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Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/01/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES RUBEN RICARDO FLORES, Defendants.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND ORDER SEALING RECORDS

I am Christopher Peuvrelle, a Deputy District Attorney for San Luis Obispo County. I am the assigned prosecutor for the above-entitled case.

As the court and counsel for the defendant are well aware, there has been a great deal of public interest in this pending case. It has been the goal of all parties to this case to limit the amount of information disseminated to the public to maintain the integrity of the potential jury pool. Such efforts will help assure the defendant is able to receive a fair and impartial trial in which has now been moved to Monterey County.

In this regard, I have submitted a copy of a Request for Judicial Notice of Exhibits to Peoples' Memorandum to the Court Regarding the Defendant's Statements the People Will Introduce at Trial to be heard on June 6, 2022. In accordance with Section 6255 of the

California Government Code, I am requesting that this court order that the Request for Judicial Notice of Exhibits to Peoples' Memorandum to the Court Regarding the Defendant's Statements the People Will Introduce at Trial be sealed until further order of this Court. I respectfully urge that, under Section 6255, the public interest served by not making such records public clearly outweighs the public interest served by disclosure of such records. I would further request that a copy of such reports be released only to counsel for the People and the defendant to prepare for the Jury Trial. Defense counsel represented in chambers with the Honorable Judge van Rooyen on April 15, 2021, that they agree with this request.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 1, 2022

Respectfully submitted,

Dan Dow
District Attorney

By: Christopher Peuvrelle
Deputy District Attorney

MC-500

MEDIA AGENCY *(name)*: KSBW TV
CHANNEL/FREQUENCY NO.: 8
PERSON SUBMITTING REQUEST *(name)*: Cassadv Velasco
ADDRESS:
238 John St. Salinas, CA 93901
TELEPHONE NO.: 831-758-7723

Insert name of court and name of judicial district and branch court, if any:
Superior Court of California, County of Monterey

TITLE OF CASE:
Ruben Ricardo Flores

NAME OF JUDGE: Judge Jennifer O'Keefe

MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST

FOR COURT USE ONLY

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/01/2022
By Deputy: Inofuentes, Maria

CASE NUMBER:
22CR003713

1. PORTION OF THE PROCEEDINGS TO BE COVERED *(e.g., particular witnesses at trial, the sentencing hearing, etc.)*:
pre-trial motions, opening statements, jury trial, closing statements, verdict, sentencing

2. DATE OF PROPOSED COVERAGE *(specify)*: 06/06/2022 *(File this form at least five court days before the proposed coverage date. If not feasible, explain good cause for noncompliance):*

3. TYPE OF COVERAGE
   a. [x] TV camera and recorder
   b. [ ] Still camera
   c. [ ] Motion picture camera
   d. [x] Audio
   e. [ ] Other *(specify)*:

4. [ ] SPECIAL REQUESTS OR ANTICIPATED PROBLEMS *(specify)*:

5. [ ] INCREASED COSTS. This agency acknowledges that it will be responsible for increased court-incurred costs, if any, resulting from this media coverage *(estimate)*: $
   [ ] Amount unknown

6. PROPOSED ORDER. A completed, proposed order on Judicial Council form MC- 510 is attached *(required by Cal. Rules of Court, rule 1.150)*.

CERTIFICATION

I certify that if the court permits media coverage in this case, all participating personnel in this media agency will be informed of and will abide by the provisions of California Rules of Court, rule 1.150, the provisions of the court order, and any additional restrictions imposed by the court.

Date: 06/01/2022

Cassadv Velasco
(TYPE OR PRINT NAME)

Telephone No.: 831-758-7723

(SIGNATURE)

Assistant News Director
(SUPERVISORY POSITION IN MEDIA AGENCY)

NOTICE OF HEARING (*A hearing is optional.*)

A HEARING will be held as follows:

Date: Time: Dept./Div: Room:
Address of the Court:

Clerk, by , Deputy

For your protection and privacy, please press the Clear This Form button after you have printed the form.

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES AND RUBEN RICARDO FLORES, Defendants.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A & B **REQUEST FOR JUDICIAL NOTICE OF EXHIBITS TO PEOPLES' MEMORANDUM TO THE COURT REGARDING THE DEFENDANT'S STATEMENTS THE PEOPLE WILL INTRODUCE AT TRIAL** DATE: June 6, 2022 TIME: 8:30 AM DEPT: 4

The People request that the Court take judicial notice pursuant to Evidence Code sections 452 and 453 of the items in support of the Peoples' Memorandum to the Court regarding the Defendant's statements the People will introduce at trial filed on May 31, 2022:

1. Exhibit "A": Interview of Paul Flores 6/19/1996 (SLSO property item #98, Bates #45:012471; and transcript of interview of Paul Flores 6/19/1996 (Bates #91:039461 – 91:039556). (Due to the inability to E-file digital media with the court, Defense will not be served a copy of Exhibit "A", as it has already been

discovered to Defense as bates #45:012471 and #91:039461 - #91:039556 respectively),

2. Exhibit "B": Interview of Paul Flores 6/19/1996 ending at 48:02 (Bates #92:039605); and transcript of interview of Paul Flores 6/19/1996 ending at page 44 (Bates #91:039557 – 91:039600). (Due to the inability to E-file digital media with the court, Defense will not be served a copy of Exhibit "B", as it has already been discovered to Defense as bates #92:039605 and bates #91:039600, respectively).

Dated: June 1, 2022

Respectfully submitted,

Dan Dow
District Attorney

By: _____
Christopher G. Peuvrelle
Deputy District Attorney

EXHIBIT A


P. v. Paul Flores 22CR003712
P. v. Ruben Flores 22CR003713
BATES #45:012471
Interview of Paul Flores 6/19/1996
(SLSO PROP. ITEM #98)
EXHIBIT # A

PEOPLE V. PAUL RUBEN FLORES & RUBEN RICARDO FLORES

CASE NO. 21F-02402-A, B

DA CASE NO. 079-662557 & 079-663275

ITEM 98 – INTERVIEW WITH PAUL FLORES – 6/19/96

H = DETECTIVE LARRY HOBSON, SAN LUIS OBISPO COUNTY SHERIFF'S DEPARTMENT

B = INVESTIGATOR BILL HANLEY, SAN LUIS OBISPO COUNTY DISTRICT ATTORNEY'S OFFICE

F = PAUL RUBEN FLORES, DEFENDANT

[TRANSCRIBED BY AM on 7/31/21]

[START TIME 00:00:00]

H NOW THAT YOU'VE HAD – IT'S BEEN ALMOST A MONTH, IT'LL BE A MONTH THIS-

F YEAH-

H THIS FRIDAY. BASED ON EVERYTHING YOU KNOW AND THE PEOPLE YOU'VE TALKED TO, WHICH I'M SURE YOU'VE TALKED TO SOME PEOPLE.

F ABOUT WHAT? ABOUT THEY WERE AT THE PARTY?

H ABOUT HER. WHAT DO YOU THINK'S HAPPENED TO ROXY? WHAT'S YOUR BEST -- YOUR BEST GUESS AS TO WHAT HAPPENED TO HER?

F T-M, MY BEST GUESS IS MAYBE SHE NO-- UM, BE-- BE—'CAUSE HER DORM WAS BY THE PARKING LOT OVER THERE, SO THEN. I WOULD FIGURE, MY BEST GUESS, IS, UM, GUESS IS SHE WENT OFF WITH SOMEONE. I DON'T KNOW SHE DECIDED YOU KNOW.

H OKAY. UH, A STRANGER? OR WHAT?

F MIGHT– IT COULDA BEEN JUST SOMEONE SHE KNOWS, SHE KNOWS, SOMEONE MIGHT HAVE GONE, YOU KNOW, "HEY, HEY LET'S GO TO TACO BELL OR SOMETHING."

H WHY TACO BELL?

F BECAUSE TACO BELL'S OPEN ALL NIGHT LONG.

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H OH, OKAY. AND IS THAT THE ONLY PLACE THAT'S OPEN ALL NIGHT LONG?

F SAN LUIS? YEAH, I THINK SO, PRETTY SURE.

H [UNINTELLIGIBLE] KNOW. THEY SAID YOU WALKING WITH HER. DO YOU THINK SHE COULD WALK UP TO TACO BELL OKAY?

F IS A—IS -- AS I REMEMBER -- I -- I DON'T REMEMBER HER STUMBLING OR ANYTHING. SO -- SO, I -- I'D WALK THAT FAR, IT'S LIKE I'VE WALKED ALL THE WAY UP TO LIKE THAT BROAD STREET OVER BY [UNINTELLIGIBLE] BULL BEFORE.

H WHEN YOU WERE DRUNK?

F NO, SOBER.

H SOBER. OKAY. BUT SHE WAS PRETTY DRUNK. DO YOU THINK SHE COULD WALK UP THAT FAR?

F UH, YEAH. IT'S LIKE -- IT'S LIKE I'VE -- I'VE WALKED LIKE I -- I'VE WALKED A -- A FEW MILES BEFORE.

H OKAY, LET'S -- LET'S SUPPOSE -- OKAY, THAT -- YOU'RE-- YOU'RE SAYING THAT'S YOUR BEST OPINION IF SHE'S ALIVE. RIGHT?

F YEAH.

H OKAY, LET'S SUPPOSE THAT SOMETHING BAD HAPPENED TO HER. AND SHE'S NOT ALIVE ANYMORE. WHAT WOULD BE YOUR BEST GUESS OR YOUR OPINION AS TO WHAT HAPPENED TO HER, IF SHE'S NOT ALIVE ANYMORE? WHAT DO YOU THINK HAPPENED?

F I WOULD SAY THAT LIKE SOMEONE WHO SHE HITCH LIKE WITH OR SOMETHING ABDUCTED HER OR SOMETHING, YOU KNOW?

H SOMEBODY SHE -- WHY WOULD BE HITCH-HIKING?

F WELL, WHAT I'M SAYING, YOU KNOW, PEOPLE HAVE SAID THEY SAW HER HITCH-HIKING, SO--

H OKAY, BUT THOSE PEOPLE ARE MISTAKEN. LET'S SAY SHE WAS LAST IN THE AREA OF THE DORMS THERE WHERE YOU WALKED AWAY FROM HER.

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F 'KAY.

H AND THERE'S NO WHERE TO HITCH-HIKE RIGHT IN THERE. WHAT DO YOU THINK -- IF SOMETHING BAD HAPPENED TO HER, WHAT DO YOU THINK HAPPENED TO HER FROM THAT POINT WHERE YOU LAST SAW HER?

F I DON'T KNOW.

H WELL, LET'S SAY, YOU KNOW, JUST AN OPINION. SEE, WE ASK EVERYBODY FOR THEIR OPINION BECAUSE IT HELPS US -- 'CAUSE WE SOMETIMES LOOK AT THIS AND WE DON'T SEE THE WHOLE PICTURE, SO WE ASK EVERYBODY, "HEY, WHAT DO YOU THINK HAPPENED TO HER?" AND THEY TELL US AND SOMETIMES IT'S GOOD, SOMETIMES IT'S BAD. BUT WE LIKE TO GET SOMEBODY ELSE'S OPINION AS TO WHAT THEY THINK MIGHT HAVE HAPPENED TO HER.

F I JUST THINK SHE PROBABLY TOOK OFF WITH SOMEONE.

H OKAY, LET'S – LET'S SAY SOMETHING BAD HAPPENED TO HER, SHE DIDN'T TAKE OFF WITH ANYTHING. SOMETHING BAD HAPPENED AND SHE'S DEAD. LET'S SAY SHE"S NOT ALIVE ANYMORE.

F 'KAY.

H WHAT DO YOU THINK HAPPENED TO HER?

F SOMEONE PUT HER IN THE CAR AND TOOK HER SOMEPLACE, I DON'T KNOW.

H 'KAY. WHAT IF SOMEBODY DIDN'T HAVE A CAR TO PUT HER IN, WHAT HAPPENED TO HER?

F I HAVE NO IDEA.

H WHAT WOULD BE YOUR BEST GUESS?

F I DON'T HAVE ANY GUESS. IT'S LIKE ASK SOMEONE TO BORROW THEIR CAR SOMETHIN'.

H YOU THINK SHE – SHE GOT PUT INTO A CAR SOMEWHERE AND TAKEN SOMEWHERE?

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F YEAH.

H THAT'D BE YOUR BEST GUESS.

F YEAH, BUT -- BUT I DON'T THINK ANYTHING HAPPENED TO HER ON CAMPUS, I THINK, YOU KNOW, SHE PROBABLY WENT—

H WHY DO YOU THINK SOMEBODY WOULD WANT TO KILL HER?

F I DON'T THINK ANYONE W-- IT'S LIKE... YOU DON'T EVEN KNOW -- YOU KNOW, IT'S LIKE PEOPLE -- IT'S LIKE I DON'T KNOW WHY PEOPLE DO DRUG BUYS EITHER. OR ANYTHING, YOU KNOW? BUT PEOPLE DO THAT—

H DRIVEBY SHOOTINGS.

F RIGHT.

H YEAH.

F YOU KNOW.

H OKAY. YOU THINK MAYBE IT COULDA BEEN AN ACCIDENT? MAYBE SOMETHING HAPPENED, SHE FELL DOWN OR SOMETHING, SOMEBODY GOT SCARED?

F I GUESS. ANYTHING'S POSSIBLE, YEAH.

H WELL, NO, THAT'S WHY I'M ASKING YOU. WHAT -- WHAT'S YOUR OPIN-- WE'RE PICKING YOUR HEAD, YOU KNOW, TRYING TO GET SOME IDEAS FROM YOU THAT [UNINTELLIGIBLE]—

F I HAVE -- I HAVE NO IDEA. IT'S LIKE--.

H LET ME ASK YOU THIS, PAUL. AND I THINK WE ASKED YOU ONCE BEFORE. LET'S SUPPOSE -- NOW I'M NOT SAYING THAT THIS HAPPENED.

F YEAH.

H LET'S JUST SUPPOSE THAT, YOU KNOW, AFTER CHERYL LEFT, YOU KNOW, ROXY KINDA CAME ONTO YOU A LITTLE BIT AND YOU CAME ONTO HER A LITTLE BIT. YOU'RE A RED-BLOODED AMERICAN BOY LIKE ANY OF US WOULD BE AND, UH, YOU KNOW, YOU GOT -- PLAYED A LITTLE KISSEY FACE, A LITTLE TOUCHY POO, THIS KIND OF STUFF. YOU KNOW, IF -- IF YOU DID

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THAT WOULD YOU TELL US ABOUT IT AND NOT BE AFRAID TO TELL US 'CAUSE IT'S VERY IMPORTANT YOU TELL US EVERYTHING. 'CAUSE REMEMBER, WE'VE TALKED TO A WHOLE LOT OF PEOPLE. AND THEY TOLD US SOME THINGS AND WE TRIED TO FIT ALL THESE PIECES TOGETHER. NOW IF -- IF SOMETHING LIKE THAT HAPPENED IT DOESN'T MEAN ANYTHING BAD—

F YEAH—

H BUT IT'S VERY IMPORTANT TO THIS TOTAL PICTURE THAT IF -- IF YOU DID DO, YOU KNOW, KISSED HER A LITTLE BIT OR TOUCHED HER A LITTLE BIT, WHICH THERE'S NOTHING WRONG WITH IT BUT IF YOU DID, IT'S REALLY IMPORTANT THAT YOU TELL US SO THAT WE CAN FIT ALL THESE PIECES TOGETHER BASED ON WHAT EVERYBODY'S TELLING US AROUND HERE. AND I COULD SEE SOMEBODY, YOU KNOW, KISSIN' HER OR -- OR YOU KNOW, ESPECIALLY WHEN SHE COMES ONTO HIM AND THEN BEING AFRAID TO SAY ANYTHING 'CAUSE NOW SHE'S MISSIN' AND THAT PERSON MIGHT THINK, "OH, GOD, I'M A SUSPECT." BUT, YOU KNOW, WE WOULDN'T THINK—

F YEAH—

H BUT WE – WE NEED TO HAVE THE WHOLE PICTURE—

F YEAH, UM, IT WOULDN'T – IT WOULDN'T REALLY BE A BIG DEAL YA KNOW ME KISS ON -- BECAUSE I'VE BEEN PARTYING AND I'VE KISSED SOMEONE BEFORE.

H WELL, NO IT'S NO BIG –

F SO, YEAH—

H DEAL AT ALL. BUT – BUT THAT'S WHY IT'S IMPORTANT THAT IF-- IF YOU DID KISS HER OR SHE KISSED YOU OR YOU GUYS KIND OF PLAYED KISSEY FACE, STEPPED IN A LITTLE ALCOVE OR SOMEWHERE RIGHT THERE BEFORE YOU WALKED BACK TO YOUR DORM –SO YOU HAVE TO REMEMBER, WE TALKED TO A WHOLE LOT OF PEOPLE AND THEY TELL US

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THINGS AND THEN WE TRY TO MAKE THIS BIG PUZZLE FIT. AND IF WE DON'T HAVE ALL THE PIECES, THEN WE HAVE TO LOOK AT IT DIFFERENTLY.

F YEAH.

H SO, DID -- DID SOMETHING LIKE THAT HAPPEN?

F NO—

H YOU KNOW, BASED ON HER BEING A LITTLE, UH—

F UH-HUH—

H LITTLE LOOSE OR ANYTHING?

F NO.

H NEVER KISSED HER OR ANYTHING?

F NEVER. NO.

H DID YOU WANNA KISS HER?

F NO, I -- I -- I -- I DIDN'T FEEL -- I DON'T REMEMBER FEELING ANY ATTRACTION TOWARDS HER, SO—

H OKAY. ALRIGHT. WELL, LE-- LET'S GO BACK TO THE PARTY FOR A SECOND. IF SOMEBODY AT THE PARTY, NOT JUST SOMEBODY, MAYBE HOW MANY? FOUR OR FIVE PEOPLE? FOUR OR FIVE PEOPLE TOLD US THAT THEY SAW YOU TRYING TO KISS HER AT THE PARTY. IN FACT, IT WAS IN THE HALLWAY AT THE PARTY AND, UH, YOU WERE TRYING TO KISS HER. IN FACT, SHE -- I THINK SHE FELL DOWN ON THE GROUND AND YOU WERE, KIND OF LAYING DOWN NEXT TO HER, TRYING TO KISS HER OR SOMETHING. WHAT-- CAN YOU REMEMBER WHAT HAPPENED WITH THAT?

F NEVER EVEN – I DON'T REMEMBER DOING ANYTHING LIKE THAT. UH-UH.

H OKAY.

F AND I MEAN THIS ISN'T W-- WHERE SOME JUST ONE PERSON TOLD US -- SEVERAL PEOPLE SAW THIS. SO, WE'RE -- I WAS WONDERING WHAT HAPPENED AS FAR AS YOU AND ROXY WERE CONCERNED THERE. WAS SHE KIND OF PULLING YOU DOWN ON THE GROUND OR--?

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F I DON'T EVEN REMEMBER DOING ANYTHING LIKE THAT.

H NOTHIN'?

F NUH-UH.

H NOTHIN' LIKE THAT HAPPENED?

F NOTHING.

H WHY DO YOU THINK THESE FOUR OR FIVE PEOPLE WOULD TELL US THAT?

F IT'S POSSIBLE THEY THOUGHT I WAS SOMEONE ELSE.

H WELL, THAT'S WHAT WE THOUGHT. THAT'S WHY WE SHOWED YOUR PICTURE. AND, UH, THEY PICKED YOU OUT OF THE PICTURE. 'CAUSE WE GOT SHE WAS KISSIN' ON A LOT OF GUYS THAT NIGHT. YOU KNOW, THERE WAS OTHER—

F I NEVER KISSED HER THOUGH.

H HUH. SO, FOUR OR FIVE PEOPLE WERE ALL WRONG WHEN THEY SAID THAT?

F I NEVER—

H IS IT POSSIBLE IT COULDA HAPPENED?

F UNLESS I HAD A BLACKOUT, I GUESS THAT'S—

H YOU DON'T REMEMBER ANYTHING? IS IT EVEN FUZZY?

F NUH-UH. NOTHIN'.

H HUH.

F 'CAUSE I'VE EVEN HEARD ABOUT IT.

H HM. YEAH, THAT-- THAT PART JUST CONFUSES A LITTLE BIT.

F UM, IT – IT HAD ANOTHER GIRL THERE I KISSED THOUGH.

H OH, YOU DID?

F YEAH.

H WHO'D YOU KISS?

F IT WAS JUST, UM, I – I DON'T EVEN – I FORGET WHAT HER NAME WAS. I DON'T EVEN—

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H I THOUGHT YOU JUST TOLD ME YOU DON'T GO UP TO STRANGE GIRLS AND KISS 'EM?

F WHAT?

H I THOUGHT YOU JUST TOLD ME YOU DON'T GO UP TO STRANGE –

F NA -- NO -- NO, NO, IT WAS LIKE THE GIRL I WAS TALKIN' TO FOR A COUPLE OF HOURS AND THEN I JUST GAVE HER LIKE A LITTLE QUICK KISS.

H WHEN WAS -- WHEN WAS THE LAST TIME YOU HAD A GIRLFRIEND?

F SIXTH [6TH] GRADE.

H [UNINTELLIGIBLE] WHEN WAS THE LAST TIME YOU HAD SEX? EXCUSE ME FOR ASKING PERSONAL QUESTIONS, BUT I ASK HIM EVERY DAY, TOO. BUT WHEN WAS THE LAST TIME YOU HAD SOME SEX?

F I THINK IN, UH, DURING CHRISTMAS TIME.

H CHRISTMAS?

F YEAH, AROUND THERE.

H UH—

F DURING CHRISTMAS [UNINTELLIGIBLE].

H GIRL YOU MET AT A PARTY OR—

F UH, NO, IT WAS A GIRL I KNOW.

H GIRL YOU KNOW?

F YEAH.

H HAD INTERCOURSE WITH HER?

F YEAH.

H OKAY. DO YOU EVER GET A BLOW-JOB FROM ANYBODY?

F NO.

H A GIRL. NO GIRL'S EVEN GIVEN YOU A BLOW-JOB?

F NOPE.

H NEVER?

F NEVER.

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H HOW MANY TIMES HAVE YOU HAD SEXUAL INTERCOURSE?

F FOUR [UNINTELLIGIBLE]—

H FOUR TIMES. OKAY. WELL, WHO'S THIS GIRL YOU HAD SEX WITH?

F I – I DON'T WANNA SAY ANYONE'S NAME. SO, IT-- IT-- IT-- IT-- IT-- IT-- IT WAS SOMEONE I WENT TO SCHOOL WITH SO.

H OKAY.

F SO, IT'S NOT FROM –

H YOU DON'T WANNA TELL US WHO?

F RIGHT.

H I MEAN, SHE'S NOT IN TROUBLE.

F I KNOW. I KNOW. BUT, BUT, BUT PERSONAL THINGS ARE LEFT BEING PERSONAL.

H OH, OKAY, I CAN UNDERSTAND THAT. THAT'S NO PROBLEM.

F OKAY.

H I CAN RESPECT THAT.

F RIGHT.

H YOU DON'T WANT TO GIVE SOMEBODY UP THAT'S –

F RIGHT—

H NOT THE MANLY THING TO DO.

F RIGHT.

H NOT THE MANLY THING TO DO.

B PAUL, LET ME -- LET ME ASK -- WHEN YOU AND ROXY AFTER CHERYL LEAVES YOU TWO, OKAY? YOU AND ROXY HAVE THAT SAY THIRTY YARD WALK BEFORE SHE GOES TO HER—

F YEAH—

B PATH, OKAY.

F ALRIGHT.

B WHAT DO YOU GUYS TALK ABOUT THEN?

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F I DON'T REMEMBER TALKING ABOUT ANYTHING THAT WHOLE TIME?

B WHEN YOU-- WHEN YOU SAY YOU DON'T REMEMBER, DOES THAT MEAN YOU DIDN'T TALK ABOUT ANYTHING OR YOU DON'T REMEMBER IT?

F I DON'T REMEMBER TALKING. AND—

B DO—

F AND—

B DO YOU REMEMBER WALKING?

F YEAH, I REME –

B OKAY—

F I WALKED, YEAH.

B OKAY. NO I MEAN, YOU REMEMBER PHYSICALLY WALKING WITH HER?

F IT'S LIKE I REMEMBER, YOU KNOW, JUST -- JUST I RE -- YEAH, I GUESS, YOU KNOW, JUST WALKING. IT'S LIKE, I DON'T --I DON'T REMEMBER LIKE EVERY SECOND OF THE WALK OR ANYTHING.

B OKAY.

F YOU KNOW, I CAN'T PLAY IT BACK LIKE IT WAS A MOVIE OR ANYTHING.

B OKAY. I MEAN, WAS SHE -- WAS SHE HANGING ON YOU THEN?

F I DON'T REMEMBER-- I -- I -- I -- I REMEMBER HER JUST WALKING AND I WAS WALKING RIGHT NEXT TO HER.

B OKAY. AND YOU GUYS DIDN'T TALK AT ALL?

F I -- I -- I DON'T REMEMBER TALKING AT ALL. NO.

B OKAY.

F IT'S POSSIBLE I MIGHTA TALKED BUT NOTHING THAT I CAN REMEMBER ANYTHING ABOUT.

B YOU REMEMBER ANYTHING SHE SAID TO YOU?

F NUH-UH.

B "GOD, I'M DRUNK," OR "I LIKE YOU." "I HATE YOU."

F NO.

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B ANYTHING LIKE THAT?

F NUH-UH.

B SO, YOU GUYS HAVE NO CONVERSATION.

F YEAH. AND THE ONLY TIME-- THE ONLY CONVERSATION I CAN REMEMBER. UH, I WAS TALK-- I TALKED TO CHERYL. I DON'T REMEMBER IF IT'S ON THE WALK OR-- OR IT WAS AT THE PARTY, I DON'T REMEMBER, WE -- I LIKE TALKED A SECOND ABOUT THE -- 'BOUT THE CLASS WE HAD TOGETHER, YOU KNOW. YOU KNOW, WE GO, "OH, HOW'D YOU DO," OR WHATEVER KINDA LIKE--

B M'KAY. AND WHAT'D SHE SAY? FINE OR--?

F YEAH. SHE SAID SHE GOT LIKE A B IN IT OR SOMETHING, I THINK.

B WELL, WHEN YOU GOT TO THE CORNER WITH CHERYL, THOUGH, YOU ASKED HER FOR A HUG THOUGH, DIDN'T YOU? GOOD-NIGHT HUG?

F NOT THAT I REMEMBER, NO.

B YOU DIDN'T ASK HER FOR A GOOD-NIGHT KISS? I'M NOT SAYING YOU WERE—

F NUH-UH—

B YOU WERE ALL OVER HER, I'M JUST -- I'M JUST SAYING THAT YOU ASKED HER FOR A HUG. WHICH ISN'T INAPPROPRIATE OR—

F YEAH—

B OR WRONG OR ANYTHING—

F [UNINTELLIGIBLE] THERE ISN'T ANYTHING WRONG WITH ASKING SOMEONE FOR A HUG—

B THAT'S –

F YEAH.

B YOU KNOW -- AND YOU KNOW, WHAT IT TELLS ME ALSO? YOU ASKED.

H WHICH IS THE GENTLEMANLY THING TO DO.

B RIGHT. YEAH, YOU ASKED. YOU DIDN'T DO IT, YOU ASKED.

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F YEAH. BUT-- BUT – BUT I'M JUST SAYING I DON'T EVEN REMEMBER DOING ANYTHING LIKE THAT [UNINTELLIGIBLE].

B DO YOU REMEMBER SPLITTING UP WITH CHERYL?

F IT'S LIKE, N-- N-- NOT EXACTLY, I'M NOT QUITE SURE IF SHE WANT -- 'CAUSE THERE'S LIKE THESE STAIRS, THEY GO AROUND THE CORNER LIKE OVER BY THERE AND THEN THERE'S LIKE THE SIDEWALK THAT KINDA -- THAT GOES LIKE -- 'CAUSE BOTH PARTS GO LIKE-- 'CAUSE IT'S LIKE THE CORNER AND THEN ONE OF 'EM GOES LIKE THAT. I DON'T REMEMBER WHERE SHE STARTED WALKING FROM SO.

B OKAY. SO, THEN YOU WALKED ROXY UP TO WHERE?

F UP TO, UM, BECAUSE -- WELL, THAT'S THE DRIVEWAY. HE – YOU GUYS [UNINTELLIGIBLE] OVER THERE AND JUST LIKE I REMEMBER I – I WALKED WITH HER TO WHERE THE DRIVEWAY WAS AND THEN I WENT UP TO MY DORM BECAUSE THE WALKWAY GOES THAT WAY TOWARDS MY DORM AND THEN SHE STARTED WALKING THAT WAY.

B OKAY. MAYBE THIS IS WHERE LARRY AND I ARE GETTIN' CONFUSED. UM, IF WE HAVE SOMEBODY WHO WASN'T AT THE PARTY, WHO DIDN'T KNOW YOU, DIDN'T KNOW ROXY BUT HAPPENED TO BE IN THAT AREA, AND THEY CONTACT US, AND YOU WERE IN A BALTIMORE ORIOLES CAP THAT NIGHT, WEREN'T YOU?

F I DON'T KNOW. I HAVE NO IDEA.

B YOU DON'T KNOW WHAT YOU WERE WEARING THAT NIGHT? M'KAY.

F UH-UH.

B SOMEBODY WHO DIDN'T KNOW ANYTHING ABOUT THIS CASE BUT CAME FORWARD AFTER THE PUBLICITY.

F 'KAY.

B AND SAID THAT SHE SAW A GUY FITTING YOUR DESCRIPTION WITH A BALTIMORE ORIOLES CAP, DOESN'T KNOW YOUR NAME, DOESN'T KNOW

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YOU FROM ADAM. AND A GIRL THAT WAS TALLER THAN HIM WALKING UP THAT WAY TOGETHER. WOULD THAT BE ACCURATE? OR WOULD THAT -- THAT BE FALSE?

F [UNINTELLIGIBLE] WALKING WHERE?

B UP TOWARDS, UM –

H PAST WHERE YOU LAST SAW HER.

F PAST WHERE YOU LAST SAW HER. EXACTLY.

F NUH-UH. I DIDN'T SEE HER AFTER THAT.

B OKAY. NO, I MEAN, DID YOU TAKE A TURN WITH HER GOING UP HER WALKWAY?

F NUH-UH. NOPE.

H OKAY, DO YOU KNOW WHAT A PHOTO LINE-UP IS, PAUL?

F YEAH.

H YOU KNOW WHERE YOU—

F UH-HUH—

H GET A – GET A PICTURE AND YOU PUT S – FIVE OTHER PICTURES IN THERE?

F YEAH.

H AND THEN SOMEBODY LOOKS AT IT.

F RIGHT.

H WHAT IF WE DID A PHOTO LINE-UP AND SOMEBODY PICKED YOUR PICTURE OUT OF SIX AND SAID THEY SAW YOU WITH ROXY AT A LOCATION OTHER THAN WHERE YOU SAID YOU WERE AT? OTHER WORDS YOU TOLD US YOU LAST SAW ROXY GOING UP HER WALKWAY AND YOU WERE COMING THIS WAY. WHAT IF SOMEBODY SAW THE TWO OF YOU TOGETHER SOMEWHERE OTHER THAN RIGHT THERE?

F WHO– WELL, THEY PROBABLY SAW US BEFORE.

H NO. NO, THEY DIDN'T. THEY WEREN'T AT THE PARTY. THEY JUST SAW YOU – AND -- AND WE CAN'T GIVE YOU ALL THE INFORMATION THAT WE HAVE

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BECAUSE IT'S KIND OF CONFIDENTIAL BUT THEY SAW YOU AT A LOCATION OTHER THAN WHAT YOU TOLD US ABOUT. NOW, IS THERE SOMETHING YOU HAVEN'T TOLD US? SOMETHING YOU LEFT OUT?

F NUH-UH.

H WHY WOULD THEY SAY THEY SAW YOU SOMEPLACE OTHER THAN RIGHT THERE?

F I HAVE NO IDEA.

H AND THEY PICK YOUR PICTURE OUT AND THEY PICK ROXY OUT. ST – OUT OF THE LINE-UP.

F I HAVE NO IDEA.

H SEE, THAT'S WHY WE'RE GETTING-- GETTING KIND OF CONFUSED. 'KAY NOW I'LL TELL –

F THAT – THAT'S THE LAST TIME I – I – SHE WALKED THAT WAY, I WALKED TO MY DORM.

B 'KAY, PAUL, DO YOU KNOW WHAT – AND LIKE INVESTIGATOR HOBSON SAID EARLIER, I DON'T WANT YOU TO THINK THAT WE'RE PINNIN' ON YOU AS THE SUSPECT.

F UH-HUH.

B BUT SOME OF THE THINGS YOU'RE TELLING US AREN'T ADDING UP. AND I'M – I'LL TELL YOU WHY I THINK—

F OKAY—

B I THINK YOU DON'T WANNA TELL US EVERYTHING 'CAUSE IT – YOU – IT'S GONNA MAKE YOU LIKE A SUSPECT. BUT IT'S JUST THE OPPOSITE. SEE, WE JUST DIDN'T PICK YOUR NAME OUT OF A HAT AND SAY, "OKAY, LET'S GO TALK TO PAUL TODAY."

F RIGHT.

B AFTER WE GET ALL THIS INFORMATION, NOW WE'RE NOT LOOKING AT YOU AS A SUSPECT, WE'RE SAYING, "OKAY, SOME OF THE THINGS HE TOLD US

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ISN'T ADDING UP." I THINK I KNOW THE REASON WHY. PERSONALLY. BECAUSE IF YOU TELL US EVERYTHING, IT'S GONNA MAKE YOU LOOK LIKE A SUSPECT. AND THAT'S NOT THE WAY WE'VE LOOKED AT IT.

F MM-HM.

B WHAT WE'RE – YOU UNDERSTAND WHERE I'M –

F YEAH—

B WHERE I'M COMING FROM? OKAY.

F RIGHT.

B UM, WHAT-- WHAT WE NEED FROM YOU IS JUST YOUR COMPLETE HONESTY. AND IF IT MAKES YOU LOOK LIKE A SUSPECT, IT DOESN'T.

F MM-HM.

B ALL YOU NEED TO DO IS EXPLAIN IT TO US WHAT HAPPENED. BECAUSE SOME OF THE STUFF YOU'RE TRYING TO MAKE IT SOUND LIKE, "OH, JEEZ, YOU KNOW I DIDN'T DO ANYTHING AND I -- I JUST WALKED HER HOME AND I DIDN'T DO ANYTHING ELSE AND I DIDN'T EVEN SEE HER GO UP THE DRIVEWAY AND KISS HER GOOD- NIGHT, DIDN'T DO ANYTHING LIKE THAT." AND WE KNOW SOME OF THAT ISN'T TRUE. OKAY? BUT—

F OKAY—

B BUT, LISTEN TO ME.

F ALRIGHT.

B OKAY. OKAY. WE ALSO BELIEVE THAT THE REASON YOU'RE NOT TELLING US SOME OF THAT I—IS FOR THAT VERY REASON. AM I PRETTY ACCURATE ON THAT?

F NO, IT'S LIKE I'M – I'M JUST SAYING EVERYTHING I REMEMBER. THAT'S ALL.

H FOR INSTANCE PAUL, WHEN WE TALKED TO A COUPLE OF GUYS AT THE PARTY THAT WAS KISSING HER AND DOING THINGS WITH HER SEXUALLY THAT DIDN'T WANT TO TELL US ABOUT IT BECAUSE THEY FOUND OUT SHE WAS MISSIN' AND THEY SAID, "OH, GOD, IF WE TELL THESE GUYS THAT WE

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WERE KISSIN' HER AND TOUCHIN' HER AT THE PARTY, THESE TWO GUYS ARE GONNA THINK I'M A SUSPECT." SO—

F MM-HM—

H INITIALLY WHEN WE TALKED TO THESE GUYS, THEY LEFT ALL THAT STUFF OUT. THEY DIDN'T TELL US WHAT THEY'D BEEN DOIN' WITH HER.

F YEAH.

H SO, THEN WE FOUND OUT THROUGH OTHER PEOPLE THAT THEY WERE, SO R– NATURALLY WE GO BACK TO 'EM NOW AND BECAUSE THEY'RE NOT TELLIN' US THE WHOLE TRUTH, WE START GETTIN' A LITTLE SUSPICIOUS. SO, FINALLY -- FINALLY THEY SIT DOWN AND ADMIT, "OKAY, THIS IS WHAT HAPPENED." THEN THEY TELL US, "YEAH, I WAS KISSIN' HER. I TOOK HER OUT BACK AND, YOU KNOW, I WAS TOUCHIN' HER, I DID A FEW THINGS BUT THAT WAS IT." SEE?

F I DIDN'T EVEN KNOW ABOUT THAT. THE –

H NO, NO, 'CAUSE THEY WENT OUTSIDE BUT SEE BECAUSE THEY LIED TO US, IT LOOKED BAD FOR 'EM. AND THAT'S WHAT DETECTIVE HANLEY IS SAYING TO YOU. THAT IF YOU LEAVE SOMETHING OUT LIKE THESE GUYS DID THEN IT MADE US LOOK AT THEM A LITTLE HARDER, THEN ONCE THEY TOLD US THE TRUTH, WE COULD UNDERSTAND IT AND OTHER PEOPLE SAW SOME THINGS THAT CORROBORATED WHAT THEY WERE TALKIN' ABOUT SO THAT'S WHAT HE'S--

F YEAH—

H TALKING ABOUT.

F YEAH, I UNDERSTAND WHAT HE'S TALKING ABOUT, YEAH.

H IF YOU LEAVE SOMETHING OUT, THEN IT MAKES US WONDER.

F YEAH.

H YOU KNOW, WHAT -- WHAT HAPPENED. SO, IT DOESN'T MAKE YOU A SUSPECT, IT JUST HELPS US—

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F YEAH—

H FILL IN THE PIECES. FOR INSTANCE, THIS PEO– PERSON OR PERSONS, THERE WAS MORE THAN ONE, ACTUALLY, THAT SAW YOU WITH HER OTHER THAN WHERE YOU SAID YOU WERE. YOU KNOW, WHY IS THAT?

F I HAVE NO IDEA.

H THERE ISN'T ANYTHING YOU'RE LEAVING OUT?

F NOTHIN'.

H NOTHIN'?

F NOTHIN'.

H NOTHIN' AT ALL?

F NOTHIN' AT ALL.

H YOU'RE NOT LEAVIN' IT OUT JUST BECAUSE YOU'RE AFRAID WE'LL THINK YOU'RE A SUSPECT.

F THERE'S -- THERE'S NOTHIN' I REMEMBER THAT I -- YOU KNOW –

H 'KAY, SEE, THIS IS WHERE THE POLYGRAPH'S HELPFUL, PAUL. THIS IS WHERE WE COULD SIT DOWN RIGHT NOW AND HOOK YOU UP TO IT AND ASK YOU A COUPLE OF QUESTIONS, GET YOU CLEARED AND GET YOU OUTTA HERE.

F YEAH.

B SEE, THAT—THAT -- THAT'S TRUE. THAT'S ABSOLUTELY TRUE.

F YEAH.

B I MEAN, IT'S – IT'S REAL. BECAUSE BELIEVE ME, WE THINK—

F YEAH—

B WHAT YOU TELL WHAT -- WHAT YOU'RE TELLIN' US IS TRUE.

F RIGHT.

B OKAY? AND SINCE WE THINK THAT AND WHAT WE HAVE OTHER PEOPLE SAY, "WELL, JEEZ, WE SAW A GUY FITTING THIS DESCRIPTION WITH HER." WE ELIMINATE YOU, WE'VE GOTTA GO ON AND DO OTHER THINGS.

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F RIGHT.

B Y-YOU UNDERSTAND? [UNINTELLIGIBLE]—

F YEAH THAT MAKES SENSE.

B AND IT JUST – IT JUST MAKES IT A LOT EASIER FOR US.

F YEAH.

B UM, AND IT'S NOT LONG AND—

H CAN WE – CAN WE BRING IT IN AND GET IT OVER WITH—

F NO, I HAVE TO TALK TO MY PARENTS, THAT'S WHAT I ALREADY SAID SO.

H OKAY. TALK TO YOUR PARENTS ABOUT WHAT?

F ABOUT BE -- BE – BECAUSE THEY TOLD ME NOT – NOT TO TALK TO YOU GUYS 'CAUSE LIKE SOMEONE – SOMEONE CALLED ONE OF MY FRIEND'S HOUSE JUST TO SEE LIKE IF I WAS WITH 'EM THAT WEEKEND? AND SO—

H LET ME, UH, WE GOT ANOTHER GUY -- GAL THAT'S HERE TO TAKE A POLY, LET ME GO AHEAD AND TELL HER TO GO AHEAD AND HOOK HER UP AND THEN—

B YEAH—

H PAUL DOESN'T WANNA DO IT RIGHT NOW.

B ALRIGHT.

F HOW LONG DO YOU GUYS NEED ME TO STAY HERE FOR?

B HOW LONG IS WHAT?

F HOW LONG DID YOU NEED ME TO STAY HERE FOR?

B NOT MUCH LONGER. I MEAN—

F YEAH, BECAUSE I GOT SOMEPLACE TO GO, I HAVE TO BE THERE AT FOUR [4:00].

B WHERE DO YOU GOTTA BE AT FOUR [4:00]?

F UH, I'M SUPPOSED TO HELP MY MOM WITH SOMETHING OVER THERE, SO – SO LIKE IT'S JUST DOWN THE STREET SO I'LL JUST WALK OVER THERE.

B OKAY. UM—

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F [UNINTELLIGIBLE].

B BETWEEN YOU AND I, IS THERE ANYTHING YOU'RE LEAVING OUT?

F NO.

B THINK ABOUT THE PARTY NOW.

F THERE'S NOTHING ELSE I EVEN REMEMBER OR ANYTHING. JUST—

B M'KAY, I MEAN, IF SOMEONE TOLD US THAT, UH, YOU HAD CONTACT WITH HER AT THE PARTY.

F YEAH LIKE – LIKE THEY [UNINTELLIGIBLE] WELL, WHEN SHE WALKED UP TO ME AND [UNINTELLIGIBLE].

B OTHER THAN THAT. OTHER THAN THAT.

F NO OTHER CONTACT. I THINK SH-SHE MIGHT – I THINK SHE MIGHTA SAID "HI" TO ME TWICE MAYBE.

B UH-HUH.

F BUT THAT WAS ABOUT –

B DO YOU REMEMBER RUNNING INTO HER IN THE HALL?

F NO—

B HALLWAY?

F NUH-UH. NO.

B POSITIVE ABOUT THAT?

F I DON'T REMEMBER AT ALL TALKING TO HER IN THE HALLWAY.

B LET ME ASK YOU THIS [UNINTELLIGIBLE]—

F IT'S POSSIBLE, I GUESS YOU KNOW.

B RIGHT—

F ANYTHING'S POSSIBLE, YOU – YOU KNOW, YOU COULD—

B SURE—

F YOU CAN WIND UP SAYING SOMETHING TO SOMEONE AND NOT REMEMBER IT.

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B OKAY. DO YOU -- DO YOU HAVE LITTLE SPOT-CHECKS OF THAT NIGHT WHERE YOU DON'T REMEMBER SOME THINGS AND YOU REMEMBER OTHER THINGS A LOT BETTER? 'CAUSE OF THE BOOSE OR BEER, I SHOULD SAY?

F IT'S LIKE I DON'T – I DON'T EVEN REMEMBER WHY-- HOW I WOUND UP WALKING WITH THEM BUT—

B UH-HUH—

F LIKE--LIKE THAT, SO THEN I GUESS YOU KNOW – I – I -- I REMEMBER ONE GAME OF POOL. I – I -- I – I WAS WHOOPING THE GUY. I HAD FIVE OF MY BALLS IN AND THEN, UM, HE ONLY HIT TWO OF HIS BALLS IN, AND BOOM, I HIT IN THE EIGHT BALL.

B MM-HM.

F I LOST.

B OKAY.

F I -- I – I REMEMBER THAT GAME GOOD.

B OKAY.

F YOU KNOW, I WAS JUST LIKE BLOWING IT THEN I REMEMBER HITTING THE EIGHT BALL, I -- I HIT MY BALL IN -- MADE MY BALL IN BUT THE WHITE BALL BOUNCED OFF THE BALL AND HIT THE EIGHT BALL IN AND I REMEMBER GOING, [UNINTELLIGIBLE].

B 'KAY, SO--SO YOU REMEMBER THAT REAL WELL.

F YEAH.

B OKAY. BUT, YOU DON'T REMEMBER EXACTLY WHO YOU TALKED TO ALL NIGHT AND STUFF? LIKE THIS FRANK, DO YOU REMEMBER—

F IT'S – IT'S – IT –

B TALKIN' TO FRANK—

F IT SOUNDS FAMILIAR THE NAME FRANK, YEAH.

B YOU REMEMBER TALKIN' TO A GIRL NAMED TINA? YOU WERE SITTIN' WITH HER ON THE COUCH.

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F I'M TRYING TO THINK OF IS THAT'S -- I DON'T KNOW IF THAT'S THE GIRL THAT WAS IN MY CLASS. 'CAUSE I WAS SITTING—

B YOU ASKED HER IF SHE HAD A BOYFRIEND? WHICH IS A NORMAL QUESTION, I MEAN, TO ME.

F OH, NO, THAT WASN'T HER THEN.

B WHO WAS THAT?

F WHAT?

B THE GIRL YOU ASKED, DOES SHE HAVE A BOYFRIEND?

F OH, NO. NO, IT WASN'T, UH, THE GIRL OUT OF MY CLASS 'CAUSE I WAS – I WAS PARTNERING HER UP WITH HER BOYFRIEND.

B OH, I SEE.

F SO—

B YOU WERE PARTNERING UP WITH HER BOYFRIEND?

F YEAH.

B OKAY.

F JUST LIKE – LIKE – LIKE I WANNA PLAY LIKE A GAME AND HE WAS – BE—BE-BECAUSE YOU PLAY DOUBLES 'CAUSE IT GOES TWICE AS QUICK.

B RIGHT. YOU GET MORE PEOPLE INVOLVED.

F RIGHT.

B YOU REMEMBER SITTIN' DOWN AND TALKIN' TO A GIRL ON THE COUCH?

F I -- I REMEMBER -- YEAH, I WAS – I WAS LIKE SITTING ON THE COUCH AND SO THEN I WAS JUST LIKE TALKING TO PEOPLE –

B I MEAN, DID YOU ASK -- DO YOU REMEMBER ASKING A GIRL, "DOES SHE HAVE A BOYFRIEND?"

F NUH-UH. I DON'T REMEMBER. NO.

B 'KAY.

F IT'S POSSIBLE, YEAH, IT'S -- IT'S HIGHLY LIKELY THAT I COULD HAVE DONE IT BUT I -- I JUST DON'T REMEMBER IT.

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B OKAY.

F YOU KNOW, WE'RE TALKIN' ABOUT A MONTH AGO. I CAN'T REMEMBER EVERYTHING, I GUESS.

B OKAY. DO YOU REMEMBER HER ANSWER TO YA?

F NUH-UH. I DON'T EVEN REMEMBER ASKIN' THE QUESTION.

B YOU DON'T REMEMBER ASKING THE QUESTION?

F RIGHT.

B OKAY. ALRIGHT. IS THAT A QUESTION YOU'D ASK?

F I'VE ASKED THAT BEFORE.

B OKAY. AND WHAT IF THEY SAY, "YEAH." WHAT DO YOU USUALLY -- WHAT DO YOU SAY THEN?

F LIKE IF SHE SAID "YEAH." "OH," YOU KNOW, OR WHATEVER, YOU KNOW, JUST-- IF YOU CAN KEEP TALKIN' THERE'S NOTHIN' WRONG WITH THAT. YOU KNOW, YOU JUST—

B SURE. NO, YEAH, THERE -- THERE IS NOTHIN' WRONG WITH THAT. BUT YOU DON'T REMEMBER DOIN' THAT AT THIS PARTY?

F NO, I DON'T REMEMBER IT.

B YOU DON'T REMEMBER TA-TALKIN' TO ROXY AGAIN?

F NUH-UH.

B ALRIGHT. YOU DON'T REMEMBER HAVIN' ANY CONVERSATION WITH ROXY FROM THE TIME YOU LEFT 'TIL THE TIME YOU DROPPED HER OFF—

F NO, I DON'T REMEMBER CONVERSATION.

B NO CONVERSATION AT ALL?

F NOT THAT I REMEMBER, NO.

B DO YOU FIND THAT ODD?

F WHAT?

B THINK ABOUT IT. THAT YOU DIDN'T Y-YOU DON'T REMEMBER ANY CONVERSATION WITH—

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F WELL BE-BE-BECAUSE I TALK TO A LOT OF PEOPLE AT THE PARTY – IT'S LIKE – IT'S LIKE AFTERWARDS HECK, IF I REMEMBER WHO I TALKED TO, YOU KNOW, SO—

B RIGHT. BUT I – BUT WHAT I'M SAYING, PAUL—

F BUT – BUT THAT I REMEMBER—

B IS FROM THE TIME YOU LEFT THE PARTY WITH ROXY AND CHERYL.

F OKAY.

B M'KAY. AND CHERYL'S PROBABLY WALKIN' A LITTLE BIT IN FRONT OF YOU GUYS.

F YEAH, SHE WAS.

B OKAY.

F RIGHT.

B GOT YOU AND ROXY BEHIND 'EM, BEHIND HER, OKAY?

F 'KAY.

B YOU STOP SEVERAL TIMES, NO BIG DEAL 'CAUSE SHE'S COLD. YOU GIVE HER A QUICK HUG, NO BIG DEAL, RIGHT?

F UH-HUH.

B OR WAS IT A BIG DEAL?

F NO BIG DEAL.

B OKAY. DURING THIS WHOLE TIME, THIS -- ALMOST FIFTEEN [15] MINUTE WALK, YOU GUYS DON'T TALK ABOUT ANYTHING?

F UH, I DON'T REMEMBER TALKIN' ABOUT ANYTHING. IT'S -- IT'S POSSIBLE, YOU KNOW, JUST IT WAS SMALL TALK, YOU KNOW, BUT NOTHIN' I – NOTHIN' I REMEMBER ANYTHING ABOUT.

B HOW DO YOU – HOW DO YOU KNOW WHERE SHE – LIVED AT?

F UM, BE-BECAUSE WE WERE TALKING AND WE WERE WALKING, THEN, YOU KNOW, WE SAID THE ONE GIRL, YOU KNOW, I KNEW, THE ONE GIRL LIVES OVER THERE [UNINTELLIGIBLE] OVER THERE.

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B OKAY. I-I-IT'S JUST KINDA HARD FOR ME TO -- TO FATHOM YOU GUYS WALKED FOR FIFTEEN MINUTES AND YOU DON'T TALK ABOUT ANYTHING. IT JUST -- IT JUST DOESN'T MAKE SENSE.

F WELL, IT'S -- IT'S POSSIBLE WE SMALL TALKED BUT NOT THAT I REMEMBER ANYTHING OF. YES, YOU KNOW, I DON'T REMEMBER HAVING ANY CONVERSATION BUT -- BUT I'M LIKE-LIKE—

H DO YOU REMEMBER TALKIN' TO CHERYL DURING THAT WALK?

F NO. I DON'T REMEMBER -- I DON'T REMEMBER ANY CONVERSATION, I GUESS, YOU KNOW, IT'S -- IT'S LIKE I WAS ON THE BUS, YOU KNOW, IT'S LIKE I -- I -- I REMEMBER I TALKED TO ONE GUY BUT I DON'T REMEMBER HOW MANY KINDS OF PEOPLE I TALKED TO.

H I'M TALKIN' ABOUT CHERYL AND ROXY. NOT A GUY.

F WELL -- WELL, I WAS JUST SAYING FOR LIKE TODAY IS LIKE SAY, I WAS ON THE BUS, YOU KNOW, I RE – I REMEMBER, YOU KNOW, DON'T REMEMBER ANYTHING I WAS TALKIN' ABOUT, DON'T REMEMBER HOW MANY PEOPLE.

H OKAY. CHERYL -- CHERYL'S GOT A PRETTY GOOD MEMORY.

F OKAY.

H SHE WASN'T DRINKIN'. AND ALL SHE KNOWS IS THAT SHE WAS GONNA HELP GET ROXY HOME. AND SHE STARTED TO WALK WITH ROXY AND THEN THAT'S WHEN YOU JOINED IN.

F WELL, SEE, I HAD NO IDEA WHEN I JOINED IN. YEAH, YEAH—

H [UNINTELLIGIBLE] I'M TELLIN' YA-

F I KNOW, I KNOW—

H I'M HELPIN' YA OUT HERE.

F OKAY.

H WORK WITH ME A LITTLE BIT HERE, OKAY?

F ALRIGHT.

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H ALRIGHT. SHE CONFIRMS WHAT YOU SAID, THAT SEVERAL TIMES ROXY STOPPED AND COMPLAINED OF BEING COLD.

F RIGHT.

H SHE SAID YOU WENT OVER AND YOU DIDN'T JUST RUB HER ARMS, YOU GAVE HER SOME MANLY HUGS. LIKE A MAN WOULD. LIKE ANY MAN WOULD. YOU KNOW, HERE'S A WOMAN STANDING THERE, THAT'S HALF NAKED, THE WAY SHE WAS DRESSED, YOU KNOW, A LITTLE TANK TOP, UH, HALF T-SHIRT, SKIN-TIGHT, UH, BLACK VINYL SHORTS, YOU KNOW, AND SHE'S HALF NAKED. IT'S LIKE WEARING A BATHING SUIT. ANYWAY, YOU REACH OUT AND YOU GIVE HER A GOOD, MANLY HUG LIKE BILL OR I WOULD DO. OKAY?

F MM-HM.

H AND UH, THEN YOU'D WALK A LITTLE MORE AND SHE'D COMPLAIN ABOUT BEING COLD. YOU'D STOP AND GIVE HER A HUG. EXCEPT AT ONE POINT, YOU TOLD CHERYL, "GO AHEAD, YOU CAN GO ON NOW. YOU DON'T NEED TO STAY AROUND. GO AHEAD. GO." WELL, CHERYL WAS CONCERNED. SO, SHE -- SHE SAID, "NO, I'M -- I'M GONNA HANG AROUND."

F UH-HUH.

H 'CAUSE SHE SAW HOW DRUNK ROXY WAS. SO, SHE DIDN'T WANNA JUST LEAVE THE TWO OF YOU THERE. SO, YOU STOPPED AGAIN TO HUG -- YOU GAVE HER ANOTHER MANLY HUG LIKE ANY MAN WOULD AND YOU SAID, "CHERYL, GO AHEAD, YOU CAN LEAVE." CHERYL SAID, "NO, I'M GONNA STICK AROUND." AND SO, CHERYL WAS CONCERNED THAT YOU WERE TRYING TO GET RID OF HER. AND -- AND THAT WAS HER CONCERN. THAT'S WHY WHEN YOU GOT UP TO THE PERIMETER WHERE SHE WENT OFF ON GRAND? CHERYL WANTED TO MAKE SURE THAT YOU WERE GOING TO WALK ROXY UP TO HER DOOR. HER DORM. ACTUALLY GET HER INSIDE HER DORM. BECAUSE CHERYL KNEW THAT ROXY COULDN'T MAKE IT TO HER

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DORM BY HERSELF. AND SO DID TIM, THE GUY THAT FOUND HER AT THE PARTY. SEE, WHEN TIM FOUND HER—

F WHO'S TIM?

H HE'S THE GUY THAT HAD THE PARTY. AT THE HOUSE?

F OKAY. I [UNINTELLIGIBLE].

H AND WHEN HE FOUND ROXY, SHE WAS PASSED OUT ON THE NEIGHBOR'S LAWN.

F SHE WAS PASSED OUT ON THE NEIGHBOR'S LAWN?

H JUST LAYING THERE. HALF ASLEEP. THAT'S HOW MUCH SHE HAD TO DRINK, SEE. SO, TIM-- TIM STANDS HER UP AND SAYS, "MAN, SHE CAN'T WALK HOME." AND TIM WAS GONNA WALK WITH CHERYL UNTIL YOU CAME ALONG. AND THEN YOU SAID, "HEY, I'M GOING UP THAT WAY, I'LL GO WITH HER." TIM SAID, "HEY, GREAT. 'PRECIATE IT."

F I DON'T EVEN REMEMBER THAT.

H 'KAY, BUT SEE, TIM KNOWS HOW DRUNK ROXY WAS, TOO. SO, THAT'S WHY CHERYL ASKED YOU WHEN SHE-- JUST BEFORE SHE LEFT, SHE SAYS, "ARE YOU GOING TO WALK HER TO HER DORM? MAKE SURE SHE GETS IN HER DORM." AND YOU SAID, "YES, I AM. I'M GONNA WALK HER TO HER DORM." BECAUSE CHERYL SAID SHE WOULDN'T HAVE LEFT AND GONE HOME IF SHE DIDN'T-- IF -- IF SHE THOUGHT YOU WERE JUST GONNA LET HER WALK BY HERSELF. CHERYL WOULDA GONE WITH HER. BUT SHE SAID YOU ASSURED HER, PROMISED HER THAT YOU WERE GONNA WALK ROXY TO HER DORM. MAKE SURE SHE GOT IN BECAUSE SHE WAS THAT DRUNK.

F I HAVE NO IDEA OF EVER SAYING THAT OR—

H WELL—

F EVEN THE CONVERSATION EVEN TOOK PLACE.

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H WELL, I -- I KNOW IT TOOK PLACE. WE KNOW IT HAPPENED 'CAUSE CHERYL AND TIM TOLD US. SEE, WHAT WE'RE HAVING TROUBLE UNDERSTANDING IS WHY YOU'RE NOT TALKING ABOUT THIS.

F I HAVE NO IDEA IT EVEN HAPPENED.

H WELL, THAT'S -- THAT'S WHAT CONCERNS US. SEE. SEE, YOU'RE -- YOU'RE -- YOU'RE NOT ACKNOWLEDGING ANY OF THIS EVER HAPPENED. AND YET ALL THESE OTHER PEOPLE ARE S-- TELLING US IT DID HAPPEN.

F I THINK -- 'CAUSE I HAD A BLACKOUT AT ABOUT THAT TIME THEN. IT'S LIKE, IT'S LIKE BUT --

H WELL—

F BUT I REMEMBER HER WALKIN' AWAY THOUGH.

H PAUL, YOU DON'T -- YOU DON'T HAVE A BLACKOUT ONE MOMENT—

F OH—

H AND THEN REMEMBER THE NEXT.

F WELL, OH I -- I DON'T KNOW HOW BLACKOUTS WORK.

H OKAY, WELL, WE'VE BEEN AROUND A LONG TIME, WE'VE PROBABLY EXPERIENCED A FEW OF 'EM. WE UNDERSTAND. THEY DON'T WORK THAT WAY. BUT, ANYWAY, WELL-- THIS IS WHAT CONCERNS US, SEE? THIS -- THIS IS WHY WE'RE SITTING HERE—

F YEAH—

H NOW URGING YOU—

F YEAH, IT'S A CONFLICTING—

H URGING YOU TO -- DON'T LEAVE ANYTHING OUT. YOU KNOW, TELL US EVERYTHING.

F YEAH.

H EVEN THOUGH YOU FEEL THAT, "MAN, THIS SOUNDS BAD."

F UH-HUH.

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H YOU GOTTA TELL US. IF THOSE TWO GUYS THAT HAD BEEN KISSIN' ON HER, THEY HADN'T TOLD US THE TRUTH, WE'D BE OVER WORKIN' ON THEM RIGHT NOW. BUT YOU KNOW, THEY FINALLY TOLD THE TRUTH AND WE WERE ABLE TO—

F HUH—

H ESTABLISH THAT WHAT THEY TOLD US WAS THE TRUTH. AND THIS HAS HAPPENED BEFORE. BILL'S-- BILL AND I WORKED SEVERAL HOMICIDES WHERE SOMEBODY WAS AFRAID TO TELL US SOMETHING BECAUSE THEY WERE THE LAST PERSON TO SEE THIS PERSON ALIVE AND THEY – HE ACTUALLY LIED TO US. AND THEN WHEN HE FINALLY DID TELL THE TRUTH, WE WERE ABLE TO ESTABLISH, "HEY, THAT'S WHAT REALLY DID HAPPEN. HE IS TELLIN' THE TRUTH." BUT BECAUSE HE LIED AND LEFT SOMETHINGS OUT BECAUSE HE THOUGHT IT LOOKED BAD IT MADE HIM LOOK EVEN WORSE.

F MM-HM.

H SEE THAT'S –

F YEAH, I—

H WHY WE'RE URGING YOU—

F YEAH, I UNDERSTAND WHAT YOU'RE SAYING.

H WE'RE URGING YOU, DON'T LEAVE THINGS OUT. EVEN—

F YEAH, I UNDERSTAND WHAT YOU'RE SAYING—

H EVEN THOUGH YOU THINK IT MIGHT SOUND BAD OR LOOK BAD, LET US SORT THROUGH IT SO WE CAN FIGURE IT OUT.

F YEAH.

H YOU KNOW? THAT'S WHY WE KEEP GOING BACK TO THESE PEOPLE THAT HAVE SAW YOU AND HER AT A DIFFERENT LOCATION. WE KNOW YOU WERE SOMEWHERE ELSE WITH HER. WE KNOW THAT THAT WASN'T THE LAST PLACE YOU SAW HER.

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F THAT'S LAST PLACE I SAW HER.

H WELL, NO, WE KNOW THAT'S NOT TRUE. SEE. AND THAT'S WHY WE"RE TRYING TO FIND OUT WHY YOU DON'T WANT TO TELL US ABOUT WHATEVER ELSE HAPPENED.

F I'M J-J-J-JUST FOR MY CURIOSITY, WHERE ELSE WAS I SEEN AT THEN? I'M JUST CURIOUS.

H WELL, WE CAN'T GO INTO A LOT OF THAT BECAUSE OF -- REMEMBER I TOLD YOU IT'S A BIG PUZZLE?

F YEAH.

H AND WE HAVE TO KIND OF FIT THESE PIECES TOGETHER.

F RIGHT.

H IF WE – IF WE TELL YOU WHAT WE KNOW, THEN IT'S LIKE CHEATIN' AT CHECKERS.

F OH.

H WE DON'T WANNA CHEAT AT CHECKERS.

F ALRIGHT.

H WE WANNA BE ABLE TO PUT IT TOGETHER SO WE CAN CORROBORATE THOSE THINGS.

F OKAY.

H SEE. YOU KNOW WHERE YOU WERE. AND THEN ONCE --

F THAT'S – THAT'S THE LAST PLACE. I'M – I'M -- I'M – I WAS JUST CURIOUS WHERE PEOPLE [UNINTELLIGIBLE] OKAY—

H ONCE YOU TELL US WHERE YOU WERE – ONCE YOU REMEMBER WHERE YOU WERE.

F MM-HM.

H THEN WE'RE ABLE TO ESTABLISH THOSE PEOPLE THEN SAW WHAT THEY DID, WE CAN GO ON TO SOMETHING ELSE. BUT THAT -- THAT'S WHY I'M JUST SAYING, YOU KNOW, DON'T HOLD ANYTHING BACK.

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F YEAH. I UNDERSTAND WHAT YOU'RE SAYING.

H JUST -- JUST BECAUSE YOU THINK IT MIGHT LOOK BAD.

F UH-HUH.

H NOW, ONE THING -- ONE THING THAT REALLY DOES LOOK BAD AND I DON'T KNOW IF YOU WANNA DISCUSS THIS NOW, BUT WE MIGHT AS WELL. UH, THAT WE -- WE NEED TO REALLY GET CLEA-- CLEARED UP IS LAST TIME WE TALKED TO YOU, YOU HAD A BLACK EYE.

F YEAH.

H REMEMBER THAT?

F YEAH.

H 'KAY. AND WHAT DID YOU TELL US?

F I TOLD YOU I GOT IT PLAYING BASKETBALL.

H THAT'S RIGHT. AND WHERE DID YOU GET IT?

F IN MY CAR.

H WHAT CAR?

F MY RANGER. AT HOME.

H THE RANGER? AND WHEN DID IT HAPPEN?

F ON, UH, ON – ON MEMORIAL DAY? OR -- OR LABOR DAY, WHATEVER IT WAS.

H MONDAY?

F YEAH. HAPPENED ABOUT TWO [2:00] O'CLOCK IN THE MORNING OR SOMETHING.

H TW-- WHY TWO IN THE MORNING?

F 'CAUSE I WAS, UM, UNINSTALLING MY RADIO, 'CAUSE I'M SELLING MY TRUCK.

H MM-HM. AND WHERE WERE YOU WORKIN' ON YOUR CAR AT?

F IN MY GARAGE.

H IN THE GARAGE? AND HOW DID YOU GET THE BLACK EYE?

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F I HIT THE STEERING WHEEL. THAT'S ABOUT IT. BUT – BUT LIKE HOW OFTEN DO PEOPLE HIT THEIR EYE ON THE STEERING WHEEL? SO—

H I DON'T KNOW.

F SEE. IT-- IT WAS LIKE RIGHT HERE SO THEN I -- WENT LIKE THAT, POPPED UP AND—

H OKAY. LET ME ASK YOU THIS.

F WHAT?

H WHAT—

F OH.

H LISTEN TO ME. WHY DIDN'T YOU TELL US THAT?

F BE-- BECAUSE IT DOESN'T SOUND LIKE A VERY LIKELY THING.

H THAT'S EXACTLY MY POINT. YOU SEE MY POINT NOW WHAT I'M GETTIN' ABOUT ON ALL THIS OTHER STUFF THAT HAPPENED? WHEN YOU TELL US SOMETHING LIKE THAT AND IT DOESN'T MAKE SENSE, SEE HOW BAD IT LOOKS?

F YEAH. B– BUT THAT WAS DAYS LATER ANYWAY, SO—

H WELL, NO. WH-- WHY WAS IT SO HARD FOR YOU TO TELL US THAT YOU GOT THAT BLACK EYE HITTIN' THE STEERING WHEEL?

F IT DIDN'T REALLY MATTER.

H WHAT DO YOU MEAN, IT DIDN'T MATTER?

F IT WAS DAYS LATER, SO—SO WHY WOULD IT—

H I MEAN IF IT DIDN'T MATTER THEN WHY DID YOU LIE ABOUT IT?

F WELL -- WELL, IT DID -- DOESN'T MATTER IF I LEAVE OUT LITTLE DETAILS. DOESN'T—I-I -- WHY DOES IT MATTER WHO I WAS EVEN WITH THAT DAY THOUGH? I MEAN, LIKE – LIKE THE LABOR DAY WEEKEND OR MEMORIAL DAY WEEKEND. SEE, I DON'T EVEN FIGURE THAT OUT.

H WHY DOES IT MATTER?

F YEAH.

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H BECAUSE THAT'S HOW WE FOUND OUT YOU DIDN'T GET THE BLACK EYE PLAYING BASKETBALL.

F BUT I DIDN'T THINK THAT WAS GONNA BE A BIG DEAL SO—

H BUT WHY WOULD YOU LIE ABOUT THAT? SO, YOU GOT IT ON TWO [2:00] O'CLOCK IN THE MORNING—

F YEAH—

H ON A SUNDAY?

F RIGHT.

H TAKIN'—

F W-W– IT WAS ACTUALLY A MONDAY THEN.

H MONDAY MORNING.

F AND -- AND I WOKE UP IN THE MORNING -- IT'S LIKE -- IT'S LIKE I DIDN'T THINK I HIT IT VERY HARD BUT THEN I WOKE UP IN THE MORNING WITH IT.

H WHAT WERE YOU DOIN' AT THE TWO [2:00] O'CLOCK IN THE MORNING IN YOUR GARAGE?

F I WAS UNINSTALLING MY RADIO. IT'S -- IT'S -- IT'S LIKE I THOUGHT IT WAS ONLY GONNA TAKE ABOUT – 'BOUT HALF AN HOUR OR SOMETHING BUT, UM, BUT THE WAY I INSTALLED IT, I HAD TO TAKE OUT MY SEATS, I HAD TO PULL UP MY CARPET, I HAD TO PULL-- PULL APART MY DASH

H MM-HM.

F THEN I HAD TO PULL OFF MY DOOR PANELS.

H MM-HM.

F AND -- AND I HAD TO PULL OFF THE THING, UM, IN THE BACK BEHIND MY SEATS.

H MM-HM.

F AND I FIGURED -- WELL, I -- I FIGURED, YOU KNOW, I WAS JUST GONNA DO SOME SCREWS DO IT LIKE THIS BUT IT TOOK A LOT LONGER THAN THAT.

H SO WHAT TIME DID YOU START WORKIN' ON IT?

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F I DIDN'T START 'TIL LIKE ELEVEN [11:00] O'CLOCK OR SOMETHING. TEN [10:00] O'CLOCK, SOMETHING. SO LIKE I STARTED LATE ON IT, SO IT JUST TOOK ME A LONG TIME.

H SO, EXPLAIN TO ME EXACTLY HOW YOU HIT YOUR EYE THAT GOT THAT BLACK EYE.

F IT -- IT -- IT'S LIKE I WAS JUST LIKE WORKING -- IT'S LIKE I -- I HAD LIKE THE SEATS OUT -- IT'S LIKE I WAS GRABBING THE WIRES AND I REMEMBER I JUST LIKE POPPED UP -- I DON'T REMEMBER EXACTLY.

H WHICH EYE DID YA HIT?

F I THINK IT WAS THIS ONE. EXCEPT I DON'T REMEMBER. LIKE AND THIS ONE.

H SHOW ME HOW YOU HIT IT WHILE YOU WERE PULLING THE WIRES OUT.

F IT'S -- IT'S -- IF I JUST CAME UP AND JUST HIT IT LIKE RIGHT HERE. AND THEN IT WASN'T ACTUALLY THE EYE, IT WAS JUST THE -- JUST LIKE RIGHT HERE.

H MM-HM. YOU MUSTA HIT IT PRETTY HARD.

F NO. DIDN'T EVEN HIT IT VERY HARD.

H WHY WOULD IT BRUISE SO BAD?

H IT DIDN'T. IT -- THE ONLY BRUISE WAS JUST LIKE A LITTLE LINE LIKE RIGHT HERE.

H IT WAS A PRETTY GOOD BRUISE.

F NO, IT REALLY WASN'T. NEVER SWELLED. NEVER WAS SORE.

H OKAY BUT WHAT DID YOU TELL US?

F IF I TOLD YOU I GOT ELBOWED PLAYING BASKETBALL.

H 'KAY. AND WHY DID YOU TELL US THAT?

F 'CAUSE I DIDN'T THINK IT WOULD MATTER.

H 'KAY, NOW HOW DO WE KNOW THAT EVERYTHING THAT YOU'VE TOLD US SO FAR, YOU DON'T REALLY THINK IT MATTERED, SO THAT'S WHY YOU'RE TELLING US SOME OF THE THINGS AND MAYBE WHAT YOU'RE TELLIN' US

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ISN'T REALLY THE TRUTH. HOW DO WE KNOW, NOW THAT YOU'VE LIED TO US?

F WELL -- WELL, BUT THAT WASN'T IMPORTANT THOUGH.

H SURE IT IS. THAT'S IMPORTANT. SURE, IT'S IMPORTANT. WHAT IF -- WHAT IF ROXY PUNCHED YOU IN THE EYE?

F YEAH.

H SEE? SEE WHY IT'S IMPORTANT? WHAT IF ROXY PUNCHED YOU IN THE EYE?

F I HAVE A BIG OL' BLACK EYE.

H WELL, NOT A BIG OL' ONE. ONE ABOUT THAT SIZE. LET ME ASK YOU THIS. ARE YOU TELLIN' US THIS IS THE TRUTH HOW YOU GOT THAT BLACK EYE?

F YUP.

H 'KAY. YOU TELLING US THE TRUTH WHEN YOU GOT THE BLACK EYE?

F YEAH. THAT WAS WHEN I GOT THE BLACK EYE.

H 'KAY. WHAT IF SOMEBODY TELLS US THAT THEY SAW YOU WITH THAT BLACK EYE SATURDAY NIGHT?

F NOPE. I DIDN'T HAVE IT SATURDAY NIGHT.

H WELL, WE'VE GOT SOMEBODY THAT'LL SAY YOU DID HAVE IT SATURDAY NIGHT.

F NO.

H YEAH, WE DO. IN FACT, YOU KNOW HIM EXTREMELY WELL.

F THE ONLY PERSON I WAS WITH WAS JAVIER THAT NIGHT.

H THINK BACK ON SATURDAY NIGHT.

F WE WENT TO THE MOVIES. SAW TWO MOVIES.

H WHO'D YOU GO WITH?

F JAVIER.

H WHO ELSE?

F ONLY ME AND HIM SAW MOVIES. MY FRIEND, MIKE DROVE ME. THEN HE JUST DROPPED US OFF 'CAUSE HIS GIRLFRIEND CAME OVER THAT NIGHT.

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H 'KAY. THEN SOMEBODY SAW YOU WITH A BLACK EYE.

F I DIDN'T HAVE A BLACK EYE.

H SATURDAY NIGHT.

F I -- THERE'S NO WAY I HAD THAT BLACK EYE.

H SATURDAY NIGHT.

F NO.

H WHY WOULD THIS PERSON LIE TO US?

F I – I DID NOT HAVE A – IT MIGHTA BEEN THE WEEK FOLLOWING.

H HOW COULD IT BE THE WEEK FOLLOWING WHEN WE SEE YOU?

F [UNINTELLIGIBLE]—

B NO, PAUL, PAUL, PAUL--. JUST – JUST – JUST LISTEN TO ME FOR A SEC.

H OKAY?

B RELAX. RELAX.

F OKAY.

B TAKE A DEEP BREATH. JUST – JUST – JUST LISTEN TO ME, OKAY?

H WE'RE TRYING TO HELP—

B WE'RE NOT MAKING THIS – YEAH. WE'RE NOT MAKING—

F YEAH—

B THIS STUFF UP, OKAY? IT'S -- WE SEE YOU WITH A BLACK EYE.

F YEAH.

B CAL POLY SEES YOU WITH A BLACK EYE. FRIENDS OF YOURS SEES YOU WITH A BLACK EYE. MATTER OF FACT, ONE OF YOUR FRIENDS ASKS YOU HOW IT HAPPENED. AND YOU KNOW WHAT YOU SAY TO 'EM?

F I SAY I GOT AN ELBOW PLAYIN' BASKETBALL.

B NO. NO. ABSOLUTELY NOT. UNLESS THEY'RE LYING. MAYBE THIS IS A BIG CONSPIRACY AGAINST PAUL. I DON'T THINK SO.

F AND, UH—

B YOU SAID, "I DON'T KNOW HOW I GOT IT." EXACT WORDS, "I DON'T KNOW."

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F UM, MIGHTA SAID THAT BUT I DON'T KNOW. I – I – I KNOW I DIDN'T TELL ANYONE THAT I HIT IT ON A STEERING WHEEL THOUGH.

H WHY?

F BECAUSE IT'LL MAKE ME SOUND LIKE A KLUTZ.

H OKAY. Y-Y-YOU TELL US YOU GOT IT PLAYIN' BASKETBALL. THEN YOU TELL US YOU GOT IT HITTING IT ON THE STEERING WHEEL. WHAT DO YOU TELL YOUR FRIENDS HOW YOU GOT IT?

F I TOLD SOME OF 'EM, I GUESS – I GUESS, UM, MAYBE I SAID TO SOME ONE, YOU KNOW, I WAS TELLING PEOPLE I JUST GOT IT PLAYIN' BASKETBALL.

H WHAT ELSE DID YOU SAY? YOU JUST WOKE UP WITH IT? IT JUST JUMPED OUT.

F YEAH. I – WELL – WELL, B-- BECAUSE I WOKE UP ON, UM–

H PAUL, WHY – WHY DO YOU HAVE TO TELL –

F ON MONDAY—

H A LIE ABOUT SOMETHING THAT MEANS NOTHING? IT'S VERY UNIMPORTANT. WHY LIE ABOUT IT–

F E-E-WELL– WELL, IT'S ON MONDAY, I GUESS, YOU KNOW, THAT'S – THAT'S THE WAY I FIGURED, IT WAS [UNINTELLIGIBLE] ON THE STEERING WHEEL AND LIKE THE DAY LATER.

