

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

WILLIAM F. WALSH, IV,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition For A Writ of *Certiorari* To The United States Court of Appeals
for the Ninth Circuit**

**APPENDIX (VOLUME II) – PRESENTED SEPARATELY UNDER S. CT.
R. 14.1(i)**

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1 ANYBODY ELSE IN THE JURY BOX?

2 HOW ABOUT IN THAT FIRST ROW? ANYONE? THE ROW
3 BEHIND?

4 THE YOUNG LADY IN GREEN, AGAIN. MS. KOHLMAN.

5 **PROSPECTIVE JUROR:** YES, YOUR HONOR. I AM A TEACHER,
6 AND SO IT'S HARD FOR ME TO PUT ASIDE THE IMPORTANCE I PLACE ON
7 CREATING A SAFE SPACE FOR MY STUDENTS. AND SO I FEEL BIASED.
8 IT'S JUST REALLY CHALLENGING FOR ME.

9 **THE COURT:** WHAT AGE GROUP DO YOU TEACH?

10 **PROSPECTIVE JUROR:** I TEACH SIXTH GRADERS.

11 **THE COURT:** WHICH WOULD BE 11, 12?

12 **PROSPECTIVE JUROR:** 10, 11, 12. AT THE BEGINNING OF
13 THE YEAR THEY MIGHT BE 10.

14 **THE COURT:** OKAY. THAT'S THE RANGE. ALL RIGHT.
15 THANKS, MS. KOHLMAN. I APPRECIATE THAT.

16 ANYBODY ELSE IN THAT SAME ROW OR THE ROW BEHIND?

17 ALL RIGHT. OVER ON THE END. IF YOU WOULD, PLEASE,
18 MS. HAMILTON.

19 **PROSPECTIVE JUROR:** THANK YOU, YOUR HONOR. I WONDER
20 IF I SHOULD -- IT'S KIND OF PERSONAL.

21 **THE COURT:** YOU CAN COME ON UP AND WE'LL TALK ABOUT
22 IT OVER HERE.

23 THE REST OF YOU FOLKS JUST SIT QUIETLY AND WE'LL GET
24 BACK TO YOU IN A MOMENT.

25 COME ON OVER HERE, MS. HAMILTON. I HAVE THE LAWYERS

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1 COMING UP, AS WELL.

2 (PROCEEDINGS HAD AT SIDEBAR, OUTSIDE THE HEARING OF THE JURY)

3 **THE COURT:** AND SO WHAT WOULD YOU LIKE TO SHARE WITH
4 US? AND YOU CAN BE AS BRIEF AS YOU WISH IN YOUR EXPLANATION.

5 **PROSPECTIVE JUROR:** I WAS A VICTIM OF SEXUAL ABUSE AS
6 A CHILD.

7 **THE COURT:** OKAY. THAT HAS HAD A LIFELONG IMPACT, I
8 CAN TELL BY YOUR DEMEANOR. IT'S EMOTIONAL JUST TO MENTION IT
9 AS A TOPIC, RIGHT? SO THIS ISN'T A CASE FOR YOU.

10 THERE WILL BE ANOTHER CASE THAT YOU CAN SERVE ON THAT
11 WON'T HAVE A PERSONAL CONNECTION, THAT YOU CAN CONTRIBUTE TO.
12 SO I AM NOT GOING TO ASK YOU ANYTHING FURTHER, BUT I WILL ASK
13 COUNSEL IF THEY HAVE QUESTIONS.

14 **MS. GRIFFITH:** NO.

15 **THE COURT:** OKAY. THAT IS GOOD.

16 **PROSPECTIVE JUROR:** SHOULD I STAY?

17 **THE COURT:** STAY, AND WE'LL LET YOU GO AFTER THE
18 FIRST BREAK.

19 **PROSPECTIVE JUROR:** OKAY. THANK YOU.

20 (PROCEEDINGS HAD IN OPEN COURT, IN THE HEARING OF THE JURY)

21 **THE COURT:** ALL RIGHT. HOW ABOUT ON THIS SIDE OF THE
22 ROOM? MR. SALCIDO, NUMBER 42. TELL ME, SIR, WHY YOU FEEL YOU
23 COULDN'T BE FAIR IN A CASE OF THIS NATURE?

24 **PROSPECTIVE JUROR:** I THINK I WOULD BE A LITTLE MORE
25 BIASED. I HAVE TWO YOUNG BOYS. I COULDN'T IMAGINE ANYTHING

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1 HAPPENING TO THEM. ALSO, MY WIFE IS AN ELEMENTARY
2 SCHOOLTEACHER. AND ONE OF MY BEST FRIENDS IS AN FBI AGENT IN
3 THE L.A. OFFICE THAT USED TO DEAL IN SEX TRAFFICKING.

4 **THE COURT:** OKAY. HAS HE DISCUSSED HIS WORK WITH
5 YOU?

6 **PROSPECTIVE JUROR:** NO, HE DIDN'T GIVE ME ANY
7 DETAILS, BUT, I MEAN, GENERAL DISCUSSION. THAT IS PRETTY MUCH
8 IT.

9 **THE COURT:** AND YOU FEEL THAT YOU COMING TO VIEW THE
10 EVIDENCE MAY BE LEANING TOWARD THE PROSECUTION SIDE IN MOST
11 INSTANCES?

12 **PROSPECTIVE JUROR:** YEAH.

13 **THE COURT:** ALL RIGHT. WELL, THANK YOU, SIR.

14 ANYBODY ELSE IN THAT SAME ROW? LET'S GO ON DOWN THE
15 ROW TO MS. SAM.

16 **PROSPECTIVE JUROR:** UNFORTUNATELY, I TRY TO LOOK AT
17 BOTH SIDES, BUT I FIND MYSELF SITTING HERE, AS WE ARE GOING
18 THROUGH THIS CONVERSATION, AND I'M ALREADY ON THEIR TEAM.

19 **THE COURT:** BECAUSE OF THE TOPIC?

20 **PROSPECTIVE JUROR:** PROBABLY, OR THE FACT THAT WE ARE
21 AT THIS POINT. LOOK AT IT THAT WAY. AND IF THEY ARE HERE, WHY
22 ARE THEY HERE? AND, MORE THAN LIKELY, ARE THEY GUILTY?

23 **THE COURT:** I WILL TELL YOU WHY WE'RE HERE.

24 **PROSPECTIVE JUROR:** I KNOW WHY WE'RE HERE. BUT WHAT
25 I'M SAYING IS THE ATTITUDE IN ME IS SAYING IF WE ARE AT THIS

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1 POINT, THE LIKELIHOOD IS GUILTY, AND I'M ON THAT TEAM.

2 THE COURT: AND YOU'VE HEARD NO EVIDENCE?

3 PROSPECTIVE JUROR: NOPE.

4 THE COURT: OKAY. THE REASON I AM GOING TO TELL YOU
5 WHY WE ARE HERE IS BECAUSE THERE IS, IN OUR CONSTITUTION --

6 PROSPECTIVE JUROR: I KNOW.

7 THE COURT: -- A RIGHT TO A JURY TRIAL.

8 PROSPECTIVE JUROR: A JURY TRIAL.

9 THE COURT: ARE YOU GOING TO LET ME TALK OR ARE YOU
10 GOING TO TAKE OVER?

11 PROSPECTIVE JUROR: NOPE. GO AHEAD.

12 THE COURT: WE ALL HAVE A RIGHT TO A JURY TRIAL. AND
13 WE ARE DEEMED INNOCENT UNTIL PROVEN GUILTY. AND THE GOVERNMENT
14 CHARGES PEOPLE WHEN THEY FEEL THEY HAVE EVIDENCE THAT SUGGESTS
15 THAT THEY ARE GUILTY. AND IN A FAIR PROPORTION OF THE TIME,
16 THERE ARE DISAGREEMENTS AND DISPUTES THAT REQUIRE THE CASE TO
17 GO TO TRIAL SO MEMBERS OF THE COMMUNITY CAN MAKE A DECISION.

18 WE ALL CHERISH THE INNOCENT-UNTIL-PROVEN-GUILTY
19 RIGHT, AND WE HAVE TO HONOR IT WHEN WE'RE JURORS. AND WHERE WE
20 CANNOT, WE SHOULDN'T BE JURORS. SO THAT'S THE EXPLANATION AS
21 TO WHY YOU ARE HERE.

22 AND THE JURIES ARE NOT TO TAKE ACCOUNT OF THE FACT
23 THAT SIMPLY BECAUSE SOMEONE IS CHARGED AND HAS ASKED FOR THEIR
24 TRIAL ON THE MERITS OF THE CASE, THAT THEY ARE SOMEHOW PRESUMED
25 GUILTY. IN FACT, IT'S JUST THE OPPOSITE.

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1 SO THANKS, MS. SAM.

2 ANYBODY ELSE? OKAY. LET'S GO BACK TO MS. MANLAPID.

3 **PROSPECTIVE JUROR:** GOOD MORNING, YOUR HONOR.

4 **THE COURT:** GOOD MORNING.

5 **PROSPECTIVE JUROR:** AS A MOTHER, AS AN ER NURSE, I
6 DON'T THINK -- I HAVE PREJUDICES AND BIASES SOLELY BECAUSE OF
7 MY MORAL BELIEF AND MY SPIRITUAL BELIEF THAT I WON'T BE FAIR IN
8 JUDGING. IF I ALREADY HAVE A PRECONCEIVED NOTION, I ALREADY
9 HAVE A GUILTY VERDICT, EVEN WITHOUT SEEING THE EVIDENCE. I
10 JUST NEED TO BE HONEST WITH THE COURT ABOUT THAT.

11 **THE COURT:** SO JUST HEARING THE CHARGES YOU FEEL
12 YOU'RE ALREADY THINKING THEY MUST BE GUILTY?

13 **PROSPECTIVE JUROR:** CORRECT, YOUR HONOR. CHILDREN
14 NEED TO BE PROTECTED, NOT EXPLOITED. THAT IS JUST HOW I FEEL.

15 **THE COURT:** WE ALL AGREE, OF COURSE. INDIVIDUALS IN
16 THE COMMUNITY ARE ENTITLED TO BE PRESUMED INNOCENT UNTIL PROVEN
17 GUILTY. SO YOU HAVE A CONFLICT THERE. AND THE CONFLICT IN
18 YOUR MIND IS THAT YOU STILL WOULD HAVE A BIAS ONE WAY OR THE
19 OTHER?

20 **PROSPECTIVE JUROR:** YES, YOUR HONOR.

21 **THE COURT:** YOU COULDN'T BE FAIR AND NEUTRAL IN THE
22 CASE, RIGHT?

23 **PROSPECTIVE JUROR:** YES.

24 **THE COURT:** OKAY. THANK YOU, MS. MANLAPID.

25 ANYBODY ELSE ON THAT SIDE, OR OUR GENTLEMAN IN THE

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1 BACK, MR. GAUTHIER? NO.

2 OKAY. ALL RIGHT. AS I SAID SEVERAL TIMES, THERE IS
3 THIS PRESUMPTION OF INNOCENCE. AND THE DEFENSE HAS NO BURDEN
4 OF PROOF. THE BURDEN OF PROOF ON ALL QUESTIONS RESTS WITH THE
5 GOVERNMENT, THE PROSECUTOR, OR THE PLAINTIFF, AS WE CALL THEM
6 INTERCHANGEABLY. AND THEY HAVE TO PROVE, BY EVIDENCE BEYOND A
7 REASONABLE DOUBT, THAT THE DEFENDANT IS GUILTY. AND THEY HAVE
8 TO MAKE THAT FINDING AS TO EACH OF THE THREE COUNTS OR CLAIMS
9 HERE.

10 SO JUST TO BE SURE, OTHER THAN THOSE THAT HAVE
11 ALREADY INDICATED DIFFICULTY WITH FAIRNESS, AS FOR THE REST OF
12 YOU, ANYONE FEEL THEY CANNOT FOLLOW THE LAW AS IT RELATES TO
13 THE PRESUMPTION OF INNOCENCE, THE BURDEN OF PROOF AS I HAVE
14 MENTIONED IT? NO. OKAY.

15 IN HEARING THE EVIDENCE IN THIS CASE -- LET ME BACK
16 UP. JUST TO BE SURE, EXCEPT FOR THOSE THAT HAVE ALREADY
17 INDICATED AN INABILITY TO BE FAIR AND IMPARTIAL, GIVEN THE
18 NATURE OF THE TOPIC HERE, IS THERE ANYONE THAT HAS EITHER MORAL
19 OR RELIGIOUS OR ETHNIC BELIEFS, CULTURAL FEELINGS, ABOUT
20 SITTING IN JUDGMENT OF ANOTHER PERSON, SUCH THAT YOU DON'T FEEL
21 YOU CAN BE A JUROR IN ANY CASE AND JUDGE SOMEONE ELSE? NO.
22 OKAY.

23 NOW, IT IS AGAINST THE LAW TO KNOWINGLY DISTRIBUTE
24 AND POSSESS CHILD PORNOGRAPHY. THAT IS THE SHORTHAND NAME FOR
25 THIS. SOME PEOPLE MAY THINK WHAT ABOUT MY FIRST AMENDMENT

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1 DETERMINATION OF GUILT OR LACK OF GUILT --- NOT GUILTY -- IN A
2 CASE LIKE THIS.

3 IS THERE ANYONE HERE THAT FEELS THAT THEY WOULD BE
4 UNCOMFORTABLE HAVING TO SEE, IN A LIMITED FORM OR FASHION --
5 ONLY ENOUGH THAT IS APPROPRIATE FOR THE CASE -- IMAGES OR VIDEO
6 CLIPS ALLEGEDLY DEPICTING MINORS ENGAGED IN SEXUALLY EXPLICIT
7 CONDUCT, THAT ISN'T OTHERWISE ALREADY BIASED?

8 ANYONE? OKAY. LET'S TALK TO THOSE TWO LADIES.

9 MS. KIM HAD HER HAND UP, SO LET'S START WITH HER,
10 JUROR NUMBER 6. SO IF YOU ARE CALLED UPON TO HAVE TO VIEW ON A
11 SCREEN SEVERAL IMAGES OR A NUMBER OF IMAGES, SMALL CLIPS OF 5
12 OR 10 OR 20 SECONDS, ARE YOU GOING TO HAVE A HARD TIME DOING
13 THAT?

14 **PROSPECTIVE JUROR:** YES.

15 **THE COURT:** OKAY. AND IS IT SOMETHING YOU FEEL YOU
16 CAN DO TO DISCHARGE YOUR DUTY, AS UNCOMFORTABLE AS IT MIGHT BE?
17 OR DO YOU FEEL SEEING THOSE KIND OF IMAGES IS GOING TO AFFECT
18 YOU IN SOME PROFOUND MANNER THAT IS GOING TO MAKE IT REALLY
19 HARD?

20 **PROSPECTIVE JUROR:** WELL, IF IT'S NEEDED OF ME, THEN
21 I WILL DO IT. I SIMPLY RAISED MY HAND BECAUSE YOU SAID IF
22 ANYONE IS UNCOMFORTABLE. THAT'S ALL. IF I HAD TO DO IT, THEN
23 I HAVE TO DO IT.

24 **THE COURT:** OKAY. IN MANY CASES, NOT EVEN OTHERS
25 BESIDES CHILD PORNOGRAPHY, THERE ARE IMAGES THAT NEED TO BE

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1 SHOWN, OF BODIES, OR THINGS THAT ARE UNCOMFORTABLE. SO WE
2 ALWAYS ASK THIS QUESTION BECAUSE WE DON'T WANT YOU TO MAKE YOU
3 UNCOMFORTABLE TO THE POINT OF BEING UNFAIR OR GETTING ILL ABOUT
4 IT. BUT YOU COULD PERSEVERE IF ASKED TO DO IT, YES?

5 **PROSPECTIVE JUROR:** YES.

6 **THE COURT:** MS. CATE, I THINK YOU HAD YOUR HAND UP,
7 TOO. WHAT ABOUT YOU? WOULD IT BE UNCOMFORTABLE TO LOOK AT
8 THESE SELECT IMAGES AS PART OF YOUR JOB AS A JUROR IN THIS
9 CASE?

10 **PROSPECTIVE JUROR:** YES, I WOULD FEEL EXTREMELY
11 UNCOMFORTABLE.

12 **THE COURT:** YOU FEEL SOMETHING AS UNCOMFORTABLE AS IT
13 MAY BE, YOU COULD DO IT AND STILL MAINTAIN FAIRNESS IN
14 ASSESSING THE EVIDENCE?

15 **PROSPECTIVE JUROR:** I DON'T THINK I WOULD BE ABLE TO
16 MAINTAIN FAIRNESS.

17 **THE COURT:** OKAY. BECAUSE OF THE TOPIC OF CHILDREN
18 INVOLVED IN ALLEGEDLY SEXUAL MISCONDUCT -- OR SEXUAL CONDUCT,
19 NOT MISCONDUCT -- DO YOU FIND THAT YOU ARE AFFECTED AND
20 UNCOMFORTABLE VIEWING ANY TYPE OF SEXUAL MIS -- I KEEP DOING
21 THAT -- SEXUAL CONDUCT OF OTHERS? YOU KNOW, WHEN THIS COMES UP
22 IN MOVIES OR IN MAGAZINES.

23 **PROSPECTIVE JUROR:** YES.

24 **THE COURT:** THAT ITSELF MAKES YOU UNCOMFORTABLE TO
25 THE POINT OF DOING WHAT?

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1 **PROSPECTIVE JUROR:** IF I'M WATCHING A MOVIE, I WILL
2 TURN IT OFF. I CANNOT VIEW IT.

3 **THE COURT:** OKAY. THANK YOU. I APPRECIATE THAT;
4 MS. CATE.

5 ANYBODY ELSE THAT HASN'T ALREADY EXPRESSED A BIAS OR
6 PREJUDICE, THAT WOULD FEEL UNCOMFORTABLE VIEWING SELECTED
7 IMAGES OR VIDEO CLIPS, THAT WOULD LIKE TO EXPLAIN THAT?

8 LET'S GO TO THE MIDDLE OF THE LEFT-HAND SIDE OF THE
9 COURTROOM. AND THAT'S GOING TO BE MS. FISHER, RIGHT?

10 **PROSPECTIVE JUROR:** YES. I THINK, LIKE, I HAVE JUST
11 MORE OF A QUESTION OF WHEN YOU SAY "LIMITED." LIKE, HOW
12 LIMITED IS IT?

13 IF THIS IS SOMETHING THAT IS -- I MEAN, OBVIOUSLY,
14 THAT IS NOT SOMETHING I WANT TO SEE EVER, EVER, EVER. BUT IF
15 IT'S BLURRED OUT AND THERE IS NOT REALLY MUCH GOING ON, I WOULD
16 PROBABLY BE OKAY. BUT IF THERE WAS SOMETHING THAT IS OVERTLY,
17 LIKE, SEXUAL AND IT'S CHILDREN, THAT WOULD FREAK ME OUT.

18 **THE COURT:** THERE IS GOING TO BE, CERTAINLY, TALK
19 ABOUT SEX ACTIVITY, INCLUDING ANATOMICAL PARTS AND SEX ACTS.
20 THERE ARE GOING TO BE SOME PHOTOS SHOWING WHAT WOULD BE
21 DESCRIBED BY THOSE WORDS, AND SOME VIDEO CLIPS OF 10 SECONDS,
22 APPROXIMATELY, MAYBE A LITTLE LONGER, MAYBE A LITTLE SHORTER,
23 THAT DEMONSTRATE THE WRITTEN DESCRIPTION OF THE ALLEGED CRIME
24 HERE. OKAY.

25 AND THERE WILL BE A WITNESS ON THE STAND, PROBABLY AN

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1 FBI AGENT, THAT WILL EXPLAIN WHAT THEY FOUND, AND
2 CHARACTERIZED, AND THEN WOULD SHOW IT. IT WOULD GO UP, YOU'D
3 SEE IT, IT WOULD GO DOWN, AND WE MOVE ON.

4 I DON'T KNOW THE PRECISE NUMBER. I WOULD SAY
5 VIDEO-WISE WE'RE PROBABLY TALKING FIVE OR SIX CLIPS.
6 PHOTOGRAPH-WISE MAYBE SIMILAR, MAYBE A LITTLE MORE. IT'S
7 REALLY UP TO THE PROSECUTION, BASED ON HOW THE EVIDENCE IS
8 GOING, AS TO WHAT EVIDENCE THEY PUT ON. I'M JUST GUESSING.

9 SO YOU WOULD BE BRIEFLY EXPOSED TO A VARIETY OF
10 SAMPLES THAT YOU HAVE TO SEE IN ORDER TO DETERMINE ARE THESE
11 MINORS, ARE THEY ENGAGED IN SEXUALLY EXPLICIT CONDUCT OR NOT.

12 SO WITH THAT EXPLANATION BEING UNCOMFORTABLE -- AND
13 WE ALL RECOGNIZE THAT.

14 **PROSPECTIVE JUROR:** DEFINITELY UNCOMFORTABLE, YEAH.

15 **THE COURT:** IT'S AN UNCOMFORTABLE TOPIC. THERE IS NO
16 QUESTION ABOUT IT. THE QUESTION IS IS YOUR COMFORT LEVEL SUCH
17 THAT YOU CAN STILL DECIDE THE CASE ON ITS MERITS, ON ITS FACTS,
18 AND NOT BE OVERWHELMED TO THE POINT THAT YOU SORT OF CHECK OUT
19 ILL, WITH SEEING OR HEARING THESE THINGS?

20 **PROSPECTIVE JUROR:** I FEEL IT WOULD BE OVERWHELMING.
21 IF IT'S SOMETHING I'M SEEING, IT WOULD BE HARD TO NECESSARILY
22 BE AS OBJECTIVE. IF IT WAS A CONVERSATION ABOUT IT, THEN IT'S
23 NOT PICTURES RIGHT IN MY FACE, YOU KNOW, FOR ME TO THINK ABOUT,
24 YOU KNOW.

25 **THE COURT:** WHAT YOU HAVE TO DO AS A JUROR IN THIS

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1 CASE WOULD BE TO FIND CERTAIN ELEMENTS. AMONG THOSE WOULD BE
2 VISUAL DEPICTIONS, VIDEO IMAGES, DIGITAL PICTURES, WHATEVER, OF
3 MINORS INVOLVED IN SEXUAL CONDUCT. RATHER THAN TAKE THE WORDS
4 OF THE FBI THAT YEAH, THAT'S WHAT IT IS. SO CAN YOU DO THAT?

5 PROSPECTIVE JUROR: I COULD TRY.

6 THE COURT: OKAY. OKAY. ALL RIGHT.

7 MR. CARLOS: YOUR HONOR, CAN WE HAVE A SIDEBAR,
8 BRIEFLY?

9 THE COURT: YES. I'LL BE RIGHT THERE.

10 (PROCEEDINGS HAD AT SIDEBAR, OUTSIDE THE HEARING OF THE JURY)

11 MR. CARLOS: I VIEWED THE CLIPS YESTERDAY AT THE
12 PROSECUTOR'S OFFICE AND THEY ARE QUITE GRAPHIC. WE ARE TALKING
13 ABOUT PENETRATION OF -- IT IS -- THE WAY IT WAS DESCRIBED BY
14 THE COURT TO THE JURY IS THEY ARE GOING TO HAVE TO SEE
15 SOMETHING. BUT I THINK SHE SHOULD BE TOLD THAT THEY ARE
16 GRAPHIC IMAGES, BECAUSE THAT IS ALL THERE IS TO IT. IF
17 SOMEBODY IS HAVING ISSUES WITH -- I MEAN, THEY THINK THEY ARE
18 GOING TO BE BLURRED OUT. THEY ARE NOT. THERE IS SIGNIFICANT
19 PENETRATION OF YOUNG CHILDREN, AND THE RECORD NEEDS TO BE
20 CLEAR.

21 THE COURT: I WOULD ASSUME SO. THAT IS THE FIRST
22 CASE I HAVE HAD LIKE THIS.

23 MS. GRIFFITH: I THINK YOUR HONOR IS DOING A FAIR JOB
24 OF WHAT THE EVIDENCE COULD BE. SHE IS EXPRESSING HER
25 PARTICULAR STATEMENT. THE JUDGE HASN'T MADE ANY SPECIFIC

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1 SO LET ME GO BACK TO YOU, MS. FISHER, JUST AS A
2 PERSON WHO HAS EXPRESSED DISCOMFORT. I WANT TO BE VERY CLEAR
3 THAT THESE IMAGES, THESE DISCRETE IMAGES THAT WE ARE TALKING
4 ABOUT, ARE GOING TO BE CLEAR DEPICTIONS OF A VARIETY OF SEXUAL
5 ACTIVITY.

6 AND SO, YOU KNOW, THEY WILL BE EXPLICIT IN THAT
7 NATURE, BECAUSE THE JURY IS GOING TO BE GIVEN INSTRUCTIONS,
8 ULTIMATELY, ON WHAT INVOLVES SEXUAL CONDUCT INVOLVING MINORS.
9 AND THE JURY HAS TO DECIDE DOES WHAT I SAW MEET THIS ELEMENT
10 AND THE BURDEN OF THE GOVERNMENT TO PROVE.

11 SO, YOU KNOW, IT WILL BE CLEAR INFORMATION. IT
12 WOULDN'T BE BUBBLES OR THINGS LIKE YOU SEE ON TV, WHERE THEY
13 BLOCK OUT PARTS. IT'S GOING TO BE ALL THERE. SO DOES THAT
14 CHANGE YOUR VIEW OF UNCOMFORTABLE, BUT YOU WILL TRY TO DO YOUR
15 BEST WITH THAT?

16 **PROSPECTIVE JUROR:** IT'S NOW ELEVATED TO VERY
17 UNCOMFORTABLE. I ASSUMED IT WOULD BE CENSORED OUT OR
18 SOMETHING.

