

26 So did you -- what -- did you end up going over to the
27 REDACT house to search it?

28 A. I did.

1 Q. And did you or someone in your presence take
2 photographs of it?

3 A. I took digital photographs, yes.

4 Q. And what was the address of the house to which you
5 went?

6 A. It was in the mobile home park at 812 West Clover. I
7 would have to refer to know the exact trailer.

8 Q. Refresh your memory, tell us which one it was.

9 A. (Referring to report.) REDACT.

10 Q. Okay. And showing you this photograph, 213. Look
11 familiar?

12 A. Yes. That's the bathroom.

13 Q. Did you see some prescription drugs there in the
14 medicine chest?

15 A. I did.

16 Q. And did you focus on those with the photographs?

17 A. I believe so.

18 Q. Okay. Showing you 214, does the look like a slightly
19 closer-up shot of that medicine cabinet?

20 A. Yes.

21 Q. And then 215, did you place the medicines out there so
22 you could photograph them?

23 A. I did. I did.

24 Q. Are you sure? You seem tentative about this.

25 A. I thought it was better quality than that.

26 Q. Well, yeah, I was going to ask you. You can't really
27 make out the precise medications.

28 A. Yes.

1 Q. What were you trying --

2 A. I was attempting that, yes.

3 Q. You didn't seize them, did you?

4 A. I did not.

5 Q. Okay. Well, we have a list of her medications,
6 anyway.

7 A. Okay.

8 Q. Oh, and you took some indicia photographs, too.

9 MR. TESTA: What's the next one in order?

10 THE SECRETARY: 218.

11

12 (Whereupon a Photograph was marked Grand
13 Jury Exhibit Number 218 for
14 identification.)

15

16 MR. TESTA: Q. Showing you 218, very poor
17 quality, but can you make out that one?

18 A. It appears that it says REDACT. It was mail. I took
19 pictures of mail to establish who the -- you know, whose
20 articles were in the room.

21

22 (Whereupon a Photograph was marked Grand
23 Jury Exhibit Number 219 for
24 identification.)

25

26 MR. TESTA: Q. 219, is that a little better
27 shot?

28 A. Much better.

1 Q. That's called indicia, right? You take indicia of who
2 lived there?

3 A. Yes.

4 Q. So you did that.

5

6 (Whereupon a Photograph was marked Grand
7 Jury Exhibit Number 220 for
8 identification.)

9

10 MR. TESTA: Q. And you also took, let's see,
11 this is 220, you took -- did you find a -- something that
12 later on I believe turned out to be aspirin or a tablet on
13 the bed or something?

14 A. It was on a shelf. I moved it down to the bed. It
15 was about a five-foot shelf. I was unable to take a
16 picture.

17 Q. Was it the same medicine cabinet?

18 A. No. It was in the bedroom.

19 MR. TESTA: Okay. All right. And what's the
20 next number, please?

21 THE SECRETARY: 219.

22 MR. TESTA: Pardon me?

23 THE FOREPERSON: 219 is the last one I did.

24 THE SECRETARY: So 220.

25

26 (Whereupon an Evidence Envelope with
27 Contents was marked Grand Jury Exhibit
28 Number 220 for identification.)

1 MR. TESTA: Q. 220. Do you recognize this
2 item?

3 A. Yes. That's a Department of Justice evidence folder.

4 Q. Did you have something to do with this?

5 A. Yes. It's my handwriting.

6 Q. With the laser pointer, can you show us -- there's one
7 right in front of you there -- where is your handwriting?

8 A. The entire -- my name -- or, I'm sorry, suspect
9 bedroom. My name is going to be right here booking the
10 evidence in.

11 Q. Okay. So the unknown white pill you booked?

12 A. Yes.

13 Q. Okay. So what else did you end up doing in terms of
14 this case? You went to the hospital, saw REDACT, saw her
15 symptoms?

16 A. Yes.

17 Q. Did you do anything else at the hospital?

18 A. I spoke with REDACT briefly.

19 Q. And did she tell you what -- what had happened?

20 A. Yes.

21 Q. Okay. And then you went and did she agree to allow
22 you to go do the search of her place?

23 A. She signed a consent to search form for medication or
24 controlled substance.

25 Q. Okay. And then did you ever go back to the Tracy
26 Community Hospital with the medications that you
27 photographed or did you make a note of the medications in
28 her - in the medicine cabinet there at the REDACT residence?

1 A. I -- prior to going to the trailer, I spoke with the
2 attending physician at the hospital regarding what
3 medications would have contained --

4 Q. Benzodiazepine?

5 A. -- benzodiazepine.

6 Q. Did you end up doing anything to rule out
7 benzodiazepine there in the -- in the house at REDACT place?

8 A. Preliminary.

9 Q. What?

10 A. None of the medications matched what I was told by the
11 attending physician.

12 Q. So none of the four bottles matched any of the
13 medications that would contain benzodiazepine?

14 A. That -- that I was told at the time, yes.

15 Q. And who told you this, one of the doctors there at the
16 hospital?

17 A. Yes.

18 Q. Okay. Did you ever end up going over to Melissa
19 Huckaby's to interview her?

20 A. I did.

21 Q. And what did -- when did you do that?

22 A. Later -- well, it would be the next morning, but it
23 was that night.

24 Q. What date and time did you interview Melissa Huckaby?

25 A. If I may refer to refresh my memory.

26 Q. Yes, please. Page 6 of your report, or the bottom of
27 page 5.

28 A. (Referring to report.) Yes. It was later that night.

1 I didn't write a time as to what time that I responded
2 there.

3 Q. Well, what time did you arrive to the hospital?

4 A. It was -- I was dispatched at 22:00 hours,
5 10:00 o'clock p.m., on the 17th.

6 Q. Okay. So we would be --

7 A. After that.

8 Q. First you did the search, though, right? And the
9 photography?

10 A. Yes.

11 Q. Photographing.

12 And then you went over to Melissa Huckaby's place?

13 A. After -- well, after the search, I spoke with REDACT
14 parents, REDACT grandparents. And then after that I
15 responded to Huckaby's residence.

16 Q. Space 57?

17 A. Correct.

18 Q. And what did she tell you?

19 A. She had said that REDACT was with --

20 Q. REDACT, the girl?

21 A. REDACT was with her and her daughter. And they had
22 gone to parks.

23 Q. Did she claim that the grandmother had given
24 permission?

25 A. Yes.

26 Q. Did you speak to the grandmother?

27 A. I did.

28 Q. Did she deny it?

1 A. If I may refer to...

2 Q. Okay.

3 A. (Referring to report.)

4 Q. You didn't put it in your report?

5 A. I did not put it in my report, no.

6 Q. What else did Melissa say happened? Melissa Huckaby?

7 A. She stated that -- if I may refer.

8 Q. Please do.

9 A. Have the exact.

10 Q. Refresh your memory.

11 A. (Referring to report.) She stated that on 1/17,

12 around 15:00 hours.

13 Q. 3:00 o'clock?

14 A. Yes. Sorry. 3:00 p.m., REDACT arrived at her

15 residence.

16 Q. Don't just read it. You can read it to yourself,

17 refresh your memory, then I'll ask you if that refreshes

18 your memory. If it doesn't, then you will be able to read

19 it if you have no independent recollection of it. At least

20 try first to see if it refreshes your memory by reading it

21 to yourself first.

22 A. Yes, sir.

23 Q. You can't just -- rules don't allow us to just have

24 you read to the jurors, you know, what your report says. So

25 take a moment.

26 A. (Referring to report.)

27 Q. Does that help you remember it?

28 A. It does.

1 Q. If you have to refer to it, do so. We'd rather you be
2 accurate. We don't want you to guess.

3 With your memory refreshed, what did Melissa Huckaby
4 say on January 17th, around 3:00 o'clock, REDACT came to her
5 house?

6 A. Yes. And to play with her daughter.

7 Q. And what else did Melissa say -- Melissa Huckaby say?

8 A. She stated that REDACT had permission from her grandma
9 to play and to go to parks.

10 Q. And then where did Melissa say they went to?

11 A. Wendy's --

12 Q. And what did she say?

13 A. -- Restaurant.

14 Q. Did she say what Wendy's, the address?

15 A. The Clover Road, it's right across -- it's kind of
16 adjacent to their residence.

17 Q. Did -- is that what she said? Your voice went up as
18 if you were asking me. Is that what Melissa Huckaby told
19 you?

20 A. On Clover Road is what she said.

21 Q. Wendy's Restaurant on Clover Road?

22 A. Yes.

23 Q. And then what did Melissa Huckaby say happened there
24 at Wendy's?

25 A. She stated that REDACT had a glass of
26 water.

27 Q. Did she say "a glass of water"? Did you make a note
28 of it in your report? Could you look at your line 5?

1 A. (Referring to report.) A cup of water. I'm sorry.

2 Q. That's okay. I'm getting real fussy here.

3 So Melissa Huckaby tells you that REDACT had a cup of
4 water from where?

5 A. From Wendy's.

6 Q. And what else did Melissa Huckaby say about that cup
7 of water?

8 A. That REDACT complained the water tasted funny.

9 Q. Okay. Did you put "funny" in quotation marks?

10 A. I believe so.

11 Q. Could you check and see?

12 A. (Referring to report.) Yes, I did.

13 Q. What does it mean when you write a report and you put
14 quotation marks around a particular word in a witness'
15 statement?

16 A. That's the exact term used by the person I interview.

17 Q. Okay. So Melissa Huckaby is saying -- told you that
18 REDACT complained that the water tasted funny?

19 A. Yes.

20 Q. Okay. And did Melissa Huckaby say anything else about
21 that water?

22 A. I believe she -- I asked her about why it would have
23 tasted funny.

24 Q. Were you at all suspicious? Like, I mean, what was
25 the tone of voice when you were asking Melissa Huckaby these
26 questions? Was it, "Just the facts, ma'am"? Was it, you
27 know, did you put on your detective hat? Were you
28 inquisitorial? Challenging? Tell us.

1 A. It was rather relaxed. I mean, it was early in the
2 morning. She had just woken up. So part of the interview
3 technique was just a relaxed conversation is what I was
4 trying to reach with her.

5 Q. So what else did Melissa Huckaby say about the water?

6 A. She -- she believed that it may have -- that REDACT
7 might have thought the water tasted funny because it was tap
8 water.

9 Q. Well, I don't understand. Tap water from the
10 restaurant?

11 A. Yes.

12 Q. That's what Melissa Huckaby is saying?

13 A. Yes.

14 Q. Okay. Well, did you ask her, "How do you know it was
15 tap water?"

16 A. I did not.

17 Q. Did she say whether they went through the drive-thru?

18 A. I don't know. If I may refer.

19 Q. I don't think there's any point here in your report
20 where you say either way.

21 It's been awhile, do you remember any comment about
22 where in the restaurant they went, whether it was through
23 the drive-thru, whether they went and sat down and went to
24 the counter or a chair?

25 A. I believe it was the drive-thru.

26 Q. What makes you think that?

27 A. Just from my independent recollection.

28 Q. Oh, fair enough. Okay.

1 Well, what did you -- did you challenge her and say,
2 "Wait a minute, you got tap water at the drive-thru?" Did
3 you ask her any questions like that?

4 A. No.

5 Q. Okay. So then what else did Melissa Huckaby say?
6 After they got the water, that she took the two kids to two
7 different parks?

8 A. Yes.

9 Q. Did she say that REDACT behavior was normal and she
10 did not appear under the influence of anything?

11 A. She said that she was normal. I believe the only
12 thing out of the ordinary was she believed that REDACT fell
13 at one of the parks. But nothing -- nothing where she was
14 injured.

15 Q. Okay. Did she -- did you ask her -- did you know at
16 the time you were talking to Melissa that there was this
17 benzodiazepine found in REDACT blood?

18 A. I did.

19 Q. So did you ever confront Melissa Huckaby, "Hey, you
20 were with her, do you have any idea how this benzodiazepine
21 got in this little girl's system?" Did you ever confront
22 her like that?

23 A. As -- as -- I don't believe I would have -- not
24 confrontational, no.

25 Q. In any manner did you ever seek to get an answer to
26 that question?

27 A. Yes.

28 Q. What did she say -- what did you ask and what did she

1 say?

2 A. If I may refer.

3 Q. Go ahead.

4 A. (Referring to report.) May I answer?

5 Q. Does that help you remember?

6 A. Yes.

7 Q. Go ahead. You tape recorded this conversation, didn't
8 you?

9 A. Yes.

10 Q. Huckaby -- Melissa Huckaby's interview is on tape
11 somewhere, right?

12 A. Yes.

13 Q. This report you wrote that you're referring to is your
14 summary of what she said?

15 A. Yes.

16 Q. Fair enough. So what else did she say?

17 A. That I asked if REDACT had taken medication throughout
18 the day. And she said that she didn't, and she didn't know
19 how she would have come into contact with -- she didn't know
20 how she would have come into contact with a benzodiazepine.

21 MR. TESTA: Okay. All righty. Are there any
22 questions from the grand jurors?

23 Q. Did you find the two roaches left in the bathroom?
24 Did you find some marijuana roaches when you were doing the
25 search there of the REDACT place and taking the photographs?

26 A. In the bedroom, I believe.

27 Q. What did you do with the roaches?

28 A. I believe I documented them and requested they be

1 disposed of by their grandparents. I did not take them, no.

2 Q. Did they appear to be marijuana?

3 A. Yes.

4 Q. And what's -- a roach is what? Like a portion of a
5 burned-out one or is it a live -- what is a roach
6 specifically?

7 A. When marijuana is put into a cigarette or a -- a
8 cigarette paper, it burns down, there's no filter -- usually
9 no filter on it. So it burns down to a point to where the
10 person is not able to hold it. Because if they are going to
11 hold it with their two fingers, they are going to be burnt.
12 So usually the tip is what's referred to as the roach.

13 Q. And have you training and experience in this area?

14 A. Yes.

15 Q. As an officer, did they appear to be just roaches to
16 you?

17 A. Yes.

18 Q. And the other question from the grand jury: Was it
19 REDACT -- who was it that mentioned the picnic at the parks?

20 A. REDACT.

21 Q. Was it REDACT who mentioned the picnic at one of the
22 parks? And that's in your report?

23 A. I believe so. It's under --

24 Q. What page number?

25 A. It should be REDACT statement.

26 Q. Could you tell us what page number and line?

27 A. Page 4.

28 Q. 26?

1 A. 26.

2 Q. So in your statement with REDACT, REDACT stated that
3 Huckaby took her to three parks throughout Tracy and had a
4 picnic lunch at one of the unnamed parks. Okay. So it was
5 REDACT who mentioned it.

6 Did Melissa ever say they had a picnic at any of the
7 parks?

8 A. No. No.

9 Q. Did anyone ever test or analyze the pills in the
10 bottles at REDACT house to see if they were on the -- the
11 same as on the label.

12 I don't think you can answer that. The question is --
13 did you ever seize those?

14 A. I didn't seize them. The prescription labels now have
15 a description of what the pills should be, as far as
16 physically. And they -- they all matched, as I recall.

17 Q. What do you mean -- how do you determine if the item
18 in the -- oh, they describe what it looks like?

19 A. Yes.

20 Q. So you look --

21 A. They will say a white and green oblong pill, for
22 example. And you -- I looked inside each pill, made sure
23 there was no odd pills inside the bottle.

24 Q. I see what you're saying.

25 MR. TESTA: Are there any other questions
26 from the grand jurors? I see none.

27 An admonition will be read to you and you can be on
28 your way, sir.

1 THE FOREPERSON: You are admonished not to
2 reveal to any person, except as directed by the Court, what
3 questions were asked or what responses were given or any
4 other matters concerning the nature or subject of the grand
5 jury's investigation which you learned during your
6 appearance before the grand jury. This admonishment
7 continues unless and until such time as the transcript of
8 this grand jury proceeding is made public.

9 Violation of this admonishment is punishable as
10 contempt of court.

11 MR. TESTA: Q. I did mean to ask you, what
12 is your badge number or your employee number?

13 A. 1257.

14 Q. And when you booked these items, the -- the unknown
15 pill, what number did you give it? Can you look at your
16 page 7 if you don't recall?

17 A. Yes, if I could.

18 (Referring to report.) The pill was booked as 1257,
19 number 7.

20 Q. And that's reflected on this exhibit, isn't it?

21 The --

22 A. Yes, under item number.

23 Q. 220.

24 A. (Pointing.)

25 Q. Yeah.

26 MR. TESTA: All righty. No further
27 questions.

28 Recess, how long?

1 THE FOREPERSON: Fifteen minutes.

2 MR. TESTA: Fifteen minutes from now. All
3 righty.

4

5 (Recess.)

6

7 THE FOREPERSON: Everyone is accounted for.

8 Mr. Testa, before we begin, you need to clarify some
9 evidence, please.

10 MR. TESTA: That's right, you were looking
11 for me earlier. What's up?

12 THE FOREPERSON: You marked two things as
13 220. So we would like to clarify that, please.

14 MR. TESTA: Did I say 220?

15 THE FOREPERSON: Yes. And you've written it
16 220.

17 MR. TESTA: My mistake.

18 We will put on the record -- are we on the record?
19 Everyone is here, we had roll?

20 THE SECRETARY: Yes, everyone is here.

21 MR. TESTA: Did you hear her say that?

22 So let me make a correction.

23 THE FOREPERSON: Evidence -- let's see, the
24 evidence folder by Jeff -- I don't know what his last name
25 was.

26 MR. TESTA: Berdosh.

27 THE FOREPERSON: Okay. Is 220.

28 And the photo with the pill, single pill, is 221.

1 (Whereupon the photograph described
2 above was remarked as Grand Jury
3 Exhibit 221.)
4

5 MR. TESTA: Okay. So we are going to
6 renumber 221?

7 THE FOREPERSON: Yes.

8 MR. TESTA: Okay. Thank you for clarifying
9 that.

10 May we begin or resume? We are all here. Okay.
11 Can you state your name, please?

12 THE WITNESS: Sandra Scott.

13 MR. TESTA: Try to speak into this if you can
14 because we have very poor acoustics.

15 Sandra Scott, I think we all know to how to spell
16 that. And the foreperson will administer an oath to you.

17 THE FOREPERSON: Would you raise your right
18 hand, please?

19

20

SANDRA SCOTT,

21 a witness called on behalf of the People, having been duly
22 and regularly sworn by the Grand Jury Foreperson, testified
23 as follows:

24

25 THE WITNESS: Yes, I do.

26 THE FOREPERSON: Thank you.

27

28

EXAMINATION

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BY MR. TESTA: Q. Where are you employed?

A. Sutter Tracy Community Hospital.

Q. And what do you do there at Sutter Tracy Community Hospital?

A. I'm a CLS, or clinical laboratory scientist.

Q. How long have you been so employed?

A. Employed -- I've been employed at Sutter Tracy since April of 2004.

Q. How long have you been doing this kind of work?

A. I have been a practicing CLS since 1997.

Q. What does such a person do?

A. A CLS is the person that does the testing -- lab testing on blood, urine, and other body fluids.

Q. So did you test some bodily fluids that were taken from REDACT on January 17th, 2009, at the hospital there in Tracy?

A. Yes, I did. It was urine.

Q. Urine. And give us an overview of your training, education, and experience that qualifies you to test that type of material and come in this court and tell us what you found.

A. Training, I have a Bachelor's Degree in biological sciences.

I have been practicing for the past -- for over eleven years.

I have training -- I was trained also in the military.

I was trained in New York.

1 I'm sorry, what was the other question?

2 Q. How long have you been doing this kind of work?

3 A. I have been doing this type of work for over eleven
4 years.

5 Q. Okay. So in this case, what did you test?

6 A. I tested the urine for -- for a drug screen.

7 Q. And what were your results?

8 A. The results showed that the urine was positive for
9 benzodiazepine.

10 Q. How do you -- I think I know how -- how do you spell
11 that, if you know?

12 A. B-E-N-Z-O-D-I-A-Z --

13 Q. I'm sorry, B-E-N-Z-O?

14 A. D.

15 Q. D as in David?

16 A. Yes. I-A.

17 Q. I-A?

18 A. P-I-N-E-S.

19 Q. P-I-N-E-S?

20 A. Yes.

21 Q. Benzodiazepines you found in REDACT
22 urine?

23 A. Yes.

24 Q. And that urine sample was collected on what date?

25 A. It was collected on January 17th, I believe.

26 Q. And did you prepare a report of your findings?

27 A. Yes, I did.

28 Q. And then is that report incorporated into a -- another

1 report?

2 A. Yes, it is.

3 Q. How does that work?

4 MR. TESTA: Well, let me have marked as
5 our -- next exhibit will be what number?

6 THE SECRETARY: 222.

7 MR. TESTA: 222.

8

9 (Whereupon a Lab Report was marked Grand
10 Jury Exhibit Number 222 for
11 identification.)

12

13 MR. TESTA: Q. Gee, I don't know how much of
14 this you can see on the screen here. Do you recognize what
15 this document appears to be?

16 A. Yes. It's a computer generation of our lab reports.

17 Q. A computer generation of your lab reports.

18 So does this show what you found?

19 A. Yes, it does.

20 Q. Why don't you with the laser pointer go down and
21 illustrate, tell us what -- beginning maybe at the top
22 here -- what your -- the results are. Do you have the
23 pointer?

24 A. Yes.

25 Q. I think it works.

26 A. The urine showed that it was negative --

27 Q. So you tested for a number of substances, correct?

28 A. Yes.

1 Q. And you used normal testing procedures when you did
2 this?

3 A. Yes, we do.

4 Q. And you have -- your training and experience is in
5 this area?

6 A. Yes.

7 Q. Do I understand correctly?

8 A. Yes.

9 Q. So you weren't doing this for the first time on this
10 case?

11 A. No, I was not.

12 Q. You had been doing precisely this kind of work for how
13 many years?

14 A. Over eleven years.

15 Q. So in this case, did you -- at whose request did you
16 do the drug screen of the urine?

17 A. The urine was requested by the Emergency Room.

18 Q. And did you -- do you do it there in the hospital?

19 A. Yes, we do.

20 Q. So while the patient -- while the little girl is
21 there, you are actually testing the material, the urine, and
22 then you give the reports to the ER doctor?

23 A. That's correct.

24 Q. Because we heard in this case that that's why the
25 police were called, because they got the results right then
26 and there and the police came and CPS got involved. Do you
27 know anything about that?

28 A. No, I do not.

- 1 Q. You were working in the lab doing the actual testing?
- 2 A. That is correct.
- 3 Q. Okay. So when you get what you -- do you get what,
4 like a cup of urine?
- 5 A. Yes, we do.
- 6 Q. Is it identified in some way?
- 7 A. It is identified with the patient's name.
- 8 Q. And then do you put this information into your record
9 somehow --
- 10 A. Uh-huh.
- 11 Q. -- or how do you --
- 12 A. Yes, we do.
- 13 Q. This exhibit a computer generation of your records?
- 14 A. That is correct.
- 15 Q. So what -- you get someone's urine and it has the
16 name -- did it have REDACT name on it?
- 17 A. Name, medical record number, a date of birth, the
18 doctor.
- 19 Q. Who was the doctor?
- 20 A. It was Dr. Uyeno.
- 21 Q. How do you spell that?
- 22 A. U-Y-E-N-O.
- 23 Q. When was the specimen collected?
- 24 A. It looks like the specimen was collected on 1/17 at
25 21:31. That's 9:31 p.m.
- 26 Q. 9:31 p.m. What is the name of this hospital again?
- 27 A. Sutter Tracy Community Hospital.
- 28 Q. And so you get the urine. How do you go about testing

1 it?

2 A. We actually take the urine, take -- put a few drops on
3 a slide, so to speak, and insert it into a small machine.
4 The machine actually does the reading. We don't do the
5 reading ourself. It prints out the result. We enter --
6 take the result, enter that result into the computer. It
7 determines what is positive or negative based on thresholds.

8 And if you see here, these are what the thresholds
9 are. Anything above this threshold will say it's positive.

10 Q. On this exhibit, it has the threshold, the cut-off
11 points, the threshold levels?

12 A. Yes, it does.

13 Q. For example, if you have the cut-off for
14 benzodiazepines is 300 --

15 A. Nanograms per mL.

16 Q. Nanograms. So if you tested her urine and only found
17 290 nanograms per milliliter, would it come back?

18 A. It should not come back positive.

19 Q. It would come back --

20 A. It should come back negative, yes.

21 Q. This doesn't test for trace amounts; it tests only for
22 amounts over a certain level?

23 A. That's correct.

24 Q. Who determines these threshold levels? Are they
25 standard in your industry? Are they requested by the
26 doctor? Who comes up with them?

27 A. This particular kit, that's the threshold it measures.

28 Q. Oh, the kit comes with the threshold?

1 A. That's correct.

2 Q. So, anyway, what were the results?

3 A. Result was positive for the benzodiazepines. Negative
4 for PCP, cocaine, amphetamine, marijuana, opiates,
5 barbiturates, methamphetamine, and tricyclics.

6 Q. What's that last one?

7 A. Tricyclics.

8 Q. What are they?

9 A. Drugs. Those are all street drugs.

10 Q. Street drugs. Okay.

11 And when you say negative, okay. So positive for
12 benzodiazepine, that means it had at least -- do you
13 determine how much -- let's -- can you tell if it's 301 or
14 400 or 800? Is there any way to tell?

15 A. Not by this kit. This kit only tells you if it's
16 above the threshold or not. To do that, we would have to do
17 quantitatively.

18 Q. Okay. All righty. Let me see if I have any other
19 questions here.

20 Oh, and what did you do once you found that there was
21 this positive testing for benzodiazepine in this urine
22 sample --

23 A. We just --

24 Q. -- with REDACT name on it?

25 A. We put the result in the computer and then generated
26 it in the Emergency Room where the nurse gave the results to
27 the doctor.

28 Q. So you don't have to walk, it's all computerized

1 nowadays?

2 A. It's computerized.

3 Q. They are in the ER room that pops up positive for
4 benzodiazepines?

5 A. That is correct.

6 Q. How long would it have taken you to do this once you
7 got the urine sample, once you received it?

8 A. Less than thirty minutes.

9 Q. Less than thirty minutes.

10 Okay. So is it just one test or do you have to do it
11 separately for each of these drugs?

12 A. Just one test.

13 Q. Okay. All righty. And then now we heard, for
14 example, she had some blood taken, too, from her. Did you
15 do anything with any blood?

16 A. I may have tested, I'm not sure.

17 Q. Okay.

18 A. I don't have the results.

19 Q. You don't have them here with you?

20 A. No, I do not.

21 Q. Well, when you're looking -- when one is looking for
22 benzodiazepines, is that something you test -- do you test
23 blood for that or do you test urine for that, or does it
24 matter?

25 A. In our facility, we test urine.

26 Q. Oh, you test urine?

27 A. That's correct.

28 Q. Do you do any blood testing in your facility?

1 A. For drugs, no, we do not. We do for salicylate,
2 acetaminophen, we do for antibiotics. And -- excuse me,
3 yeah, antibiotics.

4 Q. All righty. What about -- 1148?

5 A. I'm sorry, alcohol as well.

6 Q. Oh, by the way, did the urine -- did you do a test for
7 alcohol on this particular test?

8 A. No, that's a blood test and that one was not ordered.

9 Q. And do you see the results from the doctor? Did you
10 see the final results of the records?

11 A. No, I don't look at those.

12 Q. If it says you have a urine -- speaking about
13 REDACT -- you have a urinary tract infection, did you do any
14 tests that would suggest such a finding?

15 A. Yes. We do a urinalysis.

16 Q. And what -- did you find any results that suggest a
17 urinary tract infection?

18 A. There are certain indicators that can let a person
19 know that there's a urinary tract infection. There are --
20 if it's -- if the urine is positive for leukocyte esterase.

21 Q. For what?

22 A. Leukocyte esterase. If the urine is positive for
23 nitrites. If the urine is positive for blood.

24 Q. Were there any findings in this case to suggest?

25 A. I looked at the -- the reports you showed and it
26 showed that there was trace leukocyte esterase. And when a
27 microscopic examination was done, there were white cells.

28 Q. And what does that all amount to?

1 A. That could indicate that there could be a urinary
2 tract infection.

3 Q. Did you do this exam?

4 A. I do not, no.

5 Q. Oh, because you don't have all the reports with you?

6 A. No, I don't.

7 Q. You just have here in our discovery package the
8 computer generated -- generation of your report?

9 A. That is true.

10 Q. Did I understand you correctly?

11 A. That's correct. But I was not the only one working.
12 There was another tech as well. She may have done the
13 urinalysis.

14 Q. Are there other reports what was done there at the lab
15 besides this computer-generated report part which I put up
16 on the screen as 222?

17 A. Yes.

18 Q. And can you obtain those and we can get them at a
19 later date from you?

20 A. Yes.

21 Q. Do they still exist?

22 A. Yes, they do exist.

23 Q. All right. I have no further questions.

24 MR. TESTA: Do any of the grand jurors have
25 questions?

26 GRAND JUROR 12: One question.

27 MR. TESTA: Okay. Okay. There's a question.
28 Let's see what this is.

1 Q. Is there any way I guess one can determine how long
2 the benzodiazepines had been in REDACT system?

3 A. I'm not sure I'm qualified to make that assessment.

4 Q. Fair enough.

5 Are the thresholds -- this is a good question. Are
6 these thresholds that you talked about, are these
7 measurements only for adults, you know, these various
8 threshold limits that you explained in 222?

9 A. No, they are not.

10 Q. Well, wouldn't you need less of a drug if you're
11 dealing with a little kid to have an impact on you, to have
12 it influence you, than maybe an adult, so shouldn't you kind
13 of lower the thresholds? I guess -- do you know if there
14 are different levels -- different threshold levels depending
15 on the age of the patients?

16 A. Not for this particular kit. I'm not sure. But for
17 this particular kit, we only have one threshold.

18 Q. Fair enough.

19 Would -- here's the other question from the grand
20 jury: Would that 300 -- she says milligrams, but I think
21 you said nanograms.

22 A. Nanograms.

23 Q. Would that 300 nanograms have been dangerous for a
24 child?

25 A. I'm not qualified to make that assessment.

26 Q. Fair enough.

27 MR. TESTA: Are there any other questions
28 from the grand jury?

1 Q. What was your degree in from college?

2 A. Biological sciences. I have an AS Degree in medical
3 laboratory technology and a biological science degree.

4 So...

5 Q. Here's another question from the grand jurors: Is it
6 a normal test by kit to test for benzodiazepines and those
7 other well-known illegal drugs?

8 A. I'm sorry, can you -- yeah.

9 Q. Were you specifically asked to look for
10 benzodiazepines or were you just asked to do a general
11 urinalysis for drugs?

12 A. Just a general urinalysis, urine drug screen.

13 Q. So these various drugs that you're looking for that
14 are listed on the exhibit, you know, the opiates, the
15 barbiturates the amphetamines, cocaine, benzodiazepines, are
16 those all standard in your kit that you use?

17 A. That's correct.

18 Q. It wasn't like a doctor up there in the ER said, "Make
19 sure you test for benzodiazepines," it wasn't like that?

20 A. No, it was not.

21 Q. That's a good -- very good question.

22 MR. TESTA: Any other questions. One more,
23 okay. At least one more.

24 Q. Is a qualitative test done if the screen is positive?

25 A. I think she means a quantitative test done if the
26 screen is positive. No, it's not. This test only tells you
27 positive or negative. A quantitative test will tell you
28 exactly how much, and we do not do that test.

1 Q. So as I say, we can't tell if it was, you know, like
2 five times that level or one percent over?

3 A. No, no. We can't tell if it was 301 or if it was
4 5,000, no.

5 Q. You don't know how they determine why they -- are
6 these threshold limits the limits at which these drugs
7 affect people, do you know -- if you know?

8 A. I'm not sure.

9 MR. TESTA: Okay. Are there any other
10 questions? I see none.

11 So the foreperson will read you an admonition, then
12 you can get on your way.

13 THE FOREPERSON: You are admonished not to
14 reveal to any person, except as directed by the Court, what
15 questions were asked or what responses were given or any
16 other matters concerning the nature or subject of the grand
17 jury's investigation which you learned during your
18 appearance before the grand jury. This admonishment
19 continues unless and until such time as the transcript of
20 this grand jury proceeding is made public.

21 Violation of this admonishment is punishable as
22 contempt of court.

23 THE WITNESS: Okay.

24 MR. TESTA: Thank you very much. You may
25 leave.

26

27

(Pause.)

28

1 MR. TESTA: You can have a seat right there
2 where the microphone is.

3 Could you tell us your full name, please?

4 THE WITNESS: Shahina Begum.

5 MR. TESTA: Can you spell both of your names?

6 THE WITNESS: S-H-A-H-I-N-A B-E-G-U-M.

7 MR. TESTA: Okay. And an oath will be read
8 to you now.

9 THE FOREPERSON: Could you raise your right
10 hand, please.

11

12 **SHAHINA BEGUM,**

13 a witness called on behalf of the People, having been duly
14 and regularly sworn by the Grand Jury Foreperson, testified
15 as follows:

16

17 THE WITNESS: Yes.

18 THE FOREPERSON: Thank you.

19

20 **EXAMINATION**

21 BY MR. TESTA: Q. Where are you employed?

22 A. At Longs Drugs.

23 Q. What do you do there at Longs Drugs?

24 A. I'm a pharmacist.

25 Q. How long have you been a pharmacist?

26 A. Almost four years.

27 Q. Thank you for coming today.

28 Are you going to go back to work?

1 A. Another pharmacist is working there. I switched with
2 her.

3 Q. Did you -- were you asked to bring any prescription
4 drugs that REDACT had assigned to her? Were you asked to
5 bring anything?

6 A. No.

7 Q. No. All right. Do you have something there with you?

8 A. Yes.

9 Q. What is it that you brought?

10 A. It's a list of medications that REDACT got at the
11 Longs Drugs.

12 Q. Okay. And did you produce this document or had
13 generated -- did you generate this document?

14 A. Yes.

15 Q. Let me put it up on the screen here.

16 MR. TESTA: What number would this be?

17 THE SECRETARY: 223.

18 MR. TESTA: Thank you.

19

20 (Whereupon a List of Medications from
21 Longs Drugs was marked Grand Jury
22 Exhibit Number 223 for identification.)

23

24 MR. TESTA: Q. 223.

25 How did you generate this document that you have
26 brought here today?

27 A. I -- from the computer.

28 Q. And what is it?

1 A. It's the list of all the medications she got at Longs
2 Drugs.

3 Q. And when did you do this?

4 A. 4/22/09.

5 Q. Okay. And at whose request did you do this?

6 A. Sorry, I forgot his name. Sergeant.

7 Q. Was it at someone's request?

8 A. Yes. They came to our pharmacy.

9 Q. Someone from what, like the Tracy Police Department or
10 something?

11 A. Yes.

12 Q. What did they ask you to do?

13 A. They are asking me to give their information about all
14 the medication that REDACT got at our pharmacy.

15 Q. That REDACT had. And how did you generate this list
16 then that's been marked? Go into the computer?

17 A. Yes.

18 Q. Are you familiar with how this list -- how these types
19 of materials are -- how these records are kept?

20 A. Yeah, we keep them in the system for three years.

21 Q. So when a -- someone goes to Longs just to fill
22 prescription?

23 A. We keep them in the system for three years.

24 Q. Okay. And who -- and -- and if you ever have to call
25 up the list of medications someone has, you can do it by
26 just going into your system?

27 A. Yes.

28 Q. You're familiar with this system?

1 A. Yes.

2 Q. You know how it works?

3 A. Yes.

4 Q. And so did you have to -- did you put her -- why did
5 she ask you? Were you her pharmacist?

6 A. I was there on duty that day.

7 Q. You were on duty, oh, that day at Longs?

8 A. Yes.

9 Q. And then you just happened to be there when they asked
10 you to do it?

11 A. Yes.

12 Q. Did you need permission from the patient, do you
13 remember, her consent, or do you not know?

14 A. I guess for not this case.

15 Q. Well, she agreed anyway?

16 A. Yeah.

17 Q. So I just was curious if you had to get something in
18 writing.

19 So, anyway, what can you tell us about this? What
20 kind of drugs did she have? These are the dates that she
21 had the prescription pills?

22 A. Those are the prescriptions, name of the medication,
23 and the doctor prescribe them.

24 Q. So there really aren't any for 2009, are there?

25 A. No, they are all just until 2008.

26 Q. She said they were old bottles and she was only using
27 cream, I believe for --

28 A. For itching or rash.

1 Q. And maybe something for the eyes, as I remember.

2 A. Yeah.

3 Q. So can you, with the laser pointer, tell us -- there's
4 a laser. Here it is. This one is much better. Push this
5 button. We don't have to spend a lot of time on it, but
6 what kind of drugs? What's the hydrocortisone?

7 A. Hydrocortisone is the cream.

8 Q. The next one?

9 A. The next one is diphenhydramine, it's an
10 antihistamine.

11 Q. It's an antihistamine?

12 A. Yeah.

13 Q. Well, you know, let me ask it this way: Are you
14 familiar with benzodiazepine?

15 A. Yes.

16 Q. Do any of these have benzodiazepine in them?

17 A. No.

18 Q. Okay. That's a shortcut.

19 All right. I think I have no -- no further questions.

20 MR. TESTA: By the way, can I have a
21 photograph of the medicine cabinet, do you have it there?
22 What would be the next exhibit?

23 THE SECRETARY: 224.

24 MR. TESTA: Let me just mark this. 224.

25

26 (Whereupon a Photograph was marked Grand
27 Jury Exhibit Number 224 for
28 identification.)

1 MR. TESTA: Q. Longs?

2 A. Yeah.

3 MR. TESTA: Can I get -- did I give you the
4 other photos that show the four of them?

5 Q. Showing you Number 215, Longs, Longs -- hold on. At
6 least -- well, actually Longs, Longs, Longs, and Longs?

7 A. Yes.

8 Q. Okay. So I guess that's why they went to you and
9 asked you for the list.

10 MR. TESTA: All righty. Do we have any
11 questions from the grand jurors? I see one here.

12 Q. You have been a pharmacist for how many years?

13 A. I became pharmacist in December 2005. So almost four
14 years.

15 Q. Do you know the answer to this question, do you feel
16 you have the expertise to answer this question from the
17 grand jury: How quickly would benzodiazepine medication
18 dissolve if placed in a liquid?

19 A. Within an hour, or faster.

20 Q. Well, how fast?

21 A. I would say at least thirty minutes.

22 Q. Any shorter -- I mean, if I have a medication with
23 benzodiazepine and I want to put it in a liquid to give
24 someone to drink, can I -- what do I -- is it a capsule that
25 you can take apart and powder?

26 A. Most of it, it's a tablet. But like some other
27 benzodiazepine also comes in capsule. If you crush the
28 tablet and you put it in the water, it will dissolve.

1 Q. Oh, what will it taste like? Say you have a tablet
2 like an aspirin tablet but it's a benzodiazepine tablet, and
3 you crush it up and put it in water, what would it taste
4 like? If you know.

5 A. Sorry. I don't know. Probably bitter taste. I'm not
6 really sure.

7 Q. Another question from the grand jurors: What effects
8 would 300 nanograms of benzodiazepine medication have on a
9 child?

10 A. Because all the benzodiazepine, they come in different
11 strengths. And depending on the medication, there are some
12 strong medication, so it might have a -- like nanograms is
13 really small amount.

14 Q. Okay. Do you know -- do you know what Xanax is?

15 A. Yeah.

16 Q. Is there any benzodiazepine in that?

17 A. Yeah.

18 Q. Oh, there is?

19 A. That's the -- benzodiazepine is a class of medication.

20 Q. Is a what?

21 A. Is a class of medication.

22 Q. It's a class of medication?

23 A. The lorazepam and Xanax, they both are benzodiazepine.

24 Q. Can you say those more slowly?

25 A. Like --

26 Q. Could you pronounce the top one?

27 A. Alprazolam.

28 Q. And this one?

1 A. And lorazepam. They are both benzodiazepine. Like
2 benzodiazepine is a class of -- is the classification. They
3 both come into benzodiazepine.

4 Q. Okay. We had this Mr. Plowman who had these items
5 found in his blood taken certain days, well within the
6 twenty-four hour period. So these are classes of
7 benzodiazepines?

8 A. Yes.

9 Q. Here's another question from the grand jury: Would
10 any of these drugs or combination of these drugs cause a
11 pronounced sedative effect?

12 A. Yes.

13 MR. TESTA: Any other questions? Those were
14 good questions.

15 THE SECRETARY: I have one for you.

16 MR. TESTA: Pardon me?

17 THE SECRETARY: I have one for you.

18 MR. TESTA: Procedural question?

19 THE SECRETARY: Yeah.

20 That 224, that exhibit, what is that? Because I
21 didn't get it.

22 MR. TESTA: This is -- I think it duplicates
23 one of the other exhibits.

24 THE SECRETARY: Thank you.

25 MR. TESTA: I will give it to you right now.

26 Let me just look at my notes. I think that's going to
27 be it.

28 Q. I don't know if you know the answer to this one. If

1 you don't, don't go beyond your expertise. How long would
2 it take effect, you know, if I give someone -- I get some
3 water and I put some benzodiazepine in there, crush up my
4 benzodiazepine and put it in there, is there any --

5 A. How fast will it act?

6 Q. Yeah. Or do you need to know the height and weight of
7 the person, full stomach, empty stomach, tolerance?

8 A. Usually benzodiazepines, they work pretty fast, within
9 an hour they produce their effect.

10 Q. Okay. Thank you.

11 MR. TESTA: Any other questions? I see
12 none -- or there is one.

13 GRAND JUROR 17: Can I confirm when she
14 answered the question about the list, I think she was
15 answering about benzos, and the question was about the list
16 of drugs that didn't show benzos. The list that she
17 provided.

18 GRAND JUROR 7: The list from Longs.

19 MR. TESTA: And what is your question?

20 GRAND JUROR 17: My question is is any of
21 those, by themselves or a combination of those, caused the
22 marked.

23 MR. TESTA: Oh, I see.

24 Q. See these drugs -- good question -- on 223, are any --
25 do any of these drugs on this list -- you said none of them
26 are benzodiazepine. Do any of them cause -- produce the,
27 you know, the same or similar symptoms as benzodiazepine?

28 A. The hydrocodone may cause sedative effect, and

1 cyclobenzaprine.

2 Q. The hydrocortisone is a cream?

3 A. No, not that one. The hydrocodone, the number 6.

4 Q. With the laser.

5 A. This one. This one. And this one.

6 Q. 6 and 5?

7 A. 5. They may cause sedative effect.

8 Q. Okay.

9 What are those for again? 5 and 6?

10 A. This one is a muscle relaxer, and this is a pain
11 reducer.

12 MR. TESTA: Any other questions?

13 THE FOREPERSON: I need to give you an
14 admonition.

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

22 Violation of this admonishment is punishable as
23 contempt of court.

24 THE WITNESS: Yes.

25 THE FOREPERSON: Thank you.

26 THE WITNESS: Thank you.

27

28 (Pause.)

1 MR. TESTA: Will you tell us your name, sir?

2 THE WITNESS: Paul Artley.

3 MR. TESTA: And could you spell your last
4 name?

5 THE WITNESS: A-R-T-L-E-Y.

6 MR. TESTA: The foreperson will read to you
7 an oath.

8 THE FOREPERSON: Would you raise your right
9 hand, please?

10

11 **PAUL ARTLEY,**

12 a witness called on behalf of the People, having been duly
13 and regularly sworn by the Grand Jury Foreperson, testified
14 as follows:

15

16 THE WITNESS: I do.

17 THE FOREPERSON: Thank you.

18

19 **EXAMINATION**

20 BY MR. TESTA: Q. Where are you employed,
21 sir?

22 A. The Federal Bureau of Investigation.

23 Q. And what do you do there?

24 A. I'm an agent.

25 Q. How long?

26 A. Fourteen years approximately.

27 Q. Out of which office?

28 A. Sacramento division, Sacramento office.

1 Q. Thank you.

2 Did you interview REDACT?

3 A. I did.

4 Q. On what date?

5 A. April 9th of 2009.

6 Q. Where?

7 A. At her place of employment, Motel 6 in Tracy,

8 California.

9 Q. Oh, that's where she works. I don't think I asked her
10 that.

11 And what was the reason?

12 A. To follow up in regards to an incident which occurred
13 on January 17th, '09, which Tracy Police Department -- to
14 follow up on an incident from January 17th of 2009, when she
15 contacted the Tracy Police Department in regards to her
16 daughter, not being able to locate her daughter.

17 Q. My question is if this happened to her daughter back
18 in January, January 17th, of 2009, why is it not until
19 April 9th that the FBI is asking her questions about it?

20 Maybe you can explain the delay or what -- what
21 prompted you to get involved at this late date?

22 A. Well, the FBI was involved in the investigation
23 regarding the disappearance of --

24 Q. Sandra Cantu?

25 A. -- Sandra Cantu. And as a result of that
26 investigation, FBI agents were called to assist the Tracy
27 Police Department in following up on leads relating to the
28 case.

1 One of the leads that was assigned was to interview
2 REDACT in regards to her child who was missing back in
3 January of 2009.

4 Q. Fair enough. Thank you.

5 I just have a few questions for you.

6 Did REDACT, when you interviewed her at her place of
7 employment there on April 9th, did she say how well she knew
8 Melissa Huckaby?

9 A. Yes, she did. She said she didn't know her well.

10 Q. Okay. Did she say she didn't even know her last name
11 until this incident happened?

12 A. That is correct.

13 Q. Did -- on page 2 here, did she say that -- what it was
14 that her daughter told her she had consumed and where she
15 consumed it and how it tasted?

16 A. Okay. Her daughter --

17 Q. REDACT?

18 A. -- REDACT told her that when she was with Melissa
19 Huckaby and her daughter, that she had some water that was
20 in a Wendy's cup, that that tasted like medicine.

21 And then her daughter REDACT told her that that was
22 because the water was sitting out in the sun for too long,
23 several hours they estimated.

24 Q. Did she say that -- whether Melissa had told her
25 daughter that was why it tasted bitter or anything like
26 that?

27 A. No, she didn't.

28 Q. Okay. Well, I had subpoenaed you thinking there

1 might -- there might be more that I needed to go into. But
2 she basically told us what she told you. So I don't have
3 any further questions.

4 MR. TESTA: Are there any questions of the
5 grand jurors to Mr. Artley?

6 I see none. So the foreperson will read you an
7 admonition and you can get on your way.

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

16 Violation of this admonishment is punishable as
17 contempt of court.

18 Do you understand?

19 THE WITNESS: I understand. Thank you.

20 THE FOREPERSON: Thank you very much.

21

22 (Pause.)

23

24 MR. TESTA: Mr. Trine, come on in, have a
25 seat.

26 You appeared yesterday, didn't you?

27 THE WITNESS: Yes.

28 MR. TESTA: Have a seat, please.

1 You are still under oath, but I think it might be wise
2 to reread it, if you don't mind, please.

3 Mr. Trine, T-R-I-N-E.

4
5 **JARED TRINE,**

6 a witness called on behalf of the People, having been
7 previously duly and regularly sworn by the Grand Jury
8 Foreperson, testified as follows:

9
10 THE WITNESS: Yes.

11
12 **EXAMINATION**

13 BY MR. TESTA: Q. Thank you for coming back,
14 sir.

15 Yesterday, I asked you about the -- Mr. Palmer (sic).
16 Today I would like to ask you about REDACT.

17 Were you involved in that incident?

18 A. Yes, I was.

19 Q. In what way?

20 A. I was assisting Officer Berdosh with the call at the
21 hospital.

22 Q. Okay. Well, we've already heard from him, so I won't
23 repeat that.

24 What was your involvement?

25 A. I spoke with REDACT mother, REDACT.

26 Q. By the way, did you see the little girl, REDACT, there
27 at the hospital?

28 A. Yes. I spent about an hour and a half with her.

1 Q. Well, here's why I asked you to come back: Can you --
2 did you see her symptoms?

3 A. Yes.

4 Q. How did she act? Because I want to ask you how did
5 REDACT act compared with how Mr. Palmer acted when you had
6 contact with him?

7 Can I get a picture of Mr. Palmer, please?

8 Do you remember Mr. Palmer?

9 A. I don't recall.

10 Q. I'm using the wrong name.

11 A. Plowman.

12 Q. Plowman. My mistake.

13 You were here yesterday for Plowman, right?

14 A. Yes.

15 Q. You told us how he acted and so on, so forth?

16 A. Correct.

17 Q. At the McDonald's?

18 A. Uh-huh.

19 Q. And then now you're here to talk to us about REDACT.
20 And I want you to compare how REDACT appeared with how
21 Plowman appeared.

22 A. Uh-huh.

23 Q. So, first, tell us the symptoms you saw. Did you make
24 a report?

25 A. I did.

26 Q. Did you get a chance to review it this morning?

27 A. Yes.

28 Q. What were the symptoms that you saw on the little girl

1 REDACT?

2 A. It was similar to Mr. Plowman's, being very lethargic,
3 have a hard time balancing. She was kind of climbing on the
4 hospital bed and I almost had to catch her a couple of times
5 because she almost fell.

6 Very difficult to maintain a conversation. You'd ask
7 her a question and it was almost like she was staring off
8 into space. You kind of had to get her attention again and
9 ask her the question a couple of times before she would
10 answer.

11 Q. And what about did you get a chance to observe her,
12 that is, REDACT balance?

13 A. Yes.

14 Q. How would you describe it?

15 A. Terrible.

16 Q. Pardon me?

17 A. Terrible.

18 Q. Could you elaborate?

19 A. Like I said, she almost fell off the bed numerous
20 times. When she would walk across the -- the -- the room in
21 the hospital to grab a magazine, she would be stumbling.

22 Q. What about her eyes, could you describe what, if
23 anything, caught your attention about them?

24 A. Just seemed kind of distant. I mean, I think that's
25 the only word I could use to describe it.

26 Q. What about her speech?

27 A. Rather slow and somewhat slurred for someone her age.

28 Q. By the way, did she tell you what -- where she had

1 water and who gave it to her? What did she say about water,
2 if anything, the girl?

3 A. She said she had a cup of funny tasting water at
4 Wendy's.

5 Q. So how then comparing -- you remember your testimony
6 that we have here, 178, about Mr. Plowman, correct?

7 A. Uh-huh.

8 Q. How would you compare the two? I know obviously he's
9 an adult, but in terms of the symptoms, what similarities,
10 if any, did you notice between the two?

11 A. Balance, hard time focusing on conversation, just
12 being lethargic in general.

13 Q. All righty. I have no further questions.

14 MR. TESTA: Are there any questions from the
15 grand jurors?

16 GRAND JUROR 18: Here you go. Here.

17 MR. TESTA: Thank you, sir.

18 Q. Back to the photos of Mr. Plowman, does Tracy PD
19 always take photos of DUI suspects? That's the question
20 from the grand jurors. Are you able to answer that?

21 A. Normally we take anything that may be used as
22 evidence.

23 Q. Did you say -- I don't remember, did you say you took
24 these photos?

25 A. I did not.

26 Q. Were you present, though, when he was there at the --

27 A. No, he had taken those before I got there.

28 Q. Okay. Meaning the other officer?

1 A. Yes.

2 MR. TESTA: Are there any other questions
3 from the grand jurors?

4 THE FOREPERSON: One.

5 MR. TESTA: Oh, there is one. I invite you
6 to continue to ask us questions -- ask the witness
7 questions.

8 Q. Did you know at the time of any -- did you know at the
9 time you were interviewing REDACT -- excuse me, did you know
10 at the time you were interviewing Plowman in March, who had
11 been with Melissa Huckaby, that there was a connection --
12 that Melissa Huckaby was a connection between Plowman and
13 REDACT?

14 A. No.

15 Q. When you were talking to Plowman?

16 A. Not a clue.

17 Q. Question from the grand jurors: Is there a
18 recollection of REDACT saying who might have given her the
19 water at Wendy's?

20 A. I believe she said Melissa did. That's who she said
21 she went to Wendy's with was Melissa and I believe Melissa's
22 daughter.

23 Q. Did you make a note of it in your report in terms of
24 you say --

25 A. I did not, what she told me.

26 Q. Your recollection of talking to her, though, was that
27 it was who?

28 A. Melissa and Melissa's daughter.

1 Q. But as far as who gave her the water?

2 A. No, I don't recall.

3 Q. Would you look at your report and see if you made some
4 mention of that?

5 A. (Referring to report.)

6 The only notes that I have from REDACT is just her
7 behavior.

8 Q. Well, didn't she also tell you, though, earlier on in
9 your report up there?

10 A. This is REDACT statement.

11 Q. So you did interview REDACT also?

12 A. Yes.

13 MR. TESTA: Any other questions? I guess
14 there is one more at least. Is that a question for us or is
15 that your own? Oh, no.

16 Okay. Any questions? I see none. The foreperson
17 will read you an admonition.

18 THE FOREPERSON: You are admonished not to
19 reveal to any person, except as directed by the Court, what
20 questions were asked or what responses were given or any
21 other matters concerning the nature or subject of the grand
22 jury's investigation which you learned during your
23 appearance before the grand jury. This admonishment
24 continues unless and until such time as the transcript of
25 this grand jury proceeding is made public.

26 Violation of this admonishment is punishable as
27 contempt of court.

28 Do you understand?

1 THE WITNESS: Yes.

2 MR. TESTA: Thank you, sir. You can leave.

3 THE WITNESS: Thank you.

4

5 (Pause.)

6

7 MR. TESTA: And could you tell us what your
8 name is, please?

9 THE WITNESS: Joshua Palmer.

10 MR. TESTA: How do you spell your full name?

11 THE WITNESS: J-O-S-H-U-A P-A-L-M-E-R.

12 MR. TESTA: And the foreperson will read to
13 you an oath.

14 THE FOREPERSON: Would you raise your right
15 hand, please?

16

17 **JOSHUA PALMER,**

18 a witness called on behalf of the People, having been duly
19 and regularly sworn by the Grand Jury Foreperson, testified
20 as follows:

21

22 THE WITNESS: I do.

23 THE FOREPERSON: Thank you.

24

25 **EXAMINATION**

26 BY MR. TESTA: Q. Did you know Melissa
27 Huckaby?

28 A. Yes.

1 Q. How?

2 A. We dated for about eight months.

3 Q. When?

4 A. In 2000.

5 Q. Could you try to move the microphone closer? Move up.
6 Where?

7 A. In Tracy, California.

8 Q. In what year did you say?

9 A. 2000, 2001-ish.

10 Q. Nine years ago?

11 A. (Nods head affirmatively.)

12 Q. Is that a yes?

13 A. Yes.

14 Q. And whom was she living with at that time?

15 A. Her grandparents.

16 Q. And let me just -- did you ever see her in possession
17 with prescription medications?

18 A. Yes. About a one-gallon Ziploc bag full of all
19 different kinds.

20 Q. What were the circumstances of your seeing those?

21 A. I had seen some scarring on her arms after we had been
22 dating for awhile that I never noticed before. And when I
23 questioned her about it, she was telling me how she was, you
24 know, that she had had a problem when she was younger and
25 she had gotten better and had medication for it, and
26 proceeded to pull it out of a little nightstand she had by
27 her bed.

28 Q. Okay. Here's the question I have for you when I asked

1 you to come in -- do you live here in town?

2 A. No, I don't. I live in Clearlake.

3 Q. How many hours is that?

4 A. About three.

5 Q. We just had someone else here from Clearlake
6 yesterday.

7 Palmer's sister, what was her name? Katie? Katie
8 Palmer -- Plowman. Katie Plowman, do you know her at all?

9 A. No.

10 Q. Do you know Daniel Plowman?

11 A. No.

12 Q. When you were with her, did she ever say anything
13 about drugging people or anything like that?

14 A. No. Not -- not --

15 Q. Or having been drugged, or anything like that?

16 A. Yeah. She -- when I first met her, she was telling me
17 about a gentleman, I believe his name is John Silvera, that
18 he had -- had slipped something into her drink and was
19 driving her around in the back of her own car and actually
20 tried to get her into the restroom of a gas station or
21 something. And that she had reported it to the police. And
22 that she didn't feel that anything was being done about it.

23 And -- and I happened to be searching for that
24 individual myself. And she said that she could arrange for
25 us to be in the same place at the same time.

26 Q. Well, actually, did she say this happened in parks,
27 she then -- or was there anything about -- a comment about
28 this male supposedly drugged her and drove her around town

1 and tried to get her into a bathroom for sexual purposes?

2 A. Right.

3 Q. Is that --

4 A. That is correct.

5 Q. What is correct?

6 A. That -- that he had had her -- that he had drugged her
7 and had her in the back of her car and had tried to get her
8 into a restroom to -- to -- to do something of a sexual
9 nature with her and was unable to -- to get her in.

10 And that she could get him to come down to the park
11 where me and my friends often hung out so I could get my
12 hands on him.

13 Q. Oh, okay. That's another issue.

14 Let me just ask you this, without going into too much
15 detail, do you have an opinion as to her credibility for
16 truthfulness?

17 A. She -- she often made up stories of -- of different
18 sorts, for whatever reason, about -- sometimes about people
19 I knew to try to get me to react. Or if she felt that I
20 wasn't paying enough attention to her, she would make up
21 stories. Or even when I tried to break up with her, she
22 started making up stories about being pregnant and stuff
23 like that.

24 Q. Did she ever call 911 on you --

25 A. Yes.

26 Q. -- say you were going to try to kill yourself or
27 anything?

28 A. No, not that I was going to kill myself. But she

1 called 911 when we split up. She had some of my things.
2 She was working at a Food-4-Less in town. She told me she
3 got off at 8:00 o'clock, to meet her down there, she would
4 bring me my stuff. I went down there at 8:00 o'clock, and
5 instead of going inside I waited by her car.

6 Q. Why?

7 A. Because I didn't want to bother her at work, you know.

8 And about 8:30, the police show up and are getting
9 ready to arrest me. And she came out. And I informed them
10 that she had called me. And they checked her cell phone,
11 seen the call log, so they let me go.

12 Q. Oh, well, you were going to be arrested for what?

13 A. For stalking her.

14 Q. Oh, because she had reported you were stalking her?

15 A. She said I was waiting out in the parking lot for her
16 and she didn't know why. And she had actually made the call
17 to have me come down there.

18 Q. And if you hadn't had that -- her phone, if they
19 hadn't checked her phone --

20 A. They would have arrested me.

21 Q. Okay. Are there any questions? I don't think I have
22 any other questions. I am sorry you had to drive so long
23 for such a small point. I wanted to ask about the claims
24 she made about drugging these guys -- this guy supposedly
25 drugging her.

26 But if there are any questions from any of the grand
27 jurors, now would be the time to submit them.

28 GRAND JUROR 12: One is coming up.

1 MR. TESTA: Q. This gallon bag full of
2 prescription medications, did you see that on just one
3 occasion or more than one occasion?

4 A. More than one. I seen it a couple times.

5 Q. Did she ever tell you if she was taking anything
6 called benzodiazepine or anything?

7 A. No, we never got into the specifics. I wouldn't have
8 known what they were for anyway.

9 Q. How old are you now?

10 A. I'll be twenty-nine in September.

11 Q. You would have been twenty or so back then?

12 Now, are you sure about the year? I didn't think she
13 was up here then. I thought she just came up here four or
14 five years ago. Are you pretty sure it was back then?

15 A. Oh, yeah, I guarantee it. I moved out of Tracy, out
16 of San Joaquin Valley, in 2004.

17 Q. Not having to do with her, did it?

18 A. No, no. For work purposes.

19 Q. Got you.

20 Did you ever see her in relation to children?

21 A. Yes.

22 Q. What -- how would you describe the reaction children
23 had to her that you saw?

24 A. They seemed to really -- I mean, they really clung to
25 her and see seemed to be really great with kids. That was
26 actually -- one of my friends had a daughter, she was about
27 three or four at the time, and -- and Melissa was the only
28 person that she would let babysit her because she was just

1 so good with the kids, you know. And it was -- it was
2 really odd they all seemed to take to her fairly well.

3 Q. Did you say children were very drawn to Huckaby?

4 A. Yes. Absolutely.

5 Q. And the reason for that is, I mean, you saw this is
6 what I'm --

7 A. Yeah, yeah. They -- for whatever reason, they all
8 seemed to like her and she was always really good with them.
9 She always seemed very attentive and friendly and -- and the
10 children really like her and responded to her well.

11 Q. Okay. Here are questions from the grand jurors: Did
12 the bag of pills, were the pills in bottles or were they
13 loose?

14 A. In bottles. In prescription bottles.

15 Q. Did she have water, like medicine water or water --
16 vitamin water or anything, do you know?

17 A. She always drank -- she always drank diet soda. I
18 never seen her with anything else.

19 Q. During the time you were together, did you see her
20 take her medication?

21 A. No. She kept that away from me. For the most part.

22 Q. You weren't living together, you were just dating?

23 A. Just dating.

24 Q. Here's another question from the grand jury: How did
25 she feel about nothing being done about her incident about
26 being drugged? What did she say about that?

27 A. Well, she had -- she had a friend in the Tracy Police
28 Department, his name was Dan Pasquale.

1 Q. That's what she told you?

2 A. Yeah.

3 Q. Dan Pasquale?

4 A. Yes. And they actually spoke fairly regularly on
5 their cell phones. And I thought it was rather odd that
6 nothing was being done because of her friendship with this
7 officer.

8 And I guess you could say it was my own selfish
9 reasons that I didn't question it too much, because she was
10 going to help me accomplish something that I was trying to
11 do as far as getting ahold of this guy. So I didn't --
12 didn't probe into it too far.

13 Q. Okay. A few more questions from grand jurors.

14 Did you ever feel funny like maybe she might have
15 drugged you?

16 A. No. I -- not really. But --

17 Q. What do you mean "not really"?

18 A. Well, no, I never felt like she drugged me. But at
19 that time in my life, I mean, I was into alcohol and a few
20 other things and so I probably wouldn't even have noticed.

21 Q. Here's another question, I think it's on the same
22 point: Did you ever have drugs administered to you without
23 you knowing it from Melissa?

24 A. No.

25 Q. Did you ever wake up kind of not -- bewildered and
26 confused as to say, "How did I end up here?"

27 A. No.

28 Q. Anything like that where you lost track how you got to

1 a place or anything?

2 A. No.

3 Q. After you had been with her?

4 A. No.

5 MR. TESTA: Any other questions? I see none.

6 The foreperson will read you an admonition, then you
7 can drive back. Thank you for coming.

8 THE FOREPERSON: Just a moment, sir.

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

16 Violation of this admonishment is punishable as
17 contempt of court.

18 This does not prevent you from discussing the matter
19 with your attorney, if you have an attorney advising you
20 with respect to your appearance before the grand jury.

21 Do you understand you're not supposed to talk to
22 anyone about all this?

23 THE WITNESS: Yes.

24 THE FOREPERSON: All right. Thank you very
25 much.

26

27

(Pause.)

28

1 MR. TESTA: If you could have a seat right
2 here.

3 THE WITNESS: Yes, sir.

4 MR. TESTA: Could you state your full name,
5 please?

6 THE WITNESS: It's Marcus Knutson,
7 M-A-R-C-U-S K-N-U-T-S-O-N.

8 MR. TESTA: And the foreperson will read to
9 you an admonition.

10 THE FOREPERSON: I will swear you in.

11 MR. TESTA: That's right.

12

13

MARCUS KNUTSON,

14 a witness called on behalf of the People, having been duly
15 and regularly sworn by the Grand Jury Foreperson, testified
16 as follows:

17

18 THE WITNESS: Yes, ma'am.

19 THE FOREPERSON: Thank you.

20 THE WITNESS: Thank you.

21

22

EXAMINATION

23 BY MR. TESTA: Q. Do you have any of your
24 reports with you -- where are you employed, sir?

25 A. I'm with the FBI in Sacramento, California.

26 Q. What is your position there?

27 A. I'm a special agent.

28 Q. How long have you been so employed?

1 A. I've been a special agent since January of 2001. And
2 I've been employed by the FBI since October of 1997.

3 Q. Did you have some involvement into the investigation
4 of Sandra Cantu's disappearance?

5 A. Yes, sir.

6 Q. What was your involvement?

7 A. I was a team leader for our Evidence Response Team,
8 which is specialized team that we have at the FBI that goes
9 out and collects evidence and does crime scene.

10 Q. So what did you end up doing in this case
11 specifically?

12 A. I -- I was a team leader for multiple crime scenes on
13 the Sandra Cantu investigation.

14 Q. Did you book some evidence in this case?

15 A. Yes, sir.

16 Q. Did you end up booking a piece of material that was
17 used to secure a suitcase in a pond?

18 A. Yes, sir.

19 MR. TESTA: Can I have a photo of that,
20 please?

21 Q. And where did you get it from and what did you do with
22 it?

23 A. What happened is during the autopsy with Dr. Omalu,
24 O-M-A-L-U, I was present during the full autopsy. And
25 during the autopsy, we collected the evidence that came off
26 of the suitcase, along with the body itself.

27 During the autopsy, it was discovered that a cord-type
28 material had been used to fasten two of the zippers together

1 on the main compartment of the suitcase.

2 Q. As it's shown in 87?

3 A. Yes, sir.

4 Q. I think that's 87. Or 81.

5 MR. TESTA: Is that a 7 there? That's a 7,
6 isn't it?

7 THE SECRETARY: That's a 7.

8 MR. TESTA: Q. So what you did -- you booked
9 the cord as well as other items from the autopsy?

10 A. Yes, sir.

11 Q. Did you make a list of the items that you ended up
12 collecting and -- from the autopsy?

13 A. Yes, sir.

14 Q. Why don't you tell us what you collected and what you
15 did with those items?

16 A. During the autopsy, I collected the -- the suitcase
17 itself, the cord that was used to secure the zippers
18 together. That is all on the outside. And then I also
19 collected the body bag used to transport the suitcase.

20 From the interior of the suitcase, I collected the
21 clothing that was found on the victim, the hair from the
22 victim.

23 What happened during the decomposition process, outer
24 layers of her skin on her hands and feet, along with her
25 fingernails, had come off, sloughed off. So I took those
26 for the purpose of often evidence is found underneath the
27 fingernails, and also for identification if we needed later
28 on for the purposes of fingerprints. So I took that.

1 There was a rag type located in the victim's hair.

2 Q. I get photos of all these things here, please. There
3 is one photo that has them laid out.

4 A. Along with the sheets and other materials used by
5 Dr. Omalu when we collected the items just in case any hairs
6 or fibers pertinent to the case had fallen off.

7 Then I also took the swabs -- the anal, vaginal, and
8 oral swabs from the victim, I had booked those also.

9 Q. From whom did you get those swabs? Are those called a
10 rape kit?

11 A. Yeah, it would have been a rape kit, yes, sir.

12 Q. And whom did you get that from?

13 A. That would have been at the autopsy that I was present
14 at. And the person that actually did the rape kit would
15 have been Dr. Omalu.

16 Q. And is it labeled "rape kit" or "victim sexual kit"?

17 A. I believe it's "sexual assault kit" on the outside of
18 the box, sir.

19 Q. And there are little containers like you do a vaginal
20 swab, pubic hairs, if there are any, are the different items
21 labeled?

22 A. Yes, sir. There's certain swabs and slides that they
23 use. And, obviously, Dr. Omalu's experienced, knew what to
24 do on each case. But I was there observing him the entire
25 time and what he was doing.

26 Q. And then once he collected the -- I guess we will call
27 it the sexual assault evidence, it goes into this box?

28 A. Yes, sir.

1 Q. And that's one of the many items that you ended up
2 taking, is that correct?

3 A. Yeah. What happened is we then transported it back to
4 our office in Sacramento.

5 Q. And does Number 119 show some of the items that you
6 are referring to that you collected there at the autopsy?

7 A. Yes, sir.

8 This is the cloth that was found in the victim's hair.

9 These are the black leggings that were actually on the
10 victim.

11 These are her Hannah Montana flip-flops that were
12 found in the suitcase. They were not located on her feet.
13 They were tucked in the suitcase.

14 And this then is a partial photo of the Hello Kitty
15 T-shirt that was on the victim.

16 Q. Now, did you collect -- okay. Was that about it from
17 the autopsy or were there other items?

18 A. I believe that was it in terms of what we collected,
19 in addition to the other items that I had mentioned.

20 Q. What did you end up doing with all those items?

21 A. We took them to our evidence room located in
22 Sacramento.

23 Q. Is that a locked -- locked facility?

24 A. Yes, sir, locked facility.

25 The items, because they had come out of the pond, were
26 sopping wet. So we -- we -- part of our process is we put
27 it into a drying cabinet which is located -- to preserve the
28 evidence, and it's like a huge cabinet with filters that

1 cause air to come through and it dries out the items. So
2 that way, they don't rot and, obviously, hurt the evidence
3 that's on the items. So we dried them out.

4 Q. Did you end up collecting some DNA from any sources?

5 A. Just from the victim.

6 Q. And did that -- the items collected from the victim,
7 did it include a -- well, let me ask you this: Do you have
8 your report? I'll show it to you, discovery page 626, is
9 this the report that you participated in preparing?

10 A. Yes, sir.

11 Q. And what does that refer to?

12 A. That refers to -- following -- it's actually four days
13 after the autopsy, we transported the items, including the
14 items from the sexual assault kit and I believe the panties
15 from the victim, to the Cal -- California Department of
16 Justice Lab located here in California. We took the items
17 there for analysis.

18 Q. Okay. And did you participate in the search of a
19 church?

20 A. Yes, sir.

21 Q. On what date?

22 A. That was the next day, which was April 7th of 2009.

23 Q. Was that pursuant to a search warrant?

24 A. Yes, sir.

25 Q. And what were you -- did you find any matches, do you
26 recall?

27 Let me ask it this way: Were photographs taken of the
28 church?

1 A. Yes, sir.

2 Q. Who would have taken the photographs?

3 A. That would have been my photographer, Lee Myers.

4 Q. This is the one thing that I have to spend some time
5 looking for.

6 You drove here from Sacramento, did you?

7 A. Yes, sir.

8 Q. Let me see if I can get some help.

9

10 (Pause.)

11

12 MR. TESTA: Q. Okay. I'm going to go into
13 that other point with someone else. I think that's going to
14 be it.

15 Although, let me ask you when you did go into the
16 church --

17 A. Yes, sir.

18 Q. -- who was the one that took the photographs did you
19 say?

20 A. That would have been my photographer, Lee Myers,
21 M-Y-E-R-S.

22 MR. TESTA: Okay. Could I get the photos of
23 the drawer showing the knives and rolling pins?

24 Q. Did you go into the kitchen area?

25 A. Yes, sir.

26 Q. And did you see what was in there?

27 A. Yes, sir.

28 Q. You got a good system there.

1 If you can remember -- I didn't tell you I was going
2 to ask you about these things -- showing you Grand Jury
3 Exhibit 10.

4 A. Yes, sir.

5 Q. Look familiar? Hold on. Look familiar at all to you?

6 A. Yes, sir.

7 Q. What can you tell us about this?

8 A. This would have been in the kitchen area of the church
9 facility on Clover Road.

10 Q. So your search warrant on that day, if I understand
11 correctly, was concerning blinds, correct?

12 A. And other items related, you know, blood items,
13 whatever, because it was obviously the first time we were in
14 the church.

15 Q. Okay. But I know we heard yesterday from someone else
16 in Tracy that they went back to the church because they had
17 a warrant after the autopsy -- you went, you did your --
18 looking at this church on what date?

19 A. The 7th. We went to the church on the 7th, which was
20 the day after the autopsy.

21 Q. Okay. Well, we heard from someone from Tracy and we
22 showed her some of these photos and she said how they had
23 another search warrant specifically authorizing them to look
24 for cylindrical items that might have been consistent with
25 the vaginal or the genital injuries.

26 Just to be clear, your search warrant when you went on
27 the 7th did not contain authorization to look for those
28 things, correct?

1 A. That's correct.

2 Q. So you guys are focusing on what, bloody items or
3 maybe some ropes or something that might be -- or twine that
4 might be consistent with the suitcase?

5 A. That's correct.

6 Q. So do I assume that while you took photos of what's
7 shown in 10, you didn't seize anything that's shown there?

8 A. We did not seize anything.

9 Q. So, for example, in Number 11, is that one of the ones
10 you would have -- you guys took a photograph?

11 A. Yeah, I -- again, these are possibly our photos. I
12 don't know who. But those are items that we would have
13 found. But, yeah, we were not allowed to seize those items.

14 Q. When you get a warrant, you can only seize the items
15 that the judge says you can look for?

16 A. Yes, sir.

17 Q. Or the class of items that the judge says you can look
18 for? If he says you can look for bloody items and you see a
19 stolen TV, you can't seize the stolen TV because it's not in
20 the warrant, right?

21 I wanted to make clear, because I showed her these
22 photos. She said she didn't take them. I just cleared this
23 up.

24 Your FBI photographer took at least Number 10, you
25 believe, when you were there on the 7th?

26 A. Yeah, we did take photos. Whether or not he took this
27 actual photo, you would have to ask him. But we did take
28 photos and we would have taken very accurate photos of the

1 kitchen just like this.

2 Q. Okay. That clears that point up.

3 I'm supposed to put the questions there. I violated
4 my own idea.

5 Here's a question from the grand jury --

6 A. Yes, sir.

7 Q. -- we heard previously she had underpants on also.

8 That is the victim.

9 A. Yes.

10 Q. Were they collected, also?

11 A. Yes, that's one item I forgot to mention, she did have
12 underpants on also.

13 Q. Okay. We saw a photo of them the other day. I
14 believe we have a photo of them here. What did you do with
15 those?

16 A. We also, same thing, I collected them, took them to
17 the evidence room in Sacramento. And I remember the
18 underpants I believe had the word "Troublemaker" or
19 something on the front of it. They are not in this photo at
20 all, but she did have underpants on.

21 Q. Yeah, we saw those the other day.

22 MR. TESTA: Any other questions from the
23 grand jurors?

24 Q. Here's one: Did you observe or do you recall hearing
25 Dr. Omalu say anything about any bruising on the wrists or
26 the arms or the face of Sandra?

27 A. No, no, I don't remember him saying anything in that
28 area.

1 Q. I suppose we could call him back on this. These
2 questions are probably more for Dr. Omalu.

3 Another question was: Were there any signs of
4 being -- of the victim being pulled, held down, or gag over
5 her mouth, or eyes covered with anything?

6 You didn't do the autopsy. I think these would be
7 questions for Dr. Omalu. So I don't know if it's fair to
8 ask you the question.

9 A. I don't know. I know the rag --

10 Q. He called it a noose.

11 A. Yeah. I don't know what the purpose of that was. It
12 was tangled in her hair when we pulled her out of the
13 suitcase. Whether it was a blindfold or a gag, I do not
14 know.

15 And, obviously, the -- the bruising and stuff, I
16 don't -- that would be more of a better question for
17 Dr. Omalu who is familiar with -- with that stuff. I was
18 just being there to collect evidence and make sure, preserve
19 a chain of custody.

20 Q. Did you -- were you present when they found some of
21 this isopropyl alcohol in the church?

22 A. No, sir.

23 Q. That was --

24 A. That was after.

25 Q. -- Tracy search?

26 A. Yes, sir.

27 MR. TESTA: All righty. Are there any
28 questions from the grand jurors?

1 I'm going to have to give you the extra time I'm
2 taking from your lunch hour.

3 Let me write this down for Detective Bauer.

4 Q. Other questions from the jurors: Was there any blood
5 evidence located and/or collected from the church? At least
6 during your searches?

7 A. No blood evidence. We used the alternate light source
8 in the entire church, which took a great amount of time.
9 Went through. And when you use the alternate light source,
10 blood will appear to be a dark color, like almost described
11 as looking like chocolate syrup on a carpet type thing. We
12 did not observe any of that.

13 We also tested items using a phenolphthalein test -- I
14 think it's P-H-E-N-O-T-H-A-L-E-I-N, but that's just off the
15 top of my head -- which tests for blood. We did test some
16 of the items in the church, including there's one -- there's
17 a couple utensils that are -- that you could see right
18 there. They were like multi-pronged type utensils. I guess
19 they were for turning meat over or something. I had never
20 seen them before. We tested the end of those for blood, and
21 nothing tested presumptive for blood.

22 Q. Like the prong, I think like a little -- I call it
23 like a miniature pitchfork, it's four forks to it or four
24 prongs?

25 A. Yeah, I think there was three or four prongs. We
26 tested those and those kind of came to light after I had
27 been at the autopsy and observed the wounds to the head.
28 When I saw those, we wanted to test those, just to make

1 sure. But they didn't test positive for blood on the end of
2 those.

3 Q. Another question from the grand jury: Huckaby said
4 white sandals were in the suitcase. But you, the agent,
5 said black sandals were in the case. The picture of the
6 suitcase shows white sandals. What am I not grasping or am
7 I -- that's the question from the grand jurors -- did we
8 mishear you? Did you misspeak?

9 A. No. The -- the -- the shoes that are in the suitcase
10 are these Hannah Montana flip-flops. Those are what was in
11 there. They are kind of a purplish color with a picture of
12 Hannah Montana on them. There were no other shoes present
13 and I didn't collect any other shoes for the victim.

14 Q. You didn't say white sandals?

15 A. No, they would have been this Hannah Montana
16 flip-flops. I'm sorry.

17 Q. That's all right. Someone might -- another question
18 from grand jurors: When you took the towel out of the
19 suitcase, did her hair come off with the towel? I guess in
20 parentheses, it says noose.

21 When you took the so-called noose out of the suitcase,
22 did her hair come off with the towel -- with the noose?

23 A. Yeah. We had -- the -- the towel was tangled in the
24 hair. And so when Dr. Omalu took the cloth off, you can
25 visibly see there is hair still attached to it. Some hair
26 did come off. And then, like I said, through the
27 decomposition process, her hair was -- was starting to come
28 out. So we -- we did take the rest of her hair. The hair

1 is a good collector of hairs and fibers. So a lot of times
2 in the FBI, we will take individual's hair, especially
3 women's hair which tend to be longer, because they do
4 collect great evidence that we use to convict people. So
5 they do collect hairs and fibers if it -- but part of her
6 hair did come off, definitely, with the rag.

7 Q. Question from the grand jurors: Would fingerprints
8 have been collected?

9 A. What happened is we preserved everything for
10 fingerprints. We used gloves on everything. Like -- like
11 the suitcase. That went back to the FBI Laboratory. And at
12 that time -- at that point, they examined it for
13 fingerprints.

14 But we preserved it, meaning we bagged it properly, we
15 used gloves, we made sure no one touched it without gloves
16 on. So that was mainly our job. I'm not the one that
17 actually processes for fingerprints. We send it to the FBI
18 Laboratory located in Quantico, Virginia for that.

19 Q. By the way, when you were doing these searches you
20 talked about, I think we have a photograph somewhere, you
21 guys wear these Tyvek suits?

22 A. Yes.

23 Q. Is that how you pronounce it?

24 A. Yeah. They are Tyvek suits. They are made of a
25 material. And during -- we wear those because we don't want
26 to bring our hairs from our dogs or our body into the crime
27 scene and contaminate the scene.

28 So to eliminate as much contamination as we can, we

1 wear these suits. We look like the Stay Puft Marshmallow
2 Man. We are fully enclosed. We have gloves over the hands
3 and we have booties. We try to protect and preserve the
4 scene as best we can.

5 Q. Fair enough.

6 Another question. Oh, this is just the photo. Do you
7 recognize Number 7?

8 A. Yeah.

9 Q. Oh, I see.

10 A. That's the church.

11 Q. And the outfit?

12 A. Yeah.

13 Q. Is that what we are talking about here?

14 A. Yes, sir. It's --

15 Q. Well, let me see here.

16 A. This person's outside. If they were to go inside,
17 they would pull their hood up, zip -- zip up, you -- there's
18 gloves on, because you got kind of a purplish/blue. They
19 don't have the booties on yet, because those are sometimes
20 yellow or blue, you would definitely see them. But if they
21 were to go into the church, they would have those items on.

22 Q. Okay. So that illustrates the outfit, the care you
23 guys took to not bring in your artifacts into the possible
24 crime scene?

25 A. Yes, sir.

26 MR. TESTA: Any other questions? I see none.

27 The admonition will be read and you can be on your
28 way.

1 THE FOREPERSON: You are admonished not to
2 reveal to any person, except as directed by the Court, what
3 questions were asked or what responses were given or any
4 other matters concerning the nature or subject of the grand
5 jury's investigation which you learned during your
6 appearance before the grand jury. This admonishment
7 continues unless and until such time as the transcript of
8 this grand jury proceeding is made public.

9 Violation of this admonishment is punishable as
10 contempt of court.

11 Do you understand?

12 THE WITNESS: I do. Thank you.

13 THE FOREPERSON: Thanks.

14 MR. TESTA: Thank you, sir. You can leave.

15 THE WITNESS: Thank you very much.

16 MR. TESTA: Thanks for sitting around all
17 day.

18 Ladies and Gentlemen, what time will you be coming
19 back?

20 THE FOREPERSON: At 1:10.

21 MR. TESTA: We will see you then.

22 You are going tell the other jurors not to discuss the
23 case?

24 THE FOREPERSON: Excuse me. Excuse me,
25 everyone.

26 Remember, the grand jurors are admonished that they
27 are not to -- to form or express any opinions about this
28 case or discuss it among themselves until the grand jury

1 receives the case for deliberation.

2 In addition, no inspection of evidence should be done
3 without my permission and on the advice of the prosecuting
4 attorney until the case is submitted to the grand jury for
5 deliberation.

6 Deliberation should only occur when all jurors who
7 hear all the testimony in this case are present.

8 All right? See you later.

9

10 (Recess.)

11

12 THE SECRETARY: All jurors are present at
13 this time.

14 MR. TESTA: Thank you.

15 What is your name, sir?

16 THE WITNESS: Mark, M-A-R-C, Bergman,
17 B-E-R-G-M-A-N.

18 THE FOREPERSON: Would you raise your right
19 hand, please?

20

21 **MARC BERGMAN,**

22 a witness called on behalf of the People, having been duly
23 and regularly sworn by the Grand Jury Foreperson, testified
24 as follows:

25

26 THE WITNESS: I do.

27

28

EXAMINATION

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BY MR. TESTA: Q. Where are you employed, sir?

A. City of Tracy, Tracy Police Department.

Q. How long have you been employed?

A. I've been with Tracy Police Department a little over eight years; twelve years total.

Q. I have a few quick questions for you, I think.

A. Yes, sir.

Q. We watched a -- a AM-PM tape -- an AM-PM surveillance tape, we watched actually two parts of them, the tape. Did you have any involvement in collecting that tape?

A. Yes, sir, I did.

Q. What was your involvement?

A. Oh, part of my -- my duties if you will during early in the investigation were collecting surveillance videos or attempting to collect surveillance videos from nearby businesses. And AM-PM is one of the businesses that I was able to collect surveillance video from.

Q. So where did you -- how did you get it?

A. The owner -- the owner of the store had copied it for us and left it to be collected.

Q. How many different cameras were there at the AM-PM?

A. There are sixteen total cameras: Ten inside and six outside.

Q. And how many of them had any footage of the Kia Sportage?

A. One, I believe.

1 Q. Okay. And have you watched it?

2 A. I watched it, yes. After I -- shortly after I
3 collected it, I watched it. At the time I didn't -- I
4 really was only looking for -- for Sandra Cantu. But I did
5 watch -- I did watch a portion of the video specifically
6 from one camera.

7 Q. Okay. And were you able to see the Huckaby vehicle?

8 A. I -- I seen it. I wasn't looking for it -- I wasn't
9 looking for it at that time, so...

10 Q. All righty. So did you collect any other of the
11 surveillance tapes that showed the Kia Sportage?

12 A. No, sir.

13 Q. All right. By the way, did I ask you where the camera
14 was mounted, the one that showed the Kia Sportage?

15 A. Not yet.

16 Q. Where was it?

17 A. It was mounted pretty much right along the roofline of
18 the southwest corner of the building.

19 Q. Okay. The other question I had for you -- or the area
20 was did you collect a list of medications or prepare a list
21 of medications that you found in Melissa Huckaby's room?

22 A. Yes, sir, I did.

23 Q. What -- what were you doing in her room and when were
24 you there?

25 A. I believe it was April 14th when we had gone to the
26 Huckaby residence to serve a search warrant -- follow-up
27 search warrant, in which we were looking for isopropyl
28 alcohol and various prescription medications.

1 Q. Why were you looking for isopropyl alcohol?

2 A. At the time, I didn't know why we were looking for it.
3 That was just what was -- that's what was -- the warrant
4 called to be searched for.

5 Q. Oh, have you since learned why you were looking for
6 it?

7 A. Yes.

8 Q. Why?

9 A. I believe there was alcohol -- or isopropyl alcohol
10 found during the autopsy of Sandra Cantu.

11 Q. Okay. So did you -- so you were looking for isopropyl
12 alcohol and what else?

13 A. Prescription medications.

14 Q. Okay. You went -- where did you go to serve this
15 warrant?

16 A. We went to 812 West Clover. I believe it's space
17 number 57, I believe --

18 Q. Do you have --

19 A. -- is the Huckaby residence.

20 Q. Did you prepare a report about what you did?

21 A. Yes, I did.

22 Q. Do you have a copy of it there?

23 A. Yes, I do.

24 Q. Take a moment, see if it refreshes your memory as to
25 which space number.

26 MR. TESTA: And could I have a photograph of
27 that address?

28 THE WITNESS: (Referring to report.) Yes,

1 sir, space 57, 812 West Clover Street.

2 MR. TESTA: Could I have all photographs
3 taken from that address? I think they should all be in a
4 group.

5 Q. And showing you 186, do you recognize what is shown
6 here?

7 A. Yes, I do.

8 Q. That is what?

9 A. That is the Huckaby residence.

10 Q. What about 188?

11 A. That would be the living room to the same residence.

12 Q. What about 187?

13 A. That is the -- coming off the bedroom which I believe
14 Madison and Melissa shared.

15 Q. What about 189?

16 A. That was an adjacent bedroom where the -- her
17 medications were found.

18 Q. Okay. And so how -- what did you do when you saw all
19 these -- what did you do with these medications?

20 A. They were collected by CST Pierce, I believe it was,
21 present with us on that search.

22 Q. What's -- do you know that person's employee number --

23 A. Oh.

24 Q. -- offhand?

25 A. No, not offhand. I'm sorry.

26 Q. So did you make the list of the medications that you
27 saw there at Melissa Huckaby's?

28 A. Yes, sir, I did.

1 Q. Do you have a copy of it?

2 A. Yes.

3 Q. Is it in your -- in your report?

4 A. Yes, sir, it's in my report. It should be also in CST
5 Pierce's report as well. Page 4 of my supplemental report.

6 Q. Well, mine goes from page...

7 MR. TESTA: So why don't I have this marked
8 as People's next in order, which will be what number?

9 THE SECRETARY: 225.

10

11 (Whereupon a List of Medications was
12 marked Grand Jury Exhibit Number 225
13 for identification.)

14

15 MR. TESTA: Q. 225. And just showing that
16 portion that has the list, do you recognize this list?

17 A. Yes, sir.

18 Q. So what did you find there at her -- were these in her
19 name?

20 A. These are the -- the medications or the bottles of
21 medications that had Melissa Huckaby's name on them.

22 Q. What kind of -- were these separate or were they in a
23 box or a container of some sort?

24 A. They were in a container, yes, sir.

25 Q. What kind of container?

26 A. A plastic box.

27 Q. Where?

28 A. Where in the bedroom specifically?

1 Q. If you recall.

2 A. Not -- actually, it's not that bedroom. It's the one
3 you showed me, yeah, it's -- I don't know if we have a -- a
4 larger photo, gives a more overall view.

5 Q. I don't have it here. Do you have any other photos of
6 the house? No. Go ahead.

7 A. The room was -- was rather cluttered with lots of, you
8 know, other boxes and clothing and other items. And it
9 was -- this box was -- was close to what would be the west
10 side of the bedroom, near -- near a closet.

11 Q. Okay. In any case, so was it a see-through type of
12 container?

13 A. A translucent, yes.

14 Q. What did you do when you saw these items?

15 A. Opened it up and started going through the medications
16 and seeing who they -- whose name was on the bottles.

17 Q. Did you book the items or just make a note of them?

18 A. No, we actually collected that box.

19 Q. Okay. And did you make a list then of the items?

20 A. Yes.

21 Q. And does that list appear on 225?

22 A. Yes, sir.

23 Q. I guess we have to put it on the record.

24 Can you tell us what you found? Hydrocodone?

25 A. Hydrocodone -- I'll do my best.

26 Q. Is it A-L-P-R-A-Z-O-L-A-M, is that one of the items?

27 A. Yes. Yes, it is.

28 Q. I'll just make this an exhibit.

1 A. Yes, those are all the different medications in
2 Melissa Huckaby's name that were found in that box.

3 There was a bottle of oxycodone that was found that
4 had Connie Lawless' name on it.

5 Q. And where did you see the isopropyl alcohol?

6 A. The isopropyl alcohol was in a medicine cabinet in an
7 adjacent bathroom. The bathroom was located in between the
8 living room and the -- I'll call it a -- it was a storage
9 room, basically, with Melissa's property.

10 Q. Okay. So I can't put your report in, but what I'll do
11 is I'll put -- does this list that you prepared that's in
12 Exhibit Number 225, does it -- is it a complete list of the
13 medications you found in Melissa Huckaby's name on that date
14 during that search?

15 A. Yes, sir. That was -- you'll probably find a list
16 also in CST Pierce's report as well, I believe.

17 Q. And should it be the same as yours?

18 A. It should be the same, yeah.

19 Q. She was a little more specific, like she put the date
20 of the -- if there was a date on the prescription bottle,
21 she would -- she would put that on it, did she not?

22 A. Yes, sir.

23 Q. At least on some of them, not all of them?

24 A. Yes. I just -- from my report, I just listed the
25 medication type, knowing that she would go into more detail
26 with her report.

27 Q. Okay. Because the person who actually booked these
28 items was who?

1 A. CST Pierce.

2 Q. Melinda Pierce?

3 A. Melinda Pierce, yes, sir.

4 Q. All righty. See if I have any other questions for
5 you. Yeah, I have you down for something else.

6 Did you go to the pond?

7 A. Yes, sir, I did.

8 Q. Where the suitcase was found?

9 A. Yes.

10 Q. And what was your involvement there?

11 A. Well, myself and Detective Knight -- actually, we
12 weren't the first to respond, but we were notified of the --
13 of the discovery and responded to -- to Whitehall and
14 Bacchetti Roads.

15 Q. And by then, the other -- law enforcement was already
16 there?

17 A. Yes.

18 Q. Okay. These other matters I think we covered with
19 other witnesses so I won't go through it all, what was at
20 the pond and where. We have seen the aerial photographs,
21 had other people testify. So let me skip over a lot of
22 these things I had down for you.

23 A. Okay.

24 Q. Oh, by the way, when you went to the pond and saw the
25 suitcase, was it still in the water or partially in the
26 water?

27 A. It was -- it was partially submerged along the west
28 bank of -- of the containment pond.

1 Q. And did you try to open it up --

2 A. No, sir.

3 Q. -- or try to unzip it or anything?

4 A. No. Once we got close enough, we could see that the
5 zipper had been tied closed. At that point, we let FBI and
6 other Tracy PD personnel know what we found.

7 Q. Okay. So I asked you to come in mainly for the
8 medications and the collecting of the AM-PM tape.

9 You didn't collect the Best Western did you say?

10 A. No, sir, I did not.

11 Q. Did you go to other businesses nearby and see if they
12 had any surveillance tapes?

13 A. Yes, sir, I did.

14 Q. Where else did you go? Because we heard about this
15 place, what was it? Microtel?

16 A. Yes, sir. I did collect video from Microtel.

17 Q. Was there anything on that one?

18 A. Not that I could tell. At that point, I didn't really
19 know what I was looking for. Regardless, it was -- from
20 what I had seen on the video, it was -- the cameras were too
21 far away and it was very difficult to make -- make out any
22 persons.

23 But at that point when I reviewed it, I wasn't looking
24 for any vehicles, so...

25 Q. Did you give it to Brandi? Because Brandi came in
26 here and told us how he was looking at those over and over
27 and over. Did he get a chance to look at the Microtel tape?

28 A. I don't think so.

1 Q. Did someone, though, in the investigation look at it?

2 A. Yes, sir.

3 MR. TESTA: All righty. No further
4 questions. Any questions from the grand jurors?

5 Q. Were there other bottles or meds found that were not
6 specifically labeled with Melissa Huckaby's name?

7 A. Not that -- not that I recall.

8 Q. Another question from the grand jury: What prompted
9 you to obtain a search warrant for the Huckaby residence?

10 A. Well, actually, I wasn't the one that sought the
11 search warrant. I basically responded just to assist with
12 the search. So as far as the -- what investigative led up
13 to that, I couldn't tell you.

14 Q. The other part of the question is: Why was she a
15 suspect, are you able to answer that one either, at that
16 time?

17 A. Not at that time.

18 Q. Okay. Thank you.

19 MR. TESTA: Any other questions? I see none.
20 The admonition.

21 THE FOREPERSON: You are admonished not to
22 reveal to any person, except as directed by the Court, what
23 questions were asked or what responses were given or any
24 other matters concerning the nature or subject of the grand
25 jury's investigation which you learned during your
26 appearance before the grand jury. This admonishment
27 continues unless and until such time as the transcript of
28 this grand jury proceeding is made public.

1 Violation of this admonishment is punishable as
2 contempt of court.

3 Do you understand?

4 THE WITNESS: I understand.

5 THE FOREPERSON: Thank you.

6
7 (Pause.)

8
9 MR. TESTA: I'll recall Mr. Bauer.

10
11 **TIMOTHY BAUER,**

12 a witness called on behalf of the People, having been
13 previously duly and regularly sworn by the Grand Jury
14 Foreperson, testified as follows:

15
16 **EXAMINATION**

17 BY MR. TESTA: Q. Can you refresh my memory
18 and tell me where we left off yesterday with you, Detective
19 Bauer?

20 A. We were just answering questions.

21 Q. Oh, from the grand jurors?

22 A. About the -- yes, some of the questions.

23 THE FOREPERSON: Mr. Bauer, you remember
24 you're still under oath?

25 THE WITNESS: I do.

26 THE FOREPERSON: Thank you.

27 THE WITNESS: I can clarify one thing from a
28 question yesterday if you want, before we start.

1 MR. TESTA: Sure.

2 THE WITNESS: I stand corrected. There was
3 some confusion on one of the questions. Somebody had asked
4 a question about the 28th, where was Melissa Huckaby's car
5 parked on the 28th.

6 I don't know where Melissa Huckaby's car was parked on
7 the 28th, the day the note was found.

8 The 27th, when her car was seen on the video that you
9 viewed when she left, prior to her moving the car, the car
10 was parked south of those car wash walls.

11 And, also, at sometime after 22:00 hours when she left
12 again, that you guys viewed on video, was parked in that
13 same location, it wasn't parked in the -- by the clubhouse
14 north of the mailboxes.

15 MR. TESTA: Q. Okay. Wherever she was
16 parked, we could look at the video and see it, right?

17 A. Correct.

18 Q. Okay. So in your -- you were explaining earlier how
19 you were assigned to this case in the very beginning stages
20 of the investigation.

21 Did you end up talking like at the outset with the --
22 a 911 tape was -- call was made, right, by the Chavez
23 family?

24 A. Yes.

25 Q. Did you talk to the officer who took that 911 report,
26 do you recall?

27 A. The dispatcher?

28 Q. No. Gilstrap.

1 A. Oh, you mean that responded to the call?

2 Q. That responded to the call?

3 A. Yes, I did. Yes, I did.

4 Q. And I think you explained how you put Sandra Cantu's
5 name into the system as a missing person.

6 A. Yes.

7 Q. And that the FBI was advised or automatically got
8 involved, I think you explained all that.

9 A. Yes.

10 Q. And then I think you were -- was there a -- let's see,
11 this is still on the 27th, correct?

12 A. Correct.

13 Q. And then was there any kind of search done that date,
14 that 27th, that Friday night?

15 A. Yes. The first search that was done -- traditionally
16 done for a missing person when they are not found as time
17 continues is what we call a city-wide grid search. That's
18 done with the patrol officers in their cars. You first
19 search all locations that are known locations or associates
20 of the missing person.

21 Once you rule those out, you also along at the same
22 time search for family members locally that you look for
23 either in this county by making phone calls or if you can
24 have officers respond to those locations, they search those
25 locations.

26 And then once those are exhausted -- you pretty much
27 exhaust the locations you believe your missing person can be
28 at, then we begin our city-wide grid search. So with all

1 available patrol officers, a grid search was done that night
2 with the teams that were working, and that means street to
3 street, they drive street to street, lights on, and they
4 attempt to locate our missing person based on the missing
5 person's description, the photo they have of the missing
6 person, and the clothing description they have of the
7 missing person.

8 And then once that's successfully done, and if there's
9 no good results from that, we do a helicopter search. Same
10 thing, city-wide grid search.

11 Q. Tell us what was done in this case.

12 A. That was done in this case. Those were done almost
13 simultaneously in the order I'm explaining them.

14 So the grid search was done from patrol car to patrol
15 car within the city of Tracy and the immediate surrounding
16 area of 812 West Clover. That's almost the north border of
17 our city. And then we requested a helicopter to come in and
18 also do a grid search and pretty much light up the skies and
19 light up the city streets and see -- because you have a lot
20 of areas that you have cover, parks and stuff like that.
21 There was a park next to Sandra's school that we knew she
22 could go to. And it would be in a path that she might
23 travel. So that was searched, along with other locations.

24 Those things were done the night of -- the actual
25 night of when the initial report was taken.

26 Q. Where was -- does her school, by the way, show up on
27 64?

28 A. Her school will be --

1 Q. With the laser pointer there that's on your desk.

2 A. Oh, yeah. Her school. Here's Clover Road.

3 Q. That's the one that dead ends?

4 A. Yeah, dead ends. Here's the trailer park, 812.
5 Here's Food Maxx. If you go past this field, you get over
6 here, her school -- here is her school right here. This is
7 Jacobson Elementary. And this is Kenner Park. This is one
8 of the first places we searched, too, because --

9 Q. How do you get there from the trailer park?

10 A. If you -- well, the only way to get there by driving
11 is to come out of the trailer park, and you have to come out
12 to Tracy from Clover, eastbound to southbound, to Kavanagh,
13 and Kavanagh will wrap you around and it's actually the 1800
14 block of Kavanagh.

15 But to walk, which we had information she would
16 periodically do, walk with her mother to school, if she
17 needed to, you can cut through these fields and there was a
18 hole in the fence here that would get you there through this
19 immediate neighborhood where the school's at.

20 So you could go down towards the dead end of Clover,
21 walk through a field, cut across through here on to Lincoln,
22 and then take Lincoln to Kavanagh, and put her right at the
23 school. It's about a mile walk.

24 Q. So you guys checked that area, too?

25 A. Yeah. We -- same night after the -- the search was
26 done with the helicopters for the whole city, and this
27 immediate area right here, this is our city limits right on
28 the other side of 205, we had bloodhounds that came in from

1 the Department of -- Office of Emergency Services and they
2 came in out of Calaveras County and they walked the pathways
3 that we believed Sandra could travel. And that was done the
4 early morning hours of March 28th.

5 Q. Did you explore people that lived in the trailer park
6 as possible suspects?

7 A. We did what we called a neighborhood canvass. We did
8 that of the whole entire surrounding area, and with a focus
9 of every single trailer in the trailer park.

10 But, yes, we did. Anybody that was -- we received
11 information from the mother or a relative in the house at
12 63, or information from within the park, we contacted. But,
13 yeah, we canvassed over the period of two weeks this entire
14 trailer park, every single unit people were interviewed.

15 Q. Did you look to see if there were any sexual
16 registrants, you know, convicted child molesters in the area
17 that you might want to check out?

18 A. Yes, we did. We did that the night of. And there was
19 none.

20 But we do -- we did a one mile search for sex
21 registrants, and our closest sex registrants, they were
22 contacted about 3:00 in the morning on the 28th. So about
23 seven hours into the call. They lived over here. We had
24 three that lived over here on Larch Road out in the county.
25 They were contacted by two detectives as far as their
26 whereabouts at the time of our juvenile's disappearance.

27 Q. What about was there like an ice cream vendor that
28 would come into the trailer park that was there that day?

1 A. Yes, we received information.

2 Q. Did you check him out?

3 A. Yes, we did.

4 Q. Did that go anywhere?

5 A. No, it did not.

6 Q. The bloodhounds, did that show up anything?

7 A. Negative. No.

8 Q. All righty. Did you put any flyers out?

9 A. Yes, we did.

10 Q. Showing you Number 17, did you have any participation
11 in the creation of this particular flyer?

12 A. Yes. These are two different pictures of Sandra.
13 This flyer is presented -- put out by -- if you see the
14 bottom left corner down here, National Center for Exploited
15 and Missing Children, this is put out by them. And this was
16 passed out throughout our whole city.

17 And then this is the picture that went out to the
18 media and this actually was put out nationwide.

19 And this is the information that was put out. And
20 then it was later just amended just for this last part down
21 here, the last two words, the striped dress, because we
22 verified information there was no striped dress that she was
23 wearing -- that she had been wearing that earlier in the
24 day, and that was taken off. So...

25 Q. Oh, I see.

26 What -- how current was that photo?

27 A. This was an older photo. This was an older school
28 photo.

1 Q. The one that says earlier photograph -- earlier
2 picture?

3 A. Yes. So the family made it apparent to us this was a
4 better, most recent picture from family photos. So we
5 obtained this from them. And this is what we believed her
6 actually to look like.

7 Q. And at what point did you learn of the surveillance
8 photo there that existed at the Cantu system?

9 A. The system?

10 Q. The system, yes.

11 A. Her grandfather, who actually owns that trailer where
12 she lived --

13 Q. He's going to come in next week. We don't need to go
14 into the details.

15 A. He provided us -- they had a surveillance system that
16 night, we began viewing it that night.

17 Q. Fair enough. And did you do any kind of roadblock
18 canvass?

19 A. Yes, we did. We did a roadblock canvass on Clover
20 Road, just east of the trailer park entrance and west of
21 Tracy Boulevard, twenty-four hours to the time that we
22 believed Sandra went missing. So we began it March 28th,
23 roughly around 3:30 p.m. in the afternoon.

24 Q. And what is the reason why you chose that time on the
25 28th?

26 A. We chose that time because we were hoping to see -- a
27 lot of times, you know, people have patterns with work and
28 stuff like that, and when they come, when they go, when

1 people would be arriving home, people who would have been
2 possibly leaving the complex twenty-four hours earlier might
3 be doing the same thing, or arriving home, we want to know
4 what they had seen, if they had seen any suspicious people
5 come or go.

6 So it's a good informational source for us to retrieve
7 information from people that are coming into the trailer
8 park, but people who are also leaving. And it also could be
9 an indicator to us if there's someone in the trailer park
10 that is involved, we might possibly prevent them from
11 leaving with our missing person if they are in there.

12 Q. And did you do more than one roadblock canvass?

13 A. Yes, we did.

14 Q. Did another one what, a week later?

15 A. We did it exactly a week later to the day she went
16 missing, same time.

17 Q. Did you do anything -- did you determine whether
18 Sandra Cantu's mother had a telephone that you might want to
19 check? In other words, did you examine Maria Chavez's
20 phone?

21 A. Yes, she had a cell phone that we did examine.

22 Q. Is that kind of routine, protocol?

23 A. Yes.

24 Q. What did that examination reveal?

25 A. She had a phone that -- a cell phone that she used as
26 her phone. And it had text messaging, it had contacts in
27 it. And it -- she allowed us to view it with her consent.
28 And we -- we have a -- a -- we had a device available to us

1 that we could retrieve all the information out of it.

2 Q. What did you find, if anything, about -- that was on
3 her phone for that particular day, during time periods that
4 you were focusing on?

5 A. Well, we found that she had text messaging from
6 Melissa Huckaby and that there was conversation between them
7 the day of the 27th.

8 Q. Showing you Exhibit 45. Does this contain the text
9 messaging that you're referring to?

10 A. These are text messages, yes, that were sent to Maria
11 from Melissa Huckaby's cell phone.

12 Q. Do they -- and you examined these, you looked at Maria
13 Chavez's phone and you could see it?

14 A. Well, the first one that we recovered was at 7:18 p.m.
15 that was on Maria's phone. Maria had these -- Maria's
16 statement to us, Maria stated that she received earlier ones
17 from Melissa on her phone this same date.

18 The first one that we retrieved from her phone the
19 following week, the information from it, the first one that
20 shows up is at I think 7:16 p.m. on the 27th.

21 Q. But did you eventually get any text messages from
22 Melissa Huckaby to Maria Chavez at the times that are on the
23 exhibit here?

24 A. Yes, we did.

25 Q. 45?

26 A. This exhibit is Melissa Huckaby's cell phone, yes,
27 incoming and outgoing text messages from her phone to Maria.

28 Q. And what did they say? In general, what was Melissa

1 texting to Maria, if you recall?

2 A. Melissa texted to Maria that she was home and that --

3 Q. At 3:12?

4 A. It was sometime either 3:12 or 3:18, right in there,
5 that it was okay to send Miranda over.

6 And Maria responded back to Sandra -- I mean to --
7 sorry. Maria responded back to Melissa that she would send
8 Miranda over.

9 Q. But it was that afternoon period, around the time
10 period you're looking into?

11 A. Correct. Right here on this timeline, this is --
12 these are text messages that we retrieved from Melissa
13 Huckaby's cell phone right here.

14 Q. Right. That's right.

15 Okay. And then just in terms of your investigation in
16 this case, did you -- did you go to the various men or
17 people that lived at various places here in the mobile home
18 park and see if any of them were involved?

19 A. Yes.

20 Q. In fact, the beginning stages of this investigation,
21 would you say you were focused on people that lived in the
22 trailer park?

23 A. Yes.

24 Q. Why was that?

25 A. There was a statement -- a statement made to Officer
26 Gilstrap in the very beginning, in the early stages of this,
27 the night of, they had mentioned about a subject who Sandra
28 had had contact with in 81, a gentleman who lived alone by

1 the name of Frank Wohler.

2 Q. Space 81, not 1981?

3 A. Yeah, 81. And they had mentioned --

4 Q. Did you look into it?

5 A. Yes, we did.

6 Q. Did you look into other men that lived in the trailer
7 park?

8 A. Yes, we did.

9 Q. Okay. And were any of these guys ruled in or ruled
10 out?

11 A. They were ruled out.

12 Q. Okay. Like this guy in 81 supposedly French-kissed
13 her?

14 A. There's a statement that he kissed her on the lips two
15 previous summers ago at the clubhouse pool.

16 Q. And witnesses saw this?

17 A. Yes. Sandra's grandmother witnessed this.

18 Q. And was upset over it?

19 A. Correct.

20 Q. So, naturally, you want to look at that guy?

21 A. Correct.

22 Q. And were there other kind of red flags -- and that
23 particular guy, did you -- how did you rule him out?

24 A. Well, we ruled him out off of his timeline. He had a
25 timeline. He's a karate instructor. We were able to verify
26 he was -- at the time Sandra disappeared, he was at work, he
27 was teaching karate classes. That was verified on the
28 statements of his students and --

1 Q. Was there another guy that you kind of looked at
2 besides the French-kisser and the other guy?

3 A. Yeah. We looked at another gentleman in 88.

4 Q. What was the reason -- what caused you to look at him
5 in space 88, just in general?

6 A. In general, Christian Sinclair, who lived in 88 with
7 Colette Plummer, was looked at.

8 Q. For what reason did you guys look at him?

9 A. Well, the first person that told us that we should
10 look at him was Melissa Huckaby in space 57.

11 Q. Oh, she -- in fact, Melissa Huckaby steered you to a
12 number of people?

13 A. She steered us to space 81 and space 88.

14 Q. You went to 81, the karate guy?

15 A. Yes.

16 Q. And then she steered you to 88. Did you look into
17 that guy?

18 A. Yes.

19 Q. And were you able to rule him -- or rule him out?

20 A. Yes. We -- he was interviewed and contacted regarding
21 his activities for the 27th, and what he was doing between
22 the afternoon, you know, during the afternoon hours.

23 Q. And did he give two different statements?

24 A. He did.

25 Q. Did he first say he was, what was it, mowing his
26 sister-in-law's --

27 A. Mowing his sister's yard in Oakdale.

28 Q. Then when we interviewed him the next day, "No, no, I

1 got my days wrong. I was actually home all day"?

2 A. With his -- with his girlfriend Colette watching
3 movies in their residence.

4 Q. And you interviewed her as well, Colette?

5 A. Yes, we did.

6 Q. How old is Colette Plummer? About sixty or seventy?

7 A. Sixty, sixty-five I believe.

8 Q. How old is this guy in 88?

9 A. Forty -- he's about twenty, twenty-five years younger
10 than her.

11 Q. Okay. And were there other people that you were
12 focusing on in the earlier stages of this investigation,
13 besides the 81 and 88?

14 Okay. These two were steered to you by Melissa
15 Huckaby. Did she steer you to anyone else?

16 A. No, those are the two that she initially pointed out
17 to us on the 28th when she was contacted after finding the
18 note.

19 Then based on, again, I had mentioned we had done a
20 canvass and everyone that was in this canvass, everyone that
21 was contacted was asked, "Is there anyone in this trailer
22 that you know to know our victim, know Sandra, or to have
23 had contact or associate with her?"

24 And it was pointed out to us that 43, two gentlemen in
25 43 had association with her.

26 Q. And did you look into those guys?

27 A. Yes, we did.

28 Q. Were you able to establish any kind of alibi or

1 timeline with them?

2 A. Yes.

3 Q. So did you rule them out?

4 A. Yes, we did.

5 Q. Okay. Didn't one of those guys have pornography on
6 his computer?

7 A. Yes. We did a search warrant at 43. And we did find
8 pornography on --

9 Q. Was it child pornography?

10 A. Yes, it was.

11 Q. Violent?

12 A. I never viewed it. But the search of the computer --
13 the tentative search of the computer found that there had
14 been viewed child pornography on the computer.

15 Q. Was there pornography on the computers of a lot of
16 these people or other individuals, do you remember, in the
17 trailer park? Or was he the only guy?

18 A. Well, there was actually two computers in this house
19 with both of the male individuals.

20 Q. In 43, and they both had the pornography on their
21 computers?

22 A. Yes.

23 Q. And were there other men in the park that you looked
24 into?

25 A. Yeah, we looked into a lot -- we looked into the
26 gentleman that lived in space 12.

27 Q. Why do you focus on that?

28 A. There was a comment made by Sandra's sister, Miranda,

1 the eleven-year-old, because Sandra liked to -- was playing
2 with a girl that lived in number 9, and was playing with a
3 girl in number 9 on the day she went missing, and she had
4 made statements to her sister Miranda and said that Sandra
5 had told her that when she -- she would not walk home to her
6 trailer this way, the route of --

7 Q. South on Apple?

8 A. South on Apple.

9 Q. Sandra --

10 A. Would not.

11 Q. -- would not go south on Apple to return to her house?

12 A. Yes.

13 Q. Because?

14 A. Because she was worried about the individual in 12, he
15 would look -- he looked at the kids weird when they walked
16 by.

17 Q. Instead, she would go home which way?

18 A. She would go northbound on Apple, to Orchard
19 eastbound, and the quickest route, which was common for her,
20 was to go down Apricot and cut through the park area.

21 Q. South on Apricot?

22 A. Uh-huh, to just south of that sidewalk over to where
23 the clubhouse is.

24 Q. And east --

25 A. And just cut through, yeah, cut through the park area
26 here in the grass and come out by that car wash area where
27 these parking spots on --

28 Q. On Cherry?

1 A. Yes. Or go eastbound on Orchard, then southbound on
2 Cherry.

3 Q. Okay. And did you rule him out or did you get an
4 alibi on him or were you satisfied you could move on after
5 you looked at that guy?

6 A. Yes.

7 Q. Is that a yes to all of them?

8 A. Yes.

9 Q. Were there other men here that you looked at in the
10 trailer park -- mobile home park?

11 A. Yes. We -- we looked at a -- two brothers that had
12 association with Sandra's sister. Sandra had a
13 twenty-year-old sister Simone who for a very short period of
14 time dated I believe one of the Knight brothers who lived in
15 16. So they were contacted and interviewed early and we
16 were able to verify their whereabouts at the time and day
17 she disappeared.

18 Q. So at what point did you start looking at Melissa
19 Huckaby in this -- as this investigation unfolds -- one of
20 the grand jurors asked this question -- how did she -- why
21 was she a suspect, and at what point did the red flags start
22 going on? Can you elaborate on that?

23 And there's a calendar if you need to refer to it on
24 the wall.

25 A. She found the note on the 28th. And we -- we took
26 that information from the note seriously the next day the --

27 Q. Why?

28 A. Well, because it's providing a possible tip or a

1 possible location with possible evidence of where our
2 missing person might be. So that was found, you know,
3 roughly 8:30 p.m. on the 28th. The first planned large
4 organized, with qualified search personnel, was planned for
5 the following day, the 29th. So that was one of the first
6 locations that was searched the next day by the Search and
7 Rescue personnel, with negative results.

8 Q. The note was found at 8:30 p.m. on the 28th?

9 A. Yes.

10 Q. That's when Melissa said she came upon it?

11 A. Yes.

12 Q. And the first Search and Rescue team, that deployed on
13 the 29th?

14 A. Deployed on Saturday, the 29th.

15 Q. Where?

16 A. They deployed everywhere. Our focus was to go north
17 of 812 West Clover out to the county.

18 And, remember, the ponds are way out here north, but
19 here's our trailer park.

20 MR. TESTA: Can I get a photo -- aerial photo
21 that shows the ponds?

22 Q. Go ahead.

23 A. So we had a search that -- remember our bloodhounds
24 had already done this search and trying to travel routes she
25 had traveled with negative results.

26 Q. Like the paths she took to school?

27 A. Exactly. Or if she had left the complex and went to
28 the Food Maxx or something like that.

1 Q. When you talk about bloodhounds, don't you have to
2 give bloodhounds a scent to lock on to?

3 A. Yes.

4 Q. What did you get of Sandra's for them to lock on to?

5 A. They were provided clothing from the -- from Sandra's
6 residence. I believe it was a pair of shoes and a -- a --
7 an item of clothing.

8 And so they actually start the search from the house
9 and then work from there. So they are working off of a
10 scent from Sandra Cantu.

11 Q. You said the bloodhounds picked up nothing?

12 A. No.

13 Q. I mean, did the bloodhounds pick up anything?

14 A. They started -- one of the bloodhounds, the morning
15 of, early morning hours, took -- accompanied by one of our
16 patrol officers, and they took this scent and they ran the
17 route she was traveling to school, what mom had told us the
18 night of -- the night the case started.

19 And they -- they shot down westbound Clover, before it
20 dead-ended, went through a field that would take you through
21 to this neighborhood, her school here, they went down
22 Lincoln. But the scent stopped south of Lowell Avenue, past
23 her school. It had passed Kavanagh, and it continued the
24 direction of her school, then they just advised us that the
25 scent was lost, the bloodhound stopped searching. I guess
26 it's -- it's common. But it didn't lead them to a specific
27 residence or specific vehicle.

28 Q. What about, what do they call it, cadaver dogs?

1 A. Cadaver dogs, that's one of the dogs -- that's one of
2 the type of dogs we used at the actual irrigation ponds.
3 And they -- they went to the irrigation ponds on two
4 different occasions and did not alert on that pond.

5 Q. Okay. Anyway, I kind of cut you off. So you were
6 saying that the note -- I asked you why did you guys
7 start -- what caused you to focus your attention on Melissa
8 Huckaby. The note's found on the 28th at 8:30 p.m., the
9 next search -- the first big search was on the 29th, do I
10 understand you?

11 A. Yes, the first organized search, yes.

12 Q. That went where?

13 A. That went out into the county north, because we had --
14 we had trained searchers through our Fire Department
15 personnel working the urban area, but the Search and Rescue
16 personnel are trained to search rural areas. This is all
17 considered rural. This is -- I mean urban. This is all
18 considered rural. They specialized in working these fields
19 and these locations and waterways and open areas. So that's
20 the area that they focused on on that Saturday, one of the
21 areas they focused on.

22 Q. And did that show up anything? Reveal anything?

23 A. No.

24 Q. Okay. So then there were -- so what -- what --

25 A. So you're asking -- back to you're asking about --

26 Q. Melissa Huckaby.

27 A. -- Melissa Huckaby?

28 Q. Yeah.

1 A. So we took the note and we processed the note to
2 see -- to attempt to recover who could have placed the note
3 there.

4 Q. You know the place where that note was found?

5 A. Yes.

6 Q. You already showed us, between those two cinderblock
7 walls?

8 A. Yeah, on one side of it, yeah, the sidewalk, uh-huh.

9 Q. Would you say that is an area where you could escape
10 being seen by all those people at the vigil --

11 A. Yes.

12 Q. -- those two walls where the notes were found?
13 Because if I heard you correctly yesterday, you said that
14 the vigil that occurred just before she claimed to have
15 found the note was down there by Orchard near the entrance
16 to the trailer -- to the mobile home park?

17 A. Right here, this is where the vigil was. It wanted to
18 start here, but it blocked roadways, it had to be moved back
19 in here.

20 Q. So how many people were there at the vigil?

21 A. It grew each day. This was the first day -- the first
22 vigil, it was the 28th, one day after she had not been
23 found, and the vigil met right here. And the note was found
24 right here.

25 But if you are here, the clubhouse, the shrubbery, the
26 cars and everything, would easily block the sidewalk of
27 where the note was found.

28 Q. We covered this 163 yesterday. That that part -- area

1 where -- let me put it this way: If I wanted to put a note
2 on the ground and I didn't want people to see me, is the
3 location where the note was allegedly found, is that a good
4 spot to do it?

5 A. It's a great spot.

6 Q. Why?

7 A. Because the only person that would see you would be
8 the trailer that's directly across from here, if that -- if
9 there's someone in that trailer. And they would have had to
10 have been looking over there right when the note was placed
11 there or dropped there or found there.

12 The vigil, if you look past this wall right here,
13 that's where the vigil was. And you can see all these
14 landmarks that would block people's view that's at the vigil
15 to see someone setting a note or a note being placed there
16 or being found there.

17 Q. Okay. Getting back to this note, what was it then --
18 what did -- how did you start focusing on Melissa Huckaby?

19 A. Well, she was interviewed when she found the note by
20 two FBI agents that night -- and that was the night when she
21 found the note, they went back to her trailer, they
22 interviewed her.

23 Q. I think we heard from Adrienne Sparrow, one of the
24 two.

25 A. Yes, she was one of the two that was present. She was
26 one of the two that came back to the note with Melissa.

27 That was the time where we were directed to -- not
28 initially, but directed to Frank Wohler in 81 and Christian

1 Sinclair in 88. She was the very first person in this
2 investigation who directed us to Christian Sinclair in space
3 88.

4 Q. How -- keep going, what was it which caused you -- let
5 me ask you this: Did you at some point focus on Melissa
6 Huckaby more than you did on some of these other people --
7 were you done looking at people?

8 A. Yes, we continued to interview her.

9 Q. Did she say anything to Adrienne Sparrow and the other
10 FBI agent the night that she claimed to have found the note
11 that caused you to kind of look at her more closely, or was
12 there anything like that?

13 A. Well, what was -- what we found odd about her finding
14 the note and when she found the note, locating them near the
15 front entrance and then coming back to the note, with the
16 conditions as far as the weather, with it being windy and
17 stuff like that, that the note would still be in place
18 there. And that with the vigil going on, there was no
19 witnesses to her finding the note. There was just her that
20 found the note there.

21 And the note was -- had some specific things in the
22 note as far as what it said, as far as giving location,
23 suitcase. And then in that conversation she had with
24 Adrienne Sparrow and Mike Conrad, she stated that she had a
25 Eddie Bauer suitcase that was stolen at the time that Sandra
26 Cantu went missing. She -- so --

27 Q. What was it about the note that made you, if anything,
28 look at Melissa Huckaby more closely? What was so

1 suspicious about the note? She says she finds the note?

2 A. She claimed her suitcase was stolen. And these are --
3 are streets where -- where the suitcase was found on
4 April 6th.

5 Q. No, but we are jumping ahead. I'm looking right now
6 as the case is developing, we are now on the 28th, she finds
7 the note, Adrienne Sparrow, the other FBI agent, they
8 interview her. The next morning on the 29th, you guys go to
9 the pond and find nothing, as I understand it.

10 A. Nothing.

11 Q. The dogs hit on nothing?

12 A. Correct.

13 Q. So how do -- how did the investigation evolve? What
14 do you mean?

15 A. She is recontacted again. We are actually looking at
16 numerous individuals at this point.

17 Q. Oh, so you still were looking at numerous individuals?

18 A. Correct.

19 Q. You never put blinders on and just focused on her?

20 A. No. We had what I call, my own terms, persons of
21 interest that we were -- were more high importance than
22 other people in the trailer park.

23 Q. So how did the investigation evolve?

24 A. She was interviewed again.

25 Q. When?

26 A. I believe --

27 Q. Feel free to look at your report.

28 A. I believe it was March 1st -- I'm sorry, April 1st.

1 Q. By whom?

2 A. By Agent Conrad, one of the same agents that contacted
3 her when she found the note on the 28th.

4 Q. All right. As lead investigator, do you become aware
5 of what various important witnesses say to other -- to FBI
6 agents, or Tracy Police Department officers?

7 A. Yeah. Two things have to happen in a case like this.

8 There are -- conversation with a individual,
9 especially within that trailer park, is documented and I
10 review that.

11 And once I get it, and then I also get a verbal
12 summary of that contact with people that are what we would
13 call high importance or persons of interest, and she was on
14 that list, along with Mr. Wohler in 81, Sinclair, and the
15 gentlemen in 43, so I would also get updated right after
16 those contacts would happen.

17 Q. By the way, you prepared a pretty lengthy report
18 summarizing what went on in this case?

19 A. Yes.

20 Q. You have a copy of it there before you?

21 A. Yes, I do.

22 Q. Okay. So April 1st, Conrad speaks to Melissa Huckaby.
23 Was there anything in that conversation that caused you to
24 focus on Melissa Huckaby or anything that stood out, let's
25 put it that way, or caught your attention or anything you
26 remember offhand? I know you haven't reviewed it all
27 recently. But...

28 A. In that statement, she -- she described her -- what

1 her actions were for the time that Sandra went missing.
2 What she -- she did, where she went, and what she was doing
3 at the time and what her last contact was.

4 Q. Okay. I think we already heard from Adrienne Sparrow,
5 how she said how she was loading things up for the church
6 and had the suitcase and it was missing, and that she goes
7 to the church and calls her grandmother. And is that
8 basically what she's saying again to Conrad on the 1st of
9 April?

10 A. Yes.

11 Q. Okay. And then what was the next significant -- as we
12 go chronologically, what's the next noteworthy point that
13 jumps out at you in your investigation?

14 So here we are, April 1st, that's a Wednesday. You
15 did another roadblock canvass?

16 A. On that Friday. We had been to make contact with her.
17 Mike -- Mike Conrad, the FBI agent, he was out of the
18 Phoenix field office, and he -- when he left, he said, "We
19 need to contact Melissa Huckaby again for a follow-up
20 interview. But I'm leaving to head back." He had to
21 return. He was just on like a release assignment for this
22 based on this case because of his specialty. "And she needs
23 to be contacted again." But he said when I -- he had did a
24 phone interview with her, set up a person-to-person
25 interview with her because she had a doctor's appointment
26 that day.

27 Q. This was on the April 1st time?

28 A. April 1st, correct.

1 So it was down that we needed to recontact her again
2 because we had a list of assignments that we did every day.
3 So she was still -- we hadn't been able to rule her out as
4 being responsible or having what we would call at this point
5 involvement in Sandra's disappearance. So she needed to be
6 contacted again.

7 So we continued with looking at other individuals, we
8 continued serving some other search warrants in the case.
9 And --

10 Q. And you're looking at these guys that live in the
11 trailer park and checking their computers and looking under
12 trailers and doing all sorts of other things?

13 A. Yeah. We had what we call an ongoing neighborhood
14 canvass. Every day, we had Tracy PD investigators and FBI
15 agents in there continuing interviews. We would do
16 interviews. We would do follow-up if we found something
17 that didn't match up with something, or we had to return to
18 a trailer because someone wasn't home in the initial
19 canvass.

20 And then, yeah, we had search warrants going on early
21 on, all these individuals I talked to you about, 81
22 Mr. Wohler, 88 Sinclair, and Slayter and Barringer in 43,
23 search warrants were executed on all their trailers as of
24 the -- I think by April 3rd we had finished our last search
25 warrant with those individuals.

26 Q. By the way, did you trail some of these guys?

27 A. Yes, we did.

28 Q. And what was the reason? We don't have to go into

1 each and every person. What was the reason overall? Like
2 in the movies where someone watches behind a building or
3 something, or looks at them with binoculars?

4 A. We had surveillance teams attached to all four of
5 these subjects and to their vehicles. When they left there,
6 watch whether they went to work or what their actions were.
7 We wanted to see where they would take us and what they were
8 doing. Or, you know, based on my experience -- training and
9 experience, we found that it's possible that they might lead
10 us to something or some piece of evidence that could attach
11 us to where Sandra might be or her location should she still
12 be alive.

13 Because they weren't ruled out at that point, we
14 continued with our surveillance and had surveillance teams
15 watching them. Because they were of more importance than
16 the other people in the trailer park.

17 Q. Okay. So you said Conrad suggested you guys talk to
18 Melissa again -- Melissa Huckaby again. Did you end up
19 doing that?

20 A. Yes, we did.

21 Q. When was the next time that Tracy police talked to
22 her, or FBI, after -- after contacting --

23 A. She was contacted again by Detective Cogburn, I
24 believe, on April 3rd. It's a Friday.

25 Q. What page of your report? Is it under April 3rd,
26 Friday? Or is it in your report, I should say?

27 A. His contact would be in his report.

28 Q. Okay. Good.

1 And then did anything develop from that conversation
2 between Cogburn and Melissa Huckaby?

3 A. She was just again questioned as to her whereabouts on
4 the day of Sandra's disappearance.

5 Q. Did she give pretty much the same statement?

6 A. Yes. And that she denied having any involvement in
7 Sandra's disappearance.

8 Q. Okay. Now, at some point, did you end up talking --
9 okay. When was she next spoken to after Cogburn spoke to
10 her?

11 A. She went into the hospital on April 4th, so she wasn't
12 contacted again until April 7th.

13 Q. And what did she go to the hospital for?

14 A. She was complaining of stomach pain. But she was in
15 the hospital for ingesting a razor blade, an Exacto knife
16 razor blade. She was in the hospital from the 4th until the
17 morning of the 9th. She checked out of the hospital at 7:00
18 a.m. on April 9th.

19 Q. What time did she check in on the 4th?

20 A. I'm not sure. It was -- I believe it was the middle
21 of the day on the 4th she checked in. But I know that she
22 checked out at 7:00 a.m. on April 9th.

23 Q. Did the fact that she's swallowing a razor blade
24 during this period, did that cause you in any way to think
25 that might be any type of consciousness of guilt,
26 overwhelmed by guilt, or anything along those lines, or did
27 that not factor into this?

28 A. What factored in for me as the investigator of this

1 case was that she was avoiding contact with us, that she --
2 if she was in the hospital, that her belief or her mind-set
3 was that we couldn't contact her --

4 Q. Well, what --

5 A. -- or have access to her.

6 Q. Putting aside your belief about why she was there,
7 what -- was there anything she said or did that made you
8 believe she was doing any of this to avoid contact with the
9 police? Had you tried to contact her and she said no, and
10 all of a sudden she checks into the hospital? What's the
11 basis for that comment that you just made, that you believed
12 she --

13 A. Well, she was interviewed on the 3rd.

14 Q. By Cogburn. Okay.

15 A. Then she checks into the hospital the next day.

16 Q. Did Cogburn interview her -- do you remember what time
17 of the day it was?

18 A. I believe midday or like early afternoon on Friday,
19 April 3rd.

20 Q. In person or by the phone did he talk to her?

21 A. In person at her park.

22 Q. Oh, okay. Let me make a note of that to ask him the
23 time.

24 Okay. Then she checks into the hospital, Tracy
25 Hospital, the 4th for swallowing -- was it three razor
26 blades?

27 A. I don't know how many razor blades it was.

28 Q. All right. So what -- so were you able to talk to her

1 on the 4th?

2 A. No.

3 Q. Did you try?

4 A. No.

5 Q. Because, now, since Cogburn spoke to her on the 3rd,
6 was that enough? I mean, did you -- Conrad said, "Okay,
7 talk to her again," so Cogburn talked to her again on the
8 3rd. So was that it for Melissa Huckaby, could you rule her
9 out at that point?

10 A. No.

11 Q. Okay. So when did you -- what was the next big
12 development after she was --

13 A. My first assigned day off in this case was April 6th.
14 And so my partner, Detective Knight --

15 Q. Detective who?

16 A. Detective Knight, Ryan Knight, was supposed to take my
17 role and be in charge of the investigation. So he was
18 provided a list of leads or follow-ups that had to be done,
19 along with all the tips that would come in every day. And
20 one of the things was to have the formal interview with two
21 investigators done on Melissa Huckaby on April 6th, on that
22 Monday, which was --

23 Q. Hadn't Cogburn already talked to her on the 3rd?

24 A. Yes.

25 Q. What was deficient about that, if anything, that made
26 you need to talk to her formally? Maybe I'm not following.

27 A. We still weren't satisfied with -- we weren't
28 satisfied with her -- her timeline based on her relationship

1 based on her finding the note.

2 Q. Had she told anyone up to this point, when she spoke
3 to Conrad, the FBI agent, or Cogburn on the 3rd, that she
4 just went to the church and came home and stayed there all
5 that night?

6 A. Yes.

7 Q. Who was it that she said that to?

8 A. She told Agent Conrad that.

9 Q. And what significance did that have to you?

10 A. Detective Brandi, who I think already testified, was
11 assigned to view all this video surveillance from the
12 different video surveillances that we got from the victim's
13 residence, trailer 63, and the commercial businesses.

14 As we began to put this together, one of the things we
15 tried to do is, like the camera, see who came and left at
16 certain times near the time that Sandra Cantu disappeared.
17 So we began to put a timeline together of what we believed
18 were people's travels and especially persons of interest we
19 had to verify.

20 Q. Conrad's coming in here, right? He's on the list to
21 come in?

22 A. Yes.

23 Q. She told him, we'll hear it from him, she told him she
24 went to the church and went straight home to the -- from the
25 church, is that correct?

26 A. She told him that she believed she arrived at the
27 church at roughly 4:00 p.m. on that Friday the 27th, and
28 returned to the trailer park at 6:30.

1 Q. And now I'm cutting you off just so we can get on,
2 what was it about that that conflicted with the evidence
3 that Brandi reviewed?

4 A. Well, we see her car driving eastbound on Clover
5 passing the trailer park in that thirty-minute gap that we
6 were talking about yesterday, between 5:27 and 5:56,
7 5:57 p.m. So she wasn't at the church the entire two and a
8 half hours she claims to be at the church.

9 Q. She says she goes to the church?

10 A. Correct.

11 Q. And then comes back to the trailer park?

12 A. At 6:30. But we put her back in the trailer park at
13 7:10 p.m.

14 Q. So she doesn't -- so, in other words, this whole thing
15 we went into with Brandi where we actually see her car in
16 the Best Western and AM-PM going north on North Tracy
17 Boulevard and then coming back twenty-nine minutes later
18 passing those same two establishments, and then I don't
19 remember if she went into the trailer park --

20 A. She passed it.

21 Q. -- went back to the church a second time, she never
22 said anything like that, did she, to -- to Conrad?

23 A. No.

24 Q. Did that have significance to you as you're
25 investigating this case?

26 A. Yes.

27 Q. What significance did it have to you?

28 A. Well, that was a -- some of her activity that she

1 avoided, that she didn't share with us that we could verify
2 through this video surveillance.

3 Q. So what did you end up -- how did that -- what did
4 that prompt you to do? What did that cause you to do?

5 A. That was one of the reasons we still needed to
6 interview her after Detective Cogburn talked to her. In her
7 contacts with Detective Cogburn, Agent Conrad and Agent
8 Sparrow, on those different days, the 28th, the 3rd, and the
9 1st, that was never disclosed. We were now finding
10 discrepancies in her timeline. And one of the ways we
11 needed to rule people out in this investigation was we had
12 to verify their timeline. And we weren't able to rule her
13 out, and that was why she was on the list to be contacted
14 again with a more thorough interview on the 6th. But part
15 of the issue was she was in the hospital.

16 Q. Oh, because she had been in there since the 4th?

17 A. Since the 4th.

18 Q. You, on your first day off in a long time on the 6th,
19 asked Knight to interview her on the 6th?

20 A. He was assigned two investigators to interview her.

21 Q. But that never took place because she's in the
22 hospital?

23 A. Correct.

24 Q. Then there was another development on the 6th,
25 correct?

26 A. Yes.

27 Q. What?

28 A. About 10:15 in the morning, a farmer out at the

1 irrigation pond that's just north of Whitehall Road, east of
2 Bacchetti, discovers a black suitcase floating in the -- in
3 the irrigation pond. And so that -- and so that changed the
4 actions of our investigation the entire day.

5 Q. Did you cancel your day off?

6 A. Yes.

7 Q. Okay.

8 A. It became my longest day.

9 Q. And then what did you end up doing? Did you go out to
10 the pond?

11 A. Yes, I did.

12 Q. We covered that with other officers. I won't go over
13 that with you.

14 Then where did the investigation start going from that
15 point, once now you had this note?

16 A. So --

17 Q. Go ahead.

18 A. Now we have a suitcase that we only have one person
19 during this whole time period in what we believe in the
20 trailer park and within anybody that's contacted us during
21 this investigation, of all the tips we received, that's
22 reporting a stolen suitcase. Never documented it, but
23 reporting it. And that would be Melissa Huckaby.

24 And where our suitcase is found is in the water at
25 Bacchetti and Whitehall Road. And so the things are now --

26 Q. It says, "Locked in a stolen suit case," right?

27 A. Right. Correct.

28 Q. And was this suitcase locked, for all intents and

1 purposes, in terms of the cord and with the --

2 A. Snaps and the zippers together, yes.

3 Q. Go ahead.

4 A. So the suitcase is exactly where it is. And the
5 suitcase that we find, based on visual appearance, before
6 it's removed out of the water, appears to be the same
7 description of the suitcase that's been provided to agents
8 by Melissa Huckaby in previous contacts. So our knowledge
9 is telling us to look directly at her.

10 And then we conduct a neighborhood canvass of that
11 area while we were waiting for the coroner Dr. Omalu to come
12 out to that scene to evaluate it. So a canvass was done
13 within a few hours of that suitcase being found on that --
14 on the day of the 6th of the neighboring residences -- or
15 the closest neighboring residences, because that area is
16 very rural, of where the suitcase was found.

17 Q. And during that canvass of people that lived out
18 there -- do we have a photo of that area -- did you come
19 across someone that saw somebody?

20 A. Yes.

21 Q. Okay. Now I have this person coming in next week.

22 A. Yes.

23 THE FOREPERSON: What area? Excuse me.

24 MR. TESTA: Pond.

25 Q. Let me ask just for purposes of explaining why you did
26 what you did, then I'll call this person. This is a Mr.
27 Chappell, right? The Marine?

28 A. Yes.

1 Q. What was it about what Mr. Chappell said -- you don't
2 have to go into detail about it because he's coming in --
3 what was it about what he said that caused you to focus more
4 on her?

5 A. While we were waiting still for the scene to be
6 processed by the FBI, and waiting for the coroner, he was
7 contacted and he -- he gave a -- a summary of his events for
8 that day on the 27th during the afternoon hours.

9 And he had recalled seeing a vehicle, a small SUV,
10 stopped on Whitehall Road, the road he lives on. He lives
11 at the house at the very dead end of Whitehall Road. And
12 him and his wife and child were headed to dinner, he had
13 recalled between 5:30, 6:00 p.m., and he was able to recall
14 that time because he remembers what time he finished dinner
15 at Olive Garden, which Olive Garden is in the city of Tracy
16 where he went and ate.

17 And when he was on his way, he saw a vehicle stopped
18 in the middle of the road on Whitehall Road. So he stopped
19 just to see what was going on. So --

20 Q. So we don't have to go into all the details of what he
21 told you. Just basically he gives a description of a
22 vehicle --

23 A. Yes.

24 Q. -- and of a woman, and they match whom?

25 A. The vehicle description matches Melissa Huckaby's car
26 because of --

27 Q. You don't have to go into the details. He's coming
28 in. We will just be repeating it.

1 The description he gives of the vehicle matches
2 Melissa's vehicle?

3 A. Yes.

4 Q. In many ways, right?

5 A. Yes.

6 Q. The ribbon and the Marine -- "My Brother's a Marine,"
7 right?

8 A. Yes.

9 Q. And the -- and the description of the woman he gives
10 matches her, too?

11 A. Yes.

12 Q. Okay.

13 A. And it matches -- it matches with the video that
14 Detective Brandi had been viewing.

15 Q. That too, okay.

16 And he was so specific about what he saw on the back
17 of that car, wasn't he?

18 A. Yes.

19 Q. Which was?

20 A. The Marine sticker.

21 Q. And --

22 A. And the ribbon.

23 Q. So he sees both?

24 A. Yes.

25 Q. Does he show you guys the part of the pond where he
26 said he saw this vehicle?

27 A. Yes. The following day, he showed the same to FBI
28 agents that he spoke with, he took them back out there to

1 point it out to where he saw the car when he left.

2 Q. And it's the area where the suitcase is found?

3 A. Yes.

4 Q. Okay. So now with this information -- and he says
5 it's at the very time period during this missing twenty-nine
6 minutes, is it not?

7 A. Correct.

8 Q. During this gap when we see -- when the -- we don't
9 have...

10 MR. TESTA: Could you look again? We have an
11 aerial shot that Detective Bauer looked at the other day, it
12 has the ponds and it has the trailer park.

13 THE FOREPERSON: We don't have that picture.

14 MR. TESTA: You don't have that one? It
15 doesn't seem to be here.

16 THE FOREPERSON: It's picture -- it's Number
17 68. We don't have that picture.

18 MR. TESTA: Yeah, that's the problem. I
19 think we all remember which one we were referring to. I can
20 always get a duplicate of it.

21 Q. So now with this -- by the way, this is during the
22 time period -- I am repeating myself -- during that
23 twenty-nine minute gap that he sees this woman that matches
24 her description and this vehicle that matches her vehicle
25 description, is that correct?

26 A. Yes.

27 Q. And were you aware of the time at this point when you
28 were -- when you learned about what the Marine said, were

1 you aware that there was this twenty-nine minute gap from
2 when the car leaves -- when the car leaves and, according to
3 the videos, turns on to North Tracy and goes north and it
4 comes back and goes back to the church, do you remember if
5 you were aware of that gap?

6 A. I'm not sure if I was aware of the time. I was told
7 about his interview. Again, I was briefed on that out there
8 at the scene. We were out there for hours.

9 Q. Okay. In any case, so what do you do now with this
10 information that --

11 A. Well, from there --

12 Q. -- that the Marine gives you guys of giving the
13 description that matches Melissa's, the car matches
14 Melissa's, the time fits to when she's missing for
15 twenty-nine minutes, and what do you do with this
16 information?

17 A. Just to touch on that, the -- so then the autopsy was
18 done -- the suitcase was taken, the autopsy's done, we
19 confirm that --

20 Q. What was the date of the autopsy again?

21 A. The same day, April 6.

22 Q. Oh, the same day it's found?

23 A. Yes.

24 Q. Go ahead.

25 A. So the autopsy was done. Dr. Omalu came out. The
26 suitcase was taken out. We did not know that -- we did not
27 confirm that there was a body in the suitcase until we got
28 to the Coroner's Office. And we confirmed that it was

1 Sandra Cantu. So we had -- now had everything that matched
2 up with the note, we had a suitcase, we had the body in
3 water, we had Sandra Cantu in the suitcase.

4 Q. Were you following her phone messages, do you
5 remember, at that time?

6 A. No.

7 Q. Okay. At some later time did you?

8 A. Yes.

9 Q. Was there something that jumped out at you when you
10 were following her phone messages or text messages?

11 A. Her text messages. We were able to retrieve all of
12 her text messages for this time period. And one thing that
13 was interesting, when the suitcase was found --

14 MR. TESTA: We already have these as an
15 exhibit. We had them marked. Do you have them?

16 THE FOREPERSON: The suitcase?

17 MR. TESTA: No, the text messages, the big
18 packet.

19 THE FOREPERSON: Yes.

20 MR. TESTA: You have all those, don't you?

21 THE FOREPERSON: Yes, we do. And it's on the
22 floor right there, sir.

23 MR. TESTA: Okay.

24 THE WITNESS: When the suitcase was found, it
25 was that morning. We do not release, for the purposes of
26 confidentiality, to the media until 9:15 that night. That
27 was the very first time that our public information officer
28 Sergeant Sheneman released -- we did our first press

1 conference on this suitcase, as far as stating that we
2 recovered a body, we confirmed it to be Sandra Cantu, it was
3 not until 9:15 p.m. that night. That press conference was
4 done by Sergeant Sheneman and our chief.

5 The family had been notified -- her father and her
6 mother and family had been notified prior to that.

7 One of the text messages that we recovered from
8 Melissa's cell phone in our conversations about the missing
9 suitcase and Sandra Cantu and confirming or denying whether
10 it was Sandra Cantu in there, Melissa sent a text message to
11 her -- I would need to see it.

12 Q. It's on the screen. With the laser.

13 A. There you go.

14 Q. This is Exhibit -- part of Exhibit 19. It's page 80
15 of 138.

16 A. These are -- yes, these are -- Connie Lawless is her
17 grandmother who she lives with -- text messages that we
18 retrieved from Connie Lawless' phone.

19 So we are following these and we notice -- this is
20 Melissa sent to -- it's an incoming call to Connie Lawless,
21 her grandmother -- keep in mind Melissa is in the hospital
22 on April 6th. This is real time, Pacific time. She sends a
23 message and says there's going to be an 8:15 news briefing.
24 It's actually 9:15, this was all over the media and
25 Associated Press.

26 This is sent from Melissa -- do you need me to read it
27 or can they see it?

28 "They are having an 8:15 news briefing on the

1 suitcase. That was fast. I hope they didn't find
2 anything."

3 That was sent at 7:54 to her grandmother's phone.

4 Followed up with -- at 8:42, sent from Melissa's cell
5 phone, at -- saying, "It is her."

6 Q. Now, what is the significance? Had you released to
7 the media --

8 A. We hadn't released anything to the media until 9:15.
9 The earliest that the media -- the earliest that the media
10 could -- was told that Sandra Cantu's body was found in the
11 suitcase was at 9:15 p.m., which was thirty-three minutes
12 later.

13 Q. And you were monitoring this very closely, were you?

14 A. Yes.

15 Q. You're precise -- you're able to be this precise, how
16 do you know what time the media said what they said? Were
17 you part of that?

18 A. Well, I was not part of that. I was part of the
19 announcement to the family that happened just prior to this.
20 Because we could not legally -- we could not disclose to the
21 media that Sandra Cantu's body had been recovered until we
22 notified the parents, which happened before this time.

23 Q. So let me ask you this then: 8:42 when Melissa
24 Huckaby is texting to her grandmother, "It's her," had you
25 even told the victim's family?

26 A. We were in the process.

27 Q. And --

28 A. We were just finishing up. We had notified her -- her

1 mother and grandparents and family at the trailer park
2 between 8:00 and probably 8:30. And we returned to Tracy PD
3 where we notified her father, Danny Cantu was at the PD
4 waiting, between 8:30 and 9:00. And Sergeant Sheneman went
5 live at our City Hall at 9:15 with this press conference.

6 Q. He's your spokesperson?

7 A. Correct.

8 Q. He's the guy that was on all those TV shows?

9 A. Correct.

10 Q. So what time did he announce it to the press?

11 A. 9:15 p.m.

12 Q. So basically --

13 A. Thirty-three minutes.

14 Q. -- thirty-three minutes before it's announced to the
15 press that it's Sandra Cantu's body, Melissa Huckaby is
16 texting to her grandmother, "It is her"?

17 A. Correct.

18 Q. Do I understand that correctly?

19 A. Yes.

20 Q. And then was there any significance to the next text
21 message that we have here, number 797 on page 80 of 138 of
22 this exhibit?

23 A. This is actually the same one. It's running time,
24 because there's only thirteen seconds different. This is a
25 total of one text.

26 "They are going to show the news conference at 10,"
27 that's Fox 40 News at 10:00, for the -- for Tracy, for the
28 news media region we are in, "but they did confirm it's

1 her."

2 We as law enforcement knew that we had confirmed it
3 was her at this point, but we had not released this to the
4 media.

5 Q. Until at least 9:15, do I understand you?

6 A. Exactly. And the first -- the first media outlet that
7 ran it on live news was at 10:00 p.m. It couldn't have hit
8 the Internet, Associated Press news until at least 9:15,
9 after the 9:15 news conference.

10 Q. Okay. So I kind of distracted you or interrupted what
11 you were saying, though, as far as your --

12 A. So going back to -- going back after we do the
13 autopsy, or we attend the autopsy and notify the family, we
14 are in the also in the process at the same time we are now
15 obtaining search warrants. Now everything is kind of
16 pointing us in the direction of Melissa Huckaby. Based on
17 the location of where Sandra was found, and the suitcase,
18 and the note, and video surveillance.

19 So we asked a judge and he signed a search warrant to
20 search for evidence as it related to Sandra Cantu's
21 disappearance and death, Melissa Huckaby's residence, her
22 vehicle, and the church where she attended with her family
23 and where she was a Sunday school teacher. So those were
24 executed. We started those about -- probably around 9:00 or
25 10:00 p.m. that night.

26 Q. The night of the 6th?

27 A. Yeah, the night of the 6th. I have 10:00 p.m. in my
28 report that we executed -- we locked down all three

1 locations at the same time.

2 Q. And what did they reveal, if anything, that was
3 significant? Anything jump out at you?

4 A. Well, the church was frozen that night, meaning due to
5 personnel and evidence technicians, we froze the church so
6 no one could get into it and we hold that location. It was
7 searched the following day because the same evidence
8 personnel was at Melissa's residence.

9 So we searched Melissa's residence that she lives at,
10 trailer 57, with her grandparents and her daughter, the
11 night of April 6th. And then her car, which was at Sutter
12 Tracy Hospital because she was at the hospital at the time,
13 was taken and towed to one of our fire stations to secure
14 it, and it was searched also the following day. And it was
15 secured in the -- in the Fire Department garage.

16 Q. So her car was searched what day?

17 A. The 7th. April 7th.

18 Q. And what was found in the car of significance?

19 A. In the glove compartment of the car, we found a blue
20 sticky note.

21 MR. TESTA: Can I have this marked as
22 People's next in order?

23 Q. Is this an enlargement of it?

24 A. Yeah, that's it blown up, correct.

25 Q. Find -- okay. The Post-it note is found on what date?

26 A. April 7th. Her car was seized on April 6th and it was
27 processed on April 7th.

28 Q. Post-it note. The car was seized on what date?

1 A. April 6.

2 Q. Okay. What time was her car seized on the 6th?

3 A. Same time as the other ones. We had -- oh, let me
4 clarify this also. At the same time that we -- we had
5 people in each location at the same time.

6 Q. 10:00 p.m. or so?

7 A. Yes. But we had -- I had requested surveillance units
8 inside the hospital, people on foot, we were watching her at
9 this point. We decided we needed to dedicate resources to
10 her car so it wouldn't go anywhere. And we also dedicated
11 some of our surveillance units to watch her room. So we
12 began doing that also on -- we did that actually -- we
13 started that roughly around noon that day after we found the
14 suitcase, we believed that we needed to step up our
15 surveillance on her as an individual.

16 MR. TESTA: It's 2:30, is it time for your
17 break?

18 THE FOREPERSON: Yes.

19 MR. TESTA: All right. Is this the normal
20 time you take your break?

21 THE FOREPERSON: Yes, 2:30.

22 MR. TESTA: How long? When do we come back?

23 THE FOREPERSON: Fifteen minutes, 2:45.

24 MR. TESTA: Thank you.

25 THE FOREPERSON: Remember not to discuss the
26 case with anybody. Thank you.

27

28 (Recess.)

1 MR. TESTA: Are we all here and assembled
2 here?

3 THE SECRETARY: Yes, we are all here and
4 assembled.

5 THE FOREPERSON: And you're still under oath.

6 MR. TESTA: Thank you.

7 Q. So the Post-it note is found in her car?

8 A. In the glove compartment.

9 Q. In the glove compartment on the 7th. But her car was
10 actually seized on the 6th?

11 A. On the 6th, yes.

12 Q. And I've got someone coming next week to talk about
13 the Post-it note so I won't go into it right now, and the
14 photographs and all that.

15 What significance, if any, did that have in your
16 investigation, in terms of focusing on Melissa Huckaby?

17 A. We took this Post-it note and we noticed that these
18 three lines were scribbled out.

19 I will put it on -- what's our next in order?

20 THE SECRETARY: 227.

21 THE FOREPERSON: 226.

22 THE SECRETARY: 226?

23 MR. TESTA: I'm sorry, 226?

24 THE SECRETARY: Uh-huh.

25

26 (Whereupon a Copy of Post-it Note was
27 marked Grand Jury Exhibit Number 226
28 for identification.)

1 THE WITNESS: It's hard for you to see, but
2 he might be able to get it for you. But if you look at
3 this -- and if you can't see it we can pass around a bigger
4 version of it -- it was pointed out to us by the ERT
5 members, the FBI people that specialize in evidence, they
6 told us to key up these three words.

7 Yeah, if you do it line-by-line.

8 MR. TESTA: 226. This will be 227, this is
9 the blow-up.

10

11 (Whereupon a Copy of Post-it Note was
12 marked Grand Jury Exhibit Number 227
13 for identification.)

14

15 THE FOREPERSON: What is 226? I don't have
16 it.

17 MR. TESTA: 226 is the photograph of the
18 Post-it note. And 227 is a 8 by 11 of the same Post-it
19 note. I'm just seeing if one of them is -- is better for
20 the overhead projector than the other.

21 THE WITNESS: Stop right there.

22 If you look -- you look closer, you continue to look
23 at it, we noticed that this said, "Bacchetti Rd., Whitehall
24 Rd.," and "water."

25 MR. TESTA: Q. Where can you see Bacchetti?

26 A. Right here, B-A-C-C-H-E-T-T-I R-D. Whitehall,
27 W-H-I-T-E-H-A-L-L R-D, Rd. And water.

28 And this was found in her glove compartment. And we

1 thought, okay, she found the note also, and these three
2 words are also -- that's a really good way to see it, but
3 they are scribbled out.

4 Q. Did you ever find any other writing of Melissa Huckaby
5 indicating that this is how she scribbled things out?

6 A. Yes, we did.

7 Q. Where?

8 A. In one of the notebooks in that search of the house
9 that night.

10 Q. Could I get the notebook, please, from the house?

11 A. There's three notebooks, and one of them had a -- a --
12 a -- some paragraph-style writing where she scribbled out,
13 and the scribbles are in the same manner as the scribbles
14 here.

15 Q. Is this the note where it talks about "angry," it's
16 signed "angry" or something?

17 A. Correct.

18 Q. Do you have that one?

19 Let me see, I'm not sure if you're referring to this
20 or not. Let me show you 195. Who was it that said
21 yesterday, the FBI?

22 A. Gabriela Fernandez.

23 Q. Thank you.

24 Let me take the sticker off so we can see it more
25 clearly. She testified about finding this notebook in her
26 house. Is this one of the things you're talking about?

27 A. Yes.

28 Q. Where, with the laser pointer, are you referring to

1 this is her style of crossing things out by making these
2 little --

3 A. They are like little circular motions that when --
4 when she scribbles out over a word, they are little like --
5 almost like little O's and -- and they just kind of
6 continue, you know, this O feeds into this O to the next
7 one, the next one, or I don't know if you call them half
8 circles or whatever.

9 And those are similar to the blue note. The three
10 words that are scribbled out are the three words that we
11 found -- or that were on the note she found on the 28th.
12 They are little O's. Some more exaggerated than the other.
13 But I call them O's. You can call them circles or whatever
14 you want to call them. But they just feed into the next
15 one.

16 Same thing in here. And then, actually, if you see
17 when the light -- when lights exposed to this sticker or to
18 this Post-it note, you can show how then it continues to the
19 next, this scribble continues to the next one to continue to
20 this scribble and then continues to this scribble also. So
21 this was one motion, one scribbling motion done. It wasn't
22 stopped and went to the next one.

23 But this wasn't scribbled out, we found this
24 interesting also, this was a phone number that we traced
25 down. It was to like a packaging company back on the east
26 coast and New York.

27 Q. Wasn't it a packaging of wedding dresses or something
28 or tuxedos or something having to do with weddings, do you

1 recall?

2 A. Yes, it was. We researched the phone number and found
3 the company on the Internet, I think it was out of New York,
4 but it was a packaging company.

5 Q. Hadn't she been proposed to by --

6 A. Plowman.

7 Q. Yeah.

8 A. Go ahead.

9 Q. Well, so when the Post-it note is found in her glove
10 compartment on the 7th, but her car was seized on the night
11 of the 6th --

12 A. Correct.

13 Q. -- what was the significance in terms of why you would
14 focus on her in terms of the Post-it note?

15 A. Well, these are three words that were on the note that
16 she found on the 28th. And these are crossed out. And
17 when -- for me as an investigator, when someone crosses out
18 something, that means they don't want you to see it, or they
19 don't want you to be able to make that out again.

20 But based on our technology and the lightings that we
21 have available to us, we are able to make those words out.
22 And significant for us, for the Tracy investigators who work
23 this case and have worked in the city, there was no
24 misspelling of these two words ever. And -- and I can just
25 tell you, reviewing this case and reviewing the reports in
26 this case, same spelling here, same spelling here. R-D
27 here, R-D here, R-D on the other two words. And water,
28 also. So these two words are right here.

1 Q. Where is R-D on 227. Where?

2 A. R-D. R, D. R, D.

3 So then we wanted to look at the two notes to compare
4 the handwriting to see if we could see some similarities in
5 the handwriting.

6 Q. And what did you as a lay person conclude?

7 A. I looked at -- because of this note, we needed to
8 focus on capitalization words from the blue note. So I
9 focused on the W, the B, and the R, is what I looked at.

10 And what we looked at with the W, we had it on "water"
11 and we had it on "Whitehall," and because she capitalized
12 it, if you go back to her normal what we call handwriting
13 sample from the notebooks we found in her house on the 6th,
14 she traditionally writes in lower case, except when she
15 capitalizes a word like this, the first letter is upper case
16 and the rest is lower case, but this was all in upper case.

17 So we looked at the W's as it compared to the W's. We
18 looked at the B as it compared to the B in "Bacchetti." And
19 we looked at the R and the R. And then we compared that
20 also to the notes that we found in her residence on those
21 notebooks, the one he just showed you with the
22 scribbled-out, she had written some like diary-style notes
23 to herself in the notebook that had the scribble that we
24 showed.

25 And so we were able to look at that because in --
26 in -- not this note, there's another note where she wrote a
27 word at the very bottom.

28 GRAND JUROR 7: Angry.

1 THE WITNESS: Angry, there you go. We also
2 looked at the "angry."

3 MR. TESTA: Do you have it?

4 THE FOREPERSON: You have it.

5 THE WITNESS: We looked at the A on the
6 "angry."

7 Okay. If you look at this A here, it's like an
8 upside-down V with a line going straight through it on each
9 side.

10 And we looked at this R, with the -- I'll just say
11 exaggeration, but the long run of the bottom of the R.

12 MR. TESTA: Q. You're referring to
13 Exhibit 194?

14 A. Yes.

15 Q. Go ahead.

16 A. We looked at this -- and go back to the -- the note,
17 move the blue one and go back to the other one. There you
18 go.

19 Yeah, if you can get the R here in. And we looked at
20 the R's here.

21 And then we looked at the A's. And the A's, we notice
22 on this, whoever wrote this note, we notice that they kept
23 going outside the lines here, just like the person that
24 wrote this note. What we consider this is is we knew this
25 was her handwriting because it was in her notebook in her
26 residence and --

27 Q. You're referring to 194?

28 A. Yes.

1 And this is a person that doesn't write anything under
2 stress. This is just standard handwriting right here.

3 And this is someone writing a note to disguise it.

4 Q. You're referring now to 161, the note that was found?

5 A. Correct.

6 Q. Allegedly on the --

7 A. So we are able to compare the capitalization here to
8 the capitalization here. And we found some similarities --
9 we believe what were similarities in the R. And then also
10 we looked at the -- I'm sorry, we also looked at the N.

11 If you look at the N here on "angry," okay, on the
12 note, her notebook, and then you look at the N's here,
13 there's a bunch of N's on here. But you -- you could -- you
14 look at the points and you look at the style of how it was
15 written. Very similar to this one. A little off on this
16 one. Very similar to this one.

17 Come down on the --

18 Q. You have to put on the record "this one" meaning --

19 A. The note.

20 Q. Which word are you referring to, so the record is
21 clear?

22 A. I'm looking at -- on the rest of "stolin" where it's
23 misspelled, I-N. So the last letter on "stolin."

24 Q. How does that N compare to the N in "angry"?

25 A. The style is -- is the same. The only difference is
26 the points don't touch at the bottom point here.

27 But if you go down to the word "onn" where it's also
28 misspelled, O-N-N, the first N in the word "onn" on the note

1 that was found in the park matches the letter N here in the
2 word "angry" on the note from her diary notebook.

3 Q. The only reason I'm going into this now is did you
4 explain this to Melissa Huckaby? Did you put these two
5 notes -- these two items together?

6 A. Yes, I did.

7 Q. And confront her with this?

8 A. These two actually right here were shown to Melissa
9 Huckaby in an interview.

10 Q. The two items?

11 A. The two large -- the blown-up versions of what we are
12 talking about right now.

13 Q. Okay. An enlargement of 161 and an enlargement of 194
14 you showed to Melissa Huckaby?

15 A. Not 194. The blue sticky. The blue sticky and the
16 other note, those two right there.

17 Q. I have to put on the record. Bear with me here. 227.
18 Actually, here we go. Enlargement of 226, the Post-it note
19 and the enlargement of 161 --

20 A. Correct.

21 Q. -- were shown to Melissa Huckaby.

22 And let me just cut right to the chase, and keep in
23 mind admissible evidence, what was her reaction when you
24 explained to her -- did you explain to her -- well, what did
25 you explain to her about the Post-it note and the actual
26 note? If we could skip ahead to that.

27 A. Well, I explained to her that I believed the W's, the
28 B, the R, and some of the N's were very similar in nature to

1 the -- the big -- the big --

2 Q. You used the Post-it note and the -- the stolen
3 suitcase note?

4 A. The stolen suitcase note, I believe there was
5 similarities from the B and the W and the R's in the blue
6 sticky note and the note in here, and I believe that they
7 were written by the same person based upon my comparisons.

8 Q. Now, I'm jumping ahead. Now, as you said that to her,
9 as you're talking to her in person, which we haven't gotten
10 to yet, just tell me, not what she said, but what she -- how
11 she appeared, what her emotional reaction was.

12 A. She --

13 Q. Do you have a problem -- did I not phrase the question
14 properly?

15 A. No, I think I did, and I'm trying to refer to my
16 report, because that was back --

17 Q. I believe it's -- gee, the pages aren't numbered here.
18 It's the page -- I'll show you.

19 A. (Referring to report.)

20 Q. It's the one that starts, "For example."

21 A. Uh-huh.

22 Q. It would be line 14. Maybe I'm misunderstanding.

23 A. Oh, I --

24 Q. Or line 9 and 10. "We talked about the blue Post-it
25 note in the glove compartment in Melissa's vehicle," and
26 then I guess you basically showed her the similarities that
27 you were just showing us in court.

28 Do I understand that?

1 A. Correct.

2 Q. And when you showed her those similarities and
3 displayed both notes, the stolen suitcase note and the
4 Post-it note, did you then mention something else to her?

5 A. Yes. I mentioned to her that the video surveillance
6 that we had showed, that we knew her vehicle left the
7 church, that she had mentioned on numerous occasions prior
8 to this point that she said she had just went to the church
9 at 4:00, returned home at 6:30.

