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**FILED**

by Superior Court of California, County of San Mateo

ON ~~5/7/2024~~ **5/6/2024**

By /s/ Helen Luton  
Deputy Clerk

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 9 **FOR THE COUNTY OF SAN MATEO**

10  
 11  
 12 **PEOPLE OF THE STATE OF CALIFORNIA,**  
 13 **PLAINTIFF,**  
 14 **vs.**  
 15 **SCOTT PETERSON,**  
 16 **DEFENDANT.**

) **CASE No.: SC055500A**  
 ) **RELATED CASES:**  
 ) **SUPREME COURT No. S132449;**  
 ) **COURT OF APPEAL CASE No. A167615**  
 )  
 ) ~~FILED~~ **OPPOSITION TO**  
 ) **MOTION FOR DNA TESTING (PEN.**  
 ) **CODE § 1405); PROPOSED ORDER**  
 ) **TO PROVIDE DISCOVERY (PEN.**  
 ) **CODE § 1405(c))**  
 )  
 ) **HRG. DATE: MAY 29, 2024**  
 ) **HRG. TIME: 9:00 A.M.**  
 ) **DEPT: 12**  
 ) **JUDGE: HONORABLE ELIZABETH M. HILL**

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 18  
 19 Defendant Scott Peterson, by and through counsel, Los Angeles Innocence Project (LAIP),  
 20 submits this Reply to the Stanislaus County District Attorney's Opposition to his Motion for DNA  
 21 Testing (Pen. Code § 1405).  
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1 **INTRODUCTION**

2 LAIP is investigating Mr. Peterson’s claim of innocence. On January 17, 2024, Mr. Peterson  
3 moved this Court for an order directing that certain items of physical evidence be subjected to DNA  
4 testing pursuant to Penal Code section 1405 (hereafter, DNA Motion) and an order directing the  
5 prosecution to produce discovery Mr. Peterson is entitled to under Penal Code section 1054.9  
6 (hereafter, Discovery Motion).<sup>1</sup> On February 13, 2024, a meet and confer between the parties took  
7 place at the Stanislaus County District Attorney’s Office (SCDA) at which time the prosecution stated  
8 that it would oppose both motions. On March 12, 2024, at a status hearing on the two motions, the  
9 prosecution asserted that it was unable to litigate both motions at the same time and requested that  
10 the DNA Motion be litigated first because that would “assist in some aspects as to the discovery  
11 motion” and that it was “not reasonable” for the prosecution to have to file oppositions to both  
12 motions at the same time. (Mar. 12, 2024 Hrg. Tr. at p. 8.) The Court set a briefing schedule directing  
13 that the DNA Motion be briefed first, given that the statute provides that any response or opposition  
14 be filed within 90-days, and the Discovery Motion be briefed thereafter, accommodating the  
15 prosecution’s request for additional time to respond to the Discovery Motion. (*Id.* at pp. 13–14.)

16 The Court inquired whether the parties preferred to have a hearing on the motions together or  
17 separately and counsel for Mr. Peterson stated that it was preferable to have the DNA issue resolved  
18 as soon as possible so that if any testing is ordered, that testing can get started; the prosecution did  
19 not oppose that request. (*Id.* at pp. 18–19.) The prosecution now argues in its Opposition that it is  
20 not required to provide Mr. Peterson with the discovery he requested in the DNA Motion and it  
21 continues to withhold the discovery he has requested in his Discovery Motion, while arguing that Mr.  
22 Peterson has failed to meet the pleading and proof requirements of section 1405, and objecting to the  
23 evidence Mr. Peterson presented in support of his motion as inadmissible. In other words, the  
24 prosecution continues to withhold the discovery Mr. Peterson believes will further support the  
25 evidence he has already presented in support of the instant motion and at the same time argues that  
26 he has not met his burden. The Court must not permit the continued suppression of evidence the  
27

28 \_\_\_\_\_  
<sup>1</sup> Unless otherwise stated, all references to code sections hereafter are to the Penal Code.

1 prosecution should have provided the defense at the time of trial twenty years ago, but did not and  
2 has not to this day provided to the defense, to serve as a basis for denying this motion.

3 **Post-Conviction Investigation & Discovery Demands**

4 A post-conviction investigation into a claim of actual innocence begins with a review of the  
5 original investigation into the crime at issue to determine whether any evidence or leads were missed  
6 or overlooked that may support that claim of innocence. If any are found, those leads and evidence  
7 are examined to determine whether anything discovered, whether new or old evidence, or both,  
8 undermines the conviction and supports a claim of innocence. As set forth in Mr. Peterson's DNA  
9 Motion and Discovery Motion, post-conviction counsel has identified numerous investigative failures  
10 committed throughout the original investigation in this case. As one example, the prosecution admits  
11 that numerous eyewitnesses reported seeing Laci Peterson walking in the neighborhood at times after  
12 Mr. Peterson left home for the day, some of whom were *never* interviewed by police at all, and most  
13 of whom were never interviewed while Laci was missing, or even prior to trial. Despite the  
14 prosecution's Herculean efforts to offer hindsight justifications for why these eyewitnesses were  
15 never interviewed, the simple truth is that those witnesses who reported seeing Laci Peterson walking  
16 in the neighborhood should have been a top priority in an unbiased missing person investigation. Not  
17 only may those witnesses have provided important information and leads to what happened to Laci  
18 Peterson, if even *one* of those witness reports was credible, Mr. Peterson could not possibly have  
19 killed his wife and son.<sup>2</sup> The prosecution has never disputed that fact.

20 Post-conviction counsel has also identified considerable material exculpatory evidence that  
21 appears to have been suppressed at the time of trial, as well as certain critical exculpatory evidence  
22 that was "lost" by the prosecution and therefore never provided to the defense at the time of trial,  
23 including, to name only a few, the following items:

24 \_\_\_\_\_  
25  
26 <sup>2</sup> The prosecution argues that defense counsel could have and should have called those witnesses at trial and the  
27 failure to call those witnesses, and the failure to present other exculpatory evidence in Mr. Peterson's defense at trial, is  
28 an issue that cannot be revisited by this Court. That argument is not supported by the authorities and it reflects the  
prosecution's commitment to protecting its conviction at any cost and its lack of understanding as to how many wrongful  
convictions have been overturned based on police and prosecutorial misconduct, confirmation bias, ineffective assistance  
of counsel, and as is most often the case, some combination of those errors, among others, which do not come to light  
until after a conviction becomes final.

- 1 • the audio recorded calls between Shawn Tenbrink and his brother, Adam Tenbrink,  
2 wherein Lt. Aponte reported hearing Adam tell Shawn that Steven Todd was seen by Laci  
3 Peterson during the Medina burglary on the morning of December 24, 2002, i.e., after Mr.  
4 Peterson had left home for the day, which the prosecution claims is “lost,” and the later  
5 call between Shawn Tenbrink and his mother, wherein Lt. Aponte reported hearing Shawn  
6 tell his mother to tell Adam to “that the police had just interviewed him and he was to  
7 keep his mouth shut because he doesn’t know who he is dealing with.” (Exh. 29 [Lt. X  
8 Aponte 12/1/2004 Interview].)
- 9 • the identity of the MPD officer or detective who interviewed Shawn Tenbrink, police  
10 reports or notes documenting that interview, and any recordings made of that interview  
11 between MPD and Shawn Tenbrink, an interview Lt. Aponte stated he believes was  
12 recorded;
- 13 • the videotaped interviews MPD conducted with Steven Todd and Donald Glenn Pearce  
14 after their arrest on January 2, 2003, which were logged into evidence, but never provided  
15 to the defense;
- 16 • reports of MPD’s witness interviews related to the Croton watch that was pawned on  
17 December 31, 2002, and again on February 14, 2003, which have never been provided to  
18 the defense; and,
- 19 • the video recording or partial video recording taken on Gene Ralston’s boat on March 11,  
20 2003, depicting what Mr. Ralston publicly stated he believed to be the body of Laci  
21 Peterson located approximately three miles north of the location where Mr. Peterson  
22 fished. (Opp’n. at p. 265 [a video camera was used to tape the monitor output directly and  
23 was “partially successful”].) The defense was not provided with that “partially  
24 successful” videotape.

25 In addition, consistent with this pattern of suppressing evidence and relevant to the instant  
26 DNA Motion before the Court, as the prosecution is well aware, the complete police file related to  
27 the vehicle fire involving the orange former Cal Trans van was *suppressed by the prosecution at the*  
28 *time of trial* and was not discovered until a journalist tracked down Fire Investigator Bryan Spitulski



1 in 2015, who informed him that there should be more photos in the file, which the journalist then  
2 obtained from an anonymous source. (DNA Motion, Exh. 2 ¶ 46.) It was not until the journalist  
3 made Mr. Peterson’s attorney aware of the photos [*id.* at ¶ 47] that his counsel was able to request  
4 the files associated with this former Cal Trans orange van fire from the Attorney General’s office.  
5 Not until March 18, 2016, was Mr. Peterson provided with a more comprehensive Investigation  
6 Report prepared by Det. Grogan related to the van fire. (DNA Motion, Exh. 32 [Det. C. Grogan  
7 3/18/2016 Vehicle Fire Investigation Report].) And even then, Mr. Peterson was *still* not provided  
8 with the six photos of the burned van and blood-stained mattress that was part of a “Missing Person  
9 Investigation.” Not until after Mr. Peterson made a second request on July 19, 2016, asking for any  
10 color photos of the van, did the Stanislaus County District Attorney finally provide Mr. Peterson with  
11 photos of the blood-stained mattress—over thirteen years after the photos were taken—at which time  
12 the prosecution agreed to conduct very limited DNA testing on the stained mattress fabric from the  
13 back of that van.

14 Counsel’s investigation into the original investigation in this case is obviously hampered by  
15 the purported “loss” and/or suppression of evidence, some of which is described above. For all of  
16 these reasons, counsel filed the two motions currently pending before the Court seeking post-  
17 conviction discovery and DNA testing of physical items of evidence to further investigate Mr.  
18 Peterson’s claim of innocence. Notwithstanding these challenges presented by suppressed, missing,  
19 and “lost” evidence, post-conviction counsel’s investigation into the disappearance and murder of  
20 Laci and Conner Peterson has already yielded important leads to evidence supporting Mr. Peterson’s  
21 claim that his wife was alive on December 24, 2002, when he left home for the day, and that he did  
22 not kill her.

23 In the Opposition to the DNA Motion, the prosecution does not contend that the “lost” and  
24 suppressed evidence listed above, and the other evidence Mr. Peterson seeks by way of the two  
25 motions pending before the court, has been provided to the defense. Nor does the prosecution refute  
26 that many investigative failures infected the original investigation into the disappearance and deaths  
27 of Laci and Conner Peterson, as alleged in the instant DNA Motion. Instead, the prosecution argues  
28 that the Court should strike as “inadmissible hearsay” much of the evidence Mr. Peterson has

1 presented, that Scott Peterson is not entitled to the discovery he requested in the DNA Motion  
2 pursuant to section 1405(c) that would establish the availability and condition of the evidence he  
3 seeks to test, and that all of the concerns raised in the DNA Motion before the Court have been  
4 litigated and rejected. In other words, the prosecution is arguing that Mr. Peterson has not met his  
5 burden of making a prima facie showing that he is entitled to the DNA testing he seeks, while it  
6 continues its decades-long suppression of some of the very discovery Mr. Peterson needs to  
7 investigate evidence he believes will support his claim that he did not harm or kill his family.

8         The Court should reject those arguments and order the prosecution to provide Mr. Peterson  
9 with the discovery he is entitled to under section 1405(c), so the Court can establish the availability  
10 and condition of the evidence Mr. Peterson seeks to have tested, as provided for under the statute,  
11 and the Court can rule on the DNA Motion knowing what evidence is, or is not, available for testing  
12 and any Court-ordered testing can proceed without delay. A proposed order directing the prosecution  
13 to comply with its obligations under section 1405(c) is filed herewith for the Court's consideration.

14         Mr. Peterson believes he has satisfied the criteria necessary for the Court to grant the DNA  
15 Motion before the Court. In the event the Court is inclined to deny this motion based on the  
16 contentions, arguments, or objections to evidence in the prosecution's Opposition, Mr. Peterson  
17 respectfully requests that this Court hold this DNA Motion in abeyance and defer ruling on it until  
18 after Mr. Peterson's 1054.9 motion has been fully litigated, he has received any post-conviction  
19 discovery he is entitled to under the statute, and he has an opportunity to supplement the instant  
20 motion with additional new evidence in further support of the requirements of section 1405.

21         In the alternative, should the Court determine that Mr. Peterson has met the pleading and proof  
22 requirements as to some items of evidence he seeks to test, but not all, such as, for example, the items  
23 from the burned out orange former Cal Trans van and the duct tape from Laci's pants and the Target  
24 bag, the Court should grant the motion as to those items and hold off on ruling on the other items  
25 until such time as Mr. Peterson receives the post-conviction discovery he has requested and has an  
26 opportunity to supplement the evidence he files in support of those remaining items.

27  
28

1           **Prosecution’s Opposition**

2           The issue now before the Court is whether Mr. Peterson “is entitled to develop potentially  
3 exculpatory evidence”; the Court is not asked here to decide whether Mr. Peterson “is entitled to  
4 some form of ultimate relief.” (Pen. Code, § 1405, subd. (g)(5).) Under the statute, the Court shall  
5 grant the motion if the movant has satisfied the requirements set forth therein. Mr. Peterson has met  
6 the statute’s requirements.

7           The prosecution’s Opposition to the DNA Motion argues that: (i) there is no constitutional  
8 right to DNA testing; (ii) Marsy’s Law prohibits DNA testing; (iii) the evidence Mr. Peterson  
9 presented in support of the instant motion is not “new”; (iv) the evidence Mr. Peterson relies on was  
10 or could have been previously litigated; (v) Mr. Peterson has failed to meet the requirements of  
11 section 1405; (vi) Mr. Peterson cannot show that there is a “reasonable probability” of a more  
12 favorable outcome at trial because “there was overwhelming circumstantial evidence” of his guilt  
13 presented at trial (Opp’n. at pp. 3, 71, 204, 225); (vii) Mr. Peterson was convicted by a jury and his  
14 conviction was affirmed on appeal and therefore DNA testing should not be conducted; and, (viii)  
15 Mr. Peterson’s “new evidence claims” were or could have been litigated earlier.

16           The prosecution’s arguments are without merit.

17           First, Mr. Peterson is requesting DNA testing of physical items of evidence pursuant to his  
18 statutory right under section 1405; he has not asserted that the instant motion is brought pursuant to  
19 a constitutional right.

20           Second, Marsy’s law does not apply to the instant motion. The prosecution has cited no legal  
21 authorities supporting that argument and Mr. Peterson has found none.

22           Third, there is no requirement in section 1405 that a movant bring “new” evidence to support  
23 a request for DNA testing. The words “new evidence” do not appear anywhere in the statute. Section  
24 1405, subdivision (g)(5), requires a movant to show that favorable DNA test results “would raise a  
25 reasonable probability that, in light of all the evidence, the convicted person’s verdict or sentence  
26 would have been more favorable if the results of DNA testing had been available at the time of  
27 conviction.” (Pen. Code, § 1405, subd. (g)(5).) Mr. Peterson presented new evidence—evidence the  
28 jury did not hear—in support of the instant motion, to demonstrate the scope and scale of the

1 investigative failures present in the original investigation into the disappearance of Laci Peterson to  
2 support Mr. Peterson’s claim of innocence. The statute does not require a movant to present “new”  
3 evidence in support of a motion. The statute further expressly provides that “[t]he court in its  
4 discretion may consider any evidence whether or not it was introduced at trial.” (*Id.*) This Court is  
5 not required to “make on-the-record findings to support its ruling.” (*Richardson v. Superior Court*  
6 (2008) 43 Cal. 4th 1040, 1053.) And, this Court has broad discretion to grant this motion; the Court’s  
7 grant or denial is reviewed for an abuse of discretion. (*Id.* at p. 1045.)

8 Fourth, the prosecution’s assertion that Mr. Peterson’s “claims” have been previously litigated  
9 is simply wrong. (Opp’n. at pp. 204–214, 234 [“defendant has failed to raise a valid claim”].) There  
10 are no “claims” pending before this Court. In view of the significant number of investigative failures  
11 post-conviction counsel has identified in the original investigation in this case, counsel is conducting  
12 a thorough investigation into leads that were simply ignored, whether intentionally or unwittingly.  
13 Once that investigation is complete, Mr. Peterson will file a motion for leave to file an amended  
14 petition in the Court of Appeal and will, at that time, identify what “claims” are supported by new  
15 evidence. There are simply no “claims” pending before this Court that need to be adjudicated.

16 There is also no statute of limitations in section 1405. The prosecution’s argument that the  
17 requests for DNA testing presented by way of this motion could have or should have been brought  
18 earlier are unavailing. The legislature expressly authorized that motions requesting DNA testing of  
19 evidence to be filed post-conviction, without any limitation as to when such motions can be brought.  
20 Indeed, in *every* wrongful conviction case where a person is later exonerated, the evidence the  
21 prosecution relied on to obtain the conviction turned out to be, in the end, wrong, incomplete, false,  
22 inaccurate, or some combination of those things. It is not at all uncommon, unfortunately, for  
23 individuals with claims of innocence to return to court again and again, sometimes over a period of  
24 decades, before they are able to obtain justice in their case. [cite to Maurice] The prosecution’s  
25 arguments that the motion should be denied on the grounds of “law-of-the-case doctrine, collateral  
26 estoppel, or “successive writs,” are simply not supported under the law. (Opp’n. at pp. 204–214.)  
27 The authorities the prosecution relies on in support of those arguments are all inapposite and do *not*  
28 apply to the motion presently before the Court. Moreover, it is beyond disingenuous for the

1 prosecution to argue that Mr. Peterson has not presented any new evidence beyond what was  
2 presented at trial, while *refusing* to comply with their discovery obligations under section 1054.9,  
3 *refusing* to provide Mr. Peterson with items he has specifically requested and which he maintains  
4 have exculpatory value and will support his claim of innocence.

5 Fifth, Mr. Peterson has met the requirements of section 1405. The prosecution argues that the  
6 instant motion should be denied because Mr. Peterson has not shown the items he seeks to test are in  
7 custody and available for testing. That argument is disingenuous. Mr. Peterson does not have access  
8 to current evidence and custody logs reflecting the current condition and availability of the evidence  
9 he seeks to test. As the Court is aware, in his motion, Mr. Peterson requested that the Court order the  
10 prosecution to provide the relevant discovery needed to ascertain the condition of the evidence he  
11 seeks to test, pursuant to section 1405(c). (DNA Motion at pp. 119–120, 134–138.) Mr. Peterson  
12 has also requested this discovery in the motion for post-conviction discovery pursuant to section  
13 1054.9, also filed on January 17, 2024. The Court should order the prosecution to provide Mr.  
14 Peterson with the discovery he requested in the instant motion pursuant to section 1405(c), so the  
15 Court can ascertain the condition and availability of the evidence he seeks to have tested. (Proposed  
16 Order filed herewith.)

17 Sixth, contrary to the prosecution’s repeated assertions throughout its Opposition, there was  
18 not “overwhelming circumstantial evidence” of Mr. Peterson’s guilt presented at trial. (See, e.g.,  
19 Opp’n. at pp. 3, 71, 204, 225.) The prosecution spills much ink revisiting its case-in-chief at trial,  
20 but there is no support anywhere in the record, and the prosecution has cited none, supporting its  
21 assertion that the evidence against Mr. Peterson was “overwhelming.” In fact, several members of  
22 the jury from Mr. Peterson’s trial have publicly stated *the opposite*. Three jurors have publicly stated  
23 that the location where the bodies of Laci and Conner Peterson washed up was the one piece of  
24 evidence that caused them to return a guilty verdict and another juror stated that any evidence that  
25 Laci was still alive after Scott left home for the day would have been important evidence.<sup>3</sup>

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26  
27 <sup>3</sup> See, e.g., Interview with **Juror No. 1, Greg Beratlis**, on Larry King Live, December 14, 2004: BERALTIS:  
28 “There’s no bodies, it don’t work. I spoke yesterday and I explained that if these bodies had been found anywhere else  
other than San Francisco Bay and, for that matter, right where Scott Peterson had described he had been fishing on

1 Seventh, to the extent the prosecution contends that Mr. Peterson's motion should be denied  
2 because he was convicted by a jury and his conviction was affirmed on appeal and is now final, that  
3 argument is not supported by any legal authorities. (See Opp'n. at p. 213 ["The People submit that  
4 defendant Peterson's claims were resolved by the California Supreme Court and there is no cause to  
5 revisit them any further. As such, requests for DNA testing based on evidence and statements of  
6 others already litigated before and decided by the California Supreme Court should be denied as a  
7 matter of law and fact."]) The prosecution has cited no authorities in support of that position. The  
8 statute expressly provides for post-conviction DNA testing, with no statute of limitations.

9 Last, contrary to the prosecution's repeated assertions throughout its Opposition that Mr.  
10 Peterson's "claims" have already been denied in prior proceedings, Mr. Peterson does not have any  
11 "claims" pending before this Court. (Opp'n. at pp. 204, 211, 213, 218, 228 fn. 122, 234.) There are  
12 no "claims" for this Court to adjudicate, only two post-conviction motions. The Court of Appeal will  
13 determine whether any claims Mr. Peterson raises in the petition pending before that court are timely,  
14 successive, or otherwise procedurally barred.

15 The prosecution's arguments are without merit, on all counts.

16 \* \* \*

17 The prosecution proclaims it has the utmost confidence in the jury's guilty verdict and yet,  
18 they vehemently refuse to consent to test any of the evidence Mr. Peterson seeks to submit for DNA  
19 testing and they vehemently refuse to comply with their discovery obligations under section 1054.9

20  
21  
22 Christmas Eve, we wouldn't be having this conversation."] available at  
23 <http://edition.cnn.com/TRANSCRIPTS/0412/14/lkl.01.html>; Interview with **Juror No. 8, John Guinasso**, on Larry  
24 King Live, March 16, 2005: "KING: What, if anything, was the determining factor in this case, John? GUNASSO:  
25 It's probably the most obvious, and that is where the bodies washed up. I can personally say for myself, if they would  
26 never have washed up, I could never have convicted Scott Peterson." available at  
27 <http://edition.cnn.com/TRANSCRIPTS/0503/16/lkl.01.html>; Interview with **Juror No. 9, Julie Zanartu**, on Hannity  
28 and Colmes with guest host Beckel, March 17, 2005:  
"BECKEL: What was the single most important piece of evidence that made you decide that he was guilty?  
ZANARTU: Exactly where he was fishing was where the bodies turned up. That was the bottom line." Available at  
<https://www.foxnews.com/story/transcript-scott-petersons-death-sentence>; Decl. of **Juror No. 6, Stephen Cardosi**,  
Exh. 50 to Initial Habeas Petition (IHP) at HCP-000986-000987 ["Any evidence that Laci was still alive when Scott  
was already at the marina would have been important to me as a juror. We heard evidence that Laci was a pretty bold  
person . . . Evidence that she may have confronted burglars would have been significant."].

1 and provide Mr. Peterson with the discovery he was entitled to receive at the time of trial but to date,  
2 still has never received.

3 Many District Attorney offices across the country and across the state of California now  
4 understand that wrongful convictions occur much more frequently than once believed and have  
5 created conviction integrity units that have procedures in place to facilitate and accommodate requests  
6 for post-conviction DNA testing without the need for litigation. The Stanislaus County District  
7 Attorney does not appear to be one of those counties.

8 As the California Attorney General explained in *Morrison v. Peterson* (9th Cir. 2015) 809  
9 F.3d 1059, 1067, “a number of California district attorneys proactively review convictions and offer  
10 DNA testing without the need for a § 1405 motion.” (*Id.* [citing James Sterngold, San Diego District  
11 Attorney Offering Free DNA Testing, N.Y. Times, [http://www.nytimes.com/2000/07/28/us/san-  
12 diego-district-attorney-offering-free-dna-testing.html](http://www.nytimes.com/2000/07/28/us/san-diego-district-attorney-offering-free-dna-testing.html), Jul. 28, 2000 [“The San Diego County district  
13 attorney has begun a policy of offering free DNA testing to prison inmates who say they were wrongly  
14 convicted and would be exonerated by this increasingly common scientific method.”]; Marisa Gerber,  
15 L.A. County D.A. To Create Unit To Review Wrongful-Conviction Claims, L.A. Times,  
16 <http://www.latimes.com/local/lanow/la-me-ln-conviction-review-unit-20150422-story.html>, Apr.  
17 22, 2015 [citing efforts by district attorneys in Yolo, Ventura, Santa Clara, and Los Angeles  
18 counties].)

19 In 2015, when *Morrison* was decided, there were only five counties in California where the  
20 D.A. had established a conviction integrity unit (CIU). Now, there are 17 counties in California that  
21 have a CIU, and 10 of those counties have documented exonerations. (See  
22 <https://www.law.umich.edu/special/exoneration/Pages/Conviction-Integrity-Units.aspx>.) Last year,  
23 the California Attorney General’s Office joined a growing number of other states and established the  
24 first-ever Post Conviction Justice Unit within the California Department of Justice, which has as its  
25 mission providing statewide leadership to support best practices across California, building on DOJ’s  
26 commitment to transparency and accountability, and supporting integrity in the criminal legal system  
27 by seeking to remedy cases where there have been miscarriages of justice. (See  
28

1 [https://oag.ca.gov/news/press-releases/attorney-general-bonta-establishes-first-ever-post-](https://oag.ca.gov/news/press-releases/attorney-general-bonta-establishes-first-ever-post-conviction-justice-unit)  
2 [conviction-justice-unit.\)](https://oag.ca.gov/news/press-releases/attorney-general-bonta-establishes-first-ever-post-conviction-justice-unit)

3 Even without a CIU, the Stanislaus County District Attorney (SCDA) can of course still  
4 stipulate to allow the requested testing to go forward. The DNA testing that is available now is more  
5 precise than it was two decades ago and the testing will be conducted at no cost to Stanislaus County.  
6 If the SCDA is concerned about further traumatizing the victims' family, as they contend, all the  
7 SCDA had to do was stipulate to the requested DNA testing and the Rocha and Peterson families  
8 would both have been spared further publicity surrounding these proceedings.

9 Given the prosecution's certainty that Mr. Peterson is guilty, they should have no reason to  
10 oppose his efforts to conduct further investigation and provide him with the discovery and further  
11 DNA testing he seeks. On the other hand, if Mr. Peterson is innocent and did not harm or kill his  
12 family, as he maintains, the DNA testing requested could not only exonerate him, it could provide  
13 valuable leads to other suspects who may have committed these horrific crimes.

14 Former MPD Det. Jon Buehler, who worked extensively on the investigation into the  
15 disappearance of Laci Peterson, publicly supported the Court granting this motion when he stated on  
16 NewsNation: "I welcome them to test to, you know, DNA test more evidence, feel free to do it." (See  
17 <https://www.youtube.com/watch?v=QorFV5WYdrU>). In a recently released documentary, Det.  
18 Buehler again stated: "Test it. Let's dig through it. But the big thing is, test that blood. And if we  
19 had the wrong guy, I want the truth to come out." (See *IMPACTx Nightline: Scott Peterson – The*  
20 *Wrong Man?*, available at: <https://www.hulu.com/series/f4c772ba-b893-4d3b-b503-8e1358121870>;  
21 see also [https://www.today.com/video/scott-peterson-to-make-another-attempt-to-get-his-case-](https://www.today.com/video/scott-peterson-to-make-another-attempt-to-get-his-case-retried-206300741722)  
22 [retried-206300741722](https://www.today.com/video/scott-peterson-to-make-another-attempt-to-get-his-case-retried-206300741722) ["As far as any evidence that comes forward test it. Let's see where it  
23 leads."].)

24 Former Modesto Fire Inspector Bryan Spitulski, who came forward and expressed concerns  
25 about the lack of investigation into the bloodstains on the mattress found in the back of the burned  
26 out orange van, told CBS News: "Let the facts say what they need to say." (See  
27 [https://www.cbsnews.com/sacramento/news/potentially-important-evidence-overlooked-peterson-](https://www.cbsnews.com/sacramento/news/potentially-important-evidence-overlooked-peterson-murder-case/)  
28 [murder-case/](https://www.cbsnews.com/sacramento/news/potentially-important-evidence-overlooked-peterson-murder-case/) [further explaining that it is significant that there is human DNA present on that



1 mattress].) Spitulski further stated on NewsNation: “I have no dog in this fight. I don’t care which  
 2 way this goes—innocent or guilty. The important thing for me is that this is finally being looked at.”  
 3 (See <https://www.youtube.com/watch?v=HzeYm7Mmeoo>)

4 And, Juror 4, Mike Belmessieri, stated on ABC News, “If they think they’re going to find  
 5 something different, that sheds light on something new, I fully support it.”  
 6 ([https://abcnews.go.com/US/innocence-project-takes-case-notorious-killer-scott-  
 7 peterson/story?id=106487571](https://abcnews.go.com/US/innocence-project-takes-case-notorious-killer-scott-peterson/story?id=106487571)). Mr. Belmessieri further stated on NewsNation: “I’m glad this group  
 8 is taking up the Peterson case and investigating it because if there’s new evidence that suggests he’s  
 9 innocent then he’s innocent.” (See <https://www.youtube.com/watch?v=ZvpayS5IVEo>).

10 The motion before the Court is governed by section 1405, which is straightforward and  
 11 requires a movant to meet a relatively low burden to make a prima facie showing that he is entitled  
 12 to develop potentially exculpatory evidence. Mr. Peterson has met the statute’s requirements. The  
 13 Court must grant this motion.

14 **MEMORANDUM OF POINTS & AUTHORITIES**

15 **I. THE COURT SHOULD GRANT THE MOTION**

16 **A. Mr. Peterson Has Met Section 1405(d)’s Pleading Requirement**

17 For the Court’s ease of reference, the table below summarizes the parties’ positions as to  
 18 section 1405(d)’s pleading requirements.

Pleading Standard	Prosecution’s Position	Peterson Reply
1405(d)(1)(A) Declaration of innocence	Standard met. (Opp’n. at p. 224.)	Standard met.
1405(d)(1)(B) Explain why identity of perpetrator was at issue	Position is unclear: prosecution claims there was “overwhelming circumstantial evidence.” ( <i>Id.</i> at 224-225.)	Standard met: defense at trial was third party culpability; the evidence was not “overwhelming”; and, prosecution has not refuted the numerous investigative failures counsel has identified supporting third party culpability.
1405(d)(1)(C) Identify evidence to be tested and type of testing	Standard not met. ( <i>Id.</i> at 226.)  The mattress fabric “may be” too brittle so M-Vac technology may not be feasible; no explanation for testing of debris from Target bag.	Standard met. See DNA Mot. 120-121, Exh. 13 at ¶¶ 8, 9, 13: (i) the GlobalFiler™ amplification kit coupled with a 3500 series Genetic Analyzer to achieve state-of-the-art DNA detection and discrimination power; (ii) probabilistic genotyping; and, (iii) sensitive and male DNA specific YFiler™ typing kit.

		<p>If M-Vac technology is not feasible, the mattress evidence can still be subjected to additional more comprehensive testing with traditional swabbing; prior testing only involved very small cuttings, the entire surface should be sampled.</p> <p>Debris from Target bag should be visually examined for anything resembling biological material (blood or bone fragments) associated with crab activity, if any type of DNA from Laci of Conner is found, it links the debris to the victims.</p>
<p><b>1405(d)(1)(D)</b> <b>Reasonable probability of more favorable result at trial (assumes test results are favorable)</b></p>	<p><b>Standard not met.</b> (<i>Id.</i> at 226.)</p> <ul style="list-style-type: none"> <li>• Items 1-4: orange van not related to case</li> <li>• Items 5-12: bay evidence already forensically examined</li> <li>• Item 8: baby not handled outside the womb</li> <li>• Item 9: pants tape not the same tape as on Target bag</li> <li>• Items 13-14: were not collected</li> </ul> <p>See 1405 (g)(5)</p>	<p><b>Standard met.</b></p> <ul style="list-style-type: none"> <li>• Items 1-4: prosecution conceded evidence was related when it stipulated to limited DNA testing in 2019; investigation into burned orange van was related to “Missing Person Investigation.” (See Bates 3781 [fire investigation report includes Laci Peterson MPD Case No. 02-142591].)</li> <li>• Items 5, 6, 7, 8, 10, 11, 12: prior forensic testing was <b>not</b> DNA testing.</li> <li>• Item 8: Coroner could not rule out the possibility that Conner was born alive and protected by something else in the marine environment (Opp’n. at p. 153.) Coroner would not speculate as to whether the tape could have been tied post mortem. (RT 17481.)</li> <li>• Item 9: Human DNA was found on the duct tape from Laci’s pants but a genetic profile was not obtained; foreign DNA on the tape could point to a perpetrator other than Mr. Peterson.</li> </ul>
<p><b>1405(d)(1)(E)</b> <b>Results of prior testing</b></p>	<p><b>Standard not met.</b> (<i>Id.</i> at 228.)</p> <p>Items 1 &amp; 2: 2019 testing “indicated the blood on the mattress clipping was a <b>male profile</b>, and as such no further testing was needed.” (Opp’n. at p. 196.) “There is no legitimate DNA test that will turn the male profile into a match for Laci.” (Opp’n. at p. 228.)</p> <p>Item 9: tape previously tested and “may reveal result” is hardly sufficient to meet the burden requirement here.” (Opp’n. at p. 229.)</p>	<p><b>Standard met.</b></p> <p>Items 1 &amp; 2: a DNA ‘profile’ is obtained when DNA is subjected to DNA typing procedures. In 2019, no typing was performed so <b>no male profile was obtained</b>. Furthermore, it was not concluded that the DNA obtained from the mattress was from blood. While the DNA quantitation results suggest that the DNA obtained was male, the samplings represented only a small percentage of the surface area of the items. The presence of male DNA does not mean there is no female DNA elsewhere on the material; the evidence needs to be more thoroughly tested. There is also a male victim in this case.</p> <p>Item 9: No authority cited; no DNA expert can state what testing “will” reveal, only what the possibilities are. Mr. Anjaria is thoughtful in his approach and recognizes that final determinations on testing specifics are best made in a controlled laboratory environment in light of the exact current condition of the evidence.</p>
<p><b>1405(d)(1)(F)</b> <b>Prior motions</b></p>	<p><b>Standard not met.</b> (<i>Id.</i> at 229.)</p> <p>Prior 1405 to test pubic hair not mentioned in motion.</p>	<p><b>Standard met.</b></p> <p>Mr. Peterson admits that DNA testing was conducted on a pubic hair in 2013, in addition to the prior testing that was stipulated to on the stained fabric from the mattress in the van in 2019. Mr. Peterson is not seeking to test pubic hair.</p>

**1. Section 1405(d)(1)(A): Declaration of Innocence**

The prosecution concedes Mr. Peterson has met this pleading requirement. (Opp’n. at p. 224.)

1                                   **2. Section 1405(d)(1)(B): Identity Of Perpetrator At Issue**

2           The prosecution’s position as to this factor is unclear. Their argument essentially rehashes  
3 some of the circumstantial evidence presented in the prosecution’s case-in-chief about Mr. Peterson  
4 having an affair and purchasing a porn channel and asserts that Mr. Peterson was convicted by  
5 “overwhelming circumstantial evidence,” again without any citation or support for that conclusion  
6 which has been publicly refuted by at least three of the jurors from Mr. Peterson’s trial (citations  
7 above). (Opp’n. at pp. 224–225.) While not expressly conceding that the identity of the perpetrator  
8 was an issue at trial under section 1405(d)(1)(B), elsewhere in the brief, the prosecution  
9 acknowledges that Mr. Peterson has presented a third-party culpability defense at trial (Opp’n. at p.  
10 204 [“Peterson’s third party culpability claims were raised at trial”]; pp. 212–213 [there is a section  
11 entitled “**C. Third Party Culpability**,”]; p. 247 [“The claim that third parties were responsible for  
12 the ‘abduction’ in this case has been litigated to the trial jury”].)

13           The California Supreme Court explained in its opinion that “[t]he defense argued the police  
14 had not diligently pursued whether a person or persons other than Peterson were more likely  
15 responsible for Laci’s disappearance and murder.” (*People v. Peterson* (2020) 10 Cal 5th 409, 425.)  
16 On this record, it is clear Mr. Peterson has met this pleading standard.

17           Mr. Peterson has provided the Court with ample admissible evidence supporting his  
18 contention that the identity of the perpetrator was at issue in the case. Since the prosecution’s position  
19 is unclear, Mr. Peterson will summarize some of the significant investigative failures counsel has  
20 identified that occurred during the investigation into Laci Peterson’s disappearance, which were set  
21 forth in the DNA Motion and which the prosecution has not refuted, all of which support his claim  
22 that he is innocent and that further investigation is needed:

23                                   **a. Laci Was Alive After Mr. Peterson Left Home on December 24**

24   **i. Unrefuted Witness Evidence: Laci Walked the Dog**

25           The prosecution does not refute that MPD repeatedly told the public and press that Mr.  
26 Peterson was the last person to see his wife alive, beginning on December 25, 2002, despite numerous  
27 eyewitness reports contradicting that statement, which the MPD refused to investigate in the days and  
28 weeks following Laci’s disappearance.

- 1 • The prosecution admits that, while Laci was missing, MPD failed to interview at least the  
2 following neighborhood eyewitnesses, who reported seeing Laci alive and walking the dog  
3 on December 24, 2002, after Mr. Peterson left home for the day, including: Homer  
4 Maldonado, Tony Freitas, Martha Aguilar, Frank Aguilar, Vivian Mitchell, Gene Pedrioli,  
5 John Brazil, Sharon P., Dean T., and Grace Wolf.
- 6 • The prosecution does not refute that these witnesses reported seeing Laci Peterson at times  
7 when a massive search for her was underway.<sup>4</sup>
- 8 • The prosecution also does not refute the allegation that several of these witnesses  
9 attempted multiple times to report what they had seen but were actively dissuaded from  
10 coming forward with their information. (DNA Motion at pp. 23–25, 30.)
- 11 ○ Witness C [REDACTED] H [REDACTED] has recently come forward and stated under penalty of  
12 perjury that he saw Laci walking into the park the morning of December 24, as he  
13 was riding his bike north on Covena, and that later that morning when he was  
14 returning home, riding his bike out of the park heading south on Covena, he saw a  
15 white van parked in front of the Medinas' home with a man hitting or pushing  
16 down something in the back of van. (Exh. 1 [Decl. of C [REDACTED] H [REDACTED]] at ¶ 10.)
- 17 ○ When C [REDACTED] H [REDACTED] went to the police station to report what he had seen,  
18 sometime before January 2, 2003, Det. Brocchini told him something to the effect  
19 of, “We got our guy, but thank you.” (*Id.* at ¶ 14.)
- 20
- 21

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22 <sup>4</sup> As the Guidelines and Curriculum for Missing Person Investigations published by the California Commission  
23 on Peace Officer Standards and Training (POST) state at POST Guideline 2.1, one of first steps law enforcement should  
24 take in a Missing Person Investigation is determining whether there are any potential eyewitnesses and, where witnesses  
25 provide conflicting information, the investigating officer should investigate the reasons for conflicting information  
26 offered by witnesses and other individuals, to assess its reliability. (Available at:  
[https://post.ca.gov/portals/0/post\\_docs/publications/Missing\\_Persons\\_Investigations.pdf](https://post.ca.gov/portals/0/post_docs/publications/Missing_Persons_Investigations.pdf).) That did not occur in this  
case; eyewitnesses were systematically ignored and their accounts dismissed. The prosecution's manufactured  
hindsight explanations as to why the police failed to interview these eyewitnesses are not compelling for numerous  
reasons, addressed below.

27 In the Opposition to the instant motion, the prosecution attempts to summarily dismiss these egregious investigative  
28 failures by asserting that 10,000 tips were received by law enforcement but generated “nothing credible,” but the record  
is clear: numerous eyewitness reports from within the Petersons' *own neighborhood* were never investigated. (Opp'n.  
at p. 134.)

1           ○ At the outset of the investigation, there was a clear pattern of MPD ignoring  
2           witnesses or turning away witnesses who attempted to report information that did  
3           not point toward the guilt of Mr. Peterson.

4           • The prosecution does not refute that Det. Grogan’s sworn testimony at trial that Mr.  
5           Peterson was the last person to see Laci Peterson was flatly contradicted by Ms. Campos,  
6           who told police she saw Laci Peterson alive and walking the dog the morning of December  
7           24, 2002, as well as other eyewitness reports. (DNA Motion at p. 35.)

8           • The justification the prosecution offers for ignoring Diane Campos’s eyewitness account  
9           is, without any citation to the record, that “multiple ‘look-alike’ witnesses testified that  
10           they walked in the general area of where Laci lived,” that “medical records and witness  
11           testimony disproved that Laci was walking that morning,” and that Ms. Campos “had seen  
12           missing person flyers.” (Opp’n. at p. 239.) None of the witnesses who reported seeing  
13           Laci the morning of December 24, has ever identified any other woman as the person they  
14           saw. Additionally, Laci’s sister, Amy Rocha, testified that as of December 24, she knew  
15           Laci had walked in the last couple days. Laci was walking and walking often, as she was  
16           concerned about her weight and staying fit. (RT 8926-8927.) Lastly, the assertion that  
17           eyewitnesses who come forward after seeing a missing person flyer should be ignored or  
18           discredited *because* they recognized a person they had seen as looking like the photo of  
19           the person on the flyer is ludicrous and does not merit a response, for obvious reasons.

20           • The prosecution has never disputed that if Laci Peterson was alive when her husband left  
21           home for the day on December 24, 2002, he is innocent. If even one of the eyewitnesses  
22           who reported seeing Laci alive that morning is credible and believed, Mr. Peterson is  
23           innocent. MPD interviewed none of those witnesses prior to trial, and some have never  
24           been interviewed by police to this day. The jury convicted Mr. Peterson and sentenced  
25           him to death without hearing from a single one of these critical eyewitnesses.

26           ○ In its Opposition, the prosecution states that Homer Maldonado was interviewed  
27           by MPD Det. Stough. (Opp’n. at p. 170, fn. 95 [citing RT 18569].) **That is false.**  
28           (See RT 18494 [Det. Grogan testifying: “Q: Now I don’t see anywhere where

1            Detective Stough . . . talked to Mr. Maldonado. Are you aware of that? A: I don't  
2            think he did."].)

3            ○ **The prosecution admits that the affirmative statements in Mr. Maldonado's**  
4            **declaration regarding when and where he saw a woman he believed was Laci**  
5            **Peterson walking the dog the morning of December 24, 2002, are admissible.**  
6            (Opp'n. at p. 300.)

7            ○ The prosecution states in its Opposition that Tony Freitas was interviewed in 2003.  
8            (Opp'n. at p. 175 ["Opp'n. at 175: "On July 29, 2003, a DA investigator followed  
9            up with Freitas."].) **That is false.** Mr. Freitas was not interviewed by the  
10           prosecution until over a year and a half after he called in his report, and not until  
11           after Mr. Peterson's capital murder trial had already started, in **July 2004.**

12           ○ **The prosecution admits that the affirmative statements in Mr. Freitas's**  
13           **declaration regarding when and where he saw a woman he believed was Laci**  
14           **Peterson walking the dog the morning of December 24, 2002, are admissible.**  
15           (Opp'n. at p. 300.)

16           ○ The prosecution attempts to discredit Vivian Mitchell's information—an  
17           eyewitness never interviewed by detectives—by referencing interviews with *her*  
18           *neighbors*—but does not dispute that Ms. Mitchell was never interviewed by  
19           MPD. (Opp'n. at p. 206, fn. 116.)

20           ○ The prosecution admits "Detective Grogan never spoke to Grace Wolf." (Opp'n.  
21           at p. 169.)

22           • While the prosecution asserts that there were 260 MPD officers on staff at the time of  
23           Laci's disappearance (Opp'n. at p. 130), the testimony at trial was that not one of these  
24           officers was assigned to follow up on sightings of Laci in the neighborhood. Det. Craig  
25           Grogan testified that sightings of Laci were not a priority and yet MPD presented sworn  
26           affidavits in support of numerous search warrants stating that there were no verifiable  
27           sightings of Laci Peterson. (RT 18283-18284.)  
28

- 1 • The prosecution asserts summarily that of those eyewitness reports from the La Loma  
2 neighborhood, “none proved to be correct” (Opp’n. at p. 1) but they admit **law**  
3 **enforcement failed to interview any of those witnesses while Laci was missing.**
- 4 • The prosecution has now come up with a new explanation to justify why MPD did not  
5 need to interview eyewitnesses who saw Laci in the neighborhood: the purported  
6 justification now is that these witnesses reported seeing Laci wearing “black pants.”  
7 (Opp’n. at p. 74, 170, 175, 206.) At the time the eyewitnesses were calling in reports of  
8 seeing Laci walking in the neighborhood, police were operating under the belief that she  
9 was, in fact, wearing black pants. Ignoring witnesses who report seeing a missing person  
10 wearing black pants, when police have asked the public for assistance finding a missing  
11 person wearing black pants, makes no sense; there is no reasonable justification for  
12 employing such an incomprehensible investigation strategy.
- 13 • The prosecution further argues that eyewitnesses who reported seeing Laci walking in the  
14 neighborhood in “black pants” are not credible because they were influenced by  
15 information being reported by “the media.” *But it was the MPD that issued a press release*  
16 *as early as December 25, with the clothing description of “black pants” on it, asking for*  
17 *citizens to assist in the search for Laci.* (Opp’n. at pp. 170 [“the same clothing description  
18 that had been reported by the media”]; pp. 175–176 [“after the media released the clothing  
19 description”]; p. 243 [“As pointed out for each of the witnesses above, they are incorrect  
20 or stating the impossible, seemed to be influenced by media accounts.”].) The  
21 prosecution’s arguments are nothing but hindsight justifications as to why the MPD  
22 ignored all of the eyewitness reports—tips the MPD solicited from the public, for which  
23 there simply is no rational or reasonable excuse or justification.
- 24 • Worse, the prosecution misstates the evidence and argues that Laci was killed on  
25 December 23, 2002, because “when Laci’s body was eventually recovered nearly four  
26 months later, Laci was not wearing a white shirt and black pants,” (Opp’n. at p. 74), but  
27 instead, “She Was Still Wearing the Motherhood Maternity Tan Capri Pants She Wore on  
28 December 23” that Laci’s sister, Amy Rocha, saw Laci wearing. (Opp’n. at p. 161 [in a

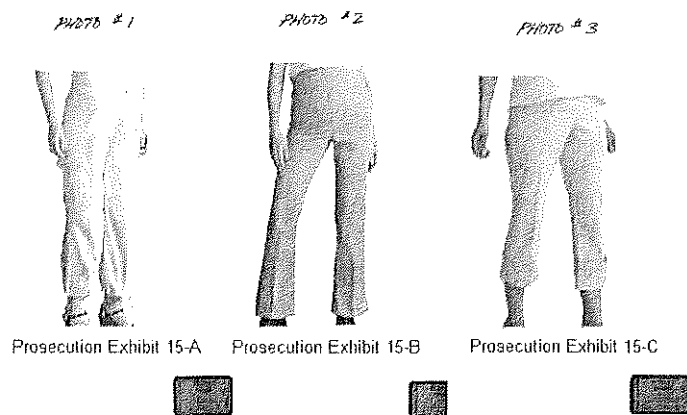
1 heading]; p. 235 [“Laci’s remains were recovered in tan/creamy pants that her sister had  
2 identified as being worn by Laci the night before.”].) **Those assertions are blatant**  
3 **misrepresentations of the evidence in this case.**

- 4 • Laci was not found wearing the same pants she wore on December 23, 2002. On February  
5 18, 2003, Amy Rocha went to the Petersons’ home while police were executing a search  
6 warrant to see if she could identify the outfit Laci was wearing when Amy saw her the  
7 evening of December 23, and Amy was able to find “the whole outfit.” (RT 8919.)

8 7 Q. You saw the shoes that you thought she was  
9 8 wearing -- I think I said the 18th. All -- on the 18th you  
10 9 saw all -- the whole outfit, basically, that you thought  
11 10 she was wearing on the 23rd?

12 11 A. Yes.

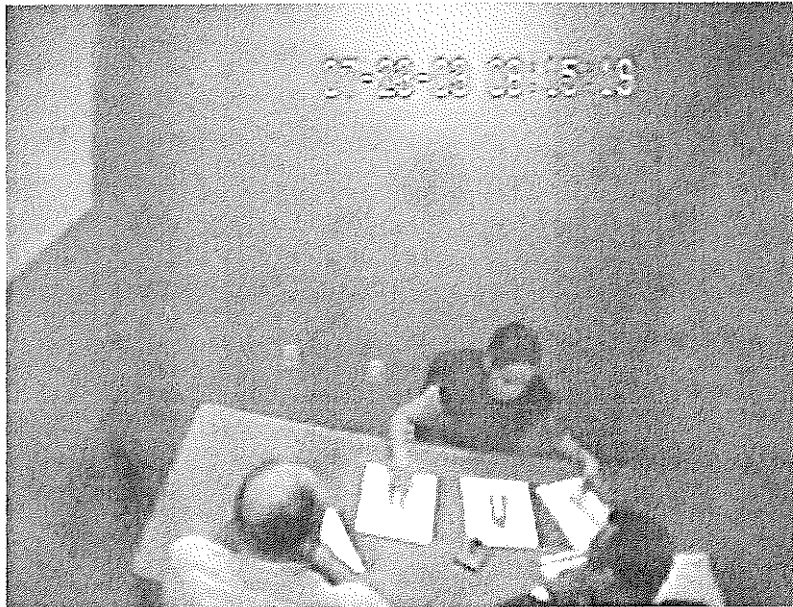
- 13
- 14 • And yet, the prosecution states in its Opposition that “[a]fter going through all of Laci’s  
15 clothing, they could not locate the cream-colored maternity capri pants.” (Opp’n. at p.  
16 161.) **That is false.**
- 17 • In addition, after Amy Rocha showed the police on February 18, 2003, that the pants Laci  
18 wore on December 23 were found hanging in Laci’s closet, Det. Grogan interviewed her  
19 again on video at the police station, apparently in effort to see if she would identify the  
20 pants Laci was found wearing when her remains were found as the same pants Amy saw  
21 her wearing on December 23. Amy was shown three photos of pants to see if she could





1 identify the pants Laci wore on December 23. (Bates 40776.) **The pants Laci was**  
2 **actually found wearing when her remains were recovered are depicted in Photo #3**  
3 in the image below, labeled Exhibit 15-C.

- 4 • When Amy Rocha looked at the photos depicted above on July 23, 2003, at the police  
5 station, she told Det. Grogan that the pants she saw Laci wearing on December 23 were  
6 “definitely not” in Photo #1 or **Photo #3**.



18  
19 **STATEMENT**  
**AMY ROCHA**

**PAGE 2 OF 7**

**02-142591**

20  
21 ROCHA: But definitely not these two.  
GROGAN: You don't think it's those two?

22 ROCHA: Um um. (negative)

- 23  
24 • In other words, Amy Rocha *twice* told police that the pants she saw her sister wearing on  
25 December 23, were *not* the pants found on her remains.  
26 • The prosecution has misrepresented the record to this Court in yet another desperate  
27 attempt to protect a conviction that is clearly in need of review. All of the clothing Amy  
28 saw Laci wearing the evening of December 23, was found in her home. The evidence

1 shows Laci got undressed the evening of December 23, she hung her cream-colored pants  
2 in the closet, she went to bed, and she woke up the next morning and put on black pants  
3 and a white top. At some point, after Mr. Peterson left on the morning of December 24,  
4 2002, at which time he reported to police Laci was wearing black pants and a white top.  
5 It is possible and even likely that, after Mr. Peterson left home on the morning of  
6 December 24 and after Laci returned from her walk, Laci changed into khaki capri pants  
7 like the ones pictured in People's Exhibit 15-C, which were on her body when her remains  
8 were found.

9 **ii. December 24, 2002 Timeline: Laci Could Have Left Home to**  
10 **Walk the Dog as Early as 9:50 a.m.**

- 11 • The prosecution continues to argue that MPD was justified in ignoring the eyewitnesses  
12 who reported seeing Laci walking prior to 10:08 a.m. because Mr. Peterson did not leave  
13 home the morning of December 24, 2002, until 10:08 a.m. That contention is not  
14 supported by the evidence because it is based on a call Mr. Peterson made on his cell  
15 phone to check his voicemails, and the cell phone tower evidence the prosecution relies  
16 on does not support that conclusion. (Opp'n. at pp. 69, 70, 175–176, 236.)
  - 17 ○ The prosecution does not refute that a police report dated January 11, 2003,  
18 authored by Det. Grogan, states that Mr. Peterson's computer at his office and  
19 warehouse was *turned on* at approximately 10 o'clock that morning, **meaning that**  
20 **Mr. Peterson left home around 9:50 a.m.**, given that the drive from his home to  
21 warehouse was approximately ten minutes. (DNA Motion at p. 18, fn. 10.)
  - 22 ○ The prosecution does not refute that prosecution witness Mary Anderson from Mr.  
23 Peterson's wireless carrier, AT&T, testified that because of anomalies in the  
24 system related to checking voicemails (as opposed to making phone calls), it is not  
25 possible to determine with any certainty where someone is located when they are  
26 checking their voicemails from their cell phone, as opposed to making a call.  
27 (DNA Motion at p. 19, fn. 11 [citing 79 RT 15045 ("Q. Okay. So as you sit here  
28 today, it's also a fair statement and a reasonable statement that, based upon these

1 anomalies, and based upon what you see here on the voicemails, that you can't  
2 draw any conclusion whatsoever as to -- with any kind of certainty, as to where  
3 somebody is located when they're checking their voice mail, correct? A. I think  
4 that's a fair statement.")

