22CR003712

Flores, Paul

5 of 6

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 6/1/2022 8:00 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	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B PEOPLE'S PROPOSED WITNESS LIST Date: June 13, 2022 Time: 8:30 a.m. Dept.: 4

The People may call the following witnesses at trial:

1. Denise Aguilar, CSI Technician
2. Felipe Arias
3. Cindy Arrington (Pitois)
4. Karen Marie Atkinson
5. Kathryn Eileen Auker
6. Wayne Chalmers Behrens
7. Toyetta Beukes, RN
8. Kristine Black (Kaster)
9. Trevor Joseph Boelter

10. Diane Willis Box (Oriley; Willis)
11. Vanessa Rose Shields (Kaster; Maison)
12. Angela Pantazis Butler
13. James T Camp SLO DA
14. Margarita Jelica Campos
15. Javier Carrillo
16. Angie Doe
17. Kathleen Marie Casey (Cooper)
18. Edward Earl Chadwell
19. Kim Merz (Ciancio)
20. Barbara Frances Ciesielski
21. Clinton M Cole – SLO SO
22. Steven Crawford – SLO SO
23. Robert W Cudworth – SLO PD
24. Christopher Davis – SLO SO
25. Timothy Barton Davis
26. Flara Denise Dean
27. Rachael Doe
28. Ryan Douglas Fell
29. Christopher Fitzpatrick – SLO SO
30. Steven Allan Fleming
31. Susan Paula Flores (Charles)
32. Lt. Shawn Freeman - Redondo Beach PD
33. Mario Garcia
34. Justin Cary Goodwin
35. Eric Wayne Grasso
36. Mike Green - Redondo Beach PD

37. Tina Davis (Gualco)
38. Diana Marlene Guerrero (aka Marlene Guerrero; Diana Marlene Lopez)
39. Victor Guerrero – FBI
40. Phil Grenley Hanes
41. Bill Hanley – SLO DA
42. Larry Hobson - SLO DA
43. Jamilyn Michelle Parsley (Holman)
44. Jennifer Doe
45. Kenneth Jones – SLO SO
46. Tiare Doe
47. Lawrence Michael Kennedy - Cal Poly PD
48. Ross Hansen Ketcham
49. Sienna Fawn Falk (Kimbell)
50. Kendra Michelle Wilson (Koed; Miller)
51. Gail Gobrecht Laroque (Gobrecht; Roque)
52. Shelby Liddell - SLO SO
53. Jana Virginia Jenny Belle Lord (Schrock)
54. Brett Campbell Macarthur
55. Cheryl Lynn Manzer (Anderson)
56. Jennifer Lin Koch (Matsler)
57. Jayson Arthur McCauliff
58. Mike McConville
59. Brent Lee Moon
60. Jeromy Edward Moon
61. Adela Louise Morris (Strauss)
62. Kenzie Suzanne Morrow
63. Ted Patrick Munley

64. Toshio Nakagawa
65. Rick Neufeld – SLO SO
66. Sarah Doe
67. Nathan Paul – SLO SO
68. Christa Doe
69. Katie Doe
70. Jennifer Joy Medeiros (Phipps)
71. Jennifer Marie Ray (Franks)
72. Brian John Robinson
73. Michael Sobhy Rofail
74. Nathan Michael Rupcich
75. Deanna Rae Maness (Simpson)
76. Denise Smart (Gumpper)
77. Matthew Edson Smart
78. Stan Smart
79. Faye Springer – Sacramento DA
80. Ronda Doe
81. Henry W. Stewart
82. Lindsey Stewart
83. David Austin Stone, III
84. Steve Tate
85. Crystal Denise Teschendorf (Calvin)
86. Ermelinda Marie Thomas (Flores)
87. Tara Lyn Thomman (Barnett)
88. Matthew Ian Toomey
89. Derrick Tse
90. Marshall Dean Turbeville - Department of Forestry

91. Jeanine West – SLO SO
92. Eric Christopher Wilkins
93. Amy Marie Willeke
94. Carrie Mcdonnell (Wood)
95. Dustin John Zimmer
96. Matt Terrell – SLO SO
97. Dr. Owen Shea

The People reserve the right to amend this list as information becomes available.

Dated: June 1, 2022

Respectfully submitted,

Dan Dow
District Attorney

By _____
Christopher Peuvrelle,
Deputy District Attorney

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 PROPOSED WITNESS LIST
(*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.

Alyssa Muckey, Supervising Legal Clerk

MC-500

MEDIA AGENCY (name): [illegible]
CHANNEL FREQUENCY NO.: [illegible]
PERSON SUBMITTING REQUEST (name): [illegible]
ADDRESS: [illegible]
TELEPHONE NO.: [illegible]

[illegible] COURT OF CALIFORNIA, COUNTY OF [illegible]

TITLE OF CASE: People v. [illegible]
NAME OF JUDGE: [illegible]

FOR COURT USE ONLY

FILED

MAY 31 2022

CLERK OF THE SUPERIOR COURT
DEPUTY
[illegible]

FILE NUMBER
[illegible]

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.)*
Arraignment through Sentencing

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.)*

3 TYPE OF COVERAGE
- a. ☒ TV camera and recorder
- b. ☒ Still camera - Digital
- 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: 5/27/22
[illegible]
(TYPE OR PRINT NAME)

[illegible]
(SIGNATURE)

Telephone No.: [illegible]

Chief Photographer
(TITLE OR 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

MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST

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MC-500

MEDIA AGENCY *(name)*: The San Luis Obispo Tribune
CHANNEL/FREQUENCY NO.: Newspaper
PERSON SUBMITTING REQUEST *(name)*: Chloe Jones
ADDRESS: 122 Castaic Ave, Pismo Beach, CA 93449
TELEPHONE NO.: 480-235-3935

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

TITLE OF CASE:
The People of the State of California vs. Flores, Paul Ruben

NAME OF JUDGE:

MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST

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MAY 31 2022

CLERK OF THE SUPERIOR COURT
DEPUTY
K. Hanson

CASE NUMBER
22CR003712

1. PORTION OF THE PROCEEDINGS TO BE COVERED *(e.g., particular witnesses at trial, the sentencing hearing, etc.)*:
   All hearings

2. DATE OF PROPOSED COVERAGE *(specify)*: June 6-10 *(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: 05/31/22

Chloe Jones
(TYPE OR PRINT NAME)

Chloe Jones
(SIGNATURE)

Telephone No.: 480-235-3935

Courts and Crime reporter
(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

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MC-500

MEDIA AGENCY *(name)*: iHeartMedia
CHANNEL/FREQUENCY NO.: KFBK 1530AM and 93.1FM
PERSON SUBMITTING REQUEST *(name)*: Jensen Rader
ADDRESS:
1545 River Park Drive Suite 500
Sacramento, CA 95815
TELEPHONE NO.: 916-924-3901

Insert name of court and name of judicial district and branch court, if any.

TITLE OF CASE:
The People of the State of California vs. Flores, Paul and Ruben

NAME OF JUDGE: Judge Jennifer O'Keefe

MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST

FOR COURT USE ONLY

FILED

MAY 31 2022

CLERK OF THE SUPERIOR COURT
DEPUTY
K. Hansen

CASE NUMBER:
22CR003712 & 22CR003713

1. PORTION OF THE PROCEEDINGS TO BE COVERED *(e.g., particular witnesses at trial, the sentencing hearing, etc.)*.

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)*:

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

4. [ ] SPECIAL REQUESTS OR ANTICIPATED PROBLEMS *(specify)*:
   Judge Jennifer O'Keefe

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: May 31, 2022

Jensen Rader
(TYPE OR PRINT NAME)

(SIGNATURE)

Telephone No.: 916-835-3835

Director of Digital Content
(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-500

MEDIA AGENCY *(name)*:
CHANNEL/FREQUENCY NO.: NBC News, Dateline
PERSON SUBMITTING REQUEST *(name)*: Ann Preisman
ADDRESS:
100 Universal City Plaza, Universal City, CA 91608
TELEPHONE NO.:646-573-3796

Insert name of court and name of judicial district and branch court, if any:

TITLE OF CASE:
People v. Paul FLores. People v. Ruben Flores

NAME OF JUDGE:

MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST

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FILED

MAY 3 1 2022

CLERK OF THE SUPERIOR COURT
DEPUTY
K. Hanson

CASE NUMBER:
22cr003712 and 22cr003713

1. PORTION OF THE PROCEEDINGS TO BE COVERED *(e.g., particular witnesses at trial, the sentencing hearing, etc.)*:
   Trial, and possible sentencing.

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)*:
   when trial begins after jury selection (May 31)

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

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

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: May 19, 2022

Ann Preisman, NBC News, Dateline. 646-573-3796
(TYPE OR PRINT NAME)

(SIGNATURE)

Telephone No.:

Allison Orr
(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

rivacy, please press the Clear This Form button after y‹

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MC-500

MEDIA AGENCY *(name)*: Your Own Backyard Podcast
CHANNEL/FREQUENCY NO.: www.yourownbackyardpodcast.com
PERSON SUBMITTING REQUEST *(name)*: Christopher Lambert
ADDRESS: 1107 S. Miller Street
Santa Maria, CA 93454
TELEPHONE NO.: 805-925-8268

FOR COURT USE ONLY

FILED
MAY 31 2022
CLERK OF THE SUPERIOR COURT
DEPUTY
K. Hanson

Insert name of court and name of judicial district and branch court, if any
Superior Court of California
County of Monterey
240 Church St., Salinas, CA 93901

TITLE OF CASE: The People of the State of California vs. Flores, Paul Ruben
The People of the State of California vs. Flores, Ruben Ricardo

NAME OF JUDGE:

MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST

CASE NUMBER:
22CR003712, 22CR003713

1. PORTION OF THE PROCEEDINGS TO BE COVERED *(e.g., particular witnesses at trial, the sentencing hearing, etc.)*:
All proceedings

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)*:

3. TYPE OF COVERAGE
   a. ☐ TV camera and recorder
   b. ☐ Still camera
   c. ☐ Motion picture camera
   d. ☑ Audio (if applicable)
   e. ☑ Other *(specify)*: Website blog

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: 05/24/2022

CHRISTOPHER LAMBERT
(TYPE OR PRINT NAME)

(SIGNATURE)

Telephone No.: 805-925-8268

OWNER/PRODUCER
(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 convenience, you may type or print using the Clear Form function. Print or Save the form.

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MC-500

MEDIA AGENCY *(name)*: KSBY News
CHANNEL/FREQUENCY NO.: 6
PERSON SUBMITTING REQUEST *(name)*: Kathrene Herndon
ADDRESS:
1776 Calle Joaquin, San Luis Obispo, CA 93405
TELEPHONE NO.: 805-471-0152

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

TITLE OF CASE:
Peo vs Paul, Ruben Flores

NAME OF JUDGE: Jennifer O'Keefe

MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST

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MAY 31 2022

CLERK OF THE SUPERIOR COURT
DEPUTY
K. Hanson

CASE NUMBER:
22CR003712 and 22CR003713

1. PORTION OF THE PROCEEDINGS TO BE COVERED *(e.g., particular witnesses at trial, the sentencing hearing, etc.)*:
   Jury trial, current and future proceedings

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)*:

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: 5/18/2022

Kathrene Herndon
(TYPE OR PRINT NAME)

Kathrene Herndon
(SIGNATURE)

Telephone No.: 805-471-0152

Managing Editor, KSBY News
(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

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MC-510

MEDIA AGENCY *(name)*: KSBY News
CHANNEL/FREQUENCY NO.: 6
PERSON SUBMITTING REQUEST *(name)*: Kathrene Herndon
ADDRESS: 1772, Calle Joaquin, San Luis Obispo, CA 93405
TELEPHONE NO.: 805-471-0152

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MAY 31 2022

CLERK OF THE SUPERIOR COURT
DEPUTY
K. Henson

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

TITLE OF CASE:
Peo vs Paul, Ruben Flores

NAME OF JUDGE:
Jennifer O'Keefe

CASE NUMBER:
22CR003712 and 22CR003713

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

AGENCY MAKING REQUEST *(name)*: KSBY-TV

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)*:

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: 5/31/2022

Jennifer O'Keefe
JUDGE

(See reverse for additional information)

CASE NAME:	CASE NUMBER:
Peo vs Paul, 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)

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.

MC-510

MEDIA AGENCY *(name)*: Your Own Backyard Podcast
CHANNEL/FREQUENCY NO.: www.yourownbackyardpodcast.com
PERSON SUBMITTING REQUEST *(name)*: Christopher Lambert
ADDRESS: 1107 S. Miller St.
Santa Maria, CA 93454
TELEPHONE NO 805-925-8268

FOR COURT USE ONLY

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MAY 3 1 2022

CLERK OF THE SUPERIOR COURT
DEPUTY

Insert name of court and name of judicial district and branch court, if any: Superior Court of California
County of Monterey
240 Church St., Salinas, CA 93901

TITLE OF CASE: The People of the State of California vs. Flores, Paul Ruben
The People of the State of California vs. Flores, Ruben Ricardo

NAME OF JUDGE: Hon. Jennifer O'Keefe

CASE NUMBER: 22CR003712, 22CR003713

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

AGENCY MAKING REQUEST *(name)*: Your Own Backyard Podcast

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)*:

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: 5/31/2022

Jennifer O'Keefe
JUDGE

(See reverse for additional information)

Form Adopted for Mandatory Use
Judicial Council of California
MC-510 [Rev January 1, 2007]

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

Cal. Rules of Court rule 1.150
www.courtinfo.ca.gov

CASE NAME:	CASE NUMBER:
The People of the State of California vs. Flores, Paul Ruben The People of the State of California vs. Flores, Ruben Ricardo	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.

MC-510

MEDIA AGENCY *(name)*: NBC News, Datelin e
CHANNEL/FREQUENCY NO.: National — NBC
PERSON SUBMITTING REQUEST *(name)*: Ann Preisman, producer
ADDRESS: 100 Universal CIty Plaza, Universal City, CA 91608
TELEPHONE NO.: 646-573-3796

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

TITLE OF CASE:
People v Paul FLores; People v. Ruben FLores

NAME OF JUDGE:
Hon. Jennifer O'Keefe

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

To keep other people from seeing what you entered on your form, please press the Clear This Form button at the end of the form when

FILED

MAY 3 1 2022

CLERK OF THE SUPERIOR COURT
DEPUTY
L. Hanson

CASE NUMBER:
22CR003712 and 22CR003713

AGENCY MAKING REQUEST *(name)*: NBC News, Dateline

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.
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      (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)*:

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: 5/31/2022

Jennifer O'Keefe
JUDGE

(See reverse for additional information)

CASE NAME:	CASE NUMBER:
—	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)

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.

For your protection and privacy, please Save This Form Print This Form Clear This Form

MC-510

MEDIA AGENCY *(name)*: iHeartMedia
CHANNEL/FREQUENCY NO.: KFBK 1530AM & 93.1FM
PERSON SUBMITTING REQUEST *(name)*: Jensen Rader
ADDRESS:
TELEPHONE NO: 916-924-3901
(Insert name of court and name of judicial district and branch court, if any)

FOR COURT USE ONLY

FILED

MAY 31 2022

CLERK OF THE SUPERIOR COURT
DEPUTY
K. Hanson

TITLE OF CASE:
The People of the State of CA vs. Flores, Paul Ruben
NAME OF JUDGE:
Judge Jennifer O'Keeffe
CASE NUMBER
22CR003712
22CR003713

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

AGENCY MAKING REQUEST *(name)*: KFBK News Radio

1. a. ☐ No hearing was held.
   b. ☒ Date of hearing: 7/6/22 Time: 9AM Dept./Div.: Criminal Room: 219/320
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)*:

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: 5/31/2022

Jennifer O'Keeffe
JUDGE

(See reverse for additional information)

CASE NAME:
The People of the State of CA vs. Flores, Paul & Ruben

CASE NUMBER:
22CR003713
22CR003712

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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MC-510

MEDIA AGENCY *(name)*: The San Luis Obispo Tribune
CHANNEL/FREQUENCY NO.: Newspaper
PERSON SUBMITTING REQUEST *(name)*: Chloe Jones
ADDRESS: 122 Castaic Ave, Pismo Beach, CA 93449
TELEPHONE NO.: 480-235-3935

FOR COURT USE ONLY

FILED

MAY 31 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

TITLE OF CASE:
The People of the State of California vs. Flores, Paul Ruben

NAME OF JUDGE:
Jennifer Jean O'Keefe

CASE NUMBER
22CR003712

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.
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      (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)*:

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: 5/31/2022

Jennifer O'Keefe
JUDGE

(See reverse for additional information)

CASE NAME:	CASE NUMBER
The People of the State of California vs. Flores, Paul Ruben	22CR003712

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
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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
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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)

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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)

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2. No more than one still photographer
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5. No moving equipment when the court is in session
6. No distracting sounds or lights
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9. No media agency insignia or marking on equipment or clothing

SANCTIONS FOR VIOLATING THIS ORDER (Rule 1.150)

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MEDIA AGENCY *(name)*
CHANNEL FREQUENCY NO.
PERSON SUBMITTING REQUEST *(name)*

TITLE OF CASE

NAME OF JUDGE

MC-510

FILED

MAY 31 2022

CLERK OF THE SUPERIOR COURT
DEPUTY

CASE NUMBER

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
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(8) ☐ Other *(specify)*:

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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 5/31/2022

Jennifer O'Keefe

Hon. Jennifer J. O'Keefe

(See reverse for additional information)

CASE NAME

MC-510

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
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13 Scope of the coverage and whether partial coverage might unfairly influence or distract the jury
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16 Undue administrative or financial burden to the court or participants
17 Interference with neighboring courtrooms
18 Maintaining orderly conduct of the proceeding
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6 A proceeding closed to the public
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SANCTIONS FOR VIOLATING THIS ORDER (Rule 1.150)

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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

Name of court and name of judicial district and branch court, if any
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

FOR COURT USE ONLY

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 05/31/2022
By Deputy: Inofuentes, Maria

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)

Telephone No 805-882-3930

(SIGNATURE)

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

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY	
The People of the State of California, Plaintiff vs. **Paul Ruben Flores,** Defendant	**Out of Court Entries by Clerk** Clerk: **Maria Gonzalez** Date: 6/1/2022 Time:
	Case No. 22CR003712

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.

//

SANGER SWYSEN & DUNKLE
Robert M. Sanger, SBN 058214
Sarah S. Sanger, SBN 322722
222 E. Carrillo Street, Suite 300
Santa Barbara, CA 93101
Tel.: (805) 962-4887
Fax: (805) 963-7311
Email: RMSteam@sangerswysen.com

Attorneys for Defendant
Paul Ruben Flores

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/1/2022 3:47 PM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES,

Defendant.

Case No. 22CR003712

EX PARTE APPLICATION TO FILE DEFENDANT PAUL FLORES' PRETRIAL MOTIONS UNDER SEAL

Hon. Jennifer J. O'Keefe

TO THE CLERK OF THE ABOVE-ENTITLED COURT AND DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE:

PLEASE TAKE NOTICE that Defendant Paul Flores, by and through his attorneys Robert M. Sanger, Sarah S. Sanger and Sanger Swysen & Dunkle, hereby request that the Court permit Defendant to file under seal in accordance with California Rules of Court, rules 2.550 and 2.551, and to protect the Defendant's rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States

Constitution and article I, sections 7 and 15 of the California Constitution, the following documents:

1. Supplemental Report in Support of Motion to Exclude Dog Testimony;
2. Notice of Motion and Motion to Exclude Evidence Related to 710 White Court Inspection, Investigation and Soils Analysis.

This application is made on the grounds that the Court already made a finding as to necessity of a sealing order after granting the protective order on April 15, 2021, and that sealing is necessary to protect the Defendant's right to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution.

This application is based on the attached memorandum of points and authorities, all the papers and records on file in this action and on such further oral and documentary evidence that may be presented at a hearing of this application.

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

DECLARATION OF ROBERT M. SANGER

I, Robert M. Sanger, hereby declare:

1. I am an attorney at law, duly licensed to practice in the State of California, and I am the attorney of record for the Defendant herein, Paul Ruben Flores.
2. We are concurrently filing the following documents conditionally under seal:
    1. Supplemental Report in Support of Motion to Exclude Dog Testimony;
    2. Notice of Motion and Motion to Exclude Evidence Related to 710 White Court Inspection, Investigation and Soils Analysis.
3. These filings contain information relating to discovery, recently executed search warrants and to evidence that may be excluded at trial. There is a substantial probability that Mr. Flores' rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution, would be prejudiced if the above-referenced documents are not sealed. Sealing is also necessary to comply with the protective order on April 15, 2021.
4. I am respectfully requesting that the following documents be filed under seal to protect Mr. Flores' constitutional rights:
    1. Supplemental Report in Support of Motion to Exclude Dog Testimony;
    2. Notice of Motion and Motion to Exclude Evidence Related to 710 White Court Inspection, Investigation and Soils Analysis.

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I declare under penalty of perjury that the foregoing is true and correct and that this was executed on June 1, 2022, in Santa Barbara County, California.

Robert M. Sanger

MEMORANDUM OF POINTS AND AUTHORITIES

ARGUMENT

I. FILING THE SUPPLEMENTAL MOTION TO EXCLUDE DOG TESTIMONY AND MOTION TO EXCLUDE EVIDENCE RELATED TO 710 WHITE COURT INSPECTION, INVESTIGATION AND SOILS ANALYSIS IS NECESSARY TO PREVENT CONFIDENTIAL INFORMATION FROM BEING DIVULGED TO THE PUBLIC

Pursuant to California Rule of Court 2.550(d), the Court has the authority to order a record be filed under seal if it expressly finds that: (1.) There exists an overriding interest that overcomes the right of public access to the record; (2.) The overriding interest supports sealing the record; (3.) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed; (4.) The proposed sealing is narrowly tailored; and (5.) No less restrictive means exist to achieve the overriding interest. (California Rule of Court 2.550(d).)

In this case, the Supplemental Motion to Exclude Dog Testimony and Notice of Motion and Motion to Exclude Evidence Related to 710 White Court Inspection, Investigation and Soils Analysis includes information relating to discovery, recently executed search warrants and to evidence that may be excluded at trial, if made public, would prejudice Mr. Flores' rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution. Sealing is also necessary to comply with the protective order on April 15, 2021. Therefore, we respectfully submit that it is necessary to file the following documents under seal to protect Mr. Flores' rights to due process, a fair trial and impartial jury and that this overriding interest satisfies the requirements of Rule of Court 2.550(d):

1. Supplemental Report in Support of Motion to Exclude Dog Testimony;
2. Notice of Motion and Motion to Exclude Evidence Related to 710 White Court Inspection, Investigation and Soils Analysis.

CONCLUSION

For the above-state reasons, the Court should grant this application.

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

PROOF OF SERVICE

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 222 E. Carrillo St., Ste. 300, Santa Barbara, California, 93101.

On June 1, 2022, I served the foregoing document entitled: **EX PARTE APPLICATION TO FILE DEFENDANT PAUL FLORES' PRETRIAL MOTIONS UNDER SEAL** on the interested parties in this action by depositing a true copy thereof as follows:

SEE ATTACHED SERVICE LIST

_X_ **BY ELECTRONIC TRANSMISSION** -I caused the above-referenced document(s) to be transmitted via electronic transmission to the interested parties at the email addresses referenced in the attached service list.

____ **BY U.S. MAIL** - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.

____ **BY HAND** - I caused the document to be hand delivered to the interested parties at the address referenced on the attached service list.

_X_ **STATE** - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

____ **FEDERAL** - I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed June 1, 2022, at Santa Barbara, California.

Jake Swanson
Jake Swanson

SERVICE LIST

Christopher Peuvrelle
Deputy District Attorney
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Attorneys for Defendant
Paul Ruben Flores

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES,

Defendant.

Case No. 22CR003712

CONDITIONALLY UNDER SEAL

SUPPLEMENTAL REPORT IN SUPPORT OF MOTION TO EXCLUDE DOG TESTIMONY

[Subject to application to file under seal]

Date: June 6, 2022
Time: 8:30 a.m.
Dept.: 4

Hon. Jennifer J. O'Keefe

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In the motion filed to exclude dog testimony, reference was made to a potential expert witness. Said witness is Dr. James Ha. A copy of his report and a copy of his curriculum vitae is attached hereto as Exhibit A. The defense is requesting permission to allow his testimony at the motion to be presented by Zoom. The witness is currently residing in Florida.

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

EXHIBIT A

ANIMAL BEHAVIOR ASSOCIATES of WASHINGTON LLC

James C. Ha, PhD
Certified Applied Animal Behaviorist
425-210-1227 • jamescraigha@gmail.com

Expert Opinion of:
James C. Ha, PhD, CAAB

In the case of:
Flores

Background as an expert:

My educational background includes a Bachelor's degree in Biology from Millersville University (1980), a Master's degree in Biology from Wake Forest University (1983), a Ph.D. in Zoology, with a specialization in animal behavior, from Colorado State University (1989), and professional credentialing as a Certified Applied Animal Behaviorist (CAAB), the highest level of certification in applied behavior that is available. At the University of Washington since 1990, I am currently an Emeritus Research Professor in Psychology (Animal Behavior Program) where I continue to teach and conduct research in complex social behavior and cognition of several animal species, including dogs.

During my graduate training in the 1980's, I interned with Dr. Philip Lehner (Colorado State University) and was active in his early behavior consulting business in Colorado, Animal Behavior Associates of Colorado. I started my own consulting business in companion animal behavior in 1999, Animal Behavior Associates of Washington, LLC, and I currently practice through Adaptive Animals, LLC with Dr. Robin Foster, CAAB.

I have participated in a number of legal cases as an expert witness, both consulting and testifying, involving both dog bites (civil cases) and dog tracking behavior (criminal cases). I have been qualified as an expert in animal behavior as it relates to dog tracking nine times in criminal cases, and I have been qualified as an expert in animal behavior in civil cases over twenty times. Additionally, I have performed in-home evaluations and treatments on behavior issues (80% aggression) in dogs, cats and parrots (averaging 45 cases/year) and I advise on additional cases seen by my colleagues. I am also a consultant to several major pet food companies, several shelter organizations, and the Center for Animal Welfare Science at Purdue University. I served as a member of the Animal Behavior Society's Executive Committee for many years.

Finally, I have specialized in the study of the capabilities of scent-tracking dogs, including search-and-rescue, K9 detection and tracking of people and drugs, and cadaver location. I have reviewed all of

the standard texts in this field,[1] relevant peer-reviewed scientific literature, the Scientific Working Group on Dog and Orthogonal Detector Guidelines ("SWGDOG"),[2] and having consulted extensively with other experts in this field.

Opinion:

I have reviewed the materials provided to me by attorney Robert Sanger. These materials were provided electronically and file names are listed in Appendix 1. I have specifically focused my attention on the information provided in these documents about the training and use of the numerous detection dogs used on this case, as well as the actions of the handlers, and the facts of the incident as it occurred. I have formed my opinions with this information in mind.

It is my opinion, on a more-probable-than-not basis and as an expert in the field of dog behavior and a Certified Applied Animal Behaviorist, that there are a number of issues in the use of any "evidence" provided by the actions of the cadaver dogs used in this case. As a foundational matter, **while dog-tracking evidence can be used to corroborate other existing crime scene evidence, it should not, as here, be used as primary evidence in a criminal case**. Dogs are animals, and all animals behave in a stochastic or variable manner. Of course, with training and personality, we can make some predictions about the probable cause of a behavior, like a trained response to a stimulus, but in no case can we have a probability much higher than 60-80% that the response is, indeed, correct. The very definition of training is that we increase the accuracy of a response in an animal to beyond a more-likely-than-not basis, but we never reach beyond 80% accuracy.

In cadaver retrieval work, the principle is that the dog, with its olfactory senses much stronger than ours, can detect organic (animal) tissue as it decomposes over a very long period of time (thousands of years in some very-special soil conditions). But the error rate is high (20-40%). The principle is that if **the dog DOES find a body, a tissue, a blood deposit, then this provides physical evidence in a case**. This is described as a True Positive result: the dog provided an indication, and physical evidence (organic tissue, however trace) was found. If there is NO organic material present, and the dog does NOT indicate that there is, this is also a correct or True Negative result. These dogs can provide the correct response, a True Positive or True Negative, about 60-80% of the time.

The problem with dog behavior (trained responses) as legal evidence is the rate of errors: 20-40% of the time, these dogs will "mark" or indicate a positive presence of organic material when there is no such material present. This is a False Positive. Likewise, contributing to the 20-40 error rate, are the occasions when the dog FAILS to find the presence of existing materials: this would be a False Negative.

In the Flores case, there are multiple occurrences of False Positives, and no True Positives. That is,

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[1] *See, e.g.*, Serpell, J. 2016. The Domestic Dog, 2nd ed.

[2] SWGDOG consists of federal, state, local, and international law enforcement agencies, universities, private vendors, and first responders. *See* FAQs, SWGDOG, https://swgdog.fiu.edu/about-us/faqs/ (last visited May 13, 2018). It has set forth guidelines for certifying organizations to use when testing the abilities of specific tracking dogs. *See* Approved Guidelines, SWGDOG, https://swgdog.fiu.edu/approved-guidelines/ (last visited May 13, 2018).

there have been indications by the cadaver dogs but no organic materials (even trace using chemical means) have been found. The prosecution suggests that the positive indications by these dogs indicate that a cadaver was present at some time, but given that no organic trace can be found, there is no organic material present to provide a scent. **These cadaver dogs can only detect organic materials that are present at the time of the detection. If there is organic material present for the dog to detect, then they would be detectable to any forensic lab's examination.** If the forensic experts cannot find anything, the dog committed a False Positive, not a highly unusual event.

It is quite common in the field of cadaver dog training, for instance, that the dog may mark or indicate (provide its trained response to "cadaver" material) in response to an old animal bone, bacon grease, or a discarded sandwich, materials which would not be considered human remains and therefore positive evidence in this case. The dog could mark or indicate on a bloody bandaid or tissue, again not positive evidence of human forensic remains. In appropriate cadaver dog use, the positive canine responses which did not result in the ensuing discovery of forensically-important remains would be ignored as False Positives, not assumed to be forensically important evidence themselves. The chance of error on the part of the canine is simply too high.

The concept of Residual Odor has been raised. According to cadaver dog trainers, the presence of a cadaver, however briefly, in a location leaves behind a residual odor, detectable by their dogs, for periods as long as months or even years. This is not true. Cadaver dogs can only detect the odors, called Volatile Organic Compounds (VOCs), given off by decomposing organic material. The material must be present to generate the compounds. These compounds are organic and breakdown rapidly in the environment, within 48 hours. So, beyond 48 hours, if a dog provides a detection, then there must be an organic source of VOCs, one that would be detectable to any competent forensic laboratory. The only other alternative is that the dog made a mistake, or marked on not-forensically-interesting biological materials, a not uncommon occurrence.

Residual Odor detection is not an established use for trained dogs by any behavioral or forensic experts. It is notably not recognized by the work of the Federal SWGDOG group.

The invaluable work of cadaver dogs is to locate organic physical evidence in places that humans would not find it: over large search areas, or buried in the ground. But their behavior itself is not accurate evidence; their behavior only assists us in finding physical evidence. The odds of errors, whether False Positives or False Negatives, are far too high.

In addition to this foundational concern with the evidence as presented in this case, other problems with the manner of tracking include:

1. Prior to searches by cadaver dogs, there are reports that the room in question was cleaned, and furniture was moved around, including possible movement of furniture into and out of the room. This will clearly further confuse the dogs and further decrease the accuracy of their results.
2. It is also reported that the dorm room was not forensically "clean"; that is, that a number of police officers had entered to the room prior to the canine searches. It is quite possible that any

positive feedback from the dogs were based on human material, like blood, tracked into the room from other scenes by the officers. This further reduces the accuracy of the detections; the likelihood that something that the dogs detected were actually related to the crime in question.

3. The results of these detections were further invalidated because the handler was provided with and/or sought out highly prejudicial information about the suspect before initiating the track. Receiving such information before a track violates well-established protocol aimed at insulating the handler so as to prevent the handler from influencing the K9's behavior. Commonly referred to as the "Clever Hans" effect, after a century's-old demonstration of the ability of a handler to influence the behavior of an animal with whom s/he works closely, there is ample scientific documentation of the close co-evolution of the canine and human species, and the strong connection in body language, personal scent, emotional state, and communication that exists between a tracking dog and handler.[3] Because of this effect, extreme precautions must be taken to make sure that the handler is blind to any information about the track,[4] including *any* description of the suspect and potential avenues of movement by the suspect.[5] Without this care, the knowledge held by the handler can, subtly and unconsciously, influence the track of the K9.[6]
4. Finally, in cadaver tracking work, there is always a very high rate of True and False Positives (indications by the dog of a "cadaver" or organic material) for the simple reason that these dogs are trained to locate the VOC chemicals given off by decomposing mammalian tissue (primarily the fatty tissue). So, these dogs may often "indicate" on any decomposing mammalian tissue, like dead squirrels or deer, or even buried pets, like cats and guinea pigs. These dogs are often trained on animal rather than human tissue, like pigs. Again, in the search for physical evidence in a forensic case, the fact that the dog locates the remains of a dead squirrel is of little cost to the case; the searchers move on in the hopes that the next "mark" by the dog is the human evidence for which they are searching and which may provide valuable information in the case, and even emotional confirmation and closure for relatives and friends. But that positive indication, if it is not followed by the location of physical remains, should not be considered as evidence in any way.

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[3] See Lit, L., Schweitzer, et. al. 2011, Handler beliefs affect scent detection dog outcomes, Anim. Cognition 14: 387; see also Gergely, Anna et al. 2014, Dogs are able to generalize directional acoustic signals to different contexts and tasks. Applied Animal Behaviour Science 156:54-61; Miklosi, Adam et al. 1997, Experimenter-given cues: "Clever-Hans effect" or "mental state attribution?" Advances in Ethology: 32: 94.

[4] John Ensminger, *Canine Tracking and Scent Identification: Factoring Science into the Threshold for Admissibility*, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1666490 (Working Paper) (October 25, 2010) ("A particular problem in scent identification, which may occur in tracking or in a lineup, concerns the handler cueing the dog to identify a suspect or a scent as that of the perpetrator. This phenomenon can be unconscious and is sometimes called the "clever Hans" effect . . . .").

[5] *See e.g.* Resi Gerritsen and Ruud Haak. 2016, K9 *Investigation Errors: A Manual for Avoiding Mistakes*, Dog Training Press.

[6] *See* Adam Miklosi et al. (2005), *Detection of temporal patterns in dog-human interactions*, Behavioural Processes Vol. 70, Issue 1. (In an experiment where handlers were to follow trails with dogs scented to car bomb fragments, two dogs alerted to decoys. Reviews of videotapes convinced researchers that this was due to handler error in that the handlers had cued the dogs to alert to the wrong person. Reading the research description, the handlers were certainly not supposed to cue the dogs, and presumably did so unconsciously. If this can happen in a controlled research environment, where handlers know they are being videotaped, the ease with which such cueing can happen indicates how risky field identifications can be).

Therefore it is my opinion that the detections and indications by the cadaver dogs used in this case are invalid and unreliable. The lack of a scientific basis for "residual odor" detection as well as violation of accepted protocols in numerous ways (cleaning the room and moving furniture, entry of police prior to search, the "Clever Hans" prejudicial impact on the handler from detailed descriptive information about the situation; and the total lack of ability monitoring and certification provided about these canines) invalidates any conclusions that might be drawn from this information.

The above-stated expert opinions are made with at least reasonable scientific certainty and evidentiary preponderance. I declare under penalty of perjury that the foregoing is true and correct to the best of my recollection.

James C Ha, PhD, CAAB

1 June 2022 (Signed at Key Colony Beach, FL)
Date

APPENDIX 1

- 08.11.21.FLORES.MORRIS_full_CERTIFIED TRANSCRIPT (blue).pdf
- 21 04 15.Protective Order (2).pdf
- 000458-459 - Interview report of Andy Redman.pdf
- 000471-472 - SLOSO Report re Search of Branch St..pdf
- 000549 - SLOSO Crawford Report re 1-7-99 search.pdf
- 000549 - SLOSO Report re Search of Cal Poly.pdf
- 000611 - Crawford Report.pdf
- 000875-879 - Kenny Report.pdf
- 000885-888 - West Report.pdf
- 000901-904 - Kenny Report.pdf
- 000907-908 - Kenny Report.pdf
- 001459-1463 - Paul Report.pdf
- 001459-1464 - SLOSO Report re Search of Branch St..pdf
- 001465-1467 - SLOSO Report re Serach of Huasna.pdf
- 001482-1484 - SLOSO Report re Branch Street.pdf
- 001574-1576 - Report re Search of Cal Poly.pdf
- 001599-1601 - Paul Report.pdf
- 001599-1601 - SLOSO Report re Search at Cal Poly.pdf
- 001801-1803 - Cole Report.pdf
- 001801-1803 - SLOSO Nicholson re Cadaver Dog Search 2020.pdf
- 001801-1803 - SLOSO Reprot re 2019 Search.pdf
- 001881-1904 - Smith Report.pdf
- 002171 - SLOSO Cole Report re 1996 cadaver dogs.pdf
- 002171-2175 - SLOSO Rport re Canine Handler Information from 1996.pdf

- 006495-6497 - Adela Morris Report - 6-29-96.pdf
- 006498-6501 - Gail La Roque Report. 6-29-96.pdf
- 006502-6504 - Gail La Roque CV.pdf
- 009567-9573 - Adela Morris Letter and Report.pdf
- 012508-12510 - Gail La Roque CV.pdf
- 012511-12514 - Karen Atkinson CV.pdf
- 012515-12521 - Kristin Black CV.pdf
- 013773-13776 - Cal Poly PD 7.1.96 Report.pdf
- 013808-13812 - Wayne Behrens Resume.pdf
- 014759-14762 - Adela Morris CV.pdf
- 016531-16580 - Cadaver Dog Cholla Event Log by Adela Morris.pdf
- 016581-16612 - Cadaver Dog Cirque Event Log by Adela Morris.pdf
- 016613-16614 - Cadaver Dog Cholla and Cirque Canine Accomplishments.pdf
- 017311 - Cadaver Dog Amiga Certifications.pdf
- 018454-18457 - Cal Poly PD Suplemental Report.pdf
- 022281-22285 - Email from Gail La Roque and Photos of Torrey.pdf
- 027597-27599 - Human Remains Evidence Detection Case Report.pdf
- 047833-47838 - Karen Atkinson Report and CV.pdf
- 048109-48127 - Adela Morris Publications.pdf
- 049808-49810 - BATES PKT 118_49808-49810_GAIL LA R...V SAR AFFILIATIONS ACCOMPLISHMENTS
- 56112 - Interview of Dr. Mary Cablk.pdf
- FBI 2.pdf
- FBI 3.pdf
- FBI 3.pdf
- FBI.pdf
- Volume 1 (Morris) - FLORES.VOL-1.MORRIS.-081021.21F-02402_full_CERTIFIED TRANSCRIPT (blue).pdf

JAMES C. HA
EMERITUS RESEARCH PROFESSOR,
UNIVERSITY OF WASHINGTON &
CERTIFIED APPLIED ANIMAL BEHAVIORIST

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Education

1980 B.A. Biology cum laude, Millersville University, Millersville, PA.
1983 M.A. Biology, Wake Forest University, Winston-Salem, NC.
Thesis title: Food Supply And Home Range In The Fox Squirrel (Sciurus niger).
1989 Ph.D. Zoology (Behavioral Ecology), Colorado State University, Fort Collins, CO.
Dissertation title: The Effects Of Time And Metabolic Requirement On Foraging Behavior Of Captive Gray Jays.

Professional Experience

1982-1983 Research assistant, Wake Forest University.
1983-1988 Teaching assistant, Department of Zoology/Biology, Colorado State University. Courses taught: Mammalogy, Vertebrate Biology.
Spring 1986 Instructor for Vertebrate Biology, Zoology Department, Colorado State University.
1988-1989 Instructor for Principles of Animal Biology (freshman majors/non-majors lab course), Biology Department, Colorado State University
1989-1990 Temporary Assistant Professor for Principles of Animal Biology (all semesters), Vertebrate Biology (fall), and Graduate Seminar in Behavior: Evolution of Social Systems and Behavior (spring), Biology Department, Colorado State University.
1990-1992 Research Scientist III, University of Washington Regional Primate Research Center.
1991-1992 Lecturer, Psychology Department, University of Washington, Seattle.
1992-1999 Research Assistant Professor, Department of Psychology and Washington National Primate Research Center, University of Washington.

- 1993-present Research Affiliate, Child Development and Mental Retardation Center, University of Washington.

1996, 1998 Visiting Scientist, Population Genetics Laboratory, Southwest Foundation for Biomedical Research, San Antonio TX.
1999-2013 Research Associate Professor, Department of Psychology and Washington National Primate Research Center, University of Washington.
2001-2010 Data Management Administrator, Infant Primate Research Laboratory, University of Washington.

- 2004-present Credentialed as a Certified Applied Animal Behaviorist by the Animal Behavior Society (www.animalbehavior.org)

2006-2010 PI/Director of the Colony Demographics and Genetics Program, Washington National Primate Research Center
2010-2014 PI/Director of Breeding Colony Management Division, Washington National Primate Research Center
2013-2015 Research Full Professor, Department of Psychology, University of Washington.

- 2014-present Honorary Research Associate, School of Graduate Studies, University of New Brunswick, Canada.
- 2015-present Research Professor Emeritus; Department of Psychology, University of Washington.

Research Grants

1979 Research grant from Millersville University Alumni Foundation's Niemeyer Student Research Fund.

1980 Grant for travel expenses from Millersville University Alumni Foundation's Niemeyer Student Research Fund.

1984 Research grant: Harris and Eliza Kempner Foundation (with S.D. Farley) for "Risk-sensitive foraging by gray jays in a closed economy."

1987 Colorado Mountain Club Foundation Research Fellowship for "Foraging behavior in free-ranging gray jays."

1992 Active contributor to budget, drafting, submission, and review process for 5-year Regional Primate Research Center Core Grants, including development of new programs in both Basic and Colony Health-Related Research categories. My unit provided 65% of my salary, and supported primate-based research activities.

1997, 1998 Supervised grant-writing and award process for graduate student grants awarded to Renee Robinette from the Animal Behavior Society Research Grants Program and Sigma Xi.

1997 Active contributor to budget, drafting, submission, and review process for successful 5-year Regional Primate Research Center Core Grants, including development of new programs in both Basic and Colony Health-Related Research categories. Budgets for these new programs under my supervision supported 65% of my salary and supported my primate-based research activities.

2002 Active contributor to budget, drafting, submission, and review process for successful 5-year Regional Primate Research Center Core Grants, including development of new programs in both Basic and Colony Health-Related Research categories. Budgets for these new programs under my supervision supported 65% of my salary and supported my primate-based research activities.

2003 Active contributor to budget, drafting, submission, and review process for successful 5-year Center for Human Development and Disability Core Grant.

2003 Contract from Northwest Fisheries Research Center, NMFS: Proposal to the National Marine Fisheries Service, Northwest Fisheries Research Center: Social Behavior and Affiliation Patterns in Southern Resident Orca (Orcinus orca), $35,000.

2004 Co-PI, with Dr. Linda Jones (Northwest Fisheries Research Center, NOAA), Proposal to the National Marine Fisheries Service, Northwest Fisheries Research Center: Social Behavior and Affiliation Patterns in Southern Resident Orca (Orcinus orca): Year 2, $45,000.

2005 Co-PI, with Dr. Linda Jones (Northwest Fisheries Research Center, NOAA), Proposal to the National Marine Fisheries Service, Northwest Fisheries Research Center: Social Behavior and Affiliation Patterns in Southern Resident Orca (Orcinus orca): Year 3, $50,000.

2005-present Co-Principal Investigator. USFWS Contracts Awarded through Department of Lands and Natural Resources, Mariana Islands 2005-2019 – Study Endangered Avian Species on N. Mariana Islands ($3,910,581)

2006 Co-PI, USFWS Supplemental Awarded – An updated census of the current Mariana crow pairs on the island of Rota ($32,000)

2007 Active contributor to budget, drafting, submission, and review process for successful 5-year National Primate Research Center Core Grants, including development of new unit and sub-proposal for Breeding Colony Management Services.

2007 Subunit PI, Washington National Primate Research Center P51 Base Grant, Breeding Colony Management Services ($117,000)

2008 Subunit PI, Washington National Primate Research Center P51 Base Grant, Breeding Colony Management Services ($121,375)

2009 Subunit PI, Washington National Primate Research Center P51 Base Grant, Breeding Colony Management Services ($125,016)

2009 Co-PI, USFWS Supplemental Awarded – Radiotracking the Mariana crow on the island of Rota ($89,200)

2010 Subunit PI, Washington National Primate Research Center P51 Base Grant, Breeding Colony Management Services ($128,767)

2010-2012, NOAA Western Regional Office, Contract to Develop a Multivariate Permit Approval Process for Southern Resident Killer Whale Harrassment and Take ($5,000).

2011 Subunit PI, Washington National Primate Research Center P51 Base Grant, Breeding Colony Management Services ($132,630)

2011 Co-PI, USFWS Supplemental Awarded – Rehabilitation of Injured Birds and Control of predators on Rota ($119,600).

2011 Co-PI, USFWS Supplemental Awarded – Public Perception Survey of Native Peoples on Rota, Northern Mariana Islands ($36,800).

2012 Active contributor to budget, drafting, submission, and review process for successful 5-year National Primate Research Center Core Grants, including sub-proposal with expanded funding for Breeding Colony Management Services, and development of new Animal Training Program.

2012 Subunit PI, Washington National Primate Research Center P51 Base Grant, Breeding Colony Management Services ($516,940)

2012-2014 Pilot Grant from WaNPRC Director's Office for: Monitoring of Temperament, Social Aggression, Stress Physiology, and Reproductive Outcomes in Pair- and Group-housed Pigtailed Macaques (Macaca nemestrina) ($65,000).