10 I said, "That's not true. We know that you left
11 during that time period because we have video surveillance
12 to support that."

13 Q. When you finally confronted her with that -- and I
14 know I'm skipping ahead here -- what was -- not what she
15 said, but what did she do?

16 A. She started to cry.

17 Q. Okay. Now, what date was this interview that you're
18 talking about that ended with her crying?

19 A. April 10th.

20 Q. So did you talk to her -- now I'm going to back up
21 now -- we talked about the Post-it note being found on the
22 7th. Did you talk to her on the 7th at all?

23 A. Yes, I did.

24 Q. Where?

25 A. At the hospital.

26 Q. Okay. Can we talk about what she said then?

27 A. Sure can.

28 Q. When -- how did you get into the hospital?

1 A. Walked in. We were -- we were watching her. So I
2 knew where she was at because we had seized her vehicle on
3 the evening of the 6th.

4 But --

5 Q. Did she know you guys -- pursuant to a search warrant,
6 I'm assuming -- seized her vehicle on the 6th? Was it
7 pursuant to a search warrant?

8 A. Correct, it was.

9 Q. Do you know -- I mean, did you ever tell her, "Hey,
10 Melissa, we picked up your car last night"?

11 A. No, I did not.

12 Q. So you talked to her on the 7th in the hospital?

13 A. Yes.

14 Q. Morning, afternoon, or night?

15 A. 1:00 in the morning. She was -- she was up.

16 Q. 1:00 o'clock in the morning?

17 A. Yes.

18 Q. On the 7th?

19 A. After we had finished the search of her residence.

20 Q. I see. So the --

21 A. Yeah, we didn't come to her just to do that interview.
22 It was just a run-on of our day.

23 Q. It was on the 6th, your day off. The 6th, did you --
24 the autopsy ended on the 6th --

25 A. Correct.

26 Q. -- after the autopsy, you guys search her house and
27 seize her car --

28 A. Yes.

1 Q. -- night of the 6th. Then 1:00 a.m. or just after
2 midnight on early morning hours of the 7th is when you go to
3 the hospital?

4 A. Yes.

5 Q. She's still up or did you have to wake her up?

6 A. No, she was up.

7 Q. How do you know that?

8 A. Because our surveillance units -- I had surveillance
9 units watching her because I -- we had them watching her for
10 many reasons, to see how she was acting and to see her
11 behavior.

12 But I had contacted one of -- one of our surveillance
13 units and he advised me also that she was up.

14 Q. So you go there what time did you say on the 7th?

15 A. About 1:00 in the morning.

16 Q. And what do you do there?

17 A. I want to contact her and introduce myself to her.

18 Q. Was that the first time you had ever met her?

19 A. Yes, it was.

20 Q. Did you end up speaking with her?

21 A. Yes, I did.

22 Q. Now, did you have to Mirandize her before this
23 particular conversation with her?

24 A. No.

25 Q. Why did you feel you did not need to?

26 A. I didn't have a plan to question her regarding what we
27 had recovered at the -- at the irrigation pond.

28 Q. You did or did not?

1 A. Did not. There was no plan. She was in her hospital
2 room. She was not in any type of custody. I had no plan of
3 making any arrest of her at this point. And I just wanted
4 to -- my plan for me and my partner was to introduce
5 ourselves to her, also inquire about how long she
6 anticipated being in the hospital.

7 Q. Because the rule is if they are in custody, you have
8 to give them Miranda rights, correct?

9 A. Correct.

10 Q. But she was not considered in custody?

11 A. No.

12 Q. Because?

13 A. She was in her hospital room. She was -- she was
14 there as a patient.

15 Q. Okay. And when you went to talk to her, were you in
16 any type of uniform?

17 A. No. I was in slacks and a polo.

18 Q. 1:00 o'clock in the morning?

19 A. Yes.

20 Q. And by yourself or with someone else?

21 A. With my partner, Detective Knight.

22 Q. Was he also informally dressed?

23 A. Yes.

24 Q. Okay. So what did you guys talk about?

25 A. I asked her why she was there.

26 Q. What did she say?

27 A. She said she had accidentally swallowed a razor blade.

28 Q. Did you ask her, "How in heaven's name do you

1 accidentally swallow a razor blade?" I don't mean to make
2 light of it, I mean, I know I would ask someone that
3 question if they told me. Did you ask her or did you just
4 let it, you know?

5 A. No, she had mentioned that she sleepwalks. And what
6 she said is it was an accident, she's not sure how, but she
7 sleepwalks and had swallowed a razor blade. It was an
8 accident, not on purpose.

9 Q. Did she say how many she accidentally swallowed?

10 A. I don't recall. I believe it was just one.

11 Q. Okay. And did she say how long she had been in the
12 hospital?

13 A. She told me she had been in the hospital since the
14 previous Saturday, April 4th.

15 Q. Had you independently confirmed that?

16 A. Yes.

17 Q. And we wrote that on the exhibit. All right. Okay.

18 A. Yes.

19 Q. All righty. So, basically, did she end up saying
20 anything that advanced the investigation? Because I don't
21 need to go into everything she said.

22 How long did you talk to her?

23 A. Thirty minutes, maybe forty-five minutes.

24 Q. Did she basically maintain the same story? Did you
25 ask her what she did on that day?

26 A. No, I didn't ask her for her events of that day. That
27 wasn't the plan of that contact with her.

28 I -- I notified her that -- asked her if she was aware

1 of any news reports regarding a suitcase being discovered.
2 And she said yes, she had heard that through the news
3 reports that a suitcase had been found in like a river or
4 some type of water.

5 That was she made aware that there was a female --
6 excuse me, Sandra Cantu found in that suitcase. And she
7 said yes.

8 And so I was, one, notifying her of that, but she had
9 already known about that.

10 And she had mentioned that her grandmother Connie
11 Lawless had come by because she was really upset after
12 hearing that -- that information about the suitcase in the
13 water.

14 Because she stated to me on this occasion and other
15 occasions that Madison Huckaby, her daughter, was best
16 friends with Sandra Cantu, the girl who went missing who
17 also was discovered in the suitcase.

18 Q. Did you ask her anything about the suitcase?

19 A. I believe I asked her about the suitcase because she
20 had made a report or she had -- there was speculation that
21 she made a report about her -- her suitcase being missing.

22 Q. What did she say to you on this occasion during this
23 conversation?

24 I'm on your page -- page that starts with, "I asked
25 Melissa."

26 A. (Referring to report.)

27 Q. Line 1. But what did she say on line 8 or line 9?

28 A. Oh. She -- we were talking about, you know, the --

1 the suitcase that Sandra was located in. And she said she
2 saw the news report. She said immediately after seeing the
3 news report, she felt incriminated because her suitcase went
4 missing the same day, at the same time that Sandra Cantu
5 went missing.

6 Q. Did she say anything about whether Sandra would leave
7 the mobile home park by herself ever?

8 A. She said that Sandra was a responsible girl, would
9 never leave the mobile home park unless it was with someone
10 she trusted.

11 Q. Okay. What did she say about -- in that context, what
12 else did she say? She would sometimes take --

13 A. She said she had taken Sandra Cantu and her sister
14 Miranda Cantu -- Chavez, outside the park with her daughter
15 Madison to go to a city park, different than the park that's
16 in the trailer park, that they had been out before to go to
17 the park.

18 Q. And did she say something about checking the
19 bathrooms?

20 A. She made a -- she told me that she would always remind
21 Sandra to check the bathrooms prior to going into them to
22 make sure nobody else was in there.

23 Q. Did you ever ask her anything about the video
24 surveillance when you see Sandra skipping and jumping and
25 appearing to look over in the direction of Melissa Huckaby's
26 residence there on number 57? Or did that come up in
27 your -- line 17 of your interview?

28 A. (Referring to report.) She made reference that -- to

1 that day, the day Sandra went missing, that if -- on
2 March 27th, if Sandra -- she said that she was confident
3 that if Sandra would have been walking towards her house on
4 the 27th, as we last saw on the video surveillance -- or
5 that I believe that you viewed that surveillance, that was
6 shown over and over -- that she would have come to her door
7 to check and see if Madison could play because that was a
8 common thing for her to do. She would always, if she was
9 walking southbound on Cherry Street towards her house, she
10 would always stop and see if Madison was home to play.

11 Q. Did you ask her if she had seen Sandra that day?

12 A. I believe so.

13 Q. Line 23, what did she say?

14 A. (Referring to report.)

15 Q. Or line 19 to 21.

16 A. She said that she had seen her earlier when she had
17 initially come over to see if Madison could play, but not
18 again after the initial time.

19 Q. By the way, this conversation and all the others you
20 had with Melissa were all videotaped or they are on CD's?

21 A. They are all audiotaped. And the interviews on the
22 10th are -- are on video and on audio.

23 Q. And then did you prepare a report -- did you list --
24 did you go back and re-listen to these tapes and prepare
25 your report summarizing what she told you on different
26 dates?

27 A. Yes.

28 Q. So you could keep it straight?

1 A. Yes.

2 Q. Okay. So then how did this conversation with her end?

3 A. I asked her if she filed a police report for her
4 suitcase that she stated that was stolen.

5 And she said she initially called our Police
6 Department and they advised her to make an online report,
7 but she never followed through with it.

8 She gave me an estimated cost of \$200 for her
9 suitcase, told me it was an Eddie Bauer suitcase, gave me a
10 brief description of it.

11 Q. How does her description of it match with the
12 description of the actual suitcase that the body was found
13 in?

14 A. She said it was an Eddie Bauer brand suitcase. It
15 costs over \$200. And --

16 Q. She give you a color and --

17 A. Yes. She described it as I believe gray and black or
18 charcoal and black.

19 Q. Did the description she gave match the one that was
20 found?

21 A. Yes, it did.

22 Q. Okay. So then did you ever ask her what she thought
23 happened to Sandra?

24 A. I did.

25 Q. What did she say?

26 A. She said she thought it was obvious that -- she
27 made -- she made a statement to me that, "I think she was
28 taken."

1 Q. "I think she was taken obviously"?

2 A. Correct.

3 Q. And what did you ask?

4 A. I asked her, "Why would someone take her?"

5 Q. What did she say?

6 A. And she responded, "Why do people hurt other people?
7 Because they are sick in their head, disgusting."

8 Q. "Because they are sick in their head"?

9 A. Yes.

10 Q. Did she say whether she thought Sandra could have run
11 away?

12 A. She said she thought Sandra -- did not think Sandra
13 would run away.

14 Q. Did you ask her who might, you know, whom she thought
15 was involved?

16 A. Yes. I asked her, just like we asked everybody else,
17 who she thought was involved in Sandra's disappearance.

18 She said she was suspicious of Sandra's dad, Danny
19 Cantu, because she had remembered the girls, Sandra and
20 Madison, talking about the dad not paying child support.

21 Q. By the way, did you guys look into the dad?

22 A. We sure did.

23 Q. He lives where?

24 A. He lives in Mexico.

25 Q. He was living in Mexico at this time period?

26 A. Correct.

27 Q. And then did Detective Knight ask her a question?

28 A. Yes. He asked her if she was really in the hospital

1 for swallowing a razor blade.

2 And she again reiterated that she accidentally
3 swallowed a razor blade because she was sleepwalking.

4 Q. Did you -- did she say whether she was taking any
5 medication?

6 A. He asked her if she took any medications as a
7 reference to her sleepwalking, and she had mentioned to us
8 she took Celexa and Abilify and Xanax.

9 Q. How do you spell Xanax?

10 A. X-A-N-A-X.

11 Q. Okay. Same spelling as up there, right?

12 A. Yes.

13 Q. Did she say she had a job, by the way?

14 A. No, she was unemployed.

15 Q. Okay. All righty. So this interview that you're
16 talking about ended there at the hospital on April 7th?

17 A. Correct.

18 Q. Before I move on with the investigation, let me ask
19 these questions that have built up here from the grand
20 jurors.

21 She parked -- here's a question from the grand juror:
22 She parked in the middle of the road, left vehicle on the
23 road? I think that's referring to Chappell.

24 A. You talking about at the dump site -- at the
25 irrigation pond?

26 Q. I think that's what this refers to.

27 A. I can answer that.

28 Yes, her vehicle was parked on Whitehall Road. And,

1 yeah, it was left unattended with the door open. That was
2 part of the statement that was given by Mr. Chappell to the
3 FBI agents.

4 Q. We will hear from him next week, so we can go into
5 that more then.

6 Did you use the bloodhounds at the church?

7 A. We used cadaver dogs at the church, which are supposed
8 to be even better.

9 Q. Did they hit on anything?

10 A. No.

11 Q. Question from the grand jurors: Focusing on the note,
12 do you find it odd that a -- wait a minute.

13 A. You have the note up there.

14 Q. Do you find it -- the question is, I'm sorry:
15 Focusing on the note, do you find it odd that a, quote,
16 witness would characterize the suitcase as stolen?

17 Do you see that, do you see where --

18 A. Yes. A true witness, yes.

19 Q. Question number two: Is that amount of detail
20 unusual?

21 A. Yes. For a witness, yes. That --

22 Q. What do you mean?

23 A. And in answer -- or in -- in a better explanation,
24 another reason why we couldn't let go of not focusing on her
25 even from the 28th on, through all the other events that
26 occurred up to the 6th was, yeah, the -- was, one, because
27 it said "stolin" and it was misspelled. And we, you know,
28 we found that in her writing she didn't commonly misspell

1 things.

2 So we saw these two words misspelled. But that it was
3 someone's stolen suitcase. And her statement that same day
4 to the agents was that her suitcase was stolen the day
5 before. But it wasn't -- it was unofficially reported. It
6 was never documented.

7 Q. How would someone -- how would this so-called witness
8 even know that her suitcase was stolen? I mean, was that in
9 the newspaper or in the press?

10 A. No, never.

11 Q. In other words, the Post-it note is found on the 28th,
12 right? Do I have it right? Not the Post-it note, the note
13 what I call the stolen --

14 A. Found on the 28th.

15 Q. What have I been calling it?

16 A. The day after she's missing.

17 Q. The notebook, 161, that note, stolen suitcase note,
18 was found on the 28th?

19 A. Yes.

20 Q. Day after she goes missing?

21 A. Yes.

22 Q. So for someone to say, "Oh, she's in a stolen
23 suitcase," who would have even known that her suitcase had
24 been stolen? Was that out there in the media? Could maybe
25 your Tony Sheneman -- whatever his name is --

26 A. No, we never purposely -- we don't want to jeopardize
27 our investigation, the information we had. The first time
28 that this information was released about the note was by

1 Melissa Huckaby herself when she did a media interview.

2 Q. That wasn't until when, though?

3 A. The 10th.

4 Q. So up until then, you had not announced that any
5 suitcase had been stolen?

6 A. No.

7 Q. Well, did you find that fact to be somewhat
8 significant that it says, "Locked in a stolen suit case"?

9 A. Yes.

10 Q. Question from the grand jurors: Did the video camera
11 show Melissa Huckaby driving in or outside the trailer park
12 late on March 27th?

13 A. Yes. If you recall, the trailer 63 surveillance shows
14 her leaving the park when she had to ask one of our
15 employees that was in the park on the 27th a little after
16 10:00 p.m. to move their vehicle. And she left at 10 --
17 it's probably not -- that's just leading up to when she
18 returned.

19 Q. I think I wrote that in there, didn't I?

20 A. She leaves about 22:05.

21 Q. 10:05 p.m.?

22 A. 10:05 p.m., we see her return -- not return. We see
23 her head westbound back to the direction of the church where
24 I was later contacted by a female who stated the
25 following -- the -- at the following week after --

26 Q. Rebecca Calas.

27 A. Exactly, Rebecca Calas.

28 Q. Who is babysitting.

1 A. Babysitting for her brother's kids who live west on
2 Clover, west of the church, she walked -- she and her
3 brother walked past the church to come to the trailer park
4 the night of -- after the 10:00 o'clock news on the 27th,
5 she estimated it sometime after 10:00, 10:15, and she sees a
6 female standing in the doorway of the church and sees a car
7 that she describes as very close in description to Melissa
8 Huckaby's car.

9 Q. When did she come back -- she left, she asked the
10 officer to move the car so she could leave at 10:05. Do you
11 remember what the -- does the video show her come back?

12 A. I'm not sure if it shows what time.

13 Q. Question from the grand jurors: Could the bloodhounds
14 have been able to track Sandra's scent from her last
15 sighting and determine where she went?

16 In other words, could you put the bloodhounds -- line
17 it up with the video surveillance?

18 A. Yeah, she's last seen right here.

19 Q. Could you put the bloodhounds --

20 A. We put them at the house, that's the best location to
21 put them, at their residence, that's their strongest scent.

22 Q. Where do they track it to?

23 A. They took it out of the park. This is the only
24 entrance/exit. They took it down -- one bloodhound went
25 that way, one bloodhound went that way. The one that went
26 this way never had it -- never locked on a scent. This
27 one --

28 Q. We have to put on the record. One went east and one

1 went west?

2 A. One bloodhound --

3 Q. Clover?

4 A. East on Clover. One went west. Because then as I
5 described earlier, went down, you know, mid block, went
6 through the field, went south on Lincoln.

7 Q. Towards the church?

8 A. Past the church. Went southbound through a field.
9 Crossed over into that residential neighborhood. Went down
10 Lincoln. Passed over Kavanagh where the school is, passed
11 over Grant Line, another major street.

12 Q. That would be the paths she'd take to school, right?

13 A. Right, it actually passed her path of school.

14 Q. Both of them have her going out, going north on
15 Orchard to Clover?

16 A. Yes.

17 Q. Okay. Next question from the grand jury: The note
18 mentions "stolin suit case." Could Melissa's stolen
19 suitcase have been known by a witness?

20 I think that's the same question I was asking earlier.
21 But if it isn't, the grand juror can correct me.

22 Next question from the grand jury: Do you know if the
23 clothing that Melissa Huckaby was wearing on March 27th as
24 seen in the videos was collected and tested for Sandra
25 Cantu's DNA or dirt from the pond area, et cetera?

26 Clothing that we see, the pajamas or whatever it is
27 that we see her in.

28 A. When we served the search warrant at her residence on

1 the 6th, we attempted to locate clothing similar to that
2 what we believed that she was wearing in the video, and
3 anything that we believed was related to the suitcase that
4 we found on the 6th we recovered.

5 And -- but as far as clothing, it was unsure at that
6 point in the investigation, you know, as far as it was a
7 brief description based upon what we had from Mr. Chappell,
8 on the video surveillance as far as, you know, what type of
9 clothing, as far as, you know, brand and make and stuff like
10 that.

11 Q. What's your answer? No?

12 A. Not that I know, we haven't collected specific
13 clothes.

14 Q. Question from the grand jury: Was someone in the
15 family or people in the trailer court in contact with
16 Melissa during the time the police were telling the family
17 they found Sandra? Do you think someone close to the family
18 let her know what was going on while she was in the hospital
19 regarding Sandra being found in the suitcase?

20 A. No. And no. We know that because we had her phone
21 messages for that time. So there was no conversation
22 through text. We also know through video -- I mean visual
23 surveillance on her through our officers watching her. And,
24 also, we were with the family. And I, you know, without
25 going into detail, the family wasn't contacting anybody
26 after they were notified of Sandra's death on the 6th. It
27 was -- it was -- it was very traumatic for them and there
28 was nobody but their family that was involved in that.

1 And they were also asked, before myself and our Chief
2 of Police left, do not contact anybody because our
3 investigation was changing gears, nor -- excuse me -- nor
4 were they notified that we were planning to execute a search
5 warrant. And I had already known when we notified the
6 family after the autopsy -- actually, during the autopsy,
7 once we confirmed it was her at the autopsy, we had never
8 notified them, but we already had known at the point of the
9 autopsy that we were serving warrants that night. And we
10 didn't notify Sandra's family about that.

11 Q. Question from a grand juror, I'm not sure I understand
12 this, you may need to correct me: If the family did not
13 tell anyone of the discovery of the body, there was no way
14 Huckaby could have known unless she already knew.

15 A. Exactly. I understand what whoever is asking, that
16 because the only way you'll know is if you were involved.
17 You can't know unless you have some responsibility in that,
18 whether you call yourself a true witness to being present
19 or -- but yes, that's true.

20 Q. Question from a grand juror: Did anyone other than
21 the police, FBI, investigators, know about the note except
22 Melissa? Did other trailer residents say anything to
23 suggest --

24 A. No.

25 Q. -- Melissa told them it existed?

26 A. No, they didn't know it existed unless she told them.
27 But no.

28 And the only -- and it -- and the conversation I had

1 with Melissa on the -- I believe it's the 10th, she
2 stated -- one of the questions she asked was did she tell
3 anybody about the note. And she said -- she said no, she
4 only told her grandparents Connie and Lane Lawless, who she
5 lived with, and told them not to say anything.

6 Q. Questions from a grand juror: Was Melissa at a lower
7 level of suspicion because she was a woman? Good question.

8 A. Statistically, in child abductions, we -- the initial
9 part of our investigation is steered towards -- towards
10 males, and as far as statistics, 95 percent say a male is
11 involved. That's based on FBI statistics. And they were
12 involved, so we also were seeking input from them.
13 Statistically, yes, and the other person of interests were
14 the males.

15 So as far as a low level, the person low level of
16 suspicion, the suspicion would raise on any person of
17 interest when we couldn't verify their timeline or their
18 statements would start to conflict.

19 So, initially, yes, she was lower than the other four
20 individuals we talked about. But we were able to verify
21 their actions for the time and day Sandra disappeared.

22 Q. Question from the grand jurors: Were there any other
23 children or playmates that Sandra knew that lived between
24 Sandra's house and Melissa's house?

25 Remember, she passed -- that is, Sandra passed her
26 house and headed from the direction of Huckaby's.

27 Do you understand that question?

28 A. I do. You're asking if there's anybody that lives in

1 this immediate area --

2 Q. Between --

3 A. -- between trailer 63 where Sandra lived and where
4 Melissa lived?

5 Q. That Sandra knew or played with, so on, so forth?

6 A. Directly across the street, literally across the
7 street, were two boys. They were older than Sandra.

8 Q. Hold on, we have to put on the record which space.

9 A. Trailer 94.

10 Q. So Sandra, from your investigation --

11 A. She knew them, they knew her name, and they knew her
12 from the trailer park.

13 Q. Were they around on the 27th?

14 A. They were. Their tent was set up in their yard, yeah.

15 Q. But you see -- where on this Exhibit 51 do you see
16 her?

17 A. She's last seen right here.

18 Q. Between 63 and 62 or right in front of 63?

19 A. Just south of, you know, the porch area, remember, of
20 her residence.

21 Q. Which direction do you see her going?

22 A. She's heading southbound.

23 Q. South is upwards towards Orange, correct?

24 A. Correct. And then the direction. So...

25 Q. She wouldn't have been going to 94?

26 A. No, she's already -- her head and her eye contact --
27 her eye contact is past 94.

28 Q. So the question is did she have any playmates or

1 friends anywhere else between 63 and 58 or --

2 A. Not that I'm aware of. 95 was vacant. Elderly people
3 live in these residences.

4 Q. For the record, 95 is vacant?

5 A. Yes.

6 Q. And 55?

7 A. And 56 is elderly people that live here. And the
8 other one, that is the park assistant manager that lives
9 here.

10 Q. 62?

11 A. Yeah.

12 Q. Does he have any kids?

13 A. No.

14 Q. 61?

15 A. No, none of these people have kids their age. They
16 are older individuals.

17 Q. 61, 60?

18 A. 60, 59, and 58.

19 Q. Are older people with no kids her age or playmates or
20 anything like that?

21 A. Not that I'm aware of, no. She -- the closest person
22 to Melissa's was she knew a lady that lived -- actually,
23 whose house could be seen from Peach Lane, that lived in 30.

24 Q. But you can't see 30, can you, from in front of --

25 A. No, no.

26 Q. Hold on. In front of 63?

27 A. No, you cannot.

28 Q. What other friends did she have, or where else?

1 A. She went to 43.

2 Q. Right. What other friends in that view that her head
3 turned, did she have anyone other than --

4 A. No.

5 Q. -- Melissa's children?

6 A. Not that I'm aware of, not that our neighborhood
7 canvass revealed.

8 Q. So that is a good question.

9 I think we are getting towards the end of the
10 questions. This one's about REDACT.

11 Question from a grand juror: Could you please repeat
12 what Melissa said about why people hurt people?

13 A. This was retrieved off my audio because it was audio
14 recorded. I quoted her on this because it was exactly what
15 she said.

16 My question to her was I asked her what she thought
17 happened to Sandra. And she said, "I think she was taken
18 obviously."

19 I responded, "Why would someone want to take her?"

20 And she responded, "Why do people hurt other people?
21 Because they are sick in the head, disgusting." End quote.

22 Q. Question from the grand jurors, I think this is the
23 last one for now: You said Search and Rescue were at the
24 pond on the 29th but saw nothing. On the 6th, the suitcase
25 appears close to the water's edge. Could the water at the
26 time of the search been that deep to conceal it?

27 A. It's an irrigation pond. It's seven feet deep.

28 Q. I think we heard it was five or six.

1 A. All right.

2 Q. It was your understanding it was seven?

3 A. It was my understanding it was six to seven feet deep.

4 Q. Okay. And the significance of that?

5 A. Well, the suitcase is not that -- I mean, it's not
6 that large. It's -- it can be concealed under the water.
7 And if it's got some type of weight in it, it's going to
8 sink.

9 Q. You were at the autopsy, weren't you?

10 A. Correct.

11 Q. When you guys opened up that body bag that the
12 suitcase was in, could you -- was it drenched in water?

13 A. Yeah.

14 Q. Was there a lot of water?

15 A. There was pooled water at the bottom of the -- and
16 also in the bag itself.

17 There's a weight of like ninety, ninety-two pounds of
18 it.

19 Q. So before I asked you these questions from the grand
20 jurors, I know it's getting late here, but you were talking
21 about your summary of the conversation, the first one you
22 had with Melissa there in the hospital on April 7th,
23 correct?

24 A. Correct.

25 Q. April 7th?

26 A. We are talking about the last thing you asked about,
27 did she mention she took any medication.

28 Q. Yeah. And she mentioned the Xanax?

1 A. Xanax, correct.

2 Q. How did the -- did the conversation end in a civil
3 note?

4 A. Yeah. We just obtained information for later contact.
5 And I told her I may be contacting her again, and we were
6 going to look into her possible stolen suitcase.

7 Q. So what did you end up doing on the next day, the --
8 well, you actually saw her at 1:00 o'clock in the morning on
9 the 7th. So did you end up working on the day of the 7th or
10 did you sleep that day?

11 A. Nope. Back to work.

12 Q. Okay. What did you do on the 7th?

13 A. We -- we had some of the items that came up at the --
14 at the autopsy that were unexpected we needed to attempt to
15 start searching for. And so we obtained another search
16 warrant to return to some locations and --

17 Q. When did you next talk to her?

18 A. Next contact with her was her car was searched on the
19 7th, the church was searched on the 7th.

20 Q. Did you review some text messages on the 8th?

21 A. Yes, I did.

22 Q. From whom to whom?

23 A. Those are the ones that we talked about from Melissa's
24 cell phone to Connie Lawless her grandmother's cell phone.

25 Q. Well, you know, we talked about those and I showed you
26 those, but there was one more significant comment that she
27 made, was there not, in those texts?

28 A. Yes.

1 While she was in the hospital on the night we found
2 the suitcase, she was having a running dialogue through text
3 messages with her grandmother. And she sent two more text
4 messages around 10:00 o'clock to Connie Lawless' cell phone.

5 Q. Page 82 of 138 of this exhibit that's been marked
6 Grand Jury Exhibit 19. What did -- to whom were these text
7 messages?

8 A. She sent -- this is an incoming message to her
9 grandmother's cell phone.

10 Q. From?

11 A. From Melissa at 10:08 p.m. So the news has just hit,
12 the news has been on for eight minutes and forty-one seconds
13 roughly. And she sends a message to Connie saying, "I see
14 they say it's a crime scene."

15 Two minutes later she sends a message, "I hope she
16 wasn't sexually assaulted."

17 Q. This is Melissa texting her --

18 A. Grandmother.

19 Q. Had you guys reported -- when you announced the
20 identity of the person in the suitcase on television, at
21 least at 10:00 p.m., had you guys reported any evidence of
22 sexual molestation?

23 A. No.

24 Q. Was that ever reported to the press?

25 A. No. Nor the family.

26 Q. To this day, does the family know there's evidence of
27 sexual molestation, do you know?

28 A. Not until April 13th, the following Monday.

1 Q. Okay. So then on the 8th -- so when was your next
2 conversation with Melissa Huckaby?

3 A. We contacted her about 8:30 that night on the 8th.

4 Q. Where?

5 A. At the hospital. She was still there. I told her I
6 wanted to talk to her about her original statement that
7 she'd given Agent Mike Conrad from the FBI on the 28th, the
8 night she found the note.

9 Q. I'm sorry, go ahead. So when you visit her on this
10 day, what time do you go on the -- on the 9th?

11 A. The 8th you mean.

12 Q. I'm sorry, you spoke to her on the 8th?

13 A. Yes.

14 Q. Okay.

15 A. At about 8:30, we contacted her in her room, same room
16 at the hospital.

17 Q. What's the -- what -- what page -- what's the first
18 line of the page?

19 A. It's line 43 at the bottom.

20 Q. All right. So you go -- at 8:30, you and Detective
21 Knight?

22 A. Uh-huh.

23 Q. On the 8th?

24 A. And I told her I noticed in the report that she told
25 Agent Conrad there her suitcase had been stolen the same day
26 Sandra disappeared. I reminded her that we recovered a
27 suitcase.

28 And she said, "Yes, but it didn't look like mine."

1 I asked her to describe her suitcase.

2 She described her suitcase as an Eddie Bauer suitcase.

3 I asked her if she would be willing when she got out
4 of the hospital to come down to the local Police Department,
5 our Police Department, and view photographs of Eddie Bauer
6 suitcases to see if the suitcase we recovered on the 6th was
7 similar to the suitcase that was stolen from her residence.

8 She stated it was stolen from in front of her
9 residence on March 27th around 4:00 p.m.

10 Q. Did you talk to her on April 9th?

11 A. Yes, I did.

12 Q. Where?

13 A. At the Police Department. She got out of the hospital
14 on April 9th at 7:00 a.m. I met her at the Police Station
15 about 8:15.

16 Q. How was her hair?

17 A. It was pulled back into a ponytail.

18 Q. Did you advise her of Miranda rights then?

19 A. I gave her what we call a Beheler admonition.

20 Q. At this time she -- how did she get to the Police
21 Department?

22 A. She drove herself down.

23 Q. You guys didn't go down and put cuffs on her and bring
24 her to the Police Department; she drove on her own?

25 A. Yes.

26 Q. I thought you guys had seized her car --

27 A. We gave it back to her.

28 Q. -- the night of the 6th. When was it released back to

1 her?

2 A. The 8th.

3 Q. Okay.

4 A. We put it back in its parking spot.

5 Q. Okay. So she drives on her own to the Police
6 Department on the April 9th. And you advise her of you said
7 not of Miranda because you -- what, did you feel she was not
8 in custody at this point?

9 A. Yes.

10 Q. Why was she not in custody?

11 A. She came in on her own. We asked her to come down.
12 She agreed to come down on her own. She was not under
13 arrest. We wanted to talk to her. She was advised that she
14 was free to leave at any time. She was not required to talk
15 to us. She was in an interview room where the door was
16 unlocked, she could get up and leave, she wasn't confined to
17 any area.

18 Q. How many of you were in the interview room?

19 A. Just myself.

20 Q. Just you and Melissa, one-on-one conversation?

21 A. Yes.

22 Q. Did she know she was being recorded? Could she have
23 looked up and seen something to know that she was being
24 recorded, do you know? Or is there like a two-way mirror
25 like in TV --

26 A. No.

27 Q. -- you can look in the mirror and know they are
28 watching?

1 A. No.

2 Q. So what did you ask her?

3 A. I asked her again questions regarding her original
4 statement that she gave to Agent Conrad. I asked her if she
5 ever reported the suitcase being stolen.

6 And she talked about a phone call that she received
7 from her grandmother Connie Lawless while she was at the
8 church on the 27th when she went there. Because she had
9 misplaced her -- her car keys and her cell phone, and she
10 got a call from her grandmother saying she had found the
11 keys. While she's at the church on Friday, March 27th, she
12 got a call on the church phone, that -- from Connie saying
13 that -- letting her know she had found the keys.

14 Q. So in any -- so you guys talk, and during this
15 conversation, do you ever ask her if anyone else drives her
16 Kia Sportage vehicle?

17 A. Yes.

18 Q. What did she say?

19 A. Nobody ever drives her vehicle except for one occasion
20 when she had checked out of the hospital because she had
21 begin given morphine and she knew it's not okay to operate a
22 motor vehicle when she's had morphine in her system.

23 Q. Did she say when that was? Sometime ago?

24 A. Yeah, sometime ago in the past.

25 Q. In terms of recently, no one else drives her Kia
26 Sportage?

27 A. No.

28 Q. Was there a reason why you asked that question? I

1 mean, was it anything to do with these tapes -- these
2 surveillance tapes where we see her vehicle?

3 A. Yeah, that was one reason.

4 Another was -- was based on, you know, I knew we had
5 found some evidence in the vehicle that I believed was
6 evidence. We also were watching her. It's important for us
7 to know who's operating the vehicle so we know what vehicles
8 to watch. Because now she was no longer at the hospital,
9 she was mobile.

10 Q. Okay. And so how long was this conversation on the
11 9th, about?

12 A. It wasn't that long. It was probably forty-five
13 minutes to an hour.

14 Q. And did you ask her anything? I mean, I don't need to
15 go into the whole statement. Did you ask her what time she
16 thought her suitcase was stolen from inside -- from in front
17 of her house?

18 A. Yeah, she said between 3:30 and 3:45 p.m.

19 Q. On the --

20 A. On the 27th.

21 Q. Okay. By the way, did you take photographs of her
22 during this interview or at the end of this interview on
23 April 9th?

24 A. I did.

25 Q. Do you have any with you?

26 A. Yes.

27 Q. Could I see them and could we have them marked? I
28 know we saw some previous photographs.

1 MR. TESTA: Could I get the driver's license
2 photograph of Melissa Huckaby?

3 May I have marked -- what number will this be?

4 THE SECRETARY: 228.

5

6 (Whereupon a Photograph was marked Grand
7 Jury Exhibit Number 228 for
8 identification.)

9

10 MR. TESTA: 228? Okay.

11 Q. And why did you take photographs of her at this
12 interview?

13 A. I needed a photograph for my own reference. And to --
14 also to see what she was wearing when she came in.

15 Q. Showing you 228, do you recognize this photograph?

16 A. Yes.

17 Q. What is it?

18 A. That's a picture of Melissa Huckaby in the interview
19 room.

20 Q. Taken on what date?

21 A. That was taken on the 9th, April 9th, in the morning.

22 Q. So can I write April 9th on it, 4/9/09?

23 Did she look different there than she did in her
24 driver's license photo?

25 A. Yes.

26 Q. What about 28? I think is this a 28 here.

27 MR. TESTA: What's the number?

28 THE SECRETARY: 28, yeah.

1 MR. TESTA: 28?

2 THE SECRETARY: Uh-huh.

3 MR. TESTA: Okay.

4 THE WITNESS: As to her driver's license
5 photo.

6 MR. TESTA: Q. This has her weight as 125,
7 correct?

8 A. Correct.

9 Q. Do you happen to know her weight when you guys
10 arrested her in this case, about? Do you know? If you
11 don't know, I have someone else coming. So don't guess.

12 A. I have my estimated weight. She claimed that weight,
13 but I didn't believe that to be true.

14 Q. Forty pounds heavier?

15 A. Correct.

16 Q. I think we have someone else coming in.

17 So is this -- which of these two show -- I mean, this
18 one 228 shows how she looked when you saw her, correct?

19 A. Correct.

20 Q. She looks heavier than she does in the driver's
21 license, correct?

22 A. Correct.

23 Q. So that was on the 8th of -- excuse me, the 9th of
24 April?

25 A. 9th, uh-huh.

26 Q. Did you talk to her again on the 9th?

27 A. Sure did.

28 Q. Where?

1 A. At her house, at about 12:30 in the afternoon.

2 Q. Why?

3 A. We had to provide her with her copy of the search
4 warrant receipt that when we did the search warrant of her
5 house, she was inquiring about it at the previous interview
6 at the PD. And so my partner and I drove out to the house.
7 And provided her with her copy of the search warrant receipt
8 for the residence because she wasn't there when we served it
9 that night of the 6th.

10 Q. Did you show her a photograph of the Eddie Bauer
11 suitcase, or of a -- of a Eddie Bauer suitcase, or anything
12 like that? From the Web site?

13 A. Yeah. I had attempted to recover photos of Eddie
14 Bauer suitcases from Target, because that's where she had
15 stated her -- that was stolen was missing from, where she
16 purchased it from was Target. So we researched that. And
17 so we had some photos and I -- I don't believe I showed her
18 any pictures there at the residence. No, I didn't.

19 Q. When's the next time you talked to her then?

20 A. The next time is on the -- on the 10th. On Friday,
21 the 10th.

22 Q. Where?

23 A. At the Police Department.

24 Q. How did she get there?

25 A. She drove herself.

26 Q. Did you Mirandize her?

27 A. Yes, I did.

28 Q. At the very beginning?

- 1 A. Yes, I did.
- 2 Q. How?
- 3 A. My Miranda card in my wallet.
- 4 Q. Did you read the rights off the wallet?
- 5 A. Yes, I did.
- 6 Q. Off the card?
- 7 A. Off my card, yes.
- 8 Q. Did she appear to understand those rights?
- 9 A. She did.
- 10 Q. Did she agree to talk?
- 11 A. Yes, she did.
- 12 Q. And was this one tape recorded also or --
- 13 A. Both, these were audio -- the interview on the 9th and
14 the interviews on the 10th were audio and video recorded.
- 15 Q. Does she -- did she say whether she watches any of
16 these police programs on TV?
- 17 A. Yeah. She said she enjoys watching Law & Order.
- 18 Q. And did she reiterate taking certain medication,
19 including Xanax?
- 20 A. Yes, same -- same medication she reiterated to me that
21 she told my partner Detective Knight on the 7th.
- 22 Q. Did you show her the photograph -- a photograph of an
23 Eddie Bauer suitcase that you obtained from the Target site
24 on the Internet?
- 25 A. Yes, I did.
- 26 Q. What did she say when you showed her that?
- 27 A. She looked at the photo and told me the suitcase in
28 the photo looked like her suitcase that was stolen.

1 Q. Okay. Then you started talking to her about what she
2 did on March 27th, correct?

3 A. Correct.

4 Q. And did she reiterate how the suitcase was taken or
5 she left the suitcase by the car and it was taken from her
6 or something?

7 A. Yes, that she --

8 Q. Basically the same story she had been saying all
9 along?

10 A. Correct.

11 Q. Where did she say she went when she -- she said she
12 went to the church, is that correct?

13 A. Correct.

14 Q. And did she say how long she stayed at the church?

15 A. A couple hours.

16 Q. Did she say what she did at the church?

17 A. Yes. She was there to -- I believe it was to decorate
18 her Sunday school classroom.

19 Q. Did she say when she returned from the church?

20 A. Around 6:30, she thought it was between 6:00 and 6:30.

21 Q. And did she say what she did after she returned home
22 from the church? Or did she say she ever went out again?
23 Or did you not -- did you ever go into that?

24 A. No, we did. I believe she told me she never went out
25 again the rest of the night.

26 Q. When you were talking to her, did she say -- okay, she
27 returned home 6:00 to 6:30. Did she say anything about
28 which -- you know, whether Sandra Cantu got along with

1 her -- her daughter? Line 28 to 30.

2 A. Yeah. She mentioned to me that she thought her
3 daughter Madison got along better with Miranda, Sandra's
4 older sister, the eleven-year-old, because -- because
5 Madison, her daughter, who is five and a half, is more
6 mature than Sandra, that missing eight-year-old. And she
7 thought sometimes Sandra was bossy.

8 Q. Did she say if she notified the mobile home park
9 manager about the stolen suitcase?

10 A. Yeah. She said she talked with the individual that
11 lived in the trailer just south of hers, 62, Herb Hunter.
12 He's the assistant manager. He's -- on the weekends, the
13 managers, they are like -- that's off time for John and
14 Marilyn Zuniga, who live in 93. So she notified Herb
15 Hunter, who lives in 62 just south of her residence on
16 Cherry Lane right there.

17 Q. By phone, or do you not recall?

18 A. I don't recall how she notified him.

19 Q. She basically reported the stolen suitcase to him?

20 A. Yes.

21 Q. On line 43, does that refresh your memory about what
22 she said she did?

23 A. Yes. She said after returning home from the church at
24 6:00 or 6:30, she stayed home the rest of the night.

25 Q. Now, did you have information that that was untrue?

26 A. Yes.

27 Q. What information did you have that that was untrue?

28 A. The video surveillance showed that she had left and

1 that she didn't return home at 6:30. She returned home at
2 7:10 p.m. And it showed also what was untrue that she
3 wasn't at the church the entire time. There was a window of
4 thirty minutes when she left the church.

5 Q. You are referring to the time period when we -- the
6 video shows her leave -- with the laser -- leaving the
7 church and going where, just to refresh our memories on
8 Exhibit 64?

9 A. Leaving the church at 5:26 right here. Leaving the
10 church at 5:26. Passing her residence.

11 Q. She says she comes right home from the church, right?

12 A. That's at 6:30 she says she comes home. Are we
13 talking about her at home time or we talking about the
14 thirty-minute period where she left?

15 Q. Both.

16 A. Our video surveillance showed us that she left and we
17 saw her -- see her pass at 5:27, roughly, we see her pass
18 and continue eastbound on Clover. Then other AM-PM video
19 surveillance showed her turn northbound. And then
20 twenty-nine minutes later return and then go westbound on
21 Clover at 5:56 p.m. And then the Best Western surveillance
22 picked her up at 5:57, and it picks her up passing her
23 trailer, going back to the trailer park, past, and then
24 going back to the church. And she says she returned at --
25 at 6:30. But we don't have her pulling back into the
26 trailer park. And when she returned at 7:10 p.m., the
27 surveillance shows her coming from a westbound -- an -- a
28 west direction going eastbound and then turning in and then

1 parking. And then we see her again at 10:05 p.m. leave the
2 trailer park and head westbound.

3 Q. So what was -- where was the inconsistency?

4 A. She never disclosed to us that she left the church.
5 She said she was there for two, two and a half hours
6 decorating, and then returned directly home and never left
7 again. We can show she left again. And when she says she
8 returned home, she was actually at the church longer than
9 she anticipated, and there was a period where she wasn't at
10 the church and she claims she was at the church the entire
11 time.

12 Q. Okay. So let me just jump -- it's ten to 4:00 here.

13 Well, she also said she stayed home the rest of the
14 night, correct?

15 A. Correct.

16 Q. She doesn't talk about that -- going to the church
17 later at 10:00 or -- what was it, 10:05, where she asked the
18 officer to move the car. Do you remember that, the video?

19 A. I remember it on the video. But, no, she didn't talk
20 about it to me.

21 Q. And the babysitter sees her, okay.

22 So do you confront her during this interview with
23 various pieces of evidence that you have?

24 A. Yes.

25 Q. What did you confront her with?

26 A. The stolen suitcase note and the blue Post-it sticky
27 note.

28 Q. And is that what we have been over before?

1 A. Yes.

2 Q. How do you do it? Are you raising your voice and
3 saying, "You know you did it, you know you wrote these
4 notes," what kind of conversation is it?

5 A. It was a conversation like this. It was pretty low
6 key. It wasn't animated. It was -- it was in a question
7 and answer format. I'd ask her a question and see if, you
8 know, try to get an answer or get an explanation from her or
9 what she thought.

10 Q. What did she say about finding this so-called stolen
11 suitcase note? I think it's lines 39.

12 A. She said she was walking on the sidewalk next to the
13 clubhouse, and -- to see if the clubhouse lights were on.
14 On the 28th. And she said the vigil had just ended. And
15 those were the vigils -- that was the first night of the
16 vigil for Sandra Cantu. And she said she saw the note on
17 the sidewalk. She said she picked it up and read it.

18 Q. Did she say what she did with it after she read it?

19 A. She said after she found the note, she dropped it and
20 ran to where our police officers were, which they were
21 positioned at the front of the complex, and contacted them.
22 She said she notified Agent Sparrow, which was with the FBI,
23 which was next to Mike Conrad and another one of our marked
24 patrol units at the front entrance.

25 Q. And did she tell FBI Agent Sparrow that her Eddie
26 Bauer suitcase had been stolen on March 27th, '09?

27 A. Yes.

28 Q. And did she say something about whether -- what did

1 she say about whether that was the first time she had ever
2 said that?

3 A. She said that was the first time that she had actually
4 reported to the police that her suitcase was stolen.

5 Q. Did you ask her if she ever told anyone about that
6 note?

7 A. Yes.

8 Q. What did she say?

9 A. She said she remembered mentioning it to her
10 grandparents, Connie and Lane Lawless, but she instructed
11 them not to tell anybody that she found the note.

12 Q. Did she say she studied forensics in college?

13 A. Yes.

14 Q. Did she say whether she wanted Sandra's mother to know
15 about the note?

16 A. No, she did not want Sandra's mother, Maria Chavez, to
17 find out about the note.

18 Q. Did she say why, do you remember? Or did she not give
19 a reason?

20 A. I don't recall if she gave a reason.

21 Q. Did you show her the copy of this -- of the note --
22 the stolen suitcase note?

23 A. Yes.

24 Q. Why?

25 A. To see if she recognized it.

26 Q. And then what did you ask her about it?

27 A. I asked her what her first thought was when she found
28 the note.

1 Q. What did she say?

2 A. She said that she needed to tell it to the police.
3 She knew she needed to tell the police because it would be
4 crucial to the case.

5 Q. What else, if anything, did she say about it? I think
6 it's your paragraph beginning line 13.

7 A. She thought that -- she found it to be a weird
8 coincidence that she found the note. And that the note said
9 stolen suitcase, and that her suitcase was stolen on
10 March 27th, the same day Sandra disappeared.

11 Q. Did you ask her who wrote the note, line 33 --

12 A. Yes, I did.

13 Q. -- stolen suitcase note?

14 And what did she say?

15 A. She said, "If I knew who wrote the note, I would tell
16 you."

17 Q. Did she say she had no idea, but thought a kid might
18 have written it because the words in the note were
19 misspelled?

20 A. Yes.

21 Q. Did she say where she was on April 6th, the date that
22 the suitcase was found?

23 A. She said she was in the hospital, Sutter Tracy
24 Hospital.

25 Q. Did she say how she learned about the suitcase?

26 A. She said her mom sent her a text message with a photo
27 attached of the suitcase.

28 Q. When she was in the hospital?

1 A. Correct.

2 Q. Did you ask her about the video surveillance which
3 showed Sandra skipping?

4 A. Yes.

5 Q. What did she say about that, as far as the direction?

6 A. I asked her what she thought the video showed. It had
7 been showed all over the media at this point.

8 Q. And what did she say?

9 A. She said it looked like Sandra was skipping towards
10 her house, meaning Melissa's house -- I'm sorry, let me
11 correct myself. She said that it looked like Sandra, when
12 she came out, was skipping across Cherry Lane, from right
13 here, and she was skipping towards her house. And then it
14 appeared --

15 Q. Toward Sandra's house?

16 A. Yeah, towards her house, trailer 63. And then it
17 appeared at the last minute she changed directions.

18 Q. And started to walk towards Melissa's house?

19 A. Correct.

20 Q. Is that what Melissa says?

21 A. Yes.

22 Q. Okay. And did she say that she's confident that if
23 she had been home and Sandra knew it, Sandra would not walk
24 past her house without stopping by?

25 A. Correct.

26 Q. So what did you ask her at this point? Line 7.

27 A. I asked her to -- well, in quote, I asked her to "Help
28 me understand how Sandra Cantu ended up in your stolen

1 suitcase."

2 Q. And when you put things in quotes, is that the exact
3 way you phrased the question?

4 A. Correct, that's quoted per the recording.

5 Q. And what did she say?

6 A. She -- she said that she thought someone in the
7 trailer park must have saw her suitcase on the street and
8 stole it.

9 Q. Did you ask her, "Why would someone take a little
10 kid?"

11 A. She -- her response was, "To do disgusting things like
12 molesting them because they are sick perverts."

13 Q. Did you ask her if she thought someone put that note
14 on the sidewalk as a clue to help the police find Sandra?

15 A. Yes.

16 Q. And she said?

17 A. She thought the note could be a tip for the police to
18 help us.

19 Q. Did you ask her why someone would choose to take
20 Sandra from the trailer park and not another kid?

21 A. She said because Sandra was a wanderer and it was an
22 opportunity of convenience because Sandra was so little.

23 Q. And then did she basically say about the January 17th
24 incident with REDACT, that she was innocent of that?

25 A. Yes.

26 Q. Did she say -- did she say she had any knowledge about
27 benzodine drugs -- or benzodiazepine drugs?

28 A. Yes. She said she knew about benzodine drugs because

1 she used to work in a medical office that dealt with
2 psychiatric drugs.

3 Q. And what did she say about Xanax and Ativan?

4 A. She said she knew those to be benzodine drugs.

5 Q. Did you ask her what would happen to a little kid if
6 they took a Xanax pill?

7 A. She said she thought it would put them to sleep for
8 more than twenty-four hours.

9 Q. Because?

10 A. Because it works like a muscle relaxer.

11 Q. Did she ever say whether she studied drugs and
12 narcotics in college?

13 A. She said she did study -- in the course of her
14 criminal justice studies, she studied drugs and narcotics.

15 Q. Did you, on line 36, tell her, "Melissa, I believe the
16 only reason you found the note was because you wrote the
17 note"?

18 A. Yes, I did.

19 Q. What did she say?

20 A. She disagreed with me and she told me she didn't put
21 the note on the sidewalk.

22 Q. What did you say then?

23 A. I told her I needed her help in finding out who wrote
24 the note that she found.

25 Q. Did you then take a break?

26 A. Yes, I did.

27 Q. Then did you come back and ask her about a pink spiral
28 notebook in the bedroom of her residence?

1 A. Yes.

2 Q. Why did you ask her about that?

3 A. Because when the FBI evidence people did the search on
4 the 6th, they found this pink spiral notebook on the ground
5 in the bedroom that she slept in.

6 And one of the interesting points in the notebook was
7 on one of the pages in the notebook, they -- well, they
8 noticed that the paper that the note was found on and the
9 notebook paper in this notebook, this pink spiral notebook,
10 appeared to be the same.

11 We had already looked at -- prior to my interview at
12 this point, we had noticed that there was the same amount of
13 lines on the paper of the note, the stolen suitcase note,
14 and each line and the amount of lines in the notebook on the
15 paper. The perforations of the tear, looked like they
16 matched up with the spiral parts of the note -- of the
17 notebook.

18 And on line 12 in the notebook, there was what
19 appeared to be the indentation of a letter, under just a
20 flashlight source, that looked like if you were to place the
21 note itself -- the stolen suitcase note on top of it --

22 Q. I have it. Go ahead.

23 A. It would -- if you look at the word "onn," the -- it
24 looked like one of the N's, if you were to place this actual
25 note in this actual pink spiral notebook, it looked like one
26 of these N's had made an indentation on the next paper, the
27 paper that rested under -- under on this notebook.

28 Q. Did you see that yourself?

1 A. Yeah.

2 Q. Because we had heard that from another witness earlier
3 in the case.

4 A. We had reviewed it. And I had been notified of it
5 from the FBI. And then I had also taken a look at it also.

6 Q. Did you see that, what appeared to be the
7 indentations?

8 A. Yes.

9 Q. Was it the bottoms of the N's or something like that,
10 two points?

11 A. Yeah, the points. This is line 12. And -- of the
12 note. And the indentations were on line 12 in this pink
13 spiral notebook.

14 Q. So did you ever confront her with that, or how did you
15 approach her on that? On the bottom there, line 40.

16 A. Well, I -- as I just explained -- I explained to her
17 the same thing, the findings that we made, to explain to her
18 that I had -- that I believed that the note came out of that
19 pink spiral notebook that we found on her bedroom floor on
20 the 6th, and that we, you know, proceeded to talk about the
21 letters -- the letters W, N, S, B, and R, the letters we
22 talked about prior to the break.

23 Q. From the Post-it note or what note are you referring
24 to now?

25 A. From the stolen note.

26 Q. You talked about those letters, W, N, S, B, and R
27 looking what?

28 A. As it compared to the other handwriting samples we

1 found in her bedroom from the other two notebooks.

2 Q. Did you actually put them out there for her to look
3 at?

4 A. Yes. I mean, I actually, like I did with you all,
5 we -- I pointed at them and I showed her the similarities.
6 We -- just as they sat here is how they sat posted up in our
7 interview on the audio and the video recording, and I
8 pointed out I believe there were similarities in the R and
9 the W.

10 Q. Are you talking about this one, this 195, this letter,
11 or -- or --

12 A. No, I didn't show her this.

13 Q. Which ones are you showing her?

14 A. This one and the blue sticky.

15 And I told her that I thought the R's were similar. I
16 told her that I thought the W was similar here.

17 Q. What we discussed before?

18 A. Correct.

19 Q. And when you -- did you lay it out and show it to her
20 the way you showed it to us in court?

21 A. I did.

22 Q. Your tone of voice?

23 A. Like it is now.

24 Q. Educational? Okay. I --

25 A. Yeah, explaining a point.

26 Q. I mean, did you do it like on Columbo, "Well, isn't
27 this interesting, we have got the W here and the W"? Was it
28 folksy? Was it funny? Was it humorous? Was it serious?

1 Tell us about it.

2 A. It was just an explanation. It was what I believed my
3 findings were. Because I wanted to explain to her what I
4 believe I saw. And I wanted to know if she saw those same
5 things. Maybe it hadn't been explained to her. Maybe if
6 she better understood the similarities that I see, maybe she
7 could have a better understanding, or I wanted her to
8 understand where I was coming from.

9 Q. Did you ever, before you even did that, talk to her
10 just about the paper itself, the paper from her notebook and
11 the paper on the stolen suitcase note being the same?

12 A. I don't recall.

13 Q. Line -- preceding page.

14 A. Okay.

15 THE FOREPERSON: Mr. Testa.

16 MR. TESTA: Yes.

17 THE FOREPERSON: It's 4:00 o'clock.

18 MR. TESTA: Can we go five minutes more?

19 THE FOREPERSON: I was going to ask you how
20 long you were going to have this witness.

21 MR. TESTA: Not until the full 4:30. A few
22 more minutes we'll wrap it up.

23 Q. You told her you found a pink spiral notebook in the
24 bedroom?

25 A. Yes. I explained that the lined paper in the
26 notebook -- in the pink spiral looked exactly like the
27 stolen suitcase note paper that she found in the trailer
28 park on the 28th.

1 Q. And did you go further and then talk about these
2 letters that you had talked about earlier, W, N, S, B, and
3 R?

4 A. Yes.

5 Q. That is the letters in the stolen suitcase note and
6 the Post-it note, looking the same --

7 A. Yes.

8 Q. -- those letters?

9 A. Yes.

10 Q. And what did she do as you -- after you explained
11 these perceived similarities?

12 A. After she listened to my explanation, she agreed with
13 me that the paper -- that the note she found in the park on
14 the 28th that she found was written -- that was written
15 could have come from the pink spiral notebook that we found
16 in her house on the bedroom floor on April 6 during the
17 search warrant.

18 Q. She actually said that could have come from her pink
19 spiral notebook?

20 A. Yes.

21 Q. Then did you go further?

22 A. Yeah. We talked about the blue Post-it note that was
23 found in glove compartment of her vehicle on the search of
24 her vehicle. And we talked about the words "Water,
25 Bacchetti Rd., Whitehall Rd.," and the phone number on it.

26 Q. And the scribbled-out portion?

27 A. Correct, we talked about that.

28 Q. Did you compare the blue note then with the note --

1 the stolen suitcase note?

2 A. Yes.

3 Q. And the letters were similar?

4 A. Yes.

5 Q. Did you display them on large paper so she could see
6 them better?

7 A. Those two papers right there.

8 MR. TESTA: Could I have the other one marked
9 next in order, the one that's next to the Post-it note?

10

11 (Whereupon an Enlarged Copy of Note was
12 marked Grand Jury Exhibit Number 229
13 for identification.)

14

15 MR. TESTA: Q. And then you explained to her
16 that you had video surveillance that what?

17 A. That showed her vehicle leaving the church and
18 returning to the church during the time she said she was at
19 the church and never left.

20 Q. In other words, she told you she never left, but you
21 have the video surveillance showing she did?

22 A. Yes.

23 Q. And, again, did you announce this to her neutrally?

24 A. Yes.

25 Q. And after she heard you say that, what did she start
26 to do?

27 A. She started to cry.

28 Q. Had you been raising your voice or anything?

1 A. No.

2 Q. Had you been confronting her and saying, "Look it,
3 these two are the same or similar," or anything like that?

4 A. Just an explanation process.

5 Q. Did Detective Cogburn come in the room at that point
6 and handcuff her and take her away?

7 A. Yes.

8 Q. Escorting her downstairs?

9 A. Yes.

10 Q. Okay. I have no further questions for you, other than
11 from the jurors.

12 Here's a question from the jurors: Was Melissa's
13 computer ever -- did it ever get checked for porn?

14 A. It's still in the process.

15 Q. Every indication is no porn, is that correct?

16 A. Correct.

17 MR. TESTA: Okay. Any other questions from
18 the grand jurors?

19 GRAND JUROR 12: There's more over here.

20 MR. TESTA: I'm sorry, right here?

21 And I need to do something on the record after the
22 grand jurors leave. But I have no further witnesses for
23 today. This -- after I finish with whatever questions you
24 come up with for Mr. Bauer, I will call it a day.

25 Q. Here's a question from the grand jury: You stated the
26 family was told Sandra was sexually assaulted. Family was
27 told you said on April 13th?

28 A. Correct.

1 Q. Was the press ever given that information?

2 A. That was the first day that they were told.

3 Q. Who?

4 A. The press.

5 Q. Same day as you told the victim's family?

6 A. Yes.

7 Q. Okay. Question from a grand juror: Has it been
8 determined the location and approximate time of death of
9 Sandra Cantu?

10 A. Repeat the question.

11 Q. Has it been determined the location and approximate
12 time of death of Sandra Cantu?

13 A. Just to clarify, is the question as to where she died?

14 Q. I guess. If you feel you can't answer this, if you
15 don't understand it.

16 A. Based on all the evidence that we have at this point,
17 we believe that she died in the church on Clover Road.

18 Q. What's the basis of that?

19 A. Well, the basis of our evidence and the -- the autopsy
20 findings, and based on when we know the suitcase, based on
21 witness statements out at the scene where the suitcase was
22 found, and based -- it's summarized with everything that we
23 talked about, the video surveillance, the travels, and the
24 statements of -- of Mr. Chappell, and -- and Melissa's
25 statements, and what we did locate at the church.

26 Q. Okay. Dr. Omalu indicated he thought the location was
27 the church when Sandra died.

28 Okay. I think that just is a comment, not a question.

1 Here is a question from the grand jurors: Is it
2 possible that grandmother was involved, accomplice?

3 A. No. The grandmother and the grandfather were, at the
4 time Sandra disappeared and the time we believed Sandra's
5 body was placed in the body of water, they were at home
6 actually watching Madison Huckaby, Melissa's daughter, and
7 Miranda. Because, remember, Miranda had come over to play.

8 Q. Sandra's sister Miranda?

9 A. Yes.

10 Q. Did Melissa ever actually -- I can't ask that
11 question.

12 Could it have been placed there after the search on
13 the 29th? I'm not sure what this refers to. Can the grand
14 juror edify?

15 GRAND JUROR 9: I was following up on another
16 question. Could the suitcase have been there after the
17 Search and Rescue team went through it, could it have been
18 placed back after the 29th?

19 THE WITNESS: In the body of water?

20 GRAND JUROR 9: Yes. Or could it have been
21 placed there initially after the 29th?

22 THE WITNESS: I follow the 29th. I don't
23 follow -- what do you mean "initially"?

24 MR. TESTA: Q. We have Chappell who
25 identifies.

26 A. Based on witness statements and based on video
27 surveillance, we don't believe that -- we believe the
28 suitcase was placed there in the -- the thirty-minute window

1 of time between 5:26 p.m. and 5:56 p.m. is what we believe
2 the suitcase was placed there. I mean, if that -- I guess
3 that's how I can answer the question.

4 We have no evidence that the suitcase was placed there
5 on the 29th, even though it was -- it wasn't found until the
6 6th.

7 Q. Question from a grand juror: Was anyone at Melissa's
8 house the 27th when she says she was putting the suitcase in
9 her SUV?

10 A. I think I just answered that. Grandma and grampa were
11 home. This is based on numerous statements, numerous
12 statements. But their statements, and Miranda's statement,
13 Miranda and her daughter Madison were being watched by the
14 grandparents. Yes, they were home when Melissa was outside
15 loading her suitcase prior to going to the church.

16 MR. TESTA: I have no further questions. I
17 will be calling Detective Bauer perhaps later on in the
18 case.

19 But if that's it, we will call it a day. Except if
20 you can stay.

21 THE FOREPERSON: Wait, wait, wait. Several
22 things need to happen.

23 MR. TESTA: After the admonition.

24 THE FOREPERSON: You are admonished not to
25 reveal to any person, except as directed by the Court, what
26 questions were asked or what responses were given or any
27 other matters concerning the nature or subject of the grand
28 jury's investigation which you learned during your

1 appearance before the grand jury. This admonishment
2 continues unless and until such time as the transcript of
3 this grand jury proceeding is made public.

4 Violation of this admonishment is punishable as
5 contempt of court.

6 THE WITNESS: I understand.

7 THE FOREPERSON: Then for the jurors, please.

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.

12 In addition, no inspection of evidence should be
13 conducted without permission of the foreperson and on the
14 advice of the prosecuting attorney until the case is
15 submitted to the grand jury for deliberation.

16 Deliberations shall only occur when all jurors that
17 heard all the testimony in the case are present.

18 Thank you. See you tomorrow at 9:00.

19 MR. TESTA: I need to do a little hearing,
20 you guys. Can I ask you to leave?

21 THE FOREPERSON: Yes.

22

23 (Whereupon a hearing was held outside
24 the presence of the grand jurors;
25 sealed pages 898 to 911.)

26 ---o0o---

27

28

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1
2
3 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

4 (Sitting as a Grand Jury)

5 ---o0o---

6 PEOPLE OF THE STATE OF)
CALIFORNIA,)
7)
Plaintiff,) D.A. No. 2535
8)
vs.) CR No. TP09-2712
9)
MELISSA HUCKABY,) No. SF112495A
10)
Defendant.) **(Sealed Pages 898 - 911)**
11 _____)

12
13 **CONFIDENTIAL HEARING**

14 **(Sealed at request of Deputy DA Testa)**

15 **Friday, July 24, 2009 - 4:15 p.m.**

16
17 LOCATION: San Joaquin County Courthouse
18 Room 605, San Joaquin County
19

20 **APPEARANCES OF COUNSEL:**

21 **THOMAS J. TESTA,** Deputy District Attorney,
22 County of San Joaquin, 222 East Weber Avenue, Room 202,
23 Stockton, California, 95202, appeared as counsel for and on
24 behalf of the People.
25
26
27

28 Reported by: JEANNE COFFEY, C.S.R. NO. 7084

1 (At 4:15 p.m., the following proceedings
2 were held outside the presence of the
3 Grand Jurors:)

4
5 MR. TESTA: Are we back on the record?

6 Can the record reflect I feel I have to put something
7 on the record. It's 4:15, Friday. All of the grand jurors
8 are gone. And the only people in this room are the court
9 reporter, me, the Deputy DA, Thomas Testa, and the witness,
10 Detective Tim Bauer.

11 Can I continue my few questions to you, Detective
12 Bauer?

13 THE WITNESS: Yes.

14
15 **TIMOTHY BAUER,**

16 a witness called on behalf of the People, having been
17 previously duly and regularly sworn by the Grand Jury
18 Foreperson, testified as follows:

19
20 **EXAMINATION**

21 BY MR. TESTA: Q. You said as we ended today
22 that when you told Melissa that you had this video
23 surveillance that showed her vehicle left the church, and
24 she returned to the church during the time she told you she
25 was at the church, after hearing that, you stated to the
26 jurors that it appeared that Melissa started to cry.

27 What -- and I asked you earlier not to say this
28 part -- next part in front of the jurors, for Griffin error

1 reasons. So why don't you tell us what it is she also said
2 beyond -- what did she say when she started to cry?

3 A. She then told me that she did not want to talk
4 anymore.

5 Q. And did she say anything about an attorney?

6 A. I don't recall, but it is audio/video recorded.

7 Q. But she clearly said she did not want to talk anymore?

8 A. Yes.

9 Q. So what did you do?

10 A. I stopped the interview.

11 Q. Why?

12 A. Because I believe that any -- any statements I
13 obtained after that would be violating her Miranda rights.

14 Q. Okay. And then what happened when you stopped the
15 interview?

16 A. Detective Cogburn came into the room, Melissa was
17 handcuffed, and she was told that she was under arrest for
18 the kidnap and murder of Sandra Cantu.

19 Q. And then was she brought back to you soon later --
20 soon, a few minutes later?

21 A. Yeah. She was taken downstairs to the booking. And
22 then a few minutes later, she returned back to the interview
23 room.

24 Q. And did -- what did you do when she returned?

25 A. I was told that she wanted to talk. I explained to
26 her why I stopped the previous interview, because she --
27 it's my impression that she wanted a lawyer, but now she was
28 saying she wanted to talk again.

1 Q. So what did you do?

2 A. I explained to her that I would not violate her
3 Miranda rights and that she did not have to talk to me.

4 She still told me that she wanted to talk to me.

5 And so I again explained her Miranda rights to her,
6 question by question, and getting a verbal response from
7 her. And as I read from my Miranda card.

8 Q. And then did she agree to talk?

9 A. Yes, she did.

10 Q. Can you step out, let me -- and the person that
11 transported her -- took her was Detective Cogburn?

12 A. Yes, it was.

13 Q. I'm going to ask him a few questions, then I might
14 recall you, but I don't think so.

15

16 (Pause.)

17

18 **NATE COGBURN,**

19 a witness called on behalf of the People, testified as
20 follows:

21

22 **EXAMINATION**

23 BY MR. TESTA: Q. Detective Cogburn, can I
24 ask you a few questions? Again, we are the only persons
25 present, the court reporter, me, and now Detective Cogburn.
26 Detective Bauer has left the room.

27 We just left off with Detective Bauer explaining that
28 when she said she didn't want to talk anymore, you

1 terminated the interview and then you escorted -- what did
2 you do, did you escort Melissa down to -- what did you do?

3 A. I escorted her to the booking area, which was
4 downstairs.

5 Q. I can hear you. You don't need that.

6 And what happened down there?

7 A. If I can refer to my report.

8 Q. Okay. Take your time.

9 A. (Referring to report.)

10 Q. Does this help you here?

11 A. Yes, it does.

12 As we entered the booking area, Melissa Huckaby
13 started saying that -- and I'll quote, "I didn't do it, I
14 didn't kill her."

15 And then --

16 Q. What happened?

17 A. She asked if she could explain what really happened.

18 Q. So what did you say?

19 A. In response to her, I told her due to the fact that
20 she invoked her Miranda rights earlier when speaking with
21 Detective Bauer, she could speak with him again after he
22 re-Mirandized her or informed her of her rights once again,
23 and talk to him upstairs.

24 Q. So then what happened?

25 A. And once I explained that to her, she said, "I want to
26 explain myself."

27 And I then phoned Detective Ryan Knight and advised
28 him that she wanted to continue a discussion upstairs. And

1 he instructed me to bring her back upstairs.

2 Q. Okay. Well, did you try to talk her out of, you know,
3 when she said, "I don't want to talk anymore," or, "I want
4 to remain silent," whatever she did, did you say anything
5 that she might have perceived as your wanting to -- did you
6 try to talk her out of it?

7 A. To talk her out of going back upstairs, no. She
8 initiated downstairs in the booking area conversation by
9 saying, "I didn't do it, I didn't kill her."

10 I don't recall if I said anything in response to her
11 statements. It's possible that I did. However, due to the
12 emotional/physical strain of the evening, we had been up
13 several hours, I don't remember.

14 Q. Did you ever tell -- did you tell anyone you turned
15 off your -- let me ask, I don't know what the procedure is
16 at Tracy, do you guys normally have your escorting of a
17 prisoner tape recorded?

18 A. It's up to the individual officer. Sometimes we do
19 and sometimes we don't.

20 Q. Did you have it on initially?

21 A. Initially I did have it on, yes.

22 Q. Then at some point did you turn it off?

23 A. Yes, I did.

24 Q. What point did you turn it off?

25 A. The point that I turned it off was prior to calling
26 Detective Ryan Knight on the telephone.

27 Q. So do we have your --

28 A. No, we don't.

1 Q. -- tape?

2 A. We do not have it. I deleted it.

3 Q. And why?

4 A. I -- at the time when I deleted it, I thought it was
5 possible I sounded -- I was frustrated, emotionally upset.
6 I just figured I would delete it. And -- and in the moment
7 I did it, I realized it was a mistake. However, I
8 determined at the time I could just document that in a -- in
9 a narrative report form.

10 Q. And you did document it -- did you document it in a
11 narrative?

12 A. Yes, I did.

13 Q. Was there anything on that tape -- is it normal for
14 you guys to delete -- I mean, let me put it this way: Are
15 you violating any procedure when you delete your recordings,
16 or is that --

17 A. Not to my knowledge, sir, no. No.

18 Q. Are these recordings just for your assistance to help
19 you write your report?

20 A. Yes, it is.

21 Q. Then you toss the tapes or reuse the recorders --

22 A. Yes.

23 Q. -- for other purposes?

24 So it's not like you have to book your tapes when you
25 interview somebody?

26 A. No, it's -- we can or we could choose not to. There's
27 no firm policy.

28 Q. Well, as you reconstruct it and, you know, you guys

1 are working fifteen-hour days or longer, and you were
2 working I think on another case before this one --

3 A. Yes, sir.

4 Q. -- the shackling case -- was that your case?

5 A. I was working on it, yes. I was not IO on that case.

6 Q. And I know how it is to get -- work long hours, having
7 done it myself.

8 As you think back, what do you think you said to her
9 that you kind of felt you needed to delete the tape for?

10 A. I could have said something to the effect of, when she
11 said, "I didn't do it, I didn't kill her," it's possible I
12 said something to the effect of, "Well, it would be nice if
13 you explained what happened because people won't understand
14 why you did it otherwise."

15 Q. Okay. And you were motivated by a desire to have
16 her -- explain things to her, I mean, "It would be nice if
17 you would tell people that --"?

18 A. Yes.

19 Q. "-- ma'am. If you're saying you didn't do it, it
20 would be nice to go and say it, because people aren't going
21 to believe you otherwise."

22 A. Yes, sir.

23 Q. Is that basically it?

24 A. Yes. Yes, sir, that could have been it, although I
25 don't recall.

26 Q. You're not really sure, so you're not even saying --

27 A. I'm not even saying I said it. I don't recall.

28 Q. Okay. What about this part about, "I basically told

1 her if she didn't explain why she did what she did, she
2 could spend time in prison if people didn't understand what
3 happened"?

4 A. Yes.

5 Q. You do not remember -- did you say that or are you --

6 A. Yes, sir, I did say that. I said that the week of
7 April 14th, which was the following week after the
8 interview, I said that to Detective Ryan Knight when he
9 asked if I digitally recorded when I walked her downstairs
10 from the interview room which was upstairs. I said that to
11 Ryan Knight to explain, because he wanted to know why I
12 deleted it, and that was to explain the mind-set that I had
13 at the time that I did that.

14 Again, however, I'm not certain that I said anything
15 to her. I could have. I was frustrated. I am not sure,
16 however, if I thought that, if I said that out loud, or
17 something I thought later. It's just unclear to me at this
18 point --

19 Q. Okay.

20 A. -- weeks afterwards.

21 Q. So there's no screaming or swearing or anything like
22 that at her?

23 A. Absolutely not, no.

24 Q. Absolutely not, you're sure about that part?

25 A. Yes.

26 Q. And there's no -- I don't know, sometimes there's
27 no -- I had a case once where an officer slapped a cigarette
28 on someone's face. And, I mean, there was nothing

1 untoward --

2 A. Uh-huh.

3 Q. -- done, is that correct?

4 A. Oh, absolutely not, no.

5 Q. Okay. So you made a comment to her, you're not
6 precisely sure of the precise words or the comments?

7 A. I could have made a comment. I'm not even saying I
8 made a comment.

9 Q. In any case, whatever you said, if you said anything,
10 what was her reaction, or response?

11 A. Her reaction was that she wanted to explain herself.
12 I believe that at the point we were walking down, that it
13 was always on her mind to go back upstairs. She's the type
14 of person that thought she could always explain her way out
15 of situations. And that was clearly what she thought she
16 was going to do in this case.

17 Q. So you didn't think you were trying to convince
18 someone who wanted to remain silent to go talk?

19 A. Absolutely not. I'm firmly convinced she was at --
20 when she realized that she may not get out of this, she was
21 going to talk and try and explain her way out of it.

22 Q. As far as the deleting, if I understand it, just so
23 I'm not confused on this, these tapes -- what are they, tape
24 recorders?

25 A. It's digital.

26 Q. Digital recorders are there to aid you in your
27 investigating cases and you listen to them and you have --
28 the information on these recordings helps you prepare

1 accurate reports?

2 A. Yes, sir.

3 Q. And then you can delete the digital recording, move on
4 to the next case?

5 A. The option is either to book it as evidence of a
6 transaction that -- of evidence that occurred, or to just
7 use it as a memory aid and delete it at that point.

8 Q. So if you use things as a memory aid, there's nothing
9 un -- unusual about deleting it if you've used something as
10 a memory aid?

11 A. No, it's not unusual, no.

12 Q. Okay. Anything else you can think of?

13 Did you understand her to be invoking her right to
14 silence or invoking her right to an attorney or what
15 precisely -- what right was she invoking, to your
16 understanding?

17 A. Without -- I'm not sure if I documented it in my
18 report exactly what she was invoking her right to.

19 Q. Let me see if it's over here.

20 By the way, when you brought her back, did you escort
21 her back up to Detective Bauer?

22 A. Bauer, yes. Yes, sir.

23 Q. Did she say anything as she was being escorted back?

24 A. No. She was tearful and crying, and just looking
25 forward to an opportunity, I believe, to express what
26 happened in her opinion.

27 Q. And that was -- altogether, how long were you with her
28 from the time you came in and I guess handcuffed her and

1 took her away until the time you returned her to Detective
2 Bauer?

3 A. Perhaps a minute and a half, and the majority of that
4 was talking to Ryan Knight on the telephone and expressing
5 that I was going to bring her back up.

6 Q. Okay. I have no further questions for you on that
7 point. You will be needed next week on the other issues.

8 Let me see if I need to call Detective Bauer. Is he
9 here?

10

11 (Pause.)

12

13 **BAUER, TIMOTHY,**

14 a witness called on behalf of the People, having been
15 previously duly and regularly sworn by the Grand Jury
16 Foreperson, testified as follows:

17

18 **EXAMINATION**

19 BY MR. TESTA: Q. Detective Bauer, so when
20 she's brought back up -- now we are in -- now Detective
21 Bauer, DA Testa -- Deputy DA Testa, and the court reporter
22 are here. Detective Cogburn has left.

23 So when Detective Cogburn escorts her back up, how
24 does she appear? How does Melissa appear? Do you remember?

25 A. I believe she was crying.

26 Q. Did you -- did she appear wanting to talk?

27 A. Yes.

28 Q. Okay. And, in fact, is that the impression you got

1 from her during most of your contact with her, other than
2 this one time when she said that she did not want to talk
3 anymore?

4 A. Yes.

5 Q. Started to cry, but other than that point, for the
6 most part was she one of these people that appeared to want
7 to talk?

8 A. Yes.

9 Q. And when she came back into the interview room, did
10 she -- and you read her her Miranda rights again, did she
11 freely talk to you?

12 A. Yes.

13 Q. Yes. All righty. Well, I thank you. I am just going
14 to put on the record, I just feel that I probably should not
15 put in that statement she made after that point, because she
16 said she wanted to remain silent and you said she may have
17 even asked for an attorney. Is that your --

18 A. It's possible. It might be on the recording.

19 Q. Can you confirm that to determine whether she was
20 asking to -- just to remain silent or if she was actually
21 saying, "I want an attorney"? Is there a way between now
22 and next week you could look that up?

23 A. Yes.

24 Q. Could you look that up? I can supplement the record.
25 As it stands now, I'm not sure I -- I'm obligated to put in
26 admissible evidence. I know I have been wrong before on
27 these Miranda issues, but I could foresee a judge saying
28 that I can't put in this statement, although I don't know

1 for a fact because we haven't fully litigated it. But it's
2 unclear. And if I put it in, then I'm possibly putting in
3 inadmissible evidence. So I'm not sure how to proceed on
4 this. We have made a record.

5 Thank you very much. We will see you Monday.

6 And that can complete the record.

7 Thank you for sticking around. Now we are off the
8 record.

9 (Proceedings concluded.)

10 ---o0o---

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN
(Sitting as a Grand Jury)

---o0o---

PEOPLE OF THE STATE OF)	
CALIFORNIA,)	
)	
Plaintiff,	)	D.A. No. 2535
)	
vs.	)	CR No. TP09-2712
)	
MELISSA HUCKABY,	)	No. SF112495A
)	
Defendant.	)	VOLUME 5 OF 8
_____	)	(Pages 912 - 1164)

Monday, July 27, 2009 - 9:00 a.m.

LOCATION: San Joaquin County Courthouse
Room 605, San Joaquin County

APPEARANCES OF COUNSEL:

THOMAS J. TESTA, Deputy District Attorney,
County of San Joaquin, 222 East Weber Avenue, Room 202,
Stockton, California, 95202, appeared as counsel for and on
behalf of the People.

Reported by: JEANNE COFFEY, C.S.R. NO. 7084

1 (At 9:00 a.m., the following proceedings
2 were had before the Grand Jury:)

3
4 (Roll call taken.)

5
6 MR. TESTA: Has roll been taken?

7 THE FOREPERSON: Yes.

8 MR. TESTA: And everyone is accounted for?

9 THE SECRETARY: Everyone is accounted for.

10 MR. TESTA: Thank you.

11 I had an 8:30 court appearance this morning, which I
12 had to attend to. And there were three defendants,
13 twenty-one counts of murder. And not everyone was there in
14 time, so that's why I got out a little bit late. And we
15 were waiting for one more person.

16 So we are ready to go.

17 Can you state your name, please?

18 THE WITNESS: Yes. It's Greg Gilstrap.

19 MR. TESTA: And could you spell your name?

20 THE WITNESS: G-I-L-S-T-R-A-P.

21 MR. TESTA: And what is your first name
22 again?

23 THE WITNESS: Greg.

24 MR. TESTA: And the foreperson will swear you
25 in.

26 THE FOREPERSON: Would you raise your right
27 hand, please?

28

GREG GILSTRAP,

1
2 a witness called on behalf of the People, having been duly
3 and regularly sworn by the Grand Jury Foreperson, testified
4 as follows:

5
6 THE WITNESS: Yes, I do.

EXAMINATION

7
8
9 BY MR. TESTA: Q. Where are you employed?

10 A. Tracy Police Department.

11 Q. What is your position there?

12 A. Police officer.

13 Q. How long have you been so employed?

14 A. Since November of 2008 at Tracy. And twelve years
15 prior to that, with Stanislaus County Sheriff's Office.

16 Q. So how long have you been a peace officer altogether?

17 A. Nineteen years.

18 Q. Oh, okay. Did you respond on March 27th, 2009, to a
19 call of a missing person?

20 A. Yes, I did.

21 Q. What was the nature of the call? What time did you go
22 there? What time did you get the call, too?

23 A. I believe the call came in approximately 7:53 p.m.

24 Q. Did you write a report about what you did in this
25 case?

26 A. Yes, I did.

27 Q. Do you have a copy of it with you today here in court?

28 A. Yes, I do.

1 Q. Okay, when you say "I believe," it makes me wonder if
2 you know. Feel free to look at your report. But just let
3 us know when you do that. And I'll ask you do you
4 independently remember what precise date and time it was
5 that you got the call? And if you don't, tell us and you
6 can look at your report.

7 A. No, I remember the call coming out. But when the call
8 came out, I was on another call, which I completed and then
9 immediately responded to this location. So it was within a
10 few minutes. I know looking at the call that it came in at
11 19:53 hours. My response would have been within a few
12 minutes of that.

13 Q. 19:53 is what time in civilian time?

14 A. 7:53 p.m.

15 Q. Do you have the timeline? Maybe it's right in front
16 of me. Here, I have it.

17 People's 45. I think I already have it written down.
18 7:53 p.m. was the 911 call, is that correct?

19 A. Yes.

20 Q. Okay. And then what time did you arrive?

21 A. I don't have the catalog with my arrival, but it would
22 have been within ten minutes of that call.

23 Q. What did you do upon your arrival? Where did you go I
24 should say?

25 A. I went to 812 West Clover. I parked in front of the
26 Cantu residence. I met with other officers who were on
27 scene, including Sergeant Mejia, my immediate supervisor.
28 He directed me to take the primary investigation, which

1 includes filling out the missing person report form and
2 talking to the family and to gather information about where
3 she may have been in order to locate her.

4 Q. Okay. And this location that you gave us is in the
5 city -- is it in Tracy?

6 A. Yes.

7 Q. It's within San Joaquin County?

8 A. Yes.

9 Q. So what did you end up doing there?

10 A. Initially, I got the information needed for the
11 missing person report form. I spoke to the family. And in
12 doing so, I came up with a couple of leads that were
13 followed up on. And --

14 Q. Well, one of the first leads did they tell you about
15 that -- the guy that French-kissed her?

16 A. Yes, they did.

17 Q. So did you -- did you look up -- look into him?

18 A. Yeah, they told me about him. And --

19 Q. Two years ago I think it was?

20 A. Yes. And immediately upon hearing that, they were
21 unable to tell me what trailer he lived in, but they said
22 they could show it to me. So I walked over there and they
23 pointed it out to me.

24 Q. What number was that?

25 A. I don't recall. I probably have it in my report.

26 Q. Take a moment to look at your report, see if it
27 refreshes your memory.

28 A. (Referring to report.) Yes. Space 81.

1 Q. Do you remember the guy's name?

2 A. Frank Wohler.

3 Q. All right. Okay. And then was he home?

4 A. No, he was not home.

5 Q. And then you said you had another lead. Was it
6 another guy?

7 A. Yes. Some other people in the trailer park reported
8 seeing an ice cream vendor in the park, which is unusual
9 because they are not allowed -- vendors are not allowed in
10 the park. So that raised a little bit of concern initially
11 that, you know, we had a missing person and we had an ice
12 cream vendor that hadn't been in the park supposedly before.

13 Q. And did you end up contacting him?

14 A. Personally, I didn't contact him. I spoke to a couple
15 of people, though, who confirmed that the ice cream vendor
16 was there. However, Sandra had not been seen at -- with
17 him.

18 Q. Okay. And did he actually go inside the park or was
19 he outside the park, do you recall, the ice cream vendor?

20 A. I believe he was inside. And when asked to leave by
21 the manager, he parked outside on Clover.

22 Q. Okay. So, anyway, you follow a few of these leads.
23 What else -- what generally did you do at the scene besides
24 that?

25 A. At the scene, we canvassed, which that means going
26 around and checking all the trailers to see if anyone had
27 seen Sandra or knew where she may be.

28 Q. How did you end up doing that? You just go knocking

1 on the doors at the various people that live there or what?
2 Tell us.

3 A. Initially, we just started going row-by-row knocking
4 on all the doors. There were -- I think there were five or
5 six officers that were doing this. And then Sergeant Mejia
6 directed -- after we completed that canvass of the trailer
7 park, we spread out through the city -- I didn't, but other
8 officers did. I stayed with the family.

9 Q. So when you guys are going knocking on the doors, do I
10 have it right?

11 A. Yes.

12 Q. Do you make a note of the doors that you get a
13 response from?

14 A. I don't know if anyone recorded it down on paper.

15 Q. Did you? Did you?

16 A. No, I did not.

17 Q. Your report -- page 6 of your report, do you have
18 that?

19 A. Uh-huh. Yes.

20 Q. Did you not indicate on page 6 some of the responses
21 you got from some of the residents?

22 A. Yes. That was -- that was when the family had
23 provided me specific information about specific people. I
24 directed officers to go to those specific trailers and try
25 to obtain a statement from the people that lived there. And
26 that -- those are the statements that I reported or were the
27 responses that I got from my request from the officers.

28 Q. So which officer -- okay. Which officer gave you

1 these responses?

2 For example, "Space 79, hasn't seen since Wednesday,"
3 who is the author of that information?

4 A. That would have been Officer Wilson and Officer Hicks,
5 I can't tell you exactly which one said it. This is a very
6 chaotic scene and there were probably twenty plus people,
7 including family, friends, law enforcement. So exactly who
8 said what, I don't recall. But I do recall that those were
9 the statements that I had.

10 Q. Okay. "Space 30, Cantu's friend Arah hasn't seen her
11 all day," who gave you that information? All those
12 responses would have been from Officers Hicks and Wilson?

13 MR. TESTA: Is that a knock on the door?

14 GRAND JUROR 14: Yes.

15

16 (Pause.)

17

18 MR. TESTA: There's someone who said she just
19 gave birth and said she has to get on the stand right away.
20 So let me give her her report to review, and I'll call her
21 next.

22 Q. Okay. So Wilson and Hicks would have given you that
23 information from space 79, as well as from space 30?

24 A. Yes.

25 Q. What about space 57?

26 A. I believe that all -- all the information that was
27 given to me were from those two officers.

28 Q. Are they still there at the Tracy Police Department?

1 A. Yes.

2 Q. So if I call them and they say they don't remember
3 anything, can you come back and say this is what they told
4 you?

5 A. Yes.

6 Q. Let me write that down.

7 So what information did you get from space 57?

8 A. I don't recall.

9 Q. Take a moment and look at your notes, see if it
10 refreshes your memory.

11 A. (Referring to report.)

12 Q. Page 6.

13 A. Melissa Huckaby indicated that Cantu had been at her
14 residence earlier visiting I believe it's her daughter
15 Madison.

16 Q. When you say "I believe," it makes me think maybe you
17 don't know. Take a moment, look at your report, take your
18 time, see if it refreshes your memory.

19 A. (Referring to report.) Yes, that's correct.

20 Q. Space 57, Melissa Huckaby indicated that Cantu had
21 been at her residence after school visiting Madison --

22 A. That's correct.

23 Q. -- Huckaby's daughter?

24 Okay. But this information is not from you, it's from
25 Wilson and Hicks?

26 A. Yes, that's information that was relayed to me, I
27 don't recall if it was verbally or if that was information
28 they told me over the radio, but that at some point that was

1 the information given to me.

2 Q. Okay. So you did canvass, what, helicopter search?

3 A. We requested the helicopter to come in, but I didn't
4 have any part of the search of the helicopter.

5 Q. Did you take a list -- did you take down information
6 from the mother about the girl that was missing, Sandra
7 Cantu?

8 A. Yes, I did.

9 Q. Did you get any kind of description of her?

10 A. Yes, I did.

11 Q. What description did you get of her?

12 A. I would have to have a copy of the missing person
13 report form, which I don't have. I would have indicated all
14 that information on that.

15 Q. Showing you page 1 of discovery, is this the missing
16 person form?

17 A. Yes.

18 Q. So what -- did you fill it out?

19 A. Yes, I did.

20 Q. And at the time, did you fill it out then and there?

21 A. Yes.

22 Q. Is it in your handwriting?

23 A. Yes.

24 Q. So what -- how did she -- did she describe any kind of
25 mole or -- or a spot on her daughter's face, a birthmark,
26 anything like that?

27 MR. TESTA: Do you have a photo of Sandra
28 Cantu, a large one?

1 THE WITNESS: I don't recall what she
2 described her as exactly. I can read the report and tell
3 you.

4 MR. TESTA: Q. Well, didn't she say freckle
5 on left cheek?

6 A. That's correct.

7 Q. Okay. Did you get any dental X-rays?

8 A. No. I requested the dentist information. And at the
9 time that this report, she didn't have dental -- the
10 dentist's name.

11 Q. Did she know the city where he lived?

12 A. She said she had taken her to the dentist in the city
13 of Salida.

14 Q. Salida. And why did you ask for dental information?

15 A. Standard question --

16 Q. Okay.

17 A. -- on a missing person.

18 Q. How many spaces were there altogether in this mobile
19 home park?

20 A. I believe ninety-seven.

21 Q. Do you have a question in your mind about that?

22 A. On my report, I indicated there were ninety-seven.

23 Q. Okay. And did -- how did you come up with that
24 information?

25 A. I believe that was the highest number that we located
26 at the trailer spaces.

27 Q. When you said there were a lot of people around, were
28 neighbors offering to help, also?

1 A. Yes.

2 Q. A large number?

3 A. Yes.

4 Q. Did you end up expanding your search beyond the mobile
5 home park?

6 A. Yes.

7 Q. To where?

8 A. The entire city of Tracy.

9 Q. I mean you, yourself?

10 A. This was done at the -- by Sergeant Mejia.

11 Q. Did you look into motels -- motels?

12 A. I didn't personally, but I know that other officers
13 did.

14 Q. All righty. So what else did you end up doing on this
15 case? Let me put it this way: How long were you there that
16 day?

17 A. I stayed I think until 4:00 -- 4:00 or 5:00 in the
18 morning. The only other thing that I recall doing was I
19 obtained a picture of Sandra from her mother and took that
20 to the Police Department so that a flyer could be made from
21 it.

22 Q. Oh, okay. Was it this one, Number 17, either of these
23 two?

24 A. It would have been the picture on the right.

25 Q. The one that's marked "Earlier Picture"?

26 A. Yes.

27 Q. Okay. All righty. I think I have no further
28 questions.

1 MR. TESTA: Are there any questions from the
2 grand jurors?

3 I see none. The foreperson will read you an
4 admonition, and you can get on your way.

5 THE FOREPERSON: You are admonished not to
6 reveal to any person, except as directed by the Court, what
7 questions were asked or what responses were given or any
8 other matters concerning the nature or subject of the grand
9 jury's investigation which you learned during your
10 appearance before the grand jury. This admonishment
11 continues unless and until such time as the transcript of
12 this grand jury proceeding is made public.

13 Violation of this admonishment is punishable as
14 contempt of court.

15 THE WITNESS: I understand.

16 THE FOREPERSON: Thank you.

17 MR. TESTA: Thank you, sir. You may leave.

18 THE WITNESS: Thank you.

19

20 (Pause.)

21

22 MR. TESTA: Can you tell us your full name,
23 please?

24 THE WITNESS: Rachel Ann Sanchez.

25 MR. TESTA: How do you spell your name?

26 THE WITNESS: R-A-C-H-E-L S-A-N-C-H-E-Z.

27 MR. TESTA: The foreperson will read you an
28 admonition or an oath.

1 THE FOREPERSON: Would you raise your right
2 hand, please?

3
4 **RACHEL SANCHEZ,**

5 a witness called on behalf of the People, having been duly
6 and regularly sworn by the Grand Jury Foreperson, testified
7 as follows:

8
9 THE WITNESS: Yes.

10 THE FOREPERSON: Thank you.

11
12 **EXAMINATION**

13 BY MR. TESTA: Q. Where are you employed?

14 A. At Sutter Tracy Emergency Room.

15 Q. By the way, did you just give birth over the weekend?

16 A. No.

17 Q. Oh.

18 A. My baby's --

19 Q. I thought it was over the weekend.

20 A. No.

21 Q. How long ago?

22 A. Three and a half weeks.

23 Q. I was informed that you had just given birth. You
24 brought your child with you?

25 A. Yes. Yes.

26 Q. Thank you for coming.

27 What do you do there?

28 A. I'm a physician assistant.

1 Q. Okay. Now we are switching gears here. Now we are
2 going to be going back briefly and talking about the
3 incident with REDACT.

4 Did you see a REDACT, daughter of REDACT,
5 there in the Emergency Room back on January 17th,
6 2009?

7 A. Yes.

8 Q. What were the circumstances of your seeing her?

9 A. The mother had brought her in saying that she was
10 confused, disoriented, and lethargic.

11 Q. And so what was your contact with her?

12 A. When I saw her, she was -- actually not -- she was
13 oriented, she knew who she was, where she was, but she did
14 seem very lethargic. So we had done some drug testing on
15 her urine and found some -- they are called benzodiazepines
16 in her system.

17 Q. All right. We heard about that last week. We had the
18 person from the lab who did the work come in.

19 So what was the chief -- did you work with a doctor
20 when you examined her?

21 A. Yes. I always work under the supervision of a doctor.
22 It was Dr. Alan Uyeno.

23 Q. How do you spell Dr. Alan Uyeno's last name?

24 A. U-Y-E-N-O.

25 Q. By the way, how long have you been a nurse?

26 A. Physician's assistant.

27 Q. Physician assistant?

28 A. I have been for four years. And I worked there for

1 about eight months.

2 Q. How long -- do you know how long that doctor had been
3 a doctor?

4 A. A very long time I think. Over twenty years I think.

5 Q. Okay. So what other contact did you have with her?

6 A. I saw her and examined her --

7 Q. And what were the results --

8 A. -- questioned her.

9 Q. Pardon me.

10 What were the results of your examination?

11 A. Her examination was fine. She seemed okay. Like I
12 said, she was -- she was oriented, just very sleepy and
13 lethargic.

14 Q. Well, did you --

15 A. She could answer questions basically.

16 Q. Did you ask her what happened?

17 A. Yes. I asked her, you know, why she was so sleepy or
18 what had happened during the day, because the mother had
19 stated that she had left the child with her parents, her
20 mother and her stepfather, so the child's grandparents. And
21 they didn't know where she was for approximately three
22 hours. And so they had called Tracy Police Department and
23 they had found her at I think a nearby neighbor's house is
24 what they had told me.

25 And when I asked her, REDACT, where she was, she said
26 she was there, she went to a park with them, and to Wendy's
27 to eat.

28 Q. Did she say whether she consumed anything?

1 A. She did say that she had some funny tasting water. I
2 do remember that.

3 I think I had specifically asked her if anyone gave
4 her something that she didn't know what it was.

5 Q. She said?

6 A. She said just some funny tasting water.

7 Q. And says "Current Medication: Denies taking
8 medications"?

9 A. Correct.

10 Q. What time was she -- did you see her? Is it written
11 down somewhere?

12 A. It is on there. I believe it was at the top. Yeah.

13 Q. Do you guys prepare reports based upon seeing someone
14 in the Emergency Room?

15 A. Yes. She was seen.

16 Q. And do you participate in preparing that report?

17 A. Yes. This is my chart note. She was -- this says
18 7:13 in the evening.

19 Q. Is this yours?

20 A. That's the same thing.

21 Q. And what time was the specimen collected, the urine
22 specimen?

23 A. I don't know. It was ordered by me at 8:51, but I'm
24 not sure how long the lab takes -- took to get it.

25 Q. Are you sure about those times? Because it says
26 collection time here, 20:47, which would be 8:47, assuming
27 this report is right.

28 A. Oh.

1 Q. Collected. Then elsewhere it says --

2 A. Yeah, I'm not sure. It just says when I put my orders
3 into the computer, this -- it records it. And it says drug
4 screen was ordered at 20:51.

5 Q. Which was 8:51?

6 A. Right.

7 Q. Maybe you can help me read this page 1146 here. Says
8 collection, January 17th, '09.

9 A. 21:31.

10 Q. What time does that mean?

11 A. So that's 9:31.

12 Q. And then here it says collection time?

13 A. 20:47.

14 Q. Which is 8:47?

15 A. Yeah.

16 Q. So what time?

17 A. I'm not sure.

18 Q. Collected different samples?

19 A. Yeah, I'm not sure what this -- what this one is. But
20 the collection, this is the receipt, the lab received it at
21 21:31, same time. And then I don't know what that one is.

22 Q. V-E-R?

23 A. Verified maybe.

24 Actually, looking at this, I think the -- the drug
25 screen might have been blood -- through blood. But they did
26 check her urine, too.

27 Q. Okay. So could there have been different times?

28 A. Possibly.

1 Q. Because I was looking at urinalysis. So the blood
2 collection time might be different than the urinalysis time.

3 So they collect it at different places? I mean, do
4 they have to go to a different room?

5 A. Generally, the patient will go to the restroom and
6 give their own urine sample. But the phlebotomist will draw
7 the blood from the patient's bed.

8 Q. What if it's a child, do they have a different system
9 for collecting urine?

10 A. Unless they can't urinate on the toilet, then they
11 would have to get a catheter. But I think she was old
12 enough.

13 Q. All righty. Well, let me just check my notes. I
14 think that's it for my questions. The grand jurors may have
15 some questions.

16 Oh, here's what I want to ask you: What -- did you
17 participate in preparing this -- do you guys give a -- a
18 summary to the patient or the patient's parent when you --

19 A. Yes, we usually give them what their diagnosis is and
20 some information on that diagnosis.

21 Q. So did you indicate, "Your exam shows you have a
22 change in your normal mental status. Altered mental
23 status." Is that part of the diagnosis?

24 A. That's, I believe, my diagnosis. Yes. Altered mental
25 status.

26 Q. And what about --

27 A. And accidental ingestion, because we didn't know how
28 she had consumed the benzodiazepines.

1 Q. What about this, "You have a urinary tract infection"?

2 A. Right. We checked her urine. That's just kind of --
3 sometimes automatically we'll just check for infections as
4 well when people are not acting, you know, disoriented.

5 Q. What kinds of things can cause a urinary tract
6 infection?

7 A. Generally in a little girl, holding their urine, not
8 going when they need to go, or wiping improperly, hygiene.

9 Q. Are there other types of behaviors that can cause
10 that?

11 A. Generally, those are the most frequent, most common.

12 Q. All right. Thank you. I have no further questions.

13 I see no -- oh, excuse me. Thank you.

14 GRAND JUROR 18: Here's one.

15 MR. TESTA: Q. Was -- well, this question is
16 from the grand jury: Was REDACT examined for sexual
17 assault?

18 A. No, she was not.

19 Q. If you take benzodiazepine, does it -- does it taste
20 different or does it have a funny taste?

21 A. I don't know what they would taste like if they are
22 crushed. But, generally, they are pills. And I don't
23 believe there's a taste to it.

24 Q. But you've never tasted it or you don't -- haven't
25 read about if you crush them, put it in water?

26 A. Yeah, sometimes pills when you crush them you can
27 taste them a little more. But I've never tasted any of
28 them.

1 MR. TESTA: Are there any other questions
2 from the grand jurors?

3 Seeing none. The foreperson will read you an
4 admonition and you can get on your way. And my thanks for
5 your coming in.

6 THE FOREPERSON: You are admonished not to
7 reveal to any person, except as directed by the Court, what
8 questions were asked or what responses were given or any
9 other matters concerning the nature or subject of the grand
10 jury's investigation which you learned during your
11 appearance before the grand jury. This admonishment
12 continues unless and until such time as the transcript of
13 this grand jury proceeding is made public.

14 Violation of this admonishment is punishable as
15 contempt of court.

16 Do you understand?

17 THE WITNESS: Yes.

18 THE FOREPERSON: Thank you.

19

20 (Pause.)

21

22 **TIMOTHY BAUER,**

23 a witness called on behalf of the People, having been
24 previously duly and regularly sworn by the Grand Jury
25 Foreperson, testified as follows:

26

27 THE WITNESS: Do you have to use this? Can
28 you use my laptop?

1 MR. TESTA: Yes.

2 THE WITNESS: Can you use my laptop?

3 MR. TESTA: Anything to get it going.

4

5 (Pause.)

6

7 THE WITNESS: It's ready.

8 MR. TESTA: It is?

9 Okay. Why don't you go ahead and play it, then I'll
10 call a witness.

11 Just for the record, we have Detective Tim Bauer
12 setting up an exhibit.

13 May I have this exhibit marked next in order? This
14 will be what number.

15 THE SECRETARY: 230.

16

17 (Whereupon a 911 Audiotape was marked
18 Grand Jury Exhibit Number 230 for
19 identification.)

20

21 THE FOREPERSON: And you're still under oath.

22 THE WITNESS: Okay.

23 MR. TESTA: 230.

24 THE WITNESS: If you can't hear it, I can
25 play it again. It's not that long. So let me know.

26 Are the speakers on?

27 MR. TESTA: Yes, I believe they are.

28 THE WITNESS: It ain't coming out. So we are

1 just going to do it old school.

2 MR. TESTA: I will call a witness and I will
3 call tech and have them set it up.

4 THE WITNESS: It will play. I'm not using
5 these speakers.

6

7 (Audiotape playing.)

8

9 THE WITNESS: Is that coming out at all?

10 A GRAND JUROR: Uh-huh.

11 THE WITNESS: I don't know where the speaker
12 comes out on this thing.

13

14 (Audiotape playing.)

15

16 MR. TESTA: Okay. For the record, I'm having
17 someone from tech come up so we can play it and use the
18 other speakers. It's very hard to hear. But we played one
19 time -- Detective Bauer played at least one time that 911
20 tape which we marked as an exhibit. And we will be
21 preparing a transcript of that for purposes of the record.

22 Thank you, sir.

23 Can you take it out so I can give it to the tech
24 person when he comes back, the actual CD?

25 THE WITNESS: Yeah.

26

27 (Pause.)

28

1 MR. TESTA: Could you state your name,
2 please?

3 THE WITNESS: Maria Dolores Chavez.

4 MR. TESTA: And how do you spell your name?

5 THE WITNESS: M-A-R-I-A D-O-L-O-R-E-S
6 C-H-A-V-E-Z.

7 MR. TESTA: Thank you very much for coming
8 here today.

9 You are -- what is your relationship to Sandra Cantu?

10 THE FOREPERSON: Can I swear her in, please?

11 MR. TESTA: I'm sorry. Thank you for
12 reminding me.

13 THE FOREPERSON: Can you raise your right
14 hand, please?

15

16 **MARIA DOLORES CHAVEZ,**

17 a witness called on behalf of the People, having been duly
18 and regularly sworn by the Grand Jury Foreperson, testified
19 as follows:

20

21 THE WITNESS: Yes.

22 THE FOREPERSON: Thank you.

23

24 **EXAMINATION**

25 BY MR. TESTA: Q. What is your relationship
26 to Sandra?

27 A. I'm her mom.

28 Q. How old -- when was she born?

1 A. March 8th, 2001.

2 Q. So she was how old?

3 A. She's eight.

4 Q. Okay. And where did she live? Is that a knock? Go
5 ahead, where did she live?

6 A. She lived with me.

7 MR. TESTA: Come on in, sir.

8 Hold on for a second.

9

10 (Whereupon the technical support person
11 entered the Grand Jury Room.)

12

13 MR. TESTA: Gilbert, this is another tech
14 person. We have a 911 tape, may I have it, please?

15 Q. Did you call 911 when she was missing?

16 A. Yes, I did.

17 MR. TESTA: Is there a way you could play
18 this for us? We tried before but we couldn't hear it too
19 well on either of these two laptops. This is the County
20 laptop, the one on the left, I believe.

21 TECHNICAL SUPPORT PERSON: Looks like the
22 speakers are plugged into that one. So I could try.

23 MR. TESTA: What is your name again?

24 TECHNICAL SUPPORT PERSON: Gilbert.

25 MR. TESTA: Were you going to read an
26 admonition to Gilbert?

27 By the way, Gilbert, could you ask -- who was the
28 other gentleman, was it Henry?

1 TECHNICAL SUPPORT PERSON: Henry works for
2 County ISD. I work for Superior Court.

3 MR. TESTA: Okay. They gave me your number,
4 too.

5 TECHNICAL SUPPORT PERSON: That's okay.

6 MR. TESTA: We wanted to give Henry the
7 admonition.

8 You're going to read an admonition to this gentleman,
9 too?

10 THE FOREPERSON: Yes. Let me find it,
11 please.

12

13 (Pause.)

14

15 THE FOREPERSON: I'm ready.

16 Can you raise your right hand, please?

17 You are directed not to discuss or disclose at any
18 time anything you may have seen or heard during your --
19 during this hearing.

20 Do you understand?

21 TECHNICAL SUPPORT PERSON: Yes.

22 THE FOREPERSON: Thank you.

23

24 (Audiotape playing.)

25

26 MR. TESTA: Did it end there?

27 GRAND JUROR 12: I think there's still
28 another portion to it.

1 (Audiotape playing.)

2

3 MR. TESTA: Now?

4 TECHNICAL SUPPORT PERSON: That's all you
5 need?

6 MR. TESTA: Yes. Thank you for coming up.

7 TECHNICAL SUPPORT PERSON: You're welcome.

8 I'll be in the building if you need my help. You have
9 my number.

10 MR. TESTA: Thank you, sir.

11

12 (Whereupon the technical support person
13 exited the Grand Jury Room.)

14

15 MR. TESTA: Q. Did you recognize your voice?

16 A. Yes.

17 Q. Is that -- is that --

18 A. It was me.

19 Q. That's your 911 call?

20 A. Yes.

21 Q. Did you later learn she was wearing something else,
22 not the dress that you reported?

23 A. Yes.

24 Q. Because I think we heard that initially you guys
25 thought it was a striped dress, but Detective Bauer
26 explained --

27 A. Yeah. She --

28 Q. What was she wearing?

- 1 A. The pink shirt, Hello Kitty shirt, and black leggings.
- 2 Q. Okay. And how did you figure that out? Did you watch
3 the surveillance tapes or did you figure it out from her
4 clothes?
- 5 A. From her clothes.
- 6 Q. You looked -- go ahead, tell us.
- 7 A. That were in the hamper. Her -- her -- her skirt she
8 was wearing.
- 9 Q. The striped dress was in the hamper?
- 10 A. Yeah.
- 11 Q. Is that a yes?
- 12 A. Yes.
- 13 Q. Okay. So what about that particular day that she was
14 missing, that's a Friday, what was her schedule that day?
15 Was school in session?
- 16 A. Yes.
- 17 Q. What grade was she in?
- 18 A. Second.
- 19 Q. Second grade?
- 20 A. Uh-huh.
- 21 Q. How was she as a student?
- 22 A. She was good. She was good.
- 23 Q. What was -- so when did she -- where did she go to
24 school?
- 25 A. At Jacobson in Tracy.
- 26 Q. How -- how would she get there?
- 27 A. My dad would take them to school and pick them up.
- 28 Q. Where did your dad live?

- 1 A. With me.
- 2 Q. So who all lived with you guys?
- 3 A. Myself, my four kids, and my mom and dad.
- 4 Q. And what are your mom and dad's names?
- 5 A. Joe and Dolores Chavez.
- 6 Q. And how old are your children?
- 7 A. I have a twenty-one year old.
- 8 Q. By the name of?
- 9 A. Simone.
- 10 Q. And what was she doing back then, going to school,
11 just living, working?
- 12 A. No, just at home.
- 13 Q. Twenty-one?
- 14 A. Yes.
- 15 Q. Now she's twenty-one?
- 16 A. Yes.
- 17 Q. Okay. And so that's Simone. What's the next?
- 18 A. My son's Tommy. He's fifteen.
- 19 Q. And was he I'm assuming a student?
- 20 A. Yes.
- 21 Q. And he lived there with you guys?
- 22 A. Yes.
- 23 Q. And the next?
- 24 A. Miranda was eleven. She lives with me.
25 And Sandra was eight.
- 26 Q. Okay. So that school, by the way, that she went, I'm
27 going to show you this photograph we have seen, 64, do you
28 recognize that as the mobile home park, or do you not?

1 A. Yes, it is.

2 Q. By the way, do you recognize this one as the mobile
3 home park, too?

4 A. Yes.

5 Q. So does the school that she went to show up in this
6 Number 64?

7 A. No.

8 Q. Let me ask the question this way: How did she get to
9 school? Your dad would take her?

10 A. Yes.

11 Q. Would she ever walk to school?

12 A. No.

13 Q. Is the school over here somewhere if you look at the
14 photo, upper left corner, or am I confused? Or if you --

15 A. Let's see.

16 Q. If you don't know, you probably have never seen it
17 from the air.

18 A. No, I believe it's down that way. It's on Kavanagh.

19 Q. As you look at the photos, you believe her school is
20 to the left?

21 A. Yes.

22 Q. In any case, that particular day, what time does
23 school normally get out?

24 A. 2:35.

25 Q. 2:35. And then how does she get home from school?

26 A. My dad picks her up and brings her home.

27 Q. And did he -- what's your dad's name again?

28 A. Joe Chavez.

1 Q. Did Joe Chavez pick Sandra up on the 27th when school
2 got out?

3 A. Yes.

4 Q. And then did you see her when she came home from
5 school?

6 A. Yes. Briefly.

7 Q. Okay. And was she -- was she in a good mood? Was she
8 in a bad mood?

9 A. Uh-huh, no, she was in a good mood.

10 Q. And did she have any injuries or anything like that?

11 A. No.

12 Q. Pardon me?

13 A. No.

14 Q. And what did she do when she came home? Let me ask
15 you first what's her normal routine, if she has one, when
16 she comes home from school? Does she have a routine?

17 A. Yeah. She comes home, she lets me know that she's
18 back.

19 Q. She lets you know?

20 A. Uh-huh.

21 Q. Is that a yes?

22 A. Yes.

23 And then she gets a little snack. And then she goes
24 and plays with her friends.

25 Q. Okay. And did she have -- were there any particular
26 friends she would normally play with?

27 A. Yeah. The little girls in number 9.

28 Q. With that laser pointer here, show us where that is on

1 this Exhibit 51.

2 A. Number 9 is right there.

3 Q. Can you speak into the microphone as well?

4 A. It's right there.

5 Q. Who lived in number 9?

6 A. Well, they are little girls, I forgot what their names
7 are right now.

8 Q. But you have other -- were there other girls that she
9 would play with in the mobile home park?

10 A. Madison, the little girl.

11 Q. What number --

12 A. In 57.

13 Q. -- if you know?

14 Okay. Anyone else?

15 A. No.

16 Q. Were there other kids that lived in the mobile home
17 park?

18 A. Yes.

19 Q. Did she play with them?

20 A. Outside. Outside.

21 Q. So, you know, actually, while I'm on this point, let
22 me ask you -- now I'm shifting gears -- so she comes home
23 from school, your father brings her home, she checks in with
24 you?

25 A. Uh-huh.

26 Q. Is it normal for her to check in with you?

27 A. Yes.

28 Q. Is she good about letting you know where she went?

1 A. Yes.

2 Q. Is that like a rule you had, or did she do it on her
3 own? Tell us about it.

4 A. That's my rule, she had to tell me where she was
5 going, who she was with.

6 Q. And how was she in complying with that rule?

7 A. Very good.

8 Q. Very good?

9 A. Uh-huh.

10 Q. Was she a pretty well-behaved girl?

11 A. Yes.

12 Q. Was she -- I mean, did she have a good disposition?
13 What was her disposition like, let me ask it that way?

14 A. Very good.

15 Q. You know, some people have -- I guess with guys, you
16 could have aggressive or mean or smart-alecky or -- how
17 would you characterize her disposition?

18 A. No. She was caring. She was caring, helpful.

19 Q. What was the last part?

20 A. Helpful.

21 Q. Caring, helpful. Did she smile a lot?

22 A. Yeah.

23 Q. Okay. Was she well liked there among the neighbors?

24 A. Yes.

25 Q. Okay. So she comes home, father brings her home,
26 checks in with you, has a snack, and then what happens next?

27 A. She had asked if she can go to number 9's house to
28 play. I told her okay.

1 Q. Were those people just moved in?

2 A. Yes.

3 Q. Pardon?

4 A. Yes.

5 Q. Were they new neighbors or something?

6 A. Yes.

7 Q. Okay. So you go to -- was it Diaz, do you know who
8 they were?

9 A. I believe so. I believe so.

10 Q. So she asked if you could go over there -- she asked
11 if she could go over there?

12 A. Yes.

13 Q. And what did you say?

14 A. I told her okay, just for a little while.

15 Q. Did she say why she was going to go over?

16 A. Just to play with the little girls.

17 Q. Okay. So then she leaves. What time would you say
18 she left?

19 A. About a little after 3:00.

20 Q. Okay. Now, we can tell precisely what time she left
21 because there's something we can look at to tell us what
22 time. Is that true? Do you understand the question?

23 A. No.

24 Q. Did you guys have video surveillance?

25 A. Oh, yes. My dad did.

26 Q. Set up where?

27 A. In the -- all around the mobile home.

28 Q. Why?

1 A. Because he was having some problems with a neighbor
2 who slashed his tires twice.

3 Q. Okay. So he put this video surveillance up.

4 By the way, have you watched that surveillance, the
5 one that we see on TV all the time?

6 A. Yeah.

7 Q. The one of Sandra?

8 A. Yes.

9 Q. Do you remember -- well, you saw it probably dozens of
10 times, right? Do you know how she turns her -- she seems
11 like she's coming towards the house and then she turns in
12 another direction?

13 A. Yes. Yes.

14 Q. Can you -- do you have your bearings on this diagram?
15 Do you feel you know what it shows?

16 A. Yeah.

17 Q. Where is your house, with the laser pointer?

18 A. My house is right there.

19 Q. With the 62?

20 A. 62 -- no, 63.

21 Q. 63?

22 A. I'm sorry, here.

23 Q. And what street do you guys live on?

24 A. Cherry.

25 Q. Okay. And where is she on the video? We've seen it
26 already, but can you tell us?

27 A. She was -- this is the park, the little play area, she
28 was coming from this way going to the house.

1 Q. Where we have a -- going east, you're indicating?

2 A. Uh-huh.

3 Q. She's coming across the park. Go ahead, show us again
4 with the laser.

5 A. She was coming from the park.

6 Q. The park is under 94 and under 97, there is a park --

7 A. Yes.

8 Q. -- on this Exhibit 51?

9 And she's walking?

10 A. Uh-huh, going this way.

11 Q. Towards your place?

12 A. To the house, yes.

13 Q. And then --

14 A. And then she looks like she turned and went -- walked
15 that way somewhere.

16 Q. When she turned, what direction did she appear to
17 you -- you know your daughter better than all of us -- which
18 way did it look like she turned and looked?

19 A. That way. This way.

20 Q. You're indicating towards the top of the diagram
21 there?

22 A. Uh-huh.

23 Q. Is that a yes?

24 A. Yes.

25 Q. Okay. Which would be south. Now here's my question
26 for you: How long have you lived at that trailer park --
27 mobile home park?

28 A. Oh, I'd say thirty years.

1 Q. Oh, okay.

2 A. I've been there for a long time.

3 Q. Do you know most -- most of your neighbors?

4 A. Yes.

5 Q. Well, then you're the best one to tell us this: If
6 you see her turn in and looking towards the top of the
7 diagram up there towards Orange, did she know anybody or
8 play with anyone up there in any of these places, 58, 59,
9 60?

10 A. Yes, 57.

11 Q. 57. What about the -- is it fair to say she did or
12 did not know the other people that were --

13 A. Yeah, she played at 57. And she also knew the lady in
14 94, Debbie.

15 Q. Right. But let me focus here on this street from --
16 okay, from 94, 95, 55, 56, 57, 62, 61, 60, 59, and 58, whom
17 did she know in any of those numbers? 57?

18 A. 57.

19 Q. 94?

20 A. 94. And the lady right next to us, Shirley.

21 Q. 62?

22 A. Yes.

23 Q. How old is she?

24 A. She's the assistant manager. I don't know how old she
25 is.

26 Q. Okay. But did -- do you know her name?

27 A. Shirley.

28 Q. Shirley. Shirley has no children, though, does she?

1 A. They are grown.

2 Q. What I meant is were there any young kids that Sandra
3 would play with at 62?

4 A. No.

5 Q. Okay. So if -- just so I'm clear on this, of all
6 these numbers that I already read to you --

7 A. Uh-huh.

8 Q. -- the only one with kids that she would play with
9 would be in 57; do I understand you correctly?

10 A. Yes.

11 Q. Don't just agree with me. I'm asking you. I'm not
12 telling you. 57?

13 A. Yes.

14 Q. The person in 94 did or did not have kids?

15 A. She has two boys.

16 Q. How old are they?

17 A. Fifteen.

18 Q. Okay. She didn't play with them, right?

19 A. No.

20 Q. She's eight.

21 So of all these people on Cherry from 63 on up to the
22 top, 57 would be the place where she would go to play if she
23 were going to play with someone?

24 A. Yes.

25 Q. So when you see her looking -- first of all, you said
26 you saw her looking up towards the top?

27 A. Uh-huh. Yes.

28 Q. Did you have an opinion, based on your knowledge of

1 her routine and her habits and your knowledge of who lives
2 where in this trailer park, did you have an opinion as to
3 whom she was -- appeared to be heading towards?

4 A. Yes.

5 Q. What is your opinion?

6 A. Because she was going that way to Madison's.

7 Q. You're indicating --

8 A. The little girl's house.

9 Q. You're indicating -- pardon me for talking over you.
10 You're pointing to 57 with the laser pointer on Exhibit 51?

11 A. Yes.

12 Q. All righty. I wanted to clear that up.

13 Let's see. What shoes was she wearing?

14 A. She was wearing Hannah Montana flip-flops.

15 Q. And by the way, did you ever go back into her closet
16 and see whether she was missing any clothes or anything?

17 A. Just the clothes that she was wearing and her
18 flip-flops.

19 Q. Okay. Did she have a birthmark or something on her
20 face?

21 A. Yes.

22 Q. Where?

23 A. On her left cheek (Pointing).

24 Q. Was she happy when you last saw her?

25 A. Yes.

26 Q. She didn't seem any different from normal?

27 A. No.

28 Q. Okay. Let me see if I have any other questions.

1 Let's say when she did come home, let me ask you this:
2 When she goes to play with, say, number 9 or other people,
3 is there a rule you guys have about how long she has to, you
4 know, how long she can go before she has to check back in
5 with you?

6 A. Twenty minutes.

7 Q. Tell us about that rule.

8 A. She has -- she could play over twenty minutes and then
9 she has to come home and let me know that she's at the same
10 place or she's going someplace else.

11 Q. And was -- how was she about complying with that rule?

12 A. Pretty good.

13 Q. So did she come back in twenty minutes from
14 number 9 -- or let me put it this way: When's the next time
15 you saw her, if ever?

16 A. I didn't.

17 Q. She didn't come back.

18 When did you get concerned?

19 A. When she didn't come home.

20 Q. So what did you do?

21 A. I went -- I went out looking for her.

22 Q. Where did you go?

23 A. In the trailer park.

24 Q. Can you show us with the laser pointer on 51 where you
25 went? So you left your place?

26 A. I went from here, I went all the way and I checked all
27 these houses, looked in their yards, and then I went down
28 this way.

1 Q. Let me -- let me start -- maybe I didn't ask the
2 question. What's the first thing you did when you started
3 looking for her or where is the first place you went?

4 A. First place? I went -- I went to the little girl over
5 here.

6 Q. Number 7?

7 A. Is my -- my daughter's friend.

8 Q. Why wouldn't you go to number 9 first if she said she
9 was going to number 9? Maybe I misunderstood you.

10 A. Because it was on the way. So I stopped here, then I
11 went to number 9 right after.

12 Q. Did you talk to anyone at number 7? Was anyone home?

13 A. No, nobody was home.

14 Q. What happened when you went to number 9?

15 A. So I went to number 9. They said she was there
16 playing and then she had left, she said that she had to go
17 do some homework.

18 Q. Okay. And then where did you go when you checked 7
19 and then 9?

20 A. I went all the way down to this -- the streets.

21 Q. You are indicating -- you're indicating south on
22 Apple. Did you check anyone on Apple or anyone on Orange?

23 A. No. She doesn't know anybody on that street.

24 Q. Did you call out her name or anything?

25 A. Yes, I was. And I went up and down.

26 Q. Were you by yourself?

27 A. No, I had my kids -- my other kids with me, my son and
28 my daughter were looking.

- 1 Q. Oh, you're all looking for her?
- 2 A. Yes.
- 3 Q. I kind of cut you off.
- 4 So you went Orchard, then up Apple, then Orange, and
- 5 then down Apricot?
- 6 A. Yes.
- 7 Q. And all this time, you're yelling out her name and
- 8 stuff?
- 9 A. Yes.
- 10 Q. What are your kids doing?
- 11 A. Looking for her, calling for her.
- 12 Q. Looking between --
- 13 A. Uh-huh.
- 14 Q. -- mobile homes and --
- 15 A. Yes.
- 16 Q. Okay. I kind of cut you off.
- 17 Okay. So then you come down to Apple to Orchard.
- 18 Look anywhere in the clubhouse?
- 19 A. No, not at that time. It was -- I believe it was
- 20 locked.
- 21 Q. Okay. So where else did you look?
- 22 A. And I looked in the little -- the -- the play area.
- 23 Q. Between -- under 94 and 97 --
- 24 A. Yes.
- 25 Q. -- on 51?
- 26 A. Yes. And I looked -- I just went walking down in the
- 27 streets --
- 28 Q. On Cherry?

1 A. -- calling for her.

2 Q. You're indicating you're going south on Cherry up to
3 Orange, calling for her?

4 A. Calling for her.

5 Q. What did you do --

6 A. And I stopped at Madison's house.

7 Q. What did you see or what happened there?

8 A. They told me they didn't see her.

9 Q. Who told you that?

10 A. The grandmother.

11 Q. Are you asking me?

12 A. The grandmother.

13 Q. Oh, okay. Who did you see -- did you see anyone at
14 57?

15 A. No, just the grandmother.

16 Q. Okay. What about the kids?

17 A. No.

18 Q. So where'd you go after checking in 57?

19 A. I continued.

20 Q. You're indicating again --

21 A. On Orange. And then I came down on Peach.

22 Q. Then north on Peach.

23 A. And --

24 Q. Go ahead, you tell us.

25 A. And then when I couldn't find her, I went back home
26 and I called the police.

27 Q. Okay. And then was that -- and then you made that 911
28 call that we hear on the -- that we just played a moment

1 ago?

2 A. Yes.

3 Q. Was this like her to be missing like this?

4 A. (Shakes head negatively.) No.

5 Q. Was she good about checking in with you?

6 A. Yes.

7 Q. So then what happened after you called 911, did the
8 police come?

9 A. Yes, they did.

10 Q. Did it take long for them to get there or did they
11 come right away?

12 A. No, they came pretty quick.

13 Q. Marked cars or unmarked cars?

14 A. Marked car, police car.

15 Q. Did you see a guy here this morning, did you recognize
16 him?

17 A. Yes.

18 Q. Were there more than -- more than one?

19 A. Yes, there was more than one police officer there.

20 Q. How many cars?

21 A. Oh, four.

22 Q. What did they do?

23 A. They came in and they questioned me and asked me what
24 she wore and I told them.

25 And then they asked what houses that she would go to.

26 And I let them know.

27 Q. Does Sandra have a cell phone?

28 A. No.

1 Q. Does she know how to use the phone, though, to call if
2 she is in a jam or she needs a ride or something like that?

3 A. She knows how to call me on my phone.

4 Q. Did she ever leave or -- habit and custom, did she
5 ever leave the mobile home?

6 A. No.

7 Q. And why was that? Is it --

8 A. I told her not to, not to leave the trailer park
9 without me or my oldest daughter.

10 Q. Did you finish your answer? Without you or your
11 oldest daughter?

12 A. Yes.

13 Q. Okay. By the way, I think for some text messages,
14 what was your number back then? 627-6331?

15 A. Yes.

16 Q. Did you give -- did she ever wear anything on her
17 head?

18 A. No.

19 Q. Does she wear earrings?

20 A. Yes, she did.

21 Q. What kind?

22 A. I believe at that time little studs.

23 Q. Okay. Did you know Melissa Huckaby?

24 A. Not that well.

25 Q. Did Sandra ever go to the Huckaby church?

26 A. No.

27 Q. She wasn't a member of that church in any way?

28 A. No.

1 Q. She wouldn't go there for any purpose?

2 A. No.

3 Q. Put it in the positive: Did she go there for any
4 purpose?

5 A. No.

6 Q. This particular church that I'm referring to,
7 Number 7. So there would be no reason for her to be going
8 to that church?

9 A. Not at all.

10 Q. You never took her there?

11 A. No.

12 Q. And she never asked you permission to go there?

13 A. No.

14 Q. Let me put it so that noes mean something. Did she
15 ever ask you permission to go there?

16 A. No, she didn't.

17 Q. Did anyone ever ask you permission to take her there?

18 A. No.

19 Q. Did she have any -- did you ever learn from anyone
20 that anyone took her there?

21 A. No.

22 Q. Okay. So there would be no reason for anything with
23 her DNA to be in that church?

24 A. No, not at all.

25 Q. Now, when the police arrived and these different
26 patrol cars came, what did they do?

27 A. They --

28 Q. After they talked to you?

1 A. Uh-huh.

2 Q. And asked you whom she played with and that kind of
3 thing?

4 A. Yes.

5 Q. Did you see where they went, what they did?

6 A. They went in all the directions, all the -- to the
7 houses, and asked for a picture. And --

8 Q. And did they -- did you see them looking all over the
9 place?

10 A. Yes.

11 Q. All right. Let me look at my notes, see if I have any
12 other questions for you.

13 So how -- I mean, had you ever seen -- had you ever
14 spoken to Melissa Huckaby?

15 A. Yes, I have.

16 Q. What were the circumstances?

17 A. Just when she would ask if the girls could come over
18 to play with Madison, her daughter. I would tell her yeah,
19 okay. Just a little casual conversation.

20 Q. You did not consider her a friend?

21 A. No.

22 Q. Did she end up texting you on the day that your
23 daughter went missing?

24 A. Yes, she did.

25 Q. What was that all about?

26 A. Something about a -- her suitcase was missing.

27 Q. Well, if she's not that good a friend, had she texted
28 you before this date?

1 A. No.

2 Q. Did you think it was weird that she would be texting
3 you?

4 A. Yes.

5 Q. Well, what did she text you? When did she text you?

6 A. She texted me on that day, the 27th, that her -- her
7 suitcase was missing.

8 Q. Did you give Detective Bauer permission to take apart
9 your phone and look at all your texts?

10 A. Yes.

11 Q. I have -- I'm going to be calling him later, but let
12 me ask you do you remember -- have you gone over this day in
13 your mind quite a few times?

14 A. (Nods head affirmatively.) Yes.

15 Q. Do you remember the text that she texted -- texted
16 you?

17 A. Yes. On that day, yes, she asked for me to -- to tell
18 the police officer that her suitcase was missing. And at
19 that time, I -- I wasn't worried about her suitcase. I was
20 worried about my daughter.

21 Q. Well, so Melissa Huckaby texts you, tells you what
22 about a suitcase?

23 A. That her suitcase was missing on the 27th.

24 Q. Well, what does that have to do with looking for your
25 daughter?

26 A. I don't know.

27 Q. Did she tell you to say something to the police about
28 the suitcase?

1 A. Yes, she did.

2 Q. What?

3 A. She asked if I would notify -- tell the police that
4 her suitcase was missing.

5 Q. Let me show you...

6 MR. TESTA: May I have marked as exhibit next
7 in order, this would be page 738 of discovery and I'll be
8 asking Detective Bauer about it. What number would this be?

9 THE SECRETARY: 231.

10

11 (Whereupon Document containing Text
12 Messages was marked Grand Jury Exhibit
13 Number 231 for identification.)

14

15 MR. TESTA: Q. What was your number again?

16 A. 627-6331.

17 Q. Do you know her number?

18 A. No, I don't know her number.

19 Q. Let me ask you this: Did she -- does this look
20 familiar in terms of the precise words, "Did you find Sandra
21 yet? Miranda said she was at a new friend's house when she
22 came over to play with Madison."

23 Does that ring a bell? Or don't just go along with
24 it. Do you remember that?

25 A. No, I don't --

26 Q. You don't remember that particular text?

27 A. No.

28 Q. But in any case, you -- did you save the texts that

1 you did get to show --

2 A. Yes, I saved them all.

3 Q. Okay. What about this one here, do you remember this
4 one here, number 2, at 8:30 on the 27th, "Tell the police
5 that I had something stolen today around 4:00 p.m. I don't
6 know if that makes a difference or not."

7 A. Yes. She was talking about her suitcase.

8 Q. These are texts. I don't text, so I don't know how it
9 works.

10 A. I don't either.

11 Q. And then later on, "Just wanted to let you know that
12 we are praying for you. And if there's anything you need,
13 let me know."

14 A. Yeah, I remember reading that on my phone.

15 Q. Did you ever call her and ask her, "What are you
16 talking about a stolen -- something stolen?"

17 A. No.

18 Q. Actually, she doesn't mention a suitcase. "Tell the
19 police that I had something stolen today around 4:00 p.m."

20 A. Uh-huh.

21 Q. "I don't know if that makes a difference or not." Is
22 that -- do you recall that text -- receiving that text from
23 her?

24 A. Yes.

25 Q. So on the 27th, did she ask you, that is, did Melissa
26 Huckaby ask you if your eleven-year-old could sleep over at
27 Melissa's house?

28 A. Yes.

1 Q. There's a calendar on the wall here. Can you tell us
2 when it was that Melissa Huckaby asked you that? There's
3 March and there's April. The 27th is the day we have been
4 talking about.

5 A. Yeah. I believe it's the 28th, the Saturday.

6 Q. Don't ask me. I'm asking you.

7 A. Uh-huh.

8 Q. That's your recollection?

9 A. Yes.

10 Q. What was that all about? What did Melissa Huckaby say
11 or text you?

12 A. She texted me and asked if my daughter Miranda could
13 come over and stay the night with -- spend the night with
14 her -- with her daughter.

15 Q. But her daughter's Madison, right?

16 A. Yes.

17 Q. Her daughter's five?

18 A. Yes.

19 Q. And -- and Miranda is eleven?

20 A. Yes.

21 Q. And had Miranda ever spent the night over there?

22 A. Yes, she has.

23 Q. Before that date?

24 A. Yes.

25 Q. And was that the -- did you think there was anything
26 unusual in that request?

27 A. No.

28 Q. Did you tell anyone that was the first time Miranda

1 had ever spent the night there?

2 A. No.

3 Q. You're sure she had spent previous nights there?

4 A. Yes.

5 Q. All right. Let's see if I have any other questions
6 for you. Just looking at my notes.

7 When you saw that photo of her -- of the video of
8 Sandra, was she skipping?

9 A. Yeah.

10 Q. Did she -- you can read her better than any of us
11 because you knew her, did she look like she was in a good,
12 happy mood then?

13 A. Yes.

14 Q. Did it look like anything had just happened to her?

15 A. No. She was happy.

16 MR. TESTA: Okay. All righty, I have -- I
17 have no further questions. If the grand jurors have any, I
18 would invite you to send them forward now.

19 Q. Here's a question from the grand jurors -- these are
20 questions -- they get to ask questions, too.

21 If Sandra did not see Madison but did see Melissa,
22 would she have gone towards 57 to see Melissa? Knowing your
23 daughter --

24 A. Uh-huh.

25 Q. Remember, we are talking about the videotape when we
26 see Sandra looking towards Orange or towards 57.

27 A. Yeah.

28 Q. Knowing your daughter, if Sandra's coming over

1 skipping, and you see her on the video, then she sees, not
2 Madison, but Melissa out say by her place there at 57 --

3 A. Yes.

4 Q. -- would she have gone towards 57?

5 A. Yes, she would.

6 Q. To see Melissa?

7 A. Yes.

8 Q. Knowing her habits and customs, she would do that?

9 A. Yes.

10 Q. Another question from the grand jury: Mr. Testa, can
11 you ask Maria Chavez if Sandra was ever sexually abused?

12 A. No.

13 Q. She ever sexually molested?

14 A. No.

15 Q. Physically abused?

16 A. No.

17 Q. You've raised her all her life?

18 A. Yes.

19 Q. You feel you did a pretty good job?

20 A. Yes.

21 Q. Single mom?

22 A. Yes.

23 Q. Where is her dad?

24 A. I --

25 Q. Let me put it this way: Where was he in March of
26 2009?

27 A. In Mexico.

28 Q. How long had he been in Mexico?

1 A. I don't know.

2 Q. Had he --

3 A. He --

4 Q. Was he a part of her life?

5 A. No.

6 Q. Was he a part of your life?

7 A. No.

8 Q. Did you guys have amicable partings or was there a
9 difficult separation or what?

10 A. Yeah, a little -- a little difficulty when I -- when I
11 left.

12 Q. Which was how long ago?

13 A. Oh, Sandra was two.

14 Q. Okay. So had he seen Sandra since then, do you know?

15 A. Maybe once when she was three.

16 Q. Okay. So he wasn't part of your scene, part of your
17 life or her life?

18 A. No.

19 Q. In 2009?

20 A. No.

21 Q. Did you have any guys living with you besides your dad
22 and mom, of course?

23 A. No.

24 Q. Was there any man in your life that would come over
25 that could have done something to Sandra or anything like
26 that?

27 A. No.

28 Q. Here's a question from the grand jury -- or a number

1 of questions: Do you know if Madison and Sandra played
2 together on March 27th?

3 A. No, I don't know.

4 Q. Is there a swing set in the mobile home park or close
5 by at another location?

6 A. No.

7 Q. Other than by the clubhouse, is there a pond or -- or
8 pool close by?

9 A. Yes, there is. There's a pool.

10 Q. In the clubhouse?

11 A. There's a -- the pool is right there.

12 Q. Oh, I see. What about any other bodies of water
13 nearby?

14 A. No.

15 Q. Another question from the grand jury: Is there a way
16 to walk out of the mobile home park without going by the
17 main entrance?

18 A. No.

19 Q. Okay. Question from the grand jury: Did any kids
20 ever complain of Sandra to be bossy during playtime?

21 A. No.

22 Q. Did she appear well liked by the other kids?

23 A. Yes.

24 Q. You know, kids, sometimes they could develop
25 personalities -- this kid's bossy, this kid always wants to
26 do things her way, or this kid will always go along with
27 someone else. How would you describe Sandra, taking off --
28 putting aside, you know, everyone wants to say their kid is

1 the best -- putting that aside, how was she really with the
2 other kids?

3 A. As far as I know, she got along with all the kids
4 there. No one came and -- and complained to me about her.

5 MR. TESTA: Okay. Are there any other
6 questions from the grand jurors?

7 GRAND JUROR 18: Right here.

8 MR. TESTA: Thank you, sir.

9 Q. What time is the clubhouse -- good question. What
10 time is the clubhouse normally locked?

11 A. 8:00.

12 Q. P.M.?

13 A. Yes.

14 Q. What time did Sandra leave number 9?

15 A. That I don't know.

16 Q. I think she's here, though, isn't she, Maria Diaz, the
17 woman who lived in number 9? Did you see her outside?

18 A. No, I didn't see her.

19 Q. I asked her to come early.

20 What was Madison -- where was Madison? Was she there
21 when you went to 57 looking for Sandra?

22 A. No, she was not.

23 Q. So who was there at 57?

24 A. Her -- Melissa Huckaby's grandmother.

25 Q. Melissa Huckaby was not there?

26 A. No.

27 Q. Let me put it this way: Was Melissa Huckaby there?

28 A. No. I did not talk with her.

1 Q. Do you know her vehicle?

2 A. No, I don't. It's like a -- I don't know what type of
3 car it is. It's a dark color.

4 Q. Is it a car or an SUV?

5 A. No, it's a -- like a SUV.

6 Q. Okay.

7 A. A smaller.

8 Q. Smaller SUV?

9 A. Yes.

10 MR. TESTA: Okay. Any other questions?
11 You're saving all these, aren't you, the questions?

12 THE FOREPERSON: Uh-huh.

13 MR. TESTA: All right. They will read you an
14 admonition, then you can get on your way.

15 THE FOREPERSON: You are admonished not to
16 reveal to any person, except as directed by the Court, what
17 questions were asked or what responses were given or any
18 other matters concerning the nature or subject of the grand
19 jury's investigation which you learned during your
20 appearance before the grand jury. This admonishment
21 continues unless and until such time as the transcript of
22 this grand jury proceeding is made public.

23 Violation of this admonishment is punishable as
24 contempt of court.

25 This does not prevent you from discussing the matter
26 with your attorney, if you have an attorney advising you
27 with respect to your appearance before the grand jury.

28 Do you understand?

1 THE WITNESS: Yes, I do.

2 THE FOREPERSON: All right. Thank you.

3 MR. TESTA: Are you taking your morning
4 recess now?

5 THE FOREPERSON: We will.

6 MR. TESTA: What time do we come back?

7 THE FOREPERSON: Fifteen minutes.

8 MR. TESTA: Fifteen minutes. Thank you.

9

10 (Recess.)

11

12 THE FOREPERSON: We all ready?

13 MR. TESTA: Are we all here?

14 THE FOREPERSON: Yes.

15 MR. TESTA: Everyone accounted for, are we?

16 THE SECRETARY: Yes.

17

18 (Pause.)

19

20 MR. TESTA: Could you tell us your full name,
21 please?

22 THE WITNESS: Nancy Williams.

23 MR. TESTA: Can you spell your name, please?

24 THE WITNESS: N-A-N-C-Y W-I-L-L-I-A-M-S.

25 THE FOREPERSON: Would you raise your right
26 hand, please?

27

28

NANCY WILLIAMS,

1
2 a witness called on behalf of the People, having been duly
3 and regularly sworn by the Grand Jury Foreperson, testified
4 as follows:

5
6 THE WITNESS: Yes.

7 THE FOREPERSON: Thank you.
8

EXAMINATION

9
10 BY MR. TESTA: Q. Where are you employed?

11 A. Sutter Tracy Hospital.

12 Q. What do you do there?

13 A. I'm a nurse.

14 Q. How long have you been so employed?

15 A. At Sutter Tracy Hospital?

16 Q. Yeah.

17 A. Let's, see I've been employed with them for seventeen
18 years.

19 Q. Bear with me, there are thousands of pages here. I
20 have to find yours. Page 1881.

21 Nancy Williams, registered nurse?

22 A. Yes.

23 Q. Did you have contact with Melissa Huckaby?

24 A. Yes, I did.

25 Q. When she was there in the hospital?

26 A. Right.

27 Q. On what dates?

28 A. The 6th, the 7th, and the 8th. April 6th, 7th, and

1 8th.

2 Q. 6th, 7th, and 8th.

3 Because we heard the other day she was in from the 4th
4 through the 9th. So your contact with her was on the 6th,
5 7th, and 8th?

6 A. Right. Right.

7 Q. And did she say anything about a suitcase?

8 A. Yes, she did.

9 Q. What?

10 A. She said that she lost -- or her suitcase was stolen
11 and she reported it to the police.

12 Q. And whom did she say that to?

13 A. Oh, she said that to me.

14 She was looking at her -- she's got the Internet
15 access on her cell phone. So she was showing me the picture
16 of what was found and said it looked like her suitcase. And
17 she said she reported her suitcase missing to the police.

18 Q. Okay. So let's see, we learned the suitcase was found
19 on April 6th. And what date was it that she made this
20 comment?

21 A. On the 6th, on the date that they showed it I guess on
22 the news of finding the suitcase.

23 Q. So does she have access to a television when she's
24 there in the hospital?

25 A. Yes, she does.

26 Q. She also had like a cell phone with her?

27 A. Right. Right. It was a picture.

28 Q. Which had Internet access?

1 A. Uh-huh.

2 Q. Is that a yes?

3 A. Yes.

4 Q. So she was, if I understand you correctly, was she
5 watching TV or was she on the Internet?

6 A. She was on the Internet at the time that she showed me
7 the picture with her cell phone.

8 Q. What picture did she show you?

9 A. Well, it was kind of foggy, but it was the suitcase
10 that they found.

11 Q. Oh, they were showing that on the news?

12 A. Right.

13 Q. So -- and she -- I don't know much about cell phones,
14 I just have this office one -- but you can freeze the photo
15 and you can show it to someone, or do you have to show it to
16 them in real time?

17 A. No, it was frozen, so it was kind of a -- I think it
18 was like a blurry picture. I could just describe it as
19 being a dark suitcase, you know, could be black or -- but
20 she described the brand -- the exact brand.

21 Q. As what?

22 A. As a Eddie Bauer suitcase.

23 Q. But when she showed you this -- I guess this photo
24 that she took on her -- she froze part of the newscast?

25 A. Uh-huh.

26 Q. To use my terminology, she froze a part of the
27 newscast that had apparently the -- the suitcase in it?

28 A. Right.

1 Q. And she shows you this suitcase and says what -- or
2 shows you the photograph of the suitcase and says what?

3 A. She said it looked like the one that she was missing.

4 Q. Okay. What was the context of her making this
5 comment? I mean, were you walking by, treating other
6 patients? Were you there to treat her?

7 A. I was there to treat her.

8 But the thing is she just, you know, brought it up. I
9 mean, I wasn't watching the news at all, so I didn't know
10 what was going on.

11 Q. And how would you characterize her tone of voice or
12 her demeanor as she's --

13 A. She didn't care, you know, this is just, you know,
14 because I personally thought to myself, if it was me, I'd be
15 a little freaky -- freaked out about the situation that it
16 could be my suitcase.

17 But she just said, you know, it's her suitcase.

18 Q. Your voice trailed off. Could you repeat your answer?

19 A. She said that it looked like her suitcase. It looked
20 like her suitcase.

21 Q. And what else did she say about it?

22 A. That's about it.

23 Q. Did she say how she came to miss it or lose it?

24 A. She was -- she was taking it somewhere and she put it
25 out on her porch. She went out to her car, but she realized
26 I guess she forgot her keys. So she went back in her house
27 and was looking for her keys and couldn't find them. So she
28 spent a little bit of time looking for her keys, but she

1 couldn't find them. And then she was looking for another
2 set of keys that she found.

3 Q. So --

4 A. A spare -- spare keys.

5 Q. So at what point did the suitcase turn up missing, if
6 you recall? What did she say about that?

7 A. When she went back out -- I believe when she went back
8 out, you know, it was missing.

9 Q. Oh. Did she say anything about whether she thought
10 she was a suspect?

11 A. Yes, she did.

12 Q. What did she say?

13 A. She mentioned that she was a suspect.

14 And I just basically said, "Everybody is a suspect in
15 your neighborhood." Because there was other suspects, so...

16 Q. So she did she use that word, "I'm a suspect"?

17 A. Yes.

18 Q. So this April -- did she say something more than once
19 to you during this stay she had there in the hospital, about
20 this subject matter? Do you understand my question?

21 A. No.

22 Q. Did she make comments to you about the case or the
23 suitcase on just that one occasion or other occasions during
24 the three days that you had contact with her, if I
25 understood you correctly?

26 A. Just the one day about the suitcase.

27 Q. Did she -- did you have other contact with her during
28 her stay there in the hospital?

1 A. Yes, I did.

2 Q. Did she make any other comments?

3 A. She made comments that she felt guilty about if she
4 would have let Sandra stay.

5 Q. Are you asking me or telling me? I'm not --

6 A. I'm telling you.

7 Q. What did she say?

8 A. She said if she would have let Sandra stay that day,
9 that this would have never happened.

10 Q. If she would have let Sandra stay where?

11 A. At her house.

12 Q. Okay. What else -- did she say anything about Oregon?

13 A. She said her daughter's up in Oregon.

14 Q. Did she say when her daughter left to go to Oregon?

15 A. I don't remember when she said. It was before they
16 found the body.

17 Q. Did she say why her daughter went to Oregon?

18 A. She just mentioned about relatives, but no.

19 Q. Okay. Did she say she wanted to get out of the
20 hospital or wanted to be released from the hospital?

21 A. Yes, she did.

22 Q. What did she say and when?

23 A. She said that the first day I took care of her on the
24 6th, she mentioned just before I was leaving, and I was
25 leaving later than I normally leave, and she said -- she
26 used a specific term that she wanted to leave.

27 Q. She used a specific term?

28 A. Yes. It would be -- if she left at that time, it

1 would be going against medical advice.

2 Q. I'm not following you.

3 A. Because she wanted to --

4 Q. Could you explain it?

5 A. She wanted to leave the hospital.

6 Q. She told you that?

7 A. Right.

8 Q. When?

9 A. She used a certain -- what we use as a hospital term
10 is she wanted to go against medical advice, because at that
11 time, if she would have left the hospital it would be -- she
12 wanted to sign out -- we have a special paper that you can
13 sign saying you want to leave. But she used that term.

14 Q. What's the term?

15 A. The term is -- oh, I forgot it.

16 Q. Release? Release against doctor's advice or something
17 like that?

18 A. I forgot what it is.

19 Q. Well, whatever it is, she wanted to invoke that
20 basically?

21 A. Right.

22 Q. She wanted to get out before the doctors approved her
23 release?

24 A. Right.

25 Q. And that was -- you mean when the -- is this during
26 the same conversation she's showing you the --

27 A. No.

28 Q. -- captured photo on her --

1 A. No.

2 Q. When?

3 A. This is about -- I believe it was like 9:00 o'clock.

4 Q. Same day?

5 A. 8:30, 9:00 o'clock. That same day.

6 Q. Different time?

7 A. Right.

8 Q. And she said she -- did she say why she wanted to
9 leave without --

10 A. No.

11 Q. Let me finish. Did she say why she wanted to leave
12 the hospital before it was medically wise?

13 A. No.

14 Q. Did she end up leaving then?

15 A. No.

16 Oh, I just remembered the word was AMA, against
17 medical advice, AMA.

18 Q. AMA. Okay. So she told you --

19 A. She wanted to go AMA.

20 Q. Did she use that term?

21 A. Yes, she did.

22 Q. She knew it?

23 A. She knew it.

24 Q. Oh, I see. So she actually used it. I thought it was
25 a term you were using.

26 A. No.

27 Q. So first, just to wrap this up, she shows you the
28 phone -- the picture she captured on her phone with the

1 suitcase?

2 A. Right.

3 Q. Please let me finish. I know you're trying to be
4 helpful, but we can't both talk.

5 She showed you the phone that she captured on her cell
6 phone of the suitcase?

7 A. Yes.

8 Q. And she made this comment that she thought it might --
9 it looked like her suitcase?

10 A. (Nods head affirmatively.)

11 Q. Yes or no?

12 A. Yes.

13 Q. Later on that same day, or evening, she wanted to
14 leave the hospital and she said she wanted to go AMA?

15 A. Yes.

16 Q. And what did you say, if anything?

17 A. I didn't say anything.

18 Q. Okay. Did she say why she wanted to leave AMA?

19 A. No.

20 Q. And did she end up leaving AMA on that date?

21 A. No.

22 Q. Okay. How many more days did she stay in?

23 A. She stayed in -- I took care of her three days. So
24 she left the next day, which would be the 9th.

25 Q. The next day, I thought you said this all happened,
26 maybe I misunderstood, you on the 6th.

27 A. I -- yeah, I took care of her on the 6th. But for her
28 leaving the hospital, she didn't leave 'til the 9th.

1 Q. Oh, I see. You took care of her the 6th, the 7th, and
2 the 8th?

3 A. Right.

4 Q. And she left the 9th, is that correct?

5 A. Yes.

6 Q. And when she left the 9th, was that AMA?

7 A. No.

8 Q. Or --

9 A. I wasn't there, but she didn't leave AMA.

10 Q. Okay. She told Nancy she thought the police saw her
11 as a suspect, is that correct?

12 A. Yes.

13 Q. And you replied, "Well, everyone's a suspect"?

14 A. In her neighborhood.

15 Q. You said something like that to her?

16 A. Yeah, something like that.

17 Q. And what, if anything, did she say in response to
18 that?

19 A. I think I said, you know, like there was another
20 person in her neighborhood that was a suspect, but she
21 didn't reply anything after that.

22 Q. Okay. By the way, what's that term you guys use in
23 medicine, flat affect? Do you ever use that term, flat
24 affect, you know, when someone speaks and they have a flat
25 affect?

26 A. Right.

27 Q. Did she have --

28 A. They have -- oh, they have no show of emotions.

1 Q. With that concept in mind, how did she appear compared
2 to that concept of being of flat affect?

3 A. She seemed like that a lot of the times.

4 Q. She seemed like what?

5 A. That to have a flat affect, to not care, to be -- kind
6 of take things nonchalantly. She didn't seem to care.

7 Q. I have no further questions -- oh, I'm sorry. Were
8 you asked to jot down any comments that you might have
9 overheard her make?

10 Did the police come and ask you to jot something down
11 on a questionnaire -- personnel questionnaire?

12 A. At the time?

13 Q. At some later date?

14 A. Not jot down anything.

15 Q. Or did someone come out and interview you?

16 A. Yes.

17 Q. Okay. Did you get -- do you have a copy of that with
18 you?

19 A. Yes.

20 Q. Did you get a chance to review that?

21 A. Yes, I looked it over.

22 Q. Okay. Let me just look at my notes here.

23

24 (Pause.)

25

26 MR. TESTA: All righty. I have no further
27 questions. Are there any questions from the grand jurors?
28 There's some questions they get to ask.

1 Q. Did you speak a lot with her -- this is a question
2 from the grand juror: Did you speak a lot with her? Did
3 you spend a lot of time with her, is the question?

4 A. Just what a nurse would do with her medicine and...

5 Q. Was she your patient for the shift each day?

6 A. Yes, she was.

7 Q. Did she talk to you openly each day? Do you
8 understand that question?

9 A. Openly? Does that mean about the case? She really
10 didn't, you know, carry on too much of a conversation. Like
11 I might stimulate her with a story, but she didn't have a
12 response.

13 Q. Okay. Was the picture of the suitcase that was on her
14 phone, was the suitcase at the water's edge or flat on the
15 ground?

16 A. I really couldn't tell. I didn't see any background
17 to it. It was like a close-up picture of the suitcase.

18 Q. Did the nurse have contact with Melissa during the
19 razor blade incident? Was razor blade actually found?

20 A. Due to the HIPAA, do I get to respond to that?

21 Q. Oh, you feel that's confidential?

22 A. I don't know.

23 Q. Yeah. I don't know what the rules are. You're under
24 oath to tell the truth. The grand jurors are an
25 investigative body. They can ask witnesses questions.

26 Because there was one, someone had said they thought
27 that she might just trying to be staying out of the, you
28 know, making herself unavailable for the police which is why

1 she checked into the hospital.

2 I guess this is a legitimate question. Did she
3 actually swallow a razor blade or was this all some phony
4 show, facade, I think that's probably what's behind this
5 question.

6 Let me ask you this hypothetical question: If someone
7 did swallow a razor blade, can you tell it with an X-ray?

8 I'm not asking about her, I'm saying in general, if I
9 were to take -- get someone's X-rays or subpoena someone's
10 X-rays, could I see if there was a razor blade in there?

11 A. Uh-huh.

12 Q. Yes?

13 A. Yes.

14 Q. Okay. And let me ask you this generally, not about
15 her: Did -- if you did swallow a razor blade, it seems to
16 me as a lay person you're going to really do some damage.
17 Do I misunderstand?

18 Or let me put it this way: How many years as a nurse?

19 A. Seventeen.

20 Q. Ever have anyone -- putting aside Melissa Huckaby,
21 whether she did or did not -- ever have any patient swallow
22 razor blades?

23 A. No.

24 Q. Never? Okay.

25 What would you advise me if I went in there and said,
26 "I just swallowed a razor blade," what is the treatment for
27 it? Not with Melissa again, just general with other
28 patients. What, do I drink something to try to get it out

1 or do I eat something to cushion it, or what would I do?

2 A. You would drink some -- some chemical that would help,
3 like a laxative.

4 Q. But then isn't it -- I don't mean to be gross -- isn't
5 it going to cut the intestines as it passes through your
6 body?

7 A. Depends on what's on it. Like sometimes razor blades
8 have caps or...

9 Q. Oh, like a sheath?

10 A. Like a sheath.

11 Q. Or something, depends upon what I guess.

12 Well, I guess if one swallowed a razor blade, you
13 would have to stay in the hospital for a number of days
14 until you passed it?

15 A. Right.

16 Q. You don't open -- you don't go into the stomach and
17 take it out before it can do more damage? Not with her
18 again, just in general.

19 A. It depends on the placement of it and the doctor's
20 decision.

21 Q. Getting back to Melissa Huckaby, when you did have
22 these conversations about her -- not about her medical
23 treatment, but about her comments she made -- did you --
24 were you able to understand what she said?

25 A. Yes.

26 Q. I mean, she wasn't -- I mean, I'm sure you've had
27 patients who were -- what's the word -- delusional or
28 hallucinating or they are not all there. Was there anything

1 like that with her?

2 A. No.

3 Q. Other than the possible flat affect, otherwise, you
4 could talk to her --

5 A. Yes.

6 Q. -- and communicate?

7 Did she seem like she could understand you okay?

8 A. Oh, yes.

9 MR. TESTA: Any other questions from the
10 grand jury? I see one. You going to pass it?

11 Q. There's a question from one of the grand jurors: If a
12 razor blade was swallowed, that seems to be
13 life-threatening. Could a person even be able to carry on a
14 conversation?

15 Okay. Again, in general, do you know if someone could
16 even carry on a conversation if they had swallowed a razor
17 blade, if you know?

18 A. Oh. No, it depends on where the razor blade was
19 located.

20 Q. Was she ever concerned about the effects of the razor
21 blades? That's a question from the grand jurors.

22 A. She did mention some concern.

23 Q. Because, you know, you said earlier -- the word I
24 think you said was nonchalant, which to me means -- I don't
25 know what you mean by that word. It's like, "Hey, I
26 don't -- it's the expression, "I don't give a damn," or, "I
27 don't care."

28 A. Uh-huh.

1 Q. It seems to me like if I swallowed a razor blade, I
2 would be a nervous wreck. Any moment now, it could cut my
3 stomach or cut something else in me, or cut my throat or
4 wherever it may be.

5 But you're saying she was nonchalant?

6 A. (Nods head affirmatively.)

7 Q. Do I understand that correctly?

8 A. Right.

9 Q. Do you ever get in the Emergency Room people that
10 claim they did things and they didn't?

11 Now, again, not talking about her, just does that
12 happen sometimes in the Emergency Room, people want
13 attention for whatever reason, they come in and say, "I'm
14 suffering from a heart attack, I can't breathe," and it
15 turns out they made the whole thing up?

16 Do you ever have that experience in ER?

17 A. I haven't been working in ER, but I've had experiences
18 where people might say something.

19 Q. Have you ever learned of that Munchausen's syndrome?

20 A. Yes.

21 Q. Which is what?

22 A. Which is it's kind of a make believe that they have
23 something wrong with them.

24 Q. To get like attention?

25 A. Right.

26 Q. All these doctors, you know, touching them, giving
27 them attention, taking their histories, listening to them,
28 they do it for attention.

1 What is Munchausen by proxy? Have you ever heard
2 that?

3 A. I'm not sure.

4 Q. Where their kid gets sick all the time or their kid
5 supposedly gets sick often, the parents makes them sick --

6 A. Right.

7 Q. -- and the parent is the hero for constantly slaving
8 away, devoting themselves to their sick child.

9 Have you ever had any experience with that --

10 A. No.

11 Q. -- Munchausen by proxy?

12 MR. TESTA: Any questions by the grand
13 jurors?

14 These are just hypothetical questions. Don't read too
15 much into them. Questions alone don't mean anything.

16 I see no other questions. The foreperson will read to
17 you an admonition.

18 THE FOREPERSON: You are admonished not to
19 reveal to any person, except as directed by the Court, what
20 questions were asked or what responses were given or any
21 other matters concerning the nature or subject of the grand
22 jury's investigation which you learned during your
23 appearance before the grand jury. This admonishment
24 continues unless and until such time as the transcript of
25 this grand jury proceeding is made public.

26 Violation of this admonishment is punishable as
27 contempt of court.

28 And you might talk to your attorney about the HIPAA --

1 the HIPAA rule. I'm just throwing that in. Because if you
2 have some concerns about that, you might want to talk to
3 somebody about it, your legal counsel.

4 That's it.

5 THE WITNESS: Okay.

6 THE FOREPERSON: Thank you.

7 THE WITNESS: All right. Thanks.

8

9 (Pause.)

10

11 MR. TESTA: Could you tell us what your name
12 is, please.

13 THE WITNESS: Miranda.

14 MR. TESTA: What's your last name?

15 THE WITNESS: Chavez.

16 MR. TESTA: Thank you.

17 And how old are you?

18 THE WITNESS: Eleven.

19 MR. TESTA: You're going to read an oath?

20 THE FOREPERSON: Uh-huh.

21

22 **MIRANDA CHAVEZ,**

23 a witness called on behalf of the People, having been duly
24 and regularly sworn by the Grand Jury Foreperson, testified
25 as follows:

26

27 THE WITNESS: Yes.

28 THE FOREPERSON: Thank you.

EXAMINATION

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BY MR. TESTA: Q. Your mom's in here, too,
with you.

You're eleven, which means you're in what grade?

A. Fifth.

Q. Fifth?

And you know the difference between telling a lie and
telling the truth, right, at eleven?

A. Yes.

Q. Okay. This is going to sound stupid, but if I showed
you this and said this was a piece of paper, would that be
the truth or a lie?

A. A lie.

Q. Okay. If I showed you this and said this is Scotch
Tape, would this be the truth or a lie?

A. The truth.

Q. Okay. Is it good or bad to tell the truth?

A. Good.

Q. Is it good or bad to tell a lie?

A. Bad.

Q. And you're going to tell us the truth today?

A. Yes.

Q. I really don't have a lot of questions for you. I
just wanted to ask you something that I just thought of a
few minutes ago.

You lived -- you're Sandra's sister, right?

A. Yes.

Q. And you lived with her in the mobile home park?

1 A. (Nods head affirmatively.) Yes.

2 Q. What was the number where you guys lived again?

3 A. 63.

4 Q. That's right, 63.

5 Did -- did you -- let me ask it first to you: Did you
6 ever go to this church that's in Number 7 here?

7 A. No.

8 Q. Did Sandra?

9 A. No.

10 Q. Did you have any reason to go to that church?

11 A. No.

12 Q. Did Sandra have any reason to go to that church?

13 A. No.

14 Q. And, by the way, did -- do you recognize what is shown
15 here in Number 50?

16 A. The mobile home park.

17 Q. Oh, okay. Can you tell us where the pool is? Here's
18 a laser. Do you know -- you guys know how to use these,
19 don't you?

20 A. Uh-huh.

21 Q. Probably know better than I do.

22 A. Right there.

23 MR. TESTA: Do you have a photograph of this
24 as opposed to this large blow-up that I have? A small
25 photograph that has more clarity?

26 Q. Do you ever use the pool?

27 A. Yes.

28 Q. Is it -- I mean, do they -- is it a fun place to swim

1 and stuff?

2 A. Uh-huh.

3 Q. And do -- what else do they have there to play around?

4 Any -- do they have a basketball court?

5 A. Yeah, right here.

6 Q. Near the pool?

7 A. Uh-huh.

8 Q. Is that yes?

9 MR. TESTA: Did you find it? Did you find
10 one?

11 THE FOREPERSON: Yes.

12 MR. TESTA: Thank you.

13 Q. Let me show you 65, I think it's easier to see on the
14 photos that we enlarged as opposed to an 8 and a half by 11.
15 There we go. So where is the basketball place?

16 A. Right there.

17 Q. As you look at the pool, it's just above the pool.

18 And where is the parking place for if you don't have
19 room to park in your own place?

20 A. Right there.

21 Q. Overflow parking?

22 A. And here.

23 Q. It shows that there's a red and blue car and white --
24 white?

25 A. There's also one way over there.

26 Q. There's also overflow parking where?

27 A. Right there.

28 Q. Oh, if you look at the photo, up in the upper

1 right-hand corner there?

2 A. And there.

3 Q. And upper left-hand corner, just like for one or two
4 cars?

5 A. Yeah.

6 Q. Or one car? Maybe looks like two spaces.

7 A. That's three spaces.

8 Q. Oh, it's three. In the upper right-hand corner of the
9 photo and upper left-hand corner, I see at least two cars.

10 So then what about also here? Is this overflow
11 parking?

12 A. Yes.

13 Q. Overflow parking?

14 A. And there.

15 Q. Oh, all around the clubhouse on all sides just about
16 except for the top?

17 A. Yeah.

18 Q. Okay. And what was -- would Sandra ever go outside of
19 this trailer park without telling your mom?

20 A. No.

21 Q. And you're -- you knew her and you knew that to be her
22 way of doing things?

23 A. (Nods head affirmatively.)

24 Q. Is that a yes or a no?

25 A. Yes.

26 Q. Would you ever go outside without telling your mom?

27 A. No.

28 Q. Let me just look at my notes here, see if I have any

1 other questions for you.