19 **THE COURT:** NO CENSORING, BECAUSE THE JURY HAS TO
20 DECIDE THIS ON THE STRICT BASIS OF THE EVIDENCE, NOT WHAT YOU
21 MIGHT SURMISE IS HAPPENING BEHIND THE BUBBLE OR OFF CAMERA OR
22 SOMETHING ELSE LIKE THAT. IT WILL BE THE REAL THING, SO TO
23 SPEAK.

24 SO UNCOMFORTABLE AS ALL OF US WILL BE THAT HAVE TO
25 WATCH IT, DO YOU FEEL -- AS WE HEARD FROM MS. KIM -- THAT YOU

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1 CAN DO IT, YOU'LL DO IT, IT'S YOUR JOB?

2 PROSPECTIVE JUROR: I WILL TRY MY BEST, BUT IT'S VERY
3 UNCOMFORTABLE.

4 THE COURT: HOW ABOUT ANYBODY ELSE? SEEING THIS
5 SEXUAL INFORMATION -- ALLEGED SEXUAL CONDUCT OF MINORS ON A TV
6 OR SCREEN, ARE YOU GOING TO BE UNCOMFORTABLE TO THE POINT OF
7 BEING UNABLE TO SERVE? MS. LOVETT.

8 PROSPECTIVE JUROR: I REALLY JUST NEED FOR YOU TO
9 KIND OF UNPACK THE AGES OF THE CHILDREN. THE ONLY ONE THAT YOU
10 GAVE WAS 12.

11 THE COURT: WELL, MINORS ARE UNDER THE AGE OF 18.
12 AND THERE IS TWO COUNTS INVOLVING MINORS AND ONE INVOLVING A
13 MINOR UNDER 12, ALLEGEDLY.

14 AND THE JURY WOULD HAVE TO DETERMINE IS THAT MINOR
15 UNDER THE AGE OF 12, BY VIRTUE OF THE VISUAL DEPICTION OF WHAT
16 IS SHOWN ON THESE IMAGES.

17 PROSPECTIVE JUROR: SO THAT'S THE ONE THAT IS UNDER
18 12.

19 THE COURT: AND THE REST WOULD BE UNDER 18.

20 PROSPECTIVE JUROR: UNDER 18, BUT NO AGE.

21 THE COURT: NOT THAT I CAN GIVE YOU AT THIS POINT.
22 IT WOULD BE A DETERMINATION OF ARE YOU UNDER 18.

23 WITH THAT DEFINITION, DO YOU FEEL YOU CAN BE FAIR AND
24 IMPARTIAL?

25 PROSPECTIVE JUROR: OH, ABSOLUTELY. I NEEDED SOME

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1 CLARITY AS TO WHAT ARE THE AGES OF THE OTHERS -- 15, 16, 17
2 VERSUS 12. THAT MAKES -- THAT'S HUGE.

3 THE COURT: ALL I CAN GIVE YOU --- BECAUSE I CAN'T
4 GIVE YOU THE EVIDENCE -- IS THAT THERE ARE TWO COUNTS THAT
5 RELATE TO PEOPLE UNDER 18, AND ONE COUNT THAT RELATES TO A
6 PERSON UNDER 12.

7 OKAY. ALL RIGHT. ANYBODY ELSE ON THIS ABILITY TO
8 CONSIDER THE EVIDENCE, WHICH WILL BE DEPICTIONS OF ALLEGED
9 MINORS ENGAGED IN SEXUAL CONDUCT? ALL RIGHT.

10 WE ARE BACK ON THE OTHER SIDE, AND WE ARE WITH --

11 PROSPECTIVE JUROR: MERRITT.

12 THE COURT: OKAY. YES, SIR.

13 PROSPECTIVE JUROR: AS MUCH AS I WOULD LIKE TO BE
14 IMPARTIAL ABOUT THIS, BECAUSE OF A SPECIFIC PERSONAL
15 EXPERIENCE, I THINK SEEING THE VIDEO WOULD BE PROBLEMATIC FOR
16 ME. I AM OKAY TELLING YOU THAT, BUT I PREFER TO DO IT OVER
17 THERE AND NOT IN FRONT OF EVERYONE.

18 THE COURT: WHY DON'T WE HAVE YOU COME ON UP AND
19 WE'LL HEAR FROM YOU BRIEFLY ON THAT. SO COME FORWARD, SIR.
20 (PROCEEDINGS HAD AT SIDEBAR, OUTSIDE THE HEARING OF THE JURY)

21 THE COURT: RIGHT OVER HERE, SIR. SO YOU CAN
22 CERTAINLY BE AS BRIEF AS YOU WANT, BUT YOU HAVE HAD AN
23 EXPERIENCE WHERE YOU WERE A VICTIM --

24 PROSPECTIVE JUROR: NO, NO.

25 THE COURT: -- OR AWARE OF SOMEONE WHO WAS A VICTIM?

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1 **PROSPECTIVE JUROR:** WHEN I WAS IN HIGH SCHOOL, MY
2 BEST FRIEND, HE HAD A SISTER WHO WAS 11. SHE WAS RAPED. AND
3 THE WAY THEY FOUND OUT WAS THE GUY VIDEOTAPED IT. IT WAS HER
4 BABYSITTER. AND HE VIDEOTAPED IT. AND SO WE SAW PARTS OF
5 THAT. AND AS MUCH AS I WOULD LIKE TO BE IMPARTIAL, I THINK
6 THAT WOULD MAKE ME ANGRY AGAIN.

7 **THE COURT:** IT'S KIND OF, LIKE, TOO CLOSE TO HOME.

8 **PROSPECTIVE JUROR:** YEP.

9 **THE COURT:** HOW LONG AGO DID THIS HAPPEN?

10 **PROSPECTIVE JUROR:** PROBABLY-- I AM 30 NOW, SO I WAS
11 19 WHEN THAT HAPPENED. SO 11 YEARS AGO.

12 **THE COURT:** AND WHEN WE TALK ABOUT IT HERE THIS
13 MORNING, ARE THOSE FEELINGS ALREADY COMING BACK? ARE YOU
14 STARTING TO REFLECT ON THAT WHOLE EXPERIENCE?

15 **PROSPECTIVE JUROR:** I MEAN, YEAH. I DEFINITELY
16 THOUGHT OF IT. AND I THINK SEEING THE PICTURES WOULD REALLY
17 DRIVE IT HOME BECAUSE THAT WAS A HUGE PART OF THAT CASE,
18 OBVIOUSLY.

19 **THE COURT:** CLEARLY, CLEARLY.

20 ANY QUESTIONS COUNSEL HAVE OF MR. HERYET (SIC)?

21 **PROSPECTIVE JUROR:** NO, THAT IS NOT ME. I AM
22 MERRITT. I AM GETTING A PHD.

23 **THE COURT:** SORRY. WRONG PAGE. SO YOUR BEST
24 FRIEND'S SISTER.

25 OKAY. ANY OTHER QUESTIONS?

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1 **MS. GRIFFITH:** NO, YOUR HONOR.

2 **THE COURT:** WE WILL CERTAINLY TAKE ALL OF THAT INTO
3 ACCOUNT.

4 (PROCEEDINGS HAD AT SIDEBAR, OUTSIDE THE HEARING OF THE JURY)

5 **THE COURT:** A RELATED QUESTION IN A SENSE, SOMEWHAT
6 INDIRECT BUT RELATED. ANY OF YOU HAVE, YOUR FAMILY OR CLOSE
7 FRIENDS, ANY ENCOUNTERS WITH LAW ENFORCEMENT, WHETHER AS A
8 DEFENDANT, A VICTIM, A WITNESS OF ANY KIND?

9 **MS. GRIFFITH:** YOUR HONOR, BEFORE WE MOVE ON, I
10 BELIEVE WE STOPPED WITH THAT PARTICULAR JUROR. I THOUGHT THERE
11 WAS A COUPLE OTHER HANDS.

12 **THE COURT:** WAS THERE? I'M SORRY. OTHER THAN
13 MR. MERRITT, WAS THERE OTHER HANDS? THANK YOU.

14 **MS. GRIFFITH:** THANK YOU, YOUR HONOR.

15 **THE COURT:** I DIDN'T SEE THEM. MY FAULT. SO LET'S
16 GIVE THE MIKE TO THE FIRST PERSON.

17 **PROSPECTIVE JUROR:** JUROR 46, GARRETT BRUGH. YOUR
18 ORIGINAL QUESTION WAS WHETHER YOU WOULD FEEL UNCOMFORTABLE.

19 **THE COURT:** UNCOMFORTABLE TO THE POINT OF NOT BEING
20 ABLE TO BE FAIR AND IMPARTIAL.

21 **PROSPECTIVE JUROR:** YES. SO AFTER THAT
22 CLARIFICATION, I WOULD BE UNCOMFORTABLE BUT I FEEL LIKE I COULD
23 STILL BE IMPARTIAL.

24 **THE COURT:** WHO ELSE OVER THERE? I THOUGHT I SAW A
25 HAND IN THE SECOND ROW, MS. MANLAPID.

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1 **PROSPECTIVE JUROR:** MANLAPID. AGAIN, YOUR HONOR, I
2 WILL BE EXTREMELY UNCOMFORTABLE WATCHING ANY VIDEO RELATED TO
3 ANY CHILD PORNOGRAPHY. I WILL BE.

4 **THE COURT:** THAT IS OKAY. I ASKED FOR THOSE THAT
5 HADN'T ALREADY EXPRESSED BIAS, AND I THINK WE COVERED THAT, BUT
6 THANK YOU. I UNDERSTAND COMPLETELY.

7 OKAY. ANYBODY ELSE?

8 I AM MOVING ON TO THE NEXT QUESTION. YOU, YOUR
9 FAMILY OR CLOSE FRIENDS HAVE ANY ENCOUNTERS WITH LAW
10 ENFORCEMENT AS A DEFENDANT, AN ARRESTEE, A WITNESS, VICTIM? WE
11 DO HAVE A RESPONDER HERE UP IN THE BACK.

12 MS. HARPER, YES.

13 **PROSPECTIVE JUROR:** SO, OF COURSE, AS A PROSECUTOR I
14 HAD MANY, MANY ENCOUNTERS WITH LAW ENFORCEMENT. BUT IN
15 ADDITION TO THAT, MY HUSBAND WAS A LAW ENFORCEMENT OFFICER FOR
16 30 YEARS.

17 **THE COURT:** OKAY. AND I WON'T ASK IF HE HAD ANY
18 ADVERSE CONSEQUENCES WITH LAW ENFORCEMENT IN THAT SETTING.

19 **PROSPECTIVE JUROR:** AT HOME OR AT WORK?

20 **THE COURT:** (LAUGHTER) YOU HAD LAW ENFORCEMENT
21 COMING AND GOING. BUT THAT FACT ALONE, WHAT SORT OF WORK WAS
22 YOUR HUSBAND DOING IN LAW ENFORCEMENT -- PATROL, DETECTIVE?

23 **PROSPECTIVE JUROR:** HE WORKED FOR THE MUNICIPAL
24 POLICE DEPARTMENT FOR 15 YEARS AND HE WAS ALSO IN THE DA'S
25 OFFICE AS A DISTRICT ATTORNEY INVESTIGATOR, AND HE ALSO

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1 INVESTIGATED SEXUAL CRIMES.

2 THE COURT: OKAY. ALL RIGHT. AND YOU STILL -- EVEN
3 WITH THAT BACKGROUND -- COULD BE FAIR AND IMPARTIAL IF CALLED
4 UPON TO BE A JUROR IN THIS CASE?

5 PROSPECTIVE JUROR: YES.

6 THE COURT: OKAY. ALL LAWYERS HAVE TO SAY YES.
7 OKAY.

8 ANYONE ELSE WHOSE FAMILY, CLOSE FRIEND HAS HAD AN
9 ENCOUNTER WITH LAW ENFORCEMENT AS AN ARRESTEE, WITNESS, VICTIM,
10 DEFENDANT?

11 MS. CATE.

12 PROSPECTIVE JUROR: I HAVE A CLOSE FRIEND.

13 THE COURT: OKAY. AND IS THEIR ENCOUNTER IN THE ROLE
14 OF THE DEFENDANT, VICTIM, WITNESS?

15 PROSPECTIVE JUROR: HE WAS A DEFENDANT.

16 THE COURT: AND HOW LONG AGO DID THIS ENCOUNTER AS A
17 DEFENDANT COME?

18 PROSPECTIVE JUROR: IT WAS WHEN HE WAS A CHILD. SO
19 IF WE COULD TALK IN PRIVATE.

20 THE COURT: WHY DON'T YOU COME ON OVER, MS. CATE.
21 (PROCEEDINGS HAD AT SIDEBAR, OUTSIDE THE HEARING OF THE JURY)

22 THE COURT: COME ON OVER. AND SO COME A LITTLE
23 CLOSER AND TELL US THE FRIEND'S ENCOUNTER WITH LAW ENFORCEMENT.

24 PROSPECTIVE JUROR: HE WAS -- OH, WELL, HE WAS -- HE
25 WAS IN COURT BECAUSE HIS STEP-DAD HAD RAPED HIM AS A CHILD. "I

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1 WASN'T SURE IF THAT WAS RELATED TO THE QUESTION.

2 **THE COURT:** AND HOW MANY YEARS AGO WAS IT THAT THAT
3 WHOLE THING HAPPENED?

4 **PROSPECTIVE JUROR:** I'M NOT TOO SURE OF THE DETAILS,
5 BUT I'M SURE MY FRIEND WAS AROUND TEN YEARS OLD. AND HE IS
6 ABOUT 27 NOW. AND I THINK HIS STEPFATHER IS BEING RELEASED IN
7 A YEAR, FROM JAIL.

8 **THE COURT:** AND YOU WERE FRIENDS AT THE TIME THAT
9 THIS EVENT OCCURRED, OR DURING THE PROSECUTION OF THE --

10 **PROSPECTIVE JUROR:** NO, JUST AFTER. I HAVE BEEN
11 FRIENDS WITH MY FRIEND FOR ABOUT FIVE YEARS NOW.

12 **THE COURT:** AND THEY HAVE SHARED WITH YOU THIS WHOLE
13 EXPERIENCE, INCLUDING THE COURT CASE OR WHATEVER HAPPENED WITH
14 THE POLICE AND ALL OF THAT?

15 **PROSPECTIVE JUROR:** YES.

16 **THE COURT:** AND IS THAT SOMETHING THAT IS GOING TO
17 AFFECT YOUR ABILITY TO BE FAIR, JUST IN GENERAL, IN A CRIMINAL
18 CASE?

19 **PROSPECTIVE JUROR:** YES.

20 **THE COURT:** WE KNOW SPECIFICALLY THE TOPIC HERE IS A
21 PROBLEM FOR YOU. ANY QUESTIONS OF MS. CATE?

22 **MS. GRIFFITH:** WOULD YOU HAVE A BIAS FOR THE
23 GOVERNMENT OR THE DEFENSE WHEN YOU TALK ABOUT IT? IT'S OKAY TO
24 BE HONEST ABOUT IT.

25 **PROSPECTIVE JUROR:** I WOULD HAVE BIAS TOWARDS THE

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1 DEFENDANT.

2 MS. GRIFFITH: A NEGATIVE BIAS?

3 PROSPECTIVE JUROR: NEGATIVE BIAS.

4 THE COURT: ANY QUESTIONS?

5 MR. CARLOS: NO, YOUR HONOR.

6 (PROCEEDINGS HAD IN OPEN COURT, IN THE HEARING OF THE JURY)

7 THE COURT: ANYONE ELSE?

8 MS. KIM. LET'S GET THE MIKE TO YOU. MS. KIM, UP IN
9 THE BOX, JUROR 6. YOU OR SOMEONE CLOSE TO YOU?

10 PROSPECTIVE JUROR: IT WAS ME. IN ADDITION TO BEING
11 A FULL-TIME STUDENT, I ALSO WORK AS A PHARMACY TECHNICIAN AT A
12 PHARMACY. MY PHARMACY HAS BEEN ROBBED MULTIPLE TIMES. I WAS
13 ONLY THERE FOR ONE ENCOUNTER. AND I ONLY MADE A STATEMENT TO
14 THE POLICE ABOUT THE GENTLEMAN, BUT THEY NEVER FOLLOWED UP OR I
15 DIDN'T HAVE TO GO TO COURT OR ANYTHING. SO I DIDN'T KNOW IF
16 THAT WAS RELEVANT.

17 THE COURT: IT'S WHAT THE QUESTION CALLS FOR. SO IN
18 TERMS OF HOW THE POLICE APPROACHED THE ROBBERY YOU WERE
19 INVOLVED IN OR YOU WERE PRESENT FOR, DID YOU FEEL THAT WAS AN
20 OVERALL POSITIVE EXPERIENCE, IN TERMS OF THE POLICE WORK AND
21 NOT THE ROBBERY? OVERALL POSITIVE OR OVERALL NEGATIVE,
22 NEUTRAL?

23 PROSPECTIVE JUROR: I THOUGHT IT WAS SEMI-NEGATIVE
24 BECAUSE HE ASKED FOR MY PHONE NUMBER FOR, LIKE, PROFESSIONAL
25 REASONS, AND THEN HE BASICALLY CALLED ME AND ASKED ME OUT

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1 THAT. MR. IGNACIO.

2 PROSPECTIVE JUROR: YES, YOUR HONOR, TWO THINGS. MY
3 LATE MOTHER WAS A VICTIM OF A PURSE-SNATCHING.

4 THE COURT: OKAY.

5 PROSPECTIVE JUROR: AND ALSO MAYBE FIVE YEARS AGO,
6 DURING THE CHRISTMASTIME, MY HOME WAS BROKEN INTO AND CHRISTMAS
7 GIFTS WERE STOLEN.

8 THE COURT: WERE THE POLICE INVOLVED, LAW ENFORCEMENT
9 OF SOME TYPE INVOLVED IN EACH OF THOSE INCIDENTS?

10 PROSPECTIVE JUROR: YEAH. IN TERMS OF MY MOTHER'S
11 PURSE-SNATCHING, DETECTIVES AND POLICE DID INTERVIEW MY MOTHER.
12 SEE, IT HAPPENED IN A SHOPPING PARKING LOT WHILE SHE WAS
13 WAITING FOR MY SON AND I TO RETURN. SHE DIDN'T HAVE THE KEYS
14 TO THE CAR SO SHE WAS WAITING BY OUR CAR, AND SOME JUVENILES
15 TOOK OFF WITH HER PURSE. AND -- BUT, YOU KNOW, THEY EVENTUALLY
16 WERE APPREHENDED.

17 THE COURT: OKAY. AND WHAT ABOUT THE HOUSE BURGLARY?
18 DID THAT COME WITH SOME --

19 PROSPECTIVE JUROR: THAT WAS JUST PRETTY MUCH A LOSS.
20 THE POLICE CAME TO MY HOUSE, INTERVIEWED ME. WE GOT A LIST OF
21 WHAT ITEMS WERE MISSING, AND THAT WAS ABOUT THE EXTENT. I
22 NEVER HEARD ANYTHING BACK ABOUT ANY OF THE LOST ITEMS, YOU
23 KNOW, COMING UP, OR ANYBODY APPREHENDED FOR THE THEFT.

24 THE COURT: IN TERMS OF THESE EVENTS AND YOUR
25 EXPERIENCE WITH LAW ENFORCEMENT, WOULD YOU SAY IT WAS OVERALL

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1 POSITIVE, OVERALL NEGATIVE, OR MAYBE NEUTRAL?

2 PROSPECTIVE JUROR: I WOULD SAY -- YOU KNOW, I
3 WOULDN'T FAVOR -- GIVE ANY FAVOR TO LAW ENFORCEMENT OTHER THAN,
4 YOU KNOW, I SAW A PROCESS. I EXPERIENCED A PROCESS OF HOW, YOU
5 KNOW, THE LAW ENFORCEMENT INVOLVES THEMSELVES IN THESE TYPES OF
6 THINGS.

7 THE COURT: SO YOU WOULDN'T GIVE THEM ANY FAVOR OR
8 ANY OVERLY FAVORABLE FEELINGS?

9 PROSPECTIVE JUROR: I WOULDN'T GIVE ANY EXTRA WEIGHT,
10 YOU KNOW. I WOULD -- YOU KNOW, LIKE I SAID, I HAVE BEEN IN A
11 JURY SELECTION AND ACTUALLY SERVED ON A JURY ONCE. AND, YOU
12 KNOW, I ALWAYS, YOU KNOW, CLEARED MY MIND AND JUST LISTENED TO
13 WHATEVER WAS PRESENTED AND MADE UP MY MIND FROM THERE.

14 THE COURT: SO NO OVERLY POSITIVE EXTRA CREDIT, NO
15 NEGATIVES, WHERE THEY START OFF WITH ONE FOOT IN THE HOLE?

16 PROSPECTIVE JUROR: RIGHT.

17 THE COURT: THANKS, MR. IGNACIO.

18 ANYBODY ELSE ON THAT SIDE OF THE ROOM OVER THERE? WE
19 HAVE OUR JUROR NUMBER 8, MR. WOOD, WHO IS HIDING BEHIND MY
20 COMPUTER. NO, ACTUALLY, IT'S ME THAT IS CAUSING THE BLOCKAGE.

21 SO, MR. WOOD, LAW ENFORCEMENT CONTACT -- YOU, YOUR
22 FAMILY OR CLOSE FRIENDS?

23 PROSPECTIVE JUROR: YEAH, LET ME MAKE THIS REAL
24 QUICK. I TEND TO BE EXTREMELY RIGHT-SIDED AND I GIVE BIAS TO
25 LAW ENFORCEMENT MOST OF THE TIME. I AM EX-LAW ENFORCEMENT. I

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1 DID DRUG INTERDICTION IN THE U.S. COAST GUARD. I HAVE BEEN
2 VICTIMIZED, AND I AM NOT GOING TO GO INTO GREAT DETAILS, BUT WE
3 HAVE ALL BEEN VICTIMIZED BY MINOR CRIMES OVER THE YEARS. I
4 HAVE FAMILY MEMBERS WHO ARE -- ONE IS AN FBI AGENT; ONE IS A
5 PRIVATE DETECTIVE. AND I AM PRETTY ULTRA CONSERVATIVE, I WOULD
6 SAY, WITH MY PERCEPTIONS AND THE WAY I VIEW THINGS IN THE
7 WORLD.

8 SO AFTER LISTENING TO EVERYTHING AND SITTING HERE
9 THINKING, IT'S KIND OF AT MY CORE BELIEF THAT I DO TAKE SIDES
10 WITH LAW ENFORCEMENT. AND I'M JADED. I'VE WORKED IN TRAUMA
11 FOR YEARS, 13 YEARS IN TRAUMA. AND I THINK MEDICAL WORKERS,
12 YOU KNOW, WE GET SOME LEVEL OF PTSD, SO TO SPEAK, DEALING WITH
13 A LOT OF THINGS THAT ARE UNCOMFORTABLE, THAT A LOT OF PEOPLE
14 WOULDN'T BE ABLE TO DEAL WITH. THAT IS WHERE I'M AT.

15 **THE COURT:** THERE IS A LOT OF LAYERS THERE. FIRST
16 OFF, IN TERMS OF LISTENING TO LAW ENFORCEMENT TESTIMONY, ARE
17 YOU SAYING THAT THEY GET A LITTLE EXTRA CREDIT FROM THE GET-GO,
18 JUST BECAUSE THEY ARE LAW ENFORCEMENT?

19 **PROSPECTIVE JUROR:** I HAVE TO TELL YOU I'M SKEWED,
20 PROBABLY, IN FAVOR OF THEM.

21 **THE COURT:** BECAUSE YOU HAVE NEVER ENCOUNTERED A LAW
22 ENFORCEMENT OFFICER YOU FELT WAS LESS THAN CREDIBLE OR HONEST?

23 **PROSPECTIVE JUROR:** I THINK THE PERCENTAGE IS FAIRLY
24 LOW. AND I FIND THAT WHAT THEY DO AND THEIR EXPERIENCE TENDS
25 TO WEED OUT THE BAD PEOPLE.

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1 **THE COURT:** REALLY? HOW DO WE TELL THAT IN THE
2 COMMUNITY?

3 **PROSPECTIVE JUROR:** WELL, WHAT WE'RE SEEING;
4 ESPECIALLY LATELY.

5 **THE COURT:** DON'T WE LOOK AT THEIR CREDIBILITY?

6 **PROSPECTIVE JUROR:** WELL, WE SHOULD LOOK AT THEIR
7 CREDITABILITY.

8 **THE COURT:** AND WE DON'T SEE ANY DEPICTIONS IN THE
9 COMMUNITY OF LAW ENFORCEMENT CROSSING THE LINE, EVER?

10 **PROSPECTIVE JUROR:** WE DO, SIR. BUT I THINK THAT
11 OVERALL WE HAVE TO REMEMBER TO BALANCE THINGS. THERE IS A LOT
12 OF STUFF IN THE MEDIA RIGHT NOW THAT IS NEGATIVE TOWARD A LOT
13 OF LAW ENFORCEMENT, BUT WE ALSO HAVE TO REALIZE THAT NOT
14 EVERYBODY IS THAT WAY.

15 **THE COURT:** SO IF YOU'RE SITTING AS A JUROR AND A LAW
16 ENFORCEMENT OFFICER COMES IN, AND UNTIL YOU'VE HEARD ABOUT
17 THEIR BACKGROUND, EXPERIENCE, PERCEPTIONS AND WORK ON A CASE,
18 YOU ALREADY ARE SOLD? WHATEVER THEY SAY, YOU'RE ACCEPTING?

19 **PROSPECTIVE JUROR:** PROBABLY 90 PERCENT.

20 **THE COURT:** EVEN THOUGH YOU HAVEN'T HEARD A WORD FROM
21 THEM?

22 **PROSPECTIVE JUROR:** YEAH, I HAVE TO SAY.

23 **THE COURT:** THAT'S YOUR OPINION.

24 **PROSPECTIVE JUROR:** THAT'S WHERE I'M AT. THAT IS WHY
25 I FELT IT WAS WORTH MENTIONING. MY HEAD IS A LITTLE BIT OVER

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1 TO THE RIGHT SIDE.