2012 PI, Dolphin Research Center (private foundation) grant for Wild Dolphin Ecology Project (Year 1) ($65,000)

2014 PI, ASPCA grant for Animal Behavior Society workshop, "One Health Symposium"

International Activities

Ha, J.C., B. Dyke, and G.P. Sackett. Heritability of behavioral milestones in infant pigtailed macaque monkeys. Annual meeting of the Behavior Genetics Association, Vancouver Canada, July 4-7, 1999.

Sackett, G.P. and J.C. Ha. 1996. Multiple spell survival analysis as a method for studying low rate behaviors over sessions. International Conference on Measuring Behavior, Netherlands, October 14-18, 1996.

The Social Behavior of Highly Cognitive Animals: Examples from Crows, Monkeys, and Orca Whales. Invited seminar, Behavioral Ecology Institute, National University of Mexico, Mexico City Mexico, 14 December 2002.

Social Behavior of Resident Inshore Killer Whales in the Pacific Northwest: Natural and Human Influences, Invited seminar, St. Andrews University, Scotland. 1 September, 2005.

Basic and Applied Behavior: Social Foraging and Conservation of Crows, Invited seminar, St. Andrews University, Scotland. 1 September, 2005.

Editor, International journal: Animal Behaviour, 2005-2008

Short Course. An Introduction to Basic Statistics. University of Brasilia, Brasilia, Brazil. April 14-19, 2008.

Short Course. An Introduction to Basic Statistics. Sao Paulo State University, Sao Jose do Rio Preto, Brazil. April 22-25, 2008.

Biologists In Need Of Mathematicians: A Few Examples of Mathematics in Animal Behavior, Invited seminar, Department of Computing and Statistics, Sao Paulo State University, Sao Jose do Rio Preto, Brazil. April 28, 2008.

Social Behavior of Resident Inshore Killer Whales in the Pacific Northwest: Natural and Human Influences, Invited seminar, Department of Biological Sciences, Sao Paulo State University, Sao Jose do Rio Preto, Brazil. April 28, 2008.

Fellowship as Visiting Scientist, Brazilian Research Council, 2008.

US delegate to International Council of Ethologists, 2008-2014.

Ha, J.C. 2010. The Social Behavior of Highly Cognitive Species: Examples from Primates, Crows, and Killer Whales. Keynote Lecture, North American Regional Meeting of the International Society for Applied Ethology, Washington State University, Pullman WA, May 27, 2010.

Ha, R.R., Faegre, S., and Ha, J.C. 2010. Rules of dispersal in the endangered Mariana crow (Corvus kubaryi) and potential effects on population size. International Society for Applied Ethology, Pullman WA, May 27-28, 2010.

Short Course. The Mis-Behavior of Dogs and Cats: An Introduction to Applied Animal Behavior. Universidade Federal de Alfenas, Alfenas, Brazil. November 12, 2010.

Social Behavior of Resident Inshore Killer Whales in the Pacific Northwest: Natural and Human Influences, Invited plenary seminar, XXVIII Annual Meeting of the Brazilian Society for Ethology and the II Latin-American Symposium of Ethology. Universidade Federal de Alfenas, Alfenas, Brazil. November 12-15, 2010.

Behavioral Genetics and the Evolution of the Domestic Dog: Implications for Social Behavior, Invited plenary seminar, 38th Annual Convention of Association for Behavior Analysis International. Seattle, Washington, USA. May 25-29, 2012.

Scientific Publications

Early Work

Zegers, D.A. and J.C. Ha. 1981. Niche separation of Peromyscus leucopus and Blarina brevicauda. J. Mammal. 62:199-201.

Ha, J.C., P.N. Lehner and S.D. Farley. 1990. Risk-prone foraging behavior in captive gray jays (Perisoreus canadensis). Anim. Behav. 39:91-96.

Weigl, P.D., L. Sherman-Jones, M.A. Steele, J.C. Ha and T. Sharpe. 1990. The ecology of the fox squirrel (Sciurus niger) in North Carolina: implications for survival in the southeast. Bull. Tall Timbers Res. Sta. 24:1-93.

Gray Jay Work

Ha, J.C. and P.N. Lehner. 1990. Notes on gray jay demographics in Colorado. Wilson Bull. 102:698-702.

Ha, J.C. 1991. Risk-sensitive foraging: the role of ambient temperature and foraging time. Anim. Behav. 41:528-529.

Luhring, K.A., J.C. Ha and P.N. Lehner. 1992. Gray jay (Perisoreus canadensis) agonistic displays. Northwestern Naturalist 73:22- 24.

Human and Nonhuman Primate Work

Kimpo, C., J. Ha, S. Sulzbacher, and H. Ochs. 1994. The analysis of incomplete longitudinal data sets. Clinical Research 42:107A.

Ha, J.C., C. Nosbisch, J.D. Unadkat, S.H. Conrad, G.C. Ruppenthal, G.P. Sackett, and J. Abkowitz. 1994. Fetal toxicity of zidovudine (azidothymidine) in Macaca nemestrina: preliminary observations. Journal of A.I.D.S. 7:154-157.

Kimpo, C., J. Ha, G. Sackett, and H. Ochs. 1994. Developmental effects of prenatal exposure to SIV and HIV virus in infant pig-tailed macaques (Macaca nemestrina) and HIV exposure in human subjects. J. Medical Primatology 23:256.

Robinette, R., J. Ha, C. Kimpo, and G. Sackett. 1995. Gross motor development in infant Macaca nemestrina using a new climbing apparatus. Amer. J. Primatology 35:319-326.

Conrad, S., J.C. Ha, C. Lohr, and G. Sackett. 1995. Ultrasonic assessment of fetal growth in the pigtailed macaque (Macaca nemestrina). Amer. J. Primatology 36:15-35.

Ha, J.C. 1996. Book review: Alpha Males: An Early History of the Regional Primate Research Centers, by W.R. Dukelow. Animal Behaviour 52:1059-1060.

Knapp, L.A., J.C. Ha, and G.P. Sackett. 1996. Parental MHC antigen sharing and pregnancy wastage in captive pigtailed macaques. J. Reproductive Immunology 32:73-88.

Ha, J.C., C.L. Kimpo and G.P. Sackett. 1997. Multiple-spell discrete-time survival analysis of developmental data: object concept in pigtailed macaques. Developmental Psychology 33:1054-1059.

Unis, A.S., M.D. Roberson, R. Robinette, J.C. Ha and D.M. Dorsa. 1998. Ontogeny of human forebrain dopamine receptors: I. Differential expression of [3H]-SCH23390 and [3H]-YM09151-2 specific binding. Developmental Brain Research 106:109-117.

Ha, J.C., C. Nosbisch, J.L. Abkowitz, S.H. Conrad, N.K. Mottet, G.C. Ruppenthal, R. Robinette, G.P. Sackett, and J.D. Unadkat. 1998. Fetal, infant, and maternal toxicity of zidovudine (azidothymidine)

administered throughout pregnancy in Macaca nemestrina. Journal of Acquired Immune Deficiency Syndrome and Human Retrovirology 18:27-38.
Heath-Lange, S., J.C. Ha and G.P. Sackett. 1999. Behavioral measurement of temperament in male nursery-raised infant macaques and baboons. American Journal of Primatology 47:43-50.
Ha, J.C., R.L. Robinette and G.P. Sackett. 1999. Social housing and pregnancy outcome in captive pigtailed macaques. American Journal of Primatology 47:153-163.
Ha, J.C., R.L. Robinette, and A. Davis. 2000. Survival and reproduction in the first two years following a large-scale primate colony move and social reorganization. American Journal of Primatology 50:131-138.
Nair, S., J.C. Ha and J. Rogers. 2000. Nineteen new microsatellite DNA polymorphisms in pigtailed macaques (Macaca nemestrina). Primates 41:343-350.
Ha, J.C., R.L. Robinette, and G.P. Sackett. 2000. A demographic analysis of the Washington Regional Primate Research Center pigtailed macaque colony, 1962-1997. American Journal of Primatology 52: 187-198.
Ha, J.C., R.L. Robinette, L. Almasy, and B. Dyke. 2002. Heritability of birthweight in pigtailed macaque monkeys. American Journal of Primatology 56:207-213.
Kanthaswamy, S., Capitanio, J. P., Dubay, C. J., Ferguson, B., Folks, T., Ha, J. C., Hotchkiss, C. E., Johnson, Z. P., Katze, M. G., Kean, L. S., Kubisch, H. Michael, Lank, S., Lyons, L. A., Miller, G. M., Nylander, J., O'Connor, D. H., Palermo, R. E., Smith, D. G., Vallender, E. J., Wiseman, R. W., Rogers, J. 2009. Resources for genetic management and genomics research on non-human primates at the National Primate Research Centers (NPRCs). J. Medical Primatology, 38:17-23.
Bentson, K.L., C.M. Crockett, K.C. Wahl, E.P. Runeson, R.U. Bellanca, G.H. Lee, J.P. Thom, H. Montgomery, M.H. Yi, J.G.S. McComas, and J.C. Ha. 2010. Floating limb activity and self-biting in laboratory monkeys vary by subject selection criteria. American Journal of Primatology, 72:725-733.
Ha, J. C., D. Mandell, and J. Gray. 2011. Black-white discrimination and Hamilton search learning in infant pigtailed macaque monkeys. Behavioural Processes, 86:1-6.
Stockinger, D.E., A.E. Torrence, R.R. Hukkanen., K.Vogel, C.Hotchkiss and J.C. Ha. 2011. Risk factors for dystocia in pigtailed macaques (Macaca nemestrina). Comparative Medicine, 61:170-175.
Sussman, A. and J.C. Ha. 2011. Developmental and cross-situational stability in infant pigtailed macaque temperament. Developmental Psychology, 47:781-791.
Alloway, H., J.C. Ha, and A. Sussman. 2011. The effect of aggression on reproductive outcome in pigtailed macaques (Macaca nemestrina). American Journal of Primatology, 73(11): 1169-1175.
Fong, D., J.C. Ha, and C. Hotchkiss. 2012. Effects of age and gender on thromboelastography in pigtail macaques (Macaca nemestrina) and reference intervals. Journal of the American Association for Laboratory Animal Science, 51(1): 94-100.
Kanthaswamy, S., J. Ng, M.C.T. Penedo, T. Ward, D.G. Smith and J.C. Ha. 2012. Population genetics of the Washington National Primate Research Center's (WaNPRC) captive pigtailed macaque (Macaca nemestrina) population. American Journal of Primatology, 74: 1017-1027.
Sussman, A., J.C. Ha, K. Bentson, and C. Crockett. 2013. Temperament in rhesus, longtailed and pigtailed macaques varies by species and sex. American Journal of Primatology 75:303-313.
Burbacher, T.M., K.S. Grant, J. Worlein, J. Ha, E. Curnow, S. Juul, G.P. Sackett. 2013. Four decades of leading-edge research in the reproductive and developmental sciences: the Infant Primate Research Laboratory at the University of Washington. American Journal of Primatology, 75 (11), 1063-1083.
Sussman, A.F., E.A. Mates, J.C. Ha, K.L. Bentson, C.M. Crockett. 2014. Tenure in current captive setting and age predict personality changes in adult pigtailed macaques. Animal Behaviour, 89: 23–30.
Ross, CT, JA Weisc, D Nolin, JS Trask, DG Smith, J Ng, B Ferguson, J Ha, M Kubisch, A Vinson, and S Kanthaswamy. 2014. An Empirical Comparison of Short Tandem Repeats (STRs) and Single Nucleotide Polymorphisms (SNPs) for Relatedness Estimation in Chinese Rhesus Macaques (*Macaca mulatta*). American Journal of Primatology 76(4): 313-324.

Crow and Mariana Islands Bird Work

Robinette, R.L. and J.C. Ha. 1997. The significance of fishing behavior by Northwestern crows. Wilson Bulletin 109:748-749.

Robinette, R.L. and J.C. Ha. 2000. Beach-foraging behavior of Northwestern crows as a function of tide height. Northwestern Naturalist 81:18-21.

Robinette, R.L. and J.C. Ha. 2001. Social and ecological factors influencing vigilance by Northwestern crows (Corvus caurinus). Animal Behaviour 62:447-452.

Robinette, R.L., P. Bentzen, J.L. Marsh and J.C. Ha. 2003. Kin discrimination in food stealing by Northwestern Crows (Corvus caurinus). Bird Behavior 15: 65-75.

Ha, R.R. and J.C. Ha. 2003. Effects of prey type, prey density and energy requirements on the use of alternative foraging tactics in crows. Animal Behaviour 66: 309-316.

Ha, J.C., A. Butler, and R.R. Ha. 2010. Age-specific survival and population viability of the Mariana Crow (Corvus kubaryi) on Rota, CNMI. Bird Conservation International, 20:335-342.

Ha, R.R, J. Morton, J.C. Ha, L. Berry, and S. Plentovich. 2011. Nest site selection and the consequences for reproductive success for the endangered Mariana crow (Corvus kubaryi). Wilson Journal of Ornithology, 123:236–242.

Ha, J.C., J. Buckley, and R.R. Ha. 2012. The potential for typhoon impact on bird populations on the island of Rota, Northern Mariana Islands. Micronesica, 43:214-224.

Zarones, L., M.R. Colon, J.C. Ha and R.R. Ha. 2013. Effects of foliage-invertebrate availability and forest structure on the abundance of the critically endangered Rota White-eye Zosterop rotensis in Rota, Mariana Islands. Bird Conservation International, doi:10.1017/S0959270912000470.

Mates, E., R. Tarter, J. Ha, A. Clark, K. McGowan. 2015. Acoustic profiling in a complexly social species, the American crow: caws encode information on caller sex, identity, and behavioral context. Bioacoustics 24(1):63-80.

Leo, B.T., Anderson, J.J., Ha, R.R., Phillips, R.B. 2016. Home Range Estimates of Feral Cats (*Felis catus*) on Rota Island and Determining Asymptotic Convergence. Pacific Science 70(3): pages 323-331.

Kremer, S., J.C. Ha, J.B. Cruz, V.A. Camacho, and P. Radley. 2018. Results of roadside bird surveys, Saipan, Commonwealth of the Northern Mariana Islands, 1991-2005. Pacific Science.

Leo, B.T., Anderson, J.J., Ha, J., Phillips, R.B., Ha, R.R. 2018. Modeling impacts of hunting on control of an insular feral cat population. Pacific Science, 72 (1), pages 58-68.

Faegre, S.K., Nietmann, L., Hubl, D., Ha, J.C., Ha, RR. 2018. Spatial ecology of the Mariana Crow: Implications for habitat-wide management. Bird Conservation International, pp. 1-15, doi:10.1017/S0959270918000394.

Faegre, S., Nietmann, L., Hannon, P., Ha, J.C., Ha, R.R. 2019. Age-related differences in diet and foraging behavior of the critically endangered Mariana Crow (*Corvus kubaryi*), with notes on the predation of *Coenobita* hermit crab predation. Journal of Ornithology, https://doi.org/10.1007/s10336-019-01705-3.

Applied Animal Behavior Work: Dog, Cat, Zoo

Sellinger, R.L. and J.C. Ha. 2005. The effects of visitor density and intensity on the behavior of two captive jaguars (Panthera onca). Journal of Applied Animal Welfare Science 8: 233-244.

Agness, A.M., J.F. Piatt, J.C. Ha, and G.R. VanBlaricom. 2007. Effects of vessel activity on the near shore ecology of the Kittlitz's murrelet (Brachyramphus brevirostris) in Glacier Bay, Alaska. Auk 125:346-353.

Hayward, L.S., J.C. Ha, and S.K. Wasser. 2011. Northern spotted owl glucocorticoid response to disturbance from motorcycles varies with life history variables and nutritional status. Ecosphere, 2(6):art65. doi:10.1890/ES10-00199.1.

Carvalho, T.B., J.C. Ha and E. Gonçalves-de-Freitas. 2012. Light intensity can trigger different agonistic responses in juveniles of three cichlid species. Marine and Freshwater Behaviour and Physiology, 45(2): 91-100.

Cottam, N., N.H. Dodman and J.C. Ha. 2013. The Effectiveness of the Anxiety Wrap® in the Treatment of Canine Thunderstorm Phobia: An Open-Label Trial. Journal of Veterinary Behavior, 8: 154-161.

Agness, A.M., K.N. Marshall, J.F. Piatt, J.C. Ha, and G.R. VanBlaricom. 2013. Energy cost of vessel disturbance to Kittlitz's Murrelets Brachyramphus brevirostris. Marine Ornithology 41:13-21

Frederick, C., K. Hunt, R. Kyes, D. Collins, B. Durrant, J. Ha and S.K. Wasser. 2013. Social influences on the estrous cycle of the captive sun bear (Helarctos malayanus). Zoo Biology 32:581-591.

Andrews, N. and J.C. Ha. 2014. The effects of automated scatter feeders on captive grizzly bear activity budgets. Journal of Applied Animal Behavior Science, DOI: 10.1080/10888705.2013.856767.

Lauren M. Robinson, Rebekah Skiver Thompson & James C. Ha. 2016. Puppy temperament assessments predict breed and American Kennel Club group but not adult temperament. Journal of Applied Animal Welfare Science, DOI: 10.1080/10888705.2015.1127765

Fritscher, S.J. and J. Ha. 2016. Declawing has no effect on biting behavior but does affect adoption outcomes for domestic cats in an animal shelter. Applied Animal Behavior Science 180:107-113.

Ha, D.S. and J.C. Ha. 2017. A subjective domestic cat (Felis silvestris catus) temperament assessment results in six independent dimensions. Behavioural Processes 141:351-356.

Publications Submitted

Publications in Revision

Andrews, N.L.P., E.J. Fernandez and J.C. Ha. An Enrichment Meta-Analysis: Reassessing Our Past to Plan for the Future. Submitted: Applied Animal Behavior Science.

Publications in Preparation: These are papers for which complete manuscripts are undergoing in-house editorial revision before submission. This list does not include data for which no manuscript has been prepared.

McCune, K. and J.C. Ha. Social complexity in the Gray Jay: evidence for the "third bird".

Sussman. A.F. and J.C. Ha. A home-cage temperament test predicts social behavior and network structure in infant pigtailed macaques

Hinde, K., J.C. Ha, and L. Newell-Morris. Spontaneous abortion as a reproductive strategy in captive macaques of compromised maternal condition.

Ha, S.J. and J.C. Ha. Geographic differences in call structure among Pacific Northwest crow populations.

Books and Book Chapters

Ha, J.C. 1996. Microcomputers: an overview for ethologists. In: Lehner, P.N. Handbook of Ethological Methods. Cambridge University Press, NY. 512 pp.

Ha, J.C. and A.E. Davis. 2006. Data management for the nonhuman primate nursery. Pp. 49-64. In: Sackett, G.P., G.C. Ruppenthal, and K. Elias. Nursery rearing of nonhuman primates in the 21st century. Developments in Primatology: Progress and Prospects, Springer, NY. 602 pp.

Worlein, J.M., J.C. Ha, C. Harris, J. Leigh, K. Stratton, and R.J.R. Ho. 2006. Special challenges of rearing infant macaques infected with lentivirus (SIV, HIV, SHIV). Pp. 169-190. In: Sackett, G.P., G.C. Ruppenthal, and K. Elias. Nursery rearing of nonhuman primates in the 21st century. Developments in Primatology: Progress and Prospects, Springer, NY. 602 pp.

Ha, J. 2010. Section Editor, Methodology. In M. Breed and J. Moore, Encyclopedia of Animal Behavior, Elsevier.

Ha, R.L. and J.C. Ha. 2011. Textbook: Integrative Statistics for the Behavioral and Social Sciences. Sage, Inc.

Ha, J.C. 2012. Animal Identification and Record Keeping: Current Practice and Use. In: Abee, C.R., K. Mansfield, S.D. Tardif, and K. Morris. Nonhuman Primates in Biomedical Research, 2ed. Elsevier Publ.

Ha, J.C. and T. Campion. 2018. Dog Behavior: Modern Science and Our Canine Companions. Academic Press, Elsevier, NY and London.

Loyer, C and J.C. Ha. Applications of Research in Non-human Personality, in Kuczaj, S. and J. Vonk, eds., Personality in Non-humans. Springer-Verlag.

Ha, J.C. and A. Sussman. 2021. Non-human Primate Breeding Colonies: Colony Management and Welfare, in Robinson L. M. and A. Weiss A. (Eds.), In Press. Nonhuman Primate Welfare. Springer, Cham.

Non-Peer-Reviewed Publications

Farley, S.D., J. Ha and P. Lehner. 1988. An inexpensive microcomputer and interface for control and data acquisition in the operant arena. Physiological Ecology Section Newsletter, Ecological Society of America. 1:4-6.

Ha, J.C., H. Alloway, C.J. Leeson. 2004. Book review: Setchell, J M & Curtis, D J. Field and Laboratory Methods in Primatology. Ethology 110: 575-578.

Ha, J.C. and R.R. Ha. 2005. Book review: Burghardt, G. The genesis of animal play. Integrative and Comparative Biology, 45, 952-953.

Ha, J.C. 2010. A very brief introduction to statistics, or what to look for in a research journal article: a three-part article. Chronicle of the Dog.

Scientific Presentations: Invited Paper Presentations, National or International Meetings

Preliminary Analysis of the WaRPRC Nemestrina Colony. AAAG/SFBR Workshop on Anthropological and Primate Genetics, Southwest Foundation for Biomedical Research, San Antonio TX, November 1998.

Heritability of behavioral milestones in infant pigtailed macaque monkeys. Annual meeting of the Behavior Genetics Association, Vancouver Canada, July 4-7, 1999.

The Social Behavior of Highly Cognitive Species: Examples from Primates, Crows, and Killer Whales. Keynote Lecture, North American Regional Meeting of the International Society for Applied Ethology, Washington State University, Pullman WA, May 27, 2010.

Social Behavior of Resident Inshore Killer Whales in the Pacific Northwest: Natural and Human Influences, Invited plenary seminar, XXVIII Annual Meeting of the Brazilian Society for Ethology and the II Latin-American Symposium of Ethology. Universidade Federal de Alfenas, Alfenas, Brazil. November 12-15, 2010.

Behavioral Genetics and the Evolution of the Domestic Dog: Implications for Social Behavior, Invited plenary seminar, 38th Annual Convention of Association for Behavior Analysis International. Seattle, Washington, USA. May 25-29, 2012.

The Science of Courthouse Dog Behavior. Invited plenary seminar, First International Court House Dogs Symposium. Seattle, WA, USA. November 8, 2013.

Cutting Edge Directions In Modern Behavior Which Would, Should, Could Impact EE And Training In The Future. Keynote: Massachusetts Society for Medical Research, Annual Symposium on Enrichment, Boston, MA. March 2014.

The Power of Animal Models of Behavior: Social Behavior, Stress, and Reproduction in a Non-human Primate. Invited seminar: One World, One Health Symposium. Animal Behavior Society annual meeting, Princeton University, Princeton, NJ, USA. August 10, 2014.

Stress and Happiness in Dogs: You Should Know It When You See It. Second International Court House Dogs Symposium, Seattle WA, USA. October 27, 2014.

Scientific Presentations: Contributed Presentations, National or International Meetings

Zegers, D.A. and J.C. Ha. 1980. Niche separation of Peromyscus leucopus and Blarina brevicauda. Annual meeting of the American Society of Mammalogists, June 8-12, 1980.

Ha, J.C. and P.D. Weigl. 1981. The southeastern fox squirrel - unknown and endangered? Annual meeting of the American Society of Mammalogists, June 7- 11, 1981.

Weigl, P.D., P. Williams and J.C. Ha. 1981. Body size as an adaptive strategy in the fox squirrel (Sciurus niger). Annual meeting of the American Society of Mammalogists, June 7-11, 1981.

Weigl, P.D. and J.C. Ha. 1982. Comparative ecology of eastern and western populations of the fox squirrel (Sciurus niger). Annual meeting of the Ecological Society of America, August 8-12, 1982.

Ha, J.C., P.D. Weigl and T. Sharpe. 1983. Food availability and home range in the fox squirrel (Sciurus niger). Annual meeting of the American Society of Mammalogists, June 19-23, 1983.

Ha, J.C., S.D. Farley and P.N. Lehner. 1987. Gray jay (Perisoreus canadensis) responses to changes in food density within a closed economy laboratory simulation: temporal patterns and risk sensitivity. Annual meeting of the Animal Behavior Society, June 21-26, 1987.

Arguello, S.H. and J.C. Ha. 1987. EVENT: Inexpensive microcomputer recording of rapidly changing, simultaneous observation data. Annual meeting of the Animal Behavior Society, June 21-26, 1987.

Ha, J.C. 1988. Foraging behavior in captive gray jays (Perisoreus canadensis): response to altered foraging time and metabolic requirements. Annual meeting of the Animal Behavior Society, August 7-12, 1988.

Luhring, K.A., P.N. Lehner and J.C. Ha. 1988. Agonistic behavior in gray jays (Perisoreus canadensis): a comparison to other corvids. Annual meeting of the Animal Behavior Society, August 7-12, 1988.

Ha, J.C. and P.N. Lehner. 1990. Survivorship, movements, and group composition of gray jays in Colorado. Annual meeting of the Animal Behavior Society, June 11- 15, 1990.

Ha, J.C. and A. Cepaitis. 1991. The role of harmonic and arithmetic means in risk- sensitive foraging by gray jays (Perisoreus canadensis). Annual meeting of the Animal Behavior Society, June 1-6, 1991.

Ha, J.C. and G.P. Sackett. 1992. Paternal and nonpaternal male influences on pregnancy outcome in captive pigtail macaque monkeys (Macaca nemestrina). Annual meeting of the Animal Behavior Society, June 13-18, 1992.

Ha, J., R. Robinette, C. Kimpo, and G. Sackett. 1992. The climbing tube: a new measure of motor control in infant pig-tailed macaques. Annual meeting of the American Society of Primatologists, June 19-21, 1992.

Nosbisch, C., J.D. Unadkat, J.C. Ha, S.H. Conrad, G.C. Ruppenthal, and G.P. Sackett. 1992. Fetal toxicity of zidovudine. VIII International Conference on AIDS, July 19-24, 1992.

Bowden, D., M. Agy, D. Anderson, C. Kimpo, J. Ha, G. Sackett et al. 1993. Neurobehavioral AIDS induced by SIVMne or HIV-1 in infant pig-tailed macaques (Macaca nemestrina). IX International Conference on AIDS, June 7-11, 1993.

Novak, M.F.S.X., J.C. Ha, and G.P. Sackett. 1993. Heritability and captive breeding effects on physical and psychological traits of infant pigtailed macaques. Annual meeting of the Animal Behavior Society, July 25-29, 1993.

Kimpo, C.L. and J.C. Ha. 1993. The effects of nursery-rearing on the social behavior of immature captive baboons. Annual meeting of the Animal Behavior Society, July 25-29, 1993.

Heath, S., J. Lockard, J. Ha, and R. Farrow. 1993. Puzzle solving abilities in captive long-tailed macaques: pregnancy and drug treatment effects. Annual meeting of the American Society of Primatologists, August 18-22, 1993.

Novak, M.F.S.X., J.C. Ha, G.C. Ruppenthal, G.P. Sackett. 1994. Rearing infant monkeys in pairs: rotating partners. Annual meeting of the Animal Behavior Society, July 23-28, 1994.

Heath, S. and J.C. Ha. 1994. Behavioral measurement of temperment in nursery-raised infant macaques and baboons. Annual meeting of the Animal Behavior Society, July 23-28, 1994.

Lange, S.K., C. Kimpo, J. Kimpo, K. Morris, and J.C. Ha. 1994. Habitat selection and home range of mountain beaver (Aplodontia rufa). Annual meeting of the Animal Behavior Society, July 23-28, 1994.

Robinette, R., J.C. Ha, and G.P Sackett. 1994. Social contact with pregnant females affects pregnancy outcome in captive pigtail macaque monkeys. Annual meeting of the Animal Behavior Society, July 23-28, 1994.

Sackett, G.P. and J.C. Ha. 1994. Life span ponderal growth in captive M. nemestrina. XVth Congress of the International Primatological Society, August 3-8 1994.

Morris, K., C. Kimpo, G. Morris, and J.C. Ha. 1995. The influence of proximity to humans on population density and home range size of mountain beaver (Aplodontia rufa). Annual meeting of the Society for Northwestern Vertebrate Biology, March 1995.

Ha, J.C. and S.J. Ha. 1995. Significant differences in call structure among Pacific Northwest crow populations. Annual meeting of the Animal Behavior Society, July 8-13, 1995.

Robinette, R. and J.C. Ha. 1995. Beach foraging behavior of American crows as a function of tide height. Annual meeting of the Animal Behavior Society, July 8-13, 1995.

Kimpo, C., J.C. Ha and G. Sackett. 1995. Object concept in pigtailed macaques. Annual meeting of the Animal Behavior Society, July 8-13, 1995.

Robinette, R. and J.C. Ha. 1996. The relationship between tide height, prey density, foraging efficiency in beach-foraging American crows. Annual meeting of the Animal Behavior Society, August 3-9, 1996.

Sackett, G.P. and J.C. Ha. 1996. Multiple spell survival analysis as a method for studying low rate behaviors over sessions. Int'l Conference on Measuring Behavior, Netherlands, October 14-18, 1996.

Kroeker, R., J.C. Ha, and G.P. Sackett. 1997. Analysis of neurobehavioral assessments in pig-tailed macaques using survival methods. Society for Research in Child Development, Washington D.C., April 1997.

Ha, J.C. and R.L. Robinette. 1997. Beach foraging crows I: Ecological and behavioral determinants of patch departure. Annual meeting of the Animal Behavior Society, June 21-26, 1997.

Robinette, R.L. and J.C. Ha. 1997. Beach foraging crows II: Social foraging. Annual meeting of the Animal Behavior Society, June 21-26, 1997.

Robinette, R.L. and J.C. Ha. 1998. Evidence for multiple factors influencing vigilance. Annual meeting of the Animal Behavior Society, July 18-22, 1998.

Robinette, R.L. and J.C. Ha. 1998. Successful scrounging by beach-foraging Northwestern Crows (Corvus caurinus). Foraging/98: Nervous Systems to Ecosystems, July 21-24, 1998.

Ha, J.C. and R. Jacobs. 1999. Visitor effects on the behavior of two captive jaguars. Annual meeting of the Animal Behavior Society, June 26-30, 1999.

Nicholson, T.M., J.S. Lockard, J.C. Ha, C.G. Walker-Gelatt, and M.F.S.X. Novak. 1999. Initation and reciprocation as a function of group composition in laboratory-reared infant Macaca nemestrina. Annual meeting of the American Society of Primatologists, August 12-16, 1999.

Ha, J.C., R. Robinette Ha, and B. Dyke. 2002. Heritability of physical, cognitive, and social development in infant pigtailed macque monkeys. Annual meeting of the Animal Behavior Society, July 13-17, 2002.

Marsh, J.A. and J.C. Ha. 2003. Historical analysis of association patterns in southern resident killer whales (Orcinus orca). Annual meeting of the Animal Behavior Society, July 19-23, 2003.

Skypeck, V.K., L. Newell-Morris, and J.C. Ha. 2003. Epidemiology of high birth weight in the pigtailed macaque (Macaca nemestrina). Annual meeting of the American Society of Primatologists, July 31-Aug 3, 2003.

Bentson, K.L., C.M. Crockett, and J.C. Ha. 2003. A rapid home cage procedure for assessing individual and group differences in behavioral reactivity of monkeys. Annual meeting of the American Society of Primatologists, July 31-Aug 3, 2003.

Bentson, K.L., C.M. Crockett, H.B. Montgomery, and J.C. Ha. 2004. Cage level has little effect on behavior of macaques (M. fascicularis, M. nemestrina, and M. mulatta). Annual meeting of the American Society of Primatologists, June 8-12, 2004.

Alloway, H. and J.C. Ha. 2005. Aggression in pigtail macaque (Macaca nemistrina) breeding groups and its effects on pregnancy outcome. Annual meeting of the Animal Behavior Society, August 6-10, 2005.

Colon, M., J.C. Ha, and R.R. Ha. 2006. Relationships of forest birds on Rota, Mariana Islands. North American Ornithological Conference, Veracruz Mexico, October 30, 2006.

Ha, RR., J. Ha, L. Berry, and J. Morton. 2007. Nest site selection in the endangered Mariana crow. Annual meeting of the Animal Behavior Society, July 21-25, 2007.

Ha, JC, A. Butler, and RR. Ha. 2008. Demographic Modeling of the Rota Aga Population: Interim Results. Hawaii Conservation Conference, Honolulu, July 29-31, 2008.

Berry, L., J. Morton, S. Plentovich, T. Aguon, A. Amar, J. Ha, and R. Ha. 2008. Population trends, breeding biology and nesting success of the endangered Mariana Crow or Aga on Rota, Mariana Islands. Hawaii Conservation Conference, Honolulu, July 29-31, 2008.

Ha, R.R., Ha, J.C., Berry, L., and Morton, J. 2008. Nest-site selection in the endangered Mariana crow. Hawaii Conservation Conference, Honolulu, July 29-31, 2008.

Becker, D., H. Mounce, A. Butler, and J. Ha. 2010. Messages from population models: implications for recovery of endangered Maui parrotbill. Hawaii Conservation Conference, Honolulu, July 2010.

Ha, R.R., Faegre, S., and Ha, J.C. 2010. Rules of dispersal in the endangered Mariana crow (Corvus kubaryi) and potential effects on population size. International Society for Applied Ethology, Pullman WA, May 27-28, 2010.

Ha, J.C. 2010. Temperament: a review of concepts and conclusions. Interdisciplinary Forum on Applied Animal Behavior, Williamsburg, VA, July 23-25, 2010.

Ha, R.R., Faegre, S., and Ha, J.C. 2010. Rules of dispersal in the endangered Mariana crow (Corvus kubaryi). Animal Behavior Society, Williamsburg, VA, July 26-29, 2010.

Nilsen, A-L. and J. Ha. 2010. Bichon Frise dogs have linear hierarchies in both pair-wise and social settings. Animal Behavior Society, Williamsburg, VA, July 26-29, 2010.

Mates, A. and J. Ha. 2010. Advances in bioacoustic analysis: interpreting calls of the American crow. Animal Behavior Society, Williamsburg, VA, July 26-29, 2010.

Andrews, N., E. Fernandez, and J. Ha. 2010. Meta-analysis: enrichment dos and don'ts. Animal Behavior Society, Williamsburg, VA, July 26-29, 2010.

Mates, E., R. Tarter, J. Ha, A. Clark and K. McGowan. 2011. Acoustic profiling of wild American crows. Animal Behavior Society, Bloomington, IN, July 25-30, 2011.

Faegre, S., R. Ha and J. Ha. 2011. Drastic population decline and ranging behavior of the critically endangered Mariana Crow (Corvus kubaryi). Animal Behavior Society, Bloomington, IN, July 25-30, 2011.

Sussman, A. and J. Ha. 2011. Group characteristics affect aggression levels and pregnancy outcomes in pigtailed macaque. Animal Behavior Society, Bloomington, IN, July 25-30, 2011.

Andrews, N., E. Fernandez, and J. Ha. 2011. An Enrichment Meta-Analysis: Reassessing Our Past to Plan for the Future. International Conference on Environmental Enrichment, Portland, OR, October 14-19, 2011.

Hotchkiss, C.E., R. Hukkanen, R. Murnane, D. Fong, D. Stockinger, J. Worlein, J. Ha, K. Vogel, B. Agricola, S. Hu. 2011. Pathogenesis of pulmonary arteriopathy in lentivirus-infected pigtailed macaques (M. nemestrina). 29th Annual Symposium on Nonhuman Primate Models for AIDS, Seattle, Washington, October 25-28, 2011.

Ha, J.C. 2012. Discussant and moderator, Symposium: Temporary Enrichment for Permanent Change: Using Research to Guide Zoo Exhibits, 38th Annual Convention of Association for Behavior Analysis International. Seattle, Washington, USA. May 25-29, 2012.

Yoakum, E.R., E.J. Fernandez, J.C. Ha., and R. Ha. 2012. A Behavorial and Spatial Comparison of Four Gray Wolves (Canis Lupus). 38th Annual Convention of Association for Behavior Analysis International. Seattle, Washington, USA. May 25-29, 2012.

Ma, N.A., E.J. Fernandez, J.C. Ha and R. Ha. 2012. Northern Treeshrew (Tupaia belangeri): Activity and Exhibit and Use at the Woodland Park Zoo. 38th Annual Convention of Association for Behavior Analysis International. Seattle, Washington, USA. May 25-29, 2012.

Redshaw, A., E.J. Fernandez, and J.C. Ha. 2012. Golden Lion Tamarins (Leotopithecus rosalia) and Foraging Enrichment. 38th Annual Convention of Association for Behavior Analysis International. Seattle, Washington, USA. May 25-29, 2012.

Andrews, N., E.J. Fernandez and J.C. Ha. 2012. Grizzly Bear Daily And Seasonal Activity. 38th Annual Convention of Association for Behavior Analysis International. Seattle, Washington, USA. May 25-29, 2012.

Fernandez, E.J. and J.C. Ha. 2012 The Effects of Visibility and Activity on Crowd Size Throughout a Zoo. 38th Annual Convention of Association for Behavior Analysis International. Seattle, Washington, USA. May 25-29, 2012.

E.A. Mates, R.R.Tarter, J.C. Ha, A.B. Clark and K.J. McGowan. 2013. Acoustic profiling of the American crow: caws are informative of sex, identity and behavioral state. Animal Behavior Society, Boulder, CO, July 28-Aug 1, 2013.

Sussman, A. and J. Ha. 2013. Personality predicts group aggression and network structure in pigtailed macaques. Animal Behavior Society, Boulder, CO, July 28-Aug 1, 2013.

Fritscher, S. and J. Ha. 2013. The Effect of Declawing on Feline Behavior in an Animal Shelter. Animal Behavior Society, Boulder, CO, July 28-Aug 1, 2013.

Nilsen, A. and J. Ha. 2013. Hamilton Search and Set Breaking Task: Assessing Canine Cognition. Animal Behavior Society, Boulder, CO, July 28-Aug 1, 2013.

Loyer, C., J.C. Ha, E. Fernandez, N. Hawkes. 2013. Zoo elephant behavior patterns. Animal Behavior Society, Boulder, CO, July 28-Aug 1, 2013.

Robinson, LM, Skiver Thomas, B, & Ha, JC. 2013. From puppy to companion: Puppy temperament assessments predict puppy breed, AKC group, and do not predict adult temperament. International Conference on Individual Differences: 20th KNDV Zoology Conference. November 2013, Groningen, The Netherlands.

Scientific Presentations: Departmental Seminars, Invited Lectures, and Short Courses

Why Mice Climb Trees, or Niche separation of Peromyscus leucopus and Blarina brevicauda. Departmental seminar, Biology Dept., Millersville University. November 1979.

Home Range and Food Supply in the Southeastern Fox Squirrel. Departmental seminar, Biology Dept., Wake Forest University. Spring 1983.

Searching Biological Literature by Computer: A Workshop. Departmental seminar, Zoology Dept., Colorado State University. December 1986.

How to Search 19 Years of Literature in 10 Minutes. Departmental seminar, Fisheries and Wildlife Biology Dept., Colorado State University. March 1988.

Measurement of Physiological Stress in Free-Ranging Animals. Workshop on Aircraft/Wildlife Interactions. U.S. Fish and Wildlife Service and U.S. Air Force, Estes Park, CO 12 April 1988.

The Effects of Foraging Time and Metabolic Requirements on Foraging Behavior and Metabolic Rate of Captive Gray Jays (Perisoreus canadensis). Departmental seminar, Biology Dept., Colorado State University. April 1989.

Gray Jays: Field Biology and Animal Behavior. Public lecture: Colorado Department of Parks and Recreation, Colorado State Forest. 14 July 1990.

Guest lecturer, Animal Behavior Course. Biology Dept., Colorado State University. 1987, 1988, 1989.

Guest lecturer, Ethological Methods Course. Biology Dept., Colorado State University. 1988, 1990.

Thermoregulation and Behavior of Gray Jays: Past, Present, and Future Studies. Guest lecture, Comparative Physiology Course. Biology Dept., Colorado State University. September 1989.

Guest lecturer, Vertebrate Biology Course. Biology Dept., Colorado State University. February 1990.

Guest lecturer, Psychology as a Natural Science Course. Psychology Dept., University of Washington. 1992, 1993.

Guest lecturer, Developmental Psychology Seminar. Psychology Dept., University of Washington. 1991, 1992, 1993, 1994, 1995, 1996, 1998, 2000.

Guest lecturer, Methods of Data Analysis Workshop Series. Child Development and Mental Retardation Center, University of Washington. 1992.

Guest lecturer, Statistical Methods in Longitudinal Research Course. Psychology Dept., University of Washington. 1993, 1994, 1995, 1997, 1999, 2000, 2002.

Ecology of the Gray Jay in the Rockies. Invited Seminar, Biology Department, Millersville University, Fall 1993.

Infant Primate Research Laboratory: Ethology and Psychology. Invited Seminar, Biology Department, Millersville University, Fall 1993.

Invited workshop participant: Methods in Genetic Epidemiological Analysis, Southwest Foundation for Biomedical Research, San Antonio TX, October 1995.

Guest lecturer, Comparative Animal Behavior. Psychology Department, University of Washington. Summer 1996.

Social Housing and Pregnancy Outcome in Captive Pigtailed Macaques. Invited seminar, UW Regional Primate Research Center, August 1998.

Social Housing and Pregnancy Outcome in Captive Pigtailed Macaques. Invited seminar, UW Psychology Department, August 1998.

Recent Research on the Northwestern(?) Crow: Foraging, Acoustics, and DNA. Meeting of the Washington Ornithological Society, March 1999.

The Social Behavior of Highly Cognitive Animals: Examples from Crows, Monkeys, and Orca Whales. Invited seminar, Laboratory of Ornithology, Cornell University, Ithaca NY, 30 October 2000.

Invited Workshop Participant: Colony Records Analysis. Southwest Regional Primate Research Center and National Institutes of Health (NCRR), Jan 12, 2001.

Invited Workshop Participant: Colony Records Analysis II. Jackson Laboratories and National Institutes of Health (NCRR), Jun, 2001

Heritability of Cognitive and Reflex Development in Infant Pigtailed Macaques: Preliminary Results and Future Directions. Invited seminar, Oregon National Primate Research Center, Beaverton OR, 24 September 2001.

Invited Workshop Participant: Ethoinformatics. Indiana University's Center for the Integrative Study of Animal Behavior and National Science Foundation, April, 2002.

The Social Behavior of Highly Cognitive Animals: Examples from Crows, Monkeys, and Orca Whales. Invited seminar, Department of Biology, Boise State University, Boise ID, 19 October 2002.

Chair of Workshop: Colony Records Analysis III. NIH-National Center for Research Resources, San Antonio, TX November 2002.

The Social Behavior of Highly Cognitive Animals: Examples from Crows, Monkeys, and Orca Whales. Invited seminar, Behavioral Ecology Institute, National University of Mexico, Mexico City Mexico, 14 December 2002.

Invited Workshop Participant: Ethoinformatics II. Cornell University's Laboratory of Ornithology and National Science Foundation, Feb 2003.

The Social Behavior of Highly Cognitive Animals: Examples from Crows, Monkeys, and Orca Whales. Invited course lecture, Animal Behavior course, North Seattle Community College, Seattle WA, 13 Mar 2003.

Invited Workshop Participant: National Marine Fisheries Service Review of Research Needs for Southern Resident Killer Whales: I, Whale-watching and II, Food Supply. Northwest Fisheries Research Center, May 2003.

Invited Workshop Participant: National Marine Fisheries Service Review of Research Needs for Southern Resident Killer Whales 2004. Northwest Fisheries Research Center, Jan 2004.

Social Behavior of Resident Inshore Killer Whales in the Pacific Northwest: Natural and Human Influences, Invited seminar, Psychology Department, New College of the University of South Florida, 17 Mar 2004.

Organizer and Chair of National Marine Fisheries Service workshop on Behavior Coding of Killer Whales, 20 April 2004.

Colony Records Analyses of the WaNPRC Pigtailed Macaque Colony, Invited lecture, Oregon National Primate Research Center, 5 May 2004.

The Sensory Systems of Sharks. Invited course lecture, Animal Behavior course, North Seattle Community College, Seattle WA, 9 Jun 2004.

The Social Behavior of Highly Cognitive Animals: Examples from Crows, Monkeys, and Orca Whales. Invited seminar, Biology Department, Millersville University of Pennsylvania, 21 Sep 2004.

Social Behavior of Resident Inshore Killer Whales in the Pacific Northwest: Natural and Human Influences, Invited seminar, Biology Department, Millersville University of Pennsylvania, 22 Sep 2004.

Co-Chair of Workshop: Colony Records Data-sharing Initiative. NIH-National Center for Research Resources, San Antonio, TX 1-4 November 2004.

Cat Behavior and Misbehavior, Invited talk, Seattle-King County Humane Society, 16 Nov 2004.

A Quick Introduction to the U.W. Infant Primate Research Laboratory, Invited lecture, Oregon National Primate Research Center, Animal Model of Gestational Diabetes Workshop, 6 December 2004.

The Sensory Systems of Sharks. Invited course lecture, Animal Behavior course, North Seattle Community College, Seattle WA, 11 Feb 2005.

Social Behavior of Resident Inshore Killer Whales in the Pacific Northwest: Natural and Human Influences, Invited seminar, St. Andrews University, Scotland. 1 September, 2005.

Basic and Applied Behavior: Social Foraging and Conservation of Crows, Invited seminar, St. Andrews University, Scotland. 1 September, 2005.

Cat Behavior and Misbehavior, Invited talk, Seattle-King County Humane Society, 8 Nov 2005.

Behavior and Ecology of Forest Crows in Washington and Micronesia, Invited talk, Northwest Exotic Bird Society, 19 January 2006.

Cat Behavior and Misbehavior, Invited talk, Seattle-King County Humane Society, Nov 2006.

Social Behavior of Resident Inshore Killer Whales in the Pacific Northwest: Natural and Human Influences, Invited seminar, Lincoln Park Zoo, Chicago, March 2007

The Social Behavior of Highly Cognitive Animals: Examples from Crows, Monkeys, and Orca Whales. Invited seminar, Department of Biological Sciences, Purdue University, West Lafayette, IN, March 2007.

Short Course. An Introduction to Basic Statistics. University of Brasilia, Brasilia, Brazil. April 14-19, 2008.