2 Oh, you know, after Sandra was missing, oh, did you
3 help look for her with your mom?

4 A. (Shakes head negatively.) No. I wasn't home.

5 Q. Okay. Did you end up later on sleeping over at
6 Melissa Huckaby's house?

7 A. Yes.

8 Q. What was that all about?

9 A. She just wanted to know if I can stay the night with
10 Madison.

11 Q. Had you ever spent the night with her before?

12 A. No.

13 Q. Was that the first time?

14 A. Yes.

15 Q. Did you think it was weird that she was asking you to
16 come over, sleep over there?

17 A. Yes.

18 Q. When you slept over there, who was there?

19 A. Melissa's grandparents, Melissa, and Madison.

20 Q. Where did you end up sleeping?

21 A. In the living room.

22 Q. Like on a couch or a bed or something, or what?

23 A. A couch that can pull out into a bed.

24 Q. And when was this -- there's a calendar on the wall.
25 I don't know if you remember. But see, the 27th is circled.
26 That's the day Sandra went missing.

27 What day, if you remember, don't guess, but if you
28 remember, what date was it that you ended up sleeping over

1 there at Melissa Huckaby's house? If you know?

2 A. I think it was on the 29th.

3 Q. Are you pretty good in school, aren't you?

4 A. Yes.

5 Q. You seem like you're very sharp. Do you read a lot?

6 A. Yes.

7 Q. Nancy Drew?

8 A. No.

9 Q. Comics?

10 A. Yeah.

11 Q. Okay. On the 29th, what did Melissa say? Did Melissa
12 give you a reason -- Melissa Huckaby tell you why she wanted
13 you for the first time -- are you sure it was the first
14 time, because someone else said they thought you might have
15 slept there before.

16 A. No.

17 Q. You're pretty sure that was the first time?

18 A. Yes.

19 Q. And what did you end up doing over there?

20 A. Just watching TV, playing with Madison.

21 Q. And then you spent the whole night?

22 A. Yes.

23 Q. And -- and was Melissa Huckaby there?

24 A. Half the time, because she said that she -- her
25 stomach was hurting, so she went to the hospital.

26 Q. Oh, she said her stomach was hurting?

27 A. (Nods head affirmatively.)

28 Q. Is that a yes?

1 A. Yes.

2 Q. The night you stayed over -- oh, wait a minute, did
3 she ask you to stay over to watch Madison or for some other
4 reason, or did she say -- did Melissa say why she wanted you
5 to stay over?

6 A. No.

7 Q. And she while you were there, she told you her stomach
8 was hurting and she had to go to the hospital?

9 A. Yes.

10 Q. Did she go to the hospital?

11 A. Yes. Well, I'm not sure because she was gone all
12 night, and all day the next day, and for a few nights --
13 like days after that.

14 Q. Oh, okay. Did she say what caused her stomach not to
15 hurt -- or her stomach to hurt, what caused it?

16 A. No.

17 Q. Did she say she ate something or swallowed something
18 or drank anything?

19 A. No.

20 Q. By the way, when you were over there, did you have
21 anything to eat or drink?

22 A. Yes. I had In-n-Out Burger. And in the morning, we
23 had cereal.

24 Q. Was Melissa there in the morning?

25 A. No.

26 Q. So she -- when did she leave?

27 A. Late at night, about around 12:00 o'clock.

28 Q. Like midnight?

1 A. Uh-huh.

2 Q. Okay. You're still up at midnight?

3 A. Yeah. Yes.

4 Q. Eleven-year-old, you're still up at midnight?

5 A. (Nods head affirmatively.)

6 Q. Was it a weekend or a school day or --

7 A. Weekend.

8 Q. It was a weekend.

9 So she said -- she had you come over. And did you
10 ever ask Melissa, "Why are you asking me to come over?"

11 A. No.

12 Q. Did you think it was strange or weird, or what -- let
13 me ask it this way: What do you think about the whole
14 situation, here, your sister is still missing, right?
15 Sandra is missing?

16 A. Yes.

17 Q. And she asks you to come over to her house. What was
18 going on in your mind, if anything? What can you tell us?

19 A. I guess she probably thought Madison was feeling a
20 little lonely that Sandra's gone, so she probably wanted me
21 to come play with Madison.

22 Q. Okay. Did she say this, or is this just your
23 thinking? Is this your opinion or --

24 A. Yeah, it's my opinion.

25 Q. -- or did Melissa say -- okay.

26 Did she make any comments to you about -- I mean, did
27 you guys talk about Sandra missing when you were over there?

28 A. Only -- well, she only asked me one question. And --

1 if they found any evidence yet. And I told her no.

2 Q. How -- she asked if they found any what?

3 A. Evidence, about like what happened, or...

4 Q. Do you think that's why she was asking you to come
5 over, to get some information out of you, what they know,
6 what they don't know?

7 A. I don't know.

8 Q. All right, Miranda, I don't have any more questions
9 for you. Let me see if any of the grand jurors have a
10 question. They get to ask questions. Can I see what they
11 have here? Can I open it up?

12 A. Yes. You dropped one right there.

13 Q. Oh, thank you. I know you're pretty sharp there.

14 Here's a question from one of the jurors: When you
15 played at Huckaby's house -- I guess this is the night that
16 you slept over, I think that's what this means -- when you
17 played at Huckaby's house, how did everyone act?

18 Did they act any strange -- did they act strange?
19 What was their demeanor? What was their tone of voice?
20 What was -- how did they act?

21 A. They act normally. That's what I thought. Because
22 they didn't act strange or like they did something.

23 Q. Okay. And what about other times when you would go
24 over there to play, how did they act when you played over
25 there?

26 A. They acted pretty calm.

27 Q. Here's another question: On the day that Sandra went
28 missing, did Melissa ask you to go over and watch Madison?

1 A. Yes. Because she asked me to watch Madison because
2 she had -- she said she had to go do something at the
3 church.

4 Q. Oh, I see. Okay. Where was Sandra? When you -- did
5 you -- when you were there?

6 A. I don't know.

7 Q. Did she say what she had to do at the church?

8 A. No.

9 Q. Did you see any suitcases that day?

10 A. Yes. I saw her taking some suitcases out to her car
11 when she said that she had to go do something at the church.

12 Q. What did the suitcases look like?

13 A. Like about pretty big suitcases, like that
14 (indicating).

15 Q. You are putting your arms --

16 A. I saw a green suitcase that she carried that was
17 pretty big.

18 Q. Green?

19 A. Yeah.

20 Q. And you say --

21 A. I saw a couple pink and black ones.

22 Q. How many suitcases did you see, would you say?

23 A. About maybe three or four.

24 Q. Okay. Just for the record, you put your hands apart,
25 say one of them was about -- do that again.

26 A. This big (indicating).

27 Q. Four feet? Estimate?

28 GRAND JUROR 14: Three.

1 MR. TESTA: Three?

2 Q. Okay. You're indicating to the jurors three feet
3 approximately.

4 Did you see where she got these suitcases from?

5 A. From her living room.

6 Q. Did you see where she took these suitcases?

7 A. Out to her car that was parked in front.

8 Q. In front of where?

9 A. Her house. The house.

10 Q. Can you show us on Number 51 where her car was parked?

11 A. Her car was parked right in front right there.

12 Q. You're indicating on this exhibit right in front of
13 57?

14 A. Yes.

15 Q. On Cherry?

16 A. Yes.

17 Q. You could tell this from being -- were you inside the
18 house?

19 A. (Nods head affirmatively.) Yes.

20 Q. Inside 57?

21 A. (Nods head affirmatively.) Yes.

22 Q. Did you see her put the suitcases -- did you see what
23 she did with the suitcases?

24 A. She just carried them out to the trunk of her car and
25 then she took off.

26 Q. Did you see her take off?

27 A. Yes. She asked me to watch Madison for her. She told
28 me she'll be back later.

1 Q. Well, when she took off, did you see any suitcases
2 left there on the -- on the street?

3 A. No.

4 Q. So there wasn't any suitcase that she left behind?

5 A. (Shakes head negatively.)

6 Q. Do you understand what I mean by that question? You
7 see her drive off?

8 A. Yes.

9 Q. And when you saw her drive off -- well, did you see
10 her -- let me ask you, were you inside the house and on the
11 outside, going back and forth?

12 A. Yes.

13 Q. Don't just agree with me. What were you doing inside
14 the house?

15 A. Watching Madison.

16 Q. Okay.

17 A. She was just sitting down watching TV.

18 Q. Okay. So if you're doing that, how would you be able
19 to see what's going on outside the house?

20 A. Well, I was like standing right next to the doorway,
21 watching Madison, seeing what Melissa was doing.

22 Q. Okay. Could you see every single thing she did, or
23 were you watching Madison part of the time, or you tell us?

24 A. I was just standing there, you know, watching Madison
25 for about a minute, then I look, she just carried another
26 suitcase out. She said that she used to do party planning.

27 Q. Well, let me put it this way: Do you know -- what
28 percentage of the time would you say, of your time, were you

1 able to see what Melissa was doing and what percentage of
2 the time were you spending with Madison?

3 A. About, mmm.

4 Q. Do you understand that question when I say
5 percentages?

6 A. Not really.

7 Q. Were you -- you know, there's one -- don't just agree
8 with me -- you could say, "I'm spending 50 percent of my
9 time looking at Madison, 50 percent looking at Melissa," or,
10 "I'm spending 70 percent of my time looking at Madison, 30
11 percent at Melissa," or 90/10, whatever percentage it is,
12 what fraction, what part of the time were you spending with
13 Madison, what part of the time were you looking at Melissa?

14 A. I was spending about most of the time watching
15 Madison.

16 Q. All right.

17 A. Because she's only five, I think.

18 Q. Okay.

19 A. About five or six.

20 Q. But did you actually see her -- Melissa drive off? Or
21 were you -- or at that very moment did you see her drive off
22 or were you doing something else?

23 A. I just saw her get into the driver's seat and then I
24 just walked off and went by Madison and watched her.

25 Q. Okay. So when you saw her get in the driver's seat,
26 you went off and watched Madison?

27 A. Yeah. Yes.

28 Q. Then did you ever come back out and see that Melissa

1 Huckaby's car was gone?

2 A. No.

3 Q. So how do you know she even left?

4 A. Well, just seeing her getting into the driver's seat
5 told me probably, you know -- let me know that, well, she's
6 about to leave.

7 Q. She's about to leave?

8 A. So I better go watch Madison, make sure she doesn't
9 get into anything.

10 Q. Well, did you ever come back out and see that she had
11 left?

12 A. Well, I did look out the window on this side, not in
13 front.

14 Q. Right.

15 A. And I could kinda see the front, and I didn't see the
16 front of the car.

17 Q. So you assumed she had left?

18 A. Yeah. Yes.

19 Q. Well, I guess, did you ever go back out there and see
20 if there was a suitcase laying there on the sidewalk that
21 she forgot?

22 A. No.

23 Q. You never went back out?

24 A. No.

25 Q. Okay. I thought you had said something differently
26 earlier. Maybe I misunderstood.

27 When was the last time that you saw Sandra -- here's
28 another question from the grand jurors: When was the last

1 time that you saw Sandra?

2 A. I think when she came -- yeah, when she came home from
3 school, asked to play at Leslie's.

4 Q. Who is -- where is Leslie's?

5 A. Right there.

6 Q. Oh, number 9?

7 A. Yes.

8 Q. You're indicating on 51.

9 Okay. When you went to stay over -- another question
10 from the grand jurors -- I didn't think we would have all
11 these questions for you, bear with me, we are almost done.

12 When you went to stay overnight with Madison on
13 Saturday, March 28th, says here in this note, I'm not sure
14 you said that, did anyone there at Melissa's house talk
15 about Sandra and the last time they saw her?

16 A. No. But before we ate dinner, they prayed for her
17 hoping that they would find her.

18 Q. Who is "they"?

19 A. Melissa's grandmother, Connie, and me and Madison.

20 Q. The three of you?

21 A. Yeah. I was just going like that (indicating), not
22 saying anything. Madison and Connie were saying the prayer.

23 Q. Well, this question is -- another question, it says:
24 Did you play with Madison on March 27th? I think you've
25 answered that. You did?

26 A. Yes.

27 Q. Where? I think you answered that. Why don't you
28 answer it again. Where did you play with Madison on the

1 27th?

2 A. Inside the house.

3 Q. Inside the house?

4 A. Yes.

5 Q. Inside the mobile home there?

6 A. (Nods head affirmatively.)

7 Q. And the third question, it says: Who else was at
8 Madison's house at that time?

9 A. Just me, Madison, her -- Connie and Lane.

10 Q. And that's it?

11 A. Yeah. Yes.

12 MR. TESTA: Any other questions from the
13 grand jurors?

14 Q. Boy you've got a lot here, Miranda. Are you getting
15 tired?

16 A. Huh-uh.

17 Q. A little bit?

18 A. No.

19 Q. Look at this. Okay. Did you see a suitcase like the
20 one that's on the floor in the room? Did you see a suitcase
21 like this?

22 A. No. No.

23 Q. Okay. Next question: You said you saw three -- at
24 least -- excuse me, three suitcases or did I misunderstand
25 you?

26 A. About three or four.

27 Q. And did you know if there were any others that she had
28 there in the trunk?

1 A. No.

2 Q. Or in the car?

3 A. No.

4 Q. When Melissa was taking the suitcase to the car, did
5 she act like they were heavy?

6 A. Yes. She said that they were heavy because it was a
7 bunch of party planning stuff that she's going to go get rid
8 of.

9 Q. Oh, so she had this stuff already in the suitcases?

10 A. Yes.

11 Q. And she's taking from the home to the car and then to
12 the church?

13 A. Yes.

14 Q. And she said that it was party planning stuff?

15 A. Yes.

16 Q. Did it seem like it was hard for her to pick them up,
17 the suitcases?

18 A. Yes.

19 Q. Burdensome?

20 A. Yes, she said they were pretty heavy.

21 Q. Did she use --

22 A. Because I asked her if I could help her. She said,
23 "No, they might be too heavy for you."

24 Q. Oh, you offered to help and she said no?

25 A. Yes.

26 Q. Did any of them have wheels on them?

27 A. I'm not sure.

28 Q. Did the grandparents or Melissa make sure you were

1 okay?

2 A. Yes.

3 Q. Did Melissa -- who was it that made sure you were
4 okay? We are talking about now after the -- the 27th and
5 beyond.

6 A. All of -- all three of them were asking if I was okay,
7 how was the family doing.

8 Q. Did she -- did Melissa ever come back into the house
9 looking for her keys?

10 That day we're talking now about the 27th when she has
11 the suitcases and you're watching Madison. Also
12 occasionally looking at Melissa. Did Melissa, before she
13 took off, ever come back in the house looking for her keys?

14 A. I -- I don't remember.

15 Q. What time did she leave?

16 A. I wasn't -- I don't wear a watch.

17 Q. What direction --

18 A. I'm not sure.

19 Q. Pardon me for talking over you. What direction was
20 she headed?

21 A. This direction, she went -- I think she went around
22 that way.

23 Q. You're indicating she went --

24 A. Because the --

25 Q. She went on Orange and then you went north on Apricot?
26 She went west on Orange. She turned right, she went up, she
27 turned right, are you saying, and then --

28 A. Yes.

1 Q. -- she went down Apricot?

2 A. Yes.

3 Q. Did you actually see her leave?

4 A. Yes.

5 Q. Was there ever any time when Madison acted strange, or
6 not herself?

7 A. No.

8 Q. Did Melissa act nice to her daughter when you were
9 there? Do you understand that question?

10 A. Yes. But whenever she would kind of roughhouse with
11 me, you know, because we both liked to roughhouse, she would
12 kind of yell at her and -- and, you know, she wasn't being
13 so nice as she usually does.

14 Q. Melissa would kind of yell at Madison are you
15 referring to?

16 A. Yes.

17 Q. How did -- did you ever see Melissa -- how Melissa
18 acted towards Sandra?

19 A. No.

20 Q. Did you go to play at Melissa's house any other time?

21 A. Yes.

22 Q. These are all questions from the grand jury.

23 Did Miranda tell Melissa that Sandra was with a new
24 friend, this person over in number 9 that you mentioned --
25 what was her name again?

26 A. Cassandra and Leslie.

27 Q. Did they newly move into that place? Did they move
28 there --

1 A. Yes.

2 Q. -- like a week or something, or do you know?

3 A. The day Sandra went missing was about a week that they
4 moved in.

5 Q. Okay. Were those considered new friends?

6 A. Yes.

7 Q. Did you ever tell Melissa that Sandra was with a new
8 friend?

9 A. Yes.

10 Q. Is that who you were referring to, the person in 9?
11 Do I understand you? Am I confusing you?

12 A. Yeah.

13 Q. Did Sandra go over to number 9?

14 A. Yes.

15 Q. And they -- they had just been there for about a week?

16 A. Yes.

17 Q. Okay. What time -- I think these I already asked.

18 MR. TESTA: I see no other questions. Are
19 there any others?

20 I see none. So they will read you an admonition, then
21 you can get on your way.

22 THE FOREPERSON: You should not discuss
23 anything about this matter with anyone unless your mother or
24 father tells you it's all right.

25 All right?

26 MR. TESTA: Thank you very much.

27 THE WITNESS: I'm sorry, I can't hear you.

28 THE FOREPERSON: Oh. You should not discuss

1 anything about this matter with anyone unless your mother or
2 father tells you it's okay.

3 THE WITNESS: Okay.

4 THE FOREPERSON: Do you understand?

5 THE WITNESS: Yes.

6 THE FOREPERSON: Okay. Thank you.

7 MR. TESTA: You can leave. Thank you very
8 much for coming in.

9

10 (Pause.)

11

12 MR. TESTA: You can go left there near the
13 microphone, and I'll get that smaller chair out of there.

14

15 **EXAMINATION**

16 BY MR. TESTA: Q. You tell us your name,
17 sir?

18 A. Jose Chavez.

19 Q. Could you spell your name?

20 A. Jose, J-O-S-E, Chavez, C-H-A-V-E-Z.

21 Q. Where did you live on March 27th, 2009?

22 A. 812 West Clover Road, space number 63, Tracy,
23 California.

24 Q. How long had you lived there?

25 A. Approximately seventeen years.

26 THE FOREPERSON: Can I swear him in?

27 MR. TESTA: Oh, I'm sorry. Go ahead. Pardon
28 me. Thank you for catching that.

1 THE FOREPERSON: Could you raise your right
2 hand, please?

3
4 **JOSE CHAVEZ,**

5 a witness called on behalf of the People, having been duly
6 and regularly sworn by the Grand Jury Foreperson, testified
7 as follows:

8
9 THE WITNESS: I do.

10 THE FOREPERSON: Thank you.

11 BY MR. TESTA: Do you recognize what is shown
12 in Exhibit 62? Excuse me, Exhibit -- yes, it is 62.

13 A. Yes. That's my place. That's my residence.

14 Q. There's a laser pointer there. Did you have a video
15 surveillance camera?

16 A. Yes, I did.

17 Q. Does it show in this particular photograph?

18 A. Right there.

19 Q. You're indicating to the upper right over the most
20 right part of the house, basically it's up here at the top?

21 A. No, no. That's the -- that's my spotlight that I have
22 for the flag that I don't have up there today. See, I had a
23 flag. Yeah, that right there is where I had my flag. And
24 then the spotlight is up there shining on the flag at night.
25 And then that's my camera.

26 Q. As you look at the photo of the upper right.

27 And why did you have the camera there?

28 A. I had some tires vandalized a couple times.

- 1 Q. Recently?
- 2 A. Yeah.
- 3 Q. How many cameras did you have up at your place?
- 4 A. I have four altogether.
- 5 Q. By the -- where?
- 6 A. Two in the drive, one here, and one in the far -- far
- 7 back, in the back yard.
- 8 Q. Showing you Exhibit 59, do you recognize what is shown
- 9 here?
- 10 A. Yes.
- 11 Q. What?
- 12 A. My car. I guess this is my son's car. And there's a
- 13 camera way back here. And another camera right here. And
- 14 the other camera's on the far corner.
- 15 Q. And what about 54, what is shown here?
- 16 A. That's --
- 17 Q. Same front porch?
- 18 A. My front porch with the camera.
- 19 Q. And what about 56?
- 20 A. This is my back gate -- or my front gate. My back
- 21 porch. My back door. And the camera is located right back
- 22 here somewhere.
- 23 Q. One of the other cameras?
- 24 A. Yeah.
- 25 Q. And then, lastly, 58?
- 26 A. Yeah, this -- my shed. One camera here and there's
- 27 another one up in this area. My car.
- 28 Q. Okay. So did you end up getting the -- the day that

1 Sandra went missing, did you have any contact with her on
2 that date?

3 A. Yes, I did. I drove her to school, dropped her off.

4 Q. In the morning?

5 A. In the morning, yes, sir.

6 And then went, did some household chores, and then
7 went back at 1:30 to pick her up. That's a little early,
8 but there's always a long line to pick up the kids. So I
9 picked her up at 2:30, went home, dropped her off, and then
10 I went off to work.

11 Q. What kind of work do you do?

12 A. I am night manager at Snow Leather Cleaners here in
13 town.

14 Q. When you picked her up from school and drove her home,
15 what did you guys talk about, if anything?

16 A. I asked her if she had a pleasant day at school.

17 Q. Was she in a good -- pardon me, go ahead, finish your
18 answer.

19 A. She was just -- that, you know, she had a good day.

20 Q. How -- how would you describe her disposition? How
21 was she acting, her demeanor?

22 A. She was happy. She was happy little girl. I don't
23 know, just happy.

24 Q. Okay. And then when did you get involved in looking
25 for her?

26 A. When I came home approximately quarter to 7:00, 6:30.

27 Q. From work?

28 A. Yeah, from work. She hadn't been home. I guess Tommy

1 and Maria had gone out to look for her. I said, "She's been
2 gone this long, you better call the police."

3 Q. Was it your idea to call the police?

4 A. I think everybody had the same idea, but it's just --
5 I guess I initiated the call, to get things rolling.

6 Q. Oh, okay. All righty. And then did someone ask you
7 at some point -- these surveillance cameras that you have,
8 did you end up -- do they -- are they motion activated or do
9 they pick up everything?

10 A. Yeah, I didn't have it on a motion, I had it on
11 continuous.

12 Q. Continuous, that's the word I'm looking for.

13 So they were continuous. So did you ever look at
14 those to see if there was anything on there that might shed
15 some light on to where she was or what happened to her?

16 A. The police, their tech unit came in and took over my
17 machine and --

18 Q. Yeah, I think we heard the very first day from -- who
19 was it? Fred Kelley I think, guy from the Tracy Police
20 Department.

21 A. Yeah.

22 Q. And did you yourself look at any of the tapes?

23 A. Yeah.

24 Q. Did -- was she on any of these other cameras, other
25 than the one in the front?

26 A. No, just that one.

27 Q. Just that one. Okay.

28 But you did look at all the other cameras to see if

1 there was anything on those two?

2 A. Yeah. They wouldn't go in the back yard because
3 there's nothing there for them. And they might go into the
4 carport to get their bikes and their scooters and that kind
5 of stuff.

6 Q. You didn't see anything there that shed any light on
7 anything?

8 A. No.

9 Q. All righty. Look at my notes here.

10 No, I have no further questions.

11 MR. TESTA: Are there any questions from the
12 jurors? I think I can see at least one.

13 Q. By the way, the incident you had with the slitting of
14 the tires, what was that all about, in a nutshell?

15 Who was it and did that resolve itself or what's that?

16 A. Oh, that's all resolved. I -- I relocated a lady's
17 cat.

18 Q. Well, how did you do that?

19 A. I caught it and I took it to Stockton.

20 Q. And did that cause some consternation on someone's
21 part?

22 A. Yeah, well, the lady across -- the girl that owned the
23 cat asked me if I had gotten rid of her cat. And I go,
24 "Yeah, I did."

25 Q. Why did you do that, by the way?

26 A. Well, because this unit that we are living in has a
27 policy of cats indoors and dogs on a leash.

28 Well, this lady just, you know, constantly let her cat

1 out and going in my back yard, you know, leaving its trail
2 of mess.

3 Q. Had you warned her?

4 A. Oh, yeah. They know this, the management at the park,
5 that's one of their rulings: Cats indoors and dogs on a
6 leash.

7 Q. So, anyway, when you took her cat, you let it out
8 somewhere else, is that what you ended up doing?

9 A. Yeah.

10 Q. That caused her to be unhappy?

11 A. Yeah.

12 Q. Did you ever see her slit your tires or you suspected
13 her?

14 A. No, no, I never seen anybody. That's when I put the
15 things up to protect myself and perhaps other people --

16 Q. Okay.

17 A. -- you know.

18 Q. And the person that we are talking about, are they in
19 the trailer park? I guess they were.

20 A. Yeah. Yeah. The lady doesn't live there that -- that
21 owns the cat. It's her grandmother that lives -- where am I
22 at? She lives right here.

23 Q. 55. Okay. What age group are we talking about? What
24 age is this person that you had the beef with or she had the
25 beef with you?

26 A. I guess she's in her twenties.

27 Q. Okay. Here's a question: Do you know what night it
28 was that Miranda was at Melissa Huckaby's home?

1 A. No.

2 Q. Do you know --

3 A. I would say she was there -- she only lived right down
4 the street.

5 Q. But, apparently, there was this one possible -- one
6 night that she slept over there.

7 A. Yeah.

8 Q. And were you aware of what night that was?

9 A. No, I wasn't.

10 Q. Do you know -- here's another question from the grand
11 juror: Do you know of any physical abuse of Miranda?

12 A. No.

13 Q. Miranda. It's of Miranda.

14 MR. TESTA: All righty. Are there any other
15 questions? Okay. Hold on.

16 Q. Did you get involved in looking for Sandra?

17 A. The police wouldn't allow us to do that.

18 Q. Oh, because they took over the investigation?

19 A. When they came on that night, they said, "Everybody
20 stay put. We don't want anybody going out." For obvious
21 reasons, if we were unhappy with anybody refusing to let us
22 in, or in their back yards, we would probably -- it was
23 protecting us in the sense that we would get violent or
24 something. "Why wouldn't you let me in your yard," or
25 something like that. So...

26 Q. I didn't know that was a policy.

27 A. Actually, that was their response to us when we wanted
28 to help.

1 Q. Thank you.

2 When the bloodhounds got Sandra's scents -- picked up
3 her scent, one went towards the church. Had Sandra ever
4 walked that way for any reason?

5 A. She may have walked that way with my daughter, taking
6 them to school, you know, when they --

7 Q. Yeah, we talked about the school. But she didn't go
8 to the church?

9 A. No. No.

10 Q. Okay. We talked -- we already heard about the route
11 they take to school.

12 Did I cut you off, were you finishing your answer?

13 A. No.

14 MR. TESTA: Are there any other questions? I
15 see none.

16 The foreperson can read the admonition.

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

25 Violation of this admonishment is punishable as
26 contempt of court.

27 This does not prevent you from discussing the matter
28 with your attorney, if you have an attorney advising you

1 with respect to your appearance before the grand jury.

2 Do you understand?

3 THE WITNESS: Yes.

4 THE FOREPERSON: Thank you. You can leave.

5 MR. TESTA: You can leave. Thank you, sir.

6

7 (Pause.)

8

9 MR. TESTA: If you can have a seat in that
10 green chair by the microphone, please.

11 What is your name?

12 THE WITNESS: Sergeant Luis Mejia, Tracy PD.

13 MR. TESTA: Have a seat.

14 Could you spell your name, please?

15 THE WITNESS: Yes. L-U-I-S M-E-J-I-A.

16 THE FOREPERSON: Could you raise your right
17 hand, please.

18

19 **LUIS MEJIA,**

20 a witness called on behalf of the People, having been duly
21 and regularly sworn by the Grand Jury Foreperson, testified
22 as follows:

23

24 THE WITNESS: I do.

25 THE FOREPERSON: Thank you.

26

27 **EXAMINATION**

28 BY MR. TESTA: Q. Well, sir, I really can't

1 put you on now, because -- I will do something out of order.
2 I had you -- the witness that was supposed to be here this
3 morning, Maria Diaz, couldn't be here this morning. She's
4 going to come in tomorrow. I had you come in to tell us
5 what Maria Diaz said because she didn't remember something.

6 A. Okay.

7 Q. Rather than have you come back, I'll have you say what
8 she said, and then we are going to have to strike it if
9 there is no inconsistencies. I don't like doing it this
10 way. But it just -- apparently, she needs an interpreter.

11 A. Yes, sir.

12 Q. Do you speak Spanish?

13 A. I do. I'm fluent in Spanish.

14 Q. Oh, fantastic. Did you speak in Spanish to Maria --
15 to Maria Diaz?

16 A. I spoke to Maria Diaz and her daughter, Cassandra
17 Diaz.

18 Q. On what date?

19 A. That would be on March 27th --

20 Q. Where?

21 A. -- 2009.

22 Q. Pardon me.

23 A. In front of space number 9.

24 Q. Okay. Because we have already heard from other
25 witnesses how Sandra -- well, let me ask you this: Why did
26 you go speak to Maria Diaz?

27 A. I was the sergeant in charge of the patrol team at the
28 time that the call for the missing Sandra Cantu came out.

1 So as a patrol supervisor, I went out to the scene to see
2 what was going on.

3 Q. And what did you do?

4 A. When I got there, I had met with Officer Gilstrap and
5 I told him to take the initial report.

6 And what I do when we have missing children cases, I
7 like to go out there and -- and see what facts we have, what
8 the circumstances are.

9 Q. Go ahead.

10 A. And the last person to -- that at the time that we
11 knew had seen Sandra Cantu was her friend at space number 9.
12 So I personally went out there to speak with them, see if I
13 could get any further details other than what we had at the
14 time.

15 Q. Okay. So you went out to the people in number 9 on
16 March 27th at about what time, approximately?

17 A. Approximately -- the call came in at 7:53. We got
18 dispatched at 7:54. By the time I got there, approximately
19 ten minutes -- ten, fifteen minutes later. I would say
20 about 8:15, 8:20.

21 Q. As I say, she's coming in tomorrow.

22 In a nutshell, you spoke to Maria Diaz and her
23 daughter, a five-year-old by the name of Cassandra Diaz?

24 A. Yes, sir.

25 Q. And what did you learn?

26 A. Well, they told me --

27 Q. What did -- who said what?

28 A. Well, I spoke to Maria Diaz. She spoke in Spanish. I

1 got what she told me, and this was confirmed by her
2 daughter's broken English. Basically what they both said,
3 it was very brief, they said Sandra Cantu was there earlier
4 that day at about 3:00 o'clock. At approximately 3:30,
5 Sandra Cantu left space 9 on foot, and told them she was
6 going to go home. She was going to do homework.

7 Q. "I'm gonna go home, I have to do homework," something
8 to that effect?

9 A. Yes, sir.

10 Q. In fact, you -- okay. Did you learn anything else?

11 A. That was all they told me. They had no further
12 details to add.

13 And that was consistent with what Maria Chavez had
14 told us earlier, that that was the last place that Sandra
15 had been at.

16 Q. Okay. That was confirmed by the surveillance video,
17 showing she came home at 3:32, is that your understanding?

18 A. That's my understanding, sir, yes.

19 Q. So is that it? In terms of your contact with Maria
20 Diaz and Cassandra Diaz?

21 A. That was it. I was working against the clock, so I --
22 I got that information. They had nothing else to add, so I
23 moved on.

24 Q. Again, I would be moving to strike this if there are
25 no inconsistencies between what we hear now and tomorrow
26 when the witness -- normally, you don't just call an officer
27 to state what someone else said unless there is a specific
28 reason.

1 How long have you been with the Tracy Police
2 Department?

3 A. I have been with the Tracy Police Department since May
4 of 2003. And prior to that, I was a police officer with
5 Modesto Police Department since January of 2001.

6 Q. So how long have you been a peace officer altogether?

7 A. For altogether, for a little bit over eight years.

8 Q. All right. Thank you, sir. I have no further
9 questions.

10 MR. TESTA: Let me see, do any of grand
11 jurors have questions? I see none.

12 You can read the admonition.

13 THE FOREPERSON: You are admonished not to
14 reveal to any person, except as directed by the Court, what
15 questions were asked or what responses were given or any
16 other subject -- any -- excuse me -- any other matters
17 concerning the nature or subject of the grand jury's
18 investigation which you learned during your appearance
19 before the grand jury. This admonishment continues unless
20 and until such time as the transcript of this grand jury
21 proceeding is made public.

22 Violation of this admonishment is punishable as
23 contempt of court.

24 Do you understand?

25 THE WITNESS: I understand.

26 THE FOREPERSON: Thank you.

27 THE WITNESS: Thank you.

28 MR. TESTA: Oh, I have a quick one. Okay.

1 (Pause.)

2

3 MR. TESTA: Have a seat in the chair near the
4 microphone, please.

5 Could you tell us your name?

6 THE WITNESS: Octavio Lopez.

7 MR. TESTA: Could you spell your full name,
8 please?

9 THE WITNESS: First name O-C-T-A-V-I-O. Last
10 name Lopez, L-O-P-E-Z.

11 MR. TESTA: The foreperson will read you your
12 oath.

13 THE FOREPERSON: Can you raise your right
14 hand, please?

15

16 **OCTAVIO LOPEZ,**

17 a witness called on behalf of the People, having been duly
18 and regularly sworn by the Grand Jury Foreperson, testified
19 as follows:

20

21 THE WITNESS: Yes, I do.

22 THE FOREPERSON: Thank you.

23

24 **EXAMINATION**

25 BY MR. TESTA: Q. Where are you employed?

26 A. I'm employed with City of Tracy for the Police
27 Department.

28 Q. What is your position there?

1 A. I'm currently assigned to investigate crimes against
2 children, homicides, robberies, that sort, in the Detective
3 Bureau.

4 Q. How long have you been employed by the Tracy Police
5 Department?

6 A. About six years.

7 Q. How long have you been a peace officer altogether?

8 A. About five and a half -- a little over that.

9 Q. I have just a few quick points for you.
10 Miranda Chavez, did you speak with her?

11 A. I did, sir.

12 Q. When?

13 A. On the 20th of April.

14 Q. For what purpose did you interview her?

15 A. There was a -- a prescheduled forensic interview at
16 the Children's Advocacy Center that I had coordinated.

17 Q. So I'm looking to see if there are any inconsistencies
18 here.

19 When you spoke to Miranda Chavez -- oh, by the way,
20 did you tape record or record this interview?

21 A. The interview was recorded. But I did not speak to
22 her directly, sir. I just monitored the interview. It was
23 done by a forensic interviewer. Her name is Wanda Rueb. I
24 just simply was there to monitor and ask any follow-up
25 questions, if necessary, so...

26 Q. Oh, they were doing a CAC exam?

27 A. That's correct, sir.

28 Q. What does CAC stand for?

1 A. CAC is the Children's Advocacy Center. They
2 specialize in forensic interviews of children or people with
3 disabilities, underage children. And it's a children's
4 center where we conduct interviews.

5 Q. They do an exam to kind of find out was this person
6 molested or has this person been abused, or something going
7 on in their house?

8 A. Commonly, yes, sir.

9 Q. Commonly, as well as any other problems, they have
10 qualified training people to talk to them, get them to open
11 up?

12 A. That's correct, sir.

13 Q. They use anatomically correct dolls, too?

14 A. They use anatomically -- they use drawings and they do
15 have some props. They normally use teddy bears and stuff
16 like that.

17 Q. Okay.

18 A. Correct.

19 Q. So there were a number of people, were there not, that
20 were CA -- given CAC tests, or do you only know about this
21 one?

22 A. Say that again, sir.

23 Q. Were there other individuals given a CAC exam?

24 A. On that particular day, or are you --

25 Q. That you were involved in?

26 A. Oh, yes, sir. Yes, numerous.

27 Q. Okay. In any case, while you're monitoring this, what
28 did Miranda say about going over to Melissa Huckaby's house

1 sometime after -- did she say when she went over and spent
2 the night?

3 A. She did. She said that after her sister went missing,
4 she went to Ms. Huckaby's residence to spend the night to
5 get away from all the pressure and the media attention.

6 Q. Did she say whose idea it was for her to spend the
7 need over there with Melissa Huckaby?

8 A. Yes, sir. He -- excuse me, she stated it was
9 Ms. Huckaby's idea.

10 Q. Did she say whether Melissa stayed there or left?

11 A. Melissa was there, according to Miranda, but then she
12 left and had gone to the hospital.

13 Q. For -- for?

14 A. For some treatment. We didn't get into details as to
15 what for.

16 Q. What time period?

17 A. She had gone for a couple of days.

18 Q. That's what you heard Miranda say?

19 A. That's correct, sir.

20 Q. Okay. Did she say whether that was the only time she
21 had spent the night at Melissa's residence?

22 A. She did. And she said that was the only time she had
23 spent the night there.

24 Q. Did you ask -- did you overhear Miranda say anything
25 about Melissa and suitcases and March 27th, '09?

26 A. Yes, sir.

27 Q. What?

28 A. She stated that she remembered seeing Melissa carry

1 two suitcases out to her vehicle -- Melissa's vehicle. And
2 that she said that she was going to the church.

3 Q. Did Miranda say anything about whether she remembered
4 the color of the suitcases?

5 A. She did not remember the color. In fact, we also
6 asked her if the suitcases looked heavy or light. And she
7 could not describe it as she did not remember.

8 Q. Okay. And this interview was just a month -- was
9 March -- April what?

10 A. 20th, sir.

11 Q. Okay. Less than a month after the date Sandra went
12 missing. Okay.

13 All righty. That's all I have you down for.

14 MR. TESTA: Are there any questions from any
15 of the grand jurors?

16 I see none. They will read you an admonition.

17 THE FOREPERSON: You are admonished not to
18 reveal to any person, except as directed by the Court, what
19 questions were asked or what responses were given or any
20 other matters concerning the nature or subject of the grand
21 jury's investigation which you learned during your
22 appearance before the grand jury. This admonishment
23 continues unless and until such time as the transcript of
24 this grand jury proceeding is made public.

25 Violation of this admonishment is punishable as
26 contempt of court.

27 Do you understand?

28 THE WITNESS: Yes. Thank you.

1 THE FOREPERSON: Thank you.

2 MR. TESTA: Recess?

3 THE FOREPERSON: I think so.

4 MR. TESTA: Until what time.

5 THE FOREPERSON: Until 1:00 o'clock.

6 MR. TESTA: We will see you then.

7 You going to read the admonition?

8 THE FOREPERSON: The grand jurors are
9 admonished that they are not to form or express any opinions
10 about the case or discuss it among themselves until the
11 grand jury receives the case for deliberation.

12 In addition, no inspection of evidence should be done
13 without the foreman or the prosecuting attorney until the
14 case is submitted to the grand jury for deliberation.

15 Deliberations should occur when all jurors have heard
16 of the testimony in the case are present.

17 See you at 1:00.

18

19 (Recess.)

20

21 THE SECRETARY: We are all present, for the
22 record.

23 THE FOREPERSON: Mr. Testa, we have an
24 administrative question.

25 MR. TESTA: Sure, what is it.

26 THE FOREPERSON: Can we ask the court
27 reporter to repeat something back to us?

28 MR. TESTA: You certainly can.

1 THE FOREPERSON: Okay. Because we had a
2 question about a testimony of one of our witnesses that
3 seemed to conflict with another witness.

4 MR. TESTA: It's very hard for us to hear
5 you. Could you speak up?

6 THE FOREPERSON: Yes. There was one witness
7 that there's a conflict in what she said versus another
8 witness. And so we just wanted to hear what they both had
9 to say again.

10 MR. TESTA: Sure. Just tell us what you'd
11 like to read -- or have read back and the court reporter can
12 look for it and do it maybe later today, or whenever she can
13 get to it. That's why she's here, exactly for that purpose.
14 So if you have -- today or during deliberations or at any
15 time --

16 THE FOREPERSON: Okay.

17 MR. TESTA: -- a request.

18 Was it the last -- some witnesses today?

19 THE FOREPERSON: Uh-huh. Do you want me to
20 do that in front of this person?

21 MR. TESTA: No. I was going to say could you
22 step out for a second? We will call you right back in. Was
23 it -- go ahead.

24

25 (Pause.)

26

27 THE FOREPERSON: Earlier, Mrs. Chavez, the
28 mother of --

1 MR. TESTA: Said she never spent the night
2 over there?

3 THE FOREPERSON: Yes.

4 MR. TESTA: Then Miranda said she did?

5 THE FOREPERSON: Yes.

6 MR. TESTA: They said two different things.

7 THE FOREPERSON: Does that satisfy the juror
8 that is asking me the question?

9 MR. TESTA: The mother clearly said no. I
10 asked her several times. And no, that was the first time --
11 no, she had slept -- she had spent the night over there. I
12 asked her several times. She was certain about that. And
13 Miranda said no, it was just the first time. And that's
14 definitely an inconsistency. There will be an instruction
15 on inconsistencies --

16 THE FOREPERSON: Okay.

17 MR. TESTA: -- what you're supposed to do
18 with those when you're instructed Friday morning, I hope.

19 THE FOREPERSON: Okay. All right. Does
20 anybody else have any other questions?

21 GRAND JUROR 16: Yeah, I do.

22 MR. TESTA: Administrative question?

23 GRAND JUROR 16: Yeah.

24 MR. TESTA: Go ahead.

25 GRAND JUROR 16: When those computers aren't
26 used, can we put the screens down? I missed half of the --

27 MR. TESTA: Sure. Anyone else. Feel free to
28 mention those kind of things.

1 GRAND JUROR 19: I do. Sometimes when you
2 sit them farther over and you're trying to point things, we
3 can't see it because their head's right in the way. If they
4 set just a little more this way, we can see the whole
5 screen.

6 MR. TESTA: Feel free to move over yourself.
7 This type of thing doesn't usually happen at a trial because
8 the witness seat is elevated slightly where the judge is.

9 But raise your hand if that happens and I'll try to
10 have them move over. And if that doesn't work, stand up,
11 whatever you would like.

12
13 (Pause.)

14
15 MR. TESTA: If you could have a seat, please.

16 And could you tell us your full name, please?

17 THE WITNESS: My name is Michael J. Conrad.
18 That's spelled C-O-N-R-A-D.

19 MR. TESTA: C-O-N as in Nancy?

20 THE WITNESS: Yes, sir.

21 MR. TESTA: The foreperson.

22 THE FOREPERSON: Would you raise your right
23 hand, please? You don't to have stand.

24
25 **MICHAEL J. CONRAD,**

26 a witness called on behalf of the People, having been duly
27 and regularly sworn by the Grand Jury Foreperson, testified
28 as follows:

1 THE WITNESS: I do.

2 THE FOREPERSON: Thank you.

3

4

EXAMINATION

5 BY MR. TESTA: Q. Where are you employed,
6 sir?

7 A. I'm employed by the Federal Bureau of Investigation in
8 Phoenix, Arizona.

9 Q. And what is your position there?

10 A. I'm a special agent.

11 Q. How long have you been so employed?

12 A. Twenty-two years.

13 Q. Were you involved in the investigation into the
14 disappearance of Sandra Cantu?

15 A. Yes, I was.

16 Q. What was your involvement in the case?

17 A. I'm a member of the FBI's Child Abduction Rapid
18 Deployment Team, which is called the CARD team, C-A-R-D.
19 This is a team of agents who have had experience with
20 missing and abducted child cases.

21 And in the event of an incident such as this where you
22 have a missing child and the local office requests our
23 assistance, we can deploy within twenty-four hours to offer
24 assistance in helping to locate the child.

25 In this case, I was asked to deploy to Tracy,
26 California to assist in the search of Sandra Cantu.

27 Q. So what'd you do?

28 A. I left Phoenix and arrived in Tracy on Saturday,

1 March 28th, met with the investigators. And -- and after
2 that, went to the trailer park itself.

3 Q. And then what -- summarize your involvement in this
4 case.

5 A. On the evening of the 28th or --

6 Q. What was the very first date you were involved?

7 A. March 28th is when I arrived.

8 Q. I'm sorry, I didn't hear you.

9 A. March 28th was the date I arrived.

10 Q. Oh, okay.

11 So on that date, what did you do on that date?

12 A. On March 28th, I arrived, I met with the investigators
13 from the Tracy Police Department. We made some initial
14 recommendations on -- on management of the -- of the case
15 itself. At that point, we asked if we could go out to
16 Orchard Mobile Home Park where the abduction had taken
17 place, and take a survey of the scene, see what actually was
18 on the site. And we began to walk through the site and get
19 a sense of where everything was and where the incidents had
20 taken place. This was about 8:00, 8:30 p.m.

21 At that time, I was standing and talking with a Tracy
22 Police Department officer, Officer Grijalva, and was
23 approached by a woman who later identified herself to us as
24 Melissa Huckaby.

25 Q. Okay.

26 Showing you Exhibit 57, do you recognize what is shown
27 in this?

28 A. Yes, I do. That appears to be the Orchard Mobile Home

1 Park in Tracy, California.

2 Q. With that laser pointer that's near your left hand,
3 just give us your understanding of the way in and the way
4 out of that trailer park.

5 A. There is -- this is the north end of the trailer park.
6 It's the main entrance. It's really the only way in or out.

7 Q. Where is the pool area?

8 A. The pool area is located right here. As you come in
9 the north entrance, you will see a clubhouse and a pool area
10 right here.

11 Q. Do you have your bearings, do you think?

12 A. I think so.

13 Q. What about on this diagram, Number 51, do you
14 recognize what is shown on this exhibit?

15 A. Yes, I do. That was the --

16 Q. You see okay?

17 GRAND JUROR 19: Yes, absolutely.

18 THE WITNESS: That was the schematic that was
19 given to me early in the investigation to show where the
20 trailers were and where the different lanes were within the
21 Orchard Mobile Home Park.

22 MR. TESTA: Q. And did you become aware, let
23 me show you this number 65, of what I guess people have
24 called overflow parking. Maybe you're not familiar with
25 that term on this.

26 A. Are you referring to this area or this area?

27 Q. Where is your understanding of the overflow parking on
28 this exhibit?

1 A. There was a spot --

2 Q. Where is the clubhouse on this photo?

3 A. The clubhouse is this area right along here. And
4 I'm -- this series of houses, I believe, and then there's
5 a --

6 Q. Above the pool?

7 A. Just south. It's a little confusing because on a map,
8 normally north is upward. In this case, north is actually
9 downwards.

10 So this is -- located south of the main entrance is
11 the clubhouse area. There's a kind of a basketball court,
12 paved area here. There is some visitor parking spots. And
13 this spot here is actually a car wash area. They don't want
14 residents washing their cars out in front of their trailers.
15 So there's a -- a -- like a little enclosed area where you
16 can park your car and wash it. And there's a series of
17 mailboxes right along here and a pathway that leads just
18 north of trailer 94 that I'm indicating, and just south of
19 the clubhouse.

20 Q. Those mailboxes are where on the exhibit here, 163?

21 A. Right here.

22 Q. Okay. So show us where those mailboxes are on 65,
23 because I'm going to ask you some questions about a note.
24 And I want to get our bearings here.

25 I'm sorry, I'm going back and forth. I'm trying to
26 get the best focus. Are you able to make out the mailboxes?

27 A. As best I can make it out, I think the mailboxes are
28 right there.

1 Q. So in relation to the clubhouse buildings, to the
2 east?

3 A. They are just to the east of the -- of the clubhouse
4 building, yes, right there.

5 Q. And the cinderblock that is south, does it show on the
6 diagram -- this 65?

7 A. Are you referring to there's like a cinderblock
8 retaining wall, is that what you're referring to?

9 Q. 163 has two -- are they both cinderblocks?

10 A. I believe so. And there's like a walkway. This is --
11 I think that's actually the area that is -- between those
12 two cinderblock walls is the car wash area. If you were to
13 walk in front of the clubhouse, that is just immediately to
14 the south of the clubhouse, you'd be going right between
15 that mailbox I'm indicating and this wall here, behind that,
16 behind this wall.

17 Q. So that -- the car wash you understand to be between
18 these two blocks?

19 A. I -- from the angle of photo, it looks like that to
20 me, yes.

21 Q. Okay. So you said you had some -- Melissa Huckaby --
22 what contact on the 28th of March 2009 did you have with a
23 person you later learned to be Melissa Huckaby?

24 A. I was standing and talking with Officer Grijalski
25 (sic) right about in this area here.

26 Q. Which for the record is where?

27 A. Right by the mailbox area/clubhouse area.

28 Q. You are pointing to that area on 65. Does it show on

1 163?

2 A. Generally in this area.

3 Q. Again, for the record, where are you referring to?

4 A. I'm referring to the area that -- that's on Cherry
5 Lane that's just to the -- I guess --

6 Q. Near the car wash?

7 A. Near the car wash, yes.

8 Q. What about 166, does it show there?

9 A. Yes, it does. It's again in this general area.

10 Q. Near -- again, when you say something, the court
11 reporter has --

12 A. I'm sorry, it's in the area of the mailboxes and the
13 car wash on Cherry Lane.

14 Q. So what happened -- what was your contact with Melissa
15 Huckaby? And show us on the diagrams where it was -- first,
16 tell us what happened, then I will ask you to tell us where
17 it happened.

18 A. As I was talking with Officer Grijalski, a woman
19 approached us who was very agitated, crying,
20 hyperventilating like she couldn't catch her breath, and
21 she's saying she found something. She asked us to come
22 near -- to come take a look at it.

23 Myself and the other CARD team agents, which included
24 Adrienne Sparrow -- Special Agent Adrienne Sparrow, Special
25 Agent Joseph Brine, and Special Agent Elizabeth Castaneda,
26 and I believe Special Agent Marty Parker, followed her over
27 and she showed us a note that was lying on the ground. She
28 said she had kicked it over.

1 Q. She had kicked over the note?

2 A. Yes. She had kicked over the note and saw some
3 reference to a suitcase and -- a stolen suitcase and Sandra
4 Cantu, who was the missing child.

5 And it was very difficult to understand what she was
6 saying because she's so agitated.

7 And we asked her to sit down. We had an officer go --
8 I think it was Officer Grijalski -- go over near the note,
9 and Agent Elizabeth Castaneda. It was -- it was kind of
10 folded at that point so you couldn't see -- clearly see what
11 the writing was.

12 We realized if it did make some reference to the
13 missing girl, we had to take a look at it. So Agent
14 Castaneda had some latex surg gloves, so she opened it up
15 and we saw that it was a handwritten note torn out of what
16 appeared to be a spiral binder that made reference to Sandra
17 Cantu being in a stolen suitcase that was located at the
18 intersection of -- I believe it was Bacchetti and
19 Whitehall -- not certain on that, I have to look at the note
20 again -- and that she was inside the suitcase.

21 Q. So what did you guys -- what happened next when you
22 saw what the note said?

23 A. We wanted to avoid a situation where all of us were
24 present around and talking to her, because she was --
25 obviously seemed to be very upset. So we asked Adrienne
26 Sparrow to sit down and talk with her.

27 They sat down on the curb, and she did an initial
28 interview of her. I heard some of that. And she said that

1 she had been walking through that area. And by "the area,"
2 I'm referring to it's right on the -- the south side of the
3 clubhouse as -- as depicted in this picture.

4 Q. Can you show us on 65 where she said what she said?

5 A. She said that the note itself was lying on this little
6 walkway that's right about here, that's just to the south of
7 the clubhouse.

8 Q. Between these two cinderblocks?

9 A. Yes. And just north of trailer 94.

10 It's -- that's trailer 94. This isn't drawn to scale
11 really, but it's generally in this area here.

12 Q. You're referring to 51 now, Exhibit 51 I have up on
13 the screen?

14 A. Exhibit 51, the schematic.

15 Q. Roughly between 94 and the clubhouse?

16 A. Right. And it's more of a walkway along here. I
17 think this is -- this blank space on the schematic is
18 supposed to represent that car wash area there.

19 But we were actually on this little sidewalk type of
20 area that's just to the south of the clubhouse.

21 What I heard Melissa Huckaby say was that she had had
22 a piece of luggage stolen from her earlier that day. She
23 had attempted to go -- she had attempted to file a police
24 report, but had not been able to. She had been told that
25 she had to go online to file a property crime report with
26 the Tracy Police Department. She said when she did that,
27 she saw something on the Tracy Police Web site referring to
28 the missing child, Sandra Cantu.

1 Q. Okay. Well, as far as this note, though, she comes up
2 to one of you guys, says she kicked over this note, and she
3 shows you where it is. Do I understand so far?

4 A. Yes.

5 Q. And you bend down or someone looks at it with the
6 gloves, and you're able to make out that it's this note
7 that's in 161, is that correct?

8 A. Yes, it is.

9 Q. And then you guys talk to her -- or some people talk
10 to her, you hear part of what Adrienne Sparrow says to her?

11 A. Yes. Adrienne Sparrow is sitting on the curb talking
12 with her and we are standing nearby. We are looking at the
13 note. We are making arrangements to have the note collected
14 as evidence.

15 Q. Does someone come and collect it?

16 A. Yes.

17 Q. Does someone photograph it?

18 A. Yes.

19 Q. Does someone put it in a plastic bag?

20 A. Yes.

21 Q. And you see all this?

22 A. Yes.

23 Q. What is shown in 157, if you know?

24 A. This is the --

25 Q. If you know. Don't guess.

26 A. I -- I --

27 Q. 158?

28 A. Okay. This is the -- this appears to me to be the

1 grass strip that is just north of trailer 94. There's a
2 small grassy area -- excuse me -- yes, just north of trailer
3 94. And it's immediately to the south of the walkway here,
4 which is where the note was originally located.

5 Q. So if you could show us, as best as you can recall,
6 where on 65 the note was found?

7 A. Okay. Could you zoom in a little? I can show you on
8 that. Or if you have a -- there you go.

9 There is a grassy area which is visible on the
10 photograph here that's just to -- next to the car wash area.
11 And that is the sidewalk. You see where the -- the note was
12 found. So it would have been right about in this area here.

13 Q. Okay. And she's hyperventilating and agitated.

14 Does she say anything else about this -- I mean, what
15 does she say -- are you the person she comes up to?

16 A. Yes.

17 Q. Are you like the first person?

18 A. Myself and the Tracy Police uniformed officer. She
19 asked, "Are you with the police?" And said I -- basically,
20 "I found something."

21 Q. You were in plain clothes?

22 A. Yes, I was.

23 Q. But the officer was in uniform?

24 A. Yes.

25 Q. You two are together?

26 A. Yes.

27 Q. She comes up to the two of you --

28 A. Uh-huh.

1 Q. -- in this condition you've already described?

2 And where are you guys at the time? And how far does
3 she go to get you to bring you back to where this --

4 A. I believe and I -- I believe she came running around
5 the corner here to approach us. We were in this -- and I
6 couldn't say exactly which trailer we were next to. But I
7 know we were slightly north -- we were slightly north of the
8 victim's trailer, Sandra Cantu's trailer, which is 63. We
9 didn't want to be congregating right around there because,
10 obviously, the family --

11 Q. North is down. So using the -- on this Exhibit 51,
12 give us -- just using the numbers of the various places.

13 A. We would have been in the vicinity of -- of -- of
14 trailer 64 and 65, on the street here.

15 Q. You see her coming from where?

16 A. I think she came from around Orchard, made a right on
17 to Cherry, and then approached us there.

18 Q. Well, when you say you think, do you actually see her
19 going south on Cherry when you did see her?

20 A. Again, I can't say for certain. I -- I didn't know
21 for sure, because I looked up and she's coming at us. I had
22 the impression she did. But I may be incorrect. I don't
23 want to say I saw her do something I didn't.

24 Q. Fair enough. Okay.

25 By the way, what were the -- how would you describe
26 the wind, or lack thereof, at this location?

27 A. During that day, it was fairly breezy. It wasn't like
28 a full-on dust storm or anything. But more so than I'm used

1 to in Phoenix.

2 Q. Which is where you're based out of?

3 A. Yes. I remember commenting to one of the officers,
4 because I was trying to keep my -- the papers on my folder
5 steady and everything is blowing around, "It must be hard to
6 work in this much wind." And the officer said, "Yeah, it's
7 pretty much always like that here in Tracy."

8 So I know it was windy earlier in the day. It calmed
9 down I believe by that point, because the note was not being
10 blown around. The wind was not enough to blow the note
11 around.

12 Q. At least where the note was.

13 A. Right. We -- we spoke at the time that -- the other
14 agents and -- and Officer Grijalski and I, that -- wondering
15 if it had blown off, if it had been placed somewhere else
16 and been blown, because my impression was the -- the -- the
17 flow of the wind was from east to west. And -- but our
18 comments at the time were if you were going to leave a note
19 claiming responsibility or stating you knew where the
20 suitcase was hidden, you wouldn't just drop it on the ground
21 like that. You would put it somewhere, on a mailbox, under
22 a car visor, at the victim's house or something. And we
23 were discussing whether it had been blown off one of those
24 places and been blown over there.

25 But at the time, it was not moving. It -- it -- the
26 wind seemed to have died down by that point.

27 Q. Did anything seem weird about this?

28 A. Several things seemed weird about that to me.

1 Melissa Huckaby's composure was -- was something we
2 all remarked upon. When she first came to us, she was
3 crying, hysterical, shaking her hands up and down,
4 hyperventilating to the point where she could barely get a
5 word out.

6 Once she sat down and started talking to Special Agent
7 Sparrow, it went from 100 down to zero in terms of her
8 emotional level. Very calm, relaxed, no signs of agitation.

9 In my experience dealing with people who are agitated
10 or excited, which is considerable I think, that's not the
11 sort of behavior I've typically seen in the past.
12 Typically, people who are upset will continue to show some
13 level of emotional excitement while they continue to tell
14 their story. We all were surprised to see how quickly
15 she -- she dropped down in that level.

16 We also commented on -- on the unusual fact that a
17 woman who reported losing a suitcase should be the one woman
18 out of everyone in this complex who should happen to find a
19 note that reports that the stolen suitcase was used to hide
20 the child's body.

21 And the fact that she would just happen to see the
22 note lying on the ground, it's -- some people will look at
23 notes and things and see lying on the ground and some won't.
24 But it seemed like a little unusual behavior to us.

25 Q. What time of day or night was this?

26 A. Approximately 8:00 to 8:30 p.m.

27 Q. In March, do I assume it gets dark a lot earlier than
28 that?

1 A. It was -- it was getting to be, if not full sunset, it
2 was fairly close to it.

3 Q. So did she say how she happened to see this note in
4 the dark or in the dusk, whatever it was?

5 A. She did not say that to me, or in a -- in a situation
6 where I overheard her.

7 Q. Well, when you went back -- you went back to where the
8 note was?

9 A. Other than saying she had kicked over the note while
10 she was walking.

11 Q. Did she say why she didn't pick it up and show it to
12 the officers?

13 A. No.

14 Q. She just kicked it over, apparently looked at it --
15 did she say she looked at it?

16 A. She said she saw on the note that it made reference to
17 her stolen suitcase and Sandra Cantu, and went running to
18 find an officer. And there were a lot of officers and
19 agents in the area at the time.

20 Q. Showing you 157, what was the lighting like? I mean,
21 would this note even be that visible at the time of that
22 hour?

23 A. Well, it's more visible now because it's now
24 maintained inside a plastic envelope, a protected sleeve.
25 At the time, it did not appear to be that way.

26 Q. Okay. Well, so then once you guys go over to get the
27 note, where is she -- or go over to look at the note, where
28 is she?

1 A. She sits down on the curb just next to the mailbox
2 that we've referred to with Special Agent Sparrow.

3 Q. Is that Sparrow in 187? Looks like she's sitting
4 or --

5 A. That might -- it is hard to tell. That might be
6 Special Agent Martha Parker, who was from Oakland. It looks
7 like it to me. But I'm not certain.

8 Q. Fair enough.

9 And showing you 166, so let me ask you this: When
10 Melissa Huckaby is sitting down -- on the grass or on the
11 curb or where?

12 A. She's sitting on the curb. I think it was right about
13 here near the mailboxes.

14 Q. Does she ask you, "Well, what did the note say? You
15 know, what do you think about the note? Or did she ask any
16 questions about it?

17 A. No, she did not.

18 Q. What else did she -- what happened next when she's
19 sitting down there? I think we heard from Adrienne Sparrow
20 they go to her mobile home?

21 A. Yes.

22 Q. Get a full statement from her there?

23 A. Yeah, we wanted to get her out of that area and talk
24 to her more in-depth. So the Officer Grijalski and the --
25 the special agents from the CARD team all went down to
26 trailer number 57, which is where Melissa Huckaby lived with
27 her grandparents, Connie and Lane Lawless, up here at the
28 intersection of Orange and Cherry Lanes.

1 Q. Did she have to be carried or supported as she's
2 walking?

3 A. No. At this point she's extremely calm and is not
4 showing us any signs of the agitation she showed earlier.

5 Q. Okay. All right. And that's Sparrow interviews her,
6 you touched on that.

7 What happens -- what do you do while Sparrow was
8 interviewing her in detail in number 57?

9 A. We asked for consent to search through the trailer to
10 see if there's any area where a child could be trapped,
11 lost, or -- or concealed. And both Melissa Huckaby and
12 Connie and Lane Lawless, her grandparents, gave us
13 permission. We met them. We also saw her daughter Madison,
14 who was also present in the trailer.

15 While Special Agent Sparrow did more of an interview
16 with her, the other agents and I looked through the complex,
17 we looked through the area around the trailer.

18 I -- I spoke with Lane Lawless, her grandfather, who
19 said that there was -- the bag that was taken was one of a
20 set of Eddie Bauer luggage that they bought at Target.

21 Q. Afterwards, after this interview, do you ask her to
22 step outside the trailer?

23 A. Yes, I did.

24 Q. And did you ask her -- what did you ask her there?

25 A. Agent Sparrow had talked to her in depth, but one of
26 the things I generally like to ask people in missing
27 children interviews is, is there anyone in this neighborhood
28 who you would just suspect could be involved in such a thing

1 or just someone who strikes you as odd.

2 Q. Did she point out some people?

3 A. She did. She said there were two people in the
4 complex.

5 And I asked her if she could show me where those
6 people were.

7 Q. Can you show us on 51 where she took you?

8 A. We walked southbound a short distance here from her
9 trailer to Orange Lane. We walked down Orange Lane. And at
10 this point, it's myself and Melissa Huckaby, and -- and the
11 other agents are -- are behind us.

12 As we turn northbound down Peach Lane and walk past
13 trailer number 78, she discreetly indicates there's a guy in
14 there who is a -- he's an Hispanic male who named -- she
15 described him as Louie, who she said gives everyone the
16 creeps and that he walks around the complex and stares at
17 everyone. And that she had not seen him in the last two
18 days, and she thought that was very suspicious.

19 Q. Did she point out any other address where she was
20 suspicious?

21 A. Yes, she did.

22 We continued to walk north on Peach Lane. She pointed
23 out -- she was not sure on which trailer it was, but she
24 said that in either 84 or 85, she thought there was a man
25 named Christian Sinclair.

26 Q. You mean 85 or 86?

27 A. Excuse me, 85 or 86. REDACT was the trailer where she
28 said a woman named REDACT, and she said she didn't know her

1 last name, lived. And she said that she thought Christian
2 lived in either 85 or 86.

3 Q. And what did she point out about that occasion?

4 A. She told me that Christian Sinclair had been arrested
5 or had been questioned on a domestic violence charge by the
6 Tracy Police. That REDACT daughter REDACT had been drugged,
7 and that the police thought that Christian Sinclair was the
8 one who did it.

9 And I asked her, "Well, why do you think he drugged
10 her?"

11 And she said, "I think because he wanted to keep her
12 calmed down or because she was so agitated and hyper."

13 Q. Well, did she mention that she was suspected of doing
14 that and had been talked to by the police?

15 A. No, she did not.

16 Q. No mention at all that -- okay.

17 Okay. Now, did you have further -- how did that
18 interview, by the way, end? So she points out this Louie in
19 78 and Sinclair in 84, 85?

20 A. Right. We walked -- continued to walk north on Peach,
21 then went down Orchard, and then cut back up Cherry, back up
22 to her trailer. I basically left her asking -- asking her
23 if she thought of anything else or heard of anything else,
24 to contact the police and let them know as soon as possible.
25 And she said she would.

26 Q. Okay. Did you ever interview her on a subsequent
27 date?

28 A. Yes, I did.

1 Q. What date?

2 A. April 1st.

3 Q. Okay. Where?

4 A. I -- I interviewed her by telephone initially, because
5 I wanted to meet her in person, and was -- I called her from
6 the command post at the Tracy Police Headquarters, set up a
7 appointment to talk to her that afternoon -- or morning.

8 Q. Okay. Well, we've already heard a number of
9 statements that she made. So let me just ask you, did she
10 ever tell you -- did she give you a timeline of what she did
11 that day?

12 A. Yes. I asked her to give me a more in-depth timeline
13 of her activities on that day.

14 Q. And did you write a report of her -- of this interview
15 that you had with her on this date?

16 A. Yes, I did.

17 Q. Oh, by the way, I just noticed something. Did Melissa
18 Huckaby mention something about there being swings there to
19 play on?

20 A. Melissa Huckaby said that when Miranda, who is
21 Sandra's older sister, came over to the house the day of the
22 abduction, that Melissa Huckaby wanted to know where Sandra
23 was because she didn't want Sandra to come over and play
24 with her daughter Madison.

25 Q. She did not or did want?

26 A. She did not want Sandra to come over to the house when
27 Melissa Huckaby was not there. So she asked where Sandra
28 was at that time. And Miranda, who is Sandra's sister,

1 pointed in a northwest direction -- kind of let me use the
2 laser pointer here -- pointed she said kind of off in this
3 direction to the -- the northwest of the complex and said --

4 Q. Consistent with number 9?

5 A. Yes, consistent with number 9.

6 And said that she had new friends there and that she
7 was playing on the swings.

8 Madison asked, "I want to go over there. Can I play
9 on the swings?"

10 And Miranda said, "You wouldn't like it. They are
11 hard wooden seats and they will hurt your behind."

12 This is Melissa Huckaby telling me what Miranda
13 allegedly said.

14 Q. Oh, okay. So when she's giving you the timeline --
15 when Melissa Huckaby on April 1st is giving you a timeline,
16 did she say what time she got to the church, what time she
17 left the trailer park going to the church?

18 A. She said she left the trailer park to go to the church
19 at -- her estimate was between 3:50 p.m., and 4:00 p.m. on
20 March 27th, the day of the abduction.

21 Q. And then did she say where she went after she finished
22 doing her things at the church?

23 A. She said she left the church at about 6:30 and went
24 straight home, back to the trailer park.

25 Q. So she never mentioned anything about going off north
26 on North Tracy Boulevard or going somewhere for twenty-nine
27 minutes or anything like that?

28 A. No.

1 Q. She said she left from the trailer park to the church,
2 from the church, left the church about 6:30 and drove
3 straight back to the trailer park?

4 A. Yes.

5 Q. And she knew -- when you were interviewing her, did
6 you ever impress upon her the seriousness of her telling you
7 the truth and all the facts and everything that happened?

8 A. I told her it was very important that we establish a
9 very good timeline of everyone in the park that would help
10 us understand what happened to Sandra Cantu.

11 Q. How did the conversation come to an end that you had
12 with her on April 1st.

13 A. At the beginning of the interview, I asked her if she
14 could meet with me. And she said she couldn't because she
15 was in the hospital.

16 I asked her why she was in the hospital.

17 Q. I'm sorry, when did she say she was in the hospital?

18 A. This was near the beginning of the phone call.

19 Q. April 1st?

20 A. April 1st. I asked if she could meet with me that day
21 to go over the timeline in more detail.

22 She said she couldn't because she was in the hospital.

23 Q. At the -- wait a minute. Did you call her or did she
24 call you?

25 A. I called her on her cell phone.

26 Q. Oh, oh. I see. So you don't know where she could be
27 when she's on her cell phone?

28 A. No.

1 Q. You said when you were doing this interview she was in
2 the hospital at the time of that interview?

3 A. Yes.

4 Q. I think we had heard she was in the 4th through the
5 9th.

6 A. My understanding is she had several trips to the
7 hospital.

8 Q. Oh, okay. So on the 1st when you had did this
9 interview, she said she was in the hospital. Did she say
10 why she was in the hospital on the 1st?

11 A. I asked her why she was in the hospital.

12 She said he was getting an emergency colonoscopy.

13 I asked -- which is -- I'm not a medical expert, but I
14 know that's more common someone my age than her age. I
15 asked her why she was getting a colonoscopy.

16 And she said, "I'm -- I'm bleeding from places I
17 shouldn't be," which kind of got my attention a little, but
18 I wasn't quite sure what to make of it at that point.

19 I -- I started going through as much of the timeline
20 with her as I could. She says, "I'm going to have to leave
21 in a little bit to go get the colonoscopy."

22 So there were a lot of unanswered questions I wanted
23 to ask her. But at the end of the interview, she says, "Oh,
24 they are coming. They say I have to go do the colonoscopy
25 now. I should be home tomorrow and I can talk to you then."

26 Q. Did she say she had swallowed anything?

27 A. She did not.

28 Q. When you were talking to her on April 1st, did she

1 appear -- how would you characterize her disposition, her
2 mood?

3 A. Her tone seemed very calm and collected. Did not, to
4 me, in my experience dealing with people who have -- who
5 have -- under the effects of drugs or medication, did not
6 seem -- her -- her speech was not slurred. It was not --
7 didn't sound like someone who had been medicated before a
8 colonoscopy. It sounded very calm and very controlled.

9 MR. TESTA: Okay. I have no further
10 questions. Do any of the grand jurors have questions? I
11 see a few.

12 Q. Here's a question from the grand jurors: You
13 described unusually rapid change in Melissa Huckaby's
14 composure. How much time lapsed between the
15 hyperventilation and complete calm? Are we talking seconds
16 or minutes?

17 A. I would say that once Melissa Huckaby sat down on the
18 curb, it was a matter of seconds, just from complete
19 hysterical effect to extremely calm and composed.

20 Q. Another question from the grand jury: Does Agent
21 Conrad find it odd that Melissa left the note in place?
22 Wouldn't you think she would bring it to the officers near
23 by so the note does not blow away?

24 Did you have an observation about that, in terms of
25 your experience of if a civilian finds a piece of evidence?

26 A. In terms of my experience, I say civilians generally
27 are a lot more forensically aware today because of the
28 effects of TV shows, like CSI and Law & Order, so they may

1 be more -- I can't speak to her reaction and she didn't tell
2 me, but I think generally people tend to be a little more
3 aware that they need to preserve fingerprint and DNA
4 evidence.

5 She didn't state why she did. She didn't make any
6 comment to me or that I overheard her saying about what --
7 how she handled it or if she picked it up or why she didn't
8 bring it to us.

9 Q. Was there even enough light over there to read it at
10 that time?

11 A. We used a flashlight to read it.

12 Q. Yeah, but she didn't have a flashlight on her, did
13 she?

14 A. Not that I'm aware of. I did not see one.

15 Q. So did it seem like -- how could she even have read it
16 if she kicked over this note? Was there -- if you think
17 back to that day, you know, I'm just thinking, of course,
18 now in July, it's pretty light at that hour. But back in
19 March, we are still talking about -- see, winter ended
20 March 21st, so doesn't it get dark -- correct me if I'm
21 wrong -- doesn't it get dark at 6:00, 6:30?

22 A. I'm not sure because of your time zone here. We have
23 our own Arizona time zone. But the -- yeah, we don't
24 recognize Daylight Savings Time for some reason.

25 Q. Oh, that's right.

26 A. But it was -- the sun had set at the point she
27 approached us and it was becoming darker. It was twilight.

28 Q. Let me put it this way: Did you guys need your light

1 in order to read the note?

2 A. We definitely did.

3 Q. Did she have a light on her?

4 A. She did not show us a flashlight.

5 Q. Did you ask her how could she even see what was on the
6 note?

7 A. I did not ask her that, no.

8 Q. Question from the grand jurors: What time did Melissa
9 bring to your attention the note, and where was she going at
10 that time?

11 A. I did not -- and Adrienne -- Special Agent Sparrow
12 might have asked her why she was in that particular area at
13 that time. But I did not hear her answer as to why she was
14 there. That was one of the issues we were kind of wondering
15 about, because she does not -- I don't know what her -- her
16 business would be in that area. Maybe she did have some.
17 But it was approximately 8 -- 8 -- between 8:00, 8:30 at the
18 time she approached us.

19 Q. It has been reported, the grand juror says, that the
20 clubhouse closed at 8:00 p.m.

21 A. The clubhouse did appear to be closed. There are
22 glass sliding panels on the south side of it, like a -- like
23 a glass patio door. It was dark inside. No one was inside
24 the clubhouse at the time. There was no function going on
25 that I was aware of or could see.

26 Q. Do you recognize 164 at all? These the basketball
27 courts we have been talking about -- we have been hearing
28 about?

1 A. Yes. You can see the markings on the basketball court
2 here. The kind of glass patio doors I believe are -- are
3 over here. So this is -- this grass strip here. If you
4 were to extend along this grass strip that I'm indicating, a
5 little further was where I believe on your photo the -- the
6 note was in the -- that we placed in the envelope.

7 Q. There's like a air-conditioning or some type of
8 equipment on the roof, correct?

9 A. Appears to be so, yes.

10 Q. So we can line that up with 166. Is that the same?

11 A. Uh-huh.

12 Q. So that's the clubhouse there?

13 A. That's the back of the clubhouse. And as -- we asked
14 if there's -- the clubhouse is -- was used for any parties
15 or any events on the night of the abduction, and we were
16 told that it -- you can -- you have to sign up if you want
17 to use it for party, wedding reception, anything like that,
18 and it had not been used in the last couple of days.

19 Q. Did you ask the grandparents if she came back in the
20 home to find her keys when the suitcase disappeared?

21 A. I did not ask the grandparents that, no.

22 Q. Question from the grand jurors: Did Huckaby make
23 reference to anything within the note that you could not see
24 on the note when you first observed it lying on the walkway?

25 A. All that I heard her say was that she saw the
26 reference to the missing girl and the stolen suitcase.

27 Q. Okay. Question from the grand juror: When initially
28 contacted by Melissa, did she say she found a note referring

1 to a stolen suitcase or to her stolen suitcase?

2 A. I couldn't tell you for sure. She was -- and the only
3 way I can refer to this, and not meant to be pejorative, she
4 was babbling, it was just talking a mile a minute. So
5 whether she said "my stolen suitcase" or "the stolen
6 suitcase," I couldn't tell you for sure.

7 Q. Another question from the grand juror: Give more
8 details about your conversation with Lane Lawless about the
9 suitcase.

10 A. Melissa Huckaby had told us that -- that the suitcase
11 that was stolen from the front of her car was from a set of
12 LL Bean luggage she had bought at Target. It was one of a
13 matched set.

14 Q. You mean Eddie Bauer?

15 A. Excuse me, Eddie Bauer, that was a matched set. She
16 showed the -- I believe one or possibly two of the -- the --
17 the bags to Special Agent Brine as I was looking around the
18 rest of the trailer. And Mr. Lawless said, "There's also a
19 garment bag with that. It's out in the storage locker
20 that's -- that's right next to the -- the trailer."

21 I asked if he could show that to me. We went out to
22 the trailer. I can actually, if there's -- I might be able
23 to show you on the photo, I don't know, it's probably
24 covered. But it's located just on the north side of trailer
25 57, right about here, at the back of a driveway, there's
26 kind of like a large tool shed.

27 He unlocked that. He said it's up on an upper shelf
28 inside the tool shed. There was a lot of other things

1 stored in there.

2 I asked him if he'd like me to look, because he was an
3 older gentleman, I wanted to make sure he didn't fall off
4 the ladder, hurt himself. He says, "No, I can look for it."

5 I held the ladder, he went up, looked around. He
6 said, "I was sure it was here. I can't find it now." Said
7 he could not find that.

8 Q. Question from the grand jury: Did any of the other
9 residents point out Melissa as someone to talk to?

10 A. Not to me. I -- I participated in the neighborhood
11 canvass over the next few days and interviewed a lot of
12 residents. But no one specifically pointed out Melissa
13 Huckaby to me. Because I generally asked the same questions
14 of them as well.

15 Q. Question from the grand jury: Conrad, what parts of
16 57 did you search? Did you see plaid dish towels? Who was
17 in charge of everyone from the FBI if there was one person?

18 A. Special Agent Brine, Joe Brine, was the team leader.

19 Q. What's his name?

20 A. Brine, B-R-I-N-E, B as in boy R-I-N-E, was the team
21 leader. But we are so used to working together, it's not
22 like, you know, orders and instructions were given. I think
23 we all pretty much key off each other's actions
24 automatically.

25 We searched basically the -- what we call the
26 curtilage, the whole area around the trailer park. We -- I
27 searched through the tool shed that was in the back of the
28 driveway I mentioned. We looked basically any spot where

1 a -- a child could be concealed, and that could be a very
2 small area we found if the child is dead. So we -- we
3 looked through basically all the bedrooms, the main living
4 area, and, of course, did not find her.

5 Q. This particular trailer park, mobile home park, when
6 you guys were there, was it secured? To the point where if
7 a stranger came in and dropped off a note, someone would
8 notice the stranger?

9 A. It was secured in that the entrance to the trailer
10 park on the north side, by the time I got in town, already
11 had a -- a roadblock up. You could not get in or out
12 without being FI'd. That is, being -- being interviewed by
13 the police and a little card made up as to who you were.

14 Q. That was -- you noticed that when you were there on
15 the 28th?

16 A. Yes, sir.

17 Q. So someone coming into the trailer park on foot or in
18 a vehicle, if I understand you, would have to be further
19 investigated -- further identified?

20 A. They would have been stopped and interviewed.
21 Generally, because there was a large media presence out just
22 to the north at the Best Western that's across Clover Road
23 here, there were -- the antenna pole cams were up like a
24 forest. They did not want to have the media in here and
25 intruding into a crime scene or bothering the family.

26 So there was -- was one of the reasons. But also
27 because, again, it's a crime scene, they wanted to make sure
28 no one could get in or out without them knowing who was in

1 the trailer park.

2 Q. Because the question from the grand juror is do you
3 feel someone would have noticed a stranger in the area if
4 they had left the note?

5 A. I would have to say yes, because they do maintain --
6 even before all of this happened, the management seemed to
7 keep a pretty tight restriction on who came in and out of
8 the complex.

9 You may have heard shortly before this there was an
10 ice cream truck that entered the complex. And they don't
11 allow vendors, ice cream trucks, anything like that to come
12 through. He was stopped very quickly and ordered off the
13 property by the management.

14 So -- I have been in a lot of trailer parks. I just
15 worked an abduction last weekend in a trailer park in
16 Arizona. And this was unusual to me in the fact that it was
17 actually not much foot traffic. I mean, there's the normal
18 amount, but it wasn't like people are wandering up and down
19 all the time. It may be that there was an abduction and
20 people were afraid. It did seem to me that people were kind
21 of aware who was in the area and would be aware of someone
22 they did not know walking around.

23 Q. Question from the grand jury: Was the bag in the
24 middle of the room part of the suitcase set?

25 A. Not sure what you mean.

26 Q. I think they mean the bag that we have here, see,
27 there's a suitcase. Was the bag in the middle of the room
28 part of the suitcase set?

1 A. I did not examine the bag that closely. Special Agent
2 Brine and another agent, as I was searching through, I
3 looked in the bedroom and I saw her showing a bag that
4 appears to be consistent with what I saw. But I did not
5 examine that bag myself as I was going through the
6 apartment.

7 Q. Question from the grand jury: Were there any
8 fingerprints ever found on the suitcase of anybody?

9 A. I don't know that. I was not involved in the forensic
10 examination of the suitcase.

11 Q. Question: This missing garment bag, is it possible
12 that this garment bag could also be used to hide Sandra
13 Cantu and then transferred her to a different luggage? Did
14 this garment bag ever turn up?

15 A. I'm not aware if that turned up on the search or not.
16 I never heard that information.

17 One of my concerns was could that have been a bag that
18 was used because a garment bag is large enough you could
19 place a small child in it pretty easily. But I never found
20 the garment bag which Lane was referring to.

21 Q. Thank you.

22 MR. TESTA: I see no other questions. Are
23 there any others from the grand jurors?

24 I see none, so the foreperson will read you an
25 admonition.

26 THE FOREPERSON: You are admonished not to
27 reveal to any person, except as directed by the Court, what
28 questions were asked or what responses were given or any

1 other matters concerning the nature or subject of the grand
2 jury's investigation which you learned during your
3 appearance before the grand jury. This admonishment
4 continues unless and until such time as the transcript of
5 this grand jury proceeding is made public.

6 Violation of this admonishment is punishable as
7 contempt of court.

8 Do you understand?

9 THE WITNESS: I do.

10 THE FOREPERSON: Thank you.

11 THE WITNESS: Thank you very much.

12
13 (Pause.)

14
15 MR. TESTA: Q. Can you tell us your name,
16 please?

17 THE WITNESS: Matthew Grijalva.

18 MR. TESTA: How do you spell your last name?

19 THE WITNESS: G-R-I-J-A-L-V-A.

20 THE FOREPERSON: Would you raise your right
21 hand, please? Would you raise your right hand?

22
23 **MATTHEW GRIJALVA,**

24 a witness called on behalf of the People, having been duly
25 and regularly sworn by the Grand Jury Foreperson, testified
26 as follows:

27
28 THE WITNESS: I do.

1 THE FOREPERSON: Thank you.

2

3

EXAMINATION

4

BY MR. TESTA: Q. Where are you employed?

5

A. Tracy Police Department.

6

Q. And what is your position there?

7

A. I work Patrol.

8

Q. For how long have you worked with the Tracy Police
9 Department?

10

A. I was hired May 1st in 2006, so a little over three
11 years.

11

12

Q. So have you been a peace officer for that period of
13 time?

13

14

A. Yes.

15

Q. And before that, you were not one?

16

A. No.

17

Q. Were you one before that, let me ask it that way?

18

A. No.

19

Q. I don't really have much to cover with you because I
20 think we have already heard all this.

20

21

Were you present when the note was found?

22

A. Yeah.

23

Q. What was your role in all of that?

24

A. I was working the front entrance of the trailer park.

25

Q. Did you recognize the man from the FBI that just left?

26

A. Yes.

27

Q. Were you with him?

28

A. He was there. There was a group of I believe four,

1 maybe five FBI agents that were working that night.

2 Q. Do you remember Melissa Huckaby?

3 A. Yes.

4 Q. What do you recall about her -- your contact with her
5 on March 28th, 2009?

6 A. Well, I was standing at the front entrance with the
7 other FBI agents, and I believe there was another -- Officer
8 Wilmshurst was with me at the front. She came walking up
9 from the area of the clubhouse and she was all hysterical,
10 saying she found a note stating where Sandra was -- or to
11 the effect of it had information where Sandra was at.

12 Q. Were you the first person she came up to?

13 A. Yes.

14 Q. And whom were you with?

15 A. I don't recall what the agent's names were, but I was
16 in the front with Officer Wilmshurst and about four other
17 FBI agents, one of them being Agent Conrad.

18 Q. The man that just left. So what did you do when she
19 came up and said that?

20 A. I walked -- or I had signaled to the FBI guys that,
21 you know, "Hey, she's stating something that you guys may
22 need to look at." And we all walked over to the area of
23 where she found the note.

24 Q. And what -- what was done next?

25 A. Well, she showed us where the note was at. The note
26 was laying face down when --

27 Q. What do you mean "face down"?

28 A. The writing to the ground, the back point.

1 Q. Oh, I see. Well, so assume this is the note for a
2 minute. Did you see the note?

3 A. Yes.

4 Q. So when you see it, it's --

5 A. It was like that.

6 Q. Face down.

7 A. She --

8 Q. Did she say how it was she was able to see it? She
9 kicked it supposedly?

10 A. Yeah, she said that she saw it, and I don't recall
11 exactly how she said she moved it, but she had manipulated
12 it in some way.

13 Q. What do you mean she manipulated it?

14 A. Because she had saw the note and read it. And then I
15 don't remember exactly how it got turned over, but she had
16 said that it was moved prior to us finding it.

17 Q. What were the weather conditions like?

18 A. Mmm, it was fairly windy. I believe it was fairly
19 windy that night. No, there wasn't any rain, I don't
20 believe.

21 Q. So what happened next?

22 A. One of the female FBI agents started speaking with
23 Huckaby. They sat down on the curb right there on -- I
24 believe it's Cherry Lane. And she started interviewing her.

25 I had asked to see who -- if they wanted TPD to
26 collect the evidence or if they were going to do it, or FBI
27 was going to do it themselves, at which I notified CST
28 Pierce over the radio to come and collect it. It was

1 determined that we were going to collect the evidence.

2 Q. That was Melinda Pierce?

3 A. Yes.

4 Q. Did you see her come and collect the evidence?

5 A. Yes. I called her via radio and she showed up
6 sometime shortly after to collect the evidence.

7 Q. Did you have to -- did you put it in any type of
8 container?

9 A. An FBI agent put it in a plastic bag.

10 Q. Okay. All righty. Did you have any other contact
11 with Melissa Huckaby?

12 A. That night, I assisted FBI agents in going over to her
13 trailer, space 57.

14 Q. That's right.

15 MR. TESTA: All righty. I have no further
16 questions. Are there any other questions -- any questions
17 from the grand jury? Take your time.

18 By the way, were you in uniform?

19 A. Yes.

20 Q. Do you remember when she came up to you, did she ask
21 you if you were a cop or something, or, "Are with you law
22 enforcement?" Did she ask any preliminary questions?

23 A. She came up and she was hysterical, crying, taking
24 deep breaths and was sobbing, saying she had found this
25 note.

26 Q. Did you see where she came from?

27 A. She came from the area of the -- the clubhouse, which
28 is directly to the -- to the south of where we were

1 standing.

2 Q. And --

3 A. We were standing here.

4 Q. There is a laser pointer in front of you. If you
5 could use that Exhibit 51. Do you have your bearings here
6 with this diagram?

7 A. We were standing here.

8 Q. Where it says "Orchard," the C in the word "Orchard"
9 on 51.

10 A. And our PD cars were parked here, because we were --

11 Q. Keep your voice up. Speak into the microphone if you
12 could, please.

13 A. We were -- our PD cars were parked here.

14 Q. We have to put on the record, when you say "here,"
15 that doesn't mean anything to someone reading the
16 transcripts.

17 A. To the entrance off of Clover Road, the main entrance
18 to the trailer park.

19 Q. Thanks.

20 A. And she came walking from this general direction.
21 When I had turned around, she was saying that she had found
22 a note and needed to talk to somebody. And at that time, I
23 had gotten the FBI agents' attention and we walked over to
24 the mailbox. I believe it's located here.

25 Q. Okay. See where it says north is down. It's kind of
26 the opposite of the most maps.

27 A. South end of the clubhouse.

28 Q. Hold on. So she was walking north down -- she came

1 from north down Cherry -- she was walking north down Cherry?

2 A. She was walking north towards us.

3 Q. When you were at the entrance?

4 A. We were right here.

5 Q. At the --

6 A. At the main entrance off of Clover Road, 812 West
7 Clover.

8 Q. The word that says "Orchard," you're kind of near the
9 C the H and the A, do I follow you correctly, in the word
10 "Orchard"? Or am I being too precise here?

11 A. I would say more this general area right through the
12 corner of space 93.

13 Q. Oh the corner of space 93. So you do see her walking
14 north down Cherry, gets your attention, and then she takes
15 you back to the area where she claims she kicked it over or
16 she found the note?

17 A. Yes.

18 Q. And as you're walking back with her, does she say
19 anything?

20 A. Not that I recall. She was talking about the note,
21 but I don't know specifically what she said and I don't want
22 to say something that she didn't say.

23 MR. TESTA: Sure. Okay. Are there other
24 questions? I didn't get any of the ones.

25 Could you hand that to me, please? Was there one from
26 here?

27 Q. Question from the grand jury: Was the note folded in
28 half or was it flat?

1 A. It was flat.

2 Q. So it's flat?

3 A. Just like that.

4 Q. Face down. It's not -- it's not folded, it's flat?

5 A. Yes.

6 Q. So when you went up to it, what did you do, if
7 anything?

8 A. I --

9 Q. Did you do anything with it?

10 A. I didn't move the note.

11 Q. Did the FBI do anything with it?

12 A. I don't recall who ended up turning it over.

13 Q. Okay.

14 A. But what I do know is the female FBI agent put it in a
15 plastic bag.

16 Q. Fair enough.

17 MR. TESTA: Any other questions from the
18 grand jury?

19 I see none. The admonition will be read, please.

20 THE FOREPERSON: You are admonished not to
21 reveal to any person, except as directed by the Court, what
22 questions were asked or what responses were given or any
23 other matters concerning the nature or subject of the grand
24 jury's investigation which you learned during your
25 appearance before the grand jury. This admonishment
26 continues unless and until such time as the transcript of
27 this grand jury proceeding is made public.

28 Violation of this admonishment is punishable as

1 contempt of court.

2 Do you understand?

3 THE WITNESS: Yes.

4 THE FOREPERSON: Thank you.

5

6 (Pause.)

7

8 MR. TESTA: If you can have a seat right
9 there, please.

10 And can you tell us your name, please?

11 THE WITNESS: Sure it's Melinda Pierce,
12 P-I-E-R-C-E.

13 THE FOREPERSON: Would you raise your right
14 hand, please?

15

16 **MELINDA PIERCE,**

17 a witness called on behalf of the People, having been duly
18 and regularly sworn by the Grand Jury Foreperson, testified
19 as follows:

20

21 THE WITNESS: Yes, I do.

22 THE FOREPERSON: Thank you.

23

24 **EXAMINATION**

25 BY MR. TESTA: Q. Where are you employed?

26 A. At Tracy Police Department.

27 Q. And what is your position there?

28 A. I'm a crime scene technician.

1 Q. Do you recognize what is shown as 159?
2 A. Yes, I do.
3 Q. Did you have some contact with this?
4 A. I did.
5 Q. What?
6 A. I collected the note.
7 Q. Did you give it an evidence number?
8 A. Yes.
9 Q. What number?
10 A. 1222/05.
11 Q. What date did you collect the note?
12 A. On March 28th, 2009.
13 Q. Where?
14 A. At 812 West Clover Road.
15 Q. Did you take any photographs of it?
16 A. I did.
17 Q. For what purpose?
18 A. To show where the item was located.
19 Q. Showing you number 158, do you recognize it?
20 A. Yes. Yes, I do.
21 Q. Did you take it?
22 A. I did.
23 Q. What does it show?
24 A. It shows where the note was placed back on the ground.
25 Q. 157, do you recognize it?
26 A. Yes.
27 Q. Did you take it? Do you remember if you took this
28 one?

1 A. Mmm, I did not take that picture.

2 Q. Oh, were there other people there taking photographs?

3 A. The FBI was on scene before I was.

4 Q. Okay. So what was your purpose in taking photos if
5 they were taking photos?

6 A. My purpose was I was called out to collect the note to
7 book it into evidence.

8 Q. Oh, okay.

9 And does that often entail taking photographs, too?

10 A. Yes.

11 Q. Where it is when you find it?

12 A. Yes.

13 Q. Okay. So did you process the note to see if there
14 were any fingerprints on it?

15 A. I did.

16 Q. Did you find any?

17 A. No.

18 Q. Did you have any experience in processing it?

19 A. Yes.

20 Q. Do you use reasonably accepted procedures to try to
21 get fingerprints off of it?

22 A. Yes.

23 Q. Did you go beyond the usual and try and try and try?

24 A. I -- I processed the note with Ninhydrin twice.

25 Q. And when you -- why did you do it twice?

26 A. That's standard procedure. If -- if no prints appear
27 the first time, it's standard procedure to try again.

28 Q. By the way, when you process something, don't you end

1 up, not destroying it, but doesn't that Ninhydrin affect the
2 note to the point where it starts draining the ink off of
3 the line?

4 A. It does. That's why we photocopy it first.

5 MR. TESTA: Do you have the note? Do you
6 have the note?

7 THE SECRETARY: I thought you had it.

8 MR. TESTA: Q. So you have training and
9 experience in Ninhydrin?

10 A. I do.

11 Q. If there are no prints -- oh, I have it here -- let me
12 show you 160.

13 A. Sure.

14 Q. Any of that from you?

15 A. Yes.

16 Q. By the way, this is the number you said you gave it?

17 A. Yes.

18 Q. With the laser pointer, what do you recognize on this
19 exhibit, the one that's in front of you -- right in front of
20 you?

21 A. Oh, thank you. My signature is in the chain of
22 custody. The M. Pierce.

23 Q. That's -- okay.

24 A. I also entered all this information in.

25 Q. You put it in a sealed envelope?

26 A. Yes.

27 Q. It says "evidence"?

28 A. Yes.

1 Q. Actually, I think this is yours. Are yours the white
2 one or are yours the red one?

3 A. Mine is the white one. My initials are on the white
4 one, the MP right here, and the date.

5 Q. Okay. I guess the red one is the FBI?

6 A. Yeah.

7 Q. Okay. Showing you the contents of that exhibit, do
8 you recognize it?

9 A. I do.

10 Q. So it didn't look like that before you Ninhydrined it,
11 did you -- or did it?

12 A. No.

13 Q. By the way, is this the plastic bag the FBI put it in
14 or is that your own?

15 A. That's the plastic bag that the FBI put it into.

16 Q. Are your initials on this at all?

17 A. No.

18 Q. Now here's the question I have: You know, right now
19 when it's folded over, you can see both sides.

20 A. Uh-huh.

21 Q. But does that Ninhydrin make it bleed over?

22 A. I don't recall --

23 Q. Because I think --

24 A. -- if it bled over before. I processed both sides
25 with Ninhydrin, but I don't remember if the writing bled
26 before or after I processed it. The Ninhydrin causes the --
27 the running that you see. But it probably doesn't cause the
28 bleeding through the writing.

1 Q. If I heard correctly, the other guy said it was over,
2 you know, like this where you couldn't see the writing.

3 A. Oh.

4 Q. If I heard him correctly. Here it looks like you can
5 see something even if it's upside -- even if it's folded
6 over.

7 A. Right.

8 Q. What is that Ninhydrin made out of? Is it a liquid?

9 A. The Ninhydrin, as we use it, is a aerosol spray.

10 Q. And what's the purpose? You spray the aerosol on
11 the -- on the note?

12 A. Uh-huh.

13 Q. And then what are you trying to do, trace lettering?

14 A. Correct. The Ninhydrin bonds with amino acids left
15 behind by the fingers.

16 Q. Does it cause it to become moist?

17 A. It causes it to turn purple.

18 Q. Okay. Now, what does it mean if you find no
19 fingerprints whatsoever on a piece of paper, is that normal,
20 is that abnormal?

21 A. It's -- it's normal not to find fingerprints. We
22 don't find fingerprints off of everything. The -- the
23 fingerprints, the amino acids are left behind by sweat. So
24 if the fingers aren't sweaty, a lot of times we don't get
25 any results.

26 Q. What if it's windy, does that cause the sweat to dry
27 so that it doesn't leave anything on the note, or is there
28 any effect that weather would have?

1 A. I'm unsure of how wind would affect it. I don't
2 believe it would, but I don't know for sure.

3 Q. Did you do anything else that night with respect to
4 this note?

5 A. No, I collected it and then processed it with
6 Ninhydrin.

7 Q. Then the next day did you process it again?

8 A. I did.

9 Q. No prints at all?

10 A. No.

11 Q. Not even like a partial latent print?

12 A. No.

13 Q. I know with prints, you need certain points of
14 comparison before you can make a match, is it eleven,
15 twelve, whatever it is?

16 A. Uh-huh.

17 Q. Sometimes they can find three points or five points --

18 A. Correct.

19 Q. -- it's not a match, but at least you have something.
20 You found nothing?

21 A. I found no partial prints on this note.

22 Q. Not even like -- what about not fingerprints, but palm
23 prints or ridges of the palms or anything?

24 A. No.

25 Q. So moving along, did you collect some DNA swabs from
26 the Cantu family?

27 A. I did.

28 Q. How did you number those?

- 1 A. I gave them individual item numbers. I will have to
2 refer to my report to know for sure.
- 3 Q. Are they all 1-2-2 numbers?
- 4 A. Correct.
- 5 Q. Which is your employee number?
- 6 A. That's my city ID number.
- 7 Q. Then it would have 06, 07, 08, 09, 010 -- 10 or 11?
- 8 A. Correct. Correct.
- 9 Q. Can you look at your report and just confirm that
10 those numbers would be on there?
- 11 A. Sure. (Referring to report.)
- 12 Q. And this is standard, isn't it, you take DNA of the
13 family members when you -- are they swabs from the mouth?
- 14 A. They are cheek swabs.
- 15 Q. Taken for what purpose?
- 16 A. For DNA purposes, for DNA collection.
- 17 Q. And what were the -- I think it was your page 4, what
18 were the numbers you put on there?
- 19 A. I personally collected from Simone Chavez and from
20 Thomas Fortin. Miranda Chavez was collected by CST Carson,
21 but I booked it into evidence.
- 22 Q. What number did you give it?
- 23 A. For Miranda?
- 24 Q. All of them?
- 25 A. For Simone --
- 26 Q. Just the group.
- 27 A. Oh.
- 28 Q. 06, 07, 08?

1 A. 06 through 08 for Simone, Thomas, and Miranda.

2 Q. And then 09 through 13 for?

3 A. For -- for her mother and her grandparents.

4 Q. Okay. Actually, I think it was 09 through 011.

5 A. Correct.

6 Q. Did you -- moving on, I just want to get you on and
7 off -- did you collect some prescription bottles?

8 A. I did.

9 Q. From -- from where?

10 A. From Melissa Huckaby's residence.

11 Q. On what date?

12 A. On April 14th.

13 Q. Are they here today?

14 A. Yes.

15 Q. Where are they? You know, rather than having each one
16 marked --

17 A. Correct.

18 Q. -- why don't you just tell us...

19 MR. TESTA: Do I have that exhibit that has a
20 list of all the prescriptions?

21 THE FOREPERSON: Yes. Right here.

22 MR. TESTA: Q. Exhibit 225, rather than
23 repeating everything -- so, I'm sorry, you booked some
24 prescription medications from -- from where now, on what
25 date?

26 A. It was from Melissa Huckaby's residence on April 14th,
27 2009.

28 Q. Pursuant to a search warrant?

1 A. Correct.

2 Q. Who was there doing -- helping you with the search?

3 A. It was several Tracy Police detectives. I believe
4 Detective Knight was there, Detective Bauer, also DAI
5 Investigator Mark Ellenburg.

6 MR. TESTA: Rather than have each one of
7 these things individually marked, at this point let me have
8 marked as People's next in order a list, and have you tell
9 us whether these were the items -- what number would this
10 be?

11 THE SECRETARY: 232.

12 MR. TESTA: 232, which I'll fold so we only
13 have the list marked as an exhibit.

14
15 (Whereupon a List of Prescription Drugs
16 was marked Grand Jury Exhibit Number
17 232 for identification.)

18
19 MR. TESTA: Q. Did you make -- you're
20 Melinda Pierce, right?

21 A. Correct.

22 Q. Did you -- did you make a list of what the drugs were?

23 A. I did.

24 Q. Do you have the laser pointer?

25 A. I do.

26 Q. Can you show us what it is that you -- tell us for the
27 record what you booked.

28 A. Do you want me to start on 38?

1 Q. Was the Walgreens receipt?

2 A. Correct. The Walgreens receipt was -- was attached to
3 a bag that contained prescription medicine.

4 Q. What other medications did you actually find? Empty
5 bottle of what? Alprazolam?

6 A. Alprazolam, my pronunciations might be off.

7 Q. What date was it?

8 A. January 20th, 2009.

9 Q. That's the date on the bottle?

10 A. Correct.

11 Q. Prescribed to?

12 A. To suspect Melissa Huckaby.

13 Q. Okay. So January 20th of '09.

14 Was there any -- was there any -- oh, it's empty?

15 A. Correct.

16 Q. How many -- quantity 90. January, February, March.

17 So if there's 90 in them. You know if you take one a day, I
18 don't know anything about that, do you?

19 A. I don't recall. I took photographs of the bottle, but
20 I don't recall.

21 Q. I think we actually, as you say, have the bottles. I
22 just don't think we need to mark them right now.

23 You found an empty prescription bottle of?

24 A. Belladonna alkaloids with PB tablets.

25 Q. And a prescription bottle containing?

26 A. 54 lamotrigine.

27 Q. Okay. Does this list, 232 -- the next one will be

28 233 -- this first one I've shown you, 232, accurately show

1 some of the items that you booked?

2 A. Yes.

3

4 (Whereupon a List of Prescription Drugs
5 was marked Grand Jury Exhibit Number
6 233 for identification.)

7

8 MR. TESTA: Q. And moving on to Exhibit 233,
9 did you find a prescription bottle containing what? Oh,
10 that's to Connie.

11 A. Are you referring to the top line?

12 Q. Yes.

13 A. 51 oxycodone.

14 Q. That was prescribed to Connie Lawless, correct?

15 A. Correct.

16 Q. Moving on to what you found in Melissa Huckaby's room,
17 what you booked from Melissa Huckaby's room.

18 A. We found several prescription bottles in her room. Do
19 you want me to start from the top?

20 Q. Advair, A-D-V?

21 A. Advair HFA.

22 Q. And A-C-E-T-A-M-I-N-O-P-H-E-N?

23 A. Correct.

24 Q. F-U-R-O-S-E-M-I-D-E?

25 A. Correct.

26 Q. F-A-M-O-T-I-D-I-N-E?

27 A. Correct.

28 Q. S-I-N-G-U-L-A-I-R?

- 1 A. Correct.
- 2 Q. E-R-Y-T-H-R-O-M-Y-C-I-N?
- 3 A. Correct.
- 4 Q. An empty prescription bottle of A-D-D-E-R-A-L-L?
- 5 A. Yes.
- 6 Q. More Singulair?
- 7 A. Yes.
- 8 Q. Paroxetine?
- 9 A. Correct.
- 10 Q. Several bottles of that?
- 11 A. Yes.
- 12 Q. And then another -- now this empty bottle of
13 alprazolam, this was dated February 20th of '09, is that
14 correct?
- 15 A. Yes.
- 16 Q. That also had -- that had quantity of 90, correct?
- 17 A. Correct.
- 18 Q. And it was completely empty?
- 19 A. It was empty.
- 20 Q. And you were there on what date, April?
- 21 A. April 14th.
- 22 Q. You found four pages of anti-depressant information?
- 23 A. Correct.
- 24 Q. And more paroxetine, whatever?
- 25 A. Yes.
- 26 Q. And did you find some kind of container that these
27 items were in?
- 28 A. They were located inside of a box.

1 Q. All of these various prescriptions that were found in
2 her room were located in a box?

3 A. Some of them were.

4 Q. Okay. The box had a label on it that said Melissa
5 Lawless?

6 A. Correct.

7 Q. And it was shipped on March 10th of '09?

8 A. Correct.

9 Q. Well, was this alprazolam, dated February 20th, was it
10 in this box that was shipped on March 10th? Could you tell
11 by looking at your list?

12 A. I believe so. Because 52 through 56 were inside that
13 item. I could refer to my notes to know for sure.

14 Q. Well, could you verify, if you're saying -- you
15 wrote -- you prepared this document, correct?

16 A. Correct.

17 Q. So you're saying 52 to 56 were these boxes?

18 A. Correct.

19 Q. Right? So 55 would be inclusive of that list?

20 A. Yes.

21 Q. Included.

22 So here we have a 90-quantity box of alprazolam which
23 is empty. And she just had it -- just got it March 10th, a
24 month ago --

25 A. Correct.

26 Q. -- a month before your search, do I understand that
27 correctly?

28 A. Yes.

1 Q. Okay. So does this list, 233, accurately depict the
2 items found in her room?

3 A. Yes.

4 Q. Did you find any isopropyl alcohol in her room or in
5 the trailer?

6 A. We found two bottles inside the trailer.

7 Q. Where in the trailer?

8 A. In both bathrooms -- in both medicine cabinets inside
9 each bathroom. There's two bathrooms.

10 Q. Were they full?

11 A. No.

12 Q. What quantity was there?

13 A. In the south bathroom, it was about half full. And in
14 the west bathroom, which is the master bathroom, it was
15 about one-third full.

16 Q. Did you book a green dish cloth?

17 A. I did.

18 Q. From whom did you receive that? Mark Ellenburg?

19 A. Mark Ellenburg, yes.

20 Q. Do you have a photograph of that?

21 A. I do.

22 Q. Could you show us?

23 A. I don't know if you have it. It's photo 294 and 295.

24 Q. No, I don't.

25 A. Okay. I'll take it out of here.

26 MR. TESTA: May I have this marked as
27 People's next in order? What would this be?

28 THE SECRETARY: 234.

1 (Whereupon a Sheet with Four Photographs
2 was marked Grand Jury Exhibit Number
3 234 for identification.)
4

5 MR. TESTA: Q. So what does 234 show? Four
6 photographs total?

7 A. Yes.

8 Q. What are A and B -- I put an A, B, C, and D. What is
9 A?

10 A. A is one of the prescription bottles I collected from
11 the residence.

12 Q. This is an example of how you collect these, you
13 photographed them before you collected them?

14 A. These were taken back at Tracy Police Department. I
15 was taking them to show photos of the collected items.

16 Q. B is another photograph of the medicines?

17 A. Correct.

18 Q. What are C and D?

19 A. C and D are a pictures of a dish cloth that were given
20 to me by Mark Ellenburg that I took into evidence.

21 Q. All right. Let me see if I have any questions for
22 you.

23 A. I have additional photos of the measurements if you
24 need them.

25 Q. That's okay. We don't need those today.

26 Did you collect blinds from the church?

27 A. I did.

28 Q. At whose request?

1 A. Detective Bauer and Detective Knight.

2 Q. On what date?

3 A. On April 10th.

4 Q. What numbers did you give them?

5 A. Oh, excuse me, it was on April 23rd. It was the
6 second search warrant at the church.

7 Q. And what numbers did you give them?

8 A. Can I refer to my report?

9 Q. Of course, if you need to refresh your recollection.

10 A. (Referring to report.) Items number 1222/66 through
11 67.

12 Q. Skipping to a different topic, did you book a rolling
13 pin?

14 A. No.

15 Q. Did you see or photograph a rolling pin?

16 A. I did not photograph it.

17 Q. Oh, I thought I had that down for you. You're Melinda
18 Pierce, right?

19 A. Correct.

20 Q. Do you have your report?

21 A. I do.

22 Q. Did you look at it, I should say?

23 A. I did. I saw the rolling pin.

24 MR. TESTA: Okay. May I have a photograph of
25 that, please, the rolling pin in the church?

26 Q. And what date?

27 A. On April 10th.

28 Q. And what was -- what were you doing there in the

1 church?

2 A. My role was to use the alternate light source, the
3 ALS, over all the rooms inside the church.

4 Q. And did you use it on the rolling pin?

5 A. I did.

6 Q. And are we talking about this rolling pin here that's
7 shown in 13?

8 A. Yes.

9 Q. So when you used the alternative light source on
10 that -- by the way, was it out there on the cabinet or was
11 it still inside the drawer?

12 A. It was on the cabinet -- on the countertop when I
13 entered the kitchen.

14 Q. And did you find anything when you used your
15 alternative light source?

16 A. I did.

17 Q. What did you find?

18 A. On the handle, as you could see, one of the handles --

19 Q. The laser pointer, please.

20 A. This handle on the rolling pin is bent. On the handle
21 that is not bent, I had found some sort of substance or it
22 appeared to be some type of smudging or substance that was
23 on that end of the rolling pin.

24 Q. Showing you -- did you photograph it? You didn't
25 photograph it?

26 A. I did not.

27 Q. I think we heard from somebody who did. So this is
28 another photograph, is it, of the number 14, this a

1 photograph of the rolling pin?

2 A. Yes.

3 Q. See that it has the placard 19?

4 A. Correct.

5 Q. So what did you find and where?

6 A. On this handle.

7 Q. The one near the 19?

8 A. Correct. One was bent. As could see in the photo,
9 one was not bent. On the handle that was not bent, using
10 the alternate light source, I saw something on the handle.
11 It appeared to be some type of smudging or unknown
12 substance.

13 Q. So did that -- when you used the alternative light
14 source, did it -- what were the results? Maybe I don't
15 understand. What do you use the alternative light source
16 for again?

17 A. The alternative light source, basically different
18 substances absorb light differently than others. So
19 basically it creates contrast. So you could see -- so you
20 could differentiate between different backgrounds. It helps
21 to identify biological evidence.

22 Q. So what -- and what were the results of your using the
23 alternative light source on the metal rolling pin.

24 A. On the rolling pin, I saw some sort of smudging or
25 substance on this handle.

26 Q. The one that's 19?

27 A. Correct.

28 Q. And Exhibit 14.

1 All righty. And then who booked it?

2 A. CST Deborah Martin.

3 Q. I think we already heard from her.

4 All right. The last point I had for you, did you find
5 some blinds from space 88?

6 A. I did.

7 Q. And what date did you check those?

8 A. April 7th.

9 Q. And what numbers did you give those?

10 A. Can I refer to my report?

11 Q. Yes, please, if that would refresh your recollection.

12 A. (Referring to report.) They were item numbers 1222/27
13 through 33.

14 Q. Okay. What about an Isuzu Trooper, did you collect
15 anything from that?

16 A. I did.

17 Q. What?

18 A. I collected string-type material from the Isuzu.

19 Q. Which Isuzu?

20 A. That was located on the west side of the residence.

21 Q. Wyoming license 492 E as in Edward?

22 A. Correct.

23 Q. What did you collect from that?

24 A. A string and rope-type material.

25 Q. And did you book that?

26 A. I did.

27 Q. What numbers did you give those?

28 A. 1222/34 through 35.

1 Q. Okay. I have no further questions, I'm pretty sure.
2 Let me look at my notes.

3 The questions from the grand jurors are as follows:
4 Did the FBI do their own fingerprint analysis on the note?
5 And if so, do you know the results?

6 We are talking now of the note -- the stolen suitcase
7 note.

8 A. I believe they took the note for DNA purposes. I
9 don't know if they did their own fingerprint analysis.

10 Q. Once you have done your Ninhydrin, have you kind of
11 spoiled it for future purposes?

12 A. What I've been trained and from what I understand, it
13 doesn't destroy DNA evidence.

14 Q. Does it destroy print -- could you give it to someone
15 else to ask them to look for prints after you've done
16 Ninhydrin on it?

17 A. I don't know that they would be able to obtain prints
18 from it.

19 Q. You don't use the dusting -- you know, they dust
20 something for prints on pieces of paper?

21 A. Not paper.

22 Q. I thought they stopped using the Ninhydrin because it
23 was carcinogenic. Is that true?

24 A. We still use Ninhydrin, as far as I know.

25 Q. Maybe they altered the property.

26 Here's a question from the grand jury: Is there a way
27 to tell how many pills of alprazolam were to be taken daily
28 by Melissa?

1 A. It might say on the prescription bottles. It might be
2 in the photographs. But I don't recall.

3 Q. Could you look for that prescription bottle of all the
4 ones we have here and see if you find it? Maybe during my
5 next witness. Are you working now?

6 A. Yeah.

7 Q. On duty?

8 A. Yes.

9 Q. Because I don't want to take the time now for it. If
10 you could find it in answer to that question, for any of the
11 ones that have alprazolam, preferably the most recent ones,
12 I think it was the February date.

13 Maybe this answers it, I'm not sure. Showing you
14 Exhibit Number 25 -- now, by the way, is this one of your
15 photographs, can you tell?

16 A. Yes.

17 Q. Alprazolam, 2 --

18 A. 2 milligram tablets.

19 Q. Take one tablet by mouth three times daily.

20 Thank you for finding this.

21 A. Yes.

22 Q. 90. So one of these is good for a month?

23 A. Correct.

24 Q. Another question from the grand jury: Were there any
25 rubber gloves -- good question -- found at the Huckaby house
26 or at the church?

27 Were you present at either of those -- you were
28 present at the church?

1 A. I was.

2 Q. Do you remember finding or seeing any rubber gloves?

3 A. Not that I recall.

4 Q. Were you present at the house -- at the Huckaby house
5 at all?

6 A. I was.

7 Q. Find any gloves that you recall?

8 A. Not that I recall.

9 Q. Did you ever find a backpack -- a backpack Melissa
10 Huckaby may or may not have had in one of the videos we saw
11 for the surveillance videos?

12 A. I don't believe so, no.

13 Q. Were any fingerprints or blood found anywhere,
14 trailer, suitcase, et cetera?

15 A. The only time I processed for fingerprints was on the
16 search warrant at the karate studio owned by Frank Wohler.

17 MR. TESTA: Okay. Are there any other
18 questions from the grand jury?

19 I see none. An admonition will be read.

20 THE FOREPERSON: You are admonished not to
21 reveal to any person, except as directed by the Court, what
22 questions were asked or what responses were given or any
23 other matters concerning the nature or subject of the grand
24 jury's investigation which you learned during your
25 appearance before the grand jury. This admonishment
26 continues unless and until such time as the transcript of
27 this grand jury proceeding is made public.

28 Violation of this admonishment is punishable as

1 contempt of court.

2 Do you understand?

3 THE WITNESS: I do.

4 THE FOREPERSON: Thank you.

5 THE WITNESS: Thank you.

6 MR. TESTA: Thank you. You taking your break
7 now?

8 THE FOREPERSON: Yes.

9 MR. TESTA: What time do you normally take
10 it? Around now?

11 THE FOREPERSON: Yes. Uh-huh.

12 MR. TESTA: Fifteen minutes from now then.
13 Thank you.

14

15 (Recess.)

16

17 THE SECRETARY: And we are all accounted for.

18 MR. TESTA: Thank you.

19 Could you tell us your name, please?

20 THE WITNESS: My name is Ted Burkes.

21 Spelling of the last name is B-U-R-K-E-S.

22 THE FOREPERSON: I think we are -- we are
23 going to have more frequent breaks. There's one person that
24 needs to have more frequent breaks. And so we are going to
25 try to accommodate that person. All right?

26 So I --

27 MR. TESTA: You're going to read the
28 admonition, are you, or the oath?

1 THE FOREPERSON: Okay. I can do that. Got
2 me off track here now.

3 Would you raise your right -- thank you.
4

5 **TED BURKES,**

6 a witness called on behalf of the People, having been duly
7 and regularly sworn by the Grand Jury Foreperson, testified
8 as follows:
9

10 THE WITNESS: I do.

11 THE FOREPERSON: Thank you.
12

13 **EXAMINATION**

14 BY MR. TESTA: Q. Could you tell us your
15 name, please, sir?

16 A. My name is Ted Burkes. Spelling of the last name is
17 B-U-R-K-E-S.

18 Q. Where are you employed?

19 A. I'm employed at the FBI Laboratory at Quantico,
20 Virginia.

21 Q. Showing you Exhibit 227, did you examine that?

22 A. I examined the original of that, yes, sir.

23 Q. Did you -- what was your purpose in examining it?

24 A. The primary purpose was to conduct a handwriting
25 comparison. In order to do that, I had to examine the
26 document with -- using Adobe Photoshop to remove the
27 obliterating strokes.

28 Q. Did you examine this 183?

1 A. Yes. I examined the original note which had been
2 already processed for latent prints, as well as the image
3 you see here, which was a photograph of the note prior to
4 being processed for latent prints.

5 Q. So by the time you had got it, that Ninhydrin had
6 already been put on?

7 A. Yes, sir.

8 Q. Showing you Exhibit 160, does this appear to be the
9 note that you -- that you examined?

10 A. Could I see the note?

11 Q. Okay.

12 A. My initials should be at the lower right.

13 Yes, sir. That's it.

14 Q. Q33?

15 A. Yes, sir. My initials TMB.

16 Q. Oh, okay. And for what purpose did you examine this
17 note?

18 A. For handwriting comparison. And, also, I compared it
19 to the pages in a notebook.

20 Q. What pages in a notebook did you compare it to?

21 A. All of them. All fifty-four pages in what was
22 submitted as Q34.

23 Q. What did Q34 look like?

24 A. It was a notebook that had a -- no, sir, it's not the
25 one. It's orange. No.

26 Q. Okay. They are coming tomorrow. I don't have them
27 today.

28 Let me ask you this: Did you ever look at 194 or 195,

1 any pages from the notebook?

2 A. No, sir.

3 Q. You never had that, did you?

4 A. No, sir.

5 Q. Because we've already heard some testimony about Tim
6 Bauer who had these, and as a lay person he was explaining
7 how deletions are made by making circles around -- over the
8 matter to be deleted.

9 He showed us in his opinion that that appears to be
10 what's on 224, circles are made to delete the wording that's
11 under there which we believed to be two streets.

12 But you did not have that information, did you?

13 A. No, sir.

14 Q. At least this 3/2/08 -- or whether it's '08 or '09,
15 '08 is what it says. This letter to "My Closet," I think it
16 is. "My Closest "-- no, "My Closet."

17 Okay. In any case, did you prepare a PowerPoint
18 presentation of what your findings are?

19 A. I did.

20 Q. How long does it take to go through it?

21 A. Maybe fifteen minutes.

22 Q. Oh, okay. And what's your training and experience
23 that causes you to have the expertise to tell us what you're
24 about to tell us?

25 A. I began my training in forensic document examination
26 in November of 1991 at the Mississippi Crime Laboratory, and
27 trained there for approximately two and a half years. I was
28 a bench examiner there until April of 1998 when I left the

1 employment of the State and went to the FBI Laboratory and
2 began my employment there.

3 Once I arrived there, I was given an additional two
4 years of training on top of what I have already had.

5 And since approximately March of 2000 -- I'm sorry,
6 yeah, March of 2000, I have been a bench examiner at the FBI
7 Laboratory.

8 Q. Have you qualified in courts before?

9 A. Yes, sir. I've qualified in four US district courts,
10 one military courts martial, eight state courts, from the
11 states of Mississippi and Indiana, and one grand jury in the
12 state of Mississippi.

13 Q. What about out here in California?

14 A. This is my first opportunity to testify in California.

15 Q. Oh, okay.

16 So what did you -- I mean, what is your title? What
17 are you called?

18 A. I'm a forensic document examiner.

19 Q. And how long have you been doing it?

20 A. Since 1991, November.

21 Q. I think you said that.

22 A. Yeah.

23 Q. Can we have marked as next People's next in order your
24 CD on which you put your presentation?

25 A. Sure.

26 Q. You don't have to withdraw it, but is it in that
27 container?

28 A. Yes.

1 MR. TESTA: What exhibit number will this be?

2 THE SECRETARY: 235.

3 MR. TESTA: I'll give you the empty one for
4 now. 235.

5

6 (Whereupon a PowerPoint Presentation by
7 Ted Burkes was marked Grand Jury
8 Exhibit Number 235 for identification.)

9

10 MR. TESTA: Q. And is there volume on this
11 or are you going to tell us what we see as you show it?

12 A. I'll tell you what we'll see.

13 Q. Go right ahead. Do you need a laser pointer?

14 A. I see there's one here. I think I can get away with
15 that.

16 Q. Okay.

17 A. As I say, as I stated earlier, I'm Ted Burkes. I'm a
18 document examiner with the FBI Laboratory.

19 The exhibits that I examined in this case, the
20 questioned documents were:

21 The note beginning "Cantu locked in," which you
22 previously seen was my Exhibit 33.

23 The notebook, which we have not seen yet, apparently,
24 is Exhibit 34.

25 The blue Post-it note which you just saw an image of
26 was Exhibit 163.

27 And the photograph of Q33 note was the Q168, which
28 means something similar to it also.

1 The known writing that I looked at was that of Melissa
2 Huckaby. Consists of seventeen standards. And as you see,
3 a standard is a course of business writing. Most of you can
4 see that. In other words, this is done without her
5 knowledge that it will be used in a handwriting comparison.
6 And that consists of three pages, four notes, and ten pieces
7 of torn paper.

8 Q. By the way, are you considered a peace officer?

9 A. No, sir.

10 Q. Go ahead.

11 A. The examinations requested: Did Melissa Huckaby write
12 the questioned text on the Q163, the blue note, and the
13 Q68 -- or 168 and the Q33 notes?

14 And, also, did the Q33 note --

15 Q. Well, this isn't going to work because we don't have
16 these in our mind. I'm sorry to interrupt you.

17 Basically, did she write the stolen suitcase note?

18 A. I can get to that.

19 Q. Oh, okay. Go ahead, I cut you off.

20 A. That's okay.

21 Q. You are going to lose us, though, if you're just going
22 to talk like did 33 come from 34. Go ahead.

23 A. This is just the examinations I conducted. I examined
24 the questioned writing, I examined the known writing,
25 compared the two. And then examined the note and the
26 notebook for -- see if they shared the same characteristics.

27 This is an image of that note that you've already
28 seen. This is what I designated as Q168, which was the

1 photograph of the note prior to it being processed for
2 latent prints.

3 Q. Stolen suitcase note is what we have been calling it.

4 A. Right. It is my opinion that this note was not
5 naturally prepared, handwriting-wise.

6 Things that lead me to that belief are such things as
7 these pen stops where the pen is actually sitting on the
8 paper for an extended period of time at the end of each
9 stroke.

10 This occurs because the pen is set down on the paper
11 and then moved, and then stopped, and then lifted off,
12 instead of naturally writing, the pen is in motion generally
13 as it hits the paper and as it's coming off the paper.

14 Q. Can I stop you for a second?

15 A. Certainly.

16 Q. On the word "onn," O-N-N, are these, the bottom of the
17 middle N, examples of that phenomenon that you're referring
18 to?

19 A. Those appear to be more of what is generally known in
20 the -- in the business as tic marks. In other words,
21 it's -- those are actually written somewhat quickly.

22 You can also see at the bottoms of the H's down at the
23 bottom where she's getting away -- I'm misspeaking when I
24 say "she" -- the writer is getting away from the disguising
25 habit of trying to stop and then lift the pen.

26 Q. I'm trying to get the whole...

27 Is that all right with you or do you want to keep it
28 where it was?

1 A. It's fine with me.

2 Q. All right. Unless I bring it smaller.

3 Okay. Go ahead.

4 A. Based on these characteristics, it's my determination
5 that I could not conclude whether or not Melissa Huckaby
6 prepared this note.

7 And I also expressed an opinion that this writing
8 could not be or was doubtful that it could be -- the writer
9 could be identified through a handwriting comparison.

10 Q. So it looked like someone, whoever wrote it, was
11 attempting to camouflage their writing?

12 A. That's correct.

13 Q. And you say that because of the manner in which some
14 of the pen stayed at a certain place in the letter
15 formation?

16 A. That's correct. Just the slowness, it's an indication
17 of being slowly prepared. You can also see some tremor in
18 some of the writing, which is also another indication of the
19 pen moving slowly across the paper.

20 Q. Okay.

21 A. This is actually the --

22 Q. We have been calling it the Post-it note.

23 A. Post-it note.

24 And I just wanted to go through quickly how I was able
25 to bring up the writing so that I could look at it.

26 As you can see, there is some black writing underneath
27 the blue overwriting or obliterating strokes.

28 First, I scan it into Photoshop. It's an RGB mode,

1 which means red, green, blue. That's just a form that
2 everything gets brought into Photoshop with.

3 Q. Do you have a number for each slide you're showing so
4 we can put that on the record so someone reading this can
5 follow this? Are these numbered slides?

6 A. I did not number them, no.

7 Q. I'll try my best. So we are looking at the Post-it
8 note. Sorry to cut you off.

9 A. That's okay.

10 Showing here my method of converting it to CMYK. CMYK
11 stands for cyan, magenta, yellow, and the K is actually for
12 black. It's actually a printing term. We see in red,
13 green, blue our computer monitors, our televisions,
14 everything is in red, green, blue. But when it's printed,
15 it's in CMYK.

16 And the purpose behind my doing this is to convert it
17 to CMYK and then look at the channels over here. I'm going
18 to look at it with a yellow filter here. Yellow is a
19 subtractive filter for the color of blue. So what this did
20 was it dropped out all of the blue in both the overwriting
21 strokes and also the note itself.

22 Q. Could you keep that on for a second?

23 A. I can actually make it better.

24 Q. Okay. Go ahead.

25 A. I'm then changing the brightness and contrast to
26 strengthen it a little bit, and you can see the -- the
27 writing and the obliterating strokes are showing up in
28 white.

1 Q. So does it look like somebody tried to write over the
2 Bacchetti and Whitehall Rd., water, with these swirly little
3 circles?

4 A. The Bacchetti and Whitehall Rd., yes, sir.

5 The -- the -- what appears to be "water" at the bottom
6 was actually partially obliterated with the same color ink
7 that was used or the same ink that was used to write the
8 remaining text on the note.

9 Q. Okay. Go ahead.

10 A. Then I'm just going to show you quickly what I look at
11 when I do a handwriting comparison.

12 For the purposes of this presentation, these are four
13 of the samples that I had to compare of her known writing.
14 I'm just going to refer to them as all K36, page 1 page 2,
15 page 3, and page 4. And then here are samples of -- this is
16 from page 1, page 2, page 2, page 4, and page 4.

17 And I'm going to point out the common --
18 characteristics in common.

19 You could see the way the B is made. This is actually
20 a one-stroke B. And the same thing is done here.

21 Next is the H's. You'll see how the initial staff of
22 the H does not come down as far as the end of the arc going
23 across to finish the H. The same thing can be seen on
24 page 2 here.

25 The W, you can see how there's a -- a -- a difference
26 in the height between the initial stroke and coming back up
27 to the middle. As you can see here, as well as the tented
28 nature of the middle of the W.

1 I wanted to point out here on the H, this is a
2 different H, but you can see how this arc more closely
3 represents the arc as seen in these three H's, as opposed to
4 the H you see on page 2 of these two examples.

5 This is an example of her natural range in variation.
6 In other words, because we are human beings, we use the
7 neurophysiological process to write. The brain tries to
8 write the same way every time for the most part, or it has
9 different ways it likes to write things. And it doesn't
10 always necessarily get to the hand when that writing occurs.

11 And then the next is the -- the D, there's such a
12 tight loop at the top that it almost looks like a crooked
13 line. You see the same thing down in this example on the
14 page 4.

15 And then the E is kind of a triangular shaped there,
16 like it is down here.

17 And I apologize for those who can't see this.

18 Now, these are the three characteristics that I could
19 not account for in her known writing: The angle of this
20 shape of the B here was not found in hers. The double L
21 with the difference in the height of the two letters, and
22 the shape of this upper-case R, I did not have those in the
23 note-writing that I had to look at.

24 And all of these characteristics in common with
25 that -- those limitations led me to the opinion that -- to
26 indicate that Melissa Huckaby may have prepared the
27 questioned writing appearing on that note.

28 In fact, there are significant characteristics in

1 common. I'm virtually certain that she wrote that
2 obliterated writing on that note.

3 The next comparison I was asked to do was to determine
4 if the Q30, or the note that's the stolen suitcase note,
5 originated from that notebook.

6 The note matched the Q34 pages in the notebook with
7 all the same physical dimensions, size of paper, line
8 height, perforations, everything looked good.

9 However, when I looked at the manufacturing print
10 defects, the questioned note, or the stolen suitcase note,
11 this is on the back of that note, only has two print
12 anomalies or anomalies in the printing process that show up
13 on this note.

14 This was all done with a microscopic examination.

15 All fifty-four of the other pages, or the pages in
16 that notebook that you'll be seeing later, share seven in
17 common. This actually has one, two, three, four, five, six,
18 seven, eight, nine, ten. But three of these, this one, this
19 one and this, don't appear on every one of the pages. The
20 other seven appear on all fifty-four pages.

21 This characteristic anomaly here and this one are the
22 two that are in common with the questioned note that I
23 looked at.

24 Now, based on that, it's my opinion that
25 characteristics indicate the note -- Q33 note may not have
26 originated from that notebook. However, because of the way
27 printing companies put things together, I could not totally
28 eliminate that possibility.

1 And it's also obvious because those two share the same
2 characteristics, at one point the -- in the digital artwork
3 used to make up that, they share a common source.

4 Q. Does the Ninhydrin affect those little red dots to the
5 point where they obliterate them?

6 A. No, sir.

7 Q. And how is it that those two little red dots -- I'm
8 calling them red dots -- can you go back to that, the two on
9 the note in question -- these are caused by the
10 manufacturing -- in the manufacturing process of the paper?

11 A. What they are is they are inked dots or little
12 droplets of ink, the same type of ink used to make the lines
13 in the paper.

14 Some of the other anomalies --

15 Q. Can you keep that up there?

16 A. Sure.

17 Q. And then -- I'm sorry to cut you off.

18 A. No.

19 Q. These two dots, I'm calling them red dots, that are on
20 the stolen suitcase, the back -- the reverse side of the
21 stolen suitcase note?

22 A. Yes.

23 Q. As I understand, they line up perfectly with two dots
24 on the notebook found in Melissa Huckaby's house?

25 A. Yes.

26 Q. Now, the fact that they line up perfectly with that
27 notebook, does that mean they could have come from that
28 notebook?

1 A. I can't eliminate that possibility.

2 Q. Instead of putting in a negative, don't -- I don't --
3 I just want to know, I'm not telling you, I'm asking you,
4 you're the --

5 A. The possibility exists.

6 Q. What do you mean? What possibility exists?

7 A. Well, because, as I said, these two share the same --
8 this note and all of the fifty-four other sheets of paper in
9 that notebook share these same two print anomalies.

10 Q. What if I went up to the store, to the Office Depot,
11 and bought ten notebooks, what are the chances -- even
12 though there might be more, five or ten or eight or nine --
13 what are the chances that I'm going to get two of the very
14 same spots -- in other words, if you put -- let me ask the
15 question: If I put one of those pages from a notebook on
16 top of this, would they line up exactly in the same spots?
17 Do I understand that correctly?

18 A. Yes. Yes.

19 Q. What are the chances of that happening, if I went
20 out -- that's okay -- to Office Depot and bought ten
21 notebooks, isn't that -- I mean, isn't that like kind of
22 winning the lottery?

23 A. If the notebooks were all manufactured by the same
24 company and had they all have the same physical dimensions,
25 the possibility exists. It's hard to say, because it
26 depends on manufacturing lots, that type of thing.

27 Q. So you can't rule it in, you can't rule it out, or can
28 you go beyond that?

1 A. Correct. I can't -- I'm leaning more towards ruling
2 it out, but I can't totally rule it out because of these two
3 characteristics that they share in common.

4 Q. Well, what if it's on the bottom of the stack, do all
5 of the -- all of the other pages of that notebook have the
6 same number of red dots?

7 A. Plus some. Yes.

8 Q. What do you mean? Is there any difference? Do some
9 have ten, some have five, some have twelve?

10 A. All have at least seven. Some have up to ten.

11 Q. Even within the notebook that you have, you have
12 differences among the pages?

13 A. Yes.

14 Q. Do I understand that correctly?

15 A. That's correct.

16 Q. The most being about how many red dots?

17 A. Ten.

18 Q. Ten? And do you have any that have three or four or
19 five?

20 A. No. All the rest have at least seven.

21 Q. Okay. What does that -- and they are all still in the
22 rings, the pieces of paper are still in the binder, right?

23 A. I have removed them out of them. I was the one who
24 removed them from the binder.

25 Q. They were all in the binder. Even within that binder,
26 you see this variation of more dots or fewer dots?

27 A. Yes.

28 Q. Could you tell how many pages had already been taken

1 out of this particular notebook?

2 A. No, I couldn't.

3 Q. Fifty? A hundred? Do they come in standards?

4 A. Generally, they do. This one, there was fifty-four
5 sheets in this notebook. I tried to look up the
6 manufacturer and could not find any information on how many
7 pages were actually manufactured in this notebook.

8 Q. Could you look at it, just eyeball it, say, well, you
9 could tell there was room for another thirty or forty pages?

10 A. I doubt if there was that many. Maybe up to five or
11 ten more, but that's just eyeballing, no knowledge of --

12 Q. I cut you off. Were you about to say something else?

13 A. I was just going to point out the -- in this case,
14 there are not always -- I think it was this one and this one
15 are actually breaks in the line where it did not print the
16 portion of the line.

17 Q. So this is another page from that notebook?

18 A. Yes, sir.

19 Q. And this one has those very two dots that we have on
20 our stolen suitcase note?

21 A. That's correct.

22 Q. Same size?

23 Are these red dots -- is this red marking yours?

24 A. The red marking is mine circling those dots. What
25 they are are small ink droplets from the same ink used to
26 make the lines or print the lines of the paper. In the
27 cases where you've got dots, in the cases where you've got
28 an absence of the ink, it's a break in the line.

1 Q. Can you enlarge one so we can see what's inside the
2 red circle, or not as it's set here?

3 A. Right.

4 Q. What about did you count up -- you know, putting aside
5 this, which we discussed -- did you count up the number of
6 lines on the pieces of paper in her notebook, with the
7 number of lines on the stolen suitcase note?

8 A. Yes, they are all consistent in the physical
9 dimensions of the note and the --

10 Q. Exact number?

11 A. Yes, sir.

12 Q. So I don't know how many there are?

13 A. Exact number, exact spacing.

14 Q. So there are twenty-five of these lines on the
15 notebook; twenty-five on the stolen suitcase note?

16 A. Yes, sir.

17 Q. And do you have some device to measure the space
18 between the lines, real exact, like scientific?

19 A. I could have done that, but I just did a side-by-side
20 comparison.

21 Q. You put them side-by-side, stolen suitcase note with
22 the other pieces from her notebook, and they all match?

23 A. Yes, sir, same size, same size between the lines, yes,
24 sir.

25 Q. What about the size of -- what do you call these
26 squares?

27 A. I call them perforations.

28 Q. Perforations. Did you measure the perforation size of

1 the suitcase -- stolen suitcase note with the perforation
2 size in the other pieces of paper?

3 A. Yes, sir. And they are consistent also.

4 Q. What other consistencies did you see besides the
5 number of spaces, the number of lines, the number of
6 perforations -- do I understand?

7 A. Yes.

8 Q. And the size of the perforations?

9 A. Size of the paper.

10 Q. Oh, the overall size of the paper?

11 A. Overall size of the paper, both width and height.

12 Q. Oh, both the width and the height?

13 A. Correct. As --

14 Q. What about the thinness or thickness?

15 A. I did not measure that because this had already been
16 soaked, if you will, in Ninhydrin. So it may have
17 affected --

18 Q. I cut you off. Were there other consistencies?

19 A. There was no physical measurement of it. But they
20 appeared to have the same bleaching or paper manufacturing
21 characteristics as far as the color of the paper goes, also.
22 As well as the color of the ink.

23 Q. What are the -- I don't know this business of paper.
24 As I said about ten notebooks, is this like a standard
25 industry, are they all this space, are they all the same, or
26 do they -- all manufacturers make them differently?

27 A. This may be a standard -- a manufacturing standard.
28 The color of the paper -- rather, the color of the ink may

1 be to a particular manufacturer.

2 The artwork, if you will, or the plates that are used
3 to produce the paper are definitely to a particular
4 manufacturer.

5 Q. Were there any other consistencies?

6 A. Not that I recall.

7 Q. And the major inconsistency was the number, some had
8 more -- again, I'm calling it red dots, but imperfections,
9 you called them artwork?

10 A. Anomalies. Print anomalies is what I'm calling them.

11 But, yes, that's the -- all of the pages -- all the
12 fifty-four pages in the notebook had many more than the
13 questioned note had.

14 Q. Okay. Thank you. Did you complete your presentation?

15 A. Yes.

16 MR. TESTA: Were there questions from the
17 grand jury? And if so, pass them forward.

18 Q. Question from the grand jury: What is the purpose of
19 an individual printing a note as with stolen note without
20 continuing the flow of a single letter?

21 Do you understand that question?

22 A. I think I do. If I could refer back to the -- the
23 note itself.

24 Q. Then it goes further in parentheses, trying to modify
25 normal writing or trying to forge another person's
26 handwriting?

27 A. And that's a very good question.

28 Generally, for me to say that somebody disguised their

1 handwriting is for me to give an opinion as to intent, what
2 their intent was in doing this.

3 What I can do is speculate as far as why somebody does
4 this. It is an attempt, in my opinion, to try to distort or
5 disguise their handwriting so that it can't be used against
6 them in a handwriting comparison.

7 There are other methods of disguising one's
8 handwriting. The single stroke lettering, that's frankly
9 one I hadn't seen very often. Usually what you see is
10 somebody will either use oversized or miniaturize their
11 writing or they will change the slant significantly.

12 Also, generally, in disguising someone's handwriting,
13 they will write much more slowly and try to make it look
14 like it's not their own.

15 MR. TESTA: Are there any other questions
16 from the grand jury?

17 GRAND JUROR 15: There's one on the other
18 side.

19 MR. TESTA: Oh, thank you, sir.

20 Q. So in doing this, you didn't -- just to reiterate, you
21 did not have available to you 194 or 195?

22 A. That's correct.

23 Q. Oh, I don't have those up here.

24 Question from the grand jury: Was the "onn"
25 indentation on the next page examined?

26 Oh, I see. We heard some testimony from the people
27 that found the note -- or found the -- the notebook that
28 they saw where the N in the word O-N-N, bottom of the -- the

1 N in the middle, there were these two marks. They found
2 those same marks on the notebook in the same location.

3 Thank you very much.

4 As we see here in Exhibit 191. Several people came in
5 and saw the same -- I don't know if this captures it, but
6 they saw the same indentations at the very same spot, on the
7 same line number, on the same part of the page as would be
8 the -- the N.

9 A. If I can get you to put both of those up. I looked at
10 this extensively, because that question's been raised.

11 When the note came in -- this supposedly is a side-lit
12 image of the top note in that notebook that I looked at,
13 that you haven't actually seen the notebook yet. And I see
14 what's being referred to here as what looks almost like an
15 N.

16 The only indentation that I saw on all of these notes
17 or all of these pages in that notebook, this right-most
18 indentation appears to me it appears on every page in the
19 notebook.

20 It appears to me that somebody pinched it and was
21 flipping through the notebook to see if they could see if
22 anything was written on any of the pages. In other words,
23 quickly looking through.

24 So this would -- this would not be an indentation from
25 handwriting.

26 Q. It's the bottom of the N's that they talked about.

27 A. Right.

28 Q. Seeing two points. Several different people testified

1 to it.

2 A. What -- what I looked at, after getting the question
3 posed several times, is this stroke which is somewhat
4 parallel, and then what looks like a connecting stroke here.
5 Actually --

6 Q. Do you want to go back to yours?

7 A. No. If I could, I've got it on a thumb drive.

8 Q. Well, can you try to -- try to explain it?

9 A. I can try.

10 Basically, the angles here are all wrong for the note.
11 First, you see an angle here at the bottom left of -- for an
12 N. There's no backwards N. There's no N going this way.

13 Q. What I'm asking though about is what they said the
14 bottom of the N, there was the indentation on the bottom of
15 the middle N, points made, the points they saw, as I
16 understood the testimony, from the same location, the same
17 line to the top, and the same spot from the edge as is on
18 the stolen suitcase note, those bottom of the N's that these
19 people saw. Nothing else. Nothing about lines. Basically
20 the bottoms of those N's.

21 Did you see anything like that?

22 A. I did not.

23 Q. Okay.

24 A. As I said, this indentation was not in the notebook
25 when I looked at it.

26 Q. Oh, I see.

27 Another question from the grand jury: Are the
28 standards of the manufacturer exact, controlled?

1 A. Of the printing? They are controlled by the
2 manufacturer themselves. There's no national standard or
3 anything like that. As far as those print anomalies, they
4 strive for perfection, I'm sure. But they are not going to
5 toss out a whole print load because their artwork had a
6 couple dots in it, which are actually microscopic.

7 Q. Were other books examined for comparison?

8 A. Notebooks, no, they were not.

9 Q. Were there other notebooks that you have learned
10 about?

11 A. I have heard there are other notebooks. I don't know
12 that there are any exactly like that. But I've asked
13 whatever they have be sent in so I can look at it.

14 Q. Did you notice a difference in the number of print
15 anomalies from front to back of the notebook? Excellent
16 question.

17 Do you understand that question or should I read it
18 again?

19 A. I think you're asking if things occurred on every page
20 or if it's consistent throughout, is that generally what's
21 being asked?

22 Q. Try that.

23 A. Pretty much -- well, like I said, all of those pages
24 had seven of those print anomalies all the way throughout
25 from front to back on the back of the sheet. On the front,
26 there were very few anomalies. Some pages didn't have any
27 at all.

28 Q. Well, were there any on the front of ours, of the

1 stolen suitcase note?

2 A. No.

3 Q. There were no anomalies?

4 A. No.

5 Q. So you went from some of them had none at all on the
6 notebook?

7 A. Correct. On the front.

8 Q. On the front. Some had none. And our stolen suitcase
9 there are none?

10 A. Correct.

11 Q. So is that a consistency in the front?

12 A. It is a consistency, yes.

13 Q. Consistency.

14 Then on the back, we have two that you picked up on
15 the stolen suitcase note?

16 A. There were only two.

17 Q. There were only two.

18 And there were minimum of seven on every page in the
19 notebook?

20 A. Yes, sir.

21 Q. And a maximum of --

22 A. Ten generally.

23 Q. -- ten?

24 So from -- was there a difference from the front pages
25 to the back pages, whether the front had seven, the back had
26 ten, or vice versa?

27 A. No, no consistency like that.

28 Q. So it could be three pages with eight, two pages of

1 nine, one page of seven, one page of ten, there was no
2 progression where you might think the printer was going
3 faster or there was less ink or some other explanation for
4 the imperfections?

5 A. That's correct, there was no consistent progression
6 one way or the other.

7 Q. No pattern you could pick up, randomness that you
8 could quantify?

9 A. In fact, I think there was an eighth characteristic
10 that occurred on a large majority of those, but not on every
11 one.

12 Q. Did the ink dots change in amount based on location in
13 the notebook? I think that's the same question. But if you
14 have any other way of answering it.

15 A. Would you read it again?

16 Q. Did the ink dots, I guess we are calling the red dots,
17 change in amount or in number based on where they were
18 located in the notebook?

19 A. No.

20 Q. Question from the grand jury: What is the purpose of
21 the individual -- okay. I just did that.

22 Would changing hands to write be sufficient to
23 disguise the writing?

24 A. It can be, depending on how talented they are with the
25 opposite hand.

26 Q. You know, people who watch these Law & Order shows and
27 CSI shows, I don't watch them, but don't they talk about
28 this kind of -- this kind of science?

1 A. I don't watch them either, so I can't say.

2 Q. Could you still -- another question from the grand
3 jury: Could you still make conclusions as to who may have
4 written the note?

5 Oh, I see. Would changing hands to write be
6 sufficient to disguise the writing and could you still make
7 conclusions as to who may have written the note?

8 A. It can be if the change is only by using the opposite
9 hand and by taking standards from our exemplars from the
10 opposite hand and you got the same consistency and
11 characteristics.

12 Q. Another question: Is there any way for the anomalies
13 to be changed or obliterated?

14 A. Not by an individual. There could be at the
15 manufacturing plant with the artwork. But that's the point
16 where it would have to occur.

17 Q. Could processing for fingerprints affect them in the
18 same manner as it could affect the width of the pages?

19 A. I think they are referring to the thickness of the
20 pages. The processing -- the thickness is just based on
21 humidity somewhat. The printing anomalies -- the printing
22 anomalies are there in a, for lack of a better term, in
23 indelible ink. It's not going to be removed without taking
24 some type of a high-power solvent that would actually bleach
25 it out, such as bleach.

26 Ninhydrin -- part of the problem with the original
27 notes that came was that the solvent used for the Ninhydrin
28 does destroy to some extent the handwriting ink that was

1 used. That's why you see -- if you look at the actual note,
2 you'll see a -- how the ink has actually run.

3 This ink is actually much wider than it is. You
4 actually see here where it has run some. This is a -- a
5 problem with the Ninhydrin process. That's why we try to
6 look at this stuff before it's actually processed for latent
7 prints.

8 But in this case, they had photographs of the note, so
9 I was able to use that to look at the -- the handwriting.

10 Q. Okay. Well, you know, in 227, this note that you are
11 saying is probably -- do I understand you -- probably
12 written by Melissa Huckaby?

13 A. Yes.

14 Q. Okay. And we had a person come in, Detective Bauer,
15 and he talked about -- I'm repeating myself -- the circles
16 that were used to delete the words. And he showed us how
17 those various circles show up in her notebook in other
18 writing I had just shown you moments ago.

19 But the question I -- where are they?

20 A. Just to the left.

21 Q. Yeah. Here it is.

22 I don't have much trouble understanding that she wrote
23 this note. But isn't it significant to you that in this
24 note, the Post-it note, are three words that appear in the
25 stolen suitcase note?

26 Bacchetti -- in fact, do you get Bacchetti Rd. or
27 Bacchetti?

28 A. Bacchetti Rd.

1 Q. You got Bacchetti Rd. under the note?

2 A. Yes, sir.

3 Q. Are you able -- you can't put it up here, can you?

4 You don't have a still photo of it?

5 A. No.

6 Q. You mean in this Post-it note, it actually says

7 Bacchetti what, R-D?

8 A. Yes, sir.

9 Q. Which she wrote. So she's writing Bacchetti R-D.

10 And the Post-it note says Whitehall?

11 A. R-D.

12 Q. R-D. It also says R-D on the Post-it note. I didn't

13 know that. Okay.

14 A. Yes, sir.

15 Q. So we have Bacchetti R-D, R-D period, in the Post-it

16 note.

17 A. I can go back and look at it.

18 Q. Okay. Because, you know, some people don't even put

19 whether it's an avenue or a street or a road.

20 A. There is no period after.

21 Q. Okay. So she put Bacchetti R-D in the Post-it note.

22 White -- Whitehall R-D --

23 A. Yes, sir.

24 Q. -- in the Post-it note.

25 And the word "water" in the Post-it note, correct?

26 A. Yes, sir.

27 Q. And here we have Bacchetti R-D, Whitehall R-D, I

28 believe that's R-D, kind of squished together, and "water."

1 Did the content of the similarities have any
2 significance to you? I know you said you can't tell much
3 about this stolen suitcase note because the person
4 camouflaged their writing. So putting that aside, the
5 content, you know, Bacchetti is on first, on the Post-it
6 note, it doesn't say Whitehall and Bacchetti, right? It
7 says Bacchetti and Whitehall, correct?

8 A. Correct.

9 Q. Bacchetti and Whitehall.

10 And doesn't the fact that the content -- you know, you
11 could say California and Weber, and someone might say Weber
12 and California. These are two streets here in our town.

13 A. Okay.

14 Q. You live in Washington, DC?

15 A. Around.

16 Q. K Street and -- you know what I'm saying, people might
17 say it differently.

18 A. Right.

19 Q. But here she has the same order, Bacchetti R-D,
20 Whitehall R-D, both in the same order, and then the "water"
21 up here.

22 Did the content make you suspicious that the same
23 person wrote each?

24 A. Professionally --

25 Q. The order in which the words appear?

26 A. Professionally, no. It was interesting from a
27 personal point. But, professionally, I had no opinion.

28 Q. How -- how did she spell "Bacchetti" in the Post-it

1 note, can you tell us?

2 A. B-A-C-C-H-E-T-T-I.

3 Q. So she put two C's, two T's.

4 Okay. How did she spell "Whitehall" in the Post-it
5 note?

6 A. W-H-I-T-E-H-A-L-L.

7 Q. And then I think this is R-D.

8 How did she spell "water" in the Post-it note?

9 A. Appears W-A-T-E-R. But that is partially obliterated
10 with the same ink.

11 Q. Did you have anything with numbers to go by? Maybe
12 any of the --

13 A. I did not look at the numbers. Generally because
14 numbers are not very individualizing. In some cases they
15 are. But I did not do a comparison of the numbers.

16 Q. See the 3 in 3600 in the Post-it note?

17 Oh, so you have -- you have a 3. You have an 8. I'm
18 putting you on the spot here. But anything in the 3 catch
19 your attention or there is nothing there? And the 0?

20 A. Well, the flat top of the 3 catches my attention as
21 well as the --

22 Q. The flat top of the 3?

23 A. Yes, sir. Up at the top here. It's kind of flat,
24 versus angular -- or round, rather. Kind of flat. And then
25 you've got a -- as I said earlier, a tic mark that's more
26 extended here, but you've still got some similarity there.

27 Q. What about that 0 on 3600, first 0 after 6 and the 0
28 before 8?

1 A. They both appear to be tight at the upper end and
2 slightly leaning. This one is more than slightly, but
3 leaning to the left also.

4 Q. Okay. Are there any other -- I do have a few
5 questions from the grand jurors.

6 Can you say if a cross-out on the -- cross-out on the
7 Post-it note -- oh. Can you say if the cross-out on the
8 diary notebook page is the same as the Post-it note without
9 any available detail analysis now? Referring to the -- the
10 squiggly.

11 A. I'll answer it this way: Without doing a -- an
12 examination of it with microscope and other magnification, I
13 can't give you an exact opinion. But it appears that they
14 are both circular in form in creating the obliterations.

15 Q. Would you agree as a general -- I don't know if this
16 is within your expertise -- but, you know, if you have
17 Bacchetti Rd. and Whitehall Rd., water, and this is in your
18 car, you're saying this is probably from Melissa, and it's
19 in Melissa Huckaby's car in a glove compartment, the fact
20 that it's crossed out and such effort was made to cross it
21 out so it couldn't be seen very easily, doesn't that show a
22 certain "I don't want someone to know this" quality to it?

23 Like a man who -- a spouse is cheating on their other
24 spouse, they have the phone number of the person they are
25 hanging out with, they cross out the number so the other
26 spouse doesn't find it? Isn't that a conclusion one could
27 draw from the degree to which -- the effort is made to cross
28 out those roads, those Bacchetti and Whitehall Rd.?

1 A. I will say it's a conclusion that can be reached in
2 the room, but one that I can't reach.

3 Q. There's another question from the grand jury: Were
4 there any searches for the pen that made the note? Could
5 that then be compared to the ink in the notes? Interesting.

6 A. I don't know the answer on the searches.

7 As far as comparison of the ink, the ink can be
8 compared. But, generally speaking, there are about a
9 million pens made from one vat of ink. So it's kind of
10 unlikely that you could absolutely say this ink was used to
11 put the ink on -- or this pen was used to write -- put the
12 ink on this paper. It's generally used more in excluding a
13 particular pen or something like that.

14 But it would be circumstantial I guess if that was
15 done as far as determining that they were the same ink form.

16 Q. Can't say anything about the pen used? To the stolen
17 suitcase note?

18 A. On that one, I can't tell you. I'm not an ink
19 chemist.

20 If the question comes up and an ink chemistry exam is
21 desired, we can send it -- we generally send it to the
22 Secret Service. They have a very extensive ink laboratory
23 with an ink library that has several, several thousands of
24 samples of ink.

25 And if -- what they can do is compare an ink to --
26 from the note to an ink pen or ink from the ink pen and
27 determine if it's the same formula.

28 Q. Here's a question from the grand jury: You notice

1 it's signed "Witness," the stolen suitcase note is signed
2 "Witness." Why would a true witness, quote/end quote, want
3 to disguise their handwriting? That's the question from the
4 grand jurors.

5 Is that one of those issues for the jurors, not for
6 you?

7 A. Yes, sir.

8 MR. TESTA: Okay. Are there any other
9 questions from the grand jury.

10 I see none.

11 Q. Did we cover most everything?

12 A. Yes, sir, to my knowledge.

13 Q. Could we have that CD?

14 THE FOREPERSON: I need to read you the
15 admonishment, please.

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

23 Violation of this admonishment is punishable as
24 contempt of court.

25 Do you understand?

26 THE WITNESS: I do.

27 THE FOREPERSON: Thank you.

28 THE WITNESS: Thank you.

1 (Pause.)

2
3 MR. TESTA: I'm going to recall Detective
4 Bauer.

5
6 **TIMOTHY BAUER,**

7 a witness called on behalf of the People, having been
8 previously duly and regularly sworn by the Grand Jury
9 Foreperson, testified as follows:

10
11 **EXAMINATION**

12 BY MR. TESTA: Q. You are still under oath
13 from before, sir. You are still under oath.

14 We just heard from Mr. Burkes. Do you know him? Do
15 you? Ted Burkes?

16 A. Yes.

17 Q. He talked about some standards, some known writing of
18 Melissa Huckaby that he was provided and that he used to try
19 to do his comparison between her known writing and the
20 stolen suitcase note, as well as the Post-it note.

21 Tell us from where did those known writings come and
22 what did you do with them?

23 A. These are copies that we took.

24 Q. The known writings, I'm sorry, the known writings?

25 A. The known writings came from notebooks that were in
26 Melissa Huckaby's house that were found during the search
27 warrant on April 6.

28 And also there was some writings on some pieces of

1 paper inside Melissa Huckaby's purse that were retrieved on
2 April 10th pursuant to her arrest.

3 And, also, there was some known writings from a letter
4 that she had written when she lived down in Cypress,
5 California, that was provided to us through a police report
6 that we'd requested from Cypress PD.

7 Q. So those -- just taking these apart, I just have to
8 lay a foundation for it. Showing you 196.

9 A. It's a notebook inside of Melissa Huckaby's house.
10 Like those were known writing samples of hers.

11 Q. We have to put on the record, when you say "those."

12 This mainly leopard-covered notebook, was that one of
13 the notebooks that had her writing in it, do you know?

14 A. I believe so. This had -- I believe this had the one
15 that was with the scribbled writing.

16 Q. And this one that you could make out the word "angry"?

17 A. Yes.

18 Q. I think we saw that in court in another exhibit. Was
19 that one of the notebooks that you --

20 A. Yes.

21 Q. -- that you obtained?

22 A. That's the full page of that.

23 Q. So how many notebooks were seized pursuant to the
24 search warrant from her space 50 -- from her trailer?

25 A. Three.

26 Q. And those three, do you remember who took those?

27 A. They were taken by FBI ERT, specifically by Chris
28 Hopkins.

1 Q. Okay. Let me write that down for him.

2 Who else was there when they were found?

3 A. Gabriela Fernandez.

4 Q. Who else?

5 A. Well, it was a team of FBI individuals.

6 Q. And there were three, correct?

7 A. Yes. Yes.

8 Q. Okay. So -- and those -- some of those contained some
9 known writing of Melissa Huckaby?

10 A. Yes.

11 Q. Did you arrange for Mr. Burkes to get those materials?

12 A. Yes, I did.

13 Q. And where are they now?

14 A. They are with -- up in Sacramento in their evidence
15 vault with the FBI, with Chris Hopkins.

16 Q. Then you said there were some other known writing from
17 Melissa Huckaby, and from where did you get those?

18 A. From her purse.

19 Q. And I think we saw those, that was when she was
20 arrested, they took out contents of her purse, we saw those

21 I think the first or second day, a few prescription

22 bottles -- do you have a photograph of that -- and some

23 writing, that's other known writing that you sent to

24 Mr. Burkes?

25 A. Yes.

26 Q. And do you recall which -- can I get the one that
27 shows all the items.

28 Do you remember which officer or detective obtained

1 that?

2 A. Detective Kootstra searched the purse, and it was laid
3 out and photographed by CST Martin.

4 Q. I think we already heard something about this exhibit.
5 I believe it's 20.

6 A. Yes, that's it. And these are all the known writings
7 that we gave to him, different -- different writings.

8 Q. And this date now that her purse was --

9 A. This is the night of April 10th to the early hours
10 morning hours of April 11th.

11 Q. And among those writings was this exhibit we saw
12 earlier, I believe it's 29.

13 A. Yes. That was inside her purse. And there's actually
14 a little bit up here that's covered by the shadow. There
15 you go.

16 Q. And then you said lastly, I think, there were some
17 known writing you received from Cypress Police Department,
18 was it?

19 A. Yes. Police report, yeah.

20 Q. Do you remember which officer gave you those, or
21 detective?

22 A. I believe those were obtained by District Attorney
23 Investigator Mark Ellenburg.

24 Q. Okay. And then did you -- what did you do with all
25 these items?

26 A. We packaged them up and upon FBI's request, sent them
27 to Chris Hopkins from Sacramento, sent them all as one up
28 to -- back to Quantico, Virginia so Ted Burkes could review

1 them.

2 Q. Why did they go to Sacramento first?

3 A. Chain of custody. They go from local police
4 department to FBI's evidence room up in Sacramento, then
5 they are sent back to Quantico, Virginia to their lab.

6 Q. And did you become aware of what Mr. Burkes was
7 reviewing as known writing samples?

8 A. Yes.

9 Q. Did you confirm those were all collected from Melissa
10 Huckaby at one point or another during the investigation.

11 A. Yes.

12 Q. From her purse, from her notebooks, or from the
13 Cypress police officers?

14 A. Yes.

15 Q. Okay. And you told us the other day -- are there
16 other witnesses out there? Two?

17 A. Two, yeah.

18 Q. Five-minute witnesses?

19 A. Yes.

20 Q. Well, let me call them first, then let me call you
21 back.

22 MR. TESTA: Do we need to read the
23 admonition? The same one that was read, you can't discuss
24 this with anyone else.

25 THE WITNESS: I understand that.

26 THE FOREPERSON: All right. You have been
27 admonished.

28

1 (Pause.)

2

3 MR. TESTA: You can come in and have a seat
4 right here, please.

5 And can you tell us your name?

6 THE WITNESS: Alicia Carson.

7 MR. TESTA: How do you spell your name?

8 THE WITNESS: A-L-I-C-I-A C-A-R-S-O-N.

9 MR. TESTA: The foreperson will read you your
10 oath.

11 THE FOREPERSON: Would you raise your right
12 hand, please?

13

14 **ALICIA CARSON,**

15 a witness called on behalf of the People, having been duly
16 and regularly sworn by the Grand Jury Foreperson, testified
17 as follows:

18

19 THE WITNESS: I do.

20 THE FOREPERSON: Thank you.

21

22 **EXAMINATION**

23 BY MR. TESTA: Q. Where are you employed?

24 A. City of Tracy Police Department.

25 MR. TESTA: Can I get a photo of the church
26 sign, please?

27 Q. What is your position there?

28 A. Crime scene technician.

1 Q. How long have you been so employed?

2 A. Almost two years.

3 Q. Are you considered a peace officer?

4 A. No.

5 MR. TESTA: Just the sign I think on the
6 outside. Do you have that?

7 THE FOREPERSON: You had it.

8 MR. TESTA: It could be here.

9 THE SECRETARY: With the white suit?

10 MR. TESTA: Tell me if you find it. I'll
11 look here myself.

12 Q. Did you --

13 THE FOREPERSON: You can have this one, but
14 it's not very clear.

15 MR. TESTA: Q. Okay. Did you go to the
16 church and take some photographs in this case?

17 I'm sorry, with my apologies, I just found it.

18 THE SECRETARY: Okay.

19 MR. TESTA: I'm sorry, is this a 1 or a 7?

20 THE SECRETARY: 7.

21 MR. TESTA: Q. Number 7. Did you go there?

22 A. I went to that church, yes.

23 Q. On what date?

24 A. On April 14th.

25 Q. For what purpose?

26 A. Serve a search warrant.

27 Q. With whom?

28 A. Detective Bauer, Detective Cogburn, Detective

1 Kootstra.

2 Q. What were you looking for?

3 A. A bottle of the rubbing alcohol.

4 Q. Why?

5 A. They didn't really explain to me why.

6 Q. Had the -- what date was this did you say?

7 A. April 14th.

8 Q. Okay. And let me show you -- did you find any?

9 A. Yes.

10 Q. Where?

11 A. The pantry cabinet in the kitchen of the church.

12 Q. Are you asking me or telling me?

13 A. I'm telling you.

14 Q. I thought I heard a question.

15 A. No.

16 Q. Showing you 135.

17 THE FOREPERSON: Mr. Testa, we didn't swear
18 her in -- no, I did swear her in.

19 MR. TESTA: It's hard to keep track, isn't
20 it?

21 Q. Did you take an oath?

22 A. Yes.

23 THE FOREPERSON: Somebody led me astray here.

24 MR. TESTA: It happens all the time.

25 THE FOREPERSON: Sorry.

26 MR. TESTA: Q. So let me show you the
27 exhibit here, Number 155, do you recognize what is shown?

28 A. Yes, the picture I took.

1 Q. Oh, you took this picture?

2 A. Yes.

3 Q. With the laser pointer that's in front of you, did you
4 collect anything -- besides taking photographs, did you
5 collect any evidence from the church?