2 **THE COURT:** CLEARLY. OKAY. ANYBODY ELSE?

3 OUR YOUNG LADY HERE IN FRONT. AND THAT'S GOING TO BE
4 MS. MORALES.

5 **PROSPECTIVE JUROR:** THE ONLY REASON I -- I JUST
6 WANTED TO LET YOU KNOW THAT I DO ENCOUNTER LAW ENFORCEMENT
7 BECAUSE I AM A CPS WORKER, ALSO. SO I DO TALK TO DETECTIVES ON
8 A DAILY BASIS, AND I DO WORK WITH ESCONDIDO PD BECAUSE I WORK
9 OUT OF THE OCEANSIDE WELFARE OFFICE. SO I JUST WANTED TO LET
10 YOU KNOW THAT.

11 **THE COURT:** SURE. WELL, LET'S TAKE IT FROM A VERY
12 GENERAL STANDPOINT. WE'RE GOING TO HAVE LAW ENFORCEMENT
13 OFFICERS TESTIFY. AND EVERY WITNESS IN EVERY CASE STARTS OFF,
14 ACCORDING TO THE LAW, AT THE SAME PLACE. AND THEY TESTIFY, AND
15 THE JURY USUALLY HAS TO DETERMINE WHAT WE CALL THEIR
16 CREDITABILITY, WHICH IS ANOTHER WORD FOR BELIEVABILITY.

17 AND YOU'RE GIVEN A SET OF TOOLS TO ASSESS THEIR
18 BELIEVABILITY, INCLUDING WHETHER OR NOT THEY WERE EVEN THERE AT
19 THE TIME, THEIR ABILITY TO REMEMBER, THEIR BIAS OR PREJUDICE,
20 CONTRARY EVIDENCE. A WHOLE LIST. AND WHAT WE WOULD BE LOOKING
21 FOR IS JURORS THAT DESPITE THEIR RESPECT FOR LAW ENFORCEMENT,
22 THEIR APPRECIATION, OR THEIR DISLIKE -- BECAUSE THEY HAVE HAD
23 BAD ENCOUNTERS -- WHO ARE WILLING TO GIVE, TO PUT THAT WITNESS,
24 THAT LAW ENFORCEMENT WITNESS ON THE SAME MEASURING SCALE AS
25 THEY WOULD ANYBODY ELSE THAT WALKS IN, THE PERSON OFF THE

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1 THIS IS A DIFFERENT EXPERIENCE FOR A LOT OF YOU. AND THIS IS
2 ONLY REALLY ONE OF THE TWO AREAS IN THE ENTIRE SCOPE OF THE
3 GOVERNMENT THAT ALLOWS DIRECT CITIZENS TO PARTICIPATE IN OUR
4 PROCESS. SERVING AS A JUROR IS ONE OF THE CONSTITUTIONAL -- OR
5 HAVING A JURY IS ONE OF THE CONSTITUTIONAL GUARANTEES OUR
6 FOREFATHERS ENVISIONED FOR US. AND THAT JURY IS MADE UP OF
7 CITIZENS LIKE YOU WHO COME IN, LISTEN TO EVIDENCE, AND MAKE A
8 DETERMINATION.

9 IT MIGHT BE A UNIQUE EXPERIENCE TO YOU. WE'LL
10 PROBABLY FIND OUT LATER HOW MANY OF YOU HAVE HAD EXPERIENCES ON
11 JURIES, BUT IT'S A VERY IMPORTANT PART OF THE PROCESS.

12 THE ONLY OTHER PLACE WE GET TO HAVE THIS LEVEL OF
13 DIRECT PARTICIPATION IS IN VOTING. SO YOU'RE DOING YOUR
14 CONSTITUTIONAL PART JUST BY BEING HERE.

15 AND I WOULD LIKE TO SAY, TOO, WE RECOGNIZE THAT THIS
16 IS A DIFFICULT TOPIC. UPON HEARING THE NATURE OF THE CHARGES,
17 UPON GETTING YOUR JURY SUMMONS, YOU PROBABLY WEREN'T EXCITED
18 ANYWAY. I'M SURE SOME OF YOU PROBABLY WANTED A ROOT CANAL MORE
19 THAN YOU WANTED TO SHOW UP HERE THIS MORNING. AND, OF COURSE,
20 IT'S THE ONE DAY THAT IT RAINS, LIKE, THANK YOU VERY MUCH.

21 SO I UNDERSTAND THAT THAT IS DIFFICULT. AND THEN YOU
22 WALKED IN AND YOU HEARD JUDGE BATTAGLIA TALK TO YOU. AND THE
23 FIRST TIME YOU HEARD THAT IT WAS A CHILD EXPLOITATION CASE,
24 YOUR FACES FELL. AND THAT IS UNDERSTANDABLE. AND A LOT OF YOU
25 ARE UNCOMFORTABLE WITH THAT. AND THAT IS OKAY TO BE. THE FACT

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1 THAT YOU DON'T WANT TO BE HERE ON THIS TYPE OF CASE IS OKAY.

2 JUROR NUMBER 1, I'M GOING TO HAND THAT TO YOU. AND
3 ONE OTHER THING I'M GOING TO SAY, TOO. I'M ALWAYS ASKED AT
4 DINNER PARTIES WHAT IS THE BEST WAY TO GET OFF OF JURY DUTY. I
5 CAN NEVER ANSWER THAT QUESTION. I THINK JUDGE BATTAGLIA WOULD
6 BE VERY UPSET IF WE DID.

7 BUT I WILL TELL YOU THAT TALKING TO US AND GIVING US
8 INFORMATION ABOUT YOU IS ONE WAY THAT WE CAN FIND OUT MORE
9 ABOUT YOU. THERE ARE MORE JURORS THAN NOT THAT END UP ON A
10 PANEL BECAUSE THEY SAID NOTHING, BECAUSE THEY THOUGHT NOBODY IS
11 GOING TO PICK ME IF I DON'T SAY ANYTHING.

12 SO WITH THAT, MR. LESCAULT-WOOD.

13 PROSPECTIVE JUROR: LESCAULT-WOOD.

14 MS. GRIFFITH: EXCUSE ME. THANK YOU. IF EVERYBODY
15 WHO LIKED CHILDREN OR WHO HAD CHILDREN IN THEIR LIVES, WHO
16 CARED ABOUT CHILDREN, OR WHO DIDN'T LIKE INDIVIDUALS WHO
17 COMMITTED CHILD EXPLOITATION OFFENSES WAS ABLE TO GET OFF A
18 JURY, WHO WOULD WE HAVE LEFT TO SERVE ON OUR JURY PANEL?

19 PROSPECTIVE JUROR: PROBABLY NO ONE.

20 MS. GRIFFITH: PROBABLY NO ONE, OR PEOPLE WHO DIDN'T
21 MIND THAT. IS THAT A FAIR STATEMENT?

22 PROSPECTIVE JUROR: THAT IS A FAIR STATEMENT.

23 MS. GRIFFITH: MR. BROOKS, WE HAVEN'T HEARD MUCH FROM
24 YOU. WOULD YOU AGREE OR DISAGREE WITH THAT STATEMENT?

25 PROSPECTIVE JUROR: I WOULD AGREE.

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1 AND WE'LL TAKE THE NEXT STEP IN THIS PROCESS. SO THANK YOU AND
2 YOU ARE EXCUSED FOR NOW. JUST BE OUTSIDE AND CLOSE BY.

3 (PROCEEDINGS HAD IN OPEN COURT, OUTSIDE THE HEARING OF THE
4 JURY)

5 THE COURT: THE JURY IS ON ITS BREAK, AND THE DOOR IS
6 NOT YET CLOSED. NOW IT IS. SO LET'S EXAMINE THE POTENTIAL
7 ISSUES FOR CAUSE HERE.

8 MS. GRIFFITH: YOUR HONOR, I'M SORRY. I DIDN'T MEAN
9 TO INTERRUPT YOU. AT SOME POINT IN TIME MR. HOFMAN -- EVEN
10 THOUGH HE HAS MOVED -- IS STILL, OBVIOUSLY, IN OUR ZONE, AND
11 HIS ANXIETY DOESN'T SEEM TO HAVE ALLEVIATED. AND I DON'T KNOW
12 IF YOU WANT TO PRIVATELY, AT SOME POINT IN TIME, CHAT WITH HIM.
13 I NOTICED HE GOT A LITTLE TRUCULENT WITH OUR COURTROOM SECURITY
14 OFFICER, WITH TAKING OFF HIS HAT AND SHOWING HIS BADGE AND
15 STUFF.

16 THE COURT: HE LOOKS LIKE -- I THINK I HAVE HAD HIM
17 BEFORE, FRANKLY. HE SEEMED LIKE A GUY THAT WAS SITTING OVER
18 THERE THAT WAS FREAKING OUT. HE WAS DOING AN IMPRESSION OF
19 KRAMER FROM SEINFELD. ANYWAY, WE WILL GET TO HIM.

20 MS. GRIFFITH: THANK YOU, YOUR HONOR.

21 THE COURT: I AM GOING TO GO DOWN IN ORDER HERE AND
22 MARK THE ONES THAT I HAVE HEARD THINGS FROM, EITHER ECONOMICAL
23 HARDSHIP-WISE, OR BIAS-WISE.

24 WHY DON'T WE START WITH MR. ZAVALA, THE ELEMENTARY
25 SCHOOLTEACHER. WHAT IS THE GOVERNMENT'S POSITION AS TO CAUSE

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1 ON HIM?

2 MS. GRIFFITH: I'M ASSUMING MR. CARLOS IS GOING TO
3 ASK THAT HE BE STRICKEN FOR CAUSE. AND GIVEN HIS STATEMENTS,
4 WE WOULDN'T DISAGREE WITH THAT.

5 THE COURT: MR. ZAVALZA IS OUT. THAT WILL SAVE
6 ASKING MR. CARLOS, BECAUSE I AGREE. NOT GOOD.

7 AS TO CAUSE FOR MS. HARPER, MR. CARLOS?

8 MR. CARLOS: IT'S MY REQUEST, YOUR HONOR. SHE SAID
9 SHE IS A LAWYER AND SHE KNOWS WHAT TO SAY.

10 THE COURT: SHE SAID SHE WOULDN'T ACCEPT HERSELF,
11 EITHER. I THINK THE TENURE OF THE CAREER IS SUCH THAT THE
12 NATURAL IMPLICIT BIAS -- MAYBE EVEN AT A SUBCONSCIOUS LEVEL --
13 IS TOO GREAT. SO WE'LL EXCUSE NUMBER 5.

14 HOLLY KIM, THE FULL-TIME STUDENT IN AUDIOLOGY, WITH
15 CLASSES ON THURSDAY AND FRIDAY. SHOULD WE LET HER GO?

16 MS. GRIFFITH: I WOULD HAVE NO OBJECTION, GIVEN HER
17 SCHEDULE.

18 MR. CARLOS: NO OBJECTION, YOUR HONOR.

19 THE COURT: HOLLY KIM IS OUT.

20 CHRISTOPHER FROEDER, WHO WAS SUBJECT TO FALSE
21 ACCUSATIONS AND IS VERY TROUBLED BY ANYTHING IN THE CRIMINAL
22 FIELD. ANYBODY OBJECT TO LETTING HIM GO?

23 MS. GRIFFITH: WE WOULD NOT OBJECT. WE SUBMIT HIM
24 FOR CAUSE ON HIS STATEMENTS.

25 THE COURT: NUMBER 7 OKAY?

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1 **MR. CARLOS:** THAT'S FINE, YOUR HONOR.

2 **THE COURT:** SO FOUR, FIVE, SIX, AND SEVEN ARE OUT.
3 MOVING TO THE FRONT ROW, MY FAVORITE, MR. WOOD.

4 **MS. GRIFFITH:** I DON'T KNOW. HE MIGHT BE YOUR SECOND
5 FAVORITE.

6 **THE COURT:** HE IS NOT GOING TO PLAY BALL. HE'LL SAY
7 ANYTHING HE CAN TO GET OUT OF IT.

8 **MS. GRIFFITH:** YOUR HONOR, WE SUBMIT FOR CAUSE.

9 **THE COURT:** SO, MR. CARLOS, ANY OBJECTION?

10 **MR. CARLOS:** NO. NO, YOUR HONOR.

11 **THE COURT:** HE IS TOO IMPORTANT WITH HIS JOB, ANYWAY,
12 IN ADDITION TO BEING BIASED.

13 **MR. CARLOS:** ALSO, THE THREE-HOUR DRIVE.

14 **MS. GRIFFITH:** AS AN ISSUE, IF HIS RESIDENCE IS NO
15 LONGER IN THE COUNTY, THAT MIGHT BE AN AB INITIO ISSUE.

16 **THE COURT:** THAT IS TRUE. HE MAY NOT BE
17 REPRESENTATIVE ANYMORE. SO WE WILL LET HIM GO TO ORANGE
18 COUNTY. GOD LOVE HIM.

19 NUMBER 10, MR. BARRY. HE WOULD HAVE TO CLOSE HIS
20 EYES TO LOOK AT THE EVIDENCE. I DON'T THINK HE WOULD BE A
21 SUITABLE JUROR, FRANKLY. ANYBODY OBJECT?

22 **MS. GRIFFITH:** NO OBJECTION FROM THE GOVERNMENT.

23 **MR. CARLOS:** NO OBJECTION.

24 **THE COURT:** SO 10 IS OUT. KYLE FITZPATRICK, THE
25 SOCIAL WORKER WHO WORKS WITH KIDS. ANYBODY FEEL HE IS

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1 INAPPROPRIATE, BASED UPON HIS WORK AND ANSWERS?

2 MS. GRIFFITH: WE WON'T OBJECT IF MR. CARLOS IS GOING
3 TO SUBMIT IT FOR CAUSE.

4 MR. CARLOS: YES.

5 THE COURT: SO 11 IS OUT. NUMBER 11.

6 JASMINE CATE, WHOSE CLOSE FRIEND'S CHILD WAS SUBJECT
7 TO SEXUAL ABUSE. I THINK SHE WOULD BE APPROPRIATE TO EXCUSE.
8 ANYBODY DISAGREE?

9 MS. GRIFFITH: NO, YOUR HONOR. AND FOR THE RECORD,
10 TOO, I WOULD NOTE SHE SAID EARLY ON, IN VOIR DIRE WITH YOU,
11 THAT SHE COULDN'T BE FAIR IN THIS TYPE OF CASE.

12 THE COURT: THAT'S RIGHT. AND THEN LATER THE VICTIM
13 ISSUE CAME UP. 14 IS OUT.

14 15, MR. OLIVIER. HE HAS A WORK-RELATED EXCUSE. HE
15 IS THE FELLA IN THE FAR RIGHT-HAND CORNER BY THE WALL.
16 FINANCIAL HARDSHIP. ANYONE FEEL WE SHOULD EXCUSE HIM FOR
17 HARDSHIP?

18 MR. CARLOS: I REALLY SUBMIT, YOUR HONOR. I DON'T
19 REALLY HAVE ANY ISSUES.

20 MS. GRIFFITH: I THINK AS LONG AS WE'RE GOING TO BE
21 CONSISTENT, THE INDIVIDUALS THROUGHOUT THE PANEL THAT EXPRESSED
22 THEY HAVE FINANCIAL HARDSHIP, I THINK ARE LEGITIMATE. IT DID
23 NOT APPEAR THEY WERE TRYING TO GET OUT OF SERVICE. WE WOULD
24 HAVE NO PROBLEM, YOUR HONOR.

25 THE COURT: IF BOTH SIDES CONCUR, OLIVIER CAN BE

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1 EXCUSED.

2 IGNACIO. HE IS THE GUY THAT HAS THREE DAYS AND THEN
3 HIS COMPENSATION FROM WORK ENDS, HIS WIFE IS UNEMPLOYED, AND HE
4 IS IN TROUBLE. IF WE ARE GOING TO BE CONSISTENT --

5 MS. GRIFFITH: WE WOULD SUBMIT.

6 THE COURT: LET HIM GO?

7 MS. GRIFFITH: YES, YOUR HONOR.

8 MR. CARLOS: YES, YOUR HONOR.

9 THE COURT: SO WE NEVER KNOW IF DELIBERATIONS WOULD
10 SPILL OVER, SO THERE WE GO. WE'LL COME BACK THROUGH FOR YOUR
11 PERSONAL FAVORITES, BUT I WOULD SKIP NEXT TO MS. TUFAGA, THE
12 FINANCIAL HARDSHIP AND SO FORTH.

13 SHE IS THE ONE THAT THANKED THE PROSECUTION FOR ITS
14 SERVICE. I THINK THAT WOULD DESERVE AN EXCUSE FOR CAUSE. WHAT
15 DO YOU-ALL THINK?

16 MS. GRIFFITH: YES, YOUR HONOR.

17 THE COURT: MR. CARLOS?

18 MR. CARLOS: YES, YOUR HONOR.

19 THE COURT: 24, FRANK HERYET. I HAVE HIM MARKED AND
20 ALL I HAVE IS THE WORD "VICTIMS" DOWN.

21 MS. GRIFFITH: YOUR HONOR, IF I COULD SUBMIT. I
22 BELIEVE THAT WAS WHEN YOU HAD MISTAKEN THAT JUROR FOR JUROR
23 NUMBER -- MR. MERRITT. WE ACTUALLY HAVEN'T HEARD FROM
24 MR. HERYET YET.

25 THE COURT: OKAY TO PASS ON THAT ONE, MR. CARLOS?

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1 **MR. CARLOS:** YES, YOUR HONOR.

2 **THE COURT:** THANK YOU. YOU'RE RIGHT.

3 WE HAVE MS. LUGO. SHE HAS THREE DAYS BUT NO MORE,
4 BEFORE PERSONAL HARDSHIP. SHOULD WE LET HER GO?

5 **MS. GRIFFITH:** YES, YOUR HONOR.

6 **MR. CARLOS:** YES, YOUR HONOR.

7 **THE COURT:** OKAY. MICHELLE FISHER. SHE IS THE ONE
8 THAT WILL TRY. AND VIEWING SEEMS TO BE A LITTLE BIT
9 TROUBLESOME FOR HER. WHAT DO YOU THINK, MS. GRIFFITH?

10 **MS. GRIFFITH:** I THINK, YOUR HONOR, TO BE CONSISTENT,
11 SHE BEARS A SIMILAR DISPOSITION AS MR. FITZPATRICK, JUROR
12 NUMBER 11, WHO BOTH PARTIES AGREED FOR CAUSE. SO WE WOULD NOT
13 HAVE AN OBJECTION.

14 **THE COURT:** MR. CARLOS?

15 **MR. CARLOS:** NO, YOUR HONOR.

16 **THE COURT:** 26 IS OUT.

17 MS. KOHLMAN.

18 **MS. GRIFFITH:** SAME THING FROM THE GOVERNMENT.

19 **THE COURT:** I WOULD EXCUSE HER.

20 MR. CARLOS, ANY OBJECTION?

21 **MR. CARLOS:** NO, YOUR HONOR.

22 **THE COURT:** THAT IS NUMBER 28.

23 I SKIP THEN TO -- WELL, MS. MACCARRONE SAID THAT AS
24 LONG AS WE DON'T START EARLIER THAN NINE SHE IS OKAY, BECAUSE
25 SHE AND HER HUSBAND CAN TRADE OFF CHILDCARE. BUT I WILL JUST

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1 PUT HER NAME UP AND YOU TELL ME OKAY OR LET HER GO.

2 MS. GRIFFITH: I WOULDN'T PRESUME TO HAVE A JUROR
3 DICTATE WHAT THE COURT'S SCHEDULE WOULD BE.

4 THE COURT: WE ARE GOING TO START AT NINE EVERY DAY,
5 AND NO EARLIER WITH THE JURY.

6 MR. CARLOS: SHE SEEMED TO SAY THAT IF WE STARTED AT
7 NINE SHE WOULD BE OKAY.

8 THE COURT: SHE'S COOL. OKAY. SO WE'LL RETAIN HER
9 FOR NOW.

10 NUMBER 37 IS JASMINE NGUYEN, WHO HAD A FINANCIAL
11 HARDSHIP WORKING AND ALL THAT STUFF. SHOULD WE LET HER GO?

12 MS. GRIFFITH: YES, YOUR HONOR.

13 MR. CARLOS: SHE IS THE SCIENTIST, RIGHT? WHAT WAS
14 SHE DOING?

15 MS. GRIFFITH: SHE DOES SOME SORT OF EXPERIMENT.

16 THE COURT: SHE HAS AN EXPERIMENT THAT SHE STARTED ON
17 MONDAY. AND, OF COURSE, MONDAY NIGHT THEY CALLED HER TO COME
18 IN. AND THE EXPERIMENT NEEDS TO BE RE-UPPED OR SOMETHING, OR
19 REBOOTED FOR A FOUR-OR-FIVE-DAY PERIOD. SO IF WE KEEP HER, SHE
20 IS GOING TO HAVE TO SCRAP THE EXPERIMENT, APPARENTLY.

21 MR. CARLOS: THAT IS FINE, YOUR HONOR.

22 THE COURT: LET HER GO?

23 MS. GRIFFITH: YES, YOUR HONOR.

24 THE COURT: SO 37 IS GONE.

25 40, BARBARA HAMILTON. THAT IS THE UNFORTUNATE WOMAN

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1 THAT WE SPOKE TO AT SIDEBAR. I SAY LET HER GO.

2 MS. GRIFFITH: WE WOULD SUBMIT.

3 THE COURT: DO YOU REMEMBER, MR. CARLOS, SHE WAS THE
4 SUBJECT OF SEXUAL ABUSE?

5 MR. CARLOS: YES, YOUR HONOR.

6 THE COURT: SO 40 IS OUT. AND MOVING AHEAD,
7 MR. SALCIDO, WHO TOLD US HIS WIFE IS AN ELEMENTARY
8 SCHOOLTEACHER, FBI IS A FRIEND INVOLVED IN SEX TRAFFICKING
9 WORK.

10 MR. CARLOS: HE IS THE ONE WHO SAID HE ACTUALLY SAW
11 THE CHILD PORNOGRAPHY VIDEO.

12 MS. GRIFFITH: THAT IS MR. MERRITT, NUMBER 59.

13 THE COURT: BUT HE EXPRESSED A LEANING TOWARD LAW
14 ENFORCEMENT AND THE PROSECUTION ON THIS. I THINK HE SHOULD BE
15 EXCUSED, BUT I WILL HEAR FROM THE GOVERNMENT ON THAT.

16 MS. GRIFFITH: I THINK, YOUR HONOR, HE WAS PRETTY
17 CLEAR THAT HE STRAIGHT-UP SAID HE'D HAVE A BIAS TO THE
18 GOVERNMENT. I DON'T KNOW IF HE IS REHABILITATABLE AT THIS
19 POINT.

20 THE COURT: MR. CARLOS, ANY OBJECTION TO BEING
21 STRUCK?

22 MR. CARLOS: NO, YOUR HONOR.

23 THE COURT: 43, MORALES.

24 MS. GRIFFITH: WE WOULD SUBMIT ON HER, YOUR HONOR.

25 THE COURT: MOM IS ON LIFE SUPPORT. SHE HAS SIBLINGS

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1 THAT CAN COVER. MR. CARLOS?

2 MR. CARLOS: I MEAN, WITH YOUR MOM ON LIFE SUPPORT, I
3 DON'T THINK YOU WOULD PAY MUCH ATTENTION TO A TRIAL.

4 THE COURT: I THINK HER MIND WOULD BE ELSEWHERE.
5 MORALES IS GONE.

6 44 IS STEVE WILSON. HE IS OKAY UNTIL FRIDAY, AND
7 THEN HE IS IN FINANCIAL TROUBLE.

8 MS. GRIFFITH: WE WOULD SUBMIT.

9 MR. CARLOS: PLUS, HE HAS THE FUNERAL.

10 THE COURT: OH, THE FUNERAL ON FRIDAY.

11 MS. GRIFFITH: YES.

12 THE COURT: SO LET HIM GO?

13 MS. GRIFFITH: YES, YOUR HONOR.

14 THE COURT: MS. SAM. I THINK SHE WOULD BE BOTH ---
15 SHE HAS AN ISSUE BECAUSE SHE IS THE ONE-AND-DONE INSURANCE
16 AGENT WHO DEFINITELY HAS VIEWS. WHAT DO YOU THINK? LET HER
17 GO?

18 MR. CARLOS: MAKE HER STAY TILL THE END AND LET HER
19 GO FOR CAUSE?

20 THE COURT: I WOULD LIKE TO HAVE A LITTLE CIVICS
21 CLASS WITH SOME OF THESE PEOPLE.

22 MR. CARLOS: I HAVE NO OBJECTION TO HER.

23 THE COURT: SHE IS OUT. THAT IS 45.

24 MR. MERRITT, PHD DOING HIS FIELD EXAMS, BEST FRIEND'S
25 SISTER HAD THE ISSUE HE DISCUSSED AT SIDEBAR.

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1 MS. GRIFFITH: WE WOULD SUBMIT, YOUR HONOR.

2 THE COURT: MR. CARLOS?

3 MR. CARLOS: I SUBMIT, YOUR HONOR.

4 THE COURT: OKAY. HE IS STRUCK. HE IS 59.

5 MOVING DOWN, NUMERICALLY, JEROME STEVENS, THREE KIDS,
6 TWO AT HOME. HE IS THE PRINCIPAL CAREGIVER. HIS WIFE WOULD
7 HAVE TO TAKE OFF UNCOMPENSATED. SHOULD WE LET HIM GO?

8 MS. GRIFFITH: YES, YOUR HONOR.

9 MR. CARLOS: YES, YOUR HONOR.

10 THE COURT: STEVENS IS OUT.

11 JOCELYN MANLAPID. SHE HAS MORAL AND SPIRITUAL ISSUES
12 THAT WOULD INTERCEDE IN HER BEING FAIR AND IMPARTIAL. I WOULD
13 PROPOSE WE REJECT HER.