- 5 • The prosecution's argument that the eyewitnesses did not need to be interviewed because  
6 "the sightings were spread out quite a distance away from one another and the time that it  
7 would take someone to walk that distance," (Opp'n. at p. 175), also fails because it  
8 erroneously assumes that (i) every eyewitness who reported seeing Laci was correct as to  
9 the time they estimated seeing her, and, (ii) every witness who reported Laci did, in fact,  
10 see her. As the prosecution has acknowledged, however, if even a single witness who  
11 reported seeing Laci walking the dog the morning of December 24, is deemed credible  
12 and believed, that evidence would exonerate Mr. Peterson and prove his innocence.
- 13 • The prosecution does not dispute that MPD failed to investigate several witness reports  
14 that a dog fitting McKenzi's description was seen walking in the neighborhood unattended  
15 on the morning of December 24, 2002, which Mr. Peterson contends is further evidence  
16 that Laci was walking in the neighborhood with the dog that morning.
  - 17 ○ As one example, the prosecution does not dispute that MPD failed to investigate  
18 Leora Garcia's report of seeing a dog fitting McKenzi's description walking in the  
19 neighborhood alone on Edgebrook Avenue and that she also saw a suspicious van  
20 speeding off on the morning of December 24, near La Loma Park. Instead, the  
21 prosecution objects to the Court considering that evidence on the ground that it is  
22 hearsay. As with the other evidence concerning the investigative failures in this  
23 case, the Court should overrule the prosecution's objection and consider this  
24 evidence for purposes of determining the reasonableness, or lack thereof, of  
25 MPD's investigation and/or the thoroughness of post-conviction counsel's  
26 investigation.
- 27 • The prosecution does not refute the allegation that MPD failed to investigate a report by  
28 witness Lillian V. of a suspicious man riding his bike down Covenan the morning of

1 December 24, 2002. (see Opp'n. at p. 252 ["This is also not new evidence, is not an  
2 orange van, or a van of any kind, and has no legal connection to this case."].) While the  
3 prosecution pretends it does not understand the relevance of Lillian V.'s report, its  
4 relevance and materiality are patently obvious in light of Steven Todd's admission that he  
5 often rode his bike on Covena Avenue, but was not there on December 24, and in light of  
6 Lillian V.'s description of the man she saw, which resembled Todd's physical description,  
7 evidence that impeaches Todd's statement to police that he was not on Covena on  
8 December 24.

- 9 • The prosecution also argues that the eyewitnesses who reported seeing Laci did not need  
10 to be interviewed because investigators located a number of women who were pregnant  
11 at the time and walked, many with their dogs (Opp'n. at p. 132), but the evidence presented  
12 at trial regarding these other women dog-walkers did not support the prosecution's theory  
13 that the eyewitnesses who reported seeing Laci confused her with the other women dog-  
14 walkers from the neighborhood. The prosecution knows this. (See DNA Motion at p.  
15 24.<sup>5</sup>)

- 16 ○ What the prosecution's argument does show, however, is that while MPD  
17 steadfastly and systematically refused to interview the eyewitnesses who reported  
18 seeing Laci while she was missing and before they arrested charged and tried Mr.  
19 Peterson for capital murder, they *did* find the time to track down and interview  
20 numerous other women dog-walkers from the neighborhood—*all in an effort to*  
21 *discredit witnesses they never bothered to interview*. To this day, the prosecution  
22 has failed to identify which of these women were positively identified by any  
23 witness who reported seeing Laci.

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24  
25 <sup>5</sup> See, e.g., 87 RT 16753–16755 [Elizabeth Guptill: took walks in the neighborhood, but **did not have a dog**];  
26 87 RT 16753–16767 [Jill Lear: **did not walk on December 24**]; 88 RT 16815–16820 [Patricia Mewhinney: pregnant  
27 with **long blond hair**, walked her **Lab/German Shepard mix** in La Loma Park between 8:00 a.m. and 9:00 a.m. on  
28 December 24]; 88 RT 16851–16858 [Amy Neumann: pregnant, **did not walk her standard poodle on December 24**].) None of that evidence persuasively undermines the contention that Laci Peterson walked her dog in the neighborhood on December 24, nor does it persuasively support the notion that the eyewitnesses who reported seeing Laci confused her with any of the above-described women walkers.

1 **iii. Scent Dogs**

- 2 • The prosecution does not refute that police reports show on December 26, 2002, scent dog  
3 Merlin, a bloodhound, trailed Laci's scent through the La Loma neighborhood to the  
4 precise location where Tony Freitas reported seeing Laci walking the dog the morning of  
5 December 24, 2002. (Opp'n. at p. 89, fn. 60 [arguing the trial court did not allow the  
6 evidence about Merlin to come in at trial].) But, as the prosecution is aware, the reason  
7 the court did not allow Merlin's evidence to come in was because there was no  
8 corroborating evidence, i.e., because MPD failed to interview witnesses like Tony Freitas  
9 and Homer Maldonado, prior to trial. (DNA Motion at pp. 25–27 ["After Ms. Valentin  
10 testified at a pre-trial hearing about the route Merlin took when trailing Laci's scent on  
11 December 26, 2002, the court ruled that her testimony was inadmissible since there was  
12 no evidence 'corroborating' that the scent dog was trailing Laci's scent." [citing 10 RT  
13 2001–2002].)
- 14 ○ The prosecution does not refute the allegation that MPD failed to investigate leads  
15 that would corroborate that the trail scent dog Merlin followed was Laci's trail,  
16 i.e. statements by Maldonado, Dean T., Frank Aguilar, Martha Aguilar, etc., who  
17 reported seeing Laci in the same general direction of Merlin's trailing route, and  
18 *the precise locations where Mr. Freitas reported seeing Laci*. (DNA Motion at  
19 p. 28.)
  - 20 ○ The prosecution does not refute the allegation that Merlin trailed Laci's scent into  
21 the Airport District to a location a few blocks away from the homes of Todd and  
22 Pearce, and that MPD failed to investigate whether Laci could have been taken to  
23 the Airport District in a vehicle. (DNA Motion at p. 30.)
- 24 • The prosecution acknowledges that “[c]adaver dogs track scent of dead or decaying flesh,”  
25 (Opp'n. at p. 82, fn. 55), and does not dispute that MPD told Eloise Anderson *not* to put  
26 the cadaver dog she was handling into the back of Mr. Peterson's pick-up truck; a truck  
27 police believed he used to transport his wife's body to the bay. There was no forensic  
28

1 evidence found anywhere in Mr. Peterson's truck tying him to these crimes. (DNA  
2 Motion at p. 16)

- 3 • The prosecution does not refute that there were no positive cadaver dog alerts during the  
4 searches on the bay in the area south of Brooks Island, where Mr. Peterson reported he  
5 had gone fishing, nor does the prosecution refute that there were many, many positive  
6 cadaver dog alerts in area near buoys 4 and 6, close to the location where Gene Ralston  
7 stated he believed he saw Laci Peterson's remains, three miles north of the location where  
8 Mr. Peterson fished. (DNA Motion at pp. 71-73, 80-86.)

9 **iv. Medina Burglary**

- 10 • The prosecution fails to refute Mr. Peterson's allegation that with regard to December 24–  
11 25, 2002, “the alibis of Mr. Todd and Mr. Pearce were never investigated, as police  
12 publicly announced, and that individuals in addition to Mr. Todd and Mr. Pearce were  
13 involved in the burglary and have never been investigated.” (DNA Motion at p. 44.)<sup>6</sup>
- 14 ○ In fact, the word “alibi” appears nowhere in the Opposition, nor has there ever  
15 been any explanation of what investigation MPD conducted into the alibi of Steven  
16 Todd for December 24, which is a critical omission in view of the importance of  
17 Todd's purported alibi in establishing that the Medina burglary did *not* occur on  
18 December 24, as Mr. Peterson has contended for the last 20 plus years. The  
19 prosecution remains silent on this issue and continues to suppress videotaped  
20 interviews with Todd and Pearce from the time of their arrest. (See Discovery  
21 Motion.)
- 22 • The prosecution admits that Steven Todd gave police the wrong date when he initially  
23 confessed to committing the burglary and told police the burglary occurred on December  
24

---

25 <sup>6</sup> The prosecution repeatedly argues, summarily, throughout its Opposition that the Medina burglary was an  
26 “unrelated” case and therefore it is outside the bounds of a reasonable post-conviction investigation. (Opp'n. at pp. 286–  
27 287 [“This was an unrelated case and the trial jury rejected this theory so the defendant cannot as a matter of law get a  
28 do-over.”].) The prosecution has cited no authorities supporting that argument, which once again reflects the  
prosecution's profound misunderstanding of the purpose of a post-conviction investigation into a claim of actual  
innocence.

1 27, one day *after* the Medinas returned home from their out-of-town trip and found their  
2 home had been robbed.<sup>7</sup> (Opp’n. at p. 178, fn. 101.)

- 3 • The prosecution fails to refute that Susan and Rodolfo Medina’s home, located directly  
4 across the street from the Petersons’ home, was burglarized on or beginning on December  
5 24, 2002.<sup>8</sup>
- 6 • The prosecution argues that this was an “unrelated burglary that occurred across the street  
7 from the Petersons house two days after Laci disappeared” (Opp’n. at pp. 243, 286–287)  
8 but the record in this case does not support that argument. The Medina burglary was very  
9 much at issue during the investigation into Laci Peterson’s disappearance.
  - 10 ○ Susan Medina testified as a witness for the prosecution at Mr. Peterson’s trial.
  - 11 ○ All three questions posed to Todd and Pearce during their polygraph examinations  
12 were about the disappearance of Laci Peterson—making it related to the  
13 investigation in this case. In addition, the prosecution cannot deny that the  
14 polygraph technician did not ask either Todd or Pearce about their whereabouts on  
15 December 24, 2002—leaving the timeframe of the burglary in dispute.

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17 <sup>7</sup> It is odd that MPD was willing to find truthful, reliable, and credible, a statement by a suspect like Steven Todd,  
18 who had a lengthy criminal history, including a history of making false statements to police [Exh. 2 at ¶ 91] when he  
19 stated he was “confused” about what *day* he committed the burglary, but police were unwilling to interview eyewitnesses  
20 who reported seeing Laci Peterson to find out if they may have been “confused” or off by a few minutes about the time.  
21 (See e.g., Opp’n. at p. 251 [discrediting eyewitness Linda Chilles’s report, which was similar to the accounts provided by  
22 Diane Jackson and Niniv T., wherein Ms. Chilles stated that on the morning of December 24, 2002, she was driving on  
23 Covena Avenue and saw a suspicious looking van parked in front of the Medinas’ home with three men standing around  
24 it and providing a detailed physical description of two of the men she saw standing by the van because Ms. Chilles stated  
25 that she saw the van at 9:30 a.m.”].) MPD never contacted Ms. Chilles to interview her about what she saw or whether  
26 she could have been mistaken as to the time she saw the van, despite the fact that she made two attempts to report what  
27 she had seen. Instead, the prosecution argues that no investigation was needed because “the Medinas’ had not left to go  
28 out of town yet and they did not testify to seeing a van in front of their house when they did leave.” (*Id.*) MPD also calls  
Mr. Peterson’s estimate that he left home “inconsistent with the evidence,” as the evidence indicates he left at least twenty  
minutes later. While the police had no problem believing Steven Todd when he got “confused” about which day he  
burglarized the Medinas’ home and changed the date from December 27 to December 26, the police did not provide any  
of the eyewitnesses who reported seeing Laci walking in the neighborhood an opportunity to confirm or clarify whether  
any of their time estimates were approximate, or whether they could have also been confused and off by a few minutes,  
or more, and MPD certainly did not extend that same opportunity to Mr. Peterson.

<sup>8</sup> Again, the defense was not provided with the complete MPD investigation file into the Medina burglary. (See  
Motion for Post-Conviction Discovery filed concurrently herewith.)

1           o Numerous MPD reports in the investigation into the disappearance of Laci  
2           Peterson, MPD 02-142591, cross-reference the Medina burglary, MPD 02-  
3           143025, and vice versa, as being part of the same investigation, including:  
4           2002.12.26 – Wend interview with Medinas (Bates 4090-4093); 2002.12.27 –  
5           Diane Jackson’s tip (Bates 14765); 2002.12.27 – Diane Jackson: Callahan's report  
6           (Bates 20389 [a box is checked for copies to be sent to Grogan]); 2002.12.27 –  
7           Diane Jackson: Stough’s report (Bates 2090-2092 / 20386-20388 [his report cross  
8           references both case numbers]); 2002.12.27 – Stough’s vehicle report (Bates 2087-  
9           2089); 2002.12.30 – Bertalotto’s interview with Medinas (Bates 1981-1984);  
10          2003.01.02 – Todd and Pearce: story given to Hick’s (Bates 4111-4120);  
11          2003.01.02 – Cloward’s informant report (Bates 20393-20395); 2003.01.02 –  
12          Helton’s burglary reward Airport District (Bates 2385); 2003.01.02 – Helton’s  
13          report Fred Monaco and Mark Thomas (Bates 2392); 2003.01.02 – Helton’s report  
14          informant (Bates 2391A); 2003.01.02 – Stough’s report Informant X (Bates  
15          20361-20365); 2003.01.02 – Kelly’s report: Medina burglary (Bates 4158-4159);  
16          2003.01.02 – Search Warrant for 1407 Tenaya Nicole Erwin (Bates 4160 [only  
17          Laci Peterson case number is referenced]); 2003.01.03 – Todd and Pearce  
18          polygraph (Bates 4161-4164 [only Laci Peterson case number is referenced]);  
19          2003.01.06 – Gail P [REDACTED] tip (Bates 15010 / 15031); 2003.01.10 – Diane  
20          Jackson’s interview with Reid (Bates 2443-2444); 2003.01.15 – Todd interview  
21          with Stough (Bates 4151); 2003.01.17 – Diane Jackson hypnosis interview (Bates  
22          36740-36762); 2003.01.19 – Stough report on Jackson and Dempwolf interview  
23          (Bates 2096-2100); 2003.07.03 – Grogan report Medina safe destroyed (Bates  
24          26041-26047 / 30936-30941); 2002.12.26 – Crowd control, Medina burglary  
25          reported (Bates 4082/4094, has only Laci Peterson case number on it), shown  
26          below:



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4082

CN #02-142591

**MODESTO POLICE DEPARTMENT**

**SUPPLEMENTAL REPORT**

Page 1 of 1

On 12/26/02, myself and OFF. Meyer were called to the 523 Covena address to assist with crowd control. While we were onscene, the neighbor from 516 Covena arrived home.

The homeowners went into their home. After they were inside the house for approx. 1 minute, the female ran out and said that their house had been broken into. OFF. Meyer and myself conducted a security check of the inside of the home. It was determined that there had been a burglary while the homeowners were gone on vacation for the Christmas holiday. OFF. Wend responded to conduct the investigation of the burglary.

- o Other MPD reports include case numbers for both the Laci Peterson investigation and the Medina burglary investigation.:

20309

Supplement

Page 1 of 3

02143025

X-ref 02142591

NAMES TO APPEAR:

✓ (V): MEDINA, Susan  
Same phone and address as Rodolfo

W (W): JACKSON, Diane  
WFA, [REDACTED]  
[REDACTED]  
Modesto, CA  
[REDACTED]

- o The fact that the jury was not provided with all of the evidence connecting the date of the Medina burglary to Laci's disappearance does not make the burglary "unrelated"; it merely means the jury was not presented with evidence at trial to

1 reach that conclusion beyond a reasonable doubt. Mr. Peterson contends that  
2 evidence the jury never heard would have led to a different result.

- 3 • Defense investigator Carl Jensen interviewed numerous witnesses, including family  
4 members and associates of Steven Todd, about his whereabouts on December 24, in an  
5 effort to determine when the Medina burglary occurred. (Exh. 2 [Decl. of Carl Jensen] at  
6 ¶ 8.) Jensen was unable to verify Todd’s purported alibi for December 24, between the  
7 hours of 9 a.m. and 3 p.m.; instead he learned that several witnesses, including Adam  
8 Tenbrink and Glenn Pearce himself, stated that Todd started the burglary on December  
9 24, and returned with Pearce to get the safe on December 25, not on December 26, as the  
10 police reported.<sup>9</sup> (*Id.* at ¶ 53.)
- 11 • Adam Tenbrink stated to Jensen that on December 24, 2002, about the time it was getting  
12 dark, Todd called Adam and asked him help him “get some stuff out of the house” he was  
13 burglarizing and that Adam understood Todd was referring to the Medinas’ house. Adam  
14 stated that he did not go to assist Todd. (*Id.* at ¶ 52.)
- 15 • The prosecution does not refute that MPD officers told Susan Medina that one of the  
16 burglars admitted to police that they made a phone call from inside the Medinas’ home to  
17 get help with the burglary. (DNA Motion, Exh. 3 [Declaration of Susan Medina] ¶ 26.)
- 18 • According to Glenn Pearce and Adam Tenbrink, by the afternoon or evening of  
19 December 24, Todd had already located the safe the Medinas kept in their home, but he  
20 had not yet been able to remove it from the home. Both Pearce and Adam Tenbrink  
21 stated that Todd went back to collect the safe the following morning, December 25,  
22 using Pearce’s mother’s car.

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23  
24 <sup>9</sup> Post-conviction counsel made diligent efforts to gather all of the materials in Mr. Peterson’s case file from his  
25 various prior counsel, as required under section 1054.9. (Exh. 3 [Decl. of Paula Mitchell] at ¶¶ 4–7.) Counsel discovered  
26 that several items appeared to have become lost, including a box that contained media (CDs, CVCs, videotapes,  
27 audiotapes, and other items) and was labeled Box 1261. Counsel reached out to several of Mr. Peterson’s prior attorneys  
28 in an effort to locate the missing Box 1261. After searches proved fruitless, counsel asked the attorneys at Habeas Corpus  
Resource Center to please go look again. (*Id.* at ¶ 6.) Finally, in November 2023, Box 1261 was located and provided to  
LAIP. (*Id.*) Within the box were files, notes, and materials related to the investigation Carl Jensen conducted on behalf  
of the defense, which counsel had not found elsewhere in Mr. Peterson’s case materials. (*Id.* at ¶ 7.) After reviewing the  
materials, counsel interviewed Mr. Jensen in late March 2024. (*Id.* at ¶ 8.)

- 1 • When Jensen interviewed Adam Tenbrink in late 2004, he stated that Adam told him no  
2 one from the MPD had spoken to him about the call with his brother Shawn that was  
3 reported to MPD by Lt. Aponte. (Exh. 2 at ¶ 52.)
- 4 • The prosecution does not refute the assertion that MPD Det. Stough told journalist Mike  
5 Gudgell that MPD did *not* verify Todd's alibi for December 24. (DNA Motion at pp. 44–  
6 45.) Instead, the prosecution object to that evidence as inadmissible hearsay. If the  
7 prosecution has evidence Todd's alibi was confirmed for December 24, it surely would  
8 have provided that evidence to the defense; but the defense has not been provided with  
9 that discovery.
- 10 • Medina burglar Steven Todd admitted to riding down Covena Avenue hundreds of times.  
11 (RT 20017.) Todd told MPD that he first noticed mail sticking out of the Medina mailbox  
12 on Christmas day, on December 25. (RT 20018.) Mr. Jensen interviewed the Medinas  
13 and the Medinas' mail carrier, Russell Graybill, and determined that the only time mail  
14 was sticking out of the Medina mailbox while the Medinas were gone that week, was the  
15 morning of December 24. (Exh. 2 at ¶ 29.) Mr. Jensen showed Todd photos of the  
16 Medinas' mailbox and asked him to confirm what the outgoing mail looked like and that  
17 the mail he saw was in the mailbox at the Medina home. (*Id.* at ¶ 31.)
- 18 • Todd's story to police was that he was riding his bike down Covena to his mom's house  
19 on December 25 - Christmas Day - when he noticed the Medina mail sticking out of the  
20 mailbox. (RT 20017.) However, when Mr. Jensen interviewed Todd's sister, Lisa  
21 Stringfellow, and she indicated she woke Todd up around 11 a.m. at Pearce's house on  
22 Christmas, then she drove them to their mother's house at about noon. (Exh. 2 at ¶ 32.)  
23 Stringfellow drove Todd back to Pearce's sometime after dark. (*Id.*) According to  
24 Stringfellow, Todd did not ride his bike down Covena on December 25 on this way to his  
25 mother's house, as he told police; she drove him there and back. Additionally, there was  
26 no mail sticking out of the Medina mailbox on December 25. (*Id.* at ¶ 30.)
- 27 • When Jensen interviewed Todd in 2004, he stated that when he was arrested by the  
28 police on January 2, 2003, ““they said, [MPD Officer] Hicks, said they knew I didn't do

1 it; I'm just a burglar and dope, meth, weed. . . Hicks and a short cop, maybe Italian, said  
2 they knew Scott did it, they said they knew I didn't do it -- Laci. The evidence was  
3 pointing to Scott and they knew he did it and not me.' I asked Mr. Todd if the police  
4 told him what evidence they were referring to and he said, 'No.' Todd attributed those  
5 statements to Officer Hicks or the 'short cop, maybe Italian,' whom Todd stated may  
6 have been Det. Al Brocchini." (*Id.* at ¶ 84.)

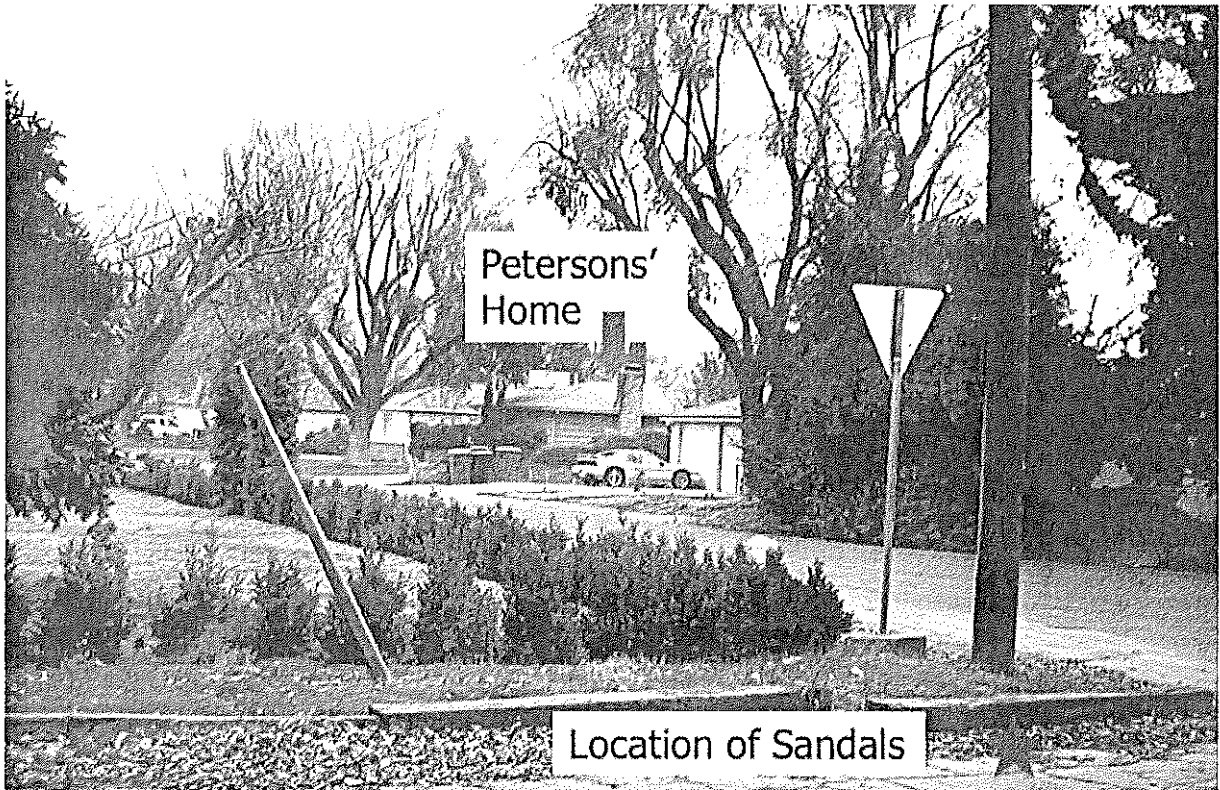
- 7 • On February 5, 2004, Jensen interviewed Mary Oakley, who was the grandmother of the  
8 children Steven Todd had with her daughter, Elizabeth Garcia. Ms. Oakley stated that  
9 Todd was physically abusive toward Elizabeth when she was pregnant and that his anger  
10 was very high when he could not control someone. Ms. Oakley stated that her daughter  
11 was slight in stature, only 5' – 5'1" tall. (*Id.* at ¶¶ 89–90.)
- 12 • Ms. Oakley also stated to Jensen that after Elizabeth broke up with Todd, he began  
13 stalking her when she was at school and one time tried to run her over with his car while  
14 she was riding her bike. Ms. Oakley stated that there should be police reports reflecting  
15 those incidents because Elizabeth reported it and had to have security guards escort her at  
16 school for her safety. Ms. Oakley reported another incident Todd had with her  
17 granddaughter, when he had her in his arms and used her as a shield so police would not  
18 mace him and that her grandson, witnessed it. (*Id.* at ¶ 90.)
- 19 • Jensen located police reports confirming that on February 14, 1995, Elizabeth Garcia  
20 filed a statement with the court in support of a request for a restraining order, alleging  
21 that Todd was physically abusive and had been stalking her. He also obtained a report  
22 filed by Mary Oakley stating that Todd had hit her car with his fist creating a dent in the  
23 side panel and leaving blood on the car. Jensen also obtained other MPD and Ceres  
24 Police Department arrest reports for Todd from dates throughout the 1990s, wherein he  
25 admitted to lying to police, denying the possession of drugs, and fleeing the scene of  
26 more than one crime. In more than one report it is alleged that Todd refused to comply  
27 with police after they ordered him to stop and put his hands behind his back, causing the  
28 police to give chase to capture him. (*Id.* at ¶ 91, Exh. B.)

- 1           ○ The prosecution did not provide the defense with any discovery indicating that  
2           MPD investigated Steven Todd’s criminal record and history of violence before  
3           determining that Todd was just a “burglar and dope, meth, weed,” i.e., not capable  
4           of violent behavior. (*Id.* at ¶ 90.)
- 5           • The prosecution cannot deny that the jury at Mr. Peterson’s trial heard no evidence that  
6           Laci Peterson witnessed Steven Todd burglarizing the Medina home on the morning of  
7           December 24, 2002, as reported by Lt. Xavier Aponte, nor did the jury hear any evidence  
8           of a confrontation between Laci Peterson and Steven Todd, as reported by James Romano.
- 9           • The prosecution does not deny that in early 2003, MPD investigated the audio recorded  
10          conversation Lt. Aponte reported wherein, according to Lt. Aponte, inmate Shawn  
11          Tenbrink from Modesto was told in a monitored call with his brother, Adam Tenbrink,  
12          that Laci had confronted Steven Todd during the Medina burglary.
- 13          • The prosecution does not refute that, to date, Mr. Peterson has never been provided with  
14          (i) a copy of the tape Lt. Aponte made of the phone call between Shawn and Adam  
15          Tenbrink, (ii) a copy of the tape Lt. Aponte believes the unidentified MPD detective made  
16          of the phone call, (iii) the identity of the MPD detective who interviewed Shawn Tenbrink,  
17          or (iv) the notes and/or interview memorandum prepared by the MPD detective who  
18          interviewed Shawn Tenbrink. (DNA Motion at pp. 49–50.) None of that exculpatory  
19          evidence has ever been provided to the defense *to this day*.
- 20          ○ Mr. Jensen’s investigation revealed that there was not just a hotline tip from Lt.  
21          Aponte, but further investigation by MPD, which was not disclosed to the defense  
22          at the time of trial. (DNA Motion, Exh. 29 [Lt. X. Aponte 12/1/2004 Interview].)  
23          (See 1054.9 Motion filed concurrently with this motion.)
- 24          ○ When Mr. Jensen interviewed Adam Tenbrink, Adam said that Steven Todd called  
25          him on December 24, from inside the Medinas’ house, to ask him to come help  
26          Todd with the burglary. (Exh. 2 at ¶ 52.)
- 27          • As the prosecution is aware, James Romano began calling MPD to report that he had  
28          information about the Medina burglary beginning in July 2004, while Mr. Peterson’s trial

1 was in its second month. (*Id.* at ¶ 144.) Romano was interviewed by several members of  
2 law enforcement over the following months, but it was not until October 21, 2004, as the  
3 defense was about to rest, that the prosecution first informed the defense that Mr. Romano  
4 had reported having information about the Medina burglary and Laci witnessing the  
5 burglary. (*Id.* at ¶ 143.)

- 6 • When Jensen interviewed Romano, he stated that in February 2003, he overheard a  
7 conversation taking place in someone’s garage about Laci confronting the burglars who  
8 were at the Medinas house robbing it. Romano stated that the conversation may have  
9 taken place in the garage of Michilene Potter. He heard several men talking about the  
10 Medina burglary and one man stated that there was a van parked in front of the Medinas’  
11 home with five or six people in it and that, as the house was being burglarized, “Laci was  
12 coming up from the park” and she confronted the driver who was sitting in the van and  
13 said, “get the hell out of here before I call the cops,” or words to that effect. (*Id.* at ¶ 148.)
- 14 • In a recorded interview MPD Det. Hendee had with Michilene Potter, Potter did not recall  
15 the incident Romano described where there were several men talking in her garage, but  
16 she did recall that one day, Romano “had came over and I had to go to the store with my  
17 mother and when I got back there was a note sitting there. The note. I don’t even have it  
18 anymore. But the note read something like ‘I needed to tell you this in case something  
19 happens to me. You’ll know what’s going on, and I know that you won’t rest until you  
20 find out.’ I had no clue and he never explained it to me. . . That’s what it said, it said,  
21 ‘I’m basically just, **I’m in fear for my life.** If something ever happens to me, I know that  
22 you won’t. . .’ Like he knows I’m gonna find or I won’t let it rest till I know who did it.”  
23 Potter stated that it was “very unlike” Romano to be do something like that. Det. Hendee  
24 asked Potter whether she thought Romano would have made something like that up about  
25 having information about Laci’s disappearance and the burglary that occurred across the  
26 street and Potter replied: “No, I don’t think he would make it up. I mean, I’ve never  
27 known him to make stuff up like that. And he’s always been pretty honest with me.” (*Id.*  
28 at ¶ 157.)

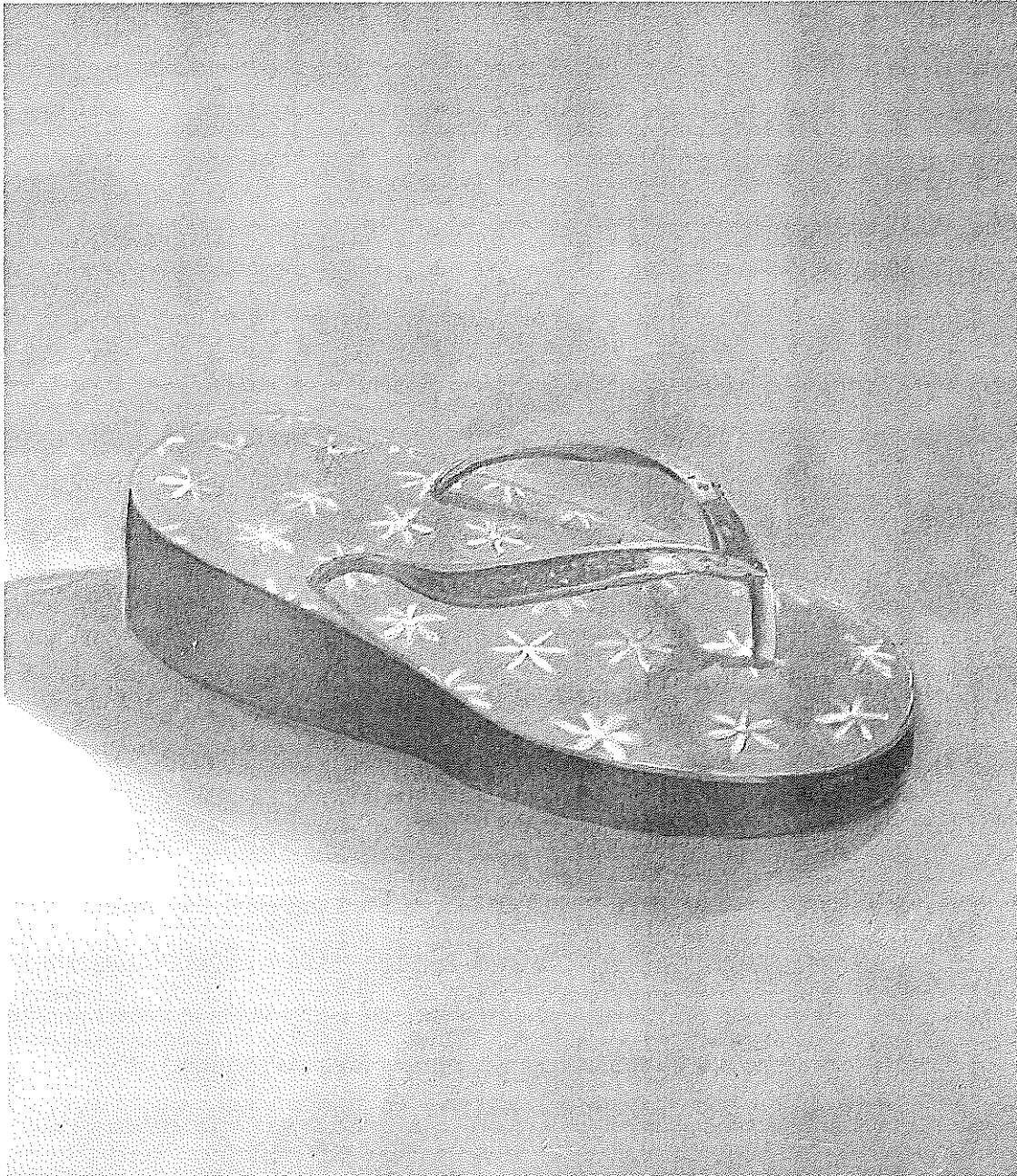
- 1           ○ The jury did not hear any evidence related to Romano or Potter; Mr. Jensen’s  
2           investigation into the tip from Romano did not commence until the jury was about  
3           to begin deliberating in the guilt phase of the trial. Romano came forward with  
4           non-public information about the second pawn of a Croton watch, and non-public  
5           information about Laci witnessing the burglary. (*Id.* at ¶ 153.)
- 6           ○ Romano told Mr. Jensen that he had been providing MPD with statements since  
7           July of 2004, right after Mr. Peterson’s trial began, but he believed his information  
8           was not reaching the right people, i.e., the defense, so he tried other approaches,  
9           including contacting “Friends Outside,” who provided information to MPD on  
10          Romano’s behalf—information that has never been turned over to the defense.
- 11          • Another significant investigative failure the MPD committed was its failure to collect into  
12          evidence a pair of flip-flop sandals the Petersons’ neighbor, Judge Richard Cordova,  
13          pointed to MPD Det. Sebron Banks **on the morning of December 25, 2002**. (Exh. 2 at ¶  
14          118.) Judge Cordova told Jensen that Det. Banks told him he did not need to collect the  
15          sandals because Laci disappeared while she was walking and those are not shoes she  
16          would wear to go walking. If Laci were abducted by someone while she was out on the  
17          street, after finishing her walk and after changing out of her walking shoes, for example,  
18          her sandals could have come off as she confronted burglars, or in a scuffle, or as she was  
19          trying to out run someone who was chasing her, or for any other reason. There is simply  
20          no explanation for the police not collecting those sandals.
- 21          • Mr. Jensen asked Judge Cordova to show him where the sandals he saw were located and  
22          he took a photograph of the location. The photo below indicates the proximity of the  
23          shoes to the Peterson’s home, as indicated to Mr. Jensen by Judge Cordova.
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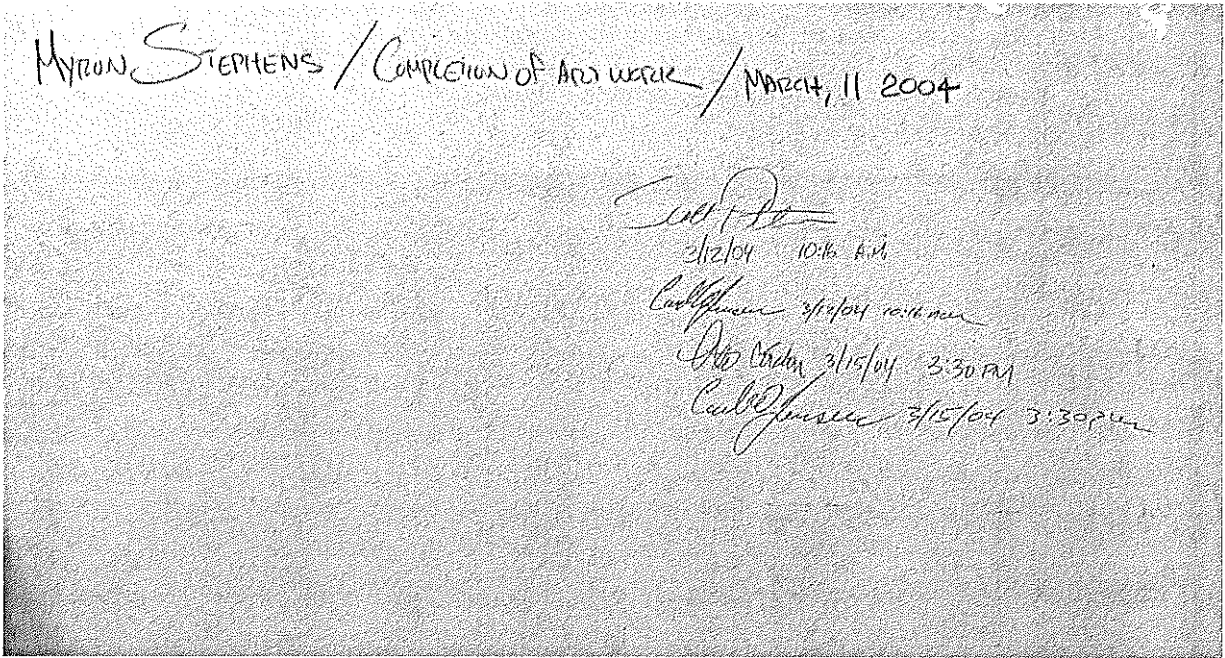


- 15
- Mr. Jensen interviewed Mr. Peterson to determine whether the sandals Judge Cordova found and pointed out to the police could have belonged to Laci. Jensen determined that a pair of Laci's sandals were missing from the Petersons' home after she disappeared. (*Id.* at ¶ 127.)
- 16
- Both Judge Cordova and Mr. Peterson indicated, separately, that they could describe and identify the flip flop sandals in question, so Jensen had an artist meet with Mr. Peterson and create a painting of Laci's missing flip-flops, based on Mr. Peterson's description of the sandals. (*Id.*) Jensen at no time disclosed to Mr. Peterson that Judge Cordova had found a pair of sandals, or the purpose of the exercise. (*Id.* at ¶ 126.)
- 17
- On March 12, 2004, Jensen showed the painting to Mr. Peterson, who stated that the sandal in the painting looked like the ones Laci usually kept on the back porch area, which had gone missing. The only difference was that Mr. Peterson said the color in the drawing was a little too red. When Jensen asked him on a scale of 1-10 how closely the image resembled Laci's sandals, Mr. Peterson said it was very close, an 8 on a 1 to
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1 10 scale, the only difference being the color was off. (*Id.* at ¶ 127.) Mr. Peterson then  
2 signed and dated the painting, depicted below.





- Jensen then showed the painting to Judge Cordova who similarly stated that the only difference between the picture of the flip-flops and the actual flip-flops he saw on the corner was that the painting was a little too red. (*Id.* at ¶ 128.) Judge Cordova signed and dated the back of the painting, depicted above. (*Ibid.*)
- In addition to failing to collect the sandals found on Covena Avenue, which Judge Cordova pointed out to police on December 25—sandals that it was later determined fit the description of Laci’s missing sandals—the prosecution now admits that MPD did not collect any physical or forensic evidence from the Medinas’ home. Susan Medina specifically pointed out to investigators a hammer and glove that were out of place and therefore likely handled by the burglars, which could have helped identify who committed the burglary, but the prosecution now states that police failed to collect those items and also admits police failed to collect fingerprints from the Medinas’ safe, which contained guns, jewelry, and approximately \$50,000 in cash, before they destroyed that evidence. (Opp’n. at p. 193, 285, fn. 130.)
- The prosecution does not dispute that MPD failed to obtain information from Steven Todd and/or Glenn Pearce as to whether others participated in the burglary and, if so, who those

1 individuals were. (If MPD obtained that information it was not provided to the defense at  
2 the time of trial or since.)

- 3 • The prosecution does not dispute that MPD failed to photograph the jewelry recovered  
4 when MPD searched the location where Todd and Pearce had taken the Medinas' safe and  
5 failed to investigate whether any of that jewelry could have belonged to Laci Peterson. (If  
6 photos were taken, they do not appear to have been provided to the defense at the time of  
7 trial.)
- 8 • The prosecution does not deny that MPD failed to interview Linda Chilles and Niniv T.  
9 about a van they both reported seeing parked in front of the Medinas' home the morning  
10 of December 24, 2004. (DNA Motion at pp. 45–46.)
- 11 • The prosecution does not deny that MPD failed to interview witness Kim V., who called  
12 MPD on January 1, 2003, and reported that she had seen a two tone older van with three  
13 Hispanic men that was parked regularly, four to five days a week, at the corner of  
14 Yosemite and Santa Fe and that it appeared the men were selling stolen items, but after  
15 Laci's disappearance she did not see the van as often and after she called in the report on  
16 January 1, 2003, she never saw the van there again. (DNA Motion at p. 46, fn. 34.)
- 17 • The prosecution does not dispute that MPD failed to investigate the identities of the three  
18 men witnesses Diane Jackson, Linda Chilles, and Niniv T. described as dark-skinned or  
19 Hispanic, whom they saw standing near a suspicious looking van that was parked in front  
20 of the Medinas' home **on December 24, 2002**, other than asking Susan Medina whether  
21 she recognized the description of the men seen standing near the van. (Opp'n. at p. 172  
22 ["Susan Medina was asked if she recognized the description of the van or the males and  
23 Susan Medina did not."].)
- 24 • The prosecution argues that no vans were involved in the Medina burglary because "the  
25 burglars used a small white Honda – not an orange van or any van," and that, "[f]or a van  
26 to have any part in this tale, the defense must concede that Todd and Pearce were not  
27 involved since they had no van." (Opp'n. at p. 249.) The argument collapses on itself in  
28 view of the fact that the prosecution has now admitted that MPD failed to investigate: (i)

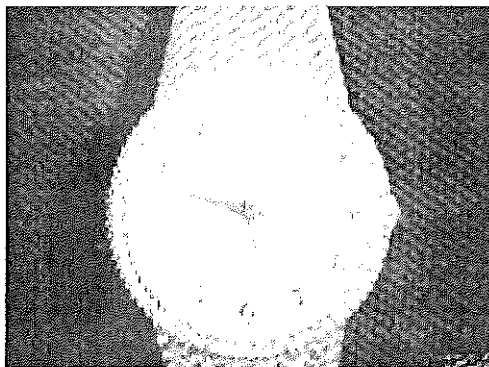
1 Todd's alibi for December 24; (ii) whether individuals other than Todd and Pearce were  
2 involved in the Medina burglary; (iii) whether Todd and/or Pearce had access to associates  
3 with vans; (iv) whether the burglary was carried out over a period of more than one day.  
4 If MPD investigated any of those issues, Mr. Peterson has not been provided with that  
5 discovery.

- 6 • The prosecution admits MPD improperly hypnotized Diane Jackson, so the jury was  
7 unable to hear directly from her about the van and three men she saw in front of the Medina  
8 home the morning Laci went missing. (RT 18528-18529.) In the prosecution's closing  
9 argument, the prosecution argued that the van Jackson saw was a Siemens company-  
10 owned van that belonged to the Medinas' next-door neighbor. (RT 20317, referring to  
11 People's Exh. 31.) As Ms. Jackson states in her declaration submitted in support of this  
12 motion, however, the van she saw was **not** the next-door neighbor's Siemens van. (DNA  
13 Motion, Exh. 14 at ¶ 21.)
- 14 • The prosecution's argument that none of the tips called in following the January 25, 2003  
15 airing of Laci's disappearance on America's Most Wanted (AMW) "led to any  
16 information for the recovery of Laci or Conner" is misleading. (Opp'n. at p. 129.) An  
17 earlier episode of AMW that aired on January 6, 2003, prompted a tip from a caller who  
18 reported hearing an individual in the Airport District of Modesto, who was a known  
19 associate of Steven Todd, bragging about Laci Peterson's murder and "they did it." (Bates  
20 4752.) The suspect identified in the AMW tip was interviewed by MPD and he told police  
21 he was in custody on December 24, 2002. (Bates 4749.) Once again, MPD failed to  
22 investigate the information called in by a concerned citizen. The Stanislaus County Jail  
23 Roster for that date was obtained by post-conviction counsel and shows that the suspect  
24 identified in the AMW tip was **not in custody on that date**. (Exh. 3 at ¶¶ 9-12.) He was  
25 in custody at the Stanislaus County Jail on November 14, 2002, but released prior to  
26 December 24, 2002.
- 27 • The jury heard from none of the witnesses discussed above in support of Mr. Peterson's  
28 third-party culpability defense. As Juror Six stated after trial, the jury did hear "evidence

1 that Laci was a pretty bold person . . . Evidence that she may have confronted burglars  
2 would have been significant.” (Habeas Exh. 50 at HCP-000986-000987.) “Any evidence  
3 that Laci was still alive when Scott was already at the marina would have been important  
4 to me as a juror.” (*Ibid.*)


5 v. *Croton Watch*

- 6 • The prosecution implies, incorrectly, in its Opposition that Laci’s Croton watch, which  
7 Mr. Peterson reported was missing from her jewelry box, was not missing but was sold  
8 on eBay by Mr. Peterson. (Opp’n. at p. 24 [“forensic examination of the Peterson’s [*sic*]  
9 computers reveal several email exchanges involving the email account  
10 ‘slpetel@msn.com’ and the sale of additional jewelry in December 2002 on eBay,  
11 **including her inherited Croton watch**, among other things.” [emphasis added]; see also  
12 p. 97 “The [eBay] records did not indicate if the item was sold.”].) **Those statements are**  
13 **false and misleading.**
- 14 • The investigation into the Croton watch began when Mr. Peterson told police that Laci  
15 was wearing a “wristwatch that had diamonds around the face,” when he left home on the  
16 morning of December 24. (Bates 40; see also RT 15926.) MPD tried mightily to impeach  
17 Mr. Peterson’s statement that Laci was wearing a diamond watch when he last saw her,  
18 so Det. Grogan “did a lot of investigation of the jewelry.” (RT 17705.) All of Laci’s  
19 watches were accounted for except the diamond Croton watch—it was never recovered.  
20 (RT18046.) People’s Exh. 4 depicts the Croton watch and is pictured here:



- 27 • The MPD investigation into Laci’s Croton watch spanned over at least three months. On  
28 December 27, 2002, officers confirmed the Croton watch was not pawned by Laci at

1 Brooks Pawn, where she had pawned some of her grandmother's jewelry. (RT 10462.)  
 2 In February 2003, Det. Grogan confirmed the Croton watch **did not sell on eBay**, as noted  
 3 above. On February 12, 2003, Det. Grogan checked with Laci's local jeweler and  
 4 confirmed the Croton watch was not there. (Bates 361.) Also on February 12, 2003, Det.  
 5 Grogan searched through family photos, matching jewelry in the photos to jewelry that  
 6 had been recovered. (Bates 425.) Later that same day, Det. Grogan met with Laci's sister  
 7 and his report notes that the Croton watch "at this time [has] not been located." (*Ibid.*)  
 8 • On March 6, 2003, with Laci's Croton watch still unaccounted for, Det. Grogan asked an  
 9 officer to search pawn records for the word "Croton." (Bates 620.) The search turned up  
 10 one pawn record from The Pawn Shop in Modesto. (*Ibid.*) Defense Exh. N is the pawn  
 11 record dated December 31, 2002, depicted below:

NAME	LAST	FIRST	MIDDLE	LOGANBERRY NUMBER	AMOUNT
RENÉE DEANNA MARIE				815942	520.00
DRIVERS LICENSE NO. OR OTHER ID				YEAR EXPIRES	TRANSACTION DATE MO/DAY/YR
[REDACTED]			CA 2002	12/31/2002	12/31/02
ADDRESS		STREET		TRADE <input type="checkbox"/>	BUY <input type="checkbox"/>
[REDACTED]		[REDACTED]		COMMISSION <input type="checkbox"/>	PAWN <input checked="" type="checkbox"/>
CITY		ZIP	SEX	RACE	HAIR
MODESTO		CA 95358	F	W	BRN
ITEM		BRAND	GENERAL	HEIGHT	WEIGHT
WATCH		CROTON	MS	5-06	[REDACTED]
MODEL		MAKE	LAUGHAU	PREVIOUS MODEL #	RIGHT THUMB PRINT
[REDACTED]		CROTON	[REDACTED]	815942	[REDACTED]
[REDACTED]		THE PAWN SHOP	1400	<input type="checkbox"/> Hand <input type="checkbox"/> Eye <input type="checkbox"/> Ear <input type="checkbox"/> Nose <input type="checkbox"/> Lip <input type="checkbox"/> Mouth <input type="checkbox"/> Chin <input type="checkbox"/> Neck <input type="checkbox"/> Shoulder <input type="checkbox"/> Arm <input type="checkbox"/> Wrist <input type="checkbox"/> Hand <input type="checkbox"/> Finger <input type="checkbox"/> Thumb <input type="checkbox"/> Other	
1 14K YELLOW GOLD QUARTZ WATCH WITH SCRATCHES USED		[REDACTED]		[REDACTED]	
CUSTOMER'S SIGNATURE: <i>Deanna Renfro</i>				STORE PERSON SIGNATURE: _____ R	

22 • Det. Grogan's report states that the "pawn slip did not appear to match the description of  
 26 the 'Croton' watch belonging to Laci Peterson." (Bates 620.) However, it does match the  
 27  
 28

1 description; Det. Grogan's report does not state the basis for his concluding the description  
2 did not match Laci's Croton watch. (*Ibid.*)

- 3 • The MPD's search for Laci's missing Croton watch came to a sudden halt at that point,  
4 and Det. Grogan's March 6, 2003 report marked the end of the MPD's investigation file  
5 that was given to Mr. Peterson's attorneys before his trial.<sup>10</sup>
- 6 • On October 23, 2004, Carl Jensen interviewed Anthony Scarlata who stated that he had  
7 never been interviewed by the police about the Croton watch he pawned with Deanna  
8 Renfro on February 14, 2003. (Exh. 2 at ¶ 138.) When Jensen showed Scarlata a photo  
9 of Laci's Croton watch, without telling Scarlata it was a photo of Laci's watch, to see if  
10 he could identify it as the same watch he pawned on February 14, 2003, Scarlata stated he  
11 could not say whether it was the watch he pawned; it was possibly the same watch but he  
12 could not say for certain one way or the other. (*Id.* at ¶ 139.)

13 **vi. No Forensic Evidence Implicating Mr. Peterson**

14 The prosecution admits there was no forensic evidence linking Mr. Peterson to the crimes at  
15 issue in this case. The only evidence the prosecution points to was hair consistent with Laci's found  
16 on a pair of pliers in the boat. (RT 12973.) The prosecution's expert testified at trial that the pliers  
17 were so rusted that based on their appearance, the pliers had *not* recently been used. (86 RT 16467–  
18 16468.)

19 In addition, while the prosecution asserts that the hair was "mashed" in the jaws of the pliers,  
20 that is simply false. (Opp'n. at p. 101, 208; p.102 [citing Det. Dodge Hendee's testimony describing

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21  
22 <sup>10</sup> On this record, it appears that when the investigation into Laci's missing Croton watch led MPD away from  
23 Mr. Peterson as a suspect, they either failed to follow up or they failed to disclose the follow-up. Mr. Peterson's  
24 Discovery Motion, pending before this Court, requests items associated with the MPD investigation into Laci's Croton  
25 watch. In its Opposition, the prosecution argues, incorrectly, that in February or March of 2003 (the exact timeframe  
26 that Det. Grogan found the Croton pawn ticket), "two investigators hired by the defendant's family" interviewed  
27 Deanna Renfro. (Opp'n. at p. 98 fn. 63.) As the prosecution is aware, neither Mr. Peterson nor his defense team had  
28 any knowledge that a Croton watch had been pawned at a nearby pawn shop within days of his Laci's disappearance  
until after Mr. Peterson's arrest on April 18, 2003, when his attorneys began receiving discovery. Since the pawn slip  
with Deanna Renfro's name on it (Bates 628) was not provided to the defense until after April 25, 2003, there was no  
way for the defense to know a person named Deanna Renfro had pawned a watch that therefore had no reason to  
interview her. To the extent Deanna Renfro believed the investigators who visited her in February or early March of  
2003 may have been hired by the Peterson family, she was mistaken. The only investigator working for Mr. Peterson  
at that time was Gary Ermoian and he had no knowledge of a Croton watch being pawned until after Mr. Peterson's  
arrest. (See 1059.4 Motion Exh. 6 [Decl. of Gary Ermoian] ¶ 62.)

1 the hair “intertwined or wrapped around the teeth of the pliers”] citing RT 12555–12556].) However,  
2 Det. Hendee testified that when he found the pliers, the hair “didn’t wrap around the pliers. It just  
3 went through” at one location.” (RT 12556-12557.) There was also a two-centimeter blade of grass  
4 adhered to the pliers. (*Id.* [“vegie”]; RT 13481 [indicating the materials stuck to the pliers were the  
5 result of a secondary transfer]; see also RT 13688-13689.)

6 **vii. *Ralston Video***

7 The prosecution does not dispute that MPD obtained a video or a partial video that underwater  
8 search expert Gene Ralston recorded showing an object lying at the bottom of the Richmond Shipping  
9 Channel on March 11, 2003, three miles north of where Mr. Peterson went fishing, which Gene  
10 Ralston believed was the body of Laci Peterson. (Opp’n. at p. 265 [“An attempt to rig a video camera  
11 to the video out of the ROV control to record the video image was not successful. I suggested that  
12 the video camera be used to tape the monitor output directly. The attempt was only **partially**  
13 **successful** due to the monitor scan rate being out of sync with the camera.”].) The prosecution  
14 continues to suppress that videotape or partial videotape, which has never been provided to the  
15 defense.

16 The prosecution does not deny that the police believed Mr. Ralston had located the remains  
17 of Laci Peterson on March 11, 2003, and for that reason attempted to connect the red stain on Mr.  
18 Peterson’s fishing boat to the buoy located near that location, but were unable to make a connection  
19 because the substance on Mr. Peterson’s boat was consistent with the dock signage located at  
20 Berkeley Marina, where he put his boat in the water. (DNA Motion at pp. 88–95.)

21 This list of investigative failures is not all-inclusive; it only covers some of the more  
22 significant failures Mr. Peterson has alleged which the prosecution has not refuted. It is nevertheless  
23 a deeply concerning list that demands further investigation. Counsel for Mr. Peterson is now  
24 investigating the many leads the police ignored. The instant motion for DNA testing is supported by  
25 some of the evidence counsel’s ongoing investigation has thus far uncovered, which appears to  
26 support Mr. Peterson’s claim of innocence.