Short Course. An Introduction to Basic Statistics. Sao Paulo State University, Sao Jose do Rio Preto, Brazil. April 22-25, 2008.

Biologists In Need Of Mathematicians: A Few Examples of Mathematics in Animal Behavior, Invited seminar, Department of Computing and Statistics, Sao Paulo State University, Sao Jose do Rio Preto, Brazil. April 28, 2008.

Social Behavior of Resident Inshore Killer Whales in the Pacific Northwest: Natural and Human Influences, Invited seminar, Department of Biological Sciences, Sao Paulo State University, Sao Jose do Rio Preto, Brazil. April 28, 2008.

Social Behavior of Resident Inshore Killer Whales in the Pacific Northwest: Natural and Human Influences, Invited seminar, Haller Lake Community Center. May 1, 2008.

Serendipity in Animal Research Careers, Invited seminar, Centralia College. May 21, 2008.

Animal Behavior and Conservation: Effects of Humankind on Animals, Invited seminar, Centralia College. May 13, 2009.

The (Mis)Behavior of Dogs: An Introduction to Applied Animal Behavior, Invited seminar, Westmont College, Santa Barbara, CA. November 2009.

Social Housing and Pregnancy Outcome in Captive Pigtailed Macaques, Invited seminar, Washington National Primate Research Center, Seattle WA. November 2009.

Short Course. The Mis-Behavior of Dogs and Cats: An Introduction to Applied Animal Behavior. Universidade Federal de Alfenas, Alfenas, Brazil. November 12, 2010.

Social Housing and Pregnancy Outcome in Captive Pigtailed Macaques. Invited seminar, UW Psychology Department, November 2012.

The Social Behavior of Highly Cognitive Animals: Examples from Crows, Monkeys, and Orca Whales. Invited seminar, Department of Anthropology, University of Washington, Seattle WA, November 2012.

Numerous public lectures on Applied Animal Behavior, Dog and Cat Behavior

Honors and Awards

1980 Awarded undergraduate departmental honors. Thesis title: "Application of radiotelemetry to the study of the southern flying squirrel (Glaucomys volans).

1980 A.G. Breidenstine Award for excellence in undergraduate research, Millersville U.

1980-1982 Graduate academic scholarship: Wake Forest University.

1987 Teaching Fellowship Award for Excellence in Undergraduate Teaching: Colorado State University.

1997 Alpha Phi Sorority Faculty of the Year Award: University of Washington.

1998 Founders' Memorial Poster Award for "Evidence For Multiple Factors Influencing Vigilance." With R.L. Robinette, annual meeting of the Animal Behavior Society, July 18-22, 1998.

2008 Fellowship as Visiting Scientist, Brazilian Research Council.

Societies

Animal Behavior Society
Sigma Xi (National Research Honor Society)

Service to Department

1982-83 Graduate student representative to faculty: Biology Dept., Wake Forest U.
1984-86 Member (1984), Chairman (1985): Colloquium in Life Sciences Committee, Zoology Department, Colorado State University.
1986-Spring 1989 Graduate student liaison to C.S.U. Morgan Libraries: Zoology/Biology Department, Colorado State University.
1987-1990 Implemented and maintained departmental account for computer bibliographical database access (BRS AfterDark, primarily Biological Abstracts), including presenting training seminars and workshops for faculty and students.
1989-1990 Computer and Statistics Consultant, Biology Department, Colorado State University. Resource person for microcomputer users in department. Statistics resource person for graduate students in Biology, Fisheries and Wildlife, and Psychology Departments.
1991-2014 Serve on various National Primate Research Center committees: Colony Modeling Committee, Animal Records System Committee, Breeding Colony Advisory Group, and IPRL New Computing Resources Committee. Currently serve on Animal Record System Advisory Committee.
1998-1999 Served on annual review and renewal committee for Laura Little, Lecturer, Psychology Department
2000-2003 Appointed as Animal Behavior Area Representative, Graduate Training Committee, Psychology Department.
2000-2005 Elected Faculty Senator from Psychology Department
2006 Served on Distinguished Graduate Student Teaching Award selection committee.
2007 Served on Distinguished Graduate Student Teaching Award selection committee.

Service to Profession

1988-1996 Developed, maintained ABSnet, a professional electronic mail network.
1990-1996 Appointed to Public Affairs Committee, Animal Behavior Society.
1991-1994 Appointed to Education Committee, American Society of Primatologists.
1992-1994 Local Host for 1994 Animal Behavior Society meeting at the University of Washington.
1995 Appointed to chair ad-hoc Conservation Committee, Animal Behavior Society.
1996-1997 Statistics advisor to Editorial Board of Animal Behaviour.
1996-1998 Appointed as first chair of Conservation Committee, Animal Behavior Society
1996-2009 Appointed as Internet/Web Site (ABSnet) Manager, Animal Behavior Society
1998-2001 Elected Member-at-Large, Executive Committee, Animal Behavior Society
1999 Ad-hoc reviewer (twice) for Natural Sciences and Engineering Research Council of Canada research proposals
2000 Ad-hoc reviewer for National Science Foundation
2000 Participant in Animal Behavior Society's Year 2000 Summit on the Future of Behavior
2001-2003 Elected first Senior Program Officer, Executive Committee, Animal Behavior Society
2002 Member, National Science Foundation/Animal Behavior Program Doctoral Dissertation Improvement Grant Review Panel
2002-2005 Co-Chair National Institutes of Health/National Center for Research Resources Colony Records Analysis Working Group
2002-2005 Local Host for 2005 Animal Behavior Society meeting: Snowbird Ski Resort, Utah.
2003 Member of four-person Animal Behavior Society Central Office site visit team
2004-2007 Appointed Director of Animal Behavior Society's Central Office
2005-2008 Appointed Editor, Animal Behaviour
2006-2009 Elected Treasurer, Animal Behavior Society
2008-2014 Appointed US delegate to International Council of Ethologists
2012 Served on NSF-IOS Animal Behavior Advisory Panel, both Spring and Fall.

2012-2014 Appointed member, Issues in Applied Animal Behavior Committee, Animal Behavior Society
2013 Nominated as President, Animal Behavior Society (withdrew)

Peer reviewer for Animal Behaviour; American Journal of Primatology; International Journal of Primatology; Zoo Biology; Institute for Laboratory Animal Research; Behavioral Research Methods, Instruments, and Computers; Journal of Comparative Psychology; Zoo Biology, Behavioural Processes; Journal of Applied Animal Behavior Science; Journal of Applied Animal Welfare Science, Animal Cognition.

Other Professionally-related Activities

Author of EVENT-PC software for recording behavioral data by computer. Also authored SEQ-PC for sequential analysis of behavioral data. Author of several custom software packages for researchers in North and South America. In 2003, I developed a Palm PDA-based program for collecting behavioral data, now in use in 5 labs at the University of Washington, as well as 2 labs at Indiana University and over 20 other installations on six continents. This software has now been converted to smartphone and tablet applications.

Founder and partner in Companion Animal Solutions LLC, a private clinical practice in applied animal behavior and the treatment of companion animal behavior problems. 2007-2012.

Prior to 2007 and following 2012, operated Animal Behavior Associates of Washington. 1999-2007, 2013-present.

Co-Founder of Companion Animal Behavior Connection, a local organization of accredited professional pet behavior specialists with the goal of providing educational resources and professional access to both local veterinarians and the public.

Collaborators

Publications with U Washington collaborators: Kimpo, C; Sackett, GP; Robinette, RL; Unis, AS; Roberson, MD; Dorsa, DM; Nosbisch, C; Abkowitz, JL; Conrad, SH; Mottet, NK; Ruppenthal, GC; Unadkat, JD; Heath-Lange, S; Davis, A; Novak, MFSX; Walker-Gelatt, CG; Bentzen, P; Kroeker, R; Jacobs, R; Nicholson, T; Lockard, JS; Stockinger, DE; Torrence, AE; Hukkanen, RR; Vogel, K; Hotchkiss, C; Fong, D.; Crockett, D.; Bentson, K.

Publications with Southwest Foundation for Biomedical Research collaborators: Nair, S; Rogers, J; Almasy, L; Dyke, B.

Graduate Advisors: Weigl, PD (Wake Forest U); Wunder, BA & Lehner, PN (Colorado State U)

Advisees: Kimpo, C; Robinette, RL; Hawks-Johnson, S; Marsh, JL; Skiver Thompson, R; Alloway, H; Colon, M.; Sussman, A.; Mates, A.; Faegre, S.; Loyer, C.; Fritscher, S.

Postdoctoral researchers: Berry, L.; Levenstein, K.; Fernandez, E.

PROOF OF SERVICE

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 222 E. Carrillo St., Ste. 300, Santa Barbara, California, 93101.

On June 1, 2022, I served the foregoing document entitled: **SUPPLEMENTAL REPORT IN SUPPORT OF MOTION TO EXCLUDE DOG TESTIMONY** on the interested parties in this action by depositing a true copy thereof as follows:

SEE ATTACHED SERVICE LIST

_X_ **BY ELECTRONIC TRANSMISSION** -I caused the above-referenced document(s) to be transmitted via electronic transmission to the interested parties at the email addresses referenced in the attached service list.

____ **BY U.S. MAIL** - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.

____ **BY HAND** - I caused the document to be hand delivered to the interested parties at the address referenced on the attached service list.

_X_ **STATE** - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

____ **FEDERAL** - I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed June 1, 2022, at Santa Barbara, California.

Jake Swanson

Jake Swanson

SERVICE LIST

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Paul Ruben Flores

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES,

Defendant.

Case No. 22CR003712

CONDITIONALLY UNDER SEAL

NOTICE OF MOTION AND MOTION TO EXCLUDE EVIDENCE RELATED TO 710 WHITE COURT INSPECTION, INVESTIGATION AND SOILS ANALYSIS

[Subject to application to file under seal]

Date: June 6, 2022
Time: 8:30 a.m.
Dept.: 4

Hon. Jennifer J. O'Keefe

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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.

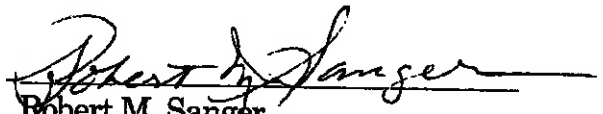
This motion is made to protect Mr. Flores' rights to due process and a fair trial pursuant to the Fifth, Sixth and Fourteenth Amendments to the United States Constitution, article I, §§ 7 and 15 of the California Constitution, relevant statutory and case law.

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.)

David Stone would testify that he was a tenant of Ruben Flores at White Court for 10 years. His room was directly above Grid 1 and had a sliding glass doors to the deck and a bathroom directly above the site. If there had been a decomposing body under the deck emitting an odor, he would have known it.

Ms. Liddell also testified that there was no evidence that the deck had been disturbed before the Sheriff's Department cut it apart. The area "was too small of a space" to dig without removing the deck. (17RT 4930; see Exhibit 119.) In other words, there is substantial evidence that this was not a burial site of a shallow grave of a person still depositing blood. It is also clear that if a person had been buried for some time, it would have resulted in the deposit of other remains or trace evidence.

The defense will call Dr. David Carter whose academic expertise over the last 20 years has involved taphonomy and the study of buried remains. His report and curriculum vitae attached as Exhibit A set forth his opinion and qualifications in detail.

Therefore, the staining and configuration in the soil is not probative and any probative value is far outweighed by the prejudicial effect under Evidence Code section 352. Scientific evidence cannot be mere speculation. It must be based on a scientific method that is of proven scientific validity and must be applied in a scientific fashion.

C. The HemDirect Testing is not Designed for Soils and there is no Scientific Basis for its Admissibility

As set forth in the report of Dr. Elizabeth Johnson, attached as Exhibit B, and as admitted to by Ms. Butler at Serological Research, the HemDirect test has not been subjected to validation studies for use in soils. Soil would contaminate and degrade a sample and interfere with the testing process. In addition, HemDirect validation studies show that in exposure to the elements

even on non-soil samples, the results are only obtainable for three to four weeks. There are no validation studies on samples that were subjected to the elements over a period of more than approximately four weeks.

Ms. Butler, the people's expert, testified that there were validation studies for this particular test under other circumstances, but she was not able to cite any validation studies specifically for soil. (19RT 5478.) She testified that neither she nor her lab did validation testing for the tests for blood in soil. (19RT 5500.)

Furthermore, Ms. Butler was not able to obtain any DNA from any of these samples and could not otherwise associate them with a human being other than by virtue of the invalid and unvalidated HemDirect test.

HemDirect simply fails to met the standards required of forensic evidence under *Daubert*, *Kuhmo Tire* and *Sargon* or under the criteria set forth in the second and third prongs of *Kelly*. As summarized by the PCAST Report, it neither has foundational validity for older samples exposed to the elements nor for samples in soils and, it does not have validity as applied to the circumstances of this case.

D. The Testimony About the Trailer is Inadmissible

At the preliminary hearing, evidence was introduced that in between the original search of the White Court property and the excavation, a neighbor told the Smart family's civil lawyer that she saw activity relating to a trailer at Ruben Flores' residence. As a result, the trailer was seized and a spot the size of a body was seen on the floor. Again, it sounds like evidence until it is placed in the context of the prosecution theory that the body was buried in Huasna in 1996 and some years later was dug up and, still bleeding, brought bask to Mr. Flores' house to be discovered by dogs that did not alert, under a deck that had not been disturbed and under the window of the tenant. And then, according to their theory, twenty five years later, just

before a search was to be conducted, it was dug up from a shallow grave (in admittedly undisturbed ground) to be put in a trailer to be moved again. And, then, according to the theory, the body left a stain somehow after these 25 years vaguely in the shape of a person.

Ms. Liddell conducted a search of a white Haulmark Passport Cargo trailer towed from 710 White Court. (17RT 4954.) Ms. Liddell used Bluestar chemical in the area just inside the side door of the trailer that reacts to the hemoglobin in blood but can also result in false positives by responding to certain household cleaners, foods, pains and varnishes. (17RT 4954-4955.) In that area there was a reaction. (17RT 4961.) The section of the floor of the trailer was cut and booked into evidence. (17RT 4962-4963.)

Of course, the testing by the Serological Laboratory found that it was not blood and that the only DNA matched Mike McConville, the owner of the work trailer and not Kristin Smart, Paul Flores or Ruben Flores.

Therefore, the trailer and its contents are totally irrelevant. There is no probative value to testimony especially due to the lack of forensic evidence.

CONCLUSION

Reserving the right to present evidence and argument in response to the prosecutions attempt to carry its burden to establish the foundational facts necessary for admissibility, the defense submits that 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 is not admissible under any circumstances as

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substantive proof and, in this particular case, the prosecution has failed to meet its burden.

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

EXHIBIT A

18 May 2022

Forensic Taphonomy Report

Prepared By
David O. Carter, PhD
Professor of Forensic Sciences
Chaminade University of Honolulu

Purpose and Scope of Analysis
The purpose of this analysis is to identify and characterize physical evidence of decomposing human remains.

On 7 February 2022 I received documentation associated with the investigation and excavation conducted at 710 White Court, Arroyo Grande, CA in March and April of 2021. These documents included photographs, reports, and transcripts. On 23 March 2022, I collaborated with Ramona Messina and Mike Cole to collect soil samples from this same address. Twelve soil samples were collected and sent to Wallace Laboratories, El Segundo, CA for elemental and nutrient analytical testing. I received the results of this analytical testing on 29 March 2022. A second soil sample collection occurred on 2 April 2022. Three samples were collected and sent to Wallace Laboratories. Results of the analysis of these samples was received on 12 April 2022.

Items of Evidence
Analysis was conducted on two groups physical evidence: soil visual characteristics and soil elemental and nutrient characteristics.

- **Soil Visual Characteristics**
  - Photographs and related documents from March 2021 and April 2021 excavation and soil sampling.
  - Photographs and documents from the 23 March 2022 and 2 April 2022 excavation and soil sampling.
- **Soil Elemental and Nutrient Characteristics**
  - Soil samples collected on 23 March 2022:
    - Grid 1A-1, 1A-2, 1A-3
    - Grid 1B-1, 1B-2, 1B-3
    - Grid 6-1, 6-2, 6-3
    - Grid 10-1, 10-2, 10-3
  - Soil samples collected on 2 April 2022:
    - Grid 1-1A, 1-1B, 1-1C

Detailed analyses are presented in the Appendix.

Findings & Conclusions

The excavated areas associated with Grid 1-1 and Grid 1A had significant color changes moving down the soil profile. The visual characteristics of these color changes do not confirm the presence of decomposing human remains. It is difficult to determine their cause because they could result from a number of processes. These might include the presence of moisture or the movement and concentration of iron. Every Grid contains very high levels of iron, which can accumulate in thin bands throughout the soil profile, like lamellae (Bockheim and Hartemink, 2013). The color changes could also be related to the decomposition of organic matter, but this is not clearly supported by the nutrient levels presented in the Appendix.

The soil samples collected from Grid 1-1 and Grid 1A tended to have element and nutrient levels equal to, or less than, other Grids. Three exceptions are iron, sodium, and electrical conductivity. Iron levels were very high in all Grids, but sodium and electrical conductivity in Grid 1-1 was greater than in other Grids. In general, all Grids were relatively low in nutrients and electrical conductivity, and this is common for sandy soils. Overall, the element and nutrient levels are not consistent with the presence of decomposing human remains and the analyses conducted did not identify physical evidence of decomposing human remains. More specifically:

1. The soil visual characteristics do not confirm the presence of decomposing human remains.
2. The soil elemental and nutrient concentrations do not confirm the presence of human remains.

Rationale & Background

Human remains are one of the most nutrient-rich resources in all of nature (Carter et al., 2007) and decomposing remains can release approximately 8 gallons of nutrient-rich fluid into associated soil. Decomposition fluid contains a significant concentration of moisture, carbon, and several nutrients including nitrogen, phosphorus, and potassium that significantly change the chemistry of soil during decomposition. In addition to these chemical changes, the decomposition of buried human remains results in a number of visual changes to the soil, including color changes and the presence of body parts such as bones and skin. All of these materials can be detected in soils for several decades after burial (de Leeuwe and Mike Groen, 2017). In extreme cases, these materials can persist in soil for thousands of years (Asare et al., 2020).

Chemically, the decomposition of remains can result in significant changes in the concentration of several elements and nutrients, including calcium (Aitkenhead-Peterson et al., 2012; Dick and Pringle, 2018; Perrault and Forbes, 2016), carbon (Aitkenhead-Peterson et al., 2012; Anderson et al., 2013) electrical conductivity (Aitkenhead-Peterson et al., 2012; Pringle et al., 2020, 2010), nitrogen (Aitkenhead-Peterson et al., 2012; Anderson et al., 2013; Carter et al., 2009; Damann et al., 2012; Metcalf et al., 2016) magnesium (Aitkenhead-Peterson et al., 2012), phosphorus (Damann et al., 2012; Perrault and Forbes, 2016), potassium (Aitkenhead-Peterson et al., 2012; Dick and Pringle, 2018), and sodium (Aitkenhead-Peterson et al., 2012; Dick and Pringle, 2018; Perrault and Forbes, 2016). Because of this, one would expect to find extensive changes in soil color and significant differences in the chemical characteristics of the burial site compared to

nearby locations. A number of materials would also be associated with a burial including hair, teeth, bones, nails, and associated clothing and accessories. Remains of insects, particularly adult flies and fly larvae, would possibly be associated with buried remains if the remains were aboveground for an extended period of time prior to burial. None of these characteristics were observed in the photographs and data provided.

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Forensic Taphonomy Report

David O. Carter, PhD

Appendix

Appendix Contents

Section	Page Number
• Soil Sample Names & Locations	3
• Soil Testing	4
• Soil Characterization & Description	5
• Soil Elemental & Nutrient Analysis	11
• Statistical Analysis	22

Soil Sample Names & Locations

All samples collected in triplicate

- Grid 1-1
  - Collected 2 April 2022, Depth ~24"
- Grid 1A
  - Collected 23 March 2022, Depth 0" – 6"
- Grid 1B
  - Collected 23 March 2022, Depth 0" – 6"
- Grid 6
  - Collected 23 March 2022, Depth 0" – 6"
- Grid 10
  - Collected 23 March 2022, Depth 0" – 6"

Sample collection rationale

- Grid 1-1 samples are from the general areas excavated in March and April 2021.
  - Grid 1, Excavation 2
- A depth of 0" – 6" was selected because previously investigated areas were backfilled.
- Grid 6 and Grid 10 were collected to get samples from multiple different locations throughout the property.

Soil Testing

- A number of soil tests were conducted and their results were grouped into two general categories
  1. Soil Characterization & Description
     - This provides a description of the fundamental properties related to the soil's function.
     - This information can be used to understand decomposition processes in a soil.
  2. Soil Nutrient Analysis
     - This provides a description of the type and amount of nutrients present in the soil that result from the decomposition of organic materials.
     - Decomposing human remains release a significant amount of elements and nutrients into soil.

Soil Characterization & Description

Definitions

- Soil texture
  - Percentage of sand, silt, and clay
- pH
  - Level of acidity and alkalinity
- Electrical Conductivity
  - Level of salinity, electrolytes
- Cation Exchange Capacity
  - Ability for soils to retain positively charged elements and nutrients.

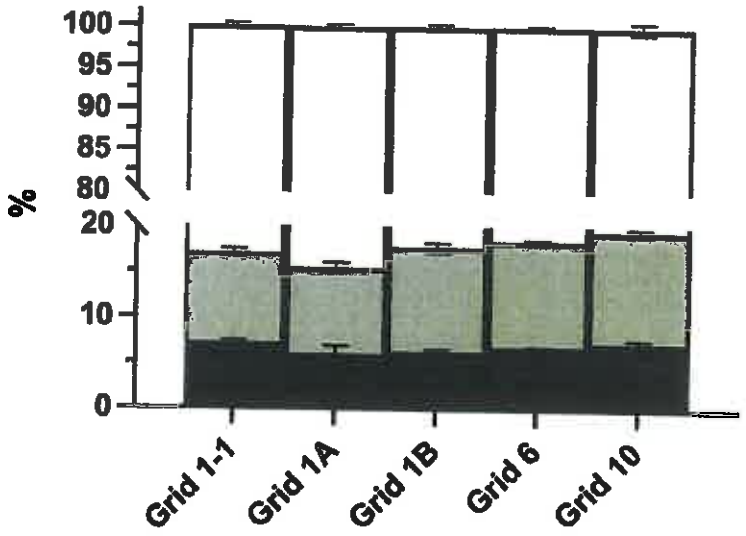
Findings

- Soil texture
  - Loamy sand
- pH
  - 6.3 – 7.7, slight acid – slight alkaline
- Electrical Conductivity
  - Low but increased with depth
- Cation Exchange Capacity
  - Low

Soil Characterization & Description

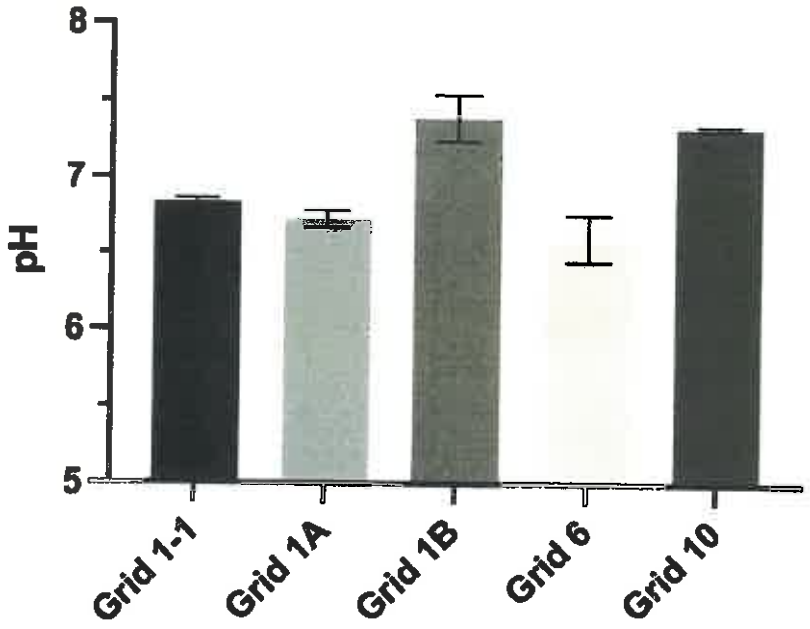
- Soil texture can significantly affect the decomposition of remains.
- Extensive decomposition of remains can occur in sandy soils because gas exchanges efficiently and they tend not to get waterlogged.
- Efficient gas exchange can promote desiccation of remains resulting in the presence of dried skin, bones, teeth, hair, and nails.
- These materials, particularly bones, teeth, and hair, can persist in sandy soils for several decades.

Soil Texture: Loamy Sand



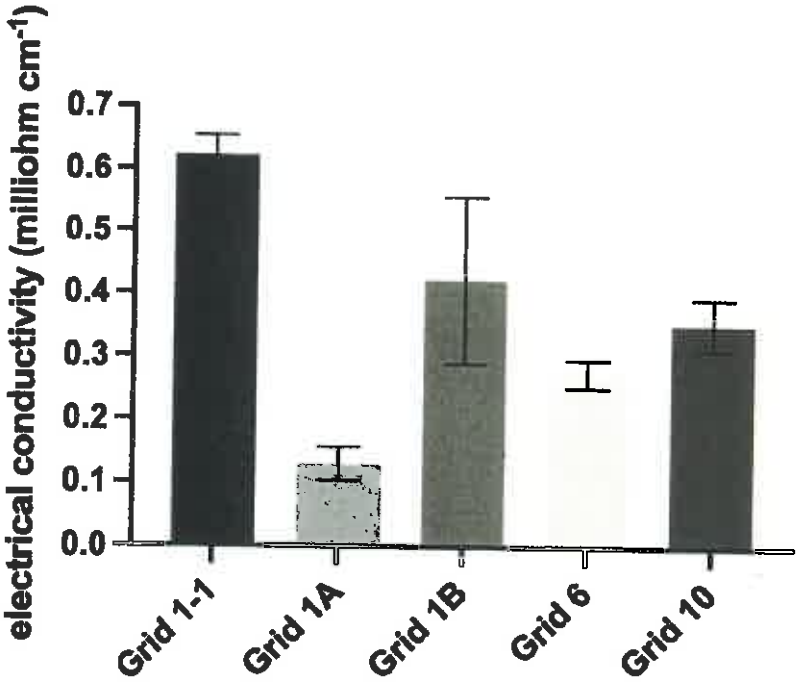
- Approximately
  - 83% sand
  - 10% silt
  - 7% clay
- Regarded as a coarse soil because sand is the largest soil particle.
- Drains water and exchanges gases well.
- Can dry out relatively easily.

Soil pH



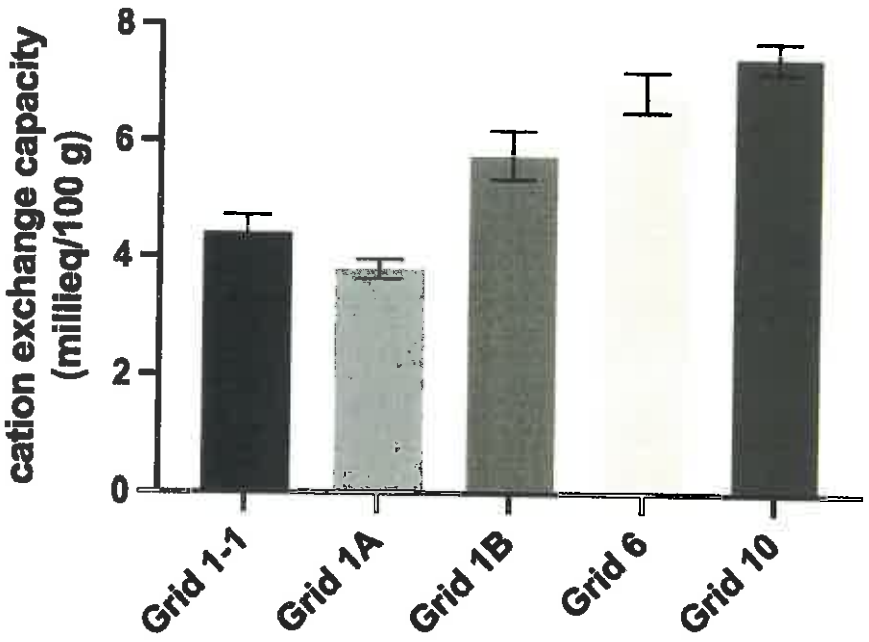
- pH ranged from approximately 6.5 – 7.5, which corresponds to slightly acidic and slightly alkaline.
- This pH range is near neutral and suitable for most microbial and plant life.

Soil Electrical Conductivity



- Electrical conductivity was low in all samples, indicating the presence of few salts and electrolytes.
- Electrical conductivity increased with sample depth, but was still low.
- Examples of soil salts include NaCl, KCl, $CaSO_4$, $MgSO_4$
- A moderate EC would range from 0.5 – 3.0.

Soil Cation Exchange Capacity



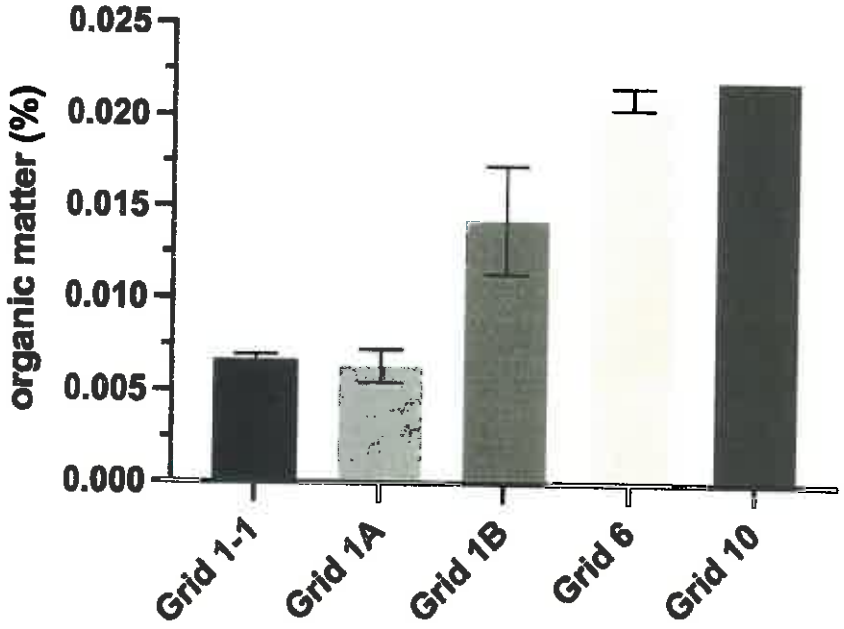
- Soil CEC was low and decreased with depth.
- These CEC values are consistent with sandy soils, which typically have low CEC because they don't contain much clay and organic matter.
- CEC can increase as organic matter increases.
- An agricultural soil would likely have a CEC greater than 20.

Soil Elemental & Nutrient Analysis

- Research and casework has shown that decomposing remains release significant amount of elements nutrients into soil.
- Increased nutrient concentrations can persist for years postmortem.
- Elevated soil nutrient levels can be used to detect the location of decomposition.

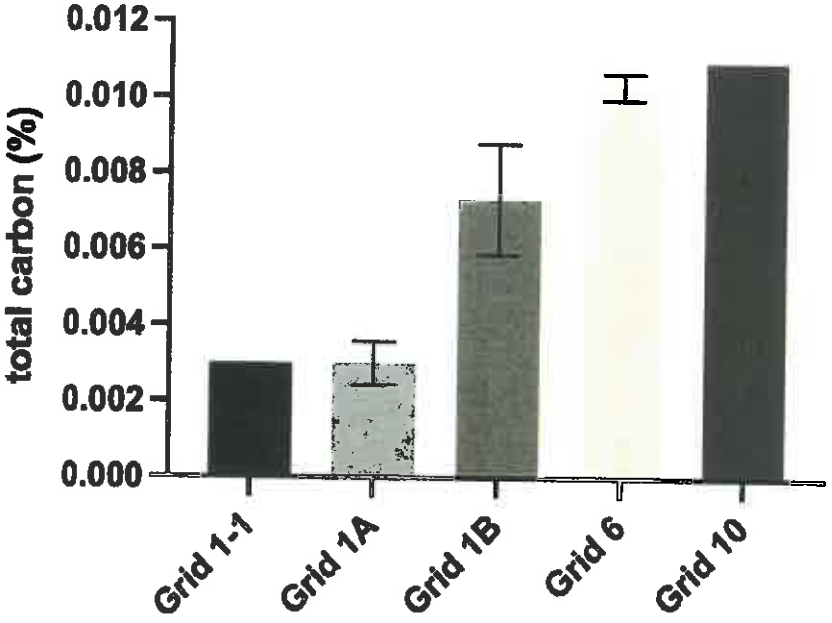
- Samples were analyzed for the following elements and nutrients:
  - organic matter
  - carbon
  - nitrogen
  - phosphorus
  - potassium
  - iron
  - calcium
  - magnesium
  - sodium
  - sulfur

Soil Organic Matter



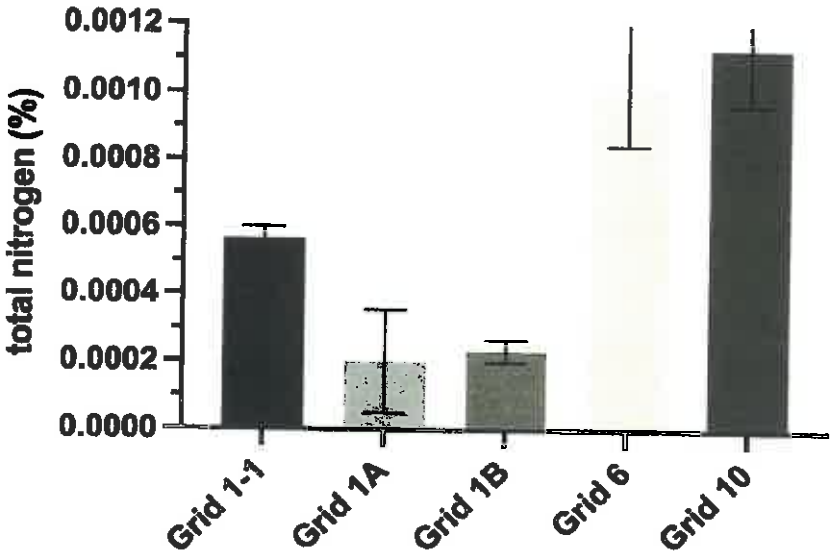
- Organic matter levels were low in all samples.
- Samples from Grid 1-1 and Grid 1A contained the least organic matter.
- A moderate level of organic matter in a soil would range from 0.03 – 0.05 (3% - 5%).

Soil Carbon



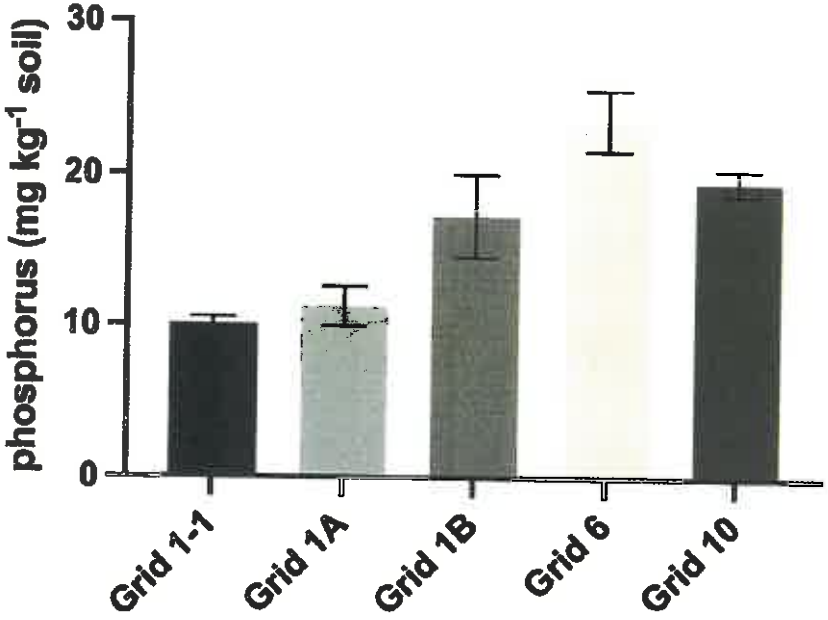
- Carbon levels were low in all samples.
- Samples from Grid 1 contained the least carbon.
- A moderate level of carbon in a soil would range from 0.01 – 0.05 (1% - 5%).

Soil Nitrogen



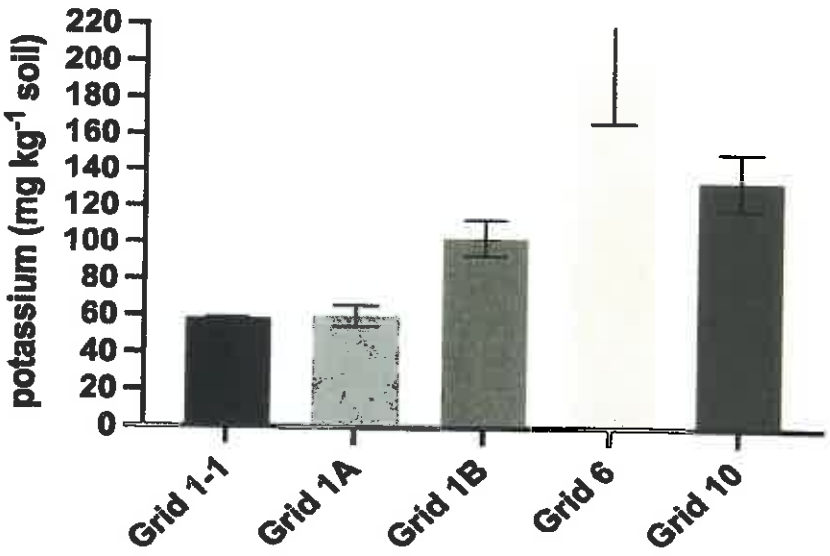
- Nitrogen levels were low in all samples.
- Samples from Grid 1 contained the least nitrogen.
- A moderate level of nitrogen in a soil would range from 0.002 – 0.005 (0.2% - 0.5%).

Soil Phosphorus



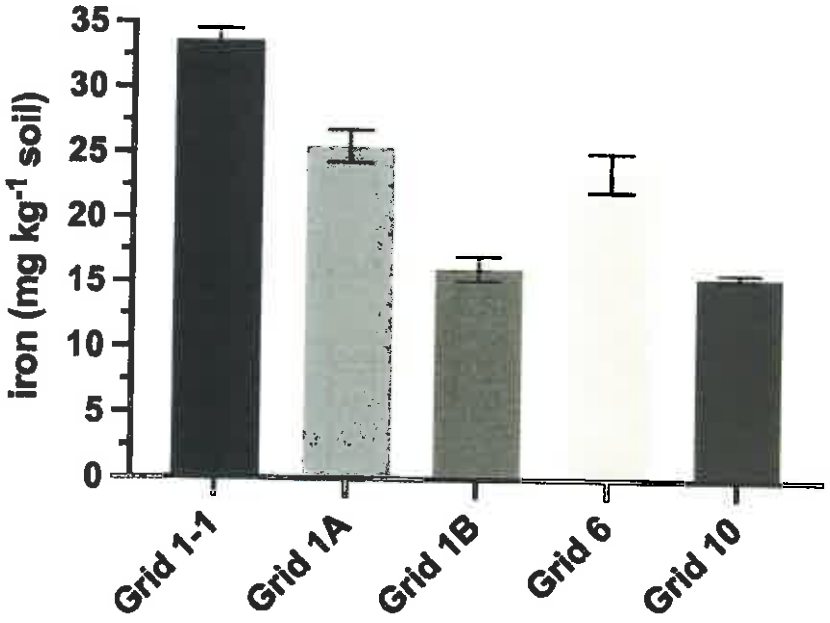
- Phosphorus levels were lowest in Grid 1-1 and Grid 1A.
- Phosphorus levels can vary greatly by land use, but 8 – 15 mg kg^{-1} soil is generally considered moderate.

Soil Potassium



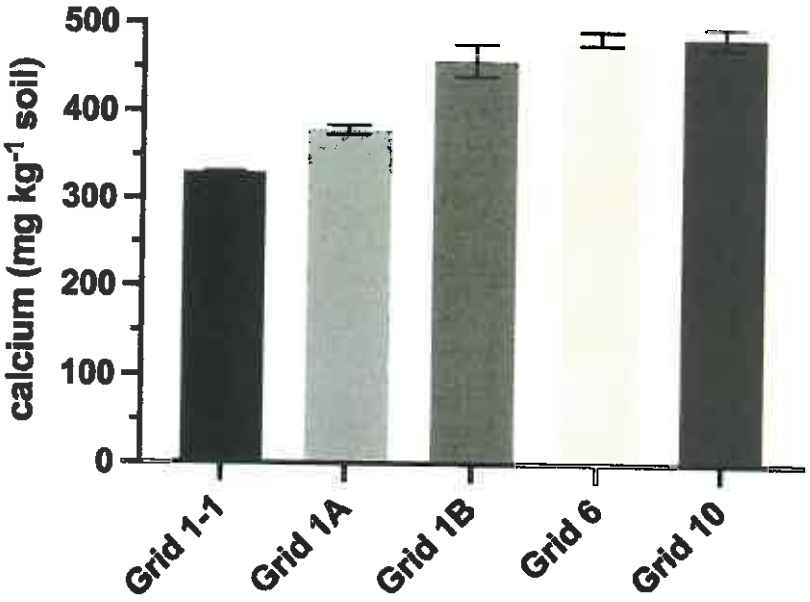
- Potassium levels varied by sample location.
- Grid 1-1 and Grid-1A contained the lowest levels potassium.
- The other Grids contained more potassium.
- Moderate levels of potassium range from 60 – 120 mg kg^{-1} soil.

Soil Iron



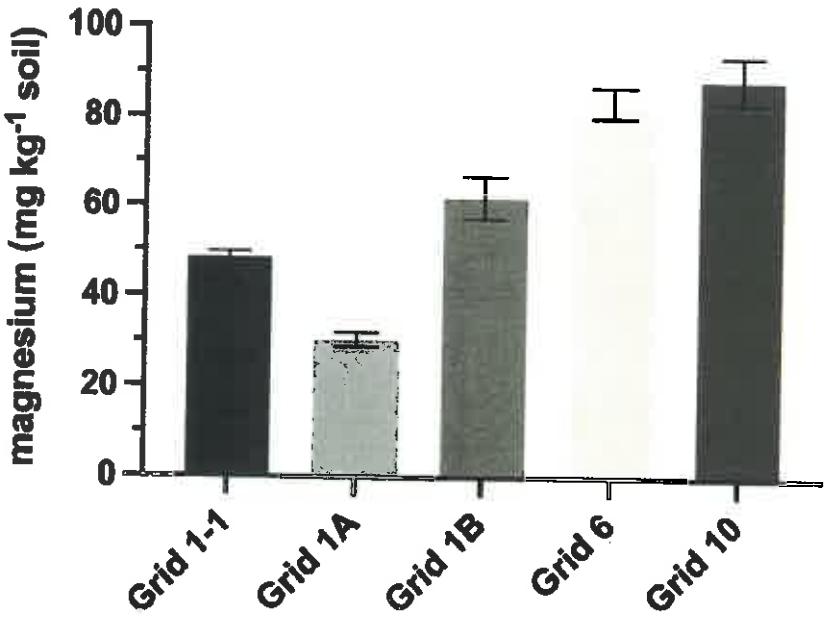
- All samples contained very high levels of iron.
- The greatest levels of iron were in Grid 1-1, Grid 1A, and Grid 6.
- Moderate levels of iron range from 4 – 10 mg kg^{-1} soil.

Soil Calcium



- Calcium levels were lowest in Grid 1-1 and Grid 1A.
- Moderate levels of soil calcium range from 500 – 2000 mg kg^{-1} soil.

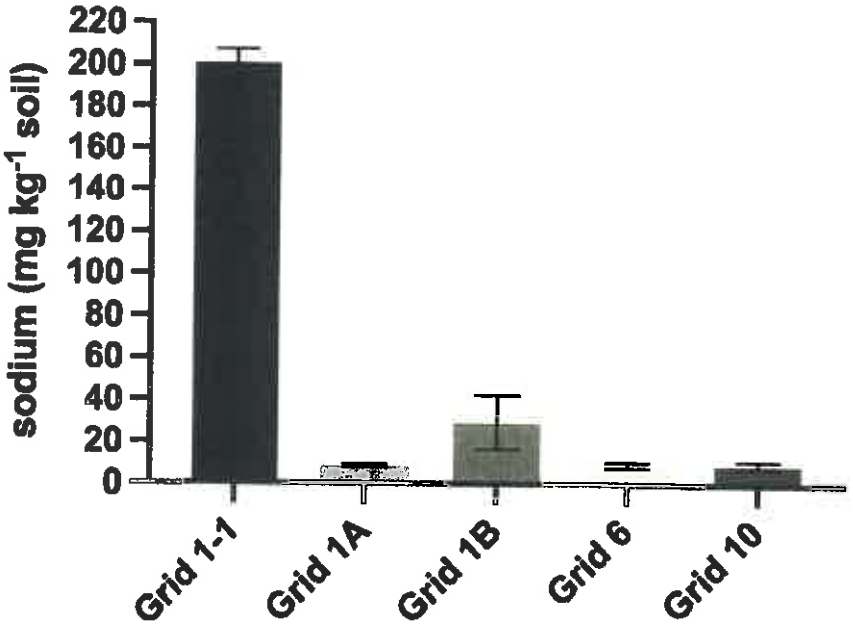
Soil Magnesium



- Magnesium levels ranged from ~30 – 90 mg kg^{-1} soil.
- Lowest levels were in Grid 1-1 and Grid 1A.
- Moderate levels of soil magnesium range from 50 – 100 mg kg^{-1} soil.