14 MS. GRIFFITH: YOUR HONOR, I WOULD NOTE FOR THE
15 RECORD SHE ALREADY MADE THE DECISION THAT HE IS GUILTY.

16 THE COURT: THAT IS RIGHT. SHE WAS VERY PROFOUND ON
17 THAT.

18 ANY OBJECTION, MR. CARLOS?

19 MR. CARLOS: NO, YOUR HONOR.

20 THE COURT: AND I KNOW WE WILL KEEP AN EYE ON 29. I
21 WANT TO LET HIM DO THE BIOGRAPHICAL. IT'S NOT 29.

22 MS. GRIFFITH: YES, YOUR HONOR.

23 THE COURT: IT IS 29. LET HIM DO THE BIOGRAPHICAL
24 AND LET HIM SPEAK A LITTLE BIT.

25 LET ME REVIEW FOR YOU. FOUR, FIVE, SIX, SEVEN, EIGHT

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1 ARE GONE. TEN, 11, AND 14 ARE GONE. 15, 16, 23, GONE. 25,
2 26, 28 ARE GONE. 37 AND 40 GONE. 42, 43, 44, 45 ARE GONE.
3 52, 54 AND 59 ARE GONE.

4 SO, ANYONE ELSE, MS. GRIFFITH?

5 **MS. GRIFFITH:** YOUR HONOR, CAN I CONFER?

6 **THE COURT:** YES, SURE. OF COURSE.

7 (PAUSE)

8 **MS. GRIFFITH:** YOUR HONOR, I ANTICIPATED MR. CARLOS
9 WOULD OBJECT TO NUMBER 30 OR SUBMIT NUMBER 30 FOR CAUSE, SINCE
10 HE APPEARS TO BE KIND OF A PRIVATE DETECTIVE AND HE SEEMED TO
11 INDICATE THAT HIS BIAS TOWARDS LAW ENFORCEMENT IS FAVORABLE.
12 WE WOULD HAVE NO OBJECTION.

13 **THE COURT:** ALTHOUGH HE HAD A FAVORABLE EXPERIENCE IN
14 THAT EPISODE, BUT WHEN I ASKED HIM ABOUT -- THIS IS PRIOR TO
15 YOUR EXAMINATION, SO I JUST WANT TO MAKE SURE THE RECORD IS
16 CLEAR. WHEN I ASKED HIM ABOUT BEING FAIR AND IMPARTIAL IN THIS
17 CASE, OR ANY BIAS TOWARD THE ESCONDIDO POLICE DEPARTMENT --
18 BIAS IN FAVOR OF, HE SAID NO.

19 SO IF YOU'RE SUPPORTING A CAUSE CHALLENGE THERE,
20 MR. CARLOS, TELL ME MORE.

21 **MR. CARLOS:** WELL, THEY ARE SUPPORTING -- I THINK
22 THEY ARE SUPPORTING MY CAUSE CHALLENGE. I MEAN, HE TOOK IT
23 UPON HIMSELF TO INVESTIGATE AND ACT AS LAW ENFORCEMENT, TRYING
24 TO DO SOME KIND OF DETECTIVE WORK. AND I THINK THAT MIGHT KIND
25 OF MAKE ITS WAY INTO THIS PARTICULAR CASE.

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1 I MEAN, HE'S THE TYPE OF GUY THAT WOULD PROBABLY
2 START LOOKING -- EVEN DESPITE COURT ORDERS, WOULD TAKE IT UPON
3 HIMSELF TO POTENTIALLY INVESTIGATE INTERNET SEARCHES, MEANS
4 OF --

5 THE COURT: ALTHOUGH WE COULD ADMONISH HIM ON THAT.
6 HE SAID THERE WERE THREE DIFFERENT INSTANCES THAT AFFECTED THE
7 PROPERTY OF WHICH HE WAS ON THE BOARD OF DIRECTORS FOR THE
8 HOMEOWNERS ASSOCIATION. AND MY FAMILIARITY WITH THOSE IS THOSE
9 ARE VOLUNTEER-DRIVEN AND IT'S THE VOLUNTEERS THAT DO STUFF. SO
10 I'M ON THE FENCE, FRANKLY.

11 MS. GRIFFITH: YOUR HONOR, FROM THE GOVERNMENT'S
12 PERSPECTIVE, THE FACT THAT HE USED THE TERM "OLD-FASHIONED
13 BOOTS ON THE GROUND" AND "OLD-FASHIONED DETECTIVE WORK" --

14 THE COURT: YOU'RE CONCERNED, TOO?

15 MS. GRIFFITH: YES, YOUR HONOR.

16 THE COURT: IF YOU'RE BOTH CONCERNED, I'M NOT GOING
17 TO EXPRESS MY JUDGMENT IN THIS STANCE. I THINK IT'S CLOSE, AND
18 SO I WILL STRIKE HIM OUT.

19 ANYBODY ELSE FROM THE GOVERNMENT?

20 MS. GRIFFITH: NO, YOUR HONOR.

21 THE COURT: HOW ABOUT FROM THE DEFENSE?

22 MR. CARLOS: NO, YOUR HONOR.

23 THE COURT: NO ONE ELSE. OKAY.

24 SO LET'S DO THIS WITH YOUR APPROVAL. BRING THEM
25 BACK, THANK AND EXCUSE THOSE THAT WE HAVE EXCUSED, BRING THEM

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1 ALL BACK AT 1:00 AND HAVE A LITTLE MORE VOIR DIRE, A FEW MORE
2 GENERAL QUESTIONS, AND GO THROUGH THE BIOGRAPHICALS. I'LL GIVE
3 YOU EACH, AGAIN, TIME TO EXAMINE THE VENIRE AND FOLLOW UP, AND
4 THEN WE'LL DO ANY FINAL CAUSE ISSUES THAT MIGHT POP UP, AS WELL
5 AS YOUR PEREMPTORIES.

6 AND, OF COURSE, KEEP MONITORING HOW MANY PEOPLE WE
7 HAVE STANDING. THERE IS STILL PEOPLE IN THE JURY ROOM WE CAN
8 CALL IF WE RUN SHORT OF ENOUGH TO MAKE IT WORK, BUT THAT WILL
9 BE THE NEXT STEP. SOUND OKAY?

10 MR. CARLOS: YES, YOUR HONOR.

11 MS. GRIFFITH: YES, YOUR HONOR.

12 THE COURT: LET'S BRING THE JURY IN AND TELL THEM WHO
13 IS GONE FOR NOW.

14 (PROCEEDINGS HAD IN OPEN COURT, IN THE HEARING OF THE JURY)

15 THE COURT: WELCOME BACK, FOLKS. IT LOOKS LIKE WE
16 HAVE SEATS FILLED WHERE WE NEED TO HAVE THEM FILLED. WE HAVE
17 GONE THROUGH A PORTION OF THE CHALLENGES THAT POTENTIALLY APPLY
18 TO THE PANEL, DEALING WITH YOUR EXCUSES AND SOME OF THESE
19 SENSITIVE ISSUES.

20 SO I AM GOING TO EXCUSE A FAIR NUMBER OF YOU AT THIS
21 POINT, WITH OUR THANKS FOR YOUR PATIENCE, YOUR CANDOR, AND FOR
22 SHOWING UP TO DO YOUR DUTY HERE. I TRUST THERE WILL BE OTHER
23 CASES THAT WILL BE AVAILABLE FOR YOU TO TRY WHERE YOUR COMFORT
24 LEVEL OR WORK ISSUES ARE NOT AS PREVALENT. SO PLEASE RETURN TO
25 THE JURY ROOM.

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1 IN THE BACK ROW OF THE JURY BOX, MR. FROEDER,
2 MS. KIM, MS. HARPER, AND MR. ZAVALA, YOU FOUR ARE EXCUSED. YOU
3 MAY RETURN NOW TO THE JURY ROOM WITH OUR THANKS. AND HAVE A
4 GOOD DAY. STAY DRY AND DRIVE CAREFUL.

5 MS. CATE, I'M GOING TO HAVE YOU FOLLOW THEM. YOU'RE
6 EXCUSED.

7 AND IN THE FIRST ROW, MR. FITZPATRICK, MR. BARRY AND
8 MR. WOOD, YOU ARE ALL EXCUSED, AS WELL. SO I WILL LET THE
9 THREE OF YOU MAKE YOUR WAY BACK TO THE JURY LOUNGE TO CHECK IN
10 AND SEE IF THERE IS FURTHER JURY SERVICE FOR YOU.

11 **MS. GRIFFITH:** YOUR HONOR, JUROR NUMBER 9.

12 **THE COURT:** MR. ARIAS, YOU ARE STILL THERE. NOT SO
13 FAST. NOT SO FAST. THERE WILL BE OTHER FOLKS EXCUSED, BUT NOT
14 YOU FOR NOW.

15 SO MR. LESCAULT-WOOD, MR. BROOKS, MR. POTTER,
16 MR. ARIAS, MS. SCARCELLA, MR. ALBERTO, YOU ARE ALL STILL IN
17 CONTENTION HERE FOR A SEAT ON THE FINAL JURY. SO THANK YOU AND
18 STAY PUT.

19 MOVING TO THE FIRST ROW THAT IS BEHIND THE
20 PROSECUTORS, MR. OLIVIER AND MR. IGNACIO, WE ARE GOING TO THANK
21 AND EXCUSE THE TWO OF YOU. PLEASE HEAD BACK TO THE JURY
22 LOUNGE.

23 AND MS. GONZALEZ, MS. PEROTTI, MR. SCHWARTZ,
24 MR. FLYNN, MR. GRIGGS, AND MS. -- GIVE IT TO ME AGAIN, AND I
25 WILL REMEMBER IT.

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1 (DAMIAN JACKSON, GOVERNMENT WITNESS, TESTIFIED AS FOLLOWS:)

2 DEPUTY CLERK: PLEASE RAISE YOUR RIGHT HAND.

3 YOU DO SOLEMNLY SWEAR THAT THE EVIDENCE YOU SHALL
4 GIVE IN THE CAUSE NOW BEFORE THE COURT SHALL BE THE TRUTH, THE
5 WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

6 THE WITNESS: YES, MA'AM, I DO.

7 DEPUTY CLERK: THANK YOU. PLEASE TAKE THE STAND.
8 STATE YOUR FULL NAME AND SPELL YOUR LAST NAME FOR THE RECORD.

9 THE WITNESS: DAMIAN JACKSON, D-A-M-I-A-N,
10 J-A-C-K-S-O-N.

11 THE COURT: GO AHEAD, MS. CABRAL.

12 DIRECT EXAMINATION

13 BY MS. CABRAL:

14 Q. GOOD MORNING. I STOLE YOUR THUNDER SAYING YOU ARE
15 ESCONDIDO POLICE DETECTIVE DAMIAN JACKSON. CAN YOU INTRODUCE
16 YOURSELF, PLEASE, TO THE JURY?

17 A. YES. MY NAME IS DETECTIVE DAMIAN JACKSON. I AM A
18 DETECTIVE WITH THE ESCONDIDO POLICE DEPARTMENT, AND I'M ALSO
19 CROSS-SWORN AS A SPECIAL DEPUTY U.S. MARSHAL.

20 Q. HOW LONG HAVE YOU BEEN AN ESCONDIDO POLICE DETECTIVE?

21 A. THIS IS MY 20TH YEAR.

22 Q. HOW MUCH OF THAT 20 YEARS HAVE YOU SPENT INVESTIGATING
23 CRIMES INVOLVING CHILDREN?

24 A. SINCE 2010. SO THIS IS MY EIGHTH YEAR SPECIFICALLY
25 INVESTIGATING CHILD EXPLOITATION.

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1 Q. WHEN YOU SAY "CHILD EXPLOITATION," DOES THAT INCLUDE CHILD
2 PORNOGRAPHY OFFENSES?

3 A. YES.

4 Q. WHAT OTHER LAW ENFORCEMENT JOBS DID YOU HAVE PRIOR TO
5 BECOMING A DETECTIVE?

6 A. I STARTED OFF -- AS ALL SWORN LAW ENFORCEMENT OFFICERS DO
7 WITH OUR AGENCY -- AS A PATROL OFFICER. I WORKED PATROL FOR A
8 NUMBER OF YEARS.

9 AS A PATROL OFFICER, I ALSO WORKED APPROXIMATELY SIX
10 YEAR AS A CANINE HANDLER. I WAS A DOG HANDLER FOR A NUMBER OF
11 YEARS. I SPENT SIX YEARS, AS WELL, ASSIGNED TO OUR SWAT TEAM,
12 WHERE I WAS PRIMARILY THE DOG HANDLER ON THE SWAT TEAM.

13 AND AS A UNIFORMED OFFICER, I WORKED A VARIETY OF
14 ASSIGNMENTS WITH OUR FIELD TRAINING PROGRAM. I WORKED AS A
15 FIELD TRAINING OFFICER. I WAS ALSO AN ACADEMY TRAINING OFFICER
16 AT THE POLICE ACADEMY FOR A NUMBER OF YEARS.

17 Q. AS A DETECTIVE, WHAT DO YOU DO IN YOUR JOB?

18 A. MY DAY-TO-DAY FUNCTION IS INVESTIGATING CRIMINAL ACTS THAT
19 OCCUR IN THE CITY OF ESCONDIDO. AND MY SPECIFIC ASSIGNMENT IN
20 THE FAMILY PROTECTION AND CHILD EXPLOITATION UNIT IS I
21 INVESTIGATE CRIMES AND MATTERS INVOLVING CRIMES AGAINST
22 CHILDREN, THE EXPLOITATION OF CHILDREN ONLINE THROUGH MEANS OF
23 TECHNOLOGY.

24 I ALSO INVESTIGATE CRIMES OF CHILD PORNOGRAPHY AND
25 THE PROLIFERATION OF THAT. AND I ALSO INVESTIGATE CRIMES OF

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1 PHYSICAL ABUSE AGAINST CHILDREN. OUR UNIT WORKS WITH ADULTS,
2 BUT MY FOCUS IN THE UNIT IS PRIMARILY IN CRIMES INVOLVING
3 CHILDREN.

4 Q. HAVE YOU RECEIVED ANY TRAINING BEFORE YOU BECAME A
5 DETECTIVE?

6 A. YES.

7 Q. CAN YOU DESCRIBE THAT?

8 A. YES. I ATTENDED THE BASIC POLICE ACADEMY IN SAN DIEGO
9 COUNTY. I DID A VARIETY OF FORMAL TRAINING COURSES AS A
10 UNIFORMED PATROL OFFICER, SPECIFIC TO INVESTIGATIVE WORK. I
11 ATTENDED THE 40-HOUR CHILD ABUSE INVESTIGATION COURSE.

12 I'VE ALSO DONE SEVERAL HUNDRED HOURS OF FORMALIZED
13 TRAINING WITH RESPECT TO CHILD EXPLOITATION AND CHILD ABUSE,
14 PHYSICAL CRIMES AGAINST CHILDREN, ABUSIVE HEAD TRAUMA,
15 TRAUMATIC INJURY, THE INVESTIGATION OF CRIMINAL ACTS AGAINST
16 CHILDREN, AND A SIGNIFICANT AMOUNT OF COURSE WORK WITH RESPECT
17 TO TECHNOLOGY TO FACILITATE CRIMES AGAINST CHILDREN.

18 Q. SO YOU'VE TALKED ABOUT THOSE TECHNOLOGY CRIMES. WHAT TYPE
19 OF TRAINING HAVE YOU DONE SPECIFICALLY WITH REGARD TO
20 TECHNOLOGY CRIMES?

21 A. IN EARLY 2010, I WAS ASSIGNED TO THE SAN DIEGO INTERNET
22 CRIMES AGAINST CHILDREN TASK FORCE. IT'S KNOWN AS ICAC. WHAT
23 THE ICAC TASK FORCE DOES IS WE INVESTIGATE CRIMES AT THE COUNTY
24 LEVEL THAT INVOLVE CHILDREN AND ANY TYPE OF HIGH TECHNOLOGY
25 CRIME AGAINST A CHILD.

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1 IN THAT, I RECEIVED SPECIALIZED TRAINING AT VARIOUS
2 VENUES AS AN ICAC INVESTIGATOR. THE FORMAL WEEK-LONG COURSE
3 THAT I ATTENDED AS AN ICAC INVESTIGATOR IS IN GREENFIELD, SOUTH
4 CAROLINA. IT GAVE ME THE BASIC FOUNDATION AND PREPARED ME FOR
5 THE WORK OF INVESTIGATING CRIMES AGAINST CHILDREN, AND THE
6 VARIOUS PROTOCOLS AND PROCEDURES THAT ARE MANDATED BY THE
7 DEPARTMENT OF JUSTICE IN THE INVESTIGATION OF THOSE CRIMES.

8 Q. ARE YOU A MEMBER OF ANY PROFESSIONAL ORGANIZATIONS? OTHER
9 THAN YOU MENTIONED ICAC, ARE YOU A MEMBER OF ANY OTHER
10 PROFESSIONAL ORGANIZATIONS WITH REGARD TO INTERNET CRIMES
11 AGAINST CHILDREN?

12 A. WITH RESPECT TO TASK FORCE AFFILIATIONS?

13 Q. CORRECT.

14 A. YES. I AM ALSO ASSIGNED TO THE FBI CHILD EXPLOITATION
15 TASK FORCE HERE IN SAN DIEGO. I HAVE BEEN A MEMBER OF THE
16 CHILD EXPLOITATION TASK FORCE FOR APPROXIMATELY FIVE YEARS. IN
17 THAT CAPACITY, MUCH AS THE SAME IN ICAC WHERE WE ARE
18 SPECIFICALLY TARGETING OFFENSES, TARGETING OFFENDERS AGAINST
19 CHILDREN, ANY TYPE OF TECHNOLOGY TO FACILITATE A CRIME AGAINST
20 A CHILD, USING THE STATE AND FEDERAL RESOURCES THAT ARE
21 ALLOTTED TO US AS A MEMBER OF THE TASK FORCE WORKING WITH THE
22 F.B.I.

23 Q. HAVE YOU EVER GIVEN ANY PRESENTATION ABOUT THE METHODS FOR
24 INVESTIGATING INTERNET CRIMES AGAINST CHILDREN?

25 A. YES. I HAVE BEEN FREQUENTLY CALLED UPON TO PRESENT AT

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1 THE CENTRALIZED DATABASE THAT WE, AS ICAC INVESTIGATORS AND
2 AFFILIATES THROUGHOUT THE COUNTRY AT THE REGIONAL LEVEL, LOOK
3 TO USE AS OUR CLEARINGHOUSE AND KIND OF THE CENTRALIZED AREA
4 FOR DATA AND INFORMATION ON SPECIFIC IDENTIFIED USERS, AS WELL
5 AS SPECIFIC IDENTIFIED CONTENT THAT IS BEING FREELY DISTRIBUTED
6 ON THE NETWORK THAT HAS BEEN FLAGGED BY THE SYSTEM.

7 Q. AND YOU CONDUCTED INVESTIGATIONS USING THE LAW ENFORCEMENT
8 VERSION OF ARES?

9 A. YES.

10 Q. AND LET ME ASK YOU THIS: WHEN YOU ARE SHARING -- WHEN YOU
11 ARE CONDUCTING THESE INVESTIGATIONS, ARE YOU SHARING CHILD
12 PORNOGRAPHY?

13 A. NO.

14 Q. WHY IS THAT?

15 A. THE MAJOR DIFFERENTIATION BETWEEN A STANDARD USER ON THE
16 ARES NETWORK AND OUR LAW ENFORCEMENT USE AND THE SPECIFIC
17 PROGRAM THAT WE USE IS -- THERE IS A FEW THINGS THAT ARE
18 DIFFERENT BETWEEN THEM.

19 FIRST AND FOREMOST, NONE OF OUR DATA IS SHARED. SO
20 WE ARE NEVER, AT ANY POINT, SHARING DATA WITH ANYBODY. IT'S
21 SOLELY A ONE-WAY STREET, IF YOU WILL. SO WE ARE ONLY ABLE TO
22 DOWNLOAD CONTENT FROM OTHER USERS ON THE NETWORK, BUT AT NO
23 POINT ARE WE EVER DISTRIBUTING CONTENT TO ANY USERS.

24 THE MAIN DIFFERENTIATION BETWEEN THE TWO IS THAT OUR
25 PROGRAM FUNCTIONS AS A SINGLE-SOURCE DOWNLOAD ONLY, WHEREAS

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1 WITH OTHER USERS ON THE COMMERCIALIZED VERSION OF IT, IT'S A
2 MULTIPLE-USER PLATFORM, MEANING THAT YOU WILL PULL DOWN DATA
3 FROM MULTIPLE USERS. WHEREAS WITH OUR VERSION IN THE PROGRAM
4 THAT WE USE, IT IS SOLELY AND ONLY A SINGLE-SOURCE CONNECTION.

5 SO WE CAN ONLY CONNECT WITH ONE USER AT ANY GIVEN
6 TIME AND WE CAN ONLY DOWNLOAD CONTENT FROM A SINGLE USER AT ANY
7 GIVEN TIME.

8 Q. AND WHY ARE YOU LOOKING TO ONLY DOWNLOAD FROM ONE USER AT
9 A TIME?

10 A. WELL, THERE IS A NUMBER OF REASONS. PRIMARILY, BECAUSE
11 IT'S CRITICAL FOR US TO IDENTIFY WHO THE USER IS THAT IS
12 DISTRIBUTING THAT CONTENT.

13 SO WE NEED TO BE ABLE TO MAKE ONLY THAT SOLE
14 CONNECTION WITH THAT USER AND ONLY DOWNLOAD CONTENT FROM THAT
15 USER, VERSUS GETTING THE CONTENT FROM MULTIPLE USERS AT A GIVEN
16 TIME. THAT WOULD POTENTIALLY SUBJECT YOU TO HAVING BITS AND
17 PIECES FROM SEVERAL DIFFERENT PEOPLE. AND YOU WOULDN'T
18 ACTUALLY BE IN POSSESSION OF ONE COMPLETED FILE FROM ONE
19 COMPLETED SUSPECT THAT WAS MAKING THAT DATA AVAILABLE FOR
20 DISTRIBUTION ON THE NETWORK.

21 Q. DO YOU HAVE A WAY OF DETERMINING THAT THE INVESTIGATION
22 YOU ARE CONDUCTING IS IN A PARTICULAR GEOGRAPHIC LOCATION?

23 A. YES.

24 Q. WHAT IS THAT?

25 A. ONE OF THE OTHER DIFFERENTIATIONS BETWEEN OUR PROGRAM AND

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1 THE COMMERCIAL PRODUCT IS THAT WHEREAS ON THE COMMERCIAL SIDE
2 OF USING THE NETWORK EACH USER IS ANONYMOUS TO ONE ANOTHER. IN
3 OUR CASE, WHEN WE CONNECT WITH USERS OVER THE NETWORK WITH THE
4 LAW ENFORCEMENT TOOL, IT CAPTURES AND IDENTIFIES THE IP ADDRESS
5 OF THE TARGETS THAT WE ARE MAKING THOSE ACTIVE CONNECTIONS
6 WITH.

7 SO WE WILL GET THE IP ADDRESS OF THE USERS THAT ARE
8 USING THAT NETWORK TO DISTRIBUTE THAT CONTENT. AND THEN WE
9 IDENTIFY THEM GEOGRAPHICALLY BY THEIR IP ADDRESS AND THEN
10 NARROW IT IN FROM THERE.

11 Q. WHAT IS AN IP ADDRESS?

12 A. AN IP ADDRESS IS AN INTERNET PROTOCOL ADDRESS. IT IS
13 PROVIDED TO EACH USER BY THEIR INTERNET SERVICE PROVIDER. SO
14 IF YOU HAD YOUR INTERNET SERVICE THROUGH COX OR AT&T OR
15 SBCGLOBAL, THOSE COMPANIES WILL ISSUE YOU AN IP ADDRESS WHICH
16 IS -- IT'S A SET OF FOUR NUMBERS OR OCTETS, AS THEY ARE
17 REFERRED TO.

18 SO YOU WILL HAVE A SET OF FOUR NUMBERS THAT ARE
19 SEPARATED BY PERIODS. AND WHAT THAT IS IS IT'S A DIGITAL PHONE
20 NUMBER. YOU CAN THINK OF IT AS YOUR COMPUTER'S VERY UNIQUE AND
21 VERY SPECIFIC PHONE NUMBER.

22 SO IN ORDER FOR ANY TRAFFIC OVER THE INTERNET OR ANY
23 OTHER USER TO CONNECT WITH YOU AND YOUR COMPUTER SPECIFICALLY,
24 THEY HAVE TO REFERENCE AND USE THAT VERY SPECIFIC AND VERY
25 UNIQUE IP ADDRESS. SO IF ANY ONE DIGIT IS OFF, THEN IT WILL GO

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1 TO SOME OTHER COMPUTER AND NOT TO YOU.

2 SO IT'S A VERY UNIQUE NUMBER TO EVERY USER.

3 Q. CAN TWO DIFFERENT COMPUTERS BE ASSIGNED THE SAME IP
4 ADDRESS AT THE SAME TIME AND DATE?

5 A. NO.

6 Q. ONCE YOU SIGN ON TO THE LAW ENFORCEMENT VERSION OF THE
7 ARES, DO YOU SEE, BASICALLY, A LIST OF IP ADDRESSES WITH FILES
8 AVAILABLE FOR SHARING?

9 A. YES.

10 Q. AND DO YOU THEN MAKE A CONNECTION TO THOSE?

11 A. YES. SO HOW IT WILL WORK IS ONCE THE PROGRAM IS STARTED
12 UP, YOU WILL GO IN AND YOU WILL SEARCH FOR A SPECIFIC
13 GEOGRAPHIC AREA THAT YOU WANT TO TARGET FOR USERS THAT ARE
14 DISTRIBUTING THAT CONTENT. AND WHAT THAT DOES IS YOU CAN
15 EITHER DO THE SEARCH BY A GEOGRAPHIC WINDOW OR YOU CAN TARGET
16 IT FOR SPECIFIC CITIES.