H CAN YOU SEE WHERE WE'RE COMING FROM NOW?

F YEAH.

H IF YOU'RE GONNA TELL US A LIE ABOUT SOMETHING THAT MEANS NOTHING, ABOUT A BLACK EYE. THEN, WHAT ELSE HAVEN'T YOU BEEN TRUTHFUL ABOUT? SEE? THAT'S OUR CONCERN.

F WELL, I - I KNOW I DID NOT HAVE IT SATURDAY NIGHT THOUGH.

H WELL WE KNOW YOU DID. OKAY?

F THAT -- THAT WAS IMPOSSIBLE. MAY I ASK WHO SAID IT?

H JEREMY SAW YOUR EYE.

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F JEREMY WHO?

H YOUR FRIEND, JEREMY.

F I DIDN'T SEE HIM SATURDAY NIGHT.

H HE SAW YOU SATURDAY NIGHT.

F I WAS AT THE MOVIES.

H HE SAW YOU SATURDAY NIGHT.

F NO, HE DIDN'T. I DIDN'T SEE HIM 'TIL, UM, 'TIL MONDAY.

H HE SAW YOU.

F NUH-UH.

B WHO'D YOU GO TO THE MOVIES WITH?

F MY FRIEND, JAVIER.

B JAVIER WHAT?

F I HAVE NO IDEA.

B THAT GOOD FRIEND OF YOURS?

F YEAH. IT'S, UH, BEGINS WITH A "C".

B WHERE'S HE LIVE AT?

H RELAX, YOU'RE GONNA RIP YOUR T-SHIRT UP.

F NO, I'M JUST -- I JUST GOT AN ITCH.

H OH, ALRIGHT.

B DID HE GO TO POLY?

F YEAH. OH, W-- W-- W-- W—WHERE'S HE LIVE NOW? IT'S, UM, BAKERSFIELD. I'M TRYING TO THINK -- I'M TRYING -- 'CAUSE HE SAID HE WAS GONNA GO TO SOME JOB MAYBE. UM, I'M PRETTY SURE.

B DID HE LIVE IN YOUR DORM? IS THAT IT?

F NO, HE LIVED IN, UH, IT'S ONE OF [UNINTELLIGIBLE] UM, HE USED TO BE AN R-A THOUGH.

B HE WHAT?

H USED TO BE A WHAT?

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F HE USED TO BE AN R-A. THE –

B NO, WHAT--WHAT DORM DID HE LIVE IN?

F I DON'T KNOW WHICH – ONE OF THE NORTH MOUNTAIN ONES. HE– HE USED TO BE AN R-A IN MY – MY DORM. I'M TRYNA – I WAS TRYNA TO THINK, BUT I DIDN'T KNOW [UNINTELLIGIBLE].

B HOW DID YOU MEET UP WITH JAVIER?

F WHEN?

B ON SATURDAY NIGHT.

F HOW'D I MEET UP WITH HIM? OH, WE-- WE WENT TO DINNER TOGETHER. WE ALWAYS GO TO DINNER TOGETHER [UNINTELLIGIBLE].

B WHERE DOES HE LIVE?

F WHAT DORM? OH, UM, HE – HE ALWAYS COMES TO MY DORM.

B OKAY. BUT YOU WERE HOME SATURDAY NIGHT.

F NO, I WAS HOME SUNDAY.

B WHEN DID YOUR DAD COME TO PICK YOU UP?

F SUNDAY.

B 'KAY, SO YOU AND JAVIER WENT TO THE MOVIES IN DOWNTOWN SAN LUIS?

F RIGHT.

B OKAY. THEN – YEAH WE UNDERSTAND. WHAT'D YOU GO—

F YEAH—

B SEE?

F WE WENT AND SAW MISSION IMPOSSIBLE AND THEN WE SAW TWISTER.

H SAME [UNINTELLIGIBLE]?

F WHAT?

H SAME MOVIE THEATER?

F YEAH.

B WELL, WHICH ONE WAS IT?

F THE ONE DOWNTOWN. UM, BY JUICE CLUB.

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B BY THE JUICE CLUB. OKAY. SO, YOU AND JAVIER, AND WHO ELSE?

F THAT'S IT.

B AND YOU SAID, "MIKE." WHO'S MIKE THAT – THAT DROVE YOU?

F MY FRIEND MIKE.

B OKAY. WHO'S YOUR MIKE – WHO'S YOUR FRIEND, MIKE?

F MIKE, UH, ROFAIL [UNINTELLIGIBLE].

H DOES – DOES HE GO TO CAL POLY?

F YUP.

H WHAT DORM IS HE IN?

F HE LIVED IN, UM, SANTA LUCIA. IN SECOND FLOOR.

H WHAT ROOM?

F I HAVE NO IDEA. RIGHT ACROSS FROM THE BATHROOM.

H HE JUST DROVE YOU BUT DIDN'T GO.

F RIGHT. HIS GIRLFRIEND WAS COMIN' TO VISIT HIM SO.

H WHERE'D YOU EAT DINNER AT?

F WHERE?

H YEAH.

F WE ATE AT THE – AT THE DORMS. IT– WE DIDN'T GO 'TIL, UM, 'TIL LIKE THE NINE-FORTY [9:40] SHOWIN' OR SOMETHING.

H LET'S GO BACK TO THE -- TO WHY YOU DIDN'T TELL US HOW YOU GOT YOUR BLACK EYE.

F I DIDN'T THINK IT WAS ANY BIG DEAL. BUT -- BUT I KNOW NO ONE SAW ME THAT SATURDAY NIGHT WITH A BLACK EYE 'CAUSE I DID NOT HAVE A BLACK EYE ON THAT NIGHT. I DIDN'T SEE MY FRIEND, JEREMY, 'TIL MONDAY.

H 'KAY. BUT WHY DID YOU TELL US YOU HAD A BLACK EYE?

F OH, B– JUST – I DON'T KNOW.

H WHY DID YOU TELL US YOU GOT IT PLAYING BASKETBALL?

F I DON'T KNOW.

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H PAUL, IS THERE ANYTHING ELSE THAT YOU'VE TOLD US THAT YOU DIDN'T THINK WAS NOT ANY BIG DEAL?

F NO.

H THAT YOU HAVEN'T TOLD US THE TRUTH TO?

F NO.

H HOW DO WE KNOW THAT?

F TAKE MY WORD FOR IT, I GUESS.

H WELL CAN WE GIVE YOU A POLYGRAPH?

F I TOLD YOU I HAVE TO TALK TO MY PARENTS. SO–

H WELL, IF YOU'RE TELLIN' US THE TRUTH, WHY DO YOU HAVE TO TALK TO YOUR PARENTS TO TAKE A POLYGRAPH?

F BECAUSE I DO.

H ARE YOU NINETEEN [19] YEARS OLD?

F YES.

H ARE YOU AN ADULT?

F BY AGE, I AM.

H RIGHT. SO, ONCE YOU TURN EIGHTEEN [18], YOU CAN MAKE YOUR OWN DECISIONS, RIGHT?

F I'M STILL LIVIN' IN MY PARENT'S HOUSE, SO IT'S THEIR RULES, SO.

H YEAH, BUT THIS IS YOUR LIFE. LET ME ASK YOU THIS. IF WE ASKED YOU TO TAKE A POLYGRAPH RIGHT NOW, HOW WOULD YOU DO?

F DO FINE.

H WELL LET'S DO IT.

F I ALREADY TOLD YOU I HAVE TO TALK TO MY PARENTS ANYWAY I HAVE TO GO AT FOUR [4:00] O'CLOCK, SO.

B 'KAY, WELL, LET ME JUST ASK YOU –

F 'KAY.

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B ONE OF THE PEOPLE AT THE PARTY, THERE WAS NO DOUBT IN THEIR MIND SAID THAT YOU AND ROXY FELL TO THE FLOOR AND—

F I NEVER FELL TO THE FLOOR.

B WELL -- WHY ARE THESE PEOPLE LYING TO US, PAUL?

F MISTAKEN, I GUESS. BECAUSE—

B THEY'RE MISTAKEN?

F THAT I –

B SAME GIRL WHO SAYS THAT YOU GO UP TO HER AND ASK HER FOR A DATE AFTER YOU SAY YOU DON'T CARE ABOUT HER BOYFRIEND.

F WAIT-- THE PERSON I TALKED TO HAD A BOYFRIEND?

B YEAH. OH, YEAH. AND YOU SAID, "I DON'T CARE. GIVE ME YOUR PHONE NUMBER ANYWAYS." NOW YOU THINK SHE'S LYING, TOO?

F I ASKED SOMEONE FOR THE PHONE NUMBER THAT NIGHT, TOO?

B YEAH, MM-HM.

F I HAVE NO IDEA ABOUT THAT NEITHER.

B YOU HAVE NO IDEA?

F NOPE.

B NO IDEA.

H YOU EVER GONE UP TP SOMEBODY, PAUL, AT A PARTY AND FORCED A KISS ON 'EM?

F NOPE.

H IF WE HAVE TWO LADIES THAT CAME FORWARD AND IDENTIFIED YOU AND SAID THAT HAPPENED, WOULD THAT BE TRUE?

F NO -- I – I -- THE ONLY PERSON I – WELL – WELL I WAS AT ONE PARTY THAT I WAS KIND OF LIKE A LITTLE AGGRESSIVE, I GUESS MAYBE—

H YEAH. LITTLE BIT? YOU PUSHED HER UP AGAINST THE WALL. SHOVED HER UP AGAINST THE WALL AND GRABBED HER FACE AND TRIED TO KISS HER. SHE HAD TO FIGHT YOU OFF.

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F NOT THERE. NUH-UH.

B YOU KNOW WHAT, PAUL, HERE-- HERE'S OUR PROBLEM. AND I -- I'M GONNA TELL YOU WHAT IT IS. WE OBVIOUSLY CAME HERE WITH THE BEST INTENTIONS THINKING YOU ARE A WITNESS.

F YEAH.

B OKAY. AND THERE'S A COUPLE THINGS THAT YOU JUST NEED TO CLEAR UP. BECAUSE MAYBE YOU WERE AFRAID TO TELL US. OKAY? WE OBVIOUSLY NOW, I THINK BOTH BELIEVE, WE MADE A MISTAKE.

F MM-HM.

B WE TRULY MADE A MISTAKE. WE NOW HAVE TO LOOK AT THIS IN A DIFFERENT LIGHT. BECAUSE IF ANYBODY LIES AS MUCH AS YOU HAVE ABOUT SOMETHING AS SERIOUS AS THIS IS. WHAT DOES THAT TELL YOU?

F I DON'T KNOW OF ANY LIE I'VE DONE, SO—

B SO, ALL THESE OTHER PEOPLE ARE LYING?

F I HAVE NO IDEA ABOUT ANY OF THAT STUFF, SO—

H WELL, YOU LIED TO US THOUGH, RIGHT?

F OH, IT'S NOT REALLY LIES. A FIB. IT'S SO -- SO MINUTE, IT'S NOT -- WELL -- WELL, I GUESS YOU CAN CALL IT A LITTLE WHITE LIE BUT—

H HOW YOU GOT YOUR BLACK EYE IS A WHITE LIE?

F YUP.

B ABOUT NOT SAYING ANYTHING TO CHERYL ANDERSON, THAT'S JUST A WHITE LIE?

F I HAVE JUST NO IDEA ABOUT ANYTHING LIKE THAT.

H PUSHIN' ROXY DOWN IN THE HALL AND LAYING ON TOP OF HER.

F NO, I WASN'T LAYING ON THE GROUND NEITHER.

H THAT'S -- THAT'S A LIE THEN?

F YEAH.

H THOSE PEOPLE ARE LYING?

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F I GUESS SO.

H WHY-- WHY ALL OF A SUDDEN IS THERE ABOUT FIVE OR SIX PEOPLE THAT ARE TELLIN' US LIES?

F I HAVE NO IDEA. IT'S PROBABLY PEOPLE -- I DON'T KNOW.

H IT'S PROBABLY PEOPLE WHAT?

F GUESS DON'T LIKE ME. I DON'T KNOW.

H THEY DON'T EVEN KNOW YOU.

F WELL, THEN I DON'T KNOW THEN.

H THEY HAD TO PICK YOU OUT OF A PHOTO LINE-UP.

F I HAVE NO IDEA. BU -- MAYBE ONE PERSON SAID, "YOU KNOW THAT I THINK IT WAS HIM." AND THEN ANOTHER PERSON SAID, "YOU KNOW, OH IT WAS THAT GUY." AND THEN THEY MIGHTA KNOWN WHO I WAS SO-- SO, IT'S LIKE THE PERSON WHO THEY'RE PICTURING IS ME.

H YOU KNOW, PAUL, THIS THING ISN'T GONNA GO AWAY.

F I KNOW. I UNDERSTAND THAT.

H WE'RE GONNA HAVE TO KEEP WORKIN' ON IT AND WORKIN' ON IT.

F YEAH, I UNDERSTAND.

H THE MORE PEOPLE WE TALK TO, THE MORE STUFF THAT WE TURN OVER.

F YEAH.

H I WOULD RATHER HEAR IT FROM YOU RATHER—

F WELL –

H THAN HAVE TO HEAR IT FROM SOMEBODY ELSE.

F YEAH, WELL, I WAS JUST SAYING HOW I THINK IT IS SO, I MEAN–

H WELL, I KNOW, BUT I MEAN, I WOULD RATHER HEAR YOU TELL ME ABOUT IT SO THAT I CAN –

F YEAH, THEN HAVE SOMEONE ELSE HAVE TO SAY IT.

H RIGHT.

F RIGHT. I UNDERSTAND THAT.

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H YOU KNOW, BECAUSE IF YOU TELL ME ABOUT IT, I CAN UNDERSTAND WHY YOU MIGHT BE AFRAID—

F YEAH—

H TO TELL US RIGHT NOW BECAUSE—

F ALRIGHT—

H YOU WOULD THINK, "GOD, IF I TELL 'EM THIS HAPPENED, THEY'RE GONNA THINK I DID SOMETHING TO HER."

F YEAH, I UNDERSTAND.

H BUT THAT'S NOT THE CASE. SEE. IF WE HEAR IF FROM SOMEBODY ELSE THOUGH AND WE'RE GONNA FIND PEOPLE, 'CAUSE WE FIND PEOPLE EVERY DAY THAT TALK TO US AND WE HEAR SOMETHING FROM SOMEBODY ELSE, THEN IT REALLY LOOKS BAD BECAUSE NOW YOU HAVEN'T TOLD US AND YOU LIED TO US AND NOW YOU'RE NOT TELLING US THIS. IT MAKES IT LOOK EVEN WORSE. SO, WE WANT YOU TO TELL US EVERYTHING.

F YEAH, I – I WAS—

H EVERYTHING [UNINTELLIGIBLE] –

F TELLING YOU EVERYTHING THAT I REMEMBER HAPPENING.

H WELL, HOW 'BOUT TELLING US THINGS YOU DON'T REMEMBER HAPPENING? THAT YOU DON'T WANNA TALK ABOUT?

F I CAN-- I CAN'T SAY ANYTHING I DON'T REMEMBER.

H WELL, I THINK YOU REMEMBER, YOU WISH IT WOULD GO AWAY [UNINTELLIGIBLE]—

F WELL, THERE ISN'T ANYTHING BUT -- BUT AS I SAID, I ALREADY HAVE TO GO. SO, IS IT ALRIGHT THEN?

H NO. NOT YET. WE'RE NOT THROUGH YET. WE HAVEN'T WORKED THIS OUT. OKAY? WHERE DO YOU GOTTA GO AT FOUR [4:00] O'CLOCK?

F I JUST HAVE TO GO.

H WHERE?

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F WHAT?

H WHERE?

F I HAVE TO CLEAN UP SOME STUFF, SOME CONCRETE.

H WHERE?

F MY MOM'S HOUSE.

H OH, WHERE DOES YOUR MOM LIVE?

F IN ARROYO GRANDE.

H SHE DOESN'T LIVE WITH YA?

F NO.

H THEY DIVORCED OR JUST SEPARATED?

F OH, IT'S JUST LIKE A TEMPORARY SEPARATION.

H WHAT IF WE GE-- GET YOUR DAD DOWN HERE AND TAKE THIS POLYGRAPH?

F HE'S NOT EVEN AROUND RIGHT NOW ANYWAY.

H WELL, WE GOT A DETECTIVE OVER TALKING TO HIM RIGHT NOW.

F IT'S LIKE, I'M -- I'M GONNA HAVE TO HAVE A SIT DOWN TALK WITH BOTH OF MY PARENTS, SO—

H WELL, WHAT IF YOUR DAD GIVES THE OKAY TO THIS [UNINTELLIGIBLE]—

F I'M GONNA HAVE TO TALK TO BOTH MY PARENTS, HAVE A TALK, SO, NO.

H WELL, WHAT IF YOUR DAD SAYS IT'S OKAY?

F I'M GONNA HAVE TA - I'M GONNA HAVE TO TALK TO HIM, [UNINTELLIGIBLE]—

H WAIT A MINUTE. I'M CONFUSED AGAIN. FIRST YOU TOLD ME THAT WE HAVE TO ASK YOUR DAD. SO, IF WE ASK YOUR DAD AND HE SAYS IT'S OKAY AND WE PUT YOU ON THE TELEPHONE AND HE SAYS, "YEAH, GO AHEAD." THAT'S NOT GOOD ENOUGH?

F NO.

H WHY?

B SO, IT'S NOT YOUR DAD, IT'S YOU.

F IT'S LIKE – HERE'S -- HERE'S THE THING.

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H OKAY.

F IT-- IT'S LIKE, I'M GONNA HAVE TO THINK ABOUT LIKE EVERYTHING THAT HAPPENED IS BECAUSE YOU GUYS ARE SAYING THAT LIKE – LIKE – LIKE I WAS SAYING STUFF SO I'M GONNA HAVE TO THINK ABOUT THIS, YOU KNOW?

H WELL—

F I'M GONNA HAVE TO THINK OVER THE WHOLE ENTIRE TIME.

H WELL, THAT'S WHY A POLYGRAPH WILL HELP.

F IT'S -- IT'S LIKE IF I HAVE DOUBTS STUFF HAPPENED SO -- SO I'M GONNA THINK ABOUT THE WHOLE ENTIRE NIGHT BEFORE, YOU KNOW, I WOULD DO ANYTHING LIKE THAT ANYWAY.

H LET'S DO THAT RIGHT NOW. WE GOT ALL NIGHT.

F NO.

H YOU KNOW, WE -- WE DON'T HAVE TO GO ANYWHERE. WE'LL WORK THROUGH THIS THING. YOU AND I AND-- AND INVESTIGATOR HANLEY. WE'LL WORK THIS STEP BY STEP. LET'S GO OVER IT AGAIN.

F NO, IT'S LIKE I'M GONNA HAVE TO, YOU KNOW, I'M GONNA HAVE TO THINK ABOUT THIS WHOLE ENTIRE NIGHT.

H THAT'S WHAT WE'LL DO. WE'LL HELP YOU RIGHT NOW. WE'LL START OVER AT THE VERY BEGINNING, WE'LL GO THROUGH THIS THING STEP BY STEP. PIECE BY PIECE. AND WE'LL PUT IT TOGETHER AS A LITTLE PUZZLE AND WE'LL WORK IT OUT, ALL THREE OF US WILL WORK IT OUT.

F IT'S LIKE -- IT'S -- IT'S LIKE I PERSONALLY IT'S NOT ANYTHING AGAINST YOU GUYS' HELP BUT LIKE I – IT'S LIKE –

H WELL WE WANNA HELP YOU.

F IF – IF—

H YOU'RE NOT SAYING YOU DON'T WANT OUR HELP, DO YA? WE WANNA HELP YOU THROUGH THIS THING. WE WANNA -- WE WANNA GET THIS CLEARED

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UP SO WE CAN GO ON AND LOOK AT OTHER THINGS. SO WE'RE—WE'RE WILLING TO TAKE THE TIME AND SIT HERE AND WORK THROUGH THIS. SO, LET'S GO BACK, LET'S START AT WHEN YOU GOT TO THE PARTY. LET'S GO THROUGH IT PIECE BY PIECE. AND TALK ABOUT EVERY SINGLE THING AND THEN WE CAN GET IT ALL WORKED OUT.

F THERE ISN'T ANYTHING ELSE THAT I CAN THINK OF.

H WELL, WE'LL HELP YOU THINK ABOUT IT. OKAY, YOU GET TO THE PARTY AT NINE-THIRTY [9:30].

F RIGHT.

H OKAY, WHAT'S THE FIRST THING YOU DO WHEN YOU GO IN THE DOOR?

F I WAS ASKING IF THEY WERE HAVING A PARTY IF IT'S ALRIGHT FOR OTHER PEOPLE – YOU KNOW? IF IT'S LIKE AN OPEN PARTY? AND—

H WHAT'D THEY SAY?

F THEY SAID, "YEAH, WHATEVER." AND THEN—

H ALRIGHT, SO THEN WHAT'D YOU DO?

F TALKIN' TO SOME PEOPLE, JUST DRINKING MY BEER.

H THE ONE YOU TOOK WITH YOU?

F YEAH.

H 'KAY. AND THEN WHAT?

F THEN WE PLAYED POOL, DRANK.

H 'KAY, WHO DID YOU PLAY POOL WITH?

F I DON'T HAVE ANY IDEA WHAT THE PEOPLE'S NAMES WERE.

H DIDN'T GET ANY NAMES?

F MM.

H YOU PLAY FOR MONEY?

F NO.

H JUST FOR FUN?

F JUST FOR MERE PLEASURE.

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H YOU WIN? LOSE?

F BOTH.

H WHAT KIND OF POOL DO YOU PLAY?

F EIGHT BALL.

H EIGHT BALL. 'KAY. AND YOU WON SOME –

F YEAH.

H ANY GIRLS PLAY?

F YEAH.

H DID YOU BEAT THEM OR DID THEY BEAT YOU? – THEN AFTER YOU PLAYED POOL WHAT'D YOU DO? NOW WHAT – THIS BEER THAT WAS SET UP, WAS IT A KEG?

F YES.

H AND WHERE DID THEY HAVE THE KEG SET UP AT?

F OVER LIKE THEY HAD SOME LITTLE BAR AREA. OVER THERE [UNINTELLIGIBLE]—

H AND INSIDE THE HOUSE?

F YEAH.

H NOW, WAS THIS A TWO, THREE BEDROOM HOUSE OR WHAT? WHAT KIND OF HOUSE WAS IT?

F I HAVE NO IDEA. [UNINTELLIGIBLE] I KNOW IT HAS LIKE LITTLE HOUSE RIGHT BEHIND IT 'CAUSE I'M LIKE—

H -- SET UP IN A BAR AREA?

F RIGHT.

H AND THEY HAD CUPS?

F YEAH.

H -- SO, AFTER YOU DRANK YOUR BEER, YOU WERE DRINKING A MICKIE'S?

F RIGHT.

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H AFTER YOU DRANK YOUR BEER, YOU WENT OVER AND GOT A CUP AND GOT A BEER, HUH?

F RIGHT.

H 'KAY. AND, UM, DID YOU DRINK IT RIGHT AWAY? DID YOU CARRY IT AROUND WITH YOU?

F JUST—

H DID YOU GO SOCIALIZE? MEET SOME GIRLS, MEET SOME GUYS? DID YOU INTRODUCE YOURSELF TO SOME PEOPLE? I MEAN, WHAT-- YOU'RE THEY'RE FOR FOUR AND A HALF HOURS, PAUL, SO YOU GOTTA BE DOING SOMETHING THERE.

F YEAH, I WAS JUST -- YEAH, I WAS TALKING TO PEOPLE. YEAH, I – I GOT INTRO-- I INTRODUCED TO SOME PEOPLE.

H OKAY. WELL, DO YOU REMEMBER WHAT YOU TALKED ABOUT?

F NO.

H OKAY. WELL, LET'S GO DOWN TO THE TIME ROXY COMES UP. SAYS, "HI, I'M ROXY."

F OKAY.

H 'KAY. AND WHERE ARE YOU AT WHEN THAT HAPPENS?

F OH, I WAS RIGHT BY THE POOL TABLE, I THINK I WAS PLAYING A GAME OF POOL. AND—

H OKAY. AND SHE COMES OUT AND SAYS, "HI, I'M ROXY."

F 'KAY.

H AND THEN WHAT?

F AND THAT WAS IT.

H AND SHE WALKED ON TALKIN' TO EVERYBODY ELSE?

F YEAH. YEP.

H OKAY. AND HOW MANY TIMES DID YOU SEE HER DURING THE NIGHT?

F I -- I – I THINK SHE MIGHTA SAID HI AGAIN OR SOMETHING BUT—

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H SHE PLAY POOL WITH YOU?

F NO.

H SHE SIT DOWN AND TALK WITH YOU?

F NUH-UH.

H SHE STAND UP AND TALK TO YOU?

F NO.

H SHE LAY DOWN AND TALK WITH YOU?

F NO.

H SHE EVER TAKE YOU TO THE BATHROOM?

F NOPE.

H SHE EVER TAKE ANYBODY ELSE IN THE BATHROOM?

F NOT THAT I KNOW OF.

H 'KAY. DO YOU REMEMBER TELLING JEREMY YOU GOT A BLOW JOB IN THE BATHROOM?

F NO.

H YOU DIDN'T?

F THERE? NO, I DIDN'T GO GET A BLOW JOB FROM HER.

H I DIDN'T SAY FROM HER.

F OH, YEAH.

H 'MEMBER THAT? WHO'D YOU GET A BLOW JOB FROM?

F NO AND I JUST MADE IT UP.

H OKAY, NOW I'M REALLY CONFUSED. YOU LIED TO US ABOUT THE BLACK EYE.

F OKAY.

H AND NOW YOU LIE TO JEREMY ABOUT GETTIN' A BLOW JOB?

F YEAH.

H WHY DID YOU LIE TO JEREMY ABOUT GETTIN' A BLOW JOB?

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F OH -- OH -- HERE'S THE THING THAT HAPPENED, IS -- IS -- OKAY, UM, LIKE, UM, ONE OF MY FRIENDS WHO WAS LIKE A VIRGIN ALL THE WAY UP TO THIS YEAR?

H MM-HM.

K OH, 'KAY THEN HE FINALLY LIKE DID IT WITH LIKE -- WITH LIKE SOMEONE. SOMETHIN' LIKE THAT -- LIKE WITH HIS GIRLFRIEND?

H MM-HM.

F SO, THEN LIKE AFTERWARDS LIKE HE WOUND UP SAYING, "HEY, YOU KNOW, WHEN YOU GONNA GET A GIRL?" THEN I SAID, YOU KNOW, I WOUND UP SAYING THAT.

H OKAY, ARE YOU REALLY A VIRGIN, PAUL?

F WHAT?

H ARE YOU REALLY A VIRGIN?

F NO.

H MM?

F NOT REALLY.

H WOULD YOU TELL ME IF YOU WERE? THERE'S NOTHING WRONG WITH BEING A VIRGIN. YOU KNOW? UH, MAYBE YOU'RE SAVING YOURSELF FOR MARRIAGE? THAT'S AN HONORABLE THING TO DO. THERE'S NOTHING WRONG WITH THAT. ARE YOU A VIRGIN?

F NO.

H YOU SURE? HOW MANY TIMES HAVE YOU HAD SEX?

F JUST A FEW.

H FEW. 'KAY, BUT YOU'RE NOT A VIRGIN?

F RIGHT.

H WOULD YOU TELL ME IF YOU WERE?

F YEAH.

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H OKAY. ALRIGHT BUT NOW I'M STILL CONFUSED AS TO WHY YOU TOLD JEREMY YOU GOT A BLOW JOB.

F IT -- HE – JUST 'CAUSE LIKE HE SAID, YOU KNOW, BECAUSE HE HAS A GIRLFRIEND.

H MM-HM.

F YOU KNOW THAT HE'S BEEN GOING OUT WITH FOR YEARS SO THEN, S- SO THEN I JUST WOUND UP SAYING IT.

H I'M – I'M STILL CONFUSED.

F WELL-- WELL-- WELL-- WELL, YOU SHOULD KNOW THAT GUYS LIKE ALL THE TIME SAY, YOU KNOW -- GUYS ALL THE TIME GO, "HEY, YOU KNOW, I – I SCORED LAST NIGHT." OR SOMETHING LIKE THAT.

H ARE THEY LYING?

F YEAH. A LOT OF TIMES. YEAH.

H OKAY. SO, YOU JUST TOLD THAT TO JEREMY TO MAKE YOURSELF—

F YEAH—

H SOUND IMPORTANT?

F YEAH.

H DID YOU INITIALLY TELL JEREMY YOU GOT A BLOW JOB FROM ROXY?

F NO.

H INITIALLY.

F NO.

H AND THEN LATER CHANGED IT AND SAID, "NO, IT WAS SOME OTHER GIRL."

F NO, IT WAS – IT WAS, UH, COUPLE OF MONTHS AGO.

H BUT YOU TOLD –

F IT WAS, UM—

H YOU TOLD JEREMY YOU GOT A BLOW JOB AT THIS PARTY. 'CAUSE HE ASKED YOU WHAT YOU DID ON FRIDAY NIGHT.

F THAT WAS THREE MONTHS AGO.

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H NO, THAT WAS THIS MEMORIAL DAY. AND YOU TOLD HIM YOU WENT—

F NO, HE—

H YOU WENT TO A WILD PARTY AND YOU GOT A BLOW JOB.

F THAT WASN'T EVEN A WILD PARTY.

H WELL, I KNOW BUT THAT'S WHAT YOU TOLD JEREMY. AND-- AND I CAN UNDERSTAND MAKING YOURSELF SOUND IMPORTANT. 'MEMBER TELLING HIM THAT? AND THEN LATER YOU CHANGED IT?

F IT WAS -- IT WAS ABOUT TH EE MONTHS AGO OR SOMETHING LIKE THAT.

H OKAY. THAT'S WHAT YOU ENDED UP SAYING BUT INITIALLY YOU DIDN'T SAY THAT, DID YOU? YOU LED HIM TO BELIEVE IT WAS THAT—

F NO—

H MEMORIAL DAY.

F NO, NO, NO. THE TIME I TOLD HIM ABOUT IT, IT WAS LIKE -- IT WAS LIKE THREE MONTHS AGO BEFORE I'M PRETTY SURE.

H OH, NO. YOU TOLD HIM DURING THE LAST COUPLE OF WEEKS.

F NOT THAT I HAVE ANY IDEA.

H IF WE -- LIKE I SAID, YOU KNOW, THIS IS OUR JOB, PAUL. WE GO AROUND, WE TALK TO ALL YOUR FRIENDS. WE TALK TO ANYBODY YOU KNOW AND WE'LL BEEN TALKING TO YOUR TEACHERS, UH, EVERYBODY. WE DO THIS WITH EVERY SINGLE WITNESS WE'VE GOT THAT -- THAT'S WHY IT TAKES SO MUCH TIME TO WORK THROUGH THESE THINGS. AND THAT'S WHY, YOU KNOW, ONCE WE GET THROUGH ONE PERSON, THEN WE POLYGRAPH 'EM, WE GO ONTO THE NEXT PERSON AND THEN ON DOWN THE LINE, YOU'RE JUST ONE OF MANY THAT WE HAVE TO GO THROUGH. BUT, YOU KNOW, IN TALKING WITH PEOPLE, WE KNOW THAT YOU TOLD JEREMY YOU GOT A BLOW JOB THAT NIGHT AT THE PARTY. 'CAUSE HE ASKED WHAT'D YOU DO THIS WEEKEND? "I WENT TO A PARTY."

F IT WAS MONTHS AGO THOUGH.

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H NO, LISTEN. "WHAT DID YOU DO THIS WEEKEND?" WHEN HE ASKED YOU. YOU SAID, "I WENT TO A PARTY." KAY? "WHAT DID YOU DO AT THE PARTY?" "HEY, I GOT A BLOW JOB. THERE WAS A WILD GIRL THERE. SHE'S A SLUT." 'MEMBER TELLIN' HIM THAT?

F YEAH.

H SHE'S A SLUT AND AFTER SHE GAVE ME A BLOW JOB, SHE WENT OUT, I SAW HER HANGING AROUND ALL KINDS OF OTHER GUYS. SHE WAS A SLUT."

F N-NO, OKAY, HERE'S WHAT I SAID. I SAID -- IS, HERE IS THE STORY I TOLD HIM.

H 'KAY, DON'T – DON'T MAKE SOMETHING UP.

F OKAY, OKAY, WELL HERE'S THE STORY I TOLD HIM. I TOLD HIM SOME GUY WAS IN THERE FOR A LONG TIME, THE BATHROOM.

H UH-HUH.

F OR SOMETHING LIKE THAT.

H UH-HUH.

F AND THEN I TOLD HIM THAT I WENT INTO THE-- INTO THE BATHROOM.

H RIGHT.

F AND THEN THE GIRL -- LIKE I WAS TAKIN' A LEAK AND THEN -- AND THEN LIKE THE -- I WAS TAKING A LEAK AND THEN THE DOOR POPPED OPEN.

H 'KAY.

F LIKE THAT AND THEN I GOT A BLOW JOB LIKE INSTANTLY RIGHT THERE.

H RIGHT. THAT'S WHAT YOU TOLD HIM.

F YEAH.

H AND THAT WAS AT THE PARTY.

F NO.

H THAT'S WHAT YOU TOLD HIM.

F NO. I DIDN'T SAY IT WAS THAT PARTY.

H YEAH, YOU DID. YEAH, YOU DID.

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F I DIDN'T.

H AND THEN, YOU CHANGED IT. LATER YOU CHANGED IT. BUT YOU INITIALLY TOLD—

F NO—

H TOLD HIM YOU GOT A BLOW JOB FROM ROXY, IN FACT. THAT WAS YOUR – YOUR WORDS AND THEN LATER—

F WAIT. I EVEN SAID THE GIRL'S NAME?

H RIGHT.

F N-NO.

H WOAH, WOAH, WOAH.

F OKAY.

H THERE'S NO REASON JEREMY WOULD LIE TO US ABOUT THIS. JEREMY YOUR FRIEND?

F YES.

H OKAY. HE HAS NO REASON TO LIE TO YOU OR LIE ABOUT THAT. YOU KNOW, HE'S NOT GONNA MAKE SOMETHIN' UP. BUT HE DID SAY THAT AFTER YOU SAID THAT, THEN HE WENT BACK AND ASKED YOU AGAIN AND YOU SAID, "NO, NO. THAT – THAT WASN'T HER, IT WAS A LONG TIME AGO AND IT HAD NOTHIN' TO DO WITH HER." –- SO – SO DIFFERENT. SEE THIS IS WHY I'M TELLIN' YOU THIS, PAUL. IT IS IMPORTANT NOT TO PLAY THESE THINGS DOWN. YOU KNOW, NOT TO -- NOT TO COMPOUND 'EM BY TELLING ANOTHER LIE. I MEAN, SO WHAT IF YOU TOLD JEREMY YOU GOT A BLOW JOB FROM ROXY? YOU WERE BRAGGIN'. AND THEN WHEN HE CONFRONTS YA, YOU SAY, "HEY, I -- IT WASN'T ROXY, IT WAS SOME OTHER GIRL AND IT WAS A LONG TIME AGO." YOU KNOW, THERE'S NOTHING WRONG WITH THAT. BUT DON'T – DON'T TELL US THAT, SEE. 'CAUSE WE – WE KNOW THESE THINGS BASED ON PEOPLE THAT WERE THERE. AND YOU PROBABLY SAW ROXY GO INTO THE BATHROOM WITH ANOTHER GUY THAT NIGHT.

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F I DIDN'T S—

H AND YOU KNOW, THEN YOU JUST ADD YOUR NAME TO IT AND MAKE IT LOOK GOOD. THERE'S NOTHING WRONG WITH THAT. IT'S JUST BRAVADO, YOU KNOW? YOU BRAG ABOUT DOIN' STUFF LIKE THAT. IT HAPPENS. AND THERE'S NOTHIN' WRONG WITH IT.

F AND IS THIS – I'M JUST CURIOUS, WOULD THIS HAVE BEEN BEFORE OR AFTER I KISSED HER?

H I DON'T KNOW. I DIDN'T ASK THAT PART. WAS IT BEFORE OR AFTER?

F IT DIDN'T HAPPEN.

H YOU DIDN'T KISS HER AFTER YOU GOT A BLOW JOB, DID YOU?

F THA-- THA-- THA-- THAT'S WHAT I WAS TRYING TO FIGURE IT OUT FROM YOU ACCORDING TO YOUR STORY.

H WELL, I'M JUST TELLING YOU WHAT YOU TOLD JEREMY.

F I DIDN'T TELL HIM THAT.

H I HOPE YOU DIDN'T KISS HER AFTER YOU GOT A BLOW JOB.

F IT'S BULL-- I – I KNOW I DIDN'T TELL HIM THAT.

H LET ME ASK YOU THIS, DID ROXY GIVE YOU A BLOW JOB?

F NO.

H OKAY. I FEEL BETTER NOW. WOULD YOU TELL US IF SHE DID?

F YEAH LIKE—

H WERE YOU IN THE BATHROOM WITH ROXY?

F NO.

H DID ROXY WALK IN ON YOU WHILE YOU WERE IN THERE TAKING A LEAK?

F NUH-UH.

H OKAY. DID YOU EVER KISS ROXY?

F NO.

H DID YOU WANNA KISS ROXY?

F NO.

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H WOULD YOU KISS ROXY?

F NO.

H WHY NOT? WHAT IF ROXY CAME UP AND PUT HER ARMS AROUND YOUR NECK?

F OH, YEAH, I GUESS THEN [UNINTELLIGIBLE].

H YOU'D PROBABLY KISS HER, HUH? MOST PEOPLE WOULD.

F YEAH.

H IS THERE ANYTHING WRONG WITH THAT? YOU'RE AN ADULT. SHE'S AN ADULT. YOU KNOW, IF SHE WANTS TO STRIP HER CLOTHES DOWN AND GET NAKED RIGHT THERE, THAT'S UP TO HER, RIGHT? IF YOU WANNA STRIP YOUR CLOTHES OFF AND GET NAKED WITH HER, THAT'S UP TO YOU. YOU'RE BOTH ADULTS. THERE'S NOTHIN' WRONG WITH IT. RIGHT?

F FOR SOME PEOPLE, I GUESS. BUT—

H WELL, IT MIGHT BE, YOU KNOW, MORALS, THINGS LIKE THAT. I MEAN, THERE -- IT'S JUST NOT AGAINST THE LAW. RIGHT?

F YEAH, IT IS.

H LIKE WHA-WHAT IS IT? INDECENT EXPOSURE—

F NO –

H LEWD, LASCIVIOUS BEHAVIOR?

F 'CAUSE IT WOULD BE CONSIDERED RAPE. RIGHT THERE.

H NOT IF SHE WANTED TO.

F NO, IF SHE WAS UNDER THE INFLUENCE, SHE WAS NOT ABLE TO MAKE A CORRECT CHOICE.

H WELL, THAT DEPENDS. SEE, TO HAVE THAT LAW IF SHE'S UNDER THE INFLUENCE AND SHE CAN'T MAKE A CHOICE, THAT ONLY APPLIES IF SHE SAYS, "NO." IF SHE SAYS, "COME ON BIG BOY," THEN THAT'S – THAT'S PERFECTLY NORMAL. YOU CAN – YOU CAN HAVE SEX WITH A WOMAN THAT'S UNDER THE INFLUENCE OF ALCOHOL. AS LONG AS SHE DOESN'T

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SAY, "NO." IF SHE SAYS, "COME AND GET IT," AND YOU HAVE SEX WITH HER, THERE'S NOTHIN' WRONG WITH THAT. WHY, DID YOU THINK THAT WAS AGAINST THE LAW IF YOU HAVE SEX WITH A WOMAN THAT'S UNDER THE INFLUENCE?

F NO, THAT'S WHAT I ALWAYS THOUGHT.

H NO. AS LONG AS SHE'S WILLING. AS LONG AS SHE'S WILLING TO HAVE SEX WITH YOU AND DOESN'T TELL YOU, "NO," OR "DON'T DO IT," OR "STOP," OR "GET OFF," THAT'S NOT RAPE. THAT'S CONSENSUAL SEXUAL INTERCOURSE. AND THERE'S NOTHING WRONG WITH IT. AS LONG AS TWO ADULTS, TWO PEOPLE EIGHTEEN YEARS OF AGE OR OLDER, AGREE TO HAVE SEX. AND YOU CAN BE DRUNK AS YOU WANT, AS LONG AS YOU AGREE TO IT AND SHE AGREES TO IT, THERE'S NO PROBLEM. YOU KNOW, THAT-- THAT HAPPENS ALL THE TIME. TIRED?

F YEAH.

H GET MUCH SLEEP LAST NIGHT?

F I REALLY WOKE UP AT SIX [6:00] O'CLOCK IN THE MORNING.

H SO, TELL ME SOME MORE ABOUT ROXY.

F THAT'S IT.

H WHAT E-- WHAT ELSE -- WHAT ELSE HAPPENED BETWEEN YOU AND ROXY THAT YOU'RE NOT TELLIN' US?

F THERE'S NOTHIN' ELSE THAT HAPPENED.

H THAT -- THAT YOU'RE WORRIED THAT WE MIGHT THINK SOMETHING BAD OF YOU. WHICH WE WON'T BUT WHAT ELSE HAPPENED BETWEEN YOU AND ROXY THAT YOU'RE LEAVING OUT?

F THERE IS NOTHING ELSE. THAT WAS IT.

H NO, THERE'S SOME THINGS YOU'RE LEAVING OUT. YOU'RE NOT TELLIN' US QUITE EVERYTHING. YOU'RE CLOSE. YOU'RE GIVIN' BITS AND PIECES. AND THERE'S NOTHING WRONG WITH THAT. I UNDERSTAND. IF I HAD TWO GUYS

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SITTING THERE ASKING ME QUESTIONS, I'D DO THE SAME THING YOU'RE DOIN'. YOU KNOW THAT'S UNDERSTANDABLE. THERE'S NOTHIN' WRONG WITH IT BUT PAUL, WHAT -- AND I-- I DON'T THINK I'M GETTIN' THIS ACROSS TO YOU, MAN, ALL OF THIS STUFF IS IMPORTANT. JUST LIKE THOSE GUYS I TOLD YOU ABOUT THAT HAD DONE SOME THINGS WITH ROXY AT THE PARTY.

F I NEVER EVEN HEARD ABOUT THAT.

H THEY DIDN'T EVEN WANNA TALK ABOUT IT. THEY LEFT IT OUT. AND IT ALMOST GOT THEM IN TROUBLE. IT CAME REAL CLOSE TO GETTIN' 'EM IN TROUBLE. AND THEN FINALLY, WE SIT DOWN, TALKED IT ABOUT IT, WORKED IT ALL OUT. YOU KNOW? NOW THEY'RE ON THEIR WAY. THEY'RE OUTTA HERE. WE DON'T HAVE TO TALK TO 'EM NO MORE. WELL, THE SAME THING WITH YOU. SEE I -- WE KNOW THERE ARE SOME THINGS THAT YOU NEVER TOLD US EVERYTHING ABOUT. SOME THINGS THAT YOU'RE HOLDING BACK THAT ARE PROBABLY PERSONAL TO YOU THAT YOU'RE PROBABLY NOT REALLY PROUD OF, YOU DON'T WANNA TALK ABOUT IT, WE'RE NOT GONNA GO OUT THERE AND PLASTER THIS ON THE WALL. WE'RE NOT GONNA GO OUT AND MAKE A MOVIE OF IT, WE'RE NOT GONNA GO OUT AND TELL YOUR MOM OR DAD OR ANYTHING ELSE. THIS IS BETWEEN YOU, INVESTIGATOR HANLEY, AND I. WHAT WE TALK ABOUT IN THIS ROOM, STAYS IN THIS ROOM. WE DON'T GO TELL OTHER PEOPLE. UH, THIS IS OUR THING. BUT YOU'VE GOT TO TELL US THESE THINGS. YOU CAN'T JUST HOLD 'EM BACK, PAUL. IT'S REAL IMPORTANT. AND ONCE WE GET THESE THINGS WORKED OUT THEN WE START PUTTING THESE PIECES TOGETHER AND THINGS GET BETTER. THAT'S WHY WE'RE SITTIN' HERE. WE WANNA HELP YOU. WE WANNA HELP YOU WORK THROUGH THIS THING. I'M SURE THIS THING HAS BEEN AGONIZING AT YOU. EVERY TIME THAT YOU HEAR A KNOCK ON THE

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DOOR, YOU THINK, "MAN, ARE THOSE TWO GUYS GONNA COME BACK AND TALK TO ME AGAIN?"

F I DON'T REALLY MIND.

H AND – AND HERE WE ARE. YOU KNOW, WE COME BACK AGAIN AND AGAIN. WELL, WE DON'T WANNA KEEP COMING BACK TO TALK TO YOU. WE WANNA TALK TO YOU ONCE AND GET IT OVER WITH AND THEN WE CAN BE ON OUR WAY. AND WE WON'T BE BUGGIN' YOU ANYMORE. BUT MAN WE GOTTA SIT DOWN AND WE GOT TO TALK ABOUT THE WHOLE STORY. WE CAN'T LEAVE THINGS OUT. YOU CAN'T LEAVE OUT THINGS 'CAUSE WE DON'T THINK THEY'RE IMPORTANT. YOU'VE GOTTA TELL US THE STUFF. 'CAUSE, PAUL, BELIEVE ME, A LOT OF THIS WE ALREADY KNOW. BUT YOU HAVE TO TELL US BEFORE WE CAN CONFIRM IT. BEFORE WE CAN GET ON TO SOMETHING ELSE. AND THAT'S THE PART THAT WE'RE DEALING WITH HERE. I –IT -- IT'S TOUGH. I -- I -- I WOULDN'T WANNA SIT DOWN AND TELL A FEW -- TWO STRANGERS ABOUT THINGS I DID THAT I WASN'T REALLY PARTICULARLY PROUD OF. BUT, LIKE I SAID, WE'RE NOT GONNA GO TELLIN' ANYONE. WE'RE NOT EVEN GONNA TELL YOUR DAD OR YOUR MOM. BETWEEN US. MAN TO MAN. FOLLOW ME?

F I UNDERSTAND WHAT YOU'RE SAYING BUT—

H YEAH, AND IT -- YOU WANNA TALK ABOUT IT, YOU'RE JUST TRYING TO FIGURE OUT HOW THE EASIEST WAY TO DO IS. THE EASIEST WAY TO DO IT IS TO JUST START TALKING PAUL. BELIEVE ME. WE'VE BEEN AROUND A LONG TIME. WE'VE SEEN A LOT OF THINGS. AND WE CAN WORK WITH IT. WE CAN DEAL WITH IT. IF WE DIDN'T CARE ABOUT WHAT YOU'RE THINKING, WHAT'S HAPPENING TO YOU, WE WOULDN'T BE SITTIN' HERE TALKIN' TO YOU. BUT SEE, WE HAVE A JOB TO DO AND WE HAVE TO GO THROUGH WITH IT. THAT MEANS SITTIN' DOWN AND WORKING THESE THINGS OUT WITH PEOPLE. YOU'RE -- YOU'RE A LITTLE MORE DIFFICULT TO WORK W– SOME

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OF THE OTHER GUYS DIDN'T WANNA GIVE IT UP RIGHT AWAY TOO ON SOME THINGS THAT THEY HAD DONE. [UNINTELLIGIBLE] WE SIT DOWN AND TALK SOMETIMES IT TOOK A WHILE AND THEY FINALLY TALKED ABOUT IT. THEY WEREN'T PROUD OF IT. THEY WERE A LITTLE BIT EMBARRASSED BUT I MEAN, WE DON'T GO OUT AND WRITE YOUR NAMES IN THE RESTROOM AND SAY, "HEY, CHECK THIS OUT. GUESS WHAT HE DID." [UNINTELLIGIBLE] HAPPEN. YOU'RE – YOU'RE A EIGHTEEN [18]—NINETEEN [19] YEAR OLD MALE. YOU GOT WILD HORMONES GROWING. I THINK BACK TO WHEN WE WERE NINETEEN [19] AND SOME OF THE STUPID THINGS WE DID. WHEN IT COME TO GIRLS AND SEX AND THINGS LIKE THAT. I MEAN, IT HAPPENS. IT'S NO BIG THING. BUT WE KNOW YOU'RE A LITTLE EMBARRASSED TALKIN' ABOUT IT AND I CAN UNDERSTAND THAT. WE'RE NOT GONNA LAUGH AT YOU, WE'RE NOT GONNA MAKE FUN OF YOU. WE HAVE TO KNOW ABOUT IT THOUGH. WE GOTTA WORK IT THROUGH IT. GOTTA TALK ABOUT IT.

F BUT THERE'S NOTHING ELSE THOUGH FOR ME TO SAY.

H WELL, SURE THERE IS. THERE'S QUITE A FEW THINGS THAT WE NEED TO TALK ABOUT. AND YOU KNOW WHAT THOSE ARE AND WE KNOW WHAT THOSE ARE. BUT WITHOUT GIVING YOU HELP, WE NEED TO HAVE YOU TELL US SO THAT WE CAN CORROBORATE THAT WITH THE OTHER INFORMATION WE HAVE AND GET ON WITH OTHER THINGS. BUT WE NEED YOUR HELP, PAUL, YOU KNOW, WE'RE SITTIN' HERE TRYING TO HELP YOU, YOU GOTTA HELP US ON LITTLE BIT. YOU DON'T HELP US, THERE'S NOT MUCH WE CAN DO TO HELP YOU.

F WELL, I'M JUST SAYING THERE'S NOTHING ELSE FOR ME TO SAY.

H SURE THERE IS. THERE'S ALL KINDS OF THINGS. THINK OF THE THINGS THAT YOU HAVEN'T TOLD US. JUST-- JUST THINK OF THE THINGS THAT HAPPENED AT THAT PARTY YOU HAVEN'T TOLD US ABOUT YET THAT WE KNOW ABOUT.

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F NOTHING.

H SURE THERE IS.

F NOTHING ELSE THAT I KNOW OF SO

B 'KAY, WELL LET ME ASK YOU THIS, PAUL. OKAY. PUT YOURSELF IN OUR – OUR SHOES. OKAY? I MEAN, REALLY. JU– JUST THINK FOR A SECOND, Y- YOU'RE US. OKAY? UH, YOU HAVE THIS GIRL THAT—THAT'S DISAPPEARED ALMOST A MONTH AGO.

F MM.

B OKAY? YOU'RE THE LAST GUY TO SEE HER. BY YOUR OWN ADMISSION. RIGHT?

F OH, WHAT'S "BY MY OWN ADMISSION"?

B MEANING THAT YOU SAID YOU'RE THE LAST – YOU WERE THE ONE THAT WALKED HER UP TO THAT WALKWAY. OKAY?

F YEAH.

B ALRIGHT. THE – DO YOU AGREE WITH THAT OR--

F YEAH.

B OR NO?

F I – I AGREE WITH THAT.

B OKAY. ALRIGHT. NOW WE GO BACK AND WE TALK TO SOME PEOPLE AT THE PARTY. OKAY? THEY TELL US CERTAIN THINGS. SOME OF THEM ARE SOME OF THE THINGS YOU TALKED ABOUT. THERE'S OTHER THINGS WE KNOW ABOUT THAT WE HAVEN'T TALKED ABOUT. OKAY? BUT YOU HAD THIS INTERACTION WITH ROXY, HAVE INTERACTION WITH OTHER PEOPLE THAT THERE. UH, INTERACTION WITH OTHER GIRLS THERE. OKAY? YOU DON'T TELL US ANY OF THAT STUFF. AND THEN WE TALKED ABOUT THE WALK HOME. OKAY? NOW WE HAVE SOBER FEMALE, WHO HAS NO CONTACT EITHER YOU OR ROXY, TELLING US CERTAIN THINGS. YOU DENY THAT. SAY, "NO, THAT'S – THAT'S ABSOLUTELY WRONG." OKAY. THERE'S NO REASON

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FOR THIS GIRL TO LIE• THERE'S ABSOLUTELY NONE, ZERO. IT'S NOT LIKE YOU'RE AN EX-BOYFRIEND OF HERS THAT SHE WANTS TO GET BACK AT OR ANYTHING. NOW LI-LISTEN TO ME NOW. OKAY? THEN YOU SAY YOU WALK – AND THIS IS A GIRL BY EVERYBODY AT THE PARTY'S, UH, DESCRIPTION THAT'S HANGING ALL OVER GUYS. OKAY? YOU INCLUDED. 'KAY, NO, IT'S NOT LIKE SHE SAID, "OKAY, I'M ZEROING IN ON PAUL." BUT SHE'S ALL OVER EVERY OTHER GUY. OKAY? NOW, YOU'RE STILL LOST NOW. YOU'RE STILL LOOKIN' AT THIS. NOW SHE DISAPPEARS. 'KAY? SO, NOW WE GO INTO OUR MODE. WE START INTERVIEWING PEOPLE AND WE INTERVIEW LITERALLY HUNDREDS OF PEOPLE. OKAY?

F MM-HM.

B ALL CENTERS BACK – BACK TO YOU. OKAY? NOW, WE START INTERVIEW– GOING THROUGH THE BACKGROUND ON YA. ONE THING WE FOUND ON YOUR BACKGROUND, YOU AIN'T A BAD GUY, OKAY? NOT A VIOLETN GUY. NOT A MEAN GUY. IS THAT PRETTY ACCURATE? AM I –

F YEAH—

B ACCURATE ON THAT?

F YEAH.

B UM, GOT A GOOD HEART. YOU'RE A GOOD FRIEND TO A COUPLE GUYS AND, YOU KNOW, THEY DO ANYTHING FOR YOU. OKAY? MEANS YOU'VE GOT GOOD FRIENDS.

F YEAH.

B OKAY? THAT-- THAT'S -- THAT'S A PLUS. DOESN'T MEAN LIKE YOU'RE SOME MEAN BASTARD THAT GOES OUT AND YOU KNOW, BEATS UP PEOPLE, LOOKS FOR FIGHTS OR YOU KNOW – YOU KNOW WHAT I'M SAYIN'?

F YEAH.

B UM, THEN WE TALKED TO SEVERAL PEOPLE AND THEY SAY, "YEAH, YOU KNOW, A MATTER OF FACT HE TALKED ABOUT SOME SLUT AT THE PARTY."

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AT A CAL POLY PARTY. NOW, JUST THINK YOU'RE US AGAIN STILL, OKAY? AND SAID THAT HE GOT A BLOW JOB FROM HER AND THAT SHE WAS HANGING ON ALL THE GUYS AT THE PARTY. NOW, THIS DOESN'T COME FROM US, IT COMES FROM A PERSON THAT'S A FRIEND OF YOURS. OKAY? SO, NOW IF YOU'RE US, WHAT ARE YOU THINKIN'? "OKAY, LET'S GO BACK AND TALK TO PAUL. BECAUSE WE KNOW HE'S NOT THAT BAD OF A GUY." IT'S NOT LIKE HE WENT OUT AND SAID, "OKAY, JEEZ, LET ME -- LET ME GO OUT AND DO DAMAGE TO THIS GIRL." THAT AIN'T YOU. I KNOW THAT'S NOT YOU.

F MM.

B BUT I MEAN, THAT'S JUST -- THAT'S JUST MY OPINION, YOU CAN TAKE IT FOR WHAT IT'S WORTH. OKAY? BUT YET, YOU STILL STICK TO SOME OF THIS -- OF THE LIES THAT WE KNOW ARE LIES. OKAY? SO, NOW I'M THINKIN' TO MYSELF, GEEZO WHAT IS -- DID I MAKE A MISTAKE IN MY JUDGEMENT HERE? AND WHAT I DO IS I USUALLY PRIDE MYSELF BY MY JUDGEMENT OF PEOPLE. OKAY? I WALKED INTO THIS ROOM WITH A JUDGEMENT OF, OKAY, WE'RE GONNA CLARIFY A FEW FACTS PAUL'S GONNA GET IT STRAIGHT, WE'RE GONNA GO ON FROM THERE. OKAY? THAT AIN'T HAPPENIN'. SO, NOW I'M THINKIN' TO MYSELF MAYBE I SCREWED UP. MAYBE I DID. AND MAYBE I MISJUDGED YOU. DID I MISJUDGE YOU?

F NO. NO.

B YOU'RE STILL BASICALLY THE PRETTY DECENT—

F YEAH—

B GUY. NOT -- OKAY. WHAT ABOUT THESE INCONSISTENCIES WE HAVE?

F I HAVE NO ABOUT -- IDEA ABOUT THOSE.

B WHAT DO YOU MEAN YOU DON'T HAVE ANY IDEA? WHAT IF YOU WERE US? WHAT DO YOU THINK ABOUT 'EM? THAT WE HAVE TWENTY-THREE [23] DIFFERENT PEOPLE THAT LIED ABOUT YOU? TWENTY-THREE [23]. LIKE--

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LIKE I SAID, I MEAN, LIKE I SAID BEFORE, PAUL, WHAT—I MEAN -- AND LISTEN TO ME. IT'S NOT LIKE WE THINK YOU'RE THIS BAD OR EVIL PERSON. 'KAY? ON THE OTHER HAND THOUGH, IT GOES TO YOUR CREDIBILITY AS A MAN TO TELL US THE TRUTH. WE KNOW A LOT MORE THAN WHAT WE'RE SAYING. OBVIOUSLY. YOU OBVIOUSLY KNOW THAT WE'VE DONE OUR HOMEWORK. YOU AGREE?

F YEAH, I KNOW YOU GUYS HAVE—

B OKAY—

F WHOLE BUNCH OF PEOPLE YOU'VE BEEN TALKING TO—

B I MEAN AND NOT ONLY THAT WE—WE'VE DONE A WHOLE BUNCH OF THINGS, FORENSICALLY, WE'VE DONE A WHOLE BUNCH OF THINGS, YOU KNOW, WE'VE GOT MORE PEOPLE INVOLVED IN THIS THAN -- THAN TEN [10] CASES PUT TOGETHER. LIKE I SAID BEFORE, WE'RE NOT GOING AWAY. THIS DOESN'T GO AWAY.

F YEAH, I UNDERSTAND—

B THIS ISN'T A BURGLARY WE'RE TALKIN' ABOUT. THIS IS SOMETHING THAT WE HAVE RESEARCHED EIGHTEEN [18] – NINETEEN [19] HOURS A DAY. OKAY?

F 'KAY.

B OKAY? WHAT WE NEED TO KNOW FROM YOU THOUGH IS OBVIOUSLY THERE ARE SOME THINGS YOU'VE LEFT OUT. RIGHT?

F NO.

B NOTHING YOU'VE LEFT OUT?

F MM-MM.

B SO, EVERYBODY ELSE IS JUST LYING TO US.

F OR MISTAKEN OR – OR -- THAT'S ALL I CAN FIGURE.

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B OKAY, SO I MEAN, LIKE WHEN JEREMY SATA THAT YOU TALK ABOUT A SLUT THAT YOU GOT A BLOW JOB FROM, OUT OF THE BLUE, AT A CAL POLY PARTY HE'S LYING TO US? HE-- YOU NEVER SAID ANYTHING LIKE THAT.

F OH, NO. I'M NOT SAYING-- THAT'S NOT A LIE.

B WELL, YOU SAID ALL THAT?

F WHAT?

B TO JEREMY?

F YEAH. BUT I DIDN'T S -- IT WAS MONTHS AGO THOUGH. SHE—

H SHE DIDN'T DISAPPEAR MONTHS AGO, PAUL.

B PAUL, PAUL. JER -- WE COME TO TALK TO JEREMY, OBVIOUSLY YOU KNEW WE WENT AND TALKED TO JEREMY, RIGHT?

F YEAH.

B YEAH? OKAY, 'CAUSE JEREMY CALLED YOUR DAD.

H TOLD HIM.

B AND TOLD HIM SO WE KNOW THAT YOU KNOW –

F YEAH—

B AND WE KNOW THAT PROBABLY JEREMY EVEN SAID, "WHAT-- WHAT THE FUCK'S UP WITH – WITH THIS GIRL?" I MEAN, IF – IF I WAS A FRIEND, THAT'S WHAT I WOULD SAY.

F YEAH, HE SAID THAT.

B OKAY. SO, NOW YOU – YOU COME UP WITH THIS STORY OF SIX [6] MONTHS AGO. THAT'S HORSESHIT.

F WHAT'S SIX [6] MONTHS AGO?

B THAT YOU GOT THIS BLOW JOB FOR A PART—OR FROM A GIRL—

F NO, THREE [3] MONTHS AGO.

B OKAY, THREE [3] MONTHS AGO. THAT'S – THAT'S HORSESHIT BECAUSE THIS IS HOW THE CONVERSATION GOES. OKAY? NOW, JUST THINK IF YOU'RE US. JEREMY SAYS-- WE PINPOINT JEREMY TO THE DAY. HE SAYS, "OH, YEAH, I

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TALKED TO PAUL. YEAH. MATTER OF FACT, I ASKED HIM WHAT HE DID THE NIGHT BEFORE AND HE SAID HE WENT TO A CAL POLY PARTY." OKAY?

H HE WAS KIND OF ENVIOUS.

B RIGHT, HE WAS. JEREMY S– ASKED YOU, "DID YOU GET ANY?" AND-- AND YOU SAID, "YEAH, THERE WAS SOME SLUT AT THE PARTY WHO GAVE ME A BLOW JOB IN THE BATHROOM, THEN SHE STARTED HANGING AROUND A WHOLE BUNCH OF OTHER GUYS AFTER." EXACT QUOTE. OKAY? NOW, WHERE DOES THAT COME FROM? YOU DIDN'T SAY THREE [3] MONTHS AGO BECAUSE YOU SAW HIM SO MANY WEEKENDS BEFORE THAT. YOU SAID THE NIGHT BEFORE. SO, YOU KNOW, HEY, PAUL YOU KNOW – YOU KNOW WHAT WE'RE GETTIN' AT.

H PAUL, IT DOESN'T GO AWAY, MAN. WE NEED TO SIT HERE AND TALK ABOUT THIS. NEED TO WORK IT OUT.

B THAT-- THAT'S EXACTLY RIGHT. THAT'S – IF I THOUGHT FOR A SECOND THAT YOU SAW A GIRL AND SAID "OKAY, I'M GONNA DO SOME BAD THINGS TO HER," WE WOULDN'T BE TALKIN' TO YOU ANY MORE.

H WE DON'T THINK THAT.

B NOW, SOMETHIN' COULD'VE WENT WRONG. WENT VERY WRONG AND IN --IN AN ACCIDENT.

H ACCIDENTS HAPPEN, MAN.

B AND THAT'S -- NO, I MEAN THAT. WITH HER BEING SO INTOXICATED. PERSONALLY IF ANYTHING HAPPENED, I'D PROBABLY THINK IT'S AN ACCIDENT. YOU KNOW WHAT I'M SAYING?

F YEAH.

H SHE COULD HAVE FALLEN DOWN.

B BUT YOU GOTTA HELP US WITH IT. WE CAN'T SAY IT'S AN ACCIDENT. THAT-- WHAT WE SAY DOESN'T WORK. WHAT YOU SAY WORKS. OKAY? UNTIL WE CAN PROVE OTHERWISE. PERSONALLY, I THINK IT WAS AN ACCIDENT.

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THAT'S WHAT I THINK. BUT I COULD BE WRONG. I MEAN, I COULD READ YOU ALL WRONG.

F I HAVE NO IDEA WHAT EVEN HAPPENED TO HER SO.

B NO IDEA?

F I HAVE NO IDEA ABOUT ANY ACCIDENTS OR WHAT HAPPENED, SO.

B SO, IF WE COULD PROVE IT OTHERWISE THEN -- THEN IF WE COULD PROVE THAT, UM, SOMEBODY'S INVOLVED WITH THIS AND YOU LIED, OBVIOUSLY IT WOULDN'T BE AN ACCIDENT THEN. IF YOU WERE LOOKING AT THE IT FROM OUR VIEWPOINT THEN?

F PARDON?

B IF YOU'RE LOOKING AT IT FROM OUR VIEWPOINT.

F OKAY.

B OKAY. AND WE COULD PROVE THAT SOMETHING VERY BAD HAPPENED TO THIS GIRL.

F 'KAY.

B OKAY? AND ONCE WE PROVE THAT AND YOU KNOW WHAT I'M GETTIN' AT. IT'S EITHER ONE OR TWO THINGS HAPPEN. SOMEBODY DID IT ON PURPOSE OR IT HAPPENED BY ACCIDENT. THAT'S WHAT I'M TALKIN' ABOUT.

F OKAY.

B PERSONALLY, I THINK IT WAS AN ACCIDENT.

F I HAVE NO IDEA WHAT [UNINTELLIGIBLE].

H PAUL, WHAT'S IMPORTANT TOO IS THAT WE NEED TO FIND ROXY. YOU KNOW HER-- HER DAD'S HERE. HER MOM'S HERE. EVERYBODY'S LOOKING FOR HER.

F I HAVE NO IDEA WHERE SHE IS. I DON'T KNOW IF SHE WON-- SHE-- SHE WAS HITCH-HIKING, I DON'T HAVE NO IDEA.

H [UNINTELLIGIBLE] THAT'S NOT TRUE. PAUL, DO YOU UNDERSTAND WHAT INVESTIGATOR HANLEY WAS TELLING YOU ABOUT BEING A GOOD PERSON?

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F YEAH.

H YOU EVER GOTTEN IN TROUBLE BEFORE OTHER THAN THE DRUNK DRIVING AND DRIVING WITHOUT A LICENSE?

F NO.

H YOU EVER GET CAUGHT ON SOMEBODY'S BALCONY?

F OH, YEAH.

H YEAH. DID YOU JUST FORGET TO TELL US ABOUT THAT?

F I DIDN'T – IT'S LIKE I JUST -- YEAH. [UNINTELLIGIBLE].

H JUST SLIPPED YOUR MIND? KINDA LIKE THE BLACK EYE?

F YEAH, I GUESS.

H OKAY. WHAT HAPPENED ON THAT BALCONY THING, PAUL? WHAT—WHAT -- -- WHAT WAS THE STORY BEHIND THAT?

F OH, IS 'CAUSE I WENT TO GO TALK TO THE PERSON BUT THEN THEY WERE—

H OKAY, WHERE'D YOU MEET?

F WHAT?

H WHERE'D YOU MEET THE PERSON?

F OH, UM, THE-- THE PERSON COMES TO MY DORMS ALL THE TIME.

H TO YOUR DORM ROOM?

F NO. NO, THE DORM.

H OKAY, SO HOW DID YOU MEET HER?

F HOW DID I MEET HER?

H YEAH.

F I'M NOT EVEN QUITE SURE I WA-- I'VE ONLY KNOWN HER FOR MONTHS.

H WHAT'S HER NAME?

F UM, SHOOT. BELVI.

H HM?

F BELVI?

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H BELVI? OKAY. OBVIOUSLY, WE KNOW ABOUT THIS OR WE--YOU KNOW, THESE QUESTIONS I'M ASKING YOU, I ALREADY KNOW THE ANSWERS TO. AND, SO, WHAT HAPPENED WITH BELVI?

F IT'S LIKE, UM, IS -- IT'S LIKE I WAS, UH, KNOCKING ON THE DOOR BUT THEN SHE SAID, YOU KNOW, "I'M SLEEPIN'." SO, THEN I WENT TO GO KNOCK ON HER WINDOW T-TO SEE IF I COULD TALK TO HER.

H WHERE DOES SHE LIVE?

F RIGHT ON CALIFORNIA.

H HOW DID YOU GET THERE?

F WALKED THERE.

H HOW DO YOU KNOW SHE WAS HOME?

F OH, BECAUSE SHE SAID SHE'S WAS GON -- WELL, JUST I WENT BY THERE.

H DID YOU CALL HER FIRST?

F NO. I DON'T EVEN KNOW HER PHONE NUMBER.

H AND THEN WHAT'D YOU DO WHEN YOU GOT THERE?

F THEN, I WAS JUST TRYNA LIKE JUST GET HER TO TALK TO ME.

H WHAT'D YOU WANNA TALK ABOUT?

F I DON'T EVEN REMEMBER.

H SHE WANNA TALK TO YOU?

F NO. [UNINTELLIGIBLE].

H WHAT'D SHE DO?

F SHE WANTED TO CALL THE POLICE.

H AND THEN WHAT HAPPENED?

F THEN I -- I LEFT AFTERWARDS.

H POLICE TALK TO YOU?

F YEAH.

H WHAT'D THEY ASK YOU?

F THEY ASKED ME TO LEAVE.

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H YOU EVER SEEN – SEEN HER AGAIN?

F YEAH, I'VE SEEN HER.

H [UNINTELLIGIBLE]. SEE WHEN YOU LEAVE SOMETHING OUT LIKE THAT, PAUL—

F IT'S LIKE I DIDN'T EVEN THINK ABOUT THAT.

H WELL, THAT'S PRETTY IMPORTANT.

F OKAY. ALRIGHT.

H ISN'T IT?

F YEAH.

H I MEAN, WHEN THE POLICE COME? HOW MANY OTHER TIMES HAVE YOU BEEN CONTACTED BY THE POLICE?

F BY THE POLICE?

H MM-HM.

F FOR TICKETS?

H OTHER THAN TICKETS.

F AND THEN ONE TIME I WAS AT LIKE AT A FOOTBALL GAME GOT CAUGHT WITH BEER.

H HOW MANY TIMES SOMETHING LIKE THIS THING ON THE BALCONY HAPPEN BEFORE?

F THAT WAS THE ONLY TIME.

H HOW MANY TIMES YOU GET AWAY WITH IT AND NOBODY CAUGHT YA?

F ZERO.

H HOW DO WE KNOW THAT?

F WH-- I'M – IT WAS --THAT WAS THE ONLY TIME THAT ANYTHING LIKE THAT'S EVER HAPPENED.

H NOW, AGAIN, PICTURE YOURSELF IN OUR SPOT. AND YOU'RE SITTING THERE TALKING TO SOMEBODY AND HE LEAVES THAT LITTLE THING OUT. HE DOESN'T TELL YOU ABOUT BEING ON SOME GIRL'S BALCONY LATE AT

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NIGHT, TRYING TO GET IN, TO WHERE SHE HAS TO CALL THE POLICE. AND YOU LEAVE THAT OUT -- AND SOMEBODY LEAVES IT OUT THAT'S TALKING TO YOU, AND YOU'RE US, AND THEN HE ALSO DOESN'T TELL YOU EVERYTHING ABOUT WHAT HAPPENED BETWEEN HIM AND THE GIRL THAT'S MISSING, WHAT ARE YOU GONNA START THINKIN'? SEE, THAT'S -- THAT'S WHY INVESTIGATOR HANLEY SAYS, YOU KNOW, WE GET AN IMPRESSION OF YOU AS BEING A GOOD, KIND PERSON. YOU'RE NOT VIOLENT, YOU'RE NOT MEAN, YOU DON'T GO OUT AND BEAT PEOPLE UP, YOU DON'T HURT WOMEN AND YOU DO THINGS LIKE THAT. BUT THEN WHEN YOU LEAVE THINGS OUT LIKE THIS AND YOU DON'T TELL US ABOUT 'EM AND THEN WE KNOW THAT THERE'S THINGS YOU'RE LEAVING OUT ABOUT ROXY THAT YOU'RE NOT TELLING US BECAUSE YOU'RE SCARED AND YOU'RE EMBARRASSED AND YOU DON'T WANT US TO KNOW BUT WE ALREADY KNOW, THEN WHAT DOES THAT DO? YOU KNOW, AS FAR AS OUR SUSPICIONS, IT RISES. WOULDN'T YOU BE SUSPICIOUS? IF YOU WERE US?

F I GUESS.

H I'M SURE YOU WOULD. YOU WOULDN'T GUESS. YOU WOULD [UNINTELLIGIBLE] SEE, WE JUST POINT OUT A FEW THINGS THAT -- LIKE WE SAID, WE'VE DONE OUR HOMEWORK.

F UH-HUH.

H WE -- WE KNOW MORE ABOUT YOU PROBABLY THAN YOU DO. AND WHAT WE'VE FOUND, SO FAR, COULD INDICATE YOU'RE A GOOD PERSON. YOU'RE NOT A BAD PERSON. BUT WHEN YOU DON'T TALK TO US AND YOU HIDE THINGS FROM US, IT STARTS TO CHANGE OUR OPINION AND WE DON'T WANNA CHANGE OUR OPINION OF YOU. NOW WE'VE BEEN -- WE SAT DOWN AND TALK WITH YOU NOW THIS IS THE THIRD OR FOURTH TIME, RIGHT? AND MY OPINION'S THE SAME. LIKE YOU KNOW, YOU LEAVE THESE THINGS OUT AND I START GETTING CONCERNED. I'M THINKING, "WOW, WHY DID HE LIE

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TO US ABOUT THE BLACK EYE?" "WHY DID HE LIE TO US ABOUT NOT BEING, UH, DETAINED BY THE POLICE WHEN HE WAS ON THIS GIRL'S BALCONY?" "WHY DOESN'T HE TELL US ABOUT WHAT HAPPENED WITH ROXY AT THE PARTY?" "WHY DOESN'T HE TELL US ABOUT HIS CONVERSATION WITH CHERYL?" YOU KNOW, WHY IS HE LEAVING ALL THESE THINGS OUT? AND, YOU KNOW, IF IT WAS ONLY ONE OR TWO THINGS, PAUL, I WOULD SAY, "WELL, YOU KNOW, MAYBE WE GOT SOME BAD INFO," BUT THIS INFORMATION'S COMIN' FROM FIFTEEN [15], TWENTY [20], THIRTY [30] PEOPLE THAT HAVE TOLD US THESE THINGS. SO, IT'S PRETTY HARD FOR FIFTEEN [15], TWENTY [20], THIRTY [30] PEOPLE TO ALL BE WRONG. IF IT WAS ONLY ONE OR TWO, I COULD SAY, "YEAH, THEY SAW IT WRONG, THEY MISINTERPRETED."PLUS WE"RE GIVEN SOME INFO FROM YOUR FRIENDS. NOW, DO YOU THINK JEREMY FELT GOOD ABOUT TALKING TO US? HE DIDN'T LIKE TALKING TO US. IN FACT, HE WAS SO UPSET, HE WENT AND TOLD YOU HE TALKED TO US. RIGHT? TOLD YOUR DAD.

F IT'S LIKE, UM, IT'S LIKE HE TALKED TO MY DAD WHEN, UH -- WHEN LIKE BE- BEFORE HE EVEN TALKED TO YOU GUYS.

H RIGHT. HE WAS UPSET AT THAT WE WERE ASKING QUESTIONS ABOUT YOU. 'CAUSE HE LIKES YOU. HE'S YOUR FRIEND. BUT YOU KNOW, IN TALKING WITH HIM AND NOT KNOWING WHAT HE'S TELLING US, HE TOLD US SOME THINGS TOO, THAT WE KNOW YOU HAVEN'T BEEN TOTALLY TRUTHFUL ABOUT. YOU KNOW, AND ONE OF 'EM BEING WHEN YOU TRIED TO DENY THE BLOW JOB IN THE BATHROOM.

F IT DID NOT HAP-- I DID NOT TELL HIM ABOUT IT THAT WEEKEND THOUGH.

B 'KAY, PAUL, LE-LET ME -- LET ME SAY THIS. ONE THING WE-- WE HAVE FOUND OUT AND I THINK THIS KINDA CLEARS UP A LOT OF STUFF FOR US, WHEN YOU DRINK, YOU'RE A DIFFERENT PERSON, AREN'T YA?

F YEAH, I GUESS. YEAH.

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B YEAH, I MEAN—

F YOU KNOW, ALCOHOL AFFECTS EVERYONE.

B RIGHT, IT DOES. IT AFFECTS YOU DIFFERENTLY THAN SOME PEOPLE. YOU KNOW, AND BELIEVE ME, I'VE SEEN 'EM ALL. THERE'S THE NICE GUY THAT TURNS INTO THE DICK-HEAD. THERE'S THE NICE GUY WHO TURNS INTO A NICER GUY. AND, YOU KNOW, THEN THERE'S A DICK-HEAD THAT TURNS INTO MORE OF A DICK-HEAD. OKAY? YOU'RE THE NICE GUY THAT GOES IN BETWEEN. OKAY? YOU'RE PERSONALITY CHANGES WHEN YOU DRINK. YOU'RE A DIFFERENT PERSON. EVERYBODY-- EVERY PERSON THAT KNOWS YOU SAY-- SAYS THAT. WOULD YOU AGREE WITH THAT?