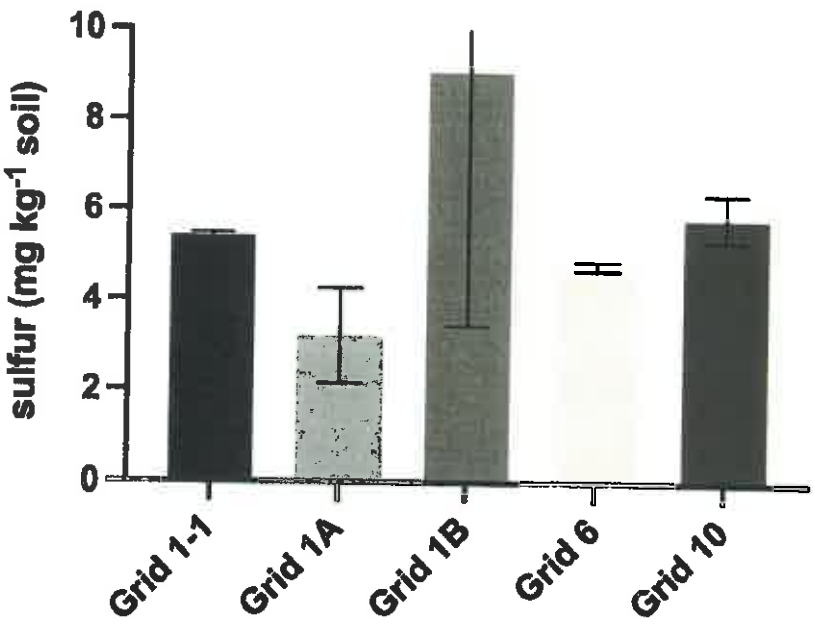
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Soil Sodium



- Most samples contained low levels of sodium.
- Grid 1-1 however contained a very high level of sodium.
- Moderate levels of sodium range from 80 – 120 mg kg^{-1} soil.

Soil Sulfur



- All soils contained similar amounts of sulfur.
- Sulfur levels were low in all soils.
- A moderate level of sulfur ranges from 30 – 60 mg kg^{-1} soil.

Statistical Analysis

- Data were received and organized in Microsoft Excel for Mac version 16.6.1, Microsoft, Redmond, WA, USA.
- All graphs and statistics were generated using Prism 9.3.1 for Mac, GraphPad Inc., La Jolla, CA, USA.
  - Bars represent standard errors where n = 3.

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Education

Ph.D. Biochemistry	2005	James Cook University Townsville, Australia
Thesis: Forensic taphonomy – processes associated with cadaver decomposition in soil		
M.Sc. Forensic Archaeology	2001	Bournemouth University Bournemouth, United Kingdom
Dissertation: An assessment of soil respirometry as a means to measure the decomposition of skeletal muscle tissue (*Ovis aries*) in soil incubated at a range of temperatures		
B.S. Anthropology	1999	University of Idaho Moscow, USA

Current Positions

Director of Forensic Sciences	2012 – Present	Chaminade University of Honolulu Honolulu, USA
Professor of Forensic Sciences	2018 – Present	Chaminade University of Honolulu Honolulu, USA

Professional Memberships & Appointments

American Academy of Forensic Sciences	Fellow – Pathology/Biology Section
American Association for the Advancement of Science	Member
American Society for Microbiology	Member
American Society for Microbiology – Hawaii Branch	Member
International Association for Identification	Associate Member
International Association for Identification – Pacific Northwest Division	Associate Member

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Professional Service

Organization	Position	Term
American Academy of Forensic Sciences – Pathology/Biology Section	Chair – Research Committee	2020 – Present
	Chair	2018 – 2019
	Secretary	2017 – 2018
	Program Chair	2016 – 2017
American Society for Microbiology – Hawaii Branch	President Elect	2021 – Present
Chaminade University of Honolulu – Faculty Senate	President	2022 – Present
International Association for Identification – Nebraska Division	Newsletter Editor	2006 – 2009
Journal of Forensic Sciences – Editorial Board	Member	2018 – Present
Organization for Scientific Area Committees – Medicolegal Death Investigation Subcommittee	Member	2014 – 2020
Scientific Working Group for Forensic Anthropology	Contributor	2010 – 2014
Springer Nature – Soil Forensic Book Series Editorial Board	Member	2020 – Present

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Honors & Awards

Organization	Award	Year
American Academy of Forensic Sciences – Pathology/Biology Section	Achievement in Forensic Life Sciences	2022
Chaminade University of Honolulu	Rev. David Schuyler Advisor of the Year	2019
Chaminade University of Honolulu – Faculty Senate	Fr. John F. Bolin Excellence in Scholarship Award	2018
University of Nebraska – Lincoln, The Black Masque Chapter	Mortar Board Professor of the Month – January	2012
University of Nebraska – Lincoln, College of Agricultural Sciences & Natural Resources, Agricultural Research Division	Junior Faculty Excellence in Research Award	2010
University of Nebraska – Lincoln, College of Agricultural Sciences & Natural Resources	Junior Faculty Holling Award for Teaching Excellence	2010

Selected Journal Publications

Deel HL, Emmons AL, Kiely J, Damann FE, Carter DO, Lynne A, Knight R, Xu Z, Bucheli S, Metcalf JL (2021) A pilot study of microbial succession in human rib skeletal remains during terrestrial decomposition. mSphere. 6:e00455-21.

Dibner H, Mangca Valdez C, Carter DO (2019) An experiment to characterize the decomposer community associated with carcasses (*Sus scrofa domesticus*) on Oahu, Hawaii. Journal of Forensic Sciences. 64:1412-1420.

Junkins EJ, Speck M, Carter DO (2019) The microbiology, pH, and oxidation reduction potential of larval masses in decomposing carcasses on Oahu, Hawaii. Journal of Forensic and Legal Medicine. 67:37-48.

Kodama WA, Xu Z, Metcalf JL, Song SJ, Harrison N, Knight R, Carter DO, Happy CB (2019) Trace evidence potential in postmortem skin microbiomes: from death scene to morgue. Journal of Forensic Sciences. 64:791-798.

Maile AE, Inoue CG, Barksdale LE, Carter DO (2017) Toward a universal equation to estimate postmortem interval. Forensic Science International 272:150-153.

Metcalf JL, Xu ZZ, Bouslimani A, Dorrestein P, Carter DO, Knight R (2017) Microbiome tools for forensic science. Trends in Biotechnology 35:814-823.

Metcalf JL, Xu ZZ, Weiss S, et al. (2016) Microbial community assembly and metabolic function during mammalian corpse decomposition. Science 351:158-162.

Chun LP, Miguel MJ, Junkins EN, Forbes SL, Carter DO (2015) An initial investigation into the ecology of culturable aerobic postmortem bacteria. Science & Justice 55:394-401.

Carter DO, Metcalf JL, Amir A, Knight R (2015) Seasonal variation in postmortem microbial communities. Forensic Science, Medicine and Pathology. 11:202-207.

Weiss S, Carter DO, Metcalf JL, Knight R (2015) Carcass mass has little influence on the structure of gravesoil microbial communities. International Journal of Legal Medicine 130:253-263.

Metcalf JL, Wegener-Parfrey L, Gonzalez A, Lauber CL, Knights D, Ackermann G, Humphrey G, Gebert M, Van Treuren W, Berg-Lyons D, Keepers K, Fierer N, Carter DO, Knight R (2013) A microbial clock provides an accurate estimate of the postmortem interval in a mouse model system. eLife doi:10.7554/eLife.01104.

Anderson B, Meyer J, Carter DO (2013). Dynamics of ninhydrin reactive nitrogen and pH in gravesoil during the extended postmortem interval. Journal of Forensic Sciences 58:1348-1352.

Meyer J, Anderson B, Carter DO (2013). Seasonal variation of carcass decomposition and gravesoil chemistry in a Cold (Dfa) climate. Journal of Forensic Sciences 58:1175-1182.

Carter DO, Tibbett M, Yellowlees (2010) Moisture can be the dominant environmental parameter governing cadaver decomposition in soil. Forensic Science International 200:60-66.

Carter DO, Yellowlees D, Tibbett M (2007) Cadaver decomposition in terrestrial ecosystems. Naturwissenschaften 94:12-24.

Selected Book Chapters

Carter DO (2020) The importance of microbial communities in the estimation of the time since death. In: Hayman J, Oxenham M, eds. Estimation of the Time Since Death: Current Research and Future Trends. Elsevier, Amsterdam. pp. 109 – 139.

Deel H, Bucheli S, Belk A, Ogden S, Lynne A, Carter DO, Knight R, Metcalf JL (2019) Using microbiome tools for estimating postmortem interval. In: Budowle B, Schutzer S, Morse S, eds. Microbial Forensics. 3rd Edition. Elsevier, London. Pp. 171 – 191.

Forbes SL, Carter DO (2015) Processes and mechanisms of death and decomposition of vertebrate carrion. In: Benbow ME, Tomberlin JK, Tarone AM, eds. Carrion Ecology, Evolution and their Applications. CRC Press, Boca Raton, FL.

Metcalf JL, Knight R, Carter DO (2015) Microbiome studies of carrion decomposition. In: Benbow ME, Tomberlin JK, Tarone AM, eds. Carrion Ecology, Evolution and their Applications. CRC Press, Boca Raton: FL.

Damann FE, Carter DO (2014) Human decomposition ecology and postmortem microbiology. In: Pokines J, Symes S (eds.). Manual of Forensic Taphonomy. CRC Press, pp. 37-50.

Edited Volumes

Carter DO, Tomberlin JK, Benbow ME, Metcalf JL, editors (2017) Forensic Microbiology. Wiley Blackwell, Chichester, United Kingdom.

Tibbett M, Carter DO, editors (2008) Soil Analysis in Forensic Taphonomy: Chemical and Biological Effects of Buried Human Remains. CRC Press, Boca Raton, FL, USA.

Selected Conference Proceedings

Burcham Z, Belk A, Emmons A et al. (2022) Microbial dynamics of human decomposition accurately estimates postmortem interval. Proceedings of the 74th Annual Meeting of the American Academy of Forensic Sciences. 28:260.

Carter DO, Peterson A, Orimoto A, Ribéreau-Gayon A, Gutierrez C, Perrault KA (2022) A long-term study of decomposition at a tropical taphonomy facility: 2013 – 2021. Proceedings of the 74th Annual Meeting of the American Academy of Forensic Sciences. 28:849.

Deel H, Emmons A, Kiely J et al. (2022) A pilot study of microbial succession in human rib skeletal remains during terrestrial decomposition. Proceedings of the 74th Annual Meeting of the American Academy of Forensic Sciences. 28:261.

Furuta K, Byrne J, Cheung C, Carter DO, Perrault KA (2022) A characterization of volatiles produced by five aerobic postmortem bacterial species. Proceedings of the 74th Annual Meeting of the American Academy of Forensic Sciences. 28:854.

Dubois LM, Gutierrez CA, Carter DO, Focant JF, Perrault KA (2020) Decomposition odor production in a tropical savannah. Proceedings of the 72nd Annual Meeting of the American Academy of Forensic Sciences. 26:839.

Belk AD, Deel HL, Zhenjiang ZX, Carter DO, Bucheli SR, Lynne AM, Connor MA, Steadman DW, Vidoli GM, Knight R, Metcalf JL (2019) Building a microbial model to estimate the postmortem interval (PMI) using data collected during the spring season at three anthropological facilities. Proceedings of the 71st Annual Meeting of the American Academy of Forensic Sciences. 25:823.

Cernosek T, Eckert KE, Carter DO, Perrault KA (2019) An investigation of the decomposition odor profile produced by postmortem microbes. Proceedings of the 71st Annual Meeting of the American Academy of Forensic Sciences. 25:815.

Deel HL, Belk AD, Lynne AM, Bucheli SR, Zhenjiang ZX, Damann FE, Carter DO, Knight R, Metcalf JL (2019) Estimating postmortem interval (PMI) using microbial succession in human cadaver rib bones. Proceedings of the 71st Annual Meeting of the American Academy of Forensic Sciences. 25:816.

Ribéreau-Gayon A, Rando C, Morgan RM, Carter DO (2018) The suitability of digital photographs to evaluate decomposition of pig carcasses in a tropical climate. Proceedings of the 70th Annual Meeting of the American Academy of Forensic Sciences. 24:126.

Dibner H, Mangca Valdez CKR, Carter DO (2017) Small Asian mongoose scavenging behavior on Oahu. Proceedings of the 69th Annual Meeting of the American Academy of Forensic Sciences. 23:931.

Manuscripts Reviewed for the following Scientific Journals

Applied Soil Ecology	Journal of Forensic Sciences
Biogeochemistry	Journal of Microbiological Methods
Biological Conservation	Legal Medicine
Current Microbiology	Medicine, Science and the Law
Forensic Science International	Microbial Ecology
International Biodeterioration and Biodegradation	PLoS One
International Journal of Waste Management	Soil Research
International Journal of Legal Medicine	Science & Justice
Journal of Environment Management	Scientific Reports

Grant Proposals Reviewed for the following Funding Agencies

The Leverhulme Trust	United Kingdom
National Institutes of Health	USA
National Institute of Justice	USA
National Science Foundation	USA
Schweizerischer Nationalfonds zur Förderung der wissenschaftlichen Forschung	Switzerland
State of Louisiana Board of Regents	USA

EXHIBIT B

Elizabeth A. Johnson, Ph.D.
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Phone 805-553-0445

Summary Report
State of California v. Paul Flores
J210971

May 30, 2022

I hold a B.S. degree in chemistry and a Ph.D. degree in Immunology. I have been a forensic scientist since 1991. I have worked in both public and private forensic laboratories and have performed evidence examinations and DNA analyses on thousands of samples. I have been court qualified in evidence examination, body fluid testing and DNA analysis. I have testified more than 100 times in state and federal courts in the US. I am currently in private practice performing forensic science consultation. My curriculum vitae is attached.

Paul Flores is accused of murdering Kristin Smart, a college student who disappeared in May, 1996. Although her body has not been recovered, the state maintains that the defendant buried her body on private property to which he had access and later moved it. I have been retained by attorney Robert Sanger to assist in the case review of this matter regarding forensic biology issues

I have reviewed laboratory reports, notes and data of examinations and testing performed by Serological Research Institute (SERI) on items of physical evidence submitted to them in this case as well as various supporting laboratory documents including laboratory Standard Operating Procedures (SOPs) and validation studies.

This report contains a summary of opinion of Elizabeth A. Johnson, Ph.D. and is limited to the testing of soil samples for the presence of human hemoglobin (HHb) as performed by SERI using the SERATEC® HemDirect assay. The opinions provided in this summary report should not be considered all-inclusive since not every issue can be anticipated prior to cross-examination.

Background:

HemDirect is an immunological chromatographic assay that employs two monoclonal antibodies that bind to different sites on the HHb protein. If HHb is present in a sample, and if the first antibody can recognize its binding site on the HHb protein, a soluble antibody-HHb complex is formed which travels across a membrane to a 'test' region on the membrane where a second monoclonal antibody to HHb is immobilized in the form of a line. If this immobilized second

antibody can recognize and bind to its specific binding site on the HHb protein, a sandwich complex of antibody-HHb-antibody forms and remains stationary at the "test" region. A pink line is formed indicating a positive test. If HHb is not present in the sample, there is no visible line formed in the "test" region, and the sample is considered negative. The process is similar to that employed in a home covid antigen test.

Law enforcement collected soil samples from an area where they believe the body of Ms. Smart was buried at one time and submitted the samples to SERI. Angela Butler from SERI tested the soil samples using the SERATEC® HemDirect assay. Ms. Butler extracted a portion of each soil sample either in HemDirect buffer or water followed by dilution in HemDirect buffer. Several samples were reported to be positive or weak positive for HHb, and some were reported to be negative. Results of this testing are contained within reports dated March 25, 2021 and July 14, 2021.

Findings from my review:

The HemDirect assay has never been fully validated for use on human blood and tissue samples that were exposed to soil, either by SERI or by SERATEC®. Published research regarding such samples is very limited. Hochmeister et al. studied limited human blood and tissue samples that had been exposed to soil only for one month, and this research was performed using a different immunochromatographic assay system, the Hexagon OBT1 system, that employs different antibodies than the SERATEC® assay. Furthermore, studies performed by Laux et al. using HemDirect showed that human blood deposited on various substrates suffered significant degradation and most gave negative test results after exposure to environmental conditions for only four weeks. Positive results reported for aged bloodstains always involved samples stored at room temperature under laboratory conditions. Even then, aged stains of 25 and 30 years stored at room temperature tested negative with HemDirect (Horjan et al.). I corresponded with Dr. Christian Stadler at SERATEC® to inquire whether they had performed any validation studies using human blood samples exposed to soil for prolonged periods of time and if they had studies to determine what may result in false positives. His opinion was that most likely after several years of environmental there would be no hemoglobin due to degradation, and wet conditions lead to degradation. He also stated that very oxidative/reductive chemicals could give false results, but he did not have specific data for this. Our email exchange is attached to this report.

Conclusion:

Human hemoglobin is a protein that is subject to degradation. Degradation of the protein can result in one or both of the anti- HHb monoclonal antibodies within the assay system being unable to bind to their target sites on the human hemoglobin molecule. If this happens the test result is expected to be negative. Based on the environmental exposure studies performed by Laux and the statements made by Dr. Stadler, one would expect that the HemDirect test would be negative for human blood and tissue aged in the environment for a significant period of time.

The President's Council of Advisors on Science and Technology (PCAST) Report issued in 2016 states the following:

- *For a metrological method to be scientifically valid and reliable, the procedures that comprise it must be shown, based on empirical studies, to be repeatable, reproducible, and accurate, at levels that have been measured and are appropriate to the intended application.*

- *Scientific validity and reliability require that a method has been subjected to empirical testing, under conditions appropriate to its intended use, that provides valid estimates of how often the method reaches an incorrect conclusion.*

- *It is necessary to have appropriate empirical measurements of a method's false positive rate and the method's sensitivity.*

- *The false positive rate is especially important because false positive results can lead directly to wrongful convictions.*

Studies performed to date to evaluate false positives with HemDirect have focused primarily on reactivity with blood from non-human species, as well as pH variations under which the test might be performed. There have been no extensive validation studies performed that would assess the effect that various chemicals possibly present in the soil samples would have on the assay. In light of this, it is not possible to determine with any scientific reliability what may be causing the positive results obtained by SERI. Furthermore, significant numbers of samples aged in soil for prolonged periods of time have not been studied. This test system has been applied to casework samples without proper validation for the type of samples on which it was used, and as such contradict the recommendations issued in the PCAST report.

Therefore, the positive and weakly positive test results obtained by SERI on soil samples tested with the SERATEC® HemDirect assay in this case cannot be considered scientifically reliable.

Elizabeth A. Johnson, Ph.D.

Resume

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EDUCATION

College — BS Chemistry, cum laude
Department of Chemistry
Wofford College, Spartanburg, SC
1978-1982

Graduate — Ph.D. -- conferred July, 1987
Department of Microbiology and Immunology
Medical University of South Carolina, Charleston, SC
August 1982 - July 1987

Dissertation — *Production and characterization of a monoclonal antibody to an antigen present on subsets of natural killer cells and human tumor cells.*

POSITIONS HELD

Private Forensic Consultation — May, 2003 - present

Senior Forensic Scientist — Technical Associates, Inc.
4125 Market Street, Suite #3
Ventura, CA 93003
February 1997 – May, 2003

Director — DNA Laboratory
Joseph A. Jachimczyk Forensic Center
1885 Old Spanish Trail
Houston, TX 77054
September 1993 - December 1996

Supervisor — DNA Laboratory / Serology Section
Joseph A. Jachimczyk Forensic Center
1885 Old Spanish Trail
Houston, TX 77054
April 1993 - September 1993

Assistant Toxicologist — DNA Laboratory
Joseph A. Jachimczyk Forensic Center
1885 Old Spanish Trail
Houston, TX 77054
November 1991 - April 1993

Post-doctoral Fellow — Department of Molecular Hematology
Advisor: Albert Deisseroth, M.D., Ph.D.
Chairman, Department of Hematology
M.D. Anderson Cancer Research Hospital
Houston, TX 77030
October 1988 - November 1991

Department of Microbiology and Immunology
Advisor: Alfred Tsang, Ph.D.
Medical University of South Carolina
Charleston, SC
September 1987 - September 1988

CONTINUING EDUCATION - FORENSICS

CLASSES and WORKSHOPS

Probabilistic Genotyping, American Academy of Forensic Sciences, February 2021.

Probabilistic Genotyping, American Academy of Forensic Sciences, February 2018.

Validation Workshop, International Symposium on Human Identification, October, 2007.

Y-STR Analysis on Forensic Casework, American Academy of Forensic Sciences, February 2004.

Expert Witness Workshop, Southwestern Working Group on DNA Analysis Methods (SWGDAM), January, 2000.

Mitochondrial DNA Workshop, International Symposium on Human Identification, September, 1999.

FBI/SWGDAM STR Workshop, Austin, TX, 1998.

Statistics Workshop, International Symposium on Human Identification, September, 1996, 2002.

STR Workshop, The Promega Corporation, May, 1995.

Roche Amplitype Workshop, Roche Molecular Systems, December, 1992.

Armed Forces Institute of Pathology DNA Identification Laboratory, visiting scientist to learn methods of mitochondrial DNA sequencing on aged remains, October, 1992.

Advanced Aspects of Forensic DNA Analysis (courtroom testimony), FBI Academy, June, 1992.

CONFERENCES

International Symposium on Human Identification 1992, 1993, 1994, 1995, 1996, 1997, 1999, 2001, 2002, 2003, 2004, 2007.

American Academy of Forensic Sciences 1992, 1993, 1994, 1995, 2001, 2010, 2018, 2020, 2021.

The Future of DNA Technology, Washington, DC, 1996.

CODIS Software Symposium, Quantico, VA, 1995.

Advances in DNA Technology, Bethesda, MD, 1992.

OTHER INFORMATION

APPOINTMENTS

California Senate Rules Committee Crime Laboratory Review Task Force, appointed October, 2007.

PROFESSIONAL SOCIETIES

Member of American Academy of Forensic Sciences

INVITED LECTURES

Texas Criminal Defense Lawyers Association, October, 2018.

Santa Barbara Public Defender's Office, October, 2017.

CACJ/CPDA Capital Case Defense Seminar, February, 2017.

Texas Criminal Defense Lawyers Association, February, 2016.

Robert Dawson Juvenile Law Conference, February, 2014.

Texas Association of Counties Fall Judicial Education Session, November, 2013.

Texas Criminal Defense Lawyers Association, October, 2013.

Texas Criminal Defense Lawyers Association, October, 2012.

Robert Dawson Juvenile Law Conference, February, 2012.

CACJ/CPDA Capital Case Defense Seminar, February, 2012.

Texas Criminal Defense Lawyers Association, November, 2011.

CAPTAP Conference, March, 2011.

Robert Dawson Juvenile Law Conference, February, 2011.

Las Vegas Federal Public Defender's DNA training, December, 2010.

Texas Criminal Defense Lawyers Association, October, 2010.

CACJ/CPDA Training Seminar, May, 2010.

Rusty Duncan Law Seminar, June, 2009.

CPDA DNA Evidence Seminar, January, 2009.

Texas Criminal Defense Lawyers Association, October, 2008.

Texas State Bar Association, July, 2008.

CACJ/CPDA Capital Case Defense Seminar, February, 2008.

Maryland Public Defender's DNA training College, 2007, 2008, 2009, 2010, 2011.

California Habeas Corpus Resource Center Spring Conference, June, 2007.

Washington State Bar Association, May, 2007.

CACJ/CPDA Capital Case Defense Seminar, February, 2007.

Texas Criminal Defense Lawyers Association, September, 2006.

Rusty Duncan Law Seminar, June, 2006.

Osgoode Professional Development Center Symposium on Forensic DNA Evidence, Toronto, Canada, April, 2006.

Third Annual Forensic Science Conference DNA Cross-Examination College, Washington, D.C., September, 2005.

Texas Criminal Defense Lawyers Association, September, 2005.

Forensic Bioinformatics 4th Annual Conference, August, 2005.

CACJ/CPDA Capital Case Defense Seminar, February, 2005.

Texas Criminal Defense Lawyers Association, August, 2004.

California Habeas Corpus Resource Center Spring Conference, May, 2004.

CACJ/CPDA Capital Case Defense Seminar, February, 2004.

Washington State Bar Association, September, 2003.

Texas Criminal Defense Lawyers Association, August, 2003.

Utah Criminal Defense Lawyers Association, April, 2003.

The Innocence Project, March, 2003.

Second Annual Texas Capital Defense Conference, October, 2002.

Guest lecturer, University of Texas Law School, Advanced Criminal Defense class, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2004, 2006.

California Public Defenders Association (CPDA), January, 2001.

Texas Criminal Defense Lawyers Association, October, 1997.

Arizona Public Defenders' Seminar, April, 1997.

The Amersham Corporation, April, 1996.

College of the Mainland, April, 1995.

Southwest Association of Toxicologists, May, 1993.

BIBLIOGRAPHY

PUBLICATIONS

1. Taylor, M.S., A. Challed-Spong, and E.A. Johnson. Co-amplification of the HLA DQα and amelogenin genes: optimization and validation. *J. Forensic Sciences*, 42 (1), 1997.

2. Johnson, E., W. Henzel, and A. Deisseroth. An isoform of protein disulfide isomerase isolated from chronic myelogenous leukemia cells alters complex formation between nuclear proteins and regulatory regions of interferon-inducible genes. *J. Biol. Chem.*, 267:14412-14417, 1992.

3. Seong, D., S. Sims, E. Johnson, J. Lyding, A. Lopez, M. Garovoy, M. Talpaz, H. Kantarjian, G. Lopez-Berestein, C. Reading, and A. Deisseroth. Activation of class I HLA expression by TNF-alpha and gamma-interferon is mediated through protein kinase C - dependent pathway in CML cell lines. *British Journal of Haematology,* 78:359-367, 1991.

4. Deisseroth, A., O.M.Z. Howard, A. Wedrychowski, D. Seong, N. Paslidis, M. Romine, S. Sims, C.V. Herst, T. Yuan, K. Wu, T. Lopez and E. Johnson. Summary and Future Directions, in *Chronic Myelogenous Leukemia: Molecular Approaches to Research and Therapy*; A. Deisseroth and R. Arlinghaus, eds., 1991, pp.469-475.

5. Wedrychowski, A., D. Seong, N. Paslidis, E. Johnson, O.M.Z. Howard, S. Sims, M. Talpaz, H. Kantarjian, J. Hester, J. Turpin, G. Lopez-Berestein, J. Gutterman, E.J. Freireich and A. Deisseroth. Characterization of nuclear proteins which bind to interferon-inducible transcriptional enhancers in hematopoietic cells. *J. Biol. Chem.*, 265:21433-21440, 1990.

6. Deisseroth, A., C.V. Herst, A. Wedrychowski, S. Sims, D. Seong, E. Johnson, T. Yuan, M. Romine, N. Paslidis, P. Gao, L. Huston, D. Claxton, S. Kornblau, H, Kantarjian, M. Talpaz and C. Reading. Future directions in molecular and genetic therapy of leukemias and solid tumors. *M.D. Anderson Cancer Bulletin*, 1990.

7. Seong, D.C., S. Sims, E. Johnson, O.M.Z. Howard, J. Hester, M. Talpaz, H. Kantarjian and A. Deisseroth. A phosphatase activity present in peripheral blood myeloid cells of CML patients but not normal individuals alters nuclear protein binding to transcriptional enhancers of interferon-inducible genes. *J. Clin. Invest.*, 86:1664-1670, 1990.

8. Warren, R.Q., E.A. Johnson, R.P. Donnelly, M.F. LaVia and K.Y. Tsang. Specificity of anti-lymphocyte antibodies in sera from patients with AIDS-related complex (ARC) and healthy homosexuals. *Clin. and Exp. Immunol.*, 73:68-73, 1988.

9. Tsang, K.Y., E.A. Johnson and M.F. LaVia. Anti-p24 antibody reactivity in Acquired Immunodeficiency Syndrome (AIDS) related complex patients treated with Isoprinosine. *Annals of Internal Medicine*, 107:595, 1988.

10. Johnson, E., L. Miribel, P. Arnaud and K.Y. Tsang. Purification of IgM monoclonal antibody from murine ascitic fluid by a two step column chromatography procedure. *Immunol. Lett.*, 14:159-165, 1987.

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Original communication

Applicability of three commercially available kits for forensic identification of blood stains

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ABSTRACT

Various commercially available one-step immunoassays for detection of human (primate) blood have been developed. This study evaluated two hemoglobin tests, ABAcard® HemaTrace® and HemDirect Hemoglobin against glycophorin A test-RSID™-Blood for following parameters: sensitivity, specificity, effectiveness using various substrates, stain remover and aged blood stains. The highest blood detection limit was observed if HemaTrace® was used. When compared with HemaTrace®, ten times lower sensitivity was observed for HemDirect Hemoglobin test. No false positives were obtained for HemDirect Hemoglobin while ABAcard® HemaTrace®, probably due to its extreme sensitivity, showed high percent of false positives with saliva. The lowest sensitivity and 40% of false positives with saliva was exhibited by RSID™-Blood. In addition, this test encountered the lowest efficacy if aged blood-stains or blood treated with stain remover were used. As expected, none of the tested substrates (wood, metal, brick, and soil), influenced on blood testing, although soil substrate affected STR amplification. Conducted studies established HemDirect Hemoglobin test as more reliable for evaluated parameters than ABAcard® HemaTrace® and RSID™-Blood.

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1. Introduction

After a crime has occurred, various traces of human origin connected with the crime scene can be used to link potential suspects to the victim or the crime scene. Traces or stains of different body fluids may be invisible to the naked eye, look similar in appearance to other fluids or substances, and even be degraded due to environmental conditions.[1,2] Regarding traces of blood, one of the most commonly found human body fluids, an important issue studied by forensic scientists is the detection of blood stains that have been deliberately removed with various cleaning agents (e.g., bleach, stain remover, detergents) and their influence on degradation of blood proteins and subsequent DNA analysis.[3–5] In addition, substrates on which blood stains are found may also influence the efficiency of subsequent DNA analysis.[3,4,6] A well-established procedure used at different forensic laboratories includes the examination of potential blood traces by means of one or more presumptive tests and, in the event of a positive reaction obtained by a presumptive test, the use of a confirmatory test to definitively establish the origin of the sample. Over the years, several one-step immunochromatographic assays based on the determination of hemoglobin have been developed, enabling fast and easy detection of human blood for forensic purposes. Compared to presumptive tests, which have been thoroughly studied to determine their sensitivity, specificity, and potential negative effects on subsequent DNA analysis, immunochromatographic hemoglobin kits are generally less sensitive but more specific.[6–12] Their main disadvantages are their susceptibility to "high-dose hook effect" – i.e., the occurrence of false negative results observed when a very high level of the target antigen is present in the tested sample – and the possibility of cross-reaction with ferret, skunk, and primate blood, and even with other human body fluids, such as urine, stool, semen, vaginal fluid, saliva, and perspiration.[13–16] Lately, RSID™-Blood, a lateral flow immunochromatographic strip test that detects human glycophorin A, has been proposed as a confirmatory test and a possible alternative method for the detection of human blood.[17,18]

The objective of the present study was to evaluate two hemoglobin tests, HemDirect Hemoglobin Assay (SERATEC®, Göttingen,

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Germany) and the ABAcard® HemaTrace® test (Abacus Diagnostics, Inc., West Hills, CA, USA), their sensitivity, specificity and effectiveness using various substrates, stain remover, aged blood stains, as compared with the human glycophorin A test RSID™-Blood (Independent Forensics, Lombard IL, USA), in order to implement these kits in the current laboratory workflow of human blood identification.

2. Materials and methods

Commercially available HemDirect Hemoglobin Assay (SERATEC®, Catalog Number: HbF07), ABAcard® HemaTrace® (Abacus Diagnostics Inc., Catalog Number: 708424), and RSID™-Blood (Independent Forensics, Catalog Number: 0300) were evaluated.

The fresh, liquid blood and saliva used in the sensitivity and specificity studies were contributed by staff volunteers with their written consent. The positive control was prepared from the blood of the same donor as used in the testing. For the study involving aged samples, casework blood stains deposited on paper and stored at room temperature were used. The samples were prepared under equal conditions and tested according to the manufacturer's protocols.[14,15,20]

2.1. Sensitivity

Three aliquots of twenty μL of blood from a same donor were placed into a 1.5 ml sample tubes, serially diluted ten folds in extraction buffer of each test (starting at 1:10 down to 1:10 000 000), and tested in triplicate.

2.2. Specificity - cross-reactivity with saliva

Fifty μL samples of saliva contributed by five female donors were each diluted in four hundred and fifty μL of ultrafiltered water, incubated for five minutes at room temperature on a shaker, vortexed for 10s, and tested with the HemDirect Hemoglobin and ABAcard® HemaTrace® tests in triplicate. For the RSID™-Blood test, saliva from the same five donors (50 μL) was extracted at room temperature on a shaker in four hundred and fifty μL of RSID™-Saliva extraction buffer, for one-and-a-half hours and vortexed for 10s. Twenty μL of the extracted sample solution was placed into a new tube with eighty μL of RSID™-running buffer and vortexed for 10s. One hundred μL of prepared mixture was placed in the sample well of the test strip and tested in triplicate.

Every test that showed at least one positive result was additionally tested with saliva obtained from an additional five female donors and ten male donors, prepared as previously described.

2.3. Conditioned samples with various substrates and stain remover

Twenty μL of blood was deposited on various substrates in triplicate and allowed to dry overnight. Wood, metal, brick, and soil substrates were tested to investigate their possible influence on blood testing. The samples deposited on wood, metal, and brick were collected using sterile cotton swabs moistened with ultrafiltered water and each one was placed into a 1.5 ml test tube, while the blood deposited on soil (m = 0.1 0.05 g) was extracted together with the substrate. Twenty μL of blood on a sterile cotton swab was left to dry overnight at room temperature and was used as a positive control. Substrates without blood were used as negative controls.

The samples along with positive control were extracted in one thousand μL of extraction buffer of each test, incubated for two hours on a shaker at the room temperature. Solid substrates were separated using spin baskets. Following centrifugation, each supernatant was used for blood testing in triplicate. Swabs were added to pellet, resuspended and used for genomic DNA extraction.

In addition, the effect of commercially available stain remover containing active oxygen (Procter and Gamble, Italy) on blood testing was investigated. Due to established reproducibility of all three tests, following two experiments were conducted in monoplicate. Three blood samples (20 μL) were deposited on separate white cotton fabrics, left to dry overnight, and treated as follows: the first sample was soaked in 50 mL of warm water (40 °C) and mixed with the stain remover (final concentration 2% v/v), the second sample was soaked in 50 mL of cold water and the stain remover (final concentration 2% v/v), and the third sample was soaked in 50 mL of warm water (40 °C) without added stain remover. All samples were soaked for 2 h, rinsed in running water, and allowed to dry overnight. Blood (20 μL) deposited on white cotton fabric without soaking was used as a positive control. White cotton fabric without blood (0.5 cm^2), was used as a negative control. An approximately equal size cutting (0.5 cm^2) of each of the blood stains and positive control was cut and extracted in one thousand μL of extraction buffer of each test, incubated for two hours on a shaker at room temperature. Fabric was separated using spin baskets. Following centrifugation, supernatant was used for blood testing. Fabric was added to pellet, resuspended and used for genomic DNA extraction.

2.4. Aged casework blood stains

Five 19- to 28-year-old casework blood stains stored at room temperature were tested. An approximately equal size cutting (0.5 cm^2) of each of the blood stains was cut, extracted in the extraction buffer of each test according to manufacturer's protocols, and tested in monoplicate.

2.5. Interpreting the results

For the ABAcard® HemaTrace® test, one hundred and fifty μL of the extracted sample (one hundred μL for the HemDirect Hemoglobin and RSID™-Blood tests) was pipetted into the sample well of the test strip, and the results were recorded after exactly 10 min. The presence of two red lines (HemDirect Hemoglobin/RSID™-Blood), or two pink lines (ABAcard® HemaTrace®), one at the test "T" position and one at the control "C" position, indicates a positive result ("+"). A colored line at the control "C" position only, indicates a negative result ("−"). If there is no line visible at the control "C" position or only at the test "T" position, it indicates that the test is invalid.[14,15,20]

A clearly visible line at the control "C" position indicates that each tested strip has worked correctly. The results of the body fluid specificity testing were classified as positive, weak positive, trace positive, and negative, based on the test line intensity visualized at the test "T" position when compared to the colored line of the control "C" position. As none of the tested kits are quantitative in nature, this highly subjective scoring was used for this study only. In casework samples, the results of all three tests should be recorded as either positive (+) or negative (−), in accordance with the manufacturer's recommendations.

2.6. DNA testing

Genomic DNA was extracted using Chelex®100 with the addition of proteinase K.[19,21] Following quantification using a Quantifiler® Human DNA Quantification Kit and amplification with an AmpFlSTR®NGM™ Amplification Kit, the PCR products were analyzed on a 3130*xl* Genetic Analyzer using GeneMapper® *ID-X* software (all of the above from Applied Biosystems, USA).[21] The

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Table 1
Limit of detection for three tested kits.

Serial dilution	HemDirect	ABAcard® HemaTrace®	RSID™-Blood
1:10	–	–	+
1:100	–	+	+
1:1000	+	+	+
1:10 000	+	+	–
1:100 000	+	+	–
1:1 000 000	+	+	–
1:10 000 000	–	+	–

The serial dilution of blood (20 μl) was prepared and tested.
Positive test results shown as "+"; negative results as "–".

effect of each substrate and the stain remover on DNA quality was determined based on the average peak height (PH) and the peak height ratio (PHR). The peak balance was calculated by dividing the PH of an allele with a lower RFU (relative fluorescence unit) value by the PH of an allele with a higher RFU value, with perfect balance resulting in a peak height ratio of 1.

3. Results and discussion

3.1. The sensitivity study

In order to determine the lowest limit of detection, decreasing amounts of blood were analyzed (Table 1). The results showed that the highest sensitivity was shown by the ABAcard® HemaTrace® test, which exhibited a detection limit of about 2 picoliters (pL) of blood. Ten times lower sensitivity (~20 pL of blood) was observed with the HemDirect Hemoglobin test, while the RSID™-Blood test exhibited even 10 000 times lower sensitivity (~20 nL of blood). This is consistent with previously published studies that reported the RSID™-Blood test as being less sensitive than other immunochromatographic tests.[17,18] However, the "high dose hook effect" was observed with both hemoglobin tests, while no such effect was observed with the RSID™-Blood test. Full DNA profiles were obtained from all samples diluted up to 1:10 000, which corresponds to the DNA concentration of 20 pg/μL (data not shown).

3.2. The specificity study – cross-reactivity with saliva

In order to determine whether the tested kits exhibit the specificity required for forensic applications, saliva extracts were analyzed. The results of this analysis are shown in Fig. 1. Negative results were obtained when the HemDirect Hemoglobin test was used, while the ABAcard® HemaTrace® test resulted in a low percentage of negatives (20%), probably due to its extreme sensitivity, as pointed out by the manufacturer.[15] Interestingly, the RSID™-Blood test yielded 60% of negatives (experiment 1). Possible cross-reactivity of both tests was further investigated using fifteen additional saliva samples obtained from both male and female donors (experiment 2). As expected, the ABAcard® HemaTrace® test continued to exhibit a high percentage of false positives. Fig. 1 shows that false positive results of varying intensity were obtained in half of the total samples tested by the RSID™-Blood test. Importantly, false positives detected for both tests did not depend on the sex of the donor (data not shown). Although traces of blood are occasionally present in saliva, the possibility of false positives when using the RSID™-Blood test should be minimal, considering the considerably low sensitivity of the test. These observations strongly suggest the need to further investigate whether the RSID™-Blood test yields positive reactions with trace amounts of blood potentially present in saliva, or perhaps this test does not detect specifically glycopohorin A, but also other sialoglycoproteins present in the cells of the anterior lingual salivary glands.[23]

3.3. Conditioned samples with various substrates and stain remover

At a crime scene, blood may be subjected to various conditions, and the nature of the substrate on which the blood is deposited can itself introduce contaminants to the evidential material. Thus, this study was performed in order to establish potential inhibitory effects that various substrates on which blood is found have on blood testing. The substrates used in this study were selected among those which are commonly encountered at the crime scene, including non-porous (metal) and porous (wood, brick, and soil) surfaces. In previous internal laboratory validation study, all of the tested substrates resulted in false positives with the following presumptive tests: Combur[3] Test® E (Roche Diagnostics GmbH, Germany) with wood and brick and Hemastix® (Siemens Healthcare Diagnostics Inc., USA) with metal and soil.[25] As expected, none of the immunochromatographic kits exhibited false positives with the tested substrates, confirming no inhibitory effect of used substrates on blood testing (Table 2). Since the type of the surface on which blood is deposited is an important factor in determining whether DNA could be obtained, DNA analysis was performed

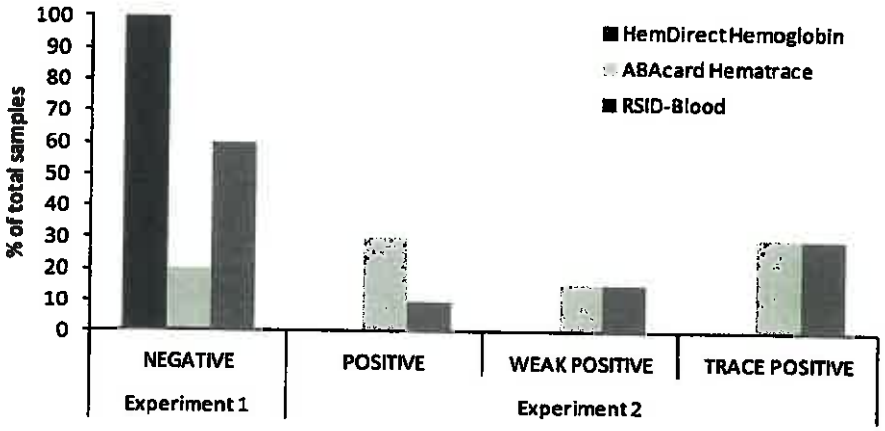


Fig. 1. Specificity of HemDirect, HemaTrace® and RSID™-Blood tests using diluted saliva obtained from twenty donors. Saliva (50 μL) samples obtained from ten female and ten male donors were diluted in 450 μL of ultrafiltered water and tested. Experiment 1: Saliva samples from five female donors were tested. Negative test results are shown. Experiment 2: Additionally obtained saliva samples from five female and ten male donors were tested. Positive, weak positive, trace positive, and negative results were based on the test line intensity visualized at the test "T" position when compared to the colored line of the control "C" position.

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Table 2
Detection ability of three blood kits using blood conditioned with various substrates and stain remover.

Various substrates	HemDirect[a]	ABAcard® HemaTrace®	RSID™-Blood
Wood	+	–	+
Metal	+	–	+
Brick	+	–	+
Soil	+	–	+
PC	+	+	+
NC	–	–	–
Soaking treatment			
warm water and stain remover	+	–	–
cold water and stain remover	+	–	–
warm water	+	–	+
PC	+	–	+
NC	–	–	–

Positive test results shown as "+"; negative results as "–".
Experiment 1: Blood was deposited on various substrates and collected after 24 h.
PC – blood on cotton swab was used as a positive control.
NC – substrates without blood were used as negative controls.
Experiment 2: Blood was deposited on white cotton fabric and treated under different conditions.
PC – blood on white cotton fabric without soaking was used as a positive control.
NC – white cotton fabric without blood was used as a negative control.
[a] Extracts diluted 1:1000 prior testing.

(Table 3). High quality DNA (i.e. full DNA profiles) consistent with those obtained in the positive control was observed for blood on all substrates, except blood on soil, which resulted in low average peak heights or no DNA profile, confirming its inhibitory role on a sample's DNA quality.[24]

Additionally, cleaning agents containing active oxygen have been reported to have a negative influence on the determination of human hemoglobin,[5] the effect of this kind of cleaning agent was investigated. As depicted in Table 2, the negative effect of the stain remover was evident in the human glycophorin A test, when compared to the hemoglobin tests. Since the cleaning of blood stains with various household detergents may have an adverse effect on the ability to obtain a complete DNA profile, all samples were submitted for DNA analysis. Although the stain remover negatively affected blood testing using the RSID™-Blood test, full DNA profiles were obtained (Table 3). As expected, lower average peak heights were obtained in comparison to those yielded from the positive control. The differences in average peak heights between the three tests probably originated from fact that it is impossible to consider the cuttings to be quantitatively equal in terms of the amount of dried blood present on each one. Considering the average peak balances, all tested samples meet the requirements for acceptable peak balance ratio for good quality samples.[22]

Table 4
Detection ability of three blood kits using aged blood stains.

Blood stain (year)	HemDirect	ABAcard® HemaTrace®	RSID™-Blood
BS(87)	–	–	–
BS(91)	–	–	–
BS(94)	+	+	–
BS(95)	+	–	–
BS(96)	+	+	–

Aged casework blood stains deposited on paper were tested.
Positive test results shown as "+"; negative results as "–".

3.4. Aged casework blood stains

Aged casework samples were also employed to test if RSID-Blood could be an alternative kit other than the hemoglobin kits for the routine forensic identification of blood. The results are shown in Table 4. While the HemDirect Hemoglobin and ABAcard® Hematrace® tests yielded positive reactions with approximately half of the tested blood stains, the RSID™-Blood test had false negative results with all of the tested extracts. This is in accordance with the sensitivity study, which indicated that the RSID™-Blood test had by far the lowest sensitivity among the investigated kits (Table 1). Although blood testing using the RSID™-Blood was negatively affected, full or partial DNA profiles were obtained (Table 5).

4. Conclusion

The sensitivity study showed that the ABAcard® HemaTrace® and HemDirect Hemoglobin exhibit higher sensitivity than the RSID™-Blood. Based on the findings from the body fluid specificity testing, the HemDirect Hemoglobin showed high specificity, while the ABAcard® HemaTrace® resulted in a high percentage of false positives, probably due to its extreme sensitivity. Interestingly, half of the tested saliva samples gave false positive result with the RSID™-Blood. Nevertheless, these results are not consistent with the manufacturer's claims about test specificity and need additional

Table 3
DNA profiling results for conditioned blood samples.