27 Mr. Peterson has met this pleading requirement.

28 **3. Section 1405(d)(1)(C): Type Of Testing To Be Conducted**



1           The prosecution argues that Mr. Peterson has “failed to specify what specific types of testing  
2 should be done for each and every item.” (Opp’n. at p. 226.) This is incorrect. Mr. Peterson has met  
3 the pleading requirement as he has identified both the evidence that should be tested *and* the specific  
4 type of DNA testing that should be done. (DNA Motion at pp. 120–123.) DNA Consultant, Mehul  
5 Anjaria, thoroughly explained in his declaration, submitted with the instant motion, the type of testing  
6 that would be conducted at the Serological Research Institute (SERI), the DNA testing laboratory  
7 where Mr. Peterson is requesting the testing take place. (DNA Motion, Exh. 13 at ¶ 8.) The type of  
8 testing requested consists of (i) the GlobalFiler™ amplification kit coupled with a 3500 series Genetic  
9 Analyzer to achieve state-of-the-art DNA detection and discrimination power; (ii) probabilistic  
10 genotyping; and, (iii) should any samples contain an excess of female DNA compared to male DNA,  
11 SERI can use the sensitive and male DNA specific YFiler™ typic kit to gain information on male  
12 contributor(s). (DNA Motion at p. 123.) Moreover, Mr. Peterson specified that on items of evidence  
13 where traditional DNA collection methods, such as swabbing, cutting, and tape lifting is likely to be  
14 unsatisfactory, he requests that the Court order the option for SERI to use M-Vac technology to  
15 collect the evidence.<sup>11</sup> The items of evidence sought to be tested have been identified to best of Mr.  
16 Peterson’s ability with the information he has been provided to date.

17           Mr. Peterson is also requesting any previously extracted DNA on file in this case from Laci  
18 and Conner Peterson be provided to SERI so that an updated genetic profile can be obtained for the  
19 GlobalFiler loci without further sampling of evidence collected from remains.

20           **Orange “Cal Trans” Vehicle: Items 1–4**

21           The prosecution attempts to argue that Mr. Peterson failed to specify the type of testing to be  
22 done on the burned mattress because “his own expert states that the first item for which DNA testing  
23 is sought (the burned mattress) may not be testable using the best sampling method because the  
24 mattress cuttings are burned and possibly brittle, so it may not be feasible to use the M-Vac. [Defense  
25 Motion Exhibit 13, Declaration of Anjaria Mehul, paragraph 27.]” (Opp’n. at p. 226.) This is a  
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27           <sup>11</sup> As stated in the instant motion, Mr. Peterson respectfully requests that Mehul Anjaria, his DNA expert, be  
28 present for the testing so he can participate in the decision to which areas of the evidence are most suitable and relevant  
for testing.

1 disingenuous argument at best, given that it fails to take Mr. Anjaria's entire statement from his  
2 declaration into consideration, which clarifies that the mattress cutting would need to be evaluated  
3 by the testing laboratory in order to determine whether swabbing or M-Vac will be the best sampling  
4 method prior to testing. (DNA Motion, Exh. 13 at ¶¶ 23–27.) Mr. Peterson reasonably recognizes  
5 that final determinations on testing specifics, including both sampling and typing methods, are best  
6 made in a controlled laboratory environment where the exact current condition of the evidence can  
7 be assessed. Mr. Peterson requests that items 1–4 be tested using the methods laid out in the instant  
8 motion and thus, he has met the pleading requirement.

9 **Evidence Recovered From the Bay: Items 5–12**

10 The remainder of the prosecution's arguments appear to stem from a lack of basic  
11 understanding of the science behind DNA and how current collection and testing methods work. As  
12 stated by Mr. Anjaria, while items that have been submerged in water for a substantial period of time  
13 present challenges, the recovery of DNA from those items is still possible. (DNA Motion, Exh. 13  
14 at ¶ 35.) While DNA may degrade, it does not necessarily mean there is a complete loss of DNA.  
15 The current methods employed by SERI for obtaining DNA profiles from extracted DNA are much  
16 more sensitive and more effective for compromised samples than the testing methods that were used  
17 in 2004. Mr. Peterson is requesting items 5, 6, and 8–12 be tested in the manner described in the  
18 instant motion and also above. (See DNA Motion at p. 126.)

19 Mr. Peterson requests that Item 7 (the four packages of debris) be examined to determine  
20 whether any bone fragments and/or other biological materials that may have been deposited there,  
21 for example as a result of crab activity (which the forensic pathologist noted there was evidence of at  
22 autopsy) are present in the debris. The debris should also be examined for any items that may have  
23 value for blood and DNA testing.

24 **Evidence Recovered From the Medinas' Home: Items 13–14**

25 If items 13 and 14 (work glove and hammer, respectively) were recovered from the Medina  
26 home, Mr. Peterson is requesting they be sampled for DNA analysis. If samples were collected from  
27 these items, Mr. Peterson is requesting that the samples undergo DNA testing using the same testing  
28 methods as laid out above and in the instant motion. Any suitable DNA profiles foreign to the

1 Medinas could then be compared to results obtained on other tested items in this case and entered  
2 into CODIS. (See DNA Motion, Exh. 13 at ¶¶ 32–34.)

3 Mr. Peterson has met the pleading requirement under section 1405(d)(1)(C).

4 **4. Section 1405(d)(1)(D): Reasonable Probability Favorable DNA Results**  
5 **Would Have Changed Outcome At Trial, Had The Jury Heard That Evidence**

6 The prosecution argues that the requested DNA testing would not raise a reasonable  
7 probability that Mr. Peterson’s verdict or sentence would have been more favorable if the results of  
8 DNA testing had been available at the time of conviction because: (i) the items related to the orange  
9 van “have no connection to this case” (Opp’n. at p. 226); (ii) “many” of the items from the bay were  
10 “eliminated as being connected to Laci’s remains” (Opp’n. at p. 227); (iii) “the various segments of  
11 duct tape were the wrong thread count to match the tape on Laci’s body” [*id.*]; (iv) “there was no  
12 way for anyone to place this twine around Conner’s neck” [*id.*]; (v) the prosecution’s argument about  
13 the duct tape from Laci’s pants is incomprehensible; (vi) the prosecution contends that the glove and  
14 hammer Susan Medina pointed out to investigators were handled by the burglars in her home were  
15 not collected into evidence by MPD, but they have failed to provide evidence logs related to the  
16 investigation into the Medina burglary, nor have they provided a sworn affidavit by a custodian of  
17 records demonstrating that the items were searched for and not found, who searched for the evidence,  
18 and what locations were searched (Opp’n. at p. 193).

19 The prosecution’s arguments fail because they are based on cherry-picked facts. Mr. Peterson  
20 has met this pleading requirement.

21 **Orange “Cal Trans” Vehicle: Items 1–4**

22 The prosecution contends that the orange van is “completely unrelated” to this case, it has “no  
23 connection to this case,” and that the “van has never been connected to anything related to this case,”  
24 because “[n]o one ever saw an orange van.” (Opp’n. at pp. 226, 259, 285.) Those assertions are  
25 incorrect and misleading; the argument based on those incorrect statements is pure sophistry. There  
26 is ample evidence before the Court that the police either failed to investigate whether the orange van  
27 fire was connected to the crimes in this case, or if the van was investigated and found to have some  
28 connection to this case, that evidence has been suppressed. The only thing that is certain is that the

1 crime was not investigated and found to be “completely unrelated” to this case, as the prosecution  
2 maintains.

3         The record in this case is clear: evidence from the orange van was booked into evidence under  
4 Modesto Police Department arson case number 02–142687, **cross-reference MPD case number 02–**  
5 **142591 (the Peterson case)**. (DNA Motion at p. 124.) The prosecution has not refuted this fact in  
6 its Opposition. In addition, the prosecution stipulated to DNA testing of this evidence in 2019, after  
7 it was discovered that evidence related to this vehicle fire investigation was suppressed at the time of  
8 Mr. Peterson’s trial in 2004.<sup>12</sup> Nor has the prosecution denied, or even addressed, the fact that the  
9 evidence envelopes for Item 1 and Item 2 that are the subject of this motion were marked: “HOLD –  
10 DO NOT DESTROY X-ref Peterson Case X 02-142591.” (DNA Motion at p. 124.)

11         The prosecution cannot possibly establish that the bright orange former Cal Trans van that  
12 was found on fire in the Airport District on Christmas morning is unrelated to the disappearance and  
13 murder of Laci and Conner Peterson at this stage because, as the prosecution has and must concede,  
14 police failed to investigate whether that van was related to Laci’s disappearance and death. Moreover,  
15 Det. Shipley’s report concerning the vehicle fire investigation, dated January 1, 2003, is labeled  
16 “Missing Person Investigation,” and it cross-references the MPD Case number for the investigation  
17 into Laci’s disappearance, and the prosecution previously stipulated to testing of items associated  
18 with this van. (See Bates 3781 [fire investigation report includes Laci Peterson MPD Case No. 02-  
19 142591].)

20  
21  
22 <sup>12</sup>         The prosecution cannot refute the fact that orange van vehicle fire was related to Mr. Peterson’s case because  
23 MPD’s own files indicate as much. In addition, counsel for Mr. Peterson has presented this Court with declarations by  
24 former MPD Fire Investigator Bryan Spitulski and retired ABC News producer George Michael Gudgell, who explain  
25 how it came to pass that it took fifteen years for Mr. Peterson to learn that this evidence was suppressed by the prosecution  
26 at trial. (DNA Motion, Exh. 2 ¶ 46–47.) After Mr. Peterson’s counsel learned of the suppressed evidence, on March 18,  
27 2016, Det. Grogan prepared a more comprehensive Investigation Report prepared related to the van fire and provided it  
28 to the defense. (DNA Motion, Exh. 32 [Det. C. Grogan 3/18/2016 Vehicle Fire Investigation Report].) Even then, the  
prosecution *still* refused to turn over the six photos of the burned van and blood-stained mattress that was part of a  
“Missing Person Investigation.” The prosecution has filed numerous objections to evidence described above, declarations  
by Spitulski, Gudgell, and the report by its own MPD Det. Grogan, which the prosecution contends is “irrelevant,” among  
other objections, in its ongoing effort to prevent the truth from coming to light about the MPD’s investigations into the  
Medina burglary, the orange vehicle hire, and the investigation into the disappearance and murder of Laci Peterson.  
Messrs. Spitulski and Gudgell both expressed sincere concerns in their declarations about the poor quality of the police  
investigations involved in this case and their concerns are well-founded.

1 Mr. Peterson seeks DNA testing on Items 1–4, which were collected from the crime scene in  
2 the Airport District where the orange van was parked and set on fire. Item 1 is a piece of cloth from  
3 a mattress found in the back of the van, Item 2 is a piece of partially burned mattress cloth from the  
4 same mattress, Item 3 is a cloth recovered that was sticking out of the van’s fuel tank, and Item 4 is  
5 a metal fuel container that was found on top of the mattress, protecting the stained fabric underneath  
6 it from being burned in the fire and, therefore, possibly having blood transfer stains on the bottom of  
7 the container that could be DNA tested.

8 DNA testing on the items recovered from the orange van could help establish whether or not  
9 the van was related to the crimes in this case. Should Laci Peterson’s DNA be found anywhere on  
10 any of Items 1, 2, or 4, that would be irrefutable exculpatory evidence supporting Mr. Peterson’s  
11 claim of innocence. In addition, genetic profiles obtained from Item 3, if obtained, could be uploaded  
12 to CODIS and could identify a suspect or suspects involved in the theft of the van and it could be  
13 determined whether there was any connection between that individual or individuals and the Medina  
14 burglary or the disappearance of Laci. In sum, if Mr. Peterson obtains favorable DNA results from  
15 testing on any of these items, it is likely there would have been a more favorable result at trial.

16 In addition, it is possible DNA testing the items from the van could establish the identity of  
17 the perpetrator or perpetrators of the crimes in this case or in a number of crimes, including: who  
18 abducted and murdered Laci and Conner Peterson, who may have been an accomplice in the  
19 abduction and murder of Laci and Conner Peterson, whether there is DNA on the mattress that can  
20 be tied to a victim or victims of another crime or crimes, and, who stole the van and/or may have  
21 been an accomplice to the theft of the van, to name a few.<sup>13</sup>

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22  
23 <sup>13</sup> Former MPD Fire Inspector Bryan Spitulski stated in his declaration that he personally took the stained mattress  
24 fabric to the DOJ lab in Rison for forensic testing in 2003, and that the forms associated with that testing contain errors,  
25 including that the samples were tested in front of him, which he states is false. (DNA Motion, Exh. 1 at ¶¶ 41–43.) The  
26 prosecution admits Mr. Spitulski examined the burned van and determined it was an incendiary fire but objects to the  
27 opinions Mr. Spitulski expressed in his declaration about the evidence he examined as improper and irrelevant. (Opp’n.  
28 at pp. 194–195, p. 288 [objecting to DNA Motion, Exh. 1, ¶¶ 44–45 [Spitulski declaration].) The Court should overrule  
those objections. Mr. Spitulski is a career fire investigator who has firsthand knowledge of the condition of the van he  
inspected and who is qualified to state his opinion about the evidence he examined. He was also a member of the  
prosecution team that investigated that van and its possible connection to the disappearance of Laci Peterson, a fact the  
prosecution continues to steadfastly deny. (See DNA Motion, Exh. 1.)

1 The prosecution has not refuted that the police failed to investigate the following leads  
2 concerning whether the bright orange former Cal Trans van fire that occurred on the morning of  
3 December 25, 2002, may have been related to Laci's disappearance and death:

- 4 • On December 26, 2002, Mike Chiavetta reported to MPD that on the morning of  
5 December 24, 2002, he saw both the Petersons' dog and a "bright orange Blazer type  
6 vehicle in East La Loma Park . . . at least 15 years old and had square headlights . . .  
7 noticeable because of the bright orange color, which reminded him of a Cal Trans  
8 vehicle."<sup>14</sup> (DNA Motion at p. 60.)
  - 9 ○ The prosecution does not deny that police failed to interview Mr. Chiavetta about  
10 whether the "bright orange" vehicle he reported seeing, "which reminded him of  
11 a Cal Trans vehicle," was the same or similar to the bright orange van found on  
12 fire in the Airport District the morning after Laci Peterson went missing and which  
13 police determined was, in fact, a former Cal Trans van registered to a man named  
14 Terry Borden, who used it as a company work van.
  - 15 ○ The prosecution does not deny that police failed to investigate Mr. Chiavetta's  
16 statement that he thought he saw Laci and the Petersons' dog walking in La Loma  
17 Park the morning of December 24, 2002; nor did police show him photos of Laci  
18 or the Peterson's dog to confirm that he had, in fact, seen them in the park.
- 19 • On December 26, 2002, Mr. Chaivetta also reported seeing "[a] 'gang banger' type  
20 hispanic male [getting] out of the vehicle." (*Id.*)
  - 21 ○ The prosecution does not deny that police failed to interview Mr. Chiavetta about  
22 whether he would be able to identify the male he saw getting out of the bright  
23

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24 <sup>14</sup> The prosecution attempts to justify MPD's failure to investigate Mr. Chaivetta's report about seeing a bright  
25 orange van parked in La Loma Park the morning of December 24, by pointing to the fact that he described it as an orange  
26 *Blazer*. (Opp'n. at p. 226.) That argument is weak and unpersuasive; it is also disingenuous. The police report clearly  
27 states that Mr. Chaivetta went on to describe the vehicle as "at least 15 years," with "square headlights," which was  
28 "noticeable because of the bright orange color, which reminded him of a Cal Trans vehicle," a description that precisely  
fits the description of the van that was burned. The prosecution's argument is misleading and emblematic of its refusal  
to investigate Mr. Peterson's claim of innocence, which continues to be driven by confirmation bias rather than by a  
search for the truth. The detailed description Mr. Chiavetta gave police of the van he saw, given the unique bright orange  
color and his description that it reminded him of a "Cal Trans vehicle," leads inexorably to the conclusion that the van he  
saw is almost certainly the same van that was burned early the next morning in the Airport District.

1 orange vehicle on the morning of December 24, 2002; nor did police ask him to  
2 provide a more detailed physical description of the man he saw getting out of the  
3 bright orange van.

- 4 • On December 26, 2002, the same day Mike Chiavetta reported to MPD that he saw both  
5 the Petersons' dog and the orange Cal Trans vehicle in La Loma Park, and that he thought  
6 he saw Laci in the park as well, eyewitness Diane Campos reported to MPD that she saw  
7 Laci Peterson walking her dog in La Loma Park with two white males, and she saw that  
8 the dog was "constantly barking" for "approximately five minutes while they walked the  
9 distance of approximately a football field, or a hundred yards."

- 10 ○ The prosecution does not deny that the police failed to investigate whether the  
11 "'gang banger' type Hispanic male" Mr. Chiavetta saw getting out of the orange  
12 van bore any resemblance to either one of the two men Ms. Campos saw trailing  
13 behind Laci in the park, one of whom was yelling at Laci: "Shut the fuckin' dog  
14 up." (DNA Mot. at pp. 32–33.) MPD also failed to investigate whether the  
15 "Hispanic" man Mr. Chiavetta saw near the orange van could be identified by the  
16 other witnesses who reported seeing dark-skinned or Hispanic men standing near  
17 the van seen parked in front of the Medinas' home on December 24, Diane  
18 Jackson, Linda Chilles, and Niniv T.

19 Furthermore, the prosecution has not refuted that:

- 20 • MPD failed to determine who stole the bright orange former "Cal Trans" van, that was set  
21 on fire in the Airport District, from its registered owner, Terry Borden.
- 22 • MPD failed to determine who burned or may have burned the orange "Cal Trans" van in  
23 the Airport District on December 25, 2002.
- 24 • MPD tested the stain on the mattress found in the back of the burned van and it tested  
25 presumptively positive for blood. (Opp'n. at p. 196.)
- 26 • MPD failed to investigate, and the prosecution continues to refuse to investigate to this  
27 day, whether it is possible to determine whose blood is on the stained mattress in the back  
28

1 of Borden van, given the more sensitive and precise DNA testing technology that is  
2 available today.

- 3 • MPD failed to investigate whether any of the items they found at the home of Robert  
4 Smith, aka Bobby Riggs, the last known driver of the orange van who was on probation  
5 for burglary, belonged to the Medinas or Laci Peterson. (DNA Motion at p. 65.)

6 Mr. Peterson has established all of the above-described investigative failures supporting his  
7 request for DNA testing on Items 1–4 without relying on any statements the prosecution contends are  
8 objectionable as inadmissible hearsay.<sup>15</sup>

9 Mr. Peterson has made a prima facie showing that favorable results from testing of Item 1– 4  
10 would likely have resulted in a more favorable outcome at trial, had that evidence been available, and  
11 he has therefore met this pleading requirement.

#### 12 **Evidence Recovered From the Bay: Items 5–12**

13 The prosecution admits that Items 5, 6, 7, 8, 10, 11, and 12, have never been subjected to  
14 DNA testing but argues, summarily and without citing to anything in the record, that “many” of these  
15 items from the bay were “eliminated as being connected to Laci’s remains.” (Opp’n. at p. 227.) To  
16 the extent the prosecution’s arguments are comprehensible, they fail.

#### 17 Duct Tape & Target Bag: Items 5, 6, 9, and 10

#### 18 **Item 9: Tape from Pants**

19 The prosecution tried mightily to link the duct tape recovered from Laci’s pants to the duct  
20 tape Mr. Peterson used when he was hanging up missing person flyers, to no avail. And the  
21 prosecution admits, as it must, that human DNA was recovered from two samples taken from the duct  
22 tape on Laci’s pants (Item 9), “but there was not sufficient DNA or the DNA was not of acceptable  
23

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24  
25 <sup>15</sup> In addition, Mr. Peterson contends that MPD failed to investigate any connection between Steven Todd, who  
26 pleaded guilty to committing the burglary of the Medinas’ home on December 24–26, 2002, and the location where the  
27 van was found parked and on fire on December 25, 2002—an alley behind the home of Todd’s son’s aunt, Telesia Koen.  
28 (DNA Mot. at p. 56; Opp’n. at pp. 289–290.) The information linking the location where the van was parked and burned  
in the Airport District and the location where Telesia Koen lived was uncovered by an investigative journalist. (*Id.*) The  
prosecution objects to information presented in the investigative journalist’s declaration as hearsay, but they do not deny  
or refute the accuracy of that information. In any event, the Court need not rely on the information the prosecution asserts  
is objectionable to find that Mr. Peterson has met the pleading requirement in section 1405(d)(1)(D) with respect to Items  
1–4.



1 quality to generate a profile.” (Opp’n. at p. 181.) Additional testing using current, more sensitive  
2 methods, could provide a genetic profile which could, in turn, lead to the identification of a suspect  
3 other than Mr. Peterson, should a profile sufficient for a CODIS upload be obtained. That result  
4 would undeniably be favorable to Mr. Peterson and would likely have led to a more favorable  
5 outcome at trial, had that evidence been available. **Mr. Peterson has made a prima facie showing**  
6 **as to Item 9 and has therefore met this pleading requirement.**

7 **Item 5, 6, 10: Target Bag, Duct Tape**

8 The prosecution admits that Officer Phillips, who recovered the Target bag (Item 5) “smelled  
9 an odor and believed it was similar to the odor of the human remains [Laci] that were recovered  
10 earlier.”<sup>16</sup> (Opp’n. at p. 185.) The prosecution further admits that when the bodies of Laci and Conner  
11 were discovered, police investigators also recovered “severely rusty and brittle metal bar” with duct  
12 tape wrapped around it (Item 10), and that the metal bar was found wrapped inside the Target bag  
13 (Item 5), which also had duct tape wrapped around it (Item 6). (Opp’n. at pp. 183–184.) The  
14 prosecution further admits that investigators collected those items as possible evidence because they  
15 immediately suspected that the duct tape found on those items may be connected to the duct tape  
16 found adhered to Laci’s pants. (*Id.*) The prosecution does not deny that Items 5, 6, and 10 have never  
17 been subjected to DNA testing but argues that “the various segments of duct tape were the wrong  
18 thread count to match the tape on Laci’s body.” (Opp’n. at p. 227.) The prosecution’s argument fails  
19 because it is premised on the unsupported assumption that all of the duct tape at issue in this motion  
20 came from a single roll of tape.

21 Tom Phillips testified on October 19–20, 2004, that the odor emanating from the Target bag  
22 “had basically the same smell” as the body. (RT 19601.) Phillips mentioned his observation  
23

24  
25 <sup>16</sup> The prosecution attempts to minimize the importance of Officer Phillips’ observations concerning the  
26 similarity of the odors he detected on the Target bag and on Laci’s remains, observations which were left out of police  
27 reports and not discovered by the defense until after trial started, by implying that he was the sole individual who  
28 noticed a possible connection between the Laci’s remains that the Target bag. That is not accurate. (See DNA Mot. at  
p. 103 [“Captain Christine Dean of the Contra Costa Sheriff’s Office independently noticed that the Target bag smelled  
like the remains, and other EBRPDPD officers believed the Target bag may have been related to the remains because  
both had duct tape on them. (93 RT 17583; 105 RT 19558–19559, 19593.) The MPD detectives at the scene failed to  
make a note of the odor emanating from the Target being similar to the odor of decomposing remains in any report.  
(98 RT 18389, 18391.”].)

1 regarding the similarity of the odors to Sergeant Iverson, and upon his arrival at the Coroner's Office,  
2 Captain Dean from the Contra Costa County Sheriff's Office also had, prior to Phillips mentioning  
3 it, made a comment that the odors seemed similar. (RT 19558-19559.)

4       Someone wrapped a considerable amount of duct tape around that Target bag, for some  
5 reason. Should there be a link between the Target bag and the remains of either Laci or Conner, the  
6 fact that there were numerous Target bags located further north at the base of the Richmond Bridge  
7 where a retrofit construction project was underway would support the inference that someone may  
8 have placed Laci and Conner into the bay near the Richmond Bridge, which is north of where Mr.  
9 Peterson went fishing and in the direction of the location where Gene Ralston believes he located  
10 Laci's remains.<sup>17</sup>

11       Mr. Peterson has also made a prima facie showing that it is possible to obtain human DNA  
12 from duct tape, even after it has been submerged in water for some period of time, because human  
13 DNA was recovered from the tape on Laci's pants. DNA test results that link the Target bag to Laci  
14 and/or Conner, or foreign DNA that links the tape on the Target bag and/or the tape around the metal  
15 bar found with the Target bag, to any foreign DNA recovered from Laci's pants, assuming those  
16 results are favorable and exclude Mr. Peterson which is required under the statute, would likely have  
17 resulted in a more favorable outcome at trial.

18       Mr. Peterson has made a prima facie showing as to Items 5, 6, and 10 (Target bag, duct tape  
19 wrapped around it, and duct tape associated with the metal bar found with the Target bag). Based on  
20 the odor Officer Phillips and Captain Dean both detected on the Target bag, which was that of  
21 decomposing human remains, and the established fact that it has already been shown that it is possible  
22 to obtain DNA from duct tape that has been in the water for some period of time because the prior  
23

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24 <sup>17</sup> The prosecution mischaracterizes the trial testimony of Richard Atkinson, who was an employee of Target  
25 Products Limited. He testified that he had seen duct tape used "on the bottom of the poly cap to secure it in place."  
26 (Opp'n. at p. 187 ["Atkinson described how it was common for duct tape to be placed on the poly caps. . . the crew will  
27 frequently use duct tape, wrapping it around the bottom of the poly cap bag to secure it in place to weatherproof their  
28 Bridge site being used the way it appeared to be wrapped around the Target bag that was found near Laci's body, he  
said, "No." (RT "Q: Okay. And at that site have you ever seen duct tape being used on those Poly Cap bags? A: No,  
I have not."].)

1 testing on the duct tape from Laci's pants yielded DNA. Favorable results could lead to the identity  
2 of the perpetrator or perpetrators of these crimes. Further testing is warranted on these items. Indeed,  
3 that is the very reason the Target bag and related duct tape were collected as possible evidence by  
4 law enforcement in the first place.

5 **Item 8: Twine**

6 The prosecution does not deny that Item 8 was never forensically tested: the "50-inch long  
7 tape or twine, about 6 inches wide" recovered from the neck of Conner Peterson, found tied in a bow  
8 around his neck, with a "very tight overhand knot" remaining after the bow was loosened. The  
9 prosecution argues, summarily and without citing to anything in the record that "there was no way  
10 for anyone to place this twine around Conner's neck" because Dr. Peterson stated that "Conner died  
11 inside Laci's womb." (Opp'n. at p. 273.) The prosecution also states, again without citation to  
12 anything in the record: "It therefore stands unrefuted that the twine was postmortem debris." (Opp'n.  
13 at p. 275.) **Those statements are, once again, misrepresentations of the record in this case.**

14 The prosecution concedes that "Dr. Peterson could not definitively rule out the chance that  
15 Conner was born alive and protected by something else in the marine environment." (*Id.* at p. 153.)  
16 Dr. Peterson agreed it was possible that Conner could have been removed from Laci's uterus through  
17 the damaged portion and protected from the marine environment by being placed in a bag. (PHT  
18 1484, RT 17505.) He further agreed that if any incision had been made at the top of Laci's uterus it  
19 would no longer be observable due to decomposition.<sup>18</sup> (RT 17513-17514.)

20 Dr. Peterson also testified that he had to cut tape from around Conner's neck because he feared  
21 pulling it off would damage the baby. (RT 17480.) While Dr. Peterson determined that this tape  
22 around Conner's neck was not the cause of death, **he would not speculate as to whether the twine**  
23 **could have been tied post mortem.** (RT 17481.) Given the absence of forensic evidence in this  
24 case, any evidence that Conner was handled outside of Laci's womb would exonerate Mr. Peterson.

25  
26  
27 <sup>18</sup> On January 6, 2003, the teacher of Steven Todd's son, Steven Todd, Jr., called MPD and reported that the  
28 mother of Steven Todd, Jr., "has been a surrogate mother and sold babies twice before." (DNA Motion at p. 43, fn. 30  
[citing Exh. 5 at ¶ 79].) Additional reports from this teacher included graphic suggestions from Todd's son about a  
violent incident involving a pregnant woman. Counsel is still investigating these accounts. (*Id.*)

1           There are simply too many unanswered questions around the cause and manner of Conner’s  
2 death; further investigation is warranted. (See DNA Motion at pp. 99–100 [“Conner’s body was  
3 found with a strip of packaging material or tape, later described as “twine,” wrapped around his neck  
4 and tied in a knotted bow. Dr. Peterson testified that, from his evaluation at autopsy, there were two  
5 centimeters of space between the twine and Conner’s neck and that he did not see any damage to  
6 Conner’s neck from the twine. (92 RT 17445, 17481.) According to Dr. Peterson: (i) Conner had  
7 reached full term; (ii) Conner had no anatomical abnormalities that would have been incompatible  
8 with life; (iii) Conner was not born vaginally but came out through the fundus, the top of the uterus;  
9 (iv) there was no placenta or umbilical cord found on or near the body; (v) Dr. Peterson could not  
10 estimate the time the body had been in the water; (vi) the body appeared to have been in a protected  
11 environment because it was only partially decomposed; and, (vii) the trauma to the body was likely  
12 post-mortem. (92 RT 17447, 17473–17474, 17513, 17623–17624.) Dr. Peterson testified that he did  
13 not see evidence of animal feeding on Conner’s body and concluded that Conner must *not* have spent  
14 substantial time in the water, or he would have been eaten or fed upon by marine life. (92 RT 17453.)  
15 Dr. Peterson ultimately concluded that Conner’s cause of death was undetermined. (92 RT  
16 17457.)”].) The prosecution failed to address any of these unanswered questions in its Opposition.

17           If a person handled Conner’s body outside the uterus and tied the twine and knotted the bow  
18 around his neck, that person may have transferred their own DNA to the twine, which may still be  
19 present and suitable for DNA testing, including in the crevices of the plastic that is folded in on itself.  
20 As with the duct tape, Mr. Peterson has made a prima facie showing that it is possible to obtain human  
21 DNA from items that have been submerged in water for some period of time, such as the twine found  
22 wrapped and tied in a knotted bow around Conner’s neck, just as human DNA was recovered from  
23 the tape on Laci’s pants. DNA test results that show foreign human DNA on the twine, assuming  
24 those results are favorable and exclude Mr. Peterson, which is required under the statute, would likely  
25 have resulted in a more favorable outcome at trial. Mr. Peterson has made a prima facie showing as  
26 to Item 8 and has therefore met this pleading requirement.

27           **Item 7: Debris from Target Bag**  
28

1 Item 7 consists of four packages of debris collected from inside the Target bag. If Laci was  
2 wrapped inside the Target bag and weighed down with the metal bar or some other object, her DNA  
3 or that of Conner may be found on items mixed in with the debris. In addition, in light of Dr.  
4 Peterson's conclusion that he saw evidence of crab activity when he conducted the autopsy, the four  
5 packages of debris which were collected but never forensically tested should be examined to  
6 determine whether any bone fragments and/or other biological materials resulting from crab activity  
7 are present in the debris. Mr. Peterson has made a prima facie showing as to Item 7 and has therefore  
8 met this pleading requirement.

9 **Items 11 & 12: Black Tarps**

10 Items 11 and 12 are two black tarps found washed up on shore in the Point Isabel area, where  
11 Laci's remains were recovered. The prosecution admits that neither tarp has been forensically  
12 examined to determine whether either may be related to the case but argues, once again, that this  
13 evidence is "unrelated" to the case. (Opp'n. at pp. 282–283.) Dr. Peterson determined that it appeared  
14 Conner's body appeared to have been in a protected environment based on the condition of the body.  
15 Conducting DNA testing with the use of M-Vac technology could provide a definitive answer to the  
16 question whether with Laci or Conner were in contact with either tarp, and if so, whether there is  
17 additional foreign DNA present pointing to a suspect other than Mr. Peterson. Mr. Peterson has made  
18 a prima facie showing as to Items 11 and 12 and has therefore met this pleading requirement.

19 **Items 13–14: Evidence Recovered From the Medinas' Home**

20 The prosecution contends that Items 13 and 14, the glove and hammer Susan Medina pointed  
21 out to investigators were handled by the burglars inside her master bedroom, were not collected into  
22 evidence by MPD. The prosecution has not provided Mr. Peterson with any evidence logs related to  
23 the investigation into the Medina burglary, nor have they provided a sworn affidavit by a custodian  
24 of records demonstrating that the items were searched for and not found, who searched for the  
25 evidence, and what locations were searched. (Opp'n. at p. 193.) If those items were collected, they  
26 should be DNA tested to determine whether individuals other than Steven Todd and Donald Glenn  
27 Pearce may have been involved with the Medina Burglary. Mr. Peterson has made a prima facie  
28 showing as to Items 13 and 14 and has therefore met this pleading requirement.

1                   **5. Section 1405(d)(1)(E): Results from Prior DNA Testing**

2           Three items were previously DNA tested, for which Mr. Peterson seeks further testing: the  
3 duct tape from Laci’s pant (Item 9) and the bloodstained fabric from the mattress found in the orange  
4 van (Items 1 and 2). The prior testing revealed the presence of human DNA on those items of  
5 evidence but the results were insufficient to provide a genetic profile.

6           Regarding the tape from the pants, the prosecution contends that because a profile was not  
7 obtained in 2003, one cannot be obtained now, without citing to any legal or scientific authority.  
8 (Opp’n. at p. 229.) The Court should reject that argument outright. The prosecution’s argument that  
9 Mr. Peterson’s DNA expert’s opinion that testing using current technology “may reveal” results is  
10 “hardly sufficient to meet the burden required here,” should also be dismissed by the Court. No one  
11 can state with certainty what DNA testing will reveal, as the prosecution knows; that is the whole  
12 point of conducting the testing. No credible expert would pretend to know with certainty whether  
13 DNA testing will provide favorable results, or any results at all. In addition, Mr. Peterson’s burden  
14 is to make a prima facie showing, which he has done with respect to Item 9.

15           The prosecution’s argument that “the prior DNA testing has eliminated any possibility of any  
16 connection” between the mattress in the van and this case is wrong. (Opp’n. at p. 228.) The  
17 prosecution misstates the DNA test results related to the “cloth from the mattress” that was found in  
18 the stolen orange van. While the DNA quantitation results suggest that the DNA obtained was male,  
19 the samplings represented only a small percentage of the surface area of the items. The analyst  
20 concluded that “it cannot be determined whether blood is present . . . nor can it be determined whether  
21 the trace amounts of recovered male DNA come from the staining on the fabric specimen.” (Exh.  
22 13F.) The prior testing involved only very small samples cut from the fabric, and as explained in the  
23 DNA Motion, no DNA “profile” was obtained. (DNA Motion at pp. 22, 132–133.) A profile is  
24 obtained when DNA is subjected to DNA typing procedures. No typing was performed during the  
25 prior testing. Mr. Peterson is requesting that the entire surface area of both the fabric samples be  
26 examined for the presence of DNA. If any DNA from Laci or male baby Conner is found on those  
27 cuttings, an irrefutable connection will be made.

28                   **6. Section 1405(d)(1)(F): Prior DNA Motions**

1 The prosecution correctly notes that Mr. Peterson filed a motion for DNA testing in 2013  
 2 pursuant to section 1405. The evidence tested in 2013 is not at issue in this motion. Mr. Peterson  
 3 has met this pleading requirement.

4 **II. MR. PETERSON HAS COMPLIED WITH SECTION 1405(g)**

5 For the Court’s ease of reference, the table below summarizes the parties’ positions as to  
 6 section 1405(g)’s proof requirements.

Pleading Standard	Prosecution’s Position	Peterson Reply
1405(g)(1)-(2) Availability; Chain of Custody	Standard met. (Opp’n. at pp. 229–232.)	Court should Order discovery, section 1405(c).
1405(g)(3) Identity of Perpetrator	Position is unclear. See 1405(d)(1)(B) ( <i>Id.</i> at p. 232)	Standard met: defense at trial was third party culpability; the evidence was not “overwhelming”; and, prosecution has not refuted the numerous investigative failures counsel has identified supporting third party culpability.
1405(g)(4)-(5) Reasonable Probability	Standard not met ( <i>Id.</i> at 226.)  No “new evidence” <i>Richardson</i> D.M. Hearsay	Standard met.  New evidence not required under the statute. <i>Richardson</i> supports granting this motion. Evidence is admissible.
1405(g)(6) Reasonable Probability	Standard not met. ( <i>Id.</i> at 283.)  Admits most items not previously tested.  Items 1-4: not related to this case. Item 9: “required proof has not been submitted by the defense.”	Standard met.  Items 1-4 are related: prosecution stipulated to testing in 2019; MPD case files show the investigation was related to Peterson case Item 9: foreign DNA on the tape from Laci’s pants would result in a more favorable outcome
1405(g)(7)	Standard met. ( <i>Id.</i> )	Standard met.
1405(g)(8) Prior motions	Standard met. ( <i>Id.</i> )	Standard met.

23  
 24 **A. 1405(g)(1)–(2): The Court Should Direct the Prosecution to Provide the**  
 25 **Requested Discovery Related to the Chain of Custody and Status of Evidence**  
 26 **pursuant to Penal Code 1405(c)**

27 Under 1405(g)(1)-(2), the Court shall grant the motion if the evidence to be tested is available  
 28 and in a condition that would permit the DNA testing requested in the motion and has been subject

1 to a chain of custody sufficient to establish it has not been substituted, tampered with, replaced, or  
2 altered in any material aspect.

3 In the instant DNA Motion, Mr. Peterson asked the Court to order the prosecution to provide  
4 evidence and chain of custody logs specifically for the fourteen items that are the subject of this  
5 motion, which is provided for under Pen. Code section 1405(c). (DNA Motion at pp. 119–120.) As  
6 the Court is aware, Mr. Peterson also asked the prosecution to provide all current evidence and chain  
7 of custody logs in a formal discovery motion filed on January 17, 2024. That motion has not yet been  
8 briefed or argued.

9 The prosecution argues in its opposition that the Court should deny this motion because “[t]he  
10 defense fails to establish by competent evidence that these items actually even exist much less that  
11 they are still available and in a condition that would allow DNA testing.” (Opp’n. at p. 230.) The  
12 prosecution also argues, summarily, that the Court should not order that discovery be provided  
13 because “there is no valid reason for DNA testing of any of the requested items.” (Opp’n. at pp. 283–  
14 284.) The Court should reject those disingenuous arguments, which are unsupported by any  
15 authorities, and order the prosecution to provide the discovery requested in the DNA Motion.

16 The prosecution *knows* Mr. Peterson does not have access to current evidence and chain of  
17 custody logs; that is why he is requesting copies of those items in the two motions before the Court.  
18 The prosecution has also admittedly already searched its evidence and chain of custody logs and  
19 determined that Items 13 and 14 in the motion are *not* in evidence, because they were never collected  
20 by police.<sup>19</sup> (Opp’n. at p. 193 [“The Modesto Police Department property and evidence logs from  
21 the case do not indicate that the glove or hammer was collected during the investigation.”].)  
22 Therefore, the prosecution knows and could easily state which items are in evidence and may be  
23 available for testing. Presumably, Items 1 through 12 are available as it is difficult to believe the  
24 prosecution searched the MPD property and evidence logs *only* for Items 13 and 14, and found they  
25 were never collected, and did not *also* review those logs for Items 1 through 12 to determine whether

26 \_\_\_\_\_  
27 <sup>19</sup> Items 13 and 14 are the work glove and hammer found in the Medinas’ master bedroom at 516 Covena Avenue,  
28 which Susan Medina pointed out to MPD investigators were items of evidence that should be collected because they  
were handled by whoever burglarized their home on December 24–26, 2002.



1 those items are in custody and available for testing as well. If any of Items 1 through 12 are not in  
2 evidence, the prosecution would undoubtedly have included that information in its Opposition, as it  
3 did with Items 13 and 14.

4 The assertion that Mr. Peterson “has the ability to locate, document and establish the  
5 circumstances required to be proved by this code section when they so choose” and that “the failure  
6 of [Mr. Peterson] to do so with the other remaining items must be taken as an admission that they  
7 cannot meet their burden for this point,” is wrong. (Opp’n. at p. 231, fn 123.) As stated *supra*, the  
8 *only* reason Mr. Peterson knows anything at all about the chain of custody for the mattress fabric from  
9 the former Cal Trans orange van is because after years of suppressing that evidence from the defense,  
10 Mr. Peterson was finally able to get the prosecution to produce that evidence in 2016, after an  
11 investigative journalist discovered there was evidence that was not provided to the defense and after  
12 defense counsel made multiple requests that the discovery be turned over.

13 The burden on the prosecution to provide the requested discovery, which concerns no more  
14 than 14 items, is *de minimus*, particularly given that it has already undertaken the exercise of  
15 searching for those records as evidenced in its own Opposition.

16 The prosecution’s contention that the Court should not direct them to provide Mr. Peterson  
17 with the discovery he seeks under Pen. Code section 1405(c) is untenable. Mr. Peterson has no access  
18 to law enforcement files; there is no avenue for him to learn about the availability of evidence other  
19 than for the prosecution to provide him with that information. The prosecution knows this. And yet,  
20 they contend that Mr. Peterson has the burden of knowing what the current chain of custody is for  
21 these items of evidence. The Court should order the prosecution to provide the requested discovery.  
22 A proposed order is filed concurrently herewith.

1 Finally, the prosecution's statement that "[t]he defense has known since 2002/2003 that the  
 2 evidence in this unrelated case [referring to the Medina burglary case] was not kept," could not be  
 3 further from the truth. (Opp'n. at p. 286.) The only destruction notification the defense has been  
 4 provided with is for the destruction of the Medinas' safe.

23898

XREF 03-637

Location Deposited (Locker, Area, etc.) <b>PROP ANNEY #1</b>		<b>MODESTO POLICE DEPARTMENT</b>		Case # <b>02-14-3025</b>
Evid. #/Time Deposited <b>01-02-03/2100</b>		Evidences/Property Record Location/Address/Item Found/Seized <b>1406 TENAYA</b>		Incident Type/Event Code <b>460(A) PC</b>
Investigating Officer/Agency (Name & ID#) <b>DET BANKS / DET STOUGH</b>		Evidences/Property Booked By (Name & ID#) <b>B HODSON 10278</b>		<input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
<input type="checkbox"/> Firearm <input type="checkbox"/> Drugs <input type="checkbox"/> Money <input type="checkbox"/> Search Warrant <input type="checkbox"/> Asset Seizure <input type="checkbox"/> 5150/8102 Hold <input type="checkbox"/> Destroy				
<b>SUBJECT INFORMATION</b> Subject Type: S - Suspect    V - Victim    RP - Reporting Party    O - Other				
1	Name (Last, First Middle) <b>MEDINA, RODOLFO</b>	Address (Street) <b>516 COYENA AV</b>	City <b>MOD</b>	State (Abbrev) <b>CA</b>
2	Name (Last, First Middle) <b>UNKNOWN</b>	Address (Street)	City	State (Abbrev)
3	Name (Last, First Middle)	Address (Street)	City	State (Abbrev)
<b>PROPERTY INFORMATION</b>				
1	Item # <b>2</b>	Serial # <b>UNK</b>	Inventory # <b>A-121</b>	Disposition <b>absolutely destroyed</b>
Evidence Found <b>SAFE W/ SHELF, OPEN, EMPTY, DAMAGED LOCK/OPENING</b>		Manufacturer <b>FIREFYTER</b>	Model # <b>PITY 52703</b>	MODESTO PD EVIDENCE 000013534
2	Item # <b>2</b>	Serial # <b>NONE</b>	Inventory # <b>A-121</b>	Disposition <b>By Det. Banks</b>
Evidence Found <b>1703</b>		Manufacturer	Model #	MODESTO PD EVIDENCE

02-14-3025

18 (Bates 38941.) Mr. Peterson cannot account for the current status of the remaining evidence  
 19 collected during the investigation of the Medina burglary.

20 **B. 1405(g)(3): The Identity Of The Perpetrator**

21 Mr. Peterson has met this standard. In addition to the arguments set forth above under section  
 22 1405(d)(1)(B), Mr. Peterson offers the following proof that the identity of the perpetrator was in  
 23 question and in response to the prosecution's argument that the circumstantial evidence against him  
 24 at trial was "overwhelming."

25 **1. The Boat was Not a "Secret"; Laci Knew About It**

26 Mr. Peterson told police that Laci knew about the boat. (RT 18415.) Supporting his  
 27 statement, Det. Brocchini learned on August 13, 2003, from a business owner whose warehouse was  
 28 near Mr. Peterson's, that Laci had been at Scott's warehouse office where their boat was stored just

1 before she went missing. Det. Brocchini noted the visit in his notes but failed to add this information  
2 that supported Mr. Peterson's truthfulness to his police report. (See Bates 26094, 23979.)

3  
4 Pavlic was hollering at Matt  
5 come hurry Pavlic hid it from  
6 Smith. Pavlic thought it was significant.  
7 I'm not asking, I'm taking  
8 this  
9 Visit over.

10 *Handwritten initials*

10 IF I were representing you  
11 I would not let them take stuff  
12 I haven't let anyone in

13 Lali used RestRoom on 12/23  
14 Pray

026094

023979

27 Det. Brocchini attempted to justify omitting that exculpatory information by saying it was  
28 "documented in another police report." (RT 11192.) But the truth is, the prosecution was pushing a

1 narrative that Laci did not know about the boat, to support the theory that Mr. Peterson was carefully  
2 planning to murder his wife and put her body in the bay. Prosecutor Rick Distaso told the jury in  
3 his opening statement, “You’re also going to hear that not a single soul knew the defendant bought  
4 a boat.” (RT 8496.)

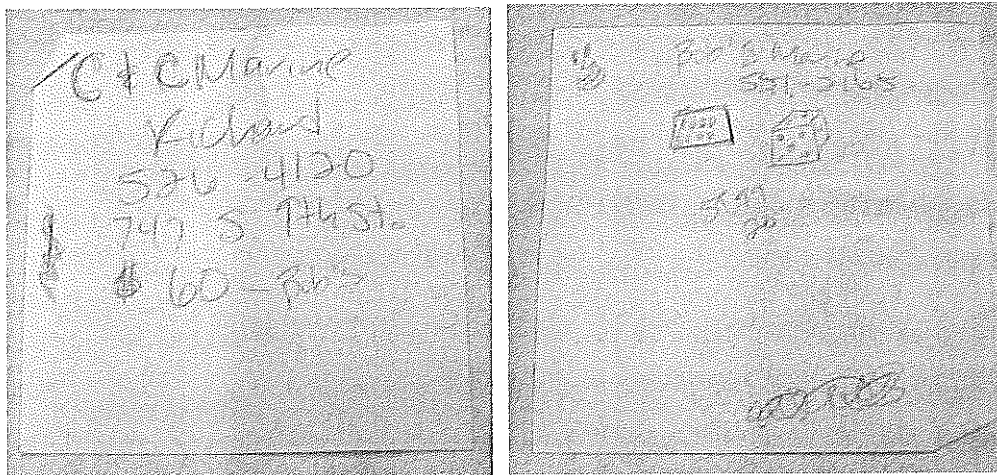
5 At trial, however, Det. Brocchini got caught on cross-examination and had to admit that he  
6 excised information from his police report that Laci had been at the warehouse where the boat was  
7 stored the week before she went missing. (RT 11195.) After that, Det. Grogan testified that, based  
8 on the evidence, Laci possibly knew about the boat. (RT 18415.) DDA Distaso nevertheless told  
9 the jury again in his closing argument that the boat was a “secret purchase.” (RT 20295.) It is a  
10 narrative the prosecution continues to push, citing to this closing argument in their Opposition by  
11 stating that “the boat was a secret,” and then asserting with no citation that “Laci had never seen it.”  
12 (Opp’n at p. 208.) They also state that “[t]he boat had been secretly purchased and was kept at his  
13 warehouse and the victim did not know about it.” (Opp’n. at p. 225, again with no citation.)

14 And, “Peterson reported he had been fishing in a recently purchased boat, the existence of  
15 which he had hidden from everyone.” (Opp’n. at p. 2, again with no citation.) These are false  
16 statements.

17 When Mr. Peterson bought the boat from Bruce Peterson (unrelated), Bruce kept his anchors.  
18 (RT 12155.) Mr. Peterson told detectives he made the small concrete anchor in his boat out of cement  
19 because cement is only \$3 as opposed to spending \$30 for an anchor from a store. (RT 17710-17711.)  
20 Det. Grogan confirmed that cement was less than \$3 a bag. (*Ibid.*)

21  
22  
23  
24  
25  
26  
27  
28

1 During the December 27, 2002 search of the Peterson home, detectives found handwritten  
2 notes in the desk area of the guest room that they labeled "Miscellaneous papers containing phone  
3 numbers to C&C Marine and Bob's Marine." (Bates 2129, 2133.)



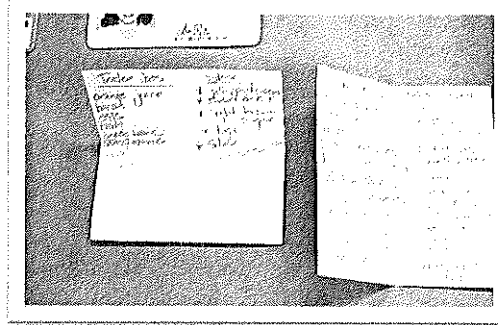
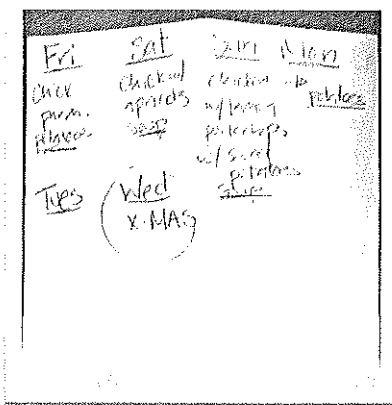
13 Det. Owen contacted Bob's Maine on December 30, 2002 and asked what they carried that  
14 was 20" and cost \$59.99, as indicated by the handwritten note. The employee told Det. Owen that  
15 they carried a boat anchor that weighted 20 pounds and would come in right around \$58:

16  
17 HENDERSON said that he is employed at Bob's Marine. He told me  
18 that he didn't know PETERSON. He did see his photo in the news  
19 and thinks he has possibly been in the shop before, however  
20 unknown when. I asked HENDERSON if he would know what item in  
his shop would run about \$59.99 and was 20 inches long.  
HENDERSON had two recommendations:

21 #1: A boat anchor that weighed 20 pounds that would come in  
right around \$58.00.

22 #2. A motor toter, which additionally goes for \$56 to \$60. A  
23 motor toter is an item that locks the engine in an upward  
24 position.  
25  
26  
27  
28

1 (Bates 1814.) The Petersons had priced out anchors, together, as Mr. Peterson had indicated to Det.  
2 Grogan, and Laci had participated in the process, as evidenced by the notes MPD found in their home.  
3 Notes written on the same paper, with the same color pen, and with the same handwriting as the  
4 shopping lists found in Laci's purse.



13 (Opp'n. at p. 74.) As the evidence has always indicated, Laci knew about the boat. It was not a secret.  
14 It was not until the prosecution filed its Opposition and included a graphic of the notes from Laci's  
15 purse that counsel was able to show that the handwriting on the notes related to calling around to  
16 price out anchors, was Laci's handwriting.

## 2. Mr. Peterson Never Hid the Fact that he Went Fishing

18 The prosecution falsely accuses Mr. Peterson of lying, over and over, throughout the  
19 Opposition. The prosecution contends that Mr. Peterson said "he had been golfing all day," when the  
20 record is clear that he told police immediately when they arrived to help search for his wife that he  
21 had gone fishing. (Opp'n. at p. 53 [citing to Harvey Kemple testimony at RT 9362].) The first  
22 mention of Mr. Peterson playing golf on December 24, 2002, came when Laci's stepfather, Ron  
23 Grantski, called 911 at 5:47 p.m. to report Laci as missing and, in that call, Ron twice states that Mr.  
24 Peterson had played golf that day. (Bates 36725-36739.) Ron Grantski then called his cousin, Harvey  
25 Kemple, and told him Laci was missing and asked Kemple to meet him at the park. Kemple gathered  
26 all the flashlights he had and drove to the tennis courts. (RT 9354-9355.) After talking with Scott  
27 and seeing he was distraught, neighbor Amie Krigbaum and her partner Terra Venable, drove to the  
28 tennis courts where Amie saw Sharon Rocha and gave her a flashlight. (RT 9523, 9513-9514.)

1 As another example, they state that when Mr. Peterson told Capt. Boyer that he reported Laci  
2 missing around 6:00 p.m. after he called her parents, “This was a lie. The defendant never called 911  
3 to report Laci was missing.” (Opp’n at p. 89, fn. 59.) Mr. Peterson in fact *did* call 911 at 6:10 p.m.  
4 PST, just as he told Capt. Boyer, just before officers arrived at the tennis courts in the park. (RT  
5 15043, 9999.)

6 Officer Letsinger testified that when he arrived at the park, he saw “Scott Peterson with a  
7 flashlight looking” around park, [RT 9833-9834], and yet the prosecution falsely states in its  
8 Opposition that “the defendant remained at the house and did not attempt to search for Laci in the  
9 park.” (Opp’n. At p. 53.) It was not until around 8:00 p.m., over two hours after Ron Grantski called  
10 911, that he learned from Mr. Peterson that he had not golfed that day, but that he had in fact, been  
11 fishing. (RT 9845-9846.) Sharon Rocha would later tell the police that she assumed Scott was golfing  
12 and she relayed that information to Ron. (Bates 27154-27155.)

13  
14 **Sharon said that when Scott Peterson called her on 12/24/03 to tell her that Laci was  
15 missing, he told Sharon that he had just gotten home. Scott didn’t say where he had been,  
16 however Sharon assumed he had been golfing because that would be normal for him. Sharon  
17 can’t remember at this time whether Scott said he had been gone all day or not.**

18  
19 It was during these initial hours of confusion that three people, Harvey Kemple, Amie  
20 Krigbaum, and Terra Venable, all of whom had early interactions with Ron and Sharon, describe  
21 being told that Mr. Peterson had played golf that day. As evidenced by what MPD collected the  
22 evening of December 24, Mr. Peterson never lied about going fishing, he told police immediately  
23 exactly where he had been all day.

24 The prosecution’s case only holds water if they are permitted to mischaracterize and overstate  
25 the evidence in the record. It is unfortunate that the prosecution continues to push its false narrative  
26 that Mr. Peterson bought a “secret boat,” and that he lied to police throughout the investigation about  
27 his activities on December 24, the day his wife disappeared. There simply was not “overwhelming  
28

1 circumstantial evidence” presented to the jury at trial as to whether the identity of the perpetrator was  
2 an issue in the case.

3 **C. 1405(g)(4): Mr. Peterson Has Made A Prima Facie Showing That The Evidence**  
4 **Sought To Be Tested Is Material To The Issue Of The Convicted Person's**  
5 **Identity As The Perpetrator**

6 Mr. Peterson has met this standard. See above.

7 **D. 1405(g)(5): The requested DNA testing results would raise a reasonable**  
8 **probability that, in light of all the evidence, the convicted person's verdict or sentence would**  
9 **have been more favorable if the results of DNA testing had been available at the time of**  
10 **conviction.**

11 The prosecution contends that the instant motion should be denied because Mr. Peterson  
12 “cannot show that, in light of all of the evidence, any results coming from further testing would yield  
13 or raise a ‘reasonable probability that...the convicted person’s verdict or sentence would have been  
14 more favorable if the results of the DNA testing had been available at the time of the conviction.”  
15 (Opp’n at p. 223 [quoting *Superior Court, supra*, at pp. 1049-1050].) For the reasons laid out *infra*,  
16 the prosecution misreads the law.