F YEAH, I'M A DIFFERENT PERSON, I GUESS. WELL-- WELL. I'M BASICALLY THE SAME PERSON.

B OH, ARE YOU THE SAME PERSON?

F YEAH, BASICALLY.

B OKAY.

F YOU KNOW, I GUESS, YOU KNOW, I CHANGE A LITTLE BIT, I GUESS.

B MAY – UH, MAY-MAYBE I'VE READ YOU WRONG THEN.

F OKAY.

B YOU KNOW? I MEAN, NO, MAYBE I HAVE. BECAUSE WHEN PEOPLE SAY YOU DRINK, YOU'RE DIFFERENT. YOU'RE AGGRESSIVE. 'KAY?

F MM.

B YEAH, YEAH.

F WELL—

B THEN - NOW ALL THESE PEOPLE ARE LYING TO US ABOUT YOUR DRINKING. THAT'S-- THAT'S NOT—

F NO, NO, NO, NO, WELL, WHAT I GUESS I WAS– I'M GONNA SAY, IS LIKE THEY CALL ME – IF THEY CALL AGGRESSIVE, IT'S LIKE -- IT'S LIKE I'M – I'VE LIKE

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WRESTLED WITH GUYS JUST WHEN WE WERE PLAYING POOL, SO, IT'S LIKE—

B WOULD YOU DO THAT SOBER THOUGH?

F YEAH. YEAH, THE—THAT'S WHAT I'M TALKIN' ABOUT.

H WOULD YOU GO UP AND TRY AND KISS A GIRL AT A PARTY SOBER? NAH.

F I'VE DONE IT BEFORE.

H NAH. NOT SOBER. YOU GET A FEW BEERS—

F LIKE ONE'S NOT EVEN ENOUGH TO DO ANYTHING SO—

H YEAH, I WOULD—

F [UNINTELLIGIBLE]—

B YOU HAD MORE THAN THAT DIDN'T YA?

F YEAH.

B WOULD YOU GO UP ON A GIRL'S BALCONY IF YOU WERE SOBER?

F NO. NO.

B SO, WELL EXACTLY.

F ALRIGHT. 'KAY.

B SO, WHAT-- WHAT WOULD YOU CALL THAT? MORE AGGRESSIVE?

H LESS INHIBITED MAYBE. MAYBE THAT'S A BETTER WORD. ALCOHOL TENDS TO TAKE THE-- THE INA-- INA-- INHIBITIONS AWAY. YOU BECOME MORE OUTGOING, ALCOHOL MAKES YOU FLOW WITH THE – WITH THE GROUP A LITTLE BIT BETTER. WE ALL DO THAT. HELPS YOU LOOSEN UP A LITTLE BIT, RIGHT? BUT I – I STILL DON'T THINK, EVEN THOUGH WHEN YOU'RE DRINKING YOU DO ANYTHING THAT'S REAL MEAN, DO YOU?

F NO.

H NO? YOU DON'T EVER GO AND PUNCHED SOMEBODY OUT OR—

F NO—

H OR ATTACK SOMEBODY, DO YOU?

F NUH-UH.

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H NO. YOU JUST GET A LITTLE BIT MORE AGGRESSIVE.

F I WOULDN'T SAY MORE AGGRESSIVE. SAME LIKE IT'S LIKE WRESTLING AROUND. I-- I WRES-- WRESTLE AROUND WITH PEOPLE MORE WHEN-- WHEN I'VE BEEN SOBER THAN—

H 'KAY, BUT WE'RE TALKING ABOUT THE SEXUAL PART.

F OH, OH.

H [UNINTELLIGIBLE] OKAY? YOU DON'T GO UP TRY AND KISS SOMEBODY WHEN YOU'RE SOBER BUT IF YOU'VE HAD A FEW BEERS, YOU MIGHT TRY AND DO IT.

F YEAH—

H [UNINTELLIGIBLE]—

F YEAH.

H HOW MANY PEOPLE DO YOU THINK WEVE TALKED TO THAT HAVE SAID – AND THEY SEE YOU AT PARTIES, YOU KNOW, YOU'VE BEEN AT CAL POLY SINCE SEPTEMBER AND THEY SEE YOU AT PARTIES THAT YOU SHOW UP TO. AND, UH, HOW MANY WOMEN DO YOU THINK WE TALKED TO THAT SAID YOU TRIED TO KISS 'EM? AND THERE'S NOTHING WRONG WITH THIS. NOTHING WRONG WITH IT. YOU KNOW, I'D PROBABLY DO THE SAME THING BUT HOW MANY DO YOU THINK WE FOUND THAT SAID YOU HAD TRIED TO KISS 'EM?

F THAT LIKE UNSUCCESSFUL OR – OR THE—

H YEAH, ONES WHERE THEY HAD TO SAY, "NO," AND KINDA PUSH YOU OFF A LITTLE BIT. HOW MANY DO YOU THINK WE'VE FOUND?

F ONE.

H COME ON, COME ON.

F MAYBE TWO.

H COME ON.

F THAT'S -- THAT'S ALL.

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H COME ON, PAUL. YOU DO THAT IN ONE NIGHT.

F NO.

H HOW MANY-- HOW MANY -- REALISTICALLY, HOW MANY DO YOU THINK WE'VE TALKED TO?

F I HAVE NO IDEA.

H YOU KNOW THOUGH THERE'S LOTS, HUH?

F NO.

H SURE THERE IS. SOME OF THEM DIDN'T APPRECIATE IT THOUGH. SOME OF 'EM LAUGHED IT OFF, SAID, "HEY, HE WAS DRUNK, HE JUST TRIED TO GET A KISS." OTHERS DIDN'T APPRECIATE IT. THEY WERE A LITTLE UPSET.

F NO ONE I KNOW OF.

H BUT YOU SEE, WHERE THIS-- THIS LINE OF THOUGHT OR QUESTIONING GOES? YOU KNOW, IF A GUY HAS A FEW BEERS, HE DOES THINGS THAT HE NORMALLY WOULDN'T DO. NORMALLY, YOU'RE NOT AN AGGRESSIVE PERSON. NORMALLY, YOU'RE AN EASY GOING, GOOD GUY. YOU GET A FEW BEERS IN YA, YOU BECOME A LITTLE MORE AGGRESSIVE AND YOU DO SOME THINGS THAT YOU NORMALLY WOULDN'T DO. SO, ALL THESE THINGS START ADDING INTO IT, TOO. SO, NOW YOU GOT ALL THESE THINGS STARTING TO ADD UP, PAUL. SEE WHERE THEY ALL LEAD TO? SEE WHAT WE'RE TALKING ABOUT? LET'S TALK ABOUT THE THINGS AGAIN THAT YOU HAVEN'T TOLD US.

F THERE ISN'T ANYTHING.

H SURE THERE IS. I DON'T WANNA HAVE TO GO BACK AND GO PIECE BY PIECE TO THE PARTY AGAIN. BUT YOU KNOW, IF THAT'S WHAT WE HAVE TO DO, WE CAN. BUT, TELL US ABOUT THE THINGS THAT HAPPENED THAT YOU THINK ARE EMBARRASSING AND YOU DON'T WANNA TELL US ABOUT.

F THERE ISN'T ANYTHING. I'VE TOLD YOU EVERYTHING.

H THINGS THAT HAD TO DO WITH ROXY.

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F THERE'S NOTHIN'.

H WELL THEN WHY ARE-- WHY DO THESE PEOPLE TELL US THAT YOU'RE -- YOU'RE KISSIN' ON -

F I DON'T KNOW—

H ON ROXY AT THE PARTY? [UNINTELLIGIBLE]—

F YOU'VE ASKED ME THIS QUESTION BEFORE. I HAVE NO IDEA.

H WHY DO THEY TELL US THAT? WHY DO THEY TELL US SHE'S KISSIN' ON YOU?

F I HAVE NO IDEA.

H ARE THEY MAKIN' IT UP? ARE THEY LYING?

F YEAH.

H SO, ALL THESE PEOPLE ARE LYING.

F I GUESS SO.

H THEY DON'T EVEN KNOW YOU. THEY-- THEY PICKED YOU OUT OF A PICTURE. THEY DON'T EVEN KNOW YOUR FIRST NAME OR YOUR LAST NAME. WHEN WAS THE LAST TIME YOU WENT TO A PARTY AND JUST MADE UP A STORY ABOUT SOMEBODY? IT DOESN'T HAPPEN.

F MADE UP A STORY ABOUT SOMEONE?

H YEAH. JUST TO BE MEAN, MAKE UP A STORY, SAY, "HEY, I SAW THAT GUY TRYING TO KISS THAT GIRL," AND IT DIDN'T HAPPEN. THAT'S WHAT YOU'RE SAYING THESE PEOPLE ARE DOING. THEY'RE LYIN'. THERE'S NO REASON FOR 'EM TO LIE.

B PAUL, THIS DOESN'T GO AWAY BUD.

F UNDERSTAND THAT.

B I MEAN, IT REALLY DOESN'T. IT-- IT CUTS DOWN THE -- TO THE FACT OF WHAT REALLY HAPPENED. 'KAY? WE HAVE A GOOD IDEA. SEE, WE'RE CYNICAL. M'KAY?

H WE THINK THE WORSE.

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B WE ALWAYS DO -- I MEAN, THAT'S -- THAT'S – THAT'S OUR JOB.

F RIGHT.

B OKAY? I MEAN THAT. I MEAN, THAT'S -- THE ONLY THING WE'RE HAVING CONFLICTING THOUGHTS OF IS WE'VE DONE YOUR BACKGROUND. AND WE SEE THAT YOU'RE NOT A VIOLENT GUY. OKAY?

F MM-HM.

B THAT'S [UNINTELLIGIBLE] SAID BEFORE WE FIRMLY BELIEVE IT WAS ACCIDENT.

H PAUL, EVENTUALLY, IT MAY NOT HAPPEN TOMORROW, IT MAY NOT HAPPEN NEXT WEEK, MAY NOT HAPPEN NEXT MONTH, MAY NOT HAPPEN THIS YEAR. BUT EVENTUALLY, WE'RE GONNA FIND ROXY.

F I'M-- I'M-- I'M -- I'M HAPPY.

H AND WE'RE GONNA FIND HER AND THEN WHEN WE FIND HER. A LOT OF THE THINGS THAT HAVE BEEN SAID CAN'T BE CHANGED. YOU CAN'T GO BACK AND REDO 'EM. THE THINGS THAT PEOPLE ARE TELLING US NOW ARE THINGS YOU'RE GONNA HAVE TO STICK WITH. AND IF WE FIND THINGS THAT AREN'T TRUE, THEN THEY BECOME LIES. AND THE LIES CAN ONLY HURT YOU AND THEY MAKE THINGS LOOK WORSE. WHEN SOMEBODY LIES, THERE'S A REASON THEY LIE. THEY LIE TO COVER SOMETHING UP OR TO KEEP SOMEBODY FROM FINDING OUT WHAT REALLY HAPPENED. SOMEBODY TELLS THE TRUTH, THEY MAY NOT BE PROUD OF WHAT THEY DID BUT AT LEAST THEY TOLD THE TRUTH. AND WE'RE ABLE TO WORK WITH THAT. SOWHEN THAT HAPPENS, WHENEVER IT HAPPENS, A WHOLE LOTTA MORE-- A WHOLE LOT MORE INFORMATION IS GONNA COME UP. AND WE DON'T WANT SOMETHING TO COME OUT THEN THAT'S GONNA CONTRADICT WHAT'S HAPPENING NOW. WE WANNA WORK WITH YOU, PAUL.

F WELL THERE'S NOTHING ELSE FOR ME TO SAY.

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H SURE THERE IS. THERE'S A WHOLE LOT TO SAY. AND IT DOESN'T GO AWAY. IN FACT, IT JUST GETS WORSE. AS LONG AS YOU'RE THINKIN ABOUT THE THINGS THAT YOU HAVEN'T TOLD US YOU'RE GONNA THINK ABOUT THOSE THINGS CONSTANTLY. ONCE YOU TELL US, THEN YOU CAN GET IT OFF YOUR CHEST. GO ONTO SOMETHING ELSE BUT IT'S NOT GONNA GO AWAY UNTIL YOU TALK ABOUT IT. WE'RE NOT GONNA GO AWAY. WE'RE HERE TO STAY. THIS IS OUR JOB. WE DO IT EVERYDAY. AND EVERYDAY WE FIND OUT A LITTLE BIT MORE AND A LITTLE BIT MORE, AND A LITTLE BIT MORE. AND EVENTUALLY THAT MOUNTAIN THAT WE'RE BUILDING GETS BIG ENOUGH AND THEN WE'RE ABLE TO TAKE SOME TYPE OF ACTION OFF OF THAT. IT'S GETTIN' BIGGER ALL THE TIME. BUT THE THING THAT CONCERNS US IS A LOT OF THE THINGS KEEP POINTING BACK TO YOU. AND I THINK A LOT OF THE THINGS YOU COULD EXPLAIN AWAY BUT YOU'RE CHOOSIN' NOT TO TALK ABOUT IT. YOU DON'T WANNA TELL US BECAUSE OF US THINKING THE WORST. BUT BY DOING THAT, JUST LIKE WE BEEN TALKING TO YOU FOR HOURS NOW, HOLDING IT BACK OR NOT TELLING US MAKES IT LOOKS WORSE FOR YOU. IF YOU HAD TOLD US THE TRUTH THE FIRST TIME, WE PROBABLY WOULDN'T EVEN BE HERE. BUT YOU DIDN'T, SEE. YOU TOLD A STORY AND YOU STUCK WITH IT. AND IT JUST GETS WORSE. AND EACH DAY WE FIND OUT A LITTLE BIT MORE TO MAKE THAT STORY SOUND EVEN WORSE. WE DON'T LIKE GOING OUT TALKIN' TO YOUR FRIENDS, WE DON'T LIKE GOING OUT INTERVIEWING YOUR NEIGHBORS, YOUR TEACHERS, AND YOUR COUNSELORS AND YOUR PARENTS AND ALL THIS STUFF. WE'D RATHER DEAL WITH YOU. ONE ON ONE. IT'S A LOT EASIER.

F I DON'T KNOW WHAT YOU WANT ME TO SAY.

H WELL I WANT YA TO TELL ME SOME OF THE THINGS THAT YOU HAVEN'T TOLD US.

F THERE ISN'T ANYTHING. SURE THERE IS.

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F I DON'T—

H LET'S GO BACK TO THE PERSON THAT SAW YOU AND ROXY SOMEPLACE OTHER THAN WHERE YOU SAY YOU LAST SAW HER. NOW, THERE'S SOME REASON THAT YOU'RE NOT TELLING US ABOUT BEING SOMEWHERE ELSE WITH HER. WHERE THIS OTHER PERSON SAW YOU. THERE'S SOME REASON YOU'RE HOLDING THAT BACK. I DON'T KNOW, MAYBE YOU'RE EMBARRASSED TO TALK ABOUT IT. MAYBE SHE WAS DOING SOMETHING TO YOU—

F THAT WAS THE LAST PLACE I SAW HER.

H THEN WHY WOULD THESE PEOPLE MAKE THIS UP?

F I HAVE NO IDEA. THIS-- I ALREADY SAID THAT [UNINTELLIGIBLE]--

H KNOW BUT PAUL THEY DON'T EVEN KNOW YOU. AND WE KEEP GOING BACK WE KEEP SAYING, "WELL, WAIT A MINUTE. THIS PERSON SAYS HE'S SEEN YOU OVER THERE BUT THAT'S NOT PAUL. PAUL'S NOT THAT TYPE OF PERSON." 'TIL WE CAN CLEAR THOSE THINGS UP, IT DOESN'T GO AWAY. SOMEHOW, I GET THE FEELING, YOU DON'T FULLY TRUST US. THAT THE CASE?

F NO.

H YOU TRUST US? YOU BELIEVE US?

F ON SOME THINGS, I GUESS.

H WHAT DON'T YOU BELIEVE US ABOUT?

F I STILL DON'T BELIEVE YOU ABOUT THAT JEREMY THING?

H WHAT THING?

F BE-- BE-- BECAUSE I KNOW I DIDN'T TELL HIM THERE WAS A GIRL NAMED ROXY THAT GAVE ME THAT WEEK. IT'S LIKE-- I -- IT WAS LIKE BEFORE THAT.

B LET ME-- LET ME JUST PUT YOUR MIND AT EASE THERE, PAUL.

H THAT SHOULD BE THE LEAST OF YOUR WORRIES.

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B JUNE SEVENTH [7TH] IS WHEN HE WAS INTERVIEWED. SAID HE -- SAID YOU WERE WEARING A HAT WHEN YOU CAME OVER. WA-- WHICH HE THOUGHT WAS NOT USUAL, UM, HE SAW THAT YOU HAD A BLACK EYE. SAID, "WHAT THE FUCK? WHAT, YOU GET RAT-PACKED AT A PARTY LAST NIGHT?" OKAY? REMEMBER SAYING—

F NO.

B 'KAY. SO, HE'S LYING ABOUT THAT. 'KAY. HE ASKED YOU HOW YOU GOT—

F WELL, I'M NOT SAYING HE'S LYING ABOUT THAT, I'M JUST SAYING—

B WELL, NO, I'M READING -- I'M READING RIGHT FROM MY NOTES.

F OKAY.

B I MEAN -- UM, HE ASKED YOU HOW YOU GOT THE BLACK EYE. YOU SAID YOU DIDN'T KNOW HOW YOU GOT THE BLACK EYE. OKAY?

F YEAH.

B ALRIGHT. UM, NO BIG DEAL, YOU GUYS KINDA HUNG OUT FOR A LITTLE BIT. UH, WHEN HE WAS UPSTAIRS IN HIS ROOM YOU SAID THAT YOU WENT TO A PARTY LAST NIGHT. HE ASKED WHAT KINDA PARTY? SAID IT WAS A CAL POLY PARTY. THEN ASKED YOU SOMETHING ABOUT-- HE ASKED YOU SOMETHING ABOUT GETTING SEX, HE SAYS, "YEAH, SOME SLUT GAVE ME A BLOW JOB IN THE BATHROOM. AFTER SHE GAVE ME THE BLOW JOB, SHE WAS HANGING ON ALL THE OTHER GUYS." OKAY? SAID THIS HAPPENED AT A CAL POLY PARTY. 'KAY? SO, W-W-- YOU THINK I'M – I'M LYING ABOUT THIS?

F DOESN'T-- IT STILL DOESN'T MAKE SENSE.

B YEAH, IT-- IT DOESN'T MAKE SENSE. DOG-GONE COINCIDENCE, ISN'T IT? DOG-GONE COINCIDENCE THAT ROXY, WHO'S HANGING ALL OVER EVERYBODY, THE NIGHT BEFORE, OKAY? AND YOU WERE AT THIS PARTY, YOU WALKED HER HOME AND THEN YOU MENTION IT THE NEXT NIGHT.

F AND I SAID I GOT IT AT THE PARTY, RIGHT?

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B RIGHT. YEAH. WELL, YOU SAID YOU WERE A CAL POLY PARTY.

F AND THE NIGHT BEFORE I WAS AT HOME WATCHING T.V..

B NIGHT BEFORE WHAT?

F THE NIGHT BEFORE I SAW HIM.

B I THOUGHT YOU SAID YOU WERE AT THE MOVIES?

F NO, I SAW HIM ON MONDAY.

B WELL, THAT'S NO—WELL HE SAID HE-- THAT'S WRONG.

F YEAH, BECAUSE THERE WAS THE-- YEAH, IT WAS THE MONDAY 'CAUSE I DIDN'T EVEN SEEN HIM ON—

B HE SAID THAT'S WRONG.

F I CALLED HIM BUT HE WASN'T EVEN HOME THAT DAY.

B SAID THAT'S WRONG. HOW'D YOU GET OVER TO JEREMY'S HOUSE?

F OKAY, HERE'S WHAT HAPPENED. THE DAY BEFORE ON THAT SUNDAY, I WENT OVER THERE WITH MY DAD. AND LIKE HE WASN'T EVEN HOME. AND THEN I SAW HIM THE NEXT DAY. I DIDN'T EVEN SEE W—IT'S LIKE A SISTER I'M PRETTY SURE I SAW. IT'S LIKE, UM, HE EITHER PICKED ME UP OR MY DAD DROVE ME.

B WHEN? ON MONDAY? OR—

F YEAH—

B ON SUNDAY—

F ON-- ON MONDAY.

B WELL, THAT'S NOT WHAT HE SAYA. YOU KNOW, THAT -- THAT'S JUST [UNINTELLIGIBLE]—

F OH, YEAH, JUST A MINOR –

B YEAH, UH, EXACTLY. I MEAN—

H ANOTHER MINOR DETAIL THAT KEEPS ADDING TO THIS PILE, PAUL. IT GETS HIGHER. YOU KNOW, LET ME-- LET ME TELL YOU ABOUT A STORY, WE WORKED A CASE ABOUT A YEAR AGO ON A GUY THAT WAS PRETTY NICE

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GUY. YOU KNOW, HE WASN'T VIOLENT, HE WASN'T MEAN, HE WASN'T UGLY, LIKED TO DRINK A LITTLE BIT, HE LIKED THE GIRLS. HE WASN'T A REAL POPULAR GUY, BUT WHEN HE GOT DATES HE, YOU KNOW, LIKED TO GO OUT AND—AND -- AND HAVE A GOOD TIME. AND HE WENT OUT ON THIS DATE, TOOK THIS GAL OUT TO DINNER, THEY HAD A FEW DRINKS, UH, THEY COME BACK TO THE APARTMENT AND HAVE A FEW MORE DRINKS, SHE GETS DRUNK, HE GETS DRUNK. UH, HE DECIDES TO TRY SOMETHING WITH HER, HE STARTS TOUCHING HER A LITTLE BIT, SHE DOESN'T RESIST, THEY'RE BOTH DRUNK. UH, HE ENDS UP TAKIN' HER CLOTHES OFF, SHE –HE ENDS UP TAKIN' HIS CLOTHES OFF AND THEY HAVE SEX. SHE NEVER TRIES TO STOP HIM BUT SHE'S DRUNK AND HE'S DRUNK, THEY HAVE SEX. AND THERE'S NOTHING WRONG WITH THAT, YOU KNOW, IT WASN'T RAPE, IT WASN'T ANYTHING BY FORCE JUST BECAUSE SHE WAS DRUNK. AND THEN, SHE GETS UP TO GO IN THE BATHROOM, TAKE A SHOWER. HE DECIDES HE WANTS TO TAKE A SHOWER WITH HER. AND SHE DOESN'T WANT HIM TO TAKE A SHOWER WITH HER, SO THEY STRUGGLE A LITTLE BIT. AND HE ENDS UP PUSHIN' HER AND SHE SLIPS AND SHE FALLS AND SHE HITS HER HEAD AND IT KILLS HER. SHE DIES. AND NOW HE'S PANICKED 'CAUSE HE DIDN'T DO ANYTHING WRONG, HE DIDN'T DO ANYTHING WRONG AT ALL BUT HE'S PANICKED NOW BECAUSE HE ACCIDENTALLY KILLED HER. HE DIDN'T MEAN TO, HE DIDN'T– HE DIDN'T KNOW BY PUSHIN' HER SHE WAS GONNA SLIP IN THE SHOWER BUT SHE SLIPS, HITS HER HEAD AND HE'S PANICKED. HE'S GO, "GOD, WHAT DO I DO?" SO, RATHER THAN DOIN' WHAT HE SHOULDA DONE, CALL THE POLICE, NINE- ONE-ONE [911], THERE'S BEEN AN ACCIDENT, SHE FELL AND HIT HER HEAD, HE'S THINKIN', "GOD, THE POLICE ARE GONNA FIND HER NAKED, THEY'RE GONNA FIND OUT I HAD SEX WITH HER, THEY'RE GONNA THINK I RAPED HER BECAUSE SHE'S DRUNK, THEY'RE GONNA THINK I KILLED HER. SO, HE DOES THE WORSE THING HE COULD

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DO. HE TRIES TO COVER IT UP. AND WHEN HE TRIED TO COVER IT UP, HE GETS HER OUT OF THE SHOWER, AND SHE BLEEDS ALL OVER HIS RUG. HE CLEANS UP THE MESS THE BEST HE CAN AND THEN HE HAS TO DISPOSE OF THE BODY. WELL IN DOING THAT, SOMEBODY SEES HIM. AND HE GETS— THE-THEY'RE NOT SURE WHAT THEY SEE YET BUT THEY SEE HIM AND HE DOES A FEW THINGS AND HE TELLS A FEW FRIENDS LIES AND EVENTUALLY, WE HAVE A MISSING PERSON. WE GET INVOLVED AND WE START WORKING THE CASE AND WE FIND OUT THAT THE LAST PERSON THAT SAW HER WAS THIS GUY. AND THROUGH PHYSICAL EVIDENCE FROM HIS HOUSE, EVERYTHING ELSE, WE FIND BLOOD IN HIS HOUSE AND NOW HE FIGURES MIGHT AS WELL TELL 'EM THE TRUTH NOW. AND HE TELLS THE STORY. BUT NOBODY BELIEVED HIM. BECAUSE HE LIED. AND SO, RATHER THAN GETTING CHARGED WITH JUST AN ACCIDENT, WHICH WOULD BE NO CHARGE AT ALL, HE TELLS A LIE, ENDS UP GOIN' TO JAIL, WE GO TO VISIT HIM IN PRISON. HE'S IN PRISON NOW. HE SAYS, "YOU KNOW WHAT?" HE SAYS, "IF I'D A JUST TOLD THE TRUTH I WOULDN'T BE HERE TODAY." BECAUSE HE TRIED TO COVER SOMETHING UP. AND I FELT THAT'S WHAT YOU'RE TRYING TO DO. YOU'RE TRYING TO COVER SOMETHING UP THAT YOU WISH DIDN'T HAPPEN. THAT YOU WISH IT WOULD GO AWAY. NOW, I DON'T KNOW IF THAT'S SIMILAR OR ANYTHING. ALL I KNOW IS THAT SOMETHING HAPPENED THAT YOU DON'T WANNA TELL US ABOUT BECAUSE YOU'LL THINK WE'LL THINK THE WORST. AND WE WON'T. AS LONG AS YOU TELL US THE TRUTH OF WHAT HAPPENED. WE HAVE TO KNOW WHAT IT IS THOUGH. 'CAUSE WE'RE GONNA FIND OUT EVENTUALLY. JUST LIKE THIS GUY. IT TOOK SIX MONTHS BEFORE THIS THING ALL WENT TOGETHER. SIX MONTHS. BUT IT WENT TOGETHER. BUT THEN, INSTEAD OF HIM JUST BEING -- FEELING BAD ABOUT A GIRL DYING BECAUSE OF SOMETHING HE DID THAT WAS AN ACCIDENT, THIS POOR GUY'S IN PRISON. AND HAD HE TOLD

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THE TRUTH TO START WITH, HE MIGHT NOT HAVE BEEN IN PRISON. BUT HE LIED. AND ONCE HE LIED –ALL THE THINGS HE DOES AS A RESULT OF THAT LIE [UNINTELLIGIBLE] IF HE LIED ABOUT THAT, THEN WHY SHOULD WE BELIEVE HE MEANT IT WAS AN ACCIDENT. AND THERE WAS A LOT OF THINGS THAT CAME OUT THAT MIGHT'VE INDICATED THAT IT WAS PREMEDITATED. THAT HE INTENDED TO KILL HER BECAUSE HE THOUGHT SHE WAS GONNA SAY IT WAS RAPE OR SOMETHING. I FORGET WHAT THE DETAILS WERE. BUT THE -- THE BOTTOM LINE IS HE WENT TO PRISON. AND – AND THAT– THAT SHOULDN'T A HAPPENED. BUT HE LIED ABOUT IT. AND SEE, THAT'S– THAT'S WHY WHENEVER WE SIT DOWN WITH SOMEBODY, WE ENCOURAGE THEM DON'T LIE TO US. TELL US THE TRUTH. LET– PAUL, WHEN -- WHEN YOU TELL THE TRUTH, IT DOES A LOT OF THINGS. NUMBER ONE, IT MAKES PEOPLE RESPECT WHAT YOU'RE DOING ---- I KNOW THAT HE DOESN'T WANNA TELL ME THIS BECAUSE IT'S A VERY DIFFICULT THING TO DO. ---'CAUSE HE MADE A MISTAKE. HE'S WILL TO SAY, "HEY, I MADE A MISTAKE. BUT I DIDN'T MEAN FOR THIS TO HAPPEN. I'M NOT A MEAN PERSON. I'M NOT AN UGLY PERSON. I'M NOT A VIOLENT PERSON." IF WE CAN SEE THAT IN YOU. BUT BECAUSE OF CERTAIN THINGS THAT ARE HAPPENING, SIMILAR TO THIS GUY THESE THINGS ARE STARTIN' TO SNOWBALL AND THAT PILE OF STUFF IS STARTIN' TO BUILD UP AND IT'S GETTIN' BIGGER AND BIGGER. AND IT'S STARTIN' TO MAKE US THINK THINGS, MAYBE PAUL ISN'T THE NICE EASY GOING GUY WE THOUGHT HE WAS. SURE, WHEN HE DRINKS, HE DOES A LITTLE INHIBITION. HE GETS IN A LITTLE MORE ACTIVE. A LITTLE AGGRESSIVE BUT HE'S NOT MEAN. HE'S NOT UGLY. HE DOESN'T HURT PEOPLE. BUT HE DOES THINGS HE PROBABLY NORMALLY WOULDN'T DO. HE DOES THINGS THAT ARE SPONTANEOUS RATHER THAN THINK ABOUT IT. I'M SURE IF YOU COULD GO BACK OVER THIS NIGHT AND THINK ABOUT EVERYTHING THAT HAPPENED, YOU COULD

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CHANGE A WHOLE LOT OF THINGS THAT HAPPENED THAT NIGHT. YOU WOULDN'T DO THE SAME WAY. ---- THAT WOULDA SOLVED THE WHOLE THING. BUT YOU DID SO NOW YOU HAVE TO DEAL WITH EVERYTHING THAT HAPPENED THAT NIGHT, THAT WEEKEND. ALL THE STORIES THAT YOU'VE TOLD TO FRIENDS AND FAMILY, THAT WON'T CHANGE. THAT'LL BE THERE NEXT MONTH, NEXT YEAR, HOWEVER LONG IT TAKES UNTIL WE FIND ROXY. BUT, WE WILL FIND HER. EVENTUALLY, WE WILL. --- BE A LOT OF THINGS THAT WILL TELL US 'BOUT WHO'S RESPONSIBLE FOR THAT. SCIENTIFIC EVIDENCE THAT WE CAN DO—

F YEAH—

H THAT WILL HELP US—

F OKAY—

H ANALYZE THINGS. AND I GOT A FEELING THAT WHEN WE FIND HER, THINGS AREN'T GONNA GO GOOD FOR YOU.

F SO, GO FIND HER.

H BECAUSE WE'LL FIND THINGS THAT, UH, DON'T JIVE WITH THE STORIES THAT YOU'VE TOLD US. THINGS THAT AREN'T QUITE THE SAME. THAT'S WHY, PAUL, YOU'VE GOTTA TELL US THE TRUTH. THAT'S THE BOTTOM LINE. IF YOU TELL US EVERYTHING, LET US SORT THROUGH IT. LET US LOOK AT IT AND DECIDE. IS THIS SOMETHING THAT LOOKS BAD OR IS THIS SOMETHING THAT HE DID THAT WASN'T HIS FAULT? LET US EVALUATE IT. LET US DEAL WITH IT. THAT'S OUR JOB. THAT'S WHY WE WORK THIS STUFF. YOU KNOW, YOU CAN'T DECIDE WHAT'S GOOD AND WHAT'S BAD. YOU CAN'T PICK AND CHOOSE WHAT YOU WANNA TELL US 'CAUSE THE PARTS YOU LEAVE OUT MAKE YOU LOOK BAD. YOU'VE GOTTA TELL US EVERYTHING. TELL US EVERYTHING FROM THE GET-GO ALL THE WAY DOWN TO THE BOTTOM AND YOU HAVEN'T DONE THAT. WE KNOW YOU HAVEN'T DONE THAT BECAUSE WE HAVE OTHER INFORMATION THAT WOULD SHOW US

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THAT. WE CAN'T GO ANYWHERE WITH THIS AND START MAKING PROGRESS UNTIL YOU TELL US EVERYTHING THAT HAPPENED THAT NIGHT. THE BEGINNING TO END. AND DON'T TELL ME IT DIDN'T HAPPEN 'CAUSE I KNOW IT DID. IT DID HAPPEN BUT WE HAVE TO LOOK AT IT AND DEAL WITH IT. WE HAVE TO UNDERSTAND WHY IT HAPPENED. THERE'S A REASON FOR EVERYTHING. IF WE DON'T KNOW WHAT THE REASON IS, WE ALWAYS ASSUME THE WORST. WE START THINKING, "WOW, HE LEFT THIS OUT. THIS MUST MEAN HE PLANNED IT." WHICH MAY NOT BE THE CASE AT ALL. IT'S LIKE THIS STORY I TOLD YOU ABOUT THIS POOR MAN THAT WENT TO PRISON.

F YEAH.

H HE DIDN'T PLAN TO KILL HER. HE DIDN'T DO ANYTHING. THEY HAD SEX. THEY HAD A GOOD TIME. ALL SHE DID -- SHE DIDN'T WANT HIM TO GET IN THE SHOWER WITH HER. SHE DIDN'T WANT TO TAKE A SHOWER WITH THE GUY. BIG DEAL. BUT A LITTLE PUSH HERE, A LITTLE PUSH THERE. HIS LIFE WAS RUINED. IF HE TOLD THE TRUTH, IT'D BE A DIFFERENT STORY. THAT'S WHAT WE'RE TELLIN' YOU. YOU KNOW, YOU'RE IN THE OPPORTUNE TIME. YOU KNOW, DON'T TELL US LIES. DON'T HEDGE THE TRUTH. DON'T TELL US THINGS THAT DIDN'T HAPPEN. TELL US -- LET US DEAL WITH IT. LET US WORK IT OUT. LET US PUT IT TOGETHER. 'CAUSE WHAT YOU TELL US FITS IN WITH WHAT OTHER THINGS PEOPLE TELL US. AND WE CAN PUT THAT PICTURE TOGETHER. OTHERWISE, WE HAVE TO ASSUME THE WORST. AND THE WORST ISN'T A VERY PRETTY THING. IT LOOKS LIKE A COLD, PREMEDITATED, PLANNED, CALCULATED, COLD-BLOODED ACT. AND I DON'T WANNA BELIEVE THAT. 'CAUSE I DON'T THINK THAT FITS YOU. NOT AT ALL. NOT AT ALL. YOU'RE NOT THAT TYPE OF PERSON. YOU'RE A GOOD PERSON. SOMETHINGS HAPPENED THAT YOU WISH THEY DIDN'T HAPPEN AND YOU WISH YOU COULD GO BACK AND DEAL WITH. BUT YOU CAN'T DECIDE WHAT

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TO TELL US AND WHAT NOT TO TELL US. YOU HAVE TO TELL US AND LET US DEAL WITH IT. THAT'S WHAT'S IMPORTANT. FOLLOWIN' ME HERE? I WOULD HOPE, I WOULD HOPE. NOW I CAN TELL, I CAN SEE IT IN YOU THAT THERE A LOT OF THINGS YOU WANNA TELL US BUT YOU'RE AFRAID. BECAUSE YOU DON'T KNOW HOW WE'RE GOING TO REACT TO IT. 'KAY? BUT THE LOTTA THINGS THAT YOU HAVE TO TELL US MAKES SENSE TO OUR INVESTIGATION. THEY FIT IN THERE. AND RIGHT NOW, THEY LOOK BAD. ONCE YOU TELL US THAT STORY WE CAN PUT IT TOGETHER AND WE CAN SIT HERE, ALL THREE OF US, AND WORK THIS THING OUT. BUT WE CAN'T DO IT ALONE. WE ONLY CAN DO THE WORST ALONE AND ASSUME THE WORST. PAUL, THERE IS NOT DOUBT IN OUR MIND, NONE THAT YOU KNOW WHAT HAPPENED TO ROXY. OKAY? NONE AT ALL. WE KNOW THAT. WHAT WE HAVE TO DO NOW IS DEAL WITH, WHAT CAN WE DO ABOUT IT? WE CAN'T MAKE IT GO AWAY. IT'S NOT GONNA DISAPPEAR—

F I KNOW—

H OKAY? WE HAVE TO WORK WITH IT. WE HAVE TO DEAL AND FIGURE OUT OKAY, THIS HAPPENED. NOW WHAT ARE WE GONNA DO? HOW ARE WE GONNA HANDLE THIS? YOU KNOW, IS IT-- IS IT A COLD CALCULATED PLANNED ACT? IS IT AN ACCIDENT? IS IT SOMETHING THAT SHOULDN'T A HAPPENED BUT MAYBE THERE WAS ALCOHOL INVOLVED? IS IT SOMETHING THAT IS CRITICAL? IS IT SOMETHING THAT'S AN ACCIDENT? IS IT SOMETHING THAT CAN BE OVERLOOKED? I DON'T KNOW. ONLY WAY WE CAN DO THAT IS BY WORKING WITH YOU. YOU'RE THE ONLY ONE THAT CAN HELP THAT. AND WE WANNA WORK WITH YOU. IF WE DIDN'T, WE WOULDN'T BE SITTIN' HERE LIKE THIS. WE WANT TO WORK THIS OUT. BUT THINGS HAVE COME UP IN THE INVESTIGATION THAT HAVE TURNED IT AROUND. AND THAT'S WHY WE CAME TO YOUR HOUSE TODAY. AND I WOULD RATHER JUST HEAR THE TRUTH THAN ALL THIS OTHER STUFF. BECAUSE WE CAN

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WORK WITH THE TRUTH. LIES, WE CAN'T WORK WITH. YOU'RE PROBABLY GETTIN' TIRED OF HEARING ME TALK ABOUT THAT STUFF. IF I DIDN'T– IF I DIDN'T TALK ABOUT IT – IF I DIDN'T HELP YOU UNDERSTAND, I DON'T THINK YOU WOULD FOLLOW WHAT -- WHAT WE'RE GOIN' THROUGH. THIS IS OUR JOB. AND WE'RE GOOD AT IT. AND WE WANNA WORK WITH YOU ON THIS. WE WANNA GET THIS WORKED OUT. WE WANNA WORK WITH EVERYBODY INVOLVED. HER FAMILY WHO ARE CONCERNED. WE WANT EVERYBODY INVOLVED TO BE ABLE TO WORK TO A CONCLUSION. A CLOSURE. BUT WE NEED YOUR HELP, TOO. OR ELSE, WE THINK THE WORST. NOW, ONE OF TWO THINGS HAPPENED, PAUL. EITHER THIS THING WAS A PLAN, FROM THE TIME YOU LEFT THAT PARTY, A PLANNED COLD-BLOODED, CALCULATED, MALICIOUS, VINDICTIVE ACT. OR SOMETHING WENT OUT OF -- GOT OUT OF LINE, SOMETHING HAPPENED AT AN IN ADVERT TIME—

F I HAVE NO IDEA [UNINTELLIGIBLE]—

H WAIT. WA – WOAH, WOAH, WOAH—

F OKAY GO—

H WOAH, WOAH, WOAH—

F OKAY, OKAY—

H NO, NO, DON'T -- DON'T TELL ME YOU DON'T KNOW WHAT HAPPENED. 'CAUSE – 'CAUSE I – I KNOW YOU DO. OKAY. ONE OF TWO THINGS HAPPENED. EITHER IT WAS THAT COLD, CALCULATED PLANNED, PREMEDITATED ACT OR SOMETHING HAPPENED THAT GOT OUTTA HAND, THINGS ESCALATED, UH, SOMETHING HAPPENED THAT SHOULDN'T A HAPPENED, EVERYTHING WENT CRAZY. AND IT WAS AN ACCIDENT. I WANNA BELIEVE IT WAS AN ACCIDENT. BASED ON WHAT I KNOW ABOUT YOU. I THINK INVESTIGATOR HANLEY WANTS TO BELIEVE IT'S AN ACCIDENT. BUT BASED ON WHAT WE'RE BEING TOLD, WE CAN'T BELIEVE IT'S AN ACCIDENT. THERE-- THERE'S NO WAY WE CAN UNDERSTAND IT AS AN ACCIDENT

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BASED ON WHAT WE KNOW. AND WE DON'T WANNA BELIEVE THAT. BECAUSE OF HOW WE KNOW YOU. WE WANNA WORK IT OUT. WE WANT YOU TO WORK IT OUT. WE WANT YOU TO GET THIS OFF OF YOUR CHEST, TOO. SO THAT YOU DON'T HAVE THIS HAUNTIN' YOU AND YOU'RE LOOKIN' OVER YOUR SHOULDER, WONDERIN' WHEN WE'RE GONNA COME KNOCK ON YOUR DOOR AGAIN. IT – IT'S EASIER TO TALK ABOUT IT, PAUL, BELIEVE ME. A LOT EASIER. IF YOU TALK ABOUT THINGS, YOU CAN WORK THINGS OUT. IF YOU KEEP QUIET AND HIDE THINGS AND LIE ABOUT THINGS, YOU ONLY MAKE IT WORSE. AND I DON'T WANNA SEE YOU MAKE IT WORSE. I WANNA SEE YOU WORK ON IT. EVERYBODY DOES. THERE IS -- THERE'S ALWAYS AN EXPLANATION TO EVERYTHING THAT HAPPENS. EVERYTHING HAS AN ANSWER. BUT RIGHT NOW YOU'RE SITTIN' THERE THINKIN' IT'S HORRIBLE. YOU– YOU DON'T KNOW UNTIL YOU TELL US. WE CAN WORK WITH IT. WE CAN WORK WITH THE WHOLE THING. WE WANNA WORK WITH YA. I THINK YOU WANNA WORK WITH US BUT YOU'RE NOT QUITE SURE HOW TO DO IT. YOU'RE NOT QUITE SURE HOW TO TAKE THAT FIRST STEP. HOW TO GET YOUR FEET WET. YOU'RE CLOSE. I CAN TELL THAT BECAUSE YOU'RE A RESPONSIBLE PERSON. YOU'RE A PERSON THAT FEELS REAL BAD OVER THIS AND IT'S BEEN TEARING YOU UP INSIDE. AND YOU DON'T KNOW HOW TO DEAL WITH IT. AND THE WAY YOU'VE BEEN DEALIN' WITH IT IS HOLDIN' IT INSIDE 'CAUSE THERE'S NOBODY TO TELL. YOU CAN'T TELL ANYBODY. YOU GOTTA HOLD IT IN. AND THAT'S NOT THE WAY TO DEAL WITH IT. 'CAUSE YOU HOLD IT IN, IT'S GETS YOU RIGHT THERE. YOU TALK ABOUT IT, THERE'S AN EXPLANATION FOR EVERYTHING THAT HAPPENS. EVERYTHING. DON'T MAKE US THINK THE WORSE.

F WELL, THERE'S NOTHING ELSE FOR ME S—

H UH, NO.

F OKAY.

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H NO. DON'T SIT HERE AND TELL ME YOU-- YOU DON'T KNOW ANYTHING TO SAY OR ANYTHING TO DO OR WHAT TO SAY, THAT NOTHING ELSE HAPPENED. 'CAUSE WE KNOW THAT'S NOT THE CASE. I TOLD YOU, THERE'S ABSOLUTELY NO DOUBT. NONE. ZERO. THAT YOU'RE RESPONSIBLE FOR ROXY'S DISAPPEARANCE. WE KNOW THAT. NOW WE HAVE TO DEAL WITH WHAT HAPPENED, WHY IT HAPPENED, AND WHERE SHE IS.

F I HAVE NO I—

H AND, W—

F 'KAY GO—

H AND IF YOU DON'T WANNA TALK ABOUT THAT RIGHT NOW, EVENTUALLY, WE'RE GONNA FIND OUT. IT MAY NOT BE TODAY, IT MAY NOT BE TOMORROW, BUT WE'RE GONNA FIND OUT.

F YEAH, I UNDERSTAND WHAT YOU'RE SAYING.

H WE'RE GONNA FIND OUT. AND WHEN WE FIND OUT, IT'S TOO LATE FOR YOU TO TELL US 'CAUSE YOU'RE TELLIN' US THE STORY NOW. YOU'RE GIVING US ONE STORY THAT ISN'T THE TRUTH AND I CAN UNDERSTAND YOU NOT WANTIN' TO TELL US THE TRUTH. I'M WILLING TO GIVE SOMEBODY ONE CHANCE. 'CAUSE I THINK IF I WAS IN YOUR SPOT, I'D PROBABLY SIT THERE AND DO THE SAME THING YOU'VE DONE AND TELL A STORY THAT'S NOT TRUE. AND HOPE THAT I COULD GET SOMEBODY TO BELIEVE IT. 'KAY, WE DON'T BELIEVE IT, PAUL. NOW, I'M WILLING TO GIVE SOMEBODY ONE CHANCE AND TELL A STORY AGAIN. IT'S BASIC SURVIVAL. WHEN SOMEBODY'S BACKED INTO A CORNER, THEY GOTTA FIGHT. YOU'VE BEEN BACKED INTO A CORNER. YOU WERE THE LAST ONE TO SEE HER ALIVE. CAL POLY CAME TO YOU, WE CAME TO YOU, YOU HAD TO TELL A STORY. IT'S CALLED SURVIVAL. YOU WERE SCARED, YOU DIDN'T KNOW WHAT TO TELL US. SO, YOU TOLD US A STORY. WELL WE'VE GONE OUT AND SHOWN THAT THAT STORY ISN'T TRUE. OKAY? I UNDERSTAND THE LIE. I CAN BUY IT.

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INVESTIGATOR HANLEY CAN BUY IT. BUT SHAME ON YOU IF YOU LIE THE SECOND TIME 'CAUSE THERE'S NO OTHER CHANCES AFTER THAT. YOU KNOW, I THINK I CAN TALK TO A DEPUTY D-A AND EXPLAIN TO HIM WHY YOU LIED ONCE, I DON'T THINK I CAN TELL HIM WHY YOU LIED TWICE. ESPECIALLY WHEN WE'RE SITTIN' HERE TRYING TO WORK THINGS OUT. AND WE WANT TO WORK THINGS OUT WITH YOU. LOOK AT YOURSELF. YOU'RE A WRECK. YOU'RE – YOU'RE TIED UP INSIDE. YOUR STOMACH'S IN KNOTS.

F NO, I'M STARVING, THAT'S WHAT IT IS.

H WELL, YOU'RE STARVING, TOO. PROBABLY WANNA GET A HAMBURGER.

F [UNINTELLIGIBLE].

H BUT, INSIDE, YOU'RE A MESS.

F NO, I'M FINE INSIDE.

H NO, YOU'RE NOT. LOOK AT YOU. YOUR HEART'S PUMPING A MI-MILE A MINUTE. LOOK AT YOUR NECK.

F WHAT'S WRONG WITH MY NECK?

H YOU'RE-- YOU'RE A MESS.

F NO, I'M JUST WONDERING WHY THE HECK I CAN'T LEAVE. I'VE BEEN HERE FOREVER.

H NOBODY SAID YOU COULDN'T LEAVE.

F OKAY.

H WE TOLD YOU WE WANNA WORK THIS OUT.

F OKAY.

H WE WANNA GET THIS WORKED OUT TODAY.

F WELL, I HAVE NOTHING ELSE TO—

H WAIT – YES, YOU DO. YES, YOU DO, PAUL.

F O-OK-- OKAY, OKAY THEN I'M ALRIGHT TO LEAVE, YOU SAID I CAN LEAVE THEN? BECAUSE I'M – 'CAUSE I'VE BEEN HERE—

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B PAUL. PAUL, LE-LE-LET ME – LET ME JUST SAY THIS TO YOU. OKAY?

F 'KAY.

B LET-- LET ME SAY THIS. WHAT INVESTIGATOR HOBSON WAS TRYNA TO TELL-- TELL YOU IS-- IS ABSOLUTELY ONE HUNDRED PERCENT TRUE.

F YEAH. I UNDERSTAND WHAT HE'S SAYING.

B OKAY, YOU DO UNDERSTAND THAT. OKAY. WE ARE REAL CLOSE RIGHT NOW TO PUTTIN' THIS ALL TOGETHER.

F 'KAY.

B OKAY? LIKE HE SAID, IS THERE ANY DOUBT IN OUR MIND THAT YOU'RE INVOLVED? ABSOLUTELY NOT. ZERO. NONE. ZERO. OKAY? SO, IT GOES TO ONE OR TWO WAYS. EITHER SOMETHING HAPPENED AND YOU DID IT ON PURPOSE WITH PREMEDITATION AND WITH WHAT'S CALLED "MALICE OF FORETHOUGHT," OKAY?

F 'KAY.

B OR IT WAS AN ACCIDENT. SOMETHING-- WITH HER INTOXICATION THERE'S NO DOUBT IN MY MIND THAT SOMETHIN' COULD HAVE HAPPENED. OKAY? HOWEVER, THERE'S A THING CALLED, "A GUILTY MIND." OKAY? CAN WE PROVE THAT YOU LIED NOW? ABSOLUTELY. ABSOLUTELY. WE-- WE COULD LINE UP SO MANY PEOPLE. OKAY? SO, NOW WHEN WE PUT THIS ALL TOGETHER, YOU KNOW WHAT HAPPENS? EVERYTHING GOES TO THE WORST. EVEN IF YOU COME IN AND SAY, "NO, WAIT, WAIT, WAIT, WAIT. WHAT REALLY HAPPENED IS IT WAS AN ACCIDENT." [UNINTELLIGIBLE] YOU UNDERSTAND? WHAT WE'RE TRYING -- EVERYTHING WE GET ABOUT YOU AND LOOKING IN YOUR BACKGROUND, WE THOUGHT THAT YOU WERE A GOOD GUY. AND IS THIS EATING YOU UP? YEAH. ARE WE GONNA GO AWAY? NO. NOT-- NOT IN THE-- IN YOUR WILDEST DREAMS. OKAY? NOT IN YOUR WILDEST DREAMS.

F THAT'S FINE.

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H JUST SIT STILL, PAUL, YOUR DAD'S COMING DOWN HERE.

F WELL-- WELL—WELL, I THOUGHT YOU SAID I COULD LEAVE.

H NAW, YOUR DAD'S COMING DOWN HERE.

F SO, AM I ALLOWED TO LEAVE OR NOT?

H YOUR DAD'S COMING DOWN HERE TO TALK TO YOU.

F SO, YOU SAID I CAN LEAVE, RIGHT?

H [UNINTELLIGIBLE] I THINK THIS IS SOMETHING YOU NEED TO WORK OUT WITH YOUR DAD.

F OKAY, BUT I'M ALLOWED TO LEAVE THIS ROOM NOW?

H NO.

F SO, SHOULD I CALL AN ATTORNEY THEN BECAUSE [UNINTELLIGIBLE] MAKE ME STAY IN THIS ROOM OR--?

H I CAN'T TELL YOU WHAT TO DO, PAUL. ALL I – ALL I WANNA DO IS-- IS GET YOU TO TALK WITH YOUR DAD AND WORK THIS THING OUT.

F OKAY. WELL-- WELL, I'M [UNINTELLIGIBLE] GO OUTSIDE THEN. I'M GONNA BE OUTSIDE THEN.

B PAUL, YOU KNOW, I'LL TELL YOU WHAT, L-L-LET ME SAY THIS TO YOU. YOU GO OUTSIDE, THAT'S FINE.

F 'KAY.

B YOU GO TO DETROIT.

F I'M NOT GOING TO DETROIT.

B WE'LL GO TO DETROIT WITH YOU.

F OKAY.

B OKAY? SEE THE HAT? THE ORIOLES?

F UH-HUH.

B YOU'RE AT A FUCKING ORIOLES GAME, WE'RE THERE.

F OKAY.

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B 'KAY? IT DON'T HAPPEN LIKE THIS. HOWEVER, WHAT YOU'VE DONE -- I DON'T KNOW, DOES THIS BORE YOU?

F YES.

B IT-- IT DOES BORE YOU?

F YES.

B OKAY. I GUESS THE NINETEEN [19] YEAR OLD GIRL MISSING—

F YEAH, I KNOW—

B THAT'S DOESN'T [UNINTELLIGIBLE]—

F I UNDERSTAND WHAT YOU'RE SAYING—

B IT HAPPENS ALL THE TIME TO YOU, HUH?

F NO.

B NO?

F NO, IT DOESN'T.

B IT DOESN'T BUT IT STILL BORED YA?

[AUDIO ENDS 02:02:42]

[END TIME 02:03:39]

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EXHIBIT B

P. v. Ruben Flores 22CR003713
P. v. Paul Flores 22CR003712
Interview of Paul Flores 6/19/1996
BATES #92:039605
ITEM #48:02
PROP.
(SLSO EXHIBIT #

PEOPLE V. PAUL RUBEN FLORES & RUBEN RICARDO FLORES

CASE NO. 21F-02402-A, B

DA CASE NO. 079-662557 & 079-663275

ITEM 98 – INTERVIEW WITH PAUL FLORES – 6/19/96

H = DETECTIVE LARRY HOBSON, SAN LUIS OBISPO COUNTY SHERIFF'S DEPARTMENT

B = INVESTIGATOR BILL HANLEY, SAN LUIS OBISPO COUNTY DISTRICT ATTORNEY'S OFFICE

F = PAUL RUBEN FLORES, DEFENDANT

[TRANSCRIBED BY AM on 7/31/21]

[START TIME 00:00:00]

H NOW THAT YOU'VE HAD -- IT'S BEEN ALMOST A MONTH, IT'LL BE A MONTH THIS-

F YEAH-

H THIS FRIDAY. BASED ON EVERYTHING YOU KNOW AND THE PEOPLE YOU'VE TALKED TO, WHICH I'M SURE YOU'VE TALKED TO SOME PEOPLE.

F ABOUT WHAT? ABOUT THEY WERE AT THE PARTY?

H ABOUT HER. WHAT DO YOU THINK'S HAPPENED TO ROXY? WHAT'S YOUR BEST -- YOUR BEST GUESS AS TO WHAT HAPPENED TO HER?

F T-M, MY BEST GUESS IS MAYBE SHE NO– UM, BE– BE—'CAUSE HER DORM WAS BY THE PARKING LOT OVER THERE, SO THEN. I WOULD FIGURE, MY BEST GUESS, IS, UM, GUESS IS SHE WENT OFF WITH SOMEONE. I DON'T KNOW SHE DECIDED YOU KNOW.

H OKAY. UH, A STRANGER? OR WHAT?

F MIGHT-- IT COULDA BEEN JUST SOMEONE SHE KNOWS, SHE KNOWS, SOMEONE MIGHT HAVE GONE, YOU KNOW, "HEY, HEY LET'S GO TO TACO BELL OR SOMETHING."

H WHY TACO BELL?

F BECAUSE TACO BELL'S OPEN ALL NIGHT LONG.

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H OH, OKAY. AND IS THAT THE ONLY PLACE THAT'S OPEN ALL NIGHT LONG?

F SAN LUIS? YEAH, I THINK SO, PRETTY SURE.

H [UNINTELLIGIBLE] KNOW. THEY SAID YOU WALKING WITH HER. DO YOU THINK SHE COULD WALK UP TO TACO BELL OKAY?

F IS A—IS -- AS I REMEMBER -- I -- I DON'T REMEMBER HER STUMBLING OR ANYTHING. SO -- SO, I -- I'D WALK THAT FAR, IT'S LIKE I'VE WALKED ALL THE WAY UP TO LIKE THAT BROAD STREET OVER BY [UNINTELLIGIBLE] BULL BEFORE.

H WHEN YOU WERE DRUNK?

F NO, SOBER.

H SOBER. OKAY. BUT SHE WAS PRETTY DRUNK. DO YOU THINK SHE COULD WALK UP THAT FAR?

F UH, YEAH. IT'S LIKE -- IT'S LIKE I'VE -- I'VE WALKED LIKE I -- I'VE WALKED A -- A FEW MILES BEFORE.

H OKAY, LET'S -- LET'S SUPPOSE -- OKAY, THAT -- YOU'RE-- YOU'RE SAYING THAT'S YOUR BEST OPINION IF SHE'S ALIVE. RIGHT?

F YEAH.

H OKAY, LET'S SUPPOSE THAT SOMETHING BAD HAPPENED TO HER. AND SHE'S NOT ALIVE ANYMORE. WHAT WOULD BE YOUR BEST GUESS OR YOUR OPINION AS TO WHAT HAPPENED TO HER, IF SHE'S NOT ALIVE ANYMORE? WHAT DO YOU THINK HAPPENED?

F I WOULD SAY THAT LIKE SOMEONE WHO SHE HITCH LIKE WITH OR SOMETHING ABDUCTED HER OR SOMETHING, YOU KNOW?

H SOMEBODY SHE -- WHY WOULD BE HITCH-HIKING?

F WELL, WHAT I'M SAYING, YOU KNOW, PEOPLE HAVE SAID THEY SAW HER HITCH-HIKING, SO--

H OKAY, BUT THOSE PEOPLE ARE MISTAKEN. LET'S SAY SHE WAS LAST IN THE AREA OF THE DORMS THERE WHERE YOU WALKED AWAY FROM HER.

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F 'KAY.

H AND THERE'S NO WHERE TO HITCH-HIKE RIGHT IN THERE. WHAT DO YOU THINK -- IF SOMETHING BAD HAPPENED TO HER, WHAT DO YOU THINK HAPPENED TO HER FROM THAT POINT WHERE YOU LAST SAW HER?

F I DON'T KNOW.

H WELL, LET'S SAY, YOU KNOW, JUST AN OPINION. SEE, WE ASK EVERYBODY FOR THEIR OPINION BECAUSE IT HELPS US -- 'CAUSE WE SOMETIMES LOOK AT THIS AND WE DON'T SEE THE WHOLE PICTURE, SO WE ASK EVERYBODY, "HEY, WHAT DO YOU THINK HAPPENED TO HER?" AND THEY TELL US AND SOMETIMES IT'S GOOD, SOMETIMES IT'S BAD. BUT WE LIKE TO GET SOMEBODY ELSE'S OPINION AS TO WHAT THEY THINK MIGHT HAVE HAPPENED TO HER.

F I JUST THINK SHE PROBABLY TOOK OFF WITH SOMEONE.

H OKAY, LET'S -- LET'S SAY SOMETHING BAD HAPPENED TO HER, SHE DIDN'T TAKE OFF WITH ANYTHING. SOMETHING BAD HAPPENED AND SHE'S DEAD. LET'S SAY SHE"S NOT ALIVE ANYMORE.

F 'KAY.

H WHAT DO YOU THINK HAPPENED TO HER?

F SOMEONE PUT HER IN THE CAR AND TOOK HER SOMEPLACE. I DON'T KNOW.

H 'KAY. WHAT IF SOMEBODY DIDN'T HAVE A CAR TO PUT HER IN, WHAT HAPPENED TO HER?

F I HAVE NO IDEA.

H WHAT WOULD BE YOUR BEST GUESS?

F I DON'T HAVE ANY GUESS. IT'S LIKE ASK SOMEONE TO BORROW THEIR CAR SOMETHIN'.

H YOU THINK SHE -- SHE GOT PUT INTO A CAR SOMEWHERE AND TAKEN SOMEWHERE?

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F YEAH.

H THAT'D BE YOUR BEST GUESS.

F YEAH, BUT -- BUT I DON'T THINK ANYTHING HAPPENED TO HER ON CAMPUS, I THINK, YOU KNOW, SHE PROBABLY WENT—

H WHY DO YOU THINK SOMEBODY WOULD WANT TO KILL HER?

F I DON'T THINK ANYONE W-- IT'S LIKE... YOU DON'T EVEN KNOW -- YOU KNOW, IT'S LIKE PEOPLE -- IT'S LIKE I DON'T KNOW WHY PEOPLE DO DRUG BUYS EITHER. OR ANYTHING, YOU KNOW? BUT PEOPLE DO THAT—

H DRIVEBY SHOOTINGS.

F RIGHT.

H YEAH.

F YOU KNOW.

H OKAY. YOU THINK MAYBE IT COULDA BEEN AN ACCIDENT? MAYBE SOMETHING HAPPENED, SHE FELL DOWN OR SOMETHING, SOMEBODY GOT SCARED?

F I GUESS. ANYTHING'S POSSIBLE, YEAH.

H WELL, NO, THAT'S WHY I'M ASKING YOU. WHAT -- WHAT'S YOUR OPIN-- WE'RE PICKING YOUR HEAD, YOU KNOW, TRYING TO GET SOME IDEAS FROM YOU THAT [UNINTELLIGIBLE]—

F I HAVE -- I HAVE NO IDEA. IT'S LIKE--.

H LET ME ASK YOU THIS, PAUL. AND I THINK WE ASKED YOU ONCE BEFORE. LET'S SUPPOSE -- NOW I'M NOT SAYING THAT THIS HAPPENED.

F YEAH.

H LET'S JUST SUPPOSE THAT, YOU KNOW, AFTER CHERYL LEFT, YOU KNOW, ROXY KINDA CAME ONTO YOU A LITTLE BIT AND YOU CAME ONTO HER A LITTLE BIT. YOU'RE A RED-BLOODED AMERICAN BOY LIKE ANY OF US WOULD BE AND, UH, YOU KNOW, YOU GOT -- PLAYED A LITTLE KISSEY FACE, A LITTLE TOUCHY POO, THIS KIND OF STUFF. YOU KNOW, IF -- IF YOU DID

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THAT WOULD YOU TELL US ABOUT IT AND NOT BE AFRAID TO TELL US 'CAUSE IT'S VERY IMPORTANT YOU TELL US EVERYTHING. 'CAUSE REMEMBER, WE'VE TALKED TO A WHOLE LOT OF PEOPLE. AND THEY TOLD US SOME THINGS AND WE TRIED TO FIT ALL THESE PIECES TOGETHER. NOW IF – IF SOMETHING LIKE THAT HAPPENED IT DOESN'T MEAN ANYTHING BAD—

F YEAH—

H BUT IT'S VERY IMPORTANT TO THIS TOTAL PICTURE THAT IF – IF YOU DID DO, YOU KNOW, KISSED HER A LITTLE BIT OR TOUCHED HER A LITTLE BIT, WHICH THERE'S NOTHING WRONG WITH IT BUT IF YOU DID, IT'S REALLY IMPORTANT THAT YOU TELL US SO THAT WE CAN FIT ALL THESE PIECES TOGETHER BASED ON WHAT EVERYBODY'S TELLING US AROUND HERE. AND I COULD SEE SOMEBODY, YOU KNOW, KISSIN' HER OR – OR YOU KNOW, ESPECIALLY WHEN SHE COMES ONTO HIM AND THEN BEING AFRAID TO SAY ANYTHING 'CAUSE NOW SHE'S MISSIN' AND THAT PERSON MIGHT THINK, "OH, GOD, I'M A SUSPECT." BUT, YOU KNOW, WE WOULDN'T THINK—

F YEAH—

H BUT WE – WE NEED TO HAVE THE WHOLE PICTURE—

F YEAH, UM, IT WOULDN'T – IT WOULDN'T REALLY BE A BIG DEAL YA KNOW ME KISS ON – BECAUSE I'VE BEEN PARTYING AND I'VE KISSED SOMEONE BEFORE.

H WELL, NO IT'S NO BIG –

F SO, YEAH—

H DEAL AT ALL. BUT – BUT THAT'S WHY IT'S IMPORTANT THAT IF– IF YOU DID KISS HER OR SHE KISSED YOU OR YOU GUYS KIND OF PLAYED KISSEY FACE, STEPPED IN A LITTLE ALCOVE OR SOMEWHERE RIGHT THERE BEFORE YOU WALKED BACK TO YOUR DORM –SO YOU HAVE TO REMEMBER, WE TALKED TO A WHOLE LOT OF PEOPLE AND THEY TELL US

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THINGS AND THEN WE TRY TO MAKE THIS BIG PUZZLE FIT. AND IF WE DON'T HAVE ALL THE PIECES, THEN WE HAVE TO LOOK AT IT DIFFERENTLY.

F YEAH.

H SO, DID -- DID SOMETHING LIKE THAT HAPPEN?

F NO—

H YOU KNOW, BASED ON HER BEING A LITTLE, UH—

F UH-HUH—

H LITTLE LOOSE OR ANYTHING?

F NO.

H NEVER KISSED HER OR ANYTHING?

F NEVER. NO.

H DID YOU WANNA KISS HER?

F NO, I -- I – I – I DIDN'T FEEL -- I DON'T REMEMBER FEELING ANY ATTRACTION TOWARDS HER, SO—

H OKAY. ALRIGHT. WELL, LE– LET'S GO BACK TO THE PARTY FOR A SECOND. IF SOMEBODY AT THE PARTY, NOT JUST SOMEBODY, MAYBE HOW MANY? FOUR OR FIVE PEOPLE? FOUR OR FIVE PEOPLE TOLD US THAT THEY SAW YOU TRYING TO KISS HER AT THE PARTY. IN FACT, IT WAS IN THE HALLWAY AT THE PARTY AND, UH, YOU WERE TRYING TO KISS HER. IN FACT, SHE -- I THINK SHE FELL DOWN ON THE GROUND AND YOU WERE, KIND OF LAYING DOWN NEXT TO HER, TRYING TO KISS HER OR SOMETHING. WHAT– CAN YOU REMEMBER WHAT HAPPENED WITH THAT?

F NEVER EVEN -- I DON'T REMEMBER DOING ANYTHING LIKE THAT. UH-UH.

H OKAY.

F AND I MEAN THIS ISN'T W– WHERE SOME JUST ONE PERSON TOLD US -- SEVERAL PEOPLE SAW THIS. SO, WE'RE -- I WAS WONDERING WHAT HAPPENED AS FAR AS YOU AND ROXY WERE CONCERNED THERE. WAS SHE KIND OF PULLING YOU DOWN ON THE GROUND OR--?

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F I DON'T EVEN REMEMBER DOING ANYTHING LIKE THAT.

H NOTHIN'?

F NUH-UH.

H NOTHIN' LIKE THAT HAPPENED?

F NOTHING.

H WHY DO YOU THINK THESE FOUR OR FIVE PEOPLE WOULD TELL US THAT?

F IT'S POSSIBLE THEY THOUGHT I WAS SOMEONE ELSE.

H WELL, THAT'S WHAT WE THOUGHT. THAT'S WHY WE SHOWED YOUR PICTURE. AND, UH, THEY PICKED YOU OUT OF THE PICTURE. 'CAUSE WE GOT SHE WAS KISSIN' ON A LOT OF GUYS THAT NIGHT. YOU KNOW, THERE WAS OTHER—

F I NEVER KISSED HER THOUGH.

H HUH. SO, FOUR OR FIVE PEOPLE WERE ALL WRONG WHEN THEY SAID THAT?

F I NEVER—

H IS IT POSSIBLE IT COULDA HAPPENED?

F UNLESS I HAD A BLACKOUT, I GUESS THAT'S—

H YOU DON'T REMEMBER ANYTHING? IS IT EVEN FUZZY?

F NUH-UH. NOTHIN'.

H HUH.

F 'CAUSE I'VE EVEN HEARD ABOUT IT.

H HM. YEAH, THAT-- THAT PART JUST CONFUSES A LITTLE BIT.

F UM, IT – IT HAD ANOTHER GIRL THERE I KISSED THOUGH.

H OH, YOU DID?

F YEAH.

H WHO'D YOU KISS?

F IT WAS JUST, UM, I – I DON'T EVEN -- I FORGET WHAT HER NAME WAS. I DON'T EVEN—

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H I THOUGHT YOU JUST TOLD ME YOU DON'T GO UP TO STRANGE GIRLS AND KISS 'EM?

F WHAT?

H I THOUGHT YOU JUST TOLD ME YOU DON'T GO UP TO STRANGE –

F NA – NO – NO, NO, IT WAS LIKE THE GIRL I WAS TALKIN' TO FOR A COUPLE OF HOURS AND THEN I JUST GAVE HER LIKE A LITTLE QUICK KISS.

H WHEN WAS – WHEN WAS THE LAST TIME YOU HAD A GIRLFRIEND?

F SIXTH [6TH] GRADE.

H [UNINTELLIGIBLE] WHEN WAS THE LAST TIME YOU HAD SEX? EXCUSE ME FOR ASKING PERSONAL QUESTIONS, BUT I ASK HIM EVERY DAY, TOO. BUT WHEN WAS THE LAST TIME YOU HAD SOME SEX?

F I THINK IN, UH, DURING CHRISTMAS TIME.

H CHRISTMAS?

F YEAH, AROUND THERE.

H UH—

F DURING CHRISTMAS [UNINTELLIGIBLE].

H GIRL YOU MET AT A PARTY OR—

F UH, NO, IT WAS A GIRL I KNOW.

H GIRL YOU KNOW?

F YEAH.

H HAD INTERCOURSE WITH HER?

F YEAH.

H OKAY. DO YOU EVER GET A BLOW-JOB FROM ANYBODY?

F NO.

H A GIRL. NO GIRL'S EVEN GIVEN YOU A BLOW-JOB?

F NOPE.

H NEVER?

F NEVER.

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H HOW MANY TIMES HAVE YOU HAD SEXUAL INTERCOURSE?

F FOUR [UNINTELLIGIBLE]—

H FOUR TIMES. OKAY. WELL, WHO'S THIS GIRL YOU HAD SEX WITH?

F I – I DON'T WANNA SAY ANYONE'S NAME. SO, IT– IT– IT– IT– IT– IT– IT WAS SOMEONE I WENT TO SCHOOL WITH SO.

H OKAY.

F SO, IT'S NOT FROM –

H YOU DON'T WANNA TELL US WHO?

F RIGHT.

H I MEAN, SHE'S NOT IN TROUBLE.

F I KNOW. I KNOW. BUT, BUT, BUT PERSONAL THINGS ARE LEFT BEING PERSONAL.

H OH, OKAY, I CAN UNDERSTAND THAT. THAT'S NO PROBLEM.

F OKAY.

H I CAN RESPECT THAT.

F RIGHT.

H YOU DON'T WANT TO GIVE SOMEBODY UP THAT'S –

F RIGHT—

H NOT THE MANLY THING TO DO.

F RIGHT.

H NOT THE MANLY THING TO DO.

B PAUL, LET ME – LET ME ASK – WHEN YOU AND ROXY AFTER CHERYL LEAVES YOU TWO, OKAY? YOU AND ROXY HAVE THAT SAY THIRTY YARD WALK BEFORE SHE GOES TO HER—

F YEAH—

B PATH, OKAY.

F ALRIGHT.

B WHAT DO YOU GUYS TALK ABOUT THEN?

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F I DON'T REMEMBER TALKING ABOUT ANYTHING THAT WHOLE TIME?

B WHEN YOU-- WHEN YOU SAY YOU DON'T REMEMBER, DOES THAT MEAN YOU DIDN'T TALK ABOUT ANYTHING OR YOU DON'T REMEMBER IT?

F I DON'T REMEMBER TALKING. AND—

B DO—

F AND—

B DO YOU REMEMBER WALKING?

F YEAH, I REME –

B OKAY—

F I WALKED, YEAH.

B OKAY. NO I MEAN, YOU REMEMBER PHYSICALLY WALKING WITH HER?

F IT'S LIKE I REMEMBER, YOU KNOW, JUST – JUST I RE – YEAH, I GUESS, YOU KNOW, JUST WALKING. IT'S LIKE, I DON'T --I DON'T REMEMBER LIKE EVERY SECOND OF THE WALK OR ANYTHING.

B OKAY.

F YOU KNOW, I CAN'T PLAY IT BACK LIKE IT WAS A MOVIE OR ANYTHING.

B OKAY. I MEAN, WAS SHE -- WAS SHE HANGING ON YOU THEN?

F I DON'T REMEMBER-- I -- I -- I -- I REMEMBER HER JUST WALKING AND I WAS WALKING RIGHT NEXT TO HER.

B OKAY. AND YOU GUYS DIDN'T TALK AT ALL?

F I – I – I DON'T REMEMBER TALKING AT ALL. NO.

B OKAY.

F IT'S POSSIBLE I MIGHTA TALKED BUT NOTHING THAT I CAN REMEMBER ANYTHING ABOUT.

B YOU REMEMBER ANYTHING SHE SAID TO YOU?

F NUH-UH.

B "GOD, I'M DRUNK," OR "I LIKE YOU." "I HATE YOU."

F NO.

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B ANYTHING LIKE THAT?

F NUH-UH.

B SO, YOU GUYS HAVE NO CONVERSATION.

F YEAH. AND THE ONLY TIME-- THE ONLY CONVERSATION I CAN REMEMBER, UH, I WAS TALK-- I TALKED TO CHERYL, I DON'T REMEMBER IF IT'S ON THE WALK OR-- OR IT WAS AT THE PARTY, I DON'T REMEMBER, WE -- I LIKE TALKED A SECOND ABOUT THE -- 'BOUT THE CLASS WE HAD TOGETHER, YOU KNOW. YOU KNOW, WE GO, "OH, HOW'D YOU DO," OR WHATEVER KINDA LIKE--

B M'KAY. AND WHAT'D SHE SAY? FINE OR--?

F YEAH. SHE SAID SHE GOT LIKE A B IN IT OR SOMETHING, I THINK.

B WELL, WHEN YOU GOT TO THE CORNER WITH CHERYL, THOUGH, YOU ASKED HER FOR A HUG THOUGH, DIDN'T YOU? GOOD-NIGHT HUG?

F NOT THAT I REMEMBER, NO.

B YOU DIDN'T ASK HER FOR A GOOD-NIGHT KISS? I'M NOT SAYING YOU WERE—

F NUH-UH—

B YOU WERE ALL OVER HER, I'M JUST -- I'M JUST SAYING THAT YOU ASKED HER FOR A HUG. WHICH ISN'T INAPPROPRIATE OR—

F YEAH—

B OR WRONG OR ANYTHING—

F [UNINTELLIGIBLE] THERE ISN'T ANYTHING WRONG WITH ASKING SOMEONE FOR A HUG—

B THAT'S –

F YEAH.

B YOU KNOW -- AND YOU KNOW, WHAT IT TELLS ME ALSO? YOU ASKED.

H WHICH IS THE GENTLEMANLY THING TO DO.

B RIGHT. YEAH, YOU ASKED. YOU DIDN'T DO IT, YOU ASKED.

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F YEAH. BUT-- BUT – BUT I'M JUST SAYING I DON'T EVEN REMEMBER DOING ANYTHING LIKE THAT [UNINTELLIGIBLE].

B DO YOU REMEMBER SPLITTING UP WITH CHERYL?

F IT'S LIKE, N-- N-- NOT EXACTLY, I'M NOT QUITE SURE IF SHE WANT – 'CAUSE THERE'S LIKE THESE STAIRS, THEY GO AROUND THE CORNER LIKE OVER BY THERE AND THEN THERE'S LIKE THE SIDEWALK THAT KINDA – THAT GOES LIKE – 'CAUSE BOTH PARTS GO LIKE– 'CAUSE IT'S LIKE THE CORNER AND THEN ONE OF 'EM GOES LIKE THAT. I DON'T REMEMBER WHERE SHE STARTED WALKING FROM SO.

B OKAY. SO, THEN YOU WALKED ROXY UP TO WHERE?

F UP TO, UM, BECAUSE – WELL, THAT'S THE DRIVEWAY. HE – YOU GUYS [UNINTELLIGIBLE] OVER THERE AND JUST LIKE I REMEMBER I – I WALKED WITH HER TO WHERE THE DRIVEWAY WAS AND THEN I WENT UP TO MY DORM BECAUSE THE WALKWAY GOES THAT WAY TOWARDS MY DORM AND THEN SHE STARTED WALKING THAT WAY.

B OKAY. MAYBE THIS IS WHERE LARRY AND I ARE GETTIN' CONFUSED. UM, IF WE HAVE SOMEBODY WHO WASN'T AT THE PARTY, WHO DIDN'T KNOW YOU, DIDN'T KNOW ROXY BUT HAPPENED TO BE IN THAT AREA, AND THEY CONTACT US, AND YOU WERE IN A BALTIMORE ORIOLES CAP THAT NIGHT, WEREN'T YOU?

F I DON'T KNOW. I HAVE NO IDEA.

B YOU DON'T KNOW WHAT YOU WERE WEARING THAT NIGHT? M'KAY.

F UH-UH.