Various substrates	Average PH (RFU)[a]			Average PHR (%)[b]		
	HemDirect	HemaTrace®	RSID™-Blood	HemDirect	HemaTrace®	RSID™-Blood
Metal	1861.55	3228.52	1996.03	89.61	93.49	94.34
Wood	1491.79	2983.13	3128.52	92.27	92.17	93.75
Brick	1267.72	2595.41	1642.13	92.05	94.35	90.92
Soil	396.83	–	209.03	87.70	–	72.01
PC	1608.97	3473.45	2818.10	88.97	93.46	90.90
Soaking treatment						
warm water and stain remover	1493.03	653.91	1374.06	85.65	85.57	89.70
cold water and stain remover	640.53	840.94	789.50	85.24	84.87	84.24
warm water	726.44	257.13	789.34	86.34	89.32	80.56
PC	1736.79	2466.86	1951.69	89.64	91.93	91.21

Experiment 1: Blood was deposited on various substrates and collected after 24 h.
PC – blood on cotton swab was used as a positive control.
Full DNA profiles were obtained from all samples, except for blood deposited on soil when ABAcardHemaTrace was used.
Experiment 2: Blood was deposited on white cotton fabric and soaked under different conditions.
PC – blood on white cotton fabric without washing was used as a positive control.
[a] PH, peak height.
[b] PHR, peak height ratio.

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Table 5
DNA profiling results for aged blood stains.

Blood stain (year)	DNA profile			Average PH (RFU)[a]			Average PHR (%)[b]		
	HemDirect	HemaTrace®	RSID™-Blood	HemDirect	HemaTrace®	RSID™-Blood	HemDirect	HemaTrace®	RSID™-Blood
BS(87)			+	562.63	456.31	792.00	76.82	64.27	76.22
BS(91)	+	+		694.87	917.45	374.59	86.11	77.39	80.84
BS(94)	+	+	+	474.39	391.90	930.52	86.97	87.67	78.95
BS(95)	+	+	+	440.90	1111.94	554.94	71.45	79.20	79.51
BS(96)	+		+	978.80	426.19	457.30	82.30	74.14	79.71

Aged casework blood stains deposited on paper were tested.
Full DNA profile shown as "+"; partial DNA profile as " ".
[a] PH, peak height.
[b] PHR, peak height ratio.

investigation. To study the potential negative influence of substrate on blood testing, various substrates were tested. As expected, none of substrates negatively affected blood testing, while soil was confirmed as a substrate with a negative influence on DNA analysis. The stain remover had a negative effect on the human glycophorin A test, while no influence on the hemoglobin tests or DNA typing was observed. In the future, more detailed research needs to be carried out to study the effect of various stain removers and bleaches on blood testing. In addition, the hemoglobin tests were more efficient even in the detection of aged blood than the glycophorin A test.

The overall findings in this study indicate that all three commercially available tests have specific advantages and disadvantages. Although the RSID™-Blood test has overcome the problem of the "high dose hook effect," which hinders the effectiveness of the HemDirect Hemoglobin, more reliable results in general were obtained when the HemDirect Hemoglobin test was used.

Disclaimer

The authors and the Ivan Vucetic Forensic Science Centre do not endorse any products for the purpose of blood identification.

Conflict of interest

The authors have no conflicting interests.

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Ethical approval

None.

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FLORES_000074

Validation Study of the *Seratec HemDirect Hemoglobin Assay* for the Forensic Identification of Human Blood

Amanda Misencik[1] and Dale L. Laux[2]

Introduction

The *Seratec HemDirect* kit was first developed for the determination of occult blood in stool samples and in the early detection of colon cancer. However, this study examines the forensic use of the product in the identification of traces of human blood in forensic material. The *Seratec HemDirect Hemoglobin Assay* is a one-step chromatographic immunoassay test for the detection of hemoglobin. Hemoglobin reacts with a monoclonal murine anti-human hemoglobin antibody, which binds to form an antigen-antibody complex in the fiber pad after a sample has been loaded. Through a capillary effect in the membrane, the complex moves towards the test and control regions.

A second monoclonal murine anti-human hemoglobin antibody is immobilized at the test region on the membrane. When a sample containing human hemoglobin passes over, the antigen-antibody complex binds to the immobilized monoclonal antibody forming an antibody-antigen-antibody complex. The binding and formation of this complex is indicated by a red line in the test region. Additionally, the test features an internal control containing immobilized polyclonal goat anti-rabbit antibodies, which bind to gold-labeled rabbit-antibodies that were present in the fiber pad. This binding results in the formation of a red line in the control region and indicates a valid test.

The manufacturer lists the sensitivity of the *HemDirect* test at 40 ng/mL to 500 µg hemoglobin/mL. At higher concentrations a high dose hook effect is said to occur, resulting in a decrease in intensity of the test result line. The test is specific for human hemoglobin, but has shown cross reactivity with the blood of primates and ferrets [(1)] . Humans, some primates and ferrets share a common amino acid sequence (TNAVAHV) in the alpha chain of hemoglobin. This sequence can be responsible for the production of monoclonal antibodies, which are the primary component of an immunochromatographic test [(2)]. Previous studies have been executed using an immunochromatographic test in the determination of human blood, most notably Hochmeister [(2)] and Hermon [(3)], who tested the *Hexagon OBTI* kit, a precursor to the *Hemdirect Hemoglobin Assay* kit.

Methods

All tests were preformed using the *Seratec HemDirect Hemoglobin Assay*, test lot 15191 and buffer lot 10656.

[illegible] Defiance College, Defiance, Ohio 43512
[illegible] Ohio Attorney General's Office, Columbus, Ohio 43215

FLORES_000075

Specificity and Sensitivity

Hemoglobin (Sigma H7379-1G, Lot 039H7605) was prepared at a concentration of 1mg/mL. Using this hemoglobin standard, subsequent dilutions were prepared using deionized water, resulting in concentrations of 500, 250, 125, 62.5, 31.25, 16.5, 8.25, 4.13, 2, 1, 0.5, 0.25, 0.125, 0.0625, 0.03125, and 0.0165 µg hemoglobin/mL. The hemoglobin dilutions were first tested by adding 100 µL to the test sample well and recording results after 10 minutes. The dilutions were additionally used in preparing 5.0µL samples on approximately 1x1mm cloth. The samples were dried, cut out, and extracted for 30 minutes in *HemDirect* buffer. Three drops (100 µL) of sample were added to the sample well and results were recorded after 10 minutes. A separate set of hemoglobin dilutions was prepared with concentrations of 80, 60, 50, 40, and 30 ng hemoglobin/mL. 100 µL of each dilution was added to the test sample well and results were recorded after 10 minutes.

Using whole blood (EDTA tube), dilutions with concentrations down to 1/500,000 were prepared with deionized water and 50 µL samples were added to cloth. The samples were dried, 1/4 portions were cut out, and then extraction was carried out in *HemDirect* buffer for 30 minutes. Three drops of the sample in buffer were added to the test sample well and results were recorded after 10 minutes. A separate set of dilutions from whole blood including: ½, 1/3, ¼, 1/5, 1/6, 1/8, 1/10, 1/12, 1/14, 1/16, 1/20, 1/24, 1/28, 1/30, 1/32, 1/40, 1/48, 1/56, 1/60, 1/64, 1/80, and 1/100 were prepared with deionized water. The dilutions were added to cloth in 50 µL samples and set to dry over night. A 1/4 portion of the sample was cut out and extracted in *HemDirect* buffer for 30 minutes. Three drops of each dilution was added to the test sample well and results were recorded after 10 minutes. The remaining samples on the cloth were used in the degradation study.

A swab of whole blood (EDTA) was taken, dried, and a series of serial dilutions were prepared with *HemDirect* buffer. The whole blood swab was extracted in buffer and then dilutions were made with this solution. Dilutions of ½, 1/8, 1/24, 1/80, 1/240, 1/400, 1/800, 1/1600, 1/4800, and 1/9600 were prepared. 100 µL of the samples were added to the test sample well and results were recorded after 10 minutes. This test was used as a control for the environmental study, to estimate the dilutions of swabs that would test positive for hemoglobin.

Animal blood samples were obtained on slides from the Cleveland Metroparks Zoo from the following species: Chimpanzee (*Pan troglodytes*); Gorilla (*Gorilla gorilla*); Wolf (*Canis lupus*); Clouded Leopard (*Neofelis nebulosa*); Orangutan (*Pongo pygmaeus*); Siamang (*Hylobates syndactylus*); Zebra (*Equus burchelli*); Black Howler Monkey (*Alouatta caraya*); Hamadryas Baboon (*Papio hamadryas*); Domestic Goat (*Capra hircus*); Rabbit (*Oryctolagus cuniculus*); Merino Sheep (*Ovis aries*); Guinea Pig (*Cavia procellus*); Fennec Fox (*Vulpes (Fennecus) zerda*); Siberian Tiger (*Panthera tigris altaica*); Warthog (*Phacochoerus africanus*); Swamp Monkey (*Allenopithecus nigroviridis*); Wolf's Guenon (*Cercopithecus wolfi*); European Polecat/Ferret (*Mustela putorius*); Snow Leopard (*Uncia uncia*); Prevost's Squirrel (*Callosciurus prevostii*); Persian Leopard (*Panthera pardus saxicolor*); Mini Horse (*Equus caballus*); Patas Monkey (*Erythrocebus patas*); Mini Donkey (*Equus asinus*); and Lion (*Panthera leo*). The animal blood was prepared as smears on glass slides and samples were taken by swabbing a small portion, to obtain a blood sample covering the swab's tip. The swabs were dried and the tip

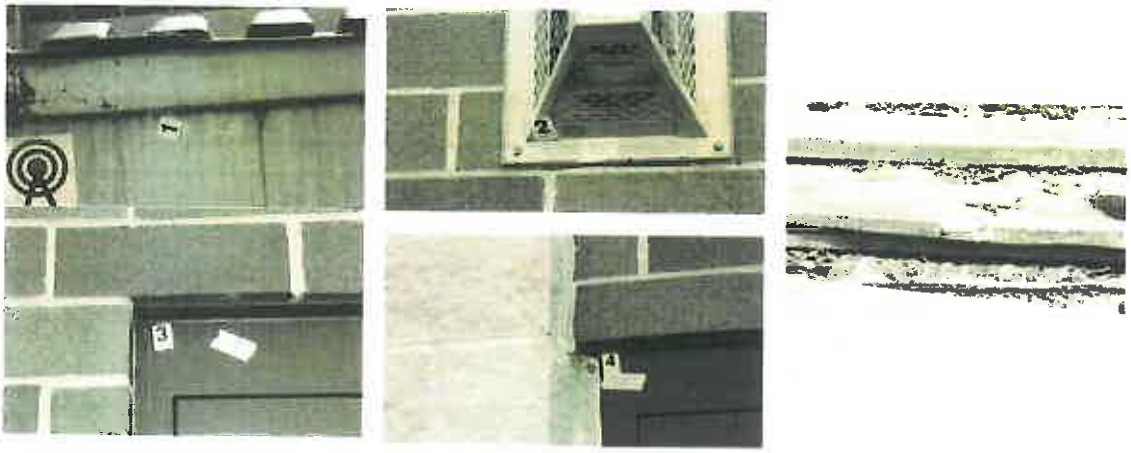
FLORES_000076

containing blood was cut off for extraction. The extraction was carried out for 30 minutes in *HemDirect* buffer. Three drops (100µL) of sample in buffer were added to the test sample well and results were recorded after 10 minutes.

Urine, semen, saliva, and perspiration were collected on cotton swabs from volunteers. The tip from each swab was cut off and extracted in 2 mL of *HemDirect* buffer for 30 minutes. Testing was done using 3 drops (100 µL) of sample in buffer and results were confirmed after 10 minutes.

Degradation

Two separate experiments were conducted to see the effects of the environment (heat, sunlight, rain, etc.) on exposed bloodstains. In the first, whole blood samples were swabbed onto different surface materials in five locations. The sites were (1) a metal dumpster with rust, (2) a hot air vent, (3) a metal doorframe, (4) brick/stone on the outside of a building, and (5) a wooden frame (Figures 1-5). Every week for a four week period, a swabbing from each location was taken. The sample covered the tip of a cotton swab, which was then cut off and set in *HemDirect* buffer for 30 minutes to extract. Three drops (100 µL) of sample was added to the test sample well for each and results were recorded after 10 minutes. After one and two weeks an additional test was done with the most reactive samples. Dilutions of 1/1000 were made using *HemDirect* buffer and 3 drops were added to the test sample well. Results were obtained after 10 minutes.



Figures 1-5. Locations of samples for degradation study

The second degradation study was performed using the whole blood (EDTA) samples that had been prepared on clothing in the specificity and sensitivity study. Four strips of cloth containing the whole blood and dilutions of ½, 1/3, ¼, 1/5, 1/6, 1/8, 1/10, 1/12, 1/14, 1/16, 1/20, 1/24, 1/28, 1/30, 1/32, 1/40, 1/48, 1/56, 1/60, 1/64, 1/80, and 1/100 were set on a metal air vent outside. For a four week period, a quarter portion of the faintest stain was collected for testing. Extraction was done using *HemDirect* buffer for 30 minutes and results were obtained after 10 minutes. Testing was repeated with the next dilution until a positive result was reached indicating the minimum concentration that could be detected.

FLORES_000077

Aged Blood Stains

Blood samples that had been stored at room temperature from the years 1974, 1984, and 1989 were obtained. The blood was on strands of fabric and was extracted by setting in *HemDirect* buffer overnight in the refrigerator, for a total extraction time of approximately 24 hours. For testing, 3 drops (100 µL) of the sample in buffer was added to the test sample well and results were recorded after 10 minutes.

Reproducibility

From the aged blood extractions that had been prepared, two of the samples were obtained to test the reproducibility of the test results. Type O and Type AB blood from the year 1974 were used. For each blood sample, four separate testing cassettes were used and to each cassette, 3 drops (100 µL) were added to the test sample well. Results were obtained after 10 minutes.

Results

Specificity and Sensitivity

The *HemDirect* kit was found to be specific for human blood and hemoglobin in all tests performed. In the tests using animal blood, positive results were observed in higher primate species and in the ferret, including some weak positive test lines. When testing other body fluids it was determined that trace amounts of blood will test positive. In regard to this study, saliva and semen were samples that tested positive for hemoglobin. In all tests, perspiration always showed a negative result.

Regarding sensitivity, the manufacturer lists 40 ng hemoglobin/mL as detectable and in this study, a weak positive at this concentration was observed. A positive test line for a weak concentration of hemoglobin was detected in a 62.5 ng hemoglobin/mL dilution made from hemoglobin (Sigma H7379-1G, Lot 039H7605) standard. Whole blood (EDTA) from a swab was diluted to 1/9600 with positive results being observed. In fresh whole blood (EDTA) stains made on clothing, samples diluted to 1/100 react positively. In reference to the high dose hook effect, the onset of this result was observed at concentrations of 500 ug and 1 mg hemoglobin/mL. For these concentrations, the strength of the test line had weakened and samples with a higher concentration of hemoglobin could lead to false negatives. Additionally, whole blood can not be added to the test device as a sample; because of its viscosity, the sample is unable to pass through the membrane.

FLORES_000078

Species	Animal Identification Number	Result
Chimpanzee	851113	+
Chimpanzee	840711	+
Gorilla	940815	+
Gorilla	940818	+
Orangutan	840408	weak
Orangutan	930321	-
Orangutan	881111	+
Siamang	880211	weak
Hamadryas Baboon	790408	-
Ferret	010329	+
Ferret	980635	weak+
European Polecat (Ferret)	010329	-
Black Howler Monkey	991105	-
Swamp Monkey	M11201	-
Patas Monkey	980586	-
Wolf	961203	-
Clouded Leopard	880911	-
Zebra	900307	-
Domestic Goat	M10521	-
Rabbit	980595	-
Warthog	900404	-
Merino Sheep	991230	-
Guinea Pig	M40105	-
Fennex Fox	M50305	-
Siberian Tiger	MM0319	-
Snow Leopard	MM0329	-
Prevost's Squirrel	970208	-
Wolf's Guenon	M21006	-
Persian Leopard	970822	-
Mini Horse	870503	-
Mini Donkey	MM0327	-
Lion	930302	-

Table 1. Results from animal blood testing

FLORES_000079

Degradation

In the study of blood samples on exterior surfaces, all samples were positive after two weeks of exposure to the environment. However, after four weeks of exposure, significant deterioration was seen in four of the five samples. Table 2 contains the results of the testing. In regard to collection of test samples, those obtained from metal surfaces were difficult to swab and yielded weaker results as the time interval increased. Wood and brick proved to be the best surfaces for sample collection and yielded continuous positive results during the four week period.

Sample Location	1 Week	2 Weeks	3 Weeks	4 Weeks
(1) Dumpster	+	+	weak	faint +
(2) Vent		+	weak	-
(3) Doorframe		weak	-	
(4) Brick	+	+	+	-
(5) Wood	+	+	+	+
1/1000 dil. Dumpster	+	-		
1/1000 dil. Brick	weak +			
1/1000 dil. Wood	weak +	-		

Table 2. Results from degradation study of blood samples

FLORES_000080

Whole Blood Dilution	1 Week	2 Weeks	3 Weeks	4 Weeks
Whole Blood				+
½			+	weak +
1/3			-	
¼			-	
1/5		weak +		
1/6				
1/8		-		
1/10				
1/12		-		
1/14		-		
1/16		-		
1/20	weak +			
1/24				
1/28				
1/30				
1/32				
1/40	-			
1/48				
1/56				
1/60	-			
1/64				
1/80	-			
1/100	-			

Table 3. Results from degradation study of blood samples on clothing. The shaded areas were not tested but assumed to be positive based on the results from the stronger dilution testing as a weak positive .

The study using whole blood (EDTA) stains on clothing showed positive results for whole blood over a four week period. However, the stain dilutions prepared showed significant deterioration after one and two weeks of environmental exposure. By weeks three and four, only whole blood and a ½ dilution of whole blood showed positive results. It's hypothesized that

FLORES_000081

large amounts of rainfall and heat lead to the breakdown of hemoglobin on the cotton fabric. Table 3 contains results from the four week period when the test was performed.

Aged Blood Stains

Of the four aged blood stains tested from 16, 21, and 31 years ago, all tested positive for hemoglobin. The 24 hour extraction period in buffer worked sufficiently to obtain a sample for testing.

Reproducibility

The Type O blood from 1974 tested as a weak positive when originally tested. When the same sample was added to four separate test cassettes, a weak positive result was observed in all of them with no variation. The Type AB blood from 1974 tested as positive when originally tested. The sample was then tested in four separate test cassettes and the same positive results were observed in all of them with no variation.

Discussion

The results from this study show that the Seratec HemDirect Hemoglobin Assay is an applicable test kit for the determination of human blood in the forensic field. The HemDirect kit is human or primate specific, although has a cross-reactivity with ferret blood, and has a broad sensitivity range for detecting varying concentrations of hemoglobin. The test kit is efficient in detecting aged blood samples at least thirty years old and consistently yields the same result.

Acknowledgements

We wish to thank the Cleveland Metroparks Zoo for providing the animal blood samples used in this research, particularly Linda DeHoss at the Animal Hospital for her assistance in the procurement of the samples.

FLORES_000082

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FLORES_000083

HemDirect assay

From: Circej@earthlink.net <circej@earthlink.net>
To: Elizabeth Johnson <circej@earthlink.net>
Subject: HemDirect assay
Date: May 31, 2022 9:12 PM

From: Christian Stadler <stadler@seratec.com>
Date: May 2, 2022 at 6:52:24 AM PDT
To: circej@earthlink.net
Cc: Gabriela Roca <gabriela.roca@seratec.com>
Subject: AW: HemDirect assay

Dear Elisabeth,

unfortunately we do not have data for this specific question.
We know, that 20 year old samples could test positive. But these fabric samples were stored indoor at room temperature.
Generally I would say that after 20 years there is no hemoglobin left due to degradation. Maybe in a dry desert on a shady place.

The test could react invalid if the pH is too high or too low. So if there are chamical in the soil which may change the pH, this could lead to false results. But the supplied buffer should prevent this. Another option for false results are very oxidative/reductive chemicals. But we do not have data for this.

Unfortunately, i can't tell you anything about the epitopes. We know that Hemoglobin degradation in wet environments leads to negative results.

Did you already perform tests with soil or are you planning to do so?

Best reagrds
Christian

Von: Alexander Griberman <griberman@seratec.com>
Gesendet: Freitag, 22. April 2022 08:35
An: Christian Stadler <stadler@seratec.com>
Cc: Gabriela Roca <gabriela.roca@seratec.com>
Betreff: Fw: HemDirect assay

From: circej@earthlink.net <circej@earthlink.net>
Sent: Thursday, April 21, 2022 05:59
To: Alexander Griberman <griberman@seratec.com>
Subject: HemDirect assay

Greetings,

I am a forensic expert based in the US. I am trying to find information of the performance of the HemDirect assay on bloodstains exposed to soil for more than 20 years. If you are aware of any internal or external studies using bloodstains exposed to soil for extended periods of time kindly provide me with the details or references. Also if you could, please tell me which epitopes on the human hemoglobin molecule the monoclonal antibodies are directed and whether denaturation of the human Hbg protein will affect the binding of these antibodies. Lastly, are you aware of any environmental conditions (other than low pH) that result in false positives with the HemDirect assay.

Thank you in advance for your assistance.

Elizabeth A. Johnson, Ph.D.
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<HbF07_Laux.pdf>

PROOF OF SERVICE

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 222 E. Carrillo St., Ste. 300, Santa Barbara, California, 93101.

On June 1, 2022, I served the foregoing document entitled: **NOTICE OF MOTION AND MOTION TO EXCLUDE EVIDENCE RELATED TO 710 WHITE COURT INSPECTION, INVESTIGATION AND SOILS ANALYSIS** on the interested parties in this action by depositing a true copy thereof as follows:

SEE ATTACHED SERVICE LIST

_X_ **BY ELECTRONIC TRANSMISSION** -I caused the above-referenced document(s) to be transmitted via electronic transmission to the interested parties at the email addresses referenced in the attached service list.

____ **BY U.S. MAIL** - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.

____ **BY HAND** - I caused the document to be hand delivered to the interested parties at the address referenced on the attached service list.

_X_ **STATE** - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

____ **FEDERAL** - I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed June 1, 2022, at Santa Barbara, California.

Jake Swanson

Jake Swanson

SERVICE LIST

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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 the People's Notice of Motion and Motion to Admit Relevant Evidence of Other Acts to be heard on June 13, 2022. In accordance with Section 6255 of the California Government Code, I am requesting that this court order that the

People's Notice of Motion and Motion to Admit Relevant Evidence of Other Acts 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

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 NOTICE OF MOTION AND MOTION TO ADMIT RELEVANT EVIDENCE OF OTHER ACTS & 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.

Alyssa Muckey, Supervising Legal Clerk

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
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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:
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TELEPHONE NO.: 831-758-7723

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

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

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

Cassadu Velasco
(TYPE OR PRINT NAME)

Cassadv Velasco
(SIGNATURE)

Telephone No.: 831-758-7723

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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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 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. Paul Flores 22CR003712
P. v. Ruben Flores 22CR003713



BATES #92:039605
Interview of Paul Flores 6/19/1996
ending at 48:02
(SLSO PROP. ITEM #98)
EXHIBIT # B

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 / 22CR003733

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)

Form Adopted for Mandatory Use
Judicial Council of California
MC-510 [Rev. January 1, 2007]

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

Hon. Jennifer J. O'Keefe

Cal. Rules of Court, rule 1.150
www.courtinfo.ca.gov

MC-510

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

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

TITLE OF CASE:
PEOPLE v. PAUL FLORES / PEOPLE v. RUBEN FLORES

NAME OF JUDGE: JENNIFER O'KEEFE

MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST

CASE NUMBER:
~~SX~~ 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

(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

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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 Atkinson

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
hwilson

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
AUTHORITY (POSITION, TITLE) OF SIGNER

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

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)

Form Adopted for Mandatory Use
Judicial Council of California
MC-510 [Rev. January 1, 2021]

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

Cal. Rules of Court, rule 1.150
www.courtinfo.ca.gov

Hon. Jennifer J. O'Keefe

CASE NAME
People vs. Paul Flores and Ruben Flores

CASE NUMBER
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)

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): ABC News CHANNEL/FREQUENCY NO.: Good morning america/ 20/20 PERSON SUBMITTING REQUEST (name): 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:	
MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST	CASE NUMBER:

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)

Mollie A. Rg
(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

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Superior Court of California,
County of Monterey
On 6/3/2022 2:52 PM
By: Oscar Luna, Deputy

SANGER SWYSEN & DUNKLE
Robert M. Sanger, SBN 058214
Sarah S. Sanger, SBN 322722
222 E. Carrillo Street, Suite 300
Santa Barbara, CA 93101
Tel.: (805) 962-4887
Fax: (805) 963-7311
Email: RMSteam@sangerswysen.com

Attorneys for Defendant
Paul Ruben Flores

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES, Defendant.	Case No. 22CR003712 **EX PARTE APPLICATION TO FILE DEFENDANT PAUL FLORES' SUPPLEMENTAL BRIEFING ON NOTICE OF MOTION AND MOTION TO TRAVERSE, QUASH AND SUPPRESS UNDER SEAL** Hon. Jennifer J. O'Keefe

TO THE CLERK OF THE ABOVE-ENTITLED COURT AND DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE:

PLEASE TAKE NOTICE that Defendant Paul Flores, by and through his attorneys Robert M. Sanger, Sarah S. Sanger and Sanger Swysen & Dunkle, hereby request that the Court permit Defendant to file under seal in accordance with California Rules of Court, rules 2.550 and 2.551, and to

protect the Defendant's rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution, the following document:

1. Supplemental Briefing on Notice of Motion and Motion to Traverse, Quash and Suppress (Pen. Code § 1538.5); Memorandum of Points and Authorities; Declaration of Counsel.

This application is made on the grounds that the Court already made a finding as to necessity of a sealing order after granting the protective order on April 15, 2021, and that sealing is necessary to protect the Defendant's right to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution.

This application is based on the attached memorandum of points and authorities, all the papers and records on file in this action and on such further oral and documentary evidence that may be presented at a hearing of this application.

Dated: June 3, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

DECLARATION OF ROBERT M. SANGER

I, Robert M. Sanger, hereby declare:

1. I am an attorney at law, duly licensed to practice in the State of California, and I am the attorney of record for the Defendant herein, Paul Ruben Flores.
2. We are concurrently filing the following documents conditionally under seal:
    1. Supplemental Briefing on Notice of Motion and Motion to Traverse, Quash and Suppress (Pen. Code § 1538.5); Memorandum of Points and Authorities; Declaration of Counsel.
3. These filings contain information relating to discovery, recently executed search warrants and to evidence that may be excluded at trial. There is a substantial probability that Mr. Flores' rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution, would be prejudiced if the above-referenced documents are not sealed. Sealing is also necessary to comply with the protective order on April 15, 2021.
4. I am respectfully requesting that the following document be filed under seal to protect Mr. Flores' constitutional rights:
    1. Supplemental Briefing on Notice of Motion and Motion to Traverse, Quash and Suppress (Pen. Code § 1538.5); Memorandum of Points and Authorities; Declaration of Counsel.

I declare under penalty of perjury that the foregoing is true and correct and that this was executed on June 3, 2022, in Santa Barbara County, California.

Robert M. Sanger

MEMORANDUM OF POINTS AND AUTHORITIES

ARGUMENT

I. FILING THE SUPPLEMENTAL BRIEFING ON NOTICE OF MOTION AND MOTION TO TRAVERSE, QUASH AND SUPPRESS (PEN. CODE § 1538.5); MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF COUNSEL IS NECESSARY TO PREVENT CONFIDENTIAL INFORMATION FROM BEING DIVULGED TO THE PUBLIC

Pursuant to California Rule of Court 2.550(d), the Court has the authority to order a record be filed under seal if it expressly finds that: (1.) There exists an overriding interest that overcomes the right of public access to the record; (2.) The overriding interest supports sealing the record; (3.) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed; (4.) The proposed sealing is narrowly tailored; and (5.) No less restrictive means exist to achieve the overriding interest. (California Rule of Court 2.550(d).)

In this case, the Supplemental Briefing on Notice of Motion and Motion to Traverse, Quash and Suppress (Pen. Code § 1538.5); Memorandum of Points and Authorities; Declaration of Counsel includes information relating to discovery, recently executed search warrants and to evidence that may be excluded at trial, if made public, would prejudice Mr. Flores' rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution. Sealing is also necessary to comply with the protective order on April 15, 2021. Therefore, we respectfully submit that it is necessary to file the following documents under seal to protect Mr. Flores' rights to due process, a fair trial and impartial jury and that this overriding interest satisfies the requirements of Rule of Court 2.550(d):

1. Supplemental Briefing on Notice of Motion and Motion to Traverse, Quash and Suppress (Pen. Code § 1538.5); Memorandum of Points and Authorities; Declaration of Counsel

CONCLUSION

For the above-state reasons, the Court should grant this application.

Dated: June 3, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

PROOF OF SERVICE

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 222 E. Carrillo St., Ste. 300, Santa Barbara, California, 93101.

On June 3, 2022, I served the foregoing document entitled: **EX PARTE APPLICATION TO FILE DEFENDANT PAUL FLORES' SUPPLEMENTAL BRIEFING ON NOTICE OF MOTION AND MOTION TO TRAVERSE, QUASH AND SUPPRESS UNDER SEAL** on the interested parties in this action by depositing a true copy thereof as follows:

SEE ATTACHED SERVICE LIST

_X_ **BY ELECTRONIC TRANSMISSION** -I caused the above-referenced document(s) to be transmitted via electronic transmission to the interested parties at the email addresses referenced in the attached service list.

____ **BY U.S. MAIL** - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.

____ **BY HAND** - I caused the document to be hand delivered to the interested parties at the address referenced on the attached service list.

_X_ **STATE** - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

____ **FEDERAL** - I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed June 3, 2022, at Santa Barbara, California.

Jake Swanson

Jake Swanson

SERVICE LIST

Christopher Peuvrelle
Deputy District Attorney
1035 Palm St, # 4
San Luis Obispo, CA 93408-1000
cpeuvrelle@co.slo.ca.us
Via Email Only

Harold Mesick
1303 Higuera St.
PO Box 23
San Luis Obispo, CA 93406
haroldmesick@gmail.com
Via Email Only

SANGER SWYSEN & DUNKLE
Robert M. Sanger, SBN 058214
Sarah S. Sanger, SBN 322722
222 E. Carrillo Street, Suite 300
Santa Barbara, CA 93101
Tel.: (805) 962-4887
Fax: (805) 963-7311
Email: RMSteam@sangerswysen.com

Attorneys for Defendant
Paul Ruben Flores

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/3/2022 2:52 PM
By: Oscar Luna, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES,

Defendant.

Case No. 22CR003712

SUPPLEMENTAL BRIEFING ON NOTICE OF MOTION AND MOTION TO TRAVERSE, QUASH AND SUPPRESS (PEN. CODE § 1538.5); MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF COUNSEL

Date: June 6, 2020
Time: 8:30 a.m.
Dept.: 4

Hon. Jennifer J. O'Keefe

///

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Other Authorities

O'Brien, Barbara and Ellsworth, Phoebe C., Confirmation Bias in Criminal Investigations (September 19, 2006). 1st Annual Conference on Empirical Legal Studies Paper, available at SSRN: https://ssrn.com/abstract=913357.) 10

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Defendant Paul Flores renews and supplements his original Motion to Traverse, Quash and Suppress (hereinafter referred to a "Original Motion") and moves and will move on June 6, 2022 at 8:30 a.m., or as soon thereafter as the matter may be heard, in Department 4 of the above-entitled Court, for an order (1) to traverse the search warrant affidavits attached to the Original Motion as a part of Exhibits A through II[1] and the affidavits for any other search warrants related to this case; (2) to quash the search warrants attached to the Original Motion as a part of Exhibits A through II and any other search warrants related to this case; (3) to suppress all evidence seized and observations made under authority of and during the execution of the above-referenced warrants and any other search warrants related to this case, including the items listed in the returns attached to the Original Motion as part of Exhibits A through II; (4) to suppress all evidence seized and observations made by law enforcement as a result of and searches or seizures that were not conducted pursuant to a valid warrant or were outside of the scope or authority of a valid warrant; and (5) for such other and further relief as the Court may deem just and proper.[2]

This motion is made pursuant to Penal Code section 1538.5 on the ground that the search and seizure was unreasonable in violation of Mr. Flores' rights pursuant to the Fourth and Fourteenth Amendments to the United States Constitution and Article I, section 13 of the California Constitution. The evidence should be suppressed to the extent it was not

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[1] Hereinafter, all exhibits attached to the Original Motion and incorporated herein will be referred to by their previous exhibit letters as if reproduced and attached hereto.

[2] Defendant renews and supplements the Original Motion filed in the above matter in the San Luís Obispo Superior Court. In light of the fact that no evidence was offered at the preliminary hearing as a result of the searches and search warrants, the motion was withdrawn at the time. Said Motion is in the court files transferred to this Court upon the change of venue. The defendant requests that this Court take judicial notice of said motion, including all exhibits thereto, declarations and points and authorities, and the defendant incorporates said Motion and Exhibits herein as if set forth fully at this point.

acquired pursuant to a valid warrant and because the search warrants executed in this case were invalid and must be quashed because the warrants' underlying affidavits do not legally support issuance of the warrants as they contained misstatements or omissions of material fact and as a further result failed to contain facts that established probable cause for the issuance of the warrants.

The evidence to be suppressed is set forth in the Original Motion and is further summarized below.

The motion is based on this Supplement to Motion and documents attached hereto and on the original notice of motion, the declaration of counsel filed therewith, the memorandum of points and authorities filed therewith, on such supplemental declarations, affidavits, memoranda of points and authorities as may hereafter be filed with the Court, all the papers and records on file in this action and on such oral and documentary evidence as may be presented at the hearing on the motion and at the preliminary hearing in this matter.

Dated: June 3, 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
STREAMLINED SUMMARY OF MOTION TO TRAVERSE, QUASH AND SUPPRESS

Introduction

The affidavits for these search warrants are among the worst, if not the worst, this court will have seen. They are consistent with an investigation that was based on emotions and publicity. The investigation involved consulting psychics, relying on a plaintiff's attorney and an obsessed blogger, digging up locations around the county but very early on deciding that they "had their suspect" no matter what little evidence they had or whatever evidence there was that there were other cause of Kristin Smart's disappearance.

Original Motion, Exhibits and Request for Judicial Notice

The Original Motion is detailed and voluminous and incorporates a couple thousand pages of Exhibits which are the search warrants, affidavits and returns. To avoid re-duplicating and re-filing all of those documents, since they are part of the court file, the defendant respectfully requests that the Court take judicial notice of said documents.

Items to be Suppressed

The items to be suppressed include all of the items contained in the inventories attached to the search warrants in Exhibits A through II as well as the observations and other matters referred to in paragraphs 1-5 in the Original Motion. To the extent that there are any warrantless searches, the fruits of those searches are also sought to be suppressed. *Wilder v. Superior Court* (1979) 92 Cal.App.3d 90. (See Original Motion 25-26.)

Paul Flores, has set forth the facts establishing that he had a legitimate expectation of privacy in the area searched (LEPAS). (See Original Motion 15-22.) Searches for which this defendant could not claim

LEPAS are noted without prejudice to a further showing.[3]

The following is a streamlined summary of what is to be suppressed, recognizing that the inventories have been attached listing specific items related to each search and that observations of officers must also be suppressed.[4] What was actually seized is basically irrelevant to the disappearance of Kristin Smart and, as far as the defense can tell, only evidence from the searches that the prosecution will try to offer comes from the category 5 warrants below which would only pertain to the 1108/1101(b) evidence to which the defense objects. Here is the streamlined summary:

1. Exhibits A through F, I through P, R, W, and AA are telephone, email and Facebook communications between and among the Flores family members from 1999 intermittently to 2020. It does not appear that there is any evidentiary value other than inuendo.

2. Exhibit F and G are items seized from the homes and vehicles of Paul Flores in 1999. Again, it does not appear that anything found would be admissible.

3. Exhibit H are Cal Poly records for Paul Flores' including his admission application and are protected as private school records (Family Education Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA)). There is nothing probative and it is unclear what if anything would be offered.

4. Exhibits Q, BB, and DD are GPS warrants to track and surveille Mr. Flores' car from time to time in January 2020 and March and April 2021. The reports do not disclose any admissible

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[3] To the extent that the co-defendant, Ruben Flores, has LEPAS and joins this motion or makes his own, the other searches and search warrants are listed. (See Original Motion 22-25.)

[4] In addition, any information obtained from invalid previous searches or warrants that were incorporated into subsequent warrants would have to be suppressed and excised from said subsequent affidavits.

information.

5. Exhibits S, T, U, V, X, Y, CC, EE, FF, GG, HH and II resulting in the search of Mr. Flores' person, car and residence and the contents thereof in January and February 2020, April 2020, April and May 2021. The only use of these materials, primarily from the contents of Mr. Flores' computer, would be for 1108 purposes to which we object.

6. Exhibit Z search of privileged medical record for Paul Flores through the Cal DOJ Cures program. There is nothing admissible as a result of this search.

7. Wiretap Order, conversations monitored during the month of February 2020, which contain nothing of evidentiary value unless offered for inuendo purposes.

The prosecution did not rely on any of the foregoing seized items in the preliminary examination. In summary, nothing of evidentiary value related to the disappearance of Ms. Smart nor anything relating to anyone's potential involvement in that disappearance was obtained in any of the searches. **Exhibits S, T,** U, V, X, Y, CC, EE, FF, GG, HH and II, all related to searches in 2020 and 2021, which resulted in materials that the prosecution wants to use for 1108 or 1101 purposes and which we claim are irrelevant.

Summary of the Basis to Traverse and Quash

Streamlining the argument made in more detail in the Original Motion, the main concern is that all of 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. Some of the affidavits speculate without evidence 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. Most of the affidavits either expressly or by incorporation by reference of previous affidavits, asserted that Paul Flores was the only suspect. The

affiants failed to inform the issuing magistrate that there were other suspects who were actively investigated and regarding whom law enforcement had developed specific incriminating information.

After over 25 years, there is no evidence that Paul Flores committed the crimes and, in turn, there is no evidence the crimes occurred. On June 19, 1996, law enforcement memos show that, on that day, their "focus changed," that they should assume that Kristin Smart was dead and they should "get Flores in now." (SLO Sheriff Chrono, Bates 70-72.) This was the beginning of a process of "confirmation bias"5 that caused law enforcement to stop looking at other credible evidence and other theories. On that day, they considered only a theory of murder and that Paul Flores did it.

Over the years, various magistrates were presented with the same speculation and hunches. But they were all based on the same unsupported conclusions, without facts, that there had been a murder and that Paul Flores was their sole suspect. The speculation and hunches were presenting in the trappings of claims of "training and experience" and pure guess work and were stated in strong terms as if they were substantiated by fact.

As time went on, the theories that were advanced in many of the search warrants proved to be false. Yet, the unsubstantiated conclusions supporting those theories were simply restated to form the basis of subsequent affidavits.

Paul Flores Was Not the Only Suspect

The details of the other suspects are set forth in detail from the police reports in the Original Moton (pp. 35-42) and testified to during the

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[5] Confirmation bias is often referred to as "tunnel vision" and is well established as a significant cause of misdirected investigations and wrongful convictions. (See, e.g., O'Brien, Barbara and Ellsworth, Phoebe C., Confirmation Bias in Criminal Investigations (September 19, 2006). 1st Annual Conference on Empirical Legal Studies Paper, available at SSRN: https://ssrn.com/abstract=913357.)

preliminary hearing during which some additional information was added. In summary:

a. Ted Munley

Munley was at the party that night, could not account for his time around the time that Kristin Smart would have been returning to her dorm. Munley admitted, after lying to the police, that he went to Kristin Smart's room and had sex with the young woman staying there who was unconscious. The fact that a man was in the room would prompt Kristin Smart to go to another location as she did the night before when she stayed with the young man in another dorm for the same reason. Munley was described as an angry, defensive and negative person.

Yet none of the search warrant affidavits disclose that Munley was in the room or that Schrock was unconscious to the point of not knowing Muley raped her, only waking up at 9 or 10 n the morning. Instead, the magistrates were told, "Schrock confirmed that Smart did not return to the room." (See, e.g., Exhibit J, Bates 29125.)

b. Shahn Whitted

Whitted had previously attempted to climb a balcony to enter Ms. Smart's room. He admitted that he was seeing Ms. Smart but got mad at her and took the shoes she left at his place, put them on her doorstep and lit them on fire. A witness said he left a mean note. Whitted last saw Ms. Smart a couple days before she disappeared. The officers accepted his uncorroborated explanation that he and Ms. Smart made up and did not further investigate the arson or the contents of the note.

Neither Whitted, the arson nor the conflict leading to the arson nor the note were mentioned in any search warrant affidavit. Instead, each warrant portrayed Paul Flores as the sole suspect.

c. Sean Farrell and Kristin Smart's Pregnancy

Several witnesses who knew Ms. Smart, and Sean Farrell himself, established that Farrell was dating Ms. Smart and that she stated that she was pregnant. There were several accounts of Ms. Smart's discussions about getting an abortion or keeping the baby. According to a compete stranger, in early May, she got in a heated argument with a man at a concert and she told the stranger that she was pregnant.

d. "Yanish" Stalking of Smart

At the time of the Original Motion, there was evidence that there was a person who lived on the second floor of the Muir Dormitory named "Yanish." Yanish stalked Smart and stood outside her window. Smart reported this to a Resident Assistant.

By the time of the preliminary hearing discovery was provided showing that a person with a similar name had actually reported Ms. Smart to the RA for stalking him. Either way, this was information that was not presented to any of the magistrates. Instead. Paul Flores was depicted as the sole suspect.

e. Scott Peterson

Oddly, the infamous Scott Peterson was reported to have been at the party and, it turned out, he and his later drowned wife were, in fact, Cal Poly students at the time. Around the time of Ms. Smart's disappearance, long before Lacy Peterson was drowned, Scott Peterson told his father relating to the Smart disappearance, "I hope they don't find her in my pond."

Subsequent to the Original Motion, it was disclosed that law enforcement took that so seriously that they had dive teams search two ponds on the Peterson's property. At the preliminary hearing, Detective Cole testified that he had actually been sent to the scene during the dives. This information came to the attention of law enforcement in June, 2004 and yet

there is no mention in any of the subsequent search warrant affidavits (Exhibits Q through II) or the request for the wiretap order. Instead, Paul Flores was portrayed as the only suspect.

Other Suspects Not Disclosed

At the time of filing the Original Motion, investigation disclosed that a student worker with the police had been involved with the searches and that he later became a police officer who was discharged and prosecuted for misconduct. It was also learned from discovery that a particularly disturbing character, Trent Buckle, was at Cal Poly and left the weekend of Ms. Smart's disappearance only to establish a modelling/escort/prostitution service. He was disturbing for that reason but also because his MO was to pick up young women in the early morning on weekends and recruit them into his business. But he was most disturbing because, as law enforcement learned, he moved his business to San Diego where he killed his female roommate, stuffed her in a refrigerator and then dumped her at a construction site. All this and yet Paul Flores was referred to as the sole suspect.

Other Reasons for Ms. Smart's Disappearance That Were Not Disclosed

Ms. Smart's mother disclosed that Ms. Smart had gone to Hawaii and disappeared. Other witnesses interviewed by law enforcement confirmed that she disappeared with a counsellor, paid for the room and an expensive gold ring. Either this man or another in Hawaii was identified as the son of a prominent doctor but there was no attempt to interview him. The December before her disappearance from Cal Poly, she was reported to be in Hawaii at a party asking men to rape her and she disappeared with one of the men. None of this was disclosed.

Several people said that Ms. Smart was likely to have gotten in a car with some guy and left. She had a fantasy about being a model and claimed

that she was a model. She claimed falsely that she was sponsored by a surfboard company or, to some, that she was a model for Roxy clothing. She also told people she was dying of leukemia in order to get a date with another man. While law enforcement noted these serious issues regarding the missing person, they called off consultation with a mental health expert specifically because they had focused on Paul Flores.

Law enforcement also had a letter written to Ms. Smart by her parents in which the parents recognized the serious problems she was having in school and otherwise. The parents knew that she was having an affair with an older man while she was in high school. Nevertheless, the magistrates were told that she was murdered and that Paul Flores was the only suspect.

Misstatements and Omissions Regarding Paul Flores' Statements

The affiants often reference a moment in which they claim Paul admitted he was "withholding intimate knowledge about the disappearance of Kristin Smart" because he "looked down" and "nodded" while Investigator Hobson said, "'Paul, there is no doubt in our mind that you know what happened to Roxy (nickname for Kristin Smart).'" (See, e.g., R, S, T, U, W, X, BB, CC, EE, HH, II.) Nevertheless, they knew that whatever this ambiguous body movement meant, if anything, it was in the context of being subject to a grueling two hour interrogation where Mr. Flores repeatedly and continuous stated all he knew was what he had told them (and everyone else) about leaving Ms. Smart in front of her dorm and proceeding on to his. And it came at the end of a 13 minute monologue by one of the investigators browbeating him for continuing to say he did not know anything else,

In addition, this is part of the interview is conceded by the prosecution to be inadmissible as a violation of *Miranda* and, as an unlawful statement cannot be used in a search warrant affidavit. Its illegal use is compounded by the failure to even put it in context.

Similarly, despite the statements of several people that they thought that Ms. Smart got in a car with someone, the affiants claimed that the fact Paul Flores said it, in response to his repeated denial of knowing what happened to Ms. Smart, indicated guilt without disclosing the statements of all the other witnessed. (See, e.g., Exhibits BB and EE.) The fuller context is set forth in the Original Motion (pp. 47-48).

