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

---oOo---

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs.

No. P10CRF0364

PHILLIP CRAIG GARRIDO
and NANCY GARRIDO,

Defendants.

_____ /

---oOo---

REPORTER'S EXCERPT TRANSCRIPT OF PROCEEDINGS

SEPTEMBER 21, 2010

---oOo---

A P P E A R A N C E S

FOR THE PEOPLE:

VERN R. PIERSON, District Attorney
JOE ALEXANDER, Deputy
JAMES CLINCHARD, Deputy
El Dorado County
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Placerville, California 95667

CYNTHIA J. ELLERING, CRR, CSR
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1 PLACERVILLE, CALIFORNIA

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

3 ----000----

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

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

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

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

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

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

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

3 If it's an issue that you think needs to be brought
4 to the attention of the attorneys, you can do that. And if
19:31AM 5 it's an issue that you think needs to be brought to the
6 attention of law enforcement, such as you see someone
7 standing out there trying to take pictures of these
8 proceedings or anything of that nature, you talk to one of
9 these three gentlemen or Mr. Pierson or Mr. Clinchard. All
19:31AM 10 right?

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

14 (Whereupon the court reporter is sworn.)

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

18 So you know, although your names will appear
19 initially in the record, they are all replaced later with
19:32AM 20 your juror identification number. So although -- before
21 you're allowed to speak, if you have a question or you want
22 to bring -- raise your right hand and we say, "Okay. What
23 do you have to say," the first thing you have to do is state
24 your name for the record. But I'm telling you now that
19:32AM 25 those names will be redacted later and replaced with your
26 juror identification number.

27 So everyone's clear on that.

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

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

19:33AM

19:33AM

19: M

19:33AM

19:33AM

1 (Grand Juror GR10)?

2 GRAND JUROR GR10 [REDACTED]: Here.

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

4 (Grand Juror GR11)?

19:34AM

5 GRAND JUROR GR11 [REDACTED]: Here.

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

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

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

9 GRAND JUROR GR13 [REDACTED]: Here.

19:34AM

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

11 (Grand Juror GR14)?

12 GRAND JUROR GR14 [REDACTED]: Here.

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

14 (Grand Juror GR15)?

19 M

15 GRAND JUROR GR15 [REDACTED]: Here.

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

17 (Grand Juror GR16)?

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

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

19:34AM

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

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

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

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

24 going to be a serving grand juror.

19:34AM

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

26 MR. ALEXANDER: Actually, the Court already approved

27 it.

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

1 this down.

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

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

19:35AM

5 GRAND JUROR GR17 [REDACTED]: Here.

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

8 GRAND JUROR GR18 [REDACTED]: Here.

19:35AM

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

11 GRAND JUROR GR19 [REDACTED]: Here.

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

19 M

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

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

19:35AM

20 ALTERNATE GRAND JUROR AGR01 [REDACTED]: Here.

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

23 MR. ALEXANDER: Again, Joe Alexander.

19:35AM

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

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

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

6 (Grand jurors nod.)

7 Approved by the foreperson?

8 GRAND JUROR GR12 [REDACTED]: Approved.

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

11 You can continue with the roll call.

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

14 ALTERNATE GRAND JUROR AGR03 [REDACTED]: Here.

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

17 ALTERNATE GRAND JUROR AGR04 [REDACTED]: Here.

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

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

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

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

26 ALTERNATE GRAND JUROR AGR06 [REDACTED]: Here.

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

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

19:37AM

19:37AM

19 M

19:37AM

19:37AM

1 GRAND JUROR GR12 [REDACTED]: I confirm.

2 MR. ALEXANDER: Thank you.

3 Okay. The next order of business is Alternate

4 Number 9, [REDACTED] (Alternate Grand Juror AGR09), has off

19:38AM

5 the record approached me and discussed her concern about

6 serving as a grand juror on this case and has said, in no

7 uncertain terms, that she will not be able to sit and

8 deliberate and make the decision that she will ultimately be

9 asked to make, which is whether or not a particular person

19:38AM

10 or persons are held to answer on a felony charge.

11 Does that summarize our conversation, [REDACTED]

12 (Alternate Grand Juror AGR09)?

13 ALTERNATE GRAND JUROR AGR09 [REDACTED]: Yes

14 MR. ALEXANDER: For the record, that was [REDACTED]

19 M

15 (Alternate Grand Juror AGR09) saying yes.

16 So at this time, due to the power vested in the

17 district attorney's office by statute and court, we're going

18 to excuse you from service, and you're free to go.

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

19:38AM

20 MR. ALEXANDER: And the foreperson understands and

21 approves of this?

22 GRAND JUROR GR12 [REDACTED]: Yes.

23 MR. ALEXANDER: Okay. Thank you.

24 (Alternate Grand Juror AGR09 [REDACTED] leaves the

19:38AM

25 proceedings.)