B SOMEBODY WHO DIDN'T KNOW ANYTHING ABOUT THIS CASE BUT CAME FORWARD AFTER THE PUBLICITY.

F 'KAY.

B AND SAID THAT SHE SAW A GUY FITTING YOUR DESCRIPTION WITH A BALTIMORE ORIOLES CAP, DOESN'T KNOW YOUR NAME, DOESN'T KNOW

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YOU FROM ADAM. AND A GIRL THAT WAS TALLER THAN HIM WALKING UP THAT WAY TOGETHER. WOULD THAT BE ACCURATE? OR WOULD THAT – THAT BE FALSE?

F [UNINTELLIGIBLE] WALKING WHERE?

B UP TOWARDS, UM –

H PAST WHERE YOU LAST SAW HER.

F PAST WHERE YOU LAST SAW HER. EXACTLY.

F NUH-UH. I DIDN'T SEE HER AFTER THAT.

B OKAY. NO, I MEAN, DID YOU TAKE A TURN WITH HER GOING UP HER WALKWAY?

F NUH-UH. NOPE.

H OKAY, DO YOU KNOW WHAT A PHOTO LINE-UP IS, PAUL?

F YEAH.

H YOU KNOW WHERE YOU—

F UH-HUH—

H GET A – GET A PICTURE AND YOU PUT S – FIVE OTHER PICTURES IN THERE?

F YEAH.

H AND THEN SOMEBODY LOOKS AT IT.

F RIGHT.

H WHAT IF WE DID A PHOTO LINE-UP AND SOMEBODY PICKED YOUR PICTURE OUT OF SIX AND SAID THEY SAW YOU WITH ROXY AT A LOCATION OTHER THAN WHERE YOU SAID YOU WERE AT? OTHER WORDS YOU TOLD US YOU LAST SAW ROXY GOING UP HER WALKWAY AND YOU WERE COMING THIS WAY. WHAT IF SOMEBODY SAW THE TWO OF YOU TOGETHER SOMEWHERE OTHER THAN RIGHT THERE?

F WHO– WELL, THEY PROBABLY SAW US BEFORE.

H NO. NO, THEY DIDN'T. THEY WEREN'T AT THE PARTY. THEY JUST SAW YOU – AND – AND WE CAN'T GIVE YOU ALL THE INFORMATION THAT WE HAVE

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BECAUSE IT'S KIND OF CONFIDENTIAL BUT THEY SAW YOU AT A LOCATION OTHER THAN WHAT YOU TOLD US ABOUT. NOW, IS THERE SOMETHING YOU HAVEN'T TOLD US? SOMETHING YOU LEFT OUT?

F NUH-UH.

H WHY WOULD THEY SAY THEY SAW YOU SOMEPLACE OTHER THAN RIGHT THERE?

F I HAVE NO IDEA.

H AND THEY PICK YOUR PICTURE OUT AND THEY PICK ROXY OUT. ST – OUT OF THE LINE-UP.

F I HAVE NO IDEA.

H SEE, THAT'S WHY WE'RE GETTING-- GETTING KIND OF CONFUSED. 'KAY NOW I'LL TELL –

F THAT -- THAT'S THE LAST TIME I – I – SHE WALKED THAT WAY, I WALKED TO MY DORM.

B 'KAY, PAUL, DO YOU KNOW WHAT -- AND LIKE INVESTIGATOR HOBSON SAID EARLIER, I DON'T WANT YOU TO THINK THAT WE'RE PINNIN' ON YOU AS THE SUSPECT.

F UH-HUH.

B BUT SOME OF THE THINGS YOU'RE TELLING US AREN'T ADDING UP. AND I'M – I'LL TELL YOU WHY I THINK—

F OKAY—

B I THINK YOU DON'T WANNA TELL US EVERYTHING 'CAUSE IT -- YOU – IT'S GONNA MAKE YOU LIKE A SUSPECT. BUT IT'S JUST THE OPPOSITE. SEE, WE JUST DIDN'T PICK YOUR NAME OUT OF A HAT AND SAY, "OKAY, LET'S GO TALK TO PAUL TODAY."

F RIGHT.

B AFTER WE GET ALL THIS INFORMATION, NOW WE'RE NOT LOOKING AT YOU AS A SUSPECT, WE'RE SAYING, "OKAY, SOME OF THE THINGS HE TOLD US

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ISN'T ADDING UP." I THINK I KNOW THE REASON WHY. PERSONALLY. BECAUSE IF YOU TELL US EVERYTHING, IT'S GONNA MAKE YOU LOOK LIKE A SUSPECT. AND THAT'S NOT THE WAY WE'VE LOOKED AT IT.

F MM-HM.

B WHAT WE'RE – YOU UNDERSTAND WHERE I'M –

F YEAH—

B WHERE I'M COMING FROM? OKAY.

F RIGHT.

B UM, WHAT-- WHAT WE NEED FROM YOU IS JUST YOUR COMPLETE HONESTY. AND IF IT MAKES YOU LOOK LIKE A SUSPECT, IT DOESN'T.

F MM-HM.

B ALL YOU NEED TO DO IS EXPLAIN IT TO US WHAT HAPPENED. BECAUSE SOME OF THE STUFF YOU'RE TRYING TO MAKE IT SOUND LIKE, "OH, JEEZ, YOU KNOW I DIDN'T DO ANYTHING AND I -- I JUST WALKED HER HOME AND I DIDN'T DO ANYTHING ELSE AND I DIDN'T EVEN SEE HER GO UP THE DRIVEWAY AND KISS HER GOOD- NIGHT, DIDN'T DO ANYTHING LIKE THAT." AND WE KNOW SOME OF THAT ISN'T TRUE. OKAY? BUT—

F OKAY—

B BUT, LISTEN TO ME.

F ALRIGHT.

B OKAY. OKAY. WE ALSO BELIEVE THAT THE REASON YOU'RE NOT TELLING US SOME OF THAT I—IS FOR THAT VERY REASON. AM I PRETTY ACCURATE ON THAT?

F NO, IT'S LIKE I'M -- I'M JUST SAYING EVERYTHING I REMEMBER. THAT'S ALL.

H FOR INSTANCE PAUL, WHEN WE TALKED TO A COUPLE OF GUYS AT THE PARTY THAT WAS KISSING HER AND DOING THINGS WITH HER SEXUALLY THAT DIDN'T WANT TO TELL US ABOUT IT BECAUSE THEY FOUND OUT SHE WAS MISSIN' AND THEY SAID, "OH, GOD, IF WE TELL THESE GUYS THAT WE

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WERE KISSIN' HER AND TOUCHIN' HER AT THE PARTY, THESE TWO GUYS ARE GONNA THINK I'M A SUSPECT." SO—

F MM-HM—

H INITIALLY WHEN WE TALKED TO THESE GUYS, THEY LEFT ALL THAT STUFF OUT. THEY DIDN'T TELL US WHAT THEY'D BEEN DOIN' WITH HER.

F YEAH.

H SO, THEN WE FOUND OUT THROUGH OTHER PEOPLE THAT THEY WERE, SO R– NATURALLY WE GO BACK TO 'EM NOW AND BECAUSE THEY'RE NOT TELLIN' US THE WHOLE TRUTH, WE START GETTIN' A LITTLE SUSPICIOUS. SO, FINALLY – FINALLY THEY SIT DOWN AND ADMIT, "OKAY, THIS IS WHAT HAPPENED." THEN THEY TELL US, "YEAH, I WAS KISSIN' HER. I TOOK HER OUT BACK AND, YOU KNOW, I WAS TOUCHIN' HER, I DID A FEW THINGS BUT THAT WAS IT." SEE?

F I DIDN'T EVEN KNOW ABOUT THAT. THE –

H NO, NO, 'CAUSE THEY WENT OUTSIDE BUT SEE BECAUSE THEY LIED TO US, IT LOOKED BAD FOR 'EM. AND THAT'S WHAT DETECTIVE HANLEY IS SAYING TO YOU. THAT IF YOU LEAVE SOMETHING OUT LIKE THESE GUYS DID THEN IT MADE US LOOK AT THEM A LITTLE HARDER, THEN ONCE THEY TOLD US THE TRUTH, WE COULD UNDERSTAND IT AND OTHER PEOPLE SAW SOME THINGS THAT CORROBORATED WHAT THEY WERE TALKIN' ABOUT SO THAT'S WHAT HE'S–

F YEAH—

H TALKING ABOUT.

F YEAH, I UNDERSTAND WHAT HE'S TALKING ABOUT, YEAH.

H IF YOU LEAVE SOMETHING OUT, THEN IT MAKES US WONDER.

F YEAH.

H YOU KNOW, WHAT – WHAT HAPPENED. SO, IT DOESN'T MAKE YOU A SUSPECT, IT JUST HELPS US—

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F YEAH—

H FILL IN THE PIECES. FOR INSTANCE, THIS PEO-- PERSON OR PERSONS, THERE WAS MORE THAN ONE, ACTUALLY, THAT SAW YOU WITH HER OTHER THAN WHERE YOU SAID YOU WERE. YOU KNOW, WHY IS THAT?

F I HAVE NO IDEA.

H THERE ISN'T ANYTHING YOU'RE LEAVING OUT?

F NOTHIN'.

H NOTHIN'?

F NOTHIN'.

H NOTHIN' AT ALL?

F NOTHIN' AT ALL.

H YOU'RE NOT LEAVIN' IT OUT JUST BECAUSE YOU'RE AFRAID WE'LL THINK YOU'RE A SUSPECT.

F THERE'S -- THERE'S NOTHIN' I REMEMBER THAT I -- YOU KNOW –

H 'KAY, SEE, THIS IS WHERE THE POLYGRAPH'S HELPFUL, PAUL. THIS IS WHERE WE COULD SIT DOWN RIGHT NOW AND HOOK YOU UP TO IT AND ASK YOU A COUPLE OF QUESTIONS, GET YOU CLEARED AND GET YOU OUTTA HERE.

F YEAH.

B SEE, THAT—THAT -- THAT'S TRUE. THAT'S ABSOLUTELY TRUE.

F YEAH.

B I MEAN, IT'S – IT'S REAL. BECAUSE BELIEVE ME, WE THINK—

F YEAH—

B WHAT YOU TELL WHAT -- WHAT YOU'RE TELLIN' US IS TRUE.

F RIGHT.

B OKAY? AND SINCE WE THINK THAT AND WHAT WE HAVE OTHER PEOPLE SAY, "WELL, JEEZ, WE SAW A GUY FITTING THIS DESCRIPTION WITH HER." WE ELIMINATE YOU, WE'VE GOTTA GO ON AND DO OTHER THINGS.

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F RIGHT.

B Y-YOU UNDERSTAND? [UNINTELLIGIBLE]—

F YEAH THAT MAKES SENSE.

B AND IT JUST -- IT JUST MAKES IT A LOT EASIER FOR US.

F YEAH.

B UM, AND IT'S NOT LONG AND—

H CAN WE – CAN WE BRING IT IN AND GET IT OVER WITH—

F NO, I HAVE TO TALK TO MY PARENTS, THAT'S WHAT I ALREADY SAID SO.

H OKAY. TALK TO YOUR PARENTS ABOUT WHAT?

F ABOUT BE -- BE – BECAUSE THEY TOLD ME NOT – NOT TO TALK TO YOU GUYS 'CAUSE LIKE SOMEONE -- SOMEONE CALLED ONE OF MY FRIEND'S HOUSE JUST TO SEE LIKE IF I WAS WITH 'EM THAT WEEKEND? AND SO—

H LET ME, UH, WE GOT ANOTHER GUY – GAL THAT'S HERE TO TAKE A POLY, LET ME GO AHEAD AND TELL HER TO GO AHEAD AND HOOK HER UP AND THEN—

B YEAH—

H PAUL DOESN'T WANNA DO IT RIGHT NOW.

B ALRIGHT.

F HOW LONG DO YOU GUYS NEED ME TO STAY HERE FOR?

B HOW LONG IS WHAT?

F HOW LONG DID YOU NEED ME TO STAY HERE FOR?

B NOT MUCH LONGER. I MEAN—

F YEAH, BECAUSE I GOT SOMEPLACE TO GO, I HAVE TO BE THERE AT FOUR [4:00].

B WHERE DO YOU GOTTA BE AT FOUR [4:00]?

F UH, I'M SUPPOSED TO HELP MY MOM WITH SOMETHING OVER THERE, SO – SO LIKE IT'S JUST DOWN THE STREET SO I'LL JUST WALK OVER THERE.

B OKAY. UM—

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F [UNINTELLIGIBLE].

B BETWEEN YOU AND I, IS THERE ANYTHING YOU'RE LEAVING OUT?

F NO.

B THINK ABOUT THE PARTY NOW.

F THERE'S NOTHING ELSE I EVEN REMEMBER OR ANYTHING. JUST—

B M'KAY, I MEAN, IF SOMEONE TOLD US THAT, UH, YOU HAD CONTACT WITH HER AT THE PARTY.

F YEAH LIKE – LIKE THEY [UNINTELLIGIBLE] WELL, WHEN SHE WALKED UP TO ME AND [UNINTELLIGIBLE].

B OTHER THAN THAT. OTHER THAN THAT.

F NO OTHER CONTACT. I THINK SH-SHE MIGHT – I THINK SHE MIGHTA SAID "HI" TO ME TWICE MAYBE.

B UH-HUH.

F BUT THAT WAS ABOUT –

B DO YOU REMEMBER RUNNING INTO HER IN THE HALL?

F NO—

B HALLWAY?

F NUH-UH. NO.

B POSITIVE ABOUT THAT?

F I DON'T REMEMBER AT ALL TALKING TO HER IN THE HALLWAY.

B LET ME ASK YOU THIS [UNINTELLIGIBLE]—

F IT'S POSSIBLE, I GUESS YOU KNOW.

B RIGHT—

F ANYTHING'S POSSIBLE, YOU – YOU KNOW, YOU COULD—

B SURE—

F YOU CAN WIND UP SAYING SOMETHING TO SOMEONE AND NOT REMEMBER IT.

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B OKAY. DO YOU -- DO YOU HAVE LITTLE SPOT-CHECKS OF THAT NIGHT WHERE YOU DON'T REMEMBER SOME THINGS AND YOU REMEMBER OTHER THINGS A LOT BETTER? 'CAUSE OF THE BOOSE OR BEER, I SHOULD SAY?

F IT'S LIKE I DON'T -- I DON'T EVEN REMEMBER WHY-- HOW I WOUND UP WALKING WITH THEM BUT—

B UH-HUH—

F LIKE--LIKE THAT, SO THEN I GUESS YOU KNOW -- I -- I -- I REMEMBER ONE GAME OF POOL. I -- I -- I -- I WAS WHOOPING THE GUY. I HAD FIVE OF MY BALLS IN AND THEN, UM, HE ONLY HIT TWO OF HIS BALLS IN, AND BOOM, I HIT IN THE EIGHT BALL.

B MM-HM.

F I LOST.

B OKAY.

F I -- I -- I REMEMBER THAT GAME GOOD.

B OKAY.

F YOU KNOW, I WAS JUST LIKE BLOWING IT THEN I REMEMBER HITTING THE EIGHT BALL, I -- I HIT MY BALL IN -- MADE MY BALL IN BUT THE WHITE BALL BOUNCED OFF THE BALL AND HIT THE EIGHT BALL IN AND I REMEMBER GOING, [UNINTELLIGIBLE].

B 'KAY, SO--SO YOU REMEMBER THAT REAL WELL.

F YEAH.

B OKAY. BUT, YOU DON'T REMEMBER EXACTLY WHO YOU TALKED TO ALL NIGHT AND STUFF? LIKE THIS FRANK, DO YOU REMEMBER—

F IT'S – IT'S – IT –

B TALKIN' TO FRANK—

F IT SOUNDS FAMILIAR THE NAME FRANK, YEAH.

B YOU REMEMBER TALKIN' TO A GIRL NAMED TINA? YOU WERE SITTIN' WITH HER ON THE COUCH.

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F I'M TRYING TO THINK OF IS THAT'S – I DON'T KNOW IF THAT'S THE GIRL THAT WAS IN MY CLASS. 'CAUSE I WAS SITTING—

B YOU ASKED HER IF SHE HAD A BOYFRIEND? WHICH IS A NORMAL QUESTION, I MEAN, TO ME.

F OH, NO, THAT WASN'T HER THEN.

B WHO WAS THAT?

F WHAT?

B THE GIRL YOU ASKED, DOES SHE HAVE A BOYFRIEND?

F OH, NO. NO, IT WASN'T, UH, THE GIRL OUT OF MY CLASS 'CAUSE I WAS – I WAS PARTNERING HER UP WITH HER BOYFRIEND.

B OH, I SEE.

F SO—

B YOU WERE PARTNERING UP WITH HER BOYFRIEND?

F YEAH.

B OKAY.

F JUST LIKE – LIKE – LIKE I WANNA PLAY LIKE A GAME AND HE WAS – BE—BE-BECAUSE YOU PLAY DOUBLES 'CAUSE IT GOES TWICE AS QUICK.

B RIGHT. YOU GET MORE PEOPLE INVOLVED.

F RIGHT.

B YOU REMEMBER SITTIN' DOWN AND TALKIN' TO A GIRL ON THE COUCH?

F I -- I REMEMBER – YEAH, I WAS – I WAS LIKE SITTING ON THE COUCH AND SO THEN I WAS JUST LIKE TALKING TO PEOPLE –

B I MEAN, DID YOU ASK – DO YOU REMEMBER ASKING A GIRL, "DOES SHE HAVE A BOYFRIEND?"

F NUH-UH. I DON'T REMEMBER. NO.

B 'KAY.

F IT'S POSSIBLE, YEAH, IT'S – IT'S HIGHLY LIKELY THAT I COULD HAVE DONE IT BUT I – I JUST DON'T REMEMBER IT.

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B OKAY.

F YOU KNOW, WE'RE TALKIN' ABOUT A MONTH AGO. I CAN'T REMEMBER EVERYTHING, I GUESS.

B OKAY. DO YOU REMEMBER HER ANSWER TO YA?

F NUH-UH. I DON'T EVEN REMEMBER ASKIN' THE QUESTION.

B YOU DON'T REMEMBER ASKING THE QUESTION?

F RIGHT.

B OKAY. ALRIGHT. IS THAT A QUESTION YOU'D ASK?

F I'VE ASKED THAT BEFORE.

B OKAY. AND WHAT IF THEY SAY, "YEAH." WHAT DO YOU USUALLY -- WHAT DO YOU SAY THEN?

F LIKE IF SHE SAID "YEAH." "OH," YOU KNOW, OR WHATEVER, YOU KNOW, JUST-- IF YOU CAN KEEP TALKIN' THERE'S NOTHIN' WRONG WITH THAT. YOU KNOW, YOU JUST—

B SURE. NO, YEAH, THERE -- THERE IS NOTHIN' WRONG WITH THAT. BUT YOU DON'T REMEMBER DOIN' THAT AT THIS PARTY?

F NO, I DON'T REMEMBER IT.

B YOU DON'T REMEMBER TA-TALKIN' TO ROXY AGAIN?

F NUH-UH.

B ALRIGHT. YOU DON'T REMEMBER HAVIN' ANY CONVERSATION WITH ROXY FROM THE TIME YOU LEFT 'TIL THE TIME YOU DROPPED HER OFF—

F NO, I DON'T REMEMBER CONVERSATION.

B NO CONVERSATION AT ALL?

F NOT THAT I REMEMBER, NO.

B DO YOU FIND THAT ODD?

F WHAT?

B THINK ABOUT IT. THAT YOU DIDN'T Y-YOU DON'T REMEMBER ANY CONVERSATION WITH—

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F WELL BE-BE-BECAUSE I TALK TO A LOT OF PEOPLE AT THE PARTY -- IT'S LIKE -- IT'S LIKE AFTERWARDS HECK, IF I REMEMBER WHO I TALKED TO, YOU KNOW, SO—

B RIGHT. BUT I -- BUT WHAT I'M SAYING, PAUL—

F BUT -- BUT THAT I REMEMBER—

B IS FROM THE TIME YOU LEFT THE PARTY WITH ROXY AND CHERYL.

F OKAY.

B M'KAY. AND CHERYL'S PROBABLY WALKIN' A LITTLE BIT IN FRONT OF YOU GUYS.

F YEAH, SHE WAS.

B OKAY.

F RIGHT.

B GOT YOU AND ROXY BEHIND 'EM, BEHIND HER, OKAY?

F 'KAY.

B YOU STOP SEVERAL TIMES, NO BIG DEAL 'CAUSE SHE'S COLD. YOU GIVE HER A QUICK HUG, NO BIG DEAL, RIGHT?

F UH-HUH.

B OR WAS IT A BIG DEAL?

F NO BIG DEAL.

B OKAY. DURING THIS WHOLE TIME, THIS -- ALMOST FIFTEEN [15] MINUTE WALK, YOU GUYS DON'T TALK ABOUT ANYTHING?

F UH, I DON'T REMEMBER TALKIN' ABOUT ANYTHING. IT'S -- IT'S POSSIBLE, YOU KNOW, JUST IT WAS SMALL TALK, YOU KNOW, BUT NOTHIN' I -- NOTHIN' I REMEMBER ANYTHING ABOUT.

B HOW DO YOU -- HOW DO YOU KNOW WHERE SHE -- LIVED AT?

F UM, BE-BECAUSE WE WERE TALKING AND WE WERE WALKING, THEN, YOU KNOW, WE SAID THE ONE GIRL, YOU KNOW, I KNEW, THE ONE GIRL LIVES OVER THERE [UNINTELLIGIBLE] OVER THERE.

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B OKAY. I-I-IT'S JUST KINDA HARD FOR ME TO -- TO FATHOM YOU GUYS WALKED FOR FIFTEEN MINUTES AND YOU DON'T TALK ABOUT ANYTHING. IT JUST -- IT JUST DOESN'T MAKE SENSE.

F WELL, IT'S -- IT'S POSSIBLE WE SMALL TALKED BUT NOT THAT I REMEMBER ANYTHING OF. YES, YOU KNOW, I DON'T REMEMBER HAVING ANY CONVERSATION BUT -- BUT I'M LIKE-LIKE—

H DO YOU REMEMBER TALKIN' TO CHERYL DURING THAT WALK?

F NO. I DON'T REMEMBER -- I DON'T REMEMBER ANY CONVERSATION, I GUESS, YOU KNOW, IT'S -- IT'S LIKE I WAS ON THE BUS, YOU KNOW, IT'S LIKE I -- I -- I REMEMBER I TALKED TO ONE GUY BUT I DON'T REMEMBER HOW MANY KINDS OF PEOPLE I TALKED TO.

H I'M TALKIN' ABOUT CHERYL AND ROXY. NOT A GUY.

F WELL -- WELL, I WAS JUST SAYING FOR LIKE TODAY IS LIKE SAY, I WAS ON THE BUS, YOU KNOW, I RE – I REMEMBER, YOU KNOW, DON'T REMEMBER ANYTHING I WAS TALKIN' ABOUT, DON'T REMEMBER HOW MANY PEOPLE.

H OKAY. CHERYL -- CHERYL'S GOT A PRETTY GOOD MEMORY.

F OKAY.

H SHE WASN'T DRINKIN'. AND ALL SHE KNOWS IS THAT SHE WAS GONNA HELP GET ROXY HOME. AND SHE STARTED TO WALK WITH ROXY AND THEN THAT'S WHEN YOU JOINED IN.

F WELL, SEE, I HAD NO IDEA WHEN I JOINED IN. YEAH, YEAH—

H [UNINTELLIGIBLE] I'M TELLIN' YA-

F I KNOW, I KNOW—

H I'M HELPIN' YA OUT HERE.

F OKAY.

H WORK WITH ME A LITTLE BIT HERE, OKAY?

F ALRIGHT.

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H ALRIGHT. SHE CONFIRMS WHAT YOU SAID, THAT SEVERAL TIMES ROXY STOPPED AND COMPLAINED OF BEING COLD.

F RIGHT.

H SHE SAID YOU WENT OVER AND YOU DIDN'T JUST RUB HER ARMS, YOU GAVE HER SOME MANLY HUGS. LIKE A MAN WOULD. LIKE ANY MAN WOULD. YOU KNOW, HERE'S A WOMAN STANDING THERE, THAT'S HALF NAKED, THE WAY SHE WAS DRESSED, YOU KNOW, A LITTLE TANK TOP, UH, HALF T-SHIRT, SKIN-TIGHT, UH, BLACK VINYL SHORTS, YOU KNOW, AND SHE'S HALF NAKED. IT'S LIKE WEARING A BATHING SUIT. ANYWAY, YOU REACH OUT AND YOU GIVE HER A GOOD, MANLY HUG LIKE BILL OR I WOULD DO. OKAY?

F MM-HM.

H AND UH, THEN YOU'D WALK A LITTLE MORE AND SHE'D COMPLAIN ABOUT BEING COLD. YOU'D STOP AND GIVE HER A HUG. EXCEPT AT ONE POINT, YOU TOLD CHERYL, "GO AHEAD, YOU CAN GO ON NOW. YOU DON'T NEED TO STAY AROUND. GO AHEAD. GO." WELL, CHERYL WAS CONCERNED. SO, SHE -- SHE SAID, "NO, I'M -- I'M GONNA HANG AROUND."

F UH-HUH.

H 'CAUSE SHE SAW HOW DRUNK ROXY WAS. SO, SHE DIDN'T WANNA JUST LEAVE THE TWO OF YOU THERE. SO, YOU STOPPED AGAIN TO HUG -- YOU GAVE HER ANOTHER MANLY HUG LIKE ANY MAN WOULD AND YOU SAID, "CHERYL, GO AHEAD, YOU CAN LEAVE." CHERYL SAID, "NO, I'M GONNA STICK AROUND." AND SO, CHERYL WAS CONCERNED THAT YOU WERE TRYING TO GET RID OF HER. AND -- AND THAT WAS HER CONCERN. THAT'S WHY WHEN YOU GOT UP TO THE PERIMETER WHERE SHE WENT OFF ON GRAND? CHERYL WANTED TO MAKE SURE THAT YOU WERE GOING TO WALK ROXY UP TO HER DOOR. HER DORM. ACTUALLY GET HER INSIDE HER DORM. BECAUSE CHERYL KNEW THAT ROXY COULDN'T MAKE IT TO HER

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DORM BY HERSELF. AND SO DID TIM, THE GUY THAT FOUND HER AT THE PARTY. SEE, WHEN TIM FOUND HER—

F WHO'S TIM?

H HE'S THE GUY THAT HAD THE PARTY. AT THE HOUSE?

F OKAY. I [UNINTELLIGIBLE].

H AND WHEN HE FOUND ROXY, SHE WAS PASSED OUT ON THE NEIGHBOR'S LAWN.

F SHE WAS PASSED OUT ON THE NEIGHBOR'S LAWN?

H JUST LAYING THERE. HALF ASLEEP. THAT'S HOW MUCH SHE HAD TO DRINK, SEE. SO, TIM-- TIM STANDS HER UP AND SAYS, "MAN, SHE CAN'T WALK HOME." AND TIM WAS GONNA WALK WITH CHERYL UNTIL YOU CAME ALONG. AND THEN YOU SAID, "HEY, I'M GOING UP THAT WAY, I'LL GO WITH HER." TIM SAID, "HEY, GREAT. 'PRECIATE IT."

F I DON'T EVEN REMEMBER THAT.

H 'KAY, BUT SEE, TIM KNOWS HOW DRUNK ROXY WAS, TOO. SO, THAT'S WHY CHERYL ASKED YOU WHEN SHE-- JUST BEFORE SHE LEFT, SHE SAYS, "ARE YOU GOING TO WALK HER TO HER DORM? MAKE SURE SHE GETS IN HER DORM." AND YOU SAID, "YES, I AM. I'M GONNA WALK HER TO HER DORM." BECAUSE CHERYL SAID SHE WOULDN'T HAVE LEFT AND GONE HOME IF SHE DIDN'T-- IF -- IF SHE THOUGHT YOU WERE JUST GONNA LET HER WALK BY HERSELF. CHERYL WOULDA GONE WITH HER. BUT SHE SAID YOU ASSURED HER, PROMISED HER THAT YOU WERE GONNA WALK ROXY TO HER DORM. MAKE SURE SHE GOT IN BECAUSE SHE WAS THAT DRUNK.

F I HAVE NO IDEA OF EVER SAYING THAT OR—

H WELL—

F EVEN THE CONVERSATION EVEN TOOK PLACE.

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H WELL, I – I KNOW IT TOOK PLACE. WE KNOW IT HAPPENED 'CAUSE CHERYL AND TIM TOLD US. SEE, WHAT WE'RE HAVING TROUBLE UNDERSTANDING IS WHY YOU'RE NOT TALKING ABOUT THIS.

F I HAVE NO IDEA IT EVEN HAPPENED.

H WELL, THAT'S – THAT'S WHAT CONCERNS US. SEE. SEE, YOU'RE – YOU'RE – YOU'RE NOT ACKNOWLEDGING ANY OF THIS EVER HAPPENED. AND YET ALL THESE OTHER PEOPLE ARE S– TELLING US IT DID HAPPEN.

F I THINK – 'CAUSE I HAD A BLACKOUT AT ABOUT THAT TIME THEN. IT'S LIKE, IT'S LIKE BUT –

H WELL—

F BUT I REMEMBER HER WALKIN' AWAY THOUGH.

H PAUL, YOU DON'T -- YOU DON'T HAVE A BLACKOUT ONE MOMENT—

F OH—

H AND THEN REMEMBER THE NEXT.

F WELL, OH I – I DON'T KNOW HOW BLACKOUTS WORK.

H OKAY, WELL, WE'VE BEEN AROUND A LONG TIME, WE'VE PROBABLY EXPERIENCED A FEW OF 'EM. WE UNDERSTAND. THEY DON'T WORK THAT WAY. BUT, ANYWAY, WELL– THIS IS WHAT CONCERNS US, SEE? THIS -- THIS IS WHY WE'RE SITTING HERE—

F YEAH—

H NOW URGING YOU—

F YEAH, IT'S A CONFLICTING—

H URGING YOU TO – DON'T LEAVE ANYTHING OUT. YOU KNOW, TELL US EVERYTHING.

F YEAH.

H EVEN THOUGH YOU FEEL THAT, "MAN, THIS SOUNDS BAD."

F UH-HUH.

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H YOU GOTTA TELL US. IF THOSE TWO GUYS THAT HAD BEEN KISSIN' ON HER, THEY HADN'T TOLD US THE TRUTH, WE'D BE OVER WORKIN' ON THEM RIGHT NOW. BUT YOU KNOW, THEY FINALLY TOLD THE TRUTH AND WE WERE ABLE TO—

F HUH—

H ESTABLISH THAT WHAT THEY TOLD US WAS THE TRUTH. AND THIS HAS HAPPENED BEFORE. BILL'S-- BILL AND I WORKED SEVERAL HOMICIDES WHERE SOMEBODY WAS AFRAID TO TELL US SOMETHING BECAUSE THEY WERE THE LAST PERSON TO SEE THIS PERSON ALIVE AND THEY -- HE ACTUALLY LIED TO US. AND THEN WHEN HE FINALLY DID TELL THE TRUTH, WE WERE ABLE TO ESTABLISH, "HEY, THAT'S WHAT REALLY DID HAPPEN. HE IS TELLIN' THE TRUTH." BUT BECAUSE HE LIED AND LEFT SOMETHINGS OUT BECAUSE HE THOUGHT IT LOOKED BAD IT MADE HIM LOOK EVEN WORSE.

F MM-HM.

H SEE THAT'S –

F YEAH, I—

H WHY WE'RE URGING YOU—

F YEAH, I UNDERSTAND WHAT YOU'RE SAYING.

H WE'RE URGING YOU, DON'T LEAVE THINGS OUT. EVEN—

F YEAH, I UNDERSTAND WHAT YOU'RE SAYING—

H EVEN THOUGH YOU THINK IT MIGHT SOUND BAD OR LOOK BAD, LET US SORT THROUGH IT SO WE CAN FIGURE IT OUT.

F YEAH.

H YOU KNOW? THAT'S WHY WE KEEP GOING BACK TO THESE PEOPLE THAT HAVE SAW YOU AND HER AT A DIFFERENT LOCATION. WE KNOW YOU WERE SOMEWHERE ELSE WITH HER. WE KNOW THAT THAT WASN'T THE LAST PLACE YOU SAW HER.

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F THAT'S LAST PLACE I SAW HER.

H WELL, NO, WE KNOW THAT'S NOT TRUE. SEE. AND THAT'S WHY WE"RE TRYING TO FIND OUT WHY YOU DON'T WANT TO TELL US ABOUT WHATEVER ELSE HAPPENED.

F I'M J-J-J-JUST FOR MY CURIOSITY, WHERE ELSE WAS I SEEN AT THEN? I'M JUST CURIOUS.

H WELL, WE CAN'T GO INTO A LOT OF THAT BECAUSE OF -- REMEMBER I TOLD YOU IT'S A BIG PUZZLE?

F YEAH.

H AND WE HAVE TO KIND OF FIT THESE PIECES TOGETHER.

F RIGHT.

H IF WE – IF WE TELL YOU WHAT WE KNOW, THEN IT'S LIKE CHEATIN' AT CHECKERS.

F OH.

H WE DON'T WANNA CHEAT AT CHECKERS.

F ALRIGHT.

H WE WANNA BE ABLE TO PUT IT TOGETHER SO WE CAN CORROBORATE THOSE THINGS.

F OKAY.

H SEE. YOU KNOW WHERE YOU WERE. AND THEN ONCE –

F THAT'S – THAT'S THE LAST PLACE. I'M -- I'M -- I'M – I WAS JUST CURIOUS WHERE PEOPLE [UNINTELLIGIBLE] OKAY—

H ONCE YOU TELL US WHERE YOU WERE – ONCE YOU REMEMBER WHERE YOU WERE.

F MM-HM.

H THEN WE'RE ABLE TO ESTABLISH THOSE PEOPLE THEN SAW WHAT THEY DID, WE CAN GO ON TO SOMETHING ELSE. BUT THAT -- THAT'S WHY I'M JUST SAYING, YOU KNOW, DON'T HOLD ANYTHING BACK.

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F YEAH. I UNDERSTAND WHAT YOU'RE SAYING.

H JUST -- JUST BECAUSE YOU THINK IT MIGHT LOOK BAD.

F UH-HUH.

H NOW, ONE THING -- ONE THING THAT REALLY DOES LOOK BAD AND I DON'T KNOW IF YOU WANNA DISCUSS THIS NOW, BUT WE MIGHT AS WELL. UH, THAT WE -- WE NEED TO REALLY GET CLEA-- CLEARED UP IS LAST TIME WE TALKED TO YOU, YOU HAD A BLACK EYE.

F YEAH.

H REMEMBER THAT?

F YEAH.

H 'KAY. AND WHAT DID YOU TELL US?

F I TOLD YOU I GOT IT PLAYING BASKETBALL.

H THAT'S RIGHT. AND WHERE DID YOU GET IT?

F IN MY CAR.

H WHAT CAR?

F MY RANGER. AT HOME.

H THE RANGER? AND WHEN DID IT HAPPEN?

F ON, UH, ON -- ON MEMORIAL DAY? OR -- OR LABOR DAY, WHATEVER IT WAS.

H MONDAY?

F YEAH. HAPPENED ABOUT TWO [2:00] O'CLOCK IN THE MORNING OR SOMETHING.

H TW-- WHY TWO IN THE MORNING?

F 'CAUSE I WAS, UM, UNINSTALLING MY RADIO, 'CAUSE I'M SELLING MY TRUCK.

H MM-HM. AND WHERE WERE YOU WORKIN' ON YOUR CAR AT?

F IN MY GARAGE.

H IN THE GARAGE? AND HOW DID YOU GET THE BLACK EYE?

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F I HIT THE STEERING WHEEL. THAT'S ABOUT IT. BUT -- BUT LIKE HOW OFTEN DO PEOPLE HIT THEIR EYE ON THE STEERING WHEEL? SO—

H I DON'T KNOW.

F SEE. IT-- IT WAS LIKE RIGHT HERE SO THEN I – WENT LIKE THAT, POPPED UP AND—

H OKAY. LET ME ASK YOU THIS.

F WHAT?

H WHAT—

F OH.

H LISTEN TO ME. WHY DIDN'T YOU TELL US THAT?

F BE-- BECAUSE IT DOESN'T SOUND LIKE A VERY LIKELY THING.

H THAT'S EXACTLY MY POINT. YOU SEE MY POINT NOW WHAT I'M GETTIN' ABOUT ON ALL THIS OTHER STUFF THAT HAPPENED? WHEN YOU TELL US SOMETHING LIKE THAT AND IT DOESN'T MAKE SENSE, SEE HOW BAD IT LOOKS?

F YEAH. B-- BUT THAT WAS DAYS LATER ANYWAY, SO—

H WELL, NO. WH-- WHY WAS IT SO HARD FOR YOU TO TELL US THAT YOU GOT THAT BLACK EYE HITTIN' THE STEERING WHEEL?

F IT DIDN'T REALLY MATTER.

H WHAT DO YOU MEAN, IT DIDN'T MATTER?

F IT WAS DAYS LATER, SO—SO WHY WOULD IT—

H I MEAN IF IT DIDN'T MATTER THEN WHY DID YOU LIE ABOUT IT?

F WELL -- WELL, IT DID -- DOESN'T MATTER IF I LEAVE OUT LITTLE DETAILS. DOESN'T—I-I -- WHY DOES IT MATTER WHO I WAS EVEN WITH THAT DAY THOUGH? I MEAN, LIKE – LIKE THE LABOR DAY WEEKEND OR MEMORIAL DAY WEEKEND. SEE, I DON'T EVEN FIGURE THAT OUT.

H WHY DOES IT MATTER?

F YEAH.

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H BECAUSE THAT'S HOW WE FOUND OUT YOU DIDN'T GET THE BLACK EYE PLAYING BASKETBALL.

F BUT I DIDN'T THINK THAT WAS GONNA BE A BIG DEAL SO—

H BUT WHY WOULD YOU LIE ABOUT THAT? SO, YOU GOT IT ON TWO [2:00] O'CLOCK IN THE MORNING—

F YEAH—

H ON A SUNDAY?

F RIGHT.

H TAKIN'—

F W-W-- IT WAS ACTUALLY A MONDAY THEN.

H MONDAY MORNING.

F AND -- AND I WOKE UP IN THE MORNING -- IT'S LIKE -- IT'S LIKE I DIDN'T THINK I HIT IT VERY HARD BUT THEN I WOKE UP IN THE MORNING WITH IT.

H WHAT WERE YOU DOIN' AT THE TWO [2:00] O'CLOCK IN THE MORNING IN YOUR GARAGE?

F I WAS UNINSTALLING MY RADIO. IT'S -- IT'S -- IT'S LIKE I THOUGHT IT WAS ONLY GONNA TAKE ABOUT – 'BOUT HALF AN HOUR OR SOMETHING BUT, UM, BUT THE WAY I INSTALLED IT, I HAD TO TAKE OUT MY SEATS, I HAD TO PULL UP MY CARPET, I HAD TO PULL-- PULL APART MY DASH

H MM-HM.

F THEN I HAD TO PULL OFF MY DOOR PANELS.

H MM-HM.

F AND -- AND I HAD TO PULL OFF THE THING, UM, IN THE BACK BEHIND MY SEATS.

H MM-HM.

F AND I FIGURED – WELL, I -- I FIGURED, YOU KNOW, I WAS JUST GONNA DO SOME SCREWS DO IT LIKE THIS BUT IT TOOK A LOT LONGER THAN THAT.

H SO WHAT TIME DID YOU START WORKIN' ON IT?

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F I DIDN'T START 'TIL LIKE ELEVEN [11:00] O'CLOCK OR SOMETHING. TEN [10:00] O'CLOCK, SOMETHING. SO LIKE I STARTED LATE ON IT, SO IT JUST TOOK ME A LONG TIME.

H SO, EXPLAIN TO ME EXACTLY HOW YOU HIT YOUR EYE THAT GOT THAT BLACK EYE.

F IT -- IT -- IT'S LIKE I WAS JUST LIKE WORKING -- IT'S LIKE I -- I HAD LIKE THE SEATS OUT -- IT'S LIKE I WAS GRABBING THE WIRES AND I REMEMBER I JUST LIKE POPPED UP -- I DON'T REMEMBER EXACTLY.

H WHICH EYE DID YA HIT?

F I THINK IT WAS THIS ONE. EXCEPT I DON'T REMEMBER. LIKE AND THIS ONE.

H SHOW ME HOW YOU HIT IT WHILE YOU WERE PULLING THE WIRES OUT.

F IT'S -- IT'S -- IF I JUST CAME UP AND JUST HIT IT LIKE RIGHT HERE. AND THEN IT WASN'T ACTUALLY THE EYE, IT WAS JUST THE -- JUST LIKE RIGHT HERE.

H MM-HM. YOU MUSTA HIT IT PRETTY HARD.

F NO. DIDN'T EVEN HIT IT VERY HARD.

H WHY WOULD IT BRUISE SO BAD?

H IT DIDN'T. IT -- THE ONLY BRUISE WAS JUST LIKE A LITTLE LINE LIKE RIGHT HERE.

H IT WAS A PRETTY GOOD BRUISE.

F NO, IT REALLY WASN'T. NEVER SWELLED. NEVER WAS SORE.

H OKAY BUT WHAT DID YOU TELL US?

F IF I TOLD YOU I GOT ELBOWED PLAYING BASKETBALL.

H 'KAY. AND WHY DID YOU TELL US THAT?

F 'CAUSE I DIDN'T THINK IT WOULD MATTER.

H 'KAY, NOW HOW DO WE KNOW THAT EVERYTHING THAT YOU'VE TOLD US SO FAR, YOU DON'T REALLY THINK IT MATTERED, SO THAT'S WHY YOU'RE TELLING US SOME OF THE THINGS AND MAYBE WHAT YOU'RE TELLIN' US

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ISN'T REALLY THE TRUTH. HOW DO WE KNOW, NOW THAT YOU'VE LIED TO US?

F WELL -- WELL, BUT THAT WASN'T IMPORTANT THOUGH.

H SURE IT IS. THAT'S IMPORTANT. SURE, IT'S IMPORTANT. WHAT IF -- WHAT IF ROXY PUNCHED YOU IN THE EYE?

F YEAH.

H SEE? SEE WHY IT'S IMPORTANT? WHAT IF ROXY PUNCHED YOU IN THE EYE?

F I HAVE A BIG OL' BLACK EYE.

H WELL, NOT A BIG OL' ONE. ONE ABOUT THAT SIZE. LET ME ASK YOU THIS. ARE YOU TELLIN' US THIS IS THE TRUTH HOW YOU GOT THAT BLACK EYE?

F YUP.

H 'KAY. YOU TELLING US THE TRUTH WHEN YOU GOT THE BLACK EYE?

F YEAH. THAT WAS WHEN I GOT THE BLACK EYE.

H 'KAY. WHAT IF SOMEBODY TELLS US THAT THEY SAW YOU WITH THAT BLACK EYE SATURDAY NIGHT?

F NOPE. I DIDN'T HAVE IT SATURDAY NIGHT.

H WELL, WE'VE GOT SOMEBODY THAT'LL SAY YOU DID HAVE IT SATURDAY NIGHT.

F NO.

H YEAH, WE DO. IN FACT, YOU KNOW HIM EXTREMELY WELL.

F THE ONLY PERSON I WAS WITH WAS JAVIER THAT NIGHT.

H THINK BACK ON SATURDAY NIGHT.

F WE WENT TO THE MOVIES. SAW TWO MOVIES.

H WHO'D YOU GO WITH?

F JAVIER.

H WHO ELSE?

F ONLY ME AND HIM SAW MOVIES. MY FRIEND, MIKE DROVE ME. THEN HE JUST DROPPED US OFF 'CAUSE HIS GIRLFRIEND CAME OVER THAT NIGHT.

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H 'KAY. THEN SOMEBODY SAW YOU WITH A BLACK EYE.

F I DIDN'T HAVE A BLACK EYE.

H SATURDAY NIGHT.

F I -- THERE'S NO WAY I HAD THAT BLACK EYE.

H SATURDAY NIGHT.

F NO.

H WHY WOULD THIS PERSON LIE TO US?

F I -- I DID NOT HAVE A -- IT MIGHTA BEEN THE WEEK FOLLOWING.

H HOW COULD IT BE THE WEEK FOLLOWING WHEN WE SEE YOU?

F [UNINTELLIGIBLE]—

B NO, PAUL, PAUL, PAUL--. JUST – JUST – JUST LISTEN TO ME FOR A SEC.

H OKAY?

B RELAX. RELAX.

F OKAY.

B TAKE A DEEP BREATH. JUST – JUST – JUST LISTEN TO ME, OKAY?

H WE'RE TRYING TO HELP—

B WE'RE NOT MAKING THIS – YEAH. WE'RE NOT MAKING—

F YEAH—

B THIS STUFF UP, OKAY? IT'S -- WE SEE YOU WITH A BLACK EYE.

F YEAH.

B CAL POLY SEES YOU WITH A BLACK EYE. FRIENDS OF YOURS SEES YOU WITH A BLACK EYE. MATTER OF FACT, ONE OF YOUR FRIENDS ASKS YOU HOW IT HAPPENED. AND YOU KNOW WHAT YOU SAY TO 'EM?

F I SAY I GOT AN ELBOW PLAYIN' BASKETBALL.

B NO. NO. ABSOLUTELY NOT. UNLESS THEY'RE LYING. MAYBE THIS IS A BIG CONSPIRACY AGAINST PAUL. I DON'T THINK SO.

F AND, UH—

B YOU SAID, "I DON'T KNOW HOW I GOT IT." EXACT WORDS, "I DON'T KNOW."

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F UM, MIGHTA SAID THAT BUT I DON'T KNOW. I – I – I KNOW I DIDN'T TELL ANYONE THAT I HIT IT ON A STEERING WHEEL THOUGH.

H WHY?

F BECAUSE IT'LL MAKE ME SOUND LIKE A KLUTZ.

H OKAY. Y-Y-YOU TELL US YOU GOT IT PLAYIN' BASKETBALL. THEN YOU TELL US YOU GOT IT HITTING IT ON THE STEERING WHEEL. WHAT DO YOU TELL YOUR FRIENDS HOW YOU GOT IT?

F I TOLD SOME OF 'EM, I GUESS – I GUESS, UM, MAYBE I SAID TO SOME ONE, YOU KNOW, I WAS TELLING PEOPLE I JUST GOT IT PLAYIN' BASKETBALL.

H WHAT ELSE DID YOU SAY? YOU JUST WOKE UP WITH IT? IT JUST JUMPED OUT.

F YEAH. I -- WELL -- WELL, B-- BECAUSE I WOKE UP ON, UM--

H PAUL, WHY -- WHY DO YOU HAVE TO TELL –

F ON MONDAY—

H A LIE ABOUT SOMETHING THAT MEANS NOTHING? IT'S VERY UNIMPORTANT. WHY LIE ABOUT IT--

F E-E-WELL-- WELL, IT'S ON MONDAY, I GUESS, YOU KNOW, THAT'S -- THAT'S THE WAY I FIGURED, IT WAS [UNINTELLIGIBLE] ON THE STEERING WHEEL AND LIKE THE DAY LATER.

H CAN YOU SEE WHERE WE'RE COMING FROM NOW?

F YEAH.

H IF YOU'RE GONNA TELL US A LIE ABOUT SOMETHING THAT MEANS NOTHING, ABOUT A BLACK EYE. THEN, WHAT ELSE HAVEN'T YOU BEEN TRUTHFUL ABOUT? SEE? THAT'S OUR CONCERN.

F WELL, I - I KNOW I DID NOT HAVE IT SATURDAY NIGHT THOUGH.

H WELL WE KNOW YOU DID. OKAY?

F THAT – THAT WAS IMPOSSIBLE. MAY I ASK WHO SAID IT?

H JEREMY SAW YOUR EYE.

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F JEREMY WHO?

H YOUR FRIEND, JEREMY.

F I DIDN'T SEE HIM SATURDAY NIGHT.

H HE SAW YOU SATURDAY NIGHT.

F I WAS AT THE MOVIES.

H HE SAW YOU SATURDAY NIGHT.

F NO, HE DIDN'T. I DIDN'T SEE HIM 'TIL, UM, 'TIL MONDAY.

H HE SAW YOU.

F NUH-UH.

B WHO'D YOU GO TO THE MOVIES WITH?

F MY FRIEND, JAVIER.

B JAVIER WHAT?

F I HAVE NO IDEA.

B THAT GOOD FRIEND OF YOURS?

F YEAH. IT'S, UH, BEGINS WITH A "C".

B WHERE'S HE LIVE AT?

H RELAX, YOU'RE GONNA RIP YOUR T-SHIRT UP.

F NO, I'M JUST -- I JUST GOT AN ITCH.

H OH, ALRIGHT.

B DID HE GO TO POLY?

F YEAH. OH, W-- W-- W-- W---WHERE'S HE LIVE NOW? IT'S, UM, BAKERSFIELD. I'M TRYING TO THINK -- I'M TRYING -- 'CAUSE HE SAID HE WAS GONNA GO TO SOME JOB MAYBE. UM, I'M PRETTY SURE.

B DID HE LIVE IN YOUR DORM? IS THAT IT?

F NO, HE LIVED IN, UH, IT'S ONE OF [UNINTELLIGIBLE] UM, HE USED TO BE AN R-A THOUGH.

B HE WHAT?

H USED TO BE A WHAT?

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F HE USED TO BE AN R-A. THE –

B NO, WHAT--WHAT DORM DID HE LIVE IN?

F I DON'T KNOW WHICH -- ONE OF THE NORTH MOUNTAIN ONES. HE-- HE USED TO BE AN R-A IN MY – MY DORM. I'M TRYNA -- I WAS TRYNA TO THINK, BUT I DIDN'T KNOW [UNINTELLIGIBLE].

B HOW DID YOU MEET UP WITH JAVIER?

F WHEN?

B ON SATURDAY NIGHT.

F HOW'D I MEET UP WITH HIM? OH, WE-- WE WENT TO DINNER TOGETHER. WE ALWAYS GO TO DINNER TOGETHER [UNINTELLIGIBLE].

B WHERE DOES HE LIVE?

F WHAT DORM? OH, UM, HE – HE ALWAYS COMES TO MY DORM.

B OKAY. BUT YOU WERE HOME SATURDAY NIGHT.

F NO, I WAS HOME SUNDAY.

B WHEN DID YOUR DAD COME TO PICK YOU UP?

F SUNDAY.

B 'KAY, SO YOU AND JAVIER WENT TO THE MOVIES IN DOWNTOWN SAN LUIS?

F RIGHT.

B OKAY. THEN – YEAH WE UNDERSTAND. WHAT'D YOU GO—

F YEAH—

B SEE?

F WE WENT AND SAW MISSION IMPOSSIBLE AND THEN WE SAW TWISTER.

H SAME [UNINTELLIGIBLE]?

F WHAT?

H SAME MOVIE THEATER?

F YEAH.

B WELL, WHICH ONE WAS IT?

F THE ONE DOWNTOWN. UM, BY JUICE CLUB.

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B BY THE JUICE CLUB. OKAY. SO, YOU AND JAVIER, AND WHO ELSE?

F THAT'S IT.

B AND YOU SAID, "MIKE." WHO'S MIKE THAT – THAT DROVE YOU?

F MY FRIEND MIKE.

B OKAY. WHO'S YOUR MIKE – WHO'S YOUR FRIEND, MIKE?

F MIKE, UH, ROFAIL [UNINTELLIGIBLE].

H DOES – DOES HE GO TO CAL POLY?

F YUP.

H WHAT DORM IS HE IN?

F HE LIVED IN, UM, SANTA LUCIA. IN SECOND FLOOR.

H WHAT ROOM?

F I HAVE NO IDEA. RIGHT ACROSS FROM THE BATHROOM.

H HE JUST DROVE YOU BUT DIDN'T GO.

F RIGHT. HIS GIRLFRIEND WAS COMIN' TO VISIT HIM SO.

H WHERE'D YOU EAT DINNER AT?

F WHERE?

H YEAH.

F WE ATE AT THE -- AT THE DORMS. IT-- WE DIDN'T GO 'TIL, UM, 'TIL LIKE THE NINE-FORTY [9:40] SHOWIN' OR SOMETHING.

H LET'S GO BACK TO THE -- TO WHY YOU DIDN'T TELL US HOW YOU GOT YOUR BLACK EYE.

F I DIDN'T THINK IT WAS ANY BIG DEAL. BUT -- BUT I KNOW NO ONE SAW ME THAT SATURDAY NIGHT WITH A BLACK EYE 'CAUSE I DID NOT HAVE A BLACK EYE ON THAT NIGHT. I DIDN'T SEE MY FRIEND, JEREMY, 'TIL MONDAY.

H 'KAY. BUT WHY DID YOU TELL US YOU HAD A BLACK EYE?

F OH, B-- JUST -- I DON'T KNOW.

H WHY DID YOU TELL US YOU GOT IT PLAYING BASKETBALL?

F I DON'T KNOW.

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H PAUL, IS THERE ANYTHING ELSE THAT YOU'VE TOLD US THAT YOU DIDN'T THINK WAS NOT ANY BIG DEAL?

F NO.

H THAT YOU HAVEN'T TOLD US THE TRUTH TO?

F NO.

H HOW DO WE KNOW THAT?

F TAKE MY WORD FOR IT, I GUESS.

H WELL CAN WE GIVE YOU A POLYGRAPH?

F I TOLD YOU I HAVE TO TALK TO MY PARENTS. SO–

H WELL, IF YOU'RE TELLIN' US THE TRUTH, WHY DO YOU HAVE TO TALK TO YOUR PARENTS TO TAKE A POLYGRAPH?

F BECAUSE I DO.

H ARE YOU NINETEEN [19] YEARS OLD?

F YES.

H ARE YOU AN ADULT?

F BY AGE, I AM.

H RIGHT. SO, ONCE YOU TURN EIGHTEEN [18], YOU CAN MAKE YOUR OWN DECISIONS, RIGHT?

F I'M STILL LIVIN' IN MY PARENT'S HOUSE, SO IT'S THEIR RULES, SO.

H YEAH, BUT THIS IS YOUR LIFE. LET ME ASK YOU THIS. IF WE ASKED YOU TO TAKE A POLYGRAPH RIGHT NOW, HOW WOULD YOU DO?

F DO FINE.

H WELL LET'S DO IT.

F I ALREADY TOLD YOU I HAVE TO TALK TO MY PARENTS ANYWAY I HAVE TO GO AT FOUR [4:00] O'CLOCK, SO.

B 'KAY, WELL, LET ME JUST ASK YOU –

F 'KAY.

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B ONE OF THE PEOPLE AT THE PARTY, THERE WAS NO DOUBT IN THEIR MIND SAID THAT YOU AND ROXY FELL TO THE FLOOR AND—

F I NEVER FELL TO THE FLOOR.

B WELL – WHY ARE THESE PEOPLE LYING TO US, PAUL?

F MISTAKEN, I GUESS. BECAUSE—

B THEY'RE MISTAKEN?

F THAT I –

B SAME GIRL WHO SAYS THAT YOU GO UP TO HER AND ASK HER FOR A DATE AFTER YOU SAY YOU DON'T CARE ABOUT HER BOYFRIEND.

F WAIT-- THE PERSON I TALKED TO HAD A BOYFRIEND?

B YEAH. OH, YEAH. AND YOU SAID, "I DON'T CARE. GIVE ME YOUR PHONE NUMBER ANYWAYS." NOW YOU THINK SHE'S LYING, TOO?

F I ASKED SOMEONE FOR THE PHONE NUMBER THAT NIGHT, TOO?

B YEAH, MM-HM.

F I HAVE NO IDEA ABOUT THAT NEITHER.

B YOU HAVE NO IDEA?

F NOPE.

B NO IDEA.

H YOU EVER GONE UP TP SOMEBODY, PAUL, AT A PARTY AND FORCED A KISS ON 'EM?

F NOPE.

H IF WE HAVE TWO LADIES THAT CAME FORWARD AND IDENTIFIED YOU AND SAID THAT HAPPENED, WOULD THAT BE TRUE?

F NO – I – I – THE ONLY PERSON I – WELL – WELL I WAS AT ONE PARTY THAT I WAS KIND OF LIKE A LITTLE AGGRESSIVE, I GUESS MAYBE—

H YEAH. LITTLE BIT? YOU PUSHED HER UP AGAINST THE WALL. SHOVED HER UP AGAINST THE WALL AND GRABBED HER FACE AND TRIED TO KISS HER. SHE HAD TO FIGHT YOU OFF.

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F NOT THERE. NUH-UH.

B YOU KNOW WHAT, PAUL, HERE-- HERE'S OUR PROBLEM. AND I -- I'M GONNA TELL YOU WHAT IT IS. WE OBVIOUSLY CAME HERE WITH THE BEST INTENTIONS THINKING YOU ARE A WITNESS.

F YEAH.

B OKAY. AND THERE'S A COUPLE THINGS THAT YOU JUST NEED TO CLEAR UP. BECAUSE MAYBE YOU WERE AFRAID TO TELL US. OKAY? WE OBVIOUSLY NOW, I THINK BOTH BELIEVE, WE MADE A MISTAKE.

F MM-HM.

B WE TRULY MADE A MISTAKE. WE NOW HAVE TO LOOK AT THIS IN A DIFFERENT LIGHT. BECAUSE IF ANYBODY LIES AS MUCH AS YOU HAVE ABOUT SOMETHING AS SERIOUS AS THIS IS. WHAT DOES THAT TELL YOU?

F I DON'T KNOW OF ANY LIE I'VE DONE, SO—

B SO, ALL THESE OTHER PEOPLE ARE LYING?

F I HAVE NO IDEA ABOUT ANY OF THAT STUFF, SO—

H WELL, YOU LIED TO US THOUGH, RIGHT?

F OH, IT'S NOT REALLY LIES. A FIB. IT'S SO -- SO MINUTE, IT'S NOT -- WELL -- WELL, I GUESS YOU CAN CALL IT A LITTLE WHITE LIE BUT—

H HOW YOU GOT YOUR BLACK EYE IS A WHITE LIE?

F YUP.

B ABOUT NOT SAYING ANYTHING TO CHERYL ANDERSON, THAT'S JUST A WHITE LIE?

F I HAVE JUST NO IDEA ABOUT ANYTHING LIKE THAT.

H PUSHIN' ROXY DOWN IN THE HALL AND LAYING ON TOP OF HER.

F NO, I WASN'T LAYING ON THE GROUND NEITHER.

H THAT'S -- THAT'S A LIE THEN?

F YEAH.

H THOSE PEOPLE ARE LYING?

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F I GUESS SO.

H WHY-- WHY ALL OF A SUDDEN IS THERE ABOUT FIVE OR SIX PEOPLE THAT ARE TELLIN' US LIES?

F I HAVE NO IDEA. IT'S PROBABLY PEOPLE -- I DON'T KNOW.

H IT'S PROBABLY PEOPLE WHAT?

F GUESS DON'T LIKE ME. I DON'T KNOW.

H THEY DON'T EVEN KNOW YOU.

F WELL, THEN I DON'T KNOW THEN.

H THEY HAD TO PICK YOU OUT OF A PHOTO LINE-UP.

F I HAVE NO IDEA. BU -- MAYBE ONE PERSON SAID, "YOU KNOW THAT I THINK IT WAS HIM." AND THEN ANOTHER PERSON SAID, "YOU KNOW, OH IT WAS THAT GUY." AND THEN THEY MIGHTA KNOWN WHO I WAS SO-- SO, IT'S LIKE THE PERSON WHO THEY'RE PICTURING IS ME.

H YOU KNOW, PAUL, THIS THING ISN'T GONNA GO AWAY.

F I KNOW. I UNDERSTAND THAT.

H WE'RE GONNA HAVE TO KEEP WORKIN' ON IT AND WORKIN' ON IT.

F YEAH, I UNDERSTAND.

H THE MORE PEOPLE WE TALK TO, THE MORE STUFF THAT WE TURN OVER.

F YEAH.

H I WOULD RATHER HEAR IT FROM YOU RATHER—

F WELL –

H THAN HAVE TO HEAR IT FROM SOMEBODY ELSE.

F YEAH, WELL, I WAS JUST SAYING HOW I THINK IT IS SO, I MEAN–

H WELL, I KNOW, BUT I MEAN, I WOULD RATHER HEAR YOU TELL ME ABOUT IT SO THAT I CAN –

F YEAH, THEN HAVE SOMEONE ELSE HAVE TO SAY IT.

H RIGHT.

F RIGHT. I UNDERSTAND THAT.

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H YOU KNOW, BECAUSE IF YOU TELL ME ABOUT IT, I CAN UNDERSTAND WHY YOU MIGHT BE AFRAID—

F YEAH—

H TO TELL US RIGHT NOW BECAUSE—

F ALRIGHT—

H YOU WOULD THINK, "GOD, IF I TELL 'EM THIS HAPPENED, THEY'RE GONNA THINK I DID SOMETHING TO HER."

F YEAH, I UNDERSTAND.

H BUT THAT'S NOT THE CASE. SEE. IF WE HEAR IF FROM SOMEBODY ELSE THOUGH AND WE'RE GONNA FIND PEOPLE, 'CAUSE WE FIND PEOPLE EVERY DAY THAT TALK TO US AND WE HEAR SOMETHING FROM SOMEBODY ELSE, THEN IT REALLY LOOKS BAD BECAUSE NOW YOU HAVEN'T TOLD US AND YOU LIED TO US AND NOW YOU'RE NOT TELLING US THIS. IT MAKES IT LOOK EVEN WORSE. SO, WE WANT YOU TO TELL US EVERYTHING.

F YEAH, I – I WAS—

H EVERYTHING [UNINTELLIGIBLE] –

F TELLING YOU EVERYTHING THAT I REMEMBER HAPPENING.

H WELL, HOW 'BOUT TELLING US THINGS YOU DON'T REMEMBER HAPPENING? THAT YOU DON'T WANNA TALK ABOUT?

F I CAN-- I CAN'T SAY ANYTHING I DON'T REMEMBER.

[END TIME 00:48:02]

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PROOF OF SERVICE

Code of Civil Procedure §1031a; CRC Rule 2006(d)

STATE OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO

I am and at all times herein mentioned as a citizen of the United States and a resident of the County of San Luis Obispo over the age of 18 years and not a party to the within entitled action. My business address is Court House Annex, 4th Floor, San Luis Obispo, California 93408.

On June 1, 2022, I served the foregoing document(s) described as:

PEOPLE'S REQUEST FOR JUDICIAL NOTICE OF EXHIBITS TO PEOPLES' MEMORANDUM TO THE COURT REGARDING THE DEFENDANT'S STATEMENTS THE PEOPLE WILL INTRODUCE AT TRIAL & AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND PROPOSED ORDER SEALING PUBLIC RECORDS

(*People v. Paul Ruben Flores & Ruben Ricardo Flores,* Case No.22CR003712 & 22CR003713)

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope and addressed as follows:

ROBERT M. SANGER
ATTORNEY FOR PAUL FLORES
EMAIL:
RMSTEAM@SANGERSWYSEN.COM

SARAH SANGER
ATTORNEY FOR PAUL FLORES
EMAIL:
SSANGER@SANGERSWYSEN.COM

HAROLD MESICK
ATTORNEY FOR RUBEN FLORES
EMAIL: HAROLDMESICK@GMAIL.COM

[XX] BY EMAIL TRANSMISSION: By use of San Luis Obispo County issued email, I caused such document(s) to be transmitted to the addressee(s) email account noted above. The County issued computer used complies with Rule 2.251 and the transmission was reported as complete without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 1, 2022, at San Luis Obispo, California.

Sandee Lopez

Sandee Lopez, Legal Clerk

MC-510

MEDIA AGENCY *(name)*: ABC NEWS Network GMA/20/20/WorldNews
CHANNEL/FREQUENCY NO.: ABC Network (local stations ABC)
PERSON SUBMITTING REQUEST *(name)*: Mollie Riegger
ADDRESS 47 West 66th Street, New York NY 10023
TELEPHONE NO. 859-351-2241

FOR COURT USE ONLY

FILED

JUN 01 2022

CLERK OF THE SUPERIOR COURT
DEPUTY

Insert name of court and name of judicial district and branch court, if any
Monterey County Superior Court-- Salinas

TITLE OF CASE:
Paul and Ruben Flores

NAME OF JUDGE:
Judge Jennifer O' Keefe

CASE NUMBER
22CR003712 / 22CR00373

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

AGENCY MAKING REQUEST *(name)*: ABC News, Mollie Riegger on behalf

1. a. ☑ No hearing was held.
   b. ☑ Date of hearing: June 6-10 Time: Dept./Div.: Room:
2. The court considered all the relevant factors listed in subdivision (e)(3) of California Rules of Court, rule 1.150 *(see reverse)*.
3. ☐ **THE COURT FINDS** *(findings or a statement of decision are optional)*: ☐ Attached ☐ As follows:

THE COURT ORDERS

4. The request to photograph, record, or broadcast is
   a. ☐ **denied.**
   b. ☑ **granted** subject to the conditions in rule 1.150, California Rules of Court, **AND** the following:
      (1) ☐ The local rules of this court regulating media activity outside the courtroom *(copy attached)*.
      (2) ☐ The order of the presiding or supervising judge regulating media activity outside the courtroom *(copy attached)*.
      (3) ☐ Payment to the clerk of increased court- incurred costs of *(specify)*: $ ☐ to be determined.
      (4) ☐ The media agency shall demonstrate to the court that the proposed personnel and equipment comply with California Rules of Court, rule 1.150, and any local rule or order.
      (5) ☐ Personnel and equipment shall be placed ☑ as directed ☐ as indicated in the attachment ☐ as follows *(specify)*:

      (6) (i) ☐ The attached statement of agreed pooling arrangements is approved.
      (ii) ☐ A statement of agreed pooling arrangements satisfactory to the court shall be filed before coverage begins.
      (7) ☐ This order
      (i) ☐ shall not apply to allow coverage of proceedings that are continued.
      (ii) ☐ shall apply to allow coverage of proceedings that are continued.
      (8) ☑ Other *(specify)*: See attached minute order

5. Coverage granted in item 4b is permitted in the following proceedings:
   a. ☑ All proceedings, *except* those prohibited by California Rules of Court, rule 1.150, and those proceedings prohibited by further court order.
   b. ☐ Only the following proceedings *(specify type or date or both)*:
6. ☐ The order made on *(date)*: is ☐ terminated ☐ modified as follows *(specify)*:

7. ☐ Number of pages attached:

Date: 6/1/2022

Jennifer O'Keefe
JUDGE

(See reverse for additional information)

CASE NAME:	CASE NUMBER
Pauland	22CR003712 / 22CR003713

FACTORS CONSIDERED BY THE JUDGE IN MAKING THIS ORDER (Rule 1.150)

1. Importance of maintaining public trust and confidence in the judicial system
2. Importance of promoting public access to the judicial system
3. Parties' support of or opposition to the request
4. Nature of the case
5. Privacy rights of all participants in the proceeding, including witnesses, jurors, and victims
6. Effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding
7. Effect on the parties' ability to select a fair and unbiased jury
8. Effect on any ongoing law enforcement activity in the case
9. Effect on any unresolved identification issues
10. Effect on any subsequent proceedings in the case
11. Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness
12. Effect on excluded witnesses who would have access to the televised testimony of prior witnesses
13. Scope of the coverage and whether partial coverage might unfairly influence or distract the jury
14. Difficulty of jury selection if a mistrial is declared
15. Security and dignity of the court
16. Undue administrative or financial burden to the court or participants
17. Interference with neighboring courtrooms
18. Maintaining orderly conduct of the proceeding
19. Any other factor the judge deems relevant

PROHIBITED COVERAGE (Rule 1.150)

This order does not permit photographing, recording, or broadcasting of the following in the court:

1. The jury or the spectators
2. Jury selection
3. A conference between an attorney and a client, witness, or aide
4. A conference between attorneys
5. A conference between counsel and the judge at the bench ("sidebars")
6. A proceeding closed to the public
7. A proceeding held in chambers

MEDIA PERSONNEL AND EQUIPMENT (Rule 1.150)

NOTE: These requirements apply unless the judge orders otherwise. Refer to the order for additional requirements.

1. No more than one television camera
2. No more than one still photographer
3. No more than one microphone operator and no obtrusive microphones or wiring
4. No operator entry or exit or other distraction when the court is in session
5. No moving equipment when the court is in session
6. No distracting sounds or lights
7. No visible signal light or device that shows when equipment is operating
8. No disruption of proceedings, nor public expense, to install, operate, or remove modifications to existing sound and lighting systems
9. No media agency insignia or marking on equipment or clothing

SANCTIONS FOR VIOLATING THIS ORDER (Rule 1.150)

Any violation of this order or rule 1.150 is an unlawful interference with the proceedings of the court. The violation may result in an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions.

Out of Court Minute Order Re: Media Requests

The Court makes the following rulings:

Recording of courtroom proceedings is restricted. One pool camera for still photography is allowed.

No audio recording is allowed inside the courtroom. This includes audio recordings for note taking purposes.

No video recording is allowed inside the courtroom

The pool camera will not be permitted to capture images during jury selection

The pool camera will not be permitted to capture images of jurors at any time, whether during jury selection or during trial.

The pool camera will not be permitted to capture images of conferences between an attorney and a client, witness or aide

The pool camera will not be permitted to capture images of conferences between attorneys

The pool camera will not be permitted to capture images of conferences between counsel and the judge at the bench

The pool camera is prohibited from capturing images of proceedings held in chambers

The pool camera is prohibited from capturing images of proceedings closed to the public

No other cameras are allowed.

MC-500

MEDIA AGENCY (name): MONTEREY COUNTY WEEKLY
CHANNEL/FREQUENCY NO.:
PERSON SUBMITTING REQUEST (name): CHRISTOPHER NEELY / DANIEL DREIFUSS
ADDRESS: 668 WILLIAMS AVE
~~SEASIDE, CA~~ SEASIDE, CA 93955
TELEPHONE NO.: 732-778-4886

Insert name of court and name of judicial district and branch court, if any:
MONTEREY COUNTY SUPERIOR COURT

TITLE OF CASE: PEOPLE v. PAUL FLORES / PEOPLE v. RUBEN FLORES

NAME OF JUDGE: JENNIFER O'KEEFE

MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST

FOR COURT USE ONLY

FILED

JUN 01 2022

CLERK OF THE SUPERIOR COURT
DEPUTY
K HERNANDEZ

CASE NUMBER:
22CR003712 / 22CR003713

1. PORTION OF THE PROCEEDINGS TO BE COVERED *(e.g., particular witnesses at trial, the sentencing hearing, etc.)*:
ALL FUTURE HEARINGS & COURT APPEARANCES

2. DATE OF PROPOSED COVERAGE *(specify)*: 6/6/22 & ONWARD . *(File this form at least five court days before the proposed coverage date. If not feasible, explain good cause for noncompliance)*:

3. TYPE OF COVERAGE
   a. ☐ TV camera and recorder
   b. ☒ Still camera
   c. ☐ Motion picture camera
   d. ☐ Audio
   e. ☐ Other *(specify)*:

4. ☐ SPECIAL REQUESTS OR ANTICIPATED PROBLEMS *(specify)*:

5. ☐ INCREASED COSTS. This agency acknowledges that it will be responsible for increased court-incurred costs, if any, resulting from this media coverage *(estimate)*: $
   ☐ Amount unknown

6. PROPOSED ORDER. A completed, proposed order on Judicial Council form MC- 510 is attached *(required by Cal. Rules of Court, rule 1.150)*.

CERTIFICATION

I certify that if the court permits media coverage in this case, all participating personnel in this media agency will be informed of and will abide by the provisions of California Rules of Court, rule 1.150, the provisions of the court order, and any additional restrictions imposed by the court.

Date: 5/31/22

CHRISTOPHER NEELY
(TYPE OR PRINT NAME)

Telephone No.: 732-778-4886

▶ C Neely
(SIGNATURE)

EDITOR
(SUPERVISORY POSITION IN MEDIA AGENCY)

NOTICE OF HEARING (*A hearing is optional.*)

A HEARING will be held as follows:

Date:	Time:	Dept./Div:	Room:
Address of the Court:			

Clerk, by _____, Deputy

Print this form | Save this form

MC-510

MEDIA AGENCY (name): MONTEREY COUNTY WEEKLY
CHANNEL/FREQUENCY NO.:
PERSON SUBMITTING REQUEST (name): CHRISTOPHER NEELY / DANIEL DREIFUSS
ADDRESS: 668 WILLIAMS AVE SEASIDE, CA. 93955
TELEPHONE NO.: 732-778-4886

FOR COURT USE ONLY

FILED

JUN 01 2022

CLERK OF THE SUPERIOR COURT
DEPUTY
K Hansen

Insert name of court and name of judicial district and branch court, if any:
MONTEREY COUNTY SUPERIOR COURT

TITLE OF CASE:
PEOPLE V. PAUL FLORES PEOPLE V. RUBEN FLORES

NAME OF JUDGE:
JENNIFER O'KEEFE

CASE NUMBER:
22CR003712 / 22CR003713

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

AGENCY MAKING REQUEST (name):

1. a. ☑ No hearing was held.
   b. ☐ Date of hearing: Time: Dept./Div.: Room:
2. The court considered all the relevant factors listed in subdivision (e)(3) of California Rules of Court, rule 1.150 *(see reverse)*.
3. ☐ **THE COURT FINDS** *(findings or a statement of decision are optional)*: ☐ Attached ☐ As follows:

THE COURT ORDERS

4. The request to photograph, record, or broadcast is
   a. ☐ **denied.**
   b. ☑ **granted** subject to the conditions in rule 1.150, California Rules of Court, **AND** the following:
      (1) ☐ The local rules of this court regulating media activity outside the courtroom *(copy attached)*.
      (2) ☐ The order of the presiding or supervising judge regulating media activity outside the courtroom *(copy attached)*.
      (3) ☐ Payment to the clerk of increased court- incurred costs of *(specify)*: $ ☐ to be determined.
      (4) ☐ The media agency shall demonstrate to the court that the proposed personnel and equipment comply with California Rules of Court, rule 1.150, and any local rule or order.
      (5) ☐ Personnel and equipment shall be placed ☐ as directed ☐ as indicated in the attachment ☐ as follows *(specify)*:

      (6) (i) ☐ The attached statement of agreed pooling arrangements is approved.
      (ii) ☐ A statement of agreed pooling arrangements satisfactory to the court shall be filed before coverage begins.
      (7) ☐ This order
      (i) ☐ shall not apply to allow coverage of proceedings that are continued.
      (ii) ☐ shall apply to allow coverage of proceedings that are continued.
      (8) ☑ Other *(specify)*: See attached order

5. Coverage granted in item 4b is permitted in the following proceedings:
   a. ☑ All proceedings, *except* those prohibited by California Rules of Court, rule 1.150, and those proceedings prohibited by further court order.
   b. ☐ Only the following proceedings *(specify type or date or both)*:
6. ☐ The order made on *(date)*: is ☐ terminated ☐ modified as follows *(specify)*:

7. ☐ Number of pages attached:

Date: 6/1/2022

Jennifer O'Keefe
JUDGE

(See reverse for additional information)

Hon. Jennifer O'Keefe

CASE NAME:	CASE NUMBER:
PEOPLE V. PAUL FLORES / PEOPLE V. RUBEN FLORES	-CR22003712 -CR22003713

FACTORS CONSIDERED BY THE JUDGE IN MAKING THIS ORDER (Rule 1.150)

1. Importance of maintaining public trust and confidence in the judicial system
2. Importance of promoting public access to the judicial system
3. Parties' support of or opposition to the request
4. Nature of the case
5. Privacy rights of all participants in the proceeding, including witnesses, jurors, and victims
6. Effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding
7. Effect on the parties' ability to select a fair and unbiased jury
8. Effect on any ongoing law enforcement activity in the case
9. Effect on any unresolved identification issues
10. Effect on any subsequent proceedings in the case
11. Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness
12. Effect on excluded witnesses who would have access to the televised testimony of prior witnesses
13. Scope of the coverage and whether partial coverage might unfairly influence or distract the jury
14. Difficulty of jury selection if a mistrial is declared
15. Security and dignity of the court
16. Undue administrative or financial burden to the court or participants
17. Interference with neighboring courtrooms
18. Maintaining orderly conduct of the proceeding
19. Any other factor the judge deems relevant

PROHIBITED COVERAGE (Rule 1.150)

This order does not permit photographing, recording, or broadcasting of the following in the court:

1. The jury or the spectators
2. Jury selection
3. A conference between an attorney and a client, witness, or aide
4. A conference between attorneys
5. A conference between counsel and the judge at the bench ("sidebars")
6. A proceeding closed to the public
7. A proceeding held in chambers

MEDIA PERSONNEL AND EQUIPMENT (Rule 1.150)

NOTE: These requirements apply unless the judge orders otherwise. Refer to the order for additional requirements.