17 SO IN THIS CASE, IF YOU LOOK AT JUST NORTH COUNTY, IT
18 WILL GIVE YOU A LIST OF IP ADDRESSES GEOGRAPHICALLY WITHIN
19 NORTH COUNTY SAN DIEGO, THAT HAVE BEEN IDENTIFIED AS
20 DISTRIBUTING CHILD PORNOGRAPHY CONTENT.

21 YOU THEN QUERY THOSE IP ADDRESSES THROUGH THE LAW
22 ENFORCEMENT TOOL AND THEN IT RUNS ITS COURSE. OUR COMPUTER
23 THEN TRIES TO MAKE A ONE-ON-ONE CONNECTION WITH THOSE SUSPECT
24 COMPUTERS AT THOSE LISTED IP ADDRESSES.

25 AND THEN ONCE THAT CONNECTION IS MADE, THEN THE

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1 CONNECTION IS HELD. AND WHAT'S DONE IS -- IN COMPUTER TERMS --
2 BETWEEN THE TWO A HANDSHAKE IS DONE WHERE THE TWO RECOGNIZE
3 EACH OTHER. A PATHWAY IS OPENED UP. SPECIFIC CONTENT THAT YOU
4 ARE SEARCHING FOR WITH THAT OTHER USER HAS IT. ONCE THAT
5 HANDSHAKE IS MADE AND THAT WINDOW IS OPEN, THEN THE DATA THEN
6 TRANSFERS BETWEEN THE TWO DEVICES.

7 Q. SO YOU FOCUS YOUR INVESTIGATION GEOGRAPHICALLY?

8 A. YES.

9 Q. SO SOUTHERN CALIFORNIA?

10 A. YES.

11 Q. AND WHEN YOU SAY THAT CONTENT IS EXCHANGED, DOES THAT MEAN
12 YOU CAN THEN DOWNLOAD IT?

13 A. YES. ONCE THOSE QUERIES ARE MADE -- AND IF I COULD BACK
14 UP A LITTLE BIT. WHAT MIGHT PREFACE IT BETTER IS IN OUR SYSTEM
15 WE HAVE A SET DATABASE OF KNOWN FILES OF CHILD PORNOGRAPHY THAT
16 HAVE ALREADY BEEN IDENTIFIED AND KNOWN, IN EXISTENCE. AND WE
17 HAVE VERY SPECIFIC IDENTIFIERS FOR THOSE FILES.

18 SO OUR SYSTEM WILL PUSH -- PUSH THAT DATA OUT TO THE
19 NETWORK THAT WE ARE ACTIVELY SEARCHING FOR THESE FILES, AND
20 THAT'S HOW THOSE USERS ARE IDENTIFIED.

21 ONCE THAT QUERY GOES OUT THAT WE ARE LOOKING FOR VERY
22 SPECIFIC FILE CONTENT, THOSE USERS THAT HAVE THAT FILE CONTENT
23 THAT IS ALREADY KNOWN AND HAS ALREADY BEEN CATALOGED WILL THEN
24 RESPOND BACK THAT THEY HAVE THAT CONTENT AND IT'S AVAILABLE TO
25 DISTRIBUTE TO US. AND AT THAT POINT WE WILL MAKE THAT

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1 CONNECTION WITH THEM.

2 Q. HAVE YOU HEARD OF THE TERM "HASH VALUE"?

3 A. YES.

4 Q. WHAT IS THAT?

5 A. A HASH VALUE IS A MATHEMATICAL ALGORITHM THAT IS GIVEN TO
6 A SPECIFIC FILE. SO ANY DIGITAL FILE THAT IS ON YOUR DEVICE,
7 WHETHER IT'S A TEXT DOCUMENT, A PHOTO, OR A VIDEO, WHAT IS DONE
8 IS THAT FILE IS RUN THROUGH A MATHEMATICAL CRYPTOGRAPHIC
9 ALGORITHM, MEANING IT'S APPLIED AGAINST A VERY LARGE SUM OF
10 NUMBERS THAT MAKE THAT FILE DIGITALLY UNIQUE.

11 WHAT THE HASH VALUE DOES IS IT CATALOGS THAT FILE AND
12 GIVES IT A FINGERPRINT. BUT BECAUSE IT'S SUCH A STRONG
13 MATHEMATICAL COMPUTATION, IT'S A STRING. DEPENDING ON THE TYPE
14 OF HASH THAT IT IS, YOU WILL EITHER GET A 32-DIGIT OR A
15 40-DIGIT IDENTIFIER FOR THAT ONE FILE.

16 AND WHAT THAT IS IS IT'S A GLOBALLY UNIQUE NUMBER FOR
17 THAT FILE THAT IS COMPLETELY STANDALONE AND HAS NONE OF THE
18 OTHER QUALITIES WITH ANY OTHER FILE IN EXISTENCE. A HASH --
19 ONCE A FILE IS HASHED AND AN IDENTIFIER IS GIVEN TO IT, IT'S
20 STRONGER THAN DNA. SO IT'S MATHEMATICALLY --

21 MR. CARLOS: OBJECTION, YOUR HONOR. MOVE TO STRIKE
22 THE LAST STATEMENT. THERE IS NO FOUNDATION.

23 THE COURT: OVERRULED. YOU MAY ANSWER.

24 THE WITNESS: AGAIN, A HASH VALUE ON A DIGITAL FILE
25 IS STRONGER EVIDENCE OF THAT FILE'S VALIDITY THAN HUMAN DNA

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1 WOULD BE.

2 MR. CARLOS: OBJECTION. SAME OBJECTION, YOUR HONOR.

3 THE COURT: OVERRULED. WE HAVE HEARD HIS EXPERTISE.

4 IT'S WITHIN THE BOUNDS OF THAT.

5 Q. (BY MS. CABRAL): THAT ALL SOUNDS REALLY COMPLICATED TO
6 ME.

7 A. SORRY.

8 Q. YOU HAD ME AT CRYPTOGRAPHIC. SO IN SIMPLE TERMS, ARE YOU
9 SAYING A HASH VALUE IS LIKE DNA?

10 A. YES.

11 Q. AND IN LAW ENFORCEMENT, HOW IS THE HASH VALUE USED IN
12 THESE INVESTIGATIONS ON THE ARES NETWORK?

13 A. HASH VALUES ARE CRITICALLY IMPORTANT IN OUR WORK. AS I
14 SAY, AS INVESTIGATORS GLOBALLY -- AND THIS IS INTERNATIONALLY
15 AND AT EVERY LEVEL -- AS FILES OF CHILD PORNOGRAPHY ARE
16 ENCOUNTERED BY LAW ENFORCEMENT, THEY ARE ALL PUSHED THROUGH A
17 FILTER, AND THEY ARE GIVEN THESE HASH VALUES.

18 SO ONCE ANY SINGLE FILE OF CHILD PORNOGRAPHY BECOMES
19 KNOWN TO LAW ENFORCEMENT, IT'S THEN CATALOGED AND PUT INTO
20 NATIONAL AND INTERNATIONAL DATABASES THAT INVESTIGATORS DRAW
21 FROM. AND SO ANY FILE THAT IS IN EXISTENCE THAT IS ALREADY
22 KNOWN AND HAS BEEN INVESTIGATED AT SOME LEVEL BY LAW
23 ENFORCEMENT, HAS THAT VERY UNIQUE HASH VALUE THAT IS THEN INPUT
24 INTO THAT DATABASE THAT WE RELY ON.

25 SO WHAT WE THEN DO IS WHEN WE GO OUT AND WE SEARCH

1 THE NETWORKS FOR THOSE ALREADY ESTABLISHED AND KNOWN, VERIFIED
2 FILES OF CHILD PORNOGRAPHY, ONCE THEY SHOW UP ON THE NETWORK
3 IDENTIFIED AS BEING POSSESSED BY OTHER USERS AND AVAILABLE FOR
4 DISTRIBUTION BY OTHER USERS, THAT'S WHEN THOSE IP ADDRESSES --
5 THOSE SPECIFIC USERS -- ARE THEN IDENTIFIED.

6 AND THEN THEY ARE CATALOGED GEOGRAPHICALLY. AND THAT
7 INFORMATION IS PUSHED OUT TO THE VARIOUS TASK FORCES. AND
8 THOSE ARE THE TARGETS THAT YOU WOULD DRAW FROM BECAUSE YOU
9 ALREADY HAVE THE CERTAINTY -- AGAIN, AT THAT LEVEL OF DNA --
10 THAT THAT SPECIFIC USER AT THAT IP IS IN POSSESSION OF THESE
11 SPECIFIC FILES THAT ARE ALREADY KNOWN TO LAW ENFORCEMENT AS
12 BEING IDENTIFIED AS CHILD PORNOGRAPHY.

13 SO THAT IS WHERE THE HASH VALUES WOULD BE VERY
14 CRITICAL TO OUR WORK.

15 Q. AND YOU MENTIONED NATIONAL DATABASES?

16 A. YES.

17 Q. ARE YOU FAMILIAR WITH THE ACRONYM NCMEC?

18 A. YES.

19 Q. WHAT IS THAT?

20 A. NCMEC IS THE ACRONYM FOR THE NATIONAL CENTER FOR MISSING
21 AND EXPLOITED CHILDREN, IN WASHINGTON DC.

22 THE COURT: N-I-C-N-I-C?

23 THE WITNESS: N-C-M-E-C, NATIONAL CENTER FOR MISSING
24 AND EXPLOITED CHILDREN, YOUR HONOR.

25 THE COURT: THANK YOU.

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1 Q. (BY THE COURT): DOES NCMEC MAINTAIN A DATABASE?

2 A. YES. THEY ARE ONE OF SEVERAL.

3 Q. WHAT ARE SOME OF THE OTHER NATIONAL DATABASES?

4 A. INTERPOL ALSO MAINTAINS A VERY LARGE DATABASE OF FILES
5 THAT ARE TRAVERSED THROUGHOUT EUROPE AND OTHER NATIONS. THERE
6 ARE A COUPLE PRIVATE ENTITIES THAT WORK WITH THE FEDERAL
7 GOVERNMENT AND THE NATIONAL CENTER FOR MISSING AND EXPLOITED
8 CHILDREN THAT ALSO MAINTAIN DATABASES. PROJECT VIC IS A VERY
9 BIG, WELL-KNOWN DATABASE. AND THESE DATABASES OF KNOWN FILES
10 CAN NUMBER INTO THE MILLIONS.

11 Q. LET'S GO AHEAD AND SWITCH GEARS. WITH REGARD TO THIS
12 SPECIFIC INVESTIGATION THAT YOU CONDUCTED IN THIS CASE IN APRIL
13 OF 2015, YOU WERE CONDUCTING AN INVESTIGATION USING THE LAW
14 ENFORCEMENT VERSION OF ARES INTO USERS IN SOUTHERN CALIFORNIA
15 WHO WERE DISTRIBUTING FILES OF CHILD PORNOGRAPHY?

16 A. YES.

17 Q. AND DID YOU LOCATE AN IP ADDRESS IN SOUTHERN CALIFORNIA
18 THAT WAS MAKING THOSE FILES AVAILABLE?

19 A. YES.

20 Q. WHAT WAS THE SPECIFIC IP ADDRESS, IF YOU RECALL?

21 A. AS I RECALL, IT WAS 68.117.105.5.

22 Q. IF I TOLD YOU IT WAS 68.105.117.5 --

23 A. YES.

24 Q. -- DOES THAT SOUND FAMILIAR?

25 A. IT IS REVERSED, YES.

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1 Q. WAS THE IP ADDRESS -- WHAT PEER-TO-PEER NETWORK WAS THE IP
2 ADDRESS USING?

3 A. IT WAS ON THE ARES NETWORK.

4 Q. AND COULD YOU TELL WHAT TYPE OF SOFTWARE THE IP ADDRESS
5 WAS USING?

6 A. YES.

7 Q. WHAT WAS THAT?

8 A. IT WAS IDENTIFIED AS USING LIME PRO SOFTWARE.

9 Q. DID THE USER HAVE THE COMPUTER CONFIGURED TO ALLOW PUBLIC
10 BROWSING OF THE FILES?

11 A. YES.

12 Q. HOW DO YOU KNOW?

13 A. BECAUSE ONCE I MADE A CONNECTION WITH THAT USER AT THAT
14 SPECIFIC ADDRESS, I WAS THEN ABLE TO BROWSE THE CONTENT OF
15 THEIR SHARED FILE, THEIR LIBRARY THAT THEY WERE ACTIVELY MAKING
16 AVAILABLE TO OTHER USERS.

17 Q. WERE YOU ABLE TO SEE THE TITLES OF THE FILES?

18 A. YES.

19 Q. WAS THERE SOMETHING ABOUT THE TITLES OF THE FILES THAT
20 MADE YOU BELIEVE THAT THEY WERE, IN FACT, CHILD PORNOGRAPHY?

21 A. YES.

22 Q. DO YOU RECALL ANY PARTICULAR NAMES?

23 A. THERE WERE NUMEROUS, NUMEROUS FILE NAMES THAT REFERRED
24 SPECIFICALLY TO SEXUAL ACTS WITH CHILDREN. CHILDREN'S AGES
25 WERE REFERENCED. THERE ARE A NUMBER OF UNIVERSAL TERMS IN

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1 CHILD EXPLOITATION -- IN THE INVESTIGATION OF CHILD
2 EXPLOITATION. THERE ARE A NUMBER OF TERMS THAT ARE WIDELY
3 KNOWN AND USED IN THAT GENRE FOR THAT MATERIAL. THERE WERE
4 NUMEROUS THAT I IMMEDIATELY RECOGNIZED.

5 Q. WERE YOU ABLE TO MAKE A CONNECTION TO THAT IP ADDRESS?

6 A. YES, I WAS.

7 Q. DID YOU DOWNLOAD FILES FROM THAT IP ADDRESS?

8 A. YES.

9 Q. AND WHEN WAS THE FIRST TIME YOU DOWNLOADED FILES?

10 A. ON APRIL 16TH OF 2015.

11 Q. WHEN YOU MADE THE CONNECTION TO THE IP ADDRESS ON THAT
12 DATE, DO YOU RECALL HOW MANY FILES YOU SAW AVAILABLE FOR
13 SHARING, APPROXIMATELY?

14 A. WHEN I DID THE FIRST BROWSE OF THAT USER'S LIBRARY, THERE
15 WERE 22 FILES -- 22 VIDEOS AT THAT TIME THAT WERE IDENTIFIED AS
16 BEING AVAILABLE FOR DISTRIBUTION BY THAT USER.

17 Q. AND HOW MANY FILES OF CHILD PORNOGRAPHY WERE DISTRIBUTED
18 FROM THAT IP ADDRESS ON APRIL 16, 2015?

19 A. TWO, AS I RECALL.

20 Q. AND YOU SHOULD HAVE A BINDER IN FRONT OF YOU THERE.

21 A. YES.

22 Q. AND I AM GOING TO ASK YOU TO FLIP TO THE TAB -- THE ITEM
23 BEHIND TAB 16.

24 A. 16?

25 Q. 16. YES. DO YOU RECOGNIZE THAT ITEM?

1 A. YES, I DO.

2 Q. WITHOUT DESCRIBING THE CONTENTS OF IT, CAN YOU TELL US
3 WHAT IT IS?

4 A. WHAT THIS IS IS A SCREEN SHOT OF THE DOWNLOAD IN PROGRESS,
5 THAT I WAS OBTAINING FROM THAT USER ON THAT DATE.

6 Q. AND HOW WAS THAT CAPTURED?

7 A. THE SYSTEM THAT WE USE IS CONFIGURED SO THAT ONCE YOU MAKE
8 THE CONNECTION WITH A SPECIFIC USER AND YOU WERE IN THE PROCESS
9 OF DOWNLOADING WHAT HAS BEEN IDENTIFIED AS A PORNOGRAPHY
10 CONTENT, THE SYSTEM WILL AUTOMATICALLY TAKE A SCREEN SHOT AT
11 DIFFERENT JUNCTURES OF THAT DOWNLOAD, TO SHOW THE DOWNLOADING
12 PROCESS.

13 Q. AND THAT'S WHAT IS EXHIBIT 16?

14 A. CORRECT.

15 MS. CABRAL: THE GOVERNMENT MOVES TO ADMIT
16 EXHIBIT 16.

17 THE COURT: ANY OBJECTION?

18 MR. CARLOS: NO, YOUR HONOR.

19 THE COURT: IT'S RECEIVED. YOU MAY PUBLISH IT, IF
20 YOU WISH.

21 (EXHIBIT NO. 16 MARKED FOR IDENTIFICATION)

22 (EXHIBIT NO. 16 RECEIVED INTO EVIDENCE)

23 THE COURT: IS IT UP ON THE JURY'S SCREEN AS YET?

24 MS. CABRAL: YOU HAVE IT ON THE SCREEN NOW.

25 Q. (BY MS. CABRAL): AND SOMETIMES, EVEN THOUGH THE CONTENT

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1 IS THERE, IT GOES AWAY. SO IF FOR SOME REASON I START
2 REFERRING TO SOMETHING AND YOU DON'T SEE IT THERE, GIVE A RING.

3 LOOKING AT EXHIBIT 16, WHAT IS THE TITLE OF THAT FILE
4 THAT YOU DOWNLOADED?

5 A. THE TITLE OF THIS FILE, IN PARTICULAR, IS 11YR STRIP PTSC
6 SPDA OPVA HUSSY FAN. AND THE LAST WORD IS ACTUALLY CUT OFF,
7 BUT IT'S KINDER KUTJE.

8 THE COURT: CAN YOU SPELL THAT?

9 THE WITNESS: IT'S K-I-N-D-E-R, AND THEN IT TRAILS
10 OFF AT K-U-T-J-E.

11 THE COURT: THANKS.

12 Q. (BY MS. CABRAL): AND DOES IT INDICATE ON THERE SOMEWHERE
13 THE IP ADDRESS FROM WHICH YOU WERE MAKING THE DOWNLOAD?

14 A. YES, IT DOES.

15 Q. AND CAN YOU JUST CIRCLE THAT FOR US?

16 A. (WITNESS COMPLYING)

17 MS. CABRAL: AND FOR THE RECORD, THE CIRCLE WAS
18 AROUND THE IP ADDRESS 68.105.117.5?

19 THE COURT: THE RECORD WILL SO NOTE.
20 YOU WANT A COPY OF THIS SLIDE PRINTED AND WE CAN MAKE
21 IT 16A?

22 MS. CABRAL: THAT WILL BE FINE. GREAT. THANK YOU.

23 THE COURT: SO IT WILL BE AVAILABLE FOR LATER
24 REFERENCE.

25 GO AHEAD AND DO THAT, YOLI.

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1 (EXHIBIT NO. 16A MARKED FOR IDENTIFICATION)

2 (EXHIBIT NO. 16A RECEIVED INTO EVIDENCE)

3 Q. (BY MS. CABRAL): IT LOOKS LIKE FROM THIS IT SHOWS IT'S IN
4 PROGRESS; IS THAT CORRECT?

5 A. CORRECT.

6 Q. DID YOU COMPLETE THE FULL DOWNLOAD OF THAT FILE FROM THE
7 IP ADDRESS?

8 A. YES.

9 Q. ON APRIL 16TH?

10 A. YES, MA'AM.

11 Q. LOOKING AT THAT, THERE IS AN ACRONYM PTSC. IS THAT
12 SOMETHING THAT YOU ARE FAMILIAR WITH?

13 A. YES.

14 Q. AND WHAT, BASED ON YOUR TRAINING AND EXPERIENCE, DOES PTSC
15 SIGNIFY?

16 A. PTSC WOULD BE SHORT FOR PRETEEN SOFT CORE.

17 Q. I WILL WAIT UNTIL THAT IS DONE.

18 THE COURT: YOU ARE GOOD TO MOVE ON, IF YOU WOULD
19 LIKE.

20 Q. (BY MS. CABRAL): AND JUST ON THERE, AS WELL, YOU TALKED
21 ABOUT HASH VALUES. DOES IT SHOW THAT HASH VALUE OF THE FILE?

22 A. YES.

23 Q. WHERE IS THAT LOCATED?

24 A. IT'S LOCATED DIRECTLY BELOW THE FILE TITLE.

25 Q. THANK YOU. I AM GOING TO GO AHEAD AND ASK YOU TO LOOK AT

1 THE ITEM BEHIND TAB 17. DO YOU RECOGNIZE THAT?

2 THE COURT: THE SCREEN IS DOWN, YOLI.

3 THE WITNESS: YES, I DO.

4 THE COURT: WHAT WE DO, LADIES AND GENTLEMEN, IS WE
5 HAVE TO GET THE DOCUMENT IN EVIDENCE BEFORE YOU SEE IT. SO
6 WHEN THE SCREENS GO DARK, IT'S BECAUSE WE ARE GOING TO START ON
7 ANOTHER EXHIBIT. YOU WILL GET IT WHEN IT'S RECEIVED IN
8 EVIDENCE.

9 GO AHEAD, MS. CABRAL.

10 MS. CABRAL: THANK YOU.

11 Q. (BY MS. CABRAL): DO YOU RECOGNIZE THE DOCUMENT BEHIND THE
12 EXHIBIT 17 TAB?

13 A. YES, I DO.

14 Q. WHAT IS THAT?

15 A. THIS IS THE SECOND DOWNLOAD THAT WAS RECEIVED THAT DAY.

16 Q. AND YOU DESCRIBED EARLIER THE PROCESS BY WHICH EXHIBIT 16
17 WAS MADE. IS THAT THE SAME PROCESS FOR THIS?

18 A. YES, MA'AM.

19 MS. CABRAL: THE GOVERNMENT MOVES TO ADMIT
20 EXHIBIT 17.

21 THE COURT: ANY OBJECTION?

22 MR. CARLOS: NO, YOUR HONOR.

23 THE COURT: IT'S RECEIVED AND IT MAY BE PUBLISHED.

24 (EXHIBIT NO. 17 MARKED FOR IDENTIFICATION)

25 (EXHIBIT NO. 17 RECEIVED INTO EVIDENCE)

1 **THE COURT:** LET'S MOVE THE CIRCLE, YOLI. THAT
2 BELONGS TO THE LAST ONE.

3 GO AHEAD, MS. CABRAL.

4 **Q. (BY MS. CABRAL):** WHAT WAS THE NAME OF -- THE TITLE OF
5 THIS FILE?

6 **A.** THIS FILE IS -- THERE IS THREE EXCLAMATION POINTS,
7 FOLLOWED BY DASHA DEBUT RUSSIAN PTHC.

8 **THE COURT:** LET ME GO AHEAD AND GIVE YOU SOME WATER
9 HERE.

10 **THE WITNESS:** I AM GETTING OVER BRONCHITIS.

11 **THE COURT:** I HAVE COUGH DROPS, IF YOU NEED THEM.

12 **THE WITNESS:** THANK YOU, YOUR HONOR.

13 **Q. (BY MS. CABRAL):** ON THE LAST ONE YOU TALKED ABOUT THE
14 ACRONYM PTSC. DO YOU SEE AN ACRONYM ON HERE OF PTHC?

15 **A.** YES.

16 **Q.** ARE YOU FAMILIAR WITH WHAT THAT ACRONYM STANDS FOR?

17 **A.** I AM.

18 **Q.** WHAT IS THAT?

19 **A.** PTHC WOULD BE SHORT FOR PRETEEN HARD CORE.

20 **Q.** AND AGAIN, DOES IT INDICATE THE IP ADDRESS FROM WHICH THIS
21 DOWNLOAD IS MADE?

22 **A.** YES, IT DOES.

23 **Q.** IS IT IN THE SAME LOCATION?

24 **A.** YES, MA'AM.

25 **Q.** DOES IT INDICATE THE HASH VALUE OF THE FILE THAT WAS

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1 DOWNLOADED?

2 A. YES, IT DOES.

3 Q. WHERE WAS THAT LOCATED?

4 A. THAT IS ALSO LOCATED DIRECTLY BELOW THE TITLE.

5 Q. AGAIN, THIS SHOWS A DOWNLOAD IN PROCESS. DID YOU DOWNLOAD
6 THE ENTIRE FILE REPRESENTED HERE?

7 A. YES, MA'AM.

8 Q. DID YOU DOWNLOAD ANOTHER VIDEO FROM THE SAME IP ADDRESS
9 THE FOLLOWING DAY?

10 A. YES.

11 Q. I AM GOING TO ASK YOU --

12 THE COURT: PUT THE SCREEN DOWN.

13 Q. (BY MS. CABRAL): WOULD YOU LOOK, PLEASE, AT EXHIBIT 18?

14 A. YES.

15 (EXHIBIT NO. 18 MARKED FOR IDENTIFICATION)

16 Q. (BY MS. CABRAL): WAS IT CREATED IN THE SAME MANNER AS
17 EXHIBITS 16 AND 17?

18 A. YES.

19 MS. CABRAL: THE GOVERNMENT MOVES TO ADMIT
20 EXHIBIT 18.

21 THE COURT: ANY OBJECTION?

22 MR. CARLOS: NO, YOUR HONOR.

23 THE COURT: IT'S RECEIVED AND MAY BE PUBLISHED. SO
24 SCREENS ARE UP.

25 (EXHIBIT NO. 18 RECEIVED INTO EVIDENCE)

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1 Q. (BY MS. CABRAL): WHAT IS THE TITLE OF THIS FILE THAT YOU
2 DOWNLOADED ON APRIL 17TH?

3 A. THIS FILE IS TITLED NEW HUSSY FAN RUSSIAN 8-YEAR-OLD BLOND
4 GIRL PTHC, PRETEEN HARD CORE.

5 Q. NOW, WHEN YOU WERE READING THE TITLE, YOU SAID 8-YEAR-OLD.
6 IT LOOKS LIKE THE TITLE SAYS YO?

7 A. YES.

8 Q. IN YOUR EXPERIENCE, DOES THE YO SIGNIFY YEARS OLD?

9 A. YES. AND SPECIFIC TO FILES OF CHILD PORNOGRAPHY, AGES
10 WILL BE REFERENCED TYPICALLY AS THE NUMBER, THE AGE AND YEAR OF
11 THE CHILD, THE CONTENT, AND IT WILL BE FOLLOWED BY EITHER YO
12 FOR YEARS OLD OR YR FOR YEAR.