Additional Grounds to Traverse and to Quash

The Original Motion sets forth additional grounds in detail (pp. 57-60). Without repeating all of the detail here:

1. Dr. Kusumoto could not offer a valid opinion as to the age of a bruise based on a photograph nor that he could offer an opinion about whether or not a bruise could have been inflicted by hitting a steering wheel. (See, e.g., Exhibits A, B and F.)
2. The cadaver dog alerts and non-alert behavior is not evidence as argued in a separate motion.
3. Affiants in several of the search warrants (see, e.g., Exhibits BB and EE), include innuendo, hearsay and inadmissible material relating to purported settlement negotiations. The affidavits included hearsay statements from the plaintiffs' lawyer representing the Smart family that he "recalled that De la Motte's offer was for an extremely low criminal charge as part of a case resolution; something such as an infraction." (Exhibit EE, Bates 17994.) In addition to being unreliable hearsay, Evidence Code, § 1153 states that ". . . 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. . ."
4. Inuendo and speculation are presented as fact, such as, "Stone said he 100% thinks Paul Flores is involved in Kristin Smart's disappearance and Ruben Flores helped dispose of her body." (See, e.g., Exhibits BB, CC and

EE.) Or, "Brown called Ruben's house the 'murder house' without any other explanation." (See, e.g., BB.) Or, Paul Flores' former Los Angeles girlfriend, who learned he was a suspect only after they broke up but the magistrates were told that she thought Mr. Flores said "he had to tell her something" but then did not. She speculated that he must have been "going to discuss his involvement in the Kristin Smart case." (See, e.g., Exhibit EE.) None of this belongs in a search warrant affidavit but it also highlights how little factual information the affiants actually had to obtain warrants continuously over 25 years.

5. The list of affiant's sworn information based on the "training and experience" of the officers would be comical if were not used as a basis to obtain an endless string of search warrants. "Training and experience" is no more than speculation where there is no evidence at all (more detail in the Original Motion):

a. "Based upon my training and experience, I know that a car cover could be used to wrap and conceal a body." (Exhibit A.)

b. "I believe that once Flores got to a location that would afford him some privacy and in proximity to where he was last seen with Smart by Anderson, he attempted or completed a sexual act or acts (intercourse, oral copulation, masturbation, sodomy, fondling or insertion of a foreign object into the vagina or anus) with Smart." (Exhibits A and B.)

c. "Also, based 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." (Exhibit A.)

d. "Based upon my training and experience, I believe that Paul Flores did not want to tell Ruben Flores [about the DUI],

because he is abusive and because of his assaultive behavior." (Exhibit A.)

e. "The statements made that he, Flores, walked to his dormitory and Smart was last seen walking to hers would suggest that he is implying that he is not involved in Smart's disappearance, since he was not with her and implies someone else is responsible. Based upon my training and experience, I know that this is a common ploy used by suspects, in an attempt to divert attention away from themselves." (Exhibit B)

f. "Based upon my training and experience, I believe that Flores' response [where he correctly disagreed with the officer who said that it was legal to have intercourse with an intoxicated person unless she said no] would support that he knew Smart was intoxicated and, if he had sexual intercourse with her, Smart could not consent to the act. Flores was insistent on it being wrong, when legal options were made available to him, to have a sexual act with a person under the influence. This would also suggest that there was an act of sexual intercourse/rape and he is trying to distance himself from the act, by implying he knew it was wrong to do. This would be common for a suspect to do, since this is a very serious offense." (Exhibit B)

g. "Based upon my personal experience with females and conversations with females, I know that women often wear the same color underwear and bra." (Exhibit A.)

h. "Your Affiant has worked on car stereos, amplifiers, and speakers. It does not take very long to disconnect the cables from these items. It certainly does not take the amount of time Paul and Ruben Flores said it did." (Exhibit BB.)

These kinds of speculative representations are not supported by anything other that "I am a police officer." They are just argument and show the desperation on the part of the officers to make something out of nothing.

Contradictions

Some of the conclusions of the affiants are contradictory which simply heightens the lack of actual substance. (See Original Motion pp. 60-61.) For instance:

1. In the very first search warrant affidavit (Exhibit A), incorporated in subsequent affidavits, the affiant says, without evidence, that the possible bruising under Mr. Flores' eye was caused by an altercation between him and Ms. Smart (for which there is absolutely no evidence). But then later says that the bruising should be considered by the magistrate to show that Ruben Flores hit Paul Flores when he learned of his son's involvement (for which there was no evidence).
2. In Exhibit J, the affiant both says that Paul Flores sanitized the Ford Ranger to remove any link to the murder and then later says that it is reasonable to believe that Paul Flores used his sister's vehicle to dispose of Smart's body. There are two different vehicles and two completely different theories about a murder for which there is no evidence, let alone evidence Paul Flores did one of these two different things.
3. The affidavits also are used to convince the magistrates that the affiant has a high degree of certainty that Ms. Smart is deceased and is buried at 710 White Court, or at 529 E. Branch Street, or at 10940 Ciervo Trail Way in Huasna, or at other locations around Cal Poly and San Luis Obispo County. Of course, each time, no evidence was located.

Additional Speculation and Inuendo

Again, it is hard to think of any search warrant affidavit in another

case that was so filled with speculation as these are in this case. In the Original Motion (pp.60-63) this is set forth in detail but, in summary:

1. Quoting several people responding to questions that Mr. Flores was "weird" while not disclosing that he had speech difficulties.
2. Quoting Jennifer Hudson that she had seen the eyes of a dead person and Paul Flores had "dead eyes." (See, e.g., Exhibit S.) All this knowing that Hudson's story that she met Mr. Flore twice as a skateboarder was preposterous, she did not make the claim to law enforcement until over 20 years later and that they could not corroborate any part of her story.
3. The affiant states that Paul Flores was involved in a school yard fight in middle school and that he must have been at fault because the Flores' insurance company made some sort of settlement. (See, e.g., Exhibits A and B.)
4. The Smart family lawyer asked questions in the deposition of Ruben Flores and the question (to which there was a denial) was offered as evidence in the affidavit. (See, e.g., Exhibits A, F, G.)

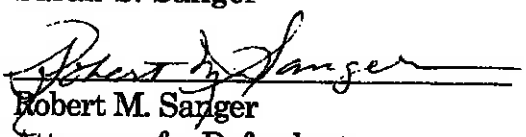
CONCLUSION

Probable cause cannot be based on argument or speculation. An affidavit has to be based on reliable facts. These affidavits are among the worst, if not the worst, the undersigned has seen.

Dated: June 3, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

PROOF OF SERVICE

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 222 E. Carrillo St., Ste. 300, Santa Barbara, California, 93101.

On June 3, 2022, I served the foregoing document entitled: **SUPPLEMENTAL BRIEFING ON NOTICE OF MOTION AND MOTION TO TRAVERSE, QUASH AND SUPPRESS (PEN. CODE § 1538.5); MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF COUNSEL** on the interested parties in this action by depositing a true copy thereof as follows:

SEE ATTACHED SERVICE LIST

_X_ **BY ELECTRONIC TRANSMISSION** -I caused the above-referenced document(s) to be transmitted via electronic transmission to the interested parties at the email addresses referenced in the attached service list.

____ **BY U.S. MAIL** - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.

____ **BY HAND** - I caused the document to be hand delivered to the interested parties at the address referenced on the attached service list.

_X_ **STATE** - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

____ **FEDERAL** - I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed June 3, 2022, at Santa Barbara, California.

Jake Swanson

Jake Swanson

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MC-510

MEDIA AGENCY *(name)*: CBS NEWS/48 HOURS
CHANNEL/FREQUENCY NO.: NETWORK
PERSON SUBMITTING REQUEST *(name)*: CINDY CESARE
ADDRESS: 524 WEST 57TH STREET, NY, NY 10019
TELEPHONE NO.: 917-848-2062

FOR COURT USE ONLY

FILED

JUN 03 2022

CLERK OF THE SUPERIOR COURT
DEPUTY

Insert name of court and name of judicial district and branch court, if any:
SUPERIOR COURT OF CA/COUNTY OF MONTEREY

TITLE OF CASE:
STATE OF CA VS. PAUL RUBEN FLORES,RUBEN FLORES

NAME OF JUDGE:
HON. JENNIFER O KEEFE, CHIEF JUDGE OF MONTEREY CO.

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)*: 6/3/22 is ☐ terminated ☐ modified as follows *(specify)*:

Hon. Jennifer J. O'Keefe

7. ☐ Number of pages attached:

Date: 6/3/2022

Jennifer O'Keefe
JUDGE

(See reverse for additional information)

Form Adopted for Mandatory Use
Judicial Council of California
MC-510 [Rev. January 1, 2007]

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

Cal. Rules of Court rule 1.150
www.courtinfo.ca.gov

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.

CASE NAME:
STATE OF CA VS. PAUL RUBEN FLORES,RUBEN FLORES

CASE NUMBER:
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.

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/3/2022 4:02 PM
By: Oscar Luna, Deputy

SANGER SWYSEN & DUNKLE
Robert M. Sanger, SBN 058214
Sarah S. Sanger, SBN 322722
222 E. Carrillo Street, Suite 300
Santa Barbara, CA 93101
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Attorneys for Defendant
Paul Ruben Flores

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES, Defendant.	Case No. 22CR003712 **EX PARTE APPLICATION TO FILE DEFENDANT PAUL FLORES' OPPOSITION AND PRELIMINARY RESPONSE TO PEOPLE'S MOTION TO ADMIT OTHER ACTS EVIDENCE UNDER SEAL** Hon. Jennifer J. O'Keefe

TO THE CLERK OF THE ABOVE-ENTITLED COURT AND DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE:

PLEASE TAKE NOTICE that Defendant Paul Flores, by and through his attorneys Robert M. Sanger, Sarah S. Sanger and Sanger Swysen & Dunkle, hereby request that the Court permit Defendant to file under seal in accordance with California Rules of Court, rules 2.550 and 2.551, and to

protect the Defendant's rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution, the following document:

1. Opposition and Preliminary Response to People's Motion to Admit Other Acts Evidence.

This application is made on the grounds that the Court already made a finding as to necessity of a sealing order after granting the protective order on April 15, 2021, and that sealing is necessary to protect the Defendant's right to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution.

This application is based on the attached memorandum of points and authorities, all the papers and records on file in this action and on such further oral and documentary evidence that may be presented at a hearing of this application.

Dated: June 3, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

DECLARATION OF ROBERT M. SANGER

I, Robert M. Sanger, hereby declare:

1. I am an attorney at law, duly licensed to practice in the State of California, and I am the attorney of record for the Defendant herein, Paul Ruben Flores.
2. We are concurrently filing the following documents conditionally under seal:
    1. Opposition and Preliminary Response to People's Motion to Admit Other Acts Evidence.
3. These filings contain information relating to discovery, recently executed search warrants and to evidence that may be excluded at trial. There is a substantial probability that Mr. Flores' rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution, would be prejudiced if the above-referenced documents are not sealed. Sealing is also necessary to comply with the protective order on April 15, 2021.
4. I am respectfully requesting that the following document be filed under seal to protect Mr. Flores' constitutional rights:
    1. Opposition and Preliminary Response to People's Motion to Admit Other Acts Evidence.

I declare under penalty of perjury that the foregoing is true and correct and that this was executed on June 3, 2022, in Santa Barbara County, California.



Robert M. Sanger

MEMORANDUM OF POINTS AND AUTHORITIES

ARGUMENT

I. FILING THE OPPOSITION AND PRELIMINARY RESPONSE TO PEOPLE'S MOTION TO ADMIT OTHER ACTS EVIDENCE UNDER SEAL IS NECESSARY TO PREVENT CONFIDENTIAL INFORMATION FROM BEING DIVULGED TO THE PUBLIC

Pursuant to California Rule of Court 2.550(d), the Court has the authority to order a record be filed under seal if it expressly finds that: (1.) There exists an overriding interest that overcomes the right of public access to the record; (2.) The overriding interest supports sealing the record; (3.) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed; (4.) The proposed sealing is narrowly tailored; and (5.) No less restrictive means exist to achieve the overriding interest. (California Rule of Court 2.550(d).)

In this case, the Opposition and Preliminary Response to People's Motion to Admit Other Acts Evidence includes information relating to discovery, recently executed search warrants and to evidence that may be excluded at trial, if made public, would prejudice Mr. Flores' rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution. Sealing is also necessary to comply with the protective order on April 15, 2021. Therefore, we respectfully submit that it is necessary to file the following documents under seal to protect Mr. Flores' rights to due process, a fair trial and impartial jury and that this overriding interest satisfies the requirements of Rule of Court 2.550(d):

1. Opposition and Preliminary Response to People's Motion to Admit Other Acts Evidence.

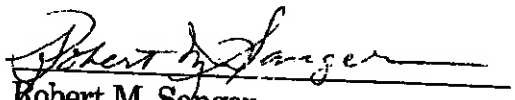
CONCLUSION

For the above-state reasons, the Court should grant this application.

Dated: June 3, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

PROOF OF SERVICE

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 222 E. Carrillo St., Ste. 300, Santa Barbara, California, 93101.

On June 3, 2022, I served the foregoing document entitled: **EX PARTE APPLICATION TO FILE DEFENDANT PAUL FLORES' OPPOSITION AND PRELIMINARY RESPONSE TO PEOPLE'S MOTION TO ADMIT OTHER ACTS EVIDENCE UNDER SEAL** on the interested parties in this action by depositing a true copy thereof as follows:

SEE ATTACHED SERVICE LIST

_X_ **BY ELECTRONIC TRANSMISSION** -I caused the above-referenced document(s) to be transmitted via electronic transmission to the interested parties at the email addresses referenced in the attached service list.

____ **BY U.S. MAIL** - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.

____ **BY HAND** - I caused the document to be hand delivered to the interested parties at the address referenced on the attached service list.

_X_ **STATE** - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

____ **FEDERAL** - I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed June 3, 2022, at Santa Barbara, California.

Jake Swanson

Jake Swanson

SERVICE LIST

Christopher Peuvrelle
Deputy District Attorney
1035 Palm St, # 4
San Luis Obispo, CA 93408-1000
cpeuvrelle@co.slo.ca.us
Via Email Only

Harold Mesick
1303 Higuera St.
PO Box 23
San Luis Obispo, CA 93406
haroldmesick@gmail.com
Via Email Only

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/3/2022 3:56 PM
By: Oscar Luna, Deputy

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

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MONTEREY

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. PAUL RUBEN FLORES, Defendants.	Case No. 22CR003712 PEOPLE'S OPPOSITION TO MOTION TO DISMISS FOR "OUTRAGEOUS GOVERNMENT CONDUCT" Date: June 6, 2022 Time: 8:30 am Location: Department 4

I

INTRODUCTION

When a witness in a murder case reports to law enforcement that the mother of one charged defendant and wife of the other charged defendant stopped outside of her home and took photographs of her young child approximately ten days before the trial is to start, it is not only well within the scope of the duties of law enforcement officers to investigate the incident as a possible crime of witness intimidation but it is their duty to do so. To call this "outrageous government conduct" that justifies a dismissal is baseless and unsupported by case law.

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II

STATEMENT OF PERTINENT FACTS

A. Report of Possible Witness Intimidation Committed by Susan Flores[1]

On Friday, May 27, 2022, at approximately 6:30 p.m., Jamilyn Holman arrived home and parked her vehicle in the garage of her residence with the garage door open. Inside the vehicle were her three-year-old daughter and her eight-year-old daughter. After Ms. Holman parked the vehicle, her eight-year-old daughter got out of the vehicle and opened the freezer in the garage to get ice cream. Her eight-year-old daughter looked over her shoulder and saw a red two-door SUV slow down and stop. The eight-year-old daughter then saw the driver, a female with short blonde hair, take out her phone, hold it with two hands outside of the open driver's side window, and take a picture. The eight-year-old appeared terrified and yelled, "Mommy, that lady is taking a picture of me."

Ms. Holman looked out toward the street and observed a red two-door SUV stopped on the street that ran parallel to her home. Ms. Holman got out of her vehicle and the red SUV began to speed away. Ms. Holman recognized the driver to be Susan Flores. She did not see a cell phone in the driver's hand.

B. The Investigation into Possible Witness Intimidation[2]

At approximately 6:42pm, on May 27, 2022, Ms. Holman contacted Sheriff's Office Detective Clint Cole by text to report the incident with Susan Flores. At that time, Detective Cole told Ms. Holman that if she believed a crime had been committed, she should contact the appropriate law enforcement agency that had jurisdiction over the matter. Ms. Holman then contacted the Arroyo Grande Police Department.

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[1] Statement of pertinent facts regarding the possible witness intimidation is taken from Arroyo Grande Police Department reports for case number 2200787, which are attached as Exhibit 1 and incorporated by reference.

[2] Statement of pertinent facts regarding the investigation into the possible witness intimidation is taken from Exhibit 1, the related search warrant and affidavit which are attached as Exhibit 2, a screenshot of the text message from Ms. Holman which is attached as Exhibit 3, and the attached Declarations of Eric Dobroth and Clinton Cole, all of which are incorporated by reference.

At approximately 7:13 p.m. on that same date, Ms. Holman met with Arroyo Grande Police Department Officer Ashley Donovan. She and her daughter described what they witnessed. Ms. Holman told officers that she is a witness in the court proceedings involving the murder of Kristin Smart (this case). She previously testified as a witness at the preliminary hearing in the case in September 2021 and saw Susan Flores was present in the courtroom during all of her testimony. Ms. Holman noted the trial is scheduled to begin next week and found the timing of the incident to be more threatening. Ms. Holman was concerned for her and her family's safety.

At approximately 8:15 p.m., Officer Donovan briefed Senior Officer Stephen Doherty about the incident. Senior Officer Doherty wrote an affidavit in support of a search warrant for Susan Flores's cell phone. Senior Officer Doherty presented the search warrant to the Honorable Jacquelyn H. Duffy for review. Upon being informed of the subject matter of the warrant and prior to reviewing it, Judge Duffy asked whether a prosecutor had reviewed the search warrant and affidavit and, when Senior Officer Doherty answered in the negative, she asked him to do so.

At approximately 10:47 p.m. DDA Peuvrelle contacted Assistant District Attorney (ADA) Eric Dobroth to brief him on the Arroyo Grande Police Department investigation. DDA Peuvrelle and ADA Dobroth agreed to review the search warrant and affidavit and discussed specific aspects of the initial request such as whether night service was warranted, why the officers were seeking information for the entire month preceding the incident, and whether web searches may be pertinent to the investigation.

ADA Dobroth and DDA Peuvrelle agreed to separately reviewed the warrant. At 11:08 pm they discussed whether night service was warranted, whether there was justification for the officer's request for a month of information and whether to include web searches.

On May 27, 2022, at 11:08 p.m., DDA Peuvrelle initiated a three-way phone call

with ADA Dobroth and Arroyo Grande PD Sr. Officer Doherty. Sr. Officer Doherty stated that he would present the warrant and affidavit to me for review the following day.

On May 28, 2022, at approximately 2:25 p.m., Senior Officer Doherty sent the search warrant to ADA Dobroth for review. At approximately 2:57 p.m., ADA Dobroth sent Senior Officer Doherty feedback on the contents of the affidavit and search warrant.

At 3:43 p.m., the Honorable Jacquelyn H. Duffy signed the search warrant related to the investigation into a possible violation of Penal Code section 136.1, subdivision (a)(2) (witness intimidation). The affidavit noted that the digital contents of Susan Flores's cellular phone may contain evidence of photographs of video of Ms. Holman and her family, of GPS location information that placed Susan Flores at the scene, and of internet searches, text messages, and call log information that shows her intent and motive underlying the behavior. It further requested the information for the week leading up to the incident to determine if there were additional incidents of Susan Flores loitering near or watching Ms. Holman's residence.

At approximately 5:45 p.m., Senior Officer Doherty served the search warrant on Susan Flores at 410 East Branch Street in Arroyo Grande and collected the cell phone as evidence. Senior Officer Doherty interviewed Susan Flores, who admitted to driving to and from Ruben Flores's residence in the morning and afternoon on the previous day and to knowing the location of Ms. Holman's residence, which is near Ruben Flores's residence, but denied taking pictures of Ms. Holman and her family. Senior Officer Doherty provided the cell phone to the Central Coast Cyber Forensics Lab at approximately 7:00 p.m. for a forensic examination.

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III

LAW AND ARGUMENT

A. The Investigation of a Crime Is Not "Outrageous Government Conduct"

Paul Flores's motion to dismiss cites *Rochin v. California* (1952) 342 U.S. 165 (*Rochin*), the seminal case that provided dismissal as the remedy for government conduct that is so egregious that it "shocks the conscience" and violates the constitutional right to due process under the Fourteenth Amendment. (*Id.* at p. 172.) In *Rochin*, three deputy sheriffs entered the defendant's residence without a warrant based on "some information" that he was selling narcotics, forced open the door to his room, and found the defendant with his wife, partly dressed and seated on the bed. The deputies observed two capsules on the nightstand, asked whose they were, and the defendant swallowed the pills. The deputies jumped on the defendant and attempted unsuccessfully to extract the pills, then took him to a hospital where a doctor forced an emetic solution through a tube into his stomach against the defendant's will, inducing vomiting and revealing two capsules of morphine. (*Id.* at p. 166.) The U.S. Supreme Court held that the unlawful breaking into the privacy of the defendant's home, the struggle to open his mouth and remove the capsules, and the forcible extraction of his stomach's contents were "methods too close to the rack and the screw" and reversed the conviction as a violation of the Due Process Clause. (*Id.* at p. 172.)

The test in California is two parts: (1) a factual determination of whether and to what extent governmental misconduct occurred, and (2) whether the conduct constitutes outrageous conduct in the constitutional sense of violating the defendant's due process rights. (*People v. Uribe* (2011) 199 Cal.App.4th 836, 857-858.) "The rights of the respective parties here are extremely important ones, namely, defendant's right to a fair trial and the People's right to prosecute persons believed to be responsible for the commission of serious crimes." (*Id.*)

Not only does the investigation into Susan Flores not "shock the conscience," it is in fact a legitimate investigation into a report of a possible crime. Paul Flores's motion, filled with irrelevant details[3] and unfounded speculation, ignores the law in favor of inflammatory rhetoric.

Police officers employed by a city like Arroyo Grande are peace officers, and their authority extends to public offenses committed or for which there is probable cause to believe have been committed within their jurisdiction. (Pen. Code, § 830.1, subd. (a)(1).) A law enforcement officer is someone whose primary responsibility is the enforcement of the law, the detection and apprehension of persons who have violated any law, or the investigation and preparation for prosecution of cases involving the violation of laws. (Pen. Code, § 872, subd. (c)(2).)

The district attorney is a public prosecutor, and the public prosecutor shall attend the court and within his or her discretion shall initiate and conduct on behalf of the people all prosecutions for public offenses. (Gov. Code, § 26500.)

Put simply, it is the duty of police officers to investigate the commission of public offenses and it is the duty of the prosecutor to initiate and conduct prosecutions. And when a witness in a case reports that the mother and wife of the defendants in that case is outside of her home taking photographs of her eight-year-old daughter, it is the duty of law enforcement to investigate the report as a possible crime of witness intimidation in violation of Penal Code section 136.1.

B. Susan Flores Does Not Have Attorney-Client Privilege with Paul Flores or His Attorney

The use of the phrase "defense camp" rather than "defense team" in the motion to dismiss is telling, because Susan Flores is not a defendant or a member of the defense team. Attorney-client privilege relates to confidential communications between

[3] The relevance of a 22-year-old FBI memo, quoted extensively—and twice—at the apparent expense of any quotations or analysis of case law in support of the defense position, is unclear.

client and lawyer. (Evid. Code, § 954.) The holder of the privilege is the client himself or herself, with exceptions for minors, conserved or deceased persons, or corporations. (Evid. Code, § 953; see, e.g., *People v. Lee* (1970) 3 Cal.App.3d 514, 527 [finding the defendant's wife had no attorney-client relationship with the public defender's office and was not acting as the defendant's agent].) The right of any person to claim the statutory attorney-client privilege "is waived with respect to a communication protected by such privilege if any holder of the privilege, without coercion, has disclosed a significant part of the communication..." (Evid. Code, § 912, subd. (a).) There is no parent-child privilege in California unless the specific communication falls under a different privilege. (*In re Terry W.* (1976) 59 Cal.App.3d 745, 747-749; cf *De Los Santos v. Superior Court* (1980) 27 Cal.3d 677 [parent has attorney-client privilege in relation to statements made in capacity as guardian ad litem].)

In addition, there are crime-related exceptions to privileges. Communications are not privileged if the services of a lawyer were sought or obtained to enable anyone to commit or plan to commit a crime or fraud. (Evid. Code, § 956, subd. (a).) And marital privilege does not apply if the communication was made, in whole or in part, to enable or aid anyone to commit or plan to commit a crime or fraud. (Evid. Code, § 981.)

The burden is on the party claiming the privilege to establish the preliminary facts necessary to support its exercise. (*Costco Wholesale Corp. v. Superior Court* (2009) 47 Cal.4th 725, 733; see also *Clark v. Superior Court* (2011) 196 Cal.App.4th 37, 49.) "The involvement of a third party changes the burden of proof in litigating attorney-client privilege issues." (*Behunin v. Superior Ct.* (2017) 9 Cal.App.5th 833, 844.) " 'Where a third party is present, no presumption of confidentiality obtains, and the usual allocation of burden of proof, resting with the proponent of the privilege, applies in determining whether confidentiality was preserved under [Evid. Code]

§ 952." [Citations.]" (*Id.* at pp. 844-845.) The defense has not demonstrated that any sort of privilege has been invaded.

Furthermore, the cases cited by the defense for their "invasion of the defense camp" theory address government intrusion to actual communications between defendants and their attorneys, and is therefore inapposite to the investigation of a defendant's mother taking photographs of the eight-year-old daughter of a witness in the upcoming trial. (See *Barber v. Municipal Court* (1979) 24 Cal.3d 742 [government agent present at confidential attorney-client meetings]; *Boulas v. Superior Court* (1986) 188 Cal.App.3d 422 [government directed defendant to hire a different attorney to obtain possible consideration for informant work]; *Morrow v. Superior Court* (1994) 30 Cal.App.4th 1252 [prosecutor used investigator to eavesdrop on conversation between defendant and attorney].) The defense allegation that the search warrant is "an effort to determine the reaction of the mother of [sic] other family members" (Def. Mot. at p. 8) is patently false, contradicted by the attached exhibits that include the authorization by a judicial officer for the search. Susan Flores is not the victim of harassment and intimidation; she is the perpetrator and the search of her phone is a legitimate investigation into the evidence and extent of her actions.

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IV

CONCLUSION

The timing of the investigation is highly relevant, but not for the reasons the defense proffers: Susan Flores took photographs of the eight-year-old daughter of a witness in this case in the weeks before the commencement of trial. The investigation of this behavior neither "shocks the conscience" nor "invades the defense camp"; rather, it is the investigation into a reported crime by officers who are doing their job. The defense motion should be denied.

DATED: June 3, 2022

Respectfully Submitted,

Dan Dow
District Attorney

Christopher Peuvrelle
Deputy District Attorney

EXHIBIT 1

ARROYO GRANDE POLICE DEPARTMENT

200 N. HALCYON ROAD
ARROYO GRANDE, CA 93420
(805) 473-5100

INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
2200787	
CASE TYPE	CAD EVENT NUMBER
DISD CONDUCT	2205007267
REPORTING OFFICER	REPORT DATE
P0157 - DONOVAN, ASHLEY	05/27/2022

INCIDENT

LOCATION				OCCURRED	DATE	TIME	DAY
RIDGEVIEW WY / WHITE CT, ARROYO GRANDE, CA 93420 US				ON OR FROM			
PREMISE NAME			AGENCY AGPD	TO			
BEAT 46-2	DIVISION OPERATIONS	UNIT PATROL	SHIFT SQUAD D	REPORTED	05/27/2022	19:13	FRI

NATURE OF INCIDENT

- ☐ ALCOHOL RELATED
- ☐ CHILD ABUSE
- ☐ DRUG RELATED
- ☐ SENIOR CITIZEN
- ☐ GANG RELATED
- ☐ DOMESTIC VIOLENCE
- ☐ HATE / BIAS
- ☐ OFFICER ASSAULT
- ☐ JUVENILE
- ☐ ARSON

RELATED CASE NUMBERS

SYNOPSIS

Victim reported a neighbor took a photograph of her eight year old daughter for intimidation purposes.

COPY
DO NOT DUPLICATE

This copy consisting of 17 page(s) is furnished for the exclusive use of: DA and is not to be duplicated, copied or furnished to any other person or agency except as provided by law, without the permission of the Arroyo Grande Police Department.

Michael T. Martinez, Chief of Police

By: [signature] Date: 5-31-22

ADDITIONAL INFORMATION

- ☐ DUI TC
- ☐ PRCS AB109
- ☐ SOCIALLY DISPLACED

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
OPEN	05/31/2022	DA	05/27/2022	P0106 - DOHERTY, STEPHEN	05/31/2022

INCIDENT REPORT	ARROYO GRANDE POLICE DEPARTMENT	CASE NUMBER 2200787

OFFENSES

ENTRY NO	VIOLATION STATUTE	OFFENSE DESCRIPTION
1	136.1(A)(2)	ATTEMPT TO PREVENT/DISSUADE WITNESS/VICTIM

ATTEMPTED	LEVEL	DEGREE	COUNTS	NCIC CODE	BEAT AREA	PROPERTY #	DISPOSITION DATE
N	M				986		

AGENCY CLASSIFICATION	LOCATION OF OFFENSE
PC	

CJIS	MODIFIER 1	MODIFIER 2	MODIFIER 3

CC BY	CC BY DATE	CC ACT

COMMENT

VICTIMS

ENTRY NO	INVOLVEMENT	NAME LAST FIRST MIDDLE
1	VI	HOLMAN, MARGARET

HOME ADDRESS: 409 PRINTZ RD ARROYO GRANDE, CA 93420 | MAILING ADDRESS

EMPLOYER	EMPLOYER ADDRESS	OCCUPATION

HOME PHONE	CELL PHONE	OTHER PHONE	EMPLOYER PHONE

DOB	AGE	SEX	RACE	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RESIDENCY	CITIZEN	GANG IDENTIFICATION
09/16/2013	8	F	W	N	400	60	BRO	BRO		R		

DL NUMBER	DL ST	SSN	FBI ID	STATE ID	LOCAL	ID	ID

COMMENT

ENTRY NO	INVOLVEMENT	NAME LAST FIRST MIDDLE
2	VI	HOLMAN, JAMILYN

HOME ADDRESS: 409 PRINTZ RD ARROYO GRANDE, CA 93420 | MAILING ADDRESS

EMPLOYER	EMPLOYER ADDRESS	OCCUPATION

HOME PHONE	CELL PHONE	OTHER PHONE	EMPLOYER PHONE

DOB	AGE	SEX	RACE	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RESIDENCY	CITIZEN	GANG IDENTIFICATION
08/01/1988	33	F	W	N						R		

DL NUMBER	DL ST	SSN	FBI ID	STATE ID	LOCAL	ID	ID

COMMENT

SUSPECTS

ENTRY NO	INVOLVEMENT	NAME LAST FIRST MIDDLE
4	SU	FLORES, SUSAN PAULA

HOME ADDRESS: 529 E BRANCH ST ARROYO GRANDE, CA 93420 | MAILING ADDRESS

EMPLOYER	EMPLOYER ADDRESS	OCCUPATION
		TEACHER AIDE/REAL ES

HOME PHONE	CELL PHONE	OTHER PHONE	EMPLOYER PHONE
(805) 473-6918			

DOB	AGE	SEX	RACE	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RESIDENCY	CITIZEN	GANG IDENTIFICATION
04/20/1951	71	F	W							R		

DL NUMBER	DL ST	SSN	FBI ID	STATE ID	LOCAL	ID	ID
E0910087	CA				15592		

COMMENT

OTHERS

ENTRY NO	INVOLVEMENT	NAME LAST FIRST MIDDLE
3	IN	HOLMAN, SCARLETTE

HOME ADDRESS: 409 PRINTZ RD ARROYO GRANDE, CA 93420 | MAILING ADDRESS

EMPLOYER	EMPLOYER ADDRESS	OCCUPATION

HOME PHONE	CELL PHONE	OTHER PHONE	EMPLOYER PHONE

DOB	AGE	SEX	RACE	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RESIDENCY	CITIZEN	GANG IDENTIFICATION
07/31/2018	3	F	W	N			BRO	BRO		R		

DL NUMBER	DL ST	SSN	FBI ID	STATE ID	LOCAL	ID	ID

COMMENT

INCIDENT REPORT	ARROYO GRANDE POLICE DEPARTMENT	CASE NUMBER 2200787

ENTRY NO	INVOLVEMENT	NAME LAST FIRST MIDDLE
5	OF	CULVER, DAVID

HOME ADDRESS | MAILING ADDRESS

EMPLOYER	EMPLOYER ADDRESS	OCCUPATION
AGPD		EMPLOYEE P0152

HOME PHONE | CELL PHONE | OTHER PHONE | EMPLOYER PHONE

DOB	AGE	SEX	RACE	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RESIDENCY	CITIZEN	GANG IDENTIFICATION

D. NUMBER | CI ST | SSN | FBI | STATE ID | LOCAL | ID | ID

COMMENT

ENTRY NO	INVOLVEMENT	NAME LAST FIRST MIDDLE
6	OF	DOHERTY, STEPHEN

HOME ADDRESS | MAILING ADDRESS

EMPLOYER	EMPLOYER ADDRESS	OCCUPATION
AGPD		EMPLOYEE P0106

HOME PHONE | CELL PHONE | OTHER PHONE | EMPLOYER PHONE

DOB	AGE	SEX	RACE	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RESIDENCY	CITIZEN	GANG IDENTIFICATION

D. NUMBER | CI ST | SSN | FBI | STATE ID | LOCAL | ID | ID

COMMENT

MEDIA LIST REPORT



TITLE: IMAGES
CONTEXT: INCIDENT
COMMENTS:
MEDIA DATE: 05/29/2022 07:00
ENTERED DATE: 05/29/2022 07:00



TITLE: IMAGES
CONTEXT: INCIDENT
COMMENTS:
MEDIA DATE: 05/29/2022 07:00
ENTERED DATE: 05/29/2022 07:00



TITLE: IMAGES
CONTEXT: INCIDENT
COMMENTS:
MEDIA DATE: 05/29/2022 07:00
ENTERED DATE: 05/29/2022 07:00



TITLE: IMAGES
CONTEXT: INCIDENT
COMMENTS:
MEDIA DATE: 05/29/2022 07:00
ENTERED DATE: 05/29/2022 07:00

INCIDENT REPORT	ARROYO GRANDE POLICE DEPARTMENT	CASE NUMBER 2200787



TITLE
IMAGES
CONTEXT
INCIDENT
COMMENTS

MEDIA DATE	ENTERED DATE
05/29/2022 07:00	05/29/2022 07:00



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05/29/2022 07:00	05/29/2022 07:00



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COMMENTS

MEDIA DATE	ENTERED DATE
05/29/2022 07:00	05/29/2022 07:00



TITLE
IMAGES
CONTEXT
INCIDENT
COMMENTS

MEDIA DATE	ENTERED DATE
05/29/2022 07:00	05/29/2022 07:00



TITLE
IMAGES
CONTEXT
INCIDENT
COMMENTS

MEDIA DATE 05/29/2022 07:00 | ENTERED DATE 05/29/2022 07:00



TITLE
IMAGES
CONTEXT
INCIDENT
COMMENTS

MEDIA DATE 05/29/2022 07:00 | ENTERED DATE 05/29/2022 07:00

NARRATIVE

SUMMARY OF EVIDENCE:

PRINTS: - None
PHOTOS: - Images.
INJURIES: - None

NARRATIVE:

On Friday, May 27, 2022, at approximately 1913 hours I was dispatched to the area of Ridgeview Way and White Court for a report for a neighbor disturbance. The reporting party advised a female neighbor who she identified as Susan Flores took a photograph of her eight year old daughter approximately 45 min prior to the initial report.

Due to family members having the same last name, the involved parties will be referred to by first name.

I responded to the reporting parties address, 409 Printz Road. Upon arrival, I contacted the reporting party who verbally identified as Jamilyn Holman. I observed Jamilyn's residence to be parallel to Ridgeview Way. The metal fencing around the property does not cover or hide any view of the street or her residence.

I asked Jamilyn what occurred and she provided the following summarized statement; at approximately 1830 hours Jamilyn had drove and parked her vehicle in the garage of her residence leaving the garage door open. Jamilyn had her two daughters with her in the vehicle; three year old Scarlette Holman and eight year old Margaret Holman. After Jamilyn parked the vehicle, Margaret exited the vehicle and walked towards the freezer located in the garage to get an ice cream. Margaret opened the freezer door and then looked over her shoulder and appeared "terrified". Jamilyn was still seated in the vehicle with Scarlette when Margaret yelled, "Mommy that lady is taking a picture of me". Jamilyn looked over her right shoulder while seated in the driver seat of her vehicle and noticed a red two door SUV stopped on Ridgeview Way as it turned from White Court. Jamilyn exited her vehicle and noticed the red SUV start to speed away. Jamilyn did not remember if the driver side window was up or down and did not see a cell phone in the drivers hand. Jamilyn described the vehicle as being an older model "mountaineer" or an SUV similar to that.

Jamilyn identified the female driving the red SUV as Susan Flores. Jamilyn has seen Susan several times at the Ruben Flores residence. Jamilyn is familiar with the red SUV due to seeing it parked across the street at the Ruben Flores residence and also in front of Susan Flores residence on several occasions.

Jamilyn is concerned due to the fact that Susan Flores took a photograph of Jamilyn's daughter, Margaret.

I then spoke with Margaret Holman. Margaret provided the following summarized statement; the garage door was open to the house. She saw someone was driving their car and slowed down and stopped. She saw someone take their phone out, held it and then took a picture. She described the car as being red in color. She described the driver as a female with short blonde hair.
I asked Margaret when she noticed the vehicle stop and take a photo of her and she stated, she

opened the freezer door and then looked towards the street and that is when she noticed the vehicle had stopped. I asked Margaret how the driver was holding the phone when she took the photo and Margaret held up both her hands and physically showed me that the female used two hands to do so through the window. This concluded my conversation with Margaret.

I took photographs inside Jamilyn's garage from the door that leads into the residence facing Ridgeview Way and from the fence line on Ridgeview Way facing Jamilyn's garage. These photographs are attached to the media section of this report.

At this time, Sergeant Culver requested Detective Doherty respond to the Arroyo Grande Police Department for further assistance in the case. Refer to Detective Doherty's supplement report for further information.

This incident was recorded on my body worn camera (P0157).

FOLLOW-UP REQUIRED:

Forward to detectives for follow up on the cell phone and obtaining a statement from Susan Flores.

CASE DISPOSITION:

Open, forwarded to detectives.

ARROYO GRANDE POLICE DEPARTMENT

200 N. HALCYON ROAD
ARROYO GRANDE, CA 93420
(805) 473-5100

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
2200787	1
CASE TYPE	CAD EVENT NUMBER
DISD CONDUCT	
REPORTING OFFICER	SUPPLEMENT DATE
P0106 - DOHERTY, STEPHEN	05/28/2022

INCIDENT

LOCATION / PREMISE NAME	DATE	TIME
410 E BRANCH ST , ARROYO GRANDE, CA 93420 US SAN LUIS OBISPO	05/28/2022	18:34

BEAT	DIVISION	UNIT	SHIFT	JURISDICTION
46-1	OPERATION	INVESTIGATI	SQUAD A	AGPD

STATUS

WORKFLOW STATUS	APPROVAL	APPROVAL DATE
COMPLETE	P0115 - SMITH, JEFFERY	05/31/2022

SUSPECTS

ENTRY NO	INVOLVEMENT	NAME LAST, FIRST, MIDDLE
4	SU	FLORES, SUSAN PAULA

HOME ADDRESS	MAILING ADDRESS
529 E BRANCH ST ARROYO GRANDE, CA 93420	

EMPLOYER	EMPLOYER ADDRESS	OCCUPATION
		TEACHER AIDE/REAL ES

HOME PHONE	CELL PHONE	OTHER PHONE	EMPLOYER PHONE
(805) 473-6918			

DOB	AGE	SEX	RACE	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RESIDENCY	OFFICER	GANG IDENTIFICATION
04/20/1951	71	F	W							R		

DL NUMBER	DL ST	SSN	FBI ID	STATE ID	LOCAL ID	ID	ID
E0910087	CA				15592		

COMMENT

ARTICLE

ENTRY NO	REF NO	INVOLVEMENT	CATEGORY	DESCRIPTION
1		E	CELL PHONES	CELL PHONE

SERIAL NUMBER	OAN	QUANTITY	DENOMINATION	CASH AMOUNT
G0NZW9JTN72W		1		

TYPE	BRAND	MODEL	SIZE	GENDER	COLOR 1	COLOR 2
-	- APPLE	IPHONE				

VALUE STOLEN	DATE STOLEN	JURISDICTION STOLEN

VALUE RECOVERED	DATE RECOVERED	JURISDICTION RECOVERED	RECOVER LOCATION	RECOVERED BY NAME

EVIDENCE	CUSTODY STATUS	WET	DATE/TIME TAKEN	RECOVERED BY PIN	SOURCE	DESCRIPTION
Y	SUBMITTED	N				

LOCATION OF DNA SAMPLE

COMMENT

NARRATIVE

SUMMARY OF EVIDENCE:

PRINTS: - None
PHOTOS: - None
INJURIES: - None

NARRATIVE:

On May 27th, 2022 at approximately 2015 hours, I was notified about this case and met with Officer Donovan, who relayed the information contained in her report. I completed a search warrant related to this case which was granted by the Honorable Judge J. Duffy on 5/28/22. On 5/28/22 at

approximately 1745 hours, I served the search warrant on Suspect Susan Flores at 410 E. Branch St, and she turned over her cell phone, which I collected as evidence. I noted that I had called a telephone number listed as Flores' earlier in the day, and that the voice mail that I had left was on the cell phone that I was collecting, leading me to believe that phone did indeed belong to Flores.

I spoke with Flores about the incident from yesterday, and the following is a summary of her statement: Flores admitted to driving to and from Ruben Flores' residence on White Court at least two times on 5/27/22. Flores' said she went to Ruben's residence once in the morning and once in the afternoon, but could not advise on specific times. Flores' did recall that at least one of the trips involved picking up cat food from Ruben. Flores acknowledged knowing where Holman's residence is and stated that she has to slow down every time she drives past because there is a dip in this section of roadway on Ridgeview Way. Flores denied taking pictures of Holman and her family and further denied having any interactions with Holman.

The conversation with Flores was recorded on Officer Donovan's body worn camera.

Flores was provided with a copy of the search warrant affidavit and a property receipt for her cell phone. I turned over Flores' cell phone to Chris Fitzpatrick from the Central Coast Cyber Forensics Lab on 5/28/22 at approximately 1900 hours.

FOLLOW-UP REQUIRED:

Conduct forensic exam of cell phone and update report with results.

CASE DISPOSITION:

Active. Forward to the San Luis Obispo District Attorney's Office.

ARROYO GRANDE POLICE DEPARTMENT

200 N. HALCYON ROAD
ARROYO GRANDE, CA 93420
(805) 473-5100

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
2200787	2
CASE TYPE	CAD EVENT NUMBER
DISD CONDUCT	2205007267
REPORTING OFFICER	REPORT DATE
P0106 - DOHERTY, STEPHEN	06/01/2022

INCIDENT

LOCATION				DATE	TIME
200 N HALCYON RD , ARROYO GRANDE, CA 93420 US SAN LUIS OBISPO				06/01/2022	08:33
PREMISE NAME					
AGPD					
BEAT	DIVISION	UNIT	SHIFT	JURISDICTION	
46-3	OPERATION	PATROL	INVESTIGATI	AGPD	

ADDITIONAL INFORMATION

☐ DUI TC ☐ PRCS AB109

ARTICLE

ENTRY NO	REF NO	INVOLVEMENT	CATEGORY	DESCRIPTION
2		E	DIGITAL MEDIA	THUMB DRIVE (UFED READER)

SERIAL NUMBER	OAN	QUANTITY	DENOMINATION	CASH AMOUNT

TYPE	BRAND	MODEL	SIZE	GENDER	COLOR 1	COLOR 2
-	-					

VALUE STOLEN	DATE STOLEN	JURISDICTION STOLEN

VALUE RECOVERED	DATE RECOVERED	JURISDICTION RECOVERED	RECOVER LOCATION	RECOVERED BY NAME

EVIDENCE	CUSTODY STATUS	WET	DATE/TIME TAKEN	RECOVERED BY PIN	SOURCE	DESCRIPTION
Y	SUBMITTED	N				

LOCATION OF DNA SAMPLE

COMMENT

ARTICLE

ENTRY NO	REF NO	INVOLVEMENT	CATEGORY	DESCRIPTION
3		E	DIGITAL MEDIA	THUMB DRIVE (PORTABLE CASE)

SERIAL NUMBER	OAN	QUANTITY	DENOMINATION	CASH AMOUNT

TYPE	BRAND	MODEL	SIZE	GENDER	COLOR 1	COLOR 2
-	-					

VALUE STOLEN	DATE STOLEN	JURISDICTION STOLEN

VALUE RECOVERED	DATE RECOVERED	JURISDICTION RECOVERED	RECOVER LOCATION	RECOVERED BY NAME

EVIDENCE	CUSTODY STATUS	WET	DATE/TIME TAKEN	RECOVERED BY PIN	SOURCE	DESCRIPTION
Y	SUBMITTED	N				

LOCATION OF DNA SAMPLE

COMMENT

COPY
DO NOT DUPLICATE

This copy consisting of 2 page(s) is furnished for the exclusive use of: DA and is not to be duplicated, copied or furnished to any other person or agency except as provided by law, without the permission of the Arroyo Grande Police Department.

Michael T. Martinez, Chief of Police

By: _____ Date: 6-1-22

MEDIA LIST REPORT



TITLE		MEDIA DATE	ENTERED DATE
CONTEXT	INCIDENT	06/01/2022 10:46	06/01/2022 10:46
COMMENTS			

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
OPEN	05/31/2022	DA	05/27/2022	P0115 - SMITH, JEFFERY	06/01/2022

NARRATIVE

SUMMARY OF EVIDENCE:

PRINTS: - None
PHOTOS: - None
INJURIES: - None

NARRATIVE:

On May 31st, 2022, I was notified that Chris Fitzpatrick of the Central Coast Cyber Forensics Lab had finished his forensic examination of Susan Flores' cell phone and was ready to turn over two thumb drives that contained the extraction of the digital contents of the cell phone. I collected two thumb drives from Fitzpatrick, one marked "UFED Reader" which contained the Cellebrite Reader file of the contents (Item 2) and one marked "Portable Case" (Item #3). Fitzpatrick completed a report to document his cell phone extraction, see SLOSO Case #2205-04331-0 for additional details.