17 As discussed in depth in the instant motion, trial courts should liberally apply the “reasonable  
18 probability” standard to permit testing in questionable cases. (DNA Motion at p. 129.) The court’s  
19 task is not to speculate about what the results of DNA testing would be but instead to decide whether  
20 a result favorable to defendant could reasonably have impacted the outcome. (*Jointer v. Superior*  
21 *Court* (2013) 217 Cal. App. 4th 759.) “In an entirely circumstantial case in which no murder weapon  
22 was found, no time or even date of death was established, the cause and manner of death were never  
23 established, and there were no eyewitnesses implicating Mr. Peterson, the jury convicted him almost  
24 entirely on conjecture over a possible motive.” (DNA Motion at p. 130.)

25 The DNA testing requested herein could provide evidence that (i) Laci Peterson was present  
26 in the back of the van and identify the genetic profile of the individual or individuals who abducted  
27 and killed her; (ii) reveals DNA belonging to a third party on items of evidence collected on or near  
28 Laci and Conner showing that Mr. Peterson was not the person who handled or disposed of their



1 bodies in the bay; or (iii) establishes that there were more than two participants (Todd and Pearce) in  
2 the Medina burglary, supporting the evidence presented in the instant motion that the burglars  
3 encountered Laci Peterson and had motive to ensure she did not report their crimes to the police. Had  
4 the results of DNA testing on any of the requested items of evidence been available at the time of  
5 conviction, there is more than a reasonable chance that Mr. Peterson's verdict or sentence would have  
6 been more favorable. Mr. Peterson has met this standard; he is entitled to develop this potentially  
7 exculpatory evidence.

8 **E. 1405(g)(6)**

9 (A) The prosecution concedes that "most of the items have not been previously tested."  
10 (Opp'n. at p. 283.) Mr. Peterson has met this requirement.

11 (B) The prosecution contends that "this section controls only the tape found on Laci's pants  
12 since the People have demonstrated that the items in the orange van have no connection with this  
13 case." (*Id.*) The prosecution further asserts that "[t]he required proof has not been submitted by the  
14 defense as articulated above." Mr. Peterson has shown that as to the items that have been previously  
15 tested (Items 1, 2 and 9), "the requested DNA test would provide results that are reasonably more  
16 discriminating and probative of the identity of the perpetrator or accomplice or have a reasonable  
17 probability of contradicting prior test results" as to those items. Mr. Peterson has met this  
18 requirement.

19 **F. 1405(g)(7)**

20 The prosecution agrees that Mr. Peterson's "expert has generally identified the requested  
21 DNA testing methods that might be used." (*Id.*) To the extent the prosecution asserts Mr. Peterson's  
22 expert is vague because he cannot predict the outcome of DNA testing, that argument is unavailing.  
23 Mr. Peterson has met this requirement.

24 **G. 1405(g)(8)**

25 The prosecution does not contend that Mr. Peterson has brought this motion for the purpose  
26 of delay. Mr. Peterson has met this requirement. (*Id.*)

27 \* \* \*

1 Mr. Peterson has met the proof requirements of section 1405(g). The Court must grant the  
2 motion.

3 **III. THE PROSECUTION'S ARGUMENTS ARE UNSUPPORTED BY THE**  
4 **AUTHORITIES**

5 Penal Code section 1405 does not have a statute of limitations.

6 **A. Mr. Peterson Has a Statutory Right to Request DNA Testing Under Section 1405**

7 The prosecution's argument that "there is no constitutional entitlement to post-conviction  
8 DNA testing because no substantive constitutional right is implicated," does not require much in the  
9 way of a response because Mr. Peterson is requesting DNA testing of physical items of evidence  
10 pursuant to his statutory right under section 1405; he has not asserted that the instant motion is  
11 brought pursuant to a constitutional right.

12 The prosecution's attempt to raise the specter of "contamination" of the evidence occurring,  
13 should the Court grant this motion, is unavailing. (Opp'n. at p. 202 ["Justice Alito also identified the  
14 State's 'important interests in maintaining the integrity of its evidence and the risks associated with  
15 evidence contamination increase every time someone attempts to extract DNA from a sample." ]  
16 [citing *District Attorney's Office for Third Judicial Dist. V. Osborne* (2009) 557 U.S. 52, 82].) The  
17 sentence from the J. Butler textbook the prosecution cites is actually followed in that textbook by an  
18 important sentence that gives context: "For this reason, laboratories usually process the evidence  
19 samples at separate times and sometimes even different locations from the reference samples."  
20 (*Osborne, supra*, 557 U.S. at p. 82.) Justice Alito's example is actually then referring to the  
21 possibility of contaminating DNA from questioned samples with DNA from reference samples. That  
22 concern goes away if they are extracted separately, which is how SERI, the lab Mr. Peterson will use,  
23 conducts extractions. Moreover, even if a DNA extract were to become contaminated during the  
24 extraction process, that would occur *after* the evidence is sampled, so original evidence itself is not  
25 contaminated.

26 **B. Marsy's Law Does Not Apply to Post-Conviction Motions For DNA Testing**

27 The prosecution argues that Marsy's Law provides a constitutional guarantee of "finality" to  
28 victims and their family members, which trumps Mr. Peterson's statutory right to seek post-

1 conviction discovery and DNA testing by way of the motions pending before the Court. (Opp’n. at  
2 pp. 213–217.) The prosecution misreads the law and has provided no authorities supporting its  
3 position.<sup>20</sup>

4 The prosecution’s argument boils down to this: Marsy’s Law should be read as prohibiting a  
5 post-conviction investigation into a claim of actual innocence because the “finality” of a conviction  
6 is of paramount importance—more important than an investigation into a claim of actual innocence—  
7 because it provides “some measure of finality to the trauma inflicted upon the [victims’ families] by  
8 their wrongdoers.”<sup>21</sup> (Opp’n. at p. 215.) Apart from the fact that there are no legal authorities  
9 supporting that argument, there is the troubling fact that, to date, 3,512 individuals have been  
10 exonerated in the United States, with 597 of those documented cases involving individuals who were  
11 exonerated through post-conviction DNA testing. In all but a handful of those cases, the convictions  
12 were affirmed on appeal and deemed “final.” But they were only “final” right up until the point  
13 where they were *overturned*. See National Registry of Exonerations, A Project of the University Of  
14 California Irvine Newkirk Center For Science & Society, University Of Michigan Law School &  
15 Michigan State University College Of Law (hereafter “National Registry”), available at:  
16 <https://www.law.umich.edu/special/exoneration/Pages/about.aspx> (last checked April 25, 2024.)

17 Relying on *Santos v. Brown* (2015) 238 Cal.App.4th 398, the prosecution argues that  
18 “Marsy’s Law clearly demands a broad interpretation protective of victims’ rights,” [*id.* at p. 418]  
19 and that “an individual right of the victim provided by Marsy’s Law guarantees, inter alia, ‘a prompt  
20 and final conclusion of the case and any related post-judgment proceedings.’” (Cal. Const. art. I, §  
21 28(b)(9).) That argument is unavailing.

---

22  
23 <sup>20</sup> As the court explained in *People v. Lamoureux* (2019) 42 Cal. App. 5th 241, 264: “Marsy’s Law amended  
24 article I, section 28 of the California Constitution and provisions of the Penal Code to strengthen a ‘broad spectrum of  
25 victims’ rights . . .’ (*People v. Gross* (2015) 238 Cal.App.4th 1313, 1317, 1318.) To name a few illustrative examples,  
26 it guaranteed victims a right to seek and secure restitution from convicted defendants (Cal. Const., art. I, § 28, subd.  
(b)(13)); increased the amount of time between parole hearings for convicted defendants (Pen. Code, § 3041.5); and  
afforded victims a right to prevent the disclosure to the defendant, or persons acting on the defendant’s behalf, of  
privileged or confidential information (Cal. Const., art. I, § 28, subd. (b)(4)).”

27 <sup>21</sup> Had the Stanislaus County District Attorney agreed to provide the requested discovery informally and stipulated  
28 to the requested DNA testing, the Rocha and Peterson families would both have been spared further publicity surrounding  
these proceedings. Given the prosecution’s certainty that Mr. Peterson is guilty, they should have no reason to oppose  
his efforts to conduct further investigation and provide him with the discovery and further DNA testing he seeks.

1 In *Santos*, the San Diego County District Attorney (SDCDA) and others filed suit to challenge  
2 Governor Schwarzenegger’s commutation of a prison sentence of defendant Esteban Nunez from 16  
3 years to seven years under the Governor’s executive clemency authority. (*Santos*, 238 Cal.App.4th  
4 at p. 404.) The SDCDA argued that the commutation was unconstitutional because “Marsy’s Law  
5 broadly mandates notice to victims and an opportunity to be heard at ‘parole or other post-conviction  
6 release proceedings’ before prisoners obtain early release from prison,” and the victims were not  
7 notified about the commutation. (*Id.* [citing Cal. Const., art. I, § 28, subd. (b)(7)].) The Court of  
8 Appeal upheld the trial court’s ruling and rejected the prosecutors’ argument that Marsy’s Law  
9 prohibits a Governor from granting a commutation under their executive clemency power because  
10 Marsy’s Law amended parole statutes to specify notice to victims and opportunity to be heard; it did  
11 not amend executive clemency statutes.<sup>22</sup> (*Id.*; see also *In re Vicks* (2013) 56 Cal. 4th 274, 282  
12 [holding that the parole board’s determination not to hold a new parole hearing within five years of  
13 denying parole, pursuant to Marsy’s Law, was not a “critical stage of criminal proceedings”].) *Vicks*  
14 is yet another “parole” case the prosecution incorrectly relies on to support of its argument that  
15 Marsy’s Law prohibits post-conviction DNA testing pursuant to Pen Code section 1405. Neither  
16 *Santos* nor *Vicks* offers any support to the prosecution’s argument.

17 Moreover, the prosecution fails to address *Lamoureux*, a more recent case in which the Court  
18 of Appeal rejected the same argument the prosecution raises here, i.e., that Marsy’s Law is intended  
19 to promote “finality” and therefore impedes or prohibits any number of post-conviction motions, even  
20 those unrelated to early release from prison. (*Lamoureux*, 42 Cal. App. 5th at pp. 264-265.) The  
21 Court of Appeal upheld the constitutionality of S.B 1437 and further held that the “resentencing  
22 provision of Senate Bill 1437 does not contravene separation of powers principles or violate the rights  
23 of crime victims,” i.e., Marsy’s Law. (*Id.*) While “Marsy’s Law established a victim’s right to a  
24 ‘prompt and final conclusion’ to post-judgment proceedings. . . it did not foreclose post-judgment  
25 proceedings altogether. On the contrary, it expressly contemplated the availability of such post-  
26

27  
28 <sup>22</sup> After Nunez’s sentence was commuted, the Legislature enacted section 4805, mandating notice to the district  
attorney of “commutation” applications and reasonable effort by the district attorney to notify victims, who may submit  
to the Governor a recommendation for or against commutation. (*Id.*)

1 judgment proceedings, including in section 28, subdivision (b)(7) of the Constitution, which affords  
2 victims a right to reasonable notice of ‘parole [and] other post-conviction release proceedings,’ and  
3 in subdivision (b)(8), which grants victims a right to be heard at ‘post-conviction release decision[s]  
4 ... .’” (*Id.*)

5 The prosecution also relies on *Edwards v. Vannoy* (2021) 593 U.S. 255, *Prost v. Anderson*  
6 (10th Cir. 2011) 636 F.3d 578, and *Herrera v. Collins* (1993) 506 U.S. 390, as support for the  
7 proposition that this Court should deny Mr. Peterson’s motion for DNA testing because “at *some*  
8 point a criminal conviction reaches an end, a conclusion, a termination.” (Opp’n. at pp. 213–214.)  
9 But none of those cases stands for that proposition, nor do their holdings apply to the issue before  
10 this Court.

11 In *Edwards v. Vannoy* (2021) 593 U.S. 255 [cited at Opp’n. pp. 213–214], the issue was  
12 whether the Supreme Court’s decision a year earlier, in *Ramos v. Louisiana* (2020) 140 S.Ct. 1390,  
13 applied retroactively to create a cognizable federal habeas claim by a petitioner challenging a state  
14 criminal conviction in federal court on collateral review, under the federal habeas statutes. In *Ramos*,  
15 the Court held that Louisiana’s criminal procedural rule allowing convictions in serious felony cases  
16 by non-unanimous jury verdicts violated the Sixth Amendment right to a trial by an impartial jury.  
17 In *Edwards*, the Court held that the ruling in *Ramos* applied to all cases pending in trial courts and on  
18 direct appeal, but it did not apply retroactively to state convictions that were already final, where a  
19 petitioner is seeking federal habeas review. (*Edwards*, 593 U.S. at p. 276.)

20 In *Herrera v. Collins* (1993) 506 U.S. 390, the Supreme Court explained that federal habeas  
21 jurisprudence does not cast “a blind eye toward innocence,” and that even a petitioner who raises a  
22 claim in a successive writ “may have his federal constitutional claim considered on the merits if he  
23 makes a proper showing of actual innocence. This rule, or fundamental miscarriage of justice  
24 exception, is grounded in the ‘equitable discretion’ of habeas courts to see that federal constitutional  
25 errors do not result in the incarceration of innocent persons.” (*Id.* at p. 404.)

26 These proceedings are not federal habeas proceedings. The authorities the prosecution relies  
27 on are inapposite. Mr. Peterson has filed a motion for DNA testing of certain items of physical  
28 evidence and a post-conviction discovery motion pending in this trial court. These motions are

1 integral to his counsel’s investigation into the claims he has raised in the pro se petition for a writ of  
2 habeas corpus he filed, which is pending in the California court of Appeal. Penal Code section 1473  
3 (a) provides that individuals “unlawfully imprisoned or restrained of their liberty, under any pretense,  
4 may prosecute a writ of habeas corpus to inquire into the cause of the imprisonment or restraint.”  
5 (Pen. Code §1473, subd. (a).)

6 To the extent the prosecution blames Mr. Peterson for the fact that his case is still in litigation  
7 twenty years after he was convicted in 2004, that argument has no merit. (Opp’n at p. 216.) Mr.  
8 Peterson spent fifteen years wrongfully incarcerated on California’s death row serving an  
9 unconstitutional death sentence, while he waited for the California Supreme Court to decide his  
10 appeal. Finally, in 2020, the Court overturned the death sentence on the ground that it was based on  
11 jury selection procedures that did not comport with the U.S. Constitution.<sup>23</sup> The fact that the Supreme  
12 Court required decades to resolve direct appeals and habeas petitions in capital cases at the time Mr.  
13 Peterson’s appeal and petition were pending has been the subject of extensive study and debate.<sup>24</sup> It  
14 is absurd to suggest that Mr. Peterson is responsible for the decades-long delay he experienced while  
15 waiting for the courts to address and resolve his direct appeal and concurrently filed habeas petition.  
16 If anyone would like the wheels of justice to turn faster than they are, it is Mr. Peterson.

17 The prosecution’s reliance on *In re Kinnamon* (2005) 133 Cal.App.4th 316, also misses the  
18 mark. In that case, the Court of Appeal vacated the trial court’s order denying the petitioner’s request  
19 for appointment of counsel under section 1405 because the petitioner he had met the criteria under  
20 the statute as it was amended in 2001 by Senate Bill No. 83. (*Id.* at pp. 320–321.) Prior to the  
21

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22 <sup>23</sup> Mr. Geragos cautioned the trial judge repeatedly throughout jury selection that he was not following the law  
23 when he excused jurors based on their views concerning the death penalty without first attempting to rehabilitate them;  
the prosecutors sat there and let it happen.

24 <sup>24</sup> See e.g., Judge Arthur L. Alarcón & Paula M. Mitchell, *Executing the Will of the Voters?: A Roadmap to Mend*  
25 *or End the California Legislature’s Multi-Billion-Dollar Death Penalty Debacle*, 44 Loy. L.A. L. Rev. S41, S82–S85  
26 (2011) [explaining that, as of October 26, 2010, there were 356 direct appeals from judgments of death pending before  
27 the California Supreme Court, of which 80 had been fully briefed and were awaiting oral argument while the Court issued  
28 final opinions in only 23 such cases in 2010, and that “[d]espite the best efforts of the California Supreme Court, there is  
no indication that it will see an end to the backlog in post-conviction proceedings in capital cases in the near future  
[because] [t]he influx of new death sentences handed down each year outpaces the rate at which appellate counsel is  
appointed to represent inmates already on death row]; available at: <https://digitalcommons.lmu.edu/llr/vol44/iss0/1>.

1 amendment in 2001, section 1405 required the court to “appoint counsel for the convicted person  
2 who brings a motion under this section if that person is indigent.” (*Id.*, former subd. (c).) In other  
3 words, prior to the amendment, the indigent person had to file the DNA motion pro se, and then  
4 request counsel, whereas after the 2001 amendment, the statute provided that an indigent convicted  
5 person is entitled to the appointment of counsel to assist in preparing a motion for DNA testing. (*Id.*  
6 at pp. 320–322 [explaining that “the staff of the Senate Committee on Public Safety state[d]: ‘The  
7 purpose of this bill is to allow for the appointment of counsel prior to the filing of a motion for post-  
8 conviction DNA testing ... [citations omitted] because it ‘has become apparent since the bill took  
9 effect on January 1, 2001 is that it would be more efficient and equitable to appoint counsel at an  
10 earlier point in the process since many inmates do not have the ability to adequately file motions”  
11 and “appointment of counsel before during and after the motion is filed [would help ensure] valid  
12 claims are not dismissed because an indigent person did not have the ability to file a proper motion”  
13 and “also help reduce the court’s time because it is less likely that incomplete or frivolous motions  
14 will be filed.”].)

15       The lengthy quote lifted from *Kinnamon* that is on pages 216–217 of the Opposition, is not  
16 part of the Court of Appeal’s ruling; it is dicta. (Opp’n. at pp. 216–217.) In a section entitled: “A  
17 Suggestion to the Legislature,” the Court of Appeal expressed a concern that the language of the  
18 amended statute was “too broad,” in the sense that even a person convicted of forgery, for example,  
19 or another crime that had “nothing to do with blood, hair, or the like,” would be entitled to the  
20 appointment of counsel and “[t]he lax statutory standard will result in a wasteful expenditure of time  
21 and money where appointed counsel does not file a motion because it is not ‘appropriate.’”  
22 (*Kinnamon*, at pp. 323–324.) The legislature did not take the court up on its “Suggestion,” nor are  
23 the concerns articulated in the court’s dicta relevant to this motion.

24       Finally, the prosecution asserts that Mr. Peterson’s motions for DNA testing and discovery  
25 constitute “harassment” and are “a violation of finality in judgment.” (Opp’n at p. 217.) Those  
26 arguments are not supported by any legal authorities and none have been cited.

1           **C.     Richardson Does Not Support the Prosecution’s Position**

2           The prosecution contends that Mr. Peterson’s motion should be denied because “he cannot  
3 show that, in light of all of the evidence, any results coming from further testing would yield or raise  
4 a ‘reasonable probability that. . . the convicted person’s verdict or sentence would have been more  
5 favorable if the results of the DNA testing had been available at the time of the conviction.’” (Opp’n  
6 at p. 223 [quoting *Superior Court, supra*, at pp. 1049-1050].) Once again, the prosecution misreads  
7 the law.

8           On April 11, 1992, Charles Richardson was convicted of forcible rape, lewd and lascivious  
9 acts on a child under 14, sodomy, and the murder of April Holley. The jury found true felony-murder  
10 special circumstances for burglary, rape, sodomy and lewd and lascivious acts on a child under the  
11 age of 14. (*People v. Richardson* (2008) 43 Cal. 4th 959, 970–971.) The jury also convicted  
12 defendant of residential burglary. The trial court found true additional allegations that defendant had  
13 suffered prior convictions for a serious felony and a sex offense. (*Id.*) On September 8, 1992, the  
14 jury returned a death verdict for the murder and the trial court sentenced Richardson to death. (*Id.*)

15           The prosecution’s theory was that Richardson and another man, Steven Brown, raped and  
16 sodomized 11-year-old April Holley and then drowned her in the bathtub of the trailer where she  
17 lived with her mother and older sister, both of whom were absent the night of the murder, and was  
18 based on the following evidence:

19           (1) Richardson’s statement to a witness that April Holley, whom he knew, was alone on  
20 the night she was murdered [*id.* at p. 971];

21           (2) Richardson’s statements in the immediate aftermath of the murder admitting that he  
22 killed the victim [*id.*];

23           (3) Richardson’s statements in the immediate aftermath of the murder revealing that he  
24 had details about the murder that had not been released to the public [*id.*];

25           (4) Richardson fled the scene the day after the murder [*id.*];

26           (5) Richardson repeatedly changed his story in statements he made to the police  
27 culminating in an admission that he had committed the murder, which he quickly retracted [*id.*];

28           (6) Richardson’s statement to a fellow inmate that he had murdered Holley [*id.*];



1 (7) Evidence that four pubic hairs were found at the crime scene and two were consistent  
2 with Richardson's hair [*id.*]; and,

3 (8) Drawings Holley had made for Richardson, identifying him by a nickname she had  
4 given him and which were at the Holley's home earlier in the morning on the day she was killed,  
5 were recovered from Richardson's bedroom four days after Holley was killed [*id.*; p. 977];

6 (9) Steven Brown's subsequent attempt to commit a similar crime against another victim  
7 [*id.* at p. 971].

8 On May 24, 2004, after Richardson's conviction was affirmed on appeal, he filed a motion  
9 pursuant to Penal Code section 1405 seeking DNA testing of the four pubic hairs that were admitted  
10 at trial and about which there was conflicting expert testimony as to whether any of the hairs were  
11 consistent with Richardson's hair. (*Richardson v. Superior Court* (2008) 43 Cal. 4th 1040, 1045  
12 [hereafter "*Superior Court*"] [citing *Richardson, supra*, 43 Cal.4th at p. 981].)

13 Richardson argued that he was entitled to an analysis of the four hair samples at issue because  
14 the hairs were the only physical evidence connecting him to the crime. (*Superior Court, supra*, 43  
15 Cal. 4th at p. 1045 [explaining that he argued the testing would "raise a reasonable probability that  
16 [his] verdict or sentence would have been more favorable" had such testing been available at the time  
17 of his trial].)

18 The prosecution argued that Richardson failed to satisfy section 1405's requirements that the  
19 movant make a prima facie showing of the materiality of the evidence sought to be tested, and had  
20 also failed to meet the threshold for reasonable probability. (*Id.* [citing § 1405, subd. (f)(4), (5)].)  
21 The prosecution contended that the prima facie case of materiality had not been made because there  
22 was "a vast array of other evidence linking him to the murder" and that, even if DNA testing excluded  
23 Richardson as a donor, there was no reasonable probability that he would have obtained a more  
24 favorable result had the testing been available at the time of his trial. (*Id.*)

25 The trial court agreed with the prosecution and denied the motion. Richardson filed a petition  
26 for writ of mandate or prohibition and the California Supreme Court issued an order to show cause  
27 to decide the applicable standard of review of the trial court's ruling on a motion for DNA testing and  
28

1 to “determine the meaning of the materiality requirement in subdivision (f)(4) and what constitutes a  
2 ‘reasonable probability’ for purposes of subdivision (f)(5) of section 1405.” (*Id.* at p. 1046.)

3 The court upheld the trial court’s finding that the hair evidence was, at most, simply one piece  
4 of evidence tending to show guilt in a case where the evidence that petitioner was the perpetrator was  
5 strong. (*Id.*)

6 The Supreme Court cautioned, however, that “it is important for the trial court to bear in mind  
7 that the question before it is whether the defendant is entitled to develop potentially exculpatory  
8 evidence and not whether he or she is entitled to some form of ultimate relief such as the granting of  
9 a petition for habeas corpus based on that evidence. As the Ninth Circuit observed in an analogous  
10 decision, ‘Obtaining post-conviction access to evidence is not habeas relief.’ [Citation.] Therefore,  
11 the trial court does not, and should not, decide whether, assuming a DNA test result favorable to the  
12 defendant, that evidence in and of itself would ultimately require some form of relief from the  
13 conviction.” (*Id.* at p. 1051.

14 \* \* \*

15 The authorities the prosecution relies on are inapposite and unavailing; they do not support  
16 the argument that Mr. Peterson has failed to meet the statutory requirements to entitle him to the  
17 testing he is requested. The Court must grant the motion.

18 **IV. THE PROSECUTION’S EVIDENTIARY OBJECTIONS ARE WITHOUT MERIT**

19 This Court has broad discretion to determine whether the requested DNA testing should be  
20 ordered. The statute expressly provides that the court in its discretion may consider any evidence  
21 whether or not it was introduced at trial. The statute does not require a movant to present “new”  
22 evidence in support of a motion under section 1405, the Court need not make factual findings on the  
23 record supporting a decision to grant the instant motion, and any ruling is reviewed under an abuse  
24 of discretion standard. (*Superior Court, supra*, 43 Cal. 4th at 1045, 1053.)

25 The prosecution has lodged *hundreds* of objections to the declarations Mr. Peterson filed in  
26 support of the instant motion. Most of the numerous evidentiary objections the prosecution raises in  
27 its Opposition are not supported by any legal authorities. The Court should overrule the prosecution’s  
28

1 objections as set forth below and find that Mr. Peterson has met the statutory requirements and grant  
2 this motion.

3 **A. The Prosecution’s “Collateral Estoppel” Objections Must Be Overruled**

4 Citing no legal authorities, the prosecution contends that that Mr. Peterson is “collaterally  
5 estopped” from relying on the following evidence filed with the DNA Motion: Exh. 10 [Declaration  
6 of Frank Aguilar], Exh. 11 [Declaration of William Mitchell], Exh. 12 [Declaration of Diane  
7 Campos], Exh. 20 [Declaration of Dr. Phillipe Jeanty], Exh. 22 [Declaration of Dr. Rusty Feagin],  
8 Exh. 23 [Declaration of Mark Geragos], Exh. 24 [Declaration of Grace Wolf], Exh. 28 [Declaration  
9 of Carl Jensen], Exh. 31 [Declaration of Shawn Tenbrink], and Exh. 33 [Declaration of Dr. Ralph  
10 Cheng].

11 The prosecution asserts summarily that these declarations were filed in support of a claim or  
12 claims raised in “different” proceedings that have “been litigated with a determination against the  
13 defendant,” so “he is collaterally estopped from using the same materials.” That argument has no  
14 support in the authorities and the prosecution has cited none.

15 Once again, the prosecution is wrong on the law.

16 First, there is no prohibition on a petitioner relying on the same evidence in post-conviction  
17 proceedings filed in different courts, raising different issues, in an effort to prove one’s innocence.

18 Second, as the court explained in *People v. Sims* (1982) 32 Cal.3d 468, 485, the doctrine of  
19 collateral estoppel does not apply where two proceedings have differing burdens of proof. The  
20 prosecution contends that because Mr. Peterson relied on some of these witness declarations in  
21 support of the claims he raised in this initial petition for a writ of habeas corpus in the California  
22 Supreme Court, he is estopped from relying on them in support of the instant motion. That argument  
23 has no merit or support in the authorities. Moreover, the burden a movant has to meet under section  
24 1405, is to make a prima facie showing that the evidence sought to be DNA tested is material to the  
25 issue of the convicted person’s identity as the perpetrator of the crime. Whereas, to collaterally  
26 attack a presumptively final criminal judgment and overturn a conviction by way of a petition for a  
27 writ of habeas corpus, a petitioner bears a heavy burden initially to plead sufficient grounds for relief,  
28 and then later to prove them. “For purposes of collateral attack, all presumptions favor the truth,

1 accuracy, and fairness of the conviction and sentence; defendant thus must undertake the burden of  
2 overturning them. Society's interest in the finality of criminal proceedings so demands, and due  
3 process is not thereby offended." (*People v. Gonzalez* (1990) 51 Cal.3d 1179, 1260.)

4 Third, the prosecution has failed to meet its burden of establishing the threshold requirements  
5 the California Supreme Court has set forth by showing: (1) the issue sought to be precluded from  
6 relitigation must be identical to that decided in a former proceeding; (2) this issue must have been  
7 actually litigated in the former proceeding; (3) the issue was necessarily decided in the former  
8 proceeding; (4) the decision in the former proceeding must be final and on the merits; and, (5) the  
9 party against whom preclusion is sought must be the same as, or in privity with, the party to the  
10 former proceeding. (*Lucido v. Superior Court* (1990) 51 Cal.3d 335, *Hernandez v. City of Pomona*  
11 (2009) 46 Cal. 4th 501, 511.)

12 The Court must deny all of the prosecution's evidentiary objections based on its novel  
13 "collateral estoppel" theory as baseless and without merit.

14 **B. The Prosecution's "Due Process" Evidentiary Objections are Without Merit**

15 The prosecution next lodges objections to Mr. Peterson's declarations Exhs. 2, 5, 16, 17 and  
16 Exh. 19, and evidence submitted therewith on "due process" grounds. The guarantee of the federal  
17 due process exists to protect citizens and prevent potential governmental overreach in cases involving  
18 fundamental liberty interests. (See *Troxel v. Granville* (2000) 530 U.S. 57, 65 ["We have long  
19 recognized that the [Fourteenth] Amendment's Due Process Clause, like its Fifth Amendment  
20 counterpart, 'guarantees more than fair process.' The Clause also includes a substantive component  
21 that 'provides heightened protection against government interference with certain fundamental rights  
22 and liberty interests.'"].)

23 The prosecution's arguments are without merit. The Court must overrule all of those  
24 objections.

25 The ongoing post-conviction investigation in this case has uncovered seven people who have  
26 heard admissions about the Medina burglary and Laci's abduction and murder from the same man  
27 ("D.M."), over the last ten years. A few of those individuals have signed statements but expressed  
28 fear and concern over having their names revealed to law enforcement. (DNA Motion, Exh. 2 [Dec.

1 of George Michael Gudgell at ¶33]; DNA Motion, Exh. 16 [Dec. of Jason DeWitt (April 2023) at  
2 ¶5]; DNA Motion, Exh. 17 [Dec. of S.T.]; DNA Motion, Exh. 19 [Dec. of K.M.].) Post-conviction  
3 counsel's investigation is ongoing.

4 D.M. has never been named publicly or in any of the discovery provided to Mr. Peterson by  
5 the prosecution, increasing the legitimacy of the information that these witnesses have come forward  
6 and provided. The ongoing investigation has revealed another witness who recently came forward  
7 and signed a statement, D [REDACTED] L [REDACTED] B [REDACTED], whose information may also have originated with D.M.  
8 (Exh. 4 [Declaration of D [REDACTED] L [REDACTED] B [REDACTED]].) D [REDACTED] L [REDACTED] B [REDACTED] first contacted defense investigator  
9 Gary Ermoian in 2017, with the information he learned from a co-worker, who told him he had been  
10 in county jail with a man who told him that Scott Peterson was innocent and that he was involved in  
11 robbing the house across the street from the Petersons. (*Id.* at ¶9.) The information D [REDACTED] L [REDACTED] B [REDACTED]  
12 learned from his co-worker is that there were five men who burglarized Medinas' house, three were  
13 outside and two were the house. One of the guys was the brother of the guy on the recorded jailhouse  
14 call. (*Id.*) What D [REDACTED] L [REDACTED] B [REDACTED] learned is that Laci saw them robbing the house and yelled at them  
15 and threatened to call the police. As she walked away, one of the men grabbed her from behind and  
16 put their hand over her mouth and threw her in the back of a white van. He said they hit her over the  
17 head with a rock and the van was later burned. (*Id.*)

18 Not only has D.M. made admissions to friends and acquaintances, he has admitted to three  
19 additional people, a journalist and a defense investigator, that he not only knows Steven Todd, but  
20 that Steven Todd called him from inside the Medina home during the commissioning of the Medina  
21 burglary asking for help removing a safe. (Exh. 2 [Dec. of George Michael Gudgell at ¶33]; Exh. 16  
22 [Dec. of Jason DeWitt (December 2023) at ¶12-16].)

23 D.M.'s name is not necessary to assess the reasonableness of the ongoing investigation, only  
24 the circumstances are. Likewise, the actual names of the witnesses are not relevant to the proceedings  
25 in this court. Mr. Peterson has a pending Petition before the First District Court of Appeal. It is there  
26 that the exhibits with witness names and the identity of D.M. will be considered for the truth of the  
27 matter. Currently, that court docket shows an exhibit has "Portions Redacted Under Seal." Removing  
28 redactions to the exhibits in this court will result in sealed information becoming known in the other

1 court, as the exhibits cross reference each other. It is the Court of Appeal that needs to address the  
2 disclosure of this information. Here, it is being offered to show the breadth and depth of our ongoing  
3 investigation into Mr. Peterson’s innocence.

4 Additionally, the People assert that withholding the names of a suspect or witnesses in  
5 Exhibits 17 and 18 “violates the People’s Due Process rights” and move to strike the exhibits. The  
6 prosecution cites Cal. Const., art. I, § 29 as grounds for its objections, but that article has never been  
7 held by any court to be grounds for an evidentiary objection, and the prosecution has cited no  
8 authorities in support of its argument.

9 The criminal justice system, according to the California Constitution, is to “view criminal acts  
10 as serious threats to the safety and welfare of the people of California.” (Cal. Const. art. I §28(a)(2).)  
11 The prosecution concedes that the human DNA on the blood-stained mattress is part of an “unsolved  
12 crime,” yet contrary to public safety, they are opposing testing. The prosecution opposes DNA testing  
13 by arguing finality of justice under §28 of our Constitution (Opp’n at p. 275.), but for the victim in  
14 the back of that van, justice has not even begun.

15 If the prosecution truly cared about rights they would stipulate to the DNA testing.

16 **C. The Prosecution’s Hearsay & Hypnosis Objections are Without Merit**

17 While Mr. Peterson is not required to support this motion with new evidence to be entitled to  
18 relief, he presented the Court with information that has been uncovered in his post-conviction  
19 investigation thus far, including sworn declarations of witnesses whose evidence he believes supports  
20 his claim of innocence, to demonstrate to the Court that this post-conviction investigation is bearing  
21 fruit, and that there are additional new leads that are under investigation now which appear to support  
22 Mr. Peterson’s claim that he did not kill his wife and son.

23 New exculpatory evidence that was not presented to the jury at Mr. Peterson’s trial, including  
24 sworn statements by some of the neighborhood eyewitnesses who reported seeing Laci walking in  
25 the neighborhood and a suspicious-looking van parked in front of the Medinas’ home were submitted  
26 in support of the instant motion. The jury did not hear from *any* of the witnesses who reported seeing  
27 Laci Peterson walking her dog the morning of December 24, 2002, many of whom have since passed  
28 away, including Martha Aguilar, Frank Aguilar, Vivian Mitchell, and William Mitchell. Other

1 witnesses are still living but they have never provided sworn testimony as to what they observed:  
2 Homer Maldonado, Helen Maldonado, Tony Freitas, Diane Jackson. Those witness are living and  
3 have provided new evidence that was not presented to the jury. Those witnesses have firsthand  
4 knowledge of what they saw and what they reported.

5 The prosecution's motion to strike Diane Jackson's declaration in its entirety must also be  
6 overruled because it is admissible. The prosecution asserts that "it relates to her statement regarding  
7 her observation in 2002," and the "trial judge ruled all her post-hypnosis statements are  
8 inadmissible pursuant to Evidence Code section 795." The prosecution misreads Ms. Jackson's  
9 declaration. It is limited to statements she provided to the police and to a defense investigator prior  
10 to the MPD improperly hypnotizing her; she reviewed her prior statements and confirmed that they  
11 were accurate in her sworn declaration.

12 In addition, in an effort to demonstrate the comprehensive and thorough nature of counsel's  
13 ongoing investigation, counsel also submitted declarations by George Michael Gudgell, Paige  
14 McGrail, Gary Ermoian, Matt Dalton, Carl Jensen, and Jason DeWitt, who have collectively spent  
15 decades investigating what went wrong in the original investigation in this case, documenting the  
16 various information and evidence uncovered in the course of their investigations, which supports Mr.  
17 Peterson's claim that he did not harm his or kill his wife and son and setting forth additional support  
18 for Mr. Peterson's contention that additional investigation is needed to determine what happened to  
19 Laci and Conner Peterson. (DNA Motion, Exhs. 2, 5, 9, 16, 21, 28, 30.)

20 The Court should overrule the prosecution's objections to those witnesses' declaration on  
21 hearsay grounds because the statements the prosecution objects to as hearsay are admissible, if the  
22 Court considers them not for the truth of the matter asserted but as evidence showing the  
23 comprehensive nature and reasonableness of post-conviction counsel's investigation into Mr.  
24 Peterson's claim of innocence.

25 As the prosecution has stated, hearsay statements may be admitted for reasons other than for  
26 the truth of the matter asserted. In fact, the prosecution's Opposition cites to numerous instances in  
27 the trial record where the trial court permitted the prosecution to introduce hearsay statements for  
28 purposes of showing the "reasonableness of the officers' conduct and investigation." (Opp'n. at p.

1 169 [court permitted the jury to hear “a large number of hearsay statements” . . . “[t]hroughout the  
2 course of the prosecution’s case-in-chief” since the stated objective was to enable the jury to assess  
3 the reasonableness of the police investigation; p. 171 [court permitted Det. Grogan to testify about  
4 hearsay statements by Diane Jackson because police had hypnotized her, making her unavailable to  
5 testify]; p. 177, fn. 100 [“court permitted Steven Todd’s and Glenn Pearce’s hearsay statements to  
6 come in”].) The Court should overrule the prosecution’s objections because the declarations Mr.  
7 Peterson presented in support of this motion are admissible if offered to show the Court the  
8 comprehensive nature of the post-conviction investigation counsel has undertaken thus far. The Court  
9 should overrule the prosecution’s objections.<sup>25</sup>

10 \* \* \*

11 As Justice Chin explained in his dissent in *Richardson v. Superior Court*, 43 Cal. 4th 1040,  
12 1056–57, the Court should grant the motion and decline to indulge the prosecution’s attempt to drag  
13 these proceedings out with specious and just plain wrong legal arguments and evidentiary objections  
14 that are unsupported by the authorities and based on mischaracterizations of the record:

15 The Legislature certainly did not intend to require DNA testing routinely in all  
16 cases. This is understandable and explains the purpose behind the materiality and  
17 reasonable probability requirements. But I also believe the Legislature did not  
18 intend to make litigation over whether to conduct testing more time consuming and  
19 costly than the testing itself. It must have intended courts to interpret the reasonable  
20 probability test in a way that avoids such an absurd result. We should interpret  
21 section 1405 in context. As the majority correctly notes (maj. opn., ante, at p. 1051),  
22 that section does not involve a determination whether to grant relief on some  
23 hypothetical habeas corpus petition after testing, which would require rigorous  
24 examination of all the evidence and all the relevant facts, but merely whether to  
25 order testing in the first place. Section 1405, subdivision (f)(5)’s reasonable  
26 probability test should be interpreted with this in mind.

---

25 <sup>25</sup> Moreover, under section 1405 (g)(4), the burden is on the movant to make a prima facie showing that the  
26 evidence sought to be DNA tested is material to the issue of the convicted person’s identity as the perpetrator of the crime.  
27 Prima facie means “simply a sufficient showing of possible merit to warrant a fuller exploration by the [trial] court.”  
28 (*Cooper v. Woodford* (9th Cir. 2004) 358 F.3d 1117, 1119 (en banc) [holding that “petitioner made a ‘prima facie’ case,  
that is, a sufficient showing of possible merit to warrant a trial court’s fuller exploration”] [citing *Woratzeck v. Stewart*  
(9th Cir. 1997) 118 F.3d 648, 650 [quoting *Bennett v. United States* (7th Cir. 1997) 119 F.3d 468, 469].)



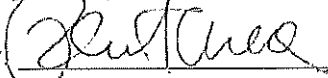
1 The Court can grant the motion based on the evidence and arguments before it without  
2 resorting to protracted litigation over the prosecution's hundreds of evidentiary objections. The Court  
3 should not permit "litigation over whether to conduct testing [become] more time consuming and  
4 costly than the testing itself" and grant the motion without delay.

5 **CONCLUSION**

6 Mr. Peterson respectfully requests that the Court grant this motion without delay and order  
7 that the DNA testing he seeks be conducted so that further investigation into the claims set forth in  
8 the Petition pending in the Court of Appeal can be conducted.

9  
10  
11 Dated: May 6, 2024

Respectfully submitted,

By 

Paula Mitchell  
Attorney for Scott Peterson

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF SAN MATEO

3 PEOPLE OF THE STATE OF CALIFORNIA, ) CASE No.: SC055500A  
4 PLAINTIFF, ) RELATED CASES:  
5 VS. ) SUPREME COURT No. S132449;  
6 SCOTT PETERSON, ) COURT OF APPEAL CASE No. A167615  
7 DEFENDANT. ) [PROPOSED] ORDER FOR  
8 ) DISCLOSURE OF INFORMATION  
9 ) PURSUANT  
10 ) TO CAL. PEN. CODE § 1405(c)

11 GOOD CAUSE HAVING BEEN SHOWN, this Court hereby orders the Stanislaus County  
12 District Attorney's Office, the Modesto Police Department, the Contra Costa County Coroner's  
13 Office, and the Jan Bashinski DNA Laboratory to make all reasonable efforts to provide copies of  
14 the following materials to both parties in the above-entitled action, *People v. Scott Peterson*,  
15 S.M.S.C No. SC55500A on change of venue from Stanislaus County Superior Court Case No.  
16 1056770, Modesto Police Department File No. 02-142591; Contra Costa County Coroner Case No.  
17 03-0799 and 03-0808; and Jan Bashinski DNA Laboratory Case No. BK-03-000203:

18 (1) Copies of all lab reports with underlying notes, including bench notes, prepared in  
19 connection with the laboratory testing of biological evidence from the case, including presumptive  
20 tests for the presence of biological material, serological tests, and analyses of trace evidence (Pen.  
21 Code § 1405 (c)(1));

22 (2) Copies of evidence logs, chain of custody logs and reports, including, but not limited  
23 to, documentation of current location of biological evidence, and evidence destruction logs and  
24 reports (Pen. Code § 1405 (c)(2).);

25 (3) Copies of all records that document the treatment and handling of biological  
26 evidence in this case, from initial point of collection up to the current disposition, including  
27 documentation of where and how the materials were stored (temperature and type of container), the  
28

1 amount of evidence material which was consumed in testing, the amount of material which remains,  
2 and where and how the remaining evidence is stored (temperature and type of container); and,

3 (4) Any administrative documentation or paperwork associated with the file, whether or  
4 not they are considered part of the analytical notes; and,

5 (5) If the evidence has been lost or destroyed, a custodian of record shall submit a report  
6 to the prosecutor and the Los Angeles Innocence Project that sets forth the efforts that were made  
7 in an attempt to locate the evidence. If the last known or documented location of the evidence prior  
8 to its loss or destruction was in an area controlled by a law enforcement agency, the report shall  
9 include the results of a physical search of this area. If there is a record confirmation of destruction  
10 of the evidence, the report shall include a copy of the record of confirmation of destruction in lieu  
11 of the results of a physical search. (Pen. Code § 1405 (c)(3).)

12 The Clerk is hereby ordered to serve this ORDER FOR DISCLOSURE OF  
13 INFORMATION PURSUANT TO CAL. PENAL CODE SECTION 1405 (c) on the following  
14 parties:

15  
16 Jeff Laugero, District Attorney  
17 Stanislaus County District Attorney  
18 832 12<sup>th</sup> Street #300  
19 Modesto, CA 95354  
20 (Counsel for the People)

Brandon Gillespie, Chief of Police  
Modesto Police Department  
1010 10<sup>th</sup> Street  
Modesto, CA 95354

21 David O. Livingston, Sheriff  
22 Contra Costa County Sherriff's Office  
23 Coroner's Division  
24 1960 Muir Road  
25 Martinez, CA 94553

Ken Konzak, Lab Director  
California Department of Justice  
Bureau of Forensic Services  
Jan Bashinski DNA Laboratory  
1001 W. Cutting Blvd., Suite 110  
Richmond, CA 94804-2028

26 **IT IS SO ORDERED.**

27 Dated: \_\_\_\_\_

\_\_\_\_\_  
The Honorable Elizabeth M. Hill  
Judge of the Superior Court

# EXHIBIT 1

Declaration of C [REDACTED] H [REDACTED]

1  
2 Declaration of C [redacted] H [redacted]

3 I, C [redacted] H [redacted], hereby declare under penalty of perjury that the following is true and  
4 accurate to the best of my knowledge:

5 1. I currently reside in Stockton, California. I am married and employed full-time. *CH 25 9*

6 2. [redacted] *rodman technician*  
7 In March 2024, attorneys representing Scott Peterson contacted me and asked if I  
8 would speak to them about an event that occurred in 2002, around the time Laci Peterson was  
9 reported missing. I agreed to speak with them.

10 3. In December 2002 and early January 2003, I was ~~19~~ *17* years old and living in *CH*  
11 Modesto, attending high school. I was a senior in high school at the time and I was living with  
12 my friend Miguel M [redacted] and his grandmother at [redacted] Tenaya Avenue, in the Airport District.  
13 Before I started staying with Miguel and his grandmother, I was in the foster care system.

14 4. December 24, 2002 was a school holiday. I rode my bike that morning from  
15 Tenaya where I was staying to go see a friend who lived on Scenic Avenue north of La Loma  
16 Park. I believe the friend was living at [redacted] Scenic Drive, Apt. [redacted]. It was mid-morning when  
17 I went to go see my friend, probably between 10:30 and 11:00 a.m.

18 5. I rode my bike north toward Covena Avenue so I could cut through the park to get  
19 to Scenic. The trail that goes down into the park is at the end of Covena where the street dead  
20 ends. When I got to the trail that leads down into the park, I saw a woman wearing black leggings  
21 or maybe they were sweats and a white blouse or smock. She was walking a golden retriever  
22 toward the park. I believe the woman I saw was Laci Peterson.

23 6. She was heading into the park at the same entrance where I was headed on the  
24 north end of Covena. As I was riding my bike down the hill into the park, I passed the woman I  
25 believe was Laci and the dog from behind and I startled the dog, causing it to start barking at me.

26 7. I got to my friend's apartment at [redacted] Scenic Drive, Apt. [redacted], but I only stayed a  
27 short time because one of her parents came back home unexpectedly, I think it was her dad. I  
28 wasn't supposed to be there so I left through the backdoor that led to a patio, hopped a small  
fence, and got back onto my bike that was parked right there against the fence. *Exh. A. CH*

1 8. I rode back through the park and came up the same trail from the park that let me  
2 out on Covena. I rode my bike south on Covena and saw a white van parked on the street. *Exh. B*

3 9. The van was parked on the east side of Covena facing north toward the park  
4 entrance. The rear doors of the van were open and I could see through the van's windshield and  
5 through the opened back doors.

6 10. I saw a white man inside the back of the van hitting on or pushing down on  
7 something. The man had long hair *that was brownish blond* I saw two other men standing near the back of the van, one  
8 was a tall White man and the other was a shorter Hispanic man, he could have been Mexican. I  
9 saw one of the men slam the van door in the back of the van. I didn't think anything of it at the  
10 time.

11 11. Three or four days later, I went back to visit the same girl at her apartment at [REDACTED]  
12 Scenic. I got to her apartment later than usual and she asked me what took me so long. I told her  
13 that Covena was blocked off so I couldn't cut across the park and had to take another route that  
14 was longer. At that point, I told her about the van I had seen on Covena the morning when Laci  
15 went missing. I told her that I thought I saw Laci walking her dog that morning heading into the  
16 park. We also talked about news reports saying the house across the street from the Petersons  
17 was robbed around the same time Laci disappeared. I told my friend I remembered seeing a white  
18 van parked across the street from the Petersons' house that morning and that there were some  
19 men standing around it, maybe putting things into the van.

20 12. My friend immediately told her parents about what I had seen and her dad drove  
21 both of us to the Modesto Police station so I could report that I saw Laci walking the dog the  
22 morning she went missing and also tell the police about the white van I saw.

23 13. I recall that at the time we went to the police station, the cops were still looking  
24 for the people responsible for robbing the house across the street from Laci Peterson's house  
25 because that burglary had not been solved yet. *I recall the police announced they*

26 14. When we arrived at the police station, it was late afternoon or evening. There were *Caught*  
27 numerous officers and reporters outside the police station. I got out of the car and approached a *the*  
28 detective or an officer who was heavyset and had a moustache and slicked back hair. I told him, *burglars*  
*a day or*  
*two later.*

*PK*

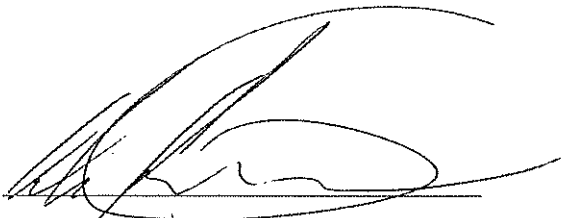
1 "Hey, I don't know if this is going to help the search for Laci at all but I remember seeing Laci  
2 walking her dog in the park the morning when she went missing," and I also told him about seeing  
3 the white van. The officer told me "we got our guy, but thank you," or something to that effect,  
4 so we left. He didn't write down any of my information and he didn't give me a card. No one  
5 ever contacted me. *Exh. C.*

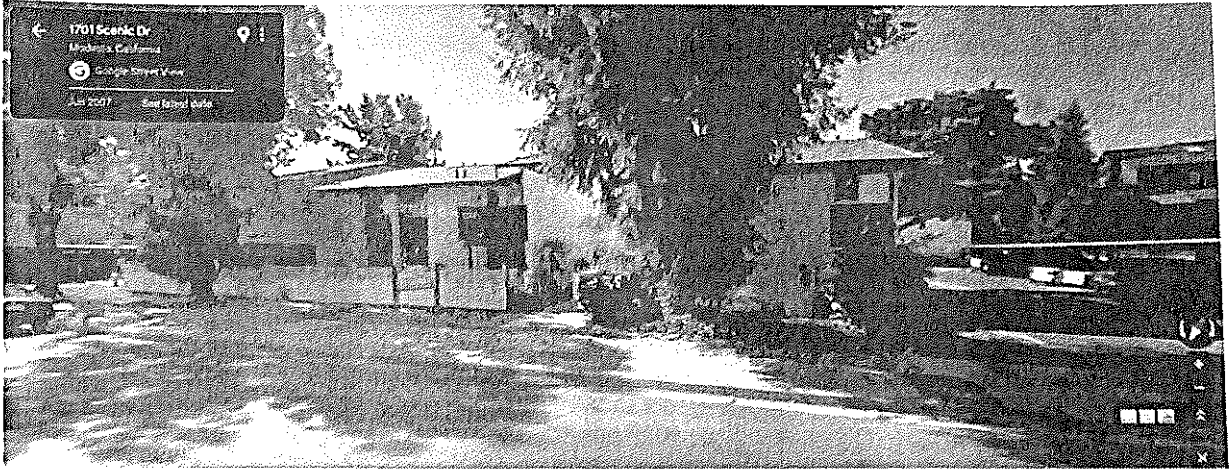
6 15. A few weeks later, in early 2003, I moved away from Modesto because a relative  
7 who lived out of town was able to take me in. After I moved, I did not follow the coverage of the  
8 Laci Peterson case too much because I was focusing on other things.

9 16. I don't remember the name of the girl I visited that morning whose father took me  
10 to the police station, or the name of her father. I recall that she had an older sister who was also  
11 in high school. I think their father may have worked as a garbage collector.

12 I have reviewed this declaration in its entirety, and it is accurate to the best of my  
13 knowledge. I declare under penalty of perjury pursuant to the laws of the State of California, that  
14 the foregoing is true and correct.

15  
16  
17  
18 3/8/24  
19 Date

  
C [REDACTED] H [REDACTED]



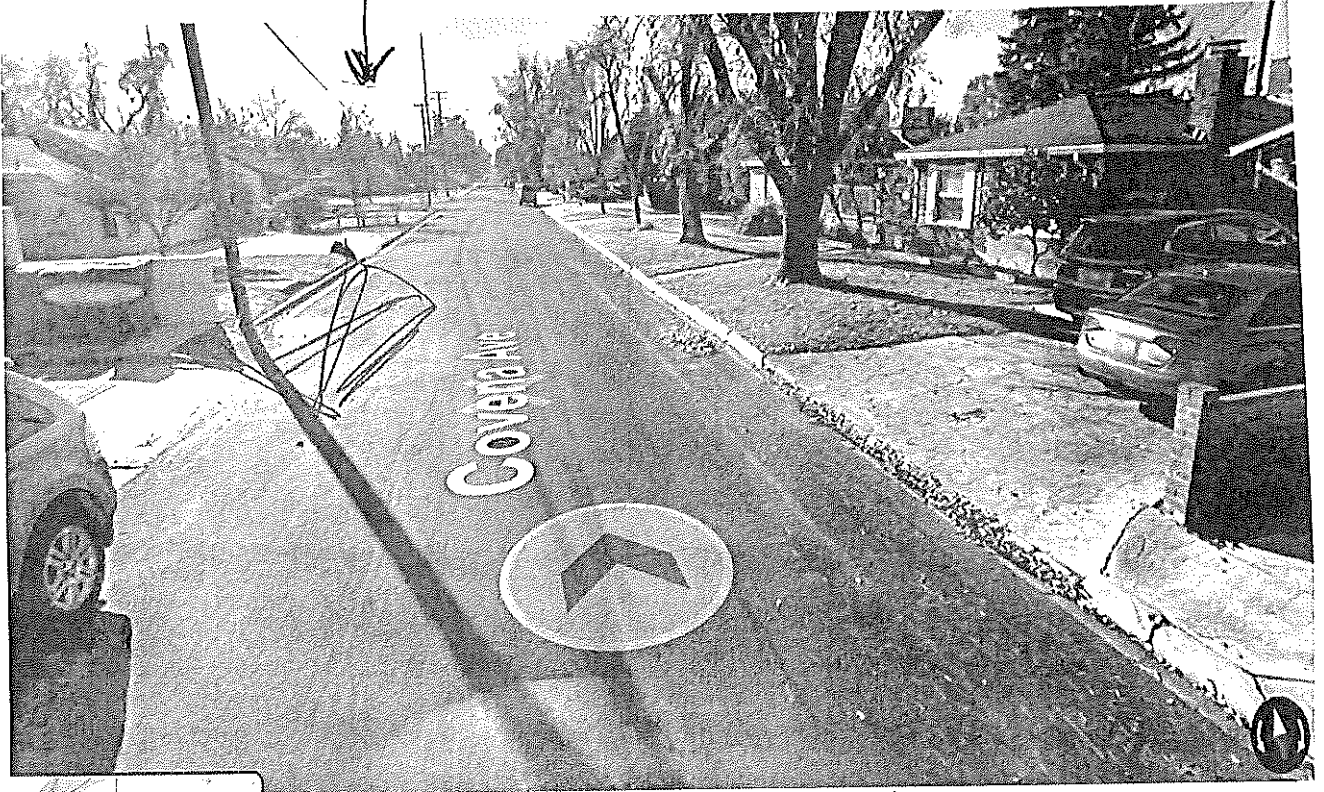
These are the apartments where my friend lived at [redacted] Scenic Drive in December 2002.