13 Q. DOES IT SHOW THE IP ADDRESS FROM WHICH THIS DOWNLOAD WAS
14 MADE?

15 A. YES.

16 Q. IS IT IN THE SAME LOCATION AS EXHIBIT 16?

17 A. YES.

18 Q. DOES IT SHOW THE HASH VALUE?

19 A. YES.

20 Q. AND WHERE IS THAT?

21 A. AGAIN, DIRECTLY BELOW THE TITLE.

22 Q. AND IT SHOWS THIS DOWNLOAD IS IN PROGRESS. DID YOU
23 COMPLETE THE DOWNLOAD OF THIS FILE?

24 A. YES.

25 Q. NOW, ON THE BOTTOM RIGHT-HAND SIDE THERE IS A BUBBLE THAT

1 SAYS "NEW UPDATES AVAILABLE"?

2 A. YES.

3 Q. IS THAT SOMETHING THAT WAS WITHIN THE ARES PROGRAM?

4 A. NO. THAT WOULD BE FROM -- THAT WAS NATIVE TO THE COMPUTER
5 THAT THIS PROGRAM WAS RUNNING ON AT THAT TIME. WHICH AGAIN, IT
6 JUST POINTS TO THE -- WHEN IT TAKES A SCREEN SHOT IT TAKES A
7 SCREEN SHOT OF WHAT OUR COMPUTER IS DOING AT THAT EXACT MOMENT.

8 Q. SO THAT IS -- THE COMPUTER YOU WERE USING, THE DOWNLOAD
9 WAS UPDATING?

10 A. YES.

11 Q. AFTER THESE DOWNLOADS ON APRIL 16TH AND 17TH, DID THE IP
12 ADDRESS CONTINUE TO HAVE FILES OF CHILD PORNOGRAPHY AVAILABLE
13 FOR DOWNLOAD?

14 A. YES.

15 Q. AND WHEN DID YOU NEXT SEE THE IP ADDRESS MAKING FILES
16 AVAILABLE FOR DISTRIBUTION?

17 A. THE FOLLOWING MONTH, ON MAY 7TH.

18 Q. AND DID YOU MAKE A CONNECTION TO THAT COMPUTER ON MAY 7TH?

19 A. YES.

20 Q. AND DID YOU DOWNLOAD FILES FROM THE COMPUTER ON MAY 7TH?

21 A. YES, I DID.

22 Q. HOW MANY DID YOU DOWNLOAD?

23 A. THERE WERE TWO ADDITIONAL THAT DAY.

24 Q. I AM GOING TO ASK YOU, THEN, TO LOOK AT EXHIBIT 19.

25 (EXHIBIT NO. 19 MARKED FOR IDENTIFICATION)

1 **THE COURT:** ARE THE SCREENS DOWN? YES.

2 **Q. (BY MS. CABRAL):** DO YOU RECOGNIZE THAT EXHIBIT?

3 **A.** YES, I DO.

4 **Q.** WHAT IS IT?

5 **A.** THIS IS A SCREEN SHOT FROM THE FIRST OF THE TWO DOWNLOADS
6 THAT WERE OBTAINED BY ME FROM THIS USER ON MAY 7, 2015.

7 **Q.** WAS IT CREATED IN THE SAME MANNER AS THE OTHERS THAT WE
8 HAD TALKED ABOUT?

9 **A.** YES.

10 **MS. CABRAL:** THE GOVERNMENT MOVES TO ADMIT
11 EXHIBIT 19.

12 **THE COURT:** ANY OBJECTION?

13 **MR. CARLOS:** NO, YOUR HONOR.

14 **THE COURT:** IT'S RECEIVED AND MAY BE PUBLISHED.

15 (EXHIBIT NO. 19 RECEIVED INTO EVIDENCE)

16 **Q. (BY MS. CABRAL):** WHAT'S THE TITLE OF THE FILE THAT YOU
17 HAD DOWNLOADED ON MAY 7TH?

18 **A.** THE TITLE OF THIS FILE, IN PARTICULAR, IS 2010 PTHC OR
19 PRETEEN HARD CORE, BABY SHIVID FRIFAM BABYJ LITTLE-BIT.AVI.

20 **Q.** DOES IT SHOW THE IP ADDRESS?

21 **A.** YES, IT DOES.

22 **Q.** AND IS THAT THE SAME LOCATION AS ON THE OTHER EXHIBITS?

23 **A.** YES.

24 **Q.** DOES IT SHOW THE HASH VALUE?

25 **A.** YES.

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1 Q. AND DID YOU COMPLETE THE DOWNLOAD OF THIS FILE?

2 A. YES, MA'AM.

3 Q. BASED ON YOUR TRAINING AND EXPERIENCE, CAN YOU DOWNLOAD ---
4 CAN FILES BE DISTRIBUTED TO YOU FROM AN IP ADDRESS THAT DOES
5 NOT POSSESS THOSE FILES?

6 A. NO.

7 Q. WE CAN GO AHEAD AND TAKE THE SCREEN DOWN.

8 DID YOU CONDUCT AN INVESTIGATION TO DETERMINE THE
9 PHYSICAL LOCATION ASSOCIATED WITH THIS IP ADDRESS?

10 A. YES.

11 Q. DID YOU KNOW THAT THE IP ADDRESS WAS ASSIGNED TO A
12 PARTICULAR INTERNET SERVICE PROVIDER?

13 A. YES.

14 Q. WHAT WAS THAT?

15 A. COX COMMUNICATIONS.

16 Q. DID YOU OBTAIN RECORDS FROM COX COMMUNICATIONS TO
17 DETERMINE WHO THE SUBSCRIBER WAS?

18 A. YES.

19 Q. AND DID YOU REQUEST THOSE RECORDS SPECIFIC TO THE TIME
20 FRAME DURING WHICH YOU WERE DOWNLOADING?

21 A. YES.

22 Q. AND I ASK YOU TO LOOK AT THAT -- BEHIND TAB 20. DO YOU
23 RECOGNIZE THOSE?

24 A. YES, I DO.

25 Q. WHAT ARE THEY?

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1 **A.** BOTH OF THESE PAGES ARE THE SUBSCRIBER DETAILED RETURNS
2 FROM COX COMMUNICATIONS REFERENCING THIS SPECIFIC IP ADDRESS ON
3 THAT SPECIFIC DAY OF THE FIRST DOWNLOAD.

4 **MS. CABRAL:** THE GOVERNMENT MOVES TO ADMIT
5 EXHIBIT 20.

6 **THE COURT:** ANY OBJECTION?

7 **MR. CARLOS:** NO, YOUR HONOR.

8 **THE COURT:** IT'S RECEIVED AND PUBLISHED AS NEEDED.

9 (EXHIBIT NO. 20 MARKED FOR IDENTIFICATION)

10 (EXHIBIT NO. 20 RECEIVED INTO EVIDENCE)

11 **Q.** **(BY MS. CABRAL):** AND WHAT WAS THE DATE AND TIME FOR WHICH
12 YOU REQUESTED INFORMATION?

13 **A.** I SPECIFICALLY REQUESTED THE SUBSCRIBER INFORMATION FOR
14 THIS IP ADDRESS ON APRIL 16, 2015, AT APPROXIMATELY 1746 HOURS.

15 **Q.** OKAY. SO LOOKING AT THAT, DO YOU SEE THAT ON THE RECORDS
16 SOMEWHERE?

17 **A.** YES.

18 **Q.** IS IT DOWN TOWARDS THE MIDDLE OF THE PAGE?

19 **A.** YES.

20 **Q.** BEHIND THAT I SEE THE INITIALS GMT. DO YOU KNOW WHAT THAT
21 IS?

22 **A.** YES. GREENWICH MEAN TIME OR UNIVERSAL TIME.

23 **Q.** AND WHAT IS UNIVERSAL TIME?

24 **A.** UNIVERSAL TIME IS -- IT'S A GLOBAL UNIVERSAL TIME FOR
25 CALCULATION OF TIMES REFERENCED WHEN THIS IP ADDRESS WOULD HAVE

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1 BEEN ACTIVE.

2 SO THIS WOULD BE THE UNIVERSAL TIME. YOU WOULD
3 CHANGE IT, BASED ON WHAT GEOGRAPHIC LOCATION YOU ARE IN, FROM
4 THE UNIVERSAL TIME STANDARD. SO IN THIS CASE, FOR PACIFIC TIME
5 WITH DAYLIGHT SAVINGS, IT WOULD HAVE BEEN A SEVEN-HOUR
6 DIFFERENCE.

7 Q. SEVEN HOURS WHICH DIRECTION?

8 A. SEVEN HOURS -- UNIVERSAL TIME WOULD BE SEVEN HOURS AHEAD.
9 SO YOU WOULD NEED TO SUBTRACT SEVEN HOURS FROM UNIVERSAL TIME
10 AND THAT WOULD GIVE YOU WHAT PACIFIC TIME WAS AT THAT TIME OF
11 YEAR WITH DAYLIGHT SAVINGS. A LOT TO FOLLOW.

12 Q. THAT IS A LOT TO FOLLOW. ON THIS FIRST PAGE DO YOU SEE
13 THE IP ADDRESS LISTED AS THE ONE THAT YOU WERE LOOKING FOR?

14 A. YES.

15 Q. WHERE DOES THAT SHOW UP?

16 A. IT'S HIGHLIGHTED IN THE BOTTOM LEFT CORNER OF THE FIRST
17 PAGE.

18 Q. OKAY. AND THE DATE RANGE OVER TO THE RIGHT-HAND SIDE, DO
19 YOU SEE WHERE IT SAYS "STARTS AND ENDS"?

20 A. YES.

21 Q. DOES THAT REFLECT THE RANGE OF DATES?

22 A. YES.

23 Q. AND SO FOR THIS IP ADDRESS, IT WAS ASSIGNED DURING THAT
24 RANGE OF DATES; IS THAT CORRECT?

25 A. YES. THIS SPECIFIC IP ADDRESS WAS ASSIGNED TO THIS

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1 SPECIFIC USER DURING THIS VERY SPECIFIC DATE RANGE FROM
2 MARCH 11TH OF 2015 THROUGH APRIL -- OR I'M SORRY -- MAY 22 OF
3 2015, BASED ON THIS INFORMATION FROM COX.

4 Q. DOES THAT COVER THE ENTER DATE RANGE DURING WHICH YOU HAD
5 FILES OF THE CHILD PORNOGRAPHY DISTRIBUTED TO YOU FROM THIS IP
6 ADDRESS?

7 A. YES.

8 Q. I'M GOING TO ASK YOU TO LOOK AT PAGE TWO OF THAT EXHIBIT,
9 PLEASE. DOES IT INDICATE WHO THE SUBSCRIBER WAS?

10 A. YES.

11 Q. WHO WAS THAT?

12 A. PATRICIA CHISHOLM.

13 Q. IN THE COURSE OF YOUR INVESTIGATION, DO YOU KNOW WHO THAT
14 IS?

15 A. YES.

16 Q. WHO IS IT?

17 A. IT'S MR. WALSH'S WIFE.

18 Q. WHAT IS THE ADDRESS LISTED?

19 A. , IN THE CITY OF VISTA, CALIFORNIA.

20 Q. IS THAT WITHIN THE SOUTHERN DISTRICT OF CALIFORNIA?

21 A. YES, MA'AM.

22 Q. AND DO YOU KNOW ANYONE ELSE WHO LIVES AT THAT ADDRESS?

23 A. YES.

24 Q. WHO IS THAT?

25 A. MR. WILLIAM WALSH.

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1 Q. AND HOW DID YOU DETERMINE THAT?

2 A. I DID A DATABASE CHECK OF THE ADDRESS AND WAS ABLE TO
3 DETERMINE THAT THE ONLY TWO LISTED OCCUPANTS OF THAT RESIDENCE
4 WERE MR. WALSH AND HIS WIFE, PATRICIA.

5 Q. DID YOU CONDUCT ADDITIONAL INVESTIGATION REGARDING THAT
6 RESIDENCE?

7 A. YES, I DID.

8 Q. DID YOU, FOR EXAMPLE, CHECK TO DETERMINE IF THERE WERE ANY
9 UNSECURED WIRELESS NETWORKS IN OR AROUND THAT ADDRESS?

10 A. YES.

11 Q. AND WHAT DID YOU LEARN?

12 A. I DETERMINED THAT THERE WERE NOT. THAT THE WIRELESS
13 NETWORK FOR THE RESIDENCE WAS SECURED AND PASSWORD-PROTECTED.

14 Q. WHAT DOES THAT MEAN, "SECURED AND PASSWORD-PROTECTED"? IF
15 SOMEONE WANTED TO ACCESS THE WIFI NETWORK, WHAT WOULD THEY HAVE
16 TO DO?

17 A. IF THE WIFI NETWORK FOR THE RESIDENCE WAS UNSECURED, THEN
18 IT WOULD BE POSSIBLE FOR SOMEONE OUTSIDE THE RESIDENCE TO HAVE
19 LIMITED CONNECTIVITY TO THEIR HOME NETWORK OR THEIR WIFI
20 SIGNAL.

21 IN MOST CASES, THE SIGNAL IS VERY WEAK. YOU WOULD
22 MAYBE BE ABLE TO BE JUST OUTSIDE OF THE RESIDENCE AND STILL GET
23 A SIGNAL. BUT CERTAINLY, IF YOU WERE MUCH FURTHER AWAY FROM
24 THE HOUSE YOU WOULDN'T BE ABLE TO GET A USABLE SIGNAL FROM THAT
25 DEVICE.

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1 Q. WHAT DID YOU DO TO FURTHER YOUR INVESTIGATION REGARDING
2 THE DISTRIBUTION OF CHILD PORNOGRAPHY FROM THAT ADDRESS?

3 A. WELL, ONCE COMPLETING THE SITE SURVEY AND CHECKING THE
4 WIFI AND THE VEHICLES ASSOCIATED WITH THE LOCATION, I THEN
5 OBTAINED A SEARCH WARRANT FOR THAT LOCATION BASED ON THE
6 FINDINGS THAT WE HAD MADE UP TO THAT POINT.

7 Q. AND WAS THAT SEARCH WARRANT FOR EVIDENCE OF CRIMES
8 INVOLVING CHILD PORNOGRAPHY?

9 A. YES. AND THE DISTRIBUTION OF IT, YES.

10 Q. WAS ANYONE HOME AT THE TIME THE SEARCH WARRANT WAS
11 EXECUTED?

12 A. YES.

13 Q. WERE YOU PART OF THE TEAM THAT EXECUTED THE SEARCH
14 WARRANT?

15 A. YES.

16 Q. WHO WAS HOME?

17 A. MR. WILLIAM WALSH.

18 Q. WOULD YOU RECOGNIZE HIM?

19 A. YES.

20 Q. AND COULD YOU GO AHEAD AND EXPLAIN TO THE JURORS WHERE YOU
21 SEE HIM?

22 A. YES. HE IS SEATED IMMEDIATELY TO THE LEFT OF DEFENSE
23 COUNSEL, WEARING THE OLIVE-COLORED SHIRT AND GRAY JACKET.

24 THE COURT: AND THE RECORD WILL REFLECT HE HAS
25 IDENTIFIED MR. WALSH.

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1 WAS CLOSED.

2 Q. DO YOU REMEMBER WHEN YOU WALKED THE AREA OR CHECKED THOSE
3 NETWORKS?

4 A. I WANT TO SAY IT WAS -- THE WARRANT WAS OBTAINED ON THE
5 13TH. IT WAS SERVED ON THE 14TH. I BELIEVE THE 9TH OR THE
6 10TH WOULD HAVE BEEN THE TIME FRAME THAT I WAS OUT THERE
7 PHYSICALLY ON SITE.

8 Q. SO JULY 9TH OR 10TH YOU WOULD HAVE BEEN OUT THERE?

9 A. ROUGHLY AROUND THAT TIME.

10 Q. BEFORE THE SERVICE OF THE SEARCH WARRANT?

11 A. CORRECT. A SEARCH WARRANT WOULDN'T HAVE BEEN SOUGHT IF I
12 HADN'T BEEN ABLE TO CONFIRM THAT THE NETWORK WAS SECURED.

13 Q. AND THE SECURED NETWORK THAT -- I MEAN, YOU ARE TAKING IT
14 INTO ACCOUNT ON THAT PARTICULAR DAY, CORRECT?

15 A. CORRECT.

16 Q. I MEAN, BY NETWORK, IF IT'S WIRELESS, THAT IS DEPENDENT
17 UPON THE ROUTER, I TAKE IT?

18 A. YES.

19 Q. SO YOU'RE NOT NECESSARILY -- I MEAN, YOU HAVE NO WAY OF
20 KNOWING WHETHER OR NOT THAT ROUTER IS THE SAME ROUTER THAT WAS
21 AVAILABLE IN APRIL OF 2015?

22 A. WELL, I DO.

23 Q. YOU DO?

24 A. YES, SIR.

25 Q. AT THE TIME YOU SERVED THE SEARCH WARRANT?

- 1 A. YES.
- 2 Q. YOU KNEW THAT THAT WAS THE ONLY ROUTER THAT WAS AT THAT
- 3 LOCATION?
- 4 A. WELL, THE ROUTER WAS IDENTIFIED. AND THE RETURN THAT WAS
- 5 SUBMITTED TO US OR SENT BACK TO US FROM COX COMMUNICATIONS
- 6 SPECIFICALLY LISTED THE ROUTER THAT THAT IP WAS COMING FROM.
- 7 Q. AND DO YOU REMEMBER THE ROUTER IN THIS PARTICULAR CASE,
- 8 WHICH ONE WAS IT?
- 9 A. I DO.
- 10 Q. DO YOU HAVE IT IN FRONT OF YOU?
- 11 A. DO I HAVE THE ROUTER IN FRONT OF ME?
- 12 Q. NO. DO YOU KNOW THE NAME OF THE ROUTER?
- 13 A. IT WAS A SURFBOARD.
- 14 Q. SURFBOARD. DID IT HAVE ANY IDENTIFICATION ON IT?
- 15 A. IT HAD A SERIAL NUMBER AND A MAC ADDRESS.
- 16 Q. WAS THERE A D-LINK ROUTER AT THE RESIDENCE?
- 17 A. THERE WAS A D-LINK ROUTER, AS I RECALL.
- 18 Q. THAT WAS SEIZED, ALSO?
- 19 A. SEIZED, NO. NOT TO MY KNOWLEDGE. I DIDN'T EXAMINE -- I
- 20 DIDN'T PHYSICALLY EXAMINE ANY ROUTERS.
- 21 Q. ALL RIGHT. SO BACK TO THE PEER-TO-PEER SHARING. SO,
- 22 ESSENTIALLY, CORRECT ME IF I'M WRONG, BUT COMPUTERS HAVE WHAT
- 23 IS CALLED A FIREWALL, WHICH IS THE PROTECTION THAT THEY HAVE?
- 24 A. THEY CAN, YES.
- 25 Q. SO THE PEER-TO-PEER ALLOWS PEOPLE TO BYPASS THAT AND START

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1 Q. AND IT WILL HAVE NAMES OR WHATEVER IT IS. AND IT WILL SAY
2 SECURED OR UNSECURED OR ACTUALLY A LITTLE LOCK OR SOMETHING?

3 A. ESSENTIALLY, YES.

4 Q. WHEN YOU WERE WALKING AROUND AND CHECKING TO SEE WHETHER
5 OR NOT THESE NETWORKS WERE SECURE, YOU DIDN'T CONTACT THE
6 PEOPLE ATTACHED TO THOSE NETWORKS, DID YOU?

7 A. NO.

8 Q. JUST THE FACT THAT THEY SHOWED ON AT LEAST YOUR
9 APPLICATION THAT THERE WAS SOME TYPE OF LOCK OR SOME TYPE OF
10 SECURITY?

11 A. CORRECT.

12 Q. OKAY.

13 A. AND THAT'S JUST ONE STEP.

14 Q. RIGHT.

15 A. AGAIN, IF ANY OF THE NETWORKS IN THAT AREA, OR CERTAINLY
16 JUST OUTSIDE MR. WALSH'S RESIDENCE -- IF THAT SHOWED TO BE
17 UNSECURED, THEN AT THAT TIME FURTHER ACTION WOULD BE NEEDED TO
18 ENSURE, AGAIN, THAT IT WASN'T AN UNSECURED NETWORK.

19 THE LAST THING WE WOULD WANT TO DO IS GO THROUGH THE
20 WRONG PERSON'S DOOR BASED OFF OF AN UNSECURED NETWORK WHEN IT
21 COULD HAVE BEEN SOMEBODY ELSE, YOU KNOW, GAINING ACCESS TO THAT
22 NETWORK. BUT THERE IS ADDITIONAL -- THERE IS ADDITIONAL
23 FACTORS THAT COME INTO PLAY WITH THAT, AS WELL.

24 Q. I UNDERSTAND. THAT WOULD BE PART OF YOUR INVESTIGATION.
25 YOU HAVE TO DO YOUR OWN DUE DILIGENCE TO DETERMINE WHETHER OR

1 NOT THERE IS ANY TYPE OF CIRCUMSTANTIAL EVIDENCE THAT CAN TIE
2 THAT PERSON TO THAT NETWORK?

3 A. YES.

4 Q. AND TIE THAT PERSON ALSO TO THAT COMPUTER, CORRECT?

5 A. CORRECT.

6 Q. AND ALSO TIE THAT PERSON TO ALSO USING THE COMPUTER AT
7 THAT PARTICULAR TIME?

8 A. CORRECT.

9 Q. SO THERE IS A NUMBER OF STEPS THAT YOU HAVE TO GET TO TO
10 GET TO THE ULTIMATE INVESTIGATIVE GOAL, WHICH IS TO PUT THE
11 PERSON AT THE COMPUTER, STRIKING THE KEYS. IS THAT FAIR FOR ME
12 TO SAY?

13 A. IF IT'S POSSIBLE TO DO THAT, THAT IS THE GOAL.

14 Q. BECAUSE, IF NOT, YOU DON'T KNOW WHO WAS STRIKING THE KEYS.
15 YOU CAN'T SAY FOR SURE. THAT'S FAIR FOR ME TO SAY, ALSO?

16 A. AGAIN, IT DEPENDS ON A NUMBER OF FACTORS. IN THE TOTALITY
17 OF THE INVESTIGATION, LOOKING AT EVERYTHING, LOOKING AT ALL THE
18 FACTORS THAT LEAD UP TO THAT POINT, LOOKING AT THE SPECIFIC
19 USER ATTRIBUTION ON THE COMPUTER AND HOW IT'S CONFIGURED, AND
20 THEN YOU COUPLE THAT WITH OTHER ISSUES THAT YOU TAKE INTO
21 ACCOUNT WITH THE INVESTIGATION, THEN YOU BUILD THE TOTALITY OF
22 THAT CASE. AND THAT IS WHAT I WOULD DRAW MY INFERENCE FROM.

23 Q. BUT YOU STILL CANNOT PUT THAT -- YOU WOULDN'T HAVE A PHOTO
24 OF THAT INDIVIDUAL OR A WITNESS TO THAT INDIVIDUAL STRIKING THE
25 KEYS, REGARDLESS OF THE INFORMATION THAT YOU HAD, CORRECT?

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1 A. CORRECT.

2 Q. SO YOU CAN DO YOUR BEST INVESTIGATION THROUGH FORENSIC
3 EVALUATION, THROUGH INTERVIEWING WITNESSES, THROUGH READING
4 CACHE FILES, BACKGROUND INVESTIGATION OF THE INDIVIDUAL YOU
5 SUSPECT, CRIMINAL HISTORY OF THE INDIVIDUAL YOU SUSPECT. BUT
6 AT THE END OF THE DAY YOU ARE STILL LEFT WITH YOUR BEST GUESS
7 AS TO THAT INDIVIDUAL BEING THE PERSON STRIKING THE KEYS,
8 CORRECT?

9 A. THAT'S FAIR.

10 Q. BACK TO THE ROUTER. CLEARLY, YOU KNOW FOR A FACT THERE
11 ARE WAYS TO HACK INTO A LAPTOP COMPUTER, RIGHT?

12 A. I AM SURE THEY ARE AVAILABLE, YES.

13 Q. I MEAN, GENERALLY, WE HAVE THE INTERNET NOW, RIGHT?

14 A. YES. I'M NOT A HACKER, BUT I DON'T -- I WOULDN'T KNOW HOW
15 TO SPECIFICALLY HACK INTO A SYSTEM, BUT I KNOW THAT THEY ARE
16 VULNERABLE, TOO.

17 Q. WOULD IT SURPRISE YOU IF I TOLD YOU THAT JUST A SEARCH FOR
18 HOW TO REMOTELY HACK A LAPTOP TODAY YIELDED 19,500,000 RESULTS?

19 A. IT WOULDN'T SURPRISE ME.

20 Q. SO SOMETHING PEOPLE ARE INTERESTED IN DOING?

21 A. SURE.

22 Q. AND THE SAME THING WITH THE ROUTER BEING THE WAY INTO THE
23 LAPTOP, YOU KNOW, IT'S SOMETHING ELSE THAT PEOPLE ARE
24 INTERESTED IN DOING, CORRECT?

25 A. I THINK THERE ARE SOME CRIMINAL ENTERPRISES OUT THERE AND

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1 **A.** IT WOULD BE HELPFUL BUT, AGAIN, IT WOULD DEPEND ON THE
2 CONTEXT OF WHAT THE PASSWORD WOULD BE NEEDED FOR. IN THE CASE
3 OF EXAMINING THIS COMPUTER, THE PASSWORD WASN'T REQUIRED FOR ME
4 TO BE ABLE TO EXAMINE THE CONTENTS.