6 A. I collected that bottle of rubbing alcohol.

7 Q. I believe I showed this to Dr. Omalu also.

8 So this was found where in the church?

9 A. That was a pantry in the kitchen in the church.

10 Q. Showing you 154, do you recognize this?

11 A. Yeah, it's just a close-up of the rubbing alcohol.

12 Q. How full or empty was it?

13 A. It's about half full.

14 Q. Can you show us -- does it show in the photo?

15 A. It's about right there, the line.

16 Q. Okay. The one bottle was it?

17 A. Yes.

18 Q. And how did you describe -- did you book it?

19 A. Yes.

20 Q. How did you describe it when you booked it?

21 A. As a 16-ounce fluid ounce bottle of rubbing alcohol.

22 Q. Okay. Did it have another name on it, isopropyl, do
23 you recall?

24 A. Not that I recall. I think that that was -- no, I
25 don't think so.

26 Q. All righty. So did you also find some cleaner?

27 A. There was some white board cleaner.

28 Q. Where?

1 A. It was in a desk drawer that was like in a room right
2 off the kitchen.

3 Q. Was that photographed?

4 A. Yes.

5 Q. I'm sure I'll never find that one.

6 And then let me see if I have any other questions.

7 You were involved in checking a lot of different items
8 on different days from different people, weren't you,
9 different places?

10 A. Yes.

11 Q. And photographing them?

12 A. Yes.

13 Q. Okay. I think for today that's all I had for you.

14 MR. TESTA: Any questions from the grand
15 jury? I'm sorry, yes?

16 THE SECRETARY: Uh-huh.

17 MR. TESTA: Q. Okay. Did you find any
18 matches in the church?

19 A. No.

20 Q. Question from the grand jury: Was there acetone in
21 the white board cleaner?

22 A. I couldn't say.

23 Q. You booked it, you don't have a copy of the photograph
24 you took?

25 A. No.

26 Q. Okay. Could you describe that white board cleaner?

27 A. It was just a little -- it's a two-ounce bottle with a
28 little spray nozzle on top.

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(Pause.)

MR. TESTA: Could I have marked as People's next in order, which will be which number?

THE SECRETARY: 236.

MR. TESTA: Q. 236. Do you recognize this item here?

A. Yes. The envelope that I packaged the white board cleaner in.

Q. Can you keep your voice up and repeat your answer?

A. It's the envelope that I packaged the white board cleaner in.

MR. TESTA: Could I have the envelope marked as People's next in order and tell us what the contents are?

(Whereupon an Envelope with Contents, White Board Cleaner was marked Grand Jury Exhibit Number 236 for identification.)

MR. TESTA: Q. Do you recognize this item?

A. Yes, that's the white board cleaner.

Q. Can you read this? Where's the laser?

A. What it contains you mean?

Q. Before the word "alcohol," what's it say?

A. Isopropyl, I'm not sure how you pronounce it.

Q. And what is the last word there?

A. Acetate.

1 Q. Can you say that again?

2 A. Acetate.

3 Q. Can you spell it?

4 A. A-C-E-T-A-T-E.

5 Q. So you found this where now in relation --

6 A. Detective Cogburn is actually the one that located it.
7 I just photographed it and booked it.

8 Q. Where did he locate it?

9 A. In a desk drawer in the west side of the church -- in
10 a room in the west side of the church.

11 Q. So when someone finds something, they call you over,
12 you photograph it?

13 A. Right, and then I collect it.

14 Q. And you found it where?

15 A. It was in a desk drawer in the room on the west side
16 of the church.

17 Q. Did you photograph the desk drawer?

18 A. Yes.

19 Q. What else was found, what else...

20 MR. TESTA: May I have marked as next in
21 order the desk drawer photographs, what numbers will these
22 be?

23 THE SECRETARY: 237.

24

25 (Whereupon a Photograph was marked Grand
26 Jury Exhibit Number 237 for
27 identification.)

28

1 MR. TESTA: Q. Did you happen to take this
2 photograph?

3 A. No, I did not.

4 MR. TESTA: Okay. Save that for someone
5 else.

6 All righty. Any other questions?

7 Here's one, let's see. Are there any other questions?

8 Q. Is there any type of cleaner that will completely
9 eliminate traces of blood? Were there any other types of
10 cleaner that you found there in the church?

11 A. No, not that we collected and booked.

12 Q. Well, what about that you saw but didn't collect and
13 book?

14 A. I don't recall. Because I was specifically looking
15 for rubbing alcohol.

16 Q. Okay. Was that -- okay. Fair enough.

17 No further questions from me. Let's see if there are
18 anymore.

19 The room on the west side of the church, did it have
20 any windows?

21 A. I believe it did.

22 MR. TESTA: Any other questions?

23 I see none. The foreperson will read you an
24 admonition.

25 THE FOREPERSON: You are admonished not to
26 reveal to any person, except as directed by the Court, what
27 questions were asked or what responses were given or any
28 other matters concerning the nature or subject of the grand

1 jury's investigation which you learned during your
2 appearance before the grand jury. This admonishment
3 continues unless and until such time as the transcript of
4 this grand jury proceeding is made public.

5 Violation of this admonishment is punishable as
6 contempt of court.

7 Do you understand.

8 THE WITNESS: Yes, I do.

9 THE FOREPERSON: Thank you.

10

11 (Pause.)

12

13 MR. TESTA: If you could come and have a
14 seat, please.

15 THE WITNESS: Thank you.

16 MR. TESTA: You tell us your full name?

17 THE WITNESS: Mark Ellenburg,

18 E-L-L-E-N-B-U-R-G.

19 MR. TESTA: The foreperson will read you an
20 oath.

21 THE FOREPERSON: Would you raise your right
22 hand, please?

23 THE WITNESS: Yes.

24

25 **MARK ELLENBURG,**

26 a witness called on behalf of the People, having been duly
27 and regularly sworn by the Grand Jury Foreperson, testified
28 as follows:

1 THE WITNESS: I do.

2 THE FOREPERSON: Thank you.

3

4

EXAMINATION

5 BY MR. TESTA: Q. Where are you employed?

6 A. With the San Joaquin County District Attorney's
7 Office, Bureau of Investigations.

8 Q. And before that, where did you work?

9 A. I worked with the Alameda County Sheriff's Office, and
10 the Tracy Police Department.

11 Q. So how long altogether have you been a peace officer?

12 A. Approximately twenty-six years.

13 Q. Okay. Did you go to Southern California and get some
14 known handwriting from Melissa Huckaby's -- writing that was
15 known to be from Melissa Huckaby?

16 A. Yes.

17 Q. From whom did you obtain those documents, that
18 writing?

19 A. Evelyn Lloyd and --

20 Q. Is she a police officer? What agency is she with, do
21 you recall? Cypress?

22 A. Cypress Police, yes.

23 Q. Are you considered a peace officer now?

24 A. Yes.

25 Q. Okay. So she gave you that. And what did she give
26 you precisely? Some notebooks or some writings or what was
27 it?

28 A. Yeah, I'd have to -- I have to look at it to refresh

1 my memory.

2 Q. Well, for purposes of today, can you say she did give
3 you some writing that was known to be from Melissa Huckaby?

4 A. Yes.

5 Q. And what did you do with it?

6 A. I --

7 Q. Did you book it in evidence at some point?

8 A. I believe I did, with the Tracy Police Department.

9 Q. Did you make it known to Tim Bauer so he could send it
10 on to the FBI people to do their handwriting?

11 A. Yes, I did.

12 Q. All right. The other question I had for you was did
13 you get a cloth from Lane -- from a -- a Lawless member,
14 family member?

15 A. Yes. Connie Lawless.

16 Q. And what were the circumstances of your obtaining
17 that?

18 A. We had been told prior that Connie Lawless had found a
19 similar cloth with vomit on top of her washing machine.

20 Q. Similar to what cloth napkin?

21 A. The one I recovered, it was a matching napkin. Green
22 napkin.

23 Q. Okay. So what did you -- so Connie -- I'm jumping
24 ahead here because she's not coming until I think tomorrow.
25 Connie Lawless, Melissa Huckaby's grandmother, with whom
26 Melissa Huckaby lives --

27 A. Yes.

28 Q. -- said she found some vomit in a cloth on her

1 washer/dryer or something like that in her trailer?

2 A. Yes, sir, she did.

3 Q. And you asked -- did you ask her for that vomit?

4 A. Yes.

5 Q. She said it was gone or she washed it or something?

6 A. She had already discarded it in the garbage can.

7 Q. What date did she say she -- okay. She's coming in,
8 but in case I need to -- what date did she say she found it?

9 A. It was either the date of March 27th, 2009, or
10 Saturday, March 28th, 2009.

11 Q. So you were looking for this vomit and it was gone?

12 A. Yes.

13 Q. So what did you do?

14 A. I asked her if she had a matching cloth napkin that
15 the vomit was in and she turned one over to me.

16 Q. And did you book it?

17 A. Yes.

18 Q. Do we have photos of that -- I think we just had a
19 witness earlier today show us a black and white photograph
20 of that. It wasn't plaid or anything like that, was it?

21 A. No, I believe her memory it was green.

22 Q. Okay. This doesn't really show really well here. But
23 showing you what has been marked as Exhibit 234, we heard
24 from a preceding witness.

25 A. Yeah, that's it. I believe. Looks like it.

26 Q. Okay. You were just kind of taking it for the record?

27 A. Yes.

28 Q. Okay. All righty. Let's see if I have any other

1 questions for you.

2 Did you at some point try to reach any other family
3 members? Let me put it this way: Melissa's daughter,
4 Mady --

5 A. Yes.

6 Q. -- Madison, she's how old again?

7 A. I believe she's six now.

8 Q. Okay. Did you go up and talk to her?

9 A. Well, I set up an interview. I didn't personally talk
10 to her.

11 Q. Where did the interview take place?

12 A. Two places: Grants Pass, Oregon, and Orange County,
13 California.

14 Q. And what was the -- when was the first one, do you
15 recall? Did you write a report about it?

16 A. Yes.

17 Q. There's a calendar up there on the wall.

18 A. I remember it was April 8th, 2009.

19 Q. The first interview was up in Oregon?

20 A. Yes.

21 Q. And what was she doing up in Oregon?

22 A. She was with her grandmother, Judy Lawless,
23 vacationing with a friend up there.

24 Q. Okay. So did you monitor the interview of Madison?

25 A. No. Detective Cogburn did.

26 Q. Okay. Well, in any case, did you collect any evidence
27 or anything that might be of relevance to the case when you
28 were up there in Oregon?

1 A. Yes. I collected a black and gray Eddie Bauer kind of
2 roll-away handbag/suitcase type bag.

3 Q. Was it part of a set? Why did you collect it, let's
4 put it that way?

5 A. Because it was part of a set of Eddie Bauer that was
6 also identified as a set purchased with the Eddie Bauer
7 suitcase that Melissa Huckaby had reported missing.

8 Q. Okay. So what you got was just part of that set that
9 existed, the big suitcase that was reported missing, then
10 there was -- was there a garment bag as part of this set, do
11 you recall?

12 A. I don't know.

13 Q. But, in any case, you got a smaller like a duffel bag?

14 A. Yeah, maybe so big or so (indicating).

15 Q. Two or three feet?

16 A. Yeah.

17 Q. But it was -- it's not the soft -- I mean, it was
18 soft -- what do they call them -- kind of bag you can stick
19 under your airplane seat. Not a big one like this one
20 that's been marked in this case as Exhibit 152?

21 A. No, it was more a duffel -- matching duffel type bag,
22 a little bit smaller than that.

23 Q. Okay. And that's all I have for you. No further
24 questions.

25 MR. TESTA: Any questions from the grand
26 jury?

27 I see none. The foreperson will read you an oath.

28 THE FOREPERSON: You are admonished not to

1 reveal to any person, except as directed by the Court, what
2 questions were asked or what responses were given or any
3 other matters concerning the nature or subject of the grand
4 jury's investigation which you learned during your
5 appearance before the grand jury. This admonishment
6 continues unless and until such time as the transcript of
7 this grand jury proceeding is made public.

8 Violation of this admonishment is punishable as
9 contempt of court.

10 Do you understand?

11 THE WITNESS: Yes.

12 THE FOREPERSON: Thank you.

13 THE WITNESS: Thank you.

14
15 (Pause.)

16
17 **TIMOTHY BAUER,**

18 a witness called on behalf of the People, having been
19 previously duly and regularly sworn by the Grand Jury
20 Foreperson, testified as follows:

21
22 MR. TESTA: We are recalling Detective Bauer
23 as my last witness for today.

24
25 **EXAMINATION**

26 BY MR. TESTA: Q. Just a few quick odds and
27 ends, Detective Bauer.

28 Why were you guys -- well, we just heard that

1 People's 154 is a photograph of some alcohol that was found
2 in the church on a particular date.

3 Why were you looking -- were you present at that
4 search?

5 A. Yes.

6 Q. What were you looking for alcohol for?

7 A. For the -- the coroner who did the autopsy advised us
8 that there was isopropyl in the toxicology of Sandra Cantu.
9 So he advised us that we should -- he recommended that we
10 return to what we believed the last location we knew Sandra
11 Cantu to be at to see if we -- if there was any rubbing
12 alcohol or isopropyl readily available.

13 So we executed another search warrant and returned to
14 the church.

15 Q. And what did you find?

16 A. In the blue -- it's like a wooden cabinet in the
17 kitchen area of the church, on the third shelf, we found a
18 about a half empty bottle of isopropyl rubbing alcohol.

19 Q. What does "isopropyl" mean?

20 A. I believe that's like the true name for it. But the
21 generic name we refer it to like over the shelf, means, you
22 know, rubbing alcohol.

23 Q. Because I don't see the isopropyl on this one. Do you
24 have the alcohol item here in evidence, I mean, booked?

25 A. Yeah, it's actually right behind you. It's one of
26 those.

27 Q. Do you believe it's in there?

28 A. Yeah, it's in here.

1 Q. Can you open it, please?

2 MR. TESTA: Do you have a pair of scissors,
3 Madame Foreperson?

4 THE WITNESS: I think they have all been
5 printed. That's a different one. It's right there.

6 MR. TESTA: Q. Okay. Just for the record,
7 what kind of container are you giving us? What does the
8 container say that you're getting this out of?

9 A. This is Tracy PD evidence container. And it's --

10 Q. Whose name is on it?

11 A. Alicia Carson. CST Carson. She's the individual that
12 booked it.

13 Q. She testified a few minutes ago.

14 So out of that same envelope, you're taking out a
15 smaller envelope. Do I understand that correctly?

16 A. Yes, right here.

17 Q. And what -- what was done with these items? Why are
18 they packaged this way?

19 A. They were printed. And they were sent -- well, they
20 were sent back to the FBI Lab for prints and DNA.

21 Q. Were there any prints or DNA found on them?

22 A. I don't know. I didn't conduct the tests.

23 Q. Well, if there were, don't they notify you if there's
24 anything significant found?

25 A. Yes. Yes.

26 MR. TESTA: Why don't I have the entire
27 container marked. This has the envelope that it came out
28 of. May I have this marked as next in order, the entire

1 package here?

2

3

(Whereupon an Envelope with Contents,
4 Isopropyl Alcohol, was marked Grand
5 Jury Exhibit Number 238 for
6 identification.)

7

8

THE WITNESS: If you look on that top -- I
9 will use my -- you asked me about that, right here --

10

Q. Yes.

11

A. -- is where it says "Isopropyl Rubbing Alcohol." If
12 you look on that, what you have in your hand. If you're
13 actually holding the bottle, you can read it. It's blurred
14 out here, but this says "isopropyl." That's why...

15

MR. TESTA: Q. I believe you. I just wanted
16 to show it, because I can't see it at all on the -- on --
17 the focus doesn't work well enough to enlarge it.

18

So showing you something I'm removing from 238.

19

A. There you go.

20

Q. Is this the -- the bottle that we are talking about?

21

A. That's the bottle that was on the shelf.

22

Q. Okay. So now, you guys are going looking for this
23 because Omalu tells you what?

24

A. Because of the toxicology showed that she had
25 isopropyl in her -- I believe it was in, based on the
26 autopsy report and the toxicology, in her stomach contents.
27 I believe it was found in the liver, if I'm correct.

28

Q. Okay. He testified to the findings. But in any case,

1 based upon the toxicology reports that Omalu explained, you
2 went back to see if there was any such material?

3 A. Yes.

4 Q. Okay. Also, the last thing I think I need to ask you
5 today is we heard from Mr. Burkes. You are familiar with
6 him?

7 A. Yes.

8 Q. And he was telling us how this note here, People's
9 Exhibit 185, looked like it was camouflaged writing or
10 someone deliberately tried to hide the writing so he
11 couldn't make any conclusions from it.

12 But the other day, and maybe it went over my head, the
13 other day, you were pointing out what you thought were some
14 comparisons. Was it between what and what?

15 A. One of the things that I saw --

16 Q. Was it between the Post-it and the --

17 A. Yeah, and also some of the handwriting samples.

18 But the R's, when you're able to put this under
19 light --

20 Q. He showed us, actually, and we will have it
21 eventually.

22 A. You can look at the R's and the W's that appear to be
23 the same to me, or very similar from this note to this note
24 right here.

25 And also from that word "angry" off that handwriting
26 sample off of that notebook.

27 MR. TESTA: Could we get that, Madame Clerk?

28 THE WITNESS: That's just in your hand right

1 here.

2 MR. TESTA: Q. This particular? Okay.

3 What was it that you were pointing out the other day,
4 this is 185 put side-by-side to 194 -- before we start, was
5 there another piece of writing that you also talked about
6 the other day? The first page of this particular letter
7 that ends in "angry"?

8 A. Yes.

9 MR. TESTA: Do you have that?

10 THE FOREPERSON: What are you looking for?
11 It should be up there.

12 MR. TESTA: Could you look for it, the first
13 page of this?

14 THE WITNESS: The first thing that stuck out
15 was the R on R-D for Rd. and the R here. Because this is
16 what I -- what we believed was just a normal handwriting
17 sample from her writing a letter.

18 THE SECRETARY: Here it is.

19 MR. TESTA: Take your time.

20 Q. What was it -- as a lay person you're giving us your
21 opinion here, the jurors will be instructed they can form
22 their own opinion when it comes to handwriting comparisons,
23 something that a juror is entitled to do. So I'm pointing
24 this out for that purposes.

25 What is your opinion at least, or what would you like
26 to point out to us, not your opinion so much, as point out
27 to us what you see there?

28 A. I believe the R's, the N's, and the A's were similar

1 to this.

2 Q. Take one at a time.

3 A. This R right here.

4 Q. In "angry"?

5 A. Yes.

6 And then I -- I looked at it as it compared to this R.

7 Q. The R in "Bacchetti Rd."?

8 A. Yes.

9 Also, if I look -- if you look at the A's, I notice
10 from this note, in the note "angry," the middle line went
11 through on both sides. And I could find that at various
12 times in here.

13 For example on "Bacchetti Rd.," the A in "Bacchetti,"
14 the line went through both sides on "Bacchetti Rd."

15 Same thing in "water," the line went through on both
16 sides.

17 And then it -- on numerous A's, it went through on one
18 side. On the A on "case," the A on "Cantu," the A on
19 "Whitehall." And then the N's.

20 Q. Okay. So did you -- you talked about the R. You
21 talked about the A, you say go through -- goes through.

22 A. The middle line, to complete the A or --

23 Q. Okay. The words "water" on the stolen suitcase note,
24 and the word "Bacchetti" on that same note had A's.

25 A. Going through on both sides, like I call an
26 upside-down V, yeah.

27 Q. And the R in "angry," you point out to the word -- the
28 R in the "Rd." that follows "Bacchetti," you're pointing out

1 what you believe are similarities there?

2 A. Yes.

3 Q. Those are the extended?

4 A. Extension, yeah. Like of the P, like if this was a P,
5 and this was a completion to make it an R. This line as it
6 dragged off of the bottom of the R. Same on this here.

7 Q. And what was the other letter?

8 A. And that was also, too, this R and this R were similar
9 as to the R-D on the blue note.

10 Q. Oh, okay. We don't have that one.

11 A. Here, when it's under light, you can see it a lot
12 better. But under "Bacchetti Rd." and "Whitehall Rd.," they
13 are both R-D's also. And the R's, the bottom line is
14 exaggerated.

15 Q. Okay. And was there another letter?

16 A. The letter N. I believe the letter N in the word
17 "angry" was very similar to the first N on the word "onn" as
18 it's misspelled. O-N-N, the middle N here.

19 Q. In what way?

20 A. Well, it's straight up. It's -- it's like -- again,
21 like it's like a V, but kind of tilted, straight down, and
22 then straight back up. This one's straight up, goes down,
23 and then goes straight back up.

24 Some of the other ones, some of the -- I looked at all
25 the N's, but that was probably the most close N match for me
26 just looking at it to this "angry" -- this N in the word
27 "angry."

28 Q. Were there any other known writings that you looked at

1 when you pointed out -- when you noticed similarities?

2 A. Well, I also looked at the --

3 Q. Did you look at this at all, or you're looking at the
4 Post-it note?

5 A. This was just for the scribble marks, like the
6 circular marks as I talked about last week, as compared to
7 the Post-it note. These are mainly lower cased writings.

8 Q. What about the underline of the word "witness" in the
9 stolen suitcase note. Is there an underline -- to whom is
10 this note addressed here in number 195? What's that word,
11 is that "closest" or "closet"?

12 A. Well, she's spelling "closet" here.

13 Just from, I mean, in reading the note and what you
14 can make out, it appears it's like a writing to herself. It
15 was a notebook that was found on the floor in her room and
16 dated 3/2 of '08.

17 Q. Okay. But the underlining, though, of the word
18 "witness," it's not a straight line, is it?

19 A. No.

20 Q. And the underlying of the word "My Closest," or
21 "closet," it's not a straight line, is it?

22 A. No, no, it's not a straight line.

23 Q. And we had a CD that Mr. Burkes gave us a presentation
24 on PowerPoint of the words that we see underneath the
25 Post-it note. You're saying if we could look at those, the
26 R --

27 A. You could see it better here. Here's a good photo.
28 You can see the drag of the R here for -- for "Rd."

1 Q. But if we were to look at that CD, which I won't do
2 now, just look at the R-D which he was able to show us,
3 taking the blue off.

4 A. Uh-huh.

5 Q. You're saying you noticed -- you studied this a lot
6 longer than me?

7 A. We put it under light. If you put it up to a blank
8 computer screen, you can see it better. It's hard to see
9 here.

10 Then if you look at this -- if you go back to that
11 first view you had with the W on "water," the -- the X's are
12 crossing here, where the points are coming together in the
13 middle.

14 And then go back to the note itself, the stolen
15 suitcase note, you'll see on some of the W's here, for
16 example, under "witness," see the crossing, the middle
17 portion? It's the start of one there. They are crossing
18 there.

19 That's another thing that we noticed on the word
20 "water" on the blue note as compared to that. My goal was
21 to compare these two notes to show the person who wrote this
22 note also wrote the stolen suitcase note.

23 Q. The Post-it?

24 A. Yeah, the blue Post-it note.

25 MR. TESTA: I have no further questions on
26 these points. I have no further witnesses. If the jurors
27 have any questions.

28 Let me mark these as next in order.

1 (Whereupon Photographs were marked Grand
2 Jury Exhibit Numbers 239, 240, 241, and
3 242 for identification.)
4

5 MR. TESTA: Q. Some questions from the grand
6 jurors: Why all Melissa Huckaby's notebooks were not sent
7 to the FBI Lab? Have they all been sent now?

8 A. That was a good question. I was under the impression
9 that they were. But they had just sent the -- the one
10 notebook that -- that we talked about before. The other two
11 were not sent. They were kept in Sacramento.

12 Q. Have you done a background check on Melissa Huckaby,
13 driving tickets, arrests -- well, we can't really go into
14 that at this point.

15 How long has the right rear of Melissa Huckaby --

16 A. Vehicle have damage?

17 Q. Yes. Did it occur before March 27th?

18 A. That's a good question.

19 Q. Do you have that vehicle photograph?

20 A. I know what you're talking about from the evidence
21 photos. But I don't know when that damage occurred.

22 Q. Okay. Other question: How old is Melissa Huckaby?

23 A. I believe twenty-eight, soon to be twenty-nine.

24 Q. How long has she lived in Tracy, California?

25 A. She lived in Tracy, she moved down back to Cypress for
26 awhile, then she moved back here, her claim is between May
27 and June of 2008. For just a little over a year.

28 Q. Showing you 48, where is this damage?

1 A. It's -- I believe it's bottom right of the bumper, if
2 I recall. There's -- we had different -- I believe it's
3 right in this area right here. We have four sides of this
4 photo here. Yeah, it's right here.

5 Q. You don't know when that occurred?

6 A. No, I don't know when that occurred.

7 Q. How old did you say Melissa Huckaby was?

8 A. I thought she was twenty-eight.

9 Q. This photograph, People's 28.

10 A. 2/23/81 is her birthday. Pretty sure.

11 Q. Other questions from the grand jurors: What evidence
12 testing is still ongoing?

13 Well, is there -- without going into all the other,
14 are there still things people are doing?

15 A. Yeah. We still have -- the FBI Lab is still
16 testing -- some latent print testing and they are still
17 doing some testing of the -- the towel that was found at the
18 autopsy scene in the suitcase.

19 Q. You mean, the towel that had the hair entwined?

20 A. Yes.

21 Q. What are they testing that for?

22 A. They are testing it for bloodstains and to see if
23 there's any DNA in the towel.

24 Q. Are there playground swings with a pond or pool at a
25 park or other locations close to the trailer park, one juror
26 asks?

27 A. Playground swings with a pond?

28 Q. Are there playground swings with a pond or pool at a

1 park or other location close to the trailer park, a grand
2 juror asks?

3 A. There's a -- a --

4 Q. And it says in parentheses, Melissa Huckaby stated
5 something about Sandra Cantu going to the swings with a new
6 friend, pond or pool may be related to why Sandra Cantu pant
7 legs were rolled up.

8 A. The closest city park that has a pool at it with
9 swings would be Dr. Powers Park, which would be about --
10 okay. You'd have to come out of the residence, go
11 northbound.

12 Q. On 64?

13 A. Correction, go southbound on Tracy Boulevard right
14 here, go down to Lowell, which is about a mile, mile and a
15 half. It's not even in this photo. We would have to Google
16 Earth it. It's just off of Lowell and Tracy Boulevard going
17 into the city.

18 Q. Question from the grand jury: Have you requested a
19 complete list of Melissa Huckaby's prescriptions filled at
20 local pharmacies such as Walgreens?

21 A. Yes. We have already requested that. We have a list
22 of her prescription medication.

23 Q. For video information collected within the park, was
24 Melissa's car seen leaving and arriving throughout the day
25 of March 27th?

26 A. It was seen at different times. We talked about
27 around 4:00 o'clock, it was seen --

28 Q. Yeah, we talked about --

1 A. You saying prior to?

2 Q. I guess that's what it means. Do you recall offhand?

3 A. I don't recall. Detective Brandi viewed the video.
4 But I don't know the farthest back we went as far as times.
5 I think we went back to at least -- I -- I believe we went
6 back to 2:00 p.m., 14:00 hours.

7 I think -- I could be wrong, but I think she -- it was
8 documented that she arrived home sometime between 2:00 and
9 4:00, before she moved her car around 3:45ish.

10 Q. Okay.

11 A. But I don't know if we went back before 2:00 p.m. on
12 the 27th.

13 Q. Part of the same question: Were other resident
14 vehicles observed on March 27th going west on Clover Road
15 towards the church?

16 Do you understand that question?

17 A. Yes, I do. Numerous vehicles.

18 Q. Going west?

19 A. Going west.

20 I don't know.

21 Q. Was the video examined to see possible movement of
22 Melissa Huckaby around the time that she found the note and
23 showed police?

24 A. We seized the video from Mr. Chavez in trailer 63
25 pretty early afternoon. And the note, remember, was found
26 around 8:00, 8:30 that night on the 28th. So he didn't have
27 a surveillance system anymore.

28 Q. Do I understand Brandi was the person who really

1 checked this video out?

2 A. Yes, sir, he was. Yeah. The only video surveillance
3 system in that entire complex we were made aware of during
4 this entire case was Mr. Chavez's, which we seized on the
5 28th prior to that first vigil.

6 Q. Other question from the grand jury: Was the alcohol
7 found in Sandra Cantu's system, question mark, ingested,
8 question mark?

9 A. I'm not a doctor. I can't testify to that, whether it
10 was ingested or not.

11 Q. Question from the grand jury: Is there a way to
12 establish which lot batches the Eddie Bauer suitcases came
13 from?

14 A. Lot batches?

15 Q. Well, match the suitcase that was found at the pond
16 with the suitcase, for example, that Ellenburg collected
17 from Judy Lawless up there in Oregon?

18 A. Oh, the matching -- like the matching series or
19 collection?

20 Q. Right.

21 A. Her statement was that she bought them individually,
22 she didn't buy the series together, of what she had of the
23 Eddie Bauer collection.

24 So we attempted to verify her purchase through Target
25 and through records based on her statement of purchasing at
26 Target in Tracy last September. But we were unable to go
27 back that far with Target officials.

28 Q. Where did you obtain this Eddie Bauer suitcase we have

1 been using in court as an illustration of the one -- same
2 size same dimensions as the one found in the pond?

3 A. Detective Kootstra, upon my request, contacted Eddie
4 Bauer and they provided us with that suitcase. They shipped
5 it to us.

6 Q. Free?

7 A. Yes.

8 Q. And another question from the grand jury: Is there --
9 the other part of that question, if the indented O-N-N paper
10 was flipped over, would the indentation line up better?

11 Do you remember this -- do you remember, you came
12 in -- did you testify when I showed you 192, that this
13 doesn't show very well?

14 A. Flip it the other way. There you go.

15 Is the question if that -- if that piece of paper was
16 flipped over, would the indentation better depict the letter
17 N I guess is the question?

18 Q. Did you testify the other day about that?

19 A. I don't know if we got into -- I can't recall if we
20 got into this actual indentation. I know we talked about
21 the notebook.

22 Q. Other witnesses testified to it, but did you say you
23 saw it as well --

24 A. Yes.

25 Q. -- the indentation?

26 A. This was shown to me what appeared to be an
27 indentation on the same line as the word on the twelfth line
28 down, and it appeared to be the same distance in in the

1 paper as the actual note.

2 Q. Because Gabriela -- what was it -- Fernandez?

3 A. Fernandez, yes.

4 Q. I think she testified to it in detail. And she
5 pointed out -- did she point it out to you, do you recall?

6 A. Chris Hopkins pointed it out to me.

7 Q. He saw it also?

8 A. Yes, he was present when that was looked at.

9 Q. Okay. Because we had Mr. -- the FBI guy say, well, he
10 thought that was from someone touching the notebook or
11 holding the notebook or something.

12 What -- did you -- when you saw it, did you line up
13 the -- the N's and the O-N-N word?

14 A. Well, it appears that it comes from the middle N on
15 the word "onn."

16 Q. For example, on People's 185, it was the middle N of
17 the word O-N-N in the stolen suitcase note, is that what
18 matched up to the indentation from the very same point on
19 the blank page line?

20 A. Yes, twelve lines down. Same distance in from the end
21 of the paper to the indentations as the point on the actual
22 note -- the stolen suitcase note.

23 MR. TESTA: Okay. Are there any other
24 questions from the grand jury?

25 Q. If Burke could make no positive conclusions about the
26 stolen suitcase note, whether or not Melissa wrote it, could
27 he make a better conclusion if he had the "angry" notebook
28 writings? In other words, he didn't have these writings

1 that are shown, for example, in 194, did he?

2 A. No. I just found out today. I thought he had them.
3 He wasn't provided all the handwriting samples that I was --
4 we had requested those to be sent from us to the FBI back to
5 Virginia, and they weren't sent. And those possibly could
6 have better assisted him in making the determination.

7 Q. So are you going to send this to him?

8 A. Yes. He's going to -- he'll get sent both of the
9 notebooks.

10 Q. Can you -- are you going to point out to him the A
11 that you talked about and the R that you talked about, and
12 then he can compare them?

13 A. Yeah, I actually did. And he had never seen this when
14 I pointed it out to him. So I was under the impression he
15 didn't get to see that or the note with a bunch of the
16 crossed-out writings.

17 Yeah, that one he didn't see.

18 Q. 194 or 195?

19 A. No, he said when I showed him that today, it was the
20 first time he's ever seen it.

21 Q. So, I mean, do you understand that -- you think 195 is
22 significant in helping him decide the -- the authorship of
23 227?

24 A. Yes. The style of, yeah, the style of crossing out
25 words is the same as in the blue Post-it note.

26 Q. Is there a foul aroma in the air by the ponds? Can
27 you smell water from the road?

28 A. It smells like cow manure because it's -- it's a

1 drainage dump site that's drained twice a year. And it
2 produces methane gas, is what the farmers were telling us.

3 And due to the large amounts of methane gas it
4 produces is why our cadaver dogs -- not ours, the search and
5 rescue cadaver dogs they believe missed it, because it's too
6 much of a methane gas. They are looking for a smaller.
7 That's why we believe they walked right by the pond on two
8 different occasions.

9 MR. TESTA: Are there any other questions
10 from the grand jurors?

11 I see none. The admonition still applies to the
12 officer. And are you going read the admonition to the
13 fellow jurors, are you?

14 THE FOREPERSON: Yes, I will.

15 Okay. The grand jurors are admonished that they are
16 not to form or express any opinions about the case or
17 discuss it among themselves until the grand jury receives
18 the case for deliberation.

19 In addition, no inspection of the evidence should be
20 conducted without the permission of the foreperson and on
21 the advice of the prosecuting attorney until the case is
22 submitted to the grand jury for deliberation.

23 Deliberation should only occur when all jurors that
24 have heard all the testimony in the case are present.

25 All right? See you tomorrow at 9:00.

26 (Proceedings concluded.)

27 ---o0o---

28

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

(Sitting as a Grand Jury)

---o0o---

PEOPLE OF THE STATE OF)	
CALIFORNIA,)	
)	
Plaintiff,	)	D.A. No. 2535
)	
vs.	)	CR No. TP09-2712
)	
MELISSA HUCKABY,	)	No. SF112495A
)	
Defendant.	)	VOLUME 6 OF 8
_____	)	(Pages 1165 - 1411)

Tuesday, July 28, 2009 - 9:05 a.m.

LOCATION: San Joaquin County Courthouse
Room 605, San Joaquin County

APPEARANCES OF COUNSEL:

THOMAS J. TESTA, Deputy District Attorney,
County of San Joaquin, 222 East Weber Avenue, Room 202,
Stockton, California, 95202, appeared as counsel for and on
behalf of the People.

Reported by: JEANNE COFFEY, C.S.R. NO. 7084

1 (At 9:05 a.m., the following proceedings
2 were had before the Grand Jury:)

3
4 THE FOREPERSON: Just a couple announcements.

5 We are today going to take every hour at least a
6 five-minute break. It will make us go in a little bit later
7 today, because Mr. Testa wants to get through all of his
8 witnesses so we can get out of here on Friday -- hopefully
9 Friday.

10 There's bottled water for all of us out there, if you
11 want it, sitting on the table.

12 And I think that's it. Does anybody have anything
13 before we get started or call roll?

14 THE SECRETARY: Shut the door.

15 THE FOREPERSON: Okay. Want to shut the door
16 for me, please?

17
18 (Roll call taken.)

19
20 MR. TESTA: You have taken roll and we are
21 all here? Okay.

22 GRAND JUROR 9: I have a question.

23 MR. TESTA: Yes, sir.

24 GRAND JUROR 9: When it's convenient, there's
25 two testimonies I would like to go over again.

26 MR. TESTA: And which ones are those?

27 GRAND JUROR 9: Conrad's testimony and
28 Pierce's testimony.

1 MR. TESTA: And which part of their
2 testimony? Because they testified about a number of things,
3 especially Pierce.

4 GRAND JUROR 9: Well, it was yesterday, her
5 testimony. Pierce's testimony yesterday and Conrad's
6 testimony yesterday.

7 MR. TESTA: Okay. If you would narrow it
8 down, it just makes it easier for the court reporter. If
9 someone was on for an hour and you only want five minutes of
10 their testimony about one topic, if you can narrow it down.
11 I think she has software she can put in a key word and focus
12 in on that part of the transcript and just read you the part
13 you need to answer your questions, as opposed to everything,
14 you know, "How long have you been with the Police
15 Department," and all the other things they did on other
16 days, it makes it more efficient.

17 GRAND JUROR 9: Well, there was a part where
18 I think she said when she tested the note, she found no
19 fingerprints.

20 MR. TESTA: You mean with the Ninhydrin?

21 GRAND JUROR 9: Yeah.

22 MR. TESTA: That's clear, yes.

23 GRAND JUROR 9: That was the one part on
24 Pierce's. Unless I heard that correctly, I don't need to
25 review it.

26 MR. TESTA: Well, I don't want to tell you
27 what the testimony was. You can either as I say --

28 GRAND JUROR 19: That's exactly what she

1 said.

2 MR. TESTA: When you deliberate, if you
3 find -- sometimes when you deliberate, when you talk to the
4 other jurors, which I hope will be beginning Friday morning,
5 you can refresh each other's memories. Then if you still
6 feel there's a discrepancy, five of you think she said there
7 were fingerprints and the rest of you think she said there
8 were none, you could always ask the court reporter to read
9 back that. But the other jurors may refresh your memory to
10 the point where you are no longer confused about the issue.

11 But don't hesitate. She's here for that reason.

12 GRAND JUROR 9: That was one. But perhaps I
13 won't have to review it.

14 But then in Conrad's testimony when he was talking
15 about in the Lawless residence he said that they had bought
16 a three-piece Eddie Bauer suitcase set, that there were two
17 in the residence at the time. And I'm not sure if he said
18 he had looked at them or they had been shown or they were
19 present. And I -- and when I asked the question, he did not
20 recognize the exhibit. So I'm not sure if he actually saw
21 the two sets or how they were displayed or --

22 MR. TESTA: That question may resolve itself
23 once I call the Lawlesses. But if you still have that
24 question, and after talking to the other jurors you still
25 have it, you can ask it to be reread.

26 Just so you're clear, you may remember this is just
27 something that the Eddie Bauer Corporation sent, People's
28 Exhibit 152, this big suitcase. If you may remember the

1 testimony yesterday from Detective Bauer, this is just for
2 illustrative purposes, this was just something that was sent
3 to us by the Bauer Company.

4 And, remember, Dr. Omalu measured the suitcase in
5 question when he removed Sandra's body. He did the
6 measurements. He confirmed this is the dimensions. This
7 is -- this is the suitcase basically for illustrative
8 purposes that he has. But we just didn't want to open it
9 up. It's all, you know, sandy and so forth.

10 There's no confusion, no one is representing this is
11 the suitcase Sandra came from.

12 GRAND JUROR 9: No, no, similar in nature for
13 identification or something like that.

14 MR. TESTA: Identical in size.

15 GRAND JUROR 9: Identical in size. Those are
16 the only two things I had.

17 MR. TESTA: Don't hesitate to ask. There is
18 no such thing as a stupid question if you have it. I bet
19 other people have the same question, maybe they are too shy
20 or hesitant to ask the questions. Don't be afraid to ask
21 the questions.

22 May I call my first witness?

23 THE FOREPERSON: Yes.

24 MR. TESTA: Do you have an oath that you read
25 the interpreter?

26 THE FOREPERSON: Yes, I do. What's the
27 language?

28 MR. TESTA: Spanish.

1 THE FOREPERSON: Okay.

2 MR. TESTA: First we will get names, then we
3 will swear the interpreter.

4 First of all, Mr. Interpreter, what is your name?

5 THE INTERPRETER: Fernando Vasquez.

6 MR. TESTA: Can you read the oath to him,
7 please?

8 THE FOREPERSON: Yes.

9

10 (The Spanish interpreter was sworn in by
11 the foreperson.)

12

13 THE FOREPERSON: Thank you.

14 MR. TESTA: Now, Mr. Interpreter, let me ask
15 these questions.

16 (Through the interpreter) Sir, what is your name?

17 THE WITNESS: (Through the interpreter) Jose
18 Luis Franco.

19 MR. TESTA: (Through the interpreter) And
20 how do you spell your name?

21 THE WITNESS: (Through the interpreter) It
22 appears this is Jose.

23 MR. TESTA: (Through the interpreter) No,
24 no, no.

25 THE WITNESS: (Through the interpreter) It
26 just appears as Jose Franco.

27 MR. TESTA: (Through the interpreter) Is
28 your name Jose Luis Franco?

1 THE WITNESS: (Through the interpreter) Yes,
2 that's my complete name.

3 MR. TESTA: (Through the interpreter) Thank
4 you for coming here today, sir.

5 What kind of work do you do?

6 THE FOREPERSON: I need to swear him in.

7 MR. TESTA: I'm sorry. Go ahead.

8 THE FOREPERSON: Interpreter needs to.
9 Can you have him raise his right hand, please?

10

11 **JOSE LUIS FRANCO,**

12 a witness called on behalf of the People, having been duly
13 and regularly sworn by the Grand Jury Foreperson, testified
14 through the Spanish interpreter as follows:

15

16 THE WITNESS: (Through the interpreter) Yes.
17 Yes.

18 THE FOREPERSON: (Through the interpreter)
19 Thank you.

20

21 **EXAMINATION**

22 BY MR. TESTA: Q. (Through the interpreter)

23 What kind of work do you do, Mr. Franco?

24 A. (Through the interpreter) Right now, I work
25 irrigating fields.

26 Q. Where?

27 A. In Tracy.

28 Q. How long have you been doing that?

1 A. I started working for that company in '97.

2 Q. And what's the name of the company?

3 A. Bacchetti and Silva.

4 Q. And what kind of -- what kind of work do they do out
5 there?

6 A. Well, it's a dairy, but there's also fields there. So
7 I work in the field right now.

8 Q. Okay. Did you find a suitcase?

9 A. Yes.

10 Q. Where?

11 A. It was in one of the ponds to the dairy. That's where
12 the -- the dirty water goes to.

13 Q. Okay. And what were you doing when you found it?

14 A. Well, I was doing my job. I was doing my routine. My
15 job is to check the pumps that lead into those ponds.

16 Q. What hours do you normally work?

17 A. Normally from 5:00 until 5:00.

18 Q. 5:00 a.m. to 5:00 p.m.?

19 A. Yes.

20 Q. And how many times a day do you inspect the pumps?

21 A. An average of three times.

22 Q. Now, I have a calendar on the wall. March 27, a
23 Friday, did you notice anything on that date there at the
24 pond?

25 A. No.

26 Q. At some point, did you notice something in the ponds?

27 Let me rephrase the question.

28 The day you found the suitcase, were you with anyone

1 else?

2 A. No, I was by myself.

3 Q. And were you on foot or were you in a vehicle?

4 A. No, it's in the -- I was in the truck that I use for
5 work there.

6 Q. Okay. And what caught your attention?

7 A. Well, at first, I saw it from a distance. I didn't
8 know what it was.

9 Q. And so what did you do?

10 A. I -- I went near to it and then I -- I saw what it was
11 and I just thought that somebody had just tossed that
12 suitcase out.

13 Q. Okay. Can I ask you to -- it's kind of awkward where
14 you're seated there, but can you look at this Exhibit 66?
15 Can you see it? You may need to -- feel free to stand up or
16 move. Does that look familiar to you at all?

17 A. Yes.

18 Q. Why don't you walk -- show us -- what is shown in this
19 photo? What is -- what is this up here? Let me see.

20 A. That's the river.

21 Q. Okay. And what are these things, 1, 2, 3, 4?

22 A. Those are the ponds.

23 Q. Okay. And where do you work? Does it show in this
24 diagram or this exhibit?

25 A. I work in all these fields here.

26 Q. And where are the -- are there any other aerial shots?

27 So show us -- tell us how these ponds work. Like does
28 the water from the pond go in the river or the river water

1 go in the pond, or tell us how these irrigation ponds work.
2 Explain to us. This is your business, where you work.

3 A. The -- the water -- the water comes from the dairy.
4 It -- it goes into one of the smaller ponds.

5 And then from there, it filters to a larger pond, and
6 then it filters to -- to the other pond.

7 Once the water has been treated, then we use the --
8 the water for whatever crop is being grown, like right now,
9 for example, we use to that irrigate the corn crops.

10 Q. Oh, I see.

11 All righty. This is just background information. We
12 heard so much about the ponds.

13 Number 68. Can you see the ponds in this one? Are
14 these the ponds down here?

15 Hold on. Take a moment and get your bearings, if you
16 can get your bearings. Do you recognize this item here?

17 A. No.

18 Q. Let me show you the original. No, that's okay. We've
19 got someone else I have to ask these questions to. They are
20 not very good photographs.

21 So getting back to Number 66. How would you go to
22 inspect the ponds three times daily, can you show us with
23 the laser pointer where you would go?

24 A. The pumps are -- there are two pumps. There is one
25 pump that's more or less in this area here.

26 Q. Let's count -- we will call them ponds 1, 2, 3, and 4.
27 As you go from left to right. 1, 2, 3, 4, as you look at
28 the photograph.

1 A. The -- the dairy water comes into this pump here and
2 there's a pump down here.

3 Q. You're indicating pond number 2?

4 A. Yes.

5 Q. Okay. Keep going.

6 A. There's a pump there. And that pump pumps into this
7 pond here.

8 Q. Number 3?

9 A. Number 3.

10 And over here there's a drain. When this pond here
11 fills up, we pass the water from this pond here to this pond
12 here.

13 Q. Just for the record, from 3 to 4.

14 A. Right now, only pump 3 is functioning. This other
15 pump here, we work that in the wintertime.

16 Q. Pump number 1.

17 All right. And what's this road down here where all
18 these -- these cars are? Do you happen to know the name?

19 A. I think those were all the cars that showed up the day
20 we found the suitcase.

21 Q. That was the question. So the day you found the
22 suitcase, did the police arrive?

23 A. Yes.

24 Q. Okay. Are you able to show us where you saw it?

25 Where on the diagram you saw the suitcase? Is it pond 1, 2,
26 3, or 4, do you recall?

27 Feel free to move around if you can't see, Ladies and
28 Gentlemen.

1 A. It was in number 4. Number 4.

2 Q. And whereabouts in number 4?

3 A. More or less about here.

4 Q. Okay. Just for the record then, you're talking
5 about -- let me on this Exhibit Number 66 put an X where
6 you're indicating here. Go ahead and show us where you said
7 more or less where it was.

8 A. More or less.

9 Q. It's hard to...

10 More or less where that X is?

11 A. More or less.

12 Q. Okay. It's rough, I realize it's an approximation.

13 So what -- how did you get out there? You can sit
14 down now, I think.

15 How did you get out there to where you -- where you
16 saw it?

17 A. I was preparing the soil so that the -- that water
18 could be thrown out. So I was driving along that roadway.

19 Q. Would you show us where were you driving?

20 A. I was coming from here to here. I was going to go
21 down this road right here to go out to one of the other
22 fields.

23 Q. So on pond number 1 to the right of it in this
24 photograph that's on the board here, Number 66, there's a
25 road, you were going from top to bottom and then on the road
26 where all the police cars are?

27 A. I was going to go out on to that roadway.

28 Q. You were about to go on to the roadway that has all

1 the cars?

2 A. Yes.

3 Q. And what did you notice as you're going down this road
4 here?

5 A. I was on that little road there, it's actually a dirt
6 road, and it's the edge of the field.

7 Q. Right.

8 A. I turned in this direction here and that's when I saw
9 the -- I turned this direction here and that's when I saw
10 the suitcase.

11 Q. Turn in the direction where?

12 A. Right here.

13 Q. Okay. Somewhere below the bottom of the two bushes or
14 trees that are along the side of that road, just for the
15 record.

16 And then you -- so you looked on the other side of it,
17 you saw something over there, and they are kind of where the
18 X is?

19 A. I noticed -- I noticed the suitcase near the side, but
20 I didn't know what it was.

21 So then what I did was I turned around, I went up to
22 the top of where the pond is, around the pond, then down to
23 where the suitcase was. And I saw that it was in fact a
24 suitcase.

25 Q. Okay. And then what did you do at -- well, let me ask
26 you this: Do you recognize what is shown in Number 5?

27 A. Yes.

28 Q. Which pond are we looking at here on the right, which

1 pond is this, number 1, 2, 3, or 4?

2 A. That's number 4.

3 Q. Okay. So we can see the road between pond number 3
4 and pond number 4, is that correct?

5 A. I'm sorry, repeat that.

6 Q. Is this a road between pond 3 and pond 4, or what do
7 you call this?

8 A. It's the road that divides number 3 and number 4.

9 Q. So if I follow you correctly, can you show us on this
10 Exhibit Number 5 where you drove to go look at what you saw
11 there?

12 A. I wasn't here on the edge. I was below that ledge
13 there.

14 Q. Okay.

15 A. When I saw the suitcase, it was about like so, like
16 here.

17 Q. Okay. Again, I'm going to have to -- show us where
18 the "here" is again, whereabouts?

19 A. I believe it was right here. I'm not sure.

20 Q. Okay.

21 I'm going to put another X for "más o menos," more or
22 less, on this Exhibit Number 5 where you saw it.

23 A. If you were to take me there, I could show you exactly
24 where it was.

25 Q. I appreciate that.

26 So then you drove, and where did you drive to?

27 A. From here, I came back like so. I came down like so.
28 I stop here and I saw that it was a suitcase.

1 Q. So what did you do?

2 A. Well, when I came down, I -- I saw that it was a
3 suitcase. So I got out of the truck and then I couldn't
4 reach it, so I grabbed a pitchfork that I -- I used for work
5 and I used that.

6 Q. And what did you do with the pitchfork?

7 A. I pulled it over to the edge, the suitcase, and I
8 tried to grab it with my hand to take it out, but I couldn't
9 because I felt that it was quite heavy.

10 Q. So what did you do next?

11 A. I pulled it out of the water a little bit so that it
12 wouldn't go back into the pond.

13 Q. And then what did you do?

14 A. I stayed there, I was just looking at it.

15 Q. All right. Were you wearing any gloves?

16 A. Yes.

17 Q. And then what did you do?

18 A. I thought to myself that -- that it might be what I
19 suspected, that it was a little girl inside.

20 Q. Had you heard anything about this missing girl case up
21 to that point?

22 A. Oh, yes, yes.

23 Q. Was it on TV?

24 A. The news, you mean, or --

25 Q. Yeah, was it on the news?

26 A. Yes. It was at all different hours. And so whenever
27 I saw different things, I thought, well, maybe it's --
28 it's -- maybe it's something. That's what I thought.

1 Q. So what did you end up doing?

2 A. This -- this little thing here that I'm pointing to
3 made me suspect that something was wrong because I'm
4 thinking why would it be closed with that little thing
5 there.

6 Q. And can you point to that little thing you're talking
7 about?

8 A. (Pointing.)

9 Q. Oh, the -- the -- how would you describe that?

10 A. It was one of those, you know, like a plastic cinch.
11 I don't know what it's called.

12 Q. Exhibit 95, is that what you're talking about?

13 A. This seems quite big.

14 Q. Okay. In any case, this item that you're pointing to
15 on the right side of the suitcase, as you look at Number --
16 Exhibit 3, is what caught your attention, as I understand
17 it; is that true?

18 A. Yes, because it had -- if it had been opened, I would
19 have thought that it had just been stolen or dropped. But
20 it wasn't like that.

21 Q. So what did you end up doing?

22 A. I called my foreman from where I was at. I called
23 him, but he didn't answer the phone.

24 Q. And then what was his name?

25 A. His name is Pedro. Pete.

26 Q. And then where -- what happened next?

27 A. I -- since I didn't locate him, I went and looked for
28 him over at the ranch.

1 (Pause.)

2

3 MR. TESTA: Q. So what did you do next?

4 A. When I didn't locate him, I went and looked for him at
5 the ranch. And then I took him back to what I had found.

6 Q. I'm sorry, I'm doing a lot of things here. I didn't
7 hear your last answer.

8 Mr. Interpreter.

9 THE INTERPRETER: Could Madame Clerk read it
10 back? I don't remember it verbatim.

11 MR. TESTA: Could you summarize it?

12 THE INTERPRETER: He said, "Since I didn't
13 locate him, I went to look for him at the ranch and then I
14 took him out there to show him what I had found."

15 MR. TESTA: Q. So, eventually, you got your
16 supervisor, went out there to the ranch?

17 A. Uh-huh.

18 Q. Is that a yes?

19 A. Yes, we went there.

20 Q. All righty. I think that's all the questions I have
21 for you.

22 Do these photographs -- oh, did you see the police
23 arrive?

24 A. No, I was doing my job.

25 Q. You went back to work?

26 A. Yes.

27 Q. And what did your supervisor end up doing?

28 A. He called the police.

1 Q. All right. Did he stick around and talk to them?

2 THE INTERPRETER: I'm sorry, Mr. Testa.

3 MR. TESTA: Q. Did he remain there and talk
4 to them?

5 A. Yes.

6 Q. Because earlier, you know, I showed you Number 71
7 or -- do you recognize what is shown in 71?

8 A. Yes.

9 Q. What pond numbers?

10 A. Number 2, 3, and 4. And this is my foreman's pickup.

11 Q. Oh, the vehicle in the bottom of the photograph under
12 pond 4?

13 A. This is Pete's pickup, my foreman's.

14 Q. So how deep are these ponds normally? Do you know?

15 A. I can tell you what -- what -- how deep they are in
16 meters, but I don't know about feet. But it's about three
17 or four meters. It's a little taller than this wall here.

18 Q. So how deep were they on -- how -- I guess they are
19 different depths. But how deep was ponds -- pond number 4,
20 for example, on the date that you found the suitcase?

21 A. It would have been about three, excuse me
22 three meters.

23 Q. Okay. How long had the pond been that deep? In other
24 words, you drain them every six months did I hear you say?

25 A. That -- that pond was at that -- at that depth for
26 about two or three months. We hadn't put any water into
27 that pump -- excuse me, into that pond for about two to
28 three months.

1 Q. Which pond?

2 A. This one, number 4.

3 Q. What about number 3?

4 A. That one is deeper because that's almost always full.

5 Q. Okay. Thank you. I have no further questions.

6 MR. TESTA: Are there any questions from the
7 grand jurors?

8 Q. Was the pond where the suitcase was found ever
9 completely empty to see the bottom in case something else
10 was at the bottom? Good question.

11 A. Well, right now it's empty.

12 Q. Pardon me, was there an answer?

13 A. Response was: Well, right now it's empty.

14 Q. But I mean after -- shortly after finding the
15 suitcase, did anyone empty it, or was it emptied to see if
16 there was anything else? On ponds 3 or 4?

17 A. Yes, it was -- it was -- it was about to be emptied
18 out the following day, I was preparing it to empty it out.
19 About two weeks after it was found, the pond was emptied
20 out.

21 Q. Okay. What was your answer?

22 MR. TESTA: Can you read it back, Madame
23 Court Reporter?

24

25 (Whereupon the requested portion was
26 read back.)

27

28 MR. TESTA: Q. Was anything else found?

1 A. No.

2 Q. Did anyone look?

3 A. Well, at that time I was by myself.

4 Q. Did anyone look to see if there was anything else in
5 the bottom of the pond once it was emptied?

6 A. Well, I haven't seen anything, nothing odd.

7 Q. Did any police come out there and look?

8 A. When, that day or --

9 Q. When the pond was eventually emptied -- pond number 4
10 was eventually emptied?

11 A. Not that I know of. I don't know if they did.

12 Q. Okay. Here's another question from the grand jury:
13 Did you see people at the ponds during the day? I'm
14 assuming you mean the day that the suitcase was found?

15 A. The day that I found it?

16 Q. Well, let's start with that, yeah, the day that you
17 found it.

18 A. Before finding it?

19 Q. Any time.

20 A. Not before finding it.

21 Q. Okay. What about on other days, you see -- if you
22 found it on the day the police came, which we are going to
23 learn is the 6th, what about like the week before?

24 Had you ever seen any people out there during those
25 three times a day that you would go out and inspect the
26 pond -- the ponds?

27 A. Well, on that roadway there, there is a lot of people
28 that go by there.

1 There's a lot of cars that go by there.

2 Q. Can you show us with the laser pointer on Exhibit
3 Number 72 which roadway you're referring to, sir?

4 A. Right here.

5 Q. The one that has the police cars on it?

6 A. Yes.

7 Q. But had you ever seen anyone around the ponds, you
8 know, near the ponds themselves, not on the roadway, near
9 the ponds themselves, any time that week before you found
10 the suitcase?

11 A. No.

12 Q. What times of the day do you go out there to inspect
13 the ponds when you go out three times a day?

14 A. Normally at 5:00 in the morning when I start work.

15 Q. Right.

16 A. Before or right after lunch.

17 Q. Right.

18 A. And then when I leave for home at 5:00 p.m.

19 Q. When you leave for home at 5:00 p.m.?

20 A. Uh-huh. Yes.

21 Q. Okay. When you used the pitchfork, did you puncture
22 the suitcase?

23 A. No.

24 Q. Well, show us...

25 MR. TESTA: May I have marked as next in
26 order, please, what number would this be?

27 THE SECRETARY: 243.

28

1 (Whereupon a Photograph was marked Grand
2 Jury Exhibit Number 243 for
3 identification.)
4

5 MR. TESTA: Q. Showing you 243, do you
6 recognize this item? Oh, hold on.

7 A. Yes.

8 Q. 243.

9 What is it?

10 A. In Spanish, we call it (spoke Spanish), but it's a
11 pitchfork.

12 Q. Is that the one you used?

13 A. Yes.

14 Q. How did you use it?

15 A. Just like so, to bring it closer.

16 Q. Well, I guess what I'm asking, like you use the
17 pitchfork like on the handle, on what -- if you remember,
18 don't just make something up -- on what part of the
19 suitcase?

20 Did you -- was it pushing the suitcase? Was it
21 jabbing it and pulling it like some hay, or was it, you
22 know, using it to angle in here and pull?

23 A. I was pushing it from here to here. Like -- say like
24 pushing something like so (indicating).

25 Q. Well, let me have you stand up here.

26 Do we have something I could -- let me -- go over to
27 that suitcase, I'll give you this and you can pretend this
28 is the pitchfork. Hold on. So we have got three prongs.

1 Okay. I know this is kind of a rough -- here it is on
2 the -- hold on, let me get the photo.

3 By the way, does this show -- 16, does this show the
4 way the suitcase was there on the side -- on the edge of the
5 pond?

6 A. No. It was further in. And I had to use the
7 pitchfork to bring it closer. And it was about that
8 distance from where I'm at -- from where I'm at towards
9 that.

10 Q. Show us what you did.

11 A. I pulled on it like so (indicating).

12 Q. Okay. So I don't know how we --

13 A. And it got to here.

14 Q. The handle?

15 A. And I grabbed it like so. And I saw that it was -- I
16 felt that it was very heavy. So what I did is I put it at
17 the edge so that it wouldn't go back into the water.

18 Q. So when we see it here in this photograph, Number 16,
19 is this how it was after you had pulled it in?

20 A. That's when I pulled it, that's where I left it.

21 Q. Okay. So let me -- let the record reflect, though,
22 that the witness just demonstrated for us an action where he
23 put the -- this podium, I guess it's called, poles on the --
24 this part of the suitcase that has the wheels, the back of
25 the suitcase, and pulled almost like you were raking some
26 leaves, but pulling it towards him.

27 Do I have that right so far?

28 And then he reached down and got the handle and pulled

1 it closer to the edge.

2 So I think you've explained it to us, sir. You can
3 resume your seat. Thank you for that demonstration.

4 And that question from the juror was an excellent one.

5 Do you recognize -- why don't we have this one marked,
6 it's 243, pitchfork.

7 Did the police take that photograph of the pitchfork
8 that day?

9 A. Not that I saw, no.

10 Q. 244, do you recognize this?

11 A. Yes.

12 Q. What are these?

13 A. My gloves.

14 Q. Are these the gloves that you were wearing when you
15 pulled -- when you retrieved, pulled up on the handle of the
16 suitcase?

17 A. Well, I believe so. I can't -- yes.

18 Q. Well, let me -- do you remember the police asking you
19 for them so they could take photographs of them?

20 A. The one who asked me for them was my foreman, Pedro,
21 and Pedro was the one that took them to the police.

22 Q. Oh. Did you ever get them back?

23 A. No.

24 Q. Okay. And 245, same, another photograph of your
25 gloves?

26 A. I believe so, yes.

27 Q. Gloves worn by man who pulls bag from pond, 4/6/09,
28 item 2. I expect the pitchfork was item 1.

1 MR. TESTA: May these be marked as 245 and
2 244?

3

4 (Whereupon two Photographs were marked
5 Grand Jury Exhibit Numbers 244 and 245
6 for identification.)

7

8 MR. TESTA: All right. Are there any other
9 questions from the grand jury?

10 Q. Let's see. Would a pond -- would pond number 4,
11 another question from the grand jury, have been deep enough
12 between March 27th and April 6 to hide the suitcase? I
13 think you answered that.

14 Did you say how deep pond number 4 was a week before?

15 A. I'd say approximately about two and a half meters.

16 Q. Okay. I think we all know what that is. Here's a
17 meter -- oh, it doesn't have it on here.

18 But between the 27th of March and the date you found
19 it, would pond 4 have had that much liquid in it?

20 A. Yes.

21 Q. When was pond number 4 drained or lowered before that
22 date you found the suitcase?

23 A. November, I think.

24 Q. Okay. What time of day was this that you found the
25 suitcase?

26 A. Approximately 9:30.

27 Q. In the morning?

28 A. Yes.

1 Q. Had you ever seen anyone at -- at or on any of these
2 ponds, other than the workers who work on the farms?

3 A. Not close to the ponds.

4 Q. Thank you. No further questions.

5 MR. TESTA: Are there any other questions
6 where -- from the grand jurors? Okay. Because we have the
7 manager coming next.

8 None others? Okay. An admonition will be read.

9 THE FOREPERSON: Mr. Interpreter, there is a
10 approximately 105 words in this admonishment. How fast
11 would you like me to read it?

12 THE INTERPRETER: That's fine, I can do 200
13 words per minute, so...

14 THE FOREPERSON: You can remember all that?
15 Okay.

16 THE INTERPRETER: Yeah, I will do it
17 simultaneously.

18 THE FOREPERSON: (Through the interpreter)
19 You are admonished not to reveal to any person, except
20 as directed by the Court, what questions were asked or what
21 responses were given or any other matters concerning the
22 nature or subject of the grand jury's investigation which
23 you learned during your appearance before the grand jury.
24 This admonishment continues unless and until such time as
25 the transcript of this grand jury proceeding is made public.

26 Violation of this admonishment is punishable as
27 contempt of court.

28 This does not prevent you from discussing the matter

1 with your attorney, if you have an attorney advising you
2 with respect to your appearance before the grand jury.

3 That's for both of you. That all right to do?

4 THE WITNESS: (Through the interpreter)

5 Okay.

6 THE FOREPERSON: Okay. For you, too.

7 THE INTERPRETER: Of course.

8 MR. TESTA: If you could stand by,
9 Mr. Interpreter, I'm going to call someone else next, and
10 then that other person that needs an interpreter.

11 (Through the interpreter) And thank you very much for
12 coming, sir.

13 THE WITNESS: (Through the interpreter) Can
14 I leave?

15 MR. TESTA: (Through the interpreter) Yes.

16 THE WITNESS: (Through the interpreter) My
17 dogs are waiting for me in the parking lot.

18 MR. TESTA: (Through the interpreter) Thanks
19 a lot.

20

21 (Pause.)

22

23 MR. TESTA: Can you state your name please,
24 sir? What is your name sir?

25 THE WITNESS: Pete Corallo.

26 THE FOREPERSON: Would you raise your right
27 hand, please?

28

PETE CORALLO,

1
2 a witness called on behalf of the People, having been duly
3 and regularly sworn by the Grand Jury Foreperson, testified
4 as follows:

5
6 THE WITNESS: I do.

7 THE FOREPERSON: Thank you.
8

EXAMINATION

9
10 BY MR. TESTA: Q. Did you recognize the
11 gentleman that just left this courtroom, Mr. Franco?

12 A. I do.

13 Q. How do you know him?

14 A. He's an employee of mine.

15 Q. And where are you employed?

16 A. Bacchetti and Silva Dairy.

17 Q. And what do you do there?

18 A. I'm a ranch manager.

19 Q. And what do they do there at -- how long have you been
20 the ranch manager?

21 A. Eighteen years.

22 Q. Okay. Showing you Exhibit Number 72, do you recognize
23 what is shown there?

24 A. Yes.

25 Q. What is shown in these?

26 A. These are the dairy lagoons. These are two settling
27 ponds.

28 Q. Here's a laser pointer. Just push this button. The

1 other way. There you go.

2 A. These are what we consider to be settling ponds. And
3 these are actually lagoons that hold water. These are
4 mostly water in here. Not very much in the way of solids.

5 Q. Hold on. We have been calling them, just for ease of
6 presentation, 1, 2, 3, and 4.

7 A. So there's a big difference between 1 and 2, and 3 and
8 4. 1 or 2 are similar, have a lot of dry matter, a lot of
9 manure material in them. 3 and 4 are mostly water.

10 And just looking at the scene right here, this is the
11 one where the bag was found.

12 Q. Number 4 you're referring to?

13 A. Number 4, approximately this location.

14 This is my pickup right here which we left after
15 everybody had showed up.

16 Q. You are indicating on the -- what's the -- what do you
17 call this road that -- this area that it's on?

18 A. This would be field number B2, as far as our ranch
19 markings.

20 Q. Just for our bearings, what is this?

21 A. This is Whitehall Road.

22 Q. Where all the vehicles are?

23 A. Yes. All the vehicles are on Whitehall Road. It dead
24 ends. It's only about a mile long road at the most.

25 Q. What's on the top of the photo?

26 A. Top of the photo is Old River.

27 Q. Showing you Number 66, do you recognize what is shown
28 in this exhibit?

1 A. Yeah. We are basically the same photo, I'm not sure
2 what you've got right here.

3 Q. Well, you see that X?

4 A. That's an X. I'm sorry.

5 Q. No, don't be persuaded -- ignore it for a second and
6 tell us where in relation to that did you see the suitcase?

7 A. It would be in that area, or possibly a little farther
8 south. Hard to say. For some reason, this almost looks
9 close -- we were beyond the midway point. So, yeah, right
10 in this area.

11 Q. Well, at the X, or maybe a little --

12 A. At the X.

13 Q. -- below it?

14 A. I think at the X. It could be a little bit south of
15 there, but...

16 Q. Okay. Just so I get my bearings here. Is this
17 Whitehall Road with the police cars, is that south of the
18 ponds?

19 A. That is.

20 Q. Okay. Am I using the right word when I say "ponds"?

21 A. Sure.

22 Q. And so what caused you to even go out there and see
23 that suitcase?

24 A. Mr. Franco tried to contact me by cell phone
25 approximately 9:00 o'clock in the morning that Monday. I
26 was working in the shop, I was with equipment that was
27 rather loud, I couldn't hear it. So he drove directly to
28 the shop and brought it to my attention.

1 Because we knew the search parties had been in our
2 area the last couple weekends, of course, everyone knew
3 about this case, I -- he and I jumped in my pickup and drove
4 out to the pond.

5 It's not unusual for us to find a lot of stuff right
6 here on Whitehall Road, especially in the break area between
7 this -- this drain ditch. But we hardly ever find anything
8 in the ponds themselves. Basically, the ranch is located
9 two miles north of Tracy. So we are very close to the city
10 limits, but yet rural.

11 So when we went up to the ponds, I drove up, looked at
12 the bag, I grabbed it, felt there was some weight in it and
13 noticed that the zippers on the bag were tied together. So
14 at that point, I called the Sheriff's Department, told the
15 dispatcher that I was making a courtesy phone call, I didn't
16 know if there was anything to this, but that we had been in
17 a search area for this little girl and here's what we had
18 found and that the bag was tied together.

19 At that point, I asked if they would -- wanted me to
20 open the bag, or if they wanted to send someone out. So
21 they asked me if I could go to a physical address, since I
22 was up in the ponds, and meet an officer at a physical
23 address.

24 At that point, Mr. Franco and I left, I took him back
25 to his vehicle, and I went to 18700, which is the closest
26 house coming in to the dairy, and met a Sheriff officer at
27 that point. He and I drove down Whitehall Road and parked.
28 And by the time we got out, there was basically a

1 convergence of all different law enforcement, more Sheriffs,
2 Tracy Police Department, and FBI.

3 Q. So where did you end up going to --

4 A. The --

5 Q. -- on 66 here?

6 A. Okay. The original -- the officer and I, originally,
7 I stopped right here in the corner of this field. And we
8 were able to see the bag on the edge. Mr. Franco had pulled
9 it to the edge at that time.

10 Q. You were not there when he used the pitchfork to do
11 that?

12 A. I was not.

13 Q. Okay. Did you eventually give the pitchfork to the
14 authorities for them to photograph or do whatever they
15 wanted to do?

16 A. The authorities still have the pitchfork, to my
17 knowledge.

18 Q. And the gloves?

19 A. The gloves, I believe --

20 Q. Did you give them over to --

21 A. I gave them the gloves. I cannot remember if they
22 wanted them or not. I don't remember if they took those
23 into evidence or not.

24 Q. Okay. But whom did you get the pitchfork and gloves
25 from?

26 A. From Mr. Franco.

27 Q. Okay. And then what happened?

28 A. Then basically the Special Agent Terry Scott is

1 basically the gentleman I talked to at that point, and I
2 gave him my statement, pretty much what I've just told you
3 folks right now.

4 Q. Okay. Showing you I guess these...

5 MR. TESTA: What are these numbers, Madame
6 Clerk?

7 THE SECRETARY: 246, 247 -- is there three of
8 them? 248.

9 MR. TESTA: 246 is the next one you say? The
10 first?

11 THE SECRETARY: Yes.

12

13 (Whereupon three Photographs were marked
14 Grand Jury Exhibit Numbers 246, 247 and
15 248 for identification.)

16

17 MR. TESTA: Q. Showing you 246, do you
18 recognize what is shown?

19 A. Yes.

20 Q. With the laser pointer, can you tell us what is shown
21 here?

22 A. This is Whitehall Road right here.

23 Q. In the foreground?

24 A. Yes. And this is basically the corner of the field.
25 And this would be the southeast edge of the most eastern
26 pond right here, and this would be number 4.

27 Q. So we could see pond number 4?

28 A. Yeah. This the embankment of pond number 4 here.

1 Q. So how does one get from the road -- let's say I had
2 something and I wanted to get it out to pond number 4 where
3 you guys found the suitcase, how does one -- can you show us
4 using Number 72 how one would -- where one could go.

5 A. You can go from Whitehall Road -- if you could zoom
6 out. There are two possible ways to come in.

7 One would be right here through this dirt road. And
8 you can kind of see how it goes up on to the settling pond.
9 There's a rather steep bank right here because there's a big
10 difference in height of these ponds that you could come up.
11 And then this tree line's kind of hiding it, but there's an
12 edge right here where you could drive.

13 Also, in relationship to the road, the ponds are maybe
14 ten, fifteen yards from the county road right here, so it's
15 not a long ways as you can see.

16 There's also a way where you could get in through this
17 field right here.

18 Q. Well, that's what I wanted to ask you, that field
19 right here, you're talking about the lower right-hand side
20 of the photo?

21 A. Yeah.

22 Q. Somewhat near where your vehicle's parked?

23 A. Correct.

24 Q. And does that show in Number 246?

25 A. Yeah. This gate is kept locked and --

26 Q. Okay.

27 A. At this time when this was happening, we were during a
28 harvest, so normally we have a ditch here and it's basically

1 impenetrable with a vehicle.

2 Q. But on this particular period, say from March 27th?

3 A. Yes, it would have been accessible. But it would be
4 very difficult to come around and climb this embankment with
5 a vehicle. It's rather steep.

6 Q. Not with a vehicle. I mean leave the vehicle here --

7 A. No, yeah, yeah, yeah.

8 Q. Let me finish.

9 A. Sorry.

10 Q. Leave the vehicle here, you have something that has
11 rollers, you have a suitcase with wheels on it, can you get
12 from the car to the area where the suitcase was found?

13 A. Yes.

14 Q. And how would you do that, assuming you parked your
15 car near the two blocks -- what are these?

16 A. They are irrigation boxes.

17 Q. Irrigation boxes, you say --

18 A. Uh-huh.

19 Q. -- that are shown in 246?

20 So when you parked, assuming you parked your car
21 there, can you show us on 72 how you would from that
22 location get to the location where the suitcase was found?

23 A. You could go right up this -- right around this gate
24 right here, up this embankment, and these roads are very
25 flat.

26 Q. But over to where the suitcase is found?

27 A. And you go down right along here, right up to here.

28 Q. Now, where the suitcase is found does not necessarily

1 mean that's where the suitcase was dumped?

2 A. That's correct.

3 Q. How deep were those ponds, say, the week before the
4 suitcase is found on the 6th of April? How deep were the
5 ponds between the date the girl went missing, the 27th of
6 March -- we have a calendar over there if you need to look
7 at it -- through the 27th of March when she went missing and
8 the 6th of April when the suitcase was found, what was the
9 depth of pond number 4 during that period?

10 A. At least seven feet.

11 Q. At least seven feet?

12 A. That's right.

13 Q. By the way, does People's Exhibit -- Grand Jury
14 Exhibit 71 show your vehicle in the bottom.

15 And let me just jump up, let me tell you if a Marine
16 saw a vehicle parked right around here, at the bottom -- say
17 where the bottom of the full view of the car is here, you
18 see in the photograph, then you take something and put it in
19 pond number 4, wherever you may end up doing it --

20 A. Very easily.

21 Q. -- can you walk along -- can you walk -- can you --
22 let me ask you this: Is it firm enough that you could walk
23 along the edge of the pond?

24 A. Yes.

25 Q. Without sinking in?

26 A. Yes.

27 Q. It's built up enough so it can support your weight or
28 even the weight of you carrying it?

1 A. 2-to-1 slope on the ponds. There's a 2-to-1 slope on
2 the ponds.

3 Q. Okay. And showing you...

4 MR. TESTA: Do you have the tags ready yet?

5 THE SECRETARY: Uh-huh.

6 THE REPORTER: Can you spell your last name
7 for me?

8 THE WITNESS: C-O-R-A-L-L-O.

9 MR. TESTA: Q. Okay. So does 246 accurately
10 show that area near the --

11 A. Yes.

12 Q. -- near the road?

13 Did you say that security gate is -- would have been
14 locked or unlocked, say, on March 27th, a week before?

15 A. Locked.

16 Q. Okay. But there's a space between the security gate
17 and that post?

18 A. Yeah, there's a lot of room, even on the other side of
19 the post there's a lot of room.

20 Q. Okay. And then showing you 247, do you recognize what
21 is shown in this one? Basically the same area?

22 A. Yeah, basically the same.

23 Q. What's on the other side of the post that's over here,
24 the right side of the post?

25 A. There's an irrigation valve right here where we can
26 get water to irrigate. We don't use it, so there's just a
27 slight pitch to the -- to the ground right here, but nothing
28 that would impede anyone from being able to move anything

1 through there easily. We drive on top of it.

2 Q. 248?

3 A. This is the same picture, but from the opposite
4 direction. Here's the tarp that I was saying we used for
5 irrigating.

6 Q. Oh, I see.

7 A. And as you can see, there's the post on this side,
8 there's quite a bit of room to come through here, or
9 anywhere through here. It's all open, easily to get
10 through.

11

12 (Whereupon a Photograph was marked Grand
13 Jury Exhibit Number 249 for
14 identification.)

15

16 MR. TESTA: Q. And, lastly, 249, I guess
17 that really doesn't add much, same view as the others?

18 A. Same picture, even as you can see with the road here,
19 somebody could easily go through that gate and pull
20 something.

21 Q. How high is the gate?

22 A. The gate would probably be three and a half to
23 four feet high, I'm estimating it right now.

24 Q. Could you unlock it?

25 A. Actually, when I go to unlock that gate, I don't have
26 to lean down, it's about chest high on me.

27 Q. Does 248 show the height of it? Actually, it looks
28 higher than that from this photo. Is that somewhat

1 deceiving?

2 A. It could be. Probably what it is, this is a little
3 bit higher than field level. The photographer is probably
4 at field level which is raising that up a little bit.

5 Q. All righty. Do those photos show how it looked the
6 day of the discovery of the suitcase that I've shown you?

7 A. Yes.

8 Q. Let's see if I have any other questions.

9 When had it last been drained -- when had pond
10 number 4 last been drained, do you know?

11 A. It would have been drained in September -- probably in
12 September of the previous year.

13 Q. Okay. So on March 27th, say a week before the
14 suitcase was found, the pond was how deep did you say?

15 A. Approximately seven feet.

16 Q. That's right. You already answered that.

17 THE FOREPERSON: Mr. Testa, can we have a
18 five-minute break?

19 MR. TESTA: Can I finish with this witness
20 first? Because we started about twelve after 9:00.

21 THE FOREPERSON: All right.

22 MR. TESTA: Q. Did you see anything
23 suspicious going on at the pond the week before -- any time
24 the week before the discovery of the suitcase?

25 A. Nothing out of the normal, no.

26 Q. You say from time to time you guys find some things,
27 some items on the -- off of Whitehall Road?

28 A. That's correct. There's a -- a separation between the

1 ditch right here and there's a road that comes in.

2 Q. You're indicating Number 71. Kids hang out there and
3 drink and do the normal things?

4 A. Yes. On occasion, there'll be some of that.

5 Q. You find up here beer cans, condoms, clothes?

6 A. Yes.

7 Q. Empty -- tires, junk, trash?

8 A. Yes. Yes.

9 Q. Is it normally on the -- is this the east side of
10 Whitehall?

11 A. That's the south side.

12 Q. South side of Whitehall. And where -- do you find
13 stuff on the -- the north side?

14 A. Most of the time, it's found right here. It can
15 occasionally be found on this side.

16 Q. Do you occasionally find things near what is shown in
17 Number 248?

18 A. Occasionally right here. Not very often inside of the
19 fenced perimeter.

20 Q. You're indicating somewhere between the post and the
21 road?

22 A. Yes.

23 MR. TESTA: I have no further questions. Are
24 there any questions from the grand jury? And then we can
25 take our break.

26 Q. Is it possible the suitcase was put in a different
27 area of the pond and floated or made its way to where the
28 suitcase was found? That's a question from the grand jury.

1 A. I don't know if I'm necessarily qualified to answer
2 that question. I would assume that it could happen. But...

3 Q. Is the pond number 4 murky, is it clear, is it --

4 A. It's murky.

5 Q. Is it muddy?

6 A. It would look like a muddy river. If you ever seen a
7 muddy river, that's kind of what it would look like. It
8 kind of has a brownish/red tone to it in color. Definitely
9 visibility in the pond would be almost zero. If you were to
10 hold something just under the surface, I don't think you
11 would be able to see it.

12 Q. Is there a turbulence or current in the pond, the
13 juror asks, with sufficient force to move a heavy suitcase
14 around?

15 A. There was not. We hadn't touched that pond or done
16 anything to make that bag come to the top.

17 Q. Could a suitcase, the juror asks, be dropped at the
18 gate and end up where it was found?

19 A. I would assume, again, that it could be. I don't know
20 if I'm qualified to answer that question or not.

21 Q. Did you ever drain the pond to see if there was
22 anything else in there after the suitcase was found? I
23 mean, was it drained with an eye towards seeing if there
24 might be another suitcase or any other evidence or piece of
25 twine or a weapon, or anything like that?

26 A. Yeah. This eventually would have been found
27 regardless, because we were about three days from starting
28 to empty that pond. And at that point, we would have caused

1 turbulence in there by mixing it and eventually we would
2 have got it drained down far enough to see it.

3 We kept in touch with the FBI and Tracy Police
4 Department. And they asked us to contact them when the
5 pond -- when we got the pond drained all the way down.

6 We told them we would keep an eye on it as it was
7 being drained, and if we saw anything suspicious we would
8 give them a call back. We never did.

9 And as we got the pond as low as we could, we did make
10 that phone call to them and they -- Tracy police officer did
11 come out and look at the pond after it was drained.

12 Q. Did you go out there with them?

13 A. I did not. I was on a tractor by the ranch where my
14 pickup is. So I did see him physically come out, go on top
15 and look, but I did not get off to meet with him. He didn't
16 call me over.

17 Q. But he was there when it was absolutely empty?

18 A. As far as I can get it down, I won't tell you we can
19 get completely zero water in it, but very, very low.

20 Q. Anything found? Did he bring anything to your
21 attention that he found?

22 A. No.

23 Q. Thank you. No further questions.

24 MR. TESTA: Any more from the grand jury? I
25 see none.

26 The foreperson will read you your admonition. And I
27 guess you can take a break.

28 THE FOREPERSON: Right. You solemnly -- I'm

1 sorry.

2 You are admonished not to reveal to any person, except
3 as directed by the Court, what questions were asked or what
4 responses were given or any other matters concerning the
5 nature or subject of the grand jury's investigation which
6 you learned during your appearance before the grand jury.
7 This admonishment continues unless and until such time as
8 the transcript of this grand jury proceeding is made public.

9 Violation of this admonishment is punishable as
10 contempt of court.

11 This does not prevent you from discussing the matter
12 with your attorney, if you have an attorney advising you
13 with respect to your appearance before the grand jury.

14 Do you understand?

15 THE WITNESS: Yes.

16 THE FOREPERSON: Thank you.

17 MR. TESTA: Thank you for coming in, sir.

18 You can leave.

19 THE FOREPERSON: Okay. Just a five-minute
20 break, please. We have a lot of witnesses today, so let's
21 really try to be on time. Okay.

22

23 (Recess.)

24

25 THE SECRETARY: We are all accounted for.

26 MR. TESTA: Are we all accounted for?

27 THE SECRETARY: We are all accounted for.

28 MR. TESTA: Mr. Interpreter, you have already

1 been sworn.

2 THE INTERPRETER: Yes.

3 MR. TESTA: (Through the interpreter) Can
4 you -- what is your name, ma'am?

5 THE WITNESS: (Through the interpreter)
6 Maria Diaz.

7 MR. TESTA: Can you read the oath, please, to
8 Maria Diaz?

9

10 **MARIA DIAZ,**

11 a witness called on behalf of the People, having been duly
12 and regularly sworn by the Grand Jury Foreperson, testified
13 through the Spanish interpreter as follows:

14

15 THE WITNESS: (Through the interpreter) Yes.

16

17 **EXAMINATION**

18 BY MR. TESTA: Q. (Through the interpreter)

19 Where did you live on March 27th, 2009?

20 A. (Through the interpreter) At number 9.

21 Q. Can you -- in the -- what is the name of the mobile
22 home park?

23 A. Orchard.

24 Q. Okay. And do you have a laser pointer? Can you show
25 us, do you recognize Exhibit 51, do you recognize this
26 diagram? Do you recognize what is shown on this diagram?

27 A. Yes. This the entrance here. And you turn here and
28 this is where my home is.

1 Q. Number 9?

2 A. Yeah. Uh-huh.

3 Q. Okay. And just a few questions for you. Did you know
4 this girl that went missing, Sandra Cantu?

5 MR. TESTA: Can I have a photograph of her,
6 please?

7 THE WITNESS: Yes. We had known her for
8 about a month.

9 MR. TESTA: Q. How long had you lived at
10 that mobile home park?

11 A. Since about February or so. That's -- it was in
12 February when we arrived there.

13 Q. February of 2009?

14 A. Yes.

15 Q. Okay. And whom did you live there -- by the way, is
16 Number 17, is this Sandra?

17 A. Yes.

18 Q. Whom did you live there at number 9 with?

19 A. I lived with my four children and my husband and a
20 friend of ours who is the owner of the home.

21 Q. How old -- how old are the children?

22 A. The eldest is fourteen. The other one is eleven. The
23 third is eight. And the smallest is five.

24 Q. Did Sandra come over and play with any of your
25 children?

26 A. Yes. With Cassandra.

27 Q. And how old -- which one -- how old is Cassandra?

28 A. Five.

1 Q. Okay. Now, the day that she went missing, had you
2 seen Sandra playing with Cassandra on that date?

3 A. Yes.

4 Q. What time?

5 A. I don't know the exact amount of minutes, but it was
6 just a little bit after 3:00.

7 Q. In the afternoon?

8 A. In the afternoon.

9 Q. And what kind of things were they playing?

10 A. They were playing on a swing. There is a tree outside
11 of the house there. And my husband had set up a swing there
12 in the tree.

13 Q. Okay. By the way, do you recognize Number 50?

14 A. Yes.

15 Q. With the laser pointer, can you show us? This the
16 number of the diagram. Do you recognize this photograph?

17 A. Well, not some of it, but yes.

18 Q. Let me -- I'll show you this Exhibit Number 65. Can
19 you show us where you place number 9 is?

20 A. Number 9 is this one here.

21 Q. Where is the swing set?

22 A. Right here. This is a tree here. Outside here,
23 there's a tree. And that's where my husband set one up.

24 Q. Okay. We just had a question about that earlier.

25 Okay. So Cassandra and Sandra are playing -- are
26 playing?

27 A. Yes.

28 Q. And then did Sandra leave?

- 1 A. No. They were drawing for a little while. Then they
2 went inside to watch a movie. And then after a short while,
3 she told my girl that she had to leave because her mom had
4 told her that she had to go home and do her homework.
- 5 Q. And then did Sandra leave?
- 6 A. Uh-huh. Yes, she left.
- 7 Q. Did you see which way she left?
- 8 A. Yes.
- 9 Q. Could you show us on the diagram -- on the exhibit?
- 10 A. She left my house here. She came this way.
- 11 Q. Let me put this on so we can put the streets down.
12 Showing you Number 51 -- hold on. She left number 9
13 and she went?
- 14 A. This is --
- 15 Q. North on Apple.
- 16 A. This is my house. And when I saw her here and she
17 went this way. This is as far as I saw her.
- 18 Q. She went north on Apple and then east -- east on
19 Orchard?
- 20 A. This way, yes. Uh-huh.
- 21 Q. You saw her as far as Orchard.
- 22 A. She -- she didn't go out to the street. She -- she
23 came out here and right here. Right here, she went this
24 way.
- 25 Q. Okay. So just for the record --
- 26 A. Because the roadway -- this is the roadway here.
- 27 Q. You're indicating Clover Road that's outside the
28 trailer park?

1 A. That's outside the trailer park.

2 Q. But Sandra --

3 A. But she walked.

4 Q. I have to put on the record so someone reading this
5 knows what you're saying.

6 You're indicating north on Apple. And then you're
7 indicating east on Orchard. She went this way on Orchard.

8 But my question now is how -- where was she when you
9 last saw her? Before you answer, try to tell us where in
10 relation to one of these numbers on the exhibit she was when
11 you last saw Sandra on the date she went missing? Do you
12 understand the question?

13 A. Yes. All I saw her was to come out here and she
14 turned here. That was it. I didn't see her arrive to any
15 house or anything.

16 Q. Okay. But -- okay. From your place, are you able to
17 see around the corner to see how far she went on Orchard? I
18 don't know the set-up there. Can you actually see?

19 A. No.

20 Q. Or can you only see down -- can you only see --

21 A. All I saw her was make the turn, that's it.

22 Q. Oh, okay. That's what I wanted to clarify.

23 And show us on 50 where you saw her make the turn?

24 A. Here's my house. She came out here and she came this
25 way. She came this way here.

26 Q. Okay. So same directions as I stated earlier?

27 A. Uh-huh.

28 Q. Okay. I have no -- oh, when did you learn she was

1 missing?

2 A. That same day at around 8:30 or so, an officer came to
3 the house to ask about her.

4 Q. Okay.

5 Thank you. I have no further questions.

6 MR. TESTA: Are there any questions from any
7 of the grand jurors?

8 GRAND JUROR 15: One.

9 GRAND JUROR 12: There's one coming.

10 MR. TESTA: And, Mr. Interpreter, this will
11 be the end of your -- we won't need your services for today
12 anymore, at least that I'm aware of.

13 Q. Question from the grand juror: What time did Sandra
14 leave your house?

15 A. I don't know the exact hour, but it was before 4:00.

16 Q. Fair enough. Okay.

17 MR. TESTA: Are there any other questions?

18 Okay. Thank you.

19 THE WITNESS: Uh-huh.

20 MR. TESTA: Q. Did your children like
21 Sandra?

22 A. Yes.

23 Q. Was she nice?

24 A. Yes.

25 Q. These are questions from the grand jurors.

26 A. Yes.

27 Q. Did you like her?

28 A. Well, yes, I saw that she got along well with my

1 girls.

2 Q. What was she like?

3 A. Well, I actually never spoke with her because she
4 didn't speak Spanish and I don't speak English either. But
5 she got along with my girls. She understood them.

6 MR. TESTA: Okay. Are there any other
7 questions?

8 I see none. Okay. Can you read the admonition,
9 please?

10 THE FOREPERSON: (Through the interpreter)
11 You are admonished not to reveal to any person, except as
12 directed by the Court, what questions were asked or what
13 responses were given or any other matters concerning the
14 nature or subject of the grand jury's investigation which
15 you learned during your appearance before the grand jury.
16 This admonishment continues unless and until such time as
17 the transcript of this grand jury proceeding is made public.

18 Violation of this admonishment is punishable as
19 contempt of court.

20 This does not prevent you from discussing the matter
21 with your attorney, if you have an attorney advising you
22 with respect to your appearance before the grand jury.

23 Thank you.

24

25 (Pause.)

26

27 MR. TESTA: What is your name, please.

28 THE WITNESS: Jeremy Chappell.

1 MR. TESTA: Could you spell your name?

2 THE WITNESS: C-H-A-P-P-E-L-L.

3 THE FOREPERSON: Would you raise your right
4 hand, please?

5

6 **JEREMY CHAPPELL,**

7 a witness called on behalf of the People, having been duly
8 and regularly sworn by the Grand Jury Foreperson, testified
9 as follows:

10

11 THE WITNESS: Yes.

12 THE FOREPERSON: Thank you.

13

14 **EXAMINATION**

15 BY MR. TESTA: Q. Where are you employed?

16 A. AT & T.

17 Q. And what do you do there?

18 A. I'm a maintenance splicer.

19 Q. How long have you been so employed?

20 A. Twelve and a half years.

21 Q. March 27th, 2009, where were you between about 5:30
22 and 6:00 p.m.?

23 A. En route to dinner from my home.

24 Q. With whom?

25 A. My wife and my son.

26 Q. And what is your wife's name?

27 A. Alena Chappell.

28 Q. And how old is your son?

1 A. Six.

2 Q. And where -- did you have a place in mind that you
3 were planning to go to dinner?

4 A. The Olive Garden.

5 MR. TESTA: And what's our next exhibit
6 number, please?

7 THE SECRETARY: 250.

8

9 (Whereupon a Photograph was marked Grand
10 Jury Exhibit Number 250 for
11 identification.)

12

13 MR. TESTA: Q. Showing you 250, do you
14 recognize what is shown in this photograph?

15 A. Yes.

16 Q. There's a laser pointer in front of you. Can you tell
17 us what in 250 you recognize?

18 A. The entire thing.

19 Q. Are there four ponds there, or what we have been
20 calling ponds?

21 A. Yes.

22 Q. We have been calling them 1, 2, 3, and 4.

23 A. Okay.

24 Q. What is this body of water?

25 A. That's the Delta.

26 Q. And what is this above the ponds in the photo?

27 A. That's a field.

28 Q. Okay. And do you know what -- are they -- what they

1 grow here?

2 A. This is alfalfa on that side. There were beans on the
3 other side. Right now there's solid corn.

4 Q. What's there in the upper right-hand corner of the
5 photograph?

6 A. That's my residence.

7 Q. Is that where you were leaving from?

8 A. Yes.

9 Q. You and your wife and your child?

10 A. Yes.

11 Q. What road is it on?

12 A. Whitehall Road.

13 Q. Where is Bacchetti?

14 A. Bacchetti Road.

15 Q. Is it pronounced "Bacchetti"?

16 A. It's Bacchetti.

17 Bacchetti Road is west, probably down about here.

18 Well, a bit farther down.

19 Q. And the street signs are up there, are they?

20 A. Yes.

21 Q. You could tell what the streets are?

22 A. Yes.

23 Q. And what about do you recognize what is shown in 71?

24 A. Yes.

25 Q. What?

26 A. The retention ponds. You can see 2, 3, and 4.

27 Q. Any streets?

28 A. Whitehall Road.

- 1 Q. What about 73?
- 2 A. I see all four ponds and Whitehall Road.
- 3 Q. What about this 176?
- 4 A. I can see my home, Whitehall Road, all four ponds,
5 Bacchetti, Tracy Boulevard.
- 6 Q. Whitehall?
- 7 A. Whitehall.
- 8 Q. Where is Whitehall and Bacchetti?
- 9 A. Whitehall coming across here.
- 10 Q. Where is your place?
- 11 A. My house is right here.
- 12 Q. On the lower left?
- 13 A. Yes.
- 14 Q. And you are on what street again?
- 15 A. Whitehall Road.
- 16 Q. Where do you get -- where is Bacchetti?
- 17 A. Bacchetti Road is right here. Starts right here.
18 This is Tracy Boulevard that comes all the way out and it
19 curves around. Bacchetti starts right here and goes all the
20 way down to the end of the dairy.
- 21 Q. So is it North Tracy Boulevard, by the way?
- 22 A. Yes, it is.
- 23 Q. Or Tracy Boulevard, because I think --
- 24 A. It's actually South Tracy Boulevard, because of the
25 county addresses. But if you live in Tracy, it's North
26 Tracy Boulevard.
- 27 Q. Okay. We will call it Tracy Boulevard.
- 28 A. Okay.

1 Q. So you take Tracy boulevard and you make -- there's
2 this curve, but if you keep going --

3 A. You go forward, that's Bacchetti Road.

4 Q. You go forward, it's Bacchetti.

5 Okay. And there's a street sign that says Bacchetti
6 and Whitehall, is there?

7 A. Yes.

8 Q. So you see this photograph, Number 76. What happens
9 on March 27th when you and your wife and your child are
10 leaving your place to go -- where is the Olive Garden?

11 A. About, well, I believe somewhere over in here.

12 Q. Upper right-hand corner of the photograph?

13 A. Roughly.

14 Q. In Tracy itself, in the city limits?

15 A. Yes.

16 Q. So what happens as you're driving?

17 A. As we were driving, I noticed a vehicle parked down
18 here by pond number 4, along the eucalyptus trees and
19 there's a dirt access road. There is a car there. And it's
20 a --

21 Q. Go ahead, what else did you notice?

22 A. Usually when we notice a vehicle we don't recognize on
23 the road, you know, I'll stop and ask what their business is
24 on the road. The road itself is a public road, but once you
25 leave the payment, you're on private property. So,
26 generally, I stop and ask people what they are doing there,
27 if they have any business there. And, you know, kindly move
28 it along.

1 And that's when I encountered a vehicle parked right
2 there on the side. So I got out -- there was nobody in it,
3 so I got out to see where the person might be.

4 And at that point, I encountered a lady and asked her
5 what she was doing.

6 She said she had to use the restroom, couldn't make it
7 into town.

8 I said, "All right. Well, since you're done, why
9 don't you leave."

10 Q. Was she by herself?

11 A. Yes.

12 Q. Can you describe the vehicle that you saw?

13 A. It looked like a light green metallic import with a
14 boxy back end.

15 Q. Light green?

16 A. Metallic.

17 Q. Metallic -- or I-C.

18 A. I in there somewhere.

19 Q. And what else? Light green, metallic, boxy?

20 A. Boxy back end on it. Kind of like -- but it wasn't a
21 car and it wasn't a SUV. It was like a crossover, I
22 believe.

23 Q. How else would you describe it?

24 A. There was a sticker on the back window, I believe on
25 the driver's side rear.

26 Q. What did it say?

27 A. It said, "My brother's a US Marine."

28 Q. Anything else, any other details that you noticed?

1 A. I believe there's also a ribbon with -- a "Support Our
2 Troop" ribbon.

3 Q. Do you remember the color?

4 A. I believe it was yellow. To the best of my knowledge.

5 Q. "Support Our Troops," I think we have all seen these.

6 A. Right.

7 Q. And -- and what did the person look like?

8 A. It was a female, between twenty and thirty. Probably
9 five and a half feet tall --

10 MR. TESTA: Having these exhibits marked as
11 next in order. What's the first one?

12 THE WITNESS: -- female.

13 MR. TESTA: What's the exhibit number?

14 THE WITNESS: Sorry.

15 THE SECRETARY: 251.

16

17 (Whereupon two Photographs were marked
18 Grand Jury Exhibit Numbers 251 and 252
19 for identification.)

20

21 MR. TESTA: Q. 251. Pardon me. 252. Just
22 illustrating your testimony, these are exhibit numbers.

23 The female looks about approximately -- I realize you
24 are not there with a measuring tape -- approximately how
25 tall?

26 A. Five and a half feet.

27 Q. Five and a half feet?

28 A. Yes.

1 Q. What else?

2 A. Kind of thick.

3 Q. Thick build?

4 A. Yeah. You know, she wasn't fat but she wasn't skinny.
5 Kind of thick. Kind of a dirty -- dirtyish blonde/light
6 brown colored hair. Wearing sweats and T-shirt.

7 Q. Okay. Now, do you remember talking to the FBI about
8 this -- this observation that you had?

9 A. Yes.

10 Q. Do you remember giving a description to the FBI agent
11 about this person?

12 A. Yes.

13 Q. Was it any fresher in your mind when you gave this
14 information on -- to the FBI on I think it looks like
15 April 6, 2009?

16 A. It was fresher at that time.

17 Q. Did you get a chance to review that statement you
18 gave?

19 A. Yes.

20 Q. Age, late twenties to early thirties. I didn't ask
21 you how old she looked, but does that sound right?

22 A. I stated it before you got the paper up.

23 Q. What was the age?

24 A. Between twenty and thirty.

25 Q. You told the FBI late twenties to early thirties.
26 Does that sound right?

27 A. Okay. Yes.

28 Q. Height, no taller than 5'6". Is that what you

1 referred to?

2 A. Yes.

3 Q. Okay. It's easier to follow.

4 A. Okay.

5 Q. Thick build. Hair, sandy blonde to blondish-brown.
6 Pulled in a ponytail.

7 A. Yes.

8 Q. Do you recall that?

9 A. I do.

10 Q. Gray sweats and T-shirt. Did you tell -- do you
11 remember the color now as you sit here today?

12 A. Now that it's been refreshed, yeah.

13 Q. Gray sweats and T-shirt.

14 Did you see the FBI guy taking notes?

15 A. Yes.

16 Q. Was it a man or a woman?

17 A. Both.

18 Q. And the car, light metallic green, compact, import
19 vehicle. Resembled a Suzuki. Did it resemble a Suzuki, but
20 it was smaller than a full-sized SUV?

21 A. That sounds about right. A crossover. It wasn't a
22 car; it wasn't an SUV.

23 Q. There were several stickers on the back. One sticker
24 said, "My brother is a US Marine." The other resembled a
25 ribbon and pertained to the Marines.

26 Which direction was the vehicle parking or --

27 A. Facing.

28 Q. -- facing?

1 A. It was facing west.

2 Q. Did the FBI come out and ask you to show them exactly
3 where that vehicle was and which direction it was parked,
4 and so on and so forth?

5 A. Yes.

6 MR. TESTA: May I have marked as next in
7 order, please? What number would this be?

8 THE SECRETARY: 253.

9

10 (Whereupon a Photograph was marked Grand
11 Jury Exhibit Number 253 for
12 identification.)

13

14 MR. TESTA: Q. Showing you 253, do you
15 recognize this --

16 A. Yes.

17 Q. -- photograph?

18 Whose vehicle?

19 A. That's my vehicle.

20 Q. Okay. Did the FBI take this?

21 A. Yes.

22 Q. And why did you park it there?

23 A. Because that's where I stopped on the day in question.

24 Q. Is that where you stopped or is that where the vehicle
25 stopped?

26 A. No, that's where I stopped.

27 Q. Where was the vehicle that you described when you saw
28 it?

1 A. Parked right along here on the access bank.

2 Q. You're indicating, just for the record, just to the
3 right of where your vehicle is in this photograph --

4 A. Yes.

5 Q. -- 253.

6 A. It was to the right and on the edge of the -- well,
7 more so off the road than on it.

8 Q. Because there's a, if I understand correctly, a paved
9 road and then there's a dirt road?

10 A. Yes.

11 Q. And it was -- in fact, do you recognize...

12 MR. TESTA: What's our next exhibit number?

13 THE SECRETARY: 254.

14

15 (Whereupon a Photograph was marked Grand
16 Jury Exhibit Number 254 for
17 identification.)

18

19

20 MR. TESTA: Q. What is shown in 254?

21 A. Yes, that's my vehicle with the access road and the
22 edge of Whitehall Road.

23

24 (Whereupon a Photograph was marked Grand
25 Jury Exhibit Number 255 for
26 identification.)

27

28 MR. TESTA: Q. And 255, do you recognize

1 what is shown in this photo?

2 A. Yes. That's my vehicle, Whitehall Road, and the very
3 edge of the access road that goes along the ponds.

4 Q. So with these three, can you give us an idea -- I
5 think -- in 254, where this vehicle that you described was?
6 Maybe 253 is better. Whichever -- well, you tell us which
7 one is best suited to show us.

8 A. The picture before, I believe 254. That one.

9 Q. This one or this one?

10 Showing you then for the record, 254, using that,
11 where was the vehicle?

12 A. Parked right here along the edge.

13 Q. And this vehicle -- it's hard to put on --

14 A. Right.

15 Q. If I had the right kind of pen, have you draw on it.

16 So what are these items, do you know, these two white.

17 A. They have to do with the water system, as far as
18 pumping.

19 Q. These pillars, whatever you want to call them, to the
20 right of your vehicle?

21 A. Yes.

22 Q. Partially on and partially off the road?

23 A. Yes.

24 Q. You tell us. Don't just agree with me. Was it all
25 off the road or all on the road?

26 A. To the best of my recollection, it was mostly off the
27 road.

28 Q. Okay. And it was facing in the direction that

1 you're --

2 A. Facing west, in the same direction my vehicle is
3 facing.

4 Q. So in 255, it shows the direction -- your vehicle in
5 this photo is the same direction that that vehicle was
6 facing?

7 A. Yes.

8 Q. And where did you see -- where was she?

9 A. Once I -- we stopped the vehicle and I got out, she
10 came out from behind the trees, the eucalyptus trees.

11 Q. Does it show on any of these photos?

12 A. That tree right there, she came out from around here.

13 Q. I'm sorry, we just have to put on the record. On 254,
14 she came out --

15 A. She came out from behind that tree. And if I -- as I
16 recall, she came around the gate.

17 Q. Can you show us with the laser pointer, like did she
18 come under the gate, around the gate?

19 A. No, I believe she came around the gate and came out to
20 about here. And I said, "Can I help you?" And that's when
21 she said, "No, I just had to pee real quick."

22 Q. What was her -- finish your answer.

23 A. I was going to say the reason it didn't seem all that
24 odd is that happens, people will be coming out there, just
25 giving an excuse for why they are out there. And it
26 happens, people do pee out there a lot.

27 Q. Are you able to -- hold on.

28

1 (Whereupon Detective Bauer entered the
2 Grand Jury room.)

3

4 MR. TESTA: Can you take that out here and
5 can you do it outside, if you don't mind, please?

6

7 (Whereupon Detective Bauer exited the
8 grand jury room.)

9

10 MR. TESTA: Q. Have you -- had you followed
11 this case?

12 You live out there, had you known anything about a
13 missing girl?

14 A. Yes, I did.

15 Q. What did you hear about it? What -- did you watch it
16 on TV?

17 A. I'd seen the coverage on TV.

18 And, also, there was a lot of volunteers out there
19 right after she had gone missing, a lot of people coming out
20 asking permission to go on our property to search the -- the
21 drainage ditches and up along the levee.

22 Q. Did you ever see a person on television that was
23 arrested?

24 A. Yes, I did.

25 Q. How did she compare with the person you saw out there?

26 A. It was dead on.

27 Q. Explain yourself, please.

28 A. The day that they had found her body in the pond, we

1 left three days later and went back east for a week. And we
2 were kind of following it when we were over there. And we
3 saw on the news, they came up with a picture of the person
4 they suspected of doing it. And my wife and I are just at
5 the same time --

6 Q. I'm not hearing you.

7 A. We both just said, "That's her. That's -- that's the
8 girl."

9 Q. The girl that what?

10 A. That -- the girl that was being arrested for the
11 kidnap and murder is the same girl that we saw the day that
12 we were going to dinner.

13 Q. Okay. Because when the FBI came out, they ended up
14 showing you a photograph, which we are going to hear later,
15 was one where she's forty pounds lighter than she was on the
16 day of her arrest?

17 A. The photo they showed us didn't look like her at all.

18 Q. And, I mean, they showed it to you, what did you say
19 to them about that particular photo?

20 A. I don't recall my exact wording, but it was something
21 along the lines, "That doesn't look like the person we saw
22 that day."

23 MR. TESTA: Could I have marked as next in
24 order --

25 THE SECRETARY: 256.

26 MR. TESTA: Actually, I will save this for
27 the -- I think the FBI agent is here now.

28 Q. But in any case, the FBI showed you a photo that

1 did -- you repeat your answer? That did or did not look
2 like the --

3 A. I didn't believe it looked like her, the person in
4 question.

5 Q. But when you saw the person on TV?

6 A. When we saw the photo on TV, it was -- I absolutely
7 believed that was her.

8 Q. Okay.

9 MR. TESTA: Actually, what number is next in
10 order?

11 THE SECRETARY: 257. Did you just mark that
12 other one 256?

13 MR. TESTA: I don't know. So should I say
14 257? That was the last one we have here. 252. What's 253?

15 THE FOREPERSON: It's a photo.

16 THE SECRETARY: Photo of the witness's car on
17 Whitehall Road.

18 MR. TESTA: And 254?

19 THE SECRETARY: Is the photo of the witness's
20 car on Whitehall Road and the access road, the dirt road.

21 MR. TESTA: That's right. And 255?

22 THE SECRETARY: Is the photo of witness's car
23 parked on Whitehall.

24 MR. TESTA: What's 256?

25 THE SECRETARY: You were going to mark it and
26 then...

27

28

1 (Whereupon a Photograph was marked Grand
2 Jury Exhibit Number 256 for
3 identification.)
4

5 MR. TESTA: Q. Let me show you 256. Does
6 this look like the photo that the FBI showed you?

7 A. I believe so, yes.

8 MR. TESTA: 257 is the next one, is that
9 correct?

10 THE SECRETARY: Yes.

11
12 (Whereupon a Photograph was marked Grand
13 Jury Exhibit Number 257 for
14 identification.)
15

16 THE WITNESS: I believe that's the photo I
17 saw on the news.

18 MR. TESTA: Q. How does 257 compare with the
19 person you saw out there on that -- out there by that -- at
20 that time that we have been talking out there on the --

21 A. 257 is the person I saw on Whitehall Road.

22 Q. And you saw -- is this the one you saw on the news
23 also?

24 A. Yes.

25 Q. When you saw her on the news, what was your emotional
26 reaction when you saw her, the photograph of the person they
27 had arrested?

28 A. The jaw dropped.

- 1 Q. Pardon me?
- 2 A. Jaw dropped.
- 3 Q. Explain yourself, please.
- 4 A. Meaning when we saw the picture, it --
- 5 Q. On TV?
- 6 A. -- it struck me -- on TV. I was just amazed. It was
- 7 like, "That's the person that I saw."
- 8 Q. Okay. Let me see if I have any -- are you able to
- 9 narrow down the time that -- the precise time that you would
- 10 have seen her? Is there something that you did that night?
- 11 Where did you go after you saw her?
- 12 A. Proceeded on to dinner at the Olive Garden.
- 13 Q. Left your place?
- 14 A. Yes.
- 15 Q. See her?
- 16 A. Yep.
- 17 Q. Go to Olive Garden?
- 18 A. Yeah. Actually, I didn't take Tracy Boulevard.
- 19 Q. Do you know the trailer park in question, the one
- 20 that's shown in 65?
- 21 A. Yes.
- 22 Q. How do you know it?
- 23 A. I work in Tracy.
- 24 Q. Okay.
- 25 A. Every day.
- 26 Q. And are you -- how long have you been out in this
- 27 area, lived out here?
- 28 A. I have lived out there for four years.

1 Q. How long does it take to get from -- well, have you
2 driven during that four-year period on these roads from
3 between, say, the pond and Tracy?

4 A. Every day.

5 Q. How long would it take to go from the pond to the
6 trailer park, the one that's shown in 65, the one that we
7 have been talking about?

8 A. It depends on what time of day and what day of the
9 week.

10 Q. All right. Around the time of the day that you made
11 your observations, and that would have been on Friday night?

12 A. Friday around 6:00 o'clock -- between 5:30 and 6:00.

13 Q. Yeah.

14 A. The best would be three and a half.

15 Q. What, hours?

16 A. Minutes. Minutes.

17 And at the most, maybe six to seven minutes.

18 Q. Okay. What about going the speed limit, is that three
19 and a half or five?

20 A. That's at the speed limit.

21 Q. Explain your answers. I'm not following you.

22 A. Okay. The reason is during certain times of day, you
23 have the I-205 that runs east to west right up along here.
24 And you have one, two, three stoplights you have to get
25 through to get to the trailer park. You have a stoplight,
26 there's a stop sign --

27 Q. We covered that. That's okay. I appreciate your
28 being helpful.

1 So, anyway, under normal driving conditions, how long
2 would it take?

3 A. Three and a half, four minutes.

4 Q. Each way?

5 A. Yes.

6 MR. TESTA: May I have marked as next in
7 order, please, what number will this be?

8 THE SECRETARY: 258.

9

10 (Whereupon Receipt from Olive Garden was
11 marked Grand Jury Exhibit Number 258
12 for identification.)

13

14 MR. TESTA: Q. Showing you 258, do you
15 recognize this exhibit?

16 A. I believe it's a receipt from the Olive Garden.

17 Q. Where you ended up going with your wife and child
18 after making this observation?

19 A. Yes.

20 Q. Okay. Is your writing on any of this?

21 A. This is my wife's writing.

22 Q. With your laser pointer.

23 A. That's my wife's writing. That's my wife's writing.

24 Q. She's a pretty good tipper.

25 A. Yeah.

26 Q. Does it have the time of the transaction?

27 A. Time right there, 7:08.

28 Q. 7:08 on the 27th.

1 So using this -- so I'm assuming this is at the end of
2 your meal that you paid for it?

3 A. Yes.

4 Q. So using this as a guide, you paid for your meal. Is
5 Olive Garden kind of an informal place?

6 A. Yes.

7 Q. It's not a sit-down, you get five courses, you get
8 served, you wait another twenty minutes for something else?

9 A. No.

10 Q. Is it buffet?

11 A. No. They do -- you place your order, they go back,
12 they get it for you, they bring it out to you.

13 Q. Okay. What can you tell us, using this as a guide, if
14 this is 7:08 p.m. which you paid for your meal -- or your
15 wife paid for your meal at the Olive Garden, what time,
16 working backwards, would you say you were at the pond making
17 this observation on your -- time you leave your house, on
18 your way?

19 A. Most likely between 5:30 and 5:45.

20 Q. Okay. And did you tell the FBI between 5:30 and 6:00?

21 A. Yes, it was an approximation of the time. But using
22 that as a guide.

23 Q. Yeah, okay. Okay. So everything seems to fall into
24 place there.

25 Is there anything else about this exhibit you can --
26 258, you can tell us, did someone ask you to get this?

27 A. Yes. The FBI asked us if we had a -- I believe they
28 asked if we had a statement from the bank showing that we

1 have used the card at the Olive Garden on that day. My wife
2 says, "I can do better than that," she had the receipt. She
3 always has the receipt.

4 Q. The child was with you, right?

5 A. Yes.

6 Q. It's the same thing, just here's the original here.
7 Is that two guests?

8 A. That's what it says. But our son was with us.

9 Q. How old was your son?

10 A. At the time, he was five.

11 Q. Maybe they have some policy if you're under a certain
12 age. I don't know.

13 Table 102, it was just the three of you?

14 A. Yes.

15 Q. And the date is on there, March 27th. Okay.

16 This is Exhibit 258. Let me see if I have any other
17 questions.

18

19 (Pause.)

20

21 MR. TESTA: I have no further questions.

22 Let's see if the grand jurors, if they have any to ask you.

23 Q. Was the woman that you talked to calm or did she seem
24 upset?

25 A. I wouldn't say upset, but distracted and hurried.

26 Q. Was her breathing normal -- normal like or did she
27 seem like she might have been running or something like
28 that?

1 A. I can't recall.

2 Q. Did you see any dirt on her shoes or clothing?

3 A. I didn't pay attention to that. It's a pretty common
4 thing for me to run into people and just pretty much tell
5 them, you know, leave.

6 Q. Yeah.

7 A. I don't pay a whole lot of attention. Just it struck
8 us -- for some reason, it stuck in our minds later on.

9 Q. By the way, how did this come to the attention of the
10 police? I mean, how did you end up getting involved and
11 saying what you saw? Did you remember something? Did
12 someone come out and talk to you? How did it all come to
13 fruition?

14 A. Oh, I had a job, I was going to do a service call
15 farther out -- farther north of my residence. And on my way
16 out there, I noticed a lot of vehicles on my road, which
17 there shouldn't be. At the most, there's maybe a pickup
18 truck, one of the ditch-tenders or maybe a harvester rolling
19 down the road. And there were several vehicles parked down
20 there.

21 So I was going to go turn down -- take Bacchetti to
22 Whitehall, see what's going on. That's when the police
23 stopped me, asked me what I was doing.

24 I instructed them -- I told them that was my house
25 down at the end, is everything okay, because my wife's
26 grandmother lives out on the property also.

27 They said, "Yeah, everything is fine at your house.
28 They are following a lead regarding the Sandra Cantu

1 disappearance."

2 So I called my wife and let her know what was going
3 on. And she said -- you know, that's when she kind of
4 jogged my memory, "Hey, you remember when we were going to
5 dinner that night, we saw that girl parked by the trees," we
6 kind of pieced it all together. And we figured we might
7 have information that might be helpful.

8 So I called the Tracy Police Department. And they
9 gave me Tony Sheneman, I believe was his name, gave me his
10 number. I left a couple messages with him. And got off
11 work early, my wife did also, we came back to the house and
12 just kind of waited for someone to show up and ask us some
13 questions.

14 Q. And it says here they came out and talked to you on
15 the 6th -- oh, I see, did you end up talking to them the
16 same day they found the suitcase?

17 A. Yes, the FBI showed up that evening.

18 Q. So you see all this publicity, all these cars parked
19 down your road basically, your wife jogs your memory, and
20 that night I guess they are coming at your doorstep asking
21 you what you know?

22 A. Right.

23 Q. Then you left town for a few days?

24 A. Right. We had a trip scheduled to go to San Diego,
25 and then from there fly to Virginia.

26 Q. Did you see any other cars or people on the same
27 section of the road that day except for the police? That's
28 the question from grand jury.

1 A. So on --

2 Q. On the day that you made these observations about
3 the -- oh, no. I guess the way the question is worded, on
4 the day that you saw the car, you made these observations,
5 the vehicle with the ribbon and the Marine, "My Brother's a
6 Marine," that day, did you see anyone also on that road?

7 A. No, I didn't, not that I recall.

8 Q. Okay.

9 A. Had I seen somebody, I would have stopped and spoke to
10 them also.

11 Q. Question from the grand jury: Was it dusk or so when
12 you encountered this car?

13 A. What was the lighting like?

14 Q. I guess, yeah.

15 A. At that time of year, you know, it gets darker
16 earlier, but there was still plenty of light. Lighting was
17 sufficient to see what I saw.

18 Q. Did the girl you saw seem winded when she came from
19 behind the trees, labored breathing, or normal?

20 A. Once again, I don't notice the breathing. But she had
21 a -- I'd call it a hurried demeanor, I guess.

22 Q. And, again, the same question another grand juror had:
23 Did you notice if her clothes were wet or dirty from being
24 near the pond?

25 A. She was dressed pretty informally. So, I mean, it --
26 nothing that would have stuck out, you know, sweats and a
27 T-shirt, I'm not going to notice if they are a little dirty.

28 Q. Yeah, okay.

1 MR. TESTA: Do we have any other questions
2 from the grand jury?

3 Okay. Thank you.

4 Q. On that day, was the ground wet or muddy as it appears
5 in the photos?

6 A. Not that I recall. But the photos were taken two
7 weeks after the --

8 Q. In other words, this photo 255 where your vehicle is
9 in there, and 254, these were taken two weeks after?

10 A. Two, two and a half weeks after, yeah. I believe
11 these photos were taken two days after the -- after she
12 was -- maybe the day after she was discovered in the pond.

13 Q. There is a calendar on the back here, on the wall.

14 A. She was found on the 6th, correct.

15 Q. Yeah. See this suitcase found on the 6th?

16 A. Okay.

17 Q. You went to the Olive Garden on the 27th. Suitcase is
18 found on the 6th.

19 A. Yeah.

20 Q. Photos that we are watching here of your vehicle.

21 A. I believe, we would have taken those the 7th or the
22 8th.

23 Q. Okay.

24 A. I believe.

25 Q. What was the -- what with the conditions like around
26 the 27th? Had it rained or anything the 27th, 28th, 29th,
27 30th, anything like that?

28 A. I believe it was dry.

1 Q. Okay. Question from the grand jury: Describe the
2 woman's demeanor? Was she friendly, defensive, embarrassed?

3 A. Kind of embarrassed, like she got caught peeing in the
4 country.

5 Q. When you saw the woman at the pond, did she have
6 gloves, boots, or were her feet muddy or dirty if no boots?

7 Do you recall what kind of shoes she wore?

8 A. I do not recall what kind of shoes she had on. I
9 didn't see any gloves.

10 Q. When you asked her what she was doing and asked her to
11 leave, did she leave right away? I guess that's a good
12 question.

13 Who left first? You know, if you're on your way to
14 dinner, do you recall, because your car would have been --

15 A. Yeah.

16 Q. -- ahead of her.

17 A. I believe we left first, because I told her, you know,
18 "Private property, you know, you got to go."

19 And she said, "Okay, I'm leaving right now." And she
20 went around to get in her car and we took off down the road.

21 Q. I'm sorry, there was a cough. Could you repeat your
22 answer?

23 A. Yeah. When I asked her to leave, she said, "Okay, I'm
24 leaving right now anyways." And she was going around to get
25 in her car. At that point, we left. And I'd assumed she
26 left shortly, you know, right behind us. I don't recall
27 looking in the mirror looking for her.

28 Q. When you left, you would have gone down on Bacchetti

1 and then made a left on to Tracy Boulevard?

2 A. That's Whitehall.

3 I had taken a left on Bacchetti -- actually I -- right
4 here at Bacchetti and Tracy Boulevard, I had taken a right.

5 Q. Okay. So how do you know whether she left when you
6 left? Or do you know either way? I know you said you
7 assumed she left.

8 A. Exactly, I assume. I have no way to -- I don't recall
9 if she left right away or not.

10 MR. TESTA: Okay. Any other questions from
11 the grand jury? Take your time.

12 Q. Did your wife -- was your wife in a position to -- who
13 was driving your car that night when you were going to the
14 Olive Garden and you made these observations?

15 A. I believe I was driving.

16 Q. So your wife would have been closer to the -- to the
17 other vehicle?

18 A. You know, actually, I can't recall who was driving.

19 Q. Okay. Fair enough.

20 Question from the grand jury: Do the surveillance
21 tapes show the Marines car, too?

22 Can you state your question orally?

23 GRAND JUROR 8: If he drove right before
24 Melissa came back, is his car on the surveillance tape too,
25 so you can put them together exactly?

26 THE WITNESS: I took a different route back
27 than she would have.

28 She would have continued forward on Tracy Boulevard

1 going southbound, whereas I took a right on to Tracy
2 Boulevard, it curves around. It's gone now.

3 GRAND JUROR 8: I was thinking there might
4 have been some other surveillance tape.

5 THE WITNESS: We would have gone two separate
6 directions.

7 MR. TESTA: Q. Can you show us on Number 76
8 which direction you went?

9 A. Yes.

10 Q. With the laser pointer, it's easier.

11 A. Sure.

12 I went down Whitehall Road to Bacchetti. At the
13 intersection of Bacchetti and Tracy Boulevard, I took a
14 right and followed around here.

15 Q. Oh, okay.

16 A. Whereas she would have gone, assuming she went back
17 home, she would have gone south on Tracy Boulevard.

18 Q. Why did you take the route you took?

19 A. It's quicker. I don't have to deal with the
20 intersection up at the 205. And it's -- the entrance to the
21 mall area where the Olive Garden's at is over off of Corral
22 Hollow Road, which is -- intersection is over in this area.

23 Q. But if you were going back to the trailer park,
24 knowing your familiarity with Tracy, what's the quickest way
25 back to the trailer park?

26 A. South on Tracy Boulevard.

27 MR. TESTA: Okay. Any other questions from
28 the Grand Jury?

1 I see none.

2 THE FOREPERSON: Okay. Excuse me.

3 You are admonished not to reveal to any person, except
4 as directed by the Court, what questions were asked or what
5 responses were given or any other matters concerning the
6 nature or subject of the grand jury's investigation which
7 you learned during your appearance before the grand jury.
8 This admonishment continues unless and until such time as
9 the transcript of this grand jury proceeding is made public.

10 Violation of this admonishment is punishable as
11 contempt of court.

12 This does not prevent you from discussing the matter
13 with your attorney, if you have an attorney advising you
14 with respect to your appearance before the grand jury.

15 Do you understand?

16 THE WITNESS: Yes.

17 THE FOREPERSON: Okay. Thank you.

18 THE WITNESS: Thank you.

19

20 (Pause.)

21

22 MR. TESTA: Could you come this way, please?

23 And could you state your full name, please?

24 THE WITNESS: Alena Chappell.

25 MR. TESTA: How do you spell your first name?

26 THE WITNESS: A-L-E-N-A.

27 MR. TESTA: The foreperson will read you an
28 oath.

1 THE FOREPERSON: Would you raise your right
2 hand, please?

3
4 **ALENA CHAPPELL,**

5 a witness called on behalf of the People, having been duly
6 and regularly sworn by the Grand Jury Foreperson, testified
7 as follows:

8
9 THE WITNESS: Yes.

10 THE FOREPERSON: Thank you.

11
12 **EXAMINATION**

13 BY MR. TESTA: Q. Were you with your husband
14 going to the Olive Garden on March 27th --

15 A. Yes.

16 Q. -- 2009?

17 A. (Nods head affirmatively.) Yes.

18 Q. Who was driving?

19 A. I was driving.

20 Q. And do you recognize what is shown in Number 255?

21 A. Yes. That is my vehicle on Whitehall Road.

22 Q. And do you recognize 253?

23 A. Yes.

24 Q. What is the position of your vehicle in this
25 photograph meant to depict?

26 A. This was us leaving our home, going into town to the
27 restaurant.

28 Q. And what did you see when you guys were going?

1 A. We saw -- going --

2 Q. There's a laser pointer there if you need to use it.

3 A. Oh.

4 Q. Do you remember this particular night, March 27th,
5 night you went to the Olive Garden?

6 A. Yes.

7 Q. What caught your attention? Why did you pull over?
8 You were driving, right?

9 A. I was driving. We saw a vehicle approximately right
10 here in this area.

11 Q. You're indicating kind of like on the dirt area?

12 A. There is -- yes. There's a small little driveway
13 there.

14 Q. Okay.

15 A. And so it caught our eyes, so we stopped.

16 Q. Right.

17 A. So then my husband got out of our car and he started
18 walking toward this way.

19 Q. Towards the gate?

20 A. Correct. And then we saw a female coming out from
21 around the gate, and approached and asked, "What are you
22 doing? You're on private property."

23 She stated she was going pee and...

24 Q. Did you get out of your vehicle at all?

25 A. I did not get out of my vehicle. I just had the
26 windows rolled down.

27 Q. What could you see or hear from where you were?

28 A. I could hear the conversation. I had the car -- the

1 radio was off -- the car was on, but the radio was off. And
2 I had both back windows rolled down on that side so I could
3 hear their conversation.

4 Q. Did you get a look at her face?

5 A. Yes.

6 Q. Did you get a look at the car?

7 A. Yes.

8 Q. Did you see that face some other time?

9 A. Yes.

10 Q. When?

11 A. As the -- it was all -- there was items on TV with it,
12 when they showed her mugshot photo.

13 Q. And when you saw her mugshot photo, what was your
14 reaction?

15 A. I definitely could say that that was the same person
16 that we saw on the road.

17 Q. Showing you 257 --

18 A. Yeah.

19 Q. -- do you recognize this photo?

20 A. Yes.

21 Q. What?

22 A. I recognize that photo, not only from the mugshot
23 photo that we had seen on TV, but very -- the same person
24 that we saw on the road that evening.

25 Q. Any doubt in your mind?

26 A. No.

27 Q. How was her hair when you saw her?

28 A. It was pulled back in a ponytail.

1 Q. Okay. What do you remember about the car, if
2 anything, that she was associated with that night that --
3 based on your observations?

4 A. In other words, color and stickers that we saw?

5 Q. Yeah. Let's start did you see the stickers? Not what
6 your husband told you or whatever, but what you saw
7 yourself.

8 A. No, we -- we had both had noticed one of the
9 stickers -- there was quite a few stickers in the back. But
10 the one that did stick out, there was a sticker regarding,
11 "My Brother is a US Marine."

12 Q. And was there -- do you remember some of the other --
13 any of the other things that you saw on the back there?

14 A. No. That's pretty much the one that stuck out, other
15 than just the color of the vehicle being kind of a
16 tealish/greenish color. And then just -- not the exact make
17 of the vehicle, but similar, you know.

18 Q. Similar to what?

19 A. Suzuki.

20 Q. Okay.

21 A. Something kind of a 4-wheel drive, but not full-size
22 4-wheel drive.

23 Q. How do you remember this, "My Brother's a Marine," why
24 did that -- is there any reason why that stuck out?

25 A. My husband is also a former Marine. And so we always
26 look for other Marine Corps stickers on vehicles or just...

27 Q. Okay. All righty. I don't think I have any other
28 questions because we heard -- I don't want to just go over

1 the same things, unless the jurors want to ask questions on
2 it.

3 So then after these observations -- oh, I know maybe
4 something you saw that he didn't see or remember something
5 he didn't remember. When you -- how did this end, right?
6 You see her, you make the observation, she says she's
7 peeing. What happens next?

8 A. We -- I -- I didn't -- at that point, you know, I kind
9 of heard that, okay, she's peeing, I rolled the windows back
10 up, because I had my son in the back of the car, and turned
11 the radio on and kind of just disregarded it.

12 So, you know, the rest of it for me was my husband got
13 in the car, you know, I said, "Well, really? That's all she
14 was doing?"

15 And he said, "Yeah."

16 So we kind of drove away. And then, you know, he
17 mentioned -- it's nothing that I heard -- but then he just
18 mentioned to me that he had just asked her, "Okay, well, go
19 ahead and move along and you should go."

20 Q. But as far as what you saw, were you in a -- if it was
21 no big deal to you, you're driving, your radio is back on,
22 your kid's in the back, did you look to see if she left or
23 anything, or were you -- did you wait to make her leave
24 first?

25 A. I don't remember. I don't remember.

26 Q. Okay. Fair enough.

27 Anything else stick out in your mind about this
28 contact that you had? Do you remember what her demeanor

1 was? You weren't the one to actually talk to her, if I
2 understand you correctly?

3 A. I did not talk to her. But just I could see her.

4 Q. Oh, describe her.

5 A. From where I was.

6 Q. Yeah.

7 A. And nothing -- it didn't seem odd. Nothing -- I mean,
8 she, you know, with what she told us she was doing, that
9 made sense. She just seemed kind of relaxed and maybe a
10 little startled that, you know, my husband had gotten out of
11 the vehicle, was walking towards where she was.

12 But at the same time, if she was going to the
13 restroom, I suppose that would startle me if a gentleman
14 walked up on me, also.

15 Q. In terms of the -- her -- were you in a position to
16 determine if she appeared winded or out of breath --

17 A. I couldn't of.

18 Q. -- or hyperventilating, or anything like that?

19 A. Nothing that I noticed.

20 MR. TESTA: Are there any questions from the
21 grand jury?

22 Thank you.

23 Q. Was the car parked in shade on the side of the road?

24 A. It was in this area. It was in the evening around
25 5:30.

26 Q. 253 is the exhibit you're referring to?

27 A. And --

28 Q. I'm sorry, I cut you off. Go ahead.

1 A. That's okay. It was right here in this area.

2 Q. You're indicating kind of to the right of where your
3 vehicle's parked in this photograph?

4 A. Correct.

5 Q. Did it look like it was pulled off the side of the
6 road?

7 A. It was pulled off, the passenger tires would have been
8 off to the side. But not necessarily -- it wasn't tucked in
9 the trees, if that's the question, being in the shade. It
10 was on the side of the road.

11 MR. TESTA: Okay. Are there any other
12 questions from the grand jury?

13 I see none. The admonition can be read.

14 THE FOREPERSON: You are admonished not to
15 reveal to any person, except as -- as directed by the Court,
16 what questions were asked or what responses were given or
17 any other matters concerning the nature or subject of the
18 grand jury's investigation which you learned during your
19 appearance before the grand jury. This admonishment
20 continues unless and until such time as the transcript of
21 this grand jury proceeding is made public.

22 Violation of this admonishment is punishable as
23 contempt of court.

24 This does not prevent you from discussing the matter
25 with your attorney, if you have an attorney advising you
26 with respect to your appearance before the grand jury.

27 Do you understand?

28 THE WITNESS: Yes.

1 THE FOREPERSON: Thank you.

2 MR. TESTA: Do you need a five-minute break
3 or can I go on?

4 THE FOREPERSON: Yes. Yes. I'm seeing yes,
5 we need a five-minute break.

6 Make sure you get back promptly.

7

8 (Recess.)

9

10 MR. TESTA: Are we all accounted for?

11 THE SECRETARY: Yes, we are all accounted
12 for.

13 MR. TESTA: Could you tell us your name,
14 please.

15 THE WITNESS: Laura Marie Labay.

16 MR. TESTA: And how do you spell your name?

17 THE WITNESS: My first name is L-A-U-R-A. My
18 middle name is M-A-R-I-E. And my last name is L-A-B-A-Y.

19 THE FOREPERSON: Could you raise your right
20 hand, please?

21

22 **LAURA MARIE LABAY,**

23 a witness called on behalf of the People, having been duly
24 and regularly sworn by the Grand Jury Foreperson, testified
25 as follows:

26

27 THE WITNESS: Yes.

28 THE FOREPERSON: Thank you.

EXAMINATION

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BY MR. TESTA: Q. What is your occupation?

A. Forensic toxicologist.

Q. Where do you work?

A. At NMS Labs, located in Willow Grove, Pennsylvania.

Q. NMS, what does that stand for?

A. We used to be called National Medical Services. But in the last couple of years, they rebranded the company and switched it to NMS Labs.

Q. What does that lab do? What kind of work?

A. We are primarily a forensic toxicology testing laboratory. So we test biological specimens for the presence of drugs and other substances.

Q. And can anyone retain your services?

A. Yes.

Q. Okay. So if I work -- if there's someone in law enforcement that wants you to test something, or if there's someone from a defense attorney's office that wants you to test something, they can retain the services of NMS Labs?

A. Yes.

Q. And what did you end up testing in this case?

A. For this particular case, we ended up testing a variety of specimens.

Q. Did you get anything from Sandra Cantu's body that was taken at the autopsy?

A. Yes.

Q. What?

A. We tested gastric fluid.

1 Q. Stomach fluids?

2 A. Stomach fluid, brain tissue, and liver tissue.

3 Q. Okay. And we heard from Dr. Omalu that he sent some
4 items -- I believe he said to Central Valley Toxicology, and
5 he also mentioned NMS. What's the chain here? How did it
6 go?

7 A. He sent specimens.

8 Q. Who is he?

9 A. Dr. Omalu sent specimens to Central Valley Toxicology
10 Laboratory. Central Valley Toxicology Laboratory then sent
11 specimens to us.

12 Q. And these specimens, did they have Sandra Cantu's name
13 on the paperwork associated with them?

14 A. Eventually, yes.

15 Q. And what's the paperwork -- what does it say on it?

16 A. It says first name Sandra. Last name Cantu. And the
17 agency case number is CVT094757. It's that latter number,
18 the agency case number, that is on our toxicology report.

19 Q. Okay. And is there a date associated with the sample
20 collection on the paperwork that you had associated with --
21 that had Sandra Cantu's name on it?

22 A. There is not.

23 Q. Okay. So you had these three -- Dr. Omalu already
24 explained to us how these three -- the stomach, brain, and
25 liver --

26 A. Yes.

27 Q. -- were taken.

28 And he already told us what the results were when he

1 testified.

2 But then you went -- and I believe he mentioned the
3 presence of the item that he found there. He's already told
4 us all about it.

5 So I'm just calling you to kind of tell us, you're the
6 one that actually did the work, so why don't you tell us
7 what you found when you tested Sandra Cantu's specimens that
8 Omalu had eventually sent to you, your office?

9 A. Well, just to be clear, I personally did not test the
10 specimens. National Medical Services tested the specimens.
11 And we have a variety of analysts in the laboratory that
12 handle these specimens.

13 However, our final results, in terms --

14 Q. Before you tell us, what is your role then in all of
15 this?

16 A. My role is I'm the toxicologist who certifies and
17 approves the release of analytical findings from the
18 laboratory.

19 Once a report is issued, if there's questions
20 pertaining to the analytical findings, such as from a
21 medical examiner or from an attorney, I'm the person that
22 that person would communicate with about their findings.

23 Q. What is your training or qualifications that qualify
24 you to do this?

25 A. I have a Bachelor's Degree in biochemistry and
26 molecular biology from the University of California at Santa
27 Cruz.

28 I have a Master's Degree and Ph.D. in toxicology from

1 the University of Rochester.

2 And I'm board certified by the American Board of
3 Forensic Toxicology.

4 Q. How long have you been doing this kind of work?

5 A. My first job was with the New York City Police
6 Department, and that was in 1997 -- the latter part of '97.

7 Q. So for twelve years about?

8 A. About twelve years.

9 Q. So what specifically in this case did you end up
10 doing?

11 A. We tested the gastric fluid, the brain tissue, and
12 liver tissue. And we used a battery of analytical tests to
13 make a determination what substances were present in the
14 tissues, if any.

15 Our ultimate conclusion was that, yes, there was a
16 drug present in these tissues. And that drug is called
17 alprazolam.

18 Q. Is it spelled A-L-P-R-A-Z-O-L-A-M?

19 A. Yes.

20 Q. What kind of drug is that?

21 A. Alprazolam is otherwise known as Xanax. It's a
22 benzodiazepine drug.

23 Q. It's a class of benzodiazepine or benzodiazepine is
24 the class name?

25 A. No. In -- under the umbrella of benzodiazepines are a
26 variety of different types of drugs. For example, in
27 addition to alprazolam, Valium or diazepam is another type
28 of benzodiazepine.

1 Alprazolam is often prescribed for a condition such as
2 anxiety, panic disorders, phobias, and even depression.

3 Q. So where was it -- what -- was it found in the
4 stomach, the brain, or the liver?

5 A. It was found in the gastric fluid, it was found in the
6 brain, and it was found in the liver.

7 Q. Okay. All three.

8 So can you quantify how much was found?

9 A. In the gastric fluid, we found 18 nanograms per
10 milliliter.

11 In the brain tissue, we found 6.6 nanograms per gram.

12 And in the liver tissue, we found 1.5 nanograms per
13 gram.

14 Q. Here's a question I have: Didn't they -- did you have
15 available for your inspection the previous analysis that had
16 been done on these -- these substances -- these contents --
17 these samples? In other words, had Central Valley
18 Toxicology done some tests?

19 A. I don't know if they had or had not.

20 Q. Because didn't someone do a test and they found
21 nothing in her system?

22 A. We initially --

23 Q. Was it you, NMS Labs, did a test and you found nothing
24 in her system, is that correct?

25 A. Correct.

26 Q. That's because it has to -- explain the threshold --
27 concept of thresholds.

28 A. In laboratory testing, we have what we call limited

1 quantitations, or reporting limits of the assay. It's, in
2 essence, a make or break point. Anything above that
3 threshold is positive; anything less than that threshold may
4 be reported as non-detected at a reporting limit.

5 In this case, the first analytical test we did to
6 cover -- check for benzodiazepines did not meet that
7 threshold to call it positive. So at that point, testing
8 stopped, and the finding for benzodiazepines was none
9 detected.

10 It was only when that first report was issued did I
11 receive a -- a communication back from Mr. Testa explaining
12 the need to look for drugs at very low levels.

13 It was at that point that I received a list of drugs
14 of interest for this case. I scrutinized that list of drugs
15 and I made a decision, based upon the previous analytical
16 work performed, that we needed to do targeted testing for
17 the presence of benzodiazepines. We did that, and found the
18 alprazolam.

19 Q. So when you did the initial tests, using -- we heard
20 of this other case, we saw this exhibit that was marked 222,
21 and we had some idea of what this threshold concept was all
22 about.

23 This was a lab that tested someone else's blood and
24 they had these different threshold levels that they look
25 for. And they explained to us, for example, if they only
26 found 290 nanograms per milliliter, it would have shown up
27 as negative because it doesn't meet the threshold.

28 But if you take away the threshold and look for trace

1 amounts beneath the threshold limits, then you may find
2 something, 250 nanograms or something.

3 So is that what we're doing here? You were asked by
4 me to kind of look underneath the thresholds and see if
5 there's any trace amounts of any drugs that the defendant
6 had available to her?

7 A. Yes.

8 Q. So you asked for a list of all her medications?

9 A. Yes.

10 Q. And did you get a list of quite a few of them?

11 May I have one of those lists, please?

12 Did you get a list?

13 A. Yes.

14 Q. Was it something like this? It may not be this one
15 exactly like 233.

16 A. It was something like that.

17 Q. Various drugs that were found Adderall -- I can't
18 pronounce most of these -- paroxetine.

19 A. Paroxetine, yes.

20 Q. Some of these look familiar? Furosemide?

21 A. Furosemide.

22 Q. Aceta --

23 A. Acetaminophen.

24 Q. So you had a list like that, you were asked to see if
25 any of those substances would be in Sandra's tissues or
26 samples?

27 A. Yes.

28 Q. Actually, what about this list here, this Exhibit 225.

1 We've heard some testimony about this being a list of drugs
2 that were found at her -- I believe at her house.

3 A. Yes, that's a very similar list.

4 Q. Okay. So do you have to -- why do you need to know
5 what drugs you're looking for? Is there a different test
6 for each of them?

7 A. There's potentially different tests. There's a
8 sophistication to toxicology testing and we have to utilize
9 the right test in the right specimen, and it helps us hone
10 in on what drug to look for so we have an idea. There's
11 hundreds of drugs in the world and it's hard to just look
12 for every one.

13 Q. Oh, okay. So in any case, when you were asked to look
14 for -- am I using the right word, for trace amounts, is that
15 the right word?

16 A. Yes.

17 Q. When you were asked to look for trace amounts, you
18 ended up finding just the -- just the alprazolam?

19 A. Yes.

20 We felt based -- or I felt based upon the analytical
21 testing, that some of these drugs have been ruled out.
22 Based upon the initial test we did for benzodiazepines,
23 which is an antibody style test, I felt that there
24 potentially could be low levels of benzodiazepines present
25 in the tissues.

26 I spoke to the -- or I received an e-mail from the
27 technical -- I'm sorry, the supervisor for the testing
28 department that had performed the benzodiazepine screen, and

1 I asked, "Are there any indications for the presence of
2 benzodiazepines in the samples?"

3 And he e-mailed me back, I have an e-mail here, that
4 basically said it's a judgment call, does not look like a
5 flat-out negative, but it's hard to tell which issues.

6 So based upon that e-mail, I ordered what we call an
7 LC tandem mass spectrometry test for benzodiazepines. It
8 was on that test where we look for specific benzodiazepines
9 and metabolites.

10 And based upon those analytical results, which were
11 done at that time only in the brain and liver, we honed in
12 on the presence of alprazolam in the brain and liver sample.

13 Q. And then did you find in the other samples as well?

14 A. Yes. At a subsequent point in time, CVT transferred
15 to us the gastric specimen.

16 Q. Central Valley Toxicology?

17 A. Central Valley Toxicology.

18 Q. For Sandra Cantu?

19 A. For Sandra Cantu. Sent us a gastric specimen. That
20 was also tested for alprazolam and came up positive.

21 Q. Do you know much -- I mean the -- I think someone else
22 explained this to us, the pharmacist, the body doesn't
23 naturally produce this alprazolam?

24 A. No, it does not.

25 Q. It's not like, you know, a body can decompose and
26 maybe produce alcohol, or you can go in your tap water and
27 find arsenic there. This doesn't exist in nature, if I
28 understand it.

1 A. That's correct.

2 Q. So for it to be in the tissue -- the samples, how --
3 she had to have ingested it?

4 A. Alprazolam is a drug that would be ingested.

5 Q. Do you happen to know, by the way, if you were to --
6 does it come in tablets or drops?

7 A. It comes in tablet form.

8 Q. If you know, you may not know this, crush the tablets
9 and put them in water, would it taste funny?

10 A. I don't know.

11 Q. You don't know.

12 Okay. As far as the quantities, if I understand you
13 correctly, you guys did not find benzodiazepines initially
14 because you were looking at the threshold level. So do I
15 assume you just found very small quantities of this in her
16 sample?

17 A. We found very small quantities in the brain and the
18 liver sample.

19 The gastric fluid, it's 18 nanograms per mL. If we
20 had it at that time, for alprazolam, based upon the liquid
21 chromatography tandem mass spectrometry test, that
22 alprazolam value of 18 nanograms per mL exceeded -- would
23 have exceeded our cut-off value.

24 Q. Oh, if you had had that initial sample from Central
25 Valley Toxicology that they sent you later, that would have
26 shown up on your initial test with your regular threshold
27 levels?

28 A. I'm not certain about the antibody test. It would

1 have shown up positive by the LC tandem mass spec test.

2 Q. Can you make a conclusion, if something is higher
3 level in the stomach and lower in the tissues in the brain
4 and liver, does that mean they had just been given it?

5 Because doesn't it go to the stomach first and eventually
6 work its way into the liver and into the brain?

7 And if it's higher in the stomach, can you date or put
8 some type of time on how long the person had it?

9 A. No. This type of testing doesn't go to demonstrate
10 dosage that was given. It doesn't go to demonstrate really
11 a -- pinpoint the time that it was given.

12 One thing to take into account in forming this
13 interpretation, from my understanding, is that the body was
14 under water for a length of time. And in toxicology
15 testing, we have to consider and evaluate the possibility of
16 something called post-mortem redistribution.

17 Q. Oh, okay.

18 A. And that's the shifting or changing of drug
19 concentrations within the body over time. So that also adds
20 another layer of challenge to the interpretation as well.

21 Q. But the decomp, the body being in the water, is not
22 going to -- if I understand you correctly -- it's not going
23 to create the presence of the alprazolam, but might skew the
24 distribution of it?

25 A. Correct.

26 Q. So we can't draw too much in the fact that there's
27 more in the stomach than in the liver and the -- in the
28 liver and in the brain?

1 A. It would be difficult to do so.

2 Although because it is in the gastric content, it is
3 an indication of ingestion. However, it's -- it is
4 comparatively a low level amount.

5 Q. Does it -- in a body, let's say someone is given
6 alprazolam and then they are killed thirty minutes, an hour
7 later, does it stop metabolizing in the body?

8 In other words, is it frozen in time so the quantities
9 you find would have been the quantities you would have found
10 if you had tested the girl the next day?

11 A. If we had tested twenty-four hours post use of
12 alprazolam, we would find the levels of alprazolam in the
13 body, but they might be in different distributions as we
14 would as if you find them when somebody's just killed.
15 Or -- as the body stops processing.

16 We did find alprazolam in the brain tissue, which to
17 me is an indication that the alprazolam did circulate
18 throughout the body.

19 Q. Does that happen -- someone earlier testified it takes
20 effect kind of quickly.

21 A. Alprazolam is a quick-acting benzodiazepine.

22 MR. TESTA: Okay. All righty. Are there any
23 questions from the grand jurors on this point?

24 Q. Did I cover -- is there anything else we need to
25 cover? May I have a copy of your report? Believe it or
26 not, I do not have a copy of the latest. I never got one.

27 A. Sure.

28 Q. I have a copy of your earlier reports.

1 A. This is the final copy.

2 Q. All right. Do you -- if you know, do you know a lot
3 about different drugs from your work?

4 A. Yes.

5 Q. Do you test for these kinds of things very often?

6 A. Yes.

7 Q. Can you die from this drug if you're given it in a
8 large enough quantity or if you're young enough?

9 A. Well, in toxicology, I don't know if you've heard this
10 statement before, we have a saying, "The dose makes the
11 poison." So if you take enough of something, then certainly
12 you can die from that something.

13 However, benzodiazepines are fairly safe and you need
14 to take a great deal of the drug to produce a lethal
15 outcome.

16 Q. Is it capable of causing death?

17 A. In large enough concentrations or dosages.

18 Q. What if you're just a little kid, I mean, it's one
19 thing for an adult to get -- let's put it this way: Is it
20 capable of causing death in a child?

21 A. It's caused -- it's capable of causing a death in
22 anyone if you take enough of the medication.

23 Q. Do you know much about isopropyl alcohol?

24 A. I know, yes.

25 Q. Do you know if some was found in this case?

26 A. Isopropanol was found in this case.

27 Q. In the tissues -- in the samples from Sandra Cantu.

28 What does that mean in connection with your findings,

1 if anything?

2 A. Could I please have my final report back?

3 Q. Yes.

4 A. In this case, isopropanol was only found in the liver
5 tissue and not the brain tissue. Isopropanol is rubbing
6 alcohol. And can be ingested by itself, or it's also a
7 product or it can form during the decomposition process as
8 well.

9 Q. Right. Dr. Omalu said that.

10 But then he mentioned if you find the acetone with it,
11 then you have to be kind of suspicious that the person was
12 given isopropyl alcohol, if I understood his testimony, and
13 he suggested that they look for that in the church and, of
14 course, they found it.

15 But what about the -- if you know, the mixture of the
16 two, let's assume for a moment someone -- there was a cloth
17 tied around someone's mouth and that was soaked in isopropyl
18 alcohol or the person was given isopropyl alcohol to drink
19 along with this alprazolam, what about the two together, are
20 they capable of causing death --

21 A. Yes.

22 Q. -- of a child?

23 A. Potentially so. They both can act to depress the
24 central nervous system.

25 Q. What's the word you guys use? Synergy. What about
26 the synergistic effects? Sometimes something by itself may
27 not be very harmful, but you mix it with something else and
28 it has a greater effect.

1 What is the effect of the two together, assuming they
2 were both given together?

3 A. Assuming that they were both given, they can both act
4 to depress the central nervous system and produce a -- a
5 greater effect than only if one was given by itself.

6 Q. Could it cause confusion?

7 A. Yes.

8 Q. Failure to recall? Recollection, lack of
9 recollection?

10 A. Potentially.

11 Q. If you suppressed the system enough, can it cause you
12 to lose consciousness?

13 A. Yes.

14 MR. TESTA: All right. Are there any
15 questions from any of the grand jurors?

16 Q. Would Xanax, if given an overdose -- good question --
17 would you vomit?

18 A. You potentially might vomit if there's -- I mean, it's
19 a potential. I don't think I could say either way if it
20 always happens or if it doesn't happen.

21 Q. The other -- the question goes on: As a way the body
22 wants to get rid of the medication from the body.

23 Oh, I see, would vomiting be a natural reaction of the
24 body that's been given something that is foreign to it?

25 A. It could be.

26 MR. TESTA: Okay. Any other questions for
27 the grand jury?

28 I see none. Can you read the admonition?

1 THE FOREPERSON: You are admonished not to
2 reveal to any person, except as directed by the Court, what
3 questions were asked or what responses were given or any
4 other matters concerning the nature or subject of the grand
5 jury's investigation which you learned during your
6 appearance before the grand jury. This admonition continues
7 unless and until such time as the transcript of this grand
8 jury proceeding is made public.

9 Violation of this admonition is punishable as contempt
10 of court.

11 This does not prevent you from discussing the matter
12 with your attorney, if you have an attorney advising you
13 with respect to your appearance before the grand jury.

14 Do you understand?

15 THE WITNESS: Yes.

16 THE FOREPERSON: Thank you.

17 MR. TESTA: You may leave. Thank you very
18 much for coming.

19
20 (Pause.)

21
22 MR. TESTA: Can you come forward, sir,
23 please? Close the door and have a seat, please.

24 Could you state your full name, please?

25 THE WITNESS: My name is Brian Lippo.
26 L-I-P-P-O. B-R-I-A-N is the first name.

27 THE FOREPERSON: Would you raise your right
28 hand, please?

BRIAN LIPPO,

1
2 a witness called on behalf of the People, having been duly
3 and regularly sworn by the Grand Jury Foreperson, testified
4 as follows:

5
6 THE WITNESS: I do.

7 THE FOREPERSON: Thank you.
8

EXAMINATION

9
10 BY MR. TESTA: Q. Where are you employed,
11 sir?

12 A. I'm a special agent with the FBI. I'm assigned to our
13 Modesto resident agency. It's a small office within the
14 Sacramento division.

15 Q. Did you interview a Mr. Jeremy Chappell?

16 A. Yes, I did?

17 Q. When?

18 A. On March the 27th -- I'm sorry, on March the --

19 Q. Do you have a copy of your report with you?

20 A. I do, yes.

21 Q. Take a moment and get it out.

22 A. (Referring to report.)

23 Q. Take a moment and read it to yourself. And keep it
24 out there so if I have other questions, I can put on the
25 record when and if you need refer to it.

26 A. I interviewed Jeremy Chappell and his wife Alena on
27 April the 7th, 2009.

28 Q. Okay. On the bottom of your report, what does the

1 date mean when it says April 6, 2009?

2 Do you have Mary Ellen Smith's report? Oh, I know,
3 you were only involved in the follow-up, is that correct?

4 A. No, I was involved with -- the Chappells were
5 interviewed on two occasions. And I was present for both
6 interviews.

7 Q. What was the date of the first interview?

8 A. First interview took place on April the 6th, and a
9 follow-up interview took place on the 7th.

10 Q. Okay. And you wrote -- who wrote the reports?

11 A. I wrote the report from the interview on the 6th of
12 April.

13 Q. Okay. So we just heard from him, and he explained
14 what he saw. And did you obtain from him a receipt from a
15 restaurant?

16 A. Yes. During the second interview on April the 7th, we
17 obtained a receipt for the meal they had at the Olive
18 Garden.

19 Q. Okay. And did you take him or did he take you to the
20 location where he made his observations?

21 A. Yes. Both Jeremy and his wife Alena took us to the
22 location where they observed the female and the vehicle.

23 Q. For what purpose?

24 A. Just to -- to better explain, you know, in person the
25 details of what they witnessed and where they witnessed the
26 car and where they witnessed the female.

27 Q. Did you take some photographs?

28 A. Yes, I did.

1 MR. TESTA: We are going to stop.

2

3 (Whereupon the technical support person
4 entered the grand jury room.)

5

6 MR. TESTA: We thought maybe we just had to
7 wait for the machine to cool down before it would boot up
8 again.

9 TECHNICAL SUPPORT PERSON: None of the other
10 stuff is coming up either. There you go.

11

12 (Pause.)

13

14 TECHNICAL SUPPORT PERSON: Let me go get
15 another projector. It's possible that bulb blew when the
16 power went out. I'll be right back.

17

18 (Whereupon the technical support person
19 exited the grand jury room.)

20

21 MR. TESTA: Q. So showing you these
22 photographs here, 253, 254 and 255.

23 A. Uh-huh.

24 Q. Did you guys arrange for the taking of these
25 photographs of his car, showing you where --

26 A. Yes.

27 Q. -- his wife had pulled over?

28 A. That's right. And -- and the -- the photographs, this

1 is the Chappells' family car. It's a black GMC Yukon. That
2 is right about where they stopped their car on that Friday
3 night, March the 27th, as they were going to the -- to the
4 Olive Garden to have dinner.

5 Q. What description did he give of the vehicle that he
6 saw the girl associated with?

7 A. He described the vehicle that belonged to the woman
8 as -- described it as being like a Suzuki, but not a Suzuki.
9 It wasn't a sedan. It wasn't your standard four-door car.
10 It was a -- but it wasn't a full-sized SUV. It was a
11 smaller SUV, light green or metallic I think in color is how
12 he described it.

13 Stated that one of the things that was -- had stuck
14 out in Jeremy's mind was that there were -- there were
15 bumper stickers and decals plastered over the back of the
16 car, two of which pertained to the Marines -- the Marine
17 Corps, and that stayed with Jeremy because Jeremy was -- is
18 a former Marine.

19 So that's -- that was I think one or two -- that two
20 of those stickers stuck out in his mind.

21 Q. What did he say he said to the girl -- to the woman?

22 A. They stopped their car -- you can't see the
23 photographs, but they stopped their GMC Yukon. Jeremy got
24 out of the car and approached the car, which was -- was
25 empty. And then he sees a -- a female that he didn't know
26 coming out of the tree line. And he said, "Can I help you?"

27 And the woman said, "I was just peeing."

28 And he said, "Good enough for me. And I see that --"

1 he saw the Marine Corps stickers on the back of the car and
2 said, "Hey, good enough for me, I see you know somebody
3 that's a Marine." And -- and that was the end of their
4 exchange.

5 Q. Okay.

6 A. And they drove away.

7 MR. TESTA: So that was all I have. Do the
8 grand jurors have any questions?

9 THE FOREPERSON: None.

10 MR. TESTA: So can the admonition be read,
11 please?

12 THE FOREPERSON: You are admonished not to
13 reveal to any person, except as directed by the Court, what
14 questions were asked or what responses were given or any
15 other matters concerning the nature or subject of the grand
16 jury's investigation which you learned during your
17 appearance before the grand jury. This admonishment
18 continues unless and until such time as the transcript of
19 this grand jury proceeding is made public.

20 Violation of this admonishment is punishable as
21 contempt of court.

22 This does not prevent you from discussing the matter
23 with your attorney, if you have an attorney advising you
24 with respect to your appearance before the grand jury.

25 Do you understand?

26 THE WITNESS: Yes, I do.

27 THE FOREPERSON: Thank you.

28

1 (Pause.)

2
3 MR. TESTA: You state your name, please?

4 THE WITNESS: Sure. Mary Ellen Smith.

5 THE FOREPERSON: Would you raise your right
6 hand, please?

7
8 **MARY ELLEN SMITH,**

9 a witness called on behalf of the People, having been duly
10 and regularly sworn by the Grand Jury Foreperson, testified
11 as follows:

12
13 THE WITNESS: Yes, I do.

14 THE FOREPERSON: Thank you.

15
16 **EXAMINATION**

17 BY MR. TESTA: Q. Do you work at the FBI
18 also?

19 A. Yes, I do.

20 Q. Did you interview Mr. Chappell?

21 A. Yes. I was with the former agent, Brian Lippo.

22 Q. And you're the one that prepared the report of the
23 first interview, is that correct?

24 A. Correct.

25 Q. So let me ask you specifically, what did he say the
26 description was of the woman he saw?

27 A. Of the woman he saw, do you mind if I reference my
28 report?

1 Q. Not at all. We rather you get it accurate. Just let
2 us know when you're referring to it.

3 Do you need to refer to it to refresh your memory?

4 A. Yes.

5 (Referring to report.) Jeremy described the woman as
6 a woman between the late twenties and early thirties, no
7 taller than 5'6, with a thick build, sandy blonde to
8 brownish/brown hair -- or blondish-brown hair, pulled pack
9 in a ponytail. And the woman was wearing gray sweats and a
10 T-shirt.

11 MR. TESTA: Hold on.

12

13 (Pause.)

14

15 MR. TESTA: Q. Did you show a photo of
16 someone to him?

17 A. Yes. Actually, Brian Lippo, the agent that was just
18 here, showed the photo. But I was present during the time
19 he showed the photo.

20 Q. 256, is that the photo you guys showed?

21 A. Yes, it was.

22 Q. Why did you show a photo that showed her forty pounds
23 lighter than she was in real life, or did you know that?

24 A. No.

25 Q. Did you know that you ended up showing a photo to him
26 that was of her, she doesn't look like this at all?

27 A. No.

28 Q. She was forty pounds lighter in the photo you showed

1 her than what she really looked like?

2 A. No, we did not know that.

3 Q. So where did you get the photo that you showed him?

4 A. Actually Brian -- Brian Lippo, the agent that was just
5 in here, he had the photo. I believe he retrieved it from
6 his vehicle.

7 Q. It was like an old DMV photo or something like that?

8 A. Correct.

9 Q. And he looked at it and said, "It doesn't look like
10 the person we saw"?

11 A. Correct. They could not positively ID the person in
12 the photo as being the woman that they saw.

13 Q. All right. And what description of the car did he
14 give?

15 A. Again, I'm going to reference my report.

16 (Referring to report.) The car was a light metallic
17 green compact import vehicle that was parked on the side of
18 the road, and it was not running at the time.

19 Q. All righty. Thank you. I have no further questions.

20 MR. TESTA: Are there any questions from the
21 grand jury?

22 THE FOREPERSON: Okay. You are admonished
23 not to reveal to any person, except as directed by the
24 Court, what questions were asked or what responses were
25 given or any other matters concerning the nature or subject
26 of the grand jury's investigation which you learned during
27 your appearance before the grand jury. This admonishment
28 continues unless and until such time as the transcript of

1 this grand jury proceeding is made public.

2 Violation of this admonishment is punishable as
3 contempt of court.

4 THE WITNESS: Thank you.

5

6 (Pause.)

7

8 MR. TESTA: I have a two-minute witness --
9 three-minute witness.

10 Have a seat right here in this chair near the
11 microphone.

12 You state your name, please?

13 THE WITNESS: My name is Berklee Akutagawa.

14 THE FOREPERSON: You raise your right hand,
15 please?

16 Excuse me, do you need it spelled? Would you spell
17 it, please?

18 THE WITNESS: My last name is
19 A-K-U-T-A-G-A-W-A. My first name is B-E-R-K-L-E-E.

20 THE FOREPERSON: Would you raise your right
21 hand, please?

22

23

BERKLEE AKUTAGAWA,

24 a witness called on behalf of the People, having been duly
25 and regularly sworn by the Grand Jury Foreperson, testified
26 as follows:

27

28 THE WITNESS: Yes.

1 THE FOREPERSON: Thank you.

2

3

EXAMINATION

4 BY MR. TESTA: Q. Where are you employed?

5 A. I'm employed in Ripon. I work for the California
6 Department of Justice Crime Lab.

7 Q. And what do you do there?

8 A. I do drug analysis and screening of biological
9 materials.

10 I screen evidence for sources of DNA, like blood or
11 semen and saliva.

12 THE FOREPERSON: Can you speak up, please?

13 MR. TESTA: There we go.

14 THE FOREPERSON: Thank you.

15 MR. TESTA: Q. Were you given various items
16 that were taken during the autopsy of Sandra Cantu and put
17 into a rape kit, basically, a rectal swab, an oral swab, a
18 vaginal swab, and some panties? Did you test such items?

19 A. Yes.

20 Q. And what were you looking for when you tested those --
21 when you analyzed such items?

22 A. I was looking for semen.

23 Q. Did you find any?

24 A. I did not.

25 Q. Do you have any qualifications, training, and
26 experience that qualify you to do such analyses?

27 A. I have a Bachelor of Science Degree in biochemistry
28 from the University of California, San Diego.

1 And I have training in analysis of biological
2 materials.

3 And every year, I perform proficiency tests in the
4 examination for biological materials.

5 Q. So how long have you been doing this kind of work?

6 A. See, a little over nine years.

7 Q. And you have qualified before as an expert in this
8 particular field?

9 A. Yes.

10 Q. So you were -- these items, what did you do with the
11 rectal swabs, the rectal smears, the oral swabs, the oral
12 smear slides, the vaginal swabs, and the vaginal smear
13 slides, what did you end up doing with them?