Fitzpatrick advised that he was instructed by the SLO County District Attorney's Office not to return the device at this time and I was unable to manually examine the contents of the device.

I used Cellebrite to view the digital contents of Flores' cell phone during the time period and noted that GPS location data indicated that Flores' cell phone was in the area of 101 Ridgeview Way on May 27th, 2022 at approximately 1821 hours (UTC-7). The GPS coordinates indicated on the Cellbebrite program were (35.133912, -120.571967), which were confirmed using Google Earth. The following coordinates of (35.134905, -120.571179) at 1822 hours and (35.134841, -120.571167) at 1823 hours tend to show that the cell phone was traveling in a southerly direction on Ridgeview Way towards Tally Ho. This information corroborates Holman's statement that Flores was driving southbound on Ridgeview Way past the backside of her residence at approximately 1830 hours. I attached a screen shot of the above mentioned information.

I did not locate any further information of evidentiary value in the digital extraction such as images or videos that Flores may have taken with her cell phone. I collected the two thumb drives (Items 2 and 3) as evidence and booked them at the Arroyo Grande Police Station.

FOLLOW-UP REQUIRED:

None.

CASE DISPOSITION:

Closed. Please forward this supplemental report to the San Luis Obispo District Attorney's Office.

EXHIBIT 2

Search Warrant No. _____

COUNTY OF SAN LUIS OBISPO - STATE OF CALIFORNIA
AFFIDAVIT AND SEARCH WARRANT

AFFIDAVIT

I, Stephen Doherty, declare under penalty of perjury under the laws of the State of California that the information expressed by me in the Search Warrant, Statement of Experience, and Affidavit in the attached and incorporated statement of Probable Cause and any other attachments thereto are true and correct. Wherefore, affiant requests that this Search Warrant be issued.

Stephen Doherty

_____
(Signature of Affiant)

SEALING ORDER REQUESTED YES (NO)
NIGHT SEARCH REQUESTED YES (NO)
ANTICIPATORY WARRANT REQUESTED YES (NO)

SEARCH WARRANT

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICE OFFICER, OR PEACE OFFICER IN THE COUNTY OF SAN LUIS OBISPO: proof by affidavit having been made before me by **Stephen Doherty** that there is probable cause to believe that the property and/or person described herein may be found at the locations set forth herein and is lawfully seizable pursuant to Penal Code §1524 as indicated below by "x"(s) in that it:

_____ was stolen or embezzled;

__X__ was used as the means of committing a felony;

_____ is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery;

__X__ tends to show that a felony has been committed or that a particular person has committed a felony;

_____ tends to show that sexual exploitation of a child in violation of Section 311.11, or depiction of sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring;

_____ there is a warrant for the person's arrest:

YOU ARE THEREFORE COMMANDED TO SEARCH:
See attached and incorporated Description page(s).

FOR THE FOLLOWING PROPERTY/PERSON:
See attached and incorporated Description page(s).

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to as true and subscribed before me on this 28th day of May, 2022 at 3:43 A.M. (P.M.) Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

Jacqueline N Duffy

_____
(Signature of Magistrate)
Judge of the Superior Court

SEALING ORDER APPROVED YES (NO)
NIGHT SEARCH APPROVED YES (NO)
ANTICIPATORY WARRANT REQUESTED YES (NO)

Date: _____, at _____ am/pm

Description Page, p. 1 of 2

YOU ARE THEREFORE COMMANDED TO SEARCH THE PREMISES LOCATED at:

1.) **The residence located at 529 E. Branch St, Arroyo Grande, California, the surrounding grounds, and any storage rooms or out buildings to which the tenant or tenants of 529 E. Branch St would have legal standing to access or utilize.**

529 E. Branch St is a single family residence in the city of Arroyo Grande, which is in the county of San Luis Obispo. E. Branch St is an east / west street and the nearest cross street is Garden St to the east.

529 E. Branch St is situated on the north side of E. Branch St. The residence is painted blue with wood siding, white trim around the windows and doors, and has a black shingle roof. There is a white picket fence surrounding the front yard, and the front door to the residence is painted red. The numbers "529" are present above the front doorway, in gold numbers.

AND, YOU ARE THEREFORE COMMANDED TO SEARCH THE FOLLOWING VEHICLE(s):

1) 1997 Mercury Mountaineer SUV, red in color with a California license plate of 3UDK553.

FOR THE FOLLOWING PROPERTY DESCRIBED as:

1) Any cellular phones or electronic devices contained within the residence at 529 E. Branch St, Arroyo Grande, California.

FOR THE FOLLOWING INFORMATION FROM THE ABOVE-LISTED PROPERTY ITEMS number 1:

Conduct forensic examinations of the cell phones or electronic devices listed above searching those items from the time period of **05/20/2022 to 05/27/2022** for the following information:

a. All messages, including the actual text made from or received from another number, also including all messages sent or received through social media applications on the items to be searched.

b. All phone numbers that were called or received from the items to be searched.

c. All contact lists and information pertaining to contacts stored on the items to be searched.

d. Information contained within the items to be searched that would indicate control or ownership of the devices.

e. All stored communications or files including documents, photographs, videos, voicemails and notes stored on the items to be searched.

f. All device location information stored on the device including addresses and GPS coordinates for the time period to be searched.

Description Page, 2 of 2

ORDER FOR UNRELATED CONTENT:

IT IS HEREBY ORDERED that the warrant shall require that any information obtained through the execution of the warrant that is unrelated to the objective of the warrant shall be sealed and not subject to further review, use, or disclosure without a court order pursuant to **Penal Code § 1546.1(d)(2).** A court shall issue such an order upon a finding that there is probable cause to believe that the information is relevant to an active investigation, or review, use, or disclosure is required by state or federal law. Any information seized that is unrelated to the objective of this warrant shall be destroyed as soon as feasible after the termination of the investigation and any related investigations or proceedings without further order.

OFFSITE EXAM AND AGENCY SCOPE OF AUTHORIZATION ORDER:

IT IS HEREBY ORDERED that a forensic technician, sworn or non-sworn, be granted authorization to examine, make duplicate images/copies of the above-mentioned electronic media and to determine if evidence of the offenses enumerated above are contained therein.

IT IS FURTHER ORDERED that the searching authority may use all lawful techniques to search electronic data for evidence or instrumentalities of crime, including, but not limited to, examining file directories and subdirectories for the lists of files they contain; "opening" or reading the pages of selected files to determine their contents; scanning for deleted or hidden data; searching for key word phrases.

IT IS FURTHER ORDERED that an off-site search is authorized due to the length of time and necessary equipment needed for forensic searches. This warrant authorizes the use of extraction methods that may be destructive to the device if no less destructive means are available to the forensic examiner in order to successfully perform the demanded extraction.

IT IS FURTHER ORDERED that in the case of items which, after forensic examination, are deemed in the judgement of the investigating officers not to contain data of evidentiary value, that officers are authorized to return said items without the need for further judicial process.

Statement of Expertise

My name is Stephen Doherty and I am the affiant for this warrant. I am currently a senior police officer employed by the Arroyo Grande Police Department (AGPD). I have been employed as a police officer with the Arroyo Grande Police Department since January 2011, and am currently assigned to investigations as a senior officer/detective. I attended and graduated from the Los Angeles Police Department Basic Law Enforcement Academy in June, 2009, and hold both an Advanced Certificate from California Peace Officers Standards and Training (POST).

I have received the following training: 918 hours at the Los Angeles Police Department Basic Law Enforcement Academy, including training on criminal investigations. I have attended a 24-hour Drug Abuse Recognition (DAR) 11550 H&S and 72-hour Drug Recognition Expert (DRE) and 36 hours of Field Certifications, which included the effects of drugs on the human body. I have also attended a 40-hour Field Training Officer Course and completed an 80-hour Institute of Criminal Investigation (ICI) Core investigation class which covered various topics including but not limited to: crime scene investigation, search warrant writing and electronic/financial crimes investigation.

During my past and present law enforcement assignments, I have had occasion to conduct and participate in numerous types of investigations, including offences against persons and property.

Statement of Probable Cause

On May 27, 2022 at approximately 1913 hours, Arroyo Grande Police Department (AGPD) patrol officers were dispatched to 409 Printz Rd in response to a call for service. AGPD Officer Donovan spoke with the reporting party, Jamielyn Holman, about the incident, and relayed the following to me: On today's date at approximately 1830 hours, Holman was driving to her residence at 409 Printz Rd with her two daughters and was pulling into her driveway. Holman's driveway wraps around to the rear of her residence and is clearly visible from Ridgeview Way, in the vicinity of White Court, in the city of Arroyo Grande. Holman's eight-year-old daughter, Margaret, exited Holman's vehicle and went to retrieve some ice cream from a fridge inside the garage. Holman noticed that Margaret had a terrified expression on her face and stated," Mommy, that lady is taking pictures of me." Holman then turned around while still in the driver seat and noticed a red SUV slowly drive on the street on Ridgeview Way behind them, with a female sitting in the driver seat. Holman said that she recognized the female and the SUV from numerous previous contacts as Susan Flores. Holman told Officer Donovan that Flores' SUV was stopped near the fire hydrant on Ridgeview Way, near the rear of her residence, which was approximately 90 feet away. As Holman exited her vehicle, Flores' SUV began driving southbound on Ridgeview Way at a fast rate of speed. Holman said that she never saw Flores holding the cell phone, but Officer Donovan later spoke with Margaret, who confirmed seeing the driver taking pictures with a cell phone. Margaret clarified that the female was holding the cell phone outside the driver window with both hands. Holman said that her and Flores made no attempts to speak with each other.

Holman stated that the entire incident lasted approximately one minute. Holman stated to Officer Donovan that her recent involvement in a court proceeding involving Flores caused her concern for her family's safety and that of her own.

Holman stated that she is currently a witness in the high profile court proceedings involving the murder of Kristin Smart. Susan Flores is the mother of the defendant in the court proceedings, Paul Flores. Holman previously testified as a witness in the preliminary hearing on September 20th, 2021, and noted that Susan Flores was present in the courtroom for the entirety of her testimony. Furthermore, Holman noted that the next phase of the trial is set to begin next week, making the timing of Susan Flores' behavior even more threatening according to Holman.

I noted that Susan Flores' ex-husband, Ruben Flores, does have a residence nearby on White Court, making it reasonable for Susan to be driving on Ridgeview Way. However, it would be unlikely for Flores to have cause to stop her vehicle directly behind Holman's residence as Holman and her family were entering the garage.

Officer Donovan attempted to obtain security camera footage from video cameras attached to Holman's residence, but found that the batteries that power the cameras are depleted and that no footage had been recorded.

I have prior knowledge that Susan Flores lives at 529 E. Branch Street and confirmed this information through AGPD police records. Officer Donovan went to 529 E. Branch St at approximately 2030 hours on this date and noted that there was a red SUV (Mercury Mountaineer), with an affixed rear California license plate of 3UDK553.

Request for Search Warrant

During my past and present law enforcement assignments, I have had occasion to conduct and participate in numerous investigations involving disorderly conduct and crimes against persons.

Through this investigation I formed the opinion that Susan Flores' behavior of taking pictures of Holman's residence, vehicle, and family caused Holman to feel threatened given the current circumstances of their involvement in the Kristin Smart trial. Holman is set to testify as a witness against Susan Flores' son, who will be on trial for murder. California Penal Code 136.1 (a)(2) states that any person who knowingly and maliciously attempts to prevent or dissuade any witness or victim from attending or giving testimony at any trial, proceeding, or inquiry authorized by law can be punished with a felony offense. I believe that Susan Flores maliciously attempted to dissuade Holman from testifying by taking pictures with her cell phone of Holman and her daughter while at their residence. It should also be noted that Susan Flores actions were committed during hours of daylight, meaning that she did not attempt to conceal her actions and most likely intended for Holman and her daughter to see her taking pictures.

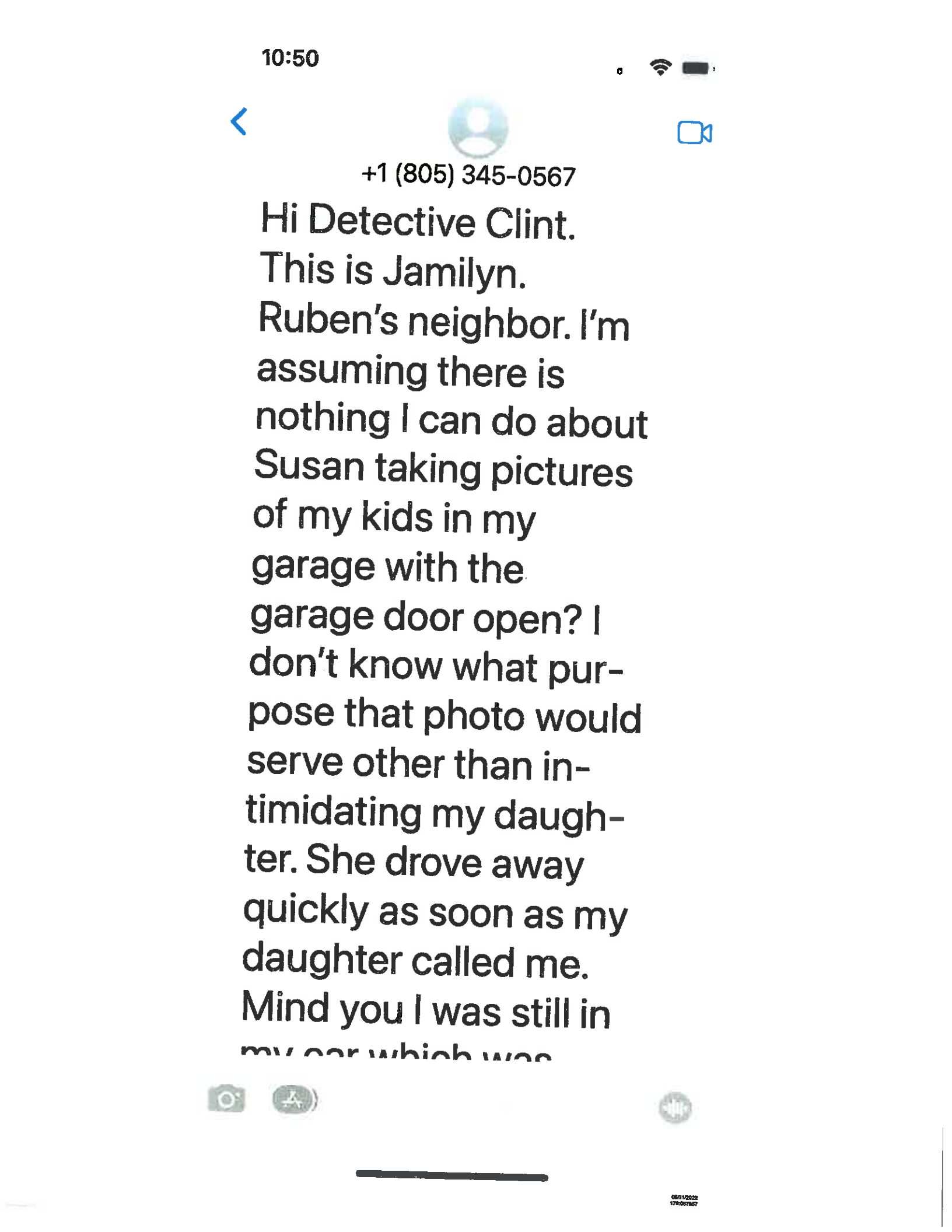
The digital contents of Susan Flores' cellular phone may contain evidence that she was taking images or video of Holman and her family. Additionally, the GPS information contained on Susan Flores' cell phone may prove that she was present and corroborate Holman's statement. Based on my training and experience, I know that most people carry cell phones, specifically smart phones. These smart phones are typically GPS enabled, track the whereabouts of a phone, are also used for communications, and are used for researching information from internet sources. I believe that the text message and call log information will tend to show Susan Flores' intent and motivation behind her reported behavior.

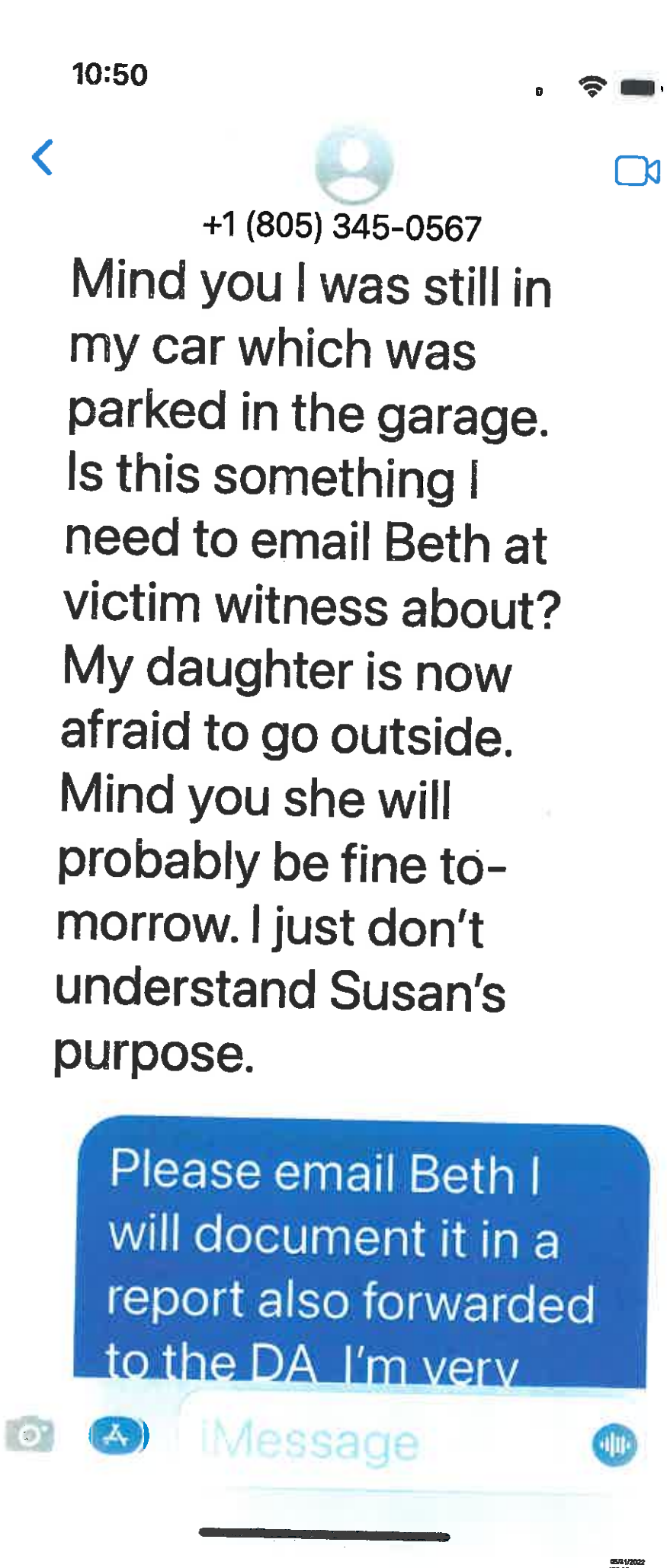
I believe it necessary to retrieve cell phone information from May 20th, 2022 until the time of the reported incident on May 27th, 2022. GPS data from this time period may show that Susan Flores was stopped near Holman's residence, and may show whether there were additional incidents when Flores was loitering near or "casing" Holman's residence without Holman noticing.

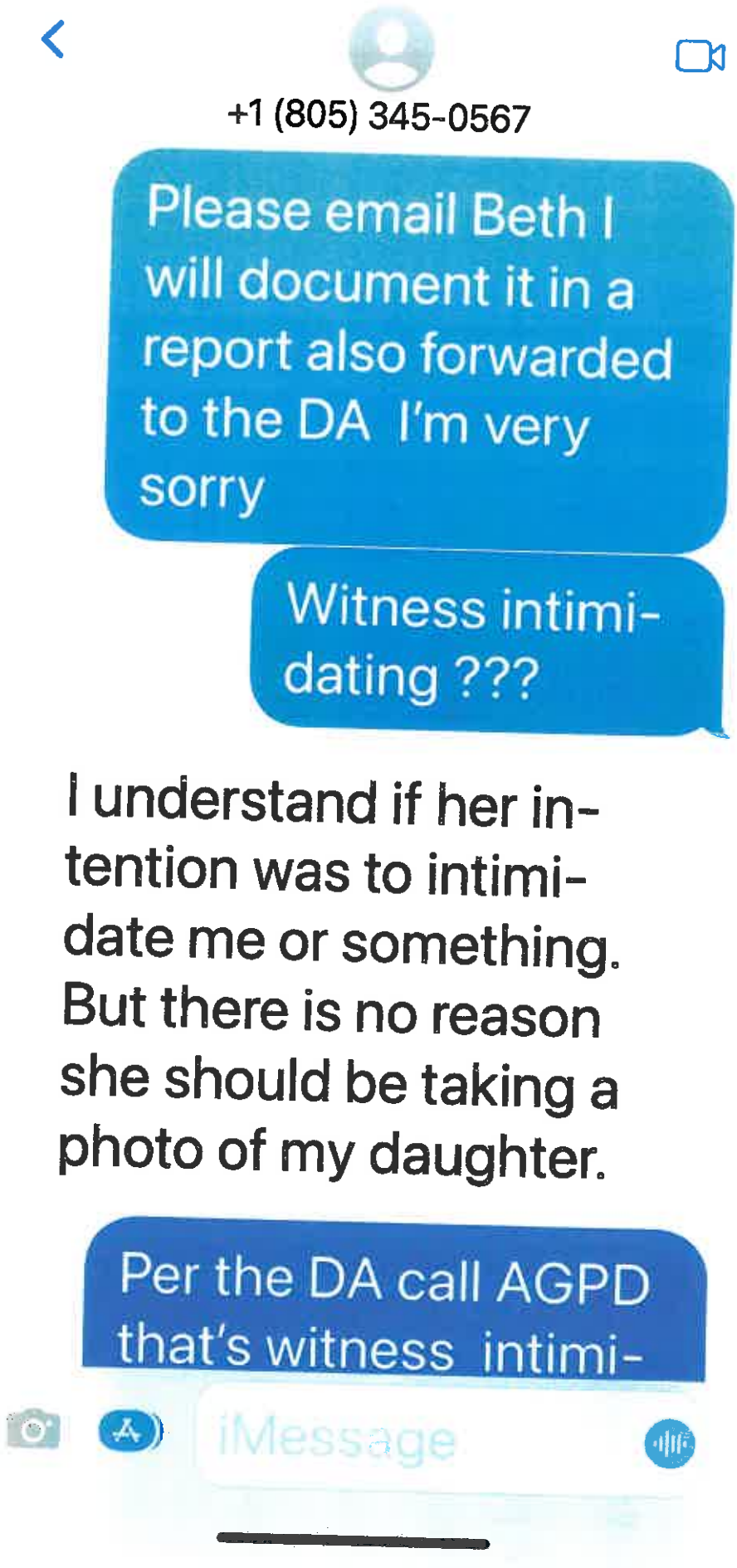
Based on all of the above information, I am requesting to search Susan Flores' residence at 529 E. Branch Street and her vehicle in order to seize items associated with the incident, specifically any cell phones that may be associated with her. I further request a search of Susan Flores's cell phones for digital evidence.

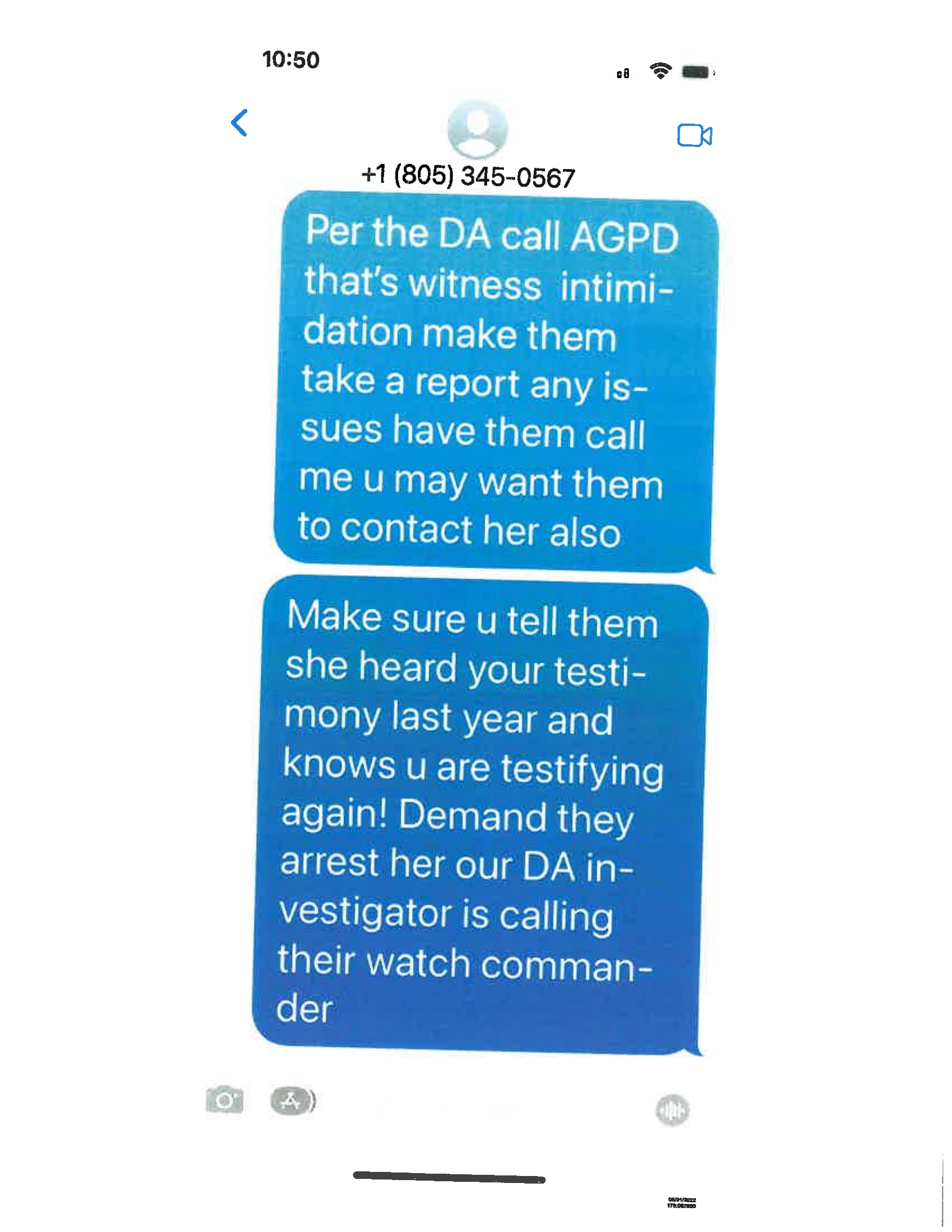
Therefore, I request that a Search Warrant be issued based upon the aforementioned facts, for the seizure of said property and records, or any part thereof, good cause being shown thereof, and the same be brought before this Magistrate or retained subject to the order of the court, or of any court in which the offense(s) in respect to which the property of things taken, triable, pursuant to Section 1536 of the Penal Code.

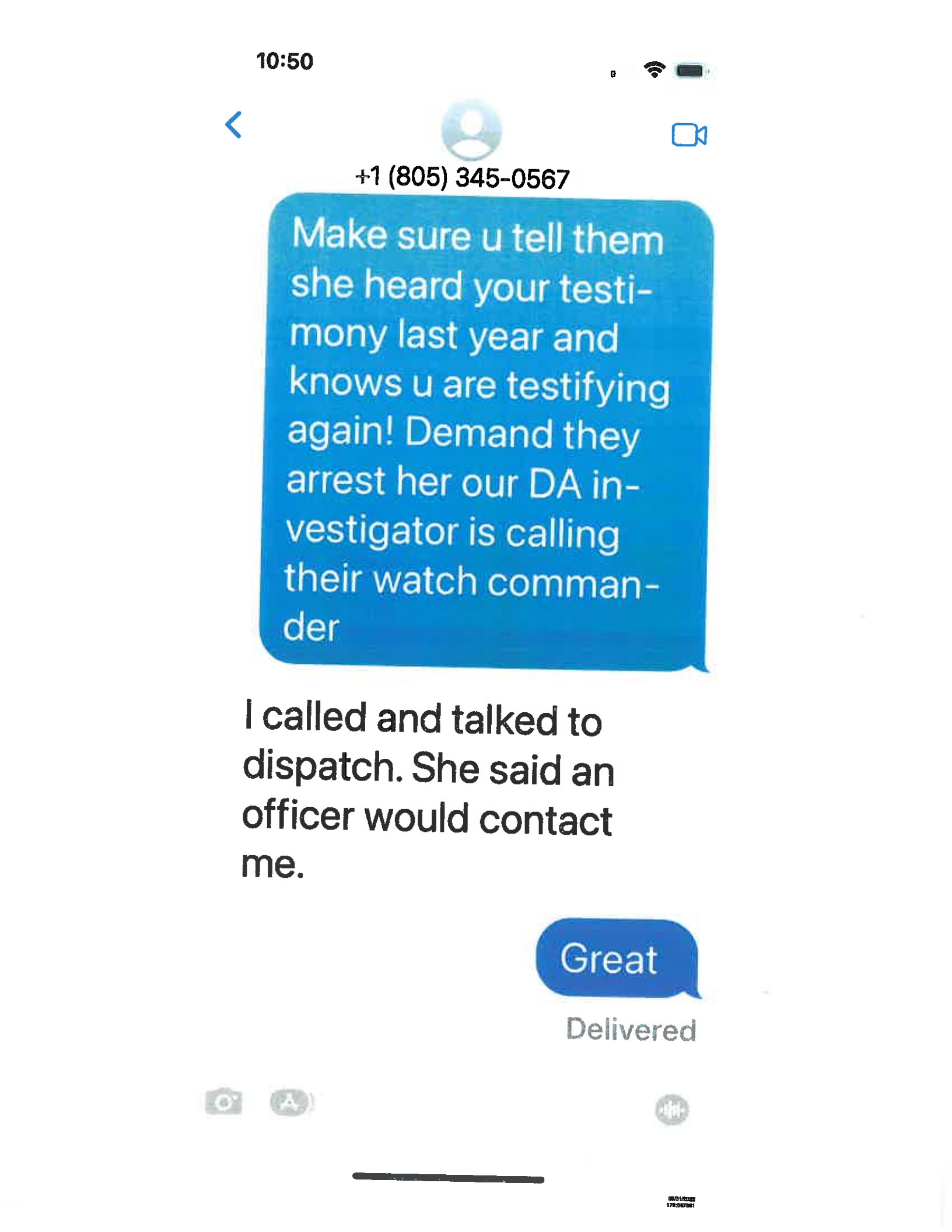
EXHIBIT 3


10:50
+1 (805) 345-0567
Hi Detective Clint.
This is Jamilyn.
Ruben's neighbor. I'm
assuming there is
nothing I can do about
Susan taking pictures
of my kids in my
garage with the
garage door open? I
don't know what pur-
pose that photo would
serve other than in-
timidating my daugh-
ter. She drove away
quickly as soon as my
daughter called me.
Mind you I was still in


10:50
+1 (805) 345-0567
Mind you I was still in my car which was parked in the garage. Is this something I need to email Beth at victim witness about? My daughter is now afraid to go outside. Mind you she will probably be fine to-morrow. I just don't understand Susan's purpose.
Please email Beth I will document it in a report also forwarded to the DA I'm very
iMessage


10:50
+1 (805) 345-0567
Please email Beth I will document it in a report also forwarded to the DA I'm very sorry
Witness intimi-dating ???
I understand if her in-tention was to intimi-date me or something. But there is no reason she should be taking a photo of my daughter.
Per the DA call AGPD that's witness intimi-
iMessage


10:50
+1 (805) 345-0567
Per the DA call AGPD that's witness intimi-dation make them take a report any is-sues have them call me u may want them to contact her also
Make sure u tell them she heard your testi-mony last year and knows u are testifying again! Demand they arrest her our DA in-vestigator is calling their watch comman-der


10:50
+1 (805) 345-0567
Make sure u tell them she heard your testi-mony last year and knows u are testifying again! Demand they arrest her our DA in-vestigator is calling their watch comman-der
I called and talked to dispatch. She said an officer would contact me.
Great
Delivered

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/3/2022 3:56 PM
By: Oscar Luna, Deputy

DAN DOW (State Bar No. 237986)
DISTRICT ATTORNEY
Office of the District Attorney
County Government Center
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorneys for the People of the State of California

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MONTEREY

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

PAUL RUBEN FLORES,

Defendant.

Case No. 22CR003712

DECLARATION OF ERIC J. DOBROTH IN SUPPORT OF OPPOSITION TO MOTION TO DISMISS FOR OUTRAGEOUS GOVERNMENT CONDUCT

I, ERIC J. DOBROTH, declare:

1. I am a licensed attorney in the State of California and serve as the Assistant District Attorney of the County of San Luis Obispo, in the State of California.

2. On May 27, 2022, at about 10:47 p.m., I received a telephone call from Deputy District Attorney Christopher Peuvrelle (DDA Peuvrelle).

3. DDA Peuvrelle informed me that Arroyo Grande Police Department was investigating an incident involving Susan Paula Flores that had occurred earlier that date.

4. Based on my familiarity with the instant case, I know Susan Paula Flores to be the mother of defendant Paul Ruben Flores and wife of co-defendant Ruben Flores. I know Ruben Flores to be the father of defendant Paul Ruben Flores.

5. DDA Peuvrelle informed me that an Arroyo Grande police officer had sought a search warrant for Susan Paula Flores's mobile phone based on the above

incident and that the reviewing bench officer suggested that the warrant and affidavit be reviewed by the District Attorney's Office.

6. DDA Peuvrelle and I agreed that we would each separately review the warrant and affidavit. We did so and at 11:08 p.m. we discussed certain requests made in the warrant and affidavit including whether night service was warranted, why the officers were seeking information for the entire month preceding the incident, and whether web searches may be pertinent to the investigation.

7. On May 27, 2022, at 11:24 p.m., DDA Peuvrelle initiated a three-way phone call between him, me and Arroyo Grande Sr. Officer Doherty. Sr. Officer Doherty stated that he would present the warrant and affidavit to me for review the following day.

8. On May, 28, 2022, at 2:25 p.m., Sr. Officer Doherty emailed me the warrant and affidavit. At 2:57 p.m., I emailed Sr. Officer Doherty my feedback.

I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration was executed on June 3, 2022, in San Luis Obispo County, California.

Eric J. Dobroth

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/3/2022 3:56 PM
By: Oscar Luna, Deputy

DAN DOW (State Bar No. 237986)
DISTRICT ATTORNEY
Office of the District Attorney
County Government Center
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorneys for the People of the State of California

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MONTEREY

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

PAUL RUBEN FLORES,

Defendant.

Case No. 22CR003712

DECLARATION OF CLINTON M. COLE IN SUPPORT OF OPPOSITION TO MOTION TO DISMISS FOR "OURTRAGEOUS GOVERNMENT CONDUCT"

I, CLINTON M. COLE, declare:

1. I am a sworn peace officer, assigned as a Detective for the San Luis Obispo County Sheriff's Office, in the State of California.

2. On May 27, 2022, at about 6:42 p.m., I received a text message from Jamilyn Holman.

3. The witness Holman, stated to me that the following had just occurred: Susan Flores was taking pictures of her children that were in her garage. Holman said her daughter is now afraid to go outside, and Holman felt Susan Flores was trying to intimidate her child. It should be noted Holman testified in the case of People v Flores and Flores, on 09/20/2021.

4. Based on my familiarity with the instant case, I know Susan Paula Flores to be the mother of defendant Paul Ruben Flores and wife of co-defendant Ruben Flores. I know Ruben Flores to be the father of defendant Paul Ruben Flores.

5. I advised witness Holman that if she perceived this conduct to be a crime that she should contact and report the information to the Arroyo Grande Police Department.

I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration was executed on June 3, 2022, in Monterey County, California.

Clinton M. Cole

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/3/2022 3:56 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 3, 2022, I served the foregoing document(s) described as:

PEOPLE'S OPPOSITION TO MOTION TO DISMISS FOR "OUTRAGEOUS GOVERNMENT CONDUCT", DECLARATION OF ERIC J. DOBROTH IN SUPPORT OF OPPOSITION TO MOTION TO DISMISS FOR OUTRAGEOUS GOVERNMENT CONDUCT, DECLARATION OF CLINTON M COLE IN SUPPORT OF OPPOSITION TO MOTION TO DISMISS FOR OUTRAGEOUS GOVERNMENT CONDUCT, APPLICATION TO FILE PEOPLE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS FOR "OUTRAGEOUS GOVERNMENT CONDUCT" UNDER SEAL, & PROPOSED ORDER SEALING RECORDS
(*People v. Paul Ruben Flores*, Case No.22CR003712)

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 3, 2022, at San Luis Obispo, California.

Alyssa Muckey, Supervising Legal Clerk

DAN DOW (State Bar No. 237986)
DISTRICT ATTORNEY
Office of the District Attorney
County Government Center
San Luis Obispo, CA 93408
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Attorneys for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/3/2022 3:56 PM
By: Oscar Luna, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MONTEREY

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

PAUL RUBEN FLORES,

Defendant.

Case No. 22CR003712

APPLICATION TO FILE PEOPLE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS FOR "OUTRAGEOUS GOVERNMENT CONDUCT" UNDER SEAL

DECLARATION OF ERIC J. DOBROTH

I, ERIC J. DOBROTH, declare:

1. I am a licensed attorney in the State of California and serve as the Assistant District Attorney of the County of San Luis Obispo, in the State of California.

2. Concurrent with this filing the District Attorney has filed an Opposition to Motion to Dismiss for Outrageous Government Conduct (Opposition).

3. The Opposition contains information and other evidence that may be excluded at trial. If this information is not sealed there exists a substantial probability that the Defendant's rights to due process, a fair trial and an impartial jury would be prejudiced.

4. Sealing of the records is consistent with and would assure compliance

with the protective order issued in this matter by San Luis Obispo County Superior Court Judge Craig van Rooyen on April 15, 2021.

5. Concurrent with the filing of his Motion to Dismiss for "Outrageous Government Conduct," Defendant has petitioned this court for an order sealing the Notice of Motion and Motion, Memorandum of Points and Authorities and Declaration of Counsel.

6. The People respectfully request that the following records be ordered sealed until further order of the court:

a. Opposition to Motion to Dismiss for "Outrageous Government Conduct," including exhibits and declarations attached thereto.

I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration was executed on June 3, 2022, in San Luis Obispo County, California.

Eric J. Dobroth
Assistant District Attorney
County of San Luis Obispo

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
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County Government Center, Room 450
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Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/06/2022
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
District Attorney
State Bar #237986
County of San Luis Obispo
Courthouse Annex, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/6/2022 8:49 AM
By: Renee Inofuentes, Deputy

Attorney for the People of the State of California

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
vs.
PAUL RUBEN FLORES AND RUBEN RICARDO FLORES,
Defendant.

Monterey Case Nos. 22CR003712 and 22CR003713
SLO Case Nos. 21F-02402-A&B

MOTION EXCLUDING SUSPECTED DEFENSE QUESTIONS AND ARGUMENTS ON THIRD PARTY CULPABILITY

Date: June 6, 2022
Time: 8:30 PM
Dept. 4

TO: THE HONORABLE JENNIFER OKEEFE, AND TO THE DEFENDANTS, PAUL FLORES AND RUBEN FLORES, AND THEIR COUNSEL:

STATEMENT OF THE CASE

At Preliminary Hearing defense attempted to introduce numerous third parties as speculative suspects in this case. Each one has been systematically eliminated by Investigators. Defense lists several possible suspects in their Motion to Suppress, therefore the People are filing this motion in anticipation of similar attempts at Jury Trial.

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STATEMENT OF FACTS

Sean Ferrell

Ferrell went on only one date with Kristin Smart, and they dated for less than one month. Ferrell spent most of that month after the one date trying to convince Smart that he was not interested in her. Other than the "one night scam" Ferrell had not spoken to Smart in the three weeks prior to her disappearance. Smart at one point tell Ferrell she was pregnant, but he did not believe her and said Smart was a very interesting person but not someone he would have a long-distance relationship with. There is no proof of an actual pregnancy.

Ferrell told investigators he was not in San Luis Obispo Memorial Day Weekend because he was in San Francisco. Ferrell went to San Francisco to visit family and go to his sister's roommate's graduation. Ferrell said his father Edward Ferrell could verify Ferrell was in San Francisco and with family during the time Smart disappeared. Ferrell has a valid alibi for the time frame Smart went missing.

Felipe Arias

Arias was a good friend to Kristin Smart and Smart would sometimes stay overnight with Arias because Smart did not like her roommate, Crystal Calvin. Arias was interviewed multiple times and was extremely cooperative with Investigators. On July 16, 1996, Detective Stewart called Arias to question him, and Arias asked Detective Stewart to come to his residence instead of talking on the phone. Arias freely and openly admitted he and Smart had sexual relations a couple of times.

Arias last saw Smart on May 23, 1996 when she stayed the night with Arias which she did approximately 5-6 times. Smart was more interested in dating Arias's friend Eric Swartz than Arias which is corroborated by Swartz. Arias told Detective Stewart Smart left lip gloss and sandals at his house and turned those items over to Detective Stewart. Arias and Smart were good friends, there is absolutely nothing that would suggest Arias and Smart had any issues or why Arias would be involved in her murder.

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Janusz

Janussz lived in the same dorm as Kristin Smart (Muir dorm). One night, Janusz was asleep in his dorm and sensed someone was there. When he woke up, he saw Smart standing in his dorm room. Janusz reported this to Cal Poly staff. Janusz felt like Smart had a crush on him and he did not feel the same about Smart, so he told a friend he got a restraining order on her.

Smart was interested in Janusz along with many other men at Cal Poly, but there are no other documented incidents or contacts between the two. Once Janusz reported the one incident there are no other known contacts between them. Janusz was frustrated with Smart but there is absolutely no documentation or reports of further contacts or why this incident would lead to murder.

Trevor Boelter

Boelter was at the Crandall Way party and had an interaction with Kristin Smart. Smart kissed Boelter several times at the party and brought him to the bathroom with her. Smart asked Boelter if she was pretty and which of two other guys at the party was cuter at the party. They exited the bathroom and Boelter saw Smart outside later very intoxicated outside the house. He held her up until she stabilized herself and went back in the house. Boelter said that was the last time he ever saw Kristin Smart. There is absolutely no evidence that Boelter would be involved in the murder of Smart because she kissed him at a college party. Boelter was and continues to be very cooperative with Investigators.

Trent Buckle

Buckle left San Luis Obispo and Cal Poly shortly after Kristin Smart went missing. He was later convicted of murdering is female roommate in Long Beach. Buckle ran an escort service. Deective Kenney received a tip that Buckle had an escort named "Roxy", a name Smart used for herself. Detective Kenney did extensive investigation on Buckle and identified the Roxy working for Buckle, and it was not Kristin Smart.

Roxy is a common nickname; Detectives received numerous tips of people named Roxy being identified as Kristin Smart, but none of them turned out to be Kristin. Detective Kenney could find no connection between Buckle and Smart and wrote a report documenting his findings. Buckles killing of his roommate was not sexually motivated, he killed her because she would not move out. There is absolutely no connection between Buckle and Smart.

Ted Munley

Munley was at the Crandall Way party and saw Kristin Smart hugging on several guys. Munley left the party at approximately 0115 hours and went to his dorm and discovered his roommate had a girl in the dorm. Munley went to the dorm that was Kristin Smarts and her roommate Crystal Calvin's dorm where his friend Jana Schrock was staying. Munley stayed the night in Smart's dorm with Schrock until he left at approximately 0900 hours. Mr. Munley reported that he and Schrock "hooked up a little bit." He noticed Kristin Smart did not return to her dorm that night and he thought was suspicious.

Munley was interviewed several times and was always cooperative with Investigators. Schrock confirmed Munley was in the dorm all night with her, and Smart did not return to her dorm. Munley has an alibi confirmed by Schrock and left before Smart left the party with Paul Flores. Munley passed a polygraph given by the FBI on May 7, 2002. There is absolutely no evidence that Munley had anything to do with Smart's murder.

Scott Peterson

Detective Crawford did an extensive investigation on Scott Peterson and any possible links to Kristen Smart. Detective Crawford checked the class schedules of Scott Peterson, Paul Flores and Kristin Smart and found there were no common classes. Scott and Laci Peterson did not live on the Cal Poly campus at the time Kristin Smart was murdered. FBI records were checked and there were no contacts between Peterson and Smart. Det. Crawford spoke to Modesto Investigators, and they knew of no connection between Peterson and Smart.

Detective Crawford showed Scott and Laci Peterson's pictures to the following people. Cheryl Anderson, Tim Davis, Jennifer Phipps and Crystal Calvin, none of these people knew Scott or Laci Peterson and all said they were not at the Crandall Way party. Scott Peterson was older than Kristin Smart and was not part of the same crowd with Smart and her friends. Detective Crawford wrote a report excluding Scott Peterson as a suspect. There is absolutely no evidence or connection between Kristin Smart and Scott Peterson.

Shahn Whitted:

Whitted was interviewed by Detective Henry Stewart on July 11, 1996. Whitted said he knew and occasionally dated Kristin Smart. Whitted said Smart was interested in a friend of his, Tabio Darkangelo. Whitted would occasionally bump into Kristin Smart at parties and would occasionally give her rides. Whitted said the last time he saw Smart was a couple days before she was murdered, and said they never had sex.