5 **Q.** I'M SORRY. BUT AS TO ACCESS TO THAT COMPUTER FOR OTHER
6 PEOPLE OTHER THAN YOURSELF, THE PASSWORDS WOULD BE RELEVANT AND
7 IMPORTANT, CORRECT?

8 **A.** FOR OTHER PEOPLE TO ACCESS THE COMPUTER --

9 **Q.** YES.

10 **A.** -- TO KNOW THE PASSWORD? IT WOULD CERTAINLY BE RELEVANT.
11 AND, AGAIN, THAT IS WHY I INQUIRED.

12 **Q.** RIGHT. YOU WOULD WANT TO KNOW WHO HAS ACCESS TO THIS
13 PARTICULAR COMPUTER BY FINDING OUT WHETHER OR NOT THEY HAD
14 CODES OR THE PASSWORDS?

15 **A.** CORRECT, CORRECT.

16 **Q.** AND YOU'RE CERTAIN, WITHOUT GOING INTO ANY DETAIL, BUT YOU
17 ARE CERTAIN THROUGH YOUR INVESTIGATION THAT YOU EXHAUSTED ALL
18 THE POSSIBILITIES?

19 **MS. CABRAL:** OBJECTION, YOUR HONOR. THIS GOES BEYOND
20 THE SCOPE OF DIRECT.

21 **THE COURT:** SUSTAINED. NEXT QUESTION. IT EXCEEDS
22 THE SCOPE OF WHAT WE COVERED THIS FAR. YOU CAN TAKE IT UP
23 LATER, ONCE WE GET INTO THAT ASPECT OF THINGS.

24 **Q.** **(BY MR. CARLOS):** LET'S GO BACK TO THE 16TH OF APRIL. SO
25 THAT'S THE DAY THAT YOU DID THE ACTUAL DOWNLOADING OF THE

1 VIDEOS THAT YOU HAVE IDENTIFIED HERE?

2 A. THE FIRST DAY.

3 Q. THE FIRST DAY. AND THE OTHER ONE WAS ON THE 7TH OF MAY?

4 A. YES. THE 16TH AND THEN THE 7TH OF MAY.

5 Q. AND THERE WAS A DELAY IN THERE. WAS THERE A PARTICULAR
6 REASON FOR THE DELAY? WHY DIDN'T YOU CHECK THE NEXT DAY OR THE
7 NEXT DAY OR THE NEXT DAY?

8 A. IT'S NOT NECESSARILY UP TO ME. IT'S UP TO BEING ABLE TO
9 CONNECT TO THAT COMPUTER IN PARTICULAR.

10 Q. BUT DID YOU ATTEMPT TO CONNECT TO THE COMPUTER THE NEXT
11 DAY?

12 A. I DON'T RECALL THAT I DID. THE CONNECTION WAS MADE ON THE
13 16TH THROUGH THE 17TH, AND THOSE DOWNLOADS WERE THEN MADE. FOR
14 ANY NUMBER OF -- A VARIETY OF REASONS, YOU MIGHT LOSE
15 CONNECTION WITH THAT COMPUTER, EITHER THEIR END CONNECTION WITH
16 OTHERS AND THERE IS DATA BEING FILTERED DOWN FROM OTHER USERS.

17 AND AGAIN, BECAUSE OUR SYSTEM IS A SINGLE SOURCE
18 ONLY, I'M ONLY CONNECTED TO ONE USER AT ANY GIVEN TIME. SO IF
19 THERE IS ANY HICCUP OR DEVIATION IN THAT CONNECTION, IT'S NOT
20 ENTIRELY UNCOMMON FOR THOSE CONNECTIONS TO BE LOST. AND WE
21 PICK THEM UP -- YOU WOULD HAVE TO PICK THAT BACK UP AT ANOTHER
22 TIME.

23 Q. SO BETWEEN THE 16TH AND THE 7TH, DID YOU HAVE TO RE-UP THE
24 CONNECTION?

25 A. YES.

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1 Q. SO PHYSICALLY YOU WOULD HAVE TO RE-UP THE CONNECTION?

2 A. WELL, I CONNECTED TO IT ON THE 16TH AND 17TH. FROM THE
3 21ST THROUGH THE 26TH, I WAS IN CONNECTICUT AT A TRAINING. AND
4 THEN ONCE I CAME BACK, I WORKED ON SOME OTHER CASEWORK, SAW
5 THAT I HAD SUCCESSFUL DOWNLOADS AT THAT TIME, AND THEN MADE THE
6 QUERY. THE SAME IP ADDRESS POPULATED AS BEING AVAILABLE AND
7 ACTIVELY DISTRIBUTING CONTENT.

8 SO AT THAT TIME I THEN SOUGHT ANOTHER CONNECTION TO
9 THAT SAME USER. AND ONCE THAT CONNECTION WAS ESTABLISHED ON
10 MAY 7TH, THAT'S WHEN THE FINAL -- THE TWO DOWNLOADS WERE MADE.

11 Q. WHEN YOU REESTABLISHED THAT CONNECTION, DOES THE PERSON
12 HAVE TO BE ACTIVELY -- ON THE OTHER END -- HAVE TO BE ACTIVELY
13 USING THE SOFTWARE AND UP AND RUNNING IN ORDER TO MAKE THAT
14 CONNECTION?

15 A. YES.

16 Q. SO WHAT WOULD THAT REQUIRE ON THAT SIDE?

17 A. THAT WOULD REQUIRE THE USER ACTIVATING -- GETTING ACCESS
18 TO THE COMPUTER, ACTIVATING THAT PROGRAM, LAUNCHING THAT
19 PROGRAM, AND THEN ENGAGING IN THE DISTRIBUTION OF THE FILES OR
20 PULLING DOWN FILES FROM OTHER USERS AT THE SAME TIME.

21 Q. SO TO USE A DIFFERENT ANALOGY, THE PERSON WOULD HAVE TO BE
22 ON THE COMPUTER, ON THE INTERNET, AND MAYBE ACTIVELY SEARCHING
23 FOR THINGS, RIGHT?

24 A. WELL, THE SYSTEM WOULDN'T RUN ON ITS OWN. SO IT DOESN'T
25 HAVE A REMOTE FEATURE WHERE YOU CAN JUST TIME IT AND HAVE IT

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1 Q. AND WERE YOU INVOLVED IN A SEARCH WARRANT THAT WAS
2 CONDUCTED ON A RESIDENCE ON JULY 14TH OF 2015?

3 A. YES, MA'AM.

4 Q. AND BACKING UP REAL QUICK, HOW MANY SEARCH WARRANTS HAVE
5 YOU ASSISTED ON IN YOUR ENTIRE CAREER, EITHER YOU AS THE LEAD
6 OR YOU ASSISTING?

7 A. I WOULD SAY AT LEAST 100.

8 Q. AND HOW MANY WARRANTS, IF YOU COULD ESTIMATE, HAVE YOU
9 BEEN ON SINCE JULY 14TH OF 2015?

10 A. MY BEST ESTIMATE WOULD BE ABOUT 25.

11 Q. OKAY. GOING BACK TO JULY 14TH OF 2015, WAS THIS
12 PARTICULAR RESIDENCE LOCATED IN VISTA, CALIFORNIA?

13 A. YES, MA'AM.

14 Q. IS THAT LOCATED IN THE SOUTHERN DISTRICT OF CALIFORNIA?

15 A. YES, MA'AM.

16 Q. AND YOU SAID YOU WERE PART OF THE SEARCH TEAM. SO HOW
17 MANY OTHERS WERE INVOLVED WITH THE SEARCH TEAM?

18 A. I DON'T RECALL HOW MANY, BUT I KNOW THERE WERE SEVERAL.

19 Q. AND HOW IS IT THAT WHEN YOU ARE CONDUCTING A SEARCH DO YOU
20 DECIDE WHAT ROLES EVERYBODY IS GOING TO HAVE DURING THE SEARCH
21 WARRANT?

22 A. WHEN THE CASE AGENT NOTIFIES US THAT THERE IS GOING TO BE
23 A SEARCH AT A PARTICULAR RESIDENCE, WE WILL TYPICALLY CONDUCT A
24 BRIEF SO WE UNDERSTAND WHERE THE LOCATION IS AND WHEN WE INTEND
25 TO CONDUCT THE SEARCH WARRANT. AND WE WILL ALSO DISCUSS WHAT

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1 WE HAVE TO FORCE ENTRY. WE TRY TO AVOID THAT, IF WE CAN. AND
2 ON THIS PARTICULAR OCCASION IT WAS, FOR LACK OF A BETTER TERM,
3 PRETTY STANDARD PROCEDURE. UNEVENTFUL.

4 Q. WHEN YOU WERE PART OF THE SEARCH TEAM, DO YOU REMEMBER HOW
5 MANY INDIVIDUALS OR OCCUPANTS WERE AT THE HOME AT THAT TIME?

6 A. JUST ONE.

7 Q. AND DO YOU KNOW WHO THAT PERSON IS?

8 A. MR. BILL WALSH.

9 Q. DO YOU SEE HIM SITTING IN THE COURTROOM TODAY?

10 A. YES, MA'AM.

11 Q. CAN YOU IDENTIFY HIM BY AN ARTICLE OF CLOTHING HE IS
12 WEARING?

13 A. YES, MA'AM. HE IS WEARING A DARK--GRAY-COLORED JACKET AND
14 MAYBE A GREEN SHIRT, SEATED AT THE DEFENSE TABLE.

15 THE COURT: THE RECORD WILL REFLECT HE HAS IDENTIFIED
16 THE DEFENDANT.

17 MS. GRIFFITH: THANK YOU, YOUR HONOR.

18 Q. (BY MS. GRIFFITH): SO HE WAS THE ONLY INDIVIDUAL THAT WAS
19 AT THE HOME BESIDES THE OFFICERS WHO WERE THERE TO EXECUTE THE
20 SEARCH?

21 A. YES, MA'AM.

22 Q. OR THE INDIVIDUALS.

23 WHEN YOU GET INTO THE HOUSE, WHAT IS IT THAT YOU DO
24 AT THAT POINT IN TIME, OR DOES IT DEPEND ON WHAT THE SEARCH
25 TEAM IS DOING?

1 BELIEVED TO BE RELEVANT, WE WILL CALL UP EVIDENCE TECHNICIANS
2 TO COME UP AND EITHER PHOTOGRAPH OR IDENTIFY WHAT WE'VE
3 DISCOVERED.

4 Q. AND DID YOU HELP ASSIST IN THE PHYSICAL SEARCH OF THE
5 RESIDENCE IN VISTA ON JULY 14, 2015?

6 A. YES, MA'AM.

7 Q. AND WAS THERE ANYTHING UNUSUAL THAT YOU RECALL HAPPENING
8 ON THAT PARTICULAR DAY?

9 A. NO, NOTHING UNUSUAL.

10 Q. TOWARDS THE END OF THE SEARCH, AFTER THE SEARCH OF THE
11 HOME HAD BEEN CONDUCTED, WERE YOU AWARE THAT THE DEFENDANT
12 ENGAGED IN A CONVERSATION WITH DETECTIVE JACKSON?

13 A. YES.

14 Q. WERE YOU SITTING THERE, PRESENT, FOR THE ENTIRETY OF THE
15 CONVERSATION?

16 A. NO.

17 Q. WHAT WOULD YOU SAY WOULD BE THE DEMEANOR OR TONE OF
18 DETECTIVE JACKSON AND THE DEFENDANT?

19 A. DETECTIVE JACKSON'S TONE IS USUALLY PRETTY MELLOW. AND I
20 RECALL SPECIFICALLY THAT PARTICULAR DAY IT WAS A VERY CASUAL
21 CONVERSATION BETWEEN THE TWO OF THEM.

22 Q. IS IT FAIR TO SAY IF THERE HAD BEEN SOMETHING UNUSUAL
23 ABOUT THAT, YOU WOULD HAVE REMEMBERED THAT?

24 A. YES.

25 Q. AND AFTER YOU PARTICIPATED IN THE SEARCH OF THE HOME ON

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1 A. YES, SIR.

2 Q. HE WAS THE ONLY PERSON THERE?

3 A. YES, SIR.

4 Q. DO YOU RECALL WHAT HE WAS WEARING THAT DAY?

5 A. I DON'T RECALL, NO.

6 Q. BUT HE WAS, AS FAR AS YOU COULD TELL -- STRIKE THAT.

7 YOU HAVE GONE THROUGH A NUMBER OF THESE SEARCHES OF
8 RESIDENCES, RIGHT?

9 A. YES, SIR.

10 Q. IT'S FAIR TO SAY PEOPLE REACT DIFFERENTLY TO A BUNCH OF
11 POLICE COMING INTO THEIR HOUSE?

12 A. ABSOLUTELY, YES, SIR.

13 Q. PEOPLE GET UPSET AND A LITTLE VIOLENT, MAYBE?

14 A. YES, SIR.

15 Q. NOTHING ABOUT WHAT MR. WALSH DID WAS UNCOOPERATIVE OR
16 VIOLENT?

17 A. NO, SIR. THAT'S CORRECT.

18 Q. HE SEEMED TO COMPLY WITH ALL THE REQUESTS THAT LAW
19 ENFORCEMENT MADE?

20 A. YES, SIR.

21 Q. DID HE ATTEMPT TO FLEE THE RESIDENCE?

22 A. NO, SIR.

23 MS. GRIFFITH: THANK YOU. NOTHING FURTHER.

24 THE COURT: ANYTHING ELSE?

25 MS. GRIFFITH: NO, YOUR HONOR. I HAVE NO FURTHER

1 Q. DO YOU MAKE ANY INDEPENDENT DECISION OR DECIDE HOW OR WHEN
2 THE EVIDENCE IS GOING TO BE COLLECTED OR WHEN IT'S GOING TO BE
3 COLLECTED?

4 A. I DO NOT.

5 Q. WERE YOU INVOLVED IN A SEARCH OF A RESIDENCE IN VISTA THAT
6 WAS EXECUTED ON JULY 14, 2015?

7 A. YES, I WAS.

8 Q. REALLY QUICK. HOW MANY SEARCH WARRANTS, SINCE YOU HAVE
9 BEEN AN EVIDENCE TECHNICIAN, HAVE YOU BEEN INVOLVED WITH?

10 A. I WOULD SAY ABOUT 40.

11 Q. HOW MANY WARRANTS HAVE YOU BEEN ON SINCE JULY 14, 2015?

12 A. I WOULD SAY ABOUT 15.

13 Q. AND THIS PARTICULAR RESIDENCE WAS LOCATED IN VISTA,
14 CALIFORNIA?

15 A. CORRECT.

16 Q. DO YOU KNOW APPROXIMATELY WHAT TIME THE SEARCH WARRANT WAS
17 EXECUTED?

18 A. YES. I DOCUMENTED IT IN MY REPORT THAT WE ARRIVED THERE
19 AT 7:50 A.M.

20 Q. DO YOU HAVE A DOCUMENTATION OR DID YOU NOTE WHAT TIME YOU
21 LEFT THE RESIDENCE?

22 A. I DID.

23 Q. WHAT TIME WAS THAT?

24 A. 10:30 A.M.

25 Q. SO WAS THAT ABOUT AN AVERAGE TIME TO CONDUCT A SEARCH ON A

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1 IN VISTA, CALIFORNIA, ON JULY 14TH OF 2015?

2 A. YES.

3 Q. AND WHAT WAS YOUR ROLE IN THAT?

4 A. IT'S SORT OF GENERAL MANPOWER. SO ASSISTING WITH ACTUALLY
5 MAKING SURE THE SCENE IS SAFE, AND THEN ASSISTING WITH
6 SEARCHING TO HELP OUT DETECTIVE JACKSON AND THE OTHER
7 DETECTIVES.

8 Q. AND SINCE THAT DATE HAVE YOU PARTICIPATED IN ADDITIONAL
9 SEARCH WARRANTS?

10 A. YES.

11 Q. SO DO YOU HAVE A CRYSTAL CLEAR RECOLLECTION OF EVERYTHING
12 THAT HAPPENED THAT DAY?

13 A. NO.

14 Q. BUT DO YOU RECALL, AS YOU SIT HERE TODAY, WHAT HAPPENED
15 THAT DAY?

16 A. YES.

17 Q. AND WAS ANYONE HOME AT THE TIME THE WARRANT WAS EXECUTED?

18 A. YES. ONE PERSON.

19 Q. WHO WAS THAT?

20 A. MR. WALSH.

21 Q. CAN YOU IDENTIFY HIM BY WHAT HE IS WEARING TODAY?

22 A. HE IS THE GENTLEMAN NEXT TO DEFENSE COUNSEL, IN THE GRAY
23 BLAZER.

24 THE COURT: THE RECORD WILL REFLECT THE WITNESS HAS
25 IDENTIFIED THE DEFENDANT.

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1 A. YES.

2 Q. AND DO YOU KNOW WHY?

3 A. IT'S IMPORTANT THAT ANYBODY PRESENT AT A RESIDENCE KNOWS
4 WHY THE POLICE ARE THERE. I THINK IT HELPS WITH THE
5 INVESTIGATION PART, LETTING EVERYBODY KNOW WHAT IS GOING ON.
6 THERE IS NO SURPRISES. AND THEN SOMETIMES YOU GET MORE
7 COOPERATION THAT WAY, WHEN PEOPLE KNOW THE THINGS YOU ARE
8 LOOKING FOR.

9 Q. AND YOU RECALL THAT WAS DONE THAT DAY?

10 A. YES, IT WAS.

11 Q. AND YOU SAY YOU WERE SEARCHING DIFFERENT AREAS OF THE
12 HOME. DO YOU RECALL ANY PARTICULAR AREAS THAT YOU SEARCHED?

13 A. I SPECIFICALLY RECALL SEARCHING THE MASTER BEDROOM, AND
14 WHAT I WILL CALL AN UPSTAIRS OFFICE AREA THAT HAD A COMPUTER IN
15 IT.

16 Q. PREVIOUSLY ENTERED INTO EVIDENCE, GOVERNMENT'S EXHIBIT 9,
17 DO YOU RECOGNIZE THAT PHOTO?

18 A. YES.

19 Q. WHAT IS THAT?

20 A. IT APPEARS TO BE WHAT I CALL THE UPSTAIRS OFFICE AREA THAT
21 I HELPED SEARCH.

22 Q. WAS THERE ANYTHING UNIQUE ABOUT THE ITEMS IN THAT ROOM
23 THAT STRUCK YOU?

24 A. A LOT OF FIREFIGHTER PARAPHERNALIA. I REMEMBER THERE
25 WAS -- IT SOUNDED LIKE A FIRE DISPATCH SCANNER OR RADIO THAT

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1 WAS ON. SO SOME OF THOSE TYPES OF PIECES OF EQUIPMENT. AND,
2 LIKE, IN THE PHOTO YOU CAN SEE FIREFIGHTER PARAPHERNALIA, I
3 GUESS I WOULD SAY.

4 Q. AND LOOKING AT THAT PHOTOGRAPH, CAN YOU DESCRIBE -- THE
5 SHELVES THAT ARE BEHIND THE DESK, CAN YOU DESCRIBE WHAT THOSE
6 ARE IN TERMS OF THE ROOM?

7 A. YEAH. IN MY OPINION IT'S A CLOSET AREA WHERE IT WOULD
8 HAVE MOVING CLOSET DOORS THAT ARE REMOVED. SO IT HAS KIND OF
9 BECOME AN OPEN SHELVING UNIT BUT, OBVIOUSLY, ORIGINALLY IT WAS
10 A CLOSET.

11 Q. BUT ACCORDING TO YOUR RECOLLECTION, WAS THAT AREA ALL OPEN
12 WHEN YOU WENT IN THERE?

13 A. YES. THERE WERE NO DOORS ON THERE.

14 Q. AND I THINK I FORGOT TO ASK YOU. WHEN THE SEARCH WARRANT
15 WAS READ TO THE DEFENDANT, WAS HE TOLD THAT THE SEARCH WARRANT
16 WAS FOR CHILD PORNOGRAPHY?

17 A. I BELIEVE SO.

18 Q. DO YOU KNOW WHAT YOU WERE SEARCHING FOR THAT DAY?

19 A. I WAS TOLD TO LOOK FOR THINGS INVOLVING CHILD PORNOGRAPHY,
20 SPECIFICALLY DIGITAL MEDIA, ALSO.

21 Q. AFTER THE SEARCH WAS COMPLETED THAT DAY, DID YOU OBSERVE
22 DETECTIVE JACKSON HAVING A CONVERSATION WITH THE DEFENDANT?

23 A. YES.

24 Q. AND WHERE WAS THAT?

25 A. THERE WAS AN INITIAL CONVERSATION, WHAT I RECALL, IN THE

1 **THE COURT:** YOU MAY PROCEED.

2 **Q.** **(BY MS. CABRAL):** PREVIOUSLY ADMITTED INTO EVIDENCE WAS
3 EXHIBIT 15. WOULD YOU TAKE A LOOK AT THAT?

4 **A.** YES.

5 **Q.** ON THERE DO YOU SEE A CUSTOMER I.D. OR A CUSTOMER SERIAL
6 NUMBER IDENTIFIED?

7 **A.** YES.

8 **Q.** WHERE IS THAT?

9 **A.** THE CUSTOMER SERIAL NUMBER IS THE SECOND SET OF NUMBERS.

10 **Q.** I'M SORRY?

11 **A.** THE SECOND SET OF NUMBERS THAT ARE DOWN BELOW, WHERE IT
12 SAYS "ASSEMBLED IN CHINA."

13 **Q.** DO YOU SEE A MAC ID?

14 **A.** YES.

15 **Q.** AND IF WE COULD PUT THOSE SIDE BY SIDE.

16 CAN YOU CIRCLE ON EXHIBIT 15, PLEASE, WHERE IT IS YOU
17 SEE THE SERIAL NUMBER?

18 **A.** THE SERIAL NUMBER. (WITNESS COMPLYING)

19 **Q.** AND THEN WHERE IS THE SERIAL NUMBER ON THE COX RECORDS?

20 **A.** ON THE BOTTOM LEFT OF THOSE RECORDS.

21 **Q.** OKAY. AND WHERE IS THE MAC ID ON THE MODEM?

22 **A.** THE MAC ID ON THE MODEM IS ON THE BOTTOM, THE LAST SET OF
23 NUMBERS HERE.

24 **Q.** CAN YOU CIRCLE THAT?

25 **A.** OR THE SECOND-TO-THE-LAST. (WITNESS COMPLYING)

1 Q. SO BY COMPARING THOSE NUMBERS, DID YOU COME TO BELIEVE
2 THAT THAT WAS THE DEVICE ASSOCIATED WITH THE SUBSCRIBER FOR THE
3 IP?

4 A. YES.

5 THE COURT: SHALL WE PRINT THAT?

6 MS. CABRAL: YES. SURE. THANK YOU.

7 THE COURT: IT WILL BE PRINTED. THAT WILL BE 15A.

8 (EXHIBIT NO. 15A MARKED FOR IDENTIFICATION)

9 Q. (BY MS. CABRAL): ON THE DATE THAT YOU EXECUTED THE SEARCH
10 WARRANT, DID YOU HAVE A CONVERSATION WITH THE DEFENDANT?

11 A. YES.

12 Q. DURING THE CONVERSATION, DID THE DEFENDANT MAKE A
13 STATEMENT TO YOU ABOUT WHETHER HE KNEW ANYTHING ABOUT
14 PEER-TO-PEER FILE SHARING?

15 A. HE TOLD ME THAT HE DID NOT.

16 Q. DID THE DEFENDANT MAKE STATEMENTS TO YOU ABOUT WHETHER HE
17 HAD EVER USED SPECIFICALLY LIMEWIRE OR LIME PRO?

18 A. HE SAID HE SPECIFICALLY HAD NOT.

19 Q. DID THE DEFENDANT INDICATE TO YOU THAT HE EVER DOWNLOADED
20 ANYTHING FROM THE INTERNET?

21 A. YES.

22 Q. WHAT WAS THAT?

23 A. HE SAID THAT HE HAD ACQUIRED A PIRATED COPY OF THE FILM
24 AMERICAN SNIPER.

25 Q. ALL RIGHT. AFTER EXECUTION OF THE WARRANT ON JULY 14TH,

1 ESCONDIDO POLICE DEPARTMENT, DO YOU REGULARLY CONDUCT COMPUTER
2 FORENSIC EXAMINATIONS?

3 A. YES, I DO.

4 Q. HAVE YOU EVER TESTIFIED AS SOMEONE WITH SPECIALIZED
5 KNOWLEDGE AND SKILL IN THE AREA OF COMPUTER FORENSIC
6 EXAMINATIONS?

7 A. YES.

8 Q. HOW MANY TIMES?

9 A. SPECIFIC TO COMPUTER FORENSIC WORK, I WOULD SAY FIVE.

10 Q. WHAT ABOUT ALL DIGITAL?

11 A. FOR ALL DIGITAL ALTOGETHER, MAYBE 100.

12 Q. OKAY. I WANT TO TALK SPECIFICALLY ABOUT THE EXAMINATION
13 THAT YOU DID ON THE COMPUTER, ON THE ITEMS THAT WERE SEIZED IN
14 THIS CASE. IF I COULD ASK YOU TO TAKE A LOOK AT EXHIBIT 11,
15 PLEASE. DO YOU RECOGNIZE THAT?

16 A. YES, I DO.

17 Q. WHAT IS IT?

18 A. IT'S THE DELL LAPTOP COMPUTER THAT WAS SEIZED IN THE
19 COURSE OF THE SEARCH WARRANT AT MR. WALSH'S RESIDENCE, THAT HE
20 SUBSEQUENTLY IDENTIFIED AS HIS.

21 Q. SO I AM GOING TO ASK YOU TO LOOK AT AND CONFIRM THAT WE
22 ARE ALL TALKING ABOUT THE SAME PIECE OF EQUIPMENT, IF THAT'S
23 OKAY.