14 A. For all of the swabs, I basically did similar testing.
15 I performed color screening tests for seminal fluid, which
16 is just I took a small cutting of the swab and I applied
17 some chemicals. And I was looking for a blue color change.
18 I did not observe a blue color change. That -- that blue
19 color change is a positive. So in this case, all the swabs
20 tested negative.

21 And then one of each of those swabs I prepared a slide
22 of and I looked for -- visually looked for sperms,
23 spermatozoa.

24 And then I also -- there's an enzyme called p30 that's
25 in human semen in high concentrations. So I also tested a
26 small portion of the cutting for that enzyme on -- using
27 the -- these cards. And those were also were negative for
28 the p30 enzyme.

1 Q. Did you get these items -- were these items submitted
2 to your lab by Marcus Knutson of the FBI?

3 A. Yes.

4 Q. Because he testified earlier he was at the autopsy and
5 he collected these items.

6 So you found -- let me ask you this: What if a body
7 has been in the -- deceased for -- dead for a number of
8 days, would that interfere with your ability to detect semen
9 in the person?

10 A. For any type of a case, whether the person's deceased
11 or not, of course, time is of the essence for collecting
12 samples as quickly as possible after the incident. And if a
13 body has been deceased for awhile, you also have the
14 component of it decaying and that could also interfere with
15 detection if it is present.

16 Q. Okay. What if the body's in water?

17 A. That also can dilute things and -- and speed up
18 decaying so that would also affect detection.

19 Q. Okay. But in any case, you found no semen on
20 anywhere?

21 A. Correct.

22 Q. Okay. And the other area I wanted to ask you about
23 real quickly was we heard about a little white pill that was
24 found, it was in one of the photographs, at REDACT house.
25 She's the mother of REDACT.

26 And did you -- we had it marked previously as
27 Exhibit 220. Did you have any -- did you test that pill at
28 all?

1 A. Yes, I did.

2 Q. What did you -- what did it turn out to be?

3 A. I found that the tablet contained aspirin and Tylenol,
4 so acetylsalicylic acid and acetaminophen.

5 Q. What was it, over-the-counter? Was it aspirin or
6 Tylenol or both, or what was it?

7 A. It contained both.

8 Q. Okay. And the standard quantity -- standard amounts,
9 I mean, was it --

10 A. I did not quantitate. I just looked to see if it
11 contained.

12 Q. And what number -- what item number was the -- are
13 your initials on 220? How could you establish that you
14 examined it?

15 A. Oh, my date and case number and initials are on the
16 tape seal on this envelope.

17 Q. Was it given a number 1257/7?

18 A. Yes.

19 Q. Okay. Thank you. No further questions.

20 MR. TESTA: Any questions from the grand
21 jury?

22 THE FOREPERSON: You are admonished not to
23 reveal to any person, except as directed by the Court, what
24 questions were asked or what responses were given or any
25 other matters concerning the nature or subject of the grand
26 jury's investigation which you learned during your
27 appearance before the grand jury. This admonishment
28 continues unless and until such time as the transcript of

1 this grand jury proceeding is made public.

2 Violation of this admonishment is punishable as
3 contempt of court.

4 This does not prevent you from discussing the matter
5 with your attorney, if you have an attorney advising you
6 with respect to your appearance before the grand jury.

7 Do you understand?

8 THE WITNESS: Yes.

9 MR. TESTA: You are released. Thank you.

10 THE FOREPERSON: Five after 1:00?

11 MR. TESTA: Yes.

12 THE FOREPERSON: That agreeable?

13 MR. TESTA: Same admonishment applies, not to
14 discuss the case or deliberate.

15

16 (Recess.)

17

18 THE SECRETARY: We are all accounted for.

19 MR. TESTA: Are we all here?

20 THE SECRETARY: Yes, we are.

21 THE FOREPERSON: Mr. Testa, the IT person
22 that came in still needs to be admonished.

23 MR. TESTA: There are two of them, the larger
24 guy and him. I will arrange for them to be here before we
25 end.

26 I would recall Detective Bauer.

27

28

1 **TIMOTHY BAUER,**

2 a witness called on behalf of the People, having been
3 previously duly and regularly sworn by the Grand Jury
4 Foreperson, testified as follows:

5
6 **EXAMINATION**

7 BY MR. TESTA: Q. You are still under oath
8 from before, sir. Thank you.

9 A few quick questions regarding chain of custody of
10 evidence.

11 Again, you remind us, you have more than five years
12 experience as a peace officer, correct?

13 A. Yes.

14 Q. Okay. Regarding the -- just technical questions
15 here -- the oral swab that the witness that I'm about to
16 call who did the DNA work, the oral swab, the sample from
17 the victim Sandra Cantu's body, how was that collected and
18 given to her?

19 A. That was collected at the autopsy from Dr. Omalu, who
20 performed the autopsy. Then it was released to Special
21 Agent Marcus Knutson, who there in turn booked it up in
22 Sacramento into the FBI's evidence vault. And then it was
23 sent to Quantico, Virginia to the lab, the FBI Lab, where it
24 was provided to --

25 Q. Ms. Conway?

26 A. Yes, Jerrilyn Conway, the criminalist.

27 Q. Another piece of item -- another piece of evidence,
28 the piece of cord that was on the suitcase?

1 A. Yes, the -- the --

2 Q. How was --

3 A. The cord that secured the suitcase.

4 Q. There's someone coming here this afternoon to talk
5 about his examination of that cord, how was it collected and
6 given to him?

7 A. Same way, it was taken at the autopsy scene from
8 Dr. Omalu, then given to Special Agent Marcus Knutson, it
9 was booked into Sacramento evidence vault -- the FBI's vault
10 and sent back to Quantico, Virginia to the lab where it was
11 turned over for examination to Joshua Friedman.

12 Q. Joshua Friedman from FBI, he compared the little piece
13 of rope from the suitcase with that blind -- if we can get a
14 photo of it -- that you saw in the church, the one that did
15 not have the little white -- what did you call it?

16 A. Plastic cap.

17 Q. The plastic cap?

18 A. Yes.

19 Q. What did you arrange to be done with that particular
20 blind that did not have the plastic cap? What was the chain
21 of custody of that item? How did it get over to
22 Mr. Friedman, who is about to testify this afternoon?

23 A. Our agency, Tracy PD, seized that on the search
24 warrant on April 10th and collected it, booked it into our
25 evidence, to where we later released it to and transported
26 it up to Sacramento to the FBI Lab, and a -- a portion of
27 that blind cord was then sent to -- back to the FBI Lab in
28 Virginia where it was analyzed and compared to the piece

1 that we just talked about.

2 MR. TESTA: Could I get the one from the
3 suitcase, please, the photograph showing it? Maybe I can
4 use this.

5 So the one in 95 --

6 A. Yes.

7 Q. -- was collected by?

8 A. Which one is 95?

9 Q. The one on the screen now, on the suitcase.

10 A. This was initially collected by Dr. Omalu when it was
11 cut off, given to Special Agent Marcus Knutson, booked in
12 the Sacramento evidence vault, sent back to Quantico,
13 Virginia's lab for analysis.

14 Q. And Dr. Omalu explained a few days ago how he cut it
15 without --

16 A. Leaving the knot intact.

17 Q. Yeah.

18 A. Correct.

19 Q. And then this one in 207 that's on the screen now, the
20 one you've already talked about.

21 A. Yes. We seized this entire blind on the 10th. We
22 collected it. Tracy PD evidence techs collected this. And
23 it was booked into our evidence at Tracy PD. Then we
24 released it to the FBI where it went to Sacramento. And
25 then Sacramento FBI Lab sent -- or vault, sent it back to
26 Quantico, Virginia to be analyzed and compared to that
27 previous cordage you showed me.

28 Q. And what about what does 210 show?

1 A. That's the -- the majority of the full blind as it's
2 pulled up. And this is the cord that you see the portion of
3 the previous picture hanging from.

4 Q. Okay. And then another piece of item -- another piece
5 of evidence was the rolling pin that was collected in the
6 church. What was the chain of custody of that item?

7 Because we have someone coming this afternoon to talk about
8 what she found on the rolling pin. How did it get to her?

9 A. Same thing, we collected this piece of item, that was
10 in the same search on April 10th, the rolling pin was
11 collected.

12 Q. The same day as the blinds?

13 A. Yes. On April 10th it was collected -- photographed,
14 collected, booked into our evidence. Then we released it to
15 the FBI, where it went to Sacramento into their evidence
16 vault. It was checked in, checked out, and then sent back
17 to Quantico, Virginia for testing by their criminalist.

18 Q. By Conway?

19 A. Yes, tested by Jerrilyn Conway.

20 Q. For DNA on the rolling pin?

21 A. Yes.

22 Q. Then, lastly, I think the item I had was -- what about
23 we heard from Laura Labay this morning about she found the
24 alprazolam in the tissue samples of Sandra Cantu that she
25 received from Central Valley Toxicology. And what was the
26 chain of custody of those items? How did they go from
27 Sandra Cantu's body to --

28 A. Dr. Omalu collected those during the autopsy. And the

1 initial toxicology for the tissue was sent by Dr. Omalu's
2 office to Central Valley Lab. And then after the -- the
3 first analysis was done, he requested a second analysis, a
4 tissue toxicology. And, therefore, it was sent from his
5 office, the Central Valley Lab, to NMS Labs in Pennsylvania
6 for the secondary toxicology analysis.

7 Q. Thank you.

8 MR. TESTA: I have no further questions on
9 those points. And unless there are questions from the grand
10 jury -- oh, there is one.

11 GRAND JUROR 19: I have one.

12 MR. TESTA: Q. Oh, okay. Question from the
13 grand jury: Has a dish towel been located at the church or
14 at Melissa Huckaby's residence of the same type as the
15 noose, in parentheses, as stated by Dr. Omalu that was found
16 in the hair of Sandra Cantu and that is shown on People's
17 92?

18 A. We returned to the church to locate a similar matching
19 pair to that.

20 Q. To what? To look for?

21 A. To look for, yes.

22 Q. I thought you said locate.

23 You went there to look for. Did you find one?

24 A. No.

25 Q. Okay. Another question from the grand jury: Were
26 suitcases found at the church or in Melissa Huckaby's car?

27 A. No.

28 Q. Was there a test done to Melissa Huckaby's car for DNA

1 of Sandra Cantu?

2 Do you understand the question?

3 A. Yes. Her vehicle?

4 Q. In other words, did you guys test her vehicle, the one
5 that has the Marine sticker on the back and, "My Brother's a
6 Marine," and, "Support Our Troops," the ribbon, did you guys
7 test her car in any way for anything, trace evidence, DNA,
8 fingerprints, anything?

9 A. Yes, we did for prints, for trace evidence. I -- I
10 don't believe that we did -- the FBI processed the vehicle.
11 I don't believe we did any DNA testing of the -- of Melissa
12 Huckaby's car.

13 Q. But the FBI did process her car?

14 A. Yes, they processed the entire car.

15 Q. They decide when they process it what they think they
16 can get?

17 A. Yes.

18 Q. So they did the trace evidence and fingerprints, but
19 you don't believe they did any type of DNA work?

20 A. Yes.

21 Q. Do I understand you correctly?

22 A. Yes.

23 Q. Okay. Here is an administrative question: It seems
24 that FBI Special Agent Marcus Knutson is not listed on the
25 list of witnesses. Is that a problem or is our list one
26 that may or may have changed?

27 Yeah, it has been changed, as some people become
28 unavailable and others are available.

1 A. He testified yesterday.

2 MR. TESTA: He's already testified, but he
3 wasn't on the initial list. If there is anyone who knows
4 him or feels they could not objectively listen to his
5 testimony, make sure you raise your hand, let me know.

6 I see no hands.

7 And at the end of the case, I'm going to ask you --
8 you were read a list of witnesses, and the names may not
9 have meant anything to you. But by the end of case, I'll
10 ask you if maybe you saw someone come in here whom you
11 didn't know by name, who you know otherwise, and you
12 couldn't believe them or you would always believe them, or
13 you couldn't impartially weigh their testimony.

14 I will be asking that general question at the end, and
15 raise your hands if that is the case with anyone.

16 Q. Another question from a grand juror: When Melissa was
17 questioned, was she asked about doing different knots when
18 she did party planning? Since she did crafts, did she talk
19 about doing knots?

20 Do you understand that question?

21 A. Yes. And no.

22 Q. Well, do you know if her party planning -- let me ask
23 this --

24 A. Creative Memories.

25 Q. Her grandmother's coming Thursday. What is her name?

26 A. Connie Lawless.

27 Q. Lawless. Let me jot that question down to ask the
28 Lawlesses if she did knots as part of her so-called party

1 planning.

2 MR. TESTA: Are there any questions from
3 the -- any other questions from the grand jury?

4 Mr. Bauer will be present at other times.

5 Okay. Can you go out and let Ms. Conway know I'm
6 ready for her to come in?

7 THE FOREPERSON: And you're still admonished.

8 MR. TESTA: You're still under the same
9 admonishment, Mr. Bauer.

10

11 (Pause.)

12

13 MR. TESTA: Can you tell us your name,
14 please?

15 THE WITNESS: My name is Jerrilyn Conway.

16 MR. TESTA: Could you spell your name,
17 please?

18 THE WITNESS: J-E-R-R-I-L-Y-N C-O-N-W-A-Y.

19 THE FOREPERSON: Would you raise your right
20 hand, please?

21

22 **JERRILYN CONWAY,**

23 a witness called on behalf of the People, having been duly
24 and regularly sworn by the Grand Jury Foreperson, testified
25 as follows:

26

27 THE WITNESS: Yes, I do.

28 THE FOREPERSON: Thank you.

EXAMINATION

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BY MR. TESTA: Q. Where are you employed?

A. At the FBI Laboratory in Quantico, Virginia.

Q. And what do you do there?

A. I'm a nuclear DNA examiner in the Nuclear DNA Unit.

Q. And in this particular case, did you examine a rolling pin that has been marked here as Grand Jury Exhibit 153?

A. Yes, I did.

Q. And how could you tell you did? Is there anything on the bag, for example?

A. Yes, there is. On the bag, you'll see --

Q. With your laser pointer, could you show us, please? There you go.

A. So this is the lab number that was assigned to this item. This item is -- was marked as our Q121.

A "Q" item is a question item in our unit -- in our laboratory.

The "WF" are the symbols that are assigned to me in the lab. So these are my symbols.

And the biologist is Vanessa Thai and her initials are there on the bag.

Q. And did you just before the lunch hour come in and use -- with a pair of gloves look at the actual rolling pin?

A. Yes, I did.

Q. And did you find any marks on it that your office had made?

A. Yes, I did. Those -- that same laboratory number, my symbols, and my biologist's initials are on that rolling

1 pin.

2 Q. Okay. So did you arrange -- so you had the rolling
3 pin. Did you have a sample, we just heard from Mr. Bauer,
4 from Sandra Cantu, an oral swabbing from the victim?

5 A. Yes.

6 Q. That was taken during the autopsy of Sandra Cantu?

7 A. Yes.

8 Q. And did you have a DNA sample from Melissa Huckaby?

9 A. Yes, I did.

10 Q. What number was that given?

11 A. That was K1. A "K" is a known sample.

12 Q. Okay. Also, was it -- did you have a -- do you have a
13 copy of your report?

14 A. I do.

15 Q. Did you link it up with the Tracy number -- Tracy
16 Police Department number?

17 A. I did. If I can refer to my report.

18 Q. Do you need to look at your report to refresh your
19 memory?

20 A. Yes, I do.

21 Q. Could you take a moment and do so?

22 A. (Referring to report.) The Tracy Police Department
23 number --

24 Q. On page?

25 A. -- is listed for the sample from Melissa Huckaby,
26 which is TPD item 1070/1.

27 Q. Okay. So you had a -- what is that called?

28 A. Buccal swab. It's a swab from the inner cheek of

1 someone.

2 Q. A buccal, B-U-C-C-A-L?

3 A. Yes, sir.

4 Q. So you had a buccal swab that a Tracy police officer
5 had taken from Melissa Huckaby?

6 A. That's right.

7 Q. You had an oral swab that was taken by the autopsy
8 doctor from Sandra Cantu at the time of the autopsy?

9 A. That's my understanding, yes.

10 Q. And -- and you then had this rolling pin.

11 Just focusing in on those items now, I know you did
12 other work in this case, other findings, what were you --
13 did you examine them all to see if you could find anything
14 on the rolling pin?

15 A. First, we did an exam to see if we could determine if
16 blood was present on the rolling pin.

17 Q. Before you go into all that, I have to ask you could
18 you summarize for us your education, training, and
19 experience that qualifies you to do what you did in this
20 case?

21 A. I can.

22 I have an undergraduate degree in genetics from Texas
23 A & M University.

24 I have a graduate degree in molecular biology from New
25 Mexico State University.

26 I have been in the FBI Laboratory for approximately
27 nine years. I started as a serologist. That means that I
28 was the biologist that did the hands-on testing, screening

1 items for blood and semen generally, and in the laboratory.

2 I was then promoted to be a DNA biologist where I did
3 the hands-on DNA testing of those stains that were
4 identified by the serologist.

5 And then I was promoted into the examiner position,
6 where I spent about two years in training to determine -- to
7 learn and understand all of the procedures and protocols to
8 be able to make associations from a DNA perspective, as well
9 as interpreting serology results.

10 Q. So how long have you been doing DNA work altogether?

11 A. Well, the -- the serology is sort of the precursor to
12 the DNA. So I did that for about two years. But then -- so
13 since I was promoted to a DNA biologist, I guess you could
14 say I have been doing DNA work in a forensic capacity.

15 Though, before I came to the FBI, I was also a DNA
16 technician in a cotton genetics lab, which was at New Mexico
17 State University.

18 Q. So you have been doing this for awhile?

19 A. I have.

20 Q. Have you qualified as an expert in this area?

21 A. Yes I have.

22 Q. Okay. Well, so then what -- I kind of cut you off.
23 What were the results of your examination of the -- let's
24 start with the rolling pin?

25 A. So on the rolling pin, we first look to see if we
26 could identify blood. We have two tests for that. The
27 first is a presumptive test. That means that if it's
28 positive, then this stain might be blood. If it's negative,

1 it almost certainly is not blood. We use this to screen
2 away things that are certainly not blood.

3 When we tested this item, there was one end of it was
4 stained, and it was presumptively positive for blood.

5 Our second step is to do a confirmatory test. Now
6 this confirmatory test tells us, if it's positive, that this
7 certainly is blood; if it's negative, that doesn't mean that
8 the stain is not blood. But this test is very -- is very --
9 is not as sensitive as our presumptive test. So it does
10 even mean the stain is not blood, but if we can confirm the
11 presence of blood, we will do that with that second test.

12 For this item, we found that the stained end of this
13 rolling pin was positive for our presumptive test for blood.
14 The rest of the item we spot-tested all areas and those were
15 negative for blood.

16 Q. When you did the presumptive test -- or the
17 presumptive test tested positive for -- presumptively, I
18 guess, for blood.

19 A. That's true.

20 Q. Then when you did the confirmatory test, it did not
21 confirm it as blood; do I understand that correctly?

22 A. That's right, we were unable to confirm that blood was
23 present. That's right.

24 Q. If I understand your explanation, that doesn't mean it
25 wasn't blood on the rolling pin?

26 A. That's true.

27 Q. That just means this particular secondary -- this
28 confirmatory test is more sensitive?

1 A. It's actually less sensitive.

2 Q. Less sensitive than the presumptive test?

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

4 Q. So what can you conclude then just to start, without
5 going into the DNA results, about whether or not there was
6 blood on the -- is this the smudged portion of the rolling
7 pin or the unsmudged portion?

8 A. This is the smudged portion, the stained end of the
9 rolling pin. In the picture, unfortunately, it's covered by
10 the mark.

11 Q. By the 19?

12 A. By the 19. The stained end of the rolling pin is the
13 straight end of that rolling pin.

14 Q. I think there is one more. There's another shot of it
15 somewhere. We don't have it. So, in any case, what are you
16 saying then about the --

17 A. So the stained end of that rolling pin, it had a
18 reddish/brown stain on it. That was positive for our
19 presumptive test for blood. I can't say that it was
20 definitely blood, but I can say that it was stained. And
21 later when we did our DNA test, we got a significant amount
22 of DNA from that end of the rolling pin.

23 Q. And did you match or did you compare the DNA that you
24 got from that end of the rolling pin with the DNA that you
25 got out of Sandra Cantu -- the sample from Sandra Cantu's
26 mouth, the oral swab?

27 A. Yes, I did.

28 Q. Tell us what you did and what your conclusions were.

1 A. When we do a DNA comparison, there are different
2 results we can get. First is an exclusion where there -- if
3 the DNA from the evidence sample and the DNA from the
4 reference sample are different, that person could not have
5 left that DNA on that piece of evidence. If they are the
6 same, we will do a statistical calculation saying they are
7 the same, which means that at every location we test, we got
8 the same results from the rolling pin as we did from Sandra
9 Cantu.

10 Well, now we have to come up with the statistical
11 assessment, how common or how rare is that DNA profile.

12 When that DNA profile is more rare than one in
13 6 trillion individuals from an unrelated population, then we
14 will say that person is the source of the DNA to a
15 reasonable degree of scientific certainty.

16 And in this case, that statistical calculation was
17 more rare than one in 6 trillion individuals, which means
18 that she is the source of the DNA from the stained end of
19 that rolling pin.

20 Q. So the sample that you -- that is associated with
21 Sandra Cantu's mouth taken at the autopsy, using that as
22 your sample, you developed from that, do you, Sandra's DNA?

23 A. Sandra's DNA profile, yes, yes.

24 Q. And then do you develop the DNA profile of the
25 substance that's on the -- the rolling pin?

26 A. Yes, we did.

27 Q. And you develop -- tell me if I'm using the right
28 word -- the profile of that stain --

1 A. Yes.

2 Q. -- or that sample?

3 A. That's right.

4 Q. And then you look at the two and determine -- what did
5 you determine when you looked at it?

6 A. Well, we determined that they are the same.

7 Q. They are the same?

8 A. They are the same.

9 Q. And then how rare are they?

10 A. And then how rare is that, which gives you an idea how
11 significant is that DNA match.

12 Q. And your conclusions were?

13 A. That it was more rare than one in 6 trillion
14 individuals. Therefore, she is the source of the DNA from
15 the stained end of the rolling pin to a reasonable degree of
16 scientific certainty.

17 Q. Okay. Now, that is the main part of your finding I
18 wanted to go into, but you have other findings as well, did
19 you not?

20 A. Yes, I did.

21 Q. Why don't you explain the other findings on the
22 rolling pin?

23 A. So the additional DNA tests that we did on the rolling
24 pin is we took a sample from the unstained end of the
25 rolling pin.

26 Q. Which on the laser -- with your laser pointer.

27 A. Which -- which is here.

28 Q. On this Exhibit -- excuse me, I'm sorry, I've got to

1 put it on the record -- Exhibit 14, it's --

2 A. So this is -- the bent end of the rolling pin is not
3 stained.

4 Q. Okay.

5 A. So we took -- what we do is we take a sterile swab, so
6 it's like a Q-tip, we moisten that with water and we swab
7 that end of the rolling pin. We developed a DNA profile
8 from that end of the rolling pin.

9 In this case, we didn't get as much DNA from that end
10 as we did the other end. So when we did our testing -- our
11 testing is actually done in two steps. So we were only able
12 to complete the first set of testing from that DNA sample.

13 And when we did that first set of testing, we also
14 found -- in this case, we found a mixture of DNA. That
15 means that when a mixture of DNA is present, that means that
16 more than one person contributed DNA to that sample.

17 When I have a mixture DNA, sometimes I'm able to tell
18 who the major contributor to that DNA is. And when I can
19 tell that, that means that one DNA profile stands out above
20 any other DNA that is present in that sample.

21 In this case, the major contributor DNA profile also
22 matches Sandra Cantu. And because when we looked at the
23 statistical -- the statistics for that, I actually have a
24 set of statistics that go along with that sample, because in
25 this case the statistics were not more rare than one in
26 6 trillion, so I can't say to a reasonable degree of
27 scientific certainty that she is the source of the DNA, but
28 I can give you the statistics for the rarity of that DNA

1 profile.

2 Q. And to be clear, we are now talking not about the
3 stained end, but about the other end which happens to be the
4 bent end?

5 A. That's right, yes.

6 Q. So while you could say her DNA is definitely on the
7 stained end, it's not as definite on the unstained end, on
8 the bent end, do I understand that?

9 A. That's true. The DNA does match her. There's nothing
10 inconsistent about that DNA for the major contributor to
11 her. But because I could only do one set of my tests, I
12 have a different rarity statistic.

13 So that statistic is one in 2.4 trillion from the
14 African-American population; one in 160 billion from the
15 Caucasian population; one in 31 billion from the
16 Southeastern Hispanic population; and one in 14 billion from
17 the Southwestern Hispanic population.

18 Q. So how do you come up with these numbers?

19 A. Well, we use a population database that tells us how
20 rare each of these DNA profiles are at every test that we
21 do.

22 And we do thirteen different tests. At each of these
23 tests, you actually have two results. Everyone gets a copy
24 of their DNA from their mom and a copy of their DNA from
25 their dad. So at any given test, I have two copies of that
26 DNA. Therefore, I have two results for that particular
27 test.

28 Like I said, we do this in two parts. So our first

1 set of tests include nine of these regions of DNA that we
2 test. Our second set of tests include six. And there are
3 some overlap between the two.

4 So to determine the statistics, what I do is I look at
5 my population database and I say, "Okay, how rare is this
6 one test result at this location and how rare is the other
7 test result?" And by using a formula, I can come up with
8 then how rare is that profile at that location. And then
9 because these locations are all independent from each other,
10 I can multiply those together and determine how rare the
11 profile is as a whole.

12 So from a statistical standpoint, this is how you do
13 the -- the rarity statistic.

14 Q. So what were your conclusions about the -- the
15 unstained end of the rolling pin?

16 A. So on the unstained end of the rolling pin, I have a
17 mixture of DNA. The major contributor matches Sandra Cantu,
18 and those are those statistics that I just read to you.

19 Additionally, I know that the minor contributor to
20 that DNA is male, which means that I also have a test where
21 I can say whenever we -- so a female has two X chromosomes
22 and a male has an X and a Y. So I have a test that I can
23 detect X's and Y's.

24 And so at my location for sex typing, I can say that I
25 know my major contributor is female because that's the
26 profile that stands out. But I do have a -- I do have a
27 small amount of Y, so I know that I have a male present.

28 And then at the other locations, I have one additional

1 DNA type that is below my reporting threshold, and it's
2 inconclusive. So that additional DNA, that minor
3 contributor to that sample, is unsuitable for comparisons.

4 Q. Okay. Now, how can one leave DNA? I mean, like if I
5 were to pass this Scotch Tape holder around the courtroom to
6 all the jurors, and then tested it for fingerprints, I would
7 imagine we might find my fingerprints on it, and possibly
8 the fingerprints of half a dozen other people, maybe more,
9 maybe less.

10 But what if I passed this around, would you find --
11 and I just touched it for a few minutes and handed it on to
12 the next person, I guess my question is is how easily or how
13 difficult is it to leave DNA on something like this rolling
14 pin?

15 A. Well, any time something is handled, there's a
16 possibility of leaving DNA on it. Some people leave more
17 DNA than others. Some people, you know, if they -- if they
18 are sweating more, it depends on the temperature outside,
19 some people have skin conditions where they -- they sort of
20 shed a lot of cells. Other people don't.

21 So if you were to pass it around, I would expect if I
22 tested it then, I would probably take a swab, and swab the
23 whole thing. So if I picked up everyone's DNA, I really
24 wouldn't be able to distinguish one person from the next. I
25 would get sort of a mixture. Maybe even -- maybe some
26 people wouldn't be detected in it, some people would.

27 You know, handling an item, depending on how long you
28 handle it, whether the surface is rough, whether it --

1 whether it's hot or cold outside, all of those factors will
2 determine whether or not you leave enough cells behind that
3 my testing can pick up that DNA type.

4 Q. Well, let me ask you a real graphic question: If that
5 rolling pin, the one with the stained end, for example, if
6 that were put in a little seven-year-old girl's genital
7 area, say her vaginal area -- vaginal area, and with such
8 degree that it could cause redness where a doctor came in
9 and said it was kind of -- I think he used the word agony
10 death, kind of a brutal penetration by foreign object, would
11 that act be enough to leave the girl's DNA on the handle?

12 A. On that -- on the stained end of the handle?

13 Q. Stained end.

14 A. Definitely.

15 Q. And now using a different example, let's say I just
16 picked up the rolling pin -- or, excuse me, the same girl
17 just picked up the rolling pin, would she leave her DNA on
18 the -- on one of the handles just by handling it for, you
19 know, seconds, passing it to someone else?

20 A. It depends. She -- she -- it's possible that she
21 would. It's not inconsistent to find her DNA if she had
22 handled it.

23 Q. But you said, if I understood you correctly, there was
24 a lot of her DNA on the stained end.

25 A. That's right.

26 Q. And if I -- correct me if I'm wrong -- and there was
27 much less of it on the unstained end, is that correct?

28 A. That is correct.

1 Q. And the -- the end that had a lot of hers was the one
2 that also had stained, that tested at least presumptively
3 for blood?

4 A. That's right.

5 Q. Are you testing this presumptive blood in finding
6 Sandra's DNA, or are you -- or not? I'm not sure --

7 A. Well, I'm testing the stain. And the stain also
8 tested positive for our presumptive blood test. So when I
9 test that stain, what I do again is we take a swab, moisten
10 it, and collect from that stained area, in the same way that
11 we took a swab, collected a very small portion of the
12 stained area, to do our presumptive test.

13 Q. As far as, say, the other end -- let me just again
14 give you a graphic hypothetical: If the other end, the bent
15 end, were put in the little girl's vagina or vaginal --
16 genital areas, with just -- not put in with the same degree
17 of force or something, could that act of intruding it in her
18 body leave her DNA on it?

19 A. It could, yes.

20 Q. Can you draw any conclusions about the fact that
21 there's more of her DNA on the stained end and less on the
22 unstained?

23 A. Well, the unstained end, when we looked at that
24 piece -- when we looked at that piece of evidence and we
25 tested it, we do what we call spot testing. We can't test
26 the whole item, we can only spot test, because we wanted to
27 save it for additional latent print examinations, et cetera.
28 So when we looked at that other end, we didn't see any

1 visible staining that tested positive for our presumptive
2 test.

3 So there was no visible staining on that end. So, you
4 know, how -- how her DNA is there, is -- is really
5 speculation.

6 Q. Okay. By the way, can you -- if someone, say the
7 owner of the church or someone put the -- handled it to use
8 it for cooking or something, and he then put it in a drawer
9 six months earlier or something like that, would his DNA
10 still be on there?

11 Does DNA, in other words, expire after a period of
12 time?

13 A. It doesn't expire. It -- it does sometimes degrade,
14 which means that it breaks down in a sense. So you might
15 get a -- a -- a less -- less DNA than you did if you had
16 tested it when it was fresh.

17 Q. Okay.

18 A. So -- and in this case, we had a very low level of
19 someone else's DNA, but such a low level that we can't say
20 anything about it.

21 Q. All right. Were you asked -- I know I'm focusing on
22 the rolling pin -- but were you asked to examine a number of
23 items that some officers had seized pursuant to a search
24 warrant, cylindrical items that possibly could have been
25 used in a sexual assault? Did you end up getting a number
26 of different items?

27 A. We did.

28 Q. What kinds of things did you get?

- 1 A. If I could refer to my notes.
- 2 Q. Would that refresh your recollection?
- 3 A. Yes. Thank you.
- 4 Q. Did you make a list?
- 5 A. Yes. When this -- when the evidence comes into the
6 laboratory, it's inventoried, so I have a list -- a complete
7 list of the evidence that was submitted to the lab.
- 8 Q. So what items were you asked to look at to see if
9 there might be any DNA on it? Can you give us -- read them
10 to us?
- 11 A. A lint roller.
- 12 Q. A what?
- 13 A. A lint roller.
- 14 Q. One of these, you know (indicating)?
- 15 A. Yes.
- 16 Q. There's -- I guess there's the round edge that you
17 hold?
- 18 A. Right.
- 19 Q. And that would be a cylindrical item. What else?
- 20 A. Markers. A number of markers.
- 21 Q. You mean --
- 22 A. Dry erase markers.
- 23 Q. Markers. I used to call these Magic Markers.
- 24 A. Yes.
- 25 Q. I guess this would be cylindrical. Okay.
- 26 A. A hammer. A massage tool.
- 27 Q. You were given the hammer, were you looking at the
28 part that you hold, the handle?

1 A. Yes.

2 Now we didn't test many of these items. We were
3 asked -- we got a very large number of items. And part of
4 my job is to interact with the contributor to try to narrow
5 down the testing that we need to do.

6 And my understanding was that when we -- when I
7 discussed this with the detective, there was staining
8 observed on the rolling pin, so we actually started with
9 that.

10 Q. Because that looked the most promising?

11 A. Exactly.

12 Q. But in terms of some of the other items that were
13 given to you --

14 A. Other items that were sent were a microphone with
15 cord, and then another microphone. The rolling pin. A
16 curling iron. A hand rake. Several vacuum attachments. A
17 paper towel holder. A rod. Three pipes.

18 And then we also received a number of swabs that were
19 taken from items like a tripod, a pole with a hook. So they
20 swabbed the wooden end of the pole. They swabbed the hook
21 end of the pole. They swabbed a broom handle, a mop handle,
22 a duster handle -- it looks like several duster handles, a
23 dust pan handle, a plunger handle.

24 Q. Like a toilet plunger?

25 A. Yes, I believe so -- and --

26 Q. Curtain rod?

27 A. A curtain rod.

28 Q. So you had all these items, but you ended up going to

1 the rolling pin because they mentioned they saw something on
2 the edge?

3 A. Yes. And we also tested all the swabs that were sent
4 in. Those are --

5 Q. So swabs.

6 A. So we tested all the swabs that came in from the
7 items, as well as the rolling pin, and also the curling iron
8 we tested.

9 Q. And what did the swabs from all these other items like
10 the toilet handle or plunger, what did all that show?

11 A. They were all negative for the presence of blood.

12 Q. Oh, I see. Just did a blood test, not any DNA?

13 A. No, we didn't do DNA. We were just focusing on trying
14 to find blood.

15 Q. And the curling iron?

16 A. The curling iron was also negative for the presence of
17 blood.

18 Q. So once you get a presumptive positive on the rolling
19 pin, I guess that is like a -- is like a -- a dog picking up
20 a scent, almost like a bloodhound, it focuses you on that
21 rolling pin?

22 A. It does.

23 Q. What do they call it, a target rich environment, there
24 might be something there?

25 A. Exactly.

26 Q. So that's what you end up finding -- finding
27 Sandra's -- her DNA on there?

28 A. Yes, we do.

1 Q. Did you test -- did they give you -- we have this 154,
2 this photograph of some rubbing -- some alcohol they found
3 in the church.

4 A. Yes.

5 Q. Did they give you these containers or the container of
6 that alcohol?

7 A. Yes.

8 Q. And what did you do with those -- with that item?

9 A. We tested -- there were actually -- there were three.

10 Q. I think there were some found in her house -- two
11 found in her house, we heard evidence of that, and one found
12 here in the church, which is on this photo I put up here.

13 A. That's right.

14 Q. Did you differentiate them?

15 A. There were three of those. And for each of them, we
16 took a sample from the mouth of the alcohol bottle where if
17 a person were to drink it.

18 Q. Right here?

19 A. Yes. So we took off the top and swabbed the edge of
20 the mouth of each of these three alcohol bottles.

21 Q. Did you find Sandra's DNA on any of those?

22 A. No, we did not.

23 Q. Now, you had other findings, did you not. What about
24 the -- you ever examine this -- did you get this item that's
25 shown in People's 92?

26 A. Yes, I did.

27 Q. We've had the doctor who did the autopsy refer to it
28 as a noose, a cloth, you know, with -- that was found. He

1 explained where it was found. And there's some hair.

2 What did you end up doing with it?

3 A. We tested it for the presence of blood. We found that
4 blood was present on this item.

5 Q. Where?

6 A. Really, the whole item was stained. So the whole item
7 was spot tested for the presumptive presence of blood and
8 then one small area would have been used for our
9 confirmatory test.

10 Q. And did you confirm it to be -- be blood?

11 A. Yes, it was confirmed.

12 Q. Were you able to say whose blood?

13 A. No. Unfortunately, we attempted to get a DNA profile
14 from this item twice and were unable to get any DNA from
15 this item.

16 Q. What would cause you not -- seems like anything with
17 blood on it would be, again, another target rich
18 environment.

19 A. That's right.

20 Q. What explanations would you have for not being able to
21 get DNA off of a bloody noose?

22 A. Well, DNA breaks down. And it does -- and in an
23 environment as it was in for many days, it's expected to --
24 that this DNA will degrade. So our results are not
25 inconsistent with how this was found.

26 Q. Oh, okay.

27 You can't even say a woman's blood, man's blood?

28 A. No, we got no results at all.

1 Q. What about the hair?

2 A. The hair was not tested by my unit. So we don't focus
3 on hair examinations. We do nuclear DNA examinations.

4 Q. Okay. Actually, I was just thinking the hair, we
5 already -- it's attached to her head, I mean, it's on -- did
6 you see the pictures that's on the victim's --

7 A. No.

8 Q. Taken from the victim's head? I guess the hair isn't
9 going to tell us much, because it looks like it would be
10 Sandra's hair.

11 So what can you tell us if you found blood on it? You
12 found blood -- you test different parts of it, right?

13 A. Yes.

14 Q. I don't know, do you cut out a little hole in each of
15 the parts of it? How do you do it? Do you put a Q-tip on
16 them?

17 A. We take a Q-tip and we take a swab of different areas
18 on the material. When we get it, it had already been sort
19 of spread out. And it's actually a square sort of towel.
20 And so we test different areas. We -- again, we take a
21 Q-tip and we take a very small sample from that item and we
22 add our chemicals to do our presumptive test.

23 And then to do our confirmatory test, we take a small
24 scraping or maybe a thread that has a good amount of stain
25 on it. We put it under a microscope slide and add a
26 chemical and we look at that to see if we can confirm the
27 presence of blood.

28 Q. And every part you look at, there's blood on it?

1 A. Well, we only test one area --

2 Q. Oh, okay.

3 A. -- for blood. The -- the -- the whole item was sort
4 of spot tested for -- for this presumptive test, but we just
5 tested one area for blood.

6 Q. Did you test it for the presence of any, you know,
7 alcohol or drugs?

8 A. I -- I don't do that testing. That would have been
9 sent to our Chemistry Unit for testing.

10 Q. Plus this would have been in water for seven, nine
11 days, whatever, or in the suitcase?

12 A. Yes.

13 Q. What about the -- any other?

14 A. We tested the sheets.

15 Q. From where?

16 A. From the dump.

17 Q. Oh, from the dump. They found some seats in the dump.
18 Did that reveal anything?

19 A. We were able to confirm blood on those sheets. Again,
20 we didn't get a DNA type from them.

21 Q. I think we heard the officer talk about he was getting
22 ready to go to the dump on one case. It was your
23 understanding they found some sheets in a dump?

24 A. Yes.

25 Q. That was presented to you, too?

26 A. Yes.

27 Q. All could you say was presumptive for blood?

28 A. No, that was confirmed blood.

1 Q. Confirmed blood.

2 Let me just look at my notes. If the grand jurors
3 have any questions, now would be the time to jot them down
4 here.

5 Oh, did you find male DNA on the rubbing alcohol
6 specimen?

7 A. On one of the specimens we did, yes.

8 Q. And, I mean, do you know if that was the one at her
9 house or in the church? Do you know either way? Would that
10 be a common -- if a guy -- you know, a guy lives somewhere,
11 he's taken the top off of the -- the alcohol, you expect
12 maybe to find his DNA?

13 A. Possibly, yes.

14 Q. What did you call it, the mouth of the bottle?

15 A. The mouth of the bottle.

16 And there's not a lot of DNA there, but there is, you
17 know, an amount of DNA there. The three rubbing alcohol
18 bottles, my note says that they were collected from the
19 church.

20 Q. Oh, okay. I'm not sure.

21 Is there any DNA on the other end of the rolling pin,
22 the bent handle? That's a question from the grand jurors.

23 Do you understand that question? Would you like me to
24 repeat it?

25 A. Yes. The bent handle was the unstained end. And,
26 yes, we tested that. That was the end that had a mixture of
27 DNA. The major contributor matches Sandra Cantu, with the
28 statistics. And it was not -- she was not the source of

1 that DNA. So that statistic -- I can read it again -- is
2 one in 2.4 trillion from the African-American population;
3 one in 160 billion from the Caucasian population; one in
4 31 billion from the Southeastern Hispanic population; and
5 one in 14 billion from the Southwestern Hispanic population.

6 The minor contributor was -- there was indication of a
7 minor contributor that was male. And the -- the DNA typing
8 results, though, were not suitable for additional
9 comparisons.

10 Q. Did you find Melissa Huckaby's DNA?

11 A. I did not.

12 Q. On the rolling pin?

13 A. She was excluded.

14 Q. Well, there wasn't any other female DNA, was there, on
15 the rolling pin, or was there? Besides --

16 A. No.

17 Q. There was only the DNA?

18 A. There was -- right. The single source DNA on the
19 stained end where Melissa -- where Sandra Cantu is the
20 source of that DNA.

21 Q. On the other end?

22 A. The unstained end, the major contributor matches
23 Sandra Cantu.

24 Q. This is on the unstained end?

25 A. On the unstained end. And the minor contributor isn't
26 suitable for comparisons.

27 Q. But it was a male's?

28 A. There's an indication of a male. And then there's an

1 indication of an additional DNA type. But those you may
2 assume came from the same person, may not have come from the
3 same person. So it's...

4 Q. There's other questions from the grand jurors here.

5 Did you check the rolling pin for DNA from Melissa
6 Huckaby? I think you just answered that.

7 Do you know if there was any testing to the rolling
8 pin as to how it was bent? Did any FBI unit look into that?

9 A. I'm not aware of that. And I don't know how -- I
10 don't know if there is a unit in our lab that could really
11 tell a person that.

12 We do sometimes do toolmarks examinations where if
13 there's a mark on an item, you can say maybe, "Okay, well
14 this hammer claw sort of matches that mark." But I don't
15 know that how it got bent is something that we could really
16 tell you.

17 Q. I know I've gone over this, but you said there was a
18 lot of her DNA on the stained end and less on the unstained.

19 Can you go further and say there was much less on the
20 unstained end and much more on the stained end? Of her DNA?

21 A. Yes.

22 Q. Sandra?

23 A. Yes.

24 Q. What can you -- can you -- okay.

25 A. Would you like, I can quantify that in a way, would
26 you like me to do that?

27 Q. Are you saying there's like 50 percent more of the
28 stain then -- try to quantify it.

1 A. So we take a sample -- again, when we take a sample
2 from the unstained end, we swab the entire unstained end.
3 That entire swab gave us about 2 and a half nanograms of
4 DNA. And I know that that's sort of a unit that's not
5 really meaningful. But a nanogram of DNA -- there's
6 milligrams, micrograms and then nanograms. And each of
7 those are different by a factor of a thousand. So nanograms
8 are a very small amount of DNA and, generally, we target
9 about 2 nanograms for our testing.

10 Q. So you have 2 and a half nanograms?

11 A. So 2 and a half nanograms on the unstained end.

12 Q. How many of Sandra's was on the stained end?

13 A. On the stained end, we took a swab -- we did not swab
14 the entire stain. There is a significant portion of that
15 stain remaining. But we did swab a portion of that stain.
16 And our total DNA amount was about 30 nanograms.

17 Q. So that's 2 and a half versus 30?

18 A. Versus 30. And that's only a portion of it. We left
19 much of it because the latents examiner mentioned that maybe
20 he would be able to do something with some of the thicker
21 areas of that stain. So we only swabbed a portion.

22 Q. So --

23 A. So there's -- you know, it's a factor of about 10.
24 And that's also that we didn't swab the whole stain on that
25 end.

26 Q. Whereas you did swab the whole stain on the bent end?

27 A. We swabbed the whole end. So it wasn't a stain.

28 Q. Here's another question from the grand jury: Could

1 you tell what part of the body the DNA came from?

2 A. No. We don't have that capability.

3 Q. Could come from -- I mean, do you agree you leave DNA,
4 if something's put in a girl's vagina, it would be her DNA?

5 A. Yes.

6 Q. Something's put in a girl's mouth, it would leave her
7 DNA?

8 A. Yes.

9 Q. What other ways can you leave your DNA besides -- on
10 something like this?

11 A. So, again, you could handle something. If you're a
12 person that leaves a lot of DNA when you handle something,
13 you might be able to leave DNA that way.

14 Blood leaves -- there's a lot of DNA in blood, which
15 is why we screen for DNA -- which is why we screen for
16 blood, so we can target those areas for DNA typing.

17 Vaginal secretions have a significant amount of DNA in
18 them. There are a lot of cells that are sloughed off
19 vaginally. There's also a lot of cells that are sloughed
20 off from the mouth, which is why when we do a reference
21 sample, many times those are taken in our cheek swab, a
22 buccal sample.

23 Q. Question number two: Can the DNA be washed away with
24 soap and water?

25 A. Yes, it can. You may not be able to wash all of it
26 away, but it is something that DNA is found in our cells,
27 and it's found in almost all of our cells. So if you wear a
28 garment, you might leave DNA in the fabric that wouldn't

1 wash away all of it if you were to wash it in the washing
2 machine.

3 An item like this, you might, since it's a smooth
4 surface, you might be able to wash DNA off of it.

5 Q. Question number 3: Was there enough male DNA to
6 compare to the sample if gotten?

7 A. No. No. If I were to receive DNA known samples from
8 anyone who left that DNA there, I would not be able to do
9 comparisons. It's such a low amount that I couldn't do
10 comparisons of that minor contributor.

11 Q. Was DNA from Melissa Huckaby found on any item?

12 A. No.

13 Q. On any of the items, the plunger, the curling iron,
14 any of these things?

15 A. No.

16 Q. Presumptive --

17 A. No, I didn't test the plunger for DNA.

18 Q. For the swabs?

19 A. The swabs, I only tested for the presence of blood.
20 So they didn't go on for DNA testing.

21 Q. Thank you for clarifying that.

22 A. Uh-huh.

23 Q. Another question from the grand jury: Presumptive
24 test for blood, would it test positive in vaginal fluids?

25 A. No.

26 Q. Confirmatory tests for blood, would it test positive
27 in vaginal fluids?

28 A. The confirmatory test is specific to blood. It will

1 only react to blood. That's why it's confirmatory. If it's
2 positive, this stain is blood.

3 Q. What if there's blood in the vagina through injury,
4 someone penetrates a girl with something brutally and she
5 bleeds, then?

6 A. Then the blood may test positive using my confirmatory
7 test for blood.

8 Q. Was the bottle checked for DNA of Melissa like on the
9 cap or on the outside of the bottle?

10 A. So I tested the three different bottles. I tested the
11 caps -- not the caps, but the mouth area of each of those
12 bottles. Those came up with -- with different results. But
13 none of them matched Melissa Huckaby.

14 Q. Were only the end of the rolling pin tested or was the
15 rolling surface tested?

16 A. The -- the rolling surface, if any stains -- if there
17 was any staining, those would have been tested for blood.
18 All of that testing was negative. So only for DNA were the
19 ends tested.

20 Q. Another question from the grand jury: Is it possible
21 that the bent end could have been cleaned partially at the
22 scene but didn't get all of it cleaned?

23 A. Yes.

24 Q. If the unbent handle were to be used for blunt force,
25 would there be -- or was there fragments or specimens of
26 what part of the body it had hit, such as hair or bone?

27 A. The rolling pin came to us after it had been through a
28 couple of different units. So it may have gone to Trace --

1 our Trace Evidence first. Let me check my notes.

2 (Referring to notes.) So I'm looking at our chain of
3 custody in the laboratory, and what I can tell from this is
4 what units each of these items went to before or after they
5 came to us. So -- and -- and then I also have an exam plan,
6 which is what our Evidence Control Unit uses to move items
7 between units.

8 So I -- I don't see that the -- I don't see that the
9 rolling pin went to the Trace Evidence Unit first. If we
10 had gotten the rolling pin and noticed any -- any hairs on
11 it, we would have then sent those to the Trace Evidence
12 Unit, and that would be in my notes.

13 I don't see that that -- that we collected any hairs
14 from that rolling pin. So it looks like it came to us
15 first.

16 As far as bone or fragments, none of those things --
17 the item was stained with staining that -- that adhered to
18 the rolling pin, but it didn't actually have any fragments
19 in it of anything.

20 MR. TESTA: Are there any other questions
21 from the grand jury?

22 I see none. So maybe the admonition can be read?

23 THE FOREPERSON: You are admonished not to
24 reveal to any person, except as directed by the Court, what
25 questions were asked or what responses were given or any
26 other matters concerning the nature or subject of the grand
27 jury's investigation which you learned during your
28 appearance before the grand jury. This admonishment

1 continues unless and until such time as the transcript of
2 this grand jury proceeding is made public.

3 Violation of this admonishment is punishable as
4 contempt of court.

5 Do you understand?

6 THE WITNESS: (Nods head affirmatively.)

7 THE FOREPERSON: Okay. Thank you.

8 MR. TESTA: Do you want me to go with the
9 next witness or take your five-minute break? What's your
10 pleasure?

11 THE FOREPERSON: Five-minute break.

12 Okay. Five minutes. Make sure you're back here in
13 five minutes so we can get started.

14

15 (Recess.)

16

17 THE SECRETARY: We are all accounted for.

18 MR. TESTA: Okay. Are we all here?

19 THE SECRETARY: Yes.

20 MR. TESTA: All accounted for?

21 THE SECRETARY: Yes.

22 MR. TESTA: Pardon me?

23 THE SECRETARY: Yes.

24 MR. TESTA: I just have to have the record
25 reflect that.

26 What is your name, sir?

27 THE WITNESS: My name is Joshua Friedman,
28 spelled F-R-I-E-D-M-A-N.

1 THE FOREPERSON: Would you raise your right
2 hand, please?

3
4 **JOSHUA FRIEDMAN,**

5 a witness called on behalf of the People, having been duly
6 and regularly sworn by the Grand Jury Foreperson, testified
7 as follows:

8
9 THE WITNESS: Yes.

10 THE FOREPERSON: Thank you.

11
12 **EXAMINATION**

13 BY MR. TESTA: Q. Where are you employed?

14 A. I'm employed at the FBI Laboratory in the Trace
15 Evidence Unit as a forensic examiner.

16 Q. Were you asked to compare a cord that was found on a
17 suitcase that we see here in People's 80 -- Grand Jury
18 Exhibit 87, and we see it in Number 89?

19 A. Yes, I was.

20 Q. Were you asked to compare that to some blinds that
21 Detective Bauer and others seized from a church pursuant to
22 a search warrant in order -- specifically, were you asked to
23 look at a particular blind that had a -- let me see, we have
24 shown it -- I'm sorry, is this 201 or 207?

25 THE SECRETARY: 207.

26 MR. TESTA: Q. 207. Let me -- let me put it
27 this way, let me keep the sentence short: Were you asked to
28 compare the cord from the suitcase with cord from a blind

1 that Tracy Police Department had collected from a church?

2 A. Yes, I was.

3 Q. And that particular -- did you get the whole blind or
4 did you just get part of the cord?

5 A. We received a portion of the cord.

6 Q. Okay. So -- and what's the portion that you received?

7 A. It was the -- looking at this one, I've never seen
8 this picture before, but we received the end portion towards
9 the tip end.

10 Q. With the laser pointer, can you show us? I have
11 someone else coming tomorrow -- or Thursday who can explain
12 how he cut the cord and put some tape on it and sent you the
13 part of it as opposed to sending you all the blinds.

14 A. I don't know the exact length based on this picture,
15 but we received from this end cut somewhere.

16 Q. When you say "this end," on this particular photograph
17 number 210?

18 A. The -- the I guess the proximal end, the end of the
19 blind.

20 Q. Cord?

21 A. The blind cord.

22 Q. Okay.

23 THE FOREPERSON: Mr. Testa, here are some
24 cords with the...

25 MR. TESTA: Oh, there we go. That's what
26 exactly I thought we did not have.

27 Q. Let me show you -- again, we are going to hear from
28 Mr. Hopkins tomorrow, kind of taking you out of order. You

1 are from out of town, right?

2 A. Yes, I am.

3 Q. Showing you 211. If we have the FBI guy in
4 Sacramento -- Tracy Police gives the FBI guy in Sacramento
5 blinds from a church that caught the attention of the
6 officers and the guy in Sacramento Hopkins cuts it and sends
7 you the proximal end I guess you'd call it --

8 A. Yes.

9 Q. -- and then keeps the blind -- the blind end. So then
10 what did you end up -- before he cut it -- I guess it shows
11 it 212.

12

13 (Pause.)

14

15 THE WITNESS: Can you repeat your question
16 again?

17 MR. TESTA: Q. So what did you end up doing?

18 A. I compared the color, construction, and composition of
19 the cord that we labeled Q18 found on the suitcase to the
20 color, construction, and composition of the cord that are
21 from these blinds.

22 Q. Where did you get these items from?

23 A. These items were received to us from the Evidence
24 Control Unit who received the items from outside the lab and
25 then filters the evidence through the lab and designates
26 which exams should be done and sends them to the appropriate
27 units.

28 Q. Okay. Now, we heard just I think it was yesterday

1 about some other blinds that were seized -- I think the
2 witness said from space 88.

3 Did you get some other blinds?

4 A. Yes, we did.

5 Q. Did you get the cords from other blinds or did you get
6 the whole blinds?

7 A. We got the cords from the other blinds.

8 Q. Okay. So how many different cords did you get to
9 compare to -- to the one from the suitcase and what -- how
10 did you describe them?

11 Why don't you give us a description of what they were
12 and where they came from?

13 A. If I can refer to my notes.

14 Q. If that would refresh your memory, would you do so,
15 please?

16 A. (Referring to report.) I received twelve other cords
17 from blinds.

18 Q. Can you describe from where?

19 A. One was from the cordage from tarp under space number
20 88.

21 Another was a cordage from curtain in dining room of
22 space number 81.

23 Another one was a cordage from behind driver's seat of
24 Isuzu Trooper.

25 Q. We heard about that yesterday, too.

26 A. Also, with that one was a cordage that was also found
27 behind the driver's seat of the Isuzu Trooper.

28 And then a cordage from rear storage area of the Isuzu

1 Trooper.

2 All these were labeled as Q items.

3 Q. Question?

4 A. Question items.

5 Q. Associated with the person in space 81? Did it say
6 either way?

7 A. Some were from under space 88. Some were from space
8 81. And then this were some from the Isuzu Trooper.

9 Q. And what other items did you get?

10 A. Then we also had cordage from the interior kitchen
11 window blinds of trailer 88.

12 Cordage from exterior west, the southmost window blind
13 of trailer 88.

14 Cordage from exterior north, westmost blind of trailer
15 number 88.

16 Cordage from exterior east, northmost window blind of
17 trailer number 88.

18 Cordage from exterior east, second from northmost
19 window blind of trailer number 88.

20 Cordage from exterior east, second from southmost
21 window blind of trailer number 88.

22 And the cordage from exterior east, southmost window
23 blinds of trailer number 88.

24 These were all labeled as known samples since they
25 were taken from the items.

26 Q. I didn't need you to be as specific. I'm sorry, I
27 should have cut you off.

28 You got cords from trailer 88, various places, also in

1 space 81, and also some cordage behind this driver's seat of
2 the Trooper -- the Isuzu Trooper, and the rear storage of
3 the Isuzu Trooper. We heard about that the other day.

4 And as I understand it, you also, of course, got the
5 blind, the cordage that we just talked about that's in
6 number 211, from the -- that the detectives from the Tracy
7 Police Department found in the church?

8 A. That's correct.

9 Q. So what was your goal in looking at all these cords?

10 A. Well, the reason that we do cordage examinations is
11 to -- if a piece of cordage is used in a crime, I can
12 compare the color, construction, and composition of the
13 cordage that is used in the crime to other known or
14 questioned sources of cordage.

15 Q. Is that an area that you have any training,
16 experience, or education in?

17 A. Yes. At the FBI Laboratory, I had a year and four
18 months training in the examination and comparison of hairs,
19 fibers, cordage, and fabric.

20 This training consisted of oral boards, moot courts,
21 competency exams, discussing with other examiners the
22 fibers, and also looking at a large number of slides from
23 the reference collection.

24 Q. So this is an area like a specialty there at the FBI?

25 A. Yes.

26 Q. They have people that specialize in comparing
27 toolmarks?

28 A. Yes. It's a separate unit for comparing toolmarks.

1 Q. What other kind of areas do they have? Just give us
2 an overview.

3 A. There's a Questioned Documents Unit, Firearms and
4 Toolmarks Unit, Latent Prints, DNA, there's the Trace
5 Evidence Unit, Chemistry.

6 Q. And your unit is called what?

7 A. Our unit is called the Trace Evidence Unit.

8 Q. And the cordage is considered part of the trace
9 evidence group?

10 A. Yes. Cordage is made up of fibers which falls under
11 the Trace Evidence Unit.

12 Q. And did you -- did you tell us the extent of your
13 training and experience in that area?

14 A. Yes.

15 Q. For the most part. Okay.

16 So let's start with, say, space -- the things -- the
17 cordage found behind the -- in the Isuzu Trooper, did you
18 compare that with the cordage from the suitcase that Sandra
19 Cantu's body was found in?

20 A. Yes, I did.

21 Q. And what were your conclusions?

22 A. Those two pieces of cordage exhibits dissimilar color,
23 construction and composition.

24 Q. Dis, D-I-S?

25 A. Yes.

26 Q. Dissimilar. Were these blind cords found behind the
27 Isuzu Trooper?

28 A. I can't say.

1 Q. They were cords similar -- okay. They were dissimilar
2 to the one on the suitcase?

3 A. That's correct.

4 Q. What about the ones found in space -- what was it?
5 81, I think you said?

6 A. Yes.

7 Q. All those cords, what did you conclude when you
8 examined them?

9 A. The cords were -- that were found from space 81 also
10 exhibited dissimilar color, construction, and composition to
11 the cord found on the suitcase.

12 Q. What about all the cordage found collected from space
13 88?

14 A. Those also exhibited dissimilar color, construction,
15 and composition to the cord found on the suitcase.

16 Q. What about the cord that was found in the church by
17 the Tracy Police Department and that was cut and sent to you
18 for your examination that was shown in these photographs
19 already, such as 212?

20 A. That piece of cordage exhibited the same color --

21 Q. Could you speak more slowly?

22 A. Sorry.

23 That cordage exhibited the same color, construction,
24 and composition as the questioned cordage that was found on
25 the suitcase. Therefore, it's consistent with originating
26 from that source.

27 Q. Could you flush that out and tell us how you're able
28 to make that determination?

1 A. Yes. When a piece of cordage is received in the Trace
2 Evidence Unit, we start off just by looking at the gross
3 characteristics, the size, shape, and color of the cordage
4 as seen to us by the naked eye. That would include looking
5 at the diameter of the cordage, also determining if the
6 cordage is braided or twisted.

7 If no differences are seen in those gross
8 characteristics, a further exam will be done. Now, that
9 further exam will consist of counting what we call the turns
10 per inch, and also the crowns per inch.

11 For a braided cord and for a twisted cord, it consists
12 of counting the crowns per inch and also determining the
13 direction of the twist, either an S twist or a Z twist.
14 Just a matter of the angle of the twist, whether it's in the
15 S direction or Z direction.

16 If no differences are seen in those characteristics,
17 then I will cut a piece of the cord out and do a -- and take
18 apart the cord and look at the construction even further.

19 For a braided cord, I will count the number of braids
20 that are within the cord, as well as measure the diameter of
21 those braids.

22 For a twisted cord, I'll see how many -- we call
23 plies, the number of cords that make up -- or the number of
24 yarns that make up the twisted cord.

25 Also, in some pieces of cordage is what we call a
26 core. The core is what a braided cord will be wrapped
27 around or braided around, and what a twisted cord will be
28 twisted around.

1 Now, the core can be paper -- piece of paper. It
2 could just be a large tuft of fibers that are running
3 through the center, or it itself could be a twisted or
4 braided core -- cord.

5 We'll also examine that following the same color,
6 construction exam that I just described before.

7 Now, if no differences are seen in the construction at
8 that point, I'll then take the fibers of the piece of
9 cordage and mount them on glass microscope slides.

10 Now, taking those glass microscope slides, I'll use a
11 comparison microscope, which is two microscopes connected by
12 an optical bridge. This allows me to view two slides under
13 the same field of view so I can do a side-by-side comparison
14 of the fibers.

15 Using a comparison microscope, I will look at now the
16 size, the shape, and color of the fibers, as well as any
17 other particles that may be within the fibers, like a
18 deluster, which make the fibers less shiny.

19 Also be looking to see if the fibers are natural, like
20 cotton or wool, or synthetic fibers, like nylon or
21 polyester.

22 If no differences are observed at the comparison
23 microscope, I will take the synthetic fibers that I've
24 identified to the polarized light microscope which allows me
25 to view the optical properties of the synthetic fibers using
26 a specialized lighting. By doing so, I can narrow down the
27 general class of those fibers, such as polyester fiber or
28 nylon fiber.

1 If no differences are seen there, I'll then take the
2 fibers to the fluorescence microscope.

3 At the fluorescence microscope, by emitting a specific
4 wavelength of light on the fiber, it will either fluoresce
5 or not fluoresce.

6 And if it does fluoresce, I will record the color that
7 it fluoresces and the general intensity of how much it is
8 fluorescing.

9 At that point, if no differences are seen at the
10 fluorescence microscope, I will take the fibers to the
11 microspectrophotometer.

12 Now, that is a instrumental analysis of color. So as
13 with the comparison microscope, while using my eyes, I was
14 able to compare the color visually, the
15 microspectrophotometer will actually emit a beam of visible
16 light through the fiber and whatever wavelengths of light
17 are absorbed by that fiber based on its color will be
18 represented in the spectra which I can compare between the
19 two sources.

20 Finally, if no differences are seen at the
21 microspectrophotometer, then the synthetic fiber will be
22 taken to the Fourier transform infrared spectrometer, or
23 FTIR. Fourier is spelled F-O-U-R-I-E-R.

24 Instead of sending visible light through the fiber, we
25 have to send infrared light through the fiber. Now, the
26 purpose of this is to determine more specific idea of what
27 the chemical structure of this synthetic fiber is made of.

28 As I said, at the polarized light microscope, we can

1 get a general class of the fiber, whether it be polyester or
2 nylon.

3 At the FTIR, we can determine if it's a nylon, whether
4 it's a nylon 6 or a nylon 6,6, which are just different
5 variations of the same -- of that kind of fiber. They have
6 different chemical structures.

7 Those are the exams that we do.

8 Q. So did you do those in this case?

9 A. I did all of those exams except for the
10 microspectrophotometry, because since the fibers were white,
11 there was -- there would be -- exam of
12 microspectrophotometry would have no value.

13 Q. And it seems like it's pretty time-consuming. Was it?

14 A. Yes, it takes time.

15 Q. So what then are you saying about this cord that was
16 on the suitcase and this cord that was from the church that
17 Tracy Police Department got, what are you saying about those
18 two cords?

19 A. That those two cords exhibit the same color,
20 construction, and composition after performing all these
21 exams, and that the questioned cord, the one from the
22 suitcase, is consistent with originating from the blind
23 cords.

24 Q. What does "consistent with originating from" mean in
25 practical terms?

26 A. That means that -- obviously, that they exhibited the
27 same color, construction, and composition.

28 However, because cordage and fibers are a manufactured

1 material, it's possible that there would be another source
2 out there that could have the same cordage that would
3 exhibit the same color, construction, and composition.
4 However, it would be unusual to find two pieces of cordage
5 at random that would exhibit the same color, construction,
6 and composition.

7 Q. And all of these other cords that you looked at did
8 not?

9 A. That is correct.

10 Q. Okay. All righty. Let me see if I have any other
11 questions.

12 Did you do any fiber evidence comparisons in this
13 case?

14 A. Yes. Hair and fiber examinations were done on this
15 case.

16 Q. And did you make any conclusions from those?

17 A. In the hair and fiber exams, there was no apparent
18 transfer of materials between the victim and the suspect in
19 any of the scenes.

20 Q. Did you get some -- did they get some -- what do they
21 call -- fibers from Melissa Huckaby's car or fibers from the
22 church and try to compare them with any fibers from the
23 victim?

24 A. Yes. In a hair and fiber exam, what we will do is
25 process the items in a scraping room. Those items, such as
26 a shirt, would be hung above a table with a piece of brown
27 paper placed beneath it. They would then be scraped. We
28 take a metal spatula and gently rub the item. Any loose

1 debris will fall off of the item on to that paper.

2 At the -- we then collect the debris that is on the
3 paper and place it in a pill box, which is a small plastic
4 box, and examine that pill box using a stereo microscope,
5 which is a low magnification microscope, and will mount any
6 hairs and fibers on to glass microscope slides for
7 comparison.

8 Those exams were done on these items, and the slides
9 were taken to the microscope to be examined.

10 Q. Any -- what were your conclusions?

11 A. The conclusion was that any of the -- the hairs that
12 were found -- looking at my notes real quick.

13 Q. Take your time. Take your time. I know I didn't tell
14 you I was going to go into this.

15 Basically, you didn't really find too much, did you?

16 A. No, I don't believe.

17 (Referring to report.)

18 Q. You can actually read your conclusion if you want to,
19 the results of examination, third paragraph.

20 A. Sure.

21 Caucasian head hairs or head hair portions were found
22 on or in specimen Q35 through Q40.

23 Q. Those are from the defendant's house or her car.

24 A. Q44 through Q55. And Q138 through Q140.

25 Q. Sweepings from the church.

26 A. A black dyed hair was found in the debris from
27 specimen Q156.

28 Q. Well, we haven't gone into what these various

1 specimens are. I really didn't intend to. I'm throwing
2 this left curveball to you.

3 Basically, you didn't find any -- you didn't come up
4 with any matches or anything, did you, on the hairs?

5 A. Correct. There were no associations.

6 Q. No associations. Except, interestingly, in
7 defendant's car you found pubic hairs, the next paragraph,
8 do I read that correctly? Caucasian pubic hairs -- tell us
9 what you found in the specimens from the Q45. What's your
10 Q45?

11 A. Q45 is the vacuum sweepings from the rear passenger
12 quadrant of the 2000 Kia Sportage belonging to Melissa
13 Huckaby.

14 Q. Okay. So when you examined the rear -- Q45 for vacuum
15 sweepings from the rear passenger quadrant of her car, and
16 you -- and you find Caucasian pubic hairs?

17 A. That's correct.

18 Q. Okay. Well -- and then you find similar pubic hairs
19 in her house, don't you, Q35 and 37 through 40, those are
20 sweepings from her bedroom and master bedroom, so forth?

21 A. That's right. Other pubic hairs were found.

22 Q. That would be normal to find in one's bedroom, I
23 imagine, wouldn't it be?

24 A. Yes.

25 Q. And I suppose -- okay.

26 MR. TESTA: All righty. Are there any
27 questions from the grand jurors?

28 Thank you.

1 Could immersion in muddy water affect the color of a
2 cord?

3 A. The -- it would look -- the surface would look dirty.
4 However, for microscopic exam, by cutting it open, there are
5 also fibers that were not exposed to the water.

6 Q. It doesn't really look -- was it muddy? What was --
7 did it look, the cord you got from the suitcase, look, you
8 know, dirty and muddy?

9 A. In this case, it was slightly dirty. But there was --
10 the -- by looking at it just visually, the colors did have
11 the same colors.

12 Q. I don't understand the last answer.

13 A. By when looking at it visually for the -- the
14 examination, the color of the cord from the suitcase
15 exhibited the same color as the cord from the blinds.

16 MR. TESTA: Okay. Any other questions from
17 the Grand Jury?

18 Oh. Thank you, sir. You can pass it to me.

19 Q. Question: What percentage of accuracy are the cord
20 comparison results?

21 A. We don't actually put statistics of percentage of how
22 accurate we are. It's really more of looking at the -- the
23 characteristics of the cord.

24 Also, these exams are confirmed by a second examiner.
25 We hand them the evidence and they will confirm it as well.
26 But there is no number that we place on percentage of
27 accuracy on this.

28 Q. Well, just to give -- say if we took the blinds in

1 here and the blinds in the other offices in this building.
2 Then we go across the street and get some cords from those
3 blinds. And we go to the Starbucks and get the cords from
4 those blinds.

5 I mean, what are the chances that you collect all
6 these cords, what are the chances that I'm going to match,
7 as you found it, the suitcase cord?

8 I mean, in real life, what are the odds, I guess
9 that's what we are trying to get at, what are the percentage
10 of accuracy?

11 A. Obviously, without having those cords, I couldn't say
12 if they are or not. I wouldn't expect to find two cords
13 that would have the same color, construction, and
14 composition at random. But I just -- we don't know the
15 percentages out there.

16 Q. So if you get twenty samples or a hundred samples, you
17 can't put a number on it like, "Gee, we have done this,
18 normally you get twenty cords collected at random, you're
19 not going to get a match. You get a hundred at random, you
20 might get two matches or five matches," there is no
21 statistical base that you can kind of...

22 A. No.

23 MR. TESTA: Are there any other findings from
24 the grand jury?

25 I see none. No other questions I should say.

26 So would you read the admonition?

27 THE FOREPERSON: You are admonished not to
28 reveal to any person, except as directed by the Court, what

1 questions were asked or what responses were given or any
2 other matters concerning the nature or subject of the grand
3 jury's investigation which you learned during your
4 appearance before the grand jury. This admonishment
5 continues unless and until such time as the transcript of
6 this grand jury proceeding is made public.

7 Violation of this admonishment is punishable as
8 contempt of court.

9 Do you understand?

10 THE WITNESS: Yes, I do.

11 THE FOREPERSON: Thank you.

12 MR. TESTA: Mr. Bauer, can you come in and
13 have a seat?

14 THE FOREPERSON: Please close the door
15 somebody.

16 MR. TESTA: Close your door on the way out.
17 Thank you for coming, sir.

18
19 **TIMOTHY BAUER,**
20 a witness called on behalf of the People, having been
21 previously duly and regularly sworn by the Grand Jury
22 Foreperson, testified as follows:

23
24 **EXAMINATION**

25 BY MR. TESTA: Q. Real quick question.
26 You're still under oath, of course. Can you just -- you
27 talked about this 2 -- says 201 or 207? I'm sorry.

28 A. 207.

1 Q. 207, you talked, Detective Bauer, about 207. This is
2 again what now?

3 A. That's the blind from the Sunday school room in the
4 church. That's the blind that -- what appeared to me as
5 cut, the blind we seized on the 10th.

6 Q. And 210?

7 A. It's the same blind. It's just -- it's retracted,
8 pulled up. And then that's just the cord hanging there.
9 That piece that appeared is right here, it's hanging, that's
10 the piece you see.

11 Q. You can tell us, since you're a peace officer with
12 more than five years experience, you can tell us the hearsay
13 on the chain of custody. What is 212 and what was done with
14 that? With the blind that piqued -- caught your interest
15 that you talked about the other day, what was done with it,
16 the cord?

17 A. Well, the cord was -- was cut.

18 Q. By?

19 A. Chris Hopkins from the FBI.

20 Q. And sent to?

21 A. To the lab to be examined by Joshua Friedman, the man
22 who just testified.

23 Q. And he was asked to compare it?

24 A. To this rope that --

25 Q. Found on the suitcase?

26 A. Yes.

27 Q. And what about these other blinds and cords from the
28 Isuzu Trooper, space 81, space 88?

1 A. They were sent -- they were -- they were sent -- they
2 were collected by us, by our evidence technicians at Tracy
3 Police Department on other search warrants, and they were
4 sent for the same comparison tests by Joshua Friedman.

5 Q. Thank you. No further questions.

6 MR. TESTA: Any questions on these points
7 from the grand jurors?

8 THE FOREPERSON: And you are admonished from
9 discussing this.

10 MR. TESTA: Admonishment still applies.

11 THE WITNESS: I got it memorized.

12

13 (Pause.)

14

15 MR. TESTA: Could you tell us your name,
16 please?

17 THE WITNESS: Marilyn Zuniga.

18 MR. TESTA: How do you spell your full name?

19 THE WITNESS: M-A-R-I-L-Y-N Z-U-N-I-G-A.

20 MR. TESTA: And they'll read you an oath.

21 THE FOREPERSON: Can you raise your right
22 hand, please?

23

24

MARILYN ZUNIGA,

25 a witness called on behalf of the People, having been duly
26 and regularly sworn by the Grand Jury Foreperson, testified
27 as follows:

28

1 THE WITNESS: Yes.

2 THE FOREPERSON: Thank you.

3

4

EXAMINATION

5 BY MR. TESTA: Q. Do you recognize what is
6 shown here in Exhibit 51?

7 A. Uh-huh.

8 Q. What is it?

9 A. It's the mobile home park that I manage.

10 Q. By the way, did you prepare this diagram or do you
11 know who prepared this?

12 A. I think it was prepared before I got there by a
13 previous manager.

14 Q. We had a question about what these dots mean. Do you
15 know?

16 A. Oh, that's where the fire hydrants are.

17 Q. Oh, okay. That solves that.

18 So what is your occupation?

19 A. The park manager.

20 Q. Do you have a laser pointer there in front of you?
21 You can pick it up and use it.

22 A. Uh-huh.

23 Q. Show it on the screen where it is you manage out of.

24 A. How does this work? What do you mean?

25 Q. There should be a button here. Here we go.

26 A. Oh. I'm sorry.

27 Q. Where is your place?

28 A. 93.

1 Q. Oh, so you can see people coming and going?

2 A. Correct.

3 Q. Is that --

4 A. This is the entrance to the park right here. And this
5 is the home the manager resides in.

6 Q. Okay. And how long have you been doing that?

7 A. Eleven years.

8 Q. What about did you know Sandra Cantu?

9 A. Yes.

10 Q. How did you know her? Did she live there at the park?

11 A. Yes.

12 Q. Okay. Did you know her family?

13 A. Yes.

14 Q. Did you find out -- did you learn of her -- kind of a
15 stupid question, but did you learn she was missing?

16 A. Yes.

17 Q. How did you learn of her being missing?

18 A. I guess by hearing the other children going around in
19 the park that evening looking for her. And they came to my
20 house and asked if Sandra was at my house. And I said no.

21 Q. Okay. Now, I want to ask you about that particular
22 day that they came to your house asking if Sandra was there.

23 What time did you get off work on that date?

24 A. I usually close -- turn the phones over to the
25 assistant managers around 4:00 o'clock. I think I left the
26 office about a quarter to 4:00 that day, and drove around
27 the whole perimeter of the park like we do every Friday
28 evening to make sure that there's no cars parked on the

1 streets or trash in the park. And then we call the
2 assistant managers.

3 Q. Show us where you would be when you said you drove
4 around the perimeter?

5 A. I usually leave the clubhouse, I usually drive down
6 the street.

7 Q. South Cherry -- put on the record -- south Cherry?

8 A. I go down here, east on Orange. I don't remember
9 driving up on that street because there was no cars parked
10 on the street that day. I drove down here.

11 Q. In other words, you didn't -- you didn't go north on
12 Peach because there were no cars?

13 A. Correct.

14 Q. Okay. So now we are going --

15 A. I went down here.

16 Q. I just have to put on the record so someone reading
17 this knows what you're pointing to. That you went west on
18 Orange?

19 A. Uh-huh.

20 Q. Is that a yes?

21 A. Yes.

22 Q. Okay.

23 A. I came down here to -- to Apple.

24 Q. And you went north on Apple?

25 A. And came down this way.

26 Q. Then east on Orchard?

27 A. Uh-huh.

28 Q. Don't just agree with me. Is that true?

1 A. Well, correct.

2 Q. Did you go this way on Orchard?

3 A. I came this way, and I came home and parked the golf
4 cart here.

5 Q. Oh, you do these rounds in a golf cart?

6 A. Uh-huh.

7 Q. Like an electric car?

8 A. Exactly.

9 Q. Did you notice anything unusual when you'd made your
10 rounds?

11 A. There was nothing. It was very, very quiet that day.
12 There were no children in the park. There was -- I ran into
13 no children at all that day when I turned the phones over to
14 the assistant manager.

15 Q. Well, when you made rounds, were there any kids
16 around?

17 A. No.

18 Q. And your -- what is your habit and custom as to when
19 you normally do your rounds? What's your normal -- do you
20 have a routine where you do this little check that you said
21 every day at the same time?

22 A. No. This was on Fridays, on Friday afternoons when I
23 turn the phones over to the assistant manager. I'm off duty
24 on Friday.

25 Q. What days off do you get?

26 A. Saturday and Sunday.

27 Q. I understand now. Okay. So this is your weekend?

28 A. Right.

1 Q. So it's a little different from your routine Monday,
2 Tuesday, Wednesday?

3 A. Right.

4 Q. So this Friday, you turned -- you say you turned the
5 phones over. What does that mean?

6 A. Okay. We go in and we have an office phone and a home
7 phone, private phone. We do the star-72 and turn the phones
8 over to, you know, and put their phone number in. And then
9 the phones automatically go to their homes.

10 Q. The calls that come in automatically go to the home
11 of -- is it the assistant manager?

12 A. Correct.

13 Q. Who's name is?

14 A. Herb Hunter.

15 Q. And you leave -- okay, what time did you say you made
16 your rounds that Friday?

17 A. About 3:45.

18 Q. And then you turned the phones over?

19 A. Correct.

20 Q. Okay. All righty. Now, let me ask you do you guys
21 keep a log of if someone were to report something --

22 A. Yes.

23 Q. -- missing or something?

24 A. Uh-huh.

25 Q. Do you keep -- tell us about how that log is, if you
26 could.

27 A. All we have -- we just have a -- a binder and we just
28 record phone calls, or if people are looking, you know, for

1 a home or something in the park, then we, you know, log it
2 in there. And then they turn it back over to me on Monday
3 morning. So if we have trouble in the park or, you know,
4 things of that sort, it's logged down that we can keep
5 track.

6 Q. Okay. So if someone were to...

7 MR. TESTA: What number is this?

8 THE SECRETARY: 259.

9

10 (Whereupon the Assistant Manager's
11 Logbook was marked Grand Jury Exhibit
12 Number 259 for identification.)

13

14 MR. TESTA: Q. Showing you 259, do you
15 recognize this exhibit?

16 A. Yes. That's the assistant manager's logbook that I
17 just turned over to them.

18 Q. Let me show you this page here. Is this for -- wait,
19 2009?

20 A. Yeah.

21 Q. What does this mean here? Is this your handwriting?

22 A. That's my handwriting. I just write it in there, you
23 know, 3/27, 3/28, 3/29, you know, that that's when they are
24 going to be on, the assistant managers. So they picked up
25 the golf cart at 3 -- at 4:35 it looks like. And he went
26 around in the park himself at 4:45.

27 Q. Okay. So this entry here where it says --

28 A. Exactly. Right. That's number 57, that's the --

1 that's right here. That is the -- the Lawlesses.

2 Q. Is this your writing, though?

3 A. No. That's Herb Hunter's writing.

4 Q. "59 called, lost a suitcase out of car."

5 A. Uh-huh.

6 Q. "Asked to watch for it."

7 A. Right.

8 Q. What's the star mean next to it? Anything?

9 A. I don't know. You'd have to ask him.

10 Q. He's outside, isn't he?

11 A. Exactly.

12 Q. Okay. All righty. So let me see if I have any other
13 questions for you.

14 This log is kept by the whoever is on duty?

15 A. They -- they -- we have one as managers. And then on
16 the weekends, I have them fill out one.

17 Q. Okay. So this is actually the --

18 A. Assistant manager's.

19 Q. Fair enough. Since he's here, I'll ask him about it.
20 But you do recognize it, correct?

21 A. Uh-huh.

22 Q. Is that a yes?

23 A. Yes.

24 Q. Let's see if I have any other questions.

25 So what did you -- how did you find out about Sandra
26 missing? The kids came over and were asking, "Have you seen
27 her? Have you seen her?"

28 A. Uh-huh. They just knocked at my door and asked if she

1 was at my house. And I said no. And that was all. I -- I
2 didn't know anything else.

3 Q. Did you make any -- did you participate in any of the
4 searches or look for her, or do anything?

5 A. I had called the assistant manager back that evening
6 around 7:30 -- I mean, we were outside, you know, looking
7 around to see, you know, what was going on at that point.

8 Q. And what was going on? What'd you see?

9 A. All I saw was, you know, the children going around
10 looking for her. And then little by little, more adults
11 started looking around for her, too.

12 Q. Did you ever see Melissa Huckaby?

13 A. No.

14 Q. Did you ever talk to her about this?

15 A. No. About Sandra missing?

16 Q. Yes.

17 A. No.

18 Q. Did you ever go to any of the vigils?

19 A. Yes.

20 Q. Where -- does it show here on this Exhibit 51 where
21 they were held?

22 A. The vigils were held right here at Chavez's house at
23 the beginning.

24 Q. At the beginning?

25 A. And then we were getting so many people and the street
26 was being blocked and I was afraid that the fire trucks and
27 ambulance couldn't get in there. So we started having them
28 here in front of the clubhouse. And then that was creating

1 a bigger problem because more people were coming, so then we
2 moved them to outside of the park here.

3 Q. Well, what about -- we have a calendar on the wall.
4 You see the 27th being the day she went missing. Where was
5 the vigil held on the 28th?

6 A. At -- I believe it was held right here at Chavez's
7 because I -- I -- I went to that one.

8 Q. When you say -- do you mean 63?

9 A. I mean 63. I'm sorry. 63. Yes. Here.

10 Q. So you have -- do you have anything else to offer, any
11 observations, anything as you look back, seems a little
12 strange, seems a little funny?

13 A. No. All I know is that I was sitting in my carport
14 that day after I had turned the phones over to the assistant
15 manager, and I did see Melissa Huckaby's car parked in front
16 of her house. I did not see her put the car there and I did
17 not see the car leave. But I did see the car there.

18 Q. Could you show us on this exhibit where you're talking
19 about on Exhibit 50? Do you have your orientation on this
20 one. Can you see the clubhouse here?

21 A. The clubhouse is right here.

22 Q. Where is your place?

23 A. I would have been sitting in our carport right here.

24 Q. So you have a view?

25 A. I can go right down the street here, and they are
26 right here.

27 Q. What did you see?

28 A. I saw her car parked on the street right here, because

1 I was a little bit upset because we tell people don't park
2 like that because somebody's going to come around the corner
3 and either hit you head on or sideswipe you. And we ask
4 people not to do that.

5 And I wasn't out there very long, I guess, because I
6 went in the house and when I came back out I didn't see it
7 there. So I didn't -- but I didn't see anybody get in the
8 car and I didn't see anybody get out of the car.

9 Q. What time are we talking about that you saw her car
10 out near her house? If you use the time of 3:45 as the time
11 you get off.

12 A. I'm trying to remember. See, I thought it was -- I
13 thought that it was -- see, all I remember is I went into my
14 house that day, because March Madness was on, the -- the
15 basketball thing, and my husband was watching it. So I
16 said, "I'm going to go out and sit in the carport and go
17 through my mail," which I did. And that's when I saw the
18 car. And so it had to be between I would say 3:45 and 4:15.
19 I don't know. I wasn't out there that long I wouldn't say.

20 Q. Fair enough. That's your best estimate. I appreciate
21 it.

22 MR. TESTA: All right. Are there any
23 questions from any of the grand jurors?

24 Q. I see a few. Hold on for a second.

25 A. Okay.

26 Q. Did we subpoena your husband to come in, too?

27 A. No.

28 Q. No? Okay.

1 A. He wasn't -- in fact, he wasn't even out in the park
2 that day, because he was ill with the flu.

3 Q. All righty.

4 A. So he -- he wasn't even out at all.

5 Q. All righty.

6 What was Sandra like?

7 A. Sandra was a very outgoing little girl. Very
8 outgoing. She used to come to my -- the back of the
9 clubhouse and open the door and ask me if she -- if I had
10 any work for her. You know, the kids loved to go around
11 and, you know, pick up papers, help do things in the park.

12 Q. Question from a grand juror: Did you see Melissa
13 Huckaby's car in front of her house when you drove around in
14 the golf cart?

15 A. No, no. There were no cars at all or children in the
16 park at that time.

17 Q. Because if you had seen her car then --

18 A. Right, I would have gone to the door and said
19 something.

20 Q. Pulled out the whip?

21 A. Right.

22 Q. Reminded her of the rules?

23 A. Right.

24 Q. So there is overflow parking where she would normally
25 park?

26 A. Yes. She used to always park like where these cars
27 are right here.

28 Q. You are indicating where we see these overflow spaces?

1 A. Right there by the -- right here. She used to park
2 right here. This is the playground right here.

3 Q. I'm sorry, just so we have a record of it. On 51, she
4 used to park where? Can you give us an idea in terms of
5 which number she was next to?

6 A. She would be right here.

7 Q. Beneath 94?

8 A. Yes.

9 Q. Between the clubhouse and 94?

10 A. Yes.

11 Q. I think we heard that from others, too. This is 94
12 here then?

13 A. Her car would be right in here.

14 Q. Okay. The other question from the grand juror: Did
15 you see any improperly parked cars at 57? That's the
16 question from the grand jury. I think you have already
17 answered that.

18 A. Right.

19 Q. Did you see Mr. Lawless or Melissa Huckaby on
20 March 27th?

21 A. No.

22 MR. TESTA: Any other questions from the
23 grand jury?

24 I see none. They will read you an admonition, then
25 you can get on your way.

26 THE FOREPERSON: You are admonished not to
27 reveal to any person, except as directed by the Court, what
28 questions were asked or what responses were given or any

1 other matters concerning the nature or subject of the grand
2 jury's investigation which you learned during your
3 appearance before the grand jury. This admonishment
4 continues unless and until such time as the transcript of
5 this grand jury proceeding is made public.

6 Violation of this admonishment is punishable as
7 contempt of court.

8 This does not prevent you from discussing the matter
9 with your attorney, if you have an attorney advising you
10 with respect to your appearance before the grand jury.

11 Do you understand?

12 THE WITNESS: I do.

13 THE FOREPERSON: All right. Thank you.

14 THE WITNESS: Thank you.

15
16 (Pause.)

17
18 MR. TESTA: Mr. Hunter, step forward, please.

19 What is your name, sir?

20 THE WITNESS: Herb Hunter.

21 MR. TESTA: How do you spell your name?

22 THE WITNESS: First and last?

23 MR. TESTA: Yes, please.

24 THE WITNESS: H-E-R-B H-U-N-T-E-R.

25 THE FOREPERSON: Would you raise your right
26 hand, please?

27

28

1 weekends. And I'm also a -- I'm general manager of the
2 bowling center in Tracy.

3 Q. I think you've got your shirt on now, right?

4 A. Yes.

5 Q. Thank you for coming. I'm sorry you had to wait
6 around since 1:00 o'clock.

7 Let me show what you has been marked as Exhibit 259.
8 Do you recognize this item?

9 A. Yeah. That's a book we keep our records in. Our
10 logbook.

11 Q. Let me open it up to this page here that says
12 March 27th. Is any of this in your writing? Underneath
13 where it says 3/27?

14 A. That's not my writing there. That's Marilyn's, our
15 manager's.

16 Q. The dates, right?

17 A. Yeah, the dates. And then thereafter, yeah, that's my
18 writing on the log.

19 Q. So tell us what happened on Friday at 4:35 p.m. that
20 you recorded?

21 A. Well, I just picked up the cart -- the golf cart that
22 we use to get around the park. And, of course, we check the
23 park at that time, just driving around.

24 Q. What does this say here?

25 A. Check, it's short for check, C-H-C.

26 Q. And the next word?

27 A. Front. Front park. That's out in front of the park.

28 Q. Where is the front of the park on 51?

1 A. No, 51 wouldn't be in front of the park. The front of
2 the park is out here on Clover Road.

3 Q. That's considered the front of the park?

4 A. Right.

5 Q. Okay. So did you check then the front of the park,
6 pursuant to this note here, at 4:35?

7 A. Yes.

8 Q. And what did that check -- what did that check reveal?

9 A. Well, what we do is just check to make sure -- we
10 basically check it for anything, from stuff that's been
11 garbage or things, pick up, you know, just take care of
12 things not out there not supposed to be.

13 Q. Okay. And your next entry?

14 A. That was a run of the park itself, park run.

15 Q. And that means you went in the golf cart?

16 A. Still had the golf cart I was driving.

17 Q. And do you take the pad with you so you record the
18 time, or do you come back and fill in the time later on, or
19 how do you prepare this? How did you prepare this document
20 on this date?

21 A. This is when I come back, I fill that in. I don't
22 carry the pad in the car with me.

23 Q. And are these your best estimates of the times or are
24 these precise times?

25 A. Estimates of the times.

26 Q. So when you did your park run at 4:45, did you find
27 anything unusual there? I'm assuming you're driving around?

28 A. Yeah, not at the time. I didn't see anything unusual,

1 no.

2 Q. I mean, say if you had seen a suitcase laying on the
3 side of the sidewalk or anything, or strangers in there,
4 that's the kind of thing you would have noticed?

5 A. Well, yeah, if I would have looked in there, wherever
6 that suitcase might be sitting, in a driveway or somewhere,
7 but, yeah, if it was sitting out in the middle of the road
8 where we would cover the park, yeah, that's a different
9 story.

10 Q. What's this 5:10 entry that you recorded? Did you --
11 you prepared these, do you have an obligation to write
12 things down, is that part your job?

13 A. They ask us to log things in what we do on weekends.

14 Q. Is this your writing?

15 A. Yes, it is.

16 Q. Was it fresh in your mind at the time you logged this
17 in?

18 A. Yes.

19 Q. Do you keep this book in your possession?

20 A. In our home on the weekends, yes.

21 Q. So it's in your care and custody?

22 A. Right.

23 Q. Did you recently turn it over to someone from Tracy PD
24 or DAI, District Attorney Investigations?

25 A. No.

26 Q. How did we get it?

27 A. I don't know how you got it.

28 Q. Did you give it to Marilyn Zuniga?

1 A. I turn that in to the office, yes, on Monday mornings.

2 Q. Oh, every Monday morning you turn it in?

3 A. Yes.

4 Q. Anyways, so what happened at 5:10 p.m.?

5 A. It just says what it said there, I checked the
6 clubhouse and secured for night -- for the night. In other
7 words, making sure it's locked up and everything.

8 Q. What time is that locked? What time is that closed
9 this time of the year in March of '09?

10 A. March of '09?

11 Q. Yeah, the date we are talking about, March 27th?

12 A. Yeah, the 27th.

13 Q. March 27th of 2009?

14 A. Okay.

15 Q. You closed at what time, 5:10?

16 A. That is when I checked it and secured the doors to
17 make sure, because the clubhouse is used for an office
18 during the day. And that's the time I secured it.

19 Q. What time does it close every night?

20 A. It would vary, I imagine. I don't know. I don't work
21 every night.

22 Q. I see what you're saying.

23 All righty. So your next entry was -- what is this
24 number 79?

25 A. Again, a -- a tenant had called, which would be from
26 space 79, and they called -- I'm trying to relate back to
27 what the situation was here. Just a minute. Complaining
28 about the neighbor and on plants and -- and their back yard,

1 et cetera, weeds.

2 Q. Okay. Weeds, what's this last word?

3 A. The weeds are bad -- real badly, weeds badly.

4 Q. So, basically, you've got 79 saying the weeds are bad
5 in 78 and 80, and they are neighbors?

6 A. You're right. That's correct.

7 Q. What's the next call you got?

8 A. Well, let's see here. 57 -- 57 called.

9 Q. Hold on.

10 A. That would be 51, I believe. Did I say 57? 57
11 called, yeah. And about a suitcase missing.

12 Q. What did she say? Did you recognize the voice?

13 A. No, I didn't. Well, at first she told me who she was
14 and I didn't recognize her at first because I didn't really
15 know her. So, again, being weekend duty, I don't get to
16 know these tenants that well.

17 But she said she had a suitcase missing and it was
18 sitting by her car, and I anticipated that was in a carport.

19 Q. What time did she call?

20 A. The note I think was about 5:10 that I had. Yeah,
21 5:10.

22 Q. Because this -- this 5:10, we have checked the
23 clubhouse, secured.

24 A. No, I didn't make a note on that. I'm sorry. I'm
25 sorry, I sure didn't.

26 Q. Okay. Well, can we say it's between 5:10 and 7:30?

27 A. Yes.

28 Q. As you sit here, you think back, are you able to, you

1 know, recall when it was that she called? I mean, was it in
2 relation to the last entry -- let me back up a second.

3 I'm assuming you are in your unit at the time you get
4 the calls, right? Because that's where the phone is?

5 A. Right.

6 Q. And you have the booklet there in the unit, unlike
7 when you're doing your rounds when you don't have the book,
8 right?

9 A. That's correct.

10 Q. So it would seem like you would put the precise times
11 when you get calls. So when number 79 calls and complains
12 about the neighbors, why would you not put the precise time?
13 Is it just an oversight you think, or is it your pattern or
14 habit?

15 A. Probably habit.

16 Q. Does the star mean anything?

17 A. I just -- that's just telling me that it's somebody
18 called and it's just -- just a marking.

19 Q. Oh, I see. So does star mean phone?

20 A. No, not necessarily.

21 Q. Okay. So, "Number 59 called, lost a suitcase out of
22 her car." What else did she say?

23 A. She asked me to watch out for it. If I see it or spot
24 it, let her know.

25 Q. Okay. And then what's your next -- do you remember
26 the tone of voice?

27 A. From her?

28 Q. Yes.

1 A. It was usual -- not unusual, just regular tone of
2 voice.

3 Q. Okay. Do you remember anything else about this call
4 as you look back and, you know, what happened since and
5 who's charged and all the other things about the case? As
6 you think back, can you tell us anything else about this
7 call from number 57?

8 A. No, other than this was brought to my attention later
9 as, of course, this case went on. And then my interview.
10 But I didn't realize that -- at that time that it was
11 anything serious or anything wrong.

12 Q. Do you know where she called from?

13 A. No, I don't.

14 Q. Do you know if it was cell phone or land line?

15 A. No, I don't.

16 Q. Did you -- did she ask you to notify her if the
17 suitcase were found?

18 A. She asked me to let her know, yes, if it was found.

19 Q. You were interviewed by someone from the FBI, weren't
20 you, on April 9th?

21 A. That's what I understand, yes. I don't remember the
22 date. But, yes, I was.

23 Q. Was it fresher in your mind then than you think it
24 might be now, some of the details?

25 A. Possible.

26 Q. Did she say her luggage was missing or stolen?

27 A. Missing.

28 Q. Did you explain to her that the park was not liable

1 for luggage being lost?

2 A. Yes, I did.

3 Q. Did she inform you to notify her if the lost suitcase
4 was found?

5 A. Yes.

6 Q. Did she identify the brand of luggage or the color of
7 it?

8 A. No.

9 Q. Did you tell the FBI that you remembered she said
10 something about it was a quality named item?

11 A. It was -- it was definitely a quality suitcase, I
12 remember her telling me that.

13 Q. You remember?

14 A. But I don't remember what brand it was.

15 Q. Okay. What did she say about it being a quality named
16 item or quality luggage, what did she say about that, as you
17 think back?

18 A. That she was concerned about the value of the
19 suitcase. I don't know if there was anything in the
20 suitcase or not. But I thought...

21 Q. Are there any -- see if I have any other questions.

22 Can you identify this page, the one that you prepared,
23 this Exhibit 259, this is your handwriting, we confirmed
24 that?

25 A. Right.

26 Q. And then the next call you got was at what time?

27 A. Well, let's see. 7:30, I went on another park run
28 through the park.

1 Q. And what did you see when you did that run?

2 A. Nothing abnormal.

3 Q. What was your call -- what call did you get at 8:05?

4 A. There was a -- it wasn't a call, I don't believe. I
5 just was -- we found out at that time that there was a child
6 missing from space 62, which was Sandra.

7 Q. Space what?

8 A. Space 63, excuse me, not 2. I live in 2.

9 Q. And what does this entry mean, "Help with
10 investigation on her"?

11 A. What I meant by that was I went out -- or we went out
12 in our park runs, we were naturally looking to see if we
13 could find her or see her.

14 Q. And what's your 9:35 entry mean?

15 A. That's when we locked up the cart, call it an evening.

16 Q. Okay. Question from the grand jury: What was the
17 complaint about the suitcase? Was it lost out of the car or
18 from behind the car, because the note says "out" and you
19 testified to "behind."

20 See here, it says, "Lost suitcase out of car."

21 A. It was out of the car.

22 Q. What did she say about that?

23 A. That's what she told me, she had the suitcase out of
24 the car, sitting by the car.

25 Q. During your first round about 3:45, which direction
26 did you start your run towards? That's another question
27 from the grand jury.

28 A. What direction? When I got in the cart and left to

1 make my round, which way was I heading, is that the
2 question?

3 Q. Yeah. Maybe you can show us on Exhibit 51 with the
4 laser pointer where you went, if you recall.

5 A. I will be truthful with you, I can't remember.

6 Q. That's fair enough.

7 Here's another question from the grand jury: Were you
8 able to see any vehicles leaving or entering the park at
9 that time when you made your run, 3:45?

10 A. Yes, there's vehicles that do enter and -- and leave
11 the park. And, of course, if they are not abnormal or
12 there's something that is not right about them or something
13 I would ever make note of it or question it. But yes.

14 Q. Well, you know, working there -- how many years have
15 you been assistant manager?

16 A. Well, I've been -- I've been there twice. Currently
17 assistant manager probably about a total of three years.

18 Q. And you have lived there since?

19 A. '85.

20 Q. Okay. '85. Twenty-two -- so twenty-four years.

21 So if you saw a car that did not belong there, would
22 that catch your attention?

23 A. It's possible, yes. If there's something that was not
24 right about the car or some situation, the people in the
25 car, et cetera.

26 Q. Question from the grand jury: Did Huckaby describe
27 the suitcase to you during her report?

28 A. No.

1 MR. TESTA: Are there any other questions
2 from the grand jury? I see no hands.

3 The admonition I guess could be read.

4 THE FOREPERSON: You are admonished not to
5 reveal to any person, except as directed by the Court, what
6 questions were asked or what responses were given or any
7 other matters concerning the nature or subject of the grand
8 jury's investigation which you learned during your
9 appearance before the grand jury. This admonishment
10 continues unless and until such time as the transcript of
11 this grand jury proceeding is made public.

12 Violation of this admonishment is punishable as
13 contempt of court.

14 This does not prevent you from discussing the matter
15 with your attorney, if you have an attorney advising you
16 with respect to your appearance before the grand jury.

17 Do you understand?

18 THE WITNESS: Yes.

19 THE FOREPERSON: Thank you.

20 MR. TESTA: You may leave, sir. Thank you
21 for coming, and for waiting as well.

22
23 (Pause.)

24
25 MR. TESTA: You state your full name, please?

26 THE WITNESS: Sure. It's Lee Jay Witkowski.

27 MR. TESTA: How do you spell your full name,
28 please?

1 THE WITNESS: First name Lee, L-E-E. Middle
2 name Jay, J-A-Y. Last name Witkowski, W-I-T-K-O-W-S-K-I.

3 THE FOREPERSON: Would you raise your right
4 hand, please?

5
6 **LEE JAY WITKOWSKI,**

7 a witness called on behalf of the People, having been duly
8 and regularly sworn by the Grand Jury Foreperson, testified
9 as follows:

10
11 THE WITNESS: I do.

12 THE FOREPERSON: Thank you.

13
14 **EXAMINATION**

15 BY MR. TESTA: Q. Where are you employed?

16 A. The Federal Bureau of Investigation out of Sacramento.

17 Q. And what do you do there?

18 A. I'm a special agent.

19 Q. How many years?

20 A. Approximately coming up on eight years.

21 Q. Okay. Just a few quick questions.

22 You interviewed Herb Hunter, correct?

23 A. Yes, sir.

24 Q. And he basically -- did you obtain something from him?

25 A. I actually obtained a copy of a phone log from Marilyn
26 Zuniga.

27 Q. Okay. And on what date did you obtain that?

28 A. I don't recall the exact date that I was there.

1 Q. And how did you get it? What were you asking her for?
2 What was the background?

3 A. The background was myself and another agent were to go
4 out to the trailer park, the main office, and talk to Zuniga
5 about the day of March 27th, to inquire about the subject,
6 if they had seen anything, if anything had transpired on
7 that day.

8 And during the course of my interaction with Zuniga,
9 she proceeded to tell me that she was the manager on duty
10 until approximately 3:45, and that she maintained a call
11 log. And then a call log came in from the subject basically
12 stating something around the fact of her suitcase was stolen
13 or lost.

14 And I asked her if this had been brought up to any
15 other agency prior to this. And she mentioned that the
16 Tracy Police Department had come out and spoke to her about
17 it as well.

18 And I asked her if anyone had gotten a copy of that
19 log, and she said she wasn't sure.

20 So I asked her if she would mind providing a copy to
21 us. She said she didn't mind, she would provide us a copy.

22 What she also proceeded to tell me, at approximately
23 3:45 she went off duty and then that log was transferred, I
24 think his name is Herb Hunter, the assistant manager.

25 And so I asked her where we could locate Mr. Hunter.
26 She said he's probably on his property at his trailer. We
27 proceeded over there to talk to him about it, and he
28 mentioned that, yeah, he did get the log from Zuniga and he

1 did recall the telephone call coming in and it was about
2 5:15.

3 Q. So showing you I guess Exhibit 259, did she show you
4 the original and you made a copy, or did she just give you a
5 copy?

6 A. She showed us the original and I asked her if she had
7 the capability of making a copy for us, in which she did and
8 she made a copy for us.

9 Q. Okay. Showing you what I have removed out of this
10 envelope that's marked 259, does that look like the item?

11 A. Yes, it does.

12 Q. And did you specifically zero in on the 3/27 entries?

13 A. Yes, I did.

14 Q. Do you recall the "57 called, lost the suitcase out of
15 car," and so on, so forth?

16 A. Yes, I do.

17 Q. So does this appear to be the item that she had in her
18 possession?

19 A. Yes, it does.

20 Q. Okay. And I think I have nothing else. Let me just
21 double-check my notes.

22 MR. TESTA: No further questions. Any
23 questions from the grand jury?

24 All right.

25 THE FOREPERSON: You are admonished not to
26 reveal to any person, except as directed by the Court, what
27 questions were asked or what responses were given or any
28 other matters concerning the nature or subject of the grand

1 jury's investigation which you learned during your
2 appearance before the grand jury. This admonishment
3 continues unless and until such time as the transcript of
4 this grand jury proceeding is made public.

5 Violation of this admonishment is punishable as
6 contempt of court.

7 Do you understand?

8 THE WITNESS: I understand.

9 THE FOREPERSON: All right. Thank you.

10 MR. TESTA: You may leave, sir. Thank you.

11 THE WITNESS: Thank you.

12
13 (Pause.)

14
15 MR. TESTA: Your name, sir?

16 THE WITNESS: Name's Miguel Reyna.

17 MR. TESTA: How do you spell your full name?

18 THE WITNESS: M-I-G-U-E-L R-E-Y-N-A.

19 MR. TESTA: An oath will be given to you.

20 THE FOREPERSON: Please raise your right
21 hand, please.

22
23 **MIGUEL REYNA,**

24 a witness called on behalf of the People, having been duly
25 and regularly sworn by the Grand Jury Foreperson, testified
26 as follows:

27
28 THE WITNESS: I do.

1 THE FOREPERSON: Thank you.

2

3

EXAMINATION

4

5

BY MR. TESTA: Q. A few real quick questions
for you.

6

Are you a Tracy Police Department officer?

7

A. Yes.

8

Q. How long have you been so employed?

9

A. Eighteen years.

10

11

Q. On March 27th, 2009, did you get involved in this
investigation into Sandra Cantu missing?

12

A. Yes.

13

Q. What were your -- what was your involvement?

14

15

16

17

18

A. I was one of the original officers to respond to the
trailer park. When Officer Gilstrap was talking to the
family, myself and other officers conducted a -- a cursory
search of the area. I searched the pool area and the
surrounding areas, and the clubhouse.

19

Q. Were you in uniform?

20

A. Yes, I was.

21

22

Q. During the course of this -- did you canvass the park
residents?

23

A. Yes, I did.

24

25

Q. And we already heard from Mr. Gilstrap, so I don't
need to cover all that.

26

27

Were you working with him? Were you guys part of a
team?

28

A. We were on the same patrol team, yes.

1 Q. During your canvass of the -- show us if you could on
2 Number 51 with the laser pointer that's there, in a
3 nutshell, what did you end up doing looking for Sandra? You
4 already told us you looked in the pool and clubhouse.

5 A. We searched the house twice.

6 Q. You mean you searched 63?

7 A. Number 63, yes, searched that twice. And then we
8 started a door-to-door canvass. I myself started here and
9 worked my way around.

10 Q. 64 to 67, and then where?

11 A. Along the -- along the east side over here.

12 Q. Of Peach?

13 A. Yes.

14 Q. 87 to 78?

15 A. Yes.

16 Q. Anyone who was home you tried to talk to, you knock on
17 the doors, see if anyone was home?

18 A. Correct. Correct.

19 Q. Where did you go after you worked that -- Peach
20 Street, where did you go?

21 A. Worked along the south side over here.

22 Q. Of Orange? 31, 30, 29, and so forth?

23 A. Yes.

24 Q. Then what did you do when you got to Cherry?

25 A. Then I started working my way back north on Cherry.

26 Q. What about 57, did you go there?

27 A. I did.

28 Q. What did you do there?

1 A. Number 57, I contacted a female subject who verbally
2 identified herself as Melissa Huckaby.

3 Q. About what time?

4 A. It was approximately 9:30 in the evening.

5 Q. P.M.?

6 A. Yes.

7 Q. And what did you ask her?

8 A. I told her that we were looking for -- for a missing
9 juvenile, Sandra Cantu. Asked her if she knew her. Asked
10 her if she had seen her at any time during that day.

11 Q. And what did she say?

12 A. She said that Sandra came to her front door at -- at
13 approximately 2:30 that afternoon, asking to play with
14 her -- with her daughter Madison.

15 Q. And what else, if anything, did she say?

16 A. She said that she did not allow Madison to play at
17 that time. And -- and Sandra left.

18 Q. Did she say why she did not allow Madison to play at
19 that time, do you recall if she gave a reason?

20 A. I -- I do not recall the reason that she gave.

21 Q. Okay. Did she say anything else during this interview
22 you had with her there at the -- at her place?

23 A. She -- she mentioned that she had talked to Sandra's
24 sister, and that Sandra's sister told her that Sandra was
25 playing with another friend that day.

26 Q. Did she say it was a new friend?

27 A. A new friend, yes. And -- but she did not know who
28 this new friend was.

1 Q. And then where did you go after talking to her after
2 57, did you continue your --

3 A. Yes. Finished up at the end of the street around
4 number 94.

5 Q. Do you remember how she was acting when you were
6 talking to her?

7 A. I did not notice anything peculiar about her behavior.

8 Q. Do you recall if she had a ponytail?

9 A. No, I don't.

10 Q. You don't recall either way?

11 A. No.

12 MR. TESTA: Okay. Are there any questions
13 from the grand jury?

14 I see none. The admonition can be read.

15 THE FOREPERSON: You are admonished not to
16 reveal to any person, except as directed by the Court, what
17 questions were asked or what responses were given or any
18 other matters concerning the nature or subject of the grand
19 jury's investigation which you learned during your
20 appearance before the grand jury. This admonishment
21 continues unless and until such time as the transcript of
22 this grand jury proceeding is made public.

23 Violation of this admonishment is punishable as
24 contempt of court.

25 Do you understand?

26 THE WITNESS: Yes.

27 THE FOREPERSON: Thank you.

28 THE WITNESS: Thank you.

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(Pause.)

MR. TESTA: You want to take a five-minute break?

THE FOREPERSON: Yes.

MR. TESTA: Okay. Five minutes.

(Recess.)

MR. TESTA: Are we now all accounted for?

THE SECRETARY: Yes, we are.

MR. TESTA: Thank you.

Could you state your name, sir, please?

THE WITNESS: Craig Kootstra.

MR. TESTA: Do you know one of the jurors?

THE WITNESS: Yes, I do.

MR. TESTA: What juror -- okay, Ladies and Gentlemen, remember I read the report and asked you if any of you were of such a mind that you could not be fair in evaluating the testimony of a witness. If it turns out you recognize someone during this, as I said this morning, make sure you let us know so I can put on the record whether or not you can still be objective in this case.

So just be mindful of that and bring it up some other time.

You will be sworn.

THE FOREPERSON: Uh-huh.

Would you raise your right hand?

1 MR. TESTA: Did you spell your name?

2 THE WITNESS: No.

3 MR. TESTA: Would you do that, please?

4 THE WITNESS: Last name is K-O-O-T-S-T-R-A.
5 First Craig, C-R-A-I-G.

6 THE FOREPERSON: Would you raise your right
7 hand, please?

8

9

CRAIG KOOTSTRA,

10 a witness called on behalf of the People, having been duly
11 and regularly sworn by the Grand Jury Foreperson, testified
12 as follows:

13

14 THE WITNESS: I do.

15 THE FOREPERSON: Thank you.

16

17

EXAMINATION

18 BY MR. TESTA: Q. Where are you employed,
19 sir?

20 A. City of Tracy Police Department.

21 Q. What is your position there?

22 A. Detective.

23 Q. How long have you been a peace officer with Tracy
24 Police Department?

25 A. Five and a half years.

26 Q. Were you involved in the investigation into the
27 disappearance of Sandra Cantu?

28 A. Yes, I was.

1 Q. What was your -- generally speaking, what was your
2 involvement?

3 A. Follow up leads that we got.

4 Q. Okay. So I just have a few points for you here.

5 For example, showing you Number 13, did you have any
6 connection to this item that's shown here?

7 A. Yes, I did.

8 Q. What was your connection to that rolling pin?

9 A. I was present when we executed a search warrant, and
10 Detective Keith Hooks found the rolling pin in the kitchen
11 of the church.

12 Q. Okay. Basically, Exhibit 12, do you recognize that?

13 A. Yes, I do.

14 Q. What does that show?

15 A. That's a rolling pin in one of the kitchen cabinet
16 drawers.

17 Q. Is that where he saw it?

18 A. Yes, I believe it was.

19 Q. And then did someone from your office take photographs
20 of it and put this placard number 19 next to it and then
21 seize it?

22 A. Yes.

23 Q. Do you remember who that was?

24 A. Not off the top of my head.

25 Q. I think she testified earlier.

26 All righty. 2193.

27 Do you recognize this exhibit, that's been marked as
28 Grand Jury Exhibit 231?

1 A. Yes, I do.

2 Q. What was your connection with this?

3 A. Detective Bauer gave me Maria Chavez's cell phone and
4 I completed a forensic examination of it. And these are
5 text messages that were on her cell phone.

6 Q. How did you do this forensic examination of Sandra
7 Cantu's mother's phone?

8 A. Used Cellebrite -- find the exact wording of it. It's
9 a Cellebrite Universal Forensic Extraction Device, the UFED.

10 Q. Did you have any experience in using this device?

11 A. Yes, I have.

12 Q. Training?

13 A. Yes. I have had training with the Sacramento High
14 Tech Crimes Task Force.

15 Q. So, basically, how did you get the information from
16 Ms. Chavez's phone and get it on to this document? Did you
17 prepare this document?

18 A. Yes, I did.

19 I take her cell phone, I plug it into the machine. I
20 plug in a USB drive into the other side of the machine. It
21 downloads all the information off a cell phone, text
22 messages, phone book, contacts, and any pictures that may be
23 on there.

24 Q. Okay. So does this document contain at least some of
25 the text messages that you were able to -- I'll use the word
26 download or extract from Maria Chavez's phone?

27 A. Yes, it does.

28 Q. Are there any more pages besides this one that I have

1 had marked?

2 A. Yes, there's several pages.

3 Q. Okay. Oh, I see, it looks like there's three. Do I
4 have that correctly -- do I read that correctly?

5 A. Yes. I think there's actually more than that.
6 Because those are just the text message page. There's also
7 a page that's numbered differently for the cell phone
8 contacts.

9 Q. Oh, okay. All righty.

10 And the other area were again -- what connection did
11 you have with this item here that's shown in People's -- is
12 this 21?

13 THE SECRETARY: Yes.

14 MR. TESTA: Q. In 21?

15 A. That's Melissa Huckaby's purse.

16 Q. What did you do -- when did you -- what did you do
17 with it and when?

18 A. On the night she was placed under arrest, I searched
19 the purse incident to arrest.

20 Q. What night was that? There's a calendar up there on
21 the wall if you need to look at it.

22 A. I believe it was the 10th, April 10th.

23 Q. When she was -- you were instructed to do what?

24 A. Search the contents of her purse.

25 Q. Was there anyone there taking photographs of the
26 contents as you were doing that?

27 A. Yes. CST Debbie Martin.

28 Q. Do you recognize 22?

1 A. Yes, I do.

2 Q. What is that?

3 A. Those are the contents of her purse.

4 Q. And what about Exhibit 34?

5 A. Those are several pieces of paper that I found inside
6 of her purse.

7 Q. Were they in that condition, that is, some of them
8 ripped or torn?

9 A. Yes. They -- they were -- the ones on the left side
10 there were torn up. I actually placed them next to each
11 other like that.

12 Q. Okay. What about this Exhibit 31?

13 A. Yes, that was also in her purse.

14 Q. So did you put those torn pieces together so you could
15 read it?

16 A. Yes, I did.

17 Q. Were you able to make it out?

18 A. Yes.

19 Q. What does it say?

20 A. I believe it's "bounty hunter," and then "Leonard
21 Padilla" and "www.leonardpadilla.net."

22 Q. What about 30, more items from her purse?

23 A. Yes.

24 Q. Additional photographs of items in her purse?

25 A. Yes.

26 Q. What about -- sorry, is this 32?

27 A. Yes.

28 Q. Okay. 32, what is this item?

- 1 A. It's what I assumed was a shopping list that was torn
2 up in her purse. Had different food items on it.
- 3 Q. And number 33 -- oh, the same one?
- 4 A. Yeah. "Bounty hunter" and "Leonard Padilla."
- 5 Q. What did it say on the bottom?
- 6 A. "CNN" and then "Nancy Grace."
- 7 Q. 29?
- 8 A. Yes, I also found that note in her purse.
- 9 Q. 38, same note?
- 10 A. Yeah, that's the same note.
- 11 Q. 37?
- 12 A. Yes, that was also in there.
- 13 Q. What does it say?
- 14 A. "Time frame."
- 15 Q. 27?
- 16 A. Yes, that was also in her purse. It's her wallet with
17 her California driver's license as well as her daughter
18 Madison's school ID.
- 19 Q. 35?
- 20 A. Yes, that was also in her purse.
- 21 Q. This is I think a duplicate, 36?
- 22 A. Yeah.
- 23 Q. "Time frame"?
- 24 A. Yes, "Time frame."
- 25 Q. So what did you end up doing with the contents of her
26 purse once you had them photographed, laid out there?
- 27 A. CST Martin took possession of them and she booked them
28 into evidence at the Tracy Police Department.

1 Q. Okay. So when someone's arrested, is it normal to
2 take their possessions and book them in evidence?

3 A. Yes.

4 Q. What about did you interview her, do you do kind of an
5 intake?

6 A. In the booking area, yes.

7 Q. Screening, I guess it's called?

8 A. Inmate screening, yes.

9 Q. Did you participate in that?

10 A. Yes, I did.

11 Q. What did you do in that regard?

12 A. Asked her medical questioning. Basically, if she has
13 any medical conditions that we should be aware of.

14 Q. So did you -- what answers did she give to your
15 questions?

16 What time did you take this interview or this
17 information, this screening?

18 A. 1:15 in the morning on April 11th.

19 Q. So what -- did she say what illnesses or what -- what
20 did she say yes to, let's put it that way.

21 A. She said that she had asthma, as well as she takes
22 prescription medication for being bipolar. And she said
23 she's seeing a doctor for her being bipolar. As well as
24 post traumatic stress. And she said she was thinking about
25 harming herself and that she had tried it before.

26 Q. Are they allowed a telephone call?

27 A. Yes, they are.

28 Q. Did she make a call?

1 A. Yes, she did.

2 Q. Did you make a -- okay. Did you know -- did she say
3 whom she wanted to call?

4 A. I don't recall who she said it was. I believe it was
5 her mother, but I am not a hundred percent positive on that.

6 Q. Okay. And let's see if I have any other questions for
7 you.

8 As part of your investigation in this case, did you do
9 anything there at the -- did you interview any classmates of
10 Sandra's?

11 A. Yeah. In the first night of the disappearance, myself
12 and School Resource Officer Paul Pedersen, we obtained a
13 class list of Sandra Cantu. And during that evening and
14 early morning after the disappearance, we went to all the
15 classmates' residences.

16 Q. Did that turn up anything?

17 A. Everyone we talked to said that they had no idea where
18 Sandra was at, and we had several maybe she had spent the
19 night at their house, which she had not.

20 Q. Did you interview -- I'm jumping back and forth
21 here -- did you interview any hospital employees?

22 A. Yes, I did.

23 Q. What was your reason for doing that?

24 A. Myself and Detective Bergman interviewed anybody who
25 had contact with Melissa Huckaby or possibly had contact
26 with her while she was at Sutter Tracy Community Hospital.

27 Q. Okay. We heard from a Kenneth Everett, clinical
28 social worker. Did you interview him?

1 A. Yes, I did.

2 Q. Did he tell you whether she, Melissa Huckaby, said
3 whether or not that suitcase found in the pond looked like
4 hers?

5 A. Yes, he did say that.

6 Q. What did he say about that?

7 A. He told -- Melissa told Kenneth that Sandra was her
8 daughter's friend, and that the suitcase that was found in
9 the pond did look like hers.

10 Q. And are you the one that obtained this Eddie Bauer
11 suitcase that's been marked as an exhibit in this case?

12 A. Yes, I did.

13 Q. How did you get that?

14 A. I went to Eddie Bauer's Web site and found that Skyway
15 Luggage actually produces and makes that model for Eddie
16 Bauer.

17 I contacted Skyway and spoke to a Tish Heckert
18 (Phonetic), and she was able to send me two of the
19 suitcases, a 29-inch and a 26-inch suitcase.

20 Q. Okay. See if I have any other questions here.

21 The grand jurors, if they have any, now would be the
22 time to write them out.

23 Oh, thank you.

24 By the way, when you did your inventory of Melissa
25 Huckaby's purse, did you obtain any medications? I know we
26 saw some in the photographs.

27 A. Yes. She did have a couple of pill bottles in her
28 purse.

1 Q. Did you -- did you find any alprazolam?

2 A. I would have to look at the pill bottles again.

3 Q. What about your report, did you see -- did you write
4 anything in your report?

5 A. In my report?

6 Q. Did you not list them?

7 A. I didn't list them specifically by name.

8 Q. I think we heard from someone else.

9 Okay. Grand jury question: On the note from
10 Huckaby's purse, the one with info regarding Cantu, could
11 you read what was crossed out? That is a question from the
12 grand jury to you.

13 So I'm assuming the question is pertaining to this
14 crossed-out area. "Note said," and then you see there's
15 little round circles that connect.

16 A. Yes. I don't know one hundred percent sure what was
17 written there before it was crossed out.

18 Q. And does it show in 29 as well? Is there a T there?

19 A. It looks possibly like a T, but I can't say for sure
20 what it is.

21 MR. TESTA: Are there any other questions
22 from the grand jury? Let me just double-check my notes.

23 2566, hold on.

24 Q. Did you check out some of these other men that lived
25 in the trailer park -- the mobile home park?

26 A. Yes, I did.

27 Q. Did you try to check out the alibis or even where they
28 were that day and that kind of thing?

1 A. Yes, I did.

2 Q. Did you interview Lane Lawless?

3 A. Yes.

4 Q. Were you involved in that wire that Plowman told us
5 about where he went in there with a wire and met up with
6 Melissa Huckaby in a motel room?

7 A. Yes.

8 Q. What was your involvement in that?

9 A. Daniel Plowman called me. I had interviewed him, I
10 believe, on --

11 Q. He already testified, so he told us a lot of the
12 background.

13 A. He called me and said that Melissa wanted to meet with
14 him. He said he was going to come to Tracy and meet with
15 her. He asked if it was all right. I said that was -- he
16 was an adult, he can meet with her if he wants.

17 I asked him if he would be willing to wear a wire
18 while they met, which he agreed to.

19 They were going to meet at the Motel 6. So instead of
20 putting a wire on him, we actually put an audible listening
21 device in the room, we actually put it into one of the -- I
22 think it was telephone outlet jack.

23 And he met with her inside one of the rooms in Motel
24 6, and we monitored it from the room next-door.

25 MR. TESTA: Okay. I have this marked,
26 please?

27

28

1 (Whereupon three Photographs were marked
2 Grand Jury Exhibit Numbers 260, 261,
3 and 262 for identification.)
4

5 MR. TESTA: Thank you. I have no other
6 questions. Are there any questions from the Grand Jury?

7 Q. Question: Looks like the cross-out word is "Cantu."
8 That's the question from -- well, a statement I guess from
9 one of the grand jurors.

10 There's another from the grand jury: What was the
11 time and date on the Subway receipt that was found in her
12 purse that shows in Exhibit 35?

13 A. Looks like it's April --

14 Q. With a laser pointer, can you show us?

15 A. Where's -- oh, there it is.

16 I believe it's April the 10th at 11:20 in the morning,
17 and 35 seconds.

18 MR. TESTA: Okay. Are there any other
19 questions from the grand jury?

20 GRAND JUROR 9: One.

21 MR. TESTA: Take your time.

22 Thank you.

23 Q. Was the phrase "time frame" written on the back of the
24 Cantu note?

25 A. No, it was not. It was actually a separate note that
26 was in her purse.

27 Q. Exhibit 37. So that "time frame" comment which you
28 believe to be "time frame," I guess time F-R --

1 A. A-M-E.

2 Q. -- A-M-E, that's a separate --

3 A. Yeah, that's actually a separate note. She had
4 several of these little white pieces of paper in her purse.
5 If you go back one -- one picture, you could see right here,
6 this.

7 Q. Oh, I see.

8 A. This is actually the "time frame" note. And this is
9 the one that says "note" and the crossed-out word.

10 Q. Do you have a photo of the stolen suitcase note?

11 Trying to look at the line under "witness."

12 Were you able to make out what this is?

13 A. I believe that's the bounty hunter note.

14 Q. Oh, I see. Okay.

15 MR. TESTA: All righty. Are there any other
16 questions from the grand jury? I see none.

17 They will read an admonition to you.

18 THE FOREPERSON: You are admonished not to
19 reveal to any person, except as directed by the Court, what
20 questions were asked or what responses were given or any
21 other matters concerning the nature or subject of the grand
22 jury's investigation which you learned during your
23 appearance before the grand jury. This admonishment
24 continues unless and until such time as the transcript of
25 this grand jury proceeding is made public.

26 Violation of this admonishment is punishable as
27 contempt of court.

28 Do you understand?

1 THE WITNESS: I do.

2 THE FOREPERSON: Thank you.

3

4 (Pause.)

5

6 **TIMOTHY BAUER,**

7 a witness called on behalf of the People, having been
8 previously duly and regularly sworn by the Grand Jury
9 Foreperson, testified as follows:

10

11 **EXAMINATION**

12 BY MR. TESTA: Q. You are still under oath.

13 Showing you what has been marked, Mr. Bauer,

14 Exhibit 260.

15 A. Uh-huh.

16 Q. Do you recognize what is shown here?

17 A. Yes.

18 Q. The area where the rolling pin was found, with the
19 laser pointer, does it show up in this exhibit?

20 A. I believe it's this drawer right here.

21 Q. So the rolling pin with Sandra Cantu's DNA is found
22 there?

23 A. Correct.

24 Q. What about the blind that had the cord that the
25 officer said -- the FBI guy said was consistent with the
26 suitcase that was found?

27 A. Right there in the Sunday school classroom, this blind
28 right here.

- 1 Q. Okay. And then what about 261, what is shown there?
- 2 A. It's the kitchen.
- 3 Q. The same kitchen, the part of which we see --
- 4 A. Yeah.
- 5 Q. -- in 260?
- 6 A. Yes. This counter right here, you just see the back
7 of it from that picture you just showed.
- 8 Q. 261 shows the back of the counter?
- 9 A. Yeah. There you go. Yeah. Just makes a little U
10 shape.
- 11 Q. And 262?
- 12 A. It's the same counter right here.
- 13 Q. Where was the rolling pin?
- 14 A. This drawer right here.
- 15 Q. Under the bread right there?
- 16 A. Yeah. These drawers here that pull out right here.
- 17 Q. Whatever this is.
- 18 Now, we have someone coming in Thursday, but did
19 you -- that blind, do we have a -- that blind that you
20 talked about the other day --
- 21 A. Which one?
- 22 Q. Well, I'll save it, go into it Thursday. But let me
23 ask you this: Did you -- did you learn something about it
24 in the last few days?
- 25 A. In the last couple days?
- 26 Q. Yeah.
- 27 A. Yes.
- 28 Q. What?

1 A. Well, I learned that --

2 Q. Can I have a photo of that particular blind that we
3 are talking about?

4 A. There's three cords here hanging from the blind that
5 we removed from the Sunday school classroom. And in that
6 one picture, you just saw the overview of the three blinds.
7 I know from measurements that we did on a -- a search
8 warrant that there -- all three windows were the same size
9 in height and width. But the other two blinds that were
10 the same size as this had four cords hanging from it, where
11 this blind before we removed it on the 10th only had three
12 cords hanging down from it.

13 Q. Do we have a photo?

14 A. Yeah, you -- it was the big -- big picture.

15 Q. So let me just show you this one, Number 20 -- is this
16 201?

17 THE SECRETARY: 207.

18 MR. TESTA: 207.

19 THE WITNESS: Uh-huh.

20 MR. TESTA: Q. Showing you 207, you talked
21 about this the other day, just to refresh our memories,
22 which blind is this one?

23 A. The one in the Sunday school room, the one that
24 appeared to be cut or tampered with.

25 Q. This one was different from the others in which way?

26 A. There is only three strings or cords hanging down from
27 this next to the plastic rod.

28 Q. Now, the others had how many?

1 A. Four.

2 Q. I turned it away. Can you show us the three? Oh,
3 it's pretty obvious.

4 A. One, two, three.

5 Q. Do we have photos of the others, please?

6 Well, again, we are going to do this Thursday. So --
7 and you can see the three in this one, 210, correct?

8 A. Correct. That's the same blind you just looked at.
9 It's just laying on a table after it's been taken off the
10 window.

11 Q. Thank you very much.

12 And then you explained how the blind was cut?

13 A. That's before the cut. Same table. This is after
14 it's cut. Twenty-one inches cut here. This was sent to the
15 FBI in Virginia for testing.

16 Q. Okay. So if the other two blinds -- where is the
17 photo of the church? Now that I just showed you, let me see
18 if I can find it. You can help me and see if it's here.

19 A. Okay. Look in that stack.

20 Q. Here we go. Got a good eye for it.

21 It's 260. These three blinds that were of the same
22 size, do they show in 260?

23 A. We call that the kitchen, Sunday school room, Sunday
24 school room, these are the exact same width and height.

25 Q. What's your answer to my question, does it show the
26 three blinds that were of the same size?

27 A. Yes.

28 Q. I know you're trying to be helpful, but I didn't

1 understand your answer.

2 So this photo number 260 shows three windows, correct?

3 A. Yes.

4 Q. Nursery school?

5 A. Sunday school classroom.

6 Q. I'm sorry, Sunday school classroom?

7 A. Uh-huh. We call that the kitchen because it's part of
8 this area, and Sunday school classroom number two.

9 Q. And you measured these three blinds?

10 A. Correct.

11 Q. And what -- were they all the same?

12 A. All the same height, all the same width.

13 Q. And you showed us the other day that the kitchen --
14 what you call the kitchen blind had a little white thing on
15 the end?

16 A. Yes.

17 Q. And the second classroom blind had a little cord on
18 the end?

19 A. Yes.

20 Q. But this one --

21 A. Did not.

22 Q. -- did not? This one did not.

23 And that's the one that shows in 20 -- 207?

24 A. Correct.

25 Q. But 207 you said has only three strings?

26 A. Correct.

27 Q. How many strings do the other blinds -- of the three
28 that are of the same size in that church, how many strings

1 do the others have?

2 A. Four and four.

3 Q. Four strings, four strings, three strings?

4 A. Correct.

5 Q. At least that's what it appeared, correct?

6 A. Correct.

7 Q. And, for example, when you look at it, 210, it looks
8 like there are just three strings?

9 A. Correct.

10 Q. If you look inside here, what do you see?

11 A. There was a fourth string in the housing of this like
12 frame -- upper frame portion of this blind.

13 Q. That had been cut?

14 A. Correct.

15 Q. And the three remaining ones then were tied into this
16 knot that shows here in 207?

17 A. Correct.

18 Q. Okay. So the -- and the -- were photographs taken of
19 those two others so that we can show the jury what we are
20 talking about?

21 A. Yes.

22 Q. Did District Attorney Investigator -- who was it, Gary
23 Coffey and Al Freitas --

24 A. Yes.

25 Q. -- take photographs of this?

26 A. Yes.

27 Q. And we can see -- will be able to see four strings,
28 four strings, apparently only three strings?

1 A. Yes.

2 Q. But, in fact, there was a fourth one. But the reason
3 it doesn't show is because it's been cut and the end of it
4 is inside the casing, is that correct?

5 A. Yes.

6 Q. Well, so then did you guys measure the length of the
7 missing string -- missing cord on this blind to see whether
8 it's compatible with the length of the cord on the suitcase?

9 A. Yes. Each one of these were laid out on a table and
10 measured. The four -- the three strings from this one, the
11 four from here, the four from the top of the -- the -- the
12 top of the -- I call it the housing. Yeah, from the top
13 right here, they were laid out, fully stretched out
14 straight.

15 On the two that had four strings were
16 forty-two inches.

17 Q. Without going into the arithmetic, which we'll do with
18 these witnesses, was there a piece missing?

19 A. Yes, there was.

20 Q. Which came to what length approximately? If you
21 don't -- if you don't, I will call them.

22 A. Approximately thirty inches.

23 Q. If you had a thirty-inch cord, cut it in the middle,
24 it's fifteen and fifteen, right?

25 A. Correct.

26 Q. And what was the length?

27 A. Fifteen -- fifteen, fifteen and a half inches.

28 Q. Of the cord on the suitcase?

1 A. Yes.

2 Q. There's a note from the grand jury: What is the
3 nature of the relationship between Melissa Huckaby and a
4 Tracy Police Department Dan Pasquale? Has Dan's knowledge
5 of or insight been useful in this case?

6 I don't know a thing about this. Do you know anything
7 about this?

8 A. Yes.

9 Q. What?

10 A. First time I ever heard that she had any association
11 to Officer Pasquale was I believe she stated she went on a
12 ride-along with him years ago when she initially lived in
13 Tracy. And that was the extent of what she went into in one
14 of our interviews on April 10th at the Police Station. I
15 believe that was around the time period where she was living
16 in Tracy and studying criminal justice.

17 Q. Is he an officer?

18 A. Yes, he is.

19 Q. Without getting into hearsay, you talked to him about
20 this case?

21 A. No.

22 Q. See if he knows anything?

23 A. No.

24 Q. No? Okay.

25 Because the question from the grand juror is: Has
26 Dan's knowledge or insight been useful in this case?

27 A. He --

28 Q. I guess your answer would be what?

1 A. No.

2 Q. You don't have any knowledge?

3 A. I have no knowledge. And being the case agent, I
4 don't believe that -- I don't have any information right now
5 that I had a supplement report from him that he had any
6 involvement in this case at the outset up to this point.

7 MR. TESTA: Are there any other questions
8 from the grand jury? Because I have no other questions
9 today for my last witness of the day, Mr. Bauer.

10 Q. Questions from the grand jury: Each cord goes down --
11 each cord goes down a draw to the bottom of the blind for
12 pulling up. I must be misreading this, or maybe it was
13 miswritten.

14 Each cord goes down -- maybe the juror can help me
15 understand what this means. Can the juror announce the
16 question orally? We normally don't do that.

17 GRAND JUROR 8: Each of those cords on that
18 pathway, they go up to the top of the blind, then they wrap
19 through the pulleys, then they go down to the section to a
20 bottom part, they are attached, then it draws the whole
21 section up.

22 THE WITNESS: Uh-huh.

23 GRAND JUROR 8: So if -- was that whole
24 entire fourth piece missing all the way back to the draw
25 where it should have gone?

26 THE WITNESS: No, that's -- I think we
27 thought we explained that, but we didn't.

28 MR. TESTA: Q. Can you show us using --

1 could you answer that question, if you can?

2 A. Yes.

3 Q. Showing you Exhibit 210.

4 A. The fourth one is inside the housing. There is still
5 some of the piece left. But it's in here.

6 You are asking is it missing all the way from -- back
7 to the section it supports. And, no, it's not. There's
8 just thirty -- what we believe approximately thirty inches
9 of it to be missing and it was in here. And, I mean, I can
10 explain to you how it can end up in here.

11 Q. Could you explain it?

12 A. Yes.

13 Q. Using the microphone.

14 A. What happens is is when you draw string down, what
15 happens? Your cord gets longer, correct? Because you are
16 retracting -- is that the right word -- pulling up the cord.

17 So if it's -- if the blind is pulled up and then you
18 cut off a section to take that section, you are going to
19 have to untie the knot, okay, the existing knot, how it
20 comes, like the other seven windows in the church or the
21 other two identical that we also took.

22 Q. Could you show us?

23 A. Okay. So this is fully down. If I pull this blind
24 up, I mean, this cord's going to be longer, correct? We all
25 agree with that? So I cut thirty inches of it.

26 What happens when I let it back down again, where is
27 that cut piece going to go? It's going to go back into the
28 housing and that's how it disappeared.

1 GRAND JUROR 8: If they said that in the
2 first day, that would have made complete sense to me.

3 THE WITNESS: Yeah.

4 MR. TESTA: Q. You guys really didn't
5 discover this until a few days ago when there were questions
6 from the grand jurors about measuring the length?

7 A. Yeah, we further examined this, that was a question
8 that we had, and we came to a conclusion, finally figured
9 out how it ended up in this section here.

10 Q. Did I not -- let me put it on the record. Did the DA,
11 me, ask weeks ago, "Hey, why don't you guys take apart these
12 three blinds and measure the cord that's in there and see if
13 there's any missing cord"?

14 Was that requested of the Tracy Police Department some
15 time ago?

16 A. Yes, it was a long time ago.

17 Q. It just, for one reason or another, never got done?

18 A. Yes.

19 Q. Then the three or four of the grand jurors asked a
20 similar question, if not the identical question, in one of
21 their notes a few days ago. And then I kind of put fire to
22 the feet of people and said, "Hey, go ahead and do it." You
23 didn't do it, but did some investigators do it yesterday or
24 the day before, whenever it was?

25 A. Yes.

26 Q. And did they photograph what they found?

27 A. They laid all three -- we have all three blinds in
28 evidence. We seized all three of the blinds, same size,

1 same width and dimensions. They laid them out, took photos
2 before and showed -- the photos will be shown to you. The
3 one is distinctly shorter than the other three. And the --
4 the shorter one had to be fished out of the housing of
5 the -- the housing here.

6 Q. Who did it? Was it Gary Coffey?

7 A. Coffey.

8 Q. He's coming?

9 A. DAI Coffey.

10 Q. He's coming Thursday?

11 A. Thursday.

12 Q. Thank you for explaining that. I just couldn't read
13 his writing.

14 The other question -- well, it says was the fourth
15 string missing from the entire pathway? I think you've
16 answered that.

17 Was the remainder found less than thirty inches
18 missing?

19 GRAND JUROR 8: Yes, up in the top of the
20 draw.

21 MR. TESTA: Q. Was the remainder found minus
22 the thirty inches that were missing?

23 A. Well, we believe so. Because that's the distance
24 measured -- you'll see in the photos when DAI Coffey shows
25 them to you, you will see these three, and the fourth one
26 when it's pulled out, you will see it measures shorter than
27 the other.

28 Q. So are you saying if I'm in that church and I need

1 to -- my shoelace is coming off, so I want to cut part of
2 the blind cord and put it in my shoes, I would pull the cord
3 which would cause the blind to go up?

4 A. Correct. If you pull it up, you are going to have
5 more come down.

6 Q. Pull up the blind, but you're pulling down the cord?

7 A. Correct, so the cord gets longer.

8 Q. Then I open that drawer that has all these knives or
9 scissors that we talked about the other day --

10 A. Correct.

11 Q. -- in the kitchen, and I cut -- I cut the cord?

12 A. Just one of them.

13 Q. I just cut one of them?

14 A. Because we have three left in the same -- three of the
15 same length. Three were intact.

16 Q. Okay. And then why do I have to tie a knot?

17 A. Because under each one of these caps is a knot. Not
18 this knot. But under the ones that are intact, there's a
19 cap that keep all four together under the little -- under
20 this cap right here, there's a knot.

21 If you cut thirty inches off of here on one of the
22 four blinds, let's say it's this one that's intact, you have
23 to take it out of this little clasp, and you also to have
24 tie this to take the thirty inches you cut off.

25 Now, when you let that blind back out and let it
26 extend fully into the windowsill, there goes your cut piece
27 because it's not as long as the other three. And you can
28 lower it to where it rests just the same height as the rod

1 like the other ones that you see.

2 Q. Question from the grand jury: What time of last of
3 video that Sandra is seen? I guess it means what is the
4 time --

5 A. When's the last time we see her or the first time we
6 see her on the video?

7 Q. What time of the last of the video that Sandra is seen
8 on March 27th? That's the question.

9 A. She's last seen on the video at 3:54 p.m. real time.
10 Yeah. That's the last time. That's -- that's it. The last
11 time we see her walking across towards her house.

12 Q. That's on Grand Jury Exhibit 45, correct? You can see
13 the 45 there?

14 A. Yes.

15 Q. The other part of the question is: Is there a time as
16 to when Melissa Huckaby parked her car in front of space 57?

17 A. Yes. She parked it, she moved her car a few minutes
18 prior to leaving the trailer park at 4:02. She moved it, I
19 believe -- I think this is the time right here. This time,
20 if you move over here, that's her description from what was
21 viewed by Detective Brandi. And she leaves the complex
22 here, but what's this? Seventeen minutes, nineteen minutes
23 from here, she walks to her car, she's seen walking
24 northbound from trailer 57, gets into the Kia Sportage, and
25 then drives her vehicle down and parks it southbound -- what
26 we believe is southbound because trailer 57 is just out of
27 the view, correct, if you remember watching it, out of the
28 view of 63 surveillance system. And parks her car facing

1 southbound.

2 So she retrieves her car, drives down here. Her --
3 front of the car is facing southbound. She exits at
4 4:02 p.m. out of the complex like this, is seen leaving,
5 coming back on to Orchard by this surveillance system that
6 shoots like this and going westbound --

7 Q. Towards?

8 A. -- towards the direction of the church at 4:02 p.m.

9 Q. Are there any phone call recordings of Melissa
10 Huckaby's cell phone at the time that Sandra is last seen in
11 the video on March 27th? That is a question from the grand
12 jury.

13 In other words, did you guys look at her cell phone
14 and see if it -- how it ties in with the timeline here?

15 A. Yes, that's also on here. Her cell phone was left at
16 the residence. But the phone was called from the church
17 phone. That's documented in her cell phone records. The
18 church phone at Clover Road Baptist Church called her cell
19 phone at the time she said she was in the church. At two
20 different times. Right here.

21 Q. 4:35 p.m.?

22 A. 4:35.

23 Q. As indicated on Exhibit 45?

24 A. Yeah. And, again, at 6:24 p.m. And then you have
25 that gap in here for thirty minutes where she -- the video
26 shows that she leaves the church, her car leaves the church
27 and heads towards the irrigation pond.

28 Q. The other question from the grand jury is -- it's

1 4:00 o'clock -- is what is the nature -- we have that one.

2 Since the dish towel -- since the dish towel like the
3 noose found in Sandra Cantu's hair was not located at the
4 church, will someone look for one at the residence of
5 Melissa Huckaby?

6 A. We did. We -- we returned to all the locations we
7 believed Melissa could be at afterward, and we haven't found
8 a dish towel.

9 We were told that some of these dish towels that we
10 thought might be at the church were donated items.

11 Q. Question: Is anyone looking for the suitcases that
12 Sandra's sister Miranda said Melissa Huckaby was placing in
13 her car before going to the church on March 27th?

14 That's a question from a grand juror.

15 A. Are we looking for the suitcase that what?

16 Q. That Sandra's sister Miranda said that Melissa Huckaby
17 was placing in her car before going to church on March 27th?

18 A. We haven't.

19 Q. Suitcases, plural. Because Sandra had -- Miranda had
20 said she thought she saw --

21 A. We believe we have the suitcase that she said she was
22 placing in her car to take to the church.

23 Q. Which suitcase is that?

24 A. It's the suitcase that Sandra was found in on
25 March 7th -- April 6th.

26 Q. I believe Miranda said she saw multiple suitcases.

27 A. We have retrieved another suitcase collection, duffel
28 bag suitcase, from Melissa's residence that she stated she

1 had is a duffel bag style.

2 Q. And Ellenburg got one up in Oregon?

3 A. That's the one we have in evidence also.

4 Q. There's a total of three: One with Sandra Cantu in it
5 and two others?

6 A. Well, she also says there was a garment bag she had
7 given to her grandfather, Lane Lawless, that I don't believe
8 has been recovered.

9 Q. Question from the grand jurors: Did the search dogs
10 ever check Melissa Huckaby's car for a scent of Sandra
11 Cantu?

12 A. We have ran -- periodically -- we ran cadaver dogs
13 inside the trailer park pretty early on in this, but we ran
14 them just through the trailer park streets. It's too
15 strenuous on a cadaver dog -- this is what I was told by
16 search and rescue -- to run them under each trailer, on
17 every vehicle. You are talking about hundreds of vehicles
18 in this trailer complex. So we had to pick and choose what
19 we did.

20 And then again, if you remember, there's a period of
21 time on the calendar where Melissa was in the hospital from
22 the 4th to the 9th when her car was at the hospital. So
23 specifically on her car, when it was -- I don't -- no, we
24 did not run a cadaver dog after we received her car on the
25 6th. The FBI processed it through the normal protocol at
26 the Fire Station 98. But at that point, we didn't feel we
27 needed to use a dog on it.

28 Q. Question from a grand juror: Was Madison interviewed?

1 If so, what did you learn?

2 A. Yes, she was interviewed. Actually, we sent two
3 investigators up to Oregon. On a couple days prior to --
4 the week prior to the suitcase being located. And she was
5 interviewed in what's called a child -- child interview with
6 a detective up in Oregon and with two of our detectives
7 present.

8 Not much was really learned. She's five and a half
9 years old. And it would be probably better if you have them
10 call tomorrow Detective Cogburn to elaborate on that. But
11 there was nothing of really strong significance that we
12 learned from that interview up with her in Oregon.

13 Q. What was -- another question, it really calls for
14 speculation. I can't ask that.

15 MR. TESTA: Are there any other questions
16 from the grand jurors?

17 Q. Question: Has Madison been checked for sexual or
18 physical abuse?

19 A. Yes.

20 Q. Negative?

21 A. Negative.

22 Q. Miranda identified a green and a pink suitcase as well
23 as the Eddie Bauer suitcase. Were the pink or green
24 suitcases recovered?

25 A. Not that I'm aware of. I don't believe we have any
26 other suitcases. If she's saying they came from the Huckaby
27 residence, I don't believe we have them.

28 Q. Question: Read testimony of Miranda. She saw maybe

1 three suitcases that Melissa was putting into her car
2 March 27th before going to church. Suitcases did not sound
3 like from the known set.

4 A. Yeah, they don't. That I'm hearing this now. But no,
5 I don't have any information to that.

6 MR. TESTA: Okay. Are there any other
7 questions from the grand jury?

8 GRAND JUROR 10: I do.

9 MR. TESTA: Q. According to your time frame,
10 regarding the trail of Sandra making her way home, as in the
11 video towards Melissa's, how much time are we talking about?
12 It would have had to have -- she would have had to vanish
13 very quickly.

14 A. Correct. If you look at the timeline, we last see her
15 at 3:54 p.m. That car leaves in eight minutes. There's a
16 eight-minute window. You see her at 3:54.

17 Q. Looking up towards the -- the direction of the Huckaby
18 residence?

19 A. Three or four trailers away from Melissa Huckaby's
20 trailer.

21 Q. And then Huckaby is leaving, it's 4:02?

22 A. She's on -- yeah, on video surveillance eight minutes
23 later.

24 Q. So is that enough time to say, "Hey, get in the car,
25 I'm going to take you here," or do this or what-have-you?

26 A. Yes.

27 MR. TESTA: Are there any other follow-up
28 questions?

1 Q. Are those windows tinted in that Melissa Huckaby's
2 car -- you know, I know I've asked you that question.

3 Let me put it this way: When you guys -- when you and
4 Brandi looked over the surveillance tape a million times,
5 can you make out anyone in the vehicle at all as it's being
6 driven?

7 A. No, not from the back, because of the back of the --
8 the back tire, that's one thing we looked at, we found out
9 with a few different cars, is we continually viewed video
10 surveillance and put cars with each person during this time
11 frame when Sandra disappeared, and -- but because of bumper
12 stickers, the Marine sticker --

13 Q. Could she have been seen in a car if she were seated
14 in the back or the front if she's four -- I think Omalu said
15 four feet one, forty-nine inches, with the way that seat
16 that SUV --

17 A. The -- not with the -- the headrest of the front
18 passenger seat, her head would sit lower than -- than that.
19 And then the back, you would be hard pressed to -- to see
20 anybody sitting in the back, you know, a child's head from
21 the back of it.

22 Q. Question from the grand jury: Were the other two
23 daughters, Maria --

24 A. Miranda.

25 Q. It says: Were the other two daughters, I guess it
26 means of Maria Chavez, checked for sexual assault?

27 A. Well, you have a twenty-year-old, and no to that, and
28 Miranda yes, the eleven-year-old.

1 Q. The one we heard?

2 A. Yes, the one who testified today. She, same exact
3 exam.

4 Q. As --

5 A. As Madison.

6 Q. Those are CAC exams?

7 A. Well, they had CAC interview exams with child
8 specialists, and they also had sexual assault exams which
9 were negative, no findings.

10 Q. For Miranda, the eleven-year-old?

11 A. Correct.

12 Q. Question: Would she have been -- would she have been
13 seen if she was already in the suitcase?

14 I guess that question calls for something that is just
15 something for the jurors to decide. I don't know if you
16 could add anything on that.

17 A. Would she --

18 Q. Would she have been seen if she was already in the
19 suitcase?

20 A. I'm not following the question. If you're in a
21 suitcase, you're not going to be seen. Is that the
22 question?

23 Q. I think so.

24 GRAND JUROR 8: It was just a statement. I
25 mean, if she's already in the suitcase and this is -- I'm
26 not supposed to talk about this until later. But if she's
27 already in the case and they go out in the car, you're not
28 going to see her.

1 MR. TESTA: Okay. That's more of a comment
2 than a question.

3 Are there any other questions? Feel free to throw
4 them at -- otherwise, I'm done for the day.

5 I am told we do not have to clear out the room the way
6 we did last Tuesday, because I am told they are not using
7 this room tomorrow for whatever they usually use it for. So
8 I intend to keep my items here after I pick up today.

9 And I'll tell you in terms of the schedule, Thursday
10 we have a -- a full day. But then I'm hoping I only call
11 one or two people Friday morning so I can wrap it up and
12 give you Friday to deliberate or to instruct me as to where
13 you want to go. If you want me to call other witnesses, you
14 might give me a head's up before then. But I believe we
15 will end well on time and give you plenty of time, although
16 you can take as much time as you want for your
17 deliberations.

18 Otherwise, I guess you're going to read the
19 admonition, are you?

20 THE FOREPERSON: The admonition, you heard it
21 okay?

22 MR. TESTA: To the fellow jurors as well?

23 THE FOREPERSON: Yes.

24 And to the jury, the same, the grand jurors are
25 admonished that they are not to form or express any opinions
26 about the case or discuss it among themselves until the
27 grand jury receives the case for deliberation.

28 In addition, no inspection of evidence should be

1 conducted without the permission of the foreman and on the
2 advice of the prosecuting attorney until the case is
3 submitted to the grand jury for deliberation.

4 Deliberations should only occur when all jurors have
5 heard all the testimony in the case as presented -- are
6 present.

7 Okay?

8 MR. TESTA: Thank you.

9 THE FOREPERSON: Thank you.

10 (Proceedings concluded.)

11 ---o0o---

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

(Sitting as a Grand Jury)

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PEOPLE OF THE STATE OF)	
CALIFORNIA,)	
)	
Plaintiff,)	D.A. No. 2535
)	
vs.)	CR No. TP09-2712
)	
MELISSA HUCKABY,)	No. SF112495A
)	
Defendant.	)	VOLUME 7 OF 8
_____	)	(Pages 1412 - 1694)

Thursday, July 30, 2009 - 9:00 a.m.

LOCATION: San Joaquin County Courthouse
Room 605, San Joaquin County

APPEARANCES OF COUNSEL:

THOMAS J. TESTA, Deputy District Attorney,
County of San Joaquin, 222 East Weber Avenue, Room 202,
Stockton, California, 95202, appeared as counsel for and on
behalf of the People.

Reported by: JEANNE COFFEY, C.S.R. NO. 7084
JENNIFER WHITLOCK, C.S.R. NO. 11060

1 (At 9:00 a.m., the following proceedings
2 were had before the Grand Jury:)

3
4 (Whereupon Photographs were marked Grand
5 Jury Exhibit Numbers 263 through 266
6 for identification.)

7
8 (Roll call taken.)

9
10 THE SECRETARY: Thank you. We are all
11 present.

12 MR. TESTA: Could you state your names,
13 please, and spell your names.

14 MR. FLORES: Henry P. Flores. H-E-N-R-Y,
15 Plascencia, P-L-A-S-C-E-N-C-I-A, Flores, F-L-O-R-E-S.

16 MR. POTTER: Bryan Potter, B-R-Y-A-N
17 P-O-T-T-E-R.

18 MR. TESTA: You guys were in the courtroom at
19 various times fixing up -- fixing the computer or changing
20 the light bulb on it or helping us with technical questions
21 before or after witnesses testified, not during their
22 testimony. But the foreperson thought you should receive
23 the admonition because you may have seen some diagrams that
24 are on the board or photographs that are on the display.
25 She thought it would be wise to caution you.

26 So are you going to read the -- an admonition to them?

27 THE FOREPERSON: Uh-huh.

28 Would you raise your right hands, please?

1 You are directed not to discuss or disclose at any
2 time -- at any time anything you may have seen or heard
3 during this hearing.

4 Do you understand?

5 MR. FLORES: Yes.

6 MR. POTTER: Yes.

7 MR. TESTA: Thank you very much for coming.

8 GRAND JUROR 15: Mr. Testa, I have a question
9 just about the operation.

10 MR. TESTA: Go ahead.

11 GRAND JUROR 15: Just wondering for our
12 deliberation tomorrow, you would like some notice as to what
13 we would like to hear or see. I just wondered, do you want
14 us to give that to you today or...

15 MR. TESTA: Yeah. When we get a break this
16 morning, if there are things, as I say, you can order us to
17 get witnesses here or order the DA to produce this or answer
18 this, I guess you give me a head's up, let me put on some of
19 these people, mid-morning, remind me, we can put that on the
20 record.

21 GRAND JUROR 15: Sure.

22 THE FOREPERSON: Mr. Testa, we don't have
23 that picture over here.

24 GRAND JUROR 7: I order us a pizza for lunch
25 deliberations tomorrow.

26
27 (Pause.)
28

1 MR. TESTA: May I have marked as next in
2 order a piece of paper?

3
4 (Whereupon a Health Assessment Document
5 was marked Grand Jury Exhibit Number
6 267 for identification.)
7

8 MR. TESTA: Hi, could you have a seat right
9 here, please?

10 THE WITNESS: Yes. Hello. Good morning.

11 MR. TESTA: Can you state your name, please.

12 THE WITNESS: My name is Flordeliza Roy.

13 MR. TESTA: Could you spell your name,
14 please?

15 THE WITNESS: F-L-O-R-D-E-L-I-Z-A, last name
16 is R-O-Y.
17

18 MR. TESTA: Thank you.

19 The foreperson will read you an oath.

20 THE FOREPERSON: Could you raise your right
21 hand, please.
22

23 **FLORDELIZA ROY,**

24 a witness called on behalf of the People, having been duly
25 and regularly sworn by the Grand Jury Foreperson, testified
26 as follows:
27

28 THE WITNESS: Yes.

EXAMINATION

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BY MR. TESTA: Q. What was your answer?

A. Yes.

Q. Where are you employed?

A. I am employed at the San Joaquin County Jail, work there part-time. And I'm working at Kaiser full-time as a operating room nurse.

Q. At the jail, what do you do?

A. The jail nurse, sometimes I am what they call this thing, outside in booking, where the first inmates come in from outside, and I'll do the health assessment. And sometimes we are assigned medical, taking care of the inmates who is sick.

Q. Okay.

A. Or sometimes giving them medication.

Q. Thank you. I didn't mean to talk over you.

Showing you this exhibit that's marked 267, I have it on the screen behind you. Can you see it?

A. Yes, sir. Uh-huh.

Q. Can you pick up that laser pointer, please, that's next to you -- here you go, this one -- and point to what part of this you recognize. This exhibit there, what is it, first of all?

A. Okay. This is the name --

Q. You can remain seated in your seat.

A. I'm sorry?

Q. You can sit back in your chair, sit back so everyone can see.

1 A. Okay. This is the name of the inmates that I saw.

2 Q. Where -- what -- the name of the inmate you saw is
3 what?

4 A. Huckaby, Melissa.

5 Q. Okay. And what was your contact with that inmate?

6 A. The contact of the -- of myself to the inmates is to
7 ask her what's her medical problem, in order for me to
8 decide which housing area I'm going to place her.

9 Q. Are you a nurse?

10 A. Yes.

11 Q. Oh, okay.

12 So -- and this is called a health assessment?

13 A. Right. Health assessment.

14 Q. So when she's arrested, you check her out to see where
15 she should be housed?

16 A. Right.

17 Q. So if she were a diabetic, you might put her in
18 different housing than someone who doesn't have diabetes?

19 A. Right.

20 Q. So this document 267 that's on the screen, has some of
21 the private matters been deleted from this does it look
22 like?

23 A. Yes. Yeah. Right.

24 Q. But did you fill the part of it that we can see, did
25 you fill out this information?

26 A. Yes. All of this my handwriting. This is all I did.

27 Q. Okay. So the reason I asked you to come in was to ask
28 you did you weigh her?

1 A. I did weigh her.

2 Q. How?

3 A. We have a weighing scale there. We have to let her
4 stand there. And then we have to weigh her on this weighing
5 scale.

6 Q. Okay. And what was her weight?

7 A. It's 166 pounds.

8 Q. Okay. The reason I ask is because they -- we saw this
9 photograph, 28, where they showed -- excuse me, photograph
10 256 which was a photograph that we heard Agent Lippo say he
11 showed to Mr. Chappell and his wife Alena Chappell, the
12 Marine and his wife, it was based on a DMV photo which we
13 see here in 28. And you see here she's 125 pounds back
14 whenever this photo was taken. I don't know.

15 A. Okay.

16 Q. But when -- the point I'm trying to make here with
17 your question -- your testimony is at least when you weighed
18 her, when she was arrested -- and that's just what? A few
19 months ago was this? You may not know the exact date.

20 A. Her --

21 Q. Was it -- let me finish. Was it her arrest in
22 connection with this case, the Sandra Cantu case?

23 A. Uh-huh.

24 Q. Is that a yes or a no?

25 A. Yes.

26 Q. Okay. And do you happen to remember the date?

27 A. I don't remember the date anymore, but this is the
28 date that I saw her.

1 Q. What is the date that you saw her?

2 A. Wait. I'm sorry. That's her birthday. I don't
3 remember the date anymore.

4 Q. Was it -- was it a few months -- was it recently?

5 A. No, that's at least a few -- three, four months ago.

6 Q. Okay. And, by the way, what date of birth did you get
7 from her?

8 A. It's 2/23/81.

9 Q. And do you ask her that or does she -- does she show
10 you an ID?

11 A. Okay. I --

12 Q. Do you remember?

13 A. I don't remember. But, you know, if we have the --
14 the date of birth in the computer, which is in front of me
15 at the time, that's the date that I'm going to record.

16 Q. All righty. And so you -- just to wrap this up, this
17 Exhibit 267, it's on the screen, you filled this out when
18 you did a health assessment upon Melissa Huckaby?

19 A. Yes.

20 Q. Earlier this year?

21 A. Uh-huh.

22 Q. I'm sorry, is that a yes or a no?

23 A. Yes. Yes.

24 Q. When you say "uh-huh," she doesn't know what you mean.

25 A. Yes.

26 Q. I'm sorry. I know we talk that way.

27 A. Yes.

28 Q. This is all your handwriting?

1 A. Yes.

2 Q. Thank you. No further questions.

3 MR. TESTA: Any questions from the grand
4 jurors?

5 I see none. An admonition will be read to you, then
6 you can get on your way. So hold on.

7 THE FOREPERSON: You are admonished not to
8 reveal to any person, except as directed by the Court, what
9 questions were asked or what responses were given or any
10 other matters concerning the nature or subject of the grand
11 jury's investigation which you learned during your
12 appearance before the grand jury. This admonishment
13 continues unless and until such time as the transcript of
14 this grand jury proceeding is made public.

15 Violation of this admonishment is punishable as
16 contempt of court.

17 Do you understand?

18 THE WITNESS: Yes.

19 THE FOREPERSON: All right. Thank you. You
20 may leave.

21

22 (Pause.)

23

24 MR. TESTA: Could you tell us your name?

25 THE WITNESS: My name is Danielle Cardoza.

26 MR. TESTA: Can you spell your entire name,
27 please?

28 THE WITNESS: First name Danielle,

1 D-A-N-I-E-L-L-E, last name Cardoza, C-A-R-D-O-Z-A.

2

3

DANIELLE CARDOZA,

4

a witness called on behalf of the People, having been duly

5

and regularly sworn by the Grand Jury Foreperson, testified

6

as follows:

7

8

THE WITNESS: Yes.

9

THE FOREPERSON: Thank you.

10

11

EXAMINATION

12

BY MR. TESTA: Q. Did you know -- do you

13

know the person that just left the courtroom?

14

A. Yes, I do.

15

Q. By what name?

16

A. Flora Roy.

17

Q. Where does she work?

18

A. She's a staff nurse for Correctional Health Care.

19

Q. And where do you work?

20

A. I work for Correctional Health Care.

21

Q. Okay. Do you recognize 267? She already told us what

22

this is, she weighed Melissa Huckaby, and came -- found what

23

her weight was. But did you have any -- did you or your

24

office have any connection with the preparation of this

25

document?

26

A. The only thing that we did was provide the copy.

27

Q. Okay. Where did this document -- do you know how this

28

document is prepared?

1 A. This document is prepared by one of the nursing staff
2 when inmates come into the facility.

3 Q. We already heard from her, she said she prepared this.

4 A. Uh-huh.

5 Q. Is that a yes?

6 A. Yes.

7 Q. What is this material that's blacked -- blocked --
8 whited out?

9 A. Those are medical questions regarding an inmate's
10 health. And we were only requested to give identifying
11 information, so we could not release any of the other
12 information.