1. No more than one television camera
2. No more than one still photographer
3. No more than one microphone operator and no obtrusive microphones or wiring
4. No operator entry or exit or other distraction when the court is in session
5. No moving equipment when the court is in session
6. No distracting sounds or lights
7. No visible signal light or device that shows when equipment is operating
8. No disruption of proceedings, nor public expense, to install, operate, or remove modifications to existing sound and lighting systems
9. No media agency insignia or marking on equipment or clothing

SANCTIONS FOR VIOLATING THIS ORDER (Rule 1.150)

Any violation of this order or rule 1.150 is an unlawful interference with the proceedings of the court. The violation may result in an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions.

Out of Court Minute Order Re: Media Requests

The Court makes the following rulings:

Recording of courtroom proceedings is restricted. One pool camera for still photography is allowed.

No audio recording is allowed inside the courtroom. This includes audio recordings for note taking purposes.

No video recording is allowed inside the courtroom

The pool camera will not be permitted to capture images during jury selection

The pool camera will not be permitted to capture images of jurors at any time, whether during jury selection or during trial.

The pool camera will not be permitted to capture images of conferences between an attorney and a client, witness or aide

The pool camera will not be permitted to capture images of conferences between attorneys

The pool camera will not be permitted to capture images of conferences between counsel and the judge at the bench

The pool camera is prohibited from capturing images of proceedings held in chambers

The pool camera is prohibited from capturing images of proceedings closed to the public

No other cameras are allowed.

MC-500

MEDIA AGENCY (name) KEYT
CHANNEL/FREQUENCY NO CHANNEL 3
PERSON SUBMITTING REQUEST (name) Ed Zuchelli
ADDRESS
730 Miramonte Drive Santa Barbara CA 93109
TELEPHONE NO 805 882-3930

Monterey County Superior Court

TITLE OF CASE
People vs. Paul Flores and Ruben Flores

NAME OF JUDGE Judge Jennifer O'Keefe

MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST

FILED
JUN 01 2022
CLERK OF THE SUPERIOR COURT
DEPUTY
H Hansen

CASE NUMBER
22CR003712 and 22CR003713

1 PORTION OF THE PROCEEDINGS TO BE COVERED *(e.g., particular witnesses at trial, the sentencing hearing, etc.)*
Pretrial motions through sentencing

2 DATE OF PROPOSED COVERAGE *(specify)* 6/6/22 through Sentencing *(File this form at least five court days before the proposed coverage date. If not feasible, explain good cause for noncompliance)*

3 TYPE OF COVERAGE
a ☑ TV camera and recorder
b ☑ Still camera
c ☐ Motion picture camera
d ☑ Audio
e ☐ Other *(specify)*

4 ☑ SPECIAL REQUESTS OR ANTICIPATED PROBLEMS
(specify) Requesting blanket coverage for duration of the trial

5 ☐ INCREASED COSTS This agency acknowledges that it will be responsible for increased court-incurred costs if any resulting from this media coverage *(estimate)* $
☐ Amount unknown

6 PROPOSED ORDER A completed proposed order on Judicial Council form MC-510 is attached *(required by Cal. Rules of Court, rule 1.150)*

CERTIFICATION

I certify that if the court permits media coverage in this case, all participating personnel in this media agency will be informed of and will abide by the provisions of California Rules of Court, rule 1.150, the provisions of the court order, and any additional restrictions imposed by the court.

Date 5/31/22

Ed Zuchelli
TYPE OR PRINT NAME

SIGNATURE

Telephone No 805-882-3930

Managing Editor
SUPERVISORY POSITION IN MEDIA AGENCY

NOTICE OF HEARING (*A hearing is optional.*)

A HEARING will be held as follows

Date	Time	Dept./Div.	Room
Address of the Court			

Clerk by _____ Deputy

MC-510

MEDIA AGENCY *(name)* KEYT
CHANNEL/FREQUENCY NO CHANNEL 3
PERSON SUBMITTING REQUEST *(name)* Ed Zuchelli
ADDRESS 730 Miramonte Drive Santa Barbara CA 93109
TELEPHONE NO 805-882-3930

Monterey County Superior Court

TITLE OF CASE
People vs. Paul Flores and Ruben Flores

NAME OF JUDGE
Judge Jennifer O'Keefe

FOR COURT USE ONLY

FILED

JUN 01 2022

CLERK OF THE SUPERIOR COURT
DEPUTY

CASE NUMBER
22CR003712 and 22CR003713

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

AGENCY MAKING REQUEST *(name)* KEYT-KKFX

1 a ☑ No hearing was held
b ☑ Date of hearing: 6/6/22 Time 8:30 am Dept./Div.: 4 Room:

2 The court considered all the relevant factors listed in subdivision (e)(3) of California Rules of Court, rule 1.150 *(see reverse)*

3. ☐ **THE COURT FINDS** *(findings or a statement of decision are optional)* ☐ Attached ☐ As follows:

THE COURT ORDERS

4 The request to photograph, record, or broadcast is
a ☐ **denied.**
b ☑ **granted** subject to the conditions in rule 1.150, California Rules of Court, **AND** the following
(1) ☐ The local rules of this court regulating media activity outside the courtroom *(copy attached)*
(2) ☐ The order of the presiding or supervising judge regulating media activity outside the courtroom *(copy attached)*
(3) ☐ Payment to the clerk of increased court- incurred costs of *(specify)*: $ ☐ to be determined
(4) ☐ The media agency shall demonstrate to the court that the proposed personnel and equipment comply with California Rules of Court, rule 1.150, and any local rule or order.
(5) ☐ Personnel and equipment shall be placed ☐ as directed ☐ as indicated in the attachment ☐ as follows *(specify)*.

(6) (i) ☐ The attached statement of agreed pooling arrangements is approved.
(ii) ☐ A statement of agreed pooling arrangements satisfactory to the court shall be filed before coverage begins
(7) ☐ This order
(i) ☐ shall not apply to allow coverage of proceedings that are continued
(ii) ☐ shall apply to allow coverage of proceedings that are continued.
(8) ☑ Other *(specify)*: See attached order

5 Coverage granted in item 4b is permitted in the following proceedings.
a ☑ All proceedings, *except* those prohibited by California Rules of Court, rule 1.150, and those proceedings prohibited by further court order
b ☐ Only the following proceedings *(specify type or date or both)*

6 ☐ The order made on *(date)*: is ☐ terminated ☐ modified as follows *(specify)*

7 ☐ Number of pages attached

Date 6/1/2022

Jennifer O'Keefe
JUDGE

(See reverse for additional information)

Hon. Jennifer J. O'Keefe

CASE NAME	CASE NUMBER
People vs. Paul Flores and Ruben Flores	22CR003712 and 22CR003713

FACTORS CONSIDERED BY THE JUDGE IN MAKING THIS ORDER (Rule 1.150)

1 Importance of maintaining public trust and confidence in the judicial system
2 Importance of promoting public access to the judicial system
3 Parties' support of or opposition to the request
4 Nature of the case
5 Privacy rights of all participants in the proceeding, including witnesses, jurors, and victims
6 Effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding
7 Effect on the parties' ability to select a fair and unbiased jury
8 Effect on any ongoing law enforcement activity in the case
9 Effect on any unresolved identification issues
10 Effect on any subsequent proceedings in the case
11 Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness
12 Effect on excluded witnesses who would have access to the televised testimony of prior witnesses
13 Scope of the coverage and whether partial coverage might unfairly influence or distract the jury
14 Difficulty of jury selection if a mistrial is declared
15 Security and dignity of the court
16 Undue administrative or financial burden to the court or participants
17 Interference with neighboring courtrooms
18 Maintaining orderly conduct of the proceeding
19 Any other factor the judge deems relevant

PROHIBITED COVERAGE (Rule 1.150)

This order does not permit photographing, recording, or broadcasting of the following in the court

1 The jury or the spectators
2 Jury selection
3 A conference between an attorney and a client, witness, or aide
4 A conference between attorneys
5 A conference between counsel and the judge at the bench ("sidebars")
6 A proceeding closed to the public
7 A proceeding held in chambers

MEDIA PERSONNEL AND EQUIPMENT (Rule 1.150)

NOTE: These requirements apply unless the judge orders otherwise. Refer to the order for additional requirements.

1 No more than one television camera
2 No more than one still photographer
3 No more than one microphone operator and no obtrusive microphones or wiring
4 No operator entry or exit or other distraction when the court is in session
5 No moving equipment when the court is in session
6 No distracting sounds or lights
7 No visible signal light or device that shows when equipment is operating
8 No disruption of proceedings, nor public expense, to install, operate, or remove modifications to existing sound and lighting systems
9 No media agency insignia or marking on equipment or clothing

SANCTIONS FOR VIOLATING THIS ORDER (Rule 1.150)

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Out of Court Minute Order Re: Media Requests

The Court makes the following rulings:

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No video recording is allowed inside the courtroom

The pool camera will not be permitted to capture images during jury selection

The pool camera will not be permitted to capture images of jurors at any time, whether during jury selection or during trial.

The pool camera will not be permitted to capture images of conferences between an attorney and a client. witness or aide

The pool camera will not be permitted to capture images of conferences between attorneys

The pool camera will not be permitted to capture images of conferences between counsel and the judge at the bench

The pool camera is prohibited from capturing images of proceedings held in chambers

The pool camera is prohibited from capturing images of proceedings closed to the public

No other cameras are allowed.

MC-500

MEDIA AGENCY (name): ABC NEWS
CHANNEL/FREQUENCY NO.:
PERSON SUBMITTING REQUEST (name): Good morning america/ 20/20
ADDRESS: 47 WEST 66 Th STREET
NEW YORK NY 10023 TELEPHONE NO.: 859 · 351 · 2241
(Insert name of court and name of judicial district and branch court, if any:)

FOR COURT USE ONLY

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/02/2022
By Deputy: Inofuentes, Maria

TITLE OF CASE: PEOPLE VS Paul | Ruben FLORES

NAME OF JUDGE:

CASE NUMBER:

MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST

1. PORTION OF THE PROCEEDINGS TO BE COVERED *(e.g., particular witnesses at trial, the sentencing hearing, etc.)*:
   We are prepared to cover however Judge O'Keefe will allow.

2. DATE OF PROPOSED COVERAGE *(specify)*: . *(File this form at least five court days before the proposed coverage date. If not feasible, explain good cause for noncompliance)*:
   June 6 - 10th; + Trial DATES (July 6- on)

3. TYPE OF COVERAGE
   a. [x] TV camera and recorder
   b. [ ] Still camera
   c. [ ] Motion picture camera
   d. [x] Audio
   e. [x] Other *(specify)*: - pen/paper | computer -

4. [ ] SPECIAL REQUESTS OR ANTICIPATED PROBLEMS *(specify)*:
   however we are allowed.

5. [x] INCREASED COSTS. This agency acknowledges that it will be responsible for increased court-incurred costs, if any, resulting from this media coverage *(estimate)*: $
   [x] Amount unknown

6. PROPOSED ORDER. A completed, proposed order on Judicial Council form MC-510 is attached *(required by Cal. Rules of Court, rule 1.150)*.

CERTIFICATION

I certify that if the court permits media coverage in this case, all participating personnel in this media agency will be informed of and will abide by the provisions of California Rules of Court, rule 1.150, the provisions of the court order, and any additional restrictions imposed by the court.

Date: 6/2/2022

Mollie Riegger
(TYPE OR PRINT NAME)

Maria G. Rey
(SIGNATURE)

Telephone No.: 859·351·2241

Editorial Producer, ABC
(SUPERVISORY POSITION IN MEDIA AGENCY)

NOTICE OF HEARING *(A hearing is optional.)*

A HEARING will be held as follows:

Date: June 6-10 Time: Dept./Div: Room:

Address of the Court: Monterey Superior Court

Clerk, by _____, Deputy

For your protection and privacy, please press the Clear This Form button after you have printed the form.

Print this form | Save this form | Clear this form

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/06/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendant.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B ~~[PROPOSED]~~ ORDER SEALING PUBLIC RECORDS

Based upon the foregoing Affidavit and Request, IT IS HEREBY ORDERED that:

1. The People's Notice of Motion and Motion to Admit Relevant Evidence of Other Acts and the Affidavit in support of the People's Notice of Motion and Motion to Admit Relevant Evidence of Other Acts are sealed and lodged with the Court;

2. No other sealing is ordered pursuant to the People's request; and

3. Defense Counsel for Paul Ruben Flores, Robert M. Sanger and his office and Defense Counsel for Ruben Ricardo Flores, Harold V. Mesick and his office are permitted to view the sealed records.

Dated: June 4, 2022

Jennifer O'Keefe

THE HONORABLE JENNIFER O'KEEFE
JUDGE OF THE SUPERIOR COURT

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/06/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES RUBEN RICARDO FLORES, Defendants.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B ~~[PROPOSED]~~ ORDER SEALING PUBLIC RECORDS

Based upon the foregoing Affidavit and Request, IT IS HEREBY ORDERED that:

1. The People's Request for Judicial Notice of Exhibits to Peoples' Memorandum to the Court Regarding the Defendant's Statements the People Will Introduce at Trial and the Affidavit in support of the Request for Judicial Notice of Exhibits to Peoples' Memorandum to the Court Regarding the Defendant's Statements the People Will Introduce at Trial are sealed and lodged with the Court;

2. No other sealing is ordered pursuant to the People's request; and

3. Defense Counsel for Paul Ruben Flores, Robert M. Sanger and his office and Defense

Counsel for Ruben Ricardo Flores, Harold V. Mesick and his office are permitted to view the sealed records.

Dated: **June 4, 2022**

THE HONORABLE JENNIFER O'KEEFE
JUDGE OF THE SUPERIOR COURT

DAN DOW (Bar No. 237986)
DISTRICT ATTORNEY
Office of the District Attorney
County of San Luis Obispo
1035 Palm Street, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorneys for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/6/2022 8:53 AM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MONTEREY

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. PAUL RUBEN FLORES, and RUBEN RICARDO FLORES, Defendants.	Monterey Case Nos. 22CR003712 and 22CR003713 SLO Case Nos. 21F-02402-A&B NOTICE OF MOTION AND SUPPLEMENTAL MOTION UNDER EVIDENCE CODE SECTION 1108 [Evidence Code §§ 1108, 1101(b)] Date: June 6, 2022 Time: 8:30 am Location: Department 4

TO: THE CLERK OF THE ABOVE-ENTITLED COURT, THE DEFENDANTS, AND COUNSEL FOR THE DEFENDANTS

NOTICE IS HEREBY GIVEN that on June 6, 2022, at 8:30 a.m. in at the above-entitled court located at 240 Church Street in Salinas, California, the People of the State of California will move the Court for an order admitting supplemental relevant evidence of Paul Flores's other sexual offenses pursuant to Evidence Code sections 1108 and prior offenses or acts pursuant to 1101, subdivision (b).

This motion will be based upon this Notice of Motion, the attached Memorandum of Points and Authorities, the attached Declaration, any evidence as

//

may be presented at the hearing, and the record and file herein.

Dated: June 6, 2022

Respectfully submitted,

DAN DOW
DISTRICT ATTORNEY

Christopher Peuvrelle
Deputy District Attorney

MEMORANDUM OF POINTS AND AUTHORITIES

I

STATEMENT OF FACTS

A. January Doe

Melinda Miller was living in Santa Maria and attending Hancock College in 1996, her boyfriend Steve attended Cal Poly on a scholarship in 1996. He lived at either Muir Hall or Sierra Madre (she said his mother could confirm which one). Melinda was living in Santa Maria but would often come up to visit Steve and they would frequent football games, attend parties, etc. She remembers a party in particular in 1996, prior to graduation, that her friend January attended and was drugged. Melinda recalls having discussions amongst her peers/friends about being drugged, girls being drugged, to you keep your drinks close, put a napkin over it when you leave, don't accept drinks from people. Melinda remembers January's incident being right at the time Kristin went missing because she said "Oh my God, that could have been January, that could have been me at the party..."

She recalls Steve attending many parties, one was at California and Foothill, in an apartment complex. Melinda met Steve there at the party. She recalls several people that were there were from rivaling high schools, Righetti and St. Joe's. She knew some of the people at the party and ended up talking to Amy Dollen, a mutual

friend and January at the beginning of the night, between 9pm and 10pm. Shortly after that, Melinda saw Paul come out of the bathroom and was like "I need some help." Melinda says, "I mean he was shear panic." Melinda recalls Paul saying, "is this girl's friends around?". Melinda peeked into the bathroom and saw her on the ground. She had no pants on and there was vomit everywhere and she had defecated on herself. Melinda said, "Oh my God, that's January!", "like, what the hell, I was just talking to her an hour ago!" Melinda goes on to say that she came into the bathroom and told him to get out of there, that this was her friend. Melinda said he got out and shut the door. Melinda recalls Steve being there and she asked him to stand by the door and not to let anyone in because she was helping January and wanted privacy for her friend. Melinda goes on to describe how sick January was, her face was a grey color, she had foam coming out of the edges of her mouth. She contemplated having Steve call 911 and regrets that she didn't have him call. Melinda remembers January having "shit" all over her, even on her feminine napkin. Melinda said that January was a small girl, and she was able to pick her up and put her into the bath tub. January started to come around a bit, Melinda was calling her name and hitting her on her side. Melinda said then Paul Flores walked back into the bathroom. Melinda asked him what he was doing and said get out of here, I'm getting her cleaned up. Paul Flores asked if January was ok. Paul Flores said he knew her and that he could help. Melinda remembers him stuttering and kept repeating himself. Melinda at that point recognized him as being the guy that came out of the bathroom initially, left and then came back in. Melinda said she had soiled toilet paper in the trash and Paul took the bag and left. He came back into the bathroom offering again to help. January was saying no, no, no, no over and over. Melinda was able to get January dressed and out of the bathroom, got her to her friends, instructing them to take her home. Melinda asked January if she knew that guy? January said what guy? Melinda said January did not know the guy in the bathroom. Melinda is positive

that the guy at the party that evening was Paul Flores. Melinda always thought it was weird that he came back into the bathroom and took the trash out.

Melinda believes January was on "death's door" that night. Melinda said that it was a forty-five-minute window from the time she spoke with January at the party to the time she saw her on the ground in the bathroom. Melinda also recalls January being sober when she initially spoke to her an hour prior to the incident. Melinda said January was not the type of person to just "hook up" with a guy at a party, especially one she didn't know. Melinda believes that January was sexually assaulted that night due to the placement of January's feminine napkin when she found her on the ground.

Melinda goes on to say that she and January have connected on social media and they have often recalled that night. Melinda said that Steve, her boyfriend at the time, passed away 10 or so years ago.

Melinda goes on to describe how the house of the party that night was by train tracks because her brother and Steve had gotten into an altercation that evening and Steve had left and crossed over the tracks after the fight. She believes the location to be California and Foothill.

January Doe is unavailable, and the people are not asking that her testimony be admitted. Ms. Miller is available to testify as to her observations.

II

LAW AND ARGUMENT

While evidence of a person's character or a trait of his character is generally inadmissible to prove conduct on a specified occasion, the California Evidence Code[1] codifies several exceptions to this rule, including evidence of other sexual offenses when the person is charged with a sexual offense (Evid. Code, § 1108) and evidence of other offenses when offered to prove a fact in the prosecution other than the person's disposition to commit to commit such an act (Evid. Code, § 1101, subd. (b)).

[1] All further statutory references are to the California Evidence Code unless otherwise stated.

(Evid. Code, § 1101, subd. (a).) Both of those exceptions apply to the evidence of Paul Flores's other sexual offenses.

A. EVIDENCE OF PAUL FLORES'S COMMISSION OF OTHER SEXUAL OFFENSES IS ADMISSIBLE UNDER EVIDENCE CODE SECTION 1108

California Evidence Code section 1108, subdivision (a), states:

> In a criminal action in which the defendant is accused of a sexual offense, evidence of the defendant's commission of another sexual offense or offenses is not made inadmissible by Section 1101, if the evidence is not inadmissible pursuant to Section 352.

A sexual offense, as the term is used in section 1108, includes rape of an intoxicated, drugged, or unconscious person as defined in Penal Code section 261, subdivisions (a)(3) and (a)(4). (Evid. Code, § 1108, subd. (d)(1)(A).) Section 1108 provides for the admission of evidence of sexual offenses that occurred both prior before and after the charged crime(s). (*People v. Cordova* (2015) 62 Cal.4th 104, 133; *People v. Medina* (2003) 114 Cal.App.4th 897, 903.) The statute authorizes the admission of other sexual offenses when a defendant is accused of enumerated sexual offenses, and the admission of other sexual offenses under section 1108 does not require an accomplished sex act in the charged offense. (*People v. Spicer* (2015) 235 Cal.App.4th 1359, 1384.) "The evidence is presumed admissible and is to be excluded only if its prejudicial effect substantially outweighs its probative value in showing the defendant's disposition to commit the charged sex offense or other relevant matters." (*People v. Cordova* (2015) 62 Cal.4th 104, 132.)

1. <u>Evidence of Uncharged Sexual Offenses is "Especially Compelling" When the Victim Was Killed and Cannot Testify</u>

The legislative history for section 1108 indicates that the principal justification for its adoption was a practical one: "By their very nature, sex crimes are usually committed in seclusion without third party witnesses or substantial corroborating evidence." (*People v. Falsetta* (1999) 21 Cal.4th 903, 915.) In enacting section 1108, "the Legislature 'declared that the willingness to commit a sexual offense is not common to most individuals; thus, evidence of any prior sexual offenses is particularly

probative and necessary for determining the credibility of the witness.' [Citation.]" (*People v. Soto* (1998) 64 Cal.App.4th 966, 983.) "Section 1108 provides the trier of fact in a sex offense case the opportunity to learn of the defendant's possible disposition to commit sex crimes." (*Id.*)

In *People v. Story* (2009) 45 Cal.4th 1282 (*Story*), the California Supreme Court rejected the argument that section 1108 does not apply to homicides where the victim does not—and cannot—testify:

> The necessity for admitting this particularly probative evidence that exists when the alleged victim's credibility might be questioned can be no greater than the necessity that exists when the victim was *killed* and thus cannot even tell her story. ... Neither section 1108's language nor its purpose supports the conclusion the Legislature wanted to permit this evidence when the alleged sexual assault victim survives and can testify but not when the victim dies and cannot speak.

(*Id.* at p. 1293, italics in original.) Since *Story*, the Court has repeatedly held that "[t]he need for such evidence is especially compelling when the sexual assault victim was killed and cannot testify." (*People v. Avila* (2014) 59 Cal.4th 496, 515; *People v. Loy* (2011) 52 Cal.4th 46, 62; see also *People v. Baker* (2021) 10 Cal.5th 1044, 1100, internal citations omitted [same]; *People v. Daveggio & Michaud* (2018) 4 Cal.5th 790, 824 [same].) Indeed, the Court found that the principle applied "with additional force" in a case when the extensive decomposition of the victim's body inhibited the search for physical evidence of sexual assault and cause of death. (*People v. Baker, supra*, 10 Cal.5th at p. 1100.)

2. <u>Paul Flores's Other Sexual Offenses Show a Demonstrable Pattern of Targeting Women Who are Intoxicated or Drugged and Engaging or Attempting to Engage in Sexual Intercourse with Them When They Are Unable to Consent</u>

"In enacting Evidence Code section 1108, the Legislature found that "evidence of uncharged sexual offenses is so uniquely probative in sex crimes prosecutions it is presumed admissible without regard to the limitations of Evidence Code section 1101."

(*People v. Yovanov* (1999) 69 Cal. App. 4th 392, 405.) " ' "As with other forms of relevant evidence that are not subject to any exclusionary principle, the presumption will be in favor of admission." ' [Citation.]" (*People v. Soto* (1998) 64 Cal.App.4th 966, 984.)

As with any other evidence, evidence of other, uncharged sexual offenses is subject to analysis under section 352, which provides a trial court with the discretion to exclude evidence "if its probative value is substantially outweighed by the probability that its admission will (a) necessitate undue consumption of time or (b) create substantial danger of undue prejudice, of confusing the issues, or of misleading the jury." (Evid. Code, § 352.) Courts have established general criteria for a trial court to consider when analyzing whether the probative value of the relevant evidence is substantially outweighed by any unfair prejudice of its admission under Evidence Code section 352. (See *People v. Falsetta* (1999) 21 Cal.4th 903, 916-916.)

> Among the factors to consider are the " 'nature, relevance, and possible remoteness [of the evidence], the degree of certainty of its commission and the likelihood of confusing, misleading, or distracting the jurors from their main inquiry, its similarity to the charged offense, its likely prejudicial impact on the jurors, the burden on the defendant in defending against the uncharged offense, and the availability of less prejudicial alternatives to its outright admission, such as admitting some but not all of the defendant's other sex offenses.' " [Citation.]

(*People v. Erskine* (2019) 7 Cal.5th 279, 296.) The specific criteria to be considered by a trial court depend upon the unique facts and issues of each case. (*People v. Nguyen* (2010) 184 Cal.App.4th 1096, 1116 (*Nguyen*).) Courts of Appeal have restated these factors as five general questions:

> (1) whether the propensity evidence has probative value, e.g., whether the uncharged conduct is similar enough to the charged behavior to tend to show the defendant did in fact commit the charged offense; (2) whether the propensity evidence is stronger and more inflammatory than evidence of the defendant's charged acts; (3) whether the uncharged conduct is remote or stale; (4) whether the propensity evidence is likely to confuse or distract the jurors from their main inquiry, e.g., whether the jury might be tempted to punish the defendant for his

> uncharged, unpunished conduct; and (5) whether admission of the propensity evidence will require an undue consumption of time.

(*Nguyen*, *supra*, 184 Cal.App.4th at p. 1117; see also *People v. Jandres* (2014) 226 Cal.App.4th 340, 355; *People v. Hernandez* (2011) 200 Cal.App.4th 953, 965 (*Hernandez*).) "A trial court balances this first factor, i.e., the propensity evidence's probative value, against the evidence's prejudicial and time-consuming effects, as measured by the second through fifth factors." (*Nguyen*, *supra*, 184 Cal.App.4th at p. 1117.)

The term "prejudice" has a very narrow meaning in the context of section 352:

> "[t]he prejudice which exclusion of evidence under Evidence Code section 352 is designed to avoid is not the prejudice or damage to a defense that naturally flows from relevant, highly probative evidence. '[A]ll evidence which tends to prove guilt is prejudicial or damaging to the defendant's case. The stronger the evidence, the more it is "prejudicial." The "prejudice" referred to in Evidence Code section 352 applies to evidence which uniquely tends to evoke an emotional bias against the defendant as an individual and which has very little effect on the issues. In applying section 352, "prejudicial" is not synonymous with "damaging." ' " [Citation.]

(*People v. Jones* (2017) 3 Cal.5th 583, 610; see also *People v. Henriquez* (2017) 4 Cal.5th 1, 28 [section 352 uses the word in "etymological sense of 'prejudging' a person or cause on the basis of extraneous factors"].) None of the listed factors support exclusion under section 352.

a. The Other Sexual Offenses are Very Similar in Nature

First, Paul Flores's other sexual offenses are highly probative to the charge alleging that he murdered Kristin Smart while in the course of committing or attempting to commit a rape. While there is no requirement that the charged and uncharged offenses are so similar that evidence of the uncharged offenses would be admissible under section 1101,[2] "uncharged prior offenses that are very similar in nature to the

[2] Indeed, the *Hernandez* court noted that, "[i]f such strict similarities were required, 'section 1108 would serve no purpose. It is enough the charged and uncharged offenses are sex offenses as defined in section 1108.' [Citation.]" (*Hernandez*, *supra*, 200 Cal.App.4th at p. 966; see also *People v. Loy* (2011) 52 Cal.4th 46, 63.)

charged crime logically will have more probative value in proving propensity to commit the charged offense." (*Hernandez*, *supra*, 200 Cal.App.4th at p. 966.)

The evidence adduced at the preliminary hearing demonstrated that Paul Flores was sexually attracted to Kristin Smart, that he targeted Kristin Smart at the end of a gathering that involved the consumption of large amounts of alcohol, that he intentionally isolated Kristin Smart when she was so intoxicated that she could not walk without assistance, and that he murdered her. Evidence that he targeted women around his own age at the end of parties or near closing time at bars then isolated and raped them when they were intoxicated, drugged, and unconscious is highly probative evidence not only of the circumstances leading up to Kristin Smart's murder but also to Paul Flores's intent and motive.

Evidence of other sexual offenses is all the more relevant both because (1) Kristin Smart was killed and is unable to testify (see *Story*, *supra*, 45 Cal.4th at p. 1293), and (2) Kristin Smart's body was never recovered, thereby inhibiting the search for physical evidence of sexual assault and cause of death (see, e.g., *People v. Baker*, *supra*, 10 Cal.5th at p. 1100).

b. *The Other Sexual Offenses Are Neither Stronger Nor More Inflammatory*

The evidence of the other sexual offense perpetrated against January is not stronger nor inflammatory. It is certainly less inflammatory than a murder and not stronger than the murder.

c. *The Other Sexual Offenses Are Not Remote or Stale*

The other sexual offenses against January Doe is contemporaneous with the murder of Kristin Smart.

Moreover, "[t]he passage of time generally goes to the weight of the evidence, not its admissibility" and "significant similarities between the prior and the charged offenses may 'balance[ ] out the remoteness.' [Citation.]" (*Hernandez*, *supra*, 200 Cal.App.4th at p. 968; see *People v. Branch* (2001) 91 Cal.App.4th 274, 285 [30-year

gap between offenses not too remote when prior and charged offenses were "remarkably similar"]; *People v. Waples* (2000) 79 Cal.App.4th 1389, 1395 [uncharged offenses between 15 and 22 years before trial not too remote in part because similarities balanced out the remoteness]; *People v. Soto* (1998) 64 Cal.App.4th 966, 991-992 [23- to 27-year-old conduct not too remote when charged and uncharged offenses are similar]; *People v. Robertson* (2012) 208 Cal.App.4th 965, 989-994 [striking similarities of prior 35-year-old kidnapping and rape balance out remoteness].) Whether or not the defendant led a "blameless life" as it relates to the type of offenses in question in the time between the charged and uncharged offenses contributes to whether the uncharged offense is remote. (See *People v. Harris* (1998) 60 Cal.App.4th 727, 739.) Evidence of subsequent crimes may bear on a defendant's character at the time of the charged offense. (*People v. Cordova* (2015) 62 Cal.4th 104, 132-133 [sex crimes against children committed 13 and 18 years after charged rape-murder of child properly admitted].)

d. *The Other Sexual Offenses Will Not Confuse or Distract Jurors*

This court will properly instruct jurors with the appropriate Calcrims for EC 1108 and 1101(b). The law presumes that jurors follow instructions as provided. The jurors will not be confused as they will be properly instructed and the relevancy of these acts will be properly argued.

e. *The Other Sexual Offenses Will Not Require an Undue Consumption of Time*

The testimony of Ms. Miller should take no more than a couple of hours.

All of the factors support the admission of this evidence and the court should grant the People's motion.

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B. EVIDENCE OF PAUL FLORES'S COMMISSION OF OTHER SEXUAL OFFENSES IS ADMISSIBLE UNDER EVIDENCE CODE SECTION 1101(B)

While Evidence Code section 1101, subdivision (a), prohibits admission of evidence of a person's character, including evidence of specific instances of uncharged misconduct, to prove the conduct of a person on a specified occasion, subdivision (b) clarifies that the rule does not prohibit admission when such evidence is relevant to establish a fact other than the person's character or disposition. (*People v. Ewoldt* (1994) 7 Cal.4th 380, 393.) Section 1101, subdivision (b), states:

> Nothing in this section prohibits the admission of evidence that a person committed a crime, civil wrong, or other act when relevant to prove some fact (such as motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, or whether a defendant in a prosecution for an unlawful sexual act or attempted unlawful sexual act did not reasonably and in good faith believe that the victim consented) other than his or her disposition to commit such an act.

The categories provided in subdivision (b) are examples of facts that legitimately may be proved by evidence of other crimes or acts but the list is not exclusive. (*People v. Catlin* (2001) 26 Cal.4th 81, 146.) The California Supreme Court has liberally construed Evidence Code section 1101(b) to permit the admission of "uncharged acts" evidence when relevant to prove any disputed issue in a criminal prosecution. (*People v. Kipp* (1998) 18 Cal.4th 349, 369-373; *Ewoldt*, *supra*, 7 Cal.4th at pp. 393-400). "[S]uch evidence may properly be admitted whenever it tends logically, naturally, and by reasonable inference to establish any fact material for the People or to overcome any material matter sought to be proved by the defense." (*People v. Montalvo* (1971) 4 Cal.3d 328, 332.)

The admission of evidence that involves crimes other than those for which a defendant is being tried depends on three factors: (1) the materiality of the fact sought to be proved or disproved, (2) the tendency of the uncharged crime to prove or disprove the material fact, and (3) the existence of any rule or policy requiring the exclusion of relevant evidence. (*People v. Johnson* (2022) 12 Cal.5th 544, 610.)

"Seldom will evidence of a defendant's prior criminal conduct be ruled inadmissible when it is the primary basis for establishing a crucial element of the charged offense." (*People v. Garrett* (1994) 30 Cal.App.4th 962, 967.)

1. **The Other Crimes or Acts Evidence is Material**

The first step of the inquiry involves an appraisal of the factors or elements which the other crimes' evidence is being offered to prove. Materiality simply refers to whether the issue or fact to which the "uncharged acts" relate is contested and of legitimate importance in the proceedings. (*People v. Nible* (1988) 200 Cal.App.3d 838, 848.) In order to satisfy the materiality requirement, the fact may be either an ultimate fact in the proceeding, or an intermediate fact from which an ultimate fact might be inferred. (*Catlin*, *supra*, 26 Cal.4th at p. 146.) Ultimate facts include the identity of the perpetrator and elements of the charged crimes, including intent. (*People v. Thompson* (1980) 27 Cal.3d 303, p. 315, fn. 13.) Intermediate facts include motive, opportunity, plan, scheme, design, and modus operandi. (*Id.* at p. 315, fn. 14.)

Paul Flores's not guilty plea put in issue all of the elements of the charged offenses, including his intent. (*People v. Daveggio and Michaud*, *supra*, 4 Cal.5th at p. 822.) Evidence tending to demonstrate the defendant's intent and mental state, the cause of death, the lack of consent on the part of the victim, the victim's state of intoxication, are relevant to demonstrate that a murder occurred as well as to demonstrate that the murder occurred in the commission or attempted commission of a rape.

2. **The Other Crimes or Acts Evidence is Relevant**

The second step of the analysis involves analyzing the probative value of the other acts evidence. The general test of relevance is whether the evidence tends "logically, naturally, and by reasonable inference to establish any fact material for the People, or to overcome any material matter sought to be proved" by the defendant. (*People v. Casillas* (2021) 65 Cal.App.5th 135, 150, internal citations omitted; see also

Evid. Code, § 210 [evidence having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action"].)

"The relevance depends, in part, on whether the act is sufficiently similar to the current charges to support a rational inference of intent, common design, identity, or other material fact." (*People v. Leon* (2015) 61 Cal.4th 569, 598.) The least degree of similarity is required to prove intent, a higher degree is required to prove common design or plan, and the highest degree of similarity is required to prove identity. (*People v. Scully* (2021) 11 Cal.5th 542, 586.)

a. *Intent*

Evidence of uncharged misconduct is admissible to prove that Paul Flores committed the murder with the requisite intent: specifically, that he committed it with express malice and that he committed it while in the commission or attempted commission of a rape. His prior involvement in the uncharged sexual assaults shows that he intended to rape Kristin Smart and that he harbored the actual or unreasonable belief that he was exceeding any consent given to him by Kristin Smart in the charged murder and special circumstance.

In *People v. Ewoldt* (1994) 7 Cal.4th 380, the seminal case that addressed the parameters for the admission of evidence of other crimes or acts under Evidence Code section 1101, subdivision (b), the California Supreme Court noted that " '[t]he recurrence of a similar result' " tends with each instance to negate claims of an innocent mental state and to establish a criminal intent. (*Id.* at p. 402, citations omitted.) The prior conduct becomes relevant circumstantial evidence of the actor's most recent intent. (*People v. Robbins* (1988) 45 Cal.3d 867, 879.) "In order to be admissible to prove intent, the uncharged misconduct must be sufficiently similar to support the inference that the defendant ' "probably harbor[ed] the same intent in each instance." [Citations.]' [Citation.] " (*Ewoldt*, *supra*, 7 Cal.4th at p. 402; see also *People v. Robbins*, *supra*, 45 Cal.3d at p. 879 ["The inference to be drawn is not that the actor

is *disposed* to commit such acts; instead, the inference to be drawn is that, in light of the first event, the actor, at the time of the second event, must have had the intent attributed to him by the prosecution"].)

Here, the degree of similarity far surpasses the "least degree of similarity" required in *Ewoldt* as the uncharged attack on Ms. Miller is very similar in nature, time, and place to the murder. Paul Flores contacted Ms. Miller at a party, she ends up drugged and on "death's door" with a feminine hygiene product wedged up her vagina. Paul Flores had her alone and under his custody and control in the bathroom of that party. Therefore, this act further demonstrates his intent to commit sexual assaults on women who are too intoxicated or drugged to be able to consent.

a. *Manner and Common Plan or Scheme*

"[A] common scheme or plan focuses on the manner in which the prior misconduct and the current crimes were committed, i.e., whether the defendant committed similar distinctive acts of misconduct against similar victims under similar circumstances." (*People v. Scheer* (1998) 68 Cal.App.4th 1009, 1020; see also *People v. Walker* (2006) 139 Cal.App.4th 782, 803.) "To establish the existence of a common design or plan, the common features must indicate the existence of a plan rather than a series of similar spontaneous acts, but the plan thus revealed need not be distinctive or unusual." (*Ewoldt, supra*, 7 Cal.4th at p. 403; see also *People v. Rhodes* (2019) 8 Cal.5th 393, 414; *People v. Anderson* (2018) 5 Cal.5th 372, 389.) Rather, "it need only exist to support the inference that the defendant employed that plan in committing the charged offense." (*People v. Leon, supra*, 61 Cal.4th at p. 599.) "Evidence of a common design or plan ... is not used to prove the defendant's intent or identity but rather to prove that the defendant engaged in the conduct alleged to constitute the charged offense." (*Ewoldt, supra*, 7 Cal.4th at p. 394; see also *People v. Chhoun* (2021) 11 Cal.5th 1, 28.) The fact that an uncharged offense occurs after the charged

offense does not lessen its relevance to demonstrating a common design or plan. (*People v. Balcom* (1994) 7 Cal.4th 414, 425.)

The California Supreme Court has ruled on numerous occasions to permit evidence of similar uncharged misconduct to show that defendant acted in accordance with the larger plan. In *People v. Peete* (1946) 28 Cal. 306, 309-313, both of the victims in the uncharged and charged crimes were shot in the back of the neck and buried near the defendant's home. The Court viewed the incidents in light of all the circumstances and found that the similarity in manner and place ruled out the option that it may be "merely coincidental." (*Id.*) Instead, the court ruled that the charged conduct was "directed by design." (*Id.*)

In *People v. Jackson* (2016) 1 Cal.5th 269, the two victims were elderly women who lived alone in the same neighborhood as the defendant, who were burglarized late at night after the women had been outside, who had only small amounts of property taken with no evidence of ransacking, and who were sexually assaulted. (*Id.* at p. 304.) One victim was viciously raped, one victim died. (*Id.*) The Court found that the crimes were cross-admissible because the defendant had a common plan of attacking elderly women late at night while they were alone in their homes in his neighborhood with the purpose of viciously assaulting them. (*Id.*)

In some instances, the commission of the prior offense is itself not the incentive for commission of the charged crime but the "[t]he presence of the same motive in both instances may be a contributing factor in finding a common plan or design." (*People v. Scheer*, *supra*, 68 Cal.App.4th at pp. 1020-1021.) In such cases, the offenses must "share common features." (*People v. McDermott* (2002) 28 Cal.4th 946, 999.)

The proffered evidence is relevant because it shows the manner in which the Paul Flores targets and isolates his victims, and the common plan or scheme he employs. Specifically, Paul Flores isolated January at a college party, just like the

party at Crandall Way. The location of her feminine hygiene product indicates that some type of forcible sex act occurred against her body. . Based on the similarity between each of the attacks, both the pattern as well as location and time of the attacks, it is clear this pattern is not merely coincidental, but it is in fact a direct, targeted plan to prey upon intoxicated or otherwise vulnerable women who are unable to consent.

3. **Evidence of Other Acts is Admissible to Establish the Corpus Delicti of Kristin Smart's Murder**

Evidence of other offenses is admissible to establish the corpus delicti of a crime, including but not limited to by way of demonstrating common plan or scheme (also known as modus operandi), intent, motive, and the absence of mistake or accident. (*People v. Huynh* (2012) 212 Cal.App.4th 285, 301 (*Huynh*) [modus operandi]; *People v. Spector* (2011) 194 Cal.App.4th 1335, 1375-1381 (*Spector*) [absence of mistake or accident]; *People v. Robbins* (1988) 45 Cal.3d 867 (*Robbins*), superseded by statute on other grounds as stated in *People v. Jennings* (1991) 53 Cal.3d 334, 387 fn.13 [intent]; *Matthews v. Superior Court* (1988) 201 Cal.App.3d 385 (*Matthews*) [common plan or scheme]; *People v. Webster* (1971) 14 Cal.App.3d 739 (*Webster*) [intent, motive, modus operandi].)

In *Matthews*, the Court of Appeal upheld the admission of evidence of two prior rapes to establish the corpus delicti of the charged rape as well as the special circumstance allegation that the victim was murdered while the defendant engaged in the commission or attempted commission of a rape.[3] The defendant in *Matthews* was charged with the murder and rape of a young woman whose bones and a rope were found at an abandoned campsite in Coldwater Canyon nearly two years after her disappearance. (*Id.* at p. 389.) A forensic anthropologist observed that the scapula had suffered a puncture wound and also indicated that he observed shovel marks. (*Id.*) A

[3] The Court of Appeal upheld the admission despite the fact that the defendant had been acquitted in one of the previous rapes, noting that " 'an acquittal does not prevent the admissibility of evidence concerning another wrongful act.' [Citation.]" (*Id.* at p. 390, fn.1.)

woman who lived near the campsite lent a shovel to a young man, and the defendant was in possession of a shovel and lantern when he was arrested on an unrelated matter in the area of Coldwater Canyon the day the victim disappeared. (*Id.* at pp. 389-390.) The defendant admitted he had sex with the victim earlier in the day but implied it was consensual. (*Id.* at p. 391.) The defendant further claimed he had placed the rope around the victim's neck after suggesting he tie her up for consensual sex, went into the tent to check if the lantern worked, and when he returned she was choking and ultimately stopped breathing and died. (*Id.*)

Without any physical evidence to support the rape charge or special circumstance, the prosecution presented the testimony of two women who stated they had been lured to the same area and raped. (*Id.*) One testified that she met the defendant at a bar and that, once at the same campsite where the victim's bones were found, the defendant handcuffed her and raped her. (*Id.*) The other woman testified that she met the defendant at a bar and that, when they arrived at a tent in Coldwater Canyon, the defendant knocked her to the ground, strangled her, bound her hands with a scarf, and raped her several times. (*Id.*) She stated that the defendant told her he had a fantasy of tying up a girl and raping her. (*Id.*)

The Court of Appeal held that the evidence of the two prior rapes was properly admitted under section 1101, subdivision (b), to show a common plan or scheme because of the extremely close similarity between the prior acts and the murder: the defendant lured young women to a campsite in Coldwater Canyon to tie them up and rape them. (*Id.* at p. 394.) The Court found that evidence of the prior rapes was "clearly relevant and material" because they tended to prove the intermediate facts[4] from which the ultimate fact of rape may be proved. (*Id.* at pp. 394-395.)

In *People v. Spector* (2011) 194 Cal.App.4th 1335, the victim died of a gunshot wound whose manner was consistent with suicide, and the Court of Appeals upheld

the admission of prior incidents when the defendant committed armed assaults against women in very particular circumstances as both motive and absence of accident or suicide. (*Id.* at p. 1388.) Specifically, the Court noted the similarities of the incidents in which the defendant, fueled by alcohol and facing a lack or loss of control of a woman who was alone with him and in whom he had a romantic or sexual interest, underwent a mood swing, exhibited extreme anger, and threatened the woman with a gun when he refused to do his bidding. (*Id.*)

In *People v. Robbins* (1988) 45 Cal.3d 867, the defendant was convicted of the murder and kidnapping of a six-year-old boy with special circumstances for murder committed during a kidnapping and a lewd and lascivious act on a minor. The victim's skeleton was discovered three months after his murder with evidence of a broken neck, and the only apparent direct evidence of molestation was the defendant's admission. (*Id.* at pp. 872-874.) During the guilt phase, the prosecution presented evidence that six months before the murder, the defendant lured a seven-year-old boy into his truck, sodomized him, and, after the boy screamed, strangled him. (*Id.* at pp. 872-873.) The Court of Appeal upheld the admission of the prior incident under section 1101, subdivision (b), to prove intent to commit a lewd and lascivious act on a minor:

> The reasoning underlying use of an actor's prior acts as circumstantial evidence of that actor's later intent is well explained by Wigmore. It is based on "the doctrine of chances—the instinctive recognition of that logical process which eliminates the element of innocent intent by multiplying instances of the same result until it is perceived that this element cannot explain them all. Without formulating any accurate test, and without attempting by numerous instances to secure absolute certainty of inference, the mind applies this rough and instinctive process of reasoning, namely, that an unusual and abnormal element might perhaps be present in one instance, but that the oftener similar instances occur with similar results, the less likely is the abnormal element likely to be the true explanation of them. [¶] ... In short, similar results do not usually occur through abnormal causes; and the recurrence of a similar result (here in the shape of an unlawful act) tends (increasingly with each instance) to negative accident or inadvertence or self-defense or good

[4] Intermediate facts include motive, opportunity, plan, scheme, design, and modus operandi; essentially, the categories of evidence listed in section 1101, subdivision (b). (*Id.* at p. 395, fn. 3.)

> faith or other innocent mental state, and tends to establish (provisionally, at least, though not certainly) the presence of the normal, i.e., criminal, intent accompanying such an act; and the force of each additional instance will vary in each kind of offense according to the probability that the act could be repeated, within a limited time and under given circumstances, with an innocent intent." [Citations.]

(*Id.* at pp. 879-880.) The Court found the two crimes were substantially similar, and was not troubled by the differences in the vehicles used or the methods of strangulation. (*Id.* at p. 880.)

In *People v. Webster* (1971) 14 Cal.App.3d 739, the Court of Appeals upheld the admission of evidence of two prior rapes by the defendant that demonstrated a strong similarity to the charged offense of rape and murder in the commission of rape: the defendant found his victims in bars, consumed alcohol with his victims drove away with his victims, raped his victims, strangled them, and exposed the breasts of his victims. (*Id.* at p. 745.) The autopsy was inconclusive on the question of whether the sexual intercourse was voluntary or not, and the prior offenses were admissible because they demonstrated the defendant's intent to commit rape and his motive of sexual gratification. (*Id.* at p. 746.)

The corpus delicti of murder – that the death was caused by criminal means – can be proved by circumstantial evidence. (*People v. Scott* (1960) 176 Cal.App.2d 458, 489.) If it is unreasonable to believe that the victim committed suicide or died from natural causes, that would be a circumstance that tends logically to prove death was caused by criminal means. It is axiomatic to say that victims are not able to dispose of their own bodies, the perpetrator must do it. Kristin Smart's body has never been found. Four Human Remains Detection dogs showed strong alerts on the mattress and bedframe of Paul Flores in June of 1996. There was also interest in a wastebasket in his dorm room and on his desk just next to the windowsill. The fact that the dogs alerted on his mattress allows a reasonable inference that Kristin Smart was dead while on the mattress of Paul Flores. Evidence was found under the deck of Ruben Flores that indicates she was once buried at that location. Human Remains

Detection dogs showed a subtle change in behavior at that spot. The Ground Penetrating Radar showed an anomaly of a size that could fit a human body. There was staining consistent with human decomposition and digging indicators that show that spot had been dug up, filled, then dug up again, and filled back up again. Presumed human blood was found four to five feet beneath the surface of the soil, and fibers in colors consistent with the clothing last worn by Ms. Smart was found in the soil.

Paul Flores' offense against January Doe is strikingly similar to the conduct at the Crandall Way party and his other uncharged sex acts. Consequently, it tends to show that the defendant had a common plan or design to pick-up, lure, or take highly intoxicated or drugged women from bars or parties where alcohol is served back to his residence to rape them. Even though he was unable to get January Doe back to his residence, he nevertheless cornered her in a bathroom away from prying eyes. This evidence is highly probative of the circumstances surrounding the victim's death as well as the intent of the victim's killer. This evidence is critical proof in explaining to a future jury how Kristin Smart met her demise. Time and time again courts have ruled that this type of evidence is admissible to prove the corpus delicti of the crime and it should be admitted in this case.

4. The Probative Value of Evidence of Other Crimes and Acts is Not Substantially Outweighed by Undue Prejudice

In the context of Evidence Code section 352, prejudicial is not synonymous with damaging. (*Parker, supra*, __ Cal.5th __, 2022 WL at p. *18.) Section 352 allows for exclusion of relevant evidence "only if its probative value is 'substantially outweighed' by the 'probability' its admission will create a 'substantial' danger of 'undue' prejudice. " (*People v. Branch* (2001) 91 Cal.App.4th 274, 286.) All relevant evidence that points to a defendant's guilt is prejudicial to the defense. The stronger the evidence, the more prejudicial it is. The prejudice referred to in section 352, however, applies to evidence that uniquely tends to evoke an emotional bias against the defendant as an individual,

and at the same time has very little effect on the issues to be decided by the jury. (See *infra*, section II, subd. (a)(2).)

In making a judgment, pursuant to section 352, about admissibility of evidence of uncharged offenses, where introduction is sought under section 1101, subdivision (b), "the probative value of the evidence must be balanced against four factors: (1) the inflammatory nature of the uncharged conduct; (2) the possibility of confusion of issues; (3) remoteness in time of the uncharged offenses; and, (4) the amount of time involved in introducing and refuting the evidence of the uncharged offenses." (*People v. Branch, supra*, at p. 282; see also *Ewoldt, supra*, 7 Cal.4th at pp. 404-406.) This is similar to the section 352 analysis already addressed in the previous section on the admissibility of other sexual offenses pursuant to section 1108. "It follows that if evidence satisfies the requirements of section 1108, including that it is not inadmissible under section 352, then the admission of that evidence does not violate section 1101. (*People v. Daveggio and Michaud, supra*, 4 Cal.5th at p. 823.)

The defendant's prior offenses are strikingly similar, and consequently tend to show that the defendant acts according to a common plan for taking incapacitated women to his residence to commit sex crimes. This evidence is highly probative of the defendant's propensity to commit such crimes, identity of the perpetrator, motive, intent to kill, premeditation and deliberation, and the commission of a sexual offense. The probative value of uncharged misconduct is enhanced if it is completely independent of the charged offense. Multiple independent instances of similar misconduct, as in this case, increase the probative value of such evidence even further. Each of the defendant's other sexual offenses is independent of the others. For these reasons and for the reasons stated in section II, subd. (a)(2), the probative value of the evidence of Paul Flores's other acts is not substantially outweighed by the risk of undue prejudice.

//

III

THE PEOPLE ARE PREPARED TO CONDUCT AN EVIDENTIARY HEARING AS TO THE ADMISSIBILITY OF THE ABOVE ACTS PURSUANT TO EVIDENCE CODE 1108 AND 1101(b) SHOULD THE COURT REQUEST

The People have witnesses on call and are prepared to conduct an evidentiary hearing should the court request. This court could consider the live testimony to truly evaluate the circumstances of these crimes and give a full evaluation under EC 1108 and 1101(b). These victims bravely came forward and deserve to have their voices heard by this court.

IV

CONCLUSION

The statements and actions of Paul Flores witnessed by Melinda Miller during her attempt to stabilize January Doe while at a party near Cal Poly further support the Defendant's pattern of targeting intoxicated or otherwise incapacitated women with the intent of engaging in sexual acts, despite their inability to consent.

Paul Flores portrayed himself as an unwitting bystander, offering no knowledge of how or why January Doe's pants were removed even though he was seen exiting the bathroom where she was found. The People respectfully request this court allow the introduction of the testimony of Ms. Miller.

DATED: June 6, 2022

RESPECTFULLY SUBMITTED,

DAN DOW
District Attorney

CHRISTOPHER PEUVRELLE
Deputy District Attorney

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

FILED

JUN 06 2022

CLERK OF THE SUPERIOR COURT
DEPUTY
K Hansen

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendant.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B ~~[PROPOSED]~~ ORDER SEALING PUBLIC RECORDS

Based upon the foregoing Affidavit and Request, IT IS HEREBY ORDERED that:

1. The People's Motion to Introduce Statement of Ruben Flores in a Joint Trial, Notice of Motion and Supplemental Motion Under Evidence Code Section 1108 and People's Motion Excluding Suspected Defense Questions and Arguments on Third Party Culpability and the Affidavit in support of the People's Motion to Introduce Statement of Ruben Flores in a Joint Trial, Notice of Motion and Supplemental Motion Under Evidence Code Section 1108 and People's Motion Excluding Suspected Defense Questions and Arguments on Third Party Culpability are sealed and lodged with the Court;

2. No other sealing is ordered pursuant to the People's request; and

3. Defense Counsel for Paul Ruben Flores, Robert M. Sanger and his office and Defense Counsel for Ruben Ricardo Flores, Harold V. Mesick and his office are permitted to view the sealed records.

Dated: 6/6/2022

THE HONORABLE JENNIFER O'KEEFE
JUDGE OF THE SUPERIOR COURT

Hon. Jennifer J. O'Keefe

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003713

People of the State of California vs. Ruben Ricardo Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 6/6/2022 **Time: 8:30 AM** **Hearing: Motion**

Charges:
001 PC32-Accessory Felony

Nature of proceedings: Motions in Limine.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears with Attorney Harold Mesick.

The Court makes the following disclosure: "My husband, Thomas O'Keefe is currently Assistant Public Defender in the Monterey County Public Defender's Office."

The Court places on the record the discussions had over zoom with all counsel on the dates of May 9, May 18, May 24, and May 31.

Motions in limine are heard and ruled upon.

The Court notes the Defense is objecting to hearings and rulings on motions in limine prior to jury impanelment.

The Court denies the request to hear motions after the jury is impaneled with reasons stated for the record.

Miranda Motion:

The Court has reviewed the People's statements, the Defense motion to exclude,and the entire preliminary hearing transcript.

Arguments presented.

The Court does not find a miranda violation and respectfully denies the motion.

Court is in recess for break.

Case called, all parties present.

Motion by the Defense to exclude witnesses.

The Court will allow the Smart family and the Flores family as well as the public into the proceedings.

Motion to dismiss the case due to outrageous government conduct is discussed.

The Court has reviewed the motion, the declarations and opposition.

Motion is trailed.

The Court finds dual jury panel is necessary due to statements made.

Parties are encouraged to discuss the matter.

Jury selection schedule is discussed for the record.

Prospective Jurors will be brought in as a group, utilizing questionnaires.

Prospective Jurors will be released for hardships and for cause by stipulation.

Remaining jury pool will be determined and jury panels will be selected separately.

Paul Flores will have 20 challenges.

Ruben Flores will have 10 challenges.

There will be 8 alternate jurors for each panel.

Jurors will alternate weekly seating in the jury box.

Schedule for opening and closing arguments, deliberation and timing of verdicts discussed.

Seating for families and media discussed.

Overflow rooms will change daily and Bailiff will be present.

Schedule for trial discussed.

Defense motion to dismiss for outrageous government conduct is heard.

Eric Dobroth is sworn to testify on behalf of the Defense.

Short recess for break.

Case called, all parties present.

Witness Eric Dobroth, previously sworn, resumes testimony.

The parties have reached a stipulation in this motion.

Stipulation is read into the record. No written stipulation to be filed.

Witness is excused.

No further evidence from Mr. Sanger.

Mr. Mesick is not joining in the motion.

Arguments presented.

Matter is submitted.

The Court has reviewed the pleadings, the opposition filed, the declarations and preliminary transcript.

The Court respectfully denies the motion.

Motion regarding 3rd party culpability is heard.

The Court has read and reviewed the motion filed by the People.

Defense makes an oral response to the motion.

Arguments presented.

Matter is submitted.

The Court respectfully denies the motion regarding 3rd party culpability.

Court in recess for the day.

Matter continued to June 7, 2022 at 10:30 am in Salinas, Department 4 for Motions in limine.

Defendant is to remain on bail.

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
Courthouse Annex, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/7/2022 10:19 AM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendants	CASE NOS. 22CR003712 & 22CR003713 PEOPLE'S MOTION IN LIMINE Date: June 7, 2022 Time: 8:30 Dept. 4

Motions in limine should be granted to exclude evidence that could properly be objected to at trial, either as irrelevant, unduly prejudicial, or subject to other discretionary policies of exclusion. *People v. Morris* (1991) 53 Cal.3d 152, 188. In that regard, the People hereby move that this court order the following:

1. Statements of the defendants are only admissible if offered by the People under Evidence Code section 1220. Thus, the defense cannot introduce the defendants' statements in their case and chief.
2. Admit the certified documentation of the booking photo of Paul Flores from May 27, 1996, or if necessary allow the testimony of Detective Mike Smiley to lay the foundation.
3. Exclude any questioning of Jennifer Hudson as to Methamphetamine use during her lifetime. The only relevant question is whether she was under the influence of anything

during the time she heard Paul Flores make his admission. During the Preliminary Hearing the people had to repeatedly object to attempted questions of use during other portions of her life not having to do with hearing the statements in question.

4. That no questions be asked which assume facts not in evidence. These questions were routinely asked during the prelim and are improper.

5. Exclude any discussion or accusations of purple-tie wearing by the People as irrelevant at jury trial.

6. Exclude any cross-examination of Detective Clint Cole about wearing a purple tie as irrelevant at jury trial. During the Preliminary Hearing, Cole testified that he was wearing a purple tie because it was Kristin's favorite color. (Reporter's Transcript: page 1512, line 6) He explained, "I saw a social media post where that was her favorite color, and that's what I decided to do." (RT: page 1512, lines 21-22) This represents a small token of kindness for a victim who has waited 26 years for justice and is irrelevance in front of a jury. In a later question, Counsel for Paul Flores asked Detective Cole, "The Facebook Justice for Kristin Smart is dedicated to seeing, among other things, Paul Flores being convicted of murder; right?" Cole answered, "Yes." (RT: page 1513, lines 9-12) Counsel has represented in chambers and moving papers that Detective Cole testified it he wore a purple tie in solidarity with the Facebook Group when in reality he testified it was simply because purple was Kristin's favorite color. It appears counsel mis-remembers the testimony but a proper examination of that portion of the transcript shows the actual reason. The fact that Cole wore a purple tie at Preliminary Hearing is irrelevant at jury trial and should be excluded.

7. Similarly, exclude any reference to the prosecution wearing a purple tie for a handful of days during the Preliminary Hearing as irrelevant at jury trial.

8. Exclude any evidence or questions regarding the sexual history of Kristin Smart as irrelevant. Exclude any remarks between questions belittling the lifestyle of Ms. Smart. Exclude any speculation that Ms. Smart may have been pregnant at the time of her disappearance. Exclude any speculation that she may have gone to Santa Barbara since

the morning after pill was not in existence at this time.

9. Admit the statements by Susan Flores to Paul Flores that were recorded in 2020 when police had a judicial approved wiretap. On one occasion, Susan Flores told Paul Flores to make sure to listen to the podcast in order to poke holes in it. She reiterated that he may not be able to, but only he knows. Paul Flores has no denials. This is an adoptive admission and admissible against both defendants. See the relevant portion as attachment A and B. (Attachment A, Audio Recording of Wiretap conversation between Susan Flores and Paul Flores) (Attachment B, Transcript of Audio Recording of Wiretap conversation between Susan Flores and Paul Flores) **(Due to the inability to E-file digital media with the court, Defense will not be served a copy of Attachment A, as it has already been discovered to Defense as bates #123:050217)**

10. Exclude any discussion of the August 21, 2001, disclosures made as irrelevant. These disclosures are irrelevant and were vetted at Preliminary Hearing. To introduce at jury trial would violate EC 352 as it would confuse the jury as to the issues in this case and take up an undue consumption of time in cross-examination. Should further discussion be required by the court, the People request leave to file additional briefing and appear in closed session.

11. Any motion under Wheeler/Batson or for prosecutorial misconduct should be heard outside the presence of the jury.

12. That no comment on any possible penalty that defendant might face be permitted before the jury as such is irrelevant and prejudicial without probative value. Evidence Code sections 350, 352.

13. Disclosure of all witnesses—including names and addresses—as well as any recorded statements. Penal Code section 1054, *et seq*. As of this writing, the People have received three expert witness reports and no statements.

14. Prior to any defense witness testifying, the People request a hearing pursuant to Evidence Code section 402 to establish the relevancy and admissibility of each witness's testimony. This motion may be amended upon defense counsel's offer of proof. Evidence Code

section 350-352, 402-405, 720-721, 402, 1200(b); Penal Code section 1054.3.

15. That no "speaking objections" be permitted before the jury as such is irrelevant and prejudicial without probative value. Evidence Code sections 350, 352.

16. Exclude all witnesses from the courtroom during the trial. Evidence Code section 777.

Dated: June 7, 2022

Respectfully submitted,

Dan Dow
District Attorney

By _____
Christopher Peuvrelle,
Deputy District Attorney

ATTACHMENT A

(Due to the inability to E-file digital media with the court, Defense will not be served a copy of Exhibit A, as it has already been discovered to Defense as bates #123:050217. A courtesy copy of the audio recording and transcript will be provided the court and both defense counsels)

ATTACHMENT B

PEOPLE V. PAUL RUBEN FLORES & RUBEN RICARDO FLORES

MONTEREY COUNTY SUPERIOR COURT CASE NOS. 22CR003712 & 22CR003713

SAN LUIS OBISPO COUNTY SUPERIOR COURT CASE NOS. 21F-02402-A,B

DA CASE NO. 079-662557 & 079-663275

WIRETAP 20-01 - JAIL CALL - (310) 738-4145 2020-01-26 09-41-08 05121-001

S = SUSAN FLORES, WITNESS

P = PAUL RUBEN FLORES, DEFENDANT

[TRANSCRIBED BY AM on 6/7/22]

[START TIME 00:00:00]

S - FOR YOU. BUT I NEED YOU TO MAKE THE CALL. I WOULD THINK. 'CAUSE UH – I NEED TO KNOW WHERE IT'S AT –

P YEAH –

S YOU KNOW TO MAKE SURE THAT YOU'RE COVERED 'CAUSE THE REST OF US ARE.

P YEAH.

S AND THEY'RE GONNA WORK TOGETHER, THESE FOUR ATTORNEYS. IF WE EVER GET TO THAT POINT. WHICH I DON'T KNOW IF WE WILL OR NOT. THE OTHER THING I NEED YOU TO DO IS TO START LISTENING TO THE PODCAST. I NEED YOU TO LISTEN TO EVERYTHING THEY SAY SO WE CAN PUNCH HOLES IN IT. UM, WHEREVER WE CAN PUNCH HOLES. MAYBE CAN'T. Y-YOU'RE THE ONE THAT CAN TELL ME. UM, AND THEN IT WAS SOMETHING REALLY FUNNY. I WAS ON -

[END TIME 00:00:47]

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003713

People of the State of California vs. Ruben Ricardo Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 6/7/2022 **Time: 10:30 AM** **Hearing: Motion**

Charges:
001 PC32-Accessory Felony

Nature of proceedings: Motions in limine.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears with Attorney Harold Mesick.

The Court makes the following disclosure: "My husband, Thomas O'Keefe is currently Assistant Public Defender in the Monterey County Public Defender's Office."

Matter was discussed in chambers.

Motions in Limine are heard, argued and ruled upon as stated on the record.

People's Motions in limine:

Motion 1: No ruling at this time.

Motion 2: Admissible with proper foundation.

Motion 3: Granted.

Motion 4: Granted.

Motions 5, 6, 7: Court will review information in the preliminary hearing and make ruling at a

later time.

Motion 8: The Court excludes part 1, and 2 and will allow limited scope as to part 3.

Motion 9, 10: The Court will review digital evidence.

Motion 11: Granted.

Motion 12, 13: Granted.

Motion 14: The Court will not grant or deny at this point.

Motion 15: Granted.

Motion 16: Witnesses will be excluded in opening statements if testifying. This applies to both People and Defense witnesses.

Motions in Limine are heard, argued and ruled upon as stated on the record.

Defense Motions in limine:

Motion 1, 2: No ruling, will hear at later time.

Motion 3: Granted.

Motion 4: Joined by Mr. Mesik: The Court will not preclude use of this term.

Motion 5: Tentatively granted.

Motion 6: Granted.

Remaining motions to be heard at a later date due to witness availability.

Motion hearing is vacated for June 8, 2022.

Motion hearing is vacated for June 9, 2022.

Motion hearing is vacated for June 10, 2022.

Matter is set for Jury trial long cause on June 13, 2022 at 08:30 am in Salinas, Department 4.

Defendant is to remain on bail.

MC-500

MEDIA AGENCY *(name)*: 13 Stars Media
CHANNEL/FREQUENCY NO.: Newspaper
PERSON SUBMITTING REQUEST *(name)*: Camille DeVaul
ADDRESS:
PO Box 6068 Atascadero, CA 93423
TELEPHONE NO.: 805-286-0392

Insert name of court and name of judicial district and branch court, if any:
Monterey County Superior Court of Salinas

TITLE OF CASE:
People v. Flores

NAME OF JUDGE: Jennifer O'Keefe

MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST

FOR COURT USE ONLY

FILED

JUN 09 2022

CLERK OF THE SUPERIOR COURT
DEPUTY

CASE NUMBER:
Case#: 22CR003712- 22CR003713

1. PORTION OF THE PROCEEDINGS TO BE COVERED *(e.g., particular witnesses at trial, the sentencing hearing, etc.)*:
   pretrial hearings, trial, sentencing hearing

2. DATE OF PROPOSED COVERAGE *(specify)*: June 23, 24 and October . *(File this form at least five court days before the proposed coverage date. If not feasible, explain good cause for noncompliance)*:

3. TYPE OF COVERAGE
   a. ☐ TV camera and recorder
   b. ☐ Still camera
   c. ☐ Motion picture camera
   d. ☐ Audio
   e. ☒ Other *(specify)*: Note taking

4. ☐ SPECIAL REQUESTS OR ANTICIPATED PROBLEMS *(specify)*:

5. ☐ INCREASED COSTS. This agency acknowledges that it will be responsible for increased court-incurred costs, if any, resulting from this media coverage *(estimate)*: $
   ☒ Amount unknown

6. PROPOSED ORDER. A completed, proposed order on Judicial Council form MC- 510 is attached *(required by Cal. Rules of Court, rule 1.150)*.

CERTIFICATION

I certify that if the court permits media coverage in this case, all participating personnel in this media agency will be informed of and will abide by the provisions of California Rules of Court, rule 1.150, the provisions of the court order, and any additional restrictions imposed by the court.

Date: June 8, 2022

Camille DeVaul
(TYPE OR PRINT NAME)

(SIGNATURE)

Telephone No.: 805-286-0392

Content Editor
(SUPERVISORY POSITION IN MEDIA AGENCY)

NOTICE OF HEARING (*A hearing is optional.*)

A HEARING will be held as follows:

Date: Time: Dept./Div: Room:
Address of the Court:

Clerk, by , Deputy

privacy, please press the Clear This Form button after y
Print this form
Save this form
Clear this form

MC-510

MEDIA AGENCY *(name)*: 13 Stars Media
CHANNEL/FREQUENCY NO.: Newspaper
PERSON SUBMITTING REQUEST *(name)*: Camille DeVaul
ADDRESS: PO Box 6068 Atascadero, CA 93423
TELEPHONE NO.: 805-286-0392

FOR COURT USE ONLY

FILED

JUN 09 2022

CLERK OF THE SUPERIOR COURT
DEPUTY

Insert name of court and name of judicial district and branch court, if any:
Monterey County Superior Court of Salinas

TITLE OF CASE:
People v. Flores

NAME OF JUDGE:
Jennifer O'Keefe

CASE NUMBER:
Case#: 22CR003712- 22CR003713

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

AGENCY MAKING REQUEST *(name)*:

1. a. ☑ No hearing was held.
   b. ☐ Date of hearing: Time: Dept./Div.: Room:
2. The court considered all the relevant factors listed in subdivision (e)(3) of California Rules of Court, rule 1.150 *(see reverse)*.
3. ☐ **THE COURT FINDS** *(findings or a statement of decision are optional)*: ☐ Attached ☐ As follows:

THE COURT ORDERS

4. The request to photograph, record, or broadcast is
   a. ☐ **denied.**
   b. ☑ **granted** subject to the conditions in rule 1.150, California Rules of Court, **AND** the following:
      (1) ☐ The local rules of this court regulating media activity outside the courtroom *(copy attached)*.
      (2) ☐ The order of the presiding or supervising judge regulating media activity outside the courtroom *(copy attached)*.
      (3) ☐ Payment to the clerk of increased court- incurred costs of *(specify)*: $ ☐ to be determined.
      (4) ☐ The media agency shall demonstrate to the court that the proposed personnel and equipment comply with California Rules of Court, rule 1.150, and any local rule or order.
      (5) ☐ Personnel and equipment shall be placed ☐ as directed ☐ as indicated in the attachment ☐ as follows *(specify)*:

      (6) (i) ☐ The attached statement of agreed pooling arrangements is approved.
      (ii) ☐ A statement of agreed pooling arrangements satisfactory to the court shall be filed before coverage begins.
      (7) ☐ This order
         (i) ☐ shall not apply to allow coverage of proceedings that are continued.
         (ii) ☐ shall apply to allow coverage of proceedings that are continued.
      (8) ☑ Other *(specify)*: See order.

5. Coverage granted in item 4b is permitted in the following proceedings:
   a. ☑ All proceedings, *except* those prohibited by California Rules of Court, rule 1.150, and those proceedings prohibited by further court order.
   b. ☐ Only the following proceedings *(specify type or date or both)*:
6. ☐ The order made on *(date)*: is ☐ terminated ☐ modified as follows *(specify)*:

7. ☐ Number of pages attached:

Date: 6/9/2022

Jennifer O'Keefe
JUDGE

(See reverse for additional information)

CASE NAME:	CASE NUMBER:
People v. Flores	Case#: 22CR003712- 22CR0037

FACTORS CONSIDERED BY THE JUDGE IN MAKING THIS ORDER (Rule 1.150)

1. Importance of maintaining public trust and confidence in the judicial system
2. Importance of promoting public access to the judicial system
3. Parties' support of or opposition to the request
4. Nature of the case
5. Privacy rights of all participants in the proceeding, including witnesses, jurors, and victims
6. Effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding
7. Effect on the parties' ability to select a fair and unbiased jury
8. Effect on any ongoing law enforcement activity in the case
9. Effect on any unresolved identification issues
10. Effect on any subsequent proceedings in the case
11. Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness
12. Effect on excluded witnesses who would have access to the televised testimony of prior witnesses
13. Scope of the coverage and whether partial coverage might unfairly influence or distract the jury
14. Difficulty of jury selection if a mistrial is declared
15. Security and dignity of the court
16. Undue administrative or financial burden to the court or participants
17. Interference with neighboring courtrooms
18. Maintaining orderly conduct of the proceeding
19. Any other factor the judge deems relevant

PROHIBITED COVERAGE (Rule 1.150)

This order does not permit photographing, recording, or broadcasting of the following in the court:

1. The jury or the spectators
2. Jury selection
3. A conference between an attorney and a client, witness, or aide
4. A conference between attorneys
5. A conference between counsel and the judge at the bench ("sidebars")
6. A proceeding closed to the public
7. A proceeding held in chambers

MEDIA PERSONNEL AND EQUIPMENT (Rule 1.150)

NOTE: These requirements apply unless the judge orders otherwise. Refer to the order for additional requirements.

1. No more than one television camera
2. No more than one still photographer
3. No more than one microphone operator and no obtrusive microphones or wiring
4. No operator entry or exit or other distraction when the court is in session
5. No moving equipment when the court is in session
6. No distracting sounds or lights
7. No visible signal light or device that shows when equipment is operating
8. No disruption of proceedings, nor public expense, to install, operate, or remove modifications to existing sound and lighting systems
9. No media agency insignia or marking on equipment or clothing

SANCTIONS FOR VIOLATING THIS ORDER (Rule 1.150)

Any violation of this order or rule 1.150 is an unlawful interference with the proceedings of the court. The violation may result in an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions.

Out of Court Minute Order Re: Media Requests

The Court makes the following rulings:

Recording of courtroom proceedings is restricted. One pool camera for still photography is allowed.

No audio recording is allowed inside the courtroom. This includes audio recordings for note taking purposes.

No video recording is allowed inside the courtroom

The pool camera will not be permitted to capture images during jury selection

The pool camera will not be permitted to capture images of jurors at any time, whether during jury selection or during trial.

The pool camera will not be permitted to capture images of conferences between an attorney and a client, witness or aide

The pool camera will not be permitted to capture images of conferences between attorneys

The pool camera will not be permitted to capture images of conferences between counsel and the judge at the bench

The pool camera is prohibited from capturing images of proceedings held in chambers

The pool camera is prohibited from capturing images of proceedings closed to the public

No other cameras are allowed.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003713

People of the State of California vs. Ruben Ricardo Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 6/13/2022 **Time: 8:30 AM** **Jury Trial: Long Cause**

Charges:
001 PC32-Accessory Felony

Nature of proceedings: Jury trial long cause.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears with Attorney Harold Mesick.

Prospective Jurors panel #1 are present and seated in courtroom 4 and 5.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Prospective Jurors panel #2 are present and seated in courtroom 4 and 5.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way.

Jurors are ordered to provide information on kiosk outside courtroom and will be provided with a date to return for further selection.

Court in recess for lunch break.

Case called, all parties present.

Prospective Jurors panel #3 are present and seated in courtroom 4 and 5.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are ordered to provide information on the outside kiosk and will be provided with a date to return for further selection.

Jurors are admonished not to discuss or investigate the case in any way.

Prospective Jurors panel #4 are present and seated in courtroom 4 and 5.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are ordered to provide information and will be provided with a date to return for further selection.

Jurors are admonished not to discuss or investigate the case in any way.

Court in recess for the day.

Jury trial remains as set for Tuesday, June 14, 2022 at 08:30 am in Salinas, Department 4.

Defendant to remain on bail.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003713

People of the State of California vs. Ruben Ricardo Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 6/14/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC32-Accessory Felony

Nature of proceedings: Jury trial long cause ongoing.

Deputy District Attorney Chris Peuvreile is present.

Defendant appears with Attorney Harold Mesick.

Prospective remaining Jurors from panel 4 present.

Jurors released for hardship.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel #5 present in courtroom 4 and 1.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel #6 present in courtroom 4 and 1.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess for lunch break.

Case called all parties present.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel #7 present in courtroom 4.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel #8 present in courtroom 4 and 1.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess for the day.

Matter remains set for Jury trial long cause on June 15, 2022 at 08:30 am in Salinas, Department 4.

Defendant to remain on Bail.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003713

People of the State of California vs. Ruben Ricardo Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: Location: Department 4

Date: 6/15/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC32-Accessory Felony

Nature of proceedings: Jury trial long cause.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears with Attorney Harold Mesick.

Out of the presence of the prospective jurors, the Court and Counsel discuss juror 248 is excused for hardship, juror 378 was ordered back and is now excused for cause by stipulation.

Case called, all parties present.

Prospective juror panel # 9 is present in Courtroom 4 and 5.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel # 10 present in courtroom 4 and 5.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess for lunch break.