*[Handwritten signature]*

6/8/24

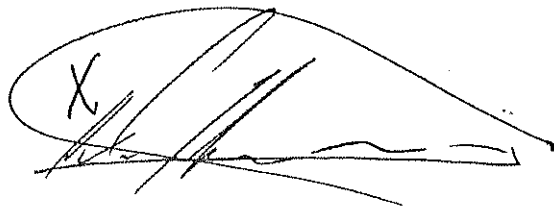


Van



LA LOMA PARK

SOUTHT



3/8/24



This is the MPO detective  
I spoke to when I reported  
what I saw on Soavena  
on Dec. 24, 2002.

5/5/24

# **EXHIBIT 2**

Declaration of Carl Jensen

1 **Declaration of Carl Jensen**

2 I, Carl Jensen, hereby declare under penalty of perjury that the following is true and  
3 accurate to the best of my knowledge:

4 1. I am a career criminal investigator with experience working for the U.S. Naval  
5 Investigative Service (1979-1983) doing felony investigations for the Department of Navy, with  
6 an assignment to a Marine Corps Air Station in El Toro and in Naples, Italy. When I left the U.S.  
7 Naval Investigative Service, I worked for Visa International (1983-1988) in the Risk Management  
8 Security Division doing world-wide investigations on counterfeit cards and Visa Travelers  
9 Checks. In 1988, I left that position and began working for the Federal Bureau of Investigation  
10 (FBI) as a Special Agent doing Foreign Counterintelligence. In 1995, following a medical  
11 retirement, I worked as a private investigator licensed in the State of California, doing criminal  
12 investigations, research and writing.

13 2. In addition to my own background working in law enforcement, many of my  
14 family members, colleagues, and friends also work in law enforcement: one of my brothers  
15 worked for the FBI and then retired from the San Jose Police Department for 28 years of service;  
16 his son, my nephew, served as an officer in the Oakland Police Department until his retirement;  
17 my older brother has a son who currently serves as a lieutenant with the Rockland Police  
18 Department; and, my wife has an uncle who served as an officer with the Fullerton Police  
19 Department. In 2018, I myself ran for election as Sheriff for Cleveland County, North Carolina,  
20 where I currently reside.

21 3. My curriculum vitae is attached hereto as Exh. A.

22 4. In January 2004, I was retained by defense counsel Mark Geragos to investigate  
23 evidence related to the disappearance and murder of Laci and Conner Peterson and to assist the  
24 defense in preparing for the capital trial in the matter of *People v. Scott Peterson*.

25 5. As part of my investigation, I reviewed discovery the Stanislaus County District  
26 Attorney's Office provided to the defense at the time of trial, including police reports, tip sheets  
27 documenting information called into the Modesto Police Department (MPD) by the public and  
28 concerned citizens, and other discovery. I reviewed eyewitness reports and interviews and I also

1 examined and photographed items of physical and other evidence collected during the  
2 investigation into the disappearance of Laci Petersons.

3 6. In 2004 and 2005, over the course of my investigation into what happened to Laci  
4 Peterson, I personally interviewed over one hundred witnesses. Some of the individuals I  
5 interviewed had information that was material to the disappearance and murder of Laci and  
6 Conner Peterson, but had never been interviewed by the police, based on my review of the police  
7 reports.

8 7. I initially focused my investigation on individuals who may have been responsible  
9 for or involved in committing the burglary at the home of Rudy and Susan Medina, located at  
10 516 Coven Avenue in Modesto, which I determined occurred beginning on December 24, the  
11 day Laci Peterson went missing.

12 8. In an effort to learn more about when, how, and by whom the Medina burglary  
13 was carried out, I interviewed a number of witnesses, including: Susan Medina, Judge Ricardo  
14 Cordova, Albert Urquidez, Katie Heinze, Ted Rowlands, Russell Graybill, Donald Glenn Pearce,  
15 Gayle Van Zant (mother of Pearce's children), Mary Oakley (grandmother of Steven Todd's  
16 children), Melissa McDaniels (the mother of Steven Todd's son, Steven Todd, Jr.), Cliff Koen  
17 (Steven Todd, Jr.'s grandfather and Todd's alibi for December 24), Lisa Stringfellow (Steven  
18 Todd's sister), Adam Tenbrink, Rayborn Smith, James Romano, Scott Seidel, Aaron T [REDACTED]  
19 Mindy S [REDACTED], Phyllis Hawkins, Lillian V [REDACTED], Anthony Scarlata, and Lt. Xavier Aponte. I also  
20 interviewed Steven Todd on three separate occasions in 2004, while he was in custody.

21 9. In February 2024, I was contacted by lawyers with the Los Angeles Innocence  
22 Project, who informed me that they were investigating the case of *People v. Scott Peterson*. I  
23 agreed to speak with them about my involvement with the case.

24 10. I was asked to provide Mr. Peterson's attorneys with a summary of the evidence I  
25 uncovered in my investigation, as well as my views and opinions, based on my training and  
26 experience, about the evidence in the case. I was also asked to provide my views and opinions  
27 about the Modesto Police Department's investigation into the disappearance of Laci Peterson and  
28 the murder of Laci and Conner Peterson, based on my decades of experience as an investigator

1 and law enforcement officer, and my years as a private investigator working on criminal cases in  
2 a variety of contexts. I agreed to do so.

3 **SUMMARY OF CONCLUSIONS BASED ON INVESTIGATION**

4 11. My investigation revealed that the Medinas' home was burglarized beginning on  
5 December 24, 2002, the day Laci Peterson went missing, and continued into the following day.

6 12. The Modesto Police Department failed to conduct a meaningful investigation into  
7 whether the men who pleaded guilty to burglarizing the Medinas' home, or any of their associates,  
8 saw Laci Peterson or were involved in her disappearance, or had information about others being  
9 involved in her disappearance, or whether anyone involved in the burglary encountered Laci  
10 Peterson on that day.

11 13. Investigators failed to look into Steven Todd's criminal history which included  
12 violent acts against women in his life, including assaulting his partner when she was pregnant  
13 with their child.

14 14. According to Steven Todd, MPD investigators who interviewed him on January 2,  
15 2003, when he was arrested for the burglary of the Medinas' home, told him that "they knew [he]  
16 didn't do it . . . they knew Scott did it, they said they knew [he] didn't do it -- Laci. The evidence  
17 was pointing to Scott and they knew he did it and not me." That exchange, if true, indicates the  
18 police had already decided that Mr. Peterson was guilty by January 2, 2003, before any forensic  
19 testing had been done and before witnesses could be interviewed and the case investigated. That  
20 indicates MPD's investigation was driven by confirmation bias or tunnel vision, which results in  
21 numerous leads being ignored and overlooked because police are myopically focusing only on  
22 one suspect. In this case that suspect was Mr. Peterson.

23 15. Based on my review of the police reports and my own independent investigation,  
24 it is my opinion that throughout the area commonly referred to as the Airport District in Modesto,  
25 which is located less than a mile from the Petersons' and Medinas' homes, there was a dangerous,  
26 criminal, network of drug dealers, methamphetamine manufacturers, burglars, and others who  
27 were regularly arrested for committing serious felonies.

28

1           16.     Based on eyewitness reports I reviewed, several witnesses reported seeing a van  
2 parked in front of the Medinas' home the morning and afternoon of December 24, with three men  
3 who were dark-skinned or Hispanic looking, standing near the van. Steven Todd and Donald  
4 Glenn Pearce, who pleaded guilty to the burglary, do not fit the physical description provided by  
5 the eyewitnesses. I was unable to locate anything in the police reports indicating that the police  
6 investigated the other three suspects witnesses reported seeing on December 24.

7           17.     Based on my review of the discovery in this case, there were numerous items of  
8 evidence that were missing from the materials provided to the defense at the time of trial that  
9 appeared to be exculpatory. For example, I found nothing indicating the police investigated the  
10 alibi of Steven Todd for December 24, or that they ever looked into his criminal history, which  
11 included an assault on his pregnant wife and attempting to run her over with a car, among other  
12 violent acts, based on the court records I obtained and reviewed.

13           18.     Based on my investigation, it was my conclusion that the evidence showed that  
14 more than two people committed the Medina burglary, that it occurred over December 24 and  
15 25, 2002, and more than two vehicles were used.

16           19.     I also found nothing indicating the police collected a pair of sandals that were  
17 found lying on Coven Avenue, not far from the Petersons' and Medinas' homes, which fit the  
18 description of a pair of Laci's sandals that were missing from her home after she disappeared and  
19 which Judge Cordova pointed out to MPD Det. Sebron Banks the morning after Laci disappeared.

20           20.     The watch Anthony Scarlata and Deanna Renfro pawned at The Pawn Shop on  
21 February 14, 2003, may have been Laci Peterson's missing Croton watch, which the police claim  
22 was never located; Anthony Scarlata was not able to rule out the possibility that it was the same  
23 watch when I showed him a photo of Laci's missing watch.

24           21.     James Romano contacted law enforcement in the summer of 2004, while Mr.  
25 Peterson's trial was underway, and provided information he had concerning Laci interrupting  
26 and/or confronting the men who committed the Medina burglary. He continued to contact law  
27 enforcement over the next few months when felt his information was being ignored, as Mr.  
28 Peterson's trial was underway. Romano stated he had made five or six attempts to reach law

1 enforcement so he could pass on his information. Mr. Romano’s information was not passed on  
2 to the defense until Mr. Peterson’s trial was almost over, on October 21, 2004, so there was no  
3 time to investigate the information he provided before the defense rested its case.

4 **LACI PETERSON DISAPPEARANCE INVESTIGATION: 2004–2005**

5 22. In early 2004, I began searching for evidence that would shed light on what  
6 happened to Laci Peterson. After reviewing hundreds of pages of police reports, I located and  
7 interviewed numerous witnesses who appeared to have information about the disappearance of  
8 Laci Peterson, most of whom police had never interviewed or investigated.

9 **Medina Burglary**

10 23. I reviewed the police reports provided to the defense concerning the investigation  
11 of the Medina burglary that occurred across the street from the Petersons’ home sometime  
12 between December 24 and December 26, 2002, and determined that a more in-depth  
13 investigation was needed into exactly when that burglary occurred and who may have been  
14 involved.

15 24. I reviewed an MPD press release, dated January 3, 2003, telling the public that on  
16 January 2, 2003, two men—Steven Todd and Donald Glenn Pearce—had been arrested for  
17 committing the Medina burglary, that they cooperated fully, and that the “[i]nvestigation  
18 revealed that the burglary occurred on December 26, two days after the disappearance of Laci  
19 Peterson.” The police also stated: “We have been able to verify the truthfulness of their  
20 statements.” The press release issued on January 3, 2003, is depicted below.

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# Laci Peterson

Modesto Police Department

Date Issued: 1/3/2003  
 Time Issued: 5:00:00 PM  
 Importance: Information

Author: Ridenour, Doug  
 Division: Office of the Chief of Police  
 Location: Modesto, CA

main page

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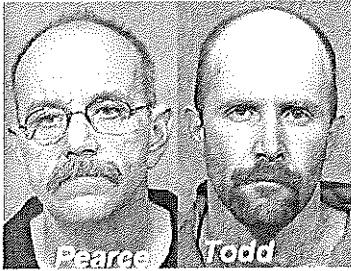
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## Covena Burglars Arrested

Modesto, CA - Police Detectives announced that they had two men in custody for the burglary that occurred across the street from Laci Peterson's residence on Covena Avenue in Modesto. On Wednesday, January 2, police received an anonymous tip regarding the burglary that occurred at 516 Covena Avenue. Modesto Police officers and parole agents with the Department of Corrections were able to locate Steven Wayne Todd, 35 years and Donald Glen Pearce, 44 years, both of Modesto. Both men have been arrested and charged with the burglary that occurred at the Covena Avenue address. Modesto Police offered a \$1000 reward to anyone who had information that would lead them to suspects in the burglary that occurred across the street from the home of Laci Peterson. Modesto Police needed to rule out, or link, any connection to the burglary with the disappearance of Laci. Todd and Pearce have both cooperated fully in the burglary investigation and police do not have any reason to believe they are connected to the disappearance of Laci Peterson. "We have been able to verify the truthfulness of their statements," said Detective George Stough. Investigation revealed that the burglary occurred on December 26, two days after the disappearance of Laci Peterson. Police continue their search of Laci and continue to follow-up on all credible leads. Sgt. Ron Cloward, who is leading the search teams stated, "We are continuing to look for Laci and have expanded out search area to outside of Stanislaus County and into adjoining counties." Todd and Pearce are pictured below, with Todd being on the left.



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25. I was unable to locate any police reports in the discovery provided to the defense at the time of trial indicating that police investigated and verified the alibis of Steven Todd and Glen Pearce for December 24, 2002, as the MPD press release stated, so I conducted my own independent investigation into the date the burglary occurred, as well as the alibis and other statements Todd and Pearce gave to police.

26. My investigation showed that the statements Steven Todd provided to the police on January 2-3, 2003, had false information about material facts and were riddled with inconsistencies. For example, in Todd's initial statement to police upon his arrest on January 2, 2003, he stated that (i) he first noticed that the Medinas' home appeared to be empty on December 25, 2002, (ii) when he was riding his bike home from mother's house after spending Christmas

1 with her and (iii) he saw mail sticking out of the mailbox, and, (iv) he returned later to burglarize  
2 the Medinas' home on December 27, 2002.

3 27. My investigation revealed that all of the above statements Todd provided to the  
4 police were false.

5 **The only day mail was sticking out of the Medina mailbox was the morning of**  
6 **December 24**

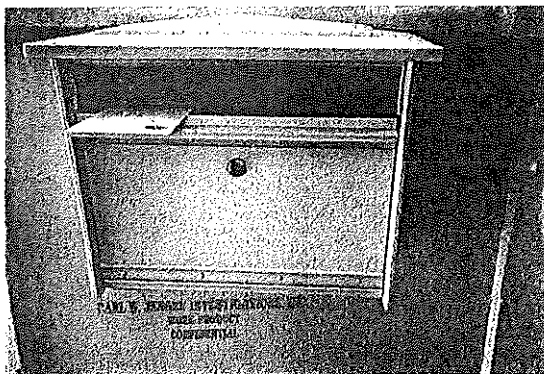
7 28. On March 27, 2004, I interviewed Susan Medina at her residence. She explained  
8 that as they were pulling out of the driveway to go out of town at about 10:30 a.m. on December  
9 24, 2002, her husband Rudy got out of the car and walked over to adjust the outgoing mail because  
10 she had set it on top of the mailbox and Rudy told her it had to be placed into the slot with the  
11 mail still sticking out of the slot. Mrs. Medina stated that Rudy placed the large manila envelopes  
12 she was sending out as part of her business mail into the slot for their mail carrier Russell Graybill  
13 to pick up.

14 29. I interviewed USPS letter carrier Russell Graybill, who confirmed that on  
15 December 24, 2002, he had the mail route on the Covena Avenue block where the Petersons and  
16 the Medinas lived. He recalled the Medinas' had outgoing mail that morning, which he picked  
17 up from their security mailbox between 10:35 a.m. and 10:50 a.m.. Mr. Graybill confirmed that  
18 the mail sticking out of the Medinas' mailbox was not incoming mail waiting to be collected by  
19 residents, but was outgoing mail that the Medinas' customarily left sticking out of the mail slot  
20 for pick-up. The letter carrier's electronic data and scans documenting delivery times for the  
21 morning of December 24, which I reviewed, show that the Medinas' mail was collected between  
22 10:35 a.m. and 10:50 a.m.

23 30. Susan Medina stated that when she returned home on December 26, there was no  
24 mail sticking out of their mailbox. In other words, the mail the Medinas left sticking out of their  
25 mailbox the morning of December 24 was collected that same day and would not have been  
26 visible to Steven Todd, or anyone else riding down Covena Avenue, on December 25, 2002.

27 31. When I interviewed Susan Medina, I asked her to show me what the mailbox  
28 looked like when there was outgoing mail sticking out of it. Mrs. Medina showed me the mailbox

1 which had an outgoing letter sticking out, waiting to be collected by the letter carrier. I  
2 photographed the Medinas' mailbox. On August 27, 2004, I interviewed Steven Todd and  
3 showed him the photograph of the Medinas' mailbox and asked him if he could identify it as the  
4 mailbox he saw at the Medinas' home, albeit with fewer outgoing letters than what he described  
5 seeing sticking out of the mailbox when he determined the Medinas were not home. Todd  
6 identified the mailbox in the photo I showed him as the same as the Medinas' mailbox. It is  
7 picture below.



CARL W. JENSEN INVESTIGATIONS, INC.  
FOOSE PRODUCTS  
CONFIDENTIAL

② Mail Box at Rudy & Susan  
Medina's house. detgona  
letter.  
shown to Steven Wayne  
TODD 8/27/04 1:10 PM  
Confirmed this as Mail  
Box

### Todd did not ride his bike to his mother's house on Christmas Day

32. I interviewed Steven Todd's sister, Lisa Stringfellow, about the events of December 25, 2002, and she stated that on December 25, Christmas Day, she woke Todd up at Glenn Pearce's house at 11 a.m. and drove him to his mother's place at 1905 Hagstrom about noon and that she later took him back and dropped him off later back at Pearce's house sometime after dark.

33. According to Stringfellow, Todd did not ride his bike to and from his mother's house on Christmas Day, as he told police. Todd did not see mail sticking out of the Medinas' box while riding his bike on Covenia after spending Christmas day at his mother's house, as he told police, because he did not ride his bike down Covenia that day as he was going to his mother's

1 house, according to Stringfellow. Stringfellow also stated that Todd and Pearce did a lot of  
2 burglaries together and that Pearce told her “he would tell police anything just so he won’t do  
3 time.”

4 34. It was my opinion, based on my experience as a criminal investigator, that Ms.  
5 Stringfellow was forthcoming during her interview and had no reason to lie about having given  
6 Todd rides to and from his mother’s house on Christmas Day, or about the statement she  
7 attributed to Mr. Pearce.

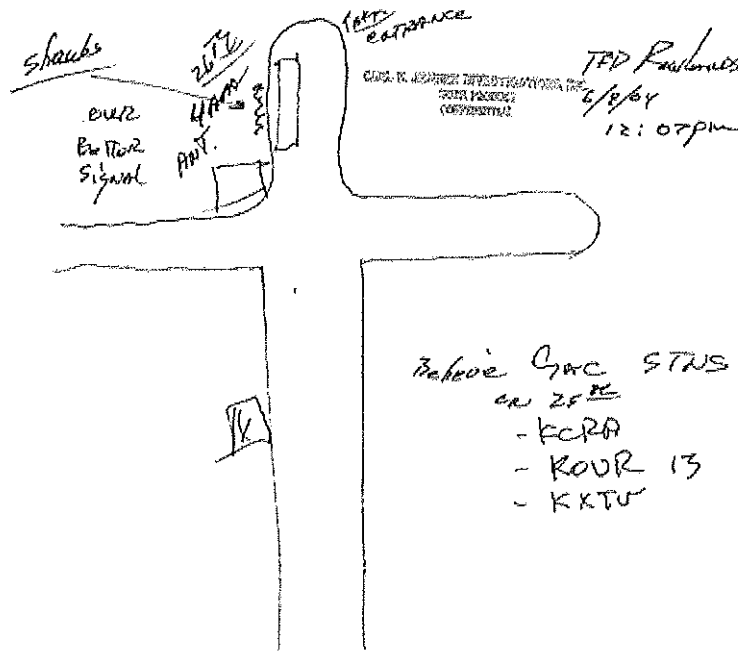
8 **Todd could not have burglarized the Medinas’ home on December 27**

9 35. Todd initially told the police he burglarized the Medinas’ home on December 27,  
10 but the Medinas returned home from their out-of-town holiday trip on December 26, at which  
11 time they discovered their home had been burglarized and immediately called the police.

12 36. Todd then changed the date of the burglary and told police that the burglary  
13 occurred early in the morning on December 26, i.e., while the Medinas were still out of town  
14 and two days after Laci disappeared. According to the police report I reviewed, Pearce told  
15 police on January 2, when he was arrested, that Todd woke him up early in the morning on  
16 December 26 and asked Pearce to use his mother’s car to help him carry away a heavy safe from  
17 the Medinas’ home and he complied. By January 3, Todd had changed his story and confirmed  
18 the date of the burglary to match Pearce’s story.

19 37. I interviewed journalist Ted Rowlands on June 9, 2004. He worked for KTVU in  
20 San Francisco and was assigned to cover Laci’s disappearance. He stated that his equipment  
21 was set up at the north end of Covena and the camera was facing south, with the Medina home  
22 on the left side of the shot. Rowlands said he was on Covena Avenue by 4:00 a.m. on the  
23 morning of December 26, 2002. Rowlands was not on Covena on December 25, but believed  
24 there were at least three other television stations out of Sacramento that arrived on Christmas  
25 Day. Depicted below is a diagram I drew of the location of Ted Rowland’s news van parked at  
26 the north end of Covena Avenue near the entrance to the park, with the Peterson’s residence  
27  
28

1 indicated where there is a box with an X in the middle, and some of the notes from my interview  
2 with Mr. Rowlands.



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17 38. In my opinion, based on my investigation, the information Todd provided to the  
18 police about the date of the burglary occurring on December 26, 2002, was false.

19 **Todd and Others Burglarized the Medina Home beginning on December 24, 2002**

20 39. My investigation revealed that Steven Todd began burglarizing the Medinas'  
21 home on December 24, 2002, the day Laci went missing.

22 40. In 2004, I interviewed both Donald Glenn Pearce and Adam Tenbrink. Both men  
23 stated to me that that Todd burglarized the Medina home beginning on December 24, 2002.

24 41. When I interviewed Glenn Pearce at his home in Modesto on March 25, 2004, he  
25 had already been convicted for his role in the Medina burglary and any sentence he was ordered  
26 to serve was finished. He stated that he drove Todd over the Medinas' early in the morning on  
27 December 25, not on December 26, as he told police.  
28

1           42.     Pearce further stated that, beginning on December 24, Todd had made three or four  
2 trips to the Medinas' before seeking Pearce's assistance and that Todd had been bringing tools  
3 and other things he was stealing from the Medinas' home into Pearce's house. Pearce did not  
4 explain why he told police that he went to the Medinas' home with Todd on December 26, but  
5 he did state that when he reported to the Stanislaus County Jail to serve the sentence imposed on  
6 him for committing the burglary, he was told he did not need to serve any time.

7           43.     It is my opinion, based on my experience as a criminal investigator, that Pearce  
8 was forthcoming during his interview with me. Pearce had nothing to gain by stating that the  
9 date Todd began burglarizing the Medina home was December 24, and not on December 26, as  
10 he told police. Instead, changing the date of the burglary to December 24 was actually a  
11 statement against Pearce's penal interests because it contradicted the information police claim  
12 he gave to them.

13           44.     On April 22, 2004, I interviewed Gayle Van Zant, who informed me that in  
14 December 2002, she resided at 1402 Tenaya Drive in Modesto, California, and that Donald  
15 Glenn Pearce ("Glenn") was the father of two of her children. She stated that she was aware that  
16 in January 2003, Glenn was arrested and charged with being involved with a burglary that  
17 occurred on Covena Avenue at the end of December 2002. She recalled that there was a lot of  
18 media coverage around that burglary because it happened across the street from where Laci  
19 Peterson lived and was reported missing on December 24, 2002.

20           45.     Ms. Van Zant stated that in December 2002, Steve Todd was staying at Glenn's  
21 place on Tenaya Drive and that she and Steve did not get along because he was "a very violent  
22 person." She stated that she had been present when Todd threatened to beat up Glenn and she  
23 also saw him grab his own sister, Lisa Stringfellow, by the hair and pull her out the back door of  
24 Glenn's house into the alley and beat her. She stated that "nobody gets anything over on Steve.  
25 If he is confronted he's going to hurt them." Ms. Van Zant also stated that she heard that Todd  
26 beat up his own son's uncle, Melissa McDaniel's brother, and left him in the middle of Yosemite  
27 Blvd.

1           46.     Ms. Van Zant stated that Glenn was at her place on Christmas Eve, December 24,  
2 2002, during the early afternoon and that he left around dark. Ms. Van Zant stated that Steve  
3 Todd got Glenn out of bed sometime early Christmas morning and got him to help with the  
4 burglary at the Medinas' house. Ms. Van Zant stated that Steve Todd ran the burglary and had  
5 been inside the house prior to getting Glenn to help him.

6           47.     Ms. Van Zant stated that in her opinion, Steve Todd was a bully and "he ran  
7 everything" over at Glenn's house when he was staying there. She stated that she believed Todd  
8 bullied Glenn into helping him with the burglary of the Medinas' house on Covena Avenue.

9           48.     On December 3, 2004, I interviewed Adam Tenbrink. I was aware at the time I  
10 interviewed Adam that in January 2003, Adam Tenbrink reportedly had a conversation with his  
11 brother, Shawn Tenbrink, while Shawn was incarcerated at Norco State Prison and that the call  
12 was recorded, according to Lt. Xavier Aponte, who called the police to report the contents of the  
13 conversation. According to Lt. Aponte, in the January 2003 recorded phone call, Adam told  
14 Shawn that Steven Todd encountered Laci Peterson while he was committing the burglary.

15           49.     In the course of my investigation, I learned that in early 2003, while Laci Peterson  
16 was still missing, the MPD investigated the recorded phone call between Shawn and Adam  
17 Tenbrink about Laci seeing Todd while he was committing the burglary of the Medinas' home,  
18 but did not disclose any police reports to the defense about their investigation. The audiotape  
19 recording of the conversation between Shawn and Adam Tenbrink then went missing and it has  
20 never been disclosed to the defense, to my knowledge, discussed further below.

21           50.     When I interviewed Adam Tenbrink and asked him whether the police had ever  
22 interviewed him about the phone call he had with his brother Shawn, I was stunned when Adam  
23 told me that no one from the MPD had spoken to him about the call, especially given the  
24 relevance and exculpatory nature of the information that was conveyed.

25           51.     I later learned that Lt. Aponte reported a second recorded phone call between  
26 Shawn Tenbrink and his mother, during which Shawn told his mother to tell Adam to "keep his  
27 mouth shut because he didn't know who he was dealing with," or words to that effect. Despite  
28 extensive efforts to obtain both of those recorded phone calls between Shawn Tenbrink and his

1 , brother and mother, and the MPD's investigation into the substance of those calls, neither I nor  
2 anyone else on the defense team was able to obtain the recordings of the phone calls Lt. Aponte  
3 reported hearing.

4 52. When I interviewed Adam Tenbrink in December 2004, I asked him what  
5 information he had about the Medina burglary. Adam stated that on December 24, 2002, about  
6 the time it was getting dark, Todd called and asked him help him "get some stuff out of the  
7 house" he was burglarizing and that Adam understood Todd was referring to the Medinas' house.  
8 Adam stated that he did not go to assist Todd.

9 53. Adam stated that Todd had already burglarized the house several times before he  
10 called Adam the evening of December 24, meaning that Todd had entered the Medinas' home  
11 earlier in the day on December 24. Adam stated that the following day, December 25, is when  
12 Todd asked Pearce to help him with the safe, not on December 26. The information Adam  
13 Tenbrink provided me was consistent with what Glenn Pearce stated to me; Todd asked Pearce  
14 to help him with the burglary in the early morning hours of December 25, not December 26.

15 54. Adam explained that Todd usually did burglaries by going back and forth on his  
16 bike, carrying what he could and sometimes pulling a cart behind the bike. Adam stated that  
17 Steven Todd told him he was seen by someone when he was doing the burglary. I provided this  
18 information to Mr. Peterson's defense team.

19 55. Further corroborating the information I received from Glenn Pearce and Adam  
20 Tenbrink about the burglary occurring on December 24, are the eyewitnesses who reported  
21 seeing a suspicious-looking van parked in front of the Medinas' home on December 24, 2002.

22 56. It was my understanding that the police initially believed the burglary was related  
23 to Laci's disappearance. Eyewitnesses Diane Jackson, Linda Chilles, and Niniv T. all reported  
24 seeing a suspicious-looking van parked in front of the Medinas' home on Covenia on December  
25 24.

26 57. My review of the police reports indicated that on December 27, 2002, Ms. Jackson  
27 told police she saw "three dark skinned males (not African American) short in stature" standing  
28 near an older white van parked in front of the Medinas' home on the morning of December 24,



1 2002. On December 28, 2002, Ms. Chilles also reported seeing a suspicious looking van parked  
2 in front of the Medinas' home with three men standing around it the morning of December 24.  
3 Also on December 28, 2002, Niniv T. reported seeing an older white van parked in front of the  
4 Medinas' later in the afternoon on December 24, around 2:45 p.m., with three Hispanic males in  
5 their 20s or 30s standing near the vehicle.

6 58. It was further my understanding that, based on those eyewitness reports, on  
7 December 31, 2002, the police announced a \$1,000 reward for information leading to the  
8 identification of the persons described by the eyewitnesses. The reward flyer was Exhibit NN  
9 at trial and is depicted below.

## \$1,000 REWARD

for information leading to the  
identification of  
the persons who  
burglarized a residence  
in the 500 block of Covena between  
12-24 and 12-26-2002

Suspects: three dark skinned males (not African American)  
short in stature

Vehicle: an older model full size van  
tan or light brown in color  
one or possibly two doors that open at the rear

Stolen Property: Two 9mm semi automatic handgun  
Beretta .386 handgun  
Ryobi drill - bluish green in color  
Campbell-Hausfeld Pneumatic Tool Kit  
Canon AE-1 35mm Camera  
Gucci woman's watch  
Louis Vuitton purse  
Firefyter safe - model FF2600  
Numerous items of jewelry inc large carats rubies and diamonds

**Anyone with Information, Immediately  
call Modesto PD - 342-6166**

NN

22 59. Todd and Pearce were both white males of average height; neither fit the  
23 description of the dark skinned males who were short in stature that the witnesses described  
24 seeing at the Medina home on December 24.

25 60. After Todd and Pearce admitted to committing the burglary on December 26, the  
26 police claimed the burglary was unrelated to Laci Peterson's disappearance and immediately  
27

1 abandoned any search for other possible suspects, including the three men eyewitnesses reported  
2 seeing standing near the suspicious looking van that was parked in front of the Medinas' home.

3 61. Based on my investigation, it was my conclusion that the evidence showed that  
4 more than two people committed the Medina burglary and more than two vehicles were used.

5 **Todd Had No Verified Alibi for December 24, 2002, between 9 a.m. and 3 p.m.**

6 62. In the January 3, 2003 press release, MPD stated that "the burglary occurred on  
7 December 26, two days after the disappearance of Laci Peterson" and that the police were "able  
8 to verify the truthfulness of their statements." My investigation found no support for either of  
9 those statements.

10 63. It appeared to me that the defense was not being provided with important items of  
11 discovery related to the burglary investigation. There were references in the police reports to  
12 videotaped interviews with both Todd and Pearce being logged into evidence but I was unable  
13 to locate those recorded police interviews to determine whether they contained additional  
14 information the two men provided about the burglary.

15 64. I was only able to locate the videotaped polygraph interviews conducted with Todd  
16 at approximately 11:30 a.m. on January 3, 2003, and with Pearce at approximately 2:30 p.m.,  
17 later that day. In my experience, given the high profile nature of the search for Laci Peterson, it  
18 is highly unlikely that police failed to record interviews with Todd or Pearce until 18 to 20 hours  
19 after they were arrested. And it appears that police did, in fact, conduct recorded interviews of  
20 Todd and Pearce on January 2, 2003, which Officer Hicks checked into evidence but, to my  
21 knowledge, the defense was not provided with the January 2, 2003 recorded interviews.

22 65. According to the police report I reviewed, when Todd was arrested on January 2,  
23 2003, he immediately stated that "he had nothing to do with 'the woman'," apparently before the  
24 police mentioned anything to him about Laci Peterson, An excerpt from the police report I  
25 reviewed is below.

26  
27  
28

1  
2 I asked TODD to tell me about a burglary that occurred on Covena  
3 Avenue. TODD immediately stated that he would tell me about the  
4 burglary, but he had nothing to do with "the woman." When I  
5 asked TODD what woman he was talking about, he stated that it  
6 was the missing woman with the baby. I again asked TODD to tell  
7 me about the burglary and he told me the following.

8  
9 66. I also noted that Todd initially told police, according to the police report I  
10 reviewed, that the burglary was on December 27, and Pearce told police it was on December 26.  
11 The fact that the two men who pleaded guilty to committing the Medina burglary on or about  
12 December 24–26, 2002, could not get their stories straight and agree on which date the burglary  
13 occurred prompted me to thoroughly investigate the alibi Todd provided to the police for  
14 December 24, 2002, the date Laci went missing.

15  
16 67. Based on the police reports I reviewed, Todd told police he was not on Covena  
17 Avenue at all on December 23 or 24, and that "on Christmas Eve, December 24, 2002, he was  
18 with Cliff Koen, and went to Christmas shop at Payless about 5:00 p.m." buying shoes for his  
19 son, according to the police report I reviewed.

20  
21 68. After interviewing numerous witnesses, I was unable to confirm an alibi for Todd  
22 or confirm his whereabouts on December 24, 2002 between the hours of approximately 9 a.m.  
23 and 3 p.m.

24  
25 69. When I interviewed both Steven Todd and Melissa McDaniel (mother of Steven  
26 Todd, Jr.), I learned that on the evening of December 23 or morning of December 24, 2002, or  
27 both, Todd and McDaniel argued because Todd did not have any money to buy Christmas gifts  
28 for their son.

66. I reviewed police reports and independently interviewed witnesses who lived near  
the Petersons' and Medinas' and who reported that on the evening of December 23, a man or  
men were knocking on doors after 10 p.m., asking for money or casing homes, or both. The man  
or men these witnesses described generally fit that of Todd and Pearce. I have seen no police

1 report establishing the whereabouts of Todd on December 23, 2002, nor was I able to establish  
2 Todd's whereabouts for the evening of December 23.

3 71. I interviewed Judge Ricardo Cordova and his wife, who lived around the corner  
4 from the Petersons and the Medinas. Judge Cordova stated that on December 23, 2002, at about  
5 10:15 or 10:20 p.m., they heard a knock on the door. By the time Cordova answered the door,  
6 he saw a man walking away heading toward Covena. The man turned and walked back and told  
7 Cordova a story about wanting money to give to his girlfriend or wife whose car had broken  
8 down.

9 72. Cordova told me the event was memorable because in twenty years, he had never  
10 had someone come to the door like that, asking for money. The man told Cordova he lived down  
11 the street where there was a white station wagon parked. Cordova described the man as being  
12 in his late 30s, 5'10", "slight crank looking," wearing a plaid shirt, brown hair. Cordova spoke  
13 to the man for two or three minutes. The Cordovas did not give the man any money.

14 73. I interviewed Albert Urquidez and his friend, Katie Heinze, who also stated that a  
15 man had come to their door the night of December 23, 2002, with a story about looking for a lost  
16 dog. The man was 5'9", with brownish hair, in his 40s. Urquidez stated that the man said he  
17 had just moved in and pointed down the street to the Medinas' house. Urquidez stated that a few  
18 days earlier, he caught a man trying to break in to his brother's car. He chased the man away  
19 and called the police. When I showed Urquidez and Heinze a photo of Steven Todd, Heinze  
20 stated: "that guy looks just like the guy you chased down." Urquidez said that the police had  
21 interviewed him but had not shown him any photos.

22 74. In my interview with Melissa McDaniel, the mother of Todd's son, she stated that  
23 on the morning of December 24, 2002, between about 8 a.m. and 9 a.m., Todd was at her home  
24 and he again told her he didn't have any money to buy Christmas gifts for their son. McDaniel  
25 did not see Todd again until around 3 p.m. that afternoon.

26 75. I interviewed Lillian V [REDACTED], who called the MPD to report seeing a man riding a  
27 bike on Covena Avenue, in front of the Medinas' home, on December 24, 2002, around 10:20  
28

1 a.m. She described the bike as having saddle bags and stated that the man covered his face and  
2 turned away when he passed by her.

3 76. Susan and Rudy Medina stated to me when I interviewed them that at about 10:30  
4 a.m., as they were leaving their driveway and driving away to head out of town, Rudy pointed  
5 out a suspicious looking man to Susan, who was slowly riding a bike past their home on the east  
6 side of Covenia.

7 77. In my opinion, the descriptions given by the all of the residents who reported  
8 seeing a suspicious man or men in the neighborhood late on the night of December 23 and after  
9 9 a.m. on December 24 all roughly fit the description of Todd or Pearce. The behavior those  
10 witnesses described is consistent with a burglar casing homes to see if anyone is around. And  
11 Todd, in fact, told police he was on his bike when he committed the burglary and he pleaded  
12 guilty to committing the burglary at the Medinas' home between December 24 and December  
13 26, 2002.

14 78. Based on my review of the police investigation into the Medina burglary, it is my  
15 opinion that no effort was made to determine whether Steven Todd or Glenn Pearce were casing  
16 the neighborhood where the Medinas lived on the evening of December 23, 2002—the night  
17 before Laci Peterson went missing. None of the witnesses I spoke to had been shown photos by  
18 police to see if they could identify the suspicious-looking man or men Cordova and Urquidez  
19 reported seeing on Covenia and Edgebrook Avenues late on the night of December 23, 2002.

20 79. Melissa McDaniel stated that she saw Todd in the morning on December 24 but  
21 did not see him again until the evening of December 24, around 3 p.m. She stated that when she  
22 saw him he had “tears coming down his face because he didn’t have gifts for their son.”

23 80. According to Glenn Pearce and Adam Tenbrink, by the afternoon or evening of  
24 December 24, Todd had already located the safe the Medinas kept in their home, but he had not  
25 yet been able to remove it from the home. Both Pearce and Adam Tenbrink stated that Todd  
26 went back to collect the safe the following morning, December 25, using Pearce’s mother’s car.

27 81. Todd stated in his interviews with me on April 23, 2004, and May 7, 2004, that on  
28 December 24, he went to buy a pair of shoes at Wal-Mart or K-Mart in Ceres on Hatch Street,

1 and then he changed the story and said he bought shoes at Payless in the evening as “they were  
2 closing.” Cliff Koen stated in my interview with him that he took Todd to buy a three-wheeler  
3 at K-Mart the day after Christmas, December 26, not on December 24. While reports indicated  
4 that Todd told police he went to Payless Shoes with Cliff Koen at about 5:00 p.m. on Christmas  
5 Eve, I could find no reports showing that MPD interviewed Cliff Koen.

6 82. McDaniel stated that Todd came over Christmas morning, before he went to his  
7 mother’s house. She stated that he rode over to her house on his bike. I was unable to confirm  
8 Todd’s whereabouts between the time his reported shopping trip with Koen ended on the night  
9 of December 24, and the time he showed up at Melissa McDaniel’s on Christmas morning.

10 **Steven Todd Had a History of Committing Violent Acts Against Women**

11 83. During my investigation in 2004, I interviewed Steven Todd three times about his  
12 interviews with police related to his arrest for the Medina burglary.

13 84. Todd stated that when he was arrested by the police on January 2, 2003, “they said,  
14 [MPD Officer] Hicks, said they knew I didn’t do it; I’m just a burglar and dope, meth, weed. . .  
15 Hicks and a short cop, maybe Italian, said they knew Scott did it, they said they knew I didn’t  
16 do it -- Laci. The evidence was pointing to Scott and they knew he did it and not me.” I asked  
17 Mr. Todd if the police told him what evidence they were referring to and he said, “No.” Todd  
18 attributed those statements to Officer Hicks or the “short cop, maybe Italian,” whom Todd stated  
19 may have been Det. Al Brocchini.

20 85. To my knowledge, the defense was not provided with any audio or video  
21 recordings documenting the interview Todd described taking place when he was arrested on  
22 January 2, 2003, even though there is a reference to at least one such recording being made and  
23 checked into evidence by Officer Hicks.

24 86. According to Todd, whom the police apparently deemed to be a truthful individual,  
25 MPD investigators had concluded as early as January 2, 2003, that Scott Peterson was guilty and  
26 responsible for the disappearance of his wife. In other words, before any forensic testing had  
27 been conducted and despite the fact that numerous eyewitnesses were calling in and reporting  
28

1 seeing Laci walking the dog in the park and in the neighborhood the morning of December 24,  
2 at times that were after the time Scott left home for the day.

3 87. In my opinion, Todd's statement, if true, indicates that police had already  
4 determined Mr. Peterson's guilt and were letting their hunch about his guilt drive their  
5 investigation.

6 88. In addition to the information I received from Ms. Van Zant, who described Todd  
7 as "a very violent person," and who witnessed Todd grab his own sister, Lisa Stringfellow, by  
8 the hair and pull her out the back door of the house into the alley and beat her, I uncovered  
9 additional evidence that flatly contradicted the MPD's assessment that Todd did not have a  
10 violent history and therefore, in their opinion, was not involved in Laci's disappearance because  
11 he was "just a burglar and dope, meth, weed,"

12 89. On February 5, 2004, as part of my investigation into Steven Todd's background  
13 and criminal history, I interviewed Mary Oakley, who explained to me that she was the  
14 grandmother of the children Steven Todd had with her daughter, Elizabeth Garcia. Her  
15 grandchildren's names are M. Todd and C. Todd. Ms. Oakley confirmed that at the time Todd  
16 was living with or near Elizabeth in the 1990s, Todd regularly stole things to buy drugs because  
17 he could not hold down a job.

18 90. When I asked Ms. Oakley whether she was aware of any incidents indicating that  
19 Todd was capable of physical violence or abuse, she stated that Todd was physically abusive  
20 toward Elizabeth when she was pregnant and that his anger was very high when he could not  
21 control someone. Ms. Oakley stated that her daughter was slight in stature, only 5' – 5'1" tall.  
22 Ms. Oakley also stated that after Elizabeth broke up with Todd, he began stalking her when she  
23 was at school and one time tried to run her over with his car while she was riding her bike. Ms.  
24 Oakley stated that there should be police reports reflecting those incidents because Elizabeth  
25 reported it and had to have security guards escort her at school for her safety. Ms. Oakley  
26 reported another incident when Todd had Cecily in his arms and used her as a shield so police  
27 would not mace him and that her grandson, Michael, witnessed it.

28

1           91. I located police reports confirming that on February 14, 1995, Elizabeth Garcia  
2 filed a statement with the court in support of a request for a restraining order, alleging that Todd  
3 was physically abusive and had been stalking her. I also obtained a report filed by Mary Oakley  
4 stating that Todd had hit her car with his fist creating a dent in the side panel and leaving blood  
5 on the car. I obtained other MPD and Ceres Police Department arrest reports for Todd from  
6 dates throughout the 1990s, wherein he admitted to lying to police, denying the possession of  
7 drugs, and fleeing the scene of more than one crime. In more than one report it is alleged that  
8 Todd refused to comply with police after they ordered him to stop and put his hands behind his  
9 back, causing the police to give chase to capture him. Those reports are attached hereto as Exh.  
10 B.

11           92. I have seen no police reports in this case indicating that MPD investigated Steven  
12 Todd's criminal record and history of violence before determining, if Todd is to be believed, that  
13 he was not capable of violent behavior, including the reports of Todd assaulting Elizabeth when  
14 she was pregnant, or stalking her and trying to run her over with his car, which Ms. Oakley  
15 believed were reported to police.

16           **MPD Failed to Investigate Reports that Laci Peterson was Kidnapped**

17           93. On February 16, 2004, after reviewing police reports concerning a witness who  
18 claimed to have information that Scott Peterson was innocent, that Laci Peterson was kidnapped  
19 by others, and that the witness who had the information feared for his life, I interviewed  
20 witnesses Aaron T [REDACTED] and Mindy S [REDACTED], who shared further information.

21           94. Mindy S [REDACTED] stated that she and T [REDACTED] met a man named Allen "Scott" Seidel in  
22 2001 or 2002. Around December 30, 2002, S [REDACTED] and T [REDACTED] picked Seidel up at the bus station  
23 when he arrived in California after being in Pennsylvania. S [REDACTED] and T [REDACTED] stated that Seidel  
24 stayed with them for a few months in early 2003 and worked with them in their carpet installation  
25 business.

26           95. S [REDACTED] stated that one day, Seidel was at their home reading the newspaper and he  
27 asked her if she'd heard of a man called Donald Pearce. She told him she had not and Seidel  
28 stated that he was an old friend of his from Modesto.



1           96.    T [REDACTED] stated he was afraid to discuss with me the information Seidel had told him  
2 because there was no way he could protect his family if it got out that he talked about what Seidel  
3 told him. T [REDACTED] finally agreed to discuss what Seidel told him.

4           97.    T [REDACTED] stated that the day before Easter 2003, he and Seidel had finished a job and  
5 stopped for a beer. At that time, Seidel told T [REDACTED] that he had gotten mixed up with the wrong  
6 people and he wished he hadn't gotten involved with them. T [REDACTED] stated that Seidel told him he  
7 feared for his life because he had information about the people who had kidnapped Laci Peterson.  
8 T [REDACTED] stated that the people were planning to sell the baby and were going to frame Scott  
9 Peterson for it by putting her body in the same place he said he was fishing. T [REDACTED] stated that  
10 Seidel told him Laci wasn't supposed to die and that Seidel told him he knew of this information  
11 when Laci was still alive.

12           98.    T [REDACTED] stated that Seidel was "really frightened and afraid" of some people and  
13 that it was his opinion that Seidel used him and S [REDACTED] to hide from certain people. T [REDACTED] said  
14 Seidel was also afraid for his girlfriend and child, who were living in Jamestown at the time.

15           99.    T [REDACTED] stated that after Seidel shared this information with him "some weird  
16 things" started happening to him and S [REDACTED] and T [REDACTED] finally told Seidel to leave. Both T [REDACTED]  
17 and S [REDACTED] stated that Seidel would have had to get involved with these people between the time  
18 they picked him up at the bus station at the end of December 2002 and the day before Easter  
19 2003, when Seidel left town again.

20           100. T [REDACTED] stated that Seidel had been telling others in early 2003 that he knew what  
21 happened to Laci and someone called MPD, so Jon Buehler with Modesto Police Department  
22 and Kevin Bertalotto, an investigator with the District Attorney's Office, came to the house and  
23 spoke to S [REDACTED]. S [REDACTED] told them that Seidel had never told her the things he shared with T [REDACTED], so  
24 she could only tell them what she knew from T [REDACTED].

25           101. T [REDACTED] stated that the detectives spoke to him for about five minutes over the  
26 telephone. T [REDACTED] told the investigators that Seidel stated he had information about the people  
27 involved in the Laci Peterson's disappearance case and that this information had come to him

1 when he had spoken with these people, and that he was fearful for his safety for having this  
2 information.

3 102. T [REDACTED] stated that Seidel would not go to the police. T [REDACTED] was not happy about  
4 hearing this information and did not want any part of it, for fear of his family's safety and did  
5 not notify Modesto Police about this information because he could not confirm if it was true.

6 103. T [REDACTED] stated that he told the police he struggled with whether or not to notify  
7 Modesto Police, and that he was glad the police finally contacted him. T [REDACTED] told police he did  
8 not want Seidel to know that he was talking to them about this incident. T [REDACTED] did not know if  
9 Seidel had actually talked to people involved in Laci's disappearance and murder, but that the  
10 information Seidel had was, according to T [REDACTED], convincing enough to Seidel that he was fearful.

11 104. T [REDACTED] said the detectives did not listen to him and said, "your story doesn't fit in  
12 with what we have." T [REDACTED] and S [REDACTED] both said the detectives brushed it all off by saying it was  
13 "a bunch of tweekers" that got together and made it up.

14 105. I interviewed another witness, Phyllis Hawkins, who stated that Seidel gave her  
15 the same information and stated that he was afraid for his life because he knew something about  
16 Laci's disappearance and believed that Scott Peterson was innocent.

17 106. According to the police reports I reviewed, on June 24, 2003, DAI Kevin  
18 Bertalotto interviewed Seidel when he was in custody at Mariposa County Adult Detention  
19 Facility and asked him if he had any information about the disappearance of Laci Peterson and  
20 Seidel denied having any information. Seidel was asked if he would agree to submit to a  
21 polygraph examination and he reportedly stated that he would. I have seen no reports indicating  
22 that Seidel was ever given a polygraph examination.

23 107. On February 23, 2004, I interviewed Scott Seidel at Folsom State Prison.

24 108. Seidel confirmed he met Mindy S [REDACTED] and Aaron T [REDACTED] when they lived in Don  
25 Pedro "a year before this all started". While in Don Pedro, Seidel worked for T [REDACTED], and they  
26 became friends.

27 109. Seidel confirmed he showed up in Modesto on December 30 or 31, 2002 and began  
28 working for S [REDACTED] and T [REDACTED]'s carpet company as a freelancer in February 2003.

1           110. Seidel confirmed he stayed with S [REDACTED] and T [REDACTED] sometime in February or March  
2 2003 before he left for Reno.

3           111. Seidel denied having any conversations with Sisk and Triller about the Peterson  
4 case.

5           112. Seidel stated that neither S [REDACTED] nor T [REDACTED] did do drugs.

#### 6           **MPD INVESTIGATION**

7           113. Based on my experience as a criminal investigator and my review of the police  
8 investigation into the disappearance of Laci Peterson, the investigation by others working on  
9 behalf of the defense, and my own independent investigation, it is my opinion that the MPD  
10 failed to follow the basic, standard procedures employed by law enforcement at the time they  
11 conducted the Missing Person Investigation for Laci Peterson.

12           114. Based on my review of the police reports provided to the defense, it appears MPD  
13 conducted some canvassing of the neighborhood after Laci was reported missing, but the  
14 investigation overall was disorganized and scattered, with no systematic processes in place to  
15 ensure that all potentially material tips and leads were investigated and followed up on. There  
16 was no officer assigned to follow up on sightings of Laci in the neighborhood. In my opinion,  
17 critical potential crime scene information and eyewitness accounts that were being reported to  
18 MPD and which may have assisted law enforcement in finding Laci Peterson, possibly while she  
19 was still alive, were never gathered or investigated by the police.

20           115. Based on my review of the police reports in this case, MPD had no system in place  
21 to ensure that witness reports concerning potential crime scene information and other material  
22 information about Laci's last known whereabouts were channeled to the lead investigators in a  
23 timely manner, so that credible information and evidence could be thoroughly investigated.

24           116. A prime example of the MPD's disorganized and incompetent investigation is the  
25 manner in which MPD handled the reports made by Judge Ricardo Cordova and Albert  
26 Urquidez, who lived right around the corner from the home of the Petersons and the Medinas,  
27 whose house was burglarized around the same time Laci was reported missing.

28

1           117. When I interviewed Judge Cordova in 2004, he expressed frustration and even  
2 disgust over the MPD's disorganized approach to investigating Laci's disappearance. Judge  
3 Cordova explained that on the morning of December 25 between 8 a.m. and 9 a.m., he reported  
4 to Det. Sebron Banks that a man had come to his door late at night on December 23, who  
5 appeared to be casing his house and perhaps the neighborhood. Judge Cordova stated that he  
6 had been a criminal defense attorney before taking the bench, he had experience with proper  
7 police procedures, and he immediately reported the information he had to MPD so they could  
8 investigate because he believed it may have been related to Laci Peterson's disappearance. From  
9 the reports I have reviewed, the information Judge Cordova provided was never investigated by  
10 police.

#### 11                   **Laci's Sandals**

12           118. Judge Cordova stated that he pointed out to MPD Det. Sebron Banks a pair of  
13 women's sandals or flip flops lying on the side of the street on Covena Avenue not far from the  
14 Petersons' home, and he told Det. Banks that the sandals may have belonged to Laci Peterson  
15 and may be evidence. Det. Banks told Judge Cordova that he did not think the flip flops were  
16 related to Laci's disappearance because "she was out walking the dog" when she disappeared  
17 and would not have been wearing flip flops. Det. Banks did not collect the sandals, nor did he  
18 take any notes or write anything down that Judge Cordova was telling him. Judge Cordova stated  
19 that based on his experience with the MPD as a criminal defense lawyer, Det. Banks was well  
20 known for not taking notes or writing down information in the cases he was investigating.

21           119. The next day, December 26, Judge Cordova saw Det. Doug Ridenour in the  
22 neighborhood and told him he wanted to report some information that may be helpful to the  
23 investigation. Judge Cordova waited 10 to 15 minutes and finally spoke to a sergeant and  
24 repeated what he had told Det. Banks. On December 27, 2002, the very next day, MPD Det.  
25 Reed knocked on Judge Cordova's door during a canvas and asked him if he had any information  
26 about the Peterson or Medina cases. When I interviewed Judge Cordova, he stated that it was  
27 like he was telling his story over again for the very first time and it was clear to Judge Cordova  
28 that there was no communication between the officers working on the case. No one from the

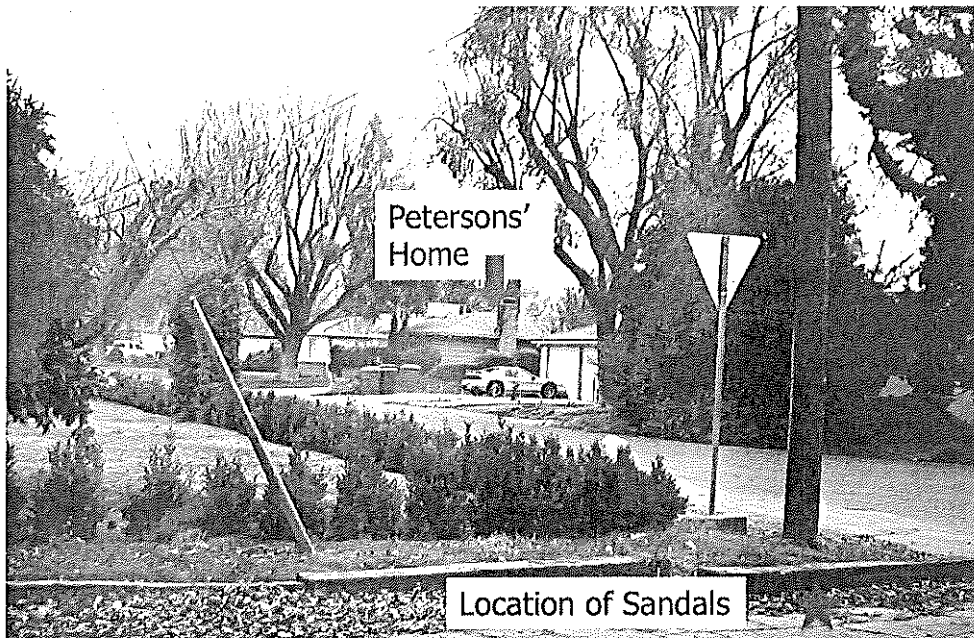
1 police department ever returned to show Judge Cordova photos of possible suspects to determine  
2 whether he could identify the man who came to his door at 10:30 p.m. the night before Laci was  
3 reported missing.