24 A. OKAY.

25 **THE COURT:** ACTUALLY, 11 IS NOT IN EVIDENCE. YOU

1 WANT TO OFFER IT, SINCE IT'S UP ON THE SCREENS?

2 MS. CABRAL: I BELIEVE 11 IS.

3 THE COURT: ONE OF THOSE NUMBERS WE SKIPPED.

4 MS. CABRAL: 13 AND 14.

5 THE COURT: MY APOLOGIES. GO AHEAD.

6 Q. (BY MS. CABRAL): DO YOU RECOGNIZE THIS BAG?

7 A. YES, I DO.

8 Q. AND WHERE DO YOU RECOGNIZE IT FROM?

9 A. FROM THE RESIDENCE AT MR. WALSH'S HOUSE. IT WAS FIRST
10 SEEN ON THE BED IN THE UPSTAIRS BEDROOM.

11 Q. THAT IS WHERE YOU FIRST SAW IT?

12 A. YES, MA'AM.

13 Q. IS MY VOICE OKAY FOR THE COURT REPORTER?

14 I AM SHOWING YOU, THEN, WHAT IS MARKED, FOR PURPOSES
15 OF EXAMINATION, AS GOVERNMENT'S EXHIBIT 43.

16 A. YES.

17 Q. DO YOU RECOGNIZE THIS?

18 A. YES, I DO.

19 (EXHIBIT NO. 43 MARKED FOR IDENTIFICATION)

20 Q. (BY MS. CABRAL): DO YOU RECOGNIZE THE INSIDE?

21 A. YES, I DO.

22 Q. BEFORE YOU CONDUCTED AN INVESTIGATION AND EXAMINATION OF
23 THAT ITEM, DID YOU TAKE PHOTOGRAPHS TO DOCUMENT WHAT IT LOOKED
24 LIKE?

25 A. YES.

1 Q. I AM GOING TO ASK YOU, THEN, TO LOOK AT EXHIBITS 14 -- 13
2 AND 14. DO YOU RECOGNIZE THOSE?

3 A. YES.

4 (EXHIBIT NOS. 13 AND 14 MARKED FOR IDENTIFICATION)

5 Q. (BY MS. CABRAL): WHAT ARE THOSE?

6 A. THOSE ARE PHOTOGRAPHS THAT I TOOK PRIOR TO MY EXAMINATION
7 OF THE DEVICE.

8 MS. CABRAL: THE GOVERNMENT MOVES TO ADMIT GOVERNMENT
9 EXHIBITS 13 AND 14.

10 THE COURT: ANY OBJECTION?

11 MR. CARLOS: NO, YOUR HONOR.

12 THE COURT: BOTH WILL BE RECEIVED AND MAY BE
13 PUBLISHED.

14 (EXHIBIT NOS. 13 AND 14 RECEIVED INTO EVIDENCE)

15 Q. (BY MS. CABRAL): I AM LOOKING AT EXHIBIT 13. IS THERE
16 SOMETHING ON THERE THAT HELPS YOU TO IDENTIFY THAT THAT IS
17 SPECIFICALLY THE ITEM THAT YOU SEIZED?

18 A. YES. IN ADDITION TO THE DECAL ON THE FRONT, I PLACED A
19 STRIP OF EVIDENCE TAPE. ONCE I TOOK PHYSICAL POSSESSION OF THE
20 DEVICE AND PRIOR TO MY EXAMINATION OF IT, WROTE -- HANDWROTE
21 THE NOTES ON THE FRONT OF THAT DEVICE WITH THE TAPE.

22 Q. WHEN YOU WERE READY TO EXAMINE THE LAPTOP, DID YOU POWER
23 IT ON?

24 A. NO.

25 Q. WHY NOT?

1 **A.** I DIDN'T POWER THE DEVICE ON BECAUSE IT HAD BEEN POWERED
2 OFF. I DID NOT KNOW THE PASSWORD TO ACCESS THE OPERATING
3 SYSTEM AS A REGULAR USER. ALSO, ONCE A COMPUTER SYSTEM IS
4 POWERED ON AFTER HAVING BEEN IN THE OFF STATE, THERE ARE A
5 NUMBER OF -- THERE ARE A NUMBER OF ACTIONS THAT TAKE PLACE ON
6 THE DEVICE AS IT CYCLES THROUGH AND IT BOOTS UP THE MEMORY.

7 IT WILL DUMP SOME OF THE DATA THAT MIGHT EXIST ON THE
8 DEVICE OR OVERWRITE SOME OF THE VOLATILE DATA WITHIN THE
9 REGISTRY THAT MIGHT OTHERWISE NOT BE CAPTURED IF THE DEVICE IS
10 NOT POWERED ON AS A MATTER OF COURSE.

11 **Q.** DID YOU HAVE THE PASSWORD FOR THE COMPUTER?

12 **A.** NO, I DID NOT.

13 **Q.** AND DID YOU ASK THE DEFENDANT ABOUT THAT ON THE DAY OF THE
14 SEARCH WARRANT?

15 **A.** YES, I DID.

16 **Q.** AND DID YOU GET THE PASSWORD THAT DAY?

17 **A.** NO. MR. WALSH ADVISED ME THAT IT WAS HIS COMPUTER, THAT
18 IT WAS LOCKED WITH A PASSWORD, AND I DID NOT HAVE THE PASSWORD
19 TO THE DEVICE.

20 **Q.** IF I COULD HAVE YOU LOOK AT -- WELL, BEFORE I DO THAT,
21 SINCE YOU DIDN'T HAVE THE PASSWORD AND YOU DIDN'T POWER ON THE
22 COMPUTER, HOW DID YOU EXAMINE THE COMPUTER? WHAT DID YOU DO?

23 **A.** I MANUALLY REMOVED THE HARD DRIVE FROM THE INSIDE OF THE
24 DEVICE. I FLIPPED IT OVER, REMOVED THE BACK COVER, WHICH
25 PROVIDED ME ACCESS TO THE HARD DRIVE OF THE DEVICE. I THEN

1 MANUALLY REMOVED THE HARD DRIVE FROM THE DEVICE, AND THAT WAS
2 THE DEVICE ITSELF THAT WAS EXAMINED.

3 Q. AND, ACTUALLY, YOU REMOVED THE DEVICE. IF YOU TAKE A LOOK
4 AT EXHIBIT 14. DID YOU DOCUMENT THAT YOU HAD REMOVED THE HARD
5 DRIVE?

6 A. YES. ONCE THE HARD DRIVE WAS REMOVED, I RESEALED THE BACK
7 COVER. AND THEN I PUT A STRIP OF THE EVIDENCE TAPE OVER THE
8 COVER ITSELF, AND THEN NOTATED ON THERE THAT THE HARD DRIVE
9 ITSELF HAD BEEN REMOVED FROM THE DEVICE FOR EXAMINATION.

10 Q. THE EVIDENCE TAPE IS UPSIDE DOWN. DOES THAT MEAN ANYTHING
11 TO YOU?

12 A. WELL, WHENEVER I PUT EVIDENCE TAPE ON AN ITEM OF EVIDENCE,
13 KIND OF AS MY OWN PERSONAL RULE, I WILL PUT IT UPSIDE DOWN.
14 IT'S A WAY FOR MYSELF OF KNOWING THAT THAT WAS SOMETHING THAT I
15 SPECIFICALLY PHYSICALLY DID. SO IN THIS CASE, IT MIGHT APPEAR
16 IT'S UPSIDE DOWN, BUT I DO TYPICALLY SEAL EVIDENCE WITH THE
17 TAPE INVERTED.

18 Q. AND WHAT TYPE OF COMPUTER WAS THAT?

19 A. IT WAS A DELL 17-INCH LAPTOP.

20 Q. IS IT A DELL INSPIRION?

21 A. YES. INSPIRION, YES.

22 Q. WHAT TYPE OF HARD DRIVE?

23 A. IT WAS A SAMSUNG, ONE TERABYTE HARD DRIVE.

24 Q. YOU TALKED ABOUT MAKING A MIRROR IMAGE OF THE HARD DRIVE
25 SO YOU COULD EXAMINE IT. CAN YOU EXPLAIN TO THE JURY THE

1 PROCESS THAT YOU GO THROUGH TO DO THAT?

2 A. YES. ONCE THE HARD DRIVE IS REMOVED FROM THE DEVICE,
3 BECAUSE I DON'T HAVE ACCESS TO THE COMPUTER BY WAY OF THE
4 NORMAL USER INTERFACE BY KNOWING THE PASSWORD, WHAT YOU NEED TO
5 DO, THEN, IS ACCESS THE CONTENTS OF THE DEVICE WITHOUT THE USE
6 OF THE OPERATING SYSTEM.

7 SO IN THAT CASE, AS IN ANY CASE WHEN I FORENSICALLY
8 EXAMINE A DEVICE, THE HARD DRIVE IS CONNECTED TO A
9 READ-ONLY-WRITE-BLOCKED-FORENSIC DEVICE, MEANING, ONCE THE HARD
10 DRIVE IS CONNECTED TO THE FORENSIC IMAGING DEVICE AT THE POLICE
11 DEPARTMENT, IT'S WRITE-BLOCKED IN THAT NO DATA CAN TRANSFER
12 FROM ANY OF OUR DEVICES ONTO THE SUBJECT'S HARD DRIVE.

13 AND THAT'S TO LIMIT THE DATA FLOW ONLY FROM THAT
14 DEVICE TO OUR READER, WHICH THEN MAKES A FORENSIC BIT-BY-BIT
15 COPY OF THE ENTIRE CONTENTS OF THAT HARD DRIVE, WITHOUT AT ANY
16 POINT WRITING ANY DATA, OR ANY TRANSFERENCE OF ANY DIGITAL
17 FILES FROM OUR COMPUTER TO THE SUSPECT COMPUTER.

18 Q. WHEN YOU SAY BIT-FOR-BIT, WHAT IS A BIT?

19 A. A BIT IS THE SMALLEST UNIT OF MEASURABLE DATA ON A DEVICE.
20 IT'S DOWN TO THE ONES AND ZERO LEVEL, THE BINARY LEVEL OF THE
21 DEVICE. THE FULL CONTENT OF THAT HARD DRIVE IS BROKEN DOWN TO
22 IT'S SMALLEST BINARY FIGURE. AND THEN EACH AND EVERY BINARY
23 DIGIT OF THAT HARD DRIVE IS THEN COPIED OVER.

24 SO A MIRROR IMAGE OF THAT ENTIRE HARD DRIVE IS THEN
25 MADE. AND THE IMAGE THAT IS MADE IS WHAT IS WORKED OFF OF AS

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1 FAR AS THE FORENSIC ANALYSIS.

2 Q. AND HOW DO YOU KNOW THAT IT IS AN EXACT COPY? DO YOU GO
3 THROUGH A PROCESS TO VERIFY THAT?

4 A. YES. AT THE CONCLUSION OF THE IMAGING PROCESS, MUCH LIKE
5 WHEN WE SPOKE EARLIER ABOUT THE HASH VALUES THAT ARE GIVEN TO
6 THE FILES THAT WE ARE LOOKING FOR WHEN A CHILD PORNOGRAPHY
7 VIDEO IS GIVEN A VERY SPECIFIC HASH VALUE, THAT LONG
8 HEXADECIMAL FIGURE -- AT THE CONCLUSION OF THE IMAGING PROCESS,
9 ONCE THE HARD DRIVE IS IMAGED, IT'S THEN RUN THROUGH A SIMILAR
10 COMPUTATION TO WHERE A HASH VALUE IS THEN GENERATED FOR THAT
11 SPECIFIC COPY.

12 SO ONCE THE COPY IS MADE, IT'S ASSIGNED A HASH VALUE.
13 AND THEN ONCE THAT'S ASSIGNED, THEN IT IS THEN REVALIDATED
14 THROUGH THE TOOL ONCE AGAIN. SO THE TOOL WILL DO A SECOND PASS
15 OVER OF THE ENTIRE DATA THAT IS CONTAINED WITHIN THAT COPY.

16 AND AT THE END OF THAT, IT CREATES A HASH VALUE FOR
17 THE VALIDATION OF THAT FIRST IMAGE. SO AT THE END OF THAT,
18 THOSE TWO HASH VALUES MATCH UP IDENTICALLY.

19 SO AS WE SPOKE ABOUT BEFORE, WHERE THE SURETY OF THAT
20 NUMBER BEING STRONGER THAN DNA, WHAT THAT DOES IS IT GIVES YOU
21 A VALIDATED RESPONSE THAT THAT COPY THAT YOU MADE OF THE
22 ORIGINAL EVIDENCE IS FULLY COMPLETE DOWN TO THE BIT LEVEL, AND
23 IT'S BEEN RUN THROUGH A HASH ALGORITHM TWICE TO ENSURE THAT THE
24 COPY YOU ARE WORKING OFF OF IS EXACTLY VALID TO THE ORIGINAL.

25 Q. IF ANYTHING HAD CHARGED IT WOULD NOT SPIT OUT THE SAME

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1 HASH VALUE; IS THAT CORRECT?

2 A. CORRECT. IT WOULD NOT ONLY SPIT OUT A DIFFERENT FIGURE,
3 BUT IT WOULD ALSO FAIL THE IMAGING PROCESS. IT WOULD PROVIDE
4 YOU AN IMMEDIATE ALERT THAT THE VALUES DID NOT MATCH UP, AND
5 THAT YOU DID NOT HAVE A TRUE, VALIDATED COPY OF THE ORIGINAL
6 DEVICE.

7 Q. AS YOU ARE WORKING OFF OF THE IMAGE, CAN YOU MANIPULATE
8 THE DATA ON IT? CAN YOU CHANGE THE DATA ON THE COPY THAT YOU
9 ARE WORKING ON?

10 A. NO.

11 Q. WHAT DID YOU DO WITH THE ORIGINAL HARD DRIVE AFTER IT WAS
12 IMAGED?

13 A. IMMEDIATELY FOLLOWING THE SUCCESSFUL IMAGING OF THE HARD
14 DRIVE, IT WAS THEN REPACKAGED. AND IT WAS PLACED BACK INTO
15 EVIDENCE, AND IT WAS NEVER SEEN OR HANDLED AGAIN FROM THAT TIME
16 THAT IT WAS IMAGED.

17 Q. SO YOU SAY THAT THIS IMAGE LOOKS LIKE IT'S A COMPUTER
18 IMAGE?

19 A. YES.

20 Q. SO HOW IS IT THAT YOU GO ABOUT ANALYZING THE DATA?

21 A. SO ONCE THE IMAGE IS COMPLETE -- SO WE HAVE A FORENSIC
22 IMAGE OF THE ORIGINAL DEVICE. WHAT I THEN WOULD DO IS USE
23 ANOTHER FORENSIC TOOL THAT SCANS THE IMAGE THAT WAS MADE.

24 SO THE ENTIRE CONTENTS OF THAT FORENSIC IMAGE COPY IS
25 THEN PUSHED THROUGH ANOTHER FORENSIC TOOL THAT I AM LICENSED TO

1 OPERATE. THAT DOES A SCAN OF THE ENTIRE CONTENTS OF THAT
2 DEVICE, AND THEN IT BREAKS IT DOWN FURTHER INTO ARTICULABLE
3 HEADERS THAT YOU CAN THEN GO IN AND PHYSICALLY REVIEW THE
4 CONTENTS OF THE DEVICE AS IT'S BROKEN DOWN BY THOSE DIFFERENT
5 HEADERS.

6 Q. IS IT FAIR TO SAY YOU HAVE USED DIFFERENT TYPES OF
7 FORENSIC SOFTWARE TO CONDUCT YOUR ANALYSIS?

8 A. YES.

9 Q. DO YOU USE SEVERAL DIFFERENT TYPES OF SOFTWARE WHILE YOU
10 ARE DOING THIS?

11 A. TYPICALLY, I WILL USE TWO TO THREE DIFFERENT TOOLS.

12 Q. WHY DO YOU USE DIFFERENT TOOLS?

13 A. SOME DIFFERENT TOOLS HAVE DIFFERENT FUNCTIONS. THERE IS
14 NOT -- THERE IS TRULY NOT A TOOL IN EXISTENCE THAT DOES
15 EVERYTHING; OTHERWISE, IT WOULD HAVE NO COMPETITION.

16 SO THERE ARE A NUMBER OF TOOLS THAT ARE IN
17 COMPETITION WITH ONE ANOTHER AS FAR AS THE FEATURES THAT THEY
18 HAVE AND THE FUNCTIONS THAT THEY WILL PROVIDE YOU WITH IN YOUR
19 ANALYSIS.

20 SO IT'S -- IT'S GOOD TO USE THE DIFFERENT TOOLS FOR
21 THAT PURPOSE. BUT I THINK MORE IMPORTANTLY, AND WHY I USED
22 DIFFERENT TOOLS, IS FOR THE VALIDATION PROCESS. AND IF I GET A
23 RESULT FROM ONE TOOL AND JUST USE IT AS THAT'S THE ONLY
24 RESPONSE THAT I MEASURE THE EXAMINATION BY, I THINK IT'S DOING
25 A DISSERVICE BY NOT VALIDATING PORTIONS OF THAT DATA AGAINST

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1 ANOTHER TOOL TO SHOW THAT IT'S NOT JUST ONE TOOL THAT IS
2 PROVIDING ME WITH SPECIFIC RESULTS; BUT IT'S THEN RUN THROUGH
3 ANOTHER TOOL, WHICH PROVIDES THE SAME RESULTS AND SHOWS THAT
4 THE DATA THAT I'M LOOKING AT IN ONE AREA IS CONSISTENTLY
5 REPORTED BY ANOTHER TOOL AS BEING IN THE EXACT SAME LOCATION.

6 Q. DO YOU DO AN INITIAL TRIAGE EXAMINATION OF THE DIGITAL
7 DATA?

8 A. YES.

9 Q. WHY DO YOU DO THAT?

10 A. BECAUSE OF THE SHEER VOLUME OF ANY DIGITAL DEVICE. IN
11 THIS CASE, IN PARTICULAR, A ONE-TERABYTE HARD DRIVE IS A VERY
12 LARGE VOLUME OF DATA. SO TO DO A FULL FORENSIC SCAN AND REVIEW
13 OF A FULL TERABYTE OF DATA WOULD BE AN EXTENSIVE AMOUNT OF
14 TIME, WHEN TRULY WHAT WE'RE LOOKING TO CONFIRM IS THE PRESENCE
15 OF VERY SPECIFIC MEDIA THAT WOULD BE ON THAT DEVICE.

16 SO IN THIS CASE, I OFTEN EMPLOY THE USE OF WHAT WE
17 CALL A TRIAGE TOOL OR A PREVIEW, MEANING THE FORENSIC IMAGE,
18 ONCE IT'S ACQUIRED, YOU WILL THEN SCAN THAT IMAGE THROUGH A
19 PREVIEW TOOL.

20 SO THAT PREVIEW TOOL WILL GO THROUGH THE IMAGE AND IT
21 WILL ONLY LOOK FOR -- IT WILL QUICKLY LOOK FOR VERY SPECIFIC
22 DATA SETS. IN THIS CASE, BECAUSE WE ARE SPECIFICALLY
23 INVESTIGATING AN ISSUE OF CHILD PORNOGRAPHY, THE TRIAGE OR
24 PREVIEW WAS LIMITED IN SCOPE PRIMARILY FOR THE PURPOSE OF
25 IDENTIFYING THE EXISTENCE OF ANY CHILD PORNOGRAPHY MATERIAL

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1 THAT WAS ON THE HARD DRIVE.

2 Q. WHEN YOU DID THAT INITIAL PREVIEW -- AND YOU'RE SAYING YOU
3 DID THIS PREVIEW OF THE HARD DRIVE?

4 A. YES.

5 Q. OF THE SAMSUNG HARD DRIVE ON THE LAPTOP?

6 A. YES, CORRECT.

7 Q. DID YOU FIND DATA INDICATING THE EXISTENCE OF CHILD
8 PORNOGRAPHY FILES?

9 A. YES.

10 Q. -- SO AFTER YOU CONFIRMED, USING THAT PREVIEW SOFTWARE, DID
11 YOU THEN USE ADDITIONAL SOFTWARE AND TOOLS TO ANALYZE THE
12 UNDERLYING DATA?

13 A. YES.

14 Q. AND AGAIN, WHEN WE TALKED ABOUT THESE DIFFERENT TYPES OF
15 SOFTWARE, YOU RECEIVED TRAINING WITH REGARD TO ALL OF THESE
16 TYPES OF SOFTWARE?

17 A. YES, MA'AM.

18 Q. LET'S TALK FIRST. WHEN YOU WERE CONDUCTING YOUR
19 INVESTIGATION IN APRIL AND MAY OF 2015, YOU WERE ON THE ARES
20 NETWORK, CORRECT?

21 A. CORRECT.

22 Q. SO LET'S FIRST TALK ABOUT -- DID YOU FIND EVIDENCE, ON THE
23 HARD DRIVE THAT WAS TAKEN OUT OF THE LAPTOP, THAT THIS COMPUTER
24 HAD BEEN USED TO ACCESS THE ARES NETWORK?

25 A. YES.

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1 Q. WHAT DID YOU FIND?

2 A. SPECIFICALLY UNDER USE ON THE LAPTOP WITH RESPECT TO THE
3 ARES NETWORK, I LOCATED 375 ARTIFACTS OF 375 DOWNLOADS OF CHILD
4 PORNOGRAPHIC CONTENT FROM THE ARES NETWORK DIRECTLY ONTO THE
5 DEVICE, AS WELL AS ADDITIONAL INCOMPLETE DOWNLOADS. SO THERE
6 WERE PARTIAL DOWNLOADS THAT WERE ALSO PRESENT ON THE DEVICE.

7 Q. AND I'M GOING TO ASK YOU TO LOOK IN THAT BINDER IN FRONT
8 OF YOU, PLEASE. I THINK THAT OUR SCREENS ARE OFF.

9 IF YOU WOULD PLEASE LOOK AT EXHIBIT 21. DO YOU
10 RECOGNIZE THAT?

11 A. YES, I DO.

12 (EXHIBIT NO. 21 MARKED FOR IDENTIFICATION)

13 Q. (BY MS. CABRAL): WHAT IS THAT?

14 A. THIS IS A LISTING OF THE COMPLETED DOWNLOADS -- ARTIFACTS
15 OF THE COMPLETED DOWNLOADS THAT WERE PRESENT ON THE DEVICE AT
16 THE TIME OF THE EXAMINATION.

17 MS. CABRAL: AND THE GOVERNMENT WOULD MOVE TO ADMIT
18 EXHIBIT 21.

19 MR. CARLOS: NO OBJECTION, YOUR HONOR.

20 THE COURT: ALL RIGHT. IT'S RECEIVED AND YOU MAY
21 PUBLISH WHAT YOU NEED OF IT.

22 (EXHIBIT NO. 21 RECEIVED INTO EVIDENCE)

23 Q. (BY MS. CABRAL): IF WE COULD JUST EXPAND SOME OF THE
24 TITLES. WERE ANY OF THE TITLES INDICATIVE TO YOU OF CHILD
25 PORNOGRAPHY?

1 A. YES.

2 Q. CAN YOU GIVE AN EXAMPLE OF THAT?

3 A. THE THIRD ONE DOWN JUMPED OUT IMMEDIATELY, IN THAT IT SAYS
4 13 REAL CHILD PORN ILLEGAL PRETEEN UNDERAGE LOLITA KIDDY.

5 THERE WERE OTHERS. ADDITIONALLY, KIDS SEX, 13-YEAR-OLD
6 GIRLFRIEND SHOWS SUPER HARDCORE INCEST PRETEEN. AND THEN THE
7 LAST ONE THAT IS REFERENCED THERE.

8 Q. OKAY. AND YOU TALKED EARLIER ABOUT THE HASH VALUES?

9 A. YES.

10 Q. WHEN YOU WERE ABLE TO SEE THIS FOLDER OF DOWNLOADS FROM
11 ARES, DID IT HAVE ASSOCIATED HASH VALUES?

12 A. YES, IT DID.

13 Q. WHERE IS THAT REFLECTED ON THE CHART?

14 A. ON THE FAR LEFT OF THE CHART.

15 Q. IS IT THE LEFT?

16 A. OR THE RIGHT. I'M SORRY.

17 Q. THE OTHER LEFT?

18 A. YEAH.

19 Q. SO THOSE ARE THE UNIQUE DIGITS YOU WERE TALKING ABOUT?

20 A. THAT'S CORRECT. EACH CORRESPONDING TITLE -- CHILD
21 PORNOGRAPHY VIDEO TITLE TO THE RIGHT OF THE TITLES WILL HAVE
22 THE CORRESPONDING HASH VALUE FOR EACH OF THOSE FILES
23 SPECIFICALLY.

24 Q. THERE IS DOWNLOAD DATES INDICATED, CORRECT?

25 A. CORRECT.

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No. _____

IN THE SUPREME COURT OF THE UNITED STATES

WILLIAM F. WALSH, IV,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition For A Writ of *Certiorari* To The United States Court of Appeals
for the Ninth Circuit**

PROOF OF SERVICE

I, David A. Schlesinger, declare that on March 9, 2020, as required by Supreme Court Rule 29, I served Petitioner William F. Walsh, IV's MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on counsel for Respondent by depositing an envelope containing the motion and the petition in the United States mail (Priority, first-class), properly addressed to him, and with first-class postage prepaid.

The name and address of counsel for Respondent is as follows:

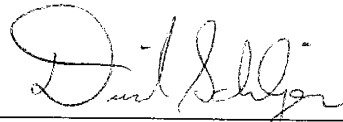
The Honorable Noel J. Francisco, Esq.
Solicitor General of the United States
United States Department of Justice
950 Pennsylvania Ave., N.W., Room 5614
Washington, DC 20530-0001
Counsel for Respondent

Additionally, I mailed a copy of the motion and the petition to my client, Petitioner William F. Walsh, IV, by depositing an envelope containing the documents in the United States mail, postage prepaid, and sending it to the following address:

William F. Walsh, IV
Register No. 61220-298
FCI Scagoville
Federal Correctional Institution
P.O. Box 9000
Seagoville, TX 75159

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

Executed on March 9, 2020



DAVID A. SCHLESINGER
Declarant