Case called all parties present.

The Court addresses juror # 396. Juror # 396 is released by stipulation for hardship.

The People provide the Court with a courtesy copy of a CD and parties stipulate the Court may review.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel #11 present in courtrooms 4 and 5.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel #12 present in courtroom 4.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess for the day.

Matter remains set for Jury trial long cause on June 16, 2022 at 08:30 am in Salinas, Department 4.

Defendant is to remain on bail.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003713

People of the State of California vs. Ruben Ricardo Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 6/16/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC32-Accessory Felony

Nature of proceedings: Jury trial long cause.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears with Attorney Harold Mesick.

Case called, all parties present.

Prospective juror panel # 13 is present in courtrooms 4 and 1.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Out of the presence of the jurors, the Court places on the record Juror # 378 was released and Counsel may now contact the prospective juror.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel # 14 present in courtrooms 4 and 1.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess for lunch break.

Case called, all parties present.

Prospective Jurors panel #15 present in courtrooms 4 and 1.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess for the day.

Matter remains set for Jury trial long cause on June 17, 2022 at 08:30 am in Salinas, Department 4.

Defendant is to remain on bail.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003713

People of the State of California vs. Ruben Ricardo Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: Location: Department 4

Date: 6/17/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC32-Accessory Felony

Nature of proceedings: Jury trial long cause (ongoing).

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears with Attorney Harold Mesick.

Case called, all parties present.

Prospective Juror panel # 16 is present in Courtrooms 4 and 5.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

JNow at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel # 17 present in courtrooms 4 and 5.

District Attorney, Defendant's counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Out of the presence of the jurors, the Court notes for the record Juror # 1179 transposed his number on his questionnaire and was released for hardship. Juror's actual number was 1197.

Jury schedule for week of June 20, 2022 is discussed.

Case remains set for Jury trial long cause (ongoing) on June 20, 2022 at 08:30 am in Salinas, Department 4.

Defendant is to remain on bail.

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/23/2022 2:03 PM
By: Oscar Luna, Deputy

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendants.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND ORDER SEALING RECORDS

I am Christopher Peuvrelle, a Deputy District Attorney for San Luis Obispo County. I am the assigned prosecutor for the above-entitled case.

As the court and counsel for the defendant are well aware, there has been a great deal of public interest in this pending case. It has been the goal of all parties to this case to limit the amount of information disseminated to the public to maintain the integrity of the potential jury pool. Such efforts will help assure the defendant is able to receive a fair and impartial trial in which has now been moved to Monterey County.

In this regard, I have submitted a copy of the People's Reply to Supplemental Brief on Motion to Traverse, Quash, and Suppress to be heard on July 7, 2022. In accordance with Section 6255 of the California Government Code, I am requesting that this court order that the

People's Reply to Supplemental Brief on Motion to Traverse, Quash, and Suppress be sealed until further order of this Court. I respectfully urge that, under Section 6255, the public interest served by not making such records public clearly outweighs the public interest served by disclosure of such records. I would further request that a copy of such reports be released only to counsel for the People and the defendant to prepare for the Jury Trial. Defense counsel represented in chambers with the Honorable Judge van Rooyen on April 15, 2021, that they agree with this request.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 23, 2022

Respectfully submitted,

Dan Dow
District Attorney

By: Christopher Peuvrelle
Deputy District Attorney

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/23/2022 2:03 PM
By: Oscar Luna, Deputy

PROOF OF SERVICE

Code of Civil Procedure §1031a; CRC Rule 2006(d)

STATE OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO

I am and at all times herein mentioned as a citizen of the United States and a resident of the County of San Luis Obispo over the age of 18 years and not a party to the within entitled action. My business address is Court House Annex, 4th Floor, San Luis Obispo, California 93408.

On June 23, 2022, I served the foregoing document(s) described as:

PEOPLE'S REPLY TO SUPPLEMENTAL BRIEF ON MOTION TO TRAVERSE, QUASH AND SUPPRESS & AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND PROPOSED ORDER SEALING PUBLIC RECORDS

(*People v. Paul Ruben Flores & Ruben Ricardo Flores,* Case No.22CR003712 & 22CR003713)

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope and addressed as follows:

ROBERT M. SANGER
ATTORNEY FOR PAUL FLORES
EMAIL:
RMSTEAM@SANGERSWYSEN.COM

SARAH SANGER
ATTORNEY FOR PAUL FLORES
EMAIL:
SSANGER@SANGERSWYSEN.COM

HAROLD MESICK
ATTORNEY FOR RUBEN FLORES
EMAIL: HAROLDMESICK@GMAIL.COM

[XX] BY EMAIL TRANSMISSION: By use of San Luis Obispo County issued email, I caused such document(s) to be transmitted to the addressee(s) email account noted above. The County issued computer used complies with Rule 2.251 and the transmission was reported as complete without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 23, 2022, at San Luis Obispo, California.

Sandee Lopez

Sandee Lopez, Legal Clerk

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/23/2022 2:03 PM
By: Oscar Luna, Deputy

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
Courthouse Annex, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendants	CASE NOS. 22CR003712 & 22CR003713 PEOPLE'S REPLY TO SUPPLEMENTAL BRIEF ON MOTION TO TRAVERSE, QUASH AND SUPPRESS Date: July 7, 2022 Time: 8:30 Dept. 4

I.

INTRODUCTION

The Supplemental Briefing on Notice of Motion and Motion to Traverse, Quash and Suppress ("Supplemental Briefing") by Defendant Paul Ruben Flores fails to address—much less acknowledge—the significant legal barrier he must overcome to invalidate the search warrants in this matter. Instead, his attacks on the affidavits consist of generalized complaints about the investigation as a whole, similar to what might be expected to be argued at trial. Of greatest significance, his arguments do not even begin to address the strict test established by *Franks v. Delaware* (1978) 438 U.S. 154, that must be satisfied to invalidate a search warrant.

As noted below, before a hearing will be ordered, the defendant must make a "substantial showing" that affidavits contain statements (or make material omissions) that are

deliberately false or were made with reckless disregard for the truth. Further, a hearing is not required if the affidavit is re-evaluated with the misstatements excised (or the omitted material information is included) and probable cause is still found to exist for the warrant. The defendant bears the burden of proof.

a. Synopsis of legal frameworks for challenging a warrant

The reason courts have placed such a heavy burden on someone challenging a warrant is axiomatic—courts want to encourage law enforcement to seek review by a judicial officer before conducting a search. Consequently, when a warrant <u>has</u> been obtained, reviewing courts pay great deference to the judge that reviewed and approved the warrant. *People v. Aho* (1985) 166 C.A. 3d 984, 990. The duty of the reviewing court is to save the warrant if it can do so in good conscience. *People v, Hochanadel* (2009) 176 C.A. 4th 997, 1015. And, because a search conducted pursuant to a search warrant is presumed lawful, the burden of establishing the invalidity of the warrant resists upon the defendant. *Theodor v. Superior Court* (1972) 8 Cal 3d. 77, 101.

Case law has established a procedure for evaluating an attack on a warrant which must be followed. In this matter, the defense has claimed both that *false information* was included in affidavits and that material information was *omitted* from the affidavit, though most of the challenges allege material omissions. As discussed below, the legal framework for addressing false information and material omissions is different.

As to attacks involving allegations of <u>*false information*</u>, a defendant is not entitled to an evidentiary hearing until he or she has first made a "substantial showing" that (1) the affidavit contains statements that are "deliberately false or were made in reckless disregard of the truth," and (2) after the false statements are excised, the affidavits remaining contents are insufficient to support a finding of probable cause. *People v. Miles* (2020) 9 Cal. 5th 513, 576. Innocent or negligent misrepresentations will not support a motion to traverse. *Id.*

As to attacks alleging an <u>*omission* of material fact</u>, the defendant bears the burden of showing an "intentional or reckless omission of material information that, when added to the affidavit, renders it insufficient to support a finding of probable cause. *Id.* In either setting, the

defendant must make his showing by a preponderance of the evidence, and the affidavit it presumed valid. *Id.*

Omissions and misstatements are distinct in important ways. *People v. Kurland* (1980) 28 C.3rd 376, 384. "Every falsehood makes an affidavit inaccurate, but not all omissions do so. An affidavit need not disclose every imaginable fact however irrelevant. It need only furnish the magistrate with information, favorable and adverse, sufficient to permit a reasonable, common sense determination whether circumstances which justify a search are probably present. (citation)" *Id.* Further, facts are "material" and therefore must be disclosed "if their omission would make the affidavit *substantially misleading." Id.* at 385.

As to omitted facts, it is important to underscore that the defense must show "that the affiant deliberately or recklessly omitted material facts that negate probable cause when added to the affidavit." *People v. Eubanks* (2011) 53 Cal.4th 110, 136.

Finally, general and unsubstantiated allegations are insufficient to trigger a *Franks* hearing. Rather, a defendant attacking the validity of a warrant by questioning the contents of the affidavit must provide specific details demonstrating how the misinformation, or omissions, have so thoroughly undermined the affidavit that probable cause did not exist for issuing the warrant. This is an high burden requiring extraordinary proof and a compelling argument. A challenger's attack:

> [M]ust be more than conclusory and must be supported by more than a mere desire to cross-examine. There must be allegations of deliberate falsehood or of reckless disregard for the truth, and those allegations must be accompanied by an offer of proof. They should point out specifically the portion of the warrant affidavit that is claimed to be false; and they should be accompanied by a statement of supporting reasons. Affidavits or sworn or otherwise reliable statements of witnesses should be furnished, or their absence satisfactorily explained. Allegations of negligence or innocent mistake are insufficient.

Franks, at p. 171; see also *People v. Sandoval* (2015) 62 Cal.4th 394, 409.

b. Summary of allegations by defendant

As mentioned above, defendant's Supplemental Brief does not address the test set forth in *Franks*, but makes general and unsubstantiated attacks about the investigation and state of the evidence.

The defendant's Supplemental Brief narrows-down the scope of his attack by asserting that only the following warrant (and their affidavits) are in issue: Warrant #13637 (found at Exhibit S to the Defendant's Motion), Warrant 13651 (Exhibit T), Warrant 13663 (Exhibit U), Warrant 13697 (Exhibit V), Warrant 13827 (Exhibit X), Warrant 13843 (Exhibit Y), Warrant 14676 (Exhibit CC), Warrant 14679 (Exhibit EE), Warrant 14704 (Exhibit FF), Warrant 14709 (Exhibit GG), Warrant 14799 (Exhibit HH) and Warrant 14828 (Exhibit II) (see Supplemental Brief, page 8, line 8 to page 9, line 12).[1]

He further offers to "streamline[] the argument" by stating that the "main concern" is that the affidavits are "based on speculation that Kristin Smart had been killed and a hunch that Paul Flores would have been responsible if she had been killed." Further, he contends the affidavits speculate that "there could have been a rape or attempted rape and, again, offer a hunch that Paul Flores would have been responsible if there had been a rape. Finally, he contends that most of the affidavits assert that Paul Flores was the only suspect and that law enforcement failed to inform the reviewing judges that there were other suspects who were being "actively investigated." [See Supplemental Briefing, page 9, line 21 to page 22, line 3].

Although the defendant raises these areas of concern, he fails to provide the proof necessary to meet the requirements of *Franks* in order to require a hearing. This brief will address the areas raised by the defendant in his Supplemental Brief in the order raised.

II.

RESPONSE TO ALLEGATIONS

a. Claims of "Third-Party culpability

In his Supplemental Brief the defendant asserts his position that the defendant was not the "only suspect" and raises new allegations not contained in his initial motion. The People already responded to many of these allegations in its Opposition and now responds to the newly added claims.

---

[1] The People do not agree with the defendant's assessment of which warrants led to evidence that will be introduced at trial. [See Supplemental Brief, page 8:1 to page 9:19]. As one example, the defendant contends there is "nothing of evidentiary value. . . " that came from the wiretaps. To the contrary, the People may seek to introduce information from the wiretaps.

1. Ted Munley

Defendant's Supplemental Brief alleges that, in sum, Ted Munley went to Kristin Smart's room and had sex with Kristin Smart's roommate Jana Schrock while she was asleep—or, as the defense puts it "unconscious"—and therefore, "Munley raped her." [Supplemental Brief, 11:6-14]. This accusation is based on speculation which, even if true (and it is not), is not material information that should have been included in the affidavits.

Taking the statements of Munley and Kristin Smart's roommate as a whole, Schrock was at Cal Poly visiting her friend Crystal Calvin, Kristin Smart's roommate. Calvin slept in another dorm room with her boyfriend, Dustin Zimmer, and Schrock went to sleep alone in Calvin's room. She was awakened by Munley knocking on her window and wanting to come in. Because Munley was Zimmer's roommate and Crystal was in his room, this was an "awkward" situation for him. Schrock allowed Munley to sleep on the floor. She suspected he wanted to "hook up," but she was not interested. When she awakened the following morning he was in her bed. She was not aware of him getting into her bed because she had been sleeping heavily.

In one statement Munley said he "hooked up" with Schrock "a little bit" and went to sleep. It is this statement by Munley that appears to be the entire basis for the allegation by the defendant that Munley "raped" Schrock. This allegation is leveled despite Schrock never reporting sexual assault or even alluding to it occurring.

As noted in People's Opposition, Munley was interviewed by the Sheriff's Office on three separate occasions and by the FBI and was given a polygraph test, which he passed. The claim by the defense that other persons, such as Munley, were not investigated is wholly inaccurate.

In sum, the defendant manufactures an allegation—a slanderous one—that Munley raped Kristin Smart's roommate. But even if accepted as true, it has no bearing on the disappearance of Kristin Smart or the fact that she did not return to her room that night. Rather, if the defense is claiming that Munley was responsible for Smart's disappearance, his statements create an alibi for him.

The defense has the burden of proving the truth of his allegation about Munley. But even if this unsupported allegation is accepted as true, the defense has failed to show how this would amount to a "material" fact that would render the affidavit "insufficient to support a finding of probable cause." *People v. Scott* (2011) 52 C.4th 452, 484. As stated in the People's Opposition, the significance of the information provided by Munley and Kristin Smart's roommate is that Kristin Smart did not return to her room the night of May 24, 1996.

Further, the defense must prove the alleged fact was intentionally or recklessly omitted by law enforcement. But again, the information known by law enforcement at the time the affidavits were written simply does not support an allegation of rape and the defense has provided no evidence to the contrary. Again, the defense bears the burden of proof and has failed to meet his burden.

Copies of investigative reports pertaining to Munley and Schrock are attached hereto as Exhibit 1 for the Court's review.

2. Shahn Whitted

The defendant's Supplemental pleadings adds little his original allegation concerning Whitted. Again, defendant's pleadings fail to note that the events involving Whitted occurred in February 1996 and that Kristin Smart and he had subsequently worked out their differences and "made up." The defendant has failed to show how a dispute with a former boyfriend months earlier constitutes a "material fact" that, if included in the affidavits, could render those affidavits insufficient to support a finding of probable cause. Moreover, the defense as failed to demonstrate that omitting this information was intentional by law enforcement. The materiality of the "fact" is essential to a determination of whether the omission of a fact was "intentional" or reckless. "An affidavit need not disclose every imaginable fact however irrelevant." *People v. Sandoval* (2015) 62 Cal. 4th 394, 409-410. That Kristin Smart and a former boyfriend had a falling out that was later resolved takes nothing away from the probable cause set forth in the affidavits.

Copies of investigative reports pertaining to Munley and Schrock are attached hereto as Exhibit 2 for the Court's review.

3. Sean Farrell and speculation that Kristin Smart had been pregnant

The defendant's Supplemental pleadings adds little to his original allegation concerning Sean Farrell. Further, he does not respond to the arguments contained in the People's Opposition, nor does address the factors required by *Franks.* First, defendant speculates that Kristin Smart was pregnant, ostensibly at the time of her death. But conflicting information has been provided on this subject. Kristin Smart told Margarita Campos that she had travelled to Santa Barbara where she obtained and took a "morning after" pill, though Campos did not believe this story. It is not known when Kristin Smart is purported to have made this statement. Kristin Smart told Sean Farrell that she had been pregnant by him, but he no longer needed to worry about it, which he interpreted to mean she had an abortion. They had met and gone out during some portion of the last quarter of school, which ran from March to June, and he had last seen Kristin Smart five days prior to when she was last seen. On May 3, 1996—three weeks prior to her death—Kristin Smart purportedly made a statement to Peter Odorico that she was pregnant. The chronology for the statements to Campos, Farrell and Odorico is not known. If the statement to Odorico was first in time (ie., she was pregnant at that time), then the statement to Farrell (that she had an abortion) would make sense, assuming she had an abortion after speaking with Odorico.

As this discussion illustrates, the issue of whether Kristin Smart had ever been pregnant and, importantly, whether she was pregnant at the time of her death is based on conjecture. But, even if she was pregnant at the time of her death, the defendant has failed to demonstrate how this would have been a material fact such that its omission rendered the affidavits "substantially misleading." The uncertainty surrounding the issue of her pregnancy cuts against any claim that this was material information. "An affidavit need not disclose every imaginable fact however irrelevant." *People v. Sandoval* (2015) 62 Cal. 4th 394, 409-410.

Finally, the defense has failed to demonstrate that law enforcement intentionally or recklessly left this information out of the affidavits. But again, this would assume that the fact of pregnancy and the timing of the pregnancy had been established and that pregnancy was a material fact, none of which has been demonstrated by the defense.

4. "Yanish"

Defendant's supplemental brief does not respond to the People's Opposition, nor does it demonstrate how allegations relating to "Yanish" constitute material facts that should have been included in the affidavits and that by failing to include this information the affidavits were "substantially misleading." Nor does defense demonstrate that such an omission was intentional or reckless.

Instead, the defense provides new information, namely that Kristin Smart had been reported to a resident advisor at the school for stalking Yanish. Rather than support the argument that Yanish was somehow responsible for Kristin Smart's disappearance and death, this new information weakens that argument. Again, the defense has failed to satisfy the requirements under *Franks* to justify an evidentiary hearing on this matter.

5. Scott Peterson

The defendant's Supplemental Brief reiterates many of the same arguments made in Defendant's Original Motion. As set forth in the People's Opposition, investigators conducted a thorough investigation and eliminated Scott Peterson out as a suspect. The defense offers no justification for including information about a person who has been ruled out as a suspect. Such information is simply immaterial. Defense has failed to satisfy the requirements of *Franks*.

Finally, in his Supplemental Brief the defendant adds a new allegation—that "Scott Peterson was reported to have been at the party . . .." The defense offers no source for this new allegation. To the contrary, investigators interviewed persons at the party and none of those interviewed recalled seeing Scott Peterson or Laci Peterson at the party. The defense has not offered a sworn affidavit, much less a police report or witness statement, to support this new claim. Support for a defense motion must be reliable and substantial: "Affidavits or sworn or otherwise reliable statements of witnesses should be furnished, or their absence satisfactorily explained." *Franks* at 171.

Copies of investigative reports pertaining to Scott and Laci Peterson attached hereto as Exhibit 3 for the Court's review.

6. Trent Buckle

In defendant's Supplemental Brief he claims that law enforcement should have included information about Trent Buckle. Investigators learned of Buckle as the result of a Crime Stopper's tip received on November 19, 1998. Similar to other possible persons of interest in this matter, detectives conducted an investigation and were unable to draw a connection between Kristin Smart and Buckle. Again, defense has not attempted to address the elements required under *Franks* to justify a hearing.

Copies of investigative reports pertaining to Trent Buckle are attached hereto as Exhibit 4 for the Court's review.

7. "Other reasons for Kristin Smart's disappearance . . ."

A. Hawaii

The defendant's Supplemental Brief and his original motion both discuss Kristin Smart's trip to Hawaii. In doing so, the defense fails to explain how this trip, which appears to have occurred Christmas 1995—six months prior to her May 24, 1996, disappearance—constitutes a "material fact" which should have been included in the affidavits. According to Kristin Smart's mother, while in Hawaii, Kristin was supposed to fly from Oahu to Kauai to visit friends, but instead flew to the island of Hawaii to visit her friend Alyssa. There was some sort of disagreement or situation that developed, leading to Kristin having to hitchhike from one side of the island to the other. Kristin's mother described this as involving Kristin missing for "one day only." While in Hawaii, Kristin Smart might be gone from the night, but would return in the mornings.

The defendant has made no attempt to demonstrate how events that occurred months earlier (if indeed it occurred Christmas 1995) has any relationship to her disappearance on May 24, 1996, or why this event belongs in the affidavits. "The Courts of Appeal seem consistently to have held that an affiant's duty of disclosure extends only to 'material' or 'relevant' adverse facts. At the same time, they have applied the materiality requirement to reach only those omissions which significantly distorted the probable cause analysis." *People v. Kurland* (1980) 28 Cal.3d 376, 384-385. The defendant has made no such showing.

Copies of investigative reports pertaining to Hawaii are attached hereto as Exhibit 5 for the Court's review.

B. "Getting into a car with some guy . . ."

The defense next contends that "several people have said that Kristin Smart was likely to have gotten in a car with some guy and left." The defense has not provided declarations or any substantial evidence that on May 25, 1996, she was seen "getting into a car with some guy" and leaving. To the contrary, witnesses (including the defendant) have her leaving the party, intoxicated, walking toward her dorm in the company of the defendant. The defense has mischaracterized the fact that she had no vehicle, no driver's license, and was left to riding her bike or getting rides from friends or from others. In this respect, she was no different from many other students attending Cal Poly. On those occasions where she got a ride from someone, she would always return to her dorm.

C. Letter by parents and other "issues"

The defense next asserts that at times Kristin had been dishonest with people, and that her mother had written her a letter, evidently on May 5, 1996, which reprimanded her for some of the poor choices she had made, provided her with her options for the upcoming year, and encouraged her to do better in her schooling. The defense offers no explanation for why this letter or any of these other details raised constituted material facts that belonged in the affidavits. The defense also includes an allegation that Kristin Smart's parents knew she "was having an affair with an older man while she was in high school." [Supplemental Brief page 14:9-10]. The defense provides absolutely no support for this claim—and investigators are unaware of this information being in the case file—nor does the defense offer any explanation how such information, even if true, would have any bearing on the investigation much less constitute material evidence that should be included in the affidavits.

A copy of the letter to Kristin Smart from her mother is attached hereto as Exhibit 6 for the court's review.

b. Claims of misstatements and omissions regarding Paul Flores' statements

The next attacks the portions of the affidavits which contain statements by the

defendant, specifically the following exchange, taken from affidavit to Warrant 13651 [See Exhibit T to Defendant's Motion to Traverse]:

> Your affiant reviewed a small portion of the interview in which Investigator Hobson was talking with Paul Flores. Investigator Hobson stated, "Paul, there is no doubt in our mind that you know what happened to Roxy (nickname for Kristin Smart)." Paul Flores averted his attention from Investigator Hobson, looked down, and nodded his head up and down in the affirmative motion. While doing this, it appeared that Paul Flores mouthed the word "yea." Your affiant believes this was an admission from Paul Flores that he was withholding intimate knowledge about the disappearance of Kristin Smart. Your affiant has spoken to Detective Cole and Detective Smith who have both reached the same conclusion.

The defense notes (correctly) that this portion of the defendant's statement was determined to have been taken in violation of *Miranda*. However, the defendant then claims "an unlawful statement cannot be used in a search warrant affidavit." This is incorrect. Rather, this subject was addressed by the 9th Circuit Court of Appeals in *United States v. Patterson* (1987) 812 F.2d 1188. *Patterson* involved a statement taken in violation of Miranda that was later used in an affidavit for a search warrant. The Court ruled that a statement taken in violation of Miranda can properly be used as probable cause in support of a search warrant so long as the statement was voluntary. *Id.* at 1193-1194. The defense does not claim the defendant's statement was coerced or involuntary, nor is there evidence to support such a claim. Consequently, the statements were properly considered by the magistrate(s) in making their determination of probable cause.

The remaining arguments in this section of the defendant's Supplemental Brief take issue with how the affiant interpreted the defendant's body language. The affidavits state that the defendant "averted his attention," that he "looked down, and nodded his head up and down in the affirmative motion" and that he mouthed the word "yea." In sum, the affidavit describes the defendant's actions in such a way that a reviewing judge could draw her or his own conclusions about what was intended and could decide how much weight, if any, to place on these observations. It is important to note that the affidavit includes the defendant's claims of innocence, that he said "I believe she took off with someone else" and that he took her to her dorm, he went to his, and that she was never in his room. Notably, this statement was not

omitted.

The defendant next claims that there were "statements of several people that they thought that Kristin Smart got in a car with someone." [Supplemental Brief page 15:1-2]. This issue has already been addressed. Again, the defendant does not provide any evidence to support this claim, but merely seems to be misconstruing the general proposition that, as a freshman without a vehicle, Kristin Smart was like other students in her position who would get rides from others.

c. "Additional grounds to Traverse and to Quash"

1. Dr. Kusumoto and his opinion as to age of bruising

The Defendant contends that Dr. Kusumoto could not offer a "valid opinion" as to the age of the bruise to the defendant's eye and that it could not have been inflicted by hitting a steering wheel. The defense has failed to demonstrate why Dr. Kusumoto, ostensibly a SART medical examiner based on the content of the affidavits, would not be qualified to render these opinions, nor has the defense provided an affidavit to this effect.

In any event, if the defendant is attempting to attack the affidavit he must prove an intentional or reckless misrepresentation (or an intentional or reckless omission of a material fact). Even if the defendant's assumption is accepted that Dr. Kusumoto was not qualified to render these opinions, there is no evidence that the affiant was aware that he was not qualified. Rather, from the face of the affidavit it is clear that the affiant went to someone who would presumably be qualified to render an opinion on an injury and the healing process of a bruise—a medical professional who is a SART examiner—and, further, what types of objects might be, or would not be, expected to cause such an injury. The defense has offered no evidence that the affiants were not be justified in relying on such an expert or that the affiant intentionally or recklessly misrepresented information. Lacking such evidence, the defendant has failed to satisfy the requirements to justify a *Franks* hearing.

Copies of investigative reports pertaining to Dr. Kusumoto are attached hereto as Exhibit 7 for the Court's review.

//

2. Alerts by cadaver dogs

Similar to the previous argument, the defense has offered no support for the proposition that cadaver dog behavior is not proper evidence. To the contrary, this evidence is generally accepted as reliable and was proper material to be included in the affidavits. Again, the defense has failed to address the requirements of *Franks*, to wit, demonstrating an intentional misrepresentation of a material fact that renders the affidavit void of probable cause.

3. Reference to settlement discussions

Some affidavits refer to discussions that occurred between the District Attorney's Office and attorney De le Motte who was representing Paul Flores. In sum, De le Motte suggested that the defendant could lead law enforcement to Kristin Smart's body in exchange for a plea to involuntary manslaughter. The defense contends that these were made during settlement discussions and that should not have been included in the affidavits, citing Evidence Code section 1153. This section states, in full:

> Evidence of a plea of guilty, later withdrawn, or of an offer to plead guilty to the crime charged or to any other crime, made by the defendant in a criminal action is inadmissible in any action or in any proceeding of any nature, including proceedings before agencies, commissions, boards, and tribunals. (emphasis added)

The defendant has offered no support for the proposition that the contents of an affidavit amount to an "action" or "proceeding." Rather, Evidence Code section 300 establishes that the Evidence Code is applicable to courts (Supreme Court, courts of appeal, and superior courts) and "actions" before a referee, court commission or "similar officer," but not grand jury proceedings.

There is nothing in Evidence Code section 300 or 1153 that would suggest that the Evidence Code has any application to the contents of affidavits, nor has the defense cited any such authority.

4. "Inuendo and speculation presented as fact"

The defense next takes issue with "[i]nuendo and speculation presented as fact," such as the statement of David Stone in affidavits that he was positive Paul Flores was involved in Kristin Smart's disappearance and that Ruben Flores helped to dispose of her body. However,

that statement was included in context, including the fact that Stone lived with Ruben Flores for 10 years at 710 White Court. [See Exhibit CC to Defendant's Motion to Traverse, affidavit for warrant 14676, bates 17912-17913]. The affidavit devotes about one page (single-spaced) to Stone, consisting of conversations he overheard, interactions he witnessed and information he had about the crawlspace and an old Volkswagen that was inexplicably kept in Ruben's garage, among other matters. In sum, the totality of his statement would have offered enough context for a judge to decide how much weight—if any—to place on Stone's opinion.

Likewise, the defense takes issue with a statement by witness Mark Brown in which he referred to Ruben's house as the "murder house", but that he did so "without any further explanation." Brown lived in a room at the Flores' property at the same time Ruben, Paul and Susan Flores lived there and was there after Kristin Smart went missing. In the same affidavit Mark Brown refers to Paul Flores as "you know the kid that supposedly killed that girl." He also relates that Ruben Flores would not allow him or his girlfriend to go near avocado trees in the back yard, which he found "weird." In sum, his reference to the home of Ruben Flores as the "murder house" would be understood by a reviewing magistrate as Brown's short-hand reference to the Ruben Flores' house and the fact that it was under a cloud of suspicion. [See Exhibit BB, affidavit for warrant 14619, bates 17805]

Likewise, the defense takes issue with the statement of Angie Carrizel, a former girlfriend of Paul Flores. She relates that Paul Flores came home very intoxicated and kept telling her he "had to tell her something," but "could not" tell her. He then passed out due to his level of intoxication. She also described a threatening encounter with Flores and an occasion where he punched her in the arm. After she and Flores broke up she learned about the Kristin Smart investigation and said "she believed Paul Flores wanted to tell her about his involvement in the Kristin Smart investigation." [Exhibit EE, affidavit for warrant 14679, page 17999]

Again a judge reviewing this portion of the affidavit would not be misled into believing that she had done anything but offer her interpretation of what Flores meant based on her history with him. The judge was provided enough context to consider her statement and give it the weight, if any, it deserved.

Similar allegations of "speculation and inuendo" are found at pages 18 and 19 of Defendant's Supplemental Brief. For instance, the defense references a description offered by Jennifer Hudson in Affidavit for Warrant 13637 that Paul Flores had "dead eyes." [Exhibit 3, warrant 13637, bates 29416]. What the defense does not include was that this description of the defendant having "dead eyes" was prefaced by her statement that she was "very aware of body language" and her description of his eyes was followed by her statement that it was "unnerving and creepy." Again, the defense fails to provide the full context.

In offering these various accusations that the affidavits contain "speculative" matter, the defense fails to demonstrate how the statements that have been identified demonstrate the elements required by *Franks* to justify a hearing.

5. "Training and experience" language in the affidavits

The defense next takes issue with affiants' use of the words "based on my training and experience." This language was at time used to preface matters that, arguably, were matters of common sense such as "based on my training and experience I know a car cover could be used to wrap and conceal a body." [Supplemental Brief, page 16:15-16]. Or, "[B]ased upon my training and experience, I know that if a sexual act did occur the top portion of the mattress would be the most logical place for that act to occur, not the corner of the mattress where the dogs alerted." [Supplemental Brief, page 16:23-26].

The defense does not make a clear argument as to why use of the words "based on my training and experience" is legally objectionable and could provide a basis for invalidating the warrant pursuant to *Franks*. Rather, reviewing judges are routinely asked to decide which facts require actual expertise from the affiant and which are a matter of common experience and to disregard unnecessary language. Further, even if the words "based on my training and experience" were to be deemed surplusage, the remedy under *Franks* is to remove the offending language and ask whether probable cause still exists. *People v. Sandoval* (2015) 62 Cal.4th 394, 409. But even this remedy is not employed until the defense has first established that the offending language was "deliberately false" or were made with a reckless disregard for the truth, which the defense has failed to allege, must less demonstrate.

6. Claims of contradicting facts

The defense next argues that there are contradictions in the affidavits, stating that these "heighten[] the lack of actual substance. [Supplemental Brief, page 18:5-6]. However, the defense does not offer a legal argument as to how these alleged contradictions provide a basis for invalidating the warrants. For example, the defense alleges that the author of the first affidavit, Steven Crawford, theorizes that the bruise could have come from a struggle with Kristin Smart and that it could have come from Ruben Flores striking the defendant. [See Exhibit A, affidavit for warrant 5032, bates pages 27645 and 27662]. Importantly, the Crawford is careful to provide the following disclaimer after suggesting that the bruise came from an altercation with Kristin Smart: "NOTE: This is one explanation for the eye injury. A second explanation will be given later on in this affidavit." [Exhibit A, page 27645]. Thus, the affidavit offers two possible scenarios for the injury and both are discussed. The fact that two alternative explanations are offered underscores the efforts by law enforcement to be thorough and provide material information to the reviewing judge.

Similarly, the defense points to affidavit to Warrant 13463 [Exhibit J] which references two cars that Paul Flores has access to, the Ford Ranger and his sister's car. The affidavit theorizes that the Ford Ranger could have been involved in transporting the body of Kristin Smart [Exhibit J, bates 29128] and that he could have used his sister's car [Exhibit J, bates 29132]. Again, both theories are found in the same affidavit, allowing the judge to give the weight it deserved, if any.

Finally, the defense references the affidavits permitting the searches at 710 White Court, 529 E. Branch Street, and 10940 Ciervo and makes the statement "Of course, each time, no evidence was located." [Supplemental Brief, page 18:22-26]. This is patently incorrect—soil samples were located 710 White Court.

III.

CONCLUSION

The defendant attacks the affidavits in this case but has failed to satisfy the requirements set forth in *Franks*. The defendant has not provided affidavits, declarations, or

other reliable evidence, but rather counts on bare allegations, argument and speculation. Most of his allegations are centered on information that he argues should have been included in the affidavits, but was not. He has failed to demonstrate that the alleged omissions were material, much less that they were left out intentionally or as the result of recklessness on the part of the affiants.

Further, he has failed to demonstrate that if any of these alleged material omissions had been included in the affidavits that they would have undermined the affidavits to extent of eliminating probable cause.

The defendant bears the burden of proof, but has failed to meet that burden. Consequently, his request for a hearing should be denied.

Date: June 23, 2022

Respectfully submitted,

Dan Dow
District Attorney

By:

Christopher G. Peuvrelle
Deputy District Attorney

EXHIBIT 1

SAN LUIS OBISPO COUNTY SHERIFF'S OFFICE
SUPPLEMENTAL REPORT
#9606-10965

DATE WRITTEN: 7-26-96
REPORT PURPOSE: Interview with Jana Schrock

DETAILS

7-25-96/0820 HOURS:

I spoke with Jana Schrock on the telephone. I told Schrock that I understood she had stayed in Kristin's room the night she disappeared and she said "yes". Schrock told me that she was visiting her friend, Crystal Calvin. She said she had just gotten back from college and Cal Poly's school year had not yet ended.

Schrock told me that she was out with Crystal on Friday night, 5-24-96. She said she got home between 12:00 and 1:00 o'clock in the morning on 5-25-96. I asked Schrock if she knew Kristin Smart and she told me that she briefly met Kristin before they went out that evening. I asked her if Kristin was in the room, when she came home, and she said "no".

Schrock told me that she had been drinking and fell asleep when she got to the room. She said around 3:00 A.M. she woke up to someone yelling her name. She said a subject by the name of Ted, who was one of Crystal's friends, was outside.

I asked Schrock if she would have known if Kristin came into the room that night. Schrock told me that, if Kristin turned the light on, she probably would have known it. She said that, if Kristin did not turn the light on, she probably would not have known that she came in the room.

I asked Schrock about the subject name Ted, who came to the room. She told me that she met Ted on a previous visit. She said that, when he came to the room, he wanted her to let him in, so he came in the room. She said she had to go to the side door of the dormitory, to let him in. Schrock told me that she is not fond of Ted. She described Ted as being an "angry, defensive, negative person". I asked Schrock if she knew where Crystal Calvin was at that time. She told me that Crystal had gone to Dustin's room with Dustin. She explained that Dustin and Ted were roommates. Schrock said Ted asked her if she knew where Crystal was. Schrock said she knew that Ted knew where Crystal was, because he had just come from the room where Crystal and Dustin were staying. Schrock said she went outside with Ted and smoked a cigarette. She said they were outside for about ten minutes. Schrock said Ted wanted to stay there, since Crystal was at his room, so she allowed him to come in and he slept on the floor.

I asked Schrock if she or Ted saw anyone else outside, while they were standing on the porch smoking, and she said "no". I asked her if she saw anyone else inside the dorm and she said "no".

I asked Schrock if she knew what time Ted left, to go back to his room. Schrock told me that Ted left the next morning, when Crystal came home, which was around 9:00 or 10:00 A.M. Schrock told me that when she woke up she found Ted in bed next to her. She said she had been sleeping so heavily that she didn't even know he got into bed with her. Schrock said she is positive that Ted was still in the room when she woke up, because Crystal came into the room and was surprised to find Ted in bed with her. Schrock said Ted then got up and left the room.

I asked Schrock if she had any information as to where Kristin may have gone and she said "no".

Schrock had no further information.

CLOSING STATEMENT

Case status active.

/s/ H. Stewart, Detective #0335
cpg/7-29-96/smart.053

SAN LUIS OBISPO COUNTY SHERIFF
1585 KANSAS AVE.
SAN LUIS OBISPO, CA 93405

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
9608109865	704
CASE TYPE: HOMICIDE	CAD EVENT NUMBER:
REPORTING OFFICER: SLDA6061 - CAMP, JAMES	REPORT DATE: 10/26/2021

INCIDENT

LOCATION	DATE	TIME
, CA	10/26/2021	08:50
PREMISE NAME:		

STATION	BEAT	RESP AREA		JURISDICTION
ST24				SLSO

ADDITIONAL INFORMATION

☐ INC SUPP 1

INC SUPP 1:

INC SUPP 4:

☐ INC SUPP 3

INC SUPP 6:

RESTRICTED

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
FIL	09/01/2021	AA	04/08/2021	SLSO0882 - NELSON, JUSTIN	10/26/2021

INCIDENT REPORT	SAN LUIS OBISPO COUNTY SHERIFF	CASE NUMBER	SUP NO
		960610965	704

PROPERTY

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL
1046	E	53		

SERIAL NUMBER	QUANTITY	COLOR	COLOR	DAN	REF NO	EVIDENCE
						N

DESCRIPTION	CUSTODY STATUS
DISC WITH JANA SCHROCK INTERVIEW - 10/19/2021	CUSTODY

COMMENT

NARRATIVE

REPORT DATE: 10-25-2021

REPORT PURPOSE: Document interview with Jana Schrock

On 10-19-2021 at approximately 1435 hours, DDA C. Peuvrelle and I met with Jana Schrock for purposes of a follow up interview. The interview was audio recorded. This supplemental report will serve as a synopsis of the full interview. For complete details, refer to the full audio which was transferred to a disc and booked into property as evidence (see RMS# 1046).
Schrock indicated that she' d been previously contacted by the defense team while she was out of state. We discussed the potential of Schrock potentially being needed for future court proceedings. It was discussed with Schrock that the only expectation that Schrock tell the truth and be specific and accurate. Generally, the current court status was discussed.

Schrock was provided a report dated July 26, 1996, authored by Detective Stewart. She reviewed the report. She indicated that report as being accurate.

Schrock was provided a report dated May 28, 2014, authored by Detective Kenny. She reviewed the report. She described the report as being accurate in so far as she thought whatever was documented in the earlier report would' ve been accurately described.

I told Schrock what we wanted to focus on was her observations regarding Kristin Smart. We confirmed Schrock was friends with Crystal Calvin. She said that she remembered her observations of Kristin Smart very well. She referred to the second report where the messy pile of clothes was described as being " heaped" on Kristin Smarts bed. She said that the pile of clothes made it impossible that anyone could sleep on the bed without the pile being disturbed. Schrock specifically recalled a cute shirt being on the pile. Over the course of the weekend, Schrock recalled never seeing Kristin Smart again after initially meeting her and added that she thought that Kristin Smart never came back to her room. She added that even the " cute" shirt, was never disturbed and was in the same place she left it. Schrock said even upon her return trip home after the weekend, she called Crystal Calvin and told her she needed to call someone after it was discussed that Kristin Smart never returned. She said she mentioned Kristin Smart not returning multiple times to Crystal Calvin as being " super strange" . She said although Crystal Calvin said that Kristin Smart would at times disappear the situation was odd as nothing had been disturbed or changed with respect to Kristin Smarts belongings in her dorm room.

With respect to meeting Kristin Smart, Schrock said she met Kristin Smart upon her arrival in San Luis Obispo, but she never saw her again and nothing changed regarding Kristin Smarts items over the course of the weekend. Schrock said she was there (at Cal Poly) the entire weekend.

We discussed her being woken up by banging on the window. She said that Ted banged on the window to the room she was in, which woke her up. She said that no one else aside from Ted banged on the window and when asked if anyone else came to the room, she said " absolutely not" . Schrock thought the window may have been open to the room. She could not recall if there were blinds, but she thought the windows were open. She couldn' t specifically recall what window coverings there were. She confirmed she was woken up by Ted. She said she was not " passed out" . Regarding the statement about the lights being turned on she said if someone snuck in, she may not have noticed. She said she thought the door had been closed and the dorm room was near a building entrance.

Schrock referred again to the pile of Kristin Smarts belongings on her bed and its state of never being disturbed. Schrock said the clothes and items would have been moved by its owner, but Kristin Smarts items were so " not touched" that it was detectable to her, and she mentioned it several times to Crystal Calvin. Schrock said there was never a conversation about or from Kristin Smart about leaving town.

Schrock said when she met Kristin Smart, she could not recall any conversation that was remarkable in nature. She said she was in town visiting her friend (Calvin). She added Kristin Smart and Crystal Calvin had not been roommates for long. She said the trip to San Luis Obispo was the one and only trip she made to visit Crystal Calvin at Cal Poly. Schrock added that when she was contacted by the defense she was surprised, and she said that she would prefer to be on the District Attorney' s side. Schrock discussed how she thought that the defense may have been trying to establish doubt and pin something on Ted. We continued with some small talk and eventually, the interview was discontinued.

CLOSING STATEMENT:

Case status cleared by adult arrest.

DA Investigator JT Camp #6061

JTC/sw 10/26/2021

RESTRICTED

SAN LUIS OBISPO COUNTY SHERIFF
1585 KANSAS AVE.
SAN LUIS OBISPO, CA 93405

INCIDENT REPORT	
CASE NUMBER 960610965	SUPPLEMENT NUMBER 232
CASE TYPE HOMICIDE (MISSING)	CAD EVENT NUMBER
REPORTING OFFICER SLSO0587 - KENNY, DAVE	REPORT DATE 06/28/2014

NARRATIVE

Report Purpose: To document additional interview with Jana Schrock.

In reviewing the case files, I felt that Jana Schrock should be re-interviewed regarding the night (05-24-96) that she slept in Crystal Calvin's bed within Calvin and Kristin Smart's dorm room. Detective Stewart interviewed her previously on 07-25-96.

On 10-05-05 at 1350 hours, I left a message for Jana Schrock at a telephone number I had located for her through an investigative database. I never received a call back.

On 06-13-06 at 1514 hours, I responded to the listed address in Venice Beach per DMV for Jana Schrock. There was no response at the door so I contacted the property manager (Flinkman Realty). I was informed that Schrock did reside at that address. I left a message for Schrock on the gate entry phone for her to call me. I received a call back and scheduled to meet with her.

On 06-14-06 at approximately 1430 hours, I met with Jana Schrock at a Starbuck's in Pasadena. I activated my digital recorder to capture the interview and later learned that the recorder did not function correctly. The following is a summary of that interview:

During the Memorial Day weekend of 1996, she went to Cal Poly to visit with her high school (Ventura) friend, Crystal Calvin. She actually arrived on Thursday (05-23-96) and went with Calvin to her boyfriend's (Dustin Zimmer) dorm room to drink beer. On 05-24-96 (Friday) she and Calvin went to a party off campus. The party was not the Crandall party that Kristin Smart went to. The party she attended was in a townhouse and she believed that it was a group of sorority members doing a "RUSH" (recruitment). Schrock went back with Calvin to her room (Muir #122) and unlocked the door. Calvin left Schrock there to sleep in Calvin's bed while Calvin went to sleep at Zimmer's room. Kristin Smart was not in the room at any time while Schrock was there.

During the early morning hours, at approximately 0200 to 0300 hours, she heard the sound of someone "banging" on the window and then the door. Ted Munley, Zimmer's roommate whom she had met previously, was yelling for her to let him in. Schrock told him "no." Munley was "agitated" and "pissed off" that she would not let him in. Munley irritated her with the way he acted towards her. She felt that he wanted to "hook up" (sexual relations) with her and she wasn't interested. Schrock went to sleep and left the next morning.

I questioned Schrock about whether she went outside with Munley or if he came into Calvin's room while Schrock was there. Schrock did not remember going outside or Munley coming into the room. I told her that she had told Detective Stewart previously that he had. She told me that if she had told that to Detective Stewart previously then it was "correct." She just didn't remember now.

Later, when they learned that Smart had not returned to the room, Calvin mentioned that she was not "shocked" because it was "typical of Kristin (Smart)." Calvin and Smart didn't get along very well. Smart's side of the dorm room was "very messy." Schrock has not heard from Calvin in approximately six years. The last she had heard, Calvin was living in Calabasas, CA with her mother. Schrock has not had contact with anyone from Cal Poly.

I asked Schrock when she had met Munley. She told me that she had previously visited Calvin and met him then; however, she did not remember the specifics. She could not provide any further details. I left her with my business card to contact me if she remembered anything else.

CLOSING STATEMENT

Case status: Active, investigation continuing.

/S/ Detective D. Kenny, #0587
DK/nr/05-28-14

SAN LUIS OBISPO COUNTY SHERIFF'S OFFICE
SUPPLEMENTAL REPORT
#9606-10965

DATE WRITTEN: 7-22-96
REPORT PURPOSE: Interview Ted Munley

DETAILS

7-9-96/1635 HOURS:

I received a return phone call from Ted Munley. I asked Munley if he was friends with Jennifer Phipps and he said "yes". He told me that he last saw her on the 5th of July and she told him that I had talked to her.

I asked Munley if he knew Kristin Smart. He said he saw Kristin at the party on Crandall Way. He said she was "hanging on three or four guys, kissing and flirting with them". Munley said Kristin was wearing short black shorts and possibly a light blue shirt.

I asked Munley what time he left the party and he said between 0100 and 0115 hours. He said he walked back to the dorms and got there around 0130 hours. Munley told me that, when he left, Kristin was still at the party. He said he walked home with three other people. He named them as:

- Justin from Sierra Madre Hall
- Carrie, a female
- R.J., another male

Munley said that, when he arrived at his dorm, he went to his room and "hung out" for awhile. He said he lived in Fremont Hall. Munley said he then went to Jennifer's room and knocked a couple times at her window.

I asked Munley if, while he was out and about, he saw Kristin or anyone else who looked like her and he said "no". Munley said that, after he knocked on Jennifer's window he went around to the other side of Muir Hall and woke Jana up. Munley said Jana was staying in the room where Kristin and Crystal lived. He said, once Jana was up, they went outside and smoked a cigarette outside the dorm. Munley said that, during that time, they didn't see anyone else. Munley said they sat there for about ten minutes and then he went home. Munley said he had no idea what time it was when he got home.

I asked Munley if he had any idea what happened to Kristin. Munley said he thinks she got in a car with some strange guy. I asked Munley if he thought there were people still driving on campus at that time. He told me that there are always some people out and about on campus.

Munley had no further information at that time.

CLOSING STATEMENT

Case status active.

Supplemental Report/#9606-10965
Kristin Smart

/s/ H. Stewart, Detective #0335
cpg/7-22-96/smart.029

SAN LUIS OBISPO COUNTY SHERIFF'S OFFICE
SUPPLEMENTAL REPORT
#9606-10965

DATE WRITTEN: 9-24-96
REPORT PURPOSE: Additional Interview with Ted Munley

DETAILS

8-13-96/1645 HOURS:

I spoke with Ted Munley on the telephone. I told Mr. Munley that, during our last conversation, he had stated that after talking with Jana outside of Muir Hall he returned to his own dormitory. I asked Mr. Munley why Jana and Crystal Calvin would tell me that he had spent the night in the room with Jana. Mr. Munley told me that he had consumed a lot of alcohol that night. He said he remembered having a cigarette with Jana, but that was about all he could remember. Mr. Munley told me that he didn't know what time he left and said he believed it was in the early morning. I asked Mr. Munley if he remembered talking with anyone else, prior to his departure from Crystal's room. He said he remembered talking with Crystal and Jana, before he left. Mr. Munley said it could have been as late as 9:00 or 10:00 o'clock in the morning. Mr. Munley had no further information.

CLOSING STATEMENT

Case status active.

/s/ H. Stewart, Detective #0335
opg/9-25-96/hmart.079

SAN LUIS OBISPO COUNTY SHERIFF

1585 KANSAS AVE.
SAN LUIS OBISPO, CA 93405

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
960610965	234
CASE TYPE	CAD EVENT NUMBER
HOMICIDE (MISSING)	
REPORTING OFFICER	REPORT DATE
SLSO0587 - KENNY, DAVE	05/29/2014

INCIDENT

LOCATION					
, CA					
PREMISE NAME				DATE	TIME
TED MUNLEY				05/29/2014	14:22
STATION	BEAT	RESP AREA		JURISDICTION	
ST24				SLSO	

ADDITIONAL INFORMATION

☐ INC SUPP 1

INC SUPP 1

INC SUPP 4

☐ INC SUPP 3

INC SUPP 6

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
FIL	04/20/2021	AA	04/06/2021	SLSO0430 - HASTIE, RON	05/31/2014

INCIDENT REPORT	SAN LUIS OBISPO COUNTY SHERIFF	CASE NUMBER	SUP NO
		980610965	234

OTHERS

ENTRY NO	INVOLVEMENT	NAME. LAST, FIRST, MIDDLE
116	OT	MUNLEY, TED PATRICK

HOME ADDRESS	MAILING ADDRESS
7878 TIGER AVE KING BEACH CA 96143	

EMPLOYER	EMPLOYER ADDRESS	OCCUPATION
NORTHSHORE HEATING	BOX 293 TAHOE VISTA CA 96148	CONSTRUCTION

HOME PHONE	CELL PHONE	OTHER PHONE	EMPLOYER PHONE
	(916) 396-5464		(530) 546-4710

DOB	AGE	SEX	RACE	JUV	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RESIDENCY	CITIZEN	GANG IDENTIFICATION
04/27/1977	37	M	W	N		511	200	BRO	HAZ				

DL NUMBER	DL ST	SSN	FBI ID	STATE ID	LOCAL	ID1	ID2
A826577							

COMMENT

PROPERTY

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL
480	E	53		

SERIAL NUMBER	QUANTITY	COLOR	COLOR	CAR	REF NO	EVIDENCE
	1				480	N

DESCRIPTION	CUSTODY STATUS
DVD, INTERVIEW WITH TED MUNLEY	CUSTODY

COMMENT

NARRATIVE

\\i2160 Report Purpose: To document additional interview with Ted Munley.

After reviewing voluminous investigative reports, I found that a witness, Ted Munley, had possible discrepancies in his activities the night that Kristin Smart disappeared. Munley was initially interviewed by Detective Stewart in July of 1996, again in September of 1996, and then by FBI Special Agent Mark Wilson in March of 1999 where a student questionnaire was completed. There were other witnesses (Crystal Calvin, Jennifer Phipps, and Jana Schrock) that were interviewed and they provided details as to Munley' s actions after the Crandall party.

I began conducting a background investigation in an attempt to learn as much about Munley as possible. I attempted to locate the three students (Justin from Sierra Madre Hall, Carrie, and another male named R.J.) who Munley reported that he walked back with from the party. In going through the case file, I located numerous females with the name Carrie. Some students during their interview mentioned that they believed Carrie McDonald or Carrie McDowell were present. I was unable to locate a Carrie McDonald or Carrie McDowell within the case file or as a student at Cal Poly. I did locate Carrie McDonnell and Carrie Hughell in the Laserfiche master case file and believed that one of them might be the Carrie that Ted Munley mentioned in his statement. I interviewed Carrie Hughell (a.k.a. Carrie Tujan) and she did not attend the party. I interviewed Carrie McDonnell and she did attend the party and may have walked back with Munley. I interviewed RJ (Ryan Jay Wenger) and he attended the party and may have walked back with Munley but didn' t remember the name. I interviewed Munley' s Fremont dorm roommate, Dustin Zimmer, who was also Crystal Calvin' s boyfriend at the time. I located Justin James and Justin Flagg that resided in Sierra Madre dorm; however, they did not attend the party.

On 04-28-06, Chief District Attorney Investigator Hanley and I attempted to locate Ted Munley at two addresses in Sacramento. We determined that the addresses were no longer valid. I located a possible telephone number for him.

On 04-28-06 at 1825 hours, I telephoned Ted Munley to set up an interview. I left a message. I received a message back from him that he works Monday through Friday and has a dentist

appointment the following Tuesday.

I met with Placer County Sheriff' s Detective Dave Hunt in Tahoe City. I had him check for contacts with Ted Munley and his father, James Munley. He provided me with printouts that showed a few minor contacts. I checked several addresses in Tahoe City to attempt to locate Munley and was informed that he had moved. Munley has minor criminal history related to DUI' s only.

On 12-29-06 at 1420 hours, I left a message for Munley to contact me. At 1424 hours, he called me back. He explained that he had no problem meeting with us and is working all over the Lake Tahoe with his father. He told me that he would meet with us next week.

On 01-03-07 at 1544 hours, I telephoned Munley and he agreed to meet. He did not know specifically what his schedule was and agreed to help if he can. He asked what this was regarding. I told him it would be to go over information that he had provided previously regarding this case. He told me to contact him next week when we were in the area.

On 01-10-07 at 1710 hours, I telephoned Munley and left a message for him to call me. He called me back and agreed to meet with us the following day.

On 01-11-07 at 1230 hours, Chief D.A. Investigator Hanley and I met with Ted Munley in Squaw Valley, California. The interview was digitally-recorded and later transferred to a DVD (RMS #480). I explained to Munley that we were reviewing the Kristin Smart investigation and wanted to make sure that we spoke with several of the individuals that were involved. Munley asked if he was considered a suspect and I downplayed it and went into the interview. The following is a summary of the interview (refer to the DVD for specific information):

He had been interviewed numerous times by several agencies regarding this investigation. Approximately two years ago, he was at work in Sacramento when two FBI agents came to his work. They escorted him to their office and he was given a polygraph. He was even asked if he killed Kristin Smart. He was told that he passed the polygraph.

He knew Kristin Smart because his roommate, Dustin Zimmer, dated Crystal Calvin, who was Kristin Smart' s roommate. Munley had a friend, Jennifer Phipps, who he went to high school with and she lived across from Kristin Smart. He passed Smart in the halls and did not have any classes with her. He didn' t hang out with the same group of people as Smart.

Munley had gone to a couple of different parties. He believes that he saw Kristin Smart at a party, possibly a fraternity house that was close to a nursery or daycare facility (there is one located on Crandall Way and Campus Way). He stated that he doesn' t remember seeing her, but that he thinks that he did.

Munley had been " walking around" with his friends, Jennifer (Phipps), Corinna (believed to be Jones), Cameron (unknown further), Dustin Zimmer, and Crystal Calvin). He thought that they all went to the party; however, they all may have split up into smaller groups so they may not have attended the same party. Zimmer and Calvin were " hot and heavy" in a " freshman romance" so they

may have disappeared to be together. He thought that he might have been at the party between 2100 and 2300 hours.

I asked Munley if he remembered any activities going on at the party. He told us that he was " having a good timechatting." I asked Munley if he saw anyone fighting at the party and he said that he did not. I asked Munley if he recalled seeing a pool table at the party and he said that he didn' t think there was " but couldn' t be positive about that." He said that there was a " makeshift bar in the corner" and that he didn' t play pool.

I asked Munley if he knew what time that he left the party and he said, " I have no idea." I asked him who he left the party with and he said, " I think I left by myself." I asked him what he did when he returned from the party. Munley said that he went to his dorm room and Zimmer and Calvin were there. It was an " awkward situation" so he went down and knocked on Jennifer Phipps' window at Muir dorm. Phipps did not answer so he knocked on Calvin' s window. Calvin' s girlfriend (Jana Schrock) who was visiting opened the door, closest to Calvin' s room, to let him in. Munley " hooked up (meaning sexual relations) with her (Schrock) a little bit and went to sleep" in Calvin' s bed with Schrock. He didn' t hear any fighting or screaming. Munley didn' t see or hear Kristin Smart come into the room while he was there.

The next morning, Munley went back to his dorm. I asked him if anything was unusual at his dorm when he got back. Munley said that there wasn' t anything that he saw and that Zimmer and Calvin were there. Munley said, " The next day they thought it was weird that she (Smart) didn' t show up." He was talking with Zimmer and Calvin about Smart not coming back. None of Smart' s stuff was gone and she " didn' t pack anything up." Munley said that they all decided that they should notify the campus police.

Chief D.A. Investigator Hanley asked him if he noticed any activity around the campus when Munley was between Muir and Fremont dorms. Munley said that it was " pretty dead" and " pretty quiet." Munley didn' t recall seeing or hearing any vehicle traffic on the roadway between the two dorms. He did not see anything peculiar or unusual.

Munley did not know Paul Flores. I asked him if he ever heard what happened to Kristin Smart. Munley said that he had heard a story about Paul Flores pouring new concrete in his home during the weekend that Smart disappeared.

I asked Munley for clarification about whether he saw Smart at the Crandall party or not. He said that he said that he wanted to say " yes" but he can' t recall or " be certain." I asked Munley if there was any reason he would tell anyone that he didn' t see Smart at the party when he had said that he had earlier. Munley replied something similar or close to " no." I explained that between his interviews in 1996 and 1999 there was a discrepancy in whether he saw Smart or not. Munley said, " I can' t rememberbut I think I did."

Munley was going to attempt to locate the business card that he had for the FBI agents who he dealt with a few years ago. He said if he located the information, he would contact me. Munley was provided with a business card

Chief D.A. Investigator Hanley and I did not know that Munley had been interviewed by the FBI previously and took a polygraph. I contacted the FBI office in Santa Maria to determine if Munley had been interviewed and took a polygraph as Munley indicated. I was told that Munley had been interviewed in May of 2002. The results of the polygraph indicated no deception and he was not considered as a viable suspect.

The DVD (RMS #480) was entered into evidence at the Sheriff' s Property Office detective locker.

CLOSING STATEMENT

Case status: Active, investigation continuing.

/S/ Detective D. Kenny, #0587
DK/nr/05-29-14

REDACTED

(Rev. 08-28-2000)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/29/2002

To: Sacramento

From: Los Angeles
Santa Maria Resident Agency
Contact: SA Amy M. Willeke or SA Michael R. Plunkett, (805) 934-2444

Approved By: Boelter Ralph S
Miller Edward J Jr

Drafted By: Willeke Amy M:bkl

Case ID #: 7A-LA-198539-GJ (Pending) - 11

Title: UNSUB(S);
KRISTIN DENISE SMART - VICTIM
CALIFORNIA POLYTECHNIC STATE UNIVERSITY
(CAL POLY)
SAN LUIS OBISPO, CALIFORNIA
KIDNAPING - HOMICIDE

Synopsis: To set lead at Kings Valley, California, to locate and if possible polygraph Ted Patrick Munley.

Enclosure(s): Enclosed for Sacramento are the following:

1. One copy of Detective Stewart's interviews of Munley written on 07/22/1996 (interview conducted on 07/09/1996) and 09/24/1996 (interview conducted on 08/13/1996).

2. One copy of Detective Stewart's interview of Jennifer Phipps on 06/28/1996, in which she advised Munley was outside her dorm room window at 0300 hours on 05/26/1996.

3. One copy of Munley's Department of Motor Vehicles and California Criminal History printouts (Munley has one misdemeanor arrest).

Details: Paul Flores is the main suspect in the disappearance of Kristin Smart. Flores was last seen with Smart at a party on campus early on the morning of May 26, 1996. Flores has a history of sexually battering females with whom he works or comes into

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7A-LA-198539-GJ-11

contact with at parties or bars. Flores and his family have been uncooperative with investigators since the initial interviews in this investigation.

For Sacramento's information, Kristin Denise Smart, a 6'0" 140 pound white female, who had brown hair at the time of her disappearance, left a party at 135 Crandall Way, San Luis Obispo, California, the night of 05/25-26/1996, with Paul Flores and Cheryl Anderson. Anderson walked to the Cal Poly dorm area with Flores and Smart and turned off to go to her dorm (Sierra Madre Hall), about 100 yards from where Flores and Smart would turn off to walk to their respective dorms. Flores lived in Santa Lucia Hall. Smart lived in Muir Hall. Flores reported he and Smart parted at a "Y" in the sidewalks where one branch of the sidewalk led to his dorm and the opposite branch led to Smart's dorm. Inasmuch as Smart was intoxicated enough to have needed assistance to that point, it is possible Smart was vulnerable to anyone else who would have taken advantage of her, if Flores was truthful and actually left her at that point. Smart was also dressed inappropriately for the chilly temperatures that night in that she was clad in black board shorts and a grey crop top T-shirt.

Despite Flores being the main suspect, an FBI behavioral analyst and case agent noted that Ted Patrick Munley, who lived in Fremont Hall (#209 or 329), which is right behind Muir Hall (where Smart, Crystal Calvin, and Jennifer Phipps lived), knocked on Phipps' dorm window at approximately 0300 hours. Munley is also supposed to have slept in Smart's bed in her dorm room (Muir #120) while Jana (Last Name Unknown) (a friend of Phipps) was the only occupant. Phipps was the person who actually reported Smart missing several days later.

Munley also attended the Crandall Way party, as did Flores and Smart. Munley told Detective Stewart in the 07/09/1996 interview that he (Munley) left the party at 0100 or 0115 hours. After hanging out awhile at his dorm, Munley went to Muir Hall and knocked on Phipps' window and then knocked on the window of Calvin/Smart's room, where Jana was staying. (Calvin spent the night in another room). Munley thought he had a cigarette and talked to Jana and Calvin and then went back to his own dorm. Munley did not recall sleeping in Smart/Calvin's room due to excessive alcohol consumption. Munley may have left Smart/Calvin's room as late as 9:00 or 10:00 A.M. on 05/26/1996.

Therefore, it is requested that Munley be reinterviewed and, if he is amenable, polygraphed to verify the veracity of his statements to Detective Stewart. Munley was outside Smart's dorm shortly after she supposedly returned to that area with Flores and he also could have had contact with her at or near Muir Hall.

Case agent believes polygraphing Munley is the next logical step in this investigation. Munley is not being singled out for polygraph as previous ECs to San Francisco Division have requested polygraphs of other individuals who were also connected to this investigation at the time of Smart's disappearance. Additional requests for polygraphs of other former Cal Poly students are expected.

Some sample questions for Munley may be: Did you see Smart after you left the 135 Crandall Way party? Did you spend the night of 05/25-26/1996 in Muir Hall instead of Fremont Hall? Were you trying to mislead investigators by advising that you returned to Fremont Hall after talking to Jana at Muir Hall?

To: Sacramento From: Los Angeles
Re: 7A-LA-198539-GJ, 01/29/2002

LEAD(s):

Set Lead 1:

SACRAMENTO

KINGS VALLEY, CALIFORNIA

Locate Ted Patrick Munley, white male, born 04/27/1977, Social Security Number 548-99-4492, of 7878 Tiger Avenue, Kings Beach, California (P. O. Box 293, Tahoe Vista, California 96148), and if possible persuade him to take a polygraph in captioned case.

♦♦

SAN LUIS OBISPO COUNTY SHERIFF'S OFFICE
SUPPLEMENTAL REPORT
#9606-10965

DATE WRITTEN: 7-22-96
REPORT PURPOSE: Interview Ted Munley

DETAILS

7-9-96/1635 HOURS:

I received a return phone call from Ted Munley. I asked Munley if he was friends with Jennifer Phipps and he said "yes". He told me that he last saw her on the 5th of July and she told him that I had talked to her.

I asked Munley if he knew Kristin Smart. He said he saw Kristin at the party on Crandall Way. He said she was "hanging on three or four guys, kissing and flirting with them". Munley said Kristin was wearing short black shorts and possibly a light blue shirt.

I asked Munley what time he left the party and he said between 0100 and 0115 hours. He said he walked back to the dorms and got there around 0130 hours. Munley told me that, when he left, Kristin was still at the party. He said he walked home with three other people. He named them as:

- Justin from Sierra Madre Hall
- Carrie, a female
- R.J., another male

Munley said that, when he arrived at his dorm, he went to his room and "hung out" for awhile. He said he lived in Fremont Hall. Munley said he then went to Jennifer's room and knocked a couple times at her window.

I asked Munley if, while he was out and about, he saw Kristin or anyone else who looked like her and he said "no". Munley said that, after he knocked on Jennifer's window he went around to the other side of Muir Hall and woke Jana up. Munley said Jana was staying in the room where Kristin and Crystal lived. He said, once Jana was up, they went outside and smoked a cigarette outside the dorm. Munley said that, during that time, they didn't see anyone else. Munley said they sat there for about ten minutes and then he went home. Munley said he had no idea what time it was when he got home.

I asked Munley if he had any idea what happened to Kristin. Munley said he thinks she got in a car with some strange guy. I asked Munley if he thought there were people still driving

on campus at that time. He told me that there are always some people out and about on campus.

Munley had no further information at that time.

CLOSING STATEMENT

Case status active.

/s/ H. Stewart, Detective #0335

tpg/7-22-96/smart.029

Stwt-079

SAN LUIS OBISPO COUNTY SHERIFF'S OFFICE
SUPPLEMENTAL REPORT
#9606-10965

DATE WRITTEN: 9-24-96
REPORT PURPOSE: Additional Interview with Ted Munley

DETAILS

8-13-96/1645 HOURS:

I spoke with Ted Munley on the telephone. I told Mr. Munley that, during our last conversation, he had stated that after talking with Jana outside of Muir Hall he returned to his own dormitory. I asked Mr. Munley why Jana and Crystal Calvin would tell me that he had spent the night in the room with Jana. Mr. Munley told me that he had consumed a lot of alcohol that night. He said he remembered having a cigarette with Jana, but that was about all he could remember. Mr. Munley told me that he didn't know what time he left and said he believed it was in the early morning. I asked Mr. Munley if he remembered talking with anyone else, prior to his departure from Crystal's room. He said he remembered talking with Crystal and Jana, before he left. Mr. Munley said it could have been as late as 9:00 or 10:00 o'clock in the morning. Mr. Munley had no further information.

CLOSING STATEMENT

Case status active.

/s/ H. Stewart, Detective #0335
hps/9-25-96/hstwt.079

SAN LUIS OBISPO COUNTY SHERIFF'S OFFICE
SUPPLEMENTAL REPORT
#9606-10965

DATE WRITTEN: 7-12-96
REPORT PURPOSE: Interview with Jennifer Phipps

DETAILS

6-28-96/1840 HOURS:

I telephoned Jennifer Phipps at (916) 583-6256 and asked her about Kristin Smart. Phipps told me the last time she saw Kristin Smart was on Wednesday, 5-22-96 or Thursday, 5-23-96. Phipps said her mother was down from Tahoe for the weekend and she was not around the dorm much.

I asked Phipps if she could tell me what caused her to file the missing person report on Kristin Smart. Phipps told me that she was at her dorm on Saturday afternoon, 5-25-96, and was talking with people in the dorm. Phipps said no one had seen Kristin and she started thinking that was "weird". Monday she spoke to the CSD and the campus police department was called.

I asked Phipps if she was around the dormitory on Friday night, 5-24-96. Phipps told me that her best friend, Crystal Calvin, is Kristin's roommate. She said that Crystal had a friend named Jana visiting her from Ventura. Phipps said they had all be out drinking that night. She said Crystal stayed with a boyfriend and she and Jana returned to the dorm. Phipps said she put Jana to bed around 12:00 midnight. She said Jana slept in Crystal's bed and Kristin was not in the room. Phipps said she returned to her room and went to bed.

Phipps told me that around 0300 hours on 5-25-96, her friend, Ted Munley was outside her window trying to get her awake. She provided me with Ted's phone number (916) 546-0257. Phipps told me that she ignored Munley, because she had to get up early. I asked Phipps if she knew whether Munley had seen anyone outside her dormitory that morning and she said she didn't know.

I asked Phipps if Kristin had any boyfriends. She told me that she has been with a boy named Sean. She said Kristin was telling a story that she was pregnant and was going to handle it herself. Phipps said Kristin told someone that she took the morning after pill, about a week after she became pregnant. Phipps told me that she didn't believe this is true, as she didn't think the morning after pill would work that way.

I asked Phipps if she had any further information that may help us. Phipps told me that the most important thing she could think of was that Kristin's hair was not blonde. Phipps said Kristin's hair was a dark brown color.

7-1-96/1825 HOURS:

I recontacted Jennifer Phipps by telephone. I asked her if she could confirm the phone number that she gave me for Ted Munley. I also asked Phipps if she could tell me how she knew what Kristin Smart was wearing the night she disappeared. Phipps said everyone told her what Kristin was wearing. Phipps said she is not afraid to get involved in things, so the other students in the dorm just let her file the police report. Phipps told me that she was concerned about Kristin, because she thought it was strange that she hadn't returned to the dorm.

I asked Phipps if she knew what dormitory Ted Munley lived in. She told me that Ted lived in Fremont Hall. She had no further information at that time.

CLOSING STATEMENT

Case status active.

/s/ H. Stewart, Detective #0335
cpg/7-15-96/smart.009

(Rev. 08-28-2000)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 04/04/2002

To: ~~Los Angeles~~
Sacramento

Attn: Santa Maria RA
SA Amy M. Willeke
SA Jeff Rinek
SA Harry Sweeney (info only)

From: Sacramento
South Lake Tahoe RA
Contact: SA Chris Campion

Approved By: Riley Charles M CR/MR

Drafted By: Campion Christopher: cc

Case ID #: 7A-LA-198539-GJ-13 (Pending)

Title: UNSUB(S);
KRISTIN DENISE SMART - VICTIM;
KIDNAPPING

Synopsis: Advise of status of investigation set forth in serial 11, lead 1.

Details: Investigation into referenced lead was delayed by writer's TDY to Salt Lake City Olympics.

Investigation to date has not located Ted Patrick Munley in Kings Beach, California. Address provided, 7878 Tiger Avenue, Kings Beach, and Post Office Box 293, Tahoe Vista, come back to James and Debra Munley, both with dates of birth in 1951, probably Munley's parents. A published telephone number for Jim Munley is (530) 546-5676. No vehicles registered to Ted Munley were located in California DMV. Periodic spot checks reveal vehicles registered to his parents. Sacramento will hold contact with Munley's parents in abeyance until advised by Los Angeles.

Munley had one local contact with Placer County Sheriff's Department in 1994 as a victim of a theft. A detective for that department knows the Munley family and commented that they are not known to be involved in criminal activity. Ted Munley was recalled to be an avid golfer and may have worked at golf courses in the past.

A Choicepoint search revealed recent credit reporting for Ted P. Munley, SSAN 548-99-4492, at the following addresses and months/years: 100 Main Ave., Sacramento, CA 95838 (2/02); 1515 Mill St.#2, San Luis Obispo, CA 93401 (2/02); 200

UPLOADED

amw
4-16-02

Bicentennial Cir. Apt 239, Sacramento, CA 95826 (11/01); and Fremont Hl, San Luis Obispo, CA 93410 (6/01). A telephone number of (805) 543-7635 was also noted. This number is disconnected at this time.

This matter was discussed with Sacramento NCAVC coordinator SA Jeff Rinek on 3/27/2002. He is familiar with captioned case and agreed to conduct investigation at the Sacramento addresses. Sacramento polygrapher SA Harry Sweeney has also been apprised of the possible polygraph. South Lake Tahoe RA will continue investigation to locate and obtain background information on Munley.

Investigation continuing.

To: Los Angeles From: Sacramento
Re: 7A-LA-198539-GJ, 04/04/2002

LEAD(s):

Set Lead 1:

LOS ANGELES

AT SAN LUIS OBISPO, CALIFORNIA

Attempt to locate Ted Munley at 1515 Mill St.#2, San Luis Obispo, CA 93401 and/or through Cal Poly.

Set Lead 2:

SACRAMENTO

AT SACRAMENTO, CALIFORNIA

SA Rinek will attempt to locate, interview, and polygraph Ted Munley at 100 Main Ave., Sacramento, CA 95838 and 200 Bicentennial Cir. Apt 239, Sacramento, CA 95826, as set out in referenced EC.

♦♦

(Rev. 08-28-2000)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 07/12/2002

To: [redacted] **Attn:** [redacted]

From: Sacramento
Squad 8
Contact: SA Jeffrey L. Rinek (916) 977-2265

Approved By: Fong George Q

Drafted By: Rinek Jeffrey L:jlr (193jlro1.ec)

Case ID #: 7A-LA-198539-GJ-14 (Pending)

Title: Unsub(s);
Kristin Denise Smart - Victim
Kidnaping

Synopsis: Leads at Sacramento are completed.

Reference: 7A-LA-198539-GJ Serial 932

Details: Ted Patrick Munley, DOB 4/27/1977, was contacted and polygraphed as delineated in the referenced communication. Based on the results of the polygraph and contact, Munley does not appear to be a viable suspect in this matter. Munley said he would contact the Sacramento Office of the FBI if he learns of any information concerning this matter.

Sacramento is considering this lead to be complete.

UPLOADED

GMW 7-22-02

To: Los Angeles From: Sacramento
Re: 7A-LA-198539-GJ, 07/12/2002

LEAD(s):

Set Lead 1: (Adm)

LOS ANGELES

AT SANTA MARIA, CA

Read and Clear.

♦♦

FD-498 (Rev. 1-28-99)

POLYGRAPH REPORT

[redacted] FOR FBIHQ USE ONLY

REVIEWED BY: [redacted] DATE: [redacted]

[redacted] RESULTS:

SERIES I: [redacted] SERIES II: [redacted] SERIES III: [redacted] SERIES IV: [redacted] SERIES V: [redacted]

Date of Report	Date of Examination	Case ID #
05/20/2002	05/07/2002	7A-LA-198539 - 34

Field Office/Agency Requesting Examination
Los Angeles

Authorizing Official
ADIC, Los Angeles

Date Authorized
01/29/2002

Examinee's Name (Last, First, Middle)
Munley, Ted Patrick

Case Title:
UNSUB(s);
KRISTIN DENISE SMART - VICTIM;
CALIFORNIA POLYTECHNIC STATE UNIVERSITY
SAN LUIS OBISPO, CA
KIDNAPING - HOMICIDE

Case Synopsis/Examiner's Conclusion:

On the night of May 25/26, 1996, captioned victim attended an off campus party near Cal Poly State University in San Luis Obispo, California. Smart walked from the party location with Paul Flores and Cheryl Anderson, both students at the University. Anderson walked to the Cal Poly dorm area with Flores and Smart and turned off to go to her dorm, where she observed Flores and Smart walk off in the direction of their respective dorms. Flores later reported that he and Smart parted at a "Y" in the sidewalks leading to their respective separate dorms. Flores has been developed as a main suspect in this case, and is not currently cooperative with the investigation.

Pg. 1

During the course of the investigation Ted Patrick Munley was developed as a potential suspect in this matter. Munley, a white male, date of birth - March 27, 1977, Social Security number 548-99-4492, lived in the dormitory right behind Smart's dorm. Munley was at the party in question on the night Smart disappeared. According to information developed by police detectives, and by Munley's own admissions, he left the party and ultimately arrived at Smart's dorm room, where he contacted Jana (last name unknown), a friend of Crystal Calvin, Smart's room mate in the dorm. Munley may have stayed with Jana in Smart's room, as late as 9:00 a.m. or 10:00 a.m. on May 26, 1996. Munley has denied seeing Smart after he left the party, and has denied any involvement in her disappearance.

168hjs03.498

UPLOADED

Examiner's Name Harry J. Sweeney

On May 7, 2002, Munley agreed to undergo a polygraph examination to verify his denial to the FBI concerning participation in the disappearance of Smart. Prior to the examination, Munley was provided with an FD-395 "Advice of Rights" form, as well as an FD-328 "Consent to Interview with Polygraph" form. Munley read both forms, acknowledged an understanding of them, signing both, agreeing to further examination. During the course of the pre-test interview, Munley continued to deny any knowledge of, or involvement in the disappearance of victim Smart. Munley was subsequently afforded a polygraph examination consisting of the following relevant questions:

Series I

A. Did you cause the disappearance of Kristin Smart? (Answer-No)

B. Can you take me to where Kristin Smart is now? (Answer-No)

It is the opinion of the examiner that the recorded responses to the above relevant questions in Series I are not indicative of deception (NDI).