4 120. Since the sandals Judge Cordova pointed out to Det. Banks on Covena Avenue  
5 were never collected by police, I interviewed Judge Cordova to obtain more information about  
6 the sandals he saw. Judge Cordova stated that he recalls walking towards the corner of Covena  
7 Avenue and Edgebrook Avenue with Det. Banks and pointing out to him a pair of women's  
8 platform sandals with a flower pattern that were lying beside the curb.

9 121. Det. Banks did not pick up the sandals. Judge Cordova stated that he continued to  
10 see the sandals along the curb over the next few days, even after the Medina burglary became  
11 front page news.

12 122. even after it was discovered that the Medinas' home had been burglarized between  
13 December 24 and December 26.

14 123. I asked Judge Cordova to point out to me the location where he observed the  
15 sandals and he agreed to do so. I took the photo below and have indicated the location where  
16 Judge Cordova indicated to me that he saw the sandals and the proximity of the sandals to the  
17 Petersons' home.



1           124. Based on my experience, the reports from Urquidez and Cordova that men were  
2 casing homes on that same block late at night on December 23, warranted further investigation,  
3 which was not done based on my review of the police reports. After the discovery on December  
4 25 of the sandals and the Medinas' burglary on December 26, the entire block should have been  
5 heavily investigated and any evidence in the vicinity should have been collected and analyzed,  
6 including the women's sandals lying in the street near the Peterson and Medina homes—sandals  
7 which may have belonged to Laci and fallen off while she was being assaulted or running away  
8 from someone who chased her or in some other manner.

9           125. To further investigate whether the flip-flop sandals Judge Cordova pointed out to  
10 the MPD lying near the curb at the corner of Covena and Edgebrook may have belonged to Laci  
11 Peterson, I met with Scott Peterson at the San Mateo County Jail in early 2004. Defense counsel  
12 Pat Harris was also present. The purpose of the meeting was to ask Mr. Peterson if knew whether  
13 Laci owned any flip-flops and, if so, whether he was aware if any were missing. I did not provide  
14 Mr. Peterson with any information about the sandals Judge Cordova described seeing on the  
15 street.

16           126. Scott stated that Laci had four or five pairs of flip flop-type sandals and that there  
17 was a pair she usually kept on the back porch area that was not there after she went missing. I  
18 asked Mr. Peterson to describe the missing sandals to me. He described the missing flip-flops  
19 as pinkish-red with a curved platform heel and a decorative white floral pattern. To further  
20 capture the description of the flip-flops, I contacted several freelance forensic artists to seek their  
21 assistance in creating a likeness of the sandal Scott described. One of the artists I contacted was  
22 told by the County Sheriff's Department not to do anything that could assist with the defense of  
23 Scott Peterson. Having no luck with artists who worked with law enforcement, I then contacted  
24 Myron Stephens, an art instructor at Granite Bay High School. After discussing the process with  
25 Mr. Stephens, he was confident he could complete a likeness of the sandals. I accompanied Mr.  
26 Stephens to the Redwood City jail, where we spent three and half hours with Mr. Peterson, who  
27 assisted Mr. Stephens in creating the image by describing Laci's missing flip-flops, while Mr.

28

1 Stephens sketched. At no time did I share with either Mr. Peterson or Mr. Stephens the details  
2 of the flip-flops described by Judge Cordova.

3 127. After Mr. Stephens got the basic information he needed from Mr. Peterson, he  
4 worked on the painting in his studio over the next week or so to complete the image. On March  
5 11, 2004, I saw the painting he created and the following day, I met with Mr. Peterson and  
6 showed it to him. Mr. Peterson stated that the sandal in the painting looked like the ones Laci  
7 usually kept on the back porch area, which had gone missing. The only difference was that Mr.  
8 Peterson said the color in the drawing was a little too red. When I asked him on a scale of 1-10  
9 how closely the image resembled Laci's sandals, Mr. Peterson said it was very close, an 8 on a  
10 1 to 10 scale, the only difference being the color was off. I had Mr. Peterson sign and date the  
11 back of the painting (see image below).



1           128. On March 15, 2004, I met with Judge Cordova at the Stanislaus County Superior  
2 Court, showed him the painting of Laci's sandal, and asked him if it looked like the sandal he  
3 pointed out to Det. Banks. Judge Cordova stated that the shape and type of the flip-flop  
4 were consistent with the scandal he had seen on Christmas day on Edgebrook Drive. He stated  
5 that the flip-flop he observed was not as red as the one in the painting, it was more of a subdued  
6 orange and may have had more flowers on the sole, but he was not sure about that. When I asked  
7 him on a scale of 1-10 how closely the sandal in the painting resembled the flip-  
8 flops he saw on Edgebrook Drive, Judge Cordova said it was a 7, due to the color being off.

9           129. The color being off was entirely attributable to the artist's interpretation of the  
10 color as it was described to him by Scott; in my opinion, it was not an indication that that sandals  
11 did not belong to Laci, especially since both Scott and Judge Cordova agreed that the only  
12 notable difference between the sandals they were describing and the sandal in the painting was  
13 that the color was too red.

14           130. The back of the painting Mr. Stephens has the signatures on the back of the  
15 painting indicating that it was shown to Scott Peterson and Judge Cordova and is depicted below.



1           131. To my knowledge, the jury was not provided with the evidence described above,  
2 other than hearing Judge Cordova testify that he found a pair of women's sandals and pointed  
3 them out to police on Christmas morning.

4           132. Based on my investigation, it is my opinion that the sandals Judge Cordova pointed  
5 out to police and which he stated to me look very similar to the sandals Mr. Peterson described  
6 as belonging to his wife which were missing after she disappeared, and they should have been  
7 collected and further analyzed. DNA could potentially have been collected from the sandals to  
8 determine whether they belonged to Laci Peterson, which would have provided further critical  
9 information about what may have happened to her the day she went missing and may have  
10 assisted investigators in learning more information about what happened to Laci and assisted  
11 their efforts to find her while she was still alive.

12           133. It is my opinion that the information Judge Cordova immediately reported to the  
13 police the morning of December 25, and again on December 26, and again on December 27,  
14 2002, should have been immediately investigated to determine whether the individuals who were  
15 casing his home could be identified and questioned about whether they or any of their associates  
16 may have had any involvement in or information about the burglary of the Medina home and/or  
17 the disappearance of Laci Petersons.

18           134. It is especially alarming that MPD failed to contact either Cordova and Urquidez  
19 to see if they could identify the men who were casing their homes on December 23, even after  
20 MPD learned on December 26 that the Medinas' home had been burglarized sometime between  
21 December 24 and December 26, and that thousands of dollars' worth of cash, jewelry, guns, and  
22 other property had been stolen.

### 23           **CROTON WATCH**

24           135. Another item of critical exculpatory evidence the MPD failed to investigate  
25 involves Laci Peterson's missing Croton watch and the jewelry she was wearing when she went  
26 missing. Based on reports I have read, Mr. Peterson immediately informed the police when his  
27 wife went missing that she had recently inherited a Croton brand watch from her grandmother,  
28 and the watch was missing from her jewelry box and was nowhere in their home. Mr. Peterson

1 also told police that his wife was wearing diamond earrings and a diamond necklace when he  
2 last saw her on the morning of December 24.

3 136. In my experience, it was at the time and still is routine police procedure to conduct  
4 searches of area pawn shops when guns and items of jewelry turn up missing following a  
5 mugging or burglary.

6 137. Based on my review of the records in this case, however, it was not until March  
7 2003, that anyone from MPD ran a search of the state's database of pawn shop records for any  
8 Croton watches that may have been pawned, records that pawn shops are statutorily required to  
9 regularly update. When the search was finally run in March 2003, it revealed that one Croton  
10 watch had been pawned at a local shop on December 31, 2002, less than three miles from the  
11 Petersons' home, seven days after her disappearance by a woman named Deanna Renfro. There  
12 are no MPD reports detailing any follow up with Ms. Renfro or the pawn shop when they found  
13 this pawn ticket while Laci was missing.

14 138. Later reports revealed that the watch was picked up from the pawn shop by Ms.  
15 Renfro on January 9, 2003, and pawned again on February 14, 2003. While Ms. Renfro was  
16 present, the second pawn was under the name Anthony Scarlata. To my knowledge, Mr. Scarlata  
17 was never interviewed by the police, the Croton watch has gone missing, and there are no photos  
18 in existence of the Croton watch Mr. Scarlata pawned.

19 139. When I interviewed Anthony Scarlata on October 23, 2004, I asked him if he  
20 recalled what that watch he pawned on February 14, 2003 looked like and he said he was not  
21 sure. I showed him a photo of Laci Peterson's missing Croton watch, without telling him it was  
22 her watch, and asked him if the watch in the photo could be the watch he pawned. Scarlata stated  
23 to me that he could not say whether it was the watch he pawned; it was possibly the same watch  
24 but he could not say for certain one way or the other.

25 140. MPD's failure to investigate the whereabouts of Laci Peterson's Croton watch and  
26 other jewelry by searching state pawn shop database records immediately upon her  
27 disappearance—a routine police procedure—is further evidence, in my opinion, of a sloppy and  
28 disorganized investigation. The pawn shop was located a few miles from the Petersons' home,

1 based on the reports I reviewed, only one Croton watch had been pawned in the prior six months  
2 based on pawn shop records maintained by the state, and that occurred on December 31, 2002.

3 141. I have also seen no photos in the discovery of any of the jewelry recovered by  
4 police when they raided the homes of Todd and Pearce, who pleaded guilty to the burglary of  
5 the Medinas' home and who had in their possession multiple items of stolen jewelry. It was  
6 basic, rudimentary procedure at the time for the police to photograph and otherwise document  
7 the items of jewelry recovered from a suspect's home following a burglary.

8 142. In what had already become a highly publicized case where countless volunteers  
9 were out searching for Laci Peterson, it is difficult to understand why police did not investigate  
10 whether the burglars had in their possession the diamond neckless and/or the diamond earrings,  
11 and/or the Croton watch Laci was reportedly wearing when her husband last saw her.

12 **JAMES ROMANO**

13 143. On Thursday, October 21, 2004, less than two court days before the close of  
14 evidence at trial, the prosecution provided the defense with a report stating that an inmate named  
15 James Romano had information that Laci Peterson "came out during the burglary and yelled at  
16 them while the burglary was in progress."

17 144. My investigation into Mr. Romano's report showed that the police had been  
18 interviewing him and looking into the information he was providing beginning in July 2004, not  
19 long after trial began in Mr. Peterson's case, but the defense was not aware of any of the  
20 information Mr. Romano was providing until the defense's case was nearly finished in late  
21 October 2004.

22 145. The October 21, 2004 report documented recent MPD interviews with James  
23 Romano that occurred on October 18 and 19, 2004, with James Broyer, on October 19, 2004,  
24 and with Michilene Potter on October 20, 2004. The information in the report was exculpatory  
25 and related to the Medina burglary and the Croton watch.

26 146. The report stated that the witness interviews were recorded but those interviews  
27 were not immediately provided to the defense, not until October 25, 2004, or sometime after  
28

1 that. I know that the defense was not provided with MPD's taped interview prior to the date I  
2 interviewed him on October 23, 2005.

3 147. Because the trial was coming to a close, interviewing Romano was an urgent  
4 matter since it appeared he had potentially exculpatory information, based on the police report I  
5 reviewed. On Saturday, October 23, 2004, I traveled to Modesto to interview Mr. Romano where  
6 he was in custody at Stanislaus County Jail.

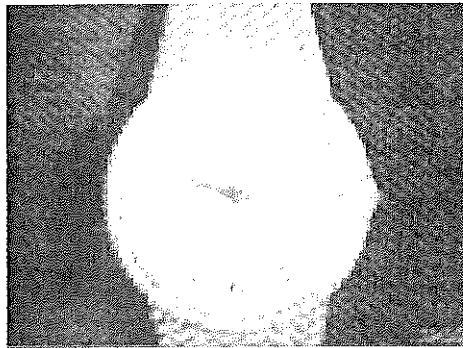
7 148. During our interview, Romano explained that on December 25, 2002, he had  
8 emergency surgery and was hospitalized for several weeks. Once he got out, he was staying  
9 close to home, riding his bike around the neighborhood, trying to heal from the surgery. Romano  
10 stated that sometime after his surgery, probably in February 2003, he overheard a conversation  
11 taking place in someone's garage about Laci confronting the burglars who were at the Medinas  
12 house robbing it. Romano stated that the conversation may have taken place in the garage of  
13 Michilene Potter. He heard several men talking about the Medina burglary and one man stated  
14 that there was a van parked in front of the Medinas' home with five or six people in it and that,  
15 as the house was being burglarized, "Laci was coming up from the park" and she confronted the  
16 driver who was sitting in the van and said, "get the hell out of here before I call the cops," or  
17 words to that effect.

18 149. Romano stated in our interview that when Laci was missing, he was asked by a  
19 friend of the Rocha family, Tim Spencer, to use his street contacts to look into what happened  
20 to Laci and he agreed to do so as a favor to Spencer. He stated that when he heard the  
21 conversation about Laci confronting the burglars, he was not sure what to do with it because he  
22 did not recall the names of the men he heard talking about Laci.

23 150. Romano stated that after he was arrested on a drug-related charge and was in  
24 custody at the Stanislaus County Jail, sometime between June 2004 and August 2004, he had a  
25 cellmate named Rayborn Smith, who told Romano he had a lot of information about the men  
26 involved in the Medina burglary. Smith's information was that there were three, or four, or five  
27 people in the van who were present during the Medina burglary. Rayborn Smith told Romano  
28 that the guns and jewelry that were stolen from the Medinas' home were distributed to others in

1 the community following the burglary. Smith also told Romano that some of the jewelry  
2 distributed from the Medina burglary may have belonged to Laci Peterson.

3 151. Romano stated that he was watching Court TV one day while he was in jail and  
4 saw a report about a watch being pawned in the neighborhood that might have belonged to Laci.  
5 That prompted Romano to recall another incident that occurred in mid-February 2003, when a  
6 friend named Deanna Harbin Renfro came by his house with a friend named Anthony Scarlata  
7 and asked Romano if he wanted to buy a watch. Romano stated that he used to work at his  
8 brother's jewelry shop, Romano's Jewelers in the 1990s, and he described the watch Renfro  
9 wanted him to buy as being medium size with a lot of diamonds. In Romano's recorded  
10 interview with MPD, which was not provided to the defense prior to time I interviewed him,  
11 Romano described the watch as heavily faceted with 1 ct. diamonds with a medium round or  
12 oval face, not petite. Romano declined to buy it from Renfro and believes she and a man named  
13 Tony Scarlata pawned it at a pawn shop. The fact that Anthony Scarlata had pawned the watch  
14 on Valentine's Day was not known to the defense and was not publicly known prior to Romano  
15 calling to provide police with the information he had. The watch Romano described is similar to  
16 the Croton watch that Mr. Peterson told police Laci was wearing when he left home the morning  
17 of December 24. It is pictured below.



25 152. Romano stated that when he heard that Renfro left town and moved to Oklahoma  
26 soon after she pawned the watch with Scarlata in early 2003, he started thinking about the watch  
27 and how it may have been related to Laci Peterson's disappearance. Romano told police in the  
28

1 recorded interview that he was coming forward with the information he provided because he  
2 “couldn’t keep this under [his] hat.”

3 153. In my opinion, based on my experience as a career criminal investigator, James  
4 Romano appeared to be a credible witness who was attempting to provide the information he had  
5 as clearly and accurately as he could, and for the right reasons. Romano corroborated non-public  
6 information about a Croton watch being pawned on Valentine’s Day by Anthony Scarlata and  
7 non-public information that Laci had witnessed the burglary across the street.

8 154. Additionally, Romano stated in his recorded interview that he wanted to help the  
9 Rochas find out what happened to Laci. Romano had no open cases pending and did not have  
10 any expectation for consideration. Romano explained that after his surgery, he had trouble  
11 recalling details of certain events, but he was forthcoming when he had trouble recalling events  
12 and details; he did not appear to me to be making up facts to fill in gaps where he had trouble  
13 recalling information.

14 155. During our interview, Romano provided me with the names of several people from  
15 his neighborhood he felt would be of interest for us to contact to look into the watch and the  
16 Medina burglary. Romano was familiar with a number of people in the drug community in  
17 Modesto, who may have had information about what happened to Laci, and it was my impression  
18 he was providing me with as much information about how and where I could locate those  
19 individuals as he could.

20 156. To corroborate Romano’s account that he overheard a conversation while he was  
21 at Michilene Potter’s house, out in her garage, about Laci confronting the burglars, I attempted  
22 to contact and interview Potter but was unable to reach her. I later learned that Potter provided  
23 important information to MPD Det. Hendee that corroborated what Romano reported, which  
24 Hendee did not include in his written report that was given to the defense on October 21, 2004.  
25 Because I did not have MPD’s taped interview with Potter, I did not have the information she  
26 provided to the police when I interviewed Romano two days later, on October 23, 2004.

27 157. In Det. Hendee’s recorded interview with Ms. Potter, he told her that Romano  
28 reported having information about Laci’s disappearance and the burglary that occurred across

1 the street and that Romano believed he learned this information from a conversation he overheard  
2 that took place in Potter's garage. Potter did not recall the incident Romano described where  
3 there were several men talking in her garage, other than possibly repairmen or plumbers, but she  
4 provided the following information, which was not included in the written police report provided  
5 to the defense. She stated that one day, Romano "had came over and I had to go to the store with  
6 my mother and when I got back there was a note sitting there. The note. I don't even have it  
7 anymore. But the note read something like 'I needed to tell you this in case something happens  
8 to me. You'll know what's going on, and I know that you won't rest until you find out.' I had  
9 no clue and he never explained it to me. . . That's what it said, it said, 'I'm basically just, I'm in  
10 fear for my life. If something ever happens to me, I know that you won't. . .' Like he knows I'm  
11 gonna find or I won't let it rest till I know who did it." Potter stated that it was "very unlike"  
12 Romano to be do something like that. Det. Hendee asked Potter whether she thought Romano  
13 would have made something like that up about having information about Laci's disappearance  
14 and the burglary that occurred across the street and Potter replied: "No, I don't think he would  
15 make it up. I mean, I've never known him to make stuff up like that. And he's always been  
16 pretty honest with me."

17 158. If I had known about that information when I interviewed Romano on October 23,  
18 2004, I would have asked him about it. It may have jogged his memory and helped him to  
19 remember more details about the conversation he reported hearing take place in Potter's garage.  
20 At trial, the defense rested three days after I interviewed Romano. Mr. Peterson was found guilty  
21 on November 12, 2004.

22 159. Romano stated that over the last two or three months, while Mr. Peterson's trial  
23 was underway, he had made five or six attempts to reach law enforcement so he could pass on  
24 his information.

25 160. I later learned that on July 22, 2004, Deputy Kevin Stafford called the MPD tip  
26 line to report that inmate Romano had information.

1           161. Romano was interviewed by Stanislaus County Sheriff's Deputy Campbell at  
2 some point but, to my knowledge, the defense was not provided with any information about  
3 when that interview occurred, nor was the defense provided any report documenting that  
4 interview.

5           162. After speaking to Dep. Campbell, Romano stated that he felt his information was  
6 still being ignored so he then wrote to "Friends Outside." I located in the discovery an MPD  
7 call-in sheet dated August 19, 2004, stating that "Friends Outside" called to report that it had  
8 "information regarding the Peterson case, with the name "James Romano," listed with the entry.  
9 This tip was given to the defense September 9, 2004, over three weeks after it was received.

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14           163. Romano stated that when he did not receive a response, he passed a letter to his  
15 Public Defender, Graylin Bryant.

16           164. Romano pressed on and next passed the information to Stanislaus County Sheriff's  
17 Deputy Terry Johnson PSC, who finally reported the information to the Modesto Police  
18 Department on October 15, 2004. This tip was not given to the defense until after October 21,  
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25 2004.

26           165. In my opinion, law enforcement's refusal to respond to Mr. Romano's information  
27 or investigate it was part of a continuing pattern of systematically turning a blind eye to any  
28 exculpatory evidence in this case that did not support its theory that Mr. Peterson was guilty.



1           166. But for Mr. Romano's persistence and unwillingness to keep quiet, the information  
2 Romano reported would never have come to light at all. It appears to me that MPD only  
3 interviewed Mr. Romano and turned over those interview reports to the defense because it  
4 became apparent that Mr. Romano was not going to go away.

5           167. When I located and interviewed Anthony Scarlata in Modesto on October 23,  
6 2004, he corroborated the information I heard from Romano, including that he knew Deanna  
7 Renfro and had known her for about two and a half years. He recalled that on Valentine's Day  
8 in 2003, he "wanted to get laid." Deanna had this watch, they pawned it for \$20, they bought  
9 cigarettes and a bottle of Jack Daniels or tequila, and went to Romano's house. He stated that  
10 James Broyer, a man Deanna she had been seeing, showed up and they got into a fight yelling  
11 and screaming at each other. Scarlata stated that Renfro told him it was the second time she had  
12 pawned the watch. Scarlata had the pawn slip but stated that he gave it to Renfro because she  
13 told him she wanted to get it back and pawn it a third time. He described the watch as gold or  
14 silver. As previously noted, I showed him a photo of Laci's Croton watch and he stated that he  
15 couldn't say for certain whether it was the same watch but he could not exclude it or say that it  
16 was definitely not the same watch Deanna Renfro had. Scarlata stated that he believes Renfro  
17 and Broyer took off to Oklahoma not long after the watch was pawned. He stated that no one  
18 from the police department had ever interviewed him about the watch.

19           168. On November 1, 2004, while the prosecution was giving its closing argument to  
20 the jury, I interviewed Romano's cell mate, Rayborn Smith, who confirmed that he told Romano  
21 he knew a lot about the people involved in the Medina burglary.

22           169. Rayborn Smith stated that he knew both Todd and Pearce. He had known Steven  
23 Todd for about nine years and had known Glenn Pearce since he (Rayborn) was 16 years old.  
24 Smith also stated that Pearce was the father of his niece and nephew. Smith said that both Todd  
25 and Pearce can be violent and that "the same day Laci came up missing they hit the house." He  
26 stated, "I won't put nothing past Steve and Glenn. Won't put it past them." Smith stated that he  
27 had seen Todd go after someone with a knife and a pellet gun. He also stated that Pearce used  
28 to carry guns and "done stuff but never got caught." Talking about Todd and Pearce possibly

1 being involved in Laci's disappearance, Smith stated, "I know what they can do," but he would  
2 not elaborate.

3 **LT. APONTE & SHAWN TENBRINK**

4 170. In June of 2004, after the start of Mr. Peterson's trial, I came across a call that  
5 MPD received from a Lt. Aponte at CDC Norco. The hotline call came in on January 22, 2003,  
6 roughly one month after Laci went missing. The tip said Lt. Aponte had information that inmate  
7 Shawn Tenbrink spoke to his brother Adam who said Steve Todd said Laci witnessed him  
8 breaking in. There was no follow up on this tip in the roughly 40,000 pages of case discovery  
9 that the defense had received.

10 1/22/03 1059 3745 LT. APONTE

11  
12 909-273-2901 CRC NORCO - RECEIVED INFO FROM SHAWN TENBRINK (INMATE) HE  
13 SPOKE TO BROTHER ADAM WHO SAID STEVE TODD SAID LACI WITNESSED HIM  
BREAKING IN. COULD NOT GIVE DATES OR TIME. APONTE HAS FURTHER INFO.

14 171. On June 25, 2004, I contacted NORCO. I was unsuccessful in having NORCO  
15 send a copy of the recorded call between inmate Shawn and his brother Adam, so I went to CDC  
16 NORCO in southern California. I met with Lt. Xavier Aponte on December 1, 2004. By this  
17 time the jury had returned a guilty verdict and on this day the jury was hearing opening arguments  
18 in the penalty phase of Mr. Peterson's trial.

19 172. Lt. Aponte told me he was notified by housing staff that inmate Shawn Tenbrink  
20 was talking about Laci Peterson in his housing unit, so he immediately called the MPD Laci  
21 Peterson hotline with the information.

22 173. Lt. Aponte stated that he called the MPD a second time within the same week  
23 because he did not receive a call back.

24 174. Lt. Aponte said an MPD detective then called him back and made arrangements  
25 to interview Shawn. Lt. Aponte did not remember the name of the detective, but he thought  
26 "Grogan" sounded familiar.

27 175. Lt. Aponte said he listened to a 3-4 minute recorded call between Shawn Tenbrink  
28 and his brother Adam. He stated that he heard Adam tell Shawn on the recording that Laci

1 walked up while Steve Todd was doing the burglary and Todd made some type of verbal threat  
2 to Laci.

3 176. Lt. Aponte said the MPD detective came to NORCO and interviewed Shawn  
4 Tenbrink.

5 177. While Lt. Aponte did not recall the date of this interview, he thought it occurred  
6 within a couple weeks of his first phone call to the MPD hotline. Lt. Aponte said Shawn was  
7 brought to his office for the interview, and Shawn appeared fearful. During the interview, Shawn  
8 denied having a conversation with his brother and denied knowing Steven Todd.

9 178. Lt. Aponte said the detective listened to the recorded call between Shawn and his  
10 brother, Adam, and Lt. Aponte was 99% positive he made a separate recording onto a cassette  
11 tape of the call between Shawn and Adam. He could not recall whether the detective took a copy  
12 that day or whether Aponte sent the tape at a later date.

13 179. The detective then asked Lt. Aponte if there was any way Shawn's activities could  
14 be monitored, and Lt. Aponte told the detective they would more closely monitor Shawn's mail  
15 and calls.

16 180. Immediately following the interview with the MPD detective, Shawn returned to  
17 his housing unit and called his home to get in touch with his brother Adam but Adam was not  
18 home so Shawn spoke to his mother. It was also a short 3-4 minute call, according to Aponte.  
19 On the recording, Aponte said he heard Shawn tell his mother to tell Adam that the police had  
20 just interviewed him and he was to "keep his mouth shut because he doesn't know who he is  
21 dealing with."

22 181. My interview with Lt. Aponte was almost two years after the events in question  
23 and his office had been relocated. Lt. Aponte stated that he was unable to find his notes  
24 associated with these events.

25 182. Lt. Aponte initialed and signed a statement detailing these events. That statement  
26 was submitted with the Mr. Peterson's motion for new trial on February 25, 2005. In that motion,  
27 the defense asked the court to admonish the prosecution to turn over all investigative materials  
28 related to this tip from Lt. Aponte.

1           183. The prosecution opposed the motion for a new trial and submitted another signed  
2 declaration from Lt. Aponte, dated March 2, 2005. The only statement that differed in the  
3 prosecution’s version and the statement Aponte provided to me was that in the prosecution’s  
4 statement, Lt. Aponte indicated that he arranged “a telephonic interview” between Shawn and  
5 the MPD detective—not a face to face interview, which is what Aponte stated to me. Also  
6 submitted to the court was a declaration from Det. Grogan stating that the only thing he could  
7 find related MPDs interaction with Lt. Aponte was the first hotline call from January 22, 2003.

8           184. To my knowledge, the defense never received any tapes or reports from MPD  
9 about their interviews and interactions with Lt. Aponte, Shawn Tenbrink, Adam Tenbrink, or the  
10 Tenbrink mother.

11           185. It is my opinion, based on my years as a criminal investigator, that MPD’s response  
12 to Lt. Aponte’s information was a critical failure. They either failed to follow up on critical  
13 information from a fellow law enforcement officer in a missing persons case, as indicated by  
14 Det. Grogan’s declaration, or they failed to turn over their investigative materials in violation of  
15 *Brady* as indicated by Lt. Aponte.

16           **BRIAN ULLRICH**

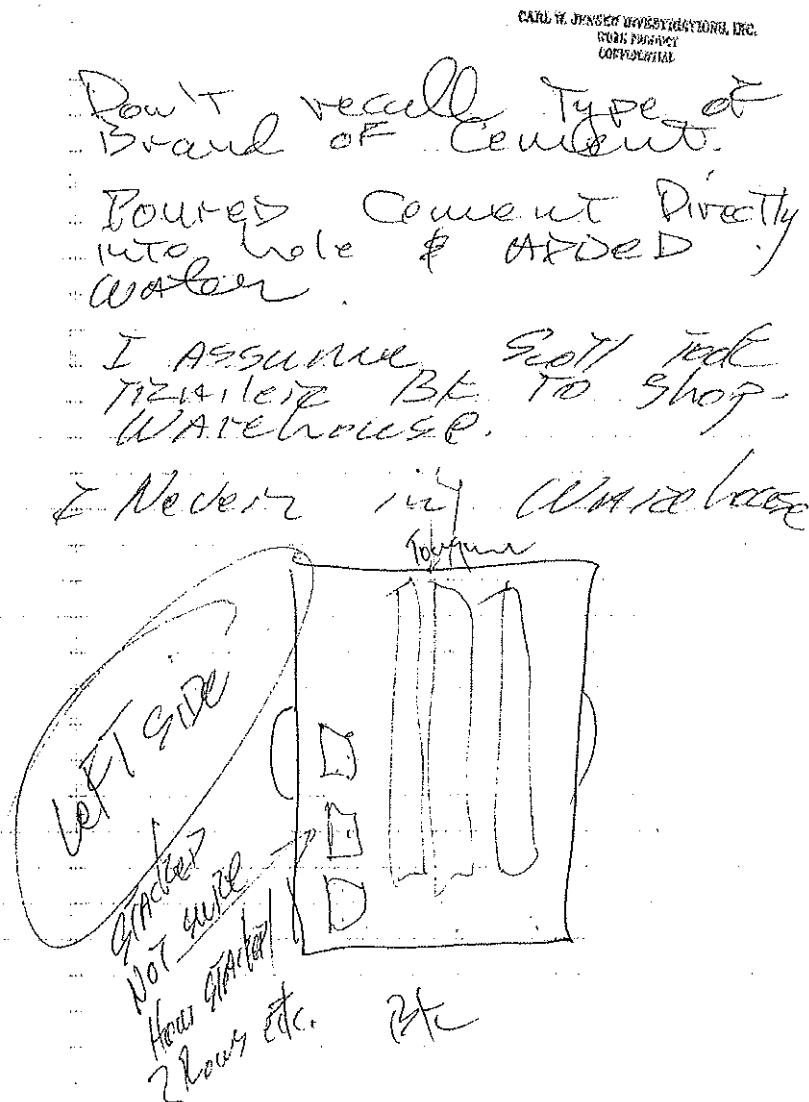
17           186. When the police searched Mr. Peterson’s warehouse, they noticed cement debris  
18 on his trailer and speculated that the debris was evidence that Mr. Peterson had made five anchors  
19 and used them to weigh down Laci’s body in the bay to cover up his crimes, which was their  
20 theory at trial.

21           187. This theory and the fact that there was cement residue on Mr. Peterson’s flatbed  
22 trailer became publicly known while Laci was still missing, so there was much speculation in  
23 the media about the cement. I dedicated significant time investigating the prosecution’s theory  
24 and was unable to find any evidence supporting that theory.

25           188. I reviewed a report stating that a business competitor of Mr. Peterson made a call  
26 to the Modesto police in February of 2003, and told MPD that he was curious to see who his  
27 competition was so he drove by Mr. Peterson’s office/warehouse in September of 2002. He  
28 stated that he saw Mr. Peterson driving an F150 and towing a flatbed trailer. The flatbed trailer

1 was loaded with 4 x 4 posts, fence boards and at least four sacks of Ready Mix concrete. It  
2 looked like Mr. Peterson was in the process of a building project.

3 189. I also interviewed Mr. Peterson's friend Brian Ullrich and he stated that he recalled  
4 helping Scott with a fence building project he was working on in his backyard sometime in  
5 October 2002, and he also recalled seeing fence posts and several bags of cement mix stack on  
6 Scott's trailer. I asked Ullrich to describe how the trailer was loaded and he guided me as I made  
7 the sketch, depicted below.



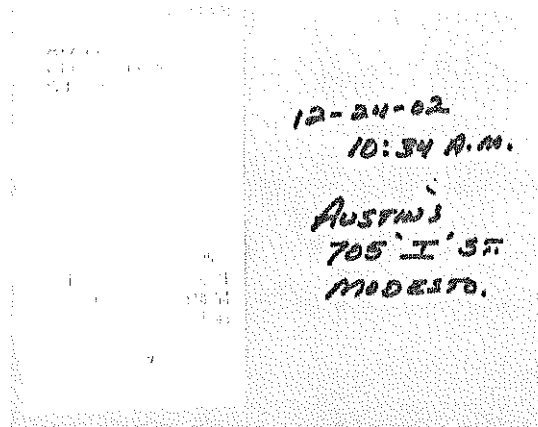
1           190. I noticed that the area where the cement mix was loaded onto the trailer appeared  
2 to be consistent with the area where there was cement mix debris was found on Scott's trailer,  
3 which the prosecution was arguing from left there after Mr. Peterson made anchors to use to  
4 cover up the murder of his wife.

5           **KAREN SERVAS' AUSTIN'S RECEIPT**

6           191. It was my understanding that the timeline the prosecution relied heavily on was  
7 based off of Ms. Karen Servas' account of when she found the Petersons' dog, McKenzi, outside  
8 the Petersons' backyard. Ms. Servas originally told Mr. Peterson and the police that she thought  
9 that occurred around 10:30 a.m. and Mr. Peterson asked Ms. Servas if she could be anymore  
10 precise with her timeline.

11           192. Ms. Servas stated that she used the time stamp on a receipt from a purchase she  
12 made at Austin's Christmas Store the morning of December 24 and worked backward to come  
13 up with the time she believed she found and put McKenzi back into the Petersons' yard, before  
14 heading out to run errands. This receipt played an important role in the prosecution's theory.

15           193. In my effort to confirm the accuracy of the time stamp on the receipt, I met with  
16 Mr. William Austin, owner of Austins Pool and Patio Furniture. On February 6, 2004, I showed  
17 Mr. Austin the receipt, People's Exhibit 125, Karen Servas' receipt. Mr. Austin informed me  
18 that he does not use the term "store" or "705 I" when referring to the address. Mr. Austin stated  
19 that he owned both buildings 702 and 705 on I Street but only uses 702 as his business address.  
20 He stated that he did not believe the receipt I showed him came from his store. Below is People's  
21 Exhibit 125, Karen Servas' receipt.



1           194. It was my impression that Mr. Austin was not entirely forthcoming when I  
2 interviewed him.

3           195. On February 9, 2004, I interviewed Mr. Jared Jensen, a seasonal employee at  
4 Austin's Christmas [store] during the 2001/2002 and 2003/2004 holiday seasons. Mr. Jensen  
5 stated that he recalled programming the "Header" and "Footer" for the 2003/2004 Christmas  
6 Season. Header: Austins Christmas, and Footer: Happy Holidays All Sales Are Final. I noted  
7 that neither Mr. Austin nor Mr. Jensen ever used the word store when referring to Austin's  
8 Christmas.

9           196. Mr. Jensen stated that the memory would erase when the register is unplugged for  
10 extended periods of time.

11           197. Mr. Jensen also stated that he did not program the date/time for the 2002 Christmas  
12 Season. He recalls going to work one day, and the computer was there, but he does not recall if  
13 the time was correct or not.

14           198. On February 9, 2004, following my interview with Mr. Jensen, I went to Austin's  
15 and spoke with Mr. Austin again. He informed me that he had looked into the cash register,  
16 serial number 2811748, and stated that he had never had it serviced and if his employee, Jared  
17 Jensen, did not program the date/time function into the register, Christmas 2002, then no one  
18 would have programmed it.

19           199. On September 22, 2004, I went to Austins Pool and Patio Furniture, also referred  
20 to as Austins Christmas, the establishment where Karen Servas purchased ornaments on  
21 Christmas Eve 2002, to obtain sales receipts from the Casio electronic cash register to verify the  
22 reliability of the date and time on the receipts. Mr. Austin was not present, but his sales clerk,  
23 Mr. James Moak, was. I made two separate transactions. The first transaction totaled \$18.25,  
24 and I paid cash. The receipt indicated the purchase was made at 10:12 a.m.. Using my cell  
25 phone to verify the time it showed 11:19 a.m. and is pictured below.

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CARL W. JENSEN INVESTIGATIONS, INC.  
WORK PRODUCT  
CONFIDENTIAL

AUSTINS POOL AND PATIO  
701 I STREET  
PHONE 209 524-1774

09/22/2004 10:12AM 01  
000000#4995 CLERK01

DEPT. 01	\$17.00
HOUSE ST	\$17.00
TAX1	\$1.25

ITEMS 10  
CASH \$18.25

THANK YOU  
FOR SHOPPING  
AT AUSTINS  
*ews 9/22/04 11:51am*

200. The second transaction I made, using my MasterCard, totaled \$4.30. The cash register receipt indicated the purchase was made at 10:44 a.m.; the credit card receipt indicated the purchase was made at 11:25 a.m. Using my cell phone to verify the time, it was 11:51 a.m. The receipts are below.



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CARL W. JENSEN INVESTIGATIONS, INC.  
MORE PROUDLY  
CONFIDENTIAL

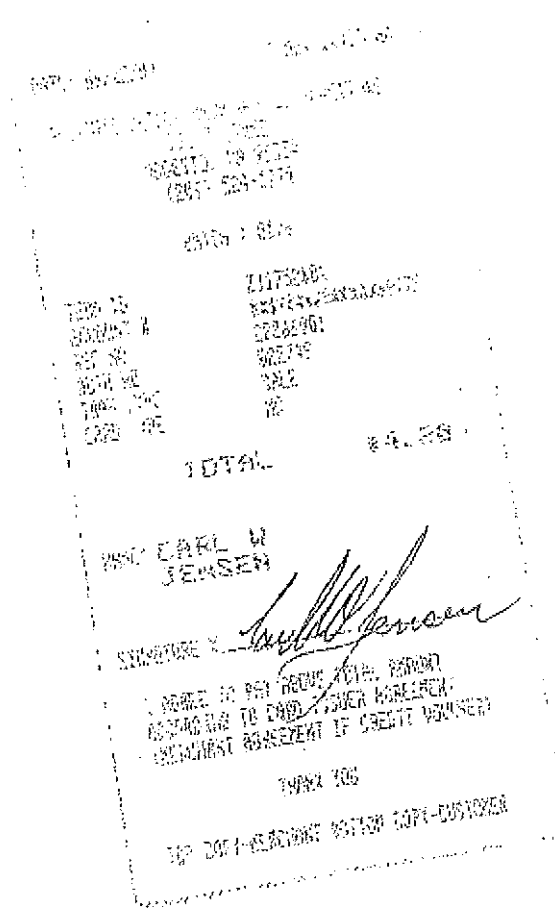
AUSTINS POOL AND PATIO  
701 I STREET  
PHONE 209 524-1774

09/22/2004 10:44AM 01  
0000005000 CLERK01

DEPT. 01            11 \$4.00  
HDSE ST            \$4.00  
TAXI                \$0.30

ITEMS            10  
CASH             \$4.30

THANK YOU  
FOR SHOPPING  
AT AUSTINS  
CASH 9/22/04 11:15 AM



201. There were obvious discrepancies between the actual time and the time stamps on the receipts from Austins. Mr. Moak viewed and acknowledged the time discrepancies on all three receipts.

202. I was unable to locate anything in the discovery provided to the defense indicating that investigators ever checked the accuracy of the time stamps from the Austins' cash registers, before the prosecution built its entire case against Scott Peterson around the time Karen Servas stated she put the Petersons' dog in the their backyard, was in turn based entirely on the time stamp of the receipt from a purchase she made at Austins the morning of December 24, 2002.

1           203. In my opinion, based on my experience as a criminal investigator and based on the  
2 importance of that particular item of evidence to the prosecution's overall case, the time stamp  
3 on Ms. Servas's receipt should have been verified by MPD when they obtained it from Karen  
4 Servas on January 3, 2003.

5           **CONFIRMATION BIAS OR "TUNNEL VISION"**

6           204. It was my opinion then and it remains my opinion today that the police failed to  
7 conduct a fulsome investigation into critical leads because that evidence would have called into  
8 question their immediately formed but erroneous belief that Scott Peterson was guilty of killing  
9 his wife, including the failure to investigate Todd's background, the date or dates and number of  
10 times Todd entered the Medinas' home during the burglary, the Croton watch, and failing to  
11 interview critical eyewitnesses who reported seeing Laci alive after Mr. Peterson left home for  
12 the day on December 24, among other potentially exculpatory evidence.

13           205. Based on my review of the police reports and my own investigation, it is my  
14 opinion that the Modesto Police Department immediately targeted Scott Peterson as their main,  
15 if not only, plausible suspect in the case and then immediately turned a blind eye to a mountain  
16 of exculpatory evidence that was staring them right in the face—presumably because it did not  
17 support their working theory of the case.

18           206. The failure of the police to take the eyewitness reports seriously by following up  
19 on the information those witnesses were providing indicates to me that the detectives responsible  
20 for investigating Laci's disappearance were excluding leads that did not support their theory of  
21 Mr. Peterson's guilt from the outset, or they were untrained, unsupervised, and disorganized, or  
22 some combination of the above.

23           207. In addition to failing to investigate the exculpatory eyewitness reports, the police  
24 also failed to investigate the possible connection between the Medina burglary that happened  
25 between December 24 and December 26, and Laci Peterson's disappearance. Any connection  
26 between the burglary and Laci's disappearance would have exculpated Mr. Peterson.

27           208. Based on my review of the police reports related to the Medina burglary that were  
28 provided to the defense and my own independent extensive investigation into the persons

1 involved in that burglary, it is my opinion that the Modesto Police Department conducted a  
2 superficial and cursory investigation into the details surrounding that crime, including when the  
3 burglary occurred, whether the burglary was carried out over more than one day, how many  
4 individuals may have been involved in the burglary, who those individuals were, and, most  
5 importantly, whether the burglary could have occurred, or at least began, on the same day Laci  
6 Peterson disappeared, December 24, 2002.

7 I have reviewed this declaration in its entirety, and it is accurate to the best of my  
8 knowledge. I declare under penalty of perjury pursuant to the laws of the State of California, that  
9 the foregoing is true and correct.

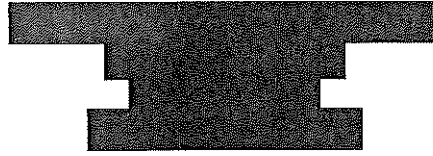
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May 5, 2024  
Date

Carl Jensen  
Carl Jensen

# EXHIBIT A

# Carl W. Jensen



## CURRICULUM VITAE

### EMPLOYMENT

- 2015 to 2021      Administrative Security Officer, Billy Graham Evangelistic Association, Charlotte, NC
- 2010 to 2011      Magistrate Judge, State of North Carolina, Cleveland County.
- 2004 to 2007      Carl W. Jensen Investigations, Inc., 4120 Douglas Blvd., #306-271, Granite Bay, California 95746.

A California licensed full service private investigative firm specializing in cases involving homicide, robbery, sexual offenses, aggravated assault, international extradition, embezzlement, computer crimes, as well as cases involving matters in Russia and former Eastern Bloc countries. Accepted court appointed cases pertaining to indigent defendants. This firm was also retained by corporations to investigate major embezzlement cases for presentation to the respective state or federal prosecuting jurisdictions. Successfully recovered embezzled monies from the operations account of a U.S. Congressman. Investigated all of the workers' compensation cases for American Medical Response in Northern California. Testified in Superior Court.

High Profile Cases. From January 2004 to March 2005 retained by the law firm of Geragos & Geragos as the investigator on the Scott Peterson case in Modesto, California accused of killing his wife Lacy Peterson and unborn son Connor.

- 1997 to 2009      CWJ Investigations, 4120 Douglas Blvd., #306-271, Granite Bay, California 95746.

A California licensed full service private investigative firm specializing in criminal defense investigations.

- 1988 to 1995      Special Agent, Federal Bureau of Investigation (FBI-Retired).

While assigned to a Resident Agency in the southwest, I was solely responsible for the development of the counterintelligence and counterterrorism investigations and operations based on the defined general and specific needs of the FBI. Was assigned to the San Francisco Regional Office and Residence Agencies where I worked foreign counterintelligence and, collaterally, was on the FBI SWAT team.

- 1983 to 1988      Visa International, Risk Management and Security Division, San Mateo, California.

Security Representative. Responsible for world-wide investigations of counterfeit Visa travelers' checks. Conducted investigations in Thailand regarding a major counterfeit operation. Developed and implemented fraud training programs for member institutions pertaining to counterfeit Visa cards, Visa Travelers' checks and Telemarketing fraud. Programs were developed based on the collection and analysis of suspected fraudulent activity and trends domestically and internationally. Established the first California

based telemarketing conferences involving financial institutions, local, state and federal law enforcement and the Attorney General's office to develop a statewide comprehensive approach to telemarketing fraud. Responsible for security inspections of credit card manufacturing plants domestically and internationally to assess physical security vulnerabilities and quality control. Responsible for liaison with federal and state law enforcement agencies.

1979 to 1983                      Special Agent, Naval Investigative Service (NIS).

Conducted Criminal and Counterintelligence investigations for the Department of the Navy assigned to MCAS, El Toro, California. Leading up to the 1980 Olympics in Los Angeles, in depth threat assessments were made of U.S. Navy, to include Marine Corps, interests in Southern California. This involved assessment of installations, to include, but not limited to facilities, persons, telecommunications, transportation and programs. Collateral responsibility as the evidence custodian for the office. Specific assignment in Italy subsequent to the kidnapping of General Dozzier by the terrorist group Rosa Brigada.

### **PUBLIC OFFICE**

2013-2014                      Candidate for the Office of Sheriff, Cleveland County, NC. I ran for office on Godly principals; Return to Moral Values, Servant Leadership and Fiscal Responsibility.

### **MISSIONARY**

1976-1977                      Special Service Worker at Mae Sariang Christian Hospital in Thailand, working primarily on a mobile clinic providing care to Sqaw Karen, Lahu, Lisui, and Hmong Hill Tribes.

Years prior to my arrival at the hospital, an Opium Addiction Recovery program was developed by the hospital however no follow-up research had been accomplished to determine the effectiveness of the program. Data from medical charts was collected, interviews conducted where possible and the results analyzed to determine the effectiveness of the program. Taken into consideration were the cultural and societal aspects of the Karen Tribes and Hmong tribes and their distinct interaction amongst each other. The program was shown to be effective.

1973                              Summer volunteer, Nekursini Christian Hospital, India, working in the pharmacy.

### **EDUCATION**

1974 to 1976                      University of California Berkeley. Bachelor of Arts in Physiology with graduate course study in Neuroanatomy.

1973 to 1974                      Diablo Valley College, Pleasant Hill, California. Undergraduate course study.

### **PUBLICATIONS**

Intelligence Report titled *Israel's Greatest Ally—A Warning to the Nations and Hope for Israel*; Published 2012 by Carl W. Jensen, Special Agent, Federal Bureau of Investigation (retired) and former Magistrate Judge; printed by Westmoreland Printers, Shelby, NC. The report was disseminated throughout the Middle East, Eurasia and the

United States along with an “open letter” addressed to Prime Minister Benjamin Netanyahu.

Intelligence Report titled *Russia's Final Military Campaign—A Warning to the Nations and Hope for Israel*; Published 1999 by Carl W. Jensen, Special Agent, FBI (retired). This encompassed four years of extensive research, analysis and production of intelligence based on open-source information collected from publications and interviews regarding Vladimir Zhirinovsky and his autobiography “Last Dash to the South”. Specific to this report was the threat posed by Zhirinovsky to the Middle East and, in particular to Israel. The report also focused on identifiable problems inherent within the intelligence community from collection to dissemination of intelligence. The report was disseminated to government officials in Russia and Israel.

### **SPECIALIZED SCHOOLS/TRAINING/SEMINARS**

- Magistrates' School, Chapel Hill School of Government
- CJLEADS Training
- Federal Bureau of Investigation (FBI) Academy
- Counterintelligence, FBI
- Special Weapons and Tactics (S.W.A.T), FBI
- Interviews and Interrogation Techniques specific for Counterintelligence
- Naval Investigative Service (NIS) Academy
- Specialized Surveillance Training, NIS
- Counterterrorism, NIS
- Protective Service Training, United States Secret Service
- Narcotics training, Drug Enforcement Administration (DEA)
- Procurement Fraud, Federal Law-Enforcement Training Academy
- Understanding Personality Disorders, The Brain Institute

### **PROFESSIONAL LICENSES AND CERTIFICATIONS**

- California Private Investigators License (not active)
- Polygraph Certification, National Academy of Lie Detection (not active)
- North Carolina Retired Law Enforcement Officers Firearms Qualification Certification issued under HR218
- CPR AED Certification (not active)

### **AWARDS/LETTERS OF APPRECIATION/PLAQUES**

- Letter of appreciation from the Prime Minister's Bureau, Foreign Policy Department, Israel on behalf of Prime Minister Benjamin Netanyahu for the Intelligence Report titled *Israel's Greatest Ally—A Warning to the Nations and Hope for Israel*.
- Letter of appreciation from the Prime Minister's Bureau, Foreign Policy Department, Israel on behalf of Prime Minister Ehud Barak for the Intelligence Report titled *Russia's Final Military Campaign—A Warning to the Nations and*

*Hope for Israel.*

- Letter and monetary award from Director, FBI, for significant contributions in Foreign Counterintelligence. Details of which are classified
- Letter of appreciation from the Inspector Generals' Office, San Francisco relative to a successful NIS criminal investigation of interest to the Inspector General's office.
- Numerous plaques received from International Association of Credit Card Investigators and California Check Investigators Association in appreciation for outstanding contributions at Fraud Control Seminars, Training Institutes and to Law Enforcement and the Financial Industry.
- Certificate of Appreciation from the California Association of Licensed Investigators for contributions to the association.

**PROFESSIONAL ORGANIZATIONS**

- Member of Society of Former Special Agents of the Federal Bureau of Investigation, Inc. (not a current member).
- Member of Charlotte Chapter of Former Special Agents of the Federal Bureau of Investigation



# EXHIBIT B

PLAINTIFF/PETITIONER: ELIZABETH Y. GARCIA	NUMBER:
DEFENDANT/RESPONDENT: Steven W. Todd	

This form must be attached to another form or court paper before it can be filed in court.

The Defendant and I were never married, however, from our relationship, we have two minor children, MICHAEL TODD, born [REDACTED] and CELESTE TODD, born [REDACTED].

Since Defendant and I separated and ended our relationship, he has used the minors as his way of hurting me, scaring me, and as his way of continuing to play the mind games he played all during our relationship. I ended the relationship due to his abuse, both verbal and physical, and as I can control the physical abuse now, the verbal and emotional abuse has intensified greatly.

Defendant has actually taken the minors from where they were playing in the front yard without my knowledge of his leaving with them. On several occasions I have consented to his taking the minors only to have him tell me, while he drives away, that he doesn't know if he will bring them back or not. On 2 separate occasions Michael has been kept out of school by Defendant when he is "Controlling" my life using the minors. On many occasions, Defendant will take the minors and drop them off with someone so he can come back and harass me with the fact that he is now in control whether we are together or not.

I have noticed that Defendant is often sitting outside of my friends and family's homes when I am there, just watching where I go and who I see. Friends have even informed me that they have seen him also. Defendant has NO right to keep me under surveillance. I have been harassed with obscenities, wreckless driving in my neighborhood or wherever I am when he wants me to know that he is present.

I do not have any intentions of trying to keep Defendant from seeing the children, that would not be fair to Defendant or to the minors. It is my goal to establish specific days and times for visitation to prevent Defendant from continuing to use the children to cause fear in me. I am requesting the following be granted both temporarily and made permanent to prevent further usage of the minors to harass or torment me:

The parties shall have joint legal custody of the minor children, with Plaintiff having sole physical custody.

Defendant shall have visitation every Saturday from 10:00am until 6:00pm that same day.

Restraining orders shall be ordered as requested pending the hearing, and then modified after the hearing date if so stipulated between the parties, so long as Defendant continues to be restrained from harassing and stalking me.

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

Date:

2-14-95

ELIZABETH Y. GARCIA

(TYPE OR PRINT NAME)

*Elizabeth Garcia*

(SIGNATURE OF DECLARANT)

Petitioner/Plaintiff  Respondent/Defendant  Attorney  
 Other (specify):

(See reverse for a form to be used if this declaration is not to be attached to another court paper before filing)

**CERES DEPARTMENT OF PUBLIC SAFETY**  
2727 Third Street - (209) 538-5712

FILE NUMBER <b>95-12-0518</b>
SECONDARY NUMBER

**CRIME REPORT**

107  
Records  
Use

UCR CODE <b>14</b>	CATEGORY <b>D</b>	LOCAT.
ADD. ANALYSIS	STATUS <b>F</b>	RA

DATE REPORTED <b>12-30-95</b>	TIME <b>1921</b>	DAY <b>SAT</b>
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TYPE OF CRIME <b>594 PC</b>	DATE OF OCCURRENCE <b>12-30-95</b>	TIME <b>1915</b>	DAY <b>SAT</b>
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LOCATION OF OCCURRENCE <b>PINE ST</b>	ADDITIONAL SUSPECTS LISTED IN NARRATIVE WITNESSES <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>
--	--

**WITNESS CODES:** V--VICTIM W--WITNESS RP--REPORTING PARTY C--CARED FOR M--MISSING  
R--RUNAWAY P--PARENT I--INVOLVED

CODE <b>V</b>	NAME: LAST, FIRST, MIDDLE <b>OAKLEY MARY GARCIA</b>	DATE OF BIRTH	AGE <b>51</b>	NICKNAME/ALIAS/COMMENT
------------------	--	---------------	------------------	------------------------

SEX <b>F</b>	RACE <b>H</b>	ETHNIC	HAIR <b>BLK</b>	EYES <b>BRN</b>	HGT. <b>5-7</b>	WGT. <b>196</b>	DRIVER'S LICENSE NUMBER <b>CA</b>
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ADDRESS <b>[REDACTED] ST CERES CA</b>	AP/PO	DI	TY	CITY	STATE
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HOME PHONE	BUSINESS PHONE	OTHER PHONE	EMPLOYER	ZIP CODE <b>95307</b>
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CODE	NAME: LAST, FIRST, MIDDLE	DATE OF BIRTH	AGE	NICKNAME/ALIAS/COMMENT
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SEX	RACE	ETHNIC	HAIR	EYES	HGT.	WGT.	DRIVER'S LICENSE NUMBER
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ADDRESS	NUMBERS	AP/PO	DI	STREET NAME	TY	CITY	STATE
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HOME PHONE	BUSINESS PHONE	OTHER PHONE	EMPLOYER	ZIP CODE
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CODE	NAME: LAST, FIRST, MIDDLE	DATE OF BIRTH	AGE	NICKNAME/ALIAS/COMMENT
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SEX	RACE	ETHNIC	HAIR	EYES	HGT.	WGT.	DRIVER'S LICENSE NUMBER
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ADDRESS	NUMBERS	AP/PO	DI	STREET NAME	TY	CITY	STATE
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HOME PHONE	BUSINESS PHONE	OTHER PHONE	EMPLOYER	ZIP CODE
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CODE	NAME: LAST, FIRST, MIDDLE	DATE OF BIRTH	AGE	NICKNAME/ALIAS/COMMENT
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SEX	RACE	ETHNIC	HAIR	EYES	HGT.	WGT.	DRIVER'S LICENSE NUMBER
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ADDRESS	NUMBERS	AP/PO	DI	STREET NAME	TY	CITY	STATE
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HOME PHONE	BUSINESS PHONE	OTHER PHONE	EMPLOYER	ZIP CODE
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Index By

Other

CODE	LICENSED NUMBER	TYPE	YEAR	MAKE	MODEL	STYLE	COLOR	VIN. NUMBER
------	-----------------	------	------	------	-------	-------	-------	-------------

I.D. NUMBER <b>115</b>	PREPARED BY <b>Richter</b>	DATE <b>12-30-95</b>	APPROVED BY <i>[Signature]</i>	DATE <b>1/1/96</b>
---------------------------	-------------------------------	-------------------------	-----------------------------------	-----------------------

**RECEIVED**  
JAN 11 1996  
STANISLAUS COUNTY  
DISTRICT ATTORNEY'S OFFICE

**CERES POLICE DEPT.**  
DUPLICATION OF REISSUANCE  
CONTROLLED BY LAW

CPD-1  
Sak 1-0-241 R.