13 Q. Confidentiality?

14 A. HIPAA.

15 Q. HIPAA patient privilege?

16 A. Right, exactly.

17 Q. What does "HIPAA" stand for, do you know?

18 A. Health Portability Act, or something like that, I
19 don't remember.

20 Q. So are you the custodian of the records?

21 A. I am actually the supervisor of the custodian of
22 records. And she's currently on vacation.

23 Q. Oh, well, thank you for coming in.

24 Can you tell us then, these are prepared -- this
25 document is prepared by the nurse doing the health
26 assessment?

27 A. Uh-huh.

28 Q. And what is done with that document, the redacted

1 version of which we have?

2 A. These are filed into the patient's medical records.

3 Q. And are they kept there?

4 A. Yes, they are kept in Correctional Health Care.

5 Q. Then how did you participate in -- you or your staff
6 participate in extracting this information and providing it
7 to the law enforcement people in the last few days?

8 A. We received a subpoena and we pulled the medical
9 record and produced this information.

10 Q. Okay. Is it like a subpoena duces tecum?

11 A. Yes.

12 Q. Commanding you to produce this information?

13 A. Correct.

14 Q. So that was done?

15 A. Yes.

16 Q. And are these records kept in the ordinary course of
17 business there at the San Joaquin County Correctional Health
18 Care Services --

19 A. Yes.

20 Q. -- Department?

21 A. That's correct.

22 Q. And are you obligated to keep these records?

23 A. Yes, we are.

24 Q. Are they prepared at or near the time of the
25 assessment?

26 A. Yes.

27 Q. I guess they are done kind of what, simultaneously?

28 A. Uh-huh.

1 Q. The person's weighed and the nurse writes in the
2 weights?

3 A. They go through a bunch of different questions.

4 Q. Okay. And did you look at the entire document?

5 A. I did. I actually looked through the whole chart to
6 verify there was nothing in there that would identify this
7 person.

8 Q. By the way, did you get a date of the arrest?

9 A. 4/11.

10 Q. 4/11 of what year?

11 A. '09.

12 Q. I don't think that appears anywhere here, does it?

13 It was elsewhere, though, in the same packet?

14 A. Correct.

15 Q. Okay. Thank you. I have no further questions.

16 MR. TESTA: Are there any from the grand
17 jurors?

18 I see none. They will read you an admonition and you
19 can get on your way.

20 THE FOREPERSON: You are admonished not to
21 reveal to any person, except as directed by the Court, what
22 questions were asked or what responses were given or any
23 other matters concerning the nature or subject of the grand
24 jury's investigation which you learned during your
25 appearance before the grand jury. This admonishment
26 continues unless and until such time as the transcript of
27 this grand jury proceeding is made public.

28 Violation of this admonishment is punishable as

1 contempt of court.

2 Do you understand?

3 THE WITNESS: Yes.

4 THE FOREPERSON: Thank you.

5 MR. TESTA: Thank you.

6 THE WITNESS: Thank you.

7

8 (Pause.)

9

10 MR. TESTA: What is your name?

11 THE WITNESS: Kimberley Rio.

12 THE FOREPERSON: Would you raise your right
13 hand, please?

14

15 **KIMBERLEY RIO,**

16 a witness called on behalf of the People, having been duly
17 and regularly sworn by the Grand Jury Foreperson, testified
18 as follows:

19

20 THE WITNESS: Yes.

21 THE FOREPERSON: Thank you.

22

23 **EXAMINATION**

24 BY MR. TESTA: Q. Where are you employed?

25 A. Sutter Tracy Hospital.

26 Q. And what do you do there?

27 A. I'm a nurse in the ICU.

28 Q. ICU stands for?

1 A. Intensive Care Unit.

2 THE REPORTER: Can you spell your name for
3 the record?

4 THE WITNESS: K-I-M-B-E-R-L-E-Y, last name
5 Rio, R-I-O.

6 MR. TESTA: Q. While you were there, did you
7 have any contact with the person who shows up here in this
8 photograph 2-5 I believe it's a 7.

9 A. Yes.

10 Q. And it's the same one as 228?

11 A. Yes.

12 Q. What was your contact with her? By what name did you
13 know her?

14 A. I'm sorry?

15 Q. By what name did you know her?

16 A. Melissa Huckaby.

17 Q. And what was the nature of your contact?

18 A. I was her nurse.

19 Q. Pardon me?

20 A. I was her nurse.

21 Q. Okay. And while you were her nurse, did she make any
22 comments -- were you aware of that missing girl case, Sandra
23 Cantu?

24 A. Yes.

25 Q. How were you aware of it?

26 A. In the news.

27 Q. Do you live in Tracy?

28 A. Yes, I do.

1 Q. So you knew about it?

2 A. Yes.

3 Q. And did she make any comments that you heard about the
4 case or anything connected with the case?

5 A. I had a conversation with her. I -- because of why
6 she was there, she wanted -- she wanted to get into her
7 purse. And so I had to go through her purse. So when I was
8 going through her purse, I noticed something -- a ID card
9 for school. And so that's how the conversation came up.

10 And I just -- I said, "Oh, you know, this is horrible,
11 I can't believe this is happening in Tracy," that kind of
12 thing.

13 And she kind of just nodded her head.

14 And, you know, I -- I had said, you know, "It doesn't
15 look good, I don't know if they are going find this little
16 girl alive."

17 And she kind of just nodded her head.

18 Q. Nodded her head affirmatively, negatively?

19 A. Like up and down yes (indicating).

20 Q. Okay.

21 A. I guess like in agreement with me.

22 Q. When was this conversation? There's a calendar up
23 there on the wall for March and April. Was this before or
24 after the suitcase was found?

25 A. This is before.

26 Q. Okay. So if the suitcase is found April 6th, and the
27 girl went missing the 27th of March, see, we have this
28 period between those two dates.

1 Did you make a note of when this happened?

2 A. It was -- it was April 5th.

3 Q. Okay.

4 A. Because -- yeah, it was on a Sunday. And it's not my
5 regular weekend to work, but I ended up working that Sunday.

6 Q. Did someone come out and ask you to fill out a
7 questionnaire about this? Did someone interview you about
8 it, let's put it that way?

9 A. The Tracy Police Department came.

10 Q. Did you tell them it was April -- let me show you --
11 did you tell them it was April 5th?

12 A. Correct.

13 Q. Page 1894.

14 So April 5th, that's Sunday. Okay.

15 A. Uh-huh.

16 Q. Is that a yes?

17 A. Yes, Sunday.

18 Q. Did she say anything else about it, do you remember,
19 other than kind of nodding when you were saying, "It doesn't
20 look like they are going to find her"?

21 A. She said that it was -- it was her daughter's best
22 friend that was missing, and that often the little girl
23 would come to her house and, you know, they were close.

24 And she had stated that she was the one that actually
25 called the FBI and told them about the man that supposedly
26 had kissed her at the swimming pool a couple years prior.

27 Q. Are you asking me or telling me?

28 A. No, I'm telling you.

1 Q. You're questioning --

2 A. No, that's what she said. She was the one that called
3 the FBI when I guess the whole thing came out, when she
4 went -- when she disappeared, that she called the FBI and
5 told them about the man who kissed her at the pool. I think
6 it was a couple years prior to that or a year prior to that.

7 Q. Kissed Sandra Cantu?

8 A. Correct.

9 Q. Okay. Did Melissa Huckaby say anything about sending,
10 when you were talking to her on April 5th, about sending her
11 own daughter somewhere?

12 A. Yes. She had asked if children could come into the
13 Intensive Care Unit and visit.

14 And I said, "Of course. Your daughter?"

15 And she said, "Yes."

16 I said, "Of course she could come in."

17 She goes, "Okay. Well, my grandfather will be
18 bringing her in to see me."

19 And I said, "Yeah, that's fine."

20 She said, "Because she's going to be leaving
21 tomorrow."

22 And I said, you know, "Where is she going?"

23 She goes, "Well, I'm going to send her to Oregon.
24 She's going to stay with family for awhile."

25 Q. So on April 5th, Melissa Huckaby is telling you she's
26 going to send her daughter to Oregon to stay with family for
27 awhile?

28 A. Correct.

1 Q. Okay. Did she say why?

2 A. No.

3 Q. This is all before the -- before the suitcase is
4 found, this conversation April 5th?

5 A. Yes, this is before the suitcase -- this is before we
6 knew anything. This is before the suitcase, before we knew
7 who she was.

8 Q. So I know I'm asking you these questions, splitting
9 hairs here. So if you can't, you can't.

10 Can you explain to us the context in which you said
11 this comment to her that Sandra probably won't be found
12 alive?

13 A. Okay. So she wanted her purse.

14 Q. Right.

15 A. Because of why she was there in the Intensive Care
16 Unit, I said, "I'll let you have your purse, but you
17 understand that I need to go through it. And I need to look
18 at what's inside of it."

19 Q. Oh, because if a person might be a danger -- just
20 hypothetically speaking, if a person were a danger to
21 themselves, you can't give them their purse because their
22 purse might have like razor blades or sharp utensils in it
23 or something?

24 A. Correct. Correct. Have to make sure she's not -- she
25 doesn't have anything that is going to -- you have to make
26 sure that nobody has anything in their personal belongings
27 that would hurt them or others, you know.

28 So I took out everything in her purse, looked at

1 everything. We are talking about, you know, make-up and
2 stuff. She has some make-up in her purse.

3 I said, "I need to look in your wallet."

4 And she said, "Oh, yeah, that's fine."

5 And so I was going through her wallet one thing at a
6 time. Because what I was looking for could -- it could be
7 small. And so I had -- was taking out all these different
8 credit cards and things. And I saw a Jacobson Elementary
9 School ID card. And when I saw that, yes.

10 Q. Jacobson's?

11 A. Yes. Jacobson Elementary.

12 Q. How did that click?

13 A. Well, because actually years prior, my son had gone to
14 Jacobson. And -- and I -- I looked at that and I said, "Oh,
15 my gosh, your daughter goes to Jacobson."

16 And, of course, I had heard in the news about Sandra,
17 and that she was a student at Jacobson. And I said -- I
18 said, "Oh, it's so sad, you know, what has happened, and
19 hard to believe that it's going on in Tracy. And I can't
20 believe, you know, that this is going on."

21 And then that's when she said, "Oh, yeah, well, she's
22 my daughter's best friend."

23 And I said, "Really?"

24 And -- and -- and I said, "So, you know, this must be
25 horrible, this must be devastating for your daughter and for
26 you."

27 And she kind of just shook her head yes (indicating),
28 and really didn't offer up any more information at that --

1 to that statement.

2 And then that's when she said, "Well, I'm the one that
3 called the FBI and told them about."

4 Q. Oh, about the guy supposedly French-kissing Sandra two
5 years earlier by the pool or something?

6 A. Correct.

7 Q. What was her affect or disposition, her tone, during
8 that conversation on the 5th?

9 A. I found her to be very normal. I mean, for lack of a
10 better word. It was like I was just having a conversation
11 with another parent who had -- I have a daughter about the
12 same age and, you know, just like I was talking with another
13 parent about how -- what a tragic situation it was.

14 Q. Okay. So there was nothing distinctive about her or
15 anything that caught your attention about her disposition,
16 her attitude, her speech, anything like that?

17 A. No.

18 Q. Okay. And, by the way, was that the only contact you
19 had with her on the date of the 5th there?

20 A. No, I took -- I also took care of her Tuesday the
21 7th -- no, no. I took care of her Thursday the 9th, because
22 I believe that was the day she was discharged.

23 Q. Was there any change in her -- now, that would have
24 been after the body -- the suitcase was found?

25 A. Yes.

26 Q. The body was found.

27 Any change in her demeanor or attitude then?

28 A. She -- you know, she appeared to be a little bit more

1 agitated than she was before. Looking out of her room to
2 kind of see what we were doing. But, you know, not really.

3 The only other thing when I came in the morning of
4 Thursday, would have been the 9th, I came in through the
5 back door. And her room is kind of -- it was the last room
6 in the unit. And so I came in through the back door, went
7 into the break room, and she saw me walk in and she called
8 me in.

9 She said, "Hey, Kim, come here."

10 And I said, "Okay, hold on."

11 And so I put my stuff down, I went, I said, "What's
12 up? You going home today?"

13 And she goes, "Yeah."

14 And she said -- she said, "Hey, the other night, was
15 that your daughter in here with your husband?" Because my
16 husband and my daughter had come in to pick me up from work.

17 And I -- and I kind of just said, "Yeah," and -- and
18 walked out of the room.

19 MR. TESTA: Okay. All righty. I have no
20 further questions.

21 If there are any questions from the grand jurors, now
22 would be the time.

23 Q. Okay. Questions from the grand jury: So Melissa --
24 so Melissa is sending her daughter to Oregon on April 6th.
25 That's the question.

26 Did -- do you have an answer to that question from the
27 grand jury?

28 A. Well, it was April 5th when I had the conversation

1 with her, and she said that she would be -- she wanted to
2 see her daughter that day because the next day she was going
3 to Oregon to stay with family.

4 Q. Did she say whether this had been planned in advance
5 or anything like that?

6 A. No.

7 Q. Question from the grand jury, here's the question:
8 Could the term "flat affect" be an accurate description of
9 how she was acting or responding?

10 A. In my opinion, when I took care of her, I did not feel
11 that her affect was flat.

12 Q. Fair enough. Go ahead, I talked over you. Finish
13 your answer, please.

14 A. No, I was just going to say, she appeared -- spoke
15 with me in a normal tone. I -- I just -- I didn't find
16 anything odd or different about the way we were having our
17 conversation.

18 Q. Thank you.

19 MR. TESTA: I have no further questions. Any
20 more questions from the grand jurors?

21 GRAND JUROR 4: Yes, you do.

22 GRAND JUROR 15: One more.

23 MR. TESTA: Thank you.

24 Q. Did Melissa say anything on April 9th about the case
25 and finding the suitcase?

26 A. No.

27 Q. She didn't say anything about the investigation or
28 finding the suitcase or anything when you saw her on the

1 9th?

2 A. Not to me. I had very limited contact with her that
3 morning. I -- she was my patient, but I had another patient
4 who was very critical. And so I spent most of my morning in
5 that room. And I had a colleague discharge her for me.

6 Like I said, when I walked in that morning, that's
7 pretty much all we talked about. She asked me if that was
8 my daughter the other day and my husband.

9 I said, "Yes."

10 I said, "You're going home?"

11 She said, "Yes."

12 And it was more about going home. I said, "How are
13 you getting home?"

14 She said, "I'm going to drive myself. My car's
15 outside."

16 And that was -- I said, "Do you want to have breakfast
17 before you leave or do you want to eat when you go home?"

18 She said, "I'll have breakfast before I leave."

19 That was pretty much all the contact I had with her
20 that morning.

21 Q. By the way, did she seem at all concerned about -- let
22 me put it this way: If I had swallowed a razor blade, I
23 probably would be on my -- just biting my nails, wondering
24 any minute now there would be a cut or I would be feeling
25 something, or just the thought of it makes me cringe.

26 And I'm wondering if you sensed any attitude about her
27 consistent with someone who had just swallowed a razor
28 blade, any fear or apprehension or, "Oh, I feel a pain.

1 Could this be it? Could this be it? Get the doctor." Or
2 anything at all like that during the time you were with her?

3 A. She complained of some pain in her abdomen on the 5th
4 when I took care of her. But I got to say that she really
5 didn't seem too concerned about what could potentially
6 happen. She knew that she had to stay there until, you
7 know, she passed whatever it was that, you know, she had
8 taken.

9 And, no, she didn't seem -- it wasn't -- she had
10 stated that it wasn't the first time that it had happened
11 anyway.

12 Q. Oh. Okay.

13 A. So -- and she -- and she had just kind of explained to
14 me, because I was curious, I will often sit and talk to my
15 patients, especially patients like that, I said, "How did
16 this happen?"

17 She went on to explain to me what she thought had
18 happened.

19 Q. She was sleepwalking or something, and she didn't know
20 what happened?

21 A. She stated to me that she took Ambien, which is a
22 sleeping medication, and she said that when she takes
23 Ambien, she often doesn't know what she does while -- when
24 she is taking it. And that she's oftentimes woken up in the
25 middle of the night not knowing where she was.

26 One time she woke up at the park. One time she woke
27 up and she was -- had been scrapbooking all night long and
28 didn't realize it until the morning when she woke up and she

1 said that -- I believe she said it was her mother that told
2 her, you know, "This is what you did last night," and she
3 says, "I don't even remember that."

4 Q. Okay. The other question from the grand jury: Did
5 she ever cry or tear up while talking?

6 A. No.

7 Q. Question from the grand jury: Was there anybody else
8 she would have had contact with, I guess there in the
9 hospital?

10 A. As far as family?

11 Q. Well, anybody?

12 A. Well, yes. Her -- her -- her grandfather came to see
13 her. Her daughter came to see her. Her -- I believe it was
14 her grandmother came to see her.

15 Q. All right. I have no further questions.

16 A. No one else, though.

17 MR. TESTA: Are there any other questions
18 from the grand jury?

19 One more. Okay.

20 Q. Question from the grand jury: Was a blood test ever
21 done on Melissa Huckaby to determine if any unusual drugs
22 were in her system?

23 A. Without looking at the medical record, I can't recall.

24 MR. TESTA: Feel free to ask. Any others?

25 I see none. Oh, you have one. Okay. Don't hesitate
26 to write them. We have time.

27 Q. Question from the grand jury: About what time was
28 Melissa checked into the hospital April 5th? Was it late?

1 A. I don't think she was checked in on the 5th.

2 Q. What date was she?

3 A. Without looking at the medical record, I can't be
4 sure. I think it was on the Friday.

5 Q. Yeah, I think we had another witness testify and I
6 wrote it down on the exhibit there, she was there from the
7 4th to the 9th. So I don't recall whose testimony that was.

8 MR. TESTA: But -- all right. Any other
9 questions?

10 I see none. The foreperson will read the admonition,
11 please.

12 THE FOREPERSON: You are admonished not to
13 reveal to any person, except as directed by the Court, what
14 questions were asked or what responses were given or any
15 other matters concerning the nature or subject of the grand
16 jury's investigation which you learned during your
17 appearance before the grand jury. This admonishment
18 continues unless and until such time as the transcript of
19 this grand jury proceeding is made public.

20 Violation of this admonishment is punishable as
21 contempt of court.

22 Do you understand?

23 THE WITNESS: Yes.

24 THE FOREPERSON: Thank you.

25

26 (Pause.)

27

28 MR. TESTA: And could you tell us your name,

1 please?

2 THE WITNESS: My name is Edwin Haney.

3 MR. TESTA: Could you spell your entire name?

4 THE WITNESS: E-D-W-I-N, middle name Thomas,
5 T-H-O-M-A-S, last name Haney, H-A-N-E-Y.

6 MR. TESTA: An oath will be read to you.

7 THE FOREPERSON: You raise your right hand,
8 please?

9

10 **EDWIN THOMAS HANEY,**

11 a witness called on behalf of the People, having been duly
12 and regularly sworn by the Grand Jury Foreperson, testified
13 as follows:

14

15 THE WITNESS: Yes, ma'am.

16 THE FOREPERSON: Thank you.

17

18 **EXAMINATION**

19 BY MR. TESTA: Q. And where are you
20 employed, sir?

21 A. Sutter Tracy Community Hospital.

22 Q. What is your position there?

23 A. I'm a security officer.

24 Q. While you worked there, did you see this person who is
25 shown in 257?

26 A. Yes.

27 Q. And I guess is she also in 228, this one?

28 A. She was in ICU, which is --

1 Q. I'm sorry, is this a photograph of her?

2 A. Yes. Yes, it is.

3 Q. Exhibit 228, pardon me, it's confusing.

4 How -- did you see her there at the hospital?

5 A. Yes.

6 Q. Did you hear her say anything?

7 A. Yes.

8 Q. What?

9 A. I was on patient watch for her with approximately
10 thirty-two hours. And when they found Sandra Cantu's body,
11 she said, "They think that's a barrel, but it's not. It's
12 my Eddie Bauer suitcase."

13 Q. Okay. Was this -- was it on TV at the time?

14 A. Yes.

15 Q. What was the context of her making this -- give us the
16 back story.

17 A. Okay. I'm standing at the doorway. I never entered
18 her room. I stayed outside the room. I kept visual on her.

19 Q. Were you asked to do that?

20 A. Yes.

21 Q. By whom?

22 A. My supervisor, Jerry Fields.

23 Q. Okay. I'm sorry, I cut you off. So you're there, go
24 ahead.

25 A. Anyway, she was watching the news on TV. And from
26 where I was at, I could just barely see part of it. And she
27 was looking at the screen. And she made the statement to me
28 at that time.

1 Q. Okay. What was her tone of voice?

2 A. Very monotone. She had no feeling.

3 Q. All right. Are there -- I have no further
4 questions -- as far as the date, can we assume -- there's a
5 calendar there on the wall. We've learned that on April 6th
6 that suitcase was found. And it was on TV on that date.

7 So was that the date we are talking about that she
8 made the comment?

9 A. Yes.

10 Q. "They think it's a barrel, but it's my Eddie Bauer
11 suitcase"?

12 A. That is correct.

13 Q. Thank you.

14 MR. TESTA: Are there any questions from the
15 grand jurors?

16 All right. The foreperson will read the oath.

17 THE FOREPERSON: I will read the admonishment
18 to you.

19 You are admonished not to reveal to any person, except
20 as directed by the Court, what questions were asked or what
21 responses were given or any other matters concerning the
22 nature or subject of the grand jury's investigation which
23 you learned during your appearance before the grand jury.
24 This admonishment continues unless and until such time as
25 the transcript of this grand jury proceeding is made public.

26 Violation of this admonishment is punishable as
27 contempt of court.

28 This does not prevent you from discussing the matter

1 with your attorney, if you have an attorney advising you
2 with respect to your appearance before the grand jury.

3 Do you understand?

4 THE WITNESS: Yes, ma'am.

5 THE FOREPERSON: Thank you.

6

7

(Pause.)

8

9

MR. TESTA: Mr. Fields, please.

10 Can you sit down and tell us your full name, please?

11 THE WITNESS: Full name is Gerald Lee Fields.

12 MR. TESTA: Could you spell your full name,
13 please?

14 THE WITNESS: G-E-R-A-L-D L-E-E F-I-E-L-D-S.

15 MR. TESTA: Foreperson will read you an oath.

16 THE FOREPERSON: Will you raise your right
17 hand, please?

18

19

GERALD LEE FIELDS,

20 a witness called on behalf of the People, having been duly
21 and regularly sworn by the Grand Jury Foreperson, testified
22 as follows:

23

24

THE WITNESS: I do.

25

THE FOREPERSON: Thank you.

26

27

EXAMINATION

28

BY MR. TESTA: Q. Where do you work, sir?

1 A. I work for HSS at Sutter Tracy Community Hospital.

2 Q. And what do you do there?

3 A. I'm the site supervisor for security.

4 Q. Pardon me. While you were there at the hospital, did
5 you see this person who is shown up in this photograph
6 that's on the screen here, 257?

7 A. Yes, I did.

8 Q. Where?

9 A. She was a patient in ICU ward.

10 Q. Did you hear her say anything about the case?

11 A. I did.

12 Q. What?

13 A. She was watching the evening news when they found the
14 suitcase, and she said, "Oh, that suitcase is mine. I
15 recognize it."

16 Q. How would you describe her, how she appeared, her
17 demeanor, her tone of voice, her temperament?

18 A. She was actually speaking to her grandmother who was
19 inside the room. She seemed surprised to me, that was my
20 opinion of it.

21 Q. Okay. Surprised that the suitcase was found?

22 A. Yes, that's what I would venture to say, yes.

23 Q. As far as -- I don't want you to speculate. As far as
24 her describing how she -- her tone of voice, in your own
25 words, you tell us.

26 A. When it came on the news and they reported that the
27 suitcase was found, she kind of elevated her voice and said,
28 "Oh, that suitcase is mine."

1 Q. Okay. Thank you. I have no further questions.

2 MR. TESTA: Are there any questions from the
3 grand jury?

4 I see none. The admonition will be read then.

5 THE FOREPERSON: You are admonished not to
6 reveal to any person, except as directed by the Court, what
7 questions were asked or what responses were given or any
8 other matters concerning the nature or subject of the grand
9 jury's investigation which you learned during your
10 appearance before the grand jury. This admonishment
11 continues unless and until such time as the transcript of
12 this grand jury proceeding is made public.

13 Violation of this admonishment is punishable as
14 contempt of court.

15 This does not prevent you from discussing the matter
16 with your attorney, if you have an attorney advising you
17 with respect to your appearance before the grand jury.

18 Do you understand?

19 THE WITNESS: Yes, I do.

20 THE FOREPERSON: Thank you.

21 THE WITNESS: Thank you.

22

23 (Pause.)

24

25 MR. TESTA: You can have a seat right where
26 the microphone is, please.

27 THE WITNESS: Okay.

28 MR. TESTA: State your name, please.

1 THE WITNESS: My name's Vernon Browning.

2 THE REPORTER: Would you spell that, please?

3 THE WITNESS: B-R-O-W-N-I-N-G.

4 THE REPORTER: Thank you.

5 THE FOREPERSON: Would you raise your right
6 hand, please? Would you raise your right hand, please?

7

8 **VERNON BROWNING,**

9 a witness called on behalf of the People, having been duly
10 and regularly sworn by the Grand Jury Foreperson, testified
11 as follows:

12

13 THE WITNESS: Yes.

14 THE FOREPERSON: Thank you.

15 MR. TESTA: Can I get some photos of the
16 church, please?

17

18 **EXAMINATION**

19 BY MR. TESTA: Q. Where are you employed?

20 A. I'm disabled.

21 Q. Oh, okay. Do you do odd jobs? Do you help out? Do
22 you do any landscaping type work?

23 A. Not yet.

24 Q. Are you -- you're Vernon Browning?

25 A. Yes. I do the lawn mowing, stuff like that there.

26 Q. Where?

27 A. At the church.

28 Q. What church is that?

1 A. Clover Road Baptist Church.

2 Q. And -- thank you.

3 Do you recognize what is shown in this exhibit here?

4 A. Yeah.

5 Q. I don't know, can you see it from there? Are you able
6 to see the photograph?

7 A. Uh-huh.

8 Q. I think this might be a better one, Number 7.

9 A. Okay.

10 Q. Is that where you do the work?

11 A. Yes.

12 Q. And what is it that you do there?

13 A. I do the mowing. I do some small repairs that need to
14 be done.

15 MR. TESTA: Bear with me. Pardon me.

16

17 (Pause.)

18

19 MR. TESTA: Q. How long have you been doing
20 that work there?

21 A. Mmm, I'd say about nine years.

22 Q. Do you do it for free or does someone pay you?

23 A. No, do it for free.

24 Q. Are you a member of the church?

25 A. Yes.

26 Q. And who is the pastor or the person in charge of the
27 church?

28 A. Pastor Lane Lawless.

1 Q. Lane Lawless. Did you know Melissa?

2 A. Very little.

3 Q. How do you know her?

4 A. She was a member there. And she's my wife's
5 grand-niece, I guess you could say it that way.

6 Q. Okay. Did someone -- okay. We have a calendar up
7 there. What days of the week do you normally -- well, let
8 me ask you this: On the 27th of March, were you there
9 cutting the lawn?

10 A. No.

11 Q. And are there certain -- how do you know?

12 A. My wife was in the hospital.

13 Q. Pardon me?

14 A. My wife was in the Stanford Hospital.

15 Q. On that particular date?

16 A. Yes.

17 Q. Okay. So if Melissa Huckaby said she saw you there at
18 the church the night of the 27th, would that be accurate?

19 A. No.

20 Q. How are you certain that the 27th you were there with
21 your wife, not at the church?

22 A. Well, I know I was in Stanford.

23 Q. Stanford down in Palo Alto?

24 A. Yes, the hospital, uh-huh.

25 Q. When did you go? There's a calendar on the wall
26 there.

27 A. Okay. The 25th we went over there.

28 Q. Right. Spend the night?

- 1 A. No, I came home.
- 2 Q. Okay. Do you live in Tracy?
- 3 A. I live in Manteca.
- 4 Q. Manteca. Okay.
- 5 A. I came home, got home about 11:00, 12:00.
- 6 Q. Midnight?
- 7 A. Uh-huh.
- 8 Q. Is that a yes?
- 9 A. Yes.
- 10 Q. Okay.
- 11 A. I went back -- I went back on the 26th.
- 12 Q. To Stanford?
- 13 A. Uh-huh.
- 14 Q. Is that a yes?
- 15 A. Yes.
- 16 Q. Okay. You stay the whole day or part of the day?
- 17 A. I got over there about 1:00 or 2:00 o'clock.
- 18 Q. A.M. or P.M.?
- 19 A. P.M., afternoon.
- 20 Q. Okay.
- 21 A. And I stayed there again until -- and I got home again
22 about 11:00 or 12:00 o'clock.
- 23 Q. A.M. or P.M.?
- 24 A. P.M.
- 25 Q. Okay. So now we are on what date?
- 26 A. Friday.
- 27 Q. Okay. So you told us about Wednesday --
- 28 A. Thursday.

- 1 Q. -- and Thursday. Now what about on Friday, what did
2 you do then?
- 3 A. I went over there. I got --
- 4 Q. To Stanford?
- 5 A. To Stanford.
- 6 Q. Right.
- 7 A. I left about -- I'd say about 12:00 o'clock.
- 8 Q. A.M. or P.M.? Noon or midnight?
- 9 A. Noon.
- 10 Q. You left Manteca around noon?
- 11 A. Uh-huh.
- 12 Q. Yes.
- 13 A. Yes. And I went to Stanford again because she was
14 there.
- 15 Q. Right. And what time did you come back?
- 16 A. About 10:00, 11:00 o'clock at night.
- 17 Q. You came back to Manteca?
- 18 A. Yes.
- 19 Q. Okay. And did you go to your home in Manteca when you
20 came back?
- 21 A. Yes.
- 22 Q. And then what about the 28th, the Saturday?
- 23 A. The Saturday I went back to Stanford, picked up my
24 wife as she was being discharged. I think we got back about
25 3:00 o'clock in the afternoon on Saturday.
- 26 Q. Okay. And then what did you do on the Sunday, the
27 29th?
- 28 A. We went to church there.

1 Q. You went where?

2 A. We went to church there.

3 Q. At the --

4 A. Clover Road Baptist Church.

5 Q. So how often would you in March mow the lawn there at
6 the church?

7 A. As a rule, about once every -- once a week to once
8 every ten days.

9 Q. Okay. So when around this time period that I have
10 been asking you about did you mow the lawn there? Are you
11 able to tell us?

12 A. Yes. The 24th.

13 Q. What day of the week is that?

14 A. That's on a Tuesday.

15 Q. Okay. And then when would be the next time that you
16 went to the church after you were there on the 24th mowing
17 the lawn?

18 A. Be Sunday.

19 Q. The 29th?

20 A. Yes.

21 Q. Okay. Feel free, the calendar is there for your
22 purposes. We don't want you to guess.

23 A. Sunday, the 29th.

24 Q. So you are there the 24th mowing the lawn and then you
25 went -- the next time you were there, it was Sunday, the
26 29th; do I understand that?

27 A. Yes.

28 Q. Okay. Now, when you mowed the lawn on that -- you

1 said the 24th?

2 A. Yes, on the 24th, Tuesday.

3 Q. When you mowed the lawn the 24th, could you show us
4 with this laser pointer here, you just push this button
5 here, can you show us here on Exhibit 40 where -- where --
6 first of all, do you recognize what is shown in this
7 photograph?

8 A. Yes.

9 Q. What?

10 A. Clover Road Baptist Church.

11 Q. What part of it is shown here?

12 A. Mostly the -- the building sanctuary in the back.

13 Q. Okay.

14 A. And classroom area, the tool shed, the bottom of the
15 back field.

16 Q. Let me show you 42 so we get our bearings here. Where
17 is that shed in 42?

18 A. Okay. Right there.

19 Q. Okay. So the shed shows in 42. And where is the
20 property -- where would you mow the lawn? Give us an
21 overview. Where is the grass that you would mow?

22 A. Any and all, from here and all the way around the
23 building, all the way out back.

24 Q. Is there -- is there like a fence in the front here, a
25 little one?

26 A. Yes, a cable fence.

27 Q. A cable fence.

28 And then there's area in the back, too?

1 A. Yes.

2 Q. And this 40, Number 40 here, shows some of the back?

3 A. Uh-huh.

4 Q. Is that a yes or a no?

5 A. Yes.

6 Q. Yes. Sorry.

7 And what about 41? What is shown in this one?

8 A. That shows more of the property. Clover Road Baptist
9 Church.

10 Q. So did you mow all this area when you were there on
11 the 24th? This lawn area that is shown in these photos?

12 A. Yes.

13 Q. And was it daytime or nighttime that you did the lawn
14 mowing on that date, on the 24th?

15 A. Daytime, probably from 12:00 to 4:00.

16 Q. Do you do it on a machine or -- or by hand?

17 A. A machine. Riding lawnmower.

18 Q. Okay. All righty. So here's my question: When you
19 were there, you got a chance -- you were there for how many
20 hours on the 24th mowing the lawn, about?

21 A. Four hours.

22 Q. Four hours.

23 So you got to see the property on the 24th. Now when
24 you went there on that Sunday, the 29th, did you notice
25 anything different about the property, the lawn or anything?

26 A. Oh, the -- excuse me, the only thing I noticed was
27 some tire tracks right through here.

28 Q. Indicating as you look at this photograph, Number 41,

1 to the left of the shed there?

2 A. Yes. They started there.

3 Q. And where did they go to?

4 A. They went up behind the tool shed like this, and then
5 came back acrossed and then, excuse me, and then down and
6 out.

7 Q. Okay. Did you -- were you asked to draw a diagram?

8 A. Yes. I got one copy of it here.

9 MR. TESTA: May I have this marked as our
10 next in order, which would be exhibit number?

11 THE SECRETARY: 268.

12

13 (Whereupon Drawing by Vernon Browning
14 was marked Grand Jury Exhibit Number
15 268 for identification.)

16

17 MR. TESTA: Q. 268. Is this -- did you draw
18 this?

19 A. Yes, I did.

20 Q. With the laser pointer, could you tell us -- first of
21 all, do you see your name on this?

22 A. Yes.

23 Q. Where?

24 A. Right there.

25 Q. Did you write that or did someone write it for you?

26 A. No, I didn't write that.

27 Q. Okay. So the officer, whoever asked you to write it,
28 wrote down "Sketch by Vernon Browning" on the bottom, is

1 that right?

2 A. Right.

3 Q. So show us then what you drew and what you were trying
4 to show here.

5 THE WITNESS: Do I wait for him?

6

7 (Pause.)

8

9 MR. TESTA: Q. I'm sorry. Can you explain
10 to us what's in the diagram?

11 A. The diagram, I tried to show the officer just for
12 information that there was somebody in there during that
13 week. I even mentioned it to the pastor that -- that people
14 were -- that we had people back in there.

15 We used to have a lot of traffic in and out of that
16 property at nighttime, things like that. And I didn't think
17 too much about it. But, anyway, there was tire tracks like
18 that. And that's what I tried to -- I guess if I use the
19 other hand, it will be better.

20 Q. Let me line this up, Number 40 that I showed you
21 earlier.

22 A. Uh-huh.

23 Q. Can you show us where the tire tracks went using this
24 photo?

25 A. Yeah. Right here.

26 Q. They started there, but where did they go to?

27 A. They went across here by this house, there's a post
28 right in there.

1 Q. Is there a back door to the church?

2 A. Yes, there is.

3 Q. Did the tire tracks go anywhere near the back door to
4 church?

5 A. No, they didn't.

6 Q. How close did they get to the back door of the church?

7 A. Okay. Let's see.

8 Q. Did you draw that in on this, on 268? Bear with me
9 here.

10 You drew in the church, right?

11 A. Yes.

12 Q. Okay.

13 A. The back door is about midway.

14 Q. Okay. However, the tire tracks -- there's a door in
15 the back of the church, is that right?

16 A. That's true.

17 Q. Why don't you on this exhibit come over here and put
18 an X -- is there just one door in the back or more than one?

19 A. Just one.

20 Q. Okay. On 268, put an X where the door is.

21 A. (Witness marking.)

22 Q. Thank you.

23 Now, the front street to the church -- let me put it
24 this way: If you wanted to go out the back door, you go --
25 you would go to a vehicle, this is the front where it says
26 "Sketch by Vernon Browning," that's where the front is -- is
27 that where the street is?

28 A. Yes.

1 Q. Roughly?

2 A. Uh-huh. Yes.

3 Q. So would you be visible from the street if you went
4 out the back door? If you're on the street driving,
5 traffic's driving up and down the street, or you thinking
6 someone might be driving and you use the back door, are you
7 visible from the street, do you know?

8 A. No, you're not. Except as long as you're, you know,
9 behind this building.

10 Q. So in any case, what can you tell us about these tire
11 tracks that you drew here on Number 268?

12 A. Well --

13 Q. Were they -- what does this mean? They went -- they
14 went -- could you tell, you just saw them going this way?
15 Do you know which direction, they started here or they
16 started here?

17 A. I -- I don't -- I do not know the direction of travel.

18 Q. Were they to -- I know you drew one line, but does
19 that -- could you tell whether they were vehicle tracks?

20 A. Yes, they were vehicle tracks.

21 Q. These aren't someone walking, these are from a
22 vehicle?

23 A. Yes.

24 Q. And could you tell us what -- describe the tracks. Do
25 you know vehicles? I mean, did it look like a motor bike?

26 A. No. It was not a motor bike. It was more like a -- a
27 wide track vehicle, okay? I mean like a pickup, a large
28 car, you know, maybe a small motor home.

1 Q. Consistent with an SUV? Yes or no?

2 A. Yes.

3 Q. Okay. And can you tell us anything else about them?

4 A. No, that's about it.

5 Q. Okay. What does this mean here? What's this? Is
6 this your writing?

7 A. Yeah.

8 Q. Oh, dead squirrel?

9 A. Yeah. Just in case they wanted to know what that
10 digging was about.

11 Q. And there was a septic tank back there?

12 A. Yes.

13 Q. What is up in the upper right-hand corner, is that
14 your drawing? Does it start on a small diagram and I asked
15 you to make it larger, could that be what that is?

16 A. Only thing I could think it would be, that would be
17 the post I was talking to him about, the fence line.

18 Q. Oh, okay.

19 A. And then there's a house right there.

20 Q. Okay. All righty. So when -- when you noticed this
21 on Sunday, did you end up telling someone about it?

22 A. Yes. The pastor.

23 Q. Did people from the church who would go to the -- the
24 people that would attend the church, was it customary for
25 those people to drive back there and park?

26 A. Normally, no.

27 Q. Okay. Is the church used during the week?

28 A. Yes. On Wednesday night/evening, about 7:30, 8:30,

1 and different members go there to -- like Pastor goes there
2 to study. I go there to do some repair work or mow the yard
3 or -- and then I have seen Melissa's car there in months
4 gone by.

5 Q. Is it locked up when it's not being used? I mean, is
6 there a gate that prevents someone from driving there?

7 A. Yes, there is. There is a gate.

8 Q. Does it show in 43, this exhibit that's up there?

9 A. Yes. Right there. There's a cable type thing across
10 there.

11 Q. Is it locked?

12 A. No, it's not locked. It just looped over two posts.

13 Q. What about to get in the church, is that locked?

14 A. Yes, it is.

15 Q. And how do you get in, do you need an access code?

16 A. Yes, it's alarmed and there is an access code.

17 Q. It's alarmed and there is an access code, is that
18 correct?

19 A. That's true.

20 Q. And who has the access code? Do you have it?

21 A. Yes, I do.

22 Q. Do you know anyone else that does?

23 A. Most of the people that attend there has the access
24 code.

25 Q. Okay. So if Melissa Huckaby has told Lane Lawless
26 that you were at the church on March 27th, 2009 when she was
27 there, is that accurate or not?

28 A. That's not accurate.

1 Q. Okay. Did you make any efforts to look, refresh your
2 memory about the precise dates that your wife was in the
3 hospital to when they started asking you these questions or
4 do anything to research it, to make sure you were right
5 about these dates?

6 A. I'm sure.

7 Q. Plus, you've got the medical records when she's in the
8 hospital, I'm assuming?

9 A. That's true.

10 Q. Do you have to sign in when you visit?

11 A. No, I do not.

12 Q. Okay. Does she remember your visits, your wife?

13 A. Yes, she does. Even the nurses remember our visits.

14 Q. Was she -- your wife was there, just for those --
15 those -- those days you mentioned?

16 A. Yes.

17 Q. And you went every day she was there?

18 A. Yes.

19 Q. May I ask, was it like a surgery or something that she
20 was there?

21 A. Yes, it was a surgery.

22 MR. TESTA: Okay. I have no further
23 questions. Are there any questions from the grand jury?

24 Thank you. Thank you, sir.

25 Q. Question from the grand jury: Who has access to the
26 shed? See the shed that we see here in 43? Who has access
27 to that?

28 A. Everybody that knows where the key is at does.

1 Q. And where is the key?

2 A. It's inside the building. I have one key myself. And
3 there's an extra key inside the building.

4 Q. Question from the grand jury: You mentioned you did
5 some work at the church. Did that ever include repairing a
6 blind inside?

7 A. Never.

8 Q. Did you ever notice the broken blind?

9 A. I have no knowledge of a broken blind.

10 Q. What kind of work did you do in the church? What kind
11 of repair work?

12 A. Paint, a little bit of plumbing, a little bit of
13 electrical.

14 Q. Ever work on any of the blinds?

15 A. Never.

16 Q. Ever notice whether any of the blinds were missing a
17 cap at the end?

18 A. No, I never did.

19 Q. Question: Is there any indication of the vehicle
20 stopping, parking, or is it a continuous drive? Can you
21 tell?

22 That is the question. Do you understand?

23 A. No, I understand the question. I could not see where
24 it was any disturbance of the ground in and around the
25 tracks at all. It was just like somebody had come in, come
26 around, and left.

27 Q. Question from the grand jury: Who has access to the
28 shed? Do you ever use gloves or boots in your workings on

1 church grounds?

2 A. No, I do not. If I got rough wood, I may put on some
3 light gloves just to keep splinters down. But I wear my
4 easy shoes. I don't get involved in anything heavy.

5 MR. TESTA: Okay. Are there any other
6 questions from the grand jury? I see none.

7 The admonition could be read.

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

16 Violation of this admonishment is punishable as
17 contempt of court.

18 This does not prevent you from discussing the matter
19 with your attorney, if you have an attorney advising you
20 with respect to your appearance before the grand jury.

21 Do you understand?

22 THE WITNESS: Yes.

23 THE FOREPERSON: Thank you.

24 MR. TESTA: Did you want to take a break?
25 You said shorter breaks but more often.

26 THE FOREPERSON: Right.

27 MR. TESTA: How long would you like this
28 break to be?

1 THE FOREPERSON: Just about five minutes.

2 MR. TESTA: Thank you, sir, for coming.

3 Thank you for waiting around.

4

5 (Recess.)

6

7 THE SECRETARY: We are all accounted for.

8 MR. TESTA: Are we ready? Are we all

9 accounted for?

10 THE SECRETARY: We are all accounted for.

11 MR. TESTA: Just go back, take the seat that
12 you know. She has already been sworn. You're still under
13 oath, of course.

14 Your name again?

15 THE WITNESS: REDACT.

16

17 **[REDACTED]**,

18 a witness called on behalf of the People, having been
19 previously duly and regularly sworn by the Grand Jury
20 Foreperson, testified as follows:

21

22 **EXAMINATION**

23 BY MR. TESTA: Q. Sorry you had to come
24 back.

25 A. That's okay.

26 Q. I needed to clear one thing up. Can you state again
27 what was REDACT -- what is REDACT date of birth?

28 A. July 5th, 2001.

1 Q. I asked you that before, didn't I?

2 A. Yes.

3 Q. The reason I asked you to come back, did you ever tell
4 anybody that you thought it was Christian Sinclair who gave
5 REDACT the -- the substance that made her act so crazy that
6 day?

7 A. No, no, I did not.

8 Q. In fact, it was Christian Sinclair that was the one,
9 as I recall your testimony, was it not, that said, "Hey, my
10 mother's a nurse"?

11 A. That's correct.

12 Q. "Let's take her to my mom's house, see what's
13 happening"?

14 Was he the one that drove you to the Emergency Room?

15 A. Yes. Yes, he was.

16 MR. TESTA: No further questions. Any
17 questions from the grand jury?

18 THE FOREPERSON: And you are still admonished
19 from not discussing anything that we've talked about.

20 THE WITNESS: I understand.

21 THE FOREPERSON: Okay.

22 MR. TESTA: Sorry you had to come back.

23 Thank you. You can leave now.

24 The next two witnesses will be Connie Lawless and Lane
25 Lawless. I think they are on their way up here.

26 One of the jurors said they had an administrative
27 question about ordering the DA, now would be a good time
28 while we are waiting for them to walk up.

1 GRAND JUROR 15: Just like to know when you
2 would like to us present it to you.

3 MR. TESTA: Now. I figure I will finish the
4 bulk of the case today. I think I have got two or three
5 real quick witnesses tomorrow morning. I think we can
6 finish them within an hour. And then I just have to read
7 you some jury instructions that take about twenty minutes.
8 And then you can deliberate.

9 If you want me to produce other witnesses or -- now
10 would be the time to give me a head's up, try to get them.

11 GRAND JUROR 15: You want verbally or in
12 writing?

13 MR. TESTA: You can orally tell me.

14 GRAND JUROR 15: I would personally be
15 interested in hearing pieces of testimony of witnesses, say,
16 FBI agents, whoever has spoken to Melissa Huckaby at times
17 when they questioned her about the whereabouts of Sandra
18 Cantu or what they -- she, Melissa, thought may have
19 happened to Sandra Cantu.

20 MR. TESTA: I already put that evidence on
21 through Tim Bauer. He told you, did he not, for hours about
22 the interviews he had with her --

23 GRAND JUROR 15: But I --

24 MR. TESTA: -- the Tracy Police Department?

25 Am I losing my mind here, didn't he testify for two or
26 three hours on that?

27 GRAND JUROR 15: It was just in reference to
28 what the other officers had heard, other agents may have

1 heard. It's just --

2 MR. TESTA: I don't know if there is anyone
3 else.

4 When Tim Bauer comes back, ask him that question. I
5 think you have heard -- if there are any others, we can put
6 it on. We'll find out. I don't think there were. If there
7 were any, I think it's basically the same. What she told
8 Bauer, she told them.

9 GRAND JUROR 15: I guess it would be the
10 comments they made as the type of persons that may have done
11 something or taken Sandra.

12 MR. TESTA: Okay.

13 GRAND JUROR 15: She gave two different
14 instances, I believe it was an FBI agent and Bauer, comments
15 about that.

16 MR. TESTA: Okay. We will call Bauer back
17 and ask him those questions.

18 Were there any other people that you wanted me to get
19 or witnesses to produce?

20 GRAND JUROR 15: I was just wondering if
21 either we could see or get a -- more of a timeline on a
22 longer part of that video that was taken on that day that
23 shows Sandra with the skipping and jumping, something that
24 would show us?

25 MR. TESTA: The surveillance video --

26 GRAND JUROR 15: The surveillance video.

27 MR. TESTA: -- that's been marked into
28 evidence? You mean, do you want to maybe go back, go both

1 directions?

2 GRAND JUROR 15: Yes.

3 MR. TESTA: When Tim Bauer comes back, we can
4 ask if it's all on there. I think it's all on there. We
5 can confirm that. Remember to ask him that question when he
6 comes back. That's a legitimate point.

7 If you have other issues, write them down and bring
8 them up.

9

10 (Pause.)

11

12 (Whereupon a Photograph was marked Grand
13 Jury Exhibit Number 269 for
14 identification.)

15

16 MR. TESTA: Can you state your name, please?

17 THE WITNESS: Connie Lawless.

18 MR. TESTA: How do you spell your name?

19 THE WITNESS: C-O-N-N-I-E L-A-W-L-E-S-S.

20 MR. TESTA: The foreperson will read you an
21 oath.

22 THE FOREPERSON: Would you raise your right
23 hand, please?

24

25 **CONNIE LAWLESS,**

26 a witness called on behalf of the People, having been duly
27 and regularly sworn by the Grand Jury Foreperson, testified
28 as follows:

1 THE WITNESS: I do.

2 THE FOREPERSON: Thank you.

3

4

EXAMINATION

5 BY MR. TESTA: Q. Where do you live?

6 A. In Tracy.

7 Q. And the address?

8 A. 812 West Clover Road.

9 Q. Do you recognize what is shown in Number 50 here on
10 the screen?

11 Can I get a small photograph of this as well?

12 A. Yes. That's the mobile home park I live in.

13 Q. Okay. And here's the laser pointer that works, just
14 push that button here.

15 Can you show us where is the -- the entrance to the
16 mobile home park?

17 A. Right there.

18 Q. And what is -- what's the street that it goes out to?

19 A. Clover.

20 Q. And how long have you lived there?

21 A. Thirteen years.

22 THE FOREPERSON: Can you have her speak up,
23 please?

24 MR. TESTA: Yeah.

25 Q. The acoustics here are not very good. Try to speak
26 into the microphone.

27 I'm sorry, how long have you lived there?

28 A. Thirteen years.

- 1 Q. Actually, I think this is the better, Number 69.
2 Where is your place? Does it show here?
- 3 A. I'm trying to find the entrance to the park.
- 4 Q. Oh, I have it. My mistake.
5 Let me show you Number 57. Do you have your bearings
6 now?
- 7 A. Right there, looks like that should be it.
- 8 Q. Let's coordinate that with this exhibit here, 51.
9 Exhibit 51. Let's get your bearings. I know you probably
10 have never seen this. Where is the entrance into the park
11 again?
- 12 A. Right here.
- 13 Q. So in your place is what number?
- 14 A. 57.
- 15 Q. And does it show there on the screen?
- 16 A. Uh-huh.
- 17 Q. With the 57 next to it?
- 18 A. Yes.
- 19 Q. Okay. But I never asked, what's south of Orange? I
20 mean, are these more --
- 21 A. That's a -- that's another street of mobile homes.
22 That's -- I mean, that's all, everything that's showing here
23 are mobile homes.
- 24 Q. So on 65, where does the park end?
- 25 A. Right there where your hand is. Behind that row.
- 26 Q. Behind that row?
- 27 A. Uh-huh.
- 28 Q. And then is there like a fence or something, or a

1 wall?

2 A. Yes, a wall or a fence of some type. I think it's a
3 wall.

4 Q. And then this looks like what, a cul-de-sac?

5 A. Yes, that's a housing tract.

6 Q. Like a subdivision or something, housing tract?

7 A. Uh-huh.

8 Q. Okay. And whom do you -- back in March of 2009, whom
9 were you living with there at that number 57?

10 A. At what date?

11 Q. Back in March of 2009?

12 A. My husband and my granddaughter, Melissa Huckaby, and
13 her daughter, Madison Huckaby.

14 Q. How old is Melissa Huckaby?

15 A. Twenty-eight.

16 Q. Do you know her date of birth?

17 A. Yes. It's February '81.

18 Q. February 23rd of '81?

19 A. Yes.

20 Q. Does that sound about right?

21 A. Yes.

22 Q. And how old is Madison?

23 A. In March, she was five.

24 Q. Okay. So what did Melissa do for a living, if
25 anything? I mean, was she a homemaker? Did she have a job
26 outside the home?

27 A. She did not have a job outside the home at the time
28 she moved in with us.

1 Q. When did she move in with you guys?

2 A. In June of '08.

3 Q. '08. And she moved in from where again?

4 A. From Southern California.

5 Q. Okay. And did -- where in the mobile home did she
6 live?

7 A. She had a room and Madison had a room.

8 Q. Okay. So is it like a three-bedroom?

9 A. Right.

10 Q. And did she -- how did she occupy her time? I mean, I
11 know it's a full-time job just being a mother, but did she
12 do other things?

13 A. She helped us, her grandfather and I, did things for
14 us. And took care of the -- basically took care of Madison.

15 Q. Did she have any chores with respect to the church?

16 A. No. She volunteered things. But she didn't have a
17 job, if that's what you mean.

18 Q. And the church, by the way, do you recognize what is
19 shown in Number 7?

20 A. Yes. That's our church.

21 Q. When you say "ours," whose church is it?

22 A. Well, we are members of it. Our -- my husband and I
23 and Melissa.

24 Q. And who is the -- who runs it?

25 A. The church runs it -- what do you mean who runs it?

26 Q. Is there someone who is kind of in charge?

27 A. My husband's the pastor. But the church is
28 self-governing.

1 Q. Okay. All righty. So let me ask you about
2 March 27th, 2009. There's a calendar on the board if you
3 need to look at it, but I suspect you remember that date.

4 On March 27th, 2009 --

5 A. Yes.

6 Q. -- that's, of course, the day that Sandra went
7 missing.

8 A. Right.

9 Q. And you -- where were you that day?

10 A. Home.

11 Q. And let me ask you about in the afternoon of that day,
12 where were you?

13 A. At home.

14 Q. And was anyone else there with you?

15 A. My husband, Melissa, and Madison.

16 Q. Okay. And at any point, let me ask you this: Did you
17 know -- Number 17, did you know this person who is shown in
18 this photograph?

19 A. Yes.

20 Q. By what name?

21 A. Very well.

22 Sandra.

23 Q. I kind of cut you off. Did you say very well?

24 A. Yes.

25 Q. Or not very well?

26 A. No, very well.

27 Q. And how did you know her?

28 A. She was often at our home, ever since she was very

1 tiny, with her older sister.

2 Q. Whose name is?

3 A. Miranda. I had to think. They came over and played.

4 There was a little boy that kind of adopted us as
5 grandparents. And they would come over with him and play
6 when he come.

7 Q. Okay. And so on the 27th of March, did you see Sandra
8 Cantu?

9 A. Briefly, yes.

10 Q. About what time?

11 A. I think it was fairly early in the afternoon.

12 Q. Where?

13 A. She came to the door, knocked on the door.

14 Q. And did you speak with her?

15 A. Actually, she rang the doorbell.

16 Q. And then what happened?

17 A. Melissa went to the door. And she -- Sandra asked if
18 she could play with Madison. And Melissa said, "Not right
19 now. And Madison can't play right now." And she left.

20 Q. Sandra left?

21 A. Yes.

22 Q. Okay. And did Melissa Huckaby give a reason to Sandra
23 why?

24 A. I don't think she did at that time.

25 She -- when she was out of school, she would come
26 several times a day.

27 Q. Sandra would?

28 A. Sometimes.

1 Q. Sandra would come by?

2 A. And want to play.

3 Q. When school got out, she would come by several times?

4 A. Yes.

5 Q. You said it was -- could you narrow down the time
6 about that she came by?

7 A. No, because the only thing that I know is I had a hair
8 appointment at noon. And that's the only time I was gone
9 from the home, for about thirty, forty-five minutes.

10 Q. Okay.

11 A. And it was after that.

12 Q. Okay. Do you remember talking -- did some people
13 interview you about your timeline that day?

14 A. I don't think so.

15 Q. I mean, did anyone from the FBI talk to you?

16 A. They have talked to me, but I don't think anybody
17 really asked me about my timeline.

18 Q. Okay. Well, do you remember a Scott Holladay from the
19 FBI?

20 A. No.

21 Q. Mark --

22 A. No, I don't -- yeah.

23 Q. Mark Ellenburg from the DA's Office?

24 A. Now, Mark I do remember.

25 Q. Okay. Well, do you remember saying it was a little
26 after 3:00 p.m., Sandra -- let me put it -- let me rephrase
27 the question.

28 Do you remember talking on April 6th to some -- Mark

1 Ellenburg and some other people, or another person?

2 A. Well, I -- they were at the house many times, so I
3 don't, you know.

4 Q. Would you think the incident might have been fresher
5 in your mind April 6th --

6 A. Sure.

7 Q. -- than it might be today?

8 A. Sure.

9 Q. If they wrote down in the report that you said, when
10 they interviewed you on that date, April 6th, that a little
11 after 3:00 p.m., Sandra Cantu came to the house to play with
12 Madison. Madison was eating a hot dog. So Huckaby said she
13 couldn't play because she was eating. Does that refresh
14 your memory at all?

15 A. I do remember her eating, that she was at the snack
16 bar eating lunch.

17 Q. Who?

18 A. Madison was.

19 Q. What about this time that was reported?

20 A. Well, it probably was about that time, because if she
21 was in school that day, which I have -- unless you know that
22 she wasn't -- then it would have had to have been after
23 3:00, because that's when she came home.

24 Q. Her grandfather, whoever it was, picked her up from
25 school. He already told us she was in school.

26 Okay. So, anyway, so Sandra comes by, Melissa says,
27 "No, you can't play with Madison"?

28 A. No, she didn't say that.

1 Q. Oh, she didn't. What did she say?

2 A. She said, "Madison can't play right now."

3 Q. "Madison can't play right now." Then what's the next
4 thing that happened?

5 A. Well, she closed the door.

6 Q. "She" meaning who?

7 A. Melissa closed the door and come back in the house.
8 And whatever she was doing. And I think she was sitting in
9 the middle of the living room getting some Sunday school
10 literature together. Madison was on the snack bar eating.
11 I don't remember exactly why -- what I was doing at that
12 time.

13 Q. Now, did Melissa Huckaby then at some point shortly
14 after Sandra left ask you if Miranda could come over and
15 play with Madison while Melissa Huckaby went to the church?

16 A. Well, it was quite awhile later because she was
17 getting her -- and we had somebody stop by the house. She
18 was getting ready -- her things ready to go decorate.

19 Q. Who is "she" when you used the word "she"?

20 A. Melissa.

21 Q. Was getting what ready?

22 A. Well, she was getting materials ready to decorate
23 the -- a little Sunday school room at the church classroom.

24 Q. So what -- so --

25 A. And she had it all spread out around her, the things,
26 and she was showing us what she was going to do and how she
27 was going to place things there and put things up, and
28 things of that nature.

1 Q. So what did she ask you about Miranda?

2 A. And then when she got ready to go, she came in and
3 said, "Is it okay if Madison stays and plays?" And, of
4 course, that was okay, because otherwise she kind of gets in
5 the way and it slowed her down.

6 Q. Play with -- play with whom?

7 A. Just stay at the house and play, that's all.

8 Then she came in before she left, she came later and
9 she said, "Would it be okay if Miranda" -- I'm not real
10 sure, but I think that Madison -- she wanted to play Barbies
11 or something. And I -- and Melissa asked me -- said, "Is it
12 all right if Miranda comes over and plays with her?"

13 And I said, "Of course."

14 Q. Okay. So then did Melissa text Miranda's mother and
15 ask her?

16 A. She contacted her. However that was, I don't know.

17 Q. And then what happened next? Did Miranda come over?

18 A. Yes.

19 Q. Okay. Did you ask Melissa Huckaby whether Sandra
20 would be playing, too -- would be coming over to play, too?

21 A. I don't think I did at that time.

22 Q. At some point that afternoon did you?

23 A. I may have quite a bit later, because my understanding
24 was -- and I think this -- that Miranda's older, so it
25 wouldn't take as much for me to watch Madison if an older
26 child was there than if a younger child was there, which she
27 was always watching out for my -- you know, she didn't want
28 to overburden me.

1 Q. So later on, did Melissa Huckaby say something about
2 her not wanting -- excuse me -- later on, did you end up
3 asking Melissa Huckaby whether Sandra would be coming over,
4 too? Yes or no?

5 A. Yes, I may have asked her that.

6 Q. Is that a yes?

7 A. Yes.

8 Q. When?

9 A. Well, I think it was after Miranda was there.

10 Q. So Miranda comes over. And then at some point
11 thereafter, you do ask Melissa Huckaby whether Sandra would
12 be coming over, too, is that correct?

13 A. Yeah, because --

14 Q. Is that a yes or no?

15 A. Yeah.

16 Q. Yes or no?

17 A. Yes, I guess she did ask me that.

18 Q. Okay. Well, don't just agree with me. Are you pretty
19 certain she asked you that? When you say "guess," it makes
20 me wonder if you're not sure.

21 A. Ask me the question again.

22 Q. When -- once Miranda came over, did you ask Melissa
23 Huckaby whether Sandra would be coming over, too?

24 A. Yes, sometime later, yes.

25 Q. Okay. So the answer is yes?

26 A. Uh-huh.

27 Q. Is that a yes?

28 A. Yes.

1 Q. Okay. And then what did Melissa Huckaby say when you
2 asked her that question?

3 A. She said -- well, it was later.

4 Q. Just tell us what her answer was. What did Melissa
5 Huckaby say when you asked her that question?

6 A. She asked --

7 Q. What did Melissa Huckaby say?

8 A. She asked Miranda -- I'm telling you what she said.

9 Q. Okay.

10 A. She said to Miranda, "Does Sandra want to come over?"

11 Q. And?

12 A. Miranda said, "She's gone to play at a new friend's
13 house."

14 Q. All right.

15 A. Melissa said, "Oh, who is it?"

16 And she says, "I don't know her name. She's a new
17 friend."

18 Q. All right. Did Melissa Huckaby ever tell you that she
19 did not want Sandra to come over to play because Sandra and
20 Madison get into things at the house, such as taking the
21 lids off of nail polish bottles and the like?

22 A. No.

23 Q. Did you tell that to anyone?

24 A. I don't think so. She may have told me at some point,
25 but not that day.

26 Q. So she told you at some previous occasion?

27 A. Uh-huh.

28 Q. Yes?

1 A. Yes.

2 Q. What did she tell you about not wanting Sandra to come
3 over and play, what did she say on previous occasions about
4 that? Not the background, not -- just answer that
5 particular question. What did she say?

6 A. She says, "Sometimes when they -- when they are
7 playing together, they get into the nail polish and the
8 bottles and things, and I don't want you to have to -- I
9 don't want you to have to be worrying about them."

10 Q. So on this particular day of March 27th, just to
11 clarify your answer here, did Melissa Huckaby say on that
12 date, on the 27th, at any time she did not want Sandra to
13 come over to play because Sandra and Madison get into things
14 at the house, such as taking the lids off of nail polish
15 bottles and the like?

16 A. No.

17 Q. All right. Did you tell anyone that, that she did say
18 it on that date?

19 A. I wouldn't -- I don't believe I did. That -- that --
20 I may have told them that she had said that at some point,
21 but not on that day.

22 Q. Okay. So then what happens next when Miranda is over
23 there playing with Madison, I'm assuming, is that correct?

24 A. Correct.

25 Q. And what is Melissa doing?

26 A. She's getting her things ready, packing to go take
27 them to the church to decorate the room.

28 Q. When you say -- pardon me for interrupting you. When

- 1 you say "packing," did she have anything to pack them into?
- 2 A. Yes. She's --
- 3 Q. Yes or no?
- 4 A. Yes. Yes.
- 5 Q. What?
- 6 A. I don't know.
- 7 Q. How do you know she had anything?
- 8 A. Well, because I saw plastic containers and different
9 containers.
- 10 Q. Okay. Did you see any larger containers?
- 11 A. No.
- 12 Q. Any suitcases?
- 13 A. No.
- 14 Q. Okay. And then what happened next?
- 15 A. Well, I was in and out of the room. So I heard her
16 getting around, and sounded like she was taking things out
17 and the girls were playing. And that's all I was aware.
- 18 Q. When the girls were playing, that would be Madison and
19 Miranda?
- 20 A. Correct.
- 21 Q. Could you show us what part of the house they would
22 have been playing in, with the laser pointer?
- 23 A. They were playing in --
- 24 Q. With the laser pointer, yeah, just push -- there you
25 go.
- 26 A. Is it on?
- 27 Q. Yes.
- 28 A. Do you have to hold it?

1 Q. Yes.

2 A. Is this I think is our house.

3 Q. Is there some question?

4 A. Okay. There's -- this part of the house is a front
5 porch and a closed-in back deck.

6 Q. You're referring to the part on Orange?

7 A. Yes. Along here.

8 Q. We have to put on the record what you're referring to.
9 Part of your house looks out on Orange, is that a correct
10 statement?

11 A. Yes, that's correct.

12 Q. And part of it looks out on Church -- or Cherry?

13 A. We are on a corner.

14 Q. The question is if Madison is playing with Miranda,
15 are they playing in a room --

16 A. No.

17 Q. Let me finish.

18 That looked out on Cherry, are they playing in a room
19 that looked out on Orange, or are they playing in room that
20 perhaps didn't look out on any of these two streets?

21 A. It actually looked out on both. It's the living area.

22 Q. Okay.

23 A. Come in the front door. And they were playing about
24 right here. It's a big -- it's kind of a great room.

25 Q. Where the S is -- the first S is in the word --

26 A. Uh-huh.

27 Q. Let me finish, please. I'm sorry.

28 Where the first S is in the word "Melissa" that's on

1 this exhibit on the screen in Number 51, right? Are you
2 referring to the first S --

3 A. Yes.

4 Q. -- in "Melissa"?

5 A. Yes.

6 Q. All right. So then what happened -- and you yourself
7 were in which room? You say you're going in and out of a
8 room. Where were you going to?

9 A. I'm in our bedroom, which is like up here off of
10 the -- there's just a door from our bedroom to the living
11 room.

12 Q. Does your bedroom have a window?

13 A. Has a slider.

14 Q. Does it look -- where does it look out to?

15 A. It looks out on the closed-in deck.

16 Q. Which is -- so it doesn't look out on to Orange or to
17 Cherry?

18 A. No -- well, yes, it looks out on to Orange.

19 Q. Can you see Orange from your room?

20 A. Yes.

21 Q. Okay.

22 A. Through the deck, yeah.

23 Q. Through the what?

24 A. Deck.

25 Q. So then what happened next?

26 A. In relationship to?

27 Q. The timeline, what happened next? Melissa looks like
28 she's getting stuff ready to take to the church. Madison is

1 playing with Miranda. You're kind of going in and out of
2 the room doing whatever you do. And what's the next thing
3 that happens?

4 A. Well, I'm working. And I wasn't really -- I don't
5 remember being aware of anything except that -- the next
6 time I went out, she had left.

7 Q. Who?

8 A. Melissa had left the house with her things.

9 Q. Did you see what things she left with?

10 A. No.

11 Q. You never saw her take anything to the car?

12 A. No.

13 Q. Did you see where her car was parked?

14 A. No.

15 Q. Did you see where she got her things from and where
16 she took them to?

17 A. What do you mean where she got them from?

18 Q. Well, you said she was laying out some things and she
19 was getting ready to take them to the church?

20 A. When I went out, she had them all out in the middle of
21 the living room, this little area there, and she was getting
22 ready to take them out to the church.

23 But I wasn't in there when she brought them I guess
24 from her room.

25 Q. Okay. So the next thing you know, she's gone?

26 A. Yes.

27 Q. And where are the girls playing?

28 A. They are playing in the living room.

1 Q. And then when she -- does she ever -- does Melissa
2 ever come back in and say, "Oh I can't find my keys"?

3 A. I think that was afterwards. I think she was doing
4 that while I was on the phone and doing some paperwork, and
5 I was not aware of that.

6 Q. Well, I guess what I'm asking is what you're aware of,
7 not what you might have heard, you know, other people say.

8 Once Melissa leaves, you never see where she parked
9 her car when she was packing up the things?

10 A. No.

11 Q. I mean, let me put it in the positive. Did you ever
12 see where she parked her car when she was packing up things?

13 A. No.

14 Q. Does Number 186 -- do you recognize this?

15 A. Yes.

16 Q. What is shown here?

17 A. Our front porch.

18 Q. What about 269?

19 A. It's our back door.

20 Q. Okay. So where would Melissa normally park her car?
21 Because I see there are two cars, those are both of your
22 cars?

23 A. Uh-huh.

24 Q. Is that a yes?

25 A. Yes.

26 Q. There's only space for two cars, is that correct?

27 A. Correct.

28 Q. And your parking spot, there's only space -- and where

1 is your parking spot on this photograph here, Number 57?

2 A. I didn't hear that. What did you say?

3 Q. Those two cars that we see here, you know, on
4 Number 269, where -- where is that on the overhead, these
5 two cars?

6 A. Yes.

7 Q. Tandemly parked.
8 Where is that on your place?

9 A. Right -- right here.

10 Q. Between your house and the one underneath?

11 A. Yeah. It's kind of a lighter roof on it, that's a
12 carport.

13 Q. So between 57 and 56, this --

14 A. Yes.

15 Q. -- this is your carport?

16 A. Uh-huh.

17 Q. Is that a yes?

18 A. Yes.

19 Q. Okay. So only two cars park there, is that correct?

20 A. Correct.

21 Q. So where would Melissa park her car?

22 A. She parked in the guest parking, which is --

23 Q. You show us that on this exhibit here once you stop
24 moving it around?

25 A. She would park along here and in here, depending on
26 what was available.

27 Q. Okay. On Exhibit Number 57, you're showing us what
28 others have referred to as the overflow parking?

1 A. Yes.

2 Q. Where is the car wash?

3 A. Mmm, it looks like it's right here.

4 Q. Between those two cinderblocks?

5 A. Yes.

6 Q. Just kind of between the clubhouse and number 94 --
7 hold on for a second. Between the clubhouse and 94, would
8 you say that was the car wash?

9 A. Yes.

10 Q. Okay. So the next -- what's the next thing that
11 happens? Melissa leaves, the girls are playing, you're in
12 the place. Do you get a phone call from Melissa Huckaby?

13 A. Yes.

14 Q. About what time?

15 A. I have no idea.

16 Q. What did Melissa Huckaby say during that phone call?

17 A. She said --

18 Q. Did she speak to you?

19 A. Yes.

20 Q. What did she say?

21 A. I answered the phone.

22 She said -- she said, "Hello."

23 I said, "Oh, by the way, we found your cell phone --
24 Madison found your cell phone and your car keys."

25 Q. You said that to Melissa?

26 A. Yes.

27 Q. And why did you say that?

28 A. Because Madison had come running in and she said,

1 "Here's Mommy's cell phone and her keys." She had left them
2 in the kitchen.

3 Q. Okay. Had -- going back now earlier, had Melissa up
4 to that point ever come back and said, "Hey, I can't find my
5 car keys, I can't find my cell phone," did she ever come
6 back in looking for them?

7 A. She may have. I wasn't --

8 Q. Let me rephrase the question. Did you ever see or
9 hear Melissa Huckaby come back in and say she lost her --
10 couldn't find her cell phone or her -- her -- her keys?

11 A. No.

12 Q. Okay. So the first thing you hear about anyone
13 missing cell phones or keys or -- excuse me, the first thing
14 you hear about that subject matter is when Madison comes
15 running in to you and says she sees the keys and the cell
16 phone?

17 A. No.

18 Q. How did you first hear of it?

19 A. My husband was kind of laughing because she couldn't
20 find her -- she hadn't found her keys.

21 And I said, "Well, how did she go?"

22 He said, "She had to go and get her --"

23 Q. Spare?

24 A. Yes, spare.

25 Q. Okay. Anyway, Melissa calls you -- calls you and you
26 pick up which phone, the land line?

27 A. Yes.

28 Q. And she's calling you from where?

1 A. The church.

2 Q. And what does she ask you?

3 A. She said -- after I told her that, she says, "Well,
4 good." She said, "Would you go out and get my suitcase? I
5 left it outside."

6 And I said, "What suitcase is that?"

7 She says, "My big black one."

8 And I said, "Okay. I've got the phone in my hand and
9 I'm walking to the door."

10 And I go out and I said, "Well, it's not on the
11 porch."

12 She said, "No, it would be out by where I had the car
13 parked."

14 So I walked down to the street, we have a hedge there,
15 and I looked both ways. And I said, "There's no -- there's
16 no suitcase here." I said, "It's not here."

17 She says, "Oh, rats, somebody has taken it then."

18 Q. Did she say anything else?

19 A. Well, she may have. I don't recall.

20 Q. How did she sound?

21 A. Like herself.

22 Q. How did she sound about the suitcase?

23 A. Well, kind of irritated and upset. Because it was new
24 she said.

25 Q. Did you ever tell anyone she sounded upset about the
26 suitcase?

27 A. I don't know.

28 Q. Did you say she was very upset about losing the

1 suitcase?

2 A. Well, she was, yeah.

3 Q. How do you -- why do you say that?

4 A. Well, because she was kind of like irritated. I mean,
5 anybody would be irritated, you go out there and somebody's
6 taken your suitcase.

7 Q. Would you -- do you think it's fair to characterize it
8 as Huckaby was very upset about losing the suitcase?

9 A. Yes.

10 Q. Did -- what was her tone of voice?

11 A. She was just irritated, like she -- you know, she gets
12 irritated about something, she doesn't, you know, scream and
13 holler or anything.

14 Q. Now that church -- she was calling you from the
15 church?

16 A. Yes.

17 Q. Did she say what she was doing in the church?

18 A. Yes. She was decorating.

19 Q. Did she say whether she was with anyone else?

20 A. No.

21 Q. And you know the church quite well?

22 A. Yes.

23 Q. Does it have a kitchen?

24 A. Yes.

25 Q. What is the kitchen used for?

26 A. It's for entertainment, or if we have a potluck or --

27 Q. Does 60 look familiar?

28 A. Yes.

1 Q. What is shown here?

2 A. That's the kitchen and the little classroom that
3 sometimes we use an overflow for -- if we have a large
4 group.

5 Q. What is -- what is kept inside these cabinets?

6 A. Silverware, kitchen things, like you would keep in any
7 kitchen.

8 Q. And whose are those items?

9 A. The church's.

10 Q. How long have they been there?

11 A. Well, the kitchen was remodeled, the kitchen, that
12 room back there with the kitchen.

13 Q. Just how long were those items there that were in the
14 kitchen?

15 A. Inside the cupboards, you mean?

16 Q. Yeah. Yeah.

17 A. Well, between -- I would say between a year and twenty
18 years.

19 Q. Pardon me?

20 A. I would say between one and twenty years.

21 Q. Between one and how many years?

22 A. Twenty. Yes.

23 Q. Oh, between one and twenty years.

24 So, for example, like this one here was Grand Jury 12,
25 it's one of the cabinet drawers, like the fork and the
26 spoon, I mean, those things would have been there between
27 one and twenty years?

28 A. Yes.

1 Q. What else? What's this thing with these four prongs?

2 A. Oh, that looks like a meat -- where we would have
3 roast beef or something. Most of those things like that are
4 donated by church members.

5 Q. So how long has that been there, the meat thing?

6 A. Years. Years.

7 Q. What about the yellow plastic thing?

8 A. I have no idea. They have all been there years. And
9 I don't pay any attention what comes and goes.

10 Q. The rolling pin, how long has that been there?

11 A. I have no idea.

12 Q. Would you say it's the same thing as one to twenty
13 years?

14 A. Sure. It's all one to twenty years.

15 Q. And where did you get -- where did you get like the
16 spoons from?

17 A. As I said before, church members donate them over the
18 years. Sometimes they go buy things. Sometimes they bring
19 extra from their home.

20 Q. Where did you get the rolling pin?

21 A. I have no idea.

22 Q. Well, this is your -- your husband's in charge of the
23 church or minister of the church. So you can't tell us
24 where that -- the -- the -- the -- the meat thing came from
25 or the rolling pin came from?

26 A. I told you where they came from.

27 Q. From where?

28 A. From church members donating them or going and

1 purchasing things they felt like we needed and giving them.
2 But they didn't stand up and say, "Here, this is what I
3 brought," or anything. It just was there.

4 Q. But you hadn't gotten anything, as I understand it,
5 within the last year?

6 A. Correct. That I know of.

7 Q. So that's -- when you say one to twenty years --

8 A. Sure.

9 Q. -- what did you get a year ago?

10 A. Well, one of the members donated a couple of boxes of
11 pots and pans and --

12 Q. Who was that?

13 A. -- different dishes.

14 Q. Which member?

15 A. His name was Don Hughes.

16 Q. And is he still a member?

17 A. No.

18 Q. Where is he right now?

19 A. Stockton.

20 Q. What does he do for a living?

21 A. I think he's retired.

22 Q. What did he do?

23 A. I have no idea.

24 Q. Okay. And who else donated things?

25 A. Well, over the last twenty years, you mean?

26 Q. In the last few years?

27 A. Well, probably most of the people that are there. I
28 don't know if they all donated or if they didn't donate. I

1 didn't donate -- I probably donated the least amount of
2 things.

3 Q. Well, as I understand it, there are only twelve people
4 in the whole church, is that correct?

5 A. Right at this time, yes.

6 Q. Okay. Well, in the last year, there have only been
7 about twelve people in the church, most of them are your
8 family members, right?

9 A. Yeah. Yes.

10 Q. So putting it -- it's not like you have to think of
11 thirty or fifty people.

12 A. Well, do you want everyone's name, is that what you're
13 telling me?

14 Q. No, I just need who donated things.

15 A. Well, I know that Cynthia Browning donated things.

16 Q. And where is she living right now?

17 A. In Manteca.

18 Q. When did she donate any things?

19 A. I haven't -- you will have to ask her.

20 Q. Well, could you say whether it's five years ago, ten
21 years ago, one year ago? I mean, any estimate?

22 A. No. No.

23 Q. Well, when did she leave the church, let's put it that
24 way?

25 A. She's still there.

26 Q. Who else donated things?

27 A. Elizabeth Edwards may have donated things. I have no
28 idea.

1 Q. When? When?

2 A. I have no idea.

3 Q. Well, when was the most recent donation?

4 A. I told you, about a year ago.

5 Q. And who made that? That was Mr. Hughes?

6 A. Don Hughes, yes.

7 Q. What did he donate about a year ago?

8 A. A couple boxes of things, pots and pans, and I don't
9 know what all.

10 Q. Where did he used to live?

11 A. Pardon?

12 Q. Has he always lived in Stockton?

13 A. Yes.

14 Q. He's never lived in the trailer park?

15 A. No.

16 Q. Mobile home?

17 Was there anyone who lived in the mobile home park,
18 let's put it that way, maybe to narrow it down, the mobile
19 home park, anyone who lived in the mobile home park who
20 donated any items to the church?

21 A. Not that I know of, no.

22 Q. Okay. So all these donations you're referring to,
23 that would be from people who live outside the trailer park?

24 A. Correct.

25 Q. Were there any members of the trailer park that were
26 members of your church besides --

27 A. Anyone living in the trailer park? Yes.

28 Q. Who?

1 A. Well, Elizabeth Edwards used to live there. She's
2 moved out.

3 Kathy Glover and her daughter.

4 And other people that have passed away.

5 Q. But Kathy Glover, she lived in the trailer park how
6 long ago?

7 A. She still lives there.

8 Q. So of all the people that donated items that live in
9 the trailer park, it's just Kathy Glover?

10 A. No, I didn't say she donated anything.

11 Q. So she never donated anything?

12 A. Not to my knowledge, no.

13 Q. So no one from the trailer park donated anything to
14 the church; do I understand that correctly?

15 A. That's correct, unless Elizabeth donated something
16 while she was living in the park. I have no idea.

17 Q. But when did she live in the trailer park? Years and
18 years ago?

19 A. Yeah, it's been about -- I guess she's been --

20 Q. More than six years ago?

21 A. No. I think -- I'm so -- it's very hard for me to
22 remember. But it's been several years.

23 Q. All right. On March 27th, this Friday that we are
24 talking about, when Melissa Huckaby calls you from the
25 church --

26 A. Uh-huh.

27 Q. -- what is her purpose in calling? Does she say?

28 A. Yes. To -- to ask me to go out and get her suitcase.

1 Q. Do you guys talk about -- does she mention anything
2 else during this conversation?

3 A. She may have. But it was not significant that I
4 remember it. I don't think so. It was a short
5 conversation.

6 Q. Did she return home?

7 A. Yes.

8 Q. When?

9 A. I don't know that either.

10 Q. Don't know the time? Morning, afternoon, or night?

11 A. Well, she was only gone in the afternoon.

12 Q. So do you have an approximation -- this is -- you
13 realize she has been arrested for this crime, right?

14 A. I do.

15 Q. So you probably have gone over this date in your mind
16 quite a bit; is that a fair statement?

17 A. Uh-huh. Yes.

18 Q. So you can't tell us any idea what time Melissa came
19 home?

20 A. No. It seemed to me like she was only gone for a
21 couple hours or so.

22 Q. And when she came home, did you see her?

23 A. Yes, I did.

24 Q. And did -- what did she say?

25 A. She just came in the house. I don't remember anything
26 particular. I think she talked -- her daughter ran up to
27 her and she was talking to her and said, you know, just
28 things that you say when you walk into a house after you

1 have been somewhere. It wasn't anything significant.

2 Q. But then later on, did you hear about Sandra being
3 missing?

4 A. Yes.

5 Q. How did you hear of it?

6 A. Well, somebody come to the door.

7 Q. Was Melissa there at the time?

8 A. Yes, she was.

9 Q. And what did she say?

10 A. They wanted to know if Miranda was there, and we said
11 no.

12 Q. You mean, they wanted to know if Sandra was there?

13 A. I mean Sandra was there. And she said -- Miranda was
14 there I think the first time they came. And we said no.

15 Q. What did Melissa say?

16 A. No.

17 Q. And then what happened?

18 A. They left.

19 Q. The people that were looking for Sandra?

20 A. Yes.

21 Q. Then later on that night --

22 A. They never really came into the house.

23 Q. Later on that night, did you see all the police cars
24 around?

25 A. Yeah.

26 Q. And it was a big deal of them --

27 A. Oh, yeah. I didn't see the police car, but -- the
28 police cars, because we're kind of -- down there, there

1 wasn't. But I understand there was a lot of activity in the
2 entrance to the park.

3 Q. Did Melissa leave again that night we are talking
4 about when all the police were there? Did she leave again
5 any other time?

6 A. No, I don't remember her ever leaving again.

7 Q. It's your understanding once she came back from the
8 church, she stayed with you guys there the rest of the
9 night?

10 A. Yes.

11 Q. If we had receipts or video or something that she
12 left, what are you saying, you didn't -- did you tell
13 someone you know where she is, whenever she leaves?

14 A. No.

15 Q. You're aware of it?

16 A. No.

17 Q. Okay.

18 A. She's twenty-eight. I wouldn't, you know.

19 Q. She can't -- did you say she can't leave without your
20 knowing it?

21 A. I may have said that, as far as she does -- now, she
22 went out and was helping look for Sandra.

23 Q. Did she tell you that?

24 A. Yeah, well, we were all out there kind of, you know,
25 on the porch when things started -- when they realized that
26 she wasn't to be found anywhere. Everybody was upset.

27 Q. Did she say where she looked?

28 A. No.

1 Q. Did she come back and say anything about her search
2 for Sandra?

3 A. No, I don't remember. We just were talking in
4 general, not her search, but we were talking in general.

5 Q. Did she -- did you see that night a bag of vomit on
6 the washing machine?

7 A. No.

8 Q. Did you see a bag of something on the washing machine?

9 A. Not that night, no.

10 Q. When?

11 A. Well, I told Mark --

12 Q. Mark Ellenburg?

13 A. -- at the time of. Yes.

14 Q. Was it that night or the next night? There's a
15 calendar on the board.

16 A. I don't know what day it was.

17 Q. Well, in relation to the 27th, when was it?

18 A. Mmm, you know, I really can't, because it wasn't
19 significant to me. I really didn't pay attention. It was a
20 few days later.

21 Q. Did you tell someone it was the 28th?

22 A. I don't remember saying that. That would have been
23 the very next day, and I don't remember that.

24 Q. It wasn't significant to find a bag of vomit?

25 A. I don't know that it was vomit.

26 Q. What was it?

27 A. It was a plastic bag that -- I went to clean off the
28 dryer and there was a plastic bag. I opened it up and it

1 was a napkin. I have a lot of old napkins that we use every
2 day for every meal, unless we have guests. And it was
3 wadded up in the bag. And I couldn't tell what, it just
4 looked kind of messy. And I just picked the plastic bag up
5 and threw it in the garbage.

6 Q. Did you tell Mark Ellenburg that it was a bag of
7 vomit?

8 A. I said it could have been. I said it could have been
9 vomit. It could have been any number of things. It was a
10 grainy -- because our dog would vomit sometimes. You know,
11 I didn't know if it was -- I didn't know if it was that, or
12 if somebody had spilled something and cleaned it up. It
13 looked like some type of a grain.

14 Q. But did you talk to Melissa about it?

15 A. Did I?

16 Q. Yes.

17 A. I don't remember talking to her about it.

18 Q. You asked your granddaughter, Melissa Huckaby, about
19 the vomit and Melissa said she would take care of it?

20 A. I don't remember saying that.

21 Q. Did you say that to Mark Ellenburg?

22 A. No, I do not remember.

23 Q. On April 11th?

24 A. No, I don't remember saying that.

25 Q. Well, would it refresh your memory if I read you
26 something?

27 "I received a call on my cell phone from Connie
28 Lawless. I asked her further questions about the bag of

1 vomit she found on her washing machine. Connie Lawless said
2 she could not remember the exact date, but it had to be
3 Friday, March 27th, or Saturday, March 28th, in the evening.
4 She noticed a white plastic grocery bag on top of her
5 washing machine. When she opened it up, she noticed one of
6 her green cloth napkins with vomit on it. She asked her
7 granddaughter Melissa Huckaby about the vomit. Melissa
8 replied it was nothing and she would take care of it."

9 After I reread that statement --

10 A. Yeah, that does strike a little bit more. I would
11 have had more recollection at that time than I do now.

12 Q. Fair enough.

13 A. But I do not -- I do not think I stated equivocally it
14 was vomit because I did not know. It didn't in some cases
15 look like vomit to me. It was just that was the first thing
16 that came to my mind.

17 Q. But the point is did you ask your granddaughter
18 Melissa Huckaby about it?

19 A. I said, "What is this" -- I said, "There's a bag with
20 a napkin in it here," and I said, "Do you know anything
21 about it?"

22 She says -- now, see, I'm confused. So I don't want
23 to answer that.

24 Q. Did you tell Ellenburg she said, "Oh, it's nothing, I
25 will take care of it," or words to that effect?

26 A. I have no idea.

27 Q. Would it have been fresher in your memory on
28 April 11th when you talked to Ellenburg about it?

1 A. Well, I would think so.

2 Q. Did you go further, though, and describe this vomit or
3 this material as you described the vomit as light in color,
4 did not have much of an odor, it looked perhaps like
5 oatmeal, and was already partially dried inside the bag?

6 A. Uh-huh. Yes.

7 Q. Do you remember saying that?

8 A. Yes.

9 Q. Is that all accurate so far?

10 A. Pretty well, to -- it didn't have any odor to it and
11 it was -- when I see it in my mind, it looked grain -- kind
12 of reminded me of cornmeal.

13 Q. And did he ask you then if the vomit could have
14 resembled macaroni and cheese, and you said, "Yes, it could
15 have"?

16 A. I remember that, yes.

17 Q. It could have been macaroni and cheese?

18 A. I said that's a possibility, yes.

19 Q. And then did you tell him that on the 30th, you still
20 noticed the bag of vomit on your washing machine, so you
21 threw it away into your kitchen trash can?

22 A. I don't remember telling him that, but that's what I
23 did with it.

24 Q. Okay. But do you remember the date being --

25 A. No.

26 Q. -- that Monday night?

27 A. No.

28 Q. Do you think you might have remembered dates a little

1 bit better just a week or two later on the 11th of April
2 when you talked to Ellenburg?

3 A. Well, I'm sure.

4 Q. Okay. Did she -- what -- do you guys have other
5 napkins? Did you guys have any -- what are they called,
6 like washcloth or cloth napkins that you had?

7 A. All of my napkins are cloth.

8 Q. Are any of them like plaid?

9 A. No.

10 Q. They are all single color?

11 A. Yes. As far as I -- there's a pink and there's a
12 green and a lot of white ones.

13 Q. What about at the church, what are the colors?

14 A. We don't have napkins at the church that are cloth.

15 Q. Showing you this Exhibit 92, recognize this?

16 A. No, I don't.

17 Q. Did you -- you had material there at the church,
18 though, didn't you?

19 A. Well, what do you mean by "material"?

20 Q. Well, did you have any material, towels, drapes?

21 A. Well, there's tea towels and things in the kitchen,
22 which that's not anything.

23 Q. Where were they?

24 A. They are on the opposite side, I believe, of that --
25 that set of cabinets.

26 Q. What do they look like?

27 A. Dish towels.

28 Q. Any of them plaid?

1 A. Well, they -- I don't know if you'd call it a plaid.
2 Maybe white with a red stripe or a -- maybe it's a -- well,
3 I can't really recall what they look like. I don't do much
4 in the kitchen.

5 Q. Sandra never went over to that church, did she?

6 A. No.

7 Q. She wasn't a member?

8 A. No.

9 Q. I mean, let me ask it so you can give a positive
10 answer. Was Sandra a member at the church?

11 A. No.

12 Q. Was Sandra -- did Sandra go to the church?

13 A. No.

14 Q. Okay. Did -- was it Cantu, the family? Chavez or
15 Cantu?

16 A. Uh-huh.

17 Q. Did the Cantu family go to your church?

18 A. No.

19 Q. Okay. And to -- the people who went to your church
20 were church members?

21 A. Yeah. We had visitors -- you know, most of them,
22 except for visitors we'd have on and off.

23 Q. Did -- did Melissa have access to the church, a key to
24 the church?

25 A. No.

26 Q. How would she get in?

27 A. Well, if she needed to get in, either her grandfather
28 would unlock it or she would get a key. But there was an

1 alarm on it, so I don't know if she knew that.

2 Q. Did she have a key?

3 A. No.

4 Q. If I told you your husband said she did, that refresh
5 your memory at all?

6 A. No, I wouldn't -- if he said she did, he would know
7 she did. I don't know. I don't have a key.

8 Q. Okay. Did she -- she has a car, right, Melissa
9 Huckaby?

10 A. Yes.

11 Q. What kind of car is it?

12 A. It's a Kia Sportage.

13 Q. And what color is it?

14 A. Kind of a mauve.

15 Q. Does it have anything on the back, any decals or
16 anything?

17 A. Seems like there's a tire.

18 Q. Like a spare tire?

19 A. Uh-huh.

20 Q. Is that a yes?

21 A. Yes.

22 Q. Anything else on the back?

23 A. Oh, I don't know. It's been so long since I saw it, I
24 don't recall.

25 Q. Does anyone drive it other than Melissa?

26 A. No.

27 Q. She's the only one that drives her car, is that
28 correct?

- 1 A. Correct.
- 2 Q. What about does she ever borrow your cars?
- 3 A. Yes.
- 4 Q. Okay. So she may borrow your cars, but no one else
5 borrows hers, is that a fair way of putting it?
- 6 A. Yes.
- 7 Q. Did she have a suitcase, Melissa Huckaby?
- 8 A. I think she had a whole set. I'm not, you know.
- 9 Q. On the 27th of March, was she wearing a ponytail?
- 10 A. I have no idea.
- 11 Q. Were any of her suitcases missing?
- 12 A. I have no idea.
- 13 Q. Well, she called you and said one was supposedly
14 stolen, right?
- 15 A. Yes.
- 16 Q. Did she state were any others were missing?
- 17 A. No.
- 18 Q. Did you go visit her in the hospital?
- 19 A. Yes.
- 20 Q. Did she say what she did to get her into the hospital?
- 21 A. I don't remember, but it's my understanding that she
22 swallowed a razor blade.
- 23 Q. When you say you don't remember, is that the kind of
24 thing you would forget?
- 25 A. Well, she was in the hospital several times.
- 26 Q. Right. But, I mean, around this time, when did -- see
27 the calendar up there, the 27th of March, when is the first
28 time she told you she swallowed a razor blade -- did she

1 ever tell you she swallowed a razor blade?

2 A. Yes, she did.

3 Q. When is the first date after the 27th?

4 A. If I might look in my notebook in my purse, I would
5 have it.

6 Q. Did she say how she swallowed it?

7 A. No. I thought that was quite remarkable.

8 Q. Did she smoke cigarettes?

9 A. No.

10 When I say "no" to these questions, like her not
11 loaning her car or this, I'm referring to my knowledge.

12 Q. Yeah, I understand.

13 A. When she told me that she had...

14 (Referring to notebook.) Okay, here it is. She -- I
15 think she told me on the 24th or the 25th. We picked her up
16 in Stockton at the -- she had been up there in the --
17 somewhere in the hospital. We picked her up, and she told
18 me then that she had swallowed a razor.

19 Q. Did she tell you any other times after that?

20 A. Then I believe that she did tell me one day, and I'm
21 trying to recall, which I'm having a little bit of trouble
22 with, that she had -- she said, "I think -- I either dreamed
23 I swallowed one or I swallowed one," and her stomach was
24 hurting her.

25 And I said, "Why would you not remember something like
26 that?"

27 So she went over she does crafts and she was counting
28 the razor blades and she said, "Well, one is missing."

1 And I think later that night she went to the Emergency
2 Room.

3 Q. What night was that?

4 A. I believe that was the night -- I believe it was the
5 night of the 30th.

6 Q. Okay. Did you ever tell anyone that the first time
7 she swallowed the razor blade was the night Sandra went
8 missing and the second time was the day that the body was
9 found?

10 A. No, because that's not true.

11 Q. Okay. But in any case, let me ask you, you know, we
12 don't need to go into all of her problems or whatever she
13 might have been going through in life, but did you notice
14 any change in her behavior around the date of this 27th of
15 March, 2009?

16 You know, you can sometimes tell they are off their
17 meds, they are on their meds, you get to know someone.

18 A. Right.

19 Q. You kind of sense they just weren't themselves that
20 time. Did you notice anything around the time --

21 A. No, I didn't. In fact, she was quite calm and herself
22 all of that -- that week. We picked her up in the afternoon
23 of the 25th, and she seemed quite normal and herself all
24 that.

25 Q. Well, maybe I'm missing something. The 24th is when
26 you believe she swallowed a razor or you went to the
27 hospital?

28 A. No, that's when she told me that she had swallowed it.

1 She actually went up to the -- well, go ahead and ask me.

2 Q. I don't want to cut you off. I'm trying to figure out
3 now that you're telling us it's before the 27th that she had
4 this problem with the razor blades --

5 A. Uh-huh.

6 Q. -- or you thought she might of swallowed it, whatever
7 it was. Didn't that in your mind think maybe she was kind
8 of decompensating during this time period, or she was
9 starting to act a little different?

10 A. What do you mean by "decompensating"?

11 Q. Maybe that's a technical term. Was she acting any
12 different the days leading up to or on the 27th of March?

13 A. No, because she was depressed.

14 Q. Right. But if someone swallows a razor blade or
15 thinks they swallowed a razor blade, whatever day it was
16 earlier that week, isn't that a indication there was
17 something going on in her life, in her mind, around or near
18 the time of the 27th?

19 A. Well, like you said, Melissa has a history of
20 depression. And when she gets really depressed, she would
21 cut herself.

22 Q. With?

23 A. I don't know. Razors, I guess. This is before she,
24 you know, before she came to live with us.

25 Q. Did you notice any of that going on, say, the week
26 before the 27th?

27 A. Well, I notice -- I noticed --

28 Q. The week of the 27th?

1 A. -- she went to Emergency Room several times when she
2 would have --

3 Q. In March?

4 A. -- bloody -- yes.

5 Q. Go ahead.

6 A. She would have bloody --

7 Q. Ankles?

8 A. -- stools.

9 She did have -- that's the one thing I did notice was
10 that she had apparently cut her outer ankle. And I did not
11 say anything to her because she -- she was getting -- she
12 was supposed to be getting help and being on medication.

13 And when we took her up to Stockton, they took her off
14 of medication and she had to wait a week before they put her
15 on anything else.

16 Q. So getting back to this week leading up to the 27th.

17 A. Yes.

18 Q. Do I understand correctly that at least about the
19 24th, they at least reported to you that she may have
20 swallowed a razor blade?

21 A. Not maybe. She said she did.

22 Q. Did you see any evidence of cutting leading up to --
23 those few days leading up to the 27th?

24 A. No.

25 MR. TESTA: Any questions from the grand
26 jurors?

27 Q. Here are some questions from the grand jury.

28 A. Okay.

1 Q. Why did Melissa live with you rather than her own
2 parents?

3 A. She came up to visit. We were getting ready to -- my
4 husband was -- we were getting ready to move some of our
5 things to Southern California. Our children all live there.
6 And she -- we were down there visiting. And I asked her --
7 she wasn't working. I asked her if she would like to come
8 up and help us get some boxes of like books and things
9 and -- packed up.

10 And she said yes, she would be happy to. And she
11 packed up a lot of her things and came up. Then she decided
12 after she got there she would stay with us.

13 Q. Had you ever used that rolling pin that's in the
14 church?

15 A. No.

16 Q. Question from the grand jury: Why didn't Melissa park
17 at the end? It seems like it is closer than the parking by
18 the clubhouse.

19 A. What end?

20 Q. I think by your end.

21 A. I don't know where they are talking about. Because
22 you are only allowed to park in the overflow spaces.

23 Q. So there's no room to park by your place? Other than
24 in your parking lot?

25 A. That's right.

26 Q. In your park, there's two stalls that were occupied by
27 your car and your husband's car?

28 A. That's right.

1 Q. Another question from the grand jury: Did Melissa use
2 the missing suitcase to carry out decorating supplies?

3 A. I have no idea. I asked her later if she had things
4 in there. She said she did have some things in the
5 suitcase.

6 Q. Did she say what she had in the suitcase?

7 A. No, I didn't ask her and she didn't say.

8 You have -- Melissa's personality, she's not real
9 talkative like I am. So she didn't say.

10 I asked her what she was going -- had planned on doing
11 with it. And she had several containers -- plastic
12 containers that had different type materials in them. And
13 she was going to use the suitcase to then put those plastic
14 containers into the suitcase. It was quite large. So she
15 could leave it at the church -- or it had wheels on it and
16 she could leave it stored at the church without it
17 interfering with any other classes or anything that went on,
18 or she could bring it home to refill them.

19 Q. But later on, you went to the church and saw that the
20 decorations were all up, right?

21 A. Yes.

22 Q. So if she's saying the decorations are in the
23 suitcase, but then the suitcase gets stolen, then how could
24 she have put all these decorations up that you saw in the
25 church?

26 A. You misunderstand me.

27 Q. Maybe I do.

28 A. That wasn't all she took up there. She also had kits

1 for the children to -- you know, like they each had their
2 individual kit. There were crayons, little scissors, things
3 of that nature. That was the type of thing that she was
4 taking up there and going to put into the suitcase.

5 Q. But the point is that everything looked decorated in
6 the church --

7 A. Yes.

8 Q. -- when you went there?

9 A. Yes.

10 Q. When is the next time you went after the 27th?

11 A. The next morning.

12 Q. When you went there the morning of the 28th,
13 everything looked like she had done what she said she was
14 going to do?

15 A. That's right.

16 Q. Did you ever ask her, "Wait a minute, Melissa, I
17 thought your suitcase with all these things, that it was
18 stolen, how could you have done it?"

19 A. No. She didn't say there was a lot of things. It was
20 just some stickers and things like that. Because she had
21 hauled things down there before that day. And she had, as I
22 said, she had all the stuff out. I don't know. I don't.

23 Q. Was she upset because the supplies were missing or
24 because the suitcase itself was missing?

25 A. Well, she said the supplies in there weren't -- it was
26 the suitcase that was expensive, and that's what she was
27 upset by.

28 Q. Question by the grand jury: Do you know about what

1 time Melissa left your house to go to the church?

2 A. No.

3 Q. Were there any bed sheets missing from your home or
4 from Melissa's bedroom?

5 A. No.

6 Q. Why would she ask for Miranda to come and stay with
7 Madison rather than Sandra?

8 A. Because Miranda was eleven and Sandra was eight. And
9 Madison -- and when -- when Sandra and Madison played
10 together, they were more apt to, you know, wander off into
11 the bedrooms and things like that, where Miranda was a
12 little bit more settled and was almost like a babysitter
13 herself, although she played with Madison.

14 Q. Hadn't Melissa kicked Sandra out because Sandra stole
15 a toy, and sometime --

16 A. No, she didn't kick her out.

17 Q. -- said, "You can't come over here until you return
18 that toy that you stole," or something like that?

19 A. She said, "You're going to have to go" -- she had
20 taken a toy and she says, "You took" -- she came over and
21 then -- this was quite awhile before that, though. This has
22 been several months before that.

23 Q. Yeah, I realize it was several months.

24 A. And she came to the house and Melissa said, "You took
25 something the last time you were here." I don't know what
26 it was.

27 And she said, "No, I didn't."

28 And she says, "Well, I don't want you to come back

1 over until you return it, because I know that you took it."

2 So she went away. She came back later and brought it.

3 Q. Sandra came back with the item?

4 A. Yes.

5 Q. Question from the grand jury: On March 27th, did you
6 see Melissa taking more than one suitcase out of your home
7 to her car that was parked next to your home?

8 A. No.

9 Q. Did you see her taking any suitcase?

10 A. I didn't see her take anything out.

11 Q. Who would be baking at the church?

12 A. Baking?

13 Q. Yes. Anyone?

14 A. You mean on that day or --

15 Q. Any time?

16 A. Well, depends. Different church members.

17 Q. Very often?

18 A. Mmm, about once a week. Maybe.

19 Q. What would they bake?

20 A. They might bake a lasagna, or they may make something
21 from home, heat it up. They may heat up bread.

22 Q. Cookies, pie?

23 A. I don't remember.

24 Q. Did you guys eat at the church every Sunday?

25 A. We did for a long time. But we had --

26 Q. In the last year?

27 A. -- ceased.

28 Yes. But we had ceased by -- I think we stopped doing

1 that around February. The people will still -- some of the
2 families that came from out of town would still sit there,
3 would bring food and cook it and eat it. But I didn't stay
4 there.

5 Q. Before -- pardon me. Before you terminated the --
6 before you stopped, you know, reduced the number of times
7 you guys ate there, would you guys -- would people be
8 cooking on a frequent basis in the church?

9 A. Yes.

10 Q. Say from 2000 -- during the year 2008, going back a
11 year or so?

12 A. Uh-huh.

13 Q. Yes or no?

14 A. Yes.

15 Q. How frequently would they be cooking there in the
16 church?

17 A. Maybe --

18 Q. Once a week? Twice a week? Just tell us what the
19 answer is.

20 A. Maybe three to four times a month.

21 Q. Three to four times a month. Would that include
22 baking?

23 A. It might, yes.

24 Q. Well, wouldn't you -- didn't you guys leave little
25 snacks, cookies and pastries and things out for after the
26 services or for anything like that on Sundays? Or for
27 Wednesdays?

28 A. No, not on Wednesdays.

1 Q. Sundays?

2 A. Sometimes someone might bring something and come early
3 in the morning, make a pot of coffee and they would have a,
4 you know, danish or something like that out.

5 Q. In terms of baking, though, how often would they bake?
6 Until you stopped doing it, how often would they bake?

7 A. Now, when you're saying "baking," do you mean like --

8 Q. Pastries, pie, lasagna, anything you're using any of
9 these utensils -- say using the rolling pin, how often would
10 they use the rolling pin?

11 A. I don't know that anybody ever used the rolling pin --
12 oh, oh, wait a minute. What the rolling pin was used for
13 was I think to make the unleavened bread for the Lord's
14 Supper.

15 Q. Was that every week?

16 A. No.

17 Q. How long?

18 A. That was about quarterly.

19 Q. So when would that have last been done in relation to
20 March of 2009? You say quarterly. Every three months?

21 A. More or less, yes.

22 Q. Around Christmas, holidays?

23 A. No, that had nothing to do with it.

24 Q. The beginning of the year?

25 A. We had it -- February the 22nd we had the Lord's
26 Supper.

27 Q. So someone would have used the rolling pin then to
28 bake the unleavened bread?

1 A. I believe so, yes.

2 Q. Did anyone report to you that it was broken --

3 A. No.

4 Q. -- it was bent or anything like that?

5 A. No.

6 Q. Who was it that used it then?

7 A. It would probably -- usually Cynthia Browning does
8 that. But I think that was when she was ill. And it could
9 have been Meredith Huerta that did that.

10 Q. Did the baking?

11 A. Yes.

12 Q. In February?

13 A. Yes.

14 Q. Where does Meredith Huerta live?

15 A. She just moved, and she lives in Hughson.

16 Q. Houston?

17 A. Hughson.

18 Q. Where did she used to live?

19 A. Turlock.

20 Q. Okay. But she didn't live in the trailer park?

21 A. No.

22 Q. And just to be clear, nobody from the trailer park was
23 a member of the church except -- what members of the church
24 lived in the trailer park?

25 A. Elizabeth Edwards used to live in the trailer park,
26 but she moved away.

27 Q. That was back then?

28 A. Kathy Glover lives in the trailer park. She's the

1 only member that lives in there now.

2 And years ago, we had an elderly lady who has passed
3 away.

4 Q. Question from the grand jury: When Sandra Cantu came
5 by to play with Madison while she was eating, did Melissa
6 stay in the house or did she go outside at that time?

7 A. No, she stayed in the house. She just opened the
8 door. The child didn't come in. She just asked and Melissa
9 said, "No, not right now," and she shut the door.

10 Q. Who stopped by the house before Melissa went to the
11 church on March 27th?

12 A. Elizabeth Edwards.

13 Q. And who is she?

14 A. She's the member that used to live in the park.

15 Q. And lives where now?

16 A. She lives out on Bird Road.

17 Q. In what town?

18 A. Tracy.

19 Q. And what did she stop by for?

20 A. I don't remember what she stopped by for, because she
21 has a lot of friends in the park and she may have just
22 stopped by to say hi. I don't know.

23 Q. Is she your friend or Melissa's friend?

24 A. Well, she's a member of our church, so she's, you
25 know.

26 Q. When she stopped by, did she come in?

27 A. Yes.

28 Q. Did she speak to anyone when she came in?

1 A. All of us, yes.

2 Q. About what?

3 A. We were just chitchatting and she was commenting on
4 the things that Melissa was doing. Melissa was showing her
5 and I her materials.

6 Q. How long did she stay?

7 A. Maybe thirty minutes or so.

8 Q. And then she left?

9 A. Yes.

10 Q. And then how long after she left did Sandra come by?

11 A. I don't know if it was before or after --

12 Q. All right.

13 A. -- she was there that Sandra came by.

14 Q. Question from the grand jury: Were you ever given
15 anything -- did -- did Melissa have these vitamin drinks?

16 A. What vitamin drinks?

17 Q. Any vitamin drinks.

18 A. I don't remember any vitamin drinks.

19 Q. Did she have any drinks that she carried in her purse?

20 A. Maybe water or soda. I don't -- I don't remember her
21 having any drinks.

22 Q. Did she ever give you something to try out, "Hey,
23 taste this," and you tried it out?

24 A. No. That I know of.

25 Q. Well, you would remember if she gave you something
26 that was bitter tasting, wouldn't you?

27 A. Not necessarily.

28 Q. Tell us did she ever give you something that was

1 bitter tasting?

2 A. Not that I know of.

3 Q. In the last few -- in this year at all, before she got
4 arrested, just in the last few months, did she ever give you
5 any bitter tasting liquid?

6 A. I don't remember ever getting anything that was bitter
7 tasting.

8 Q. I don't mean to argue with you, but when you say don't
9 remember, it would seem to me that I would remember if
10 someone gave me something that tasted bitter. It's not the
11 kind of thing where I would say, "I don't remember." It's
12 kind of like saying, "I don't remember if, you know, there
13 was World War II." I mean, it's kind of --

14 A. No.

15 Q. It's not the kind of thing you would have trouble
16 remembering.

17 A. Yes. I think that you're -- because one thing, I --

18 Q. Did she give you liquids a lot?

19 A. No -- well, she would get me a drink or something, a
20 soda or, you know, she would do that, get us our coffee or
21 whatever.

22 But, you know, they like sour things -- my grandkids
23 like sour candies. They like sour drinks. I think they all
24 taste sour. I don't know if I would classify it as bitter.

25 Q. Did she ever give you something to drink that tasted
26 bitter or sour?

27 A. Not that I know of, no.

28 Q. When you say not that you know of, you're saying she

1 might have?

2 A. No. I don't remember anything like that. I think I
3 would, you know, unless -- unless it was Madison had a --
4 a -- a watermelon tasting something that had -- I don't
5 remember drinking anything like that, because I don't -- I'm
6 picky about what I drink --

7 Q. Did you --

8 A. -- eat.

9 Q. Did you ever give something back to Melissa, saying,
10 "Oh, this tastes bitter," or, "This tastes sour," or, "I
11 don't like the way this tastes"?

12 A. I don't remember, no.

13 Q. When you say you don't remember, are you leaving the
14 room open for the possibility it existed? Because you're
15 not saying no, she never did; you're saying no --

16 A. If I say no, she never did, and then you tell me
17 something that would refresh my memory, then you would say I
18 was lying. And I'm not going to lie. But I'm not -- I'm
19 not going to say that there may have been. I don't remember
20 anything like that. I think you're pushing a moot point.

21 Q. So if Melissa said to someone that she gave you
22 something, it was bitter tasting, then Melissa must have
23 been making that up?

24 A. No, I'm not saying that either. When I say I don't
25 recall, I didn't recall all my conversation with Mark until
26 you refreshed my memory.

27 Q. When was the church established?

28 A. In 19 and -- I think it was about '57.

1 Q. Question --

2 A. '56.

3 Q. Pardon me.

4 Question from the grand jury: Do you use -- do you
5 usually just throw out cloth napkins rather than clean them?

6 A. If --

7 Q. Yes or no?

8 A. Say it again.

9 Q. Do you usually just throw out cloth napkins?

10 A. Sometimes I do.

11 Q. Are you currently represented by legal counsel in
12 relation to this matter?

13 A. No.

14 Q. Question from the grand jury: Did you try to figure
15 out who threw up?

16 A. No, because I didn't know anybody -- if anybody had
17 thrown up.

18 Q. Did you ask what it was?

19 A. No.

20 Q. Was it unusual to find napkins with stuff in it?

21 A. Well --

22 Q. Yes or no?

23 A. No. No.

24 Q. Thank you.

25 Why did Melissa need Miranda to watch Madison on
26 March 27th?

27 A. She didn't need her to watch her. She wanted her --
28 she wanted to know if she could come over and play with her.

1 Because the girls love to play -- Madison had a ton of toys.
2 And all the neighborhood kids liked to come over and play.
3 Like a Toys "R" Us in there.

4 Q. But you could have watched Madison, correct?

5 A. I did watch her.

6 Q. Was Melissa -- was Miranda watching Madison, also?

7 A. No. They were playing together.

8 Q. Are you aware of a history of sleepwalking by Melissa?

9 A. I don't know if you'd classify it as sleepwalking. I
10 do know that there was indication she got up and it was
11 very, very early in the morning, about 3:30 or 4:00. I was
12 at the computer and she came in and ate something, standing
13 at the kitchen sink. And she didn't remember that the next
14 day. She turned around and went back to bed. I thought she
15 was awake. But the next morning she had no recollection of
16 having eaten.

17 Q. She would be on the computer also -- she would use the
18 computer also, correct?

19 A. She used the laptop.

20 Q. Did she not also use the other computer?

21 A. No, I don't think she ever got on the -- the desktop.

22 Q. Well --

23 A. If she did, it would have been once when she first
24 came there. But I don't think she ever did.

25 Q. What time would you normally go to bed?

26 A. About -- well, we would go to sleep about 11:00.

27 Q. What time would you normally go to bed?

28 A. Well, sometimes we were in there 7:00, 8:00 o'clock.

1 Q. Okay. So you wouldn't get up at 5:00 in the morning,
2 use the computer, would you?

3 A. Yes, because I have sleep problems.

4 Q. Question from the grand jury: Did you ever know of
5 her to wake up outside the home?

6 A. No.

7 MR. TESTA: Do you need to use the restroom?
8 Do you need a break?

9 THE FOREPERSON: No.

10 MR. TESTA: Sorry. We will take care of that
11 later.

12 Q. Question from the grand jury: Do you feel that your
13 granddaughter Melissa -- that's not a proper question.

14 If Melissa did not have a key to the church, and if
15 there was an alarm, how did she get in to decorate on
16 March 27th?

17 A. I don't know if her grandfather had been down there
18 and unlocked it for her, or whether she knew how to do it.
19 I have no idea.

20 Q. Did your husband tell you if Melissa was agitated when
21 she couldn't find her keys and phone?

22 A. He might have said something about it. He was kind of
23 laughing about it, because she never went anywhere without
24 her cell phone. We laughed about that.

25 Q. Where --

26 A. In the -- I don't know agitation. She was just a
27 little irritated I would say.

28 Q. Where did Melissa retrieve the large gray and black

1 suitcase from?

2 A. Gray and black?

3 Q. Yeah. Where did she get the large suitcase from she
4 was loading her car?

5 A. Black -- oh, out of her room.

6 Q. How do you know?

7 A. Well, there wasn't anything anywhere else.

8 Q. Did you see her do it?

9 A. No.

10 Q. How do you know she did it?

11 A. I don't. I only know what she told me.

12 Q. What did she tell you?

13 A. That she had left the suitcase out -- when she called,
14 she said she left the suitcase out. And I went out to see
15 and I said, "No, you don't have a suitcase out here."
16 And -- and that was -- that was it. I never saw it.

17 Q. What did she say she did to Melissa -- what did
18 Melissa say she did to Sandra?

19 A. She didn't say she did anything to her.

20 Q. Well, you visited her in jail, didn't you?

21 A. Yes.

22 Q. What did she tell you happened?

23 A. She didn't.

24 Q. Did you ask her?

25 A. No. We are not supposed to -- I'm not supposed to
26 tell her -- ask her anything.

27 Q. Well, didn't she tell you anyway?

28 A. No.

1 Q. When you -- how many times have you visited her in
2 jail?

3 A. Well, I try --

4 Q. Just tell us how many times?

5 A. I don't know.

6 Q. Ten, twenty, fifteen?

7 A. Well, I don't know.

8 Q. Ballpark figure. Once?

9 A. I'm trying to tell you, I try to visit her a couple
10 times a week. I don't always make it.

11 Q. In all these visits since she's been arrested, she
12 never told you what happened?

13 A. No.

14 Q. Did she ever say she didn't do it?

15 A. We have been told it's recorded.

16 Q. Yes or no?

17 A. No.

18 Q. Did she ever tell you she didn't do it?

19 A. Yes, she did. She just shook her head.

20 Q. What did you ask her?

21 A. I said, "Did you have anything to do," and she just
22 shook her head.

23 Q. You asked her what, "Did you have anything," what?

24 A. "To do with this?" And she shook her head no
25 (indicating).

26 But we have been told we are recorded, so we are very
27 careful about what we say.

28 Q. You were told what's being recorded?

1 A. Our conversations. It tells you when you pick the
2 phone up.

3 Q. Well, what's -- what's -- who's afraid of the truth?
4 What do you have to worry about being --

5 A. Well, just like you're grilling me now and trying to
6 pinpoint me sometimes and get me to say things or -- that I
7 don't want to say. That's not true.

8 Q. Am I getting you to say things that aren't true?

9 A. Just like you asking me awhile ago.

10 Q. What am I trying to get you to say that's not true?

11 A. You said -- I can't remember what it was now. But you
12 asked me -- you asked me about do I always throw away cloth
13 napkins.

14 Q. Right. Did you say something that wasn't true?

15 A. I -- no.

16 Q. Did I try to get you to say something?

17 A. Yes, you did. You wouldn't take -- you wouldn't take
18 my word for it. You kept wanting me to answer one way or
19 the other.

20 Q. I'm trying to focus you because you tend to go on. I
21 do the same thing. I'm trying to narrow in on the
22 questions. Some of them are yes or no.

23 Do you throw away napkins?

24 A. Sometimes.

25 Q. So what did I get you to say?

26 A. See, you didn't want me to say "sometimes."

27 Q. Did you say anything today when you were testifying
28 that wasn't the truth?

1 A. No.

2 Q. Did you say something today that you felt was not
3 fully explained?

4 A. Not that I can recall right now.

5 Q. Did I cut you off from saying something you wanted to
6 say?

7 A. No.

8 MR. TESTA: Are there any other questions
9 from the grand jury? If there are, could you send them
10 forward?

11 Q. What is your phone number?

12 A. 835-8406.

13 Q. Did you receive text messages from Melissa Huckaby?

14 A. Yes.

15 Q. Did you receive some from when she was in the
16 hospital?

17 A. Yes.

18 Q. By the way, when she was in the hospital, did she tell
19 you that was her Eddie Bauer suitcase that they were taking
20 from the pond?

21 A. She said it looked like it.

22 Q. What did you say?

23 A. (Shrugs shoulders.) I don't remember. Probably was
24 shock. That was a tragedy for all of us. We all loved
25 Sandra. It was devastating.

26 Q. And did you ask her, "Wait a minute, Melissa, this is
27 your suitcase, how did that happen?" Did you ask her any
28 questions like that?

1 A. No, because she had -- had told me it was stolen.

2 Q. Okay. Well, the night -- you know, the night -- you
3 remember the night when she found the so-called -- she
4 so-called found this note?

5 A. Yes.

6 Q. You were there that night, right?

7 A. Yes.

8 Q. And did you ask her questions of -- what did she tell
9 you about the note?

10 A. She just was telling me the same thing -- she told me
11 at the time she told the FBI.

12 Q. What did she tell you?

13 A. I don't remember what she told us. That she had
14 kicked it or something. And --

15 Q. And what?

16 A. And she went and got a policeman who took it. I don't
17 remember. I was -- I was very upset when they came in
18 because we thought they had found -- I thought they had
19 found Sandra that night.

20 Q. Well, what did Melissa say about how she found the
21 note? She just was walking around and kicked it?

22 A. Yeah.

23 Q. And then she got a police officer and the police
24 officer came?

25 A. Uh-huh.

26 Q. How was Melissa acting that night?

27 A. When she came in, she was kind of upset.

28 Q. Hyperventilating?

1 A. Well, I never thought about it that way. Excited, I
2 think.

3 Q. Did she have any pre-existing damage to her car?

4 A. I don't know -- oh, yes, she did.

5 Q. What part of it?

6 A. I believe the back.

7 Q. Where did she get it?

8 A. When she was coming up here, they were doing roadwork
9 somewhere down on 5, and we --

10 Q. Okay.

11 A. It was very damaging, I mean, I couldn't believe all
12 the trouble it caused, damage.

13 Q. Question from the grand jury: What kind of crafts did
14 she do?

15 A. Scrapbooking, make little things with Madison.

16 Q. Make little what things?

17 A. Like jewelry and...

18 Q. Anything with cloth?

19 A. I don't remember any cloth, no.

20 Q. Anything -- well, when you make jewelry, how would she
21 attach one piece of jewelry to another one?

22 A. She had a little machine that I had never seen before,
23 I'm not even sure I understand it now, but they have these
24 tiny little beads of different colors and you put them down
25 in here, and then the hot air fuses them together, and it
26 makes whatever the design is that you put on there, and that
27 type of thing.

28 Q. And does some of the things -- the crafts she would do

1 require tying of knots?

2 A. Tying of knots? No.

3 Q. Tie one thing to another thing?

4 A. Not that I know of.

5 Q. How long --

6 A. I mean, I don't know.

7 Q. How long have you been involved with the church?

8 A. This church?

9 Q. That's the question from the grand jury, how long have
10 you been involved with this church?

11 A. This church. Twenty -- since '80, '81.

12 Q. Question: How well do you know the other members?

13 A. Very well.

14 Q. Did Melissa have friends there?

15 A. Yes.

16 Q. At the church?

17 A. Yes. We were all friends.

18 Q. Did she have any friends at the trailer park?

19 A. I don't -- not that I know of.

20 Q. Did she hang out with anybody?

21 A. No.

22 Q. Did she have like a girlfriend or anyone that she
23 would go -- maybe go to Starbucks with or anything like
24 that?

25 A. No. She met a young woman at the park who had
26 children one time, and sometimes they would meet at the park
27 and play. Madison liked the little -- the -- the other
28 woman's children.

1 Q. At the trailer park, did Melissa have any friends?

2 A. Not that I know of.

3 Q. At the church, did Melissa Huckaby have any friends?

4 A. Yes.

5 Q. Who?

6 A. Well, all of them. They are all -- I don't know what
7 they mean by a "friend."

8 Q. You know, someone special, BFF?

9 A. No.

10 Q. A good friend they hang out with?

11 A. No.

12 Q. They do things, call each other on the phone, "What
13 did you do today?" Did she have anyone like that at the
14 church?

15 A. No.

16 Q. Or at the trailer park?

17 A. No, not that I know of.

18 Q. Was she kind of a loner?

19 A. Yes.

20 Q. Question from the grand jury: Was the Sunday school
21 at church only for children?

22 A. Pardon?

23 Q. Was the Sunday school at church only for children?

24 A. No. There was an adult class.

25 Q. Okay. Did any adults help Melissa with the church
26 projects?

27 A. Not that one.

28 Q. Question from the grand jury: How much could these

1 decorating items have weighed?

2 A. I have no idea. I mean, we are not talking about
3 something real heavy.

4 Q. Well, didn't Melissa used to do these party shows,
5 party planning?

6 A. Before she came up here, she did that in Southern
7 California. She was an events planner.

8 Q. Well, did she ever mention the suitcases were very
9 heavy because she used to do these -- she had party planning
10 equipment inside?

11 A. No, she never mentioned that to me.

12 Q. Where did she put the old stuff from the suitcases?

13 A. The what?

14 Q. The old items in the suitcase?

15 A. I don't know that there was anything in there. I
16 thought she packed her clothes and stuff and brought them
17 up.

18 Q. Did you speak with Melissa when she was at Sutter
19 Tracy April '09?

20 A. I'm sure.

21 Q. Tell us about the conversations.

22 A. Well, I went and saw her -- no, that was the day she
23 left the hospital, April '09. I didn't speak with her at
24 the hospital.

25 Q. Well, she came back and lived with you, though, right?
26 When she got out of the hospital on the 9th?

27 A. Yes, she came in, yeah, but we left that day to go to
28 Salinas to a conference.

1 Q. So you didn't see her when she got out of the
2 hospital?

3 A. Yes, she was coming in the front door because we were
4 getting ready to leave.

5 Q. April 9th, this is after the body's been found, she's
6 been released from the hospital, you see her, you're about
7 ready to go to Salinas, what does Melissa say?

8 A. We -- well, we were shocked. We said, "Hey, what are
9 you doing out of the hospital?"

10 Q. What did she say?

11 A. I don't remember her saying anything.

12 Q. Nothing significant?

13 A. No. I said, "Do you want us to wait and you go with
14 us?"

15 And she goes, "No, I'll be fine."

16 Q. Did you ever see a three-piece Eddie Bauer suitcase
17 set in the house?

18 A. The only thing I ever saw that Eddie Bauer set was
19 that she gave -- there was a piece of it that was a garment
20 bag, and she gave it to my husband. I only saw it then. I
21 never saw it in her room or anything.

22 Q. Mrs. Lawless stated that Melissa went and came home
23 from the church on March 27th and never left again. Is that
24 what you stated?

25 A. That I know of, yes. That's -- well, she was
26 outside -- well, I don't think she did. I know she was out
27 helping look for her. She may have gone and got us food.
28 Sometimes she would make a fast-food run for us if we didn't

1 cook.

2 Q. Didn't she call you around 10:30 and told you the
3 church tables and chairs had been set up?

4 A. I don't remember that. She may have. If she called
5 me, she may have called me from one room to my room. We
6 often did that.

7 Q. Does anyone at your house have a green or pink
8 suitcase?

9 A. I don't.

10 Q. Does anyone?

11 A. I don't know what they mean by a "suitcase." My
12 granddaughter -- great granddaughter may have had a little
13 pink bag of some kind.

14 Q. Were any other pieces of luggage missing from
15 Melissa's set?

16 A. I don't know.

17 Q. These are all questions from the grand jury.

18 A. Okay. But I don't know.

19 Q. Who was Daniel Plowman?

20 A. That's a man that came to our church. He started
21 coming about a year ago with his two children.

22 Q. Did Melissa hang out with him?

23 A. She did for a period of time, yes.

24 Q. Who is REDACT?

25 A. Melanie.

26 Q. REDACT?

27 A. Melanie is a little girl in the park that came over
28 and she would play sometimes with Madison.

1 Q. Did Melissa tell you what the note said that she
2 kicked over?

3 A. She just said it said something about Cantu, stolen
4 suitcase, a witness, that's all I remember.

5 Q. What was your reaction when she told you that?

6 A. Well, it was kind of shocked.

7 Q. Were you suspicious of Melissa?

8 A. No. I thought it was odd.

9 MR. TESTA: Are there any other questions
10 from the grand jury? Take a moment review my notes. While
11 I do that, if you have any last-minute questions.

12 Q. Is your husband here, too?

13 A. Yes.

14 Q. Well, I have far fewer questions for him, maybe we can
15 get him off by noon and then you both can leave.

16 Did she seem to want attention, Melissa Huckaby?

17 A. Want attention?

18 Q. Yeah. Did you ever tell anyone, "Oh, she wants
19 attention so she cuts herself"?

20 A. No, no.

21 Q. Did you say anything like that she has these problems
22 where she wants to be the center of attention?

23 A. No, I never said that. I felt that she was depressed.
24 That's why she cut herself.

25 Q. Did you ever say she had a spare key to the church?

26 A. No, I don't think I said that.

27 Q. Did she?

28 A. I didn't know it. I don't recall her having a spare

1 key to the church.

2 Q. Did her daughter end up going to Oregon with Judy
3 Lawless?

4 A. Yes. Yes.

5 Q. When was that planned for the first time?

6 A. That was planned -- well, it was planned months in
7 advance I think, or several -- a couple -- a month or two in
8 advance.

9 Q. And the date she was to leave was what date?

10 A. I think she picked her up on Palm Sunday.

11 Q. 29th?

12 A. Yes -- no, the 5th of April.

13 Q. Okay. But had that date been planned that that would
14 be the date that Madison would go up to Oregon?

15 A. That was, yeah, that was the date that Judy and her
16 younger daughter was going up to Oregon. And when Melissa
17 was put in the hospital, she said -- I don't know when it
18 was really planned, because I only knew about it, oh, days
19 before that.

20 Q. Okay.

21 A. Said she was going to pick her up.

22 Q. You don't know if it was a pre-planned arrangement or
23 if it's something that was planned just in the last few
24 days --

25 A. No.

26 Q. -- before the visit? I mean, do you know either way?

27 A. No.

28 Q. All right. You didn't pull up that CNN article on the

1 Internet?

2 A. Are you asking me a question?

3 Q. Yes.

4 A. I don't know what you're talking about.

5 Q. Do you remember there was an article that you were
6 asked about and you said, "Oh, I never pulled that up. I
7 never downloaded that"?

8 A. You're going to have to refresh my mind a little bit.

9 Q. Didn't they come out and show you something they found
10 on her computer and they asked you, "Well, did you do this?"
11 And you said, "No, I've never seen it before"?

12 A. I never saw it. They never showed me anything. I
13 think there was an article of some kind. And I said, "Well,
14 that's the kind of article I would have pulled up and been
15 interested in." It was -- seemed like it was a human
16 interest story or something.

17 Q. Well, there was an article about someone putting a
18 baby in the suitcase and putting the baby in water pulled up
19 on September 9th of 2008, on the computer at your house.

20 A. Uh-huh.

21 Q. You said, "No, no, I don't -- I didn't do that." Do
22 you remember that?

23 A. I said I didn't remember doing it. I don't know.

24 Q. Are you saying now you did it.

25 A. No, I'm not saying I did. I'm saying I don't remember
26 doing it. It doesn't mean that I didn't do it.

27 Q. So did you or did you not do it?

28 A. This is what I was referring to awhile ago when I said

1 when we were talking.

2 Q. Yeah, tell us the whole truth right now.

3 A. Well, I'm telling you that I don't remember doing it.
4 I don't remember a lot of things. I'm on a lot of
5 medication because of my health. And I don't always
6 remember everything, every little detail.

7 It would have been something that I was interested in,
8 anything that pertained to children.

9

10 (Whereupon Detective Bauer entered the
11 grand jury room.)

12

13 MR. TESTA: No testimony while we look for
14 something.

15 THE FOREPERSON: If anyone wants to take a
16 quick break.

17 MR. TESTA: Two minutes, five minutes?

18 THE FOREPERSON: About five minutes.

19 MR. TESTA: Could you read the admonition to
20 the witness she's not to discuss this with anyone else?

21 THE FOREPERSON: Yes.

22 You are admonished not to reveal to any person, except
23 as directed by the Court, what questions were asked or what
24 responses were given or any other matters concerning the
25 nature or subject of the grand jury's investigation which
26 you learned during your appearance before the grand jury.
27 This admonishment continues unless and until such time as
28 the transcript of this grand jury proceeding is made public.

1 Violation of this admonishment is punishable as
2 contempt of court.

3 This does not prevent you from discussing the matter
4 with your attorney, if you have an attorney advising you
5 with respect to your appearance before the grand jury.

6 Do you understand?

7 THE WITNESS: Yes.

8 THE FOREPERSON: All right. Thank you.

9
10 (Recess.)

11
12 THE SECRETARY: We are all accounted for.

13
14 (Whereupon an Internet Article was
15 marked Grand Jury Exhibit Number 270
16 for identification.)

17
18 MR. TESTA: Could we try to go to 12:15 and
19 come back at 1:15 so I can get on Mr. Lawless, because they
20 have been waiting here all morning?

21 THE FOREPERSON: Yes.

22 MR. TESTA: Thank you.

23 I don't think I have as many questions for him.

24 May I have that exhibit I just gave you marked?

25 Q. Showing you this article. It's found on your computer
26 in your house. Do you remember telling someone that you
27 didn't have anything to do this?

28 A. This is the first time I've seen this. I mean, I

1 wasn't shown this before.

2 Q. Yeah, but they told you about it, right?

3 A. They said something about it and I said that sounded
4 like the kind of thing I would pull up. I didn't recall
5 this particular.

6 Q. Four-year-old girl in a suitcase put in water is the
7 kind of thing you would have pulled up?

8 A. Yes.

9 Q. Do you have any recollection --

10 A. Pardon?

11 Q. Do you have any recollection of it?

12 A. Well, it could be, you know, it -- it looks like
13 something I may have pulled up.

14 Q. Well, don't you remember when someone else showed you
15 this?

16 A. No one else has shown me this.

17 Q. Let me just --

18 A. Are you saying that a police detective showed it to
19 me? He did not. I have never seen it.

20 Q. Did anyone describe it to you?

21 A. They just said there was an article about a little
22 four-year-old girl that was missing and found in a suitcase
23 in water.

24 Q. And what did you tell them?

25 A. And I said I don't remember bringing that up. And
26 then I had said later, I said that's something -- that's the
27 type of thing I would have been interested in reading about.

28 Q. You would or would not?

1 A. I would.

2 Q. You have no recollection of -- of it?

3 A. Well, it looks familiar as, you know, there's quite a
4 few cases. But I...

5 Q. Finish your answer.

6 A. I don't want to -- it could be.

7 Q. Could be what?

8 A. That could be something I pulled up, yes.

9 MR. TESTA: Any other questions from the
10 grand jury? I see a few more here. If there are any
11 others, now would be the time.

12 Q. Did you ever question whether Melissa told you the
13 truth?

14 A. I assumed they are talking regarding --

15 Q. Ever?

16 A. Oh, ever?

17 Q. Yeah. Was she trustworthy, is the question from the
18 grand jury?

19 A. I always took what she said for gospel.

20 Q. Question from the grand jury: Did Melissa -- not
21 allowed to ask that.

22 Here is a question from the grand jury: If you think
23 she was depressed, did you ever feel that she might cause
24 harm to her own daughter?

25 A. No.

26 Q. What are the signs of depression that would make you
27 think she was depressed? How would she act?

28 A. She was just lethargic, no energy -- well, I've

1 suffered from depression myself, so I recognize the
2 symptoms.

3 Q. Did she take any medications?

4 A. On and off through the last few years, I understand
5 that she did.

6 Q. What?

7 A. I don't know.

8 Q. Ever see them?

9 A. No.

10 Q. Ever borrow any of them?

11 A. No.

12 Q. Did she ever borrow any of yours?

13 A. She borrowed -- oh, I do know that she was on Xanax at
14 one time. And I think she borrowed one once.

15 Q. Borrowed one what?

16 A. Xanax.

17 Q. Bottle or tablet?

18 A. No, one tablet.

19 Q. When?

20 A. Some period of time when she was staying with me.

21 Q. How did she act when she took them?

22 A. I didn't notice any difference. Maybe she slept, I
23 don't know. But she slept quite often. During the -- I
24 mean, she would lay -- she would sit in the recliner and
25 kind of with her eyes closed. Sometimes she had headaches.
26 She had very hard menses, so she would suffer from that.

27 Q. Okay. I just wanted to end, you know, you mentioned
28 just a few days before the 27th here, she said she swallowed

1 a razor blade. Do I understand you correctly?

2 A. Yes, she was in -- on that day --

3 Q. 24th?

4 A. -- you know, I don't know if that was the day she told
5 me or the next day, because that day she was actually in
6 Stockton. And I don't --

7 Q. Yeah, I don't have to pin it down that exactly.

8 A. Well, yes, that time it was either that day or the
9 next day.

10 Q. That is what I mean, we don't have to get that
11 specific about that particular date. The point I'm asking
12 you is if she said she swallowed a razor blade earlier the
13 week of the 27th --

14 A. Yes.

15 Q. -- was that a sign to you that, for heaven's sakes,
16 maybe she wasn't herself that week?

17 A. No. That was a sign to me that her depression was
18 getting worse. And that's one of the reasons why I
19 encouraged her to go to the Emergency Room --

20 Q. When?

21 A. -- because she --

22 Q. I'm sorry, go ahead. I cut you off.

23 A. On the 22nd.

24 Q. You encouraged her to go to the ER?

25 A. Yes. Yes. Because she was having stomach cramps and
26 she was depressed. And I'm not sure if that was the -- I
27 think that was the time I went with her and I told the woman
28 when we checked in, I said, "This is a very depressed

1 person."

2 I was more concerned that she might harm herself if
3 she was going to do any harm. And so she had her just sit
4 down, I sat down with her, and then they took her back to
5 triage and then they took her from there to the room. They
6 kept her overnight. And the next morning, my understanding
7 is they took her to Stockton.

8 Q. What made you think she might do harm?

9 A. Well, because she -- because of the cutting. I had
10 never seen her even raise a hand to her child or even her
11 voice. So I never -- she was very docile.

12 Q. So is it fair -- don't let me put words in your
13 mouth -- is it fair to say that it seemed like something was
14 escalating the week before the 27th?

15 A. Obviously, she was getting more depressed if she
16 swallowed a razor blade.

17 MR. TESTA: All right. Are there any
18 questions from the grand jury?

19 Q. When had been the last time before that week of the
20 27th that she had demonstrated to you at least any problems?

21 A. You mean the week of the -- when she went in on the
22 22nd?

23 Q. Yeah, 22nd, 2-2, when -- are we talking, you know, six
24 months earlier was the last episode?

25 A. No. No.

26 Q. Was it three weeks earlier?

27 A. Yeah, it was -- okay, then she went on the 12th, that
28 was the Thursday.

1 Q. ER?

2 A. Yes, she went into the ER.

3 Q. For what?

4 A. Oh, that was another time, depression, very severe
5 depression. And they took her the next morning at
6 5:00 a.m., they took her to Stockton to the hospital.

7 Q. Any cutting on the 12th?

8 A. I don't recall that I noticed, yeah.

9 Q. Where did she get these razor blades from?

10 A. They are craft. They are for cutting. You put them
11 in little like -- kind of like anybody that does crafts
12 know, you have blades that slice. And I know that those are
13 the blades that you put into the Exacto knives or the --

14 Q. They are like an inch or so?

15 A. Yes.

16 Q. They are like for box cutters?

17 A. I don't know what a box cutter looks like.

18 MR. TESTA: Any questions from the grand
19 jury?

20 Q. The journal you are referring to, is that something
21 you started recently or has that been something that you've
22 kept for a long time?

23 A. About thirty-five years.

24 Q. Okay. And is it specifically for Melissa?

25 A. No.

26 Q. Or for everything in general?

27 A. It's for everything in general. We use it to help
28 with our income tax. And over the years, when I worked

1 outside the home, I keep appointments, things of that
2 nature.

3 Q. Do you have any entries for the 27th?

4 A. Yes, I do.

5 Q. What does it say?

6 A. 12:00 o'clock, I had my hair cut. And then I have it
7 circled Sandra went missing, or Sandra missing.

8 Q. When is the next entry you have? The 28th?

9 A. Yes.

10 Q. What does it say?

11 A. Well, we had 10:00 a.m., there was a bible class at
12 our church, a proverbs class.

13 Q. Was Melissa there, do you recall?

14 A. No. I wasn't there either.

15 Q. What's the next entry?

16 A. The next entry is on Monday.

17 Q. The 29th, the 30th?

18 A. The 3rd, Miranda spent the night.

19 Q. Is that the first time she had ever spent the night?

20 A. I think Sandra spent the night. But I don't recall if
21 Miranda had spent the night before or not.

22 Q. If Miranda came in here and said that was the first
23 night she had spent the night, would that sound about right
24 if she said that?

25 A. Yes. And they slept -- we made the couch down into a
26 bed and they slept on it, her and Madison, in the living
27 room.

28 And Melissa got up in the night and went to the

1 Emergency Room because her stomach was hurting.

2 Q. Oh, on that same night?

3 A. Yes. Yes.

4 Q. That Miranda --

5 A. Because she asked me -- she said that she was going to
6 have to go, would I take care of the girls. And I said of
7 course.

8 Q. Did she say she had swallowed a razor blade then?

9 A. No, I think it was -- well, I don't know. She had
10 told me -- this was occasion when she said she may have,
11 that she couldn't remember -- recall. And I don't remember
12 if it was that night or if it was earlier. I didn't make a
13 note of that.

14 MR. TESTA: Okay. All righty. Are there any
15 other questions from the Grand Jury? I see none.

16 Q. Is there anything that you didn't get a chance to
17 explain that you want to say right now in the last remaining
18 seconds or minutes?

19 A. No.

20 Q. Okay. Thank you for coming.

21 A. Thank you.

22 Q. They are going to read an admonition for you, then I
23 will call your husband briefly. Then I guess you guys can
24 leave. You can wait outside while he is testifying.

25 THE FOREPERSON: You are still admonished
26 from you are not to reveal to any person, except as directed
27 by the Court, what questions were asked or what responses
28 were given or any other matters concerning the nature or

1 subject of the grand jury's investigation which you learned
2 during your appearance before the grand jury.

3 This admonishment continues unless and until such time
4 as the transcript of this grand jury proceeding is made
5 public.

6 Violation of this admonishment is punishable as
7 contempt of court.

8 This does not prevent you from discussing the matter
9 with your attorney, if you have an attorney advising you
10 with respect to your appearance before the grand jury.

11 Do you understand?

12 THE WITNESS: Yes.

13 THE FOREPERSON: Thank you.

14 MR. TESTA: Mr. -- he -- he -- he won't be
15 ready for a few minutes -- two minutes. He has to go to the
16 restroom. So if you just wait out here. We will wait for
17 him.

18

19 (Pause.)

20

21 MR. TESTA: You can sit right there. This is
22 a different witness. Mr. Posey.

23 What is your name, sir?

24 THE WITNESS: Bill L. Posey, P-O-S-E-Y.

25 MR. TESTA: If the foreperson could read an
26 oath.

27 You could sit down here, please.

28 THE FOREPERSON: Would you raise your right

1 hand, please?

2

3

BILL L. POSEY,

4

a witness called on behalf of the People, having been duly

5

and regularly sworn by the Grand Jury Foreperson, testified

6

as follows:

7

8

THE WITNESS: I do.

9

THE FOREPERSON: Thank you.

10

11

EXAMINATION

12

BY MR. TESTA: Q. Where are you employed?

13

A. I am co-owner and director of Central Valley

14

Toxicology in Clovis, California.

15

Q. Did you test Sandra Cantu's liver and brain samples?

16

A. Yes.

17

Q. Whom did you get them from?

18

A. The San Joaquin County Coroner's Office.

19

Q. How were they labeled?

20

A. Sandra Cantu.

21

Q. Any date? Was there a date on it?

22

A. Actually, they were labeled Jane Doe with a date of

23

04/06/09.

24

Q. April 6, '09, Jane Doe.

25

What other indications were there on the label?

26

A. The name of Dr. Omalu, a name of Michelle, and a

27

number A09-0684.

28

Q. And what CVT number?

1 A. CVT-09-4757.

2 Q. So Dr. Omalu sent you these liver and brain tissues,
3 and they were dated Jane Doe, 4/6/09?

4 A. Correct.

5 Q. Did he later send you some others?

6 A. Yes.

7 Q. Stomach/gastric contents?

8 A. Correct.

9 Q. Same labeling?

10 A. Correct.

11 Q. From -- also from Dr. Omalu?

12 A. Yes.

13 Q. And did you test them and found nothing, or what did
14 you find?

15 A. Actually, found alcohol.

16 Q. That's right. He already kind of told us what was
17 found. But in a nutshell, what did you find in the liver
18 tissue samples?

19 A. In the liver, there was ethyl alcohol and isopropyl
20 alcohol, and a trace amount of acetone.

21 Q. And in the brain tissue samples?

22 A. Brain, just ethyl alcohol.

23 Q. And then in the gastric sample?

24 A. Ethyl alcohol.

25 Q. And then what was done with these samples?

26 A. They were sent on to a second laboratory.

27 Q. The name of that second laboratory?

28 A. National Medical Services.

1 Q. Also known as NMS?

2 A. Correct.

3 Q. Okay. And I didn't ask you this, but could you
4 summarize your training and education and experience that
5 qualified you to do the tests that did you in this case?

6 A. I have a Bachelor of Science Degree in microbiology, a
7 Minor in chemistry, and more than thirty years of experience
8 in the field.

9 Q. And you've qualified as an expert in this area before?

10 A. Yes.

11 Q. And did I ask you what the agency case number was --

12 A. I gave you --

13 Q. -- identifying information?

14 A. I gave you the number that was on the vials
15 themselves, A09-0684.

16 Q. That's right. Okay.

17 MR. TESTA: All right. Any questions from
18 the grand jury?

19 I see none. You can leave. Are there any?

20 THE FOREPERSON: You want me to admonish?

21 MR. TESTA: Oh, the admonishment.

22 THE FOREPERSON: You are admonished not to
23 reveal to any person, except as directed by the Court, what
24 questions were asked or what responses were given or any
25 other matters concerning the nature or subject of the grand
26 jury's investigation which you learned during your
27 appearance before the grand jury. This admonishment
28 continues unless and until such time as the transcript of

1 this grand jury proceeding is made public.

2 Violation of this admonishment is punishable as
3 contempt of court.

4 Do you understand?

5 THE WITNESS: Yes, I do.

6 THE FOREPERSON: Thank you.

7 THE WITNESS: You're welcome.

8

9 (Pause.)

10

11 MR. TESTA: You can have a seat right there,
12 please, in the green chair by the microphone.

13 THE WITNESS: All right. Thank you.

14 MR. TESTA: Could you tell us your name,
15 please?

16 THE WITNESS: Clifford Lane Lawless.

17 MR. TESTA: And how do you spell your name?

18 THE WITNESS: Full name?

19 MR. TESTA: Yes, please.

20 THE WITNESS: Clifford, C-L-I-F-F-O-R-D,
21 Lane, L-A-N-E, Lawless is L-A-W-L-E-S-S.

22 THE FOREPERSON: Would you raise your right
23 hand, please? Raise your right hand.

24

25 **CLIFFORD LANE LAWLESS,**

26 a witness called on behalf of the People, having been duly
27 and regularly sworn by the Grand Jury Foreperson, testified
28 as follows:

1 THE WITNESS: Yes, ma'am.

2 THE FOREPERSON: Thank you.

3

4

EXAMINATION

5 BY MR. TESTA: Q. Thank you for coming, sir.

6 What is your relationship -- do you recognize Exhibit

7 Number 7 on the screen there?

8 A. Yes. That's the church.

9 Q. What is it?

10 A. Baptist church that I pastor in Tracy.

11 Q. And how long have you been doing that?

12 A. About -- about fifteen years.

13 Q. Okay. And how many members do you -- do you have --
14 did you have, say, in March of 2009?

15 A. Probably about thirty.

16 Q. Okay. And was Sandra Cantu a member?

17 A. No.

18 Q. Was her mother a member?

19 A. No.

20 Q. Was her family a member?

21 A. No.

22 Q. Okay. So is it fair to say -- first of all, did you
23 know Sandra Cantu?

24 A. Yes. Yes, I did.

25 Q. Do you recognize this photograph 17 that's on the
26 screen there?

27 A. Yes, I do.

28 Q. How did you know her?

1 A. Well, she kind of came to know me. I was walking one
2 day and sensed someone walking behind me, and I turned
3 around and it was Sandra.

4 Q. But did she come over and play with Madison?

5 A. Yes, she did. Quite often.

6 Q. Quite often. Okay.

7 So is it fair to say Sandra was never in the church?

8 A. Yes.

9 Q. Is it fair to say Miranda her -- did you know her
10 sister Miranda?

11 A. Yes.

12 Q. Miranda was never in the church?

13 A. No, she was never in the church.

14 Q. Was Sandra Cantu's mother ever in the church?

15 A. No.

16 Q. Okay. And in order to get into the church, do you
17 need a key?

18 A. You need a key. And, also, there's a -- a burglar
19 alarm system.

20 Q. Did Melissa -- pardon me.

21 A. And you need to know the code to bypass that.

22 Q. Did Melissa Huckaby have a key to the church?

23 A. Yes, she did.

24 Q. Okay. So how did she get a key to the church?

25 A. All members are given keys to the church and I gave
26 her one.

27 Q. Did you ever tell someone that only four persons had
28 access to the church, to the keys, or to the code?

1 A. Did I ever tell -- I don't recall ever telling anyone
2 that there was only a few people that had an access.

3 Q. Did you ever say you never gave her a key to the
4 church, but somehow she had one that you noticed three to
5 six months ago, but you never knew how she got it?

6 A. Never knew how she got it? I -- I don't remember
7 giving it to her. But it was common practice, as I said,
8 for each member to have a key. So for cleaning and
9 decorating and whatever needed to be done.

10 Q. Did you ever tell anyone that there were only four
11 people that had access to the church: Lane Lawless, Arthur
12 Mellon, Vernon, and Melissa Huckaby?

13 A. I don't recall telling anybody that.

14 Q. Is that a accurate statement?

15 A. No.

16 Q. Okay. So do you know how she got a key?

17 A. No, I don't.

18 Q. Did she have the code to disengage the alarm?

19 A. Yes.

20 Q. Did you -- how did she get that?

21 A. I gave it to her.

22 Q. Okay. Do you remember a particular night when
23 Sandra -- let me ask you this: Where were you on
24 March 27th? There's a calendar. If you need to look at a
25 calendar, there's one on the wall.

26 A. Okay. That Friday she disappeared?

27 Q. Yes.

28 A. I was home. I wasn't feeling that -- feeling well

1 that day. And I usually go to the church to study on
2 Fridays, prepare -- preparation for Sunday. But I wasn't
3 feeling well that day and I stayed home all day.

4 Q. Did you see Sandra Cantu home -- at your house?

5 A. No.

6 Q. Did you see Melissa Huckaby?

7 A. Yes.

8 Q. Okay. Did you see Melissa Huckaby packing some things
9 into her car?

10 A. Yes.

11 Q. Where was her car?

12 A. Parked in front of my house.

13 Q. Facing which direction?

14 A. Pardon?

15 Q. Which direction was it facing?

16 A. It would be facing --

17 Q. Here's a map. Do you recognize what is shown here?

18 A. Yeah.

19 Q. Where is the front entrance?

20 A. Right here.

21 Q. You see your place?

22 A. Yes. Right here.

23 Q. Here's a laser pointer.

24 And which way was she -- was her car facing?

25 A. That was -- where is the button? Oh, there it is.

26 It was facing this direction.

27 Q. So we have -- we have already learned south is up. So
28 it was on Cherry facing south towards Orange?

1 A. Right. Right.

2 Q. Okay. And what was she loading into the church -- or
3 loading into the car?

4 A. I -- I don't know exactly what she was loading into
5 the car. She was going to decorate her Sunday school room,
6 and that's all I know. And I don't know what supplies she
7 was taking down there.

8 Q. Did you see her with any suitcases that day?

9 A. No. No, I didn't.

10 Q. Did she ask you to get some suitcases from somewhere?

11 A. Previous to this time. I don't remember how far back
12 she asked me to get her suitcase -- or a suitcase.

13 Q. What did she ask you to get?

14 A. Well, what did she ask me to get?

15 Q. Yeah. You don't remember exactly when it was, how
16 many days before the 27th, but what was it she asked you to
17 get?

18 A. She asked me to get her suitcase.

19 Q. From where?

20 A. I have a little storage shed beside the house.

21 Q. And did you get it?

22 A. I got what she described for me to get.

23 Q. And what was it?

24 A. It was a -- a black suitcase, made out of -- a
25 canvas-like stuff. I think it had four wheels on the bottom
26 of it.

27 Q. Did it look like this, Number 152?

28 A. Yes, that's probably -- the colors were not the same,

1 but...

2 Q. Did it have the wheels on the bottom?

3 A. Yes.

4 Q. Did it have the kind of thing that you can pull the
5 handle up?

6 A. Yes, sir, it did.

7 Q. Okay. Made out of the same material?

8 A. Yes, it looks like it is.

9 Q. Was it Eddie Bauer?

10 A. Yes.

11 Q. You could tell that what there was a -- there was a
12 little thing on it or something, decal or something was
13 there?

14 A. Yes. Yes.

15 Q. But you say the colors may not have been the same?

16 A. I don't recall those colors.

17 Q. Okay. Was it dark?

18 A. It was -- I thought it was all black.

19 Q. Okay. And did she say why she wanted the suitcase?

20 A. No.

21 Q. Did you ask her, "Are you moving, honey? You going
22 back to LA? Why do you want the suitcase?" Did you ask her
23 any questions like that?

24 A. No, I didn't. I don't -- again, I don't recall what
25 day it was. I don't recall what I was doing. But -- no, I
26 didn't -- I didn't ask her.

27 Q. But you did get the suitcase out of storage. Was it
28 just one suitcase?

- 1 A. Yes, sir.
- 2 Q. And what did you do with it?
- 3 A. I put it in the living room.
- 4 Q. Did she take possession of it?
- 5 A. And then -- yes.
- 6 Q. Okay.
- 7 A. I believe she did.
- 8 Q. This was before the 27th of March?
- 9 A. Yes.
- 10 Q. And then on the 27th of March, when you weren't
11 feeling so well so you were home that day, did you see her
12 with that suitcase?
- 13 A. No, I didn't see her handling the suitcase.
- 14 Q. Okay. Did you get a call from her later on about the
15 suitcase?
- 16 A. No, I didn't.
- 17 Q. Okay. Did you -- did you hear her say she lost her
18 keys or her cell phone?
- 19 A. I heard her --
- 20 Q. On the 27th?
- 21 A. I heard her looking for her keys. But I don't
22 recall -- I don't recall her saying anything about losing --
23 losing the keys or losing her cell phone.
- 24 Q. Okay. Did you ever hear her say anything about her
25 suitcase being stolen?
- 26 A. Yes. She indicated she thought she had left the
27 suitcase setting on the -- on the -- on the street.
- 28 Q. Did she tell you --

1 A. And she drove off down to the church and left it.

2 Q. Did she say what was in the suitcase?

3 A. No.

4 Q. Did she tell you this --

5 A. Not to my -- she didn't talk to me about it. She
6 talked to my wife about it.

7 Q. You're just telling us what your wife told you?

8 A. Yeah.

9 Q. We have already heard from her, so I don't really want
10 to go into that.

11 Well, what about later the day that Sandra went
12 missing, how did you learn she was missing? Did some people
13 come over?

14 A. Yes.

15 Q. Okay. Did Melissa say anything that day about it?

16 A. No. It was -- it all began her -- Sandra's older
17 brother came over late afternoon, if I recall correctly, and
18 asked if her sister, who was there playing with my
19 granddaughter, asked her if she had seen Sandra. And her
20 sister said, "No, I haven't seen her."

21 And so I -- I -- and I don't know what Melissa did
22 after that. I don't know whether she went out and started
23 looking or what she did.

24 Q. Do you remember Melissa mentioning finding a note?

25 A. Yes.

26 Q. What did she say?

27 A. She said she found the note. And I can't remember
28 exactly what was written on it. Something.

1 Q. And --

2 A. I don't remember exactly what it was.

3 Q. Did some people interview her about the note the day
4 she claimed she found it?

5 A. I believe the police did.

6 Q. And were you present during that interview?

7 A. No.

8 Q. Didn't you tell the -- do you remember talking to
9 someone about this case? You're Lane Lawless, right?

10 A. Yes.

11 Q. Do you remember talking to some FBI agents?

12 A. Uh-huh.

13 Q. On the -- right around the time period about this
14 incident, about her claiming to find the note?

15 A. Probably that night.

16 Q. Okay. Do you remember telling them that you were
17 present when the investigators were questioning Melissa
18 Huckaby, and that you were staring at her when she was
19 interviewed because you were suspicious about her finding
20 this note and about her luggage being stolen? Do you
21 remember -- do you remember saying that?

22 A. No, I don't.

23 Q. Did you say it?

24 A. No, I didn't.

25 Q. Were you present when they investigated -- when they
26 interviewed her?

27 A. No, I wasn't.

28 Q. Were you suspicious when she claimed she found the

1 note?

2 A. I don't know about being suspicious. It looked
3 very -- it looked strange.

4 Q. Describe yourself, why did it look strange?

5 A. A note made out herself.

6 Q. I'm sorry, what did you say?

7 A. Her finding a note that was written -- I don't even
8 remember what was written on the note now.

9 Q. What was strange about it?

10 A. Well, her being involved in all of this and her being
11 the one that found the note.

12 Q. How was she involved in all this?

13 A. Well, later on, we didn't know if she was involved in
14 it until later on. But -- so I don't -- I don't remember
15 the conversation. I remember the FBI man. We had quite a
16 long conversation.

17 Q. Did you tell the FBI man the truth?

18 A. As far as I knew I was telling the truth.

19 Q. Well, did you have any reason to lie?

20 A. No.

21 Q. Did you ever -- were you ever staring at Melissa
22 Huckaby as Melissa Huckaby is explaining how she found the
23 note? Remember staring at her when she was telling that
24 story?

25 A. Not to my recollection, no.

26 Q. Did you ever tell anyone you were staring at her?

27 A. Not to my recollection. I could have been, but I
28 don't recall it.

1 Q. Well, she claims she found this note that -- what did
2 she say about the note? What did you hear her say about the
3 note?

4 A. I don't -- I don't remember what she -- what she did
5 say. Something about -- the only word I can remember her
6 saying in relationship to that note was something about
7 water. And that's about all I can remember.

8 Q. And what was your reaction when she said what she said
9 about the note?

10 A. I'm not sure I understand the question.

11 Q. What did you think?

12 A. When she started talking about the note?

13 Q. Yes.

14 A. Well, as I said, I thought it was rather odd that
15 she's the one that found the note. But I don't know about
16 that night when I was talking to the FBI man exactly.

17 Q. Put aside that night the FBI, just tell me what did
18 you think was so odd about her finding the note.

19 A. Well, the fact that it appeared she found it beside
20 her, walking along and she found the note.

21 Q. What's so odd about that?

22 A. I don't know. Maybe just -- maybe it isn't so odd. I
23 don't know.

24 Q. Do you recognize what is shown --

25 A. It just struck me as being odd.

26 Q. 262, do you recognize what is shown in this
27 photograph?

28 A. That's the -- yeah, that's the kitchen area of the --

1 the -- of the church.

2 Q. Does this door go out to the back of the church?

3 A. Yes, it does.

4 Q. Did you see some track marks back there after the
5 27th?

6 A. No.

7 Q. Did Vernon -- do you know Vernon?

8 A. Yes.

9 Q. Did he say something about when he -- excuse me. Did
10 Melissa say whether she saw someone there at the church on
11 the 27th of March?

12 A. No, she didn't.

13 Q. Did you tell the FBI guy that she told you that she
14 saw Vernon there that Friday night?

15 A. Yes, I do. I think he was --

16 Q. That true?

17 A. Come to think of it, he was probably mowing the --
18 mowing the grass or the weeds.

19 Q. Well --

20 A. So yes.

21 Q. Yes what?

22 A. Yes, he was there.

23 Q. Well, how do you know?

24 A. Well, I talked to him later on. And -- and -- and we
25 talked about him mowing the grass.

26 And then I remember that -- and that Melissa did say
27 something about Vernon being there.

28 Q. What did Melissa say about Vernon being there?

1 A. That he's mowing grass.

2 Q. When?

3 A. That -- that day.

4 Q. What day?

5 A. The 27th.

6 Q. In what context did Melissa Huckaby say that she saw
7 him mowing the grass there on the 27th? What were you guys
8 talking about at the time?

9 A. I don't recall.

10 Q. All right. So is it clear that Melissa Huckaby told
11 you that Vernon was at the church while she was there on
12 March 27th, 2009, is that true? Did Huckaby Melissa Huckaby
13 tell you that?

14 A. I believe that's true.

15 Q. And that she told you he was mowing the grass?

16 A. I believe that's true.

17 Q. And is it your testimony that you confronted Vernon
18 about this?

19 A. I didn't confront him. I asked him.

20 Q. And what did he tell you?

21 A. Yes, he was mowing the grass. And pretty obvious he
22 was cleaning up the -- cleaning up the -- the mowing
23 machine.

24 Q. You saw him doing that?

25 A. Uh-huh. Yes.

26 Q. On the 27th?

27 A. Yes.

28 Q. Oh, you were at the church on the 27th?

1 A. I went down to make sure that it was locked up.

2 Q. What time?

3 A. I don't recall.

4 Q. Morning, afternoon, or night?

5 A. It would have been probably somewhere around noon.

6 Q. Okay.

7 A. But I didn't lock it up because, obviously, he's
8 working.

9 Q. Okay. Did you go to the church? I thought maybe I
10 misheard you. I thought you said you weren't feeling well
11 that day so you didn't go to the church.

12 A. I didn't go to church to study.

13 Q. But you went to the church and that was the day you
14 saw Vernon?

15 A. Yeah.

16 Q. Because Vernon told us he was visiting his wife down
17 at Stanford at the hospital on that day is the way I heard
18 his testimony.

19 A. Is that right?

20 Q. But you swear you saw Vernon on the 27th there at the
21 church? Unless I misheard Vernon. Don't be swayed by my
22 comment. I'm saying I might have misheard him. Maybe he
23 was saying he was there in the morning. I don't remember
24 him saying that. Maybe I didn't clarify it with him. You
25 are pretty sure?

26 A. Well, your comments are good there. They -- they make
27 me wonder whether or not I'm remembering.

28 Q. Well, be that as it may, can you agree on one thing,

1 that you do agree that Melissa Huckaby told you that Vernon
2 was at the church when she was there on March 27th; do I
3 have that part right?

4 A. I -- that sounds right.

5 Q. When did she tell you that?

6 A. That I don't remember.

7 Q. Well, was it --

8 A. You mean morning or noon or night?

9 Q. No. What day did she tell you that?

10 A. Well, I thought it was on the 27th. But that doesn't
11 jive with the rest of it.

12 Q. Don't worry about what other people are saying. I'm
13 really interested only in your comments.

14 Okay. To wrap this up, what kind of items were kept
15 in the church -- church kitchen?

16 A. In the church? Dishes, soaps.

17 Q. Any cooking utensils?

18 A. Yes.

19 Q. And who would use those cooking utensils?

20 A. The ladies of the church.

21 Q. To do what?

22 A. To cook lunches or, you know, make sandwiches or
23 something for some of the men if they were down there
24 working on the building or --

25 Q. Does this look familiar what is shown here in
26 Number 12 as one of the drawers from the church?

27 A. Yes, that looks familiar.

28 Q. Where did like the white spoons -- the white items

1 come from? The fork and --

2 A. Probably from some church members who donated them.

3 Q. When?

4 A. I wouldn't have any idea.

5 Q. Well, would it have been years ago? Would it have
6 been days ago? I mean, give us a ballpark, an estimation.

7 A. Some of them could have been years ago; some of them
8 could have been days ago.

9 Q. And who would the donors have been?

10 A. Church -- church members.

11 Q. Anyone from the trailer park donate any of these
12 items, or --

13 A. Could have been -- could have been one or two ladies
14 who --

15 Q. Who?

16 A. Kathy Glover.

17 Q. Who else?

18 A. And Elizabeth Edwards.

19 Q. Just those two?

20 A. Let me think. I don't recall any other members living
21 in there at that time.

22 Q. What about this prong, this meat whatever it's called,
23 turn over meat, see this thing up here?

24 A. Yeah.

25 Q. Is that -- how long has that been in there?

26 A. I -- I don't know.

27 Q. This is your church, right?

28 A. You know, I don't go around pawing around in the

1 drawers all the time.