SAN LUIS OBISPO COUNTY SHERIFF
1585 KANSAS AVE.
SAN LUIS OBISPO, CA 93405

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
960610965	783
CASE TYPE	CAD EVENT NUMBER
HOMICIDE	
REPORTING OFFICER	REPORT DATE
SLDA6061 - CAMP, JAMES	03/15/2022

INCIDENT

LOCATION					DATE	TIME
, CA					03/15/2022	08:00
PREMISE NAME						
TED MUNLEY INT						
STATION	BEAT	RESP AREA		JURISDICTION		
ST24				SLSO		

ADDITIONAL INFORMATION

☐ INC SUPP 1

INC SUPP 1

INC SUPP 4

☐ INC SUPP 3

INC SUPP 6

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
FIL	11/08/2021	AA	04/08/2021	SLSO1138 - MENGHRAJANI, D	03/15/2022

03/22/2022
150:055777

INCIDENT REPORT	SAN LUIS OBISPO COUNTY SHERIFF	CASE NUMBER	SUP NO
		060610065	783

PROPERTY

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL					
1116	E	53							
SERIAL NUMBER		QUANTITY	COLOR	COLOR	CAN	REF NO		EVIDENCE	
								N	
DESCRIPTION							CUSTODY STATUS		
DISC WITH TED MUNLEY INTERVIEW ON IT - 03 08 2022							CUSTODY		
COMMENT									

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL					
1117	E	53							
SERIAL NUMBER		QUANTITY	COLOR	COLOR	CAN	REF NO		EVIDENCE	
								N	
DESCRIPTION							CUSTODY STATUS		
DISC AND HARD COPIES OF MUNLEY PRELIM SUBPOENA							CUSTODY		
COMMENT									

NARRATIVE

REPORT DATE: 3/14/2022

REPORT PURPOSE: Document Interview with Ted Munley

On 3/8/2022 at approximately 1500 hours DDA C. Peuvrelle and I met with Ted Munley for purposes of a follow up interview. Munley' s fiancée accompanied him to the interview. The interview was recorded, and the following will serve as a synopsis of the complete interview. For full details of the interview refer to the audio recording of the contact which was saved and placed on a disc which was booked as evidence at the Sheriff' s Detective Division (See RMS #1116).

We discussed upcoming court proceedings. One of the things Munley mentioned was how he was subpoenaed by the defense team and was admonished in the subpoena that he was not to disclose the subpoena information (from preliminary hearing) to DDA C. Peuvrelle. Munley later provided me a copy of the subpoena electronically (See attached). We discussed that our blanket admonition was that witnesses were free to talk to whomever they chose to, or not talk to anyone if that was their choice. We discussed how our interest was the truth. We indicated we would be documenting this contact. We further discussed Munley' s role as a witness and the likelihood that he would be called as a witness.

Munley said he recalled being contacted by the FBI, taking a polygraph and meeting in Lake Tahoe with detectives. He indicated he would like to read the reports which documented his interviews.

Munley was provided the following reports/paperwork to review:

1. Detective Henry Stewart report - July 9, 1996.
Munley said he did not recall Carrie, RJ, or Justin. He said he probably knew them but did not know them now. He had nothing new to add. He said he did not recall the details of the Crandall property, did not specifically recall being at the Crandall party that weekend, and did not know who was there. He described the report as accurate.
2. Detective Dave Kenny report - May 29, 2014.
DDA Peuvrelle, scrolled to January 3, 2007, on the report entry at Munley' s statement. Munley recalled meeting at 7-11 in Squaw Valley. He said this particular report is the closest to his recollection of what took place. He indicated that he came back to his room, was unable to get in although he wanted to go to sleep. He went to see " Jenn" because he knew she would let him in. He said he was aggravated because he wanted to go to bed. He further stated that the detectives he

spoke with were surprised that he' d been contacted and polygraphed by the FBI.
3. FBI questionnaire from March 1999. Munley described the content as accurate.

As we continued speaking with Munley, he indicated that he' d sought legal counsel because of the way that he was characterized by the defense (in the preliminary hearing in context). He indicated he' d been advised to plead the fifth to defense questions. He went on to say that " Sanger" cast him in a poor light and compared him to Scott Peterson. He said he was painted as angry and upset as well as a viable suspect. He said he did not like the way that " Sanger" painted a picture of him.

Munley said that the defenses inspector was aggressive and off putting. He said is seemed as though the inspector working for the defense was trying to get a response from him. Munley described how he was not supposed to disclose his receipt of a subpoena to DDA Peuvrelle (in addition to Ruben and Paul Flores).

Munley was provided subpoena information and told he would be placed on call.

Eventually, the interview was terminated.

In addition to the disc which contained the interview, I booked copies of the preliminary hearing subpoena and an electronic copy of the documents as evidence (See RMS #1117).

CLOSING STATEMENT:

Case status cleared by Adult Arrest.

DA Investigator JT Camp #6061

JTC/sm 03/15/2022

RESTRICTED

Date: 3/14/2022

Purpose; Document interview with Ted Munley

On 3/8/2022 at approximately 1500 hours DDA C. Peuvrelle and I met with Ted Munley purposes of a follow up interview. Munley's fiancée accompanied him to the interview. The interview was recorded, and the following will serve as a synopsis of the complete interview. For full details of the interview refer to the audio recording of the contact which was saved and placed on a disc which was booked as evidence at the Sheriff's Detective Division (See RMS # 1116).

We discussed upcoming court proceedings. One of the things Munley mentioned was how he was subpoenaed by the defense team and was admonished in the subpoena that he was not to disclose the subpoena information (from preliminary hearing) to DDA C. Peuvrelle. Munley later provided me a copy of the subpoena electronically (See attached). We discussed that our blanket admonition was that witnesses were free to talk to whomever they chose to, or not talk to anyone if that was their choice. We discussed how our interest was the truth. We indicated we would be documenting this contact. We further discussed Munley's role as a witness and the likelihood that he would be called as a witness.

Munley said he recalled being contacted by the FBI, taking a polygraph and meeting in Lake Tahoe with detectives. He indicated he would like to read the reports which documented his interviews.

Munley was provided the following reports/paperwork to review:

1. Detective Henry Stewart report – July 9, 1996.
   Munley said he did not recall Carrie, RJ, or Justin. He said he probably knew them but did not know them now. He had nothing new to add. He said he did not recall the details of the Crandall property, did not specifically recall being at the Crandall party that

In addition to the disc which contained the interview, I booked copies of the preliminary hearing subpoena and an electronic copy of the documents as evidence (See RMS #1117).

Closing Statement: Adult Arrests. Copy to DDA C. Peuvrelle, SLODA.

EXHIBIT 2

SAN LUIS OBISPO COUNTY SHERIFF'S OFFICE
SUPPLEMENTAL REPORT
#9606-10965

DATE WRITTEN: 7-22-96
REPORT PURPOSE: Interview with Shahn Whitted

DETAILS

7-11-96/1355 HOURS:

I spoke with Shahn Whitted on the telephone at (909) 695-1937

I asked Whitted if he knew Kristin Smart. He told me that he met Kristin the first week she arrived in San Luis Obispo. He said his roommate, Mike May, was friends with the head of Kristin's "WOW" (Week of Welcome) group.

Whitted said he was asked to go with them to the drive-in. He said Kristin was living at Stenner Glen apartments at that time.

I asked Whitted if he knew Trista Rinde. He said Kristin and Trista were good friends and hung out with them often for the first few months. Whitted said that on March 12, 1996 he had a party at his house and Kristin was there. He said it was his birthday. Whitted said he saw Kristin many times after that. He said they "kind of dated on and off". Whitted said Kristin called him after the party and said she had met his neighbor, Tabio. Whitted identified his neighbor as Tabio Darkangelo and said he lived at 2801 Johnson, San Luis Obispo.

Whitted said he bumped into Kristin at different parties and would also occasionally give her rides. He said the last time he saw Kristin was a couple of days before she disappeared.

I asked Whitted if he ever lit a pair of Kristin's shoes on fire and he said "yes". Whitted told me that Kristin was telling Trista lies about him. He said she had left some old "trashed" shoes at his house. Whitted said he burned them on her front porch and left a note. Whitted said he and Kristin made up after that. He believes that occurred around the later part of February, 1996.

I asked Whitted if he knew Paul Flores and he said "no".

I asked Whitted if he ever had sex with Kristin Smart and he said "no". I asked him if he had any idea where she might be and Whitted said he had no idea at all. Whitted added that she would get rides from people all the time.

I asked Whitted if he could tell me what color hair Kristin had the last time he saw her. Whitted said her hair was a darker "burgundy kind of brown" in the light, otherwise it was brown in color. Whitted said Kristin usually had a small backpack with her that she carried her makeup in.

Whitted also told me that Kristin was working at the bookstore on campus. He said she started stalking some guy she met at the store and later got in trouble for waking him up in his room. Whitted said we could probably find a report on that incident.

Whitted had no further information at that time

CLOSING STATEMENT

Case status active.

/s/ H. Stewart, Detective #0335
spg/7-22-96/smart.012

EXHIBIT 3

SAN LUIS OBISPO COUNTY SHERIFF'S DEPARTMENT
SUPPLEMENTAL REPORT
CASE # 9606-10965

DATE WRITTEN: 02/24/03
REPORT PURPOSE: INVESTIGATION SCOTT PETERSON

DETAIL

ON 12-24-02, LACI PETERSON DISAPPEARED FROM HER MODESTO HOME, WHERE SHE LIVED WITH HER HUSBAND SCOTT PETERSON. CIRCUMSTANCES SUGGEST THAT SCOTT IS INVOLVED IN THE DISAPPEARANCE. THIS CASE IS BEING INVESTIGATED BY MODESTO POLICE DEPARTMENT UNDER CASE # 02142591. SCOTT PETERSON WAS ATTENDING CAL POLY AT THE TIME SMART DISAPPEARED. AN INVESTIGATION WAS CONDUCTED TO DETERMINE IF SCOTT PETERSON WAS INVOLVED IN SMART'S DISAPPEARANCE.

INVESTIGATION

ON 1-21-03, AT APPROXIMATELY 0903 HOURS, I SPOKE TO DETECTIVE KENNEDY (CAL POLY POLICE DEPARTMENT). HE PROVIDED ME WITH IDENTIFYING INFORMATION ABOUT SCOTT AND LACI. (MAIDEN NAME: ROCHA). HE TOLD ME THAT SCOTT TRANSFERRED TO CAL POLY ON 1-3-94, FROM CUESTA COLLEGE. SCOTT STARTED WITH A MAJOR IN NUTRITION AND THEN CHANGED TO AG BUSINESS. SCOTT GRADUATED ON 6-13-98. LACI STARTED AT CAL POLY IN 1993. HER MAJOR WAS ORNAMENTAL HORTICULTURAL. SHE GRADUATED ON 12-13-97. ADDRESS RECORDS SHOWED THAT AS OF 5-22-96, SCOTT HAD AN ADDRESS OF RT 2 BOX 414 D SAN LUIS OBISPO 93401. LACI HAD THIS ADDRESS AS OF 5-31-96. THIS WAS THE LAST MAINTAINED ADDRESS. THEIR PHONE NUMBER WAS 543-7340.

HE HAD RECEIVED INFORMATION FROM A RETIRED CO-WORKER, BOB WILSON, THAT SCOTT WORKED AT ABBA'S IN MORRO BAY AND AT THE SEA PINES GOLF COURSE IN LOS OSOS.

I REQUESTED THE FOLLOWING RECORDS:
1-CLASS RECORDS FOR SCOTT AND LACI.
2-ID CARD SHOW USE AT DINING FACILITIES AND USE AT CAMPUS LOCATION FOR LACI AND SCOTT.
3-VEHICLE PERMIT INFORMATION FOR SCOTT AND LACI.
4-DORMITORY RESIDENCE INFORMATION.
5-ENROLLMENT APPLICATIONS.

ON 1-21-03, AT APPROXIMATELY 0918 HOURS, I CONTACTED SUPVR. AGENT ED MILLER (FBI/SANTA MARIA) AND REQUESTED THAT HE CHECK THE SMART

DATABASE FOR CONTACTS WITH LACI ROCHA/PETERSON AND SCOTT PETERSON. HE TOLD ME THAT THE DATABASE HAD BEEN CHECKED AND THERE WERE NO CONTACTS.

ON 1-21-03, AT APPROXIMATELY 0930 HOURS, I MADE DMV AND CLETS INQUIRIES ON LACI ROCHA/PETERSON AND SCOTT PETERSON. SEE THE ATTACHED INQUIRIES.

I OBTAINED SCOTT PETERSON'S DMV PHOTO FROM CAL PHOTO, THROUGH JOHN MEANS. MEANS PREPARED A PHOTO LINEUP, WITH SCOTT IN POSITION 3, FOR ME. SEE THE ATTACHED LINEUP.

ON 1-21-03, AT APPROXIMATELY 0935 HOURS, I CHECKED LACI ROCHA/PETERSON AND SCOTT PETERSON IN LS. THERE WERE NO CONTACTS. I CHECKED THE PHONE NUMBER OF 543-7340 IN LS AND THERE WERE NO CONTACTS.

ON 1-21-03, AT APPROXIMATELY 1013 HOURS, I SPOKE TO JENNIFER MC MASTER AT HE SAN LUIS OBISPO POST OFFICE (549-8352). SHE CHECKED THE RECORDS FOR RT 2 BOX 414 D AND THEY SHOWED THAT THIS ADDRESS WAS ON MAIL POUCH LANE/HWY 1 SAN LUIS OBISPO.

ON 1-21-03, AT APPROXIMATELY 1027 HOURS, I SPOKE TO DETECTIVE KENNEDY ON THE PHONE. HE TOLD ME THAT SCOTT AND LACI DID NOT LIVE IN THE DORMITORIES ON CAMPUS.

THE RECORDS SHOWING THE ID CARD USED HAD BEEN PURGED.

HE TOLD ME THAT THE ENROLLMENT APPLICATIONS FOR SCOTT AND LACI COULD NOT BE RELEASED, BECAUSE OF PRIVACY ISSUES. HE TOLD ME THAT WHEN SCOTT ENROLLED, HE GAVE AN ADDRESS OF 260 SHASTA MORRO BAY AND LACI GAVE AN ADDRESS OF 1017 MARKLEE WY., MODESTO.

ON 1-21-03, AT APPROXIMATELY 1035 HOURS, I SPOKE TO DOJ PROFILER, SHARON HAGEN. SHE TOLD ME THAT SHE WAS ASSIGNED TO THE MODESTO CASE. WE DID NOT DISCUSS THE MODESTO CASE. I ASKED TO PROVIDE MODESTO INVESTIGATORS WITH INFORMATION ABOUT OUR CASE, IF NECESSARY.

ON 1-21-03, AT APPROXIMATELY 1050 HOURS, I SPOKE TO CHIEF SYSAK (CUESTA POLICE DEPARTMENT) AND REQUESTED SCOTT PETERSON CLASS SCHEDULES AND APPLICATION.

ON 1-21-03, AT APPROXIMATELY 1055 HOURS, I SPOKE TO DETECTIVE STEWART ON THE PHONE. HE TOLD ME THAT HE DID NOT RECALL THE NAMES OF LACI ROCHA/PETERSON OR SCOTT PETERSON'S AS BEING PART OF THE SMART INVESTIGATION. HE SAID THAT IF THEY ATTENDED THE COLLEGE AT THE TIME

THAT SMART DISAPPEARED, THEY WOULD HAVE BEEN SENT AN E-MAIL OR LETTER, SENT BY HE COLLEGE, REQUESTING INFORMATION ABOUT SMART. HE DID NOT KNOW IF THEY REPLIED TO EITHER ONE.

I CONTACTED DMV AND REQUESTED CERTIFIED HISTORICAL SOUNDEX'S ON LACI ROCHA/PETERSON AND SCOTT PETERSON. (NOTE ON 1-22-03, I RECEIVED THESE SOUNDEX'S. SEE THE ATTACHED COPIES.)

ON 1-21-03, AT APPROXIMATELY 1308 HOURS, I SPOKE TO CONNIE MARSTILLER (NCIC) AND REQUESTED AN NCIC OFF LINE ON SCOTT PETERSON FROM MAY 1, 1996 TO MAY 31, 1996. (NOTE: ON 1-23-03, I RECEIVED THE NCIC INQUIRY. THERE WERE NO CONTACTS ON SCOTT LEE PETERSON DURING THE REFERENCED TIME FRAME. SEE THE ATTACHED INQUIRY RESULTS.)

ON 1-21-03, AT APPROXIMATELY 1353 HOURS, I SPOKE TO DETECTIVE MURPHY (SLOPD). SHE CHECKED LACI ROCHA/PETERSON AND SCOTT PETERSON FOR CONTACTS. THE RECORDS SHOWED THAT LACI WAS CONTACTED FOR A TRAFFIC CITATION. SCOTT WAS CONTACTED, AS THE OWNER OF THE SHACK, ON AN ALARM CALL AND THEN AS A COMPLAINANT ON AN ALCOHOL OFFENSE. SHE ALSO CHECKED THE KREBS CASE RAPID START SYSTEM FOR CONTACTS, THERE WERE NONE.

ON 1-21-03, AT APPROXIMATELY 1400 HOURS, I SPOKE TO CHIEF SYSAK ON THE PHONE. HE TOLD ME THAT SCOTT PETERSON ENROLLED AT CUESTA IN DECEMBER, 1991. HE COMPLETED 40 UNITS, IN BUSINESS CLASSES, AND TRANSFERRED TO CAL POLY IN JUNE, 1993. SCOTT'S SOCIAL SECURITY NUMBER WAS 560-81-2192. THE APPLICATION SHOWED AN ADDRESS OF 260 SHASTA MORRO BAY.

HE TOLD ME THAT THERE WERE NO CLASS ROOSTERS OR PARKING PERMIT INFORMATION AVAILABLE. HE WILL ATTEMPT TO CONTACT THE INSTRUCTORS TO OBTAIN SCOTT'S CLASSMATES.

HE CHECKED SCOTT IN THE LAW ENFORCEMENT CONTACT FILES AND THERE WERE NO CONTACTS.

ON 1-21-02, AT APPROXIMATELY 1408 HOURS, I SPOKE TO PAT (DISPATCH/MORO BAY POLICE DEPARTMENT) AND REQUESTED THAT SHE CHECK FOR CONTACTS ON LACI ROCHA/PETERSON AND SCOTT PETERSON. THERE WERE NO CONTACTS. SHE ALSO CHECKED FOR CONTACTS AT 260 SHASTA AND THERE WERE NONE.

ON 1-22-03, AT APPROXIMATELY 1422 HOURS, I SPOKE TO DETECTIVE GROGAN (MODESTO POLICE DEPARTMENT/PHONE (209) 572-9500), WE DISCUSSED THE

SMART CASE AND MY NEED TO INTERVIEW SCOTT PETERSON ABOUT HIS POSSIBLE INVOLVEMENT IN SMART'S DISAPPEARANCE. HE REQUESTED THAT I WAIT TO CONTACT SCOTT TO PREVENT ISSUES WITH HIS CASE.

ON 1-23-03, AT APPROXIMATELY 0800 HOURS, I SPOKE TO CONNIE ODA (DOJ/SHOP) AND REQUESTED BACKGROUND INFORMATION ON PETERSON. SEE THE ATTACHED RESULTS.

ON 1-23-03, AT APPROXIMATELY 0822 HOURS, I SPOKE TO DETECTIVE KENNEDY ON THE PHONE. HE TOLD ME THAT SCOTT PETERSON NEVER WORKED FOR THE CAL POLY FOUNDATION (PIZZA CART THEFT). HE DID SAY THAT LACI WORKED FOR THE FOUNDATION AT THE PLANT SHOP FROM 1996 TO 1997.

ON 1-23-03, AT APPROXIMATELY 1052 HOURS, I SPOKE TO CHERYL ANDERSON ON THE PHONE. SHE WAS AT THE PARTY WITH SMART AND WALKED WITH FLORES AND SMART TO PERIMETER AND GRAND. I E- MAILED HER SCOTT AND LACI PICTURES FROM THEIR DMV SOUNDEX'S. LACI'S PICTURE WAS TAKEN ON 5-3-94 AND SCOTT'S PICTURE WAS TAKEN ON 11-2-95. THESE WERE THE ONLY PICTURES I COULD FIND THAT WERE TAKEN CLOSE IN TIME TO THE DATE SMART DISAPPEARED.

SHE TOLD ME THAT SHE LOOKED AT THE PICTURES AND SHE WAS NOT FAMILIAR WITH EITHER OF THE PEOPLE IN THE PICTURES. SHE HAD NEVER SEEN THESE PEOPLE BEFORE. SHE DID NOT KNOW A LACI ROCHA/PETERSON OR SCOTT PETERSON. SHE DID NOT RECALL THEM IN ANY OF HER CLASSES. SHE HAD A MAJOR OF SPEECH COMMUNICATIONS. SHE COULD NOT RECALL IF HE EVER HEARD THEIR NAMES AROUND THE TIME OF SMART'S DISAPPEARANCE.

SHE TOLD ME THAT SHE DID NOT RECALL EITHER OF THEM BEING AT THE PARTY, EITHER ALONE OR TOGETHER, ON CRANDALL. WHEN LEAVING THE PARTY AND WALKING ON CAMPUS, SHE DID NOT SEE THE MALE IN THE PICTURE. SHE DID NOT RECALL SEEING THE MALE IN THE PICTURE ANY WHERE SHE HAD BEEN ON THE NIGHT SMART DISAPPEARED.

SHE TOLD ME THAT SHE HAD BEEN TO A PARTY(S) ON JEFFERY IN SAN LUIS OBISPO (ONE OF SCOTT'S RESIDENCE ADDRESSES). SHE DID NOT KNOW WHO THE RESIDENT WAS. SHE HAD NEVER BEEN TO A HOUSE ON HWY 1 OR TO A HOUSE ON SHASTA IN MORRO BAY. SHE SAID SHE WAS FAMILIAR WITH A BUSINESS ON FOOTHILL CALLED THE SHACK. SHE HAD NEVER BEEN TO THIS BUSINESS. SHE NEVER WENT TO THE PLANT SHOP ON CAMPUS.

ON 1-27-03, AT APPROXIMATELY 1215 HOURS, I SPOKE TO DETECTIVE KENNEDY. HE GAVE ME SCOTT'S, LACI'S, KRISTIN SMART AND PAUL FLORES CLASS SCHEDULES. I REVIEWED THE SCHEDULES AND FOUND NO COMMON CLASSES. SEE THE ATTACHED SCHEDULES.

ON 1-27-03, AT APPROXIMATELY 1310 HOURS, I SPOKE TO STAN SMART, THE VICTIM'S FATHER ON THE PHONE. HE TOLD ME HE NEVER HEARD KRISTIN TALK ABOUT A SCOTT PETERSON OR LACI. SHE MADE HAVE MENTIONED THE NAME SCOTT, BUT HE HAD NO OTHER INFORMATION ABOUT THIS.

ON 1-30-03, AT APPROXIMATELY 0952 HOURS, I SPOKE TO TIM DAVIS ON THE PHONE. HE WAS AT THE PARTY WITH KRISTIN. HE TOLD ME HE HAS SEEN THE PICTURES OF SCOT AND LACI PETERSON ON THE NEWS. HE TOLD ME THAT NEITHER OF THEM WERE AT THE PARTY ON CRANDALL. HE DOES NOT KNOW EITHER ONE OF THEM. NEITHER ONE OF THEM WERE IN HIS CLASSES.

ON 1-30-03, AT APPROXIMATELY 1350 HOURS, I SPOKE TO DETECTIVE KENNEDY. HE TOLD ME THAT PARKING PERMIT INFORMATION WAS NO LONGER AVAILABLE FOR SCOTT AND LACI.

ON 1-31-03, AT APPROXIMATELY 0803 HOURS, I SPOKE TO JENNIFER PHIPPS ON THE PHONE. SHE WAS THE REPORTING PARTY ON THE CALL AND WAS A FRIEND OF KRISTINS WHO HAD A DORM ROOM ACROSS FROM KRISTEN. I E- MAILED HER SCOTT AND LACI PICTURES FROM THEIR DMV SOUNDEX'S. LACI'S PICTURE WAS TAKEN ON 5-3-94 AND SCOTT'S PICTURE WAS TAKEN ON 11-2-95. THESE WERE THE ONLY PICTURES I COULD FIND THAT WERE TAKEN CLOSE IN TIME TO THE DATE SMART DISAPPEARED.

SHE LOOKED AT THE PICTURES. SHE DID NOT KNOW SCOTT OR LACI. SHE SAID SHE MAY HAVE SEEN LACI ON CAMPUS AND HAD NO FURTHER INFORMATION ABOUT THAT. KRISTIN NEVER MENTIONED SCOTT OR LACI'S NAME. SHE DID NOT RECALL SCOTT OR LACI BEING IN ANY OF HER CLASSES. SHE DID NOT RECALL SEEING SCOTT OR LACI AROUND HER AND KRISTIN'S DORMITORY. KRISTIN DID NOT HAVE A MALE FRIEND THAT WAS SIMILAR IN APPEARANCE TO SCOTT. SHE DID NOT RECALL KRISTEN MENTIONING SCOTT OR LACI'S NAME. SHE NEVER SAW KRISTEN WITH SCOTT. ON THE NIGHT THAT KRISTIN DISAPPEARED, SHE DID NOT SEE ANYONE MATCHING SCOTT'S DESCRIPTION AROUND THE DORMITORY.

ON 2-11-03, AT APPROXIMATELY 0735 HOURS, I SPOKE TO CRYSTAL CALVIN. SHE WAS KRISTIN'S ROOM MATE. I E- MAILED HER SCOTT AND LACI PICTURES FROM THEIR DMV SOUNDEX'S. LACI'S PICTURE WAS TAKEN ON 5-3-94 AND SCOTT'S PICTURE WAS TAKEN ON 11-2-95. THESE WERE THE ONLY PICTURES I COULD FIND THAT WERE TAKEN CLOSE IN TIME TO THE DATE SMART DISAPPEARED.

SHE TOLD ME THAT SHE LOOKED AT THE PICTURES. SHE DID NOT KNOW EITHER THE MALE OR FEMALE. SHE HAD NEVER SEEN THEM IN KRISTEN'S DORM ROOM. KRISTEN NEVER TALKED ABOUT A SCOTT OR LACI. SHE NEVER SAW KRISTEN WITH EITHER THE MALE OF FEMALE IN THE PICTURES. SHE DID NOT RECALL SEEING THEM IN ANY OF HER CLASSES.

CLOSING STATEMENT

CASE STATUS INACTIVE. AT THIS TIME, THERE IS NO INFORMATION TO LINK SCOTT PETERSON TO THE VICTIM. I DID NOT TALK TO PETERSON, BECAUSE OF THE ON GOING HOMICIDE INVESTIGATION, INVOLVING LACI PETERSON, WITH SCOTT AS A SUSPECT. WHEN MODESTO POLICE DEPARTMENT GIVES ME PERMISSION TO TALK TO SCOTT ABOUT THIS CASE, I WILL INTERVIEW HIM.

DETECTIVE CRAWFORD #0341
SC/PLH/02/24/03 1058
Supp

SUP
21403

EXHIBIT 4

SAN LUIS OBISPO COUNTY SHERIFF

SAN LUIS OBISPO, CA 93401

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
960610965	273
CASE TYPE	CAD EVENT NUMBER
MISSING	
REPORTING OFFICER	REPORT DATE
SLSO0587 - KENNY, DAVE	06/23/2014

INCIDENT

LOCATION				DATE	TIME
TRENT BUCKLE, , CA				06/23/2014	13:47
PREMISE NAME					
TRENT BUCKLE					
STATION	BEAT	RESP AREA		JURISDICTION	
ST24				SLSO	

ADDITIONAL INFORMATION

☐ INC SUPP 1	☐ INC SUPP 3	
INC SUPP 1	INC SUPP 4	INC SUPP 6

SUSPECTS

ENTRY NO	INVOLVEMENT	NAME: LAST, FIRST, MIDDLE
163	SU	BUCKLE, TRENT VICTOR

HOME ADDRESS	CITY, STATE, ZIPCODE	MAILING ADDRESS	CITY, STATE, ZIPCODE
897 CHORRO ST	SAN LUIS OBISPO, CA 93401		
EMPLOYER	EMPLOYER ADDRESS	CITY, STATE, ZIPCODE	OCCUPATION
SELF			PHOTOGRAPHER
HOME PHONE	CELL PHONE	OTHER PHONE	EMPLOYER PHONE

DOB	AGE	SEX	RACE	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RES	GANG IDENTIFICATION
01/20/1971	43	M	W		508	165	BLN	BLU			

DL NUMBER	DL ST	SSN	FBI ID	STATE ID	LOCAL	ID	ID
C7020532							

COMMENT

OTHERS

ENTRY NO	INVOLVEMENT	NAME: LAST, FIRST, MIDDLE
164	OT	VIRGILIO, ANGEL ROSANNA

HOME ADDRESS	CITY, STATE, ZIPCODE	MAILING ADDRESS	CITY, STATE, ZIPCODE
38050 HIGHWAY 36E APT #8	MINERAL, CA 96063		
EMPLOYER	EMPLOYER ADDRESS	CITY, STATE, ZIPCODE	OCCUPATION
LASSEN VOLCANIC NATIONAL			PARK RANGER
HOME PHONE	CELL PHONE	OTHER PHONE	EMPLOYER PHONE

DOB	AGE	SEX	RACE	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RES	GANG IDENTIFICATION
02/15/1975	39	F	W		506	135	BLN	BLU			

DL NUMBER	DL ST	SSN	FBI ID	STATE ID	LOCAL	ID	ID
A4335770		572352858					

COMMENT

PROPERTY

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL
514	E	OTHER		

SERIAL NUMBER	QUANTITY	COLOR	COLOR	OAN	REF NO	EVIDENCE
					514	Y

DESCRIPTION	CUSTODY STATUS
SAN DIEGO PD INFO RE: BUCKLE	SUBMITTED

COMMENT

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL
515	E	53		

SERIAL NUMBER	QUANTITY	COLOR	COLOR	OAN	REF NO	EVIDENCE
	1				515	Y

DESCRIPTION	CUSTODY STATUS
DVD, INTERVIEW OF ANGEL VIRGILIO	SUBMITTED

COMMENT

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
DF	06/28/1996	A	02/11/2013	SLSO0520 - MANUELE, MICHAEL	06/25/2014

04/22/2021
6:001435

NARRATIVE

Report Purpose: To document information about Trent Buckle.

In reviewing this case, I located a Crime Stoppers tip received on 11-19-98 involving Trent Buckle. The call was received by Crime Prevention Specialist Terri Woods. The anonymous tipster called and related the following information:

Trent Buckle was convicted of PC 187 / homicide in Long Beach. Buckle left this area (Cal Poly, San Luis Obispo) soon after Smart case with only one semester left. Buckle was a "pimp" and "go between" for approximately ten strippers in San Luis Obispo. Buckle was a "street preacher" and was "very aggressive" person. Buckle was described as being "irrational and very strong." Buckle would go to bars at 2200 hours to preach to young girls. Between midnight and 0200 hours, he would drive the streets looking for people who needed a ride home so he could preach to them.

The tipsters were apparently two males and they believed that Kristin Smart may have been a "stripper" named "Roxie" who may have worked for Buckle. Buckle also drove a Ford Escort and at one time bought a Camaro.

I obtained several San Luis Obispo Police Department reports regarding Trent Buckle. One of the reports, dated 03-18-1996, related that Buckle was running an escort service in the San Luis Obispo area named "SLO Models." The escort or massage therapist that was cited for P.C. 647 (B)/ prostitution went by the nickname of "Genesis." Her real name was Angelita Roy (a.k.a. Angel Virgilio). There was a copy of the "New Times" ad for SLO Models within the classified section dated from March 14 to March 21, 1996. Within that ad, it contained the nicknames of the SLO Model employees including "Genesis" and "Roxy."

I located a Crime Stoppers tip that had been received on 06-12-96 from an anonymous tipster regarding an exotic dancer with the same nickname "Roxy." The tipster stated that he had a friend who worked for a "dance agency" and had seen a picture of "Roxy" the stripper and believed that she may have resembled Kristin Smart.

04-21-04 at 1315 hours, I spoke with Long Beach P.D. record's supervisor, Fannie. Buckle was cited for speed in 1997. The hard copy of the citation is no longer available, only information entered into the computer. The vehicle listed was a 96 Chevy Camaro, 2 door, black, CA license #3RMT660, and the address was 1900 E. Ocean Blvd.in Long Beach. Buckle did not have any further history with their agency and he was not listed as a suspect in any homicide.

On 04-21-04, I contacted the San Diego Police Department (SDPD) and spoke with a clerk who ended up locating the homicide case (SDPD #97-077228) involving Buckle and located the lead detective, Bob Donaldson. I left a voice mail for him to contact me.

On 04-21-04 at 1352 hours, I spoke with SDPD Det. Donaldson. He explained the circumstances of the homicide case. Buckle was residing in an expensive apartment / condominium complex in Long Beach. He was running an alcohol and escort / prostitute service with female college students as employees. He also worked as an escort for both males and females. He would place ads to get female roommates. In 1997, he had a 42 year old female roommate for a few months. He did not

want her as a roommate anymore but she would not leave. He wanted a younger female roommate.

Buckle strangled his roommate, placed cloth-type medical tape over her mouth, bound her hands with black and orange rope, placed her in an old refrigerator with cardboard boxes over her, drove her to San Diego in his Camaro and dumped her body. One of the boxes had his name on it, which ultimately led to his arrest. The victim had not been sexually assaulted.

Buckle did not have any prior history in San Diego. Buckle was arrested 12-02-97 and booked in San Diego County Jail. Buckle did not get released on bail. Buckle was convicted of second degree murder and sentenced to 15 years to life. On 10-10-01, Buckle appealed and had his judgment reversed. On 10-16-01, he was convicted of P.C. 192(a) / voluntary manslaughter and sentenced to 11 years in prison.

Det. Donaldson will review the report to determine if the evidence was still available. I requested that he review the report for any information or possible connection to Kristin Smart. I also asked him to search for a purple bra or any unidentified keys or key chain with a small surfboard on it.

In May of 2004, Det. Donaldson later contacted me and informed me that he checked through the case file and the evidence with negative results. He explained that their investigation showed that Buckle operated an escort service out of San Luis Obispo by the name of S.L.O. Models, Inc. prior to his move to Long Beach. Buckle started another escort service named Malibu Enterprises on 11-19-96. He looked through many of the photos of the models and did not locate any that resembled Kristin Smart. He also sent me a copy of information (RMS #514) related to their investigation.

On 06-11-09, Buckle was released from prison and discharged from parole in Long Beach.

07-22-09, I spoke with Chris Garcia, a SLO High School classmate who had just gone to his 20 year class reunion. He spoke with a friend of Buckles', Jimmy (James) Bonsangue, at the reunion and received information about Buckle. Buckle had stated that he "didn't do that murder" but he deserved to do time because "I've done things worse" (or something similar). Garcia will obtain contact information for Bonsangue.

On 09-21-09, Chief D.A. Investigator Hanley and I attempted to locate Buckle at his listed residence (697 Chorro Street in San Luis Obispo) and nobody was home. I went by the residence several times and was unable to locate any activity.

I conducted a Google search for Trent Buckle and located a business he has as ProImage Weddings (wwwproimageweddings.com) located at 6481 Atlantic Ave in Long Beach.

I obtained current address information from the California Department of Motor Vehicle for Angel Virgilio. I contacted the Tehama County Sheriff's Office and requested contact information for Virgilio. They did not locate any contacts.

On 10-06-09 at 1444 hours, I spoke with Angel Virgilio (a.k.a. Angelita Roy). The interview was digitally-recorded and later transferred to a DVD (RMS #515). The following is a summary of the interview (refer to the DVD for specific information):

She began employment with S.L.O. Models, Inc. in 1996 after answering an ad in the newspaper. She worked for the company for approximately six months. She thinks that she moved away in approximately May or June of 1996.She did not remember a dancer named "Roxy." She dealt with the manager that went by "Devin" (a.k.a. Trent Buckle). She remembered a few other employees, "Murriah" and "Austin", but could not remember their real names. Virgilio went by the name "Genesis" or "Jenna." She was not aware of any photos that were taken of the group of employees. She has not had any contact with any of the co-workers.

On 06-14-11 at 1430 hours, Detective Commander Hastie informed me that he had received a call from a subject, Gary Orback, with information provided from Ina Davenport.

On 06-16-11 at 1517 hours, I spoke with Ina Davenport and she provided information that she had received from her son, Tyler Mitchell. She provided the name of Todd Buckles (believed to be Trent Buckle) and said that she had been told that he was a "disturbed individual" and believed that Kristin Smart was on the "fringe" of the Christian group that Buckle was.

I have not located any information to substantiate that Kristin Smart was in fact an escort named "Roxy." Based on the information available, I have not found any direct connection between Kristin Smart and Trent Buckle.

The report (RMS #514) and DVD (RMS #515) were entered into evidence at the Sheriff's Property Office detective locker.

CLOSING STATEMENT

Case status active, investigation continuing.

/S/Detective D. Kenny #0587
DK/nr/08-23-14

SAN LUIS OBISPO COUNTY SHERIFF

SAN LUIS OBISPO, CA 93401

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
960610965	274
CASE TYPE	CAD EVENT NUMBER
MISSING	
REPORTING OFFICER	REPORT DATE
SLSO0587 - KENNY, DAVE	06/24/2014

INCIDENT

LOCATION					DATE	TIME
ERNIE RIVAS, , CA					06/24/2014	13:44
PREMISE NAME						
ERNIE RIVAS						
STATION	BEAT	RESP AREA		JURISDICTION		
ST24				SLSO		

ADDITIONAL INFORMATION

☐ INC SUPP 1	☐ INC SUPP 3	
INC SUPP 1	INC SUPP 4	INC SUPP 6

OTHERS

ENTRY NO	INVOLVEMENT	NAME: LAST, FIRST, MIDDLE
165	FI	RIVAS, ERNEST

HOME ADDRESS	CITY, STATE, ZIPCODE	MAILING ADDRESS	CITY, STATE, ZIPCODE
2211 N HARBOR BLVD	OXNARD, CA 93036		
EMPLOYER	EMPLOYER ADDRESS	CITY, STATE, ZIPCODE	OCCUPATION
HOME PHONE	CELL PHONE	OTHER PHONE	EMPLOYER PHONE
(805) 8153071	(805) 6510560		

DOB	AGE	SEX	RACE	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RES	GANG IDENTIFICATION
10/03/1957	56	M	H								

DL NUMBER	DL ST	SSN	FBI ID	STATE ID	LOCAL	ID	ID
N3828451							

COMMENT

ENTRY NO	INVOLVEMENT	NAME: LAST, FIRST, MIDDLE
166	OT	VALADEZ, MARCO ANTONIO

HOME ADDRESS	CITY, STATE, ZIPCODE	MAILING ADDRESS	CITY, STATE, ZIPCODE
EMPLOYER	EMPLOYER ADDRESS	CITY, STATE, ZIPCODE	OCCUPATION
HOME PHONE	CELL PHONE	OTHER PHONE	EMPLOYER PHONE
(524) 1439896	(044) 1750885		

DOB	AGE	SEX	RACE	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RES	GANG IDENTIFICATION
02/14/1970	44	M	H		507	160	BLK	BRO			

DL NUMBER	DL ST	SSN	FBI ID	STATE ID	LOCAL	ID	ID
U6155716							

COMMENT

PROPERTY

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL
516	E	53		

SERIAL NUMBER	QUANTITY	COLOR	COLOR	OAN	REF NO	EVIDENCE
	1				516	Y

DESCRIPTION	CUSTODY STATUS
DVD, CONTACTS WITH ERNIE RIVAS	SUBMITTED

COMMENT

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL
517	E	53		

SERIAL NUMBER	QUANTITY	COLOR	COLOR	OAN	REF NO	EVIDENCE
	1				517	Y

DESCRIPTION	CUSTODY STATUS
DVD, INTERVIEW WITH ERNIE RIVAS AT ST 22	SUBMITTED

COMMENT

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
DF	06/26/1996	A	02/11/2013	SLSO0520 - MANUELE, MICHAEL	06/25/2014

04/22/2021
6:001439

EXHIBIT 5

1030 Brief Mr. Smart in my office. Psychic wanted to talk to someone who had spoken to the suspect and I said no.

PAGE 19

1150 Sgt. Schroeder checked with a local mental health expert about doing a profile on the m/p to see from what we know if she would run off.

1155 Called Hawaii, LMTC for Shelley

1200 Called Hawaii, spoke with Alyssa Said Kristin was carefree, outgoing, spontanious, boycrazy. Told me that Kristin had disappeared several times during her stay at camp at around 2300 hours and would not come back till morning. Felt she was out with males.
Said she had a crush on one of the other camp counselors and spent a great deal of money on him. Followed him to another island and spent approximately $175 on a hotel room for them. She also spent a "lot" of money on a gold ring for this person
Alyssa said that when Kristin came back for the Christmas reunion, she was walking around to several men at the party asking them to "rape" her. These were strangers that she did not know but were at this particular party. She disappeared with a male named Danny or Derrick overnight Then returned and said that this guy was "great" but there was no sex At the reunion, Alyssa believes they slept together on the beach and had sex on the beach.
Alyssa believes Kristin is fully capable of hiding money and leaving on her own for an extended period of time.

1235 Called the camp where the m/p used to work. They will look for her but she has not contacted the camp or any of the people there as of the day of my call. The director of the camp described her as a "free spirit"

1400 Sgt Schroeder told me that he was to meet with the mental health care professional at 1200 hours on Friday. Cancelled after the focus changed.

1600 Ms. Smart called to thank me for my efforts and for the trip to talk with them.

1615 Called KSBY for an update.

1820 Call from Larry Hobson. Flores refused poly and walked out. Did not invoke.

1825 Called and told Dale Ensley about refusal.

CALIFORNIA POLYTECHNIC STATE UNIVERSITY
PUBLIC SAFETY SERVICES
UNIVERSITY POLICE
SUPPLEMENTAL REPORT
CASE # 96-1308

CONFIDENTIAL

DATE: 6/25/96, 1200 hours

SECTION: Missing person

SYNOPSIS: Timeline of activity

VICTIM: Kristin Denise Smart

NARRATIVE:
This is a time line of the investigation to date.

5/28/96,1700 hours
Found and spoke with Paul Flores in his room. No obvious blood on bed or walls. He was very nervous, his heart was pounding under his t-shirt. He said he thought we were going to arrest him for a warrant that was outstanding. He said he paid the bail on the warrant and had a receipt. He said he walked with the missing person up the hill and left her near the driveway behind Sequoia Hall. He last saw her at that location. He set he went straight to his room and feel asleep. I asked if he had any physical contact with the m/p. He said he gave her two hugs on the way up the hill from the party because she was cold. Flores had a slight discoloration, yellowish, under his right eye. I asked if he had seen her since that time and he said no. I asked if he knew who she was. He said he did not know her name. I told him we would need to talk to him again and he said that would be fine.

5/29/96, Wednesday
0830 Spoke with Denise Smart She told me that Kristin may have been upset by the death of a family friend but she didn't think m/p would take off over that. She said the last messsage from Kristin was left on 5/24/96, Friday around 1700 hours. The message was enthusiastic in tone about some good news from a biology class last quarter.
I asked if Kristin would go back to Stockton or Napa. Mother said absolutely not. I asked where she would go. Beach area or Hawaii. Mother thought Pismo or Avila.
I asked about the incident in Hawaii where Kristin was missing before. Mother said it was for one day only. Krisitin was supposed to fly from Oahu to Kauai to visit friends. Instead she flew to the Big Island and visit her friend Alyssa, no last name at 808-929-9203. There was some sort of situation that developed on the beach with Alyssa and some male. Kristin had to hitchhike back to the other side of the island.
I asked her to let me know if there was anywhere else she might go.

Prepared by: M. Kennedy, S0757 Date: 6/26/96 Approved by:_____
COPIES:Detectives:_____Patrol:_____DA:_____SO/PD:_____Muni Ct:_____NTF:_____
Housing:_____Judicial Affairs:_____Probation:_____Other:_____

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CALIFORNIA POLYTECHNIC STATE UNIVERSITY
PUBLIC SAFETY SERVICES
UNIVERSITY POLICE
SUPPLEMENTAL REPORT
CASE # 96-1308

CONFIDENTIAL

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SYNOPSIS: Timeline of activity

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I asked her to let me know if there was anywhere else she might go.

EXHIBIT 6

5/5

Dear Kristen

Well, thank again for the wonderful cheerful Sunday afternoon telephone Cccll.

I am beginning to think that maybe you need to start thinking about what your real choices in life are and STOP complaining about how rough you have it.

Your Dad and I have trusted and supported you through numerous adventures, even at times when we probably shouldn't have. You've lied to us "hundreds" of times covering poor choices. And yet we have been unwavering in our support of helping you to reach your dreams.

ADD has made the road bumpier for you as a freshmen but the ROAD is still there and it seems instead of trying to

(2)

make the best out of your journey you are CONSTANTLY complaining and making up excuses. Again, today, instead of being greatful that DSS 'will pay' for a tutor for you, it's NOT the one your word there are hundreds of kids at CalPoly who need a TUTOR and NO ONE will PAY for ANY tutor!

You need to LOOK at your real choices for next year and then DO something about it.

1. Return to Cal Poly & LIVE on dorm.
   a. until January w/ enough credits to transfer as a "Jr" to other more "Perfect" place
2. Return to Stockton and attend Delta FULL TIME or
3. Get a JOB - TRY THE Real World minimum wage job would give you about $800. a month. Apt are about $500. utilities $100. food $100.+, leaves about $100. a month to live on!

(3)

It shouldn't take a brain surgeon to figure out that you are NOW living the dream of 1,000,000! And I could never begin to tell you how many would trade in their lives for yours!

You are intelligent, you can and have shown in the past that you can do whatever you set your mind to!

RB, I said you last week, it is never too late to make up your MIND TO SUCCEED. You've lost what? 10 units this year and 2 jobs w/ a 1,000 excuses for both. The same thing in life is going to happen to you if you DON'T WAKE UP and take Responsibility for

for yourself. (4) You are a product of the choices you make. Whatever you make OR DON'T make of yourself is a direct outcome of your choices! You've made some very good choices this year and its painfully obvious — poor choices as well! [As has every other freshmen at Cal Poly] It's all up to you Kristen. I am here to support you as is your Dad but we cannot change the outcome of poor choices OR continue to provide financial support for you when you make POOR choices. I am sure it is very difficult to enjoy oneself and appreciate what you have when you have to CONTINUOUSLY complain to your family and friends about how terrible life is at Cal Poly.

(5)

My advise is

1. Make the best of this LAST MONTH & Sort to "POSITIVE"
2. Go see a Counselor to help you SORT your GOALS
3. FOR The 3,000th TIME Go see a Counselor w/ your TRANSCRIPTS!
4. Go see BIO. PROF. and MAKE-UP YOUR MISSED FINAL EXAM!
5. Go to HOUSING OFFICE ASAP - Get APP
6. Get a SUMMER PLAN!
7. Wake Up & Smell the ROSES You have a world of opportunities at your fingertips Learn to LOOK at the Best in others and in your

(6)

self life choices! You CAN do it!
Learn to accept yourself and others. Learn from your mistakes and go on with life. You are in Charge! (AND VERY CAPABLE!)

If you are concerned about Monday being ineligible to attend Cal Poly next fall - according to catalog - you can be on AP more than "1" quarter as LONG as you are making progress toward your degree. If you need verification - "GO" talk to DSS. 1,000's of Kids have been in the same spot & they've gotten HELP! No one can DO IT ALONE! Let them help you!

We Love You ALWAYS!

Mom & Pa

EXHIBIT 7

SAN LUIS OBISPO COUNTY SHERIFF
1585 KANSAS AVE.
SAN LUIS OBISPO, CA 93405

INCIDENT REPORT	
CASE NUMBER 960610965	SUPPLEMENT NUMBER 479
CASE TYPE HOMICIDE (MISSING)	CAD EVENT NUMBER
REPORTING OFFICER SLSO0588 - COLE, CLINTON	REPORT DATE 03/31/2020

NARRATIVE

Date of Report: 03/31/2020

Purpose of Report: To Document Dr. Kusomoto's Evaluation of Paul Flores' Black Eye

DETAIL

On 12/02/1998 at 1100 hours, at the San Luis Obispo County SART Office, former Sheriff's Office Detective S. Crawford provided 2 photographs that indicated a bruise under Paul Flores' right eye. One of the photographs was 14" by 11" and the other photograph was 3" by 5". Detective Crawford also wrote a memo to Dr. Kuosomoto and requested he evaluate the pictures and attempt to determine an approximate date when Paul Flores received his injury. Dr. Kusomoto was provided a timeline by Detective Crawford as to when various witnesses noted Paul Flores' black eye. Detective Crawford had 12 questions that he wanted Dr. Kusomoto to answer. For further information refer to the memo to Detective Crawford from Dr. Kusomoto dated 12/03/1998 scanned into Laserfiche.

On 12/07/1998. Detective Crawford retrieved the photographs and Dr. Kusomoto's report. For information regarding Detective Crawford's comments, refer to his Supplemental Report in Laserfiche, #134.

I reviewed Dr. Kusomoto's report. Dr. Kusomoto stated that after reviewing the timeline and the photographs, it was his opinion to assess the age of a bruise from photographs however it appeared to him the bruise on the subject's right lower eyelid is 0 (zero) to 3 (three) days old at the time of the photographs

The following are Detective Crawford's questions and Dr. Kusomoto's responses:

Q: Would the location of this injury suggest an accidental or non-accidental type injury?
A: The injury could be either accidental or non-accidental. The bruise could have been inflicted by having been hit by another person or by an object such as a basketball.

Q: What amount of force would be required to inflict this injury? Could the size of the bruise be a determining factor in the amount of force?
A: The force equivalent to punching with a fist would cause this type of injury. The size of the bruise is not a determining factor in the amount of force.

Q: Could this injury be self-inflicted?
A: The injury is not likely self-inflicted.

Q: Could the injury have been caused by being struck by an arm or elbow, while playing basketball; hitting the steering wheel or being struck in the face with a hand or fist?
A: The injury could have been caused by having been struck by an arm or elbow or having been struck

by a fist, but not by hitting a steering wheel.

Dr. Kusomoto answered the additional 8 questions as well. For further information refer to his report. Those questions and responses are related to other potential medical conditions that could have caused the bruising.

I reviewed Detective Crawford's timeline regarding Paul Flores' black eye, reference Laserfiche Supplemental Report #130. A friend to Paul Flores, Jeremy Moon, noticed Paul Flores' black eye on Sunday, 05/26/1996, which is the first time any person said they saw the bruise on Paul Flores' face. The last time any person witnessed the bruise was on 05/31/1996. This is when DA Investigators Hanley and Hobson interviewed Paul Flores and noted the bruise.

Dr. Kusomoto's opinion that the bruise is 0 to 3 days old is consistent with the bruise being seen by Jeremy Moon on 05/26/1996.

I placed Detective Crawford's report and Dr. Kusomoto's report on the case hard drive, which will later by booked into evidence.

CLOSING STATEMENT

Case status active.

/s/ Detective C. Cole, #0588
CC/nr 3-31-20

SAN LUIS OBISPO COUNTY SHERIFF'S OFFICE
SUPPLEMENTAL REPORT
#9606-10965

DATE WRITTEN: 12-14-98
REPORT PURPOSE: Eye Injuries to Flores

FOLLOW-UP INVESTIGATION

12-2-98/1100 HOURS

I spoke to Dr. Kusumoto (S.A.R.T.) at his office. I gave him photographs of Flores, a letter with questions and a time line that outlined statements about Flores' injury to his right eye. I also requested that he determine the age of injury for Paul Flores' right eye

12-7-98/0950 HOURS:

I picked up the pictures of Flores and Dr. Kusumoto's report at the S.A.R.T. office. For details, see the attached copy of the report. I placed the report and pictures into evidence

CLOSING STATEMENT

Investigation on-going

/s/ S. Crawford, Detective #0341
cpg 12-15-98 (man) 134

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendants	CASE NOS. 22CR003712 & 22CR003713 OPPOSITION TO MOTION TO EXCLUDE EVIDENCE RELATED TO 710 WHITE COURT INSPECTION, INVESTIGATION, AND SOIL ANALYSIS Date: July 7, 2022 Time: 8:30 AM Dept. 4

I

INTRODUCTION

An archeological team analyzed a specified grid of land underneath the porch at 710 White Court and identified specific possible anomalies with the use of ground-penetrating radar, one of which was of a size consistent with a human burial site. They then excavated the areas of the anomalies to verify their existence and determine their nature. In the area of the largest anomaly, the excavation located an area of staining consistent in size and manner with the decomposition of human remains but with soil disturbance consistent with the removal of a body. Soil samples taken from the stained soil tested positive for hemoglobin in human blood. The floor of a trailer seen in the area of the burial site tested positive in a presumptive luminol-based test for blood.

This evidence is competent, relevant proof that the body of Kristin Smart was previously buried underneath the porch of defendant Ruben Flores and subsequently removed, and was derived by methods that are generally accepted by the scientific community. The People have previously and will again establish the relevance and admissibility of testimony regarding the ground-penetrating radar evidence, the excavation of the largest anomaly that revealed staining consistent with a human burial, the testing of the soil samples that revealed the presence of human blood, and the presumptive luminol-based testing of the trailer observed parked in the area of the burial site that was positive for the presence of blood.[1]

II

STATEMENT OF PERTINENT AND ANTICIPATED FACTS[2]

A. Inspection of Land Grid Underneath the Porch at 710 White Court

Cindy Arrington and Phil Hanes are part of a small company called Natural Investigations Company, Inc., headquartered in Sacramento. Natural Investigations performs a variety of archeology work, and in their work together Ms. Arrington and Mr. Hanes have completed 50 to 100 large-scale excavation and small-scale testing projects. (PH RT 5110, 5226.) In their work on excavation sites, Mr. Hanes operates a ground-penetrating radar machine to look for evidence of a disturbance underneath the ground level, and if the machine detects an anomaly, Ms. Arrington carefully excavates the area of the anomaly to determine if something is there. (PH RT 5188.)

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[1] The defense notes an unrelated complaint regarding the refusal of the prosecution to provide the soil samples in evidence to Technical Associates, Inc., laboratory for testing. While this claim is irrelevant to the motion at hand, the People wish to note in response that they previously made the soil samples available to Wallace Labs in El Segundo at the request of the defense. Technical Associates, Inc., is also not accredited to perform analysis on either DNA or blood evidence.

[2] Statement of pertinent and anticipated facts taken from the preliminary hearing reporter's transcript ("PH RT"), notes by Phil Hanes attached as Exhibit A, notes by Cindy Arrington attached as Exhibit B, Sheriff's Office case number 960610965 supplemental report number 782 attached as Exhibit C, SERI laboratory report number 11034.19 attached as Exhibit D, Sheriff's Office case number 960610965 supplemental report number 823 attached as Exhibit E, SERI HemDirect validation documents attached as Exhibit F, and Sheriff's Office case number 960610965 supplemental report number 565 attached as Exhibit G. All of the attachments are hereby incorporated by reference. The September 8, 2021, preliminary hearing transcript will be referred to as "9/8/21 RT" because it has separate pagination from the rest of the preliminary hearing transcript referenced in this motion.

Mr. Hanes has been an archeologist for fifteen years. (PH RT 5108.) He has a bachelor's degree in anthropology and a master's degree in a subset of archeology called cultural resource management, and his master's degree thesis heavily focused on the use of ground-penetrating radar in archeology. (PH RT 5108, 5131.) He is a registered professional archeologist, membership in an organization that maintains ethical and educational standards for archeologists. (PH RT 5133.) He is a member of the Society for California Archeology, the Society for Historical Archeology, and the Society for American Archeology, and he attends professional conferences and lectures to stay up to date on new developments in his field. (PH RT 5109-5110.) Mr. Hanes specializes in remote sensing, which uses technology to gain a better understanding of what is underground prior to possible excavation. (PH RT 5110-5111.)

One particular technique that Mr. Hanes has specialized in is ground-penetrating radar, which is the transmission of electromagnetic waves into the ground to measure their reflections to determine what may or may not be underground. (PH RT 5111-5112.) Radar technology that forms the base of the machine is a hundred years old, and was developed initially by the military for aerial radar. (PH RT 5141.) It was used for ground-penetrating radar in the 1960s and 1970s for scientific geological research and became more commercially available in the 1970s and 1980s. (PH RT 5141.) Ground-penetrating radar was applied until around the early 1990s with the advent of modern computer processing which provided for better modeling with the data. (PH RT 5141-5142.) Depending on the frequency of the antenna, it can be used for concrete detection, structural determination of bridges, geologic or oil and gas exploration, and more. (PH RT 5142.)

Mr. Hanes uses a machine with an antenna and physical radar connected to a field computer to collect data. (PH RT 5112.) In this process, he is looking for anomalies, or consistency changes to the underground environment that is visible on the radar, which include voids and pipes but are more often soil changes caused by digging/excavation and backfill. (PH RT 5112; Exh. A.) To accomplish this, Mr. Hanes creates a tight grid (typically one-foot transects) on the ground surface then uses the ground-penetrating radar unit to send radar pulses within the ground and receive a signal back to determine buried anomalies. (PH

RT 5111, 5113.) He then reviews the data reflecting horizontal slices across the ground to determine whether there are anomalies in any locations within the grid. (PH RT 5115.)

Ground-penetrating radar has been subject to extensive peer review, and the topic of ground-penetrating radar and human remains is the subject of scholarly articles and books. (Exh. A.) Some of the academic literature included scientific experiments to determine the accuracy and feasibility of ground-penetrating radar on detecting burials. (Exh. A.) The methods used by Mr. Hanes are standard and representative of good data-collecting practice, as described in "Ground Penetrating Radar of Archaeology" by Lawrence Conyers. (Exh. A.)

Mr. Hanes has used ground-penetrating radar machines since his time as an undergraduate, has received trained in it both by his college advisor—one of the preeminent practitioners in the field who assisted in the development of the hardware and its application to archeology—and by the manufacturer, and has taken subsequent classes on the topic. (PH RT 5114, 5128.) He has owned the machine he uses for approximately eleven years, and has used ground-penetrating radar on a site approximately 30 times. (PH RT 5115, 5135.)

On March 15, 2021, Ms. Arrington and Mr. Hanes began work on an evaluation and possible excavation of 710 White Court in Arroyo Grande. (PH RT 5186.) Ms. Arrington and Mr. Hanes examined the requested areas, took soil samples to calibrate the radar unit to determine depth, cleared brush and objects from under the porch to provide access for the machine, calibrated the machine for the specific environment of sand, and set up a specific grid pattern for the analysis. (PH RT 5119-5120, 5186-5187.) Ground-penetrating radar can penetrate most materials except metal, and disturbance from grasses and household weeds do not significantly impact ground-penetrating radar data. (PH RT 5123, Exh. A.)

Ms. Arrington and Mr. Hanes ran approximately six grids at 710 White Court that day and identified four anomalies of interest under the porch, identified in the grid pattern as Grid 1, Grid 3 and Grid 10. (PH RT 5148, 5189.) The largest anomaly was approximately four feet by six feet in Grid 1, a size that was large enough to fit human remains, and began at the surface or close to it and went approximately three and a half or four feet deep. (PH RT 5149, 5153,

5189.) Grid 1 was relatively flat and easy to work with, without much surface obstruction. (PH RT 5126.)

B. Excavation of Grid 1 Underneath the Porch at 710 White Court

Ms. Arrington is an archeologist. (PH RT 5182.) She has a bachelor's degree in anthropology and a master's degree in historical archeology with an emphasis on human remains. (PH RT 5182.) She has worked in the field of archeology since the 1980s, and approximately 25 percent of that work has dealt with human remains. (PH RT 5183-5184.) She has evaluated hundreds of sites with possible human remains. (PH RT 5184.) Ms. Arrington has been a Registered Professional Archeologist since 2004. (PH RT 5184-5185.)

As a body decomposes it begins to liquify, and this liquification creates a very distinct stain in soil in which a body has been buried. (PH RT 5195.) When a burial has never been disturbed, archeologists typically find a large ring around it where the body has decomposed and liquefaction has slowly spready out, and this staining can remain there. (PH RT 5195, 5202.) Ms. Arrington has personally observed similar staining in an excavation of prehistoric remains that were 3,500 years old. (PH RT 5202.) This staining did not match the stratigraphy in the soil surrounding the anomaly. (PH RT 5200.)

Prior to excavating Grid 1, Ms. Arrington and Mr. Hanes took specific steps to ensure the integrity of the excavation, including ensuring the ground surface was clear and setting up tarps and buckets to isolate and hold any soil removed from the anomaly. (PH RT 5191:26-5192:8.) With the assistance of Sheriff's Office personnel, Ms. Arrington excavated the large Grid 1 anomaly and located what she referred to as a thin "bathtub ring" where the stain ran along the sides of the hole in the location of the identified anomaly. (PH RT 5193.) This staining is consistent with fluid having permeated that strata or layer of soil. (PH RT 5194.)

Based on Ms. Arrington's experience excavating human remains, the stain was consistent with that of a decomposition stain also referred to as a cadaver-soaked stain. (PH RT 5195.) The soil appeared to have been disturbed between the staining and the March 2021 excavation because it had no defined stratigraphy and the staining lacked a definitive, continuous bottom or "basement layer" where the fluid congregated that is typically seen when

a burial has not been disturbed. (PH RT 5202-5204, 5269-5270.)[3] Ms. Arrington did not locate any possible source for the leaked fluid, which suggested, in conjunction with the evidence of disturbance post-staining, that the hole had been previously excavated and the source of the leaked fluid had been removed. (PH RT 5202-5204.) Ms. Arrington did not locate any bones in the area of the staining, which—given the staining that was consistent with a decomposition stain from a human burial—would be consistent with a body having been wrapped in a semi permeable material that allowed some fluids to leak out but kept the bones contained. (Exh. B, C.)

The staining was inconsistent with staining from a plumbing issue, as Ms. Arrington would expect to see a feathering stain and not a bathtub ring. (PH RT 5204.)

Excavation of the areas of the anomalies in Grid 3 and Grid 10 did not locate anything of significance. (PH RT 5166-5167.) Ms. Arrington assisted Sheriff's Office personnel in the collection of soil samples from the excavation. (PH RT 5261.)

C. **Testing of Soil Samples Taken from Staining in Soil at 710 White Court**

Angela Butler is a forensic serologist at SERI and specializes in the identification of body fluids and the performance of DNA analysis. (9/8/21 RT 4.) She earned a bachelor's degree of science in biology from the University of San Francisco in 1998, spent several years after graduating in the biotechnology industry working with DNA in a research setting that involved sequencing the human genome in search of drug targets to help with diabetes, and has been a forensic serologist at SERI since 2001. (9/8/21 RT 4-6.) She began as an assistant forensic serologist and is currently the senior analyst and the lab supervisor. (9/8/21 RT 6.)

Along with her college degree, Ms. Butler has taken all of the upper-level coursework required by the FBI to be a forensic DNA analyst. (9/8/21 RT 5-6.) She received extensive on-

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[3] Shelby Liddell testified that the staining that *was* located did not appear to have been disturbed. (PH RT 5758.) Contrary to the defense claims but consistent with the magistrate's holding order at the preliminary hearing, this is not inconsistent with Ms. Arrington's testimony, which noted that portions of the staining that would have comprised the bottom layer appeared to be missing. The magistrate specifically noted that "[b]oth Ms. Arrington and Shelby Liddell testified that the staining had been disturbed in areas and was discontinuous. And when questioned closely about the photographs of the soil staining by Mr. Sanger, Liddell was careful to say that the staining in the photographs had not been disturbed." (PH RT 6308.)

the-job training at SERI over the last 20 years, goes to continuing education as required for accreditation standards, and stays current up to date on the forensic literature in her field. (9/8/21 RT 5.) As part of her duties, Ms. Butler works with human blood and tests for the presence of DNA as well as the presence of human blood. (9/8/21 RT 10.)

The process of testing for the presence of human blood at SERI involves two steps. The first step is an orthotolidine presumptive test, used by SERI since it was founded in 1978, where an analyst touches a small piece of filter paper to the suspected blood stain or stain of interest, adds a drop of one chemical then a second drop, and inspects the filter for a color metric change. (9/8/21 RT 10-11.) If there is a reaction, the filter paper turns blue. (9/8/21 RT 11.) Iron can cause a very slow and very weak false positive result. (9/8/21 RT 11.) Ms. Butler was trained in the orthotolidine test, has performed the test tens of thousands of times, has trained others in the orthotolidine test, and does technical reviews of the orthotolidine test. (9/8/21 RT 11-12, 17.) The small portion of a sample that is used in the orthotolidine test is not placed back in the original sample. (9/8/21 RT 53.)

The second step is a SERATEC HemDirect confirmatory test that is a very sensitive test that detects the presence of hemoglobin, which is the red pigment found in red blood cells, on a variety of forensic samples. (9/8/21 RT 13, 44.) The test kit is a plastic cartridge with a membrane, and the analyst adds a sample to the well on the membrane for an antigen-antibody interaction. (9/8/21 RT 13.) During a test, the test membrane should show a pink band in the control section to confirm the test is working properly and a second pink band after ten minutes if there is a positive result. (9/8/21 RT 13.) The test is human-specific, though it can show positive tests for the blood of higher primates like chimpanzees and gorillas. (9/8/21 RT 13-14.) The literature and SERI's own validation study tested cross-reactivity with a number of animals, including dogs, cats, sheep, pigs, cows, and ferrets, and all were negative except the ferret, which showed a slight positive reaction. (9/8/21 RT 14.) SERI's validation study also determined that the test can detect weak positive results for hemoglobin in other bodily fluids like saliva, semen, and urine, all of which have trace numbers of red blood cells. (9/8/21 RT 80.) The SERATEC HemDirect test is generally accepted in the courts and

scientific community and has been validated by numerous labs across the country. (9/8/21 RT 63.) Ms. Butler is not aware of any false positive results from the test in the literature and is not personally aware of any false positives in her experience. (9/8/21 RT 93.)

SERI has been using the HemDirect test for almost ten years, and Ms. Butler has been trained on its use. (9/8/21 RT 16.) Ms. Butler had to pass an internal competency examination using the test on a number of stains in order to administer the test, and every six months she is required to perform proficiency examinations for every test she has been trained to do, including the SERATEC HemDirect test. (9/8/21 RT 16.) Ms. Butler's lab has used the SERATEC HemDirect test at least one thousand times in casework, she has trained other analysts how to use it, and she does technical reviews for the tests. (9/8/21 RT 16.) Ms. Butler has utilized the HemDirect test with soil three times prior to this case, and other analysts in her lab have used the HemDirect test on soil as well. (9/8/21 RT 49, 74.) Validation studies on the HemDirect test exist for a variety of substances. (9/8/21 RT 44; Exh. E.) Between 75 and 100 laboratories in the United States utilize the HemDirect test, and multiple labs have used the HemDirect test can detective hemoglobin on samples over 30 years old, and these results are consistent with the literature. (Exh. E.)

Testing for the presence of DNA occurs after testing for the presence of human blood, in part because testing for the presence of DNA involves the extraction of any potential DNA by mechanically opening the cells to release the DNA by chemical means, the purification of the sample to remove all extra cellular material, the measurement of the amount of DNA recovered, and the subsequent DNA analysis. (9/8/21 RT 17-18.) Ms. Butler has tested for the presence of human DNA tens of thousands of times. (9/8/21 RT 18.)

On March 17, 2021, the Sheriff's Office delivered two containers of soil samples (Evidence Items 775 and 776) to the Serological Research Institute (SERI) in Richmond, California, for analysis. (9/8/21 RT 21.) Ms. Butler weighed and photographed the soil samples and placed them in sterile plastic containers. (9/8/21 RT 23.) She administered orthotolidine presumptive tests on one sample of material from Evidence Item 775 and six samples of material from Evidence Item 776 and all seven reflected weak positive results for blood.

(9/8/21 RT 24-26.) Ms. Butler then visually inspected the samples and collected samples using a stereomicroscope. (9/8/21 RT 47.) She administered the HemDirect confirmatory test to each sample by dissolving it into a special buffer solution to neutralize the PH to avoid the possibility of a false negative test and placing the resulting liquid onto the HemDirect test card. (9/8/21 RT 24-26, 45.) The confirmatory test was negative for Evidence Item 775, negative for one sample from Evidence Item 776, weak positive for two samples from Evidence Item 776, and positive for three samples from Evidence Item 776. (9/8/21 RT 26-27.)

On April 27, 2021, the Sheriff's Office delivered Evidence Items 898, 831, 847, 849, 863, and 859 to SERI for analysis. (9/8/21 RT 28.) Ms. Butler administered presumptive and confirmatory tests to samples from all six evidence items with the following results:

Item No.	Location	Presumptive Test	Confirmatory Test
859	Soil Probe, Area E (4 samples)	Positive Positive Positive Positive	Weak Positive Weak Positive Negative Negative
831	Control Sample, Northwest Corner (2 samples)	Negative Negative	Negative Negative
847	Stained Soil, Area A2 (3 samples)	Weak Positive Weak Positive Weak Positive	Weak Positive Weak Positive Positive
849	Soil Stain, Area B4 (2 samples)	Weak Positive Weak Positive	Negative Weak Positive
863	Soil Sample, Area A2	Weak Positive Weak Positive Weak Positive	Positive Positive Not tested

(9/8/21 RT 28-34.) The control pink band in the test, the testing of control soil samples that yielded negative results, and the fact that not all separate samples from individual items of evidence tested positive are consistent with the test working properly. (Exh. E.)

Ms. Butler also attempted to extract DNA from all of the samples tested for the presence of hemoglobin but did not detect any DNA in the samples. (9/8/21 RT 33-34.) Receiving a positive test for the presence of hemoglobin and no detection of DNA is not inconsistent because red blood cells break down differently than DNA double helixes. (9/8/21 RT 83.) Soil is not a solid material from which DNA can be directly extracted, while the test for the presence

of human blood can detect one part in ten million, and the hemoglobin test detects for the presence of red blood cells, which do not contain DNA. (9/8/21 RT 34-35.) DNA is degraded over time by heat, moisture, and microbes that exist in soil, and the soil samples in question were damp. (9/8/21 RT 20, 34-35, 73.) Liquid blood may have DNA and red blood cells in it, but blood poured into the dirt would be broken down over time by enzymes, the blood would start to decay, and the protein would start to denature. (9/8/21 RT 79-80.) Microorganisms that live in soil are attracted to biological material and would begin to break it down. (9/8/21 RT 80.) When protein is denatured, it ruptures the cell membrane and the nucleus where DNA resides, which releases the DNA into the soil where it is broken up into fragments. (9/8/21 RT 81-82.) Humic acid, found in soil, also chews up DNA fragments and affects the quantity and quality of DNA recovery. (9/8/21 RT 84.) At that point, the DNA may not be usable but other things, like red blood cells, may still be detectable. (9/8/21 RT 83.) Studies regarding the aging of blood on the surface of objects and likelihood that hemoglobin will no longer exist over time are not the same as soil samples covered by three to four feet of soil. (Exh. E.)

D. Testing of Trailer Seen at 710 White Court

Bluestar is a luminol-based technique used to enhance potential blood evidence using a chemical that reacts to hemoglobin in blood, creating a chemical luminescence that glows blue and is visible in the dark. (PH RT 4954-4955; Bluestar Forensic, "The Chemistry of Bluestar Forensic," < https://www.bluestar-forensic.com/the-chemistry-of-bluestar-forensic/> [as of June 22, 2022].) It is a presumptive reagent for the presence of blood. (Exh. G.) Household cleaners that contain chlorine with bleach, some vegetables and foods, paints and varnishes have shown false positives. (PH RT 4955, 4960.) Blood tends to glow very slowly and shows bright blue, whereas false positives typically flash and sometimes glow white instead of blue. (PH RT 4955.)

Shelby Liddell, a Forensic Specialist for the San Luis Obispo County Sheriff's Department, received training on the Bluestar technique on the job, in a Field Evidence Technician course, and Advanced Crime Scene investigation course on luminol techniques and Bluestar application. (PH RT 4954.)

On April 21, 2021, Ms. Liddell was present at 710 White Court when a white Haulmark Passport Cargo trailer was located and towed to the Crime Lab. (PH RT 4958, 4956).) She was present for the initial search of the trailer, which was pretty full of items including tools, files, and paperwork, and photographed items of note identified by detectives. (PH RT 4955-4956.) After the initial search of the trailer, Ms. Liddell photographed the area she would be applying Bluestar to with a flash and normal light and applied Bluestar in spray bottle form. (PH RT 4959-4960.) She captured the slow luminescence of the Bluestar reaction and glow with a camera in manual setting with an open shutter over the course of 30 seconds. (PH RT 4950-4960.) The Bluestar application had a reaction on the floor inside the side door entrance to the trailer. (Exh. G.) The composite photograph of the Bluestar reaction was approximately a foot and a half to two feet in width and two and a half to three feet in length. (PH RT 4962.) The area where the reaction was observed was cut out of the floor and booked into evidence. (Exh. G.)

Ms. Butler also performed a presumptive orthotolidine test on Evidence Item 898, plywood from the trailer, and received a very weak positive result. (9/8/21 RT 36.) She did not perform a confirmatory test on it due to the nature of the presumptive result, the lack of visible stains, and the desire to use the entire sample for possible DNA extraction. (9/8/21 RT 36.) Ms. Butler did not locate any DNA from Kristin Smart, Paul Flores, or Ruben Flores on the plywood from the trailer. (9/8/21 RT 36-37.)

III

LAW AND ARGUMENT

The People must prove its case to a jury beyond a reasonable doubt, but that standard does not apply to the admissibility of evidence. (Pen. Code, § 115.) Subject to foundational requirements, evidence is relevant when it has "*any tendency in reason* to prove or disprove any disputed fact that is of consequence to the determination of the action." (Evid. Code, § 210, emphasis added.) The party offering expert testimony has the burden of proving its admissibility by a preponderance of the evidence. (*People v. Nieves* (2021) 11 Cal.5th 404, 444 (*Nieves*).)

Expert opinion testimony is relevant when it is related to a subject that is sufficiently beyond common experience that the opinion of an expert would assist the trier of fact, and it is based on matter, including special knowledge, skills, experience, training, and/or education, that is reasonably relied upon by an expert in forming an opinion on the subject. (Evid. Code, § 801.) The challenged ground-penetrating radar evidence of an anomaly of a size consistent with a human burial, the soil stratification and staining evidence consistent with a previous human burial that has since been disturbed, the hemoglobin test evidence of the stained soil samples that was positive for human blood, and the luminol-based presumptive test of the trailer observed at the burial site that was positive for blood are relevant evidence that Kristin Smart's body was previously buried under 710 White Court, are not based on new or novel scientific techniques, are not clearly invalid and unreliable, and are therefore admissible.

A. THE ADMISSIBILITY OF EXPERT TESTIMONY

The court serves two separate but related gatekeeping functions for scientific evidence and expert testimony: the *Kelly* rule of admissibility of expert testimony based on a new or novel scientific technique, and the *Sargon* test that requires expert testimony have a sufficient basis to merit a jury's consideration. (*People v. Lund* (2021) 64 Cal.App.5th 1119, 1136-1138.)

1. The *Kelly* Rule on the Admissibility of New Scientific Techniques

The admissibility of expert testimony based on a new or novel scientific technique is governed by rules adopted in the leading cases of *Frye v. United States* (D.C. Cir. 1923) 293 Fed. 1013 (*Frye*) and *People v. Kelly* (1976) 17 Cal.3d 24 (*Kelly*) (abrogated by statute on another point as explained in *People v. Wilkinson* (2004) 33 Cal.4th 821, 845-848). Federal courts have since abandoned *Frye* (*Daubert v. Merrell Dow Pharmaceuticals, Inc.* (1993) 509 U.S. 579; *People v. Cowan* (2010) 50 Cal.4th 401, 469, fn. 22); however, California has retained the *Kelly* test. (*People v. Leahy* (1994) 8 Cal.4th 587, 598-604, 612; see also *Sargon Enterprises, Inc. v. University of Southern California* (2012) 55 Cal.4th 747, 772, fn. 9 (*Sargon*).)