**CERES DEPARTMENT OF PUBLIC SAFETY**

PAGE

FILE NUMBER

2 / OF

95-12-0518

RESPONSIBLE CODES: O—OFFENDER S—SUSPECT

CODE	NAME, LAST, FIRST, MIDDLE						DATE OF BIRTH	AGE	NICKNAME/ALIAS		
S	TODD, STEVEN WAYNE							28			
SEX	RACE	ETHNIC	HAIR	EYES	HGT.	WGT.	DRIVER'S LICENSE	<input type="checkbox"/> SO/I.D. <input type="checkbox"/> C.I.I. # <input type="checkbox"/> S.S.N. # <input type="checkbox"/> F.B.I. #			
W	M		BLN	BLU	6'	150	CA				

ADDRESS		AP/PO	DI	STREET NAME		TY	CITY	STATE	ZIP CODE
				PLEASANT		AD	CERES	CA	95307
HOME PHONE		BUSINESS PHONE		OTHER PHONE		CHARGES			

BOOKING NUMBER	CITATION NUMBER	AR NUMBER	<input type="checkbox"/> PRIORS <input type="checkbox"/> PAROLE <input type="checkbox"/> PROBATION		
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ADDITIONAL INFORMATION:

REGISTER	LVL	RACE	CHRG	CHRG	STAT	DISP	AGNC
OFFENSE AGENCY	CODE UCR	LOCAT	STATUS	DESCRIPTION	UCR ARREST NUMBER	D.A. COMPLAINT NUMBER	

CODE	NAME, LAST, FIRST, MIDDLE						DATE OF BIRTH	AGE	NICKNAME/ALIAS		
SEX	RACE	ETHNIC	HAIR	EYES	HGT.	WGT.	DRIVER'S LICENSE	<input type="checkbox"/> SO/I.D. <input type="checkbox"/> C.I.I. # <input type="checkbox"/> S.S.N. # <input type="checkbox"/> F.B.I. #			
							STATE	NUMBER			

ADDRESS		NUMBER	AP/PO	DI	STREET NAME		TY	CITY	STATE	ZIP CODE
HOME PHONE		BUSINESS PHONE		OTHER PHONE		CHARGES				

BOOKING NUMBER	CITATION NUMBER	AR NUMBER	<input type="checkbox"/> PRIORS <input type="checkbox"/> PAROLE <input type="checkbox"/> PROBATION		
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ADDITIONAL INFORMATION:

REGISTER	LVL	RACE	CHRG	CHRG	STAT	DISP	AGNC
OFFENSE AGENCY	CODE UCR	LOCAT	STATUS	DESCRIPTION	UCR ARREST NUMBER	D.A. COMPLAINT NUMBER	

VEHICLE: O—OFFENDER S—SUSPECT

CODE	LICENSE NUMBER	TYPE	YEAR	MAKE	MODEL	STYLE	COLOR	VIN. NUMBER
	STATE	NUMBER					/	

ADDITIONAL VEHICLE INFORMATION

Place of Attack: 101  Structure 104  Lot/Park/Yard 102  Vehicle 109  Other \_\_\_\_\_  
 103  Street/Alley \_\_\_\_\_

Description of Surrounding Area: 201  Residential 202  Business 203  Industrial/Mfg. 204  Recreational 205  Institutional 206  Open Space 209  Other \_\_\_\_\_

<p>3. Non-Residential</p> <p><input type="checkbox"/> 01 Convenience  <input type="checkbox"/> 02 Fast Food  <input type="checkbox"/> 03 Restaurant/Bar  <input type="checkbox"/> 04 Drug/Medical  <input type="checkbox"/> 05 Gas Station  <input type="checkbox"/> 06 Retail/Service  <input type="checkbox"/> 07 Retail/Comm.  <input type="checkbox"/> 08 Financial  <input type="checkbox"/> 09 Entertain/Rec.  <input type="checkbox"/> 10 Public Bldg.  <input type="checkbox"/> 11 Industrial  <input type="checkbox"/> 12 Office/Suite  <input type="checkbox"/> 13 Other</p>	<p>5. Target(s)</p> <p><input type="checkbox"/> 01 Cash Reg/Drawer  <input type="checkbox"/> 02 Owner/Employee  <input type="checkbox"/> 03 Safe/Box  <input type="checkbox"/> 04 Vending Machine  <input type="checkbox"/> 05 Display Items  <input type="checkbox"/> 06 Customer  <input type="checkbox"/> 07 Other</p>	<p>7. Method of Entry</p> <p><input checked="" type="checkbox"/> N/A  <input type="checkbox"/> 01 Attempt Only  <input type="checkbox"/> 02 No Force  <input type="checkbox"/> 03 Key/Slip  <input type="checkbox"/> 04 Bodily Force  <input type="checkbox"/> 05 Saw/Drill/Burn  <input type="checkbox"/> 06 Hid in Bldg.  <input type="checkbox"/> 07 Twisted Lock  <input type="checkbox"/> 08 Open Business  <input type="checkbox"/> 09 Large Pry Tool  <input type="checkbox"/> 10 Small Pry Tool  <input type="checkbox"/> 11 Brick/Rock  <input type="checkbox"/> 12 Bolt Cutters/Pliers  <input type="checkbox"/> 13 Punch  <input type="checkbox"/> 14 Window Smash  <input type="checkbox"/> 15 Tape/Wire  <input type="checkbox"/> 16 Other</p>	<p>8. Suspect Actions</p> <p><input type="checkbox"/> 01 Indication of Muilt. Suspects  <input type="checkbox"/> 02 Vandalized  <input type="checkbox"/> 03 Ransacked  <input type="checkbox"/> 04 Defecated  <input type="checkbox"/> 05 Smoked on Premises  <input type="checkbox"/> 06 Ate/Drank on Premises  <input type="checkbox"/> 07 Used Matches for Light  <input type="checkbox"/> 08 Alarm Disabled/Bypassed  <input type="checkbox"/> 09 Knew Location of Hidden Cash  <input type="checkbox"/> 10 Selective in Lost  <input type="checkbox"/> 11 Took Only TV/Stereo  <input type="checkbox"/> 12 Took Only Money  <input type="checkbox"/> 13 Took Only Concealables  <input type="checkbox"/> 14 Used Victim's Tools  <input type="checkbox"/> 15 Vehicle Needed to Remove Property  <input type="checkbox"/> 16 Unoccupied Building  <input type="checkbox"/> 17 Occupied Building  <input type="checkbox"/> 18 Prepares Exit  <input type="checkbox"/> 19 Inflicted Injury  <input type="checkbox"/> 20 Forced Victim to Move  <input type="checkbox"/> 21 Used Lookout/Driver  <input type="checkbox"/> 22 Threatens Retaliation  <input type="checkbox"/> 23 Took Victim's Vehicle  <input type="checkbox"/> 24 Disabled Phone  <input type="checkbox"/> 25 Suspect Armed  <input type="checkbox"/> 26 Shut Off Power  <input type="checkbox"/> 27 Bound/Gagged Victim  <input type="checkbox"/> 28 Forced Victim to lie on Floor  <input type="checkbox"/> 29 Used Demand Note</p>	<p><input type="checkbox"/> 30 Placed Property in Sack/Pocket  <input type="checkbox"/> 31 Ripped/Cut Clothing  <input type="checkbox"/> 32 Used Victim's Name  <input type="checkbox"/> 33 Molested Victim  <input type="checkbox"/> 34 Unusual Odor(s)  <input type="checkbox"/> 35 Masturbated  <input type="checkbox"/> 36 Struck Victim  <input type="checkbox"/> 37 Disrobed Fully  <input type="checkbox"/> 38 Disrobed Partially  <input type="checkbox"/> 39 Blindfolded Victim  <input type="checkbox"/> 40 Made Threats  <input type="checkbox"/> 41 HBD  <input type="checkbox"/> 42 UID  <input type="checkbox"/> 43 Fired Weapon  <input type="checkbox"/> 44 Demanded Money  <input checked="" type="checkbox"/> 45 Other  <u>STRUCK VEH WITH FIST</u></p>
<p>4. Residential</p> <p><input type="checkbox"/> 01 Sgl. Family Dwelling  <input type="checkbox"/> 02 Apartment  <input type="checkbox"/> 03 Condo  <input type="checkbox"/> 04 Hotel/Motel  <input type="checkbox"/> 05 Garage  <input type="checkbox"/> 06 Other</p>	<p>6. Point of Entry</p> <p><input checked="" type="checkbox"/> N/A <input type="checkbox"/> Side  <input type="checkbox"/> Front <input type="checkbox"/> Gr. Lev.  <input type="checkbox"/> Rear <input type="checkbox"/> Up Lev.  <input type="checkbox"/> 00 Unknown  <input type="checkbox"/> 01 Door  <input checked="" type="checkbox"/> 02 Window  <input type="checkbox"/> 03 Sliding Glass  <input type="checkbox"/> 04 Duct/Vent  <input type="checkbox"/> 05 Adj. Building  <input type="checkbox"/> 06 Roof/Floor  <input type="checkbox"/> 07 Wall  <input type="checkbox"/> 08 Garage  <input type="checkbox"/> 09 Basement  <input type="checkbox"/> 10 Skylight  <input type="checkbox"/> 11 Other</p>	<p>Exit _____</p>	<p>9. Alarm System—Robbery, Burglary, Theft only</p> <p><input type="checkbox"/> 01 Yes-On  <input type="checkbox"/> 02 Yes-Not on  <input type="checkbox"/> 03 No System</p>	

SUSPECT INFORMATION

<p><u>KNOWN</u> Suspect(s) Relation to Victim <input type="checkbox"/> <input type="checkbox"/> Relative <input type="checkbox"/> <input type="checkbox"/> Acquaintance <input type="checkbox"/> <input type="checkbox"/> Stranger</p>							
<p>Hair Length/Type</p> <p>1 2 Suspect  <input type="checkbox"/> 0 Unk  <input type="checkbox"/> 1 Bald  <input type="checkbox"/> 2 Collar  <input type="checkbox"/> 3 Long  <input type="checkbox"/> 4 Shoulder  <input type="checkbox"/> 5 Short  <input type="checkbox"/> 6 Receding</p> <p><input type="checkbox"/> 1 Coarse  <input type="checkbox"/> 2 Fine  <input type="checkbox"/> 3 Thick  <input type="checkbox"/> 4 Thinning  <input type="checkbox"/> 5 Wiry  <input type="checkbox"/> 6 Other</p>	<p>Hair Style</p> <p>1 2 Suspect  <input type="checkbox"/> 0 Unk  <input type="checkbox"/> 1 Afro/Nat  <input type="checkbox"/> 2 Braided  <input type="checkbox"/> 3 Bushy  <input type="checkbox"/> 4 Greasy  <input type="checkbox"/> 5 Military  <input type="checkbox"/> 6 Ponytail  <input type="checkbox"/> 7 Processed  <input type="checkbox"/> 8 Straight  <input type="checkbox"/> 9 Wavy/Curly  <input type="checkbox"/> 10 Wig  <input type="checkbox"/> 11 Crewcut  <input type="checkbox"/> 12 Other</p>	<p>Facial Hair</p> <p>1 2 Suspect  <input type="checkbox"/> 0 Unk  <input type="checkbox"/> 1 Clean Shv.  <input type="checkbox"/> 2 Full Beard  <input type="checkbox"/> 3 Fu Manchu  <input type="checkbox"/> 4 Goatee  <input type="checkbox"/> 5 Lower Lip  <input type="checkbox"/> 6 Mustache  <input type="checkbox"/> 7 Fuzz  <input type="checkbox"/> 8 S/Burns  <input type="checkbox"/> 9 Unshaven  <input type="checkbox"/> 10 Van Dyke  <input type="checkbox"/> 11 Other</p>	<p>Complexion</p> <p>1 2 Suspect  <input type="checkbox"/> 0 Unk  <input type="checkbox"/> 1 Acne  <input type="checkbox"/> 2 Dark  <input type="checkbox"/> 3 Freckled  <input type="checkbox"/> 4 Light  <input type="checkbox"/> 5 Medium  <input type="checkbox"/> 6 Pale  <input type="checkbox"/> 7 Pocked  <input type="checkbox"/> 8 Ruddy  <input type="checkbox"/> 9 Shallow  <input type="checkbox"/> 10 Tanned  <input type="checkbox"/> 11 Other</p>	<p>Gen. Appearance</p> <p>1 2 Suspect  <input type="checkbox"/> 0 Unk  <input type="checkbox"/> 1 Casual  <input type="checkbox"/> 2 Conserv.  <input type="checkbox"/> 3 Dirty  <input type="checkbox"/> 4 Disguise  <input type="checkbox"/> 5 Flashy  <input type="checkbox"/> 6 Gd Looking  <input type="checkbox"/> 7 Military  <input type="checkbox"/> 8 Unkempt  <input type="checkbox"/> 9 Unusual Od.  <input type="checkbox"/> 10 Wall Gr.  <input type="checkbox"/> 11 Other</p>	<p>Demeanor</p> <p>1 2 Suspect  <input type="checkbox"/> 0 Unk  <input type="checkbox"/> 1 Angry  <input type="checkbox"/> 2 Apologetic  <input type="checkbox"/> 3 Calm  <input type="checkbox"/> 4 Disorg.  <input type="checkbox"/> 5 Irrat.  <input type="checkbox"/> 6 Nervous  <input type="checkbox"/> 7 Polite  <input type="checkbox"/> 8 Profess.  <input type="checkbox"/> 9 Stupor  <input type="checkbox"/> 10 Violent  <input type="checkbox"/> 11 Other</p>	<p>Speech</p> <p>1 2 Suspect  <input type="checkbox"/> 0 Unk  <input type="checkbox"/> 1 Accent  <input type="checkbox"/> 2 Lips  <input type="checkbox"/> 3 Mumbles  <input type="checkbox"/> 4 Offensive  <input type="checkbox"/> 5 Quiet  <input type="checkbox"/> 6 Rapid  <input type="checkbox"/> 7 Slow  <input type="checkbox"/> 8 Stutters  <input type="checkbox"/> 9 Talkative  <input type="checkbox"/> 10 Sturred  <input type="checkbox"/> 11 Other</p>	<p>Voice</p> <p>1 2 Suspect  <input type="checkbox"/> 0 Unk  <input type="checkbox"/> 1 Disguised  <input type="checkbox"/> 2 High Pitch  <input type="checkbox"/> 3 Loud  <input type="checkbox"/> 4 Low Pitch  <input type="checkbox"/> 5 Medium  <input type="checkbox"/> 6 Monotone  <input type="checkbox"/> 7 Nasal  <input type="checkbox"/> 8 Pleasant  <input type="checkbox"/> 9 Raspy  <input type="checkbox"/> 10 Soft  <input type="checkbox"/> 11 Other</p>

<p>R/Lt Handed</p> <p>1 2 Suspect  <input type="checkbox"/> 0 Unk  <input type="checkbox"/> 1 Right  <input type="checkbox"/> 2 Left</p> <p>Face</p> <p>1 2 Suspect  <input type="checkbox"/> 0 Unk  <input type="checkbox"/> 1 Square  <input type="checkbox"/> 2 High Cheekbone  <input type="checkbox"/> 3 Long  <input type="checkbox"/> 4 Broad  <input type="checkbox"/> 5 Thin  <input type="checkbox"/> 6 Round  <input type="checkbox"/> 7 Oval</p>	<p>Suspect #1 Clothing</p> <p><input type="checkbox"/> 0 Unk  <input type="checkbox"/> 1 Ski Mask _____  <input type="checkbox"/> 2 Stocking Mask _____  <input type="checkbox"/> 3 Cap/Hat _____  <input type="checkbox"/> 4 Coat/Jacket _____  <input type="checkbox"/> 5 Shirt _____  <input type="checkbox"/> 6 Pants _____  <input type="checkbox"/> 7 Shoes _____  <input type="checkbox"/> 8 Gloves _____  <input type="checkbox"/> 9 Glasses _____  <input type="checkbox"/> 10 Jewelry _____  <input type="checkbox"/> 11 Other _____</p>	<p>Suspect #2 Clothing</p> <p><input type="checkbox"/> 0 Unk  <input type="checkbox"/> 1 Ski Mask _____  <input type="checkbox"/> 2 Stocking Mask _____  <input type="checkbox"/> 3 Cap/Hat _____  <input type="checkbox"/> 4 Coat/Jacket _____  <input type="checkbox"/> 5 Shirt _____  <input type="checkbox"/> 6 Pants _____  <input type="checkbox"/> 7 Shoes _____  <input type="checkbox"/> 8 Gloves _____  <input type="checkbox"/> 9 Glasses _____  <input type="checkbox"/> 10 Jewelry _____  <input type="checkbox"/> 11 Other _____</p>	<p>Weapons</p> <p>1 2 Suspect  <input type="checkbox"/> 1 Handgun #1 Cal. _____ Lgth. _____  <input type="checkbox"/> 2 Automatic  <input type="checkbox"/> 3 Revolver #2 Cal. _____ Lgth. _____  <input type="checkbox"/> 4 Blue Steel  <input type="checkbox"/> 5 Chrome/Nickel  <input type="checkbox"/> 6 Rifle/Shotgun  <input type="checkbox"/> 7 Sawed Off  <input type="checkbox"/> 8 Knife  <input type="checkbox"/> 9 Other Cutting/Stabbing Inst.  <input type="checkbox"/> 10 Hands/Bodily Force  <input type="checkbox"/> 11 Club/Bludgeon  <input type="checkbox"/> 12 Simulated Weapon  <input type="checkbox"/> 13 Other</p>
--	--	--	--

Tattoos/Scars

1 2 Suspect	1 2 Suspect	1 2 Suspect
<input type="checkbox"/> Arm _____	<input type="checkbox"/> Head/Face _____	<input type="checkbox"/> Other _____
<input type="checkbox"/> Hand _____	<input type="checkbox"/> Shoulder/Back _____	
<input type="checkbox"/> Abdomen/Chest _____	<input type="checkbox"/> Legs/Feet _____	

RECORDS USE

- CERES DPS POLICE
- PATROL
- INVEST.
- DRUG UNIT
- CHIEF
- CMDR
- INTEL
- RECORDS
- PROPERTY
- CSO
- COURT LIAISON
- VIPS
- CHAPLAINS
- COMPUTERS
- 
- CITY HALL
- CITY MGR.
- CITY ATTY.
- PUBLIC WKS.
- 
- EMERGENCY SERVICES
- CMDR.
- BIC
- FM
- CAPT.
- 
- COURT
- MUNI
- TRAFFIC
- JUVENILE
- 
- COUNTY
- DA
- S/O
- SDEA
- HEALTH
- Dept. Env. Res.
- PROBATION
- SCFW
- Animal Control
- STATE/FED
- CII
- ABC
- FBI
- PAROLE
- DOJ
- DMV
- 
- OTHER
- 
- INDEXED BY:



**CERES DEPARTMENT OF PUBLIC SAFETY**  
 2727 THIRD STREET CERES CA, 95307  
**SUPPLEMENTAL REPORT**

ORIGINAL FILE NUMBER  
 95-120518  
 PAGE: 4 OF:     

1 I. FACTS: I CONTACTED V-OAKLEY, MARY D.O.B. [REDACTED] AT  
 2 THE COUNTRY MARKET. V-OAKLEY TOLD ME S-TODD, STEVEN  
 3 D.O.B. [REDACTED] HAD STRUCK HER CAR WITH HIS FIST  
 4 CAUSING DAMAGE. I SAW A MINOR DENT TO THE VEH  
 5 L/FRONT QUARTER PANEL OF THE VEH AND A RED  
 6 LIQUID SUBSTANCE SMEARDED UPON THE DENT WHICH  
 7 V-OAKLEY SAID WAS S-TODD'S BLOOD. V-OAKLEY  
 8 TOLD ME THAT AT 1800 HRS. S-TODD RETURNED  
 9 HIS SON (VICTIM GRANDSON) HOME PER COURT  
 10 VISITATION ORDERS. HOWEVER HE DID NOT LEAVE  
 11 HIS DAUGHTER AS ORDERED ALSO. V-OAKLEY ALSO  
 12 TOLD ME SHE DROVE HER CAR TO S-TODD'S  
 13 HOUSE TO RETRIEVE HER GRANDDAUGHTER BUT  
 14 HE WASNT HOME. V-OAKLEY TOLD ME SHE  
 15 STOPPED AT THE COUNTRY MARKET TO TELEPHONE  
 16 THE POLICE AND REPORT THE VIOLATION OF VISIT-  
 17 ATION. V-OAKLEY TOLD ME IT WAS AT THAT  
 18 TIME S-TODD DROVE UP AND BECAME ANGRY  
 19 WHEN FINDING OUT SHE CALLED THE POLICE.  
 20 V-OAKLEY TOLD ME S-TODD RETURNED HER  
 21 GRANDDAUGHTER, THREATENED TO ASSAULT HER  
 22 HUSBAND AND PUNCHED HIS FIST INTO HER  
 23 CAR.  
 24 I ATTEMPTED TO CONTACT S-TODD FOR A STATE-  
 25 MENT, HOWEVER HE WASNT HOME.

27 II. EVIDENCE: NONE  
 28  
 29 III. STATEMENTS: V-OAKLEY CAN SAY S-TODD  
 30 THREATENED HER HUSBAND AND STRUCK HER

PREPARED BY <u>Richter</u>	ID NO.	DATE <u>12-30-95</u>	APPROVED BY	ID NO.	DATE
----------------------------	--------	----------------------	-------------	--------	------

RECORDS USE

CERES DPS POLICE

- PATROL
- INVEST.
- DRUG UNIT
- CHIEF
- CMDR.
- INTEL.
- RECORDS
- PROPERTY
- CSO
- COURT LIAISON
- VIPS
- CHAPLAINS
- COMPUTERS

CITY HALL

- CITY MGR.
- CITY ATTY.
- PUBLIC WKS.

EMERGENCY SERVICES

- CMDR.
- B/C
- FM
- CAPT.

COURT

- MUNI
- TRAFFIC
- JUVENILE

COUNTY

- DA
- S/O
- SDEA
- HEALTH
- Dept. Env. Res.
- PROBATION
- SCFW
- Animal Control

STATE/FED

- CII
- ABC
- FBI
- PAROLE
- DOJ
- DMV

OTHER

INDEXED BY:



CERES DEPARTMENT OF PUBLIC SAFETY

2727 THIRD STREET CERES CA 95307

SUPPLEMENTAL REPORT

ORIGINAL FILE NUMBER

95-12-0518

PAGE:

5

OF:

5

1 HER CAR WITH HIS FIST DAMAGING LT.

2

3 IV. DISPOSITION: CONTACT WITH S-TODD FOR

4 STATEMENT.

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PREPARED BY ID. NO. DATE

APPROVED BY ID. NO. DATE

ADMINISTRATION 538-5728

RECORDS 538-5714

INVESTIGATIONS 538-5727

PROPERTY 538-5744

DISPATCH 538-5712

WATCH CMDR. 538-5706

FAX 538-5707

EMERG. SERV. 538-5702

TE-CJ000163

MPD Class. Code <input type="checkbox"/> Misd. <input checked="" type="checkbox"/> Felony		<input checked="" type="checkbox"/> Booked <input type="checkbox"/> Dispatched <input type="checkbox"/> Cited <input checked="" type="checkbox"/> On View <input type="checkbox"/> C/R <input type="checkbox"/> TRU <input type="checkbox"/> D.A. Complaint		<b>MODESTO POLICE DEPARTMENT</b> <b>POLICE REPORT</b>			Page No. 1 of 1	Report No. 96-37615		
Offense Code No. & Description 11377H+S, 11357(B)H+S, 14601				<input type="checkbox"/> I & B WANT <input type="checkbox"/> HATE CRIME <input type="checkbox"/> DOMESTIC VIOLENCE		Date/Time Reported 5-6-96 1928	Platoon 4TU	Beat 41	R.D. 473	
Date(s) of Occurrence 5-6-96		Day(s) of Week MONDAY		Time(s) of Occurrence 1928		Location of Occurrence / Business Name / City, County S. CONETO MODESTO, STANISLAUS				
<b>C - COMPLAINANT    D - DEFENDANT    S - SUSPECT    W - WITNESS    V - VICTIM</b>										
Code V	Name (Last, First, Middle) STATE OF CALIFORNIA				Residence Address -			Residence Phone -		
Occupation -	Race -	Sex -	Age -	Date of Birth -	Business/School Address -			Business Phone -		
Code D	Name (Last, First, Middle) TODD, STEVEN WAYNE				Residence Address -			Residence Phone -		
Occupation UNEMP.	Race W	Sex F	Age -	Date of Birth -	Business/School Address PLEASANT #B, CEJES			Business Phone N/A		
Desc. -	Hair BRN	Eyes BRN	Height 6'0"	Weight 150	Clothing W/ BE CAP, BLK T-SHIRT, BLU JEANS, BLK T-SHIRT					
Personal Oddities (unusual features, scars, tattoos, etc.) -					WEAPON (verbal threats, bodily force, simulated gun, etc. If knife or gun, describe fully) -					
Code W	Name (Last, First, Middle) OFF. T. WILCOXSON				Residence Address -			Residence Phone -		
Occupation -	Race -	Sex -	Age -	Date of Birth -	Business/School Address C/O MODESTO P.D.			Business Phone 572-9500		
Desc. -	Hair -	Eyes -	Height -	Weight -	Clothing -					
Personal Oddities (unusual features, scars, tattoos, etc.) -					WEAPON (verbal threats, bodily force, simulated gun, etc. If knife or gun, describe fully) -					
N.E. Area Cmd N.W. Area Cmd S.E. Area Cmd S.W. Area Cmd	<input checked="" type="checkbox"/> Suspect <input type="checkbox"/> Victims	Year 80	Make DATS	Model P.U.	Body Style RED	Color / Color -	License No. -	State CA	Vr. Expires 96	
Add Veh. Identifiers (Damage, Custom Wheels, etc.) -					Vin No. #5898	Vehicle Disposition VEL. LEFT W/ THOMAS DEER				
Registered Owner Name Lisa Lynn Stringfellow				Residence Address PLEASANT AV. CEJES			Residence Phone -		Business Phone -	
<b>PROPERTY/CASE NARRATIVE</b>										
City	I.D./Serial Article Name	Numbers	Model Name and Brand, Make or Manufacturer		Model Numbers	Complete Description (color, size, etc.)		Value		
	SEE DICTATED NARRATIVE									
INSURANCE COMPANY					ADDITIONAL PROPERTY <input type="checkbox"/>			TOTAL VALUE \$		
CITIZEN ARREST <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		I hereby arrest the above defendant on the charge indicated and request a peace officer to take him into custody. I will appear as directed and sign a complaint against the person I have arrested.			Signature of Arresting Citizen [Signature]					
CASE DISPOSITION		<input type="checkbox"/> Unfounded <input checked="" type="checkbox"/> Open <input type="checkbox"/> Exceptionally Cleared <input checked="" type="checkbox"/> Cleared by Arrest			<input type="checkbox"/> Suspended Pending Further Information <input type="checkbox"/> Closed					
Date / Time of report 5-6-96 2000	Reporting Officer #1 R. STEWART	IBM # 70550	Reviewer's Initials [Signature]	Dictated Narrative <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Follow-up Required <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					

RECORDS  
FILE  
CLERK  
Chief  
Capt. Ops.  
Capt. Spl.  
Field Op. Div.  
Invest. Div.  
Records Mgr.  
Aband. Auto  
Animal Cont.  
Crime Analys.  
Crime Prevnt.  
Pawn  
P S D  
STAT  
TRF  
NPU  
Prop. Clk.  
Reporting. Ofc.  
Warrant Ofcs.  
ABC  
CII  
City Attorney  
Court Liaison  
DEA  
Diversion  
S.O.  
Press  
Other  
OFFICER  
REQUESTS  
OR  
COPIES



SOURCE OF ACTIVITY:

On 5/6/96, at approximately 1928 hours, I was working in a marked patrol unit near the area of Tioga and S. Conejo. I observed a red pickup driven by the defendant eastbound on Tioga, approaching S. Conejo. The defendant was driving at an unsafe speed, due to the number of small children on bicycles, who were riding in the street. I also saw two broken tail lamps which is a violation of 24603(E) VC.

I attempted to get through the juveniles to stop the vehicle for the above mentioned violations.

OBSERVATIONS:

I saw the vehicle going north on S. Conejo and pull into the driveway at 412 S. Conejo. I saw a white male adult wearing a white baseball cap, blue jeans, and black T-shirt, close the driver's door and run up towards the residence at 412 S. Conejo. Officer WILCOXSON pulled up in his marked patrol unit and we both got out and were going to attempt contact with the driver of the vehicle.

The white male adult driver walked back towards his vehicle and I asked him, "Why were you driving so fast? Did you know you left your stereo on in your pickup?" Mr. TODD said, "I was watching where I was going, and I was coming back out to turn off the stereo."

I informed Mr. TODD that I was contacting him for the vehicle code violations of 22350 VC, unsafe speed; and 24603(E) VC, broken tail lamps. Mr. TODD identified himself with his California I.D. card. He was found to be driving on a suspended license and was taken into custody for 14601.1(A) VC.

During a search of Mr. TODD's person, I found a plastic baggie in his right front pants pocket. When I pulled the baggie out of his pants he spontaneously stated, "That is flux, not crank. Flux is used when you are welding, and I am a welder."

I handed the suspected methamphetamine to Officer WILCOXSON. I placed Mr. TODD in the rear of my patrol unit and then searched the vehicle pursuant to the arrest. I found a Marlboro cigarette pack in the console between the two front seats. The Marlboro pack contained approximately six grams of a green leafy substance, believed to be marijuana.

Mr. TODD asked that the vehicle be left with Thomas [REDACTED] S. Conejo, and after the search was completed, the keys were turned over to Mr. DIBB.

Mr. TODD was transported to Modesto Police Department for further investigation. TODD was read his Rights per Miranda from my department issued tablet and he stated, "Yeah, I know my rights," and "Sure, go ahead and ask a question and I'll answer it."

Mr. TODD stated that he had been lying earlier when he said it was a flux material in the plastic bag, and that it was in fact crank. I asked Mr. TODD

050696 2000

GW



Officer Stewart

70550

TE-CJ000155

if he meant that the white powdery substance was methamphetamine and he stated, "Yes, that's what crank is." Mr. TODD further stated that he uses crank periodically and uses it by throwing the powder onto a tissue or napkin and swallowing it.

I asked Mr. TODD where he got the crank from and he stated he got it from an Edward SPERRY, a white male, 29 years old, who lives on Althoff Court, Modesto. When he was further questioned about SPERRY, he seemed to wish to cooperate, but was unsure of the exact address or any other information.

Mr. TODD stated that he has been using crank for approximately two years because he's been having family problems, and he also said he is on a diversion program after prior arrest for possession of methamphetamine.

Mr. TODD also said that he has several prior convictions for 14601.1(A) and that he knew he was also suspended at this time, and that is why he hurried to the address and tried to get out of his car before the police could contact him.

Officer WILCOXSON tested the suspected methamphetamine which came back positive during the Valtox test. Officer WILCOXSON packaged the suspected methamphetamine and booked it into Modesto Police Department evidence. I packaged the suspected marijuana, which was also booked into evidence.

EVIDENCE OBTAINED:

1. A clear plastic baggie containing approximately three grams of suspected methamphetamine. This item was found by me in the right front pants pocket of defendant TODD.
2. A Marlboro cigarette pack containing approximately six grams of suspected marijuana. This item was found by me in the center console of TODD's vehicle. It was packaged by me and booked into MPD evidence.

ARREST:

Defendant TODD was placed under arrest for 11377 H&S and 14601.1(A) VC.

BOOKING:

Steven Wayne TODD was booked for the above charges after booking approval by Lt. ATCHLEY.

SUPERVISOR APPROVAL 	CLASS CODE MISD. <input type="checkbox"/> FEL. <input checked="" type="checkbox"/>	COMBINED CRIME / ARREST <input type="checkbox"/>	P.C. ONLY <input checked="" type="checkbox"/>	MODESTO POLICE DEPARTMENT STANISLAUS COUNTY JAIL PRE-BOOKING / PROBABLE CAUSE DECLARATION			PAGE 1 OF 1	FILE NUMBER
				PLT 4	BEAT 41	RD 973	96-37615	

Name (Last, First, Middle) <b>TODD, STEVEN WAYNE</b>		AKA		BOOKING NUMBER
ADDRESS ██████████ Pleasant St. Her Ceres, CA		CITY	PHONE N/P	S.O.D. NUMBER
Occupation Unemp.		BUSINESS ADDRESS		EMPLOYER

DOB	AGE	RACE	SEX	HGT.	WGT.	HAIR	EYES	BUILD	COMP.	DD / LD
██████████	29	W	M	6'0"	150	BLU	BRN	MED	MED	██████████

CLOTHING Blue t-shirt, blue jeans, pink t-shirt	W/ OR CAP	SIGNATURE OF ARRESTING CITIZEN X
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Code	Name (Last, First, Middle)	Residence Address	Residence Phone
Occupation	Race	Sex	Age
Date of Birth	Business/School Address	Business Phone	

Code	Name (Last, First, Middle)	Residence Address	Residence Phone
Occupation	Race	Sex	Age
Date of Birth	Business/School Address	Business Phone	

Date & Time of Offense	Location of Offense	LOCATION OF VEHICLE
Date & Time of Arrest 5-6-96 1930	Location of Arrest ██████████ S. CONEYO	<input type="checkbox"/> NONE <input type="checkbox"/> TOWED BY
48 HRS. EXPIRES - DATE / TIME	DATE/TIME RECD. AT JAIL	<input checked="" type="checkbox"/> LEFT at SCENE <input type="checkbox"/> REL. TO

OFFICER R. STEWART	COMPUTER NO. M630	AGENCY M.P.D.	CASE NO. 96-37615	ARREST NO.
-----------------------	----------------------	------------------	----------------------	------------

CHARGE: 11377 H+S POSS. CONTROLLED SUBSTANCE	<input type="checkbox"/> ON VIEW	<input type="checkbox"/> I & B	<input type="checkbox"/> CITZS.	<input type="checkbox"/> WARR.	<input checked="" type="checkbox"/> FEL.	<input type="checkbox"/> MISD.
CHARGE: 14601.1A V.C. DRIVING ON SUSPENDED LICENSE	<input type="checkbox"/> ON VIEW	<input type="checkbox"/> I & B	<input type="checkbox"/> CITZS.	<input type="checkbox"/> WARR.	<input type="checkbox"/> FEL.	<input checked="" type="checkbox"/> MISD.

**NARRATIVE / FACTS ESTABLISHING PROBABLE CAUSE FOR ARREST:**

SOURCE OF ACTIVITY: MR. TODD WAS CONTACTED DURING A TRAFFIC STOP AFTER BEING STOPPED FOR 27250 V.C. UNSAFE SPEED AND 24603(E) BROKEN TAIL LAMPS.

OBSERVATIONS: MR. TODD WAS F.O.D. FROM HIS CALIF. I.D. (ARIZONA) AND WAS FOUND TO BE DRIVING ON A SUSPENDED LICENSE. MR. TODD WAS PLACED UNDER ARREST FOR 14601.1A. DURING THE SEARCH OF HIS PERSON A SMALL BAGGIE OF METHAMPHETAMINE WAS FOUND. THE SUSPECTED METAL TESTED POSITIVE (VALTOX) MIZ. TODD WAIVED MIRANDA AND SAID HE JUST PICKED UP THE METAL FROM SOMEONE ON ALZOFF CT. HE ALSO SAID HE FEELS THE METAL AND HAS BEEN USING FOR THE LAST TWO YEARS.

ARREST AND BOOKING: ARRESTED AND BOOKED ON ABOVE CHARGES AFTER ADVISED BY LT. ARONEY.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.  
 Executed on 5-6-96 2030 at Stanislaus County, CA. BY: R. STEWART IBM # 70550  
 ON THE BASIS OF:  the foregoing declaration,  telephone declaration, I HEREBY DETERMINE THAT:  there IS  there is NOT probable cause to believe this arrestee has committed a crime. Date: \_\_\_\_\_ Time \_\_\_\_\_ Magistrate: \_\_\_\_\_

TEMPORARY DRIVER LICENSE

CLASS C

EXPIRES: 03-31-96

A3/

557

ISSUED: 02-01-96

SEX: M

HAIR: BLN

EYES: [REDACTED]

HT: 6-00

WT: 150

DOB: [REDACTED]

STEVEN WAYNE FODD  
PLEASANT AVE APT 14  
CA 95307

RES

THIS LICENSE IS ISSUED AS A LICENSE TO DRIVE A MOTOR VEHICLE.  
IT DOES NOT ESTABLISH ELIGIBILITY FOR EMPLOYMENT, VOTER  
REGISTRATION, OR PUBLIC BENEFITS.

X *Steven Wayne Fodd*  
557 02-01-96 A3/5009

MPD Class. Code <input type="checkbox"/> Misdem. <input checked="" type="checkbox"/> Felony	<input checked="" type="checkbox"/> Booked <input type="checkbox"/> Dispatched <input type="checkbox"/> Cited <input checked="" type="checkbox"/> On View <input type="checkbox"/> C/R <input type="checkbox"/> TRU <input type="checkbox"/> D.A. Complaint	<b>MODESTO POLICE DEPARTMENT POLICE REPORT</b>	Page No. 1 of	Report No. 99-17399
--	--	--	------------------	------------------------

Offense Code No. & Description 11899 MIS POSSESS OF CONT SUBSTANCE 149 PC RESISTING ARREST	<input type="checkbox"/> I & B WANT <input type="checkbox"/> HATE CRIME <input type="checkbox"/> DOMESTIC VIOLENCE	Date/Time Reported 03-01-99/1419	Platoon 3	Beat 41	R.D. 417
Date(s) of Occurrence 03-01-99	Day(s) of Week MON	Time(s) of Occurrence 1419	Location of Occurrence / Business Name / City, County S CONRSO / TENAYA MODESTO, STANISLAUS		

**C - COMPLAINANT    D - DEFENDANT    S - SUSPECT    W - WITNESS    V - VICTIM**

DS	Code V	Name (Last, First, Middle) PEOPLE OF THE STATE OF CALIFORNIA	Residence Address			Residence Phone
	Occupation	Race	Sex	Age	Date of Birth	Business/School Address Business Phone

Xp. Xp.	Code D	Name (Last, First, Middle) TODD, STEVEN WAYNE	Residence Address FAIRVIEW AV			Residence Phone
	Occupation	Race	Sex	Age	Date of Birth	Business/School Address Business Phone

p. Div. Div. Is Mgr. Auto Cont. Anlys. Prevt.	Desc.	Hair	Eyes	Height	Weight	Clothing
	Personal Oddities (unusual features, scars, tattoos, etc.)		WEAPON (verbal threats, bodily force, simulated gun, etc. If knife or gun, describe fully)			

Ok. mg. Ckr. nt Offs.	Code W	Name (Last, First, Middle) OFFICER M. GONZALES	Residence Address C/O MPD			Residence Phone
	Occupation POLICE OFFICER	Race	Sex	Age	Date of Birth	Business/School Address 601 11TH ST Business Phone

vea Cmd vea Cmd vea Cmd vea Cmd	Desc.	Hair	Eyes	Height	Weight	Clothing
	Personal Oddities (unusual features, scars, tattoos, etc.)		WEAPON (verbal threats, bodily force, simulated gun, etc. If knife or gun, describe fully)			

<input type="checkbox"/> Suspect	Year	Make	Model	Body Style	Color / Color	License No.	State	Yr. Expires
<input type="checkbox"/> Victims								
Add Veh. Identifiers (Damage, Custom Wheels, etc.)				Vin No.		Vehicle Disposition		
Registered Owner Name			Residence Address			Residence Phone		Business Phone

PROPERTY/CASE NARRATIVE						
Qty	I.D./Serial Article Name	Numbers	Model Name and Brand, Make or Manufacturer	Model Numbers	Complete Description (color, size, etc.)	Value
SEE DICTATED NARRATIVE						

INSURANCE COMPANY	ADDITIONAL PROPERTY <input type="checkbox"/>	TOTAL VALUE \$
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CITIZEN ARREST <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	I hereby arrest the above defendant on the charges indicated and request a peace officer to take him into custody. I will appear as directed and sign a complaint against the person I have arrested.	Signature of Arresting Citizen
---	---	--------------------------------

CASE DISPOSITION	<input type="checkbox"/> Unfounded	<input type="checkbox"/> Open	<input type="checkbox"/> Suspended Pending Further Information
	<input type="checkbox"/> Exceptionally Cleared	<input checked="" type="checkbox"/> Cleared by Arrest	<input type="checkbox"/> Closed
Date / Time of report 03-01-99/1600	Reporting Officer #1 S. HELLER #2	IDM # 31400	Reviewer's Initials <i>[Signature]</i>
		Dictated Narrative <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Follow-up Required <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

# MODESTO POLICE DEPARTMENT

## Evidence/Property Record

LOCATION (Locker #, Annex, etc.) DEPOSITED <i>0206 0501</i>	CASE # <i>99-17399</i>			
DATE/TIME DEPOSITED <i>3-1-99 1530</i>	LOCATION/ADDRESS ITEMS FOUND/SEIZED <i>TENNY / S. CORNETO</i>	INCIDENT TYPE/CRIME CODE <i>11377 HPS</i>		
<input checked="" type="checkbox"/> FELONY <input checked="" type="checkbox"/> MISDEMEANOR	<input checked="" type="checkbox"/> EVIDENCE <input type="checkbox"/> PROPERTY	INVESTIGATING OFFICER/DETECTIVE <i>S. HAZLET</i>	EVIDENCE/PROPERTY BOOKED BY <i>M. GARDNER</i>	IBM # <i>27953</i>

FOUND  FIREARM  DRUGS  MONEY  SEARCH WRNT  SAFEKEEPING  \$1500/102 HOLD  DESTROY

SUSPECT NAME (1) <i>SEYMOUR HAYNES JR</i>	ADDRESS <i>FAIRVIEW</i>
SUSPECT NAME (2)	ADDRESS
SUSPECT NAME (3)	ADDRESS
VICTIM/OWNER NAME (4)	ADDRESS
VICTIM/OWNER NAME (5)	ADDRESS

ITEM #	PROPERTY DESCRIPTION (List all money/guns/drugs first)	OWNER (1-5)	Property Room Storage	Final Disposition/Date
<i>1</i>	<i>PLASTIC BAGGIE CONTAINING A WHITE POWDERY SUBSTANCE</i>	<i>1</i>		

### PHYSICAL EVIDENCE/CHAIN OF CUSTODY CHECK OUT RECORD

DATE/TIME OUT	ITEMS (#s or description)	SIGNATURE	PURPOSE	DATE/TIME IN

**SOURCE OF ACTIVITY:**

I am the case officer and can testify to the facts of the case. On 03/01/99, at approximately 1419 hours, Officer GONZALES and I were on patrol in the area of S. Conejo Avenue and Tenaya Drive. We observed a subject on a bicycle driving westbound Tenaya against the flow of traffic. We initiated a traffic stop on the bicyclist for a violation of 21650.1 CVC - Operating a bicycle on the right side of the roadway. The bicycle yielded on Tenaya Drive west of S. Conejo Avenue.

**OBSERVATIONS:**

Officer GONZALES and I exited our vehicle to contact the bicyclist. The bicyclist stated, "I know, wrong side of road." As Officer GONZALES and I approached the subject, Officer GONZALES observed the subject concealing something in his right hand. Officer GONZALES asked the subject what was in his hand. The subject replied, "Nothing." Officer GONZALES requested the subject to open his hand to show what was in it. The subject refused commands and got off of the bicycle. The subject then began to back away while raising his right hand. Officer GONZALES continued to request the subject to open his hand. The subject turned away from Officer GONZALES while bringing his right hand towards his mouth area. As the subject turned, I saw him begin to place a small plastic baggie into his mouth. I requested the subject to stop and to stand still. The subject refused to follow commands. Based on experience and training, I believed the plastic baggie to contain some type of controlled substance. Based on experience and training in tactical communications, I recognized that verbal commands were not having an effect on the subject. I was aware that we were unable to determine if the subject had any weapons and this presented a security risk. I further evaluated the subject's actions and believed that he was backing away in a possible attempt to flee. I also recognized that the excessive verbal commands were not having an effect on the subject. Officer GONZALES and I revised priorities based on the circumstances and grabbed the subject in an attempt to restrain him. The subject attempted to pull away from us. Officer GONZALES and I restrained the subject on the ground area. Officer GONZALES placed the subject's right arm in an arm lock in an attempt to control him. Officer GONZALES repeatedly told the subject to stop pulling away and to stop resisting. Based on my observations and belief that the subject was attempting to ingest a controlled substance, I was concerned for his personal safety and the destruction of evidence. I restrained the subject's head with my left arm in an attempt to manipulate the nerves in his jaw area, while instructing him to spit the suspected controlled substance out. After instructing him to spit the substance out approximately five times and manipulating the nerves in the jaw area, the subject spit out a plastic baggie containing a white powdery substance. Officer GONZALES then attempted to begin a handcuffing technique on the subject. At that point, the subject began to roll away and reached with his right hand and grabbed the plastic baggie containing the white powdery substance. He again brought it towards his mouth area. I instructed the subject several times to drop the baggie. The subject then raised his right hand and threw the plastic baggie containing the white powdery substance approximately 10 feet south of our location. I saw the plastic baggie containing the white powdery substance land in that area. Officer GONZALES and I then were able to handcuff the subject. Officer GONZALES double locked the handcuffs on the subject.

P:\REPORTS\9017399.SH.wpd 030199 1600 CH OFFICER S. HELLER 31400

I recovered the plastic bag containing the white powdery substance from the scene. The subject was identified as D-TODD, by his California ID card. I advised the subject that he was under arrest for possession of a controlled substance and resisting arrest. He replied, "I know, it was stupid, but I was scared." D-TODD then offered several times to make some type of deal to avoid being arrested. I advised D-TODD of his Rights per Miranda. D-TODD stated he understood his rights. D-TODD admitted that the controlled substance was his and that he had attempted to ingest it to avoid getting in trouble. He explained that he had recently started a new job and knew that if he was arrested for possession of a controlled substance it would jeopardize his job.

CSO POWELL responded to our location. CSO POWELL recovered D-TODD'S bicycle and placed it into storage at the Modesto Police Department. Sgt. THOMAS responded to our location. Sgt. THOMAS contacted D-TODD. Per Sgt. THOMAS, CSO POWELL took photographs of D-TODD. D-TODD had a red abrasion on the right side of his forehead. I did not recognize any other readily observable injuries at the time. I asked D-TODD if he was in need of medical assistance. D-TODD stated that he was not in need of medical assistance.

Officer GONZALES and I transported D-TODD to the Modesto Police Department. While at the Modesto Police Department, Officer GONZALES conducted a presumptive Valtox test on the recovered white powdery substance. The recovered white powdery substance tested presumptive Valtox positive for methamphetamine.

**ARREST:**

D-TODD was arrested for a violation of 11377 H&S - Possession of a controlled substance, and 148 PC - Resisting/delaying a peace officer.

**BOOKING:**

D-TODD was transported and booked into Stanislaus County Jail.

**EVIDENCE:**

1. A plastic baggie containing a white powdery substance.

**EVIDENCE DISPOSITION:**

Item #1 was placed into evidence at the Modesto Police Department for future court presentation.

**CASE DISPOSITION:**

Cleared by arrest.



Incident Type: <b>11377 H+S</b>	<b>MODESTO POLICE DEPARTMENT</b>	Page No. <b>1</b> of <b>1</b>	Case No. <b>99-17399</b>
<input checked="" type="checkbox"/> Supplement	<input type="checkbox"/> Property	<input type="checkbox"/> Narrative	<b>SUPPLEMENTAL REPORT</b>

Item No.	Quan.	Item	Serial No.	Brand	Model No.	Misc. Description	\$ Value
----------	-------	------	------------	-------	-----------	-------------------	----------

I RESPONDED TO THE AREA OF TENAYA + EMPIRE TO STORE A BIKE FOR OFFICER HENNER. WHILE I WAS THERE THEY REQUESTED PHOTOS OF RESP. STEVEN WAINWRIGHT. (4) PHOTOS TAKEN. (2) OF HIS FACE + (2) OF HIS HANDS. BIKE STORED 10-19.

RECORDS USE ONLY

- Chief
  - Capt. Ops
  - Capt. Svt.
  - Field Op. Div.
  - Invest. Div.
  - Records Mgr.
  - Aband. Auto
  - Animal Cont.
  - Crims. Anlys.
  - Crime Prevnt.
  - Pavn
  - P S D
  - STAT
  - TRF
  - NPU
  - Prop. Ck.
  - Reporting. Ofc.
  - Warrnt Offs.
  - N.E. Area Cmd
  - N.W. Area Cmd
  - S.E. Area Cmd
  - S.W. Area Cmd
  - ABC
  - CII
  - City Attorney
  - Court Liaison
  - DEA
  - Diversion
  - S.O.
  - Press
  - Other
  - \_\_\_\_\_
  - \_\_\_\_\_
- OFFICER REQUESTS FOR COPIES
- \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_

Date / Time of report <b>3-1-99 1445</b>	Reporting Officer <b>Powell</b>	IBM # <b>59160</b>	Reviewer's Initials	Dictated Narrative <b>ND</b>	Follow-up Required
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NPD Class. Code <input checked="" type="checkbox"/> Misd. <input checked="" type="checkbox"/> Felony		<input checked="" type="checkbox"/> Booked <input type="checkbox"/> Dispatched <input type="checkbox"/> Cited <input checked="" type="checkbox"/> On View <input type="checkbox"/> C/R <input type="checkbox"/> TRU <input type="checkbox"/> D.A. Complaint	<b>MODESTO POLICE DEPARTMENT</b> <b>POLICE REPORT</b>		Page No. 1 of 1	Report No. 97-815				
Offense Code No. & Description 2800.2 UC, 2818 UC			<input type="checkbox"/> I & B WANT <input type="checkbox"/> HATE CRIME <input type="checkbox"/> DOMESTIC VIOLENCE	Date/Time Reported 07	Platoon 4	Beat 41	R.D. 1610			
Date(s) of Occurrence 1-3-97/1930		Day(s) of Week	Time(s) of Occurrence 1930	Location of Occurrence / Business Name / City, County MITCHELL RD / FINCH RD MODESTO, STANISLAUS						
<b>C - COMPLAINANT    D - DEFENDANT    S - SUSPECT    W - WITNESS    V - VICTIM</b>										
RDS	Code	Name (Last, First, Middle) CITY OF MODESTO			Residence Address		Residence Phone			
	Occupation	Race	Sex	Age	Date of Birth	Business/School Address	Business Phone			
Ops. Spl.	Code	Name (Last, First, Middle) TODD, STEVEN WAYNE			Residence Address [REDACTED] PLEASANT HB/CEPS		Residence Phone NONE			
	Occupation	Race	Sex	Age	Date of Birth	Business/School Address	Business Phone			
Op. Dir.		W	M	29						
Ind. Mgr.	Desc.	Hair	Eyes	Height	Weight	Clothing				
	Personal Oddities (unusual features, scars, tattoos, etc.)				WEAPON (verbal threats, bodily force, simulated gun, etc. If knife or gun, describe fully)					
Ad. Cont.	Code	Name (Last, First, Middle)			Residence Address		Residence Phone			
	Occupation	Race	Sex	Age	Date of Birth	Business/School Address	Business Phone			
e. Analys.	Desc.	Hair	Eyes	Height	Weight	Clothing				
	Personal Oddities (unusual features, scars, tattoos, etc.)				WEAPON (verbal threats, bodily force, simulated gun, etc. If knife or gun, describe fully)					
n. D.	Code	Name (Last, First, Middle)			Residence Address		Residence Phone			
	Occupation	Race	Sex	Age	Date of Birth	Business/School Address	Business Phone			
U. a. Cit.	Desc.	Hair	Eyes	Height	Weight	Clothing				
	Personal Oddities (unusual features, scars, tattoos, etc.)				WEAPON (verbal threats, bodily force, simulated gun, etc. If knife or gun, describe fully)					
V. Area Cmt	<input type="checkbox"/> Suspect		Year	Make	Model	Body Style	Color / Color	License No.	State	Yr. Expires
	<input type="checkbox"/> Victims									
i. Area Cmt	Add Veh. Identifiers (Damage, Custom Wheels, etc.)				Vin No.			Vehicle Disposition		
	Registered Owner Name				Residence Address			Residence Phone		Business Phone
<b>PROPERTY/CASE NARRATIVE</b>										
City	I.D./Serial Article Name	Numbers	Model Name and Brand, Make or Manufacturer	Model Numbers	Complete Description (color, size, etc.)				Value	
REFER TO DICTATED NARRATIVE										
INSURANCE COMPANY					ADDITIONAL PROPERTY <input type="checkbox"/>			TOTAL VALUE \$		
CITIZEN ARREST		I hereby arrest the above defendant on the charge indicated and request a peace officer to take him into custody. I will appear as directed and sign a complaint against the person I have arrested.				Signature of Arresting Citizen				
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No										
CASE DISPOSITION		<input type="checkbox"/> Unfounded		<input type="checkbox"/> Open		<input type="checkbox"/> Suspended Pending Further Information				
		<input type="checkbox"/> Exceptionally Cleared		<input checked="" type="checkbox"/> Cleared by Arrest		<input type="checkbox"/> Closed				
Date / Time of report 1-3-97/0349		Reporting Officer #1 SPRUELL		IBM # 69550		Reviewer's Initials (M)		Dictated Narrative <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Follow-up Required <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

SOURCE OF ACTIVITY:

On 1-3-97 at approximately 1830 hours, I was working flood patrol with Officer YOUNG in a marked black and white police vehicle along the Mitchell Road area.

