

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

3 In order to indict the defendant of this crime, the
4 People must prove that, one, the defendant had sexual
0:23AM 5 intercourse with Jane Doe; two, that he and Jane Doe were
6 not married to each other at the time of the intercourse;
7 three, that Jane Doe did not consent to the intercourse;
8 and, four, the defendant accomplished this intercourse in
9 one of two ways. This is (a), which is force, violence,
0:23AM 10 duress, menace, or fear of immediate and unlawful bodily
11 injury to Jane Doe or someone else; or, (b), threatening to
12 retaliate in the future against Jane Doe or someone else
13 when there was a reasonable possibility that the defendant
14 would carry out the threat. A threat to retaliate is a
0 M 15 threat to kidnap, falsely imprison, or inflict extreme pain,
16 serious bodily injury, or death.

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

0:24AM 20 To consent, a woman must act freely and voluntarily
21 and know the nature of the act.

22 A woman who initially consents to an act of
23 intercourse may change her mind during the act. If she does
24 so, under the law, the act of intercourse is then committed
0:24AM 25 without her consent if, one, she communicated to the
26 defendant that she objected to the act of intercourse and
27 attempted to stop the act; two, she communicated her
28 objection through words or acts that a reasonable person

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

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

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

13 Retribution is a form of payback or revenge.

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

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

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

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

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

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

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

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

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

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

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

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

0:27AM

6 Retribution is a form of payback or revenge.

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

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

0:27AM

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

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

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

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

0:28AM

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

0:28AM

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

28 Felony False Imprisonment. The defendants are

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

3 In order to indict the defendants of this crime, the
4 People must prove that, one, the defendants intentionally
.0:28AM 5 and unlawfully restrained or confined or detained someone or
6 caused that person to be restrained or confined or detained
7 by violence or menace; and, two, the defendants made the
8 other person stay or go somewhere against that person's
9 will.

.0:29AM 10 "Violence" means using physical force that is greater
11 than the force necessary to restrain someone.

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

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

.0:29AM 19 False imprisonment does not require that the person
20 restrained be confined to jail or prison.

21 Possession or control of obscene matter showing
22 sexual conduct by a minor, Penal Code Section 311.11(a).
23 The defendants are charged in the proposed indictment in
24 Count XVIII -- this is the final count in the indictment --
.0:29AM 25 with possession or control of obscene matter that shows a
26 minor engaging in sexual conduct.

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

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

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

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

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

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

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

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

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

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

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

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

1 obscenity listed above.

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

0:33AM

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

0:33AM

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

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

0:33AM

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

0:34AM

28 Two or more people may possess something at the same

1 time.

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

0:34AM

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

0:34AM

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

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

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

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

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

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

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

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

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

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

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

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

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

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

0:38AM

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 Multiple Defendants. Both defendants in this case

1 are charged with the same crimes.

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

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

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

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

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

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

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

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

.0:44AM

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

.0:44AM

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

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

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

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

.0:46AM

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

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

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27 THE WITNESS: I do.

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

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

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

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

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

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10 MR. PIERSON: Would you state your name.

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

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

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

17 THE COURT: That is your request?

18 THE WITNESS: Yes, it is.

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

21 TESTIMONY OF

22 [REDACTED] (JANE DOE),

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

25 DIRECT EXAMINATION

26 BY MR. PIERSON:

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

1 A. May 3rd, 1980.

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

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

6 Q. And who were you living with?

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

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

10 A. Terry Probyn.

11 Q. What was your stepdad's name?

12 A. Carl Probyn.

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

15 A. Um-hum.

16 Q. What is her name?

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

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

20 A. Yep. Yes.

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

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

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

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

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5 Q. You were going to school, but were you walking to
6 a --

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

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

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10 A. Yeah.

11 Q. And approximately what time was it?

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

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

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

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

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

23 A. That's fine, yeah.

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

28 A. Like in miles or...

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

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

4 Q. Okay. And so after you left -- you walked out of the
0:50AM 5 house, and you were walking. Can you describe to us, in
6 your own words, what happened?

7 A. I left the house. I called to Carl that I'm leaving.
8 I walk up about -- not halfway but just to where I usually
9 cross the street, because Carl has taught me that I want to
0:51AM 10 face the oncoming traffic down the hill. So he says that I
11 should cross about here so that I can see what's coming up
12 the hill.