Under the *Kelly* test, the proponent of evidence derived from a "new scientific technique" must show " '(1) "the technique is generally accepted as reliable in the relevant

scientific community"; (2) "the witness testifying about the technique and its application is a properly qualified expert on the subject"; and (3) "the person performing in the test in the particular case used correct scientific procedures." [Citation.]' " (*People v. Nieves* (2021) 11 Cal.5th 404, 444 (*Nieves*).) "The first and third prongs can be confused; the *Kelly* first-prong analysis applies only to a new technique or procedure, whereas the third prong is case specific." (*People v. Stevey* (2012) 209 Cal.App.4th 1400, 1410.) "In determining whether there has been 'general acceptance,' '[t]he goal is not to decide the actual reliability of the new technique, but simply to determine whether the technique is generally accepted in the relevant scientific community.' [Citation.]" (*People v. Morganti* (1996) 43 Cal.App.4th 643, 656.) The party offering the evidence has the burden of proving its admissibility by a preponderance of the evidence. (*Nieves*, *supra*, 11 Cal.5th at p. 444.)

Not all new scientific testing procedures or instruments are subject to the *Kelly* test. "The *Kelly* rule is frequently inapplicable to expert testimony because the testimony is often neither based on a new scientific technique nor likely to convey an aura of certainty. '[A]bsent some special feature which effectively blindsides the jury, expert opinion testimony is not subject to *Kelly*.' [Citation.]" (*In re O.D.* (2013) 221 Cal.App.4th 1001, 1006-1007.)

2. The *Sargon* Rule for Expert Testimony

Evidence Code section 801 mandates that expert witness testimony be based on matter, including the witness's special knowledge, skill, experience, training, and education, "that is of a type that reasonably may be relied upon by an expert in forming an opinion on the subject." (*Id.*, subd. (b).) Under section 801 and 802, "the trial court acts as a gatekeeper to exclude expert opinion testimony that is (1) based on matter of a type on which an expert may not reasonably rely, (2) based on reasons unsupported by the material on which the expert relies, or (3) speculative." (*Sargon*, *supra*, 55 Cal.4th at pp. 771-772.)

The California Supreme Court warned trial courts to be cautious in excluding expert testimony, as the goal of trial court gatekeeping is "simply to exclude 'clearly invalid and unreliable' expert opinion." (*Id.* at p. 772.)

> The court must not weigh an opinion's probative value or substitute its own opinion for the expert's opinion. Rather, the court must simply determine whether the matter relied on can provide a reasonable basis for the opinion or whether the opinion is based on a leap of logic or conjecture. The court does not resolve scientific controversies. Rather, it conducts a 'circumscribed inquiry' to 'determine whether, as a matter of logic, the studies and other information cited by experts adequately support the conclusion that the expert's general theory or technique is valid.' [Citation.]

(*Id.*) "In short, the gatekeeper's role 'is to make certain that an expert, whether basing testimony upon professional studies or personal experience, employs in the courtroom the same level of intellectual rigor that characterizes the practice of an expert in the relevant field.' " (*Id.*)

"The trial court has broad discretion in deciding whether to admit or exclude expert testimony [citation], and its decision as to whether expert testimony meets the standard for admissibility is subject to review for abuse of discretion." (*People v. McDowell* (2012) 54 Cal.4th 395, 426.) Unless the expert testimony is inadmissible under the *Kelly* or *Sargon* tests, arguments regarding its persuasiveness go to the weight and not the admissibility of the evidence. The defense is entitled to present their own expert as a defense witness on the issues and to challenge the persuasive value of the expert's opinion through cross-examination, but "questions regarding the validity or the credibility of an expert's knowledge are matters for the jury to decide" and do not provide a basis for excluding the expert's testimony. (*People v. Morales* (2020) 10 Cal.5th 76, 101.)

A. <u>Phil Hanes' Testimony About Ground-Penetrating Radar</u>

Phil Hanes provided a sufficient foundation for his use of ground-penetrating radar technology in his role in the search of 710 White Court. His education and career have focused on the use of ground-penetrating radar, he trained under one of the preeminent practitioners in the field who assisted in the application of the technology to archeology, and the use of ground-penetrating radar—which has been subject to extensive peer review—in the detection of human remains has been the subject of scholarly articles and books. Mr. Hanes has also

received training from the manufacturer of the device, has owned the machine for approximately eleven years, and has used the technology on a site approximately 30 times.

Furthermore, Mr. Hanes deployed the ground-penetrating radar technology in the manner in which he was trained in an environment conducive for the science.

And finally, the use of ground-penetrating radar was an initial approach to the soil and anomalies identified in its use were then subject to "ground-truthing" or verification by excavation. The defense would have the court believe this is a weakness in the evidence, but rather, it is one step in a complete investigation of the soil and its results are also admissible to explain the subsequent excavations. It is not only admissible on its face, but its reliability was subject to validation in this case by excavation.

Based on the foundational evidence provided to the court through preliminary hearing testimony, the attached exhibits, and anticipated testimony at the contested hearing on this motion, the concerns raised by the defense may be the appropriate subject of cross-examination, subject to appropriate objections, but they go only to the weight of the testimony and not its admissibility.

B. <u>A Scientific Basis Exists to Assert the "Bathtub Ring" Soil Staining is Consistent with a Human Burial</u>

The defense would have the court believe that the staining in Grid 1 at 710 White Court, identified by ground-penetrating radar, confirmed by excavation, the size of a human body burial site, consistent with staining patterns observed at human burial sites, and whose soil tested positive for the presence of hemoglobin, is "not probative" to whether the son of its occupant murdered Kristin Smart and its occupant assisted in hiding the murder. This evidence is relevant and highly probative evidence of whether and how the defendants initially disposed of the body of Kristin Smart.

1. Staining Pattern Consistent with Human Burial

Cindy Arrington has worked in the field of archeology since the 1980s and both her education and her professional experience has included a focus on human remains. She has evaluated hundreds of sites with possible human remains, and has personally observed a

large ring of staining in the soil around a burial site that occurs when a body decomposes and liquifies. In this case, Ms. Arrington personally assisted in the excavation of Grid 1, took steps in accordance with her training to ensure its integrity, and observed evidence of the type of "bathtub ring" staining that she has seen at human burial sites over the course of her career. The difference between the human burial sites Ms. Arrington has worked where a body has been discovered and this site is that the staining appeared to have been disturbed since it occurred: the soil in the area did not exhibit the sort of stratification consistent with that around it and the bottom layer was interrupted. Ms. Arrington assisted in obtaining soil samples of the stained areas for testing to determine whether they contained hemoglobin consistent with human blood and, therefore, consistent with a human burial.

Not only are Ms. Arrington's observations based on training and experience that is more than sufficient for their interpretation, but the defense contention that the lack of human remains renders them unreliable is directly contradicted by Ms. Arrington's testimony and observations. The fact that the soil appeared to have been disturbed after the staining occurred combined with the fact that a body wrapped in a semipermeable material would have resulted in bodily fluids and liquified remains leaking out to create the staining but bones remaining contained within the material is consistent with and highly probative of the prosecution theory that the body of Kristin Smart was buried under Grid 1 for some time but was subsequently removed.[4]

Like Mr. Hanes' testimony, the concerns raised by the defense related to the excavation and staining of the soil may be the appropriate subject of cross-examination, subject to appropriate objections, but they go only to the weight of the testimony and not its admissibility.

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[4] The fact that a tenant who moved into the residence in 2010 did not notice an odor coming from the deck almost 15 years after Kristin Smart was murdered does not diminish the relevance of this evidence. Indeed, Ms. Arrington testified that the first four stages of the decomposition of a body occur within the first 24 days and include fresh decomposition, bloat, decay, and active decay. (PH RT 5232.) The final stage, called skeletonization, can occur from 24 days to 10 years, and would have concluded almost five years before the tenant moved in. (PH RT 5232.)

2. Positive Results in Forensic Analysis of Soil are Admissible

Ms. Butler has spent almost twenty years working as a forensic serologist, testing samples for the presence of hemoglobin and DNA and analyzing DNA samples. Both the presumptive orthotolidine test and the confirmatory HemDirect test are tests that Ms. Butler is trained to do, has conducted many times, has trained other analysts to conduct, and are generally accepted in the scientific community.[5] At least 75 laboratories in the United States alone utilize the HemDirect test, which has been the subject of validation tests at SERI and which has been documented detecting hemoglobin in samples at least 30 years old and detecting hemoglobin in bodily fluids other than blood. Ms. Butler conducted the tests in this case in accordance with her training.

While the issues before the court in this motion are primarily case-specific and evidence-based, some of the issues have an historical underpinning documented in case law. More than 30 years ago, the California Supreme Court noted that "presumptive tests for blood are generally accepted by California courts, and have been used by criminologists and admitted into evidence in this state for over 40 years." (*People v. Coleman* (1988) 46 Cal.3d 749, 775.) The documented history of the use of tests of substances for the presence of hemoglobin in blood, combined with the information provided to the court regarding the specific tests used in this case, provides more than a sufficient foundation for the admissibility of its results.

The evidence demonstrates that the testing of substances for hemoglobin is not a "new scientific technique" under *Kelly*, but even assuming arguendo that this court finds the HemDirect hemoglobin test is a new scientific technique, it meets all three prongs of the *Kelly* test. The defense has not challenged the first prong of *Kelly* (Def. Mot. at p. 10), but the widespread use of the test in laboratories throughout the country and Ms. Butler's testimony

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[5] The defense has not explicitly challenged the orthotolidine test in their motion. If they raise that issue after the filing of this response, the People respectfully refer the court to the case law and analysis contained in section III, subdivision (C) of this opposition and request the opportunity to more fully address any claims not made at the time of the filing of this opposition.

demonstrates the test is generally accepted as reliable in the relevant scientific community.[6] Ms. Butler's education, training, and experience in the field in general and with the tests in particular render her a properly qualified expert. And Ms. Butler's testimony establishes she used correct scientific procedures in her testing process.

Similarly, a *Sargon* gatekeeping analysis also demonstrates that the use of HemDirect testing is valid and reliable. The HemDirect test is made to test a variety of substances for the presence of hemoglobin, and includes a buffer—used by Ms. Butler in her tests—that neutralizes the Ph of the substance to avoid false negative results. It has been used in soil tests by labs including but not limited to Ms. Butler's. The results in this case demonstrate that the test was working as expected because the control portion of the test functioned properly and because the control soil samples taken from areas that did not contain the staining tested negative. The soil sample analysis, done with a commonly used test in an approved manner, is not the "clearly invalid and unreliable" nature that requires exclusion under *Sargon*, and any defense concerns do not affect the admissibility of this evidence but only its probative weight.

C. Testimony About Forensic Analysis of Trailer is Admissible

The defense claims that the presumptive results of the Bluestar chemical used on the trailer are irrelevant and inadmissible, but fails to provide legal authority for their specific claim, likely because the claim that luminol-based presumptive tests for blood are inadmissible has been explicitly rejected by the California Supreme Court in *People v. Alexander* (2010) 49 Cal.4th 846 (*Alexander*). (*Id.* at p. 904.)

In *People v. Burgener* (1986) 41 Cal.3d 505, the California Supreme Court specifically considered the question of a presumptive test for the presence of blood that could not determine whether the blood was human or blood at all, because the test could also produce positive results for animal blood, some vegetable enzymes, and fecal material. (*Id.* at pp. 526-

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[6] Courts have generally held that a new product for a test is not a prong one issue in the *Kelly* analysis. (See, e.g., *People v. Hill* (2001) 89 Cal.App.4th 48 [new kit for PCR DNA testing not a prong one issue].) Hemoglobin tests have been utilized by the scientific community in forensics since at least 1958. (See *People v. Schiers* (1958) 160 Cal.App.2d 364, 374-375 [addressing propriety of court questioning of expert witness about test for the presence of hemoglobin on substances].)

527, disapproved of on other grounds by *People v. Reyes* (1998) 19 Cal.4th 743.) Relying on the definition of relevant evidence in Evidence Code section 210, the Court stated,

> [i]t is difficult to view the presence of a substance which might be blood on the seat of a car in which a murder victim was seen shortly before her death as having *no* tendency in reason to prove that the car's owner might have killed her. Similarly, as here, the presence of a substance which might be blood on defendant's shoes certainly has *some* tendency in reason to prove he might have been present at the scene of a bloody shooting the night before his arrest.

(*Id.* at p. 527, emphasis in original.)

The Court echoed this language in *Alexander*:

> The factors raised in defendant's challenge to this evidence—that the presumptive tests could not confirm the substance tested was human blood, that confirmatory tests failed to confirm the presence of blood, and that it is unknown when the jacket might have been exposed to the substance that created the positive results—do not mean the test results have *no* tendency in reason to establish that defendant shot Agent Cross. Those issues affect the probative weight of the evidence, not whether the test results meet the threshold requirement of relevancy.

(*Alexander*, *supra*, 49 Cal.4th at p. 904.)

In this case, the floor inside the side door entrance of the trailer showed a reaction with the Bluestar application. The section of that trailer showed a weak positive result in a presumptive orthotolidine test by Ms. Butler but Ms. Butler did not locate the presence of DNA of either defendant or Kristin Smart. Pursuant to the rulings in *Burgener* and *Alexander*, the Bluestar presumptive test results on the trailer, as well as the orthotolidine presumptive test results, are relevant to whether Kristin Smart's body was moved from a burial site at 710 White Court in the trailer because they tend to show the presence of human blood. They are also relevant because another possible reason for the positive reaction—household cleaners that contain chlorine with bleach—are relevant to both a recent cleaning of the area of the trailer where a body was placed and to explain the lack of DNA of Kristin Smart. The admission of this evidence does not preclude the defense from exploring the limits of its interpretation.

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IV

CONCLUSION

All of the challenged evidence has at least some tendency in reason to establish the defendants buried the body of Kristin Smart at 710 White Court and removed it before the March 2021 excavation. Phil Hanes, Cindy Arrington, Angela Butler, and Shelby Liddell are highly trained and qualified in their respective fields and used methods which the evidence establishes are generally accepted in their scientific communities. Their testimony, alone and together, more than meets the requirements of relevance and scientific rigor for admissibility.

Furthermore, each piece of evidence is relevant not only in and of itself but also to explain the subsequent steps taken in the investigation of the soil at 710 White Court to attempt to determine what that evidence means: Phil Hanes observed suspicious anomalies with his ground-penetrating radar, which led to Cindy Arrington excavating the largest anomaly and observing a staining pattern consistent with a human burial, which led to Ms. Arrington and Ms. Liddell taking samples of the stained soil, which led to Ms. Butler testing the soil and determining that some samples of the stained soil were positive for hemoglobin, and Ms. Liddell tested the trailer seen parked near the suspected burial site and received a presumptive positive test for blood.

Any defense concerns with the evidence can be addressed—if appropriate—on cross-examination or through defense witnesses: "[t]he court may find an expert qualified to give an opinion, and that the opinion is founded on sound logic and reliable theory or technique. Yet an opponent may argue that the jury should not accept it." (*People v. Cottone* (2013) 57 Cal.4th 269, 290; see also Evid. Code, §§ 720 et seq, 801, 802.)

Date: June 23, 2022

Respectfully submitted,

Dan Dow
District Attorney

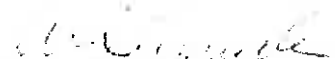
By: 
Christopher G. Peuvrelle
Deputy District Attorney

EXHIBIT A

TO THE CLERK OF THE COURT AND TO THE DISTRICT ATTORNEY OF THE COUNTY OF SAN LUIS OBISPO AND DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE:

PLEASE TAKE NOTICE that on June 6, 2022 at 8:30 a.m., or as soon thereafter as the case may be heard in the above-entitled Court, Defendant Paul Flores, will move the Court to proceed to a hearing under Evidence Code sections 402 and 403 and to issue an order to exclude evidence pertaining to the inspection, excavation or analysis of ground configurations or soil, including ground penetrating radar, purported staining or the analysis or composition of any soils, purported stains or deposits or the results of any tests thereon on the grounds that the prosecution has the burden of establishing foundational facts sufficient to support said testimony and evidence. This motion is submitted in anticipation of the evidence to be proffered by the prosecution based on the testimony presented at the preliminary hearing in this matter and the Defense reserves the right to augment its response, by way of evidence or argument, at such time as the prosecution's proffer is made at the hearing on this motion.

At the chambers conference held yesterday, May 31, 2022, the prosecution stated that it did not intend to surrender soil samples to Technical Associates, Inc. laboratory for HemDirect testing. In light of the fact that the Defendant does not wish to waive additional time for trial and the fact that the prosecution's discovery relating to the SERI lab results and underlying documentation has been delayed, the defense will proceed with the pre-trial motions relating to the soils and White Court matters even though the prosecution is not in compliance.

The expert opinions and curricula vitae of Dr. David Carter and Dr. Elizabeth Johnson are attached as Exhibits A and B. These opinions are offered reserving the right to augment any opinions in light of further

developments. The defense is requesting that Dr. Johnson and Dr. Carter be permitted to appear by Zoom for the purpose of the pre-trial hearings only. Dr. Johnson is located in Southern California, however, Dr. Carter is located in Hawaii.

This motion is made to protect Mr. Flores' rights to due process and a fair trial pursuant to the Fifth, Sixth and Fourteenth Amendments to the United States Constitution, article I, §§ 7 and 15 of the California Constitution, relevant statutory and case law.

The motion will be based on this Notice of Motion, the Memorandum of Points and Authorities served and filed herewith, such supplemental memoranda of points and authorities as hereafter may be filed with the Court, the transcript of the preliminary hearing, all pleadings and documents heretofore filed with the Court and such evidence and oral argument as may be presented at the hearing on the motion.

Dated: June 1, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF RELEVANT FACTS

The defense anticipates that the prosecution will intend to attempt to introduce evidence related to the search of the property belonging to Ruben Flores located at 710 White Court, Arroyo Grande, CA. It is anticipated that this evidence may include testimony regarding ground penetrating radar, excavation of certain sites, observations of purported staining and the analysis of certain soil samples. Under Evidence Code sections 402 and 403, the prosecution has the burden of proffering the evidence and the burden of producing evidence as to the existence of the preliminary facts necessary for the admissibility of said facts.

In order to provide the Court with briefing in advance of the hearing, the defense will refer to the testimony offered by the prosecution in the preliminary hearing. The defense is not conceding the validity or sufficiency of any of the preliminary hearing testimony but simply anticipates that it will be part of the prosecution's proffer regarding its burden to prove the preliminary facts.

Any proffer of evidence by the prosecution would by necessity disclose that over a period of 25 years there were numerous suspected burial sites and numerous excavations on and around the Cal Poly campus and in other areas of San Luis Obispo County including remote locations in Huasna. Some of the excavations were the result of psychics, dog alerts and ground penetrating radar, none of which resulted in the discovery of human remains.

A. The Testimony of Philip Hanes is Inadmissible at Trial

Philip Hanes' testimony regarding the ground penetrating radar device does not meet the criteria for admissibility of scientific evidence in California. The admissibility of expert testimony in California is governed by the California Supreme Court decision in *Sargon Enterprises, Inc. v. University of*

Southern California (2012) 55 Cal.4th 747, 770-772 (*Sargon*). The Court expressly acknowledged that judges are the "gatekeepers" with regard to a determination of the admissibility of expert testimony under *Daubert v. Merrell Dow Pharmaceuticals, Inc.* (1993) 509 U.S. 579 (*Daubert*). The California Supreme Court set forth three criteria to determine the admissibility of this kind of testimony:

> "[U]nder Evidence Code sections 801, subdivision (b), and 802, the trial court acts as a gatekeeper to exclude expert opinion testimony that is (1) based on matter of a type on which an expert may not reasonably rely, (2) based on reasons unsupported by the material on which the expert relies, or (3) speculative." (*Sargon, supra*, 55 Cal.4th at pp. 771-772.)

The Court also observed that "[o]ther provisions of law, including decisional law, may also provide reasons for excluding expert opinion testimony." (*Id.* at p. 772.)

As gatekeepers, courts must focus on the "'principles and methodology'" asserted by the proposed expert and not "'on the conclusions that they generate.'" (*Sargon, supra*, 55 Cal.4th at 772, quoting *Daubert, supra*, 509 U.S. at p. 595.) Thus, the "gatekeeper's role 'is to make certain that an expert, whether basing testimony upon professional studies or personal experience, employs in the courtroom the same level of intellectual rigor that characterizes the practice of an expert in the relevant field.'" (*Sargon, supra*, 55 Cal.4th at p. 772, quoting *Kumho Tire Co. v. Carmichael* (1999) 526 U.S. 137, 152 (*Kumho Tire*).) These requirements apply to both scientific testimony as well as non-scientific expert testimony. (*Kumho Tire, supra*, 526 U.S. 137.)

The California Supreme Court in *Sargon* relied on the Evidence Code itself but also incorporated the *Kelly/Frye* analysis. Under *People v. Kelly* (1976) 17 Cal.3d 24 (*Kelly*), there are three prongs: "First, there must be proof

that the technique is considered reliable in the scientific community. Second, the witness testifying about the technique must be a qualified expert on the subject. Third, there must be proof that the person performing the test used correct scientific procedures." (*People v. Willis* (2004) 115 Cal.App.4th 379, 385 (*Willis*).) Therefore, under *Sargon*, Evidence Code sections 801 and *Kelly*, the court is the gatekeeper charged with the duty to exclude expert evidence unless a foundation is laid demonstrating that there is foundational validity to the technique employed and that it is valid as applied by a qualified expert using correct scientific procedures. This is consistent with the view of the scientific community as set forth in the PCAST report and other current scientific studies. (See President's Counsel of Advisors on Science and Technology (PCAST), *Forensic Science in Criminal Courts: Ensuring Scientific Validity of Feature-Comparison Methods* (2016).)

Here, there is no foundation for the admissibility of results of ground penetrating radar as evidence of a burial site. Hanes did not establish the validity of the "'principles and methodology'" on which he based his conclusions as they would pertain to evidence that a body had been buried in a place where an anomaly was detected. (*Sargon, supra*, 55 Cal.4th at 772, quoting *Daubert, supra*, 509 U.S. at p. 595.)

His device is typically used for finding buried pipes and other artifacts and the fact that the device registers an anomaly, it is just that and not evidence of what caused the anomaly. In other words, even though it is not designed to find human remains or burial sites and has not been subject to scientific testing or approval for that purpose, at best it is an investigative tool that may or may not lead to the discovery of actual evidence.

At the preliminary hearing, Philip Hanes testified that ground penetrating radar is a device used to find anomalies but is not capable of determining the nature or the cause of the anomaly. In other words, it is of

not evidentiary value but is simply a tool to attempt to locate an area that might be of evidentiary value. The device he used is not subject to proficiency testing and does not claim to have the ability to define what is being observed. He testified that an anomaly is "a consistency change to the underground environment that is visible on the radar, but may or may not be specifically defined until we excavate or ground truth that anomaly to determine what it actually is." (18RT 5112.)

When Mr. Hanes received the equipment, he had some "initial over-the-phone training in its operation" with the manufacturer. (18RT 5129.) Mr. Hanes was not aware of any peer-reviewed journals where this technology was reviewed for proficiency in detecting human remains. (18RT 5129.) The typical use of ground-penetrating radar is to find voids due to things like buried pipes or use in ice research and commercial uses such as finding structural damage on bridges or oil and gas exploration. (18RT 5136, 5142.) The ground-penetrating radar at 710 White Court was not used for any of those purposes and no voids were found. (18RT 5145.) The radar is just used to screen for anomalies that then have to be confirmed by "ground truthing" or actually digging up the area. (18RT 5146-5147.)

Mr. Hanes found a number of areas at White Court that seemed to be anomalies, one of which was located under the porch. (18RT 5126.) On the wall of the house near Grid 1 there was a sewer clean-out and a dryer vent. (18RT 5162.) Before using the machine on Grid 1, vegetation was cleared from under the deck and it looked "pretty heavily vegetated." (18RT 5176, 5178.)

The evidence technician who excavated at Grid 1 did not find a burial site in the area of the purported anomaly. Instead, she found in the soil stains that continued down through the soil from two-and-a-half feet on down. (20RT 5755.) Ms. Liddell testified that in Grid 1, "[i]n the area of

staining it does not appear that after the stain was there that the stain had been disturbed." (20RT 5758.) When going through the specific photographs relating to the excavations, Ms. Liddell concluded as to each that any stain that was deposited would have been deposited after the soil was disturbed, if it had been disturbed. (20RT 5780-5781.)

Therefore, the anomalies had nothing to do with burial sites. The stains, whatever they were, were deposited on top of the anomaly areas not under them. The fact that there were several anomalies in the soil at the White Court property is meaningless at the Grid 1 location or elsewhere. The anomalies are not evidence and are not probative of anything.

B. There is no Scientific Basis to Assert that the Staining Observed by Arrington and Liddell is Human Blood

First, the staining was located within two feet of the surface of the ground and travelled down through undisturbed soil and set forth above. Second, archeologist Cindy Arrington, business partner of Mr. Hanes, the owner of the ground penetrating radar device, testified "that there's a stain there and it looks like it could have come from human remains, but you don't know." (18RT 5213.) As Ms. Liddell testified, once a person dies, they stop bleeding because there is no blood pumping. (17RT 4969-4970.)

However, Ms. Arrington testified that, if there had been a body there under the deck, it would have emitted a "very strong odor" at one point. (18RT 5217.) She also testified that the staining could have been decomposing plant material. (18RT 5274.) Ms. Arrington testified that she has never excavated a human grave and not found some physical evidence of human remains. (18RT 5275.) Ms. Arrington testified that if a body had been deposited under the deck with a 25-year span, one would expect to find bones or fibers. (18RT 5235.) Ms. Arrington did not see any of that during the excavation. (18RT 5235.)

EXHIBIT B

TO THE CLERK OF THE COURT AND TO THE DISTRICT ATTORNEY OF THE COUNTY OF SAN LUIS OBISPO AND DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE:

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Dated: June 1, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

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not evidentiary value but is simply a tool to attempt to locate an area that might be of evidentiary value. The device he used is not subject to proficiency testing and does not claim to have the ability to define what is being observed. He testified that an anomaly is "a consistency change to the underground environment that is visible on the radar, but may or may not be specifically defined until we excavate or ground truth that anomaly to determine what it actually is." (18RT 5112.)

When Mr. Hanes received the equipment, he had some "initial over-the-phone training in its operation" with the manufacturer. (18RT 5129.) Mr. Hanes was not aware of any peer-reviewed journals where this technology was reviewed for proficiency in detecting human remains. (18RT 5129.) The typical use of ground-penetrating radar is to find voids due to things like buried pipes or use in ice research and commercial uses such as finding structural damage on bridges or oil and gas exploration. (18RT 5136, 5142.) The ground-penetrating radar at 710 White Court was not used for any of those purposes and no voids were found. (18RT 5145.) The radar is just used to screen for anomalies that then have to be confirmed by "ground truthing" or actually digging up the area. (18RT 5146-5147.)

Mr. Hanes found a number of areas at White Court that seemed to be anomalies, one of which was located under the porch. (18RT 5126.) On the wall of the house near Grid 1 there was a sewer clean-out and a dryer vent. (18RT 5162.) Before using the machine on Grid 1, vegetation was cleared from under the deck and it looked "pretty heavily vegetated." (18RT 5176, 5178.)

The evidence technician who excavated at Grid 1 did not find a burial site in the area of the purported anomaly. Instead, she found in the soil stains that continued down through the soil from two-and-a-half feet on down. (20RT 5755.) Ms. Liddell testified that in Grid 1, "[i]n the area of

staining it does not appear that after the stain was there that the stain had been disturbed." (20RT 5758.) When going through the specific photographs relating to the excavations, Ms. Liddell concluded as to each that any stain that was deposited would have been deposited after the soil was disturbed, if it had been disturbed. (20RT 5780-5781.)

Therefore, the anomalies had nothing to do with burial sites. The stains, whatever they were, were deposited on top of the anomaly areas not under them. The fact that there were several anomalies in the soil at the White Court property is meaningless at the Grid 1 location or elsewhere. The anomalies are not evidence and are not probative of anything.

B. There is no Scientific Basis to Assert that the Staining Observed by Arrington and Liddell is Human Blood

First, the staining was located within two feet of the surface of the ground and travelled down through undisturbed soil and set forth above. Second, archeologist Cindy Arrington, business partner of Mr. Hanes, the owner of the ground penetrating radar device, testified "that there's a stain there and it looks like it could have come from human remains, but you don't know." (18RT 5213.) As Ms. Liddell testified, once a person dies, they stop bleeding because there is no blood pumping. (17RT 4969-4970.)

However, Ms. Arrington testified that, if there had been a body there under the deck, it would have emitted a "very strong odor" at one point. (18RT 5217.) She also testified that the staining could have been decomposing plant material. (18RT 5274.) Ms. Arrington testified that she has never excavated a human grave and not found some physical evidence of human remains. (18RT 5275.) Ms. Arrington testified that if a body had been deposited under the deck with a 25-year span, one would expect to find bones or fibers. (18RT 5235.) Ms. Arrington did not see any of that during the excavation. (18RT 5235.)

EXHIBIT C

SAN LUIS OBISPO COUNTY SHERIFF

1585 KANSAS AVE.
SAN LUIS OBISPO, CA 93405

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
960610965	782
CASE TYPE	CAD EVENT NUMBER
HOMICIDE	
REPORTING OFFICER	REPORT DATE
SLDA6061 - CAMP, JAMES	03/14/2022

INCIDENT

LOCATION	DATE	TIME
, CA	03/14/2022	11:12

PREMISE NAME: C ARRINGTON INT 03 07 2022

STATION	BEAT	RESP AREA		JURISDICTION
ST24				SLSO

ADDITIONAL INFORMATION

☐ INC SUPP 1

INC SUPP 3

INC SUPP 4

INC SUPP 6

RESTRICTED

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
FIL	11/08/2021	AA	04/08/2021	SLSO1138 - MENGHRAJANI, D	03/14/2022

INCIDENT REPORT	SAN LUIS OBISPO COUNTY SHERIFF	CASE NUMBER 960610965	AGENCY 782

PROPERTY

ENTRY NO	DISPOSITION	TYPE	MAKE	MODEL
1115	E	53		

SERIAL NUMBER	QUANTITY	STATE	COLOR	OAN	REF NO	EVIDENCE
						N

DESCRIPTION	CUSTODY STATUS
DISC AND HARD COPIES OF DOCUMENTS FROM C. ARRINGTON (FROM INT ON 03 07 2022)	SUBMITTED

COMMENT

NARRATIVE

REPORT DATE: 3/10/2022

REPORT PURPOSE: Document interview with Cindy Arrington on 3/7/2022

On 3/7/2022 at about 1001 hours, DDA C. Peuvrelle and I met with Cindy Arrington for purposes of a pretrial interview. We initially spoke generally about the case status and the April 2021 dig. At one point, Arrington indicated that there are 206 bones in the human body, and as such indicated that she did not see how all of the bones (of Kristin Smart) could have been collected. She said that in her opinion, Kristin Smart was put in something " semi permeable" and that the wrapping was not watertight. As a result, some fluids would have leaked out and that was where the staining came from. Further, she stated in that situation, the bones would remain contained. She said that there was deformation/disruption of the soil, and it was not uniform.

Regarding the staining, it was not an oval pattern and there was a discontinuous staining pattern. She said that the deformation of the soil was caused by multiple digs. Arrington stated that the burial was " amateur" .

We discussed general testimony from the preliminary hearing as well as expected trial testimony. Arrington indicated that she would be sending us some graphics that could be used and referred to at trial. These images/files depict issues surrounding stratigraphy and may be used to assist in gaining an understanding of the topics Arrington is expected to testify to.

DDA Peuvrelle showed Arrington preliminary hearing exhibit #179. Arrington indicted that her opinion was that the bottom portion depicted in the image is decomposition - the " bathtub" staining is decomposition. She added that decomposition fluid leaked out and was dug up which is why the presentation is " messy" . She indicated that soil and stratigraphy will tell a story as to what happened and added that there was no way a bone would not have been left behind. Arrington went on to say that because of this, Kristin Smart would' ve been wrapped up, fluids leaked but the bones remained in the wrapping material. She said that Kristin Smart had to have been wrapped in something.

Regarding the initiation of decomposition, there are variables such as weather, climate, soil, and the environment. She said there are a lot of different variables, and you can estimate, but it is localized.

Regarding the second dig (in April) and looking at the first and second dig, the April dig confirmed what was seen in March.
We discussed how there was no soil soap seen, which is different from bathtub stain decomposition.

We discussed the general anticipated trial testimony direction.

Arrington eventually provided a series of documents to the District Attorney' s Office for use in this case. I attached photocopies of the documents to this supplemental report for reference. I also booked hard copies of the documents along with digital copies into property at the Sheriff' s Detective Division (See RMS # 1115).

CLOSING STATEMENT:

Case status cleared by Adult Arrest.

DA Investigator JT Camp #6061

JTC/sw 03/14/2022

RESTRICTED

Supp#782

What is the process of decomposition?

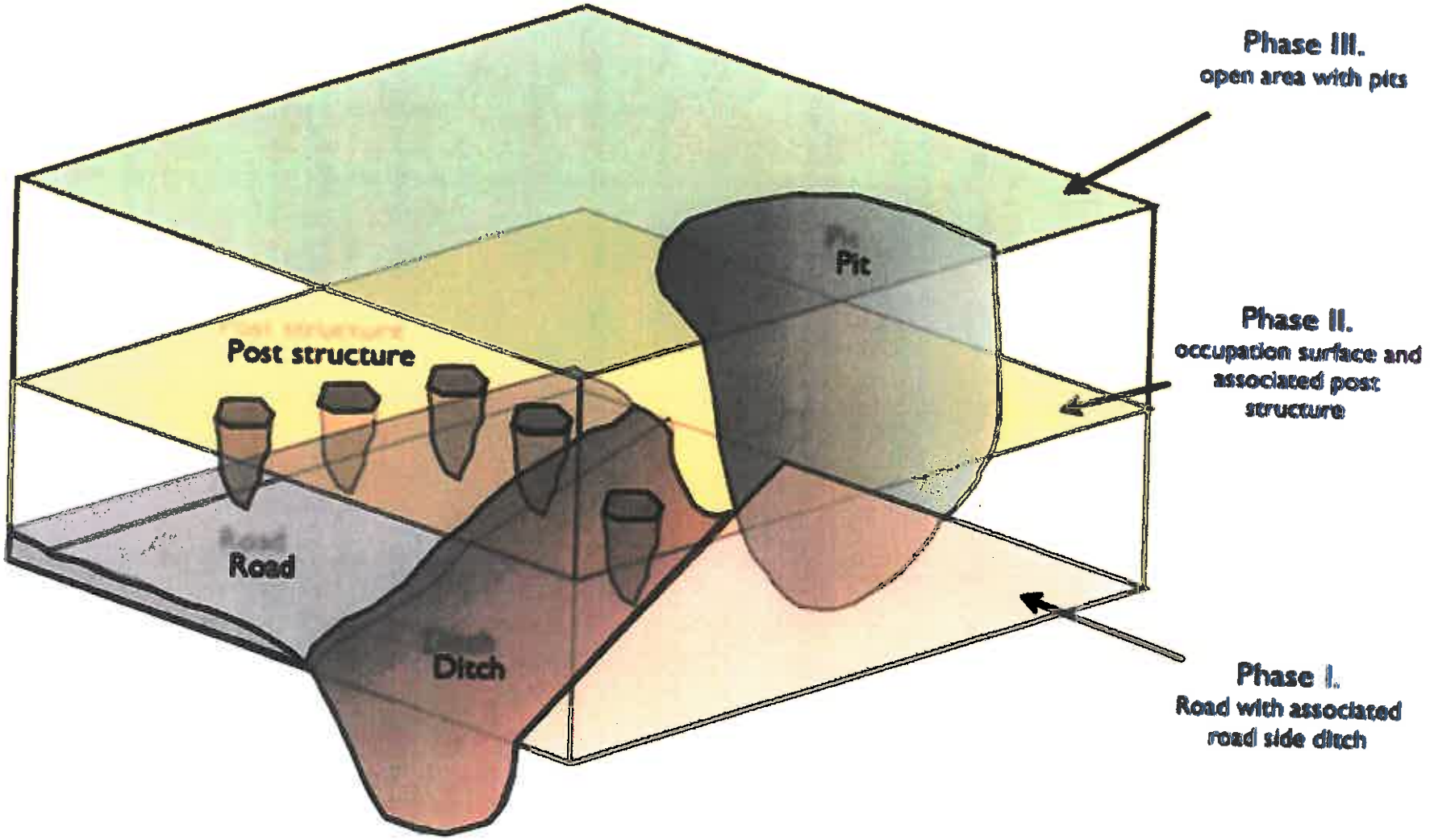
A corpse generally progresses through five stages of decomposition—fresh (1-2 days), bloat (2-6 days), active decay (5-11 days), advanced decay (10-24 days) and skeletonization (24days +). Again, this is highly subjective to environment, weather, soil type, and body disposal.

Specific Factors Affecting the Decomposition Process

- Temperature.
- Oxygen availability.
- Embalming.
- Cause of death.
- Burial conditions.
- Access by scavengers.
- Trauma.
- Humidity.

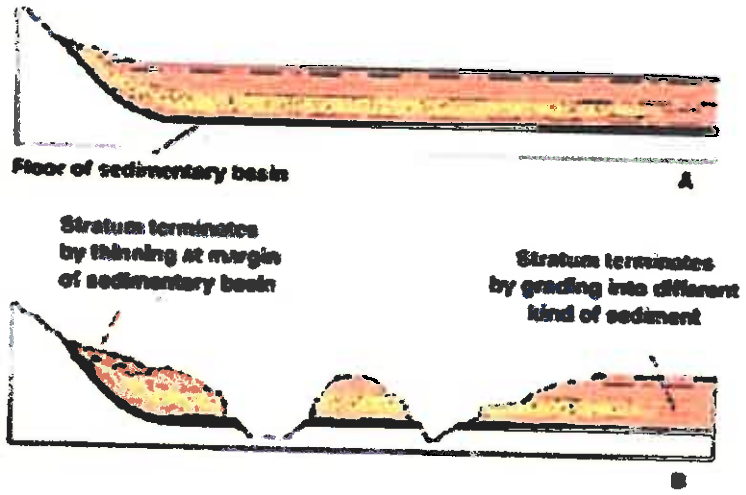
A number of factors affect the rate of decomposition of organic matter: **climate, substrate quality, and soil type**.

Sequence with 3 phases



03/22/2022
150:055772

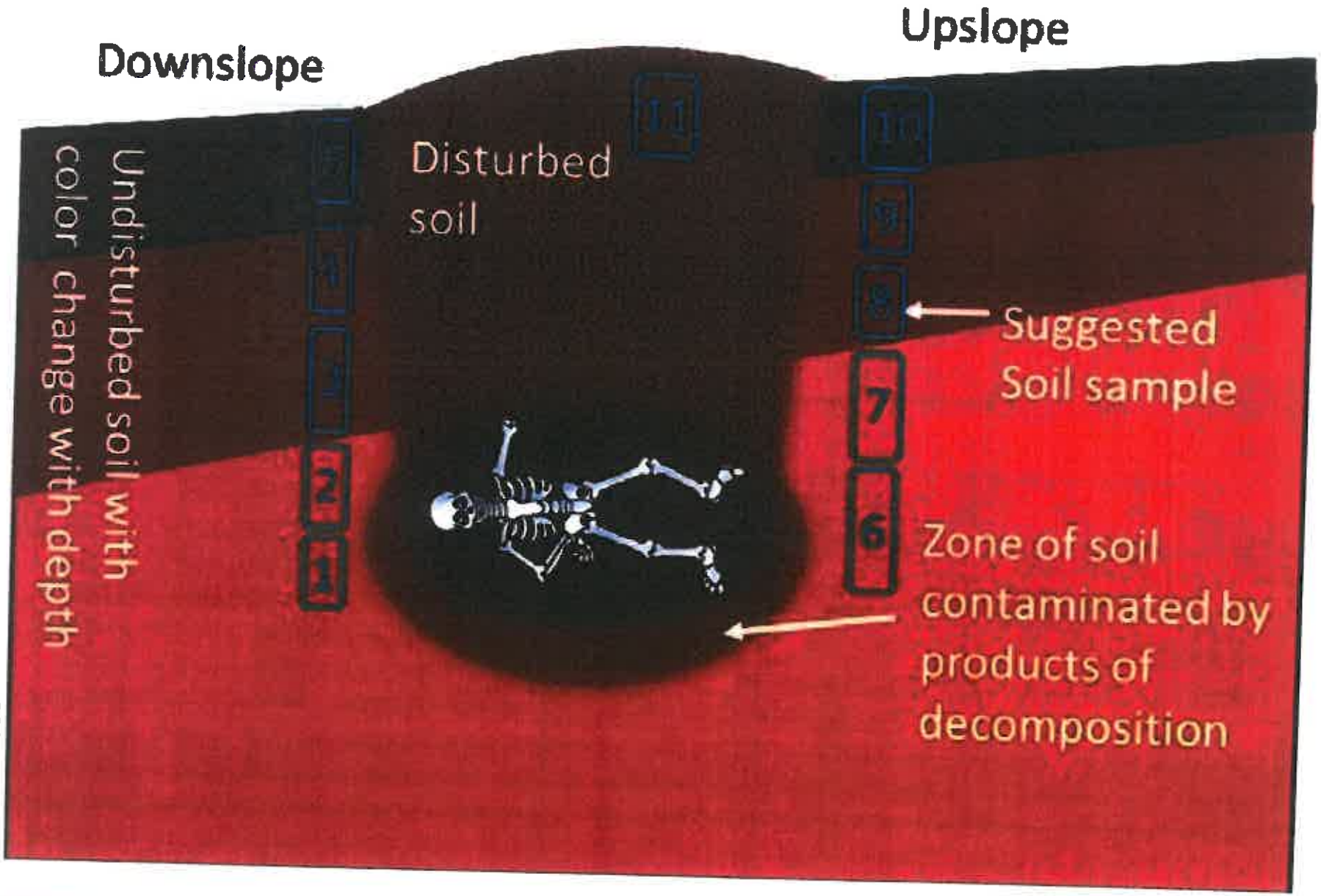
Principle of lateral continuity



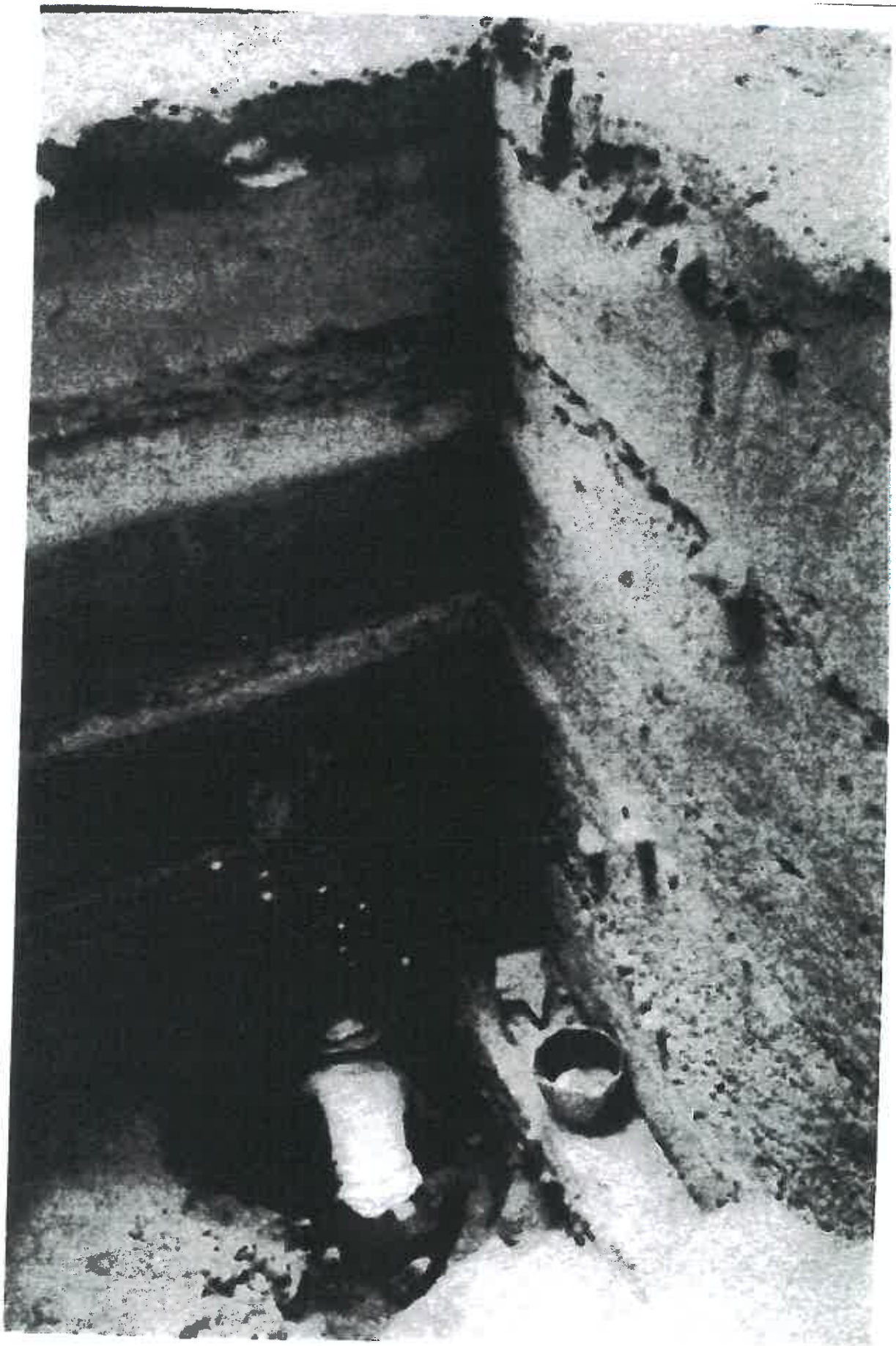
- Strata are deposited in a basin and thus will be continuous from end to end
- Any breaks are due to erosion or deformation *after* deposition

03/22/2022
150:055773

Cross-sectional view of clandestine grave



03/22/2022
150:055774



03/22/2022
150:055775

03/22/2022
150:055776

EXHIBIT D

Quality Forensics since 1978

March 25, 2021

Senior Deputy Clinton Cole
San Luis Obispo County Sheriff's Office
1585 Kansas Avenue
San Luis Obispo, CA 93401

SERI Case No. 11034.19
Agency Case No. 9606-10965
Victim: Kristin Smart
Suspect: Paul Flores

ANALYTICAL REPORT

On May 9th 2019, nine items of evidence were received at the Serological Research Institute (SERI) from the San Luis Obispo County Sheriff's Office via OnTrac (B10318478284). On May 14th 2019, one item of evidence was received at SERI from the San Luis Obispo County Sheriff's Office via OnTrac (B10318478319). On November 14th 2019, nine items of evidence were received at SERI from Deputy Cole. On December 31st 2020, five items of evidence were received at SERI from Deputy Cole. On January 25th 2021, one item of evidence was received at SERI from Deputy Cole. On December 31st 2020, five items of evidence were received at SERI from Deputy Cole. On March 17th 2021, two items of evidence were received at SERI from Deputy Cole. Body fluid screening, DNA analysis using the Polymerase Chain Reaction (PCR), and comparison were requested.

The results of the testing from the following items will be issued in a subsequent analytical report:

ITEM 1 CLOTH (22)
ITEM 2 HAIR FROM BED (26)
ITEM 3 SLIDE WITH HAIRS (27)
ITEM 4 CORNER MATTRESS (81)
ITEM 5 CORNER MATTRESS CONTROL (82)
ITEM 6 BLOOD – STAN AND DENISE SMART (200)
ITEM 7 SWAB 55 A1 MATTRESS (13)
ITEM 8 SWAB 55 A2 MATTRESS (14)
ITEM 9 BLOOD – PAUL FLORES (7)
ITEM 10 SMART'S PANTIES (51)
ITEM 11 CANVAS MATTRESS PAD (8)
ITEM 12 TRUCK CARPET CUT OUT (600)
ITEM 13 SWAB: UNDER CARPET STAIN (593)
ITEM 14 SWAB: DRIVER'S SIDE CARPET (594)
ITEM 15 SWAB: REAR PASSENGER SEAT (595)
ITEM 16 SWAB: UNDER SEAT NEAR ASSEMBLY (596)
ITEM 17 SWAB: BACKSIDE OF DRIVER SEAT (597)
ITEM 18 SWAB: CONTROL BACKSIDE OF DRIVER SEAT (598)

ITEM 19 SWAB: CONTROL BACKSIDE OF DRIVER SEAT (599)
ITEM 20 SWAB OF ITEM 58 (58A)
ITEM 21 SWAB OF ITEM 58 (58B)
ITEM 22 CONTROL FOR ITEM 58 (58 CONTROL)
ITEM 23 SWAB OF BOX SPRING COVER STAIN (58C)
ITEM 24 SWAB OF CONTROL CORNER OF MATTRESS (55BSC)
ITEM 25 DNA EXTRACTS (758)

ITEM 26 UPPER SOIL SAMPLE UPPER (775)

This item consisted of a plastic tube containing approximately 43 grams of brown sand with some clusters of dark brown colored material. A small cluster of the dark brown colored material (item 26-1) was tested for the presence of human blood. The results are tabulated below.

ITEM 27 DEEPER SOIL SAMPLE (776)

This item consisted of a plastic tube containing approximately 42 grams of brown sand with several different sized clusters of dark brown colored material. Two small quantities of the dark brown colored material was sampled (item 27-1 and item 27-2) and directly tested for the presence of human blood. Under microscopic examination, four additional clusters of the dark brown colored material were sampled (items 27-3 through 27-6), tested for the presence of human blood, extracted for DNA content, and quantified. The results are tabulated below.

BODY FLUID RESULTS

Item	Description	o-Tol	HemDirect
26-1	Upper Soil Sample	WK+	-
27-1	Deeper Soil Sample	WK+	-
27-2	Deeper Soil Sample	WK+	WK+
27-3	Deeper Soil Sample	WK+	+
27-4	Deeper Soil Sample	WK+	+
27-5	Deeper Soil Sample	WK+	+
27-6	Deeper Soil Sample	WK+	WK+

Key:
+ Positive
- Negative
WK Weak Positive
o-Tol ortho-Tolidine, presumptive test for blood
HemDirect Human hemoglobin, confirmatory test for human blood.

EXPLANATIONS

Blood of any species can appear as a red to brown stain in the dried form and will react positively with the chemicals ortho-tolidine/peroxide. This two-step test is used as a presumptive test for the presence of blood. Other substances are also known to react with ortho-tolidine; therefore, the test is not confirmatory for blood.

EXPLANATIONS (continued)

Blood contains a red pigment, known as hemoglobin (Hb), which is located in the erythrocytes, or red blood cells of vertebrate animal species. Hemoglobin is one of the most abundant proteins found in blood, and can be detected using a specific antigen/antibody reaction. The Seratec HemDirect Hemoglobin Assay is a test that is specific for human hemoglobin and is highly sensitive. The HemDirect Assay is capable of detecting hemoglobin at a concentration as low as 40 ng/ml, or a 1 in 1,000,000 dilution of fresh human blood. Although there is cross-reactivity with other primates and domestic ferret, a positive result with this test on a blood sample or stain is considered most likely to be blood of human origin.

Deoxyribonucleic acid or DNA is found in nucleated cells, e.g., white blood cells, salivary, vaginal and tissue epithelial cells and spermatozoa. It is possible to obtain a profile from DNA deposited by touching an item. An individual may, at any time, contain biological material on his or her hands. This can originate from saliva, perspiration; trace amounts of blood, tears, etc. These DNA-containing fluids can be potentially transferred to an object (i.e. gun grip, steering wheel, tools, clothing) when handling or touching the object. Items can be swabbed, cut, or scraped to obtain the biological material left behind. The DNA can be extracted, and the amount obtained is proportional to the number of DNA-containing cells present.

CONCLUSIONS

1. No human blood was detected in upper soil sample (item 26-1).

2. No human blood was detected in the deeper soil sample (item 27-1).

3. Human blood was detected in the deeper soil (item 27-2 through item 27-6).

4. No human DNA was detected by quantification in the deeper soil samples (item 27-3 through item 27-6).

EVIDENCE DISPOSITION

SERI item 3 was returned to Deputy Cole on January 25th 2021. The remaining submitted evidence will be retained at SERI pending instructions from Deputy Cole. Any remaining case extracts will be retained at SERI.

SERI REPORT REVIEWED DATE MAR 25 2021

SEROLOGICAL RESEARCH INSTITUTE

Angela P. Butler
Senior Forensic Serologist

04/27/2021
15:002393

SERI

EXHIBIT SHEET

SERI CASE NO.: 1103419 DATE: 4/20/22 PERFORMED/ TESTED BY: AKS CASE ANALYST: AKS

EXHIBIT NO.: 57 EXHIBIT NAME: Soil Sample (Area B#1)

PACKAGING small brown paper bag TIS specimen cup screw top

LABELING See photos

RESULTS

Otol: QC ✓ see exh 64 lot#

DESCRIPTION

~90g of sandy soil (dump)
few small clusters of brown fibrous material disintegrated w/ forceps when trying to examine further.

EXAMINATION

Otol -ve no fibers observed or other material of interest.
no further testing

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW	DATE
AH	MAY 0 9 2022

05/25/2022
175:057411

SERI

EXHIBIT SHEET

SERI CASE NO.: 110319 DATE: 4/21/22 PERFORMED/ TESTED BY: AS CASE ANALYST: AS

EXHIBIT NO.: 58 EXHIBIT NAME: Soil Sample Area A #1 (841)

PACKAGING small brown paper bag T/S ⇒ Specimen cup - screw cap

LABELING See photos

DESCRIPTION

Sandy soil dark colored (~105g) slightly damp

EXAMINATION 1 possible

Several small fibers, dark, white colored. Several small pieces of possible plant material orange colored.

Several reddish brown clusters removed to 1.5mL tube. Otol wk tup

58-1

RESULTS

Otol QC ✓ Lot # See ckbk

Hnidirect (See ckbk Lot #)

58-1 (-)

4/27/22

DNA Ext	
58-1	77574
BC1	77593
BC2	77594
BC3	77595
BC4	77596
	77597

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW	DATE
DH	MAY 0 6 2022

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175:057412

SERI

EXHIBIT SHEET

SERI CASE NO.: 1103419 DATE: 4/22/22 PERFORMED/TESTED BY: [illegible] CASE ANALYST: [illegible]

EXHIBIT NO.: 59 EXHIBIT NAME: Soil Sample D1 (842)

PACKAGING small brown paper bag TS ⇒ specimen cup screwcap

LABELING see photos

RESULTS Otol QC ✓ see exh 64 Loftt

DESCRIPTION ~ 119g of sandy soil, clump ~~stns~~ otol -ve

EXAMINATION nothing observed microscopically to remove into 1.5ML tubes

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP), Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered moist unless noted otherwise.

TECHNICAL REVIEW [illegible]	DATE MAY 0 [illegible]

05/25/2022
175:057413

SERI

EXHIBIT SHEET

SERI CASE NO.: 11034104 **DATE:** 4/12/22 **PERFORMED/ TESTED BY:** AG **CASE ANALYST:** AG

EXHIBIT NO.: 60 **EXHIBIT NAME:** Soil Sumpk C# 1 (843)

PACKAGING small brown paper bag T/S → specimen cup screw cap

LABELING See photos

DESCRIPTION ~85g slightly damp sandy soil, brown

EXAMINATION

numerous small pieces of material w/ brownish material w/ embedded apparent fibers. Only observed when soil dried. Collected, otol only wk (+)

red, black clear/white ~~FB~~ 8 x 1.5mL tubes 6 ext for DNA

RESULTS

Otol QC ✓ See ext 04 lot #

DNA ext 4/27/22

60-1	77575
60-2	77576
60-3	77577
60-4	77578
60-5	77579
60-6	77580
BC1	77593
BC2	77594
BC3	77595
BC4	77596
BC5	77597

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered moist unless noted otherwise

TECHNICAL REVIEW	DATE
AH	MAY 0 2022

05/25/2022
175:057414

SERI

EXHIBIT SHEET

SERI CASE NO.: 1103419 DATE: 4/26/22 PERFORMED/ TESTED BY: AS CASE ANALYST: AS

EXHIBIT NO.: 61 EXHIBIT NAME: Soil sample C#2 (844)

PACKAGING small brown paper bag T/S → specimen cup screw cap

LABELING See photos

DESCRIPTION See Below

EXAMINATION

~118g sandy soil | slightly damp small clusters of dark brown matrial some have reddish brown appearance under microscope removed very small pieces wk utol-tw ext. for DNA

61-1

RESULTS

UTOL QCV

see exh 64 lot #

DNA EXT 4/27/22

61-1	77581
BC1	77593
BC2	77594
BC3	77595
BC4	77596
BC5	77597

Paper Sealed (TS), Manila Envelope (ME), Clear Sealed (CS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW), Standard Swab Box (SSB) Swabs considered intact unless noted otherwise

TECHNICAL REVIEW AT	DATE MAY 0 - 2022

05/25/2022
175:057415

SERI

EXHIBIT SHEET

SERI CASE NO.: ~~211304~~ 110319 DATE: 4/27/22 PERFORMED/ TESTED BY: TS CASE ANALYST: AMS

EXHIBIT NO.: 62 EXHIBIT NAME: Soil Sample B#2 (846)

PACKAGING small brown Paper bag T/S → specimen cup - screw cap

LABELING
See photos

DESCRIPTION
~120g sandy soil (~~dry~~ damp
clusters of brown material
few clear possible fibers. few pieces
EXAMINATION of possible plant material.
Several pieces of reddish brown
dirt. one very small piece of
unknown solid material with a
clear fiber adhering to it. Removed
to a gel lift, for further inspection
clumps/ clusters of dirt otol tve.
sampled ~~2 tubes of~~ 2 colored dirt
pieces into 2 1.5mL tubes
for Hemdirect. Ext in 200uL
dH2O. Material on gel lift
placed into 62-1 and
62-1 & 62-2 Ext. for
DNAs.
Remaining gel lift material
placed into manila env.
"Soil samples Trace"

RESULTS
otol QC ✓ see exh 64 lot #
Hemdirect (see exh 64 lot #)

62-1 (-)
62-2 FB (-)

DNA Ext 4/27/22

62-1	77582
62-2	77583
BC1	77593
BC2	77594
BC3	77595
BC4	77596
BC5	77597

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB) Swabs extracted intact unless noted otherwise.

TECHNICAL REVIEW	DATE
AJH	MAY 0 . 2022

05/25/2022
175:057416

SERI

EXHIBIT SHEET

SERI CASE NO.: 1103419 DATE: 4/19/22 PERFORMED/ TESTED BY: dtes CASE ANALYST: dtes

EXHIBIT NO.: 63 EXHIBIT NAME: Soil Sample (BAB)

PACKAGING Small brown paper bag t/s specimen cup screw top

LABELING see photos

DESCRIPTION

~~9.8~~ 5g of sandy soil, slightly damp

EXAMINATION

One ~~possible~~ apparent red colored fiber, blue fibers

clumps/clusters of dark material

removed several pieces of and fibers. to 1.5 mL tubes (4 tubes)

ext in dH2O

dark material in soil wk otol +ve (slow)

BB3

RESULTS

otol: see exh 64

QC ✓

Hemdirect see exh 64 lot #

63-1 ⊖ neg

63-2

63-3

63-4

DNA EXT 4/27/22

63-1	77584
63-2	77585
63-3	77586
63-4	77587
BC1	77593
BC2	77594
BC3	77595
BC4	77596
BC5	77597

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Hiker Paper (HP) Standard Swab Wrapper (SSW) Standard Swab Dna (SSD). Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW AJT	DATE MAY 0 . 2022

05/25/2022
175:057417

SERI

EXHIBIT SHEET

SERI CASE NO.: 1103419 DATE: 4/15/22 PERFORMED/ TESTED BY: AB CASE ANALYST: AB

EXHIBIT NO.: 44/45 64 EXHIBIT NAME: Soil Sample Area B Probe 44 (550)

PACKAGING small brown paper bag TS
specimen cup
screw top

LABELING see photos

DESCRIPTION ~8cc of sandy soil light brown ↗ slightly damp
many "clumps" of dark brown /clusters of material

EXAMINATION several dark possible fibers, red observed
several possible pieces of plant material
removed dark colored pieces and fibers with adhering dark colored material to a 1.5mL tube (2 tubes)
ext. in dH_2O for HemDirect (200uL)
dark pieces of soil wk (+) (slow)

RESULTS

Oto 1: 9732/9733 exp 8/11/22 QC ✓

HemDirect Lot 210079 exp 1/2024
Buffer B210079 exp 1/2024

64-1 } ⊖Neg
64-2

DNA Ext AB 4/27/22

64-1	77588
64-2	77589
BC1	77593
BC2	77594
BC3	77595
BC4	77596
BC5	77597

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB) Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW AJH	DATE MAY 0 2022

05/25/2022
175:057418

SERI

EXHIBIT SHEET

SERI CASE NO.: #, 110319 ~~#130419~~ DATE: 4/20/22 PERFORMED/ TESTED BY: TS CASE ANALYST: TS

EXHIBIT NO.: C5 EXHIBIT NAME: Soil Sample Area E #1 (858)

PACKAGING small brown paper bag TS → specimen cup screw top

LABELING see photos

DESCRIPTION ~110g damp brown sandy soil

otol -ve

EXAMINATION no material of interest

no further exam

RESULTS

otol QC ✓ see exh log lot#

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Fiber Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB) Swabs considered metal unless noted otherwise.

TECHNICAL REVIEW DH	DATE MAY 0 2022

05/25/2022
175:057419

SERI

EXHIBIT SHEET

SERI CASE NO.: 1105119 DATE: 4/21/22 PERFORMED/ TESTED BY: JKS CASE ANALYST: JKS

EXHIBIT NO.: 66 EXHIBIT NAME: Soil Sample Area G#1 (860)

PACKAGING

LABELING

See photos

DESCRIPTION

~117g sandy soil, slightly dump, small clusters of sand.

EXAMINATION

no material of interest

no further exam

Otol - VL

RESULTS

Otol QC ✓

See exh 64 Lot #

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW JF	DATE MAY 2 6 2022

05/25/2022
175:057420

SERI

EXHIBIT SHEET

SERI CASE NO.: 110319 **DATE:** 4/20/22 **PERFORMED/ TESTED BY:** AR **CASE ANALYST:** AR

EXHIBIT NO.: 67 **EXHIBIT NAME:** Soil Sample Stain Probe Area G

PACKAGING small brown paper bag +/s → specimen cup screw top

LABELING see photos

DESCRIPTION
~57g of slightly damp sandy soil
some clusters of brown material
several dark colored fibers (apparent)

EXAMINATION (1 long possible fiber? Hair? (no identifiable root) removed to gel lifter to observe
several reddish brown very small flakes/grains removed to 1.5mL tube
along w/ small pieces of soil
EVT in 10uL dH2O 67-1

wc otol +ve

* several fibers + unknown fiber/poss hair removed to gel lifter and packaged in manila envelope "soil samples Trace"

RESULTS (Sheet 2)

otol QC ✓ see ext log lot#

Hemdirect see ext log lot#

67-1 (−)

DNA Ext 4/27/22

67-1	77590
BC1	77593
BC2	77594
BC3	77595
BC4	77596
BC5	77597

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered dried, unless noted otherwise.

TECHNICAL REVIEW	DATE
DH	MAY 0 .. 2022

05/25/2022
175:057421

SERI

EXHIBIT SHEET

SERI CASE NO.: 1103419 DATE: 4/27/22 PERFORMED/TESTED BY: AS, CASE ANALYST: AS

EXHIBIT NO.: 68 EXHIBIT NAME: Soil Sample Beneath House (880)

PACKAGING Small brown paper bag T/S
Specimen Cup Screw cap T/S

LABELING
See photos

DESCRIPTION ~90g
Fine dry Fine exhumed Brown dirt small pebbles w/ sand plant debris (stems, apparent root material)

EXAMINATION many blue, black, red, clear, apparent fibers some in small clusters could not remove all Some were stained w/ dark material. Removed some to a 1.5 mL tube w/ debris. wk stol+NP ext in 150uL H_2O
2 apparent insects (dead) of unknown species - several legs

RESULTS

See extn 64 Lot #
Heindirect 4/27/22

68-1 (-)

DNA EXT 4/27/22

68-1	77591
BC1	77593
BC2	77594
BC3	77595
BC4	77596
BC5	77597

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP), Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered moist unless noted otherwise.

TECHNICAL REVIEW	DATE
AJH	MAY [illegible]

05/25/2022
175:057422

SERI

EXHIBIT SHEET

SERI CASE NO.: 1103419 DATE: 4/21/22 PERFORMED/ TESTED BY: AS CASE ANALYST: AS

EXHIBIT NO.: 69, 70 EXHIBIT NAME: Soil Sample of Interest #1 | #2 (337 | 338)

PACKAGING 5"x8" T/S white env.

LABELING See photos

RESULTS

Otol QC ✓ Lot 9732/9733 exp 8/11/22

DESCRIPTION

69: ~18g light brown dirt fine texture w/ some stems, pieces of plant material, small rocks.

EXAMINATION small ~~pieces~~ pieces of reddish Brown material - rusty 3 long fiber like strands (wlc otol +ve Brown slow material (slow) no further testing consistent w/ rust rxn ~~collected 3 in sml tube~~ (strands → gel lifter) plant material, returned to package

70: ~15g see above

NO material of interest Nothing collected Otol -v1

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS), Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB), Swabs considered intact unless noted otherwise

TECHNICAL REVIEW AJL	DATE MAY [illegible] 2022

05/25/2022
175:057423

SERI

EXHIBIT SHEET

SERI CASE NO.: 1103419 DATE: 4/20/22 PERFORMED/ TESTED BY: AS CASE ANALYST: AS

EXHIBIT NO.: 71, 72 EXHIBIT NAME: Soil Sample of interest #3, #4

PACKAGING 5"x8" Tyvek white env.

LABELING See Photos

RESULTS (339,340)

otol QC ✓
See exh 69

DESCRIPTION

#71 ~62g light brown dirt w/ some rocks

#72 ~38g " " " "

EXAMINATION

otol -ve #71 + #72
nothing collected

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW AJP	DATE MAY 0 [illegible] 2022

05/25/2022
175:057424

SERI

EXHIBIT SHEET

SERI CASE NO.: 1103419 **DATE:** 4/20/22 **PERFORMED/ TESTED BY:** AG **CASE ANALYST:** AG

EXHIBIT NO.: 73, 74 **EXHIBIT NAME:** Soil Sample of interest #5 #6, #9 (342, 343)

PACKAGING 5"x8" TS white env.

LABELING see photos

RESULTS

otol QC ✓
see each 69

DESCRIPTION

#73 ~35g light brown soil w/ rocks

#74 ~30g light brown soil w/ rocks

EXAMINATION

otol -VE
notary collected

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered moist unless noted otherwise.

TECHNICAL REVIEW AGK	DATE MAY 6 2022

05/25/2022
175:057425

SERI

EXHIBIT SHEET

SERI CASE NO.: 1103419 DATE: 4/26/22 PERFORMED/ TESTED BY: JPS CASE ANALYST: JPS

EXHIBIT NO.: 75,76,77 EXHIBIT NAME: Soil Sample of Interest #7,8,9 (343,344,345)

PACKAGING 5"x8" TS white env

LABELING see photos

DESCRIPTION
#75 ~26g light brown dirt w/ white rocks → no rocks
#76 ~35g " blue fabric pieces w/ rusty staining + rusty pieces of rocks (in 77)
#77 ~80g ↓

EXAMINATION
nothing of interest in 75 or 76, nothing collected

ext in 150uL dH2O 4/27/22
otol -ve
fabric + rusty rock slow otol +ve

RESULTS
otol QC see ex 69

Lot 210079 exp 1/2024
Buffer BE10079 exp 1/2024
Hm direct 4/27/22
77-1 (-)

DNA ext 4/27/22
77-1 77592
BC1 77593
BC2 77594
BC3 77595
BCU 77596
BC5 77597

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW	DATE MAY 0 - 2022

05/25/2022
175:057426

EXHIBIT E

SAN LUIS OBISPO COUNTY SHERIFF

1585 KANSAS AVE
SAN LUIS OBISPO, CA 93405

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
960610965	823
CASE TYPE	CAD EVENT NUMBER
HOMICIDE	
REPORTING OFFICER	REPORT DATE
SLSO0588 - COLE, CLINTON	06/09/2022

INCIDENT

LOCATION / PREMISE NAME	DATE	TIME
6-9-22 ANGIE BUTLER , CA US	06/09/2022	11:54

STATION	BEAT	RESP AREA		JURISDICTION
ST24				SLSO

ADDITIONAL INFORMATION

☐ INC SUPP 1

INC SUPP 2

INC SUPP 4

☐ INC SUPP 3

INC SUPP 5

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
FIL	11/08/2021	AA	04/08/2021	SLSO1138 - MENGHRAJANI, D	06/14/2022

INCIDENT REPORT	SAN LUIS OBISPO COUNTY SHERIFF	CASE NUMBER	SUP NO
		960610965	823

PROPERTY

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL				
1158	E	53						
SERIAL NUMBER		QUANTITY	COLOR	COLOR	PAN	REF NO	EVIDENCE	
							N	
DESCRIPTION	INTERVIEW ANGIE BUTLER						CUSTODY STATUS	
COMMENT							CUSTODY	

NARRATIVE

DATE OF REPORT: 06/09/2022

PURPOSE OF REPORT: Document Speaking With Angie Butler.

On 06/09/2022 at 1102 hours Assistant Chief Investigator Camp and I spoke to Angie Butler from the Serological Institute Lab in Richmond, CA. I previously provided Butler with information provided to DDA Peuvrelle by Elizabeth Johnson a Defense expert witness. This information was regarding the Seratec HemDirect human blood test. I recorded this conversation and booked it in to the Sheriff's Office Property ref RMS # 1158, the following is a synopsis of the conversation.

Butler said there is not a validation study for the HemDirect test for soil but according to SWGDAM you can not and should not validate every sample. SWGDAM is the Scientific Working Group on DNA analysis methods guidelines for the collection and Serological Examination of Biological Evidence. SWGDAM sets the guidelines for Federal, State and local Labs in the United States. In Johnson's report she referenced PCAST, however PCAST does not set the guidelines SWGDAM does. Butler said she believes soil could degrade a sample for DNA testing but she was unaware of the mechanism of how soil could degrade a sample to invalidate the results of HemDirect testing itself. Butler said her lab has a validation study from testing they did in their Lab using a variety of body samples of blood of humans and animals.

Johnson's report showed validation studies of blood that was exposed to the elements such as a garbage can and other items but there was no validation shown for soil in Johnson's report. Butler said the HemDirect test meets all the requirements of forensic evidence. I asked Butler what the information meant to her since she had 12 soil samples that were positive for blood and 24 samples tested negative for blood. Butler said the HemDirect test has its own internal controls that shows the test is working properly and she never had a test where the internal control failed in any of our samples. Butler said it means the tests were valid because she got more negative results than positive ones and if she had a positive in our control samples that would mean something isn't right. Butler only got positive blood results from some of the samples in our excavation site. Butler said if all the samples were positive for human blood it would be a serious red flag.

Butler said it was her opinion the soil samples we provided to her that were 3-4 feet down in a previously dug hole would be protected and less chance of contamination than if the samples were at ground level where they would have more contact with weather and human contamination. Butler used sterile water and the buffer provided by HemDirect in her samples following the manufacturer instructions. This is important to control the PH of the sample otherwise you can get a false negative tests not false positive results. Soil high in iron can have a positive to human blood result with the presumptive test but then you use the confirmatory test which is the HemDirect test. The HemDirect test will not provide a false positive only a false negative due to any chemicals in the soil. The

HemDirect test has a binding agent that attracts to human hemoglobin.

Butler said the HemDirect test can get positive results on samples over 30 years old. The Hem Direct test has a broad sensitivity range for detecting varying hemoglobin. The results of the Seratec aged blood study shoe the HemDirect hemoglobin assay is an applicable test kit for the determination of human blood in the Forensic field.

Butler said many Labs use the HemDirect test and they are not the only Lab that is in detecting aged blood samples at least 30 years old and consistently yields the same results. Butler said she has used the HemDirect card over 100 times and her lab has used it over 1000 times.

CLOSING STATEMENT
Case status cleared by Adult Arrest. Forward to the District Attorney's Office for inclusion with the original report.

Detective C. Cole #0588

CC/mc 06/14/2022

EXHIBIT F

VALIDATION FOR THE USE OF THE SERATEC® HEMDIRECT HEMOGLOBIN ASSAY IN THE IDENTIFICATION OF HUMAN BLOOD

INTRODUCTION

Human hemoglobin (hHb), the red blood pigment located in erythrocytes, is one of the major proteins found in blood. The Seratec® HemDirect Hemoglobin Assay for the forensic identification of human blood is a membrane immuno-assay that qualitatively detects human hemoglobin.

The principle of the test is that the hHb will interact with a gold labeled monoclonal murine anti-hHb-antibody to form a mobile antigen antibody complex. The complex migrates down the membrane via capillary action and is captured by a second immobile monoclonal murine anti-hHb-antibody (sandwich complex). If there is sufficient hHb (> 40 ng hHb/ml) in the test sample, then a red line forms where the immobile anti-PSA antibody is located ("T" area).

If the sample has a very high amount of hemoglobin (>500 ng/ml), the hemoglobin will not only bind to the mobile gold-labeled rabbit anti-hHb antibody, but too much free hHB will bind with the immobile anti-hHb antibody in the test region. The bound hemoglobin prevents the immobile antibody from capturing the labeled antibody-antigen complex. The result obtained is a false negative result, referred to as the high dose hook effect.

A positive test is indicated by the presence of two pink lines (at the test and the control areas). A negative result is indicated by the presence one pink line at the control area. An inconclusive result is obtained if there is no line formed in the control area. The test is time sensitive and the results should be read within 10 minutes.

SUMMARY OF VALIDATION STUDY

1. SENSITIVITY

The HemDirect card provides a sensitive method for the identification of blood. Using the provided kit buffer, a very weak positive result was attainable at a one in 20 million dilution of whole blood. When sterile dH2O was used, a weak positive result was obtained at a one in 100 thousand dilution of whole blood.

The HemDirect card was at least ten times more sensitive than ortho-tolidine in reacting with dilutions of whole blood. HemDirect was at least ten times more sensitive than species-crossover.

Comparisons were made between extractions of a Nist bloodstain in the kit buffer, PBS, and sterile water. Positive results were achieved from all three extracts. However, it should be noted that the PBS extract resulted in the weakest test area band.

2. SPECIFICITY

The HemDirect card is known to react with domestic ferret blood. Using the provided kit buffer, a weak positive result was attainable at a one in 100 thousand dilution of whole ferret blood. However, when two distinct ferret blood stains were extracted, negative results were obtained.

The HemDirect card also crossreacted with higher primates. Very weak positive results were obtained with gorilla and chimpanzee bloodstains.

HemDirect did not crossreact with rabbit, sheep, guinea pig, goat, and squirrel bloodstains.

Hemoglobin can be found in trace amounts in other body fluids. Consequently, because the HemDirect card is so sensitive, positive results may occasionally be obtained from other body fluids. In this study, positive results were obtained from semen, saliva, and vaginal fluid.

REFERENCES

Seratec® HemDirect Hemoglobin Assay information insert. Seratec Diagnostica®.

Hochmeister et al. (1999) Validation Studies of an Immunochromatographic 1-Step Test for the Forensic Identification of Human Blood. J Forensic Sci Vol 44: 597-601

Hermon et al. (2003) The Use of the Hexagon OBTI Test for Detection of Human Blood at Crime Scenes and on Items of Evidence. Part I: Validation Studies and Implementation. J Forensic Identification Vol 53, 566-575

http://mafs.net/fallmeeting2005/meetingcd1.pdf **Validation Study of the Seratec HemDirect Hemoglobin Assay for the Forensic Identification of Human Blood,** Dale L. Laux, Ohio Bureau of Criminal Identification & Investigation, MAFS 34th Annual Meeting, St. Louis, MO, October 07, 2005