OBSERVATIONS:

As we approached the intersection of Mitchell Road and Finch Road, we observed Officer GONZALEZ and Officer SCHLENKER directing traffic at that intersection. Before we came to a complete stop at that location, we observed Officer GONZALEZ take off in his police vehicle southbound through the barricades after a subject (later identified as D/TODD) on his bicycle.

At that time, Officer GONZALEZ and Officer SCHLENKER were assigned to that intersection to prevent vehicles, pedestrians and bicyclists from crossing the bridge because it was flooded out by the flooded Tuolumne River.

We immediately followed Officer GONZALEZ through the barricades behind D/TODD and I noted at that time that Officer GONZALEZ had his lights and siren on attempting to stop D/TODD. He also turned on his spotlight and was yelling at D/TODD.

We followed D/TODD approximately a quarter mile past Finch Road intersection towards the flooded out area of the bridge and, at that point, D/TODD immediately stopped, turned around and began riding back northbound towards the barricades. Both Officer GONZALEZ and Officer YOUNG and myself then turned around and continued to chase him back towards the barricades on his bicycle. As he was turning around and passing Officer GONZALEZ' vehicle and ours, I clearly heard Officer GONZALEZ yelling at him to stop several times and D/TODD would not stop at that time.

As we approached the barricades at the intersection of Finch Road and Mitchell Road, we could see Officer SCHLENKER standing in the middle of the road with several cars attempting to direct traffic and D/TODD rode his bicycle through the traffic, causing a hazard to Officer SCHLENKER and the other vehicles who were attempting to turn onto Finch Road. Both Officer GONZALEZ and us had to slow down to avoid a collision with the traffic and from hitting Officer SCHLENKER who was out in the road attempting to direct traffic.

D/TODD then appeared to slow down and possibly turn onto Finch Road and at that time both Officer GONZALEZ and us slowed thinking he was going to turn onto Finch Road. At that time, I could again hear Officer GONZALEZ yelling out the window for him to stop and D/TODD did not at that time. It then appeared that D/TODD took off again as fast as he could northbound on Mitchell Road from the intersection and we again chased him with lights and siren attempting to stop D/TODD.

Approximately a quarter mile north of the barricade section, Officer GONZALEZ pulled up next to D/TODD with his police vehicle and D/TODD slowed down and it appeared that he was going to stop at that time. Officer GONZALEZ pulled over to the side of the road attempting to stop when D/TODD again took off riding his bicycle and, at that point, we passed Officer GONZALEZ and took over

chasing D/TODD. I then asked Officer YOUNG to pull up next to D/TODD and, at that time, I felt that I would attempt to hold my pepper spray can out the window and spray in the direction of TODD, hoping to get him to stop at that time. When I did so, I missed D/TODD completely and he dropped the bike and stopped, holding his hands up, appearing to give up at that time.

I then exited the police vehicle as Officer YOUNG stopped it and, when I did, I looked back and saw D/TODD standing alongside the road facing Officer GONZALEZ with his hands at his sides. Officer GONZALEZ was outside of his police vehicle with his lights on D/TODD directing him verbally to get on the ground. I continued towards TODD at that time and I could clearly hear Officer GONZALEZ directing him to get on the ground several times, however, TODD simply stood there and would not obey his commands. At that time, I felt that the location we were in, TODD was possibly going to take off running on foot so I was able to sneak up behind him without him knowing I was there and, at that time, I grabbed his right arm and told him to get on the ground. He at that time attempted to pull away with his arm and I used a leg sweep to take him down to the ground.

When I had TODD on the ground, I rolled him over onto his stomach in order to place him in handcuffs and was quickly joined by Officer GONZALEZ and Officer YOUNG in attempting to take him into custody. TODD was screaming and pulling his left arm away, tucking it underneath his body so we were unable to place him into handcuffs. I kept telling TODD to stop resisting and place his hands behind his back and he continued to attempt to roll around and keep his left arm concealed underneath his body to where we could not see if there was something in his hand or place his hand in a handcuff. That continued for approximately 15-20 seconds until we were able to gain control over him and place him into handcuffs.

Officer YOUNG then walked TODD over to our police vehicle while I began talking to Officer GONZALEZ at that time. Officer GONZALEZ informed me at that time that he had been standing at the barricades outside of his police vehicle with Officer SCHLENKER when TODD rode up on his bicycle. He told me he informed TODD at that time that he could not go across the bridge if he desired to because it was flooded out from the Tuolumne River and it was unsafe for pedestrians, vehicles, or bicyclists to pass at that time. GONZALEZ told me that, at that time, TODD looked at him and told him "Fuck you" and began riding through the barricades southbound on the bridge in direct disobedience of what Officer GONZALEZ had told him. Officer GONZALEZ said he yelled several times for TODD to stop and he continued to tell him "Fuck you, fuck you."

GONZALEZ said he then ran back to his police vehicle and then began following him with his lights and siren on at that time. I told Officer GONZALEZ that we had observed that part and had then fallen in behind him. Officer GONZALEZ told me that several times he had yelled out the window for TODD to stop and that TODD had again replied "Fuck you." I asked him if he had said anything else and Officer GONZALEZ told me that he had not said anything but "Fuck you."

ARREST:

D/TODD at that time was in custody and I walked over to inform him that he was going to be arrested and transported back to the Modesto Police Department at that time. When I did so, I asked him inquisitively "Why did you run from us?" TODD told me at that time spontaneously "I'm on probation, I didn't want to go to jail." I then told him at that time if he had simply stopped at the bridge and obeyed Officer GONZALEZ' directions, he would be going home and we would not have had to chase him for approximately five minutes.

I then placed D/TODD in the back of my police vehicle.

D/TODD was arrested for 2800.2 CVC - evading a peace officer, 2818 VC - crossing flare pattern, and 148 PC - resisting arrest.

TODD was transported to the Modesto Police Department.

BOOKING:

D/TODD was later transported by the Modesto Police Department Transportation Unit to the Stanislaus County Jail after booking approval by Sgt. FERRY and booked for the above charges only.

ADDITIONAL:

TODD's bicycle was placed in the Modesto Police Department bike annex for him to pick up at a later time.

CASE DISPOSITION:

Cleared by arrest.

Bailed 1-4-97

SUPERVISOR APPROVAL <i>[Signature]</i>	CLASS CODE MISD <input checked="" type="checkbox"/> FEL <input checked="" type="checkbox"/>	COMBINED CRIME / ARREST <input type="checkbox"/>	P.C. ONLY <input checked="" type="checkbox"/>	MODESTO POLICE DEPARTMENT STANISLAUS COUNTY JAIL PRE-BOOKING / PROBABLE CAUSE DECLARATION			PAGE 1 OF 1	FILE NUMBER 97-815
PLT 4	BEAT 43	RD 610						

Name (Last, First, Middle) TODD, STEVEN WAYNE						AKA		BOOKING NUMBER 418011
ADDRESS [REDACTED] PLEASANT AVE #B						CITY CERES		PHONE NONE
OCCUPATION			BUSINESS ADDRESS			EMPLOYER		

DOB [REDACTED]	AGE 29	RACE W	SEX M	HGT. 6'	WGT. 150	HAIR BLN	EYES BRN	BUILD THIN	COMP. -	POI. (L)
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CLOTHING	SIGNATURE OF ARRESTING CITIZEN X
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Code	Name (Last, First, Middle)	Residence Address	Residence Phone
Occupation	Race	Sex	Age
Date of Birth	Business/School Address		Business Phone

Date & Time of Offense	Location of Offense	LOCATION OF VEHICLE <input type="checkbox"/> NONE <input type="checkbox"/> TOWED BY
Date & Time of Arrest 1-3-97 / 1830	Location of Arrest MITCHELL / FUCH RD	<input type="checkbox"/> LEFT AT SCENE <input type="checkbox"/> HELD TO
48 HRS. EXPIRES - DATE / TIME	DATE / TIME REC'D. AT JAIL	VEHICLE DESC. / LIC.

OFFICER SPRUELL	COMPUTER NO. M299	AGENCY MPPD	CASE NO. 96-815	ARREST NO.
CHARGE: 2800.2 CVC EVADING A PEACE OFFICER	<input checked="" type="checkbox"/> ON VIEW <input type="checkbox"/> I & B <input type="checkbox"/> CITZS <input type="checkbox"/> WARR <input checked="" type="checkbox"/> FEL <input type="checkbox"/> MISD			
CHARGE: 2818 CVC CROSSING FLADE PATTERN	<input checked="" type="checkbox"/> ON VIEW <input type="checkbox"/> I & B <input type="checkbox"/> CITZS <input type="checkbox"/> WARR <input type="checkbox"/> FEL <input checked="" type="checkbox"/> MISD			
CHARGE: 148 PC RESISTING ARREST	<input checked="" type="checkbox"/> ON VIEW <input type="checkbox"/> I & B <input type="checkbox"/> CITZS <input type="checkbox"/> WARR <input type="checkbox"/> FEL <input checked="" type="checkbox"/> MISD			

**NARRATIVE / FACTS ESTABLISHING PROBABLE CAUSE FOR ARREST:**

(D) RODE HIS BIKE UP TO THE BARRICADES AT MITCHELL AND FUCH RD. OFFICER GONZALES INFORMED THE (D) THE ROAD WAS CLOSED AND HE COULD NOT PASS. THE (D) SAID "FUCK YOU" AND TOOK OFF THROUGH THE BARRICADES IN VIOL OF 2818 CVC. OFFICER GONZALES AND I THEN BEGAN CHASING THE (D) SOUTH AND ON MITCHELL RD IN OUR POLICE CARS. THE (D) THEN TURNED AROUND AND RODE NORTH BOUND THROUGH THE BARRICADES AROUND OFFICER SCHLENKER AND THE TRAFFIC HE WAS DIRECTING, CAUSING A DANGER TO EVERYONE AT THE INTERSECTION. WE THEN CHASED THE (D) FOR APPROX 1/4 MILE TILL HE STOPPED WHEN THE (D) STOPPED HE WOULD NOT OBEY VERBAL COMMANDS AND CONTINUED TO RESIST EVEN WHEN BEING TAKEN INTO CUSTODY. (D) SAID "I AM ON PROBATION AND DIDNT WANT TO GO TO JAIL" WHEN ASKED WHY HE WOULD NOT STOP.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.  
Executed on 1-3-97 at Stanislaus County, CA. BY: *[Signature]* IBM 655

ON THE BASIS OF:  the foregoing declaration,  telephone declaration, I HEREBY DETERMINE THAT:  there IS  there is NOT probable cause to believe this arrestee has committed a crime. Date: \_\_\_\_\_ Time \_\_\_\_\_ Magistrate \_\_\_\_\_

SUPERVISOR APPROVAL	GLASS CODE MISD <input type="checkbox"/> FEL <input checked="" type="checkbox"/>	COMPLETE REPOH. <input type="checkbox"/> FACE PAGE <input type="checkbox"/> P.C. ONLY <input checked="" type="checkbox"/>	<b>MODESTO POLICE DEPARTMENT STANISLAUS COUNTY JAIL PRE-BOOKING / PROBABLE CAUSE DECLARATION</b>			PAGE <u>1</u> OF <u>1</u>	FILE NUMBERS <u>01-137309</u>
				PLT <u>1</u>	BEAT <u>42</u>	RD	

<b>D</b>	Name (Last, First, Middle) <u>STEVEN RICHARD TODD, RICHARD WAYNE</u>	AKA	BOOKING NUMBER
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ADDRESS <u>HAGSTROM CT.</u>	CITY <u>MODESTO</u>	PHONE	SOID NUMBER
OCCUPATION	BUSINESS ADDRESS	EMPLOYER	

DOB	AGE <u>34</u>	RACE <u>W</u>	SEX <u>M</u>	HGT. <u>601</u>	WGT. <u>195</u>	HAIR <u>BROWN</u>	EYES <u>BROWN</u>	BUILD	COMP.	REL. (L)
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CLOTHING	SIGNATURE OF ARRESTING CITIZEN <u>X</u>
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Code	Name (Last, First, Middle)	Residence Address	Residence Phone
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Occupation	Race	Sex	Age	Date of Birth	Business/School Address	Business Phone
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Code	Name (Last, First, Middle)	Residence Address	Residence Phone
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Occupation	Race	Sex	Age	Date of Birth	Business/School Address	Business Phone
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Date & Time of Offense <u>12-10-01/1000</u>	Location of Offense <u>POST OAK DR. MODESTO</u>	LOCATION OF VEHICLE <input checked="" type="checkbox"/> NONE <input type="checkbox"/> TOWED BY _____
--	--	---

Date & Time of Arrest <u>12-10-01/1000</u>	Location of Arrest <u>FULLS PHOENIX</u>	<input type="checkbox"/> LEFT at SCENE <input type="checkbox"/> REL TO _____
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48 HRS. EXPIRES - DATE/TIME <u>12-12-01/1000</u>	DATE/TIME REC'D. AT JAIL	VEHICLE DESC./I.C.
---	--------------------------	--------------------

OFFICER <u>CONNOR</u>	COMPUTER NO. <u>MPS2</u>	AGENCY <u>MPD</u>	CASE NO. <u>01-137309</u>	ARREST NO.
--------------------------	-----------------------------	----------------------	------------------------------	------------

CHARGE <u>4600 PC - RESIDENTIAL BURGLARY</u>	<input type="checkbox"/> ON VIEW <input type="checkbox"/> I & B <input type="checkbox"/> CITZS. <input type="checkbox"/> WARR. <input checked="" type="checkbox"/> FEL. <input type="checkbox"/> MISD.
---	--

CHARGE	<input type="checkbox"/> ON VIEW <input type="checkbox"/> I & B <input type="checkbox"/> CITZS. <input type="checkbox"/> WARR. <input type="checkbox"/> FEL. <input type="checkbox"/> MISD.
--------	---

CHARGE	<input type="checkbox"/> ON VIEW <input type="checkbox"/> I & B <input type="checkbox"/> CITZS. <input type="checkbox"/> WARR. <input type="checkbox"/> FEL. <input type="checkbox"/> MISD.
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**NARRATIVE / FACTS ESTABLISHING PROBABLE CAUSE FOR ARREST:**

ON 12-10-01 I WAS DISPATCHED TO A REPORTED BURGLARY IN PROGRESS AT POST OAK DR. I FOUND A SUBJECT, LATER I IDENTIFIED AS RICHARD TODD, WALKING OUT OF THE FRONT DOOR OF THE RESIDENCE. TODD MATCHED THE DESCRIPTION OF THE SUSPECT GIVEN BY THE WITNESS. TODD CALLED MY OFFICER AND RAN AWAY. I APPREHENDED HIM 2 BLOCKS AWAY. THE VICTIM SAID SHE DOES NOT KNOW TODD AND DID NOT GIVE HIM PERMISSION TO ENTER HER HOUSE. THE VICTIM FOUND THAT TODD HAD TAKEN HER BAG FROM HER BEDROOM AND PACKED COMPACT DISCS INTO IT IN HER BEDROOM.

COPIES TO:

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.

Executed on 12-10-01 at Stanislaus County, CA. BY: [Signature] IBM# 10461

ON THE BASIS OF  the foregoing declaration,  telephone declaration, I HEREBY DETERMINE THAT:  there IS  there is NOT probable cause to believe this arrestee has committed a crime.

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Magistrate: \_\_\_\_\_

MPD Class. Code <input type="checkbox"/> Misd. <input checked="" type="checkbox"/> Felony		<input checked="" type="checkbox"/> Booked <input checked="" type="checkbox"/> Dispatched <input type="checkbox"/> Cited <input type="checkbox"/> On View <input type="checkbox"/> C/R <input type="checkbox"/> TRU <input type="checkbox"/> O.A. Complaint		<b>MODESTO POLICE DEPARTMENT</b>			Page No.	Report No.			
<b>POLICE REPORT</b>			1 of 4		01-137309						
Offense Code No. & Description 4100A PC - RES. BURGLARY				<input type="checkbox"/> I & B WANT <input type="checkbox"/> HATE CRIME <input type="checkbox"/> DOMESTIC VIOLENCE		Date/Time Reported 12-10-01 0915	Platoon 42	Beat 439			
Date(s) of Occurrence 12-10-01		Day(s) of Week MON		Time(s) of Occurrence 0945		Location of Occurrence / Business Name / City, County [REDACTED] POST OAK DR. MODESTO, STANISLAUS					
<b>C - COMPLAINANT    D - DEFENDANT    S - SUSPECT    W - WITNESS    V - VICTIM</b>											
RECORDS SECTION	Code		Name (Last, First, Middle)			Residence Address		Residence Phone			
	V1		[REDACTED]			1920 POST OAK DR.		[REDACTED]			
Chief	Code		Name (Last, First, Middle)			Residence Address		Residence Phone			
	MGR.		W F 25			E 405 EMITE MAKITECA		[REDACTED]			
Capt. Ops. Capt. Spt.	Code		Name (Last, First, Middle)			Residence Address		Residence Phone			
	V2		[REDACTED]			POST OAK DR.		[REDACTED]			
Field Op. Div. Invest. Div.	Code		Name (Last, First, Middle)			Residence Address		Residence Phone			
	MGR.		W F 37			E 405 EMITE MAKITECA		[REDACTED]			
Records Mgr. Aband. Auto	Desc.		Hair		Eyes	Height	Weight	Clothing			
	[REDACTED]		[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			
Animal Cont.	Personal Oddities (unusual features, scars, tattoos, etc.)						WEAPON (verbal threats, bodily force, simulated gun, etc. If knife or gun, describe fully)				
Crime Analy.	[REDACTED]						[REDACTED]				
Crime Prevnt.	[REDACTED]						[REDACTED]				
Pawn	Code		Name (Last, First, Middle)			Residence Address		Residence Phone			
P S D	W		[REDACTED]			POST OAK DR.		[REDACTED]			
STAT	Code		Name (Last, First, Middle)			Residence Address		Residence Phone			
RAF	W		F 56			[REDACTED]		[REDACTED]			
NPU	Code		Name (Last, First, Middle)			Residence Address		Residence Phone			
Prop. Cit.	W		[REDACTED]			[REDACTED]		[REDACTED]			
Reporting, Otr.	Personal Oddities (unusual features, scars, tattoos, etc.)						WEAPON (verbal threats, bodily force, simulated gun, etc. If knife or gun, describe fully)				
Warrnt Otr.	[REDACTED]						[REDACTED]				
N.E. Area Cmd	<input type="checkbox"/> Suspect		Year	Make	Model	Body Style	Color / Color	License No.	State	Yr. Expires	
N.W. Area Cmd	<input type="checkbox"/> Victims										
S.E. Area Cmd	Add Veh. Identifiers (Damage, Custom Wheels, etc.)						Vin No.		Vehicle Disposition		
S.W. Area Cmd	[REDACTED]						[REDACTED]		[REDACTED]		
ABC	Registered Owner Name				Residence Address			Residence Phone	Business Phone		
City	[REDACTED]				[REDACTED]			[REDACTED]	[REDACTED]		
City Attorney	<b>PROPERTY / CASE NARRATIVE</b>										
Court Liaison	Qty	I.D./Serial Article Name	Numbers	Model Name and Brand, Make or Manufacturer		Model Numbers	Complete Description (color, size, etc.)		Value		
DEA	SOURCE OF ACTIVITY: ON 12-10-01 I WAS DISPATCHED TO A RESIDENTIAL BURGLARY IN PROGRESS AT 1920 POST OAK DR.										
Diversion	OBSERVATIONS: PATRICIA [REDACTED] SAW A WMP, LATER IDENTIFIED AS STEVEN WAYNE TODD, RIDE UP TO HER NEIGHBORS HOUSE ON A BICYCLE AND OPEN THE DRIVE THRU GARAGE DOOR. [REDACTED] SAID HE PUSHED THE BICYCLE INTO THE GARAGE AND THEN CLOSED THE DOOR. [REDACTED] SAID SHE CALLED THE POLICE BECAUSE [REDACTED] ARE THE ONLY TWO RESIDENTS AND SHE DID NOT RECOGNIZE TODD. [REDACTED] SAID TODD EXITED THE GARAGE VIA THE SIDE DOOR AND RODE AWAY ON HIS BICYCLE.										
S.O.	[REDACTED]										
Press	[REDACTED]										
Other	[REDACTED]										
OFFICER REQUESTS OR COPIES	INSURANCE COMPANY				ADDITIONAL PROPERTY <input type="checkbox"/>			TOTAL VALUE \$			
361	[REDACTED]				[REDACTED]			[REDACTED]			
PRYMER	CITIZEN ARREST		I hereby arrest the above defendant on the charge indicated and request a peace officer to take him into custody. I will appear as directed and sign a complaint against the person I have arrested.					Signature of Arresting Citizen			
	<input type="checkbox"/> Yes <input type="checkbox"/> No		[REDACTED]					[REDACTED]			
	CASE DISPOSITION		<input type="checkbox"/> Unfounded		<input type="checkbox"/> Open		<input type="checkbox"/> Suspended Pending Further Information				
	[REDACTED]		<input type="checkbox"/> Exceptionally Cleared		<input checked="" type="checkbox"/> Cleared by Arrest		<input type="checkbox"/> Closed				
	Data / Time of report		Reporting Officer		IBM #		Reviewer Initials		Dictated Narrative		Follow-up Required
	12-10-01 / 1700		[REDACTED]		10461		[REDACTED]		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No



Incident Type:			<b>MODESTO POLICE DEPARTMENT</b>			Page No.	Case No.
<input type="checkbox"/> Supplement <input type="checkbox"/> Property <input type="checkbox"/> Narrative			<b>SUPPLEMENTAL REPORT</b>			2 of 4	01-137309
Item No.	Quan.	Item	Serial No.	Brand	Model No.	Misc. Description	\$ Value
<p>RECALLED THE POLICE WHEN TODD RETURNED A FEW MINUTES LATER. SAID TODD WENT TO THE FRONT DOOR OF THE RESIDENCE. DESCRIBED HIM AS A WMA, 30'S, SCRUFFY BEARD, WHITE BASEBALL CAP, BRN HAIR, BLK JACKET, BLUE JEANS ON A RED &amp; WHITE 10 SP BIKE. I ARRIVED ON SCENE AND SAW THE BIKE NEAR THE FRONT GATE. I COULD HEAR BANGING NOISES COMING FROM THE AREA OF THE FRONT DOOR. TODD LOOKED AROUND THE CORNER OF THE GARAGE AS I APPROACHED, I INSTRUCTED HIM TO COME OUT AND TURN AROUND AND PLACE HIS HANDS BEHIND HIS BACK. TODD RAN E/B ON POST OAK DR AND HID IN THE CARPORT OF A RESIDENCE ON ELLIS ST. WHERE HE WAS APPREHENDED.</p> <p>WE FOUND THE FRONT DOOR OF THE RESIDENCE HAD BEEN KICKED IN BUT NO ONE WAS INSIDE. SAID SHE DOES NOT KNOW TODD AND DID NOT GIVE HIM PERMISSION TO ENTER HER RESIDENCE. FOUND A STACK OF APPLIANCE BOXES IN THE GARAGE WHERE TODD HAD BEEN THAT SHE DID NOT STACK. ALSO FOUND HER BLK NYLON DUFFEL BAG STACKED FULL OF HER COMPACT DISC COLLECTION LAYING ON HER BEDROOM FLOOR. SAID SHE DID NOT LEAVE IT THERE. WATCHED TODD FLEE THE SCENE AND CONFIRMED THAT HE WAS THE ONLY SUBJECT THAT SHE SAW AT'S RESIDENCE.</p> <p>TODD TOLD DET. BANKS THAT HE WENT TO THE RESIDENCE TO WAIT FOR AN UNIDENTIFIED MALE WHO WAS IN THE RESIDENCE WHEN I ARRIVED. TODD DENIED BURGLARIZING THE RESIDENCE.</p> <p>EVIDENCE: PHOTOS - RSO JOAN VAN BODNINGEN</p> <p>ARREST: STEVEN WAYNE TODD WAS BOOKED INTO STAN. CO. JAIL FOR 4600 PC</p>							
Date / Time of report		Reporting Officer		IBM #	Reviewer's Initials	Dictated Narrative	Follow-up Required
12-10-01 / 1700		Det. [Signature]		10444			

RECORDS  
 CLERK  
 Chief  
 Sgt. Ops.  
 Sgt. Spl.  
 Field Op. Div.  
 Invest. Div.  
 Records Mgr.  
 Ident. Unit  
 Animal Cont.  
 Crime Analys.  
 Crime Prevnt.  
 Pawn  
 P.S.D.  
 FAT  
 FRF  
 NPU  
 Prop. Clk.  
 Reporting Offr.  
 Warrant Offs.  
 N.E. Area Cmd.  
 N.W. Area Cmd.  
 S.E. Area Cmd.  
 S.W. Area Cmd.  
 ABC  
 Cll  
 City Attorney  
 Court Liaison  
 DEA  
 Diversion  
 I.S.O.  
 Press  
 Other

CORDES  
E  
ILY

Chief  
Capt. Ops.  
Capt. Spt.

Field Op. Div.  
Invest. Div.  
Records Mgr.

Band. Auto  
Animal Cont.  
Crime Analyt.

Crime Prevnt.  
Pawn

PSD  
STAT  
RAF  
YPU

Prop. Ck.  
Reporting. Ofc.  
Warmt. Ofcs.

N.E. Area Cmd  
N.W. Area Cmd

S.E. Area Cmd  
S.W. Area Cmd

IBC  
JII

City Attorney  
Court Liaison

DEA  
Inversion  
S.O.

Press  
Other

FICER  
QUESTS  
R  
PIES

Code <i>D</i>	Name (Last, First, Middle) <i>TODD, STEVEN WAYNE</i>					Residence Address <i>[REDACTED] HAGSTROM CT.</i>			Residence Phone <i>[REDACTED]</i>
Occupation		Race <i>W</i>	Sex <i>M</i>	Age <i>34</i>	Date of Birth <i>[REDACTED]</i>	Business/School Address			Business Phone
Desc. <i>[REDACTED]</i>		Hair <i>BROWN</i>		Eyes <i>BROWN</i>	Height <i>6'0"</i>	Weight <i>185</i>	Clothing		
Personal Oddities (unusual features, scars, tattoos, etc.)						WEAPON (verbal threats, bodily force, simulated gun, etc. If knife or gun, describe fully)			
[REPEATED FORM SECTIONS FOR OTHER DIVISIONS]									

Date / Time of report <i>12-10-01</i> <i>1900</i>	Reporting Officer #1 <i>[Signature]</i> #2 _____	IBM # <i>10464</i>	Reviewer's Initials	Dictated Narrative <input type="checkbox"/> Yes <input type="checkbox"/> No	Follow-up Required <input type="checkbox"/> Yes <input type="checkbox"/> No
---	--	-----------------------	---------------------	--	--

## MODESTO POLICE DEPARTMENT Evidence/Property Record

LOCATION (Locker #, Annex, etc.) DEPOSITED <b>35</b>		CASE # <b>01-137309</b>
--	--	----------------------------

DATE/TIME DEPOSITED <b>12-10-01/1548</b>	LOCATION/ADDRESS ITEMS FOUND/SEIZED <b>[REDACTED] POSTDAK DR</b>	INCIDENT TYPE/CRIME CODE <b>4609 PC</b>
---	---	--

<input type="checkbox"/> FELONY <input type="checkbox"/> MISDEMEANOR	<input type="checkbox"/> EVIDENCE <input checked="" type="checkbox"/> PROPERTY	INVESTIGATING OFFICER/DETECTIVE <b>CANUZER</b>	EVIDENCE/PROPERTY BOOKED BY <b>CHINER</b>	IBM # <b>10461</b>
---	---	---	--	-----------------------

<input type="checkbox"/> FOUND	<input type="checkbox"/> FIREARM	<input type="checkbox"/> DRUGS	<input type="checkbox"/> MONEY	<input type="checkbox"/> Search Writ	<input type="checkbox"/> Asset Seizure	<input type="checkbox"/> 5150/8102 Hold	<input checked="" type="checkbox"/> Safekeeping	<input type="checkbox"/> DESTROY
--------------------------------	----------------------------------	--------------------------------	--------------------------------	--------------------------------------	--	---	---	----------------------------------

SUSPECT NAME (1) <b>TODD, STEVEN WAYNE TODD</b>	ADDRESS <b>[REDACTED] HAGSTRON CT</b>
--	--

SUSPECT NAME (2)	ADDRESS
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SUSPECT NAME (3)	ADDRESS
------------------	---------

VICTIM/OWNER NAME (4)	ADDRESS
-----------------------	---------

VICTIM/OWNER NAME (5)	ADDRESS
-----------------------	---------

Item#	PROPERTY DESCRIPTION (List all money/guns/drugs first)	Owner 1-5	Property Shelf	Final Disposition & Date
1	1 MARLBORO POUCH W/4 CIGS	1		
2	1 BUTANE POCKET TOUCH	1		
3	\$3.93 CENTS CASH	1		
4	1 BASEBALL CAP			
<i>*2 TO UPON REQUEST</i>				

TE-CJ000142

**MODESTO POLICE DEPARTMENT  
CRIME ANALYSIS CODE SHEET**

Page No.

Report No.

404 01-137309

**CRIME INFORMATION - Complete for: 459R, 469C, 261, 211P.C.**

<b>RESIDENTIAL:</b> <input type="checkbox"/> Duplex <input type="checkbox"/> Home under Const. (secured) <input checked="" type="checkbox"/> House <input type="checkbox"/> Mobilehome <input type="checkbox"/> Other _____ <input type="checkbox"/> Townhouse	<b>RESIDENTIAL TARGET:</b> <input type="checkbox"/> Bathroom <input checked="" type="checkbox"/> Bedroom <input type="checkbox"/> Dining Rm. <input type="checkbox"/> Fam. Rm./Den <input type="checkbox"/> Garage <input type="checkbox"/> Kitchen <input type="checkbox"/> Living Rm. <input type="checkbox"/> Other _____ <input type="checkbox"/> Storage Shed <input type="checkbox"/> Utility/Laundry Rm.	<b>COMMERCIAL:</b> <input type="checkbox"/> Auto / Gas Service <input type="checkbox"/> Church <input type="checkbox"/> Convenience Store <input type="checkbox"/> Educational <input type="checkbox"/> Entertainment/recreat. <input type="checkbox"/> Fast Food. <input type="checkbox"/> Financial Institution <input type="checkbox"/> Governmental Building <input type="checkbox"/> Grocery Store <input type="checkbox"/> Home under Const. (secured) <input type="checkbox"/> Hotel/Motel <input type="checkbox"/> Industrial <input type="checkbox"/> Laundry Facility <input type="checkbox"/> Medical/Drugs <input type="checkbox"/> Restaurant/Bar <input type="checkbox"/> Parking Lot (Comm.) <input type="checkbox"/> Storage Shed <input type="checkbox"/> Other _____	<b>COMMERCIAL TARGET:</b> <input type="checkbox"/> Safe <input type="checkbox"/> Cash Register/Drawer <input type="checkbox"/> Display Items <input type="checkbox"/> Employee/Customer <input type="checkbox"/> Home under Const. <input type="checkbox"/> Public Area <input type="checkbox"/> Storage Area/Whse. <input type="checkbox"/> Vending Machine <input type="checkbox"/> Work Area <input type="checkbox"/> Other _____
--	---	--	--

RECORDS  
FILE

<b>POINT OF ENTRY</b> <input checked="" type="checkbox"/> Front <input type="checkbox"/> Rear <input type="checkbox"/> Sids <input type="checkbox"/> Unknown <input type="checkbox"/> Other _____  <input type="checkbox"/> Misc.	<b>LEVEL OF ENTRY</b> <input checked="" type="checkbox"/> Ground <input type="checkbox"/> Upper Level <input type="checkbox"/> Roof <input type="checkbox"/> Basement <input type="checkbox"/> Unknown <input type="checkbox"/> Other _____	<b>LOCATION OF ENTRY</b> <input checked="" type="checkbox"/> Door <input type="checkbox"/> Window <input type="checkbox"/> A/C Unit <input type="checkbox"/> Adjacent Bldg. <input type="checkbox"/> Basement <input type="checkbox"/> Duct / Vent <input type="checkbox"/> Garage Door <input type="checkbox"/> Door from Gara. to House <input type="checkbox"/> Sliding glass Door <input type="checkbox"/> Sliding glass Window <input type="checkbox"/> Gate <input type="checkbox"/> Mail Drop <input type="checkbox"/> Other _____ <input type="checkbox"/> Pat Door <input type="checkbox"/> Wall <input type="checkbox"/> Other _____	<b>EVIDENCE:</b> <input type="checkbox"/> None <input type="checkbox"/> Fingerprints <input type="checkbox"/> Drugs / Para. <input type="checkbox"/> Shoeprints <input checked="" type="checkbox"/> Photos <input type="checkbox"/> Blood / Semen <input type="checkbox"/> Rape Kit <input type="checkbox"/> Other _____	<b>METHOD OF ENTRY</b> <input type="checkbox"/> Attempt Only <input type="checkbox"/> Board, Etc., Removed <input checked="" type="checkbox"/> Bodily Force <input type="checkbox"/> Bolt Cutters <input type="checkbox"/> Burn <input type="checkbox"/> Chan Lock / Pipe Wrench <input type="checkbox"/> Cut / Remove Glass <input type="checkbox"/> Cut / Tore Screen <input type="checkbox"/> Garage Door Opener <input type="checkbox"/> Hid In Bldg. <input type="checkbox"/> Hinge Pins Removed <input type="checkbox"/> Key <input type="checkbox"/> No Force <input type="checkbox"/> Pry Instrument Unk. <input type="checkbox"/> Putty / Mould. Removed <input type="checkbox"/> Saw/Drill <input type="checkbox"/> Screwdriver <input type="checkbox"/> Sip <input type="checkbox"/> Tape <input type="checkbox"/> Window Smash <input type="checkbox"/> Wire <input type="checkbox"/> Xccked <input type="checkbox"/> Other _____	<b>SUSPECT ACTIONS</b> <input type="checkbox"/> Bar Related <input type="checkbox"/> Drug Related <input type="checkbox"/> Gang Related <input type="checkbox"/> Know Victim <input type="checkbox"/> Impersonated Person <input type="checkbox"/> Other _____ <input type="checkbox"/> Prostitute Related <input type="checkbox"/> Hiker Related <input type="checkbox"/> HBD <input type="checkbox"/> DUI
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Invest. Div.

<input type="checkbox"/> Multiple Suspects <input type="checkbox"/> Disguise - voice/clothing <input type="checkbox"/> Wore Gloves, etc. <input type="checkbox"/> Ransacked <input type="checkbox"/> Vandalized <input type="checkbox"/> Graffiti <input type="checkbox"/> Selective	<input type="checkbox"/> Satanic / Occult <input checked="" type="checkbox"/> Loitered / Cased Area <input type="checkbox"/> Used lookout <input checked="" type="checkbox"/> Knew routine / hidden items <input checked="" type="checkbox"/> Knocked on door / rang doorbell <input type="checkbox"/> Ate/drank/smoked <input checked="" type="checkbox"/> Urinated/defecated	<input type="checkbox"/> Disabled Phone <input type="checkbox"/> Disabled/bypassed <input type="checkbox"/> Alarm <input type="checkbox"/> Turned lights off/on <input type="checkbox"/> Matches used for light <input type="checkbox"/> Used role <input type="checkbox"/> Used chair/box/ladder <input type="checkbox"/> Climbed Fence	<input type="checkbox"/> Prepared Exit <input type="checkbox"/> Door left open <input type="checkbox"/> Door locked/blocked <input type="checkbox"/> Used Pillowcase/bag/container to take property <input type="checkbox"/> Vehicle needed to remove property <input type="checkbox"/> Stacked property <input type="checkbox"/> Left property behind <input type="checkbox"/> Stashed property	<input type="checkbox"/> Took V' Clothing <input type="checkbox"/> Bit victim <input type="checkbox"/> Blindfolded victim <input type="checkbox"/> Bound/gagged victim <input type="checkbox"/> Rip/Tore clothing <input type="checkbox"/> Cut victim's Hair, etc.	<input type="checkbox"/> Foreign Object for penetration <input type="checkbox"/> Masturbate <input type="checkbox"/> Mutilate <input type="checkbox"/> Tors/burn <input type="checkbox"/> Oral copulation <input type="checkbox"/> Sodomy <input type="checkbox"/> Unusual Odor <input type="checkbox"/> Accent-Speech
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Crime Analys.

**SUSPECT/RESP. INFORMATION - Complete for: 459R, 469C, 261, 314, 647(a3), 211, 187, 207 & Lewd/Lasv**

CODE	#1 NAME: (Last, First, Middle)	CODE	#2 NAME: (Last, First, Middle)
	<b>TODD, STEVEN WAYNE</b>		

<b>HAIR LENGTH</b> #1 #2 <input checked="" type="checkbox"/> Unk. <input type="checkbox"/> Bald <input type="checkbox"/> Short <input type="checkbox"/> Collar <input type="checkbox"/> Shoulder <input type="checkbox"/> Long <input type="checkbox"/> Receding <input checked="" type="checkbox"/> Thinning <input type="checkbox"/> Other _____	<b>HAIR STYLE</b> #1 #2 <input type="checkbox"/> Unk. <input type="checkbox"/> Braided <input type="checkbox"/> Bushy <input type="checkbox"/> Military <input type="checkbox"/> Shaved <input type="checkbox"/> Combed Back <input type="checkbox"/> Other _____ #1 #2 <input type="checkbox"/> Crewcut <input type="checkbox"/> Curly <input type="checkbox"/> Ponytail <input checked="" type="checkbox"/> Straight <input type="checkbox"/> Wavy <input type="checkbox"/> Wig	<b>FACIAL HAIR</b> #1 #2 <input type="checkbox"/> Clean Shaven <input type="checkbox"/> Full Beard <input type="checkbox"/> Fu Manchu <input type="checkbox"/> Goatee <input type="checkbox"/> Lower Lip <input checked="" type="checkbox"/> Mustache <input type="checkbox"/> Unshaven <input type="checkbox"/> Sideburns <input type="checkbox"/> Other _____	<b>COMPLEXION</b> #1 #2 <input type="checkbox"/> Dark <input type="checkbox"/> Medium <input type="checkbox"/> Olive <input type="checkbox"/> Ruddy <input type="checkbox"/> Acne <input type="checkbox"/> Pocked <input type="checkbox"/> Other _____ #1 #2 <input checked="" type="checkbox"/> Light <input type="checkbox"/> Albino <input type="checkbox"/> Tanned <input type="checkbox"/> Freckled <input type="checkbox"/> Blotchy <input type="checkbox"/> Wrinkled	<b>SPEECH</b> #1 #2 <input type="checkbox"/> Lisp <input type="checkbox"/> Mumble <input checked="" type="checkbox"/> Stutter <input type="checkbox"/> Not Distinct <input type="checkbox"/> Other _____
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<b>ODDITIES, MISSING</b> #1 #2 <input type="checkbox"/> Arm <input type="checkbox"/> Finger <input type="checkbox"/> Leg <input type="checkbox"/> Eye <input type="checkbox"/> Foot <input type="checkbox"/> Other _____  <input type="checkbox"/> LIMP <input type="checkbox"/> BLIND <input type="checkbox"/> DEAF <input type="checkbox"/> RETARDED <input type="checkbox"/> BOWLEGGED <input type="checkbox"/> OTHER _____	<b>TEETH:</b> #1 #2 <input type="checkbox"/> Decayed <input type="checkbox"/> Protruding <input type="checkbox"/> Gaps <input type="checkbox"/> Chipped <input type="checkbox"/> False <input type="checkbox"/> Braces <input type="checkbox"/> Other _____  <input type="checkbox"/> GANG AFFILIATION <input type="checkbox"/> #1 NONE  <input type="checkbox"/> #2	<b>CLOTHING:</b> #1 TYPE / DESCRIPTION / COLOR: #2  SKI MASK _____ STOCKING MASK _____ MASK, OTHER _____  Cap/hat <b>WHT BALL CAP</b> Coat/Jacket <b>NAVY BLUE JACKET</b> Shoes <b>WHT TENNIS SHOES</b> Shirt <b>WHT SHIRT</b> Gloves <b>BLK MOTORCYCLE GLOVES</b> Pants <b>BLUE JEANS</b>  Jewelry <b>GOLD NECKLACE</b>  Other _____  #1 GLASSES <input type="checkbox"/> Wire <input type="checkbox"/> Plastic <input type="checkbox"/> Sunglasses <input type="checkbox"/> Prescription #2 GLASSES <input type="checkbox"/> Wire <input type="checkbox"/> Plastic <input type="checkbox"/> Sunglasses <input type="checkbox"/> Prescription
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**SCARS / MARKS / TATOOS**

Susp.-1	Susp.-2	LOCATION	COMPLETE DESCRIPTION

RECORDS USE..

CERES DPS  
POLICE

- PATROL
- INVEST.
- DRUG UNIT
- CHIEF
- CMDR.
- INTEL
- RECORDS
- PROPERTY
- CSO
- COURT LIAISON
- VIPS
- CHAPLAINS
- COMPUTERS

CITY HALL

- CITY MGR.
- CITY ATTY.
- PUBLIC WKS.

EMERGENCY SERVICES

- CMDR.
- B/C
- FM
- CAPT.

COURT

- MUNI
- TRAFFIC
- JUVENILE

COUNTY

- DA *11/2/96 HS*
- SO
- SDEA
- HEALTH
- Dept. Env. Res.
- PROBATION
- SCFW
- Animal Control

STATE/FED

- CII
- ABC
- FBI
- PAROLE
- DOJ
- DMV

OTHER

- 
- INDEXED BY:



**CERES DEPARTMENT OF PUBLIC SAFETY**  
2727 THIRD STREET CERES, CA 95307  
**SUPPLEMENTAL REPORT**

ORIGINAL FILE NUMBER  
*95-12-0518*

PAGE:  OF:

1 *I. FACTS: I'VE ATTEMPTED TO CONTACT THE*

2 *SUSPECT ON 12-31-95, 1-1-96 AND 1-6-96,*

3 *HOWEVER HE HASN'T BEEN HOME. SEVERAL*

4 *ATTEMPTS WERE MADE ON EACH DATE WITH*

5 *MESSAGES LEFT WITH FAMILY MEMBERS FOR*

6 *SUSPECT TO CONTACT OR TELEPHONE ME.*

7 *AS OF THIS DATE SUSPECT HAS NOT RET-*

8 *URNED MY MESSAGES.*

9 *REQUEST REPORT TO D.A. FOR POSSIBLE*

10 *COMPLAINT.*

11

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PREPARED BY	ID NO.	DATE	APPROVED BY	ID NO.	DATE
<i>Richter</i>	<i>115</i>	<i>1-8-96</i>	<i>[Signature]</i>	<i>143</i>	<i>1/21/96</i>

# **EXHIBIT 3**

Declaration of Paula M. Mitchell

**Declaration of Paula M. Mitchell**

I, Paula M. Mitchell, hereby state and declare:

1. I am the Director of the Los Angeles Innocence Project (LAIP), a non-profit law firm associated with the California Forensic Science Institute (CFSI) at Cal State L.A.'s School of Criminal Justice and Criminalistics, located at the Hertzberg-Davis Forensic Science Center in Los Angeles. LAIP represents individuals with claims of actual innocence and is a member of the Innocence Network, a coalition of organizations dedicated to providing pro bono legal and investigative services to individuals seeking to prove claims of innocence for crimes for which they have been convicted, working to redress the causes of wrongful convictions, and supporting the exonerated after they are free.

2. I am an attorney licensed to practice law in all courts in the State of California. I am also licensed to practice law in New York and the District of Columbia, and I am admitted before the U.S. Court of Appeals for the Third, Fourth, Sixth, Ninth, Tenth, and Eleventh Circuits, as well as the U.S. Supreme Court. I have assisted in overturning the wrongful convictions of individuals who have cumulatively spent nearly 250 years in prison for murders and other serious violent felonies they did not commit.

3. In March 2023, I was contacted by Scott Peterson's prior counsel at Habeas Corpus Resource Center (HCRC) and asked if LAIP would be in a position to investigate potentially exculpatory DNA evidence in Mr. Peterson's case. Over the following months, I instructed, assisted, and supervised LAIP staff attorneys in assembling the voluminous discovery (over 40,000 pages) and the trial and appellate record in Mr. Peterson's case, in an effort to recreate the police investigation file and related crime lab reports and trial counsel files.

4. As a part of those efforts, LAIP staff attorneys and I contacted the offices of Mr. Peterson's various prior counsel and obtained from them Mr. Peterson's case materials that were in their custody, possession, and control, as required under section 1054.9.

5. In reviewing Mr. Peterson's case file, I discovered that several items appeared to have become lost, including a box that contained media that included CDs, CVCs, videotapes, audiotapes, and other items. The box had been labeled by prior counsel as Box 1261.

1           6.       I reached out to several of Mr. Peterson’s prior attorneys in an effort to locate  
2 missing Box 1261. After searches over the course of several weeks proved fruitless, in October  
3 2023, I asked Mr. Peterson’s prior counsel at HCRC to please look again at its various facilities  
4 for the missing box. In November 2023, Box 1261 was located by Mr. Peterson’s counsel at  
5 HCRC and its contents were provided to me and LAIP.

6           7.       Box 1261 contained files, notes, and other materials related to the investigation  
7 Carl Jensen conducted on behalf of the defense in 2004 and 2005—materials I had not seen  
8 anywhere else in Mr. Peterson’s case materials.

9           8.       In March 2024, I traveled to Mr. Jensen’s home on the east coast to review  
10 additional case materials he has in his possession and interview him about the investigation he  
11 conducted in Mr. Peterson’s case, at which time I obtained copies of additional case materials  
12 that were not previously part of the trial file provided to me by Mr. Peterson’s prior counsel.

13           9.       In reviewing the discovery provided to the defense at the time of trial, I discovered  
14 a tip sheet (Bates 4752) that appeared to document a tip received by the “America’s Most Wanted”  
15 tip line following the airing on January 6, 2003, featuring the disappearance of Laci Peterson.  
16 The tip concerned a man who was reportedly bragging about his involvement in the disappearance  
17 and death of Laci Peterson, who lived in the Airport District in Modesto.

18           10.      I reviewed a related police report (Bates 4749) documenting a police interview  
19 with the individual named in the tip, wherein the individual reportedly told police he was in  
20 custody in the Stanislaus County Jail on December 24, 2002. I found no follow up by police in  
21 the discovery that was provided to the defense concerning the individual named in the America’s  
22 Most Wanted tip.

23           11.      I have reviewed a California Public Records Act (CPRA) request to the Stanislaus  
24 County Sheriff’s Department seeking the Stanislaus County Jail rosters for the week of December  
25 23, 2002, and the jail rosters that appear to have been provided in response to the CPRA and  
26 which appear to me to be official jail rosters.

27 //

28 //

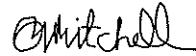


1           12.    The individual named in the AMW tip described above did not appear on the  
2 Stanislaus County Jail roster for any day during the week of December 23, 2002.

3           I declare and state, under penalty of perjury, under the laws of the State of California, that  
4 the foregoing is true and accurate to the best of my recollection.

5           Executed on May 6, 2024, in Los Angeles, California.

6  
7 May 6, 2024



8 \_\_\_\_\_  
9 Date

\_\_\_\_\_   
Paula M. Mitchell

# EXHIBIT 4

Declaration of D [REDACTED] L [REDACTED] B [REDACTED]



1 cell mate. I recall it was when we were working on the job at the Stony Brook Apartments that  
2 he told me the information about Laci Peterson.

3 8. "Donny" did not tell me the name of his cell mate, but he said it was the man who  
4 talked to his brother on a recorded jail house phone call.

5 9. "Donny" stated that his cell mate told him the following information about what  
6 happened to Laci Peterson:

7 a. He was involved in robbing the house across from the Petersons.

8 b. There were three guys outside the house and two guys inside the house.

9 c. Laci saw them robbing the house and yelled at them that they were not supposed  
10 to be there and she said she was going to call the cops.

11 d. One of the men involved in the burglary is the brother of the guy on the recorded  
12 jail house phone call talking about Laci seeing them rob the house.

13 e. When Laci caught them robbing the house, it spooked one of the men who had  
14 been up for weeks on drugs.

15 f. When Laci turned and was walking away, one of the men grabbed her from behind  
16 and put their hand over her mouth.

17 g. They threw her into the back of a van.

18 h. They hit her over the head with a rock.

19 i. The van they used was a white van.

20 j. The van they used was later burned.

21 10. "Donny" said he was really bothered by the things his cell mate told him about  
22 how Laci was killed. I asked him why he didn't come forward and tell somebody about the  
23 information he had gotten from his cell mate and he got quiet and seemed kind of troubled. I had  
24 the impression "Donny" told me because he needed to get something off his chest. He was calm  
25 and seemed like he was trying to get his life right. He was staying in a half-way house. I think  
26 he may have been afraid or fearful for his safety or maybe that of his family, if he came forward.

27 11. I wasn't sure what to do with the information I heard from "Donny". At the time,  
28 I thought Scott Peterson was guilty because that was what everybody thought. After I watched a

1 documentary about the evidence against Mr. Peterson, there seemed to be a lot of discussion about  
2 whether the people who robbed the house across the street from the Petersons may have been  
3 responsible for Laci's disappearance. I started to wonder if the information "Donny" gave me  
4 was important and I started thinking I should try to pass it on to people who were still investigating  
5 the case.

6 12. In the fall of 2017, I contacted a private investigator named Gary Ermoian who is  
7 located in Modesto and was shown on the documentary I watched about the Laci Peterson case.  
8 I gave the information I had to Mr. Ermoian. At the time I called him, I thought the name was  
9 "Donny." I guessed at his last name and I believe I told Mr. Ermoian that the man's last name  
10 was "Moris." Mr. Ermoian asked me some follow up questions. As I recall he was unable to find  
11 any man at the agency I worked with by the name of "Donny Moris". I did not hear from Mr.  
12 Ermoian again.

13 13. About two years later, in late 2019, I saw on social media that the Peterson family  
14 was still investigating the case and trying to learn what happened to Laci. I contacted Janey  
15 Peterson via Facebook messenger. Our message exchange is below.

16  
17 2:14 [Facebook Messenger icons]  
18 < Facebook user [Facebook Messenger icons]  
19 (DEC 12, 2019) 2:14 PM  
20 Hi Mrs. Peterson I'm nervous  
21 bout this but I wanted to reach  
22 out to you, like I reached out to  
23 the Private Investigator 2 years  
24 ago. So please give me a Call  
25 tomorrow it really important  
26 about what I need to tell you  
27 my Number is 2( [redacted]  
28 Thank you Mr. B [redacted]

(DEC 12, 2019) 2:43 PM  
Just seeing this, I sent you  
a text.  
You can now message and call each other and see info  
like location, status and when you've read messages.  
(DEC 12, 2019) 2:46 PM  
You can call me right now

DECLARATION OF D [redacted] L [redacted] B [redacted]

1           14.     When I talked to Mrs. Peterson about the information I had, I again said I did not  
2 remember the man's name but I thought his first name was something like "Donny" and his last  
3 name was "Moris." Over the course of the next two years or so, Mrs. Peterson periodically sent  
4 me photos of men she was able to find using that name and similar sounding names who had roots  
5 in the Modesto area to see if I could identify the man I worked with who gave me the information  
6 about Laci. The photos she was sending me were not the right man.

7           15.     Mrs. Peterson then sent me the photos below. I immediately recognized the man  
8 in the pictures as the man I worked with doing day labor jobs around 2016. Mrs. Peterson told  
9 me his name was Danny Chapman. I still did not recognize the name but I am certain that the man  
10 in the photo is the man who gave me the information about Laci being abducted and hit over the  
11 head when she caught the men robbing the house across the street from her home. The photos  
12 Mrs. Peterson sent me are below.



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1 16. Mr. Peterson's attorneys showed me a Facebook posting by a man who used the  
2 name Danny Chapman dated April 3, 2016. After reviewing the photos of Danny Chapman that  
3 Mrs. Peterson sent to me and the Facebook posting, I believe the post was by the same Danny  
4 Chapman I worked with who is pictured above, based on the content of the message posted. I  
5 recall him telling me he wanted to start a business. When I asked him what kind of business, he  
6 said a nursery or a gardening business. The FB post I reviewed is included below.



Danny Chapman

April 3, 2016 · 🌐

...

9 Havent been active lately just wanted to say say thank u to my family church friends  
10 and friends thank u for your prayer finaly have my own place started a gardened  
11 busesness also working full time for a temp agency trying to get ahead miss the  
12 holy spirit at service big time thanku mom Faye Young Kenna Cogan Mike Anthony  
13 McCauley mike Michael Rene Vickerman Robert Pigeon Justin Seward Sr. Rob  
14 Robnmichelle Dagnino Justin Schreiber jen JenniferDamon Roy Pigeon Frank Leitner  
15 Sr. And all my friends in fb land the creator is good all the time

👤 34

5 comments 1 share

16 I have reviewed this declaration in its entirety, and it is accurate to the best of my  
17 knowledge. I declare under penalty of perjury pursuant to the laws of the State of California, that  
18 the foregoing is true and correct.

21  
22 3.8.24

23 Date

21  
22   
23 D ■ L ■ B ■

1 PROOF OF SERVICE

2 I, the undersigned, hereby declare under penalty of perjury that the following is true and  
3 correct:

4 I am over 18 years of age, not a party in the case, and my business address is 1800 Paseo  
5 Rancho Castilla, Los Angeles, California 90032.

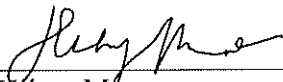
6 In the above-entitled matter, on May 6, 2024, I caused a copy of the within: Reply to  
7 Opposition to Motion for DNA Testing (Pen. Code § 1405); Proposed Order To Provide  
8 Discovery (Pen. Code § 1405(c)) to be served on the following:

9  
10 Stanislaus County District Attorney's Office  
11 Birgit Fladager  
12 832 12th Street #300  
13 Modesto, CA 95354

14  
15 Email: Birgit.Fladager@standa.org

16  
17 Office of the Attorney General  
18 Donna Provenzano  
19 455 Golden Gate Avenue, Suite 11000  
20 San Francisco, CA 94102

21  
22 Email: Donna.Provenzano@doj.ca.gov

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Hilary Mörman