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

0:51AM 20 And all of a sudden, his hand shoots out of the car
21 window, and I feel this shock. And I stumble back into
22 the -- into the bushes. And -- sorry...

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

24 A. He gets out, and I stumble back into the bushes. I'm
0:52AM 25 sitting now in the bushes, trying to back away, but I feel
26 like my whole body is -- wouldn't work. It was tingly, and
27 I can't -- nothing works. All of a sudden, I'm in the car,
28 and there's something on top of me, and I feel like there's

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

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

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

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5 Q. Like a person?

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

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

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

AM

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

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

0:53AM

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

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

0:54AM

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

28 A. That's me.

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

.0:55AM

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

8 A. Yes. That was a school photo.

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

.0:55AM

11 A. I was 11.

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

14 A. Yeah.

.0 M

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

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

18 Q. And that's --

19 A. In Tahoe.

.0:55AM

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

22 A. Yeah.

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

24 A. The hill I walked.

.0:55AM

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

28 A. Yes.

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

3 A. That was my house.

4 Q. And the area that you described walking up would have
0:56AM 5 been from the approximate area of the house up to the curve
6 in the road. There's two -- there's Apalachee, and there's
7 --

8 A. Nadowa Street.

9 Q. Can you describe, in reference to those streets, the
0:56AM 10 approximate location where it was that this happened?

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

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

14 A. Yes.

0:56AM 15 Q. And then you described that there is a curve, and
16 it's a slight bend to the right?

17 A. Yeah. A slight bend.

18 Q. Now, as you're walking up the hill, you said that you
19 started out -- because the house would be -- in the
0:56AM 20 direction you're traveling, it's on the right side, and then
21 you cross over to the left side, and you're walking along
22 the left side?

23 A. Yes.

24 Q. And go back to the point in time when the car comes
0:57AM 25 over towards you. Were you -- how close to the edge of the
26 road were you when the car came over?

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

1 there.

2 Q. To the left side?

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

.0:57AM

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

.0:57AM

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

0 M

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

.0:58AM

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

.0:58AM

25 Q. Did you see how many people were in the car?

26 A. I saw one, the driver.

27 Q. And that was --

28 A. But I didn't look back.

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

2 A. It was a man.

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

0:59AM

5 A. Yeah. A blanket or something. And then feet or
6 legs.

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

8 A. Um-hum.

0:59AM

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

11 A. Yeah.

12 Q. And then there was a second person?

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

0 M

15 Something was there.

16 Q. And you were in the back seat?

17 A. Yeah.

18 Q. On the floorboard?

19 A. Yeah. On the floorboard.

0:59AM

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

21 A. Yeah.

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

0:59AM

24 A. No. But I could hear a voice some time later. I
25 don't know when. The man in the front -- all of a sudden,
26 the pressure was off, like I woke up, and I could hear the
27 car door slam like someone was getting into the front seat,
28 the passenger side. And the person that took me was, like,

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

1:00AM 5 And then some mumbling. It sounded like -- it didn't
6 sound manly, so I'm -- my instinct is it was a woman.

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

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

1:00AM 10 put something back on top of me after he offered me the
11 drink, which I didn't want. Then it was really hot. So
12 it's kind of like I was blacking out, and I don't remember
13 how long it was.

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

1 15 A. It seemed like forever.

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

17 A. Yeah.

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

1:01AM 20 A. The car stops, and I think he -- well, I know I could
21 hear, like, the car stopped. The door slammed shut and like
22 squeaking of a gate or something.

23 And then he's telling me -- well, he put the blanket
24 back over me, and he said I had to be really quiet and there
1:01AM 25 was dogs patrolling the area. He had -- he said he had
26 Dobermans and that if I was to run or, you know, try to do
27 anything, that they would come after me.

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

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Page 57 through Page 58 were removed by Court order.

* * * * *

1 know what he was doing.

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

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

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

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

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

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

22 A. Very scared.

23 Q. And --

24 A. I just wanted to go home.

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

28 A. That's him.

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

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

3 Q. And his name is Phil Garrido?

4 A. Yes.

1:07AM

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

6 A. Yes.

7 Q. Now, I'm going to show you another one that's

8 Number 4. And this says -- it's entitled "California

9 Department of Motor Vehicles," and do you recognize the

1:07AM

10 person in that photograph?

11 A. That's Phillip.

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

14 A. Um-hum.

1 M

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

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

1:08AM

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

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

1:08AM

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