26 MR. ALEXANDER: All right. I've already introduced

27 the different players that you're going to be seeing

28 throughout this proceeding. I want to give you a few kind

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

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

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

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

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

1 resolved.

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

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

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

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

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

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

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

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

19:42AM

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

19:42AM

13 Does everyone understand that?

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

19 M

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

19:43AM

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

19:43AM

25 MR. PIERSON: Will be.

26 GRAND JUROR GR12 [REDACTED]: Will be.

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

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

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

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

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

1 question or we cannot put on that evidence.

2 So sometimes you may have a question.

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

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

18 Does that make sense?

19 Anybody have any questions so far?

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

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

24 MR. ALEXANDER: Joe Alexander.

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

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

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

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

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

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

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

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

1 have a record.

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

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

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

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

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

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

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

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

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

25 Is that correct, everyone?

26 (Grand jurors nod.)

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

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

2 MR. ALEXANDER: Joe Alexander.

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

19:52AM

5 [REDACTED] (Grand Juror GR02); [REDACTED] (Grand

6 Juror GR03), [REDACTED] (Grand Juror GR03); Ms. [REDACTED] (Grand Juror

7 GR04); [REDACTED] (Grand Juror GR05); [REDACTED] (Grand Juror

8 GR06), [REDACTED] (Grand Juror GR07); [REDACTED] (Grand Juror

9 GR08); [REDACTED] (Grand Juror GR09); [REDACTED] (Grand

19:52AM

10 Juror GR10); [REDACTED] (Grand Juror GR11); [REDACTED]

11 (Grand Juror GR12), our foreperson; [REDACTED] (Grand Juror

12 GR13); [REDACTED] (Grand Juror GR14); [REDACTED] (Grand

13 Juror GR15); [REDACTED] (Grand Juror GR17); [REDACTED]

14 (Grand Juror GR18); [REDACTED] (Grand Juror GR19); and

19 M

15 Alternate Number 1 will be seated Grand Juror [REDACTED]

16 (Grand Juror AGR01).

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

19 GRAND JUROR GR12 [REDACTED]: Approved.

19:53AM

20 MR. ALEXANDER: Thank you, sir.

21 If I didn't just call your name and say that you're a
22 deliberating grand juror, then you remain an alternate. And

23 the Court has your contact information. If we need to get

24 ahold of you, we will. If you have a new or different

19:53AM

25 number or number that you prefer to be called at, you can

26 give that to me.

27 I will be right outside the door here, and you're

28 otherwise excused. Although, you're still subject to

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

19:54AM

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

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

19:54AM

12 MR. PIERSON: Thank you all very much.

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

19: 4

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

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

19:54AM

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

19:55AM

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

28 MR. ALEXANDER: Hold on just a moment.

1 GRAND JUROR GR12 [REDACTED]: [REDACTED]

2 (Grand Juror GR12), foreperson:

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

19:55AM

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

19:56AM

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

19:56AM

16 I see all grand jurors acknowledging that they can.

17 Joe Alexander.

18 Thank you.

19 (Proceedings were in recess from

19:56AM

20 9:56 a.m. until 10:06 a.m.)

21 ---oOo---

22 GRAND JUROR GR12 [REDACTED]: [REDACTED]

23 (Grand Juror GR12), foreperson.

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

0:08AM

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

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

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

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

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

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

14 MR. CLINCHARD: Jim Clinchard.

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

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

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

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

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

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

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

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

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

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

0:11AM

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

0:12AM

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

0 M

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

0:12AM

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

0:12AM

28 An intent or mental state may be proved by

1 circumstantial evidence.

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

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

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

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

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

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

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

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

12 What the witness's behavior was while testifying.

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

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

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

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

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

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

27 Did the witness admit to being untruthful?

28 What is the witness's character for truthfulness?

1 Has the witness been convicted of a felony?

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

4 Was the witness promised immunity or leniency in
5 exchange for his or her testimony?
0:15AM

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

10 Also, two people may witness the same event yet see or hear
11 it differently.
0:15AM

12 If the evidence establishes that a witness's
13 character for truthfulness has not been discussed among the
14 people who know him or her, you may conclude from the lack
15 of discussion that the witness's character for truthfulness
16 is good.
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17 If you do not believe a witness's testimony that he
18 or she no longer remembers something, that testimony is
19 inconsistent with the witness's earlier statement on that
20 subject.
0:16AM

21 If you decide that a witness deliberately lied about
22 something significant in the case, you should consider not
23 believing anything the witness says. Or if you believe the
24 witness lied about some things but told the truth about
25 others, you may simply accept the part that you think is
26 true and ignore the rest.
0:16AM

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

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

0:16AM

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

0:17AM

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

0:17AM

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

0:17AM

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

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

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

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

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

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

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

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

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

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

28 The People have the burden of proving by a

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

0:20AM

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

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

0:21AM

0:21AM

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

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

1 proposed indictment with kidnapping for purpose of rape.

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

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

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

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

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

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

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

28 The defendants are charged in the proposed indictment