Whitted openly admitted to burning Smart's shoes and leaving a note on her porch in the Winter of 1996. He said they made up shortly after this. Whitted said he burned the shoes because Smart was talking bad about him to a mutual friend. It does not make sense Whitted would admit to having the conflict with Smart months prior if he had something to do with her murder. Smart and Whitted had repaired their relationship before Smart was murdered. None of her friends ever reported any other issues with Smart and Whitted. There is no evidence connecting to the murder months later.

Phillip Worman

A very extensive investigation was done by the FBI on Phillip Worman. August 7, 2002, the FBI interviewed Lara Ayala who said Phillip Worman lived with her parents in Hilo Hawaii from 1996-1997. Worman was arrested for a rape in 1995 by SLOPD and the case was rejected by the District Attorney's Office. Fliers announcing Worman was a rapist were posted publicly around San Luis Obispo in 1995, which most likely caused him to leave San Luis Obispo in 1995.

The FBI asked Detective Stewart to attempt to see if Worman was in San Luis Obispo,

CA at the time Kristin Smart was murdered. Detective Stewart did extensive research on Worman and could fine nothing to show Worman was in San Luis Obispo beyond his rape case in May of 1995. Worman had contacts by the Palm Springs Police in October 1995 and June 1996. There is absolutely no information to show Phillip Worman was in San Luis Obispo on Memorial Day Weekend of 1996 and thus no evidence to show he had anything to do with the murder of Kristin Smart.

MEMORANDUM OF POINTS AND AUTHORITIES

" 'As a general matter, the ordinary rules of evidence do not impermissibly infringe on the accused's right to present a defense.' " (*People v. Mickel* (2016) 2 Cal.5th 181, 218; see also *United States v. Scheffer* (1998) 523 U.S. 303, 308 [defendant's right to present relevant evidence is subject to reasonable restrictions].) Courts retain a "traditional and intrinsic power to exercise discretion to control the admission of evidence in the interests of orderly procedure and the avoidance of prejudice." (*People v. Hall* (1986) 41 Cal.3d 826, 834.) The standard for admitting evidence of third-party culpability is the same as for other exculpatory evidence: (1) it must be relevant under Evidence Code section 350, and (2) its probative value cannot be substantially outweighed by the risk or undue delay, prejudice, or confusion under Evidence Code section 352. (*People v. Ghobrial* (2018) 5 Cal.5th 250, 282-84; *People v. Hamilton* (2009) 45 Cal.4th 863, 914; *People v. Hall* (1986) 41 Cal.3d 826.)

1. Relevance

The California Supreme Court in *People v. Hall* (1986) 41 Cal.3d 826 (*Hall*) established the basic requirements for the admission of third-party culpability evidence. For evidence suggesting third party culpability to be relevant, it need not show substantial proof of a probability that the third person committed the act but only be capable of raising a reasonable doubt of the defendant's guilt. (*Id.* at p. 833.) However, "evidence of mere motive or opportunity to commit the crime in another person, without more, will not suffice to raise a reasonable doubt about a defendant's guilt: there must be direct or circumstantial evidence linking the third person to the actual perpetration of the crime." (*Id.*) Without such a link, the

evidence is irrelevant and cannot be admitted. (*Id.*; see also *People v. Hamilton*, *supra*, 45 Cal.4th at p. 913 [trial court has broad discretion to determine the relevance of evidence but "lacks discretion to admit irrelevant evidence"]). Furthermore, third party culpability evidence that does not identify a possible suspect is properly excluded. (*People v. Brady* (2010) 50 Cal.4th 547, 559.)

Even evidence which tends to connect a third party to a crime should be barred by the trial court when other evidence excludes that person as the perpetrator. In *People v. Johnson* (1988) 200 Cal.App.3d 1553, the defense offered evidence of a person detained in the vicinity of a burglary who was of the height described, had cash in the amount and denominations missing, and was walking away from the burglarized house. The trial court barred the evidence because that person's fingerprints did not match latent prints left at the point of entry. Upholding that ruling, the Court of Appeals held that "even the strongest circumstantial evidence case of third-party culpability does not raise a reasonable doubt about a defendant's guilt when fingerprints found at the scene of the crime could not have been those of the third party." (*Id.* at p. 1564.) The defense third party culpability evidence raised a possibility, but the prosecution's evidence made it an impossibility, and therefore the evidence could not logically raise a reasonable doubt about guilt. (*Id.* at p. 1565.)[1]

2. Undue Consumption of Time, Confusion, Undue Prejudice, and Misleading the Jury

Even if evidence of third-party culpability evidence is relevant, the court also exercises 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

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[1] The California Supreme Court has since noted that,

> [t]o the extent *Johnson* ... relied upon the strength of the prosecution's evidence against the defendant to exclude third-party culpability evidence, its reasoning is suspect in light of *Holmes v. South Carolina* (2006) 547 U.S. 319, 126 S.Ct. 1727, 164 L.Ed.2d 503, which found a federal constitutional violation resulting from a rule of evidence that precluded the defendant from introducing third-party culpability evidence when there is strong evidence of the defendant's guilt.

(*People v. Page* (2008) 44 Cal.4th 1, 34, fn. 16.) However, the Court distinguished the strength of evidence of a defendant's guilt from the requirement that third party culpability evidence sufficiently connect the third party to the crime (e.g., fingerprints which exculpate the third party), which *Holmes v. South Carolina* noted was a "widely accepted" rule. (*Id.*)

substantial danger of undue prejudice, of confusing the issues, or of misleading the jury." (Evid. Code, § 352.)

3. Otherwise Inadmissible Evidence

Otherwise inadmissible evidence does not become admissible under this rule merely because it might establish a third party's culpability. Rejecting evidence of a third party's alleged admission, the Court of Appeals ruled in *People v. Huggins* (1986) 182 Cal.App.3d 828, 833: "... *Hall* did not undertake to repeal the Evidence Code. Incompetent hearsay is as inadmissible as it always was." Thus, for example, mere evidence of a third party's propensity for violence is insufficient to justify admission under Evidence Code section 1101 as proof of that person's identity as the perpetrator of a murder. "Such evidence does not amount to direct or circumstantial evidence linking the third person to the actual perpetration of the crime." (*People v. Davis* (1995)10 Cal.4th 463, 501; see also *People v. McWhorter* (2009) 47 Cal.4th 318, 372-373.) Similarly, prior similar crimes that are not sufficiently distinctive for admission to prove identity under Evidence Code section 1101, are not admissible to establish third party culpability. (*People v. Elliott* (2012) 53 Cal.4th 535, 580-581.)

The limitations on defense evidence of third-party culpability apply equally to direct examination of defense witnesses and cross-examination of prosecution witnesses. In *People v. Shilling* (1987) 188 Cal.App.3d 1021, the trial court foreclosed cross-examination of a prosecution witness based upon a defense theory of the witness's culpability which was unsupported by any evidence. The Court of Appeal held that "[t]he constitutional right to confront and cross-examine adverse witnesses does not include the right to ask wholly speculative questions ungrounded in factual predicate even when posed in the quest to discredit a witness." (*Id.* at p. 1033.)

4. Relevant Examples of Third-Party Culpability Excluded by Appellate Courts

In *People v. Hamilton* (2009) 45 Cal.4th 863, the trial court precluded the testimony of a clinical and forensic psychologist who would have identified a third party (the victim's husband) as a possible suspect because he had a juvenile record, a Navy record reflecting

alcohol abuse, a documented event of domestic violence involving his second wife, and had made a statement to his mother that he had a recurring dream that the victim was being tortured with a knife to her throat. (*Id.* at pp. 939-940.) The California Supreme Court held that the proffered evidence did nothing to connect the third party to the crime in any manner and did not establish good reason for the police to suspect the third party when the defendant stole the victim's van near the place and time she was last seen alive, when the defendant's route passed by where the victim's body was discovered, and when the defendant denied seeing the victim alive or dead but accurately described her clothing the night she was killed. (*Id.* at p. 940.)

In *People v. Ghobrial* (2018) 5 Cal.5th 250, the trial court excluded evidence that the victim sought to spend time with adults at local businesses late at night and that a third party spent the night with the victim, driving around and sleeping in the third party's vehicle a month prior to the victim's death. (*Id.* at pp. 282-284.) The California Supreme Court held the trial court did not abuse its discretion with either ruling. First, the Court found that evidence of the victim's behavior was not logically related to the circumstances of the victim's death or the defendant's motive for spending time with the victim and had no tendency to prove or disprove the defendant molested the victim. (*Id.* at pp. 282-283.) And second, the Court noted that, without a stronger link between the third party who spent the night with the victim a month prior to the victim's death and the crime, the evidence provided only a possible suspicion of another party's guilt. (*Id.* at pp. 282-284.)

In *People v. Yeoman* (2003) 31 Cal.4th 93, the defense proffered that two men had been charged for attempting to burglarize one of the victim's automobiles a week before his death, and one of the men had called a prosecution witness looking for the victim and complaining that if the victim didn't withdraw the charges, he and his counterpart were going to jail for twelve years. (*Id.* at p. 140.) The California Supreme Court held that the trial court properly excluded this evidence because it showed motive only and no direct or circumstantial evidence linked the third party to the actual perpetration of the crime. (*Id.* at pp. 140-141.)

In *People v. Robinson* (2005) 37 Cal.4th 592, the California Supreme Court found that no evidence of the alleged sighting of a third party's vehicle at the crime scene was offered by the defense. (*Id.* at pp. 642-643.) The defense attempted to ask a witness if the witness knew a third party's vehicle was seen at the crime scene, and the trial court ruled that, unless and until there was other evidence to support the question, the court would exclude the question. (*Id.*) The defense never presented evidence of the witness's observations, and the Court held that the claim that the witness's alleged sighting was excluded by the court necessarily failed. (*Id.* at p. 643.)

In *People v. Lewis* (2001) 26 Cal.4th 334, the California Supreme Court upheld the trial court's ruling excluding evidence of third-party culpability. The defense proffered evidence that the third party struck five people in three incidents between 1983 and 1985 and claimed this was evidence that the third party had a motive and predisposition to rob and kill the victim. (*Id.* at p. 372.) The Court found there was no evidence or suggestion that the third party was frustrated with or disliked the victim, the prior acts were remote in time and pattern to the present crime, and were too speculative to be relevant, and presented issues of undue prejudice, undue consumption of time, and possible confusion of the issues. (*Id.* at p. 373.)

In *People v. Brady* (2010) 50 Cal.4th 547, the Los Angeles County Sheriff's Department established a hotline to receive tips from the public regarding the murder of the police officer victim and received more than 2,000 clues. (*Id.* at p. 557.) The defendant sought to introduce five at trial: the clue implicating the defendant, a confession and subsequent recantation made to a 911 operator, the death of an Asian male killed shortly after the victim's murder when two police officers attempted to apprehend him and were themselves killed in the attempt, reports that an associate of Jennifer La Fond resembled the person depicted in a composite drawing, and an unsigned letter claiming responsibility for the murder. The California Supreme Court found the trial court did not abuse its discretion in excluding the four clues unrelated to the defendant because they suggested no link between the third parties and the actual perpetration of the murder. (*Id.* at p. 558.) (See also *People v. Kaurish* (1990)

52 Cal.3d 648, 684-686 [mere evidence of third party's anger toward victim insufficient basis to establish third party culpability evidence]; *People v. Edelbacher* (1989) 47 Cal.3d 983, 1017-1018 [third party's possible motive alone insufficient to raise reasonable doubt of defendant's guilt]; *People v. Alcala* (1992) 4 Cal.4th 742, 792-793 [third party's presence in area of crime scene two days after victim's disappearance and parole status for previous gang-related (dissimilar) murder].)

For all of the possible third parties defense might mention, there simply is no direct or circumstantial evidence linking them to the actual perpetration of the crime.

CONCLUSION

A court's reasonable application of the rules of evidence to exclude irrelevant and potentially misleading information does not deprive a defendant of his constitutional rights. (*People v. Turner*, *supra*, 10 Cal.5th at p. 818.)

Evidence of mere motive or opportunity to commit the crime in another person, without more, will not suffice to raise a reasonable doubt about a defendant's guilt: there must be direct or circumstantial evidence linking the third person to the actual perpetration of the crime. This court should exclude any suggestion that any of these individuals played a part in the murder of Kristin Smart as they were excluded long ago because there is no evidence linking them to the actual perpetration of the crime.

Date: June 6, 2022

Respectfully submitted,

Dan Dow
District Attorney

By: _____
Christopher G. Peuvrelle
Deputy District Attorney

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ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/6/2022 8:49 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

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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. Evidence of Uncharged Sexual Offenses is "Especially Compelling" When the Victim Was Killed and Cannot Testify

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. **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**

"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

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/6/2022 8:49 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.	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 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 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 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 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 6, 2022

Respectfully submitted,

Dan Dow
District Attorney

By: Christopher Peuvrelle
Deputy District Attorney

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 6, 2022, I served the foregoing document(s) described as:

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 & 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 6, 2022, at San Luis Obispo, California.

Alyssa Muckey, Supervising Legal Clerk

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 6/6/2022 8:49 AM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN LUIS OBISPO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES,	Monterey Case Nos. 22CR003712 and 22CR003713 SLO Case Nos. 21F-02402-A&B PEOPLE'S MOTION TO INTRODUCE STATEMENT OF RUBEN FLORES IN A JOINT TRIAL Date: June 6, 2022 Time: 8:30 Dept. 4

STATEMENTS OF THE CASE

As of Sunday, June 5, 2022, the only statement objected to by defense under Aranda/Bruton is the following: On May 19, 2021, Cole responded to the home of Ruben Flores at 710 White Court with a Search Warrant for a Buccal swab on defendant Ruben Flores. Cole approached Ruben Flores who pointed to the names of Susan Flores and Mike McConville on the warrant and asked why I would be taking their DNA. He said, "They did not commit a felony, only me." The defendant is silent for a moment, realizes what he said, then quickly says something to the effect of, "I mean, I mean, I'm the only one that has been charged with a felony."

On Cross-Examination at Preliminary Hearing, counsel for Ruben Flores asked detective Cole if Cole thought Ruben Flores just mis-interpreted Cole's question. Cole said,

No, I do not. I even explained – he asked me why he was needing to give another one. And I explained why to him. And when he made this statement, there was no direct question from me at all. He just asked me why I was getting the other two subjects because he is the one that committed a felony. (RT: pages 4589-4590, lines 19-3) (Exhibit A, Audio Recording of Detectives and Ruben Flores during buccal swab retrieval) (Exhibit B, Transcript of Audio Recording of Detectives and Ruben Flores during buccal swab retrieval) **(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 #44:012273)**

ARGUMENT

I.

THE STATEMENT OF RUBEN FLORES QUALIFIES AS A SPONTANEOUS STATEMENT AND DECLARATION AGAINST PENAL INTEREST AND ARE THEREFORE NOT TESTIMONIAL AND DO NOT TRIGGER ARANDA BRUTON

In the case of People v. Washington, (2017) 15. Cal.App.5th the Second District for the California Court of Appeals held that the US Supreme Court's narrowing of the sixth amendment right to confront and cross-examine witnesses protects against only "testimonial" statements, as accomplished by *Crawford v. Washington* (2004) 541 US 36 and its progeny, thus narrowing the Aranda/Bruton doctrine.

The Washington case involved a gang killing where the court introduced a jailhouse conversation between two of the co-defendants. The court held this conversation qualified as non-testimonial. The court rejected defense's argument that a codefendant's confession that directly implicates another defendant is just a powerfully incriminating regardless of whether that confession qualifies as testimonial or non-testimonial under *Crawford*. The court writes, "this argument is not without persuasive force, but ultimately lacks merit because the Aranda/Bruton doctrine is grounded exclusively in the confrontation clause and can extend no farther than the metes and bounds of the clause as defined by the United States Supreme Court. (*People v. Washington* (2017) 15 Cal.Ap.5th 19,)

The statement of Ruben Flores is not testimonial. A statement is testimonial if it was obtained for the primary purpose of establishing or proving past events potentially relevant to later criminal prosecution. (*Davis v. Washington* (2006) 547 US 813, 822). Mr. Flores statement was a spontaneous response to the execution of a search warrant. It was not in response to any questioning whatsoever.

III.

CONCLUSION

This court should admit the statement of Ruben Flores in a joint trial because it qualifies as a Statement Against Penal Interest and a Spontaneous Statement. The statement is therefore non-testimonial. As it qualifies for two separate hearsay exceptions, the statement bears indicia of reliability that allow it to be introduced as reliable hearsay.

Date: June 6, 2022

Respectfully submitted,

Dan Dow
District Attorney

By:
Christopher Peuvrelle
Deputy District Attorney

EXHIBIT 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 #44:012273. A courtesy copy of the audio recording and transcript will be provided the court and both defense counsels)

EXHIBIT 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

ITEM 949 – RUBEN BUCCALS

C = DETECTIVE CLINT COLE, SAN LUIS OBISPO COUNTY SHERIFF'S DEPARTMENT

F = RUBEN RICARDO FLORES, DEFENDANT

[TRANSCRIBED BY AM on 6/6/22]

[START TIME 00:00:00]

C DETECTIVE'S COLIN AND CAMP OUT AT THE RESIDENCE OF RUBEN FLORES. FIVE NINETEEN TWENTY-ONE [5/19/21]. THIRTEEN TWENTY FIVE [12:25] HOURS. IT'S INTERESTING TO MOVE THAT SO NO ONE CAN SEE BACK THERE.

[KNOCKING]

C HERE HE COMES. HELLO MISTER FLORES.

F HELLO.

C HOW ARE YOU?

F GOOD.

C YOU WANNA COME OUTSIDE OR YOU WANT US TO COME –

F RIGHT THERE –

C RIGHT THERE? 'KAY.

F WHAT HAPPENED TO MY OTHER TEST?

C WHICH ONE?

F WHEN I GOT, WHEN YOU DID MY FINGERPRINTS THEY DID A SWAB.

C OH, THAT'S DIFFERENT.

F DIFFERENT.

C YEAH, THAT GOES INTO THE CODIS DATABANK.

F SAME RESULTS, RIGHT?

C WELL, THIS IS MORE OF A DIRECT COMPARISON THAT WE'RE GONNA BE DOING. THAT'S THE WARRANT. LET ME GO GRAB SOME GLOVES. I FORGOT GLOVES.

F SO NOW THIS – THIS SAYS SEARCH WARRANT AND THAT MEANS WHAT?

C THAT MEANS THAT WE HAVE A WARRANT FOR YOUR BODY TO COLLECT YOUR D-N-A.

F Y-YEAH, OKAY.

C NOTHING ELSE.

F AND - AND THESE – AND THESE OTHER ONES?

C THEY'RE GONNA, WE'RE GONNA BE DOING THEM NEXT. THAT SEALING ORDER IT'S JUST, IT SEALS IT SO NOBODY CAN READ THE AFFIDAVIT WITHOUT A JUDGE RELEASING IT.

F [UNINTELLIGIBLE] AND THESE - WELL, THEY HAVEN'T COMMITTED NO FELONIES.

C I CAN'T RESP –

F [UNINTELLIGIBLE] -

C I CAN'T RESPOND –

F I MEAN – I MEAN – I'M ONLY THE ONE THAT'S BEEN ARRESTED.

C I CAN'T RESPOND TO WHY WE'RE DOING IT.

F YEAH. SO WHEN THEY GONNA DO THESE OTHER ONES? [UNINTELLIGIBLE] –

C I'VE - I'VE GOT CALLS INTO THEIR ATTORNEY. LIKE I DID YOU.

F OH, OKAY.

C 'KAY? IT'S A SIMPLE PROCESS. I JUST SWAB THE INSIDE OF YOUR LEFT CHEEK TWICE WITH A DIFFERENT SWAB AND THE RIGHT CHEEK TWICE. AND WE'RE OUTTA HERE.

F YEAH, THAT'S WHAT THEY DID OVER THERE.

C YEAH, WE'RE - SO WE'RE DOING THE SAME THING. THE REASON WE DO THESE IS THAT GOES INTO CODIS, THE DATABANK. THIS GOES TO A LAB FOR DIRECT COMPARISON.

F COMPARISON TO WHAT?

C THAT'S PART OF OUR CASE. I CAN'T DIS – I CAN'T DISCUSS WITH YOU.

F OH.

C WHAT IS THIS? THE RIGHT CHEEK. SO, THESE TWO WILL BE RIGHT CHEEKS.

[BACKGROUND VOICES/NOISES - NOT TRANSCRIBED]

C AND THE LEFT SIDE.

F THAT WAS MY LEFT SIDE.

C OH, HE WAS? IT WAS MY RIGHT SIDE, HUH?

F YEAH. [UNINTELLIGIBLE]-

C WELL, I'LL JUST MAKE SURE THEY'RE IN THERE.

F SAME MOUTH.

C SAME MOUTH BUT WE'LL PUT THEM IN THE RIGHT ENVELOPE. THANKS FOR CATCHING THAT FOR ME.

F [UNINTELLIGIBLE]

C NOW THE RIGHT SIDE.

[BACKGROUND VOICES/NOISES - NOT TRANSCRIBED]

C THAT'S IT, SIR.

F OKAY.

C THANK YOU. HAVE A GOOD DAY.

F [UNINTELLIGIBLE]

C YOU HAVE THE RECORDER ON?

[END TIME 00:07:11]

Dan Dow
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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: 22CR003712

People of the State of California vs. Paul Ruben 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 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial Motions in limine.

Deputy District Attorney Chris Peuvrelle is present.

Assistant District Attorney Eric Dobroth is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

The Court makes the following disclosure: "My husband, Thomas O'Keefe is currently Assistant Public Defender in the Monterey County Public Defender's Office."

Out of the presence of the public: Disclosures regarding co-counsel for the Defense are discussed.

Defendant agrees to proceed with Mr. Sanger and without Co-Counsel present at this time.

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 heard and ruled upon.

The Court notes the Defense is objecting to hearings and rulings on motions 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 in custody.

No bail is allowed.

Dan Dow
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Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/7/2022 9:57 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 NO. 22CR003712 & 22CR003713 STATEMENT OF THE PEOPLE AS TO THE CROSS-ADMISSIBILITY OF DEFENDANTS STATEMENTS Date: June 7, 2022 Time: 8:30 Dept. 4

STATEMENTS OF THE DEFENDANTS

Kendra Koed testified that she was a Cuesta student in May 1996 and attended the party at 135 Crandall Street the Friday before Memorial Day weekend. She stated she was at the party and was asking other people for gum and Paul Flores said he did in fact have some gum. The defendant directed her outside than grabbed her and started kissing her again after she refused his advances.

This statement is non-testimonial and admissible against both defendants.

On May 24, 1996, Tim Davis was a junior at Cal Poly San Luis Obispo and attended a party at 135 Crandall Way. Davis identified defendant Paul Flores as having been present at

the party. Davis saw the defendant engaging as much as he could be with as many girls as he could.

At the end of the party, Davis saw Kristin on the lawn and didn't realize she was out there. She needed his help to get up off the ground so he lifted her up and engaged her so that she could stand. Davis described it as almost like an elderly person, helping them to a car. He remembered she put her arms around him and said, "I'm so cold." Davis turned around, and Paul Flores came out, uninvited, from "wherever he was" to join them. Paul Flores was just standing there and like, "Hey I'll just go with you guys." Davis further described Paul's behavior as, "He just kind of the darkness and joins us." From Paul Flores' location you could see directly to where Kristin Smart had been laying face down in the grass. From the time he helped her up he was supporting Kristin and she could not walk on her own. Around the Health Center, Cheryl Anderson told Davis that she could "take these guys back." Paul said, "I'll take Kristin, give her to me. I'll take her the rest of the way." Davis left and went home at that point.

These statements are non-testimonial and admissible against both defendants.

In May 1996, Cheryl Manzer/Anderson was a freshman at Cal Poly and attended the party at Crandall Street. She and Tim Davis helped Kristin Smart to her feet after the party. The defendant, Paul Flores, approached them quickly after they started walking back and said something to the effect of "I will walk back also." At this point Kristin Smart was not walking on her own. Defendant Paul Flores took control of Ms. Smart and put his arm around Ms. Smart's waist. About a third of the way back to the dorms, Paul Flores tells Ms. Anderson that she can go ahead. They stopped at least twice on the way back and each time Paul Flores told Ms. Anderson that she could go ahead and leave him with Ms. Smart. Ms. Anderson thought it was concerning that Paul Flores tried to tell her to go ahead a second time. At the corner or Grand and Perimeter, Paul Flores asked for a kiss, which she refused. He then asked her for a hug which was again refused Ms. Anderson asked Paul Flores if he would get Kristin back to her dorm room and Paul Flores replied "yes." The last time she saw Kristin Smart, Paul Flores has his arm around Kristin Smart and Ms. Smart was intoxicated.

These statements are non-testimonial and admissible against both defendants.

Javier Carrillo was friends with defendant Paul Flores, and they hung out a couple times a week. Mr. Carrillo stated that Paul Flores told him that the missing person had been flirting with Flores at the party and that he may have met the missing person before the party or may have known her in some other way. Flores told Carrillo that a group of students walked back and then split up. Carrillo confronted Flores about why he didn't walk her back to the hall and he replied quote, "I don't know." Carrillo observed an injury to Paul Flores' right on Tuesday May 28, 1996. Flores told Carrillo that he received the injury playing basketball.

These statements are non-testimonial and admissible against both defendants.

In May of 1996 Robert Cudworth was a patrol officer with the Cal Poly Police Department. He interviewed Paul Flores on May 28, 1996, and Flores claimed he knew of Kristin Smart but didn't talk to her that night. Flores never told Cudworth he asked Cheryl Anderson for a hug and kiss. Flores told Cudworth he was not interested in Kristin Smart.

While this statement might be testimonial, it does not implicate defendant Ruben Flores and is thus admissible against both defendants.

Detective Mike Kennedy spoke with defendant Paul Flores on Tuesday May 28, 1996, in his dorm room, Santa Lucia #128. During this encounter Paul Flores was not under arrest, was not handcuffed, was not in custody, and was in his own room. Kennedy observed how Paul Flores was nervous, his heart was pounding in his chest to such a degree that his shirt was moving. Paul Flores told him that he walked Kristin Smart up the hill and then they had separated. He went back to his dorm. He gave her two hugs while in transit from the party. Kennedy had asked him if he was willing to speak with him and Flores agreed. At the conclusion of the interview, Kennedy asked Paul Flores if he was willing to speak again and Flores said he had no problem speaking with Investigator Kennedy again.

While this statement might be testimonial, it does not implicate co-defendant Ruben Flores and is thus admissible against both defendants.

Jeromy Moon was a senior at Arroyo Grande High School and was friends with Paul Flores. They hung out on Memorial Day weekend May 1996. On that Sunday evening, he

noticed that Paul Flores had a black eye. Paul Flores claimed that he woke up with it. On Monday, they played basketball together with two other individuals.) During that game, Paul Flores did not get hit in the face. When asked by defense counsel for Ruben Flores whether he believed Paul's story, he said that "it doesn't seem like a likely story so, yes, I do have reasons not to believe you just wake up with a black eye."

These statements are non-testimonial and are admissible against both defendants.

Angie Doe was in a dating relationship with defendant Paul Flores around 2003-2004. About six months into their relationship, defendant Paul Flores took Doe to defendant Ruben Flores' house in Arroyo Grande. On one occasion, she walked towards the back of the house where there are avocado trees. Both defendants, Ruben and Paul Flores, were present in the backyard. Doe stepped into the backyard and walked towards the avocado trees. She arrived within a couple of feet away when both defendants re-directed her away from the area by asking her to leave that area. Paul Flores asked her to come around the house and leave the area of the avocado trees. Ruben Flores had the same reaction and walked her towards the front of the house, the opposite end of the property away from the avocado trees.

These statements are non-testimonial and admissible against both defendants.

Chief DA Investigator Bill Hanley interviewed defendant Paul Flores on May 31, 1996. Hanley called the campus store and asked Paul Flores if he would be willing to come to the Cal Poly Police Department for an interview and he replied no problem and he would be there. Fifteen minutes later, the defendant arrived at the station, but it was very busy that day. Hanley suggested, and Paul Flores agreed, that they would go into Hanley's vehicle to talk. Hanley thanked him for coming down and told him he was a witness in this case. Flores responded that he had no problem with that. Flores was not cuffed or detained in anyway and told Hanley he was willing to help in any way that he could. They went into an unmarked car. Flores was not cuffed and was not locked in the car. Flores claimed that he knew Smart as Roxy and that she had come up to him and introduced herself but that was the extent of their conversation. Flores claimed that he did not find Roxy attractive and, "didn't like those type of girls." Flores also claimed that he did not contact, touch, or talk to her during the party. Later

in the conversation, Flores again claimed he was not attracted to Roxy at all. Flores claimed that when they arrived at Perimeter and Grand, he said goodbye to Cheryl Anderson and that was the extent of his interaction with Cheryl Anderson. Paul Flores never told Hanley that he asked Anderson for a hug or a kiss or that she denied him. Flores then tells Hanley, that Kristin Smart walked off on her own towards her dorm up Perimeter from the intersection with Grand Avenue. When asked why, if Smart was so intoxicated, he did not walk her to her dorm Flores replied that he did not think of it.

Flores stated his father, defendant Ruben Flores, picked him up from Cal Poly the Sunday of Memorial Day weekend and they drove to his father's house in Arroyo Grande. On May 31, 1996, Investigator Hanley saw a discoloration under the right eye of Paul Flores that was consistent with the later stages of a black eye. On this occasion, Flores claimed he got the black eye from playing basketball on Monday with Jeromy Moon. Hanley asked why Flores would take a shower if he had a bad taste in his mouth and Flores didn't have an answer. At the conclusion of this interview, Hanley thanked Flores, said they would have follow-up questions, and then dropped Flores off on campus. Flores said, "no problem." During this entire interview, defendant Paul Flores was never cuffed, arrested, or detained in any way.

On June 6, 2022, the Honorable Judge Jennifer O'Keefe ruled that statements made in the June 19, 1996, interview implicating Ruben Flores were testimonial given the circumstances. In the likelihood that Judge O'Keefe makes a similar ruling as to this statement, the People propose introducing the full statement to the jury for Paul Flores, and a redacted version to the jury of Ruben Flores that omits any discussion of Ruben Flores.

Hanley again spoke with Paul Flores on June 19, 1996. Hanley and his partner, Investigator Hobson, went to 710 White Court. On June 6, 2022, Judge O'Keefe ruled that a portion of the statement was admissible.

The full interview is admissible against Paul Flores. The people propose presenting a redacted version to the jury of Ruben Flores that omits any discussion of Ruben Flores.

On June 19, 1996, DA Investigator Rick Conradi interviewed Ruben Flores at his home. Subsequently on June 19, 1996, DA Investigator Larry Hobson interviewed Ruben Flores at his home after having interviewed Paul Flores at the Arroyo Grande Police Department. Both interviews are almost certainly testimonial. The People do not believe the statements can be redacted in anyway to prevent an Aranda/Bruton violation that could still convey the substance of the interview. Therefore, these two interviews would also be admissible in front of Ruben Flores' jury.

In the summer of 1996, Stan Smart drove by Ruben Flores' house and Ruben Flores told him, "You need to get out of here... someone could get shot."

This statement is non-testimonial and is admissible against both defendants.

Jennifer Hudson was around 17 or 18 years old in August of 1996. One time, she was skateboarding in San Luis Obispo and the defendant was present. A Public Service Announcement was read asking if anyone had information about Kristin Smart or her disappearance. Flores responded to the PSA by saying that bitch was a dick tease and that he was done playing with her. He buried/put her underneath his ramp in Huasna. Hudson was so concerned by the statement that she left in the middle of the social gathering.

These statements are not testimonial and are admissible against both defendants.

On May 19, 2021, Detective Clint Cole and DA Investigator JT Camp responded to the home of Ruben Flores at 710 White Court with a Search Warrant for a Buccal swab on defendant Ruben Flores. Cole and Camp approached Ruben Flores who pointed to the names of Susan Flores and Mike McConville on the warrant and asked why I would be taking their DNA. He said, "They did not commit a felony, only me."

This statement is non-testimonial and is admissible against both defendants.

David Stone was a tenant at 710 White Court. He stated that Ruben Flores would often refer to Kristin Smart as that dirty "slut." Stone also reported that Ruben Flores would not allow anyone under the deck. On one occasion when there was a plumbing issue, a plumber came out and Ruben Flores denied the plumber's request to go under the deck to

work on the problem. Stone also stated that Ruben Flores was insistent that nobody go under the deck.

These statements are non-testimonial and is admissible against both defendants.

Date: June 7, 2022

Respectfully submitted,

Dan Dow
District Attorney

By:
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

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/7/2022 9:57 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.	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 Statement of the People as to the Cross-Admissibility of Defendants Statements to be heard on June 7, 2022. In accordance with Section 6255 of the California Government Code, I am requesting that this court order that the

Statement of the People as to the Cross-Admissibility of Defendants Statements 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 7, 2022

Respectfully submitted,

Dan Dow
District Attorney

By: Christopher Peuvrelle
Deputy District Attorney

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 7, 2022, I served the foregoing document(s) described as:

STATEMENT OF THE PEOPLE AS TO THE CROSS-ADMISSIBILITY OF DEFENDANTS STATEMENTS & 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 7, 2022, at San Luis Obispo, California.

Alyssa Muckey, Supervising Legal Clerk

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 6/7/2022 10:17 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.	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

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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 Motion In Limine to be heard on June 13, 2022. In accordance with Section 6255 of the California Government Code, I am requesting that this court order that the People's Motion In Limine 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 7, 2022

Respectfully submitted,

Dan Dow
District Attorney

By: Christopher Peuvrelle
Deputy District Attorney

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 7, 2022, I served the foregoing document(s) described as:

PEOPLE'S MOTION IN LIMINE & 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 7, 2022, at San Luis Obispo, California.

Alyssa Muckey, Supervising Legal Clerk

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 10:17 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: 22CR003712

People of the State of California vs. Paul Ruben 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 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Motions in limine.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

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 in custody.

No bail is allowed.

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
K Hansen

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- 22CR003

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.

SANGER SWYSEN & DUNKLE
Robert M. Sanger, SBN 058214
Sarah S. Sanger, SBN 322722
222 E. Carrillo Street, Suite 300
Santa Barbara, CA 93101
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Attorneys for Defendant
Paul Ruben Flores

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/9/2022 3:25 PM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES,

Defendant.

Case No. 22CR003712

EX PARTE APPLICATION TO FILE DEFENDANT PAUL FLORES' SUPPLEMENTAL BRIEF REGARDING 1108 AND OTHER PROFFERED EVIDENCE UNDER SEAL

Hon. Jennifer J. O'Keefe

TO THE CLERK OF THE ABOVE-ENTITLED COURT AND DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE:

PLEASE TAKE NOTICE that Defendant Paul Flores, by and through his attorneys Robert M. Sanger, Sarah S. Sanger and Sanger Swysen & Dunkle, hereby request that the Court permit Defendant to file under seal in accordance with California Rules of Court, rules 2.550 and 2.551, and to

protect the Defendant's rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution, the following document:

1. Supplemental Brief Regarding 1108 and Other Proffered Evidence.

This application is made on the grounds that the Court already made a finding as to necessity of a sealing order after granting the protective order on April 15, 2021, and that sealing is necessary to protect the Defendant's right to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution.

This application is based on the attached memorandum of points and authorities, all the papers and records on file in this action and on such further oral and documentary evidence that may be presented at a hearing of this application.

Dated: June 9, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

DECLARATION OF ROBERT M. SANGER

I, Robert M. Sanger, hereby declare:

1. I am an attorney at law, duly licensed to practice in the State of California, and I am the attorney of record for the Defendant herein, Paul Ruben Flores.
2. We are concurrently filing the following documents conditionally under seal:
    1. Supplemental Brief Regarding 1108 and Other Proffered Evidence.
3. These filings contain information relating to discovery, recently executed search warrants and to evidence that may be excluded at trial. There is a substantial probability that Mr. Flores' rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution, would be prejudiced if the above-referenced documents are not sealed. Sealing is also necessary to comply with the protective order on April 15, 2021.
4. I am respectfully requesting that the following document be filed under seal to protect Mr. Flores' constitutional rights:
    1. Supplemental Brief Regarding 1108 and Other Proffered Evidence.

I declare under penalty of perjury that the foregoing is true and correct and that this was executed on June 9, 2022, in Santa Barbara County, California.

Robert M. Sanger

MEMORANDUM OF POINTS AND AUTHORITIES

ARGUMENT

I. FILING THE SUPPLEMENTAL BRIEF REGARDING 1108 AND OTHER PROFFERED EVIDENCE UNDER SEAL IS NECESSARY TO PREVENT CONFIDENTIAL INFORMATION FROM BEING DIVULGED TO THE PUBLIC

Pursuant to California Rule of Court 2.550(d), the Court has the authority to order a record be filed under seal if it expressly finds that: (1.) There exists an overriding interest that overcomes the right of public access to the record; (2.) The overriding interest supports sealing the record; (3.) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed; (4.) The proposed sealing is narrowly tailored; and (5.) No less restrictive means exist to achieve the overriding interest. (California Rule of Court 2.550(d).)

In this case, the Supplemental Brief Regarding 1108 and Other Proffered Evidence includes information relating to discovery, recently executed search warrants and to evidence that may be excluded at trial, if made public, would prejudice Mr. Flores' rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution. Sealing is also necessary to comply with the protective order on April 15, 2021. Therefore, we respectfully submit that it is necessary to file the following documents under seal to protect Mr. Flores' rights to due process, a fair trial and impartial jury and that this overriding interest satisfies the requirements of Rule of Court 2.550(d):

1. Supplemental Brief Regarding 1108 and Other Proffered Evidence.

CONCLUSION

For the above-state reasons, the Court should grant this application.

Dated: June 9, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

PROOF OF SERVICE

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 222 E. Carrillo St., Ste. 300, Santa Barbara, California, 93101.

On June 9, 2022, I served the foregoing document entitled: **EX PARTE APPLICATION TO FILE DEFENDANT PAUL FLORES' SUPPLEMENTAL BRIEF REGARDING 1108 AND OTHER PROFFERED EVIDENCEUNDER SEAL** on the interested parties in this action by depositing a true copy thereof as follows:

SEE ATTACHED SERVICE LIST

_X_ **BY ELECTRONIC TRANSMISSION** -I caused the above-referenced document(s) to be transmitted via electronic transmission to the interested parties at the email addresses referenced in the attached service list.

____ **BY U.S. MAIL** - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.

____ **BY HAND** - I caused the document to be hand delivered to the interested parties at the address referenced on the attached service list.

_X_ **STATE** - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

____ **FEDERAL** - I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed June 9, 2022, at Santa Barbara, California.

Jake Swanson

Jake Swanson

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES,

Defendant.

Case No. 22CR003712

CONDITIONALLY UNDER SEAL

SUPPLEMENTAL BRIEF REGARDING 1108 AND OTHER PROFFERED EVIDENCE

Date: June 10, 2022
Time: 9:00
Dept.: 4 (BY VIDEO)

[Subject to application to file under seal]

Hon. Jennifer J. O'Keefe

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I. WE WOULD RESPECTFULLY REQUEST THAT THE COURT RECONSIDER ITS TENTATIVE RULING REGARDING THE ADMISSION OF EVIDENCE OF OTHER ACTS UNDER EVIDENCE CODE SECTION 1108.

The primary concern is that there is NO evidence of a sex offense in this case, unlike the leading California Supreme Court case of *People v. Story* (2009) 45 Cal.4th 1282. Like here the prosecution did not charge rape but did charge first degree murder under Penal Code section 189 which could include burglary or rape. The difference is that, in Story, there was evidence of a murder **and evidence of a rape**. The is no evidence as to how or why Ms. Smart went missing and there is NO evidence of a rape.

Looked at another way, Story could have been charged with rape – there was evidence that the decedent was raped. Here, there is no way that the Mr. Flores could be charged with rape because there is nothing but speculation as to what happened to Ms. Smart after Mr. Flores last saw her.

Since there is NO evidence of rape, attempted rape or any other sex offense, in this particular case, 1108 does not apply. Furthermore, even if there was some basis – which there is not – the court would have to perform an analysis under Evidence Code section 352. (Evid. Code sect. 1108(a) ["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 352 analysis is a mandatory part of the constitutional application of section 1108. *People v. Falsetta* (1999) 21 Cal.4th 903.

> "By reason of section 1108, trial courts may no longer deem "propensity" evidence unduly prejudicial per se, but must engage in a careful weighing process under section 352. Rather than admit or exclude every sex offense a defendant commits, trial judges must consider such factors as its nature, relevance, and possible remoteness,

> 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, or excluding irrelevant though inflammatory details surrounding the offense." People v. Falsetta (1999) 21 Cal.4th 903, 916–917.

In *People v. Dejourney* (2011) 192 Cal.App.4th 1091, 1105, the Court of Appeal discussed the standard of 352 as applied in the 1108 context. "'The "prejudice" referred to in Evidence Code section 352 applies to evidence which uniquely tends to evoke an emotional bias against 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. Bolin* (1998) 18 Cal.4th 297, 320.)"

In *Dejourney*, while the trial Court was upheld on appeal, the appellate court stated:

> "Since there is no evidence of rape in the current case, the only effect would be prejudicial. Here, the record affirmatively reflects the trial court carefully considered Dejourney's prior conduct and conviction, its nature and similarity to the charged offenses, and weighed its prejudice against its probative value, finding in the end that its prejudicial effect was outweighed by its probative value. Essentially, the court found the prior sexual acts evidence to be the precise type of evidence anticipated by the Legislature in enacting Evidence Code section 1108, that it revealed conduct which, though appearing to be slightly more inflammatory than the conduct for which the defendant was currently on trial, was not more prejudicial considering the circumstances of the instant case (see *Harris*, supra, 60 Cal.App.4th at pp. 737–738, 70 Cal.Rptr.2d 689) and it was highly probative as propensity evidence. (See *People v. Waples* (2000) 79 Cal.App.4th 1389, 1392–1395, 95 Cal.Rptr.2d 45.)" *People v. Dejourney* (2011) 192 Cal.App.4th 1091, 1105.

Another way to look at it is that 1108 does not allow that proof "that

appellant committed prior sexual offenses, may act as proxy or substitute for proof of the ultimate fact, i.e., appellant's guilt of the currently charged offenses." *People v. Vichroy* (1999) 76 Cal.App.4th 92, 99, as modified on denial of reh'g (Nov. 15, 1999). *Vichroy* was based on instructional error but the underlying constitutional point is made that there has to be proof beyond a reasonable doubt of the current sex offense and conviction CANNOT be based only on propensity.

Here there is no basis to compare the "evidence which uniquely tends to evoke an emotional bias against defendant as an individual" with probative value since there is NO evidence of a sex offense in the present case. In addition, most of the other acts evidence is remote in time and none of it resulted in prior adjudications. Therefore, its only effect is that which **tends to evoke an emotional bias** against the defendant as an individual and violates the interpretation of 1108 required in *Falsetta* and other cases. Admission in this case would violate the defendant's right to Due Process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution.

II. PURPORTED EVIDENCE OF DOG MEDICATION PRESCRIBED AND LOCATED OVER 20 YEARS LATER IS INADMISSIBLE

The prosecution brought up its intention to introduce some left-over medication that had been prescribed for the defendant's dog over twenty years after the disappearance of Kristin Smart which was located in the defendant's home. There is no probative value and, if there were, it is outweighed by the prejudicial effect under Evidence Code section 352 and the defendant's right to Due Process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution.

First, in the current case, there is NO evidence of a drugging offense

and NO evidence that anyone drugged Kristin Smart. Even if she had taken some substance other than alcohol, there is no evidence that Paul Flores had anything to do with it. In fact, the evidence is to the contrary. Ms. Smart was involved with a number of other people at the party, including going into the bathroom with Ted Boelter. In addition, according to witnesses, she was lying in the front yard "waiting for someone" for some time before the party ended and a number of people, including Mr. Flores, started walking with her to the dorms.

Second, the possession of these pills was for a lawful purpose as established by law enforcement. They had been prescribed by a veterinarian for Mr. Flores' dog which had passed away. There is no probative value to having prescribed medication at a remote time over 20 years after the disappearance of Ms. Smart. In addition, law enforcement who executed the search warrant would testify (with pictures to demonstrate) that Mr. Flores appeared to never throw anything away and might be considered a "hoarder."

Third, if there was probative value – which there is not – the effect of using this kind of inuendo where there is no proof of a crime is extremely prejudicial in the sense that, if not avoided, would not only run afoul of the statute but would violate the client's rights to due process and a fair trial.

This case is "high profile" but is weak to the point of non-existent. This appears to be why the prosecution is attempting to get things into evidence that they would never try in a normal case.

III. WE WOULD RESPECTFULLY REQUEST THAT THE COURT RECONSIDER ITS RULING ON THE EXCLUSION OF THIRD-PARTY CULPABILITY, ESPECIALLY SHAHN WHITTED.

While the prosecution is asking the jurors to speculate that there must have been a sex offense based on remote 1108 evidence, there is actual evidence of a felony arson being committed on Ms. Smart's doorstep by an

angry suitor. There is also evidence that law enforcement simply ignored that evidence and early on committed itself to a course of action that involves classic confirmation bias. They decided that everything that moved related to Paul Flores' guilt while all the other possible leads and theories were irrelevant.

Whitted is a viable suspect. He only ceased to be one when law enforcement accepted his explanation that they had made up -- nothing to see here. It is unknown what would have been found, such as the contents of the note, or what else he did. They took his word because confirmation bias filtered out anything that did not correspond with Mr. Flore's guilt.

We conceded that some other people of interest, such as Scott Peterson, may not qualify as third-party suspects even though they cannot be ruled out. Peterson was enough of a suspect based on his contemporaneous statement to his father, that they searched the ponds on his property. However, even if the jury does not hear about Petersen, they should be allowed to know that there were people, like Whitted, who had motive, opportunity and who had committed actual felony conduct toward Ms. Smart who was the intended victim of his arson. That is not speculation, he admitted it.

IV. CONCLUSION

Thank you for considering the arguments.

Dated: June 9, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

PROOF OF SERVICE

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I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 222 E. Carrillo St., Ste. 300, Santa Barbara, California, 93101.

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Executed June 9, 2022, at Santa Barbara, California.

Jake Swanson

Jake Swanson

SERVICE LIST

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