2 Q. What about the rolling pin?

3 A. I have -- don't know when that came there.

4 Q. I mean, has it been there for awhile?

5 A. Yeah.

6 Q. Pardon me?

7 A. I believe it has. I've seen them using it.

8 Q. Who did you see using it last?

9 A. I don't remember.

10 Q. When would it have been, approximately?

11 A. I can't put a -- I can't put a --

12 Q. Not a precise date, just give us a general idea. Are
13 we talking about ten years ago, three years ago, one year
14 ago, three months ago? Just in relation to March of 2009,
15 what's your --

16 A. Okay. Say two years ago.

17 Q. What did you see two years ago?

18 A. I see somebody rolling out something, perhaps the --
19 to make biscuits or something like that.

20 Q. Did they ever use it to make unleavened bread?

21 A. They could of.

22 Q. Do you remember where that came from, the rolling pin?

23 A. The rolling pin? No, I don't remember who brought it.

24 Q. Did you buy it?

25 A. I don't -- I have no idea.

26 Q. But -- I don't want to put words in your mouth. But
27 if I understand you, you're saying you believe it had been
28 there for a few -- a few years. Do I understand you

1 correctly or --

2 A. At least a couple of years.

3 Q. At least a couple of years.

4 Okay. And you're fairly certain about that?

5 A. Fairly certain.

6 MR. TESTA: Are there any questions from the
7 grand jurors?

8 I'm sorry we are going beyond. We will just add this
9 on. So, for example, if we stop now, we would come back at
10 1:30. I don't want to go into your lunch hour. You will
11 get at least your hour, unless you want even more. I don't
12 have too many more witnesses for this afternoon.

13 Q. Where did you work prior to Clover Baptist and why did
14 you leave? That is the question from the grand jury.

15 A. Okay. Prior to Clover Baptist?

16 Q. Yes, please.

17 A. I worked at El Camino Hospital in Mountain View,
18 California.

19 Q. And what did you do there?

20 A. I was a electronics specialist.

21 Q. And why did you leave?

22 A. I retired.

23 Q. Okay. What is your age, may I ask?

24 A. Seventy-seven.

25 Q. Question from the Grand Jury: Why did Melissa live
26 with you and not her parents?

27 A. We were tentatively planning on moving. And she was
28 going to come up and stay with us for awhile and help us

1 organize the house.

2 Q. Question from the grand jury: What type of Christian
3 church is yours?

4 A. Baptist.

5 Q. Did you go to your church on March 27th? That's the
6 question.

7 I kind of asked you that question already. So what's
8 your -- what's your response? There's a calendar if you
9 need to use it.

10 Did you or did you not go to church on the 27th, to
11 best of your recollection?

12 A. I'm going to have to say that I didn't -- didn't
13 answer truthfully because, thinking back at it, as you
14 said -- pointed out, I wasn't feeling well that day and I
15 didn't go to the church on that day.

16 Q. Okay.

17 A. So...

18 Q. Did you help search for Sandra Cantu?

19 A. No, I didn't.

20 Q. Any reason why?

21 A. I have a -- a -- a leg bothers me.

22 Q. Is your only income from being the pastor of the
23 church?

24 A. I have Social Security some.

25 Q. If any of your neighbors had seen the suitcase on the
26 street, would they be the kind of people to return it or
27 would they possibly have stolen it?

28 A. Well, some would have stolen it and some would have

1 returned it.

2 Q. I mean, you know your neighbors.

3 A. I know my neighbors. They are good neighbors.

4 Q. Does Melissa have access to the shed outside your
5 house?

6 A. She could. But I never recall her ever --

7 Q. I'm sorry, did I cut you off?

8 A. Go ahead.

9 Q. What about the shed at the church, what's kept in
10 there?

11 A. Tools and the lawnmower.

12 Q. Have you ever assembled a clergyman's privilege -- oh,
13 have you ever asserted a clergyman's privilege in response
14 to any questions put to you regarding Melissa Huckaby?
15 That's a question from the grand jury.

16 I mean, I'll ask it because they have asked it. But
17 do you have an answer?

18 A. What? I -- I don't understand the question.

19 Q. Well, have you ever asserted, "I'm not going to talk,
20 this is a clergyman's privilege I'm going to assert," have
21 you ever tried to say that in this case to anybody?

22 A. No.

23 Q. Okay. Why did Madison go to Oregon, the juror asks?

24 A. "At my arrest"?

25 Q. No. Why did Madison go to Oregon?

26 A. Oh, why did Madison go to Oregon?

27 Her grandmother has some very close friends in Oregon.
28 And they go up there to visit, vacation from time to time.

1 Q. Well, was this -- when she went on this occasion, I
2 think we learned April 5th, was that planned or was that --
3 I mean, in advance, weeks in advance, or was it kind of put
4 together at the last minute? If you know. What was that
5 all about?

6 Do you see the calendar?

7 A. I'm not -- yeah, I'm not -- I -- I -- I know what
8 you're talking about, but I don't remember the reason,
9 whether it was spur-of-the-moment or a planned vacation.

10 Q. Did anyone talk to you about finding vomit or some --
11 on a shelf in a napkin at your house?

12 A. My wife mentioned it to me.

13 Q. What did she say about it?

14 A. She said -- I can't remember exactly what she was
15 doing. But it was -- it seems as if she said there was a --
16 a plastic bag and she looked at it and it was a -- a cloth
17 napkin in the bag, looked like it had vomit on it. And
18 that's about all I remember about it.

19 Q. Would that have been unusual?

20 A. Seems so.

21 MR. TESTA: Yeah. All righty. I don't have
22 any other questions. If any of the jurors have any
23 questions. Let me just look at my notes.

24 Q. You know, after she found this note, she claims she
25 found this note, did you ever just turn to Melissa and say,
26 "Melissa, what's going on? It's your suitcase. Now you're
27 saying you found the note. What's going on, grandchild"?
28 You ever ask her anything like that?

1 A. No, I didn't.

2 Q. Is there any reason why you didn't?

3 A. I've asked myself that question. And --

4 Q. I know we have heard about she had some problems. How
5 was she acting during this period up to the 27th, a few days
6 before the 27th, how was Melissa acting compared to her
7 normal self?

8 A. As far as I can remember, she was acting all right.
9 You know, she wasn't -- she did have times of depression and
10 so on. But that didn't -- I didn't seem to notice that
11 during this time.

12 Q. Did she say why she went into the hospital in the
13 first part of April 2009?

14 A. Did she say? I believe it was because she was
15 having -- at that time, she was having some -- I later found
16 out, I didn't know that at the time when she went -- but
17 that she was having some depression and was having a little
18 problem getting over with it -- getting over it. So she
19 went --

20 Q. Did she ever tell you --

21 A. -- went to the Emergency Room.

22 Q. Did she ever tell you she swallowed a razor blade?

23 A. I don't remember her telling me that. But I know that
24 I got the information anyway. Maybe my wife told me.

25 MR. TESTA: Okay. Are there any other
26 questions from the grand jury? Because I have no more.

27 Q. You know, during the search, before Sandra's body was
28 found in the pond there, in the suitcase, during the time

1 period when Sandra was missing until the time period she was
2 found, you were living there with Melissa, correct?

3 A. Right.

4 Q. What kinds of things does Melissa say during that
5 period? From the 27th until the 6th? What do you hear her
6 talking about? Because you see her every day, right?
7 You're living with her?

8 A. Right.

9 Q. See her in the morning, see her at night, probably see
10 her at meals. What is she talking about? What's the
11 subject matter? This is plastered on the news, right?
12 Missing Sandra Cantu?

13 A. Uh-huh.

14 Q. It was on morning, noon, and night, wasn't it, it
15 seemed?

16 A. Pretty much.

17 Q. And so what is it that Melissa said during that time
18 period between the 27th and the date the suitcase was found?

19 A. I can't remember that there was much conversation at
20 all. I mean, it was all kind of -- well, it was really
21 traumatic, of course. And she may have spoken to my wife
22 about it. She was much closer to -- to my wife --

23 Q. Yeah, but --

24 A. -- than -- go ahead.

25 Q. But they are doing all these searches of your church,
26 right? They are going in there with these costumes and they
27 are going for a search, and they go back the next day and
28 they do a search, right? There were a lot of searches of

1 the church?

2 A. We are doing a lot of mumbling and grumbling, but...

3 Q. Don't you during all this searching of your church --
4 and they were searching your house, right?

5 A. Yes.

6 Q. Don't you start wondering, "Well, wait a minute, why
7 are they searching my church? Why are they searching my
8 house? I'm going to ask Melissa about this. Her suitcase,
9 she finds the note." So surely you turn to her over dinner
10 or over lunch or over breakfast and said, "Melissa, what's
11 going on here? They just came back for the fifth time and
12 searched my -- took the -- took stuff out of my church."
13 Surely, you've asked her something during that period,
14 didn't you?

15 A. Well, yeah, I don't recall, because I couldn't figure
16 it out myself how -- why so many search warrants. And
17 especially after the -- after the first night when the FBI
18 and the detective took us down to the Police -- Police
19 Station. And -- I forgot what I was going to --

20 Q. My question was with all these searches going on and
21 everyone driving in and out of the trailer park, going in
22 and out of the church, taking things from the church,
23 wearing these costumes and gloves, didn't you turn around to
24 her, Melissa, the one whose suitcase, and the note, and say,
25 "Melissa, fess up, what's going on here? What do you know?
26 Are you covering for someone? Are you involved?" Did
27 you -- you asked her something?

28 A. I don't know -- I don't recall asking her something.

1 I did say -- I did say to the FBI man while he was
2 questioning me that -- that -- that -- I can't remember
3 exactly now what we were talking about, but I do remember
4 telling him that she must know something.

5 Q. Who?

6 A. Melissa.

7 Q. Why did you say that?

8 A. Well, I guess part of it was I think we were talking
9 about the -- about the note, and I don't know what it is I
10 told him, or, well, everything he was thinking, but...

11 MR. TESTA: Okay. Are there any other
12 questions? Feel free. I know it's late. We will come
13 back -- we will get the full hour.

14 Q. Question from the grand jury: Melissa seems to have
15 told everyone about her missing suitcase. Did she bring
16 that missing suitcase up at home?

17 Do you understand that question?

18 A. Did she bring it up at home?

19 Q. Yeah, bring it up in conversation?

20 A. Yes.

21 Q. What did she say about it?

22 A. I don't remember exactly what she did say about it.

23 Q. Not exactly. Give us the gist of it. What was the
24 sense of what she said?

25 A. Well, I'm thinking.

26 Q. She's telling people in the hospital about it.

27 Complete strangers she will talk about it. She will tell
28 various people about it. Surely, she brought it up at the

1 dinner in the trailer. What did she say about the suitcase?

2 A. And I don't -- I don't recall. I know that sounds --
3 sounds strange, but that's all I can say is I don't recall.

4 Q. Question from the grand jury: Was she concerned about
5 Sandra's disappearance? Was Melissa Huckaby -- did she
6 appear concerned about Sandra's disappearance?

7 A. I don't recall having any conversation with her or
8 seeing her distressed to the extent that you might think she
9 would be, or should be, as far as her feelings towards
10 Sandra being missing -- missing.

11 MR. TESTA: All right. Are there any others?

12 THE WITNESS: That what you wanted?

13 MR. TESTA: Q. I think that's what the
14 question was.

15 A. Okay.

16 Q. She said, "Hey, maybe they should look into this
17 trailer park over here. Maybe they should do this. Maybe
18 they should do that."

19 She never kind of expressed any concern about it?

20 A. No, not that I -- I can't recall anyway.

21 Q. Thank you.

22 MR. TESTA: All right. I see no more
23 questions, so I guess we will read the admonition to the
24 witness and you can be on your way, sir.

25 THE FOREPERSON: You are admonished not to
26 reveal to any person, except as directed by the Court, what
27 questions were asked or what responses were given or any
28 other matters concerning the nature or subject of the grand

1 jury's investigation which you learned during your
2 appearance before the grand jury. This admonishment
3 continues unless and until such time as the transcript of
4 this grand jury proceeding is made public.

5 Violation of this admonishment is punishable as
6 contempt of court.

7 This does not prevent you from discussing the matter
8 with your attorney, if you have an attorney advising you
9 with respect to your appearance before the grand jury.

10 Do you understand?

11 THE WITNESS: Yes, ma'am.

12 THE FOREPERSON: All right. Thank you.

13 MR. TESTA: Thank you for coming in. You may
14 leave, sir.

15 THE WITNESS: Thank you.

16 MR. TESTA: Appreciate it.

17 What time? Ten to 2:00? Or excuse me.

18 THE FOREPERSON: Yes.

19 MR. TESTA: Ten to 2:00 work?

20 THE FOREPERSON: Yes.

21 MR. TESTA: All right.

22 (Recess.)

23 (Change of reporters.)

24
25 (Whereupon Photographs, Grand Jury
26 Exhibits 271 through 285, were marked
27 off the record.)

28 ---o0o---

1 MR. TESTA: Mr. Coffey.

2 Okay. Sorry. Thank you for waiting, Mr. Coffey.

3 And can you come here, please, and have a seat in that
4 chair.

5 A GRAND JUROR: Does somebody want to close
6 that door?

7 MR. TESTA: Thank you.

8 Could you state your full name, please.

9 THE WITNESS: Gary Coffey, C-O-F-F-E-Y.

10 MR. TESTA: And could the foreperson read the
11 oath, please.

12 THE FOREPERSON: Would you raise your right
13 hand, please.

14

15 **GARY COFFEY,**

16 a witness called on behalf of the People, having been duly
17 sworn by the Grand Jury Foreperson, testified as follows:

18

19 THE WITNESS: Yes, ma'am.

20 THE FOREPERSON: Thank you.

21

22 **EXAMINATION BY:**

23 MR. TESTA: Q. Where are you employed?

24 A. San Joaquin County District Attorney's Office.

25 Q. And what do you do there?

26 A. I'm a criminal investigator.

27 Q. Are you considered a peace officer?

28 A. Yes.

1 Q. And how long all together have you been a peace
2 officer?

3 A. Forty years.

4 Q. Where did you work before you joined the DA's office
5 as an investigator?

6 A. San Joaquin County Sheriff's Department.

7 Q. What was your position there?

8 A. I had several positions. Everything from Patrol
9 Division to Detectives, Intelligence, Narcotics.

10 Q. Okay. I had you come in here for a real quick
11 question here, quick area.

12 Were you asked to examine three blinds that
13 Detective Tim Bauer from the Tracy Police Department
14 collected from the Baptist church out there on Glover Road
15 in Tracy?

16 A. Yes, I was.

17 Q. And what were you -- did you take photographs of the
18 items that you examined?

19 A. I did.

20 Q. Do you have them here?

21 A. Yes, I do.

22 MR. TESTA: May I have marked as next in
23 order -- what's the first one that -- what number will this
24 be?

25 THE SECRETARY: 275.

26 MR. TESTA: Q. Showing you 275.

27 There's a laser pointer in front of you.

28 Okay. Now we've already heard from Tim Bauer. He

1 explained to us how he saw these three -- let me get a
2 photograph here -- these three blinds from the church.
3 Well, there were a number of blinds from the church, but
4 there were three that were the same size. And of those
5 three, he noticed that on one of them there was not a --
6 what do we call it?

7 A GRAND JUROR: Cap.

8 MR. TESTA: Q. A cap, a plastic cap.

9 And where did you get these three blinds from?

10 A. They were in evidence at the District Attorney's
11 Office.

12 Q. Okay. Tim Bauer brought them over from Tracy Police?

13 A. Yes.

14 Q. Is that your understanding?

15 A. Yes.

16 Q. So what did you end up doing with these three -- three
17 blinds?

18 A. These two blinds here are -- appear to be complete in
19 nature. They don't appear to be -- to have been altered in
20 any way. So myself and District Attorney Investigator
21 Al Freitas measured the total distance of these cords.

22 Q. Hold on for just a second just to clear up something.
23 We had also heard testimony regarding 211, that the FBI took
24 the blind in question, the one without the cap, and cut off
25 a portion of it to send to the FBI lab back East. And we
26 heard from the FBI expert who examined this. And he told us
27 what his conclusions were when he compared it to the cord
28 that was found on the suitcase.

1 So did you have this blind also, the one that's shown
2 in 211? Is that the --

3 A. This blind here, yes.

4 Q. As we look at the three -- I'm sorry. This is
5 Number 275, the one to the far -- the one to the far right.

6 Okay. Now here's the question I have for you before
7 you start telling us what you did.

8 I wish I had someone here to go through all these
9 things. Here we go.

10 Now when we were shown 207, Tim Bauer already
11 explained how he saw this one at the church and this is the
12 one that caught his attention.

13 How many cords do you see there?

14 A. Three.

15 Q. And then when he takes that one over to the FBI in
16 Sacramento and they cut the portion of it in 211, how many
17 cords do you see on the same blind?

18 A. Three.

19 Q. So it has three in 207 and it has three in 211.

20 And then when you lay them out on the table ... what
21 was this, a few days ago?

22 A. Monday.

23 Q. Monday, as is shown in 275. How -- well, how many are
24 there in this photograph?

25 A. Four.

26 Q. Okay. We have three in the photo when it's in the
27 church. We have three when the FBI guy cuts off the end so
28 he can send it to the FBI lab back in Quantico. Why are --

1 why are there four in there now?

2 A. The fourth cord, the shorter one of the bunch, was
3 found up in here.

4 Q. In the -- in the casing or the housing, whatever they
5 call it?

6 A. In the casing or the housing of the blind itself. I
7 found it tucked up in here.

8 Q. Okay. Did you have to kind of like stick -- did you
9 have to do something to get it out?

10 A. Yeah. I had to use my finger to force it -- to sort
11 of weave it out of the area of the blind, yeah.

12 Q. Because the other two blinds they collected, they
13 have -- they have how many?

14 A. Four.

15 Q. Each one?

16 A. Yes.

17 Q. One, two, three, four.

18 Right?

19 One, two, three, four. One, two, three, four. And
20 you verified this when you looked at them, right?

21 A. Yes, I did.

22 Q. In fact, they are in this building right now, aren't
23 they, these blinds?

24 A. Yes.

25 Q. And you were going to bring them to court but thought,
26 oh, there's no need to today, and saved them. But if the
27 jurors want them, of course, they can ask for them.

28 So you found this fourth one tucked in. And what

1 measurements, if anything, did you do with the -- all three
2 of these things?

3 A. We found from the housing to the end of these cords on
4 both of these is 42 inches.

5 Q. On both of the intact cords?

6 A. That's correct, both the intact.

7 Q. The ones with the caps?

8 A. It's 42 inches.

9 We found from the housing to the end of these three
10 cords runs between 19-and-a-half and 22 inches. That this
11 littler cord here --

12 Q. The fourth -- what I'm calling the fourth cord --

13 A. The fourth cord --

14 Q. -- the newly discovered cord.

15 A. Yeah, the one that was stuck up in the housing runs
16 ten inches.

17 Q. What arithmetic did you do? What -- did -- did you
18 take into consideration the -- what you were led to believe
19 the length of the cut cord was from 21, the part that the
20 FBI had cut?

21 A. We were led to believe that the three cords the FBI
22 took were approximately 21 inches. The 21 and the distance
23 of these came out to the 42 being the same distance of these
24 cords.

25 Q. I'm sorry. The 21 that the FBI cut off?

26 A. Right.

27 Q. If you add that to the three cords?

28 A. Right.

1 Q. Came out to what?

2 A. Came out to approximately the 42 inches.

3 There's a little bit of an error because of -- these
4 things are sort of bundled up a little bit so you're going
5 to get a half inch here or half inch there. But in general
6 we are right at 42 inches on these three cords.

7 Q. So when you add the part that the FBI cut off to the
8 part that's on these three remaining cords on the
9 questionable blind came out to forty -- you say to 42?

10 A. Yes.

11 Q. And then that means the intact blinds had 42?

12 A. That's correct.

13 Q. Forty-two.

14 So these three, when you add up those to the three
15 cords that the FBI cut for 42, what -- how much are we
16 missing from the short cord?

17 How much is missing from that? Assuming that was once
18 42 like the others were -- are.

19 A. Between 30 and 32 inches.

20 Q. So we have between 30 and 32 inches missing cord on
21 that --

22 A. That's correct.

23 Q. -- farthest right blind?

24 Okay. And what's your understanding of the length of
25 the -- I think we already heard evidence of this. But the
26 length of the cord that was found on the suitcase and that
27 the FBI guy yesterday said had the same compare -- he made
28 his conclusions yesterday about how it compared to the

1 suitcase cord?

2 What's your understanding of the length of that?

3 A. My understanding was between 15 and 16 inches.

4 Q. Okay. So if you take the remaining -- you said 32?

5 A. Yes.

6 Q. Thirty-two. And you've got a piece of cord 32 and you
7 cut it in half, you get about the same length as the length
8 off the suitcase?

9 A. That's correct.

10 Q. Did you do anything else besides making these
11 observations and taking these photographs?

12 A. The other observation we made was that -- is how this
13 got tucked up in there. This blind itself, if -- if in this
14 position, you were to cut these cords, cut this little cord,
15 it would -- it would have looked like this. If you -- once
16 this cord is cut, if you let that blind down, then that
17 little cord would have got sucked back up into the housing.
18 And that's how the housing -- how they got jammed up in the
19 housing.

20 Q. So using, for example, as an illustration 198, which
21 was on of the -- I believe one of the --

22 A. Right.

23 Q. You've got this. And you need some cord to -- because
24 you want to close up a suitcase or something. So you --
25 what would you do in order to get that piece up stuck into
26 the housing, what would you have to have done?

27 A. If you pull this down --

28 Q. Pull it down?

- 1 A. -- to raise -- to raise the blind.
- 2 Q. Right.
- 3 A. This would become a longer distance.
- 4 Q. Right.
- 5 A. You could cut the piece of cord off of it.
- 6 Q. But then what do you have to do, tie this thing --
- 7 A. You'd have to --
- 8 Q. -- the clasp --
- 9 A. You'd have to re --
- 10 Q. -- the metal clasp?
- 11 A. You'd have to re-tie it.
- 12 Q. But then you're left with just three pieces, three
- 13 strings.
- 14 A. But then once you allowed it to come back down, it
- 15 would get sucked up into the housing --
- 16 Q. The --
- 17 A. -- and that's why you wouldn't see it.
- 18 Q. The fourth piece?
- 19 A. Would get sucked up into the housing.
- 20 Q. Would be sucked up into the housing, okay.
- 21 Did you take any other photographs of what you
- 22 discovered the other day?
- 23 A. We took close-ups of the different -- the strings.
- 24 MR. TESTA: If I may have 276 would be the
- 25 next one.
- 26 Q. And then what do we see in 276?
- 27 A. Just the comparison.
- 28 And then our last observation we took sort of a

1 close-up of the actual cut cords. And we found -- if you
2 pull this up a little farther up.

3 Q. This is 277.

4 A. Right.

5 We were able to observe that these cuts here were --
6 were -- appear to have been cut with scissors. This cut
7 here, you -- it's sort of hard to tell from the photograph,
8 but it was a little more -- I'm not sure of the word, but --

9 Q. Frayed?

10 A. Frayed I guess would be a good word for it. As if it
11 might have been cut with a knife or something like that.

12 Q. Well, I guess in terms of the -- were the --
13 clean-cut/rough-cut?

14 A. Right. That would be exactly right.

15 Q. Do these three photos accurately depict what you
16 learned the other day when were doing this?

17 A. Yes. They were signed and dated on the back with
18 the -- with the witnesses there when they were taken.

19 Q. Well, who else -- when you say "witnesses," who else
20 was there when you were doing this?

21 A. Al Freitas, myself, and Tracy Newhouse, who is our
22 computer person, who actually taught us how to use the
23 camera.

24 Q. Because you're in my age group. We didn't learn to
25 use these digital cameras.

26 Is this a digital camera?

27 A. Yes.

28 MR. TESTA: I'm sorry.

1 THE FOREPERSON: Mr. Testa, the other photos,
2 they are not in the same sequence as the first one. So we
3 have to give them different numbers.

4 MR. TESTA: Oh, okay. So you want me to
5 change the numbers from --

6 THE FOREPERSON: One number you gave --

7 MR. TESTA: 275, 276 and 277 were the three
8 that --

9 THE FOREPERSON: 76 and 77 we'd like to
10 change.

11 MR. TESTA: Okay.

12 THE FOREPERSON: To?

13 THE SECRETARY: To 286 and 287.

14 MR. TESTA: Okay. So I'll change 276 to 286.
15 And 277 to what?

16 THE SECRETARY: 287.

17 MR. TESTA: 275 remains the same?

18 THE FOREPERSON: Yes.

19

20 *(Grand Jury Exhibits 276 and 277,*
21 *photographs, previously marked and*
22 *referred to by this witness, were*
23 *remarked as Exhibits 286 and 287 for*
24 *identification respectively.)*

25

26 MR. TESTA: Q. And did you do anything else
27 in your effort?

28 A. We only did a comparison with earlier photographs that

1 were supplied by Tim Bauer. And that was the photographs
2 that shows that only three cords had been used, yes.

3 Q. You're referring to, for example, Exhibit 212?

4 A. Yes. And we were able to see where the yellow tape
5 here -- if you see this photograph here, you have yellow
6 tape about where they cut at. And then you see the second
7 photograph, and they cut through that yellow tape.

8 Q. 211.

9 A. Yes. I believe it explains why we have the nice
10 smooth cut. Because they used the tape to assist in the
11 cut. And also it shows you that in this area here, there's
12 going to be a half inch to inch difference in length because
13 the cords aren't pulled straight. That's why we have a
14 little difference in length.

15 Q. Okay. So going back to two eighty ... what is now
16 number 287, these three cleaner cuts correspond to, of
17 course, the cuts that are on 211?

18 A. Correct.

19 Q. Cut by the FBI when they took their sample to send to
20 Quantico?

21 A. Exactly.

22 Q. But that shorter piece on 287 appeared to be cut with
23 something -- some other less --

24 A. Yeah. And I'm -- I'm not an expert. Just -- just on
25 a visual of that, it appeared that way to all of us.

26 Q. Okay. Well, now, let me show you 87. Let me see if
27 we had a better shot.

28 Can you see the edges of that suitcase?

1 It's probably not the best picture we have, but it's
2 the only one I have out here.

3 A. I've actually seen it, yes.

4 MR. TESTA: Okay.

5 All right. I have no further questions.

6 Are there any questions from the Grand Jury?

7

8 *(A handwritten question was submitted to*
9 *Mr. Testa.)*

10

11 MR. TESTA: Thank you.

12 Q. Question from the Grand Jury: "How long might it take
13 to cut the cord and re-tie it?"

14 A. I would -- it's just speculation. But cutting the
15 cord actually takes no time at all, depending on what you
16 cut it with. Cut it with pair of dull scissors or a sharp
17 knife or whatever instrument you cut it with, it probably
18 wouldn't take any time at all.

19 Retying it would also be reasonably simple. The only
20 thing I could see that might be complicated about it is
21 this -- this little mechanism that holds the --

22 Q. The clasp?

23 A. The clasp I guess you could call it. You've got to
24 move that clasp around. So that might take you a little bit
25 longer. But I don't think the whole process would take more
26 than a couple minutes.

27 MR. TESTA: Are there any other questions
28 from the Grand Jury?

1 A GRAND JUROR: I got one.

2 MR. TESTA: Q. Question from the Grand
3 Jury: "Did the knots on the blinds have any similarities to
4 the knots on the suitcase?"

5 A. The only similarity is that the -- the knot that I saw
6 where you had four tied together --

7 Q. You mean three?

8 A. Well, we also looked at the knot where you had all
9 four tied together.

10 Q. Which knot are you referring to?

11 A. On the good blind.

12 Q. Oh, on the good blind.

13 A. And that knot was pulled really tight over a period of
14 use and stuff like that. And your cap is slid down really,
15 really tight on it. And so you couldn't tell if that was a
16 factory knot or what. It looked like the knot that was tied
17 on the --

18 Q. On number --

19 A. Yeah, where they tied the three together.

20 Q. -- 207.

21 A. Yeah. It was much looser. If you noticed that it was
22 much looser, it's like it's a much more fresh knot.

23 Q. And any opinion on how it compared to the knot in 87,
24 the suitcase knot?

25 A. Oh, no, I don't have any opinion on that.

26 Q. I think that's what the -- the juror is asking that
27 question.

28 A. Oh, I'm sorry. Yeah. I don't -- no, I don't have any

1 opinion on that.

2 Q. Here is a better photograph of this Exhibit Number 95,
3 the suitcase now with Sandra Cantu's body in it.

4 A. Right.

5 Q. And he's asking do the knots on the blinds have any
6 similarities to the knots on the suitcase.

7 I mean, I don't know if you're in a position to ask --
8 to answer that or if --

9 A. Yeah, I'm not.

10 Q. -- that's more of an --

11 A. I'm not really -- yeah.

12 Q. -- FBI cord expert?

13 A. I'm not really in the position to answer that. But it
14 is definitely something that should be looked at.

15 MR. TESTA: Okay. Are there any other
16 questions?

17 I see none.

18 Could the admonition be read, please.

19 You are admonished not to reveal to any person, except
20 as directed by the Court, what questions were asked or what
21 responses were given, or any other matters concerning the
22 nature or subject of the Grand Jury's investigation, which
23 you learned during your appearance before the Grand Jury.

24 This admonishment continues unless and until such time
25 as the transcript from the Grand Jury proceeding is made
26 public. Violation of this admonishment is punishable as
27 contempt of court.

28 Do you understand?

1 THE WITNESS: Yes, ma'am.

2 THE FOREPERSON: Thank you.

3 MR. TESTA: I'll make a note of that 207.

4 Okay. Thank you, sir.

5 THE WITNESS: Okay.

6

7 *(Change of Reporters)*

8 ---o0o---

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1 MR. TESTA: Could you please state your name,
2 please?

3 THE WITNESS: Chris Hopkins.

4 MR. TESTA: If you could try to speak into
5 this, because the acoustics aren't too good.

6 How do you spell your name, sir?

7 THE WITNESS: H-O-P-K-I-N-S.

8 THE FOREPERSON: Would you raise your right
9 hand, please?

10

11

CHRIS HOPKINS,

12

a witness called on behalf of the People, having been duly
13 and regularly sworn by the Grand Jury Foreperson, testified
14 as follows:

15

16

THE WITNESS: I do.

17

THE FOREPERSON: Thank you.

18

19

EXAMINATION

20

BY MR. TESTA: Q. Where are you employed,
21 sir?

22

A. I'm a special agent with the FBI.

23

Q. Out of which office?

24

A. The Sacramento field office.

25

Q. Did your team do anything with this exhibit, 212?

26

A. Yes, sir.

27

Q. What?

28

A. I run a forensics team for the FBI called the Evidence

1 Response Team. One of my members, Kim Rother, took that
2 cord and cut it.

3 Q. Showing you 211, do you recognize this exhibit?

4 A. Yes, sir.

5 Q. What is it?

6 A. It's the same cord, but now it's been cut. It did not
7 originally have the yellow tape on it. Typically, when we
8 cut cordage or rope, we mark it with tape and then we cut
9 it.

10 Q. Was it cut under your direction?

11 A. I was not present.

12 Q. But, I mean, were you the team leader?

13 A. Yes.

14 Q. Why'd you cut it or arrange for it to be cut?

15 A. We wanted to compare the cordage from the blinds with
16 the cordage that was removed off the suitcase that contained
17 the victim.

18 Q. How long is the cord that was cut that you sent to the
19 FBI?

20 A. I believe it's about twenty-one inches.

21 Q. All right. And -- okay. So let me ask you, what was
22 your involvement in connection with the investigation into
23 the disappearance of the person who is here in Number 17?

24 A. I'm the senior team leader for the Evidence Response
25 Team here in Sacramento. As such, I had the responsibility
26 of coordinating and leading the forensic team in different
27 crime scenes and searches.

28 Q. Okay. We've heard from a lot of other people, so I'm

1 just going to bypass a lot of what you did, I know you did a
2 lot of work on this case, and focus on a few matters.

3 Did you participate in the recovery of the suitcase at
4 the pond?

5 A. I did.

6 Q. How did you become involved in that? How did it
7 start? How did you -- where did you hear about it? What
8 did you do?

9 A. I received a telephone call from Special Agent Todd
10 Arinaga (Phonetic), and he reported that there was a
11 suitcase found in a pond in Tracy, and he believed it may be
12 the suitcase that was reported missing from Melissa Huckaby.

13 Q. Do you recognize what is shown in Exhibit 66? We have
14 a laser pointer in front of you, too, by the way.

15 A. Yes, I do.

16 Q. What?

17 A. These are the settlement ponds in this agricultural
18 area. And these are all law enforcement vehicles that
19 include the FBI Evidence Response Team vehicles, and --

20 Q. What road is this on, do you remember?

21 A. Is this -- I believe this is Whitehall.

22 Q. Okay.

23 A. And there was an Eddie Bauer suitcase found right
24 there.

25 Q. Where the X is?

26 A. Yes.

27 Q. And showing you Number 5, we have already heard about
28 this so I'm kind of going over it quickly, do you recognize

1 what is shown in this photo?

2 A. Yes, I do.

3 Q. What?

4 A. This is the settlement pond where the suitcase was
5 recovered.

6 Q. Okay. So what did you end up doing there at the
7 scene? Are you like the guy in charge?

8 A. I am the guy in charge.

9 Q. So you're telling everyone what to do?

10 A. I like my job.

11 So when we get there, there was already a perimeter
12 established and the Tracy Police Department was maintaining
13 a log, an entry log. And then myself and team members, I
14 directed for aerial photographs to be taken before we
15 entered. So an FBI plane with an ERT photographer came and
16 shot aerial photographs. Then we took ground photographs.
17 And then the team went and started trying to identify
18 different items that might have had evidentiary value.

19 Q. Okay. We have already seen this one, too. But do you
20 recognize 249?

21 A. Yes.

22 Q. What is this?

23 A. This is off Whitehall Road. This is a gate. And then
24 this is that first settlement pond.

25 Q. Okay. And what is shown here in this exhibit,
26 Number 273?

27 A. Upon our arrival, I started looking for different
28 items that might be evidence. We found these what appeared

1 to me like tire tread marks in this sand and dirt. And
2 then, you know, not tire tread like a car, but very thin
3 wheel marks.

4 Q. Give us an idea, if you could, on 71 where we are
5 talking about here?

6 A. So they first start about, where we could find them,
7 about right in this area.

8 Q. To the right of the post that looks like it has a sign
9 on it?

10 A. Yes, this post here. Right in this area. Then they
11 go up here and then up the embankment.

12 Q. So you don't see any starting on the side of the road,
13 if I follow you, but you pick them up to the right of that
14 what I call post with a sign on it?

15 A. That's correct. We looked for them. All through this
16 area. But this area had been very well traveled with -- by
17 pedestrian traffic and cars. A lot of tire impressions, but
18 no -- no wheel tracks like that until we get over here.

19 Q. Is it fair to say that the -- before you found the
20 wheel tracks, this area was more -- what's the word --
21 compressed or less likely to leave track marks?

22 A. No, this area wouldn't leave good track marks, it's
23 very loose soil, but this is the entryway to this roadway
24 and so the -- the people that own this farm and work here,
25 they use this as an entrance and exit route to get back on
26 to the road.

27 Q. What do you do when you picked up these marks,
28 these -- these track marks I think you called them?

1 A. I had ERT members get spray paint and spray paint
2 along the marks. I told them don't spray inside the trail
3 marks themselves, because when they try to do some
4 additional work on that, so spray on the outside of the
5 marks so that would highlight the marks to enhance our
6 ability to capture it with photographs.

7 Q. What was the distance, you know, between the --
8 between the -- the tracks?

9 A. Seventeen inches.

10 Q. Okay. And here's a ruler.

11 What is the distance between the -- the wheels on this
12 Eddie Bauer suitcase that has been marked as an exhibit?

13 A. Seventeen inches.

14 Q. I was, just for the record, showing you 152, which
15 Dr. Omalu already confirmed has the same dimensions as the
16 suitcase with Sandra Cantu's body in it.

17 So where did these marks go to -- lead to?

18 A. Well, it appeared that these marks came up and then up
19 this embankment, and then over towards this settlement pond.

20 Q. Let me show you what has been marked as 274. Do you
21 recognize what is shown there?

22 A. Yes.

23 Q. What?

24 A. The marks come up -- up here and then they disappear.
25 And then down here by the water's edge were two large almost
26 like foot impressions where the -- the soil had been
27 compressed, as if something heavy had landed on it.

28 Q. Okay. Well, now where was the suitcase found in

1 relation to this trail that goes up to where it went?

2 A. The suitcase was actually recovered on the west side
3 of the settlement pond.

4 Q. Okay. So if you could show us in this one I showed
5 you a moment ago, 66, where these -- where the trail was?

6 A. So this is where the gate is with the post.

7 Q. Near that truck? I think we heard it was

8 Mr. Corallo's truck.

9 A. Right, a worker.

10 Q. Or supervisor, whatever, yeah.

11 A. And then the tracks come up here and then go to the
12 top. And then there's a corresponding -- these two
13 impressions in the soil here. And then the suitcase is
14 recovered here.

15 Q. Where the X is?

16 A. That's correct.

17 Q. But we heard from Mr. -- I think it's Corallo, if I'm
18 pronouncing it correctly, there's no turbulence in this
19 water unless you drain the ponds.

20 So my question to you is assuming that her suitcase
21 was put in the water where the track marks -- seventeen-inch
22 track marks go to and appear to end, and there's a
23 depression in the soil, did you, as the lead investigator,
24 have any opinion as to how the suitcase would have gotten
25 where it was found, which was over as we saw on 16, this was
26 after Mr. Franco used the pitchfork to get a little closer,
27 but it was over there on the other side of pond number 4?

28 A. I suspect what has happened is that the suitcase gets

1 deposited into the water here.

2 Q. Where the trail ends?

3 A. That's correct. And where those two impressions are
4 made in the soil.

5 And then as the victim's body starts to decompose,
6 decomposition starts on the inside of your body and it
7 releases gases. And as the gases build up, it brought her
8 and the suitcase to the surface of the water.

9 And the prevailing winds go from this direction to
10 this direction (indicating). And I believe what happened
11 was that it pushed the suitcase over to this -- the west
12 shore of that settlement pond.

13 Q. And what's the source of your opinion that
14 decomposition causes gases? Have you been doing this very
15 long?

16 A. Twenty-one years.

17 Q. Have you had other cases found in water?

18 A. Yes.

19 Q. I guess when you work near the Delta, that's probably
20 not, you know, uncommon.

21 And you said that prevailing wind goes from here to
22 here. Could you put on the record what direction are we
23 talking about?

24 A. It would be from the east to the west.

25 Q. What's the basis for that opinion that that's the
26 prevailing wind? Is it just when you were out there that
27 day or did you --

28 A. I was out there that day and it was very windy and the

1 winds were pushing everything in that direction.

2 Q. Oh, I see. Okay.

3 Okay. I'm just making a note.

4 Well, since I have some other photos here, why don't I
5 ask you what about 212, what about these placards? What
6 does 15 and 16 mean? And I notice there are these look
7 like -- are they flags?

8 A. Yes. These are evidence flags that we placed out to
9 try to also identify the direction of the trail and these
10 marks.

11 And then placards 15 and 16 represent soil samples
12 that we collected. We took a representative sample soil
13 here and as well as here.

14 Q. By the way, I can see after I enlarged it, this is
15 actually your FBI's paint, right?

16 A. Yes.

17 Q. And you actually painted where you guys saw the trail,
18 correct?

19 A. That's correct.

20 Q. Now I only see -- I see the two, now what's the
21 explanation why, and then I see one of them stops?

22 A. This one continues up and over. And this one kind of
23 disappears.

24 Q. Did you do any -- I might be splitting hairs here --
25 did you measure the -- I know you did the distance between
26 the wheels. What about the actual measurement of the wheel?

27 A. Yes, we measured that as well.

28 Q. What was that measurement?

1 A. I believe it was three-quarters of an inch.

2 Q. Do you have it in your report somewhere?

3 A. I do.

4 Q. What's the measurement of this -- of this wheel?

5 A. That's about three-quarters.

6 Q. Then check your report and see if that's what you guys
7 came up with at the scene for...

8 A. (Referring to report.)

9 Q. Again, referring to Exhibit 152 of the suitcase.

10 A. Yes. From the report, the roller track width measured
11 three-quarters of an inch.

12 Q. So this one with the -- the single track continued to
13 be that same distance, same dimensions as the first ones, so
14 you could tell it was the same? I'm asking, I'm not telling
15 you.

16 A. You can see it rolls right here and then up. And so
17 all those measurements were consistent.

18 Q. You know, I can't see it in this photo, but how far
19 up? This photo doesn't quite show the top of that.

20 A. It gets up to the top of the embankment, not that far
21 but it clearly goes up here, then disappears.

22 Q. Now, what does 17 and 18 mean?

23 A. These are the two depressions that were in this --
24 very close proximity to the tracks that we followed.

25 Q. How -- do the tracks -- were the tracks sprayed by
26 this point, or do I have the wrong photo? Do the tracks go
27 any closer to the water?

28 A. No, sir. They end -- this is that embankment. You

1 can see the leading edge here, so it would have been down
2 here. So the tracks probably would have ended right in
3 here.

4 Q. Are these tire tracks, car tracks, or truck tracks?

5 A. This is like a road. And it's commonly traveled with
6 cars and tractors. You can see the impressions.

7 Q. Oh, okay.

8 All righty. I'm sorry. So what does 17 and 18 mean?

9 A. 17 and 18 are marking the two depressions that we
10 found near the water's edge that were in close proximity to
11 the tracks that we found.

12 Q. Were you able to find any like shoe prints or shoe
13 sizes, or anything like that?

14 A. This impression was much too large to be a shoe
15 impression. This one was a little bit closer. But there
16 was no footwear impressions identified.

17 Q. 17 was the first one you are referring to, and 18 was
18 the second one?

19 A. That's correct.

20 Q. Plus, there had been -- do you know had it rained or
21 anything, say, between the 27th and the day you're out
22 there, which I think you said was what date, the 6th?

23 A. April 6th.

24 Q. Yeah. Do you know if there had been any rain or
25 precipitation?

26 A. I don't believe there had been any precipitation.

27 Q. Do you know if the water level had gone up or down
28 during that time period?

1 A. No, I don't.

2 Q. So did you collect anything? I notice you have the
3 flag -- looks like is this a flag?

4 A. Yes.

5 Q. Number 18, did you collect anything from there, do you
6 recall?

7 A. I don't recall if we took -- we probably collected
8 soil samples from this area, then we mapped it in with our
9 Nikon Total Station.

10 Q. What's shown in 277?

11 A. This is the settlement pond. And this is our Nikon
12 Total Station. It is a laser guided surveying piece of
13 equipment that's hooked up to a laptop computer and we use
14 that to map in evidence in outdoor scenes.

15 Q. What's interesting is this is where our tax dollars
16 go. I mean, this is really interesting stuff. This is
17 pretty high tech.

18 A. It's very high tech. I hope you like it.

19 Q. 282. Do you know what this shows?

20 A. So this is a picture almost from where the Nikon Total
21 Station is looking towards the west bank of the settlement
22 pond.

23 Q. Where is the place where the suitcase is found? Does
24 it show on this one?

25 A. No, it would be over in this area.

26 Q. All right. What about 284?

27 A. Again, this would be the east bank of that settlement
28 pond where the -- close to where the tracks are. And the

1 soil impressions.

2 Q. Earlier you were showing us number 17. What about
3 283, is that a close-up of 17?

4 A. Yes. And of the soil sample that was collected.

5 Q. And, earlier, you were showing us placard 16, and I
6 guess it's 280, do you recognize this one?

7 A. Yes. Again, soil sample collected representing the
8 soil that is hidden there in the track.

9 Q. Soil sample for 18?

10 A. That's correct.

11 Q. What other kind of things did you -- let me put it
12 this way: We heard from Mr. Chappell, did you ever come
13 up -- did you ever talk to him?

14 A. I did meet him.

15 Q. The man that lives down the road?

16 A. Oh, I was thinking he was the man that found the
17 suitcase. No, I have not met him.

18 Q. Mr. Chappell, he was the Marine, maybe you had no
19 contact with him. He was the Marine that was going out to
20 dinner with his wife and child when they saw -- when they
21 saw -- he came in and told us, but he was telling us how
22 he's -- it's not uncommon for him to kind of shoo people
23 away from here, it's private property, and that things go on
24 around there.

25 My question was did you find any evidence that maybe
26 other people had been smoking weed, drinking beer, doing
27 anything out here, this area?

28 A. We did.

1 Q. What kinds of things did you find?

2 A. We found different items along the roadway. Items of
3 clothes. Cigarette butts. A used condom. Some cordage.

4 Q. Did you book all those items?

5 A. We did not book all those items. We booked --

6 Q. The cordage, for example?

7 A. We did book the cordage.

8 Q. Are they going to test that to see if it has any
9 connection to the suitcase cordage?

10 A. Yes.

11 Q. What about the condom, you going to test that?

12 A. Yes.

13 Q. Did it look like it was old stuff or could you tell?

14 A. Oh, you can tell if things have been out in the
15 weather for a long time. Most of those items looked very
16 well weathered, to include the condom.

17 Q. I cut you off. What other kinds of things did you
18 find out there, do you remember?

19 A. Oh, cigarette butts, plastic bottles, cans, clothing
20 items, all sorts of trash mostly.

21 Q. Okay.

22 A. Oh, a match box. That was interesting.

23 Q. Does that show -- show you Number 276.

24 A. Yes. Item Number 4 is wooden matches and a match box,
25 Diamond.

26 Q. 278, close-up?

27 A. Yeah, that's a close-up.

28 Q. What was interesting about that?

1 A. Well, it wasn't interesting until later that evening
2 when we searched Melissa Huckaby's home.

3 Q. What made it interesting when you searched her home?

4 A. We found that a -- a match box by Diamond, similar
5 design, construction, and color, in her residence.

6 Q. Well, how common are these match boxes, though, do you
7 know?

8 A. No, I don't know.

9 Q. I don't smoke, so I don't know matches too well.

10 Where did you find it now?

11 A. Along the roadway.

12 Q. No, I mean, sorry, where in Melissa Huckaby's house?
13 Do you recall?

14 A. I believe it might have been in the master bedroom.

15 Q. Let me show you -- you guys take photographs of it?

16 A. Yes.

17 Q. Show you 237. Are these your placards, by the way,
18 your company's placards?

19 A. Yes. There you go.

20 Q. How do they compare -- let me put these side-by-side.
21 So this -- you find this is -- in which room of her house?

22 A. I don't recall. I think it was the master bedroom,
23 but I'm not sure.

24 Q. What other kinds of things were in there, let's put it
25 that way?

26 A. Here there's keys, toothpaste, staples, a book, a cup.

27 Q. What's this?

28 A. That looks -- no, but it looks like some sort of

1 remote key.

2 Q. Whose paperwork, do you remember whose?

3 A. No.

4 Q. 278, what was the number of the keys in the desk? Can
5 you make it out on the top there?

6 A. Appeared to be two.

7 Q. No, I'm sorry, the number up here?

8 A. Is 32.

9 Q. Okay. And then out at the scene, same number, same
10 count?

11 A. Same 32 count, Diamond strike-on match --
12 strike-on-box matches.

13 Q. Well, you know, when you were out there at the scene,
14 you said some things you could tell were weathered, they had
15 been out there for awhile, and other things like the condom
16 had been -- maybe things like the condom might have been out
17 there for awhile.

18 What about -- did you have an opinion about these
19 matches when you were out there at the scene, whether they
20 look --

21 A. The match box looked more fresh than a lot of the
22 items that we recovered.

23 Q. Did you try to get any prints off of it or anything?

24 A. It was submitted to the lab -- FBI Laboratory for
25 examination.

26 Q. Oh, okay.

27 Let me see if I have any other areas here.

28 Okay. So anything before we leave the pond? Is there

1 anything else that you did there, do you recall? Oh, I
2 know, I wanted to ask you this. Did you measure the
3 temperature of the water?

4 A. I did.

5 Q. What was it?

6 A. 60 degrees.

7 Q. That's all I had to ask you about the -- oh, were you
8 there when the suitcase was removed -- actually removed from
9 the pond?

10 A. I was.

11 Q. And in a nutshell, how did that happen? I think we
12 heard about it from others, but what do you recall about it?

13 A. I assigned several agents to go into the water and
14 pull the suitcase out and place it inside a body bag that we
15 had already positioned on top of the embankment. And then
16 we looked at the -- the suitcase superficially, we didn't
17 open it or make any other remarks on it. And then I
18 directed it to be closed into the body bag, and then we
19 closed it and sealed it.

20 Q. And then what was done with it?

21 A. Then ERT members and Gary Yip from the Coroner's
22 Office carried it, removed it from the scene, and
23 transported it to the Coroner's Office.

24 Q. And what was the reason why it took you so many hours
25 to do that at the scene? I think we heard that you found it
26 at a certain hour and many hours later it was taken away.

27 A. Well, we do a lot of work to -- everything has to be
28 photographed before we remove it. We have to measure it and

1 sketch it in with our laser, a lot of work has to be done
2 before a piece of evidence can be removed from a crime
3 scene.

4 Q. Okay. Now, I was looking for this photograph earlier.
5 Showing you 237, photograph taken during the search of her
6 house, and that placard, the matches are number 3, right?

7 A. Yes.

8

9 (Whereupon a Photograph was marked Grand
10 Jury Exhibit Number 288 for
11 identification.)

12

13 MR. TESTA: Q. And then I have 288. What is
14 288, close-up?

15 A. It's a close-up of the same matches.

16 Q. So we can see it well, the lighting isn't the best,
17 but...

18 Okay. Now let me move -- how did you end your -- your
19 work there at the -- at the pond? How did it come to a
20 conclusion? The body was taken away, was that it, or did
21 you do anything else afterwards?

22 A. No, we were there for hours after.

23 Q. What else did you do there?

24 A. We continued looking for additional evidence all
25 around the pond, the roadway, both sides of the roadway.
26 It's a large area and we are looking for things that are
27 very small. You know, everything from the small impressions
28 in the dirt to large items of evidence. So it takes a long

1 time to cover that kind of geography.

2 Q. Moving to a different topic, did you end up examining
3 her car?

4 A. The following day we examined her car.

5 Q. That would be the?

6 A. 7th.

7 Q. Where was the car when you examined it?

8 A. The car had been previously towed to a fire station.

9 Q. Oh, I think we heard about that. Mountain House Fire
10 Station, I believe, or something like that?

11 A. Yes, sir.

12 Q. Do you recognize 48?

13 A. Yes, I do.

14 Q. What is shown in this?

15 A. That's the back end of Melissa Huckaby's Kia Sportage.

16 Q. And what did you notice about the vehicle? In terms
17 of the exterior?

18 A. There's a number of things to note.

19 First, she has this sticker that's very unique. "My
20 brother is a US Marine and the other is a nurse."

21 These are more commonly seen, this, the yellow ribbon,
22 "Support Our Troop" decals.

23 Then she had some body damage here on the passenger
24 rear side tail light and bumper.

25 Q. Any other details?

26 A. There are decals on both sides of the windows as well.

27 MR. TESTA: What's our next in order?

28 THE SECRETARY: 289.

1 MR. TESTA: Pardon me?

2 THE SECRETARY: 289.

3

4 (Whereupon a Photograph was marked Grand
5 Jury Exhibit Number 289 for
6 identification.)

7

8 MR. TESTA: Q. Showing you 289, same car,
9 different view?

10 A. Same car, passenger's side view, and the sticker and
11 the rear passenger window.

12 Q. What does that say?

13 A. "Princess in Training."

14 Q. What side of the vehicle is this?

15 A. The passenger's side.

16 Q. Okay. And what's our next exhibit number?

17 THE SECRETARY: 290.

18

19 (Whereupon a Photograph was marked Grand
20 Jury Exhibit Number 290 for
21 identification.)

22

23 MR. TESTA: Q. Do you recognize what is
24 shown in this one? Whoops. Same vehicle?

25 A. The same vehicle. Different angle. This shows the
26 front end of the Kia, and the driver's side.

27 Q. Okay. So what -- how did you guys go about your
28 search of the vehicle? What was your goal? What were you

1 doing?

2 A. We have normal procedure and protocols when we search
3 vehicles. The first thing we do is we take all these
4 exterior photographs, then we open the car up, take interior
5 photographs to document how we found the car and the
6 condition of the car. And then we go about start collecting
7 trace evidence from the vehicle, look through the vehicle
8 for evidence, remove the trace evidence from the evidence,
9 and then place those other articles on brown butcher paper
10 on the floor.

11 MR. TESTA: 291 is the next exhibit number,
12 is that correct?

13 THE FOREPERSON: Yes.

14 MR. TESTA: Pardon me?

15 THE SECRETARY: Yes.

16

17 (Whereupon Photographs were marked Grand
18 Jury Exhibit Numbers 291, 292 and 293
19 for identification.)

20

21 MR. TESTA: Q. Let me ask you this: Is
22 there another decal? Is this the driver's side or the
23 passenger's side?

24 A. This is the driver's side cargo window.

25 Q. What's that decal say?

26 A. "Ron Jon Surf Shop," I believe.

27 Q. Did you make a note of it in your report?

28 A. I did.

1 Q. Is that in fact what it says?

2 A. Ron Jon Surf -- Surf Shop, CA, C-A.

3 Q. I'm sorry to cut you off. A total then of how many
4 decals are on this car?

5 A. Four.

6 Q. My Brother's a Marine, Support Our Troops, Ron Jon's?

7 A. Training -- Princess in Training, and Ron Jon Surf
8 Shop.

9 Q. Okay. So what were the results of your search? I'm
10 sorry, I cut you off.

11 The first thing you do is you do the exterior and
12 document things, what else did you do?

13 A. We go about looking through the vehicle for items of
14 evidence and collect trace evidence.

15 Q. Okay. Do people who did this have experience in doing
16 it?

17 A. Yes.

18 Q. Okay. And then after you do that, did you at some
19 point go inside the glove compartment?

20 A. Yes.

21 Q. Showing you 265, do you recognize this item?

22 A. Yes.

23 Q. What is it?

24 A. That's the California registration for the Kia.

25 Q. In whose name?

26 A. Melissa Huckaby.

27 Q. And it's a Cyprus, California address?

28 A. Yes, sir.

1 Q. Any date?

2 A. September 22nd, 2007.

3 Q. Showing you 266, do you recognize what is shown in
4 this?

5 A. That's a photograph depicting the front passenger side
6 door opened looking into the interior.

7 Q. Now, again, this is the 7th when you're searching
8 this, right?

9 A. That's correct.

10 Q. And then 263, do you recognize this?

11 A. Yes. That's contents of the glove box.

12 Q. Let me just take the sticker off so we don't get that
13 shading in the back here.

14 So what was in the glove box?

15 A. I don't remember anything of real evidentiary value,
16 other than the evidence -- the registration form.

17 Q. Okay. Did you find this anywhere, 264?

18 A. Yes.

19 Q. Where?

20 A. That was in a little cubby on the front dash.

21 Q. Okay. I do not think I have a photograph of that.

22 Showing you 266, is there a cubby on this side?

23 A. Yeah. You can't really see it, it's cut off by this
24 frame. But it would be -- this is that center area and the
25 cubby down in this area.

26 Q. Okay. Was there anything else there besides the
27 Post-it note?

28 A. There were other articles in there to include a little

1 notebook, when you open it up, it had the -- these blue
2 Post-Its in it and a little pen to write notes on.

3 Q. What stood out, if anything, about the Post-it note?

4 A. It caught my attention because it had a phone number
5 on it. And we were doing a lot of work with phone numbers
6 and databasing. So I took the phone number and the Post-it
7 note and I called it in to enter it into our database to see
8 if we had any links to anything.

9 Q. Any link? Did it go anywhere, or do you not know?

10 A. No, it didn't really go anywhere.

11 Q. So what did you end up doing with the Post-it note?

12 A. We collected it for evidence.

13 Q. Were there other -- what color was the Post-it note?

14 A. It's blue.

15 Q. Were there other blue Post-it notes in the car?

16 A. There was the -- the -- the stack of blue Post-its as
17 before, you peel them off, in that little notebook.

18 Q. Okay. Okay. Let me see if I have any other
19 questions.

20 So was there a booster seat in the car?

21 A. Yes, there was.

22 Q. Where?

23 A. In the rear passenger's side.

24 Q. In the rear where?

25 A. The rear passenger's side.

26 Q. Like a child's seat?

27 A. Yes. However, it was not strapped down.

28 Q. Okay. So did you check the car for latent prints, for

1 DNA, for trace evidence, and all that blood evidence, do all
2 those things?

3 A. We did.

4 Q. Come up with anything?

5 A. Well, we identified the evidence, we collect it, and
6 then it's sent to the FBI Laboratory for examination.

7 Q. Okay. What about you collected soil, didn't you, at
8 the site of the pond?

9 A. We did.

10 Q. Did you find any soil when you were looking at the
11 car?

12 A. We did, we found a lot of soil in the driver's front
13 compartment and on the driver rear compartment floor.

14 Q. Interior?

15 A. Interior.

16 Q. Did do you anything with that?

17 A. We collected it to have it compared with the soil that
18 we collected at the pond.

19 Q. Okay. Looking for a photograph of the car. I'm sure
20 it's right in front of me.

21 Showing you 266, can you give us an idea where the
22 soil was? I know that only shows one side of the car.

23 A. This is the passenger's side.

24 Q. Right.

25 A. However, if this was the driver's side, it was all
26 found on the floor mats here and then on the floor mats
27 here. But on the other side of the vehicle.

28 Q. Well, when you say "here," could you put on the record

1 where you're referring to on the driver's side?

2 A. On the floor mats on the front driver's side, and on
3 the rear driver's side floor mats.

4 Q. Showing you 290 again, this is -- how many doors does
5 this car have?

6 A. It's a four-door car with a hatchback.

7 Q. Okay. So you found some soil on the driver's side and
8 on the driver front, driver rear?

9 A. That's correct.

10 Q. And the booster seat was on which side?

11 A. On the rear passenger's side, back here.

12 Q. So there would be a space on the rear driver's side,
13 there was nothing there, you could have put something in
14 there if you wanted to?

15 A. That's correct. As well as in the cargo area.

16 Q. In the back, right?

17 A. Yes.

18 Q. All righty. Is it time? Oh, not quite 3:00 o'clock.
19 Did you -- is it time for a recess, or you want me to keep
20 going? We started late. We didn't start until ten to
21 2:00 -- no, we didn't start until 2:00. We haven't even
22 been here an hour.

23 THE FOREPERSON: I have one juror that would
24 like a break, if you just go a few more minutes.

25 MR. TESTA: Q. Question from the grand jury:
26 Why didn't the tied end of the cord from the church blinds
27 stay with the sample cord sent to the FBI Lab back east?

28 Do you understand? In other words, why did you guys

1 have to cut it, 210?

2 A. The only part we are interested in examining to see if
3 this cordage matched the cordage on the suitcase. So it's
4 much easier for us to cut this and then send in this sample,
5 as opposed to send in all these blinds when there was no
6 examination for those blinds.

7 Q. But then you would have -- if they hadn't found a few
8 days ago what they found, you guys would have missed the
9 whole idea of there being a fourth piece of string, a fourth
10 cord in there, right?

11 A. That's correct. If this had been sent in, that fourth
12 piece may never have been found.

13 Q. What do you mean? Wouldn't the FBI people have looked
14 at it and found four pieces on it?

15 A. Not likely, because the only thing that was requested
16 of them was to compare this cordage to the cordage recovered
17 from the suitcase, not to examine this entire blind for
18 any -- any additional evidence.

19 Q. Oh, I see, they just do specifically what they are
20 asked to do, they don't go beyond it, try to put on a
21 detective hat, see what else they could find?

22 A. They would. But this blind has no other probative
23 value. It's from the church in which the suspect was
24 working. So it has no probative value for us for
25 examination. It was just but good investigative means that
26 someone realized that there were only three cords here as
27 opposed to four in the other blinds.

28 Q. The other part of this question from the grand jury

1 is -- well, is why did the tied end stay with the sample? I
2 think you answered that.

3 Could you have then compared the knot for the cord on
4 the suitcase with the knot on the cut blind?

5 A. This knot here?

6 Q. Yes.

7 A. That knot stayed intact.

8 Q. So that could still be done?

9 A. That's correct.

10 Q. Could you still, as you mentioned, compare this knot
11 with the knot on the suitcase?

12 A. That's why we always cut away from the knots so knot
13 exams still can be conducted.

14 Q. Any fingerprints on the match containers, the juror
15 asked?

16 A. Those exams are still being conducted.

17 Q. The juror asks: Did you find any blood in the car?
18 Any DNA matching Sandra Cantu's?

19 A. We did not find any blood in the vehicle. But we did
20 take different swabs for DNA, what we call contact DNA, and
21 those are being examined.

22 Q. Do you know -- question from the grand jury: Do you
23 know of any common chemicals that would eliminate evidence
24 of blood?

25 A. Yes.

26 Q. What?

27 A. Bleach.

28 Q. What about alcohol?

1 A. It's okay as a solvent, but not great at destroying
2 DNA evidence.

3 Q. What about blackboard cleaner containing acetone?

4 A. Mmm, probably okay again, but not as good as bleach.

5 Q. Did you find some notebooks in the defendant's house
6 when you did that search when you found the matches?

7 A. We did.

8 Q. What did you end up doing with those notebooks?

9 A. They were photographed and collected.

10 Q. Were they sent eventually to the FBI, if you know, as
11 known samples of the defendant to use in handwriting
12 examples?

13 A. Two of the notebooks were not sent; only one was sent.

14 MR. TESTA: Okay. Should we take a break now
15 then?

16 THE FOREPERSON: Yes. Okay.

17 MR. TESTA: Oh, a question. Okay. Take a
18 break. How long would you like?

19 THE FOREPERSON: About five minutes or seven
20 minutes. Whatever.

21 MR. TESTA: Seven minutes. Okay.

22 THE FOREPERSON: Yes.

23 MR. TESTA: Thank you.

24

25 (Recess.)

26

27 MR. TESTA: Are we accounted for now?

28 THE FOREPERSON: Yes.

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(Pause.)

MR. TESTA: You are still under oath, of course.

What's the next exhibit number?

THE SECRETARY: 294.

(Whereupon a Photograph was marked Grand Jury Exhibit Number 294 for identification.)

MR. TESTA: Q. Showing you 294, do you recognize what is shown in this photograph?

A. Yes, I do.

Q. What? The laser.

A. That is the -- this is the driver's side in the front, driver's seat. And this depicts the soil that we found on the carpet.

Q. Where?

A. Right here on the driver's floor carpet.

Q. Okay.

MR. TESTA: And the next exhibit number?

THE SECRETARY: 295.

(Whereupon a Photograph was marked Grand Jury Exhibit Number 295 for identification.)

1 MR. TESTA: You are going to come up and get
2 these, right, and put the tags on them?

3 Q. 295, what is shown here?

4 A. This is a picture of looking in towards the front
5 passenger's side. This is that area -- that cubby area
6 where the blue Post-it was recovered.

7 MR. TESTA: Next exhibit number, please?

8 THE SECRETARY: 296.

9

10 (Whereupon a Photograph was marked Grand
11 Jury Exhibit Number 296 for
12 identification.)

13

14 MR. TESTA: Q. Showing you 296.

15 A. Another picture of the front driver's side floor mat
16 with soil on it.

17 MR. TESTA: Next exhibit number, please?

18 THE SECRETARY: 297.

19

20 (Whereupon a Photograph was marked Grand
21 Jury Exhibit Number 297 for
22 identification.)

23

24 MR. TESTA: Q. Do you recognize what is
25 shown in 297? Yes or no?

26 A. I do. This is the car seat. That's on the rear
27 passenger's seat -- rear seat.

28 MR. TESTA: Exhibit number?

1 THE SECRETARY: 298.

2

3 (Whereupon a Photograph was marked Grand
4 Jury Exhibit Number 298 for
5 identification.)

6

7 MR. TESTA: Q. Showing you 298, what is
8 shown here? Do you recognize what is shown here?

9 A. These are different items that have been removed from
10 the car. They were put down on -- I think this is black
11 plastic.

12 Q. These are all items you guys found in her car?

13 A. Yes, that we removed from her car.

14 MR. TESTA: Next exhibit number, please?

15 THE SECRETARY: 299.

16

17 (Whereupon a Photograph was marked Grand
18 Jury Exhibit Number 299 for
19 identification.)

20

21 MR. TESTA: Q. Showing you 299.

22 A. Other items that were removed from the Kia Sportage.

23 MR. TESTA: Next exhibit number, please?

24 THE SECRETARY: 300.

25

26 (Whereupon a Photograph was marked Grand
27 Jury Exhibit Number 300 for
28 identification.)

1 MR. TESTA: Q. Showing you 300.

2 A. A view from the passenger's side, again, with the
3 floor mat. Here's a cup that looks like it's from In-n-Out,
4 different items. Here's a picture with the cubby.

5 Q. All righty. Look at my notes, see if I have any other
6 questions. I think not. I have a few from the grand jury.

7 Okay. From the grand jury, a few questions here.

8 Were the tires checked for soil samples that would
9 match the crime scene -- the pond scene?

10 A. Yes. We photographed the tire tread and we looked for
11 soil samples from the tires. However, we did not find any.

12 Q. You did not find any what?

13 A. Any soil adhering to the tires or the undercarriage.

14 Q. Question from the grand jury: Were there any foot
15 track marks between the suitcase track marks?

16 A. No. We also examined that area for tire tread
17 impressions and footwear impressions, and we didn't find
18 any.

19 Q. You know, the area where you found the suitcase that
20 is shown in 273, can you show us on 273 where it was?

21 A. The track marks were found in this area and we looked
22 throughout this whole area for footwear impressions and tire
23 impressions and in this area. But this area is fairly well
24 traveled with vehicles that work this farm. We couldn't
25 find any footwear impressions that we felt were consistent.
26 We didn't find any footwear impressions. We did find some
27 tire impressions, but we didn't feel they were consistent
28 with these tracks.

1 Q. I guess my question is are we talking about how
2 long -- what distance from the -- from the bushes was the
3 spot where the track marks came to an end, you know, by the
4 side of the pond where there were the impressions, are we
5 talking ten feet? Fifteen feet? Did you measure it?

6 A. No, we didn't measure that.

7 Q. Do you have an approximation?

8 A. From where the -- where the tracks begin to the
9 roadway, oh, I -- it would be a hard guess. Maybe a hundred
10 feet.

11 Q. Because we don't have a photograph that shows, you
12 know, it in place.

13 A. Our Nikon Total Station mapping is not complete. We
14 will be able to map that in and -- and have that measurement
15 for you precisely when it's completed.

16 Q. Okay. So I should -- what is that called, Nikon
17 measurements?

18 A. The Nikon Total Station map.

19 Q. Okay. Another question from the grand jury: Were
20 there any -- were any soil samples taken from Melissa's shoe
21 wardrobe?

22 A. We didn't find a lot of shoes for Melissa Huckaby in
23 her residence. We found a pair of boots that looked to be
24 adult. And then that was about it for shoes.

25 So no, we did not collect any soil from any shoes that
26 we found.

27 Q. At the time of the alleged case placement -- at the
28 time of alleged case placement, wouldn't the prints, 17 and

1 18, have been under water as the pond level was drained?

2 A. That's a good question. I don't know how fast the
3 lake or the pond was being drained.

4 So -- however, the distance between here and the water
5 level, this wasn't a matter of just a couple inches. At the
6 time we were there, it was more like maybe one to two feet.

7 Q. Question -- same -- part of the same question: Could
8 that -- account, please, for the lack of footprints along
9 the track length.

10 A. This area isn't necessarily conducive for leaving a
11 lot of footwear impressions. There is some loose soil here,
12 which is very good for leaving some impressions. But other
13 is very compact. And so just for the fact that you walk on
14 something doesn't mean you're going to leave an impression.

15 In addition to, then, because it's fairly well
16 traveled, some of those areas, you know, impressions that
17 could have been left there could have been destroyed.

18 Q. Were there any craft supplies in Melissa's vehicle?
19 You know, arts and crafts supplies, that kind of thing? Did
20 you find anything like that when you were --

21 A. I don't recall --

22 Q. -- searching her vehicle?

23 A. -- if there were craft supplies there.

24 Q. For example, 298 you said is a photograph of things
25 you found in her car?

26 A. That is correct.

27 Q. Is that everything you found or just from the back or
28 what?

1 A. There is probably things that were removed from the
2 passenger compartment, the rear passenger compartment.

3 MR. TESTA: What's the next exhibit number?

4 THE SECRETARY: 301.

5

6 (Whereupon a Photograph was marked Grand
7 Jury Exhibit Number 301 for
8 identification.)

9

10 MR. TESTA: Q. Showing you 301, what is
11 shown in this one?

12 A. Additional items that were removed from the vehicle,
13 jumper cables, plastic bag. This looks like some -- it's
14 maybe some snacks.

15

16 (Whereupon a Photograph was marked Grand
17 Jury Exhibit Number 302 for
18 identification.)

19

20 MR. TESTA: Q. 302, recognize this one?

21 A. Other items removed from the vehicle. Here's a
22 Rain-X, I'm not sure what that is. These look like maybe it
23 could be maybe arts and crafts supplies.

24

25

26 (Whereupon a Photograph was marked Grand
27 Jury Exhibit Number 303 for
28 identification.)

1 MR. TESTA: Q. 303?

2 A. Jumper cables, we have seen this in a previous
3 picture.

4 MR. TESTA: Any other questions from the
5 grand jury?

6 Q. Was there any luggage or any bags in her car?

7 A. There were some bags. Not necessarily luggage per
8 say.

9 We did find a piece of corresponding Eddie Bauer tote
10 bag in her residence that appeared to match the Eddie Bauer
11 suitcase that we recovered from the pond.

12 Q. Like a smaller tote bag, meaning smaller like
13 backpack-type thing?

14 A. Similar color, design, and construction, but a
15 companion piece to the suitcase.

16 Q. How much smaller?

17 A. Oh, maybe half the size of the suitcase.

18 Q. All right. Was the suitcase returned to the pond and
19 rolled into the tracks to see if it matched?

20 A. No. We will take measurements in order to try to
21 determine if the wheelbase on the suitcase matched the
22 wheelbase in the track. We don't take that evidence and try
23 to recreate it for the fact that we would be accused of
24 imparting evidence on the scene.

25 Q. Question from the grand jury: Were the cups that were
26 found in the vehicle tested for benzodiazepine?

27 A. No, they were not.

28 Q. For example, in 298, there's a cup in there?

1 A. That's correct. That cup was not collected.

2 Q. Why didn't you just collect everything? What was the
3 reason why you pick and choose?

4 A. Well, if we were to collect everything, we would just
5 have had so much stuff. We only try to collect things that
6 have evidentiary purposes, meaning that they are probative
7 for forensic value and providing evidence on the case.

8 Q. What about 300, there's this cup looks like a straw
9 between the seats, was that ever collected?

10 A. No. And at the time that this search is being
11 conducted, we didn't have the information concerning the
12 toxicology of the victim.

13 Q. And you didn't know anything about a little girl by
14 the name of REDACT that had benzodiazepine in her system?

15 A. That's correct, we had no knowledge of that.

16 Q. You had no knowledge about Daniel Plowman whose blood
17 had benzodiazepine in that, too?

18 A. We had knowledge --

19 Q. Xanax?

20 A. -- that he had been apparently drugged. But not
21 specific with any chemical?

22 Q. Question: Were precise samples taken from Melissa,
23 such as fingernail scrapings? Were precise samples taken
24 from Melissa, such as fingernail scrapings?

25 A. Not to my knowledge.

26 Q. Okay. I think --

27 GRAND JUROR 15: One more.

28 MR. TESTA: Was there another one?

1 Q. Question from the grand jury: Did you know that there
2 is a video -- that there is video evidence showing that
3 Melissa Huckaby was not wearing regular shoes on March 27th?
4 Looks like she had some type of house slippers on.

5 Were you aware of that surveillance tape that the
6 neighbor had up on his place that showed her going to her
7 car and she has these like pajama silk bottoms, whatever
8 they were, baggy pants, and as the juror notes, some type of
9 slippers or something on? Were you aware of that at the
10 time you were in her house looking for shoes or for
11 evidence?

12 A. The only video I was aware of was that of the victim.

13 Q. The one where she's skipping and jumping?

14 A. That's correct.

15 Q. Because back then, you weren't aware subsequently they
16 saw her vehicle going out and her coming up and getting into
17 her car and stuff; were you aware of that one?

18 A. Not at the time of the search.

19 Q. Oh, I see, because the search we are talking about on
20 the place was the date of the --

21 A. April -- it started April 6th and finished April 7th.

22 MR. TESTA: All right. Are there any other
23 questions from the grand jurors?

24 I see none. So the admonition will be read and you
25 may get on your way.

26 THE FOREPERSON: You are admonished not to
27 reveal to any person, except as directed by the Court, what
28 questions were asked or what responses were given or any

1 other matters concerning the nature or subject of the grand
2 jury's investigation which you learned during your
3 appearance before the grand jury. This admonishment
4 continues unless and until such time as the transcript of
5 this grand jury proceeding is made public.

6 Violation of this admonishment is punishable as
7 contempt of court.

8 Do you understand?

9 THE WITNESS: I do.

10

11 (Pause.)

12

13 MR. TESTA: You have been sworn already,
14 right?

15 THE WITNESS: Yes.

16 MR. TESTA: We would recall Mr. Cogburn.
17 Just a few quick questions for you, sir. You are still
18 under oath. He was put under oath before.

19 Could you state your name again?

20 THE WITNESS: My name is Detective Nate
21 Cogburn.

22 MR. TESTA: Was he sworn before the jury?

23 No, I had a little hearing. You better swear him in
24 for the purposes of this.

25 THE FOREPERSON: Oh, boy. Would you raise
26 your right hand, please?

27 First of all, would you state your name?

28 THE WITNESS: It's Nate Cogburn,

1 C-O-G-B-U-R-N.

2 THE FOREPERSON: Would you raise your right
3 hand, please?

4
5 **NATE COGBURN,**

6 a witness called on behalf of the People, having been duly
7 and regularly sworn by the Grand Jury Foreperson, testified
8 as follows:

9
10 THE WITNESS: Yes, I do.

11 THE FOREPERSON: Thank you.

12
13 **EXAMINATION**

14 BY MR. TESTA: Q. A few quick questions.

15 Did you -- were you involved into the -- in the
16 investigation into that incident involving REDACT back in
17 January 17th of '09?

18 A. Yes, I was. I reviewed the initial investigation ten
19 days after Patrol completed it.

20 Q. Did you speak to Melissa Huckaby about that?

21 A. Yes, I did.

22 Q. What did she say happened?

23 A. Melissa Huckaby speculated that REDACT
24 either found the medication on the ground, perhaps found it
25 in REDACT trailer or acquired it from some other method.
26 And absolutely did not get it from her trailer. That was
27 her statement.

28 Q. And did she further go on and say, "Oh, that REDACT is

1 a drug addict"?

2 A. She did. She elaborated and said, "REDACT is a drug
3 addict who is known throughout the trailer park as someone
4 who fails to adequately watch her own child." She made that
5 statement, yes.

6 Q. Did Melissa Huckaby have any other speculation as to
7 where that item might have come from that was consumed or
8 that caused the testing of the benzo in REDACT blood?

9 A. She also said that she may have found it in the park,
10 but that was it in totality, those were her only
11 speculations about where she got it.

12 Q. What did she say about the park?

13 A. She may have found the medication containing
14 benzodiazepine in the park as well. It was all deflection.
15 It was everywhere but here.

16 Q. And you interviewed her on what date?

17 A. If I can refer to my report.

18 Q. Sure. Take a moment and look at it. Let me get my
19 notes out also.

20 A. (Referring to report.) The date was, I'm sorry,
21 January 27th.

22 Q. Where?

23 A. And I interviewed her at her trailer, 812 West Clover,
24 space number 57.

25 Q. Did you tell her why you were there?

26 A. Yes, I did.

27 Q. What was her attitude, if you can describe her
28 attitude? One of cooperation?

1 A. One of absolute cooperation. She was, well, I would
2 say feigned mortification, if you will. You know, she --
3 she seemed very emotional, very concerned for the child's
4 well-being, very concerned that the girl would have been in
5 that state.

6 Q. Okay. And then just switching gears here, did you
7 speak to Melissa Huckaby on April 3rd, '09?

8 A. Yes, I did.

9 Q. Where?

10 A. Again, I spoke with her at her trailer at 812 West
11 Clover, space number 57.

12 Q. And what was the purpose of your speaking to her on
13 April 3rd, '09?

14 A. The purpose in going there to speak with her on that
15 date, is previous to going out there I reviewed a
16 surveillance tape where Sandra was last seen in some
17 surveillance walking towards Melissa Huckaby's trailer at
18 space number 57. She disappears out of screen.

19 And I also viewed a -- a segment of surveillance
20 footage where I saw an individual resembling Melissa Huckaby
21 get into Melissa Huckaby's SUV, drive towards her trailer,
22 at approximately the same time Sandra was walking towards
23 the trailer, and then shortly thereafter leave the park.

24 And so --

25 Q. Did you ask her about that?

26 A. Yes, I did.

27 Q. What did she say about whether or not she moved her
28 car?

1 A. She --

2 Q. Go ahead.

3 A. She acknowledged that she did move the car, that she
4 was loading supplies for some church activities, beverages,
5 snacks, what-have-you, for transportation to the church --
6 the -- the West Clover Baptist Church, I believe.

7 Q. But she acknowledged moving her car from where to
8 where? Hold on for a second.

9 Using, for example, Number 51, with that laser
10 pointer, she acknowledged moving her car from where to
11 where?

12 A. If I can refer to my report.

13 Q. Sure. Look at your line 25 there on page 12.

14 A. (Referring to report.)

15 Q. Did she say she entered her Kia Sportage when it was
16 parked adjacent to the community mailboxes?

17 A. Yes.

18 Q. I think we have already heard about that. I am not
19 sure it shows up on this diagram. But I think we all know
20 where the community mailboxes are, and it's in one of the
21 photographs.

22 A. Yeah, her car was parked next to the community
23 mailboxes. I'm not getting this --

24 Q. No, it's this right here.

25 A. Trying to find the -- locate the mailboxes.

26 Q. Well, we have already heard where they were, somewhere
27 down in this area.

28 A. She had -- now, when I looked through the surveillance

1 footage --

2 Q. We already saw this. I'll save you the breath,
3 because we have already heard it, seen it, you don't to have
4 reveal what's on the tape because we saw it all.

5 She said she moved her car from near the mailboxes to
6 where?

7 A. Directly in front of her space at 57, parked it there,
8 in front of her trailer.

9 Q. Then what did she say she did there?

10 A. At that point, she went inside her trailer and was
11 going back and forth between the trailer, space 57, and her
12 SUV, and was loading supplies into the SUV.

13 Q. Did she say how long she was there doing that?

14 Line 28.

15 A. She said approximately twenty minutes.

16 Q. And did you specifically -- did you ask her
17 specifically what did she load into her vehicle during that
18 time period?

19 A. Yes, I did.

20 Q. And what did she say? I think it's line 29.

21 A. She responded beverage, snacks, et cetera, that were
22 designated for church use, for church activities.

23 Q. Okay. All righty. Are you the one that found the
24 white board cleaner in the church? Do you remember some
25 chalkboard cleaner?

26 A. I don't recall if I found that. I don't believe so.
27 I'm not saying I didn't, but...

28 Q. Let me ask you if this refreshes your memory. It's

1 discovery 459. It was the report from Alicia Carson. Don't
2 just agree with it. Read it. If it refreshes your memory,
3 it does; if it doesn't, it doesn't.

4 A. (Referring to report.)

5 Q. I know you handled a lot of things in this case.
6 Does it bring it back at all?

7 A. Yes, it does. I do recall that now.

8 Q. What do you remember about it?

9 A. I just recall locating some white board cleaner in
10 a -- I believe in, according to the report, it's also a desk
11 drawer. And the reason I collected it was because it
12 contained -- we believed it might contain some similar --
13 something similar to rubbing alcohol in content.

14 Q. Was it acetone or something?

15 A. Yes. Yes.

16 Q. Okay. I didn't ask you this, what time did you say
17 you spoke to REDACT -- excuse me, to the defendant on
18 April 3rd, when you -- excuse me -- to Melissa Huckaby when
19 you spoke to her on April 3rd?

20 A. I spoke with her at noon.

21 Q. Okay.

22 A. And one more thing, Mr. Testa, and it's not documented
23 here and I think it's important to go to reflect her
24 personality, is at that time we were very much aware that
25 whoever had abducted Sandra resided in the park. We knew
26 that based on what we had.

27 And I confronted Melissa with that information. I
28 told her, "Look, we know whoever did this lives in this

1 park. We know whoever did this probably killed her. And
2 they are right here."

3 And at that moment that I was talking to her, she
4 started crying and, you know, putting her -- it was -- it
5 was an act of surprise that -- like she was not aware of
6 this information. She put her hands to her face and acted
7 very surprised that this had happened.

8 And then I asked her, "Well, who in your opinion might
9 be responsible for something like this, considering we are
10 talking about individuals that may live in the park?"

11 And she said, "Christian Sinclair or Luis Sanchez."

12 So I think that goes towards showing some emotion
13 there.

14 Q. We heard about Christian Sinclair. Where did Luis
15 Sanchez live?

16 You went out and spoke to him, didn't you? Line 35.

17 A. I did speak with him. It's not documented on line 35
18 his trailer number. I can look through, try to locate that.

19 Q. Can you describe his emotional reaction when you
20 confronted him with her accusation?

21 A. Yeah, Luis Sanchez was extremely angry that we would
22 ask -- and the people that had lived in the park had been
23 canvassed numerous times. He was extremely angry that he
24 would continue to be asked questions like that.

25 Q. Who was he? Who was this guy?

26 A. He was an individual in the park. He lived with his
27 parents in the park.

28 Q. How old was he?

1 A. He appeared --

2 Q. Young kid? Old kid?

3 A. He was -- he was in his twenties I would say.

4 Q. All right. So -- and who's the other guy she
5 mentioned?

6 A. Christian Sinclair.

7 Q. Was he 81 or 88? In terms of the -- remember his --

8 A. He was 88.

9 Q. I think we heard about him.

10 A. Yes.

11 Q. Okay. Thank you.

12 MR. TESTA: I have no further questions. If
13 you could stand by.

14 GRAND JUROR 15: Wait a second.

15 MR. TESTA: I want to see if there are
16 questions from the jurors, and then you will be given an
17 admonition also.

18 Q. Did anyone talk to the workers at Wendy's on
19 January 17th to see if they saw Melissa Huckaby go through
20 the drive-up window area?

21 Do you know the answer to that?

22 A. I do. And in January, no.

23 Q. Was she asked more about taking REDACT without
24 permission? In other words, did you ask her any more
25 questions about taking REDACT without permission, do you
26 recall?

27 A. I may have. I am only reviewing what I documented
28 here. I didn't review the audio itself. I may have asked

1 that question, I'm not sure.

2 I believe she said that the girl REDACT got permission
3 from her grandparents, but I don't clearly recollect that
4 inasmuch as I haven't reviewed the audio.

5 Q. This was all recorded?

6 A. Yes.

7 Q. You just summarized parts of your report that you
8 reviewed before you came in today?

9 A. Yes, I did.

10 Q. We have a recording of everything she told you?

11 A. Yes, we do.

12 Q. It's booked in evidence and available?

13 A. Yes.

14 Q. Question from the grand jury: Melissa was loading
15 out -- Melissa was loading out during Sandra's last
16 appearance. And Sandra was seen heading south on Cherry.
17 Was anything asked about how Melissa might not have seen her
18 or why Sandra did not stop by?

19 Do you understand that question?

20 A. I believe I understand the question. Because I saw
21 Sandra walking southbound on Cherry Lane.

22 Q. On the video?

23 A. Right. And it seems it would be obvious, since
24 Melissa was loading supplies, that Melissa should have seen
25 Sandra if that was the case.

26 Q. She said she was there for twenty minutes. Was
27 anything asked about her, "Hey, Melissa, how come you didn't
28 see her when she's headed in your direction and you're there

1 for twenty minutes"?

2 A. That's a good question. And I don't -- and we have
3 audio -- my audio of that conversation. I don't remember if
4 I asked -- I probably asked that, but I don't clearly
5 remember because I didn't document it narratively here.

6 Q. Fair enough.

7 MR. TESTA: Any other questions from the
8 grand jury?

9 Could the admonition be read, please?

10 THE FOREPERSON: You are admonished not to
11 reveal to any person, except as directed by the Court, what
12 questions were asked or what responses were given or any
13 other matters concerning the nature or subject of the grand
14 jury's investigation which you learned during your
15 appearance before the grand jury. This admonishment
16 continues unless and until such time as the transcript of
17 this grand jury proceeding is made public.

18 Violation of this admonishment is punishable as
19 contempt of court.

20 Do you understand?

21 THE WITNESS: Yes, I do.

22 THE FOREPERSON: Okay. Thank you.

23 THE WITNESS: Thank you.

24

25 (Pause.)

26

27 MR. TESTA: You're still under oath,

28 Mr. Bauer.

1 I think you will be the last witness for the day.
2 Then we need to do something else on the record.

3
4 **TIMOTHY BAUER,**

5 a witness called on behalf of the People, having been
6 previously duly and regularly sworn by the Grand Jury
7 Foreperson, testified as follows:

8
9 **EXAMINATION**

10 BY MR. TESTA: Q. Did you -- I just wanted
11 to clear up one quick thing here.

12 Did you confirm that the -- we heard from Mr. Posey,
13 he described the liver and brain tissues and the gastric
14 contents tissues. And he explained Jane Doe 4/6/09,
15 Dr. Omalu, comma, Michelle.

16 Who is Michelle?

17 A. She's the autopsy technician that works for Mr. Omalu.

18 Q. Okay. Just wanted to clear that part up.

19 Well, you know, while I'm putting this away, you know,
20 there was a question from the grand jury, we have all seen
21 the tape and we see Sandra walking, skipping, then turning
22 and looks like she's looking toward -- in the direction of
23 57, or at least direction of Orange.

24 And we just heard from the last witness that Melissa
25 admitted spending about twenty minutes loading things up in
26 her car.

27 Did anyone ever in these interviews that were
28 discussed ask Melissa, "Why was it you wouldn't have seen

1 her when she came up at this time up the street south --
2 yeah -- south on Cherry?"

3 A. Did anybody ask her -- what was the question?

4 Q. You know, "Sandra sees you, or appears as if Sandra
5 sees you, and is going over to your place, and you admit
6 you're there loading your car, why is it you -- you never
7 saw -- you claim you never saw Sandra at that time?" Or was
8 anyone -- was she ever asked the question that way?

9 A. I asked her the question. But the way I phrased it
10 was, I believe, in my interview with her on the 7th, when
11 she was at the hospital, if -- if Sandra would have seen
12 her -- yeah, would have seen her or out front by her car,
13 would she have come over.

14 And she said, "Sandra would have never passed by my
15 vehicle -- if my vehicle was parked by my residence, she
16 would have never passed by my trailer, trailer 57, and not
17 come over to check to see if Madison was home to play if my
18 car was out front."

19 MR. TESTA: What's the next exhibit number?

20 THE SECRETARY: 304.

21

22 (Whereupon a Sketch of the Church was
23 marked Grand Jury Exhibit Number 304
24 for identification.)

25

26 MR. TESTA: Q. Showing you 304, do you
27 recognize this item?

28 A. It's a sketch.

1 Q. Yes?

2 A. Yes.

3 Q. What is it? With the laser pointer.

4 A. This -- you see that? Oh, there you go. Okay. This
5 is a sketch of Clover Road Baptist Church.

6 Q. We don't need to go into great deal of detail about
7 it. Can you give us -- where is the front door we all saw
8 in the photo?

9 A. Right here. I'm sorry. Look at the picture. There
10 it is right here.

11 Q. The bottom of the photo?

12 A. Uh-huh. The double doors to go into the church. This
13 is the foyer right here.

14 Q. So where are these three -- where is the room that had
15 the -- the rolling pin that we have already talked about?

16 A. Right here. Here is the kitchen counter right here.
17 It was from the drawer right here on the kitchen counter.
18 This is the kitchen. This is --

19 Q. Hold on, one thing at a time. Kitchen's there where
20 the rolling pin was found.

21 And those three blinds that you showed us yesterday?

22 A. Blind one, blind two, blind three.

23 Q. Number one, that was missing the cord or the cap?

24 A. Right here, this is her Sunday school room right here.

25 Q. The middle one you said one, two, three, number two?

26 A. Number two.

27 Q. Okay. Where is the -- if you wanted to go out the
28 back door and roll something out?

1 A. Right here. Right -- I'm sorry, right here. Just
2 next to window one.

3 Q. And you aware of those track marks Vernon Browning was
4 talking about?

5 A. This is the grass area of the church.

6 Q. But he never said they went up to the church. He said
7 they were a distance from the church. Told us that today.

8 A. Uh-huh.

9 Q. But is it still -- do the track marks go to this part
10 of the church where the back door is?

11 A. Yeah. The way that they were described is that
12 they -- it was -- the way it was described to me is that it
13 was -- it was like a loop, and this is the grassy area, the
14 area that he mows.

15 Q. Did you talk to him?

16 A. Yes, I did, when we --

17 Q. Did you draw this diagram?

18 A. No, he drew that diagram for Detective Kootstra.

19 Q. Were you there?

20 A. No, not when he drew that.

21 Q. But this back door you're talking -- see this X that
22 he drew? I think that was an X indicating the back door.
23 Is that where you understand the back door to be?

24 A. Yes.

25 Q. The one that you just showed us in Number 304?

26 A. Yes.

27 Q. Okay. So that back door that he's talking about in
28 Number 268 is the back door in 304?

1 A. Yes.

2 Q. That was not too far from blind number two that had
3 the cap off and the place where the rolling pin with Sandra
4 Cantu's DNA that was bent -- the handle was bent was found,
5 is that correct?

6 A. No, it's not too far at all.

7 Q. Okay. Does this diagram accurately depict the church
8 as you know it?

9 A. Yes.

10 Q. All righty. Let me just put some odds and ends here.
11 I had some questions.

12 Did you ever, through your investigation of this case,
13 research whether there had ever been a theft of a stolen
14 suitcase reported by anyone there in the park?

15 In other words, you know, was there a gang of kids
16 going around stealing suitcases and this is just the latest,
17 or was there a history of suitcases being abducted or
18 stolen? What did you find out when you did your research?

19 A. I had a conversation --

20 Q. What did you find out?

21 A. That in eleven years, there's never been a reported
22 stolen suitcase in this park.

23 Q. Okay. Did you look into the ice cream vendor?

24 A. Yes, I did.

25 Q. Did you rule him out?

26 A. Yes, I did.

27 Q. Why?

28 A. Because I contacted him the same night, I believe a

1 few hours after midnight on --

2 Q. Was he in there in that park?

3 A. He -- according to witnesses in the trailer park, they
4 said that he was driving in there, but then he was asked to
5 leave by the management.

6 Q. And you talked to him?

7 A. I talked to him. And I also searched his ice cream
8 truck at his residence because he resides in Tracy.

9 Q. Was he cooperative?

10 A. Yes, he was.

11 Q. The oral swab, I already went into all those
12 yesterday. Okay.

13 A. Uh-huh.

14 Q. Did you get phone records pursuant to a search
15 warrant --

16 A. Yes, I did.

17 Q. -- of Melissa Huckaby?

18 A. Yes, I did.

19 Q. And did you confirm that she made two phone calls from
20 the land line phone at the church to her cell phone which
21 was at her home?

22 A. Yes.

23 Q. To her trailer?

24 A. Yes.

25 Q. What times were those calls?

26 A. At 4:35 p.m., and 6:24 p.m.

27 Q. Okay. I don't believe I have it here, but is there
28 not a sign that says Bacchetti and Whitehall?

1 A. Yes, there is.

2 Q. So if someone were driving in that area and they
3 wanted to jot down an address, is there typical street signs
4 that --

5 A. Cross.

6 Q. -- cross?

7 A. It's exactly what it is.

8 Q. It's in one of the photos, isn't it? I thought I saw
9 it.

10 A. I believe so.

11 Q. Did you ever tell us what the time was of the 911
12 call? Did you determine what the time was of the 911 call?

13 A. 19:53 hours, which is 7:53 p.m.

14 Q. How was Sandra Cantu identified as the victim? In a
15 nutshell, based on what?

16 A. In a nutshell, well, initially, based on clothing
17 description matched what we had been told of. Jewelry
18 apparel matched. She had a pigmented small birthmark on the
19 right cheek. And then her dental records were obtained and
20 also confirmed.

21 Q. Who got dental records, do you recall?

22 A. I believe it was District Attorney Investigator Buzo
23 got them from her dentist in Salida, and they were brought
24 to the Coroner's Office for verification.

25 Q. What was the chain of custody of the rolling pin that
26 we have seen?

27 A. The rolling pin was taken by -- seized by us, Tracy
28 PD, on the 10th. Specifically Crime Scene Technician Debbie

1 Martin booked into our evidence, released to Sacramento
2 FBI's evidence vault and therefore sent to Quantico,
3 Virginia where it was analyzed by the criminalist Jerrilyn
4 Conway for DNA.

5 Q. What is the chain of custody of the note -- the stolen
6 suitcase note that we have seen?

7 A. Pretty much the same. It was taken by us by -- on the
8 28th, and specifically by CST Melinda Pierce, from the park,
9 photographed, taken, booked into our evidence, later
10 released to the FBI, went to Sacramento, and from Sacramento
11 it was sent to the lab to be analyzed by Criminalist Ted
12 Burkes.

13 Q. What's the chain of custody of the rape kit or the
14 sexual assault kit that Dr. Omalu collected from Sandra
15 Cantu's body at the autopsy?

16 A. It was collected --

17 Q. Including the oral DNA swab?

18 A. It was collected by Dr. Omalu at the autopsy, and it
19 was --

20 Q. You were there at the autopsy?

21 A. Yes.

22 Q. Go ahead.

23 A. And then it was sent to DOJ Ripon State Lab for
24 analyst by the criminalist.

25 Q. And they create a DNA profile of her based on that?

26 Let me ask it this way: What about the -- who was it,
27 I can't pronounce her name, the chemist who found no semen,
28 what was her --

1 A. Oh, Berklee Akutagawa, yeah.

2 Q. Who had chain of custody of that evidence?

3 A. Yes, that was sent by the Coroner's Office to them at
4 DOJ Ripon, and she analyzed the -- that kit.

5 Q. And the chain of custody of the rubbing alcohol?

6 A. That was --

7 Q. That was found at the church?

8 A. Collected exactly the same way as it was -- as the
9 rolling pin.

10 Q. Okay. I may have asked you this the first day you
11 testified, but in that stolen suitcase note, you know, "suit
12 case, stolin," et cetera, had you guys released any evidence
13 to the press --

14 A. No.

15 Q. -- that there was any -- any information about a
16 so-called stolen suitcase?

17 A. We never did.

18 Q. So when this so-called witness writes this note, that
19 evidence had not been released by you guys?

20 A. No.

21 Q. Had that evidence been released by you guys?

22 A. No.

23 Q. Where did the -- of the surveillance tapes, we heard
24 about Mr. Cantu's. We heard about the AM-PM. What about
25 the Best Western tape, was that collected by somebody
26 connected with the case and given to you guys for review?

27 A. Yes, it was.

28 Q. Did you review it? Did you look at that tape?

1 A. I have just seen what Detective Brandi showed me. I
2 haven't reviewed the whole entire Best Western tape.

3 Q. Could you tell by looking at it that it was situated
4 there at the Best Western?

5 A. Yes.

6 Q. And the times were consistent with the times of the
7 AM-PM tapes?

8 A. Yes.

9 Q. They all matched?

10 A. Yes.

11 Q. All right. I don't have any other questions.

12 Did you bring me anything else just a few minutes ago,
13 this and those two things?

14 A. No.

15 Q. Here's some questions from the grand jurors: Did you
16 rule out Daniel Plowman?

17 A. Yes.

18 Q. Was -- where was he on the 27th of March?

19 A. He was with his children, I believe, and we were able
20 to verify that through phone records and through statements
21 from his family.

22 Q. Was the shed at the church searched?

23 A. Numerous times.

24 Q. If so, was anything found there?

25 A. No. We seized items there, but none of them that
26 relates to this case.

27 Q. Can Melissa's slippers still be tested for soil from
28 the pond?

1 Remember the slippers in the surveillance video, did
2 you guys ever collect her slippers? And if so, can it be
3 tested?

4 A. I don't believe we collected -- we checked her car and
5 her tires for soil samples when we searched her car. But I
6 don't believe we were able to recover -- I think I answered
7 this the other day -- the clothes that -- or the style or
8 color or make of clothing we thought she was wearing based
9 on the video surveillance the date of the March 27th, we
10 weren't able to recover to test.

11 Q. Was there any review of the surveillance tapes to see
12 if Melissa had conducted dry runs prior to the 27th?

13 A. No. We only -- the video that we seized from
14 Mr. Chavez at 63, I went back and checked, I believe it
15 starts at 2:00 p.m. and then it goes late into the night.

16 Q. What about --

17 A. And it was not -- in answer to a previous question,
18 just to clarify it. We seized it about midday on the 28th.
19 So when the note was found on the 28th, the video
20 surveillance was gone. We seized his whole system, so there
21 is no surveillance left in the park.

22 Q. So if you hadn't seized that surveillance tape, you
23 might have been able --

24 A. It had an angle, it's very possible, yes. It's near
25 where we had seen her car parked on the 27th. And the note
26 was found on the other side of those five-foot cylinder
27 walls. So it's very possible that we would have seen her
28 walking based on her statement when she said she found the

1 note.

2 Q. Was there any review of the surveillance tapes to see
3 if she was doing anything consistent -- that coincided with
4 Sandra's activities?

5 A. Not following exactly.

6 Q. I'm not sure.

7 A. That's pretty general.

8 Q. Is there anything to indicate that Sandra was the
9 intended victim or was this spontaneous that on the 27th it
10 could have been anyone? That's a question from the grand
11 jury. These are all questions from the grand jury. Are you
12 able to answer that?

13 A. Probably not without giving an opinion.

14 Q. Here's the next question: Between the time Melissa
15 leaves the park and the direction of the church and when the
16 SUV is seen again, could Melissa have committed this crime
17 in the time she had without preparation?

18 Do you understand that question?

19 A. Are we talking about the 4:02 time frame when she's
20 seen leaving the park over here? Because she left the park
21 numerous times that day.

22 Q. Yeah, the time where --

23 A. You're saying from there, versus the time when we see
24 her what we believe driving out to the irrigation pond?

25 Q. Yes, which is the period of --

26 A. Well, yeah, it's an hour and twenty-five minutes.

27 Q. 4:02, 5:27?

28 A. Yes. That's totally possible to -- to accomplish what

1 she needs to accomplish to have the result we have now.

2 Q. So from the tapes, you know she's at the church from
3 4:02 to 5:27, is that correct?

4 A. Correct.

5 Q. And then you also know from the tapes that from 5:27
6 to 5:56 -- do I have that right?

7 A. Yeah, she's back at the church. This is not back at
8 the church. This is Tracy and Clover right here. So she's
9 back at the church thirty minutes from the time she left.

10 Q. The church?

11 A. Correct.

12 Q. I think we have twenty-nine minutes somewhere. But...

13 Question from the grand jury: Without evidence of
14 Sandra Cantu's DNA in Melissa Huckaby's car, home, or on
15 clothing that she was wearing March 27th, was Sandra's DNA
16 found anywhere besides the rolling pin?

17 And they say in the suitcase, but I don't believe
18 there was any evidence of her DNA there. But she, of
19 course, was there.

20 So any evidence -- can you answer that question? Any
21 DNA -- any evidence of Sandra's DNA anywhere else besides,
22 of course, she -- it would be in the suitcase and it would
23 be on -- and the rolling pin.

24 A. I don't believe there's any other items that we've
25 seized that we've collected and got positive results for
26 Sandra's DNA on.

27 Q. In the Daniel Plowman case, was his cell phone ever
28 located? Are there any records that it was used after it

1 went missing?

2 A. No. And no. No, he's never been able to locate it,
3 and we've never been able to locate it.

4 Keep in mind, that was a March 1st case when that was
5 reported that he reported when all -- when these incidents
6 occurred. This is an incident occurs, you know, twenty-six
7 days later. So you know, who knows where it was at then.

8 But, no, we -- we don't have any evidence or we've
9 never recovered any evidence from his cell phone records
10 that it was used again.

11 Q. Any information from the FBI as to what may have made
12 the injuries to Sandra's Cantu's head on top?

13 A. From the FBI, meaning?

14 Q. Anyone. I think that juror's asking about those
15 injuries we saw -- I call them puncture wounds, I don't
16 think Mr. Omalu used that term -- those two little holes on
17 the top?

18 A. Yes.

19 Q. Any information as to what may have caused those
20 injuries on top, the juror asks?

21 A. No. We were told that they are pre-mortem, before
22 death, caused by, you know, blunt force trauma.

23 And as far as could it be an object that was inside
24 the church? It's possible. We don't know.

25 Q. How did Melissa take Sandra without no one knowing,
26 the juror asks?

27 A. Again, you have -- you would have to look back at her
28 statements. And one thing with -- you have to look at,

1 she's last seen at 3:54 walking by her trailer. Melissa is
2 outside, per her statements, numerous times loading up her
3 car. So she's in a position, one, where she can look
4 northbound and see her.

5 Q. But she denies seeing her at that time, is that
6 correct?

7 A. Yeah, she never claimed she saw her at that time.

8 But -- and not without giving -- I'm not going to give
9 an opinion here. But it's not hard -- again, remember she
10 had stated, and I believe it's been told to you before, by
11 Sandra's sister and -- and Miranda's statement to us during
12 the investigation, they had left -- Miranda and Sandra had
13 left this trailer park with her before to go to a park -- a
14 local park. So willingly got into her car and went.

15 So it's not that hard -- there's a lot of times that I
16 could put my kids in my car and doesn't mean my neighbors
17 are going to see it. They are not looking to that. Doesn't
18 appear suspicious in nature.

19 Q. Are any of the windows tinted?

20 A. Yes. Every window in that car is tinted except for
21 the front and -- the driver's side front and the passenger's
22 side front. Yeah, it's clear there, which is also -- this
23 is legal to tint those. These are tinted.

24 Q. Could you put on the record when you say "these," we
25 don't know what you're referring to.

26 A. Driver's side rear passenger window is tinted. The
27 driver's side far rear or driver's side window that does not
28 open is tinted. The back, the back trunk or the hatchback,

1 the hatchback window is tinted. So is the right rear
2 passenger one that does not open, and the right rear
3 passenger window was also tinted in the front.

4 There's a good depiction of it.

5 You can see straight through -- I can't see straight
6 through. This is the lighting in the fire station.

7 Q. We are looking at 289 here.

8 MR. TESTA: And what is our next exhibit
9 number?

10 THE SECRETARY: 305.

11
12 (Whereupon a Photograph was marked Grand
13 Jury Exhibit Number 305 for
14 identification.)

15
16 MR. TESTA: Q. Question from the grand jury:
17 For REDACT case, did anyone interview workers -- oh, we
18 already had that.

19 Do you know who Melissa Huckaby's friends, associates,
20 were around March 27th?

21 A. We believe we do. Because we did a pretty good
22 background on her. And that's why we went down south to
23 Southern California the following week.

24 Q. We mean was she hanging out with anyone up here, not
25 who she might have known down in Cypress. Did she have
26 any -- I think Connie Lawless answered this question -- but
27 did she have any friends up here to your knowledge, from
28 your investigation?

1 A. Besides the church members and Daniel Plowman, no.

2 Q. Can you go back over statements by Melissa Huckaby
3 about what she thought may have happened to Sandra Cantu and
4 the type -- and the type of individual involved?

5 What did she not like about Sandra? Do you recall
6 offhand? Without having to go through all your notes, if
7 you can answer that question.

8 A. What? I'm sorry.

9 Q. About the statements that you've already testified to,
10 what did she say might have happened to Sandra Cantu or the
11 type of individual involved?

12 A. She thought Sandra's bossy. She made that statement
13 that she thought Sandra's bossy.

14 And she said numerous times that her daughter Madison
15 was best friends with Sandra, and that was told to me
16 numerous times.

17 And, oh, what she said she thought happened to her was
18 that she was possibly taken, that she didn't run away. And
19 she thought it was, without referring directly to my report,
20 that it was a -- a -- I believe I testified to it was an
21 opportunity or it was a -- a -- I don't want to say crime of
22 opportunity, but I know I testified to like convenience.
23 She was convenient to -- to someone to take if she wanted --
24 if they wanted to take her.

25 Q. Can we see a longer version of the mobile home park
26 video of March 27th? You know, Sandra home from school,
27 Miranda going to Huckaby's, is that all on that tape -- on
28 that video?

1 A. It's broken down in segments.

2 Q. Is it in evidence?

3 A. I believe so.

4 Q. Question from the grand jury: Was news -- was news
5 van pole cam video truck -- was news van pole cam video
6 truck in place across the street during the time of the note
7 being found?

8 Oh, I see, were all the news people there on the --
9 the date that note is found, right?

10 A. The night of the vigil when the note was found?

11 Q. Yes.

12 A. That's a good question. I believe -- I believe there
13 was -- yeah, I believe there was already media there. The
14 first media showed up at 7:00 o'clock on the 28th, the
15 morning of. So, yes, there probably was.

16 As far as being in place, what they could view, I
17 don't know. They were not allowed to come into the park
18 because it's a private park.

19 Q. Well, would it be fruitful to look at any of those
20 TV --

21 A. Could be.

22 Q. Where were they located?

23 A. They were across the street in the Microtel parking
24 lot right here. They had a little area that they were
25 setting in the parking space.

26 Q. It looks like there's a curve there. If they are
27 here, would they be able to see around?

28 A. Oh, would they have been able to --

1 Q. See anything like a note?

2 A. If they had a pole camera up, they probably would have
3 been able to see all the people congregating here.

4 Q. At Orchard?

5 A. Yeah, on Orchard as you enter the park, this is where
6 the vigil was. Would they have been able to see the note
7 here that is south of the clubhouse, north of here and north
8 of the car wash walls? I don't know. From looking at this
9 picture, I would have to say no.

10 MR. TESTA: Can I get a photograph of the
11 trailer park, please? You know an over -- let me use this
12 for now. It's not the best one.

13 THE FOREPERSON: You've got them.

14 MR. TESTA: It's Number 50.

15 When you said -- looking that the diagram -- you don't
16 have a small photograph of it?

17 THE FOREPERSON: I think you have them all,
18 Mr. Testa.

19 MR. TESTA: You think they are all here?

20 THE FOREPERSON: Yeah.

21 MR. TESTA: Because I know they are clearer
22 than this one.

23 THE WITNESS: There you go. There's your
24 wall.

25 MR. TESTA: Q. Where is the Microtel?

26 A. Microtel, this is it. There's news cameras right
27 there. See them? These are all news trucks with their
28 satellites and stuff like that. This is right here where

1 all the vigils were.

2 Melissa, when she found the note, from there to here
3 to back, this is where Mr. Conrad, Sparrow, and Officer
4 Grijalva were. And she escorted them back to right here.
5 North of the wall, south of the clubhouse.

6 Q. You try to answer that question then from the grand
7 jurors?

8 A. I don't believe it -- I don't know what their cameras
9 do, how far they pan out, and if they had cameras up high.
10 Most of the cameras during these two weeks were on tripods.
11 They would park them right in front of their live feed and
12 vans and trucks and stuff. So I don't believe -- we pretty
13 much had it set up in a way that you could not look past
14 Orchard -- that the media couldn't. And one was for the
15 protection of the victim's family that lived right here.

16 Yeah, same thing. There's your wall. Your note was
17 found on the ground right here. So it would have had to
18 have a camera that would get up over the top of these
19 trailers. A helicopter would have seen it, but there was no
20 helicopters I believe at that time overhead.

21 MR. TESTA: All right. Are there any other
22 questions from the jurors?

23 Q. DNA was on the rolling pin at the church. So it was
24 found elsewhere. I'm not sure I understand that. But can
25 you comment on this question or comment: DNA was on the
26 rolling pin at the church, so it was found elsewhere.

27 Where was -- no, the DNA was found where -- or the
28 rolling pin was found where?

1 A. In the -- in the drawer of the counter inside the --
2 in the kitchen of the church.

3 Q. Yeah. And it's collected and it's put in a bag and
4 then it's sent off, they do the tests and they find the DNA
5 on it?

6 A. Yes.

7 Q. I'm not sure I understand.

8 A. We swabbed numerous areas for DNA in that church, but
9 we didn't get anything back as far as positive results for
10 our victim.

11 Q. And when you guys checked those various items or when
12 the FBI collected the plunger, the lint roller --

13 A. We collected those, yes.

14 Q. -- the broom handle, all that, any cylindrical item,
15 because Dr. Omalu is telling you about the penetration, so
16 you get a warrant and you are going there collecting these
17 cylindrical items. Are they packaged individually?

18 A. Yes, they are.

19 Q. And what kind of material?

20 A. It depends on the types of object. But usually they
21 are wrapped so none of the object is exposed. And, you
22 know, it's based on size. But usually a package by paper
23 like white butcher paper or brown butcher paper or if they
24 are small enough they could fit in one of our brown paper
25 bags you have at the grocery store, they are sealed and
26 taped off and sent back item by item with their description
27 on it to be tested.

28 Q. And these are all collected by evidence technicians?

1 A. Correct.

2 Q. People with experience in collecting evidence?

3 A. Correct.

4 Q. Okay. So it's not like you just throw everything in a
5 bag or anything like that?

6 A. No.

7 Q. Question from the grand jury: Can we see the video,
8 hear the audio from your April 10th interview of Melissa
9 when she started crying when she was arrested? That's a
10 question from the grand jury.

11 How many hours is it? Up until the time that you
12 already talked about it where she started crying?

13 A. It's almost -- at that point, it's almost three hours.

14 Q. And there's no transcript at this point, or is the
15 transcript prepared by now?

16 A. It's in process.

17 Q. Yeah, see, technically, I already put that 911 in
18 without a transcript, which the rules require I get a
19 transcript.

20 So in answer to this question, if you want to re-ask
21 it with this new knowledge, do so tomorrow, we will decide
22 what to do.

23 MR. TESTA: I have no further questions.

24 GRAND JUROR 15: I have one.

25 MR. TESTA: Tomorrow I just have in the
26 morning a few -- two or three witnesses. I just thought I'd
27 call some of these men we heard about that doesn't -- the
28 French-kisser, the karate guy, ask them some questions.

1 Then I have to read you jury instructions. Then you can
2 begin your deliberations.

3 But if you have things you want to hear, such as that
4 last question, now would be the time so we could set it up.

5 But barring that, I think I could probably finish by
6 10:00 with the few witnesses remaining. So that gives you
7 plenty of time to ask questions or conduct deliberations or
8 do what you need to do. Or ask questions of Detective
9 Bauer, or ask me to call another witness.

10 We have to do something off the record later. But for
11 purposes of today, I have no further questions. But if the
12 jurors do -- I know one juror is writing something down.

13 Q. Question from the grand jury: Were Connie and Lane
14 Lawless cooperative? Were they defensive of Melissa? Were
15 they cooperative?

16 A. Until we arrested her.

17 Q. They were what?

18 A. Cooperative until we arrested her.

19 Q. Then in what way did they change demeanor?

20 A. They didn't want to give us statements. We had to
21 return on a couple other search warrants to collect evidence
22 at the residence, and they -- they didn't want to freely
23 give any statements. And even though we had legal authority
24 to be in their residences -- and I mean, for the most part,
25 yeah, they were cooperative, they understood that we had a
26 legal right to go into the church and come to their
27 residence to take the items that we were there to seize.

28 But we also knew based on the circumstances that we

1 would do any more formal lengthy interviews at the Police
2 Station with them after the arrest on April 10th.

3 Q. When Miranda went to Huckaby's, wouldn't she have
4 walked right by Huckaby's open car --

5 A. No.

6 Q. And let me finish the question here.

7 When Miranda went to Huckaby's, wouldn't she have
8 walked right by Huckaby's open car and would have likely
9 seen Sandra or Sandra say hi to her?

10 A. No. Remember, 3:18 Melissa sends a text to Maria
11 Chavez, Miranda's mom, and says, "I'm home, Miranda can come
12 over." She's already turned away, based on her statement,
13 Sandra. She already told her that Madison couldn't play.
14 Prior to 3:18.

15 3:20, Maria Chavez says she'll be right over. She
16 walks over there. Melissa didn't come over and move her car
17 until -- I believe it's on that timeline sketch -- I believe
18 at 3:45, 3:43. Miranda's already inside Melissa Huckaby's
19 residence. Yeah, right here. This is when she goes and
20 moves her car. Miranda comes over at 3:20. She doesn't --
21 Melissa doesn't leave her house and walk northbound on
22 Cherry Lane to her car that's by the car wash area until
23 this time, and gets in her car and then drives it and drives
24 it southbound. So that's twenty -- twenty-three minutes
25 later, Miranda's already been inside the house.

26 So, no, she would not have seen that. And, remember,
27 Sandra, prior to Miranda's coming over, has already left and
28 played at another friend's house.

1 MR. TESTA: Testa, we still want a transcript
2 or a reading of Bauer going over what type of person or
3 persons Huckaby stated might have taken Sandra. FBI Agent
4 Sparrow received same type of comment.

5 Okay. So if you have questions that you'd like
6 reread, testimony reread, simply write them down and specify
7 as well as you can. Give them to the court reporter. Once
8 you go in there and start deliberating, if it sounds like
9 you need more -- if you need testimony reread, write it down
10 and the court reporter can look for it and read it to you.
11 I think that's the way it's normally handled at a trial.

12 Certainly, that's why she's here is to help you. But
13 as I say, sometimes you can deliberate with your fellow
14 jurors and you might get your answer -- your questions
15 answered in another way. But if you still have questions,
16 feel free to ask for a reread.

17 Are there any other questions of Detective Bauer? I
18 see none.

19 So that will be it for today. If you read the
20 admonition to Detective Bauer.

21 And please stand by for our other hearing.

22 THE FOREPERSON: You are admonished not to
23 reveal to any person, except as directed by the Court, what
24 questions were asked or what responses were given or any
25 other matters concerning the nature or subject of the grand
26 jury's investigation which you learned during your
27 appearance before the grand jury. This admonishment
28 continues unless and until such time as the transcript of

1 this grand jury proceeding is made public.

2 Violation of this admonishment is punishable as
3 contempt of court.

4 Do you understand?

5 THE WITNESS: I understand.

6 THE FOREPERSON: Okay. Mr. Testa --

7 MR. TESTA: Yes.

8 THE FOREPERSON: -- administrative question.
9 When usually is the transcript made public?

10 MR. TESTA: Well --

11 THE FOREPERSON: I have been asked that.

12 MR. TESTA: Well, it's a good question.

13 If there is an Indictment, then fifteen days later --
14 I think the judge will explain it to you -- fifteen days
15 later, I believe it is, there will be a date on the -- for
16 the arraignment on the Indictment. And then I believe it's
17 a certain period of time after that arraignment that the
18 transcript would be made public. And I think it's fifteen
19 days after the defense attorney receives the transcript so
20 that the defense attorney has time to prepare objections.

21 So in answer to your question, it's not immediately.
22 It's a few weeks later -- a few weeks down the road.

23 THE FOREPERSON: About thirty days or so?

24 MR. TESTA: It may be. I think there was
25 another case that recently occurred where the defense
26 attorney never picked up the transcript. And the rule is
27 fifteen days, whatever it is, after they pick it up. They
28 were from LA. They never picked it up. It got delayed and

1 delayed and delayed. And it wasn't released to the press
2 for weeks or months actually I think it was.

3 And then the judge has the option of sealing all
4 transcripts as well at the request of either attorney or
5 either on their own motion if there is an Indictment.

6 But those matters shouldn't really be a factor in your
7 deliberations. It might be of interest to you, but it has
8 no bearing on the evidence. That shouldn't in any way
9 influence your decision.

10 THE FOREPERSON: I don't think that was the
11 issue.

12 MR. TESTA: I didn't think it was. I wanted
13 to make that clear in case there was a question about that.

14 Okay. So tomorrow what time?

15 THE FOREPERSON: 9:00 o'clock, the usual
16 time.

17 MR. TESTA: Okay.

18 THE FOREPERSON: I might be a little late.
19 No, I'm just kidding.

20 MR. TESTA: I will just put all the photos --
21 we have something else to do. I will put the photos on your
22 thing.

23 THE SECRETARY: Can I -- can I just
24 straighten something out with you real quick?

25 MR. TESTA: I have to call a few people on
26 another legal issue for ten minutes or fifteen minutes. You
27 can either wait and do it at 4:30 or you can do it tomorrow
28 morning. But I have to do it.

1 THE FOREPERSON: We will be here early then
2 if you're going to be around.

3 MR. TESTA: I will come -- 8:15 I will be
4 here.

5

6 (Whereupon a hearing was held outside
7 the presence of the grand jurors;
8 sealed pages 1676 to 1694.)

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

(Sitting as a Grand Jury)

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PEOPLE OF THE STATE OF)	
CALIFORNIA,)	
)	
Plaintiff,)	D.A. No. 2535
)	
vs.)	CR No. TP09-2712
)	
MELISSA HUCKABY,)	No. SF112495A
)	
Defendant.	)	(Sealed Pages 1676 - 1694)

CONFIDENTIAL HEARING

(Sealed at Request of Deputy DA Testa)

Thursday, July 30, 2009 - 4:20 p.m.

LOCATION: San Joaquin County Courthouse
Room 605, San Joaquin County

APPEARANCES OF COUNSEL:

THOMAS J. TESTA, Deputy District Attorney,
County of San Joaquin, 222 East Weber Avenue, Room 202,
Stockton, California, 95202, appeared as counsel for and on
behalf of the People.

Reported by: JEANNE COFFEY, C.S.R. NO. 7084

1 (At 4:20 p.m., the following proceedings
2 were held outside the presence of the
3 Grand Jury:)

4
5 MR. TESTA: We are on the record now, out of
6 the presence of the grand jurors.

7 The only persons present, the court reporter,
8 Deputy DA Testa, Detective Tim Bauer.

9
10 **TIMOTHY BAUER,**

11 a witness called on behalf of the People, having been
12 previously duly and regularly sworn by the Grand Jury
13 Foreperson, testified as follows:

14
15 MR. TESTA: Detective Bauer, you're still
16 under oath from before.

17
18 **EXAMINATION**

19 BY MR. TESTA: Q. Did I ask you to go listen
20 to the tape or the CD of your interview of Melissa Huckaby
21 on --

22 A. April 10th.

23 Q. -- April 10th, the one that you testified about
24 yesterday or the other day at this similar closed hearing
25 where she -- she cried, you stopped the interview. Did she
26 invoke her right to silence or her right to an attorney?

27 A. Her right to an attorney.

28 Q. What did she say? Paraphrase.

1 A. She said, "I think I want a lawyer."

2 I said, "You don't want to talk anymore?"

3 She said, "Yes."

4 Q. Okay. Then you stopped your interview?

5 A. Yes.

6 Q. And then she was escorted by?

7 A. Detective Cogburn.

8 Q. Detective Cogburn.

9 And then sometime later she was given -- brought back
10 to you, and Cogburn told you what?

11 A. No. Detective Knight told me that she wanted to talk
12 again. But she -- he -- that Detective Knight was called by
13 Detective Cogburn, and Melissa Huckaby wanted to come back
14 and talk to me again.

15 Q. Did you at that time have any knowledge of what
16 Detective Cogburn had in fact told her after she invoked her
17 right to an attorney?

18 A. No.

19 Q. Had you had any such knowledge, do you have an opinion
20 on what you would have done?

21 A. I wouldn't have talked to her.

22 Q. Pardon me?

23 A. I wouldn't have had a conversation with her.

24 Q. Okay. Did you ever talk to Detective Cogburn about
25 what it was that he said to Melissa Huckaby when -- during
26 this time period when he was escorting her?

27 A. No.

28 Q. Okay. Do you believe Detective Knight did?

1 A. Yes.

2 Q. Can you -- I have no further questions for you on this
3 point.

4 Can you please ask Detective Knight to come in, and
5 I'll ask him some similar questions on the same point?

6 A. Yes.

7 Q. Thank you, sir.

8

9 (Pause.)

10

11 MR. TESTA: Detective Knight, were you given
12 an oath the other day when you were here?

13 THE WITNESS: No, this is my first time here.

14 MR. TESTA: I'm losing my mind. I thought --
15 you never testified, that's right, in this case. Here a
16 million times, we never got to you.

17 Here's the oath, I guess there's no one else to give
18 it to you. So you do solemnly swear or affirm that you will
19 and truly report the testimony given before the -- that's
20 the reporter's oath. Excuse me. Pardon me. Strike that.

21 Let me find the right oath here.

22 Here it is. Pardon me. Start over.

23

24 **RYAN KNIGHT,**

25 a witness called on behalf of the People, having been duly
26 and regularly sworn by the Deputy District Attorney,
27 testified as follows:

28

1 THE WITNESS: Yes.

2 MR. TESTA: Thank you.

3

4

EXAMINATION

5 BY MR. TESTA: Q. You're employed where?

6 A. Tracy Police Department.

7 Q. I'm sorry, what is your full name?

8 A. Ryan Knight.

9 Q. How do you spell your last name?

10 A. K-N-I-G-H-T.

11 Q. How long have you been with the Tracy Police
12 Department?

13 A. Eight years.

14 Q. What's your present position there?

15 A. Detective.

16 Q. Okay. Do you know Detective Bauer?

17 A. Yes.

18 Q. Do you know Detective Cogburn?

19 A. Yes.

20 Q. Were you present the night of April 10th when
21 Detective Bauer was interviewing her?

22 A. Yes.

23 Q. Were you actually participating in the interview?

24 A. No, I watched from a separate video room.

25 Q. Okay. Well, at some point -- and this is all on tape
26 I guess, his interview of her, is that correct?

27 A. Yes.

28 Q. At some point, she invoked her right to an attorney

1 and said she didn't want to speak. Were you -- did you hear
2 that part?

3 A. Yes.

4 Q. Okay. What happened at that point? Was she escorted
5 by Cogburn to the -- to be arrested?

6 A. Yes.

7 Q. Did you participate in that?

8 A. No.

9 Q. Okay. Did you have any further participation in any
10 conversations with Melissa Huckaby?

11 A. No.

12 Q. What about when she was brought back up by Cogburn,
13 given back to Bauer, did you participate in -- in a second
14 interview that Detective Bauer conducted?

15 A. No, it was the same thing, I watched from a separate
16 room.

17 Q. All righty. Now, Detective Cogburn has told us what
18 it was that he said to her, what he said to Melissa Huckaby
19 when he was escorting her to be arrested.

20 Did he tell you what he said or did?

21 A. Yes.

22 Q. What?

23 A. He told me that he didn't have the audio recording.
24 I -- initially, I asked him for it.

25 Q. Give us the background. How did you go about talking
26 to him? Tell us what you asked for and what he said.

27 A. I asked him for the audio recording of the
28 conversation between him and Melissa regarding what she had

1 told him to request to come back upstairs and -- and speak
2 some more to Detective Bauer.

3 At that point, he told me that he didn't have it and
4 that I wouldn't want it anyway.

5 Q. He said he didn't have it and that you wouldn't want
6 it anyway?

7 A. Correct.

8 Q. And then what was said?

9 A. And then I don't remember specifically what I said. I
10 inquired as to why not.

11 And he told me that he told her -- I'm going to
12 paraphrase, I don't really remember specifically what his
13 exact words, but it was something to the effect of if you
14 didn't go back up -- or if Melissa didn't go back up and
15 talk to Detective Bauer and provide a further statement,
16 that she would spend the rest of her life in prison.

17 Q. And you are paraphrasing?

18 A. Exactly.

19 Q. Okay. Was it -- did he say -- what else was said by
20 you or him?

21 A. And that was -- that was it.

22 Q. So he told you, "You don't want my tape." You asked
23 him for the CD, he said -- did he say he didn't have it or
24 he turned it off or what did he say?

25 A. He said he didn't have it and I didn't want it anyway.

26 Q. You didn't want it anyway. You asked him why. He
27 said, "Well because I told her..."

28 A. That if she didn't provide a further statement, that

1 she would spend the rest of her life in prison.

2 Q. Did he say whether he said it with any dramatic
3 flourish or drama?

4 A. I believe that it was; however, I can't remember
5 specifically what it was.

6 Q. But do you recall him when he was explaining to you,
7 what he told Melissa, using some -- was it drama in his
8 voice when he was recounting what it was he said to Melissa?

9 A. Yes.

10 Q. Okay. Did he say anything like -- do you recall him
11 saying anything like, "You're going to rot in jail," or,
12 "You're going to rot in hell if you don't go back up and say
13 what happened," or was there anything along those lines?

14 A. I believe it was something very similar to that.

15 Q. Okay. And do you remember -- do you recall anything
16 else about what Mr. Cogburn -- Detective Cogburn said he
17 said to Melissa after she, you know, he was -- was he
18 escorting her down to be arrested during the time when he
19 made these comments to her, or what was going on?

20 A. Yes. It was somewhere between our interview rooms and
21 the booking area. The booking -- the booking area is
22 downstairs. The interview rooms are upstairs. So somewhere
23 in between there. Possibly down in the booking area. I
24 believe that's where it was when these words were said.

25 Q. Okay. All righty. You know, I don't think I have any
26 more questions for you. Sorry you ended up not testifying
27 in this case. I think you might if there is a trial.

28 Although, did you take the -- the -- the DNA sample

1 from the defendant?

2 A. No.

3 Q. Or did you book it as 1070/1?

4 A. Yeah, 1070/1 one is my --

5 Q. Do you recall?

6 A. -- my number.

7 Q. If you see a report -- do you recall booking it
8 offhand?

9 A. Yes, if it's my number on there, then I booked it. I
10 don't remember specifically. I would have to refer to it.

11 Q. Are you working tomorrow?

12 A. Yes.

13 Q. Are you off tomorrow?

14 A. Yes, I'm working. There's no problem coming back if
15 that's...

16 Q. Yeah, I think I probably should have tried to squeeze
17 you in before I let you go. If you could come back at
18 9:00 o'clock.

19 A. No problem.

20 Q. Let you go. No further questions for today.

21

22 (Pause.)

23

24 MR. TESTA: I'm sorry, I forgot to -- we are
25 back on the record. I forgot the -- I'm not used to giving
26 these oaths.

27 You're admonished not to discuss the case with anyone
28 else, what your testimony was or the questions asked you or

1 your answers that you gave, and to remain -- keep secret
2 what it was that was said in this hearing.

3 Do you understand?

4 THE WITNESS: Yes.

5 MR. TESTA: Thank you. Sorry.

6 Now could you ask Mr. Cogburn to come in?

7 THE WITNESS: Yeah.

8

9 (Pause.)

10

11 MR. TESTA: Okay. Thank you. We are back on
12 the record. And, Mr. Cogburn, my apologies. I don't think
13 I ever gave you the oath the other day. So let me read this
14 to you.

15

16

NATE COGBURN,

17 a witness called on behalf of the People, having been duly
18 and regularly sworn by the Deputy District Attorney,
19 testified as follows:

20

21 THE WITNESS: Yes, I do.

22

23

EXAMINATION

24

25 BY MR. TESTA: Q. Okay. Now, do you affirm
26 that everything you -- you swear that everything you said
27 the other day was of the truth, the whole truth, and nothing
28 but the truth?

28

A. Yes, I do.

1 Q. So I won't have to ask you all those questions again.
2 But let me ask you, when you are escorting Melissa
3 Huckaby from Tim Bauer -- Detective Bauer's interview,
4 you're escorting her to the jail?

5 A. To the booking area within the Tracy Police Department
6 on the first floor.

7 Q. And, now, do you normally keep your recording on when
8 you do such a thing, or is it optional or what is the --
9 what's the habit and custom?

10 A. It's optional. I'd never done that before.

11 Q. Never done what?

12 A. Record as I'm walking someone down.

13 Q. Okay. But in this -- oh, okay.

14 Well, did you have it on at one point, then you turned
15 it off?

16 A. Yes, I did.

17 Q. At the point you turned it off -- so do we have a
18 recording of when it was -- do we have any of it?

19 A. No.

20 Q. Okay. So the part -- at the point where you turned it
21 off, why did you turn it off?

22 A. I turned it off because I was calling Detective
23 Knight.

24 At that point, Melissa and I had ceased our
25 conversation, I was phoning Detective Knight to bring her
26 back upstairs or to arrange that, coordinate that.

27 Q. So when you said whatever you said to her, if you even
28 said anything -- you said yesterday or the other day you

1 weren't quite certain because you had worked long hours and
2 it's been a few months, so on, so forth -- but whatever was
3 said, there's no tape recording of it, correct?

4 A. No, sir.

5 Q. I mean, is that correct?

6 A. That is correct.

7 Q. Is there a tape recording?

8 A. No, there is not.

9 Q. Do you think you could have said something like,
10 "You're going to rot in jail if you don't say what
11 happened"?

12 A. No.

13 Q. Or, "You're going to rot in hell if you don't say what
14 happened"?

15 A. No.

16 Q. Or, "You're going to spend your life in jail if you
17 don't say what happened," or anything along those lines as
18 you think back?

19 A. Again, as I think back, I don't think I said anything
20 like that.

21 I do -- it's hard to say at this point because I had
22 made a statement to Detective Knight describing my frame of
23 mind. And so the effort in this further documentation was
24 to be absolutely fair.

25 Again, I don't think I said anything.

26 It's possible, if I said anything, is in reference to
27 or in reply when she said, "I didn't do it, I didn't kill
28 her," I may -- it's possible I said something to the effect

1 of, "Well, you may want to explain that if that's true, or
2 else people won't understand what happened."

3 Q. So if she is saying, "Hey, I didn't do it, I didn't do
4 it, I didn't kill her," or whatever it was, I mean, I could
5 almost see my natural reaction was, "If you didn't do it, go
6 back up and say you didn't do it."

7 A. Exactly.

8 Q. So do you think you might have said something?

9 A. I may have said that. But, again, I don't believe I
10 did.

11 However, in being absolutely fair, I can't say I
12 didn't because I don't -- I mean, it was just such an
13 emotionally spent time, frustrating physically, rather
14 extensive time, and I can't absolutely recall. So I wanted
15 to be fair.

16 Q. I know there's a lot of braggadocio --

17 A. Yes.

18 Q. -- where guys brag to each other.

19 A. Right.

20 Q. We have it in our office.

21 Do you think you might have to Detective Knight been
22 kind of puffing yourself?

23 I mean, people sometimes like to make themselves more
24 macho than they are, myself included, and you might have
25 said something to Knight that wasn't reflective of reality?

26 A. Yes.

27 Q. So if Detective Knight comes in and says, "Well, I
28 vaguely remember him saying that he said something like,

1 'You better go -- if you didn't do it, you're going to spend
2 the rest of your life in jail if you don't go up there and
3 say what happened,' or, 'You're going to rot in jail if you
4 don't go up there and say what happened.'"

5 Knowing yourself and how you -- I mean, what's your
6 opinion about whether you in fact said it to Knight; and, B,
7 whether that in fact is what you would have said to Melissa?

8 Two different questions.

9 A. To answer your first question, I know exactly what I
10 said to Detective Knight. Well, I know in paraphrasing what
11 I said to him because we -- we documented it a little bit
12 after this happened.

13 To Detective Knight, I had said -- and I'll read from
14 my report, line 23, "You wouldn't want that" -- he asked me
15 if I had recording A, and I said, "I did, but I deleted it."

16 He asked me why.

17 In response, I said, "You wouldn't want that recording
18 anyways. I basically told her if she didn't explain why she
19 did what she did, she would spend time in prison if people
20 didn't understand what happened."

21 And that's what I told him.

22 And braggadocio, yeah, if you want to use that term,
23 yes; however, I understood the significance and importance
24 of this case and I wouldn't have done anything to coerce her
25 into providing a statement.

26 And as I said before, and I'm absolutely convinced
27 today, Melissa was intent on giving a statement and
28 explaining her actions because that's been her MO the entire

1 time and at every contact we had had prior.

2 Q. The issue, though, is that she apparently invoked her
3 right, not just to remain silent, but her right to an
4 attorney and she told Bauer -- Detective Bauer, "I want an
5 attorney," or, "I think I want an attorney and I want to
6 remain silent."

7 And once someone does that, you can't -- the law says
8 you can't try to talk them out of their decision, or try to
9 tell them, you know, to go back up there and talk.

10 So the question is is whether what you said to
11 Melissa, whatever it was amounting to, she might have
12 perceived it, whether you intended it or not, she might have
13 perceived it as someone trying to convince her to give up
14 the right that she was invoking or trying -- whether she
15 might have perceived it as someone trying to talk her out of
16 invoking her Fifth Amendment rights, and that's the issue
17 that someone will have to decide in this case.

18 And now I'm in a quandary because I can't give the
19 jury evidence unless it's admissible.

20 A. Uh-huh.

21 Q. And it's unclear if this subsequent statement that
22 Detective Bauer got from her is admissible. So I -- I'm
23 hesitant to put in her statement. And then if it were later
24 ruled inadmissible, I've just kind of contaminated a jury by
25 giving them inadmissible evidence.

26 So, anyway, I'm just rambling here, thinking aloud.

27 But is there any other recollection you have of what
28 you said to her?

1 A. Nothing that we haven't discussed already. And,
2 again, she initiated the conversation with the statements
3 that she made. The --

4 Q. It's clear to you she wanted to talk?

5 A. Yeah. Not just in the words that she spoke, but in
6 the way she spoke them to me, the tone and the inflection of
7 voice, and the imploring manner in which she looked at me,
8 was -- was all indicative that she was seeking a reply to --
9 to her pleas that she didn't do it, she didn't kill her.
10 And --

11 Q. But she was saying, not, "I want to talk, I want to
12 talk, I want to talk."

13 A. No.

14 Q. She was saying, "I didn't do it, I didn't do it, I
15 didn't do it."

16 So the question is what steered her --

17 A. Right.

18 Q. -- from that to okay to talk.

19 Was it something -- apparently, it was something you
20 said.

21 A. Well, I did say to her, and we discussed this last
22 time, that I couldn't -- you know, I'll refer to my report,
23 beginning line 10, "Inasmuch as she invoked her rights to
24 cease speaking," and that's how I took it, to cease.

25 Q. Her full Miranda rights?

26 A. With Detective Bauer, and to consult with an attorney
27 prior to additional questions.

28 Q. Slow down. It's hard for the court reporter to get

1 it.

2 Can you repeat it, say it more slowly?

3 A. I told her in reply to those statements, that because
4 she ceased speaking with Detective Bauer and invoked her
5 Miranda rights, I wasn't able to talk to her or reply to her
6 about her statements, "I didn't do it, I didn't kill her."

7 Q. Now that part --

8 A. She did ask -- she did say -- and now referring to my
9 report -- she did ask if she could explain what really
10 happened. "Can I explain what really happened?"

11 And I said, "Not to me. You invoked your Miranda
12 rights. You can talk to Bauer again. He will have to
13 re-Mirandize you prior to speaking with you again. And at
14 that point, if you want to provide further explanation of
15 your conduct, you could certainly do it at that time. But
16 not to me and not at that time."

17 Q. But at what point would you have said something to her
18 like, "If you don't say what you did, you could end up
19 spending your life in jail"?

20 You don't believe you said anything like that?

21 A. I don't believe I did. I do not. And --

22 Q. Do you think you might have just kind of, as I say,
23 puffing yourself if you said that to Knight?

24 A. Yes. Yes, I do.

25 Q. No, I understand that phenomenon. I just wondered if
26 that's what you were saying.

27 Okay. Well, you see my the predicament I'm in.

28 A. Yes, I do, absolutely.

1 Q. Okay. Well, thank you.

2 Is there anything you want -- anything else you want
3 to add? I don't have any other questions for you, other
4 than to tell you -- I guess I'm supposed to read the
5 admonition.

6 Don't discuss your case with anyone. Don't discuss
7 your testimony with anyone else, or the questions we
8 asked -- I asked you or your answers that you gave.

9 And we are going to seal this separately. I'm going
10 to request that this be separate since the grand jurors
11 aren't here, sealed from regular grand jury.

12 Anything else?

13 A. No, sir. That's it.

14 Q. Okay. So let me see if I need you for the trial
15 itself or for any more questions for the grand jury.

16 A. Okay.

17 Q. I don't think I do. Because I think we covered
18 everything.

19 And I know you've been here quite a few days this
20 week.

21 Yep, we are okay. Thank you, sir.

22 A. Thank you.

23 Q. I won't need you tomorrow at all.

24 MR. TESTA: Okay. That concludes this off
25 the -- this hearing out of the presence of the grand jury.

26 And if you could, Madame Court Reporter, somehow
27 designate it as a continuation of the hearing we had a few
28 days ago outside the presence of the grand jury.

1 And just keep it -- have it so that these grand
2 jurors, of course, don't hear the defendant's invocation of
3 her Miranda rights and what may or may not have been said to
4 her that caused her to change her mind.

5 Thank you.

6 (Proceedings concluded.)

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

(Sitting as a Grand Jury)

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PEOPLE OF THE STATE OF)	
CALIFORNIA,)	
)	
Plaintiff,)	D.A. No. 2535
)	
vs.)	CR No. TP09-2712
)	
MELISSA HUCKABY,)	No. SF112495A
)	
Defendant.	)	VOLUME 8 OF 8
_____	)	(Pages 1695 - 1850)

Friday, July 31, 2009 - 9:00 a.m.

LOCATION: San Joaquin County Courthouse
Room 605, San Joaquin County

APPEARANCES OF COUNSEL:

THOMAS J. TESTA, Deputy District Attorney,
County of San Joaquin, 222 East Weber Avenue, Room 202,
Stockton, California, 95202, appeared as counsel for and on
behalf of the People.

Reported by: JEANNE COFFEY, C.S.R. NO. 7084

1 (At 9:00 a.m., the following proceedings
2 were had before the Grand Jury:)

3
4 (Roll call taken.)

5
6 MR. TESTA: Are we all accounted for?

7 THE SECRETARY: Yes.

8 MR. TESTA: Pardon me?

9 THE SECRETARY: Yes.

10 MR. TESTA: Should I call my first witness
11 for the day?

12
13 (Pause.)

14
15 MR. TESTA: Could you state your full name,
16 please.

17 THE WITNESS: Elizabeth Castaneda,
18 C-A-S-T-A-N-E-D-A.

19 THE FOREPERSON: Would you raise your right
20 hand, please?

21
22 **ELIZABETH CASTANEDA,**
23 a witness called on behalf of the People, having been duly
24 and regularly sworn by the Grand Jury Foreperson, testified
25 as follows:

26
27 THE WITNESS: Yes.

28 THE FOREPERSON: Thank you.

EXAMINATION

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BY MR. TESTA: Q. Where are you employed?

A. I'm employed by the FBI, Federal Bureau of Investigation, in San Francisco.

Q. Were you involved at all in the investigation into the disappearance of Sandra Cantu in Tracy, California?

A. Yes.

Q. What was your involvement?

A. I'm a member of the Child Abduction Rapid Deployment Team.

Q. What did you end up doing in this case?

A. I ended up picking up a note that was on the ground at the mobile home park.

Q. Showing you 183, look familiar?

A. Yes.

Q. Is that it?

A. Yes.

Q. What were the circumstances of your doing what you did?

A. We arrived about 7:00 p.m. on Friday night. And -- I think it was Friday night. Might have been Saturday. Yeah, Saturday night.

Q. You didn't prepare a report, did you?

A. I did not.

Q. We heard from other people who were there and they established what the date was.

So go ahead.

A. And we had gone to the park to kind of get an

1 assessment of the area. And when we arrived, there was a
2 woman sitting on grass.

3 Q. Go ahead. I cut you off.

4 A. There was a woman sitting on the sidewalk/lawn area,
5 speaking to a couple police officers. And someone pointed
6 out a -- a note, a piece of paper that was on the
7 ground/sidewalk near the bank of mailboxes inside the mobile
8 home park area.

9 Q. So what did you end up doing?

10 A. I ended up going -- I'm also a member of the Evidence
11 Response Team for San Francisco. And in the back of my
12 Bureau car, I have various items for evidence collection. I
13 put on a pair of gloves, took a plastic bag out, and
14 collected the note and put it inside just so that it
15 wouldn't be touched unnecessarily.

16 Q. Showing you -- then did you end up -- let me show you
17 162. Did you end up seeing anyone photograph it?

18 A. Yes. One of the evidence technicians from Tracy PD
19 was there. And I suggested that it be photographed.

20 Q. Now, where -- so if you're the one that put it in the
21 plastic, then do I assume that you're the one that put it
22 back down in a particular spot for the photographs or did
23 someone else do that? Explain.

24 A. I don't recall whether I was the one that put it
25 down -- or put it back down. My recollection was that -- I
26 wasn't sure if somebody had photographed it before it was
27 put in the plastic bag or not. But, basically, they were to
28 make note that it had been moved and, obviously, it was in a

1 plastic bag so somebody had to touch it. So that's
2 basically what happened.

3 Q. So, basically, if I understand correctly, all you did
4 was get a plastic bag, and you put it -- do you put the note
5 in the plastic bag?

6 A. Yes, sir.

7 Q. Whom did you get the note from or where was the note?

8 A. It was on the ground right approximately in that area.

9 Q. Where it is shown in Exhibit 162?

10 A. Yes.

11 Q. And is it shown in 158 as well?

12 A. Yes.

13 Q. Is that you in the photograph?

14 A. No.

15 Q. What about 157, are you in that one?

16 A. No.

17 Q. Okay. So I guess the question is is -- well, who gets
18 your attention? How did you -- I'm not following it.
19 Someone, one of the other officers comes up to you and says
20 this person --

21 A. No, what happened --

22 Q. Start from the beginning.

23 A. We drove into the mobile home park.

24 Q. "We" meaning?

25 A. Marty Parker, who is another FBI agent, and I went in
26 my vehicle to look at the scene. The police had a barricade
27 on the entrance.

28 Q. You can use that laser pointer.

1 A. Right in here.

2 Q. Here you go. I'm showing you Exhibit 57.

3 A. Okay. There was -- police were right in this area.

4 Q. You are indicating the entrance to the --

5 A. The entrance to the park, talking to people coming in
6 and out. We drove -- I guess the -- the victim's residence
7 in this -- is in this area right here. I don't know
8 exactly.

9 Q. We have already heard all that.

10 A. I'm trying to explain.

11 So what we did is we drove past here and drove around
12 this area of the park, the entire park.

13 Q. So you're indicating, just for the record, you're
14 driving around Peach, Cherry, Apricot, and Apple, the four
15 streets?

16 A. Yes.

17 Q. Which we have already learned on Exhibit 51, do I
18 understand correctly?

19 A. Yes.

20 Q. Okay. Go ahead.

21 A. All right. So when we drove this way --

22 Q. I'm sorry, I better put this on, because when we say,
23 "This way," the judge reading this will say, "What are you
24 talking about? I don't know what you mean."

25 A. We drove on Cherry. I don't know what direction that
26 would be. Would be north probably. Okay.

27 And when we came to this area right in here, which is
28 near the clubhouse, we noticed that there were a couple

1 police officers and I don't remember if there was one or two
2 FBI agents, or even three FBI agents, talking to a woman
3 that was sitting on either the curb or the sidewalk or the
4 grass, but right in this area near where the mailbox was.

5 Q. All right.

6 A. And she was crying. And then reference was made to a
7 note that was found -- that she found on the ground.

8 Q. All right.

9 A. So people continued to speak to her. I did not
10 approach her or speak to her at any time.

11 Q. All right. Continue.

12 A. People said the note referred to the location of the
13 victim, which was Sandra Cantu.

14 People kept putting flashlight on the note. And as
15 more people came around, and I'm saying law enforcement
16 types came around, I decided the best thing to do to protect
17 from fingerprints or anything was to collect -- collect it,
18 preserve it, and allow Tracy Police to actually take it into
19 custody and mark it as evidence.

20 So I went to the back of my car, pulled out a plastic
21 bag, and put it in there and -- once I put on gloves -- and
22 then put it back down. And I'm not sure whether there were
23 photographs before I collected it or not.

24 Q. Okay. But whether there were or not, did you put it
25 back down in the -- let me finish -- in the same position
26 where it was where you first saw it?

27 A. Generally.

28 Q. Okay. And did one need a flashlight in order to make

1 out what was written on the note, do you recall?

2 A. There was some, you know, lighting from the
3 streetlights. But it was easier to use a flashlight. Which
4 many of us had.

5 Q. Okay. All right. And was that the extent of your
6 involvement?

7 A. Yes, sir.

8 Q. And did you go home and that was it in terms of what
9 you did in this case?

10 A. Yes.

11 Q. Did you stay there that night beyond the time?

12 A. Yes, I was there for several days.

13 Q. Oh, okay. What did you do over the next few days?

14 A. I just helped with setting up a timeline, and just
15 more of the administrative aspects.

16 Q. Do you remember what the weather was like when you
17 were there the night the note was found?

18 A. It was -- it wasn't cold. It wasn't raining. It was
19 a nice evening.

20 MR. TESTA: All right. No further questions.

21 Any questions from the grand jury? I see none -- oh,
22 is there one?

23 Q. Question from the grand jury: Was the lighting in the
24 area adequate for the note to have been spotted from the
25 street?

26 A. I believe so. It was right in this area right in
27 here. I'm not quite sure where the -- where the mailbox is.

28 Q. Yeah.

1 A. Is this the mailbox right here?

2 Q. Well, we have a photograph of that.

3 May I have that, please?

4 While they are looking for that, I have another note
5 from the grand jurors: Did Melissa mention what she was
6 doing in the area when the note was found?

7 A. She did not make any statements to me.

8 Q. Showing you Number 163, is that photograph -- do you
9 recognize what is shown in this photograph?

10 A. I do. That's the clubhouse area and the mailbox --
11 mailboxes.

12 Q. Okay. And do you recall where the note was?

13 A. I thought it was right in this neighborhood right in
14 here.

15 Q. Do you remember how far in it was?

16 A. No, I couldn't tell you. I mean, it looked like it
17 was in the grassy area. But I couldn't tell you now at this
18 point.

19 Q. Okay. But may I get those photographs?

20 A. Based on the photograph, it was in by the grass.

21 Q. But you put it back generally where you believed it
22 was first saw?

23 A. Yes, I did.

24 Q. So we can look at the photograph -- let me finish.

25 A. Right.

26 Q. So can we look at the photograph then to see how far
27 in it was?

28 A. Yes.

1 Q. How long have you been with the FBI?

2 A. Twenty-six years.

3 Q. Okay. So, you know, the idea is you are trying to
4 preserve the scene, right?

5 A. Indeed.

6 Q. And if you pick up a note, you're going to put it back
7 where you found it for them to take photographs, is that
8 correct?

9 A. Correct.

10 Q. Did you have that in mind when you were doing what you
11 were doing?

12 A. I did.

13 Q. So when you say you don't know how far back it is,
14 does 157, would that help.

15 A. Generally depict that, yes.

16 Q. Yes what? I'm not sure I follow.

17 A. Yes, where it was located, where I saw it.

18 Q. Okay. Thank you.

19 MR. TESTA: Are there any other questions
20 from the grand jury?

21 GRAND JUROR 18: Right here, Tom.

22 MR. TESTA: Thank you.

23 Q. Do you know if the note was face up or face down?

24 A. When I saw it, it was face up.

25 Q. Meaning you could -- what do you mean by that?

26 A. When I -- when I looked to the ground --

27 Q. Here's face up. Here's face down. Was it face up?

28 A. It was face up.

1 Q. Well, do you know if there was any bleeding over? I
2 mean, do you know -- when you handled the note and put it in
3 the plastic, do you recall if there was any bleeding over
4 where you could see the note on the other side?

5 Do you understand my question?

6 A. No, I understand your question, sir. I don't recall.

7 Q. Okay. Because when you look at the note now, we see
8 it's bleeding over on both sides. But then we heard they
9 put Ninhydrin on it. So we don't know if the Ninhydrin
10 caused it to bleed through or whether it was bleeding
11 through at the time. So that's the reason I think for the
12 question.

13 And your recollection is you don't recall if it was
14 bleeding through or not?

15 A. No, I do not recall.

16 Q. Okay. Fair enough.

17 MR. TESTA: I have no further questions. Are
18 there any from the grand jurors?

19 I see none. They will read you an admonition.

20 THE FOREPERSON: You are admonished not to
21 reveal to any person, except as directed by the Court, what
22 questions were asked or what responses were given or any
23 other matters concerning the nature or subject of the grand
24 jury's investigation which you learned during your
25 appearance before the grand jury. This admonishment
26 continues unless and until such time as the transcript of
27 this grand jury proceeding is made public.

28 Violation of this admonishment is punishable as

1 contempt of court.

2 Do you understand?

3 THE WITNESS: Yes.

4 THE FOREPERSON: Thank you.

5 THE WITNESS: Thank you.

6 MR. TESTA: Thank you for coming. You may
7 leave.

8

9 (Pause.)

10

11 MR. TESTA: Could you state your full name,
12 please?

13 THE WITNESS: Kimberly Ann Rother.

14 MR. TESTA: How do you spell your full name?

15 THE WITNESS: Kimberly, K-I-M-B-E-R-L-Y, Ann
16 A-N-N, Rother, R-O-T-H-E-R.

17 THE FOREPERSON: Would you raise your right
18 hand, please?

19

20 **KIMBERLY ANN ROTHER,**

21 a witness called on behalf of the People, having been duly
22 and regularly sworn by the Grand Jury Foreperson, testified
23 as follows:

24

25 THE WITNESS: Yes, I do.

26 THE FOREPERSON: Thank you.

27

28

EXAMINATION

- 1
- 2 BY MR. TESTA: Q. Where are you employed?
- 3 A. The Federal Bureau of Investigation in Sacramento.
- 4 Q. And what is your position there?
- 5 A. I am a financial analyst.
- 6 Q. How long have you been employed by the FBI?
- 7 A. Twelve years.
- 8 Q. Showing you 212, do you recognize what is shown in
- 9 this?
- 10 A. Yes, I do.
- 11 Q. Did you have any contact with this item?
- 12 A. Yes, I did.
- 13 Q. What?
- 14 A. I put the tape on it and then I cut it.
- 15 Q. When?
- 16 A. On April 22nd --
- 17 Q. Where?
- 18 A. -- 2009.
- 19 Q. Where?
- 20 A. In the Evidence Control Room at the FBI in Sacramento.
- 21 Q. And showing you 211, do you recognize this exhibit?
- 22 A. Yes.
- 23 Q. What is that?
- 24 A. That's cord after I cut it.
- 25 Q. Did you take these photographs?
- 26 A. Yes, I did.
- 27 Q. Oh, okay. What was the reason for cutting it and what
- 28 was the reason for taking the photographs?

1 A. It was cut so that we could send a sample of the cord
2 to the FBI Lab for comparison.

3 And I always take photographs of evidence.

4 Q. And with what did you cut the cord where -- why do you
5 put the tape on before you cut it? Is there a reason for
6 that?

7 A. We were just trying to preserve the ends as we cut it.

8 Q. And with what did you cut the cord?

9 A. I'm assuming a pair of scissors. I really don't
10 remember.

11 Q. So you did, if I -- did you do anything, you know,
12 like get inside the housing?

13 A. No.

14 Q. Or pull any of the lines out?

15 A. No.

16 Q. Or see whether there might have been -- there's --
17 looks like there's three cords here. Did you do anything to
18 see if there was a fourth cord inside?

19 A. No.

20 Q. You were strictly just cutting that part --

21 A. Yeah.

22 Q. -- to send to the FBI?

23 Why didn't you send the whole blind to the FBI? Why
24 did you just cut the cord?

25 A. If I remember correctly, the evidence control
26 technician called me and just asked me, "Can you come cut
27 this cord so we can send it -- a piece of it to the lab?"

28 Q. Okay. All right.

1 MR. TESTA: I have no further questions. Are
2 there any questions from the grand jury?

3 I see none. Thank you. They are going to read an
4 admonition to you, then can you leave.

5 THE FOREPERSON: You are admonished not to
6 reveal to any person, except as directed by the Court, what
7 questions were asked or what responses were given or any
8 other matters concerning the nature or subject of the grand
9 jury's investigation which you learned during your
10 appearance before the grand jury. This admonishment
11 continues unless and until such time as the transcript of
12 this grand jury proceeding is made public.

13 Violation of this admonishment is punishable as
14 contempt of court.

15 Do you understand?

16 THE WITNESS: Yes.

17 THE FOREPERSON: Thank you.

18 MR. TESTA: Thank you for coming in.

19 THE WITNESS: Thank you.

20

21 (Pause.)

22

23 MR. TESTA: You're still -- have you -- has
24 he been sworn?

25 THE FOREPERSON: Yes, he has.

26 Sir, you're still under oath.

27 THE WITNESS: Yes.

28 THE FOREPERSON: Thank you.

EXAMINATION

1
2 BY MR. TESTA: Q. Just a real quick question
3 for you. Your employee number is what again?

4 A. 1070.

5 Q. All right. We heard about there's a 1070/1. What
6 is -- do you remember what contact you had with that?

7 GRAND JUROR 17: Can we get the witness's
8 name?

9 MR. TESTA: Q. I'm sorry, can you state your
10 name again, please?

11 A. I'm Ryan Knight. I'm a detective with Tracy PD.

12 Q. Pardon me. Did you book an item -- when you book an
13 item, as I understand it, you give your employee number and
14 then you put the number of the item?

15 A. Yes.

16 Q. So if we had an item we heard about 1070/1 --

17 A. Yes.

18 Q. -- what does that mean?

19 A. What does the number mean?

20 Q. Tell us about it.

21 A. It's at the buccal swabs from Melissa Huckaby.

22 Q. B-U-C-C-A-L?

23 A. Yes.

24 Q. What was your contact or connection with that item?

25 A. I received the item from Detective Kootstra.

26 Q. Okay.

27 A. And there -- what they are is they are -- it's like a
28 long Q-tip that we use to collect a DNA sample from a

1 person. And, basically, it's the inside -- the cotton part
2 of the Q-tip is rubbed on the inside of the person's cheek,
3 usually the person does this themselves. He collected the
4 sample and then turned the buccal swabs over to me which I
5 booked in evidence.

6 Q. How many years -- do you have more than five years as
7 a peace officer?

8 A. Yes.

9 Q. Okay. And he told you he collected it from Melissa
10 Huckaby?

11 A. Yes.

12 Q. Okay. And then you booked it in evidence?

13 A. Yes.

14 Q. That's all I have for you. No further questions. Any
15 questions from the grand jury?

16 THE FOREPERSON: Excuse me. Excuse me.
17 What's the question?

18 GRAND JUROR 19: He was not sworn in before.

19 MR. TESTA: That's why I asked. I'm sorry.
20 That's okay. I made the same mistake. We are going to
21 start over.

22 THE WITNESS: I'm sorry. I was --

23 MR. TESTA: You were sworn in on a different
24 hearing. I understand.

25 THE WITNESS: Okay.

26 THE FOREPERSON: I'm sorry.

27 MR. TESTA: That's okay. It's very easy to
28 make that kind of error.

RYAN KNIGHT,

1
2 a witness called on behalf of the People, having been duly
3 and regularly sworn by the Grand Jury Foreperson, testified
4 as follows:

5
6 THE WITNESS: Yes.

7 THE FOREPERSON: Thank you.

8 MR. TESTA: Q. Where are you employed?

9 A. Tracy Police Department.

10 Q. How many years?

11 A. Eight years.

12 Q. So you have been a peace officer the entire time?

13 A. Yes.

14 Q. Okay. What was your contact with the evidence item
15 1070/1?

16 A. I received buccal swabs from Detective Kootstra.

17 Q. B-U-C-C-A-L?

18 A. Yes.

19 Q. And did he tell you from whom he obtained it?

20 A. Melissa Huckaby.

21 Q. And are you familiar with how those are obtained?

22 A. Yes.

23 Q. How?

24 A. It's a -- a cotton swab that is rubbed on the inside
25 of a person's mouth in order to collect a DNA sample.

26 Q. Okay. So Kootstra tells you he collected it from
27 Melissa Huckaby?

28 A. Yes.

1 Q. And then what did you do with this item?

2 A. I booked it into our evidence at Tracy Police
3 Department.

4 Q. When he gives it to you, what is it -- what kind of
5 container, if any, is it in?

6 A. It's fully contained in a -- we have a special buccal
7 swab envelope. It was fully contained inside of a cardboard
8 box which is inside of that envelope.

9 Q. Okay. Kootstra takes it from Melissa Huckaby, a swab
10 of her mouth for DNA purposes, gives it to you, you book it?

11 A. Yes.

12 Q. You book it where?

13 A. At Tracy PD, in our evidence lockers.

14 Q. All righty. Now I have no further questions.

15 MR. TESTA: Are there any questions from any
16 of the grand jurors?

17 Sorry about that.

18 THE WITNESS: That's okay.

19 MR. TESTA: They will read you an admonition,
20 you can get on your way.

21 THE FOREPERSON: You are admonished not to
22 reveal to any person, except as directed by the Court, what
23 questions were asked or what responses were given or any
24 other matters concerning the nature or subject of the grand
25 jury's investigation which you learned during your
26 appearance before the grand jury. This admonishment
27 continues unless and until such time as the transcript of
28 this grand jury proceeding is made public.

1 Violation of this admonishment is punishable as
2 contempt of court.

3 Do you understand?

4 THE WITNESS: Yes.

5 THE FOREPERSON: Thank you.

6 I'm sorry you guys. He looked really familiar to me.

7 GRAND JUROR 4: All cops look the same.

8
9 (Pause.)

10
11 MR. TESTA: What is your name?

12 THE WITNESS: Francis Wohler.

13 MR. TESTA: How do you spell your name?

14 THE WITNESS: The last name is W-O-H-L-E-R.

15 THE FOREPERSON: Would you raise your right
16 hand, please?

17
18 **FRANCIS WOHLER,**

19 a witness called on behalf of the People, having been duly
20 and regularly sworn by the Grand Jury Foreperson, testified
21 as follows:

22
23 THE WITNESS: I do.

24 THE FOREPERSON: Thank you.

25
26 **EXAMINATION**

27 BY MR. TESTA: Q. Where do you live?

28 A. 812 West Clover Road, space 81.

1 Q. Could you get that laser pointer there and turn around
2 and tell us whether you see your place?

3 A. (Pointing.)

4 Q. And did -- how long have you lived there?

5 A. Since December of 2006.

6 Q. Whom do you live there with?

7 A. Myself. Alone.

8 Q. Did you know Sandra Cantu?

9 A. Yes.

10 Q. How did you know her?

11 A. One day she came to my mobile home and asked if she --
12 if I needed some help. I said, "Sure, you can water my
13 plants."

14 Okay, she watered my plants. A couple times later she
15 comes by, I says, "No, I don't need" -- you know, she come
16 to the door, I said, "No, I don't need any help today." And
17 that's how I met her.

18 Q. Okay. And did you see her at all on -- did you learn
19 that she became missing?

20 A. Yes, I did.

21 Q. How did you learn that?

22 A. Well, I was at my school and I was --

23 Q. You were at your school?

24 A. Yes, my martial arts studio. And I was leaving. I
25 had taken someone home, came back to get my cell phone, and
26 I was driving down Commercial Drive right in front of Motion
27 Industries, and I got a call from Christian saying that they
28 were looking for her.

1 Q. Would that be Christian Sinclair?

2 A. That's correct.

3 Q. And where does he live?

4 A. He lives in 88. Right here.

5 Q. Okay. So what did you do when you heard that they
6 were looking for her?

7 A. I went right home. And I saw a police officer
8 outside. And I says, "Come on in to the yard."

9 Q. And --

10 A. And went inside.

11 Q. And then what happened?

12 A. Later on that evening, the police came.

13 Q. Keep -- go ahead and tell us.

14 A. Then they -- they took me to Tracy Police Department
15 and asked me lots of questions.

16 Q. Okay. Did you see her at all on the 27th of -- on the
17 day she went missing, the 27th of March?

18 A. No.

19 Q. When had you last seen her?

20 A. Might have been a week or so beforehand walking down
21 the street. We call it Peach, I guess. This street here.

22 Q. Right down Peach?

23 A. Yeah.

24 Q. Okay. So what were they asking you there? Why did
25 they take you in?

26 A. Because I had contact with -- with her in 2007.

27 Q. You had had contact with whom?

28 A. With Sandra.

1 Q. Oh, so they were looking at you?

2 A. Correct.

3 Q. What was that contact all about?

4 A. I had kissed her in the pool area.

5 Q. Is that the pool that's shown here?

6 A. Yes, it is. Uh-huh.

7 Q. Okay. And that -- was that in front of anyone else?

8 A. Yes. There were people there. I think her
9 grandmother and mother were there. I know Marilyn was
10 there. And John. Marilyn is the -- excuse me. Marilyn is
11 the manager of the trailer park.

12 Q. Marilyn Zuniga?

13 A. Zuniga, uh-huh.

14 Q. I believe she came in the other day.

15 Okay. So you kissed her two years ago, so they
16 start -- you believe that was why they focused on you?

17 A. That's correct. That's correct.

18 Q. So did you have any knowledge of what happened to her?

19 A. No, none at all.

20 Q. Did you participate -- did you try to find her?

21 A. No.

22 Q. Why?

23 A. I have a business to run. I was really, really busy.

24 Q. Okay. Well, you teach karate to what age group?

25 A. Three and a half to fifties.

26 Q. Okay. Well, what about that -- okay. So you come
27 home that Friday night, you see the police?

28 A. Yes.

- 1 Q. And do they come in your place?
- 2 A. Yes, they did.
- 3 Q. In Number 81?
- 4 A. Yeah.
- 5 Q. And do they look around?
- 6 A. No. They just -- I got dressed and went to the Police
7 Department.
- 8 Q. Eventually, did they ever come back and do a search
9 warrant of your place?
- 10 A. Yes, they did.
- 11 Q. Did they take anything, seize anything, do you know?
12 Was anything missing?
- 13 A. Nothing missing, but I went there and they had gone in
14 and removed some books and some CD's and clothing, stuff
15 like that.
- 16 Q. Okay. Were the book -- was any of it sexual?
- 17 A. No.
- 18 Q. Any of the stuff they took from your place sexual?
- 19 A. No.
- 20 Q. Any pornography?
- 21 A. No.
- 22 Q. Did you hesitate there?
- 23 A. Pardon me?
- 24 Q. Is there any hesitation there?
- 25 A. No.
- 26 Q. Okay. Did you know Melissa Huckaby?
- 27 A. No, I did not.
- 28 Q. Had you ever gone to that church?

1 A. No, sir.

2 Q. So what did you do during the -- what was it like
3 living there during this time period that she was missing,
4 between when she went missing until her body was found, what
5 was it like living there?

6 A. It was very hectic. A lot of people around. A lot of
7 nerves.

8 Q. A lot of nerves?

9 A. Yeah, people were very nervous. Me too.

10 Q. And why were you nervous?

11 A. Just the atmosphere.

12 Q. And were there vigils?

13 A. Yes. They were out in front.

14 Q. Did you go to any of them?

15 A. No, I did not.

16 Q. Were there searches for her?

17 A. I believe so, yes.

18 Q. And you didn't go to any of those?

19 A. No, sir.

20 Q. And you had last seen her when?

21 A. I can't really recall what day it was. It was maybe
22 two weeks before that. Could have been a week before that.

23 Q. And what was the nature of your relationship with
24 Sandra Cantu?

25 A. Just a little friendship.

26 Q. What did you guys talk about? Did you talk to her?

27 A. Rarely.

28 Q. Well, when you would, what would you talk about?

1 A. I think I only had a conversation with her twice about
2 my yard and not needing any more help.

3 Q. Okay. Is there anything you can offer in this case,
4 any information you think might be important, something that
5 maybe no one asked you or something that someone did ask
6 you? Anything at all?

7 A. No, I can't recall, sir.

8 Q. You can't recall what?

9 A. No, I can't -- I don't believe there's anything else I
10 can add to it.

11 Q. Well, is there anything you can add to it?

12 A. No, sir.

13 Q. So what did you do on Friday, March 27th?

14 A. In the morning, got up, went to the Java Makers, had
15 breakfast.

16 Q. I'm sorry, went to where?

17 A. Java Makers. It's a restaurant/coffee shop on I
18 believe it's Grant Line Road.

19 Q. All right.

20 A. And then went back to the house, went to my school,
21 feed my fish, do some typing on the computer. And then came
22 back to the school around 3:30, quarter to 4:00, because I
23 have classes at 4:30 on Fridays.

24 Q. And did you have a class at 4:30 on Friday?

25 A. Yes. 4:30. Then one of my black belts came in and
26 taught the sparring class from quarter to 6:00.

27 Q. You mean black belt?

28 A. Yes.

1 Q. You have -- go ahead, I cut you off.

2 A. That's okay.

3 Q. First class is at 4:30?

4 A. Correct, on Fridays.

5 Q. So what time do you go there to set up for the class?

6 A. Try to get there forty-five minutes early.

7 Q. On Friday, did you do so?

8 A. Yes, sir.

9 Q. So if your class is at 4:30, what time would you say
10 you got there?

11 A. A quarter to 4:00.

12 Q. And then the class took place at 4:30?

13 A. 4:30, that is correct.

14 Q. And when did it end?

15 A. 4:30 class ends at 5:30. And then someone comes in
16 about quarter to 5:00.

17 Q. The black belt?

18 A. Correct. Justin Camara. Then I have another class at
19 7:00.

20 Q. Okay. And how long have you had this business?

21 A. I been in Tracy since 1992. And been at the current
22 location since 2005.

23 Q. All righty. I don't think I have any other questions.
24 Are there any questions from any of the grand jurors?

25 Let me just look at my notes here, see if there's
26 anything else I'm missing.

27 I mean, you could see why they looked at you, right?

28 A. Correct.

1 Q. Why?

2 A. I had contact with the little girl Sandra.

3 Q. Since that time you kissed her, I mean, what was the
4 relationship since then?

5 A. I kind of avoided, but every once in awhile we'd wave
6 back and forth.

7 Q. Why would you kind of avoid her?

8 A. Not to raise any suspicions at all.

9 Q. I didn't get a chance to do this this morning. So
10 bear with me. Let me just go through my notes.

11 As I say, if there are any questions from the grand
12 jurors, now would be the time to submit them. If there are
13 none, I just have a few minutes, let you get on your way.

14 Did you have any contact with Melissa Huckaby?

15 A. No. I wouldn't even recognize her.

16 Q. Did you know Sandra's family at all, Sandra Cantu's
17 family?

18 A. Just by sight. Mailbox is right across the street
19 from their home. It should be right here. Mailboxes are
20 right here.

21 Q. So every day you would have to go to the mailboxes, is
22 that where everyone got their mail?

23 A. That's correct.

24 MR. TESTA: All right. I have no further
25 questions.

26 They will read the admonition to you then.

27 THE FOREPERSON: You are admonished not to
28 reveal to any person, except as directed by the Court, what

1 questions were asked or what responses were given or any
2 other matters concerning the nature or subject of the grand
3 jury's investigation which you learned during your
4 appearance before the grand jury. This admonishment
5 continues unless and until such time as the transcript of
6 this grand jury proceeding is made public.

7 Violation of this admonishment is punishable as
8 contempt of court.

9 Do you understand?

10 THE WITNESS: Yes, I do.

11 THE FOREPERSON: All right.

12 MR. TESTA: Thank you, sir. You may leave.

13
14 (Pause.)

15
16 MR. TESTA: Thank you for waiting.

17 THE WITNESS: You're welcome.

18 MR. TESTA: Could you state your name,
19 please?

20 THE WITNESS: Christian Pride Sinclair.

21 THE FOREPERSON: Would you raise your right
22 hand, please?

23
24 **CHRISTIAN PRIDE SINCLAIR,**

25 a witness called on behalf of the People, having been duly
26 and regularly sworn by the Grand Jury Foreperson, testified
27 as follows:
28

1 THE WITNESS: I do.

2

3

EXAMINATION

4 BY MR. TESTA: Q. How do you spell your
5 name?

6 A. The first name?

7 Q. Yes.

8 A. C-H-R-I-S-T-I-A-N. Middle name Pride, P-R-I-D-E.
9 Last name Sinclair, S-I-N-C-L-A-I-R.

10 Q. And where do you live?

11 A. At space 88, Orchard Estates, 812 West Clover Road.

12 Q. Space 88.

13 On that laser -- whoops, here's a laser pointer.

14 Could you tell us where your space is? Do you recognize
15 this diagram?

16 A. Now I do.

17 Q. If you could use the laser pointer.

18 A. Oh, okay. Right here.

19 Q. How long have you lived there?

20 A. Five years.

21 Q. With whom do you live?

22 A. Colette Plummer.

23 Q. And how old is she?

24 A. Sixty-five.

25 Q. How old are you?

26 A. I've just turned fifty.

27 Q. Okay. And oh, by the way, did you used to know

28 REDACT?

1 A. I have.

2 Q. Were you the one that ended up -- is your mother a
3 nurse?

4 A. Yes.

5 Q. Do you remember that incident when you guys took
6 REDACT?

7 A. Yes.

8 Q. Tell us what you remember about that.

9 A. REDACT had come down and said that her child was
10 missing. So I drove my truck to REDACT house. I said,
11 "Sure you haven't looked everywhere," and what-have-you.

12 And she said, "Yeah, I've looked everywhere."

13 And while we were discussing it with REDACT and her
14 parents of where REDACT might have gone, she showed up.

15 Q. Were the police with her and Melissa, do you remember,
16 when she showed up?

17 A. No.

18 Q. Because I think we heard police were escorting her.

19 But -- but be that as it may, did you end up at some
20 point taking or suggesting that you take REDACT to your
21 mother?

22 A. I did.

23 Q. And where does your mother live?

24 A. My mother and father live right next-door to me, in
25 number 89 right there.

26 Q. And where does REDACT --

27 A. And REDACT lives -- REDACT lives somewhere here.

28 Q. I thought I heard you say you drove your truck to

1 REDACT?

2 A. Yeah. My truck was parked here. I drove down the
3 street and parked in front of her house. Why I didn't walk,
4 you know, I mean.

5 Q. Yeah. So, anyway, why did you end up taking REDACT to
6 your parents' house?

7 A. Well, we -- we decided -- REDACT had told me that
8 REDACT was not acting correctly. And she was stumbling and
9 really wasn't too stable. And that REDACT had thought that,
10 you know, maybe there was something wrong with her.

11 So we said -- I told REDACT and I said, "Well, take
12 the baby and, me, you, and the baby, we'll go down to my
13 parents' house because my mother used to be a nurse," and --

14 Q. And then from there -- we have heard from REDACT. I
15 didn't mean to go into all this. From there, where did you
16 end up taking them after your mother looked at her?

17 A. Okay.

18 Q. Did you drive them somewhere?

19 A. Yes.

20 Q. Where?

21 A. I did.

22 Q. Where?

23 A. To the Tracy Hospital.

24 Q. Good enough.

25 Now let me go back to Sandra Cantu. Did you know her?

26 A. Not until this whole thing had started.

27 Q. Until what whole thing had started?

28 A. Her disappearance.

1 Q. What about before the date she disappeared, what was
2 your relationship with her?

3 A. No, I didn't have any relationship with her at all.

4 Q. Had you seen her walking around the place?

5 A. There's quite a few kids. I might have seen her, but
6 I did not recognize her. I would not have recognized her.

7 Q. Had you had any contact with her?

8 A. Never.

9 Q. She say hi to you?

10 A. Never.

11 Q. "Can I pick your flowers, pick your weeds, or do
12 anything, small chores around," anything like that?

13 A. You know, we have a small dog, Colette and I, and
14 sometimes some of the kids would come over and ask to walk
15 the dog. But, you know, I mean, other than that, I really
16 never got any names, you know. Like I said, I seen them in
17 the park, so you know.

18 Q. Did you -- how did you learn she was missing?

19 A. Actually, REDACT told me, I believe. Well, let me
20 back up. I think REDACT called me on Friday night somewhere
21 around 9:00 o'clock, and said that, you know, one of the
22 children were missing in the park. And that's how -- that's
23 how I started to learn about it.

24 Q. So did you get involved in the vigils or looking for
25 her or anything?

26 A. I did go to a few of the vigils. I seen REDACT -- I
27 think it was the very first one. I had seen REDACT out
28 front and, you know, I asked her how she was doing, you

1 know, at the vigil. I walked down there with Colette and
2 myself, and we seen REDACT.

3 Q. So did you have -- did you see Sandra at all on the
4 date that she went missing on the 27th of March?

5 A. No.

6 Q. Okay. Did the police end up coming to talk to you?

7 A. At?

8 Q. Any time in connection with this case?

9 A. Oh, yes.

10 Q. Why did they look at you? What was the thing that
11 triggered it, if any?

12 A. I'm not really -- you know, this puzzled me also. I
13 really don't know. I'm a very quiet individual. I don't,
14 you know, I pretty much like take care of -- I take care of
15 Colette, so...

16 Q. What did you do that day on the 27th?

17 A. The 27th.

18 Q. The day she went missing, where were you?

19 A. I was at home with Colette, doing my housely chores.
20 Because I do take care of Colette.

21 At about 6:15, 6:30 or so, I went to my karate class.

22 Q. This is 6:30, 6:15 p.m.?

23 A. Yes.

24 Q. And who is the instructor?

25 A. Mr. Frank Wohler.

26 Q. The guy that was just in here?

27 A. Yes.

28 Q. So you know him?

1 A. Yes.

2 Q. So you went to your class. And were there other
3 people in the class?

4 A. There were.

5 Q. How many other people about?

6 A. Six, seven.

7 Q. Okay. And then what did you do after that?

8 A. I drove back home. I pulled into the park through the
9 main entrance. Started to go to the mailbox, because that's
10 pretty much how I do, noticed that there was a lot of police
11 action down in the middle of the block there. So I actually
12 backed up and just went home.

13 Q. Okay. And did you give another statement, though,
14 that you went to Oakdale and mowed someone's lawn that day?

15 A. No. That was the following day, that was Saturday.

16 Q. Okay.

17 A. 27th is Friday, correct?

18 Q. Yeah. There's a calendar.

19 Okay. So I had written down here is that you had
20 initially said you went to Oakdale and mowed your sister's
21 lawn there because she's disabled.

22 A. 28th.

23 Q. That would have been Saturday?

24 A. Saturday, yes.

25 Q. How do you know it was Saturday that you did that?

26 A. Well, because I know what I did on Friday.

27 Q. What about before you went to your karate class,
28 before -- you said the class started at 6:15?

1 A. Yes.

2 Q. What did you do?

3 A. Actually, the class started at 7:00, but I was to be
4 there early to pick up my Gi.

5 Q. To pick up your what?

6 A. Gi, my karate uniform.

7 Q. And so what time did you get there at the karate
8 class? In the building?

9 A. I'm sorry?

10 Q. What time did you get to the building? What time did
11 you arrive at the karate building, approximately?

12 A. About 6:30.

13 Q. So where were you, say, from 5:00 to 6:30?

14 A. At home.

15 Q. Doing what?

16 A. Making dinner for Colette and myself.

17 Q. Okay. Is Colette disabled?

18 A. Yes, she is.

19 Q. In what way, if I may ask? She can't walk?

20 A. She has trouble walking. She has fibromyalgia, she
21 has high blood pressure, she has -- she can't move for any
22 length of time, you know, do strenuous jobs.

23 Q. Okay.

24 A. You know, she can't mop floors anymore and stuff like
25 that. Or gardening or what-have-you.

26 Q. Okay. So do you have any -- did you know Melissa
27 Huckaby?

28 A. No, not at all. Not until -- actually, not until I

1 think it was a day or two before she was arrested, the FBI
2 came back to my house and they said that they had gotten
3 word that I did know her. And I said no, that I did not,
4 and I could prove it to you. Show me a picture of her if
5 you got a picture of her.

6 And they showed me a picture -- one of the detectives
7 showed me a picture on his cell phone. And I told him at
8 that time I've never -- don't know her, didn't even know
9 where she lived.

10 Q. Had you ever been over to that church that's down the
11 road?

12 A. No.

13 Q. Did you know her parents or her grandparents, the
14 Lawlesses?

15 A. Only in passing, as we live in a small park, you know.
16 I mean, he would pass one way, I would pass the other. I
17 really didn't, you know, really didn't know who he was. I
18 knew he was the pastor of the people down the street.
19 But...

20 Q. So you didn't see her walking around at all on the
21 27th of March, Sandra Cantu?

22 A. No, I did not.

23 Q. And do you have anything to offer, any ideas, any
24 suggestions, any -- let me ask you this: They came to your
25 house and took some blinds from your house, did they?

26 A. Yes.

27 Q. We already heard from the FBI, they did their exam and
28 they told us what the findings were.

1 Did they take -- are you the owner of the Isuzu
2 Trooper they took some cordage out of also?

3 A. Yes.

4 Q. We heard from the FBI about that.

5 And did they take any other things from your house?

6 A. Yes. They took my laptop computer, my cell phone, a
7 hard drive, some CD's, all the blinds from around the house.

8 Q. Was there any --

9 A. Dog hair, you know.

10 Q. Yeah, the trace evidence collection?

11 A. Right.

12 Q. Did they -- was there any pornography on the computers
13 or anything they took?

14 A. No. I had a -- a screen saver page that had pictures
15 of adult women that were a little bit explicit. But no real
16 nudity. I mean, not, you know, not like -- they weren't
17 acts of things.

18 Q. Were you the guy -- there was one guy who had all
19 these nudist colony brochures. Was that you?

20 A. No.

21 Q. Nudist colony information. That wasn't you?

22 A. No.

23 Q. Do you have any other information that you could give
24 to the grand jury that might bear on their task in this
25 case, anything connected with Sandra Cantu, or her
26 disappearance, anything that you can offer at all? This is
27 your time to speak.

28 A. Okay. Actually, no, I don't. I have really, as I

1 stated, I really didn't even know her. I mean, she might
2 have passed through the park. I might have passed by her
3 house or, you know. But there's -- there are a few kids in
4 the park. And, you know, and I mean, I, you know, I would
5 smile and wave to just about anybody, you know. The
6 managers, Mr. Lawless, or, you know, anybody that really was
7 in there, you know.

8 So it's -- I really don't, you know, I just don't know
9 anything about her or -- or Huckaby.

10 Q. Thank you. I have no further questions.

11 MR. TESTA: Are there any questions from the
12 grand jurors?

13 I see none. They have to read you an admonition and
14 you can get on your way.

15 THE FOREPERSON: You are admonished not to
16 reveal to any person, except as directed by the Court, what
17 questions were asked or what responses were given or any
18 other matters concerning the nature or subject of the grand
19 jury's investigation which you learned during your
20 appearance before the grand jury. This admonishment
21 continues unless and until such time as the transcript of
22 this grand jury proceeding is made public.

23 Violation of this admonishment is punishable as
24 contempt of court.

25 Oh, this does not prevent you from discussing the
26 matter with your attorney, if you have an attorney advising
27 you with respect to your appearance before the grand jury.

28 Do you understand?

1 THE WITNESS: Yes, I do.

2 THE FOREPERSON: Thank you.

3 THE WITNESS: Thank you.

4

5 (Pause.)

6

7 MR. TESTA: Could you state your name,

8 please?

9 THE WITNESS: David Slayter.

10 THE FOREPERSON: Would you raise your --

11 would you spell your name, please, for the recorder?

12 THE WITNESS: Huh?

13 THE FOREPERSON: Spell your first and last

14 name, please.

15 THE WITNESS: D-A-V-I-D S-L-A-Y-T-E-R.

16 THE FOREPERSON: Would you raise your right

17 hand, please?

18

19 **DAVID SLAYTER,**

20 a witness called on behalf of the People, having been duly

21 and regularly sworn by the Grand Jury Foreperson, testified

22 as follows:

23

24 THE WITNESS: Yes.

25 THE FOREPERSON: Thank you.

26

27 **EXAMINATION**

28 BY MR. TESTA: Q. Where do you live, sir?

- 1 A. Space 43.
- 2 Q. Could you with that laser pointer show us -- here we
3 go, show us on 51 -- do you recognize what is shown here?
- 4 A. Right here.
- 5 Q. 43?
- 6 A. Yeah.
- 7 Q. And you live there with whom?
- 8 A. My wife and stepson.
- 9 Q. And how old's your stepson?
- 10 A. He's twenty-six.
- 11 Q. And what about do you live there with your father,
12 too?
- 13 A. With who?
- 14 Q. Do you live there with anyone else?
- 15 A. No, that's it right now.
- 16 Q. What about back in March of '09, whom did you live
17 there with?
- 18 A. Just the three of us.
- 19 Q. Okay. All righty. So you live -- was it 43 or 44?
- 20 A. 3.
- 21 Q. 43.
- 22 Did you see Sandra -- did you know Sandra Cantu?
- 23 A. Yes.
- 24 Q. How did you know her?
- 25 A. She used to come over all the time.
- 26 Q. She used to come over where?
- 27 A. To our house.
- 28 Q. And for what purpose?

1 A. Just to visit.

2 Q. And what kinds of things would she do when she was
3 over there?

4 A. Talk and we baked cookies. She's been over there for
5 dinner.

6 Q. When you say, "We would bake cookies," who is "we"?

7 A. Sandra and me and my wife.

8 Q. And anyone else?

9 A. No, not baking cookies. Just that's it.

10 Q. And when she would come over and eat dinner, who is
11 the "we" there?

12 A. Me and my wife and Jeff and Sandra.

13 Q. And Jeff's full name is?

14 A. Jeff Barringer.

15 Q. How old did you say he was?

16 A. Twenty-six.

17 Q. So the -- what other things would she come over and do
18 over there?

19 A. Just hang out. She was bored and so she just come
20 over, sit around.

21 Q. Did you know her parents?

22 A. Yes.

23 Q. Or her mother?

24 A. Well, her mom I spoke with a few times. I didn't know
25 her like -- like on a personal level. But I had talked to
26 her a few, you know, on occasions I talked to her.

27 Q. Did you ever let her know that Sandra was over there?

28 A. Oh, yeah. Sandra checked in all -- every time she was

1 there. She called, told -- you know, we had her call and
2 tell her mom she's at our house. And -- and every half hour
3 or so, she'd be calling, checking in.

4 Q. Okay. Was there -- did Sandra have a rule that she
5 had to call her mom every twenty or thirty minutes?

6 A. No, that was just what we -- we had her do that.

7 Q. Okay. And what was she like?

8 A. Friendly. Friendly little girl.

9 Q. Okay. Did you see her -- how did you hear that she
10 went missing?

11 A. Some little -- some other -- other -- her friends of
12 the little girls was -- met us at the door when we was
13 walking out to go bowling.

14 Q. When who was walking out to go bowling?

15 A. Me and my wife.

16 Q. Okay. And they met you as you're walking out?

17 A. Yeah, they was walking by and we opened the door and
18 that's when they, "Hey, have you seen Sandra?" And that's
19 when we first heard that, you know, she was missing.

20 Q. And you and your wife were on your way to go bowling?

21 A. Yes.

22 Q. And what had you guys done, say, in the last few hours
23 up to that point of getting ready to go bowling?

24 A. Take a shower -- well, I took a nap and showered.
25 And -- and ate. While I was taking a nap, she was cooking
26 dinner. And --

27 Q. Does your wife work during the day?

28 A. Yeah.

1 Q. Where?

2 A. At K-Mart.

3 Q. What time does she get back home normally?

4 A. Mmm, that particular Friday, she didn't actually work.
5 She was running around with her friend, doing her hair and
6 stuff. But she got back around 5:00 or 5:30.

7 Q. On that particular day that Sandra --

8 A. Yeah.

9 Q. Let me finish. The date Sandra went missing, your
10 wife came back about 5:00 or 5:30?

11 A. Yes.

12 Q. Did you see Sandra Cantu on the date she went missing?

13 A. Yes.

14 Q. Could you show us about what time and where on the
15 diagram?

16 A. It was around -- around 4:30 -- I mean, around
17 4:00 o'clock, right here, she was walking by my house, right
18 in front on my side right here.

19 Q. Okay. We heard from this girl --

20 A. She was walking this direction.

21 Q. Hold on. Let me put on the record. Do you know the
22 little girls that live in number 9?

23 A. No.

24 Q. Mrs. Diaz's child Cassandra?

25 A. No.

26 Q. They just moved in. They had a little swing set out
27 in front. Did you know them at all?

28 A. No.

1 Q. And we heard she saw her. We already heard her
2 testimony of Sandra leaving.

3 When you saw Sandra, what street is she on? Is she on
4 Orchard? Is she on Apricot? Or tell us, what's your best
5 recollection?

6 A. Apricot.

7 Q. Going which direction?

8 A. North.

9 Q. North meaning down?

10 A. Yeah. She was walking this direction.

11 Q. From?

12 A. From here, she walked right here.

13 Q. 44 to 43?

14 A. From 43, she was walking this direction north.

15 Q. Okay. Did you see her at all cut over to the -- to
16 the -- Cherry?

17 A. No.

18 Q. Did you know her to take a shortcut through the
19 clubhouse area or the area near the car wash to cut over to
20 her place?

21 A. She always did, yeah.

22 Q. Okay. When you saw her, did it appear that she was on
23 the way to do that, cutting through, or was she on her way
24 somewhere else, or could you tell?

25 A. She was -- she just came from that cutting -- cutting
26 through here and then down -- down there.

27 Q. Oh, she was coming from the direction of her house --

28 A. Yeah.

1 Q. -- if I understand it correctly?

2 A. Yeah.

3 And she looked up the driveway and she looked out
4 here. Because we got -- we have rules, she cannot come to
5 the house -- she's not allowed at the house unless there's
6 two or more people at the house.

7 And she looked up the driveway, which is right along
8 this top line right here.

9 Q. The line between 43 and 44 on Exhibit 51, right?

10 A. Yeah. There's -- that's my driveway right up along
11 here.

12 And there was only my car there. So she looked out
13 here and over here, I suppose.

14 Q. You are indicating towards the clubhouse?

15 A. The parking lot.

16 Q. Overflow parking?

17 A. Yeah, cars park there.

18 So she looked over there, looked up in there, and she
19 only saw my car, so she just kept on -- she went on by.

20 Q. North on Apricot?

21 A. Yeah.

22 Q. Okay. And did you see where she went, which direction
23 she went --

24 A. No, I --

25 Q. -- over to number 9 or over back to her place, did you
26 see either way?

27 A. No, I -- I was looking out -- I looked out the window
28 and saw her look over here, look up in here. As she walked

1 by the driveway, I was -- happened to be there and saw her
2 walking by, and she looked and looked. And -- and then that
3 was it. I mean...

4 Q. Was she by herself?

5 A. Yes.

6 Q. All righty. Let me see if I have any other questions
7 for you.

8 And did the -- did -- so how -- you heard she was
9 missing. What did you do once you heard she was missing?
10 You are on your way to go bowling, right?

11 A. Yeah.

12 Q. So what did you end up doing?

13 A. We went ahead and went bowling, you know, thinking
14 that she's just at a friend's house. I mean, that happened
15 often. So we didn't really get panicky about it.

16 So we went ahead and went bowling. And around 9:00,
17 9:30, we called her mom, Maria.

18 Q. You and your wife called?

19 A. Well, my wife called. But, you know, see if they --
20 if she's home yet, you know. So she said no. And the --
21 and all that. And so we are like --

22 Q. Then what happened?

23 A. So after the bowling, we got back to Tracy and -- and
24 we went to Maria's -- straight to Maria's. We didn't even
25 go to the house and park the truck. We parked in front of
26 Maria's house.

27 Q. Where did you call her from? I thought you called
28 Maria, the mother.

- 1 A. Yeah, on the cell phone at the bowling alley at 9:00
2 o'clock.
- 3 Q. Pardon me. Go ahead.
- 4 A. Around there.
- 5 Q. So you drove to Maria's, you and your wife?
- 6 A. Yeah. Yeah.
- 7 Q. Then what happened?
- 8 A. Well, the cops were there, and -- and we just, I don't
9 know, went there because we was concerned, you know. We --
10 you know.
- 11 Q. Well, did you participate in the -- any of the
12 searches for her?
- 13 A. No, I can't. I couldn't.
- 14 Q. Why?
- 15 A. I got a bad prostate.
- 16 Q. Where -- oh, by the way, your son, was he home at all
17 on that date, the 27th?
- 18 A. No.
- 19 Q. Where was he?
- 20 A. He was at his uncle's.
- 21 Q. Which is where?
- 22 A. Tracy.
- 23 Q. Okay. When did you next see your son?
- 24 A. Before we went bowling, he -- he had came home and was
25 taking a shower.
- 26 Q. Oh, so your son was home on the 27th?
- 27 A. Well, I mean, he had came, yeah, he came home.
- 28 Q. Oh, what time did he come home?

- 1 A. Mmm, I'm thinking 5:30, 6:00 maybe.
- 2 Q. And where had he been?
- 3 A. At his uncle's.
- 4 Q. Oh, how do you know that?
- 5 A. Because he said that.
- 6 Q. Okay. And then what did he do when you went bowling?
- 7 Where was he when you went bowling?
- 8 A. He had went out with some friends.
- 9 Q. How do you know that?
- 10 A. He said he did.
- 11 Q. Did he have his own car?
- 12 A. Yes.
- 13 Q. Did you see him take off before you went bowling?
- 14 A. No. He was still getting ready, taking a shower and
- 15 stuff.
- 16 Q. When you came back from bowling and went to Chavez's
- 17 house -- now, did you go back to your house eventually?
- 18 A. Yes.
- 19 Q. And was he there?
- 20 A. Yeah -- no, no, no, no. Not that night.
- 21 We went back to the house, but then he drove up as we
- 22 was heading back to the house, he pulled up.
- 23 Q. Did you know Melissa Huckaby at all?
- 24 A. No.
- 25 Q. Did you ever go to that church?
- 26 A. No.
- 27 Q. Did they -- did the police take some things from your
- 28 house?

1 A. Yes.

2 Q. What did they take?

3 A. Computers, cameras, cell phones, and --

4 Q. Did they take any blind or cords or anything?

5 A. No.

6 Q. Did they check your car out?

7 A. Yeah.

8 Q. Take anything from your car?

9 A. No.

10 Q. Okay. Did they take any pornography from your place?

11 A. No.

12 Q. Anything on the computer that was suspicious?

13 A. No.

14 Q. Okay. All righty.

15 Do you have any information you could tell these grand
16 jurors, any information you think might bear on this case?
17 Any ideas, any thoughts?

18 A. Mmm, no. I don't have a clue what's...

19 Q. Did you have her -- did you have your own cell phone?

20 A. Yeah, I had one.

21 Q. Did you have any photographs on the cell phone -- on
22 that cell phone?

23 A. Yes. Not pornographic. But --

24 Q. What kind of photographs did you have on your cell
25 phone?

26 A. Sandra took some pictures of her and -- and -- me and
27 her, and Jeff and her, and out -- outside at -- on the patio
28 set, the table.

1 Q. Okay. So those were saved on your cell phone?

2 A. Yeah.

3 Q. Did you end up, when the police got involved, you
4 know, and they're looking for her and everyone is searching
5 for Sandra, did you ever go up to the police and approach
6 them and give them some ideas?

7 A. Ideas?

8 Q. Did you ever go up and approach the police?

9 A. When I told them --

10 Q. Yes or no, do you understand the question?

11 A. Not really.

12 Q. Do you ever -- let me ask, at some point did the
13 police come to the trailer park and start looking for
14 Sandra?

15 A. Yeah.

16 Q. And where were you?

17 A. In the house.

18 Q. Okay. Did you stay in the house?

19 A. Well, no, I sit out on the front porch.

20 Q. And did you ever go up to one of the officers and talk
21 to them?

22 A. Just asking if they are close.

23 Q. Before I ask you what, did you ever go up to one of
24 the officers and talk to him, yes or no? You did or you
25 didn't.

26 A. Yeah.

27 Q. Okay. That's -- that's all I wanted to know. You
28 did. Now the question is what did you say to them?

1 A. I told them about suspicious stuff that -- to me, that
2 what I thought was suspicious.

3 Q. Okay. Did you mention your cell phone to them?

4 A. No. I didn't know that that would be a big deal, so I
5 didn't mention it.

6 They -- they came to me and asked me about my cell
7 phone, if there was any pictures on it or anything.

8 Q. And what did you say?

9 A. I started talking about the day before that to them,
10 when they came and asked Jeff -- they didn't ask me, they
11 asked Jeff -- you know, about pictures of any kind. So that
12 kind of sidetracked me. And then they left. And I'm like
13 "Oh, man, I got -- I got some pictures of Sandra on my
14 phone."

15 So -- so there was two other officers and so I went to
16 them and I said, "You know what?" And I told them what just
17 happened. And I said, you know, "Here's my phone," you
18 know.

19 Q. Oh, I see. So the first day they were asking your son
20 about whether he had any pictures --

21 A. Uh-huh.

22 Q. -- is that correct?

23 A. Yes.

24 Q. Is that a yes?

25 A. Yes.

26 Q. But they didn't ask you?

27 A. No. Right.

28 Q. Or did they ask you that first day, yes or no?

1 A. No.

2 Q. So the second day, you -- you -- is when you go up to
3 the officer --

4 A. Yeah.

5 Q. -- and show him your cell phone?

6 A. The second day, they came to me, and then I told him
7 about the day before, which sidetracked everything, and then
8 they walked away, and then around the corner, and so...

9 Q. As they were walking away and they went around the
10 corner, what did you end up doing?

11 A. That's when I remembered that I did have -- the
12 question they asked me was if I had pictures on my cell
13 phone. And because of the sidetraction, I didn't remember
14 until they were around the corner. So I got up and I went
15 around, looked down that street and there was two other cops
16 there. I didn't see the ones that asked me, but there was
17 two other ones. So I went to them and I said -- you know, I
18 told them what just happened. And I said, you know, "The
19 pictures are on my phone right here."

20 Q. Okay. And you showed them the phone?

21 A. Yeah.

22 Q. Did they take your phone, by the way?

23 A. Yeah.

24 Q. And just photos of you and your son and Sandra out on
25 the patio?

26 A. Right.

27 Q. Sandra took the photos. What, do you hold it up and
28 you get the three of you on it?

1 A. No, two -- well, yeah, it was like she was standing
2 here and -- and took a picture. We took -- she wanted
3 pictures.

4 Q. Did you have something in your bedroom that belonged
5 to Sandra?

6 A. Just a cookie dough order form.

7 Q. What was it?

8 A. Cookie dough order form.

9 Q. And where did you get the cookie dough order form?

10 A. From her. I had sold cookie dough for Sandra at work
11 and stuff. And at the bowling alley. So I needed that to
12 know who ordered what.

13 Q. Oh, okay. It was one of these -- okay. I see what
14 you're saying.

15 All righty. So let me just look at my notes. And if
16 there are any questions from the grand jurors.

17 Had other girls been inside your residence, too?

18 A. Yeah.

19 Q. Besides Sandra?

20 A. Yeah.

21 Q. Little kids?

22 A. Yeah.

23 Q. For what purpose?

24 A. I don't know. She -- they came over with her.

25 Q. Nikayla, Brianna, other little girls?

26 A. Yeah.

27 Q. And what would you guys all do over there?

28 A. They'd play --

1 Q. Did you have any --

2 A. -- watch TV.

3 Q. What else?

4 A. There was a -- there was a -- I got a Teeter thing --
5 I think it's a Teeter -- you -- you put your feet in, your
6 ankles in, and then you hang upside-down. And they liked to
7 play on that a whole lot.

8 Q. That was a piece of exercise equipment that you had?

9 A. Yes, it is.

10 Q. Where they hang upside-down?

11 A. Yes.

12 Q. Did you end up having to leave work because of Sandra
13 missing?

14 A. Yeah.

15 Q. What was that all about? You couldn't go to work
16 anymore because Sandra was missing?

17 A. No.

18 No. My supervisor made a -- a bad joke about it.

19 And --

20 Q. Where do you work again?

21 A. Costco.

22 Q. Oh, okay. So you're at Costco where, Tracy?

23 A. Yeah.

24 Q. And your supervisor, what does he say in this bad
25 joke?

26 A. I don't -- it's something about some guy -- some guy
27 take -- driving around in a sedan taking pictures of the
28 kids in the playground or something like that. And was

1 asking me if I told the police about it or something.

2 And I was like, "What the heck?"

3 You know, I just -- I just couldn't -- couldn't
4 understand that. And -- and tears started rolling, I mean.

5 Q. Because? What was -- I don't understand the joke.

6 A. I don't either.

7 But the supervisor that said it said he was joking.
8 So that's why I'm saying that he said a joke. It's not a
9 joke. It wasn't a joke to me. And I didn't take it that
10 way. If that's what he was saying.

11 Q. So what was your reaction to his comments?

12 A. Well, I got emotional.

13 Q. And you ended up having to leave work?

14 A. My other supervisor, he was there and witnessed that
15 whole thing and -- and -- and what I did.

16 And he -- after I got emotional and I left, that --
17 that one -- the supervisor that said that, then didn't --
18 the one that witnessed it, he -- he's like, "You know what?
19 Why don't you -- why don't you go home." You know, I mean,
20 you know, and -- and take -- and he gave me the rest of the
21 week off, too. So...

22 Q. What did you do that week?

23 A. Nothing. Sit home and...

24 Q. Okay. Question from the grand jury: Was there any
25 other small children next to you when Sandra would have gone
26 to play after she passed your house on the 27th?

27 A. No.

28 Q. Were there any other small children next to you -- oh,

1 I see. You lived in what number again?

2 A. 43.

3 Q. Did any little kids live near there --

4 A. No.

5 Q. -- that she would go play with?

6 A. No, not around there.

7 Q. Did you know anything about the gal in number 9?

8 A. No.

9 Q. The woman in number 9?

10 A. No.

11 Q. Question from the grand jury: A bad prostate kept you
12 from helping in the search?

13 A. Yeah. Frequent urination.

14 Q. But you were able to bowl?

15 A. Well, there's a bathroom right there.

16 You pass flyers out and you're hanging them up, then,
17 you know, you're walking all over the streets and hanging
18 them on flagpoles and streetlights and...

19 Q. Did you do any of that? How do you know they did all
20 those things?

21 A. Jeff did it.

22 Q. Oh, your son helped out?

23 A. Yeah. He -- he was doing that. So he told me, you
24 know, what they had to do.

25 And I'm like, "Oh, my goodness, I, you know, can't do
26 that."

27 Q. Was there any -- did you -- was there any other reason
28 you could not be involved?

1 A. No, no other reason.

2 Q. Do you continue to remain friends with her mother? Or
3 did you have any more contact with Sandra Cantu's mother
4 after --

5 A. No.

6 Q. -- after the date she went missing?

7 A. No.

8 Q. All right. I have no further questions.

9 MR. TESTA: Any questions from the grand
10 jurors?

11 I see none. They will read you an admonition.

12 THE FOREPERSON: You are admonished not to
13 reveal to any person, except as directed by the Court, what
14 questions were asked or what responses were given or any
15 other matters concerning the nature or subject of the grand
16 jury's investigation which you learned during your
17 appearance before the grand jury. This admonishment
18 continues unless and until such time as the transcript of
19 this grand jury proceeding is made public.

20 Violation of this admonishment is punishable as
21 contempt of court.

22 This does not prevent you from discussing the matter
23 with your attorney, if you have an attorney advising you
24 with respect to your appearance before the grand jury.

25 Do you understand?

26 THE WITNESS: (Nods head affirmatively.)

27 THE FOREPERSON: Do you?

28 THE WITNESS: (Nods head affirmatively.)

1 THE FOREPERSON: You can't discuss this with
2 anybody.

3 THE WITNESS: Yeah.

4 THE FOREPERSON: Okay. Thank you.

5

6 (Pause.)

7

8 THE FOREPERSON: Why don't we just go ahead
9 and take about a five- or seven-minute break.

10

11 (Recess.)

12

13 MR. TESTA: Are we all accounted for?

14 THE SECRETARY: We are all accounted for.

15 MR. TESTA: Okay. I have no further
16 witnesses, Ladies and Gentlemen.

17 Are we all on the record, accounted for?

18 THE SECRETARY: Yes.

19 MR. TESTA: I have no further witnesses. I'm
20 going to ask a few questions of Mr. Bauer, Detective Bauer.
21 And if you have any for him, this will be the last time he
22 will be subject to questioning.

23 And then I'll make a few comments and closing
24 argument. Maybe five or ten minutes. Read to you the jury
25 instructions, which it might take a little longer, thirty
26 minutes. Then you can begin your deliberations.

27

28

TIMOTHY BAUER,

1
2 a witness called on behalf of the People, having been
3 previously duly and regularly sworn by the Grand Jury
4 Foreperson, testified as follows:

EXAMINATION

5
6
7 BY MR. TESTA: Q. Mr. Bauer, we heard from
8 these three individuals this morning. Did you look into
9 Christian Sinclair, Francis Wohler and David Slayter?

10 A. Yes.

11 Q. What did you find about these guys? I mean,
12 individually, what did you -- why did you look at them and
13 what did you find, starting with --

14 A. Starting with Frank Wohler, we looked into him. It
15 was brought to our attention the night Sandra went missing
16 he had possibly kissed her either on the face or on the
17 mouth at the swimming pool two years prior, that the
18 grandma -- Sandra's grandmother witnessed that.

19 So that's why he was brought to our attention. So our
20 initial focus the night of was to contact him and verify his
21 association or relationship with Sandra.

22 We ruled him out because his timeline we were able to
23 verify through his work calendar, the karate studio,
24 students he had, that during the time Sandra went missing
25 that he was at work. And we did account for his -- where
26 he -- his location.

27 Q. Did people check with the students in the class --

28 A. Yes.

1 Q. -- and interview them?

2 And the black belt person, whatever that person's name
3 is?

4 A. Yes.

5 Q. What about -- I'm sorry, I cut you off. Was there
6 anything else on him?

7 A. (Shakes head negatively.)

8 Q. Search of his place reveal anything?

9 A. Nothing. Searched his karate studio the night of,
10 nothing. His vehicle, nothing. His house, he gave consent
11 the night of, nothing.

12 Then we later did a search warrant on his -- to
13 attempt to recover any evidence as it related to Sandra's
14 disappearance. We didn't get anything out of there even to
15 analyze.

16 Q. What about the other gentleman?

17 A. Christian Sinclair, we started looking at him actually
18 because Melissa directed us to him. Melissa Huckaby, when
19 she interviewed with Mike Conrad on the 28th after finding
20 the note in the trailer park. So that was the first time we
21 started looking at Christian Sinclair, because she had
22 stated that she thought Sandra had -- she was suspicious
23 because each person that lived in the trailer park was asked
24 who they found suspicious and possibly could have
25 involvement regarding Sandra's disappearance.

26 We started looking at Christian Sinclair. He was
27 interviewed and he, you know, he gave two different
28 statements on different conversations with different agents

1 and investigators from Tracy PD and FBI.

2 Q. What were the two?

3 A. His initial statement what I believe was that he and
4 his girlfriend Colette Plummer went to -- the day that she
5 was missing and during that time period, that he was over at
6 his sister's house in Oakdale mowing her yard because she
7 had recently come down with cancer, so he was helping her
8 out. And then I think either on the way back or the way
9 there, Oakdale being a forty-five minute drive from Tracy,
10 stopped off I think at their church or something. And that
11 was his initial statement.

12 But then in looking into that and attempting to verify
13 that, he was contacted again. And then another statement he
14 gave was that he was at home during that time period with
15 Colette watching movies at their residence.

16 Q. Well, today he was saying, "Well, the mowing of the
17 lawn, that was the Saturday. And on the 27th, I was home
18 with Colette."

19 A. Yeah, he did cross his dates up. He -- and that was
20 one thing he said, he wasn't sure which he did on Friday,
21 which he did on Saturday. But those were the two statements
22 he gave us.

23 Q. Did you search his places?

24 A. Yes, we did.

25 Q. Did you find some blinds in his place?

26 A. We did find some blinds.

27 Q. And they had a cut cord or something?

28 A. It appeared it was cut or frayed or old, so we

1 collected all his blinds and we sent those off for the same
2 analysis done on the church blinds.

3 Q. We heard from the FBI guy, he ruled those out.

4 A. Correct.

5 Q. So anything else that you find in his place, his car,
6 his house, anything?

7 A. No. We -- we seized his cars. And just like we
8 seized Frank's cars. We followed him for long period of
9 time during this investigation. We followed Frank for a
10 long time during this investigation.

11 And we just found that Christian liked to go on walks
12 at weird hours because he was a recovering alcoholic. And
13 he didn't -- he didn't show us anywhere, he didn't take us
14 anywhere, nothing was abnormal about what he did, except
15 that he was hiding his drinking from his girlfriend.

16 Q. Did he say he jumped over the wall?

17 A. Yeah. He lived right on the corner of the complex.
18 Next to Food Maxx, there's a cinderblock wall right here.
19 He lives right here. Well, he has a little porch that you
20 can get up on his porch and just hop right over. And I
21 don't know why, he did this numerous times.

22 The surveillance team reported that he would go for
23 walks. And I believe there was times where he felt like he
24 would either be stressed out or needed a walk instead of
25 drink. He would hop the wall, walk down the street, and
26 then walk back.

27 One time, he actually got out and avoided our
28 surveillance units that were watching him, and he -- then he

1 came back right in the front entrance, walked in and went
2 home.

3 Q. Would he go out there and drink?

4 A. He was followed one time. He -- he had a suspended
5 license. He wasn't supposed to drive. But we knew he
6 would. So we followed his Isuzu Trooper. And he went and
7 snuck a beer and went over to Ace Hardware and parked
8 between two U-haul trucks and drank a beer and came back.
9 He was telling Colette, his girlfriend, he wasn't drinking.
10 But we knew he still was.

11 Q. And you got some blinds from his place?

12 A. Yes.

13 Q. And the Trooper -- and some cords from the Isuzu
14 Trooper?

15 A. Yes.

16 Q. And that was -- we heard about that being excluded.
17 What about this last guy we heard about?

18 A. David Slayter?

19 Q. Yeah.

20 A. We looked at him -- well, he, you know --

21 Q. He's the guy that lives over --

22 A. 43, yeah. Right here.

23 And, interestingly, you know, he was just part of the
24 whole entire canvass, very first week, everyone gets
25 interviewed, see how Sandra -- what's your association, and
26 he claims he does. We learned through other -- other
27 trailers in the canvass that -- that he -- he had
28 association with her, and, you know, we get tips throughout

1 this entire investigation that came in through our different
2 tip lines, and we get tips of, you know, "Hey, you might
3 want to talk to him," or, "He's one person that knew
4 Sandra," him and his stepson.

5 So he was contacted. And we ended up later doing a
6 search warrant on his trailer I believe on April 3rd.

7 Q. What did you find?

8 A. We seized computers. Preliminary, we found child porn
9 on two different computers in there.

10 We found a -- one of Sandra's PTA school forms, like
11 if you are going to have a school fundraiser for the school.
12 She went to Jacobson. For some unknown reason, it was in
13 one of his dresser drawers in his bedroom that the FBI
14 search people found when they processed that.

15 You know, and he kinda -- he willingly, the day before
16 the search warrant, contacted one of our investigators that
17 was on a different -- same assignment, but different project
18 regarding the Cantu investigation. He approached him as
19 they were walking down his street, I think it's Apricot, and
20 showed him his cell phone and said, "Hey, you know, I got
21 pictures of Sandra. How can I help?"

22 And he was trying to be helpful. And we just weren't
23 satisfied with the picture he showed us on the cell phone.
24 So he gave his consent, we took the cell phone, like Maria's
25 phone, like Melissa's phone, like Connie's phone, we with
26 his consent downloaded all the information off his phone.
27 And thought his relationship was a little odd with Sandra.

28 Q. Whose relationship?

1 A. That Slayter's -- David Slayter's relationship was a
2 little odd with -- with her. So we executed a search
3 warrant the next day at his house. Came down, he
4 voluntarily interviewed with us. Explained to us that, you
5 know, he worked for Costco. One issue came up was that a
6 week after -- actually, no, I'm sorry, the week of --

7 Q. He already told us about how he cried.

8 A. He was crying. And that was -- came in off a tip. So
9 he was contacted and questioned regarding that. You know,
10 he just said he missed her and so -- but minus the child
11 porn that were on two different computers, there was
12 nothing, we didn't find anything related to Sandra's
13 disappearance or death.

14 Q. What about the -- the -- did you ever confirm that he
15 went bowling with his wife?

16 A. He did, we confirmed that off records, yes.

17 Q. You -- you went to the bowling place?

18 A. Detective Kootstra and FBI agent went there.

19 Q. You ever contact his wife?

20 A. Yes, we did. We interviewed her separately the same
21 day of the search warrant. She --

22 Q. What about his son?

23 A. Yeah, his stepson.

24 Q. What's his name?

25 A. Jeffrey Barringer.

26 Q. What did you find about him?

27 A. He also was friends with Sandra.

28 Q. He's the twenty-six year old or something, I think the

1 evidence was.

2 Whatever, okay, the adult son. What did -- did you
3 look at him?

4 A. Yeah. He -- we looked at him also. We found some
5 child porn on the computer that he said he -- he, you know,
6 he had access to in the trailer.

7 He's -- he's a loner. He periodically works for a
8 family member that does realty in Tracy.

9 Q. Did you check out his alibi?

10 A. Yes. Detective Kootstra was assigned to him
11 specifically. And we followed him. We searched his car.
12 We didn't get anything out of his car. Searched his
13 bedroom. Because he lives with his mom Deborah and his
14 stepdad Mr. Slayter.

15 And he -- he went to -- that night, he went to
16 Maxim's, a local bar and club in Tracy. And he was there.
17 We were able to verify that. There was a girl that cuts his
18 hair that was there, and she was spoken with and she
19 verified that.

20 Q. Frank Wohler's hair? Who are you talking about now?

21 A. No, I'm talking about Barringer.

22 Q. Barringer's son -- or Barringer?

23 A. Yeah, Barringer.

24 So he -- that was his statement to Detective Kootstra
25 was that he did -- that he went there that night and he was
26 home during the day for -- for part of the time and that --
27 so, he doesn't really work as far as like, you know,
28 full-time employed job.

1 Q. What about this information that, see, of Frank Wohler
2 was kissing this little three-year-old girl at the karate
3 studio, let's see, when Michelle was four, she saw Wohler
4 kiss Michelle on the lips of her mouth at the karate studio.

5 Did you know anything about that?

6 A. That came out when we started looking into Frank.

7 I believe that was a girl that her name came up that
8 he picked up for karate on the 27th, because that was part
9 of his alibi, that he left the studio to go pick her up
10 because her mom works and she had been a student a long time
11 under Frank's teaching at the karate studio.

12 And so she was questioned, and later questioned during
13 this investigation, and it was learned that Frank possibly
14 had -- had hugged or kissed her before.

15 Q. Okay. Were there other people that you looked inside
16 the trailer park as suspects?

17 A. Yeah. I think you guys have seen it before. There
18 was the photo of the trailer park and it has different
19 pictures of people's heads on here and stuff.

20 Q. No, we haven't seen that, no.

21 But you looked at a lot of people?

22 A. We interviewed a guy named Ian Stewart at 12, the one
23 Miranda, Sandra's sister, told us that they thought creepy
24 because he stared at the kids weird when they walked by.
25 That's why Sandra, remember, would walk this way to return
26 home from when she'd play with Cassandra in number 9.

27 Q. North on Apple, you're indicating?

28 A. Correct. And she usually cut through right here by

1 Barringer and Slayter's house. This is actually truly the
2 shortest route to go boom, boom, just on Apricot south and
3 cut right through the park, as you see it on the day that
4 she went missing.

5 He was talked to extensively by investigators. And as
6 you know, REDACT and her family was. Anybody that had
7 association with her, and specifically males, just based on
8 the type of crime that we had.

9 And she had a lot of friends in here, too. Some
10 friends, I think it's 94. Nikayla, a girl that we talked to
11 a lot. She would frequent in this place. So they were
12 talked to.

13 Q. I'm looking at maybe exculpatory evidence. Any other
14 guys that you guys focused in on besides the ones we have
15 discussed already? Men or women that you focused in on to
16 back up your suspicions?

17 A. Just Mr. Sinclair, Mr. Wohler, Mr. Stewart, Barringer
18 and Slayter here. A female, that she had been to her house
19 before, I think it's in 26, I would have to see the numbers.
20 But -- not 26. It's in 30, a blonde female that would --
21 would babysit people. But we located her. And Sandra had
22 been nowhere near that place on the day that she disappeared
23 or recently.

24 Q. What about dogs, didn't they hit on the Cadillac?

25 A. Yeah, the cadaver dogs did hit on the back of the
26 Cadillac I believe belonged to --

27 Q. Colette Plummer?

28 A. -- Colette Plummer.

1 Q. Who is --

2 A. Christian Sinclair's girlfriend.

3 Q. In 88?

4 A. Correct.

5 Q. And did they -- is that uncommon? I mean, did that go
6 anywhere?

7 A. They couldn't tell us why. We did a secondary test,
8 they said it hit again. And they said it possibly could
9 have been the groceries. They had had a mixture of salmon
10 and dog food in the trunk prior to the search where dogs
11 hit.

12 We followed that test up, the FBI did, with a complete
13 luminol of the entire car, and it gave us nothing.

14 Q. And -- and when you guys were doing your canvass of
15 the area outside the trailer park, did you come across
16 condoms and toys, and stuffed animals, and different gloves,
17 and all different kind of things out and around the area?

18 A. Yes.

19 Q. Including North Tracy Boulevard or some of the off --
20 off streets?

21 A. Yes.

22 Q. Side streets?

23 A. Yes.

24 Q. Did you do any tests or did you --

25 A. We collected everything that was found that would be
26 photographed in place and collected.

27 We found on Sugar Road, which is a side road off Tracy
28 Boulevard, as you go northbound towards the irrigation pond,

1 we found like a hair scrunchie. We found a stuffed animal.
2 We periodically found shirts. At one time, we did the
3 entire dump search of the City of Tracy commercial over the
4 whole two weeks of anything that was dumped in any
5 commercial garbage can in Tracy.

6 Q. Did you take the scrunchie or the toys over to the
7 Cantu residence and ask Mrs. Chavez, "Hey, is this yours or
8 is this Sandra's?"

9 A. Yes. I showed them to her, and she did not recognize
10 either and did not know Sandra to ever wore a scrunchie like
11 that. And had never seen the stuffed animal before. It was
12 a old worn stuffed animal.

13 Q. Were these condoms that were found at various places,
14 did they appeared weathered?

15 A. They appeared very old, just like the one that was
16 found I believe out on Whitehall Road.

17 Q. We have heard about that from Hopkins. Near the
18 matches.

19 And, all righty, is there any other exculpatory
20 evidence that you can think of, or potentially exculpatory
21 evidence?

22 A. 93, John Zuniga.

23 Q. Oh, yeah, the manager.

24 A. The manager.

25 Q. We heard from his wife the other day.

26 A. John Zuniga had been the -- the trailer managers there
27 for eleven years. And so -- we come in here periodically
28 for calls for service. But he has a cart that he drives

1 around, and Marilyn drives around, a little golf cart, to
2 pick up trash, to kind of be the eyes and ears of the place.

3 And somebody brought up to us that, hey, they see him
4 with little kids and stuff like that.

5 He was questioned extensively by -- by my partner,
6 Detective Knight, in an interview at his residence, and as
7 to his whereabouts, and the concern was he wasn't seen and
8 he's -- a lot of the neighbors calls him really nosy and
9 stuff like that and he mettled and stuff.

10 He wasn't seen the day Sandra disappeared. We spoke
11 with Marilyn and him later on. He was -- he had severe flu
12 during that time and he was actually pretty much bedridden
13 for the day of and the day after, the 27th and 28th, during
14 those days.

15 Q. Wasn't he the one that was doing things to the little
16 girls in the pool, or touching them or something? Or wasn't
17 there an accusation that he was doing something to the
18 little children in the pool? Do you remember something like
19 that?

20 A. I don't.

21 Q. Either exposing himself or doing something? Do I have
22 that wrong? I know he was doing something. I'm not sure if
23 it was exposing or something, but it had something to do
24 with the kids.

25 But in any case, did you look into him?

26 A. Yeah, we looked into him. And children did ride in
27 the golf cart with him as he drove around because they
28 thought it was cool to ride around in a golf cart, stuff

1 like that.

2 We knew his whereabouts during the entire case. We
3 knew exactly where he was when Sandra disappeared on the
4 27th. And we were able to verify through his wife's
5 statements where he was also during that time.

6 Q. Okay. Was there anything else that might be
7 classified as potentially exculpatory, made you -- while
8 you're thinking, let me ask these questions from the grand
9 jurors.

10 Question from the grand jury: Were there any other
11 small children next to where Sandra would have gone to
12 play -- no, that was from previous witness.

13 I believe Melinda Pierce stated she found nothing on
14 the note when she tested it. If it was from a witness,
15 would there have been at least that person's fingerprints on
16 the note? If it had -- go ahead. Can you answer that
17 question?

18 A. Yeah, I can answer that.

19 She did what's called a Ninhydrin test where you hope
20 it will lift prints. It also will destroy the note at the
21 same time, as far as the writing.

22 But, yeah, that was done very early after it was
23 seized in the park. And we weren't able to recover any
24 prints. And that's common. Sometimes you do; sometimes you
25 don't. Sometimes you can recover DNA off a note; sometimes
26 you can't.

27 Because the Ninhydrin test was done, we haven't had
28 DNA conducted on the note itself -- the stolen suitcase note

1 that was found. But, no, we didn't. And it's hit or miss
2 with that type of evidence. And it -- it -- and if you are
3 wearing gloves, more than likely you're not going to get
4 anything off that note, the person that placed it there that
5 handled it. But it's --

6 Q. All right. Let me ask the next part of that question:
7 If it had been kicked or placed at another location and
8 blown there, would there have been debris on it?

9 That's a question from the grand juror.

10 A. Well, not if it blew there. Because if it blew
11 there, that means it moved from one location to the other
12 and the debris would have probably come off of it.

13 Q. Question from the grand juror: A bad -- see, if any
14 of these are new.

15 The media was all over this case. How difficult was
16 it to keep information, evidence out of the media spotlight?

17 A. It was very hard. But we have a person that just
18 handles the media to leave us alone.

19 Q. But this issue I raised earlier about you guys -- is
20 it clear to you that your office and Tracy Police did not
21 reveal this fact that Melissa was claiming her suitcase --
22 suitcase had been stolen, so the stolen suitcase knowledge,
23 was that out there?

24 A. No, because we --

25 Q. Because you found the note on the 28th?

26 A. Correct.

27 Q. Did you guys put it out there on the 28th or the 29th
28 or the 30th or the 31st, or any time?

1 A. No, because that's part of our evidence. And as
2 investigators, that has to go through the -- the lead
3 investigator, which was me.

4 And the only thing I could kind of say that
5 substantiates that, the video that was shown to the nation
6 and, you know, to everybody, the video that she's walking,
7 you know, on there, that was on all the news clips that you
8 may or may not have seen prior to this, they -- they wanted
9 to hand that out to the media very early on in this. That's
10 a piece of evidence that we need to have later at the time
11 of our questioning of who we believe was a suspect.

12 So we delayed that, and I delayed that at my own
13 chief's and public information officer's request. And to
14 explain the same thing we do with the suitcase. We can't
15 reveal our evidence and put our cards on the table on this
16 when we have a direction that we are going.

17 So no, we kept it tight, us and the FBI did.

18 Q. Was Melissa the only person in the trailer park that
19 told you about other people in the trailer park that you
20 should start checking?

21 A. No. She just told us in her first interview about
22 those two -- the two people.

23 Q. Autopsy testimony revealed possible previous sexual
24 abuse. This was the question from the grand jurors. Were
25 any of the other subjects looked at for this? And were any
26 of the other subjects registered as sex offenders?

27 A. No sex offenders in the trailer park.

28 Q. Were any of the other subjects looked at for this, the

1 comment about the previous -- possible --

2 A. Yeah, it was --

3 Q. -- sexual abuse.

4 A. -- possible sexual abuse. We know that she had been
5 sexually assaulted, but we couldn't generally tell exactly
6 when that occurred.

7 Q. Wait a minute, what do you mean you know she had been?
8 We heard from Dr. Omalu that the sexual assault in this case
9 he told us was at or near the time of death.

10 A. Correct.

11 Q. Is that your understanding?

12 A. Yes, that's what he had told us.

13 Q. Maybe I misunderstood what you said when you said, "We
14 know she had been sexually assaulted." Do you mean
15 previously?

16 A. No. We know that -- what the autopsy report tells us.
17 He told us at the autopsy that the sexual assault that
18 Sandra was subject to was at or near the time of death. It
19 was our job to figure out how that occurred or when that
20 occurred.

21 Q. Question from the grand jury: Christian Sinclair was
22 arrested for domestic violence, was he not? That is the
23 question.

24 A. I believe a long time ago. Had no relevance in this
25 case.

26 MR. TESTA: Okay. Well, I will be reading
27 any rap sheet information about any of the people that
28 testified when I start making my comments. That may answer

1 that.

2 Are there any other questions from the grand jurors?

3 And remind me if I forget. I have it right here.

4 It's part of my duty to give you exculpatory evidence, that

5 I believe I should reveal whatever information I have on

6 anyone's prior history.

7 The question from the grand juror: The maintenance of
8 the grounds in all areas of the park, at the clubhouse, are
9 super clean. The note which would have to have just been
10 put there. Otherwise, it would have been picked up and
11 discarded.

12 It's kind of a comment and a question. Can you
13 confirm that the grounds -- you were there many days, I
14 imagine?

15 A. Yes. Was it clean?

16 Q. Was it a well kept place?

17 A. Yes. Cleanest trailer park that I know of in our
18 city.

19 Q. Okay.

20 A. And I haven't been in all of them. But, yeah, it's
21 very, very clean.

22 Q. We never went into this, but how frequently -- she's
23 saying she found this, she kicked over this note on this
24 windy day -- how frequently did someone go around the park
25 and pick up any trash that might --

26 A. Every single day.

27 Q. Do you know what times of the day?

28 A. Different times.

1 Q. And who would be the source of this? Would this be a
2 question for Zuniga?

3 A. John or Marilyn Zuniga or Herb Hunter in trailer 62,
4 the one south of Sandra's, because they have assistant
5 managers that work the weekend so they can have the weekends
6 off. That's driven numerous times. We have been in there
7 where they have driven it late at night, during the day. It
8 was driven midday that day on the 27th.

9 Q. Well, do you know -- we heard, for example, we heard
10 Herb Hunter or maybe Zuniga, that they drive around in
11 that -- I guess it's like a golf cart?

12 A. They keep a log of their checks of that.

13 Q. Well, if they find a piece of paper on the ground, do
14 you know if they pick it up?

15 A. Yeah, they pick it up. We were in there non-stop
16 twenty-four hours a day pretty much for two weeks, and the
17 trailer park was pretty clean. Paper's not going to stay on
18 the ground long there.

19 THE FOREPERSON: Mr. Testa. Mr. Testa. I
20 had a note sitting in front of me that a juror had given to
21 you yesterday.

22 GRAND JUROR 15: I removed it. I changed my
23 mind on it.

24 THE FOREPERSON: Okay. Thank you.

25 MR. TESTA: Q. Another question from the
26 grand jurors: Whatever happened to the bed sheets with
27 blood that were found at the dump? Were they ever examined
28 and are there still test results pending?

1 A. Yes and yes. They are back at FBI's Lab actually
2 being analyzed.

3 Q. These were bed sheets that were found at a dump site?

4 A. At the dump site, at the dumps, at the transfer site
5 in Tracy. It's part of the two-week search we did on all
6 the trash that came into anybody's residential commercial
7 garbage can.

8 Q. Question from the grand jury: Were any rubber gloves
9 found in Melissa's trailer?

10 A. I don't believe so.

11 Q. Any other questions from the grand jury?

12 Let me -- these photos that I've shown you in court of
13 the trailer park, we have had quite a few of them. I won't
14 go through them one-by-one. But you've seen them?

15 A. Yes.

16 Q. Do they accurately represent the trailer park?

17 A. Yes.

18 Q. Does this diagram Number 51 that we have been using
19 accurately depict the location of the various units in the
20 trailer park?

21 A. Yes.

22 Q. The photos of the pond -- you're familiar with that
23 pond, correct?

24 A. Yes.

25 Q. The aerials and the ones taken from the ground that we
26 have presented in this case, you've looked at them and can
27 you say they've all -- they all accurately represent the --
28 the pond and the surrounding areas?

1 A. Yes.

2 Q. The photos of her car that we have shown, the ones
3 that show the tinted windows and the ones that show the "My
4 Brother's a Marine" and "Support Our Troops," do they
5 accurately reflect how her car looked when you saw it?

6 A. Yes.

7 Q. Photo of the note -- well, we have already heard from
8 the FBI about that.

9 Let me see if there are -- may I look at these?

10 The autopsy photos that -- you were there at the
11 autopsy, correct?

12 A. Yes.

13 Q. And I've shown you these autopsy photos of Sandra
14 Cantu, you know, like 103, the ones that she's in the bag --

15 A. Yes.

16 Q. -- in the suitcase, all these photos taken at the
17 autopsy, do they accurately reflect what you guys saw at the
18 autopsy?

19 A. Yes.

20 Q. The photos of the blinds that I showed you, do they
21 accurately reflect the blinds that you saw there at the
22 church?

23 A. Yes.

24 Q. And the photos of the kitchen and the drawer,
25 including the one that shows, for example, Number 12, the
26 rolling pin, do they all accurately reflect the contents of
27 the interior of the church?

28 A. Yes.

1 Q. And the photos that show Mr. Chavez's house and the
2 various, you know, the -- for example, Number 62 and the
3 others that show his -- exterior of his -- of his home and
4 where the surveillance cameras were, you were at that house
5 many times?

6 A. Yes.

7 Q. Do those photos accurately depict that location?

8 A. Yes.

9 Q. All right. Thank you. I have no further questions.

10 Oh, sorry, that diagram, the photo, 768, you had some
11 involvement with this, correct, or you've seen it before?

12 A. Yes.

13 Q. And did you collect that from him?

14 A. No, Detective Kootstra did.

15 Q. Does this diagram here, 304 of the church, accurately
16 depict the church as you recall it?

17 A. Yes.

18 Q. And these CD's that we have seen, these surveillance
19 tapes we saw really on day one when Mr. -- Detective Brandi
20 came in here, you've seen those, too, correct?

21 A. Yes, I have.

22 Q. Now, did we see -- we were only shown part, is there
23 more of that on these tapes? Like the surveillance tapes,
24 one of the jurors wanted to know, he zeroed in on the
25 timeline area, if the jurors want to, does that tape contain
26 time before and after?

27 A. Yeah. We have the whole system. We just burned from
28 2 -- 2:00 p.m. on the 27th to -- I know after like I think

1 up to about 11:00 p.m. on that night, to view the things
2 that we believed we needed to view.

3 Do you want the timeline?

4 Q. We have marked it as an exhibit. It's right here.

5 Thank you.

6 Who prepared the timeline, Number 45?

7 A. That's prepared by the FBI Analyst Jennifer Vitug,
8 based upon all the information we provided her. All based
9 off statements, text messages, phone records, surveillance
10 video.

11 Q. Okay. To the best of your knowledge, with the
12 corrections made, does it accurately depict the times in
13 question?

14 A. Yes.

15 Q. Thank you.

16 MR. TESTA: I have no further questions.
17 Unless there are any questions from grand jurors, that will
18 conclude the evidence.

19 Any questions for Mr. Bauer -- Detective Bauer? No?

20 Could you read the admonition one last time to him,
21 please?

22 THE FOREPERSON: I finally found the short
23 version. So here you go:

24 You are directed not to discuss or disclose at any
25 time anything you have heard, seen, during your hearing.

26 Do you understand?

27 THE WITNESS: Yes.

28 THE FOREPERSON: Thank you.

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(Pause.)

MR. TESTA: All right, Ladies and Gentlemen, I am obligated to produce exculpatory evidence, which is why I just called Detective Bauer and called these people this morning, or potentially exculpatory. You may find it has nothing to do with the case. But err on the side of caution. And in the same spirit, let me go through -- I've asked for the rap sheets to be run on any civilian witnesses that testified.

So let me go through here.

Christian Sinclair:

Damage to power line conviction, misdemeanor, 1995.

Misdemeanor grand theft conviction in '95 in Modesto.

Felony, Manteca, possession of a controlled substance.

Misdemeanor conviction, looks like DUI in '61? No, 1996. My mistake.

DUI in 1980, misdemeanor.

DUI in Oakland in 1995.

Possession of narcotics, 2000, May 9th of 2000, felony conviction.

2003, in Tracy, DUI, driving on a suspended license.

All right. That's Christian Sinclair.

David Slayter:

Reckless driving, 19 -- 2002, misdemeanor.

Many people had no hits -- what they call no hits, no record.

1 Joe Franco, the gentleman I think who found the
2 suitcase, if it's the same person. I didn't ask him his
3 date of birth. This is a Joe Franco, 5'10, 135 pounds.
4 Born January 18th, '63. So I -- misdemeanor stolen car,
5 1987.

6 And, again, if it's the same person, 245, assault,
7 misdemeanor, 1988. In Kingsburg.

8 That's it for him.

9 Maria Chavez, Sandra Cantu's mother: Misdemeanor,
10 1986, disturbing the peace, 415 of the Penal Code.

11 Jose Chavez, I believe he was the gentleman who put up
12 the surveillance, he was convicted of a misdemeanor
13 March 30th, 2009, abandoning a dog or a cat, misdemeanor.
14 Put on three years probation. I suspect that was the
15 incident he was telling us about.

16 GRAND JUROR 16: Relocation.

17 MR. TESTA: Relocation.

18 Oh, he was arrested for theft and for abandoning the
19 dog or cat. And he pled to the abandoning the dog or the
20 cat, misdemeanor, three years probation and a fine and
21 restitution.

22 Maria Diaz, there are two for Maria Diaz. And we
23 don't have -- it says unconfirmed, I'm not sure -- this is
24 the woman whose daughter is Cassandra in number 9, I
25 believe. I don't know if it's the same person. It says she
26 was born in '75. 5'3, 135 pounds. Maria Magdalena Diaz.
27 Santa Ana, California. Petty theft -- or arrested for petty
28 theft. But the misdemeanor conviction is failing to appear.

1 I guess for the petty theft.

2 Arrested May 19th, 2006, in Anaheim, for willful
3 cruelty to a child, 273a. Does not have a disposition.

4 There's some comments here about child placement and a
5 relative of the child. So it looks like it might be
6 something related to that. If it's the same person.
7 Because, as I say, the fingerprints are not confirmed.

8 And a DUI in '06.

9 Oh, and a conviction was in '06, willful cruelty to a
10 child, three years, misdemeanor, put on three years
11 probation. Thirty days jail.

12 REDACT, the mother of REDACT:

13 Contributing to the delinquency of a minor in
14 March 14th of 2000, misdemeanor. Five days jail.

15 Daniel Plowman, the gentleman who was the alleged --
16 the victim in that March 2nd incident. We heard about him.
17 Heard from him. Oh, he's already told us about this. He
18 was convicted of that incident back -- see, in 1994, when he
19 was with -- what was her name? Tricia, the one with the
20 mental condition he said. And they had the toy gun.

21 He was actually convicted of -- arrested for
22 kidnapping, Napa police, and drawing -- a misdemeanor
23 drawing a replica gun, or attempted kidnapping. And -- and
24 attempted false imprisonment. And was actually convicted or
25 pled guilty, I think he did, took a plea or whatever it was,
26 to the felony 236, false imprisonment with violence. And
27 possession or sale or manufacture a weapon, convicted,
28 felony, three years probation. 365 days in jail.

1 Imposition of sentence suspended.

2 And then it does show on the arrest on this case when
3 he got busted in the McDonald's for being under the
4 influence. It shows a detained only. Dismissed, interest
5 of justice it says. May 26, '09 was the -- the disposition
6 date, looks like.

7 And another arrest 3/3 of '09, or disposition 3/3/09,
8 under the influence of controlled substance. It looks like
9 the same case number.

10 Okay. That's it for the rap sheets that I ran for the
11 witnesses that testified.

12 Now, is it time for a break?

13 THE FOREPERSON: Yes.

14 MR. TESTA: Five minutes?

15 I will make a few comments, read the instructions, and
16 you can start your deliberations.

17

18 (Recess.)

19

20 THE SECRETARY: We are all accounted for.

21 MR. TESTA: We are all accounted for.

22 All right. The law prevents me from making a closing
23 argument the way one might be made at a trial. The DA is
24 not really supposed to advocate the case at a grand jury. I
25 can merely point facts out to you.

26 And there have been cases that make it quite clear the
27 DA went over the line when he argued and did all the usual
28 things they do, which I don't do. It's not my style anyway.

1 All right. Let me start by telling you, Ladies and
2 Gentlemen, there is a number -- there are a number of jury
3 instructions that I'm going to be reading to you that
4 will -- that you're obligated to follow. And I'll put them
5 on the screen as I read them to you.

6 And I also have prepared new Indictments, so I made a
7 change to one of the counts -- or I've added actually one
8 count.

9 I'm not going to be reading all of these.

10 But let me just start out with the general concept,
11 it's called -- what do you do when there's a murder and
12 there are no witnesses? What's society supposed to do?
13 When you think about it, most murders probably are committed
14 without any witnesses. So the law says you don't need
15 witnesses. You don't need eyewitnesses. Because when you
16 think about it, there probably are some murders where there
17 are witnesses, maybe when a -- maybe when a gang member
18 wants to show off, shoot in front of other gang members, he
19 does a drive-by.

20 Maybe when you're in a bank, there is a bank robbery,
21 there will be witnesses. The tellers will see the robber
22 shoot the gun. There will be witnesses.

23 When you think about it, most murders probably occur
24 without any eyewitnesses. Because if you're going to kill
25 someone, you want to do it where you're not going to get
26 caught. You are going to do it under cover of darkness,
27 behind closed doors, out in the field, behind the factory,
28 up in the attic, or the basement, or at 3:00 o'clock in the

1 morning outside the bar when there's no one else around.

2 So when you think about it, many, if not most, murders
3 have no eyewitnesses.

4 So what do you do? Just forget about it? Should
5 there be a law that says eyewitnesses are required, two
6 eyewitnesses, or a certain number? The law says you don't
7 need any.

8 The law says there's this concept of direct evidence
9 and circumstantial evidence. And each is of equal weight.
10 Regardless of what you may have heard on TV where you always
11 hear that expression, "Oh, it's only circumstantial."

12 In fact, in the law, circumstantial evidence is given
13 the same weight as direct evidence for the very reasons I've
14 discussed. Because, often, that's all you have for murder
15 cases, or for many other types of cases.

16 Direct evidence would be eyewitness testimony.

17 Circumstantial evidence, which is what this case is
18 all about, is where you don't have any eyewitness testimony,
19 no direct witnesses to what happened to Sandra Cantu. But
20 you have a series of circumstances which -- from which you
21 can infer other circumstances. And you can draw reasonable
22 interpretations as to these other circumstances and
23 determine the culprit.

24 For example, if you go to your car today when you're
25 done with jury service, and you go in your car and you see
26 that your stereo is missing, there are no witnesses. So
27 what do you do, not report it to the police? No.

28 Let's say there are no witnesses but you see the

1 window's broken. And you see there's some glass -- some of
2 the tempered glass from the window on the ground. You
3 notice your stereo's missing. And there's a little blood
4 near the stereo's housing that looks like the guy or the
5 person that broke in might have cut himself on the glass.
6 And then you notice there's a trail of that tempered glass
7 over to parking space number 22, you know, four spaces from
8 you.

9 And so you contact the police. And the police come
10 out and you guys find out 22 was occupied by John Smith. So
11 you go to John Smith's house and you find he has a bandage
12 on his hand. And you don't find any stereo, but you notice
13 there's some glass in the cuff of his Levi jeans. And you
14 get it examined by the lab and you find it's tempered glass,
15 the kind you see in cars.

16 And then you do more research -- this is an example of
17 circumstantial evidence. You dig and dig and dig. And you
18 talk to his neighbors. You find out he was selling a stereo
19 three days earlier that day, or offering a stereo for sales.

20 That's an example. You get out your notebook and you
21 go, and you go on the trail, and you look at the
22 circumstances, and eventually you're able to solve who broke
23 into your car and who stole your stereo, even though no one
24 saw it happen. It's all of those circumstances -- the
25 glass, the blood, the guy offering for sale stereos -- that
26 is an example of circumstantial evidence. Connecting the
27 dots. Drawing reasonable interpretations from evidence.

28 And that is why the law says you can rely and come

1 back in a trial in a conviction, or in a hearing like today
2 with findings, with evidence, even though the evidence is
3 circumstantial.

4 So with that preface, let's look at what we have here.
5 Let's look at the circumstantial evidence. And let me just
6 point out a few things. You heard it all. I don't need to
7 go into great detail.

8 But the surveillance tape. We see Sandra skipping,
9 happy, and carefree. It doesn't look like she's drugged on
10 benzodiazepine, which is a muscle relaxant we heard. And it
11 doesn't look like she's sluggish. It doesn't look like
12 she's just been raped violently, which the doctor said she
13 probably wouldn't even have been able to walk with these
14 kind of injuries. She looks like she's happy and carefree.

15 And then you heard -- we have been over this a million
16 times -- like she looks -- she's about to go to her home,
17 but something catches her eye and she looks towards the top
18 there, the map, towards that Orange Street towards where
19 Melissa Huckaby's place is.

20 And she doesn't know anyone else, she doesn't play
21 with any other kids up in that area between 62 and 58 and 94
22 and 57.

23 So that's an example of circumstantial evidence. The
24 last we have of Sandra Cantu as she's looking, at least it
25 looks like, in the direction of Melissa Huckaby, and then
26 she drops off the face of the earth. No one else sees her.
27 They canvass the neighborhood. There's no witness to say,
28 "Oh, yeah, I saw her at 5:00 o'clock. I saw her at 5:30,"

1 or, "She was picking this guy's weeds, walking this guy's
2 dog at 6:00," or, "She came to me and was crying." No one
3 sees her.

4 So we -- we can zero in on about what time she was
5 last seen on that videotape as around that time is when she
6 disappeared, because she doesn't -- you know, she checks in
7 every twenty minutes or so with her mom, and know if she did
8 go over to anyone else's house to play. So she disappears
9 off the face of the earth.

10 Now, simultaneous to her disappearance, around the
11 same time period, we have Melissa Huckaby leaving the
12 trailer -- from the surveillance tapes, leaving the trailer
13 park. And we have Melissa Huckaby going to the church.

14 Now, we know from all the evidence that Sandra --
15 there's good evidence that what happened to Sandra happened
16 in that church.

17 That rolling pin has Sandra's DNA on it. And that
18 rolling pin is consistent with the weapon, an item that
19 would cause the penetration. Dr. Omalu measured it,
20 remember. He can't say for a fact, but it was consistent
21 with the item that penetrated her.

22 And the fact that it has her DNA on it suggests even
23 further that it may very well have been the weapon used
24 against her or to penetrate her, to cause the blunt force on
25 the head and/or to penetrate her. Because Sandra's DNA on
26 that rolling pin is crucial. She was never in that church.
27 She wasn't a member. She didn't hang out in church. She's
28 never been there.

1 That rolling pin was used in February to make the
2 unleavened bread and used by other people. So it would have
3 been cleaned. And there wasn't any dough on it or crust on
4 it. There was just that smudge on it.

5 So her DNA on that rolling pin suggests strongly that
6 what happened to her happened there.

7 Supporting that position is there is that blind that
8 has the cord cut. And that it is consistent by various
9 measurements with the blind cord -- excuse me, with the cord
10 that was wrapped to tie the suitcase shut.

11 The FBI guy came in and explained how he checked all
12 the blinds that were submitted to them. The ones from
13 Sinclair's in 88, the one from 81, the ones from the -- the
14 cord from the Isuzu Trooper. He checked them all. And none
15 of them were consistent with the cord from the suitcase,
16 except for this one from the church.

17 And you heard just a few days ago how it -- why it
18 would have only had three strings instead of the four that
19 the others have.

20 So we have Sandra -- this is how you, you know, it's
21 the glass -- the tempered glass in the cuff of the pants.
22 This is the kind of thing you look at the circumstances.

23 Sandra's DNA is on this object. It's consistent with
24 something that caused her injuries. And her DNA is in a
25 place where she has never been. She doesn't go to that
26 church. And the cord that's on the suitcase is consistent
27 with the cut cord that's in the church.

28 Now, so if what happened to Sandra happened at the

1 church from these two pieces of evidence, we have the
2 defendant going to the church during that precise time
3 period. She -- I won't go over the timeline. You guys have
4 all heard it. She's in that church during that period, when
5 there's that -- that gap between 4:02 and 5:27.

6 Melissa is in the church during that time period. She
7 is -- Melissa Huckaby is where that rolling pin is. Melissa
8 Huckaby is where that blind cord is. During the very time
9 period when Sandra Cantu was missing.

10 Now, what is so interesting is that Melissa Huckaby
11 would say she came right back home from going to the church.
12 And we know in fact from the surveillance from AM-PM and
13 Best Western, she did not come right back home. She went
14 off and went North Tracy Boulevard for twenty-nine minutes.

15 Why would she say she came straight home? This is an
16 important situation there at the trailer park. She knows
17 everyone is looking for her. The media are everywhere,
18 including camped out across the street there at the Microtel
19 parking lot. There are helicopters, cadaver dogs,
20 bloodhounds, TV cameras. Her car is blocked. She even has
21 to ask the officer that blocked the car. You can see in the
22 video, the place is inundated with law enforcement, FBI
23 people, checking it out.

24 So she knows everyone is looking for her. This isn't
25 something she's not tuned into. So she would know to choose
26 her words carefully. And, yet, she says, "No, I went to the
27 church and came straight home."

28 Why would she lie? What is she covering up? Why

1 wouldn't she say, "I went to the church, then I went down to
2 visit a buddy of mine down North Tracy Boulevard"? Or, "I
3 went and did this, did that"?

4 So her lie there is significant because it ties in
5 with the relevant time period here.

6 And that relevant time period is -- why did she lie
7 about not coming -- why did she say she came directly home
8 when in fact we know there was this twenty-nine minute gap
9 when she's last seen by the AM-PM surveillance, and then
10 she's seen again twenty-nine minutes later coming back from
11 that same direction? And she's last seen going in the
12 direction of the ponds, at least the road that would take
13 one to the ponds. During that precise thirty, twenty-nine
14 minute period, she is seen by the Marine there at the pond,
15 between he says about 5:30 and 6:00, and he's able to figure
16 it out by the Olive Garden receipt.

17 Remember, from 5:27 to 5:56. Twenty-nine minutes.
18 There's that gap when she's last seen by that store video,
19 go north on Tracy Boulevard, until she's next picked up
20 coming back, you know, she's seen going in the direction of
21 the pond, then she's seen coming back from the direction of
22 the ponds twenty-nine minutes later.

23 During that period, that's from basically 5:30 to
24 6:00, right? 5:27 to 5:56, that is right when the Marine
25 sees her between 5:30 and 6:00 at the pond. During that
26 precise -- precise period.

27 Now, he is shown a photo of her where she's
28 forty pounds lighter. He doesn't pick her out, or can't say

1 either way, whatever it is. But when he sees her on TV, his
2 jaw drops. "That's the one I saw." Both him and his wife.
3 Both of them came in and identified her in the photo that we
4 have that was taken at the time of her arrest, says, "Yep,
5 that is the woman, I'm sure of it, that I saw out there by
6 the pond."

7 Plus the car -- the description he gave of her matches
8 hers, and the car description is so distinctive that it just
9 solidifies his identification. His description of the
10 decals on the car, the -- the type of car, and what the
11 decals say, and the other one, the ribbon, together is clear
12 that he and his wife -- the Marine and his wife saw the
13 defendant at the pond at the precise period 5:30 to 6:00,
14 when Melissa Huckaby, from the surveillance tapes, is
15 drive -- is -- is not accounted for after having been in the
16 church for that earlier time period.

17 So this is an example of circumstantial evidence. You
18 continue to build and build. And that case, I think the
19 most significant evidence is from the Marine. I submit to
20 you based on the evidence, his testimony was the most
21 compelling in this case. Because he doesn't say she's just
22 at the pond. As we saw in 271. He doesn't say, "I see her
23 over here, I see her over here," or, "I see her over here or
24 I see her over here." He sees her at the very spot she
25 would have gone to leave those track marks of that suitcase.

26 We saw in 271, of all the places, she's not over on
27 the left side of the photo or down the road. She's right
28 near these cylinder items here. Near the gate. She's

1 actually gone up -- well, you heard his testimony. But
2 basically where he sees her is consistent with where she
3 would have had to have been to end up -- trail marks start I
4 think right to the right of the post with the note on it.
5 So it's consistent with where she would have been when she
6 took the suitcase up to the banks of the pond.

7 So he sees her at the very moment, the very gap, that
8 thirty-minute gap where the video puts her, where the video
9 has her missing after she had been in the church, the same
10 place, of course, that has the cord, the blind, and Sandra's
11 DNA on the rolling pin.

12 And that might even be enough evidence there. But
13 then it goes even further. Sandra Cantu is found. And, of
14 course, the suitcase that just matches the description of
15 the defendant's suitcase. And, in fact, the defendant said
16 in the hospital that was her suitcase. She tells people in
17 the hospital it's hers.

18 So now we have the defendant, Melissa Huckaby, at the
19 very spot, the location -- of all the places in rural Tracy,
20 she's at the spot where the suitcase was dumped. And then
21 you heard about the decomposition and the prevailing winds.
22 So you saw where it was found.

23 But she's at quite close to where it was dumped.
24 Certainly where the trail begins, the orange chalk trail
25 begins.

26 And of all the suitcases in the world, it just happens
27 to be her suitcase.

28 Now, the other piece of circumstantial evidence in

1 this case, powerful piece, is that the stolen suitcase note.
2 She wrote it. She wrote it because she did it. Her
3 handwriting.

4 You can -- you, as jurors, can look at the -- I'm not
5 going to put them on the screen, you know what I'm talking
6 about, the angry -- the note, the word "angry" from the
7 journal. Detective Bauer explained, and you can look at it
8 yourself, certain letters in the word "angry," see how they
9 match to the words that -- those very letters on the stolen
10 suitcase note. Even though the writing was disguised, you
11 can still make out her distinctive letter formation for
12 certain letters. You can compare. You can see.

13 So that evidence there shows she wrote it. But
14 besides that, even better evidence that she wrote it, the
15 stolen suitcase note, is the Post-it note that's in her car.
16 She wrote the Post-it note. It's in her car that no one
17 else drives. It has those distinctive circles that she uses
18 to delete words. And the words that she has deleted are the
19 very cross-streets that are on the stolen suitcase note:
20 Bacchetti and Whitehall.

21 And now why would she cross this out? Why would she
22 cross out words on the Post-it note. You cross things out
23 when you don't want people to see, when you're hiding
24 something.

25 The Post-it note is in her car.

26 Now, interestingly, you know, she was telling anyone
27 who would listen that, oh, she was the one that, you know,
28 at the hospital, she lost her suitcase. She texted Maria

1 Chavez, "Oh, I lost my suitcase. Make sure you tell the
2 police." Or, "I had something stolen. Make sure you tell
3 them. It may be important."

4 And when she's in the hospital -- excuse me, and she
5 mentioned "stolin suit case" in the stolen suitcase note.

6 But, interestingly, in the hospital, she never
7 mentions that to anybody. Because she knew no one is going
8 to believe, of all the people in the world, she's the one
9 that happens to find the stolen suitcase note.

10 Of all the people that were there at the trailer park,
11 how is it that she's the one that kicks this note? Through
12 all these FBI people, the Tracy Police Department, all the
13 neighbors that live there, all the media, and she just
14 happens to be the one to find the note.

15 You know, a legitimate witness would leave the note on
16 the windshield or on a police car, or give it to the police,
17 or put it on the front porch of the Cantu family.

18 So here she is, she's hyperventilating -- she's
19 hyperventilating, she gets the note, and then the witness
20 thought it was somewhat mysterious that the hyperventilating
21 stopped immediately. Normally, if someone's legitimately
22 concerned or upset, that it takes some time for them to
23 gradually reduce the level of their hyperventilation or
24 their excitement.

25 And this note, from the evidence, is -- shows that she
26 wrote it, not only the handwriting, not only the fact that
27 it matches the Post-it note information that's in her car,
28 and not only because she's the one that finds it supposedly,

1 but the note was written by her. And only the killer could
2 have written the note. Only the killer would know that
3 Sandra was locked in the suitcase. Only the killer would
4 know the precise cross-streets where the suitcase was. And
5 only the killer would know the ponds. A legitimate witness
6 would not try to disguise their writing.

7 So from all this evidence, this circumstantial
8 evidence, the DNA on the rolling pin in the church, and the
9 blind cord evidence in the church, indicating that it
10 happened in the church where Melissa Huckaby was during the
11 precise time period, and then the fact that Melissa Huckaby
12 is seen in the pond at the very spot where the trail marks
13 start, indicating that's where the suitcase was dumped, and
14 she's seen in the pond during the precise thirty --
15 twenty-nine minute period between 5:30 and 6:00 when she was
16 unaccounted for leaving north on Tracy Boulevard. That's
17 pretty darned good circumstantial evidence, that you put it
18 all together, together with all the other evidence, that she
19 is the person that committed this crime.

20 But this didn't happen in a vacuum. You have these
21 other counts. We have in Sandra Cantu's tissue this
22 benzodiazepine, or this alprazolam, Xanax.

23 Same thing for REDACT. Defendant Melissa Huckaby gave
24 her this water that tasted funny, like vitamins. And she
25 has that in her system.

26 Ditto for Plowman. He's given this water at the
27 church no less that, quote, tasted funny.

28 So, you see, you have a particular modus operandi

1 here, a signature crime. And you put it all together and
2 you have a finding that she committed this crime.

3 Do you have it beyond a reasonable doubt? That's not
4 your issue for today. Your job isn't that of a juror at a
5 jury trial.

6 Your job as a grand jury is to determine if there's
7 probable cause, is it likely.

8 Here's the standard:

9 The grand jury shall find an Indictment when all of
10 the evidence before you, taken together, if unexplained or
11 uncontradicted, would, in your judgment, warrant a
12 conviction, a verdict of guilty, by a trial jury.

13 This means the grand jury must find probable cause
14 before an Indictment is found. Probable cause means that
15 each grand juror voting to find an Indictment is convinced
16 of a state of facts as would lead a person of ordinary
17 caution and prudence to believe, and conscientiously
18 entertain, a strong suspicion that a public offense has been
19 committed and a strong suspicion of the guilt of the
20 accused.

21 So the question is is this enough to convict? That's
22 not before you. The question is, from all this evidence --
23 the timeline, the DNA, the note, her claiming to find it and
24 all this -- does it create a strong suspicion that the
25 murder happened or these other charges happened, and a
26 strong suspicion that she's guilty?

27 And I submit based on this evidence that you've heard,
28 there is an affirmative answer to both of those, that there

1 is a strong suspicion that Sandra Cantu was murdered and a
2 strong suspicion that Melissa Huckaby is guilty.

3 And for that reason, I would ask, based on the
4 evidence, that you come back with an Indictment on that
5 offense.

6 And as to the others, there's a strong suspicion --
7 let's go count by count on this new Indictment here.

8 Count 1 alleges murder. I have reviewed the evidence.
9 But let me hand out the...

10 I will put it on the screen. The only difference
11 between the one you already have and this new one is I've
12 added Count 2. And you will see that when we get to it --
13 and they are being distributed to you now.

14 Count 1, murder, I have reviewed the evidence, and you
15 will have other discussions about it, that there's a strong
16 suspicion that this is true, that a murder occurred of
17 Sandra Cantu. There's a strong suspicion -- suspicion that
18 the defendant is guilty of it. For that reason, we would
19 ask that you indict on that.

20 There are three special circumstances. And, again, on
21 these, you can look at them individually. And if there's
22 something you find does not meet the right standard of
23 strong suspicion as described, the probable cause standard,
24 you can delete it and initial it if you all agree that's
25 your verdict. These are severable.

26 The first special circumstance is kidnap. And I will
27 be reading the law on that. It's different when it
28 applies -- on line 16 to 18 -- it's different than what you

1 might think of as kidnapping. When you're dealing with
2 children, there's an enticing a child or swaying a child to
3 come with you. I will read the instruction to you on
4 kidnapping momentarily.

5 Count 2 -- or excuse me, line 19 to 21, lewd and
6 lascivious act on a child under fourteen. And you have
7 heard an abundance of evidence about the evidence that
8 Sandra Cantu was -- had these acts done to her, lewd and
9 lascivious, and I'll be reading to you what that means.

10 And the third special -- special circumstance is that
11 the murder occurred during the commission of the crime of
12 rape by foreign object, a rape by instrument. And the --
13 the rolling pin is -- is an example of the instrument, or
14 you may find it to be some other instrument. You don't have
15 to specify.

16 But Dr. Omalu gave you his opinion about that; that he
17 felt it most likely would not have been a penis because a
18 penis is soft tissue and would not have been able to cause
19 the damage that was caused.

20 Count 2 basically is as to Sandra Cantu, same date and
21 everything. It's basically having sex with a child under
22 ten. Sexual penetration with a foreign object upon a child
23 under ten. And, again, you heard from Dr. Omalu on that.
24 And I submit that there's been probable cause of that
25 offense as well.

26 Count 3 is basically child endangerment of -- it says
27 Jane Doe. I will be reading you an instruction of why it's
28 read that way to protect her confidentiality, but it's

1 obviously REDACT on January 17th.

2 And I -- you have heard all that evidence about her
3 and the benzodiazepine that was found in her system, and how
4 Melissa Huckaby was the only one -- was the one that had
5 taken her and was in a position to -- was the one that gave
6 her the funny tasting water.

7 Count 4, same person REDACT, but different charge.
8 Count 4 is basically furnishing a harmful substance to
9 REDACT.

10 Count 3, it's just kind of a general child
11 endangerment, you know, they are both related. If you put
12 something in someone's drink and cause them to have these
13 symptoms, that's -- you are endangering the child. I will
14 read you the instruction. But 3 and 4 relate to
15 REDACT.

16 The last one is Count 5. That's basically Daniel
17 Plowman, Melissa Huckaby furnishing a harmful substance to
18 Daniel Plowman.

19 And you heard all the evidence from Mr. Plowman, which
20 I won't review. I submit to you, he was a great witness.
21 It's your judgment. But he recalled things well. He gets
22 arrested twice. He's still under the influence the second
23 day. Interestingly, in his blood, the levels went down.
24 The first blood sample had a greater quantity of the
25 substance than the second blood sample which would be
26 consistent with having it given to him when he said he got
27 it. But he still has it, but it's diminishing in strength
28 as the time goes on.

1 Now, I think I should just go right through and read
2 these instructions, then you can come back at any time.
3 Unless you want to take a break.

4 THE FOREPERSON: No, finish. Go ahead,
5 finish.

6 MR. TESTA: I will put them on the screen.
7 I'm obligated to read them to you. Sometimes jurors, their
8 eyes glaze over. But they are important.

9 You have heard all the evidence. I'm going to
10 summarize. Some of these don't apply -- they all apply, but
11 there's language in them that applies to a jury trial where
12 the standard is beyond a reasonable doubt. These
13 instructions apply, but the standard that I read to you
14 about probable cause is the correct -- that's the correct
15 standard.

16 You've heard the evidence -- I've got to read these to
17 you.

18 You must base your decision on the facts and the law.

19 You have to determine what facts have been proved from
20 the evidence received in this trial, and not from any other
21 source.

22 Let me amend this to add, you know, if you heard
23 something from the press, or on TV, or the Internet, that is
24 something you obviously must disregard completely.

25 You must base your decision strictly on what you heard
26 in this trial, and not from any other source. A "fact" is
27 something proved by the evidence. And you must apply the
28 law that I am reading to you and apply the law to the facts,

1 as you determine them, and in this way arrive at your
2 verdict and the other findings.

3 You must accept and follow the law as I state it to
4 you, regardless of whether you agree with it.

5 You must not be influenced by pity or prejudice
6 against anyone. You can't be biased against Melissa Huckaby
7 simply because she's been arrested or because -- if she --
8 or because she's been charged with a crime. None of that is
9 proof of guilt. You're not to assume or infer from any of
10 these facts that she's more likely to be guilty than not
11 guilty.

12 And you must not be influenced by sentiment,
13 conjecture, sympathy, passion, prejudice, public opinion, or
14 public feeling.

15 Everyone has the right to expect that you will
16 conscientiously consider and weigh the evidence and apply
17 the law and reach an appropriate finding.

18 If any of these instructions are reread or duplicated
19 or repeated, no emphasis is intended, and don't draw any
20 inference because something is repeated. Do not single out
21 any particular sentence or individual point and ignore the
22 others.

23 And the order in which these are given has no
24 significance.

25 My statements made during the trial are not evidence.

26 And do not assume to be true any insinuation in any of
27 my questions, or any of the questions from the grand jurors.
28 A question is not evidence and may be considered only to the

1 extent it helps you to understand the answer.

2 You cannot go out and do any of your own
3 investigation. You can't go out and drive to the ponds or
4 drive to the trailer park, or time the distance between the
5 two, because you have to decide the facts from the evidence
6 received at this hearing, and not from any other source.

7 We -- did we have an interpreter? Yes, we had a
8 certified court interpreter. You're required to accept the
9 English interpretation even if you understand the language
10 that was uttered by the witness.

11 You cannot independently investigate. You can't visit
12 the scene. You cannot consult reference works or consult
13 other people, or ask your friends or family, "What do you
14 think?" Or do any research.

15 Don't discuss it with any other person, you have
16 already been told this, whoever that person may be -- spouse
17 therapist, advisor. And during deliberations, you can only
18 discuss the case when all of you are in the room together.

19 You can use notes. They are an aid to memory. If you
20 did not take notes, don't be influenced by those that did.
21 Notes are for the note-taker's own personal use.

22 And if you have a problem, you can ask the court
23 reporter to reread a portion or any part of a witness's
24 testimony. Just specify which part you need so she can find
25 it and come in and read it to you.

26 And if there's a discrepancy between what you remember
27 and your notes, you may request that the reporter read back
28 the relevant part.

1 As I mentioned, one of the victims -- alleged victims
2 has been identified as Jane Doe. This is done for the
3 purpose of protecting privacy under California law.

4 There's -- evidence consists of the testimony, of
5 writings -- testimony of witnesses, writings, material
6 objects, or anything presented to the senses and offered to
7 prove the existence or nonexistence of a fact.

8 Evidence is either direct or circumstantial.

9 Direct evidence is evidence that directly proves a
10 fact. It is evidence which by itself, if found to be true,
11 establishes that fact.

12 Circumstantial evidence is evidence that, if found to
13 be true, proves a fact from which an inference of the
14 existence of another fact may be drawn.

15 An inference is a deduction of fact that may logically
16 and reasonably be drawn from another fact or group of facts
17 established by the evidence.

18 It is not necessary that facts be proved by direct
19 evidence. They also may be proved by circumstantial
20 evidence or by a combination of direct and circumstantial
21 evidence. Both direct and circumstantial evidence are
22 acceptable as a means of proof. Neither is entitled to any
23 greater weight than the other.

24 However, a finding of guilt -- well, you're not
25 determining guilt, but your finding in this case may not be
26 based on circumstantial evidence unless the proved
27 circumstances are not only consistent with the theory that
28 the defendant is probably guilty of the crime, but cannot be

1 reconciled with any other rational conclusion.

2 Further, each fact, which is essential to complete a
3 set of circumstances necessary to establish the defendant's
4 guilt, must be proved beyond -- okay, this standard doesn't
5 apply -- must be proved by the standard that I have read to
6 you already.

7 Let me read this: Each fact which is essential to
8 complete a set of circumstances necessary to establish the
9 defendant's guilt, must be proved beyond a reasonable doubt.
10 In other words, before an inference essential to establish
11 guilt may be found to have been proved beyond a reasonable
12 doubt, each fact or circumstance on which the inference
13 necessarily rests must be proved beyond a reasonable doubt.

14 Also, if the circumstantial evidence as to any
15 particular count permits two reasonable interpretations, one
16 of which points to the defendant's guilt and the other to
17 her innocence, you must adopt the interpretation that points
18 to the defendant's innocence and reject that interpretation
19 that points to her guilt.

20 If, on the other hand, one interpretation of the
21 evidence appears to you to be reasonable and the other to be
22 unreasonable, you must accept the reasonable interpretation
23 and reject the unreasonable.

24 The specific intent and/or mental state with which an
25 act is done may be shown by the circumstances surrounding
26 the commission of the act. However, you may not find the
27 defendant guilty of the crimes charged in the Indictment
28 unless the proved circumstances are not only consistent with

1 the theory that the defendant had the required specific
2 intent and/or mental state, but cannot be reconciled with
3 any other rational conclusion.

4 Also, if the evidence as to any specific intent or
5 mental state permits two reasonable interpretations, one of
6 which points to the existence of the specific intent or
7 mental state and the other to its absence, you must adopt
8 the interpretation -- that interpretation which points to
9 its absence.

10 If, on the other hand, one interpretation of the
11 evidence as to the specific intent or mental state appears
12 to you to be reasonable and the other interpretation to be
13 unreasonable, you must accept the reasonable interpretation
14 and reject the unreasonable.

15 If you find before this trial that Melissa Huckaby
16 made a willfully false or deliberately misleading statement
17 concerning the crimes for which she is now being tried, you
18 may consider that statement as a circumstance tending to
19 prove a consciousness of guilt. However, that conduct is
20 not sufficient by itself to prove guilt, and its weight and
21 significance, if any, are for you to decide.

22 Certain evidence was admitted for a limited purpose.
23 Do not consider this evidence for any purpose except the
24 limited purpose for which it was admitted.

25 I'll make a side comment here. You know, don't misuse
26 evidence and say, "Oh, this person is a bad person, so I'm
27 going to rule against her."

28 Certain evidence like the notebook writings that

1 contain some of her writings, don't misuse that. That's
2 offered specifically to show the writing so you can compare
3 the writing in that note with the writing on the stolen
4 suitcase note.

5 And there was evidence about the razor blade
6 swallowing or some mental issues. Don't misuse that and
7 hold that against her, or assume from that she's a bad
8 person. That was offered specifically so you could -- she
9 could be linked to certain medications found in her
10 possession, so that you would have a reason to understand
11 why she was in the hospital, or to establish the possession
12 of the notebook, or to the extent it may show any mental
13 disease, if that becomes relevant later on in your findings.

14 Do not consider this evidence along the lines of what
15 I just mentioned for any other purpose except the limited
16 purpose for which it was admitted.

17 Every person who testifies under oath or affirmation
18 is a witness. You are the sole judges of the believability
19 of a witness and the weight to be given the testimony of
20 each witness.

21 In determining the believability of a witness, you may
22 consider anything that has a tendency reasonably to prove or
23 disprove the truthfulness of the testimony of the witness,
24 including but not limited to any of the following:

25 The extent of the opportunity or ability of the
26 witness to see or hear or otherwise become aware of any
27 matter about which the witness testified;

28 The ability of the witness to remember or to

1 communicate any matter about which the witness has
2 testified;

3 The character and quality of that testimony;

4 The demeanor and manner of the witness while
5 testifying;

6 The existence or nonexistence of a bias, interest, or
7 other motive;

8 The existence or nonexistence of any fact testified to
9 by the witness;

10 The attitude of the witness towards the action or
11 towards the giving of testimony;

12 A previous statement made by the witness that is
13 consistent or inconsistent with his or her testimony;

14 The character of the witness for honesty or
15 truthfulness or their opposites;

16 An admission by the witness of untruthfulness;

17 The witness's prior conviction of a felony;

18 Past criminal conduct of a witness amounting to a
19 misdemeanor;

20 And whether the witness is testifying under a grant of
21 immunity.

22 In evaluating the testimony of a child ten years of
23 age or younger -- I think that would have been REDACT, I
24 think Miranda was eleven -- you should consider all of the
25 factors surrounding the child's testimony, including the age
26 of the child and any evidence regarding the child's level of
27 cognitive development. A child, because of age and level of
28 cognitive development, may perform differently than an adult

1 as a witness, but that does not mean that a child is any
2 more or less believable than an adult. You should not
3 discount or distrust the testimony of a child solely because
4 he or she is a child.

5 "Cognitive" means the child's ability to perceive, to
6 understand, to remember, and to communicate any matter about
7 which the child has knowledge.

8 Discrepancies in a witness's testimony, or between a
9 witness's testimony and that of other witnesses, if there
10 were any, does not necessarily mean that a witness should be
11 discredited. Failure of recollection is common. Innocent
12 misrecollection is not uncommon. Two person witnessing an
13 incident or transaction often will see or hear it
14 differently. You should consider whether a discrepancy
15 relates to an important matter or only to something trivial.

16 A witness, who is willfully false in one material part
17 of his or her testimony, is to be distrusted in others. You
18 may reject the whole testimony of a witness who willfully
19 has testified falsely as to a material point, unless, from
20 all the evidence, you believe the probability of truth
21 favors his or her testimony in other particulars.

22 You are not required to decide any issue of fact in
23 accordance with the testimony of a number of witnesses,
24 which does not convince you, as against the testimony of a
25 lesser number. In other words, don't just add up the
26 witnesses. You may not disregard the testimony of the
27 greater number of witnesses merely from caprice, whim, or
28 prejudice, or from a desire to favor one side or the other.

1 Don't simply count up the witnesses. The final test is not
2 in the relative number of witnesses, but in the convincing
3 force of the evidence.

4 The fact that a witness has been convicted of a
5 felony, if this is a fact, may be considered by you only for
6 the purpose of determining the believability of that
7 witness. The fact of a conviction does not necessarily
8 destroy or impair a witness's believability. It is one of
9 the circumstances that you may consider in weighing the
10 testimony of that witness.

11 You should give the testimony of a single witness
12 whatever weight you think it deserves. Testimony concerning
13 any fact by one witness which you believe is sufficient for
14 the proof of that fact. You should carefully review all the
15 evidence upon which the proof of that fact depends.

16 Motive is not an element of the crime charged and need
17 not be shown. However, you may consider motive or lack of
18 motive as a circumstance in this case. Presence of motive
19 may tend to establish the defendant is guilty. Absence of
20 motive may tend to show the defendant is not guilty.

21 I'm looking here, Ladies and Gentlemen, I probably do
22 have another twenty minutes. So I will do whatever you
23 wish. I will go through or I can come back at 1:00, resume.
24 Whatever your pleasure is.

25 THE FOREPERSON: You all need a break?

26 GRAND JUROR 18: We could have a break or
27 else I'm going to float.

28 MR. TESTA: So what would you like? I'll do

1 whatever you'd like.

2 THE FOREPERSON: Do you want to go to lunch
3 and come back?

4 GRAND JUROR 14: Yeah.

5 THE FOREPERSON: Do I hear agreeable?

6 We will break for lunch and come back.

7 MR. TESTA: At 1:00 o'clock?

8 THE FOREPERSON: Yes.

9 MR. TESTA: Twenty more minutes, then you can
10 begin your deliberations.

11 Thank you.

12

13 (Recess.)

14

15 THE SECRETARY: We are all accounted for.

16 MR. TESTA: Thank you.

17 Okay. Shall I resume, finish up, please?

18 THE FOREPERSON: We just ask a procedural
19 question?

20 MR. TESTA: Yes.

21 THE FOREPERSON: On the new -- I'm not sure
22 what this is called.

23 MR. TESTA: Indictment.

24 THE FOREPERSON: Indictment that you handed
25 us, some of the witnesses are not on here that we heard.
26 Does that matter?

27 MR. TESTA: Well, if you have a list, are you
28 able to add it to the final product?

1 THE FOREPERSON: Someone else -- yeah, one of
2 the jurors has a list for me and I could do that.

3 Do you want the ones that we didn't hear crossed off?

4 MR. TESTA: Yes.

5 THE FOREPERSON: Okay. I will try to do
6 that.

7 GRAND JUROR 19: Can we ask one more
8 question? Why didn't we hear from those other jurors
9 listed?

10 MR. TESTA: The other witnesses?

11 GRAND JUROR 19: Yeah, witnesses.

12 MR. TESTA: If you want me to call them, I
13 could try to get them here.

14 GRAND JUROR 19: No, I'm just curious why.

15 MR. TESTA: If you throw out a name, I could
16 give you a reason. Sometimes it turns out it looks like --
17 you know, I tend to over-subpoena. If someone found a note,
18 for example, I might have subpoenaed all five people whose
19 names are in the report. But after calling two of the
20 people, the other three really can't add any -- like the
21 person that came in this morning from the FBI in San
22 Francisco, she added the fact she put it in the plastic. I
23 suppose I could call the other people that were there, "I
24 saw her put it in the plastic, I saw this one take a
25 photograph of it."

26 And there comes a point when you decide it's a point
27 of dimension in terms of the other people don't add that
28 much. That's normally why the names on the list are not

1 called, because they wouldn't add anything.

2 GRAND JUROR 19: Okay. Thank you.

3 GRAND JUROR 4: I got a question.

4 MR. TESTA: Go ahead.

5 GRAND JUROR 4: Questions that came to you
6 for witnesses, some of which you said, "I can't answer -- I
7 can't ask that," why?

8 MR. TESTA: I'm obligated to put in only
9 admissible evidence, evidence that would probably come in at
10 a trial. So I have to follow the rules of evidence. Like
11 someone asked in one of the questions, "Does someone have a
12 criminal record," or, "What's your opinion of this," that
13 probably would not come in in a trial.

14 So I -- that's why we do it in written form, so I can
15 look at them and decide if they are admissible, if it calls
16 for admissible evidence. If it calls for inadmissible
17 evidence, I disregard it or not ask it at all.

18 An admission is a statement made by a defendant which
19 does not -- which does not by itself acknowledge guilt of
20 the crimes for which the defendant is on trial, but which
21 statement tends to prove her guilt when considered with the
22 rest of the evidence.

23 You are the exclusive judges as to whether the
24 defendant made an admission, and if so, whether the
25 statement is true in whole or in part.

26 Evidence of an oral admission of a defendant not made
27 in court should be viewed with caution.

28 No person may be convicted of a criminal offense

1 unless there is some proof of each element of the crime
2 independent of any admission made by her outside of this
3 trial.

4 The identity of the person who is alleged to have
5 committed a crime is not an element of the crime, nor is the
6 degree of the crime. The identity or degree may be
7 established by a -- an admission.

8 A witness who has special knowledge, skill,
9 experience, training, or education in a particular subject
10 has testified to certain opinions. This type of witness is
11 referred to as an expert witness. In determining what
12 weight to give to any opinion expressed by an expert
13 witness, you should consider the qualifications and
14 believability of the witness, the facts or materials upon
15 which each opinion is -- qualifications and believability of
16 the witness, the facts or materials upon which each opinion
17 is based, and the reason for each opinion.

18 An opinion is only as good as the facts and reasons on
19 which it is based. If you find that any fact has not been
20 proved, or has been disproved, you must consider that in
21 determining the value of the opinion. Likewise, you must
22 consider the strengths and weaknesses of the reasons on
23 which it is based.

24 You are not bound by an opinion. Give each opinion
25 the weight you find it deserves. You may disregard any
26 opinion if you find it to be unreasonable.

27 In determining the weight to be given an opinion -- in
28 determining the weight to be given to an opinion expressed

1 by any witness who did not testify as an expert witness, you
2 should consider his or her believability, the extent of his
3 or her opportunity to perceive the matters upon which his or
4 her opinion is based, and the reasons, if any, given for it.
5 You are not required to accept an opinion, but should give
6 it the weight, if any, to which you find it entitled.

7 In examining an expert witness, I may have asked
8 hypothetical questions. This is a question in which the
9 witness is asked to assume the truth of a set of facts and
10 to give an opinion based on that assumption.

11 In asking this question, don't assume that the facts
12 have been proved that were inherent in the question.
13 Merely, you can determine that those assumed facts are
14 within the possible range of the evidence.

15 It is for you to decide, from all the evidence,
16 whether or not the facts assumed in a hypothetical question
17 have been proved. If you should decide that any assumption
18 in a question has not been proved, you are to determine the
19 effect of that failure of proof on the value and weight of
20 the expert opinion, based on the assumed facts.

21 In resolving any conflict that may exist in the
22 testimony of expert witnesses, you should weigh the opinion
23 of one expert against that of another. In doing this, you
24 should consider the qualifications and believability of each
25 witness, the reasons for each opinion, and the matter upon
26 which it is based.

27 In the crimes and allegations charged in the
28 Indictment, there must exist a union or join operation of

1 act or conduct and a specific intent in the mind of the
2 perpetrator or a mental state in the mind of the
3 perpetrator. Unless this specific intent or mental state
4 exists, the crime or allegation to which it relates is not
5 committed or is not true.

6 The specific intent and mental state required is
7 included in the definitions of the crimes or allegations set
8 forth elsewhere in these instructions.

9 You have received or you may believe you have received
10 evidence regarding a mental disease or defect or disorder of
11 Melissa Huckaby at the time of the commission of the crime.
12 You should consider this evidence solely for the purpose of
13 determining whether the defendant actually formed the
14 required specific intent, premeditated, deliberated, or
15 harbored malice aforethought, which is an element of the
16 crime charged in Count 1, namely, murder.

17 Defendant is accused in Count 1 of the Indictment of
18 murder, a violation of Section 187 of the Penal Code.

19 Here's the definition:

20 Every person who unlawfully kills a human being with
21 malice aforethought or during the commission or attempted
22 commission of kidnapping, or lewd or lascivious act upon a
23 child, or rape by foreign object or instrument, is guilty of
24 the crime of murder in violation of Penal Code Section 187.

25 In order to prove this crime, each of the following
26 elements must be proved:

27 A human being was killed;

28 The killing was unlawful;

1 And the killing was done with malice aforethought or
2 it occurred during the commission or attempted commission of
3 kidnapping, lewd or lascivious act upon a child, or rape by
4 instrument.

5 Malice aforethought may be either express or implied.

6 Malice is express where there is -- where there is
7 manifested an intention unlawfully to kill a human being.

8 Malice is implied when:

9 The killing resulted from an intentional act;

10 The natural consequences of the act are dangerous to
11 human life;

12 And the act was deliberately performed with knowledge
13 of the danger to, and with conscious disregard for, human
14 life.

15 When it is shown that a killing resulted from the
16 intentional doing of an act with express or implied malice,
17 no other mental state need be shown to establish the mental
18 state of malice aforethought.

19 The mental state constituting malice aforethought does
20 not necessarily require any ill-will or hatred of the person
21 killed.

22 The word "aforethought" does not imply deliberation or
23 the lapse of considerable time. It only means the required
24 mental state must precede rather than follow the act.

25 All murder which is perpetrated by any kind of
26 willful, deliberate, and premeditated killing with express
27 malice aforethought is murder of the first degree.

28 See when you get your Indictment, I don't know if

1 there's a verdict form for it, but write "first degree" or
2 "second degree" in the margins there, and initial it so we
3 know which one you're referring to.

4 You know, "We find it to be murder of the first
5 degree," or, "We find it to be murder of the second degree."
6 When the foreman writes that in -- if the foreman determines
7 murder -- a suspicion that a murder has occurred and
8 suspicion that the defendant is guilty, then you have --
9 then just write in the -- whether you believe it to be first
10 or second.

11 All murder which is perpetrated by any kind of
12 willful, deliberate, and premeditated killing with express
13 malice aforethought is murder of the first degree.

14 The word "willful," as used in this instruction, means
15 intentional.

16 The word "deliberate," which relates to how a person
17 thinks, means formed or arrived at or determined upon as a
18 result of careful thought and weighing of considerations for
19 and against the proposed course of action. The word
20 "premeditated" relates to when a person thinks and means --
21 the word "premeditated" relates to when a person thinks and
22 means considered beforehand. It means considered
23 beforehand. One premeditates by deliberating before taking
24 action.

25 If you find that the killing was preceded and
26 accompanied by a clear, deliberate intent on the part of the
27 defendant to kill, which was the result of deliberation and
28 premeditation, so that it must have been formed upon a

1 pre-existing reflection and not upon a sudden heat of
2 passion or other condition precluding the idea of
3 deliberation, it is murder of the first degree.

4 The law does not undertake to measure in units of time
5 the length of the period during which the thought must be
6 pondered before it can ripen into an intent to kill which is
7 truly deliberate and premeditated. The time will vary with
8 different individuals and under varying circumstances.

9 The true test is not the duration of time, but rather
10 the extent of the reflection. A cold, calculated judgment
11 and decision may be arrived at in a short period of time,
12 but a mere unconsidered and rash impulse, even though it
13 includes an intent to kill, is not deliberation and
14 premeditation as will fix an unlawful killing as murder of
15 the first degree.

16 To constitute a deliberate and premeditated killing,
17 the slayer must weigh and consider the question of killing
18 and the reasons for and against such a choice and, having in
19 mind the consequences, he or she -- she decides to and does
20 kill.

21 The unlawful killing of a human being, whether
22 intentional, unintentional, or accidental, which occurs
23 during the commission or attempted commission of the crime
24 of kidnapping, lewd or lascivious act upon a child, or rape
25 by foreign instrument, is murder of the first degree when
26 the perpetrator had the specific intent to commit that
27 crime.

28 The specific intent to commit the kidnapping, the lewd

1 or lascivious act, and the rape by foreign instrument, in
2 the commission or attempted commission of that crime, must
3 be proved beyond a reasonable doubt.

4 And I'll be defining those three offenses momentarily.

5 In law, a killing occurs during the commission or
6 attempted commission of a felony so long as the fatal blow
7 is struck during its course, even if death does not then
8 result.

9 Murder of the second degree is the unlawful killing of
10 a human being with malice aforethought when the perpetrator
11 intended to -- intended unlawfully to kill a human being but
12 the evidence is insufficient to prove deliberation and
13 premeditation.

14 Murder of the second degree is also the unlawful
15 killing of a human being when:

16 The killing resulted from an intentional act;

17 The natural consequences of the act are dangerous to
18 human life;

19 And the act was deliberately performed with knowledge
20 of the danger to, and with conscious disregard for, human
21 life.

22 When the killing is the direct result of such an act,
23 it is not necessary to prove that the defendant intended
24 that the act would result in the death of a human being.

25 If you find the defendant -- again, this is not --
26 this language of guilt doesn't apply but you get the idea.

27 If you find the defendant in this case guilty of
28 murder in the first degree, you must then determine if one

1 or more of the following special circumstances is true or
2 not true.

3 And those special circumstances are the kidnap, which
4 I'll define shortly, lewd and lascivious act upon a child,
5 and rape by foreign object.

6 The People have the burden of proving the truth of a
7 special circumstance.

8 If you have a reasonable doubt as -- again, this is
9 the trial language. If you have a reasonable doubt as to
10 whether a special circumstance is true, you must find it to
11 be not true.

12 Unless an intent to kill is an element of the special
13 circumstance, if you are satisfied beyond a reasonable doubt
14 that the defendant actually killed a human being, you need
15 not find that the defendant intended to kill in order to
16 find the special circumstance to be true.

17 If you find that a defendant was not the actual killer
18 of a human being or if you are unable to decide whether the
19 defendant was the actual killer, an aider and abettor, or a
20 co-conspirator, you cannot find the special circumstance to
21 be true unless you are satisfied beyond a reasonable doubt
22 that such defendant, with the intent to kill, aided,
23 abetted, counseled, commanded, induced, solicited,
24 requested, or assisted any actor in the commission of the
25 murder in the first degree, or with reckless indifference to
26 human life, and as a major participant, aided, abetted,
27 counseled, commanded, induced, solicited, requested, or
28 assisted in the commission of the crime of kidnap, lewd and

1 lascivious conduct upon a child, or rape with foreign
2 instrument, which resulted in the death of a human being,
3 namely, Sandra Cantu.

4 A defendant acts with reckless indifference to human
5 life when that defendant knows or is aware that her acts
6 involved a grave risk of death to an innocent human being.

7 You must decide each -- you must decide separately
8 each special circumstance alleged in this case. If you
9 cannot agree as to all of the special circumstances, but can
10 agree as to one, you must make your finding as to the one
11 upon which you do agree.

12 And, again, this doesn't apply in a trial, it says it
13 must be unanimous, did the judge read to you what the
14 numbers are here?

15 THE FOREPERSON: It's twelve.

16 MR. TESTA: Twelve.

17 THE FOREPERSON: A quorum.

18 MR. TESTA: You will state your special
19 finding as to whether this special circumstance is true or
20 not true in the form that will be supplied.

21 Well, if it is not true, simply delete it, cross it
22 off from the Indictment.

23 To find that the special circumstance referred to in
24 these instructions is murder in the commission of
25 kidnapping, lewd or lascivious conduct, or rape by foreign
26 instrument, is true, it must be proved:

27 The murder was committed while the defendant was
28 engaged in the commission or attempted commission of the

1 kidnapping, lewd or lascivious act, or rape by foreign
2 instrument;

3 The murder was committed during the immediate flight
4 after the commission or attempted commission of those three
5 crimes;

6 And the murder was committed in order to carry out or
7 advance the commission of the crime of kidnap, lewd or
8 lascivious conduct, or rape by foreign instrument;

9 Or to facilitate the escape therefrom, or to avoid
10 detection.

11 In other words, the special circumstance referred to
12 in these instructions is not established if the attempted
13 kidnap, lewd or lascivious act, or rape by foreign object,
14 was merely incidental to the commission of the murder.

15 Here are the definition of those three offenses I was
16 referring to. Here's lewd and lascivious conduct:

17 Every person who willfully commits any lewd or
18 lascivious act upon or with the body of -- with the body, or
19 any part or member thereof, of a child under the age of
20 fourteen, with the specific intent of arousing, appealing
21 to, gratifying the lust or passions or sexual desires of
22 that person or the child, is guilty of the crime of
23 committing a lewd or lascivious act upon the body of a
24 child, in violation of Penal Code Section 288, subdivision
25 (a).

26 A "lewd or lascivious act" is defined as any touching
27 of the body of a child under the age of fourteen years with
28 the specific intent to arouse, appeal to, or gratify the

1 sexual desires of either party.

2 To constitute a lewd or lascivious act, it is not
3 necessary that the bare skin be touched. The touching may
4 be through the clothing of the child.

5 The law does not require as an essential element of
6 the crime that the lust, passion or sexual desires of either
7 of such persons be actually aroused, appealed to, or
8 gratified.

9 It is no defense to this charge that a child under the
10 age of fourteen may have consented to the alleged lewd or
11 lascivious acts.

12 In order to prove this crime, each of the following
13 elements must be proved:

14 A person touched the body of a child;

15 The child was under fourteen years of age;

16 And the touching was done with the specific intent to
17 arouse, appeal to, or gratify the lust, passions, or sexual
18 desires of that person or the child.

19 Here is the other offenses, the rape by instrument.

20 Every person who participates in an act of sexual
21 penetration with another person who is under fourteen years
22 of age and is more than ten years younger than he or she, is
23 guilty of this offense 289(j).

24 "Sexual penetration" is the act of causing the
25 penetration, however slight, of the genital or anal opening
26 of another person or causing another person to so penetrate
27 the defendant's or another person's genital or anal opening
28 for the purpose of sexual arousal, gratification, or abuse

1 by any foreign object, substance, instrument, or device, or
2 by any unknown object.

3 The words "foreign object, substance, instrument, or
4 device" include any part of the human body, except a sexual
5 organ.

6 "Unknown object" includes any foreign object,
7 substance, instrument, or device, or any part of the body,
8 including a penis, when it is not known whether penetration
9 was by a penis or by a foreign object, substance,
10 instrument, or device, or by any other part of the body.

11 The specific intent to cause sexual abuse, as used in
12 this instruction, means a purpose to injure, hurt, cause
13 pain or cause discomfort. It does not mean that the
14 perpetrator must be motivated by sexual gratification or
15 arousal or have a lewd intent.

16 The term "victim" includes any person who the
17 defendant causes to penetrate the genital or anal openings
18 of the defendant or another person or whose genital or anal
19 opening is caused to be penetrated by the defendant or
20 another person and who otherwise qualifies as a victim under
21 the requirements of this section.

22 In order to prove this crime, each of the following
23 elements must be proved:

24 A person participated in an act of sexual penetration
25 with another person;

26 The other person, namely, the alleged victim, was
27 under fourteen years of age and more than ten years younger
28 than the other participant in the act of sexual penetration;

1 And the act was done with the purpose and specific
2 intent to cause sexual arousal, gratification, or abuse.

3 Here's the definition of the third special
4 circumstance that I'm referring to.

5 Every person -- kidnapping. Every person who, with
6 the specific intent to commit any act defined in Penal Code
7 Section 288, hires, persuades, entices, decoys, or seduces
8 by false promises, misrepresentations, or the like, any
9 child under the age of fourteen, to go out of this country,
10 state, or county, or into another part of the same county,
11 is guilty of the crime of kidnapping for child molesting, in
12 violation of Penal Code Section 207(b).

13 Now, the 288 that it refers to is Penal Code -- Penal
14 Code Section 288 provides that any person who willfully
15 commits any lewd or lascivious act upon or with the body, or
16 any part or member thereof, of a child under the age of
17 fourteen years, with the specific intent of arousing
18 appealing to, or gratifying the lusts or passions or sexual
19 desires of the person or of the child, is guilty of the
20 crime.

21 A "lewd or lascivious act" is defined as the touching
22 of the body of a child under the age of fourteen years with
23 the specific intent to arouse, appeal to, or gratify the
24 sexual desires of either party.

25 In order to constitute kidnapping for child molesting,
26 the unlawful movement of the child under the age of fourteen
27 must be for a substantial distance, where the movement is
28 not merely incidental to the commission of the crime of

1 child molesting, in violation of Penal Code Section 288, and
2 where the movement substantially increases the risk of harm
3 to the child over and above that necessarily present in a
4 crime of child molesting itself.

5 Brief movements to facilitate the crime of child
6 molesting are incidental to commission of the crime of child
7 molesting. On the other hand, movements to facilitate the
8 child molesting that are for a substantial distance, rather
9 than brief, are not incidental to the commission of the
10 child molesting.

11 In order to prove this crime, each of the following
12 elements must be proved:

13 A person under the age of fourteen was hired,
14 persuaded, enticed, decoyed, or seduced by false promises,
15 misrepresentations, or the like, to go out of this country,
16 state, county, or into another part of this county;

17 The perpetrator of the movement had the specific
18 intent to commit an act defined in Penal Code Section 288;

19 The movement of the child under the age of fourteen
20 was for a substantial distance. That is, a distance more
21 than slight, brief, or trivial, and not merely incidental to
22 the commission of the crime of Penal Code Section 288;

23 The movement substantially increased the risk of harm
24 to the child under fourteen, over and above that necessarily
25 present in the crime defined in Penal Code Section 288
26 itself.

27 The determination by you of whether a particular
28 distance moved was substantial and increased the risk of

1 harm to the alleged victim, depends upon a consideration of
2 the totality of the circumstances involved in this case.
3 Whether the alleged victim's forced movement was merely
4 incidental to the underlying crime is necessarily connected
5 to whether it substantially increased the risk of harm to
6 the alleged victim. Distance moved is simply one factor.
7 No minimum distance is required so long as the movement is
8 substantial.

9 Other factors you should consider are the scope and
10 nature of the movement, as well as the context of its
11 environment, including but not limited to, whether the
12 movement decreased the likelihood of detection, increased
13 the danger inherent in an alleged victim's foreseeable
14 attempts to escape, or enhanced the attacker's opportunity
15 to commit other crime.

16 The specific intent or mental state with which an act
17 is done may be shown by the circumstances surrounding its
18 commission. But you may not find a special circumstance
19 alleged in this case to be true unless the proved
20 circumstances are not only consistent with the theory that
21 the defendant had the required specific intent or mental
22 state, but cannot be reconciled with any other rational
23 conclusion.

24 Also, if the evidence as to any specific intent or
25 mental state is susceptible of two reasonable
26 interpretations, one of which points to the existence of the
27 specific intent or mental state and the other to the absence
28 of the specific intent or mental state, you must adopt that

1 interpretation which points to the absence of the specific
2 intent or mental state.

3 If, on the other hand, one interpretation of the
4 evidence as to the specific intent or mental state appears
5 to you to be reasonable and the other interpretation to be
6 unreasonable, you must accept the reasonable interpretation
7 and reject the unreasonable.

8 You are not permitted to find a special circumstance
9 alleged in this case to be true based upon circumstantial
10 evidence unless the proved circumstance is not only
11 consistent with the theory that a special circumstance is
12 true, but, two, cannot be reconciled with any other rational
13 conclusion.

14 Further, each fact upon -- each fact which is
15 essential to complete a set of circumstances necessary to
16 establish the truth of the special circumstance must be
17 proved beyond a reasonable doubt.

18 In other words, before an inference essential to
19 establish a special circumstance may be found to have been
20 proved beyond a reasonable doubt, each fact or circumstance
21 upon which that inference necessarily rests must be proved
22 beyond a reasonable doubt.

23 Also, if the circumstantial evidence is susceptible of
24 two reasonable interpretations, one of which points to the
25 truth of a special circumstance and the other to its
26 untruth, you must adopt the interpretation which points to
27 its untruth and reject the interpretation which points to
28 its truth.

1 If, on the other hand, one interpretation of that
2 evidence appears to you to be reasonable and the other
3 interpretation to be unreasonable, you must accept the
4 reasonable interpretation and reject the unreasonable.

5 In your deliberations, the subject of penalty or
6 punishment is not to be considered or discussed by you.
7 That is a matter which it must not in any way affect your
8 verdict or affect your finding as to the special
9 circumstances alleged in this case.

10 Now, let's see, Count 2. Defendant is accused in
11 Count 2 of having violated Section 288.7, subdivision (b) of
12 the Penal Code, a crime.

13 Any person eighteen years of age or older who engages
14 in sexual penetration with a child who is ten years of age
15 or younger, is guilty of a violation of Penal Code Section
16 288.7, subdivision (a), a crime.

17 "Sexual penetration" is the act of causing the
18 penetration, however slight, of the genital or anal openings
19 of any person or causing another person to so penetrate the
20 defendant's or another person's genital or anal openings for
21 the purpose of sexual arousal, gratification, or abuse by
22 any foreign object, substance, instrument, or device, or by
23 any unknown object.

24 The words "foreign object, substance, instrument, or
25 device" include any part of the human body, except a sexual
26 organ.

27 "Unknown object" includes any foreign object,
28 substance, instrument, or device, or any part of the body,

1 including a penis, when it is not known whether penetration
2 was by a penis or by a foreign object, substance,
3 instrument, or device, or by any other part of the body.

4 It is no defense that the child under ten may have
5 consented.

6 In order to prove this crime, each of the following
7 elements must be proved:

8 A person engaged in an act of sexual penetration with
9 the alleged victim;

10 At the time of the act, the alleged victim was ten
11 years of age or younger, and the other party to the act was
12 eighteen years of age or older.

13 Now, this is the other count child endangerment. That
14 would be Count -- I believe it's 3. Verify that.

15 Yes.

16 Every person who, under circumstances or conditions
17 likely to produce great bodily harm -- great bodily harm or
18 death, willfully inflicts unjustifiable physical pain or
19 mental suffering on a child, or willfully causes or,
20 willfully as a result of criminal negligence, permits a
21 child to suffer unjustifiable physical pain or mental
22 suffering, or has the care and custody of a child, and
23 willfully causes or, willfully and as a result of criminal
24 negligence, permits the child's person or health to be
25 injured, or willfully causes or, willfully and as a result
26 of criminal negligence, permits the child to be placed in a
27 situation where his or her person or health may be
28 endangered, is guilty of the crime of Penal Code Section

1 273(a), subdivision (a), a crime.

2 The word "likely," as used in this crime, means the
3 circumstances or conditions are such that they present a
4 substantial danger, that is, a serious and well-founded risk
5 of great bodily harm or death.

6 The word "willfully," as used in this instruction,
7 means with a purpose or willingness to commit the act or
8 make the omission in question. The word "willfully" does
9 not require any intent to violate the law, or to injure
10 another, or to acquire any advantage.

11 In the crime charged in the Indictment -- in the crime
12 charged in the Indictment, there must exist a union or joint
13 operation of act or conduct and either general intent --
14 criminal intent or criminal negligence.

15 To establish general criminal intent, it is not
16 necessary that there should exist an intent to violate the
17 law. A person, who intentionally does that which the law
18 declares to be a crime, is acting with general criminal
19 intent even though she may not know that her conduct is
20 unlawful.

21 "Criminal negligence" refers to negligent conduct
22 which is aggravated, reckless, or flagrant, and which is
23 such a departure from the conduct of an ordinarily prudent,
24 careful person under the same circumstances as to be
25 contrary to a proper regard for danger to human life, or to
26 constitute indifference to the consequences of that conduct.

27 The facts must be such that the consequences of the
28 negligent conduct could reasonably have been foreseen and it

1 must appear that the danger to human life was not the result
2 of inattention, mistaken judgment, or misadventure, but the
3 natural and probable result of an aggravated, reckless, or
4 flagrantly negligent conduct.

5 Unjustifiable physical pain or mental suffering is
6 pain or suffering which is not reasonably necessary or is
7 excessive under the circumstances.

8 "Great bodily harm" refers to significant or
9 substantial injury. It does not refer to trivial or
10 insignificant injury.

11 If a child is placed in a situation likely to produce
12 great bodily harm or death, it is not necessary that actual
13 bodily injury occur in order to constitute the offense.
14 However, if great bodily injury does occur, its nature and
15 extent are to be considered in connection with all the
16 evidence in determining whether the circumstances were
17 likely to produce great bodily harm or death.

18 In order to prove this crime, each of the following
19 elements must be proved:

20 A person willfully inflicted unjustifiable physical
21 pain or mental suffering on a child;

22 Or a person willfully caused or, willfully and as a
23 result of criminal negligence, permitted a child to suffer
24 unjustifiable pain or mental suffering;

25 Or a person who had care or custody of a child
26 willfully caused or, willfully and as a result of criminal
27 negligence, permitted the child to be injured;

28 Or willfully caused or, willfully and as a result of

1 criminal negligence, permitted the child to be placed in a
2 situation where his or her person or health may be
3 endangered;

4 And the person's conduct occurred under the
5 circumstances likely to produce great bodily injury or
6 death.

7 Now there's no definition for 347(a) -- I should say
8 there's no jury instruction that I could find for 347(a).
9 So I thought it would be wise simply to read the Penal Code
10 Section to you.

11 Now, this is the one where the last two counts where
12 the defendant is charged with putting the substance in the
13 drink of REDACT and -- REDACT and Mr. Plowman.

14 347, let me just read you that from the Penal Code.

15 It's called mingling harmful substance with food or
16 drink.

17 347(a)(1). Every person who willfully mingles any
18 poison or harmful substance with any food, drink, medicine,
19 or pharmaceutical product or who willfully places any poison
20 or harmful substance in any spring, well, reservoir, or
21 public water supply, where the person knows or should have
22 known that the same would be taken by any human being to his
23 or her injury, is guilty of a felony. Don't have to be
24 concerned with the penalty.

25 That's the offense of mingling harmful substance with
26 food or drink.

27 I have not intended by anything I have said or done,
28 or by any questions that I may have asked, or any ruling

1 that I may have made, to intimate or suggest what you should
2 find to be the facts or that I believe or disbelieve any
3 witness.

4 The purpose of these instructions is to provide you
5 with the applicable law so that you may arrive at a just and
6 lawful verdict.

7 Whether some of the instructions apply will depend
8 upon what you find to be the facts. Disregard any
9 instruction which applies to facts determined by you not to
10 exist. Do not conclude that because an instruction has been
11 given there is an opinion being expressed as to the facts.

12 I'm going to amend one thing, Ladies and Gentlemen, I
13 said as to Count -- I think I should prepare one more form
14 for you for the Count 1 so you can -- it's a form that
15 says -- in fact -- I will go downstairs and have it typed.

16 GRAND JUROR 19: We have it in the packet.

17 MR. TESTA: Is it in the packet?

18 Can you put it on the screen here so I can see it and
19 read it?

20 GRAND JUROR 19: Sure.

21 MR. TESTA: I thought I had put that there.

22 Just take page 3 out of your old packet, put it in
23 your new packet. That reads "Special finding by the grand
24 jury."

25 The Grand Jury further fixes Count 1, the murder of
26 Sandra Cantu, to be murder in the -- it says first degree,
27 and there's a place for second degree. And then you would
28 simply initial which of those two it is, and date and sign

1 it.

2 That concludes the reading of the jury instructions.

3 And now let me just say in closing, putting that
4 aside, now I'm back in my role as Deputy DA on this case,
5 not as judge reading the jury instructions. And it's an
6 argument that I wanted -- I want to amend the argument that
7 I was making earlier.

8 We are asking for an Indictment on all of these counts
9 based on the standard that applies here: The probable cause
10 standard. And we are asking that you come back with a first
11 degree murder.

12 There are two types of first degree murder. One is
13 that -- well, you -- I read both of them to you, so you can
14 see them in there. One is when you do it in the course -- I
15 won't repeat it. You can read them there. They are in
16 there.

17 There are two different ways to get there. It doesn't
18 matter which way you get there, but we are asking based on
19 the facts that you come back with a finding of first degree
20 as well.

21 And I would just end by cautioning you that you can
22 get carried away and get into all sorts of theories and
23 speculations. Keep in mind you are not here to determine if
24 Melissa Huckaby is innocent or if she's guilty. You are
25 here to determine if, from the evidence that was presented
26 to you, would this evidence warrant a conviction if there
27 were a trial?

28 But what that means is that you must find probable

1 cause, which as you will read, you can see this entire
2 instruction, number 27, that you have a strong suspicion
3 that a public offense has been committed and a strong
4 suspicion of the guilt of the accused. And based on all
5 those facts, I -- unless any of you have any questions, I
6 can't get into your deliberative -- I can't enter the jury
7 room and give you my ideas or my opinions about witnesses or
8 evidence. I have made my closing argument. I have read you
9 the jury instructions. I have said what we are requesting
10 in terms of an Indictment.

11 But if you have any procedural questions,
12 administrative questions, or the like, I can attempt to
13 answer them, or during your deliberations if you have legal
14 questions, you can write them down on a piece of paper and I
15 can attempt to write back and answer to you.

16 GRAND JUROR 15: With the discussion of the
17 Indictments and then if it is agreement on the Indictments,
18 is it verbally that we yea or nay, or how do we go about it?

19 MR. TESTA: Did the judge explain that you --

20 THE FOREPERSON: No.

21 MR. TESTA: -- if you deliberate, and did he
22 explain twelve of the members --

23 THE FOREPERSON: Yes.

24 MR. TESTA: -- if twelve of you arrive at an
25 Indictment, you sign it and make your findings, so on, so
26 forth?

27 Then you notify -- do you have the number for Teresa
28 Provencio?

1 THE FOREPERSON: Yes.

2 MR. TESTA: You call her. There's a judge on
3 standby. And I'm standby. You call her. She will ask the
4 judge to come down.

5 And the way it works, legally, is the judge then comes
6 down and looks at your Indictment if you decide to sign it,
7 and then asks you, "Is this your true and correct verdict?"
8 And he says some other things on the record. And that's --
9 I believe he might even -- I think that's it.

10 THE FOREPERSON: Okay.

11 MR. TESTA: But the judge comes down. The
12 court reporter's here, I'm here. And the judge has a script
13 that he follows, just as you have had one. I don't have it
14 in front of me. It's a five-minute, ten-minute procedure
15 when he comes down.

16 THE FOREPERSON: So on this piece of paper --

17 MR. TESTA: On which, the Indictment?

18 THE FOREPERSON: On the Indictment, yes. I'm
19 sorry.

20 MR. TESTA: As amended with that page 3 from
21 the old one.

22 THE FOREPERSON: Correct.

23 MR. TESTA: You going to staple it?

24 THE FOREPERSON: Just write on the side --
25 you want me as the foreperson to write anything or...

26 MR. TESTA: No. I was saying that I didn't
27 realize we had that page 3 with that. Now that I know
28 there's that page 3.

1 THE FOREPERSON: Just fill this out?

2 MR. TESTA: Fill it out as appropriate, where
3 it's appropriate, when it's appropriate, and staple it to
4 the actual Indictment.

5 THE FOREPERSON: So I don't have to go
6 through Count 1, Count 2, Count 3, Count 4?

7 MR. TESTA: You can delete counts, you can
8 delete things that you find, you can make motions to amend,
9 you can amend and you can make deletions.

10 THE FOREPERSON: Okay.

11 MR. TESTA: If you find, "Well, we don't
12 think there's kidnapping," you strike it. I'm not saying
13 that because I think you're going to find it. I have given
14 you my explanation earlier.

15 THE FOREPERSON: I'm asking how you wanted it
16 processed, that's what I'm asking.

17 MR. TESTA: Processed, what you would do is
18 you would go in there and, well, you have -- normally, a
19 jury chooses a foreperson, but I guess with grand jurors the
20 judge chose you.

21 THE FOREPERSON: Yes.

22 MR. TESTA: So you're the foreperson. So you
23 monitor -- you're the foreperson during deliberations. You
24 kind of keep order, however you do it. Different
25 forepersons have different approaches. You know, some
26 say -- has everyone go down and give their opinion. Or some
27 do it by a show of hands or they -- you decide how you want
28 to conduct your deliberations.

1 And people give their opinions, and you take your
2 votes, and you decide, and if you reach an opinion and have
3 a conclusion, and it's twelve, it's up to the requisite
4 number, then you notify Teresa Provencio.

5 THE FOREPERSON: Okay.

6 MR. TESTA: And you don't have to, as I say,
7 you can make deletions. And if there are typographical
8 errors, I guess you could make those changes, too.

9 But the Indictment itself is just page 1, page 2, and
10 I guess what we should do with that -- that was page 3 in
11 the first Indictment. So I guess we should call it page 2
12 and a half, 2.5, maybe put it in where it would normally go.
13 I think in the first Indictment it was page 3. So in this
14 one I think 2.5 would be the right way of putting it.

15 THE FOREPERSON: All right.

16 MR. TESTA: Just unstaple and staple it back.
17 Then you would go 3, 4, all the way to the end.

18 GRAND JUROR 17: We are only going to provide
19 the judge with that copy, though?

20 MR. TESTA: That's correct.

21 GRAND JUROR 7: So page 6 of the new
22 Indictment, doesn't really matter that there's only four
23 counts on that?

24 MR. TESTA: Page 6? Oh. I see what you're
25 saying. She didn't -- she didn't -- she didn't make the
26 change there when the Count 2 was added, she obviously added
27 it on page 1. I think she missed it on page 6.

28 What you could probably do is just make corrections

1 and renumber them. Write it in, make the corrections. I
2 don't think it's really that urgent, but if you care to, you
3 can make the corrections on page 6 that you just noted, that
4 you just add that count.

5 THE FOREPERSON: I didn't hear what he said.

6 GRAND JUROR 19: That page 6 only has four
7 counts, not five.

8 GRAND JUROR 7: He didn't put the new count
9 on page 6 of the new Indictment.

10 MR. TESTA: You would renumber Counts 2, 3,
11 and 4 as 3, 4, and 5, and just add the Count 2 underneath
12 Count 4. Probably that's the way to do it.

13 I believe it's just the one copy. You have all been
14 given copies. I believe it's just the one official copy
15 that the foreperson signs and dates. That becomes the
16 Indictment, and that which is made the official document in
17 the case. It doesn't require -- I don't have -- let's see.
18 Do you have a page where the grand jury signs? Is there a
19 page on the Amended Indictment?

20 THE FOREPERSON: Not for the grand jury.
21 It's just for the foreperson.

22 MR. TESTA: For the foreperson. What page is
23 it on?

24 THE FOREPERSON: It's on the -- it was on
25 that page that you asked us to sign.

26 GRAND JUROR 17: New page 2.5.

27 MR. TESTA: Oh, the new page 2.5. Could I
28 see that again?

1 GRAND JUROR 19: It's the same one you have.

2 GRAND JUROR 11: It has Count 1.

3 GRAND JUROR 7: Yeah, Count 1's correct.

4 MR. TESTA: So Count 1 is just the special
5 finding -- I mean, excuse me, page 3 refers to a special
6 finding. But the Bill -- this signature on page 3 refers to
7 the entire Indictment.

8 Maybe it's not clear there. When you -- if Count 3 --
9 if page 3 is signed by the foreperson, and then when I come
10 in court, the DA's required to sign it in front of the
11 judge, this would indicate, if it were signed and dated,
12 that the entire Indictment were as amended, if you choose to
13 amend it, is found to be true.

14 In other words, if you find all of the offenses,
15 there's probable cause to believe all of the offenses and --
16 and special circumstances are true, you would sign page --
17 the foreperson -- you would vote. And if the vote, the
18 numbers are there, you would sign page -- the foreperson
19 would sign and date page 3. And you would also make this
20 special finding on whether it's first or second degree.

21 Now, if you found all but one were true, you would
22 still sign this, but you would just cross out whatever is
23 untrue on the actual Indictment, and have the foreperson
24 initial it, just say -- you say, "Oh, we don't believe
25 there's probable -- a suspicion that Count 4 occurred." You
26 would cross that -- you would cross it out and date it, so
27 you have now amended it. So you end up signing page 2.5,
28 the previous page 3. You are signing the Indictment as --

1 as you have amended it.

2 Does that make any sense?

3 THE FOREPERSON: Yes.

4 MR. TESTA: Okay. Now, if you need to play
5 any of these tapes, there's a laptop here. And maybe
6 there's someone here who is proficient. If there isn't, I
7 can have Tim Bauer come in and put them in and play them, or
8 I can get someone from our tech -- maybe someone from our
9 tech unit could come up from downstairs and do it if you
10 need to do that.

11 Otherwise, I will -- barring any other questions, I
12 will leave.

13 GRAND JUROR 19: Do we need that other paper
14 back to vote on or not?

15 GRAND JUROR 15: 2.5 she gave you?

16 MR. TESTA: I think I just gave it to you,
17 didn't I?

18 THE FOREPERSON: There's only going to be one
19 signed.

20 GRAND JUROR 19: I don't need it.

21 MR. TESTA: There's only going to be one --
22 if it's signed, it's signed by one.

23 Should I leave a copy of the jury instructions with
24 you as well? I don't think that would hurt. I will leave
25 them here.

26 Keep in mind, they were read slightly different.
27 Remember, I had to make changes as I went along.

28 If there's a question as to some technical point, you

1 might need to have the court reporter read back the
2 instruction that I read.

3 GRAND JUROR 7: You stay in the room?

4 MR. TESTA: The court reporter leaves as
5 well.

6 This is all between just you guys talking on you own.

7 GRAND JUROR 7: We have to come find you
8 guys? Okay.

9 MR. TESTA: And deliberations are completely
10 secret.

11 You know, there are these -- these instructions we
12 normally don't read. But each of you must decide the case
13 for yourself. I read that.

14 Don't hesitate to change your opinion if you're wrong.
15 Did I read that one?

16 It is rarely helpful for jurors -- did I read this one
17 to you -- at the beginning of deliberations to express an
18 emphatic opinion on the case, or to announce, you know, how
19 they stand, because when people do that at the outset, a
20 sense of pride may be aroused and one might be hesitant to
21 change their position even shown it is wrong.

22 Remember, that you are not partisans or advocates in
23 this matter. You are impartial judges of the facts.

24 And I mentioned that one.

25 You may -- you may have testimony read back. You can
26 request a partial or total read-back. But any read-back
27 requested should be a fair presentation of that evidence.

28 If a read-back of testimony is requested, the reporter

1 will -- let's see -- will have to look for the testimony.
2 It may take time to provide a response. If you con -- if
3 you request a read-back. But continue deliberating until
4 she's able to find that portion that you're requesting.

5 The instructions which I read will be made -- will be
6 made available to you in written form. Please do not deface
7 them.

8 As you can see, some of the instructions have been
9 deleted, matters have been added. Disregard any deleted
10 part of an instruction. Don't speculate as to why or the
11 reason for its deletion.

12 Every part of an instruction is of equal importance.

13 Okay. I will give the foreperson a sample of -- a
14 copy of the jury instructions.

15 Here is -- you're going to hold on to all the
16 evidence.

17 Here's a measuring tape if anyone wants it.

18 And you have Teresa Provencio's phone number. Then
19 you call her and the court reporter will be notified and the
20 judge will be notified and I will be notified.

21 And with that, barring any last-minute questions, I'll
22 leave.

23

24 (Whereupon the District Attorney and the
25 Court Reporter left the Grand Jury room
26 and deliberations commenced.)

27

28

1 (At 2:40 p.m., the following proceedings
2 were held in the Grand Jury Room, the
3 HON. WILLIAM J. MURRAY, JR. presiding:)

4
5 THE COURT: Okay. Good afternoon, Ladies and
6 Gentlemen.

7 My name is William Murray. I'm the court's -- serving
8 as the court's presiding judge. I'll be sitting in for
9 Judge Abdallah, who normally has this assignment. He's away
10 from the courthouse today.

11 Who is the clerk?

12 THE CLERK: The secretary.

13 THE COURT: The secretary, yes.

14 Could we have -- let's go on the record. Would you
15 please take the roll?

16 THE CLERK: I take the roll, Judge. I say
17 the roll. I take the list. Want to pass it down?

18 Thank you.

19 THE COURT: And I'll need the count of how
20 many jurors are here.

21
22 (Roll call taken.)

23
24 THE CLERK: Nineteen jurors present.

25 THE COURT: All right. And the foreperson is
26 who?

27 THE FOREPERSON: Right here.

28 THE COURT: Madame Foreperson -- first of

1 all, let's have the record reflect there are nineteen grand
2 jurors present.

3 Madame Foreperson, I understand you have some business
4 with the Court. Do you have an Indictment?

5 THE FOREPERSON: Yes, I do.

6 THE COURT: Would you hand that over, please?

7
8 (Pause.)

9
10 THE COURT: Okay. The Court has before it an
11 Indictment in which Melissa Huckaby is charged as follows:

12 Count 1: On or about March 27th, 2009, the crime of
13 murder, in violation of Section 187 of the Penal Code, a
14 felony, was committed by Melissa Huckaby, who at the time
15 and place last aforesaid, did willfully and unlawfully and
16 intentionally and with malice aforethought murder Sandra
17 Cantu, a human being.

18 It is further alleged that the murder of Sandra Cantu
19 was committed by the defendant, Melissa Huckaby, while the
20 said defendant was engaged in the commission of the crime of
21 kidnapping, in violation of Penal Code Section 207 and 209.

22 It is further alleged that the murder of Sandra Cantu
23 was committed by Melissa Huckaby, while the said defendant
24 was engaged in the commission, attempted commission, or
25 immediate flight after the commission, or attempted
26 commission, of the crime -- excuse me -- of the crime of the
27 performance of lewd or lascivious acts upon the person of a
28 child under the age of fourteen in violation of Penal Code

1 Section 288; within the meaning of Penal Code Section 190.2,
2 subdivision (a)(17)(E).

3 It is further alleged that the murder of Sandra Cantu
4 was committed by Melissa Huckaby, while the said defendant
5 was engaged in the commission, attempted commission, or
6 immediate flight after the commission, or attempted
7 commission, of the crime of -- of the rape by instrument in
8 violation of Penal Code Section 289; within the meaning of
9 Penal Code Section 190.2, subdivision (a)(17)(K).

10 Count 2: For a further and separate cause of action
11 being a different offense of the same class of crime from
12 the charge as set forth in Count 1 and connected in its
13 commission with all other offenses in the Indictment, the
14 complaint further complains -- excuse me -- complainant
15 further complains and says: On or about March 27th, 2009,
16 the crime of sex crime in -- sex crime with a child, ten
17 years or younger, in violation of Section 288.7, subdivision
18 (b) of the Penal Code, a felony, was committed by Melissa
19 Huckaby, who at that time and place last aforesaid did
20 willfully and unlawfully participate in an act of sexual
21 penetration with a foreign object, date of birth, 3/8/01, a
22 child ten years of age or younger, to wit, Sandra Cantu.

23 Count 3: For a further and separate cause of action,
24 being a different offense of the same class of crime from
25 the charge as set forth in Count 2 and connected in its
26 commission with all other offenses in the Indictment,
27 complainant further alleges -- excuse me -- further
28 complains and says: On or about January 17th, 2009, the

1 crime of child abuse/endangerment, in violation of Section
2 273a, subdivision (a) of the Penal Code, a felony, was
3 committed by Melissa Huckaby, who at the time and place last
4 aforesaid, did willfully and unlawfully, under circumstances
5 likely to produce great bodily harm and death, injure,
6 cause, and permit a child, Jane M. Doe, date of birth
7 7/5/2001, to suffer and to be inflicted with unjustifiable
8 physical pain and mental suffering, and having the care and
9 custody of said child, injure, cause and permit the person
10 and health of said child to be injured and did willfully
11 cause and permit said child to be placed in such a situation
12 that her person and health was endangered.

13 Count 4: Further -- for a further and separate cause
14 of action being a different offense of the same class of
15 crime from the charge as set forth in Count 3 and connected
16 in its commission with all other offenses in the Indictment,
17 complainant further complains and says: On or about
18 January 17th, 2009, the crime of furnishing a harmful
19 substance, in violation of Section 347, subdivision (a)(1)
20 of the Penal Code of the State of California, County of San
21 Joaquin -- County of San Joaquin, to wit, a felony, was
22 committed by Melissa Huckaby, who at the time and place last
23 aforesaid, did willfully and unlawfully mingle a harmful
24 substance with food or drink with the intent that the same
25 be taken by a human being, to wit: Jane M. Doe, date of
26 birth, 7/5/01, to the -- to the injury of the human being.

27 Count 5: For a further and separate cause of action
28 being a different offense of the same class of crime from

1 the charge as set fourth in Count 4 and connected in its
2 commission with all other offenses in the Indictment,
3 complainant further complains and says: On or about
4 March 2nd, 2009, the crime of furnishing a harmful
5 substance, in violation of Section 347, subdivision (a) of
6 the Penal Code of the State of California, County of San
7 Joaquin, to wit: A felony, was committed by Melissa
8 Huckaby, who at that time and place last aforesaid, did
9 willfully and unlawfully mingle a harmful substance with
10 food or drink with the intent that the same be taken by a
11 human being, to wit: Daniel Plowman, to the injury of the
12 human being.

13 Special findings by the grand jury: The grand jury
14 further fixes Count 1, the murder of Sandra Cantu, to be
15 murder in the first degree.

16 This is endorsed a True Bill. Signed by the
17 Foreperson, [GJ.02XXXXXXXXXX], dated today's date.

18 Signed and endorsed by Thomas J. Testa, dated today's
19 date, on behalf of the District Attorney of San Joaquin
20 County.

21 Madame Foreperson, did twelve or more grand jurors
22 receive all of the evidence pertaining to this Indictment?

23 THE FOREPERSON: Yes.

24 THE COURT: Did the same twelve or more grand
25 jurors participate in the deliberations regarding the
26 Indictment?

27 THE FOREPERSON: Yes.

28 THE COURT: Did at least twelve of these same

1 grand jurors concur in the finding of this Indictment?

2 THE FOREPERSON: Yes.

3 THE COURT: The clerk's ordered at this time
4 to file this Indictment.

5 And it's assigned Superior Court Number SF112495A.

6 The clerk is also ordered to affix this number to the
7 exhibits and the exhibit list, which will be deemed lodged.

8 And the exhibits will be returned to the prosecutor
9 who will keep the exhibit list.

10 Bail is set at no bail.

11 The clerk is ordered at this time to seal the
12 Indictment, the exhibits, and the exhibit list, pending the
13 arraignment of the defendant on this matter.

14 The arraignment is going to be set in Department 14,
15 August 17th, 9:00 a.m.

16 MR. TESTA: Judge, did you mean to say
17 judge -- Department 33?

18 THE COURT: No, I meant to say 14. She'll be
19 sitting in that department.

20 MR. TESTA: Oh, all right.

21 THE COURT: I think that concludes the
22 proceedings for today.

23 Is there any other business that the grand jury has,
24 Madame Foreperson?

25 THE FOREPERSON: I don't believe so.

26 THE COURT: All right.

27 MR. TESTA: Judge, I'm sorry, is there an
28 admonition to the jurors -- to the grand jurors about --

1 THE COURT: I was about to give them that.

2 MR. TESTA: Thank you.

3 THE COURT: Secrecy admonition.

4 THE FOREPERSON: Excuse me, I do have one.

5 On our evidence, on our -- these, I don't have an
6 admitted date. Will we do that after that? Admitted date?
7 I'm supposed to write an admitted date on this form.

8 THE COURT: You saying the date that the
9 exhibits were received into evidence?

10 MR. TESTA: I guess it would be today. I
11 will formally move them in. I guess I didn't officially do
12 that. But today -- they would all have today's date on them
13 apparently.

14 THE FOREPERSON: Okay.

15 MR. TESTA: So do they have today's date on
16 them now? None of them do?

17 THE FOREPERSON: We can do that. We will do
18 that.

19 MR. TESTA: Do they have a date on them?

20 THE CLERK: Yeah, they do have a date on
21 them.

22 MR. TESTA: The date they were discussed?

23 THE FOREPERSON: The day we discussed them,
24 yes, sir.

25 MR. TESTA: Well, I was kind of admitting
26 them as we went along. So I think we could deem the date on
27 the forms as the date they were admitted, because I was
28 admitting them as we went along. I showed them, put them on

1 the screen.

2 THE FOREPERSON: We have that already.

3 MR. TESTA: I don't think you need to go
4 through them all and put today's date on them.

5 THE FOREPERSON: We do have it the other way.

6

7 (Whereupon all Grand Jury Exhibits were
8 received into evidence.)

9

10 THE COURT: All right. Any other business?

11 THE FOREPERSON: No.

12 THE COURT: All right. On behalf of the
13 Superior Court, I want to thank you folks for your service
14 in this matter.

15 You are reminded about your oath of secrecy in this
16 matter. Of course, that's very important given the nature
17 of the allegations in this case. So please be -- be
18 reminded that you did take an oath of secrecy and the
19 ramifications for breaking that oath.

20 The grand jury is discharged and excused.

21 Court's going to be in recess. Thank you.

22 (Proceedings concluded.)

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1 STATE OF CALIFORNIA)
2) ss.
3 COUNTY OF SAN JOAQUIN)

4 We, **JEANNE COFFEY and JENNIFER WHITLOCK**, Official
5 Court Reporters of the Superior Court of the State of
6 California, do hereby certify:

7 That we were present at the Grand Jury hearing of
8 the above-entitled matter; that at said time and place, we
9 took down in shorthand notes all the testimony given and
10 proceedings had; that we thereafter caused said shorthand
11 notes to be transcribed into longhand typewriting by
12 computer-aided transcription, the above and foregoing being
13 a full, true and correct transcript of all testimony taken
14 and proceedings had.

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JEANNE COFFEY, C.S.R. No. 7084

JENNIFER WHITLOCK, C.S.R. No. 11060

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

(Sitting as a Grand Jury)

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PEOPLE OF THE STATE OF)	
CALIFORNIA,)	
)	
Plaintiff,)	D.A. No. 2535
)	
vs.)	CR No. TP09-2712
)	
MELISSA HUCKABY,)	No. SF112495A
)	
Defendant.)	
_____)	

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229	Copy of Note	892	1850
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292	Photograph	1618	1850
293	Photograph	1618	1850
294	Photograph	1627	1850
295	Photograph	1627	1850
296	Photograph	1628	1850

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INDEX OF EXHIBITS

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>REC 'D</u>
297	Photograph	1628	1850
298	Photograph	1629	1850
299	Photograph	1629	1850
300	Photograph	1629	1850
301	Photograph	1633	1850
302	Photograph	1633	1850
303	Photograph	1633	1850
304	Sketch of Church	1649	1850
305	Photograph	1663	1850

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